

Legislative Summary

Ordinance 14-17

AMENDING THE VILLAGE OF MORTON GROVE UNIFIED DEVELOPMENT CODE, SECTION 12-15-4 TO ALLOW CERTAIN MODIFICATIONS TO EXISTING NON-CONFORMING STRUCTURES TO BE APPROVED ADMINISTRATIVELY

Introduction:	July 14, 2014
Synopsis:	This ordinance will approve a text amendment to allow administrative review and approval of certain modifications to non-conforming structures when the expansion or alteration would not increase the non-conforming aspect of the structure and when the proposed expansion or alteration otherwise meets all other dimensional controls and development requirements, established in the Unified Development Code (Title 12).
Purpose:	This ordinance will help streamline the Village's development review approval process for certain modifications to non-conforming structures, while preserving the intent of the zoning code to allow for the orderly development and redevelopment of the Village, and will reduce the permit review time for such projects and improve allocation of staff resources.
Background:	<p>As the Village of Morton Grove was incorporated in 1895 and Village's zoning regulations have changed over time, many buildings in Morton Grove exist as non-conforming structures. Under the current Village regulations, any alteration or modification to a non-conforming structure, even one that by itself meets all district dimensional controls AND which do not expand or increase the non-conforming nature of the structure, requires a formal review and approval by the Zoning Board of Appeals.</p> <p>In the first five (5) months of this year, the Zoning Board of Appeals reviewed and approved four (4) cases in which an addition or alteration was proposed to a non-conforming structure where such expansions did not increase or expand the non-conforming nature of the structure and where expansions complied with all other dimensional controls and relevant development standards established in Title 12. Two of these projects were for commercial properties and two were residential additions.</p> <p>The proposed text amendment will allow administrative review and approval of certain modifications to non-conforming structures when the expansion or alteration would not increase the non-conforming aspect of the structure and when the proposed expansion or alteration would otherwise meet all other dimensional controls and development requirements or standards established in the Unified Development Code (Title 12). In order to qualify for administrative review, submitted expansion or alteration projects shall comply with the following:</p> <ol style="list-style-type: none">1. The existing lot area and lot width must comply with the requirements established in Unified Development Code for the specific zoning district in which the property is located;2. The addition to or alteration of the structure shall not expand or increase the non-conforming aspect of the structure;3. The new addition to and/or alteration of the structure, in and of itself, shall comply with all the required dimensional controls;4. The overall structure, with the addition and/or alterations, shall comply with all aspects of the dimensional controls, with the exception of the existing legal non-conformity, and shall

not result in the need for any waivers to the dimensional controls or other relevant development requirement or standard within the Unified Development code, including but not limited to parking, landscaping, signage, etc.

5. The existing and proposed use shall be permitted in the Zoning District in which the property and structure are located.

Because the non-conforming nature of the structure cannot be expanded or increased and by requiring that all other dimensional controls including but not limited to building setback dimensions, FAR, lot coverage, lot size, building height, etc., as well as all other pertinent aspects of the development regulations, such as parking, landscaping, signage, etc., are met this text amendment provides for a more streamlined review process for such projects while maintaining the intent and integrity of the Unified Development Code, and is consistent with the codes and development review processes of neighboring communities.

PC#14-10 was presented to the Plan Commission for public hearing on June 16, 2014. There was no public comment and the Plan Commission unanimously recommended approval of the text amendment to the Village Board. (6-0-1; Kahn absent).

**Programs, Departments
or Groups Affected**

Community and Economic Department

Fiscal Impact:

N/A

Source of Funds:

N/A

Workload Impact:

These amendments will be implemented by the Community and Economic Development in the normal course of business.

Admin Recommend:

Approval as presented


Second Reading:

August 11, 2014, required – Municipal Code Book change

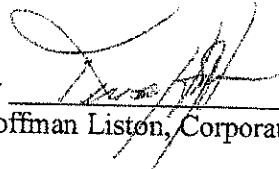
**Special Consider or
Requirements:**

None

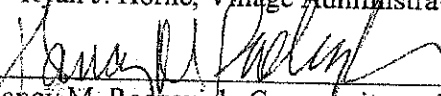
Submitted by:


Ryan J. Horne, Village Administrator

Reviewed by:


Teresa Hoffman Liston, Corporation Counsel

Prepared by:


Nancy M. Radzevich, Community and Economic Development Director

to the review and approval process due to the Zoning Board of Appeals' meeting schedule and the legal notification requirements; and

WHEREAS, Village staff has recommended that the UDC be amended to allow for the administrative review and approval of certain alterations or expansions of non-conforming structures in cases where (1) the modifications would not increase or expand the non-conforming aspect of the existing structure, (2) the proposed expanded/altered structure would otherwise meet all other dimensional controls and relevant development requirements and standards established within the Unified Development Code, (3) the modification is for a use that is permitted within the underlying zoning district, and (4) the existing lot complies with the minimum lot area and width requirements ; and

WHEREAS, the proposed text amendment is consistent with similar administrative review provisions included in the zoning ordinance of many surrounding communities and reflects good planning and permitting practices; and

WHEREAS, The Corporate Authorities have concluded that the proposed amendment will preserve the intent of the Unified Development Code to allow for the orderly development and redevelopment of the Village while streamlining the development approval process; and

WHEREAS, the Corporate Authorities have considered this matter at a public meeting and find the text amendment, when evaluated in the context of the whole Village, serves the public good; and

WHEREAS, the Village is desirous of assuring all policies are kept current and relevant.

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF MORTON GROVE, COOK COUNTY, ILLINOIS, AS FOLLOWS:

SECTION 1: The Corporate Authorities do hereby incorporate the foregoing WHEREAS clauses into this Ordinance, as though fully set forth herein, thereby making the findings as hereinabove set forth:

SECTION 2: Title 12 entitled *Unified Development Code*, Chapter 15, entitled *Nonconformities*, Section 12-15-4 entitled *Nonconforming Structures* of the Municipal Code is hereby amended by modifying this section as follows:

12-15-4: NONCONFORMING STRUCTURES:

These provisions shall apply to structures which are occupied by permitted uses or allowable special uses in the zoning district in which they are located, but do not conform to the setback, height, or floor area ratio requirements of the district in which they are located. These provisions also apply to residential structures which were constructed on lots which became nonconforming due to lot width and size, **except as noted in Section 12-15-4:A.1., below**. These provisions refer to structural nonconformities due to zoning provisions. Structural nonconformities due to building and fire codes must still comply with the provisions regarding nonconformities in those codes specifically.

- A. Continuation And Expansion Of Nonconforming Structures: Nonconforming structures may continue and may be expanded and altered **as follows:**
1. **Administrative Review: Nonconforming structures may be expanded and altered, through an administrative review process, provided that the proposed addition to and/or alteration of the structure meets the following criteria:**
 - a. **The existing lot area and lot width comply with the requirements established in Unified Development Code for the specific zoning district in which the property is located;**
 - b. **The addition to or alternation of the structure does not expand or increase the non-conforming aspect of the structure;**
 - c. **The new addition to and/or alteration of the structure, in and of itself, complies with all the required dimensional controls;**
 - d. **The overall structure and site, with the addition and/or alterations, complies with all the required dimensional controls, with the exception of the existing legal non-conformity, and does not result in the need for any waivers to the dimensional controls or any other relevant development requirement or standard, established within the Unified Development code, including but not limited to parking, landscaping, signage, etc.; and**
 - e. **The existing and proposed use(s) within the structure must be permitted use(s) within the respective zoning district in which the property and structure are located.**
 2. **Zoning Board of Appeals Review: Nonconforming structures, which do not meet the criteria established in 12-15-4:A.1., may be expanded and altered,** provided that the expansion or alteration meets the criteria of an authorized variation by the zoning board of appeals, and that the zoning board of appeals finds that an undue hardship is imposed on the owner of the structure and does not adversely affect the adjoining property.
- B. Damage To Nonconforming Structures: If a nonconforming structure is destroyed or damaged by a fire, flood, windstorm, or similar abnormal and identifiable event, and the cost of restoring the structure to its condition immediately prior to the event:
1. Does not exceed fifty percent (50%) of the cost of restoring the entire structure, then the structure may be restored to its original nonconforming condition,

provided that a building permit is secured, reconstruction is initiated within one year from the date of the damage, and such reconstruction is diligently pursued to completion.


2. Exceeds fifty percent (50%) of the cost of restoring the entire structure. The structure shall not be restored unless the structure, as restored, and the use, will thereafter conform to all requirements of the zoning district in which it is located. A nonconforming structure which is a permitted use in a residential district may be restored provided a variation is granted by the zoning board of appeals.

- C. Moving a Nonconforming Structure: A nonconforming structure may not be moved or relocated in whole or in part, unless such move or relocation causes the structure to conform to all regulations of the zoning district in which it is subsequently located. (Ord. 07-07, 3-26-2007)

PASSED this 11th day of August 2014.


Trustee Grear Aye
Trustee Marcus Aye
Trustee Pietron Aye
Trustee Thill Aye
Trustee Toth Aye
Trustee Witko Aye

APPROVED by me this 11th day of August 2014.



Daniel P. DiMaria, Village President
Village of Morton Grove
Cook County, Illinois

APPROVED and FILED in my office
This 11th day of August 2014.



Ed Ramos, Village Clerk
Village of Morton Grove
Cook County, Illinois



Village of Morton Grove
Department of Community Development

To: Village President and Board of Trustees

From: Ronald L. Farkas, Chairperson, Plan Commission
Nancy Radzevich, AICP, Community and Economic Development Director
Dominick A. Argumedo, AICP, Zoning Administrator/Land-Use Planner

Date: July 2, 2014

Re: PC14-10 - Application for Text Amendments to Sections 12-15-4 of the Morton Grove Unified Development Code (Ordinance 07-07) to allow certain modifications to existing non-conforming structures to be approved administratively

Commission Report

Public Hearing Notice and Application

The Village of Morton Grove provided Public Notice for this request to be heard at the June 16, 2014 Plan Commission public hearing in accordance with applicable requirements. *Pioneer Press*, a local newspaper, published a public notice on May 29, 2014. As this request is for a text amendment, not a request for a specific site, no public notice signs or notification letters were required.

Public Hearing—Staff Overview

Mr. Argumedo, Zoning Administrator/Land-Use Planner, presented the case on behalf of the Village. He stated that per the Morton Grove Unified Development Code Section 12-15-4-A, "*Nonconforming structures may continue and may be expanded and altered, provided that the expansion or alteration meets the criteria of an authorized variation by the zoning board of appeals, and that the zoning board of appeals finds that an undue hardship is imposed on the owner of the structure and does not adversely affect the adjoining property.*"

Mr. Argumedo noted that Section 12-15-4-A covers ALL modifications to non-conforming structures. The proposed text amendment would allow for administrative review of alterations or expansions of non-conforming structures in cases where the modifications would not increase a structure's non-conforming aspect of the structure and where the proposed expanded/altered structure would otherwise meet all other relevant dimensional controls.

M. Argumedo continued that as the Village of Morton Grove was incorporated in 1895 and the Village's zoning regulations have changed over time and with subsequent changes many older buildings in Morton Grove exist as non-conforming structures. Under the current Village regulations, any alternation or expansion, even one that by itself meets all district dimensional controls AND which do not expand or increase the non-conforming nature of the structure require a formal review before, and approval by, the Zoning Board of Appeals (ZBA). Due to the Zoning Board of Appeals monthly schedule with specific notification requirements (minimum of 15 day publication notice, within a newspaper), the requirement of ZBA approval adds a minimum of 4-6

weeks to the review/approval process, requires additional staff time (preparation of reports, mailings, etc.), and lengthen public hearing meetings.

Mr. Argumedo stated that this proposed text amendment allows for administrative review and approval of modifications to non-conforming structures, which specifically comply with the following requirements:

1. The existing lot area and lot width comply with the requirements established in the Unified Development Code for the specific zoning district in which the property is located;
2. The addition to or alternation of the structure does not expand or increase the non-conforming aspect of the structure;
3. The new addition to and/or alteration of the structure, in and of itself, complies with all the required dimensional controls;
4. The overall structure, with the addition and/or alterations, complies with all the relevant dimensional controls, with the exception of the existing legal non-conformity, and does not result in the need for any waivers to the dimensional controls or any other relevant requirement or standard within the Unified Development Code, including but not limited to parking, landscaping, etc.
5. The existing and proposed use(s) within the structure must be permitted use(s) within the respective Zoning District in which the property and structure are located.

Mr. Argumedo provided an overview of four cases, included in the June 8, 2014 staff report (Exhibit A), which the Board recently approved and by which the applicant would have benefited from this amendment. At the February 17, 2014 Zoning Board of Appeals meeting, the Board heard and unanimously approved two commercial expansions of non-conforming structures. The first was a 7,500 sq. ft. expansion to Morton Grove Pharmaceuticals' 116,250 sq. ft. facility. The proposed addition itself met all M2 General Manufacturing dimensional control requirements, and the proposed enlarged facility still complied with the required FAR. The proposed addition required Zoning Board of Appeals approval because the existing structure encroached into the required rear and side yard setback requirements of 10 ft. (4'-7" existing) and 20 ft. (10 ft. existing) respectively and is an existing legal non-conforming structure. The proposed new addition did not expand or increase the non-conforming nature of the structure as it was located 31 ft. from the side and 183 ft. from the rear property lines, respectively. Staff initially met with representatives of Morton Grove Pharmaceutical in December of 2013 to review the proposal; due to the current regulations and filing requirements, the project was not be presented to or approved by the Zoning Board of Appeals until February 17, 2014.

Mr. Argumedo continued that the Board also heard and approved a request by Sko-Die, Inc. for a 4,000 sq. ft. addition to its 60,000 sq. ft. non-conforming facility. As with Morton Grove Pharmaceutical, the proposed addition met all M2 General Manufacturing setback and height requirements, and the proposed enlarged facility still met the FAR requirement. The existing structure however, encroached into the required 10 ft. (2 ft. existing) side and 20 ft. (5 ft. existing) rear yard setbacks. Staff also initially met with representatives of Sko-Die in December of 2013 and due to notification requirements, the case was not presented to or heard by the Zoning Board of Appeals until February 17, 2014.

Mr. Argumedo then presented overviews of two recent residential cases that similarly required ZBA approval, but which could be handled administratively under the proposed text amendment. At the May 19, 2014 ZBA hearing, an applicant presented a proposal for a partial second floor

addition to an existing 1 story residence. The existing residence encroaches 12 ft. in the required rear yard setback of 30 ft. The proposed second floor addition was setback 41 ft. from the rear property line and as such did not increase or expand the non-conforming nature of the structure. The proposed addition met all other dimensional controls and the entire structure was below the maximum permitted FAR. The applicant filed the original permit with the Building Department on March 27, 2014.

Mr. Argumedo provided an overview of another residential project the ZBA recently approved. The proposed small 85 sq. ft. addition had to be reviewed and approved by the ZBA because the existing structure was non-conforming and encroached in the required 6 ft. (4'-10" and 5'-7" existing) side and 30 ft. rear yard (28'-7" existing) setbacks, and exceeded the maximum permitted (50%) rear yard lot coverage (75% coverage for the existing structure). The proposed addition itself met all dimensional controls and did not increase the non-conforming nature of the existing structure or lot coverage.

Mr. Argumedo stated that the proposed text amendment to allow for alterations of or additions to non-conforming structures that would not increase or expand the non-conforming nature of the structure, where such addition or alteration in and of itself would meet all other district dimensional controls within the zoning district, mirrors zoning ordinances currently on the books in many surrounding municipalities. The zoning codes of Evanston, Des Plaines, and Park Ridge all explicitly state that a non-conforming structure that does not add to the non-conformance and meets all other provisions of the individual zoning ordinance shall be allowed by right.

Mr. Argumedo then summarized the proposed amendment to allow for modifications to non-conforming structures that meet the aforementioned five (5) conditions would preserve the intent of the zoning code to allow for the orderly development and redevelopment of the Village while streamlining the development approval process. By requiring that all other dimensional controls, including but not limited to setback dimensions, FAR, lot coverage, etc. as well as pertinent aspects of the Unified Development Code (parking, etc.) are met AND as long as the non-conforming nature of the structure is not expanded or increased, this proposed amendment maintains the intent and integrity of the municipal code, while allowing for a more streamlined review process.

Public Hearing—Board Comment/Inquiry

Chairman Farkas asked for questions from the commissioners.

Commissioner Gabriel asked if there was an administrative process in place for an initial review of a proposal where this amendment would apply and then an additional approval by an independent person.

Ms. Radzevich stated the Village's project review process for an eligible non-conforming structure would mirror every other development review process. When an application for a building permit is filed the first review is done by the zoning division. The project is not advanced to other departments for review until the zoning division has determined the project is compliant as to use and meets dimensional controls and development standards. In the case of eligible modifications to non-conforming structures, the proposed amendment provides some additional conditions for administrative review that are not required by surrounding communities. Other neighboring communities' regulations simply state that as long as the proposed modification complies with the

dimensional controls that it can be done. For this text amendment, staff has included some additional conditions to the proposed text amendment for greater scrutiny. For example, any modification of a non-conforming structure on a sub-standard lot would still require ZBA review and approval.

Commissioner Gabriel followed up for clarification that if an applicant came in with a case to be reviewed, the person that determined if the zoning aspects of the case were compliant or not, would there need to be someone else that agrees with their determination? Commissioner Blonz stated that his interpretation from Commissioner Gabriel's question was if someone is going to check on someone else's approvals.

Ms. Radzevich stated that with any project submission it is either compliant with the Unified Development Code or its not, this is not a judgment call. All the aspects of the project – the setback dimensions, compliance with FAR, rear lot coverage, parking requirements, etc. – all aspects of a submission have to comply. Ms. Radzevich continued that the owner or applicant is responsible to provide all the calculations and dimensions. The architect that is providing the drawings is putting their stamp on this and is certifying the information is accurate. The staff has a lot of cross checks in place and there is a lot of overlap within the department. There are many checks and balances that are done within the department for any permit review. This is the review process that the department would use for projects that would fall under this proposed amendment.

Chairperson Farkas asked if the non-conforming structure, due to excessive FAR, was not changing the footprint, but adding a second a floor, would the project be eligible for review under the proposed amendment? Mr. Argumedo noted that a non-conforming structure with respect to FAR would not be eligible for administrative review through this amendment as any additions would result in the expansion or increase of the existing non-conformity, FAR, and thus violate a condition of the proposed amendment. Ms. Radzevich continued that staff discussed the proposed amendment and possible scenarios with Corporation Counsel to ensure that the proposed amendment would only apply to such non-conforming structures which could be expanded without potential adverse impacts.

Public Hearing—Public Comment

Chairperson Farkas asked if anyone present that wanted to be heard on this case. No one asked to speak.

Public Hearing—Board Discussion and Vote

Chairperson Farkas asked for a motion to approve Case PC14-10.

Commissioner Blonz made a motion to approve the proposed text amendment, Case PC14-10 with the requirements included in the staff memo dated June 8, 2014, as follows:

Plan Commission recommends approval of Case #PC14-10, for Text Amendments to Section 12-15-4-A of the Moron Grove Unified Development Code (Ordinance 07-07) to allow administrative review of proposed alterations of and/or additions to non-conforming structures provided the proposed project specifically complies with the following requirements:

1. The existing lot area and lot width complies with the requirements established in Unified Development Code for the specific zoning district in which the property is located;
2. The addition to or alteration of the structure does not expand or increase the non-conforming aspect of the structure;
3. The new addition or alteration, in and of itself, complies with all the required dimensional controls;
4. The overall structure, with the proposed addition and/or alternations, complies with all the relevant dimensional controls, with the exception of the existing legal non-conformity, and does not result in the need for any waivers to any dimensional controls or any other relevant requirement or standard within the Unified Development Code, including but not limited to parking, landscaping, etc.
5. The use must be conforming to the list of permitted use in Zoning District in which it is located.

Motion was seconded by Commissioner Dorgan and was passed unanimously (6-0-1; Commissioner Kahn absent).

PC 14-10 Proposed Text Amendment Language

(New Text shown in **bold/underlined** format; any deleted text shown as ~~strikethrough~~ format)

12-15-4: NONCONFORMING STRUCTURES:

These provisions shall apply to structures which are occupied by permitted uses or allowable special uses in the zoning district in which they are located, but do not conform to the setback, height, or floor area ratio requirements of the district in which they are located. These provisions also apply to residential structures which were constructed on lots which became nonconforming due to lot width and size, except as noted in Section 12-15-4:A.1., below. These provisions refer to structural nonconformities due to zoning provisions. Structural nonconformities due to building and fire codes must still comply with the provisions regarding nonconformities in those codes specifically.

- A. Continuation And Expansion Of Nonconforming Structures: Nonconforming structures may continue and may be expanded and altered **as follows:**
1. **Administrative Review: Nonconforming structures may be expanded and altered, through an administrative review process, provided that the proposed addition to and/or alteration of the structure meets the following criteria:**
 - a. **The existing lot area and lot width comply with the requirements established in Unified Development Code for the specific zoning district in which the property is located;**
 - b. **The addition to or alternation of the structure does not expand or increase the non-conforming aspect of the structure;**
 - c. **The new addition to and/or alteration of the structure, in and of itself, complies with all the required dimensional controls;**
 - d. **The overall structure and site, with the addition and/or alterations, complies with all the required dimensional controls, with the exception of the existing legal non-conformity, and does not result in the need for any waivers to the dimensional controls or any other relevant development requirement or standard, established within the Unified Development code, including but not limited to parking, landscaping, signage, etc.; and**
 - e. **The existing and proposed use(s) within the structure must be permitted use(s) within the respective zoning district in which the property and structure are located.**
 2. **Zoning Board of Appeals Review: Nonconforming structures, which do not meet the criteria established in 12-15-4:A.1., may be expanded and altered,** provided that the expansion or alteration meets the criteria of an authorized variation by the zoning board of appeals, and that the zoning board of appeals finds that an undue hardship is imposed on the owner of the structure and does not adversely affect the adjoining property.

- B. **Damage To Nonconforming Structures:** If a nonconforming structure is destroyed or damaged by a fire, flood, windstorm, or similar abnormal and identifiable event, and the cost of restoring the structure to its condition immediately prior to the event:
1. Does not exceed fifty percent (50%) of the cost of restoring the entire structure, then the structure may be restored to its original nonconforming condition, provided that a building permit is secured, reconstruction is initiated within one year from the date of the damage, and such reconstruction is diligently pursued to completion.
 2. Exceeds fifty percent (50%) of the cost of restoring the entire structure. The structure shall not be restored unless the structure, as restored, and the use, will thereafter conform to all requirements of the zoning district in which it is located. A nonconforming structure which is a permitted use in a residential district may be restored provided a variation is granted by the zoning board of appeals.
- C. **Moving A Nonconforming Structure:** A nonconforming structure may not be moved or relocated in whole or in part, unless such move or relocation causes the structure to conform to all regulations of the zoning district in which it is subsequently located.
(Ord. 07-07, 3-26-2007)



Village of Morton Grove

Department of Community Development

To: Chairperson Farkas and Members of the Plan Commission

From: Nancy Radzevich, AICP, Community & Economic Development Director
Dominick Argumedo, AICP, Zoning Administrator/Land-Use Planner

Date: June 8, 2014

Re: Plan Commission Case PC 14-10 - Application for Text Amendments to Sections 12-15-4 of the Morton Grove Unified Development Code (Ordinance 07-07) to allow certain "de minimis" modifications to existing non-conforming structures to be approved administratively rather than require a variance

STAFF MEMORANDUM

Public Notice

The Village provided Public Notice for the June 16, 2014 Plan Commission public hearing for PC 14-02 in accordance with the Unified Development Code. The *Niles-Morton Grove Patch* published the public notice on May 29, 2014. As this request is for a text amendment, not a request for a specific site, no public notice signs or notification letters were required.

Background

The Morton Grove Unified Development Code Section 12-15-4-A states, "*Continuation And Expansion Of Nonconforming Structures: Nonconforming structures may continue and may be expanded and altered, provided that the expansion or alteration meets the criteria of an authorized variation by the zoning board of appeals, and that the zoning board of appeals finds that an undue hardship is imposed on the owner of the structure and does not adversely affect the adjoining property.*"

As read, Section 12-15-4-A covers ALL manner of proposed non-conforming structure expansion including structural expansions that would not increase a structure's non-conforming aspect and where the proposed expansion would otherwise meet all other zoning district dimensional controls. The proposed text amendment would allow for administrative review of such proposals rather than requiring submission before the Zoning Board of Appeals. The existing requirement of a formal application before the Zoning Board of Appeals for an expansion of a non-conforming structure that does not increase an existing non-conformity and would otherwise meet all other dimensional controls can add at minimum a month to a project's approval time.

Discussion

As the Village of Morton Grove was incorporated in 1985 and Village's zoning regulations have changed over time, with the last zoning code comprehensive overhaul approved in 2007, many structures in Morton Grove exist as non-conforming structures. As such, under the present Village regulations, any structural expansion, even one that by itself meets all district dimensional controls AND which do not expand or increase the non-conforming nature of the structure require a formal review before the Zoning Board of Appeals. Due to the Zoning Board of Appeals monthly schedule with specific notification requirements (minimum of 15 day

publication notice, within a newspaper), this process can add at a minimum of 4-6 weeks to the approval process, require additional staff time (preparation of reports, mailings, etc.), and lengthen public hearings.

Staff notes that this proposed text amended is strictly for additions to and/or alternations of non-conforming structures, per Section 12-15-4, which specifically comply with the following requirements:

1. The existing lot area and lot width comply with the requirements established in Unified Development Code for the specific zoning district in which the property is located;
2. The addition to or alternation of the structure does not expand or increase the non-conforming aspect of the structure;
3. The new addition to and/or alternation of the structure, in and of itself, complies with all the required dimensional controls;
4. The overall structure, with the addition and/or alternations, complies with all aspects of the dimensional controls established for this zoning, with the exception of the existing legal non-conformity, and does not result in the need for any additional waivers to the dimensional controls or any other relevant requirement or standard within the Unified Development code, including but not limited to parking, landscaping, signage, etc.

Example Cases

The Board recently approved four cases that would have benefited from this amendment. At the February 17, 2014 Zoning Board of Appeals hearing, the Board heard and unanimously approved two commercial expansions of non-conforming structures. The ZBA heard and approved ZBA #14-02, a 7,500 sq. ft. expansion to Morton Grove Pharmaceuticals' 116,250 sq. ft. facility. The proposed 7,500 sq. ft. front addition itself met all M2 General Manufacturing setback and height requirements, and the proposed enlarged facility still met the district's FAR requirement. The proposal required Zoning Board of Appeals approval due to the existing structure encroaching into the M2 General Manufacturing District rear and side yard setback requirements of 10 ft. (4'7" existing) and 20 ft. (10 ft. existing) respectively. The proposed new addition was 31 ft. from the side property line and 183 ft. from the rear property line. The side and rear property lines border the Forest Preserve. Staff initially met with representatives of Morton Grove Pharmaceutical in December of 2013 to review the proposal. Due to the existing structure's non-conformance, the project could not be approved until the Zoning Board of Appeals approved the project on February 17, 2014.

The Board also heard and approved ZBA #14-01 where Sko-Die proposed a 4,000 sq. ft. addition to its 60,000 sq. ft. non-conforming facility. As with Morton Grove Pharmaceutical, the proposed addition met all M2 General Manufacturing setback and height requirements, and the proposed enlarged facility still met the district's FAR requirement. The existing structure however, encroached into the required 10 ft. (2 ft. existing) side and 20 ft. (5 ft. existing) rear yard setbacks. Staff initially met with representatives of Sko-Die in December of 2013 to review the proposal and explained that it would require a variance that, due to notification requirements, could not be heard before the Zoning Board of Appeals until the February 17, 2014 hearing.

At the May 19, 2014 ZBA hearing, the ZBA approved two residential projects that would be covered under the proposed text amendment. ZBA #14-09 proposed a partial second floor

addition to an existing 1 story residence. The existing residence encroached 12 ft. within the required R2 Single Family Residence rear yard setback of 30 ft. The proposed second floor addition did not cover the entire first floor and was setback 41 ft. from the rear property line. The proposed addition met all other dimensional controls and the entire structure was below the district FAR limit of 0.6. The Zoning Board of Appeals approved the project. The applicant filed the original permit with the Building Department on March 27, 2014.

ZBA #14-10 proposed an 85 sq. ft. front addition. The project had to be approved by the ZBA due to the existing structure's encroachment into the R2 Single Family Residence required 6 ft. (4'10" and 5'7" existing) side and 30 ft. rear yard (28'7" existing) setbacks, along with the rear yard lot coverage exceeding the 50% threshold (75% existing). The proposed addition itself met all dimensional controls and did not increase the existing structures degree of non-conformity. Indeed, the addition as proposed was 27 ft. and 35 ft. from the side property lines and 70 ft. from the rear property lines and was not in the required rear yard. The Zoning Board of Appeals approved the project.

Neighboring Municipalities

The proposed amendment to allow for alterations of or additions to non-conforming structures that would not increase or otherwise expand the non-conforming nature of the structure, such addition or alteration in and of itself would meet all other district dimensional controls within the zoning district, AND the combined structure also would meet all dimensional controls, with the exception of the existing non-conformity, mirrors zoning ordinances currently on the books in many surrounding municipalities. The zoning codes of Evanston, Des Plaines, and Park Ridge all explicitly state that a non-conforming structure that does not add to the non-conformance and meets all other provisions of the individual zoning ordinance shall be allowed by right.

Benefits

The amendment preserves the intent of the zoning code to allow for the orderly development and redevelopment of the Village while streamlining the development approval process. By requiring that all other dimensional controls, including but not limited to setback dimensions, FAR, lot coverage, etc., as well as pertinent aspects of the parking ordinance, are met AND as long as the non-conforming nature of the structure is not expanded or altered, maintains the intent and integrity of the and allows for a streamlined process.

Further, allowing for this type of administrative process encourages those who might be seeking to alter or construct an addition onto an existing non-conforming structure to comply with all other aspects of the dimensional controls as well as all other requirements of the Unified Development Code in order to qualify for an Administrative review process versus a public hearing process. Compliance with all the other dimensional controls, particularly FAR and lot coverage, are critical aspects to the ensuring that any potential impacts associated with the addition and/or alternation are minimized and/or negated all together.

Recommendation

If the Plan Commission decides to support this text amendment, Staff suggests the following motion:

Plan Commission recommends approval of Case #PC14-10, for Text Amendments to Section 12-15-4-A of the Moron Grove Unified Development Code (Ordinance 07-07) to allow

administrative review of proposed alterations of and/or additions to non-conforming structures provided the proposed project complies with the following:
specifically comply with the following requirements:

1. The existing lot area and lot width comply with the requirements established in Unified Development Code for the specific zoning district in which the property is located;
2. The addition to or alternation of the structure does not expand or increase the non-conforming aspect of the structure;
3. The new addition to and/or alternation of the structure, in and of itself, complies with all the required dimensional controls;
4. The overall structure, with the addition and/or alternations, complies with all aspects of the dimensional controls established for this zoning, with the exception of the existing legal non-conformity, and does not result in the need for any additional waivers to the dimensional controls or any other relevant requirement or standard within the Unified Development code, including but not limited to parking, landscaping, signage, etc.
5. The land use must be conforming to the Zoning District in which it is located.

Attachments:

- Application
- Proposed Amendments to Section 12-15-4-A of the Morton Grove Unified Development Code (Ordinance #07-07)