



**DES PLAINES PLANNING AND ZONING BOARD MEETING
February 28, 2023
DRAFT MINUTES**

The Des Plaines Planning and Zoning Board held its regularly scheduled meeting on Tuesday, February 28, 2023, at 7:00 p.m. in Room 102 of the Des Plaines Civic Center.

Chair Szabo called the meeting to order at 7:00 p.m. and roll call was established.

PRESENT: Weaver, Catalano, Fowler, Hofherr, Saletnik, Veremis, Szabo

ABSENT: Fowler (arrived at 7:05)

ALSO PRESENT: Jonathan Stytz, Senior Planner
Samantha Redman, Associate Planner
Margie Mosele, CED Executive Assistant

A quorum was present.

Call to Order and Roll Call

Approval of Minutes: January 24 ,2023

APPROVAL OF MINUTES

A motion was made by Board Member Weaver, seconded by Board Member Veremis to approve the meeting minutes of January 24, 2023

AYES: Weaver, Veremis, Catalano, Hofherr, Saletnik

NAYES: None

ABSTAIN: Szabo

*****MOTION CARRIES UNANIMOUSLY ****

PUBLIC COMMENT ON NON-AGENDA ITEM

Janella Curtis from Clear Channel – introducing themselves to the board. Clear Channel has lots of inventory in Des Plaines and Ms. Curtis manages the community messaging on the boards.

Applications

1. Address: Citywide

Case Number: 23-002-TA

The petitioner is requesting text amendments to the Zoning Ordinance related to definitions and regulations for fencing, screening, trellises, and other similar yard features; permitting requirements for obstructions in required yards; and any other amendments or relief as may be necessary.

PIN: Citywide

Petitioner: City of Des Plaines, 1420 Miner Street, Des Plaines, IL 60016

Case Number: #23-002-TA

Project Summary: The City of Des Plaines is applying for zoning text amendments to create definitions and clarify regulations for fences, arbors, trellises, and yard features.

Update: Staff has revised the proposed amendments per guidance from the PZB on January 10, 2023, as well as based on research on the dimensions of arbors and trellises available at home goods and improvement stores such as Menards and Home Depot (see Attachments). The original amendments required trellises to be separated by a minimum of one foot from all structures, including fences, arbors, and other trellises. However, the PZB discussed issues with the practicality of this requirement for the maintenance and vitality of landscaping and gardens. Staff proposes revised amendments that allow trellises to *abut* fences and other structures – in other words, trellises could be directly next to other structures - but must remain *freestanding*, meaning they cannot be attached to any other structures or rely on them for support.

Further, a minimum six-foot separation is proposed between trellises to prevent potential conflict with the existing rule that prohibits abutting fences on the same property; the setback would prevent a continuous line of trellises that could function as a fence placed against an existing fence. In addition, the PZB suggested regulating trellis width to provide control over the amount and size, which has been incorporated into the proposed amendments. The proposed maximum width is 8 feet.

Finally, while the proposed amendments would still limit the height of trellises in the required front or corner side yards to 4 feet and in the required interior side or rear yards to 6 feet, it is now proposed that within the buildable area – or the portion of a lot not in a required yard, generally in the center of the lot – the maximum trellis height would be 8 feet, as it is in existing rules. It is worth highlighting that where a latticework is not freestanding but leaning against or attached to another structure, such as a house, the proposed amendments intend not to define the latticework as a trellis. In those instances, its height, width, and all other limitations would be the same as the structure upon which it relies for support.

Issue: Consider the following Zoning Ordinance amendments: (i) add the terms “Fence”, “Trellis” and “Arbor” and revise the term “Yard Features” in Section 12-13-3; (ii) amend yard feature regulations in Section 12-7-1.C to create separate regulations for trellis, arbor and yard features; (iii) add Section 12-8-14: Arbors and Trellises to create regulations for arbors and trellises.

Background

In 2022 City staff encountered multiple instances where property owners erected structures attached or close to fences that were challenging to define and extended above the allowable fence height. Ambiguity ensued on how to define the structures by the fence: *Are they part of the fence? Separate? How tall are they allowed to be? Can they be solid or do they need to be partially open?* Complicating the decision is the fact there is no term definition for fence in the Zoning Ordinance.

In lieu of clear, specific definitions for fences, trellises and similar structures, staff relied on the normal dictionary definition, as instructed by Section 12-13-1.A. Section 12-7-1.C allows trellises to be a maximum of eight feet tall and minimum one foot from the property line. However, staff seeks to resolve issues with the fence, arbor, trellis, and yard feature regulations to ensure the intent of the requirements are met and structures that have been recently confused are henceforth accurately defined.

Fences are currently regulated in height, opacity, and location for both residential and nonresidential properties. Broad dictionary definitions for terms like “fences” are often too general to be applied to the variety of scenarios planners and zoning administrators face. For example, Merriam Webster dictionary defines fence as, “*a barrier intended to prevent escape or intrusion or to mark a boundary.*” However, fences can have a variety of purposes within a city, including delineating boundaries, creating enclosures on property for people, animals and equipment, and providing screening to support an aesthetically pleasing environment for residents and businesses.

Nonetheless, the fence regulations have remained relatively consistent since adopted in the original 1998 Zoning Ordinance, even without an expressed definition. Amendments over the years have included permitting eight-foot-tall fences on properties abutting railroad rights of way and adding regulations for dog runs. The most substantial amendments occurred in 2019 and included placing restrictions on abutting fences, as well as adding the “corner side” yard definition and attendant rules.

Section 12-8-2 regulates height, setbacks, location, and appearance of fencing. Staff most commonly receives questions about the height and opacity of fencing for properties from residents seeking to alter an existing fence or erect a new fence. Generally side and rear yards are permitted to have a six-foot-tall fence, if located outside of the 10-foot sight triangle of an alley, driveway, or street. Fencing in the front yards can be a maximum of four-foot-tall and cannot be less than

50 percent open. For corner lots, the corner side yard (along the longest side fronting a street) cannot be taller than four feet and can be open or solid. The intent of the shorter fencing in areas visible from the street is to create a more cohesive, inviting neighborhood, allowing for the display of landscaping and preventing the appearance of a walled community.

Examples from Other Municipalities and Existing Trends

Examples from other municipalities were used to shape the suggested amendments. Fence, trellis, and arbor definitions from twenty-two (22) municipalities of the Northwest Municipal Conference (NWMC) were collected and compared (refer to attached Fence Definitions of Other Communities). In particular, definitions from Barrington, Lincolnwood, Mount Prospect, Niles, and Northfield were used to shape the definitions. The majority of other zoning ordinances include a definition of fence and regulate the location, height, and/or materials (18 out of 22). Several communities (eight out of 22) also define trellises and arbors and/or regulate the location, height, and materials.

Proposed dimensions of trellises and arbors were selected by evaluating existing products available at various hardware stores. Refer to Analysis of Average Dimensions of Arbors and Trellises attachment for details.

Proposed Amendments

The full proposed amendments are attached and are summarized below:

- **Section 12-13-3, Definition of Terms**
 - Added or revised definitions for:
 - Fence
 - Trellis
 - Arbor
 - Yard Feature
- **Section 12-7-1.C – Permitted Obstructions in Required Yards**
 - Arbors and trellises added to table with applicable setbacks from lot lines and other structures:
 - Arbors permitted at lot line of front and corner side yards and one foot away from the lot line at side and rear lot lines.
 - Trellises permitted in front and corner side yards if they do not exceed 4 feet in height and do not encroach more than 5 feet into the front and corner side yards; may be 6 feet tall in side and rear yards.
 - Footnote 3 removed regarding when a permit is required for recreational equipment and yard features. A separate amendment to the Local Amendments to the adopted Building Code (Section 10-1-2 of City Code) will be submitted to clarify work exempt from permit; the Zoning Ordinance is not the correct location to regulate what construction requires a permit.
- **Section 12-8-14 – Arbor and Trellis Regulations**

- New section added to regulate arbors and trellises on zoning lots generally, not just in required yards. This new section includes restrictions on:
 - Size (height and width)
 - Material
 - Quantity (arbors only)
 - Minimum separation

Standards for Text Amendments:

The following is a discussion of standards for zoning amendments from Section 12-3-7.E of the Zoning Ordinance. Rationale for how the proposed amendments would satisfy the standards is provided. The PZB may use the statements below as its rationale or adopt its own.

1. Whether the proposed amendments are consistent with the goals, objectives, and policies of the comprehensive plan, as adopted and amended from time to time by the City Council.

The Comprehensive Plan calls for the preservation and enhancement of residential and non-residential properties. The proposed amendments serve to clarify fencing and yard feature regulations, encouraging cohesive, aesthetically pleasing and welcoming neighborhoods and corridors.

PZB Modifications (if any): _____

2. Whether the proposed amendments are compatible with current conditions and the overall character of existing development;

The amendments clarify fence and other yard feature regulations to ensure the intent of the existing fence rules are met, provide clearer direction on the height, materials, and location of yard features. The proposed definitions match current trends in the size and materials of trellises and arbors per staff’s research with several hardware and landscaping stores. The additions to the encroachment table in Section 12-7-1.C and adding Section 12-8-14 regarding arbors and trellises support the fence regulations in Section 12-8-2 by removing ambiguity about the ability to use other yard features to serve as an extension of a fence. Overall, the proposed amendments provide clarity to other sections of the Zoning Ordinance, which are the agreed upon regulations used to control the character and development patterns of properties in the city.

PZB Modifications (if any): _____

3. Whether the proposed amendments are appropriate considering the adequacy of public facilities and services available;

The proposed amendments will not have an impact on public facilities or services. The amendments refine existing regulations for fences and yard features and will not result in development necessitating additional services.

PZB Modifications (if any): _____

4. Whether the proposed amendments will have an adverse effect on the value of properties throughout the jurisdiction; and

The proposed amendments remove ambiguity regarding the location, height, and materials of fence and other yard features, creating certainty about appearance and scale of yard features and providing a cohesive appearance for residents, business owners and visitors. Regulating the allowable materials serves to ensure fences, arbors and trellises would be constructed of high quality, durable components, and the additions to Section 12-7-1.C and new Section 12-8-14 provide assurance that the scale of any yard features will not create a nuisance to neighborhoods, allowing for sufficient natural light and encouraging an inviting and aesthetically pleasing appearance of properties.

PZB Modifications (if any): _____

5. Whether the proposed amendments reflect responsible standards for development and growth.

The proposed amendments provide clarity and reduce ambiguity regarding allowable height, materials and location of fence and yard features of properties, supporting the intent of the existing Zoning Ordinance to create responsible and harmonious development and growth within the city. There is no anticipated negative effect on development or growth with the proposed amendments.

PZB Modifications (if any): _____

Samantha Redman, Associate Planner, reviewed the staff report which includes the revised proposed amendments using the guidance of the PZB on January 10, 2023. The revised proposed amendments allow a trellis to be adjacent to other structures, except other trellises. Trellises are proposed to be required to be free-standing. To avoid creating a fence, trellises are proposed to be at least 6 feet from other trellises. Trellis heights vary depending on location on the property.

Samantha explained that the proposed amendments included added or revised definitions for 12-13-3, for Fence, Yard Feature, Arbor and. Trellis.

Proposed Fence definition- A structure used as a barrier or boundary to enclose, divide, or screen a piece of land. This term shall include fences, walls, and other structural or artificial barriers that function as a wall or a fence. For the purposes of this Title, a "fence" shall not include arbors, trellises, or naturally growing shrubs, bushes, and other foliage. Fences shall be made of wood, vinyl, metal, masonry, or combination thereof. Height shall be measured from the immediately adjacent finished grade to the highest point of the fence.

Proposed Yard Feature definition. - Objects and features, including gazing balls, bird baths, statues, wishing wells, ornamental lights, and other similar features, intended to be used for aesthetic purposes.

Proposed Arbor definition - A freestanding, doorway-type structure comprised of two sides attached by an arched or flat top, intended for aesthetic purposes, and typically located adjacent to gardens, landscaping, walkways, or entryways. Height shall be measured from the immediately adjacent finished grade to the highest point of the arbor.

Proposed Trellis definition - A freestanding structure with latticework intended primarily to support vines or climbing plants. Height shall be measured from the immediately adjacent finished grade to the highest point of the trellis.

Ms. Redman discussed diagrams showing yards with the proposed trellis, arbor, yard feature and fence regulations. Examples from other municipalities were used to arrive at the definitions and regulations, many of which were stricter than what is currently proposed.

Member Weaver asked if the regulations would be for the whole property or just the yards. Ms. Redman and Jonathan Stytz, Senior Planner, explained that we are looking to update two sections of the code. The first is 12-7-3-C which talks about permitted obstructions in the required yard which includes, front, rear, side and corner side yards. The other is 12-8-14 – regulations for Trellis and Arbors located anywhere on the property.

Member Fowler asked about grape arbors and showed a picture. Mr. Stytz stated, for the purposes of the amendments, an arbor would be considered an accessory structure. The structure Member Fowler showed looks more like a pergola rather than a trellis. One of the reasons amendments are proposed is so we can have a specific definition for arbors, trellises, and fences.

Member Weaver said that he found four statements that discuss why these amendments are proposed, including:

1. The proposed amendments serve to clarify fencing and yard feature regulations, encouraging cohesive, aesthetically pleasing and welcoming neighborhoods and corridors.
2. The proposed amendments provide clarity to other sections of the Zoning Ordinance, which are the agreed upon regulations used to control the character and development patterns of properties in the city.

3. Regulating the allowable materials serves to ensure fences, arbors and trellises would be constructed of high quality, durable components, and the additions to Section 12-7-1.C and new Section 12-8-14 provide assurance that the scale of any yard features will not create a nuisance to neighborhoods, allowing for sufficient natural light and encouraging an inviting and aesthetically pleasing appearance of properties.
4. The proposed amendments provide clarity and reduce ambiguity regarding allowable height, materials and location of fence and yard features of properties, supporting the intent of the existing Zoning Ordinance to create responsible and harmonious development and growth within the city.

Member Weaver asked at what point does the fence violate a community standard or community concern- sometimes a fence height can be a safety issue, as communicated by police. This is a security reason to limit the fence height. Mr.Stytz stated that yes safety is one of the reasons for fence height.

Chair Szabo stated that a six-foot fence seems like its universal and it gives some people a sense of privacy in their yards. He asked if people are trying to circumvent the 6-foot height regulation. Staff communicated that yes, people are trying to circumvent the rules with the existing regulations. Ms. Redman stated that the proposed regulations and definitions would not allow a trellis to be placed on top of fences to increase the height of the fence. In terms of have community standards, it is in the interest of the urban design of the community to not have a walled off city.

Ms. Redman stated that the board would be making a motion to approve, approve with modifications or deny the proposed amendments:

1. Create definitions for Fence, Arbor, Trellis and Yard Features in Section 12-13-3.
2. Provide regulations for arbors, trellises and yard features in Section 12-7-1.C – Permitted Obstructions in Required Yards.
3. Add Section 12-8-14 – Arbor and Trellis Regulation

A motion was made by Board Member Catalano seconded by Board Member Fowler to recommend that the City Council approves the amendments as presented.

AYES: Catalano, Fowler, Hofherr, Veremis, Weaver, Saletnik, Szabo
NAYES: None
ABSTAIN: None

*****MOTION CARRIES UNANIMOUSLY ****

2. Address: 1378 Margret Street

Case Number: 22-055-APPEAL

The subject of the appeal is a Zoning Administrator determination that a structure erected in 2022 at 1378 Margret Street is a trellis and subject to the rules of the Zoning Ordinance regarding trellises.

PIN: 09-20-314-012-0000

Petitioner: Jennifer Toner, 1368 Margret Street, Des Plaines, IL 60018

Owner: Patrick and Val Howe, 1378 Margret Street, Des Plaines, IL 60018

Because the PZB on Tuesday, February 28, 2023, began consideration of zoning text amendments related to fences, trellises, and arbors, staff has requested and the attorney for the petitioner (appellant) has agreed to continue the appeal hearing to the Board's regular meeting of Tuesday, April 11, 2023. The PZB's Rules of Procedure (Section 6.06) states that continuances in these circumstances "...shall be granted..." so I recommend the Board grant this request, which is attached.

Attachments

Attachment 1: Petitioner's Email Agreeing to Continue Hearing

Attachment 2: Excerpt from PZB Rules of Procedure

Attachment 3: Public Comment Received January 18, 2023

Mr. Howe from 1378 Margret asked when the appeal will be continued until since he is the owner of the property and believes it has been continued a number of times. He said he has cleared his schedule and it keeps getting continued.

Samantha Redman, Associate Planner said that the Petitioner along with the City Attorney have been consulted to get the case continued.

Member Vermis asked if the reason the case is continued is based on the change in the text amendments.

Ms. Redman stated the appeal case is interested in final outcome of the text amendment to decide how to proceed with the appeal.

A motion was made by Board Member Saletnik, seconded by Board Member Catalano to continue Case 22-055-APPEAL to April 11, 2023.

AYES: Saletnik, Catalano, Fowler, Weaver, Veremis, Hofherr, Szabo

NAYES: None

ABSTAIN: None

*****MOTION CARRIES UNANIMOUSLY ****

Case 23-002-TA
Case 22-055-Appeal

Citywide
1378 Margret

Text Amendment
Appeal

ADJOURNMENT

The next scheduled Planning & Zoning Board meeting is Tuesday March 14, 2023.

Chairman Szabo adjourned the meeting by voice vote at 7:48 p.m.

Sincerely,
Margie Mosele, Executive Assistant/Recording Secretary

cc: City Officials, Aldermen, Planning & Zoning Board, Petitioners