



Planning Commission Meeting
November 15, 2018 City Hall
102 Butler Street, Saugatuck, MI
7:00 PM

**CITY OF SAUGATUCK
ZOOM MEETING
ACCESS:**

Web Access:

<https://us02web.zoom.us/j/2698572603>

Phone Access: (312) 626-6799 -or- (646) 518-9805
enter "Meeting ID": 269 857 2603

1. **Call to Order/Roll Call:**
2. **Approval of Agenda:**
3. **Approval of Minutes: September 17, 2020**
4. **Public Comment on Agenda Items:** Limit 3 minutes
5. **New Business:**
 - A: Public hearing – fence heights
 - B. Public hearing – Non-conforming structures
6. **Old Business:**
7. **Communications:** None
8. **Reports of Officers and Committees:**
9. **Public Comments:** Limit 3 minutes
10. **Adjournment**

***Public Hearing Procedure**

- A. Hearing is called to order by the Chair
- B. Summary by the Zoning Administrator
- C. Presentation by the Applicant
- D. Public comment regarding the application
 - 1) Participants shall identify themselves by name and address
 - 2) Comments/Questions shall be addressed to the Chair
 - 3) Comments/Questions shall be limited to five minutes
 1. Supporting comments (audience and letters)
 2. Opposing comments (audience and letters)
 3. General comments (audience and letters)
 4. Repeat comment opportunity (Supporting, Opposing, General)
- E. Public comment portion closed by the Chair
- F. Commission deliberation
- G. Commission action

PROPOSED Minutes
Saugatuck Planning Commission Meeting
Saugatuck, Michigan, September 17, 2020

The Saugatuck Planning Commission met in regular session at 7:00 p.m. at City Hall, 102 Butler Street, Saugatuck, Michigan via Zoom due to the current Covid-19 pandemic.

1. **Call to Order** by Chairperson Vlasity at 7:00 p.m.

Attendance:

Present: Peterson, Crawford, Vlasity, Fox, Manns, Caspar & VanMeter

Absent: None

Others Present: Zoning Administrator Osman, City Clerk Wilkinson

2. **Approval of Agenda:** A motion was made by Caspar, 2nd by Fox, to add to the location of sheds. Upon voice vote the motion carried unanimously.

3. **Approval of Minutes:** A motion was made by Crawford, 2nd by Caspar, to approve the September 17, 2020 minutes as amended. Upon voice vote the motion carried unanimously.

4. **Public Comments**

Janie Goodman – on fence heights

(Mike Van Meter joined at 7:08 PM)

5. **Old Business:** None

6. **New Business:**

Discussion items:

- A. Fence height on corner lots – set public hearing October 15, 2020

(Peterson joined the meeting at 7:13 PM)

- B. Pop Up Patios – discussion

- C. Think about tiny houses

- D. Lifting house out of flood plain – set public hearing October 15, 2020

- E. Shed setbacks - discussion

7. **Communications:** None

8. **Reports of Officers and Committees:**

9. **Public Comments:** None

11. **Adjournment:** motion by Crawford supported by Manns to adjourn the meeting at 8:14 p.m.

Respectfully Submitted,
Erin Wilkinson
City Clerk



MEMORANDUM

TO: Planning Commission
City of Saugatuck

FROM: Cindy Osman, Planning and Zoning

DATE: October 15, 2020

RE: Fence Ordinance Amendment

As discussed at our September meeting, I am requesting a change to the fence height restrictions on corner lots to allow for a more equitable use of privacy fencing for corner lots. On an interior lot, a property owner can enclose their entire back yard with a six foot high fence. On a corner lot, a property owner can only enclose a portion of their back yard, because on a corner lot they are defined as having two front yards.

“152.022 (3) *Corner lots.* On a corner lot, each lot line which abuts a street shall be deemed to be a front lot line, and the required yard along both lot frontages shall be required front yard”





§ 154.143 FENCING.

(A) *Intent.* The purpose of this section is to promote the public health, safety and welfare by regulating the manner and location of fence installations in the city while preserving the appearance, character and value of the community and its residential neighborhoods and commercial areas.

(B) *Permit required.* The erection, construction or substantial rebuilding of any fence shall require a fence permit. Substantial rebuilding is reconstruction of more than 50% of the structure, a change in height of the structure or a change from existing material. Painting, cleaning, replacement of like materials or other actions commonly considered as general maintenance shall not be defined as "substantial rebuilding".

(C) *Permit process.* Any person desiring to construct, or cause to be constructed, any fence or screen for which a permit is required as defined in this chapter, shall apply to the Zoning Administrator for a permit. A site plan of the proposed fence or screen shall be submitted with the application and shall:

- (1) Be drawn to scale with the scale noted, and the direction North noted;
- (2) Include the name, address and phone number of the person who prepared the drawing;
- (3) Show the locations and proper dimensions of lot lines and street right of way lines. A legal survey may be requested at the discretion of the Zoning Administrator;
- (4) Show the location of the proposed fence or screen in relation to the property lines;
- (5) Show the height the fence throughout; and
- (6) The Zoning Administrator shall review the application with respect to compliance with the requirements of this chapter. If all requirements have been met, a permit will be issued.

(D) *General requirements.*

(1) *Materials.* Fences and screens shall be constructed of steel, iron, wood, masonry or other durable materials. Masonry piers may be substituted for wood posts.

(2) *Construction.* Fences and screens shall be constructed and maintained plumb and true with adequate support and in a safe and sightly manner. Posts or piers shall be spaced not more than eight feet on center.

(3) *Maintenance and repair.* The owner of any fence or screen shall remove or repair a fence that is dangerous, dilapidated or otherwise in violation of this code. Fences and screens shall be maintained to retain their original appearance, shape and configuration. Elements of the fence or screen that are missing, damaged, destroyed or repaired shall be replaced and/or repaired to maintain conformity with the original fence.

(4) *Fire/public hazard.* No fence shall be approved which constitutes a fire hazard either of itself or in connection with the existing structures in the vicinity, nor which

interferes with access by the Fire Department, or which will constitute a hazard to street traffic or pedestrians.

(E) *Fence location and height regulations.*

(1) There shall be a maximum of one fence permitted along a property line, for each property owner. No portion of a fence shall project beyond the owner's property line.

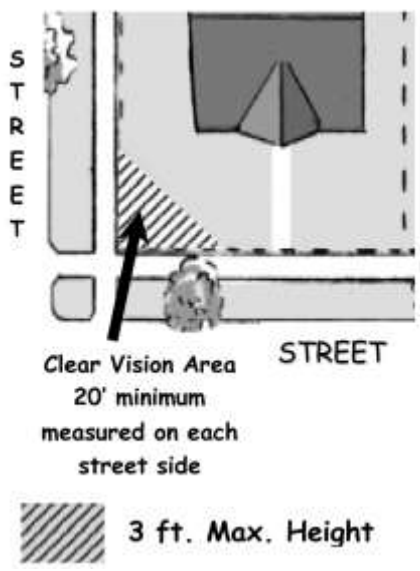
(2) When erecting a new fence next to an existing fence, the maintenance of the area between the fences shall be the responsibility of the person erecting the new fence. Fence panels shall be raised sufficiently above grade to allow for maintenance of the area between the fences.

(3) The decorative side of the fence (the one that reveals to the least extent the support members of the fence) shall be located so that it is facing toward the adjacent properties and toward the street on a corner lot.

(4) Fences located within a rear or side yard shall not exceed six feet in height measured from the surface of the ground, unless as part of an approved site plan, in which case the Planning Commission may approve fences up to ten feet in height.

(5) Fences located within a front yard setback shall not exceed three feet in height measured from the surface of the ground and shall not be located within one foot of the public right of way or sidewalk and shall not prevent clear vision of an intersection or a driveway.

(6) For corner lots, fences located within a side yard abutting a side street shall not exceed six feet in height measured from the surface of the ground. All fences in the side yard on a side street shall be located at least one foot from the public right of way or sidewalk and shall not prevent clear vision of an intersection or a driveway. Clear vision at an intersection means that no fence higher than three feet measured from the surface of the ground shall be placed within 20 feet of an intersection as illustrated below.



(7) -No fence may be located in the public right-of-way, including but not limited to the area between the sidewalk and the street.

(8) For purposes of this subsection, for a corner lot the widest lot dimension along a street line shall be deemed to be a side yard on a side street.

(F) *Additional fence requirements.*

(1) *Barrier fences.* Fences containing barbed wire, electric charges or sharp materials at the top of the fence are prohibited unless needed to protect the public safety and approved by the Planning Commission.

(2) *Temporary construction fences.* Temporary construction fences and fences for protection around excavations shall comply with all requirements of the State Construction Code. The fences shall not be in place for a period of more than one year without special approval from the Zoning Administrator.

(3) *Hedges.* A hedge used as a fence or screen shall be considered a fence for the purposes of this chapter.

(4) *Masonry walls.* A masonry wall used as a fence or screen shall be considered a fence for the purposes of this chapter. Masonry walls shall be constructed to facilitate maintenance. Drainage patterns shall not be modified so as to endanger adjacent property. The outer face of the wall (those facing adjacent property owners or streets) shall be made of clay, brick, stone, split face or cut concrete block, or other similar decorative material.

(5) *Privacy screening.* See § [154.142](#).

(6) *Waterfront.* Fences located within 25 feet of the shore of any lake, river or stream shall not be greater than four feet in height and shall be wrought iron, open mesh, chain link, lattice, slatted or similar type fencing provided that a minimum ratio of six parts open space to one part solid material is maintained.

**CITY COUNCIL
CITY OF SAUGATUCK
ALLEGAN COUNTY, MICHIGAN**

ORDINANCE NO. _____ -__

**AN ORDINANCE TO AMEND TITLE XV, CHAPTER 154, SECTION 154.143 OF
THE CODE OF THE CITY OF SAUGATUCK**

The City of Saugatuck Ordains:

Section 1. Amendment of Section 154.143. That Section 154.143, Chapter 154, Title XV, of the Code of the City of Saugatuck, entitled "SIGNS, SCREENING AND FENCES; FENCING," is amended to read as follows:

§ 154.143 FENCING.

(A) *Intent.* The purpose of this section is to promote the public health, safety and welfare by regulating the manner and location of fence installations in the city while preserving the appearance, character and value of the community and its residential neighborhoods and commercial areas.

(B) *Permit required.* The erection, construction or substantial rebuilding of any fence shall require a fence permit. Substantial rebuilding is reconstruction of more than 50% of the structure, a change in height of the structure or a change from existing material. Painting, cleaning, replacement of like materials or other actions commonly considered as general maintenance shall not be defined as "substantial rebuilding".

(C) *Permit process.* Any person desiring to construct, or cause to be constructed, any fence or screen for which a permit is required as defined in this chapter, shall apply to the Zoning Administrator for a permit. A site plan of the proposed fence or screen shall be submitted with the application and shall:

- (1) Be drawn to scale with the scale noted, and the direction North noted;
- (2) Include the name, address and phone number of the person who prepared the drawing;
- (3) Show the locations and proper dimensions of lot lines and street right of way lines. A legal survey may be requested at the discretion of the Zoning Administrator;
- (4) Show the location of the proposed fence or screen in relation to the property lines;
- (5) Show the height the fence throughout; and
- (6) The Zoning Administrator shall review the application with respect to compliance with the requirements of this chapter. If all requirements have been met, a permit will be issued.

(D) *General requirements.*

(1) *Materials.* Fences and screens shall be constructed of steel, iron, wood, masonry or other durable materials. Masonry piers may be substituted for wood posts.

(2) *Construction.* Fences and screens shall be constructed and maintained plumb and true with adequate support and in a safe and sightly manner. Posts or piers shall be spaced not more than eight feet on center.

(3) *Maintenance and repair.* The owner of any fence or screen shall remove or repair a fence that is dangerous, dilapidated or otherwise in violation of this code. Fences and screens shall be maintained to retain their original appearance, shape and configuration. Elements of the fence or screen that are missing, damaged, destroyed or repaired shall be replaced and/or repaired to maintain conformity with the original fence.

(4) *Fire/public hazard.* No fence shall be approved which constitutes a fire hazard either of itself or in connection with the existing structures in the vicinity, nor which interferes with access by the Fire Department, or which will constitute a hazard to street traffic or pedestrians.

(E) *Fence location and height regulations.*

(1) There shall be a maximum of one fence permitted along a property line for each property owner. No portion of a fence shall project beyond the owner's property line.

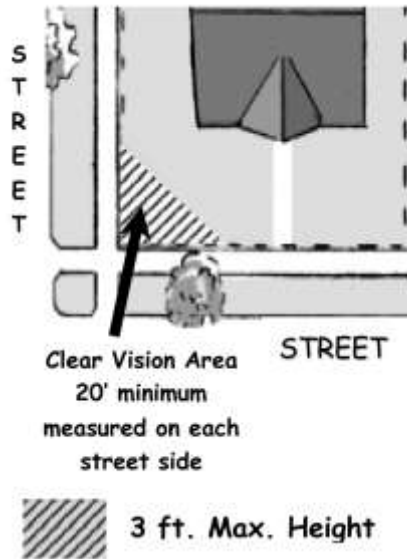
(2) When erecting a new fence next to an existing fence, the maintenance of the area between the fences shall be the responsibility of the person erecting the new fence. Fence panels shall be raised sufficiently above grade to allow for maintenance of the area between the fences.

(3) The decorative side of the fence (the one that reveals to the least extent the support members of the fence) shall be located so that it is facing toward the adjacent properties and toward the street on a corner lot.

(4) Fences located within a rear or side yard shall not exceed six feet in height measured from the surface of the ground, unless as part of an approved site plan, in which case the Planning Commission may approve fences up to ten feet in height.

(5) Fences located within a front yard setback shall not exceed three feet in height measured from the surface of the ground and shall not be located within one foot of the public right of way or sidewalk and shall not prevent clear vision of an intersection or a driveway.

(6) For corner lots, fences located within a side yard abutting a side street shall not exceed six feet in height measured from the surface of the ground. All fences in the side yard on a side street shall be located at least one foot from the public right of way or sidewalk and shall not prevent clear vision of an intersection or a driveway. Clear vision at an intersection means that no fence higher than three feet measured from the surface of the ground shall be placed within 20 feet of an intersection as illustrated below.



(7) No fence may be located in the public right-of-way, including but not limited to the area between the sidewalk and the street.

(8) For purposes of this subsection, for a corner lot the widest lot dimension along a street line shall be deemed to be a side yard on a side street.

(F) *Additional fence requirements.*

(1) *Barrier fences.* Fences containing barbed wire, electric charges or sharp materials at the top of the fence are prohibited unless needed to protect the public safety and approved by the Planning Commission.

(2) *Temporary construction fences.* Temporary construction fences and fences for protection around excavations shall comply with all requirements of the State Construction Code. The fences shall not be in place for a period of more than one year without special approval from the Zoning Administrator.

(3) *Hedges.* A hedge used as a fence or screen shall be considered a fence for the purposes of this chapter.

(4) *Masonry walls.* A masonry wall used as a fence or screen shall be considered a fence for the purposes of this chapter. Masonry walls shall be constructed to facilitate maintenance. Drainage patterns shall not be modified so as to endanger adjacent property. The outer face of the wall (those facing adjacent property owners or streets) shall be made of clay, brick, stone, split face or cut concrete block, or other similar decorative material.

(5) *Privacy screening.* See § [154.142](#).

(6) *Waterfront.* Fences located within 25 feet of the shore of any lake, river or stream shall not be greater than four feet in height and shall be wrought iron, open mesh, chain link, lattice, slatted or similar type fencing provided that a minimum ratio of six parts open space to one part solid material is maintained.

Section 2. Effective Date. This Ordinance shall become effective seven (7) days after its publication unless otherwise provided by law.

YEAS: _____

NAYS: _____

ABSENT: _____

ORDINANCE NO. _____ ADOPTED

I, Erin Wilkinson, the Clerk of the City of Saugatuck, certify that the foregoing is a true and accurate copy of an ordinance adopted at a regular meeting of the City Council of the City of Saugatuck, held on _____, 2020, and noticed in accordance with all legal requirements.

Erin Wilkinson, Clerk

Introduced: _____

Adopted: _____

Published: _____



MEMORANDUM

TO: Planning Commission
City of Saugatuck

FROM: Cindy Osman, Planning and Zoning

DATE: May 21, 2020

RE: Ordinance Amendment Non-Conforming Structures in the Flood Plain

Recent high water events have created some problems for existing structures that are in the areas of special flood hazard (commonly known as flood plain). Section R322 of the Michigan residential code requires that all new and substantially improved structures be elevated out of the established flood plain. Substantially improved means that the cost of the improvements is 50% or more than the assessed value of the structure. Repairs to flood damaged structures can easily exceed this amount.

This is the intent of this request:

(a) *Nonconforming structure.* In the event that any lawful, nonconforming, structure shall be damaged or destroyed by fire, wind, accident, act of God, or other similar means or manner, **or threatened by flood**, reconstruction or restoration shall be permitted by right, unless such destruction or damage was due to the intentional or reckless act or actions of an owner of the property, regardless of the district within which the preexisting structure was located. A structure to be reconstructed or restored **or raised above the flood plain** shall be located within the original dimensions at every structural level, and/or within the original gross finished floor area, including decks and patios, with the exception that no portion of the structure shall be reconstructed within, or so as to encroach on, a public right-of-way or public easement, and all reconstruction or restoration of structures within a flood hazard area shall conform to the State Construction Code. Any reconstruction shall be subject to compliance with the provisions of this chapter, and any expansion shall be in full conformance with the requirements of the zoning district.

The questions I anticipate are, What does threatened by flood mean? To me that would mean (and we could write it in) where the structure is located in an area of special flood hazard, and the lowest floor level is lower than 585 feet above sea level.

How far could the structure be raised? So that the lowest floor level is not more than 586 feet above sea level.

Planning Commission

October 15, 2020



59 Mason St

62 East St

43 West St



Side yard on a side street

FRONTYARD

59 Mason St

62 East St

43 West St



FRONT YARD 3 FOOT MAXIMUM
FENCE HEIGHT

FRONT YARD 5
FOOT
MAXIM
UM
FENCE
HEIGHT

59 Mason St

62 East St

43 West St

CURRENT ALLOWABLE HEIGHT LIMITATIONS

FRONT YARD 3 FOOT
MAXIMUM FENCE
HEIGHT

FRONT
YARD 3
FOOT
MAXIM
UM
FENCE
HEIGHT

REAR
YARD
6
FOOT
MAXI
MUM

SIDE YARD
MAXIMUM 6
FEET HEIGHT



**CURRENT PERMITTED LOCATION FOR A 6 FT
HIGH FENCE ON A CORNER LOT:**



PROPOSED ALLOWABLE HEIGHT LIMITATIONS

**REAR
YARD
6
FOOT
MAXI
MUM**

**SYSS 6 FOOT
MAXIMUM
FENCE HEIGHT**

**FRONT
YARD 3
FOOT
MAXIM
UM
FENCE
HEIGHT**

**SIDE YARD
MAXIMUM 6
FEET HEIGHT**

59 Mason St

62 East St

43 West St

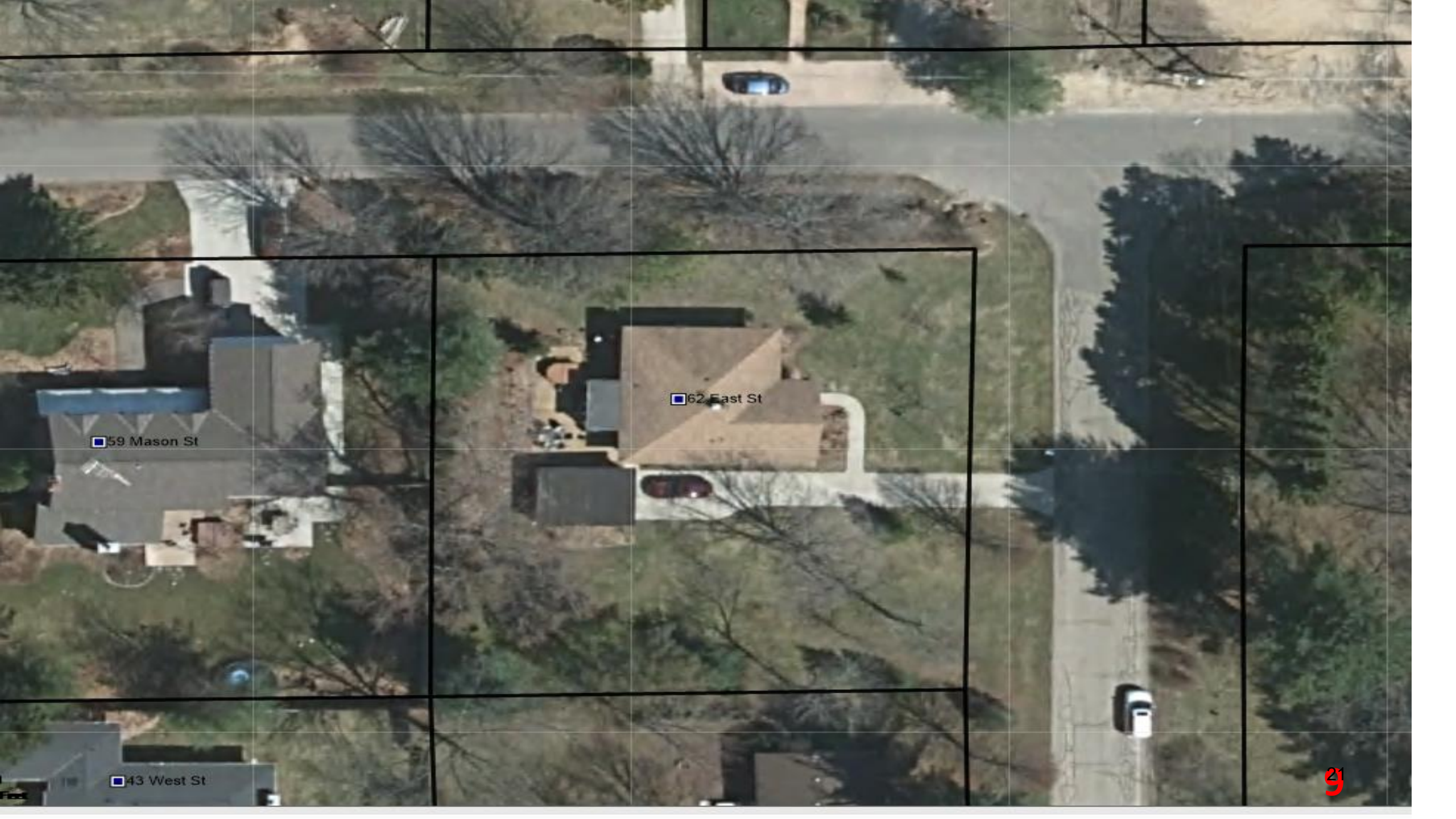
PROPOSED ALLOWABLE LOCATION FOR A 6 FT FENCE INCLUDES SIDE YARD ON A SIDE ST.



59 Mason St

62 East St

43 West St



59 Mason St

62 East St

43 West St

Possible motion:

- I move to approve/deny the amendments to the Saugatuck City Ordinance Section 154.143 regarding fence height up to 6 feet on a side yard on a side street as presented/as modified. The staff report is to be attached as part of the findings of fact.

Flood plain – non-conforming

(4) *Damage and reconstruction.*

(a) *Nonconforming structure.* In the event that any lawful, nonconforming, structure shall be damaged or destroyed by fire, wind, accident, act of God, or other similar means or manner, **or threatened by flood**, reconstruction or restoration shall be permitted by right, unless such destruction or damage was due to the intentional or reckless act or actions of an owner of the property, regardless of the district within which the preexisting structure was located. A structure to be reconstructed or restored **or raised above the flood plain** shall be located within the original dimensions at every structural level, and/or within the original gross finished floor area, including decks and patios, with the exception that no portion of the structure shall be reconstructed within, or so as to encroach on, a public right-of-way or public easement, and all reconstruction or restoration of structures within a flood hazard area shall conform to the State Construction Code. Any reconstruction shall be subject to compliance with the provisions of this chapter, and any expansion shall be in full conformance with the requirements of the zoning district.

Possible motion:

Motion to approve/deny amendments to section 154.174 of the Saugatuck City Ordinance to treat non-conforming flood threatened properties in the same manner as non-conforming properties damaged by wind or fire or other calamity.

**CITY COUNCIL
CITY OF SAUGATUCK
ALLEGAN COUNTY, MICHIGAN**

ORDINANCE NO. _____ -__

**AN ORDINANCE TO AMEND TITLE XV, CHAPTER 154, SUBSECTIONS
154.022(G) AND 154.174(C) OF THE CODE OF THE CITY OF SAUGATUCK**

The City of Saugatuck Ordains:

Section 1. Amendment of Subsection 154.022(G). That Subsection 154.022(G), Chapter 154, Title XV, of the Code of the City of Saugatuck, entitled “GENERAL REGULATIONS; PERMITTED YARD ENCROACHMENTS,” is amended to read as follows:

§ 154.022(G)

Permitted yard encroachments. Whenever otherwise lawfully permitted the following may be permitted to encroach upon the minimum yard area and setback requirements of this chapter:

- (1) Eaves, cornices or pilasters a maximum of two feet;
- (2) Approved fences and signs;
- (3) Flower boxes, a maximum of one foot;
- (4) Sidewalks, driveways, parking lots;
- (5) Utility meters or service points;
- (6) Detached stairways on slopes with landings, provided the landing(s) do(es) not exceed the minimum requirement of the building code by more the 10%;
- (7) Rails, cables, stairways, and motorized lifts on steep slopes, extending from ground floor doorways or detached from a structure;
- (8) Front steps less than 36 inches high and wheel chair ramps;
- (9) Decks not more than 30 inches above the surrounding finished grade at any point are permitted to encroach on required side and rear yards, provided they are not closer than seven feet to any side or rear property line;
- (10) Patios not higher than 12 inches above the surrounding finished grade at any point are permitted to encroach on required side and rear yard setbacks provided they are no closer than 3 feet to any side or rear property line provided there still remains adequate access in the event of an emergency;
- (11) Patios between 12 inches and 30 inches above the surrounding finished grade at any point my encroach on required side and rear yards, provided that they or not closer than

seven feet to a side or rear property line provided there still remains adequate access in the event of an emergency;

(12) Hot tubs, spas, and in ground swimming pools along with their associated or contiguous patios and decks, may encroach into ½ of the required side or rear yard setbacks, but in no case shall be closer than seven feet to any property line. No such structures shall be permitted in the front yard. Waterfront pool enclosure fencing as required by the State Construction Code shall conform with § [154.143\(F\)\(6\)](#);

(13) Driveways and landscaping;

(14) Arbors, trellises, yard ornaments, statuary, flagpoles;

(15) Plantings, shrubs, landscaping and indigenous vegetation;

(16) Sandboxes, swings, picnic tables, barbecues and similar accessory recreational equipment;

(17) Pad-mounted air-conditioning, heating or ventilating equipment, located in side or rear yards provided that they are no closer than two feet from any side or rear yard lot line;

[\(18\) In the R-1 Community Residential zone district, accessory buildings and structures in the side or rear yard provided that they are no closer than two feet from any side or rear yard lot line and comply with all applicable building code requirements;](#)

~~(18)~~ [\(19\) Uses not specifically itemized, but which are similar in nature to any of the foregoing uses as determined by the zoning administrator.](#)

Section 2. [Amendment of Subsection 154.174\(C\)](#). That Subsection 154.174(C), Chapter 154, Title XV, of the Code of the City of Saugatuck, entitled “NONCONFORMING USES, LOTS AND STRUCTURES; NONCONFORMING STRUCTURES,” is amended to read as follows:

§ 154.174(C)

(C) *Nonconforming structures*. Use of structures which are existing and lawful on the effective date of this chapter, or amendment thereto, may be continued, even though the structures do not conform with the provisions of this chapter, or amendment thereto, subject to the following provisions.

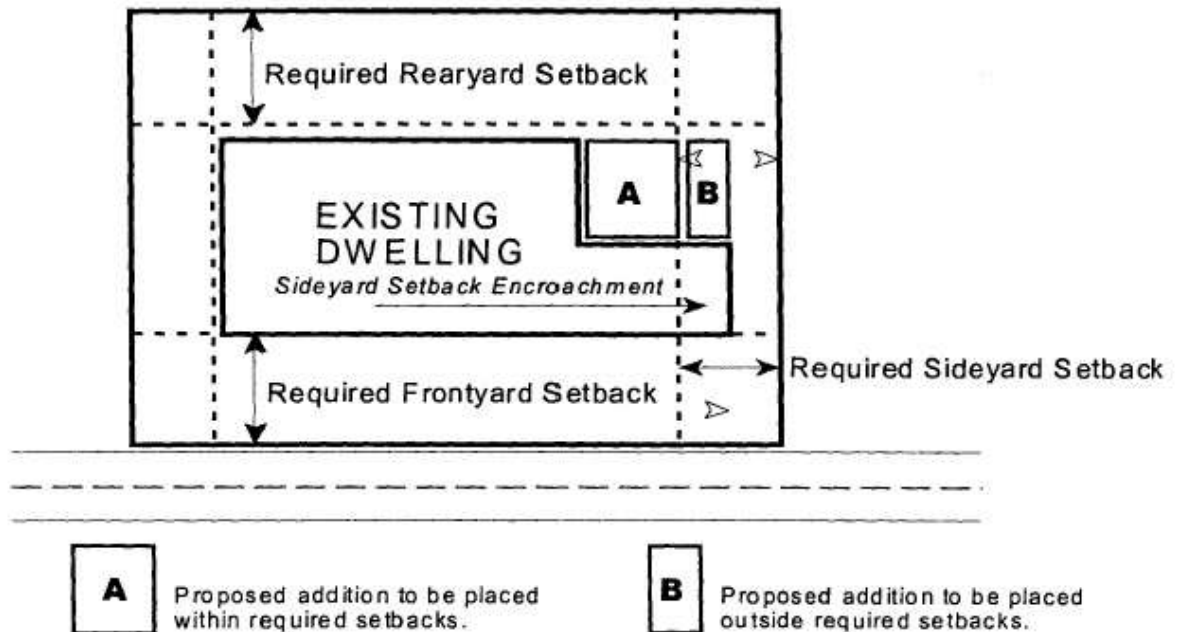
(1) *Enlargement or alteration*.

(a) A lawful nonconforming structure may not be enlarged, expanded or altered in any way which increases its nonconformity with the provisions of this chapter unless otherwise noted within this chapter. The nonconforming structure may be enlarged or altered provided that all such changes are in conformance with all provisions of this chapter at every structural level. All enlargements or alterations shall be subject to review and approval by the Zoning Administrator.

(b) Pursuant to the above, the Zoning Administrator may require the applicant to provide boundary and/or topographic surveys of the existing nonconforming structure and associated site. These surveys shall be sealed by a registered land surveyor registered in the State of Michigan. The topographic survey may be limited to providing dimensional detail on the height of existing structures, unless additional information is required by the Zoning Administrator.

(c) The surveys shall verify that the existing setbacks and height limit of the existing nonconforming structure comply with the setbacks and height standards of the underlying zone district. Further, the survey drawing shall be used to identify the specific area, with dimensions, to be occupied by the expansion or alteration of the nonconforming structure.

Example: Nonconforming Residential Structure



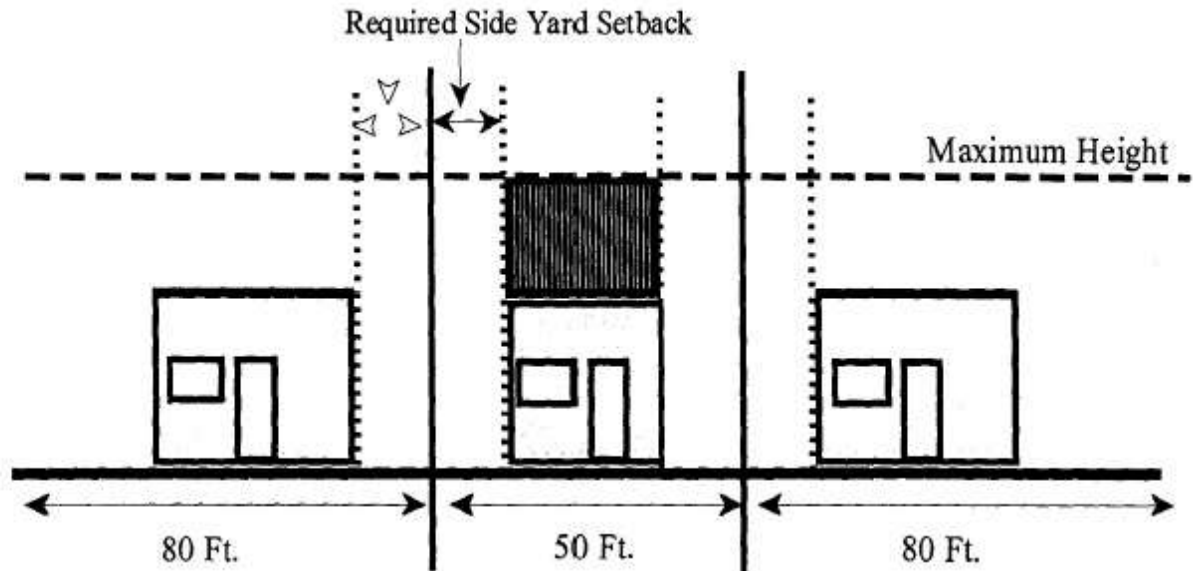
The existing dwelling encroaches on a required side yard setback resulting in a nonconforming situation. Proposed addition “A” may be permitted following a residential site plan review by the Planning Commission. However, a variance from the Zoning Board of Appeals would be required for addition “B”.

(2) *Non-use (dimensional) variance.* Such variances may be authorized by the Zoning Board of Appeals for enlargement or alterations of nonconforming structures that increase any nonconformity(ies) under the provisions of §§ [154.150](#) through [154.157](#).

(3) *ZBA conditions pursuant to enlargement/alteration.* In authorizing a variance to enlarge or alter a lawful nonconforming structure, the Zoning Board of Appeals may impose conditions necessitated by the request including, but not limited to: additional site landscaping; site buffers; fencing; facade design requirements, building materials and building color changes; additional off-street parking and vehicular circulation modifications; signage; exterior lighting; and related building and site design modifications and conditions.

Example: Structural Alteration on a Nonconforming Lot

The zone district requires a minimum lot width of 80 feet. The undersized lot of 50 feet is a legal nonconforming parcel. The lot may be used to accommodate a permitted building provided all setbacks are complied with. In the following example, the undersized lot meets all building setbacks. The applicant wishes to increase the height of the structure. He or she may do so provided the upper story remains within all setbacks and height limits. A variance is not required.



(4) *Damage and reconstruction.*

(a) *Nonconforming structure.* In the event that any lawful, nonconforming, structure shall be damaged or destroyed by fire, wind, accident, act of God, or other similar means or manner, or threatened by flood, reconstruction ~~or,~~ restoration, and/or raising shall be permitted by right, unless such destruction or damage was due to the intentional or reckless act or actions of an owner of the property, ~~regardless of the district within which the preexisting structure was located.~~ A structure to be reconstructed or restored shall be located within the original dimensions at every structural level, and/or within the original gross finished floor area, including decks and patios, with the exception that no portion of the structure shall be reconstructed within, or so as to encroach on, a public right-of-way or public easement. In

addition, a structure to be reconstructed, and all reconstruction or restoration of structures restored, or raised within a designated special flood hazard area shall be located within the original dimensions at every structural level, and/or within the original gross finished floor area, including decks and patios, and shall further conform to the State Construction Code. Any reconstruction shall be subject to compliance with the provisions of this chapter, and any expansion shall be in full conformance with the requirements of the zoning district.

(b) *Building permit required.* Any reconstruction or restoration authorized pursuant to this division shall require the issuance of a building permit within 12 months of the occurrence of the damage.

(c) *Special flood hazard area.* For purposes of this subsection, threatened by flood shall mean that the structure is located in the special flood hazard area as designated in the current Flood Insurance Rate Map (FIRM) and the lowest floor level is less than one foot above the Base Flood Elevation (BFE) as designated in the FIRM. In addition, a structure that is threatened by flood shall not be raised more than three feet above the BFE.

(5) *Decrease of nonconformity and re-establishment.* If a lawful nonconforming structure is altered or modified so as to eliminate, remove or lessen any or all of its nonconforming characteristics, then those nonconforming characteristics shall not be later re-established or increased.

Section 3. Effective Date. This Ordinance shall become effective seven (7) days after its publication unless otherwise provided by law.

YEAS: _____

NAYS: _____

ABSENT: _____

ORDINANCE NO. _____ ADOPTED

I, Erin Wilkinson, the Clerk of the City of Saugatuck, certify that the foregoing is a true and accurate copy of an ordinance adopted at a regular meeting of the City Council of the City of Saugatuck, held on _____, 2020, and noticed in accordance with all legal requirements.

Erin Wilkinson, Clerk

Introduced: _____

Adopted: _____

Published: _____

**CITY COUNCIL
CITY OF SAUGATUCK
ALLEGAN COUNTY, MICHIGAN**

ORDINANCE NO. _____ -__

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154.022(G) AND 154.174(C) OF THE CODE OF THE CITY OF SAUGATUCK**

The City of Saugatuck Ordains:

Section 1. Amendment of Subsection 154.022(G). That Subsection 154.022(G), Chapter 154, Title XV, of the Code of the City of Saugatuck, entitled “GENERAL REGULATIONS; PERMITTED YARD ENCROACHMENTS,” is amended to read as follows:

§ 154.022(G)

Permitted yard encroachments. Whenever otherwise lawfully permitted the following may be permitted to encroach upon the minimum yard area and setback requirements of this chapter:

- (1) Eaves, cornices or pilasters a maximum of two feet;
- (2) Approved fences and signs;
- (3) Flower boxes, a maximum of one foot;
- (4) Sidewalks, driveways, parking lots;
- (5) Utility meters or service points;
- (6) Detached stairways on slopes with landings, provided the landing(s) do(es) not exceed the minimum requirement of the building code by more the 10%;
- (7) Rails, cables, stairways, and motorized lifts on steep slopes, extending from ground floor doorways or detached from a structure;
- (8) Front steps less than 36 inches high and wheel chair ramps;
- (9) Decks not more than 30 inches above the surrounding finished grade at any point are permitted to encroach on required side and rear yards, provided they are not closer than seven feet to any side or rear property line;
- (10) Patios not higher than 12 inches above the surrounding finished grade at any point are permitted to encroach on required side and rear yard setbacks provided they are no closer than 3 feet to any side or rear property line provided there still remains adequate access in the event of an emergency;
- (11) Patios between 12 inches and 30 inches above the surrounding finished grade at any point my encroach on required side and rear yards, provided that they or not closer than

seven feet to a side or rear property line provided there still remains adequate access in the event of an emergency;

(12) Hot tubs, spas, and in ground swimming pools along with their associated or contiguous patios and decks, may encroach into ½ of the required side or rear yard setbacks, but in no case shall be closer than seven feet to any property line. No such structures shall be permitted in the front yard. Waterfront pool enclosure fencing as required by the State Construction Code shall conform with § [154.143\(F\)\(6\)](#);

(13) Driveways and landscaping;

(14) Arbors, trellises, yard ornaments, statuary, flagpoles;

(15) Plantings, shrubs, landscaping and indigenous vegetation;

(16) Sandboxes, swings, picnic tables, barbecues and similar accessory recreational equipment;

(17) Pad-mounted air-conditioning, heating or ventilating equipment, located in side or rear yards provided that they are no closer than two feet from any side or rear yard lot line;

(18) In the R-1 Community Residential zone district, accessory buildings and structures in the side or rear yard provided that they are no closer than two feet from any side or rear yard lot line and comply with all applicable building code requirements;

(19) Uses not specifically itemized, but which are similar in nature to any of the foregoing uses as determined by the zoning administrator.

Section 2. Amendment of Subsection 154.174(C). That Subsection 154.174(C), Chapter 154, Title XV, of the Code of the City of Saugatuck, entitled “NONCONFORMING USES, LOTS AND STRUCTURES; NONCONFORMING STRUCTURES,” is amended to read as follows:

§ 154.174(C)

(C) *Nonconforming structures*. Use of structures which are existing and lawful on the effective date of this chapter, or amendment thereto, may be continued, even though the structures do not conform with the provisions of this chapter, or amendment thereto, subject to the following provisions.

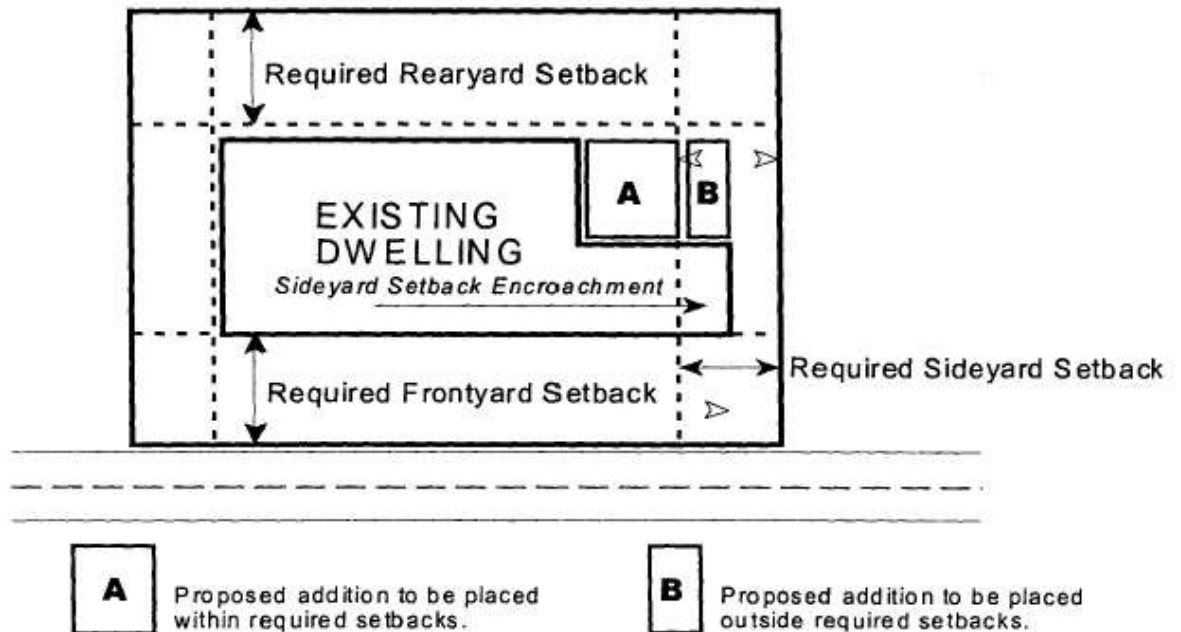
(1) *Enlargement or alteration*.

(a) A lawful nonconforming structure may not be enlarged, expanded or altered in any way which increases its nonconformity with the provisions of this chapter unless otherwise noted within this chapter. The nonconforming structure may be enlarged or altered provided that all such changes are in conformance with all provisions of this chapter at every structural level. All enlargements or alterations shall be subject to review and approval by the Zoning Administrator.

(b) Pursuant to the above, the Zoning Administrator may require the applicant to provide boundary and/or topographic surveys of the existing nonconforming structure and associated site. These surveys shall be sealed by a registered land surveyor registered in the State of Michigan. The topographic survey may be limited to providing dimensional detail on the height of existing structures, unless additional information is required by the Zoning Administrator.

(c) The surveys shall verify that the existing setbacks and height limit of the existing nonconforming structure comply with the setbacks and height standards of the underlying zone district. Further, the survey drawing shall be used to identify the specific area, with dimensions, to be occupied by the expansion or alteration of the nonconforming structure.

Example: Nonconforming Residential Structure



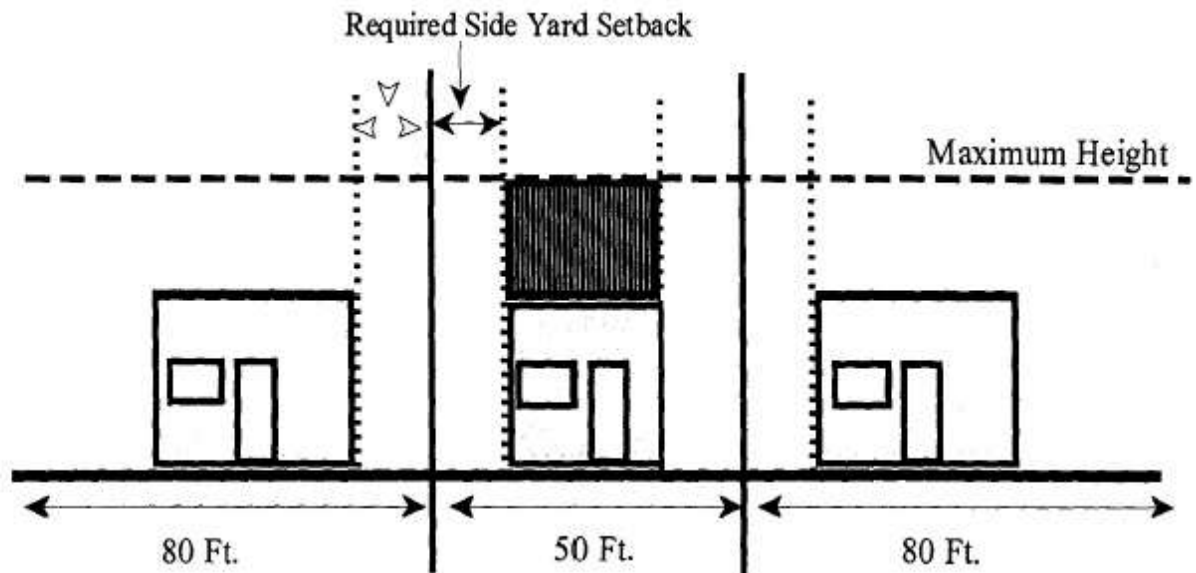
The existing dwelling encroaches on a required side yard setback resulting in a nonconforming situation. Proposed addition “A” may be permitted following a residential site plan review by the Planning Commission. However, a variance from the Zoning Board of Appeals would be required for addition “B”.

(2) *Non-use (dimensional) variance.* Such variances may be authorized by the Zoning Board of Appeals for enlargement or alterations of nonconforming structures that increase any nonconformity(ies) under the provisions of §§ [154.150](#) through [154.157](#).

(3) *ZBA conditions pursuant to enlargement/alteration.* In authorizing a variance to enlarge or alter a lawful nonconforming structure, the Zoning Board of Appeals may impose conditions necessitated by the request including, but not limited to: additional site landscaping; site buffers; fencing; facade design requirements, building materials and building color changes; additional off-street parking and vehicular circulation modifications; signage; exterior lighting; and related building and site design modifications and conditions.

Example: Structural Alteration on a Nonconforming Lot

The zone district requires a minimum lot width of 80 feet. The undersized lot of 50 feet is a legal nonconforming parcel. The lot may be used to accommodate a permitted building provided all setbacks are complied with. In the following example, the undersized lot meets all building setbacks. The applicant wishes to increase the height of the structure. He or she may do so provided the upper story remains within all setbacks and height limits. A variance is not required.



(4) *Damage and reconstruction.*

(a) *Nonconforming structure.* In the event that any lawful, nonconforming, structure shall be damaged or destroyed by fire, wind, accident, act of God, or other similar means or manner, or threatened by flood, reconstruction, restoration, and/or raising shall be permitted by right, unless such destruction or damage was due to the intentional or reckless act or actions of an owner of the property. A structure to be reconstructed or restored shall be located within the original dimensions at every structural level, and/or within the original gross finished floor area, including decks and patios, with the exception that no portion of the structure shall be reconstructed within, or so as to encroach on, a public right-of-way or public easement. In addition, a structure to be reconstructed, restored, or raised within a designated special flood hazard area shall be located within the original dimensions at every structural level, and/or

within the original gross finished floor area, including decks and patios, and shall further conform to the State Construction Code. Any reconstruction shall be subject to compliance with the provisions of this chapter, and any expansion shall be in full conformance with the requirements of the zoning district.

(b) *Building permit required.* Any reconstruction or restoration authorized pursuant to this division shall require the issuance of a building permit within 12 months of the occurrence of the damage.

(c) *Special flood hazard area.* For purposes of this subsection, threatened by flood shall mean that the structure is located in the special flood hazard area as designated in the current Flood Insurance Rate Map (FIRM) and the lowest floor level is less than one foot above the Base Flood Elevation (BFE) as designated in the FIRM. In addition, a structure that is threatened by flood shall not be raised more than three feet above the BFE.

(5) *Decrease of nonconformity and re-establishment.* If a lawful nonconforming structure is altered or modified so as to eliminate, remove or lessen any or all of its nonconforming characteristics, then those nonconforming characteristics shall not be later re-established or increased.

Section 3. Effective Date. This Ordinance shall become effective seven (7) days after its publication unless otherwise provided by law.

YEAS: _____

NAYS: _____

ABSENT: _____

ORDINANCE NO. _____ ADOPTED

I, Erin Wilkinson, the Clerk of the City of Saugatuck, certify that the foregoing is a true and accurate copy of an ordinance adopted at a regular meeting of the City Council of the City of Saugatuck, held on _____, 2020, and noticed in accordance with all legal requirements.

Erin Wilkinson, Clerk

Introduced: _____

Adopted: _____

Published: _____