



CITY OF CHANHASSEEN

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MEMORANDUM

TO: Planning Commission

FROM: MacKenzie Young-Walters, Associate Planner

DATE: September 15, 2020

SUBJ: Require Zoning Permits for all Structures That Do Not Require Building Permits

ISSUE

There are structures that residents are interested in constructing that do not require building permits and are not included in the list of structures requiring zoning permits. These structures have the potential to violate the city's zoning code and these structures should be evaluated for compliance with the zoning code before they are constructed.

SUMMARY

There are structures that are exempted from the state's building permit requirements that have the potential to violate the city's zoning code. Since the city's zoning code regulates things like setbacks, height, and impervious surfaces, violations of the zoning code can disturb adjacent property owners, interfere with drainage and utility easements, and lead to drainage and stormwater issues. Historically, it has been much easier for the city to prevent these issues by identifying potentially problematic structures before they are constructed through the review of zoning permits than to try to address these issues after a structure has been installed.

Currently, the section of the City Code lists structures that require zoning permits; however, the list is not exhaustive and there are structures for which no permit is required. Staff proposes amending this section of the Code to clarify that all structures require a zoning permit.

RELEVANT CITY CODE

Sec. 20-91.- Zoning permit: States a list of structures not requiring building permits that require zoning permits and states that any zoning permit application that fails to meet the requirements of the zoning ordinance shall be denied.

Amendment History

Ordinance 377 passed in 2004 created section 20-91. Zoning Compliance Review and required Agricultural Buildings, Detached Decks less than 30" in height, Detached Accessory Structures less than 120 square feet, and Sport Courts be reviewed for compliance with the zoning code.

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Ordinance 409 passed in 2006 renamed section 20-91 as “Zoning Permit” and added fences less than six feet in height to the list of structures.

Ordinance 452 passed in 2007 added Driveway Expansions and Patios to the list of items requiring zoning permits.

Ordinance 612 passed in 2015 amended the Detached Accessory Structure requirement to include structures less than 200 square feet and added Retaining Walls less than 4’ in height to the list.

ANALYSIS

The City Code lists eight structures that require a zoning permit. They are all structures that are subject to zoning code provisions that limit structures’ heights, placement, and lot coverage. For example, staff requires zoning permits for sport courts to ensure that a 2,808 square foot doubles tennis court is not constructed in the front yard of a quarter acre property directly on the side lot line. Such a structure would alter the visual aesthetic of the neighborhood, pose a risk to motorists as missed balls flew into the road, disturb neighbors as tennis matches occurred 10 feet from their bedroom, and divert stormwater runoff directly onto the neighbor’s property. While this is an extreme example, much smaller and less obviously out of place structures can have negative impacts as well. For example, a small 100-square foot patio fire pit located on the property line may violate the fire code by failing to maintain enough separation from a neighboring shed or home. The neighbor may feel that evening fires occurring so close to their home disturb the peace and quiet and the grading associated with installing the patio may have leveled a drainage swale to the detriment of other properties. Alternatively, a homeowner may be unaware of conservation and tree preservation easements that restrict the placement of these types of features and sensitive natural resources are damaged when these structures and their associated activities occur within these areas. Finally, there are situations where homeowners are unaware of the location of their property lines and build structures within city-owned preserves.

All of the examples show why it is important that the city review the placement of small structures; however, the language of the zoning permit statute only requires permits for specific structures. Other items such as large above-ground pools or 190 square foot tree houses also have the same ability to impact adjacent properties. Since the adoption of the zoning permit requirement in 2004 staff has amended the list three times to include additional structures that were generating complaints and zoning violations. Rather than continue to expand the list as problems are discovered, staff believes it would be more efficient to include language making it clear that any structure regulated by the zoning code that does not require a building permit requires a zoning permit.

This language would also aid staff in responding to resident complaints as staff could require a retroactive zoning permit for any structure constructed without a permit after the adoption of the revised language to verify and document compliance with the ordinance. Additionally, that fact