



STAFF REPORT

MORGAN COUNTY PLANNING COMMISSION

PETITION FOR: TEXT AMENDMENT

Applicant: Morgan County Planning & Development
Applicant's Agent: N/A
Zoning Ordinance: Article 3, Definitions
Article 5, Chapter 5.5 Minimum Required Yards and Building Setbacks
Article 5, Chapter 5.9 Minimum Distance Between Buildings
Article 7, Chapter 7.1 Accessory Buildings

Summary

Morgan County Planning and Development has experienced an increase in builders who cannot, or will not, work within established setbacks. Contradictions in the zoning language have prevented the Buildings Inspector and Code Enforcement from successfully enforcing the setback ordinances when these situations arise. This issue has also extended to the distance required between buildings.

The definitions contradicted each other and the setback information in Article 5. We are proposing to condense and simplify the definitions. Since builders have used the language for projections to justify their encroachment into setbacks, we are removing the language that allows for parts of the building to protrude into setbacks. We are proposing to remove Chapter 5.9 regarding the minimum distance between buildings as the language relates to commercial or attached housing more than single family residential. These dimensional requirements are covered separately in the specific regulations for commercial and attached housing, so any reference here creates the potential for more contradiction in the future.

Finally, we are proposing a reduction to the amount of space required between buildings. The 20 foot distance has been required for fire safety. We have repeatedly had builders violate this distance requirement and argue about the fire safety aspect. Further to that argument is the accepted method of solving the distance requirement, which is to connect the structures with a breezeway to make them one structure under code. The question: Does the breezeway change the fire safety dynamic? The answer is no, or perhaps it makes it worse. The new building code only requires 5 feet between structures. Staff is not satisfied with only 5 feet for maintenance and aesthetic reasons but have resolved to propose a compromise of 10 feet. This will not affect the distance requirements, per code, for commercial spaces.

Chapter 3 Definitions

~~Building: Anything attached to the ground having a roof supported by columns or by walls and intended for shelter, housing or enclosure of persons, animals or personal property. For purposes of this ordinance, the term “building” includes “structure”, as defined.~~

Building – Any structure used or intended for supporting or sheltering any use or occupancy.

~~Building Setback Line: A line establishing the minimum allowable distance between the main or front wall of a principal building and the street right of way line or another building wall and a side or rear property line when measured perpendicularly thereto. Covered porches, whether enclosed or not, shall be considered as a part of the building and shall not project into any required yards. For purposes of this Ordinance, a building setback line and minimum required yard shall be considered the same.~~

~~Setback, Building: A line establishing the minimum allowable distance between the front of a principal building and the street right of way line or another building wall and a side or rear property line when measured perpendicular thereto. The building setback line will be measured perpendicularly from the property line to the nearest point of the building, including any material portions thereof that protrude outward from the main building. Covered porches, whether enclosed or not, shall be considered as a part of the building and shall not project into any required yards. For purposes of this Ordinance, a building setback line and minimum yard shall be considered the same.~~

Setback: The minimum distance by which any building or structure must be separated from the street right-of-way or lot line.

~~Structure: Anything built, constructed or erected, or established or composed of parts joined together in some definite manner, the use of which requires location on the ground or which is attached to something having permanent location on the ground.~~

Structure: Anything constructed or erected, the use of which requires permanent location on the ground or attached to something having a permanent location on the ground, excluding fences, septic tanks, septic systems and facilities associated with the provision of utilities.

~~Yard: A space on the same lot with a principal building, open unoccupied and unobstructed by buildings or structures from ground to sky except where encroachments and accessory buildings are expressly permitted.~~

Yard: An open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward. In measuring a yard for the

purpose of determining the width of a side yard, the depth of a front yard or the depth of a rear yard, the minimum horizontal distance between the lot line and the building shall be used.

~~Yard, front:~~ An open, unoccupied space on the same lot with a principal building, extending the full width of the lot, and situated between the street right of way and the front line of the building projected to the side lines of the lot.

~~Yard, side:~~ An open, unoccupied space on the same lot with the principal building, situated between the building and the side line of the lot and extending from the rear line of the front yard to the front line of the rear yard.

~~Yard, rear:~~ An open, unoccupied space on the same lot with a principal building, extending the full width of the lot and situated between the rear line of the lot and the rear line of the building projected to the side lines of the lot.

Chapter 5.5 Minimum Required Yards and Building Setbacks

No building shall hereafter be erected in a manner to have narrower or smaller rear yards, front yards, or side yards than specified for the use district in which the property is located, or for specific use if yards and setback regulations pertain to a specific use in this Ordinance. No lot shall be reduced in size, and no principal building shall hereafter be constructed, so that the front, side or rear yards required by the use district in which said lot and building are located are not maintained. No part of a yard or other open space required for one building shall be included as part of a yard of other open space similarly required for another building. Every part of a required yard or court shall be **unoccupied and unobstructed by any portion of a structure from the ground upward.** ~~open from its lowest point to the sky unobstructed, except for the ordinary projection of sills, cornices, buttresses, ornamental features, chimneys, flues, and eaves, provided such projections do not extend more than 2 feet into the yard area requirements.~~ This Chapter shall not apply when a portion of a lot is acquired for a public purpose. As established by this Ordinance, the application of buffer requirements supersedes these minimum required yards.

Chapter 5.9 ~~Minimum Distance Between Buildings~~

~~The following minimum distances between buildings are required unless otherwise specified within this Ordinance. The minimum distance between principal buildings located on the same lot or parcel:~~

- ~~• Front to front arrangement: 40 feet~~
- ~~• Front to rear arrangement: 50 feet~~
- ~~• Rear to rear arrangement: 30 feet~~
- ~~• Side to side arrangement: 20 feet~~
- ~~• All other combinations: 20 feet~~

~~There shall be a distance of not less than 20 feet between a principal buildings and accessory building located on the same parcel or lot.~~

Chapter 7.1 Accessory Buildings

- A detached accessory building shall not be closer than ~~twenty (20)~~ ten (10) feet to the principal any building or use. The distance between buildings will be treated as a minimum required yard with all applicable regulations.