

Staff Report

REQUEST TO INITIATE ZONING TEXT AMENDMENT REGARDING LANDSCAPE ACCENTS WITHIN A BUILDING SETBACK

February 28, 2023

BACKGROUND

City Council requested background information on fences and projections into yards in December 2022. Staff had described recent decisions by the Zoning Board of Adjustment concerning appeals of administrative decisions regarding fences and “landscape accent” features. **On January 10, 2023, City Council directed staff to prepare a staff report on setback projections, specifically regarding “landscape accents.” City Council indicated at that meeting that it did not want to review fence standards.**

The Zoning Ordinance considers essentially all constructed improvements above ground to be structures. **The Zoning Ordinance requires all structures to meet setbacks based upon the zoning district and type of structure unless specifically exempted.**

Residential zoning districts typically have a 25-foot front yard setback, side setbacks of six or eight feet for one- and two-stories respectively, and a rear yard setback of 20 feet. However, certain features are allowed to fully project into required setbacks as defined in the Zoning Ordinance, such as stairs, 24-inch-high decks, driveways, fences, accessory buildings, porches, etc. Section 29.402(2)(c) includes a list of these items allowed as full projections (Attachment A).

In 2020, refinements to the language in Section 29.402 were included as part of Ordinance #4425. The general intent was to clarify requirements and expectations for the extension of building features into required setbacks as well as offer additional flexibility in the allowances for certain extensions. **Small items including arbors and statuary of up to four feet were previously allowed, but in 2020, the allowances were broadened to allow for a greater range of features with the intent that it did not cause yard areas to become fenced inconsistent with fence standards.**

Previously, the relevant portion of the standards on landscape accents read: “*Arbors with a footprint no greater than 10 square feet; fountains and statuary up to four feet in height, constructed ponds and waterfalls at or below finished grade, and similar incidental landscape accent.*”

The standard now reads: “*Landscape accents that include but are not limited to arbors with a footprint coverage area no greater than 15 square feet; fountains and statuary up to four feet in height, and constructed ponds and waterfalls at or below finished grade,*

and similar incidental landscape accents. The design and location of accent features shall not have the effect of creating a continuous wall that does not meet fence standards.”

The change in the text was intended to allow non-intrusive, incidental landscape accents within a setback. Although some descriptive characteristics were included in the text, the lack of clear expectations to size and quantity of these incidental landscape features has become problematic in application of the text for both the height of poles and other features as well as their overall size of features. Additionally, no specific building permit is required in advance of construction or placing these types of features and there is no staff review.

Recent appeals to the Zoning Board of Adjustment have made it apparent that some quantifiable characteristics and limitations are needed to avoid confusion. Staff still is supportive of being flexible for these landscape and garden types of features. However, it seems that more specific language is needed to avoid issues of interpretation. A permit process would also be beneficial regarding encroachments into setbacks for all types of features, including fences.

OPTIONS:

The primary question to resolve is the intent of the exception, and when does it cross over to fencing. The options below are focused on language changes to clarify the maximum size and number of landscape accents that may be located within a setback (or front yard) within Section 29.402(2)(c). There are a wide range of options to allow for or to manage the accent features through height, size, percent of yard area covered, exception process, or permits. Staff has focused on height or size options for this report.

Option 1: ADD A HEIGHT LIMIT EQUAL TO FENCES FOR LANDSCAPE ACCENTS

Landscape accents in front yards would be limited to a maximum height of four feet and landscape accents in rear setbacks would be limited to a maximum height of six feet. Height limit would be eight feet outside of setbacks, except in front yards. By removing any ambiguity in relation to the height of features, the question of whether a structure is a fence or not becomes moot. Arbors and trellis, which typically extend up to eight feet, would not be allowed within the setback. They would only be allowed outside of the setback.

Option 2: ADD A LANDSCAPE ACCENT HEIGHT LIMIT OF EIGHT FEET

This option would allow for arbors and other objects that are taller than fences but not as long as fences. However, they would still be limited by other language to avoid enclosing areas similar to fences. Staff would suggest a three-foot setback that matches accessory buildings would also be appropriate to ensure it is not part of a fence on a property line. This option alone would not resolve all of staff's concerns about consistent administration of the exception, but it clearly addresses height limitations and relationship to fence attachments. There is no limit on the number of features within his option.

Option 3: MAXIMUM OF THREE LANDSCAPE ACCENTS THAT ARE NO GREATER IN SIZE THAN 8X8 FEET

This option focuses on the number and length/width of accents rather than height. The philosophy of this standard would be that up to three eight-foot wide or long accents would not completely encroach upon a yard and enclose it like a fence. This would apply to standalone objects some as poles, garden tables, arbors, trellises, etc. Someone could use this language to place trellis or other type of panels as barriers separate from a fence to shield a patio, window, etc. or to grow plants.

This option would be the most accommodating option for people desiring ornamental features and garden features in a front yard while trying to ensure the yard does not become fenced and closed off in the front.

Option 4: ADDRESS ARBORS OR GATES FOR FENCES SEPARATE FROM OTHER ACCENT LIMITATIONS

Add the provision that one arbor may be located in combination with a fence and exceed fence height as long as, the arbor is no greater than 15 square feet in size (footprint). Currently, there is no limit on the height or number of arbors, as long as they are not part of a fence and do not have the “effect of creating a continuous wall.” Arbors attached to a fence are viewed as part of the fence and are limited to the fence height when in setbacks. Staff believes that the addition of an arbor at the property line in association with a fence or as a discrete standalone feature is an appropriate option that matches the original allowances of the Code and can be considered in combination with Option 1.

Option 5: REQUIRE A PERMIT FOR A FENCE AND/OR ACCENT PROJECTION WITHIN A SETBACK

This option could apply to regardless of making any changes to standards. The current language could remain and be subject to review by staff. Alternatively, even with changes to the language a permit could be required to review it for conformity before it is constructed. If there is question of staff’s review it would then be appealable to the ZBA. Even with changes to the standards this option would be beneficial for establishing a clear process to communicate to the public. This is a similar issue for fences as driveways permits past year.

STAFF COMMENTS:

Staff believes some version of a text amendment would be appropriate to assist in administration of the exception rather than maintaining the status quo as well as to promote flexibility for small or incidental features as landscape accents.

Presuming City Council wants to allow substantial flexibility, staff believes Option 3 would provide that by focusing on the number of features. If height is the number

one concern, the other options would clarify the standards as well without materially impacting the fence regulations. **Regardless of which of the first four options are pursued, staff believes Option 5, which requires a permit, would also be beneficial.**

NEXT STEPS:

The staff is seeking direction, if desired, regarding a proposed text amendment. Once direction is provided, the staff will draft language as needed to modify the related sections for projections into setbacks and height standards. The proposed text amendment would then go to Planning and Zoning Commission for review and a recommendation before returning to the City Council for approval of an ordinance later this spring.

Attachment A -Code References

Sec. 29.402. SETBACKS.

- (1) **Building Setback Standard.** Except as provided below, all buildings and structures, Principal and Accessory, shall be located to comply with the minimum and maximum Building Setbacks established for Principal and Accessory Buildings listed in each Zone Development Standards Table, Supplemental Development Standards Table, condition, or other regulation applicable to the lot or the use being employed at the site.

- (2) **Extensions into Required Building Setbacks.** Certain building elements and site features are allowed to be located within or project into required setbacks.
 - (c) **Full projections allowed.** In addition to the minor projections listed in the previous section, the following features are allowed to fully project into required setbacks:
 - (i) Covered walkways leading to main entrances in commercial and industrial zones;
 - (ii) Uncovered stairways (including landings), wheelchair lifts, and accessible access ramps and associated handrails that lead directly to a first floor, basement, or at-grade building entrance;
 - (iii) At-grade steps, above-grade steps up to three feet in height, and associated handrails, sidewalls, and landings;
 - (iv) Uncovered decks, with or without railings, no higher than 24 inches above finished grade;
 - (v) Retaining walls that retain fill and which are up to four feet in height in front setbacks and up to six feet in height in side and rear setbacks.
 - (vi) Retaining walls of any height that retain existing natural grade;
 - (vii) Driveways, patios, sidewalks, and similar at-grade surfaces;
 - (viii) Landscape accents that include but are not limited to arbors with a coverage area no greater than 15 square feet; fountains and statuary up to four feet in height, and constructed ponds and waterfalls at or below finished grade, and similar incidental landscape accents. The design and location of accent features shall not have the effect of creating a continuous wall that does not meet fence standards.
 - (ix) Mechanical Units (in rear and side yards only);
 - (x) Play structures (within rear and side yards only), no closer than three feet to property lines;
 - (xi) Fences as allowed in Section 29.408(2); *(STAFF NOTE-Fences limited to 4 feet in height anywhere in a front yard, even if it is beyond the first 25-foot setback.*

Fences may be up to 6 feet in height in side and rear yard setbacks, anything greater in height would need to meet setbacks.)

(xii) Planter boxes/walls at allowable fence heights;

(xiii) Alternative Energy devices as allowed in Sections 29.1309 & 29.1310;

(xiv) Satellite dishes less than one meter in diameter;

(xv) Mailboxes, little libraries, cluster box units, flagpoles, and lamp poles;

(xvi) Signs are subject to the standards of Chapter 21 and Chapter 29. Free standing signs described as ground, pole, or monument signs, including any support structure of said signs, where the sign has less than 150 square feet of coverage. Signs attached to a principal building, such as wall signs and projecting signs, that do not have support extending to the ground;

(xvii) Public Art when located within a public art easement accepted by the City of Ames.

(xviii) Bicycle Parking Systems. Bicycle Parking Systems may be located in the front setback of nonresidential zoning districts when it is no higher than four feet in height and it does not interfere with required landscaping. This exception does not allow for parking areas where otherwise not permitted.