

ORDINANCE NO. 692

ORDINANCE AMENDING CHAPTERS 2.12, 15.30, 17.20, 17.24, 17.32, AND 17.56 OF THE HILLSBOROUGH MUNICIPAL CODE REGARDING EXTENSIONS OF DESIGN REVIEW APPROVALS, CONSTRUCTION BOND EXTENSIONS, IMPROVEMENTS TO NONCONFORMING STRUCTURES, SETBACKS FOR SOLAR ENERGY SYSTEMS, HARDSCAPE DEFINITION, LANDSCAPE PERMIT REQUIREMENTS, AND OTHER AMENDMENTS FOR INTERNAL CODE CONSISTENCY

Section 1. Section 2.12.090 is here by amended to read as follows:

2.12.090 Expiration of approval.

Any approval granted in accordance with provisions of this chapter shall lapse if a building permit has not been issued within one year of the date the approval was granted. A request for a one-year extension of time, if filed prior to the expiration, may be considered by the director of building and planning, the architecture and design review board or the city council, whichever took final action on the application. If final action on the application was taken by the architecture and design review board or by the city council, the first request for an extension of time may be processed by the director of building and planning subject to public notification in the same manner as was originally required. Requests for extension of time after a first request shall be considered at a public hearing before the architecture and design review board or city council, whichever took final action on the application, noticed in the same manner as was originally required, and the request may be approved, conditionally approved or denied. A request for an extension will typically be approved unless physical conditions or circumstances related to the site or the surrounding property have changed or unless town standards or requirements have changed.

Section 2. Section 15.30.055 is here by added to read as follows:

Section 15.30.055. Time Extensions For Completion Of Construction

The Building Official may extend the time for completion set forth in Section 15.30.050 for a period not to exceed 90 days per extension after considering the impact on neighboring residences and the good faith and diligence of the property owner in moving forward with the project. The property owner must apply for the extension at least five business days prior to the expiration of the time limit then in effect. The property owner may apply for additional extensions, but no single extension may be for a period exceeding 90 days.

Section 3. Section 17.20.020(B) is here by amended to read as follows:

17.20.020(B) Altering or rebuilding nonconforming structures in the absence of natural disaster.

B. Regarding encroachment into a setback area, an accessory structure that is nonconforming because it encroaches into a setback area may be enlarged, reconstructed, or otherwise altered provided the encroachment does not extend further into the setback area if:

1. Such addition, reconstruction, or alteration does not amount to a complete reconstruction;
2. The fire chief and chief building official first determine that such enlargement, reconstruction, or alteration will not constitute a fire or safety hazard; and
3. The adjoining property owner(s) have been notified in writing of the proposed addition, reconstruction, or alteration and if such owner(s) have submitted a written objection to the planning office, the proposal has been approved by the city council after a public hearing noticed under Chapter 1.20. In considering whether to approve a proposal under this subsection regarding an accessory structure (including, without limitation, a garage attached to such accessory structure), the city council shall consider, and shall make findings as to whether approving the proposal will allow the replacement of a deteriorated or antiquated structure or portion thereof with a sound, properly designed and constructed structure or portion thereof, and whether approving the proposal will, or will not, be materially detrimental to the public health, safety, or welfare or injurious to other properties in the town.

Section 4. Section 17.24.010 is hereby amended to read as follows:

17.24.010 General rules.

A. Except as otherwise set forth in these general rules, no structure placed, erected, or constructed on private property shall be located in the setback areas as described in Section 17.24.020.

B. Subject to subsection C below, the following accessory structures may be located within setback areas as indicated:

1. Retaining walls, provided that the maximum height allowed is six feet in the street-line setback area (as defined in Section 17.24.020(A) and (B)) and four and one-half feet in the interior setback area (as defined in Section 17.24.020(C), measured as set forth in Section 12.12.050(B).
2. Decks, stairs, landings no higher than eighteen inches, ponds (a pond being a pool of water no more than eighteen inches deep), walkways, patios, terraces, driveways, benches, and railings.
3. Any outdoor fixture meeting the requirements of Chapter 12.12 of this code and all other applicable laws and regulations.

4. In the total combined setback areas of a lot, one enclosed structure not exceeding forty square feet in floor area if:
 - a. The structure is no more than six feet high; and
 - b. The structure is no closer than five feet from any lot line; and
 - c. The structure is at least forty feet from any adjoining residence; and
 - d. The structure is more than twenty-five feet from any street line; and
 - e. The adjoining affected property owner(s) (i.e., the owner(s) whose property is adjacent to the proposed structure) has indicated in writing that the affected owner has no objection to the proposed location.
5. Unenclosed structures (such as tennis or other courts, play structures, arbors, swimming pools, spas, and hot tubs) if:
 - a. The structure is no more than eight feet high, provided, however, than any structure more than six feet high is subject to prior design review approval as set forth in Chapter 2.12; and
 - b. The structure is no closer than five feet from any lot line; and
 - c. The structure is at least forty feet from any adjoining residence; and
 - d. The structure is more than twenty-five feet from any street line; and
 - e. The adjoining affected property owner(s) (i.e., the owner(s) whose property is adjacent to the proposed structure) has indicated in writing that the affected owner has no objection to the proposed location.

C. No structure shall be located over a public utility easement except that a fence not over six feet high may be so located, and, if the entity owning the easement has given prior written approval, a retaining wall not over four and one-half feet high may be so located.

D. Architectural features such as bay windows, chimneys, and overhanging eaves may encroach a maximum of twenty-four inches into street-line and interior setback areas.

E. Solar Energy Systems, as defined in the California Civil Code Section 801.5(a) or successor provision, are exempt from the requirements of this Section but shall be no closer than five feet from any property line. Additionally, solar energy systems shall be subject to all applicable Federal, State and Hillsborough Municipal Code health and safety requirements.

Section 5. Section 17.32.060(A) is here by amended to read as follows:

17.32.060(A) Residential lot coverage.

A. For purposes of this chapter, there are three types of residential lot coverage: Structural coverage, hardscape coverage, and softscape coverage.

1. Structural coverage consists of areas of the lot covered by a house, a garage, a carport, and any other accessory structure having more than one wall and a roof. These shall be measured to their exterior wall lines or exterior supporting columns, but shall not include porches, entries, porticos, balconies, and the like (if such porches, entries, porticos, balconies, and the like are roofed and open on at least two sides) and shall not include roof overhangs, if all these excluded items together do not exceed, in area, ten percent of the maximum permitted structural coverage. Structural coverage is often referred to as the "footprint" of the above-described structures on the lot.
2. Hardscape coverage consists of areas of the lot located beneath a roof or covered by manufactured, non-plant pervious or impervious materials but does not include anything included in structural coverage.
3. Softscape coverage consists of all lot coverage that is not structural coverage or hardscape coverage. Examples of softscape are planted areas, dirt, indigenous grasses and woodland, gravel, and mulch.

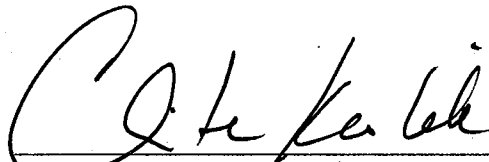
Section 6. Section 17.56.020(4) is here by amended to read as follows:

17.56.070 Permit(s) for landscaping.

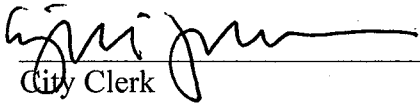
After securing design review approval as set forth in Section 17.56.060, the applicant shall file a written application with the building department to obtain the appropriate permit(s) required for the installation of the landscaping. (Depending on the design of the landscaping, such permits can include building, plumbing, electrical, encroachment, etc.) The application for permit(s) shall be filed on a standard form prepared for that purpose, together with the application fee as set forth from time to time by resolution of the city council. If Section 17.56.040 is applicable to the landscaping plan, the application for permit(s) shall also include an irrigation system plan that provides for efficient use of irrigation by grouping high water use plants together. Approved landscape permits associated with construction projects subject to a building permit are required prior to the granting of a final approval on a construction permit.

Section 7. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held to be unconstitutional or otherwise invalid by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council of the Town of Hillsborough hereby declares that it would have adopted the remainder of this ordinance, including each section, subsection, sentence, clause, phrase, or portion irrespective of the invalidity of any other article, section, subsection, sentence, clause, phrase, or portion.

Section 8. This ordinance shall be printed and posted upon the three official bulletin boards of the Town of Hillsborough and shall be effective thirty days after adoption.


MAYOR OF THE TOWN OF HILLSBOROUGH

ATTEST:


City Clerk

ORDINANCE NO. 692 of the TOWN OF HILLSBOROUGH introduced on August 9, 2010, and adopted on September 13, 2010, by the following vote of the City Council:

| | | |
|----------|----------------|---------------------------------------|
| AYES: | Councilmembers | <u>Krolik, Kasten, Fannon, Benton</u> |
| NOES: | Councilmembers | <u>None</u> |
| ABSENT: | Councilmembers | <u>Regan</u> |
| ABSTAIN: | Councilmembers | <u>None</u> |