

memorandum

DATE: October 25, 2022
TO: Mayor Kelly Garrett and Lathrup Village City Council
FROM: Jill Bahm & Eric Pietsch, Giffels Webster
SUBJECT: Zoning Amendment – Location of Permanent Power Generators

Introduction

What prompted this amendment?

With severe or extreme weather events becoming more common, an increasing number of property owners in the city have considered installing exterior generators in the event of power outages. The zoning ordinance permits generators in all zoning districts; however, they are restricted to rear yard locations only. Considering every parcel in the city is different, restricting the location of generators to the rear yard may not always be the most feasible. Recent permit applications that proposed side yard locations, and thus requests for variance approval, have spurred conversation that explores considering an amendment to the ordinance that would allow for permanent power generator units to be installed in a property's side yard.

Current Ordinance

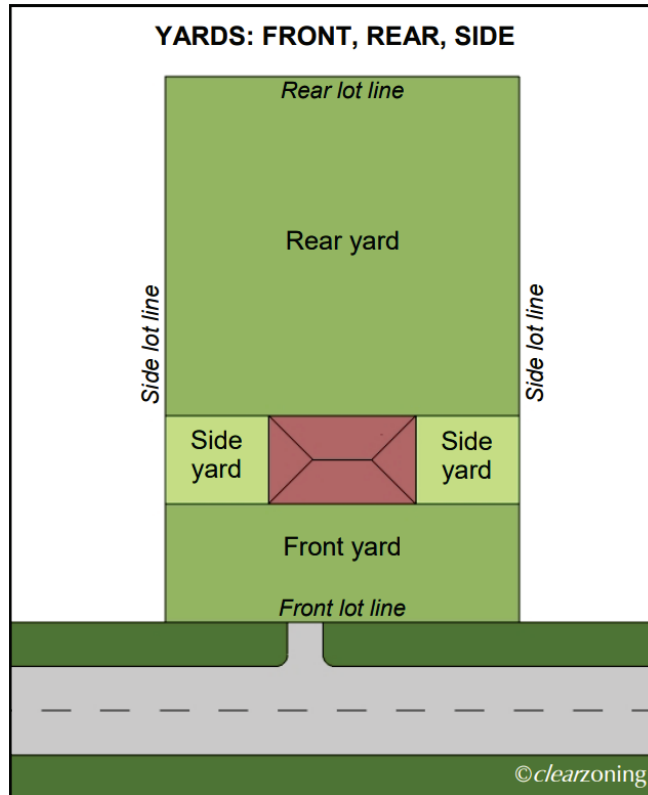
The use standards of Article 4 include permanent power generators under 4.12, allowing for their use as a source of interim power for standby conveyance or medical emergency purposes subject to the following 6 criteria:

- 1) Noise shall be limited to 70 dB (A) at the point of measurement.
- 2) When the ambient noise is greater than 65 dB (A) at the property line, the noise generated from the generator in combination with the ambient noise shall not exceed more than 10 dB(A) above the ambient noise.
- 3) Periodic cycling, e.g., testing or maintenance, shall be permitted only between 9:00 a.m. to 5:00 p.m. Monday through Saturday.
- 4) Power generators that are installed as a permanent fixture or structure connected to the electrical system of a building shall require permits issued by the Building Department in addition to permits required under the applicable construction codes; a permit for installation; and a permit for operation. Following installation, no operation shall be permitted until a use permit is issued, which shall require a noise test administered by the City with the generator operation under load for the purposes of insuring that the noise requirements of this section are met.
- 5) To the extent necessary for compliance with this section, walls, and/or an enclosure, and/or landscaping to screen the power generator 365 days per year shall be necessary, and it shall be the duty of the owner of the generator, and not the duty of the City, to determine the abatement measures needed, to secure all permits required under applicable codes and ordinances and to conform with this section.
- 6) All power generators must be located in the rear yard.

Definitions.

Yard, rear. An open space extending the full width of the lot, between the rear lot line and the rear of the main building, and unoccupied from the ground upwards by any structures other than those expressly permitted by this ordinance. Where there is no main building on the lot, the rear yard shall be the minimum depth specified measured inward from the rear lot line.

Yard, side. An open space extending along the side lot lines between the front yard and the rear yards from the side lot lines to the sides of the main building and unoccupied from the ground upwards by any structures other than those expressly permitted by this ordinance. Where there is no main building on the lot, the side yards shall be the minimum depth specified measured inward from the side lot lines.



Considerations

What are the driving forces that restrict generators to a rear yard?

Of the 6 criteria outlined above, half include noise as a regulated feature. It can be argued that criterion 3 is also a noise-related restriction that permits testing and maintenance of the units during daytime hours only. Criterion 5 emphasizes the requirement to adequately screen the generator units from view. Since generator units are only permitted in a rear yard, this would imply that the screening is intended primarily for neighboring properties as views from the street would likely be obstructed by the primary residence the generator is affixed to. Criterion 4 relates to operating safety as a factor when connecting a generator to the electrical system of a building.

If these three criteria, **noise, screening, and safety** have any influence over the required rear yard location of generators, then how can they apply, if at all, to generators permitted in side yards?

Current Industry Standards Pertaining to Noise.

With advancements in technology, research indicates home generator brands offer quieter units, many of which emit 60dB or less of sound when activated. For comparison, 60dB is about the sound level of a normal conversation between two people.

Screening Standards.

Screening of units is an existing code requirement for rear yard generators. Consideration is for ordinance language to provide enhanced screening, whether landscaping or enclosures such as fences or walls, with the intent to obscure side yard units from adjacent property, or views from the street(s).

Ordinance Safety Standards.

No change to the ordinance language pertaining to safety measures should be considered for side yard generators. Safety standards can and should be the same for any location a generator is installed.

Setbacks.

Generators shall follow the setback requirements of accessory structures (no encroachment permitted in a minimum side yard setback requirement (Sec. 5.16.1.B.)). For residential properties, the standards of Sec. 5.16.2.G shall apply to generator units. Note that the encroachment of 3' into a side yard setback is permitted if the adjacent property is occupied by a use other than one-family residential.

Summary / Recommendation

On October 18, 2022, the Planning Commission moved to amend the zoning ordinance to allow permanent power generators in a property's side yard and forward the amendments to City Council for approval. The attached draft outlines the proposed changes that may be considered.

These include the removal of Section 4.12 "Permanent Power Generators" and relocate it to Section 5.16 "Accessory Buildings and Structures."

Maintain the standards for permanent power generators located in a rear yard and allow for the location of permanent power generators in a property's side yard. Maintain the noise (sound decibels) and screening standards for side yard generators.