



MEMORANDUM

Date: August 14th, 2025

To: City of Madison Heights Planning Commission [August 19th Meeting]

From: Matt Lonnerstater, AICP – City Planner

Subject: Non-Conforming Residential Driveways – Initial Discussion on Potential Text Amendment(s)

Introduction

At the August 19th, 2025 Planning Commission meeting, staff would like to discuss issues pertaining to the replacement of non-conforming residential driveways. Based on Zoning Ordinance requirements, staff has recently denied several concrete permits related to the like-for-like replacement of non-conforming residential driveways. To avoid an abundance of cases in front of the Zoning Board of Appeals, staff recommends that the Planning Commission consider zoning text amendments which would allow certain non-conforming residential driveways to be replaced in-kind. If the Planning Commission determines that a zoning ordinance text amendment is warranted, a public hearing should be set for the next meeting.

Background

Section 7.03.10.C of the recently-adopted Madison Heights Zoning Ordinance contains use-specific standards for residential driveways. As a vast majority of single-family detached houses and their associated driveways in Madison Heights were constructed prior to the adoption of the new Zoning Ordinance, there are many cases of legally non-conforming driveway conditions throughout the city. As property owners and their contractors have come in to pull concrete permits for routine driveway replacement over the summer months, staff has had to deny many applications for the replacement of non-conforming driveways; this is due to the Article 13 (Nonconformities) of the Zoning Ordinance which requires non-conforming site elements to be brought up to code when replaced. Permit denials have, understandably, led to frustration for these property owners due to the impracticality of alternate driveway designs or the cost/time factor of going in front of the Zoning Board of Appeals (ZBA) for a variance.

Staff has generally denied concrete permit applications relating to non-conforming driveway replacements based on one (or multiple) of the following zoning standards:

- (A) Driveways shall be set back a minimum of one (1) foot from side and rear lot lines, except in cases where the driveway is accessed from a rear alley or where a driveway is shared between two or more properties.
- (B) Driveways shall not be permitted in front of the residential dwelling. Nonconformities relating to this standard often lead to one of the following additional nonconformities:
 - 1) Driveways leading to an attached garage shall be no wider than 20 feet at the front or street side lot line but may taper to a width up to, but not to exceed, eighteen (18) inches beyond the exterior edges of the garage door opening.
 - 2) Driveways leading to a detached garage shall be no wider than twelve (12) feet in width at the property line but may taper to a width up to, but not to exceed, eighteen (18) inches beyond the exterior edges of the garage door opening.

Side Yard Setback

Section 7.03.10.C.(3) requires driveways to be set back a minimum of one (1) foot from side and rear lot lines. The intent behind this standard is to allow for stormwater to infiltrate into a grass strip at the property line instead of sheet flowing directly onto adjacent properties. While this standard is important for new construction, there are myriad examples of existing residential driveways built right along the side property line; this is especially true in the southern portions of the city, where narrow parcel widths and minimum building setback requirements have limited both driveway and building placement.



Narrow lot widths and minimum building setback requirements have historically limited driveway placement to the side property line edges.

In many cases, especially those with narrow lot widths of 40 feet or less, enforcing the one-foot minimum driveway setback for replacement driveways may lead to other non-conforming conditions, such as driveways that are too narrow (less than 9 feet wide) or driveways that need to extend to an area in front of the dwelling. Due to the pervasiveness of this non-conformity, staff recommends a text amendment.

Text Amendment Consideration: The Planning Commission has several options to consider for a text amendment related to this type of non-conformity:

- 1) **Comprehensive:** Any legally permitted driveway which is non-conforming due to a failure to meet the side or rear yard driveway setback requirement may be repaired, repaved, and/or reconstructed in-kind; however, in no case may the extent of an existing non-conformity increase as a result.
- 2) **Limited:** A legally permitted driveway which is non-conforming due to a failure to meet the side or rear yard driveway setback requirement may be repaired, repaved, and/or reconstructed in-kind if one (or both) of the following conditions are met:
 - a. The existing parcel features a lot width of 40 feet or less; or
 - b. The existing driveway to be replaced is ten (10) feet wide or less.

In no case may the extent of an existing non-conformity increase as a result.

- 3) No change (non-conformity shall be addressed with driveway replacement).
- 4) Other approach, based on Planning Commission discussion.

Driveways in front of a Residential Dwelling/Maximum Driveway Width

Section 7.03.10.C prohibits driveways directly in front of residential dwellings. This general requirement was carried over from the the previous Zoning Ordinance (with the standard adopted sometime prior to 1999), which stated, *“no paved surfaces of any type whatsoever, including, but not by way of limitation, surfaces consisting of concrete, asphalt, or portland cement binder, will be permitted in front of the main building except a paved surface which constitutes a sidewalk and/or service walk for the purposes of pedestrian travel and which is not intended to be driven upon or parked upon.”*

The intent behind this standard, and of the standards in the new Zoning Ordinance, is to limit vehicles from dominating the front yard of a residential property and to reduce the amount, or at least the appearance, of impervious surface in front of a home. The Zoning Ordinance envisions service walks that are completely separate from the driveway or, at minimum, connected to the driveway via a flare/taper:



Zoning Ordinance standards encourage a pedestrian service walk that is completely separate from the driveway or, at a minimum, tapered/ flared from the edge of the driveway.

Unfortunately, it appears as if this standard has historically been applied sporadically, interpreted in a variety of ways, or simply not enforced. There are a number of examples of service walks being placed directly adjacent to the entire length of the driveway from the porch to the public sidewalk; these “service walk” extensions effectively act as a full-length driveway extension with pavement in front of the home. In many cases, the combined width of the driveway and attached service walk also result in a total driveway width exceeding the maximums permitted by the Zoning Ordinance.



Examples of full-length “service walks” directly connected to a driveway which result in pavement in front of the dwelling and excessive driveway widths.

There are, of course, more egregious examples where the width of a service walk and related pavement could potentially permit additional vehicle parking in front of the dwelling. The Planning Commission may want to ensure that these nonconformities cannot be reconstructed in-kind:



Examples of combined driveways/service walks which extend a significant distance into the front yard.

There is potentially a case to be made to allow the like-for-like replacement of non-conforming driveways with modest attached service walks projecting in front of the home (e.g. 5 feet wide or less), especially where homes are built with their front entrances/patios immediately adjacent to the driveway. However, staff recommends that the Zoning Ordinance continue to prohibit the replacement of egregious non-conforming driveways/service walks where the pavement extends a considerable distance into the front yard, or where a service walk is not a logical component of the extended driveway width.

Text Amendment Consideration: The Planning Commission has several options to consider for a text amendment related to this type of non-conformity:

- 1) **Comprehensive:** Any legally permitted driveway which is non-conforming due to pavement extending in front of the residential dwelling, including any attached service walk, may be repaired, repaved, and/or reconstructed in kind; however, in no case may the extent of an existing non-conformity increase as a result.
- 2) **Limited:** A legally permitted driveway which is non-conforming due to an attached service walk extending up to, but not exceeding, five (5) feet in front of the residential dwelling may be repaired, repaved, and/or reconstructed in-kind; this shall be permitted irrespective of nonconforming driveway width at the property line; however, in no case may the extent of an existing non-conformity increase as a result.
- 3) No change (the non-conformity shall be addressed with driveway replacement).
- 4) Other amendment, based on discussion.

All-Encompassing Standard for All Non-Conforming Driveways

As an alternate to addressing the specific types of non-conforming addressed in this memo, the Planning Commission may consider adopting “all encompassing” text amendment which would allow for the in-kind replacement of any legally non-conforming driveway, regardless of the type or extent of non-conformity. The City of Plymouth has a similar standard in their Zoning Ordinance which states, “Any legal, non-conforming [residential] driveway may be repaved or reconstructed in the same location and in the same manner if it was established legally and with necessary permits.”

Planning Commission Discussion and Next Steps

Provided the Planning Commission elects to move forward with text amendments to grant flexibility to property owners with non-conforming driveways, staff would set a public hearing for the **September 16th** Planning Commission meeting and begin the public notice process. Staff believes that text amendments, to some extent, may be reasonable in order to grant a limited amount of flexibility to residential property owners so that they may improve their driveways without needing to seek a variance. Staff advises against adopting an all-encompassing waiver amendment which would allow the like-for-like replacement of any nonconforming residential driveway, no matter the extent of the nonconformity. However, staff looks to the Planning Commission for guidance as to which set of amendments, if any, should be adopted.

To summarize, staff offers the following text amendment approaches for consideration (staff recommendations are highlighted in yellow). Of course, additional approaches may be discussed.

	A) All-Encompassing (any nonconforming driveway): Any legal, non-conforming driveway may be repaved or reconstructed in the same location and in the same manner if it was established legally and with necessary permits. However, in no case may the extent of an existing non-conformity increase as a result.
	B) Case-Specific: Certain non-conforming driveways may be replaced in-kind, dependent on the situation:
	1) One-Foot Side Yard Setback: <ul style="list-style-type: none">a. Comprehensive: Any legally permitted driveway which is non-conforming due to a failure to meet the side or rear yard driveway setback requirement may be repaired, repaved, and/or reconstructed in-kind; however, in no case may the extent of an existing non-conformity increase as a result.b. Limited: A legally permitted driveway which is non-conforming due to a failure to meet the side or rear yard driveway setback requirement may be repaired, repaved, and/or reconstructed in-kind if one (or both) of the following conditions are met:<ul style="list-style-type: none">i. The existing parcel features a lot width of 40 feet or less; and/orii. The existing driveway to be replaced is ten (10) feet wide or less.In no case may the extent of an existing non-conformity increase as a result.
	2) Front-Yard Parking/Driveway Width: <ul style="list-style-type: none">a. Comprehensive: Any legally permitted driveway which is non-conforming due to pavement extending in front of the residential dwelling, including any attached service walk, may be repaired, repaved, and/or reconstructed in kind; however, in no case may the extent of an existing non-conformity increase as a result.b. Limited: A legally permitted driveway which is non-conforming due to an attached service walk extending up to, but not exceeding, five (5) feet in front of the residential dwelling may be repaired, repaved, and/or reconstructed in-kind; this shall be permitted irrespective of nonconforming driveway width at the property line; however, in no case may the extent of an existing non-conformity increase as a result.
	C) No change: Any non-conformity shall be addressed with driveway replacement.