



City of Waukesha
 201 Delafield St. Waukesha, WI 53188
 Tel: 262.542.3700
 waukesha-wi.gov

Committee: Plan Commission	Date: 9/27/2023
Common Council Item Number: PC23-7715	Date: 9/27/2023
Submitted By: Doug Koehler, Principal Planner	City Administrator Approval: Click here to enter text.
Finance Department Review: Click here to enter text.	City Attorney's Office Review: Click here to enter text.
Code Amendment - Proposed update to Section 22.05 and 22.58 of the Zoning Ordinance, to clarify regulation of pergolas and garden arbors.	

Details: The Building Department received a complaint earlier this year about two garden arbors which had been built in the street yard at 1236 E. Broadway. The Accessory Uses section of the zoning code allows accessory structures to be built in the rear yard of properties, except in some special cases. This is a general requirement which applies to all accessory structures, but there are currently no specific rules in the code which apply to arbors.

The property owner stated that he had checked the zoning code before he built the arbors, and since it doesn't specifically mention them he had mistakenly thought they were not regulated. He submitted a variance application to the Board of Zoning appeals. As part of the application, he noted several properties in the surrounding neighborhood with similar arbors and garden decoration features built in their street yards. Several were incorporated into fences, as an archway over the gate. He also put a sign in his yard stating that a variance was required and asking for comment from neighbors and passers-by. He provided emailed statements of support from more than fifty neighbors.

The Board of Zoning Appeals has a strict set of standards for approving variances. In this case, they found that the application did not meet those standards. However, staff feels that it would not be reasonable to require the arbors to be removed, even though the zoning code as currently written requires it. Staff feels that it would also be unreasonable to devote Property Maintenance Inspectors' time toward requiring the removal of similar garden decorations from other street yards throughout the City.

Instead, staff is proposing updates to Section 22.05 and 22.58 of the zoning code. The Section 22.05 update will change the definition of Gazebos to clarify that Pergolas should be regulated the same way. Currently gazebos are restricted to rear yards and have size and setback requirements similar to garden sheds. Section 22.58's gazebo regulations will be unchanged, but it will also now include a new section on Arbors. Arbors will be allowed in all yards, with a maximum height of 10 feet and a maximum total area of 50 square feet. Any larger structure would be regulated as a pergola. Arbors that are standalone structures will have to meet the five foot minimum setback requirement which is standard for most accessory building, but arbors which are incorporated into a fence will be allowed to meet the fence setback.

Options & Alternatives:
[Click here to enter text.](#)

Financial Remarks:

No financial impact to the City.

Staff Recommendation:

Staff recommends approval of the proposed updates to Section 22.05 and 22.58 of the Zoning Ordinance.