

**MORTON BOROUGH
DELAWARE COUNTY, PENNSYLVANIA**

ORDINANCE 2020 -766

**AN ORDINANCE OF MORTON BOROUGH
AMENDING PROVISIONS OF THE MORTON BOROUGH ZONING ORDINANCE
FOR THE PURPOSE OF CORRECTING A TYPOGRAPHICAL ERROR IN THE R-3
DISTRICT, PROVIDING FOR MINIMUM SEPARATION BETWEEN ACCESSORY
STRUCTURES AND PRIMARY USE STRUCTURES, REQUIRING
NONCONFORMING LOTS HELD IN UNITY TO CONFORM WITH DISTRICT
REGULATIONS, AND UPDATING THE REGULATION REGARDING
ABANDONMENT OF NONCONFORMING USES AND STRUCTURES.**

WHEREAS, the Pennsylvania Borough Code authorizes the Borough to adopt ordinances to protect the public health, safety and welfare; and

WHEREAS, the Pennsylvania Municipalities Planning Code provides for the enactment of regulations controlling zoning and the planned development of municipalities; and

WHEREAS, a typographical error was discovered in Section 27-604 of the Zoning Ordinance; and

WHEREAS, the Fire Marshal has requested and recommended that minimum setback distance of ten feet be established between an accessory structure and the primary structures in order to reduce the risks of fire; and

WHEREAS, the Borough wishes to clarify that nonconforming lots which are abutting and held in single ownership may not be developed or sold unless the resulting lots conform with the ordinance; and

WHEREAS, the Borough wishes to clarify the standards for when a nonconforming use or structure has been abandoned; and

WHEREAS, the Borough now desires to correct the typographical error, establish minimum setbacks for accessory structures, require nonconforming abutting lots held in single ownership to comply with the required dimensional regulations of the district, and establish new regulations regarding abandonment of nonconforming uses or structures.

NOW THEREFORE, IT IS HEREBY ORDAINED AND ENACTED by the Borough Council of Morton Borough as follows:

1. **Amendment of Subsection 2 of Chapter 27, Part 6, § 604 “Lot Requirements”** *Subsection 2* of Chapter 27, Part 6, § 604 of the Code of Ordinances of Morton Borough, entitled “Lot Requirements” is hereby amended to read as follows:

§ 27-604 Lot Requirements

2. Minimum Lot Width.
 - A. Single-family detached dwelling: 45 feet at the BSL.
 - B. Twin: 30 feet per single-family semi-detached unit at the BSL.
 - C. Duplex: 50 feet at the BSL.
 - D. Townhouse: see § 27-606.

2. **Amendment of Subsection 1(C) of Chapter 27, Part 15, § 1504 “Accessory Buildings and Structures”** *Subsection 1(C)* of Chapter 27, Part 15, § 1504 of the Code of Ordinances of Morton Borough, entitled “Accessory Buildings and Structures” is hereby amended to add new subsection 1(C)(6) as follows:

§ 27-1504 Accessory Buildings and Structures.

1(C) Accessory Use Structures in Yards.

(6) No accessory building or structure shall be located within ten (10) feet of the principal permitted building except a fence or parking space/driveway.

3. **Enactment of Subsection 8 of Chapter 27, Part 15, § 1519 “Nonconforming Uses and Structures”** Chapter 27, Part 15, § 1519 of the Code of Ordinances of Morton Borough, entitled “Nonconforming Uses and Structures” is hereby amended to add new subsection 8 as follows:

§ 27-1519 Nonconforming Uses and Structures.

8. Nonconforming Abutting Lots.

A. Where two or more adjacent lots, one or more of which is nonconforming, are owned by the same owner, and the ownership of the lots is concurrent, such lots shall be combined to create conforming lots, or to lessen the non-conformity if it is not possible to create all conforming lots.

B. The owner of two or more adjoining lots may not sell or otherwise transfer ownership of one or more of the lots if it or the remaining lots is by itself nonconforming; provided, however, that the owner may sell or transfer a nonconforming lot to an adjacent landowner if the effect is to create only conforming lots.

4. **Amendment of Subsection 8 of Chapter 27, Part 15, § 1519 “Nonconforming Uses and Structures”** Chapter 27, Part 15, § 1519 of the Code of Ordinances of Morton Borough, entitled “Nonconforming Uses and Structures” is hereby amended to amend subsection 5 to read as follows:

§ 27-1519 Nonconforming Uses and Structures.

5. Abandonment.

A. Where an owner abandons the nonconforming use of a building or land, subsequent use of such building or land shall be in conformity with the provisions of this Ordinance.

B. Where a nonconforming use of a building or land ceases for a continuous period of one year, it shall create a rebuttable presumption of abandonment.

C. For the purpose of this Ordinance, abandonment shall commence when the nonconforming use ceases.

D. The presumption of abandonment may be rebutted by showing the owner continuously intended to reinstitute the nonconforming use and affirmatively acted in pursuit of that throughout the period after the use ceased.

E. A use that has ceased for less than one year may be determined to be abandoned where the owner's intent to abandon such use is clear.

F. Factors which may tend to show an intent to abandon the use or structure may include but are not limited to:

(1) Demolition of the subject structure and/or removal of equipment or structures necessary for the use; or

(2) The relocation of the use to another parcel; or

(3) The advertisement of the cessation of the use; or

(4) The later use of the property for a conforming use; or

(5) The application for/issuance of permits to change or maintain use/structure; or

(6) The advertisement for sale of the property and description of what is offered for sale.

This list is non-exclusive and intended as illustrative.

G. An aggrieved party may appeal the determination of the zoning officer regarding whether a pre-existing nonconforming use has been abandoned to the Zoning Hearing Board as provided in Part 17 of this Chapter.

5. Repealer. All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of any inconsistency.

6. Severability. If any clause, sentence, paragraph or part of this Ordinance, or the application thereof to any person or circumstance, shall for any reason be adjudged by a court of

competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance nor the application of such clause, sentence, paragraph or part to other persons or circumstances, directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the legislative intent that this Ordinance would have been adopted had such provisions not been included or such persons or circumstances been expressly excluded from their coverage.

7. Effective Date. This ordinance shall be effective immediately.

ENACTED and **ORDAINED** this 24th day of June, A.D., 2020.

BOROUGH OF MORTON:

Michelle Miller
Michelle Miller,
Council President

APPROVED this 24 day of June, A.D., 2020

Thomas App
Thomas App,
Mayor of Morton Borough

Attest: Martha Preston
Martha Preston,
Borough Secretary