

CITY OF SMYRNA

COMMUNITY DEVELOPMENT DEPARTMENT

MEMORANDUM

To: Mayor and Council

From: Ken Suddreth, Community Development Director
Caitlin Crowe, Planner I
Joey Staubes, AICP, Planner II
Russell Martin, AICP, Senior Planner

Date: February 11, 2019

CC: Tammi Saddler- Jones – City Administrator

RE: Zoning Code Amendment – Fencing

BACKGROUND

The Community Development Department recently reviewed the Zoning Ordinance regarding the fencing requirements related to double frontage lots and corner lots. The current regulations for fencing do not take into account double frontage lots. The current regulations for corner lots are inadequate and conflict with the use of the property, which cause excessive variances to increase the height of the fence along the street side frontage. Fencing is also currently grouped into accessory structures code section, which is an inappropriate category.

ANALYSIS

The City's Zoning Ordinance does not currently have specific fencing regulations for double frontage lots. A double frontage lot is defined as, "A lot, other than a corner lot, that has frontage on two streets (typically along the front and rear of the property)". With the Zoning Ordinance being silent on double frontage lots, it has led Community Development to treat double frontage lots in the same manner as corner lots. This application of the code requires a maximum fence height of 4' along the rear property line that abuts the public right of way or a maximum fence height of 8' at the front/rear setback which could be anywhere from 35' to 50' depending on the zoning district. This fencing requirement forces residents who own double frontage lots to make the following decisions to comply with the fencing regulations: (1) locate the 4' fence along the right-of-way and forgo privacy in the rear yard, or (2) locate the 8' fence 35' to 50' back from the right-of-way and forgo use of the property between the fence and the right-of-way. With these two options, the residents typically request variances to increase the fence height from 4' to 6' along the right-of-way in the rear yard to maintain both privacy and use of their rear yard. The License and Variance Board has typically approved these types of variance requests. The proposed amendment will clarify the fencing regulations for double frontage lots, as well as eliminate the need for variances.

The City's Zoning Ordinance currently regulates fencing on corner lots under Section 501.10 of the Zoning Ordinance, which states, "Within any front yard (front yard shall also include a corner

lot in which both yards abutting a street shall be deemed a front yard), in all zoning districts, no chain link or similar woven wire fence shall be permitted. However, within a front yard in the aforementioned districts, a decorative or ornamental rail, split rail, picket, opaque, basket weave or similar fence constructed of wooden materials may be permitted provided that said fence does not exceed four feet in height. Columns comprised of brick, stone or similar material may be placed between fence sections in the front yard. Decorative wrought iron shall also be permitted provided that said fence does not exceed four feet in height". Section 402.35 of the Zoning Ordinance defines a corner lot as, "A lot fronting on two streets at their intersection, provided that the interior angle formed by the intersection is less than 135 degrees. When the frontage on one street exceeds the frontage on the other, the one with the least frontage shall be deemed the front of the lot". The application of the code requires a maximum fence height of 4' along the front and side property line that abuts the public right of way, or a maximum fence height of 8' at the street side setback which could be anywhere from 23.3' to 33.3' depending on the zoning district. This fencing requirement forces residents who own corner lots to make the following decisions to comply with the fencing regulations: (1) locate the 4' fence along the right-of-way and forgo privacy in the rear yard, or (2) locate the 8' fence 23.3' to 33.3' back from the right-of-way and forgo use of the property between the fence and the right-of-way. With these two options, the residents typically request variances to increase the fence height from 4' to 6' along the right-of-way in the side yard. The License and Variance Board has typically approved these types of variance requests. The proposed amendment will clarify the fencing regulations for corner lots, as well as eliminate the need for variances.

STAFF COMMENTS

Community Development has reviewed the City's Zoning Ordinance with respect to fencing and is proposing code amendments to create a new fencing section and to eliminate fencing requirements from Section 501 for accessory structures. The proposed amendments include:

- 1) Creation of a new separate fencing section; and
- 2) Adding fencing graphics.

The Zoning Ordinance amendment was heard by the Planning and Zoning Board on December 10, 2018. It was recommended for approval by a vote of 7-0.

Community Development recommends **approval** of the following code amendments to Section 501 and 503 of the City's Zoning Ordinance:

Subsections of Section 501 of the Zoning Ordinance shall be amended to remove fencing regulations. The proposed sections shall read as follows (amended portions are highlighted).

ARTICLE V. – GENERAL PROVISIONS

Sec. 501.- Accessory uses and structures.

(501.10) ~~Within any front yard (front yard shall also include a corner lot in which both yards abutting a street shall be deemed a front yard), in all zoning districts, no chain link or similar woven wire fence shall be permitted. However, within a front yard in the aforementioned districts, a decorative or ornamental rail, split rail, picket, opaque, basket weave or similar fence constructed of wooden materials may be permitted provided that~~

~~said fence does not exceed four feet in height. Columns comprised of brick, stone or similar material may be placed between fence sections in the front yard. Decorative wrought iron shall also be permitted provided that said fence does not exceed four feet in height. Reserved.~~

Article V of the Zoning Ordinance shall be amended to create a fencing section. The proposed sections shall read as follows (**amended portions are highlighted**).

ARTICLE V. – GENERAL PROVISIONS

Sec. 503-A.- Fencing

(503-A.1) No fence shall be more than eight feet in height, or be constructed in a public right-of-way.

(503-A.2) In all cases, the finished side of a fence shall face adjoining properties and/or public right-of-ways. For purposes of this section, the finished side shall be defined as the side of the fence that contains no visible support structures, unless approved by the Community Development Director.

Examples of the finished side of a fence:

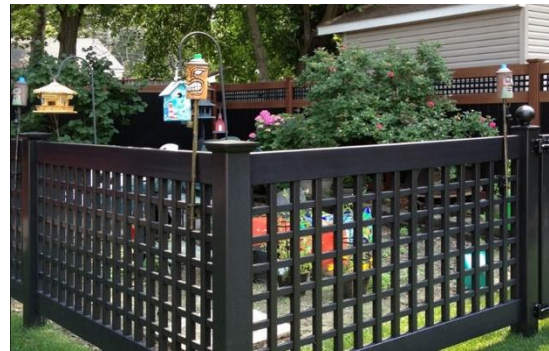


Examples of the unfinished side of a fence:

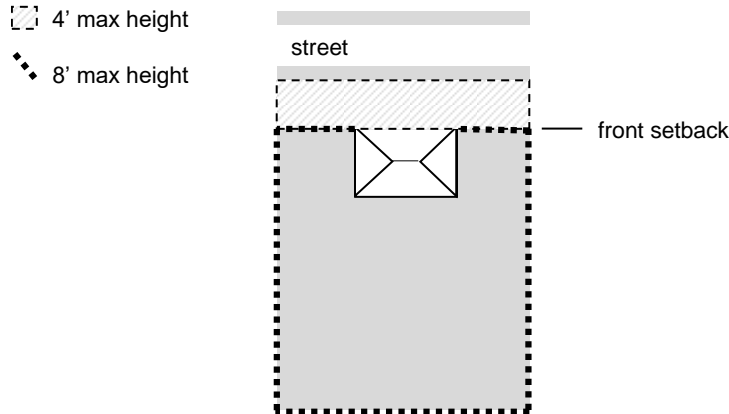


(503-A.3) Within any front yard, in all zoning districts, no chain link or similar woven wire fence shall be permitted. However, within a front yard in the aforementioned districts, a decorative or ornamental rail, split rail, picket, opaque, basket weave or similar fence constructed of wooden materials may be permitted provided that said fence does not exceed four feet in height. Columns comprised of brick, stone or similar material may be placed between fence sections in the front yard but still cannot exceed four feet in height. Decorative wrought iron shall also be permitted provided that said fence does not exceed four feet in height.

Examples of decorative fences:



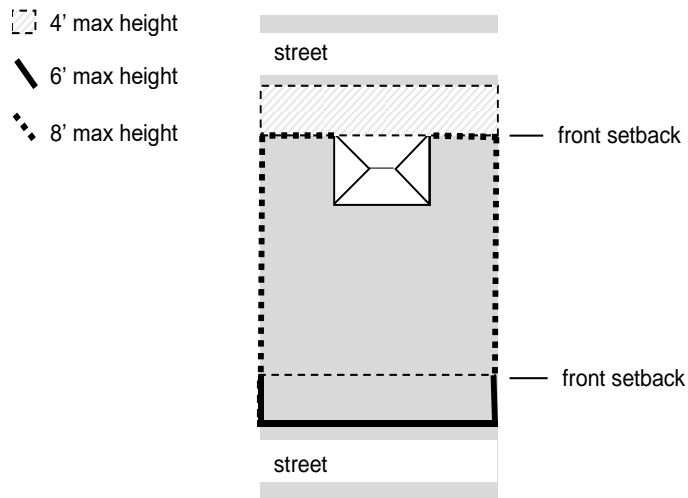
Interior Lot Fence



Except, whereas:

(503-A.3.1) Double frontage lots shall be allowed wooden and wrought iron fences (of ornamental or decorative nature) to be within the rear yard at a maximum of 6 ft in height. Rear yard here shall mean the yard to which the main structure does not face.

Double Frontage Lot Fence



(503-A.3.2) Corner lots shall be allowed wooden or wrought iron fences (of ornamental or decorative nature) along the side of property adjacent to the road at a maximum of 6 feet in height.

