



HOWARD COUNTY COUNCIL
**PETITION TO AMEND THE
ZONING REGULATIONS OF
HOWARD COUNTY**
2008 AUG 29 P 1:06

DPZ Office Use Only:

Case No. ZRA-~~104~~

Date Filed: 112

1. **Zoning Regulation Amendment Request**

I (we), the undersigned, hereby petition the County Council of Howard County to amend the Zoning Regulations of Howard County as follows: To amend Section 128.A.9. of the Zoning Regulations by establishing new provisions to allow fences six feet or less in height along rear or side lot lines adjoining public streets for lots that are not corner lots; to allow, with certain limitations, fences six feet or less in height along side lot lines adjoining public streets for corner lots; and to prohibit closed fences and walls over three feet in height within a defined triangular area adjoining the intersection of the two streets for a corner lot.

[You must provide a brief statement here. "See Attached Supplement" or similar statements are not acceptable. You may attach a separate document to respond to Section 1 in greater detail. If so, this document shall be titled "Response to Section 1"]

2. **Petitioner's Name** Marsha S. McLaughlin., Director, Department of Planning and Zoning

Address 3430 Courthouse Drive, Ellicott City, Maryland 21043

Phone No. (W) 410-313-2350 (H) N/A

Email Address mmclaughlin@howardcountymd.gov

3. **Counsel for Petitioner** Paul Johnson, Deputy County Solicitor

Counsel's Address 3430 Courthouse Drive, Ellicott City, Maryland 21043

Counsel's Phone No. 410-313-2101

Email Address pjohnson@howardcountymd.gov

4. Please provide a brief statement concerning the reason(s) the requested amendment(s) to the Zoning Regulations is (are) being proposed To alleviate the difficulties often encountered in constructing reasonable, appropriate privacy fences on through-lots, corner lots, or other lots that have lot frontage on more than one public street right-of-way.

5. Please provide a detailed justification statement demonstrating how the proposed amendment(s) will be in harmony with current General Plan for Howard County Although there are no General Plan policies that specifically mention this issue, an associated point is made in Chapter 5 – Community Conservation and Enhancement in the section on “The Design Character of Local Streets.” In this section it is stated that “Traditionally, the fronts of houses have faced the street to form an attractive edge to the roadway. When houses or townhouses are ‘backed’ onto a street, the private side of a house becomes oriented to noise and traffic. The view of the rear of a house and of a back yard creates a less attractive streetscape than does the more formal front facade.” This passage relates specifically to the issue of the view from the public street into a residential lot, whereas this regulation amendment proposal considers the other point of view: that residents of properties which adjoin more than one public street can find that their side and rear yards, the supposedly “private areas” of their property, are often adversely affected by the noise and traffic on an adjoining public road, and their options to create more privacy and screening are somewhat limited by the fence regulations. Although the purpose of this regulation amendment proposal is intended to benefit some residents who are faced with this problem, it can also help to achieve a more attractive streetscape by providing some screening of the backs of houses and the rear yards of residential lots, as promoted in the section noted above.

[You may attach a separate document to respond to Section 5. If so, this document shall be titled “Response to Section 5”]

6. The Legislative Intent of the Zoning Regulations in Section 100.A. expresses that the Zoning Regulations have the purpose of “...preserving and promoting the health, safety and welfare of the community.” Please provide a detailed justification statement demonstrating how the proposed amendment(s) will be in harmony with this purpose and the other issues in Section 100.A. The first portion of the list of other legislative intents in Section 100.A.1. states “To provide adequate light, air and **privacy**...” The need to provide options to create residential privacy becomes more necessary as the County develops over time, which can involve infill developments that back on or otherwise adjoin existing roads.

[You may attach a separate document to respond to Section 6. If so, this document shall be titled “Response to Section 6.”]

7. Unless your response to Section 6 above already addresses this issue, please provide an explanation of the public benefits to be gained by the adoption of the proposed amendment(s) . It is a public benefit for residents of residential lots that adjoin more than one public street to have the opportunity to construct a reasonable privacy fence so that they may better enjoy and use most of the rear and side yard areas of their properties. It is also a public benefit to preclude side yard privacy fences along side streets from extending too close to the intersection on corner lots, so that the sight distance at the intersection is maintained.

[You may attach a separate document to respond to Section 7. If so, this document shall be titled "Response to Section 7."]

8. Does the amendment, or do the amendments, have the potential of affecting the development of more than one property, yes or no? Yes

If yes, and the number of properties is less than or equal to 12, explain the impact on all properties affected by providing a detailed analysis of all the properties based upon the nature of the changes proposed in the amendment(s). If the number of properties is greater than 12, explain the impact in general terms.

The number of properties should be much greater than 12. All corner lots within the County are potential lots which could use the provisions of the proposed regulation amendment, as are all through-lots, those lots that have a front lot line on one street and a rear lot line on another street. Any residential subdivision within the County is going to have at least some corner lots, whereas through-lots are somewhat more rare. Even rarer are lots that have frontage on more than two streets, but there are certainly some, and these are usually found in older residential neighborhoods. Residents have always had the option to create more privacy by using landscaping instead of fences, because landscaping is not regulated, and it is likely that many will continue to use that option. Also, residential neighborhoods may have covenants that separately restrict the placement and types of fences on lots within the neighborhood, so the option proposed in this regulation amendment proposal may not be available to residents in such neighborhoods. Of course, there may also be many residents with lots that front on more than two streets who feel they have no need or have no desire to enclose their rear or side yards in any way.

[You may attach a separate document to respond to Section 8. If so, this document shall be titled "Response to Section 8."]

9. If there are any other factors you desire the Council to consider in its evaluation of this amendment request, please provide them at this time. Please understand that the Council may request a new or updated Technical Staff Report and/or a new Planning Board Recommendation if there is any new evidence submitted at the time of the public hearing that is not provided with this original petition. Other factors will be provided in the Technical Staff Report for this regulation amendment proposal.

[You may attach a separate document to respond to Section 9. If so, this document shall be titled "Response to Section 9."]

10. You must provide the full proposed text of the amendment(s) as a separate document entitled "Petitioner's Proposed Text" that is to be attached to this form. This document must use this standard format for Zoning Regulation Amendment proposals; any new proposed text must be in CAPITAL LETTERS, and any existing text to be deleted must be in [[Double Bold Brackets]]. In addition, you must provide an example of how the text would appear normally if adopted as you propose.

After this petition is accepted for scheduling by the Department of Planning and Zoning, you must provide an electronic file of the "Petitioner's Proposed Text" to the Division of Public Service and Zoning Administration. This file must be in Microsoft Word or a Microsoft Word compatible file format, and may be submitted by email or some other media if prior arrangements are made with the Division of Public Service and Zoning Administration.

11. The Petitioner agrees to furnish additional information as may be required by the Department of Planning and Zoning prior to the petition being accepted for scheduling, by the Planning Board prior to its adoption of a Recommendation, and/or by the County Council prior to its ruling on the case.
9. The undersigned hereby affirms that all of the statements and information contained in, or filed with this petition, are true and correct. The undersigned has read the instructions on this form, filing herewith all of the required accompanying information. If the Petitioner is an entity that is not an individual, information must be provided explaining the relationship of the person(s) signing to the entity.

MARSHA V. McLAUGHLIN
Petitioner's name (Printed or typed)

Marsha V. McLaughlin 8/28/08
Petitioner's Signature Date

Petitioner's name (Printed or typed)

Petitioner's Signature Date

Petitioner's name (Printed or typed)

Petitioner's Signature Date

Paul T. Johnson 8/29/08
Counsel for Petitioner's Signature

[If additional signatures are necessary, please provide them on a separate document to be attached to this petition form.]

FEE

The Petitioner agrees to pay all fees as follows:

Filing fee\$695.00. If the request is granted, the Petitioner shall pay \$40.00 per 200 words of text or fraction thereof for each separate textually continuous amendment (\$40.00 minimum, \$85.00 maximum)

Each additional hearing night..... \$510.00*

The County Council may refund or waive all or part of the filing fee where the petitioner demonstrates to the satisfaction of the County Council that the payment of the fee would work an extraordinary hardship on the petitioner. The County Council may refund part of the filing fee for withdrawn petitions. The County Council shall waive all fees for petitions filed in the performance of governmental duties by an official, board or agency of the Howard County Government.

For DPZ office use only:

Hearing Fee \$ n/a

Receipt No. _____

PLEASE CALL 410-313-2350 FOR AN APPOINTMENT TO SUBMIT YOUR APPLICATION

County Website: www.howardcountymd.gov

Revised:5/08

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Exhibit A – Petitioner's Proposed Text

Setback Requirements for Fences, Walls and Retaining Walls

The following regulations shall apply to fences and retaining walls in all zoning districts. [[except the NT District.]]

- a. Fences shall be classified in the following categories:
 - (1) Open fence are fences which do not restrict visibility beyond the fence line. Open fences include wire, chain link, post and rail, paddock, picket, and other fences in which more than 50 percent of the fence area is left open. The fence area is the surface area from the bottom to the top of the fence section, including stringers supporting the section but not the post area above or below the fence section.
 - (2) Closed fences include board on board, privacy or stockade fences, or any other fences in which 50 percent or less of the fence area is open. Masonry walls that serve the same purpose as a closed fence are considered closed fences.
- b. The following types of fences and retaining walls shall be exempt from all structure or use setback requirements, including the setbacks in the M-1 and M-2 Districts which apply specifically to fences:
 - (1) Closed fences three feet or less in height.
 - (2) Open fences five feet or less in height.
 - (3) Retaining walls three feet or less in height.
 - (4) A series of retaining walls in which the height of each individual wall does not exceed three feet and the horizontal distance between walls is three feet or greater, however, a series of retaining walls must be set back in accordance with engineering requirements in the Design Manual. If the adjoining property is developed for residential use, no more than two retaining walls are permitted in a series and the closer wall can be no nearer than 10 feet from the property line.
- c. Fences and walls six feet or less in height shall not be subject to structure or use setback requirements if located in a side or rear yard which is not adjacent to a public street right-of-way.
- D. FENCES AND WALLS SIX FEET OR LESS IN HEIGHT SHALL NOT BE SUBJECT TO SETBACK REQUIREMENTS IF LOCATED IN A SIDE OR REAR YARD WHICH ADJOINS A PUBLIC STREET RIGHT-OF-WAY, PROVIDED THE PROPERTY IS NOT A CORNER LOT. ON CORNER LOTS, FENCES AND WALLS SIX FEET OR LESS IN HEIGHT SHALL NOT BE SUBJECT TO SETBACK REQUIREMENTS IF LOCATED IN A SIDE YARD WHICH ADJOINS A PUBLIC STREET RIGHT-OF-WAY, PROVIDED THE FENCE COMPLIES WITH SECTION 129.A.9.E. BELOW AND DOES NOT ENCROACH INTO A FRONT SETBACK FROM A PUBLIC STREET RIGHT-OF-WAY.**
- E. ON A CORNER LOT, CLOSED FENCES AND WALLS OVER THREE FEET IN HEIGHT SHALL NOT BE LOCATED WITHIN A TRIANGLE FORMED BY THE PROPERTY CORNER WHERE THE STREETS INTERSECT AND THE POINTS ON THE PROPERTY LINE TWENTY-FIVE (25) FEET FROM THE PROPERTY CORNER WHERE THE STREETS INTERSECT.**
- [[d.]]F. Where the ground is higher on one side of a fence or retaining wall than another, the height of a fence shall be measured on the side where the ground is lower.
- [[e.]]G. Other than the exceptions noted above, fences must comply with all bulk requirements of the applicable zoning district.

Exhibit B – Petitioner’s Proposed Text (If Adopted)

Setback Requirements for Fences, Walls and Retaining Walls

The following regulations shall apply to fences and retaining walls in all zoning districts. [[except the NT District.]]

- a. Fences shall be classified in the following categories:
 - (1) Open fence are fences which do not restrict visibility beyond the fence line. Open fences include wire, chain link, post and rail, paddock, picket, and other fences in which more than 50 percent of the fence area is left open. The fence area is the surface area from the bottom to the top of the fence section, including stringers supporting the section but not the post area above or below the fence section.
 - (2) Closed fences include board on board, privacy or stockade fences, or any other fences in which 50 percent or less of the fence area is open. Masonry walls that serve the same purpose as a closed fence are considered closed fences.
- b. The following types of fences and retaining walls shall be exempt from all structure or use setback requirements, including the setbacks in the M-1 and M-2 Districts which apply specifically to fences:
 - (1) Closed fences three feet or less in height.
 - (2) Open fences five feet or less in height.
 - (3) Retaining walls three feet or less in height.
 - (4) A series of retaining walls in which the height of each individual wall does not exceed three feet and the horizontal distance between walls is three feet or greater, however, a series of retaining walls must be set back in accordance with engineering requirements in the Design Manual. If the adjoining property is developed for residential use, no more than two retaining walls are permitted in a series and the closer wall can be no nearer than 10 feet from the property line.
- c. Fences and walls six feet or less in height shall not be subject to structure or use setback requirements if located in a side or rear yard which is not adjacent to a public street right-of-way.
- d. **Fences and walls six feet or less in height shall not be subject to setback requirements if located in a side or rear yard which adjoins a public street right-of-way, provided the property is not a corner lot. On corner lots, fences and walls six feet or less in height shall not be subject to setback requirements if located in a side yard which adjoins a public street right-of-way, provided the fence complies with section 129.a.9.e. Below and does not encroach into a front setback from a public street right-of-way.**
- e. **On a corner lot, closed fences and walls over three feet in height shall not be located within a triangle formed by the property corner where the streets intersect and the points on the property line twenty-five (25) feet from the property corner where the streets intersect.**
- f. Where the ground is higher on one side of a fence or retaining wall than another, the height of a fence shall be measured on the side where the ground is lower.
- g. Other than the exceptions noted above, fences must comply with all bulk requirements of the applicable zoning district.