

Angela Mancini

From: George Smerigan <geosmerigan@gmail.com>
Sent: Tuesday, July 27, 2021 10:41 AM
To: Andrew Bemer; Brett lafigliola; Angela Mancini; James P. Graven
Cc: Aimee Stone; Braden Thomas
Subject: Fence Permits
Attachments: Fence Amendment.docx

I am proposing the attached amendment to the Zoning Code with regard to the issuance of fence permits. The current regulations require that homeowners have their property stacked by a licensed surveyor or that they have their neighbors sign off on the location of the fence. This is made even worse by the requirement in the Code that the City has to send the notices to the neighbors to get the sign-off. This has resulted in numerous problems including:

1. the inability to get a sign-off from a bank if a property is in foreclosure;
2. neighbors who will not sign because they do not get along (usually the reason for the fence); and
3. huge delays in time waiting to get responses.

This process places an undue work burden and responsibility on the Building Department, and to some extent gives neighbors veto power over fences. The alternative is to burden homeowners with hiring a surveyor in order to install a fence and even then we can have dueling surveys and the City is stuck determining who is correct. The City should not be the arbiter of property line disputes. We don't have survey crews and that is not our place. If neighbors disagree about a property line, it should be a civil matter settled by the Court - not the Building Department. This situation is made even more ridiculous by the fact that the inspector has no way of knowing if the location is correct when he goes out to inspect the fence.

Therefore I am recommending that we get out of the property line determination business by having the applicant for a fence permit sign a certification acknowledging that it is their responsibility to get the fence on their own property and that the fence permit is for construction and is not a certification of location. Then if the neighbors want to fight they can go to court where the matter belongs. This will relieve the Building Department of responsibility for guaranteeing property lines between neighbors, which has been an unintended consequence of the current Code language.

Attached is the Word version of the proposed amendment for inclusion in potential legislation.

George

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AMEND SECTION 1274.03(a)(2)(A)(1)(b) REGARDING THE PERMITTING OF FENCES ABUTTING PROPERTY LINES TO READ AS FOLLOWS:

1274.03 FENCES.

(a) Design Requirements. Fences, walls, hedges or similar barriers may be located so as to provide privacy or protection to property and shall meet the following design requirements:

(1) Height of fences.

- A. Front Yards and Corner Side Yards. Fences, walls, hedges, or similar barriers located in a front yard or corner side yard shall not exceed three feet in height, except as required for corner lots with regard to traffic vision clearance pursuant to Section 1274.04. Further, a fence along a sidewalk shall be placed at least two feet from the inside edge of the sidewalk. When fences, walls, hedges, or similar barriers are used in combination with earthen mounds as berms, the total height of the combined screening shall not exceed three feet. For purposes of this section, the front yard and corner side yard shall include all yard area between the right of way and the principal building's foundation line excluding porches (ref. Section 1240.01(a)(1)).
- B. Side and Rear Yards. In all districts except I Districts, fences, walls or similar barriers located in the side and rear yard shall not exceed six (6) feet in height. In Industrial Districts, fences, walls, or similar barriers located in the side and rear yard shall not exceed eight (8) feet in height. In all districts, when fences, walls, or similar barriers are used in combination with earthen mounds as berms, the total height of the combined screening shall not exceed the height permitted for fences.

(2) Location of fences.

Fencing shall be located entirely on the property for which the permit has been issued. Plans submittals shall be as follows in addition to meeting the requirements set forth in subsection (c).

A. Along Abutting Properties.

- 1. If less than 5 feet from property line, one of the following two requirements shall be met:

- a. The location of the property line shall have been determined and documented by a professional licensed surveyor, and the boundaries marked by pins or stakes; or
- b. Applicant shall have provided to the Building Department ~~(1) a written signed statement that the proposed barrier location has been marked on the site and that the proposed location is available for viewing by abutting neighbors, and (2) the abutting neighbors shall have submitted to the Building Department written approval of the location of the~~

proposed barrier after having been notified of the proposed location by the Building Department a signed a certification acknowledging that they are responsible for ensuring that the fence is on their property and that the issuance of the fence permit authorizes construction of the fence but does not guarantee or certify the location relative to the property lines.

2. If more than 5 feet from the property line, there are special location requirements.

B. Along Public Walks.

A barrier along a public sidewalk shall be placed at least two feet from the inside edge of the sidewalk.

(3) Orientation of fences.

The side of the fence closest to the adjacent property line and facing outward from the yard being fenced shall be the finished side. All structural members shall be on the interior side of such fence.

(4) Wire fences.

Wire fences shall not be permitted in a front yard or corner side yard. Where permitted, wire fences shall be of the chain link variety only; no electrified or barbed wire fence shall be erected at any location.

(b) Maintenance and Repair. Fences, walls, hedges, and similar barriers, as well as the space between such fence, wall, hedge, or similar barrier and the lot line of an adjoining property, shall be kept in good maintenance and repair so as not to have a detrimental effect on surrounding properties, as determined by the Zoning Administrator.

(c) Plans and Permits Required. Any proposed fence, wall, hedge, or similar barrier that is to be installed at the time of a construction requiring a development plan shall be reviewed and approved by the Planning Commission as part of that development plan, as set forth in Section 1232.06. However, when a fence or wall is proposed at a separate time from any development or any new construction, additions, or site renovations, a fence or wall may be approved by the Zoning Administrator, provided that the applicant has (1) provided a detailed project plan showing that the requirements of this section have been met, and (2) completed a permit application and paid the fees per Chapter 1448.