

TEXT AMENDMENT STAFF REPORT



Hearing Date: 3-19-15

Case File #: TA-15-03

General Description: Article 7; Section 7.09; Privacy Fences for Single Family Residential Homes

Town Initiated

Citizen Initiated

Applicant(s): Hugh James, 8966 Landing 3 Ct.

APPLICATION OVERVIEW:

The Sunset Beach Planning & Inspections Department has received an application to amend Article 7, Section 7.09 Privacy Fences. The concern from the applicant is that the current ordinance regarding placement of fences along side property lines does not contemplate irregular shaped lots; as contemplated in Section 7.09(B)(3). The applicant seeks an amendment to allow flexibility of fence placement for unusual lot configurations.

STAFF COMMENTARY

Staff has reviewed Section 7.09 with the applicant. The current ordinance language in 7.09 (B)(3) regarding privacy fence placement along side-lot lines does not allow fencing to extend beyond the front floor print of the primary structure. Upon further review, staff believes that this standard is to prevent undesirable fencing in front yards, to maintain uniform appearance for neighborhoods, avoid obstruction of views for neighbors, and interferences in sight triangles at intersections.

However, staff also believes, based upon the text and examples given in the code, that the ordinance assumes all lots are symmetrical, rectangular in shape, and does not account for unusual lot configurations, cul-de-sac lots, or circumstances whereby lots are recombined to make larger lots (sometimes asymmetrical) and fencing is effected by the prior lot configuration.

These unique cases are rare and site-specific. Instead of mandating a fixed ordinance standard, staff believes the best course of action is to allow the Planning Board to modify this specific standard upon review and approval of a sketch plan on a case-by-case basis.

The proposed ordinance language for consideration is as follows:

- (B) *Single-Family Residential*. In all beach residential zoning districts, a **fence** or wall may be constructed not to exceed four (4) feet in height from natural **ground level**. In the BR-1 district, **fences** and walls cannot extend beyond more than one hundred fifty (150) feet from the property line **abutting** the right-of-way of Main Street. In all mainland residential zoning districts, a **fence** or wall may be constructed not to exceed six (6) feet in height from natural **ground level**. The following conditions must be met in all districts:
- (1) The **fence** or wall does not restrict the **ground level** view of any **adjacent property** facing the ocean, waterway, marsh, lakes, or **golf course**.
 - (2) Except as set forth in subdivision (4) below, **fences** or walls are limited to **rear** and **side yards**; however, **fences** or walls cannot be located in a **side yard abutting** a **street** right-of-way on a **corner lot**. Exception: In a **side yard abutting** a **street** right-of-way on a **corner lot**, open **fences** are allowed in the buildable area of the **lot**, but are limited to four (4) feet in height and shall be at least thirty-five percent (35%) open.
 - (3) Side **fences** or walls shall be placed a minimum of five (5) feet behind the front floorprint of the house. However, if circumstances exist related to asymmetrical lot lines, lot recombination, or unusual property line configuration relative to the location of the existing primary structure, the Planning Board may modify this standard upon review and approval of a sketch plan. When a modification is requested, all property owners immediately adjacent to the proposed fence shall be notified of the meeting in which the request will be heard by regular mail. The Planning Board should consider public safety, interference with sight visibility at intersections, harmony with the surrounding properties, and maintaining the spirit of this requirement when making any modification. Any fence modification shall not permit encroachment into the required front yard setback.
 - (4) A **fence** is permitted within the **front yard** when the distance from the front of the house to the front property line is a minimum of two hundred (200) feet. The **fence** may not encroach into the fifty (50) foot **front yard setback**.

- (5) Construction above ground or berm level shall be brick, decorative cement block, stucco, decorative wrought iron, cedar, redwood or treated wood (excluding any type of plywood or lattice sheets), decorative vinyl, chain link, or any combination.
- (6) Both sides of a **fence** or wall must be equal in construction and appearance or the good side must be face outward.
- (7) Finials are not counted into the height of the **fence**; however, finials cannot exceed twelve inches (12") in height. Finials are the crowning ornaments on a **fence**.

PROPOSAL

Staff **recommends** amending Section 7.09 to as stated above or other derivation.

PLANNING BOARD SUMMARY

Action:

The Planning Board finds that the proposed amendments to Unified Development Ordinance X is is not consistent with the Sunset Beach Comprehensive Land Use Plan.

Passed X Denied (For 5 Against Abstained)

Commentary:

Planning Board voted unanimously for recommending the amendment with the added stipulation that property owners immediately adjacent to the proposed fence be notified of the hearing in which the modification would be heard and reviewed. Staff recommended language is in "red", Planning Board is "blue" above.

_____BELOW TO BE COMPLETED BY TOWN CLERK_____

TOWN COUNCIL ACTION

TOWN COUNCIL SUMMARY

Planning Board Recommendation Accepted: Yes No Returned

Public Hearing Scheduled/Held: Scheduled 05/11/15;

Council Action:

The Town Council finds that the proposed amendments to Unified Development Ordinance _____ is _____ is not consistent with the Sunset Beach Comprehensive Land Use Plan.

Text Amendment Ordinance:

Adopted _____ Denied _____ (For _____ Against _____ Abstained _____)

Commentary: