

REPORT ON FRONT YARD FENCES, INCLUDING RECOMMENDATION TO AMEND APPENDIX B, THE ZONING ORDINANCE, AND APPENDIX C, THE LAND DEVELOPMENT CODE

Prepared by the Planning and Growth Management Department, April 28, 2011

BACKGROUND

Prior to 1984, the City of Peoria Zoning Ordinance did not permit front yard fences without a variance approved by the Zoning Board of Appeals. That policy resulted in the development of the City that has few fences in the front yard. Those that exist have been approved through the ZBA with a variance; were present when the area was annexed into the City; or were established illegally, in many cases years ago by previous owners, or more recently were approved with the current permit process.

On May 29, 1984, the City Council approved an Ordinance that established an administrative review process to permit front yard fences in Single-Family Residential Zoning Districts without a public hearing. Subsequent modifications to the Ordinance resulted in a review process that is time consuming for both the applicant and the City, and is often perceived as subjective and unfair.

Under the current Ordinance, Staff receives an application for a front yard fence, mails notice to property owners within 200 linear feet on the same street, reviews the following standards and makes a final determination within 30 days. The standards include:

- 1) Fence does not exceed four feet in height, 40% open.
- 2) Input of surrounding property owners (given within 10-day response time)
- 3) Is compatible with the surrounding neighborhood and will not diminish full use and enjoyment of neighboring properties.
- 4) No impairment of safety, welfare, light, air, property values or drainage.
- 5) Consistent with established neighborhood character.

The fence regulations have been subject to many reviews [see attached History], including input from neighborhood associations, with no consensus on whether change is needed or what that change should be.

ISSUES

The current process presents several issues:

- 1) There is no predictability for the applicant or the neighbors on whether a fence application is going to be approved, and the standards for compatibility with surrounding neighborhood and neighborhood character are subjective and vague.

The geographic area of the neighborhood is not defined, and compatibility and character has been interpreted by staff as whether or not other fences are present and the material of those existing fences. Note the existing fences usually have been constructed without approval [the City did not permit front yard fences until 1984], and in many cases years ago and/or by previous owners. Further, if no front yard fences are present, which is often the case, then the application is not approved because the proposed fence would change the character of the neighborhood.

- 2) The process is not efficient, requiring the owner to file an application for the front yard fence and staff to process it, which requires notice to certain property owners, field inspection, and review of any neighbor comments after the 10 day review period. In addition, appeals of the staff decision are submitted to the ZBA, which takes a minimum of 30 days.
- 3) Customers that want fences are frustrated that they have to apply or are denied, citing their needs or desires to establish fences in the front yard to protect children, contain pets, reduce cut through foot traffic on corner lots, improve safety, and/or to add a decorative feature. In addition, those with properties having a frontage on a thoroughfare street thoroughfares may desire a fence as a buffer between the home and busy vehicle traffic, and to define the property line from foot traffic. Conversely, the impact front yard fencing has on the City's overall character may be no more appropriate on thoroughfares than within neighborhoods.

However, the needs and desires of those customers wanting fences in front yards needs to be balanced within the established development pattern of the City which is predominantly void of front yard fences, and with those other customers who do not expect to see any obstructions in the front yards of their neighbors as they look up and down the block. Note there have also been comments regarding the impact front yard fences have on property values; some see the fences as investment and adding value and others see the fences, particularly those of constructed of chain link, as decreasing value. Also, the standards for front yard fences may differ from one neighborhood to another.

The Staff and Zoning Commission considered three options to improve the current process:

1. Prohibit all fences, except those approved by the ZBA – just as fences were regulated prior to 1984. This meets the needs of only one set of customers.
2. Allow neighborhoods to decide. This option does not offer predictability, efficiencies, or a shortened process.
3. (Recommended) Allow fences with a permit, three feet solid in the front yard; up to four feet in height if 50% open; restrict materials; and address fences along thoroughfares. This option allows separation between public and private space,

yet addresses those that do not want front yard fences by recognizing that material is often the complaint. This option is described more specifically below:

Allow fences with a permit, subject to meeting minimum objective standards such as size, openness, material, and placement:

- Front yard fences may be solid if no taller than three feet; may be up to four feet if 50% open.
- Materials must be decorative, and are restricted to: wood, masonry or wrought iron (or equivalent look), or vinyl. Materials not permitted would include chain link (including vinyl coated or slatted), wire and electric.
- Fences on corner side yards along thoroughfares (specifically, those designated in the City of Peoria Street Plan and Thoroughfare Map as Freeway, Expressway, and Principle Arterial): May be setback five (5).
- Conditions listed in the current Ordinance would continue to apply: Fence may be located on property line, height is measured from established grade, must be constructed of the same or harmonious material, all supports must face the interior of the lot, must be maintained, and must observe the sight triangle.

The following are pros and cons of the suggested solution:

Pros

- Increases predictability for all involved.
- Eliminates subjectivity from administrative review and eliminates staff review.
- Recognizes that often material and quality is more the issue than the presence of a fence.
- Does not preclude neighborhood associations from establishing private covenants to further restrict or prohibit fences.
- This option is more consistent with other front yard fence regulations within similar Illinois communities.

Cons

- This assumes all neighborhoods approve of front yard fences.
- Higher quality material is more expensive, estimations of cost per lineal foot: Chain link \$8-\$9, split rail, wood picket (pine) \$17 and (cedar) \$22, and aluminum \$12 to \$14 and wrought iron \$70. This could change the existing development pattern for the City.

For more background information, note the City's history of front yard fence regulations below.

HISTORY

May 29, 1984, City Council passed *Ordinance 11,242*:

1. Established an administrative review process for front yard fences in single family residential zoning districts with the following standards:
 - Subdivision covenants address type and/or placement; if no covenants, written approval of the location and type from all owners of residentially zoned lots within 200 feet of the subject lot on the same street was required with the application
 - Maximum 4-feet in height; Minimum 70% open in design
 - No right-of-way encroachments nor impairment of vehicle visibility
2. Established terms for other yards, allowing: A 6-foot fence in the side yard when the side yards of the subject property and adjoining property have a minimum 10 feet each; a 4-foot fence when the subject property and the adjoining property have less than 10 feet each; a 6-foot fence in the front yard if no dwellings front on one street side in the same block; and a 6-foot fence in the rear of a *through lot*
3. Established terms of approval: Fence must be established within six months of the permit, a discontinued fence must be re-established within six months, may be revoked with 7 days notice

June 12, 1984, City Council passed *Ordinance 11,254* to amend the existing fence ordinance to 1) Require all cross members and framing to face the interior of the lot and 2) Allow administrative height waivers of two-feet, 7 feet for side yards, with written approval from owners of adjoining residentially zoning lots.

June 19, 1984, City Council passed *Ordinance 11,258* to amend the existing fence ordinance to limit fences at intersections where dwellings in the same block front on both streets to a 10-foot setback, and require a minimum of 50% openness.

With the 1991 Zoning Ordinance rewrite, City Council passed what is the current fence Ordinance.

July 6, 1999, through October 1, 2002, City Council (Item 99-546) 1) July 6, 1991, requested "Staff review the issue of fencing regulations in relation to houses on corners, etc. which have two front yards." Item was deferred July 27 and August 17; 2) August 24, 1999, directed staff to, through the Zoning Commission, obtain input from neighborhood associations regarding front and corner lot fences, and placed a moratorium on fence enforcement; 3) October 1, 2002, directed staff to review the moratorium, number of complaints, and to consider aesthetics and quality of fencing.

October 22, 2002, City Council (Item 99-546), Staff provided a report back regarding fence requirements and enforcement in front and corner side yards. The report included the results of a survey in which 49 of 87 neighborhood associations stated front yard fences 4 feet and 40% open should be permitted. Residents dissented on whether

the fences should be allowed to the property line or setback half way between the house and property line. Staff noted most fence complaints related to a fence currently being installed, it is difficult to define appropriate fencing because of the diversity of neighborhoods in the community, and fences impact property values; and recommended: 1) Administrative approval of fences on thoroughfare side of property when owners apply as a group, 2) A time frame for requiring removal of illegal fences, and 3) An 8-foot setback on corner yards instead of requiring 10 feet. [Staff noted on 1/3/2002 that the R4 district allows the principle structure to be setback 8 feet on a corner side yard].

Issues raised by Council members: 1) "One size fits all" does not work, 2) Some consider fences as decoration, 3) In some districts, fences serve a purpose, 4) The current system is not equitable; locations are selective – should either say no front yard fences, or identify types that would be allowed.

The Council lifted the moratorium and requested a new report back on November 19, 2002.

November 19, 2002, Staff presented alternatives to City Council, related to: 1) Definitions, 2) Core unifying design element, 3) Quality of material, 4) Fences at intersections, 5) Openness, 6) Fences between houses, 7) Privacy fencing on thoroughfares, 8) A grandfather date for undocumented fences.

Issues raised by Council members: 1) Appropriateness of restricting fencing three feet from a neighbor's house, 2) Appropriateness of 40% open design, 3) Streamlining the Ordinance, 4) Aesthetics and use of better materials, 5) Comparison to other communities, including Sun City, Arizona, and St. Louis, Missouri. *Council deferred the item to January 14, 2003.*

January 14, and 28, 2003, report back regarding front yard fences, including housing with two front yards, was *deferred, then tabled on February 25, 2003.*

August 12, 2009, Staff reviewed front yard fence permits and appeals for the years 2002 to 2009: Of 207 applications, Staff approved 63%; and of those not approved, 41% were appealed or a variance was sought, resulting in approval of six. Therefore, the overall approval rate from 2002 to 2009 was 66%.

June 2010, Staff held a Zoning Topics Meeting, to provide an interactive forum for citizens to give input on various proposed amendments, including the fence Ordinance, to the Peoria Zoning Ordinance and Land Development Code. Staff presented options for changes to the Ordinance: 1) No change, 2) Prohibition of all fences, 3) Where to require ZBA or a zoning certificate, 4) Review time and cost, 5) Restriction of fences to LDC area, 6) "Neighborhood Fence Districts." Resulting discussion entailed the desirability of front yards verses open yards, appropriate public input, criteria that would be used for variances, notification options and cost, consideration of illegal fences in neighborhood character, chain link, fences in heritage areas, fences on a shared driveway, and what is currently permitted on corner lots.

Between 2002 and 2009, 207 applications were received, and only 131 were approved. Of those not approved, 28 were appealed and 5 requested variances; less than 20% were granted.

Note: This report was submitted to the Zoning Commission with case no. 11-G, for its review on May 5, 2011, including fence Ordinance examples from Aurora and Rockford.