



City of Annapolis
Planning Commission
Department of Planning and Zoning
145 Gorman Street, 3rd Fl
Annapolis, MD 21401-2529

March 6, 2025

Re: O-30-24 Fences

Findings & Recommendation

Background

Fences do not always make good neighbors. When the City Code is unclear, subjective or simply silent, disputes arise. City staff have a hard time interpreting what is and is not approvable and so they get blamed by all sides.

This state of affairs has existed for years. This legislation intends to address the situation by making factors clear and objective, no matter which side of the fence the neighbors are on.

Planning Commission Hearings

The Planning Commission held a public hearing on February 6, 2025. Five commissioners were present: Butler, Cummings, Pline, Reilly, and Waldman. Mr. Pline attended virtually.

Chief of Comprehensive Planning Eric Leshinsky, Alderman Savidge – the sponsor of the legislation, and two residents directly affected by a recent situation testified. Six written comments were received and entered into the record. Spirited and productive discussion ensued.

Findings and Recommendations

The Commission found:

1. The current situation needs to be addressed.
2. The sponsor of the legislation is commended for beginning the process of improvement and for a collaborative approach.

3. The subjective or unclear terms in the existing or proposed fencing code need to be made objective and clear. Terms such as:
 - a. "Lattice-type" fencing
 - b. "Undue Burden" or "Undue Obstruction"
 - c. "Slope"
 - d. "Should be modified as needed"
 - e. "Undeveloped forest"
4. The factors most in need of address are:
 - a. Privacy or permeable fencing
 - b. Height
 - c. Impact on downslope neighbors when a fence is erected on top of a slope
 - d. Impact on wildlife and the movements of light and air
5. The proposed legislation is written in response to a rather specific situation. Aspects of the proposed legislation apply to unique situations, such as when the proposed fence is more than 50 feet from the applicant's house. Other aspects of the legislation apply city-wide, such as height, materials, and proximity to neighboring windows.

The specific situation to which the sponsor responded was:

- a. The fencing applicants' homes were more than 50' from the neighbors; a wooded area home to wildlife lay between the applicants' and neighbors' homes; and the fence was built up to the neighbors' property lines and at the top of the slope up from the neighbors, making the six foot privacy fence appear quite higher than six feet.
 - b. The privacy fence in that case is impermeable, obstructing not only views but also light, air and the free flow of wildlife.
6. The goal of setting a height to fences city-wide remains irresolute. The legislation proposes six feet. The Commission and the sponsor did not want to address that issue in this initial legislation. The Commission did note, however, that six feet is not always appropriate, as in the situation that initiated this legislation.
 7. The issue of neighbor approval is not one the Commission deeply addressed. Suffice it to say that neighbor approval sometimes makes sense and sometimes not.

8. Taking the city-wide perspective brings the City closer to succeeding at comprehensive fencing code.

The Commission voted 5-0 to approve the intentions and goals of the proposed legislation, but **only if significant amendments are made.**

The Commission recommends the following amendments:

1. The goal of allowing light and air through a fence is resolved not by stating what kinds of materials may be used nor by requiring two inches of space between what could be wide planks. For instance, there are types of lattice fencing which are just as impenetrable as what are called privacy fences. Instead, the goal can be achieved by requiring a percentage of open space in the fence.
 - a. For example, in a 4'x8' panel of common wood lattice the ratio of wood to open space can be easily mathematically determined. Similarly for fencing made of solid wood or plastic panels.
 - b. The Commission hesitates to call this the percentage of occlusion (or its obverse, the percentage of inclusion). Instead, it may be called the percentage of open space.
 - c. The measurement and calculation could be required from the applicant by the Department of Planning & Zoning.
 - d. **Hence, the Commission recommends that all fences consist of 50% open space.**
2. This legislation offers an opportunity to address building a fence on a slope. **The Commission proposes that when a fence would be on a slope greater than 15° measured over 10', then the fence must be appropriately reduced.**
 - a. The measurement and calculation could be required from the applicant by the Dept. of Planning & Zoning.
 - b. Exactly how to calculate an "appropriate" reduction is left to the sponsor. Perhaps some ratio between the top of the slope, the bottom of the slope and where the fence is to be placed. A simple diagram would be helpful.

3. **The definition of “forest” or “forested woodland” can be found in the Forest Conservation Act (FCA). The Commission has determined that these definitions must be added to the legislation.**

- a. The definition there applies only to areas greater than an acre, but it is at least a definition and a place to start from. Using the definition will not trigger the FCA.
- b. If the FCA definition applies in a circumstance, the City Arborist might be called upon to review the application.

Recommendation

If these amendments are made to the proposed legislation, the Planning Commission would recommend Approval.

Approved on this 6th day of MARCH, 2025:

Robert H. Waldman Robert H. Waldman, Chairman

The voting commissioners authorized the Chair to sign on their behalf.