

## MEMORANDUM

TO: Cape Elizabeth Planning Board  
FROM: Maureen O'Meara, Town Planner  
DATE: December 15, 2020  
SUBJECT: Fence Amendments

### Introduction

At the November 9, 2020 meeting, the Town Council referred draft Fence amendments to the Zoning Ordinance to the Planning Board. The amendments establish a maximum height of 8' for fencing installed within 5' of a property line.

### Procedure

- The Planning Board must hold a public hearing before making a recommendation to the Town Council. A public hearing has been advertised for this evening.
- The Planning Board should briefly summarize the substance of the amendment and then open the public hearing.
- At the close of the public hearing, the Planning Board may discuss the amendment and offer revisions.
- At the close of discussion, the Board has the option to table the amendment to a future workshop or meeting, or to make a recommendation to the Town Council.

### Discussion

The Planning Board reviewed the proposed amendment at the December 1, 2020 workshop and then voted at the workshop to hold a public hearing this evening. As directed at the workshop, the amendment has been revised to allow for up to 4" of space between the ground and the bottom of the fence panel which would not be counted toward maximum fence height.

### Motion for the Board to Consider

BE IT ORDERED that, based on the materials and the facts presented, the draft Fence Amendments to the Zoning Ordinance be (recommended/not recommended) to the Town Council for consideration.

## Fence Regulation Zoning Ordinance

### SEC. 19-1-3. DEFINITIONS

**Fence:** Any permanent partition or barrier more than twelve (12) inches in height from the natural grade (or the top of a retaining wall if a fence is placed on such wall) bordering or parallel to and within five (5) feet of a lot line that in whole or in part defines the boundaries of said lot. A retaining wall or landscaping material such as hedges shall not be considered a fence. Fences located within the interior of a lot which do not serve to define a lot boundary, such as, but not limited to, fences that enclose dog runs, play areas, pools, tennis courts, etc., are not subject to regulation pursuant to this ordinance except for any portion of such fence that borders or is parallel to and within five (5) feet of a lot line.

**Height, fence:** The vertical distance measured from the natural grade of the ground at the location where the fence is erected (or from the top of a retaining wall if a fence is placed on such wall) to the top of the fence section or panel. Fence supports such as posts, columns, piers or pilasters, as well as gates and arbors may exceed the height restriction contained in this ordinance by not more than twelve (12) inches. In cases where the top of the fence section or panel is curved, the height shall be calculated using the average of the highest and lowest points on the top of the fence section or panel. A clearance of up to 4" from the ground to the bottom of the fence panel shall not be included in the measurement of fence height.

### SEC. 19-7-12. FENCES AND CORNER CLEARANCES

**A. Fence Height.** The height of a fence located within 5' of the property line in or adjacent to the Residence A, B or C zoning districts shall not exceed eight feet (8') in height. The height of fences necessary for public athletic facilities, such as but not limited to softball diamonds or tennis courts, shall be permitted at heights in conformance with established recreation standards. Any existing fence that does not conform with the requirements of this section shall be considered nonconforming. Replacement of an existing fence shall comply with this section.

**B. Corner Clearances.** On a corner lot in any district, no fence, wall, hedge, or other planting more than three and a half (3 ½) feet in height shall be erected, placed or maintained within the three-sided area formed by the intersecting street lines and a line joining them at points which lie twenty (20) feet distant from the point of intersection, measured along said street lines.