

Sec. 122-178. - Special exceptions.

- (a) The board of adjustment may grant a special exception that will allow a fence up to a maximum height of 8½ feet for a fence that is adjacent to a required subdivision wall; provided that the board finds that:
- (1) The lot has unusual topographical conditions that distinguish it from other similarly sized and shaped lots, and where such conditions create a hardship that renders privacy inadequate without such relief; and
 - (2) The following required provisions have all been met:
 - a. The lot shall have an existing residential structure on it or a building permit to construct a residential structure has been issued;
 - b. The subject property shall not be located within the historic overlay district;
 - c. The subject fence shall not be a corner lot fence as provided for in section 122-176(b)(5); and
 - d. Such fences shall be constructed of either:
 1. Stained wood, board-on-board construction or double-sided construction, with a stained trim cap and steel posts; or
 2. An engineered brick, stone or masonry wall in a color and style that is consistent with and compatible with the surrounding vicinity.
- (b) A special exception is only appropriate for those sides of a fence that meet the requirements set out herein above. A hardship may be found regardless of when the unusual condition was created.
- (c) The board of adjustment may grant a special exception that will allow a fence up to a maximum height of six feet for a fence that is situated between the front building line and the street right-of-way line of a lot (a "front yard fence") provided that the board finds that:
- (1) The subject property shall not be located within the historic overlay district;
 - (2) A front yard fence shall not be a corner lot fence as provided for in section 122-176(b)(5);
 - (3) The lot shall have an existing structure on it or a building permit to construct a structure has been issued;
 - (4) All fences shall have a minimum of 50 percent through vision in any front yard;
 - (5) The six-foot front yard fences must be consistent and appropriate to the area they are proposed.
- (d) The board of adjustment may grant a special exception allowing side and/or rear yard fences in the historic overlay district up to a maximum height of eight feet six inches (8½ feet), provided that the board finds that:
- (1) The lot has unusual topographical conditions that distinguish it from other similarly sized and shaped lots, and where such conditions create a hardship that renders privacy and security inadequate without such relief; or
 - (2) All of the following provisions have been met:
 - a. The lot shall have an existing residential structure on it or a building permit to construct a residential structure has been issued;
 - b. The proposed fence does not negatively impact the health, safety and welfare of the public;
 - c. The proposed fence's design is complimentary to other existing fences in the area; and
 - d. The proposed fence's design, location and height is appropriate for the context of the area.

(Code 1982, § 34-154; Ord. No. 2005-10-105, §§ 2, 3, 10-18-2005; Ord. No. 2016-03-019, § 5, 3-15-2016)

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