

Council Agenda Report

Date: February 11, 2019
Submitted by: Odie Wheeler, Director of Public Works
Prepared by: Pat Escher, Division Manager, City Planner

Subject: Ordinance 1139 -- An Ordinance of the Commissioners of Cambridge, Maryland amending § 5.1.4 of the City's Unified Development Code ("UDC") to provide that fences shall not extend at a height exceeding six feet forward of the primary rear building façade and fences extending forward of the primary rear building façade shall not exceed four feet in height subject to certain conditions; providing that the title of this Ordinance shall be deemed a fair summary and generally relating to fences in the City of Cambridge.

Recommendation: That Council

- A. Introduce Ordinance No. 1139 by reading of title only; and
- B. Schedule February 28, 2019 for second reading, public hearing and adoption of Ordinance No. 1139.

DISCUSSION: A text amendment was brought to the Council's attention at their November 13th hearing. That amendment included language to require that the smooth side of a fence be visible from public rights of way as well as clarifying a primary rear façade and the allowable fence height in a rear yard. There was much discussion regarding having the "smooth side" of a fence on the side facing outward towards the public right-of-way, but not much discussion about the increased height. The Ordinance was rejected.

Craig Linthicum petitioned the Planning Commission to take this measure forward again with elimination of the language regarding the finished side of the fence and just address the interpretation of the primary rear facade of the building and the fence height. The Planning Commission heard the new proposed language and has recommended that the Council adopt the revised language which just increases the height of the rear yard fence to six feet when rear of the primary facade.

Fiscal Impact: NA

Enforcement Authority: Pat Escher, A.I.C.P., Division Manager – Division of Planning, Housing and Economic Development, Department of Public works

Approved by: Patrick Comiskey, City Manager

ORDINANCE NO. 1139

AN ORDINANCE OF THE COMMISSIONERS OF CAMBRIDGE, MARYLAND AMENDING § 5.1.4 OF THE CITY'S UNIFIED DEVELOPMENT CODE ("UDC") TO PROVIDE THAT FENCES SHALL NOT EXTEND AT A HEIGHT EXCEEDING SIX FEET FORWARD OF THE PRIMARY REAR BUILDING FAÇADE AND FENCES EXTENDING FORWARD OF THE PRIMARY REAR BUILDING FAÇADE SHALL NOT EXCEED FOUR FEET IN HEIGHT SUBJECT TO CERTAIN CONDITIONS; PROVIDING THAT THE TITLE OF THIS ORDINANCE SHALL BE DEEMED A FAIR SUMMARY AND GENERALLY RELATING TO FENCES IN THE CITY OF CAMBRIDGE.

WHEREAS, pursuant to Md. Code Ann., Land Use § 4-204 and § 2.2.3 of the Unified Development Code (the "UDC"), the Commissioners of Cambridge are authorized and empowered to amend, supplement, change, modify, and repeal the City of Cambridge's (the "City") zoning regulations and boundaries and change the City's zoning classifications; and

WHEREAS, pursuant to § 3-27(1) of the Charter of the City of Cambridge (the "Charter") and Md. Code Ann., Local Gov't § 5-202(5), the Commissioners of Cambridge are authorized and empowered to pass ordinances for the protection and promotion of the health, safety, comfort, convenience, welfare and happiness of the residents of the town and visitors thereto and sojourners therein; and

WHEREAS, following a public hearing held on January 9, 2019, the City of Cambridge Planning Commission (the "Planning Commission") unanimously recommended that the Commissioners of Cambridge approve a text amendment amending § 5.1.4 of the UDC to provide that fences shall not extend at a height exceeding six feet forward of the primary rear building façade and fences extending forward of the primary rear building façade shall not exceed four feet in height subject to certain conditions; and

WHEREAS, on _____, the Commissioners of Cambridge held a public hearing regarding the foregoing text amendment recommended by the Planning Commission, notice of which was published on _____ and _____ in the Star Democrat, a newspaper of general circulation in the City, in accordance with Md. Code Ann., Land Use § 4-203(b) and § 2.2.3.C of the UDC; and

WHEREAS, having considered the recommendations of the Planning Commission and the Department of Planning and Zoning Staff, as well as the comments made during the November 13, 2018 public hearing, the Commissioners of Cambridge find that it is in the best interest of the City to amend § 5.1.4 of the UDC to provide that fences shall not extend at a height exceeding six feet forward of the primary rear building façade and fences extending forward of the primary rear building façade shall not exceed four feet in height subject to certain conditions; and

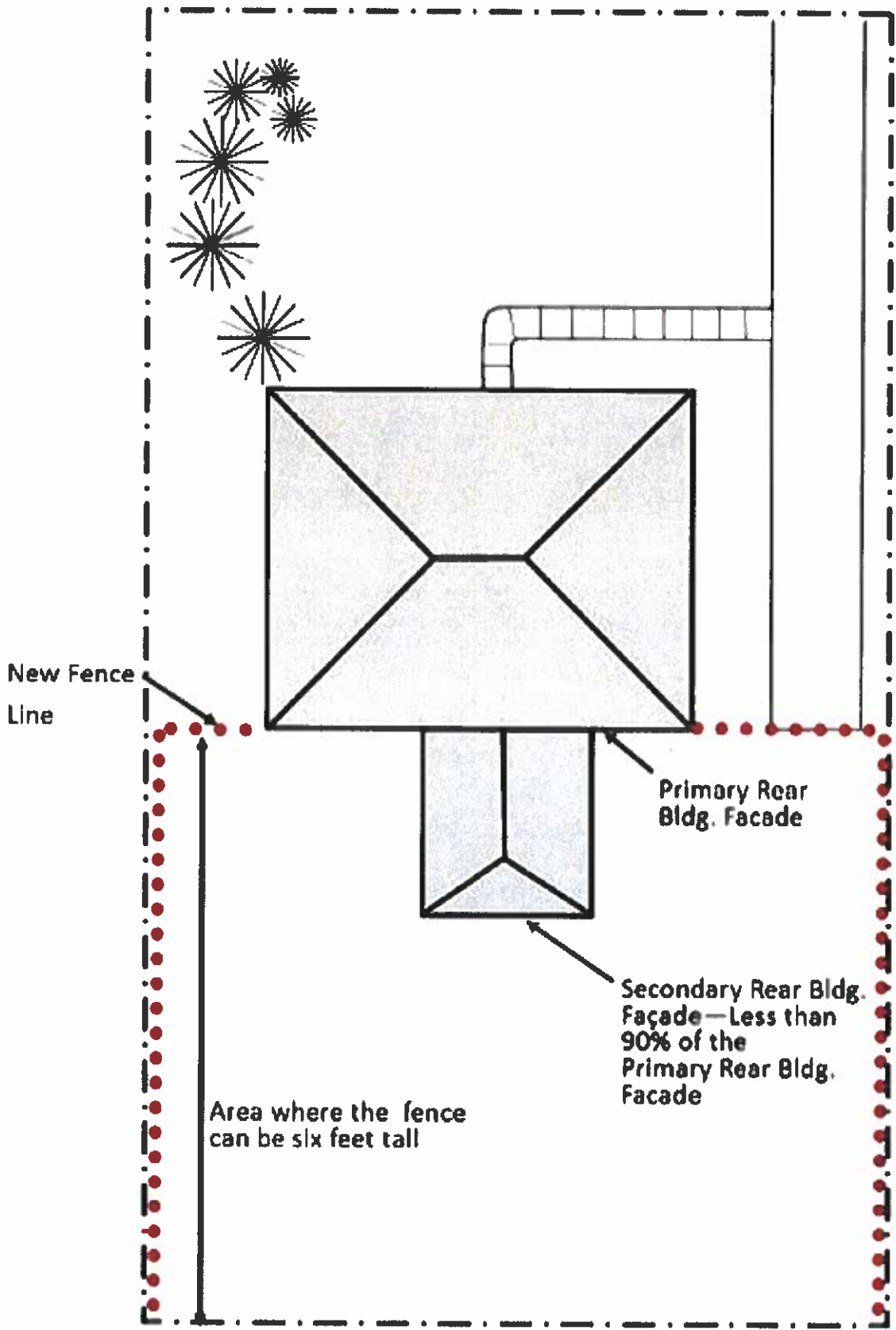
WHEREAS, the Commissioners of Cambridge find that the text amendment set forth herein is necessary to promote and protect the public health, safety, and welfare.

NOW, THEREFORE, BE IT ORDAINED by the Commissioners of Cambridge, that the City's Unified Development Code is hereby amended as follows:

SECTION 1. Section 5.1.4 (Fences and Walls) is amended as follows:

§ 5.1.4 Fences and Walls

- A. UNCHANGED
- B. UNCHANGED
- C. Application for Permit – Any person or persons, corporation, firm or association intending to erect a fence or wall shall, before any work is commenced, make application for permit. Application shall be accompanied by a plan or sketch showing the proposed location of any fence, the material proposed to be used, which must be in accordance with this Ordinance and be accompanied by an appropriate fee. Upon approval by the Zoning Official, a permit shall be issued which will be in effect for a period of **one hundred eighty (180)** days from the date thereon.
- D. No person shall erect between residences in any district a fence upon his or her property which shall exceed six **(6)** feet in height, and such fence shall not extend at this height forward of the **primary rear building façade** of the dwelling. Fences erected forward of the line of the **primary rear of the building façade** shall not exceed four **(4)** feet in height as long as said fence does not obstruct vision from one side to the other and shall extend to a point not closer than six **(6)** feet to the established curb line unless the sidewalk line has been established, and in such cases the fence shall be extended no closer than six **(6)** inches to the established sidewalk line, and, in the event a solid or obstructed vision fence is erected, the final **twenty-five (25)** feet to the sidewalk shall be no higher than three **(3)** feet. It is the intention of this subsection that visibility be maintained near the sidewalk for safety purposes, and the same shall not be unduly obstructed by planting shrubs, etc.



E. UNCHANGED

F. UNCHANGED

G. UNCHANGED

H. UNCHANGED

I. In those cases, where the rear or side of a corner lot abuts upon a residential lot where the erection of a six ~~(6)~~-foot-high fence would block the vision of side windows of the adjoining residence, a fence no higher than four ~~(4)~~ feet may be erected.

J. UNCHANGED

K. UNCHANGED

SECTION 2. The recitals to this Ordinance are incorporated herein and deemed a substantive part of this Ordinance.

SECTION 3. In this Ordinance, unless a section of the UDC is expressly repealed in its entirety and reenacted, new or added language is underlined and in boldface type, and deleted text is crossed out with a single strikethrough. With respect to the substantive provisions of this Ordinance set forth in Section 1, language added after the date of introduction is in bold, italicized font and language deleted after the date of introduction is crossed out with a double strikethrough.

SECTION 4. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court or competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance, it being the intent of the Commissioners of Cambridge that this Ordinance shall stand, notwithstanding the invalidity of any section, subsection, sentence, clause, phrase, or portion hereof.

SECTION 5. All ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 6. The title of this Ordinance, or a condensed version thereof, shall be deemed to be, and is, a fair summary of this Ordinance for publication and all other purposes.

AND BE IT FURTHER enacted and ordained that this Ordinance shall become effective on the tenth (10th) day following the date of passage.

ATTEST:

THE COMMISSIONERS OF CAMBRIDGE

Patrick C. Comiskey, City Manager

By: _____
Victoria Jackson-Stanley, Mayor

Introduced the ___ day of _____, 2019

Passed the ___ day of _____, 2019

Effective the ___ day of _____, 2019