



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Planning Division

m e m o r a n d u m

TO: The Urbana Plan Commission

FROM: Jeffrey Engstrom, Planner II

DATE: February 4, 2011

SUBJECT: CCZBA 665-AT-10 Amend the Champaign County Zoning Ordinance concerning fences for residential properties.

Introduction & Background

The Champaign County Zoning Administrator is requesting a text amendment to the Champaign County Zoning Ordinance in Champaign County Case No. CCZBA-665-AT-10. The purpose of this amendment is to increase the maximum fence height from six to eight feet high in required side and rear yards on residential properties in the County. The Plan Commission should review the proposed amendment to determine what impact it will have on the City, and recommend to City Council whether or not to protest.

If adopted, the following changes would be made to Paragraph 4.3.3 G of the Champaign County Zoning Ordinance:

A. Increase the maximum fence height allowed in side and rear yards from six feet to eight feet for fences in residential zoning districts and on residential lots less than five acres in area in the AG-1 and AG-2 zoning districts.

B. Require fencing that is higher than four feet tall to be at least 50% transparent when located in the following areas:

(1) In residential Zoning Districts, all fencing that is in the front yard.

(2) On residential lots less than five acres in area in the AG districts, only fencing between the dwelling and the driveway within 25 feet of the dwelling.

C. Increase the maximum allowed height of all fencing to allow for up to three inches of ground clearance.

The proposed amendment came about as a response to several requests for administrative variances in the County to allow fences higher than six feet in the side and rear yard. Currently, fences on residential properties may not exceed six feet in height anywhere on the lot. If passed, the proposed amendment would allow fences up to eight feet high in the required side and rear yards, and would not restrict fence heights outside of the required yards. Fences in the required front yard would still be limited to six feet in height. Additionally, the proposed amendment would add transparency requirements for fences in the front yard. This provision would require any portion of a fence above four feet in height to be at least 50% transparent. Finally, the last section of the proposed changes would allow for three inches of ground clearance beneath any fence. This would effectively move the maximum height of the fence up three inches, so fences in front yards could be up to six feet, three inches in height, and fences in side and rear yards could be up to eight feet, three inches in height.

The proposed text amendment is of interest to the City of Urbana as it may affect zoning and land use development decisions within the City's one-and-one-half mile extra-territorial jurisdictional (ETJ) area. The City has subdivision and land development jurisdiction within the ETJ area, while the County holds zoning jurisdiction in this area. It is important that there be consistency between these two jurisdictions to the extent that certain regulations may overlap. Since development within this area may abut development within the corporate limits of the City or may eventually be annexed into the City's corporate limits, some level of consistency in zoning regulations is also desirable. Land uses in the County affect the City of Urbana in several ways, including:

- Land uses in Champaign County can potentially conflict with adjacent land uses in the City of Urbana;
- Unincorporated portions of Champaign County adjacent to the City of Urbana will likely be annexed into the City at some point in the future. Existing land uses would also be incorporated as part of annexation;
- In addition to land uses, development patterns of areas annexed into the City of Urbana will affect our ability to grow according to our shared vision provided in the 2005 Comprehensive Plan.

For these reasons, the City should examine the proposed text amendment to the County Zoning Ordinance to ensure compatibility with our existing ordinances. By State law, the City has an obligation to review zoning decisions within its ETJ area for consistency with the City's comprehensive plan.

The proposed amendment was approved by the Champaign County Zoning Board of Appeals on January 20, 2011. It will be reviewed at the County Committee of the Whole on February 8th, and will come before the County Board on March 17th, 2011.

Issues and Discussion

City of Urbana Policies

Champaign County's proposed Zoning Ordinance should be reviewed for consistency with the City of Urbana's *2005 Comprehensive Plan*. Specifically, Urbana's comprehensive plan includes the following pertinent goals and objectives:

Goal 17.0 Minimize incompatible land uses.

Objective 17.1 Establish logical locations for land use types and mixes, minimizing potentially incompatible interfaces, such as industrial uses near residential areas.

Objective 17.2 Where land use incompatibilities exist, promote development and design controls to minimize concerns.

Goal 21.0 Identify and address issues created by overlapping jurisdictions in the one-and-one-half mile Extraterritorial Jurisdictional area (ETJ).

Objective 21.1 Coordinate with Champaign County on issues of zoning and subdivision in the ETJ.

Objective 21.2 Work with other units of government to resolve issues of urban development in unincorporated areas.

The proposed changes appear to be generally consistent with these goals and objectives.

Zoning Impacts

Chapter Seven of the Urbana City Code governs fences within the City. Recently the fence code was changed to reduce the allowed height in front yards to no more than four feet in height and to require fences in front yards to be at least 50% transparent. Fences within the required side or rear yard may be up to eight feet tall. The proposed County text amendment would bring the County's rules regarding fences into conformance with the City for fences in the side and rear yard. Fences in the front yard would not be in complete conformance with the Urbana fence code, as they can be up to six feet tall in the County. However, the proposed requirement that the portion of a fence above four feet in height must be transparent would reduce the inconsistencies between the County and City fence codes.

Summary of Staff Findings

1. Champaign County Zoning Case No. CCZBA 665-AT-10 would allow fences on residential properties to be up to eight feet high in the required side and rear yard, require

the portion of fences above four feet in the front yard to be 50% transparent, and would allow three inches of ground clearance;

2. The proposed zoning ordinance text amendment is generally consistent with the City of Urbana's *2005 Comprehensive Plan's* goals and objectives;
3. The proposed zoning ordinance text amendment would bring the County's rules regarding fence heights into partial conformance with the City's fence code.

Options

In CCZBA Case No. 665-AT-10, the Plan Commission has the following options for recommendations to the City Council:

- a. Forward the plan case to the City Council with a recommendation to defeat a resolution of protest for the proposed text amendments;
- b. Forward the plan case to the City Council with a recommendation to defeat a resolution of protest contingent upon some specific revision(s) to the proposed text amendments; or
- c. Forward the plan case to the City Council with a recommendation to adopt a resolution of protest for the proposed text amendments.

Staff Recommendation

Staff recommends that the Plan Commission forward this case to the City Council with a recommendation to **defeat a resolution of protest** for the proposed text amendment based upon the findings summarized above.

Exhibits: A. Detailed Proposed Text Changes
 B. Memorandum to the Champaign County ZBA, December 30, 2010
 C. Urbana City Code Chapter 7, Fences.

cc: John Hall, Champaign County Zoning Administrator

Exhibit A: Detailed Proposed Text Changes

G. Fences

1. ~~Fences in R Zoning Districts and on residential lots less than five acres in the AG Districts shall not exceed six feet in HEIGHT and may be located in required front yards provided they meet the~~ shall meet the following requirements:

a. ~~Any fence must meet the requirements for of the triangle of visibility as defined by~~ Section 4.3.3.E of this ordinance.

b. Fences located in required FRONT YARDS shall meet the following additional requirements:

(1) A maximum of six feet in HEIGHT, not including any clearance authorized in 4.3.3.G.5; and

(2) Any portion of a fence over four feet in HEIGHT must be at least 50% transparent.

c. Fences located in required SIDE and REAR YARDS shall meet the following additional requirements:

(1) A maximum of eight feet in HEIGHT, not including any clearance authorized in 4.3.3.G.5; and provided that

(2) Any portion of the fence that is not in a defined SIDE YARD nor a defined FRONT YARD shall have the same HEIGHT limit as if in a SIDE YARD; provided that

(3) Any portion of any fence that is between the DWELLING and the FRONT YARD and that is over four feet in HEIGHT must be at least 50% transparent for that portion of fence that is over four feet in HEIGHT.

2. Fences on residential lots in the AG and CR Zoning Districts shall meet the following requirements:

a. Any fence must meet the requirements for visibility as defined by Section 4.3.3.E of this ordinance.

b. On lots less than five acres in area in the AG Zoning Districts the following additional requirements shall apply:

(1) Fences located in required FRONT YARDS shall meet the following requirements:

(a) A maximum of six feet in HEIGHT, not including any clearance authorized in 4.3.3.G.5; and

(b) Any portion of a fence over four feet in HEIGHT must be at least 50% transparent when located between the DWELLING and the driveway within 25 feet of the dwelling.

(2) Fences located in required SIDE and REAR YARDS shall not exceed eight feet in HEIGHT, not including any clearance authorized in 4.3.3.G.5.

24. Fences in B and I Zoning Districts shall not exceed eight feet in HEIGHT not including any clearance authorized in subparagraph 4.3.3 G.5., except that any barbed wire security barrier ~~which~~ may be up to an additional two feet in HEIGHT. Fences may be located in the required front yards provided they meet the requirements of the triangle of visibility as defined by Section 4.3.3.E of this ordinance.

35. The HEIGHT of fences shall be measured from the highest adjacent GRADE and may be in addition to up to three inches of clearance between the highest adjacent GRADE and the bottom of the fence. No minimum clearance is required by this Ordinance, and further, the fence HEIGHT may be increased by any portion of the allowable three inches of clearance to GRADE that is not used as clearance.

Exhibit A: Detailed Proposed Text Changes

G. Fences

1. Fences in R Zoning Districts ~~and on residential lots less than five acres in the AG Districts shall not exceed six feet in HEIGHT and may be located in required front yards provided they meet the~~ shall meet the following requirements:

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(1) A maximum of six feet in HEIGHT, not including any clearance authorized in 4.3.3.G.5; and

(2) Any portion of a fence over four feet in HEIGHT must be at least 50% transparent.

c. Fences located in required SIDE and REAR YARDS shall meet the following additional requirements:

(1) A maximum of eight feet in HEIGHT, not including any clearance authorized in 4.3.3.G.5; and provided that

(2) Any portion of the fence that is not in a defined SIDE YARD nor a defined FRONT YARD shall have the same HEIGHT limit as if in a SIDE YARD; provided that

(3) Any portion of any fence that is between the DWELLING and the FRONT YARD and that is over four feet in HEIGHT must be at least 50% transparent for that portion of fence that is over four feet in HEIGHT.

2. Fences on residential lots in the AG and CR Zoning Districts shall meet the following requirements:

a. Any fence must meet the requirements for visibility as defined by Section 4.3.3.E of this ordinance.

b. On lots less than five acres in area in the AG Zoning Districts the following additional requirements shall apply:

(1) Fences located in required FRONT YARDS shall meet the following requirements:

(a) A maximum of six feet in HEIGHT, not including any clearance authorized in 4.3.3.G.5; and

(b) Any portion of a fence over four feet in HEIGHT must be at least 50% transparent when located between the DWELLING and the driveway within 25 feet of the dwelling.

(2) Fences located in required SIDE and REAR YARDS shall not exceed eight feet in HEIGHT, not including any clearance authorized in 4.3.3.G.5.

24. Fences in B and I Zoning Districts shall not exceed eight feet in HEIGHT not including any clearance authorized in subparagraph 4.3.3 G.5., except that any barbed wire security barrier which may be up to an additional two feet in HEIGHT. Fences may be located in the required front yards provided they meet the requirements of the triangle of visibility as defined by Section 4.3.3.E of this ordinance.

35. The HEIGHT of fences shall be measured from the highest adjacent GRADE and may be in addition to up to three inches of clearance between the highest adjacent GRADE and the bottom of the fence. No minimum clearance is required by this Ordinance, and further, the fence HEIGHT may be increased by any portion of the allowable three inches of clearance to GRADE that is not used as clearance.

CASE NO. 665-AT-10

SUPPLEMENTAL MEMORANDUM

December 30, 2010

Champaign
County
Department of**PLANNING &
ZONING**Petitioner: **Zoning Administrator**Prepared by: **John Hall**
Zoning AdministratorRequest: **Amend the Champaign County Zoning Ordinance by revising paragraph 4.3.3 G. as follows:**

A. Increase the maximum fence height allowed in side and rear yards from six feet to eight feet for fences in Residential Zoning Districts and on residential lots less than five acres in area in the AG-1 and AG-2 Zoning Districts.

B. Require fencing that is higher than four feet tall to be at least 50% transparent when located in the following areas:

(1) In Residential Zoning Districts, all fencing that is in the front yard.

(2) On residential lots less than five acres in area in the AG-1, AG-2, and CR Zoning Districts, only fencing between the dwelling and the driveway within 25 feet of the dwelling.

C. Increase the maximum allowed height of all fencing to allow for up to three inches of ground clearance.

STATUS

This case was continued from the December 16, 2010 public hearing. The minutes for this case are included separately.

Note that the description is different than it appears on the Agenda. An attempt has been made to revise the Draft Amendment as discussed at the December 16 meeting although that discussion was somewhat confusing. Note that this case was previously readvertised with the transparency requirement on April 28, 2010, and there is no need to readvertise at this time as was suggested in error at the last meeting. Also note that the portions deleted were corrected back to the September 10, 2010, version prior to deletion. The minutes from the December 16 meeting should be available for the Board's use at the meeting. Approval of the minutes is on the Agenda but approval of the minutes could be continued to the next meeting.

Revised fencing diagrams are also attached.

An updated municipal comparison table is attached that indicates that Champaign, Urbana, Rantoul, and St. Joseph all require transparent fencing (to some extent) in the front yard.

A Revised Finding of Fact is also attached.

Brookens
Administrative Center
1776 E. Washington Street
Urbana, Illinois 61802

(217) 384-3708

ATTACHMENTS

- A Excerpted minutes for Case 665-AT-10 from December 16, 2010, ZBA meeting
- B Table Comparing Residential Fence Height Limits in Champaign County Zoning Ordinance to Larger Local Municipalities *REVISED 12/30/10* (with excerpt from Urbana fence code)
- C Revised Draft Amendment
- D Revised Fencing Diagrams
- E Revised Draft Finding of Fact

ZBA

DRAFT

SUBJECT TO APPROVAL DRAFT

12/16/10

1
2 Ms. Capel moved, seconded by Mr. Courson to approve the October 14, 2010, minutes as submitted.
3 The motion carried by voice vote.

4
5 Mr. Courson moved, seconded by Mr. Palmgren to re-arrange the agenda and hear Case 675-AT-10,
6 prior to Cases 665-AT-10 and 666-AT-10. The motion carried by voice vote.

7
8 6. Continued Public Hearing

9
10 Case 665-AT-10 Petitioner: Zoning Administrator Request to amend the Champaign County Zoning
11 Ordinance by revising paragraph 4.3.3G. as follows: A. Increase the maximum fence height allowed
12 in side and rear yards from six feet to eight feet for fences in Residential Zoning Districts and on
13 residential lots in the AG-1 and AG-2 Zoning Districts; and B. Require fencing that is higher than
14 four feet tall to be at least 50% transparent when located in the following areas: (1) In Residential
15 Zoning Districts, all fencing that is in the front yard; and (2) On residential lots in the AG-1, AG-2,
16 and CR Zoning Districts, only fencing between the dwelling and the driveway within 25 feet of the
17 dwelling. C. Increase the maximum allowed height of all fencing to allow up to three inches of
18 ground clearance.

19
20 Mr. Hall stated that on December 06, 2010, a third request was sent to the Sheriff regarding the Board's
21 questions about transparency for gates but to date no comments have been received. Mr. Hall stated that he
22 would assume that since no response has been received from the Sheriff it would mean that he has no
23 concerns related to this case. Mr. Hall stated that nothing has changed since the last time that the Board
24 reviewed this case and a fence in a residential district would retain a 6 foot maximum height in the front yard
25 but those portions over four feet high must be at least 50% transparent, and in the residential districts that is
26 for the entire front yard. He said that on side and rear yards the maximum height is being increased to 8 feet
27 with a provision that when there is a question about whether it is located in the front or side yard then the
28 transparency requirement applies there also and for all of the fence heights 3 inches of extra height is being
29 added to accommodate changes in topography. He said that any place where there is a limit of 6 feet or 8

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1 feet the actual limit at any point in the fence is 6 foot 3 inches or 8 foot 3 inches. He said that residential lots
2 in the AG districts that are less than five acres in area will retain a maximum fence height of six feet in the
3 front yard but will add a requirement for 50% transparency when located along the driveway between the
4 dwelling and the driveway visibility triangle within 25 feet of the dwelling. He said that what this means is
5 that a fence along the driveway within 25 feet of the dwelling has to be 50% transparent over four feet in
6 height and then in the side and rear yard the allowable maximum height is 8 feet. He said that if there is a
7 question whether the fence is in the side or front yard then the transparency requirement kicks in, although
8 that doesn't seem to be needed unless it is along the driveway. He said that on lots that are five acres or
9 greater the only restriction on fencing is for the transparency requirement within 25 feet of the dwelling on
10 the line of the driveway between the driveway and the dwelling. He said that in the CR district where there
11 are currently no requirements for fencing the transparency requirement is being added within 25 feet of the
12 dwelling. He said that there are no height limits in the CR district but within 25 feet of the dwelling along
13 the side of the driveway between the driveway and the dwelling the transparency requirement applies. He
14 said that in the business and industrial zoning districts the only change is to add the three inch clearance to
15 the existing height limit of 8 feet. He said that he had hoped that this case would be ready for final action at
16 tonight's public hearing but he does not believe that Item #G.2(c) is necessary therefore he would like to
17 continue the case while staff verifies that. He said that it was only decided this afternoon that this case
18 merited making the draft ordinance to make sure that everyone was on the same page.

19
20 Mr. Knight stated that there could be a possibility that the fence could exist along the rear line of the front
21 yard in the AG-1 and AG-2 Zoning Districts.

22
23 Mr. Hall stated that the current approach is that the transparency requirement in the AG districts is only an
24 issue when it is on the line of the driveway between the driveway and the dwelling and then only within 25
25 feet of the dwelling therefore any fence that could be in the side yard is going to be further back on the
26 property. He said that this issue is only relevant if the Board is still entertaining the transparency
27 requirement.

28
29 Mr. Courson stated that he is against the transparency requirement. He said that he does not believe that any

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1 areas along the roads.

2

3 Mr. Thorsland stated that he agrees with Mr. Courson and he would like to see the AG-1, AG-2, and CR
4 districts be consistent and enforce the visibility triangle requirement. He said that he would recommend the
5 6 foot fence in the front yard on a lot that is five acres or less with no transparency requirement because the
6 visibility triangle requirement is already being enforced. He said that the only difference between a lot that
7 is less than five acres and a lot that is five acres or more is the 6 feet versus the 8 feet in the front yard. He
8 said that this recommendation would simplify the amendment and staff's job.

9

10 Mr. Hall stated that currently a lot that is five acres or greater has no fence height requirement only the
11 visibility triangle.

12

13 Mr. Thorsland stated in regards to CR Subparagraph 4.3.3G.3.(b) could also be removed.

14

15 Mr. Hall stated that lots which are five acres or greater in the AG districts and CR the only fencing
16 requirement is for the visibility triangle.

17

18 Mr. Thorsland stated that the original goal was to simplify the fence ordinance. He said that he is
19 comfortable in omitting 4.3.3G.3(b) and changing the AG districts to allow a six foot height in the front yard
20 for fencing on lots which are less than five acres. He said that for lots which are five acres or greater there
21 would be no fence height requirement but the visibility triangle requirement would be enforced.

22

23 Ms. Capel asked if CR lots would have requirements.

24

25 Mr. Thorsland stated that CR lots only have the visibility requirement. He said that all of Subparagraph
26 4.3.3G.1 would remain the same and 4.3.3G.2 would be revised as follows: strike 4.3.3G. 2.b.(1)(b); and
27 4.3.3G.2.b.(2)(c); and 4.3.3G.2.c; and 4.3.3G.3.b. He said that no reply has been received from the Sheriff
28 regarding the gates.

29

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DRAFT SUBJECT TO APPROVAL DRAFT

ZBA

1

2 **Ms. Capel moved, seconded by Mr. Courson to recess the public hearing for a five minute break. The**
3 **motion carried by voice vote.**

4

5 The meeting recessed at 7:45 p.m.

6 The meeting resumed at 7:50 p.m.

7

8 Mr. Thorsland stated that the Board needs to either agree with omitting some of the proposed text or
9 honoring, on some level, the e-mail from the Sheriff.

10

11 Mr. Hall stated that he does believe that the Sheriff's comments are very non-committal.

12

13 Mr. Courson stated that Item #11.B(3)(e) could be interpreted as having no restrictions at all. He said that he
14 agrees with the Sheriff's comments in Item #11.B(3)(e) regarding the privacy rights of the property owner.

15

16 Mr. Thorsland suggested that a fence around a five acre parcel would be self-limiting anyway and most
17 people would not do it due to the cost.

18

19 Mr. Courson agreed.

20

21 Ms. Capel stated that the fence would not necessarily have to encompass the entire five acres.

22

23 Mr. Thorsland stated that a thought would be to draw a 25 foot line from the dwelling and if the fence
24 appears to come into that line on a lot that is less than five acres then the transparency requirement takes
25 effect. He said that he believes that this will be a rare occasion but it is possible and staff could construct
26 such text.

27

28 Mr. Hall stated that such text already exists.

29

12/16/10

DRAFT SUBJECT TO APPROVAL DRAFT**ZBA**

1 **Mr. Palmgren moved, seconded by Ms. Capel to continue Case 665-AT-10 to the January 6, 2011,**
2 **meeting. The motion carried by voice vote.**

3
4 **Case 666-AT-10 Petitioner: Zoning Administrator Request to amend the Champaign County Zoning**
5 **Ordinance by revising Subsection 6.1 and paragraph 9.1.11.D.1. to clarify that the standard**
6 **conditions in Subsection 6.1 which exceed the requirements of Subsection 5.3 in either amount or kind**
7 **are subject to waiver by the Zoning Board of Appeals or County Board.**

8
9 Mr. Hall stated distributed a new Supplemental Memorandum dated December 16, 2010, to the Board for
10 review. He said that the Supplemental Memorandum includes two new items of evidence for the Finding of
11 Fact, regarding the adequacy of the legal ad for Case 666-AT-10, and the State's Attorney's determination
12 regarding protest rights in a County Board Special Use Permit Case. He said that the text amendment Case
13 634-AT-08, Part A was very specific in providing for County Board waivers for standard conditions and that
14 all wind farm requirements are standard conditions. He said that in terms of legal notice it was made very
15 clear and was very adequate. He said that within the same legal advertisement the changes to 6.1 were very
16 explicit in making all standard conditions subject to waivers. He said that there is a separate attachment
17 which is the reformat of Section 6.1 which indicates how 6.1 was amended during the text amendment and
18 the proposed changes which are being proposed in Case 666-AT-10. He said that the text included in the
19 handout is from the new Zoning Ordinance and not the Zoning Ordinance that is on the website. He said
20 that the new version of Section 6 includes 6.1 Standards for Special Uses; and 6.1.1. Standard Conditions
21 that May Apply to Specific Special Uses; and 6.1.2 Standard Conditions for All Special Uses; and 6.1.3
22 Schedule of Requirements and Standard Conditions; and 6.1.4 Wind Farm County Board Special Use
23 Permit. He said that most of the changes occurred in the wind farm text amendment and a copy of the legal
24 advertisement is attached to the Supplemental Memorandum dated December 16, 2010. He said that also
25 attached to the Supplemental Memorandum dated December 16, 2010, is an excerpt of the April 13, 2009,
26 approved ELUC minutes which includes testimony on Page 10, Line 1, from John Hall indicating that the
27 standard conditions are just special use permit special conditions therefore can be waived in any case or for
28 any individual turbine, if the justification is there. He said that more importantly, whether or not staff
29 included everything in the legal advertisements, the State's Attorney has determined that in regard to County

Table Comparing Residential Fence Height Limits in Champaign County Zoning Ordinance¹ to Larger Local Municipalities
 Revised 12/31/10 DRAFT

Parameter	Existing Champaign County	City of Champaign	City of Urbana	Village of Mahomet	Village of Rantoul	Village of Savoy	Village of St. Joseph
In or around side and rear yards	6 feet	8 feet	8 feet	7 feet	8 feet	6 feet ⁶	8 feet ⁷
In or around a required front yard	6 feet	3 feet; or 6 feet ²	4, 6, or 8 feet ³	3.5 feet	3 feet ⁴ ; or 4 feet ⁵		3 feet ⁸

1. Champaign County Zoning Ordinance limits fence height to six feet in Residential Districts and residential lots less than five acres in area in the AG Districts.
2. Fencing between 3 feet and 6 feet tall must be at least 50% transparent.
3. See par. 7-5 (a) and (b) of Urbana fencing ordinance (see attached)
4. For fences that are less than 70% open
5. For fences that are 70% or more open
6. Based on a phone call to Village staff. A search of the Savoy municipal code did not result in any fence height regulations.
7. The top two feet of construction must be more than 50% open
8. Fences in front yards are also required to be more than 50% open and chain link or wire mesh fences are not allowed.

T = some degree of transparency required in front yard

Sec. 7-4. Electrification prohibited.

It shall be unlawful for any person within the city to maintain an electrified wire fence of any sort.

(Ord. No. 7677-87, § 4, 4-4-77)

Sec. 7-5. Height and opacity limitations.

(a) No fence within a required front yard, as such required front yard is defined in the zoning ordinance of the city, as amended, may be taller than four (4) feet measured from the ground at a point directly beneath the fence. Fences within a required front yard shall be no more than 50% opaque, allowing for the passage of light directly through the fence, except that on corner lots, fences behind the front face of the principal structure may be up to six (6) feet tall and solid. Where such a required front yard abuts a principal or minor arterial street, as designated by the comprehensive plan of the city, as amended, fences may be constructed as a rear or side yard fence pursuant to subsection (b) of this section. However, any fence constructed within ten feet of the intersection of public right-of-way and a driveway, shall be no more than 50% opaque, as shown in Figure 1. Any fence existing on March 1, 1989, which is not in compliance with this subsection (a), may continue to lawfully exist, and normal repairs to such fences are permissible where such repairs do not constitute a total fence replacement.

(b) No fence within a required side or rear yard, as such required side or rear yard is defined in the zoning ordinance of the City of Urbana, as amended, may be taller than eight (8) feet measured from the ground at a point directly beneath the fence.

(c) Where the ground at a point directly beneath the fence has been increased in elevation from its original elevation at the time of subdivision development through berming, retaining walls, fill or other measures and where such increased ground elevation has resulted in an increase in ground elevation above an adjoining lot anywhere within a required yard as defined by the Urbana Zoning Ordinance, the height of a fence shall be measured from the original ground elevation before installation of berming, retaining walls, fill or other measures as determined by the building official. The building official shall consult U.S. Geological Survey contour maps, city base map contours and recorded subdivision plat information in making such a determination. The building official's determination of original ground elevation at the time of subdivision development may be appealed to the building safety code board of appeals.

(d) The building official may grant a permit for the construction of a fence exceeding the height limits set forth in this section when:

(1) Demonstrated as necessary to secure property from trespass; or

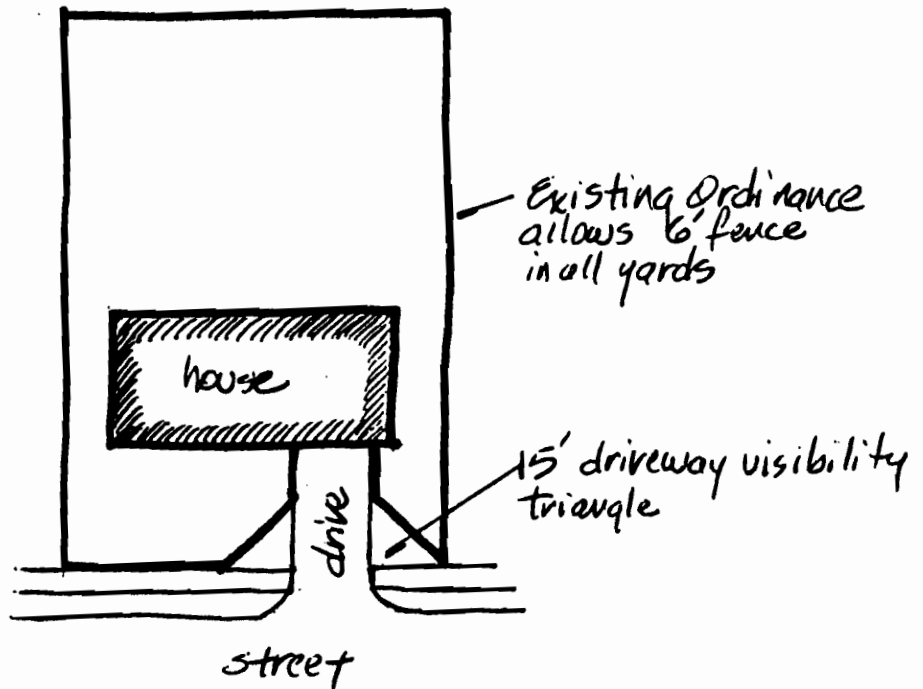
(2) Used to protect adjacent residences and rights-of-way from a demonstrable hazard or nuisance; and

1. Revise Paragraph 4.3.3 G. to read as follows:

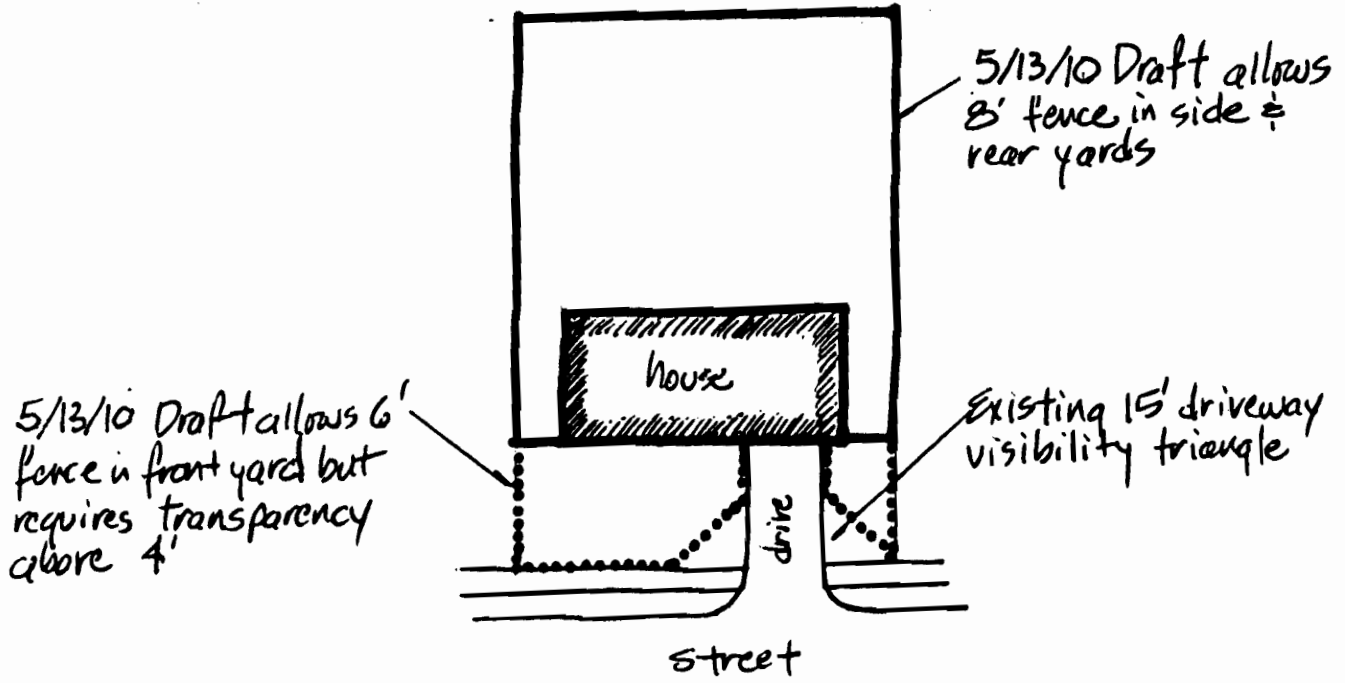
G. Fences

1. Fences in R Zoning Districts shall meet the following requirements:
 - a. Any fence must meet the requirements for visibility as defined by Section 4.3.3 E. of this ordinance.
 - b. Fences located in required FRONT YARDS shall meet the following additional requirements:
 - (1) A maximum of six feet in HEIGHT, not including any clearance authorized in 4.3.3 G.5.; and
 - (2) Any portion of a fence over four feet in HEIGHT must be at least 50% transparent.
 - c. Fences located in required SIDE and REAR YARDS shall meet the following additional requirements:
 - (1) A maximum of eight feet in HEIGHT, not including any clearance authorized in 4.3.3 G.5; and provided that
 - (2) Any portion of fence that is not in a defined SIDE YARD nor a defined FRONT YARD shall have the same HEIGHT limit as if in a SIDE YARD; provided that
 - (3) Any portion of any fence that is between the DWELLING and the FRONT YARD and that is over four feet in HEIGHT must be at least 50% transparent for that portion of fence that is over four feet in HEIGHT.
2. Fences on residential lots in the AG and CR Zoning Districts shall meet the following requirements:
 - a. Any fence must meet the requirements for visibility as defined by Section 4.3.3 E. of this ordinance.
 - b. On lots less than five acres in area in the AG Zoning Districts the following additional requirements shall apply:
 - (1) Fences located in required FRONT YARDS shall meet the following requirements:
 - (a) ~~They shall not exceed~~ A maximum of six feet in HEIGHT, not including any clearance authorized in 4.3.3 G.5. ; and
 - (b) Any portion of a fence over four feet in HEIGHT must be at least 50% transparent when located between the DWELLING and the driveway within 25 feet of the dwelling.
 - (2) Fences located in required SIDE and REAR YARDS shall ~~meet the following requirements:~~
 - (a) ~~A maximum of not exceed~~ eight feet in HEIGHT, not including any clearance authorized in 4.3.3 G.5; ~~and provided that~~
 - (b) ~~Any portion of fence that is not in a defined SIDE YARD nor a defined FRONT YARD shall may have the same HEIGHT limit as if in a SIDE YARD; provided that~~

- (e) ~~Any portion of any fence that is between the DWELLING and the FRONT YARD and that is over four feet in HEIGHT must be at least 50% transparent for that portion of fence that is over four feet in HEIGHT.~~
- e. ~~On lots five acres or greater in area, any portion of a fence over four feet in HEIGHT must be at least 50% transparent when located between the DWELLING and the driveway within 25 feet of the dwelling.~~
3. ~~Fences on residential lots in the CR Zoning District shall meet the following requirements:~~
- a. ~~Any fence must meet the requirements for visibility as defined by Section 4.3.3 E. of this ordinance.~~
- b. ~~Any portion of a fence over four feet in HEIGHT must be at least 50% transparent when located between the DWELLING and the driveway within 25 feet of the dwelling.~~
4. Fences in B and I Zoning Districts shall not exceed eight feet in HEIGHT not including any clearance authorized in subparagraph 4.3.3 G.5., except that any barbed wire security barrier may be up to an additional two feet in HEIGHT. Fences may be located in the required front yards provided they meet the requirements of the triangle of visibility as defined by Section 4.3.3.E of this ordinance.
5. The HEIGHT of fences shall be measured from the highest adjacent GRADE and may be in addition to up to three inches of clearance between the highest adjacent GRADE and the bottom of the fence. No minimum clearance is required by this Ordinance, and further, the fence HEIGHT may be increased by any portion of the allowable three inches of clearance to GRADE that is not used as clearance.

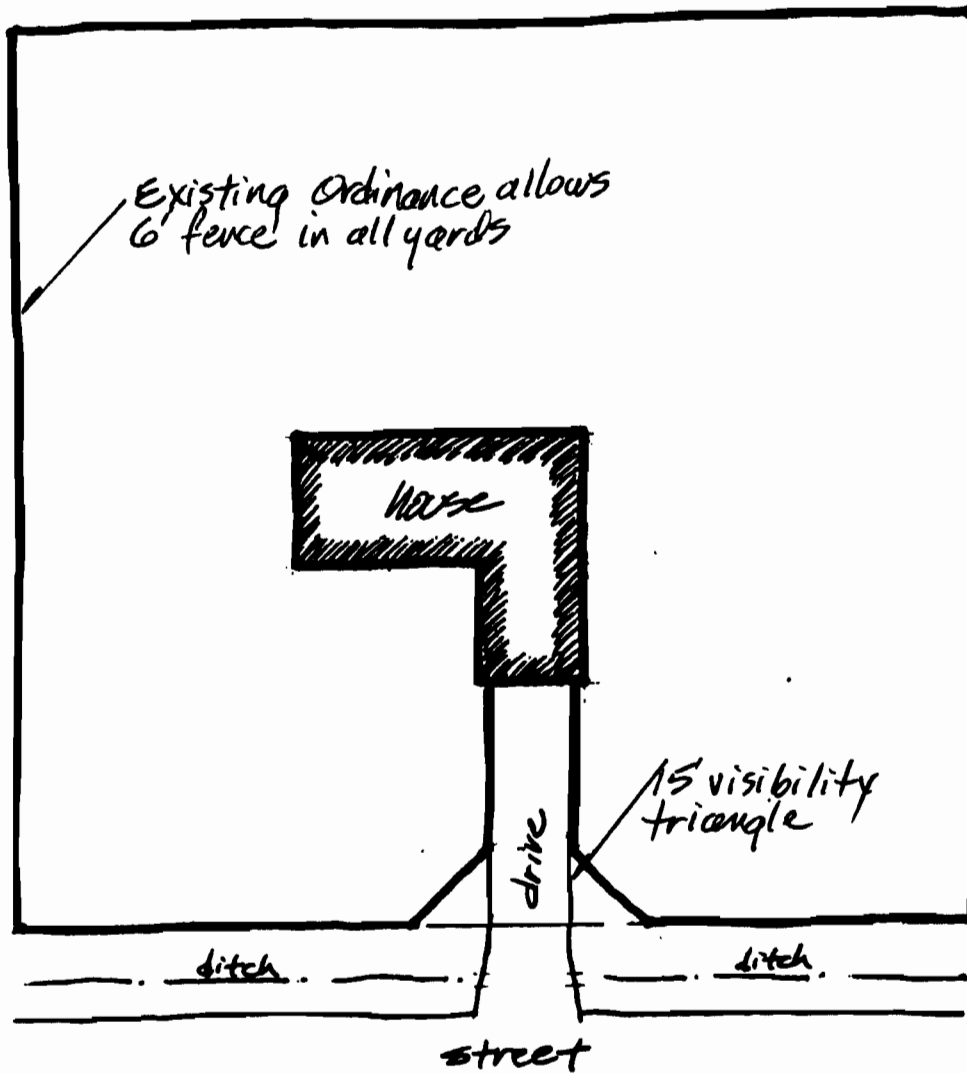


EXISTING- RESIDENTIAL DIST.S

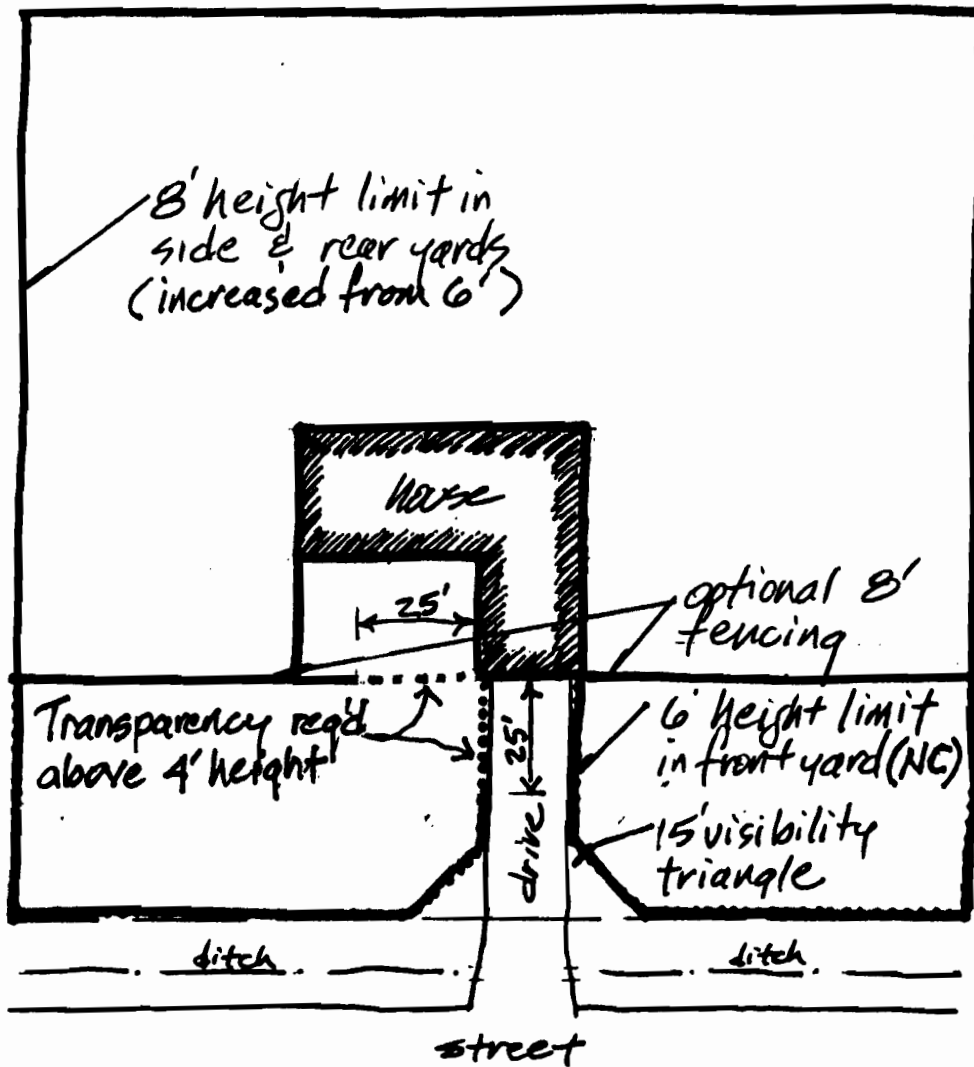


DRAFT- RESIDENTIAL DIST.S
(UNCHANGED FROM 5/13/10)

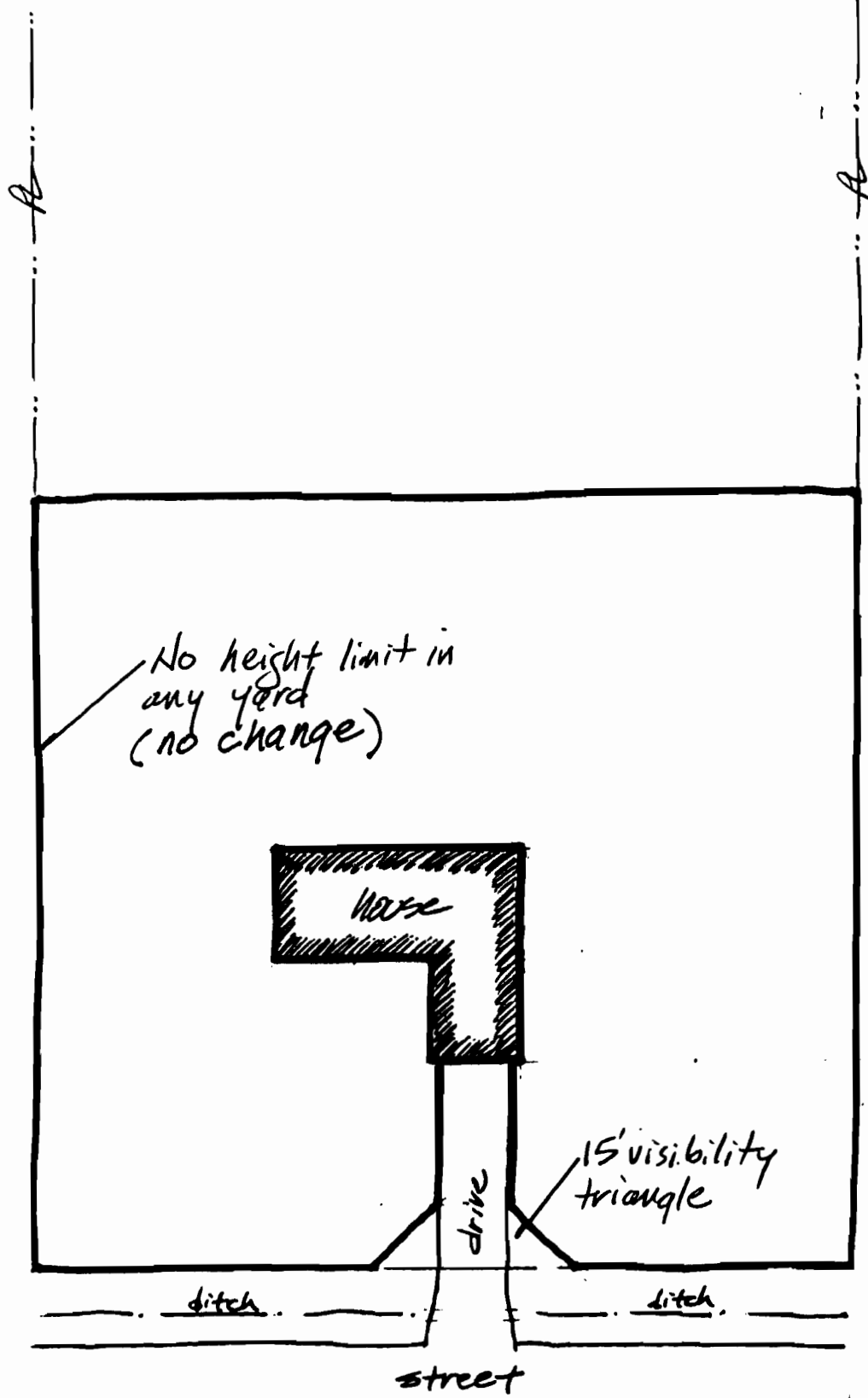
A 12/30/10



EXISTING - RESIDENTIAL LOT < 5 AC. in AG DISTRICTS



REV. DRAFT- RESIDENTIAL LOT 45AC in AGO DIST.



EXISTING - RESIDENTIAL LOT \geq 5AC in AG, CR DIST. ^{any lot in}
(REVISED DRAFT)

REVISED DRAFT DECEMBER 30, 2010

665-AT-10

**FINDING OF FACT
AND FINAL DETERMINATION
of
Champaign County Zoning Board of Appeals**

Final Determination: ***{RECOMMEND ENACTMENT / RECOMMEND DENIAL}***

Date: January 6, 2011

Petitioner: Zoning Administrator

Request: Amend the Champaign County Zoning Ordinance by revising paragraph 4.3.3 G. as follows:

- A. Increase the maximum fence height allowed in side and rear yards from six feet to eight feet for fences in Residential Zoning Districts and on residential lots less than five acres in area in the AG-1 and AG-2 Zoning Districts.
- B. Require fencing that is higher than four feet tall to be at least 50% transparent when located in the following areas:
 - (1) In Residential Zoning Districts, all fencing that is in the front yard.
 - (2) On residential lots less than five acres in the ~~AG-1, AG-2, and CR~~ Zoning Districts, only fencing between the dwelling and the driveway within 25 feet of the dwelling.
- C. Increase the maximum allowed height of all fencing to allow for up to three inches of ground clearance.

FINDING OF FACT

From the documents of record and the testimony and exhibits received at the public hearing conducted on **March 25, 2010; May 13, 2010; May 27, 2010; July 15, 2010; September 16, 2010; October 14, 2010; December 16, 2010; and January 6, 2011**, the Zoning Board of Appeals of Champaign County finds that:

1. The petitioner is the Zoning Administrator.
2. The need for the amendment came about as follows:
 - A. In October 2007 and April 2008 the Zoning Board of Appeals (ZBA) heard variance cases regarding fence height in the City of Champaign one and one-half mile extraterritorial jurisdiction.

Underline text indicates evidence to be added.

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ITEM 2. CONTINUED

- B. Later in 2008, the Department was approached by another person who desired to build an eight foot fence in the County's jurisdiction. At the time staff was contemplating this text amendment and so the Zoning Administrator approved the fence provided the petitioner was willing to abide by the outcome of this proposed text amendment or any variance that may be required.
 - C. These cases revealed that the maximum fence height limit of six feet for lots in the R Zoning Districts and residential lots in the AG districts is more restrictive than most municipalities in the county.
 - D. Note that the County's fence height limits do not, apparently, apply to residential lots in the AG Districts that are five acres or greater in area or lots in the CR District. The Department has never received a complaint regarding a situation like this nor has it received any request to build an unusually tall fence in the AG or CR Districts.
3. Municipalities with zoning and townships with planning commissions have protest rights on all text amendments and they are notified of such cases. No comments have been received to date.

GENERALLY REGARDING THE EXISTING ZONING REGULATIONS

4. Existing Zoning regulations regarding the separate parts of the proposed amendment are as follows:
- A. Maximum fence height for Residential Zoning Districts and residential lots less than five acres in area in the AG Districts are established in Subparagraph 4.3.3 G.1, as follows:
 - Fences in R Zoning DISTRICTS and on residential lots less than five acres in the AG DISTRICTS shall not exceed six feet in HEIGHT and may be located in required front yards provided they meet the requirements of the triangle of visibility as defined by Section 4.3.3.E of this ordinance.
 - B. The following definitions from the *Zoning Ordinance* are especially relevant to this amendment (capitalized words are defined in the Ordinance):
 - (1) "BOARD" shall mean the Zoning Board of Appeals of the COUNTY
 - (2) "GOVERNING BODY" shall mean the County Board of Champaign County, Illinois.
 - (3) "HEIGHT" as applied to an enclosed or unenclosed STRUCTURE:
 - STRUCTURE, DETACHED: The vertical measurement from the average level of the surface of the ground immediately surrounding such STRUCTURE to the uppermost portion of such STRUCTURE.

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ITEM 3.B.(3) CONTINUED

STRUCTURE, ATTACHED: Where such STRUCTURE is attached to another STRUCTURE and is in direct contact with the surface of the ground, the vertical measurement from the average level of the surface of the ground immediately adjoining such STRUCTURE to the uppermost portion of such STRUCTURE shall be HEIGHT. Where such STRUCTURE is attached to another STRUCTURE and is not in direct contact with the surface of the ground, the vertical measurement from the lowest portion of such STRUCTURE to the uppermost portion shall be the HEIGHT.

- (4) “STRUCTURE” is anything CONSTRUCTED or erected with a fixed location on the surface of the ground or affixed to something having a fixed location on the surface of the ground. Among other things, STRUCTURES including BUILDINGS, walls, fences, billboards, and SIGNS.

SUMMARY OF THE PROPOSED AMENDMENT

5. The proposed amendment is summarized here as it will appear in the Zoning Ordinance, as follows:

G. Fences

1. Fences in R Zoning Districts shall meet the following requirements:
 - a. Any fence must meet the requirements for visibility as defined by Section 4.3.3 E. of this ordinance.
 - b. Fences located in required FRONT YARDS shall meet the following additional requirements:
 - (1) A maximum of six feet in HEIGHT, not including any clearance authorized in 4.3.3 G.5.; and
 - (2) Any portion of a fence over four feet in HEIGHT must be at least 50% transparent.
 - c. Fences located in required SIDE and REAR YARDS shall meet the following additional requirements:
 - (1) A maximum of eight feet in HEIGHT, not including any clearance authorized in 4.3.3 G.5; and provided that
 - (2) Any portion of fence that is not in a defined SIDE YARD nor a defined FRONT YARD shall have the same HEIGHT limit as if in a SIDE YARD; provided that

Underline text indicates evidence to be added.

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ITEM 5. CONTINUED

- (3) Any portion of any fence that is between the DWELLING and the FRONT YARD and that is over four feet in HEIGHT must be at least 50% transparent for that portion of fence that is over four feet in HEIGHT.
2. Fences on residential lots in the AG and CR Zoning Districts shall meet the following requirements:
- a. Any fence must meet the requirements for visibility as defined by Section 4.3.3 E. of this ordinance.
- b. On lots less than five acres in area in the AG Districts the following additional requirements shall apply:
- (1) Fences located in required FRONT YARDS shall meet the following requirements:
- (a) They shall not exceed six feet in HEIGHT, not including any clearance authorized in 4.3.3 G.5.; and
- (b) Any portion of a fence over four feet in HEIGHT must be at least 50% transparent when located between the DWELLING and the driveway within 25 feet of the dwelling.
- (2) Fences located in required SIDE and REAR YARDS shall ~~meet the following requirements:~~
- (a) ~~A maximum of not exceed~~ eight feet in HEIGHT, not including any clearance authorized in 4.3.3 G.5.; ~~and provided that~~
- (b) ~~Any portion of fence that is not in a defined SIDE YARD nor a defined FRONT YARD shall~~ may have the same HEIGHT limit as if in a SIDE YARD; ~~provided that~~
- (c) ~~Any portion of any fence that is between the DWELLING and the FRONT YARD and that is over four feet in HEIGHT must be at least 50% transparent for that portion of fence that is over four feet in HEIGHT.~~
- e. ~~On lots five acres or greater in area, any portion of a fence over four feet in HEIGHT must be at least 50% transparent when located along the driveway between the DWELLING and the nearest point of the driveway visibility triangle as required by 4.3.3 F.2 within 25 feet of the dwelling.~~

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ITEM 5. CONTINUED

- ~~3. Fences on residential lots in the CR Zoning District shall meet the following requirements:~~
- ~~a. Any fence must meet the requirements for visibility as defined by Section 4.3.3 E. of this ordinance.~~
- ~~b. Any portion of a fence over four feet in HEIGHT must be at least 50% transparent when located along the driveway between the DWELLING and the nearest point of the driveway visibility triangle as required by 4.3.3 F.2 within 25 feet of the dwelling.~~
4. Fences in B and I Zoning Districts shall not exceed eight feet in HEIGHT not including any clearance authorized in subparagraph 4.3.3 G.5., except that any barbed wire security barrier may be up to an additional two feet in HEIGHT. Fences may be located in the required front yards provided they meet the requirements of the triangle of visibility as defined by Section 4.3.3.E of this ordinance.
5. The HEIGHT of fences shall be measured from the highest adjacent GRADE and may be in addition to up to three inches of clearance between the highest adjacent GRADE and the bottom of the fence. No minimum clearance is required by this Ordinance, and further, the fence HEIGHT may be increased by any portion of the allowable three inches of clearance to GRADE that is not used as clearance.

GENERALLY REGARDING THE LRMP GOALS, OBJECTIVES, AND POLICIES

6. The *Champaign County Land Resource Management Plan* (LRMP) was adopted by the County Board on April 22, 2010. The LRMP Goals, Objectives, and Policies were drafted through an inclusive and public process that produced a set of ten goals, 42 objectives, and 100 policies, which are currently the only guidance for amendments to the *Champaign County Zoning Ordinance*, as follows:
- A. The Purpose Statement of the LRMP Goals, Objectives, and Policies is as follows:
- “It is the purpose of this plan to encourage municipalities and the County to protect the land, air, water, natural resources and environment of the County and to encourage the use of such resources in a manner which is socially and economically desirable. The Goals, Objectives and Policies necessary to achieve this purpose are as follows:”
- B. The LRMP defines Goals, Objectives, and Polices as follows:
- (1) Goal: an ideal future condition to which the community aspires
- (2) Objective: a tangible, measurable outcome leading to the achievement of a goal

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ITEM 6.B. CONTINUED

- (3) Policy: a statement of actions or requirements judged to be necessary to achieve goals and objectives
- C. The Background given with the LRMP Goals, Objectives, and Policies further states, “Three documents, the *County Land Use Goals and Policies* adopted in 1977, and two sets of *Land Use Regulatory Policies*, dated 2001 and 2005, were built upon, updated, and consolidated into the LRMP Goals, Objectives and Policies.”
- D. LRMP Objective 1.1 is entitled “Guidance on Land Resource Management Decisions”, and states, “Champaign County will consult the LRMP that formally establishes County land resource management policies and serves as an important source of guidance for the making of County land resource management decisions.”
- E. Goal 1 of the LRMP is relevant to the review of the LRMP Goals, Objectives, and Policies in land use decisions (see Item 6.D. above), but is otherwise not relevant to the proposed amendment.

REGARDING LRMP GOAL 2 GOVERNMENTAL COORDINATION

- 7. LRMP Goal 2 is entitled “Governmental Coordination” and is relevant to the proposed amendment because the proposed amendment will make Champaign County fence regulations more similar to local municipal fence regulations. Goal 2 states, “Champaign County will collaboratively formulate land resource and development policy with other units of government in areas of overlapping land use planning jurisdiction.”

The proposed amendment *{ACHIEVES}* Goal 2 because of the following:

- A. Goal 2 includes two subsidiary Objectives. Objective 2.2 does not appear to be relevant to the proposed amendment.
- B. Objective 2.1 is entitled “Local and Regional Coordination,” and states, “Champaign County will coordinate land resource management planning with all County jurisdictions and, to the extent possible, in the larger region.”

The proposed amendment *{ACHIEVES}* Objective 2.1 because of the following:

- (1) Objective 2.1 includes three subsidiary Policies. None of the Policies appear to be relevant to the proposed amendment.

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ITEM 7.B. CONTINUED

- (2) Regarding municipal ~~ordinances for municipalities~~ fencing requirements in Champaign County:
- (a) The City of Champaign allows fences to be eight feet tall in side and rear yards, and does allow six feet fences in front yards ~~so long as they are~~ but any fencing in a front yard that is taller than three feet in height must be chain link, wire mesh, or a similar type of transparent fencing.
 - (b) The City of Urbana allows fences up to eight feet tall in side and rear yards and allows fences to be eight feet tall in front yards where the front yard abuts a principal arterial street or a minor arterial street and requires all fencing within a required front yard to be no more than 50% opaque.
 - (c) The Village of Mahomet allows fences up to seven feet tall in side and rear yards and no more than 3.5 feet tall with no transparency requirement in front yards.
 - (d) The Village of Rantoul allows fences up to eight feet tall in side and rear yards and in front yards fencing may be 3 feet tall provided less than 70% open or up to 4 feet tall with 70% or more open.
 - (e) The Village of Savoy allows fences to be up to six feet tall in side and rear yards. Note that staff was unable to find a maximum fence height in the Savoy ordinances, but was advised of the fence height limit by Village staff.
 - (f) The Village of St. Joseph allows fences up to eight feet in height in side and rear yards so long as the top two feet are more than 50% open construction and up to three feet in height and more than 50% open in front yards.
- (3) Increasing the allowable fence height will provide landowners in the unincorporated area as much freedom in regards to fencing as property owners in municipalities.

REGARDING LRMP GOAL 3 PROSPERITY

8. LRMP Goal 3 is entitled "Prosperity" and does not appear to be relevant to the proposed amendment.

REGARDING LRMP GOAL 4 AGRICULTURE

9. LRMP Goal 4 is entitled "Agriculture" and does not appear to be relevant to the proposed amendment.

REGARDING LRMP GOAL 5 URBAN LAND USE

10. LRMP Goal 5 is entitled "Urban Land Use" and does not appear to be relevant to the proposed amendment.

Underline text indicates evidence to be added.

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REGARDING LRMP GOAL 6 PUBLIC HEALTH AND SAFETY

11. LRMP Goal 6 is entitled “Public Health and Public Safety” and is relevant to the proposed amendment because the changes to fence transparency affect public safety. Goal 6 states, “Champaign County will ensure protection of the public health and public safety in land resource management decisions.”

The proposed amendment *{ACHIEVES}* Goal 6 because of the following:

- A. Goal 6 includes four subsidiary Objectives. Objectives 6.2, 6.3, and 6.4 do not appear to be relevant to the proposed amendment.
- B. Objective 6.1 is entitled “Protect Public Health and Safety” and states, “Champaign County will seek to ensure that development in unincorporated areas of the County does not endanger public health or safety.”

The proposed amendment *{ACHIEVES}* Objective 6.1 because of the following:

- (1) Objective 6.1 includes four subsidiary Policies. None of the Policies appear to be relevant to the proposed amendment.
- (2) The proposed amendment requires ~~an amount of~~ fencing that is located in required front yards to be at least 50% transparent, depending on the zoning district, as follows:
- (a) In Residential zoning districts all fencing that is located in the front yard that is over four feet in height is required to meet the transparency requirement.
- (b) On lots less than five acres in area in the AG-1, AG-2, ~~and CR zoning~~ districts fencing in the front yard is only required to meet a transparency requirement if it is located between the DWELLING and the driveway within 25 feet of the dwelling.
- (3) Champaign County Sheriff Dan Walsh, in an email to Zoning Administrator, John Hall, indicated he has the following concerns regarding fencing:
- (a) When responding to a call (or even on routine patrol) it is always beneficial to be able to see “more.”
- (b) Deputies will be safer when responding to calls if they can observe dangerous conditions or persons and plan their response and avenue of approach accordingly.
- (c) Likewise, if on patrol a deputy can see a “bad situation” in a front/side yard or front porch or even inside the house they can take action without a call from a citizen.

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ITEM 11.B. CONTINUED

- (d) Access in an emergency response situation could also be problematic if there is a tall barrier and a locked gate.
 - (e) The Sheriff's Department certainly respects a citizen's right of privacy and to be able to do what they want with their own property.
 - (f) A solid barrier (fence or even vegetation in some cases) height of 3-4 ft. seems to be very normal in ordinances (for front and/or side yards) including C-U and would reduce our concerns with regard to fencing.
- (4) Preliminary comments from a township plan commission were received on May 12, 2010, which indicated requiring all of the front yard fencing to be transparent above four feet is too restrictive, and will in fact detract too much from privacy; reduce residential property owner's ability to deal with any agricultural spray drift; and could also be a safety problem by allowing too much visibility of children in the yard, and suggested requiring transparency only for fencing directly in front of the house.
- (5) In an email received on May 12, 2010, Sheriff Dan Walsh indicated that Lt. Jones, who runs the Sheriff's department patrols, considered that requiring transparency for fencing directly in front of the house would be adequate.
- (6) No transparency requirement is recommended for lots five acres or larger in the AG District and on any size lot in the CR District for the following reasons:
- (a) Maximum fence heights are not currently regulated in these areas and any new requirement for transparency in front yards would be very difficult to enforce.
 - (b) Because of the larger lot sizes and typically greater setbacks in these areas any transparency requirement would provide very little benefit to public safety personnel.
 - (c) Fire protection districts already have protocols in place to provide access when gates are locked and the same protocols can provide access for law enforcement.

REGARDING LRMP GOAL 7 TRANSPORTATION

12. LRMP Goal 7 is entitled "Transportation" and does not appear to be relevant to the proposed amendment.

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REGARDING LRMP GOAL 8 NATURAL RESOURCES

13. LRMP Goal 8 is entitled “Natural Resources” and does not appear to be relevant to the proposed amendment.

REGARDING LRMP GOAL 9 ENERGY CONSERVATION

14. LRMP Goal 9 is entitled “Energy Conservation” and does not appear to be relevant to the proposed amendment.

REGARDING LRMP GOAL 10 CULTURAL AMENITIES

15. LRMP Goal 10 is entitled “Cultural Amenities” and does not appear to be relevant to the proposed amendment.

REGARDING OTHER RELEVANT EVIDENCE

16. Regarding other relevant evidence:
- A. The allowance for clearance between fence panels and the surface of the ground is intended to provide some flexibility for fence installers who must account for the natural fluctuations in the surface of the ground.
 - B. Increasing the allowable fence height to eight feet will reduce the need for variances which will reduce the costs of the County’s zoning program.
 - C. Regarding the economic soundness of the proposed amendment:
 - (1) The proposed three-inch ground clearance is reasonable in regards to pre-manufactured fence panels for the following reasons:
 - (a) Pre-manufactured fence panels are available in standard six-foot high panels.
 - (b) Adding the proposed three inch clearance to ground means that standard six-foot high pre-manufactured fence panels can be installed above the surface of the ground without the need to cut off any of the fence panel.
 - (c) Three inches is an arbitrary amount for the ground clearance but it allows the fence to be at least one inch above the highest point of a ground surface that could vary by as much as two inches.
 - (2) The proposed three-inch ground clearance is reasonable in regards to custom made fence panels for the following reasons:
 - (a) Eight-foot high fences are generally custom built.
 - (b) Eight feet is a standard increment of length for lumber.

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ITEM 16.C. (2) CONTINUED

- (c) Adding the proposed three-inch clearance to ground means that custom made eight-foot high fencing can be installed above the surface of the ground without the need to cut off and waste so much of the lumber.
- (d) Three inches is an arbitrary amount for the ground clearance but it allows the fence to be at least one inch above the highest point of a ground surface that could vary by as much as two inches.

Underline text indicates evidence to be added.

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DOCUMENTS OF RECORD

1. Memo to the Champaign County Board Committee of the Whole, dated, February 22, 2010, regarding direction to Zoning Administrator regarding a necessary zoning ordinance text amendment to conduct a proposed Zoning Ordinance text amendment changing fence height limits
2. Application for Text Amendment from Zoning Administrator, dated March 3, 2010
3. Preliminary Memorandum for Case 665-AT-10, dated March 19, 2010, with attachments:
 - A Table Comparing Residential Fence Height Limits in Champaign County Zoning Ordinance to Larger Local Municipalities
 - B Draft Proposed Change to Paragraph 4.3.3 G.
 - C Draft Finding of Fact for Case 665-AT-10
4. Supplemental Memorandum for Case 665-AT-10, dated March 25, 2010
5. Supplemental Memorandum for Case 665-AT-10, dated May 7, 2010, with attachments:
 - A Revised Draft Proposed Change to Paragraph 4.3.3 G.
 - B Revised Draft Summary of Evidence for Zoning Case 665-AT-10
6. Supplemental Memorandum for Case 665-AT-10, dated May 13, 2010, with attachments:
 - A Revised Draft Proposed Change to Paragraph 4.3.3 G.
 - B Alternative Revised Draft Proposed Change to Paragraph 4.3.3 G.
7. Staff Fence Diagrams A, B, C, D, E handed out on May 13, 2010
8. Alternative Fence Diagrams C, E handed out on May 13, 2010
9. Supplemental Memorandum for Case 665-AT-10, dated May 21, 2010, with attachments:
 - A Revised Draft Proposed Change to Paragraph 4.3.3 G.
 - B Alternative Revised Draft Proposed Change to Paragraph 4.3.3 G.
 - C Revised Finding of Fact for Case 665-AT-10
10. Supplemental Memorandum for Case 665-AT-10, dated May 27, 2010, with attachments:
 - A Illustration of Revised Alternative Transparency Requirement for AG and CR Districts
 - B Ordinance Text Describing Alternative Transparency Requirement for AG and CR Districts
11. Supplemental Memorandum for Case 665-AT-10, dated July 9, 2010
12. Supplemental Memorandum for Case 665-AT-10, dated September 10, 2010, with attachment:
 - A Revised Draft Ordinance

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13. Supplemental Memorandum for Case 665-AT-10, dated September 10 (should be 16), 2010, with attachment:
 - A Revised Draft Finding of Fact for Case 665-AT-10
14. Supplemental Memorandum for Case 665-AT-10 dated October 8, 2010
15. Revised Draft Finding of Fact and Final Determination for Case 665-AT-10, dated October 14, 2010
16. Supplemental Memorandum for Case 665-AT-10 dated December 10, 2010
17. Handout titled "Proposed Amendment to Paragraph 4.3.3 G." dated December 16, 2010
18. Supplemental Memorandum for Case 665-AT-10 dated December 30, 2010, with attachments:
 - A Table Comparing Residential Fence Height Limits in Champaign County Zoning Ordinance to Larger Local Municipalities REVISED 12/30/10 (with excerpt from Urbana fence code)
 - B Revised Draft Amendment
 - C Revised Fencing Diagrams

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FINAL DETERMINATION

Pursuant to the authority granted by Section 9.2 of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County determines that:

The Zoning Ordinance Amendment requested in Case 665-AT-10 should ***{BE ENACTED / NOT BE ENACTED}*** by the County Board in the form attached hereto.

The foregoing is an accurate and complete record of the Findings and Determination of the Zoning Board of Appeals of Champaign County.

SIGNED:

Doug Bluhm, Chair
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals

Date

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Chapter 7
FENCES*

State law reference(s)--Fences generally, 765 ILCS.

Sec. 7-1. Reserved.

Editor's note--Former § 7-1, which defined "fence," and derived from § 21-22 of the 1975 Code, has been deleted pursuant to Ord. No. 7980-113, § 6(I), enacted June 16, 1980.

Sec. 7-2. Construction with sharp-pointed material--Prohibited.

It shall be unlawful for any person within the city to place, build or erect a fence, railing or guard of any kind constructed of barbed wire, iron spikes, or other sharp-pointed material provided, however, this section shall not prohibit the use of such material when:

- (1) Located in commercial or industrial zoning districts, or for government use;
- (2) Used to provide security for a bona-fide business operation; and
- (3) Approved by the building official, after a review of the documentation indicating the need for security and bona-fide operation of a business;

provided such barbed wire, iron spikes, or other sharp-pointed material is securely affixed to the top of a soundly constructed fence or structural barrier which is at least six (6) feet six (6) inches in height. Further, regardless of the zoning district, barbed wire, iron spikes, or other sharp-pointed material meeting the aforementioned height standards may be used for security around hazardous equipment or installations, such as but not limited to, high voltage equipment, electrical transformer, volatile fuel installation, etc.

(Code 1975, § 21.21; Ord. No. 7677-64, § 1, 12-6-76; Ord. No. 7677-87, § 1, 4-4-77)

Sec. 7-3. Same--Exception for existing fences.

Fences, railings or guards of any kind existing on May 3, 1977, regardless of the zoning district where located, which are at a minimum of five (5) feet ten (10) inches in height and have barbed wire, iron spikes or other sharp-pointed material securely affixed to the top, may continue to lawfully exist, provided such may not be substantially rebuilt without complying with section 7-2.

(Code 1975, § 21.21; Ord. No. 7677-64, § 2, 12-6-76; Ord. No. 7677-87, § 2, 4-4-77; Ord. No. 8889-5, § 1, 7-18-88)

Sec. 7-4. Electrification prohibited.

It shall be unlawful for any person within the city to maintain an electrified wire fence of any sort.

(Ord. No. 7677-87, § 4, 4-4-77)

Sec. 7-5. Height and opacity limitations.

(a) No fence within a required front yard, as such required front yard is defined in the zoning ordinance of the city, as amended, may be taller than four (4) feet measured from the ground at a point directly beneath the fence. Fences within a required front yard shall be no more than 50% opaque, allowing for the passage of light directly through the fence, except that on corner lots, fences behind the front face of the principal structure may be up to six (6) feet tall and solid. Where such a required front yard abuts a principal or minor arterial street, as designated by the comprehensive plan of the city, as amended, fences may be constructed as a rear or side yard fence pursuant to subsection (b) of this section. However, any fence constructed within ten feet of the intersection of public right-of-way and a driveway, shall be no more than 50% opaque, as shown in Figure 1. Any fence existing on March 1, 1989, which is not in compliance with this subsection (a), may continue to lawfully exist, and normal repairs to such fences are permissible where such repairs do not constitute a total fence replacement.

(b) No fence within a required side or rear yard, as such required side or rear yard is defined in the zoning ordinance of the City of Urbana, as amended, may be taller than eight (8) feet measured from the ground at a point directly beneath the fence.

(c) Where the ground at a point directly beneath the fence has been increased in elevation from its original elevation at the time of subdivision development through berming, retaining walls, fill or other measures and where such increased ground elevation has resulted in an increase in ground elevation above an adjoining lot anywhere within a required yard as defined by the Urbana Zoning Ordinance, the height of a fence shall be measured from the original ground elevation before installation of berming, retaining walls, fill or other measures as determined by the building official. The building official shall consult U.S. Geological Survey contour maps, city base map contours and recorded subdivision plat information in making such a determination. The building official's determination of original ground elevation at the time of subdivision development may be appealed to the building safety code board of appeals.

(d) The building official may grant a permit for the construction of a fence exceeding the height limits set forth in this section when:

- (1) Demonstrated as necessary to secure property from trespass; or
- (2) Used to protect adjacent residences and rights-of-way from a demonstrable hazard or nuisance; and

(3) Approved by the building official, after a review of the documentation indicating the need for security or protection from a demonstrable hazard or nuisance.

(Code 1975, § 21.22; Ord. No. 7677-64, § 3, 12-6-76; Ord. No. 7677-87, § 3, 4-4-77; Ord. No. 8687-24, 9-15-86; Ord. No. 8889-5., § 1, 7-18-88; Ord. No. 8889-57, § 1, 2-20-89; Ord. No. 8990-89, 3-5-90; Ord. No. 9091-15, 8-6-90; Ord. No. 9596-32, 10-2-95; Ord. No. 9798-95, § 1, 3-16-98)

Sec. 7-6. Chapter provisions no exemption to visibility triangle provisions.

Nothing in this chapter shall be construed to exempt any person from complying with the requirements of the visibility triangle provisions set forth in Article VI of Chapter 20.

(Ord. No. 7677-87, § 3, 4-4-77)

Figure 7-1: Fence Height and Opacity Standards

