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Staff recommends approval of ZTA 18-12, to revise the standards for an exemption to the building line and setback requirements for certain fences.

Background/Analysis

Currently, the Zoning Ordinance exempts fences and walls from setback requirements if the height of the structure is 6.5 feet or lower. (Exceptions are granted for deer fencing or other fences located in the Agricultural or Rural Residential zones and any other fence that is 8 feet or less in height and located on land that is farmed and agriculturally assessed or fences 8 feet or less in height in a residentially zoned property when the property abuts a non-residentially zoned property in Commercial/Residential, Employment, or Industrial zones). A landowner who wants a higher fence is either required to meet the setback requirement or to apply for a variance. The sponsor believes that fences up to 8 feet tall also should be allowed without a setback or a variance if it abuts a master planned right-of-way for a rail line or abuts any service road that provides access to a master planned right-of-way for a rail line.

Staff has no objection to ZTA 18-12 given that the relaxation of the height standard could assist in minimizing possible visual and audible obtrusions associated with trains. Staff has highlighted the applicable ZTA language below for the Board’s convenience.

Section 6.4.3. General Landscaping Requirements

C. Fences and Walls
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3. Exemptions from Building Line and Setbacks

Building line and setback requirements do not apply to:

a. deer fencing:
   i. in an Agricultural or Rural Residential zone; or
   ii. behind the front building line for property in a non-Agricultural or non-Rural Residential zone unless the property adjoins a national historical park;

b. a retaining wall where changes in street grade, width, or alignment have made such structures necessary;

c. any other wall or fence that is not on a property abutting a national historic park and is:
   i. 6.5 feet or less in height when not abutting a Commercial/Residential, Employment, or Industrial zone; or
   ii. 8 feet or less in height when located in a Residential zone and the fence abuts:
      (A) a Commercial/Residential, Employment, or Industrial zone; or
      (B) a master planned right-of-way for a rail line; or
      (C) any service road that provides access to a master planned right-of-way for a rail line;

d. a rustic fence on a property abutting a national historical park;

e. any boundary fence behind the front building line, if the property is located within 100 feet of a parking lot in a national historical park; and

f. deer fencing and any other fence that is 8 feet or less in height, if the property is farmed and agriculturally assessed.

Attachments

1. ZTA No. 18-12 as introduced
AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- revise the standards for an exemption to the building line and setback requirements for certain fences

By amending the following sections of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

Division 6.4. “General Landscaping and Outdoor Lighting”
Section 6.4.3. “General Landscaping Requirements”
ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:
Sec. 1. DIVISION 59-6.4 is amended as follows:

Division 6.4. General Landscaping and Outdoor Lighting

* * *

Section 6.4.3. General Landscaping Requirements

* * *

C. Fences and Walls

* * *

3. Exemptions from Building Line and Setbacks

Building line and setback requirements do not apply to:

a. deer fencing:

   i. in an Agricultural or Rural Residential zone; or

   ii. behind the front building line for property in a non-Agricultural or non-Rural Residential zone unless the property adjoins a national historical park[.];

b. a retaining wall where changes in street grade, width, or alignment have made such structures necessary;

c. any other wall or fence that is not on a property abutting a national historic park and is:

   i. 6.5 feet or less in height when not abutting a Commercial/Residential, Employment, or Industrial zone; or

   ii. 8 feet or less in height when located in a Residential zone and the fence abuts:

      (A) a Commercial/Residential, Employment, or Industrial zone; or

      (B) a master planned right-of-way for a rail line; or
(C) any service road that provides access to a master planned right-of-way for a rail line;

d. a rustic fence on a property abutting a national historical park;
e. any boundary fence behind the front building line, if the property is located within 100 feet of a parking lot in a national historical park; and
f. deer fencing and any other fence that is 8 feet or less in height, if the property is farmed and agriculturally assessed.

Sec. 2. Effective date. This ordinance becomes effective 20 days after the date of Council adoption.

This is a correct copy of Council action.

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Megan Davey Limarzi, Esq.
Clerk of the Council