

## Background

An extensive review of the entire ordinance was conducted in 2003 resulting in a number of text amendments to the zoning ordinance being adopted in 2004. One of the issues that was discussed during the review was the reduction of fence and wall heights in front yards from four feet (4') to three feet (3'), which was included in the adoption of revisions.

The new fence and wall height has generally worked well for front yard applications. However, there have been unintended restrictions to yards that have more than one street frontage, such as corner lots or double frontage lots. The maximum three foot (3') height applies to these street yards as well since they also fall within the definition of front yard, which is defined as the portion of the yard extending the full width of the lot and extending between the front lot line and the nearest point of the foundation of the principal building wall. The front lot line is defined as the property line separating the lot from the street. Therefore any street frontage is defined as a front yard and the three foot (3') restriction is currently applicable.

The staff is proposing a text amendment to specify that the only front street yard to which the three foot (3') height restriction applies is that front yard that is forward of the home based on the residence's address. The heights on other street frontages are proposed to be consistent with the requirement for the height of pool enclosures in the building code, a four foot (4') minimum. This will allow an increased height of one foot (1') in street yards that are not front yards, but still prohibit the greater heights that are allowable in interior yards not abutting a street, which will provide protection from visual obstruction along street yards.

The Owensboro Metropolitan Board of Adjustment has approved variances to the front yard fence height on approximately twenty seven (27) residential lots. If a pool is located in a side or rear yard that abuts a street, the building code requirement for the enclosure is four feet (4'), which is greater than the zoning ordinance currently allows. Many of the variances granted have been requested based on the desire to have a swimming pool in these areas.

The proposed revision indicates where the three foot (3') height applies, and allows street side yard and street rear yards as specified by the text amendment a reasonable height of four feet (4') to create privacy and meet building codes for pool enclosures in these areas. A diagram has been included with the text amendment to clearly show where fence heights are allowable to ensure that the ordinance is interpreted consistently .

## Findings of Fact

Planning staff recommends approval of the zoning text amendment based upon the following findings of fact:

1. The current zoning ordinance requirement of a maximum front yard height of three feet (3') for fences and walls has created unintended consequences as applied to side and rear street yards;
2. The proposed text amendment will allow reasonable heights in street side and rear street yards for the purpose of residential privacy and enclosures for swimming pools in outdoor spaces;
3. The proposed text amendment will ensure consistency in interpretation of allowable fence and wall heights in residential zones for corner lots, double frontage lots and interior lots; and
4. The number of variances requested and issued by the OMBA identifies the need to change the ordinance for practical application of fence and wall heights consistent with the adopted building codes within the community.