

Fences Code – Tenaflly NJ

Article VIII Zoning Regulations

35-802 GENERAL PROVISIONS.

35-802.18 Fences, Walls and Hedges and Clear View at Intersections.

a. *Fences, Walls, Hedges and Clear Views at Intersections in Residential and Open Zones.*

1. Interior Lots. On interior lots within the required front yard setback area listed on Schedule B, fences constructed seventy-five (75%) percent or more open may be erected up to a height of four (4) feet and fences constructed less than seventy-five (75%) percent open, may be erected up to a height of two and one-half (2.5) feet. On all other areas of an interior lot, fences constructed seventy-five (75%) percent or more open may be erected up to a height of eight (8) feet and fences constructed less than seventy-five (75%) percent open may be erected up to a height of six (6) feet. See Sketch 3. (Sketches may be found in the office of the Borough Clerk.)

2. Through Lots. On through lots within the required front yard setback area listed on Schedule B, for the front yard, opposite the front of the residence, fences constructed seventy-five (75%) percent or more open may be erected within a lot up to a height of four (4) feet and fences constructed less than seventy-five (75%) percent open, may be erected up to a height of two and one-half (2.5) feet. Within the first ten (10) feet measured from the street line of the front yard opposite the rear of the residence, the same restrictions apply. In the area between the front yards, fences constructed seventy-five (75%) percent or more open may be erected up to a height of eight (8) feet and fences constructed less than seventy-five (75%) percent open may be erected up to a height of six (6) feet. See Sketch 4. (Sketches may be found in the office of the Borough Clerk.)

3. Corner Lots. On corner lots within the required front yard setback area listed on Schedule B for both front yards of a corner lot, fences constructed seventy-five (75%) or more open may be erected up to a height of four (4) feet and fences constructed less than seventy-five (75%) percent open, may be erected up to a height of two and one-half (2.5) feet; except for the sole purpose of erecting a fence, in the front yard located between the rear building line and the rear lot line, the front yard setback listed on Schedule B may be reduced by ten (10) feet. In all of the remaining area of a corner lot, fences constructed seventy-five (75%) percent or more open may be erected up to a height of eight (8) feet and fences constructed less than seventy-five (75%) percent open may be erected up to a height of six (6) feet. See Sketch 5. (Sketches may be found in the office of the Borough Clerk.)

4. Clear Views at Intersections. No fence exceeding two and one-half (2.5) feet in height, measured from the top of the curb, may be erected within the sight triangle. Each of the sides of the sight triangle measured along the street line shall measure twenty-five (25) feet. Any tree or shrubbery within the sight distance triangle must be either less than two and

one-half (2.5) feet in height, measured along its main trunk or branch, or if in excess of two and one-half (2.5) feet, no branches shall be nearer than nine (9) feet to the ground. See Sketch 12. (Sketches may be found in the office of the Borough Clerk.)

5. Regardless of which yard a fence is proposed in, the finished side of all fences shall face outward toward surrounding properties or adjacent public rights-of-way. For the purpose of this section, for fences to be considered "open," they must be open in a uniform and unobstructed way.

6. Except where otherwise provided, the permitted height of all fences shall be measured from finished grade and all fences, shall be constructed within the subject blot and not within any portion of a public street.

b. *Fences, Walls and Hedges in Nonresidential Zones.* In all nonresidential zones the same restrictions shall apply as described in paragraphs a.1 through a.6 above except that the maximum height of two and one-half (2.5) feet will be extended to allow a maximum height of four (4) feet for fences constructed less than seventy-five (75%) percent open on areas of the lot other than within the sight triangle areas described in paragraph a.4 above.

c. *Retaining Walls.* The provisions of this section shall not be deemed to prohibit any necessary retaining wall. Where any portion of the retaining structure for the residence is more than three (3) feet above the elevation of the ground measured at the nearest point of the property line of the lot on which the residence is located, the retaining structure and the ground intervening between it and the property line shall be terraced and landscaped in a manner approved by the Borough Engineer. In reviewing a plan, the Borough Engineer shall consider proper drainage of the site and shall minimize the impact of the retaining wall on adjoining property owners of the installation of landscaping and, if necessary, the reduction in the elevation of the retaining wall.

d. *Maintenance.* All fences, walls and hedges subject to the provisions of this section shall be continually maintained.

e. *Enforcement.* The Zoning Officer of the Borough of Tenaflly is hereby designated as the Public Officer charged with the enforcement of the terms of this section. All complaints which allege violation of any of the terms of this section shall be submitted in writing to the Zoning Officer. Upon receiving such written complaint, the Zoning Officer shall investigate the facts alleged and where, in his judgment, it appears that a violation of the terms of this section exist, the Zoning Officer shall issue a complaint returnable before the Judge of the Municipal Court of the Borough of Tenaflly, provided, however, that when any complaint is received alleging a violation of the terms of this section for the triangular area described by paragraph a.4 or a.6 or paragraph b, the Zoning Officer shall forthwith transmit a copy of the alleged violation to the Chief of Police who shall in such circumstances investigate the situation and report in writing to the Zoning Officer whether in his opinion a violation exists and recommending that a complaint be issued by the Zoning Officer.

The Chief of Police is hereby authorized to conduct such investigation himself or delegate such authority to a member of the Police Department.

The Police Department shall make diligent effort in performing its normal police duties to observe the condition of property at all intersections and to initiate a report in writing directly to

the Zoning Officer without having previously received a citizen's complaint concerning this violation.

Before a complaint is issued, the Zoning Officer shall give notification thereof of his intent to issue a complaint stating the alleged violation so that the person responsible for the condition shall have an opportunity to abate this condition within the period prescribed by this subsection.

f. *Nonconforming Conditions.* Where plant life, fences, retaining walls or hedges exist in violation of the terms of this subsection, or where the existence of certain fences or hedges shall have created or tend to create a hazard when considered alone or in connection with other fences or hedges, the person responsible for the condition shall correct the condition within thirty (30) days of mailing of a written notice by the Zoning Officer sent by certified or registered mail, return receipt requested, to the last known address of such persons and describing the violation. In the event that such corrective action is not taken, the Zoning Officer is authorized to take independent action to see that such violation is corrected, shall certify the cost thereof to the Mayor and Council who shall examine the certification and, if found to be correct, shall cause the cost as shown thereon to be charged against such lands to become a lien thereon and to be added to and become a part of the taxes next to be assessed and levied upon such lands.

g. *Preexisting Conditions.* Any fence, hedge or retaining wall existing at the time of the passage of this chapter which complied with the requirements of the fence, hedge and wall regulations in effect on August 13, 1981 and which is contrary to the provisions of this section henceforth shall be deemed a nonconforming appurtenance and shall be treated as are nonconforming uses under the current Zoning Regulations of the Borough of Tenaflly; provided, however, that any fence, hedge or retaining wall which exists at the time of the passage of this chapter and contrary to it in that the fence, hedge or retaining wall violates more particularly the provisions of paragraph a., a.,6 or a.,7 of this subsection pertaining to the triangular area at road and railway intersections, shall be modified and corrected so as to remove the nonconformity, the modification or correction to be accomplished no later than ninety (90) days from the effective date of this chapter,* the correction of this type of nonconformity being necessary for the general safety and welfare of the citizens of Tenaflly and to preserve and protect human lives from injury.

h. *Registration.* Any person, firm or corporation erecting a fence or retaining wall (which is regulated by this chapter) after the effective date of this chapter shall register the existence of the fence or retaining wall by notifying the Zoning Officer of the Borough of Tenaflly in writing on a form which the Borough of Tenaflly shall supply. Such registration shall include the full name of the record owner of the property, the address of the property (including the lot and block), a brief description of the fence or wall including its size, type and construction material, and the approximate location of said fence or retaining wall in relationship to the property lines and if required by the Zoning Officer, its relationship to existing structures.

Editor's Note: This chapter was adopted by Ord. No. 97-29 on December 22, 1997.

The Zoning Officer, upon receiving said registration as described aforesaid, shall maintain an appropriate log or other records and shall notify the Assessor of the Borough of Tenaflly so that the information can be recorded on the permanent record card for the particular tract or parcel upon which the fence or retaining wall has been erected.

Editor's Note: Original language included reference to Ordinance No. 909, which was subsequently repealed by Ordinance No. 1207.

i. *Permits.* Persons, firms or corporations which must file an application to the Board of Adjustment of the Borough of Tenaflly shall, upon receiving approval from that Board, obtain a Building Permit upon the payment of a fee of one (\$1.00) dollar.
(Ord. No. 97-29 § 802R; Ord. No. 10-24 § 30)