

December 4, 2020

TO: Planning Commission Members

FROM: Christopher Leswing, Director, Building & Planning Department
Carissa Hazelton, Planner

SUBJECT: DISCUSSION - FENCING STANDARDS

Action

The Planning Commission is being asked to discuss a set of proposed amendments to the fencing standards in the Code of the Township of Lower Merion, Chapter 155, entitled Zoning.

Background

A new Zoning Code was adopted February 26, 2020. It was anticipated that minor amendments would be forthcoming with the implementation of the new Zoning Code. Staff is maintaining a running list of suggested Zoning Code edits.

The fencing standards are much more stringent under the new Zoning Code. A quick reference guide to the fencing standards is attached along with a document containing the applicable sections of the Zoning Code pertaining to fencing requirements, including:

- Article III: General to Districts, § 155-3.7 Fences and walls.
- Article VII: Conservation & Preservation Overlays, § 155-7.3.E. Floodplain Overlay District Fences
- Article X: Supplemental Use Regulations and Nonconformities, § 155-10.12.F.(3) Nonconforming Fences Nonconformities
- Article XI: Process & Procedures, § 155-11.1 Zoning Administration

Staff will provide a brief overview of the current Zoning Code standards at the meeting on Monday.

Proposed Amendments

Staff is seeking the Planning Commission's input on recommended amendments to the fencing standards prior to drafting a formal ordinance. The bulk of Monday's discussion will focus on fences visible from the public right of way. Fences are a defining feature of the communal landscape and fence standards are intended to balance functional needs (security, privacy) with communal aesthetics.

Staff's initial approach to the discussion is to permit greater fencing height along frontages in certain locations to achieve personal privacy and security in exchange for higher quality design. Staff's initial analysis indicates that aesthetic objections to perceived lower quality materials, such as vinyl, may be overcome by requiring a higher quality design, which may lead to the development of design standards. Staff will present visual examples at the meeting to facilitate the discussion.

Monday's discussion will be organized around the following fence typologies:

1. Primary Frontage Fencing Standards

- a. Residential: Permit a four feet solid fence in the front yard.
- b. Institutional, LDR1 and LDR2: Permit up to a six feet estate fence in the front yard
- c. All Districts: Design Guidelines - Materials and Styles
 - i. Define appropriate styles
 - ii. Define appropriate materials
 - iii. Require operable gates on all frontage fencing

2. Secondary Frontage Fencing Standards

- a. Define Secondary Frontages
- b. Develop Secondary Frontage Fencing Standards to provide greater flexibility
 - i. Consider permitting six feet solid fences (with design guidelines)
- c. Approval process: Determine when a permit is required

3. Deer Fencing

- a. Revise standards to permit deer fencing in rear and side yards up to eight feet in height.
- b. Add Design Guidelines for mesh & posts

4. Special Instances

- a. Gates: Allow driveway gates to exceed six feet in height.
- b. Relief mechanism for unusual physical circumstances, such as slopes.

Standards for Text or Rezoning Amendments

Staff would like to draw the Planning Commission's attention to the standards for text or rezoning amendments, which are included in the new Zoning Code.

§ 155-11.3.E.(2) Standards for text or rezoning amendments. In deciding whether to adopt or deny any proposed amendment, or to adopt some modification of the Planning Commission's recommendation, the Board of Commissioners shall consider, among other factors, the following:

- (a) Whether the proposed amendment is consistent with the goals, objectives, and policies of the Comprehensive Plan, as adopted and amended from time to time;*
- (b) Whether the proposed amendment is compatible with current and projected conditions and the overall character of development in the immediate vicinity of the subject property;*
- (c) Whether the proposed amendment is the most desirable use for which the land in the subject property is adapted; and*
- (d) Whether the proposed amendment will have an adverse effect on the value of properties throughout the jurisdiction.*

Next Steps

Staff will draft an ordinance to amend the fencing standards based on the input received. It is anticipated that the ordinance will come forward in January. Please let me know if you have any questions on this topic.

Fences & Walls

This sheet is provided for quick reference only. There are more details to each of the topics described here. Refer to Section 155-3.7 in the Zoning Code for all standards and regulations.

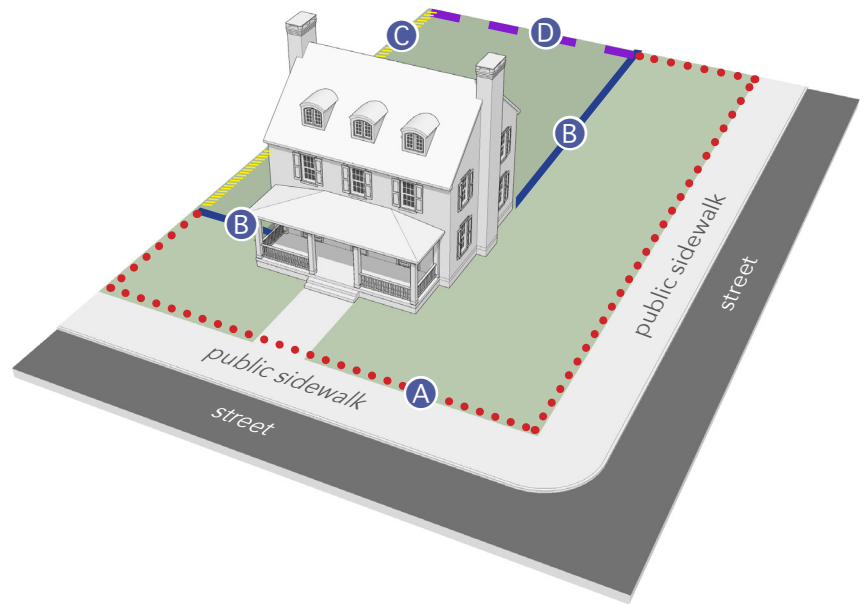
A Zoning Permit is required for any fence exceeding four feet located in the required front yard setback.
A Building Permit is required for all new pool fences or repairs.

GENERAL FENCE REQUIREMENTS

- Finished Side: Supporting members and posts shall be on the inside of the fence, and the smooth or flat/finish faces on the outside. If both sides of the fence are finish sides with support posts screened, each face shall be of the same type and finish.
- Swimming Pools: Fences for swimming facilities shall adhere to the standards specified in the Pennsylvania Uniform Construction Code.

FENCING TERMINOLOGY

- **A Frontage Fencing**
Any fencing located in the front yard setback
- **B Frontage Facade Fencing**
Any fencing in-line with the Principal Building or located behind the front yard setback
- **C Side Fencing**
Any fencing located in the side yard setback
- - **D Rear Fencing**
Any fencing located in the rear yard setback

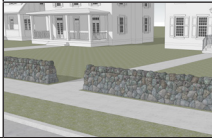





FENCE & WALL HEIGHT BY DISTRICT

DISTRICT	A FRONTAGE	B FRONTAGE FACADE	C SIDE	D REAR
LDR	4 ft.	6 ft.	6 ft.	6 ft.
MDR	4 ft.	6 ft.	6 ft.	6 ft.
VC	N/A	6 ft.	6 ft.	6 ft.
TC	N/A	6 ft.	6 ft.	6 ft.
I	4 ft.	8 ft.	8 ft.	8 ft.
LI	4 ft.	8 ft.	8 ft.	8 ft.
MC, BMMD, BMV, RHR, CAD	4 ft.	6 ft.	6 ft.	6 ft.

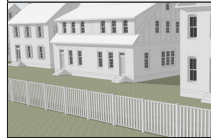
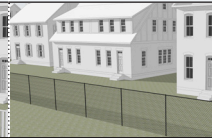
PERMITTED FRONTAGE FENCE TYPES BY DISTRICT

A

DISTRICT	MASONRY WALL 	PICKET FENCE 	WROUGHT IRON FENCE 	IRON FENCE W/ MASONRY BASE 
LDR	PERMITTED	PERMITTED	PERMITTED	PERMITTED
MDR	PERMITTED	PERMITTED	PERMITTED	PERMITTED
VC	PERMITTED		PERMITTED	PERMITTED
TC	PERMITTED		PERMITTED	PERMITTED
I	PERMITTED		PERMITTED	PERMITTED
LI	PERMITTED		PERMITTED	PERMITTED
MC, BMMD, BMV, RHR, CAD	PERMITTED		PERMITTED	PERMITTED

PERMITTED NON-FRONTAGE FENCE TYPES BY DISTRICT

B C D

DISTRICT	WOOD PRIVACY FENCE 	CHAIN LINK 
LDR	PERMITTED	PERMITTED
MDR	PERMITTED	PERMITTED
VC	PERMITTED	
TC	PERMITTED	
I	PERMITTED	PERMITTED
LI	PERMITTED	PERMITTED
MC, BMMD, BMV, RHR, CAD		

FRONTAGE FENCE REQUIREMENTS **A**

- **Location:** Frontage fences shall be located at or setback from the right-of-way. When placed at the right-of-way, the entire fence including the supporting structures shall be contained within the lot.
- **Access:** All fences along the primary frontage shall provide an operable gate or opening a minimum width of 36 inches. There shall be at least one operable gate or opening for (1) each street frontage; and (2) for every 500 feet of fencing along a street.
- **Height Exception:** Any portion of a frontage fence above 36 inches shall be at least 50% open.
- **Wood Fences:** Wood frontage fences shall be painted or stained. They shall have slats between 3.5 and 5.5 inches, with a minimum spacing of 2.5 inches and a maximum of 5.5 inches.
- **Prohibited Frontage & Frontage Facade Fence Materials:** Wood stockade and chain link fencing is prohibited as frontage and frontage facade fencing.
- **Replacement:** When more than 25% of a fence is repaired or replaced it must conform to the current standards.

PERMITTED FENCE & WALL TYPE AND MATERIALS

- **Fence & Wall Type:** Fence and wall type is regulated by district. One type is permitted per frontage fence.
- **Permitted Fence & Wall Materials:** Wood; Metal and iron (must be black); Stone, brick, and masonry; and Composite, subject to district standards.
- **Prohibited Fence Materials:** Electric, barbed wire, razor wire, hog wire, rolled wire, fence spikes or other types of hazardous fencing; Any wire smaller in size than 12 gauge and wire mesh fencing; Galvanized or painted metal wire fencing; Vinyl and plastic fencing, except for deer fencing for the side and rear; and Unfinished concrete masonry unit (cinder block).

RETAINING WALLS

- **Height:** The height of retaining walls shall not exceed six feet within the setback and shall not exceed eight feet beyond the setback.
- **Spacing:** Should a sequence of retaining walls be required, they shall be spaced at minimum intervals as specified in their underlying districts. Retaining walls shall be spaced at minimum intervals of 10 feet, except in LDR districts.

Lower Merion Township Fencing Standards (12/04/2020)

Chapter 155: Zoning

Article III: General to Districts

§ 155-3.7 Fences and walls

A. General.

(1) Fencing is regulated according to the location of the fence, including primary frontage fences, frontage facade fences, private lot line fences, and rear lot fences. Location and specification are additionally modified as follows:

(a) At corner lots, the primary frontage fence designation extends up to the primary setback of the principal building, as illustrated in **Table 3.7.3, Fencing Terminology**.

(b) Primary frontage fences may be collectively referred to as frontage fences.

(c) At corner lots, fences shall follow the sight distance requirements.

(2) Fences for swimming facilities shall adhere to the standards specified in the Pennsylvania Uniform Construction Code.

(3) Fences and walls are prohibited within the floodway of the Schuylkill River.

(4) All fences shall be properly anchored in accordance with the Pennsylvania Uniform Construction Code.

B. Fence and wall height shall meet the following requirements:

(1) Fence and wall height is limited according to **Table 3.7.1, Fence Height**. Exceptions include:

(a) Any portion of a frontage fence above 36 inches shall be at least 50% open.

(b) Fences and walls on properties adjacent to a railroad may exceed the maximum height, not to exceed eight feet along the railroad right-of-way.

(2) Frontage fence height is measured from the existing grade at the location of the fence.

(3) Private lot line fence and rear lot fence height is measured from the yard grade.

C. Fence and wall configuration shall meet the following requirements:

(1) Frontage fences may be located at the right-of-way or set back from the right-of-way to permit landscaping. When erected at a right-of-way line, all of the fence and any of its supporting structures shall be contained within the lot.

(2) All fences or walls erected along street frontage shall provide an operable gate or opening with a minimum width of 36 inches. There shall be a minimum of one operable gate or opening for each street

Lower Merion Township Fencing Standards (12/04/2020)

frontage and at least one operable gate or opening for every 500 feet of fencing along a street.

- (3) Supporting members and posts shall be on the inside of the fence, and the smooth or flat/finish faces on the outside. If both sides of the fence are finish sides with support posts screened, each face shall be of the same type and finish.
- (4) Wood frontage fences shall be painted or stained.
- (5) Wood frontage fences shall have slats between 3.5 inches and 5.5 inches, with a minimum spacing of 2.5 inches and a maximum of 5.5 inches.
- (6) Metal and iron fencing shall be black.
- (7) Fence material is regulated per frontage fence to a maximum of one fence type.

D. Fence and wall material is limited according to **Table 3.7.2, Fence Type by District**, and is further regulated as follows:

(1) The following fence and wall materials are permitted but not limited to:

- (a) Wood;
- (b) Metal and iron;
- (c) Stone, brick, and masonry; and
- (d) Composite.

(2) The following fence and wall materials are specifically prohibited:

- (a) Electric, barbed wire, razor wire, hog wire, rolled wire, fence spikes or other types of hazardous fencing;
- (b) Any wire smaller in size than 12 gauge and wire mesh fencing;
- (c) Galvanized or painted metal wire fencing;
- (d) Vinyl and plastic fencing, except for deer fencing for the side and rear; and
- (e) Wood stockade and chain-link fencing is prohibited as frontage and frontage facade fencing;
- (f) Unfinished concrete masonry unit (cinder block).

E. Retaining walls. The height of retaining walls shall not exceed six feet within the setback and shall not exceed eight feet beyond the setback.

Lower Merion Township Fencing Standards (12/04/2020)







- F. Should a sequence of retaining walls be required, they shall be spaced at minimum intervals as specified in their underlying districts. Retaining walls shall be spaced at minimum intervals of 10 feet, except in LDR Districts.
- G. Ball netting when associated with an athletic field or outdoor sports court is not considered a fence. Ball netting shall be screened with landscape material capable of providing a sufficient screen up to 15 feet to 20 feet in height. The landscape screen shall be located between the ball netting and the right-of-way.
- H. When the Board of Commissioners finds that a significant need is met by the erection of the fence, the Board of Commissioners may approve a higher fence when such a fence is requested in conjunction with the approval of a development plan.

TABLE 3.7.1 FENCE HEIGHT

FENCE LOCATION	LDR	MDR	VC	TC	I	LI	MC, BMMD, RHR, BMV, CAD
FRONTAGE	4 ft.	4 ft.	N/A	N/A	4 ft.	4 ft.	4 ft.
FRONTAGE FACADE	6 ft.	6 ft.	6 ft.	6 ft.	8 ft.	8 ft.	6 ft.
SIDE	6 ft.	6 ft.	6 ft.	6 ft.	8 ft.	8 ft.	6 ft.
REAR	6 ft.	6 ft.	6 ft.	6 ft.	8 ft.	8 ft.	6 ft.

Lower Merion Township Fencing Standards (12/04/2020)

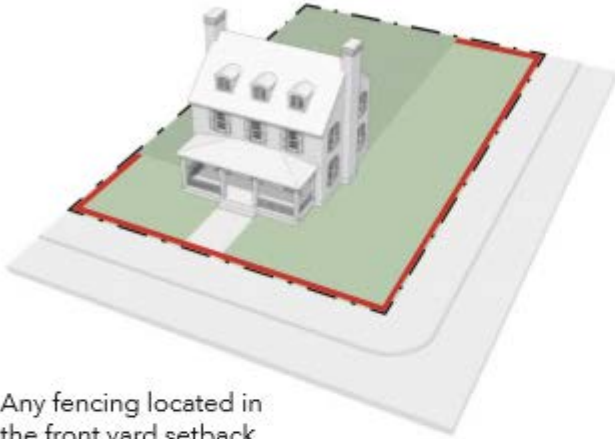
TABLE 3.7.2 FENCE TYPE BY DISTRICT

FENCE TYPE	LDR	MDR	VC	TC	I	LI	MC & BMD	BMV	RHR & CAD
MASONRY WALL									
	P	P	P	P	P	P	P	P	P
PICKET FENCE									
	P	P							
WROUGHT IRON FENCE									
	P	P	P	P	P	P	P	P	P
IRON FENCE WITH MASONRY BASE									
	P	P	P	P	P	P	P	P	P
WOOD PRIVACY FENCE									
	P	P	P	P	P	P			
CHAIN LINK									
	P	P			P	P			

Lower Merion Township Fencing Standards (12/04/2020)

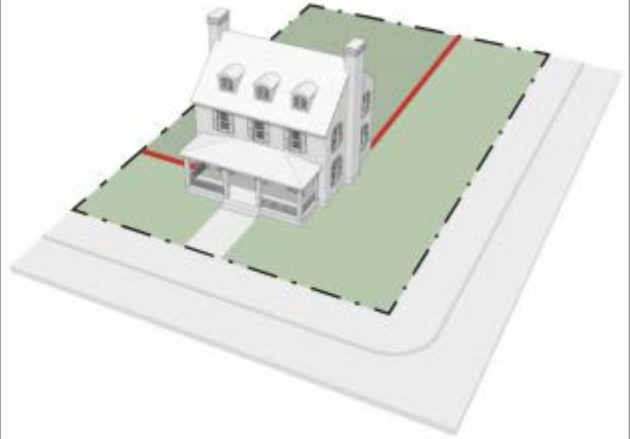
TABLE 3.7.3 FENCING TERMINOLOGY

A. FRONTAGE FENCING

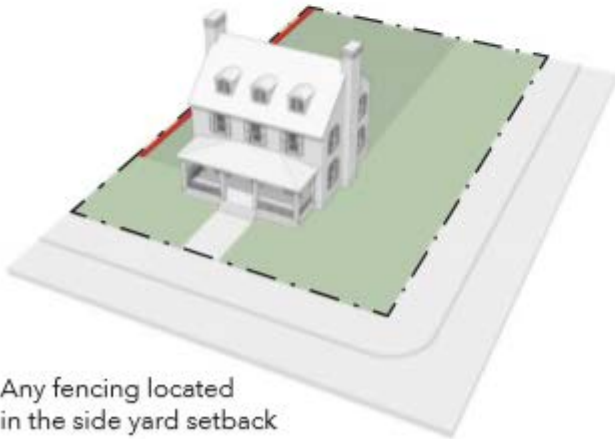


Any fencing located in the front yard setback

B. FRONTAGE FACADE FENCING

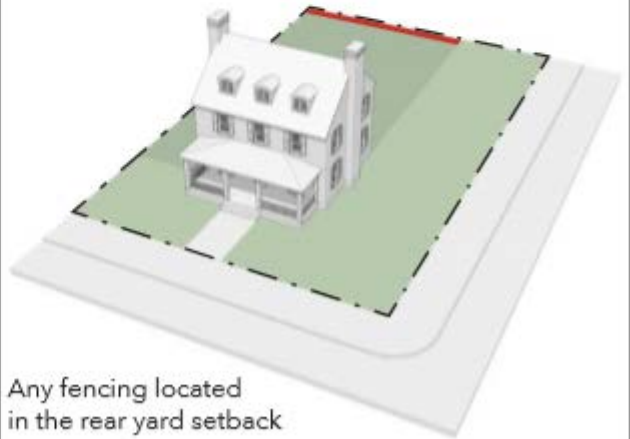


C. SIDE FENCING



Any fencing located in the side yard setback

D. REAR FENCING



Any fencing located in the rear yard setback

Lower Merion Township Fencing Standards (12/04/2020)

Chapter 155: Zoning

Article VII: Conservation & Preservation Overlays

§ 155-7.3 Floodplain Overlay District (Amended 12/02/2020)

E. Fences are only permitted in the Floodplain District as specified below:

- (1) On residential lots, fences are permitted if erected in the floodway fringe between the street right-of-way and the floodway of the Schuylkill River. Fences shall conform to the requirements of § 155-3.7, Fences and walls, and the following:
 - (a) The fence shall comply with Table 7.3.1, Fences in Floodway Fringe.
 - (b) No chain-link fence shall be erected in the floodway fringe of the Schuylkill River.
 - (c) Swimming pools and tennis courts. Fences for swimming facilities shall adhere to the standards specified in Chapter 143, Uniform Construction Code, and shall also comply with the opening requirements in Table 7.3.1, Fences in Floodway Fringe.
 - (d) Height standards for fences surrounding tennis courts shall be determined by the Zoning Hearing Board. Tennis court fences shall also comply with the opening requirements in Table 7.3.1, Fences in Floodway Fringe.
- (2) On residential lots adjacent to a railroad right-of-way, fences are permitted if the lot is located in the local Lower Merion Township Floodplain and not in the Special Flood Hazard Areas designated by FEMA. Fences shall conform to the requirements of § 155-3.7, Fences and walls, and the following:
 - (a) The bottom of the fence must be elevated a minimum of 4 inches to allow the free flow of floodwaters.

Lower Merion Township Fencing Standards (12/04/2020)

TABLE 7.3.1 FENCE IN FLOODWAY FRINGE

LOCATION	HEIGHT OF FENCE	PERMITTED FENCE TYPE
Street right-of-way to frontmost wall of principal building or the required front yard setback, whichever is closest to the street.	Fences up to four feet in height	Solid fence or fence with openings, provided the fence is properly anchored in accordance with the Pennsylvania Uniform Construction Code.
Street right-of-way to frontmost wall of principal building or the required front yard setback, whichever is closest to the street.	Fences four feet to six feet in height	The entire fence in this area shall contain openings equal to 75% or more of fence (e.g., estate fence).
Frontmost wall to rearmost wall of principal building	Fences up to six feet in height	Solid fence or fence with openings, provided the fence is properly anchored in accordance with the Pennsylvania Uniform Construction Code.
Rearmost wall of principal building to the floodway	Fences up to four feet in height	The entire fence in this area shall contain openings equal to 50% or more of fence (e.g., picket fence, estate, post and rail) and be properly anchored in accordance with the Pennsylvania Uniform Construction Code

Lower Merion Township Fencing Standards (12/04/2020)

Chapter 155: Zoning

Article X: Supplemental Use Regulations and Nonconformities

§ 155-10.12 Nonconformities. (Amended 12/02/2020)

F. Nonconforming site improvements.

(3) Nonconforming fences. A fence nonconforming to the fence provisions in this chapter shall be subject to the following:

(a) Nonconforming fences may only be replaced with conforming fences.

(b) When a nonconforming fence is damaged, destroyed, or removed for any reason, no more than 25% of the fence may be replaced in the same non-conforming fashion. This provision can only be applied one time.

Chapter 155: Zoning

Article XI: Process & Procedures

§ 155-11.1 Zoning Administration (Amended 12/02/2020)

E. Zoning permits and preliminary opinions.

(1) A zoning permit shall be required as designated below. If any of the improvements listed below are located in the Floodplain District, they are also subject to compliance with the provisions of § 155-7.3, Floodplain Overlay District.

(4) A zoning permit shall also be required prior to performing any of the following improvements:

(a) Temporary uses of land or structures.

(b) Grading within the floodplain.

(c) Any fence or wall within the floodplain.

(d) The storage of any materials within the floodplain.

(e) Play structures or other recreational equipment located within the floodplain.

(f) Any change or increase in impervious surface on a lot.

(g) The installation of a shed or other accessory structures less than 200 square feet.

(h) A retaining wall not within the floodplain exceeding four feet above grade.

(i) Installation of frontage fencing or frontage façade fencing.

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COMMISSIONER
WARD #3
TOWNSHIP OF LOWER MERION

December 4, 2020

Lower Merion Township Planning Commission
75 E Lancaster Avenue
Ardmore, PA 19003

RE: Fence Construction Material

Dear Planning Commission:

The Board of Commissioners unanimously approved a new Zoning Code in February, 2020 which prohibited the use of PVC and vinyl material in new fence construction (§ 155-3.74). I voted in favor of the Code in February but I think it is important to amend the Code as necessary. The Township is in the process of reviewing the code for "clean-ups" and improvements.

I have received many comments from constituents in Belmont Hills who are concerned about the fence restrictions in the new Code. Countless residents are operating on limited budgets, and PVC and vinyl fencing had previously offered an affordable and durable fence material alternative. Although some may dislike the appearance of PVC and vinyl fencing, I think the objective financial constraints of residents should prevail over a subjective, aesthetic concern.

Additional issues have arisen with respect to repairs made to non-conforming fences and language has been proposed which would limit the amount of non-conforming fencing that can be replaced.

I request that the Planning Commission please consider the economic hardships of residents when making recommendations with respect to the prohibition of fencing materials. I hope we can develop **Code language which removes some PVC and vinyl fencing restrictions and gives residents more affordable construction options with respect to PVC and vinyl fencing.**

Sincerely,

Michael F. McKeon
Ward 3 Commissioner, Lower Merion Township