

JOINT PUBLIC HEARING OF JANUARY 21, 2020

Tuesday evening, January 21, 2020. Joint Public Hearing of the City Council and Planning Board held in the City Council Chamber, Room 219, City Hall.

CALL TO ORDER

Council President James Walsh called the Public Hearing to order at 7:00 o'clock p.m.

ATTENDANCE

Eleven (11) Councillors were present including President James Walsh and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Scott Joseph Graves, Karen Hardern, Judy Mack, Elizabeth Kazinskas, and George Tyros.

Five (5) Planning Board Members were present including Robert Bettez, Sr., Paul Cormier, Stephen Cormier, Mark Schafron and Robert Swartz.

President James Walsh read aloud the Public Hearing Notice, as follows:

CITY OF GARDNER
NOTICE OF JOINT PUBLIC HEARING
ZONING AMENDMENTS

Pursuant to G.L. c. 40A, § 5, notice is hereby given that the City Council and Planning Board will conduct a Joint Public Hearing on Tuesday, January 21, 2020 at 7:00 P.M. in the City Council Chamber, Room 219, City Hall, 95 Pleasant Street, Gardner, to consider amending the Code of the City of Gardner, Section 675–610. General Requirements, Section F and Section 675–1050. Fences and hedgerows. The proposed Amendment is available for viewing in the City Clerk's Office, the Department of Community Development & Planning (DCDP), or on the City Council's webpage – www.gardner-ma.gov/324/City-Council under *Informational Documents*. All persons interested in this matter and desire to offer testimony are invited to attend the hearing.

ALAN L. AGNELLI
CITY CLERK

Community Development and Planning Director Trevor Beauregard, testifying on behalf of the Planning Board, stated that in October, 2019, Building Commissioner Roland Jean brought several inconsistencies in the Zoning Code to the Planning Board's attention, specifically Section 675–610. General Requirements, Section F and Section 675–1050. Fences and hedgerows. He noted that under Section 675–610. General Requirements, Section F, the Diagram shows 30 feet, but the narrative lists 15 feet, so the Building Commissioner and the DPW Director recommend 30 feet to maintain consistency. The Section also reads "20 feet", so the Planning Board recommends that it read "30 feet." Continuing, he stated that there is an inconsistency in Section 675–1050. Fences and hedgerows – where one reads 2½ feet, another 3½ feet. The Planning Board recommends 3 feet for consistency. Also, the Planning

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Board recommends that the word “street” be inserted instead of “curb” for consistency, since all streets do not have curbs.

President Walsh thrice called for persons wishing to testify in favor of the proposed Ordinance amendment.

There being none, he called for persons wishing to testify in opposition to the proposed Ordinance amendment.

Christopher Pera, 24 Lovewell Street, Gardner, a Registered Professional Land Surveyor (MA), provided the following Summary of his comments made in support and opposition to the proposed zoning amendment:

1. Definition of Street Line

As a clarification with regards to the City Ordinance to be changed, the term “side line” as mentioned in Section 675-610, Section F, is not defined in the Definition section of the Zoning Code (Section 675-210), but such term is often synonymous with ‘street line,” which is defined in the Zoning Code and refers to the property boundary or edge of the public right-of-way of the street. This definition is inconsistent with the diagram referencing the sight triangle (or Intersection Clearance Zone as shown on the diagram) within the Zoning Code. Said diagram shows point of reference with regards to measurements made as being the face of the curb, or edge of the traveled way assuming no curb is present. This reference line makes practical sense for two reasons.

First being that the line of sight for traffic safety is related to approaching vehicles within the traveled way, and not necessarily associated with property lines. Property lines can vary widely based on the width of the right-of-way and the varied location and width of the traveled way. As an example, most currently designed right-of-ways have a width of 50 feet for public/private access and utilities. In accordance with Gardner’s Subdivision Rules and Regulations, Section 6.1.3 regarding Street Width, the standard pavement width for minor streets is 28 feet. If the pavement were centered with the right-of-way, which is not always the case, this would allow for an 11 foot strip of grass and/or sidewalk area from the edge of the traveled way to the property line. If the proposed 30 foot sight triangle were to be from the “side line” or property line, this would place the sight clearance zone well into the private portion of the abutting lot.

Second would be that determination of the sight triangle based on the edge of the traveled way is much more simplistic, as the edge of traveled way can easily be seen and determined without the need to determine the edge of the right-of-way by a Registered Land Surveyor, as required in the Commonwealth of Massachusetts.

I would therefore recommend that the proposed change to the ordinance remove the term “side lines” and change such term to “edge of the traveled way.”

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2. Sight Triangle Distance Change

According to the American Association of State Highway and Transportation Officials (AASHTO) publication “A Policy on Geometric Designs of Highways and Streets (2011 ed.)” (often referred to as the “Green Book”), there are two types of sight triangles commonly used at intersections, approach sight triangles and departure sight triangles. Approach sight triangles allow a driver in a moving vehicle sufficient time to slow or stop at an intersection without traffic control, a stop or yield. Departure sight triangles allow a stopped driver at an intersection to see oncoming traffic before entering the intersection.

While not having performed or seen a traffic study of the number or types of traffic intersections within the city with regards to being controlled or uncontrolled, nor reviewing reports of incidents of accidents or complaints where obstructive views contributed to the accident or made it difficult for a motorist to see oncoming traffic, my assumption would be that most intersections in the city have stop or yield signs, or the accepted speeds or practice at these intersections is to yield or stop. These types of intersections would likely need a lesser sight distance and the side distance of the sight triangle would not be as great.

In addition, there is an existing City Ordinance (Part II, Chapter 600 (Vehicles and Traffic), Article VI (Stopping, Standing and Parking), Section 600-21 (General prohibitions)) that already prohibits vehicles from parking within 20 feet of an intersection, which is assumed to be for the purpose of a sight triangle at the intersection. With the proposed change in the ordinance to make the side of the sight triangle to 30 feet, this would still be in conflict with this existing 20 foot parking ordinance.

My personal opinion therefore is that increasing the side of the sight triangle from 15 feet to 30 feet may not be necessary and is more restrictive, and such increase may infringe upon the property and privacy rights of the abutting private property owner by requiring a greater area of their property to be free of sight obstructions or meet the height restriction of the ordinance for any fences or shrubs within their yard or along their property boundary. Such an increase may also be a burden on property owners if existing fences, shrubs or objects that meet the existing requirements had to be moved or changed to meet the proposed increase.

As a proposed change to be consistent with the City Ordinance with regards to parking at an intersection, a recommended proposed sight triangle distance to 20 feet might be more appropriate. Such amendment would change the corner clearance distance for Chapter 675-610, but would leave the current distance in Chapter 675-1050 as the same.

There being no others asking to testify, President Walsh declared the Hearing closed at 7:09 p.m.

Accepted by the City Council: *February 3, 2020*



CITY OF GARDNER
MASSACHUSETTS 01440-2630

OFFICE OF THE
CITY CLERK

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ORDINANCE

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF GARDNER, CHAPTER 675 THEREOF, ENTITLED “ZONING,” TO REVISE ARTICLE VI, DENSITY AND DIMENSIONAL REGULATIONS, AND ARTICLE X, SUPPLEMENTAL REGULATIONS.

Be it ordained by the City Council of the City of Gardner, as follows:

Section 1. Section 675–610. General Requirements, Section F, of the Code of the City of Gardner, is amended by deleting and repealing Section F in its entirety and inserting in place thereof, the following:

Within an area formed by the side lines of intersecting streets and a line joining points on such lines 30 feet distant from their point of intersection or, in case of a rounded corner, from the point of intersection of their tangents, no structure shall be erected and no foliage maintained between a height of 3 feet and a height of eight feet above the plane through their street grades.

Section 2. Section 675–1050. Fences and hedgerows, is hereby amended by deleting and repealing Section 675-1050 in its entirety and inserting in place thereof, the following:

Fences dividing property or facing the street shall have the smooth or unclimbable side facing out. At corners, no fence or hedgerow shall be allowed to block vision over 3 feet above the street grade within an area formed by the intersecting street lines and straight line joining the point of said street line 30 feet back from their points of intersection. Fencing and hedgerows running perpendicular to the streets shall not be allowed to block vision over 3 feet above the street grade for a distance of 15 feet along driveways immediate in location.

Section 3. This Ordinance shall become effective upon passage and publication as required by law. Any claims of invalidity by reason of any defect in the procedure of adoption may only be made ninety days after the posting or the second publication.

Summary of comments made at the City of Gardner Joint Public Hearing, Tuesday, January 21, 2020, 7:00pm, Gardner City Council Chambers, RE: Proposed Zoning Amendment for Corner Clearance, and Fence and Hedgerows Clearance

The following is a summary of the comments made in support and opposition of the proposed zoning amendment.

1. Definition of Street Line

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Respectfully submitted,

Christopher Pera
Registered Professional Land Surveyor (MA)
24 Lovewell Street, Gardner