

REPORT TO THE BOARD OF ZONING APPEALS

DATE: September 18, 2025

SUBJECT:

Case #252225 - 9861 and 9841 East Holmes Road - Appeal of a Staff Decision related to the type and height of fencing allowed for a residential property with commercial farming activities (i.e. raising of goats)

INTRODUCTION:

- Tarik Ihmoud, property owner of 9861 East Holmes Road, and Mohammad Ihmoud, property owner of 9841 East Holmes Road, are jointly appealing a staff interpretation of the Zoning Ordinance related to the type and height of fencing allowed for their respective properties with commercial farming activities.
- The properties are located on the south side of East Holmes Road, east of Center Hill Road (see Exhibit 1). They would like an eight (8)-foot front yard fence to help secure their farm animals on property.
- The 4,891-square foot (total living area) house on 9861 East Holmes Road was built in 1992 while the 1,162-square foot (total living area) house on 9841 East Holmes Road was built in 1952.
- The total combined area of both properties is 46.9 acres, and it is being used for both residential and agricultural purposes.
- Both properties, annexed in 2011, are zoned FAR: Forest Agriculture Residential and surrounded by FAR zoned properties.

BACKGROUND:

- On February 4, 2025, the property owners submitted a fence permit to Development Department Staff to install an 8-foot decorative metal fence in the front yard to keep their farm animals from escaping onto adjacent busy roadways (see Exhibits 2 and 3).
- Sometime between March and August of 2025, the owners stated they conducted an experiment with a 6-foot fence to determine if it can secure their farm animals. They observed some animals still managed to jump over the temporary 6-foot fence, and in mid-August, they contacted staff about their request for a taller fence.
- On August 29, 2025, Development Department staff advised the owners about the 6-foot height restriction for large lot residential fences as per the Zoning Ordinance. The owners were advised of the option to appeal the staff's decision from the Board of Zoning Appeals (BZA) (see Exhibit 4).
- The property owners consider the properties to be an operational farm, rather than solely residential. On September 5, 2025, they filed an appeal of the staff's decision to deny their request for an 8-foot fence (see Exhibit 2).

KEY POINTS:

1. **Both properties are currently used for multiple uses besides residential (see Exhibit 2).**
 - The two (2) parcels include additional uses or improvements aside from the principal dwellings, such as barns and accessory structures for keeping farm animals.
 - When considered together, both properties include one (1) 6,440-square foot agricultural stable,

one (1) 1,920-square foot agricultural barn, one (1) pole barn, one (1) detached utility building and (one) 1 residential detached garage.

- Both properties also have an existing wooden split-rail fence in the front yard as well as chain link fence within property lines to help keep farm animals contained within designated areas. An existing fence separate the properties but farm animals can go back and forth between them.

2. The applicants believe the Town staff is not correctly interpreting the Zoning Ordinance, particularly in classifying the use of their properties as an active farm operation instead of solely residential (see Exhibit 2).

- In their cover letter, both owners stated their properties collectively function as an active farm operation, with a variety of livestock such as horses, lambs, goats, and cows.
- The owners also stated an 8-foot front yard fence is necessary for the protection of livestock as well as the safety of the surrounding community.
- The proposed decorative metal fence will replace the existing wooden 3-split rail fence on the front yard.
- They believe their proposed fence design will help maintain the rural character of the community since it will be similar with other fences in the area, such as the decorative metal front yard fence at 5110 Reynolds Road.

3. Staff looks to §151.006(C) of the Zoning Ordinance to determine the maximum fence height allowed based on the property's use classification. For residential properties, fences are limited to a maximum height of six (6) feet while fences for nonresidential uses can be up to a maximum height of eight (8) feet (see Exhibit 4).

- The Town does not have a definition of “agriculture” in the Zoning Ordinance (§151.003); however, State Law contains a definition of agriculture (see Exhibit 6).
- Agriculture uses are permitted “by right” by §151.021 of the Zoning Ordinance in all districts.
- Tennessee state law says “for any land that is used for agricultural purposes as of May 10, 1998, a municipality may not use its zoning power to interfere in any way with the use of such land for agricultural purposes as long as the land is used for agricultural purposes” (Tenn. Code Ann. § 6-54-126).
- Working farms are typically classified as “agricultural” or “greenbelt” for the assessment of property taxes by the Shelby County Assessor of Property; however, some land used for agricultural purposes is not classified this way.
- For taxation purposes, 9841 East Holmes Road is classified by the Assessor of Property as a "farm" while 9861 East Holmes Road is classified as "residential". The "farm" was incorporated in Collierville in April 2020 as M& I Suppliers Inc.

STAFF RECOMMENDATION: One of the powers of the BZA stated in §151.308 (B)(1)(a) of the Zoning Ordinance is to “hear and decide appeals from any order, requirement, decision or determination made by any Town official...whereby it is alleged in writing that such official is in error or has acted in an arbitrary manner.”

No recommendation is provided since this is an appeal. The BZA should determine if the Development Department staff acted in error, or has acted in an arbitrary manner, in its determination on August 29, 2025, both properties are being used for FAR-zoned residential purposes and thereby would have a maximum height for the front yard fence to six (6) feet. The BZA can add conditions of approval to its motion, if it finds the grounds exist to overturn the decision, to minimize adverse impacts to the area provided the conditions are consistent with Town regulations.

NEXT STEPS: If staff's determination is affirmed, then the height of the proposed front yard fence

must comply with the Town's Zoning Ordinance related to residential uses in a FAR District. Applicants will be required to update the fence permit application dated February 4, 2025, to reflect a 6-foot front yard fence or they may choose to withdraw the fence permit entirely. Any aggrieved party may appeal any decision of the BZA to a court of competent jurisdiction as provided for by state law.

Should the BZA overrule the staff determination and conclude both properties have demonstrated non-residential uses, then the fence permit dated February 4, 2025 for an 8-foot fence will be approved. A separate fence permit for 9841 E Holmes Road will also need to be submitted.

ATTACHMENTS:

[Exhibit 1 - Location Map & Contact Information.pdf](#)

[Exhibit 2 - Applicant Cover Letter & Photos 9-05-25.pdf](#)

[Exhibit 3 - Applicant's fence permit application 2-04-25.pdf](#)

[Exhibit 4 - Excerpt of Zoning Ordinance related to Fences, Walls and Hedges.pdf](#)

[Exhibit 5 - Staff Email Correspondence 8-29-25.pdf](#)

[Exhibit 6 - Applicable Definitions from State and Local Laws.pdf](#)

PROPOSED MOTION:

(BASED ON APPLICANT'S REQUEST): To overturn the staff's August 29, 2025, decision related to the maximum height of the front-yard fence for properties at 9841 and 9861 East Holmes Road.