

**MINUTES
ZONING BOARD OF APPEALS
REGULAR MEETING
WEDNESDAY, DECEMBER 18, 2013, 3:00 P.M.
COUNCIL CHAMBERS, CITY HALL
109 EAST OLIVE ST., BLOOMINGTON, IL**

Members present: Mrs. Barbara Meek, Mr. Robert Kearney, Ms. Amelia Buragas, Mr. Dick Briggs, Mr. Bill Zimmerman, Mr. Mike Ireland, Jim Simeone
Also present: Mr. Mark Woolard, City Planner

Mr. Woolard called the meeting to order at 3:00 p.m. and called the roll. A quorum was present.

The Board reviewed the minutes from November 20, 2013. Mr. Kearney stated that it appears that his absence was for the whole meeting, but he arrived on 3:13 p.m. as noted on page two. Mr. Kearney suggested a notation under members Present as Mr. Kearney (arrived at 3:13 pm). Chairman Ireland stated the correction to show - Members present: Mr. Kearney (arrived at 3:13 p.m.). No other changes were suggested.

Chairman Ireland explained the meeting procedures. Mr. Woolard stated that the cases had been published.

REGULAR AGENDA

Z-18-13 Public Hearing and Review on the petition submitted by Russell Travis & Theresa Ann Meadors to allow construction of a new fence and a variance from the Zoning Ordinance to increase the allowed fence height of 4 feet to 6 feet in the yard along Oakland Street for the property located at 419 Willard Avenue. Zoned R-1C, Single-Family Residence District. (Ward 4).

Chairman Ireland introduced the case and asked for anyone who would like to speak in favor of the petition to come forward. Mr. Russell Travis Meadors, 419 Willard Avenue, was sworn in and explained the reason for the variance request. Mr. Travis Meadors hired a contractor to replace the fence which was in disrepair on the Oakland Avenue side. Since his family has two young children, they decided to move the fence to enlarge the inside yard space. The existing privacy fence was six feet high. The new six foot high fence was moved 10 feet closer to Oakland Avenue. He is asking for a variance because if you look at the surrounding area and the structure itself, you can reasonably assume we're not in violation of the spirit of the code nor of what the code is supposed to protect. The contractor neglected to indicate the corner lot when the permit was applied for, which is why the permit was approved. It was the inspector who noticed the corner lot. Mr. Travis Meadors provided photos of the neighborhood fences from the South end of Founders Grove within a two or three block area. The neighbors across the street have a six foot privacy fence. The neighbors to the West have fifteen foot evergreen bushes that completely block their back yard. One of the reasons listed to the response of this petition was that this fence may present an unfair advantage or would block off yard space next to the street. A four foot fence is allowed and that's also blocking yard space from the road as well as the large evergreen bushes that are allowed. This seems to come down to the definition of rear and front yard. Anyone who came to the home would consider at this as a back yard. It's not the same as walling off the front of the property. Mr. Kearney observed that there is a sloping of the

yard and seems less than six foot in areas. Mr. Travis Meadors stated that even with the scalping, there is less than six feet and very close to four feet. Ms. Meek stated that we see many cases like this and asked for the contractor name. SK was the contractor and familiar in the neighborhood. Mr. Travis Meadors understands why no six foot fences are allowed in a front yard. It's different when enclosing an entire property. Or even in an interior neighborhood different than along Oakland where you don't have the foot traffic or the vehicle traffic on this main artery leading to downtown. Chairman Ireland stated there can be a safety hazard for driver vision at the alley; however this fence blends into garage which doesn't obscure that line of sight which is helpful in this case. Mr. Briggs pointed out that many fences have come all of the way to the sidewalk and since this fence doesn't, that is favorable. Mr. Kearney mentioned that six foot fences are dense and impenetrable; it's bulky, blocky, unwelcoming and doesn't really create an open neighborhood. Mr. Travis Meadors acknowledged that this could encourage others to build this as well, but this the exception as most of the houses face Oakland and most back yards in the neighborhood do not come alongside the busy Oakland Avenue.

Chairman Ireland invited anyone else who was in favor of the petition. No one responded.

Chairman Ireland asked for anyone who was in opposition of the petition. No one responded.

Mr. Woolard stated this fence as in the practical sense is located in the side yard along Oakland, while the code defines this fence as a front yard fence. He confirmed that there are other six foot fences in the neighborhood. There are more fences in compliance rather than out of compliance. Staff does not support this request as they don't want to encourage more fences like this. There was an existing five to six foot high fence that was further back in line with the house. There may have been fences built prior to the Code or granted a variation from the ZBA. Mr. Kearney stated that the list of fences was helpful. The complaint is sometimes brought forward by a neighbor. Mr. Simeone clarified that this is not a public safety issue, this is an essential character of the neighborhood objection, or is there other public safety grounds? Mr. Woolard stated that the fence shouldn't be a problem for safety of traffic to see around the fence. Mr. Woolard stated that this is more of an effect of the central character of the neighborhood than a safety issue. One could argue that if you get enough structures intruding into yards and bulk that could deteriorate the neighborhood. It's more of a blight kind of thing. Since the fence comes to the sidewalk is more bulk, it is less yard space. The lower the fence, the less visually intrusive it becomes. Mr. Simeone stated that the issue isn't the location of the fence so much as the height. Ms. Buragas asked if the prior fence was in compliance with the Code. Mr. Woolard stated yes. He discussed the setbacks and averaging for property structures.

Ms. Buragas stated her interpretation of the front/side yard issues had to do with setbacks. Mr. Woolard stated that in the corner lot, there are two front yards. There is an exception section when dealing with fences. Ms. Buragas stated that when reading the definitions of front, side and back yards, it did refer to treating a corner lot like a front yard. When she looked in that section of the Code, she found a discussion only on the setbacks and had nothing to do with obstructions. That seems the source of confusion. Chairman Ireland stated that the problem comes in with older neighborhoods and no platted setback like there is in a newer neighborhood. Therefore the front yard is established by the block average. On a corner lot, you have Willard as the frontage and Oakland as the frontage as measured by an imaginary line from the house to the alley. The

Code is trying to say that you can't have a six foot fence in the front yard. This presents a setback and height issue. They could set it back in line with the house and now they are out of the front yard; or they can request a variance to have it in the front yard. That is why they are here due to the extension of the fence into that front yard space. Ms. Buragas asked if this creates an unreasonable challenge under the first criteria. Chairman stated he agreed. The newer lots allow for this type of situation and include more land to accommodate. This gentleman may have a neighbor with same size lot; however since the neighbors lot does not have two front yards, the neighbor gets to enjoy the entire lot. In a sense the Code deprives a person such as Mr. Travis Meadors of this enjoyment and allows for a variance. Ms. Buragas thanked Staff for the extensive list of addresses and fences and discussion ensued on fences in the neighborhood. Mr. Kearney stated that through the years many cases have been brought before this board, especially along Hershey.

In conclusion, Mr. Kearney suggested allowing all six foot fences along major thoroughfares. Some communities distinguish the difference of rear yard to rear yard verses side yard to front yard on corner lots. Mr. Simeone pointed out that an obstruction for safety reasons along the alley would not be allowed for any six foot fences. If you look at page 21 on Oakland that does create a very bulky and right up to the side walk feel. That does affect the essential character of the neighborhood independent of safety would be an acceptable reason to deny the fence. Mr. Kearney stated that he doesn't mind Oakland lined with fences. He defines a neighborhood as what is inside. The reality is that a neighborhood as Founders Grove or others, must view Oakland Avenue as a nuisance. It's loud, with more cars than ever, not driving the speed limit with a huge driving culture issue. The six foot fences seem to fall into a category of a lament and none-the-less it is necessary. Mr. Woolard stated that some communities don't want the tunnel affect. Mr. Simeone stated that many fences are going up in Founders Grove and it's not just lamentable, it is problematic. Mr. Kearney clarified that he is going to factor the reality that these are side yards and the reality of the Oakland Avenue into his votes from now on. Chairman Ireland pointed to the case in front of us now for a decision and welcomed discussion on the Code language in the New Business part of this meeting. Mr. Briggs pointed out Normal does allow the six foot fence in the front yards. In this case, the homeowner could place a four foot fence in front of his house and all the way to the alley down Oakland. He has minimized the impact because the fence doesn't go all of the way to the sidewalk. We do give a little more latitude to older neighborhoods. This already built fence is pretty good as it contains solutions that this board would have suggested anyway.

The vote on case Z-18-13 was approved with a vote of six (6) voting in favor and one (1) against. The following votes being cast on roll call: Ms. Meek—Yes; Mr. Kearney—Yes; Ms. Buragas—Yes; Mr. Briggs—Yes; Mr. Zimmerman—Yes; Mr. Simeone—No; Mr. Ireland—Yes.

PUBLIC COMMENT. None

OTHER BUSINESS. Chairperson Ireland invited continued discussion on front and side yards. Discussion ensued regarding the large fence that recently was erected on the corner Oakland and Broadmoor. The property backs onto the creek. Mr. Briggs mentioned regarding the wall of fences along Hershey by Rollingbrook. Those are mostly located in back yards and serves as a noise buffer. Oakland is just as noisy as Hershey.

Mr. Briggs noted that any reappointments and new appointment need to take the Open Meetings Act certification and give a printed certificate to the City Clerk.

There was much discussion on the proposed changes regarding term limits. Ms. Meek stated one concern is that she depends on folks who have the history with concepts that may cycle around. Mr. Kearney pointed out many positions have been vacant for a while without the ability to find volunteers to fill those positions. Mr. Briggs stated there have been empty seats on this Board for over a year. Mr. Simeone acknowledged the loss of institutional memory. He also has experience with Founders Grove forming a group C.A.R.E. to address the noise generated by Oakland. He stated they found the Code department, the Police department and the Legal department remarkably unresponsive to the request to change the noise code. Mr. Simeone stated he found a lack of trust for the city Government from fellow Bloomington residents along Oakland. He also suggested that Government is completely out of touch. Mr. Kearney agreed that Government may be out of touch. Mr. Kearney stated that it is a little odd that term limits of volunteers who serve at the pleasure of the Mayor. The Mayor can choose not to reappoint.

Ms. Buragas pointed out the email regarding the status of a property that was included in the packet. Her concern is that it will be passed on to someone in the City who can address this.

Ms. Meek stated since there is a formal visit of term limits she asked if this is the time to request a change in the quorum requirement to read the majority of the members present. We have to have a quorum present to have a meeting; however instead of having to have four affirmative votes, we would just need the majority of the members present. Chairperson Ireland pointed out that if the vote is denied at four votes the case is an automatic appeal to the circuit court. Mr. Woolard suggested forwarding the member comments and concerns regarding the term limits directly to the Mayor.

NEW BUSINESS. None

ADJOURNMENT: 4.04 p.m.

(MIKE Alwes to come?) next meeting... next meeting (or pkt) hand out sign code copy -