



MINUTES
PUBLISHED BY THE AUTHORITY OF THE ZONING BOARD OF APPEALS
REGULAR MEETING
GOVERNMENT CENTER CHAMBERS, 4TH FLOOR, ROOM #400
115 E. WASHINGTON STREET, BLOOMINGTON, IL 61701
WEDNESDAY, FEBRUARY 15, 2023 4:00 P.M.

The Zoning Board of Appeals convened in Regular Session in-person in the Government Center Chambers on the 4th floor, Room #400, Wednesday, February 15, 2023, with the following physically present staff members: Mr. Glen Wetterow, City Planner; Ms. Alissa Pemberton, Assistant City Planner; Ms. Kimberly Smith, Assistant Economic & Community Development Director; Mr. George Boyle, Assistant City Attorney.

The meeting was called to order by Chair Straza at 4:07 pm.

ROLL CALL

Attendee Name	Title	Status
Mr. Terry Ballantini	Commissioner	Present
Ms. Victoria Harris	Commissioner	Absent
Mr. Michael Straza	Commissioner	Present
Mr. Tyler Noonan	Commissioner	Absent
Ms. Nikki Williams	Commissioner	Present
Mr. Zach Zwaga	Commissioner	Absent
Mr. Tim Foley	Commissioner	Present

Ms. Pemberton called the roll. Mr. Ballantini - Present, Ms. Williams - Present, Mr. Foley - Present, Chair Straza - Present. (4-0). A quorum was present.

Commissioner Ballantini made a motion to allow Commissioner Harris to attend the meeting virtually. Commissioner Williams seconded. Roll Call Vote. Mr. Ballantini - Yes, Ms. Williams - Yes, Mr. Foley - Yes, Chair Straza - Yes. (4-0). Ms. Harris is permitted to attend virtually. Technical issues prevented her from participating further.

PUBLIC COMMENT

Chair Straza opened the floor for public comment, reminding attendees that public comment is typically reserved for items not on the regular agenda. There was no in-person public comment.

Ms. Pemberton noted that several emailed comments were received by Staff; they were provided to the Board and Petitioner prior to the meeting and will become part of the record of the meeting.

MINUTES

Commissioner Ballantini motioned to approve the minutes from the November 16, 2022, regular Zoning Board of Appeals meeting, as amended. Commissioner Williams seconded. Voice Vote. All Ayes. Motion Passed (4-0).

REGULAR AGENDA

V-01-23 Public hearing, review, and action on a request by Jennifer Robinson for a Variance from § 44-910C of the Zoning Code to increase the allowable fence height in the front yard from four (4) feet to six (6) feet, in the B-2 (Local Commercial) District, for the property located at 515 S. McClun Street. PIN: 21-03-352-025.

Ms. Pemberton presented the staff report and background on the request. She noted there was currently a four-foot-tall chain link fence existing at the site. The Petitioner is requesting to replace this fence with a six-foot-tall shadowbox solid wood fence in the same location. Ms. Pemberton noted the physical characteristics of the property and neighboring uses. She noted several residential uses in the direct area are zoned commercially. She stated the Petitioner has expressed concern that the current fence does not adequately maintain dogs in the yard and does not provide a level of privacy desired along Oakland Avenue. The proposed fence is being placed at an angle to address line of site issues associated with the adjacent driveway.

Commissioner Ballantini inquired why no recommendation made by Staff. Ms. Pemberton noted the nuances of the application.

Chair Straza opened the public hearing.

Petitioner, Mike Heath (515 S. McClun Street) stated that if he is allowed to have the proposed fence it would benefit his family and the community. He highlighted traffic in the area and described noise that came from Oakland Avenue. He also stated a high level of light bleeds onto property from the neighboring commercial uses and traffic, which the proposed fence would help limit and prevent.

Commissioner Ballantini inquired as to the type of dog that lived at the property and how long it had resided there. Mr. Heath responded that it was a Boxer and had lived there nine years.

Commissioner Ballantini inquired what was at the neighboring lot before the Dollar General store. Mr. Heath responded that it had been a vacant lot prior to the Dollar General store. He noted there had been a 10-foot-tall fence surrounding the site.

Commissioner Ballantini noted concerns about safety and line of sight issues. He inquired if the Petitioner has considered adjusting the location of fence. Mr. Heath responded he did not wish to adjust the location. There was discussion regarding the height of a fence that would properly be able to contain a dog. Also, there was discussion regarding the elevated nature of the site and challenges which may impact driver vision.

Chair Straza reiterated Commissioner Ballantini's line of sight and safety concern.

Ms. Pemberton clarified what the Code allows regarding fences at the location. She stated the Petitioner could replace the current chain link fence with an opaque four-foot-tall fence. She noted other aspects of the Code as it applies to the zoning district.

Mr. Heath noted that if he could install a four-foot-tall fence by right it would still block vision, so he struggled with that item. He stated that his property and fence existed before the Dollar General store was constructed. He proposed possibly lowering the height of the fence toward the rear of property.

Ms. Pemberton noted line of site and other Code requirements would be reviewed when the building permit was submitted.

David Robinson (407 Emerson Street) stated as one exited the Dollar General property the current site elevation issues prevent a clear line of sight.

Commissioner Foley inquired if the Petitioner could reduce the distance the fence come out towards Oakland Avenue. He noted that a six-foot tall fence would make it harder to see around the site.

Chair Straza clarified the variance is not directly related to line of sight but rather fence height.

Mr. Boyle noted procedural items for the Board. Ms. Pemberton suggested the Board review each standard for approving a Variance.

Chair Straza closed the public hearing portion of the case.

Mr. Boyle stated they Board could review each standard and vote.

Chair Straza clarified the details of the Variance request is and what the Board is reviewing.

Chair Straza read Standard 1: That the property has physical characteristics that pose unreasonable challenges which make strict adherence to the Code difficult.

Commissioner Foley - Yes, Commissioner Williams - Yes, Commissioner Ballantini - Yes, Chair Straza - Yes. (4-0).

Chair Straza read Standard 2: That the Variance would be the minimum action necessary to afford relief to the applicant.

Commissioner Foley - Yes, Commissioner Williams - Yes, Commissioner Ballantini - No, Chair Straza - Yes. (3-1).

Chair Straza read Standard 3: That the special conditions and circumstances were not created by any action of the applicant.

Commissioner Foley - Yes, Commissioner Williams - Yes, Commissioner Ballantini - Yes, Chair Straza - Yes. (4-0).

Chair Straza read Standard 4: That granting the variation request will not give the applicant any special privilege that is denied to others by the Code.

Commissioner Foley - Yes, Commissioner Williams - Yes, Commissioner Ballantini - No, Chair Straza - Yes. (3-1).

Chair Straza read Standard 5: That the granting of the variation will not be detrimental to the public welfare, alter the essential character of the neighborhood, nor unreasonably impair the use of development of adjoining properties.

Commissioner Foley - Yes, Commissioner Williams - Yes, Commissioner Ballantini - Yes, Chair Straza - Yes. Motion Passed (4-0).

Ms. Pemberton noted all standards have been reviewed. She inquired if there was interest in additional discussion or if someone was prepared to make a motion. Commissioner Ballantini stated he believed more discussion was needed.

Mr. Boyle stated a motion could be made that determined standards are met and then have discussion if needed. Commissioner Ballantini asked about the protocol if the Board did not think standards are met. Ms. Pemberton stated that a motion could be made to reflect that the standards were not met.

Chair Straza made a motion that the standards were met. Commissioner Williams seconded.

Commissioner Ballantini stated he remains concerned about line of sign issues and believes the Petitioner could comply with the Code. He stated corner lots have been reviewed by the Board before and he believes that it is not a unique situation or a unique hardship. He stated the Board has denied similar requests in the past. He added he believes there are other minimum actions the Petitioner could take.

Commissioner Foley - Yes, Commissioner Williams - Yes, Commissioner Ballantini - No, Chair Straza - Yes. Motion passed (3-1).

Ms. Pemberton noted next motion would be to approve or deny the Variance request. Chair Straza asked for a motion.

Commissioner Foley made motion to approve the Variance as requested. It was seconded by Commissioner Williams.

Commissioner Foley - Yes, Commissioner Williams - Yes, Commissioner Ballantini - No, Chair Straza - Yes. Motion passed (3-1).

NOTE: While a statement of approval was made upon completion of the vote, per § 44-1708G of the Zoning Code of the City of Bloomington, IL, "An affirmative vote of four members is required to approve [the] variance," so the Variance was not approved, despite the majority affirmative vote. An associated building permit was not applied-for or issued, and the Customer was made aware of the denial and options for moving forward.

OLD BUSINESS

None

NEW BUSINESS

The Board welcomed new Commissioner Foley. Commissioner Foley thanked the Board for allowing him to join.

ADJOURNMENT

Commissioner Ballantini made the motion to adjourn. Commissioner Williams seconded. Voice vote was held. All were in favor. (4-0)

The meeting was adjourned at 4:52 p.m.