

Chair Abitheira called the Regular meeting of the Building Code Board of Appeals to order at 3:00 p.m. on August 7, 2019 in the Council Board Room of the Troy City Hall.

1. ROLL CALL

Members Present

Gary Abitheira  
Teresa Brooks  
Sande Frisen  
Mark F. Miller, City Manager  
Andrew Schuster

Support Staff Present

Salim Huerta, Building Official  
Allan Motzny, Assistant City Attorney  
Alicia Warren, Planning Department Intern  
Kathy L. Czarnecki, Recording Secretary

Also Present

Attached and made a part hereof is the signature sheet of those present and signed in at this meeting.

2. APPROVAL OF MINUTES

Moved by: Brooks  
Support by: Frisen

**RESOLVED**, To approve the minutes of the July 10, 2019 Regular meeting as submitted.

Yes: All present (5)

**MOTION CARRIED**

Chair Abitheira requested to move Agenda items 3.D., 3.E. and 3.F. to the beginning of *Hearing of Cases* on the agenda.

Moved by: Miller  
Support by: Abitheira

**RESOLVED**, To move Agenda items 3.D., 3.E. and 3.F. to the beginning of *Hearing of Cases* on the agenda.

Yes: All present (5)

**MOTION CARRIED**

### 3. HEARING OF CASES

- D. APPEAL REQUEST, TROY OUTDOOR, LLC AND CROSSROADS OUTDOOR LLC/1654 LIVERNOIS, 1654 LIVERNOIS – An appeal of the Zoning Administrator's November, 2017 Suspension of Sign Permit PSG2017-0009
- E. APPEAL REQUEST, TROY OUTDOOR, LLC AND CROSSROADS OUTDOOR LLC/ABRO TWELVE PROPERTY, 2888 E MAPLE – An appeal of the Zoning Administrator's November, 2017 Suspension of Sign Permit PSG2017-0087
- F. APPEAL REQUEST, TROY OUTDOOR, LLC AND CROSSROADS OUTDOOR LLC/AMERICAN LEGION POST 140, 1340 W MAPLE – An appeal of the Zoning Administrator's November, 2017 Suspension of Sign Permit PSG2017-0088

Mr. Huerta stated the three appeal requests are from the same applicant for three different signs. He said the Planning Department received one public comment.

Mr. Motzny gave a brief explanation of the Federal lawsuit filed by the applicant on the three signs for which Zoning and Compliance Specialist Paul Evans issued notice to suspend the sign permits based on a November 2017 City-imposed moratorium on signs larger than 36 square feet in area. He noted it was a Court decision that the applicant must come before this Board for administrative remedy prior to litigating the matter. Mr. Motzny said Mr. Evans could not attend today's meeting and is asking that the items be postponed to the September meeting. Mr. Motzny said the applicant has been notified and has no objection to the postponement.

Moved by: Schuster

Support by: Abitheira

**RESOLVED**, That Agenda items 3.D., 3.E., and 3.F. be postponed for consideration at the September 4, 2019 meeting.

Yes: All present (5)

#### **MOTION CARRIED**

Chair Abitheira indicated the public comment would remain on file.

Mr. Motzny exited the meeting at 3:10 p.m.

- A. VARIANCE REQUEST, MATTHEW LOMBARDI, 1452 WACON DRIVE – This property is a double frontage lot. As such the proposed fence cannot be placed in the 25-foot required Burtman Drive or the 25-foot required Wacon Drive front setback. The petitioner is requesting a total of 103 linear feet of a 6-foot-high privacy cedar obscuring fence variance in the required Burtman Drive setback.



Mr. Huerta gave a review of the variance request.

Matthew Lombardi and Nicole Bracey said a six-foot fence would provide privacy for their back yard that is wide open and security for their pets and future children. They said an existing 10'x10' concrete area poured by the previous homeowner diminishes the grassy area, is not used, and is too costly to dispose of. The couple said the ornamental cedar fence would be appropriately maintained and landscaped. They provided signatures from 12 neighbors stating indicating their agreement with the proposed fence.

Discussion on:

- Compliance of fence codes of corner lots in neighborhood.
- Aggressiveness, closeness of fence to street.
- Lot dimensions (70'x119'); smaller dimensions than current because of time subdivision platted.
- Proposed location of fence in relation to neighbor in rear.
- Existing tree to remain.
- Consideration in placing fence four feet from the sidewalk.

Chair Abitheira opened the public hearing; acknowledging there was no one present, Chair Abitheira closed the public hearing.

Moved by: Schuster  
Support by: Miller

**RESOLVED**, To grant the variance as presented with the modification that the fence abutting Burtman be four (4) feet off the sidewalk instead of the proposed one (1) foot.

Yes: Abitheira, Brooks, Miller, Schuster  
No: Frisen

### **MOTION CARRIED**

- B. **VARIANCE REQUEST, KIMBERLY NOWAK, 3901 BRISTOL** – The property is a double frontage lot. As such the proposed fence cannot be placed in the 30-foot required Bristol Drive or the 30-foot required Root Drive front setback. The petitioner is requesting a total of 118 feet of a 6-foot-high privacy cedar obscuring fence variance in the required Root Drive setback.

Mr. Huerta gave a review of the variance request. He said written objections received were included in the Board members' agenda packets.

Kimberly Nowak circulated pictures and said she decided on a vinyl fence with a 6-foot setback so she can plant perennials. Ms. Nowak said the fence would provide privacy, security for her children and keep children's swing set and toys out of sight. She addressed the written objections and indicated her neighbor behind her has no objection.

Chair Abitheira said the public notice stated the variance request was for a 10-foot setback with a 6-foot privacy cedar fence. He advised the applicant if she chooses to revise the application to 6 feet from the property line with a vinyl fence, the item would have to be re-advertised and re-noticed.

There was discussion on:

- Revisions to the application.
- Line of vision for corner clearance; neighbor to the west.
- Concerns voiced by neighbors.

Chair Abitheira opened the public hearing.

Jim Willockx, 3839 Root, said the fence would be an affront to the openness and security of the existing neighborhood, addressed neighboring residences that have corner lots with 4-foot chain link fences, referenced a PowerPoint presentation provided to the Planning Department.

Diane Paul, 3844 Root, addressed concerns with safety, backing out of driveways, and blocking view of pedestrian traffic.

Chair Abitheira closed the public hearing.

Postponement of the item was discussed with Ms. Nowak to give her an opportunity to address neighbor concerns and revisions to the application should she so desire. She was encouraged to provide the Board with letters of support.

Moved by: Miller  
Support by: Abitheira

**RESOLVED**, To postpone the variance request for consideration at the September 4, 2019 meeting.

Yes: All present (5)

#### **MOTION CARRIED**

- C. **VARIANCE REQUEST, MURRAY D. DEAGLE, 254 FLORENCE DRIVE** – The property is a single frontage lot. As such, the proposed fence at the rear property line is allowed to be a maximum of 6 feet above the existing grade of the land. The petitioner is requesting a variance to install an 8-foot high privacy fence for an 80-foot long section at that location.

Mr. Huerta gave a review of the variance request. Mr. Huerta said the Planning Department received one written correspondence in support.

Murray Deagle asked to withdraw his application. He said he and his wife realized this morning as the school fence was being erected that the two contiguous fences would not be aesthetically pleasing and they have decided instead to install

landscaping for screening. Mr. Murray stated appreciation for the time given by the Board and administration.

Mr. Deagle asked if he could install a temporary fabric construction screen/barrier until they are ready to do the landscaping.

Mr. Huerta asked Mr. Deagle to give him a call to discuss.

Mr. Miller said there was no motion required to withdraw the application.

4. COMMUNICATIONS – None
5. PUBLIC COMMENT – A person in the audience was advised that agenda items 3.D., 3.E. and 3.F. were postponed to the September 4, 2019 meeting.
6. MISCELLANEOUS BUSINESS – None
7. ADJOURNMENT

The Regular meeting of the Building Code Board of Appeals adjourned at 4:08 p.m.

Respectfully submitted,



Gary Abitheira, Chair

  
Kathy L. Czarnecki, Recording Secretary

