

Chair Abitheira called the hybrid in-person and virtual Regular meeting of the Building Code Board of Appeals to order at 3:03 p.m. on July 7, 2021 in the Council Chamber of Troy City Hall.

1. ROLL CALL

Members Present

Gary Abitheira

Sande Frisen

Mark F. Miller, City Manager

Members Absent

Teresa Brooks

Matthew Dziurman

Support Staff Present

Salim Huerta, Building Official

Bob Laux, IT Help Desk

Kathy L. Czarnecki, Recording Secretary

2. RESOLUTION TO ALLOW PUBLIC TO ADDRESS ELECTRONIC MEETINGS

Ms. Czarnecki read the following Resolution into the record.

RESOLVED, That the Troy Building Code Board of Appeals hereby allows all members of the public to address an electronic meeting in the following three ways:

- a. Public comments may be submitted via email sent to BCBAPublicComments@troymi.gov. Email received by 9:00 am on the day of the meeting will be read during the public comment period of the meeting. Email comments may be limited to three minutes.
- b. Public comments may be submitted via voicemail left at 248-524-3546. Voicemail received by 9:00 am on the day of the meeting will be played during the public comment period of the meeting. Voicemail comments may be limited to three minutes.
- c. Members of the public may attend the electronic meeting remotely and participate in a public comment period. Comments may be limited to three minutes.

Moved by: Frisen

Support by: Abitheira

Yes: All present (3)

Absent: Brooks, Dziurman

MOTION CARRIED

3. APPROVAL OF MINUTES

Moved by: Miller
Support by: Frisen

RESOLVED, To approve the minutes of the June 2, 2021 Regular meeting as submitted.

Yes: All present (3)
Absent: Brooks, Dziurman

MOTION CARRIED

4. HEARING OF CASES *

** Note: The Chair opened the floor for public comment for the following cases without verbally stating the Public Hearing(s) were opened and closed. Mr. Frisen presented email messages into the record.*

- A. **VARIANCE REQUEST, SASI GOWNIWARI, 1682 BURR OAK DRIVE** – This property is an interior lot of the R-1C Zoning district. Per the City of Troy Code Chapter 83 Fences Section (2) Fence Construction in residential areas, item (A) It indicates that in residential areas no fence shall be constructed to a height of more than six (6') feet above the existing grade of the land. The petitioner is requesting a variance to install 280 feet of vinyl privacy fence at a height of seven (7') feet in the back yard, where City Code limits the height to six (6') feet. *CHAPTER 83*

Mr. Huerta read the variance request narrative.

Chair Abitheira recused himself. Therefore the item could not be entertained because there would not be a quorum for consideration. Chair Abitheira built the home for which the petitioner is seeking the variance and he currently has homes on the market in that subdivision.

Moved by: Abitheira
Support by: Frisen

RESOLVED, To postpone the variance request to next month's meeting.

Yes: All present (3)
Absent: Brooks, Dziurman

MOTION CARRIED

- B. **VARIANCE REQUEST, RAJESH KUMAR VARAKALA, 5369 GREENDALE DRIVE** – This property is a double front corner lot. Per the City of Troy Zoning Ordinance, it is in the R1-C use district. As such per Chapter 83 of the City of Troy Code, it has 30 feet required front setback along both Greendale Drive and Orchard

Crest Drive. The petitioner is requesting a variance for an existing fence that is 4 feet high, 124 feet obscuring (30/70) and 66 feet non-obscuring vinyl fence that is one (1') foot from the sidewalk along the Orchard Crest Drive side where City Code limits to 30 inches high obscuring fences due to the fact that there isn't a back-to-back relationship to the rear neighboring lot. The total length of the fence requested by the petitioner to be permitted by the Building Department is 190 feet, which 69 feet of the fence do not require a variance. *CHAPTER 83*

Mr. Huerta read the variance request narrative.

The applicant Mr. Varakala said the fence existed when he bought the house approximately five years ago. He assumed appropriate permits were pulled and that the fence met City code.

There was discussion on:

- Existing fence in relation to setbacks and obscuring/non-obscuring material.
- Permit status discovered as result of variance granted for adjacent neighbor.
- Variance granted on subject property in 1978 for relief of front setback.
- Uniqueness and curvature of lot.
- No visual obstruction for pedestrian or vehicular traffic.

Chair Abitheira opened the floor for public comment.

There was no one present in the audience, nor anyone remotely in attendance who wished to speak. There were no voicemail messages reported.

The following email message was read into the record.

- Eric and Katina Gorman, 5350 Westmoreland, Troy; in support.

The floor was closed for public comment.

Moved by: Frisen
Support by: Abitheira

RESOLVED, To **grant** the variance as requested, for the following reasons:

1. The exceptional characteristics of the property.
2. The proposed variance will not be harmful or alter the essential character of the area.
3. The proposed variance meets the intent of the Code.

Yes: All present (3)
Absent: Brooks, Dziurman

MOTION CARRIED

- C. **VARIANCE REQUEST, CHRIS MAZUR, 2683 DAYTON DRIVE** – This property is a double front corner lot. Per the City of Troy Zoning Ordinance, it is in the R-1C use district. As such per Chapter 83 of the City of Troy Code it has 30 feet required front setback along both Dayton Drive (N-S) and Dayton Drive (E-W). The petitioner is requesting a variance to install a 6-foot high, 89 feet long obscuring wood fence 15 feet from the property line along the Dayton Drive (N-S) side where City Code limits to 30 inches obscuring high fences due to the fact that there isn't a back-to-back relationship to the rear neighboring lot. *CHAPTER 83*

Mr. Huerta read the variance request narrative.

The applicant Chris Mazur said a 6-foot fence would provide safety for their children. He said they moved a play structure that had become a local playground to the inside of the fence and now a tree goes through the play structure. Mr. Mazur shared that a morally questionable person in the neighborhood has raised concerns for the safety of their children.

There was discussion on:

- Existing fence meets City code.
- Size of subject lot and adjacent lot.
- Relationship of fence to the sidewalk.
- Board addressed neighboring properties cited by applicant; 2681 Coral, 5799 Pilot.
- Dimensions of corner lots.

Chair Abitheira opened the floor for public comment.

There was no one present in the audience, nor anyone remotely in attendance who wished to speak. There were no voicemail messages reported.

The following email messages were read into the record.

- James R. Gasparovich, 5102 Dayton, Troy; in opposition.
- Sadegh Mobin; 5072 Blair, Troy; in opposition.

The floor was closed for public comment.

Mr. Frisen and Mr. Miller expressed concerns with granting the variance as requested.

Chair Abitheira advised the applicant the request could be postponed until a full Board is present.

Mr. Mazur opted to proceed with the variance request.

Moved by: Miller
Support by: Abitheira

RESOLVED, To **deny** the variance request, for the following reason:

1. The request does not meet any of the standards set forth in the Ordinance.

Yes: All present (3)
Absent: Brooks, Dziurman

MOTION CARRIED

- D. **VARIANCE REQUEST, MICHAEL BOOKER SR. AND LYNETTE BOOKER, 2026 BLUE SPRUCE** – This property is a double front corner lot. Per the City of Troy Zoning Ordinance, it is in the R-1C use district. As such per Chapter 83 of the City of Troy Code it has 30 feet required front setback along both John R and Blue Spruce Drive. The petitioner is requesting a Building Permit to install 103.5 feet of a 6-foot high, vinyl obscuring fence at the rear property line perpendicular to John R. Out of the 103.5 feet of fence, the petitioner is requesting a variance for the 30 feet that encroach into the John R 30 feet required setback, where the City Code limits obscuring fences to 30 inches in height; due to the fact that there isn't a back-to back relationship to the rear neighboring lot. *CHAPTER 83*

Mr. Huerta read the variance request narrative.

The applicant Lynette Booker said the fence would be a sound barrier for traffic noise from John R, obscure view of unsightly vehicles at property to the rear and protect the property from animals.

There was discussion on:

- Location of fence as relates to setbacks and subdivision sign.
- Fences permitted by right that are located on major roads.
- Visual view of property to the rear.
- Effect on future development.

Chair Abitheira opened the floor for public comment.

Lonnie Rogers, 4512 John R, Troy, addressed her property's relationship to the subject property. She expressed concerns with her property value, acknowledging her intent to sell the property in the future for residential development. Ms. Rogers questioned if the subdivision bylaws would prohibit the fence. She informed the Board that approximately two years ago the applicant cut down trees on her property without her permission and those trees provided privacy and a visual barrier of her property. Ms. Rogers said two tree trunks removed by the applicant measured 16 inches and 12 inches; she was not able to measure the trunk of the third tree removed. Ms. Rogers said the tenant has been there for ten plus years and not one complaint has been registered nor has the neighbor approached her with any concerns.

There was no one remotely in attendance who wished to speak. There were no email or voicemail messages reported.

The floor was closed for public comment.

Discussion continued on:

- Filing police report for removal of trees without permission of property owner.
- Enforcement of homeowners' association deed restrictions.
- Potential effect on future development.

Mr. Miller expressed concerns with granting the variance as requested.

Chair Abitheira advised the applicant the request could be postponed until a full Board is present.

Ms. Booker asked the Board for a postponement.

Moved by: Miller
Support by: Abitheira

RESOLVED, To postpone the variance request to the next month's meeting.

Yes: All present (3)
Absent: Brooks, Dziurman

MOTION CARRIED

5. COMMUNICATIONS – None

6. PUBLIC COMMENT

There was no one present in the audience to speak. No email or voicemail messages were reported, nor was there anyone remotely in attendance who wished to speak.

7. MISCELLANEOUS BUSINESS

None.

8. ADJOURNMENT

The Regular meeting of the Building Code Board of Appeals adjourned at 3:50 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'GA', written over a horizontal line.

Gary Abitheira, Chair

A handwritten signature in blue ink, reading 'Kathy L. Czarnecki', written over a horizontal line.

Kathy L. Czarnecki, Recording Secretary

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