

Chair Abitheira called the Regular meeting of the Building Code Board of Appeals to order at 3:01 p.m. on August 11, 2021 in the Council Chamber of Troy City Hall.

1. ROLL CALL

Members Present

Gary Abitheira

Teresa Brooks

Matthew Dziurman

Mark F. Miller, City Manager

Members Absent

Sande Frisen

Support Staff Present

Salim Huerta, Building Official

Kathy L. Czarnecki, Recording Secretary

Moved by: Abitheira

Support by: Dziurman

RESOLVED, To amend the agenda to (1) remove Agenda item 2 (Suspension of Building Code Board of Appeals Bylaws); (2) move the order of the Agenda item 4.A. (1682 Bur Oak Drive) to third position; and (3) postpone Agenda item 4.B. (2026 Blue Spruce) to the September 1, 2021 meeting at the request of the applicant.

Yes: All present (4)

Absent: Frisen

2. SUSPENSION OF BUILDING CODE BOARD OF APPEALS BYLAWS – *Item removed; refer to Resolution to amend agenda.*

3. APPROVAL OF MINUTES

Moved by: Miller

Support by: Abitheira

RESOLVED, To approve the minutes of the July 7, 2021, Regular meeting as submitted.

Yes: Abitheira, Dziurman, Miller

Abstain: Brooks

Absent: Frisen

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.*

B. **VARIANCE REQUEST, MICHAEL BOOKER SR. AND LYNETTE BOOKER, 2026 BLUE SPRUCE** – *Item postponed to September meeting at request of applicant. Refer to Resolution to amend agenda.*

C. **VARIANCE REQUEST, JOHN AND LAURA NEWMAN, 5970 SUSSEX** – This property is a double front corner lot. Per the City of Troy Zoning Ordinance, it is in the R1-A use district. As such per Chapter 83 of the City of Troy Code it has a 40 feet required front setback along Sussex Drive and Arlund Way. The petitioner is requesting a variance to install 119 feet of the 6 feet tall vinyl obscuring fence that will encroach into the Arlund Way 40 feet setback as well as a variance for the 40 feet 4 feet tall of the aluminum non-obscuring fence that will encroach into the Arlund Way 40 feet setback as well. The total fence to be permitted by the Building Department will be 308 feet of 6 feet tall vinyl obscuring fence and 89 feet of 4 feet tall aluminum non-obscuring fence. *CHAPTER 83*

Mr. Huerta read the variance request narrative. Mr. Huerta reported there were no written responses to the notice.

The applicant John and Laura Newman were present. Ms. Newman said they are new owners of the house as of February 2021. She said the proposed fence would provide safety for their daughter and dog, provide privacy and act as a sound barrier from I-75 expressway, and obscure the biking and running route along Arlund Way. Ms. Newman stated the fence as proposed would maximize the usable space of their side yard and keep the existing shed within the fenced area. She noted that their property line currently is six (6) feet from Arlund Way and the additional feet required for the setback places their property line ninety (90) feet from Arlund Way. Ms. Newman explained the 4-foot high rod aluminum fence would be aesthetically more pleasing than vinyl.

There was discussion on:

- No active permit on file for the shed; existing shed as relates to fence line.
- Previous variance request filed and withdrawn from former homeowner.
- Fence material; tan PVC vinyl and black rod aluminum.
- Existing split rail and wire fence; not part of request; applicant to eventually repair and/or remove.
- 2.5 feet obscuring fence permitted.
- Existing trees as relates to fence installation; mature trees in straight line.
- Distance of house across the street; 154 feet to the lot line.
- Shape, configuration of property in relation to proposed fencing.
- Applicant desire to maximize usable yard area.
- Provide greater setback to potentially accommodate future sidewalk.

Chair Abitheira offered the applicant an opportunity to postpone the variance request until there is a full Board present. The applicant said they would like to go forward with the request.

Chair Abitheira acknowledged there was no one present to speak.

Moved by: Dziurman
Support by: Brooks

RESOLVED, To grant the variance request at 5970 Sussex with the exception that the setback is no less than three (3) feet from the property line on the north property side of Arlund Way and the remaining fence as proposed, for the following reasons:

- The variance would not be contrary to the public interest or general purpose and intent of Chapter 83.
- The variance does not adversely affect properties in the immediate vicinity of the proposed fence.

Yes: All present (4)
Absent: Frisen

MOTION CARRIED

Vice Chair Brooks presided as Chair for the remainder of the meeting. Chair Abitheira exited the meeting.

- 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*

Chair Abitheira recused himself because he built the home for which the petitioner is seeking the variance and he currently has homes on the market in that subdivision.

Mr. Huerta read the variance request narrative.

Vice Chair Brooks advised the applicant that she would need affirmative votes from all three Board members to be granted approval for the request. She asked the applicant if she would like to postpone the item until a full Board is present.

The applicant Ms. Gowniwari was present. Ms. Gowniwari said she would like to move forward with the request.

Ms. Gowniwari said the proposed 7-foot high fence would provide security and safety for their 11 year old son who is on the autism spectrum disorder.

There was discussion on:

- Varying height fences for protection.
- Height potential of applicant's son.
- Consideration of alternative fence material.
- Public comment received; not in support of request.
- Condominium/subdivision bylaws.
 - Not enforceable by City.
 - Verification whether fences of any type or height are allowed.
 - Potential of legal conflict with Association even if City grants permit.
- 6-foot privacy fence permitted by right.

Ms. Gowniwari agreed with the Board's advice to obtain a copy of the condominium bylaws and review them. She asked the Board's consideration to postpone the item to the next meeting.

Moved by: Miller
Support by: Dziurman

RESOLVED, To postpone the variance request to the September 1, 2021 meeting and provide the petitioner with a copy of the condominium bylaws for review in consideration of moving forward with the variance request.

Yes: Brooks, Dziurman, Miller
Absent: Frisen
Abitheira (recused)

MOTION CARRIED

Mr. Abitheira returned to the meeting.

5. COMMUNICATIONS – None

6. PUBLIC COMMENT

There was no one present in the audience to speak.

7. MISCELLANEOUS BUSINESS

None.

8. ADJOURNMENT

The Regular meeting of the Building Code Board of Appeals adjourned at 3:55 p.m.

Respectfully submitted,



Gary Abitheira, Chair



Kathy L. Czarnecki, Recording Secretary

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