

Chair Abitheira called the Regular meeting of the Building Code Board of Appeals to order at 3:00 p.m. on September 1, 2021 in the Council Chamber of Troy City Hall.

1. ROLL CALL

Members Present

Gary Abitheira

Teresa Brooks

Matthew Dziurman

Sande Frisen

Members Absent

Mark F. Miller, City Manager

Support Staff Present

Salim Huerta, Building Official

Kathy L. Czarnecki, Recording Secretary

2. SUSPENSION OF BUILDING CODE BOARD OF APPEALS BYLAWS

Moved by: Brooks

Support by: Frisen

**RESOLVED**, To suspend the Suspension of Building Code Board of Appeals Bylaws.

Yes: All present (4)

Absent: Miller

3. APPROVAL OF MINUTES

Moved by: Brooks

Support by: Dziurman

**RESOLVED**, To approve the minutes of the August 11, 2021, Regular meeting as submitted.

Yes: All present (4)

Absent: Miller

**MOTION CARRIED**

4. HEARING OF CASES

- 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 announced the petitioner requests to postpone the item to the October 6, 2021 regular meeting.

Moved by: Frisen  
Support by: Dziurman

**RESOLVED**, To postpone the item to the October 6, 2021 regular meeting.

Yes: All present (4)  
Absent: Miller

**MOTION CARRIED**

- B. **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*

Chair Abitheira announced the petitioner requests to postpone the item to the October 6, 2021 regular meeting.

Moved by: Frisen  
Support by: Brooks

**RESOLVED**, To postpone the item to the October 6, 2021 regular meeting.

Yes: All present (4)  
Absent: Miller

**MOTION CARRIED**

- \* *Note: The Chair opened the floor for public comment for the following case without verbally stating the Public Hearing was opened and closed.*

- C. **VARIANCE REQUEST, MANDY AUSTIN AND BOB HAAG, 2685 TIMBERWYCK** – This property is an interior lot of the R-1A 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 120 feet at the rear property line of vinyl privacy fence at a height of eight (8') feet, where City Code limits the height to six (6') feet. *CHAPTER 83*

Mr. Huerta read the variance request narrative. He addressed pictures submitted by the applicant relating to the change in elevation from the back of the house to the rear property line, the lines of demarcation on the pictures and the existing pool.

Bob Haag and Mandy Austin were present. Mr. Haag said an 8-foot fence would provide more privacy for their rear yard and pool area. He said there is an existing four foot fence around the entire property to secure their pool. Mr. Haag said their house sits up higher than neighboring houses.

Chair Abitheira opened the floor for public comment.

- Dennis Scheich, 2718 Red Fox Trail; opposed; addressed original subdivision deed restrictions on fences, park-like community, applicant's concern with noise.
- Maureen Brudenell, 2709 Red Fox Trail; opposed; expressed concern with height.
- Mark Brummer, 2664 Red Fox Trail; opposed; addressed applicant's concern with noise, no knowledge of noise concern, visual view of applicant's yard, family lifestyle with two young children.
- Stuart Vedder, 2663 Red Fox Trail; opposed; addressed noise concern, nature of community, height and material of fence, property values.
- Craig Jarvis, 2783 Timberwyck; opposed; addressed green space, bylaws, unique community, property values, no knowledge of noise concern.

Chair Abitheira closed the floor for public comment.

Chair Abitheira acknowledged receipt of several email messages received by the Planning Department. He stated the messages were distributed to board members prior to the beginning of today's meeting.

There was discussion on:

- Distance from house to back property line (36 feet).
- 6-foot fence permitted by right.
- Association bylaws as relates to City ordinance and permit process.
- Grade of land; difference in elevations.
- Effectiveness of fence in minimizing sound/noise.
- Alternative methods to screen/minimize noise; landscape, arborvitae, placing 6-foot fence closer to pool.

Ms. Austin said they moved to the neighborhood because of its beauty and peacefulness. She said noise from the base tones of a nearby radio is a disturbance and it was suggested by the building department to install a fence. Ms. Austin said she would prefer not to have a solid white fence and that she enjoys children at play and family gatherings.

Board members acknowledged the concerns of the applicant and expressed appreciation to the neighbors for their comments. In general, Board members encouraged the applicants and the neighbors to discuss their concerns and expressed confidence the situation could be reasonably resolved.

Moved by: Frisen  
Support by: Dziurman

**RESOLVED**, To **DENY** request, for the following reasons:

1. The request does not meet the intent of Chapter 83.
2. The applicant has failed to demonstrate the uniqueness of the property.

Yes: All present (4)  
Absent: Miller

**MOTION CARRIED**

5. COMMUNICATIONS – None

6. PUBLIC COMMENT

There was no one present in the audience to speak.

7. MISCELLANEOUS BUSINESS

Mr. Huerta said he would check with the City Attorney on the protocol of suspending the Bylaws to conduct future meetings.

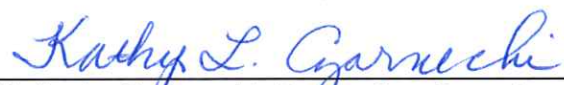
8. ADJOURNMENT

The Regular meeting of the Building Code Board of Appeals adjourned at 3:31 p.m.

Respectfully submitted,



Gary Abitheira, Chair



Kathy L. Czarnecki, Recording Secretary