

Chair Abitheira called the Regular meeting of the Building Code Board of Appeals to order at 3:00 p.m. on November 3, 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. APPROVAL OF MINUTES

Moved by: Frisen

Support by: Brooks

RESOLVED, To approve the minutes of the October 6, 2021 Regular meeting as submitted.

Yes: All present (4)

Absent: Miller

MOTION CARRIED

3. HEARING OF CASES

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

A. **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 a 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 encroaches 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 is not a back-to-back relationship to the rear neighboring lot. *CHAPTER 83*

Mr. Huerta read the variance request narrative. Mr. Huerta reported the department received no recent public comments on the variance request.

Applicant Lynette Booker referenced the pictures provided in the application and said the fence would obscure the abandoned cars from the neighboring property to the rear and prevent unwanted rodents onto her property.

There was discussion on:

- Location of fence.
 - Perpendicular to John R.
 - As relates to existing berm.
- Existing chain link fence.
 - Applicant said it would be removed.
 - Applicant advised to confirm ownership prior to removal.
- Distance of setback from sidewalk/property line.

Chair Abitheira opened the floor for public comment. Acknowledging there was no one present to speak, Chair Abitheira closed the floor for public comment.

Moved by: Dziurman

Support by: Abitheira

RESOLVED, That the variance request for 2026 Blue Spruce be **granted** with a caveat that there be a five (5) foot setback from the west property line adjacent to the sidewalk, for the following reasons:

1. The variance does not adversely affect properties in the immediate vicinity.
2. The petitioner has a hardship based on the difficulty of the unusual characteristics of the property.

Yes: All present (4)

Absent: Miller

MOTION CARRIED

- B. **VARIANCE REQUEST, VIKAS SHEORAN, 3040 ALBANY COURT** – This property is in the R-1C use district. Per the City of Troy Zoning Ordinance and from the City of Troy Codes Chapter 83-Fences-2. Fence Construction in Residential Areas, Item (A), it indicates that no fence shall be constructed to a height more than six (6) feet above the existing grade of the land. The petitioner is requesting a variance to install a 9 feet high, 41 feet long obscuring fence along the back property lot line starting at the north corner towards the south lot corner. *CHAPTER 83*

Mr. Huerta read the variance request narrative. Mr. Huerta reported the department received no public comments on the variance request. He said the applicant is permitted to construct a six foot obscuring fence.

Applicant Vikas Sheoran said his house backs up to Golden Gate Plaza and is subjected to the smell of food and trash from the dumpsters located on the retail property. He said there are two dumpsters and a grease pit located within 35 feet of his home's living quarters. Mr. Sheoran referenced the photographs provided in the application and the communications between him and City officials regarding the matter. He indicated to date there has been no resolution. Mr. Sheoran said the dumpsters are located too close to his property and his family is not able to utilize their back yard for pleasure. He said the fence is a last resort attempt to resolve the matter.

There was discussion on:

- Height of existing masonry wall, dumpsters and dumpster enclosures.
- Location of dumpsters; determined at site plan approval.
- Grade difference between the two properties.
- Fence material; wood, decorative.
- Fence location as relates to existing masonry wall.
- Code enforcement of retail center.
- Neighboring properties do not appear to be affected by smell.
- Consideration of retail property to higher the height of dumpster enclosures.

Ms. Brooks, Oakland County Health Department Board representative, advised the applicant that the Health Department has the authority to investigate matters such as this, and the authority to increase the number of dumpsters on site and/or the frequency of trash pickups that could potentially alleviate the problem. She said there appears to be no registered complaints on file at the Health Department regarding this issue. Ms. Brooks encouraged the applicant to register a complaint with the Health Department for potential violations. She offered the contact phone and website information to the petitioner.

Chair Abitheira opened the floor for public comment. Acknowledging there was no one present to speak, Chair Abitheira closed the floor for public comment.

Board members expressed empathy for the situation the applicant has brought to their attention and expressed concern that a fence would not solve the issue.

A brief discussion followed. Board members encouraged the applicant to seek assistance from the Health Department prior to proceeding with the variance request.

Mr. Sheoran agreed to seek the assistance of the Health Department.

Moved by: Dziurman
Support by: Brooks

RESOLVED, To **postpone** the variance request for 3040 Albany Court until the first meeting in February 2022 for the Building Code Board of Appeals to rehear the case.

Yes: All present (4)
Absent: Miller

MOTION CARRIED

- C. **VARIANCE REQUEST, JOHN AND ALEXANDRA KOUMOUTSOPOULOS, 793 ISLAND COURT** – 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 Island Court and Gatwick Drive. The petitioner is requesting a variance to install a 5 feet high, 85 feet long non-obscuring aluminum fence 10 feet from the property line along the Gatwick Drive side, where City Code limits to 30 inches obscuring high fences due to the fact that there is not a back-to-back relationship to the rear neighboring lot. The total fence requested to be permitted is 257 feet and 172 feet do not require a variance. *CHAPTER 83*

Mr. Huerta read the variance request narrative. He reported the department received one public comment in opposition of the variance request, a copy of which was distributed to the Board prior to the beginning of today's meeting. Mr. Huerta said the applicant is permitted to construct a 30 inch obscuring fence.

Applicant Alexa Koumoutsopoulos shared their intent to install a pool. She said the fence would be non-obscuring and decorative to add to the existing landscaping, trees and perennial garden. Ms. Koumoutsopoulos said the required 30 foot setback would go through the middle of their landscaping and that's the reason they are asking for a variance.

Chair Abitheira opened the floor for public comment. Acknowledging there was no one present to speak, Chair Abitheira closed the floor for public comment.

There was discussion on:

- Fence material; non-obscuring, decorative.
- Pool requirements as relates to setbacks and fences.
- Existing storm drains on site; seek approval by Department of Public Works.
- Existing trees and landscaping.
- Characteristics of neighborhood.
- Alternative options to obscuring pool.

Mr. Frisen said he is somewhat opposed to the variance request because he feels the fence would be out of character for the neighborhood. He expressed appreciation to the applicant in doing her homework and coming in with an application that addresses the Board's considerations, i.e., non-obscuring fence, corner visibility and setback from sidewalk.

Moved by: Brooks
Support by: Dziurman

RESOLVED, To **approve** the variance request for 793 Island Court for relief of Chapter 83, for the following reasons:

1. The characteristics of the property for which the variance is sought make compliance with the requirements more difficult.
2. The variance would not have a negative impact on the property or properties in the neighborhood.

Yes: Abitheira, Brooks, Dziurman
No: Frisen
Absent: Miller

MOTION CARRIED

- D. **VARIANCE REQUEST, FRANK PAUL, 2982 ATHENA DRIVE** – This property is a double front corner lot. Per the City of Troy Zoning Ordinance, it is in the R-1E use district. As such per Chapter 83 of the City of Troy Code, it has 25 feet required front setback along both Athena Drive and Dequindre Road. The petitioner is requesting a variance to install a 6 feet high, 100 feet long obscuring wood fence 15 feet from the property line along the Dequindre Road side, where City Code limits to 30 inches obscuring high fences due to the fact that there is not a back-to-back relationship to the rear neighboring lot. *CHAPTER 83*

Mr. Huerta read the variance request narrative.

Present were applicant Frank Paul and Marvin Pauls, who spoke on behalf of the applicant.

Marvin Pauls said a fence would provide privacy and security and a quieter environment that is generated by traffic noise, litter and bus stop activity that they currently experience. Mr. Pauls said the fence would be located on the inside of the existing chain link fence and that the existing vegetation would be removed.

Following a brief discussion on the location of the fence as drawn on the sketch provided in the application, the applicant discovered the sketch is not drawn to their intent.

Mr. Huerta said the Board can act only on the variance request as initially submitted to the Building Department to start the permit process. Mr. Huerta said multiple phone calls were made to the applicant asking him to provide a sketch, and the applicant said he did not know how to design it. Mr. Huerta told the applicant to get an architect or somebody who knew how to draw.

Mr. Paul said the girl at the front desk drew the sketch and he told her the new fence would be with the old fence. He was not sure about the distance and whether it would be inside or outside.

Mr. Huerta informed the applicant that the girl at the front desk cannot draw the sketch for him. He advised the applicant to provide a sketch that he has drawn or by someone he delegates to draw the sketch.

Mr. Huerta advised the applicant if he wants the fence in a different location, he must submit a new application so the variance request can be correctly publicized. Mr. Huerta said he would waive the application fee.

Mr. Pauls requested to cancel the application before the Board's consideration today so that they can resubmit the application with a revised sketch of the proposed fence location.

Moved by: Brooks
Support by: Dziurman

RESOLVED, to **cancel** the appeal request for 2982 Athena for relief of Chapter 83 requesting a fence be set off of the house 10 feet.

Yes: All present (4)
Absent: Miller

MOTION CARRIED

4. COMMUNICATIONS – None

5. PUBLIC COMMENT

There was no one present in the audience to speak.

6. MISCELLANEOUS BUSINESS – 2022 Proposed Calendar Dates

After a brief discussion, the Board agreed to adopt the proposed 2022 calendar dates as submitted and if necessary make changes at the next meeting.

Moved by: Dziurman
Support by: Brooks

RESOLVED, To approve the Building Code Board of Appeals 2022 proposed meeting dates as presented.

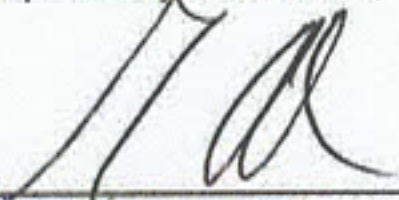
Yes: All present (4)
Absent: Miller

MOTION CARRIED

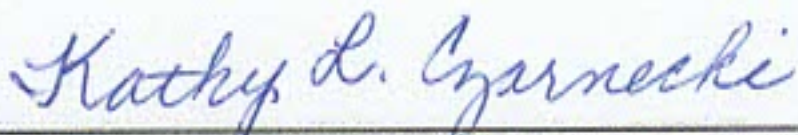
7. ADJOURNMENT

The Regular meeting of the Building Code Board of Appeals adjourned at 4:24 p.m.

Respectfully submitted,



Gary Abitheira, Chair



Kathy L. Czarnecki, Recording Secretary