

Chair Abitheira called the Regular meeting of the Building Code Board of Appeals to order at 3:01 p.m. on October 5, 2022 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 – August 10, 2022

Moved by: Brooks
Support by: Frisen

RESOLVED, To approve the minutes of the August 10, 2022, Regular meeting as submitted.

Yes: All present (4)
Absent: Miller

MOTION CARRIED

Mr. Huerta asked that the following statement be on record: *The City is regulated by the Michigan Building Codes, Section 105 Permits, Section 105.2, Work Exempt from Permits (a) (ii), which designates the City enforces building permits only when the fence is over seven (7) feet high.*

Mr. Huerta stated the appeals before the City are based only on land use permits.

3. HEARING OF CASES

A. **VARIANCE REQUEST, 5008 PRENTIS, ZHANG YI MARTIN** – This property is a double front corner lot. Since it is in the R1-C district, as such, it has a 30 feet required front setback along Prentis Drive and E. Long Lake Thoroughfare. Additionally, per the City of Troy Thoroughfare Plan at that location of E. Long Lake, it restricts to 60 feet from the center of it to the property line. The petitioner is requesting a variance to install a 6 feet high, 123 feet long, vinyl privacy fence two to four feet away from the

property line where the City Code limits fences to 30 inches high due to the fact that there isn't a back-to-back relationship to the neighboring lot.

CHAPTER 83 FENCE CODE

Mr. Huerta read the variance request narrative. He reported the department received no written responses to the published notice.

The applicant Zhang Yi Martin said the fence would provide privacy and safety and reduce traffic noise from Long Lake. She believes a fence would improve her property value. Ms. Martin submitted two photographs of neighboring fences.

A gentleman accompanying Ms. Martin (who did not sign in or identify himself) said there is no privacy sitting outside on the deck. He said they talked to neighbors about the fence and the neighbors expressed no objections.

There was discussion on:

- Information and pictures submitted with request.
- Aerial views of homes along Long Lake with existing fences.
 - Appeared not to have same relationship as subject property with adjacent properties.
 - Appeared to be consistent in providing 10 feet setback.
- Consideration of alternative options; landscaping up to property line, landscaping with lower fence height.
- 10 feet setback might require petitioner to cut down two large trees.
- Consideration of different dimensional setback.

PUBLIC HEARING OPENED

There was no one present who wished to speak.

PUBLIC HEARING CLOSED

Chair Abitheira advised the applicant she has the option to postpone action on the request until a full Board is present. Ms. Martin said she would like to go forward with the request today.

Discussed with the applicant:

- Various dimensional setbacks.
- If request denied, applicant could re-submit application requesting different dimensional setback.

Moved by: Dziurman
Support by: Abitheira

RESOLVED, That the variance request for 5008 Prentis be **denied** as proposed in their request, for the following reason:

1. The variance would adversely affect properties in the immediate vicinity of the subject property.

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

MOTION CARRIED

The Board encouraged the applicant to come back requesting a different dimensional setback and to show in their application the location of trees and how the different proposed dimensional setback might save the trees.

Mr. Huerta said he would waive the application fee.

- B. **VARIANCE REQUEST, 2003 STRATFORD, JOLIE PELTIER** – This property is a double front corner lot. Since it is in the R1-E district, as such, it has 25 feet required front setback along Stratford Drive and Northampton. The petitioner is requesting a variance to install a 6 feet high, 89 feet long wood privacy fence one foot away from the property line where City Code limits to a 48 inches high unobscured fence due to the fact that there is the relationship to the neighboring lots across the street.
CHAPTER 83 FENCE CODE

Mr. Huerta read the variance request narrative. Mr. Huerta reported the department received no written responses to the published notice.

The applicant Jolie Peltier and Matthew Peltier were present. Ms. Peltier said a privacy fence would provide safety and security for their children and dog. She said they are concerned also for the safety of school children and pedestrians who approach their dog while in the yard. Mr. Peltier stated he cleared about 75% of existing shrubbery and landscaping since purchasing the home.

There was discussion on:

- Information and pictures submitted with request.
- Location of fence; definitive area requiring variance.
- Board members expressed concern with height of proposed fence.
- Consideration of alternative options; lower fence height, landscaping to obscure.
- Existing fence is Code compliant.
- Fence height and material, as relates to characteristics of neighborhood.

PUBLIC HEARING OPENED

There was no one present who wished to speak.

PUBLIC HEARING CLOSED

Chair Abitheira advised the applicant they have the option to postpone action on the request until a full Board is present. Ms. Peltier said they would like to go forward with the request today.

Discussed with the applicant:

- o Various dimensional setbacks.
- o If request denied, applicant could re-submit application requesting different dimensional setback.

Moved by: Frisen
 Support by: Dziurman

RESOLVED, That the variance request for 2003 Stratford be **denied** as proposed, for the following reason:

1. The variance request would adversely affect the intent of Chapter 83 Fence Code and neighboring properties.

Yes: All present (4)
 Absent: Miller

MOTION CARRIED

The Board encouraged the applicant to consider alternative options for screening or come back requesting a different dimensional setback.

Mr. Huerta said he would waive the application fee.

- C. **VARIANCE REQUEST, 6580 LIVERNOIS, DANIEL & KELLY XU** – This property is a double front corner lot. Since it is in the R1-B district, as such, it has 40 feet required front setback along Livernois Road and Lesdale. The petitioner is requesting a variance to install a 6-foot high, 113 feet out of 219 feet long wire fence, one foot away from the property line where City Code limits to a 30 inch high fence due to the fact that there isn't a back-to-back relationship to the neighboring lot.

CHAPTER 83 FENCE CODE

Mr. Huerta read the variance request narrative. He reported the department received one written response to the published notice, a copy of which was placed before the Board prior to the beginning of today's meeting. Mr. Huerta addressed the non-conformance of the subject property as relates to a portion of the house is outside of the required setback.

Chair Abitheira read the written response to the published notice. The correspondence expressed objection to the proposed metal fence material. *(Note: published notice defined fence material as wire.)*

The applicant Daniel Xu said a fence would provide privacy and security for his family and two active dogs. He expressed a desire to maximize as much as possible the size of his yard. Mr. Xu said his variance request is for a 6 foot high fence but their preference is a 5 foot high fence. He stated a 4 foot high fence would not prevent his dogs from jumping over the fence.

There was discussion on:

- Information and pictures submitted with request.
- Location of fence; definitive area requiring variance.
- 30 inch high fence is allowed, obscuring or non-obscuring.
- Relationship of utility easement to subject property.
- Review by DPW of easement; practicality of removing fences, if necessary.
- Lot size as relates to septic or City sewer system.
- Published notice posted fence material as “wire”, not metal.
- Fence height and material, as relates to characteristics of neighborhood.

PUBLIC HEARING OPENED

There was no one present who wished to speak.

PUBLIC HEARING CLOSED

Moved by: Dziurman
Support by: Frisen

RESOLVED, That the variance request for 6580 Livernois be **denied** as proposed, for the following reason:

1. The applicant has not demonstrated that exceptional characteristics of the property for which the variance is sought make compliance with the requirements of this Chapter substantially more difficult than would be the case for the great majority of properties in the same zoning district.

Yes: All present (4)
Absent: Miller

MOTION CARRIED

Mr. Xu said he would consider alternative screening options or come back requesting a different dimensional setback.

Mr. Huerta said he would waive the application fee.

4. COMMUNICATIONS – None

None.

5. PUBLIC COMMENT

There was no one present who wished to speak.

6. MISCELLANEOUS BUSINESS

There were general comments, some relating to:

- Agenda items for November meeting.
- Meeting dates for calendar year 2023.

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