

Chair Abitheira called the Regular meeting of the Building Code Board of Appeals to order at 3:02 p.m. on September 4, 2024 in the Council Chamber of Troy City Hall.

1. ROLL CALL

Members Present

- Gary Abitheira
- Teresa Brooks
- Matthew Dziurman
- Robert J. Bruner, Acting City Manager

Members Absent

- Sande Frisen

Support Staff Present

- Tom Caporuscio, Deputy Building Official Plans Examiner
- Kathy L. Czarnecki, Recording Secretary

2. APPROVAL OF MINUTES – November 1, 2023

- Moved by: Brooks
- Support by: Abitheira

**RESOLVED**, To approve the minutes of the November 1, 2023 Regular meeting as submitted.

- Yes: All present (4)
- Absent: Frisen

**MOTION CARRIED**

3. HEARING OF CASES

A. VARIANCE REQUEST, 724 TRINWAY, GORDIE MISKELLY, KIMBERLY FENCE –

This property is a single front lot. Per the City of Troy Zoning Ordinance, it is in the R1-C use district, as such it has 30 feet required front setback. The petitioner is requesting a variance for a new aluminum fence of 48 inches/ 4 feet high for a length that totals 128 feet of 70% non-obscuring aluminum fence, the 128 feet includes a double gate that totals 12 feet. All to be installed one foot from the property line along the front of Trinway Road, where the City Code limits to 30 inches/ 2.5 feet high non-obscuring fences. *CHAPTER 83 FENCE CODE*

Mr. Caporuscio read the variance request narrative. He said the fence permit application was denied because the City Code limits the fence height to 30 inches. Mr. Caporuscio said the Department of Public Works has no objections to the request.

Present were Gordie Miskelly of Kimberly Fence and property owner James Andrzejewski.

Mr. Miskelly said Kimberly Fence installed a 48 inch high fence last summer at 700 Trinway, for which a fence permit was issued with no variance required.

Mr. Caporuscio said a former employee of the City issued a fence permit at 700 Trinway in error. He said the proposed height of the fence at 724 Trinway does not meet City Code, therefore he denied the application.

Mr. Andrzejewski said the existing 48 inch high fence is 40-plus years old and in disrepair. He would like to replace it with a black aluminum fence of the same height to provide security and protection for his two small children. He addressed unsafe traffic along Trinway due to vehicular speeding beyond the set limits.

Mr. Andrzejewski distributed to Board members a written communication signed by six neighboring residents indicating no objection to the proposed fence. He said two of the neighbors are present today in the audience.

There was discussion on:

- Information and pictures submitted with request.
- Aerial views of existing fence in disrepair.
- Length of fence to be replaced.
- Height and material of fence replaced at 700 Trinway.
- No record of a permit issued for existing fence at 724 Trinway.
- Proposed fence as relates to the required setback and right of way.

#### PUBLIC HEARING OPENED

Rex Brown, 717 Trinway; spoke in support of the proposed fence. He cited five homes in the immediate area with existing four foot high fences in the front yard, addressed traffic studies conducted several years ago by the Police Department that verify speeding traffic and installation of a four foot high fence at his home to protect his children at a young age.

Liz Waatti, 701 Trinway; spoke in support of the proposed fence. She addressed concerns with safety because of speeding traffic, replacement of her existing four foot high fence in the very near future.

#### PUBLIC HEARING CLOSED

Chair Abitheira advised the applicant that he could request a postponement of the variance request until there is a full Board present.

Mr. Andrzejewski said he would like to proceed with the request.

There was a brief discussion on:

- Zoning Ordinance and City Codes established by administration.
- Enforcement of the Zoning Ordinance and City Codes.
- Chapter 83 Fence Code last reviewed July 8, 1996.

Moved by: Dziurman

Support by: Bruner

**RESOLVED**, To **approve** the variance for 724 Trinway as the applicant applied for per Chapter 83, for the following reasons:

1. The variance would not be contrary to the public interest or general purpose.
2. The variance does not adversely affect properties in the immediate vicinity of the proposed fence.
3. The petitioner has provided a practical difficulty resulting from the unusual characteristics of the property that precludes reasonable use of the property.

Yes: All present (4)

Absent: Frisen

**MOTION CARRIED**

4. COMMUNICATIONS

None.

5. PUBLIC COMMENT

There was no one present who wished to speak.

6. MISCELLANEOUS BUSINESS

Considering the few meetings conducted this year, the Board asked the administration to provide the proposed 2025 meeting schedule for their review and approval via email communication.

7. ADJOURNMENT

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

Respectfully submitted,



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Gary Abitheira, Chair



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Kathy L. Czarnecki, Recording Secretary

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