

Chair Abitheira called the Regular meeting of the Building Code Board of Appeals to order at 3:02 p.m. on October 2, 2024 in the Council Chamber of Troy City Hall.

1. ROLL CALL

Members Present

- Gary Abitheira
- Teresa Brooks
- Matthew Dziurman
- Sande Frisen
- Frank Nastasi, City Manager

Support Staff Present

- Salim Huerta, Building Official
- Kathy L. Czarnecki, Recording Secretary

2. APPROVAL OF MINUTES – September 4, 2024

- Moved by: Brooks
- Support by: Nastasi

RESOLVED, To approve the minutes of the September 4, 2024 Regular meeting as submitted.

Yes: All present (5)

MOTION CARRIED

3. HEARING OF CASES

A. **VARIANCE REQUEST, 5281 BERWYCK DRIVE, JAIN, MAISH KUMAR AND MINAKSHI** – This property is a double front lot. Per the City of Troy Zoning Ordinance, it is in the R1-B use district, as such it has 40 feet required front setback at both fronts, Hampshire and Livernois. The petitioner is requesting a variance for a new clay vinyl privacy fence 6 feet high for a length that totals 180.5 feet of obscuring vinyl fence, the 180.5 feet include a single gate of 5 feet. All to be installed away from the 10 and 15 foot easements on BERWYCK and LIVERNOIS. Where the City of Troy Code limits to 30 inches / 2.5 feet high non-obscuring fences since there is no common rear yard relationship (2.A). *CHAPTER 83 FENCE CODE*

Mr. Huerta read the variance request narrative. He addressed the unique case of the subject property as a three-sided lot. Mr. Huerta said the Zoning Ordinance does not define a three-sided lot. He said he and the Zoning and Compliance Specialist determined to classify the property as a double frontage. Mr. Salim asked the Board members to consider the unique case in their decision-making.

Mr. Huerta introduced a recent communication depicting a clearer plot plan of the subject project. He addressed specific setbacks in relation to the sidewalk and streets.

Manish Jain said he and his family have lived at 5281 Berwyck for 2.5 years and a fence would provide privacy and safety for his family. Mr. Jain addressed neighboring properties with existing fences similar to the fence he is requesting. He shared a picture of the property and fence at 5317 Berwyck.

There was discussion on:

- Information and pictures submitted with the request.
- Required setbacks from the sidewalk and streets.
- Neighboring properties with similar fences as proposed by applicant.
- Existing fences in relation to the subject property, specifically 5263 Berwyck (Lot 303).
- Existing vegetation in relation to the proposed fence.
- Proposed fence in relation to existing easements.

PUBLIC HEARING OPENED

There was no one present who wished to speak.

PUBLIC HEARING CLOSED

Board members discussed the uniqueness of the subject property and proposed setbacks.

Moved by: Frisen
Support by: Dziurman

RESOLVED, To **approve** the variance as requested, for the following reasons:

1. The essential characteristics of the property are difficult.
2. The request is not of a personal nature.
3. The hardship was not created by the property owner.
4. The variance does not seem to be harmful to the essential characteristics of the neighborhood.

Yes: All present (5)

MOTION CARRIED

4. **COMMUNICATIONS**

None.

5. PUBLIC COMMENT

There was no one present who wished to speak.

6. MISCELLANEOUS BUSINESS

There was discussion on the proposed meeting dates for the year 2025.

Moved by: Frisen
Support by: Dziurman

To **approve** the 2025 Building Code Board of Appeals meeting dates as proposed with the following two changes:

- Change July 2 to July 9
- Change August 6 to August 13

Yes: All present (5)

MOTION CARRIED

7. ADJOURNMENT

The Regular meeting of the Building Code Board of Appeals adjourned at 3:42 p.m.

Respectfully submitted,



Gary Abitheira, Chair



Kathy L. Czarnecki, Recording Secretary