

Chair Abitheira called the Regular meeting of the Building Code Board of Appeals to order at 3:00 p.m. on July 9, 2025 in the Council Chamber of Troy City Hall.

1. ROLL CALL

Present

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

Also Present

Salim Huerta, Building Official  
Dominic Abate, Residential Plans Examiner/Building Inspector  
Kathy L. Czarnecki, Recording Secretary

2. APPROVAL OF MINUTES – June 4, 2025

Moved by: Dziurman  
Support by: Brooks

**RESOLVED**, To approve the minutes of June 4, 2025 Regular meeting as submitted.

Yes: All present (5)

**MOTION CARRIED**

3. HEARING OF CASES

Mr. Huerta addressed the role of the Board. He said decisions on cases should be based only on the information as submitted by the applicant and Board members should not become involved with the design or different options of each case.

- A. VARIANCE REQUEST, 505 LEETONIA, ERIN DZEROOGIAN – This property consists of a corner lot. According to the City of Troy Zoning Ordinance, it qualifies as a corner lot with front lot lines along both Leetonia and Tallman. The property is located within the R-1C zoning district which requires a front yard setback of 30 feet, along both Leetonia and Tallman, where the Zoning Ordinance limits fence height to 30 inches (2.5 feet). The petitioner is seeking a fence height variance for the installation of a 6 feet high, vinyl, **replacement**, privacy fence. This fence is proposed to match the existing wood privacy fence 6 feet height and location of 12 feet away from the Tallman property line. The fence is proposed to run 81 feet along Tallman and return 18 feet, along the rear property line adjacent to the side yard of 4307 Tallman and return another 18 feet to the southeast corner of the house for a total variance length of 6 feet high vinyl privacy fence of 117 feet in the Tallman designated front yard. Of the total 276 feet of fence requested, 159 feet of the fence complies with zoning regulations and does not require a variance. *CHAPTER 83 FENCE CODE*

Mr. Abate read the variance request narrative. He noted the applicant requested to postpone the item at the June 4, 2025 meeting to allow consideration by a full Board. Mr. Abate reported there was no public comment received by the department from the public notice. He addressed previous permits pulled for the fence and pool and noted no variances were sought on the property.

Erin Dzeroogian said the 25-year old fence was repaired often. She said they would like to replace the existing wood fence with a vinyl fence at the same location and at the same height.

Chair Abitheira opened the Public Hearing. Acknowledging there was no one present who wished to speak, Chair Abitheira closed the Public Hearing.

There was discussion on the information and pictures submitted with the request. The Board concluded there were no issues or concerns with granting the applicant's request for a replacement fence.

Moved by: Frisen  
Support by: Dziurman

**RESOLVED**, To **grant** a variance for 505 Leetonia, for the following reasons:

1. Exceptional characteristics of the property make compliance with the requirements of this Chapter substantially more difficult.
2. The characteristics which make compliance with the requirements of this Chapter are not of a personal nature.
3. The variance will not be harmful or alter the essential character of the area or further worsen the existing condition.

Yes: All present (5)

#### **MOTION CARRIED**

- B. VARIANCE REQUEST, 5015 FALMOUTH, BRANDON YASSO - This property consists of a corner lot. According to the City of Troy Zoning Ordinance, it qualifies as a corner lot with front lot lines along both Falmouth and E. Long Lake. The property is located within the R-1B zoning district which requires a front yard setback of 40 feet, along both Falmouth and E. Long Lake, where the zoning ordinance limits fence height to 30 inches (2.5 feet). The petitioner is seeking a fence height variance for the installation of a 6 feet high, vinyl, privacy fence. The fence is proposed to run 70 feet along E. Long Lake and return 35 feet, along the rear property line adjacent to the side yard of the Walnut Grove Estates open space preservation area and return another 35 feet to the southwest corner of the house for a total variance length of 6 feet high vinyl privacy fence of 140 feet in the E. Long Lake designated front yard. Of the total 242 feet of fence requested, 102 feet of the fence complies with zoning regulations and does not require a variance. *CHAPTER 83 FENCE CODE*

Mr. Abate read the variance request narrative. He said the department received no public comment from the public notice. Mr. Abate confirmed there is no existing fence on the property.

Brandon Yasso addressed vehicular and foot traffic in the area. He said a 6 foot fence would provide a safe environment for their young children to play in the backyard. Mr. Yasso circulated a handwritten letter from neighboring residents, Deiter and Carol Profit of 300 E Long Lake, expressing support of the variance request. The letter is attached and hereof made a part of the record.

There was discussion on:

- Information and pictures submitted with the request.
- Existing landscaping/bushes along E Long Lake will remain.
- Location of fence as relates to existing landscaping/bushes.
- Proposed 5 foot setback from the property line.
- Relationship of fence with existing fences along E Long Lake, specifically 5048 and 5054 E Long Lake.
- Department of Public Works (DPW) reviewed and approved the request as it relates to an existing easement on site.

#### PUBLIC HEARING OPENED

- Bonnie Ferguson, 5033 Falmouth; expressed support for the variance request and fence.

#### PUBLIC HEARING CLOSED

Moved by: Frisen  
Support by: Dziurman

**RESOLVED**, To **grant** a variance for 5015 Falmouth, for the following reasons:

1. Exceptional characteristics of the property make compliance with the requirements of this Chapter substantially more difficult.
2. The characteristics which make compliance with the requirements of this Chapter are not of a personal nature.
3. The variance will not be harmful or alter the essential character of the area.

Yes: All present (5)

**MOTION CARRIED**

- C. VARIANCE REQUEST, 2109 JOANNE, NATHAN MARTIN –This property consists of a corner lot. According to the City of Troy Zoning Ordinance, it qualifies as a corner lot with front lot lines along both Joanne and Ledge. The property is located within the R-1B zoning district which requires a front yard setback of 40 feet, along both Joanne and Ledge, where the zoning ordinance limits fence height to 30 inches (2.5 feet). The petitioner is seeking a fence height variance for the installation of a 4 feet high, non-obscuring aluminum fence. The fence is proposed to run 66 feet along Ledge and return approximately 29.5 feet, along the rear property line adjacent to the side yard of 3815 Ledge and return another 27.5 feet to the southeast corner of the house for a total variance length of 4 feet high, non-obscuring aluminum fence of 123 feet in the Ledge designated front yard. Of the total 233 feet of fence requested, 110 feet of the fence complies with zoning regulations and does not require a variance. *CHAPTER 83 FENCE CODE*

Mr. Abate read the variance request narrative. He said the department received no public comment from the public notice. Mr. Abate addressed the administration's notation of a 12 feet maximum setback in relationship to the road curvature of Ledge (designated in yellow on page 56 of the agenda packet).

Nathan Martin said the fence would provide security and privacy for their dog and future children. He said there is a high volume of vehicular and foot traffic being so close to Coolidge.

Chair Abitheira opened the Public Hearing. Acknowledging there was no one present who wished to speak, Chair Abitheira closed the Public Hearing.

There was discussion on:

- Information and pictures submitted with the request.
- Location of the fence as relates to existing vegetation.
- Fence material and height.
- Location of fence in relationship to the road curvature of Ledge.
- Fence setback as noted by the administration of 12 feet maximum from Ledge.
- Maintenance of existing vegetation/bushes along property line shared with neighbor.

Mr. Martin said he and the fence contractor discussed angling the fence to follow the curvature of Ledge and allow a setback of 14 to 18 feet to create a greater distance from pedestrian traffic.

The Board and administration agreed the case is unique because of the road curvature of Ledge. The Board and administration discussed with the applicant a designation of a 12 feet minimum setback from the Ledge property line.

Moved by: Frisen  
Support by: Dziurman

**RESOLVED**, To **grant** a variance for 2109 Joanne as proposed, with the caveat that the fence is located at a 12 feet minimum setback along the Ledge property line, for the following reason:

1. Exceptional characteristics of the property make compliance with the requirements of this Chapter substantially more difficult.

Yes: All present (5)

### **MOTION CARRIED**

D. VARIANCE REQUEST, 510 KENYON, KIMBERLY FENCE (MARGARET LONG) –

This property consists of a corner lot. According to the City of Troy Zoning Ordinance, it qualifies as a corner as both lines separating said lot from the street shall be considered front lot lines along both facades fronting Kenyon at Jamaica. The property is located within the R-1E zoning district which requires a front yard setback of 25 feet along Kenyon, where the zoning ordinance limits fence height to 30 inches (2.5 feet) or to 48 inches of non-obscuring fence, where there is a common rear yard relationship with a lot in the same block (1401 Wacon). The petitioner is seeking a fence height variance for the installation of a wood, privacy fence exceeding the restrictions as set forth by the zoning ordinance.

Fence section A:

Proposes a 6 feet high wood privacy fence to run a total of 29 feet along Kenyon and return 24 feet, along the rear property line adjacent to the rear yard of 1401 Wacon and return another 5.5 feet to the southwest corner of the garage, for a total variance length of 6 feet high wood privacy fence of 58.5 feet in the Kenyon designated front yard.

Fence section B:

Proposes a 4 feet high wood privacy fence to run a total of 32 feet at the center section of the property, for a total variance length of 4 feet high wood privacy fence of 32 feet in the Kenyon designated front yard.

Of the total 127.5 feet of fence requested, 37 feet of the fence complies with zoning regulations and does not require a variance. *CHAPTER 83 FENCE CODE*

Mr. Abate read the variance request narrative. He said the department received no public comment from the public notice. Mr. Abate said most of the proposed fence is a replacement.

Gordon Miskelly of Kimberly Fence addressed the location, arrangement, material, height and construction of the proposed fencing. He said the existing fence is over 25 years old. Mr. Miskelly detailed the property layout of the homeowner's house, garage and driveway. He noted a massive tree stump, garden and water features on site were taken into consideration of the fence design.

Chair Abitheira opened the Public Hearing. Acknowledging there was no one present who wished to speak, Chair Abitheira closed the Public Hearing.

There was discussion on:

- Information and pictures submitted with the request.
- Uniqueness of property; size and shape of lot; orientation of house, driveway and garage.
- A variance was granted for the house addition in the rear.
- Location and dimensions of a triangular visual corner clearance area.
  - Visual corner clearance is for safety concerns; not a requirement.
- GIS display of 1963 aerial image; shows transformation of subject property.
- Accessibility of driveway and garage is preference of homeowner.
- Replacement fence is permitted to vary from original fence design.
- No fence gate is proposed.

Some Board members stated the proposed fencing would add to the aesthetics and safety of the neighborhood.

Mr. Frisen expressed a concern the Board is essentially codifying a challenging situation, and he is not in favor of formally doing so. He said he believes there is a way to resolve the situation without any action taken by the Board.

Moved by: Dziurman  
Support by: Brooks

**RESOLVED**, To **grant** a variance for 510 Kenyon as proposed, with the caveat that (1) for a safety reason, an 8x8 foot sight line at a 45 degree diagonal be added on the west side of the property where the driveway is facing the sidewalk, and (2) the fence is set back a minimum of one foot off sidewalk, for the following reason:

1. 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. Characteristics of property which shall be considered include exceptional narrowness, shallowness, smallness, irregular shape, topography, vegetation and other similar characteristics.

Discussion on the motion on the floor.

There was a brief discussion on the visual corner clearance.

Vote on the motion on the floor.

Yes: Abitheira, Brooks, Dziurman  
No: Frisen, Nastasi

**MOTION CARRIED**

4. COMMUNICATIONS

None.

5. PUBLIC COMMENT

None.

6. MISCELLANEOUS BUSINESS

None.

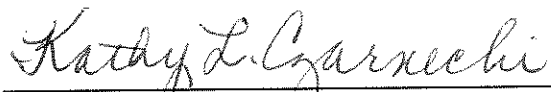
7. ADJOURNMENT

The Regular meeting of the Building Code Board of Appeals adjourned at 4:19 p.m.

Respectfully submitted,



Gary Abitheira, Chair



Kathy L. Czarnecki, Recording Secretary

[https://d.docs.live.net/2f7ed4fe5f664ea8/Documents/Kathy/COT Building Code Board of Appeals/Minutes/2025/2025 07 09 Draft.docx](https://d.docs.live.net/2f7ed4fe5f664ea8/Documents/Kathy/COT%20Building%20Code%20Board%20of%20Appeals/Minutes/2025/2025%2007%2009%20Draft.docx)