

Chair Abitheira called the virtual Regular meeting of the Building Code Board of Appeals to order at 3:00 p.m. on December 2, 2020.

1. ROLL CALL

Members Present

Gary Abitheira

Teresa Brooks

Matthew Dziurman

Sande Frisen

Mark F. Miller, City Manager

Support Staff Present

Salim Huerta, Building Official

Jackie Ferencz, Planning Department Administrative Assistant

Kathy L. Czarnecki, Recording Secretary

2. SUSPENSION OF BUILDING CODE BOARD OF APPEALS BYLAWS

Chair Abitheira introduced the procedure to be followed for a remote meeting.

Moved by: Dziurman

Support by: Brooks

RESOLVED, That the Troy Building Code Board of Appeals hereby allows all members to participate in public meetings by electronic means as allowed by Public Act 228 of 2020, since an in-person meeting could detrimentally increase exposure of board members and the general public to COVID-19, and would also be difficult to facilitate in light of the Michigan Department of Health and Human Services epidemic orders protecting public health and safety.

Members participating electronically will be considered present and in attendance at the meeting and may participate in the meeting as if physically present. However, members must avoid using email, texting, instant messaging, and other such electronic forms of communication to make a decision to deliberate toward a decision.

RESOLVED, That the Troy Building Code Board of Appeals hereby establishes public participation rules for any eligible virtual meetings to provide for two methods by which members of the public can be heard by others during meetings. Email sent to BCBAPublicComments@troymi.gov and received by 9:00 am on the day of the meeting will be read during the public comment period of the meeting. Voicemail left at 248.524.3546 and received by 9:00 am on the day of the meeting will be played during the public comment period of the meeting. Both email and voicemail public comments will be limited to three minutes each.

Yes: All present (5)

MOTION CARRIED

3. APPROVAL OF MINUTES

Moved by: Frisen
Support by: Abitheira

RESOLVED, To approve the minutes of the November 4, 2020 Regular meeting as submitted.

Yes: All present (5)

MOTION CARRIED

4. HEARING OF CASES

A. **VARIANCE REQUEST, EDDIE KRAJAWSKI, 3722 FORGE DRIVE** – This property is a double front corner lot. Since it is in the R1-C use district, as such it has a 30 feet required front setback along the Forge Drive and the Historic Drive. The petitioner is requesting a variance to install a 6-foot high, 163 feet long obscuring vinyl fence at the Historic Drive side at a distance of 23 feet from the property line and in the same location where an existing dilapidated obscuring wood fence now stands.

Mr. Huerta read the variance request narrative.

The petitioner Eddie and Kaitlin Krajawski were present. Mr. Krajawski said the existing wood fence does not enclose their entire yard. They would like to remove the existing fence and install a vinyl privacy fence along the same lines of the existing fence. Mr. Krajawski said the privacy fence would provide security and safety for their children and pets.

There was discussion on:

- Information and pictures submitted with request.
- Existing Buckeye pipeline easement.
- Installation of fence as relates to easement and existing vegetation.

Mr. Krajawski said they are aware of the existing utility easement and have been informed any excavation must be completed in a specific manner. He indicated neighboring properties within the easement have fences.

Mr. Huerta suggested any approval of the variance should be contingent upon verification of pipeline easement regulations.

Ms. Ferencz reported four public comments. Ms. Ferencz read the email messages and played the voicemail message.

- Bud Stockdale, 3728 Forge; in support. (email)
- Sandra Sarnacki, 3704 Forge; in support. (email)

- Kyle L, no address; in opposition. (email)
- No name, no address; in opposition. (voicemail)

Moved by: Frisen
 Support by: Brooks

RESOLVED, To **grant** the variance request, for the following reason:

1. The petitioner has a hardship or practical difficulty resulting from the unusual characteristics of the property.

Yes: All present (5)

MOTION CARRIED

Moved by: Miller
 Support by: Abitheira

RESOLVED, To **amend** the last Resolution to allow a condition for the Building Official to verify the Buckeye pipeline regulations and that the fence is appropriate.

Yes: All present (5)

MOTION CARRIED

- B. **VARIANCE REQUEST, ERIC GORMAN, 5350 WESTMORELAND DRIVE** – This property is on a curved lot. Since it is in the R1-C use district, as such it has a 30 feet required front setback along 5350 Westmoreland Drive front property line. The petitioner is requesting a variance to install a 6-foot high 130 feet long obscuring vinyl fence along 5350 Westmoreland Drive with a setback of one foot away from the property line, where City Code limits fences to 48 inches high due to the fact that there is a back to back relationship to the neighboring rear lot. The total length of the fence requested by the petitioner to be permitted by the Building Department is 130 feet and a 12 feet double (*single*) gate.

Mr. Huerta read the variance request narrative and noted the agenda incorrectly states a double gate; it should read single gate.

The petitioner Eric and Katina Gorman were present. Mr. Gorman said a 6-foot high fence would provide privacy and safety for their children and the use of their pool. He said the existing fence around the pool does not provide privacy due to the position of the pool deck. Mr. Gorman indicated the proposed one foot setback would match the setback of their neighbor’s fence. Mr. Gorman said they experience vehicular headlights shining into their home because of the curvature of the road, and they believe the privacy fence would also help obscure the headlights.

There was discussion on:

- Information and pictures submitted with request.
- Placement of fence in relation to tree line; preservation of tree.
- Proposed setback as relates to proximity of sidewalk.
- Curvature of street; visual clearance of vehicular traffic.
- Options for petitioner to consider; lower fence height, non-obscuring material, plant vegetation, alternate options for pool privacy.

Mr. Huerta confirmed there is no permit on record for the neighboring fence. There was discussion on setting a precedent if approval was granted to the petitioner for the proposed one foot setback.

Ms. Ferencz reported two public comments. Ms. Ferencz read the email message and played the voicemail message.

- Doug Van Noord, 5354 Greendale; in opposition. (email)
- Azar Afnan, 5227 Greendale; request clarification on variance request. (voicemail)

Ms. Ferencz indicated she returned the call to Mr. Afnan and responded to his questions. There was no further communication from the resident.

Moved by: Miller
Support by: Frisen

RESOLVED, To **postpone** the variance request to the January 6, 2021 meeting to allow the petitioner to consider alternate options.

Yes: All present (5)

MOTION CARRIED

- C. **VARIANCE REQUEST, JOANNA GAY, 4437 YANICH** – This property is a double front corner lot. Since it is in the R1-C use district, as such it has a 30 foot required front setback along both Yanich Drive and Longfellow Drive. The petitioner is requesting a variance to install a 4-foot high, 118 feet non-obscuring wood fence along Longfellow Drive with a setback of six or seven feet away from the property line, where City Code limits fences to 30 inches high due to the fact that there isn't a back to back relationship to the neighboring rear lot. The total length of the fence requested by the petitioner to be permitted by the Building Department is 250 feet, which 132 feet of the fence do not require a variance.

Mr. Huerta read the variance request narrative that was before the Board at the November 4, 2020 meeting and the variance request narrative before the Board today.

The petitioner Joanna Gay was present. Ms. Gay said they received quotes from four fence companies since the November 4, 2020 meeting in which the Board granted a variance with a 10-foot setback. She said all four companies indicated a 10-foot setback does not allow for the required footings due to the obstruction from the existing tree roots and ground stones. Ms. Gay said the companies suggested a 5-foot setback to allow tree root growth and to prohibit tree damage. Ms. Gay said they would like to install a 4-foot high, non-obscuring rod iron fence, bronze in color, as shown in a mocked-up picture included in the agenda packet.

There was discussion on:

- Information and pictures submitted with request.
- Varying setback distances in relation to existing tree.
- Preservation of existing tree; potential to angle fence around tree.
- Proposed fence material; aesthetically pleasing.

Ms. Ferencz reported two public comments. Ms. Ferencz read the email message and played the voicemail message.

- William and Gina Sipila, 654 Longfellow; in opposition. (email)
- David Sysko, 4438 Yanich; in opposition. (voicemail)

Ms. Ferencz confirmed appropriate notification of this variance request, as revised, was mailed and posted to the City website. She stated the public comment received for the November 2020 meeting was inclusive in the December agenda packet.

Mr. Huerta confirmed a 30 inch non-obscuring fence at a one foot setback would require no variance.

Moved by: Frisen
Support by: Brooks

RESOLVED, To **approve** the variance request to install a 4-foot high, non-obscuring aluminum picket fence at 5 feet off the lot line and 6 feet off the sidewalk, for the following reason:

1. The petitioner has a hardship resulting from the unusual characteristics of the property.

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

MOTION CARRIED

5. COMMUNICATIONS – None
6. PUBLIC COMMENT – None

7. MISCELLANEOUS BUSINESS – 2021 Building Code Board of Appeals Meeting Schedule

Moved by: Miller
Support by:

RESOLVED, To approve the 2021 meeting schedule as presented.

Chair Abitheira informed the Board he would not be able to attend the August 4, 2021 meeting and suggested to move the meeting to August 11.

Moved by: Miller
Support by:

RESOLVED, To approve the 2021 meeting schedule as presented with the exception of the August 4, 2021 date and moving it to August 11, 2021.

Discussion continued on meeting dates with respect to City Council meeting dates and personal vacation plans.

Mr. Miller withdrew both motions from the floor.

Moved by: Abitheira
Support by: Dziurman

RESOLVED, To **approve** the 2021 meeting calendar as presented with the exception of August 4, 2021 and scheduling the meeting on August 11, 2021.

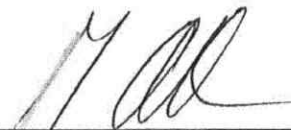
Yes: All present (5)

MOTION CARRIED

8. ADJOURNMENT

The virtual Regular meeting of the Building Code Board of Appeals adjourned at 4:53 p.m.

Respectfully submitted,



Gary Abitheira, Chair



Kathy L. Czarnecki, Recording Secretary