

Chair Abitheira called the virtual Regular meeting of the Building Code Board of Appeals to order at 3:00 p.m. on January 6, 2021.

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

Chair Abitheira requested to add Agenda item “Election of Officers” under Miscellaneous Business.

Moved by: Frisen
Support by: Brooks

RESOLVED, To add “Election of Officers” to the agenda under Miscellaneous Business.

Yes: All present (5)

MOTION CARRIED

2. SUSPENSION OF BUILDING CODE BOARD OF APPEALS BYLAWS

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

Moved by: Abitheira
Support by: Miller

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 254 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 or to deliberate toward a decision.

RESOLVED, That the Troy Building Code Board of Appeals hereby establishes public participation rules for any eligible virtual meeting 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. The previous Board Resolutions will be amended to the referenced Public Act 254 of 2020 which allows virtual meetings to continue until March 31, 2021.

Yes: All present (5)

MOTION CARRIED

3. APPROVAL OF MINUTES

Moved by: Dziurman
Support by: Miller

RESOLVED, To approve the minutes of the December 2, 2020 Regular meeting as submitted.

Yes: All present (5)

MOTION CARRIED

4. HEARING OF CASES

A. **VARIANCE REQUEST, ERIC GORMAN, 5350 WESTMORELAND DRIVE - The applicant seeks to construct a 130-foot long, 72-inch high obscuring fence within the 30 feet required front yard setback when the maximum height limit is 48 inches.** – This property is on a curved lot. Since it is in the R1-C use district, 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 feet high 130 feet long obscuring vinyl fence along 5350 Westmoreland Drive with a setback of one foot * away from the property line, where the 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 single gate. * New proposed setback request of 6 feet to be discussed at the January 6, 2021 Building Code Board of Appeals meeting.

Mr. Huerta read a brief narrative version of the variance request that was postponed from the December 2, 2020 meeting.

The petitioner Eric and Katina Gorman were present. Ms. Gorman said after a reevaluation of the placement of the fence, they are requesting a 6 foot setback that would allow the fence to be installed behind the existing tree line. They are proposing to install a 6 foot white vinyl privacy fence along the existing fence line. The Gorman’s said a privacy fence would offer privacy and security, especially for the use of their pool, and alleviate the shining of headlights into their house from vehicular traffic.

There was discussion on:

- Updated information and pictures with intent to accommodate Board’s comments from the December2, 2020 meeting relating to fence height, proposed setback and visibility.
- Unique layout of property; curvature of road and property line, side yard basically front yard.
- Nuisance of vehicular headlights.
- Existing pool; in compliance, existing fence around pool will remain.
- Neighboring fence; setback grandfathered in.
- Consideration of lowering fence height and varying setbacks.
- Visibility of driveway; safety of pedestrian traffic.

Members Frisen and Dziurman expressed concern with the height of the fence and obscuring effect in the neighborhood, noting a precedence could be set if a variance is approved.

Ms. Ferencz confirmed there was no additional public comment and one letter of opposition reported at the December 2, 2020 meeting.

After the applicant was granted time to privately discuss various options, Ms. Gorman asked the Board’s consideration to install a 4 foot obscuring fence with a 6 foot setback.

Moved by: Dziurman
Support by: Brooks

RESOLVED, To grant a variance to install a 4 foot high obscuring fence with a 6 foot setback from the property line at the sidewalk, for the following reasons:

1. The variance would not be contrary to the public interest or general purpose and intent of Chapter 83;
2. The petitioner has a hardship or practical difficulty resulting from the unusual characteristics of the property that precludes reasonable use of the property.

Yes: All present (5)

MOTION CARRIED

- B. **VARIANCE REQUEST, GREGORY ZAGORSKI, 982 BROOKLAWN - The applicant seeks to construct a 63-foot long, 72-inch high obscuring fence within the required front yard setback of 25 feet when the maximum height limit is 30 inches.** – This property is a double front corner lot. Since it is in the R1-E use district, as such it has 25 feet required front setback along both Wrenwood Drive and Brooklawn Drive. The petitioner is requesting a variance to install a 6-foot high 144 feet obscuring Vinyl fence. Setback 3 feet from the property line along the Wrenwood Drive side where City Code limits to 30 inches high fences due to the fact that there isn't a back to back relationship to the rear neighboring lot. This is a non-conforming structure/lot so the fence shall not increase the non-conformity, per Chapter 39, Article 14, of the City of Troy Zoning Ordinance. The total length of the fence requested by the petitioner to be permitted by the Building Department is 144 feet, which 81 feet of the fence do not require a variance.

Mr. Huerta read the variance request narrative.

The petitioner Gregory Zagorski was present. Mr. Zagorski said they just recently purchased the home. He said a 6 foot high fence would provide privacy and the best use of their back yard. He said they reached out to immediate neighbors and at that time there were no objections expressed about the variance request. Mr. Zagorski stated they would be amenable to considerations of the Board and concerns of neighbors.

There was discussion on:

- Information and pictures submitted with request.
- Setback of house from lot line.
- Lot size in relation to standard corner lot sizes.
- Confirmation fence install does not increase non-conformity of lot/structure.
- Existing fence; in relation to Code, grandfathered in.
- Consideration to angling portion of rear yard at 45 degree angle to allow pedestrian and vehicular visibility.
- Resident concerns with existing fence gates and ownership of fences (1216 Wrenwood and 974 Brooklawn).
- Applicant encouraged to survey property; Building Code requirement.

Mr. Miller said the City converted the originally plotted Lot 16 into a right-of-way, resulting in the non-conformity of Lots 15 and 17.

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

- James and Kirstie Lowe, 931 Brooklawn; in support (email)
- Debra Christy, 974 Brooklawn; in opposition (email)
- Marian Dwight, 999 Brooklawn; in opposition (voicemail)

Mr. Huerta shared he had phone conversations with residents at 974 Brooklawn and 1216 Wrenwood to address concerns.

Members Frisen and Dziurman expressed concern with the height of the fence.

Moved by: Abitheira
Support by: Brooks

RESOLVED, That the variance request for Gregory Zagorski at 982 Brooklawn be approved to install a 6-foot high obscuring fence in a straight line with the house to the rear of the property, for the following reason:

- 1. The petitioner has a hardship or practical difficulty resulting from the unusual characteristics of the property that precludes reasonable use of the property.

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

MOTION CARRIED

- C. **VARIANCE REQUEST, LEANN BLANKENSHIP, 5970 SUSSEX DRIVE - The applicant seeks to construct a 126-foot long, 60-inch high chain link non-obscuring fence and 103 feet, 72 inch high wood obscuring fence within the required 40 feet front yard setback when the maximum height limit is 30 inches.** – This property is a double front corner lot. Since it is in the R1-A use district, as such it has a 40 feet required front setback along the Sussex Drive and the Arlund Way. The petitioner is requesting a variance to install a 6-feet high, 103 feet long obscuring wood fence parallel with Sussex Drive and aligned with the front house elevation. The wood fence will encroach into the Arlund Way set back by 39 feet, since it will be at a distance of 1 foot from the property line. The petitioner is requesting in the variance to install a 5 feet high 253 feet long residential black vinyl chain-link, of these 253 feet long fence 87 feet will encroach into Arlund Way and it will be at a distance of 1 foot from the Arlund Way side property line and 39 feet will encroach into Arlund Way in a perpendicular way from the property line. Out of the 253 residential black vinyl chain-link fence only 126 feet requires a variance. The City Code limits to 30 inches high fences due to the fact that there isn't a back to back relationship to the rear neighboring lot.

Mr. Huerta read the variance request narrative.

The petitioner Leann Blankenship was not present.

Moved by: Dziurman
Support by: Miller

RESOLVED, Due to the absence of the applicant, to postpone the variance request until the next Building Code Board Appeals meeting is scheduled in the future.

Yes: All present (5)

MOTION CARRIED

- 5. COMMUNICATIONS – None
- 6. PUBLIC COMMENT – None
- 7. MISCELLANEOUS BUSINESS – Election of Officers

It was noted the Chair is the only officer position to be filled.

Moved by: Frisen
Support by: Brooks

RESOLVED, To nominate Gary Abitheira for the office of Chair.

Yes: All present (5)

MOTION CARRIED

- 8. ADJOURNMENT

The virtual Regular meeting of the Building Code Board of Appeals adjourned at 4:38 p.m.

Respectfully submitted,

Gary Abitheira, Chair

Kathy L. Czarnecki, Recording Secretary