

Chair Abitheira called the Regular meeting of the Building Code Board of Appeals to order at 3:01 p.m. on May 4, 2022 in the Council Chamber of Troy City Hall.

1. ROLL CALL

Members Present

Gary Abitheira

Teresa Brooks

Matthew Dziurman

Sande Frisen

Members Absent

Mark F. Miller, City Manager

Support Staff Present

Paul Evans, Zoning and Compliance Specialist

Kathy L. Czarnecki, Recording Secretary

2. APPROVAL OF MINUTES – February 2, 2022

Mr. Frisen asked that the draft minutes reflect a correction to a typographical error on page 4, specifically to designate the maker and support of the motion for a variance request at 1432 Wattles.

Moved by: Brooks

Support by: Frisen

RESOLVED, To approve the minutes of the February 2, 2022, Regular meeting with the correction on page 4.

Yes: All present (4)

Absent: Miller

MOTION CARRIED

3. HEARING OF CASE

A. **VARIANCE REQUEST, VIKAS SHEORAN, 3040 ALBANY COURT** – This property is in the R1-E District. Per the City of Troy Zoning Ordinance and from the City of Troy Codes Chapter 83-Fences-2. Fence Construction in Residential Areas: item (A) it indicates that no fence shall be constructed to a height more than six (6) feet above the existing grade of the land. The petitioner is requesting a variance to install a 9-foot high, 41 feet long obscuring fence along the back property lot line starting at the north corner towards the south lot corner. *CHAPTER 83*

Mr. Evans briefly reviewed the variance request. He noted the request was presented to the Board at their November 3, 2021 meeting, at which time the Board postponed the item to allow the applicant to file a complaint with the Oakland County

Health Department with an expectation that the Health Department might be able to resolve the issue.

Mr. Sheoran referenced the Health Department report on an inspection conducted on January 20, 2022 at the Golden Gate Plaza retail center. The Health Department report indicated the dumpsters were not full, the dumpster lids were closed and there was no garbage around the dumpsters. Mr. Sheoran said the Health Department report is inaccurate as evidenced by the photographs submitted to the City of the dumpsters overflowing with garbage and trash. He indicated the photographs were taken from January through April of this year. Mr. Sheoran addressed the distance from his backyard deck to the dumpsters and said the smell of garbage is unbearable. Mr. Sheoran said the issue has been going on for over six years and the concern has been addressed with the City for the same length of time. Mr. Sheoran said his backyard deck has been unusable for any gatherings for the last six or seven years.

There was discussion on:

- Information and pictures submitted with request.
- Difference in grade elevations between applicant's home and retail center.
- Distance from applicant's home/deck to masonry wall.
- City Code as relates to fences in non-residential districts; *"Such walls shall not be less than six (6') feet in height and may, depending upon land use, be required to be eight (8') feet in height."*
- Zoning Ordinance, Article 13, Site Design Standards, as relates to required screening for retail/entertainment uses.
- Six-foot high masonry wall as relates to height of dumpster enclosures.
- Alternative to provide landscaping, vegetation, arborvitaes, mature trees to obscure visual of dumpsters.
- Acknowledgement/empathy toward applicant's concern and active pursuit of resolution.
- Variance requests previously considered by the Board for fences higher than 6-feet tall. Board actions determined on case-by-case basis.
- Material and color of fence; wood, ornamental, white in color.
- Location, extent of fence along property lot line and in relation to existing masonry wall.
- Concerns expressed by Board members that fence will not mitigate smell and resolve matter.
- No communications or comments received from neighboring properties.

Chair Abitheira asked the applicant if he would like to postpone the request until a full Board is present.

After stepping away from the podium to discuss option to request a postponement, Mr. Sheoran approached the podium and asked the Board to go forward with a vote at this time for installation of an eight (8) feet high fence.

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

Moved by: Abitheira
Support by: Frisen

RESOLVED, That a fence at 3040 Albany Court be **granted** at eight (8) feet tall from the existing asphalt on the commercial building, 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 a hardship or practical difficulty resulting from the unusual characteristics of the property that precludes reasonable use of the property.

Discussion on the motion on the floor.

There was discussion on the procedure to follow should there be a tie vote.

Vote on the motion on the floor.

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

MOTION FAILED

4. COMMUNICATIONS – None

None.

5. PUBLIC COMMENT

There was no one present who wished to speak.

6. MISCELLANEOUS BUSINESS

There was discussion on changing meeting dates for the months of July and August.

Moved by: Dziurman
Support by: Frisen

RESOLVED, That the Building Code Board of Appeals reschedule the meeting date currently set for July 6, 2022 to be changed to July 13, 2022 at 3:00 p.m. and reschedule the meeting date currently set for August 3, 2022 be changed to August 10, 2022 at 3:00 p.m.

Yes: All present (4)
Absent: Miller

MOTION CARRIED

7. ADJOURNMENT

The Regular meeting of the Building Code Board of Appeals adjourned at 3:53 p.m.

Respectfully submitted,



Gary Abitheira, Chair



Kathy L. Czarnecki, Recording Secretary