



Board of Adjustments Minutes

July 15, 2021 at 5:00 p.m.

Hybrid Meeting

Present

In person: Robert Trompke (Chair), Michael Clary (Vice-Chair), Jason Johnson, Charles Steinberg, Cathy Sawruk & Tom Sims Jr.; Director of Building, George Wiggins & Recording Clerk, Theresa Dunkle. Absent: Ann Higbie

Call to Order

Robert Trompke explained the rules of procedure for variance cases and opened the floor for any disclosures, public comments or questions.

Consent Agenda

Motion made by Cathy Sawruk to approve the June 15, 2021 minutes. Tom Sims Jr. seconded the motion. The minutes received approval by a vote of 6-0.

Staff Updates

No action items brought forward.

Citizen Comments

No public comments or questions.

Action Items

No action items brought forward.

Public Hearings

- 1. Request of Emily & Samuel Hillman for a variance to allow the construction of a 6' foot high PVC fence located on the Arjay Way property line, in lieu of the required setback of 20 feet, or in lieu of an allowed 5 feet high fence located 10 feet from the property line.**

Located at 1881 Blue Ridge Road, Zoned: R-1AA

George Wiggins, Director of Building, gave the following summary:

The request was tabled from the June 15, 2021 meeting. This corner lot fence height variance request has similarities to two recent other wall height variance requests at 240 and 241 East Rockwood Way which were granted at the February and April Board of Adjustments meetings respectively; except, in this case, the applicants are requesting to construct a PVC fence and not a wall.

The minutes of those two cases are as follows:

February 2021 Meeting Minutes for 240 E Rockwood Way

Request of Matthew Anderson on behalf of Benjamin & Christina Lalikos, for a variance to allow the construction of a 5 feet high wall setback 5 feet from the east street-side lot line, in lieu of the minimum setback of 10 feet.

Located at: 240 E Rockwood Way, Zoned: R-1AA

George Wiggins, Director of Building, gave the following summary:

The applicants are preparing to build a new home on this property and have stated that the extra wide right of way (60') along Winter Park Road should be taken into consideration to allow a wall setback of only 5 feet due to this condition. An existing 4 to 5 foot high dense hedge also exists along the east side lot line next to the sidewalk acting as a visual buffer.

Our city arborist has noted that an oak tree or other trees are located in the rear of the property at or near the 5' setback from the street side lot line. If the Board is inclined to grant the request then I recommend that it be designed to jog around the tree(s) at a sufficient distance into the property with additional setback to prevent harming the health of the tree(s) as determined by our arborist prior to construction of the wall.

We received a letter with seven signatures of approval from nearby neighbors regarding this request.

Mr. Wiggins noted that if approved the oak tree requires protection due to the proposed proximity of the wall near the tree.

The owner, Benjamin Lalikos said the existing hedges would remain. Should they die, they will be replaced.

The Board discussed the hardship noting the lot is on a busy road and is a corner lot with an extra large right of way. Tom Sims commented that the neighbor is following the setback and height rules. Michael Clary pointed out that the 6 foot Quail Hollow wall across the street is located very close to property line along Winter Park Road.

Mike Lahr, the builder for 240 E Rockwood Way, said the shrubs are about 6 feet high and that he can cantilever the wall foundation if needed to protect the Oak tree.

Mr. Wiggins noted there are a number of corner lots where the board considered the large right of way as a hardship or mitigating condition. In this case, the right of way from the street is twenty feet. Approval of similar requests exist for some Aloma Avenue properties.

The adjacent property owner, Bruce Rodgers of 241 E Fawsett Road spoke. He requested the board approve a wall six feet in height in the proposed location, instead of the requested five feet height. He noted the wall is needed for the pool, is on a street with heavy traffic and the hedges are 2ft thick.

In closed session, Tom Sims expressed there is no hardship. He stated a new single-family residence is proposed here and the design of the pool and pool protection are achievable within the rules. The remaining board members did see a unique situation, noting the extra-large right of way and the visual buffer that the existing hedge provides.

Findings

The board members found the hardships are the extra-large right of way, which limits the placement of the swimming pool and subsequent fencing, the busy road and existence of a dense hedge which will shield the view of the wall. Mr. Sims expressed that sufficient hardship is not present.

Action

Based on these findings, Steven Heller made a motion, seconded by Aimee Hitchner to approve the request with conditions. The condition stipulates maintenance of the hedge in front of the wall is required and that replanting hedge with a similar species and height, should the current hedge not survive and thrive. The request with conditions was approved by a vote of 6-1, with Tom Sims voting in opposition.

April 2021 Meeting Minutes for 241 E Rockwood

Request of Brad Caldwell for a variance to allow a 5 feet high masonry wall located 5 feet from the front lot line in lieu of the maximum permitted height of 3 feet; and to allow an open roof connection 22 feet wide between the existing home and garage (with an existing rear setback of 10 feet), in lieu of the maximum permitted open walkway width of 8 feet and in lieu of meeting the current rear setback of 25 feet when connecting the garage directly to the home.

Located at 241 E Rockwood Way, Zoned: R-1AA

George Wiggins, Director of Building, gave the following summary:

The Board may recall that at February meeting, a 5-foot high wall variance was granted at the corner property across the street at 240 East Rockwood Way, along the property fronting along Winter Park Road subject to maintaining the existing dense hedge as a buffer. This applicant is seeking a similar variance; however, in this case the proposed wall will be in the front yard. However, a dense hedge also exists on this property and the applicant notes that he is seeking a safe and protected children's play area and the 5-foot high wall will help provide a barrier from traffic along Winter Park Road.

With regard to the extended roof covered area onto the rear of the home, the main purpose of the 8-foot wide limit to this connecting roof was to provide protection from weather from a detached garage or other accessory building while still allowing the more lenient 10-foot rear setback to the garage. In this case, however, the home was built in 1950 and not in recent years when the 8-foot rule was put in place. I understand that this wider covered area will also serve as a cabana for the pool due to lack ability place another structure in the rear yard.

The applicant has provided several photos and renderings in order to show that this proposed wider roofed connection will be open when viewed from the street and not will be any more imposing than the typical permitted 8 foot wide covered walkway connection to the garage.

With this proposed roofed connection, none of our coverage requirements are exceeded.

Applicant included a petition signed by 20 nearby property owners expressing support of the variance requests in this application.

The owner and applicant, Brad Caldwell, stated his hardship is the reduced usable area, coupled with corner lot conditions. The greater street side setbacks this corner lot limit the functional porch area required for weather protection. He noted the surrounding neighbors are in support of the request. In regards to his wall request, Mr. Caldwell said he desires the increased height to buffer road noise and provide safety. The existing hedges in front of the proposed walls will remain. New hedges be will installed, should the wall construction affect their growth.

In response to a board question, Mr. Wiggins stated the purpose of limiting breezeways to eight foot in width, is to restrict having large wide covered walkways when they extend a long distance to a detached accessory building such as a garage when their main purpose is to provide protection from weather.

In closed session, the board felt the hardships presented by the applicant were clear. They considered the neighbors approval of the widened walkway which will have only a limited visual impact from the street. They discussed landscape buffering the same height of the wall be placed as a condition of approval on the wall.

Findings

The board members found the hardships for the wall are the extra-large right of way on the abutting street, the busy heavily traveled road and the existence of a large dense hedge which will shield the view of the wall. They felt the widened covered walkway will have little negative visual impact from the street.

Action

Based on these findings, Tom Sims Jr. made a motion, seconded by Ann Higbie to approve the request with a condition. The condition includes requiring the installation or maintenance of landscaping in front of the wall to provide a dense visual barrier with a minimum height of five feet. The request with the condition passed by a vote of 7-0.

The day of the meeting the applicant provided letters of approval from the neighbors on all sides, which include 1861 Blue Ridge Road, 1880 Shiloh Lane, 760 Arjay Way and 780 Arjay Way. The approval letters were included in the presentation at the meeting.

Mr. Wiggins noted this request differs from the 5 feet high walls approved at 240 and 241 East Rockwood Way that were setback 5 feet from property lines; this request is for 6ft high PVC fencing with no setback.

Board members asked if the rear yard fencing, shown in green in the visual presentation, will extend to the proposed location of the street side fencing and if the height of the fencing is six feet. Mr. Wiggins confirmed the six feet high fencing along the rear property line would join the six feet high PVC fencing proposed along the street-side property line.

The applicant, Sam Hillman, who resides at 1881 Blue Ridge Road, responded to a board question, noting the existing landscaping will be removed and replaced. Although not finalized, he intends to use plants such as Zoysia Grass, Jasmine, Podocarpus and Japanese Blueberry. He stated his hardship is that he needs a usable back yard. In response to Board member Charles Steinberg, Mr. Hillman said the existing street-side fencing shown in the presentation is approximately at least five feet from the property line and more than twenty feet from the roadway. Mr. Hillman said he has owned the property over two years. He expects the landscaping will completely obscure the fencing, once mature.

Joseph Griffin, the abutting neighbor to the rear, at 1880 Shiloh Lane, spoke in favor of the request. He said his property currently has four feet high fencing inset ten feet from the street-side property line. He may request a similar variance. Mr. Griffon feels this 110-house subdivision, built in 1958, is similar to other subdivisions, such as, Windsong to the east and Stonehurst to the west. Mr. Griffin noted the four lots along Arjay Way, form a unique condition in that the twenty-foot side setbacks are greater than the front setbacks of the homes directly across the street. Mr. Griffin stated that approval of six feet high fencing along the property line would create consistency. All of the neighbors that he spoke with were in support of the request.

Mr. Wiggins responded to a board question stating when the homes were constructed the street side setback for the home was fifteen feet; whereas now, the street side setback is twenty feet to the home. Mike Clary questioned the street side setbacks on East Lake Sue Ave, which appear to utilize front setback requirements. Mr. Wiggins said the applicant has a young family and may want to consider board suggested modifications to the request.

In closed session, Tom Sims Jr. could not see the hardship. He stated the applicant was aware of the situation with the home purchase and he disliked seeing PVC at this corner, stating landscaping takes time to mature. Mike Clary also was not in favor of white PVC fencing and suggested alternative five feet high black or aluminum fencing. Cathy Sawruk was not in favor a white PVC and was concerned of a visual tunnel effect, if all four neighbors followed suit.

Jason Johnson said the four corner lots do form a unique a hardship; the applicant is unable to utilize the width of his property with the same privacy enjoyed by others. He felt the large twenty-foot right of way should be a consideration. Mr. Johnson agreed with other board members regarding the modifying the white PVC fence material but felt the proposed six feet height was appropriate. Charles Steinberg agreed with Mr. Johnson's opinions. Robert Trompke favored approval of the request if setback five feet.

Findings

The majority of the board felt the proposed white PVC was not in harmony with the neighborhood and favored a five-foot high open metal fence inset five feet with landscaping. They felt a substantial street-side setback for the fencing was unwarranted for a lot with such a large right of way. The hardship was the position of the lot does not allow the applicant to utilize the width of his property to obtain the same privacy enjoyed by others.

Action

Based on these findings, Michael Clary made a motion to approve as presented; Tom Sims Jr. seconded the motion. The request failed by a vote of 0-6. Michael Clary made another motion to allow a five-foot high open black or bronze metal fence within the street side setback, if five feet from the street side property line and with a three-foot minimum hedge in front. Cathy Sawruk seconded the motion, which passed by a vote of 4-2. Jason Johnson and Charles Steinberg voted in opposition.

2. Requests of Momtaz Barq & Terra-Max Engineering on behalf of George Loutfi, for variances to allow the construction of a rear addition to be located 10 feet from the rear property line and 9.8 feet on the north side & 8.4 feet on the south side, in lieu of the required setbacks of 25 feet and 10 feet respectively, and without articulation on each side.

Located at 633 Dunraven Drive, Zoned: R-1A

George Wiggins, Director of Building, stated that prior to the meeting, the applicant requested tabling this item until next month.

No one from the public spoke.

Action

Based on these findings, Jason Johnson made a motion, seconded by Tom Sims Jr. to table the request. The request to table until next month passed by a vote of 6-0.

The meeting adjourned at 5:47 pm.

Theresa Dunkle

August 17, 2021

Theresa Dunkle, Recording Clerk

Date of Board Approval