



# CITY of MEDINA

## Board of Zoning Appeals

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### Board of Zoning Appeals

Meeting Date: November 14, 2019

Meeting Time: 6:00 pm

Present: Bert Humpal, Paul Roszak, Brandilyn Fry, Jonathan Mendel, (Community Development Director), Sandy Davis (Administrative Assistant)

Absent: Rob Henwood, Mark Williams

Mr. Roszak made a motion to approve the minutes from the October 10, 2019 meeting as submitted. The motion was seconded by Mrs. Fry.

Vote:

Rozsak	<u>Y</u>
Humpal	<u>Y</u>
Fry	<u>Y</u>
Approved	3-1

The Court Reporter swore in all attendees, board, and staff.

Old Business: None

Announcements: None

New Business:

1. Z19-20 915 Waterloo Lane Tammy States VAR

Mr. Mendel gave a brief overview of the case. Mr. Mendel stated this is a variance request from Section 1155.01 of the Planning and Zoning Code to allow a 6 foot tall open fence in the front yard with a side street lot line setback of 0 feet instead of the minimum required 15 feet.

Present for the case was Tammy States, owner of 915 Waterloo Lane. Ms. States stated the fence is actually 4 feet from the side lot line, not zero feet as stated in the staff report.

Mr. Mendel stated the Board shall weigh the following factors to determine whether an area variance should be granted:

- A. *Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;*

Mr. Mendel stated a fence can still be installed on the subject property in the same dimension of the subject fence just setback at least 15 feet to the east of the existing location.

- B. *Whether the variance is substantial;*

Mr. Mendel stated the fence is placed 4 feet instead the minimum required 15 feet, which is a 75% variance.

- C. *Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer substantial detriment as a result of the variance;*

Mr. Mendel stated the essential character of the neighborhood may not be altered. There are several fences within the yards adjacent to Yorktown Dr. in the immediate vicinity that exceed the minimum setback. Some are existing nonconforming and one on Cornell Ct. was granted a variance in 2017.

- D. *Whether the variance would adversely affect the delivery of governmental services (e.g., water, sewer, garbage);*

Mr. Mendel stated the variance would not adversely affect the delivery of governmental services.

- E. *Whether the property owner purchased the property with knowledge of the zoning restrictions;*

Mr. Mendel stated the fence regulations were in place when the applicant purchased the subject property.

- F. *Whether the property owner's predicament feasibly can be obviated through some method other than a variance; and/or*

Mr. Mendel stated the fence could be reduced in height to 3 feet tall.

- G. *Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting a variance.*

Mr. Mendel stated the intent is to maintain balance the need for enclosing usable yard areas for corner lots, but maintain adequate sightline visibility across a street side yard for traffic.

Mr. Mendel stated the BZA must weigh the above seven factors for the requested variance and determine if a practical difficulty exists that would merit a variance from section 1155.01(c)(1).

Mr. Humpal asked for clarification on the setback location. Mr. Mendel explained where the setback requirement would be applied.

There was a brief discussion regarding an existing, non-conforming 6' fence on the street that is close to the right-of-way.

Mr. Mendel stated the code was changed within the last few years to allow a 6' fence 15' behind the right-of-way for line of site reasoning.

Ms. States stated the property was in bad condition with an existing chain link fence which had trees growing through it. Ms. States stated they removed the chain link fence and also a tall tree that was in the corner of the lot because it was half dead. Ms. States stated after cutting down the tree, they realized the headlights coming down the street now shine into her master bedroom and rear yard patio.

Ms. States stated they decided to put the fencing section where the tree previously stood in order to block the headlights. Ms. States apologized for not knowing a permit was needed and that the height restriction was 3 feet.

Mr. Roszak made a motion to approve a variance to Section 1155.01(c)(1) of the Planning and Zoning Code to allow a 6 foot tall open fence in the front yard with side street lot line setback of 4 feet based on the finding that that essential character of the neighborhood will not be altered.

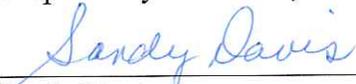
The motion was seconded by Mrs. Fry.

Vote:

Rozzak	<u>Y</u>
Humpal	<u>Y</u>
Fry	<u>Y</u>
Approved	3-0

Having no further business, the meeting was adjourned.

Respectfully submitted,

  
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Sandy Davis

  
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Bert Humpal, Chairperson

