

MEETING DATE: 02-11-16

BOARD OF ZONING APPEALS

Z16-02

1199 Brynmar Lane



CITY of MEDINA

Board of Zoning Appeals

February 11, 2016 Meeting

Case No: Z16-02

Address: 1199 Brynmar Drive

Applicant: Jack Maiher

Subject: Variance request to Section 1155.01 (C) of the Planning and Zoning Code to allow a 4.5 foot tall fence in the front yard when a 3 feet tall fence is permitted by code.

Zoning: R-1 – Low Density Urban Residential

Submitted by: Justin Benko, Associate Planner

JB

Site Location:

The property is located on the northwest corner of the Brynmar Lane and Gold Crest Drive intersection.

Project Introduction:

The applicant has proposed a 4.5 feet tall fence for the rear yard that continues into the side yard and stops 20 feet from the sidewalk. The house is located on a corner lot, and per Code section 1113.05 (D), properties are required to meet the minimum front yard setbacks facing both streets. The applicant has submitted a variance request to section 1155.01 (c) of the Planning and Zoning Code to allow a 4.5 foot tall fence in the front yard.

Please find attached to this report:

1. Aerial photograph of the property
2. Site plan
3. Letter from applicant.

Considerations:

§1107.08(b) of the Medina Administrative Code describes the responsibilities of the Board of Zoning Appeals as such: Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the provisions of this chapter, the Board shall have the power, in a specific case, to interpret any such provision in harmony

with its general purpose and intent so that the public health, safety, and general welfare may be secured and substantial justice done.

The request is subject to determination of a practical difficulty as a fence height variance is requested. There are seven factors that the BZA should consider when evaluating whether or not a practical difficulty exists. These factors are outlined below, along with a discussion of how these factors apply to the application in question.

The applicant shall show by a preponderance of the evidence that the variance is justified, as determined by the Board. 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;*

The existing site can still be utilized as a single family residential dwelling without the granting of a variance.

- B. *Whether the variance is substantial;*

The variance may not be substantial. The fence is 1.5 feet or 50% taller than what is allowed by code.

- 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;*

The essential character of the neighborhood may not be substantially altered. The fence will be located 20 feet from the sidewalk at the closest point. Due to the curvature of the road, the rear of the fence is proposed at 40 feet from the sidewalk.

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

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;*

The applicant was aware of zoning restrictions at the time of permitting.

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

The fence could be limited to the rear yard or reduced in size to three feet.

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

The intent is to maintain an open look in front and corner lot side yards throughout the City by limiting fence heights within the front yards to maximum 3 feet tall, open designs.

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).

Variance for 1199 Brynmar Lane – Fence

Description of Proposed Work:

Install vinyl fence in backyard of property at 1199 Brynmar Lane.

Fence to be 50 ½" in height with posts 6' apart from one another.

A 5' gate to be installed on the southeast corner of the fence section.

The fence will be installed beginning off of the northeast corner of the home and come towards the side street (Goldcrest) 17' from the corner of the home.

The fence will then travel south to north for 63' feet to the rear (north) boundary of the property.

Distance from the southeast corner of the fence to the street right-of-way (inboard edge of sidewalk) will be 20'.

Distance from the northeast corner of the fence to the street right-of-way (inboard edge of sidewalk) will be 39'.

There is no impact on visibility to the intersection of Goldcrest & Brynmar for vehicles travelling south on Goldcrest.

There is no impact on visibility down Goldcrest for vehicles travelling north on Goldcrest.

There is no impact on visibility for vehicles turning from eastbound Brynmar to northbound Goldcrest.

The fence will then continue along the back end of the property boundary (bordering with Fairfax Meadows HoA easement) travelling east to west for 80'. There is a slight job of 15' to the northwest boundary where it will stop.

Existing fence belonging to Nelson & Sharon Schorr (parcel 028-19D-17-104) currently runs along the west boundary line and will remain in place, untouched. Prior approval has been granted from Nelson & Sharon Schorr to utilize their existing fence for our western fence boundary. New fence at the north & south ends will utilize new posts and not physically touch their existing fence.

Finally, a 16' section of fence will be installed at the rear north west corner of the home to fully enclose a portion of the back yard.

JAN 20 2016

ETC.....

Variance for 1199 Brynmar Lane – Fence

Practical Difficulty

A variance is being sought for fence installation at 1199 Brynmar due to the following reasons related to practical difficulties:

Based on the design & dimensions of the property, a fence installation that conformed to the 3' height requirement & 50' set back from the street right-of-way would severely diminish the amount of area contained within the fence, making it pointless to install in the first place.

Initially, a 6' privacy fence was desired, however, Fairfax HoA would not approve, so a compromise in style & height was made.

This fence is primarily going to be used for the containment of 2 canines. The dogs will not be "kept" outside, but should have maximum freedom of safe movement that we can afford when they *are* outside (bathroom breaks/playtime). An invisible fence type of containment is not an ideal solution in our opinion, because they occasionally fail, not all dogs pay attention to them 100% of the time, and they do not prevent children or other animals from entering into a yard. A physical fence is highly preferred.

The variances requested are not substantial. The height is only 14.5' over the 3' front yard fence limit. The fence will still be in excess of 20' at its closest point to a sidewalk.

The essential character of the neighborhood will remain as it was before the fence installation. Two homes to the west have very similar style/height fences, as do several other properties within the subdivision.

Approval of the variances will not impact delivery of governmental services in any way.

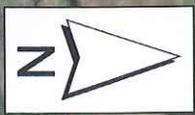
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Z16-02
1199 Brynmar Ln.
Fence Height Variance
February 11, 2016

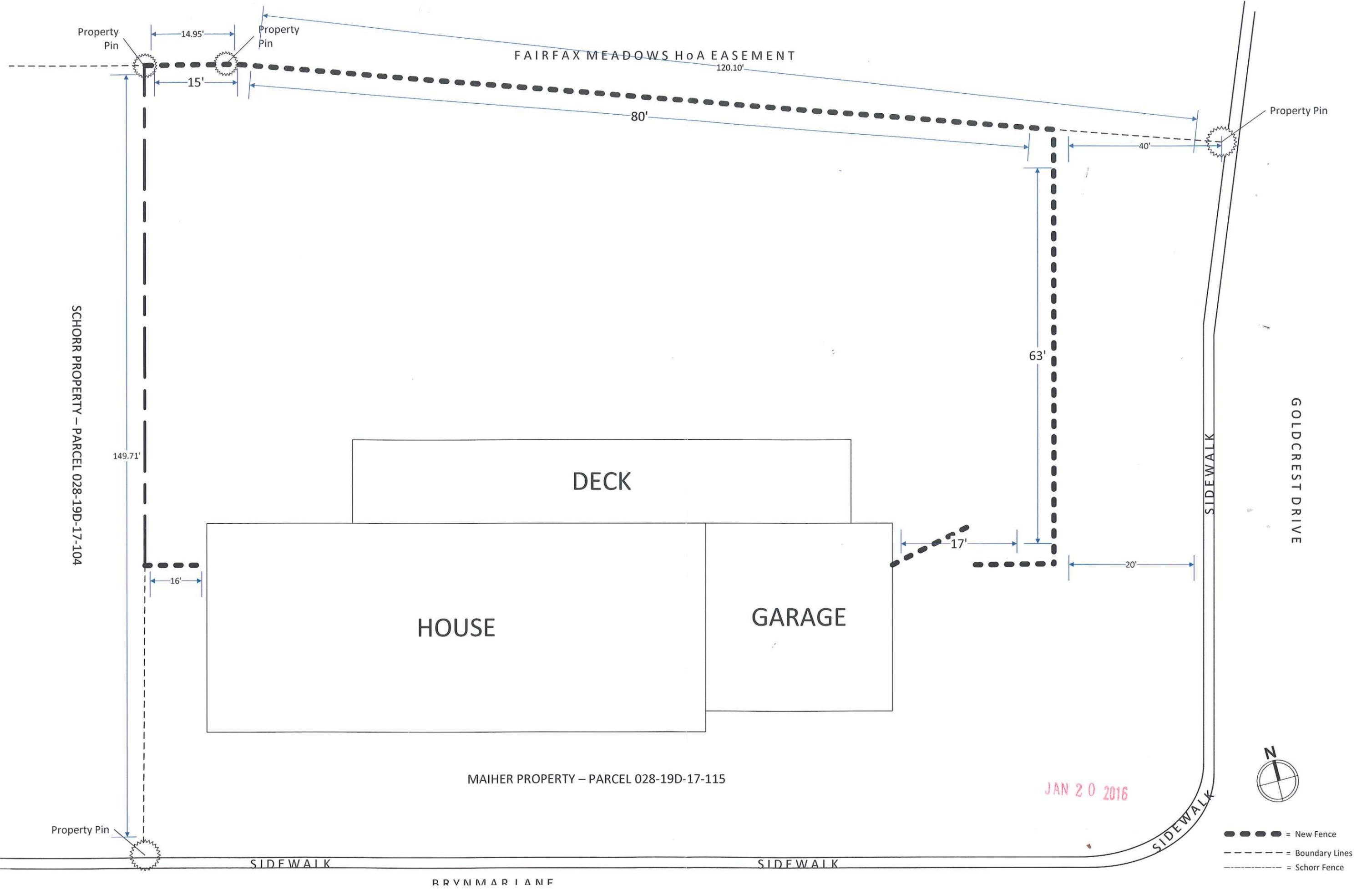


approx. fence location

Subject Site



1 inch = 50 feet



SCHORR PROPERTY – PARCEL 028-19D-17-104

FAIRFAX MEADOWS HOA EASEMENT

GOLDCREST DRIVE

MAIHER PROPERTY – PARCEL 028-19D-17-115

DECK

HOUSE

GARAGE

SIDEWALK

SIDEWALK

SIDEWALK

JAN 20 2016



- = New Fence
- - - - - = Boundary Lines
- · - · - · = Schorr Fence

BRVN MARIANE