

MEETING DATE: 10-13-16

BOARD OF ZONING APPEALS

Z16-23

945 E. Smith Rd.



CITY of MEDINA

Board of Zoning Appeals

February 11, 2016 Meeting

Case No: Z16-23

Address: 945 E. Smith Road

Applicant: Wade Kovach

Subject: Variance request to Section 1155.01 (C) of the Planning and Zoning Code to allow a 4 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

JTB

Site Location:

The property is located on the northwest corner of the E. Smith Road and Yorkshire Drive intersection.

Project Introduction:

The applicant has proposed a 4 feet tall open split rail fence for the rear yard that continues into the side yard and stops five feet from the sidewalk. The fence will have 14 gauge welded wire on the inside of the fence. The property is located on a corner lot, 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 four 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.
4. Existing condition photo

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;*

A fence can still be installed on the subject property without the granting of a variance.

- B. *Whether the variance is substantial;*

The fence is one foot or 55% 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 altered. The fence is an open split rail fence design which may mitigate some of the visual impact on the neighborhood. Additionally, the neighbor to the rear (north) of the applicant has an identical fence.

- 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 zoning ordinances were in effect when the applicant decided to build the fence.

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

The fence could be placed thirty feet off of the sidewalk fronting Yorkshire Drive which would meet the required setbacks for fences on a corner lot or the fence could be 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).

Z16-23
945 E. Smith
Fence Height Variance
October 13, 2016

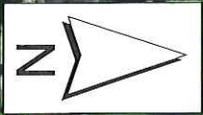
Subject Site

E SMITH RD

YORKSHIRE DR

OLD FARM TL

1 inch = 60 feet





945 E Smith Rd.

Wade & Jennifer Kovach

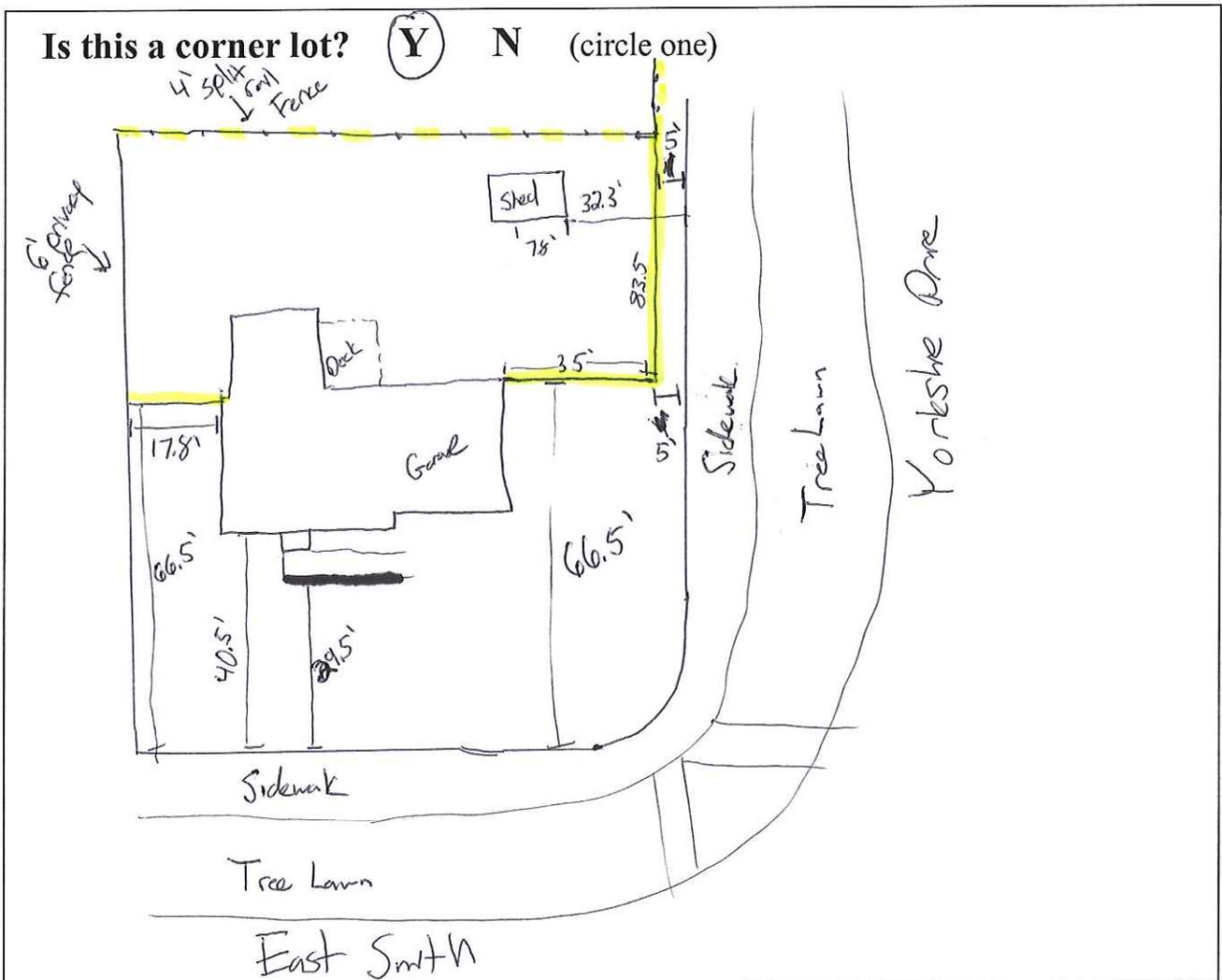
The current code requires corner lots to treat their side yards as front yards. This requires us to use a 3 foot fence anywhere less than 40 feet from the respective sidewalk. If we were to use a fence taller than 3 foot we would have to run it straight back from the back corner of our garage. This would result in running into our shed and leaving a big portion of our back yard outside of the fence. This would not have a nice appearance. Besides the appearance of our yard, a 3 foot fence is not high enough to keep our medium sized dogs inside the yard. East Smith Rd unfortunately is a prime cut through for traffic and is a major hazard to animals. Using a 3 foot fence also does not protect our pets from animals outside of the back yard. Providing our dogs with a safe environment and keeping the neighborhood looking nice is our main concerns. We are proposing to run a fence identical to those around our house. Running a 4 foot split rail fence identical to our neighbors would both look nice and provide that extra foot of security to keep our pets safe. We propose running the fence from the back corner of our garage to 5 feet from the sidewalk. From there we will go straight back to the neighbors fence. Our proposal is identical to the variance our neighbors received.

1155.01 (D) Material:

- (1) No fence, with the exception of those fences used for agricultural purposes, shall contain an electric charge unless approved by the Board of Zoning Appeals.
- (2) Barbed wire, razor wire, or any other type of anti-climbing wire shall only be permitted, upon administrative review and approval of the Board of Zoning Appeals, in the industrial district.
- (3) Materials used for fences shall be of traditional fencing materials (wrought iron, chain link, pressure treated lumber, cedar, redwood, PVC, etc.) and shall be constructed of weather resistant materials or annually treated so that they are weather resistant and maintained in good condition.
- (4) The finished or most decorative side of the fence shall face away from the property erecting the fence.
- (5) All latches, hinges and other hardware shall be galvanized or painted so as to prevent or retard rust and degradation

A drawing **must be provided** and indicate the following:

1. Size of the lot and distances between property pins.
2. Location of the house, garage, sheds, decks, and other major structures.
3. Location of the fence on property; height of the fence; distance away from public sidewalk or other right-of-way.



— = 4' split rail fence
 = 3.5' decorative picket fence
- - - = neighbors 4' split rail fence