

**MEETING DATE: 8-13-20**

# **BOARD OF ZONING APPEALS**

**Z20-10**

**735 Westwood Drive**



**CITY of MEDINA**  
**Board of Zoning Appeals**  
August 13, 2020

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**Case No:** Z20-10  
**Address:** 735 Westwood Drive  
**Applicant:** Cynthia Daniels  
**Subject:** Variance request from Section 1155.01(c)(1) of the Planning & Zoning Code to allow a 8 ft. tall solid fence in the rear yard when the top two feet must be 50% opaque.  
**Zoning:** R-1, Low Density Urban Residential  
**Submitted by:** Jonathan Mendel, Community Development Department 

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**Site Location:**

The property is located on the north side of the 700 block of Westwood Drive and backs onto the Reagan Parkway ROW.

**Project Introduction:**

The applicant proposes an 8 foot tall solid fence along the rear property line of the subject property to try to mitigate the impact of Reagan Parkway. The zoning code permits an 8 foot tall fence where proposed, but the top two feet must be at least 50% ‘open’.

Please find attached to this report:

1. Applicant’s narrative and proposed plan received August 13, 2020

**Considerations:**

Section 1107.08(b) of the Planning and Zoning 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 that almost meets the applicant's desires.

- B. *Whether the variance is substantial;*

The proposed 8 foot tall solid fence is a 33.3% increase from the maximum 6 foot solid fence permitted by the Planning and Zoning 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 as the subject property and neighborhood properties' rear lot line are already 4-6 feet above the grade of the Reagan Parkway ROW and many properties have large mature trees and shrubs equal to or much taller than the proposed fence and/or many of the existing fences.

- 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 fence regulation has been in place for an extended period of time and the applicant purchased the subject property in 2000, but it is not known whether they had knowledge of the regulation at the time 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*

The fence's top 2 feet could be 50% 'open' in design.

*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 balance the need for enclosing usable yard areas, but not create excessive enclosing of properties.

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).

# 735 Westwood Dr

REGISTERED  
JUL 14 2020

BY: .....



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**Planning and Zoning Department**  
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**Board of Zoning Appeals**  
**Area/Size (practical difficulties) worksheet**

Case No.

Address:

Applicant:

735 Westwood Dr  
Cynthia Daniels FKA Sejka

A. The property in question [will/ will not] yield a reasonable return and there [can/cannot] be any beneficial use of the property without the variance because

B. The variance is [substantial/insubstantial] because

SOUND BARRIER TO E. Reagan PKWY

C. The essential character of the neighborhood [would/would not] be substantially altered and the adjoining properties [would/would not] suffer substantial detriment as a result of the variance because

WITHIN THE NEIGHBORHOOD, THERE IS ANOTHER NEIGHBOR THAT ALSO HAS AN 8' FOOT, ON THE REAGAN SIDE

D. The variance [would/would not] adversely affect the delivery of governmental services (e.g., water, sewer, garbage);

E. The property owner purchased the property [with/without] knowledge of the zoning restrictions;

F. The property owner's predicament feasibly [can/can not] be obviated through some method other than a variance because

existing fence exists

G. The spirit and intent behind the zoning requirement [would/would not] be observed and substantial justice done by granting a variance because

help eliminate noise from the busy street

For all of the above reasons, I move the board [approve/disapprove] the request with the following conditions:







