

# **CITY OF GRAND LEDGE ZONING BOARD OF APPEALS**

Minutes from Special Meeting held on April 28, 2016

## **Attendance**

Members present: Ron Graber, Tim McClung, Ben Tobias, Carol Weigel, Tom Nelson, Ben Cwayna & Dave Whaley. Absent: Lynne MacDowell & Ray Evert. Also present: Zoning Administrator, Susan Stachowiak & Council Representative, Jamie Malecki.

## **Call to Order**

Chairman Ron Graber called the Zoning Board of Appeals meeting to order at 6:30 p.m.

## **Pledge of Allegiance**

Ben Tobias led the members in the pledge of allegiance.

## **Approval of Agenda**

Mr. Nelson made a motion, seconded by Mr. Whaley to approve the agenda as printed. On a voice vote (7-0), the motion carried unanimously.

## **Approval of Minutes**

Mr. Nelson made a motion, seconded by Mr. Tobias to approve the minutes from the meeting held on November 19, 2015, as printed. On a voice vote (7-0), the motion carried unanimously.

## **Business from the Floor** - None

## **NEW BUSINESS**

### **Variance Request – 700 Degroff Street, Privacy Fence in Front Yard**

Ms. Stachowiak stated that this is a request by Ryan Upson & Mara Timlin for a zoning variance to Section 220-68 of the Zoning Ordinance, which restricts the height of fences in residential front yards to a maximum of 3 feet. The applicants are requesting a variance to construct a 6 foot high, wood, privacy fence that would extend 16 feet into their E. Kent Street front yard at 700 Degroff Street.

Ms. Stachowiak said that the primary intent of prohibiting fences in front yards is to preserve clear vision when turning at street intersections and when exiting driveways. Based on the attached photographs and drawings provided by the applicant, the fence will be located far enough away from  
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the E. Kent Street that it will not hinder visibility for motorists at the intersection of E. Kent and Degroff or at any of the driveways in the area.

Ms. Stachowiak said that the other intent of the ordinance is to preserve the aesthetic appearance of residential streets by retaining open green spaces along roadways and preventing such green spaces from being interrupted or walled off by fences. The proposed fence will be contrary to the intent of the ordinance as it will create a “wall” effect that will diminish the appearance of the residential neighborhood in which it is located. She said that if the Board decides to approve the variance, she recommends a condition that the applicant install some shrubbery on the exterior side of the fence to soften its view.

Ms. Stachowiak said that there does not appear to be anything unique about the subject property that sets it apart from any other corner lot in the City. She said that approval of a variance without establishing that there is something unique about the property that makes strict application of the ordinance unreasonable will set a negative precedent for future requests to vary the fence ordinance with respect to fences on corner lots.

Mr. Graber opened the public hearing at 6:37 p.m.

Ryan Upson, 700 Degroff Street, spoke in support of his request. He stated that the fence will not interfere with visibility at the intersection or at any of the driveways in the area. Mr. Upson said that the fence will look better in the proposed location than if it were to be moved back even with the side wall of the house. He said that he intends to construct some landscaping on the exterior side of the fence.

Mr. Cwayna asked if there is a fence along the side/north property line.

Mr. Upson said that the neighbor has a 6 foot high fence along that property line.

Mr. McClung asked why the fence has to be 6 feet high.

Mr. Upson said that because it is a corner lot, they do not have much privacy. He also said that it provides a safe area for his children and for his pets.

Ms. Weigel asked Mr. Upson why the fence cannot be placed even with the side wall of the house as permitted by the ordinance.

Mr. Upson said that the fence will look better if it were to be located in the E. Kent Street front yard as requested. He also said that he has young children and the location of the proposed fence will make it safer for his children to play in the yard.

See no one else wishing to speak, Mr. Graber closed the public hearing at 6:40.

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Ms. Weigel said that she used to live on the corner of Bridge and Lincoln so she understands that there is less privacy on a corner lot. She said that in this case, there is just nothing exceptional about the subject property that would warrant approval of a variance, particularly since there is still a good size area on the lot that could be enclosed with a 6 foot high privacy fence in compliance with the ordinance.

Mr. Graber said that the concern is that if a variance is approved without establishing that there is something unique about the property in question that makes compliance with the ordinance unreasonable, it sets the stage for future variance requests to construct a privacy fence in a front yard.

Mr. Whaley said that if the fence extends 16 feet into the front yard and there are plant materials between it and the sidewalk, the open space virtually disappears.

Mr. Graber said that the ordinance allows 3 foot high, ornamental fences in front yards. He said that the existing fence at 700 Degroff Street is grandfathered in. He also said that corner lots have added restrictions because they do have 2 front yards.

Mr. Tobias said that lives close to the subject property and vehicles drive fairly fast in this area which makes it less safe for children in the area. Therefore, he can see why the applicant would want a privacy fence.

Mr. Nelson stated that he is supportive of the variance. He said that drove past the house and he does believe that it is a unique site.

Mr. Cwayna also expressed his support for the variance stating that he also believes that the site is unique.

Mr. McClung said that if there were to be a condition attached to the approval requiring plant materials on the exterior side of the fence, what recourse does the City have if it is not fulfilled.

Ms. Stachowiak said that it would be a zoning ordinance violation and could be addressed as such.

Mr. Nelson said that the lot is unique and he agrees with the applicant that it will look better in the location that he is requesting than it would if it were moved back in accordance with the ordinance.

**Mr. Cwayna made a motion, seconded by Mr. Tobias to approve a variance of 3 feet to the height limitation to permit a 6 foot high privacy fence to extend 16 feet into the E. Kent Street front yard at 700 Degroff Street, and to give immediate effect to the approval of the variance, as necessary for the preservation of property and hereby certified on the record. On a roll call vote (3-4), the motion failed. Mr. Graber, Mr. McClung, Ms. Weigel and Mr. Whaley cast the dissenting votes.**

**OTHER BUSINESS**

**Comments from the Zoning Administrator** - None

**Comments from Council Representative**

Councilmember Jamie Malecki introduced herself and said that she is the Council liaison to the ZBA. She said that she was appointed to the Council in November, 2015 to fill the vacancy left by Christine Bartholomew's resignation. Ms. Malecki thanked the Board members for their service to the community.

**Comments from the Chairman**

Mr. Graber thanked the Board for their thoughtful consideration of the variance case this evening. He said that the Board has to keep in mind that its decisions can set negative precedents for future variance requests.

Mr. Tobias said that he voted the way he did because he knows that the Degroff/Kent Street intersection is dangerous because there is a lot of fast moving traffic in the area and the applicant has kids that he is trying to keep safe.

**Adjournment** - Mr. Graber adjourned the meeting at 6.:55 p.m.

Respectfully submitted,

Susan Stachowiak  
Zoning Administrator

Ben Tobias, Secretary  
Zoning Board of Appeals