



VanderSluis asked if the fence along the eastern property line was Mr. Arnold's or his neighbors.

Mr. Arnold said the fence had been there before he moved to the property, and neither he nor his neighbor who also is relatively new to the neighborhood are sure to whom the fence belongs.

VanderSluis then asked when the fence had been erected.

Mr. Arnold said he had erected the fence around a year ago.

There being no further remarks, Chairman VanderSluis closed the public hearing.

DeLange explained the City had become aware of the fence by complaint. Inspector Tom had first met with the owner, and then the owner had met with DeLange. The City understood his desire for privacy. Staff felt the modification proposed would resolve the pedestrian hazard issue. He also suggested the owner obtain a survey to find out which neighbor owned the fence to the east. Staff supports the variance request with the modification to the fence, and had formulated finding of facts for the Board's consideration.

A motion was made by VandenBerg and seconded by Beduhn that the request for a variance in application no. V130003 be granted with the proposed modification, accepting staff's Finding of Facts.

1. That there are exceptional or extraordinary circumstances or conditions applicable to the property or to the intended use that do not apply generally to other property or class of use in the same vicinity and district because this modest size corner lot can be served by a modified fence to allow for a secure and relatively private area from the adjacent side street. The existing fence shall have the height reduced to three feet within the corner vision area at the driveway and lot line or may be located from the current position back at an angle creating a triangle 13 feet inward from the driveway/lot line intersection.
2. That such variance is necessary for the preservation and enjoyment of substantial property rights because this fence arrangement will provide rear yard security without compromising visibility concerns.
3. That the granting of such variance will not diminish the marketable value of adjacent land and improvements, or unduly increase congestion in the public streets because of the stipulations on maintaining a clear vision corner and the overall fence location is not adjacent to a neighboring property. Street congestion is not a factor in this case.
4. That the condition or situation of a specific piece of property, or the intended use of said property, for which the variance is sought is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such condition or situation because of the long, narrow corner lot configuration and existing detached garage separating the proposed fence from the adjacent property.

Lomonaco asked for clarification on the proposed modification. She recalled other variances for fence height variances that had been denied or required to be moved. She wondered what it was about this request that made it unique.

Without files or minutes from past variances, DeLange and the Board members had to rely on their memories. They believed each property had been unique, and in some cases the applicant had not been willing to compromise, so that no modification would have been possible. In other cases the Board had granted variances with modifications. There had been a property with a side yard fence on a corner property on Byron Center which the Board required to be moved back ten feet. Some time later the Zoning Code was amended to allow fencing no higher than six feet in the secondary front yard with no less than a ten feet setback from the lot line.

DeLange thought the modification was a reasonable compromise to an existing situation. He also noted neither street were major thoroughfares.

Dykhouse asked how close the fence was from the sidewalk.

Mr. Arnold said the fence sat back 3 ½” to 4’ from the sidewalk.

Lomonaco commended the owner on the improvements he had made to the property, but she was not comfortable granting a variance for a six foot fence when other variance requests involving fences in secondary side yards had been denied.

Chairman VanderSluis said if the only issue was the blind spot created by the fence, he was okay with granting a variance with a modification that would resolve the issue.

VanHouten agreed. He seemed to remember other properties that requested higher fences in the secondary front yard had larger rear yards that could still be utilized.

Motion carried: 5 Yeas 2 Nays (Dykhouse, Lomonaco)(Resolution #V1300005)

\*\*\*\*\*

There were no public comments at the meeting.

The new business items were discussed by DeLange and the Board members.

DeLange then explained that as of May 20, 2013 Tim Cochran would be the City’s liaison to the Zoning Board of Appeals. He also updated the Board members on upcoming program changes within the Building Inspection Department and new construction projects pending in within the City.

---

Canda Lomonaco  
Secretary

CL:cb