

MINUTES OF REGULAR MEETING OF
THE BOARD OF ZONING APPEALS
CITY OF FAIRFAX
CITY HALL, FAIRFAX, VIRGINIA
Dec 6, 2016

Members Present: John O'Brien Clarke Jr., Chairman
Ed Calabria, Vice-Chairman
Robert Matthews
Gary Perryman
Ellen Brouwer

Staff Present: Michelle Coleman, Zoning Administrator
Lisa Feibelman, Deputy Zoning Administrator
Ann Feeherry, Secretary

1. **Call to Order:** Chairman Clarke called the meeting to order.
2. **Opening of the Public Hearing:** Chairman Clarke opened the public hearing at 7:00 p.m. and explained the procedure for the meeting.
3. **Adoption of Agenda:** Approved 5:0
4. **SE-16110006**
Request by Deborah and Mark Williams, property owners, pursuant to City Code Sections 110-4.7.7 and 110-6.17.7, for a special exception to City Code Section 110-4.7.3.A.3 to allow an existing seven-foot-tall fence to remain in the street side yard and to allow construction of a new seven-foot-tall fence in the street side yard where a maximum fence height of four feet is permitted on a corner lot in the RH Residential District on the property located at 10600 McLean Court and more particularly described as Tax Map Parcel 57-1-(37)-006.

Ms. Feibelman, Deputy Zoning Administrator, presented the staff report which is incorporated into the record by reference. She stated the applicant is requesting a special exception to the fence regulations of City Code Section 110- 4.7.3.A.3 to allow an existing seven-foot-tall fence to remain in the street side yard and to allow construction of a new seven-foot-tall fence in the street side yard where a maximum fence height of four feet is permitted on a corner lot in the RH Residential District.

Staff recommended that the Board of Zoning Appeals approve the Special Exception request. Staff also provided the Board Members with four development conditions if the Board of Zoning Appeals chooses to approve the applicant's request.

Mrs. Brouwer asked the Deputy Zoning Administrator to clarify if the fence in the rear yard interferes with the storm sewer easement. Mrs. Brouwer also asked if the one foot clearance which was suggested by staff as a development condition would have an additional five feet of fence on top which would result in a six foot fence.

Ms. Feibelman explained that the fence in the rear yard of the property will not interfere with the storm sewer easement and that the fence would be a total of five feet with a one foot clearance from the bottom of the fence to the ground.

Mr. Calabria expressed how if the fence is located on a two foot hill, the fence could potentially give the illusion that it is taller than it actually is from the public right-of-way. Mr. Calabria also asked how long the existing seven-foot-tall fence had been located on the property.

Ms. Feibelman expressed that the existing seven-foot-tall fence has been located on the property since 2014, and was constructed by the developers of the subdivision.

Mr. Perryman shared his concern that the existing seven-foot-tall fence will impede on traffic sight lines, and he suggested that if the property owners install a by-right four-foot-tall fence on the hill, it would create the illusion of being seven-foot-tall from the right of way.

Mr. Mark Williams, the property owner, presented a PowerPoint presentation which is incorporated into the record by reference. He gave a detailed background regarding the property and the existing fence. The following information was included in Mr. Williams's presentation:

- The existing fence was installed as a sales agreement that was made with the developers of the subdivision.
- An agreement was made between the neighbors to split the cost of the existing fence installment.
- The proposed and existing fence would not impede on traffic sight lines.
- A petition with signatures from adjacent property owners was included in the PowerPoint.
- The proposed fence would provide the property with more security and safety, and the 12 foot setback from the house allows for handicap access and an ADA gate can be installed.
- The commercial car dealership, DARCARS, is located directly across from the street side yard property line and regularly has large trucks parking on the right-of-way to make deliveries.

Mr. Clarke asked for clarification of the ADA regulation and requirements. Mr. Clarke also used the plat to clarify where a seven-foot-tall fence is allowed by-right and where the existing seven-foot-tall fence is currently located.

Mr. Williams stated that wheelchairs have to have at least a 36 inch area in order to do a turn of 180 degrees.

Mr. Perryman expressed that the topography of that side of the property would make operating a wheel chair very difficult.

Mr. Matthews agreed that DARCARS is an eyesore and asked the applicant if they had pursued any other avenues of relief other than the special exception request, such as drapes or curtains to help obstruct the view from across the street. Mr. Matthews asked if the property owners would be willing to compromise with a five-foot-tall fence.

Discussion

Mr. Clarke suggested that the board members first consider the twelve foot distance that the fence is setback from the home, and then consider the height of the fence separately. Mr. Clarke also asked city staff what agency would determine if the fence would interfere with the storm sewer drainage.

Mrs. Brouwer recalled that the City Council approved the change of fence height on corner lots for a better line of sight and aesthetics. Mrs. Brouwer suggested that the seven-foot-tall fence would not impact the line of sight, and that the staff suggestion of a five-foot-tall fence set back twelve feet from the house would look better aesthetically.

Mr. Perryman expressed his concern with the impediment of line of sight, and also suggested that the traffic can become heavy on McLean Avenue. He suggested installing a four-foot-tall fence six feet away from the home to allow for a better line of sight on the public right-of-way.

Mr. Calabria suggested installing a five-foot-tall fence that is located twelve feet from the home and without a one foot clearance for the storm sewer easement. He also suggested removing the tree along the property line to allow for a better line of sight.

Mr. Matthews agreed with the city staff recommendation that the fence height should be reduced to five feet from seven feet, and suggested installing the fence with a twelve foot setback from the home.

Mr. Perryman made a motion to approve the special exception with the following conditions:

1. The applicant shall install, at the top of the existing slope along the house sidewall that faces McLean Avenue, a five-foot-tall fence that extends not more than twelve feet from the sidewall and then angles to run parallel to the street right-of-way line.
2. The applicant shall ensure that the materials as proposed are used for fencing on the subject site.

3. The applicant shall obtain the approval of the City that the fence to be constructed does not interfere in any way with the natural drainage and is in compliance with the public works easements applicable to the property.
4. The applicant shall ensure that the existing seven foot fence, at the rear property line, be reduced to five feet from the new tie-in to Mclean Avenue.

Motion was seconded by Mr. Matthews.

Motion Approved 5:0

5. Consideration of September 6, 2016 Meeting Minutes

Mr. Perryman made the motion to approve the September 6, 2016 meeting minutes.
Motion was seconded by Mr. Matthews. Motion was approved 3:0

6. Staff Comments - General Discussion

7. Board Comments - General Discussion

8. Adjournment – 8:50pm

ATTEST:

Annie Feeherry

Ann Feeherry, Secretary