

BOARD OF ZONING APPEALS MINUTES

A regular meeting of the Farmington Board of Zoning Appeals was held on Wednesday, August 1, 2018 in Council Chambers, 23600 Liberty, Farmington, Michigan. Notice of the meeting was posted in compliance with Public Act 1976.

Chairperson Bertin called the meeting to order at 7:00 p.m.

ROLL CALL

PRESENT: Aren, Bertin, Crutcher, Perrot, Schiffman

ABSENT: Craft

A quorum of Commissioners were present.

CITY OFFICIALS PRESENT: Building Inspector Bowdell, Recording Secretary Murphy

APPROVAL OF PREVIOUS MINUTES OF JULY 11, 2018

MOTION by Aren supported by Perrot, to approve the minutes of July 11, 2018
Motion carried, all ayes

MINUTES OF PREVIOUS PLANNING COMMISSION MEETINGS OF JUNE 11, 2018 AND JUNE 25, 2018

MOTION by Crutcher, supported by Schiffman, to receive and file the June 11, 2018 and June 25, 2018 Planning Commission minutes.
Motion carried, all ayes.

APPEAL OF: **Peter and Kelly Barta**
23704 Cass Avenue
Farmington, MI 48335

The Applicants are seeking a variance to Sec. 35-49(B)(1), Fences in Residential, Commercial and Office Districts, to allow the installation of a three-foot (3") picket-style fence to enclose the front yard forward of the front building line of the house. This is to allow them maximum use of the property for outdoor activities and safety for their kids. This is also due to the smaller than usual lot size in this area.

Bertin introduced this item and asked if the Petitioners were present and called them to the podium.

Peter and Kelly Barta came to the podium.

Chairperson Bertin stated that the Applicants are proposing a 3-foot picket fence and that the photographs or drawings submitted show the 3-foot picket fence three feet behind the sidewalk, and asked if that was correct.

BOARD OF ZONING APPEALS MINUTES -2-

Kelly Barta responded yes, approximately.

Bertin then went on to state there was a photograph included that indicated that the sidewalk right now, there is a five or six-inch step right at the sidewalk line, and asked how they were going to pull that sidewalk back and reposition the steps.

Kelly Barta responded that the sidewalk that runs in the front of the house and then there are a couple steps up to the front porch that currently exist, and indicated that the fence would run two to three feet back from the sidewalk and go across the walkway right now that they have to the front.

Bertin stated that it looks like there might be about twelve inches back to the step so they would leave about two feet as they open the gate to step out onto that. He indicated that typically you need to have three feet of a landing space where you open a fence or a door or something of that nature and the way it is depicted there is going to be barely two feet there if you run it across.

Peter Barta asked if it makes a difference that the gate opens in.

Bertin opened the floor to questions from the Board.

Building Inspector Bowdell requested that if there was a motion to approve this variance, that it be required that the gate swing in. He stated the Building Code would indeed require that anything that swung out, to have a three foot radius, but if it swings in that doesn't apply but that is the way the Building Code reads.

Crutcher asked what the distance is from where the fence is going to be to the porch.

Peter Barta stated it should be in with the documents they submitted but he thinks it is nine feet.

Crutcher then asked what about the gate to the bottom of the fence and Peter Barta responded he did not know the answer off the top of his head.

Kelly Barta responded there would still be a foot or two between where the gate swings in and it ends.

Schiffman stated that based on the dimensions shown on the drawings that it looks like there is 8' 10", so that would allow about 5' 10" if the gate is 42 inches.

Peter Barta responded it is a four-foot gate so it's 48 inches.

Schiffman stated that would allow 18 inches give or take.

Crutcher indicated that is kind of tight and Peter Barta responded that they would have to remove a couple pavers on each side of the gate and further discussion was held concerning the dimensions.

Bertin asked if it was necessary to make the gate four feet wide.

BOARD OF ZONING APPEALS MINUTES -3-

Peter Barta responded he understood that is the standard size exterior gate.

Kelly Barta stated there was an option of three, four or five foot, with four foot being the standard.

Bertin stated that typically a four-foot fence is utilized to maneuver equipment in and out of the location but that pedestrian is usually three feet.

Kelly Barta stated that their preference would be to have a four-foot gate.

Crutcher asked if their intention was to have an enclosure for the front yard, primarily for privacy to extend the length of the porch and Peter Barta responded that the yard only exists on the one side, there is a big tree, and Crutcher asked why have the fence go beyond the porch at all and Peter Barta responded for esthetic reasons, first of all, security, if it doesn't encompass the porch there is no real utility to bringing it out to the sidewalk or the idea is that a kid could walk out the front door and not into the street, that is the whole idea of the design and they would actually go all the way to the driveway except that there is a giant tree right there.

Bertin asked if they're talking about esthetics, that it might look esthetically nicer if that fence line matched up to the side of the house and Peter Barta responded that there is a giant tree there but he agreed that it would be better, if not for the tree.

Schiffman asked Bowdell if there was a Code requirement for clearance and Bowdell responded for swinging in no, as long as it can open its full width which it can. And he stated that one of the things included in the packet was another house in the neighborhood that is set right dead end to the sidewalk and this one is set back and it will help because the sidewalk jogs to the house next door. So if you're heading south in front of their house when you get past that giant tree, across their driveway the sidewalk then is farther from the street so the fence would be more in line with right on the sidewalk line of the neighbor's house.

Schiffman said the reason he asked is if this was approved as is with the four-foot gate, it would allow them almost two-foot clearance and from a practical issue if it does inhibit that an alternative could be that you have a dual swinging gate, which would essentially cut that four-feet in half, but if it's not a Code requirement and they found it to be fine at four-feet with two feet of clearance, the alternative would be that the gate be modified.

Bowdell stated we would want about three-feet or as close that they could get to it, that the rule is 32-inches and if they were going to do that they'd put in a five-foot gate so they would have a larger opening for a single path but it is also harder to control if they can only swing one way when it's a double gate.

Schiffman stated he looks at it from a practical standpoint, that being the main entrance to their home, bringing in a couch or something, that he imagines the back door is pretty tight and that in his experience with the Fire Department has been a lot of these houses it's a lot easier to get things in and out of the front door than it is around the back door.

BOARD OF ZONING APPEALS MINUTES -4-

Bertin stated he would also recommend that the hinge be placed on the left side as you're walking up to it so it swings in that direction which allows access directly to the yard that way and it keeps the gate out of the way.

Bowdell then said if the Board was interested he could give them a lesson on how you determine whether it is a right hand or left hand swing. They are called butt hinges, so you put your butt where the hinge would go and whichever arm swings is the way it is.

Crutcher stated that is the first time that was explained in a way which makes sense.

Bowdell continued that could be done to any door anywhere, put your butt against the hinge and see which way you want it to swing, it works.

Aren stated that she noticed there is an existing black fence that is four-feet high around the back and along the southwest and northern property line and she sees from one of the pictures that it is there and she was wondering if it would be a more safe option to have the white picket fence at three feet than it would be to have this four foot one straight off with the house. She indicated she has kids, they can climb three feet, no problem, that it's just like a visual thing but it's not really a safety area so if she were to vote on this for safety reasons she doesn't see this as a safety issue but more of an esthetic one.

Kelly Barta responded that their kids are three and one now and there's no way they could climb a three-foot fence right now and that they have tested the four-foot, the three-foot in Riley Park and have taken their kids to see what would work for them. She stated by the time they get to the age of five or six, around the age where they could maneuver those types of things, she still thinks it provides a barrier, it's a way to --- right now they could dash out in the street in a second and it's over. But that even a fence there does provide, even a three-foot does provide a safety net.

Peter Barta stated it's more than safety and kids getting out but there are loads of dogs that walk by their house every single day and if a kid is out on the porch and a kid gets excited like dogs do with most kids and their house is pretty close to the sidewalk relative to other houses in the neighborhood, so it's not just one way security considering that also.

Bertin stated plus it does prevent a ball that gets kicked in that direction, that it stops them from running in the street.

Schiffman stated he can attest to the white 3-foot picket fence as he got a variance himself from this Board about six to eight years ago because he had children in a very similar situation where he did a white vinyl picket fence across his front yard and that he can say in the six to eight years it has certainly done the job with two little girls, lots of balls and a dog.

Peter Barta stated he would like to make two points about the other option would be to keep the four-foot black style and right now the first project was to take out that

BOARD OF ZONING APPEALS MINUTES -5-

front face of that fence because it went right through the center of the porch. So it could either come out beyond the porch and enclose it, which is what they'd like to do, or you can go back all the way behind the porch which their backyard is already small enough they'd rather not do that. And in terms of stylistically keeping the four foot for a little more security, if they had to do it over they would do the whole thing in white picket but they didn't know they were going to do this when they had the black four-foot put in so that is where they stand with that. They were a little bit concerned with putting the black all the way out there, it may look a little too prison-like, and they thought the white would be a lot more of a value add from a curb appeal standpoint.

Crutcher asked Barta for confirmation that there was no rail on the porch and Peter Barta stated there is not and Kelly Barta replied that the plan is to grade it up so it's one, one and a half steps up from the ground.

Kelly Barta went on to state that it may not be clearly laid out in the plans but that part of the variance requested for the white picket fence would be extending that black aluminum to the front to meet the white picket fence.

Bertin asked if there was suggested material in their packet that they intended to use and the Bartas responded vinyl.

Aren indicated she noticed on Oakland Avenue, two houses down, they did have the black four-foot fence all the way along the sidewalk, and stated she prefers esthetically the black and then it would match the rest of the house on the south side and would match the neighborhood.

Crutcher reiterated his concerns about the gate, the access to the front door, he felt it might be a little tight but asked if they would consider something that would allow a little more space between the gate and the bottom of the steps.

Peter Barta replied that down the street there are two doors into the house and there's a side gate, a side door and there's a fence gate right in front of that, a four-foot that swings back towards the house, basically the same situation as this and it's even tighter than this and it's fine, it's not a problem.

Bowdell made a point of clarification by stating that one of the tests in granting a variance is whether there is an odd or unusual circumstance with the property considering all the other properties that a variance could be asked for, and that he felt this property afforded basically no backyard to this house, it is nine feet, so they really don't have a yard for a child or a dog or quite frankly for themselves.

Peter Barta replied that he thinks it's twelve feet, minus the air conditioner compressor.

Bowdell indicated that former Building Inspector Koncsol took him to the house and that he was surprised at how little room there was behind the house, that when you think of a backyard, they don't have one.

BOARD OF ZONING APPEALS MINUTES -6-

Crutcher stated that the Petitioner has the fence returning to the house for a sense of security with the kids and everything, but does it actually have to go back to the house, and just along the street that he thinks they could get everything they were looking for.

Peter Barta responded that the perfect situation would be for it to go all the way to the south corner of the house and then come back to the house corner or to go all the way to the driveway and follow the driveway, but that the tree prohibits that and further discussion was held.

Crutcher stated that esthetically with what they are trying to accomplish, he doesn't feel that the fence needs to go back all the way to the house to finish the look, but that running the fence up to the tree would probably give them the security they are trying to achieve.

Schiffman responded that this isn't about esthetics and Peter Barta replied that the stakes are too high of kids running into the streets.

Crutcher asked if Barta was intending to take a mower back there and Peter Barta responded that you can cut the grass with a weed whacker right now.

Bertin asked if there would be landscaping in that area and Kelly Barta replied that there was a mockup of a landscape design that shows where they are planning to add some landscaping and they are working with neighbor to have that drawn up.

Peter Barta stated the approach to the look would be that they would treat it more as a decorative fence.

Crutcher confirmed that they are doing a three-foot and Peter Barta responded in the affirmative stating that they walked around the neighborhood to determine if it was high enough to be comfortable with.

Kelly Barta stated that honestly they would prefer a four-foot but they are not pushing for that, at this point they are very happy with what the three-foot gives them but it was originally submitted as a four-foot and that she understands it is more likely to get approval for a three-foot and they agreed to that.

Bertin stated that he agreed the three-foot height would be more decorative looking than a four-foot fence, that a four-foot looks more like a barrier fence than a three-foot.

Crutcher responded that he felt the four-foot would be a better, more useful approach.

Peter Barta stated if a four-foot was approved, they would be for that.

Kelly Barta stated their house actually is set up so there's a little bit of a slope, so it's going to be a three-foot fence but it's going to sit up a little bit from the sidewalk so from the sidewalk it's actually closer to a four-foot.

BOARD OF ZONING APPEALS MINUTES -7-

Crutcher asked if the other part of the fence towards their neighbor's yard, they are extending the fence out and the reason why they wouldn't do the picket fence back there is what?

Kelly Barta responded that that black aluminum goes the whole length of the back yard and the side yard so making that whole side the black aluminum would make it look better.

Peter Barta stated that there is kind of an open question if you're going to have the black aluminum and you're going to have the white vinyl, what is the best way to do that transition and that he doesn't know what the right answer is to that but that they've chosen to do kind of the right angle where the whole side is black aluminum and the front starts the white vinyl, that he doesn't know if it will look better to start the white vinyl back because at that point he doesn't know that it would specifically be tied to a feature of the house because depth-wise it would be right in the middle of the porch, it wouldn't be obvious of why to stop there and start another style of the fence and also because they have leftover black panels that were removed that are expensive. But the bottom line is there is no right way to do that transition, it's not ideal so they picked what they felt would make the most sense and further discussion was held. He also stated the entire fence line is covered by thick arborvitae by the neighbor and Kelly Barta responded that the black fence actually disappears well into that, that the white would stand out and was of the opinion the black would look better on that end.

Aren stated when she was on her site visit she was thinking of extending more bushes of whatever type they wanted from the neighbors all the way across to theirs would be an easy way if they aren't approved tonight to get the barrier they're looking for, a visual barrier for their kids and the dog and anyone else.

Peter Barta responded by saying part of the reason of building a porch is to sit out on it and socialize with the neighbors and he doesn't want to put shrubs between them and people walking by.

Aren indicated she totally appreciates that, she loves porch sitters and she is one herself. And she noticed in looking around there was someone on each of the porches next to them and across from them.

Perrot inquired if this had been run by neighbors and Peter Barta responded that he thought most of his neighbors, direct adjacent neighbors, submitted approvals.

Chairperson Bertin stated there were four letters of approval received from:

Cheryl Honaway, Farmington, Michigan

Marcia and Stan Bawol, 33620 State Street

Judy Campbell, 23701 Cass

Karla and Timothy Miller, 33625 Oakland Street

MOTION by Schiffman, supported by Crutcher, to approve the variance, keeping in mind the clearance standards based on the in swinging gate for safety and for Code reasons, and that the variance is requested for both the three-foot picket fence and

BOARD OF ZONING APPEALS MINUTES -8-

the four-foot black fence extension into the front yard portion to complete the envelope of the fence of the yard.

Motion carried, all ayes.

ZONING BOARD COMMISSIONER COMMENTS

Crutcher welcomed Bowdell to the City.

Perrot stated that in the last year the Board has only met a couple of times.

Bowdell stated that in his illustrious career he has been to hundreds and hundreds and hundreds of meetings.

Bertin stated he has been on this Board for almost two years, but has attended more Zoning Board of Appeals meetings outside of this venue than here.

PUBLIC COMMENT

None heard.

ADJOURNMENT

MOTION by Schiffman, supported by Perrot, to adjourn the meeting.
Motion carried, all ayes.

The meeting adjourned at 7:36 p.m.

Jeffrey Bowdell , Building Inspector