

BOARD OF ZONING APPEALS MINUTES

A regular meeting of the Farmington Board of Zoning Appeals was held on Wednesday, June 2, 2021 via Zoom remote technology. Notice of the meeting was posted in compliance with Public Act 1976.

Secretary Schiffman called the meeting to order at 7:06 p.m.

ROLL CALL:

PRESENT: Crutcher, Gensheimer, Pitluk, Schiffman

ABSENT: Aren, Bertin

A quorum of Commissioners was present.

CITY OFFICIALS PRESENT: Building Inspector Bowdell, Recording Secretary Murphy, Brian Golden, Director of Media Services.

APPROVAL OF AGENDA

MOTION by Crutcher, supported by Pitluk, to approve the agenda as presented. Motion carried, all ayes.

MINUTES OF PREVIOUS MEETING OF NOVEMBER 4, 2020

MOTION by Pitluk, supported by Gensheimer, to approve the minutes of the November 4, 2020 Zoning Board of Appeals meetings. Motion carried, all ayes.

MINUTES OF PREVIOUS PLANNING COMMISSION MEETINGS OF NOVEMBER 9, 2020; DECEMBER 14, 2020; JANUARY 11, 2021; FEBRUARY 8, 2021; MARCH 8, 2021 AND APRIL 12, 2021 TO RECEIVE AND FILE

The minutes of the previous Planning Commission meetings of November 9, 2020; December 14, 2021; January 11, 2021; February 8, 2021, March 8, 2021 and April 12, 2021 were received and filed.

ELECTION OF OFFICERS

A. Chairperson

B. Vice Chairperson

C. Secretary

Discussion was held regarding postponing this Agenda Item until the next scheduled Zoning Board of Appeals Meeting.

MOTION by Crutcher, supported by Pitluk, that the Election of Officers be deferred to the next scheduled meeting of the Zoning Board of Appeals.

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Motion carried, all ayes.

APPEAL OF:

**Danielle DePew
23970 Wesley
Farmington, MI 48336**

**Adam & Colleen Regnier
24055 Gill Road
Farmington, MI 48335**

Request for a variance from 2 sections of the ordinance pursuant to structures (fences) Chapter 13 in a required front yard open space area. Because these are corner lots (Wesley & Gill Road) they have two front yards both with a required setback of 25 feet as shown in Zoning Ordinance Section 35-73.

Secretary Schiffman introduced this item and turned it over to staff.

Building Inspector Bowdell stated that both of the Appeals are fences, similar to the one we had several months ago, that are in the dual yard scenario. He said the Depew Appeal is the fence at the north side of the property, it restricts the placement on the north side of the property facing Wesley Place. Now, as you know we ask that privacy fences on corners lots where there are in essence two front yards, be restricted to keeping the front yard setback on 25 feet on both sides. The Applicant has asked to have less front yard than would normally be allowed. I'm looking for the actual dimension and I see that Brian's trying to help me at the same time and I don't see the actual number per the request of the variance.

Depew asked distance variance or the fence sizing?

Bowdell replied the distance from the property.

DePew stated it's a 5-foot difference than what's currently allowed.

Bowdell stated they want to be 5 feet closer which would be 20 feet instead of the 25.

DePew said which is where the property line sits correctly.

Bowdell asked so when you place the fence on the property line, how many feet would it be from the imaginary sidewalk, as I'm going to call it?

DePew replied there is no sidewalk there.

Bowdell said if there were a sidewalk, you've got the street, the curb, grass, there'd be a sidewalk; how far from that property line back is the fence?

DePew asked how much space is there from the road to the sidewalk typically because I don't know what that distance is.

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Bowdell replied that the right-of-way generally is a 60-foot right-of-way, 30-foot from the center of the road.

DePew stated that would be in our backyard, though, at that point.

Bowdell said right, but that's still on the side yard of the street, which would be a front yard still.

DePew asked so you said it's set 30 feet back?

Bowdell replied that it would be from the center of the road, it's 30 feet to the property line, and then 25 feet from the property line back is where the ordinance would require the fence.

Adam Regnier asked can I chime in here? So, we are, yes, we are in fact asking to put the fence on the property line parallel with the property on the north side, parallel with Wesley Place, I think that's the road there, that's the street between the commercial property and ours. So, yes, we're asking to set it on the property line which is 30-feet from the center of the road. So, even then if you were to imagine you had six feet between the beginning of the sidewalk and the road itself, you'd have a 4-foot walk, you'd still have, the road itself is 15, so that's 15, 6, 4, so it would be 5 feet really.

DePew said there's still a significant amount of space from the road to the property line, so it won't impede people from walking, if that's the question.

Bowdell stated it's not just walking, it's also the intent of the ordinance is that mostly when there are other houses that either face that side street, that's the biggest intent, any houses that face the side street should have an unobstructed front yard. Fences that are placed into that front yard of that other street, inhibit the ability for somebody to look down the street both ways as everybody else does, thus the ordinance is written that way.

Regnier said there are no houses, that's what's actually pushing us forward with this is we have commercial property.

Schiffman asked for the speaker's name and address.

Regnier stated I'm Adam Regnier, I would be the second petitioner, and I live at 24055 Gill Road, which is on the corner of Wesley Place and Gill; Danielle is on the corner of Wesley Place and Wesley. And so our properties are adjacent to commercial properties that are right on Grand River. And those properties are exactly on the property line if you were to go 30 feet from the center. So, the ordinance wouldn't necessarily apply because there is no home to look out or down that road.

Bowdell said if I may, Danielle, when we were out there and I know I stood in that side yard, are we placing the fence approximately where we were standing which is --- there's a big block of trees --

DePew said the tree line, yes, is the property line.

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Bowdell said so, in this case, for the Board's pleasure, this property faces the back of what is now Gift of India, the Gift Smoothie, the Big Toe I think is the doctor, and the Farmington Deli are in that strip center. And the neighbor is correct, that building has a zero property line with back doors that basically step into the right-of-way as though you would step out of one of our downtown buildings out the front door onto the sidewalk. So, this fence would be on the property line and because of that we have to ask for a variance. But in the same respect if their neighbors that they want – not that they want to block them out, but we certainly don't want to look at the back of a commercial building, it would be something that we would make the commercial building do today if it were built today. This was built as a furniture store many, many years ago. And when I stood on one of the Applicant's, trying to decipher where this fence would go, and yes, they are asking to place them on the property line, because they can't go past, they're supposed to only go to the rear of their homes and I think they want to go to the front of their homes, that would also be part of the variance, but it would not create vision obstructions for drivers, pedestrians or anyone else, for this particular fence to be placed on the property line and I highly doubt that there will be sidewalks any time soon. If you're familiar, this is the property that is across the south, off the southwest corner of Medi-Lodge which is where they do the respiratory therapy. So, it's just off the corner of Gill Road behind those businesses there.

Schiffman asked Bowdell, if there were sidewalks to be put in in the future in that neighborhood, would this impede them at all based on that being on the property line?

Bowdell said if I'm not mistaken, did one of you guys get a survey or both of you, both of the applicants get a survey? Seems to me I saw something.

DePew replied no, we were able to locate the original markers.

Bowdell said that's what I meant. So, the answer is it would not impede it other than potentially grade, because there's no grade set for how high that sidewalk would be. My guess is that the property would be a pinch low, so that I would say that the bottom of the fence might get slightly below grade if they were to put a sidewalk in there. But no, I don't think that would be an issue.

Schiffman said thank you for your description, do you have any other comments?

Bowdell replied like I say, I'm good. This is one of those properties that if you were to drive down many of our streets, when houses in a given neighborhood all face east and west, the corners that are on the streets that run east and west, have north and south sides, and sometimes putting fences out to the right-of-way line is an obstruction of vision, there's garages that come out from the sides and so on, these properties have none of those conditions, these two.

Schiffman said without further ado, I know we touched on it, Danielle, you're the first Petitioner up on the agenda tonight, so if you could, just state your name and your address and then briefly, I know we discussed this already, but just for the record, just briefly describe your appeal and go through your narrative and we'll have your case and then we'll move to Adam's.

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Danielle DePew, 23970 Wesley, stated she lives on the corner of Wesley and Wesley Place. And what I'm asking for is a variance to be able to place a 6-foot privacy fence from roughly about 100 feet from the back of the property towards the normal front space where it would join an existing fence that's already there. And again, I'm asking for it to be right on the property line, which ends up being about 20 feet from the road space. So, in particular, the reason for this is really around what we face. As I was trying to paste it into the chat, but it won't let me put an image in, to show you what we see when we're looking, sitting in our yard, and trying to enjoy our evening or our day. Our yard there's just zero percent of privacy without impeding on the rest of the yard and rest of the space. In addition to the building facing, we also have a veterinary clinic and a dental practice where there's constant and consistent traffic, people kind of viewing into the yard and everything or letting their pets relieve themselves in the space where we're trying to hang out. So, really just a quality-of-life improvement is what we're looking for and asking for by having this variance granted. And also, you know, we have owned the house now for a few years, but it would also give us the chance to just clean up actually the existing space that's already there from the trees and stuff that overhang already. So, it actually would improve the walkability along the road there so that people don't have to walk into the street as much as they do currently.

Schiffman said I was out there for a site visit the other day, you've got the pine trees that line the north side along the commercial area, and then you also have an existing fence that's there, a black iron fence; so, would you be removing the trees and removing the existing fence or how would that work?

DePew replied the trees would just be --- they've been raised up one side, we have to clear out a lot of debris and stuff left by the previous owners, just weeds and everything, and they had placed that black fence there. So, we would remove that black fence just extending from the front where it already exists to meet, just those few extra feet to the property line to put in the privacy fence.

Schiffman opened the floor for questions from the Commissioners.

Crutcher stated you said you did not get a survey for your property and DePew replied that we were able to find the existing marker from when the plots were originally done.

Crutcher asked if there is something she can show to the Commission so we can see where the property line actually is on this street? From the sketch you submitted, I'll look on Google Maps here to see where the property lines are, it's kind of hard to get a sense of what the dimension that you're talking about, what you're asking for. Just to be clear, you're asking for the fence to be on the property line which is beyond the setback or beyond the property line and Depew replied on the property line.

Bowdell said if you pull the Google Map up on the aerial, on the side of Danielle's house you can see the top rail of a black fence, then if you continue to look, there's trees there and basically the property line is about in the center of those trees. In other words they planted trees right on the property line so she's going to be just inside those trees.

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Schiffman said while we have this up, just so you're aware, Adam, the other Applicant, is this home here. So the fence that would go in, Danielle, you're going to have what, basically one continuous fence line of the same fencing material that would run down Wesley Place?

DePew replied I'm not sure it's going to be exactly the same, but similar, I don't know if we consulted on exact styles.

Crutcher said you've got Wesley Place and Wesley Street, Wesley Street is north/south, Wesley Place is east/west, you're going to have a fence along Wesley Place and along Wesley Street?

DePew said no, the proper setback of the black metal fence on Wesley Street.

Crutcher said you're running the fence up to that existing fence and DePew replied yes.

Pitluk stated the entire black fence, they're going to extend the new part to where the old fence is on Wesley Street to meet the new one on Wesley Place, and then it'll run along the tree line, that's what I'm hearing and DePew replied yes.

Crutcher said my concern was kind of talking through a picture would explain it a lot more explicitly, I think, to see where the property line is and where the fence is actually going, I'm still a little fuzzy on exactly what's where.

Regnier asked are you trying to establish where the fence stops in terms of both properties, where are we going to, I mean we already established the fence will be on, and you're not wrong, we kind of put this application together rapidly because time was of the essence, we kind of realized we had to get it in. So, we probably would have been a little bit more prepared in terms of laying it out, but we just did what we could do to get the application in. However, what I would say is that that --- how can I put this --- we want the fence to be on the property line, parallel with Wesley Place, and then essentially, and that's kind of what we wanted guidance from your team is where can we start and stop the fence and still make it safe for everybody involved.

Bowdell stated I just tried to snip the aerial and draw on it, then I realized I don't have any way of doing it on my other computer, I don't have any way to send it to you. But basically they're asking for two variances; one variance would be to allow a fence on their northern property line, and I think the verbiage said from a point equal to the front setback of the front of the home running east to their property stake, is where they're asking to have the fence put.

Regnier said of my property just heading west, exactly, yes.

Bowdell stated they can't go in front of their homes either on Gill, in Adam's case, or on Wesley Street, in Danielle's case, but that it would be on an east/west plane equal to their property stake that they were able to find in their back yards on the north corner.

(DePew took her phone and went outside and provided a video depicting the area)

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Schiffman said so that's what I understood for your side, how far up is it going on Adam's side?

Regnier replied we were kind of debating what would be ideal and probably looking to stop approximately if you were to look at the side of my house, there's a side door that goes into the garage and I would probably want to stop the fence perpendicular to that door and running parallel with Gill and then heading back towards the fence.

Schiffman stated my only concern was traffic and how far up it was going to go, I'm looking at a street view and that's not too far up.

Regnier stated and we want to be reasonable, we definitely want people to be able to see at a site line if there are any oncoming cars. Plus, we have trees already on that corner and we just hate to blind the whole thing up. We've got kids and we'd hate to create a situation that was unsafe as well.

Bowdell asked Golden if he had access to his email indicating he just sent him a snipe of Danielle's and I'm going to send you a snipe of Adam's, I don't know if there's a way for you to get them up or not, take a peek at it and see. Bowdell then said that's a bad drawing but that's basically where the fence line goes and it can't go out in front of Danielle's home, but you see she's planning on extending that --- you can see her black fence in that picture, okay, so that's the plane that she's going to use, right there. But the red line in the top is where the new fence is going to be, it's out near the property line. It can't go past the front plane, but I believe it's Danielle's intent to extend the existing black fence to the north until it hits that red line, but it can't go past the red line.

DePew stated it's not going to go any further west; it's staying right where it is.

Bowdell stated and when we get there there's a similar bad snipe or snip, whatever you call it, for Adam's home that I did as well with the parameters of how far it could be. But I think the important thing is that they are going to be on the property line, along that north edge, on the property line based on that survey stake that they found in their yards.

Crutcher said, so to clarify, the dimensional variance they're asking for is to put the fence on the property line and not set back like it normally would be?

Bowdell replied that's correct, that and however far they end up, that they be allowed to go up to the front of their home, we normally wouldn't allow a 6-foot fence in the side yard, so to speak, where in the area from the front of the house to the back, it's supposed to step down to four, but they're asking to take it all the way down that north property line, and there's Adam's. Adam, did I get that right where your door is?

Regnier replied that's right, thereabouts. I mean, yeah, I think that would be ideal if we're heading west on that side of my house just behind the door to the west and then return to the north and the east/west parallel to Wesley Place. So, it's a better snipe than the last one and I motion rename it snipe instead of snip. Like I said I want to make sure that it's reasonable that we put it there. I think my wife wanted it pushed to

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the front of the house but if it's safer to keep it where you've drawn it, I'm good with that as well.

Bowdell said again, based on the Zoning Board's wishes, I would strongly object if you tried to go past the front of the home.

Schiffman thanked Golden for the screen share and asked if there were any other comments from the Commissioners.

Crutcher said for clarity, the fence is going to be on the north property line of both properties and on the 23970, actually both of them, to the east and west you're looking for the variance to allow the 6-foot fence to go as far as the front of the house, but it sounds like both Applicants are not intending to go to the front of the house, is that correct?

Regnier replied that's correct on my part.

Schiffman asked if they were in a normal setting and they had a neighbor to the north, they could position that privacy fence as long as it didn't exceed the front plane of their home, from their side yard north, if there were a neighbor where the Wesley Place Street is, correct?

Bowdell replied if there was a neighbor there, normally we would make them stop the 6-foot fence at the back point of the home because if you think about it, all of a sudden you look out your bedroom window five feet away at a 6-foot fence. So that's why it stops at the back of the home normally. In this case on the public right-of-way it's a non-issue, so we would not object to going anywhere between the back of the home as long as it doesn't pass the front of the home.

Schiffman said that's what I was looking for, thanks.

Gensheimer said I was just curious since the trees are on the property line, how far away from the trees are you guys planning on building the fence?

DePew replied the trees aren't technically on the property line, they're inside of it.

Gensheimer asked then you're going to build on the inside of the trees and DePew replied I'm going to put it on the property line which is on the outside. It's a matter of seven or eight inches, the fence would be right up against the trees.

Crutcher asked if the trees are on her property or in the right-of-way and DePew replied they're on my property on the inside of the property line.

Crutcher stated in the new configuration the trees will be between the fence and the right-of-way and Bowdell replied no. DePew stated I'm open to either one, it's a matter of a foot width of the tree, I was hoping to encapsulate them so it created a more flush appearance along the road.

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Bowdell stated when I was there, they had not found that stake yet. I was there pre --- in fact, I never talked to Adam, Danielle was talking to Adam and they were talking but they didn't know where that property line was on the date that I was there.

Crutcher asked who is going to see the bottom of the trees, you or the people driving on Wesley Place and DePew replied me. Crutcher said I was getting confused between the inside/outside. The trees are going to be on your property inside of the fence and DePew replied correct. Crutcher asked if that's the same for the other property as well.

Regnier replied so, we have what is it, two trees that would be on the inside and depending where we stop our fence heading east it would be, there's a tree that may or may not end up inside or outside the fence. So, that would be the only, there's one tree, the most easterly tree on that east/west plane on the north side of our property, that would be possibly on the one side or the other of the fence.

Crutcher said so it's not a problem right now and it may not be for another ten to fifteen years, but when those trees come down, you're going to need a new fence.

Regnier asked why would we need a new fence and Crutcher replied if the trees come down, the fence will come with it.

DePew said if the trees come down, they will fall on the house, these are some tall trees and I won't be worried about the fence.

Crutcher said if they come down on their own, yes, that could be a problem, but if you decide to take them down, you'll probably have to remove the fence and Regnier said okay.

Schiffman called for a motion from the Commissioners.

MOTION by Crutcher, supported by Gensheimer, to approve the variance for 23970 Wesley Street, to place the new fence on the property line, to extend from the rear of the property as far as the front space of the residence on Wesley Street, and allow for the 6-foot height variance.

Motion carried, all ayes.

MOTION by Crutcher, supported by Gensheimer, to approve the variance for 24055 Gill Road, to place a 6-foot privacy fence along the north property line, extending from the rear of the property and in line with the front face of the existing residence, and allow the 6-foot height variance.

Motion carried, all ayes.

Bowdell stated that the snipes referenced during the meeting should be made a part of the record since they were utilized for visual.

Bowdell indicated no letters were received on the two variances.

PUBLIC COMMENT

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None heard.

MOTION by Gensheimer, supported by Pitluk, to adjourn the meeting at 7:51 p.m.
Motion carried, all ayes.

The meeting adjourned at 7:32 p.m.

Matthew Schiffman, Secretary