

CITY OF BURTON
LEGISLATIVE COMMITTEE MEETING MINUTES
JANUARY 12, 2004, 4:00 P.M., COUNCIL CHAMBERS

Charles Cross, Chairperson, called the Legislative Meeting to order at 4:06 P.M.

MEMBERS PRESENT: Centilli, Cross and Isham.

MEMBERS ABSENT: None.

OTHERS PRESENT: C. Abbey, Administrative Assistant; T. Strasser, Deputy Planning Official and C. Ladd, Deputy City Clerk.

PURPOSE OF THE MEETING: Discussion and Possible Recommendation/Updating of the fence ordinance.

PRESENTATION:

Mr. Abbey said the fence ordinance has been discussed many times. The last time was in reference to the \$50.00 fee to appeal a front yard fence versus the person who wants to get a fence permit.

Tom Strasser explained that Zoning Ordinance #19, Section 5.33 (2A) speaks to the location of front yard fences. The ordinance explains what the applicant must do. Mr. Strasser read the section of the ordinance that concerns the \$50.00 fee for appealing a front yard fence. There is justification in the ordinance stipulating that someone who is requesting an appeal in front of the Zoning Board of Appeals shall pay a fee, which in this case is \$50.00.

AUDIENCE PARTICIPATION:

Pauline Dargel, 6119 Hugh St., said at one time all requests for a front yard fence had to go before the Zoning Board of Appeals for a variance. Recently there was a request from a resident in Killarney Park and the person appealing thought there were no front yard fences allowed. That person then had to appeal. She noted that the person requesting the front yard fence is supposed to state what the hardship would be if the request were not approved. It seems the wrong individual is making the request for a variance from the ordinance. Mrs. Dargel would like to see the City return to the previous requirement of having no front yard fences as stated in the original ordinance. If someone wants a variance then they should be the individuals to apply to the ZBA and be heard.

COMMITTEE DISCUSSION:

Mr. Cross said we are here today to discuss the \$50.00 fee for the appeal process and while discussing this ordinance we should discuss fences being placed behind one another. When this process is done, neighbors have a difficult time getting the weeds out and properly maintaining the fenced area.

Mr. Abbey commented that this is a difficult situation and we need to find some type of compromise.

Mr. Cross said one solution would be to leave enough room between the fences to get a 22" mower between the two fences and have a setback from the original fence so there is walking room to maintain their fence. Another solution would be to spray a weed killer.

Mr. Abbey said disputes between neighbors occur, causing serious problems and the City has to deal with them.

A lengthy discussion was held as to a solution for properly maintaining fences that are placed back to back.

Mr. Strasser said only knows of four times in almost 20 years that an adjoining property owner made an appeal to the Zoning Board of Appeals so his neighbor couldn't have a front yard fence. Three of those times have been in the past two years and in two instances, it was a situation where the neighbors had bitter disputes. Mr. Strasser asked if this is an actual problem or a conceived problem?

Mr. Cross replied that it is an actual problem when there are back-to-back fences that are different.

Mr. Abbey commented that he believes this situation is a potential problem.

Further discussion continued regarding the front yard fence.

Mr. Centilli said he believes there should never be a cyclone or privacy fence in the front yard.

Mr. Abbey said he agreed with Mr. Centilli.

Mr. Isham said most people who have the fences in the front yard are to keep their children or animals in the yard. He doesn't believe the City can dictate where people can keep their animals. He said he isn't a proponent of any fences. He asked what the Committee's objective is today.

Mr. Abbey said the objective is for the Committee to determine whether or not the appeal process is proper by having to pay a \$50.00 fee to keep a neighbor from having a front yard fence.

Mr. Cross said the \$50.00 fee is the main reason we are here.

Mr. Centilli said he doesn't believe the City should charge the \$50.00 fee for the appeal process. Mr. Isham agreed with this statement.

Mr. Strasser said prior to 1988 the only four fences that were allowed in the front yard did not include a chain link fence. Because there were so many requests for front yard fences that came before the Zoning Board of Appeals, a decision was made to include them in the ordinance. That is how the change came about.

Discussion continued in reference as to how a person would appeal and the costs involved in noticing the people.

Mr. Cross said we should make a decision concerning the fee being removed from the ordinance.

Mr. Abbey commented that the City has only had four cases in a 20-year period; obviously the issue is not a financial one.

Centilli moved and Isham seconded the following motion:

Approve and authorize the recommendation to dismiss the \$50.00 fee regarding appeals for a front yard fence that appear before the Zoning Board of Appeals. Motion carried 3-0.

Discussion was held concerning the Davison Township fence ordinance.

Mr. Abbey commented that Council should address the issue of people who reverse privacy fences, turning the good side in and the posts outward. This issue is becoming a major problem. The situation happens frequently with the cyclone fences and look very bad.

Mr. Cross asked if there is a section in the ordinance that this could be inserted into the ordinance.

Isham moved and Centilli seconded the following motion:

Approve and authorize the recommendation to add the following to Section 5.33, Paragraph 2, Subsection F:
Fences of all materials should face with finished side out with all supporting members inside of fence.
Motion carried 3-0.

Committee members held a discussion concerning the front yard fences and the types of fences listed in Section 5.33.

Mr. Cross asked about having fences on corner lots.

Mr. Strasser said the ordinance has provisions for corner lot fences.

Mr. Cross commented that he believes the chain link fences should be removed from the ordinance. Many times companies install vinyl stripping in the chain link fences and have also seen redwood slats put in. That is why I would object to a chain link fence in the front yard.

Mr. Isham said he believes there could also be a problem with a picket fence. They are solid fences and could obstruct the view.

Mr. Centilli agreed that chain link fences should not be put in the front yard.

Mr. Strasser said chain link fences are allowed by the ordinance as long as notification is given to adjoining property owners.

Discussion amongst the committee continued regarding the removal of front yard fences.

Mr. Centilli said he would like to have Burton's ordinance changed to read as the Grand Blanc ordinance relating to fencing. He reiterated that a chain link fence does not look good in the front yard.

Mr. Isham said he would like to see the picket fences eliminated because of sight obstruction.

Mr. Strasser said he agreed that picket fences are pretty much sight obscuring.

Mr. Cross said he believes the chain link fences should be limited to no further than the front of the house. They always have an opportunity to go to the ZBA for a variance.

Mr. Strasser commented that the reason chain link fences are included in the ordinance has to do with the number of cases that came before the Zoning Board of Appeals. The key to making this a successful change is for the Zoning Board of Appeals not to grant variances allowing fences in the front yards.

Mr. Isham said the chain link fencing is the least expensive and the most popular fencing used today. He said according to the ordinance a fence could not be sight obscuring, which would do away with the picket fence.

Discussion continued regarding the removal of the picket fence.

Mr. Abbey said any variance that is not covered in the ordinance would have to go before the Zoning Board of Appeals and they would have to show the hardship.

LEGISLATIVE COMMITTEE MEETING MINUTES
JANUARY 12, 2004/4:00 P.M.
PAGE 4

Mr. Cross asked if the recommendation from the DPW is to allow chain link fences in the front yard so it cuts down on cases for the Zoning Board of Appeals? He also asked how many cases were before the Zoning Board in the last year requesting chain link fences in the front yard.

Mr. Strasser said this is a difficult question to answer. There have been possibly 20 or 25 cases requesting a chain link fence in the front yard.

Further discussion continued regarding the hardship status.

Mr. Abbey commented that if the applicant can't show the hardship, then the request should not be granted.

Mr. Centilli inquired about the height of the fence because 48" is high.

Mr. Strasser said 48" is the standard height of a fence.

Moved by Isham, seconded by Centilli to eliminate Item #3, being picket fences from Section 5.33, 2 b. Motion carried 3-0.

Mr. Cross said the item of having two fences back to back is becoming a real problem.

A brief discussion ensued concerning the subject of fences being back to back.

COMMITTEE RECOMMENDATIONS:

Centilli moved and Isham seconded the following motion:

1. Approve and authorize the Committee's recommendation to dismiss the \$50.00 appeal fee regarding appeals for a front yard fence that appear before the Zoning Board of Appeals.

Motion carried 3-0.

Isham moved and Centilli seconded the following motion:

2. Approve and authorize the Committee's recommendation to add as Item F under Section 5.33, Paragraph 2 that fences of all materials should face with all support members inside of fence and have the finished side out.

Motion carried 3-0.

Isham moved and Centilli seconded the following motion:

3. Approve and authorize the Committee's recommendation that under Section 5.33, Paragraph 2 b to remove Item #3, being the picket fence.

Motion carried 3-0.

Meeting Adjourned at 5:25 P.M.

Cheryl M. Ladd, CMC
Deputy City Clerk

CML