

Approved Minutes

City of Bloomington
Development Review Committee
09/22/2015

McLeod Conference Room
Bloomington Civic Plaza – 1800 West Old Shakopee Road

Staff Present

Duke Johnson (B & I), Fill In Chair, 952-563-8959	Erik Solie (Environmental Health) 952-563-8978
Mark Anderson (Assessing) 952-563-8706	Nick Johnson (Planning) 952-563-8925
Vanessa Thompson (Assessing) 952-563-4511	Heidi Miller (Police) 952-563-4975
Kris Kaiser (Fire Prev.) 952-563-8968	Amanda Johnson (B & I) 952-563-8961
Bruce Bunker (Engineering) 952-563-4546	Kelly Isaacson (B & I) 952-563-4703
Randy Quale (Parks & Rec) 952-563-8876	

Item 1 - Formal	10801 Xerxes Ave - Fence Variance
<i>Site address</i>	10801 Xerxes Ave S, Bloomington
<i>PC Hearing</i>	10/08/2015
<i>Application type</i>	Variance
<i>Staff contact</i>	Johnson, Nick M x8925
<i>Proposal</i>	Keith Freemark is requesting variances for fence height and opacity for an existing fence at his single family home located at 10801 Xerxes Ave. S. (Increasing height up to 6')
<i>Plat name</i>	Lot 3, Block 1 Streitz 1st Addition
<i>Decision maker</i>	City Council
<i>Replat/Park dedication</i>	No
<i>Reviews</i>	DRC; City Council; Planning Commission
<i>Contact 1 name</i>	Keith Freemark
<i>Contact 1 address</i>	10801 Xerxes Ave. S Bloomington, MN 55431
<i>Contact 1 e-mail</i>	keithfreemark@aol.com
<i>Contact 1 phone</i>	952-292-7880

Guests Present

Keith Freemark, Homeowner

keithfreemark@aol.com

Discussion/Comments:

- Nick Johnson (Planning): Planning Staff has requested DRC review of this variance application due to the fact that the survey revealed that the fence is located in the public right-of-way.
- Nick Johnson stated this was a corner lot on southeast corner of Xerxes and W. 108th Street and the variance is for increasing fence height to 6 feet and full privacy fence on corner yard setback.
 - Applicant noted that this has been a long process. He bought this home in January, 2014. The home was overrun and neglected, and he has since fixed it up. Since he had a 5 year old (now 6) child and Labrador retriever, he decided to build a fence due to the busy traffic (fire trucks, garbage trucks, fast drivers) in front of the home. He came in a year and a half ago and showed a staff person an aerial of his home with pine trees (well overgrown) and lilac bushes (which provided a natural break). The staff person indicated it was no problem and that he didn't need a permit. He told her exactly what he wanted to do and all the pictures. He started putting posts up. He also took out bushes, trees, etc. He started in the front and went down and around and also added a gate for his camper. He tore his shoulder up at work (Pronto Heating and Air) during the time he was working on his fence. He had to take a break from completing the fence due to injury. He was never talked to about the status of the fence while he left it in the condition it was while he was recovering from his injury. Once he finished it (fence goes to neighboring lot), he got a letter from the City claiming he couldn't have the fence – it was too high. Duke Johnson asked if the fence was higher than 6 feet and the applicant replied it is not. Nick Johnson added that he has 2 front yards and that to be legal it needs to be a 4 foot high max fence and to be legal, it needs to be pulled from back corner to backside of home. Applicant claimed he understands, but wouldn't have taken out the 8 pine trees along the north property line if he didn't have permission given before. He stated that he did a lot of work and put a lot of money into this project.
- Randy Quale (Park and Recreation): No comment
- Mark Anderson (Assessing): No comment
- Erik Solie (Environmental Health): No comment
- Duke Johnson (Building and Inspection): Any fence over 6 feet high requires a building permit.
- Heidi Miller (Police): No comment
- Bruce Bunker (Engineering) provided the Public Works comments and noted the following:
 - Engineering staff does not support fence located within public right-of-way or easements. If the City Council approves the variance for fence in its current location, an encroachment agreement will be required.
 - Applicant says he understands he is a little over the right of way and if needed, they will make a little adjustment there.
 - Encroachment Agreement Application. Application fee = \$250 per application. Developer/owner to provide legal description and Engineering staff will prepare and file the encroachment agreement document. Bunker said he can get him a sample.
 - Nick Johnson asked about recommendation about fence not being located in the right of way. Bunker said that is correct.
- Eric Wharton (Utilities): No comment (Not present)
- Kris Kaiser (Fire Prevention): No comment
- Lisa Firth (Public Health): No comment (Not present)
- Nick Johnson (Planning):

- Nick Johnson mentioned since the fence is located in the right of way, the variance application was presented to DRC.
 - The applicant is requested multiple variances to allow an existing 6-foot privacy fence to remain in place within the required setback area along W 108th Street (corner lot).
 - Fences within a front or corner yard setback area must be a maximum of 4 feet in height and be 50% opaque. The existing fence exceeds both the fence height and opacity provisions.
 - In order to grant a variance, the City must make the necessary findings as outlined in Section 2.98.01(b)(2).
 - Based upon the required findings of fact to grant a variance under State Statute, staff has previously communicated to the applicant that the variance will be difficult to support. Staff will go through a formal evaluation of the required findings as part of its report to Planning Commission.
 - The survey revealed that the fence encroaches into the right-of-way of W 108th Street by approximately a foot. Planning staff is seeking direction from public works on how to address this situation.
 - Nick Johnson added that should City Council decide that the variance should be approved, an encroachment agreement would be required to keep the fence in its present location.
 - Nick Johnson asked applicant if he has handout of formal criteria of evaluation for variances and said he would send one.
 - Applicant voiced a lot of things are happening in neighborhood and a variance was granted to a neighbor.
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