

ITEM 3
6:18 p.m.

CASE:	6410AB-15
APPLICANT:	Keith Freemark (owner and user)
LOCATION:	10801 Xerxes Avenue
REQUEST:	Variance to increase fence height from 4 feet to 6 feet and fence opacity from 50 percent to 100 percent

SPEAKING FOR THE APPLICANT:

Keith Freemark, applicant

SPEAKING FROM THE PUBLIC:

Steve Warner, 10800 Xerxes Avenue South

PUBLIC HEARING DISCUSSION:

Johnson brought up an aerial map of the variance location. The existing fence exceeds the height and opacity requirements. The fence was constructed in early 2015. Since the location is a corner lot, the fence height must be 4 feet high and 50% opaque. The applicant cites significant traffic on Xerxes Avenue, which may include truck traffic from a nearby fire station, as reason for the variance. Staff found that the fence encroaches the right-of-way by a foot on West 108th Street. The Public Works Department recommends removal of the fence or obtain an encroachment agreement if the variance is granted. Traffic levels are fairly typical of a residential neighborhood: 1,500 cars per day on Xerxes Avenue and 500 cars per day on W 108th Street. Johnson compared this variance to 3 approved variances since 2009. Two of the variances were approved due to children with medical needs. Johnson brought up a comparison of an approved fence variance at 8201 Pillsbury Avenue and 10801 Xerxes Avenue. The differences include varying levels of traffic volume, lot orientation and variance area. Five of the required findings were not met; therefore, staff is recommending denial. Johnson suggested that the Planning Commission consider recommending changes to the fence ordinance if they feel that corner lots should be afforded privacy fences closer to the street. A policy change would be more appropriate than a variance in this case. .

Fischer asked if a building permit is needed.

Johnson said if the fence is 6 feet or less in height, it does not need a building permit.

Freemark said he bought the house in the spring of 2015. He showed photos of the site. Over a year ago, he spoke with staff and found that a permit is not required to build a 6 foot fence. He noted that the streets are busy and would like to keep his son safe. He believed there was a miscommunication between the applicant and the city. He showed pictures of other fences that are over 4 feet in height in a front yard. He mentioned he has consent affidavits from his neighbors. He noted that the fence does not interfere with traffic sight lines.

Warner said that the fence has been maintained and the yard looks better than it had previously. He noticed that there are many examples of fences that do not follow code. A major concern for him is peak traffic on Xerxes Avenue. He worries that people can access children with an open yard. He urged the Planning Commission to change the ordinance.

The public hearing was closed via a motion.

Willette asked if the applicant would be able to obtain an encroachment agreement.

Markegard said the encroachment agreement would be at the expense of the applicant.

Goodrum asked if there were other departments that had issues with the fence. And asked when the fence ordinance was updated.

Johnson said it is a zoning issue. Public Works made a comment about the fence being in the right-of-way.

Markegard said the fence ordinance changed in 2009. The main issue is corner lots.

Goodrum noted the neighbors across Xerxes Avenue have the exact fence setup.

Markegard stated the intent was to create an open space along the street. The best option would be to update the ordinance instead of continually review fence variances.

Goodrum asked where the 4 foot fence could be placed.

Markegard showed an aerial photo depicting the required placement of the fence.

Goodrum asked about the side yard setback for a building

Markegard stated the setback is 30 feet from the front property line and a 35 foot prevailing setback.

Fischer does not like that the applicant has to tear down the fence. Evidently, the fence ordinance has created more problems. He understands that the fence code may confuse residents. He recommends City Council to take a look at the fence ordinance issue.

Batterson said there were reasons why the fence ordinance was put in place. He is not in favor of granting a variance. It makes sense to create open space, especially with corner lots.

Goodrum said the ordinance was established for reasons. He requests there be a fence policy discussion.

Nordstrom stated this moves to Council on October 19, 2015.

ACTIONS OF THE COMMISSION:

M/Willette, S/Spiess: To close the public hearing. Motion carried 7-0.

M/Spiess, S/Willette In Case 6410AB-15, having been unable to make required findings A, C, i, ii, and iii, I move to recommend denial of variances to increase fence height from four feet to six feet and opacity from 50 percent to 100 percent at 10801 Xerxes Avenue South. Motion carried 7-0.