

**MINUTES**  
**Board of Zoning Appeals**  
**August 8, 2023**

The Wyoming Board of Zoning Appeals (BZA) met Tuesday, August 8, 2023 in the Council Chambers of the City Building. The meeting was called to order at 6:00 p.m. by Charlie Jahnigen, Chair. Attendance was as follows:

**Members:**

Charlie Jahnigen, Chair  
Abigail Horn  
Bob Kearns  
Chris Woodside

**Staff:**

Tana Bere, Community Development Specialist

**Approval of July 11, 2023 Meeting Minutes:**

Mr. Woodside moved to approve the minutes as written. Mr. Kearns seconded the motion. By voice vote, all voted yes, the motion carried.

**Continuation of Case #8-23, 19 Worthington Avenue, Side Yard Setback and Fence Height Variance Request**

Ms. Bere provided the background. Michelle and Bill Fitzpatric, owners of the subject property, as represented by Architect Sara Aschliman, are requesting side yard variances to construct an attached deck and above ground pool, and a fence variance to construct a screen wall. The property is in the AAA, Single-Family Residence District, within the Village Historic District, and is required to meet a minimum side yard setback of 10' for one-story elements attached to or within 5' of the residence, per §1153.04(b) of the Code.

Additionally, a swimming pool is required to meet a minimum side yard setback of 10' per §1183.10(a)(10) of the Code. Furthermore, the screen wall presents as a fence and fences cannot exceed 6' in height measured from grade to the top of the fence per §1183.10(a)(6)(A) of the Code. As shown on the site plan, the deck is setback 5' from the side property line, the pool is setback 8' from the side property line, and the screen wall is 10.5' in height. The project fails to comply with these provisions of the Code and variances are being sought on this basis.

Ms. Sara Aschliman addressed the Members and clarified that the pool will be 54 inches deep. The height of the proposed deck will be raised as the homeowners wish to change this section of the proposal and add a pergola for shade. She added that she designed the pergola to be aesthetically pleasing with the design of the existing porch structure.

Ms. Aschliman commented that three trees on the property will need to be removed – one pine tree and two Ash trees. There is one large Maple tree that all attempts will be made to save. The homeowners felt that they would prefer to plant additional landscaping materials between the deck and the fence.

Mr. Kearns commented that he appreciates the homeowners trying to save as many trees as they can and the ones that have to be removed are insignificant. If the Maple tree can be saved that would be great.

Mr. Jahnigen commented that knowing the pool will only be 54 inches deep is good and he does not believe that it would kill any tree roots in the future. The streetside view into the side and rear yard will blend in architecturally with the Victorian style of the home.

With no further comments or questions from the Members, Mr. Woodside moved to approve the variance request. Mr. Kearns seconded the motion. By roll call vote, 4-0, all voted yes, the motion carried.

#### **Case #9-23. 228 Crescent Avenue, Retaining Wall Variance Request**

Ms. Bere provided the background. Donald Metz, owner of the subject property, as represented by Contractor David Beckett, is requesting a front yard variance to construct two retaining walls. The property is in the A, Single-Family Residence District and is required to meet a minimum front yard setback of 5', per §1183.18(d) of the Code. As shown on the site plan, the retaining walls are located on the front property line and abut the public sidewalk. The retaining walls are 3'-6" in height, which includes a 4" cap and will be constructed with Allan Block. The project fails to comply with this provision of the Code and a variance is being sought on this basis.

Ms. Bere noted that the Zoning Code was updated a few years ago and explained that one of the changes was to the setback of retaining walls. Walls and retaining walls need to be setback no less than 5' from the front property line. Mr. Dave Beckett addressed the Members and stated that Mr. Metz has lived in his house for 52 years and plans to stay until further notice. It has become increasingly unsafe for Mr. Metz to mow the sloped sections of his front yard. The Allen Block retaining wall would be installed against the back edge of the public sidewalk and the land filled so that Mr. Metz would have a flat front yard.

Mr. Jason Miller, 224 Crescent Avenue, addressed the Members and stated that he lives next door to Mr. Metz. He said that he is in favor of the proposal, and it will help Mr. Metz to be able to cut his grass safely.

Ms. Bere added that she received an email from Will Waxler at 227 Crescent Avenue who also expressed that he is in favor of the proposal.

Mr. Jahnigen asked for clarification of the height of the wall. Mr. Beckett stated that 36 inches of the wall will be exposed from the sidewalk level. There will be a topsoil fill to level out the ground. Mr. Metz explained that rock and soil will be used to backfill behind the wall to level out the yard. A drain-pro system will be installed which will allow water to weep out of the front of the wall. The water will not leak out onto the sidewalk as it can now.

Mr. Beckett clarified on a Google Maps image the placement of the retaining walls against the driveways that abut Mr. Metz's property.

Mr. Kearns stated that not all the questions that the Board is required to ask applicants to answer in Section 1137.04 of the Code were answered, however they are so minor in nature to the scope of this project.

With no further comments or questions from the Members, Ms. Horn moved to grant the request for the variance as submitted. Mr. Kearns seconded the motion. By roll call vote, 4-0, all voted yes, the motion carried.

**Case #10-23. 547 Larchmont Drive, Rear Yard Setback Variance Request**

Ms. Bere provided the background. Adam and Victoria Reed, owners of the subject property, are requesting a rear yard setback variance to construct a one-story porch addition. The property is in the AA, Single Family Residence District and is required to meet a minimum rear yard setback of 30' for one-story elements, per §1153.04(c) of the Code. As shown on the site plan, the addition is setback 25'-7" from the rear property line, requiring a variance of 4'-5". The project fails to comply with this provision of the Code and a variance is being sought on this basis. Ms. Noble was not able to attend the meeting.

Ms. Reed stated that the scope of the project is to build a screened porch off the rear of the home. The rear yard is heavily wooded and would not present a visual hindrance to the neighbors. Ms. Bere noted that the neighbor at 201 Reily Road contacted her to view the plans, however no comments were received from this neighbor afterwards.

Mr. Jahnigen commented that the request seems reasonable due to the amount of space between the adjoining homes and the structure would be difficult to see from the neighboring properties as well as the heavy wooded area in the rear yard.

With no further comments or questions from the Members, Mr. Kearns moved to grant the request for a variance as submitted. Ms. Horn seconded the motion. By roll call vote, 4-0, all voted yes, the motion carried.

**Case #12-23. 642 Grove Avenue, Front Yard Fence and Driveway Variance Request**

Ms. Bere provided the background. Margaret and Matthew Wyles, owners of the subject property, are requesting variances to construct a fence and an expanded driveway within the limits of the front yard. The property is a corner located in the A, Single-Family Residence District. §1183.10(a)(6)(C) of the Code pertains to fences on corner lots, and does not allow a fence to be placed any closer than the front property line than the front yard setback of the main structure on the lot, or the average front yard setback of the property on which the fence is located and the home on the adjacent lot on the same street frontage, whichever is more restrictive. As shown on the site plan, the 4' tall fence is located on the property line along the Wentworth Avenue frontage, requiring a variance of approximately 33'.

Per §1151.06(b) of the Code, the maximum width of any portion of driveway located within the limits of the front yard is 13'. Additionally, §1151.06(d) allows any portion of driveway in excess of 100' from the front property line or otherwise rear of the front building line, may be constructed of compacted gravel. As shown on the site plan, the driveway is 21'-9" at the widest portion, requiring a variance of 8'-9". The portion of gravel driveway within the limits of the front yard requires a variance approximately 33'. The project fails to comply with these provisions of the Code and variances are being sought on this basis.

Ms. Wyles addressed the Members. She stated that she considered many options for the proposal due to the corner lot location of her property. She added that Wentworth Avenue is a heavily traveled street and there is no stop sign at this intersection. She has two children and a dog, and she would like to make the property safer for them. She called out the location of two brick posts at the entrance of the driveway. The posts are original to the house which was built in 1911 and she would like to conserve them. The proposed fence and driveway gates will meet at these posts.

Ms. Wyles added that all driveway materials will be permeable with a paver entry and border with gravel in the center. Concrete planter pavers will also be installed to allow foliage to grow. The large Catalpa tree will be saved at all costs. The parking pad will be well hidden from the street. She feels they have put a lot of effort into the plans and added that additional landscaping material will be added between the fence and the property line.

Mr. Kearns asked if there is a formal landscaping plan available. Ms. Wyles stated that no formal plan has been drawn but stated that she will initially be planting liriopie, creeping myrtle, and other materials that she has not yet decided on and noted that there are several tulip bulbs that have been planted that have come up this year.

Mr. Wyles commented that a new house on Oak Avenue has recently been constructed behind his house and added that the new residents may, at some point in the future, want to install a 6' privacy fence in their rear yard. He has spoken with the new neighbors and

explained what their plans are, and he added that his 6' privacy fence behind his home will drop down to a 4' high picket fence as it progresses towards Wentworth Avenue.

Mr. Kearns commented that the Board, when reviewing fence variances, generally heavily suggests a landscape plan be submitted. Ms. Wyles commented about the existing hedges that are on the property; which ones will stay, and which will be removed, and some of the boxwoods that will be relocated to screen the fence. She stated that she intends to heavily landscape the yard between the fence and the street as a gift to everyone passing it by. Mr. Kearns added that generally, the Board will ask that a specific landscape plan be submitted to the City as part of the Boards motion to approve. Ms. Wyles also shared the amount of honeysuckle that has already been removed. Ms. Wyles added that she will begin planting landscaping materials as soon as possible and she will continue to plant up until the first frost. More will be added next year.

Mr. Woodside moved to approve the request for variance as submitted with a caveat that the homeowners submit a formalized landscape plant to the City for approval. Mr. Kearns seconded the motion. By roll call vote, 4-0, all voted yes, the motion carried.

### **Miscellaneous**

Ms. Bere commented that the Board will meet on September 12, 2023 to hear one case.

### **Adjourn**

With no further business before the Board, Mr. Kearns moved to adjourn the meeting. Mr. Woodside seconded the motion. By voice vote, all voted yes, the motion carried. The meeting adjourned at 6:43 p.m.

Respectfully submitted,

Debby Martin, Executive Assistant

Charlie Jahnigen, Chair