

**MINUTES**  
**Board of Zoning Appeals**  
**May 11, 2021**

The Wyoming Board of Zoning Appeals met on April 11, 2021 at 6:00 p.m. 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  
Lynn Bueckman  
Jennifer Eismeier  
Jeff LeRoy

**ABSENT:**

Bob Kearns

**STAFF:**

Megan Statt Blake, Community Development Director  
Tana Bere Pyles, Community Development Specialist

**OTHERS:**

Claire Aarnio-Peterson, Applicant/Owner, 118 Springfield Pike

**Approval of April 13, 2021 Meeting Minutes**

Ms. Eismeier moved to approve the minutes as written. Mr. Bueckman seconded the motion. By voice vote, all voted yes, the motion carried.

**118 Springfield Pike. Case #3-21-Corner Lot Fence**

Ms. Pyles provided the background of the case. Property owners, Claire and Megan Aarnio-Peterson, are requesting a variance to construct a fence in the front yard of the corner lot at 118 Springfield Pike. The applicant proposes to construct a 4' tall, decorative white picket fence on a portion of their corner lot, extending towards the Allen Avenue frontage.

As proposed, the fence would violate the provisions of Section 1183.09 (a) (4) of the Code which prohibits the installation of fences within the limits of a front yard unless the fence, among other things, is non-enclosing and does not exceed 25% of the length of the front lot line.

Additionally, per Section 1183.10 (a) (6), on corner lots, fences are not to be placed any closer to the front property line than the more restrictive of the front yard setback of the house on the lot or the average front yard setback of the house on the subject lot and the adjacent house on the same street frontage (i.e. 16 Allen Avenue). Per CAGIS, both 118

Springfield Pike and 18 Allen Avenue appears to have equivalent front yard setbacks from Allen Avenue, and therefore this provision of the code could be interpreted as being met, it was noted that this information was not included on the survey.

Lastly, in the narrative description from the applicant, they reference a distance of 20' from the fence to the back of the sidewalk, which is incorrect. The fence is instead proposed to be 9.7' from the back of the sidewalk as noted on the site plan.

Based on the foregoing, the request cannot be given administrative approval, therefore a variance is being sought.

Ms. Statt Blake read an email from the neighbors at XX Allen Avenue who have expressed approval with the proposal.

Ms. Aarnio-Peterson.....Mr. Bueckman asked when the prior fence was removed. Ms. Statt Blake stated that she believes it was 2014-2015.

[question from applicant] Ms. Statt Blake explained that if the prior fence were meeting code, it would have been placed from the rear corner of the house back to the rear property line corner {?}

Ms. Eismeier asked clarification if the rear yard would be fully enclosed. Ms. X explained that there is an existing fence belonging to the neighbor which will make the yard become enclosed once the new fence is erected.

Mr. Bueckman asked if the new fence will be placed in the same location as the old fence. Ms. Statt Blake stated that the new fence is proposed to be closer to the sidewalk than the previous fence. Mr. Jahnigen added that the plans indicate the new fence will be placed 9.7' off the sidewalk.

Mr. Jahnigen asked clarification of the applicant if the fence will be stained or painted white. Ms. X stated that it will be painted white. He asked if there will be any proposed landscaping on both sides fence or if the ground area will be grass. Ms. X stated that at this time the yard will only be grass.

Mr. Bueckman asked clarification if the trees will be XXXX in the fence line (can't hear him). Mr. Jahnigen stated that it will. Mr. LeRoy (can't hear him)...discussion, can't hear it, Mr. LeRoy stated that he does not mind the fence height being 4'. He asked if the Board has heard similar cases. Mr. Jahnigen stated that the Board regularly hears corner lot fence cases and a lot are wanting to push the fence closer to the sidewalk but the Board has consistently asked that landscaping material be planted in the area between the fence and the sidewalk 24-36". In this case, the distance is proposed at 9.7' from the sidewalk.

Ms. Eismeier referenced the corner lot fence at Pendery and Burns (and then I can't hear what else) Mr. Bueckman stated that he has noticed several fences in that area that are closer to the sidewalk the sidewalk. Ms. Eismeier commented that she appreciates the applicant's desire to keep their children safe in the back yard and for the quality of the materials. Mr. Jahnigen commented that he appreciates that the new fence will be closely replicated in intent to the previous fence and he feel that 4' height almost 10' from the road is fine and the white fence will look nice. The owners have done a good job of improving the house.

Discussion was held regarding past corner lot fence variances regarding the height, placement, and landscaping. Ms. Statt Blake explained that if it is the Board's preference, staff would recommend that the Board be specific in its motion as to the height and placement of the proposed fence. If the Board is comfortable with establishing standards with corner lot fences that is its prerogative. If the expectation is that we are giving variances because there is some other aesthetic benefit that is being provided then we need to articulate that in a motion. We are setting a standard for fencing in front yards and if we continually approve variances without much requirements then what we should probably look at is relaxing the fence code and not putting residents through variance processes for something that as a community has decided that it is not something we want to be restrictive about. It's a balance between if there is a hardship, is there is a practical difficulty if not is it appropriate to approve a variance and if there is not a practical difficulty or hardship but if it's a code issue that the board feels is overly restrictive then we should look at relaxing that from a zoning code perspective. So striking that balance for allowing for unique things to be approved from a general benefit to property owners and to the community and also respecting the integrity of the zoning code.

Mr. Bueckman commented that since the homeowners have already said 3' is acceptable and given the xxxxxxxx (can't hear anything he is saying here) if you are on the sidewalk you can see over the fence into the house.....spirit and intent...I would prefer to see ....

Ms. Eismeier....Pendery and Burns....trees...

Mr. Bueckman moved to approve a 3' high fence off of the grade, white (?) in color, based on the schematics...9.7' off the sidewalk.....Ms. Eismeier seconded the motion. By roll call vote, 4-0, all voted yes, the motion carried.

### **Miscellaneous**

Ms. Statt Blake reported that there will be two cases for the board to consider at the June 8 meeting. Discussion was held on the pros and cons of corner lot properties and the additional code restrictions placed on them verses interior lots.

**Adjournment**

With no further business before the Board, Mr. Bueckman moved to adjourn the meeting, seconded by Ms. Eismeier. By voice vote, the motion passed unanimously. The meeting adjourned at 6:35 p.m.

Respectfully submitted,

Debby Martin, Executive Assistant

Charlie Jahnigen, Chair