

Item 23-1485: 618 W. Seymour St. The applicant proposes to erect a six (6) foot fence, thirteen (13) feet from the front property line

Board of Zoning Appeals
Mon, Dec 18, 2023 7:00PM

Paul McCann (BOZ Chair) 36:17

Okay, finally, we have a case for 618 West Sup—Seymour Street. Kurt if you'd read that request, please.

Supervisor Kurt Craanen (Inspections) 36:25

The applicant proposes to erect a six-foot fence 13 feet from the property line—front property line. Section 23-44(a)(1)(a) of the zoning ordinance limits fence height to three feet within 20-foot setback at the front property line.

Paul McCann (BOZ Chair) 36:41

Okay. And if you'd introduce yourself, please.

Erin B. (Resident) 36:45

My name is Erin. I'm the property owner at 618. So, I've just purchased this house, and I would like to fence in it—what Kurt said is front yard but it's actually the rear of the property. So, my house faces Seymour street, but then there's a rear street called Riverview Lane that goes behind the houses. So, because my house is in the inside and then there's two front yards, basically, the hardship that it creates is it severely impacts how much yard I have to fence in.

Erin B. (Resident) 37:20

Actually, when I purchased the property, I actually thought that Riverview was an ally. So, in the back, in this picture that he's pulling up right now, that's a big row of probably seven-foot hedges that were in the backyard when I bought it. I have since removed those. So, the approximate 13 feet back of where I'd like to build a fence would line up with the neighbor's garage. So, it wouldn't impact vision for anybody that would have to drive out.

Paul McCann (BOZ Chair) 37:53

So, the line shown there, Kurt, behind in the pavement. I'm sorry, you went the opposite way I was looking. But if you look at the neighbor's driveway, the line in the pavement there is probably at the in the right—at the right of way? Right the—

Kelly Sperl (BOZ Member) 38:14

Right of way's probably the over the corner. Is that far back, the right of way?

Supervisor Kurt Craanen (Inspections) 38:19

If you're gonna go by that. I can't say that for sure. But if I go by these sections of the sidewalk, typically it's inside the sidewalk.

Kelly Sperl (BOZ Member) 38:28

Gotcha.

Supervisor Kurt Craanen (Inspections) 38:28

I can bring up—

Kelly Sperl (BOZ Member) 38:29

That's all right. I think you're probably—I think you're probably right. After I said—I was thinking it was the other line. But that's just at the that's just at the apron. So.

Supervisor Kurt Craanen (Inspections) 38:38

We're assuming that. I don't know. If I bring it up here...

Paul McCann (BOZ Chair) 38:45

So optically, you're saying it would be the same or similar to where these shrubbery was or behind there even.

Erin B. (Resident) 38:51

Behind the shrubbery actually. The shrubs were almost up to the—well basically the property line. From when I had the survey, it looked like that's where they were about, but they've all been removed.

Kelly Sperl (BOZ Member) 39:05

Your house was the one that's setback that I saw. Is it a gray home?

Erin B. (Resident) 39:08

It's yeah, like a bluish gray.

Kelly Sperl (BOZ Member) 39:10

Bluish gray is further back.

Paul McCann (BOZ Chair) 39:13

Well, but what I was trying to understand is the property line because with the utility pole there, and, um, the city has, I assume has sort of right away there. It looks like the property lines would be maybe quite a bit.

Kelly Sperl (BOZ Member) 39:29

It is probably code closer to where I was thinking.

Paul McCann (BOZ Chair) 39:33

Yeah.

Supervisor Kurt Craanen (Inspections) 39:35

Now these aren't [...] quality—

Paul McCann (BOZ Chair) 39:38

No, but it does—it does look like it's at that outside—

Paul McCann (BOZ Chair) 39:42

—line versus the inside line. Okay, so the property does get within eight feet of the street or so. Is that is that what it appears?

Kelly Sperl (BOZ Member) 39:42

[Indecipherable] line

Supervisor Kurt Craanen (Inspections) 39:56

I can take a measurement for what it's worth.

Karen Cain (BOZ Member) 40:02

There's a good schematic in the materials that we were provided. And I think it shows 29 feet from the corner of her house. It's page 6 of 7 of 618 W Seymour.

Supervisor Kurt Craanen (Inspections) 40:19

I can bring that up here. Goes about 2 and 5 feet.

Paul McCann (BOZ Chair) 40:30

So that is a, an unusual street from a...

Kelly Sperl (BOZ Member) 40:34

Yeah, very unusual. Great.

Erin B. (Resident) 40:38

There's no traffic lines on it. And there's like three 90 degree turns from the beginning to the end of it. So...

Paul McCann (BOZ Chair) 40:46

It's always fun when someone's coming the other way, too.

Erin B. (Resident) 40:50

It's a nice street for walking.

Supervisor Kurt Craanen (Inspections) 40:54

Excuse me, Karen. It's just the one you were referring to?

Karen Cain (BOZ Member) 40:55

Yeah, that's the one. Yeah.

Paul McCann (BOZ Chair) 41:01

Okay. So, she would otherwise be required to have that 20 feet from the line and it's 13 proposed.

Supervisor Kurt Craanen (Inspections) 41:12

Right. Yep. So, it would be somewhere around here.

Paul McCann (BOZ Chair) 41:18

Okay.

Kelly Sperl (BOZ Member) 41:20

And it's back even with that neighbor's garage.

Erin B. (Resident) 41:25

What?

Kelly Sperl (BOZ Member) 41:26

Back even with the front edge of the neighbor's garage, as you said earlier.

Erin B. (Resident) 41:29

The proposal.

Kelly Sperl (BOZ Member) 41:31

Yeah.

Erin B. (Resident) 41:31

Yeah. So, then the if it if it were the 20-foot setback, it'd be farther back.

Kelly Sperl (BOZ Member) 41:35

Yeah. Exactly.

Erin B. (Resident) 41:36

Approximately seven feet.

Paul McCann (BOZ Chair) 41:39

Yep. And your driveway and everything is off of that street as well?

Erin B. (Resident) 41:43

Correct. So, um like the part of the house that sticks out that way, I guess, the L shape, that's like—so my driveway and garage was like right there.

Paul McCann (BOZ Chair) 41:51

Yeah. Okay. So, the hardship here would be, I guess, the unusual shape of the property and the two front yards,

Kelly Sperl (BOZ Member) 42:05

We're back to the two front yards again.

Paul McCann (BOZ Chair) 42:08

Well, it's—there's a lot of two front yards.

Kelly Sperl (BOZ Member) 42:10

Yeah. It looks like a small lot, but it's really not that small of a lot. It's—just maybe it's just oddly configured.

Paul McCann (BOZ Chair) 42:28

Well, as you said, the house is set back.

Kelly Sperl (BOZ Member) 42:30

Yeah.

Paul McCann (BOZ Chair) 42:32

There's a—there's a nice primary front yard and a nice.... Okay. Any other questions of the applicant?

Karen Cain (BOZ Member) 42:48

Yes, sorry. So, it looks like that a three-foot height fence is okay, is allowable without a variance? Is there a reason why you want to go the higher fence?

Erin B. (Resident) 43:00

Um, for more privacy.

Kelly Sperl (BOZ Member) 43:15

And this came about not through a complaint, but through the permitting process?

Erin B. (Resident) 43:22

Correct. Yeah. So, I just purchased the home on November 22 and looked into—I've already talked to Valley Custom Fence and they have—we're going through the process. And it was just understanding the code and the things that I need to do to make sure that I'm doing it right.

Paul McCann (BOZ Chair) 44:00

Any additional questions?

Michael Babbitts (BOZ Member) 44:05

How would the setbacks change if this was an alley and not a street?

Supervisor Kurt Craanen (Inspections) 44:10

Would anything change?

Michael Babbitts (BOZ Member) 44:11

Yes. With the setbacks.

Supervisor Kurt Craanen (Inspections) 44:13

You got 5 feet.

Karen Cain (BOZ Member) 44:16

And how does the city define alley versus street?

Supervisor Kurt Craanen (Inspections) 44:22

I guess we could look up the definition of what it is.

Paul McCann (BOZ Chair) 44:24

Well, there are people—there are people with addresses on this street.

Karen Cain (BOZ Member) 44:28

Riverview Lane.

Paul McCann (BOZ Chair) 44:29

So, I'm sure there's nobody with an address on an alley. It's a—it would be—because the people across the street and back, right, that there's homes across the street on that on the east side. Or north side? Here it's north. Here, it's north. And then when it goes that way, it's east and west. So

Scott Engstrom (BOZ Member) 44:56

23-22 defines alley as "A public thoroughfare that generally affords only a secondary means of access to abutting property."

Supervisor Kurt Craanen (Inspections) 45:09

Thanks, [indecipherable]. I'll put it back.

Paul McCann (BOZ Chair) 45:14

So, this is an alley for the people on Seymour street, but it's a street for the people, as you go around the corner that are on the Riverview is in their backyard, right? It's a secondary—

Karen Cain (BOZ Member) 45:31

Can you call it both? I mean, can you say where she is it's an alley, therefore the five feet allowance would be granted?

Kelly Sperl (BOZ Member) 45:40

I don't—you mean secondary access meaning vehicle access or just foot traffic access?

Scott Engstrom (BOZ Member) 45:48

I read you the entire definition. **[Board members laughed at that.]**

Kelly Sperl (BOZ Member) 45:52

Of course you did.

Paul McCann (BOZ Chair) 45:53

This fits that definition. Not for the people on the north/south part because they don't have an alley in the backyard where their garages are. But for those two homes, and the one on—is that Memorial Drive already?—yeah, I mean, that's an alley for them. Everybody on Memorial Drive on that street, it's an alley for them. But it's not for anybody on the east side, because it's their primary. Yes, sir.

Supervisor Kurt Craanen (Inspections) 46:23

If we're going to discuss the definition of a street, I'm telling you, it's a street. And if we want to say it's something different than that'd be a different process. It'd be an administrative deal—

Paul McCann (BOZ Chair) 46:33

Of course.

Supervisor Kurt Craanen (Inspections) 46:33

—saying that I'm making—I'm erring in what I'm determining.

Paul McCann (BOZ Chair) 46:37

Right.

Supervisor Kurt Craanen (Inspections) 46:37

So, we can go there, but right now we're just talking about assuming it's a street.

Paul McCann (BOZ Chair) 46:42

It's a street. Yeah. Yeah, it's a street because it becomes a street for everybody else other than those three properties or so, it's a street.

Supervisor Kurt Craanen (Inspections) 46:54

I think there's some properties that have their primary front driveway.

Paul McCann (BOZ Chair) 46:59

On Seymour street?

Supervisor Kurt Craanen (Inspections) 47:01

I believe there's properties down in this uh...?

Paul McCann (BOZ Chair) 47:03

Oh yeah. Yeah. That's what I was saying. On the on the east side as you go north, all of those homes that are—yeah, that have Riverview in the backyard, that's their only way in.

Supervisor Kurt Craanen (Inspections) 47:16

Yeah.

Paul McCann (BOZ Chair) 47:20

Yeah.

Paul McCann (BOZ Chair) 47:21

It's—sure. But, because of the hardship that it creates, by creating two front yards in this lady's property, we could say that creates a hardship for her.

Supervisor Kurt Craanen (Inspections) 47:21

So, it's a street.

Kelly Sperl (BOZ Member) 47:41

As well as the unique access to it, you know, with the live back there.

Paul McCann (BOZ Chair) 47:48

And I wouldn't be afraid of this going on with the life of the property because that's always going to be that way.

Kelly Sperl (BOZ Member) 47:53

Right.

Karen Cain (BOZ Member) 47:54

You would or you would not be?

Paul McCann (BOZ Chair) 47:56

I would not.

Scott Engstrom (BOZ Member) 47:57

Also not concerned about it being such a general nature that it's going to affect other properties that we're going to see a windfall of other applicants. It's such a unique neighborhood.

Paul McCann (BOZ Chair) 48:07

The only concern that I would retain, I guess, is you backing out of your driveway or your garage. This is right, tight to your driveway. Right?

Erin B. (Resident) 48:20
Correct.

Paul McCann (BOZ Chair) 48:20

And you're backing out with a six-foot fence next to you. Until you clear that fence, you won't be able to see who's pushing a stroller on the street behind you.

Kelly Sperl (BOZ Member) 48:32

But she's got 13 feet plus the depth of the apron. So, she's almost got a—she's got to have a full car length there.

Erin B. (Resident) 48:41

My vehicle is 16 feet long.

Paul McCann (BOZ Chair) 48:43

Yeah, that's a concern—just that it creates a—if there were a sidewalk there, you'd be close enough to the sidewalk that you might not be able to see somebody on the sidewalk before you, before you clear the fence.

Kelly Sperl (BOZ Member) 49:01

Yeah, she's gonna have all of the depth of her neighbor's garage to the property line which is a 13 feet on the sketch plus the depth of the apron which is probably four or five feet.

Paul McCann (BOZ Chair) 49:14

On the neighbor's garage, Kurt, how was that placed there? Because that's not—that's in the front yard.

Supervisor Kurt Craanen (Inspections) 49:25

See, you would have to meet—in today's code you would have to meet the front yard setback of 20 feet, so this would be a legal non-conforming situation.

Paul McCann (BOZ Chair) 49:36

Okay. Again, a reason that that could or should be allowed is that there's exceptions to the two front yard all along there. Okay. I'll entertain a motion on the variance if there's no further questions.

Kelly Sperl (BOZ Member) 50:01

I'll make a motion to approve it due to the unique conditions of the property and the two frontage street frontages that affect it. And I think where it's placed at the face of the neighbor's garage allows plenty of visual to back out of there.

Scott Engstrom (BOZ Member) 50:22

I'll second.

Paul McCann (BOZ Chair) 50:23

Moved and second. Any further discussion? Take a vote. Mr. Sperl.

Kelly Sperl (BOZ Member) 50:29

Aye.

Paul McCann (BOZ Chair) 50:29
Mr. Engstrom.

Scott Engstrom (BOZ Member) 50:30
Aye.

Paul McCann (BOZ Chair) 50:30
Mr. Babbitts.

Michael Babbitts (BOZ Member) 50:31
Aye.

Paul McCann (BOZ Chair) 50:32
Miss Cain.

Karen Cain (BOZ Member) 50:33
Aye.

Paul McCann (BOZ Chair) 50:33
I'll vote aye as well. Good luck with your fence.

Erin B. (Resident) 50:37
Thank you for your time.

Scott Engstrom (BOZ Member) 50:38
Good luck.