

Docket Item #1
BZA CASE #2004-00008

Board of Zoning Appeals
July 8, 2004

ADDRESS: 1400 OAKCREST DRIVE
ZONE: R-8, RESIDENTIAL
APPLICANT: COLLEEN AND JOHN WORDOCK, OWNERS

ISSUE: Special exception for a 6.00 foot privacy fence in the secondary front yard facing Summit Avenue.

CODE SECTION	SUBJECT	CODE REQMT	APPLICANT PROPOSES	REQUESTED EXCEPTION
7-1700 (B)(1)	Corner Lot Fence (Facing Summit Ave)	6.00 ft	6.00 ft*	6.00 ft

* Zoning rules require a 6.00 feet high fence to be located half the distance from the front property line to the rear building wall, or install an open 3.50 feet high fence on the front property line.

BOARD OF ZONING APPEALS ACTION OF MAY 13, 2004: On a motion to defer by Mr. Almquist, seconded by Mr. Curry, the special exception was deferred by a vote of 6 to 1. Mr. Allen dissented.

Reasons for deferral: To allow the applicant time to explore alternative fence designs and screening placement.

Dissenting Reasons: A deferral will not create hardship on the lot.

Speakers:

Colleen and John Wordock, owners, made the presentation.

Mark Hoffman, neighbor at 1405 Summit Avenue, spoke in opposition.

Sharon Fitzgerald, neighbor at 1304 Oakcrest Drive, spoke in opposition.

(insert sketch page here)

STAFF RECOMMENDATION:

The staff recommends **approval** of the special exception because the proposed fence meets the special exception criteria.

Issue

The applicants at 1400 Oakcrest Drive request a special exception to allow after-the-fact construction of a 6.00 feet high wood fence to remain standing in the secondary front yard and on the front property line facing Summit Avenue for the property at 1400 Oakcrest Drive. The applicants request permission to allow the new fence to be located on the front property line facing Summit Avenue.

The applicants indicate that the 6.00 feet high fence is needed for the following reasons:

- to improve security along the open yard where their children and dog play.
- to replace a previously unattractive and rusted chain link fence with an attractive wood fence to compliment their home and similar wood fences in the neighborhood
- to screen the yard and shield the neighbors who view lawn furniture, toys, ladders and garden equipment.

Background

On May 13, 2004, the Board of Zoning Appeals deferred the applicants request to explore alternative fence locations, methods to screen the existing fence from the street and to discuss their changes with the adjoining neighbor. Based upon public comment at the public hearing the applicants propose the following changes to the fence installed facing Summit Avenue.

- (a) Move the existing fence now on the front property line back 8.16 feet from its current position to the front of two mature trees facing Summit Avenue. By moving the fence back from its current location, slightly over one panel fence section will be removed that is now viewed by the most affected neighbor at 1405 Summit Avenue. The new fence location will enable the applicants to incorporate the two large oak trees into the enclosed yard.
- (b) Install evergreen hedge trees in front of the fence to screen and soften the appearance of the fence facing Summit Avenue.

On March 11, 2004, staff responded to a complaint (COM#2004-0063) that a 6.00 foot wood fence was erected in violation of the corner lot fence rules. Staff investigated and confirmed the new 6.00 foot fence was placed closer to Summit Avenue than is allowed for a corner lot fence. The new fence was found to be built on City land. The applicants were advised they could (1) relocate the fence 15.00 feet back from the front property line facing Summit Avenue or (2) seek a special exception to allow the new fence to be located on the front property line facing Summit Avenue. The applicants filed a special exception shortly thereafter.

The applicants state in their application that they contacted the City before installing the 6 foot wood fence, but were given incorrect information on where the fence would be allowed in the secondary front yard facing Summit Avenue. In addition, the applicants state when they installed the fence they misunderstood where the front property line was. Thus, the new fence was installed on City land facing Summit Avenue. The new wood fence replaces a chain link fence which was previously located facing Summit Avenue and along the south side property line at the time the applicants purchased the house in 2003.

The subject property, a corner lot, is three lots of record with approximately 75.00 feet of frontage on Oakcrest Drive and 94.00 feet of frontage on Summit Avenue. The lot contains square feet and is substandard for a corner lot property zoned R-8, residential; the minimum size for an R-8 zone corner lot is 9,000 square feet.

Based upon the submitted plat, the existing single-family residence with a one-story side yard addition is located 35.40 feet from Oakcrest Drive, 21.50 feet from Summit Avenue, 32.00 feet from the east side property line and 54.00 feet from the south side property line and 7.50 feet from the west side property line. A curb cut to serve a driveway is located on Oakcrest Drive. According to Real Estate Assessment records, the house was constructed in 1944.

There have been no special exceptions heard recently for a corner lot fence in the immediate area.

Master Plan/Zoning: The subject property is zoned R-8 and has been so zoned since adoption of the Third Revised Zoning Map in 1951, and is identified in the North Ridge/Rosemont Small Area Plan for residential land use.

Discussion

The zoning ordinance states that a 6 foot closed fence is allowed if (1) the fence is located in the secondary front yard (the portion of the property that does not contain the building's architectural main entrance); (2) the fence must be located half the distance between the rear building wall and the front property line. In this case the special exception rule requires the 6.00 foot fence to be set back approximately 15.00 feet from the front property line facing Summit Avenue, and the fence may not start forward of the rear corner of the building.

The applicants further state in their application that if their were to comply with the corner lot fence rules, nearly a fourth of the yard facing Summit Avenue and towards the rear of the house would be made unusable, require the removal of several large mature trees and require relocation of a large playground set already in place when the applicants purchased the house. The new wood fence is located on the front property line facing Summit Avenue (9.00 feet from the Summit Avenue curb) and aligns with a one-story side yard addition's rear building wall.

As shown in the submitted photographs, the wood fence is placed 9.00 feet from the Summit Avenue curb. The portion of the Summit Avenue right-of-way rises gradually from the curb to where the fence is now placed.

No portion of the new wood fence will impact the vision clearance area at the corner of Summit Avenue and Oakcrest Drive. There are no sidewalks on either street that will be impacted by the proposed fence.

The applicants indicate that their fence is similar to other fences on the block and in keeping with similar fences in the immediate neighborhood. An inspection in the North Ridge neighborhood revealed there are other 6.00 feet high solid wood fences built on corner lots. It appears most of the fences were constructed prior to current corner lot fence regulations, and the City has no permits on record indicating when the fences were installed.

REQUESTED SPECIAL EXCEPTION:

Section 7-1703(B)(3), Fences in Secondary Front Yards:

Fences in required front yards must be open type fences up to 3.50 feet high if located on the front property line. In this case a 6.00 feet high fence is allowed in a required secondary front yard only if the fence is located no closer than 10.75 feet from the front property line, and if it starts at the rear building wall and runs rearward from there. The built fence is a solid board-on-board fence 6.00 feet high; it will need to be moved from City land and moved 8.16 feet from the front property line. The applicants request a special exception to place the fence 8.16 feet from the front property line facing Summit Avenue.

NONCOMPLYING STRUCTURE:

The existing building at 1400 Oakcrest Drive is a noncomplying structure with respect to the following:

	<u>Existing</u>	<u>Required</u>	<u>Noncompliance</u>
Front Yard (Summit Ave)	21.50 ft	30.00 ft	8.50 ft
Side Yard (west)	8.00 ft	7.50 ft	0.50 ft

STAFF ANALYSIS UNDER CRITERIA OF SECTION 11-1304 FOR SPECIAL EXCEPTION:

This case asks the Board of Zoning Appeals to rule on whether a proposed fence, which goes beyond what the liberalized rules for fences on corner lots allow, meets the standards imposed for a special exception from those rules.

Rules for Corner Lot Fences

The rules for fences on corner lots reflect Council's decision that some part of the secondary front yard should be allowed to be enclosed within a 6.00 feet high fence. Striking a compromise between maintaining a semi-public front setback along the street and the need for more private fenced areas on corner lots, the rules permit a 6.00 feet high fence to be located half the distance from the front property line facing Summit Avenue, starting at the rear of the house and extending rearward. The compromise affects neighboring unfenced yards along the secondary front yard street, but does so only to a moderate extent.

Under the provisions for a special exception, the Board may allow a fence beyond the compromise limits set by Council only when it finds under section 11-1304(F) of the zoning ordinance:

That the size, configuration or other unusual characteristic of the lot requires an exception from the zoning requirements in order to provide a reasonable fenced area without creating significant harm to adjacent properties or the neighborhood.

Proposed Fence

In this particular case, a new fence facing Summit Avenue is now located slightly beyond the area anticipated by the new rule. The applicants installed the new wood fence in the same location where an older chain link fence once stood. The applicants want the fence to be placed on the front property line facing Summit Avenue and remain at the rear building wall of the house as required under the corner lot fence rules. The new fence is now placed on a slight hill 9.00 feet from the curb edge facing Summit Avenue and does not face a public sidewalk.

Neighborhood Impact

The subject corner lot is surrounded by residential uses and abuts a house directly to the rear. The property faces Oakcrest Drive a heavily traveled neighborhood street. An inspection of the immediate neighborhood revealed that there are several fences on corner lots within the North Ridge neighborhood which appear to have been built prior to 1992, predating the current fence regulations. The new fence is compatible with other corner lot fences in the area.

The applicants indicate that they need a special exception for more fenced area to accommodate the only real yard area on the property used extensively by their children and to provide security of the open yard facing Summit Avenue. The applicants' property is currently a substandard lot with a noncomplying front yard setback facing Summit Avenue and side yard setback. The Board has previously set the pattern for approval of a tall fence facing a street due to heavy traffic, the existence of other similar style fences and to improve security for a property where the open yard faces a well traveled local neighborhood street. The fence will be located 8.13 feet from the front property line facing Summit Avenue and the applicants plan to install an evergreen shrubs in front of the fence to soften the appearance of the fence facing Summit Avenue. The fence and proposed plants do not create a vision clearance problem at the intersection.

Existing Fence Pattern

There are examples of tall fences on corner lots in the immediate neighborhood. The fence pattern for corner lots in this neighborhood appears to have been developed prior to the current corner lot fence rules by the age and appearance of existing fences. Many corner lots have six feet tall fences, some have landscaping installed to help screen the fence from the street. Some of the corner lots with fences do not face public sidewalks thus creating a walled effect in the public domain. Therefore, the existing fence will not set a precedent for other corner lot fences in the neighborhood. Staff believes, given the current fence pattern for corner lots that do not face a public sidewalk, the proposed fence will not harm neighboring properties. In fact, the new fence will help screen the proximity of a new addition directly south of the applicants' yard that will be located within 8.00 feet of the common side property line.

Reasonable Need

The applicants' needs are reasonable. The alternate fence location does not create an obstacle for turning vehicles at the intersection of Summit Avenue and Oakcrest Drive nor does the fence front on a public sidewalk thereby creating a wall facing the street. The alternate fence location will continue to secure an actively used yard, reduce some street noise and help screen a well traveled neighborhood street. Staff recommends that the Board approve the special exception request.

DEPARTMENTAL COMMENTS

Legend: C - code requirement R - recommendation S - suggestion F - finding

* The applicant is advised that if the variance or special exception is approved the following additional comments are required.

Transportation and Environmental Services:

F-1 No objections or recommendations.

Code Enforcement:

F-1 No comments.

Recreation (Arborist):

F-1 No comments.

Historic Alexandria (Archaeology):

F-1 There is low potential for significant archaeological resources to be disturbed by this project. No archaeological action is required.