

Docket Item #7  
BZA CASE # 2004-0010

Board of Zoning Appeals  
May 13, 2004

**ADDRESS:** 1206 ORCHARD STREET  
**ZONE:** R-8, RESIDENTIAL  
**APPLICANT:** JEFFERY PEISCH AND KAREN SCHWARZ, OWNERS

**ISSUE:** Special exception to move an existing 6.00 feet high fence located in the secondary front yard to the front property line facing Orchard Street.

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

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\* 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.

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(insert sketch page here)

**STAFF RECOMMENDATION:**

The staff recommends **approval** of the special exception because the proposed location of the fence meets the special exception requirements and with the following conditions: (1) the applicants will install plantings to screen the fence facing Orchard Street and (2) the applicants will maintain the plantings and City land in front of the proposed fence facing Orchard Street.

**DISCUSSION:**

1. The applicants at 1206 Orchard Street request a special exception to move an existing 6.00 feet high wood fence in the secondary front yard to the front property line facing Orchard Street. The existing fence was recently dismantled by the applicants who are awaiting the Board's decision on their special exception request to erect a new wood fence facing Orchard Street.
2. The zoning ordinance states that a 6.00 feet 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 Orchard Street, and the fence may not start forward of the rear corner of the building.
3. The existing wood fence is currently in compliance with the corner lot fence rules. The fence is located 15.00 feet from the front property line facing Orchard Street. The existing fence was installed around a newly installed ground level pool located at the rear of the house.
4. As shown in the submitted site plan, the wood fence is placed on the front property line facing Orchard Street. Beyond the Orchard Street front property line an approximately 9.00 feet wide area of city land is located. The applicants state they maintain and landscape the City's land.
5. No portion of the wood fence will impact the vision clearance area at the corner of Orchard Street and Alexandria Avenue. There are no sidewalks on either street that will be impacted by the relocated fence.
6. The applicants indicate that relocating the existing 6.00 feet high fence will regain approximately 24.00 feet of usable yard. By relocating the fence will create a larger open and usable space for use by the applicants' children. The applicants also state the relocated fence will (1) not block the supply of air or light to nearby properties, (2) will not have a negative impact on traffic or public safety and (3) will not have a negative architectural impact when viewed from the street.

7. The applicants indicate that their fence is similar to other fences on the block and in keeping with similar fences in the immediate neighborhood.
8. The subject property, a corner lot, with approximately 190.00 feet of frontage on Orchard Street and 169.70 feet of frontage on West Alexandria Avenue. The lot contains 33,585 square feet and is not 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.
9. Based upon the submitted plat, the existing single-family residence is located 60.40 feet from West Alexandria Avenue, 63.00 feet from Orchard Street, 62.20 feet from the north side property line and 57.40 feet from the west side property line. A curb cut to serve a driveway is located on Orchard Street. The home's architectural main entrance faces West Alexandria Avenue although the house is addressed on According to Real Estate Assessment records, the house was constructed in 1975.
10. There have been no special exceptions heard recently for a corner lot fence in the immediate area.
11. 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.

**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 15.00 feet from the front property line, and if it starts at the rear building wall and runs rearward from there. The built fence is current located in compliance with the corner lot fence rules. The applicants request a special exception to move the existing fence to the front property line facing Orchard Street.

**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 Orchard Street, 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 Orchard Street is now located in compliance with the corner lot fence rules. The applicants want to move the fence to be placed on the front property line facing Orchard Street and remain at the rear building wall of the house as required under the corner lot fence rules. The new fence is now placed 15.00 feet from the front property line facing Orchard Street nor does it face a public sidewalk.

Neighborhood Impact

The subject corner lot is surrounded by residential uses and is the first house on a cul-de-sac with nine other homes. An inspection of the immediate neighborhood revealed that there are several fences on corner lots within the 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 usable area used extensively by their children. The applicants' property is a large lot with a house that complies with the required front yard and side yard setbacks. The fence will continue to be located at the rear building wall with 9.00 feet of city land between the new fence location and the street curb. The applicants currently maintain and have installed low shrubs and plants on the City property that will reduce the visual impact of the fence from the street.

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, but

some have plants 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, nor will the relocated fence harm neighboring properties. The applicants indicate they have received the support of the neighbors.

Reasonable Need

The applicants' needs are reasonable to help create a larger and usable open area for their children. The relocated fence will not create an obstacle for turning vehicles at the intersection of Orchard Street and West Alexandria Avenue nor does the fence front on a public sidewalk thereby creating a wall facing the street. The fence will secure an actively used yard. Staff recommends the Board approve the special exception.

**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 trees will be affected by this plan.

Historic Alexandria (Archaeology):

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