

Memo

To: City Council as Zoning Board of Appeals
From: Bryan Myrkle, Community Development Director
Date: May 19, 2017
Re: 212 W. Seminary – Corner Clearance Variance

Drew Kepler, of 212 W. Seminary Street, applied for a fence permit from the City for an ornamental fence in his front yard.

Mr. Kepler's proposed fence, as planned, would not meet the City Code's requirement for corner clearance (82-463). The code requires that fences close to the intersections of streets and driveways be kept low (2 feet max height) in order to provide visibility to vehicles exiting the driveway. This corner clearance area is found by measuring 15 feet up the driveway from the R.O.W. line, and then down the R.O.W. line 15 feet from where it intersects the driveway.

Mr. Kepler's fence, as proposed, is 42 inches tall and would fully encroach into this area. For this reason, I denied his application for zoning approval.

This 112.5 square foot area of corner clearance makes up a substantial portion of Mr. Kepler's very small front yard. Aside from not constructing the fence at all, or lowering the fence to 2 feet, there do not appear to be any practical alternatives.

Therefore, Mr. Kepler has chosen to seek a variance that would provide relief from the corner clearance requirements.

In considering whether to grant a variance that would allow this fence to be built, the Zoning Board of Appeals is required by code to consider the following possible justifications:

- By reason of exceptional narrowness, shallowness, shape or area of the specific piece of property, or
- By reason of exceptional topographic conditions or other extraordinary or exceptional conditions of such property, or
- The strict application of the regulations would result in peculiar or exceptional undue hardship upon the owner of such property, and
- Providing such relief may be granted without substantial detriment to the public good, and without substantially impairing the intent and purpose of the code

The Board of Appeals also may attach whatever conditions regarding the location, character and other features of the proposed use as it deems reasonable.

If the Board of Appeals decides to grant the variance, it must state the grounds upon which it justifies the decision. I have included a resolution for first reading and to set the public hearing for your next meeting. The resolution is incomplete, however, because I do not know what justification there is for the fence variance, nor what justification or conditions the Council/ZBA may use and impose if it chooses to approve the variance.

The public hearing is scheduled for your next meeting, at which time you can take comments from the public, as well as hear from Mr. Kepler directly.