

MINUTES

November 5, 2019 – 5:30 p.m.

**Zoning Board of Adjustment**  
**Muscatine City Hall**  
**City Council Chambers**

**Present:** Jeff Armstrong, Robert McFadden, Julie Wolf

**Excused:** Jodi Hansen

**Staff:** Lindsay Whitson, Planner I, Community Development  
Christa Bailey, Office Coordinator, Community Development

Acting Chairperson Robert McFadden opened the meeting at 5:30 p.m. and Lindsay Whitson read the mission statement.

**Minutes:** Julie Wolf motioned to approved the minutes submitted for the September 17, 2019 meeting; seconded by Jeff Armstrong. All ayes, motion carried.

**Conditional Use Case No. #ZBACU15, filed by Tracy Horton of 2916 Mulberry Avenue. The applicant is seeking permission to transform the first floor of 1210 and 1212 Hershey from a commercial space to a residential unit that would consist of a one bedroom and/or studio style apartment. The parcel is currently zoned C-1 Neighborhood and General Commercial. A residential unit on the ground story in C-1 requires a conditional use permit per City Code 10-11-2(I).**

Tracy Horton, 2916 Mulberry Avenue, was present to discuss the request. Mr. Horton explained that he wants to change the use to a one-bedroom economy apartment which is the same as the other apartments on the second floor. Mr. Horton stated that there is parking in the rear along with a garage. Robert McFadden asked how many units would be at the property with this change. Mr. Horton said there will be 3 units total. Mr. Armstrong motioned to approve the conditional use permit; seconded by Ms. Wolf. All ayes, motion carried.

**Appeal Case No. #ZBAV19, filed by Miyah Payne of 1400 Grand Avenue, is requesting a variance for a fence that does not comply with City Code. The current fence is more than 25% opaque and is less than six feet from the street side lot line. City Code 10-22-1(J)(5)(b)(i) requires fences that are more than 25% opaque may only be three feet in height when located less than six feet from the street side lot line.**

Miyah and Joel Payne, 1400 Grand Avenue, were present to discuss the request. The Paynes explained they have lived in their current residence for 13 years and have no plans to move, they've made updates to the house, added a pool and with 2 Great Dane dogs they put up the fence for privacy. They lined up the fence with the neighbors at 1402 Grand Avenue and the fence is back far enough from the street so they don't believe it obstructs the view from the alley. The Paynes stated that there are many other properties around the city with fences that are non-complaint. Lindsay Whitson explained the Community Development is complaint based and as such the department received a complaint about their fence and a Code Enforcement Officer was sent out to verify whether the fence complied or violated code. Miyah Payne asked how they can fix the issue. Ms. Whitson explained the options of to comply with code: cutting down the privacy fence to 3 feet in height, putting up a 6-foot transparent fence instead or moving the location of the fence to father from the street side lot line. Miyah Payne asked for clarification if they could cut down the privacy fence to 3 feet and put 3 feet of a transparent fence on the top, to which Ms. Whitson said yes. Joel Payne stated that he is not going to change the fence and that he will fight it as far as he needs to. Julie Wolf motioned to deny the appeal case; seconded by Jeff Armstrong. All nays, motion denied.

**Appeal Case No. #ZBAV20, filed by Jonathan Hartman of 1326 Grand Avenue, is requesting a variance for a fence that does not comply with City Code. The current fence is more than 25% opaque and is less than six feet from the street side lot line. City Code 10-22-1(J)(5)(b)(i) requires fences that are more than 25% opaque may only be three feet in height when located less than six feet from the street side lot line.**

Jonathan Hartman, 1326 Grand Avenue, was present to discuss the request. Mr. Hartman stated that he believes his fence is 6 feet from the property line and asked what his options are. Lindsay Whitson explained that privacy fences between 6-25 feet from the property line may only be 4.5 feet in height but they can place a 6-foot transparent fence in its stead or they can have the 4.5 feet of privacy and add 1.5 feet of transparent fencing as the top portion. Jeff Armstrong motioned to deny the appeal case; seconded by Julie Wolf. All nays, motion denied.

**Appeal Case No. #ZBAV21, filed by John Whitworth of 510 Centre Drive, is requesting a variance for a fence that does not comply with City Code. The current fence is more than 25% opaque and is less than six feet from the street side lot line. City Code 10-22-1(J)(5)(b)(i) requires fences that are more than 25% opaque may only be three feet in height when located less than six feet from the street side lot line.**

John and Ada Whitworth, 510 Centre Drive, were present to discuss the request along with their neighbor Doug Johnston of 802 Robin Rd. Mr. Johnston explained the fence in question abuts his property which he has owned since 1978 and he believes that the fence has been there since he purchased the property. Robert McFadden asked when the fence was built. John Whitworth stated he thinks the fence was built in 1984. Lindsay Whitson explained that the current fencing code was in effect prior to 1984 so the fence is not grandfathered in. Mr. Johnston stated his is in favor of allowing the fence to remain as is. Mr. Whitworth said he is shocked that a complaint had been filed because he bought the property in April 2019, the fence had been in the same location and condition for 35 years and he does not believe it blocks any visibility. Julie Wolf commented that she likes the fence but unfortunately a neighbor blew the whistle on the code violation. Jeff Armstrong stated that he thinks the fence may already be non-opaque as you can see through it to the backyard. Ada Whitworth said yes, you can see through the fence to the backyard. Ms. Whitson explained that while the fence may be see-through it still does not meet the code requirements for the percentage of opaque versus non-opaque. Mr. Whitworth asked whether the other prior cases had gotten a building permit to put up the fences. Ms. Whitson stated permits are not required for fencing but the city always recommends asking the Community Development department about the requirements to comply with City Code. Robert McFadden suggested that removing some of the planks along the inside of the fence would make the fence less opaque and would then meet code requirements. Jeff Armstrong motioned to approve the appeal case based on the fencing being different from the other cases with it being partially transparent and being in that location for 35 years; Julie Wolf seconded. Jeff Armstrong and Julie Wolf voted aye; Robert McFadden voted nay. Motion denied.

Meeting adjourned at 6:35 p.m.

ATTEST:

Respectfully Submitted,

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Robert McFadden, Acting Chairperson  
Zoning Board of Adjustment

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Lindsay Whitson, Secretary  
Planner I