

MINUTES OF MEETING  
ZONING BOARD OF ADJUSTMENT  
TUESDAY, FEBRUARY 5, 2019, 4:00PM

DOCKET 1262

9549 Park Lane

A meeting of the Zoning Board of Adjustment was held at 4:05 p.m. on Tuesday, February 5, 2019 at City Hall.

The following members of the board were present:

Chairman Liza Forshaw  
Ms. Laura Long  
Mr. Dan Welsh  
Mr. David Schlafly  
Ms. Elizabeth Panke

Also present were: Erin Seele, City Attorney; Anne Lamitola, Director of Public Works; Andrea Sukanek, City Planner; Roger Stewart, Building Commissioner; Lori Wrobel, Administrative Assistant; and Councilman John Fox.

Chairman Forshaw called the meeting to order at 4:05 PM.

**Approval and Adoption of the Agenda**

Ms. Panke made a motion to adopt the agenda. Mr. Welsh seconded the motion. All those present were in favor.

**Approval of the Minutes from the January 8, 2018 meeting**

Mr. Welsh made a motion to approve the Minutes as submitted. Ms. Panke seconded the motion. All those present were in favor and the minutes were approved.

**Docket 1262** Petition is submitted by Harry Freeman for the property at 9549 Park Lane. Petitioner is requesting relief from the Building Commissioner denying a Fence due to height requirements which are in violation of Ordinance #1175 Section IV, C-1(a).  
**Continued to February Hearing date by Petitioner**

Chairman Forshaw asked the Building Commissioner for an explanation of the denial.

Mr. Stewart stated that applicant applied for a permit for a 72-inch high wooden fence along Litzsinger Road (to the rear of his house) which was approved by the Building Commissioner per sections V,C(1)(j) and V,C(2)(c) of the zoning code Ordinance 1175. After installation it was brought to the City's attention this fence was in violation of section IV, C(1)(a) of the zoning code Ordinance 1175. Therefore the permit was invalid per chapter 118-1 Residential Code 2006, section 105.4 on Validity of a permit. Section V,C(1)(j) states all yards abutting a street shall be front yards (subject to certain exceptions not applicable here). By ordinance the maximum height of a front yard fence is 42 inches (subject to certain exceptions not applicable here), and at least 40 percent of the area of the fence must be open (subject to certain exceptions not applicable here). Mr. Freeman's fence violates both of these requirements.

Chairman Forshaw introduced the following exhibits to be entered into the record:

- Exhibit A – Zoning Ordinance 1175, as amended;
- Exhibit B – Public Notice of the Hearing;
- Exhibit C – Letter of Denial dated September 26, 2018;
- Exhibit D – List of Residents sent notice of meeting;
- Exhibit E – Letter from the resident requesting the variance dated November 29, 2018;
- Exhibit F – Entire file relating to the application
- Exhibit G – Letters and photos presented by Ms. Berkely

The appellant Harry Freeman was sworn in and addressed the Board. He stated that after Architectural Review Board approval and issuance of a fence permit, the fence was erected. After completion, he received notice of a violation. He informed the board of two other 6-foot fences on the same road. They are screened with honeysuckle.

Ms. Margorie Berkley, 9578 Park Lane addressed the board with pictures and a packet of seven opposing emails and five opposing signatures. She believes the fence is very conspicuous and out of keeping with the neighborhood. Mr. James Bond, 9560 Park Lane expressed support for the fence with additional plantings. Ms. Berkley stated her opinion that there isn't enough room for plantings.

The board members discussed the case, the policy of the ordinance that fences along Litzsinger are to be no more than 42" high, the high visibility of Mr. Freeman's fence, and the substantial neighborhood opposition to the fence. Board members expressed their great regret that Mr. Freeman was issued a permit for the fence which turned out to be invalid, but were concerned about the impact on the neighborhood and the possibility of creating a precedent for more such fences in the future. Ms. Panke made a motion to overturn the ruling of the Building Commissioner and grant a variance. Mr. Schlafly seconded the motion. The vote was as follows:

Chairman Liza Forshaw	"deny"
Ms. Laura Long	"deny"
Mr. Dan Welsh	"deny"
Mr. David Schlafly	"deny"
Ms. Elizabeth Panke	"deny"

With zero (0) votes in favor and five (5) against, the variance was denied.

### **Adjournment**

At 5:41 Ms. Long made a motion to Adjourn the meeting. Mr. Schlafly seconded the motion. A unanimous vote in favor was taken.

DOCKET 1262

DATE OF HEARING February 5, 2019

NAME Harry Freeman

DESCRIPTION OF PROPERTY 9549 Park Lane

CAUSE FOR APPEAL Petitioner is requesting relief from the Building Commissioner denying a Fence due to height requirements which are in violation of Ordinance #1175 Section IV, C-1(a).

RULING OF THE BOARD After discussion, on the basis of the evidence presented, the Board finds that a sufficient hardship does not exist and, therefore, that the decision of the Building Commissioner is upheld and the request for a variance is denied.



Ms. Liza Forshaw, Chairman