

**MINUTES OF THE
CITY OF ST. CLAIR SHORES
FENCE ARBITRATION**

Wednesday, April 21, 2021

Meeting of the Fence Arbitration Board, held in the Jefferson
Conference Room, located at 27600 Jefferson Circle Dr., St. Clair Shores, Michigan.

Present:

Matthew Coppler, City Manager
Peter Accica, Council Member
Herald Perkakis, City Attorney
Julie Kandt, Recording Secretary

Also Present:

Ann & Jim Griffin
Mailinda Repass
Joseph Wenturine
Ken Davis

Absent

1. CALL TO ORDER

Mr. Coppler called the meeting to order at 2:02 p.m.

2. CASES TO BE HEARD

Case #01-2021 20501 Erben – Ann & Jim Griffin

Request to install slanted extension on top of existing 4-ft chain link fence. (Reason for denial: 1) FENCE FABRIC, NOT METAL; 2) GAUGE NOT ALLOWED; 3) NO TOP RAIL; 4) IF NOT ANGLED, THEN WOULD EXCEED 6'.)

Ann Griffin submitted an updated memo to the board. City attorney handed a copy to the neighbor Ken Davis, said the neighbor has a right to read the memo. She said at this point in time, we're respectfully requesting a compromise to our fence. We have 4 neighbors total, Ken is our neighbor to the west, he is the only one who objects. The residents around our home actually appreciate the fence extension and they object to a privacy fence. We are more than willing to put a privacy fence on the west border, we've already taken substantial steps to do that. But because of covid, it's been hard to get supplies or contractors. We have a dog who is a significant flight risk. The fence extension is designed to keep her in our yard. We've now hired Kimberly fence, they measured and estimated. We had to hire a tree trimmer, and we've also had a survey done. We are asking for a variance to maintain the fence extension on the north and east boundaries, and put a privacy fence on the west side.

We don't think the extension is regulated by the ordinance. Also asking the board to consider our special circumstances including extraordinary expenses we've already incurred. We ask that we not be subjected to further, unnecessary expenses. It's not always clear what the complainant's motives are. We've not been able to have a conversation with Mr. Davis about this, he's not willing to discuss. Instead, he's conducted a campaign of harassment since the fence extension went up. It has obviously upset him and he's very angry with us. One of the things that has happened, Mr. Davis decided to have a tree trimmer cut all the branches that grew over his yard. We understand he's within his rights to do that, but according to the 3 arborists who visited our property, it has killed our tree. Our beautiful Northern Maple is now dead. Our only remedy is to wait till it's visibly dead and sue him or remove it now. It's going to cost us \$1500 to remove the tree. The survey was \$1000. The other tree trimming we did was \$300. And it's going to cost us 5000 to put up one side of privacy.

Mr. Coppler said at this point in time, you want to put up a 6-ft privacy fence on the west side. Petitioner said yes. Accica said there's no reason you couldn't apply for that.

Petitioner said we are asking the city to meet us half way.

Coppler asked if it was put up before you attempted to get a permit. Petitioner said we didn't know we needed a permanent and after we got the first violation notice we applied for the permit. The inspector told us he thought it looked great. Coppler asked the name of the inspector, petitioner said Greg. Mr. Accica asked what is the problem with them fence. Board members pointed out the various reasons the fence was denied. Petitioner explained the materials they used.

Mr. Davis lived here 40 years, put \$150,000 into the house. I've shoveled snow off street and sidewalk. I own 15 homes and play by the rules. I was a linesman for a few years and that pole would kill any linesman that fell off a ladder from a telephone pole. You'll see there's no top rail. If you fell, it would either kill you or injure you. We don't have insurance for that situation. Safety is #1. Aesthetically, it looks like a piece of barb wire. It looks horrendous, like it would go around Macomb County jail cell. If a person were to bump it would stand over 6-ft tall. I don't understand what the problem with the tree is. It has nothing to do with today's case.

Jim Griffin said we can add a top rail. Coppler said it has to be built as if it's all one fence. City attorney said why don't they propose something and come back. Coppler said there isn't anything stopping you from proceeding with the west side. City attorney said any kind of alteration to the fence extension would likely be denied by the fence arbitration board. Petitioner said I'm an attorney too, and what part of the ordinance is this decision based on. Coppler said what you're presenting today, I'm not thinking you'll get two votes. Petitioner said we went down the path we did, installing the extension without a permit, because I don't think the ordinance addresses an extension like this. It doesn't prohibit it, and doesn't say a permit is required, we're dealing with an ordinance that isn't very clear. City attorney said we think it's very clear, but we also think it's very clear that people who are doing something that they don't know is approved or not approved should get approval first. That's simple basic necessity. If there's vagueness in the statute, as you suggest, then you weren't sure if it was the right thing to do and you did it anyway. Petitioner said we were perfectly within our right to do what we did. Petitioner asked what body to do we apply for regular privacy fence. Board said CDI. Mr. Davis asked if he could remove the extension from the fence. Board members said no. City attorney said this being resolved, you guys have to be neighbors, it's going to be a while before they get this done, you have to give them enough consideration to be considerate.

Motion by Mr. Accica, seconded by Mr. Coppler to deny.

Ayes: 2
Motion carried

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Case #03-2021 29801 Harper – Mailinda Repass

Request install 6-ft vinyl privacy fence behind the building (before the alley) and along west property line to end of parking lot. (*Reason for denial: fence installed with good side facing in.*)

Ms. Repass said the fence posts could cause injury to the kids at the daycare center. Accica said it doesn't face Harper, no one can see it, and there's a cinder block wall on the alley. Attorney mentioned denial language listing an encroachment issue. It was determined that "encroachment" language was an early denial, today's variance request is for good side facing in.

Motion by Mr. Accica , seconded by Mr. Coppler to approve with no encroachment on someone else's property.

Ayes: 2
Motion carried

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Case #04-2021 23261 Robert John – Joseph Wenturine

Request to remove existing chain link and install 6-ft wood privacy fence from right rear corner of house to side property line, and then down the right side property line to rear where cyclone fence is, stopping about 6-ft from the canal. (*Reason for denial: property on a canal.*)

Mr. Wenturine said he's looking to remove chainlink fence on just the left side and the part where you entire my backyard. My neighbor just got a dog, the dog charges the fence. Existing fence is rusting, and I'm using metal posts so they don't rust out, 42 inches deep. Good side will be facing out.

Motion by Mr. Accica, seconded by Mr. Coppler to approve.

**Ayes: 2
Motion carried**

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Case #05-2021 31050 Manhattan – Monica Wargo

Install 6-ft wood privacy fence around perimeter of rear yard. (*Reason for denial: work already done, good side is facing in.*)

Petitioner didn't show.

Motion by Mr. Coppler seconded by Mr. Accica to table till the next meeting.

**Ayes: 3
Motion carried**

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3. ANY OTHER BUSINESS THAT MAY PROPERLY COME BEFORE THE BOARD

None.

4. APPROVAL OF MINUTES

Motion by Mr. Accica seconded by Mr. Coppler to approve the minutes of February 17, 2021 as submitted.

**Ayes: 2
Motion carried**

5. AUDIENCE PARTICIPATION

None

6. ADJOURNMENT

Motion by Mr. Coppler, seconded by Mr. Accica to adjourn the meeting at 2:43 pm.

**Ayes: 2
Motion carried**

(THE PRECEDING MINUTES ARE A SYNOPSIS OF THE FENCE ARBITRATION MEETING AND DO NOT REPRESENT A VERBATIM RECORD.)