

**City of Brighton  
Zoning Board of Appeals  
200 N. First St. Brighton, MI 48116  
Regular Meeting Minutes  
June 10, 2021**

The Board for the Zoning Board of Appeals held a Regular Meeting on Thursday, June 10, 2021 at 7:00 p.m., conducted electronically.

**1. Call to Order**

Chairperson Urbain called the meeting to order at 7:00 p.m.

**2. Roll Call**

Board Members present were Jordan Genso, Alicia Urbain, Renee Pettengill, Barbara Curtis, Caitlyn Perry-Dial and Mike Schutz. All Members participated remotely and disclosed their location.

**Also present** were Sarah Gabis, City Attorney; Mike Caruso, Community Development Manager; Kelly Haataja, Executive Assistant to Community Development and an audience of nine persons.

**Motion** by Pettengill, seconded by Genso to excuse Board Member Chaundy for personal reasons.

**Motion carried unanimously by a roll call vote.**

**Consent Agenda**

**3. Approval of the April 8, 2021 Meeting Minutes**

**4. Approval of the June 10, 2021 Agenda**

**Motion** by Perry-Dial, seconded by Schutz to approve the Consent Agenda. **The motion carried by a roll call vote 5-0-1, with Board Member Curtis abstaining.**

**Old Business**

None

**New Business**

**James & Kathy Filipowski, 720 Walnut** are requesting a variance from Chapter 98, Section 98-5311 (B) of the zoning ordinance, for an increase to the maximum allowed height of a fence located in a side-yard area.

Section 98-5.11 (B) "Fences- All Zoning Districts" states; Fences located within the side yard or rear yard in any district shall not exceed a height of seventy-two (72) inches. The applicants are requesting a height of 12 feet for a side-yard fence. A variance of 6 feet is being requested.

Mr. Caruso gave brief overview of the variance request, noting the Applicant has already constructed the fence to twelve (12) feet.

Mr. Roger Myers, applicant's attorney stated his clients are seeking to maintain the six-foot screening addition they have added to their fence. Mr. Myers presented photos of the Applicant's hardships, revealing a large smiley face in the yard and cameras mounted on the home of the adjacent property. He stated his clients are harassed due to the smiley face illuminated by bright lights and privacy is

invaded because cameras mounted near the top of the adjacent home pointed at the applicant's home. He stated the photos presented are prior to fence addition. Mr. Myers stated the six-foot addition to the fence doesn't completely block the cameras or visibility of the smiley face, but it does provide a measure of mitigation for his client's privacy. He stated the hardship is entirely caused by the actions of the neighbor.

Mr. Filipowski stated the screening also helps block his visibility of poor maintenance to the neighbor's home.

Board Member Perry-Dial asked the Applicant if they were aware of the ordinance before they erected the fence.

Mr. Filipowski replied yes, and stated there's nothing in the ordinance saying you can't have a privacy screen. Mr. Myers stated his clients didn't realize a screening addition would constitute as part of the fence. Mrs. Filipowski stated prior to the addition, they sought help from the city, police and court systems resulting no solutions. She stated the neighbor intentionally trimmed his trees to have clear view of their property.

Board Member Pettengill asked who owns the fence, noting the nice side is facing the applicant's house.

Mrs. Filipowski stated it is their fence and the neighbor gave permission for the nice side to face their house since they were paying for it.

Board Member Pettengill asked when the addition was done to the fence.

Mr. Filipowski stated one year ago.

Board Member Genso asked if the lights are still an ongoing hardship.

Mr. Filipowski stated the lights are still turned on and the neighbor also has infrared lights that are seen on their own cameras.

Board Member Schutz commented the smiley-face is annoying and the screening addition on the fence doesn't look bad.

Board Member Genso commented the hardship is not inherent to the property rather it's created by the behavior of the neighbor. He noted if the variance is granted, it stays with the property even if the hardship no longer exists.

Chairperson Urbain opened the Public Hearing at 7:31 p.m.

**Susan Bakhaus, Brighton Lake Rd.** spoke in support of the variance request.

**Brian Klear, 225 N. Fifth Street** spoke in support of the variance request.

Hearing and seeing no further comments, Chairperson Urbain closed the Public Hearing at 7:34 p.m.

Chairperson Urbain stated the problem is not specific to the land, rather it's human behavior, and granting the variance doesn't resolve the dispute between neighbors.

Board Member Genso commented the applicant's hardship is not inherent of the property and the troubles will persist until behavior is changed.

Board Member Schutz disagreed and stated the screening is a reasonable solution.

Board Member Perry-Dial commented the applicant self-created their hardship by building their extension fully knowing the ordinance and sought permission a year later. She stated the difficulty is a personal dispute between the two neighbors.

Board Member Pettengill asked Mr. Caruso asked about the code enforcement history to the adjacent property.

Mr. Caruso stated three months ago the adjacent neighbor was cited with violations for the bright lights causing safety concerns for motorists. Staff has confirmed the lights are removed from the smiley-face, and through numerous investigations in the late night evening hours, staff has verified the lights were not on during those times. He noted the infrared lights are not visible to the eye, which doesn't create a safety concern.

Board Member Pettengill asked the applicant if the lights have been off for the past three months.

Mr. Filipowski replied the bright lights have been turned off, the infrared lights are continuous and the biggest concern is the neighbor is violating the peeping ordinance. He further spoke about not having outdoor privacy from the neighbor because the neighbor can see them from three sides of their home. Mr. Filipowski stated he will not remove the screening from the fence unless the neighbor removes their cameras.

Chairperson Urbain noted there is nothing precluding the applicants from using their outdoor spaces.

**Motion** by Perry-Dial, supported by Genso to deny the variance request due to the issue being self-created due to knowing the requirements of the zoning ordinance before constructing the extension to the fence and the difficulty is personal in nature. **Motion passed 4-2 by a roll call vote, with Board Members Schutz and Curtis voting No.**

### Other Business

#### **5. Staff Updates**

Mr. Caruso announced Board Member Gottschalk resigned from the board earlier this week and staff will be starting the application process to fill the position.

## **6. Call to the Public**

Chairperson Urbain opened the Call to the Public at 7:53 p.m.

**Brian Klear** stated his disappointment of the variance request being denied.

## **7. Adjournment**

**Motion** by Pettengill, supported by Genso to adjourn the meeting. **Motion passed unanimously by a roll call vote. The meeting adjourned at 7:55 p.m.**

Respectfully submitted,

Kelly Haataja  
Executive Assistant to Community Development