

**Zoning Board of Appeals  
August 24, 2022 Regular Meeting**

**STAFF REPORT**

**Subject: ZBA22-2015, 611 Ironwood Drive**

**Summary:**

Dana and Samuel Robinson, property owners are requesting relief from Section 5.26 Fences, to allow an existing six foot high, 100% opaque fence to remain in the front open space along Dexter Avenue. The property is zoned R1C, Single-Family Dwelling District.

**Background:**

The house at the subject property was constructed in 2020 by a previous owner. The fence was constructed by the builder in 2020.

**Description:**

The applicants are seeking to keep the existing fence with the same design, height, location and color as originally constructed. The existing fence is six feet tall and approximately 100% opaque.

**Chapter 55(UDC) Section 5.26.2 Fence Standards**

**A. Residential Zoning Districts**

Fences located in residential zoning districts (See also figure below):

1. Shall not exceed four feet in height and 50% Opacity in the Front Yard.
2. Shall not exceed six feet in height and 80% Opacity in the Side Yard.
3. Shall not exceed eight feet in height in the Rear Yard.

**Standards for Approval- Variance**

The Zoning Board of Appeals has all the power granted by State law and by Section 5:99, Application of the Variance Power from the City of Ann Arbor Zoning Ordinance. The following criteria shall apply:

Applicant Response (regular type), *staff response, if any (italics)*

- (a). *That the alleged hardships or practical difficulties, or both, are exceptional and peculiar to the property of the person requesting the variance and result from conditions which do not exist generally throughout the City.***

The orientation of our property is peculiar and unlike those throughout the City. We have a shared driveway that leads to our front door and the front of the house. We consider this to be the front yard, and this area is not fenced.

The fence runs along Dexter Road. The back of the house faces Dexter Road, and we consider this to be the back yard. We use the fence to keep our dog safe and contained in the space. This is unlike properties that exist generally throughout the

City. Allowing the variance to keep the existing fence in place around the back of our home is consistent with the intent of the ordinance to limit the height and opacity of fences around the front of homes.

*The City of Ann Arbor Zoning Code states that any frontage along a public road is considered a front. This is not an uncommon situation in the City.*

- (b). That the alleged hardships or practical difficulties, or both, which will result from a failure to grant the variance, include substantially more than mere inconvenience, inability to attain a higher financial return, or both.**

Without a variance, we will need to replace the fence. This represents substantially more than inconvenience or inability to attain a higher financial return. If the variance is not granted, we will incur significant financial costs to remove the existing fence and additional financial costs to build a new fence to keep our dog safe and contained on our property, particularly given the traffic on Dexter Road.

The wood fence is currently in good condition. In the absence of the zoning issue, it does not need to be replaced. Removing a wood fence that is in good condition and replacing it with a new fence unduly uses natural materials and resources.

- (c). That allowing the variance will result in substantial justice being done, considering the public benefits intended to be secured by this Chapter, the individual hardships that will be suffered by a failure of the Board to grant a variance, and the rights of others whose property would be affected by the allowance of the variance.**

Allowing the variance will result in substantial justice being done. We were not responsible for the violation occurring. The prior owner/builder of the home installed the fence, and the fence was in place before we purchased the home in March 2021. We were not aware that the fence did not meet the zoning code and that the previous owner/builder did not follow proper city protocol for the fence until we received the Notice of Zoning Violation in April 2022. If the variance is not granted, we will be held responsible and incur financial costs for the actions of the previous owner/builder that occurred without our knowledge.

In addition, allowing the variance to keep the fence in place as it has been will not impact the rights of others or negatively impact public safety. The fence supports public safety by keeping our dog safe in the yard and out of the road or the property of others.

*Staff routinely denies request for privacy fences(100% opaque, six feet high)*

- (d). That the conditions and circumstances on which the variance request is based shall not be a self-imposed hardship or practical difficulty.**

The conditions of the variance are not a self-imposed practical difficulty. We did not install the fence. We purchased the home from the builder in March 2021. The builder had already installed the fence when we first saw the home in January 2021. We were unaware the fence did not meet the city's requirements until we received the Notice of Zoning Violation in April 2022.

**(e). *A variance approved shall be the minimum variance that will make possible a reasonable use of the land or structure***

We are seeking a variance to keep the existing fence. We are not seeking permission to build a new fence or extend the existing fence in any way. Keeping the existing fence is the minimum variance.

*The maximum height and opacity for a fence in a residential district is 8 feet high and 100% opaque.*

Respectfully submitted,



**Matt Kowalski AICP**  
**City Planner**