

**Zoning Board of Appeals
June 28, 2023 Regular Meeting**

STAFF REPORT

Subject: ZBA 23-0013; 3720 Windemere Drive

Summary:

Ljubisa Mladenovic, property owner, is requesting a 2-foot variance from Section 5.26.2 (3) Fences; Residential Zoning Districts to construct a 10-foot privacy fence in the rear yard. The maximum height for a fence in the rear yard is 8 feet. The subject property is zoned R1B, Single-Family Dwelling District.

Background:

The subject property is in the Earhart Knolls subdivision on the south side of Windemere Drive north of Glazier Way and west of Earhart Road. The residence was built in 1985 and is approximately 2,207 square feet in size.

Description:

The owner is requesting a two-foot variance for a rear yard privacy fence that will screen the adjacent property to the east. The property located at 3740 Windemere Drive obtained a Residential Building permit (BLDG11-1199) on August 16, 2011, for a 425 square foot addition to the west side of their home. The submitted site plan indicated the addition to be a minimum of six feet five inches from the western lot line. The minimum side setback for the R1B Single-Family Dwelling District is five feet. According to the survey submitted by the applicant, the addition is 3.7 feet from the side lot line. The applicant is requesting the two-foot fence height variance for the length of the fence that will be approximately 34 feet in length. There are four panels that all eight feet five inches in length.

Standards for Approval- Variance

The Zoning Board of Appeals has all the power granted by State law and by Section 5.29.12, Application of the Variance Power from the Unified Development Code (UDC). The following criteria shall apply:

- (a). *That the practical difficulties 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 applicant had the following response regarding practical difficulties involved with this application:

“My neighbors to the east of me, at 3740 Windemere Dr., have built an addition to their home, with disregard to local bylaws and city’s zoning laws with respect to the side setback rules. The proximity of their addition to my property line, can be seen on the attached Certified Survey. They have a large window looking directly at my deck area, and a large patio, looking directly in my living room. The proximity is so intrusive, that we can hear and understand each other's conversations, when

we are outside.

I invite member(s) of this Board to go around my Earhart Knolls subdivision and prove to himself/herself that no other neighbors are in a similar situation.

For this particular reason, I am seeking permit to put a privacy fence between us, and also seeking a variance to the height of that fence, from 8 feet to 10 feet height, to block intrusive windows.”

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

Applicant response: “I have no doubt, in case I am not able to put such a privacy fence will result in loss of property value, especially because no other neighbor in my subdivision is in a similar situation.”

- (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.**

“Applicant responded: “It is obvious that Ann Arbor Institutions have missed to enforce zoning laws when my neighbors have certified their home addition. I therefore think that this Board should make up for that failure by granting me requested variance permission.”

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

Applicant response: “My variance request is not based on self-imposed practical difficulty but is based on errors and omissions of Ann Arbor institutions.”

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

Applicant response: “Final applicant’s thoughts are my fence plan is attached. It requires a 10’ height privacy fence, to block windows. Along its length it will fall to 8’ due to terrain configuration. It will be of no adverse influence on anyone in the neighborhood.”

Respectfully submitted,



Jon Barrett- Zoning Coordinator