

**MINUTES
MARSHALL CITY ZONING BOARD OF APPEALS
THURSDAY, JULY 15, 2021**

In a regular session, Thursday, July 15, 2021 at 7:00 p.m. held at City Hall, Training Room, 323 West Michigan Avenue, Marshall, Michigan, the Marshall Zoning Board of Appeals meeting was called to order by Vice Chair Daily.

ROLL CALL

Members Present: Members Byrne (Zoom-South Haven), Daily (In Person-Marshall), Fisher-Short (In Person-Marshall), and Karns (Zoom-Frankfort),

Members Absent: Member Wolfersberger

Staff Present: Trisha Nelson, Planning and Zoning Administrator
Eric Zuzga, Director of Special Projects

AGENDA

MOTION by Karns, supported by Byrne, to accept the agenda for the Thursday, July 15, 2021 as presented. On a roll call vote; ayes – Byrne, Daily, Fisher-Short, Karns; nays-none; **MOTION CARRIED.**

MINUTES

MOTION by Fisher-Short, supported by Karns, to accept the agenda for the Thursday, May 21, 2020 as presented. On a roll call vote; ayes – Byrne, Daily, Fisher-Short, Karns; nays-none; **MOTION CARRIED.**

PUBLIC COMMENTS ON AGENDA

None

OLD BUSINESS

None

NEW BUSINESS

Election of Officers

Karns, supported by Bryne nominated Fisher Short for Chair. On a roll call vote; ayes – Byrne, Daily, Fisher-Short, Karns; nays-none; **MOTION CARRIED.**

Karns, supported by Bryne nominated Daily for Vice Chair. On a roll call vote; ayes – Byrne, Daily, Fisher-Short, Karns; nays-none; **MOTION CARRIED.**

Karns, supported by Daily nominated Byrne for Secretary. On a roll call vote; ayes –Daily, Fisher-Short, Karns; nays- Byrne; **MOTION CARRIED.**

APPEAL #21.01 - Mike and Jody Mankerian, owners of 301 S. Liberty, for a dimensional variance from requirement section: 5.13(1) FENCE, WALLS, HEDGES OR SIMILAR PLANTINGS OR STRUCTURES. The owners are seeking a variance to build a 6' fence in the front yard setback.

Jody Mankerian of 301 S Liberty stated that they currently have a 4' picket fence, but with the changes in the neighborhood since that has been put up, people are now petting their dogs and some are taunting the dogs and getting them to jump over the fence. The new fence will be a solid privacy fence on the bottom with a decorative lattice at the top. Mike Mankerian of 301 S Liberty stated that the neighbors are all in support of the new fence. He further stated that the landscape of the neighborhood has changed with the park being used more and that they are trying to be proactive before the dogs nip at someone.

Karns stated that the survey in the packet indicates where the fence will go, but he wanted to confirm that this will go where the existing fence is. Jody Mankerian stated that it will go exactly where the current fence is, it would just be taller and a different style. Karns questioned if the length noted on the east side of the property was the current length of the fence. Jody Mankerian stated that with the material that is currently available they are only able to do portions of the fence at this time and intend to fully enclose the yard as more materials become available. She further stated that since the petition was submitted, the neighbors to the south have installed a 6' privacy fence along that lot line, so the fence would connect to that. Karns questioned if that fence was just put up. Mike Mankerian stated it was within the last month. Daily questioned if that was a new fence or if it was a replacement fence. Mike Mankerian stated that it was a new fence.

Daily stated that on a recent site visit he noticed that there was quite a bit of foot traffic in the area with many kids going to the skate park and that he noticed several people walking right next to the fence line even in the short time he was there. Mike Mankerian stated that since there is no sidewalk in the area, so people tend to just walk right up by the fence line and they are concerned if the taunting of the dogs continue that someone will get hurt. Jody Mankerian stated that when the kids get the dog to jump over the fence, they are concerned with someone getting hurt by the dog, but also the dog getting hit by a car as many cars come speeding out of the parking lot.

Bryne stated that he lives near there and can confirm there are always people speeding through there even with kids all over making it a dangerous area. Mike Mankerian stated that the fence won't interfere with visibility at all and that all site lines will remain for drivers.

Karns questioned in their letter about where the fence would be allowed to be put in. Jody Mankerian stated that they were told that if they didn't want to wait for zoning they could go back from the corner of the house, but there is a crabapple tree and, in the corner, there are trees that were planted to each of their children when they were younger that are now large mature trees. The trees help to keep down the noise level from the park, so they would like to work the fence around the trees.

Board members went over the dimensional variance worksheet.

1. Strict Compliance with the specified dimensional standard(s) will deprive the applicant of rights commonly enjoyed by other property owners in the same zoning district, create an unnecessary burden on the applicant, or unreasonably prevent the owner from using the property for a permitted use. ***The board agreed that strict compliance would still allow them to put up a fence, just not where they wanted it or the height at the location they want it.***

2. The variance will do substantial justice to the applicant, as well as to the property owners, and a lesser variance that requested will not give substantial relief to the applicant or be consistent with justice to other property owners. ***The board agreed that a lesser variance would not allow them to put the fence where they would like and that there is already a fence there.***
3. The need for the variance is due to unique circumstances peculiar to the land or the structures involved that are not applicable to other land or structures in the same district. ***The board agreed that the only peculiar circumstance is the proximity to the park that is causing them issues.***
4. The problem and resulting need for the variance has not been self-created by the applicant or the applicant's predecessors. ***The board agreed that the problem is self-created as it is their dogs that they want to contain, but that the kids taunting the dogs are not theirs.***
5. The variance will not cause significant adverse impacts to adjacent properties, the neighborhood or the City and will not create a public nuisance or materially impair public health, safety, comfort, morals or welfare. ***The board agreed that it would potentially make the neighborhood safer by containing the dogs and that it would not cause any obstructions.***
6. The alleged hardship and practical difficulties that will result from a failure to grant the variance include substantially more than a mere inconvenience or an inability to attain a higher financial return. ***The board agreed that is more than inconvenience, that it is a safety issue and if they moved it back, they would lose yard space and trees that are important to them.***

MOTION by Karns, supported by Byrne to approve APPEAL #21.01 - Mike and Jody Mankerian, owners of 301 S. Liberty, for a dimensional variance from requirement section: 5.13(1) FENCE, WALLS, HEDGES OR SIMILAR PLANTINGS OR STRUCTURES. The owners are seeking a variance to build a 6' fence in the front yard setback. On a roll call vote; ayes – Byrne, Daily, Fisher-Short, Karns; nays-none; **MOTION CARRIED.**

PUBLIC COMMENTS ON NON-AGENDA ITEMS

None

REPORTS

None

ADJOURN

The Zoning Board of Appeals adjourned at 7:27 p.m.

Submitted by,

Michelle Eubank