

Project Narrative

Applicant is requesting a variance to City Code §153.080(A)(1) and §153.080(B)(1)(a) to permit her to reconstruct a prior deteriorated fence with a new Open Fence (§153.079(C)(5)) to be constructed along the location of her prior fence located along the property line of her lot which is less than 30,000 GSF.

Applicant had applied for a fence permit which was subsequently denied but the fence company installed the fence at the property. The city zoning officer issued a citation on January 24, 2024 alleging a violation of City Code §153.080(A)(1) which states:

“(1) The fence or wall shall not be permitted to encroach upon public rights-of-way or easements or no build zones, conservation/no disturb zones. The fence or wall shall not be located so as to adversely affect the vision of drivers on the public streets or from driveways intersecting public streets.”

Applicant purchased her residence on December 4, 1996 and shortly thereafter installed a split rail and wire fence typically permitted in the planned subdivision documents and approved by the city as part of the subdivision rezoning. She installed the fence to contain her dogs to her yard area. Over time, her dogs passed and the fence began to deteriorate to the point of being a safety concern so she removed the fence some time after the 2000 modification of the City's fence code.

The adjoining property 5698 Grantham Dr. is owned by a trust and is actively being used as a rental property. Current renters have a dog that they allow to run freely into applicant's yard to defecate. These dogs that come onto the applicant's property are destroying her peaceful enjoyment of her land.

Ohio is a “fence in” state requiring livestock to be contained by their owner to their respective property. While a pet does not qualify as livestock, pet owners do owe a duty to not trespass onto the lands of another. Instead of causing neighbor strife, Applicant is desiring of reinstalling a fence in the same location of her previously permitted fence. Language of City Code §153.083(C) appears to treat her 1996 installed fence as a continuing permitted fence.

Due to the width of her lot and the required side yard setbacks, under the current fence provisions. §153.080(B)(1)(a), she would not be permitted to have a fence on her side yards, one of which is directly affected by the rental property, that would not allow for proper maintenance of the yard. City Code §153.080(B)(4) would allow multiple arbors or trellises, separated by a hedge, up to 8 feet in height and 50% open to be within the required rear and side yard. The proposed Open Fence is 48” or less in height and more than 50% open.

Applicant believes that her request is the least objectionable/conflict avoidance approach to addressing the situation she is facing due to adjoining neighbor dogs. She is willing to stipulate as a condition of the variance that the fence shall be removed upon her sale or transfer of the residence to a third person.

The proposed Open Fence does not adversely visually impact the adjoining properties of the surrounding neighborhood as a 50% open arbor or trellis would be.