



**ISSUED BY THE DEVELOPMENT SERVICES
 DEPARTMENT STILLWATER, OKLAHOMA**

Date of Meeting: July 7, 2016
Subject: Hydrangea Hideaway LLC
Project Name: Variance to fence height in required front setback.
Location: 710 W 9th Ave

BACKGROUND

The property is zoned RSS (Small Lot Single Family Residential). The front yard setback is 20 feet in the RSS zoning district. The code allows a fence in the front yard setback no higher than four feet. Also, any fence over six feet in height requires a building permit.

The applicant recently installed a fence approximately eight feet high along the east side property line past the front property line and extending into the right-of-way. The tenants were being harassed by the neighbors to the point of the police being involved. Although the neighbors have moved, there remains the need to provide privacy to this property in question.

The applicant is requesting a variance to allow the eight foot fence to remain in the front yard setback. If granted, the applicant will request a Right-of-Way Agreement from the City Council to allow the 8-foot tall fence to project into the public right-of-way. Also, if both the variance is granted and the Right-of Way Agreement is approved, the applicant will need to obtain the required building permit for the fence.

CODE APPLICATION

Sec. 23-121. - Exemptions; setbacks for fences, etc.; projections into yards.

(a) Exemptions. The following are exempt from the provisions of this article:

- (1) Railroad tracks, signals, bridges, and similar facilities and equipment located on a railroad right-of-way, and maintenance and repair work on such facilities;
- (2) Property owned and used for governmental or university use by any branch of the county, state or federal government or by any publicly funded institution of higher learning. If such entity elects to participate in the city development review process, all applicable regulations shall be followed from beginning through completion of the application.

(b) Height and setback requirements for fences, etc. Fences, landscaping or visual barriers shall be subject to the following height and setback requirements, unless otherwise regulated or prohibited by article IV of this chapter:

Type	Height	Exempt
Fences	Zero to four feet	All setbacks
Fences	Four to eight feet	All rear and side* setbacks

Hedges or required visual barriers	Zero to four feet	All setbacks
Hedges or required visual barriers	Over four feet	All rear and side* setbacks

***No fence, hedge, or visual barrier taller than four feet shall extend into the front setback.**

DISCUSSION/ANALYSIS/FINDINGS

City Code Section 23.23. Variances.

A variance from the terms, standards and criteria that pertain to an allowed use category within a zoning district as authorized by Chapter 23, Article 7 may be granted, in whole, in part, or upon reasonable conditions as provided in this Article, only upon a finding by the board of adjustment that:

- (1) The application of the ordinance to the particular piece of property would create an unnecessary hardship;

The application of the ordinance does not create an unnecessary hardship as there are other alternatives to solving the problem. A four foot fence with tall plantings inside the fence would create a barrier to dogs and people trespassing onto the property. Although a hedge over four feet is not allowed in the front yard setback, a creative landscape could be an aesthetically pleasing solution to provide a privacy screen taller than the eight foot fence.

- (2) Such conditions are peculiar to the particular piece of property involved;

Albeit unfortunate, having unruly or vulgar neighbors is not an anomaly to property.

The peculiarity of the property lies in the width of 9th Avenue. The original township of Stillwater is laid out with 100-foot wide rights-of-way. This causes the front yards to appear much deeper than they in-fact are since the houses are set further back from the street.

- (3) Relief, if granted, would not cause substantial detriment to the public good, or impair the purposes and intent of the ordinance or the Comprehensive Plan; and

Relief would not cause substantial detriment to the public but it would be an anomaly to the neighborhood as the rest of 9th Avenue for several blocks either have no fences or retain code compliance with fences not over four feet high.

- (4) The variance, if granted, would be the minimum necessary to alleviate the unnecessary hardship.

The applicant is requesting approval to allow a maximum eight foot fence to extend into the total required front yard.

MINIMUM RELIEF NECESSARY

As requested, the minimum relief is for approval to allow an eight foot fence in the total front yard setback.

RECOMMENDATION

After reviewing the four (4) criteria as indicated above, staff finds that the applicant has met items 2 and 4. Staff would recommend that the Board further review items 1 and 3 to determine, if in the Board's opinion, the information provided in the report and by way of testimony, allows the Board to make findings in the applicant(s) favor and grant the request.

Prepared by: Patty Evans, Planner II
Date of Preparation: June 29, 2016
Attachments: Area map, Applicants four criteria
Map Designation: SW