AGENDA
City of Roeland Park, Kansas
Board of Zoning Appeals
6:00 PM
September 19, 2018

Vacant Brandon Gillette Paula Gleason
Amy Stoecker Courtney Craig

I. Call the meeting to order

II. Approval of Minutes from March 6, 2018 Meeting

III. BZA 2018-01 - Variance Request 5542 Juniper

1. Open Hearing - Staff Report, Applicant Presentation, Public Comment.

2. Close Public Hearing

3. Board Deliberation

4. Vote of the Board

IV. Adjourn
The meeting was called to order at 5:40 by Vice Chair Paula Gleason

Members Present:
Paula Gleason, Brandon Gillette, Tyler Curry

Members Absent:
Courtney Craig

Others Present:
Jennifer Jones-Lacy, Asst. City Administrator and John Jacobson, Building Official

Approve Minutes from 8/29/17 Meeting

MOTION: Ms. Gleason Moved and Mr. Gillette seconded to approve the minutes from the August 29th meeting. (MOTION PASSED 3-0).

I. Introduction of New Members

Each member of the BZA and staff introduced themselves as well as told a bit of their history.

II. Elect Chair and Vice Chair

Ms. Gleason nominated Mr. Curry to be Chair of the BZA and volunteered to serve as Vice Chair.

MOTION: Ms. Gleason Moved and Mr. Gillette seconded to approve Tyler Curry as Chair. (MOTION PASSED 3-0).

MOTION: Ms. Gleason Moved and Mr. Gillette seconded to approve Paula Gleason as Vice-Chair. (MOTION PASSED 3-0).

III. Ethics Ordinance Signatures

Ms. Jones-Lacy reviewed the ethics ordinance and asked each member to sign and return to her noting they agree to abide by the ethics ordinance as members of the BZA.

IV. Overview of BZA Duties and Procedures

Mr. Jacobson provided a presentation to describe the duties of the Board including how to determine variance requests, the process for an application, and their powers as a quasi-judicial body. He also explained their other roles as construction board of appeals, code board of appeals and flood plain appeals. He also reviewed a recently approved variance request and how the approval was determined.

Ms. Jones-Lacy reviewed the requirement to complete the determination form for the BZA and have the acting chair for the meeting sign.
V. Adjourn

**MOTION:** Mr. Curry requested a motion to adjourn. Ms Gleason moved and Mr. Gillette seconded to adjourn. (MOTION PASSED 3-0).

Meeting adjourned at 6:15 p.m.
PUBLIC NOTICE

Board of Zoning Appeals of the City of Roeland Park, Kansas will hold a meeting on WEDNESDAY, SEPTEMBER 19, 2018 AT 6:00 P.M. at the Roeland Park City Hall located at 4600 W. 51st Street, Roeland Park, Kansas.

The public hearing is for a variance (BZA 2018-01) requested by the applicant located at 5542 JUNIPER DR. seeking relief from the strict application of the City Code; Chapter XVI; Article 6; Section 16-613(b) Location – Paragraphs (2) Rear Yard and (3) Side Yard concerning the height and setback requirements on a privacy fence. The applicant is desires to build a new 6-ft. cedar privacy fence along the side of W 56th St. and is requesting the fence be allowed to pass the front building line of the rear adjacent lot house on 5615 Ash Dr. The current municipal code prohibits this for fencing over 42 inches in height on corner lots.

If you have any questions, please contact John Jacobson, Building Official, at Roeland Park City Hall (722-2600).

Please publish on August 28, 2018 and mail three copies of affidavits and costs of publications to the City of Roeland Park.
REQUEST: Applicant is requesting a variance to size and setback criteria to accommodate the construction of a new 6’ privacy fence. Existing orientation of the home will not allow a code compliant installation.

RECOMMENDATION: Staff would suggest an accommodation to facilitate the construction of the proposed fence. The applicant is proposing three options for potential construction- None of these options impact the mandatory sight triangles. The surrounding neighborhood is predominantly residential in nature. In staff’s opinion, reasonable accommodation to protect the property rights of neighbors and safeguard the character of the respective neighborhood makes sense in this area.

Should the request be denied the owner will certainly suffer some hardship as his ability to utilize the back-yard area of the site will be impacted. A single response was received by staff supporting the request and offering an alternative layout. Both the layout and corresponding email have been enclosed for your review.

BACKGROUND: Request stems from the owner attempting to screen areas of the home and provide as much open space for typical recreational activities as possible.

ANALYSIS:

The current code allows construction of a fence with a maximum height of 42” between the front building line of the adjoin (rear) lot and the road right of way. Additionally, the fence must not impact the required sight triangles for traffic safety.

16-613(b)(2)(3)- Accessory Structure Performance Standards
This lot is approximately 11,820ft² and is one of the larger lots in the subdivision. Use of the rear yard in the absence of the variance would certainly be impacted.

**IMPACTS:** Little or no impact to adjoining properties.

**POLICY ISSUES:** Current policy restricts applicant to a maximum fence height of 42” between the front building line of the adjacent lot (rear) and road ROW.
Attached is my preferred layout for the new fenceline, as proposed in the variance request by Stephen and Amanda Lachkey. I am 100% in favor of moving the fenceline south of the facade of my house as they have requested. My preferred distance is 10-15' from the front of my garage face. It would be great if we could be given a range of acceptable distance, then we could determine in the field the best location for both parties. I do plan on being in attendance at the BZA meeting on the 19th.

Please let me know if there is anything else I need to do.

Thanks,
Anna Price
5615 Ash Drive
Remove existing chain link and replace with new 6’ privacy fence

New 6’ Privacy Fence

New 6’ Privacy Fence

New 6’ Privacy Fence
The City of Roeland Park, Kansas
4600 West Fifty-First Street
Roeland Park, Kansas 66205
City Hall (913) 722-2600 – Fax (913) 722-3713

To be filled in by City:
Date filed: 
Case no.: 

Application for Variance, Section 16-335.

Fee: $100. (Free for residents/home owners in April and August) Proof of residency required.

Applicant: Stephen Lackey
Phone: [redacted]
Address: 5542 Juniper Dr.
Roeland Park, KS 66205

If different from above:
Property Owner: 
Address: 
Phone: 

Location of Property: Subdivision Rose Park Heights Block 12
Section of the zoning regulations for which variance is sought: Sec. 16-613 - Accessory Uses and Structures, Development and Performance Standards, Subsection B, Plan 3

Present use of property: Single-family residence
Description of requested variance(s): Requesting new fence on corner lot. Kever 42 in. high, be allowed to pass front building line of the house on the rear adjacent lot.

☑️ (The application shall be accompanied by a sketch map showing proposed and existing structures and uses of the property and of immediately adjacent properties.)

Reasons for requested variance(s): Both adjacent neighbor and I want to build new fences together. She'd like to fence her side yard and I'd like to cover a crawl space access in my side yard.

Utility lines or easements that would restrict proposed development: N/A

Adjacent zoning and land use:

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<tr>
<th>Land Use</th>
<th>Zoning</th>
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<tbody>
<tr>
<td>North</td>
<td>SFR</td>
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<td>South</td>
<td>SFR</td>
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<td>West</td>
<td>SFR</td>
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I acknowledge receipt of the variance criteria and that the above information is true and accurate.

Applicant signature: [Signature]
Date: 8/1/2018

Fee Paid: $  
Date: 
Received by: 

Date of Publication: 
Date of Public Hearing: 
Date Proof of Ownership and/or Authorization of Agent affidavit(s) submitted: 

Written comments from City Engineer submitted: 

Surrounding Property Owners Notified: 
Planning Commission/BZA Notified: 

Revision date: 9/15/00
Section 16-335. VARIANCES. (CRITERIA)

(a) When an applicant feels that the strict application of the requirements of the zoning regulations have created an undue hardship, such applicant may request a variance from the Board of Zoning Appeals.

(b) A variance should be issued only to the specific restrictions on physical construction; not to permissible land uses within a given district, and only if it reasonably constitutes the minimum variance necessary and the spirit of the ordinance shall be observed, public safety and welfare secured and substantial justice done.

(c) To initiate a request for a variance the applicant or his authorized agent shall submit a completed application on the form provided by the City to the City Engineer and pay the appropriate fee as set forth in Section 16-333. The application shall be accompanied by a sketch map showing proposed and existing structures and uses of the property for which the variance is being requested and of immediately adjacent properties. The City Engineer may require applicant to submit photos of the subject property. No application shall be processed until it has been deemed completed by the City Engineer, the fee paid and all additional information submitted.

(d) When all requirements established in Subsections B and C have been complied with, the City Engineer shall notify the Chairman, and the Chairman shall schedule a regular meeting of the Board and send to the Board members copies of the application and all additional information submitted. At least 20 days prior to the Board meeting, an official notice to the public shall be published in the official City newspaper explaining the variance request and the time and place of the scheduled hearing, and a copy of the notice shall be mailed to the applicant, the Planning Commission, and to all owners of record of lands located within 100 feet of the property which is the subject of the application for variance. The form of the notice and the procedure for providing such notice shall be in accordance with Subsection 16-250(A).

(e) At the scheduled meeting of the Board, it shall hear all facts and testimony from all parties wishing to be heard concerning the requested variance. In each case, the Board shall not grant a variance unless it finds, based upon the evidence presented, facts which conclusively support all the following findings.

1. Uniqueness. The variance requested arises from conditions which are unique to the property in question, which are not ordinarily found in the same zoning district, and which are not caused by the action of the property owners or applicant. Such conditions include the particular physical surroundings, shape, or topographical condition of the specific property involved which would result in a practical difficulty or unnecessary hardship for the applicant, as distinguished from a mere inconvenience, if the requested variance was not granted.

2. Adjacent Property. The granting of the variance will not be materially detrimental or adversely affect the rights of adjacent property owners or residents.

3. Hardship. The strict application of the provisions of the zoning regulations from which a variance is requested will constitute unnecessary hardship upon the applicant. Although the desire to increase the profitability of the property may be an indication of hardship, it shall not be a sufficient reason by itself to justify the variance.

4. Public Interest. The variance desired will not adversely affect the public health, safety, morals, order, convenience, or general welfare of the community. The proposed variance shall not impair an adequate supply of light or air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the neighborhood.

5. Spirit and Intent. Granting the request for variance should not be opposed to the general spirit and intent of the zoning regulations.

(f) The Board shall keep minutes of its proceedings, showing evidence presented, findings of fact by the Board, decisions of the Board and the vote upon each question. Records of all official actions of the Board shall be filed in City Hall and shall be public record.

(g) The Board may either grant, grant conditionally, or deny the application for a variance. If the decision of the Board is not made at the meeting at which the hearing was held, a written decision shall be sent to affected parties and the Planning Commission.

Revision date: 9/15/00
16-334. APPEALS TO THE BOARD OF ZONING APPEALS.

(a) Appeals may be taken by any person aggrieved, or by any officer of the city or any government body or agency affected by any order, requirement, decision, or determination made by any administrative official of the City in the enforcement of Chapter 16, or of any ordinance adopted pursuant thereto.

(b) No appeal, pursuant to this Section, shall be heard by the Board until the individual appealing the order, requirement, decision or determination has met with the administrative official who made such determination to receive a full explanation of the zoning requirements in question as currently interpreted. No notice of appeal shall be processed until it has been deemed complete by the City Engineer, the fee paid, and all required additional information submitted.

(c) The appeal shall be taken within a reasonable time as provided by the rules of the Board. An appeal shall be initiated by filing with the person whose decision is being appealed and with the Board a notice of appeal specifying the decision being appealed from and a statement as to the reason of the appeal. The notice must be accompanied by the fee set by the Governing Body, pursuant to Section 16-333. City Engineer or the Board may require that drawings or photos of the property in question and a list of all surrounding property owners be submitted to the Board prior to consideration of the appeal by the Board.

(d) When all requirements established in Subsections b and c have been complied with, the City Engineer shall notify the Chairman and the Chairman shall schedule a meeting of the Board and shall send copies of the notice to the Board members. At least twenty days prior to the Board meeting, an official notice to the public shall be published in the official city newspaper explaining the appeal and the time and place of the scheduled hearing. A copy of the notice shall be mailed to each party to the appeal and to the Planning Commission. At the hearing, any party may appear in person or by an agent or by an attorney.

(e) An appeal stays all proceedings and furtherance of action appealed from unless the City Engineer certifies to the Board, after the notice of appeal has been filed, that, by reason of facts stated in the notice, a stay would cause imminent peril to life or property.

(f) At its next meeting, the Board shall hear all facts and testimony from all parties wishing to be heard concerning the appeal. The appeal shall be heard by the Board at the next meeting following compliance with the requirements established in Subsections b, c and d.

(g) In its deliberations, the Board must only consider whether or not the interpretation in question conformed to the specific language of the ordinance being enforced. The Board may not declare the zoning regulations unfair or attempt to act contrary to their purpose. The Board may clarify ambiguities or resolve conflicts between opposing sections. Since the Board’s decisions will affect future application of the regulation in question, the specific hardship of the applicant should not be considered when reaching a determination on an appeal filed pursuant to this Section.

(h) The Board may either affirm, reverse, or modify the order, requirement or interpretation at issue. If the decision of the Board is not made at the meeting where the hearing was held, a written decision shall be mailed to affected parties.

16-336. APPEALS FROM BOARD OF ZONING APPEALS. Any person or an official of a government agency dissatisfied with any order or determination of the Board may bring an action to determine the reasonableness of any such order or determination within thirty days after the making of such order or determination, in the District Court of Johnson County, Kansas.
DETERMINATION OF THE BOARD OF ZONING APPEALS

BZA Members: Absent/Present

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<th>Name</th>
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<td>Brandon Gillette</td>
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<td>Amy Stoecker</td>
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<td>Paula Gleason</td>
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<td>VACANT</td>
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On __________, 2017, the City of Roeland Park Board of Zoning Appeals (Action Approved, conditionally approved, Denied) the variance requested from Section _______________ of the Zoning Ordinance for the property at _______________ (Address or Location) as requested by ____________________________ (Applicant).

In hearing and considering (Action) this request, the Board of Zoning Appeals found that the variance (did/did not fulfill all five of the necessary conditions for approval. Specifically, the Board of Appeals found: ____________________________

Findings of the Board of Zoning Appeals on each of the following conditions:

<table>
<thead>
<tr>
<th>BZA Members Name</th>
<th>Gillette</th>
<th>Stoecker</th>
<th>Craig</th>
<th>Gleason</th>
<th>VACANT</th>
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<td>Uniqueness</td>
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<td>Effect adjacent property</td>
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<td>Would it create a hardship to applicant</td>
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<td>Public Interest</td>
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a. Uniqueness ____________________________ ____________________________
b. Adjacent Property ____________________________ ____________________________
c. Hardship ____________________________ ____________________________
d. Public Interest ____________________________ ____________________________
e. Spirit and intent ____________________________ ____________________________

Conditions (if any): ____________________________

Chairman, Board of Zoning Appeals
5542 Juniper Dr.
Roeland Park, Kan. 66205

Option #1: Proposed fence per Variance request

LEGEND
- Proposed Fence line
- Clear Sight Distance line
- 15 ft. Buffer line
5542 Juniper Dr.
Roeland Park, Kan. 66205

Option #2: Proposed fence per Variance request

- Replacing existing chain-link fence
- 15 ft. buffer between right-of-way
- Sight Distance Triangle per Sec. 16-426
  (15 ft. by 144 ft. from edge of pavement)

**LEGEND**

- **Proposed Fence line**
- **Clear Sight Distance line**
- **15 ft. Buffer line**
5542 Juniper Dr.
Roeland Park, Kan. 66205

Option #3: Proposed fence per Code

Replacing existing chain-link fence

Replacing existing chain-link fence & gate

15 ft. buffer between right-of-way

Sight Distance Triangle per Sec. 16-426
(15 ft. by 140 ft. from edge of pavement)

LEGEND

- Proposed Fence line
- Clear Sight Distance line
- 15 ft. Buffer line