

Board of Zoning Appeals Minutes

CITY OF ROELAND PARK

4600 W 51st Street, Roeland Park, KS 66205

6:00 P.M.

December 14, 2023

Board Members:

Darren Nielsen

Jeff Meador

Jeffrey Stocks

Brandon Gillette

Erik Hage

Staff:

Jennifer Jones-Lacy, Assistant City Administrator

Wade Holtkamp, Building Official

I. Call the meeting to order.

The Roeland Park Board of Zoning Appeals met December 14, 2023. Darren Nielsen called the meeting to order. Ms. Jones-Lacy called the roll. Darren Nielsen, Brandon Gillette, and Jeff Meador were present. Jeffrey Stocks and Erik Hage were absent.

II. Approval of Minutes from February 27, 2023, meeting

MOTION: BRANDON GILLETTE MOVED AND DARREN NIELSEN SECONDED TO APPROVE THE MEETING MINUTES FROM FEBRUARY 27, 2023. (MOTION CARRIED 3-0)

III. BZA 2023-03 - Variance Request 4700 Reinhardt Dr

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

Mr. Nielsen opened the public hearing. Mr. Holtkamp gave the staff report for the requested variance at 4700 Reinhardt of a 6-foot wood privacy fence that is already constructed and projects into the front yard building line of the residence and the neighboring property. The height of the fence is also at issue. A fence permit request was submitted in May of 2023. There was a permit review error and the fence was approved and constructed in a manner that is well outside of City code.

Staff recommendation is to not approve the fence variance in its current location but recommends modifying the design to align with code. Staff does acknowledge their error during the review process, but the location of the fence is an extreme deviation from the code and is believed to be a negative impact on the surrounding area of the single-family neighborhood.

In their analysis, staff can determine front and side yards for corner lots and the acting building official at the time determined the front yard to be on the north side when it is on the east side. Also, a storage shed has been placed within the fenced area, the size of which does not require a permit, but its placement is outside of code. Also, a camper is located within the fenced-in area. Both items are past the front yard building line of the neighboring property.

According to code, a fence past the front building line may not exceed 30 inches. Side yard fencing past the front building line may not exceed 42 inches. The intent of the lower fencing heights past the front building line is to retain green open space of yards.

Ms. Jones-Lacy said the primary issue the board is concerned with is the location of the fence. Staff's recommendation is to move the fence line from where it currently exists on Reinhardt to the west so that it does not project past the building line of the property to the south. She reiterated the City does recognize their error and said there is grant money to assist with home improvements through the Neighbors Helping Neighbors program for those that meet income requirements. This is not the applicant's fault, and the City does want to reduce the hardship on the homeowner and remedy this in the best way possible.

KaLia Burnette, the applicant and homeowner, said she moved forward because she had received permit approval. She also presented a petition from her neighbors who do not have an issue with the fence. She said there were some concerns brought to her attention before the fence was constructed and that was the sight line turning left from Reinhardt onto 47th Street. The fence contractor moved the fence back so as not to block the stop sign.

Ms. Burnette said she spoke with her neighbor at 4708 Reinhardt who did not have a problem with the placement of the fence, shed, or camper.

Ms. Burnette said she does have a dog, which is the main reason for the fence. Before the fence was installed, she did have a lot of people cutting through her yard and there was a lot of litter on the property. She noted that surrounding neighbors all have fences in the vicinity, many just as tall. She expressed her biggest concern is if the fence needs to be moved would be recovering the cost which would be at least half of what she has already paid.

Public Comment:

Doug Chandler (4715 Rheinhardt) Mr. Chandler said that he does not have an issue with the fence. In fact, it has quieted some traffic noise from County Line Road. He said there should be a better solution than forcing them to tear down what they have built.

Lori Chandler (4715 Reinhardt) Mrs. Chandler added that she is glad they saved the tree on the corner.

Mr. Holtkamp said they did receive an email about the fence before it was installed. Ms. Jones-Lacy said the resident stated the fence was built in the front yard. Ms. Jones-Lacy added that the City can determine what the front yard is, and the email just expressed some concerns.

Mr. Nielsen asked that aside from moving it and/or altering the height, are there other options. Ms. Burnette said for privacy reasons, she would prefer to move the fence but would be willing to talk about the height.

Ms. Jones-Lacy said that once a fence passes the front building line of an adjoining property, the side yard fence cannot be more than 42 inches.

Mr. Holtkamp said during the permit application he had a conversation with the fence contractor who expressed the homeowner wanted to maximize the lot space that could be

fenced in. Mr. Holtkamp told him that if they build outside what is allowed, they do that at their own risk and that they needed to be compliant and interfere with the sight line.

Mr. Nielsen asked if the drawing in the permit package matched what was built. Ms. Jones-Lacy stated what was built does not match image in the permit application.

The board reviewed documents and asked questions of the applicant.

b. Close Public Hearing

Mr. Nielsen closed the public hearing for BZA deliberations.

c. Board Deliberation

Mr. Holtkamp reviewed the criteria the board should consider when determining whether to grant the variance.

Mr. Nielsen asked about who made the determination of the side yard versus the front yard and when that was done. Mr. Holtkamp said that was done initially in review of the application. He noted the odd nature of the lot with the driveway on 43rd Street.

Mr. Nielsen also wanted to know if there was an inspection of footings before the holes were filled. Mr. Holtkamp said they do a final inspection.

Mr. Nielsen also asked about the viability of the offer for the grant program. Ms. Jones-Lacy said the Neighbors Helping Neighbors program has three funding levels, \$1,000, \$1,500 or \$2,000 and is based on income. The purpose of the grant program is to assist those who have issues with exterior code compliance that is difficult, or they are unable to address on their own.

There was also discussion of the location of the shed being too close to the property line and extending past the front building line of the adjacent property. The board also discussed the placement of the camper in the fenced-in yard.

Ms. Jones-Lacy also presented some previous variance requests that were similar in nature with the determination of a front and side yard.

Mr. Gillette asked what brought this to staff's attention. Mr. Holtkamp said it was feedback from an email they received, and it was also noticed by staff which were followed up with conversations at City Hall. The option offered to the homeowner was an opportunity to apply for a variance through the Board of Zoning Appeals. The permit is still open as final approval has not been given.

d. Vote of the Board

Following discussion, Ms. Jones-Lacy polled the Board. An affirmative vote is in favor of granting the variance. Due to there being only three members present, the vote must be unanimous on all criteria for the variance to pass.

	Nielsen	Gillette	Meador
Uniqueness	Aye	Aye	Aye
Impact	Nay	Nay	Aye
Hardship	Aye	Nay	Nay
Public Interest	Aye	Aye	Aye
Spirit and Intent	Nay	Nay	Nay

The request for the variance failed.

Ms. Jones-Lacy said they will work with applicant as best as they can and try to make it as easy for them as possible and will help them with the process.

IV. Adjourn

MOTION: BRANDON GILLETTE MOVED AND JEFF MEADOR SECONDED TO ADJOURN.
(MOTION CARRIED 3-0)

(Roeland Park Board of Zoning Appeals Adjourned)