



Provo City Board of Adjustment Report of Action November 17, 2022

Item 1 Ryan Okelberry requests a variance to Section 14.34.500(1)(a), Fencing Standards for Residential Zones, to allow a six foot (6') fence in the front yard in the R1.20 (One Family Residential) zone, located at 2948 West 1520 North. Lakeview North Neighborhood. PLVAR20220283

The following action was taken on the above described item by the Board of Adjustment at its regular meeting on November 17, 2022:

APPROVED

On a vote of 5:0, the Board of Adjustment approved the above noted application.

Motion By: Wes Marriot

Second By: Tom Halladay

Votes in Favor of Motion: Wes Marriot, Tom Halladay, Andrew Renick, Jennifer Welch, Laurie Urquiaga

Andrew Renick was present as chair.

- New findings stated as basis of action taken by the Board of Adjustment. Determination is not generally consistent with the Staff analysis and determination.

STAFF PRESENTATION

The Staff Report to the Board of Adjustment provides details of the facts of the case and the Staff's analysis, conclusions, and recommendations.

CITY DEPARTMENTAL ISSUES

- The Coordinator Review Committee (CRC) has reviewed the application and given their approval.

NEIGHBORHOOD AND PUBLIC COMMENT

- The Neighborhood Chair was not present or did not address the Board of Adjustment during the hearing.
- Neighbors or other interested parties were present or addressed the Board of Adjustment.

CONCERNS RAISED BY PUBLIC

Any comments received prior to completion of the Staff Report are addressed in the Staff Report to the Board of Adjustment. Key issues raised in written comments received subsequent to the Staff Report or public comment during the public hearing included the following:

- A few neighbors addressed the Board and expressed support of variance.

APPLICANT RESPONSE

Key points addressed in the applicant's presentation to the Board of Adjustment included the following:

- The applicant installed the fence over eight years ago and has not been an issue.
- Other property owners can build accessory structures, but the applicant can't because of a power easement on the property.
- The applicant stated that he didn't know it was a violation of code when installed but knows that it is now.
- The applicant described how large the front yard is and that it functions like other properties in the area.

BOARD OF ADJUSTMENT DISCUSSION

Key points discussed by the Board of Adjustment included the following:

- The Board clarified what the front yard area is and the required setbacks.
- Identified that this is a concern now because the City responded to a complaint bringing this to their attention.
- Clarified that this is not a safety issue, but that it does not comply with the height requirements for fencing in a front yard.
- When the property was purchased, the plat showed that there was an easement and it would have certain impacts on how the property could be used.
- Amending the code could be a more appropriate measure to be taken than a variance.
- In the future there may be other property owners pointing to this variance and wanting to have the same allowed for them.
- The lot was created larger than other because of the easements that are on the property.

FINDINGS / BASIS OF BOARD OF ADJUSTMENT DETERMINATION

The Board of Adjustment identified the following findings as the basis of this decision or recommendation:

- There is a hardship because of the powerline easements that don't affect other properties the same.
- Literal enforcement of the code would be difficult for the property owner.

DECISION

The Board of Adjustment made a motion to allow the existing fenced area to have a six foot fence exceeding the three feet allowed in 14.34.500(1)(a)



Board of Adjustment Chair



Development Services Director