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Planning Department
Civic Center North
470 South Allison Parkway
Lakewood, Colorado 80226-3127
303.987.7505
Lakewood.org/Planning

BOARD OF ADJUSTMENT STAFF REPORT

MAJOR VARIANCE CASE NO: VM-17-002

REPORT DATE: July 25, 2017

CASE NAME: High View Water District Major Variance

BOARD OF ADJUSTMENT DATE: August 16, 2017

ADDRESS OF VARIANCE PROPOSAL: 12690 W. 6th Pl.
Lakewood, CO 80401

APPLICANT: Dwayne Davis
Assistant District Manager and Field Supervisor
High View Water District
1002 Kipling Street
Lakewood, CO 80215

REQUEST:

The applicant is requesting relief from the material standards for fences on a public utility installation property, as regulated by Article 7 of the Lakewood Zoning Ordinance, to allow for the top 1-foot of a maximum 7-foot tall chain link fence to be barbed wire in the front yard.

CITY STAFF:

Planning - Development Assistance

Kara Mueller, Project Manager

STAFF RECOMMENDATION:

That the Board of Adjustment approve Case No. VM-17-002 to allow for relief to the fence material standard in Article 7 of the Lakewood Zoning Ordinance for 12690 W. 6th Pl.

Kara Mueller, Senior Planner
Planning – Development Assistance

Paul Rice, Manager
Planning – Development Assistance

ATTACHMENTS TO THE REPORT:

Attachment A – Site Layout

I. SUMMARY OF REQUEST

The zoning for the property is Small Lot Residential (R-1-6). In the R-1-6 zone district, a fence for a public utility installation may be open or solid and a maximum height of 7 feet. Barbed wire is allowed to make up the top 1 foot of a 7-foot tall fence, but may not be below 6 feet in height for the side and rear yards of a site. The applicant is proposing a 6-foot tall open chain link fence with 1-foot of barbed wire on top to enclose and secure the potable water facility located at 12690 W. 6th Pl. This variance request is to allow the top 1-foot of material for the front yard fence to be barbed wire.

The project site, 12690 W. 6th Ave., is located to the north of West 6th Avenue and to the southwest of West 6th Place. The site is approximately 22,956 square feet in size (See Figure 1). The existing potable water facility is partially buried on-site and the site is surrounded by retaining walls with an access off of West 6th Place.

The applicant is requesting relief from the fence material standard of Article 7 of the Lakewood Zoning Ordinance (Section 17.7.8.2 and Table 17.7.4 of the Zoning Ordinance) due to existing site conditions and safety measures. The limitation of the barbed wire fence material applies to the front setback only. The applicant is requesting relief from the standard that prohibits the use of barbed wire for the top 1-foot of a 7-foot tall fence in the front yard.



Figure 1 – Aerial Map for 12690 W. 6th Pl.

II. PROCESS – REQUIRED CITY APPROVALS

The fence material requirement is a design standard in Article 7 of the Zoning Ordinance. The applicant's reason for requesting relief to the standards is based on existing site conditions and security measures. The requested relief is not quantitative so the variance request is determined to be a major variance.

Section 17.2.5.4.A. of the Lakewood Zoning Ordinance grants the Board of Adjustment the authority to review and render a decision on Major Variance Applications. The purpose of a Major Variance is to allow for Board of Adjustment review and neighborhood involvement when there is an extraordinary or exceptional situation or condition. If the Board of Adjustment approves the Major Variance, the applicant may complete a fence permit application, which includes the final zoning review of the fence proposal.

III. ZONING AND LAND USE

The property is zoned R-1-6 and the adjacent properties to west, east and north are also zoned R-1-6. West 6th Avenue is located directly to the south (See Figure 2). The surrounding land use is single-family residential.



Figure 2 – Zoning Map for 12690 W. 6th Pl.

IV. PUBLIC NOTIFICATION, AGENCY REVIEW AND NEIGHBORHOOD COMMENTS

Notice for the Board of Adjustment hearing was mailed to 38 tenants and owners of property within 300 feet and to 5 registered neighborhood organization within ¼ mile of the subject property. Notice was published in the Lakewood Friday Report, posted in the Civic Center and posted on the property. All noticing requirements have been satisfied.

The Variance application was not referred to outside agencies for review.

V. PROJECT ANALYSIS

Existing Conditions

The subject property is the only potable water facility for the High View Water District. This water tank is built into the hillside and surrounded by retaining walls. There is an access to the facility off of West 6th Place. Currently, there is an approximately 5-foot tall chain link fence that surrounds the site that is in disrepair. The variance request is tied to concerns over the security of the facility, trespassing, vandalism and graffiti.

Analysis

Allowing the top 1-foot of a maximum 7-foot tall fence to be barbed wire will provide security for the potable water facility at the most accessible part of the site. This will not change the overall appearance of the site as barbed wire is allowed to be the top 1-foot of a 7-foot tall fence on all sides, except for the front yard.

VI. REQUIRED FINDINGS

Section 17.2.4.3 of the Lakewood Zoning Ordinance outlines the criteria required to be met in order to approve a Major Variance. The following is staff's analysis and findings as they relate to the criteria for granting a variance.

- A. *By reason of exceptional narrowness, shallowness or shape of a specific piece of property, topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of the regulation would result in peculiar and undue practical difficulties for, or peculiar and unnecessary hardship on, the owner of the property.*

The strict application of the fence material standard would result in undue practical difficulties on the property owner because the use of 1-foot of barbed wire at the top of the fence will secure the site from persons climbing the fence for access in the front yard.

- B. *The extraordinary and exceptional situation or condition on the property that is stated as the reason for the proposed variance is not self-imposed.*

The trespassing, vandalism and graffiti that are occurring on the site are not self-imposed.

- C. *The proposed variances comply with the purpose and intent of the standards to be varied and generally observes the spirit of the Zoning Ordinance; and*

The variance complies with the purpose and intent of the standards and generally observes the spirit of the Zoning Ordinance because the fence material is allowed on all sides of the property except in the front yard. Allowing 1-foot of barbed wire on top of a 6-foot tall chain link fence in-lieu of a 7-foot chain link fence will satisfied to the greatest extent possible, security for this potable water facility and will promote health, safety & welfare for the residents within the High View Water District boundaries.

- D. *The proposed variance will not substantially impair the appropriate use or development of adjacent property; and*

The variance will not substantially impair the adjacent residential uses, nor will it impair any future development of those adjacent properties. The use of 1-foot of barbed wire on top of a 6-foot fence is allowed along a majority of the property, which abuts residential uses. This request will make the fencing consistent while providing the safety measures for the High View Water District.

- E. *The proposed variance is the minimum variance that will afford relief with the least modification possible of this Zoning Ordinance.*

The proposed variance is the minimum that will afford relief as the use of barbed wire is allowed along a majority of the property boundary.

VII. STAFF RECOMMENDATION

Based upon the information and materials provided by the applicant, staff supports the Major Variance Request. Therefore, the City of Lakewood staff recommends that the Board of Adjustment find that:

- A. The strict application of the fence material standards would result in peculiar or unnecessary hardship on the property owner due to security concerns with the site; and
- B. The extraordinary situation was not self-imposed.
- C. The requested variance complies with the purpose and intent of standards and the requested variance will generally observe the spirit of the Lakewood Zoning Ordinance; and
- D. The requested variance is not anticipated to substantially or permanently impair the appropriate use or development of the adjacent properties; and
- E. The requested variance is the minimum that will afford relief; and
- F. The notification and posting requirements, as stated above in the Notification section, have been satisfied.
- G. The procedural requirements listed in the Zoning Ordinance have been satisfied.

THEREFORE

The Board of Adjustment **APPROVE** the Variance request, Case Number VM-17-002, to allow for the top 1-foot of a maximum 7-foot tall open chain link fence in the front yard at 12690 W. 6th PI to be barbed wire.

Cc: Case File: VM-17-002
Dwayne Davis, High View Water District