

**Minutes of the City of Vandalia Board of Zoning Appeals**  
**November 28, 2018**

**Agenda Items**

1. Call to Order
2. Attendance
3. New Business
  - a. **BZA18-26** 905 Pool Avenue – Variance to “Fences and Walls” *City Code Section 1276.02*
4. Approval of BZA Minutes of November 14, 2018
5. Communications
6. Adjournment

<b>Members Present:</b>	Mr. Michael Flannery, Mr. Scott Fullam, Mr. Christopher Prokes and Ms. Amber Aivalotis-Weaver
<b>Members Absent:</b>	
<b>Others Present:</b>	David Marlow

**1. Call to Order**

Mr. Flannery waited until 6:05 p.m. to call the meeting to order to give the Applicant time to arrive. Mr. Flannery described the BZA as a recommending body that evaluates the BZA application and stated that the City Council makes the final decision on all variance requests, but will not hold a public hearing such as BZA. He noted that City Council will hear the requests at the meeting on December 17, 2018 at 7:00 p.m. Mr. Flannery then swore in those who intended to speak during the public hearing.

**2. Attendance**

It was noted that a quorum of members was present

**3. New Business**

- a. **BZA18-26** – 905 Pool Avenue - Variance to “Fences and Walls” *City Code Section 1276.02*

Mr. Flannery introduced the item and asked for the report from Staff.

Mr. Marlow gave the report from Staff explaining that the Applicants, Danny & Kitty Bartlett, had requested a variance to allow a 6-foot tall wood fence in Zone “A”, the decorative fence zone on a corner lot. He mentioned that Zone “A” permitted fences to be a maximum height of 42” in height, or 3.5 feet and City Code Section 1276.02(e) Corner Lot Restrictions stated, corner lots in Zone A and Zone B shall include that area lying between the street right-of-way line and the building line adjacent to one of the fronted streets. Mr. Marlow noted that in addition, Zone A shall

include that area lying between the second street right-of-way line and a line parallel to and a minimum of fifteen feet behind the building line which fronted the second street. Mr. Marlow stated that the proposed fence would project out farther than the building line that faced Randler Avenue by 29 feet and the proposed location of the fence would be 18" or 1.5 feet from the right-of-way line. Mr. Marlow explained that City Code Section 1276.02(c)(1) Residential and Agricultural Districts stated, such fences may not exceed forty-two inches in height nor may any fence be constructed within three feet of the right-of-way line.

Mr. Marlow mentioned that the Applicant had submitted a letter of justification in which they explained that they were retired and often home alone with some of the grandkids. In addition, the applicants noted that they were active and playful, and their back yard was somewhat small, especially now that they built a 19'x19' storage shed in the back yard which was not shown on the aerial photo that was shared with you. Mr. Marlow explained that the applicants had stated that they only can contain them in the back yard for so long, and then they want more room to play at least in the front yard for a little more freedom. He continued to mention that they said they had a few health issues and had no time to gather up the kids and bring them inside and it was literally that urgent. Mr. Marlow stated that the applicants noted that they don't feel safe leaving the children out front, unsupervised, even for a few minutes and it was a real issue for them. In addition, the applicants mentioned that they would like to be allowed to move their fence, enlarging their back yard so that the kids could more happily play back there.

Mr. Marlow explained that Staff was recommending the Board of Zoning Appeals recommend denial of the requested variance from City Code Section 1276.02 "Fences and Walls" for the purposes of allowing a 6-foot high wood fence in Zone "A", the decorative fence zone on a corner lot where there are no unique physical circumstances affecting this specific corner lot more than another corner lot and which the zoning code had strict conformance requirements for fences located on corner lots.

With no further comments, Mr. Flannery closed the public hearing and proceeded through the variance criteria.

- (1) Whether, unique physical circumstances or conditions, including irregularity, narrowness or shallowness of lot size or shape or exceptional topographical or other physical conditions with the property or the neighborhood in which the property is located that burdens the property heavier than other property in the same zoning district;**

The Board did not feel there were any unique physical circumstances or conditions that burden this specific corner lot property heavier than another corner lot property in the same zoning district.

- (2) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;**

The Board felt the property would yield a reasonable return and could be beneficially utilized without granting of the variance.

- (3) Whether the property owner purchased the property with knowledge of the zoning restrictions;**

The Board did not believe the property owner purchased the property with knowledge of the zoning restrictions.

**(4) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer substantial detriment as a result of the variance;**

The Board did not feel the requested fence location and height are particularly in character with the neighborhood and could cause a line-of-sight issue for cars going around the slight turn on Randler Avenue.

**(5) Whether the property owner's predicament feasibly can be eliminated through some method other than a variance;**

The Board felt the predicament could be eliminated by lowering the fence to 3.5 feet in height and relocating the fence a minimum 3 feet from the right-of-way line.

**(6) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting a variance; and**

The Board did not feel the intent behind the zoning requirement would be observed by granting of the variance request. City Code Section 1276.02 "Fences and Walls" had strict conformance requirements for fences located on corner lots.

**(7) Whether the variance is substantial.**

The Board felt the variance was substantial.

Mr. Fullam made a motion to deny the variance from City Code Section 1276.02 "Fences and Walls" for the purposes of allowing a 6-foot high wood fence in Zone "A", the decorative fence zone on a corner lot where there are no unique physical circumstances affecting this specific corner lot more than another corner lot and which the zoning code had strict conformance requirements for fences located on corner lots.

Ms. Aivalotis-Weaver seconded the motion. The motion was approved 4-0.

Mr. Marlow mentioned that the item would be discussed at the December 3rd City Council Workshop at 6:00pm in the Large Conference Room.

#### **4. Approval of November 14, 2018 Meeting Minutes**

Mr. Prokes made a motion to recommend approval of the November 14, 2018 meeting minutes. Mr. Fullam seconded the motion. The motion was approved 4-0.

#### **5. Communications**

Mr. Marlow stated that there were two items on the December 12th BZA agenda. The first was an appeal to the Zoning Administrator's decision regarding a free-standing sign at 626 W. National Road and the second item was for a sign at 600 S. Dixie Drive.

## **6. Adjournment**

The meeting was adjourned at 6:15 p.m.

---

**Michael Flannery**  
Chairman