

MINUTES OF THE BOARD OF ADJUSTMENT

DATE: November 6, 2018

TIME: 1:30 p.m.

The regular meeting and public hearing of the Board of Adjustment was held on the above date and time in City Council Chamber, Historic City Hall with the following members and personnel in attendance: Matt Cologna (Chair), Robert Sweere (Vice-chair), Bryan Fisher, Ed Alden, and Derek Lee. Absent: None. Staff: Daniel Neal, Senior Planner, Harlan Hill, Building and Development Director, Tom Rykowski, Assistant Attorney, and Bob Hosmer, Principal Planner.

Roll call:

INTRODUCTION OF ZONING ORDINANCE AS EVIDENCE: Daniel Neal introduced the Zoning Ordinance.

APPROVAL OF MINUTES: The minutes of March 6, 2018 were approved.

COMMUNICATIONS: None

PUBLIC HEARING:

Special Exception 1302

624 East Walnut Street

Applicant: Project Collective, LLC

Mr. Daniel Neal stated that this is a request to allow a fence in a required front yard in excess of the height requirements. The owner for the property at 634 E. Walnut Lawn Street is Project Collective, LLC. BDS discovered during a plan review for the pool on March 13, 2018. The Director of Building Development Services sent an e-mail to the applicant/owner stating the plan indicates a 6-foot high open decorative aluminum fence shown to extend into the required front yard. Therefore, the currently installed non-permitted, non-compliant fence shall be removed and the ARC approved fence may be installed. Otherwise, a 6-foot high solid fence may only be installed if it does not project into the required front yard. The applicant was instructed to apply to the board of adjustment for an appeal, variance or special exception or comply with the ordinance. In this special exception, the Board of Adjustment has jurisdiction and authority to grant special exceptions from the terms of this article in certain instances. In this case, the Board of Adjustment must determine whether the existing fence in the front yard of this R-LD, Low Density Multi-Family Residential District lot meets the conditions to grant a special exception. If the appeal is approved; the existing fence shall be considered a nonconforming structure and use and will be subject to Section 36-457 of Z.O. If the appeal is denied; the applicant must comply with the Z.O. and remove the existing fence and construct a new fence that is no taller than 4 feet and at least 50% open if located in the front yard.

Sec. 36-366. - Special Exceptions.

(1) Jurisdiction and authority. The board of adjustment shall have jurisdiction and authority to grant special exceptions from the terms of this article in the following instances:

(c) Fences, walls and hedges in front yards. In any multifamily or nonresidential zoning district, the board of adjustment may grant a special exception to permit a fence, wall, or hedge in a required front yard in excess of the height prescribed in subsection 36-453(6)(a)2 provided the following conditions are met:

1. The proposed fence, wall, or hedge, in no event, exceeds a height of seven-feet.

2. The proposed fence, wall or hedge either satisfies the requirements in subsection 36-453(6)(a)2 regarding open voids; or that the proposed fence, wall or hedge complies with the following:
 - a. It screens a parking lot.
 - b. The open voids are not needed for safety.
 - c. If the fence adjoins an R-SF, R-TH or R-MHC tract, then no part of the fence would be placed within a triangular area determined by measuring 25-feet from the right-of-way line down the side property line of the two tracts, and 100-feet along the right-of-way line of the subject tract, and by a diagonal connecting the outermost points of the two lines.

It does not appear all requirements of Subsection 36-366(1)(c) have been met. Subsection 36-366(1)(c)(2) states that the proposed fence must either satisfy the 50% open voids requirement (which a portion of the fence does not); or the fence must screen a parking lot (which it does not primarily screen a parking lot), show that open voids are not needed for safety, or the fence would be outside of a triangular area adjacent to R-TH (which a portion of the fence is not).

3. The proposed fence, wall or hedge otherwise satisfies the requirements of subsection 36-453(6)(b) regarding sight triangles at intersecting streets and driveways intersecting public streets. In particular, no fence, structure, or plant shall be erected or allowed to grow above a point two-feet above the lowest grade of two or more intersecting streets and/or driveways shall be permitted within the area of a triangle measuring 30-feet along the pavement edge of the intersecting streets or driveways.
4. The proposed fence, wall, or hedge shall not be located in the required right-of-way of the adjoining street based on the classification of the street (subsection 36-303(17)).
5. The proposed fence is compatible with the general area and with adjoining properties. In particular the fence shall not unduly obstruct views along the street to the detriment of the overall streetscape and shall not deviate substantially from the front yard treatment common to the street and for similar properties in the vicinity.

Matt Cologna opened the public hearing.

Mr. Adlai Groves, 2144 E. Republic Road, attorney for the client stated that this started due to a communication error and noted the fence as a safety concern noting the pool is adjacent to a busy street and feels that the solid fence is necessary.

Mr. Hill, Director of Building and Development Services noted that the project was under construction and near completion, the contractor wanted to get a Certificate of Occupancy (COO) for the clubhouse/poolhouse prior to the completion of the pool and other amenities. The approvals had not been fully granted for the pool, fencing, and those items and this is what was holding up issuing the Certificate of Occupancy. To get the COO for the clubhouse, the architect designers submitted an addendum to remove the pool and fence from the project and submit it under a separate permit application. This allowed the COO to be issued and this restarted the plan review process and the newly assigned plan reviewer was looking at the application and documents had some questions and it appeared that setbacks requirements were exceeded. Then noticed that the fence line was encroaching on the required setback and noticed that it was a solid fence in detail, whereas earlier, the exhibit that ARC had approved showed open metal/decorative fence, the developer went with the solid fence and asked a special exception.

Mr. Fisher questioned Section 36-366(1) (c) and Mr. Groves said that he has spoken with City staff and there is already a portion of the metal fence within the triangle, is not at issue due to be already approved.

The other argument of Subsection C of the ordinance is the intent to preserve a residential nature of the neighborhood and this property is a church and don't believe that this is an issue.

Mr. Sweere asked if this issue is a problem due to it being regarding as a front yard and Mr. Groves acknowledged it as correct.

Mr. Cologna closed the public hearing.

BOA member findings:

Approved "The granting of the exception **will not** be injurious or otherwise detrimental to the public health, safety, morals, and general welfare of the general public."

Approved "The granting of the exception **will not** be detrimental or injurious to the property or improvements in such zone or neighborhood in which the property is located."

Approved "The granting of the exception **will** be in harmony with the general purpose and intent of the Zoning Ordinance."

Mr. Matt Cologna motioned to approve **Special Exception 1302**. The motion carried as follows: Ayes: Sweere, Lee, Cologna, Alden, and Fisher. Nays: None. Abstain: None. Absent: None.

UNFINISHED BUSINESS: None

OTHER BUSINESS:

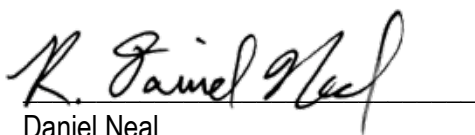
2019 Board of Adjustment Meeting Calendar

Citywide

Applicant: City of Springfield

Daniel presented the 2019 Board of Adjustment calendar.

Mr. Sweere motioned to approve **2019 Board of Adjustment Meeting Calendar (Citywide)**. Mr. Fisher seconded the motion. The motion carried as follows: Ayes: Sweere, Lee, Cologna, Alden, and Fisher. Nays: None. Abstain: None. Absent: None.



Daniel Neal
For Executive Secretary

BOARD OF ADJUSTMENT
Special Exception Findings of Fact and Conclusions of Law

Date 11/6/18

Applicant Project Collective Case No. Special Ex 132

The undersigned, as a member of the Board of Adjustment, has taken into account, among other things, the character and use of adjoining buildings and those in the vicinity, the number of persons residing or working in such buildings or upon such land and traffic conditions in the vicinity of such property, and makes the following findings in regard to the granting or refusal of the requested Special Exception:

CHECK ONE

Approved

Disapproved



The granting of the exception (**will** or **will not**) be injurious or otherwise detrimental to the public health, safety, morals, and general welfare of the general public.



The granting of the exception (**will** or **will not**) be detrimental or injurious to the property or improvements in such zone or neighborhood in which the property is located.



The granting of the exception (**will** or **will not**) be in harmony with the general purpose and intent of the Zoning Ordinance.

OTHER FINDINGS: _____

BOARD MEMBER:

Robert Sweet
Print Name

Robert Sweet
Signature

BOARD OF ADJUSTMENT
Special Exception Findings of Fact and Conclusions of Law

Date 11/6/18

Applicant PROJECT COLLECTIVE Case No. SPECIAL EXCEPTION 1302

The undersigned, as a member of the Board of Adjustment, has taken into account, among other things, the character and use of adjoining buildings and those in the vicinity, the number of persons residing or working in such buildings or upon such land and traffic conditions in the vicinity of such property, and makes the following findings in regard to the granting or refusal of the requested Special Exception:

CHECK ONE

Approved

Disapproved



The granting of the exception (**will** or **will not**) be injurious or otherwise detrimental to the public health, safety, morals, and general welfare of the general public.



The granting of the exception (**will** or **will not**) be detrimental or injurious to the property or improvements in such zone or neighborhood in which the property is located.



The granting of the exception (**will** or **will not**) be in harmony with the general purpose and intent of the Zoning Ordinance.

OTHER FINDINGS: _____

BOARD MEMBER:

Ed Alden
Print Name

[Signature]
Signature

BOARD OF ADJUSTMENT
Special Exception Findings of Fact and Conclusions of Law

Date 11/6/2018

Applicant PROJECT COLLECTIVE Case No. 1302

The undersigned, as a member of the Board of Adjustment, has taken into account, among other things, the character and use of adjoining buildings and those in the vicinity, the number of persons residing or working in such buildings or upon such land and traffic conditions in the vicinity of such property, and makes the following findings in regard to the granting or refusal of the requested Special Exception:

CHECK ONE

Approved

Disapproved



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The granting of the exception (**will** or **will not**) be detrimental or injurious to the property or improvements in such zone or neighborhood in which the property is located.



The granting of the exception (**will** or **will not**) be in harmony with the general purpose and intent of the Zoning Ordinance.

OTHER FINDINGS: _____

BOARD MEMBER:

DEREK LEE
Print Name

Derek Lee
Signature

BOARD OF ADJUSTMENT
Special Exception Findings of Fact and Conclusions of Law

Date 11/7/18

Applicant Project Collective, LLC Case No. SE 1302

The undersigned, as a member of the Board of Adjustment, has taken into account, among other things, the character and use of adjoining buildings and those in the vicinity, the number of persons residing or working in such buildings or upon such land and traffic conditions in the vicinity of such property, and makes the following findings in regard to the granting or refusal of the requested Special Exception:

CHECK ONE

Approved

Disapproved



The granting of the exception (**will** or **will not**) be injurious or otherwise detrimental to the public health, safety, morals, and general welfare of the general public.



The granting of the exception (**will** or **will not**) be detrimental or injurious to the property or improvements in such zone or neighborhood in which the property is located.



The granting of the exception (**will** or **will not**) be in harmony with the general purpose and intent of the Zoning Ordinance.

OTHER FINDINGS: _____

BOARD MEMBER:

Matt Cologna
Print Name

M. Cologna
Signature

BOARD OF ADJUSTMENT
Special Exception Findings of Fact and Conclusions of Law

Date 11/10/18

Applicant Project Collective, LLC Case No. _____

The undersigned, as a member of the Board of Adjustment, has taken into account, among other things, the character and use of adjoining buildings and those in the vicinity, the number of persons residing or working in such buildings or upon such land and traffic conditions in the vicinity of such property, and makes the following findings in regard to the granting or refusal of the requested Special Exception:

CHECK ONE

Approved

Disapproved

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The granting of the exception (**will** or **will not**) be injurious or otherwise detrimental to the public health, safety, morals, and general welfare of the general public.

☒☐

The granting of the exception (**will** or **will not**) be detrimental or injurious to the property or improvements in such zone or neighborhood in which the property is located.

☒☐

The granting of the exception (**will** or **will not**) be in harmony with the general purpose and intent of the Zoning Ordinance.

OTHER FINDINGS: _____

BOARD MEMBER:

Bryan Fisher
Print Name

[Signature]
Signature