



City of Seattle
Edward B. Murray, Mayor

Department of Planning and Development
D. M. Sugimura, Director

**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR OF
THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

Application Number: 3020481
Applicant Name: Kevin Weare on behalf of Brigid De
Address of Proposal: 8818 30th Avenue NW

SUMMARY OF PROPOSED ACTION

Land Use Application to allow a fence that exceeds maximum height allowed.

The following approval is required:

Variance – The applicant requested approval of a variance for a fence 12 feet in height where six feet is allowed. (SMC 23.440.014.D.10.a&b)

SEPA DETERMINATION: Exempt DNS EIS
 DNS with conditions
 DNS involving non-exempt grading or demolition or involving another agency with jurisdiction.

BACKGROUND DATA

Site and Vicinity

The site is 6,250 sq. ft. in size and zoned Single Family (SF-7,200). Steep slope, Riparian and Wildlife Habitat Environmental Critical Area (ECA) conditions are present. The lot's elevation drops approximately 34 feet from the street to the rear property line. The existing fence is built on a timber retaining wall. The fence is not in the ECA as an inspection was conducted under case number 57107 on June 12, 2015 stating the timber retaining wall was not in an ECA. The North Beach Natural Area, a wooded ravine with a stream and wetlands, is located directly to the east. Properties in the vicinity are single-family residential. Homes are predominantly one story in height with scattered two and three story structures. Streets are a series of cul-de-sacs, but the grid is reestablished on 85th Street to the south. Meadow Point Park is located approximately ½ mile to the west.

Description of Proposal

The applicant requests approval of a variance from the land use code proscribed fence height of six feet. (SMC 23.440.014.D.10.a&b) Sections of the fence are 12 feet in height. A citation was issued, 1033010, on September 15, 2014 for the fence. The applicant's primary justification for the variance is to mitigate impacts from a three story home constructed to the south of the subject property at 8814 30th Avenue NW where there is a first story entrance and outdoor patio area for separate living quarters generating noise, odor, and privacy impacts. Cigarette smoke is mentioned multiple times throughout the letter. An elevated dog kennel at the rear of the 8814 property is also cited as justification for the variance.

Public Comment

A letter of support was received from a neighbor. Three letters opposing the project were submitted with the following concerns: the fence is out of character with the neighborhood; the fence doesn't address privacy issues; the fence won't address noise or odor pollution; it is poorly constructed, its proximity to the wetland, the fences depicted location as it relates to property lines.

ANALYSIS - VARIANCE

As provided in SMC 23.40.020, variances from the provisions or requirements of Seattle Municipal Code Title 23 shall be authorized only when all of the facts and conditions stated in the numbered paragraphs below are found to exist:

1. ***Because of unusual conditions applicable to the subject property, including size, shape, topography, location or surroundings, which were not created by the owner or applicant, the strict application of this Land Use Code would deprive the property of rights and privileges enjoyed by other properties in the same zone or vicinity;***

There are no conditions unique to the subject property justifying the variance. The applicant cites topography and impacts from the home located at 8814 30th Avenue NW. Many lots throughout the City occupy steep hillsides. Fence along steep inclines generally are stepped following the terrain.

The house to the south is three stories in height while the applicant's is a one story home with a daylight basement. Both lots are zoned SF-7,200 and have the same height limit. The letter mentions privacy issues due to the height of the home to the south. Second and third story windows can still see into the subject property. The fence as constructed does not limit these impacts. The applicant also mentions a variety of impacts from first story elements of the 8814 home. A conforming fence six feet in height would screen many of the listed impacts. This is demonstrated by section drawing submitted by the applicant. If further screening is desired a two foot open lattice is legally allowed above the fencing. Landscaping may be a more appropriate measure to create additional screening.

2. ***The requested variance does not go beyond the minimum necessary to afford relief and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is located;***

The requested variance would allow a fence double the allowed height, a special privilege not available to other properties in the vicinity. Other homes in the neighborhood contain steep hillsides and must obey the fence standards consistent with the SF-7,200 zone.

Absolute screening of the applicant's rear yard and home next to a three-story structure requires a fence well beyond the 12' requested by the applicant. Three-story homes are allowed in the SF-7,200 zone and the reality of urban development means there will be homes of differing heights abutting one another with views into rear yards. Odor and noise impacts may be mitigated by fencing, but the applicant's letter speaks to ground floor issues. A combination of a code complying six foot fence with a two foot lattice and landscaping would mitigate 1st floor impacts.

3. ***The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or vicinity in which the subject property is located;***

The proposed fence will not be detrimental to public welfare or injurious to the property. The applicant is asking for a 12' tall fence. There are minimal safety implications associated with the request.

4. ***The literal interpretation and strict application of the applicable provisions or requirements of this Land Use Code would cause undue hardship or practical difficulties;***

Denial of the variance does not prevent the applicant from using the property for a single-family residence or cause undue hardship or practical difficulties. The land use code allows any type of landscaping with no limit on its growth height or diffusion. Landscaping is an appropriate solution for the transition between the two homes of differing height.

5. ***The requested variance would be consistent with the spirit and purpose of the Land Use Code and adopted Land Use regulations for the area.***

Citywide residential fence height is limited to six feet. Fence heights are set at six feet at the property line to prevent a walled-in like appearance between parcels.

DECISION – VARIANCE

The Director denies the requested fence variance based upon the findings of fact. There are code conforming solutions to the impacts cited in the applicant's letter.

Josh Johnson, Land Use Planner
Department of Planning and Development

Date: December 10, 2015

JJ:drm

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IMPORTANT INFORMATION FOR ISSUANCE OF YOUR MASTER USE PERMIT

Master Use Permit Expiration and Issuance

The appealable land use decision on your Master Use Permit (MUP) application has now been published. At the conclusion of the appeal period, your permit will be considered “approved for issuance”. (If your decision is appealed, your permit will be considered “approved for issuance” on the fourth day following the City Hearing Examiner’s decision.) Projects requiring a Council land use action shall be considered “approved for issuance” following the Council’s decision.

The “approved for issuance” date marks the beginning of the **three year life** of the MUP approval, whether or not there are outstanding corrections to be made or pre-issuance conditions to be met. The permit must be issued by DPD within that three years or it will expire and be cancelled. (SMC 23-76-028) (Projects with a shoreline component have a **two year life**. Additional information regarding the effective date of shoreline permits may be found at 23.60.074.)

All outstanding corrections must be made, any pre-issuance conditions met and all outstanding fees paid before the permit is issued. You will be notified when your permit has issued.

Questions regarding the issuance and expiration of your permit may be addressed to the Public Resource Center at prc@seattle.gov or to our message line at 206-684-8467.