

**`NORTH EAST BOARD OF APPEALS**  
**North East Town Hall / 106 South Main Street**  
**Thursday, August 22, 2019**  
**7:00 P.M.**

Chairman Peg Hardin called the meeting to order at 7:04 P.M. Present for the meeting included members, Maurice Tenney and S.J. Anderson. Also in attendance were David Beste, Town Attorney, Melissa Cook-Mackenzie, Zoning Administrator, Betsy Vennell, Director of Planning, and Lisa Rhoades, Planning and Zoning Assistant.

**-MINUTES-**

July 25, 2019

Ms. Anderson made a motion to approve the minutes with a minor correction. Mr. Tenney seconded the motion and the motion was approved by all.

**-COMMENTS FROM THE PUBLIC-**

None.

**-PUBLIC HEARING-**

Case: A-2019-04-V: A variance application has been filed by Richard C. Parsons, 112 Jethro Street, North East, Maryland 21901, also found on Tax Map 0400, Parcel 529. Zoning Designation: "R-2" Two Family Residential. Applicant is requesting a 2 foot height variance for the purpose of installing a 6 foot privacy fence on the front and side yard, forward of the rear building line.

Ms. Kim Wood, the Court Reporter, swore in Richard Parsons, 112 Jethro Street, North East, Maryland and Robert Perkins, 109 Jethro Street, North East, Maryland.

Chairman Hardin inquired if Mr. Parsons would like to make his application part of the record and Mr. Parsons replied yes.

Mr. Parsons stated that for safety reasons he and his wife would like to install a six foot (6') in height shadowbox fence, inside his property line, from the existing rear yard fence to the tree in the front yard. Mr. Parsons stated that he maintains a nice yard and the proposed fence will be an aesthetically pleasing addition to the yard. Mr. Parsons stated that he intends to make the tree, in the corner of his front yard, the corner post for the proposed fence. Mr. Parsons reported he also intends to install a four foot (4') shadowbox fence across the front of his property. Mrs. Vennell stated that attaching the proposed fence to the tree could potentially cause the tree to die. Mrs. Cook-Mackenzie stated that the subject property is located within the Chesapeake Bay Critical Area and therefore, the survival of any and all trees in this area is very important.

Mr. Parsons reported that the adjoining property, 114 Jethro Street, is a rental property and the tenant has a Pit Bull and a German Shepard which are not on a leash when outside and often come into his yard. In addition, the tenant's children climb his existing rear yard fence and come into his yard. Mr. Parsons stated he has a two year old child and is concerned for his child's safety. Mr. Tenney confirmed that the primary concerns for the six foot (6') fence are privacy, safety from the neighbors and the dogs running

loose in the neighborhood. Mr. Parsons concurred and added that he feels the proposed fence will help with these issues in the future.

Mr. Tenney inquired if the adjoining property owner, of 114 Jethro Street, had any objection or comments regarding the proposed fence or variance request. Mr. Parsons reported that he has spoken to the property owner, Mr. Mark McFadden and Mr. McFadden has no objection to the proposed 6 foot fence being installed. Mrs. Rhoades reported that an email was received from Mr. McFadden stating that he was in agreement with the proposed six foot (6') in height fence. Mr. Parsons displayed some pictures of his existing fence, yard and the neighbor's unleashed dogs (Exhibit 1).

Mrs. Vennell inquired if the chain link fence on the opposite side yard of 112 Jethro Street belonged to Mr. Parsons or his adjoining neighbor. Mr. Parsons replied the chain link fence belongs to his neighbor. Mrs. Cook-Mackenzie inquired if Mr. Parsons could clarify the location of his existing rear yard fence and Mr. Parsons clarified the location of the existing fence using a photo of the property submitted with his application. Ms. Anderson inquired if Mr. Parsons would be staining the new fence installed. Mr. Parsons replied that he would stain the fence eventually however, the fence is constructed of pressure treated wood and pressure treated wood should not be stained for the first year or so.

Chairman Hardin inquired if anyone from the public would like to speak in regards to the proposed fence.

Mr. Robert Perkins, 109 Jethro Street, stated that he lives directly across the street from Mr. Parsons. He stated that he is home during the day and has witnessed the neighbor's dogs and children in Mr. Parsons yard. The adjoining property's house and deck are extremely close to Mr. Parsons property line and Mr. Perkins has seen the same neighbors children climbing on Mr. Parsons existing rear yard fence. Mr. Perkins stated that he is concerned the children are going to get hurt or break Mr. Parsons fence and he has brought this to Mr. Parsons attention. Mr. Perkins stated that he and Mr. Parsons have addressed the neighbors about their concerns regarding the dogs and children however, nothing has changed. Mr. Perkins stated that he is in agreement with the style of the proposed fence.

Ms. Anderson inquired what would prevent the children from continuing to climb the new fence. Mr. Parsons explained the new fence would extend past the neighbors deck and the children would not be able to reach the top of the fence from the ground. In addition, Mr. Parsons stated he will be adding a two foot (2') lattice top to the existing six foot (6') rear yard fence making the rear yard fence a total of 8 foot in height.

With no further comments, Chairman Hardin closed the public hearing at 7:32 P.M.

Ms. Anderson stated she has no objection to the proposed fence. Mr. Tenney had concern with placing the fence so close to the public sidewalk. Ms. Anderson stated that stopping the fence before the tree would be acceptable as this leaves several feet between the fence and the public sidewalk. Mrs. Cook-Mackenzie stated that Planning Office has reviewed previous variance cases and in those cases the Board of Appeals granted the applicants request to install a six foot (6') or higher fence to the front building line of the main structure, which differs from Mr. Parsons request to install a six foot (6') fence forward the front building line of the main structure. In addition, some of the photos in the exhibit are not located in the same place as applicants proposed fence. Mrs. Cook-Mackenzie stated that the Planning Office does have a concern about site visibility should a six foot (6') in height fence be installed in the front yard up to the public sidewalk. Therefore, the Planning Office would not recommend installing the six foot (6') in height past the front building line of the main structure. A four foot (4') in height fence could be installed forward the front building line of the main structure to be consistent with other fences in the Town. In addition, the tree shall not be used as a fence post and the fence posts shall be an adequate distance from the tree as to not disrupt the integrity of the tree, as this property is located within the Critical Area. Ms. Anderson

APPROVED

inquired what would be an acceptable distance from the tree to install a fence post. Mrs. Cook-Mackenzie stated that the Towns Landscape Architect could assist with the best location to install fence post around the tree. The Planning Office could schedule a meeting with the applicant and Landscape Architect to discuss the location of the fence posts.

Mr. Tenney made a motion to approve the 2 foot height variance for the purpose of installing a six foot (6') privacy fence on the front and side yards forward the rear building line, subject to the following conditions:

1. Applicant shall receive a variance to construct a six foot (6') high fence from the rear building line to the front of the principal structure.
2. Applicant may construct a four foot (4') high fence from the front of the principal structure as far as permitted.
3. Placement of the four foot (4') high fence shall be determined by town staff, after consultation with the Towns Landscape Architect.

Ms. Anderson seconded the motion and the motion was approved by all.

**-OLD BUSINESS-**

None.

**-NEW BUSINESS-**

None.

**-REPORTS-**

None.

**-MISCELLANEOUS-**

None.

**-NEXT MEETING-**

The next Board of Appeals meeting is scheduled for September 26, 2019.

**-ADJOURNMENT-**

Ms. Anderson made a motion to adjourn the meeting at 7:53 P.M. Mr. Tenney seconded the motion and the motion was approved by all.

Respectfully submitted:

Attest:

Lisa Rhoades  
Planning and Zoning Assistant

Peg Hardin  
Chairman