



# City of Dayton

## Board of Zoning Appeals

### Minute Record

May 19, 2020

#### 1. BZA CASE # 2020-00128 –4141 Beech Tree Ct.

A variance application to allow for a 6'0 privacy fence to be placed within the front yard setback which will exceed maximum height requirements located at 4141 Beech Tree (Parcel ID: R72217314 0011) in a SR-2 Suburban Single Family Residential zoning district. Fences located within the front yard setback may not exceed forty-two (42") inches.

<b>Applicant:</b>	Brandi Bogner 4141 Beech Tree Ct Dayton, OH 45424
<b>Owner:</b>	Donald and Melissa Bogner 4141 Beech Tree Ct Dayton, OH 45424
<b>Existing Land Use and Zoning:</b>	Suburban Single Family Residential; SR-2
<b>Surrounding Land Use and Zoning:</b>	West: Suburban Single Family Residential; SR-2 East: Suburban Single Family Residential; SR-2 South: Suburban Single Family Residential; SR-2 North: Suburban Single Family Residential; SR-2
<b>Priority Board:</b>	Northeast
<b>Land Use Board:</b>	Northeast
<b>Neighborhood:</b>	KittyHawk

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Mr. Green presented the case.

The applicant is seeking a variance to allow for the installation of a 6 ft. tall privacy fence located within the front yard that exceeds height requirements. Fence height within the SR-2 zoning district may not exceed 42" when located within the front or corner side yard setback. The property is located at the northeast corner of Beech Tree Ct and Blue Spruce Ct.

The applicant is proposing to install the fence to replace the existing 42" chain link fence that currently abuts the sidewalk in the corner side yard. As proposed, the fence will be installed 22'0 within the corner side yard setback line. The applicant states they would like to exceed fence height requirements to enhance safety as a swimming pool will eventually be installed.

The Northeast Land Use Board met and recommended that the request be approved on the condition the fence be setback 6 feet from the sidewalk.

The applicant has provided several pictures in the surrounding vicinity of 6' privacy fences located in the front yard/corner side yard setback of corner lot properties. Please find those examples enclosed for your review.

### **Citizen Comments**

Staff has received the following comments regarding proposed variance request:

- 1) Ray Landis (4760 Blue Spruce Court) states: "I encourage the board not to approve the variance request. The property sits at the intersection of Beech Tree and Blue Spruce Court. The request would block the view of traffic at the intersection."
- 2) George Bauer (4741 Blue Spruce Court) states: "I have seen several other homes in Forest Ridge with very similar privacy fences. I see no problem for the folks at 4141 Beech Tree Ct. to have their request approved. Sure hope they like it once it's done."

In addition to the above emails received, staff has received several phone requests for further information regarding fence placement and intent based off of submitted materials. Further case information was sent to those individuals who did not have an opinion on the case.

In regards to the statement by Mr. Landis and his concern regarding traffic visibility at the intersection, the proposed fence location would roughly be 40 feet back from the intersection. As such, staff does not believe traffic visibility would be negatively impacted should the variance request be granted.

### **Staff Recommendation**

Staff recommends the application be **approved** with the following condition:

1. The fence is placed a minimum 6' off the sidewalk.

Staff is basing this recommendation off of the decision of the Northeast Land Use Board as well as the other corner lot properties shown via the photos the applicant has provided with a similar fence height in the required front yard/corner side yard.

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### **Public Testimony**

The applicant Brandi Bogner of 4141 Beech Tree Court did not have comments to add. When asked if she was amenable to the staff-proposed six-foot setback, she said that she preferred it being built to the sidewalk, but would not oppose a six-foot setback.

**Board Discussion**

The board felt that the application could be approved with the six-foot setback.

**Board Decision:**

A motion was made by Mr. Bement and seconded by Ms. Tingle and carried to determine that there is a preponderance of reliable, probative and substantial evidence to make the specified findings required under R.C.G.O. 150.120.10(A) and approve the application as submitted for a Variance subject to the following conditions:

- The fence shall be set back at least six feet from the sidewalk.

Mr. Bement	yes	Ms. Tingle	yes
Mr. Brand	yes	Ms. Patterson	yes
Ms. Graham	yes	Mr. Ciani	yes
Mr. Martin	yes		

Approved by the Board of Zoning Appeals on May 19, 2020.

Tony Kroeger, Secretary  
Board of Zoning Appeals

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Being no additional business before the Board the meeting was adjourned.

Tony Kroeger, Secretary  
Board of Zoning Appeals