

Zoning Board of Adjustment Minutes
July 18, 2017

Chairman Curry called the July 18, 2017 Zoning Board of Adjustment meeting to order at 6:00 p.m. at the Cascade City Hall. Board members present were Dave Curry, Linda Hoffmann, Merlin McDermott, Suzanne Otting and Ross Orr.

Motion by Hoffmann, 2nd by Orr to approve the agenda as presented – all ayes.

Motion by Orr, 2nd by Otting to approve the minutes from the January 17, 2017 meeting – motion passes 4-1, with McDermott not voting since he was absent from the meeting.

Motion by Otting, 2nd Hoffmann to open the public hearing at 6:02p.m. regarding the variance consideration for Aquin Little Angels Daycare. Motion carries. Aquin Little Angels Daycare erected an 8' fence in the rear of their property for privacy and protection purposes. The Zoning Code provides for a 6' fence height in a rear yard. Jason McDermott, representing Aquin Elementary and Child Care Center was present and commented that the fence between the daycare and the rectory was erected at 8' for privacy purposes. With a lower fence, people at the daycare could look into the windows at the rectory. During the discussion, it was asked if people are given guidelines on fences. The City Administrator said that when people complete a building permit, the dimensions, including the height of the fence are included. Rick Stevenson at 416 2nd Ave NW was present and addressed the Board. He told the board that the lights from the daycare illuminate his house, he has no privacy and people from the daycare can look in his windows. He also commented about water running off the property and that the daycare shouldn't have been allowed to be built there. He also commented that with the whole daycare project, the contractors have had the concept of "we don't care attitude". Blair Gleason from the Parish Board also addressed the board. Fence is the issue at hand and not all the other issues. The daycare is an asset to the community. The height of the fence was for privacy for the priest. Jenny Recker, Aquin Little Angels Director addressed the board also. DHS provides fencing requirements for security purposes and must be at least 4'. Father Loecke also addressed the Board and said he requested the 8' fence for protection of the priest. With society the way it is he didn't want anything to be seen by the public that could create any issues.

After much discussion, motion by McDermott, 2nd by Hoffmann to close the public hearing and enter regular session at 6:23p.m. Motion carries. The Board began their discussion. Chairman Curry commented that the Code does not say that all sides of a structure need to be treated the same. Hoffmann said that Stevenson's side not being treated fair in regards to privacy and an 8' fence. McDermott commented that people can pull curtains and shades for privacy. The contractor's should have found out the law before things started. Self-inflicted hardship is not grounds for a variance. Also, people in the public shouldn't talk to Board members to persuade them to vote a certain way. Chairman Curry commented that ignorance of the Code or failure to communicate does not meet the requirements of requesting a variance. He appreciates the privacy and protection issue. He read section of Chapter 165.34 Section 3. A (1) and (2) that talks about special circumstances. This situation is peculiar to the land and that literal interpretation of the provisions would deprive the applicant of rights. The special conditions and circumstances do not result from the actions of the applicant.

Chairman Curry then asked for the Board to consider the variance request. Motion by McDermott to deny the request of the variance for the 8' fence. Motion dies due to lack of a second. Further discussion was had. Then motion by Curry, 2nd by Orr to approve the variance as requested – motion passes 4-1, with McDermott voting No.

Motion Orr, 2nd Curry to adjourn the meeting at 6:58 p.m. – all ayes.