

**Board of Adjustment Meeting
Variance Request
Variance (VAR2023-01)**

March 1, 2023

In Attendance:

Board Members: Present: Dan McGill, Brian Riffel, Mary Repar, Marilyn Butler. Absent: Ed Feeley

City Staff: Ben Shumaker and Tiffany Andersen

Applicant: Derek Girtle (Owner), Tom Owens (Designer and Project Coordinator)

Public Members in Attendance: Erik Casto, Sam Kniestadt, Michael Perry, Tony Lawson

A. Preliminary Matters:

1. **Establish Meeting Chair:** **Riffel** nominated McGill to be Chair for the meeting. **Repar** seconded motion. No vote or dissent occurred and **McGill** called the meeting to order as Chair at 6:00 PM.
2. **Public Comment Expectations:** **Shumaker** read and explained expectations written on the agenda.
3. **Public Comment Period:** None.

B. New Business:

4. VAR2023-01 – Girtle Retaining Wall

Appearance of Fairness Disclosures: **Shumaker** explained the state's *Appearance of Fairness Doctrine* and asked Board members to disclose if anyone has any financial interest in the outcome of the decision, whether they have had *ex parte* communications about the proposal, or if there was any other matter that could impact their ability to be fair or impartial in the decision-making process.

Butler disclosed she is a nearby landowner and had been approached by Owens, Project Coordinator, and neighbor Leonard Damien about the addition of the retaining wall. At the time she did not know it was an application that would be brought before the Board. She believed she could remain fair and impartial in the decision making-process.

No other board members disclosed issues.

The applicant did not challenge the Board's appearance of fairness. **McGill** requested Butler's recusal in the interest of avoiding legal pitfalls and preserving the Board's impartiality in appearance as well as fact.

Butler recused herself and joined the public.

Presentation by Staff: **Shumaker** summarized the written staff report, explaining request allow a wall to a height of 80", in places. The standard is 48" above the sidewalk. **Shumaker** recommended the Board of Adjustment grant the Variance.

Presentation by Applicant: Owens presented on behalf of Derek Girtle, owner. **Owens** explained how they came about creating the retaining wall and why there was a need. Due to the approach from the street, which has a downward grade, up to the garage was a need to create an approach more gentle than the steep grade it would have been had the driveway been built with retaining wall. Mr. Owens sent a picture of the project to Shumaker so everyone could see the project in question. He indicated there was about a 25 foot 'triangle' of height difference that is in question. He indicated they completed the project without a permit, as they were not aware of the need.

Public Hearing Call to Order: 6:28 PM

Comments in Favor:

Tony Lawson, Stevenson, WA –**Lawson** lives across the street from the project, as well as owns the parcel next door to it. He has no issues with the wall and likes the appearance of it. He pointed out the bare ground on the neighboring lot already has a similar height. He stated he is fine with the wall solution they came up with and likes the outcome. He is not against the wall/matters at hand.

Comments in Opposition:

Sam Kniesteadt, Stevenson, WA –**Kniesteadt** lives next door to the build. He indicated his displeasure with the fact the issues are being addressed at this stage of the build, as the "whole" neighborhood has been built without exceptions or variances. He is concerned for the future owner of the neighboring lot, as this new build's design differs from the aesthetic of the neighborhood currently. He is opposed to the Variance.

Eric Casto, Stevenson, WA –**Casto** wished to express his opposition to the lack of pulling required permits prior to the building of the wall. He is not in favor of variances and does not believe it fits the neighborhood. He is extremely unhappy with the way the Notice was sent out, without information pertinent to this issue and because the Notice added confusion by not addressing the retaining wall, but inaccurately stated the Variance is being requested for a rear/backyard setback.

Mike Perry, Stevenson, WA –**Perry** is neither opposed nor supportive of the wall. This is not his concern. He is concerned that the City/County has inspectors who did not catch the issues with the erection of the wall while it was being built. He believes designers and builders should understand the codes and need for permits prior to building. He would like to have builders and City employees make advisory visits and recommends obtaining permits prior to breaking ground and hopes future processes will be "fixed".

Recess Called by McGill: 6:41PM

Back in Order Called by McGill: 6:44PM

Board Deliberation: Chair advised the decision to be placed on hold until the Notices have been cured. He moved to push the Final Decision to Monday, March 20, 2023 in order to cure said defects.

Mary Repar seconded the Motion. All in favor of extending deliberation to date in order to cure notice. There will be an update to Notice to reflect the actual issue the Variance request addresses, as well as a Notice will be posted at the site of build, per requirements.

Time of Adjournment: 7:05PM

Minutes by Tiffany Andersen.