

# CITY OF THE DALLES PLANNING COMMISSION MINUTES

**Thursday, May 5, 2011**

City Hall Council Chambers

313 Court Streets

The Dalles, OR 97058

*Conducted in a handicap accessible room*

## **CALL TO ORDER:**

Chair Lavier called the meeting to order at 6:02 pm.

## **BOARD**

**MEMBERS PRESENT:** Bruce Lavier, Ron Ahlberg, Mark Poppoff, Chris Zukin, John Nelson, Dennis Whitehouse, Nan Wimmers

## **BOARD**

**MEMBERS ABSENT:** none

## **STAFF PRESENT:**

City Attorney Gene Parker, Senior Planner Richard Gassman,  
Administrative Secretary Brenda Green

## **APPROVAL OF AGENDA:**

It was moved by Whitehouse and seconded by Nelson to approve the agenda as submitted. The motion carried unanimously.

## **APPROVAL OF MINUTES:**

It was moved by Whitehouse and seconded by Zukin to approve the minutes of April 7, 2011 as submitted. The motion carried with Lavier, Poppoff, Zukin, Nelson, Whitehouse and Wimmers voting in favor, Ahlberg abstained.

It was moved by Zukin and seconded by Nelson to approve the minutes of April 14, 2011 as submitted. The motion carried with Lavier, Poppoff, Zukin, Nelson, Whitehouse and Wimmers voting in favor, Ahlberg abstained.

**PUBLIC COMMENT:** none

## **QUASI-JUDICIAL PUBLIC HEARING:**

Application Number VAR 116-11 of Kimberly Wadsworth to gain approval for the construction of a fence in the exterior side yard setback in excess of the 4 feet allowed in the Land Use and Development Code. Property is located at 520 West 10<sup>th</sup> Street and is further described as 1N 13E 4AC, tax lot 6500. Property is zoned "RH" – High/Medium Density Residential District.

While reading the hearing description, it was discovered that the agenda had the address listed incorrectly as 2002 West 13<sup>th</sup>. The correct address is 520 W 10<sup>th</sup> Street.

Chair Lavier read the rules for conducting a public hearing. He asked the Commissioners if they had any bias, conflict of interest, or ex-parte contact. None were declared. There were no challenges from the audience. Chair Lavier declared the public hearing open and brought attention to three letters that had been received in regards to the application. The letters were labeled as Exhibits 1, 2 and 3.

Chair Lavier asked for the Staff Report which was then presented by Senior Planner Gassman. Gassman shared the difficulty in explaining to the public why a six foot fence cannot be built when there are other six foot fences in the same neighborhood that were possibly built before the code was changed. He informed the commission of when the code was changed, and explained that new fences are required to follow current ordinances. Gassman summarized the current ordinance and stated that Ms. Wadsworth's fence does not meet the standards set forth in the current ordinance.

Senior Planner Gassman stated that staff was recommending denial of the application because it does not meet three of the criteria. Gassman pointed out that if the variance is granted it will make it difficult to deny similar requests for variances in the future. There was a general discussion of why six foot fences are not allowed, citing reasons such as aesthetics and vision clearance.

Commissioner Ahlberg suggested that for assisting property owners in the future, a simple brochure could be put together which defines what and where a fence can be.

**Public Testimony:**

**Proponents:** Kimberly Wadsworth, 520 W 10<sup>th</sup> St, introduced herself as the applicant. She stated that she was a single Mother to a five year old girl and that she did not feel safe with the chain link fence that had been there when she moved in. She added that she was unaware of the ordinance when she built her fence.

Commissioner Ahlberg asked Ms. Wadsworth if it would be possible to move the fence in so that it could remain at six feet but still meet the code requirements. Wadsworth expressed the difficulty of moving it in because of the large, old tree in the yard which has extensive and large roots.

Commissioner Whitehouse asked how tall the previous chain link fence was. Ms. Wadsworth replied that it was about three feet tall.

Commissioner Ahlberg asked if the high traffic was part of the privacy concern. Ms. Wadsworth responded no, she knew it was a high traffic area when she bought the house.

Commissioner Zukin asked if she was concerned with the safety issue of people watching her child play. Ms. Wadsworth explained that her daughter was very friendly and liked to talk to everybody which concerns her.

**Opponents:**

Ted Bryant, 1614 Trevitt Street stated that he was a neighbor and that he walks by the house quite often. He pointed out that he had sent in the letter that was previously mentioned and admitted as Exhibit 1. Bryant expressed his concerns in regards to the safety of the children that walk to school along that sidewalk, and asked what the visual clearance requirements were for an alley. Senior Planner Gassman responded that it is not spelled out, but that a four foot fence would allow for visual

clearance. Bryant felt strongly that the fence was not attractive and that he did not want a walled in community. He then pointed out a property on 14<sup>th</sup> and Trevitt that had had a similar issue, and the fence was required to be lowered to four feet. Bryant felt that when they lowered the fence to four feet the yard was still very secure.

Commissioner Nelson introduced pictures of neighboring properties which had six foot fences as well as an additional picture of Ms. Wadsworth's property. The pictures were admitted as Exhibits 4 and 5. Nelson explained that at the property where the fence was set back he was able to have visual clearance before he drove into the sidewalk, but at the property where the fence went all the way to the property line, he had to drive into the sidewalk before he could see.

The Commissioners had a discussion in which they suggested multiple possibilities for making the fence work within the ordinance parameters or at least a way to grant a less severe variance. Suggestions included; moving the fence back everywhere but around the tree, dropping the corner down to four feet, or creating an angle at the back corner that was only four feet tall. It was pointed out that both the large tree and the high amount of traffic at Ms. Wadsworth's corner could be considered extenuating circumstances which could justify the granting of a variance.

Commissioner Nelson expressed his opinion that he didn't like that if a non-conforming fence was damaged by an act of God it could be re-built. He pointed out that it will not fix the situation because people will keep seeing them and assume that they are allowed.

Commissioner Ahlberg moved to continue the hearing to allow staff time to meet with the applicant, take measurements and come back to the Planning Commission with options. The motion was seconded by Zukin and carried unanimously.

### **COMMISSIONER/STAFF COMMENTS**

City Attorney Parker gave an update on Walmart which led to a discussion about mitigation. Senior Planner Gassman pointed out that due to the discovery of so much wetlands, a renewed concern is that the City does not have enough commercial land. He stated that Mayor Wilcox and the City Council have stated that they would like to see a local wetlands inventory completed. Gassman shared that it will be an expensive process.

Senior Planner Gassman updated the Commission on the Periodic Review process. He stated that the hearing before City Council would be on May 9<sup>th</sup> and that the goal for having it adopted was May 23<sup>rd</sup>.

**NEXT MEETING:** The next scheduled meeting is May 19, 2010.

**ADJOURNMENT:** The Planning Commission meeting was adjourned at 7:17 p.m.

Submitted by  
Brenda Green, Administrative Secretary



Bruce Lavier, Planning Commission Chair

**Brenda Green**

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**From:** Richard Gassman  
**Sent:** Monday, May 02, 2011 8:26 AM  
**To:** Brenda Green  
**Subject:** FW: VAR 116-11 Kimberly Wadsworth



For the record.

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**From:** Ted Bryant [mailto:ted\_bryant@hotmail.com]  
**Sent:** Sunday, May 01, 2011 4:56 PM  
**To:** Richard Gassman  
**Subject:** VAR 116-11 Kimberly Wadsworth

May 1, 2011

Dear Mr Gassman,

I am in opposition to granting this variance.

This fence presents a hazard to children walking to Colonel Wright School along Trevitt Street, as it prevents vehicles exiting the alley at the SW corner of the fence from seeing these children.

This fence presents a blank wall on the north and west side of the property. At the NW corner of the fenced yard, the actual height of the fence is about 7 and a quarter feet above the sidewalk as it has been built on fill material.

If the commission allows this fence to remain at this highly visible location, it will encourage similar situations. I fear that eventually we will have a city of mini-gated homes, each with a tall wall enclosing the property. This may be acceptable in southern California, but I do not feel that it is appropriate for our community.

I urge the commission to disallow this variance.

Thank you,

Sincerely yours,

Theodore C. Bryant  
1614 Trevitt St.  
The Dalles, OR 97058

April 30, 2011

City of The Dalles  
Planning Commission  
313 Court Street  
The Dalles, OR 97058

Re: VAR 116-11, Kimberly Wadsworth

Ladies and Gentlemen:

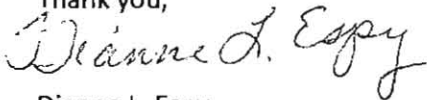
This letter is written in support of Kimberly Wadsworth's request for a variance to allow her to have a 6' fence instead of a 4' fence for her property at 10<sup>th</sup> & Trevitt.

I am not able to address all of the review criteria, but I believe she can be found to be in compliance with 3.070.030 C., which relates to the preservation of a property right of the applicant which is substantially the same as owners of other property in the same zone or vicinity. There are two properties within 1 block of her property that have 6' fences along the side and rear property lines. One is at the east end of the 500 block of W. 10<sup>th</sup> Street, and the other is at 11<sup>th</sup> & Trevitt. There are 6' side and rear yard fences on corner lots all over town. I assume the ordinance must have changed at some point, but I don't understand why corner lots should be prohibited from having privacy and security fences like every other property. That is very unfair. It is especially so in this case, since Trevitt is a very steep street, and she would have zero privacy from north-bound traffic if she were only allowed a 4' fence. The steep street is something she has no control over.

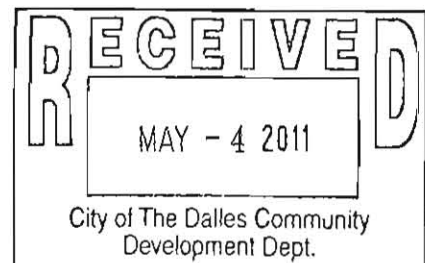
I have also driven through the alley and discovered that the fence does not cause a visibility problem when exiting the alley.

Please allow Ms. Wadsworth the variance to have a 6' privacy fence along her side and rear yard.

Thank you,



Dianne L. Espy  
609 W. 11<sup>th</sup> Street  
The Dalles, OR 97058



I have found a 4' fence adequate for children.

The fence looks out of place (now).

The only reason for a 6' fence is to confine a dog.

This ordinance should be obeyed.

Bobbe Anderson  
615 11th Street

<b>RECEIVED</b>	
APR 28 2011	
City of The Dalles Community Development Dept.	

USA FIRST

Exhibit #4



①

Applicant's Fence as viewed from alley looking north down Trevitt

Exhibit #4

②



Alley at Trevitt near 12th  
as viewed from alley looking north down trevitt

DSCF0049

③



Alley at Garrison  
as viewed from alley looking north  
down Garrison

DSCF0050