



STAFF REPORT
To the
LONGVIEW APPEAL BOARD OF ADJUSTMENT

PREPARED BY: Adam Trimble, Planner

HEARING DATE: October 17, 2017

APPLICATION NO.: ABA 2017-1

APPLICANT: Jeff and Shelly Trass

PROPERTY OWNER: Jeff and Shelly Trass

REQUEST: Fence Waiver per §16.48.030 [Fences; General Requirements] of the Longview Municipal Code to allow a private fence to encroach into unimproved right-of-way of the City of Longview in the MU-C/I District.

LOCATION: The property is located at 643 California Way, Longview, WA (Parcel Number 08440), described as AP 5, Lot 9

ASSOCIATED CASES:

ZONING DISTRICT: Mixed Use Commercial/Industrial

BACKGROUND AND PROPOSAL

The property owners Jeff and Shelly Trass have applied for a waiver to place a fence in unimproved public right-of-way adjacent to the site of a new industrial warehouse and showroom for Chinook Rentals. The development at 643 California Way is next to an unimproved right of way. Exhibit A provides the application and Exhibits B and C show photos and aerial views of the 100' wide unimproved right of way where the fence is proposed. Property owners on either side of unimproved right of way can request to use half the area adjacent to their property until the right of way is improved and dedicated for public use. In this case the owner applied and received approval to place a 20' wide driveway and required stormwater bioswale in the adjacent portion of the 100 foot right way. The application states that due to the nature of the equipment rental business a fence is needed to secure the property and additionally

to prevent the public from walking or driving into the bioswale. The owner has applied for a fence waiver in accordance with chapter 16.48 of the Longview Municipal Code.

Written notice of the public hearing was mailed to the applicant and to the owners of all adjacent properties on Thursday October 12, 2015 [Exhibit D].

SEPA DETERMINATION

SEPA review is not required for the scope of work described in the application.

CRITICAL AREA ORDINANCE REQUIREMENTS

There are no mapped critical area indicators on or near the property.

APPLICABLE CODE SECTIONS

1. The sections of the municipal code for which relief via a variance petition is being requested:

16.48.030 [Fences] General requirements.

- (1) No fence shall extend beyond the front, side or rear property lines of any lot or plot of land.
- (2) No fence shall be erected in the parking strip of any public street.
- (3) *Repealed by Ord. 2772.*
- (4) No fence shall be constructed or maintained so as to be a menace to life or limb of any person moving against it. Barbed stock-type wire fencing shall not be permitted in any congested residential district.
- (5) Every fence built along the alley property line or within the required rear yard, shall be provided with a gate at least three feet in width so as to provide accessibility to the rear of any building in case of any emergency. (Ord. 2772 § 3, 2000; Ord. 1038, 1960).

2. The specific criteria under which a variance may be granted by the Appeal Board of Adjustment:

16.48.040 Waiver or reduction of requirements.

- (1) Recognizing that there may be situations in which the height and location of fences do not affect safety or the public welfare, it is provided that notwithstanding any provisions in this chapter to the contrary, where any of the hereinafter specified conditions exist, the owner or tenant of real property may request the appeal board of adjustment to waive or reduce the requirements of this chapter. Such appeal board of adjustment, upon determining that any provision of this chapter shall be waived or reduced for any such applicant, may impose such restrictions as they deem necessary in view of the particular facts as represented by the owner or tenant, taking into consideration the prevention of fires, the public health and safety and the surrounding neighborhood.

(2) The conditions under which the appeal board of adjustment may waive or reduce the requirements of this chapter are as follows:

- (a) Where no improved alley exists at the rear of the lot of the applicant; or
- (b) Where the lot of the applicant is other than rectangular in shape; or
- (c) Where the lot of the applicant contains more than one front yard as shown by the plat thereof; or
- (d) Where the distance from the nearest property line of a corner lot to the traveled portion of the street is 11 feet or more. (Ord. 3314 § 1, 2015; Ord. 1166 § 1, 1963).

STAFF DISCUSSION

Reviewing the criteria qualifying the property for a waiver, the property has conditions (a), (b), and (d). The applicant's property is surrounded on two sides by an old railroad right of way and does not have an alley. It is other than rectangular, and given the unimproved right of way on the west side could become a street in the future, the lot is a corner lot where the nearest property line is 25' from the travelled portion of the street.

The applicants have received prior approval to make improvements in the unimproved right of way from the City, with the understanding that they do so at their risk if the right of way is ever improved into a city street. At this time there are no plans to improve this right of way given it does not align with any connecting streets planned by the City or others. Enclosing the bioswale with a fence will remove the potential for it to become a safety hazard for vehicles or pedestrians and security fencing is a necessity for businesses with valuable inventory.

The City's Public Works Department, Fire Marshal, and Building Official have reviewed this request for a fence waiver and requested that conditions be added to any approval to prevent damage to any utilities in the vicinity. Local utilities have been provided opportunity to comment on the proposal and as of the writing of this report Cascade Natural Gas has no objections and no utilities in the vicinity. Any further correspondence from utility companies will be discussed in a revised report when received.

STAFF FINDINGS

1. No improved alley exists at the rear of the lot of the applicant; and the lot of the applicant is other than rectangular in shape; and the distance from the nearest property line of a corner lot to the traveled portion of the street is 11 feet or more.
2. Granting a waiver of the fencing requirements will not negatively affect safety and the public welfare, taking into consideration the prevention of fires, the public health and safety and the surrounding neighborhood. The fence as proposed will prevent pedestrians and vehicles from entering the permitted bioswale, a potential safety hazard.

RECOMMENDATION

Staff recommends the appeal board of adjustment make a motion to approve the fence waiver subject to the following conditions:

1. The applicant shall call for a utility locate prior to starting work.
2. Fence posts may not be located on top of the City water line and must maintain 5' of separation.
3. The City of Longview and any authorized agent shall not be held responsible nor liable for damage to, or destruction of, any structures built within the right-of-way in the course of routine or emergency access to the right-of-way in question.
4. The property owner shall be responsible for all costs associated with removal, disposal, and replacement of any structures built within the right-of-way at such time that the unimproved ROW is improved.

EXHIBITS

- A. Fence Waiver Request
- B. Aerial photo
- C. Site Plan/Photos
- D. Adjacent owners notice

Staff Report Date 10/11/17