



**STAFF REPORT**  
**To the**  
**LONGVIEW APPEAL BOARD OF ADJUSTMENT**

**PREPARED BY:** Adam Trimble, Planner

**HEARING DATE:** December 11, 2018

**APPLICATION NO.:** ABA 2018-3

**APPLICANT:** Jackie Evans

**PROPERTY OWNER:** Jackie Evans

**REQUEST:** Fence Waiver per §16.48.030 [Fences; General Requirements] of the Longview Municipal Code to allow a private greater than 42” in height to be located in the front yard setback area.

**LOCATION:** The property is located 1332 Kessler Blvd, Longview, WA (Parcel Number 00385), described as LONGVIEW 1 BLK: 223 LOT: 3

**CASES:**

**ZONING DISTRICT:** R-1 Residential District

**BACKGROUND AND PROPOSAL**

The property owner of the home at 1332 Kessler has applied for a waiver to place a fence greater than 42” in height in the front yard setback area. The Longview Municipal Code (LMC) requires fences to be limited to 42” in height in the front yard area to preserve neighborhood character, visibility and sight distances. The property is a double lot on Kessler Blvd that along with a neighboring property comprises an entire small block. The two neighboring properties have generous side yard areas which have been landscaped with dense hedges, trees and other plantings to wall off and screen the area between the two homes. The plantings extend into the front yard, to within 5 feet of the front sidewalk [see Exhibit B pictures]. In this portion of the front yard area the owner applied to install a 7’ wrought iron fence to include it in the screened off side yard area. While the fence extends beyond the front of the house, it will be located behind existing dense landscaping and will not be opaque as the pickets are 4+ inches apart. No part of the fence is directly in front of the home and is not intended to block visibility of the front of the house. LMC §16.48.040 provides a process to waive the fence regulations “Recognizing

that there may be situations in which the height and location of fences do not affect safety or the public welfare... the owner or tenant of real property may request the appeal board of adjustment to waive or reduce the requirements of this chapter.”

Written notice of the public hearing was delivered to the applicant and to the owners of all adjacent properties on Wednesday December 5, 2018 [Exhibit C].

## **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 fence waiver is being requested:

### LMC 16.48.020 Height regulated.

(1) Fences built along any front property line or in the required front yard area, shall be permitted a maximum height of 42 inches above the established grade of the sidewalk.

(2) All other fences shall not exceed eight feet in height. (Ord. 2184 § 1, 1984; 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 all the conditions (a), (b), (c) and (d). The applicant's property is surrounded on three sides by public streets and does not have an alley. It is other than rectangular, and because it is a double lot, the plat shows more than one front yard. The lot is a corner lot where the nearest property line is 30' from the travelled portion of the street.

Any comments or conditions from the City's Public Works Department, Fire Marshal, and Building Official will be provided at the public hearing. 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; the lot of the applicant contains more than one front yard as shown by the plat thereof; 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 not impede visibility for any vehicles or pedestrians and will not block visibility of the front of the home to any greater degree than the existing landscaping. The property meets the criteria to apply for a waiver of the fence height limits and if granted will not create an unwanted precedent because the property configuration is relatively unique.

## **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. Landscaping shall be maintained on the Kessler side of the fence in healthy condition.

## **EXHIBITS**

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

Staff Report Date 10/11/17