

Exhibit C
BOA MEETING MINUTES
APRIL 24, 2023

1. **1252 Valley Creek Run** – Request for a side street (west) setback variance from twenty-five (25) feet to six (6) inches for a fence in the R-1A (Single Family Dwelling) district; BV2022-79 (Marta Barcia & Andrew Gotschall, Applicants) District 1 - Dallari (Angi Gates, Project Manager)

Angi Gates, Planner, presented this item as stated in the Staff Report.

Maria Arevalo, Consultant, was present.

Chairman Bernard Johns asked Ms. Arevalo if the applicants built the fence even though the Board denied their original variance request and she responded no that the home originally had a wood fence which was where the vinyl fence was placed and the applicant had no knowledge and felt that she was misled from the company that installed the fence, because she already had the HOA's approval and thought she didn't have to take the extra steps. She stated that she is a first-time home buyer and didn't know about this process when she received the Code Enforcement violation letter, so she applied for the variance and she was denied. Ms. Arevalo explained that she believes that part of the reason that she was denied was because the survey was unclear, and she didn't know how to explain all the obstacles in the yard. She stated that she did a site visit and saw all the issues and realized why the fence was put where it was originally. She referred to documents that she provided for the Board to look at and stated that the only reason why they asked for the six (6) inches is because the majority of the fence is at 5.4 inches from the property line and beyond that there's another 3.4 inches that belong to the HOA, so most of that fence in the middle of it is 8.8 inches, but because the closest point at the top corner is half an inch away from the property line. Ms. Arevalo explained that the other big issue is that she has two (2) big trees in the middle of the yard that the HOA is not going to allow be removed, so there is nowhere else to put the fence. She stated that another issue is that the back neighbor owns the majority of the fence so she only has a small gap between where her property line ends and where the neighbor's fence ends, so she doesn't have any other choice but to extend the fence if she wants privacy. Ms. Arevalo advised that there is also a twelve (12) foot by sixteen (16) foot concrete pad in the top corner and a retention wall that is around the pool for drainage, so there's no space there to build on that side and she wants to keep that small space that she has for her children to play. She further explained that this property is at the very beginning of the subdivision, so any incoming traffic goes right to her house and there is also a gas meter that she wants covered for safety reasons. She also advised that she has thirty-two (32) signatures from the neighbors in support, because there's always been a fence there.

Austin Beeghly stated that he remembers this case because of a lot of reasons and why it was denied, but it still went up. He stated that Ms. Arevalo mentioned the gas lines which is an easement thing and asked if she wants to enclose where the main pipe of gas is. Ms. Arevalo responded that yes, it is close to her house and he asked how the utility company is supposed to get in the back if they enclose that area. Ms.

Arevalo responded that's where the gate is at because on the other side she has pool equipment, her AC unit, she can barely fit her lawn mower so the main gate is going to go on that side as there's still some adjustment that they have to do as part of the fence on the back line is installed 0.6 inches outside of the property line, so they do have to fix that issue. Mr. Beeghly asked her if that is interfering with the utility easement and she responded not as long as there's a gate, they are allowed to have the utility boxes on the other side.

Jim Hattaway asked Ms. Arevalo if the existing vinyl fence was erected where the wooden fence was, and she confirmed. He further asked who erected the wooden fence and Ms. Arevalo replied that she does not know as it was there for over twenty (20) years. He further clarified and asked which property owner erected it and she replied that she just recently purchased the home. Mr. Beeghly asked who erected the vinyl fence and she responded that the homeowner replaced the wood fence with the vinyl fence.

Tom Kunzen asked Ms. Arevalo if the erection of the vinyl fence was before or after the first variance application and she responded that it was before the first variance application and further stated that the original wooden fence had an approved permit from 2005.

Mr. Hattaway asked who approved the covered patio and Ms. Arevalo replied that it was a pop-up tent that was removed because she got a Code Enforcement violation for it.

Ms. Gates asked to see the signatures and stated that in her research, there were no permits found for the original fence and the pool screen enclosure was given approval by Traffic Engineering for a side street setback variance, which they were allowed to do because of the zoning district. Ms. Arevalo asked if they wanted the permit number and Ms. Gates responded yes. Ms. Arevalo stated that the permit number was for the first variance not the first building permit for the wood fence, but there was a fence there as stated by the thirty-two (32) homeowners that signed it around the neighborhood. She further stated that she believes at the past meeting, the other picture of the fence was up which was the original fence. Ms. Gates replied that the fence might have been up, but in her records, she couldn't find any permits for any fence.

No one from the audience spoke in favor or opposition to this request.

A motion was made by Jim Hattaway to continue this item, because there's been hearsay, statements of a timeline, statements of what it is on the ground and he doesn't think anyone is comfortable and saying any of those things happened definitely and just to give the applicant a fair chance so perhaps we should continue it and let them research it and then decide. The motion died for lack of a second.

A motion was made by Austin Beeghly, seconded by Jim Hattaway, to deny this variance request.

In discussion, Tom Kunzen stated that it's his understanding that if a variance application gets disapproved by this Board, the proper protocol at that point if the property owner wants to dispute, they can take it directly to the Board. Chairman Bernard Johns replied yes, they would file an appeal to the Board of County Commissioners. Mr. Kunzen asked staff if an appeal was filed and Ms. Gates responded no. Mr. Kunzen asked what has change substantially in this application from the previous one in October 2022 as he sees that the distance is six (6) inches from what it was previously, but the fence hasn't moved and the property owner essentially is asking for the fence to still be approved in the current location, so even though that number might be a little different they are asking for the same thing. He asked if it is proper protocol for the same variance application be submitted repeatedly if nothing has changed about the subject property or the structure. Deziree Elliot, Assistant County Attorney, responded but it was inaudible. Mr. Hattaway asked Ms. Elliot if they appeal the to the Board of County Commissioners, is it de novo or are they are limited to the facts at that hearing and she responded that it would be de novo.

Ayes (5): Chairman Bernard Johns; Vice Chairman Jim Hattaway; Larry Wright; Austin Beeghly; and Alternate Tom Kunzen.

Absent (1): Alternate Heather Stark