

BOARD OF ADJUSTMENT STAFF REPORT

Adam's Fence Special Exception Case # 420-08-156 1658 E. 900 South February 23, 2009



Planning Division
Department of Community and
Economic Development

Applicant: Britt Morrison

Staff: Katia Pace, 535-6354
katia.pace@slcgov.com

Tax ID: 16-09-254-001

Current Zone: R-1/5,000
Yalecrest Compatible Infill
Overlay District

Master Plan Designation:
Low Density Residential

Council District:
Council District 6, J. T. Martin

Lot Size: 5,662 square feet

Applicable Land Use

Regulations:

- 21A.40.120 Regulation of Fences
- 21A.52 Special Exceptions

Notification

- Notice mailed on 2/4/2009
- Sign posted on 2/13/2009
- Agenda posted on the Planning Division and Utah Public Meeting Notice websites 2/4/2009

Attachments:

- A. Proposed Site Plan
- B. Photographs
- C. Department Comment

Request

The applicant is requesting the Board of Adjustment approve a six foot fence in the front yard of the property located at 1658 E. 900 South. The subject parcel is zoned R-1/5,000 and is in the Yalecrest Compatible Infill Overlay Zone.

Staff Recommendation

Approval

From the evidence, testimony and plans presented, I move that the Board grant the special exception to allow a six foot fence in the front yard of the property located at 1658 E. 900 South because:

1. The proposal will not diminish neighboring property values.
2. There are no significant features that will be destroyed or any material pollution of the environment.
3. The proposal is in compliance with the general and specific standards of review for a special exception.

Denial

From the evidence, testimony, and plans presented, I move that the Board deny the special exception to allow a six foot fence in the front yard of the property located at 1658 E. 900 South because:

1. The proposal will not be in compliance with ordinance and district purposes.
2. The proposal will have a material adverse effect upon the character of the area.
3. The proposal will not be compatible with surrounding development.

Vicinity Map



Background

Project Description

The zoning ordinance restricts fence height to a maximum of four feet in the required front yard unless additional height is authorized by a special exception. The subject property is located at the corner of 900 South and Park Row; there is an approximate 3 foot grade change from the sidewalk to the grade of the house. The retaining wall is made up of big rocks or boulders and the subject fence sits on top of these rocks. The material used for the fence is wood, placed horizontally. The fence was erected in the summer of 2008 without a building permit and is being enforced on because of zoning violation.

Comments

City Department Comments

The comment received from the Transportation Division is attached to this staff report in Attachment C.

Analysis and Findings

Being that this property is a corner lot; the zoning ordinance has special provisions for the location, height and visibility of the fence. As stated above, the Transportation Division was asked to review this fence, and their response was that the fence is not a concern for site distance or other circulation issues. The Transportation Division did express concern with the retaining wall. However, the retaining wall is an established feature on this property and therefore not being reviewed at this time.

Options

If this request is not approved by the Board of Adjustment, the applicant will have the option to reduce the height of the fence or change their request for a special exception with a fence that is constructed or wrought iron, tubular steel or other similar material, that is at least 80% open.

Findings

Section 21A.40.120

Per Section 21A.40.120 of the Zoning Ordinance states that the Board of Adjustment may approve, as a Special Exception, increased fence/wall heights if it find that the additional height is necessary for the security of the property in question.

Section 21A.52.100

Per Section 21A.52.100 (A)(1) of the Zoning Ordinance, the Board of Adjustment may approve a request to exceed the maximum heights for fences, walls or other similar structures upon finding:

Standard a: *Fences, walls or other similar structures which exceed the allowable height limits; provided, that the fence, wall or structure is constructed of wrought iron, tubular steel or other similar material, and that the open, spatial and nonstructural area of the fence, wall or other similar structure constitutes at least eighty percent (80%) of its total area.*

Analysis: The material used for the fence is wood, placed horizontally with approximately 25% opening, and does not meet this criterion.

Standard b: *Fences, walls or other similar structures which exceed the allowable height limits within thirty feet (30') of the intersection of front property lines on any corner lot; provided, that upon consideration of existing traffic control devices, topographic conditions, street design, parking strip width, and other traffic related circumstances, it is determined by the board of adjustment, with the recommendation of the city transportation engineer, that additional height may be granted and still provide for adequate safety;*

Analysis: The Transportation Division found that the fence is not a concern.

Standard c: *Fences, walls or other similar structures incorporating ornamental features or architectural enhancements which extend above the allowable height limits;*

Analysis: This criterion is not applicable since the fence does not have ornamental features or architectural enhancements.

Standard d: *Fences, walls or other similar structures which exceed the allowable height limits, when erected around schools and approved recreational uses which require special height considerations;*

Analysis: This criterion is not applicable since there are no schools or approved recreation use adjacent to the property.

Standard e: *Fences, walls or other similar structures which exceed the allowable height limits, in cases where it is determined that an undesirable condition exists because of the abnormal intrusion of offensive levels of noise, pollution, light or other encroachments on the rights to privacy, safety, security and aesthetics.*

Analysis: Because the lot is on the corner of a relatively busy street (900 South), and because the lot is on a corner with extensive exposure to the street, the applicant feels that the additional fence height is necessary to block visual and noise intrusion.

Section 21A.52.100

Per Section 21A.52.100 (A)(2) of the Zoning Ordinance, the Board of Adjustment may deny a request to exceed the maximum heights for fences, walls or other similar structures upon finding:

Standard a: *That it is not in keeping with the character of the neighborhood and urban design of the city;*

Analysis: This fence has a high visibility because it is on a corner lot and because it is on top of a high retaining wall. There are other fences in the area that are compatible in height with this fence. However, they are not raised up by a retaining wall as the fence in this case. Staff finds that the height of the existing fence is incompatible and not in keeping with the character of the neighborhood.

Standard b: *That it would create a walled in effect in the front yard of any property in a residential district where the clear character of the neighborhood in front yard areas is one of open spaces from property to property;*

Analysis: Because of the extensive frontage to 900 South, the fence does not create a walled in effect in the front yard.

Standard c: *Where there is a driveway on the petitioner's property or neighbor's property adjacent to the proposed fence, wall or similar structure that presents a safety hazard.*

Analysis: The driveway to the applicant's garage is located along the south side yard opposite of the location of the fence in question. Therefore, there is no impact on the driveway and this criterion is not applicable.

Section 21A.52.060

The standards of review for a special exception are set forth in Section 21A.52.060 of the Salt Lake City Zoning Ordinance. The standards are as follows:

Standard A: *Compliance with Ordinance and District Purposes: The proposed use and development will be in harmony with the general and specific purposes for which this title was enacted and for which the regulations of the district were established.*

Analysis: Staff finds that the deliberate excess in height for the fence in the front yard is not in harmony with the general and specific purpose of the Zoning Ordinance.

Standard B: *No Substantial Impairment of Property Value: The proposed use and development will not substantially diminish or impair the value of the property within the neighborhood in which it is located.*

Analysis: It is possible that the fence will have a negative impact on the relative value of the adjacent properties due to the precedence created.

Standard C: No Undue Adverse Impact: *The proposed use and development will not have a material adverse effect upon the character of the area or the public health, safety and general welfare.*

Analysis Staff finds that the fence will have a material adverse effect on adjacent property owners.

Standard D: Compatible with Surrounding Development: *The proposed special exception will be constructed, arranged and operated so as to be compatible with the use and development of neighboring property in accordance with the applicable district regulations.*

Analysis: Staff finds that because of its high visibility, this fence is not compatible with the neighborhood development.

Standard E: No Destruction of Significant Features: *The proposed use and development will not result in the destruction, loss or damage of natural, scenic or historic features of significant importance.*

Analysis: Staff finds that the fence will not result in the destruction, loss or damage of natural, scenic or historic features of significant importance.

Standard F: No Material Pollution of Environment: *The proposed use and development will not cause material air, water, soil or noise pollution or other types of pollution.*

Analysis: No potential pollution is evident.

Standard G: Compliance with Standards: *The proposed use and development complies with all additional standards imposed on it pursuant to Section 21A.52.100 of this Chapter.*

Analysis: The property in question is located within the Yalecrest Compatible Infill Overlay, and therefore according to Section 21A.34.120 is subject to the additional standards:

1. *This request will achieve the purposes of the Yalecrest Compatible Infill Overlay District.*

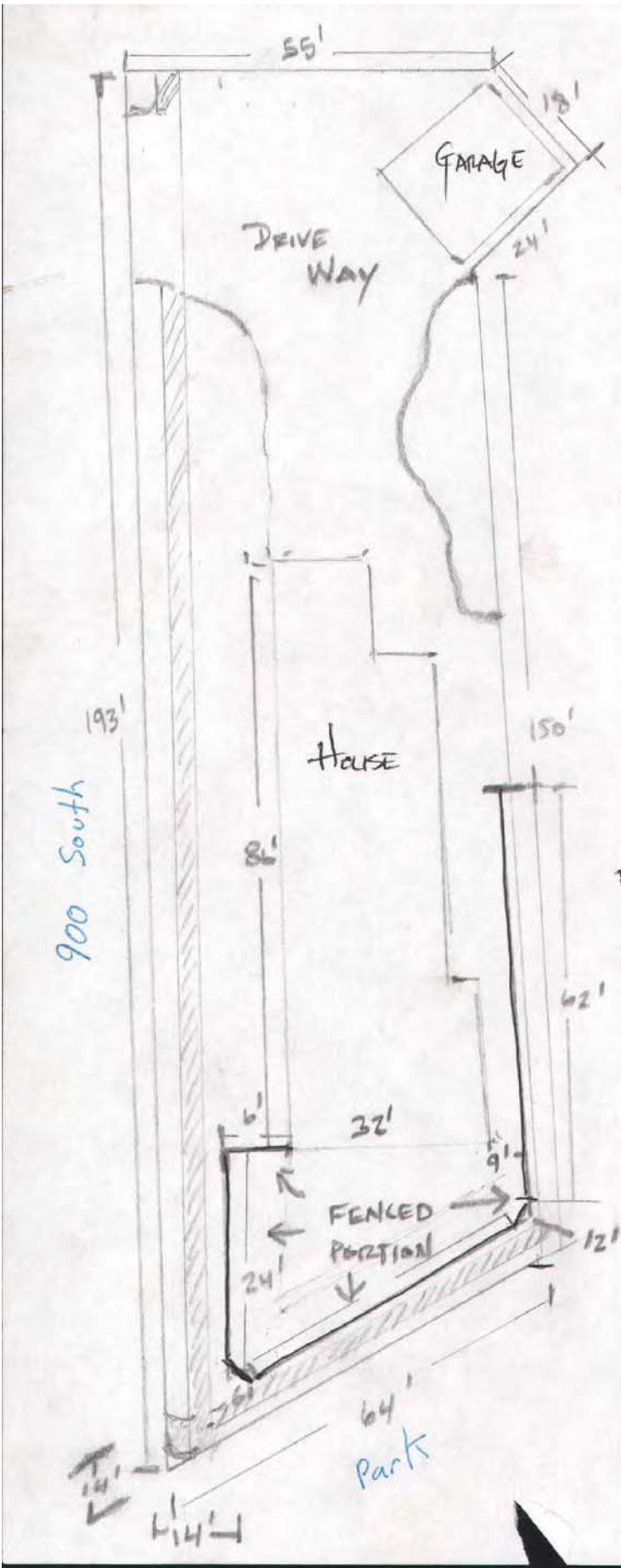
Analysis: The request for additional fence height in the front yard is not compatible with the character and scale of the surrounding neighborhood, and therefore not compatible with the overlay district.

2. *This request will not violate the general purposes, goals and objectives of this title and of any plans adopted by the city.*

Analysis: This proposal does not observe the spirit of the Zoning Ordinance.

Attachment A
Proposed Site Plan

CRAIG ADAMS
1658 E 900S.
SALT LAKE CITY UT 84105



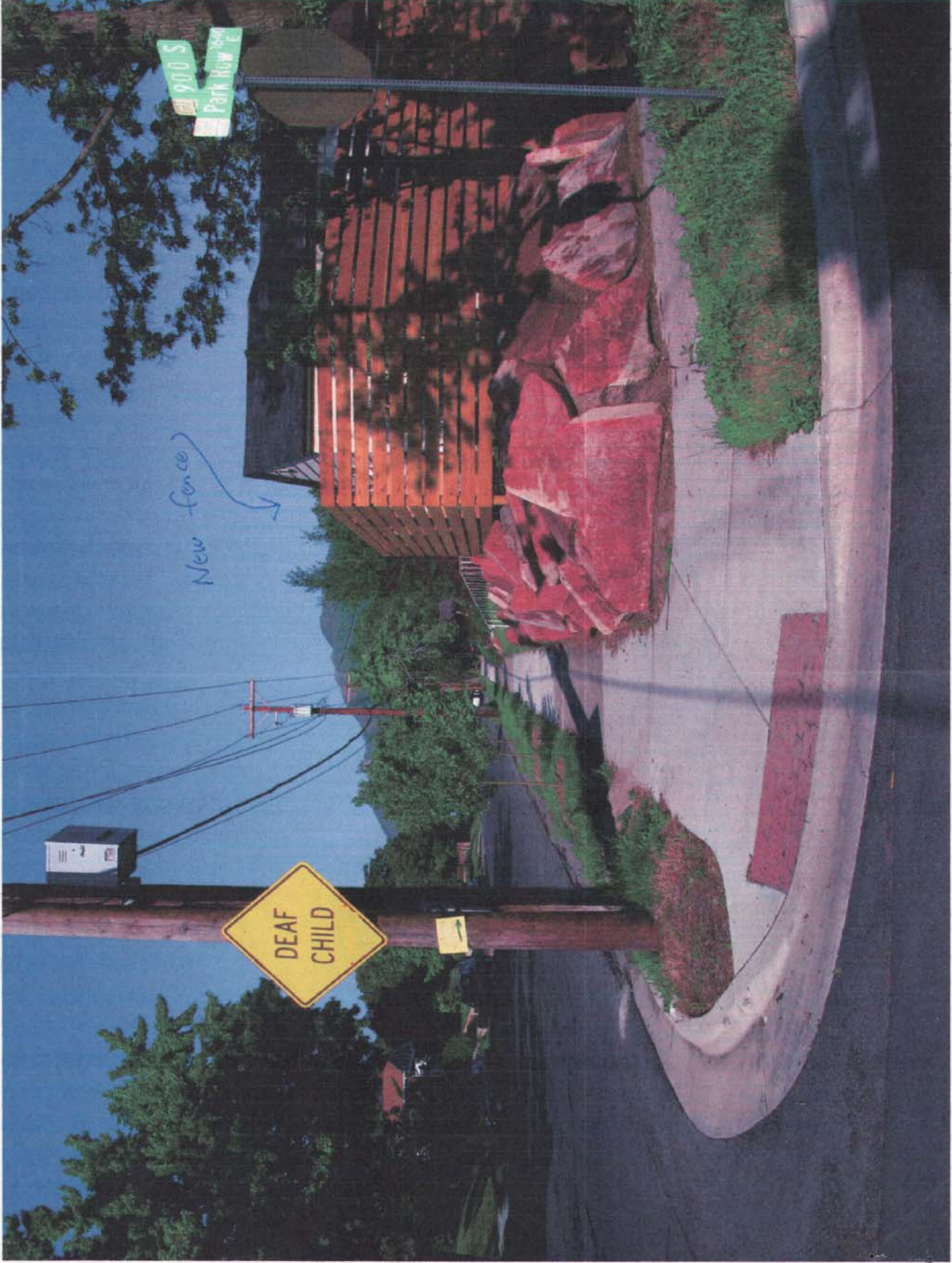
FENCE INSTALLATION ON WEST SIDE
OF YARD REPLACING ORIGINAL
6' FENCE.

FENCE DESIGN 6' HIGH
W/4X4 POST & 1X6
HORIZONTAL SLATS
WITH AN INCH AND A HALF
SPACE BETWEEN EACH
SLAT

← North

Attachment B

Photographs



New fence

DEAF CHILD

200 S
Park Row

Attachment C

Department Comment

From: Weiss, Norm
Sent: Wednesday, July 02, 2008 10:50 AM
To: Pace, Katia
Cc: Walsh, Barry
Subject: RE: Fence too high

Categories: Program/Policy

Attachments: E2.c2 Clear Sight Zone Area.pdf

Katia, I went out and looked at this property. The height of the fence is not a concern. However the height of the rocks on the corner inside the 10' x 10' sight triangle is higher than 30 inches. The rocks should be taken down to the 30 inch height limit inside this sight triangle for pedestrians and bikes on the sidewalk. There is a Stop Sign on Park Street which makes the situation for vehicles not as dangerous. I have attached a drawing with our sight distance requirement.

Norm Weiss
SLC Corporation, Division Of Transportation
Design Section
349 South 200 East, Suite 450
PO Box 145502
Salt Lake City, Utah 84114-5502
Phone 801-535-7101
Cell 801-859-3891
Fax 801-535-6019
email norm.weiss@slcgov.com

From: Pace, Katia
Sent: Monday, June 30, 2008 9:39 AM
To: Weiss, Norm
Subject: RE: Fence too high

Thank you and thank you also for clarifying that you are the Board of Adjustment guy, making you the right person to contact for this issue anyway. I'll try to catch you before or after DRT.

Katia

From: Weiss, Norm
Sent: Friday, June 27, 2008 8:53 AM
To: Pace, Katia
Subject: RE: Fence too high

I can look at it. I'm covering for Barry for one more week. So have fun catching me. I go to DRT meeting in room 218 every afternoon in your building, Monday through Thursday starting at 3. If you want to meet me there just before that meeting you won't have to come over here.

I'm normally the Board of Adjustment guy not Barry.

Let me know. If I'm not in you can call my cell which is listed below.

Norm Weiss
SLC Corporation, Division Of Transportation
Design Section
349 South 200 East, Suite 450
PO Box 145502
Salt Lake City, Utah 84114-5502
Phone 801-535-7101

Cell 801-859-3891
Fax 801-535-6019
email norm.weiss@slcgov.com

From: Pace, Katia
Sent: Thursday, June 26, 2008 3:24 PM
To: Weiss, Norm
Subject: FW: Fence too high

Norm,

Since Barry is out of the office, can you look into this?

Thanks

From: Pace, Katia
Sent: Thursday, June 26, 2008 3:14 PM
To: Walsh, Barry
Subject: Fence too high

Barry,

I have a request for a Routine and Uncontested Matter on 1658 East 900 South for a fence too high. My concern is that this fence was built on the corner of Park Row and 900 South closer to the distance view triangle required for corner lots. Can you tell me if Transportation has a problem with that?

Thanks

Katia Pace
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Salt Lake City, UT 84111
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