

## CALL TO ORDER

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Chairman Poss called the regular meeting of the Lenexa Board of Zoning Appeals to order at 7:00 p.m. on Monday, March 4, 2024. The meeting was held in the Community Forum at Lenexa City Hall at 17101 W. 87<sup>th</sup> Street Parkway, Lenexa, Kansas.

## ROLL CALL

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### COMMISSIONERS PRESENT

Chairman Chris Poss  
Commissioner Ben Harber  
Commissioner Don Horine  
Commissioner Brenda Macke  
Commissioner David Woolf  
Commissioner John Handley  
Commissioner Curt Katterhenry

### COMMISSIONERS ABSENT

Vice-Chairman Mike Burson  
Commissioner Cara Wagner

### STAFF PRESENT

Scott McCullough, Director of Community Development  
Stephanie Kisler, Planning Manager  
Tim Collins, Engineering Construction Services Administrator  
Steven Shrout, Assistant City Attorney II  
Kim Portillo, Planner III  
Dave Dalecky, Planner II  
Logan Strasburger, Planner I  
Will Sharp, Planning Specialist I  
Gloria Lambert, Senior Administrative Assistant

## APPROVAL OF MINUTES

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The minutes of the January 8, 2024 meeting were presented for approval. Chairman Poss entertained a motion to **APPROVE** the minutes. Moved by Commissioner Handley, seconded by Commissioner Horine, and **APPROVED** by a unanimous voice vote.

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## REGULAR AGENDA

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### 1. Waldron Fence Appeal - Consideration of a fence appeal for a noncompliant fence on a residential corner lot located at 10019 Gillette Street within the R-1, Single-Family Residential District. BZ24-03

#### APPLICANT PRESENTATION

Luke Slagle of Slagle Fence addressed the Board, discussing the Staff Report's presentation of three alternative choices for the Board's consideration. He expressed reservations about two of the options, stating the possible difficulties for his client if required to relocate the fence. Mr. Slagle advocated for the third option, favoring the retention of the fence in its current position. Additionally, he informed the Board that his company had provided additional property photographs to the Staff earlier in the day, using them to highlight the challenges associated with adhering to the City's regulations regarding fence placement. He respectfully urged the Board to select the option allowing the fence to remain in its current location. Mr. Slagle also acknowledged a procedural oversight on his company's part during the permit process. Despite submitting the permit application to the City on November 28, 2023, they failed to respond to communication from City employee Colter Stevenson, who was responsible for fence permits. Consequently, the fence was installed on December 18, 2023, without providing necessary clarifications to Staff or obtaining a fence permit. Communication from Mr. Stevenson was received on December 27, 2023, prompting acknowledgment of their error in overlooking permit guidelines, resulting in the fence's non-compliance with city regulations.

#### STAFF PRESENTATION

Logan Strasburger presented the Staff Report and stated that the applicant submitted a deviation request to retain a fence in its current position at 10019 Gillette Street. She detailed how Slagle Fence had submitted a building permit on November 28, 2023 to replace the existing fence. However, Staff, upon reviewing the permit, contacted Slagle Fence shortly afterward to ensure compliance with the City's Code. Despite two attempts by Staff to reach out in December 2023, there was no response from the applicant until January 15, 2024, when it was stated that the fence had already been constructed. The fence currently stands at an 8-foot setback, with the applicant requesting it to remain as is. Ms. Strasburger proceeded to share an aerial view of the site location and displayed graphics illustrating the unapproved plans submitted with the building permit by the applicant. She showcased the applicant's proposed plans to replace the entire fence at its original location, along with additional graphics depicting different views of the fence's current position. She highlighted how the fence impacts sight distance from the driveway of neighboring properties to the east. Regarding compliance options, Ms. Strasburger outlined two choices given to the applicant: reconstructing the fence at a 20-foot street-side yard setback for a 6-foot privacy fence or constructing it at a 15-foot street-side side yard setback for a 4-foot open-style fence. She emphasized the presence of open-style fencing along 110th Terrace Street until reaching the subject site, noting concerns about sight distance for westbound travelers on 100th Terrace. Furthermore, Ms. Strasburger reviewed the six Criteria for Review used to assess the application and discussed the Board's responsibility to determine whether to amend, reverse, affirm, or modify the appeal before them. Ultimately, Staff recommended that the Board uphold Staff's decision and deny the appeal. She listed the Board's three options in which to rule:

1. Find that Staff did not make an error in its decision and uphold Staff's decision and deny the applicant's appeal for a deviation.
2. Find that Staff did make an error in its decision and reverse Staff's decision and approve the deviation request but modify the amount of encroachment into the street-side yard setback.

3. Find that Staff did make an error in its decision and reverse Staff's decision and approve the deviation request.

## PLANNING COMMISSION DISCUSSION

Commissioner Harber remarked that upon observing the other corner lots in the vicinity, he would find it challenging not to support Staff's recommendation to deny the appeal. He expressed concern that granting the appeal could set a precedent for other residents seeking similar allowances. Mr. Harber acknowledged that while miscommunication may have occurred, it does not warrant making an exception in this case.

Commissioner Horine expressed reservations about establishing a precedent, stating that he has concerns about doing so. He emphasized that the applicant's oversight does not provide grounds for the Board to rule in their favor.

Commissioner Katterhenry stated that he does not believe that Staff made an error and stands behind their decision to deny the applicant's appeal.

Luke Slagle conveyed his understanding of the City's Code; however, he highlighted a practical challenge his company faces in bringing the fence into compliance. He explained that existing garden beds and a retaining wall would obstruct the installation of the fence along that line.

Chairman Poss emphasized that the Board had invested significant effort into revising the fence code specifically to address this issue. He emphasized the importance of adhering to the guidelines outlined in the revised fence code.

## MOTION

Chairman Poss entertained a motion for Option #1, to recommend **DENIAL** of the applicant's appeal related to Staff's denial of an administrative deviation for the fence to encroach 12-feet into the 20-foot setback from the property line as required by the UDC.

- This results in the applicant submitting a revised fence plan for the fence permit (B23-1942) to receive plan approval to remove existing fencing and relocate it to the code-allowed 20-foot setback. The fence permit must be issued before the fence can be relocated.

Moved by Commissioner Horine, seconded by Commissioner Macke, and carried by a unanimous voice vote.

## ADJOURNMENT

Chairman Poss ended the regular meeting of the Lenexa Board of Zoning Appeals at 7:14 p.m. on Monday, March 4, 2024.