



**BOARD OF ADJUSTMENT  
AGENDA  
October 26, 2016**

**I. Call to Order**

**II. Approval of Minutes**

1. October 12, 2016 Minutes

**III. New Business:**

**1. Pike**

1523 Northeast Dysart Woods Lane

- Maximum Front Yard Fence Height

**Variance\***

**IV. Other Business**

**V. Adjournment**

Board of Adjustment  
Minutes  
October 12, 2016

Meeting called to order at 5:00 p.m. by Rustin Chrisco, Chairman

Present: Joe Haynie, Sam Pearson, Jan Holland, Rustin Chrisco, and Rick Rogers

Motion to approve the minutes of October 5, 2016 as written

Approved 5-0

New Business:

Item #1

CHP, LLC, Variance request for maximum fence height, 408 Southwest 3<sup>rd</sup> Street, Zoned RC-2.

Jon Stanley reads the staff report.

Opened public hearing

The applicant, Powell McKinney, speaks in favor of the height variance.

Rustin Chrisco states there are two issues he has: building the fence without the permit and finding an acceptable hardship that is not self-imposed to be able to grant the variance.

Mr. Stanley states that they have found it is harder to grant privacy in Downtown areas with just a six-foot fence.

Closed public hearing

Mr. Chrisco finds that it fits within the understanding we have had in the past regarding privacy issues.

Sam Pearson agrees and is also aggravated at fence companies building fences outside of code.

Jan Holland thinks the fence is beautiful and would hate to see it change, but states another builder has done the same thing on 3<sup>rd</sup> Street, where the fence was a five foot fence in the front yard.

The general consensus is that the fence on 3<sup>rd</sup> Street did not meet privacy concerns.

Rick Rogers is frustrated with the code issues and feels that these reoccurring fence issues come part of the new residential codes. Increased density causes a lot of these issues with fences.

Mr. Pearson sees the issue that the closer the houses get to each other, the less privacy that the resident has.

Motion to approve the variance for fence height at 408 Southwest 3<sup>rd</sup> Street

Approved 5-0

Item #2

Vancon, LLC, Variance request for fence location, Northwest Riverbend Road (entrance into Creekstone Subdivision III)

Jon Stanley reads the staff report.

Opened public hearing

The applicant, Larry Vandevour, speaks in favor of the location variance.

Mr. Rogers-Are there lot frontages on the cul-de-sac?

Mr. Vandevour-Yes

Mr. Rogers-How will those be accessed?

Mr. Vandevour-They will go inside gate and then turn into the driveways

Mr. Chrisco-Your variance is requested based upon the grade coming off of that portion on that road that is steep enough that it would be preferable to place the fence closer to the sidewalk than to the code requirement and have it taller?

Mr. Vandevor-Yes. Another aspect of the variance request is the rock columns. The fence itself will be placed on the back side of the columns. The fence will actually be located 4 feet 6 inches, on the backside of the columns, instead of the 3 feet 6 inches I put on the application.

Mr. Pearson-If the posts count, then the variance would be from the front of the column to the sidewalk.

Mr. Stanley states that the posts do count.

The general consensus is that the columns are a part of the fence and the variance is for 1 foot 6 inches.

Mr. Vandevor-When building the columns, I was thinking of the aesthetics and the terrain that I was working with.

Closed public hearing

Mr. Vandevor states he will put landscaping between the fence and the sidewalk.

Motion to approve the variance for fence location at Northwest Riverbend Road

Approved 5-0

Meeting adjourned

*Ali Worley*

\*A full recording of this meeting can be obtained from the Bentonville Planning Department upon request.

# **BOA STAFF REPORT**

## **16-1100033, Pike, Fence and Wall Requirements (Front Yard Fence Height)**

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**TO:** Bentonville Board of Adjustment Members  
**THRU:** Troy Galloway, AICP, Community Development Director  
**FROM:** Jon Stanley, Planner  
**BOA DATE:** October 26, 2016

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### **GENERAL INFORMATION:**

**Representative:** Jill Pike

**Applicant:** Terry & Jill Pike

**Location:** 1523 Dysart Woods Lane

**Existing Zoning:** R-1, Single Family Residential

**Existing Land Use:** Single Family Home

**REQUEST:** Variance

<b>Front Yard Fence Height Variance</b>		
	<b>Regulation</b>	<b>Request</b>
<b>Article 1400, Sec 1400.15.D.2, Front Yard Fence Height</b>	Maximum Height shall be three (3) feet above grade	Request of: 6' Variance of : 3'

### **SURROUNDING ZONING:**

<b>Direction</b>	<b>Zoning</b>
North	A-1, Agricultural
South	R-1, Single Family Residential
East	R-1, Single Family Residential
West	R-1, Single Family Residential

### **BACKGROUND:**

The applicant has submitted a variance request to the maximum front yard fence height requirements for property located at 1523 Dysart Woods Lane. The applicant is requesting a 6' high wooden privacy fence be allowed which is a variance of 3' from the 3' allowed by ordinance. All measurements shall be from final grade.

**PUBLIC COMMENT:**

Staff has **NOT** received public comment regarding this request.

**CONDITIONS OF APPROVAL:**

If approved, the following condition(S) shall apply:

1. The approved variance shall be for the proposed height, location and materials of the fence only, as provided by the applicant within this application.
2. The gate across the driveway shall be relocated and or removed by the owner if at any time the gate becomes closer than 20' to the curb along Northeast J Street due to future widening of the street. This will allow for adequate stacking.
3. The applicant shall obtain a fence permit.

Dear Board of Adjustment,

I am writing today to ask for your permission to place a six-foot wood privacy fence at 1523 NE Dysart Woods Lane located in the Allencroft subdivision or the same location as the current fence. Below I have outlined reasons why my family and I believe a privacy fence will provide much needed security and protection for our family as well as allow us to enjoy our valued property in this part of the city.

Jill and I purchased the home at 1523 Dysart Woods Lane back in August of this year. The property contained an existing four-foot picket fence with several inches of gap between each picket. As you can imagine, it is very easy to see over and through the existing picket fence (see attached images) due to the height and gaps. After we moved in, we began noticing walking pedestrians, cars and even city of Bentonville dump trucks slowing down and stopping on J Street and peering right into backyard. Our three small children play in the backyard daily and we began to become very concerned for their safety because of the current view into our entire backyard. Trucks are daily entering and exiting the property directly behind ours including Saturdays. We have documented them stopping in front of our driveway, getting out and unlocking the gate before entering the property.

In addition to seeing our young children playing, we are concerned that passers by have a clear view of our possessions and can even peer right inside of our garage when it is open. We often leave our garage open as we are working and the kids are playing in the backyard. We fear this will invite theft to our property if passers by are able to peer clearly into the yard and garage. A six-foot privacy fence would provide the much-needed security and protection we believe our family deserves.

Lastly, we believe a six-foot privacy fence would be consistent with the style of fencing for other homes in our neighborhood and along J Street. As it stands, the current fence does not match and is not consistent with the homes in the neighborhood or surrounding area. It is weathered and needs replacing with a new fence. We believe we should be afforded the opportunity to put up a new fence that is consistent with the others around us.

Special note: The property directly behind our property has a very large utility easement making it impossible for another residence to be built directly behind our home. I am not an expert on city fence code but I was told we should point this out on the appeal because of an "emergency line of site" stipulation for fencing. Again, I am no expert in code but want to point that out if it helps our appeal. I've also noticed several other homes that face the same way on J Street that our home does who have six-foot privacy fences. We simply want the same rights afforded to our family as other residents along J Street and the surrounding area. Also the location of proposed fence does not violate the 25-foot site triangle.

I wholly believe for the reasons outlined in this appeal, my family and I should be granted a variance. I appreciate your time and willingness to hear our appeal.

Thank you!

Terry and Jill Pike

15-84718-000

# Utility Easement

Red=Existing Fence and Proposed New Fence

10' Gate

GARAGE

7'6"

01-10563-000

1521 NE DYSART WOODS LN

20-20-30

01-10564-000

1523 NE DYSART WOODS LN

20' Gate

Gate

Utility Easement

Front of house

J Street

01-99999-999







