

CITY OF FLORENCE PLANNING COMMISSION
September 9, 2014 ** MEETING MINUTES **

CALL TO ORDER – ROLL CALL – PLEDGE OF ALLEGIANCE

Chairperson Cheryl Hoile opened the meeting at 7:02 p.m. Roll call: Chairperson Cheryl Hoile Commissioners: Curt Muilenburg and Robert Bare were present. Commissioner John Murphey was absent and excused and Commissioner Alan Burns was absent. Also present: Planning Director Wendy FarleyCampbell and Planning Technician Glen Southerland.

APPROVAL OF AGENDA

Commissioner Bare motioned to approve the Agenda, Commissioner Muilenburg seconded. By voice, all ayes, with the exception of Commissioners Burns and Murphey, who were absent. The motion passes.

APPROVAL OF MINUTES

Meeting of August 26, 2014

Commissioner Bare motioned to approve the Minutes of August 26, 2014, Commissioner Muilenburg seconded. By voice, all ayes, with the exception of Commissioners Burns and Murphey, who were absent. The motion passes.

PUBLIC COMMENTS

*This is an opportunity for members of the audience to bring to the Planning Commission's attention any items **NOT** otherwise listed on the agenda. Comments will be limited to **3 minutes per person**, with a maximum time of 15 minutes for all items.*

There were no public comments.

PUBLIC HEARING:

Chairperson Hoile said that there was one public hearing before the Planning Commission that evening. The hearing would be held in accordance with the land use procedures required by the City in Florence City Code Title 2 Chapter 10 and the State of Oregon. Prior to the hearing(s) tonight, staff will identify the applicable substantive criteria which have also been listed in the staff report. These are the criteria the Planning Commission must use in making its decision. All testimony and evidence must be directed toward these criteria or other criteria in the Plan or Land Use Regulations which you believe applies to the decision per ORS 197.763 (5). Failure to raise an issue accompanied by statements or evidence sufficient to afford the Planning Commission and parties involved an opportunity to respond to the issue may preclude an appeal of this decision based on that issue. Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence, arguments or testimony regarding the application. Failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval without sufficient specificity to allow the Planning Commission to respond to the issue that precludes an action for damages in circuit court. Any proponent, opponent, or other party interested in a land use matter to be heard by the Planning Commission may challenge the qualification of any Commissioner to participate in such hearing and decision. Such challenge must state facts relied upon by the party relating to a Commissioner's bias, prejudgment, personal interest, or other facts from which the party has concluded that the Commissioner will not make a decision in an impartial manner.

FILE PC 14 11 VAR 01 – LETURNO FENCE VARIANCE: An application from Robert Leturno for a variance from the 3 foot height limit for a fence along the front yard (9th St.). The property is located at 910 Spruce St. at the northeast corner of Spruce St. and 9th St. east of Gallagher Park and north of Highway 126 in the Single-Family Residential District. (Assessors Map Number 18-12-26-31 Tax Lot 04600).

Chairperson Hoile opened the hearing at 7:12 p.m. and asked if any of the Planning Commissioners wished to declare any conflicts of interest or bias. Commissioner Bare declared a site visit. Chairperson Hoile

declared that she had driven by, but had not specifically stopped at the site. Chairperson Hoile asked if the public had any challenges to any commissioner's impartiality in making this decision. There were no challenges. Chairperson Hoile asked for the staff report.

Staff Report

PD FarleyCampbell listed the applicable criteria for the application and described the location of the house. She stated that the applicant would like to keep his five-foot tall fence along the front lot-line of his property and that the fence was already built. PD FarleyCampbell stated that a taller fence may be granted through a variance. She said that the applicant had not designated which side of the house was the "front" so staff had considered the historical use of the lot, which considered the "front" of the house on 9th Street.

PD FarleyCampbell defined front lot lines and stated that the 3-foot fence restriction was along 9th Street, and cited the fence code illustration which showed where the 6-foot tall fence could begin. She stated that the previous owner had a shorter fence along 9th Street and taller fences along Spruce Street. PD FarleyCampbell presented a photo submitted by the applicant which showed that the current fence is affixed to the posts used by the previous fence. She also stated that this application was not defining property lines, but that could only be done by a survey.

PD FarleyCampbell said that variances were not granted because an applicant wanted them, but that it had to be demonstrated that the variance was needed. She said that staff consulted the TSP to determine the traffic load of the Spruce Street/Highway 126 intersection. She said that Spruce Street was classified as a Collector, which meant that the road would see some business truck traffic and more traffic than a regular local street intersection. She said that the traffic count turning from eastbound Highway 126 turning north onto Spruce Street on a weekday PM had 150 trips per day. She stated that this number was the same of vehicles turning north onto Highway 101 from westbound Highway 126.

PD FarleyCampbell explained that the house did not have a layout typical of that area with a southern-exposure garage, which would shield the home from some headlights entering the home.

PD FarleyCampbell stated that staff found that the site does warrant some kind of variance, but that this variance should be the minimum required by code. She explained that video taken by staff in a passenger vehicle did not show that the full height of five feet was needed, as no headlight was spotted above about the two foot mark. She stated that the applicant had honored the vision clearance area of the Spruce Street/9th Street intersection and did not have the sides of the fence meet at a point.

PD FarleyCampbell listed the public and referral testimony received regarding the application. She stated that staff's recommendation was to approve the variance with the condition that the applicant should either plant vegetation that would provide a barrier to screen the home or reduce the fence height to four feet. She said that the four-foot height limit would apply to the fencing along Spruce Street, 9th Street and the neighboring property from the front face of the home to 9th Street.

Commissioner Muilenburg asked if the trip count for the TSP differentiated between east and westbound traffic. PD FarleyCampbell confirmed. Commissioner Muilenburg asked if traffic turning right onto 9th Street was also considered. He asked if there was considerable business truck traffic at the intersection. PD FarleyCampbell stated that there was not a count for eastbound traffic on 9th Street, but that there was probably not much traffic in the area.

Chairperson Hoile asked if the lights hit the fence while going up the hill at the intersection of Spruce Street and Highway 101. PD FarleyCampbell stated that she did not cut corners while turning, but took the highest point the headlights contacted while driving.

Chairperson Hoile asked if there was a gate at any point in the fence. PD FarleyCampbell stated that the applicant would be the best person to provide that answer.

Applicant's Representative – Greg Freeze, 244 Maple Street, Florence, OR 97439

Mr. Freeze introduced himself to the Planning Commission and stated that he was representing Mr. Leturno. He said that he was there to convince the Planning Commission to allow the height of the fence to remain five feet tall.

Mr. Freeze stated that the traffic was turning left from the highway onto Spruce, and that the problem was not traffic turning onto 9th Street. He said that his client was willing to compromise on the issue. He said that his client would be willing to put a planter in front of the fence along 9th Street. Mr. Freeze stated that the applicant also has plans to install landscaping on the angled corner of the fence.

Mr. Freeze stated that his client has also mentioned that there are people in the park camping and that the fence would act as a protection against some of those people.

Mr. Freeze stated that his client would like to compromise rather than accept the terms presented by the City.

Commissioner Muilenburg asked if the fence is on the property line currently. Mr. Freeze stated that the property line issues were not so much with the front of the property, but the back property line. He stated that the existing posts for the previous owner's fence were left in place and the applicant had installed his fence on top of these. Commissioner Muilenburg asked if the fence on 9th Street was on the property line. Mr. Freeze stated that he did not know. Commissioner Muilenburg gave an example that if the applicant's fence was on the property line and he came out another foot, it would no longer be his property. Mr. Freeze responded that he would be in the zone where the people take care of the land in front of their properties. Commissioner Muilenburg asked if he meant the right-of-way. Mr. Freeze asked if his client may need an exception to put a planter in the right-of-way. Commissioner Muilenburg stated that installing things in the right-of-way created other issues. Mr. Freeze consulted with his client and stated that the fence on 9th Street was inside the property by 8 inches.

Chairperson Hoile asked if the applicant would be willing to compromise on the Spruce Street fence. Mr. Freeze stated that the applicant was not seeking a variance for the Spruce Street side because it was within code. He stated that part of the issue was the material costs of wood stain and the fencing. Chairperson Hoile said that the difference was that the old fence was see-through and that this fence was still solid.

Chairperson Hoile asked for any proponents, opponents or neutral parties wanting to submit testimony.

Sally Wantz – 2190 13th Street, Florence, OR 97439

Ms. Wantz introduced herself and stated that she was against the proposal. Ms. Wantz distributed a sheet with photos of the applicant's property. She thanked the applicant for buying and fixing up that home.

Ms. Wantz pointed out the gate used by the applicant and the truck in the backyard. She stated that she did not think that this truck had moved in quite a while. She also pointed out the truck parked along 9th Street preventing two-way traffic on 9th Street.

Ms. Wantz questioned the reasoning for the five-foot variance. She stated that she wondered if the fence would be five feet tall to create a compound for some reason other than a residence.

Ms. Wantz stated that she did not think that the headlights pictured by staff had reached higher than the three foot level. She pointed out that the properties on the corners of 10th and 11th Streets and Spruce Street had taller fences that looked residential and attractive.

Ms. Wantz stated that she was hoping that the property would remain a single-family residence and not a business. She also said that she was hoping that something could be done about the trucks as well.

Applicant Rebuttal

Mr. Freeze stated that the fence on 10th Street is higher than the fence on 9th Street. He said that a passenger vehicle made the light marks on the staff's demonstration, not a semi-truck, which would project higher beams of light. He stated that there was a handyman business there and did not think that his client was doing anything wrong with regard to City regulations.

Staff Response

PD FarleyCampbell stated that she would respond to points in order, beginning with Mr. Freeze. She stated that allowing the applicant to plant in the right-of-way would require the approval of both the Public Works Director and the City Manager. She said that if that was the direction they would like to take, a Private Use of a Public Right-of-Way Permit would be needed, as well as a continuance of the hearing to allow staff to do the necessary research. She stated that it would also be necessary at that point to require that a survey be completed.

PD FarleyCampbell stated that the turn onto Spruce was done multiple times and the turn onto 9th Street proved to be the highest point where headlights would shine.

PD FarleyCampbell stated that there might be trucks that deliver down Spruce Street, but might be seasonal issues.

PD FarleyCampbell stated that Ms. Wantz' comments were being addressed by the Code Enforcement Officer. She said that signs had been removed and that the trucks on-site were an issue. PD FarleyCampbell stated that only Neighborhood Commercial development would be allowed in this zone, but that home occupations were allowed. She stated that a single truck would be normal and incidental to a contractor parking their work truck at their home, but not the amount present on the site. PD FarleyCampbell stated that the issue is being addressed through Code Enforcement and not as part of this application.

PD FarleyCampbell explained that the City was looking into signage or curb painting to prevent people from parking near the intersection and restricting vision clearance.

Commissioner Bare stated that after he picked up his packet, he drove by the site, but that PD FarleyCampbell had addressed his concerns and he thanked her.

Chairperson Hoile closed the hearing at 7:55 p.m.

Commission Discussion

Commissioner Bare stated that he had nothing to add, and could understand the need for the fence and agreed with the five foot height. Chairperson Hoile asked if he agreed with the conditions of approval. He stated that he agreed with them as-is.

Commissioner Muilenburg stated that he did not believe that the facts and evidence proved a need for a five foot tall fence, so he would not vote to approve it. Chairperson Hoile asked if he would like to see planters. Commissioner Muilenburg stated that he did not want to see planters in front of the fence. Chairperson Hoile and Commissioner Muilenburg discussed the condition of approval regarding the fence height and possible vegetation. He said that the vegetation requirement of the condition of approval would require the vegetation to be on the inside of the fence.

Commissioner Muilenburg stated that he did not see the hardship or the practical difficulties and that there were a lot of properties in Florence that experienced the same conditions as the applicant's.

Chairperson Hoile stated that she saw it both ways. She pointed out that the fence on the corner of 10th and Spruce had a decorative element at the top and was not as tall or solid as this fence.

Commissioner Muilenburg stated that he did not think that the fact that the fence was already built was a valid argument for keeping the fence up because people had a responsibility to check codes prior to building.

Commissioner Bare moved to approve Resolution PC 14 11 VAR 01 with no changes, Chairperson Hoile seconded the motion.

Chairperson Hoile stated that the problem was that the applicant had problems with the condition regarding the option to reduce the height of the fence or plant vegetation. PD FarleyCampbell stated that the applicant could dispute that condition by appealing and added that anyone who had provided testimony had the ability to appeal the decision.

By roll call vote: Commissioner Bare "yes"; Commissioner Muilenburg "no"; Chairperson Hoile "yes"; Commissioner Murphey was absent and excused; Commissioner Burns was absent. The motion carries 2-1.

WORKSESSION:

Dark Sky Introduction:

PD FarleyCampbell introduced Dark Sky concepts and terminology to the Planning Commission (presentation attached). Dark Sky ordinances are a Council Goal for 2014.

DISCUSSION ITEMS

There were no Planning Commission Discussion Items.

DIRECTOR'S REPORT

PD FarleyCampbell stated that the Planning Commission had the opportunity to attend the City Manager Candidate Meet & Greet at the FEC. She said that

PD FarleyCampbell also stated that the October 14, 2014 meeting was still looking very full.

CALENDAR

The Planning Commission discussed the upcoming calendar. The next meeting is scheduled for October 14, 2014 at 7:00 p.m.

Chairperson Hoile adjourned the meeting at 8:25 p.m.


Cheryl Hoile, Planning Commission Chairperson



Variance : Leturno: 3' Maximum Front Yard Fence Height

PC 14 11 VAR 01

• PC 14 11 VAR 01

9/9/2014 •

Criteria

Florence City Code, Title 10:

- Chapter 1: Zoning Administration, Section 4
- Chapter 5: Zoning Variances
- Chapter 11: Single Family Residential District, Sections 4-D and 5-B
- Chapter 34: Landscaping, Sections 2 & 5
- Chapter 35: Access and Circulation, Section 2-14

• PC 14 11 VAR 01

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Site Location



Zoning: Single Family Residential
Address, Tax Map: 910 Spruce St. 18-12-26-22 Tax Lot 9800
Location:
-NE Corner of 9th & Spruce Sts.
-East of Gallagher Park
-N. of intersection of Hwy 126 & Spruce St.

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Public Notice Map – 300'



• PC 14 11 VAR 01

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Application Request



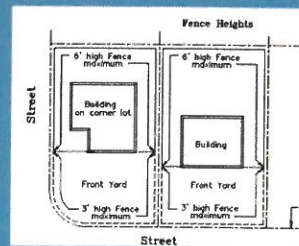
Request:
Application for a 5 ft. front yard fence.

FCC Title 10 Chapter 34:
5-B-1. Residential Zones: ...the height of fences...between the building and the front lot line shall not exceed 3 feet from grade...unless the front door is located on the longer side of the lot, in which case the fence shall not exceed 3 feet in height, or taller fences...are allowed by (Design Review Board).

• PC 14 11 VAR 01

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Which Line is the Front?



Title 10:
Chapter 1 Section 4:

LOT LINE

A. Front: The lot or parcel line abutting a street. For corner lots or parcels the lot or parcel front line is that with the narrowest street frontage.

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Historically



PC 14.11 VAR 01

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Transportation Systems Plan

Figure 4-3: Functional Classification
Collector

- Figure 4-7: Existing Traffic Operations
- 150 vehicles during the weekday pm peak hour traffic conditions
 - Same as Hwy 126 north to Hwy 101
 - > than 9th to Kingwood, 9th to Rhody, & Hwy 101 west to 35th.



PC 14.11 VAR 01

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Findings Overview

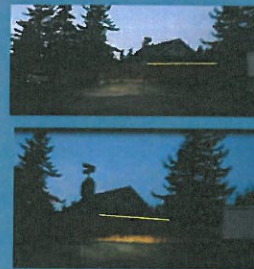
"A practical difficulty or unnecessary physical hardship may result from the size, shape or dimensions of a site or the location of existing structures thereon, from geographic, topographic or other physical conditions on the site or in the immediate vicinity."

- o Layout of the existing structure
- o Proximity & location to the intersection of Hwy 126 & Spruce St.
- o Large trip counts at the intersection

PC 14.11 VAR 01

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Findings Overview cont'

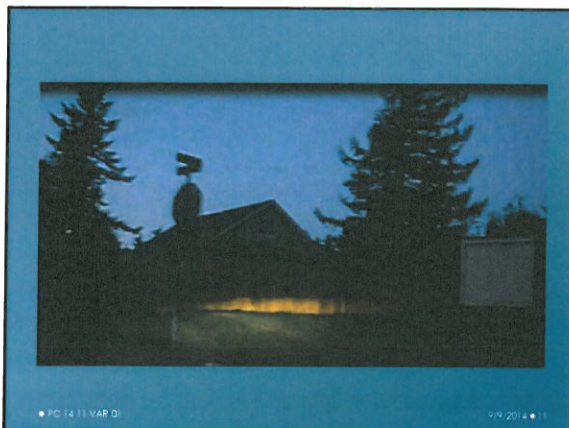


"Grant only the minimum variance necessary to meet the hardship or practical difficulties."

- Video taken between 8:04 and 8:14 pm
- Passenger Car
- Light Beam @ 2 ft. up the fence

PC 14.11 VAR 01

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PC 14.11 VAR 01

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Testimony

- Exhibit I: Jon Herring, August 26th
- Exhibit J: Mike Miller, Public Works, September 2nd
- Exhibit K: Jon Herring, September 8th
- Exhibit L: Joe Zelinski, September 9th

PC 14.11 VAR 01

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Staff Recommendation

Approve the Variance to permit a fence taller than 3 ft. in height in the front yard with condition:

"The applicant shall either plant a vegetative barrier and then remove or reduce the fence to meet the city code's permissible 3 ft. height within 5 years of approval or reduce the height of the fence to 4 ft. along Spruce St. within the front yard and along the entirety of 9th St."


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Questions?

• PC 14 11 VAR 01

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2014 Council Goal Dark Sky Lighting Regulations

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2014 City Council Goals

- Council adopted January 6, 2014
- 9 goals
- 3 Assigned to Planning Department
 - Explore Orderly Growth
 - Complete the Lane County Co-adoption Process
 - Implement Old Town Parking Code Changes
 - Implement Dark Sky Lighting Regulations

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What is Dark Sky?

- Regulations implemented to reduce or eliminate light pollution from excessive or inappropriate outdoor lighting.
- Light Pollution includes:
 - Glare
 - sky glow
 - light trespass
 - light clutter



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Light Pollution Problems

- Nuisance
- Decreased Safety
- Harm to Human Health
- Energy Waste
- Harm to Wildlife


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Example of Glare

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Example of Glare – cont'



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Example of Glare – cont'



Overly bright light can make estuaries



Marin Morgan-Layton
With the light shining, the estuary is easily seen.

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Current City Policy

- FCC 10-3 Off-Street Parking and Loading
 - Footcandle coverage
 - Glare-downward direction
 - Lighting height
 - Light extinguishing
- FCC 10-21 Use Public Airport Zone

• PC 14 09 CUP 05

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Code Amendment Opportunities

- Landscaping
- Design Review
- Estuary and Shorelands Districts and Overlays
- Public Facilities
- Access and Circulation

• PC 14 09 CUP 05

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Dark Sky Regulation Implementation Process

- October 6th City Council Implements Code Amendments
- October 28th possible Planning Commission Worksession & Public Hearing
- December 1st City Council Worksession & Public Hearing

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Questions?

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Entering our neighborhoods from 126 onto Spruce there's a large truck parked on 9th Street next to the 5' fence that goes all the way around the entire property. Then there's another truck often parked on Spruce blocking the bike path (and the city's sign). Both advertising a handyman business.



There's another truck that hasn't moved in months that's parked within the north compound, which is assumed to be the location of a handyman business. Finally, the view of the compound with truck parked in the parking lane with lovely Gallagher Park on the right.



There are plenty of options to help make 9th street look more appealing and have this property look less like a compound and handyman business and more like a residence in a residential community. Other residents on Spruce have beautified their property. The owners of this residence need to do the same.