

Comments from the Berwyn District Civic Association

Re: Variance request for fence 4810 Branchville Road

On July 9, 2015, the Board of Directors of the Berwyn District Civic Association voted to stand in opposition to the installation of a fence along the frontage of the Cruz Development property in the 4800 block of Branchville Road. On July 27, 2015, Cruz Development filed an application for variance from the City of College Park Building Code relating to the fence installation. Our position remains the same based on the following comments.

(a) There is an extraordinary situation or condition that would support the request for a variance;

There is no extraordinary condition that justifies a variance of the fence ordinance in this case. The owner's concerns about trespassing and dumping-as noted in their application-seem to have only come to light after the recent dispute between the owner and the Branchville Volunteer Fire Department. To consider a dispute with a neighbor to be an extraordinary situation would set a dangerous precedent. A decision by the city to take a position on a dispute based on one party's allegation prior to a ruling in the proper forum would be biased. The proposed fence or a fence of any height will be visible from one of the city's most busy intersections, University Boulevard and Rhode Island Avenue. Varying from the fence ordinance in this case would send a strong visual message to the community that the strictly applied fence ordinance within the city can easily be bypassed.

(b) Denial of the variance would result in a peculiar and unusual practical difficulty to, or an exceptional or undue hardship to the owner;

Denial of the variance would not cause a hardship or practical difficulty on the applicant. The applicant has owned the property for approximately 30 years under prevailing conditions. Two questions to ask:

- Have there ever been any code violations issued for trash on the subject property?
- Have there ever been any complaints of trespassing in the last 28 years?
- Have there ever been any parking violations issued on the property?
- Have there ever been any zoning violations issued for illegal use of the property?

(c) Granting the variance will not impair the intent, purpose or integrity of the Fence Ordinance;

The fence ordinance was adopted for good reason. Restrictions of the type of fence material and the location of a fence in relation to structures on the property and public right-away provide for openness, safety and a better outward appearance of residential properties. The addition of the fence ordinance to the city code was approved by a former City Council where the matter was fully debated and comments from citizens were encouraged and considered.

The residents of College Park have a reasonable expectation that city staff and elected officials uphold the integrity of Fence Ordinance. To allow a large residential property owner such as Cruz Development, an out of state interest, to circumvent the fence restrictions in response to a legal dispute with a neighbor--a dispute that the city or its citizens have nothing to do with-- would be an affront to the taxpaying residents of College Park who abide by the city code.

(d) The variance will not adversely affect the public health, safety, welfare or comfort;

A fence of any height or material would have a negative impact on the operation of the Fire Department and rescue service.

Due to the layout of the property, the installation of a fence of any height made of any material would be an eyesore from Rhode Island Avenue and University Boulevard, one of the busiest intersections in College Park. One must conclude from the attached pictures that the aesthetics of the property have not been a great concern to the owners for 30 years. Any fence of any height made of any material will require maintenance. The owner has shown disregard for the appearance of property (attached photographs taken 8/26/15) and has been cited by city code enforcement for tall grass and weeds in the past (city website "Code Violation Search" 4810 Branchville Road). The city should not rely on the owner to maintain a newly installed fence. An unmaintained property detracts from the well-being of the community and can have an adverse effect on surrounding property values.

(e) The fence for which a variance is requested incorporates openness and visibility as much as is practicable; provided, however, that it shall not be constructed of chain link unless this material is consistent with the surrounding neighborhood;

The proposed fence is out of character with the neighborhood. While there may be preexisting chain link fence in pockets of CP, including Branchville, these fences predate the fence ordinance. The surrounding neighborhood is Branchville, no new front yard fence permits have been issued in Branchville since the ordinance was adopted, and there is no evidence of a new front yard chain link fence ever being installed where one did not exist before in Branchville or Berwyn since adoption of the ordinance. There are no 6' chain link front yard fences in Berwyn or Branchville.

(f) The proposed construction, including setbacks, is characteristic of and consistent with the surrounding neighborhood. In neighborhoods where chain link is a characteristic material, alternate materials incorporating openness and visibility, may be permitted.

Within the boundaries of the BDCA, 56 of 427 have chain link fences at the front property line, none have 6' chain link fences; hardly a defining characteristic of the neighborhood, in fact, the trend has been to remove chain link fences. Property owners at 8800, 8710 and 8713 49th Avenue have removed chain link fencing from the front yards in the past 3 years.

The installation of a fence of any height and material will lead to maintenance issues with weed growth. The owner has not shown an interest in maintaining the property for the past 30 years. (See photos)

The lifespan of the fence is open ended and could be in place for years. The proposed fence cannot be considered part of the landscaping for the proposed building on the property as no Detailed Site Plan has been submitted. If a DSP is ever filed for the proposed building, it is highly unlikely that this type of fence would ever be approved by the county or city under current guidelines.