



**City of College Park
Department of Planning & Community Development
Staff Report**

Reviewer: Erik Valentine

Date: August 3, 2023

A. APPEAL INFORMATION

Appeal No.: CEO-2023-03

Hearing Date: August 3, 2023

Petitioner: Nancy A. Baker

Address: 4907 Tecumseh Street

Subdivision: Berwyn, Lot 8 and part of Lot 7

Neighborhood Association: Berwyn District Civic Association

Zoning: RSF-65

Purpose of Request: To grant variances to construct a 4-foot-high, chain-link fence along the property's front yard facing Tecumseh Street.

Request: Height variance to erect a 4-foot-high chain-link fence. Material variance to permit the use of chain-link materials to construct the fence. The fence is along the front yard of the house, on Tecumseh Street.

Requirements: 1. The City Code, Chapter 87, Section 23, paragraph C. prohibits fences in the front yard that exceed three feet in height and requires that fences be constructed of a material that incorporates openness such as wrought iron, split rail, or picket. The Code states that "in a through or corner lot, all yards abutting streets are front yards."

Specific Requests: 1. A 1-foot height variance from the City Fence Ordinance Chapter 87, Section 23, paragraph C of the City Code to permit a total height of 4-feet.

2. A fence material variance from the City Fence Ordinance Chapter 87, Section 23, paragraph C. of the City Code to allow a chain-link fence.

Property Characteristics:

1. The property is a corner lot located on the south side of Tecumseh Street and the west side of Rhode Island Avenue. The house faces Tecumseh Street and is set far back on the lot, resulting in a narrow back yard.
2. The property is irregularly shaped (4 sides, like a rectangle narrowed on one end) and contains 9,339 square feet. Two sides of the lot border a street.
3. The property is improved with a 2-story single-family home built in 1962.

Neighborhood Characteristics:

1. The surrounding neighborhood is single-family Residential, RSF-65.

Other Information:

1. The City Fence Ordinance was first enacted in 2005 and was amended in 2017, to allow fences in the front yard up to 3 feet in height. All yards which border a street are considered front yards.
2. The County implemented a new Zoning Ordinance in April 2022. The new Ordinance allows fences up to 6-feet in all yards, except the front yard, defined by the orientation of the house.
3. The proposed fence would be an extension of an existing chain-link fence along both side lot lines and rear lot lines.
4. The proposed fence would not extend far enough to lay directly in front of the dwelling, instead receding back to create an enclosure around a yard that can be perceived as both a side and front yard. According to the City Code, it is classified as a front yard.
5. The purpose of the fence is to make a safe enclosure for the family dog, Enzo. Enzo is an 8-month-old Bernedoodle, or a mix between a Bernese Mountain Dog and a Standard Poodle. A three-foot high fence cannot adequately contain Enzo. He has the ability to jump over a three-foot high fence. A four-foot high fence should be sufficient to contain him.

COLLEGE PARK CRITERIA FOR GRANTING A FENCE VARIANCE

1. **A specific parcel of land has exceptional narrowness, shallowness, or shape, exceptional topographic conditions, or other extraordinary situations or conditions that would support the request for a variance.**

This parcel has an exceptional circumstance because of the combination of its location as a corner lot, with side yards facing the street considered as front yards, the placement of the house on the lot and the unique shape of the lot. The narrowness of the lot skewed towards one side makes it so that what is considered the rear yard is smaller than normally characteristic of the neighborhood, and too small for a pet enclosure. The side-front yard effectively serves as the rear yard, and it is classified as a front yard per the City Code. The closure and height are necessary for the care of the dog, Enzo.

2. **Denial of the variance will result in a peculiar and unusual practical difficulty to, or an exceptional or undue hardship to the owner.**

Denial of the variances will significantly impair the applicant's ability to care for the family dog, since it will take away any usable space for the dog to spend time safely outdoors. Also, a three-foot high fence is not a sufficient height to keep the dog enclosed.

3. **Granting the variance will not impair the intent, purpose, or integrity of the Fence Ordinance.**

Granting this variance will not adversely impact the intent, purpose, and integrity of the City's Fence Ordinance. There are many similar fences in this neighborhood.

4. **The variance is consistent with the design guidelines adopted for the Historic District, if applicable.**

Not applicable.

5. **The front yard fence for which a variance is requested incorporates openness as much as is practical, however, that it shall not be constructed of chain link unless this material is consistent with the surrounding neighborhood.**

The requested fence is chain-link to remain consistent with the existing fence on the property, and with other properties in the neighborhood.

B. RECOMMENDATION

Staff recommends that the height and material variance be approved.

C. EXHIBITS

1. Application
2. Fence Location Plan
3. Vicinity Map
4. Zoning and Building Footprint Map
5. Staff Photos

EXHIBIT 1: APPLICATION PAGE 1



City of College Park Advisory Planning Commission
8400 Baltimore Avenue, Suite 375
College Park, MD 20740
Phone: 240-487-3538 • www.collegeparkmd.gov

APPLICATION FOR VARIANCE FROM
THE STRICT APPLICATION OF THE
CITY OF COLLEGE PARK BUILDING CODE

Instructions: Please complete and mail to the address above or e-mail to Miriam Bader at mbader@collegeparkmd.gov. All required information must be provided before an application is accepted for processing. An appointment with the City Planning Staff must be made to review the application prior to acceptance. Please call (240) 487-3538 to schedule an appointment. The following items must accompany the application: 1) an accurate plat or site plan drawn to scale that, includes all existing structures, driveway and additions; 2) filing fee or financial hardship waiver request.

OWNER INFORMATION

Name of Property Owner (s) Nancy A Baker

Address of Property 4907 Tecumseh Street

Do you reside in the property? [X] Yes [] No

If no, provide home address

Telephone Fax E-mail JIM.TERILL@yahoo.com

Name of Agent/Representative (if any) Teri Miller (daughter, POA)

Address 908 Sweet Gum Ct, Frederick Telephone 2403448628

Have you applied for and been denied a permit? [] Yes [X] No

Have you received a violation notice? [] Yes [X] No If yes, date of notice

Has property been the subject of a previous appeal or zoning application? [] Yes [X] No

If yes, provide case number(s) and dates

Do you require an interpreter? [] Yes [X] No

DESCRIPTION OF PROPERTY

Table with 4 columns: Subdivision, Lot, Block, Parcel. Row 1: Berwyn, 8, part of 7, --, 0000. Row 2: Zoning, Total Area (Sq ft), 9,339.

Civic Association Name

EXHIBIT 1: APPLICATION PAGE 2

VARIANCE REQUEST

List each required variance on a separate line and cite the section of the Fence Ordinance from which the variance is requested.

- 1) 87-23: C. Front yard fence being more than 3 feet in height
- 2) Material Variance for chain-link
- 3) _____
- 4) _____

PURPOSE OF VARIANCE

Describe what you propose to do and why you need a variance.

To contain the family dog, a 4' chain link fence is to be constructed to encompass the side yard. The fence is an extension of existing chain link fence along both side lot lines and rear lot line, but not to extend to front yard directly in front of the dwelling.

BERWOODDLE, ENZO (BERNIE MIN. DOG + HANDS POOLE)

IN ORDER FOR A VARIANCE TO BE GRANTED, ALL OF THE FOLLOWING CRITERIA MUST BE MET. PLEASE INDICATE HOW YOU COMPLY WITH EACH OF THESE.

Criteria #1. A specific parcel of land has exceptional narrowness, shallowness, or shape, exceptional topographic conditions or other extraordinary situations or conditions that would support the request for a variance. (Describe any special conditions and/or circumstances which are peculiar or unique to the property and, that are not characteristic of other property in the neighborhood.)

Due to the narrowness of the rear yard (8.5') and the position on a corner lot, the sideabuts the street considered the 'front street line'.

EXHIBIT 1: APPLICATION PAGE 3

Criteria #2. Denial of the variance would result in a peculiar and unusual practical difficulty to, or an exceptional or undue hardship upon the owner. (The property owner is deprived of property rights commonly enjoyed by neighboring property owners because of the property's unusual features or conditions). Hardship cannot be self-imposed.

Several properties in the neighborhood have yards FULLY fenced with chain link, including full fence across the front of the property. Example properties include:
8800 49th Ave, 8810 49th Ave, 8803 Rhode Island Ave, 8705 49th Ave,
8615 Rhode Island Ave, 8704, Rhode Island Ave, 8708 Rhode Island Ave

Criteria # 3. Granting the variance will not impair the intent, purpose or integrity of the Fence Ordinance. (Granting of the variance will not be in conflict with the public interest as requested in these plans).

The additional fence will not obstruct sight lines and is a continuation of existing fence on the property and will contain the family dog.

Criteria #4. The variance is consistent with the design guidelines adopted for the Historic District, if applicable. (The Design Guidelines for the Old Town College Park Historic District provide guidance on fence materials, design and placement).

not applicable

Criteria #5. The front yard fence for which a variance is requested incorporates openness as much as practicable; provided, however, that it shall not be constructed of chain link unless this material is consistent with the surrounding neighborhood.

The requested fence is to be chain link to remain consistent with existing fence. Chain link is also consistent with other properties that are fully fenced, as identified in criteria #2. The fence will not extend directly in front of the driveway or dwelling.

EXHIBIT 1: APPLICATION PAGE 4

NAMES & MAILING ADDRESSES OF ALL ADJOINING PROPERTY OWNERS
(These include properties located on either side, behind and across the street from your property)

8714 Rhode Island Avenue	Noemy Campos	8714 Rhode Island Avenue
Property Address	Owner's Name	Owner's Address
8800 Rhode Island Avenue	Dan & Sue Blasberg	8800 Rhode Island Avenue
Property Address	Owner's Name	Owner's Address
8711 49th Avenue	Daniel Ney	8711 49th Avenue
Property Address	Owner's Name	Owner's Address
Property Address	Owner's Name	Owner's Address
Property Address	Owner's Name	Owner's Address

Mary A. Baker
Signature of Applicant (Required)

7/18/2023
Date

Signature of Applicant (Required)

Date

EXHIBIT 3: VICINITY MAP

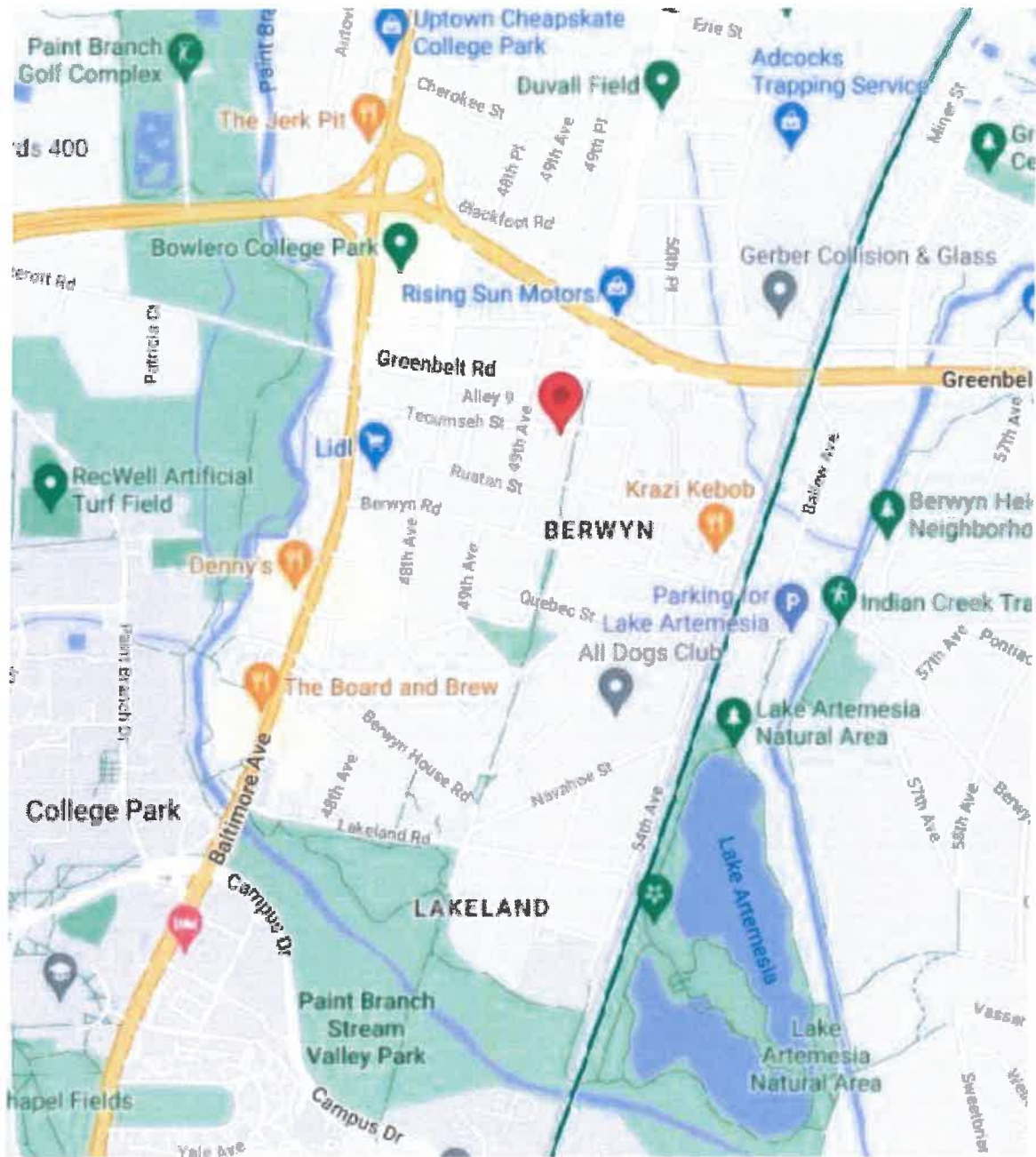


EXHIBIT 5: STAFF PHOTOS



Front view of 4907 Tecumseh St.



Side View Looking Southeast.



Angled view of yard to be enclosed.



Another view of yard, showing the shed where the fence will meet.

EXHIBIT 5: STAFF PHOTOS



Side view of the property looking west.



A perspective of the house and yard to be enclosed.

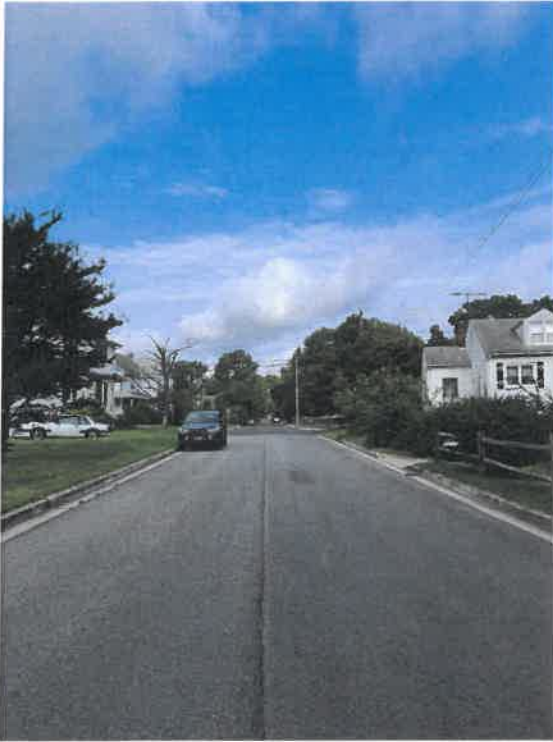


Opposite side yard.



Rear and side yard.

EXHIBIT 5: STAFF PHOTOS



Looking west down Tecumseh St.



Looking east down Tecumseh St.



Existing fence at 8800 49th Ave.



Existing fence at 8803 Rhode Island Ave.