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3 PLEASANT GROVE CITY  
4 LAND USE HEARING MINUTES  
5 February 6, 2023  
6 City Hall Conference Room  
7 70 S 100 E Pleasant Grove UT 84062

8  
9 **PRESENT:** Hearing Officer, Craig Call

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11 **STAFF:** Daniel Cardenas, Community Development Director; Britton Tveten, Staff Engineer  
12 Kara Kresser, Planning Assistant

13  
14 **PROPERTY OWNERS:** Brandon and Rebecca Allred

15  
16 Officer Call opened the meeting at 2:00 p.m. and described the hearing process.

17  
18 **ITEM 1** – Public meeting to consider a request of Pleasant Grove City for a variance from City  
19 Code Section 10-15-38A: Fencing Standards, Front Yard, which requires all fences located in any  
20 front yard perimeter to be built to a maximum of three feet (3') with the exception of fences that are  
21 not sight-obscuring which can be built to a maximum of four feet (4'). The property is located at  
22 approx. 735 West 2600 North in the R-R (Rural Residential) Zone.  
23

24 Director Cardenas started the presentation with a brief explanation of the location of the property  
25 and showing the surrounding area. He explained that the city is doing road work along 2600 North  
26 which is requiring trees to be removed along, what is considered by code, the frontage of the  
27 property. However, due to the fact that the house is situated at an angle facing northwest, the side  
28 where the trees are being removed is more of a side yard. According to the code any fence in the  
29 front yard must be three feet or shorter if it is view-obscuring or four feet or shorter if it isn't view-  
30 obscuring. The applicant in this case, Pleasant Grove City, is requesting a variance for a six-foot  
31 privacy fence for this property.  
32

33 Engineer Tveten stated that 2600 North is a project that the city started acquiring money for in 2018  
34 through MAG (Mountainland Association of Governments) in order to update the road to a three-  
35 lane cross section with shoulders, curb, gutter and sidewalk throughout the project. He then  
36 presented the Hearing officer with the cross-section detail showing that there is a slope which will be  
37 filled in and a retaining wall installed. This is the reason for the trees to be removed, which will be  
38 taking away the privacy the trees provided. The home is at a 50-degree angle to the road, making the  
39 side of the backyard along the frontage. Due to removing the privacy in the negotiations with the  
40 property owners, the city has agreed to pursue the variance of a six-foot fence to restore the privacy.

1 The city has also restricted parking along the roadway due to the shoulder. It is a unique property,  
2 which is why they pursued the variance.

3 Officer Call asked where the cross-section detail on the property was and verified that most of the  
4 work being done is in fact on the private side of the property line. Engineer Tveten confirmed that it  
5 was and that the city is obtaining the easement of the wall for the long term.

6  
7 Director Cardenas closed the arguments for the staff, turning the time back to Officer Call and  
8 allowing him to ask the property owners for their comments.

9  
10 Rebecca Allred, property owner, read a text from a neighbor who had received the notice that they  
11 are in favor of the six-foot fence. Director Cardenas explained that staff had sent notices to residents  
12 300 ft. around the property and had not received any comments back.

13  
14 Brandon Allred explained the layout of his property and about losing all the trees that give them  
15 privacy for their back yard. The uniqueness of the property and a three-foot fence would allow  
16 anyone to look down into their backyard.

17  
18 Director Cardenas finalized his arguments with the fact that this is not self-imposed by the property  
19 owners but in fact will benefit the residents of the city; unfortunately it will be making a big impact  
20 on this property.

21  
22 Officer Call asked for a moment to read the variance application before making his decision. After  
23 reading the variance application, Officer Call approved the Variance.

24  
25 Closed the hearing at 2:17 p.m.

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27  
28 see attached decision

29 Craig Call  
30 Land Use Hearing Officer

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33 Date Approved: 2/9/23

## DECISION

Pleasant Grove Land Use Appeals Hearing Officer  
Variance Request

Brandon and Rebecca Allred Property – 735 West 2600 North  
February 8, 2023

This matter involves a request for a variance to the city ordinances related to the height of a proposed fence along the frontage of the subject property. The City of Pleasant Grove asks for a variance from language in the code that limits the height of a solid fence or wall along the front property line to three feet. This application relates to property located at 735 West 2600 North.

### RECORD

The record includes the eight-page staff report; an application for hearing filed on behalf of the property owners by Britton Tveten of the Pleasant Grove Engineering Department, comprised of six pages; and an audio recording of a hearing held on Monday, February 6, 2023 at 70 South 100 East in Pleasant Grove.

Present and appearing at the hearing were the property owners Brandon and Rebecca Allred; City Engineering Staff Member Britton Tveten, Community Development Director Daniel Cardenas, and Kara Kresser. Minutes of the hearing were taken by Kara Kresser from the city staff and are included in the record.

### ANALYSIS – FINDINGS OF FACT

1. This matter includes a request for a variance to allow a six-foot tall solid fence along the frontage of the property located at 735 West 2600 North in the City.
2. The property is located in the R-1-20 zoning district.
3. The request would allow the property owner more private and personal use of the property for an approximately 100 foot portion of the 228 foot long front property line of the subject property.
4. The application of the ordinance does not impose fencing requirements on the applicant here that are not imposed on other property owners in the same neighborhood.
5. The current configuration of the property includes a number of trees which provide some privacy and buffer from 2600 North Street, which is designated in the City standards as a collector street.
6. The Allred home is situated diagonally on the property, creating a practical use of part of the front yard of the home for the same purposes as many homes use their back yards.
7. Based on information provide by the property owners, it has been demonstrated that the screening effect of the trees has allowed the Allreds to enjoy the use of what is technically described as a front yard in the code for the purposes that others use their back yards.
8. 2600 North Street is being widened by the City to allow for more traffic on that street.
9. In the process of widening the street, the City plans to remove the trees which now provide some privacy, screening, and other benefits to the Allred property.
10. The City here requests the ability to replace the screening effect of the trees that the City is to remove with a six foot vinyl fence.

## ANALYSIS – CONCLUSIONS OF LAW

1. The property line of the subject parcel which lies along 2600 North is a front lot line as defined in the ordinances at Section 10-6-2, Definitions.
2. The City Code does not allow a solid fence or wall taller than three feet along the front lot line of a parcel of land in the R-R zone. Code Section 10-15-38.
3. In order to qualify for a variance, the Code provides at 10-2-3-A that the following requirements must be met:
  - a. The variance will not substantially affect the General Plan of zoning and that adherence to the strict letter of this title will cause unnecessary difficulties and hardships.
  - b. There are special circumstances attached to the property covered by the application that do not generally apply to other properties in the same neighborhood.
  - c. Because of special circumstances, property covered by this application is deprived of privileges possessed by other properties in the same neighborhood; and
  - d. The granting of the variance is essential to the enjoyment of a substantial property right possessed by other property in the same neighborhood.
4. The City Code also provides at Section 2-4-6 that variances are only allowed where the following criteria are met:
  - a. Literal enforcement of the City's land use ordinances would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of such ordinances;
  - b. There are special circumstances attached to the property that do not generally apply to other properties in the same district;
  - c. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same district;
  - d. The variance will not substantially affect the General Plan and will not be contrary to the public interest; and
  - e. The spirit of the City's land use ordinances is observed and substantial justice done.
5. In seeking a variance, the burden to establish proof that the request meets the criteria listed is on the applicant. Utah Code Ann. 10-9a-705.
6. The City, on behalf of the Allreds, has met the burden of showing that the above requirements have been met.
  - a. The City has provided its staff conclusions that the General Plan will not be substantially affected by granting this variance and that the spirit of the City's land use ordinances is observed and substantial justice done by doing so. The expertise of the staff here is deemed substantial evidence sufficient to support these conclusions. Because of the existence of the trees in the before condition and their benefit in providing buffering and screening from traffic, and because it is the City and not the Allreds which wishes to remove the trees, and because of the increased traffic on 2600 North which is anticipated, to deprive the property of the screening effect of the trees or the six foot solid fence as a substitute would cause unnecessary difficulties and hardship.
  - b. The special circumstances found here that qualify this matter for a variance include the pre-existence of the trees the desire of the City, in the interest of the public, to improve 2600 North and remove the trees; and the Allreds established use of what has been

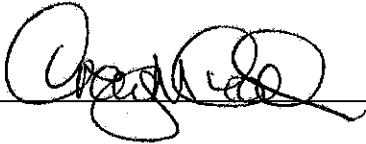
technically defined as a front yard for the uses normally associated with rear yards in the area.

- c. These special circumstances create a deprivation of privileges associated with privacy traditionally associated with the use of a backyard which are also associated with the backyard uses typical in the neighborhood.
- d. The privacy associated with the more personal uses of backyard spaces in residential areas is deemed a substantial property right. This is supported by the text of the relevant ordinance which allows six foot fences to protect the privacy of typical backyards in the single family residential zones of the city.

Conclusion:

The requested variance is granted, as the criteria for a variance in this instance is met.

Dated this 8th day of February, 2023.



A handwritten signature in black ink, appearing to read "Christine", is written over a horizontal line.