

**CITY OF WHITEHALL  
BOARD OF ZONING AND BUILDING APPEALS  
MONDAY, MARCH 13, 2023**

The City of Whitehall Board of Zoning and Building Appeals meeting of March 13, 2023, was called to order by Chairperson, Karima Samadi, at 6:30 p.m.

Chairperson Samadi asked for a roll call.

Samadi – Present  
Weatherby – Present  
Arends – Present  
Graham – Present

Chairperson Samadi asked for a motion to approve the minutes from January 9, 2023, as written. Mr. Arends motioned. Mr. Weatherby seconded the motion. Samadi – Yes, Weatherby – Yes, Arends, Yes, Graham – Yes. Voting was unanimous to **APPROVE** the minutes from January 2023.

Chairperson Samadi introduced Case BA-23-01, Driveway Location Variance, 1126.13(d) and 903.13(a)(b), 1083 Pierce Avenue, parcel 090-002853. Mr. Caldwell was sworn in and presented his case. Mr. Caldwell stated he and his wife have desired a driveway at the rear of the property since purchase of the property. Mr. Caldwell stated the driveway application was approved several years ago under a previous chief building official. Mr. Caldwell's previous permit expired. Mr. Caldwell stated Supreme Concrete did not obtain a permit for the project. Mr. Caldwell stated the driveway project is complete. Mr. Graham asked if the driveway in question is on the Mound Street side. Mr. Caldwell confirmed. Mr. Caldwell stated he was unaware the driveway application was denied.

Kelsey Miller spoke for the city stating that this driveway does not meet the new code but had been approved through a prior chief building official. Ms. Miller also stated the contractor was not a registered contractor at the time of the project.

Mr. Graham asked for clarification regarding the intention on the Pierce Avenue side. Mr. Caldwell stated he intended for the gravel to remain as a base for a new shed and is currently using the gravel to back into the garage at the rear of the property. Mr. Arends asked if the driveway on the Pierce Avenue side is also new. Mr. Caldwell stated the driveway on the Pierce Avenue side was in that location upon purchase of the house. Chairperson Samadi asked Mr. Caldwell the purpose of the driveway extension. Mr. Caldwell stated the driveway extension is to park his truck in the rear of the property. Chairperson Samadi stated the city's opinion is that construction of this driveway is grandfathered. Mr. Graham voiced his concern that the driveway was not permitted or inspected, taking advantage of the homeowner and the city. Mrs. Caldwell agreed stating that she believed the contractor took advantage of the situation, as Mr. Caldwell was hospitalized at the time of the project. Mrs. Caldwell stated she was

not informed of the project. Chairperson Samadi asked if the neighbors had expressed any concerns. Mr. Caldwell response was that the new driveway is not located near the neighbor's home/windows. Mr. Caldwell stated the driveway is near the neighbor's garage.

Chairperson Samadi asked for a motion to approve Case BA-23-01. Mr. Arends motioned. Mr. Weatherby seconded the motion. Samadi – Yes, Weatherby – Yes, Arends – Yes, Graham – Yes. **BA-23-01** was **APPROVED**.

Chairperson Samadi introduced Case BA-23-02, Ibsa Fayera Guta, Fence Height Variance, 1125.06(b), 651 Westphal Avenue, parcel 090-003902. Mr. Guta was sworn in and presented his case. Mr. Guta stated that a portion of fence was already approved, but he is requesting a 6-ft privacy fence in front of the back of the neighbors' house on both sides of his property to include the gates facing the street. Chairperson Samadi asked Mr. Guta to state his hardship. Mr. Guta stated he desired to keep his children safe. Mr. Arends asked if the project has already begun. Mr. Guta stated he started his project on the approved portion at the back of the property. The BZBA board asked Mr. Guta to clarify where the gates would be located. Mr. Guta stated the gates would be on both sides.

Kelsey Miller reviewed the city's position on such fences. The city does not typically approve fences of this type/height/location. Ms. Miller stated the applicant was approved for a privacy fence at in the front and side yards at the 4 ft height.

Chairperson Samadi viewed Google maps and did not view any other fences of the style requested. Mr. Arends gave Mr. Guta the option of the nonopaque fencing in that location. Ms. Miller reiterated that 4 ft height for continuity purposes and per code the requirement is 4 ft maximum height. Mr. Graham asked if there is an old chain link in place currently. Mr. Guta stated the old fence is 4 ft but that is at the back of the property. Mr. Guta reviewed the fence plan with Chairperson Samadi. Mr. Arends stated that 6 ft height all the way up the sides of the property and across the front would appear fort like. Chairperson Samadi stated it was the BZBA's desire not to set a precedent. Ms. Miller stated the 6-ft privacy (opaque) fence in the rear yard was approved. However, a 6-ft privacy (opaque) fence in the location in the side yard and up to the front corner of the house needs to be dropped to the 4 ft height. Chairperson Samadi stated the fence at the front corner of the house should be 50 percent opaque, 4 ft in height. Chairperson Samadi asked Mr. Guta the length of the 6 ft fence on each side of the property. Mr. Guta did not answer the question. Chairperson Samadi stated the 6-ft fence should end at the back edge of both neighbors houses begin, not **measuring at the back of Mr. Guta's** house. The portion between the houses must be 4 ft. Mr. Guta then requested a 6-ft gate at the back edge of house with the remaining

portion up to front edge of the house being 4 ft with a 4-ft gate. Mr. Guta clarified that would be on both sides of the property. Mr. Graham and Chairperson Samadi clarified with Mr. Guta that the fence as visualized from the street would be 4 ft but in the back yard would be 6 ft in height – two 4-ft gates with 4-ft fencing until the fence reaches the back yard, then two 6-ft gates with 6-ft fencing around the back yard.

Chairperson Samadi asked for a motion on the amended proposal as noted above – adding a 6-ft gate where the 4-ft fence meets the 6-ft fence thereby constructing two gated side yard areas. The 4-ft portions are in the side yards between the houses and facing the street. Mr. Weatherby motioned. Mr. Arends seconded the motion. Samadi – Yes, Weatherby – Yes, Arends – Yes, Graham – Yes. **BA-23-02** was **APPROVED with conditions.**

Chairperson Samadi asked if there was any further business. There being no further business, Mr. Weatherby motioned to adjourn. Mr. Graham seconded the motion. Samadi – Yes, Weatherby – Yes, Arends – Yes, Graham – Yes. The meeting **ADJOURNED** at 7:08 p.m.

**APPROVED:** \_\_\_\_\_, 2023

Respectfully submitted,

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**KARIMA SAMADI, CHAIRPERSON**

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Lori Morton, Clerk