

**CITY OF WHITEHALL  
BOARD OF ZONING AND BUILDING APPEALS  
MONDAY, MAY 8, 2023**

The City of Whitehall Board of Zoning and Building Appeals meeting of May 8, 2023, was called to order by Chairperson, Karima Samadi, at 6:31 p.m.

Mayor Maggard issued Micole Spicer the Oath of Office and swore Ms. Spicer in as a new member of the Board of Zoning and Building Appeals. Chairperson Samadi welcomed Ms. Spicer on behalf of the BZBA.

Chairperson Samadi asked for a roll call. Zach Woodruff was also present.

Samadi – Present  
Weatherby – Present  
Arends – Present  
Spicer – Present  
Soma – Absent

Mr. Arends motioned to excuse Mr. Soma. Mr. Weatherby seconded the motion. Samadi – Yes, Weatherby – Yes, Arends, Yes, Spicer - Yes. Voting was unanimous to **EXCUSE** the absent member.

Chairperson Samadi asked for a motion to approve the minutes from April 10, 2023, as written. Mr. Weatherby made note of a misspelling. Ms. Morton stated she would make the necessary change. Mr. Weatherby motioned. Mr. Arends seconded the motion. Samadi – Yes, Weatherby – Yes, Arends, Yes, Spicer– Yes. Voting was unanimous to **APPROVE** the minutes from April 2023.

Chairperson Samadi introduced Case BA-23-04, Fence Height Variance, 1125.06(b), Michael L. and Rebecca J. Scott, 832 Erickson Avenue, parcel 090-004064. Mr. and Mrs. Scott were sworn in and presented their case. Ms. Scott stated they are seeking to replace the fence that has been in place prior to the purchase of their home. Ms. Scott stated there are registered sex offenders in the area, four motels within one-half mile of their property, and six bars within one mile of their property. Mr. Scott stated all of these concerns are within walking distance of their property. Ms. Scott stated they are concerned for their daughters' safety. Ms. Scott stated a neighbor several properties away has an aggressive German shepherd dog whose owner hits that dog just to walk the dog. Neighbors behind their property has a cane corso puppy. Chairperson Samadi asked the applicants if the neighbor with the puppy has an existing fence. Mr. Scott stated that the neighbor does have a fence. Ms. Scott stated they requested a retaining wall on their fence application. Ms. Scott stated they are on higher ground – stating they are level with the neighbor on the north and to the south is about two feet below the applicant's property. Ms. Scott stated the retaining wall would prevent water runoff from their yard to the neighbor's yard to the south.

Chairperson Samadi asked for clarification on retaining wall placement. Ms. Scott stated the requested retaining wall will be placed on the side and part of the back property. Ms. Scott stated that if the retaining wall would not be possible, a privacy fence would be their choice. Chairperson Samadi clarified that the purpose of the variance is for the fence. Ms. Scott stated the fence with the wall is in the quote on the application. Ms. Scott stated the old fence remains in place. Mr. Woodruff asked the applicants if the plan is to relevel the yard. Ms. Scott stated that is the plan. Mr. Woodruff asked if the 6-ft fence height is off the new height – appearing as 8 ft. Ms. Scott explained that the 6-ft fence would be placed on the outside of the retaining wall. Mr. Woodruff stated that according to city code, a fence repair does not require a variance. Mr. Woodruff asked the applicants if these posts extending beyond the back of the neighbor's house and to the front of the property are in need of replacement. Mr. Scott stated the posts just in that area do not need replaced. Mr. Woodruff stated that from the city's standpoint the reasons presented cannot be utilized as legal hardships under the law. Mr. Woodruff reviewed with the applicants their case may be withdrawn if their project is a repair, not a replacement. Mr. and Mrs. Scott stated seven posts would be left in place as a fence repair. Mr. Woodruff stated this would maintain the current fence as a repair, thus not setting a precedent. Therefore, case BA-23-04 was **WITHDRAWN**. Mr. and Mrs. Scott will have their contractor contact Ms. Morton to resubmit their fence application.

Chairperson Samadi introduced Case BA-23-05, Fence Height Variance, 1125.06(b), Jodie Martin Oiler, 3848 Washburn Avenue, parcel 090-00556. Ms. Martin Oiler and Tammie Warshauer, her daughter, were sworn in and presented their case. (Ms. Warshauer assisted Ms. Martin Oiler, as Ms. Martin Oiler has a cochlear implant.) Ms. Martin Oiler stated the privacy fence has been in place since the 1960s. Ms. Martin Oiler stated this will be the third time the fence has been replaced. Ms. Martin Oiler stated she understood that Whitehall City Code requires a 4-ft fence around the inground pool, but her homeowner's insurance policy requires a 6-ft fence. Ms. Martin Oiler stated the fence begins at the back of the house going west to the driveway, then north all the way across the back of the property, then south all the way next to the dog park. The fence portion in question is the area next to the dog park. The back door and rear porch extend beyond the back of the house extending about half way in to the middle of the home, providing fence coverage to the door to the back yard and porch. City code requires that portion be dropped to 4 ft height which would require three sections be replaced. Ms. Martin Oiler stated the whole house generator is also in this fenced in area. Ms. Martin Oiler and Ms. Warshauer stated moving the fence would necessitate Ms. Martin Oiler leashing her dog to be able to exit the back door to enter the back yard with her dog. Ms. Martin Oiler and Ms. Warshauer demonstrated to the BZBA members on the provided photos that side of the home. Mr. Woodruff asked if the fence project was complete. Ms. Martin Oiler stated the fence project is complete. While there is technically no grandfathering, Mr. Woodruff clarified there is a hardship

given this property is immediately next to a city dog park that makes it a unique feature. In addition, given the side/back door location, the city would support favorable recommendation on the variance and would not create a precedent in other areas. Chairperson Samadi thanked Mr. Woodruff for his clarification.

Mr. Weatherby motioned to approve Case BA-23-05. Ms. Spicer seconded the motion. Samadi – Yes, Weatherby – Yes, Arends – Yes, Spicer – Yes. **BA-23-05** was **APPROVED**.

Chairperson Samadi asked if there was any further business. There being no further business, Chairperson Samadi motioned to adjourn. Mr. Weatherby seconded the motion. Samadi – Yes, Weatherby – Yes, Arends – Yes, Spicer - Yes. The meeting **ADJOURNED** at 7:04 p.m.

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

Respectfully submitted,

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**KARIMA SAMADI, CHAIRPERSON**

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Lori Morton, Clerk