



November 17, 2020

Russell G. Martin, Community Development Director
City of Smyrna, Community Development Department
2800 King Street
Smyrna, GA 30080

Appeal of Decision Concerning Fence at 2711 Gilbert Street

Dear Mr. Martin:

Pursuant to Section 1701 of the City of Smyrna Zoning Ordinance, please allow this letter to be a notice of the appeal of the decision of the Community Development Department Director concerning an illegal fence located at 2711 Gilbert Street.

As we discussed, during our meeting, this fence is illegal in two ways. First, it is illegal because as a fence in a front yard, it is in excess of four feet in violation Section 503-A. I do not believe that you dispute that a fence greater than four feet is not allowed in a front yard. The second way this fence is illegal is the use of wire backing. Your decision that "welded" wire backing can be distinguished from woven-wire backing or that any kind of wire fencing is permitted to be used as a part of a front yard fence is counter to the intent of the ordinance and is in error. Your decision sent by email on October 19, 2020 is quoted below:

The fence is a wooden split rail fence with a welded hog wire on the back side of the fence. The zoning ordinance currently allows the wooden split rail fencing. The welded hog wire backing is not a chain link fence or a woven wire fence per the code section above. The City's Zoning Ordinance does not define the term "woven wire". Under the Merriam Webster Dictionary, woven wire is defined as – wire crossed and interlaced to form a network

(See for definition - <https://www.merriam-webster.com/dictionary/woven%20wire>).

The wiring on the subject fence is not woven or interlaced, the wire is laid on top of each other and the contact points are welded together (See attached picture). Therefore, the wire backing is not prohibited because the wire backing is not woven or interlaced per Section 503-A.3.

This strained interpretation may be the result of overlooking the plain language of the Ordinance. First, the reference to woven wire is in a part of the ordinance that prohibits fences of "chain link or similar woven wire." Under your logic, if "welded wire" is not a similar material, one would need only to weld the contact points of a chain link fence or other woven-wire to be in compliance or could construct a welded-wire fence stretched between fence posts in a front yard even though its appearance would be so similar to chain-link that the intent of forbidding "similar" material is completely lost. However, the Ordinance goes even further and limits front yard fences to those that are constructed of "wooden or vinyl materials." Clearly, welded wire is "not a wooden or vinyl material" and is not permitted.

Within any front yard (front yard shall also include a corner lot in which both yards abutting a street shall be deemed a front yard), in all zoning districts, no chain link or similar woven wire fence shall be permitted. However, within a front yard in the aforementioned districts, a decorative or ornamental rail, split rail, picket, opaque, basket weave or similar fence constructed of wooden or vinyl materials may be permitted provided that said fence does not exceed four feet in height. Columns comprised of brick, stone or similar material may

be placed between fence sections in the front yard but still cannot exceed four feet in height. Decorative wrought iron or black aluminum fencing shall also be permitted provided that said fence does not exceed four feet in height.

Sec. 503-A.3, Smyrna City Code

As an adjacent neighbor, we are directly effected and aggrieved by this decision of the Community Development Director in the administration, interpretation, or enforcement of this Zoning Ordinance and have standing to file the appeal.

Finally, please note that the existing fence at 2711 Gilbert Street is illegal and should be removed or brought into compliance by removing the wire and complying with the four foot height requirement.

We reserve the right to amend this letter and include other arguments and material in support up to an including the date that our appeal is heard by the License and Variance Board.

Very Truly Yours,



Elizabeth B. Davis



James R. Davis

1351 Roswell Street