

CITY OF SMYRNA

COMMUNITY DEVELOPMENT

MEMORANDUM

To: License and Variance Board

From: Rusty Martin, AICP, Community Development Director
Caitlin Crowe, Planner I

Date: December 30, 2020

RE: Appeal of Community Development Director's Interpretation of Welded Wire for the Fence at 2711 Gilbert Street

BACKGROUND

The applicant, Mr. James "Ron" Davis, is appealing the Community Development Director's administrative decision that the welded wire backing on a wooden split rail fence is in compliance with the code and would not require a variance from Section 503-A of the Zoning Ordinance. The applicant believes welded wire and woven wire, which is prohibited per Section 503-A.3, are the same type of wire and should both be prohibited on fences in the front yard.

ANALYSIS

Earlier in 2020, the homeowner of 2711 Gilbert Street built a five-foot wooden split rail fence with welded wire backing in the front yard and side yard of his property. Code Enforcement visited the property after a complaint from the applicant that the fence was over four feet tall in the front yard, and a variance application ensued. The variance to allow a five-foot fence in the front yard was denied at the License and Variance Board meeting on October 14, 2020 by a vote of 3-0. Community Development staff met with the homeowner on-site to discuss decreasing the height of the fence to four feet in the front yard, which the homeowner has completed.

After the License and Variance Board decision the applicant filed a complaint that the wire backing on the wooden split rail fence must be removed because it is in violation of Section 503-A of the Zoning Ordinance. Community Development staff inspected the wire backing and responded to the applicant's complaint via email. Community Development found the fence to be in compliance with the fence ordinance due to the definition of chain link and woven wire fencing.

The applicant submitted an Appeal of Administrative Decision on November 14, 2020. The applicant cited several perceived code violations, referring to two subsections of Section 503-A that the fence was over four feet in height within the front yard and that the wire backing on the fence was against the Zoning Code. The height was resolved through the License and Variance Board meeting to which it was established the fence would need to be brought down to four feet in height or removed from the front yard. The homeowner has since modified the fence to a height of four feet.

Section 503-A.3 of the Zoning Ordinance reads as follows: “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.”

The subject fence is a wooden split rail fence with welded wire backing on the back side of the fence, making it permissible in the front yard since the zoning ordinance currently allows wooden split rail fencing. Welded wire backing is not a chain-link fence nor a woven wire fence per the code section above. The City’s Zoning Ordinance does not define the terms “woven wire” or “chain-link”. Section 400 of the Zoning Ordinance requires all words to use their customary dictionary definitions unless the words are defined within the section. Under the Merriam Webster Dictionary, woven wire is defined as “wire crossed and interlaced to form a network” and chain-link is defined as “a fence of heavy steel wire woven to form a diamond shaped mesh”. The wiring on the subject fence is not woven or interlaced but rather the wire is laid on top of each other and the contact points are welded together (see Figure 4). Therefore, the wire backing is not prohibited because the wire backing is not woven or interlaced per Section 503-A.3. Community Development would argue that the subject fence is a wooden split rail fence and the wire backing is a just a component of the fence. Similar conditions exist within the City.

STAFF COMMENTS

The Community Development Director allowed the welded wire backing on the wooden split rail fence to remain, citing that it is, by definition, different than woven wire, which is prohibited in front yards.

Figure - 1

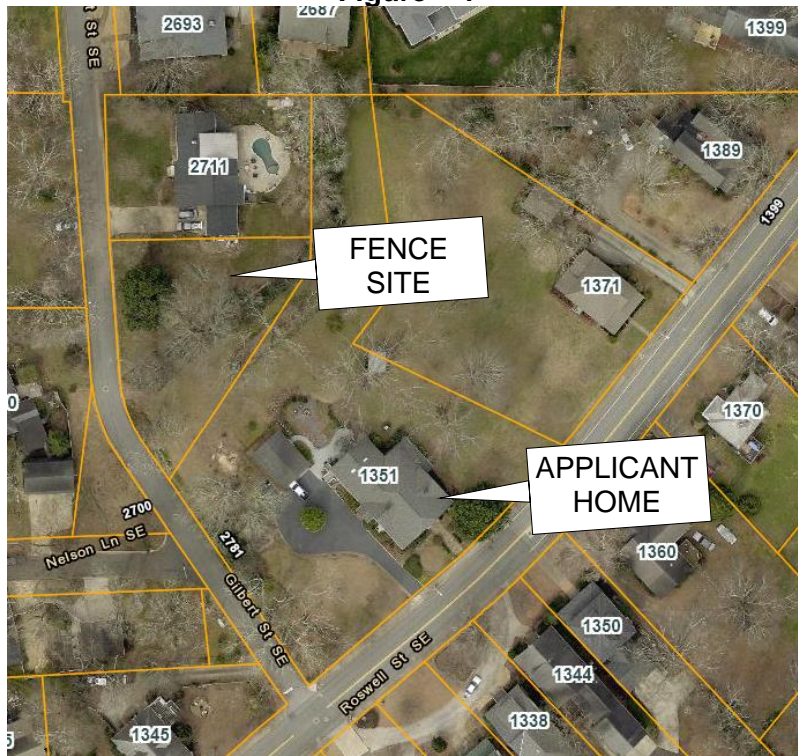


Figure - 2
Location of Fence



**Figure – 3
Fence**



**Figure – 4
Welded Wire Backing on Fence**

