1. CALL TO ORDER

2. ROLL CALL

3. APPROVAL OF MARCH 9, 2017 MINUTES

4. REGULAR BUSINESS
   Deliberations will be held at the end of each case after public comment has been closed. No public comment is allowed during deliberations.

   **CASE NO.** ZBA 3030
   Public Hearing on the request of Michelle Wilkins to obtain a variance from City of Peoria Unified Development Code Section 5.4.7 Fences and Walls, to increase the height of a front yard fence from 3 feet to 4 feet and 6 feet for the property identified as Parcel Identification No. 09-30-481-014 with an address of 1912 W Casecreek Drive, Peoria IL. (Council District 5).

5. CITIZENS’ OPPORTUNITY TO ADDRESS THE COMMISSION

6. ADJOURNMENT
WELCOME!

If you plan on speaking, please complete a Blue Speaker Form

For each case the following sequence will apply:

1. Chairperson proceeds with swearing in procedures
2. Chairperson announces the case
3. Staff enters case into the record
   a. Staff presents the case
   b. Staff answers questions from the Commission
4. Petitioner presents case and answers questions from the Commission
5. Chairperson opens the meeting to the public
6. Public comments – Chairperson may ask for response/input from staff and petitioner
7. Petitioner presents closing statements
8. Public testimony is closed (No further public comment)
9. Commission deliberates and may consult staff
10. Commission prepares findings, if applicable
11. Commission votes

All comments and questions must be directed to the Commission
A regularly scheduled Zoning Board of Appeals Meeting was held on Thursday, March 9, 2017 at 1:00 p.m., City Hall, 419 Fulton Street, Room 400, with Chairperson Richard Russo presiding.

ROLL CALL

The following Zoning Board of Appeals Commissioners were present: Ed Barry, Scott Kelsey, Zachary Oyler, Richard Russo, and Nathan Wagner – 5. Absent: Laith Al-Khafaji, Jerry Jackson – 2.

Staff Present: Shannon Techie, Madeline Wolf

MINUTES

Commissioner Barry moved to approve the minutes for the meeting held on December 8, 2016; seconded, by Commissioner Oyler.

The motion was approved viva voce vote 5 to 0.

REGULAR BUSINESS

CASE NO. ZBA 3029

Public Hearing on the request of Robert DeAtley of Barber & DeAtley, Inc. for variances from the City of Peoria Unified Development Code Section 4.3.4, Building Envelope Standards, including but not limited to, windows and doors, parking setback, garden wall and transitional buffer yard, and street façade requirements, Section 8.3, Signs, and Section 8.2.14.A, Drive-Thru Facilities, in a Class C-G (General Commercial) District, for the property located at 1705 and 1715 N. Knoxville Avenue (Parcel Identification Nos. 18-04-128-033, 18-04-128-034, and 18-04-128-035), Peoria, Illinois. (Council District 2).

Senior Urban Planner, Shannon Techie, Community Development Department, read the case into the record and presented the request. Ms. Techie provided the requested variances, petitioner justification, staff recommendation, conditions requested by staff, a background of similar variances on neighboring properties, and the Development Review Board Recommendation as outlined in the memo.

Staff's recommendation was to APPROVE the variances, if the petitioner demonstrated that all three variance standards are met, and subject to the following conditions:

1. A 6-foot tall cedar wood privacy fence approximately 2.5 feet east of the west property line, with landscaping plated and maintained on both sides of the fence, must be provided in lieu of a garden wall or the transitional buffer yard and meet the intent of a wall and transitional buffer yard, to provide adequate screening from the adjacent residential property.
2. A pedestrian connection to the public sidewalk on both Knoxville Avenue and Richmond Avenue must be installed to provide increased pedestrian accessibility to the site.

Commissioner Barry noted the site plan indicated a 1’ setback for the privacy fence on the west property line and condition #1 required the fence be 2.5’ east of the west property line.

Ms. Techie confirmed staff's support for a 2.5’ setback for the privacy fence and noted the petitioner may confirm the proposed setback.

Chairperson Russo inquired if the property may yield a reasonable return if the variances are not granted.

Ms. Techie said the application did not demonstrate the inability to yield a reasonable return without the requested variances. Ms. Techie requested the petitioner demonstrate the hardship to the commission.

Robert DeAtley, petitioner, provided a background of the 20 Burger King Franchise investments in central Illinois that his client, Maruti Seth, owned and operated. Mr. DeAtley referred to the pictures in the agenda packet and noted the establishment’s construction material was of higher quality. In regard to the site selection, 30 site plans had been designed and reviewed; the final site plan that was submitted to the commission addressed the concerns from IDOT, Public Works, and the Planning Division within the Community.
Development Department. The requested variance from Appendix A, Section 4.3.4.8 would allow the desired site circulation. Mr. DeAtley reinforced the variance from Appendix A, Section 8.2.15 would be an improvement as the orientation would transfer the sound to project away from residential. Mr. DeAtley was agreeable to meeting condition #2 and noted the sidewalk installation would remove one parking space. Mr. DeAtley noted the twelve year vacancy of the subject property indicated that the property was unable to be developed and provide a reasonable return without a variance.

Commissioner Barry requested more detail from the petitioner in regard to not being able to produce a reasonable economic return aside from the 12 year vacancy.

Maruti Seth, owner of the proposed Franchise, noted the 30 different site plans constructed to coordinate with the site size and Burger King Franchise guidelines.

Robert DeAtley added the setback for the street façade requirements would reduce the access for vehicles visiting the drive-thru which in turn would make it easier for the customer to select a competitor, who does not comply with zoning requirements as adjacent fast food restaurants were previously approved for similar variances.

Maruti Seth added that 70% of the business was generated from drive-thru customers. Mr. Seth expressed concern in regard to the traffic flow and site circulation without the requested variance.

Chairperson Russo questioned the impact for the Burger King franchise if the petitioner was not granted the variances.

Maruti Seth responded the development would not occur at this location if the variances were not granted.

In response to Chairperson Russo’s inquiry, Ms. Techie said staff would support a 5’ setback east of the west property line with the requirement that the landscaping be on the residential property side of the fence.

Ms. Techie clarified if the pedestrian connection was installed, the reduction of one parking space would not impact zoning approval as there are no minimum parking requirements in the CG District.

Mike Firmand, an interested citizen, suggested a monument sign be installed on Interstate 74, Exit 95A to indicate the number of fast food restaurants available along Knoxville Avenue.

Robert DeAtley, in closing, said he appreciated the efforts of the commission in making a decision.

Chairperson Russo closed the Public Hearing at 1:39p.m.

It was decided to complete the Findings of Fact for the case as a collective whole versus each variance request.

Chairperson Russo read the Findings of Fact.

In regard to Findings of Fact Item No. 1, Commissioner Barry commented he had hoped the petitioner would have provided more detail in regard to not being able to provide a reasonable return without the requested variance and demonstrate how the property could not yield a reasonable return as something else.

Motion:
Commissioner Oyler made a motion to approve the requested variances with the conditions set forth by staff and to include Condition No. 1 state, “A 6-foot tall cedar wood privacy fence a minimum of 2.5 feet east of the west property line, with landscaping planted and maintained on both sides of the fence, must be provided in lieu of a garden wall or the transitional buffer yard, to provide adequate screening form the adjacent residential property”; seconded, by Commissioner Wagner.

The motion was approved by roll call vote 5 to 0.
Nays: None.
CITIZENS’ OPPORTUNITY TO ADDRESS THE COMMISSION

Mike Firmand, an interested citizen, expressed concern for the lack of signage indicating the fast food restaurants along the Knoxville Avenue corridor. Mr. Firmand encouraged partnership with IDOT to create a directional sign to the 13 fast food restaurants on Knoxville Avenue to generate more traffic to businesses in that area.

There was no further interest from the public to provide public testimony at 1:45p.m.

ADJOURNMENT

Commissioner Oyler moved to adjourn the Zoning Board of Appeals Meeting; seconded by Commissioner Wagner.

The motion was approved unanimously viva voce vote 5 to 0.

The Zoning Board of Appeals meeting adjourned at approximately 1:45p.m.

______________________
Shannon Techie, Senior Urban Planner

______________________
Madeline Wolf, Development Technician
TO: City of Peoria Zoning Board of Appeals  
FROM: Development Review Board (Prepared by Leah Allison)  
DATE: April 13, 2017  
CASE NO: ZBA 3030  
SUBJECT: Public Hearing on the request of Michelle Wilkins to obtain a variance from City of Peoria Unified Development Code Section 5.4.7 Fences and Walls, to increase the height of a front yard fence from 3 feet to 4 feet and 6 feet, in a Class R-3 (Single Family Residential) District, for the property identified as Parcel Identification No. 09-30-481-014 with an address of 1912 W Casecreek Drive, Peoria IL. (Council District 5).  

PROPERTY CHARACTERISTICS  
The subject property is 0.38 acre (16,553 sq. ft.) in size and zoned Class R-3 (Single Family Residential) District. It is surrounded by Class R-3 (Single Family Residential) to the north, east, and west, and County-zoned Residential2-Medium Density to the south. In 2005, a single family residence was constructed on the property.  

REQUESTED VARIANCE:  
The Petitioner is requesting a variance from Section 5.4.7. Fences and Walls of the Unified Development Code to increase the height of a front yard fence from 3 feet to 4 feet and 6 feet.  

The Petitioner states that the shape of the lot and the small usable space creates a hardship for complying with the requirements for fence height.  

SITE PLAN REVIEW BOARD RECOMMENDATION  
Staff's recommendation is to DENY the variance due to a lack of hardship and failure to meet all of the following criteria:  
1) Reasonable Return: The subject property can continue to yield a reasonable return without the requested variance.  
2) Unique Circumstances: The property does not have a unique shape, size, or topography that prevents it from complying with requirements of a fence in the front yard. The lot is level and appropriately sized. Based on the application, the requested variance is due to circumstances of convenience.  
3) Character: Review of the neighborhood finds no front yard fences on Casecreek Dr or the adjacent properties. A four to six-foot tall privacy fence in the front yard would alter the established character of the neighborhood.  

ATTACHMENTS  
1. Surrounding Zoning Map  
2. Aerial Photo  
3. Application  
4. Site Plan
Disclaimer: Data is provided 'as is' without warranty or any representation of accuracy, timeliness or completeness. The burden for determining fitness for, or the appropriateness for use, rests solely on the requester. The requester acknowledges and accepts the limitations of the Data, including the fact that the Data is in a constant state of maintenance. This website is NOT intended to be used for legal litigation or boundary disputes and is informational only. -Peoria County GIS Division.
## ZONING BOARD OF APPEALS
### VARIANCE APPLICATION

**1. PROPERTY INFORMATION**

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>a) Address:</td>
<td>1912 W Casecreek Dr</td>
</tr>
<tr>
<td>b) Tax ID Number(s):</td>
<td>0930481014</td>
</tr>
<tr>
<td>c) Parcel Area (acres or square feet):</td>
<td>0.38 Acres</td>
</tr>
<tr>
<td>d) Current Zoning District:</td>
<td>R3</td>
</tr>
<tr>
<td>e) Current Property Use:</td>
<td>Residential</td>
</tr>
</tbody>
</table>

**2. OWNER INFORMATION – REQUIRED**

<table>
<thead>
<tr>
<th>Name</th>
<th>Company</th>
</tr>
</thead>
<tbody>
<tr>
<td>John Sardis</td>
<td>N/A</td>
</tr>
</tbody>
</table>

1912 W Casecreek Dr / Peoria, IL / 61615-1032

Phone: (309)303-4897
Fax: N/A
Email: fjsardis@gmail.com

Signature of Owner(s) & Date: 3-15-17

**3. APPLICANT INFORMATION – engineer, architect, attorney or other, if applicable**

<table>
<thead>
<tr>
<th>Name</th>
<th>Company</th>
</tr>
</thead>
<tbody>
<tr>
<td>Michelle Wilkins</td>
<td>N/A</td>
</tr>
</tbody>
</table>

2402 W Augusta Dr / Dunlap, IL / 61525-8705

Phone: (309)696-7176
Fax: (309)655-2768
Email: mawilkins1@sbcglobal.net

Signature of Applicant & Date: 3-15-17

**Applicant’s Interest in Property:**

- [ ] Contractor
- [ ] Contract Purchaser
- [x] Other Lessee

**Send Correspondence To:** Select one entity to receive all correspondence. E-mail will be used for all correspondence unless otherwise requested.

- [ ] Owner
- [ ] Applicant
- [ ] Representative of Applicant
4. VARIANCE INFORMATION

a) Variance being requested: Fence installed up to within 6' of the property line as opposed to ordinance minimum of 10' off property line on corner lot - side setbacks. One variance portion of the fence shall be a 4' tall (white) privacy fence running E/SE in-line with the front face of building (up to but no further than within 6' of property line). The second requested variance is a portion (roughly 50') of a proposed 6' tall (white) privacy fence at SE corner of the lot. (Side and remainder of rear perimeter fence also to be white, 6' tall & in compliance, requiring no variance requests).

b) From what section of the zoning ordinance is a variance being requested? Unified Code Sec 5.4.7 – Fences and Walls

c) What unique or exceptional characteristics of your property prevent it from meeting the requirements in your zoning district? (Check applicable)

<p>| | | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Too narrow</td>
<td>Too small</td>
<td>Soil</td>
<td></td>
</tr>
<tr>
<td>Subsurface</td>
<td>Elevation</td>
<td>Slope</td>
<td></td>
</tr>
<tr>
<td>Too shallow</td>
<td>Shape</td>
<td>X</td>
<td>Other</td>
</tr>
</tbody>
</table>

d) What is your hardship? Please be specific. Lot is located on a corner radius. The radius portion of the lot is legally considered to be the front yard leaving a very small usable space for pet dog to be enclosed within a (privacy) fence. Fence must be 4' high as the dog can easily clear 3'. The West side of the lot is considered side yard but is all driveway space and the rear is mostly patio, a berm, and trees. In short, a height variance is being requested for what is legally considered to be the “front yard” of this property.

e) If granted a variance in the form requested, will it be in harmony with the neighborhood and not contrary to the intent and purpose of the Unified Development Ordinance?

X Yes ______ No

Please elaborate: The proposed variance fence will be on the side of the house and will not enclose any of the front view or entrance portion of the residence. A 4' tall fence will not obstruct a driver's view from the roadway as it is a radius corner, and not a typical intersection until you get past the radius to the stop sign at Casecreek and Alta. A structurally sound fence will be installed and will follow any and/or all other related ordinances.

5. FILING FEE (MUST ACCOMPANY APPLICATION)

Variance Application Fees for any property in the City shall be as set forth below:

$750.00 minimum plus $100 per acre to a maximum of $7500.00

Per Unified Development Code Article 2.14 - Fees Table: $750 + ($100 x 0.38 acres) = $788.00

6. REQUIRED SITE PLANS

One copy of the site plan and one on a compact disc or appropriate digital media.
7. FINDINGS OF FACT WORKSHEET

Please select true or false for the following three questions:

Sections 2.6.3.E. Standards for Variations

No variations from the regulations of this development code shall be granted unless the entity or person granting such variation shall find based upon the evidence presented to them in each specific case that all three of the following criteria are true:

1) The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in that zoning district.

   X True   ____ False

Explanation: This variance request is simply meant to give the occupants a chance to let their pet out into greenspace, while providing a bit of privacy with a new, visibly appealing fence in what is the "side yard" in relation to the front face of the house.

Fact to consider:
   a. The purpose of the variation is not based primarily upon a desire to increase financial gain.

2) The plight of the owner is due to unique circumstances.

   X True   ____ False

Explanation: There is no usable area for greenspace except for this portion of the lot, which just so happens to be within the front yard on a radius, running the entire length of the lot to the radius returns on Case Creek Dr. Most other lots in this area are of typical residential shape. Without a setback variance request, all that is needed is the one extra foot in fence height since the lot provides no other area to properly enclose the pet.

Facts to consider:
   a. The particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience if the strict letter of the regulations were to be carried out.
   b. The conditions upon which an application for a variation is based are unique to the property for which the variance is sought, and are not applicable, generally, to other property within the same zoning classification.
   c. The practical difficulty or hardship is caused by this ordinance and has not been created by any persons presently having an interest in the property.

3) The variation, if granted, will not alter the essential character of the locality or be injurious to the public or other property or properties.

   X True   ____ False

Explanation: The fence will only enclose a portion of the property and will be properly constructed and visibly appealing. Once constructed as per variance request (if granted), the fence will not affect anyone who is safely and/or legally near it, outside or within the Right of Way, and will have no negative effects on any neighboring lots in regards to drainage or safety.

Facts to consider:
   a. The granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.
   b. The proposed variation will not impair an adequate supply of light and air to adjacent property or substantially increase the danger of fire, or impair natural drainage or create drainage problems on adjacent properties, or endanger the public safety, or substantially diminish or impair property values within the neighborhood.
8. APPLICATION/MEETING PROCEDURES

A) The Zoning Board of Appeals has regularly scheduled meetings the second Thursday of each month at the City Hall Building, Room 400, 419 Fulton Street, Peoria, Illinois.

B) The deadline for submitting applications for regularly scheduled Zoning Board of Appeals meetings is twenty-eight (28) days prior to the meeting.

C) The Zoning Administrator must certify that an application for a public hearing is complete (completely filled out, received by the filing deadline, and accompanied by a compact disc or appropriate digital media of the site plan, including digital versions of the application and other attachments as required, including the filing fee) to be processed and scheduled for the next regularly scheduled meeting. **Incomplete applications will be returned.**

D) The applicant or applicant's representative will receive notice of the date and time of the public hearing. At least fifteen days prior to the hearing, the Community Development Department will mail notices of the hearing to the owners of all property within 250 feet of the subject property.

E) The format for each public hearing is:

- Chairperson proceeds with swearing-in procedures.
- Chairperson announces the case.
- Staff enters case into the record.
  - Staff presents the case.
  - Staff answers questions from the Commission.
- Petitioner presents case and answers questions from the Commission.
- Chairperson opens the meeting to the public.
- Public comments – Chairperson may ask for response/input from Staff and Petitioner.
- Petitioner presents closing statements.
- Public testimony is closed. (No further public comment)
- Commission deliberates and may consult Staff.
- Commission prepares findings, if applicable.
- Commission votes.

F) Application and inquiries should be submitted to:

Zoning Administrator  
City of Peoria Development Center  
419 Fulton Street, Room 300  
Peoria, Illinois 61602-1217  
Phone: (309) 494-8600  
Fax: (309) 494-8680
1912 W Casecreek Dr Variance App

*NOTE: FENCE TO BE OFFSET AT LEAST 6" FROM PROPERTY LINE

1 inch = 20 feet