



NOTICE OF BOARD OF ADJUSTMENT AND APPEALS MEETING

March 19, 2024

Members of the public are invited to attend remotely or in person through the options listed below. Public comment is welcome for items appearing on the agenda or on any matter of BOA concern. Each speaker is allotted a maximum of five minutes to speak.

Individuals wishing to comment on an agenda item must register in advance by contacting boaplanning@auroragov.org.

View or Listen Live

Click to join:

<https://auroragov.webex.com/auroragov/j.php?MTID=m6bd31ed3a7bd9e2858d9f63857c5fb53>

Event Password: Aurora2020

Call-in Participation

Call 720.650.7664

Access Code: 2491 242 2922

Event Password: 28767220

In-person Participation

Aurora Municipal Center
Aspen Room, 2nd Floor
15151 E Alameda Parkway
Aurora, CO 80012

Knock to be granted access to the building by security.

For more information regarding Board of Adjustment & Appeals meetings, please contact Planning & Development Services at boaplanning@auroragov.org.



AGENDA

Board of Adjustment and Appeals

Tuesday, March 19, 2024

6:00 p.m.

Aspen Room/Hybrid

Aurora Municipal Center, 2nd Floor

15151 E Alameda Pkwy

Aurora, CO 80012

Pages

1. CALL TO ORDER

2. ROLL CALL

3. APPROVAL OF MINUTES

3.a Draft BOA Meeting Minutes for February 20, 2024

2

4. ADOPTION OF AGENDA

5. GENERAL BUSINESS

5.a Case Number 03-24 - 2072 Emporia Street

9

At the hearing, a request on behalf of the property owner, Sage RE LLC / Stanley Prato, by Gabrielle Prato, for the following Single-Family Dwelling Variances for property zoned Original Aurora Medium-Density Residential (MU-OA-R-2) : (1) To allow for an already constructed front yard fence that exceeds 42 inches in height; and (2) To allow for a completely closed-style fence in the front yard area.

6. OTHER BUSINESS

7. ADJOURNMENT

Planning Department
City of Aurora, Colorado

SUMMARY OF BOARD OF ADJUSTMENT AND APPEALS ACTIONS

BOA Hearing Date: February 20, 2024
Hearing Location: Hybrid Public Hearing, held via WebEx and In-Person
Case Manager: Stephen Gubrud

Board Members Present: Andris Berzins – Vice Chairman
Javier Chavez
Kari Gallo
Richard Palestro
Marty Seldin
Ron Swope

City Staff Present: Lena McClelland – Attorney for Planning and Development Services
Brandon Cammarata – Planning Manager
Steve Timms- Planning Supervisor
Stephen Gubrud – City Planner
Sharyn Vellenga - City Code Enforcement Officer
Diane Webb - Project Coordinator

Vice Chairman Mr. Andris Berzins commenced the meeting at approximately 6:00 p.m.

Case Number: 01-24 – 2341 N Elmira Street

Description:

Request by the property owner, Jeanne Fischetti, for the following Single-Family Dwelling Variances:

- An adjustment to the requirement of Section 146-4.7.9.L.1, which states that front yard fences for residential properties be a maximum of 42 inches in height and at least 50% permeable. The applicant's property is located in the OA-R-2 zone district and she requests (1) a variance to allow for an additional 30 inches of front yard fence height for a total maximum fence height of 6 feet; and (2) a variance to allow for a completely closed-style fence in the front yard area.

Case Presentation Given at the Hearing:

Staff gave a presentation describing the applicant's request, the context of the neighborhood and the subject property, and an analysis of the request with respect to the Code Criteria of Approval. The applicant's request would allow an existing front yard fence that exceeds 42 inches in height and that is less than 50% visibly permeable.

Recommendation from staff to deny the variances as requested.

Board Discussion at the Hearing:

Mr. Berzins asked Lena McClelland, Attorney for Planning and Development Services, for guidance regarding separating the variance requests for voting purposes.

Ms. McClelland responded that it is permissible.

Mr. Berzins called a five-minute recess to allow assistance to Mr. Palestro, who was having difficulty signing into the meeting to attend virtually.

Mr. Palestro joined the meeting virtually at approximately 6:14 p.m., at which time Mr. Berzins called the meeting back to order.

Sharyn Vellenga, Code Enforcement Officer, spoke on behalf of the applicant, Jeanne Fischetti, and cited Ms. Fischetti's reasons for building the fence. Although the fence does not meet code, it provides a buffer between the applicant and the property to the north, which Ms. Vellenga described as a repeat code offender. Ms. Vellenga stated she understands the applicant's reasons for building a fence.

Mr. Chavez asked Ms. Vellenga if the camper in the yard is not allowed at the property to the north.

Ms. Vellenga replied that the camper is allowed, but the people living in the camper are not allowed.

Mr. Berzins called upon the applicant to speak.

The applicant, Jeanne Fischetti, 1800 Grove St, Denver, CO, attended the meeting in person. She stated she lives in Denver but owns the property at 2341 N Elmira Street. She expressed appreciation for Ms. Vellenga's input. Ms. Fischetti shared her findings regarding her neighbor's property to the north, that there is no current owner listed on the County Assessor's website as the previous owners passed away, and there are multiple code violations on record for the property as well as alleged criminal activity. Ms. Fischetti met with the City Attorney's office to discuss her legal rights regarding the neighbor's home and was informed nothing further could be done other than issuing code violations because there is no owner on record. She ultimately decided to build the fence.

Mr. Seldin asked if it's the neighbor to the north or to the south that is creating an issue.

Ms. Fischetti clarified that it's the property to the north.

Mr. Seldin stated he spoke to the neighbor to the north when he visited the site and the neighbor said he has lived in the home for 50 years

Ms. Fischetti clarified that the neighbor's parents owned the property. Several family members have lived at the home at various times. None of the children currently own the home. It was their father's home.

Mr. Seldin asked Ms. McClelland what would happen to the neighbor's property.

Ms. McClelland responded that further research had to be conducted to determine what transpired during the conversations between the applicant and the City Attorney's office.

Mr. Berzins asked Ms. Fischetti how she decided on the tiered fence design.

Ms. Fischetti stated she was trying to reduce the fence height the closer it got to the street.

Mr. Palestro asked Ms. Fischetti if she plans to build any other fences in the front or make modifications.

Ms. Fischetti responded that she may repair the gate on the back fence, but she does not plan to modify the front yard fence.

Ms. Vellenga requested that if the Board plans to approve the variance requests, they include a stipulation that the portion of the fence closest to the sidewalk be made at least 50% open to maintain visibility for traffic.

Public Comment Given at the Hearing:

No members of the public commented on this case at the hearing.

Mr. Berzins closed the meeting to public comment.

Mr. Berzins stated that he visited the property.

Ms. Gallo, Mr. Seldin, Mr. Chavez, and Mr. Palestro all stated they visited the property.

Mr. Swope stated he did not visit the property.

General discussion ensued between the Board members regarding safety issues, fence opacity, height, and design.

There was no further discussion of the case and no questions from members of the Board.

Board of Adjustment and Appeals Results

A motion was made by Mr. Berzins and seconded by Mr. Seldin.

Move to approve the variance requests for the six-foot fence segment closest to the sidewalk to remain at 48 inches or less and be at least 50% open, the next eight-foot fence segment may be up to five feet 60 inches and remain completely opaque, the remaining fence segment that extends to the rear may remain and be completely opaque because the proposal complies with the required findings of Code Section 146, and:

- Does not have an adverse impact on adjacent properties;
- Is consistent with the neighborhood character;
- Is compatible with adjacent development;
- Will not have a negative impact on existing city infrastructure or public improvements; and
- Will achieve an internal efficiency of design.

Action Taken: Approve

Votes for the Variances: 6

Votes against the Variances: 0

Absent: None

Abstaining: None

Case Number: 02-24 – 1114 N Beeler Street

Description:

Request by the property owner, Jesus Carrillo, for the following Single-Family Dwelling Variances:

- An adjustment to the requirement of Section 146-4.7.9.L.1, which states that front yard fences for residential properties be a maximum of 42 inches in height and at least 50% permeable. The applicant's property is located in the OA-R-2 zone district and he requests (1) a variance to allow for an additional 30 inches of front yard fence height for a total maximum fence height of 6 feet; and (2) a variance to allow for a completely closed-style fence in the front yard area.

Case Presentation Given at the Hearing:

Staff gave a presentation describing the applicant's request, the context of the neighborhood and the subject property, and an analysis of the request with respect to the Code Criteria of Approval. The applicant's request would allow an existing front yard fence that exceeds 42 inches in height and that is less than 50% visibly permeable.

Recommendation from staff to deny the variances as requested.

Board Discussion at the Hearing:

Mr. Berzins asked Stephen Gubrud, City Planner, where the 30-foot mark is in the plot plan.

Mr. Gubrud referenced a site photo in the presentation to illustrate where the fence segment is located.

Mr. Berzins called upon the applicant to speak.

The applicant, Jesus Carrillo, 1114 N Beeler Street, attended the meeting in person. He cited privacy, safety, and security as the reasons for building the fence. He stated his neighbors sometimes verbally harass his wife and children when they are in the front yard. He doesn't want the entire fence to be six feet tall, just the portion closest to the house so his family can be outside freely. He stated he could reduce the fence portion closest to the street to four feet.

Mr. Seldin asked the applicant how tall the backyard fence segment on the south side is because it appears very tall.

Mr. Carrillo replied that he built an eight-foot-tall plastic "blocking fence" in that area for the same reasons he is building the front yard fence.

Public Comment Given at the Hearing:

Staff received a comment the day of the meeting from a neighbor who opposes approval of the variances. The comment was read to the Board members.

Mr. Berzins closed the meeting to public comment.

Mr. Berzins stated that he visited the property.

Mr. Seldin, Ms. Gallo, and Mr. Palestro all stated they visited the property.

Mr. Chavez and Mr. Swope each stated they did not visit the property.

General discussion ensued between the Board members regarding the six-foot-tall height appearing like a wall, and a tall front yard fence not being consistent with neighborhood character. They discussed with the applicant ways to improve opacity and reduce the fence height.

Mr. Seldin noted Mr. Carrillo's issue with his neighbors is a common one and that building fences does not necessarily mitigate the issue.

Mr. Berzins stated he understands Mr. Carrillo's need for privacy and would be willing to allow a few inches more than the 42-inch height, possibly 48 inches total, if the fence remains at least 50% open.

Mr. Seldin and Mr. Palestro agreed.

Mr. Chavez questioned whether the additional inches would make much difference.

Ms. Gallo noted the taller fence would stand out compared to the other shorter fences in the neighborhood and that the height allowed by code is sufficient.

Mr. Chavez stated he favors keeping the fence height 42 inches and 50% open.

There was no further discussion of the case and no questions from members of the Board.

Board of Adjustment and Appeals Results

A motion was made by Mr. Chavez and seconded by Mr. Seldin.

Move to deny the variance requests to allow for an existing front yard fence that exceeds 42 inches in height and that is less than 50% visibly permeable because the proposal does not comply with the required finding of Code Section 146-4.7.9.L.1, and:

- It is not consistent with the character and aesthetic of the surrounding neighborhood;
- The height and style of the fence may impact views from the neighboring property and;
- The proposed fence is highly visible to the public and would not provide mitigation for any external effects.

Action Taken: Deny

Votes for the Variances: 1 (Palestro)

Votes against the Variances: 5

Absent: 0

Abstaining: None

Other Topics Discussed at the Hearing:

A motion was made by Ms. Gallo and seconded by Mr. Seldin.

Move to accept the draft minutes for the December 19, 2023, meeting.

Action Taken: Accept the draft minutes for December 19, 2023.

Votes for: 6

Votes against: 0

Absent: 0

Abstaining: None

The Board members interviewed for approximately 10 minutes with applicant, Matthew Robinson, for the remaining vacancy on the Board of Adjustment and Appeals. The Board also received an application from Andrew Kwon. Mr. Kwon confirmed he would attend the interview, but he did not attend. Therefore, the Board did not interview him.

A motion was made by Ms. Gallo and seconded by Mr. Palestro.

Move to recommend to City Council the appointment of Matthew Robinson as a member of the Board of Adjustment and Appeals.

Action Taken: Recommend the appointment of Matthew Robinson

Votes for: 4

Votes against: 1 (Seldin)

Absent: 0

Abstaining: 1 (Berzins, because he knows Mr. Robinson personally)

Mr. Berzins advised Mr. Robinson that a memo would be submitted to City Council with the Board's recommendation.

The Board held the annual elections for Chairman and Vice Chairman.

Mr. Seldin nominated Mr. Berzins as Chairman. The nomination was supported unanimously by those Board members present. Mr. Berzins was appointed as Chairman.

Mr. Berzins nominated Mr. Seldin as Vice Chairman, however, Mr. Seldin gratefully declined. Mr. Seldin then nominated Ms. Gallo, who gratefully declined.

Ms. Gallo nominated Mr. Chavez as Vice Chairman. The nomination was supported unanimously by those Board members present. Mr. Chavez was appointed as Vice Chairman.

Mr. Berzins entertained a motion to close the meeting.

A motion was made by Mr. Chavez and seconded by Mr. Palestro.

Move to close the meeting

Action Taken: Close the meeting

Votes for: 6

Votes against: 0

Absent: 0

Abstaining: None

Mr. Berzins closed the meeting at approximately 7:13 p.m.

SUMMARY OF PROCEEDINGS PREPARED AND SUBMITTED BY: Diane Webb

Andris Berzins, Chairman

Diane Webb, City of Aurora Recording Secretary



Planning Division
 15151 E. Alameda Parkway, Ste. 2300
 Aurora, Colorado 80012
 303.739.7217

MEMORANDUM

- To:** Andris Berzins, Board of Adjustments Chairman
 Board Members: Kari Gallo, Ron Swope, Richard Palestro, Marty Seldin, Javier Chavez
- From:** Stephen Gubrud, Planner, Board of Adjustments staff liaison
- Date:** March 8, 2024
- Hearing Date:** March 19, 2024
- Subject:** BOAA Case No. 03-24 – 2072 N Emporia St. (near the intersection of E. Montview and N. Dayton St.)
- Notification:** The Notice of Variance Request was mailed to abutting property owners on March 8, 2024, and a notice of virtual public hearing sign was posted on the property on or prior to the same day in accordance with Code.
- Summary:** Request by the property owner Sage RE LLC, represented by Gabrielle Prato, for the following Single-Family Dwelling Variances:
- Requesting 2 variances from UDO code section 146-4.7.9.L.1 which states that front yard fences for residential properties be a maximum of 42 inches in height and at least 50% visually permeable. The applicant’s property is located in the MU-OA-R-2 zone district and she requests (1) a variance to allow an additional 30 inches of front yard fence height for a total maximum fence height of 6 feet; and (2) a closed style fence which is not visually permeable.

Background Information: The subject property is located at 2072 N Emporia St. in the North Aurora Neighborhood, within the New England Heights #1 subdivision. The property is approximately 0.11 acres with an approximately 566 square foot primary residence, constructed in 1940 according to the Adams County Assessor’s records. The subject property and surrounding neighborhood are primarily zoned MU-OA-R-2 (Original Aurora Medium Density Residential District) and is made up of primarily single-family homes. There is also a portion of MU-OA-MS (Original Aurora Main Street District) to the south and west and MU-OA-R-1 (Original Aurora Low Density Residential District) to the east. The purpose of the MU-OA-R-2 district is to promote active and pedestrian-oriented areas that have a mix of residential and small, neighborhood-scale commercial uses. The subdistrict shall permit a broad range of housing types that are compatible in scale with existing single-family homes while providing diverse housing choices for households of different ages, sizes and incomes. The house location is unique in that it is located at the very rear of the lot, creating a large front yard and no rear yard. The neighboring houses, on both the north and the south, have traditional setbacks and yard locations.

The applicant requests two variances to allow for an already constructed 6-foot-tall front yard fence which is completely closed in style. The existing non-compliant fence was identified in the Notice of Violation which was issued to the property owner on January 5th of 2024. The applicant has stated one of the reasons for building the subject fence at this height is to screen the view of their property from their neighbors to create a



more private yard setting. The homeowner has also indicated that they wanted to screen in a portion of the front yard area as the location of the home on this lot does not allow for a rear yard area to be utilized. There is an attached sidewalk located in front of the property and on street parking is permitted on Emporia St. The fence is setback approximately 7 feet and 4 inches from the back of sidewalk. (**See Exhibit B– Application and Justification**).

Analysis: There are three key components to the front yard fence standards. They include height, setback, and transparency. These three components work together to create a consistent approach to front yard fencing that protects the functionality of the public sidewalk and maintains visibility of the street from the home and vice versa. The requirements for the maximum fence height, consistency in fence materials, and open fence style in the front yard of residential districts are, in part, to ensure that residential areas maintain an open and attractive street presence and public realm throughout Aurora’s neighborhoods.

That being said, this lot has some unique features and challenges for a traditional front yard fence. By having the home setback all the way to the rear of the property, an extensive front yard area has been created. The home is practically set back on the rear alley, which leaves no space for a traditional rear yard. Any fencing constructed on this property in front of the house would have to follow the front yard standards for fencing. However, since the homes to the north and south are located in a traditional placement on their respective lots, the applicant’s front yard fence is also the adjacent neighbor’s side yard fence. If these neighbors wanted to construct a side yard fence on their properties, they would be allowed a traditional 6-foot solid fence. Therefore, staff has no concerns or issues with the proposed height and style fence behind the front façade of the adjacent properties’ homes. The concern is where the 6-foot privacy fence extends in front of the front facades of the adjacent homes. Specifically, the area between the front of the fence and the front façade of the house to the north is approximately 22 feet and the area between the front of the fence line and the front façade of the house to the south is approximately 17 feet.

The 72-inch high, opaque, front yard fence located between the front property line and the respective front facades of the adjoining houses does not meet the intent of the code as proposed as it does not provide the visual permeability intended to support a safe environment for pedestrians and motorists. Staff would prefer to see the front 17 feet of the fence, which is the portion of the lot located in front of the plane of the neighboring home to the south, be modified to meet the front yard fence criteria listed in UDO section 146-4.7.9.L.1. which would be 42 inches high, open in style, and setback a minimum of 18 inches from the back of sidewalk.

Required Findings: According to Section 146-5.4.4.B.3 (Exhibit D), the Board of Adjustments and Appeals can grant variances based on the following criteria:

1. *Effect on adjacent properties.* The proposed variance will not adversely affect adjacent properties or the surrounding neighborhoods.

Staff Analysis: The proposed variance may present a significant adverse effect on adjacent properties or the surrounding neighborhood as proposed, in particular for the areas between the front property line and the front façade of the adjacent houses.

2. The proposed variance is consistent with the majority of the criteria as follows:

a. Improved Design

Staff Analysis: Staff finds that the fence does not entirely achieve an improved design as proposed, as it may cause visual impediments to the neighboring properties’ driveway areas.

b. Consistency with Neighborhood Character



Staff Analysis: Staff finds the front yard fence design is not compatible with the surrounding neighborhood as proposed as although some nearby homes do have a mostly closed style front yard fence, none of these reach the same height in the front yard area.

c. Compatibility with Adjacent Development

Staff Analysis: Some of the surrounding properties do have existing closed-style wood fences, but do not exceed the 42-inch front yard height limit to such an extent. The applicant's fence is not currently compatible with this pattern.

d. Impact on existing city infrastructure and public improvements

Staff Analysis: The existing fence does meet, and exceed, setback requirements and is not an impediment to sidewalk functionality or potential future public sidewalk improvements.

e. Internal efficiency of design

Staff Analysis: The location of the fence does not pose a physical impediment to pedestrians. As such, staff finds that the fence does achieve internal efficiency of design.

f. Control of external effects

Staff Analysis: The proposal would not cause significant adverse external effects on the public realm.

Conclusion:

Based on the required findings of Code Section 146-5.4.4.B.3, staff finds the requested variance does not meet the criteria as proposed because:

- They are not consistent with the character of the neighborhood and adjacent properties;
- The height and style of the fence may impact views from the neighboring property and;
- The proposed fence is highly visible to the public and would not provide mitigation for any external effects.

Staff Recommendation:

Staff recommends **Conditional Approval** of the 2 proposed variances under the following condition(s): The frontmost 25 feet on either side of the property, as measured from the back of the sidewalk, be modified to meet the front yard fence criteria listed in UDO section 146-4.7.9.L.1.



Recommended Motion:

I move that the Board of Adjustment **approve with one condition** the requested variances as proposed for the property located at 2072 N Emporia St. contained in case 03-24 because they meet the following criteria of the UDO:

- They would result in an improved design and provide a typical yard area for the subject property;
- They would result in development that is compatible with adjacent land development and the character of the surrounding neighborhood and;
- With the applied condition the fence would achieve an internal efficiency of design and would not have any adverse effects on public health or convenience.

Approval to be subject to the following condition:

1. The frontmost 25 feet on either side of the property, as measured from the back of sidewalk, be modified to meet the front yard fence criteria listed in UDO section 146-4.7.9.L.1

Alternative Motion(s):

I move that the Board of Adjustment **deny** the requested variances as currently proposed for the property located at 2072 N Emporia St. contained in case 03-24 because they do not meet the following criteria of the UDO:

- Board member lists findings.

ATTACHMENTS:

- Exhibit A – Vicinity Map
- Exhibit B – Application and Justification
- Exhibit C – Site Photos
- Exhibit D – City Code Section 146-5.4.4.B.3





City of Aurora Planning & Development Services
Department

APPLICATION TO THE BOARD OF ADJUSTMENT & APPEALS

15151 E. Alameda Parkway, Suite 2300 • Aurora, CO 80012 •
303.739.7217 boaplanning@aurora.org

INFORMATION FOR RESIDENTIAL VARIANCE

Introduction:

1. A variance is a request to deviate from a development standard required by the City's Unified Development Ordinance (UDO).
2. Current City code requirements are located on the City's website at www.auroragov.org
3. The Board of Adjustment hears variance requests for single-family residential properties uses only. All other land uses must follow the adjustment process through the Planning Commission.

General Notes:

1. A variance is granted to a specific property and will run with the land, regardless of ownership.
2. The variance process cannot be used to allow a use of land that is not authorized by the applicable zoning classification, also known as a use variance.
3. The final approval or denial of a variance is determined by the Board of Adjustment at a public hearing.

Process and Timeframe:

1. The Planning Division would prefer the application be submitted via email with electronic plans in PDF format.
2. Once submitted, the planning staff will review the application for completeness. After the completeness review, the application will be reviewed for compliance with the UDO. Occasionally, additional questions or clarification will be needed and updates to the plans may be required. A meeting with City staff can also occur to go over any comments or questions prior to the Board meeting.
3. In general, a resident can expect the process to take between 5-8 weeks from submittal to the Board meeting for decision.
4. In order to maximize the efficient processing of an application, it is in the applicant's best interest to ensure that a complete and thorough application has been submitted and that any subsequent resubmittals adequately address comments that were provided.
5. No building permit may be approved until the BOA has reviewed and approved the variance request. Likewise, approval of a request does not replace the need for acquiring the appropriate building permits, site plan approval, or any other

permit required by the City.

6. Although the actual Board meeting is in a hybrid (virtual and in-person) format, the applicant or representative is strongly encouraged to attend the meeting in person and be prepared to respond to questions from the Board concerning the variance. Failure to show up may result in the deferral or continuance of the request.

Submittal Requirements:

1. Please note that incomplete submittals will not be accepted for review. Any inaccurate or incomplete information provided by the applicant may cause the application to be returned to the applicant and/or delay the schedule of the review and hearing.
2. Please type or print clearly when filling out the application. After completing the application, schedule an appointment by emailing boaplanning@auroragov.org. In addition, you can also attach the application materials to this email and submit electronically.
3. When meeting with the applicant, staff will review the application for completeness and will provide instruction on the procedures and schedule of the hearing.
4. At the time of application submittal, a non-refundable application fee of \$157.00, payable to the City of Aurora, will be required. The application review will not begin until all fees have been paid.
5. Close to the public hearing, the case planner will prepare a public hearing sign for the applicant to post at the property a minimum of ten days prior to the hearing. **(Do not remove the sign prior to the hearing.)** The sign must be posted through the entire hearing process. In addition, notice of the request and public hearing will be sent to abutting properties to inform them of the variance request and opportunity to comment on the proposal.
6. Final submittal package to include the following:
 - a. Signed Application and the non-refundable review fee.
 - b. Narrative for the request (questions are found at the end of the application form).
 - c. Site Plan or Plot plan (no larger than 11 x17) Scaled drawing and include the following:
 - i. north arrow, scale, and property lines;
 - ii. location of existing and proposed dimensions of structures and buildings,
 - iii. existing and proposed setbacks,
 - iv. public or private easements,
 - v. location of existing and proposed driveways and sidewalks,
 - vi. label adjacent streets (names), alleys and sidewalks,
 - vii. location of trees and other major landscaping,
 - viii. and any other information to assist in the consideration of the request.

- ix. Staff can provide an example if requested.
- d. Building plans, diagrams, or details showing the exterior elevations of the proposed structure, including materials, height, and size.
- e. Photographs and/or drawings to support the request and;
- f. Additional support information as requested by City staff

APPLICATION TO THE BOARD OF ADJUSTMENT & APPEALS

Property Information:	
Case # (entered by staff)	
Address of Subject Property:	2072 Emporia St, Aurora, CO 80010
Zone District:	OAR2 Sub Area A
Variance Requested:	Maintain fence as is
The above request does not conform to Section(s): <u>146-4.11.1 D 2 and 146-4.7.9 L 1</u> of the Aurora Unified Development Code, which requires: <u>Fences in the front and front side yards must not be taller than 42 inches and need to be 50% open.</u>	

Property Owner Information:	
Name:	Sage RE LLC/Stanley Prato
Address:	7535 E Hampden Ave, Ste 400, Denver, CO 80231
Phone:	720-930-5700
Email:	sagereinternational@gmail.com


Does the applicant need translation services? Yes _____ No x _____

If yes, what language? _____

Applicant/Representative Information:	
If an applicant/representative on behalf of the owner of the property, please complete the following information:	
Name:	Gabrielle Prato
Address:	8095 S Kewaunee St, Aurora, CO 80016
Phone:	305-903-3312
Email:	sagereinternational@gmail.com


I hereby certify that the above information provided to the City of Aurora is true and accurate.

Applicant/Representative/Owner Signature:



Date: 02/14/2024 _____

I hereby authorize the person named above to act as my applicant/representative in processing this application before the Board of Adjustment for the City of Aurora (only needed if name is different):

Owner's Signature:  _____

Date: 02/14/2024 _____

To Be Completed by City:

Staff Review Information:
Case Number:
Case Manager:
Date Received:
Date Application Complete:
BOA Meeting Date:
Application Fee Paid Date:

Type, or print clearly, the name and complete address (including zip code) of each abutting (sharing a portion of the property line) **property owner: These owners will be notified of the request and hearing.**

ABUTTING PROPERTY
PHYSICAL ADDRESS:

ABUTTING PROPERTY
NAME & ADDRESS OF PROPERTY OWNER:

EXHIBIT B

JUVENTINO DE LARA
2065 EMPORIA ST
AURORA CO 80010

PROPERTY OWNER
BOKQUA LLC
2080 EMPORIA ST
AURORA CO 80010

MICHAEL BONN
2305 E ARAPAHOE RD STE 100
CENTENNIAL CO 80122

MYLES THROOP
C/O JERRY PARMER 212 DEGREE GRP
16963 SE PETROVITSKY RD
RENTON WA 98058

VARIANCE NARRATIVE

General Property Information:	
1.	Property Address: 2072 Emporia St, Aurora, CO 80010
2.	Applicant's Name: Gabrielle Prato
3.	Property Owner's Name: Sage RE LLC/Stanley Prato
4.	Current Zoning of the Subject Property: 0AR2 Sub Area A

Background Information	Yes	No	
1. Is this request an amendment to an existing variance?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	If yes, what was the previous case number? Case# _____
2. Is this application an attempt to correct a code violation of some kind?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	If yes, please attach a copy of the violation notice.

Section 5.4.4.B.3 of the UDO stipulates specific criteria for the approval of variances. No application for a variance shall be approved unless the BOA finds that the following criteria are met.

- a. The proposed variance results in improved design;
- b. The proposed variance does not adversely affect the character of the lower density residential area;
- c. The proposed variance will result in development that is compatible with adjacent land development;
- d. The proposed variance will not result in undue or unnecessary burdens on existing infrastructure and public improvements, or arrangements have been made to mitigate those impacts;
- e. The proposed variance results in development that achieves internal efficiency for its residents and does not endanger public health or convenience; and
- f. The proposed variance results in development that controls external effects on nearby land uses, movement and congestion of traffic, noise generated, arrangement of signs and lighting to prevent nuisances, landscaping, and features to prevent detrimental impacts on public health, welfare, safety, or convenience.

The following pages contain specific questions about the nature of your request. Therefore, it is in your best interest to answer them in as much detail as possible to help limit the number of questions and advance the application. Please do not simply answer with yes or no.

1. Describe in detail the nature of this request and why you are asking for this variance.

The fence was built during the entire home renovation project in 2022. The fence was built this way, primarily due to the position of the property all the way to the back of the lot. There is no backyard. Additionally, the neighboring dogs were barking and jumping up against their fence, which is substantially lower. So the fence provides some more security and privacy.
The fence has been installed for nearly 2 years, and has not caused any disturbances to the adjacent neighbors. We have had several inspectors come out to the property several times in 2022 and 2023 throughout the course of the renovation, and no one mentioned anything with regards to any code violations. The fence is well presented and ads curb appeal.
There are many other homes in the area with similar fence heights and openings.
At this time, it would really be difficult to re-do the fence, as we do not have the funds to do so.
We would highly appreciate any assistance in this matter.

2. Describe in detail all efforts made to comply with the requirements of the regulation or ordinance and why, in this particular case, that was not possible?

During the renovation in 2022/2023, we had multiple city inspectors come out, and no one had mentioned anything about the fence. We had casually asked one of the inspectors at one point with regards to the fence, while it was being built, and he only mentioned the 42" height requirement for the front fence (which we did), without mention of any side yard fence requirements or the 50% open requirement.
At this time it would be really difficult to re-do the fence, as we do not have the funds to do so.

3. Describe how the proposed variance results in an improved design in comparison to what would be allowed under the code.

The fence looks really nice, and it uplifts that part of Emporia St. It provides a little bit more privacy as well. It does not cause any disturbance to any of the adjacent neighbors; we have not received any negative feedback from the adjacent property owners.
The fence is made of cedar plank, which is an approved material within the city of Aurora.

4. Does the proposed variance result in development that is not compatible with adjacent land development?

No. Residential properties are permitted to have front yard fences. As we do not have a backyard due to the property's position on the lot, we built this fence as is to provide some sort of security and privacy. There are many similar fences in the neighborhood, with similar closed in style and height.

5. Will the proposed variance have any burdens on existing infrastructure or future public improvements in the area?

No. The fence meets city set backs requirements. It does not encroach on any sidewalks, and would not have any effect on future city improvements.

6. Does the proposed variance create greater efficiency, convenience, and public health?

The fence provides some security and safety, and a sturdier screen.

7. Will the proposed variance affect traffic, noise, signage, lighting, or landscaping in the area?

No. The fence meets city set backs requirements. It does not encroach on any sidewalks, and does not interfere with traffic, any signages or street lights. There was no previous landscaping where the fence is, just the adjacent neighbors' fences.















**BOARD OF ADJUSTMENT
AND APPEALS HEARING**

NOTICE IS HEREBY GIVEN THAT A
HEARING WILL BE HELD AT THE
AURORA MUNICIPAL CENTER,
15151 E. ALAMEDA PARKWAY,
ASPEN ROOM, #2200
AT 6:00 P.M., ON 3/19/2024
TO CONSIDER A REQUEST FOR
A WAIVER FOR THIS PROPERTY.
FURTHER INFORMATION
CONCERNING THIS
REQUEST MAY BE OBTAINED
FROM THE PLANNING DEPARTMENT
303-739-7217

B. Single-Family Dwelling Variance

All applicable provisions of Section 146-5.3 (Common Procedures) apply unless specifically modified by the provisions of this Section 146-5.4.4.B.

1. Applicability

This Section 146-5.4.4.B applies to all applications for a variance from the standards and of provisions of this UDO or to the provisions of Chapter 90 as they relate to the modification of an existing single-family dwelling or the lot on which it is located that do not qualify for approval as a Minor Amendment under Section 146-5.3.15.A. This section may not be used to vary the standards or provisions of this UDO for single-family homes that have not yet obtained a certificate of occupancy or Manufactured Homes that have not yet been installed in accordance with Chapter 90.

1. Procedure

- a. Planning Director shall review the application and forward a recommendation to the Board of Adjustment and Appeals pursuant to all applicable provisions of Section 146-5.3 (Common Procedures).
- b. The Board of Adjustment and Appeals shall conduct a public hearing on the application and shall make a decision on the application pursuant to all applicable provisions of Section 146-5.3.

2. Criteria for Approval

An application for a Single-family Dwelling Variance shall be approved if the Board finds that the proposed variance will not adversely affect adjacent properties or the surrounding neighborhoods and a majority of the following criteria have been met.

- a. The proposed variance results in improved design.
- b. The proposed variance does not adversely affect the character of lower density residential areas.
- c. The proposed variance will result in development that is compatibility with adjacent land development.
- d. The proposed variance will not result in undue or unnecessary burdens on existing infrastructure and public improvements, or arrangements have been made to mitigate those impacts.
- e. The proposed variance results in development that achieves internal efficiency for its residents and does not endanger public health or convenience.
- f. The proposed variance results in development that controls external effects on nearby land uses, movement and congestion of traffic, noise generated, arrangement of signs and lighting to prevent nuisances, landscaping, and features to prevent detrimental impacts on public health, welfare, safety or convenience.