

KENSINGTON MUNICIPAL ADVISORY COUNCIL
REGULAR MEETING MINUTES
TUESDAY, August 26, 2008

1. Roll Call – Ray Barraza, Pamela Brown and Christopher Brydon were present.
2. Review of the Minutes of July 29, 2008. This review was tabled because there are not enough members present who had been present at the July meeting to be qualified to vote on these minutes.
3. Citizens' Comments. There were no citizen comments.
4. **19 Lenox (DP 08-3028)** Development Plan review for a new addition exceeding the gross floor area for the parcel including design review for an existing deck located in the rear yard. A variance for a 1-foot side yard and a 2-foot rear yard and variance for a 7- foot fence on rear yard property line is requested. Construction completed without permits. Continued from July 29, 2008 hearing.

The applicant described the deck and patio cover, the two issues that required a variance. To address sound issues with the neighbor behind, he proposed to build the fence with solid wood tongue and groove to address sound issues. He said that the neighbors were agreeable to this change. He would also go on record on this issue.

KMAC asked about whether this was a grant of special privilege and the applicant said he didn't go find other houses with decks in a similar condition. He expressed a concern that he couldn't go into the backyards of neighbors to see if there were similar decks in the neighborhoods.

With the patio cover, they have worked out an arrangement with the neighbor where he will leave the posts where they are, but slant part of the upper beam so that it is closer to the existing roof.

Ray indicated he didn't have an issue with replacing a pre-existing retaining wall that falls over the 6 feet height, even though it would involve a variance. But KMAC expressed their concerns that they felt the remainder of the application would constitute a grant of special privilege and would not warrant a variance.

The applicant requested a continuance to submit revised drawings to CDD (and KMAC). Drawings to include items discussed with his neighbors and at KMAC meeting. This motion was passed unanimously.

5. **264 Yale (VR08-1040)** Request for a variance to height limitations for an already built fence/ retaining wall with a maximum height of 9' located on the property line.

The applicant, Herb Baskin, came to speak on the issue. More than a year ago, he wanted to replace existing fences and retaining walls and to address drainage concerns. He wanted to improve security and privacy issues as well. He consulted all three neighbors about replacing the fence. He contacted a construction engineer but he was not aware of how fence heights were measured. A building inspector appeared after a report that the fence height that was over 6 feet and it was placed on an enforcement report. The building inspector said it should be cut down to 6 feet, but when he came out to approve it and then he brought some other county staff member who disagreed with the original inspector's ruling. It was then determined that the fence and retaining wall both were to be considered within the 6 feet height and that is why he is before the council today.

Frederick Hyer, the neighbor to the west, believed it wasn't a grant of special privilege. There are other yards in the neighborhoods that have similar issues with sloping lots. They were concerned about privacy if it wasn't a six foot fence. There is no one impacted by it. The neighbor said the fence height was the same as it ever was.

Richard Ezzard on the north side did not express any concerns with the construction. It replaced a fence that was in poor condition and they approve of the change.

Hissako Ezzard also expressed her support with the new fence construction.

Nicki Spillane presented photos of the applicant's house. They are the south side neighbors, and she showed photos indicating that the fence height is higher than it was in the past, that it isn't merely a replacement of the fence and retaining wall as it was.

KMAC in reviewing photos of the before and after fence, noticed that in some locations the yard had been filled in and the combined fence and retaining wall height were higher than in the past. In other locations, it was not the case. Some KMAC members expressed a concern that this construction would be a grant of special privilege.

A motion to recommend denial of the variance request received a 2-1 vote, but it was not adopted because 3 "yes" votes are required for KMAC to adopt a motion. Therefore, the application is returned to Community Development without recommendation.

6. **214 Yale (DP08-3054)** Development plan review for work granting approval of an already built deck in the rear of the property to an attached fence.

Amanuel Haile, the applicant, contacted a county building inspector when constructing a deck in the back of their home. There were multiple meetings about this project, and Mr. Haile said he complied wherever he thought he needed to, moving the deck out of the setback and pulling dirt away from the fence. Lea Haile spoke with the county and based on their discussion, they believed that they did what they needed to construct the deck according to the rules.

Phyllis Crakow (209 Amherst) expressed concern about the construction of decks at the back of the property, specifically that the project affected her privacy. She presented several photos that illustrate these privacy concerns.

Fereshteh Niroomand (212 Yale) is at the north of the applicant's property. She has concerns over privacy and the lack of consultation with the neighbors.

Bart Jones, a local architect speaking on behalf of Ms. Crakow, indicated this project represents the need for KMAC's review. He expressed some concerns over the detail in the plans and presented an alternate set of drawings that instead of showing the deck being 18 inches off the ground, it was more like 42 to 52 inches because of two feet of fill which he said was added to the property. And if it is more than 30 inches off the ground requires a permit.

Robert Dudley (215 Amherst) is at the south-west of the property. He read a letter on behalf of the north west neighbor, Julie Molkenbuhr, that expressed concerns about privacy impacts of the deck. Mr. Dudley expressed concern privacy issues and property concerns.

Laura Dubinett (198 Amherst), a neighbor and close friend of Ms. Crakow, as a real estate agent identified some concerns about lack of privacy and the impact that lack of privacy for the neighbor. As a real estate agent, she indicated the current issues would have to be disclosed and then indicated it would have a domino effect on others in the neighborhood.

Anne Fleming echoed privacy concerns and the need for the permit process to be followed.

Alison Davies (209 Amherst) read a letter for Jeff Lee recommending denial for the variance because of concerns over loss of privacy concerns. She indicated she has been at home during the day and day care activities in the house and on the deck has created a lot of noise in the neighborhood.

In response, Mr. Haile indicated there would be privacy concerns with or without the deck because of the slope of the lot.

Vice-Chair Barraza questioned the applicant regarding some of the unspecified dimensions on the drawing presented. Also, when questioned, the applicant acknowledged that the soil between the deck and the rear fence shown as level on the drawing is in fact sloping.

A motion to continue was approved unanimously to allow KMAC to inspect the applicant's property as well as several neighbor's impacts.

7. Update on 401 Colusa application status with regards to Planning Commission meeting. Commissioner Clark asked the architect to go back to address the neighbors and KMAC's concerns.

8. Information Reports

a) Enforcement Report – All three from this evening were on the enforcement report.

9. Adjournment

A motion to adjourn was passed at 10:20pm.