

City of West Linn
PRE-APPLICATION CONFERENCE MEETING
Notes
September 15, 2011

SUBJECT: Installation of a four foot fence along retaining walls at Bolton Fire Station at 6050 Failing Street

ATTENDEES: Applicants: Mark Kost, Mark Higley (TVFR)
Planner: Peter Spir

The following is a summary of the meeting discussion provided to you from staff meeting notes. Additional information may be provided to address any "follow-up" items identified during the meeting. These comments are PRELIMINARY in nature. Please contact the Planning Department with any questions regarding approval criteria, submittal requirements, or any other planning-related items. Please note disclaimer statement below.

Project Details

The Bolton Fire Station design incorporates rough faced concrete retaining walls on the south and east sides of the site perimeter. The wall goes from grade to heights in excess of ten feet.

TVFR is proposing to install a 295 foot long four foot high cyclone fence on top of these retaining walls to discourage kids from walking/running along the top of the retaining wall. The concern is that someone could fall from that wall down to the sidewalk below.



Staff's initial response was that if we approve something along or adjacent to the top of the retaining wall it should serve the dual purpose of softening the very harsh monolithic view presented by the

retaining wall, particularly on the south side as seen from the Failing Street and Buck Street intersection. To this end, staff looked into the use of a thorny hedge. Barberry “William Penn” was recommended by the Parks department as a fast growing, colorful, drought tolerant evergreen bush that can create a very effective barrier thanks to multiple 5/8ths inch thorns.



Although the Barberry bushes would serve as a deterrent and would soften the look of the top of the wall, they would not address the concern that they cannot substitute for a solid barrier. Kids would still be able to run through it, albeit painfully, and fall off the retaining wall. Secondly, the hedge could crowd out the very attractive landscape plan that has matured nicely at this site, particularly the firefighter roses.

That brought staff back to a fence. Staff initially proposed a wrought iron fence similar to one on the north property line but that was declared too costly by the applicant. And, although it is relatively attractive, it does have a significant visual presence which might only further exaggerate the vertical dimension of the retaining walls.



Another option which seems to address both the functional and aesthetic needs is a fence consisting of three or four galvanized wires or cables that run horizontally between steel posts 6-8 feet on center. Because the retaining wall is not a deck, stair rail or landing the building code standards do not apply.

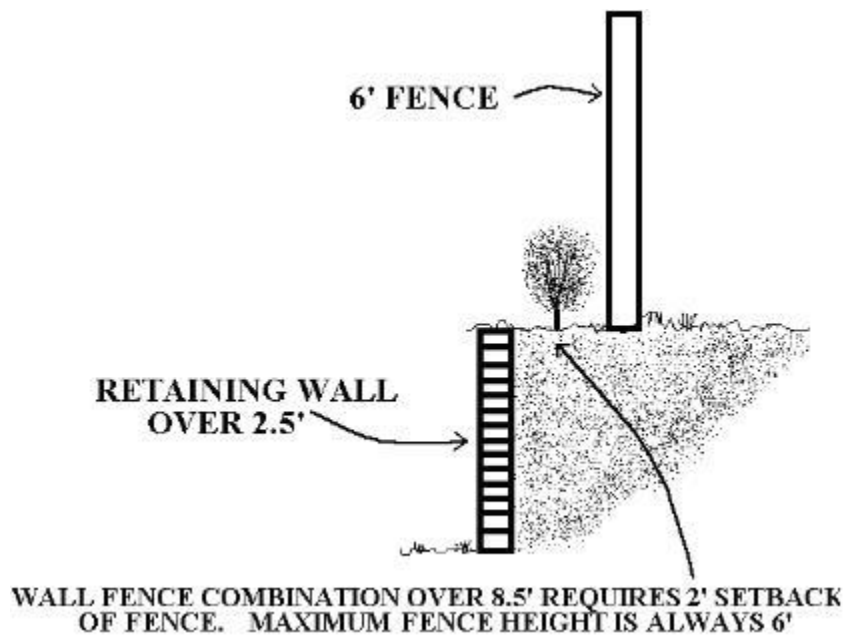
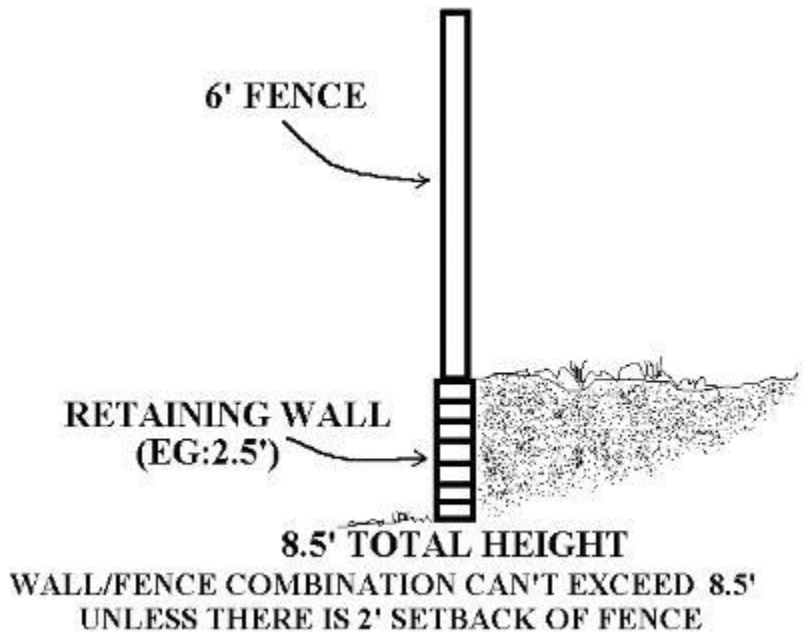
TVFR considered this to be a reasonable option. The picture below has more horizontal cables and has a top railing but it gives an idea of what is being discussed.



Complicating matters somewhat is the language in Community Development Code chapter 44: Fences.

44.020(B). Fence or wall on a retaining wall. When a fence is built on a retaining wall or an artificial berm, the following standards shall apply:

1. When the retaining wall or artificial berm is 30 inches or less in height from finished grade, the maximum fence or wall height on top of the retaining wall shall be six feet.
2. When the retaining wall or earth berm is greater than 30 inches in height, the combined height of the retaining wall and fence or wall from finished grade shall not exceed eight and one-half feet.
3. Fences or walls located on top of retaining walls or earth berms in excess of 30 inches above finished grade may exceed the total allowed combined height of eight and one-half feet; provided, that the fence or wall is located a minimum of two feet from the retaining wall and the fence or wall height shall not exceed six feet.



Since most of the retaining walls at the fire station already exceed 8.5 feet without even adding a fence, a Class II Variance is required unless the applicant can provide a two foot setback of the fence from the top of the wall. Attendees at the pre-application conference discussed the two foot setback and the conclusion was that it would not work since it would result in significant landscape losses and would not keep kids off the wall at its low points. Therefore the application will require, in addition to a Class I Design Review, a Class II variance which involves a Planning Commission hearing, permit cost and additional processing time.



Process

Class I Design Review and a Class II Variance are required.

Class I Design Review permit requires a site plan. You can submit one of the site plans from the original fire station approval or construction drawings. You will also need to show on those plans where the fence will go. You should also include product literature/brochure, including a photograph of the final product, from the manufacturer. Three copies must be submitted.

You must also respond in writing to the following approval criteria:

55.100(G). ***Demarcation of public, semi-public, and private spaces.*** *The structures and site improvements shall be designed so that public areas such as streets or public gathering places, semi-public areas, and private outdoor areas are clearly defined in order to establish persons having a right to be in the space, to provide for crime prevention, and to establish maintenance responsibility. These areas may be defined by:*

1. *A deck, patio, fence, low wall, hedge, or draping vine;*
2. *A trellis or arbor;*
3. *A change in level;*
4. *A change in the texture of the path material;*
5. *Sign; or,*
6. *Landscaping.*

Use of gates to demarcate the boundary between a public street and a private access driveway is prohibited. (ORD. 1463)

55.100 (J). **Crime prevention and safety/defensible space.**

1. *Windows shall be located so that areas vulnerable to crime can be surveyed by the occupants.*
2. *Interior laundry and service areas shall be located in a way that they can be observed by others.*
3. *Mail boxes, recycling, and solid waste facilities shall be located in lighted areas having vehicular or pedestrian traffic.*
4. *The exterior lighting levels shall be selected and the angles shall be oriented towards areas vulnerable to crime.*
5. *Light fixtures shall be provided in areas having heavy pedestrian or vehicular traffic and in potentially dangerous areas such as parking lots, stairs, ramps, and abrupt grade changes.*
6. *Fixtures shall be placed at a height so that light patterns overlap at a height of seven feet which is sufficient to illuminate a person. All commercial, industrial, residential, and public facility projects undergoing design review shall use low or high pressure sodium bulbs and be able to demonstrate effective shielding so that the light is directed downwards rather than omni-directional. Omni-directional*

lights of an ornamental nature may be used in general commercial districts only.

7. *Lines of sight shall be reasonably established so that the development site is visible to police and residents.*
8. *Security fences for utilities (e.g., power transformers, pump stations, pipeline control equipment, etc.) or wireless communication facilities may be up to eight feet tall in order to protect public safety. No variances are required regardless of location. (ORD. 1408)*

Because the retaining wall and fence will exceed 8.5 feet, a Class II Variance is required. Specifically, it is to waive the requirements of CDC 44.020(B). The Class II Variance's submittal requirements are satisfied by the submittal of the site plan for design review.

You must respond to the approval criteria of CDC 75.060 with at least one or two sentence answers per each of the six criteria:

75.060 THE APPROVAL CRITERIA

The appropriate approval authority shall approve a variance request if all the following criteria are met and corresponding findings of fact prepared. The approval authority may impose appropriate conditions to ensure compliance with the criteria. The approval authority shall deny the variance if any of the criteria are not met.

1. *Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape, legally existing prior to the date of this ordinance, topo-graphy, or other circumstances over which the applicant has no control.*
2. *The variance is necessary for the preservation of a property right of the applicant, which is substantially the same as a right possessed by owners of other property in the same zone or vicinity.*

3. *The authorization of the variance will not be materially detrimental to the purposes and standards of this Code, will not be inconsistent with all other regulatory requirements, and will not conflict with the goals and policies of the West Linn Comprehensive Plan.*
4. *The variance request is the minimum variance, which would alleviate the exceptional and extraordinary circumstance.*
5. *The exceptional and extraordinary circumstance does not arise from the violation of this ordinance.*
6. *The variance will not impose physical limitations on other properties or uses in the area, and will not impose physical limitations on future use of neighboring vacant or underdeveloped properties as authorized by the underlying zoning classification.*

Simply stating “N/A” is not an acceptable response to the approval criteria. If criteria does not apply you must explain why it does not apply. Prepare the application and submit to the Planning Department with deposit fees and signed application form.

The deposit fee for design review is \$1,000 and the deposit fee for the Class II Variance is \$1,850.

Once the application submittal is deemed complete, the Planning Director will send out public notice of the pending hearing with the Planning Commission. The Planning Commission hearing will generally be within four weeks of the date the application is deemed complete. You should plan on attending the hearing. The decision may be appealed by the applicant or anyone with standing to City Council, which would require at least one City Council hearing.

Typical land use applications can take 6-10 months from beginning to end.

DISCLAIMER: This summary discussion covers issues identified to date. It does not imply that these are the only issues. The burden of proof is on the applicant to demonstrate that all approval criteria have been met. These notes do not constitute an endorsement of the proposed application. Staff responses are based on limited material presented at this pre-application meeting. New issues, requirements, etc.

could emerge as the application is developed. Pre-application notes are void after 18 months. After 18 months with no application approved or in process, a new pre-application conference is required.





Pre-app2011/pre-app 2011.09.15/PA-11-24 Fire station fence