

**Minutes  
Zoning Administrator Meeting  
May 6, 2010**

**Staff Present**

Charley Stump, Zoning Administrator  
Jennifer Faso, Senior Planner  
Cathy Elawadly, Recording Secretary

**Others Present**

Constance Gutierrez  
Delbert Gutierrez

**1. CALL TO ORDER**

Zoning Administrator Stump called the meeting to order at 2:08 p.m. in Conference Room No. 1, Ukiah Civic Center, 300 Seminary Avenue, Ukiah, California.

**2. SITE VISIT VERIFICATION**

Staff confirmed the site visit for item 6A.

**3. APPROVAL OF MINUTES: March 30, 2010**

**Zoning Administrator Stump** added the following sentences:

Page 3, paragraph 2, Pat Stefani, 'Expressed concern/opposition to the project.'

Page 3, paragraph 6, Zoning Administrator Stump, 'He also distinguished this project from others as a project benefit benefiting the community rather than a single property owner.'

**Zoning Administrator Stump** approved the minutes for March 30, 2010, as amended.

**4. APPEAL PROCESS**

**Zoning Administrator Stump** read the appeal process. For matters heard at this meeting, the final date to appeal is May 17, 2010.

**5. VERIFICATION OF NOTICE**

**Jennifer Faso** confirmed Gutierrez Fence Variance Request, File No. 10-06-VAR-ZA was legally noticed in accordance with the provisions of the Ukiah Municipal Code.

**6. PUBLIC HEARINGS**

**6A. Gutierrez Fence Variance Request, 54 Highland Drive, APN 001-274-11.** Request for approval of a minor variance to reduce the required setback from the property line for a 6 foot tall fence from 20 feet to 5 feet. The fence is required in order to enclose a garden.

**Zoning Administrator Stump:**

- Dispensed with the staff report and noted the only persons in attendance in addition to staff are the applicants.
- Staff confirmed the project has no other identifiable outstanding issues.
- Staff received no public concerns/objections to the project.

**PUBLIC HEARING OPENED: 2:11 p.m.**

The applicant agreed with the staff report, the findings and conditions of approval and had no other project concerns.

**PUBLIC HEARING CLOSED: 2:12 p.m.**

**Zoning Administrator Stump:**

- Support of the necessary findings for approval of a variance can be difficult as was not the case in this instance. The subject property is unlike any other in the neighborhood

1 since the property must comply with the frontyard zoning setback requirements on three  
2 sides.

- 3 • The project would not be detrimental to the neighbors.
- 4 • The project is in a prime location for a variance.

5  
6 **Associate Planner Faso** drew attention for the benefit of the applicants to the project condition  
7 from the City Public Works Department that states, 'Due to the curvature of back of sidewalk a  
8 minimum five feet clearance must be maintained from the back of sidewalk and the proposed  
9 fence, along the total length of the property.'

10  
11 **Zoning Administrator Stump** has visited the site, supports approval of the project, agrees with  
12 staff's findings and project conditions and acted to approve Minor Variance 10-06-VAR-ZA with  
13 Findings 1-4 and Conditions of Approval 1-7.

14  
15 **MINOR VARIANCE FINDINGS TO APPROVE A VARIANCE REQUEST TO ALLOW A**  
16 **SIX FOOT FENCE TO BE LOCATED FIVE FEET FROM THE FRONT PROPERTY LINE**  
17 **LOCATED AT 54 HIGHLAND DRIVE**

18  
19 The following findings are supported by and based on information contained in this staff report,  
20 the application materials, and the public record.

- 21  
22 1. See General Plan and Zoning Section of the staff report.
- 23  
24 2. The following special circumstances apply to the subject property; therefore the strict  
25 application of the code will deprive the property owner privileges enjoyed by other  
26 properties within the R-1 zone.
  - 27
  - 28 • No other parcels in the area, and possible the city are configured similar the subject  
29 parcel in that this parcel has three fronts.
  - 30
  - 31 • The subject property is a large corner lot that has by definition three fronts, therefore the  
32 property owner is limited to a 3 foot tall fence along the entire front age of this property.  
33 This limits the useable side yard space for this particular lot.
  - 34
  - 35 • If the property owner is held to the current regulations in regards to fence heights he  
36 would not be able to use his side yard as other property owners within this district have  
37 been able to.
  - 38
- 39 3. The granting of this variance will not constitute a grant of special privilege because other  
40 properties within this neighborhood and within the R-1 zoning district are able to enclose  
41 their side yards and utilize more of their property because their properties do not have  
42 multiple fronts.
- 43  
44 4. The granting of this variance will not be detrimental to the surrounding property owners  
45 based on the following:
  - 46
  - 47 • The proposed fence would not block or change the pedestrian and vehicle circulation  
48 within the neighborhood.
  - 49 • The project is required to comply with all applicable local, state and federal regulations.
  - 50 • Enclosure of a portion of the side yard with a six foot fence will not result in an  
51 intensification of the existing primary residential use of the property.
  - 52 • The proposed fence will be attractive and will be an enhancement to the neighborhood.
  - 53 • The granting of this variance will not change the existing footprint of the primary structure  
54 Therefore the privacy of the neighbors will not be compromised.
  - 55

1 5. The proposed project is exempt from the provisions of CEQA pursuant to CEQA  
2 Guidelines Section 15303, Class 5(a) which allows minor alterations in land use  
3 limitations including set back variances based on the following:

- 4 • The proposed project involves minor alterations in land use which do not result in the  
5 creation of any new parcels; specifically this project involves a variance from the required  
6 20 foot setback for a six foot tall fence.
- 7 • The project is not located within an environmentally sensitive area in that the project is  
8 located on a developed residential lot. No water courses, wildlife, wildlife habitat, floodway  
9 or floodplain or other environmentally sensitive areas are present.

10  
11 **VARIANCE CONDITIONS OF APPROVA TO APPROVE A VARIANCE REQUEST TO**  
12 **ALLOW A SIX FOOT FENCE TO BE LOCATED FIVE FEET FROM THE FRONT PROPERTY**  
13 **LINE LOCATED AT 54 HIGHLAND DRIVE.**  
14

- 15
- 16 1. Variance approval is granted for a six foot tall wood fence to be located 5 feet from the  
17 front property line as shown on the plans and project description submitted to the  
18 Community Development and Planning Department and date stamped March 26, 2010  
19 except as modified by the following conditions of approval.
- 20
- 21 2. Except as otherwise specifically noted, this variance shall be granted only for the specific  
22 purposes stated in the action approving the variance and shall not be construed as  
23 eliminating or modifying any building, use, zoning or other requirements except as to  
24 such specific purposes.
- 25
- 26 3. This approved variance may be revoked through the City's revocation process if the  
27 approved project related to the Permit is not being conducted in compliance with the  
28 stipulations and conditions of approval; or if the project is not established within two years  
29 of the effective date of approval; or if the established and use for which the permit was  
30 granted has ceased or has been suspended for twenty-four (24) consecutive months.
- 31

32 From Public Works Department ( Ben Kageyama 463-6284)  
33

- 34 4. Due to the curvature of back of sidewalk a minimum five feet clearance must be  
35 maintained from the back of sidewalk and the proposed fence, along the total length of  
36 the property.
- 37

38 Standard City Conditions of Approval  
39

- 40 5. No permit or entitlement shall be deemed effective unless and until all fees and  
41 charges applicable to this application and these conditions of approval have been paid  
42 in full.
- 43
- 44 6. The property owner shall obtain and maintain any permit or approval required by law,  
45 regulation, specification or ordinance of the City of Ukiah and other Local, State, or  
46 Federal agencies as applicable. All construction shall comply with all fire, building,  
47 electric, plumbing, occupancy, and structural laws, regulations, and ordinances in effect  
48 at the time the Building Permit is approved and issued.
- 49
- 50 7. This approval is contingent upon agreement of the applicant and property owner and their  
51 agents, successors and heirs to defend, indemnify, release and hold harmless the City,  
52 its agents, officers, attorneys, employees, boards and commissions from any claim,  
53 action or proceeding brought against any of the foregoing individuals or entities, the  
54 purpose of which is to attack, set aside, void or annul the approval of this application.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17

This indemnification shall include, but not be limited to, damages, costs, expenses, attorney fees or expert witness fees that may be asserted by any person or entity, including the applicant, arising out of or in connection with the City's action on this application, whether or not there is concurrent passive or active negligence on the part of the City. If, for any reason any portion of this indemnification agreement is held to be void or unenforceable by a court of competent jurisdiction, the remainder of the agreement shall remain in full force and effect.

**7. ADJOURNMENT**

There being no further business, the meeting was adjourned at 2:12 p.m.

\_\_\_\_\_  
Charley Stump, Zoning Administrator

\_\_\_\_\_  
Cathy Elawadly, Recording Secretary