

APPLICATION FOR A CERTIFICATE OF APPROPRIATENESS – STAFF REPORT

 COA-0066-2019
 602 E LANE STREET

 <u>Applicant</u>:
 LAURA AND LEON MALAHAIS

 <u>Received</u>:
 6/12/2019

 <u>Submission date + 90 days</u>:
 12/09/2019

 1) 7/25/2019
 2)

INTRODUCTION TO THE APPLICATION

Historic District: OAKWOOD HISTORIC DISTRICT Zoning: GENERAL HOD

<u>Nature of Project</u>: Replace picket fence in rear and side yards; install 42" fence around the Elm St side yard; install gates; replace 42-56" fence along Elm St

Staff Notes:

- This application is partially after-the-fact. After-the-fact applications are reviewed as though the work has not been completed.
- COAs mentioned are available for review.

APPLICABLE SECTIONS OF GUIDELINES and DESCRIPTION OF PROJECT

Sections	Topic	Description of Work
1.3	Site Features & Plantings	Replace picket fence in rear yard; install 42" fence
		around the Elm St side yard; install gates; replace 42-
		56" fence along Elm St
1.4	Fences and Walls	Replace picket fence in rear yard; install 42" fence
		around the Elm St side yard; install gates; replace 42-
		56" fence along Elm St

STAFF REPORT

Based on the information contained in the application and staff's evaluation:

- A. The installation of a 56" tall wooden fence and 42" fence and gates is not incongruous in concept according to *Guidelines* 1.3.2, 1.3.7, 1.4.6, 1.4.8, 1.4.11 however, the height of the fence along Elm Street **may be** incongruous according to *Guidelines* 1.4.11, and the following suggested facts:
- 1* Location: The applicant proposes the removal and replacement of fencing on the south (rear), east and west sides of the yard. The west side is along Elm Street. No change in fence location is proposed, but the Elm Street fencing is proposed to be extended further towards Lane Street.

- 2* *Material*: Wood is a traditional fencing material. The proposed fence will have a painted grey finish.
- 3* Height: The existing deteriorated fencing is between 42-70" in height and is tiered to follow the slope of the property. On the south and east property lines the fence height ranges from 52" to 70". The proposed replacement fence height is for this section is 56". Along the west, or Elm Street, side the fence ranges in height from 42-56". From the gate closest to the house forward towards Lane Street the proposed fence height is 42". From the same gate to the rear property line the proposed fence height will mimic the original fence height, a range from 42-56".
- 4* *Configuration*: The committee has regularly found that 6'-tall wood privacy fences meet the *Design Guidelines* in Oakwood when installed in rear and side yards (except for corner lots). The proposed fence and gate locations are characteristic of the district.
- 5* Design: The proposed fence design is a decorative Craftsman style along Elm Street and traditional picket along the south and east property lines. It is proposed to be painted grey. Traditionally, fences were constructed with neighbor friendly design, with structural members facing inward; the proposed fence designs have the same appearance on each side.
- 6* The application includes details on the 10' grade change from the north-south to illustrate the need for the stepped fence style. A partial site section and photographs were also provided.
- 7* The height of fences is measured from inside the yard from grade to the top of the fence not counting post caps.
- 8* Evidence was provided to show that the 42" fence appears taller from the street due to the grade. Photographs were provided that show the height of the fence from the inside of the yard is 42" at the panels closest to Lane Street. In the first photo on page 6 of the scope of work, the panel to the left appears to be taller than 42". Examples of three properties that have side yard fences on elevated lots were provided: 525 N Bloodworth (133-07-MW), 404 Elm Street (084-18-CA), and 500 N Boundary (070-16-MW).
- 9* The application includes a fence at 610 N Bloodworth Street as an example of a similar style. This fence was approved through COA 088-15-CA.
- 10* The application includes a fence at 523 N Bloodworth as an example of a corner property that has an approved fence taller than 42" (088-16-MW and 165-15-CA).

Staff Report

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Staff suggests that the Committee discuss the height of the fence along Elm Street.

Pending the committee's determination regarding the height of the fence along Elm Street, staff suggests that the Committee approve the fencing along the south and east sides with the following condition:

 That any new post holes be dug manually and tree roots larger than 1" caliper that are encountered while digging the fence post holes shall receive a clean final cut using tools designed for the purpose, such as loppers.

Staff Contact: Collette Kinane, collette.kinane@raleighnc.gov

Type or print the following:					
Applicant name:					
Mailing address:					
City:	State:		Zip code:		
Date: Dat		Day	ytime phone #:		
Email address:					
Applicant signature:					
Minor work (staff review) – one copy			Office Use Only		
Major work (COA committe	e review) – ten		Transaction #:		
copies			File #:		
Additions > 25% of b	ouilding sq. footage	e	Fee:		
New buildings			Amount paid:		
Demolition of buildin	ng or structure		Received date:		
All other			Received by:		
Post approval re-review of conditions of					
approval					
Property street address:					
Historic district:					
Historic property/Landmark name (if applicable):					
Owner name:					
Owner mailing address:					

For applications that require review by the COA Committee (major work), provide addressed and stamped envelopes for owners for all properties with 100 feet on all sides of the property, as well as the property owner.

Property Owner Name & Address	Property Owner Name & Address

REVISION 7.2.19

I understand that all major work applications that require review by the Raleigh Historic Development Commission's COA Committee must be submitted by 4 p.m. on the date of the application deadline; otherwise, consideration will be delayed until the following committee meeting. An incomplete application will not be accepted.

Will you be applying for rehabilitation tax credits for this project?	Office Use Only
Yes No	Type of work:
Did you consult with staff prior to filing the application?	
Yes No	

Design Guidelines: please cite the applicable sections of the design guidelines (www.rhdc.org).				
Section/Page	Торіс	Brief description of work (attach additional sheets as needed).		

Minor Work Approval (office use only)

Upon being signed and dated below by the Planning Director or designee, this application becomes the Minor Work Certificate of Appropriateness. It is valid until ______.

Please post the enclosed placard form of the certificate as indicated at the bottom of the card. Issuance of a Minor Work Certificate shall not relieve the applicant, contractor, tenant, or property owner from obtaining any other permit required by City Code or any law. Minor Works are subject to an appeals period of 30 days from the date of approval.

Signature (City of Raleigh) _____

Date_____

REVISION 7.2.19

raleighnc.gov

1704906261 MALAHIAS, LEON MALAHIAS, LAURA 602 E LANE ST RALEIGH NC 27601-1146

1704905211 LEDO, MICHELE KRABILL, LAURA 227 ELM ST RALEIGH NC 27601-1133

1704906185 NEWSOM, ALFRED D NEWSOM, SUZANA SILVA 226 ELM ST RALEIGH NC 27601-1134

1704907212 BISHOP, ASA ORIN III BISHOP, HEATHER VICKERY 606 E LANE ST RALEIGH NC 27601-1146

1704907369 SIGMON, MARK R SIGMON, ALLISON B 605 E LANE ST RALEIGH NC 27601-1145 1704905100 WARD, HENRY C 223 ELM ST RALEIGH NC 27601-1133

1704905226 OCONNOR, DANIEL 229 ELM ST RALEIGH NC 27601-1133

1704906379 BROWN, MATTHEW M 601 E LANE ST RALEIGH NC 27601-1145

1704907252 FRANKLIN, JOSHUA B FRANKLIN, ANN MARIE 610 E LANE ST RALEIGH NC 27601-1146 1704905115 NUNNERY, JOSEPH R BLACK, DARCIA M 225 ELM ST RALEIGH NC 27601-1133

1704905451 BRONSTEIN, RICHARD S BRONSTEIN, JUANITA R 3025 WALBERT AVE ALLENTOWN PA 18104-2305

1704907100 CALLAHAN, RICHARD G CALLAHAN, CYNTHIA MOORE 218 ELM ST RALEIGH NC 27601-1134

1704907329 PETRO, JOHN FRANCIS PETRO, ANN ELIZABETH 603 E LANE ST RALEIGH NC 27601-1145

Proposed Scope of Work

We would like to create a more functional and visually appealing backyard by:

 Replacing the current fence (56" high) around the street side, backyard and neighbor side yard and extending the fence line to encompass the Elm Street side yard. We are proposing a neighbor friendly, alternating width picket fence (see attached photo) similar in style with our neighbor on Elm St as well as the fence at 610 Bloodworth (Appendix 1) and in keeping with the linear form of this four square house.

Our original request was to construct a fence similar in style to the one on 610 Bloodworth. After consultation with the RHDC staff about the style of the fence, we were provided verbal and written approval prior to building the current fence. We have since learned the approval was in error and we have been instructed to submit a major application. See attachment.

The fence replacement is part of a broader plan to create a more visually appealing and functional back and side yard. Other enhancements included a small patio off the back porch, new landscaping throughout side and back yard.

As part of our previous renovation, we removed the side yard porch that was added to the house and reintroduced the sidestreet window to bring the side of the house back to the original state. As previously noted in our renovation application our next outdoor project will be to remove the vinyl siding.

- 2. For the replacement of the existing fence on the street side, backyard and neighbor side, the total height of the proposed fence would not be higher than the existing fence and will range from 42" to ~56" depending on the grade. The material would be yellow pine, painted gray.
 - a. The entrance gate would be shifted down closer to Lane street (see attached landscaping plan)
- 3. For the new fence extending to encompass the Elm Street side yard, the fence height will closely adhere to the 42" height guideline. We are proposing a minor deviation from the stated height in the guidelines to accommodate the sloped grade of the yard both away from the house toward the Elm Street side (12-18") and toward Lane Street, ultimately allowing for a secure space for our child and dog. The proposed height allows functionality while being visually appealing and still providing clear sight lines to the house. Note, there are multiple side yard fences throughout the district that while they adhere to the 42" height, are on an elevated lot and the fence stands in some cases 6-8' tall. If we are required to maintain the 42" height, the fence will need to be placed inside the existing retaining wall, resulting in a total height of 60", 12" inches taller than it is currently. This would ultimately be significantly more visually obstructive. (See Appendix 2 for details on the fence height and Appendix 3 on the grade)



Proposed style of New Fence (as approved by RHDC Staff in attached email)

Appendix 1 - Precedent for Similar Structures

610 N. Bloodworth - fence pickets ~48" with a ~24" lattice. Our original request was based on the style and approval of this fence.



523 N. Bloodworth - side yard with approved 6' or taller privacy fence



Appendix 2

Topographic map illustrating the grade of our yard. The extreme grade of our yard from back to front is ~10' allowing for a full view from the front / side street into our yard.



Elm St side view highlighting grade



View from side and backyard highlighting the grade and visibility into our side and back yard







Appendix 3

Examples of side yards with 42" fences on elevated lots. Actual height from sidewalk over 7' tall.

525 N. Bloodworth



404 Elm St.



500 N. Boundary





Appendix 4 - Views of our house from front, side and back

View from street side



View from back



Malahias COA Application – 602 E. Lane Street

Appendix 5

Side yard fence to be replaced - ranges from 55" - 70" in height



Backyard fence to be replaced - 52" high



Appendix 6

First two side yard lots on the corner of Oakwood Ave. and Person St. - both exceed the current guidelines - there are many more examples (20+) of side yard lots that have both received approval and are existing that do not meet the current guidelines.





Street map for 602 E. Lane St



ane St









Linden Ave





€_ELM STREET ~~~



Re: COA Meeting - Thursday, May 24, 2018 - 064-18-CA (602 E Lane) - Initial Staff Comments

Laura Malahias <laurajost@gmail.com> Thu, Mar 7, 2019 at 3:36 PM To: leon malahias <leon.malahias@gmail.com> in preparation for responding to melissa. On Wed, May 2, 2018 at 9:48 AM Laura Malahias <a>laurajost@gmail.com wrote: Thanks for your response Melissa. I'm attaching the landscaping plan with annotations for the trees we plan to remove as well as replacement trees. The red circles are the new trees and the starred trees are the ones being removed. One quick question with regard to the request for a tree protection plan. We had a plan generated for our recent construction work. Is the existing plan sufficient? It is attached. As a reminder, the only work that is near the walnut tree is to replace the original timber retaining wall with a brick wall. We are still working on the scaled elevation drawings and will get those to you asap. Thank you, Laura On Thu, Apr 26, 2018 at 3:22 PM, Robb, Melissa <<u>Melissa.Robb@raleighnc.gov</u>> wrote: Laura, Thank you for your update. I've got responses below in red. Melissa From: Laura Malahias [mailto:laurajost@gmail.com] Sent: Wednesday, April 25, 2018 1:02 PM To: Robb, Melissa <Melissa.Robb@raleighnc.gov> Cc: Tully, Tania <Tania.Tully@raleighnc.gov>; Kinane, Collette <Collette.Kinane@raleighnc.gov>; leon malahias <leon.malahias@gmail.com> Subject: Re: COA Meeting - Thursday, May 24, 2018 - 064-18-CA (602 E Lane) - Initial Staff Comments Hi Melissa,

Thanks again for taking time to talk with me yesterday regarding our major work application. After reviewing the options with my husband we have decided to modify our application to do the following:

- Replace our current fence with a fence of the design previously submitted (without the lattice top) at a height of 48" inches (matching our existing fence height). OK
- Extend the fence line to encompass our side yard as outlined in our original application. The fence height in this section will be 42" to match the design proposed for the back yard fence. OK
- Remove the two trees on either side of our parking pad as requested in our first major application (our remaining condition was to provide replacement trees which we did in this most recent application) I cannot tell from your site plan which are the existing trees and which are new.
- Complete the hardscaping work proposed in our original application (patio, stairs, retaining wall) Please provide the additional details requested in 2, 3 and 4 from my April 23 email below.

Gmail - Re: COA Meeting - Thursday, May 24, 2018 - 064-18-CA (602 E Lane) - Initial Staff Comments

 Of note, we will not proceed with the bike shed at this time and will do that under a separate application at a later date OK

It is our understanding that the above work can be completed with a minor work application as it encompasses less than 50% of our side and back yard and the fence is existing and/or is in line with the 42" requirement. Do we need to submit a separate application or can our major application somehow be converted to a minor work application? We will change this to a minor work application as soon as we can review the additional materials requested.

We will prepare a response to your list of additional information needed as applicable to our revised plan (not doing bike shed at this time). For future reference, can you please provide clarification on this request:

1. Please provide a site plan of your property that is zoomed out slightly from the landscaping site plan to show the relationship of your house and the neighbor's house at 226 Elm St. It will be important that none of your new, taller landscape elements (such as the bike shed and the taller fence) are closer to Elm St than the front of their house sits to Elm St.

Does 'front of the house' refer to the line of the front porch or the house facade? It's the front wall of the neighbor's house. I've created a sample of the plan view I requested (attached). Since you are on a corner lot, the relationship of your house/landscaping/accessory buildings/fence is important to both your neighbors at 606 E Lane St and at 226 Elm St. The blue line that's in the attached document shows approximately where the front wall of the 226 Elm St house sits in relationship to the your house and yard. Generally, anything taller than a 42" fence needs to be east of that line. (Of course this does not apply to the replacement of your existing fence with a fence of the same height in the same location.) So when you decide to construct your bike shed it must be east of that line.

Thank you again for your assistance with this.

Best,

Laura

On Mon, Apr 23, 2018 at 5:17 PM, Robb, Melissa <Melissa.Robb@raleighnc.gov> wrote:

Laura,

Thank you for submitting a Major Work Certificate of Appropriateness (COA) application. Your application has been placed on the May 24, 2018, agenda of the COA Committee of the Raleigh Historic Development Commission. The meeting will be held at 4:00 p.m. in the City Council chamber.

Based on what was submitted, the agenda will describe the request as follows. Please let staff know if this is inaccurate.

Construct bike shed; replace and extend fence; construct patio; install plantings

In preparation for completing the staff report, staff has made an initial review of your application regarding clarity and completeness and has the following questions, comments, and suggestions:

1. You provided excellent current photos of the site, but most of them were not labeled. Please label all photos clearly. The photos in the application for 917 W South St (COA 003-18-CA) are well labeled. You can find that January 2018 application on the City's website.

Gmail - Re: COA Meeting - Thursday, May 24, 2018 - 064-18-CA (602 E Lane) - Initial Staff Comments

- 2. Please provide more information about the retaining walls, patio, stepping stones and rear steps. What are the materials? Please provide more specific information and color photos of the materials. Also, please provide scaled elevation and section drawings of the retaining walls and stairs with dimensions noted. This will show them both from a front view and from a side view, just like cutting through a layer cake and showing all the materials and where the ground level will be on both sides of the walls. Also, unless you are using brick, please provide evidence of the materials used on other COA-approved projects in Oakwood.
- 3. Please provide more information about the pondless waterfall. What are the materials? What is the design? Provide elevation and section drawings showing dimensions (see notes about the walls and stairs above), and photos if you have one you are replicating.
- 4. Please provide a tree protection plan for the existing trees in the back yard. Since there will be a fair amount of ground disturbance during the landscaping project, your arborist can recommend the best methods to preserve the trees. Your tree protection plan should show the critical root zone and the diameter of the trees (dbh). The tree protection plan should be from an arborist certified by the International Society of Arboriculture or a licensed landscape architect.
- 5. Please provide more detailed drawings of the proposed bike shed, including the dimensions and elevation views from the front and side. Please label all materials on the drawings (such as siding, trim, foundation and roofing), as well as material specification sheets for any doors and windows.
- 6. Please provide a site plan of your property that is zoomed out slightly from the landscaping site plan to show the relationship of your house and the neighbor's house at 226 Elm St. It will be important that none of your new, taller landscape elements (such as the bike shed and the taller fence) are closer to Elm St than the front of their house sits to Elm St.
- 7. Please provide a drawing showing the fence you would like to install, with dimensions indicated. You show elements from two different fences in two different photos, but not how these elements will look together. Note that the fence you showed in Oakwood with a similar open lattice top was approved because the entire landscape design and fence tied into the Asian influences on the house, a unique situation in the district. If you would like to include the photo please provide it labeled with the address.
- 8.

Staff has also made an initial review for adherence to the Design Guidelines and offers the following guidance and examples of the type of evidence included in successful applications.

- 1. You should understand that the COA Committee is unlikely to approve the fence design/height you propose, as it is in direct conflict with Design Guideline 1.4.11: "It is not appropriate to introduce visually opaque screening plantings, walls, or fences taller than 42" or that are more than 65% solid into the front yard area (and/or street side yard area of a corner lot) unless historic evidence exists." Staff will likely recommend denial of the fence due to this conflict with the guidelines. The subject of taller fences on corner lots has been a subject of contention in the historic district, which is why the guideline now specifies the height limitation and transparency. You can look at the COA application from last June/July for case 089-17-CA at 523 Elm St where this topic was thoroughly reviewed. I've attached the certified record/minutes so you will see the discussion from the COA Committee members and the conditions they imposed for that case.
- 2. Since you have a fence now that encloses a portion of the yard, the options are to either keep the fence you have, install a new one of the same height in the same footprint, or install a fence of 42" in height to cover the expanded area.

Any amendments or additional documents must be received via email by 10:00 am Monday, April 30, 2018, to guarantee inclusion in the staff report. For clarity you might consider providing a single sheet that summarizes the additional details requested, or you can update the scope of project page.

A few additional notes regarding the process:

- The agenda, information letter, and staff report will be sent via email May 11, 2018.
- A sign will be posted on the property by May 11. The applicant is required to returned the posted sign to Planning either at the public meeting or within 3 business days following the public meeting.
- City policy requires that any presentations must be emailed to staff prior to meetings in Council Chambers and may not be loaded from non-employee flash drives. <u>The deadline for providing staff with a</u> <u>presentation is 10:00 am, Tuesday, May 22</u>. Most COA applications do not need a formal presentation.
- If any documents are brought to the meeting at least 10 sets should be provided.

Please let me know if you have any questions.

Best,

Melissa

Melissa Robb

Preservation Planner

Raleigh Urban Design Center

One Exchange Plaza, Suite 300 | Raleigh, NC 27601

919-996-2632 | raleighnc.gov

