

# City of Laramie

Planning Division  
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**LARAMIE PLANNING COMMISSION  
(SITTING AS THE LARAMIE BOARD OF ADJUSTMENT)  
SEPTEMBER 26, 2022  
STAFF REPORT**

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**FILE:** VAR-22-05: 2104 S. 21<sup>ST</sup> St. Fence Variance—Height

**REQUEST:** Variance from:

- LMC 15.14.100.B which states that a fence in the side and rear of a yard of a residence may not exceed 6' in height 45 ft. from the front lot line.

**LOCATION:** 2104 S. 21<sup>ST</sup> St.

**APPLICANT(S):** Skylar Shaw

**OWNER:** Skylar Shaw

**PURPOSE:** Variances to Municipal Code to allow for an existing fence that is out of compliance with LMC 15.14.100.B.

**CURRENT ZONING:** R1 Single Family Residential

**PREPARED BY:** Philipp Gabathuler, AICP, Principal Planner

**STAFF RECOMMENDED MOTION:**

Move to **approve** the requested Variances from Laramie Municipal Code 15.14.100.B (Side and Rear Fence Height within 45 ft. of the front lot line), based on findings of fact and conclusions of law and subject to staff's recommended conditions.

**APPLICABLE CODE SECTIONS**

- LMC 15.14.100.B.

Authority for consideration and granting of Variances is found in LMC §15.06.060.D [Variances].

**BACKGROUND/DISCUSSION:**

General Information

The applicant is requesting a variance for 2104 S. 21<sup>ST</sup> St. for a black, wooden, privacy fence that is 8ft in height. This fence—built in 2021—encompasses the entire lot. The entire east side of this fence (front yard) and portions of south side (side yard) of the fence are within the 45ft setback where

fencing isn't permitted to be over a height of 4 ft. per LMC 15.14.100.B. The fence was constructed without a building permit—which is also a violation of 15.14.100.B (any fence exceeding seven feet in height shall require a building permit). The applicant will be required to obtain a building permit from the City's code administration office if the fence is approved by the Board of Adjustment.

**Variance Requests:**

Request: 8 ft. high fence within 45 ft. front setback (LMC 15.14.100.B).

Municipal Code states that “No fence or wall shall exceed six feet in height when located between the front building line or front setback whichever distance is greater, and a line forty-five feet from the front lot line; and no wall or fence shall exceed eight feet in height when located more than forty-five feet from the front lot line.”

The shallowness of the lot is the main reason that this violation exists on the lot—with a deeper lot, the placement of the fence would not be an issue because the house could have been placed further back.

**Staff has recommended approval of the request.**Recommended Condition of Approval:

Staff recommends the applicant be required to obtain a retro-active building permit from the City's code administration office if the fence is approved by the Board of Adjustment.

**DEPARTMENT REVIEW:**

The application was routed to other City departments for review and comment per standard procedure. Based upon the applicant's submitted information the City Manager's office, code admin department, fire department, police department, public works department and WYDOT responded with “no comments” or had no comments.

**FINDINGS OF FACT FOR VARIANCE:**

Pursuant to LMC §15.06.060.D [Specific Review Procedures – Variances], the Board of Adjustment must find that **all** of the following criteria have been met in order to approve any Variance in this case:

- (a) There are special circumstances or conditions, fully described in the board's findings, that are peculiar to the land or building for which the adjustment is sought and do not apply generally to land or buildings in the neighborhood, and have not resulted from any act of the applicant subsequent to the adoption of the code, such as irregularity, narrowness, or shallowness of lot, or exceptional topographical conditions.**

*Staff Response:*

Staff notes that the front of the house sits substantially closer to the front lot line because of the way the lots were platted and the roads were built. Therefore, the current placement of the 8' fence along the front building line would probably fall within the allowed setback.

- (b) The circumstances or conditions are such that the strict application of the provisions of the code would deprive the applicant of the reasonable use of such land or building.**

*Staff Response:*

The strict application of the code would mean the applicant could not to have an 8 ft. fence in the side yard that is in line with the front building line of the principal building.

- (c) If applicable, the circumstances or conditions are such that the strict application of the provisions of the code would deprive the applicant of access to alternative forms of energy such as solar or wind power.**

*Staff Response:*

Not applicable. No solar or wind power devices are being sought in this context and the Variance being requested would not deprive the applicant of access to alternative forms of energy.

- (d) The granting of the adjustment is necessary for the reasonable use thereof and the adjustment as granted is the minimum adjustment that will accomplish this purpose;**

*Staff Response:*

Staff notes that the irregularities in the platting of the land and the placement of the streets has impeded the property owner of building an 8' ft fence in a side yard area behind in line with the front building line.

- (e) The granting of the Variance is in harmony with the general purposes and intent of the code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare;**

*Staff Response:*

Granting of the Variance is not in harmony with the intent of the Unified Development Code. The applicant's adjacent neighbor has tied into the fence and it does not impede visibility of the clear vision area per LMC 15.14.060.E.5.

- (f) The Variance, if granted, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property.**

Approval of the Variance would not alter the essential character of the neighborhood. Several other houses in this development have side fences that are between 6-8' that are in line with the front building lines of the principal buildings.

#### **PUBLIC COMMENTS:**

Legal notice was published in the Laramie Boomerang on September 10, 2022. Letters were sent to surrounding property owners within 300 feet of the subject property on September 7, 2022. Staff received only one public comment in favor of the variance.

#### **ALTERNATIVES:**

1. Approve the Variance as submitted by the applicant, based on findings of fact and conclusions of law.
2. Approve the Variance subject to conditions, based on findings of fact and conclusions of law (Staff's Recommendation).
3. Deny the Variance based on findings of denial. The Board of Adjustment is required to make appropriate findings of fact and conclusions of law and state reasons for denial.
4. Postpone the Variance until issues identified during the meeting can be resolved.

#### **CONCLUSION OF FINDINGS AND STAFF RECOMMENDATION/ BOARD OF ADJUSTMENT OPTIONS:**

All of the required findings, statutorily necessary for granting a Variance as detailed in the staff report above, can be made; therefore:

Move to **approve** a Variance from Laramie Municipal Code LMC 15.14.100.B (Fences and Walls), based on findings of fact and conclusions of law and subject to staff's recommended conditions;

1. No modifications to the conditions of approval shall be permitted without approval by the City. If design changes are determined by the City to be substantial, changes will be required to be reviewed by the Board of Adjustment.
2. The applicant is required to obtain a retro-active building permit from the City's code administration office within 30 days of Board of Adjustment approval. Failure to apply for a building permit within the specified time, or failure to keep such permit active until completion, shall cause the Variance to become null and void.

Note: If the Board of Adjustment desires to deny the Variances, or approve with alternative conditions, the Board will need to make the appropriate required denial/approval findings prior to a motion. Also, if the Board decides to grant the approval of the Variances alternative to staff's

recommended conditions, the Board may add/modify the conditions of the approval with requirements deemed appropriate to the project.

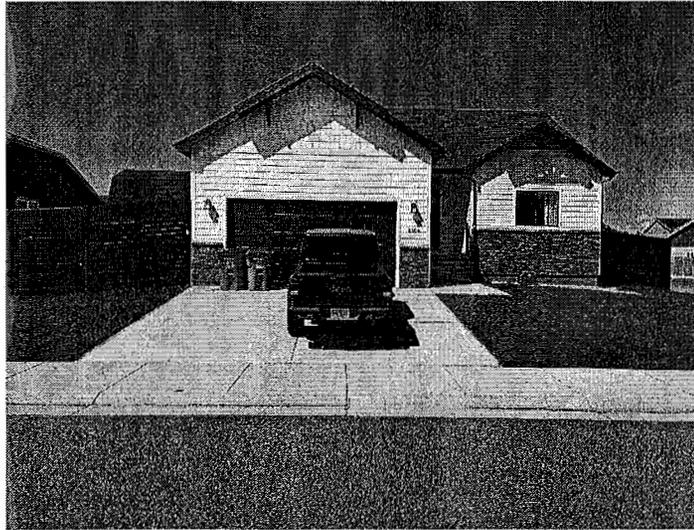
**ATTACHMENTS:**

1. Cover letter/vicinity map (4 pages)
2. Public Comment (1 page)



This fence is built with 1/4" x 4" x 16' boards horizontally with a 4" x 4" x 10' post every 8' with each corner having a 6" x 6" x 10' post all with concrete footings, where the horizontal boards meet each post is also covered by a 1/4" x 4" cover plate as well, all of which is painted black. This fence would be permitted already if the primary structure was further back from the front of the property line since the fence does not extend beyond the primary structure. This is a symptom of a small and shallow lot size, if this lot was larger this fence would already meet the required 45ft setback requirement for fences greater than 8ft. This has no affect on the original grading as there was no grading done beyond 2' post holes. Drainage is also not affected as any potential water leaving the lot as the fence boards have a intentional gap between the ground and the boards themselves around the entire perimeter to allow for water runoff.

Moreover, unlike many of the neighboring properties, this home has 9' ceilings in the basement, due to the shallowness of the water table in this area this has caused the home to be higher than neighboring homes constructed with 8' ceilings in the basement, as well as when grading on the home was originally done in 2021 it was decided to keep the front of the home higher and the rear of the home lower as to be level and still avoid the high water table. This makes the front of the home sit substantially higher than neighboring properties where neither have a basement or have 8' ceilings. And with a two car garage on this home, the garage has over 15' ceilings and a roof peak of over 22' due to this grading. This fence was designed to fit with the higher home style and does not impede or change the character of the neighborhood, as I have already had previous positive responses on its construction from all adjacent neighbors already. The adjacent neighbors have already tied onto the fence to develop their own land (with my permission) and does not permanently impair the development of adjacent properties currently. The conditions of this setback rule limit the ability for the fence to match the proportions of the home itself. This fence does go over an existing gas easement however was planned for as the portions of the fence that overlap with the easement have either a easily removable section, or a large gate that can be opened. This fence is a benefit to public welfare also due to it being larger, it does intentionally impede line of site from the rear as to give privacy to my own property as well as my neighbors as our properties are placed close together. In order to abide by the city code for R1 zoning this would dramatically reduce the privacy, aesthetic appeal, and usability of this fence. More importantly, the fence was also constructed to this height due to my specialty use case for competitively training drug sniffing, bomb sniffing, protection, suspect apprehension and agility dogs as they are trained to clear obstacles below the current height in order to perform their duties in their current sport. This fence is the currently only effective barrier I have to contain them at home outdoors. Likewise if this variance was not granted I would be forced to move my fence back to retain its height impeding on neighboring already attached fencing, as well as removing valuable space for my own dogs.



**Not Applicable Variance information:**

1. Providing finished floor elevations or top of foundation elevations for each building
2. Show the location, surfacing and design of all off-street parking areas and drive aisles, with designation of accessible parking and accessible routes, including the pavement markings with dimensions.
3. Show vehicular and pedestrian circulation, including plan-view ADA accessibility requirements.
4. Show location and design of vehicle access routes, service areas and drive-through windows, including the queuing area for drive-through.
5. Show locations of all restricted fire zones (e.g., fire lanes, building exits) and fire department hose connections.
6. Show the methods of screening for parking, refuse, recycling, storage and loading areas (may be shown on Landscape Plan if more appropriate).
7. Show location type, and height of existing and proposed site lighting fixtures, including: parking lot and drive aisle lights and poles; building-mounted lighting fixtures (see also Building Elevation plan requirements below); and details regarding luminary and shielding design (stock illustrations or diagrams acceptable).
8. Show details including dimensions, locations & renderings of any signage proposed in conjunction with the condition use permit.
9. Traffic Impact Analysis.

Sincerely,  
Skylar Shaw

2104 S 21st St.  
Laramie, WY 82070

Contact Information:  
(803) 767-8979  
skylarashaw@aol.com



**From:** Daniel <danielley@gmail.com>  
**Sent:** Thursday, September 15, 2022 8:43 AM  
**To:** Philipp Gabathuler <pgabathuler@cityoflaramie.org>  
**Subject:** RE: Permit for 2104 S 21st St. fence height

[External]

Good morning -

I got a notice in the mail about this hearing for the permit submitted by Skylar Shaw. I won't be able to attend the Zoom meeting, and I live at 2018 S 20th St. about a block away.

I see no issue with neighbors putting up higher privacy fences, I'm happy to let them build such.

Let me know if you need anything else, thanks,

-Daniel Ley  
(danielley@gmail.com)