

September 12, 2005

City Clerk
2180 Milvia Street
Berkeley, CA 94704

CITY OF BERKELEY
CITY CLERK DEPT

05 SEP 13 AM 10: 05

Re: Zoning Adjustment Board Decision 8/25/05
Use Permit: #04-20000158
Project Location: 1617 Seventh Street

To the City Council:

I am writing to appeal the Zoning Adjustment Board's decision to approve our neighbor James Troupe's construction of a garage and play room structure adjacent to our house at 1615 7th Street without attaching the conditions to which James and I have already agreed. As I learned when I received the ZAB's Staff Report recommending the ZAB's decision, James has decided not to honor the agreement we made with the help of East Bay Community Mediation in March of this year.

James agreed to three conditions designed to mitigate the impact of his construction on our house. I relied on this agreement in not vigorously pursuing my appeal to the ZAB. In fact, during the spring and summer I worked with James to design a walled fence between our properties and reassured the ZAB that we would not oppose his project once the fence and the other changes to his plans had been added to the permit.

James made three agreements with us, all of which he has broken. When he asked originally asked us to sign off on his project, we agreed with the understanding that he would not harm the walnut tree that sheltered our house from his back yard and from the windows of James' neighbors to the south. (Our house and the neighbors' house are both at the back of their lots, as are many houses in this neighborhood.) Instead James had the tree cut down. His explanation that the tree was diseased came only long after the fact, when I had objected several times to his destruction of the tree.

The second agreement was the mediated agreement, in which James agreed to move his proposed construction three feet farther away from our shared property line, plant trees between the property line and his new building, and split the cost of a fence with a concrete foundation, a framework of pressure-treated lumber and a stucco base. The concrete foundation was important to us because the existing wooden fence had been damaged many times by James' dogs and by James himself while he was backing a trailer onto his property. We wanted a fence sturdy enough not to require a lot of maintenance. Without notifying us, James submitted plans for a fence without the concrete foundation. We requested the new plans and had them reviewed by a structural engineer, who told us a fence designed in this way would be unstable.

The third agreement was to build a cement block fence. This was a compromise we agreed to

in order to expedite James' project and keep his costs down. I am attaching email correspondence from James, dated May 26, 2005, in which he agrees to the cement block fence. Our previous correspondence, discussing the design James had submitted and including my research on the alternative cinder block design, is also attached. I am also attaching later correspondence in June with the planner, Stephen Ford, advising me that the cinder block fence should be drawn into the plans in order to make it a condition of the permit. I forwarded Mr. Ford's message to James on June 17 and asked him to let me know when he had something for me to sign.

Apparently James wrote to the Planning Department on July 8 to say he was rejecting our agreement. The Staff Report is not accurate in saying that James and I failed to agree on the design of the fence. In fact we did agree, but without telling us James decided not to honor his commitment. Also he has not offered to replace the existing wooden fence, as he said in his July 8 letter. In fact we have had no word from him since May 26, when he agreed to the cement block fence.

It is now late in the process for us to present evidence of the noise generated by James' dogs and his cars and motorcycles, the density of the existing buildings surrounding the back of James' lot (which are not shown on the outdated site plans) and the visual impact of his construction right in front of and largely covering the window into our main common living area. These were issues we chose not to pursue based on our belief that we and James were working towards a common solution.

We do not want to keep James from building a garage or increasing his living space. We would welcome improvements to his property. We are appealing the ZAB's decision only to ask that the permit for James' project reflect the conditions to which he has already agreed.

Truly,



Guillermo Pulido
1615/1613 7th Street
Berkeley, CA 94710



pulido_wm@hotmail.com

Printed: Monday, September 5, 2005 4:27 PM

From : James <troupe@pacbell.net>
Sent : Thursday, May 26, 2005 6:09 PM
To : "guillermo pulido" <pulido_wm@hotmail.com>
Subject : community fence

I would be interested in using Fernando to do the fence 6' high cement brick wall with a 2" thick cap. His price was \$7,800.00 for labor only. Then we would be the price of material had to be agreed on. I don't think there is a need for more site plans. Just attach an addendum, if you don't agree we just get ready for a board meeting.

Thank you!

Sincerely James Troupe

From: "guillermo pulido" <pulido_wm@hotmail.com>
To: <troupe@pacbell.net>
Date: 5/2/2005 4:53:01 PM
Subject: Re: 1617 Seventh St. addition

James,

As we briefly discussed yesterday 5/01/05, if you want to go with the cinder block fence then take a look at the fence at 1633 7th St., the owner, Miguel Martinez had a contractor which I've used in the past, to help him build it. The contractor's name is Fernando Hernandez, I've gotten in touch with him and he's interested in the project. I told him you would follow-up by calling him to see if he could give us an estimate for the costs of a cinder block fence with stucco finish. Please call him at (510) 234-1886 home, or (510) 776-0154 cell phone. In the mean time I have attached two drawing for a cinder block fence design that can help you see what it would look like. Let me know what you decide.

Guillermo Pulido

James,

Seth Wachtel, an architect made an on-site visit this past Friday 4/22/05, he reviewed your drawing and we discussed the fence. His advise is that for a six feet tall and four to six inches wide fence with a framework of pressure-treated lumber and stucco base a concrete foundation would be best. Since our mediated mutual agreement already describes the fence as having a concrete foundation, our preference would be to go along with what we already agreed to with regard to the fence. However, having said that, if you can make a case for why we should not have a continuous concrete foundation Mr. Wachtel has also made some comments and suggestions on how we can improve upon your fence design. If we should decide go with your design, we would want to incorporate these suggestions into the re-design. This is a summary of his recommendations;

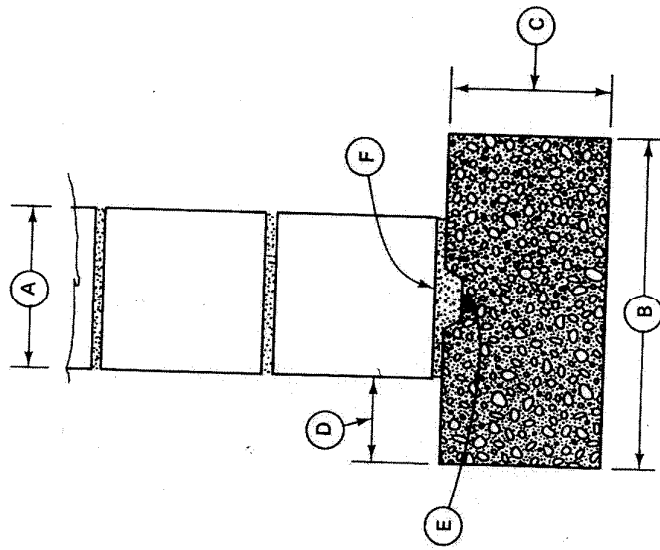
- 1) The post total depth of footing should be a minimum of 2 feet with a concrete footing 2X wider than the wall.
- 2) The post should be 4 feet apart.
- 3) The 4X4 wood post are subject to rot from water penetration & insect infestation-metal post are recommended.
- 4) Pressure-treated plywood will rot for same reasons as above-Hardy Plank cement-fiber is recommended.
- 5) P.T. fence CAP will not protect fence from water penetration and will rot-another alternative was not recommended

Alternatively we are open other designs for the fence including a cinder block fence.

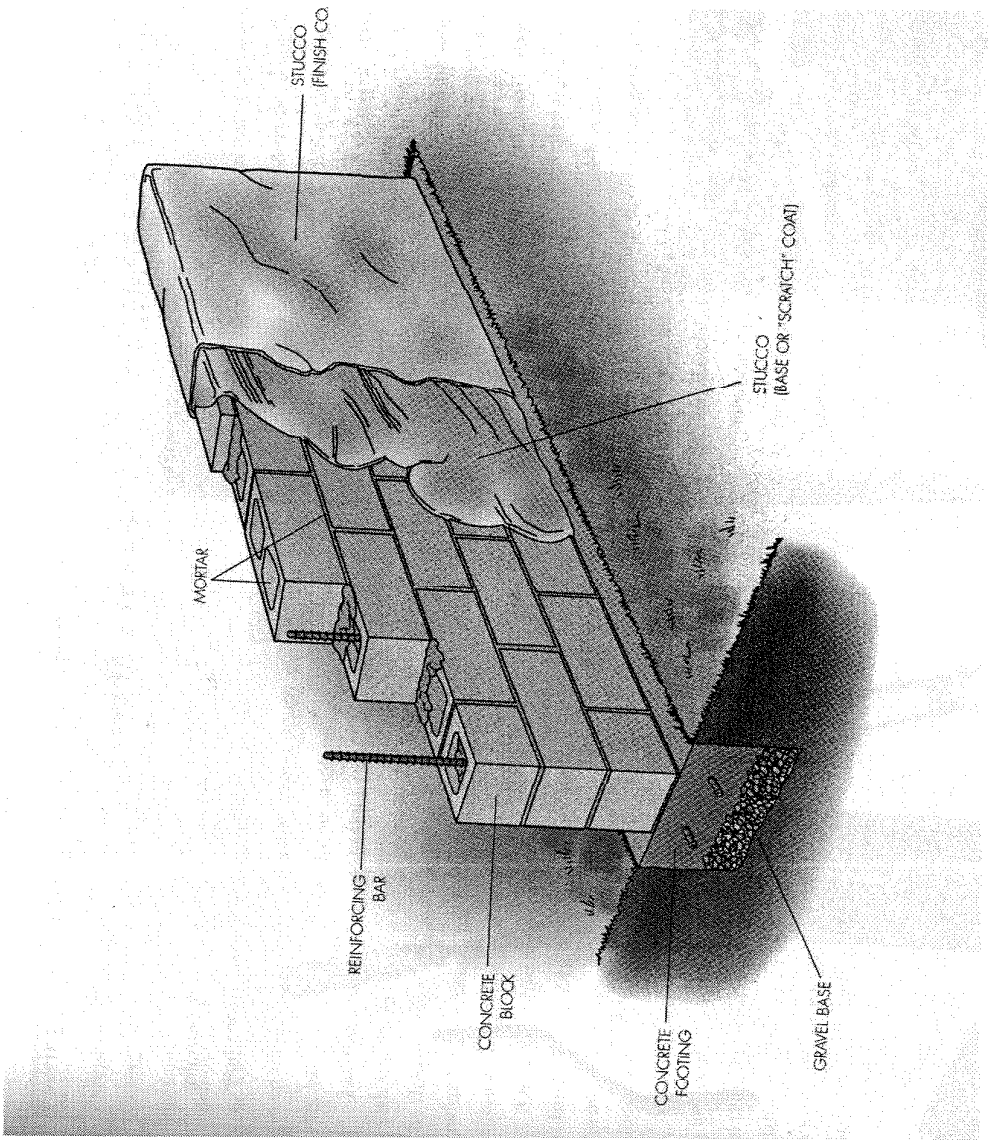
Guillermo Pulido

>From: "James" <troupe@pacbell.net>
>To: "guillermo pulido" <pulido_wm@hotmail.com>
>Subject: Re: 1617 Seventh St. addition
>Date: Sun, 24 Apr 2005 10:42:04 -0700
>

>
>----- Original Message ----- From: "guillermo pulido"
><pulido_wm@hotmail.com>
>To: <usford@ci.berkeley.ca.us>
>Cc: <troupe@pacbell.net>; <victorherbert@earthlink.net>
>Sent: Wednesday, April 20, 2005 10:40 AM
>Subject: 1617 Seventh St. addition
>
>
>>Mr. Ford,
>> An update on where we stand with the 1617 Seventh St. Addition-Garage
>>project.
>>Mr. James Troupe delivered his amended Site Plan for our review and
>>comment on Tuesday (4/19/05). The amended Site Plan differs some what from
>>what we discussed and agreed to during our mediation session with Mr.
>>Herbert. Specifically he proposes changes to the "fence" design that
>>exclude a concrete foundation for the stucco fence. We don't believe this
>>will impact our support for Mr. Troupe's project, but we need additional
>>time to consult with an architect/engineer before we can sign off on what
>>he proposes.
>>
>>cordially,
>>
>>Guillermo Pulido
>>526-8807
>>Did you here here from your engineer, about the fence?
>
>thank you, james>
>



Suggested dimensions for footings (in relation to the wall): (a) represents the thickness of the wall; (b) equals $2a$; (c) equals a ; (d) equals $1/2a$; (e) is the "key" formed with beveled 2×4 ; (f) is the bed of mortar—full.





pulido_wm@hotmail.com

Printed: Monday, September 5, 2005 5:33 PM

From : <postmaster@mail.hotmail.com>
Sent : Friday, June 17, 2005 2:38 PM
To : pulido_wm@hotmail.com
Subject : Delivery Status Notification (Failure)

This is an automatically generated Delivery Status Notification.

Delivery to the following recipients failed.

SFord@ci.berkeley.ca.u

From: guillermo pulido <pulido_wm@hotmail.com>
To: troupe@pacbell.net
Cc: SFord@ci.berkeley.ca.u
Subject: FW: RE: fence-1517 7th St.
Sent: Friday, June 17, 2005 2:38 PM
James,

I contacted the Berkeley Planning Department to ask for advice on how to proceed with your project. Below is Mr. Ford's suggestion, please let me know when you have something to sign.

Guillermo Pulido

From: "Ford, Stephen" <SFord@ci.berkeley.ca.us>
To: 'guillermo pulido' <pulido_wm@hotmail.com>
Subject: RE: fence-1517 7th St.
Date: Wed, 15 Jun 2005 13:06:05 -0700

Please draw in the cinder block wall as it is the drawing that future observers will be referring to. Once the site plan that you and Mr. Troup agree to sign it and ask Mr. Troup to submit it to this office.

Stephen Ford

-----Original Message-----

From: guillermo pulido [mailto:pulido_wm@hotmail.com]
Sent: Wednesday, June 15, 2005 10:04 AM
To: Ford, Stephen
Subject: RE:fence-1517 7th St.

Mr. Ford,
We are happy to sign the plans if they reflect a requirement for the cinder block fence that we have been discussing. What is the best way to accomplish this? The version of the plans James gave us to sign shows a different fence design that James and I have decided to abandon in favor of a cinder block fence. Should I write it onto the plans myself? James suggested attaching an addendum to the site plans. What do you suggest.

cordially,

Guillermo Pulido
526-8807

>From: "Ford, Stephen" <SFord@ci.berkeley.ca.us>
>To: 'guillermo pulido' <pulido_wm@hotmail.com>
>Subject: RE: community fence
>Date: Mon, 13 Jun 2005 15:57:27 -0700
>
>If you agree to the revised plans showing the garage and playroom moved 7
>ft., 6 in. to the south (further away from your property), please sign a
>set
>and have Mr. Troupe return the signed plan to me.
>I've left a phone message with that same instruction today.
>Stephen Ford
>-----Original Message-----
>From: guillermo pulido [mailto:pulido_wm@hotmail.com]
>Sent: Monday, June 13, 2005 11:09 AM
>To: troupe@pacbell.net
>Subject: RE: community fence
>
>
>James,
> What's the status of your project? Were you able to open the
>attachments
>of the fence footing & cinder block fence design I sent you a while back? I
>haven't heard from in a while, do you need my help on getting this
>together?
>
>Guillermo Pulido
>526-8807
>
> >From: "James" <troupe@pacbell.net>
> >To: "guillermo pulido" <pulido_wm@hotmail.com>
> >Subject: community fence
> >Date: Thu, 26 May 2005 11:09:55 -0700
> >
> >I would be interested in using Fernando to do the fence 6' high cement
> >brick wall with a 2" thick cap. His price was \$7,800.00 for labor ost
>thing
>
> >we would have to agreeThen we e n would be the price of material hsd to
>be
> >agreed on I don't think there is a need for more site plans. Just attach
>an
>
> >addendum, if you don't agree we just get ready for a board meeting.
> >Thank you!
> >Sincerely James Troupe
>