

Bala Fence Height Exemption Application

To Whom it May Concern,

We are submitting a request for an exemption to Ordinance 2286 on a fence that was recently constructed just within the rear property line of our backyard. Our property is located at 224 Old Adobe Road, Los Gatos.

First, we would like to apologize for erecting a fence that is in violation of code. The original fence along this property line that was in place when we purchased the house had a combined height of fence and privacy screen of 10-11 feet; we replaced this old existing fence with a shorter one. At the time that we were planning to replace the fence, our back property line neighbor, Ms Eva Mendoza, expressed agreement that the new fence should be high enough to provide adequate privacy.

Following are the reasons why we would like to be granted a 8' fence height exception:

1. Privacy: We have several privacy issues which resulted in the building of this fence:
 - a. Height differential: There is a significant downward slope between our property and our backyard neighbor's. Within 3 feet of the fence, the land already rises 12" in our yard. The rise in slope continues as you move away from the fence and towards our house. Our ground floor backyard deck, which spans the entire back of the house facing the back fence), as well as our entire first floor (which has windows along every back wall facing the backyard), are elevated 4'8" - 6' above grade at the fence line due to the natural slope of the land. Due to this significant change in elevation between our properties, a shorter fence would provide minimal privacy as we could easily see over the top of the fence into our neighbor's yard, and she into ours. An 8' fence would improve this issue.
 - b. Conflict with neighbor: Unfortunately our backyard neighbor has objected repeatedly to the town-permitted construction project that is underway on our property, even though all work has been performed in accordance with town construction ordinances. She has verbally abused our contractors and their employees, our family, and members of the Town Offices repeatedly, despite our firm communication that this behavior is inappropriate. In response to this continued verbal abuse, we decided to rebuild the back fence as a way to address Ms. Mendoza's complaints of privacy, noise, and dust. We did so completely at our cost, as Ms. Mendoza would not contribute to the cost of the good neighbor fence, despite our understanding that there is town code stating that this cost should be shared. Given the persistent erratic and volatile behavior that our neighbor has demonstrated, we would prefer to maintain the higher fence height in hopes that it will help to limit these types of unpleasant and inappropriate interactions.
 - c. State of Neighbors Property: In addition to the privacy issues, the back neighbor's property is unsightly due to unchecked hoarding behavior. Additionally, our neighbor has particular horticultural practices that we believe are in violation of county code. Her plants are within clear view from our first floor living space and yard, and we while we

respect her right to grow these plants, we would also argue that we and our children should not have to witness this process. The 8' fence would keep this part of her property out of sight from our side.

- d. Lack of Other Options: In an effort to ameliorate the privacy issues, we have maintained a line of screening hedges on our property along the fence line. However, they do not provide full privacy, especially with seasonal loss of greenery, and Ms. Mendoza has insisted that we keep the branches trimmed back, which limits their function as a privacy screen.
2. Wildlife: Part of our back property line is adjacent to an alleyway with a storm drain. Water collects here, and attracts wildlife. In addition to coyotes and opossum, this past year there were two bobcats in our backyard at midday, shortly after our young children came in from play. We are hopeful that a taller fence along that back alleyway will make it less likely that wildlife will be able to access our yard, particularly because our two small children and dog are frequently unaccompanied in the yard.

Please see the attachments:

1. Yard Survey and Topography. While there are changes that have been made to this plan since installation of the pool, the elevations at the back fence line, ground floor backyard deck, and first floor of the house remain the same. Here you can see an elevation change of 355' at the back fence rising to 361' and 360' at the back part of our house, an elevation gain of 5'-6'.
2. Site map showing the location of the back fence
3. Photo showing our attempts at using greenery to provide privacy – please note that these hedges are at full foliage, but do thin through the season. While the newly erected fence seen in the photo is in excess of 6', it functionally serves as a shorter fence due to the significant change in grade from the first floor of the house/backyard deck to the rear property line, and line of sight privacy issues from these areas.

Again, we are sorry for having a fence that is in violation of code. We built the fence in an attempt to appease our back neighbor, who had been aggressively engaging us about the need for privacy. We hope that you will grant an exception in this case and allow us to keep the fence as built. If we must cut it down to 6 feet and compromise our privacy, we ask that you at least support our attempt to have our neighbor pay her share for the cost of the construction and reconstruction of the fence. If you have any questions or need of any further information, please feel free to contact us at 518.424.4316 or vinodha2@gmail.com. We appreciate your consideration of this matter.

Sincerely,

Vinodha & Rajeev Bala