



**AGENDA FOR REGULAR MEETING  
VILLAGE OF TINLEY PARK  
ZONING BOARD OF APPEALS  
November 10, 2016 – 7:30 P.M.  
Council Chambers  
Village Hall – 16250 S. Oak Park Avenue**

**Meeting Called to Order**

**Pledge of Allegiance**

**Roll Call Taken**

**Approval of Minutes – August 25, 2016 Regular Meeting**

**ITEM 1:**

**Public Hearing #1:**

**REQUEST WITHDRAWN: SYLVAN LEARNING CENTER – 9501 171<sup>ST</sup> STREET, UNIT E – VARIATION FROM THE MAXIMUM SIGN FACE AREA AND MAXIMUM LETTER HEIGHT – WALL SIGN**

Consider recommending that the Village Board grant a Variation to the Petitioner, Jim Cronin of Sylvan Learning Center, the following Variations for a permanent wall sign:

1. A 16.08 square foot Variation from Section IX.D.3.a. where the maximum sign face area permitted for a permanent wall sign at 9501 171st Street, Unit E is twenty (20) square feet; and
2. A six inch (6”) Variation from Section IX.D.3.a. where the maximum letter height permitted for a permanent wall sign at 9501 171st Street, Unit E is thirty inches (30”).

These Variations would allow the Petitioner to install a 36.08 square foot permanent wall sign with thirty-six (36”) tall letters at 9501 171<sup>st</sup> Street, Unit E in the B-3 PD (General Business and Commercial, Planned Unit Development) Zoning District and the Park Hills Towne Centre Planned Unit Development and the Park Hills Towne Centre Subdivision.

**Close Public Hearing #1**

**ITEM 2:**

**Workshop:**

**STATUS UPDATE: TEXT AMENDMENT FOR FENCE REGULATIONS**

**ITEM 3:**

**Public Hearing #2:**

**SCHNEIDER – 6220 CARLSBAD DRIVE – VARIATION FROM THE REQUIRED FRONT YARD SETBACK – FENCE**

Consider recommending that the Village Board grant a Variation to the Petitioner, Gail Schneider, which would allow for a fence, including:

1. A fifteen foot (15’) Variation from Section V.B. Schedule II (Schedule of District Requirements) where the front yard setback requirement is twenty-five feet (25’).

This Variation would allow the Petitioner to install a new six foot (6') tall PVC privacy fence at a ten foot (10') setback on the east (Beverly Avenue) side of this corner lot at 6220 Carlsbad Drive in the R-4 (Single-Family Residential) Zoning District and within the Lancaster Highlands Subdivision. The proposed fence would replace the existing deteriorating wood fence that was installed at a zero foot (0') setback along the east (Beverly Avenue) side of the property.

**Close Public Hearing #2**

**ITEM 4:**  
**Public Hearing #3:**

**LUKASZCZYK – 17658 HIGHLAND AVENUE – VARIATION FROM THE REQUIRED FRONT YARD SETBACK – FENCE**

Consider recommending that the Village Board grant a Variation to the Petitioner, Edyta Lukaszczyk, which would allow for a fence, including:

1. A thirty foot (30') Variation from Section V.B. Schedule II (Schedule of District Requirements) where the front yard setback requirement is thirty feet (30').

This Variation would allow the Petitioner to replace an existing dilapidated wood fence with a new six foot (6') tall wood privacy fence at a zero foot (0') setback on the south (177th Street) side of this corner lot at 17658 Highland Avenue in the R-2 (Single-Family Residential) Zoning District and within the Elmore's Ridgeland Avenue Estates Subdivision.

**Close Public Hearing #3**

**ITEM 5:**  
**Public Hearing #4:**

**HICKEY – 16309 66<sup>TH</sup> COURT – VARIATION FROM THE REQUIRED FRONT YARD SETBACK – FENCE**

Consider recommending that the Village Board grant a Variation to the Petitioner, Kevin Hickey, which would allow for a fence, including:

1. A twenty-five foot (25') Variation from Section V.B. Schedule II (Schedule of District Requirements) of the Zoning Ordinance where the front yard setback requirement is twenty-five feet (25').

This Variation would allow the Petitioner to install a new four-foot (4') tall open-style aluminum fence at a zero foot (0') setback on the east (163<sup>rd</sup> Place) side of this corner lot at 16309 66<sup>th</sup> Court in the R-4 (Single-Family Residential) Zoning District and within the Tinley Terrace Subdivision.

**Close Public Hearing #4**

**Good of the Order**

**Receive Comments from the Public**

**Adjournment**



## MINUTES OF THE ZONING BOARD OF APPEALS

### VILLAGE OF TINLEY PARK, COOK AND WILL COUNTIES, ILLINOIS

**AUGUST 25, 2016**

The regular meeting of the Zoning Board of Appeals was held in the Council Chambers of Village Hall on August 25, 2016 at 7:30 p.m.

#### **PLEDGE**

#### **ROLL CALL**

Present and responding to roll call were the following:

Zoning Board Chairman:	Chris Verstrate
Zoning Board Members:	Michael Fitzgerald Paul Lechner Bob Paszczyk Dave Samuelson Steve Sepessy Jennifer Vargas
Village Officials and Staff:	Stephanie Kisler, Planner I Dominick Lanzito, Village Attorney Patricia Meagher, Commission Secretary

#### **CALL TO ORDER**

A motion was made by ZONING BOARD MEMBER SEPESSY, seconded by ZONING BOARD MEMBER PASZCZYK to open the regular meeting of the Zoning Board of Appeals at 7:30 p.m. ZONING BOARD CHAIRMAN VERSTRATE declared the Motion approved.

#### **APPROVAL OF MINUTES**

Minutes of the July 28, 2016 meeting of the Zoning Board of Appeals were presented for approval. A motion was made by BOARD MEMBER SEPESSY seconded by ZONING BOARD MEMBER LECHNER to approve the Minutes as presented. THE MOTION WAS APPROVED by voice call. CHAIRMAN VERSTRATE declared the Minutes approved.

**TO: VILLAGE OF TINLEY PARK PRESIDENT AND BOARD OF TRUSTEES**

**FROM: VILLAGE OF TINLEY PARK ZONING BOARD OF APPEALS**

**SUBJECT: MINUTES OF THE AUGUST 25, 2016 MEETING**

**RE: PUBLIC HEARING #1  
COVIC – 6401 TERRACE DRIVE – VARIATION FROM THE REQUIRED FRONT  
YARD SETBACK – FENCE**

Consider recommending that the Village Board grant a Variation to the Petitioner, Mario Covic, which would allow for a fence, including:

1. A fifteen foot, six inch (15'6") Variation from Section V.B. Schedule II (Schedule of District Requirements) where the front yard setback requirement is twenty-five feet (25').

This Variation would allow the Petitioner to install a new four foot (4') tall chain-link fence in alignment with the existing home at a nine foot, six inch (9'6") setback on the east (Ridgeland Avenue) side of this corner lot at 6401 Terrace Drive in the R-4 (Single-Family Residential) Zoning District and within the Tinley Terrace Subdivision.

Present were the following:

Zoning Board Chairman:	Chris Verstrate
Zoning Board Members:	Michael Fitzgerald Paul Lechner Bob Paszczyk Dave Samuelson Steve Sepessy Jennifer Vargas
Village Officials and Staff:	Stephanie Kisler, Planner I Dominick Lanzito, Village Attorney Patricia Meagher, Commission Secretary
Guest(s):	Mario Covic

A motion was made by ZONING BOARD MEMBER FITZGERALD, seconded by BOARD MEMBER LECHNER to open the Public Hearing at 7:35 p.m. THE MOTION WAS APPROVED by voice call. CHAIRMAN VERSTRATE declared the Motion approved.

CHAIRMAN VERSTRATE stated that the Public Hearing was for the Variation of the required front yard setback for a fence at 6401 Terrace Drive. He explained the process of the Public Hearing.

CHAIRMAN VERSTRATE confirmed Village Staff provided confirmation that appropriate notice regarding the public hearing was published in the local newspaper in accordance with State law and also sent to the surrounding area per Village requirements.

CHAIRMAN VERSTRATE requested the Petitioner, and anyone present who wished to give testimony, comment, engage in cross-examination or ask questions during the Public Hearing being held this evening stand and be sworn in. He then requested that the Petitioner present his request for a Variation.

MARIO COVIC, 6401 Terrace Drive, explained that he is requesting a fifteen-foot (15') Variation for his fence. He explained that he is requesting this for security purposes. He noted that there is a church located behind his property and there is a lot of activity. He stated there are people who cross through his backyard to get to the church. He mentioned being concerned about something happening on his property where he could be liable. He also mentioned that he would like the yard fenced in for his dog.

CHAIRMAN VERSTRATE clarified with MR. COVIC that there is not currently a fence at the back of the yard but there is a fence on the west side of the yard that is his neighbor's. MR. COVIC confirmed this and also stated that he will put in a fence identical to the neighbor's and line it up to the neighbor's existing fence. CHAIRMAN VERSTRATE asked if any of the BOARD MEMBERS had any questions for MR. COVIC.

ZONING BOARD MEMBER VARGAS asked if MR. COVIC'S requested fence would be placed around the utility box that is located at the back end of his yard or if the fence would enclose the utility box. MR. COVIC stated that it would be enclosed within the fence. BOARD MEMBER VARGAS wanted to know if there is an Ordinance regarding the utility box.

STEPHANIE KISLER, Planner I, explained that if a utility box is fenced in the fence must have a gate so that the utility company has access to it. She confirmed with MR. COVIC that a gate would be installed and made sure that MR. COVIC was aware that the utility company may use the gate to access the utility box within the easement. She provided pictures of the property and indicated the location of the utility box. She also explained how issues could arise when property owners exclude the utility boxes from their properties and render them inaccessible.

CHAIRMAN VERSTRATE asked MS. KISLER if there were any comments from the Police or Fire Departments. MS. KISLER stated that there were no concerns.

CHAIRMAN VERSTRATE asked if there were any other questions for MR. COVIC.

ZONING BOARD MEMBER SAMUELSON asked if MR. COVIC'S request was for a four foot (4') tall chain-link fence. MR. COVIC confirmed that this will be a chain-link fence identical to his neighbors on both sides of his property.

MS. KISLER explained that the Petitioner is requesting a fifteen foot (15') Variance to allow for a fence at a nine foot, six inch (9'6") setback. She presented, via Power Point, diagrams of the proposed fence and the Variation. Also shown was the possible Administrative Variation, a ten foot (10') Variation which can be allowed administratively by the Zoning Administrator if the property does not have certain concerns such as negative impact to line-of-sight or safety issues and is consistent with the character of the neighborhood. Also shown on the diagram was the twenty-five foot (25') required front yard setback. She also noted that there are mature trees along the east side of the property and within the public right-of-way along Ridgeland Avenue providing screening for the fence. She noted, for the record, that the Petitioner originally requested that the fence come out further than the setback of the home. She noted that MR. COVIC subsequently agreed upon a proposal to align the fence with the home.

MS. KISLER noted the church property south of the Petitioner's property. She stated that the fence would not cause any negative impact on that property because it will align with existing fences to the west and align with the Petitioner's home. She mentioned the fence would also decrease any liability to the Petitioner from the possibility of anyone entering his yard.

MS. KISLER stated that MR. COVIC will be making some modifications to his property, such as moving a drain pipe, to make the fence location work. She displayed a number of pictures highlighting the property from all angles and provided relevant measurements for the proposed location of the fence. She also confirmed that MR. COVIC will still be responsible for maintaining the property outside of the fence and the adjacent property within the parkway.

MS. KISLER reviewed the following draft Findings of Fact prepared by Staff for Standards of Variations:

1. The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in the district in which it is located.
  - There are other options available to the Petitioner that would not require a Variation; however, these other options would place the fence in the middle of the back yard and the fence would not be able to align with the east side of the home. The proposed location of the fence would be consistent with the intent of the ordinance.
2. The plight of the owner is due to unique circumstances.
  - The proposed location of the fence is requested because the existing home is nonconforming to the current 25' setback requirement. The existing home is setback 9'6" and the Petitioner would like to align the fence with the setback of the home. It is unique for a home on a corner lot to have a nonconforming setback to which Staff cannot administratively grant a sensible location for the fence.
3. The Variation, if granted, will not alter the essential character of the locality.
  - The proposed fence will not alter the essential character of the locality because it will be in alignment with the existing home and will be adequately screened by mature trees that exist on the east side of the property. Additionally, the Petitioner is proposing to use chain-link, which matches the existing chain-link fence to the west of his property.

CHAIRMAN VERSTRATE asked the BOARD MEMBERS if there were any questions.

BOARD MEMBER SEPESSY inquired about the measurements shown in the diagrams presented. MS. KISLER explained the measurements, noting the required setback versus the proposed location of the fence.

BOARD MEMBER LECHNER inquired about ownership of the property within the parkway. MS. KISLER stated that that it is a public right-of-way.

CHAIRMAN VERSTRATE asked MR. COVIC if he had any questions for Staff or if he had any closing statements. MR. COVIC stated that he did not have questions and he felt that all points were covered.

CHAIRMAN VERSTRATE opened up deliberations with BOARD MEMBERS. He started by stating that due to the property being nonconforming to the front yard setback, it makes it difficult for the Petitioner to be conforming with the location of the fence.

BOARD MEMBER PASZCZYK stated that by reviewing the proposal and looking at the pluses and minuses, the pluses are that the chain-link fence is consistent with the neighbors, there are no line-of-sight restrictions, and the proposed fence is in a clean alignment with the neighboring fences, and the liability issue that the Petitioner is concerned about would be mitigated. He noted that he did not see any minuses.

There being no further deliberation, CHAIRMAN VERSTRATE asked for a Motion to close the Public Hearing. BOARD MEMBER LECHNER made the Motion, seconded by BOARD MEMBER SEPESSY. CHAIRMAN

VERSTRATE asked for a voice vote to close the Public Hearing portion of the first Agenda item. THE MOTION WAS APPROVED by voice vote.

CHAIRMAN VERSTRATE asked for a Motion to consider the Petitioner's request. A Motion was made by BOARD MEMBER SAMUELSON, seconded by BOARD MEMBER SEPESSY to recommend that the Village Board grant the Petitioner, Mario Covic, a fifteen foot, six inch (15'6") Variation from Section V.B. Schedule II (Schedule of District Requirements) where the front yard setback requirement is twenty-five feet (25'). This Variation would allow the Petitioner to install a new four foot (4') tall chain-link fence in alignment with the existing home at a nine foot, six inch (9'6") setback on the east (Ridgeland Avenue) side of this corner lot at 6401 Terrace Drive in the R-4 (Single-Family Residential) Zoning District within the Tinley Terrace Subdivision.

AYE: Zoning Board Members Bob Paszczyk, Dave Samuelson, Steve Sepessy, Michael Fitzgerald, Paul Lechner, and Jennifer Vargas

NAY: None

ABSENT: None

THE MOTION WAS APPROVED by voice vote. CHAIRMAN VERSTRATE declared the Motion approved.

#### **FOR THE GOOD OF THE ORDER**

MS. KISLER requested input from the BOARD MEMBERS for amendments regarding fence regulations. She provided the BOARD MEMBERS diagrams of various properties within the community, asking that each BOARD MEMBER draw their recommendation where fencing should be permitted and note any comments or concerns. She noted that all information will be taken into consideration for the future Text Amendment. She stated these can be either dropped off at the Village Hall or emailed to her directly.

MS. KISLER also noted that there will not be a Zoning Board of Appeals Meeting on September 8, 2016.

CHAIRMAN VERSTRATE asked the BOARD MEMBERS if there were any questions or concerns regarding an amendment to the fence regulations that would allow more administrative decision making. BOARD MEMBER VARGAS did state that many of the individuals coming before the Board are new homeowners and were not informed of any issues before their purchase. She asked if the listing Real Estate Agent is supposed to inform the buyers of any concerns. MS. KISLER stated that no, typically at closing the buyers are given the Plat of Survey for the property and the closing attorney present should mention any issues seen from the Plat of Survey. Most homeowners do not find any concerns until they apply for a building permit. CHAIRMAN VERSTRATE asked if the setbacks are on the Plat of Survey. MS. KISLER stated that they are sometimes included on the Plat of Survey, but the owner should confirm with the Village that the Plat of Survey is correct since the setback regulations could have changed since the home was built.

CHAIRMAN VERSTRATE asked the BOARD MEMBERS if there were any other comments and there were none.

#### **RECEIVE COMMENTS FROM THE PUBLIC**

CHAIRMAN VERSTRATE asked if anyone had a Public Comment. No one in the audience wished to comment.

#### **ADJOURNMENT**

CHAIRMAN VERSTRATE asked for a Motion to adjourn the meeting.

A Motion was made by BOARD MEMBER PASZCZYK, seconded by BOARD MEMBER LECHNER to close the regular meeting of the Zoning Board of Appeals of August 25, 2016 at 8:04 p.m. THE MOTION WAS APPROVED by voice call. CHAIRMAN VERSTRATE declared the Motion approved.

DRAFT



## ZONING BOARD OF APPEALS STAFF REPORT

November 10, 2016

### SCHNEIDER (6220 CARLSBAD DRIVE)

Variation from the Required Front Yard Setback for a Fence

**Petitioner**

Gail Schneider

**Property Address**

6220 Carlsbad Drive

**PIN**

28-29-105-025-0000

**Parcel Size**

0.24 acres ±  
(10,820 square feet)

**Zoning**

R-4 (Single-Family Residential)

**Subdivision**

Lancaster Highlands

**Publication**

Daily Southtown  
(October 18, 2016)

**Requested Action**

Consider making a motion to recommend the requested Variation to the Village Board

**Project Planner**

Stephanie Kisler, AICP  
Planner I



*Photo of Petitioner's House (from Carlsbad Drive)*

### SUMMARY OF VARIATION REQUEST

The Petitioner, Gail Schneider, is requesting a fifteen-foot (15') Variation from Section V.B. Schedule II (Schedule of District Requirements) of the Zoning Ordinance where the front yard setback requirement is twenty-five feet (25').

This Variation would allow the Petitioner to install a new six foot (6') tall PVC privacy fence at a ten foot (10') setback on the east (Beverly Avenue) side of this corner lot at 6220 Carlsbad Drive in the R-4 (Single-Family Residential) Zoning District and within the Lancaster Highlands Subdivision.

The proposed fence would replace the existing four foot (4') tall open-style deteriorating wood fence that was installed at a zero foot (0') setback along the east (Beverly Avenue) side of the property.

There are no records of a Variation or building permit for this current fence.

**VILLAGE STAFF COMMENTS**

Staff has reviewed the Petitioner’s Variation request, which would allow the Petitioner to replace the existing four foot (4’) tall open-style deteriorating fence with a new six foot (6’) tall PVC privacy fence at a ten foot (10’) setback on the east (Beverly Avenue) side of the property. The existing fence is located on the east property line while the proposed fence would be relocated ten feet (10’) inward and would replace an four foot (4’) tall open-style fence with a six foot (6’) tall privacy fence.

LEGEND	
<b>Red Dashed Line</b>	Property Lines
<b>Pink Dotted Line</b>	25’ Required Front Yard Setback Lines
<b>Yellow Line</b>	Existing Fence Location
<b>Purple Line</b>	Proposed Variation Request for Fence
<b>Blue Line</b>	Fence Allowed by Administrative Variation
<b>Green Line</b>	Fence Allowed by Code

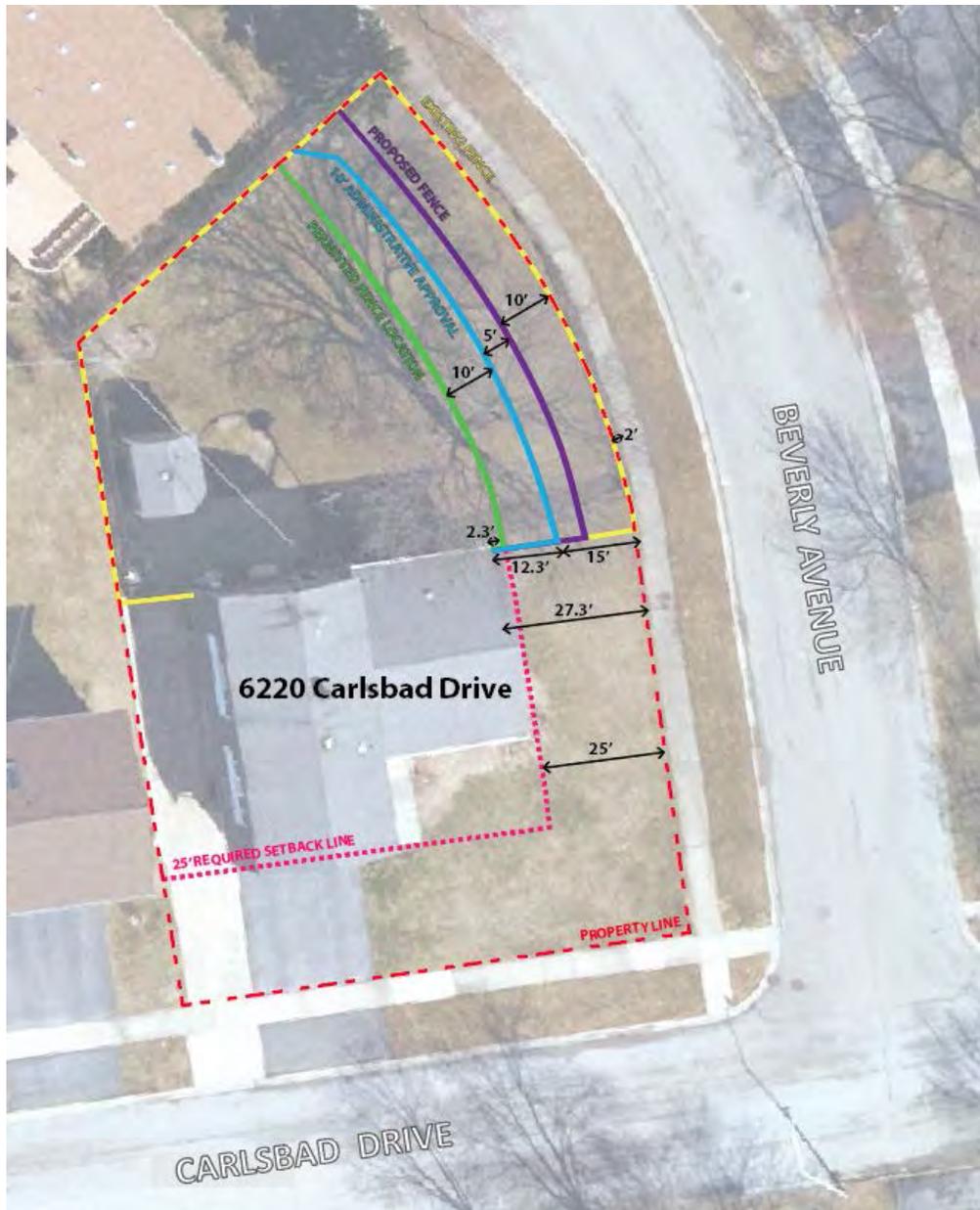
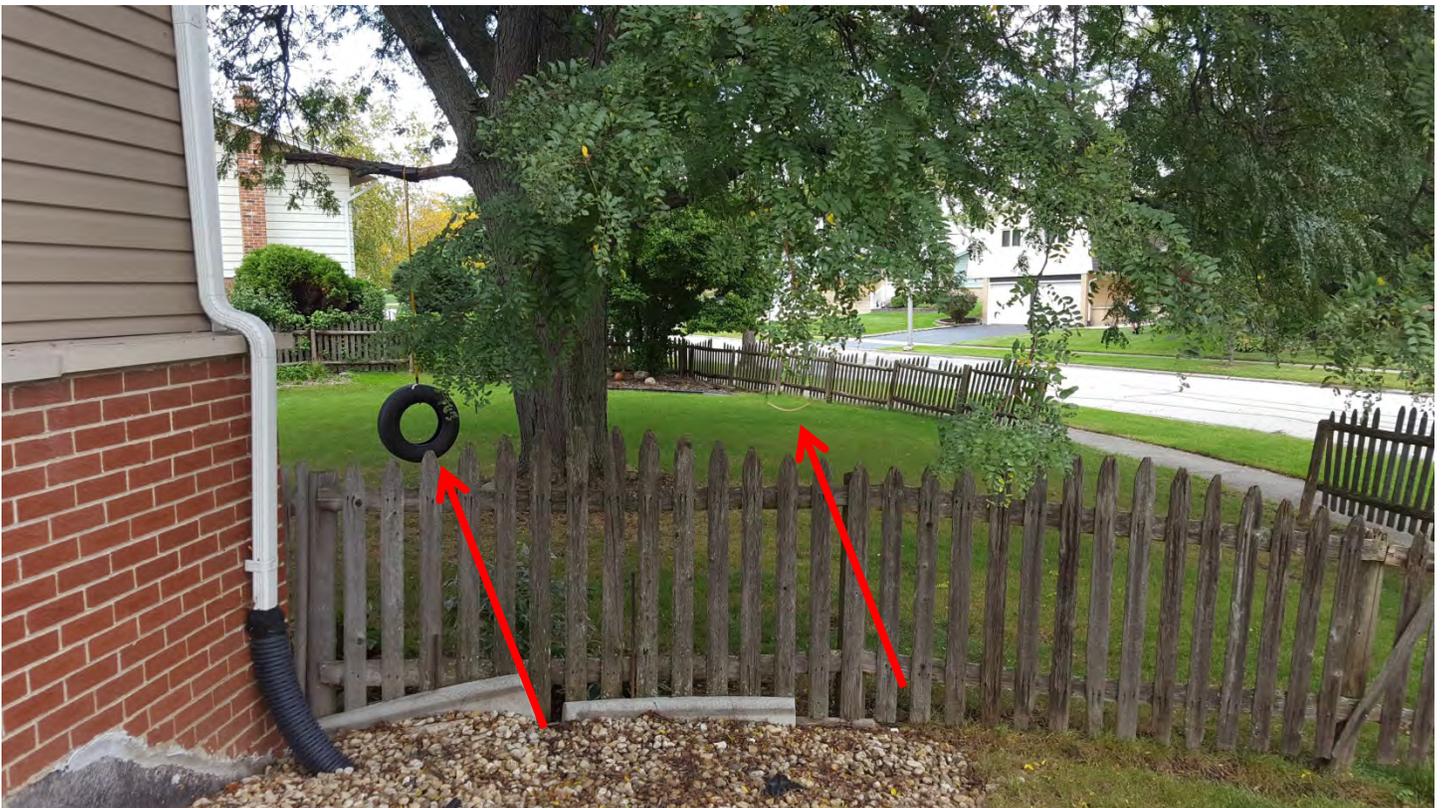


Diagram Showing Variation Request and Relevant Measurements

The property is zoned R-4, so a twenty-five foot (25') setback is required for front yards per Section V.B. Schedule II (Schedule of District Requirements). The **Variation request** is for the fence to be installed at a ten foot (10') setback from the east property line. Per Section III.H.1. of the Zoning Ordinance, Staff is able to grant an **Administrative Variation** of up to ten feet (10') from the required setback. This would allow the Petitioner to maintain a setback for the fence fifteen feet (15') from the property line parallel to Beverly Avenue. Note that Staff suggested angling the north line of the **Administrative Variation** option to allow the fence to come closer to aligning with the setback of the home to the north.

There is a mature tree in the yard and the tree's location may conflict with the maximum **allowable fence location**, so Staff discussed the possibility of installing the fence at the **Administrative Variation** location. The Petitioner has stated that the location of the **Administrative Variation** would not fit their needs since a swing exists on a mature tree in the yard and the swing would no longer be usable if the fence were relocated closer to the swing. The Petitioner declined Staff's recommendation for an **Administrative Variation** and is requesting a fence with a ten foot (10') setback (indicated in blue).



*Photo Showing Swings in the Mature Tree*

Staff notes that aligning the fence with the setback of the house and the setback of adjacent homes is the intent of the code. The Petitioner could install the fence at a lesser setback than the existing house setback (27.3') at the permitted setback of 25' t or at an administratively approved location (15' setback) and remove the swings. If this Variation is granted, it may establish precedent for other requests in the future since the evidence provided in the application is not necessarily unique to only this property.



*Google StreetView Photo of Fence (June 2012)*



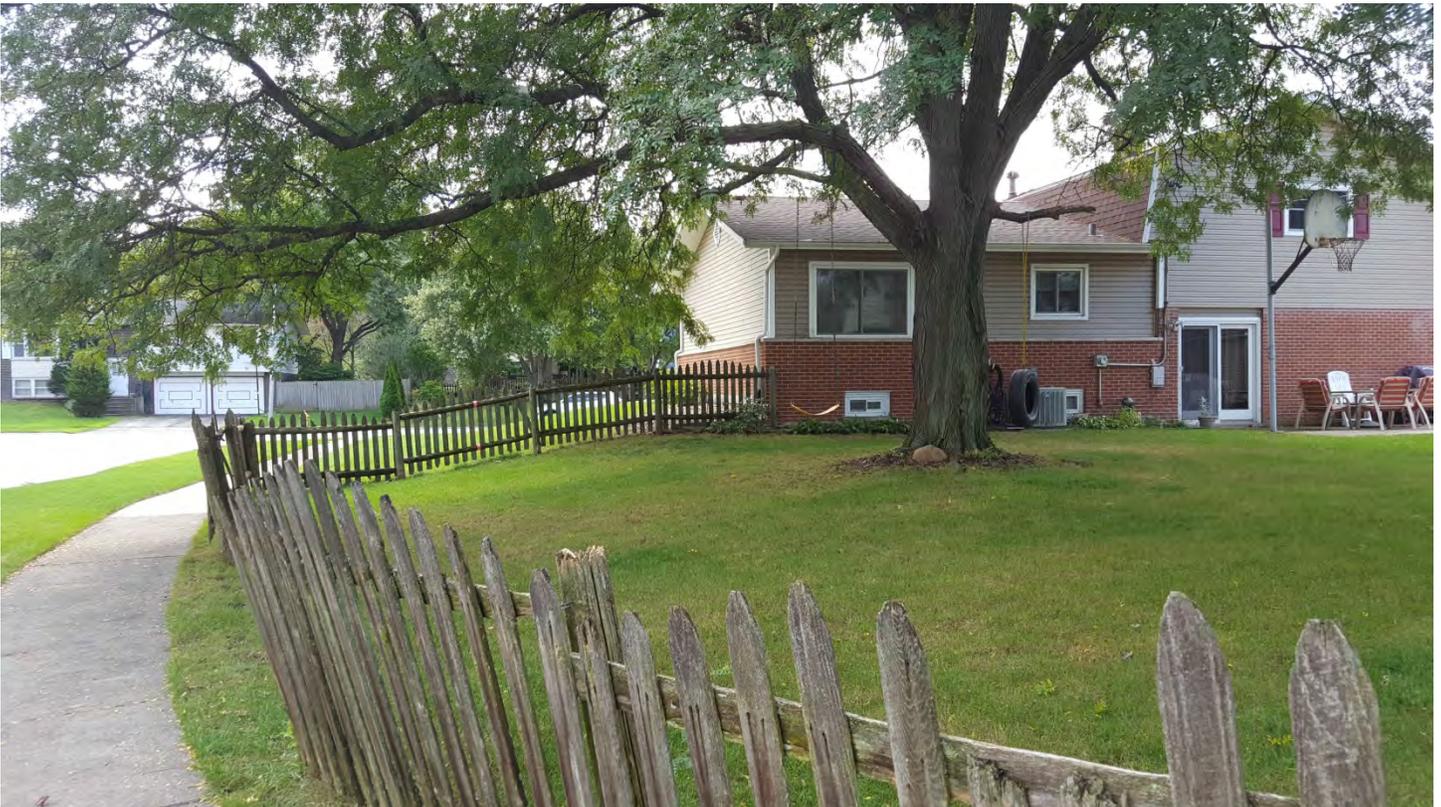
*Current Photo of Fence (October 2016)*

The Zoning Board of Appeals may wish to consider the curvature of Beverly Avenue and the impact on the property to the north when considering this Variation request since there may be aesthetic and safety concerns. The existing fence is an open-style fence and the proposed fence is a taller privacy fence, so the character of the area may be impacted. The Petitioner no longer has a pool in the yard, so a shorter fence can be considered.



*Photo Showing View of Existing Fence in Relation to Neighboring Property to the North*

The Zoning Board of Appeals may also wish to consider whether having a fence that does not currently meet the Village's code for location is a valid defense for permitting the construction of a new non-conforming fence. Additionally, the Petitioner's tree swing is not a permanent installation and therefore is not necessarily a hardship that can be used as a basis for determining a proper location for a fence; it does not present a unique situation because it is temporary in nature and can be removed, thereby eliminating the defense that the fence cannot be placed in alignment with the building setback or in the Administrative Variation location.



*Photo Showing Existing Fence, Mature Tree, and Swings*

## **DRAFT FINDINGS OF FACT AS PREPARED BY STAFF**

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Per Section X.G.4. of the Zoning Ordinance, the Zoning Board of Appeals shall not recommend a Variation of the regulations of the Zoning Ordinance unless it shall have made Findings of Fact, based upon the evidence presented for each of the Standards for Variations listed below. Staff has prepared draft responses for the Findings of Fact (listed in bullet points) based on the information supplied by the Petitioner and the information researched by Staff as of October 7, 2016. The Zoning Board of Appeals may accept, delete, or amend the following findings based on information provided during the Public Hearing and enter them as part of the record.

- 1. The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in the district in which it is located.**
  - There are other viable options available to the Petitioner that would not require a Variation. The property can yield a reasonable return if the fence was located in accordance with the Village's regulations, although it would decrease the fenced portion of the yard. This situation is common for corner lots and the property value may not be substantially impacted.
  
- 2. The plight of the owner is due to unique circumstances.**
  - There are other viable options available to the Petitioner that would not require a Variation. The proposed fence location is requested in order to maintain the current size of the yard, which is a request not unique to only this corner lot. Additionally, the Petitioner has cited a swing located on a mature tree in the yard as part of the rationale for the need for the proposed location. If the swing were removed, this reasoning would no longer exist. A relatively temporary amenity, such as a swing, is not solely unique to this property.
  
- 3. The Variation, if granted, will not alter the essential character of the locality.**
  - There are other viable options available to the Petitioner that would not require a Variation. The requested fence location (10' setback) may alter the character of the neighborhood since the previous fence was a four-foot (4') tall open-style fence and the proposed fence is a six foot (6') privacy-style fence.
  
- 4. Additionally, the Zoning Board of Appeals shall also, in making its determination whether there are practical difficulties or particular hardships, take into consideration the extent to which the following facts favorable to the Petitioner have been established by the evidence:**
  - a. The particular physical surroundings, shape, or topographical condition of the specific property involved would result in a particular hardship upon the owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out;
  - b. The conditions upon which the petition for a Variation is based would not be applicable, generally, to other property within the same zoning classification;
  - c. The purpose of the Variation is not based exclusively upon a desire to make more money out of the property;
  - d. The alleged difficulty or hardship has not been created by the owner of the property, or by a previous owner;
  - e. The granting of the Variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located; and
  - f. The proposed Variation will not impair an adequate supply of light and air to an adjacent property, or substantially increase the congestion in the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the neighborhood.

## APPROPRIATE MOTION

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If the Zoning Board of Appeals wishes to make a motion, the following motion is **written in the affirmative** for the Board's consideration:

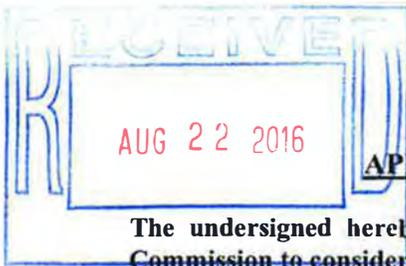
**“...make a motion to consider recommending that the Village Board grant the Petitioner, Gail Schneider, a fifteen-foot (15’) Variation from Section V.B. Schedule II (Schedule of District Requirements) of the Zoning Ordinance where the front yard setback requirement is twenty-five feet (25’). This Variation would allow the Petitioner to install a new six foot (6’) tall PVC privacy fence at a ten foot (10’) setback on the east (Beverly Avenue) side of this corner lot at 6220 Carlsbad Drive in the R-4 (Single-Family Residential) Zoning District and within the Lancaster Highlands Subdivision. The proposed fence would replace the existing deteriorating wood fence that was installed at a zero foot (0’) setback along the east (Beverly Avenue) side of the property.”**

**...Based on the evidence provided at this hearing and the following:**

1. That the Petitioners have provided evidence establishing that they have met the standards for Variations contained in Section X.G.4. of the Zoning Ordinance.
2. *[any other facts or unique circumstances that the Zoning Board of Appeals would like to mention.]*

**...With the following conditions:**

1. *[any conditions that the Zoning Board of Appeals would like to recommend.]*



VILLAGE OF TINLEY PARK
APPLICATION FOR ZONING ORDINANCE VARIANCE

The undersigned hereby Petitions the Village of Tinley Park Zoning Board of Appeals and/or Plan Commission to consider a Variation from the terms of the Zoning Ordinance as follows:

PETITIONER INFORMATION

Name: GAIL L. SCHNEIDER

Mailing Address: 6220 CARLSBAD DRIVE

City: TINLEY PARK State: IL Zip: 60477

Day Phone: [redacted] Evening Phone:

Cell Phone: [redacted] Fax Number:

Email Address: [redacted]

Nature of Petitioner's Interest in the property and/or relationship to the owner:
(Applications received on behalf of the owner of record must be accompanied by a signed letter of authorization).

PROPERTY INFORMATION

Street Address: 6220 CARLSBAD DRIVE TINLEY PK IL

Owners: GAIL L. SCHNEIDER

SPECIFIC TYPE OF VARIANCE REQUESTED (See Examples Below):

Examples of Specific Type of Variance Requested:

This refers to the exact number of feet, the exact dimensions of a structure, exact height/type of fence.
For example:

"A 15 foot Variance to the Front Yard Setback on the East side of the property to allow for a 6-foot tall cedar fence on this corner lot."

"A 180 square foot variance to the 720 square foot maximum allowable size of an accessory structure to allow for a 30 foot or 900 square foot garage on this residential property."

"A 10 foot variance to the 10 foot maximum allowable height for a sign to allow for a 20 foot high monument sign on this commercial property."

**REASON THAT THE VARIANCE IS NEEDED:** (See Examples below)

*I would like to extend our fence 12 ft. inward of the sidewalk of the house and to go between 2 grown adult trees to enclose my yard for privacy. My yard slopes down toward the sidewalk and I would like privacy when my family + I are in the backyard. New PVC 6ft fence, following the curve of the sidewalk.*

PHOTO  
A

**Examples of Reasons that the Variance is needed:**

"We would like to extend our fence 15 feet toward the street from the front corner of the house so that we can enclose a pool, swing set, shed, landscaping, trees, side entrance, etc., and provide a safe area for our children to play"

"We would like to build an oversized garage on our property so that we may store our antique vehicle, snow mobiles, riding lawn mower, etc., inside, as well as our two other cars, which are currently parked in the driveway"

The Petitioner certifies that all of the above statements and other information submitted as part of this Application and Findings of Fact are true and correct to the best of his or her knowledge:

Signature:  Date: 8/17/16  
Printed Name: DETR

**OFFICE USE ONLY:**

Current Zoning on Property \_\_\_\_\_ Present Use \_\_\_\_\_

Notes

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## FINDINGS OF FACT

### ADDITIONAL INFORMATION TO BE PRESENTED TO SUPPORT A VARIATION REQUEST FROM THE TERMS OF THE VILLAGE OF TINLEY PARK ZONING ORDINANCE

Section X.G.1 of the Village of Tinley Park Zoning Ordinance requires that the Zoning Board of Appeals determine compliance with the following standards and criteria. In order for a variance to be approved, the Petitioner must respond to all the following questions with facts and information to support the requested Variation:

- A. Describe the difficulty that you have in conforming with the **current** regulations and restrictions relating to your property, and describe how this hardship is not caused by any persons presently having an interest in the property. (Please note that a mere inconvenience is insufficient to grant a Variation). For example, does the shape or size of the lot, slope, or the neighboring surroundings cause a severe problem in completing the project in conformance with the applicable Ordinance requirement?

*My yard slopes to the street so I would like to move the fence inward to keep my privacy and to follow along the curve of the sidewalk.*

- B. Describe any difficulties or hardships that **current** zoning regulations and restrictions would have in decreasing your property value compared to neighboring properties.

*If I follow the current zone, it would place the fence right up against an adult tree and limit the size of my backyard. I do not want to jeopardize the health of the tree due to it being a beautiful shade tree for my yard.*

- C. Describe how the above difficulty or hardship was created.

*Large adult tree was planted right along the property. A beautiful focal point in the back yard which provides shade and my kids have swings on the branches.*

PHOTO (C)

PHOTO (C)

## FINDINGS OF FACT (CONTINUED)

- D. Describe the reasons this Variance request is unique to this property only and is not applicable, in general, to other properties within the same Zoning District.

*I have a unique shaped corner lot.*

- E. Explain how this Variance **would not** be regarded as an attempt at financial gain, but only because of personal necessity. For example, the intent of the Variance is to accommodate related living for an elderly relative as opposed to adding an additional income source.

*To keep my privacy + family safe.*

- F. Describe how granting this Variance request will not be detrimental to the public welfare or injurious to other properties or improvements in the neighborhood in which the property is located: (Example: fencing will not obstruct view of automobile traffic).

*The fence would be far enough set back from the sidewalk and corner of the street (110ft) to not block view of the intersection.*

- G. Explain how granting this Variance will not alter the essential character of the neighborhood or locality:

*It would not alter the character of the home or neighborhood by being able to keep our established trees in the yard + one outside of the fence if the variance is granted.*

PHOTO  
(B)

PHOTO  
(E)

## FINDINGS OF FACT (Continued)

H. Describe how the requested Variance **will not**:

1. Impair an adequate supply of light and air to adjacent properties.

Adjacent property has bushes that are 6 ft or higher than the fence I am requesting to put in.

PHOTO  
(D)

2. Substantially increase the congestion of the public streets.

By setting the fence back off the sidewalk, it allows pedestrians more room along the sidewalk. Old fence was along the sidewalk.

3. Increase the danger of fire.

No, I am installing a PVC fence.

4. Impair natural drainage or create drainage problems on adjacent property.

No, not changing the slope of my yard.

5. Endanger the public safety.

No, because it is set off from the street and sidewalk.

6. Substantially diminish or impair property values within the neighborhood.

A new fence would enhance the property value along with new landscaping.

PHOTO  
(E)





SCHNEIDER, GAIL

6220 CARLSBAD DE



PHOTO  
(A)

Current fence along the EAST side of the property. Newly proposed fence to be 12 ft from sidewalk along Beverly Ave. (New fence to end at PINK TAPE)



VIEW OF FENCE FROM  
BEVERLY, PINK MARKED  
FOR NEW FENCE

110 ft from the  
intersection of Carlsbad  
& Beverly.

PHOTO (B)

SCHNEIDER, GAIL

6270 CARLSBAD DR.



PHOTO  
C

ESTABLISHED TREE <sup>(#1)</sup> ALONG PROPERTY LINE,  
CHILDRENS SWINGS ON BRANCHES



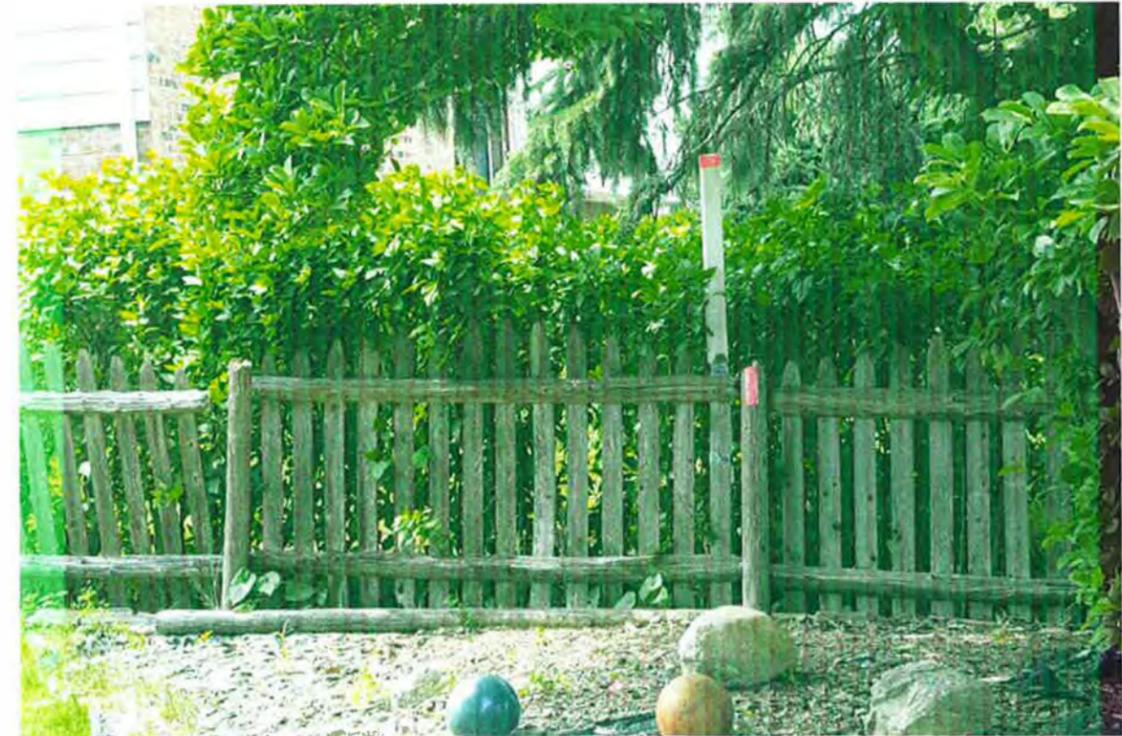
SCHNEIDER, GAIL 6220 CARLSBAD DR.



Photo

(D)

Adjacent property to the North, on Beverly.  
High Bushes and Pine trees up to the sidewalk.



SCHNEIDER, GAIL

6220 CARLSBAD DR.



PHOTO

(E)

SECOND ESTABLISHED TREE <sup>(#2)</sup> IN NORTH/EAST CORNER OF THE LOT. TO BE RELANDSCAPED AND BE LOCATED OUTSIDE THE NEW FENCE AREA.



BEVERLY AVENUE

6220 Carlsbad Drive

25' REQUIRED SETBACK LINE

PROPERTY LINE

CARLSBAD DRIVE

EXISTING FENCE

PROPOSED FENCE

10' ADMINISTRATIVE APPROVAL

PERMITTED FENCE LOCATION

10'

5'

10'

2'

2.3'

12.3'

15'

27.3'

25'



## ZONING BOARD OF APPEALS STAFF REPORT

November 10, 2016

### LUKASZCZYK (17658 HIGHLAND AVENUE)

Variation from the Required Front Yard Setback for a Fence

#### Petitioner

Edyta Lukaszczuk

#### Property Address

17658 Highland Avenue

#### PIN

28-32-100-044-0000

#### Parcel Size

0.34 acres ±  
(15,126 square feet)

#### Zoning

R-4 (Single-Family  
Residential)

#### Subdivision

Elmore's Ridgeland Avenue  
Estates

#### Publication

Daily Southtown  
(October 18, 2016)

#### Requested Action

Consider making a motion  
to recommend the  
requested Variation to the  
Village Board

#### Project Planner

Stephanie Kisler, AICP  
Planner I



*Photo of Petitioner's House (from Highland Avenue)*

### SUMMARY OF VARIATION REQUEST

The Petitioner, Edyta Lukaszczuk, is requesting a thirty-foot (30') Variation from Section V.B. Schedule II (Schedule of District Requirements) of the Zoning Ordinance where the front yard setback requirement is thirty feet (30').

This Variation would allow the Petitioner to replace an existing dilapidated wood fence with a new six foot (6') tall wood privacy fence at a zero foot (0') setback on the south (177<sup>th</sup> Street) side of this corner lot at 17658 Highland Avenue in the R-2 (Single-Family Residential) Zoning District and within the Elmore's Ridgeland Avenue Estates Subdivision.

## VILLAGE STAFF COMMENTS

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Staff has reviewed the Petitioner's Variation request, which would allow the Petitioner to replace the existing deteriorating wood privacy fence with a new six-foot (6') tall wood privacy fence at a zero foot (0') setback on the south (177<sup>th</sup> Street) side of the property.

The Petitioner stated that she purchased the property in 2013 with the current fence and deck. The fence is now in need of repair and the Petitioner must obtain a Variation in order to replace the fence at the same location. Staff researched permit records for the property and could not locate any permits for the existing fence or deck.



*Photo Showing the Current Condition of the Petitioner's Fence*

The property is zoned R-2, so a thirty-foot (30') setback is required for front yards per Section V.B. Schedule II (Schedule of District Requirements). The **Variation request** is for the fence to be installed at a zero foot (0') setback from the south property line. Per Section III.H.1. of the Zoning Ordinance, Staff is able to grant an **Administrative Variation** of up to ten feet (10') from the required setback. This would allow the Petitioner to maintain a setback for the fence twenty feet (20') from the property line parallel to 177<sup>th</sup> Street.

The property is nonconforming to the required 30' front yard setback on the south side of the home with an existing setback of twenty-four feet (24'). Installing a fence at the **required setback location** would result in a location six feet (6') north of the home's existing setback.

LEGEND	
<b>Red Dashed Line</b>	Property Lines
<b>Pink Dotted Line</b>	25' Required Front Yard Setback Lines
<b>Yellow Line</b>	Existing Fence Location
<b>Purple Line</b>	Proposed Variation Request for Fence
<b>Blue Line</b>	Fence Allowed by Administrative Variation
<b>Green Line</b>	Fence Allowed by Code

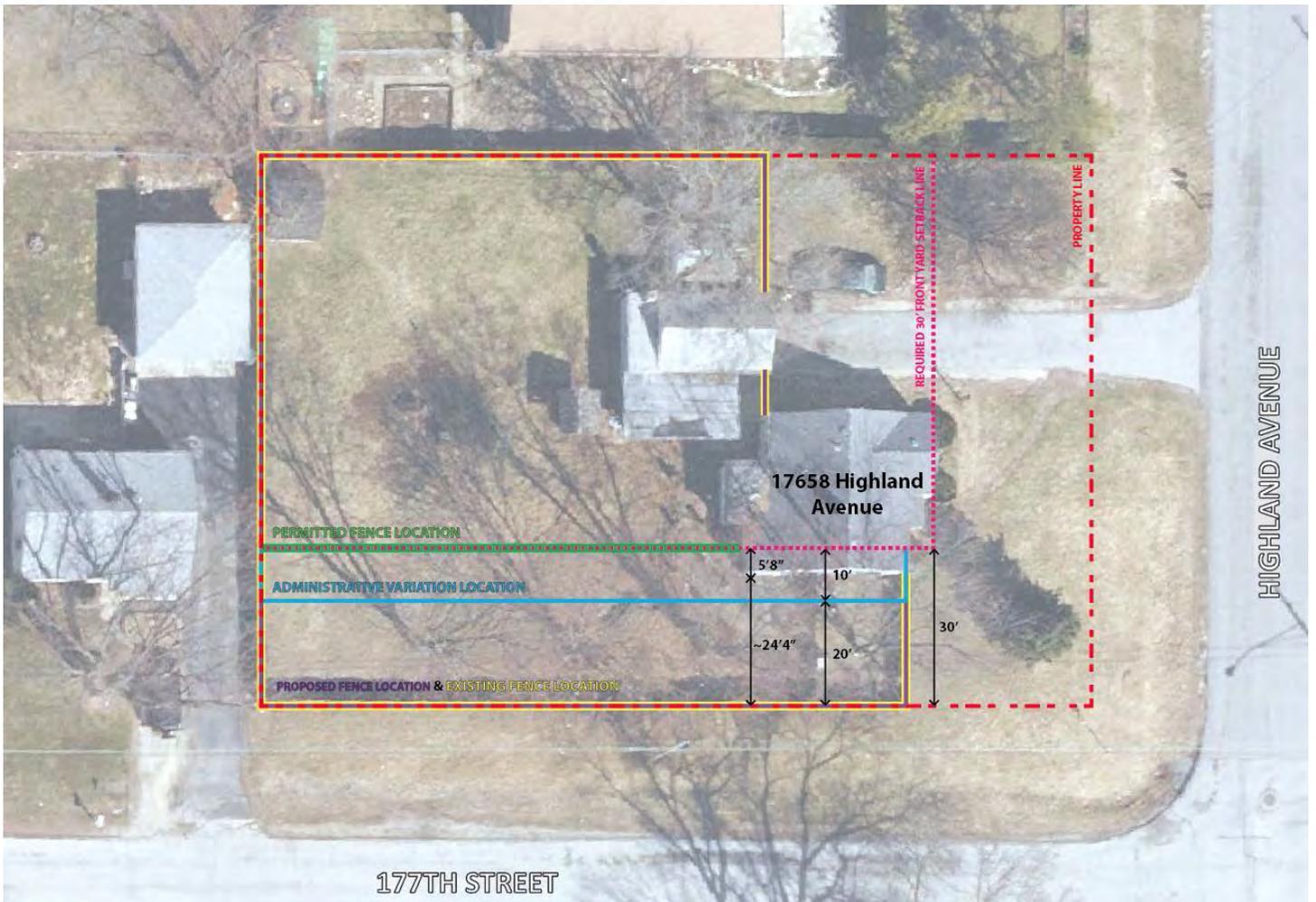


Diagram Showing Variation Request and Relevant Measurements

Additionally, another aspect of this property is the patio door is located on the south side of the house and a deck was constructed outside the patio around a mature tree (see photo below). The deck is non-conforming since decks are not permitted within front yard setbacks; however, a previous homeowner constructed the patio door and deck. Staff notes that the option for an **Administrative Variation** might present a hardship since this would result in the deck no longer being enclosed by the fence, which is customary for single-family homes in this neighborhood and typical of a homeowner’s desire for privacy. In order for the Petitioner to make use of the house as it exists today with the patio door on the south side of the home, some relief for the location of a fence would need to be considered that would enclose a walkway to a patio in the true ‘rear’ of the yard.



*Photo Showing Patio Door and Existing Deck*

Staff recommends the Zoning Board of Appeals consider truncating the southwest corner of the fence in order to preserve good sight lines for the adjacent driveway to the west. Furthermore, Staff notes that the right-of-way in this area is very wide and offers a further setback from the pavement of the streets reducing safety issues for the intersection of Highland Avenue and 177<sup>th</sup> Street.



*Photo Showing Adjacent Driveway to the West of the Petitioner's Property*

The Zoning Board of Appeals may wish to consider the aesthetic and safety impacts of granting the requested Variation for the fence. The Petitioner presents a hardship due to the non-conforming setback on the south side of the home and the existence of a patio door and deck located on the south side of the home. Staff also notes that due to the variable nature of incorporated versus unincorporated properties in the area, there is little consistency with fence locations in this area of the Village. A fence has existed in this location and replacing the fence in the same location would not alter the character of the neighborhood. The proposed fence is similar to the design of the existing fence and the functionality of the outdoor areas of the property may be compromised without the Variation for the fence location.

**DRAFT FINDINGS OF FACT AS PREPARED BY STAFF**

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Per Section X.G.4. of the Zoning Ordinance, the Zoning Board of Appeals shall not recommend a Variation of the regulations of the Zoning Ordinance unless it shall have made Findings of Fact, based upon the evidence presented for each of the Standards for Variations listed below. Staff has prepared draft responses for the Findings of Fact (listed in bullet points) based on the information supplied by the Petitioner and the information researched by Staff as of October 7, 2016. The Zoning Board of Appeals may accept, delete, or amend the following findings based on information provided during the Public Hearing and enter them as part of the record.

- 1. The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in the district in which it is located.**
  - Without the granting of a Variation, the property cannot yield a reasonable return and utilization of the south side of the home with the existing floor plan and deck would be significantly impacted. Conformance with permitted or administratively permitted setbacks negatively affect the functionality and privacy of the existing deck area in the yard; the deck and floor plan were not constructed by the Petitioner. Significant changes to the interior floor plan of the home would have to be made to accommodate the existing location of the patio door and the existing deck.
  
- 2. The plight of the owner is due to unique circumstances.**
  - The existing floor plan and location of the deck presents a unique hardship for the owner. . Conformance with code would require significant remodeling or restricted use of the outdoor area on the south side of the home. The Petitioner's existing patio door and deck (which were constructed by a previous homeowner) create a unique circumstance where the logical location for a fence is surrounding the deck in its current location. There are no other properties in the vicinity that have the same circumstances.
  
- 3. The Variation, if granted, will not alter the essential character of the locality.**
  - If the Variation is granted it will not alter the essential character of the area since it is consistent with the location and design of the current fence. There is limited aesthetic consistency in this area because many lots in the area of the Village are still unincorporated and are subject to county regulations rather than Village regulations.
  
- 4. Additionally, the Zoning Board of Appeals shall also, in making its determination whether there are practical difficulties or particular hardships, take into consideration the extent to which the following facts favorable to the Petitioner have been established by the evidence:**
  - a. The particular physical surroundings, shape, or topographical condition of the specific property involved would result in a particular hardship upon the owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out;
  - b. The conditions upon which the petition for a Variation is based would not be applicable, generally, to other property within the same zoning classification;
  - c. The purpose of the Variation is not based exclusively upon a desire to make more money out of the property;
  - d. The alleged difficulty or hardship has not been created by the owner of the property, or by a previous owner;
  - e. The granting of the Variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located; and
  - f. The proposed Variation will not impair an adequate supply of light and air to an adjacent property, or substantially increase the congestion in the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the neighborhood.



## APPROPRIATE MOTION

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If the Zoning Board of Appeals wishes to make a motion, the following motion is written in the affirmative for the Board's consideration:

**"...make a motion to consider recommending that the Village Board grant the Petitioner, Edyta Lukaszczyk, a thirty foot (30') Variation from Section V.B. Schedule II (Schedule of District Requirements) of the Zoning Ordinance where the front yard setback requirement is thirty feet (30'). This Variation would allow the Petitioner to replace an existing dilapidated wood fence with a new six foot (6') tall wood privacy fence at a zero foot (0') setback on the south (177th Street) side of this corner lot at 17658 Highland Avenue in the R-2 (Single-Family Residential) Zoning District and within the Elmore's Ridgeland Avenue Estates Subdivision."**

**...Based on the evidence provided at this hearing and the following:**

1. That the Petitioners have provided evidence establishing that they have met the standards for Variations contained in Section X.G.4. of the Zoning Ordinance.
2. *[any other facts or unique circumstances that the Zoning Board of Appeals would like to mention.]*

**...With the following conditions:**

1. *[any conditions that the Zoning Board of Appeals would like to recommend.]*

**VILLAGE OF TINLEY PARK**  
**APPLICATION FOR ZONING ORDINANCE VARIANCE**

The undersigned hereby Petitions the Village of Tinley Park Zoning Board of Appeals and/or Plan Commission to consider a Variation from the terms of the Zoning Ordinance as follows:

**PETITIONER INFORMATION**

Name: EDYTA LUKASZCZYK

Mailing Address: 17658 HIGHLAND AV

City: TINLEY PARK State: IL. Zip: 60477

Day Phone: [REDACTED] Evening Phone: [REDACTED]

Cell Phone: [REDACTED] Fax Number: [REDACTED]

Email Address: [REDACTED]

Nature of Petitioner's Interest in the property and/or relationship to the owner:  
(Applications received on behalf of the owner of record must be accompanied by a signed letter of authorization).

**PROPERTY INFORMATION**

Street Address: 17658 HIGHLAND AV TINLEY PARK IL.

Owners: EDYTA LUKASZCZYK 60477

**SPECIFIC TYPE OF VARIANCE REQUESTED (See Examples Below):**

REQUESTING 30 FOOT VARIANCE TO  
ALLOW REPLACEMENT OF THE FENCE  
ON THE SOUTH PROPERTY LINE.

Examples of Specific Type of Variance Requested:

This refers to the exact number of feet, the exact dimensions of a structure, exact height/type of fence.  
For example:

"A 15 foot Variance to the Front Yard Setback on the East side of the property to allow for a 6-foot tall cedar fence on this corner lot."

"A 180 square foot variance to the 720 square foot maximum allowable size of an accessory structure to allow for a 30 foot or 900 square foot garage on this residential property."

"A 10 foot variance to the 10 foot maximum allowable height for a sign to allow for a 20 foot high monument sign on this commercial property."

**REASON THAT THE VARIANCE IS NEEDED:** (See Examples below)

REPLACE FENCE THAT IS FALLING  
DOWN.

**Examples of Reasons that the Variance is needed:**

"We would like to extend our fence 15 feet toward the street from the front corner of the house so that we can enclose a pool, swing set, shed, landscaping, trees, side entrance, etc., and provide a safe area for our children to play"

"We would like to build an oversized garage on our property so that we may store our antique vehicle, snow mobiles, riding lawn mower, etc., inside, as well as our two other cars, which are currently parked in the driveway"

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The Petitioner certifies that all of the above statements and other information submitted as part of this Application and Findings of Fact are true and correct to the best of his or her knowledge:

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

9/14/16

Printed Name: \_\_\_\_\_

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**OFFICE USE ONLY:**

Current Zoning on Property \_\_\_\_\_ Present Use \_\_\_\_\_

Notes

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## FINDINGS OF FACT

### ADDITIONAL INFORMATION TO BE PRESENTED TO SUPPORT A VARIATION REQUEST FROM THE TERMS OF THE VILLAGE OF TINLEY PARK ZONING ORDINANCE

Section X.G.1 of the Village of Tinley Park Zoning Ordinance requires that the Zoning Board of Appeals determine compliance with the following standards and criteria. In order for a variance to be approved, the Petitioner must respond to all the following questions with facts and information to support the requested Variation:

- A. Describe the difficulty that you have in conforming with the **current** regulations and restrictions relating to your property, and describe how this hardship is not caused by any persons presently having an interest in the property. (Please note that a mere inconvenience is insufficient to grant a Variation). For example, does the shape or size of the lot, slope, or the neighboring surroundings cause a severe problem in completing the project in conformance with the applicable Ordinance requirement?

THERE'S AN EXISTING DECK & FENCE,  
THAT WAS BUILT BY A PREVIOUS  
HOMEOWNER

- B. Describe any difficulties or hardships that **current** zoning regulations and restrictions would have in decreasing your property value compared to neighboring properties.

CURRENT REG. WOULD ALLOW  
A FENCE 30 FEET FROM WHERE  
THE FENCE IS. REMOVE EXISTING  
DECK & PATIO DOOR.

- C. Describe how the above difficulty or hardship was created.

PREVIOUS HOMEOWNER INSTALLED  
THIS & NOW IT'S FALLING DOWN  
& I WANT TO REPLACE IT.

## FINDINGS OF FACT (CONTINUED)

- D. Describe the reasons this Variance request is unique to this property only and is not applicable, in general, to other properties within the same Zoning District.

THERE'S AN EXISTING FENCE, DECK & PATIO DOORS THAT GOES TO THE DECK.

- E. Explain how this Variance **would not** be regarded as an attempt at financial gain, but only because of personal necessity. For example, the intent of the Variance is to accommodate related living for an elderly relative as opposed to adding an additional income source.

NO FINANCIAL GAIN JUST WANTING TO REPLACE A FENCE THAT'S FALLING OVER.

- F. Describe how granting this Variance request will not be detrimental to the public welfare or injurious to other properties or improvements in the neighborhood in which the property is located: (Example: fencing will not obstruct view of automobile traffic).

IT'S NOT GOING TO HAVE A NEGATIVE IMPACT TO THE NEIGHBORHOOD, I'M REPLACING OLD FENCE WITH NEW ONE.

- G. Explain how granting this Variance will not alter the essential character of the neighborhood or locality:

NEW FENCE WOULD BE A POSITIVE IMPACT.

### FINDINGS OF FACT (Continued)

H. Describe how the requested Variance **will not**:

1. Impair an adequate supply of light and air to adjacent properties.

~~IF~~ THE FENCE WILL BE ONLY  
6 FEET TALL.

2. Substantially increase the congestion of the public streets.

IT'S ON PRIVATE PROPERTY & IT  
WONT AFFECT PUBLIC STREETS.

3. Increase the danger of fire.

FENCE WOULD BE BUILT ACCORDING  
TO FIRE CODES.

4. Impair natural drainage or create drainage problems on adjacent property.

THERE WILL BE SPACING TO  
ALLOW WATER TO GO THROUGH.

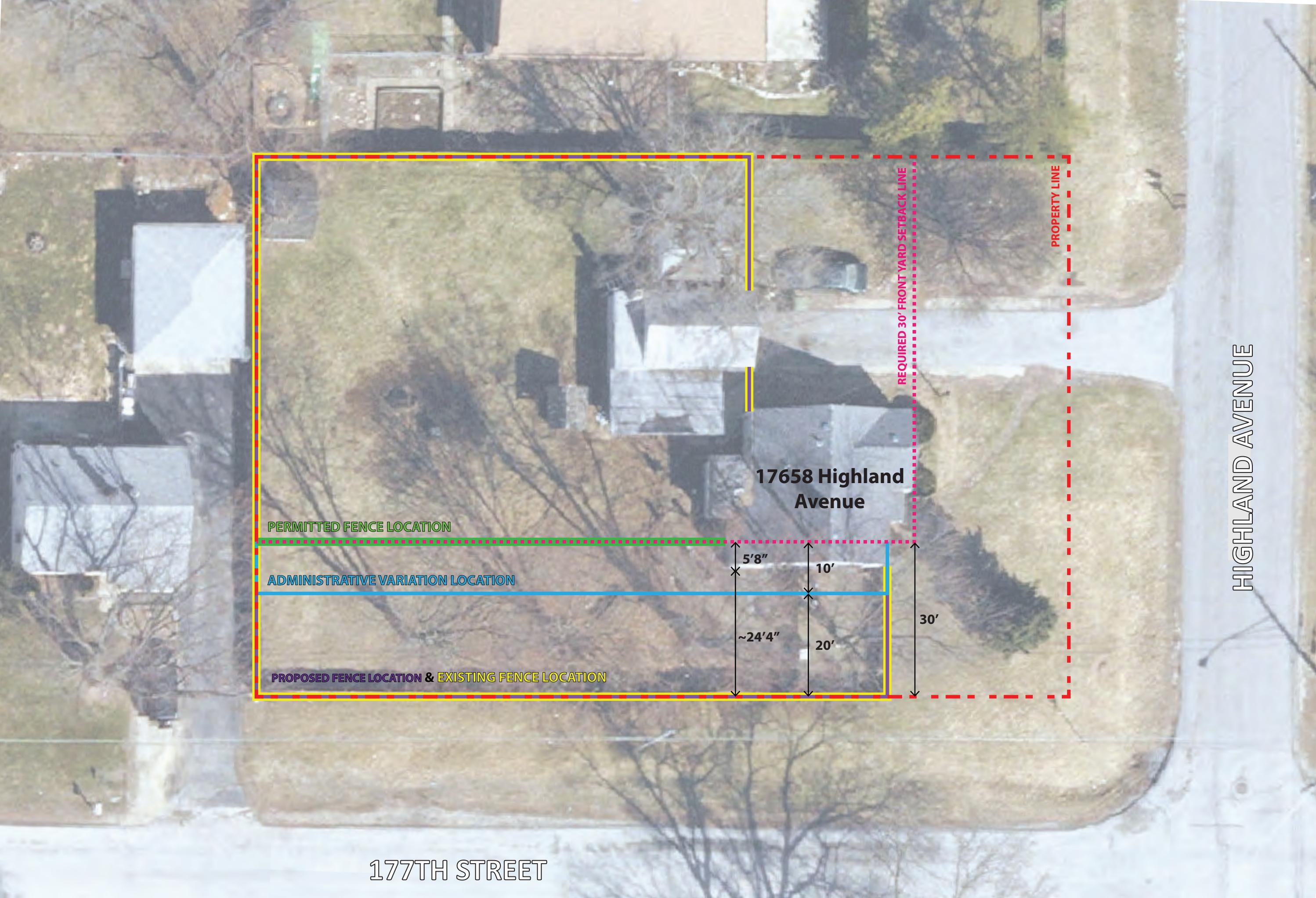
5. Endanger the public safety.

NOT IMPACTING PUBLIC SAFETY.

6. Substantially diminish or impair property values within the neighborhood.

IT WOULD BE AN IMPROVEMENT  
TO THE NEIGHBORHOOD.





17658 Highland Avenue

HIGHLAND AVENUE

177TH STREET

PERMITTED FENCE LOCATION

ADMINISTRATIVE VARIATION LOCATION

PROPOSED FENCE LOCATION & EXISTING FENCE LOCATION

REQUIRED 30' FRONT YARD SETBACK LINE

PROPERTY LINE

5'8"

10'

~24'4"

20'

30'