

## **RESOLUTION TEMPLATE**

Moved by:

Seconded by:

That the variance request for [applicant name, address or location], for [request]

*Be granted for the following reasons:*

The applicant has demonstrated that:

- a) Exceptional characteristics of the property for which the variance is sought make compliance with the requirements of this Chapter substantially more difficult than would be the case for the great majority of properties in the same zoning district. Characteristics of property which shall be considered include exceptional narrowness, shallowness, smallness, irregular shape, topography, vegetation, and other similar characteristics; and
- b) The characteristics which make compliance with the requirements of this Chapter difficult must be related to the premises for which the variance is sought, not some other location; and
- c) The characteristics which make compliance with the requirements of this Chapter difficult shall not be of a personal nature; and
- d) The characteristics which make compliance with the requirements of this Chapter difficult must not have been created by the owner of the premises, a previous owner, or the applicant; and
- e) The proposed variance will not be harmful or alter the essential character of the area in which the property is located, will not impair an adequate supply of light and air to adjacent property, or unreasonably increase congestion in public streets, or increase the danger of fire or endanger public safety, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals or welfare of the inhabitants of the City.

Yeas:

Nays:

**MOTION CARRIED / FAILED**



Moved by:  
Seconded by:

That the variance request for [applicant name, address or location], for [request]

Be denied for the following reason(s):

The applicant has not demonstrated that:

- f) Exceptional characteristics of the property for which the variance is sought make compliance with the requirements of this Chapter substantially more difficult than would be the case for the great majority of properties in the same zoning district. Characteristics of property which shall be considered include exceptional narrowness, shallowness, smallness, irregular shape, topography, vegetation, and other similar characteristics; and
- g) The characteristics which make compliance with the requirements of this Chapter difficult must be related to the premises for which the variance is sought, not some other location; and
- h) The characteristics which make compliance with the requirements of this Chapter difficult shall not be of a personal nature; and
- i) The characteristics which make compliance with the requirements of this Chapter difficult must not have been created by the owner of the premises, a previous owner, or the applicant; and
- j) The proposed variance will not be harmful or alter the essential character of the area in which the property is located, will not impair an adequate supply of light and air to adjacent property, or unreasonably increase congestion in public streets, or increase the danger of fire or endanger public safety, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals or welfare of the inhabitants of the City.

Yeas:  
Nays:

**MOTION CARRIED / FAILED**



Moved by:  
Seconded by:

***RESOLVED***, that the variance request for [applicant name, address or location], for [request]

*Be postponed for the following reason(s):*

Yeas:  
Nays:

**MOTION CARRIED / FAILED**

G:\BUILDING CODE BOARD OF APPEALS\Resolution templates signs.doc



## **RESOLUTION TEMPLATE**

Moved by:

Seconded by:

**RESOLVED**, That the variance request for [applicant name, company, address or location], for relief of Chapter to [request],

*Be granted for the following reasons:*

1. The variance would not be contrary to the public interest or general purpose and intent of Chapter \_\_\_\_\_ and
2. The variance does not adversely affect properties in the immediate vicinity of the proposed sign; and
3. The petitioner has a hardship or practical difficulty resulting from the unusual characteristics of the property that precludes reasonable use of the property.

*Be denied for the following reasons:*

1. The variance would be contrary to the public interest or general purpose and intent of Chapter 83 and
2. The variance would adversely affect properties in the immediate vicinity of the proposed \_\_\_\_\_.
3. The petitioner has failed to demonstrate any hardship or practical difficulty because:
  - a) Reasonable use can be made of the property without the variance, and
  - b) Public health, safety and welfare would not be negatively affected in the absence of the variance, and
  - c) Conforming to the ordinance is not unnecessarily burdensome; and
  - d) There is no evidence of hardship or practical difficulties resulting from the unusual characteristics of the property because there is nothing unusual about the size, shape or configuration of the parcel that would make it unnecessarily burdensome to comply with the requirements of the sign (fence) ordinance.

*Be postponed / tabled for the following reasons:*

Yeas:

Nays:

**MOTION CARRIED / FAILED**





# **BUILDING CODE BOARD OF APPEALS REGULAR MEETING AGENDA**

Gary Abitheira, Chair, Teresa Brooks  
Matthew Dziurman, Sande Frisen, Mark F. Miller,

500 W. Big Beaver  
Troy, MI 48084  
(248) 524-3344  
[www.troymi.gov](http://www.troymi.gov)  
[planning@troymi.gov](mailto:planning@troymi.gov)

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**July 13, 2022**

**3:00 PM**

**Council Chambers**

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1. ROLL CALL
2. APPROVAL OF MINUTES – May 4, 2022
3. HEARING OF CASES:
  - A. VARIANCE REQUEST, 3438 HARMONY, DANIEL NEAL – This property is a double front corner lot. Since it is in the R1-D use district, it has a 25 feet required front setback along the Harmony Drive and Crimson Drive. The petitioner is requesting a permit to install a 4-feet high, 117 feet long non-obscuring wood fence at the Crimson Drive side at a distance of 10 feet from the property line. From the 117 feet a variance is required for 107 feet of the 4 feet high wood non-obscuring fence.

## **CHAPTER 83**

4. COMMUNICATIONS
5. PUBLIC COMMENT
6. MISCELLANEOUS BUSINESS
7. ADJOURNMENT

**NOTICE:** People with disabilities needing accommodations for effective participation in this meeting should contact the City Clerk by e-mail at [clerk@troymi.gov](mailto:clerk@troymi.gov) or by calling (248) 524-3317 at least two working days in advance of the meeting. An attempt will be made to make reasonable accommodations.



Chair Abitheira called the Regular meeting of the Building Code Board of Appeals to order at 3:01 p.m. on May 4, 2022 in the Council Chamber of Troy City Hall.

1. ROLL CALL

Members Present

Gary Abitheira

Teresa Brooks

Matthew Dziurman

Sande Frisen

Members Absent

Mark F. Miller, City Manager

Support Staff Present

Paul Evans, Zoning and Compliance Specialist

Kathy L. Czarnecki, Recording Secretary

2. APPROVAL OF MINUTES – February 2, 2022

Mr. Frisen asked that the draft minutes reflect a correction to a typographical error on page 4, specifically to designate the maker and support of the motion for a variance request at 1432 Wattles.

Moved by: Brooks

Support by: Frisen

**RESOLVED**, To approve the minutes of the February 2, 2022, Regular meeting with the correction on page 4.

Yes: All present (4)

Absent: Miller

**MOTION CARRIED**

3. HEARING OF CASE

A. **VARIANCE REQUEST, VIKAS SHEORAN, 3040 ALBANY COURT** – This property is in the R1-E District. Per the City of Troy Zoning Ordinance and from the City of Troy Codes Chapter 83-Fences-2. Fence Construction in Residential Areas: item (A) it indicates that no fence shall be constructed to a height more than six (6) feet above the existing grade of the land. The petitioner is requesting a variance to install a 9-foot high, 41 feet long obscuring fence along the back property lot line starting at the north corner towards the south lot corner. *CHAPTER 83*

Mr. Evans briefly reviewed the variance request. He noted the request was presented to the Board at their November 3, 2021 meeting, at which time the Board postponed the item to allow the applicant to file a complaint with the Oakland County



Health Department with an expectation that the Health Department might be able to resolve the issue.

Mr. Sheoran referenced the Health Department report on an inspection conducted on January 20, 2022 at the Golden Gate Plaza retail center. The Health Department report indicated the dumpsters were not full, the dumpster lids were closed and there was no garbage around the dumpsters. Mr. Sheoran said the Health Department report is inaccurate as evidenced by the photographs submitted to the City of the dumpsters overflowing with garbage and trash. He indicated the photographs were taken from January through April of this year. Mr. Sheoran addressed the distance from his backyard deck to the dumpsters and said the smell of garbage is unbearable. Mr. Sheoran said the issue has been going on for over six years and the concern has been addressed with the City for the same length of time. Mr. Sheoran said his backyard deck has been unusable for any gatherings for the last six or seven years.

There was discussion on:

- Information and pictures submitted with request.
- Difference in grade elevations between applicant's home and retail center.
- Distance from applicant's home/deck to masonry wall.
- City Code as relates to fences in non-residential districts; *"Such walls shall not be less than six (6') feet in height and may, depending upon land use, be required to be eight (8') feet in height."*
- Zoning Ordinance, Article 13, Site Design Standards, as relates to required screening for retail/entertainment uses.
- Six-foot high masonry wall as relates to height of dumpster enclosures.
- Alternative to provide landscaping, vegetation, arborvitaes, mature trees to obscure visual of dumpsters.
- Acknowledgement/empathy toward applicant's concern and active pursuit of resolution.
- Variance requests previously considered by the Board for fences higher than 6-feet tall. Board actions determined on case-by-case basis.
- Material and color of fence; wood, ornamental, white in color.
- Location, extent of fence along property lot line and in relation to existing masonry wall.
- Concerns expressed by Board members that fence will not mitigate smell and resolve matter.
- No communications or comments received from neighboring properties.

Chair Abitheira asked the applicant if he would like to postpone the request until a full Board is present.

After stepping away from the podium to discuss option to request a postponement, Mr. Sheoran approached the podium and asked the Board to go forward with a vote at this time for installation of an eight (8) feet high fence.



Chair Abitheira opened the Public Hearing. Acknowledging there was no one present who wished to speak, Chair Abitheira closed the Public Hearing.

Moved by: Abitheira  
Support by: Frisen

**RESOLVED**, That a fence at 3040 Albany Court be **granted** at eight (8) feet tall from the existing asphalt on the commercial building, for the following reasons:

1. The variance would not be contrary to the public interest or general purpose.
2. The variance does not adversely affect properties in the immediate vicinity of the proposed fence.
3. The petitioner has a hardship or practical difficulty resulting from the unusual characteristics of the property that precludes reasonable use of the property.

Discussion on the motion on the floor.

There was discussion on the procedure to follow should there be a tie vote.

Vote on the motion on the floor.

Yes: Abitheira, Frisen  
No: Brooks, Dziurman  
Absent: Miller

**MOTION FAILED**

4. COMMUNICATIONS – None

None.

5. PUBLIC COMMENT

There was no one present who wished to speak.

6. MISCELLANEOUS BUSINESS

There was discussion on changing meeting dates for the months of July and August.

Moved by: Dziurman  
Support by: Frisen

**RESOLVED**, That the Building Code Board of Appeals reschedule the meeting date currently set for July 6, 2022 to be changed to July 13, 2022 at 3:00 p.m. and reschedule the meeting date currently set for August 3, 2022 be changed to August 10, 2022 at 3:00 p.m.



Yes: All present (4)  
Absent: Miller

**MOTION CARRIED**

7. ADJOURNMENT

The Regular meeting of the Building Code Board of Appeals adjourned at 3:53 p.m.

Respectfully submitted,

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Gary Abitheira, Chair

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Kathy L. Czarnecki, Recording Secretary

[https://d.docs.live.net/2f7ed4fe5f664ea8/Documents/Kathy/COT Building Code Board of Appeals/Minutes/2022/2022 05 04 Regular Meeting\\_Draft.doc](https://d.docs.live.net/2f7ed4fe5f664ea8/Documents/Kathy/COT%20Building%20Code%20Board%20of%20Appeals/Minutes/2022/2022%2005%2004%20Regular%20Meeting_Draft.doc)

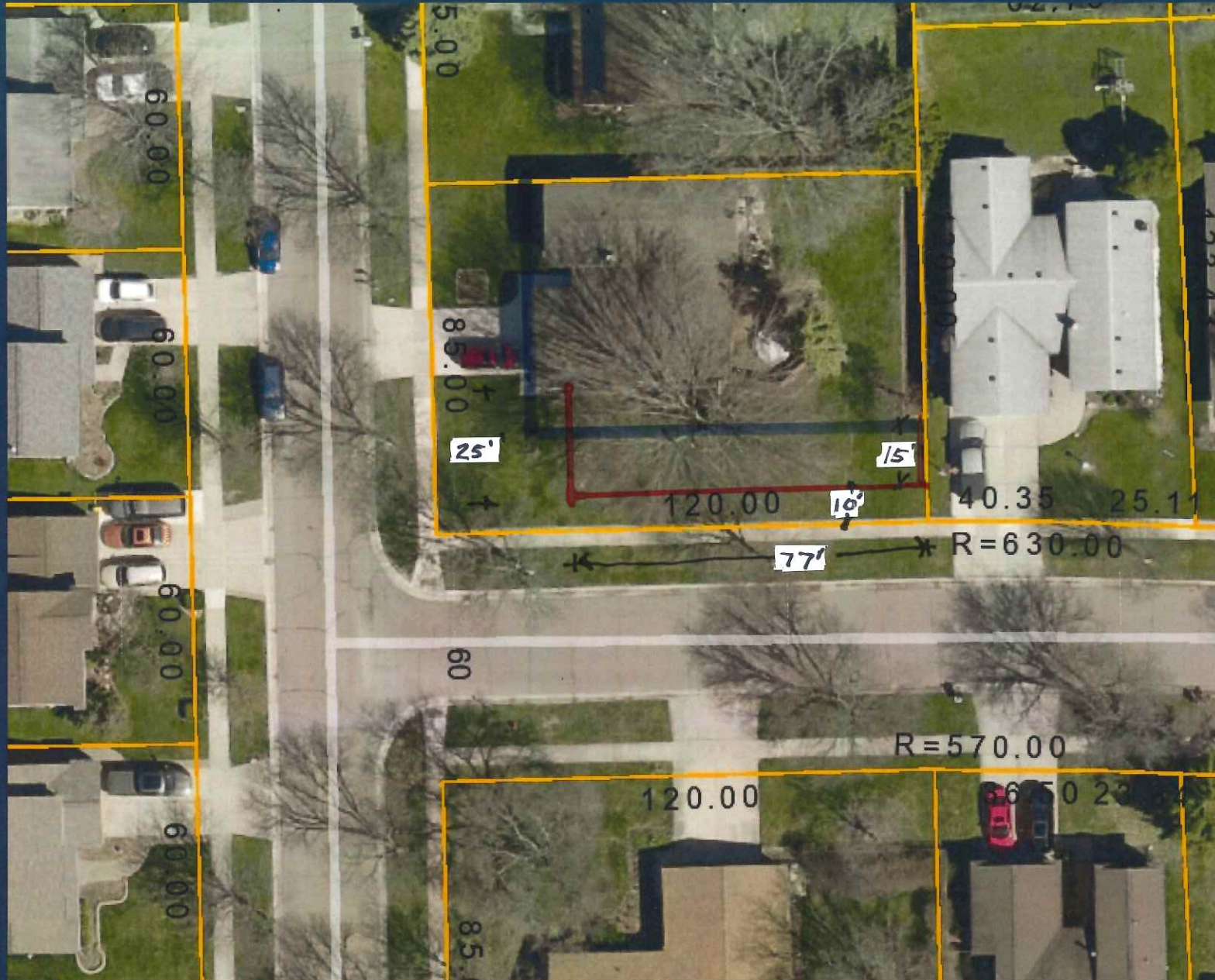


**A. VARIANCE REQUEST, DANIEL NEAL, 3438 HARMONY DR.** – This property is a double front corner lot. Since it is in the R1-D use district, it has a 25 feet required front setback along the Harmony Drive and Crimson Drive. The petitioner is requesting a permit to install a 4-feet high, 117 feet long non-obscuring wood fence at the Crimson Drive side at a distance of 10 feet from the property line. From the 117 feet a variance is required for 107 feet of the 4 feet high wood non-obscuring fence.





# GIS Online



## Legend:

A. VARIANCE REQUEST, DANIEL NEAL, 3438 HARMONY DR. — This property is a double front corner lot. Since it is in the R1-D use district, it has a 25 feet required front setback along the Harmony Drive and Crimson Drive. The petitioner is requesting a permit to install a 4-foot high, 117 feet long non-obscuring wood fence at the Crimson Drive side at a distance of 10 feet from the property line. From the 117 feet a variance is required for 107 feet of the 4 feet high wood non-obscuring fence.

- SETBACK 25 feet
- FENCE 4 feet

## Notes:

Map Scale: 1"=47'  
Created: June 10, 2022



Note: The information provided by this application has been compiled from recorded deeds, plats, tax maps, surveys, and other public records and data. It is not a legally recorded map survey. Users of this data are hereby notified that the source information represented should be consulted for verification.



**CITY OF TROY PLANNING DEPARTMENT  
BUILDING CODE BOARD OF APPEALS APPLICATION**

CITY OF TROY PLANNING DEPARTMENT  
500 W. BIG BEAVER ROAD  
TROY, MICHIGAN 48084  
PHONE: 248-524-3364  
E-MAIL: [planning@troymi.gov](mailto:planning@troymi.gov)



**FEE \$50**

**NOTICE TO THE APPLICANT**

REGULAR MEETINGS OF THE BUILDING CODE BOARD OF APPEALS ARE HELD ON THE FIRST WEDNESDAY OF EACH MONTH AT 3:00 P.M. AT CITY HALL.

PLEASE FILE A COMPLETE APPLICATION, TOGETHER WITH THE APPROPRIATE FEE, **NOT LESS THAN TWENTY-SEVEN (27) DAYS** BEFORE THE MEETING DATE.

COMPLETE APPLICATIONS ARE PLACED ON THE NEXT AVAILABLE AGENDA OF THE BUILDING CODE BOARD OF APPEALS.

1. ADDRESS OF THE SUBJECT PROPERTY: 3438 HARMONY DR TROY, MI 48083  
ACREAGE PROPERTY: *Attach legal description if this an acreage parcel*
2. PROPERTY TAX IDENTIFICATION NUMBER(S): Parcel: 88-20-23-404-003 Acct #: 3860324
3. CODE NAME (e.g. "BUILDING CODE", "SIGN CODE", "FENCE CODE") AND SECTION(S) RELATED TO THE APPEAL:  
FENCE CODE - CM 83 - Section 2 (A)
4. REASONS FOR APPEAL/VARIANCE: *On a separate sheet, please describe the reasons justifying the requested action. See Submittal Checklist.*
5. HAVE THERE BEEN ANY PREVIOUS APPEALS INVOLVING THIS PROPERTY? YES ☐ NO ☒



6. APPLICANT INFORMATION:

NAME DANIEL NEAL

COMPANY —

ADDRESS 3438 HARMONY DR

CITY TROY STATE MI ZIP 48083

TELEPHONE 864-542-5345

E-MAIL DPNEAL98@gmail.com

7. APPLICANT'S AFFILIATION TO THE PROPERTY OWNER: SELF

8. OWNER OF SUBJECT PROPERTY:

NAME it

COMPANY —

ADDRESS it

CITY it STATE it ZIP it

TELEPHONE it

E-MAIL it

The undersigned hereby declare(s) under penalty of perjury that the contents of this application are true to the best of my (our) knowledge, information and belief.

The applicant accepts all responsibility for all of the measurements and dimensions contained within this application, attachments and/or plans, and the applicant releases the City of Troy and its employees, officers, and consultants from any responsibility or liability with respect thereto.

I, DANIEL NEAL (PROPERTY OWNER), HEREBY DEPOSE AND SAY THAT ALL THE ABOVE STATEMENTS AND STATEMENTS CONTAINED IN THE INFORMATION SUBMITTED ARE TRUE AND CORRECT AND GIVE PERMISSION FOR THE BOARD MEMBERS AND CITY STAFF TO CONDUCT A SITE VISIT TO ASCERTAIN PRESENT CONDITIONS.

SIGNATURE OF APPLICANT Daniel Neal DATE 6/2/2022

PRINT NAME: DANIEL NEAL

SIGNATURE OF PROPERTY OWNER Daniel Neal DATE 6/2/2022

PRINT NAME: DANIEL NEAL

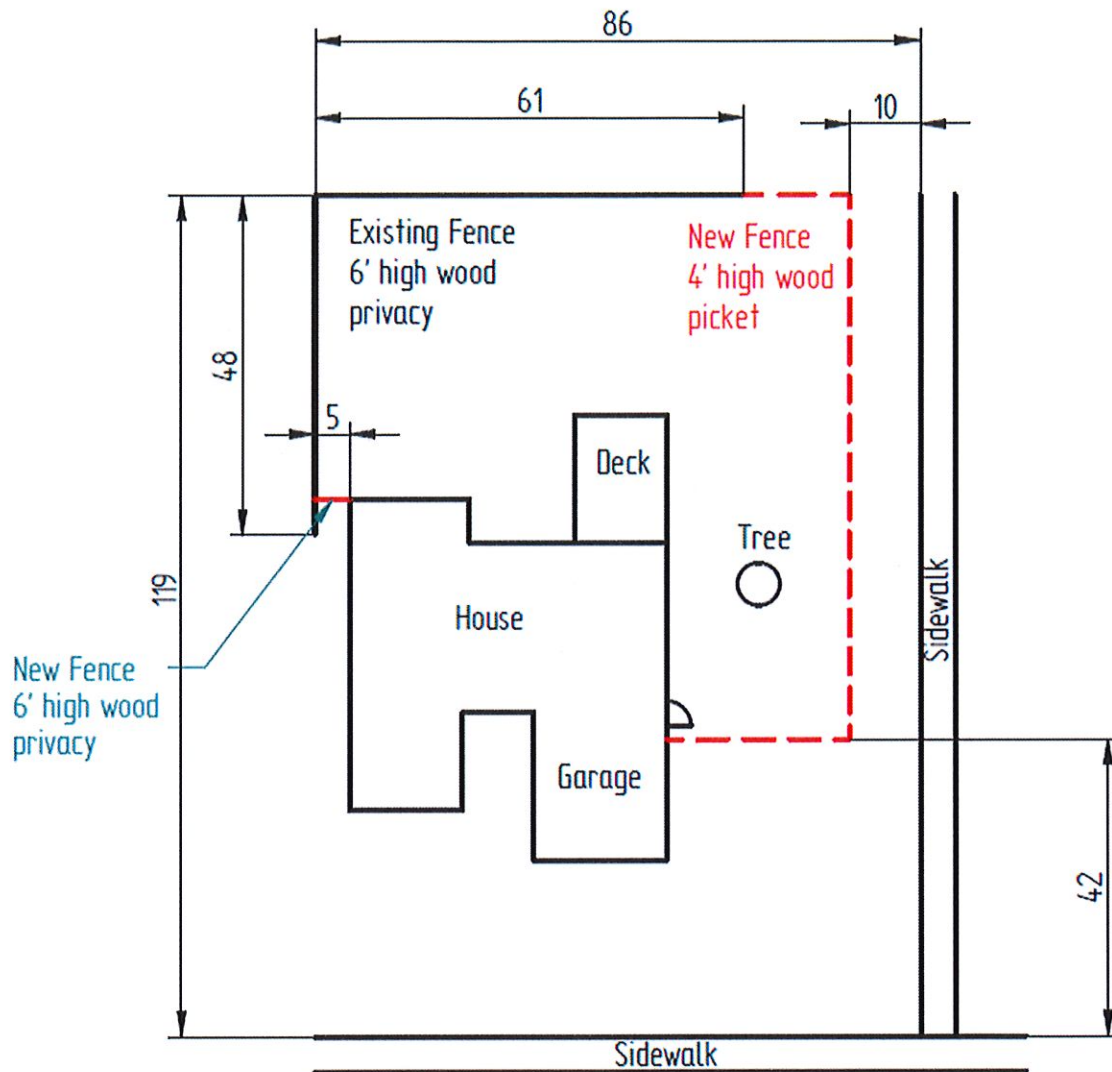
*Failure of the applicant or his/her authorized representative to appear before the Board, as scheduled, shall be justifiable cause for denial or dismissal of the case with no refund of appeal fee(s). If the person appearing before the Board is not the applicant or property owner, signed permission must be presented to the Board.*

*The applicant will be notified of the time and date of the hearing by electronic mail.*



## Plot Plan

All dimensions in feet.





**Sample of fence style to be constructed:**





### **Impacts of Request on Area**

A fence will be constructed, coming to a distance of 10 feet from the existing sidewalk. The fence will be a wood – picket style fence, so it will be non-obscuring. The neighbors' visibility from their driveway will not be significantly affected.



### **Reasons Justifying the Request**

We have two small children and a large dog. For their safety in the back yard, a fence taller than 30 inches high needs to be constructed. We would like to utilize more of our parcel than the 30 ft setback allows.

There are multiple houses in the same neighborhood on corner lots that have tall / obscuring fences near the sidewalk.







