

Village of Morton Grove

Department of Community Development

To: Chairperson Farkas and Members of the Zoning Board of Appeals

From: Nancy Radzevich, AICP, Community & Economic Development Director *NR*
Dominick Argumedo, AICP, Zoning Administrator/Land-Use Planner

Date: February 11, 2016

Re: ZBA 16-01 – 5901 Madison
Request for waivers from Section 12-3-5:B of the Unified Development Code to allow for a fence in the a street side (front) yard of a corner lot that exceed the maximum height and opacity requirements and encroaches into the required 10 ft. x. 10 ft. sight line area

STAFF REPORT

Public Notice

The Village of Morton Grove provided Public Notice for the February 15, 2016 Zoning Board of Appeals public hearing for ZBA 16-02 in accordance with the Unified Development Code. The *Pioneer Press* published the public notice on January 28, 2016, and the Village mailed letters on January 29, 2016 notifying surrounding property owners and placed a public notice sign on the subject property on February 5, 2016.

Request Summary

Property Background

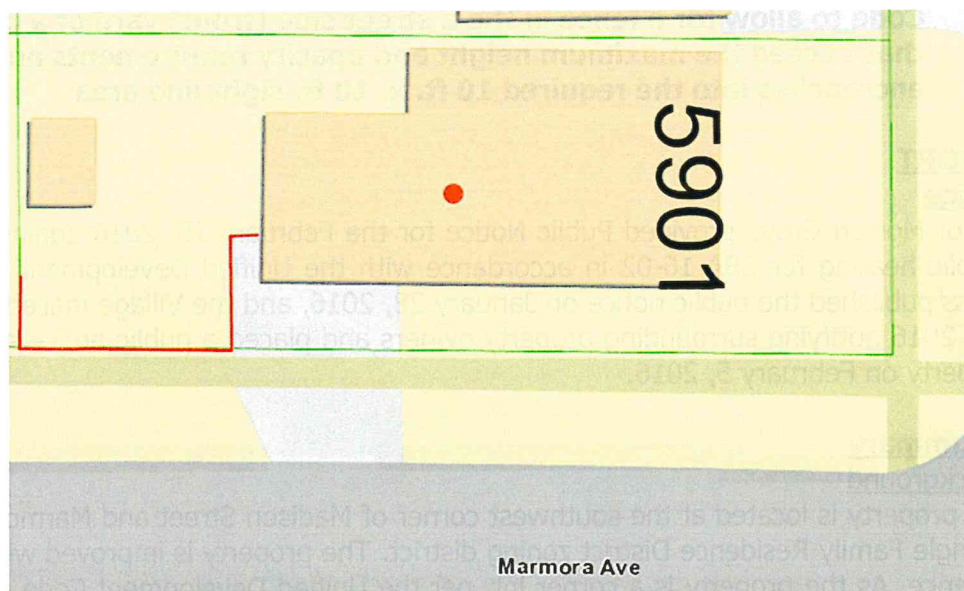
The subject property is located at the southwest corner of Madison Street and Marmora Avenue in the R2 Single Family Residence District zoning district. The property is improved with a single family residence. As the property is a corner lot, per the Unified Development Code, it has two required front yard setbacks (Section 12-2-6-F).



The applicant, Mr. Ashoor Shammās, is seeking waivers after the fact for a six (6) ft. high board-on-board wood fence constructed in the street side yard 0 foot from the front property line along Marmora Avenue. The built fence continues along the side property line to the rear property line where it then extends past the attached garage.

The applicant advised staff that he bought the subject property two (2) years ago and states that a 6 ft. high, 0% opacity fence existed in the same manner and location when he purchased the property. The applicant states that he replaced the previous fence due to its poor condition. A Village property maintenance inspector noticed a new fence had been constructed without a permit and advised the home owner, who subsequently applied for the fence permit after the fact. Because the existing non-conforming fence was removed, any new fence needs to comply with the current code requirements.

The location of the installed six (6) ft. solid wood fence that requires waivers is shown below:



Requested Waivers

The following chart provides a summary of the previous and proposed conditions, based on the ordinance requirements:

<u>Dimensional Control</u>	<u>Required</u>	<u>Previous Fence</u>	<u>Proposed Fence</u>	<u>Requested Variance</u>
Max. height for fences in the corner side yard (front)	42" (Sec. 12-3-5:B.c)	<i>6 ft.</i>	<i>6 ft. high fence</i>	<i>2'-6" waiver to maximum height</i>
Minimum opacity for fences in the corner side yard (front) setback	50% (sec. 12-3-5:B.d)	<i>0%</i>	<i>0%</i>	<i>100% waiver to allowed opacity</i>
Min. sight line requirement - where vehicular/ pedestrian access ways intersect	10 ft. x 10 ft. (Sec. 12-3-5:B.e.)	<i>0 ft. x 0 ft.</i>	<i>0 ft. x 0 ft.</i>	<i>10 ft. x 10 ft. waiver</i>

As shown above in the table, in order to complete the proposed project, the following waivers would be required for this fence:

- Section 12-3-5:B.c.: A 2'-6" (30") waiver to allow for a fence within a corner side (front) yard to exceed the maximum permitted height of 42 inches. The applicant is proposing a 6 ft. (72") high fence; and
- Section 12-3-5:B.d.: A waiver from the 50% minimum opacity requirement. The applicant is seeking a complete waiver to this provision to allow for a solid, board-on-board fence; and
- Section 12-3-5:B.e.: A waiver from the 10 ft. x 10 ft. sight line triangle where vehicular/pedestrian access ways intersect. The applicant is seeking a complete waiver to this provision where the driveway meets the public sidewalk.

Discussion

The Unified Development Code allows fences in the street side yard, on corner lots, beyond the rear of the residence with a maximum height of 42 inches with a minimum opacity of 50% (Section 12-3-5:B). The proposed fence would exceed both the maximum permitted height and minimum opacity requirements. In addition, the proposed fence would encroach into the required 10 ft. x 10 ft. sight line triangle area where the driveway intersects with the public sidewalk.

Staff did not find a permit for the previous fence in the Village files; however, the files did include a Plat of Survey from 1996 that showed a wood fence in the same location as the new fence.

Variation Standards

The Zoning Board of Appeals can approve the application as presented, approve it with conditions, or deny the application based on the following standards established in the Unified Development Code Section 12-16-3:A.

- a. Not Self-Imposed: The alleged difficulty or hardship is caused by this title and has not been created by any persons presently having an interest in the subject property.
- b. Nonmonetary Considerations: The circumstances or conditions are such that the strict application of the provisions of this title would deprive the applicant of a reasonable use of his land. Mere loss in value shall not justify a variation.
- c. Not Detrimental To Public Welfare: The granting of any variation is in harmony with the general purposes and intent of this title and will not be detrimental to the public welfare or to other property or improvements in the neighborhood.
- d. Not Detrimental To Neighborhood: The proposed variation will not impair an adequate supply of light and air to adjacent property, substantially increase congestion in the streets, increase the potential damage of fire, endanger the public safety, or alter the character of the neighborhood.

The applicant has provided their responses to these in the submitted application.

Recommendation

Should the Board approve ZBA Case#16-01, staff suggests the following motion and conditions:

The Zoning Board of Appeals approves Case #ZBA16-01, a request for waivers to Section 12-3-5:B.c., Section 12-3-5:B.d., and Section 12-3-5:B.e. to allow a 6 ft. high wood fence with 0% opacity and waivers to the 10 ft. x 10 ft. required sight line requirements within the street side (front) yard at 5901 Madison Street, with the following condition:

- 1. The new fence shall be constructed and located in accordance with the plans submitted by the applicant in the Variance application dated 1/06/2016*

Attachments

Application and related materials (submitted by applicant)

Company Name		Building Permit Fee - Accounting Breakdown																																																																																									
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VARIATION APPLICATION



Village of Morton Grove
Department of Community Development
6101 Capulina Avenue Morton Grove, Illinois 60053
(847)470-5231 (p) (847)965-4162 (f)

CASE NUMBER: _____ DATE APPLICATION FILED: _____

APPLICANT INFORMATION

Applicant Name: ASHOOR SHAMMAS
Applicant Address: 5901 MADISON ST.
Applicant City / State / Zip Code: MORTON GROVE, IL. 60053
Applicant Phone: (312) 613-2962
Mobil / Other: (312) 613-2962
Applicant Email: ashoor_on_ebay@yahoo.com
Applicant Legal Interest in Property (Owner, Tenant, Etc.): OWNER
Applicant Signature: ashoor shamas

PROPERTY INFORMATION

Common Address of Property: _____
Property Identification Number (PIN): _____
Zoning District: _____ Property's Current Use: _____

APPLICANT'S REQUEST (ATTACH ADDITIONAL SHEETS AS NECESSARY):

1. Applicant is requesting a Variation from the following section of the Unified Development Code: _____

for the following: REPLACEMENT OF AN EXISTING 6 FEET FENCE WITH THE SAME FENCE LENGTH AND HEIGHT. THE OLD FENCE WAS FALLING AND POUSED DANGER TO THE SIDEWALK PEDES.

2. Please provide detailed information to explain why the variation is being requested:

THE VARIATION IS REQUESTED BECAUSE I HAVE REPLACED AN EXISTING FALLING 6 FEET FENCE, WOODEN, WITH A SIMILAR ONE.

3. Provide responses to the Variation standards as listed in Section 12-16-3-A-2 of the Unified Development Code. The Variation standards are as follows:

a. Not Self-Imposed: The alleged difficulty or hardship is caused by this title and has not been created by any persons presently having an interest in the subject property.

I REPLACED A 6 FEET FENCE WITH ANOTHER SIX FEET FENCE, I DID NOT DIG ANY NEW POSTS, I USED ALL EXISTING POSTS. IT WAS REPLACED DUE TO ROTTED POSTS, RENDERING THE FENCE UNSTABLE, HAZARDOUS TO PEDESTRIANS.

b. Nonmonetary Considerations: The circumstances or conditions are such that the strict application of the provisions of this title would deprive the applicant of a reasonable use of his land. Mere loss in value shall not justify a variation.

THE NEW FENCE DOES NOT ADD ANY MONETARY VALUE TO THE PROPERTY. IT WAS STRICTLY AN IMPROVEMENT TO THE AESTHETICS OF THE STREET BY REPLACING A FALLEN FENCE. THE NEW FENCE HAS THE SAME CHARACTERISTICS.

c. Not Detrimental to Public Welfare: The granting of any variation is in harmony with the general purposes and intent of this title and will not be detrimental to the public welfare or to other property or improvements in the neighborhood.

THE NEIGHBORS ADJACENT TO MY PROPERTY HAS A 6 FEET FENCE, AND MINE IS AN EXTENSION TO IT ALONG THE SIDEWALK. IT IMPROVES PUBLIC SAFETY BY BEING STRONGER, AND STABLE, UNLIKE THE OLD ONE.

d. Not Detrimental to Neighborhood: The proposed variation will not impair an adequate supply of light and air to adjacent property, substantially increase congestion in the streets, increase the potential damage of fire, endanger the public safety, or alter the character of the neighborhood.

IT DOES NOT IMPAIR ANY VIEWING, LIGHTING, ALSO BEING A DOG OWNER, IT ADDS TO THE SAFETY.

The variance is requested because i have replaced and existing falling 6 feet wooden fence.

I replace a 6 feet fence with another six feet fence, i did no dig any new post, I used all existing posts. The fence was replaced because the posts were rotted and they rendered the fence unstable, and hazardous to the pedestrian using the side walk adjacent to the fence.

The replacement of the fence does not add any monetary value to the property. It was strictly a safety issue, and and improvement on the aesthetic of the street by replacing a fallen hazardous fence with a new safe fence of the same characteristics.

The previous fence was an extension to the neighbors fence which is still in place and it is a 6 feet fence, it poses no danger, or hazard, on the contrary it adds to the safety and appearance of the street.

sq.ft.

MADISON

STREET

CROSS CUT AT 3.00'
NORTH & 3.00' EAST

CROSS CUT AT 3.00'
NORTH & ON LINE EXT.

47.38

25 FT. BLDG. LINE

25 FT. BLDG. LINE

BRICK GARAGE

2 STORY
BRICK & FRAME
#5901

CONCRETE
w/ ROOF

AVENUE

WEST FACE OF WOOD
FENCE IS 0.36' EAST

2.00M.
1.94' REC.

