

# Village of Morton Grove

## Department of Community Development

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**To:** Chairperson Blonz and Members of the Zoning Board of Appeals

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

**Date:** June 13, 2018  
**UPDATED:** December 12, 2018

**Re:** ZBA 18-13 – 9048 Marmora Avenue  
Request for waivers from Section 12-3-5:B of the Unified Development Code  
to allow for a fence in the front yard of a corner lot

### **STAFF REPORT** **Public Notice**

The Village of Morton Grove provided Public Notice for the June 18, 2018 Zoning Board of Appeals public hearing for ZBA 18-13 in accordance with the Unified Development Code. The *Pioneer Press* published the public notice on May 31, 2018, and the Village mailed letters on June 1, 2018 notifying surrounding property owners and placed a public notice sign on the subject property on June 08, 2018. The case was continued to see if the Applicant could repair the fence without full replacement. The Applicant decided it could not be repaired. The Application has subsequently continued the case to ensure a full Board of seven is seated to hear the case.

### **Request Summary** **Property Background**

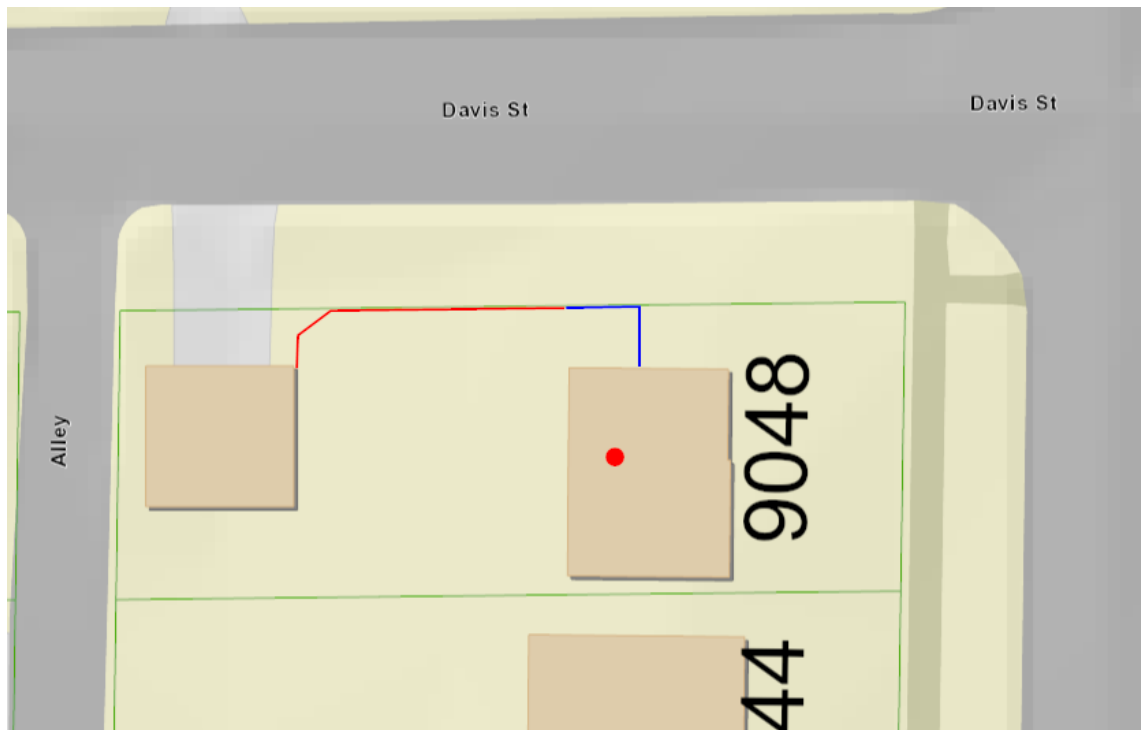
The subject property is located at the southwest corner of Marmora Avenue and Davis Street, within an R2 Single Family District, and is improved with a single-family residence. All the surrounding properties are also within the R2 District and are improved with single family residences.



**Subject Property Context Map**

### Overview of the Application

The Applicant, Fulgencio Rosario, is seeking waivers to allow for the replacement of a 6 ft. board on board fence within the "street side" front yard along Davis Street. The fence would extend from the middle of the side façade of the principal structure to the Davis Street property line, then proceed west to a sight line triangle and then extend south to the side of the garage nearest to the house. The fence would replace an existing fence in the same location and manner except the proposed fence would include the required sight line triangle at the intersection of the driveway and public sidewalk.



**Proposed Fence Location**

### Requested Waivers

The Unified Development Code generally prohibits fences in the required front yard; however, for corner lots that meet a specific criteria, fences that meet certain conditions, such as having 50% opacity, a maximum height of 42 inches (3.5 ft.), and located from the rear of the home to the rear property line are allowed (Section 12-3-5:B) in the "street side" front yard.

The 9048 Marmora Avenue lot meets the criteria for a limited front yard fence as the Davis Street side of the block, between two public streets, includes only street side yards. The Applicant, however, is proposing a fence that requires waivers to the section of the code that allows for a limited fence behind the rear façade of the home (for height and opacity-shown in **red** above), and for a waiver to general location for the portion of the fence that extends from the side façade of the home to the rear façade (shown in **blue** above).

<b><u>Dim. Control</u></b>	<b><u>Ord. Requirement</u></b>	<b><u>Proposed Fence</u></b>	<b><u>Requested Variance</u></b>
Fences in the required front yard	Not allowed within the required front yard setbacks (Section 12-3-5:A)	<b><i>6 ft. fence with 0% opacity in Davis St. front yard setback, in front of rear façade line of residence</i></b>	<b><i>Waiver to allow a 6 ft. high, 0% opacity fence within the front yard setback along Davis St.</i></b>
Fences in the street side front yard	Max Ht. = 42 in. (3.5 ft.) (Sec. 12-3-5:B.c)  Min. Opacity = 50% (Sec. 12-3-5:B.d)	<b><i>6 ft. in Davis Street "Street side" front yard</i></b>  <b><i>0% opacity</i></b>	<b><i>Waiver of 2.5 ft. to max. permitted height</i></b>  <b><i>Waiver to opacity requirement</i></b>

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

- Section 12-3-5:A.: A waiver to allow a 6 ft. high segment of fence, with 0% opacity, in the required front yard.
- Section 12-3-5:B.c.: Waiver to maximum permitted height of 2.5 ft. (42 in.), to allow 6 ft. fence in the front (side) yard setback; and
- Section 12-3-5:B.d.: Waiver to minimum required opacity to allow a fence with 0% opacity.

### **Discussion**

Staff confirmed that the existing 6 ft. high fence was approved by the Village in April of 2003. Although the Village Code also prohibited fences within the front yard, at that time, no variances were applied for nor approved.

While the Applicant proposes to rebuild the fence in the same manner, the current proposal would include the required sight line triangle at the intersection of the driveway and the sidewalk. Although the Applicant could install a 42 inch high, 50% opacity by right fence from the rear façade of the home to the garage, he is requesting to restore the existing fence, as previously approved.



View from Davis Street of Existing 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, per established in 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#18-13, staff suggests the following motion and conditions:

*The Zoning Board of Appeals approves Case #ZBA18-13, a request for 2.5 ft. waiver to the maximum permitted height along the "street side" yard and a 50% waiver to the opacity requirements, per Section 12-3-5:B, to allow for a 6ft. high wood fence from the rear of the house to and along the Davis Street property line to the rear façade of the garage with a sight line triangle, and a waiver to Section 12-3-5:A to allow the fence to continue ~ 10 ft. in front of the rear façade within the Davis Street front yard, at 9048 Marmora Avenue, with the following conditions:*

1. *The new fence shall be constructed and located in accordance with the plans submitted by the applicant in the Variance application dated 5/3/2018;*
2. *The applicant shall file all necessary plans and applications, for review and approval, and secure all necessary building permits prior to the commencement of construction.*

### **Attachments**

Application and related materials (submitted by applicant)

2003



## 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: 5-3-18

### APPLICANT INFORMATION

Applicant Name: FULGENCIO A. ROSARIO  
Applicant Address: 9048 MARMORA AVE.  
Applicant City / State / Zip Code: MORTON GROVE, IL. 60053  
Applicant Phone: (847) 583-8618  
Mobil / Other: (847) 489-7477  
Applicant Email: FULGENCIO.ROSARIO@YAHOO.COM  
Applicant Legal Interest in Property (Owner, Tenant, Etc.): OWNER  
Applicant Signature: FA Rosario

### PROPERTY INFORMATION

Common Address of Property: 9048 MARMORA AVE. MORTON GROVE, IL. 60053  
Property Identification Number (PIN): 10-17-409-052-0000  
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: TO REMOVE THE BUSHES BECAUSE OF MOSQUITOES HIDING, TO HAVE COMPLETE PRIVACY, AND TO SAVE SOME MONEY FROM TRIMMING. (Bushes on interior lot line)



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

REPLACING PREVIOUSLY APPROVED FENCE.

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.

NOT SELF-IMPOSED, LOT'S BEEN CORNER LOT.

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.

IF DENIED WE WILL LOSS PRIVACY AND SECURITY

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.

FENCE ~~IS~~ IS NOT BLOCKING SITE FOR INCOMING  
CARS OR WALKERS.

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.

FENCE WILL MATCH PREVIOUSLY APPROVED FENCE.

—BY—

**SAMBORSKI, MATTIS, INC.**

## LAND SURVEYORS

4332 OAKTON STREET SKOKIE, ILL. 60076

(847) 674-7373

OF

LOT 37 (EXCEPT THE SOUTH 25 THEREOF) AND ALL OF LOT 38 IN BLOCK 3, IN SOFIELD GARDEN  
A SUBDIVISION IN THE EAST HALF OF SECTION 17, TOWNSHIP 41 NORTH, RANGE 13 EAST OF THE  
THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

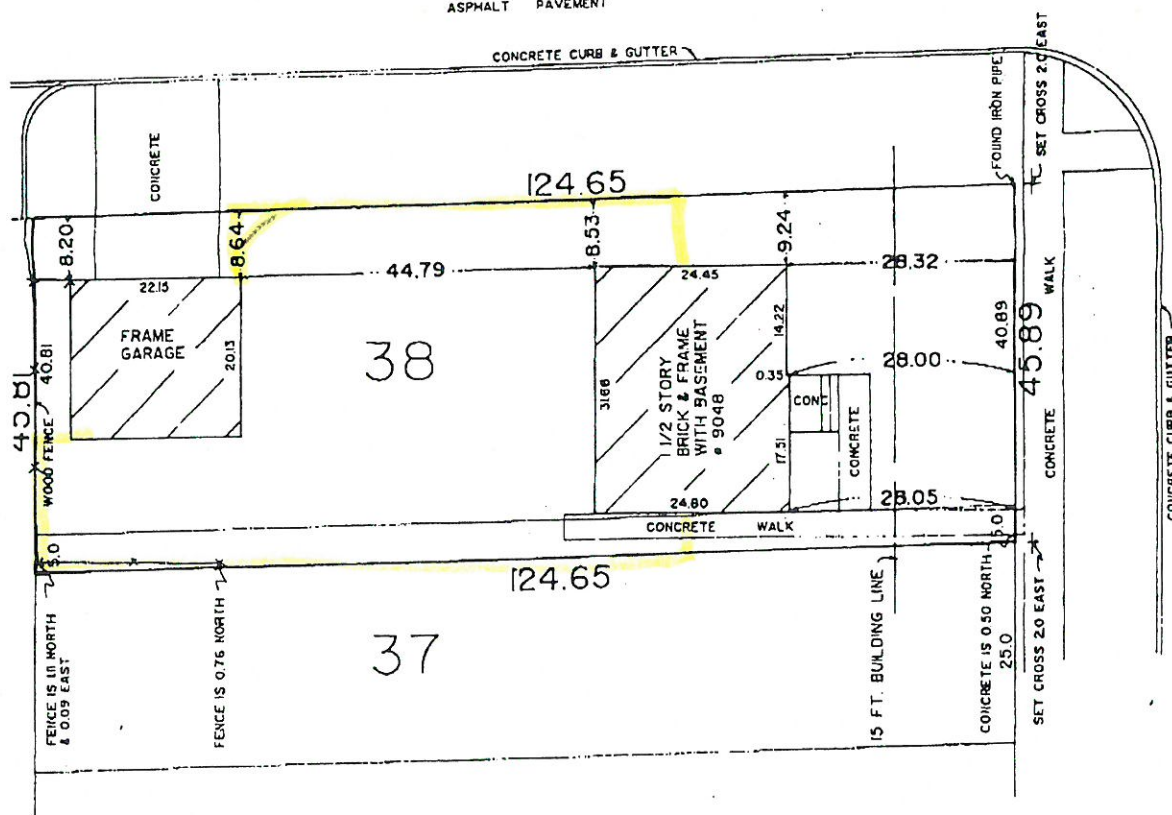


DAVIS

STREET

ASPHALT PAVEMENT

CONCRETE CURB & GUTTER



MARMORA AVENUE

ASPHALT PAVEMENT

SCALE: 1 inch = 15 feet

No. 171-98

PAGE  
CENTURY 21-MARINO

temperatures are shown in feet and decimals and are correct at 68 degrees Fahrenheit

Please check Land Description with Doad and report any discrepancy immediately.

STATE OF ILLINOIS  
COUNTY OF COOK

1. **MICHAEL J. MATTIS**, a professional Illinois Land Surveyor, do hereby certify that I have surveyed premises described above and that the plot shown herein is a correct representation of said survey.

DATE (MM) 8th DAY OF JUNE A.D. 1950

Illinois Professional Land Surveyor No.

LOCATION OF BUILDING

**DATED THIS**

50708