

Agenda
Zoning Board of Appeals
Tuesday, October 29, 2019 - 7:00 P.M.
City Hall-Council Chambers, 1 S Huron St
Ypsilanti, MI 48197

I. Call to Order

II. Roll Call

Jake Albers, Chair	P	A
Heather Khan, Vice Chair	P	A
Jared Talaga	P	A
Jason Ringholz	P	A
Tom Roach	P	A
 Georgina Hickey <i>alternate</i>	 P	 A

III. Approval of Minutes

- August 15, 2019

IV. Old Business

V. New Business

- 1420 Washtenaw, variance
Public Hearing
- 632 Mansfield, variance
Public Hearing

VII. Adjournment



October 29, 2019

**Staff Review of Variance Application
Single Story Addition for Carry Out Restaurant
1420 Washtenaw Ave**

GENERAL INFORMATION

Applicant: Ali Wahab / Todd Ballou
1420 Washtenaw Ave
Ypsilanti, MI 48197

Project: Single Story Addition for Carry Out Restaurant

Application Date: September 25, 2019

Location: Northwest corner of Washtenaw and Cornell

Zoning: NC, Neighborhood Corridor

Action Requested: Approval of a variance from the front setback requirement in § 22-477 (e)(2)

Approval of a variance from the side setback requirement in § 22-477 (e)(2)

Approval of a variance from the required parking minimum in § 122-691

Staff Recommendation:

PROJECT AND SITE DESCRIPTION

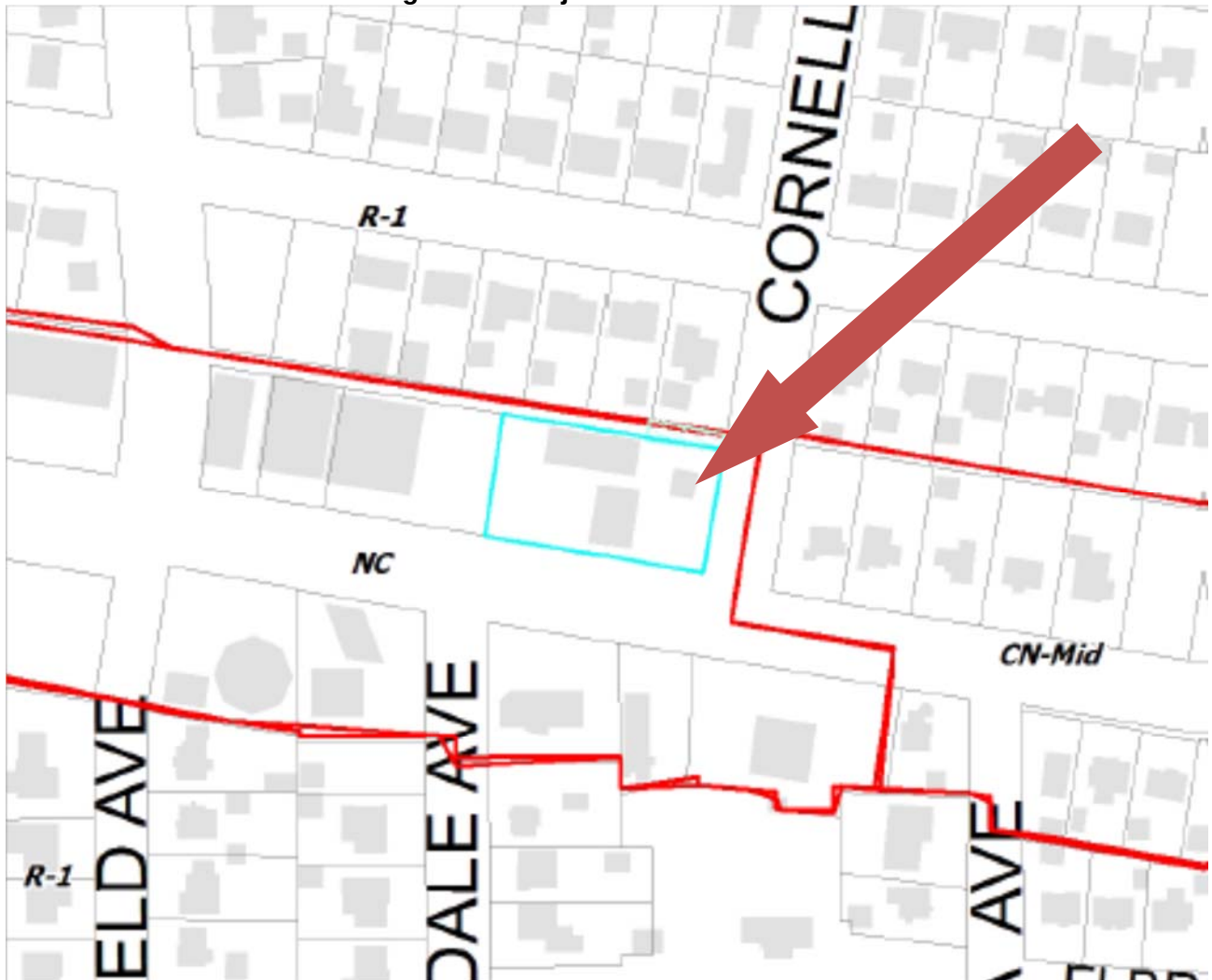
Parcel # 11-11-05-382-012 is on the northwest corner of Washtenaw Ave and Cornell. The parcel is 0.553 acres with frontage on Washtenaw Ave and Cornell in the College Heights neighborhood. There is an existing ~3,635 square foot single story commercial building on site and two metal canopies at 912 square feet and 672 square feet which serves as a gas station. A conditional (special) use permit was approved in July 1988 for an expansion of the interior service station and to operate on a 24 hour basis. A non-use variance to permit expansion in the rear yard was approved in December 2015.

The applicant is looking to construct a ~1,258 square foot addition to the existing building eastward for a carry out restaurant. The applicant is subject to a front and side yard setback requirement of 5-15 feet. The proposed development decreases the side street setback on Cornell to 35.17 feet from 80.51 feet. The proposed development also slightly decreases the

front setback on Washtenaw Avenue from 81.68 feet to 81.61 feet. The applicant seeks a variance from both setback requirements on Washtenaw Avenue and Cornell.

Additionally, the applicant is required provide 21 minimum parking spaces per §Sec. 122-691 due to the proposed development. The applicant is seeking a variance from this requirement to instead provide 14 spaces. Staff believes that the 15 foot maximum side setback on Cornell cannot be reasonably met while providing for other needs such as new parking, a proposed dumpster enclosure, and screening.

Figure 1: Subject Site Location



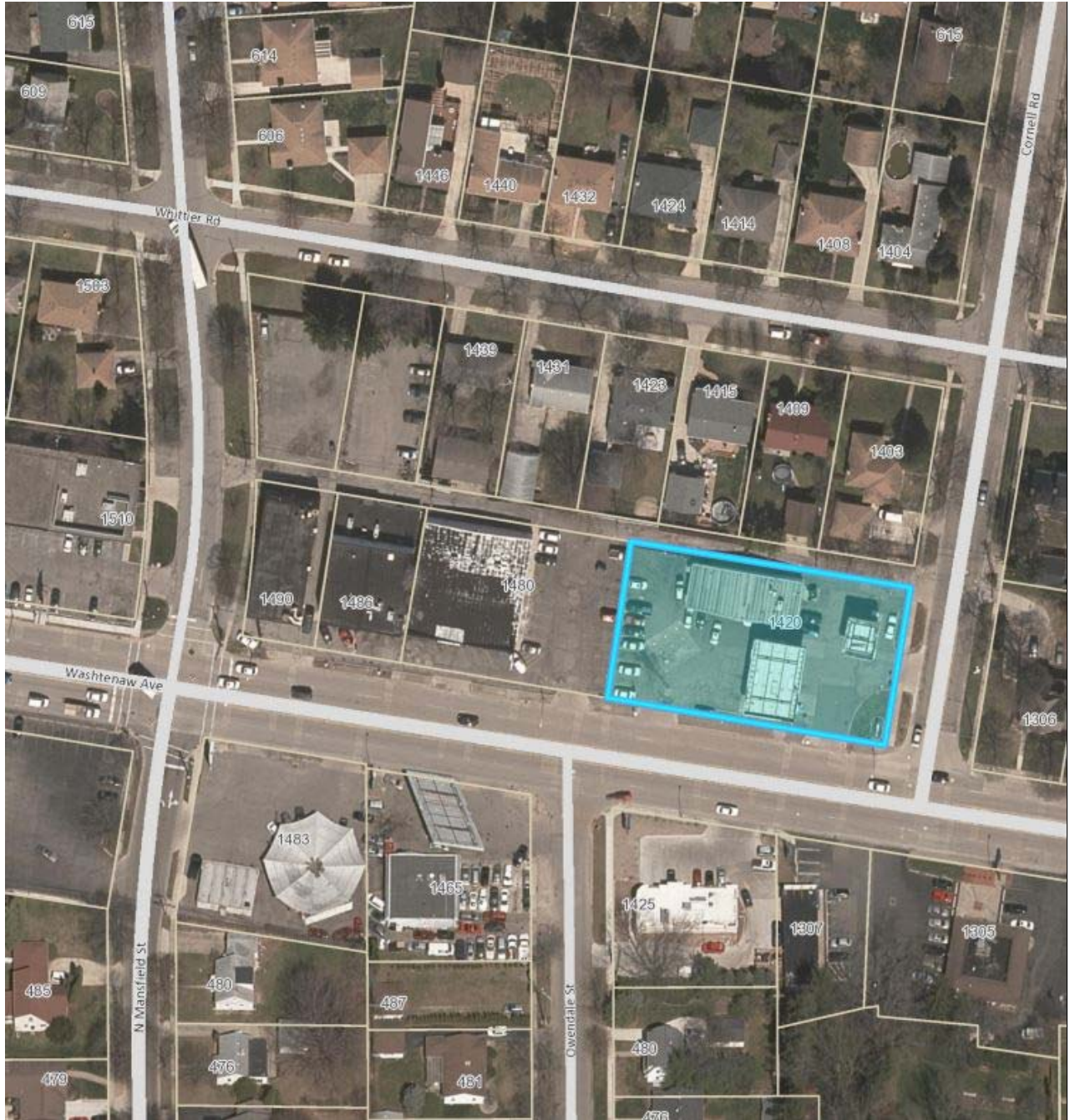


Figure 2: Site Close-up (2015)



Figure 3: photograph of site (Google image 2019)



Figure 4: Land Use and Zoning of Surrounding Area

	LAND USE	ZONING
NORTH	Single family homes	R-1, Single family residential
EAST	Single family houses & multi-family (on Washtenaw)	CN-Mid- Core Neighborhood Mid
SOUTH	Restaurants and dry cleaners	NC-Neighborhood Corridor
WEST	Retail and commercial	NC-Neighborhood Corridor

ORDINANCE**§122-477****Sec. 122-477. SC Single Story Commercial Building****SC****SINGLE STORY COMMERCIAL BUILDING**

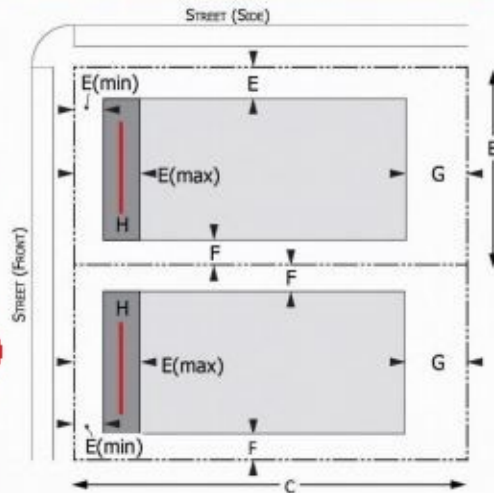
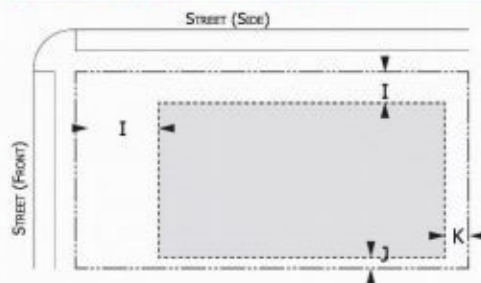
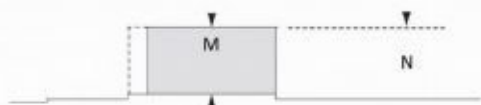
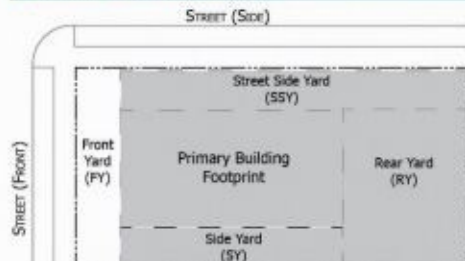
These are generally designed for a single commercial use, located in lots that accommodate accessory parking, loading, and waste disposal areas.

LOT REQUIREMENTS		MIN	MAX
A	Lot size (sf)	7,500	90,000
B	Lot width (ft)	50	300
C	Lot depth (ft)	100	300
D	Lot coverage (%)		60
BUILDING ENVELOPE		MIN	MAX
E	Street setback (front or side) (ft)	5 ⁽¹⁾	15 ⁽¹⁾
F	Side setback (interior lot line) (ft)	0	--
G	Rear setback (ft)	--	--
H	Frontage buildout (%)	50	100
ACCESSORY BUILDING ENVELOPE		MIN	MAX
I	Street setback (ft)	30	--
J	Side setback (ft)	10	--
K	Rear setback (ft)	10	--
L	Building footprint (sf)	--	800
BUILDING HEIGHT		MIN	MAX
M	Principal building (stories)	1	1
N	Accessory structure(s) (ft)	--	15
PARKING LOCATION		Permitted in the side, street side, and rear yards.	
PRIVATE FRONTAGES		Thoroughfare Commercial required.	

- (1) If located on Washtenaw Avenue, must build no more than ten feet from future right-of-way line as defined in the ReImagine Washtenaw plan.
 (2) When adjacent to existing detached single-family homes, the rear setback shall be a minimum of 25 feet.



EXAMPLE

LOT REQUIREMENTS AND BUILDING ENVELOPE**ACCESSORY BUILDING ENVELOPE****BUILDING HEIGHT****PARKING LOCATION**

ORDINANCE**§122-477****Sec. 122-691. Minimum and maximum number of parking spaces.**

The minimum number of off-street parking spaces by type of use in all zoning district shall be determined in accordance with the following schedule. The maximum number of off-street parking spaces must not exceed 120% of the required parking spaces, except for those uses in the "Residential" category, which are not subject to a maximum. The Planning Commission may grant waivers as noted in §122-692.

AUTO-ORIENTED	
Automobile filling stations	Spaces required for other uses within the station, such as the retail floor area, carryout restaurants, subtracted by one half space for each automobile fueling position.

<u>PARKING REQUIREMENTS</u>	
1 SPACE FOR EACH GAS STATION EMPLOYEE 2 EMPLOYEE MAX	2
1 SPACE FOR EACH 250 SF OF RETAIL SPACE 3,635 SF GROSS RETAIL SPACE/ 250 = 14.5	15
REDUCE 1/2 FOR EACH FILLING POSITION 8 FILLING POSITIONS/ 2 = 4	-4
1 SPACE FOR EACH 50 SF OF RESTAURANT CUSTOMER WAITING AREA 271 SF/ 50 = 5.4 SPACES	5
1 SPACE FOR EACH RESTAURANT EMPLOYEE IN LARGEST SHIFT- 3 EMPLOYEES	3
TOTAL PARKING REQUIREMENT (14 SPACES PROVIDED) (VARIANCE REQUIRED FOR 7 SPACES)	21

STANDARDS

§122-370(b)

Standards for Variances. A variance from the literal enforcement of this Ordinance may be granted by the Zoning Board of Appeals only if all of the following standards are met.

- (1) Literal enforcement of this chapter will pose practical difficulties to the applicant because of special conditions or circumstances which are unique to the specific property such as: exceptional shallowness or shape of the property, exceptional topographic conditions, extraordinary situation of a building or structure, use or development of an adjacent property, or difficulties relating to construction or structural changes on the site. Mere inconvenience or a desire to attain higher financial return shall not itself be deemed sufficient to warrant a variance.*

The applicant notes the existence of 3 curb cuts and the given lot dimensions create a scarcity of space for circulation around gas pumps and reduces the area available for parking. The existing building is located at the rear of the property while the required setbacks intend for buildings to be located at the front of the property. To carry out this addition in compliance with the front street setback requirement the existing 3,635 square foot building would need to be moved up nearly 67 feet to Washtenaw Avenue. To meet the side street setback requirement would require eliminating three proposed parking spaces including a barrier free space. Staff recognizes these practical difficulties prevent compliance with the setback requirements on Cornell and Washtenaw and agrees that the location of the existing gas pumps is a challenging condition, especially given the shallowness of the lot. The location of the gas pumps can only be changed with exceptional effort under today's safety and environmental standards.

Staff finds the lot dimensions, existing curb cuts, and need for circulation space around gas pumps does prevent the applicant from providing the 21 minimum parking spaces as required. Building forward off the existing west side of the building would mean digging up the tanks and reconfiguring the pumps. Building all the way out to the east presents circulation challenges with the alley and means the dumpster would have to go in the front yard. These two combined are the proverbial "rock and a hard place." However, it is likely that the applicant could accommodate the needed inventory requirements with items that have lesser volume or a more advantageous volume-to-value ratio- such as postage stamps. This standard is not met.

- (2) Such variance is necessary for the preservation and enjoyment of a substantial property right enjoyed by other property owners in the same district under the terms of this chapter. Granting of the variance shall not confer upon the applicant any special privilege that is denied by this chapter to other lands, structures, or buildings in the same district.*

Several structures along Washtenaw within the NC district have rear setbacks that approach zero. However, none were constructed within the past twenty years, nor under the current zoning ordinance, nor were any of them filling stations. The standard is not met.

Buildings that were constructed in compliance with the ordinance in effect at the time, but are not in compliance with the current ordinance, are considered to be nonconforming buildings. The existing building at 1420 Washtenaw was constructed in compliance with the ordinance at the time, but no longer complies in terms of its rear setback, so it is subject to

the same conditions as other nonconforming buildings. Per the ordinance, nonconformities are allowed to continue and be maintained/repared, but not be expanded.

- (3) The alleged practical difficulties on which the variance request is based have not been created by any person presently having an interest in the property.*

The current property owners were not responsible for the present locations of the pumps, the existing setbacks on the property, or the regulations in regards to them. Nor was the property owner responsible for the current location of the underground tanks and other facilities that would now need to be moved to meet the minimum parking requirements. Staff does not believe any person presently having an interest in the property has created the practical difficulties cited for the variance request. The standard is met.

- (4) The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.*

Staff does not expect that the granting of these variances will be detrimental to the public welfare or injurious to other property or improvements in the neighborhood. The area behind the existing building is already impervious surface, so no additional stormwater impacts will be made in this area. The existing rear yard is “dead space,” unused for all but loading/unloading. This standard is met.

- (5) The allowance of the variance will result in substantial justice being done, considering the public benefits intended to be secured by this chapter, the individual hardships that will be suffered by a failure of the Zoning Board of Appeals to grant the variance, and the rights of others whose property would be affected by the allowance of the variance.*

No individual hardships appear as though they will be suffered as a result of denial of this variance. This standard is not met.

- (6) A variance granted shall be the minimum variance that will make possible a reasonable use of the land, buildings, or structure.*

The applicant has not shown that this is the only way to make the convenience store with compliant within the constraints of the site and the State of Michigan's requirements. This is not met.

STAFF RECOMMENDATION

Staff recommends the Zoning Board of Appeals **deny** the variance request to permit the carryout restaurant addition to encroach on the front and side setback requirement at 1420 Washtenaw. Staff recommends the Zoning Board of Appeals **deny** the variance request to permit the 14 proposed spaces instead of the 21 required per parking minimum, with the following findings:

1. The applicant has shown insufficient practical difficulty under §122-477 for a decreased front and street yard setback.

2. A variance to permit 66.61 ft.' 20.17 ft.' setback is not necessary for the preservation and enjoyment of a substantial property right enjoyed by other property owners in the same district under the terms of the zoning ordinance, per the standards of 122-94(2)
-

Christopher Jacobs

Community Development Manager, Community & Economic Development Division

c.c. File

Applicant



City of Ypsilanti
Planning and Development Department

October 21, 2019

Staff Review of Variance Application
Privacy Fence
632 N Mansfield

GENERAL INFORMATION

Applicant: Ryan M. Szczesny
632 N Mansfield
Ypsilanti, MI 48197

Project: Privacy Fence

Application Date: August 12, 2019

Location: East side of N Mansfield between Roosevelt and Whittier

Zoning: R-1, Single-Family residential

Action Requested: Approval of a variance from the fence height requirement in §122-422(c)(3)

Staff Recommendation: Approve

PROJECT AND SITE DESCRIPTION

Parcel # 11-11-05-381-009 is on the east side of N Mansfield between Roosevelt and Whittier. The parcel is 0.216 acres with frontage on N Mansfield in the College Heights neighborhood. There is an existing 6' tall fence on site.

The applicant is looking to add an 8' tall wood privacy fence between their property and 624 N Mansfield, the neighbor to the south. The applicant is requesting a variance from the maximum permitted fence height of 6' for rear, side, and street-side fences. The variance is requested because the sloped topography of the neighborhood positions the adjacent property at a higher elevation, and therefore the applicant finds a 6' fence insufficient. The applicant is requesting a variance from the fence height as required in §122-422(c)(3).

Figure 1: Subject Site Location



Figure 2: Site close-up (2015)



Figure 3: Site close-up with topographic contour lines (2015)

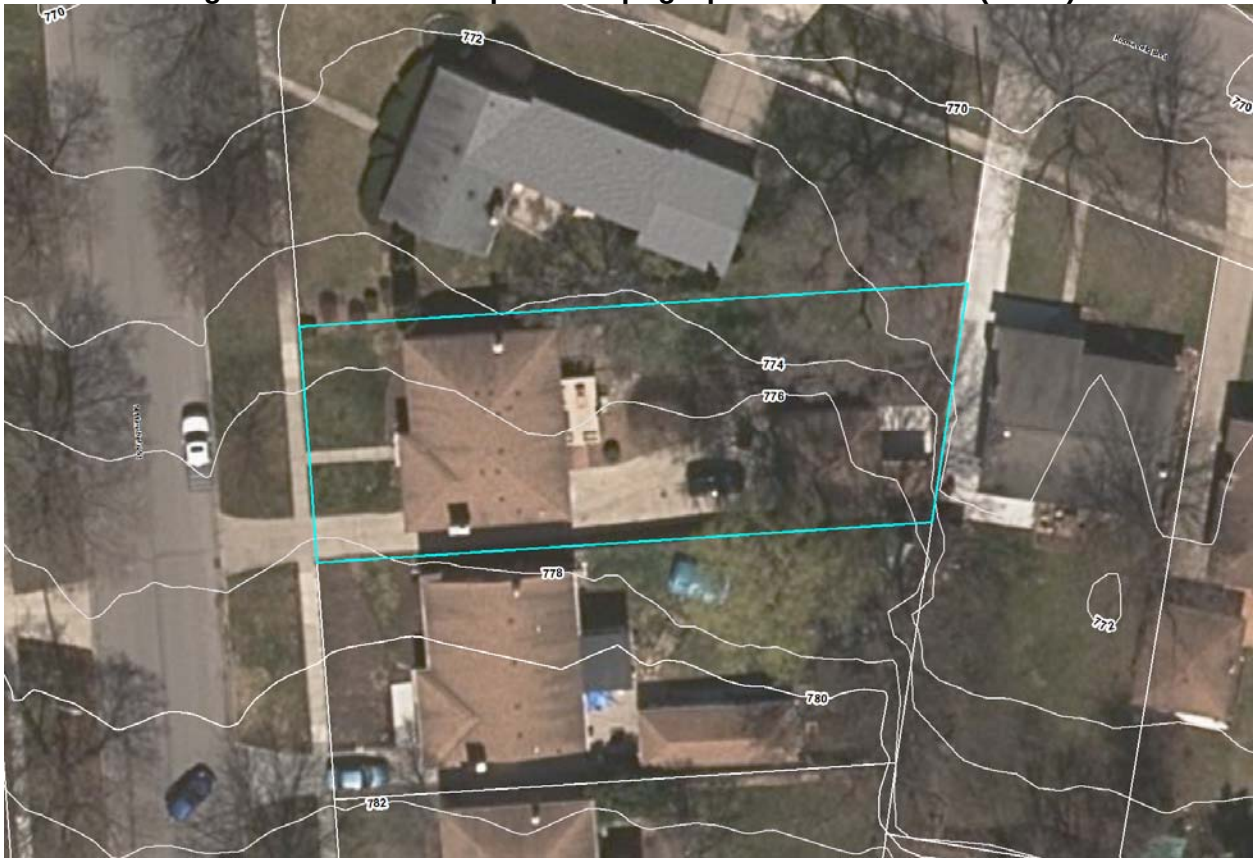


Figure 3: Facing southeast showing topography differences between 632 N Mansfield (at left) and 624 N Mansfield (at right)



Figure 3: Facing southeast to current side fencing between 632 and 624 N Mansfield



Figure 4: Land Use and Zoning of Surrounding Area

	LAND USE	ZONING
NORTH	Single family homes	R-1, Single family residential
EAST	Single family homes	R-1, Single family residential
SOUTH	Single family homes	R-1, Single family residential
WEST	Single family homes	R-1, Single family residential

ORDINANCE**§122-422****Sec. 122-422. Non-Use and Dimensional Regulations. (R-1)**

(c) DETACHED ACCESSORY STRUCTURES		
Also subject to Article VI, Division 4		
(1) Height		
Maximum height	15 feet	
(2) Size of Accessory Buildings		
Maximum Floor Area	The gross ground floor area of all accessory buildings must not exceed gross floor area of the ground floor of the principal structure, nor cause lot coverage regulations for all buildings and paved surfaces on-site to be exceeded.	
(3) Fences		
Front Yard	No more than 4' height and 50% opacity	• Opacity is measured by the observation of any two (2) square yard area of fence between one (1) foot above the ground level and the top of the fence. The observation is from a direction perpendicular to the place of the fence. • Subject to §122-635 • Subject to §122-675
Side, Street Side, and Rear Yards	6' height max, no opacity restriction	
(4) Buildings Accessory to Residential Uses		
Front yard	Not allowed	
Side yard minimum	3 feet	1 foot if lot line abuts an alley
Street Side yard	Not allowed	
Rear yard minimum	3 feet	1 foot if lot line abuts an alley, 12 feet for a through lot
Distance from principal structure, minimum	7 feet	Minimum distance to comply with fire regulations and/or building code, if greater than minimum listed. An attached enclosure or roof over a pathway between buildings on a lot, such as a breezeway, is exempt from this setback provided it is 8 feet or less in width and 15 feet or less in height.
(5) Buildings Accessory to Non-residential uses		
Front yard	Not allowed	
Side yard minimum	3 feet	1 foot if lot line abuts an alley
Street Side yard minimum	8 feet	
Rear yard minimum	3 feet	1 foot if lot line abuts an alley, 12 feet for a through lot
Distance from principal structure minimum	5 feet or minimum to comply with fire regulations and building code, whichever greater.	

STANDARDS

§122-370(b)

Standards for Variances. A variance from the literal enforcement of this Ordinance may be granted by the Zoning Board of Appeals only if all of the following standards are met.

- (1) Literal enforcement of this chapter will pose practical difficulties to the applicant because of special conditions or circumstances which are unique to the specific property such as: exceptional shallowness or shape of the property, exceptional topographic conditions, extraordinary situation of a building or structure, use or development of an adjacent property, or difficulties relating to construction or structural changes on the site. Mere inconvenience or a desire to attain higher financial return shall not itself be deemed sufficient to warrant a variance.*

The applicant notes that practical difficulty is found because of the property's topography. Positioned on a hill, the adjacent property at 624 N Mansfield is positioned at a higher elevation; approximately 6' higher than 632 N Mansfield. Therefore, the applicant finds that a 6' fence does not provide sufficient privacy, and an 8' tall fence is necessary.

- (2) Such variance is necessary for the preservation and enjoyment of a substantial property right enjoyed by other property owners in the same district under the terms of this chapter. Granting of the variance shall not confer upon the applicant any special privilege that is denied by this chapter to other lands, structures, or buildings in the same district.*

Properties in the surrounding neighborhood that are not positioned on a hillside are able to achieve greater privacy from the permitted 6' tall fencing. Granting a variance to 632 N Mansfield would afford the applicant a similar level of enjoyment.

- (3) The alleged practical difficulties on which the variance request is based have not been created by any person presently having an interest in the property.*

The practical difficulties of the property are naturally occurring and not created by the applicant.

- (4) The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.*

It is not expected that the granting of this variance will be detrimental to the public welfare or injurious to other property or improvements in the neighborhood.

- (5) The allowance of the variance will result in substantial justice being done, considering the public benefits intended to be secured by this chapter, the individual hardships that will be suffered by a failure of the Zoning Board of Appeals to grant the variance, and the rights of others whose property would be affected by the allowance of the variance.*

Approval of the variance will result in substantial justice for the applicant that they may enjoy a similar level of privacy as others in the neighborhood.

- (6) A variance granted shall be the minimum variance that will make possible a reasonable use of the land, buildings, or structure.*

Allowance of an 8' tall fence, which is only 2' taller than the allotted 6' is a reasonable amount to allow considering the approximately 6' elevation difference between the two properties. An 8' tall fence may be considered the minimum height to achieve the level of privacy desired.

STAFF RECOMMENDATION

Staff recommends the Zoning Board of Appeals ***approve*** the variance request to permit the 8' tall privacy fence along the south property boundary of 632 N Mansfield, with the following findings:

1. The applicant has shown sufficient practical difficulty under §122-370(b)(1).
2. The variance is necessary for the preservation and enjoyment of a substantial property right enjoyed by other property owners in the same district under the terms of the zoning ordinance §122-370(b)(2).
3. The applicant has demonstrated that the practical difficulties of the property are naturally occurring and not created by the applicant under 122-370(b)(3).
4. It is not expected that the granting of this variance will be detrimental to the public welfare or injurious to other property or improvements in the neighborhood under 122-370(b)(4).
5. A substantial justice will be achieved for the applicant that they may enjoy a similar level of privacy as others in the neighborhood.
6. The proposed variance of an 8' tall fence is a reasonable minimum variance to achieve the level of privacy desired.

Scott E. Slagor
Preservation Planner, Community & Economic Development Division

c.c. File
 Applicant