

Village of Beverly Hills
Planning Commission Meeting
Wednesday, June 23, 2021

Municipal Building
18500 W. 13 Mile Rd.
7:30 p.m.

Zoom link: <https://us02web.zoom.us/j/81449564906>

Meeting ID: 814 4956 4906

Dial In: 1 646 876 9923

AGENDA

1. Roll Call.
2. Approve Agenda.
3. Review and consider approval of regular Planning Commission minutes of meeting held May 26, 2021.
4. Public comments on items not on the published agenda.
5. Request to install a six (6) foot high solid style fence at 16021 Hummel Drive to mitigate an essential safety and/or privacy concern per Section 22.150.B.2.a
6. Request for interpretation of Section 22.08.150.B.2.a to allow the installation of a six (6) foot high solid style fence where the subject site (31227 Huntley Ct) is adjacent to a non-single family residential land use or cluster development or Zone District.
7. Public comments.
8. Liaison comments.
9. Administration comments.
 - a. Master Plan Review Follow Up Discussion
10. Commissioners' comments.

Due to the COVID-19 pandemic, this meeting will be held virtually via Zoom. If you are unable to attend the meeting and would like to submit a written comment, please email mloyd@villagebeverlyhills.com or mail to the Village Office Attn: Planning Commission (18500 W. 13 Mile Road, Beverly Hills, MI 48025) prior to the meeting.

The Village of Beverly Hills will provide necessary reasonable auxiliary aids and services, such as signers for the hearing impaired and audiotapes of printed materials being considered at the meeting, to individuals with disabilities **attending the meeting upon three working days' notice to the Village. Individuals with disabilities requiring auxiliary aids or services should contact the Village Clerk by writing 18500 W. Thirteen Mile, Beverly Hills, MI 48025 or calling (248) 646-6404.**

Present: Chairperson Drummond, Vice-Chairperson Stempien, Members: Copeland, Grinnan, Ostrowski, Wilensky, and Wright
All commissioners present participated remotely via Zoom from Beverly Hills, Michigan.

Absent: Ruprich and Westerlund

Also Present: Planning & Zoning Administrator, Lloyd
Village Clerk/Assistant Manager, Rutkowski
Planning Consultant, Borden

Drummond called the regular Planning Commission meeting to order at 7:32 p.m. virtually via Zoom due to the ongoing COVID-19 pandemic.

APPROVE AGENDA

Motion by Grinnan, second Ostrowski, to approve the agenda as published.

Roll call vote:
Motion passed (7-0)

REVIEW AND CONSIDER APPROVAL OF REGULAR PLANNING COMMISSION MINUTES OF MEETING HELD APRIL 28, 2021

Grinnan asked that her comment on page 2 of the April 28, 2021 minutes be amended to state that the Village should be open to consider acquiring land, should the opportunity arise.

Motion by Ostrowski, second by Wilensky, to approve the minutes of a regular Planning Commission meeting held April 28, 2021 as amended.

Roll call vote:
Motion passed (7-0)

PUBLIC COMMENTS ON ITEMS NOT ON THE PUBLISHED AGENDA

None.

REVIEW AND CONSIDER REQUEST TO INSTALL A SIX (6) FOOT PRIVACY FENCE IN THE SIDE AND REAR YARD ON THE PROPERTY LOCATED AT 17370 BEECHWOOD IN THE R-2A RESIDENTIAL ZONING DISTRICT

Lloyd provided an overview of the request. The Village received an application for a six-foot high, simulated wood, privacy fence to be installed along the east side property line at 17370 Beechwood. Per Section 22.08.150 of the Municipal Code, the applicant is seeking approval from the Planning Commission to mitigate an essential safety or privacy concern. The abutting property owners were notified of the request and hearing date via US Mail service and the notice was posted in accordance with Village Ordinance requirements.

The applicant proposes to install at 12' x 7' simulated wood privacy fence at the northeast (rear) corner of the house. The proposed privacy fence will extend 7 feet from the rear corner of the house to within 5 feet of the side property line and will extend 12 feet into the rear yard to approximately 61'-6" from the rear property line. The distance from the applicant's patio (area to

be screened) to the neighbor's garage is 22 feet and the distance from the applicant's patio to the neighbor's patio is 28 feet. The applicant provided a copy of an example of the proposed fence type and color.

Per Section 22.08.150, the petitioner must show to the Commission that the size, location, height, design, and materials of the fence are aesthetically in harmony with the property on which it is located. Further, the applicant must ensure that any proposed removal of vegetation and trees and disturbance to natural terrain has been minimized. The applicant must also demonstrate that at least one of the following conditions is met:

- The subject site and/or an abutting parcel has an unconventional lot, yard and/or dwelling orientation (i.e., side yard adjacent to rear yard, pie-shaped lot adjacent to rectangular lot, or those with multiple parcels contiguous to a single lot line).
- Installation of such fencing would mitigate an essential safety and/or privacy concern.

The applicant, Caitlin Bennet, 17370 Beechwood, was in attendance and commented on privacy and safety concerns.

The Commission discussed the length of the fence and the minimal impact to neighbors.

Motion by Grinnan, second by Wright, the Beverly Hills Planning Commission approves a permit as submitted to install a six (6) foot high, simulated wood privacy fence at 17370 Beechwood to mitigate an essential safety and/or privacy concern provided the applicant complies with all applicable requirements of Chapter 22, Section 22.08.150 of the Municipal Code.

Roll call vote:

Copeland: Yes

Drummond: Yes

Grinnan: Yes

Ostrowski: Yes

Stempien: Yes

Wilensky: No

Wright: Yes

Motion passed (6-1)

REVIEW CHAPTER 4 OF THE VILLAGE MASTER PLAN

The Commission discussed Chapter 4 of the Village Master Plan as part of the five-year statutory review. Drummond provided an overview of Chapter 4 and the Commission talked about prioritization.

Borden commented on tracking progress on implementation.

Lloyd stated that an updated, colorized Zoning map is being worked on. He commented on putting timelines and action plans together.

Drummond suggested cleaning up Chapter 4 to update what has already been completed and to add new priorities. The next meeting agenda will include an item to determine whether the Commission needs to amend/update the Master Plan.

PUBLIC COMMENTS

None.

LIAISON COMMENTS

None.

ADMINISTRATION COMMENTS

Lloyd gave an over view of the Bingham Farms Master Plan Public Notice the Village received.

Borden gave an update on a short-term rentals bill that is being discussed in the legislature.

COMMISSIONERS' COMMENTS

Wright thanked Lloyd for his discussion points and said she supports a more detailed plan.

Wilensky stated he will not be in attendance at the next meeting and asked about in-person meetings.

Grinnan stated that there was productive discussion at this meeting and wished everyone a Happy Memorial Day.

Copeland inquired about the Memorial Day Parade.

Stempien commented on being proactive vs. reactive. He commented on tweaking the non-conforming sign language.

Ostrowski appreciated Lloyd's comments. He stated some updates can be done administratively and the Commission can focus on big picture items.

ADJOURNMENT

The meeting was adjourned at 8:33 p.m.

Andrew Drummond
Chairperson

Kristin Rutkowski
Village Clerk



To: Andrew Drummond, Chairperson; Planning Commissioners

From: Mark D. Lloyd, Planning & Zoning Administrator

A handwritten signature in black ink, appearing to be "M. D. Lloyd", written over the printed name of the Planning & Zoning Administrator.

Date: June 18, 2021

Re: Request for Approval of Six (6) Foot High Solid Fence at 16021 Hummel Drive

The Village of Beverly Hills has received an application (Attachment A) for a new six (6) foot high solid fence in the rear yard of the property located at 16021 Hummel Drive. Section 22.150.B.2 of the Village Zoning Ordinance allows for fences up to six (6) feet in height with solid vertical surfaces subject to approval by the Planning Commission if either the subject site or abutting parcel has an unconventional lot or dwelling orientation or if such fence would mitigate an essential safety and/or privacy concern.

The applicant proposes to install a six (6) foot high solid fence encompassing the entire rear yard of the subject property. At the time of the original application for the fence, it was noted by the applicant that there were two (2) adjacent properties (16007 and 16037 Hummel Drive – Attachments B & C) with six (6) foot high solid fences which, if “permitted” would have allowed for the requested fence, at least along the rear property line. Upon review, it was discovered that neither of these fences were “permitted” and therefore not able to be approved administratively. In addition, it appears as though only the rear property lines have six (6) foot fences. The applicant subsequently amended the application to indicate the proposed fence was necessary in order to mitigate an essential safety and/or privacy concern (as noted in Attachment A and explained in Attachment D). Approval under these conditions is subject to Planning Commission consideration.

As can be seen in the attached drawing submitted by the applicant, (Attachment D) there is existing fencing on the subject property (identified in orange). The portion of the existing fence that is attached to the rear of the house and along the side lot line is four (4) foot high. The partial section along the rear lot line is a six (6) foot high solid fence. Our records indicate that the six (6) foot high section is an approved “privacy screen” and was limited to 25 feet in length in accordance with Section 22.150.B3.(a) which allows for a privacy screen to be 25% of the length of the rear lot line. The subject rear lot line is 102 feet long.

Attachment E contains a note from the applicant with a set of corresponding photographs.

Suggested Resolution *(written in the affirmative)*

The Planning Commission approves a permit to allow construction of a six (6) foot high solid fence around the perimeter of the entire back yard at 16021 Hummel Drive provided the applicant complies with all requirements of Village Building Department for construction and installation.

attachments

Village of Beverly Hills
 Building & Planning
 18500 W 13 Mile Rd
 Beverly Hills, MI 48025
 Phone: (248) 646-6404 Fax: (248) 646-3703
 www.villagebeverlyhills.com

A

Staff Use Only	
Date Received:	_____
<input type="checkbox"/> Approved	<input type="checkbox"/> Denied
<input type="checkbox"/> ZBA Hearing:	_____
Village	
Signature:	_____

Application for Fence Permit			
Property Address	16021 Hummel Drive, Beverly Hills, MI 48025		
Description of Fence (Including Style, Material, & Height) Must Attach Site Plan	6' wooden privacy fence, contemporary style		
6ft and/or Solid Style Fencing – Additional Approval Required Check all that apply, must meet at least one criteria for consideration.	Administrative Approval	<input type="checkbox"/> Spacing between residences is less than that required by Section 22.08.090, 22.08.130 or 22.24 of the Zoning Ordinance, whichever is applicable.	<input type="checkbox"/> The subject site is adjacent to a non-single family residential land use or Zone District, or single family residential cluster development.
		<input type="checkbox"/> The subject site cannot support vegetative screening in lieu of the proposed fencing. The applicant shall provide supporting documentation of this from a licensed landscape architect or certified arborist.	<input type="checkbox"/> At least one residential parcel within 200' of the subject site on that side of the street in that block or at least one abutting residential parcel contains permitted fencing of similar height and/or opacity. *
	Planning Commission Approval **	<input type="checkbox"/> The subject site and/or an abutting parcel has an unconventional lot, yard and/or dwelling orientation (i.e., side yard adjacent to rear yard, pie-shaped lot adjacent to rectangular lot, or those with multiple parcels contiguous to a single lot line).	<input checked="" type="checkbox"/> Installation of such fencing would mitigate an essential safety and/or privacy concern.
Applicant/Contractor	Name/Company Name: Unknown at this time - possibly Nichols Fence		
	Address: 16021 Hummel Drive		
	City: Beverly Hills, MI	State:	Zip:
	Phone:	Email:	
Property Owner <input checked="" type="checkbox"/> Same as Applicant	Name:		
	Address:		
	City:	State:	Zip:
	Phone:	Email:	
Applicant Signature	I have read and understand §22.08.150 Fence, Wall, and Privacy Screen Regulations and the definition of "Point of Observation" contained in §22.04 Definitions. I understand a Village permit does not establish compliance with any HOA bylaws or deed restrictions that may be in effect. X: 		

* The applicant shall prepare a neighborhood lot study that includes a map of the study area and photograph(s) of existing fencing. An existing privacy screen as allowed in Section 22.08.150, 3. Privacy Screens shall not be used as consideration for compliance with this standard.

** The application and all required documents and materials must be submitted by the established deadline date for the next regular meeting of the Planning Commission. Submittal by deadline does not guarantee placement on the agenda. Please refer to Section 22.08.150. Note: the applicant or a representative must be present at all meetings.

B



East

16037 Himmel

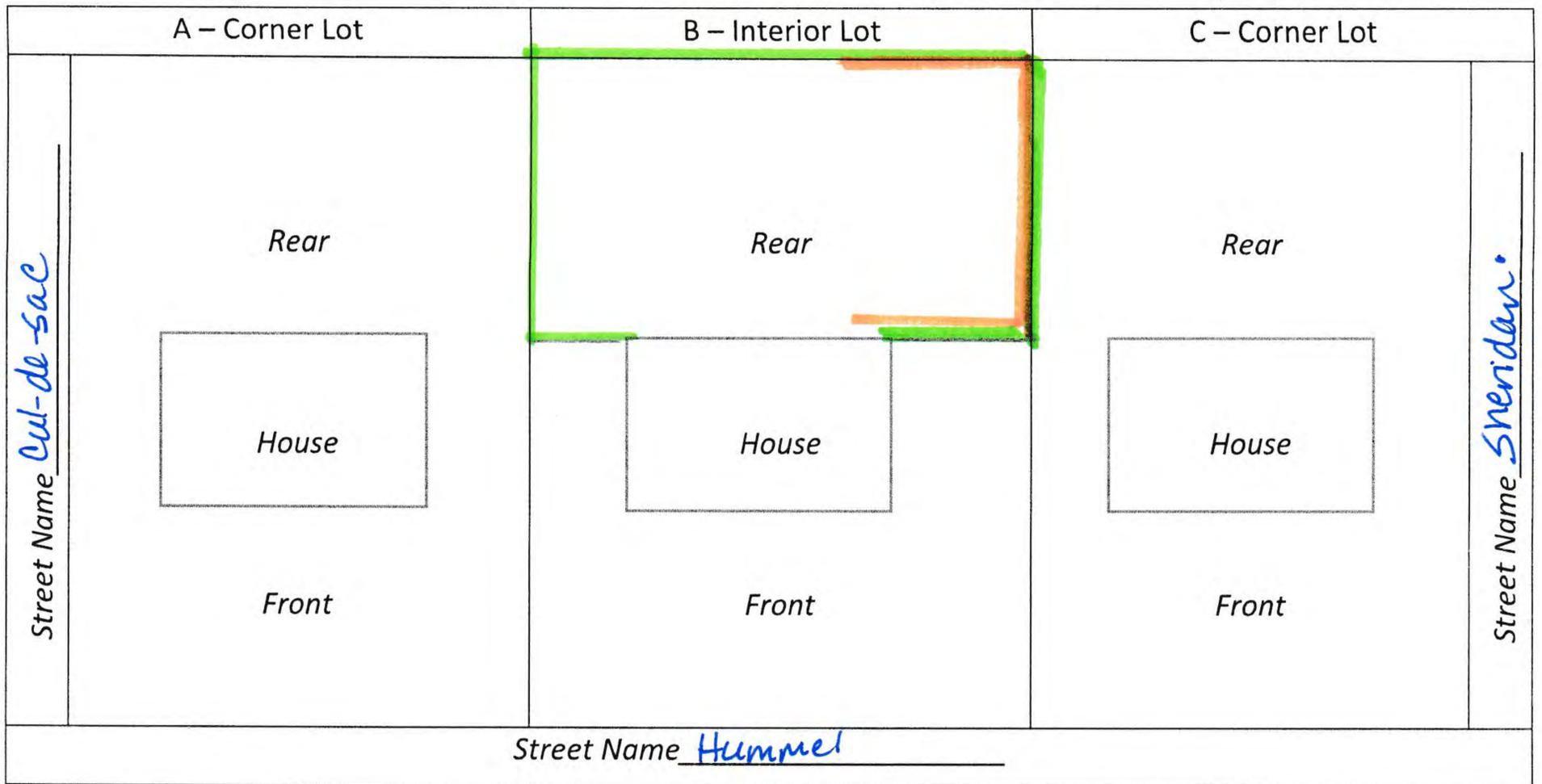
C



West
14007 Hummel

D

Please Submit Site Plan OR Show Fence Location on ONE Site Plan Below



● = proposed fence

● = existing fence

From my den window, there is a clear line of vision ^(and back yard) to the next block (Elizabeth). I can see completely into the rear of my neighbor's house behind me and also the street in front of their home. My privacy is seriously compromised, and I would appreciate the opportunity to install a fence for privacy and other concerns.

Thank-you for your consideration.

Colleen Thomas

Hi Mark,

E

I have included several photos of the fences at the homes of the neighbors in my immediate area on both my street and also on Sheridan just around the corner from me. I have spoken with both of my immediate neighbors, and both have indicated that they have no problem with my adding a fence. I share a fence with the neighbor on the west side of me, and will not be changing the style of the fence on his side.

I am an avid gardener and would like to begin the installation of my garden in the backyard this year. There are many deer that roam our cul de sac in groups of 3-5. Though I try to plant mostly deer resistant varieties, especially in the front of my home, the reality is that they still can wreak havoc on a garden. A privacy fence that they cannot see through is a deterrent and helped me maintain my garden for 30 years in Lathrup without damage to my plants.

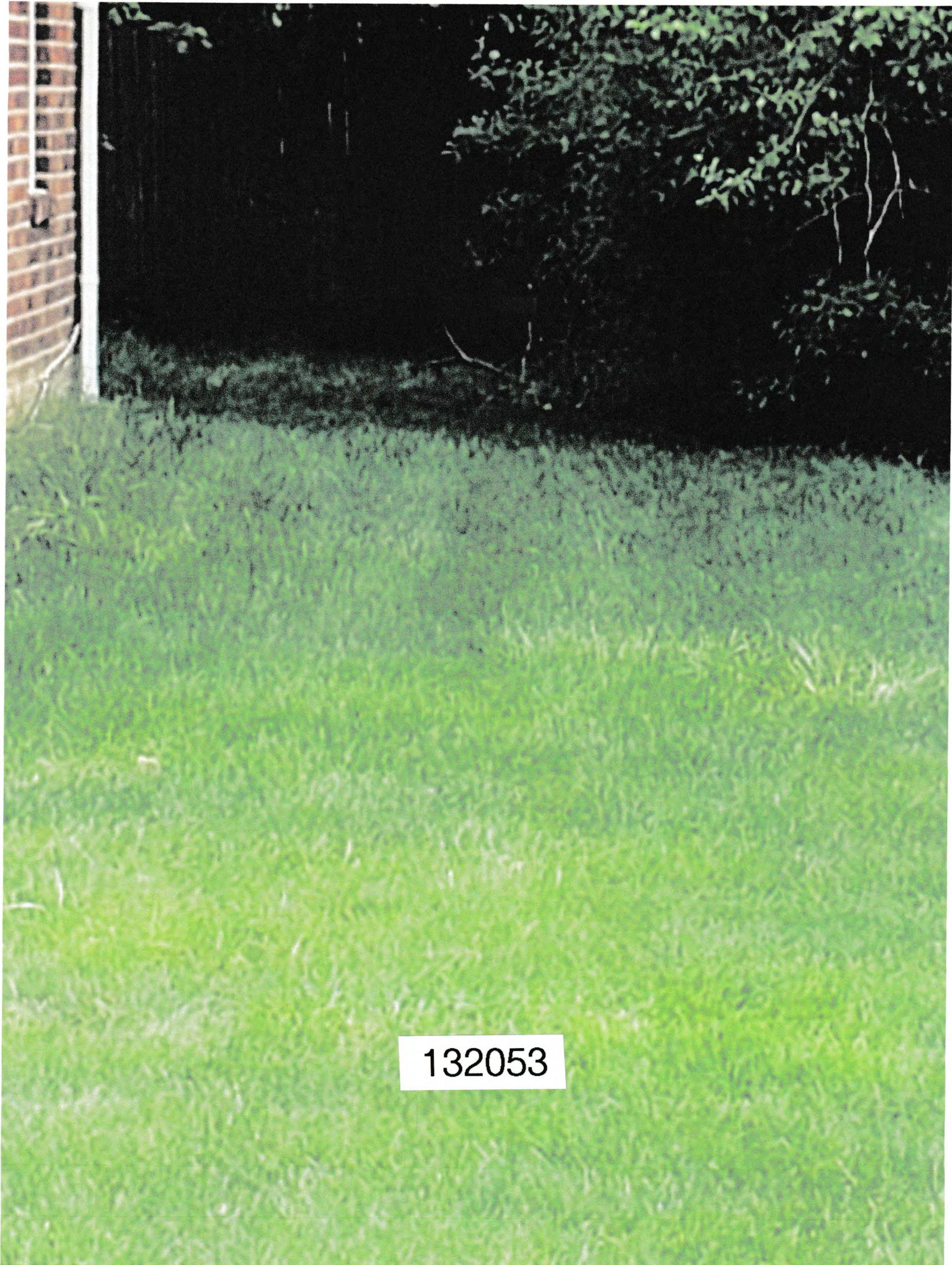
I have attached the following photos and descriptions. Thank you for your time and consideration.

20210508-132053 - This is a view of the fence that is on Sheridan two houses from mine. The entire backyard is enclosed by a 6' privacy fence that is not easily visible from the street. I didn't want to trespass onto the property.

20210508-131802 - This is a close up of the fence directly across the street from my home. My patient son is 5'11".

20210508-183815 - This is the view directly across the street from my house on Hummel. Both fences are 6' high.

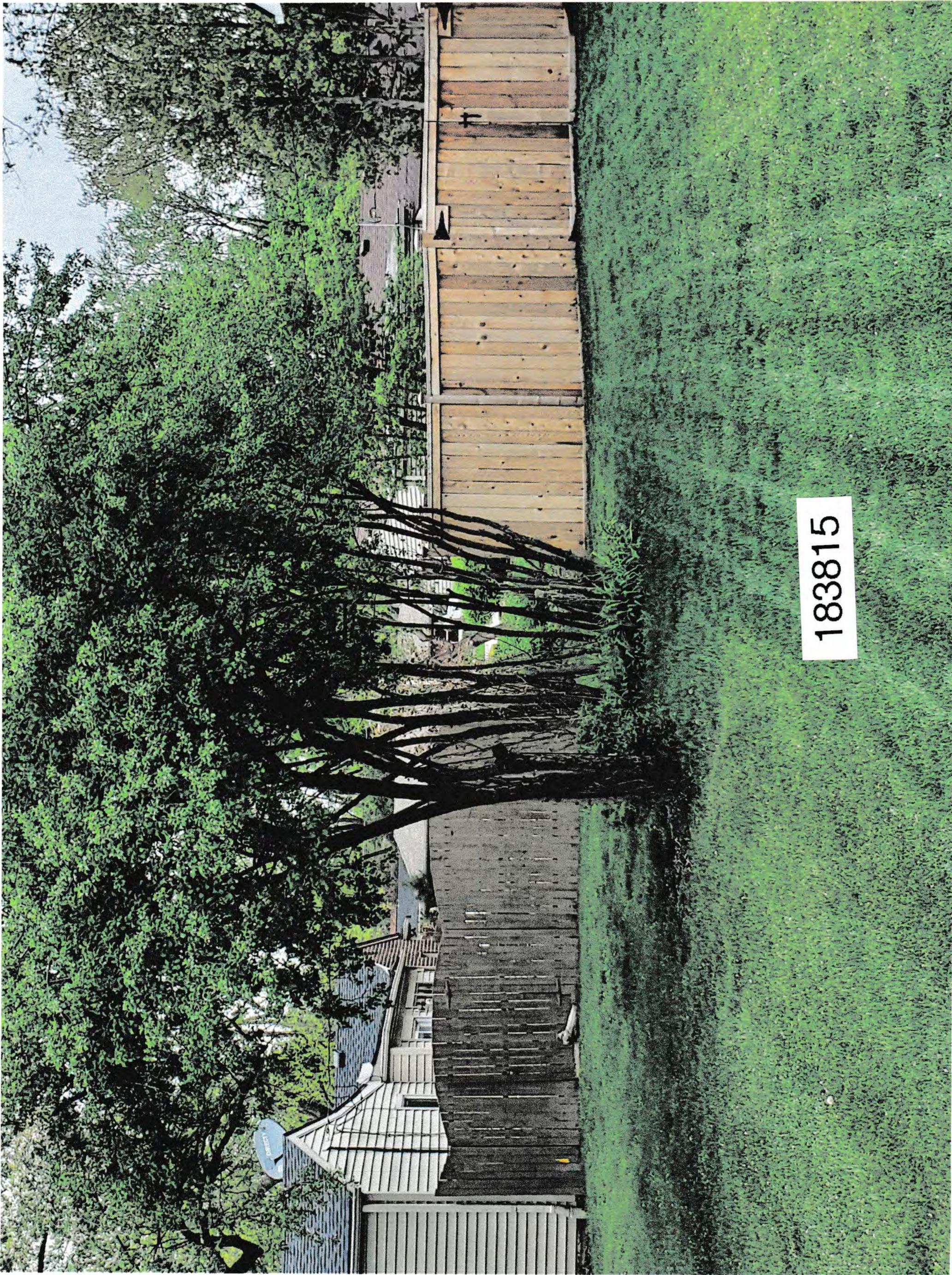
2021054-183839 - This is another view of my Hummel neighbors.



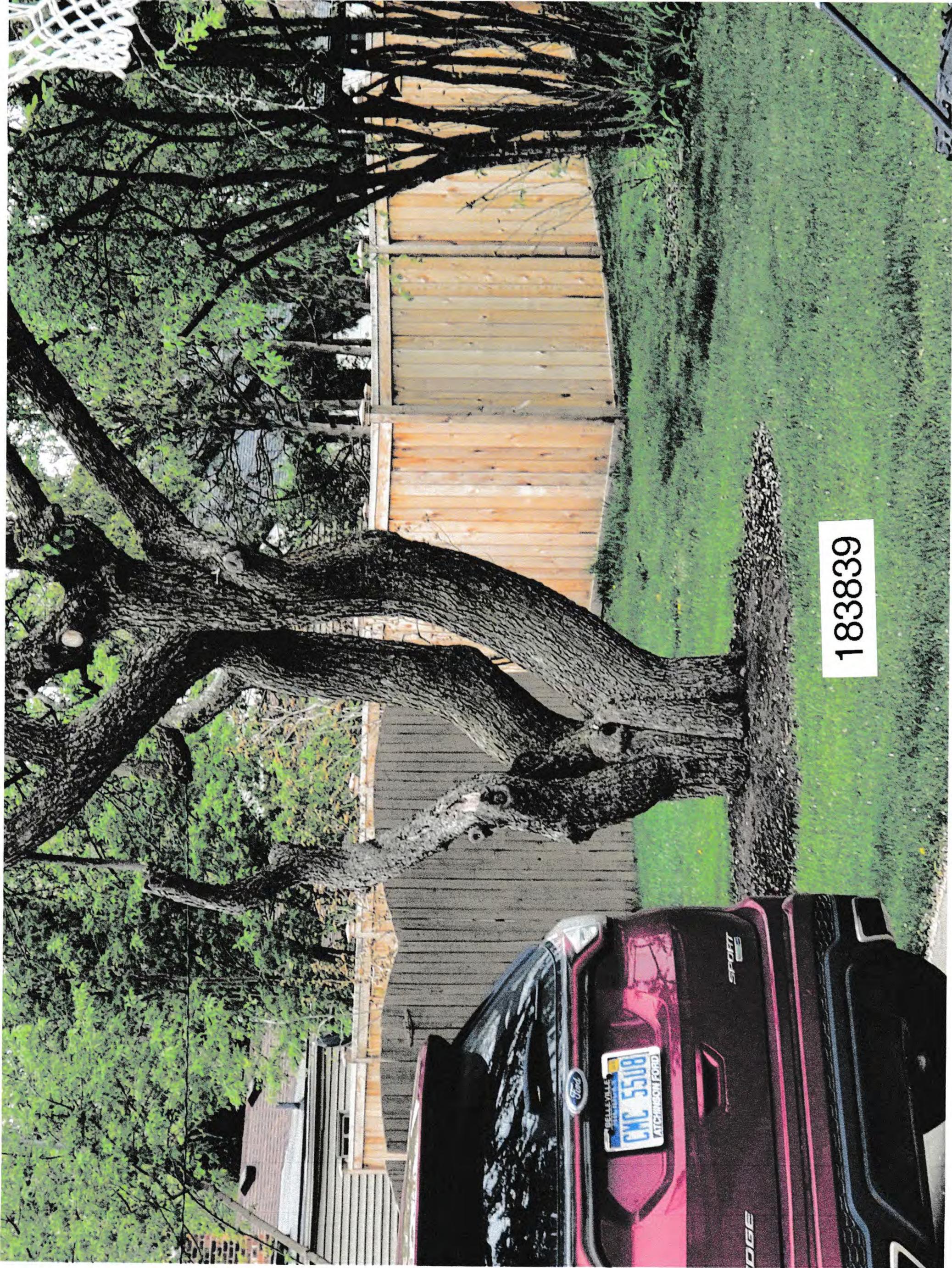
132053



131802



183815



183839



To: Andrew Drummond, Chairperson; Planning Commissioners

From: Mark D. Lloyd, Planning & Zoning Administrator

A handwritten signature in black ink, appearing to be "M. D. Lloyd", written over the printed name of the Planning & Zoning Administrator.

Date: June 18, 2021

Re: Interpretation of Zoning Ordinance Section 22.150.8.2(a) authorizing administrative approval of six (6) foot high solid fences if property is adjacent to a non-single family residential use.

The Village of Beverly Hills has received an application (Attachment A) for a new six (6) foot high shadow box style fence to be located in the rear yard and street side yard of the property located at 31227 Huntley Court. The street side yard faces Huntley Square West (Attachment B). Section 22.150.B.2(a) of the Village Zoning Ordinance provides four (4) exceptions allowing fences up to six (6) feet in height with solid vertical surfaces to be approved administratively. One of the exceptions is, "The subject site is adjacent to a non-single family residential land use or cluster development or Zone District". According to Administration's interpretation, subsequent research and consultation with Village Administrator Wilson, Councilmember Peddie, Attorney Ryan and Planning Consultant Bolin, the application was denied. It should be noted that the previous Zoning Administrator did not consult with the individuals listed and gave the applicant a different opinion on the matter. The differing opinion and need for consistency on future applications is why the Planning Commission is being requested to interpret this code section.

The issue at hand is that the applicant believes that the term adjacent includes being across the street. As noted above, administration consulted with folks in and outside of the organization who were involved in the ordinance amendments resulting in the subject language. Section 22.150.B.2(a) further states, Administration has the discretion to require review by the Planning Commission when there is a question of interpretation for consistency with the intent of this ordinance". In order to ensure that any and all future decisions on this matter are in keeping with the intent of the ordinance, the Planning Commission is being requested to interpret the intent of the ordinance as to whether or not this and future situations similar in nature should be allowed to construct up to a six (6) foot fence with solid vertical surfaces if located across the street from a non-single family residential land use, cluster development or Zone District.

Attachment C consists of aerial photos, various correspondence site photos and a letter from an adjacent property owner.

Suggested Resolution *(written in the affirmative)*

The Planning Commission determine that an adjacent land use, as referenced in Section 22.150.B.2.(a), include one which is across a street or other public Right of Way.

attachments

ATTACHMENT A

Village of Beverly Hills
 Building & Planning
 18500 W 13 Mile Rd
 Beverly Hills, MI 48025
 Phone: (248) 646-6404 Fax: (248) 646-3703
 www.villagebeverlyhills.com

*sent e-mail
left v mail*

*Double
check*

****Staff Use Only****

Date Received: 5/18
 Approved Denied
 ZBA Hearing: _____
 Village Signature: *[Signature]*

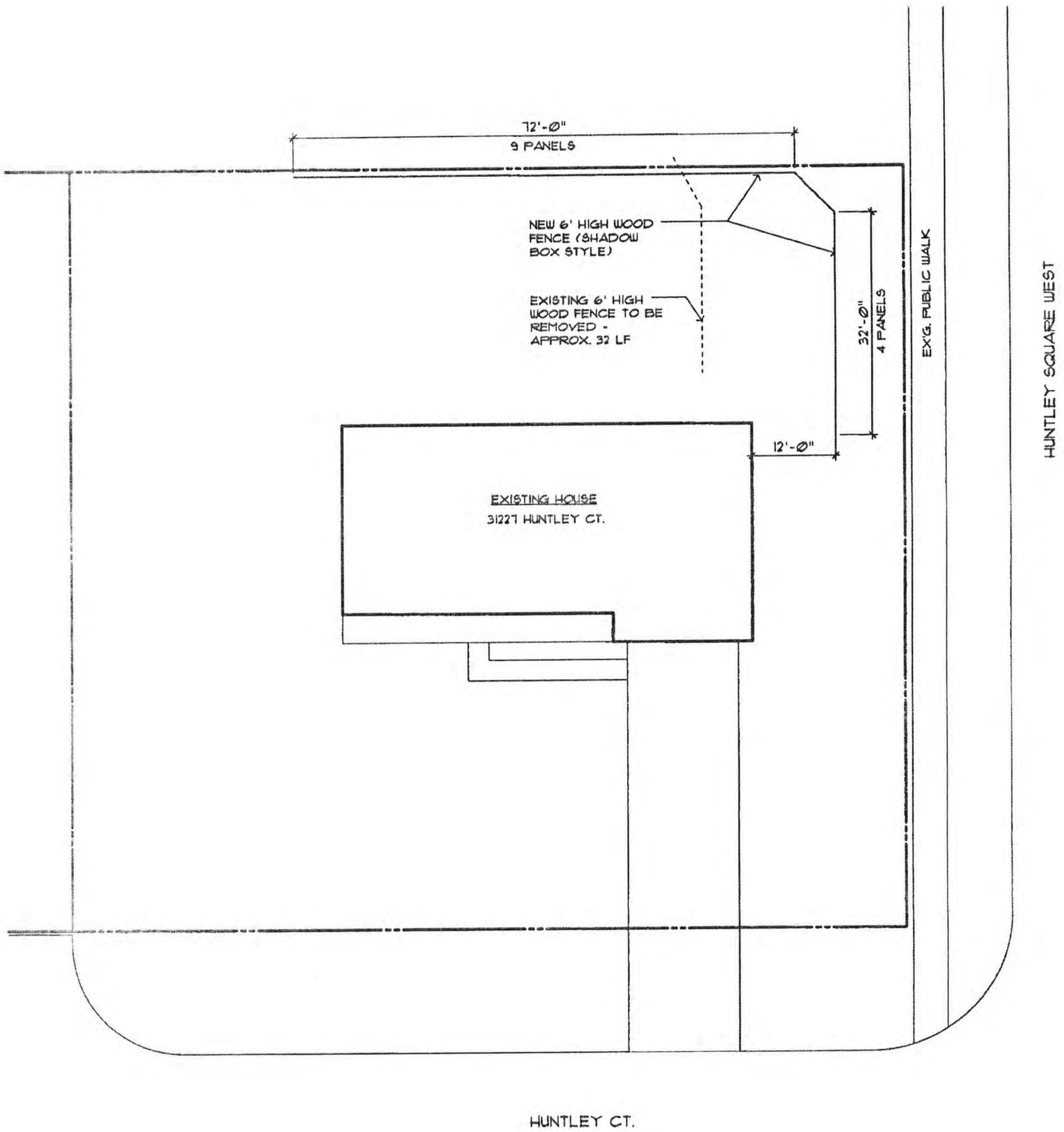
Application for Fence Permit			
Property Address			
Description of Fence (Including Style, Material, & Height) Must Attach Site Plan	<i>6' high, P.T. wood, shadow box style</i>		
6ft and/or Solid Style Fencing – Additional Approval Required Check all that apply, must meet at least one criteria for consideration.	Administrative Approval	<input type="checkbox"/> Spacing between residences is less than that required by Section 22.08.090, 22.08.130 or 22.24 of the Zoning Ordinance, whichever is applicable.	<input checked="" type="checkbox"/> The subject site is adjacent to a non-single family residential land use or Zone District, or single family residential cluster development.
		<input type="checkbox"/> The subject site cannot support vegetative screening in lieu of the proposed fencing. The applicant shall provide supporting documentation of this from a licensed landscape architect or certified arborist.	<input type="checkbox"/> At least one residential parcel within 200' of the subject site on that side of the street in that block or at least one abutting residential parcel contains permitted fencing of similar height and/or opacity. *
	Planning Commission Approval **	<input type="checkbox"/> The subject site and/or an abutting parcel has an unconventional lot, yard and/or dwelling orientation (i.e., side yard adjacent to rear yard, pie-shaped lot adjacent to rectangular lot, or those with multiple parcels contiguous to a single lot line).	<input type="checkbox"/> Installation of such fencing would mitigate an essential safety and/or privacy concern.
Applicant/Contractor	Name/Company Name: <i>Charlotte Keller</i> Address: <i>31227 Huntley Ct.</i> City: <i>Beverly Hills</i> State: <i>MI</i> Zip: <i>48025</i> Phone: <i>248.203.2446</i> Email: <i>keller369@gmail.com</i>		
Property Owner <input checked="" type="checkbox"/> Same as Applicant	Name: _____ Address: _____ City: _____ State: _____ Zip: _____ Phone: _____ Email: _____		
Applicant Signature	I have read and understand §22.08.150 Fence, Wall, and Privacy Screen Regulations and the definition of "Point of Observation" contained in §22.04 Definitions. I understand a Village permit does not establish compliance with any HOA bylaws or deed restrictions that may be in effect. X: <i>Charlotte Keller</i>		

* The applicant shall prepare a neighborhood lot study that includes a map of the study area and photograph(s) of existing fencing. An existing privacy screen as allowed in Section 22.08.150, 3. Privacy Screens shall not be used as consideration for compliance with this standard.

** The application and all required documents and materials must be submitted by the established deadline date for the next regular meeting of the Planning Commission. Submittal by deadline does not guarantee placement on the agenda. Please refer to Section 22.08.150. Note: the applicant or a representative must be present at all meetings.

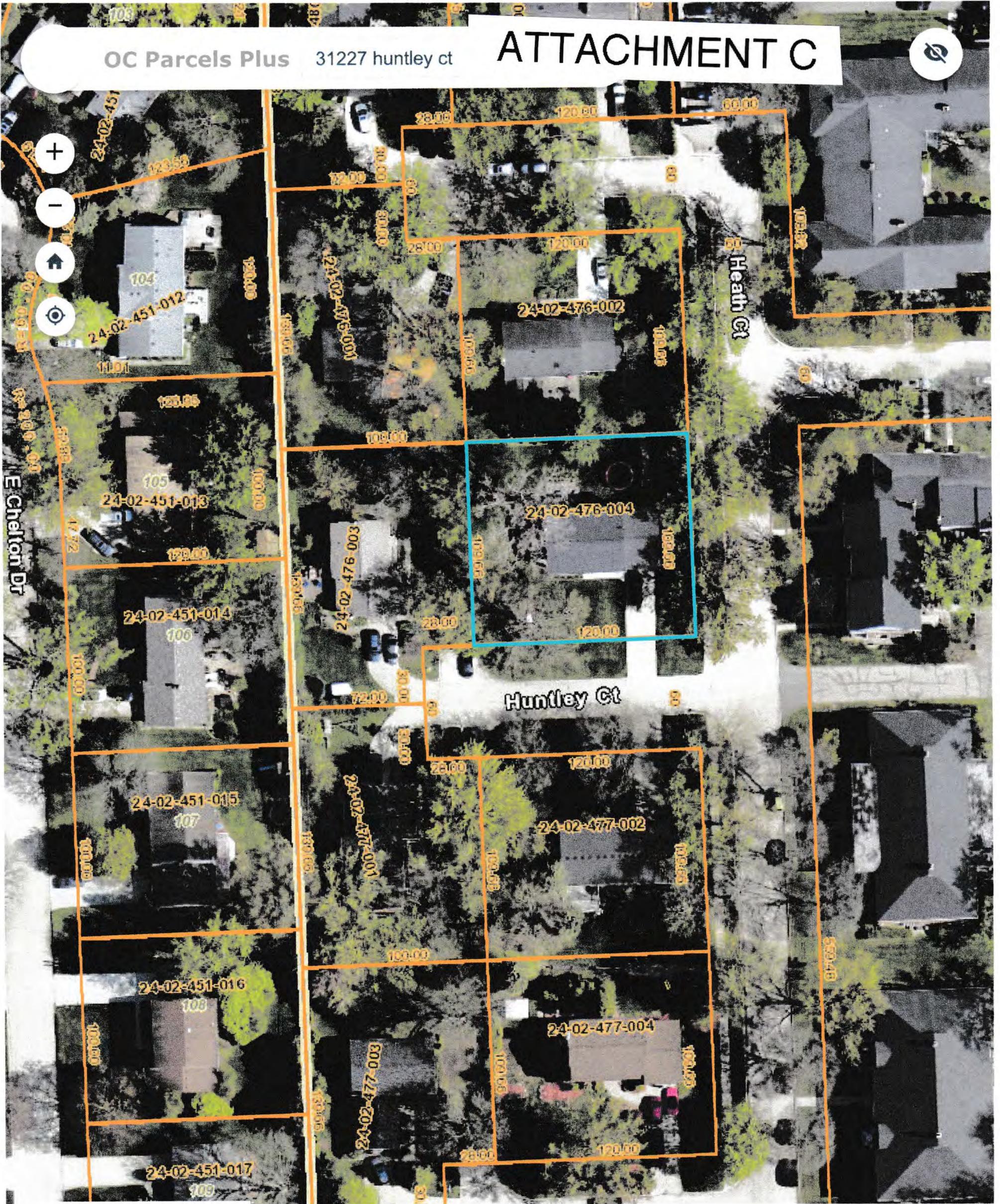
*RZ
RM*

ATTACHMENT B



OC Parcels Plus 31227 huntley ct

ATTACHMENT C



-83.226 42.519 Degrees

60ft



Mark Lloyd

From: Mark Lloyd
Sent: Tuesday, May 25, 2021 3:16 PM
To: keller369@gmail.com
Subject: RE: Fence Application

Hi,

As a follow up to my recent v-mail message (today) and in reply to our earlier phone conversation (last week), I am providing the following information regarding your request to construct a 6-foot high. P.T. Wood, Shadow Box Style fence on property located at 31227 Huntley Ct.

The proposed 6-foot fence totaling 104' (72' along the rear and 32' along the street facing side yard) is not approved. Based on numerous conversations with folks in the Village involved in the drafting of the current Fence Ordinance, it was not the intent of the ordinance to allow the exception you noted on your application "The subject site is adjacent to a non-single family residential land use or Zone District or single family cluster development", since the properties and uses are separated by a street. This is the position I must take based on my own interpretation and that of others who are familiar with drafting the ordinance changes.

I was able to determine that a 6-foot high, 30-foot long fence (privacy screen) would be allowed to be constructed in the same general area as your proposed fence. Ordinance Section 22.08.150.B.3.a states, "Properties in all single family residential zone districts may erect a privacy screen in the rear or side yard to enclose an area on up to three sides, with a maximum total length that does not exceed 25% of the rear lot line length". In your instance, the rear property line is 120 feet allowing up to 30 feet of fencing (privacy screen) 6 feet in height. Please be advised however, that your property, being a corner lot, would require that you maintain at least a 15 foot setback from the Right of Way along the street side yard.

I hope this information is useful.

Mark D. Lloyd

Planning and Zoning Administrator
Village of Beverly Hills
18500 W. 13 Mile Rd.
Beverly Hills, MI 48025
Office: 248-646-6404
Fax: 248-646-3703
www.villagebeverlyhills.com



From: Mark Lloyd
Sent: Tuesday, May 18, 2021 3:59 PM
To: keller369@gmail.com
Subject: Fence Application

Beverly Hills, MI 48025
Office: 248-646-6404
Fax: 248-646-3703
www.villagebeverlyhills.com



From: Charlotte Keller <ckeller@dorchenmartin.com>
Sent: Tuesday, June 8, 2021 12:49 PM
To: Chris Wilson <cwilson@villagebeverlyhills.com>
Cc: Mark Lloyd <mlloyd@villagebeverlyhills.com>
Subject: RE: Fence Ordinance Question

Chris,
Thank you for your response. I appreciate your efforts to look into my concerns. Correct me if I'm wrong, but my understanding is that I also have the option to appeal Mr. Lloyd's interpretation of the ordinance to the Zoning Board of Appeals. As I have thought about this more, I think that this might be a reasonable next step for me.
Mr. Lloyd had indicated that he would get back to me regarding the fees and schedule for the Planning Commission submittal. However, since I have not heard anything from him, I'm assuming that nothing has been done to forward this issue to the Planning Commission. Is that correct?

dma
DORCHEN/MARTIN
architects/planners

Charlotte Keller, RA, NCARB | Partner
248.557.1062 x233 (office)
248.203.2446 (mobile)

Dorchen/Martin Associates, Inc.
29895 Greenfield Road, Suite 107
Southfield, MI 48076



– www.dorchenmartin.com

From: Chris Wilson <cwilson@villagebeverlyhills.com>
Sent: Monday, June 7, 2021 3:48 PM
To: Charlotte Keller <ckeller@dorchenmartin.com>
Subject: RE: Fence Ordinance Question

Ms. Keller:

Thank you for reaching out to me. I have reviewed this matter with Mr. Lloyd, Village Attorney Tom Ryan and was able to reach out to Ms. LaPere. Erin did confirm to me that she did advise you that your property would qualify as "adjacent" to the non-single family use. I asked Mr. Ryan as to his opinion and he stated that he disagreed that a property across the road would qualify as adjacent, similar to Mr. Lloyd's opinion. Tom was not aware of Erin's previous advice to you and would likely have advised differently had his advice been solicited. Nevertheless, that was the advice

you were given at the time and it is a mitigating factor. The Village will stipulate that you were so advised by a Village employee. Village Administration has also reached out to individuals involved in the drafting of the fence ordinance and it was their opinion that "adjacent" would not mean a property across the street. Nevertheless it is obvious that this definition needs clarity.

I understand you are going before the Planning Commission on this matter. I think that is the appropriate step at this point and Village Administration will defer to any guidance on this matter that they provide.

Thank you.

Chris D. Wilson
Village Manager



From: Charlotte Keller <ckeller@dorchenmartin.com>

Sent: Thursday, May 27, 2021 12:35 PM

To: Chris Wilson <cwilson@villagebeverlyhills.com>

Subject: Fence Ordinance Question

Mr. Wilson,

I'm hoping that you can be of some assistance to me. I've come up against our new Planning and Zoning administrator in his interpretation of our fence ordinance. As a registered architect and a member of our Zoning Board of Appeals, I believe in the need for ordinances. They help protect property values, create continuity and equity and help keep residents safe. But when they are inconsistently enforced or interpreted, they lose their purpose and power.

I've been a resident of Beverly Hills for 16 years, including the past four years living at 31227 Huntley Ct. My home is one of the 12 houses that were built adjacent to, and sort of within, the Huntley Square Apartments. My house is located on the corner of Huntley Ct. and Huntley Square W. Several years ago, the previous owners installed a 6' high solid privacy screen fence within the rear yard along the side that faces Huntley Square W. In 2019, it became clear that despite previous attempts at repairing the fence/screen it was old, worn and on its last legs.

Knowing that the fence ordinance was re-written in 2016, I started to do my homework as to what my options were to replace the fence/screen with something that meet the ordinance and also provided me with safety and privacy. The current position of the fence/screen does provide me with privacy but cuts about 30' out of my backyard, leaves the backdoor into my garage exposed and seems to give the illusion to residents of the apartment complex that the side of my yard is an open space for public use. I read the fence ordinance and found that it appeared that I would be able to install a 6' high solid privacy fence in my rear yard since my property is adjacent to RM Zoning. As per the ordinance, 6' high privacy fences are permitted to be installed within the rear yard when "The subject site is adjacent to a non-single family residential land use or Zone District or single family cluster development". Wanting to make sure that I clearly understood the ordinance, I brought a site plan sketch and aerial photo of my property into the Village offices and spoke

with our then Planning and Zoning administrator, Erin LaPere. Erin confirmed that I could install a 6' high solid privacy fence in my rear yard, completely enclosing my rear yard if that was what I chose to do.

Unfortunately, the project got delayed as I worked out what exactly I wanted to do with my fence (along with discussions with my neighbor since we would share a portion of this fence) and then dealt with material supply and logistic issues created by the pandemic. This spring my neighbor and I worked out what exactly we want to do, he started ordering materials since they are still in short supply with long lead times and I submitted for the fence permit.

As you know, Erin left the Village in March to take a new position in Charlotte and we welcomed a new Planning and Zoning Administrator, Mark Lloyd. Not even thinking that anything would have changed in the Village Administration's interpretation and implementation of the fence ordinance with a new Planning Administrator, I never anticipated that my permit would be denied, but it was. Mark has indicated to me that because the Multi-Family use and zoning is across the side street from my property and not abutting it, it is his interpretation that this section of the ordinance does not apply to my property. The verbiage of the ordinance is "adjacent" meaning nearby, next to or having a common border. It does not use the term "abutting". If my property is not adjacent to Multi-family on the east side, I'm not sure what use and or zoning it is adjacent to. My understanding is that the intent of the re-writing of the fence ordinance was to allow single family property owners the opportunity to screen from non-single family zones and uses that are more intensive (such as an apartment complex). I believe my situation clearly meets the spirit of the ordinance. In addition, I've been made aware of at least one very similar property in which a 6' high privacy fence was approved by Erin under the current ordinance – 16905 Buckingham. The property is located across Pierce from OLQM church and school and was approved because the adjacent use was non-single family.

I know that I have the option to appeal to the ZBA if I disagree with Mark's interpretation. In addition, I could go before the Planning Commission to request an essential safety and privacy concern. If I need to, I will go that route. However, we all know how much this fence ordinance was debated and to now have it being enforced in a manner that is inconsistent with the previous administration is going to leave a lot more residents that just me very upset and frustrated.

Thank you for your assistance in this matter.

dma

DORCHEN/MARTIN
architects/planners

Charlotte Keller, RA, NCARB | Partner

248.557.1062 x233 (office)

248.203.2446 (mobile)

Dorchen/Martin Associates, Inc.
29895 Greenfield Road, Suite 107
Southfield, MI 48076



– www.dorchenmartin.com

Mark Lloyd

From: Charlotte Keller <ckeller@dorchenmartin.com>
Sent: Tuesday, June 8, 2021 2:45 PM
To: Mark Lloyd; Chris Wilson
Subject: RE: Fence Ordinance Question

Thank you, Mark. I may have additional information that I would like to include. I will be sure to get that to you before the end of this week.

dma
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Please explore our updated website – www.dorchenmartin.com

From: Mark Lloyd <mllloyd@villagebeverlyhills.com>
Sent: Tuesday, June 8, 2021 2:39 PM
To: Charlotte Keller <ckeller@dorchenmartin.com>; Chris Wilson <cwilson@villagebeverlyhills.com>
Subject: RE: Fence Ordinance Question

Charlotte,

Thank you for including me in this correspondence. Section 22.08.150.B2.a, Approval Standards, of the Village Zoning Ordinance includes language providing discretion for Administration to require review by the Planning Commission when there is a question of interpretation for consistency with the intent of the ordinance. In accordance with this section, and in an effort to expedite review, this matter is being scheduled for consideration by the Planning Commission at their June 23, 2021 meeting. There is no fee for this review and I believe this is the correct and most expedient way to garner a decision on the matter.

My Planning Commission report and recommendation on the matter, along with an agenda packet, will be sent to you near the end of next week. I believe your e-mail to Chis dated May 27, 2021 does a very good job of identifying your position and reasoning on this matter. I will include this in the Planning Commission packet, along with your application materials. If you have more information you would like to add, please provide that to me by the end of the week, June 11, 2021.

Thank you,

Mark D. Lloyd

Planning and Zoning Administrator
Village of Beverly Hills
18500 W. 13 Mile Rd.



This is a view of my rear and side yard looking south showing the existing privacy fence/screen that was installed by the previous owners. The mulched area is where I intend to place the new privacy fence/screen. As can be seen, currently my side yard and this portion of my rear yard are completely open to the sidewalk and apartment complex. The position of the existing privacy fence/screen also leaves the backdoor into my home exposed and less secure.



View of my side and rear yard looking north towards my neighbor's yard and the apartment complex parking lot.



This is a view in my backyard towards my neighbor's yard showing the screening landscaping that we have. There is a very large white pine along our rear property line that makes growing screening evergreens challenging. As you can see, the three evergreens to the west of the white pine are either dead or nearly so. The intent was to remove the dead evergreens and extend the proposed privacy fence/screen just to the west of the last dead evergreen.



Another view in my rear yard looking towards the street. The area between the white arbor and the existing privacy screen/fence holds water in the spring making growing landscaping difficult. Extending the privacy fence/screen along the rear property line would provide us privacy at our patios and screen my trampoline from my neighbor's view.



This is a photo of a house located on the corner of Buckingham and Pierce across the street from Our Lady Queen of Martyr's Church. The 6' high privacy fence enclosing the rear yard was approved by the previous Planning and Zoning Administrator under the current fence ordinance. It was approved because the interpretation of the previous Administrator was that "adjacent" included properties across the side street that were of a non-single family use or zoning.

6/11/21

To: Beverly Hills Planning Commission

RE: Proposed fence for Charlotte Keller and Mark Hamm

We are planning a privacy fence between our backyards in which we have very little space between the rear of our homes to the lot line. We live in court yards and the homes are set way back in our prospective lots. We are planning a shadowbox fence to give our patios privacy. We are also looking to extend the fence into the side yard as it faces Hunley Square Apartments. This would help for security reasons as well as privacy. We appreciate in advance your consideration on this matter.

Thanks!

Mark Hamm

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