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**NOTICE  
OSHTEMO CHARTER TOWNSHIP  
ZONING BOARD OF APPEALS - REGULAR MEETING**

**MEETING WILL BE HELD IN PERSON  
AT OSHTEMO TOWNSHIP HALL  
7275 W MAIN STREET**  
Masks Are Now Optional in Oshtemo Township Buildings

*(Meeting will be available for viewing through <https://www.publicmedianet.org/qavel-to-qavel/oshtemo-township>)*

**TUESDAY, MARCH 22, 2022  
3:00 P.M.**

**AGENDA**

1. Call to Order
2. Pledge of Allegiance
3. Approval of Agenda
4. Public Comment on Non-Agenda Items
5. Approval of Minutes: February 22<sup>nd</sup>, 2022
6. **Public Hearing – Variance, 6125 Valley View Drive Fence**  
Tyler West and Megan Roschek are requesting relief from Section 57.60 of the Zoning Ordinance in order to install a 6-foot-high fence within the front yard setback while only a 4-foot-high fence is permitted.
7. Other Updates and Business
8. Adjournment

**Policy for Public Comment  
Township Board Regular Meetings, Planning Commission & ZBA Meetings**

All public comment shall be received during one of the following portions of the Agenda of an open meeting:

a. Citizen Comment on Non-Agenda Items or Public Comment – while this is not intended to be a forum for dialogue and/or debate, if a citizen inquiry can be answered succinctly and briefly, it will be addressed or it may be delegated to the appropriate Township Official or staff member to respond at a later date. More complicated questions can be answered during Township business hours through web contact, phone calls, email ([oshtemo@oshtemo.org](mailto:oshtemo@oshtemo.org)), walk-in visits, or by appointment.

b. After an agenda item is presented by staff and/or an applicant, public comment will be invited. At the close of public comment there will be Board discussion prior to call for a motion. While comments that include questions are important, depending on the nature of the question, whether it can be answered without further research, and the relevance to the agenda item at hand, the questions may not be discussed during the Board deliberation which follows.

Anyone wishing to make a comment will be asked to come to the podium to facilitate the audio/visual capabilities of the meeting room. Speakers will be invited to provide their name, but it is not required.

All public comment offered during public hearings shall be directed, and relevant, to the item of business on which the public hearing is being conducted. Comment during the Public Comment Non-Agenda Items may be directed to any issue.

All public comment shall be limited to four (4) minutes in duration unless special permission has been granted in advance by the Supervisor or Chairperson of the meeting.

Public comment shall not be repetitive, slanderous, abusive, threatening, boisterous, or contrary to the orderly conduct of business. The Supervisor or Chairperson of the meeting shall terminate any public comment which does not follow these guidelines.

(adopted 5/9/2000)  
(revised 5/14/2013)  
(revised 1/8/2018)

Questions and concerns are welcome outside of public meetings during Township Office hours through phone calls, stopping in at the front desk, by email, and by appointment. The customer service counter is open from Monday-Thursday 8:00 am- 5:00 pm, and on Friday 8:00 am-1:00 pm. Additionally, questions and concerns are accepted at all hours through the website contact form found at [www.oshtemo.org](http://www.oshtemo.org), email, postal service, and voicemail. Staff and elected official contact information is provided below. If you do not have a specific person to contact, please direct your inquiry to [oshtemo@oshtemo.org](mailto:oshtemo@oshtemo.org) and it will be directed to the appropriate person.

Oshtemo Township Board of Trustees		
<b><u>Supervisor</u></b>		
Libby Heiny-Cogswell	216-5220	<a href="mailto:libbyhc@oshtemo.org">libbyhc@oshtemo.org</a>
<b><u>Clerk</u></b>		
Dusty Farmer	216-5224	<a href="mailto:dfarmer@oshtemo.org">dfarmer@oshtemo.org</a>
<b><u>Treasurer</u></b>		
Clare Buszka	216-5221	<a href="mailto:cbuszka@oshtemo.org">cbuszka@oshtemo.org</a>
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Cheri L. Bell	372-2275	<a href="mailto:cbell@oshtemo.org">cbell@oshtemo.org</a>
Kristin Cole	375-4260	<a href="mailto:kcole@oshtemo.org">kcole@oshtemo.org</a>
Zak Ford	271-5513	<a href="mailto:zford@oshtemo.org">zford@oshtemo.org</a>
Kizzy Bradford	375-4260	<a href="mailto:kbradford@oshtemo.org">kbradford@oshtemo.org</a>

Township Department Information			
<b><u>Assessor:</u></b>			
Kristine Biddle	216-5225	<a href="mailto:assessor@oshtemo.org">assessor@oshtemo.org</a>	
<b><u>Fire Chief:</u></b>			
Mark Barnes	375-0487	<a href="mailto:mbarnes@oshtemo.org">mbarnes@oshtemo.org</a>	
<b><u>Ordinance Enf:</u></b>			
Rick Suwarsky	216-5227	<a href="mailto:rsuwarsky@oshtemo.org">rsuwarsky@oshtemo.org</a>	
<b><u>Parks Director:</u></b>			
Karen High	216-5233	<a href="mailto:khigh@oshtemo.org">khigh@oshtemo.org</a>	
Rental Info	216-5224	<a href="mailto:oshtemo@oshtemo.org">oshtemo@oshtemo.org</a>	
<b><u>Planning Director:</u></b>			
Iris Lubbert	216-5223	<a href="mailto:ilubbert@oshtemo.org">ilubbert@oshtemo.org</a>	
<b><u>Public Works:</u></b>			
Marc Elliott	216-5236	<a href="mailto:melliott@oshtemo.org">melliott@oshtemo.org</a>	

**OSHTEMO CHARTER TOWNSHIP  
ZONING BOARD OF APPEALS - REGULAR MEETING**

**DRAFT MINUTES OF AN IN PERSON MEETING HELD FEBRUARY 22, 2022  
OSHTEMO TOWNSHIP HALL, 7275 WEST MAIN STREET**

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**Agenda**

**ELECTION OF 2022 OFFICERS - CHAIR AND VICE CHAIR**

**PLANNING DEPARTMENT ANNUAL REPORT**

**ANNUAL BOARD VARIANCE REVIEW TRAINING**

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An in person meeting of the Oshtemo Charter Township Zoning Board was held Tuesday, February 22, 2022, beginning at approximately 3:03 p.m.

ALL MEMBERS WERE PRESENT:

Dusty Farmer  
Fred Gould  
Micki Maxwell  
Anita Smith, Vice Chair  
Louis Williams

Also present were Iris Lubbert, Planning Director, James Porter, Township Attorney, and Martha Coash, Recording Secretary.

**Call to Order and Pledge of Allegiance**

Vice Chairperson Smith called the meeting to order and invited those present to join in reciting the "Pledge of Allegiance."

**Approval of Agenda**

Ms. Lubbert indicated an addition was needed under agenda item no. 6, Election of 2022 Officers to include appointment of Recording Secretary for 2022.

The Vice Chair asked for a motion.

Ms. Farmer made a motion to approve the meeting agenda with the one addition suggested. Mr. Williams seconded the motion. The motion was approved unanimously by roll call vote.

Vice Chair Smith moved to the next agenda item.

### **Public Comment on Non-Agenda Items**

As there were no members of the public present, the Vice Chair moved to the next agenda item.

### **Approval of the Minutes of November 16, 2021**

Ms. Maxwell made a motion to approve the Minutes of November 16, 2021, as presented. Ms. Farmer seconded the motion. The motion was approved unanimously by roll call vote.

Vice Chairperson Smith moved to the next agenda item.

### **ELECTION OF OFFICERS FOR 2022, CHAIR AND VICE CHAIR**

Vice Chairperson Smith asked for nominations for the positions of Chair and Vice Chair for 2022.

Ms. Farmer nominated Ms. Smith for the position of Chair.

Ms. Smith was willing to accept the nomination. No other nominations were made. The group unanimously elected Ms. Smith to the position of Chair for 2022 by voice vote.

Ms. Farmer nominated Mr. Williams for the position of Vice Chair.

Mr. Williams was willing to accept the nomination. No other nominations were made. The group unanimously elected Mr. Williams as Vice Chair for 2022 by voice vote.

Ms. Farmer nominated Ms. Martha Coash for reappointment as Recording Secretary for 2022.

The group voted unanimously to reappoint Ms. Coash as Recording Secretary for 2022 by voice vote.

Chairperson Smith moved to the next item on the agenda.

### **PLANNING DEPARTMENT ANNUAL REPORT**

Ms. Lubbert explained that every year the Planning Department produces a report to satisfy the requirements of Section 308 of the Michigan Zoning Enabling Act

(Public Act 110 of 2006, as amended), which states a Planning Commission must prepare an annual report documenting the administration of their municipality's Zoning Ordinance and outline possible future amendments to the Ordinance. She provided a report that fulfills that obligation for 2021 and provides updates on the activities and projects planned for 2022.

She also noted the Planning Department expanded the scope of the report to further document the activities of the ZBA and the administrative activities of the Planning Department staff to provide a more complete picture of Planning and Zoning activities within the Township. The report is intended to not only document past and ongoing activities but to also help the Township Board develop its own work plans and budgets for the coming year.

She provided a draft of the 2021 Planning Department Annual Report and asked Commissioners to review it and provide feedback.

Mr. Gould asked Ms. Lubbert for her prediction regarding the volume of business for 2022.

Ms. Lubbert felt it would be at least as much as in 2021.

Ms. Farmer commented she appreciated receiving the report which was interesting to read and was pleased to see all the summaries. She thanked Ms. Lubbert for her work to produce it.

Ms. Lubbert asked if board members had questions or changes to suggest, they let her know before the document is finalized for presentation at next Township Board meeting.

Chairperson Smith moved to the next agenda item.

### **ANNUAL BOARD VARIANCE REVIEW TRAINING**

As requested by last year's Chair, Ms. Lubbert and Attorney Porter held an annual training session/refresher course for members on the types of variances and the review criteria for variance consideration.

Ms. Lubbert said the information provided was from the *Zoning board of Appeals Toolkit*, which is provided to all board members, and that it is a useful reference tool.

There was discussion of feedback on denied variances. Attorney Porter noted denials have, on occasion, been challenged in circuit court, but no Zoning Board decision has ever been overturned which shows the board does a good job providing rationale for denials based on the five required criteria and stressed how important it is to base decisions on those criteria.

Members agreed the review training was helpful and that they would appreciate making it an annual presentation.

**Other Updates and Business**

Ms. Lubbert reported the Township is looking into providing hybrid meetings. Meetings are currently available live on Public Media Network. They are also available on Facebook and the Oshtemo website.

She indicated there are currently two vacant Zoning Board seats. The Township Supervisor is looking for candidates, and encouraged current members to provide any suggestions they may have.

**Adjournment**

Chairperson Smith noted the Zoning Board of Appeals had exhausted its Agenda. There being no other business, she adjourned the meeting at approximately 3:49 p.m.

Minutes prepared:  
February 23, 2022

Minutes approved:  
\_\_\_\_\_, 2022

March 16, 2022



**Mtg Date:** March 22, 2022

**To:** Oshtemo Township Zoning Board of Appeals

**From:** Colten Hutson, Zoning Administrator

**Applicant:** Tyler West & Megan Roschek

**Owner:** Tyler West & Megan Roschek

**Property:** 6125 Valley View Drive, Parcel Number 05-14-480-050

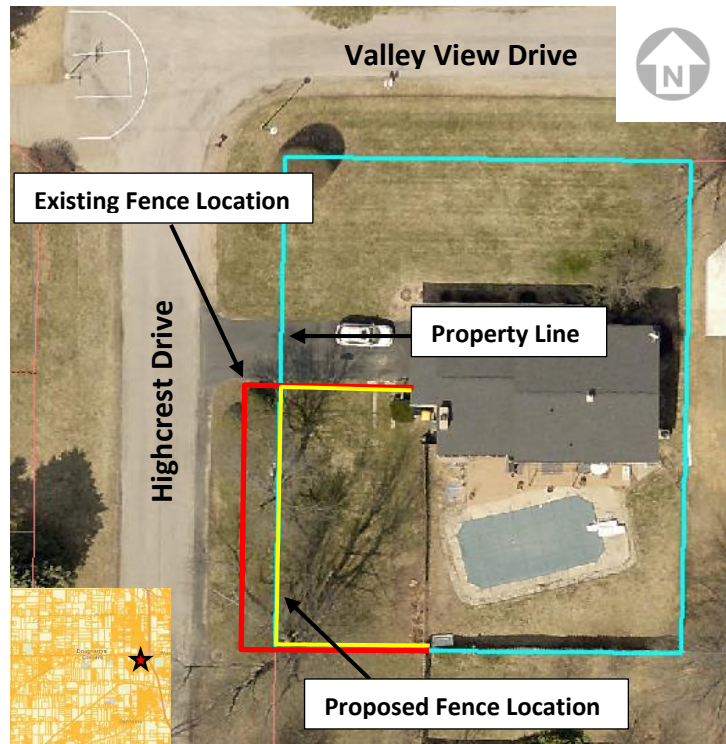
**Zoning:** R-1: Residence District

**Request:** A variance to allow a 6' tall privacy fence within the front yard setback adjacent to Highcrest Drive.

**Section(s):** Section 57.60: Fences

**OVERVIEW:**

Tyler West and Megan Roschek are requesting relief from Section 57.60 of the Zoning Ordinance which governs fence height for all parcels, lots, and building sites within the Township in order to construct a 6' tall privacy fence within the front yard setback at 6125 Valley View Drive. Section 57.60 of the Zoning Ordinance restricts the height of fences within the front yard setback to a maximum height of 4' when located within a low-density zoning classification. With 6125 Valley View Drive having a zoning designation of R-1: Residence District, the maximum fence height allowed within the front yard setback is 4'. If approved, the variance would permit a fence that will be 2' higher than what is allowed within the front yard setback per Township Zoning Ordinance. An aerial of the site under consideration is outlined in light blue in the image to the right.



6125 Valley View Drive is a third-acre lot located within the northeast quadrant of the Township. The subject property is a corner lot situated along two different roadways within the Country Club Village subdivision. 6125 Valley View Drive fronts Highcrest Drive to its west and Valley View Drive to its north. If a property has frontage along two roadways, by code said property has two front yards and front yard setbacks need to be followed along those roadways.

It should be noted that a 6' tall privacy fence was unlawfully constructed within the public right-of-way and within the front yard setback adjacent to Highcrest Drive by a previous owner of the property in mid-2021. New property owners Tyler West and Megan Roschek, who purchased the property in November of 2021, are requesting a variance to keep the recently constructed 6' tall fence within the front yard setback along Highcrest Drive. The fence protrudes into the public right-of-way by approximately 11'; however, since fences are not allowed within the public right-of-way, the property owners will be relocating the fence outside of the public right-of-way, regardless of a variance being granted or not. The fence will shift approximately 11' to the east so that the fence is placed within their property's boundaries. A photo of the property's 6' tall wood stockade fence can be found in the image below.



#### SECTION 57.60: Fences

A summary of the applicants' rationale for this variance request is provided below. The full letter of intent submitted by the applicant is attached to this staff report.

- "Allowing the fence in this location will not compromise public health, safety, and welfare."
- "Substantial justice would be served by allowing this variance. This fence was constructed with hopes to provide a safe space for our children to play, family to gather and dogs to enjoy."
- "Vision/line of sight for traffic of intersection at Valley View Dr. & Highcrest Drive is not impeded by the fence (even as it stands presently)"



- “Side-yard frontage prevents us from using our property to it’s full potential due to the 20x40 backyard pool.”
- “The pool presents a liability that we feel a 4ft fence would not properly protect. Even though the minimum height for fencing around pools per the Michigan Building Code is 4ft, it is a height that we feel can easily be jumped. Which has been done at the property in the past, details of complaint with County Sheriff included.”
- “Side-yard frontage on a corner lot was not outlined on the Zoning Ordinance 57.60 and was an unknown restriction when planning for the fence.”
- “It would seem a precedent was set at 405 Club View Drive (corner lot of Club View Drive and Shadywood Drive) where a swimming pool was allowed in the front-yard and side-yard setbacks and on the ROW. Oshtemo Township Zoning Appeal minutes included.”

#### STANDARDS OF REVIEW - STAFF ANALYSIS

The Michigan courts have applied the following principles for a dimensional variance, which collectively amount to demonstrating a practical difficulty, as follows:

- Special or unique physical conditions and circumstances exist which are peculiar to the property involved and which are not generally applicable to other properties in the same district.
- Strict compliance with the standard would unreasonably prevent the landowner from using the property for a permitted use; or would render conformity to the ordinance unnecessarily burdensome.
- The variance is the minimum necessary to provide substantial justice to the landowner and neighbors.
- The problem is not self-created.
- Public safety and welfare.

Staff has analyzed the request against these principles and offer the following information to the Zoning Board of Appeals.

#### Standards of Approval of a Nonuse Variance (practical difficulty):

*Standard: Unique Physical Circumstances*

*Are there unique physical limitations or conditions which prevent compliance?*

**Comment:** The property possesses road frontage along Highcrest Drive to its west and road frontage along Valley View Drive to its north. The subject site is located on a corner lot within a subdivision. The topography throughout the area is relatively flat. No physical limitations, such as dramatic slopes or ditches, exist along the boundaries of the subject property to prevent compliance.

*Standard: Conformance Unnecessarily Burdensome*

*Are reasonable options for compliance available?*

*Does reasonable use of the property exist with denial of the variance?*

**Comment:** A fence that is either 4' or 6' in height can be constructed on this lot to comply with the Oshtemo Township Zoning Ordinance that provides the security for the property owner's family, friends, and pets as referenced in their letter of intent. A fence for residential property is not required by the Zoning Ordinance. Reasonable use of the property would be maintained if the subject variance request was denied by the Zoning Board of Appeals. Conformance with the code is not unnecessarily burdensome.



**Standard:** *Minimum Necessary for Substantial Justice  
Applied to both applicant as well as to other property owners in district.  
Review past decisions of the ZBA for consistency (precedence).*

**Comment:** In researching past Zoning Board of Appeals decisions regarding the request for relief from fence height requirements within the front yard setback, Planning Department staff was able to identify one similar case.

1. Schneck, 10294 W KL Avenue, 10/12/2021: The applicant sought relief from the Zoning Board of Appeals to allow for the installation of a 6' tall privacy fence within the front yard setback along both frontages on Almena Drive and W KL Avenue. If approved, the 6' tall privacy fence would be allowed in the locations where green and light blue linework are displayed in the below image. The Zoning Board of Appeals denied the variance request, citing that the need for the variance is a self-created hardship, conformance with code requirements is not unnecessarily burdensome, and no unique physical limitations exist for reasons of denying the request. Minutes from the meeting are attached.



**Standard:** *Self-Created Hardship*  
*Are the conditions or circumstances which resulted in the variance request created by actions of the applicant?*

**Comment:** The primary reason a variance is being requested is due to a previous owner of the subject property unlawfully installing a 6' tall fence within the front yard setback and 11' within the public right-of-way. The current property owners wish to relocate the fence outside of the public right-of-way but are requesting to maintain the fence at 6' in height within the front yard setback along the Highcrest street frontage. A fence is not a required nor necessary amenity. This is a self-created hardship.

**Standard:** *Public Safety and Welfare*  
*Will the variance request negatively impact the health, safety, and welfare of others?*

**Comment:** Township staff was able to perform an inspection of the site to verify whether the 6' tall fence as proposed would interfere with the clear vision triangle at the Valley View-Highcrest intersection. Through field measurements, it was determined that the 6' tall fence in the proposed location would not obstruct the clear vision triangle for motorists traveling through the Valley View-Highcrest intersection. Having completed the above-mentioned field observations, it does not appear that a 6' tall privacy fence as proposed would endanger any members of the public.

The applicant provided in their supportive documents a copy of an incident report with the Kalamazoo County Sheriff's Office of a prior event that took place in August of 2020 which involved an individual trespassing onto the subject property. The incident report that the applicant submitted included statements conveying that an individual "scaled a chain link fence into the backyard and then tore some vegetable plants out of the garden into the back yard." Based on Google Streetview as well as imagery obtained from 2018, it appears that the previous fence in place was approximately 4' in height. To a certain extent, it could be argued that a 6' tall fence is warranted as it may have prevented the

mentioned trespass incident. An orthophoto showing the subject property from a tilted camera angle is provided below. As noted previously, a 6' tall fence could be installed that meets ordinance requirements.

It is important to note that approval of this variance request will set a precedent for cases in which have commonality with each other the future. Setbacks provide a form of privacy and security between adjacent uses and property owners, help reinforce desired and consistent community aesthetics, and also are established for safety purposes. For example, one reason why the Zoning Ordinance requires that a fence can only be a maximum height of 4' in a front yard is so that emergency services can see the address numbers on the residential structure. Although fences may be placed on the property line, setbacks still factor in as a key role as it pertains to the permitted height.



#### POSSIBLE ACTIONS

The Zoning Board of Appeals may take the following possible actions:

- Motion to approve as requested (conditions may be attached)
- Motion to approve with an alternate variance relief (conditions may be attached)
- Motion to deny

The motion should include the findings of fact relevant to the requested variance. Based on the staff analysis, the following findings of fact are presented:

- Support of variance approval
  - There would be no negative impact to the safety of the public as a 6' tall fence in the proposed location will not be obstructing the clear vision of motorists.

- Support of variance denial
  - There are no unique physical limitations that prevent compliance with the Zoning Ordinance.
  - Conformance is not unnecessarily burdensome, as a 4' tall fence may be installed within the front yard setback adjacent to Highcrest Drive to comply with the Zoning Ordinance or a 6' tall fence installed in line with the front of the house.
  - The variance for a 6' tall fence is a self-created hardship.
  - Without relief, the property can still accommodate a single-family home, as allowed per the Zoning Ordinance. A fence is not a required nor a necessary amenity.

Possible motions for the Zoning Board of Appeals to consider include:

1. Variance Approval

The Zoning Board of Appeals approves the variance request due to the proposal not negatively impacting the safety of the public.

2. Variance Denial

The Zoning Board of Appeals denies the variance request as the need for the variance is a self-created hardship, conformance with code requirements is not unnecessarily burdensome, no unique physical limitations exist, and no substantial justice in favor of granting a variance was found.

3. Variance Approval and Denial

The Zoning Board of Appeals can choose to approve portions of the requested variance or provide alternate relief. For example, approve specific sections of the requested fencing.

Attachments: Minutes from the 10294 W KL Avenue, 10/12/2021 ZBA meeting, Application, Letter of Intent and Supportive Documents, Site Plan, and Public Comments Provided by Applicant.

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**OSHTEMO CHARTER TOWNSHIP  
ZONING BOARD OF APPEALS**

**MINUTES OF A SPECIAL VIRTUAL MEETING HELD OCTOBER 12, 2021**

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**Agenda**

**Public Hearing: Variance, Schneck Fence (Continued from the Meeting of September 28, 2021)**

**Ms. Jamie Schneck requested relief from Section 57.60 of the Zoning Ordinance which governs fence height for all parcels, lots, and building sites in order to construct a 6' tall privacy fence within the front yard setbacks at 10294 W. KL Avenue.**

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A special virtual meeting of the Oshtemo Charter Township Zoning Board was held Tuesday, October 12, 2021, beginning at approximately 3:03 p.m.

**MEMBERS PRESENT:** Neil Sikora, Chair (All attending within Oshtemo Township)  
Dusty Farmer  
Micki Maxwell  
Anita Smith, Vice Chair  
Louis Williams

**MEMBER ABSENT:** Ollie Chambers, Fred Gould

Also present were Iris Lubbert, Planning Director, James Porter, Township Attorney, Colten Hutson, Zoning Administrator, and Martha Coash, Meeting Transcriptionist.

Applicant Jamie Schneck was also present.

**Call to Order and Pledge of Allegiance**

Chairperson Sikora called the meeting to order and those present joined in reciting the "Pledge of Allegiance."

**APPROVAL OF AGENDA**

The Chair determined no agenda changes were needed, let it stand as presented, and moved to the next agenda item.

**APPROVAL OF THE MINUTES OF SEPTEMBER 28, 2021**

The Chair asked if there were any additions, deletions or corrections to the minutes of September 28, 2021. After Ms. Smith noted the following corrections: p. 1,

date change, p. 10, change “reach” to “each”, and “RWS” to “RWL”, and remove the letter “b” from the motion on p. 12, he asked for a motion.

Ms. Farmer made a motion to approve the Minutes of September 28, 2021, as presented, with the corrections as suggested. Chairperson Sikora seconded the motion. The motion was approved unanimously by roll call vote.

The Chair moved to the next item and asked Mr. Hutson for his presentation.

**Public Hearing – Variance, Schneck Fence**

**Jamie Schneck requested relief from Section 57.60 of the Zoning Ordinance which governs fence height for all parcels, lots, and building sites in order to construct a 6’ tall privacy fence within the front yard setbacks at 10294 W. KL Avenue.**

Mr. Hutson told the Board the applicant was requesting relief from Section 57.60 of the Zoning Ordinance which governs fence height for all parcels, lots, and building sites within the Township in order to construct a 6’ tall privacy fence within the front yard setback at 10294 W KL Avenue, parcel no. 05-19-270-010. Section 57.60 of the Zoning Ordinance restricts the height of fences within the front yard setback to a maximum height of 4’ when located within a low density zoning classification. With 10294 W KL Avenue carrying the zoning designation of RR: Residence District, the maximum fence height allowed within the front yard setback is 4’. If approved, the variance would permit a fence that will be 2’ higher than what is allowed within the front yard setback per code.

10294 W KL Avenue is a half-acre parcel located within the southwest quadrant of the Township. The subject parcel has only three property lines, two of which possess frontage along two heavily used roadways. The property in question fronts W KL Avenue to its south and fronts Almena Drive to its north, which are both 55 mph roadways. If a property has frontage along two roadways, for example such as corner lots within a subdivision, by code said property has two front yards and front yard setbacks need to be followed along those roadways.

He noted a 6’ tall privacy fence was unlawfully constructed within the front yard setback adjacent to Almena Drive by a previous owner of the property in early 2020. The new property owners were requesting a variance to keep the recently constructed 6’ tall fence along with extending said fence throughout the majority of the frontage adjacent to Almena Drive and W KL Ave. The existing 6’ tall fence is a dog-eared wood picket fence. If granted a variance, the existing 6’ tall fence would remain unchanged as the fence extension would be made up of the same wood panel materials.

He explained the applicant provided the below rationale for this variance request.

- “Part of our purchase agreement with the Ambroso’s, the lovely family that bought and renovated the property in 2019/2020, was for them to start a privacy fence for us to complete after we moved in.”



- “The main agreement for the fence came about for fear of being on a busy corner with our two (2) dogs who love for us to play fetch with them. The Ambroso’s graciously agreed to start X amount of fencing for us since Justin and I decided we would like to have the maximum amount of the yard fenced for enjoyment with the dogs, future child(ren) and for entertaining. Once we moved in, we realized that having the privacy fence will also help with lights shining into our home as drivers pass the house during the night. Said fencing will allow for more privacy both in the home and in the backyard, I have noted that when driving northeast on Almena, drivers can see directly into our home through our large bay windows. Allowing for a six (6) foot privacy fence to be installed as much around the property as possible would assist us with all the problems listed above.”
- “We are aware of past incidents that have taken place at the Almena Drive and W KL Avenue intersection and want to ensure the safety of drivers travel along this road, while also having the privacy from it that we thought we could achieve when we purchased the property.”

Mr. Hutson indicated staff analyzed the request against the required criteria and provided the following analysis.

*Standard: Unique Physical Circumstances  
Are there unique physical limitations or conditions which prevent compliance?*

10294 W KL Avenue has road frontage along Almena Drive to its north and W KL Avenue to its south. Unlike many other corner parcels, lots, and building sites within the Township, the site is unique in that it only has a total of three property lines. Almena Drive and W KL Avenue are two 55 mph roadways with high traffic volumes. The terrain is relatively flat throughout the site. There are no physical limitations such as a ditch or slope on the outskirts of the site.

The overall size and configuration of the site does limit what can be done on this property. Both Almena Drive and W KL Avenue have larger front yard setbacks compared to the setbacks required along a standard residential street. The setback standard for residential roads is typically 30’ from the edge of the right-of-way. Almena Drive’s setback is 120’ from the center of the public right-of-way. W KL Avenue’s setback is 70’ from the edge of the public right-of-way line. These larger front yard setbacks combined from both W KL Avenue and Almena Drive completely consumes the compacted property. Due to these setback restrictions, a 6’ tall privacy fence cannot be erected anywhere on the subject property. However, a 4’ tall fence can be constructed to comply with the Oshtemo Township Zoning Ordinance.

*Standard: Conformance Unnecessarily Burdensome  
Are reasonable options for compliance available?  
Does reasonable use of the property exist with denial of the variance?*

A fence, though 2' shorter than what the applicant has proposed, could still be installed to provide the desired security for the property owner's pets and family, as referenced in their letter of intent. A fence that is 4' in height would comply with the Zoning Ordinance and would still allow for some privacy. A fence for residential property is not required to be installed by the Zoning Ordinance. A single-family home is a permissible use within the RR: Residence District. Reasonable use of the property would be maintained if the subject variance request was denied by the Zoning Board of Appeals. Conformance with the code is not unnecessarily burdensome.

*Standard: Minimum Necessary for Substantial Justice  
Applied to both applicant as well as to other property owners in district.  
Review past decisions of the ZBA for consistency (precedence).*

Planning Department staff was unable to identify any similar case. This is most likely the first variance request of its kind for said relief as there are not many parcels within the Township that possess only three property lines, two of which being front yard property lines properties which also have a large front yard setback, and reside along a designated roadway having a 70' or even a 120' setback.

*Standard: Self-Created Hardship*

*Are the conditions or circumstances which resulted in the variance request created by actions of the applicant?*

The initial reason a variance was being requested is due to a previous owner of the subject property unlawfully installing a 6' tall fence within a front yard setback. With that being said, the current property owner wishes to keep and extend the unlawful nonconforming fence within the front yard setback on both street frontages. A fence is not a required nor necessary amenity. This is a self-created hardship.

*Standard: Public Safety and Welfare  
Will the variance request negatively impact the health, safety, and welfare of others?*

The Kalamazoo County Road Commission has adopted standards in regard to clear vision for motorists when approaching intersections. This standard is called the Clear Vision Triangle. The Clear Vision Triangle is implemented to provide safe passage and adequate clear vision for motorists by either eliminating or minimizing any obstructions protruding into the public right-of-way. Such standards were developed under AASHTO requirements, or more commonly known as the American Association of State Highways and Transportation Officials.

Township staff met with personnel from the Kalamazoo County Road Commission on-site earlier in the month to ensure that clear vision would be maintained if the variance request is approved as proposed. Township staff and personnel from the Kalamazoo County Road Commission were able to confirm that the proposed 6' tall fence would not obstruct the clear vision triangle for motorists. Through this verification process, it does not appear that a 6' tall fence as proposed would endanger any

members of the public. If the Zoning Board of Appeals approved this request, the health, safety, and welfare for public members would remain intact. It should be noted that approval of this variance request will set a precedent for similar cases in the future.

Lastly, the importance of setbacks for any type of structure should be mentioned. Setbacks provide a form of privacy and security between adjacent uses and property owners, help reinforce desired and consistent community aesthetics, and also are established for safety purposes. One reason why the ordinance requires that a fence can only be a maximum height of 4' in a front yard is so that emergency services can see the address numbers on the residential structure. Although fences may be placed on the property line, setbacks still factor in as a key role as it pertains to the permitted height.

Mr. Hutson noted the request goes against the intent of the ordinance and detailed the possible actions the Board might take:

- Motion to approve as requested (conditions may be attached)
- Motion to approve with an alternate variance relief (conditions may be attached)
- Motion to deny

He said the motion should include the findings of fact relevant to the requested variance. Based on the staff analysis, the following findings of fact were presented:

- Support of variance approval
  - The site only has three property lines, two of which being front yard property lines by code. The properties configuration and setbacks from both adjacent public rights-of-way do not permit a 6' tall fence to be placed anywhere on the property which can be considered a unique physical limitation.
  - There would be no negative impact to the safety of the public as a 6' tall fence in the proposed location will not be obstructing the clear vision of motorists.
- Support of variance denial
  - There are no unique physical limitations that prevent compliance with the Zoning Ordinance.
  - Conformance is not unnecessarily burdensome, as a 4' tall fence may be installed within both front yard setbacks in order to comply with the Zoning Ordinance.
  - The variance for a 6' tall fence is a self-created hardship.
  - Without relief, the property can still accommodate a single-family home, as allowed per the Zoning Ordinance. A fence is not a required nor a necessary amenity.
  - The request goes against the intent and integrity of the Zoning Ordinance which protects the health, safety, and welfare of the public.

He offered possible motions for the Zoning Board of Appeals to consider:

1. Variance Approval  
The Zoning Board of Appeals approves the variance request due to the proposal not negatively impacting the safety of the public as well as the parcel's unique configuration.
2. Variance Denial  
The Zoning Board of Appeals denies the variance request as the need for the variance is a self-created hardship, conformance with code requirements is not unnecessarily burdensome, and no unique physical limitations exist.
3. Variance Approval and Denial  
The Zoning Board of Appeals can choose to approve portions of the requested variance or provide alternate relief. For example, approve specific sections of the requested fencing.

Mr. Hutson noted the applicant was present.

Chairperson Sikora thanked Mr. Hutson for his presentation and asked whether Board Members had questions.

Ms. Maxwell wondered why the request goes against public health and safety.

Ms. Lubbert indicated the intent of the ordinance includes public safety and that part of the issue is that a privacy fence in the front yard would limit the view of the house from the road, which could be a potential issue for emergency responders/others finding the home. She also noted that taller fences cause visual obstructions for cars that are entering or leaving a adjacent driveway. She noted that the vision triangle itself at the road intersection is not obstructed for motorists.

Ms. Maxwell commented the corner there was reconfigured recently.

Ms. Lubbert said it was reconfigured in late 2018 to be made more perpendicular.

Ms. Jamie Schneck said she and her husband purchased the property in November of 2020.

Ms. Maxwell asked why the setbacks for Almena Rd. and KL Avenue are so big.

Mr. Hutson said they both have high traffic volumes and a 55 mph speed limit and that larger setbacks are common for safety purposes, though not always required.

Ms. Lubbert added it can also be a quality of life issue and was put into effect by the Township a long time ago.

Attorney Porter added that based on earlier traffic studies, maybe the larger setback was provided in case of a need for expansion.

Ms. Smith noted a 6' fence is not permitted anywhere on the property.

Ms. Lubbert agreed, saying that due to the site's size and layout the entire property is technically considered front yard and a fence cannot be placed in the right of way.

Chairperson Sikora commented the Road Commission says you cannot have a driveway that does not have a clear view out. Hearing no further comments, he asked if the applicant wished to speak.

Ms. Schneck said they hoped to have a fence at least to the stop sign at a minimum. Bright car lights from the stop sign at Almena shine in their windows. When driving toward the house drivers can see right into the house at night. She said when they purchased the property, they were not aware there was an issue with the fence and were shocked to hear there were issues even prior to the purchase.

The Chair asked if a 4' fence would serve their needs or perhaps a hybrid, partly 4', partly 6'.

Ms. Schneck hoped to at least keep the 6' fencing that exists; she was not sure if 4' would be tall enough to keep traffic lights out of their windows.

Chairperson Sikora moved to public hearing, but as there was no one present to comment he moved to Board Deliberations.

Ms. Smith did not think the extra 2' requested would make a big difference regarding car lights and drivers are paying attention to the road not house windows.

Ms. Maxwell asked if the roadways are at or above the grade of the property.

Mr. Hutson indicated the roads and property are the same grade.

The Chair felt a 6' fence all the way would be imposing and off putting and wondered if approved how many others would be requested in the future.

Ms. Maxwell agreed she worried about setting a precedent but would like to see them keep what they have.

Ms. Farmer felt if the existing 6' was left in place, any extension should be at 4'.

Chairperson Sikora said he thought plantings could help with screening.

Ms. Smith agreed and said they could be planted closer to the house. She said she did not want to set a precedent and felt 4' all the way around should be required to bring the property into compliance.

Ms. Farmer did not feel it was reasonable to require the existing 6' fence to be removed as the current owners did not construct it and it would be expensive to do.

Ms. Lubbert said cost of removal and the fact that the out of compliance fence exists today are not appropriate reasons to be considered by the Board.

Attorney Porter agreed and said they need to consider the reasons provided by staff when considering the variance request.

The Chair noted that just because the fence existed when the property was purchased does not make it a pre-existing condition.

Ms. Smith made a motion to deny the variance request in order to construct a 6' tall privacy fence within the front yard setbacks at 10294 W. KL Avenue for the following reasons as recommended by staff:

- the need for the variance is a self-created hardship
- conformance with code requirements is not unnecessarily burdensome
- no unique physical limitations exist.

Chairperson Sikora seconded the motion. The motion was approved unanimously by roll call vote.

Ms. Schneck confirmed this action means the fence will need to be 4' all around the property.

### **Public Comment**

As there were no members of the public present, the Chair moved to the next agenda item.

### **Other Updates and Business**

Ms. Lubbert reminded the group of a virtual Joint Board Meeting to be held Tuesday October 19th at 6:00 p.m., invited them to attend, and noted the meeting would not last more than an hour.

She told them that after the Burlington loading dock request was denied, the company proceeded to rent the space using the current configuration, complying with the decision of the Board.

Ms. Farmer said the communication between Burlington and the Building Authority has been a good experience.

Ms. Lubbert noted the ordinance language that was revised as a result of the wall lights approved behind Meijer, was approved by the Planning Commission and the Township Board would be considering it for the second reading at its meeting later in the evening.

She also indicated there will be an October 26th ZBA meeting.

### **Adjournment**

There being no further business to consider, the Chair adjourned the meeting at approximately 3:54 p.m.

Minutes prepared:  
October 14, 2021

Minutes approved:  
October 26, 2021

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7275 W. Main Street, Kalamazoo, Michigan 49009-9334  
Phone: 269-216-5223 Fax: 269-375-7180

PLEASE PRINT

PROJECT NAME & ADDRESS Privacy/Security Fence

PLANNING & ZONING APPLICATION

Applicant Name: Tyler + Megan West

Company \_\_\_\_\_

Address 6125 Valley View Dr  
Kalamazoo, MI 49009

E-mail m2rosche@gmail.com

Telephone 614.440.8292 Fax \_\_\_\_\_

Interest in Property owner

THIS SPACE FOR TOWNSHIP USE ONLY

OWNER\*:

|| ||

Name \_\_\_\_\_

Address \_\_\_\_\_

Email \_\_\_\_\_

Phone & Fax \_\_\_\_\_

Fee Amount \_\_\_\_\_

Escrow Amount \_\_\_\_\_

NATURE OF THE REQUEST: (Please check the appropriate item(s))

- Planning Escrow-1042
- Site Plan Review-1088
- Administrative Site Plan Review-1086
- Special Exception Use-1085
- Zoning Variance-1092
- Site Condominium-1084
- Accessory Building Review-1083
- Land Division-1090
- Subdivision Plat Review-1089
- Rezoning-1091
- Interpretation-1082
- Text Amendment-1081
- Sign Deviation-1080
- Other: \_\_\_\_\_

BRIEFLY DESCRIBE YOUR REQUEST (Use Attachments if Necessary):

request for

4 foot fence within setback of "side-yard frontage"  
and 4 foot at the Right Of Way required  
measurement. (additional comments included)

**LEGAL DESCRIPTION OF PROPERTY (Use Attachments if Necessary):**

dwelling on corner lot of Valley View Drive  
and Highcrest Drive in Country Club Village  
of Oshkemo Township

**PARCEL NUMBER:** 3905- 14-480-050

**ADDRESS OF PROPERTY:** 6125 Valley View Drive

**PRESENT USE OF THE PROPERTY:** residential

**PRESENT ZONING** R-1 Res **SIZE OF PROPERTY** 0.35 acres

**NAME(S) & ADDRESS(ES) OF ALL OTHER PERSONS, CORPORATIONS, OR FIRMS  
HAVING A LEGAL OR EQUITABLE INTEREST IN THE PROPERTY:**

Name(s)	Address(es)
_____	_____
_____	_____

**SIGNATURES**

*I (we) the undersigned certify that the information contained on this application form and the required documents attached hereto are to the best of my (our) knowledge true and accurate. I (we) acknowledge that we have received the Township's Disclaimer Regarding Sewer and Water Infrastructure. By submitting this Planning & Zoning Application, I (we) grant permission for Oshkemo Township officials and agents to enter the subject property of the application as part of completing the reviews necessary to process the application.*

**Owner's Signature** (\* If different from Applicant)

Megan Paschuk / West

**Applicant's Signature**

**Date**

01/26/2022

**Date**

- Copies to:
- Planning -1
- Applicant -1
- Clerk -1
- Deputy Clerk -1
- Attorney-1
- Assessor -1
- Planning Secretary - Original

\*\*\*\*

**PLEASE ATTACH ALL REQUIRED DOCUMENTS**

**Tyler & Megan West  
6125 Valley View Drive  
Kalamazoo MI 49009**

**1/26/2022**

**Requesting variance from Oshtemo Township Ordinance 57.60 FENCES**

**Description: Request for 6ft fence within setback of “side-yard frontage” and 6ft at the Right Of Way required measurement. As these limitations were unknown at the time of construction of the current fence. Plan to move current fence facing Highcrest Drive back (east) to ROW approx. 12ft.**

**Additional Comments:**

- **Fence was constructed in late June 2021 by previous owner Lori Ellis, Tyler Wests mother. Lori requested an extension of the violation she received in July 2021 to be fulfilled in Spring of 2022. In November of 2021 Tyler & Megan West purchased the home from Lori Ellis, it was unknown that the extension request was not be accepted. Further documentation on communication with Ordinance Enforcement included.**
- **Allowing the fence in this location will not compromise public health, safety, and welfare.**
- **Substantial justice would be served by allowing this variance. This fence was constructed with hopes to provide a safe space for our children to play, family to gather and dogs to enjoy.**
- **Vision/line of sight for traffic of intersection at Valley View Dr. & Highcrest Drive is not impeded by the fence (even as it stands presently)**
- **Side-yard frontage prevents us from using our property to it's full potential due to the 20x40 backyard pool.**

- **The pool presents a liability that we feel a 4ft fence would not properly protect. Even though the minimum height for fencing around pools per the Michigan Building Code is 4ft, it is a height that we feel can easily be jumped. Which has been done at the property in the past, details of complaint with County Sheriff included.**
- **Privacy, security and trespassing reasons are also amongst the concern and why the fence was constructed in the first place. Details of complaints issued with the County Sheriff on the property included.**
- **Upon initial reading of the Ordinance 57.60 in June 2021 before construction began, we felt the plan for the fence was without violation and that a variance wouldn't be necessary. B. Location, 1. the Right Of Way dimensions are not outlined, so that measurement was an unknown when construction of the fence was done. 2. the current fence is not within 20 feet of the intersection. The Zoning Ordinance 57.60 sent to the previous owner on 7/6/21 is included to show this.**
- **Side-yard frontage on a corner lot was not outlined on the Zoning Ordinance 57.60 and was an unknown restriction when planning for the fence.**
- **It would seem a precedent was set at 405 Club View Drive (corner lot of Club View Drive and Shadywood Drive) where a swimming pool was allowed in the front-yard setback and a 6ft fence currently sits within the front-yard and side-yard setbacks and on the ROW. Oshtemo Township Zoning Appeal minutes included.**
- **Letters from neighboring homes in support of the fence and variance included.**

## Fence Ordinance Zoning Violation at 6125 Valley View Drive

- Upon receipt of a Notice of Zoning Violation dated 11/24/2021 to Tyler West and Megan Roschek, information of correspondence was requested from the previous owner and the Enforcement Officer. Emails between the previous owner (Lori Ellis) and the Oshtemo Township Zoning Enforcement Office were shared and reviewed to establish this timeline of correspondence as of January 18<sup>th</sup> 2021.
  - o Copies of all emails can be provided if necessary, they should be on the email file with the Enforcement officers Department.

### Timeline of Correspondence:

- 7-15-2021 – Lori received Zoning Violation dated 7-12-21 from Oshtemo Township requested due by 8-11-21
- 7-30-21 – Lori Ellis emailed enforcement officer with request of an extension until Spring of 2022, she also asked a few questions regarding other properties in the Neighborhood
- 9-26-21 – Lori sent an email with a request for her questions from 7-30-21 to be Answered
- 9-27-21 – Lori received 2<sup>nd</sup> Zoning Violation dated 9-22-21 from Oshtemo Township requested due by 10-15-21
- 9-27-21 – Rod emails Lori indicating Rick responded to her 7-30-21 questions and sends an email from Rick dated 7-12-21 which would have been approximately 18 days before her questions were sent. When you read his response, you'll see are not in fact answers to her posed questions from 7-30-21
- 9-27-21 – Lori sent another email asking why a 2<sup>nd</sup> notice was sent when she'd previously sent an extension request via email on 7-30-21 that was never answered. She sent a follow up email with that same extension request as that had still not been acknowledged.
- 10-12-21 – Rod forwards Lori's 9-27-21 email to Rick
- 11-2-21 – Rick sends email to Lori with answers to her 7/30/21 questions and indicates the Spring extension request would not be granted. This is the FIRST received denial of the extension request. Rick also notes another violation in the neighborhood and their plan to be done by December, not sure why that had anything to do with her specific situation.
- 11-2-21 – Tyler West and Megan Roschek close on the purchase of 6125 Valley View Drive
- 11-29-21 – Tyler and Megan receive a notice of Zoning violation dated 11/24/21 from Oshtemo Township requested due by 12-30-21
- 12-18-21 – Megan emailed Rick formal extension request of 6/30/2022 per instruction included in notice.
- 1-5-22 – Megan sent a follow up email including the previous 12/18/21 email as no response from Rick was received.

- 1-7-22 – Ordinance Violation Citation received by Tyler West dated 1-4-22 of \$75
  - We had only received one violation notice
  - No other citation had been sent in over 5 months of correspondence
  
- 1-10-22 – Megan stops into Oshtemo Township to discuss citation
  - Rod insists they need to know what our plan is to not proceed with the fine, and if we filed a variance that would be sufficient
  - Megan asks about applying for a variance which she is told is \$500, it's discussed this fee is not something she and Tyler were anticipating having to deal with so soon after purchasing their new home.
  - Rod indicates he did send a response to Megan's 12-18-21 email, however since Megan had never emailed Rod it was in her spam folder, this, and others he forwarded on 1-10-22 were found and reviewed
  
- 1-10-22 – Megan sees Rod's 12-21-21 email in response to her 12-18-21 email, he noted he believed all correspondence between the previous homeowner and us was shared but this is not the case. Upon closing we were told no response had been received on the requested extension of Spring 2022. Rod noted my 6-month extension request was not reasonable and we'd have to provide an agreement between us and a fencing company. We don't believe this is something an enforcement officer can require.



**From:** Rod Rought  
**Sent:** Tuesday, July 6, 2021 3:58 PM  
**To:** [ellislp1@hotmail.com](mailto:ellislp1@hotmail.com)  
**Cc:** Rick Suwarsky <[RSuwarsky@oshtemo.org](mailto:RSuwarsky@oshtemo.org)>  
**Subject:** 6125 Valley View fence

## ZONING ORDINANCE

### ARTICLE 57

## 57 – MISCELLANEOUS PROTECTION REQUIREMENTS

(Amended by ord. no. 616; adopted November 12<sup>th</sup>, 2019, effective November 21<sup>st</sup>, 2019. Amended by ord. no. 623; adopted May 12<sup>th</sup>, 2020, effective May 21<sup>st</sup>, 2020. Amended by ord. no. 625; adopted May 26<sup>th</sup>, 2020, effective June 4<sup>th</sup>, 2020.)

### 57.60 FENCES

The requirements of this section shall apply to fences.

#### A. Construction, Material and Maintenance

1. All fences shall be of sound construction.
2. All fences shall have the finish side facing out, away from the property on which the fence is located.
3. No barbed wire, spire tips, sharp objects, or electrically-charged fences shall be erected in or abutting any residentially zoned district.
4. Bona fide agricultural uses may use barbed wire or charged fences to control livestock.
5. Security fences six feet high and above in industrial-zoned districts may include an additional 18 inches of barbed wire. Such barbed wire shall slant inward toward the property or be straight up. Security fences with barbed wire in other zoning districts shall require Special Use approval.
6. All fences shall be maintained and not endanger life or property. Any fence which through lack of repair, type of construction or otherwise, endangers life or property is hereby deemed a nuisance.
7. Swimming pools as defined in the Michigan Building Code shall be fenced in accordance with the requirements of the Code.

#### B. Location

Except as specified below, fences may be placed up to the property line provided:

1. No fence shall be placed within any public right-of-way or within the easement for private roads.
2. On corner properties, no fence more than 30 inches in height shall be placed within 20 feet of the intersection of the abutting street rights-of-way or easements

which interferes with traffic visibility across the corner.

C. Height

1. "AG", "RR", "R-C", "R-1", "R-2", and "R-3" Zoning Districts.

All fences located within the identified zoning districts shall be limited to a maximum height of four (4) feet within the required front building setback area except as stated in Section 57.60.B.2 The maximum fence height in the side or rear yard shall be six (6) feet as measured from the grade on both sides of the fence. Fence height shall be measured from the grade of the lowest side of the wall when a fence is constructed on top of a wall.

2. "R-4" and "R-5" Zoning Districts. All fences located within these specified zoning districts shall be limited to a maximum height of eight (8) feet regardless of which yard it is located in, except as stated in Section 57.60.B.2 fence height shall be measured in the same manner as described in Paragraph A above.

Any fence located in the required front building setback area shall be of a decorative enclosure type, constructed of either wrought iron or simulated wrought iron (pre-finished aluminum), or similarly decorative and durable materials as determined suitable by the appropriate reviewing body.

Such fences shall have a maximum 50% opacity.

3. Other Zoning Districts. Fences exceeding six (6) feet in height shall be subject to approval by the appropriate reviewing body.

4. Height Exceptions. Multi-family and non-residential development requests undergoing Site Plan review may request a taller fence in side and rear yard areas that exceeds the height restrictions identified in Paragraphs A through C above as part of the Site Plan review process. The appropriate reviewing body may approve a fence up to the maximum building height of the underlying zoning district. In considering such a request, the appropriate reviewing body shall consider whether adequate clear vision is present, the impact on neighboring properties, and the unique site-related issues that warrant the request.

Mrs Ellis

Hopefully this helps clarify some of the issue for you. Our office will continue to be in contact with you. Also, please feel free to contact our zoning department with any other questions as well.

Thank you

**Rod Rought**

Ordinance Enforcement Officer  
Oshtemo Township



**OSHTEMO CHARTER TOWNSHIP  
ZONING BOARD OF APPEALS MINUTES**

**OCTOBER 20, 1997**

**Agenda**

**KALAMAZOO CHINESE CHRISTIAN FELLOWSHIP - SITE PLAN REVIEW - PROPOSED CHURCH FACILITY - 5334 PARKVIEW AVENUE**

**VLIETSTRA BROS. SWIMMING POOL CO. - VARIANCE FROM FRONT SETBACK REQUIREMENT FOR LATOSZEWSKI - 405 CLUBVIEW**

**CITY OF KALAMAZOO - VARIANCE FROM 200' PUBLIC ROAD FRONTAGE REQUIREMENT - 7134 STADIUM DRIVE**

**CHIME SCHOOL - SITE PLAN REVIEW - 6750 CHIME ST.**

A meeting was conducted by the Oshtemo Charter Township Zoning Board of Appeals on Monday, October 20, 1997, commencing at approximately 3:00 p.m. at the Oshtemo Charter Township Hall, pursuant to notice.

**MEMBERS PRESENT:**

- Brian Dylhoff, Chairperson
- Thomas Brodasky
- David Bushouse
- William Saunders

**MEMBERS ABSENT: Lara Meeuwse**

Also present were Rebecca Harvey and Mike West on behalf of the Planning and Zoning Department, Patricia R. Mason, Township Attorney, and five (5) other interested persons.

**CALL TO ORDER**

The Chairperson called the meeting to order at 3:04 p.m.

**MINUTES**

The Board considered the minutes of the meeting of October 6, 1997. Mr. Brodasky moved to approve the minutes as submitted. Mr. Saunders seconded the motion, and the motion carried unanimously.

**KALAMAZOO CHINESE CHRISTIAN FELLOWSHIP - SITE PLAN REVIEW - PROPOSED CHURCH FACILITY - 5334 PARKVIEW AVENUE**

The next item was the application of Christopher Lai, representing Kalamazoo Chinese Christian Fellowship, requesting site plan review of a proposed 4,500 sq. ft. church facility. The subject site is located at 5334 Parkview Avenue and is within the "R-2" Zoning District classification.

The report of the Planning and Zoning Department is incorporated herein by reference. Ms. Harvey stated that the main issue was the driveway spacing in that the proposed driveway was not sufficiently spaced from nearby residential driveways and from the intersection. Further, it was noted that, with regard to on-site vegetation, the applicant had proposed retaining the existing vegetation at the site, except in the area in which the building would be constructed.

The Chairperson questioned Ms. Harvey with regard to the proposed driveway. She stated that it was in compliance with the Access Management Guidelines except as to spacing, and had been approved by the Kalamazoo County Road Commission. The only issue regarding the drive was its spacing. She felt that the Board should determine whether the drive could be located elsewhere on the site and better comply with Ordinance requirements.

The applicant was present, along with David VanDyke, architect for the project. In response to questioning by the Chairperson, it was stated that a dumpster would be placed in the parking lot and would be enclosed. The plan showed a dumpster pad in the northwest corner of the site. The applicant proposed moving the location to the northeast corner, nearer to the building.

The location of barrier-free parking was discussed, and the Chairperson commented he felt that the parking could be relocated in better proximity to the entrance point of the building. Mr. VanDyke agreed, stating that it could be moved closer to the entrance and that he would revise the ramp detail and present it to the Township for review and approval.

Mr. Brodasky questioned the applicant as to whether any thought had been given to moving the entrance to the east. Mr. VanDyke stated that ~~that~~ this would be too close to the overpass and that there was a drop in topography in this area which made location of the entrance in that area undesirable.

The location of the access point was discussed, and it was determined that it had been located as far from the intersection as was possible, given the size of the site. Board members agreed that this location was the "optimum" in that the Board was more concerned about distance from the intersection than from adjoining residential drives.

There was no public comment offered, and the public hearing was closed.

There was discussion of signage, and Mr. VanDyke stated that a sign proposal would be presented to the Township and would go through the permit process.

There was discussion of screening, and it was noted that the plan shows retention of natural vegetation along the western boundary. It was felt that this should be confirmed as a condition of approval and that a landscape plan for the developed area should be presented.

Mr. Brodasky moved to approve the site plan with the following conditions, limitations and notations:

- (1) That the church facility is proposed to be served by one standard two-way drive approximately 26' wide. A right-turn-in deceleration lane approximately 110' in length is proposed along Parkview Avenue. Approval was subject to the review and approval of the access point by the Kalamazoo County Road Commission. It was noted that the driveway location does not conform to the spacing requirements of the Access Management Guidelines, but it was felt that it was located at the optimum point on the site in that it was as far west as could be located, i.e., as far from the intersection as was possible.
- (2) That parking had been proposed in compliance with Ordinance standards.
- (3) That all parking was subject to compliance with the dimensional standards of 10' x 20'.
- (4) That all barrier-free parking is subject to ADA and Michigan Barrier-Free Guidelines and is to be designated by signage and pavement logo. It was noted that the applicant proposed relocation of the barrier-free spaces and would provide revised ramp details to the Township for review and approval.
- (5) That the proposed building setbacks were in accordance with Ordinance standards.
- (6) That no outdoor storage had been proposed.
- (7) That the dumpster location would be revised, and detail with regard to enclosure would be provided to the Township for review and approval.
- (8) That all site lighting was to be in compliance with the lighting guidelines set forth in Section 78.700, and a lighting proposal was to be submitted to the Township for review and approval pursuant to Section 78.720(g).
- (9) That all signage shall comply with Section 76.115 and be reviewed and approved through the permit process.
- (10) That screening along the northern and western boundaries of the site was to be accomplished through the retention of the "thick woods" which occupy a large portion of the subject site. The proposal to retain the natural vegetation as set forth on the plan was approved. A landscape plan for the developed portion of the site should be submitted to the Township for review and approval.
- (11) That no variance had been requested.
- (12) That approval is subject to the review and approval of the Township Fire Department.
- (13) That approval is subject to the review and approval of the Township Engineer.
- (14) That public water and an on-site septic system are proposed to service the proposed church facility. Approval is subject to the review and approval of the Kalamazoo County Health Department.
- (15) That an environmental permits checklist and hazardous substance reporting form is required for review and approval pursuant to Section 69.000.
- (16) That a revised site plan reflecting the conditions of approval is to be submitted to the Township.

Mr. Saunders seconded the motion, and the motion carried unanimously.

**VLIETSTRA BROS. SWIMMING POOL CO. - VARIANCE FROM FRONT SETBACK REQUIREMENT FOR LATOSZEWSKI - 405 CLUBVIEW**

The next item was the application of Ron Vlietstra of Vlietstra Bros. Swimming Pool Company, representing Mick and Nancy Latoszewski, for variance approval from the 40' front setback requirement established by Section 64.200 of the Zoning Ordinance. The subject site is located at 405 Clubview and is within the "R-1" Residence District Zoning classification.

The report of the Planning and Zoning Department is incorporated herein by reference. Ms. Harvey noted that the Board had not previously reviewed a variance request with regard to a swimming pool location. However, a history of building setback variance applications had been provided in the report. She further noted that the applicant had submitted a drawing showing the proposed location of the pool and of existing improvements at the site.

The applicant was present, stating he felt that the Township would see many more applications for variance due to the placement of on-site septic systems. He stated that the drawing shows that the pool could be moved to the west; however, he had attempted to place the pool so as to retain an area at the western portion of the site for the placement of future drywells/septic systems. He noted that the County Health Department had stated it would like to see 20' between a drywell and the pool. However, they would approve 10-12'. He felt that the pool could not be moved to the south at all. Thus, the "setbacks" from Clubview and from Shadywood Drive were at issue. He stated, in response to questioning by the Board members, that the size of the pool at 17' x 35' did not include the decking thereon.

Mr. Bushouse commented that he would be more concerned about an above-ground pool or about a pool which included fencing near the property line.

The applicant stated that the Township's Ordinance does not prohibit an 8' stockade fence along the property lines of a lot.

The Chairperson commented, and other Board members agreed, that the Planning Commission should review the Zoning Ordinance and specifically address setbacks for pools.

In response to questioning by Mr. Brodasky, the applicant stated that 16' in width was the minimum pool size for a pool with a diving board.

The Chairperson sought public comment, and none was offered. The public hearing was closed.

The Chairperson asked whether any outbuildings were proposed. The applicant stated that a 6' x 6' or 6' x 8' pad on the far west side of the property would be established. However, there would be no outbuilding associated with the pool.

The Board reviewed whether the conformance was unnecessarily burdensome. It was noted that the proposed swimming pool could not be placed in accordance with all setback requirements due to the size of the lot and the location of existing house and septic system. Further, it was noted that the property in the area has problems with drywell and septic. There was discussion of the fact that an area should be left at the site to establish future drywell/ septic systems. Ms. Harvey noted that drywell and septic could be placed at the front



of the lot.

After further discussion, Board members agreed that the pool location could be pushed to the west to meet the setback requirement from Clubview. However, the pool could not be located in compliance with the setback from Shadywood.

As to substantial justice, it was noted that the Board had not previously reviewed a variance request for the establishment of a pool. Mr. Saunders recalled past applications which were granted where there was an existing home and the location was limited for a garage or outbuilding.

As to unique physical circumstances, again it was noted that the pool could not be placed in conformance with the Shadywood setback, given the size of the lot and existing improvements.

It was felt that the hardship was self-created but the spirit and intent of the Ordinance could be met if the pool complied with the Clubview setback. Again there was comment that the matter should be referred to the Planning Commission for review of setbacks applicable to pools.

Based upon the preceding discussion, Mr. Saunders moved to grant variance from the setback required from Shadywood, requiring the pool to be placed 40' from the Clubview right-of-way, with the following reasoning:

- (1) That conformance was unnecessarily burdensome in that the pool could not be located in compliance with all setbacks.
- (2) That substantial justice would be served by the variance.
- (3) That the spirit and intent of the Ordinance would be met due to the type of structure (pool) involved (i.e., that it would be below ground).

Mr. Bushouse commented he felt that, since the pool was below ground, included no poolhouse or other structure, included no fencing, the variance from setback would be appropriate. He stated that, if the pool included structures, etc., he would feel differently.

Mr. Brodasky seconded the motion. The motion carried unanimously.

The applicant offered to provide information to the Planning Commission when it considers the pool setback issue.

### **CITY OF KALAMAZOO - VARIANCE FROM 200' PUBLIC ROAD FRONTAGE REQUIREMENT - 7134 STADIUM DRIVE**

The next item was the application of Alberto Forero, Public Service Engineer, representing the City of Kalamazoo Department of Public Utilities, for variance approval from the 200' public road frontage requirement established by Section 66.201 of the Zoning Ordinance. The subject site is located at 7134 Stadium Drive (water tower site) and is within the "C" Local Business District Zoning classification. It was noted that Mr. Forero had asked that the item be placed at the end of the agenda so that he would have an opportunity to be present. Therefore, the item was tabled.

### **CHIME SCHOOL - SITE PLAN REVIEW - 6750 CHIME ST.**



# Incident/Investigation Report

Agency: KCSO

Case Number: 20-008472

Date: 08/27/2020 09:12:00

## Incident Information

Date/Time Reported <b>08/14/2020 18:23</b>	Date/Time Occurred <b>08/14/2020 13:00</b>	Date/Time Found <b>08/14/2020 18:00</b>	Officer <b>(6010) OUDING, STEVEN S</b>
Incident Location <b>6125 Valley View Dr, Oshtemo, MI 49009</b>			

## Charges

<b>1</b>	Charge Type	Description <b>Trouble With</b>	Statute <b>92200</b>	UCR <b>999</b>	<input type="checkbox"/> Att <input checked="" type="checkbox"/> Com
Alcohol, Drugs or Computers Used <input type="checkbox"/> Alcohol <input type="checkbox"/> Drugs <input type="checkbox"/> Computers		Location Type <b>RESIDENCE / HOME</b>	Premises Entered	Forced Entry <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Weapons 1. 2. 3.		Entry	Exit	Criminal Activity	
Bias Motivation		Bias Target	Bias Circumstances		Hate Group

## Victims

<b>1</b>	Seq. #	Type INDIVIDUAL	Injuries None	Residency Status Unknown	Ethnicity Unknown
Name (Last, First, M) ELLIS, LORI BETH				Race U	Sex F
				DOB	Age 63
Address					Home Phone
Employer Name/Address					Business Phone
Victim of Crimes 1					Cell Phone

# Incident/Investigation Report

Agency: KCSD

Case Number: 20-008472

Date: 08/27/2020 09:12:01

## Offenders

Seq. # <b>1</b>	Type INDIVIDUAL	Name (Last, First, M) MOORE, ANGELA MARIE					
AKA		Race W	Sex F	DOB	Age 39	Height	Weight
Address						Home Phone	
Employer Name/Address						Business Phone	
Scars, Marks, Tattoos or other distinguishing features						Cell Phone	
Physical Characteristics							
Suspect Details							

## Other Persons Involved

Name Code Involved, Other	Seq. # <b>1</b>	Name (Last, First, M) OUDING, STEVEN KCSD	Race W	DOB
Address				Home Phone
Employer Name/Address				Business Phone
				Cell Phone



# Incident/Investigation Report

Agency: KCSD

Case Number: 20-008472

Date: 08/27/2020 09:12:01

## Notes/Narratives

### NARRATIVE

#### INFORMATION:

On Friday 8/14/2020, I received a dispatch in reference to LORI ELLIS wanting to report that she was having trouble with her son's ex-girlfriend ANGELA MOORE.

#### CONTACT WITH REPORTEE:

I spoke with ELLIS by telephone. She states that she wanted to start a paper trail or documentation of incidents involving her son's ex-girlfriend. ELLIS states that her son and ANGELA MOORE have a child together and she wanted documentation for any potential custody battles in the future.

ELLIS states that on Friday 8/14/2020, MOORE came to the house. ELLIS states that MOORE has been told by her (ELLIS) that she is not welcome at the home. ELLIS states that MOORE scaled a chain link fence into the back yard and then tore some vegetable plants out of the garden in the back yard. ELLIS stated that she then confronted MOORE and MOORE left. ELLIS simply wanted it documented that MOORE had come to her home. ELLIS was advised to consider taking out a PPO against MOORE. She stated at this point in time she did not wish to.

#### CASE CLOSURE:

I would recommend this complaint be closed. End of report.

Respectfully submitted,  
Deputy Steve Ouding #6010

klh  
081720

### CONTINUATION

[EMPTY]

# Location for Learning Report

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## Notes/References

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10/10/2010

10/10/2010

10/10/2010

# Incident/Investigation Report

Agency: KCSD

Case Number: 20-012277

Date: 01/26/2022 09:16:43

## Incident Information

Date/Time Reported <b>11/10/2020 18:50</b>	Date/Time Occurred <b>11/10/2020 18:40</b>	Date/Time Found <b>11/10/2020 18:40</b>	Officer <b>(6066) HEIDBREDER, WADE J</b>
Incident Location <b>6125 Valley View Dr, Oshtemo Twp, MI 49009</b>			

## Charges

1	Charge Type	Description	Statute	UCR	Att <input type="checkbox"/> Com <input checked="" type="checkbox"/>	
		<b>TRESPASS (OTHER)</b>	<b>57001</b>	<b>90J</b>		
Alcohol, Drugs or Computers Used <input type="checkbox"/> Alcohol <input type="checkbox"/> Drugs <input type="checkbox"/> Computers		Location Type <b>RESIDENCE / HOME</b>	Premises Entered	Forced Entry <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Weapons 1. 2. 3.	
Entry	Exit	Criminal Activity				
Bias Motivation		Bias Target	Bias Circumstances		Hate Group	

## Victims

Seq. #	Type	Injuries	Residency Status	Ethnicity
<b>1</b>	INDIVIDUAL	None	Resident	Unknown
Name (Last, First, M) WEST, TYLER LEE			Race B	Sex M
			DOB	Age 36
Address				Home Phone
Employer Name/Address				Business Phone
Victim of Crimes i				Cell Phone

# Incident/Investigation Report

Agency: KCSD

Case Number: 20-012277

Date: 01/26/2022 09:16:44

## Offenders

<b>Seq. #</b> <b>1</b>	<b>Type</b> INDIVIDUAL	<b>Name (Last, First, M)</b> MOORE, ANGELA MARIE						
<b>AKA</b>			<b>Race</b> W	<b>Sex</b> F	<b>DOB</b>	<b>Age</b> 39	<b>Height</b>	<b>Weight</b>
<b>Address</b>							<b>Home Phone</b>	
<b>Employer Name/Address</b>							<b>Business Phone</b>	
<b>Scars, Marks, Tattoos or other distinguishing features</b>							<b>Cell Phone</b>	
<b>Physical Characteristics</b>								
<b>Suspect Details</b>								

## Other Persons Involved

<b>Name Code</b> Involved, Other	<b>Seq. #</b> <b>1</b>	<b>Name (Last, First, M)</b> HEIDBREDER, WADE DEPUTY KCSO	<b>Race</b> W	<b>DOB</b>
<b>Address</b>				<b>Home Phone</b>
<b>Employer Name/Address</b>				<b>Business Phone</b>
				<b>Cell Phone</b>

# Incident/Investigation Report

Agency: KCSD

Case Number: 20-012277

Date: 01/26/2022 09:16:44

## Notes/Narratives

### NARRATIVE

#### INFORMATION:

On 11/10/2020, I was dispatched to 6125 Valley View Dr in Oshtemo Township. TYLER LEE WEST was reporting ANGELA MARIE MOORE as coming over to his residence uninvited. He initially reported an assault to dispatch, but after I made contact with him, this was recanted/misconstrued. Upon my arrival at the residence, I made contact with WEST.

#### INTERVIEW VICTIM:

WEST stated to me he and MOORE were in a previous relationship and have a child in common, [REDACTED]. The two have had multiple problems with each other since breaking up. Currently, WEST has full custody of [REDACTED], with MOORE only having limited supervised time each week with [REDACTED]. WEST believes this is a major reason why MOORE has been giving him grief. He said MOORE already knows she's not welcome at his residence and he did believe she was trespassed from his residence from an earlier trespassing incident. However, through the reports I reviewed and in checking MOORE's I/LEADS profile, she had not been formally trespassed.

WEST did have a Ring doorbell camera which he showed me on his phone upon my arrival. MOORE arrived with a bag full of tacos which she intended to bring over for [REDACTED]. According to WEST, MOORE was supposed to have time with [REDACTED] earlier in the day, but she was unable to get her supervisor to make arrangements for a meetup. MOORE disregarded the supervised visit and drove over to WEST's residence to drop off the tacos to [REDACTED]. After WEST told MOORE she was not welcome there, MOORE made a flicking motion at WEST, but did not physically touch him. She then put her hands up, backed off, and left from the residence.

WEST let me know he wanted the incident documented to show the pattern of MOORE's behavior. He also let me know he would like her trespassed in the event she comes over again. I did advise him that MOORE needed to be present at his residence for us to trespass her. I also requested WEST to send a link in my email for the Ring video footage. As of 11/14/2020 at 1625 hours, WEST has not sent over the link for the Ring video.

#### ATTEMPTED CONTACT WITH SUSPECT:

I tried reaching MOORE by cellphone multiple times. However, she did not pick up.

#### CASE STATUS:

Closed - Report for documentation.

Respectfully Submitted,  
Deputy Wade Heidbreder, #6066  
Kalamazoo County Sheriff's Office

.slb  
11.13.2020

### CONTINUATION

[EMPTY]

# Individual Assessment Report

Client Name: [REDACTED]

Date of Assessment: [REDACTED]

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## Notes

11/11/2024

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[REDACTED]

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[REDACTED]

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[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

6

[REDACTED]

[REDACTED]

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# Incident Report

Print Date/Time: 01/26/2022 09:03  
Login ID: 39khol

Kalamazoo County Sheriff's Office  
ORI Number: MI3913900

Incident: 2021-00105003

Incident Date/Time: 5/5/2021 7:51:33 PM  
Location: 6125 VALLEY VIEW DR  
KALAMAZOO MI 49009  
Phone Number: [REDACTED]  
Report Required: No  
Prior Hazards: No  
LE Case Number:

Incident Type: Larceny  
Venue: OSHTMO  
Source: Phone  
Priority: 5-Low  
Status: Not In Progress  
Nature of Call:

### Unit/Personnel

Unit: 3719  
Personnel: 39DCOO-COOK

### Person(s)

No.	Role	Name	Address	Phone	Race	Sex	DOB
1	Caller	WEST, TYLER		[REDACTED]			

### Vehicle(s)

Role	Type	Year	Make	Model	Color	License	State
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### Disposition(s)

Disposition	Count
NRPT	1

### Property

Date	Code	Type	Make	Model	Description	Tag No.	Item No.
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# CAD Narrative

05/05/2021 : 20:13:03 39DCOO Narrative: no prosecution desired.

05/05/2021 : 20:12:28 39DCOO Narrative: rp sent s1 a message stating she could take the garden bricks, but he has a trespass order against her, so was upset that she violated that to come get the garden bricks.

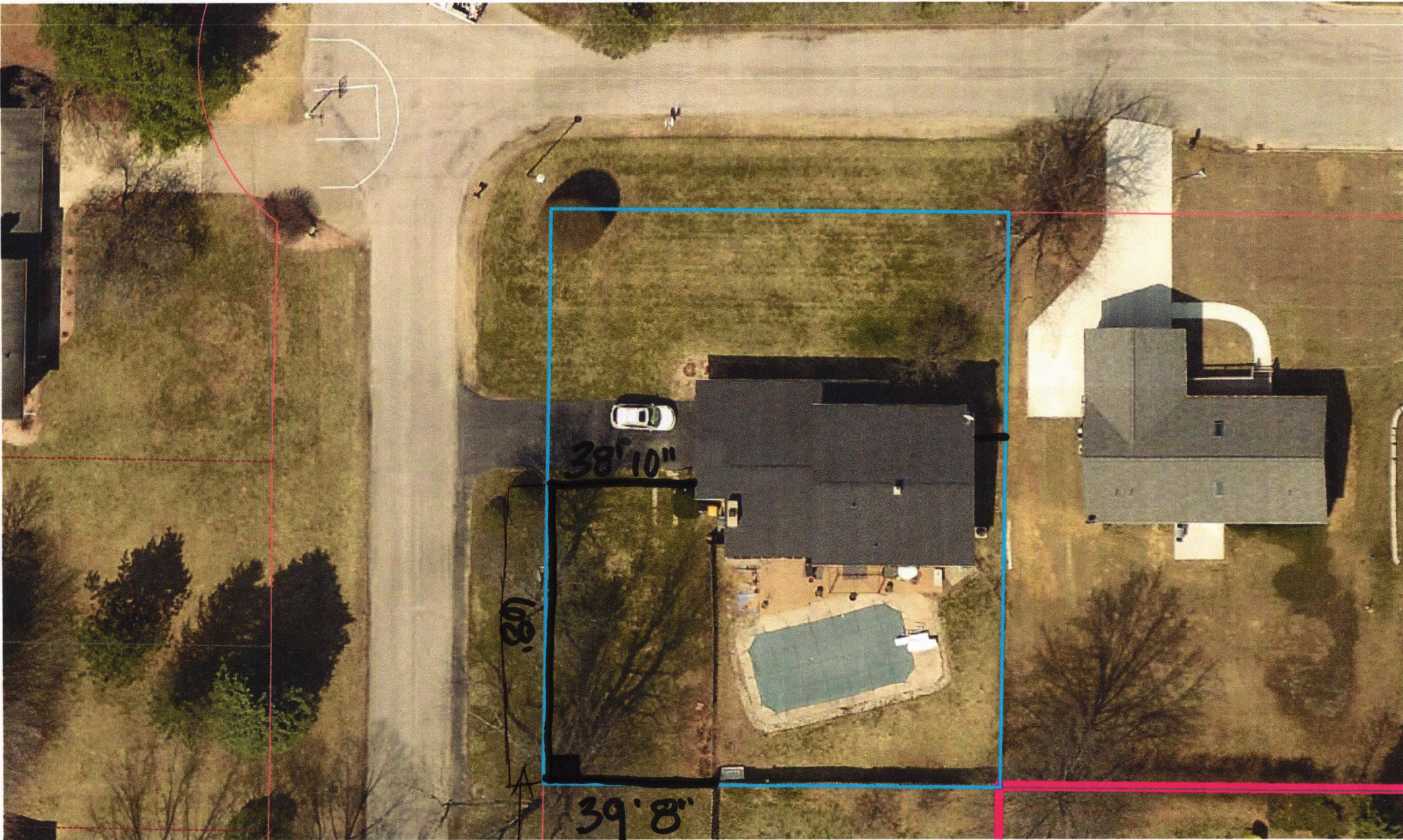
05/05/2021 : 19:52:52 danet\snystrom Narrative: NEG COVID

05/05/2021 : 19:52:28 danet\snystrom Narrative: S1 ANGELA MOORE [REDACTED]

05/05/2021 : 19:52:17 danet\snystrom Narrative: JUST HAPPENED

05/05/2021 : 19:52:09 danet\snystrom Narrative: RPS EX WAS TAKING BRICKS OUT OF THE GARDEN





current fence line is here, in bold is the variance request to where it will be moved.





Megan Roschek <m2rosche@gmail.com>

---

## Fence at 6125 Valley View Drive

1 message

---

**Julie Hite Neilitz** <julie@hitehouse.com>  
To: "m2rosche@gmail.com" <m2rosche@gmail.com>

Tue, Jan 25, 2022 at 6:22 PM

We live at 160 Highcrest Dr, Kalamazoo, MI 49009. Our neighbors at 6125 Valley View Drive installed a beautiful new fence and we couldn't be happier. It looks great and improved their curb appeal. It was a great addition!

Thank you,

Julie & Jeremy Neilitz

Sent from my iPhone



Megan Roschek &lt;m2rosche@gmail.com&gt;

---

**Fence**

1 message

---

**Erin Annis** <EAnnis@borroughs.com>  
To: "m2rosche@gmail.com" <m2rosche@gmail.com>

Tue, Jan 25, 2022 at 8:00 PM

To whom it may concern:

I am writing this letter to support my neighbors Megan and Tyler West. They had a new fence installed on their property last year located at 6125 Valley View Drive. They are filing for a variance to request it stay 6ft in their side yard up to the "right of way."

We live across the street from them at 223 Highcrest Drive. We have absolutely no problem with the location of the fence and think it enhances the property. Megan and Tyler now have the fenced in yard they need that allows them to have the right amount of space for their dogs and children to play safely. Please don't hesitate to contact me with any questions.

Sincerely  
Chris and Erin Annis



Megan Roschek &lt;m2rosche@gmail.com&gt;

---

**Fence at 6125 Valley View Drive**

1 message

---

**Jamie DeLeeuw** <deleeuwjamie@hotmail.com>  
To: "m2rosche@gmail.com" <m2rosche@gmail.com>

Tue, Jan 25, 2022 at 9:17 PM

To whom it may concern,

I am a neighbor of the residents of 6135 Valley View Drive. I live "kiddy corner" to their house. I live at 157 Highcrest Dr. I have been very pleased with the updating they have done to their home. In particular their new fence. I believe it has added a lot of curb appeal to their property. The placement of the fence does not bother me in any way.

Sincerely,

Jamie DeLeeuw

Owner of 157 Highcrest dr

Sent from my iPhone



Megan Roschek &lt;m2rosche@gmail.com&gt;

---

**Fence**

1 message

---

**Katie Baechler** <kbaechler@kvilleps.org>  
To: m2rosche@gmail.com

Tue, Jan 25, 2022 at 9:25 PM

Hello,

I'm writing this email in support of our neighbors at 6125 Valley View Drive. We have no problem with their fence and support them getting the variance. Please reach out to us with any questions.

Thanks,  
The Baechlers  
6148 valley view Dr