

Z24-18 Rolling Meadows Fence Height

Property Owner: Garrett and Crystal Scherba
Applicant: Garrett Scherba
Location: 5 Rolling Meadows Drive
Zoning: R-1 (Low Density Residential)
Request: Area variance to Section 1151.01(c)(1) to allow a fence taller than permitted

LOCATION AND SURROUNDING USES

The subject site is 0.24 acres located on the northeast corner of Rolling Meadows Drive and Weymouth Road. Adjacent properties contain the following uses and zoning:

- North – High School (P-F)
- East – Single-Family Residential (R-1)
- South – Single-Family Residential (R-1)
- West – Single-Family Residential (R-1)



BACKGROUND & PROPOSED APPLICATION

The applicant is proposing to construct a 4 ft. tall wooden picket fence on the southeast and southwest sides of the home. The property is a corner lot, therefore a portion of the proposed fence will be located between the home and Rolling Meadows Drive.

The applicant has provided two options for the fence.

- Option 1 extends from near the southeast property line to the **southeast** corner of the home.
- Option 2 extends from near the southeast property line to the **northwest** corner of the home.

FENCE HEIGHT (SECTION 1151.01(c)(1))

Section 1151.01(c)(1) limits fences within 15 ft. of a side street right-of-way to 3 ft. in height.

Both options of the proposed 4 ft. tall picket fence include a portion located within 15 ft. of the Rolling Meadows Drive right-of-way. The portion of the fence that is within 15 ft. of Rolling Meadows Drive is subject to the maximum 3 ft. fence height, which is not met.

STANDARDS FOR VARIANCES AND APPEALS (SECTION 1107.08(i))

Factors applicable to area or size-type variances ("practical difficulty"). The applicant shall show by a preponderance of the evidence that the variance is justified, as determined by the Board. The Board shall weigh the following factors to determine whether a practical difficulty exists and an area or size-type variance should be granted:

- A. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;
- B. Whether the variance is substantial;
- C. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer substantial detriment as a result of the variance;
- D. Whether the variance would adversely affect the delivery of governmental services (e.g., water, sewer, garbage);
- E. Whether the property owner purchased the property with knowledge of the zoning restrictions;
- F. Whether the property owner's predicament feasibly can be obviated through some method other than a variance; and/or
- G. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting a variance.

APPLICANT'S RESPONSES TO STANDARDS FOR VARIANCES AND APPEALS

The applicant's responses to the Standards for Variances and Appeals include but are not limited to the following:

- The proposed variance will allow a beneficial use of the property by allowing the fenced area to be safely utilized by children.
- The variance is not substantial as only a 1 ft. increase is requested.
- The essential character of the neighborhood would be improved with an aesthetically pleasing fence.
- The need for additional fence height is a safety issue and cannot be obviated through some method other than a variance.

FACTORS APPLICABLE TO AREA OR SIZE-TYPE VARIANCES ("PRACTICAL DIFFICULTY")

The applicant shall show by a preponderance of the evidence that the variance is justified, as determined by the Board. The Board shall weigh the following factors to determine whether a practical difficulty exists and an area or size-type variance should be granted:

A. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;

By granting the area variance to expand the fenced in area and increase the fence height by 1 foot, we truly believe that the property will yield a reasonable return and, naturally, increase the beneficial use of the property which is difficult without the variance for several reasons. First, the area within the fence can be utilized more fully and allow children, for example, to play more freely in a safe environment due to the property's proximity to a major roadway and intersection (e.g., State Route 3). Second, the increase in height will provide greater safety to children within the fence because they will be less likely to climb over the fence and into a roadway. Third, we believe extra safety may be provided to those outside of the fenced in area as well. For example, if a child is playing with a ball and kicks it, a slightly higher fence may help prevent the ball from entering a roadway. Fourth, since the the property does not have a useable backyard, due to the close proximity to the neighbor's house, the intent is to erect this fence to make the side and front yard of the property more useable and safe for children. To this end, placing the fence closer to the sidewalk and slightly increasing the height by a foot may help yield a greater return to the property because it will be more proportional to the house and fenced in area thus making it more aesthetically pleasing.

B. Whether the variance is substantial;

The variance is not substantial. We are requesting that the allowable proximity to the side walk (side street lot line) be reduced and the allowable height of the fence be increased (from 3 feet to 4 feet).

C. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer substantial detriment as a result of the variance;

The granting of the area variance including both the reduction in allowable proximity to the sidewalk and slight increase in height, should not substantially alter the character of the neighborhood or adjoining properties.

Instead, the variance, combined with the type of fence (wooden picket fence), is actually intended to help preserve the character of the neighborhood and surrounding properties. We are striving for our fence to be both practical and aesthetically pleasing for the property and surrounding area. We would paint the the fence a neutral color (e.g., white, grey, brown, etc.). Additionally, when looking at surrounding properties, many bushes and fences are planted and erected within 2 feet of the sidewalk, respectively. Furthermore, when looking at nearby properties (even those approaching downtown), it is typical to see fences within 2 feet of the sidewalk and four feet (or greater) high. With this, our fence variance will hopefully help make the neighborhood, particularly our street, more uniform.

D. Whether the variance would adversely affect the delivery of governmental services (e.g., water, sewer, garbage);

The granting of the variance will neither impact nor adversely affect the delivery of governmental services. Garbage is collected street side and the fence in which the variance applies will be erected on the opposite side of the sidewalk to the street. Regarding water and sewage infrastructure, the required surveying will be done to locate and map underground utilities so that the construction of the fence does not disrupt or interfere with those services.

E. Whether the property owner purchased the property with knowledge of the zoning restrictions;

We, the property owners, did not purchase the property with the knowledge of the zoning restrictions. Our desire to erect a fence came several years after purchasing the property. Our primary goal for the fence is to provide a safe environment for our son (two and a half years old) to play, learn, and explore outdoors since our property is situated along two streets and an intersection, both being heavily trafficked.

F. Whether the property owner's predicament feasibly can be obviated through some method other than a variance; and/or

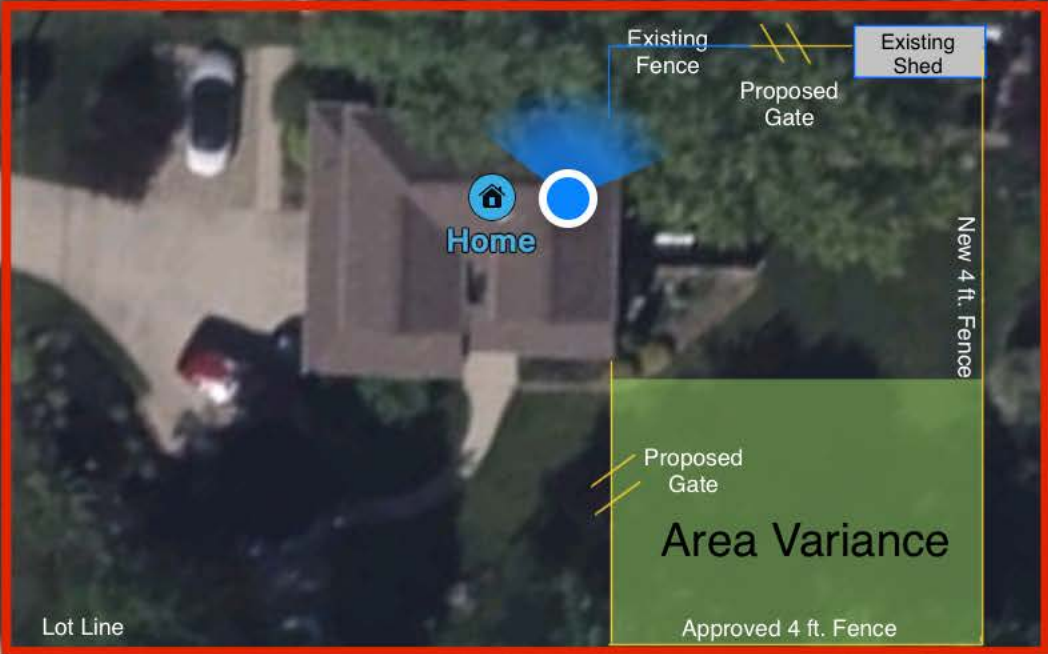
We are happy to hear of any suggestions or recommendations from the Committee's expertise on these matters to obviate our predicament. However, upon planning for the fence and examining the City's zoning code in an effort to provide a safe space for our son, we have not been able to obviate our predicament without being granted this variance. We respectfully ask you to please consider our situation and see our positive intent.

G. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting a variance.

The spirit and intent behind the zoning requirement would be observed and substantial justice would be done by granting us this area variance. This section of the zoning code does create uniformity and preserve the characteristic of neighborhoods. However, in this instance, deviating from the code will actually help to preserve uniformity and the neighborhood's character when evaluated in the context of the immediate property's neighborhood.

Option 1

WEYMOUTH RD



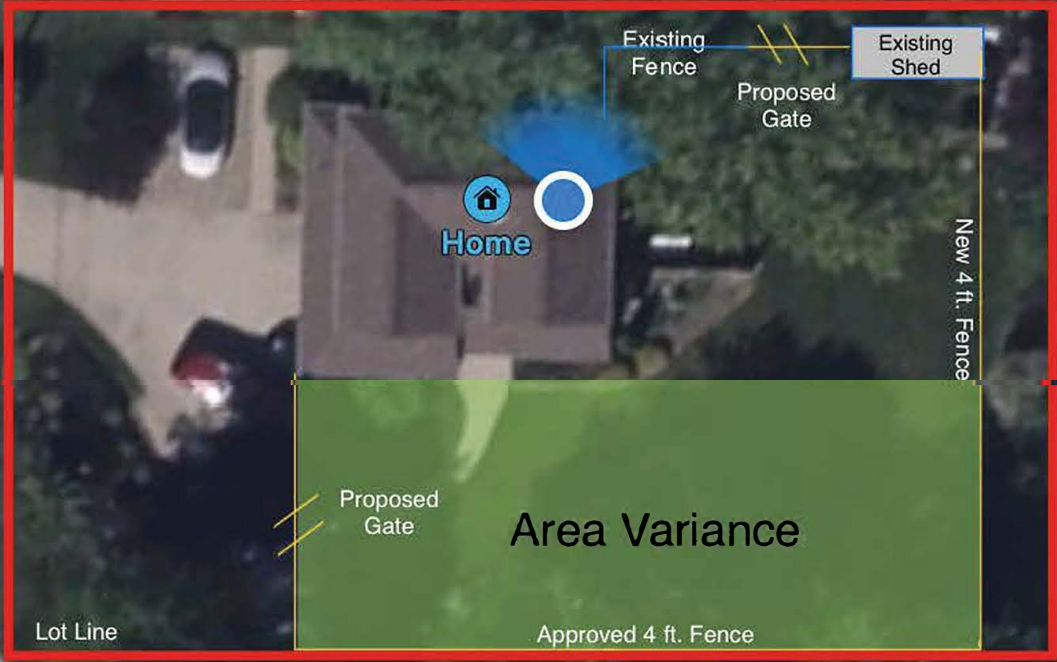
Sidewalk

ROLLING MEADOWS DR

ROLLING MEADO

Option 2

WEYMOUTH RD



Sidewalk

ROLLING MEADOWS DR

ROLLING MEADOWS DR



Option 2

Option 1





Property Looking East



Property Looking North-East



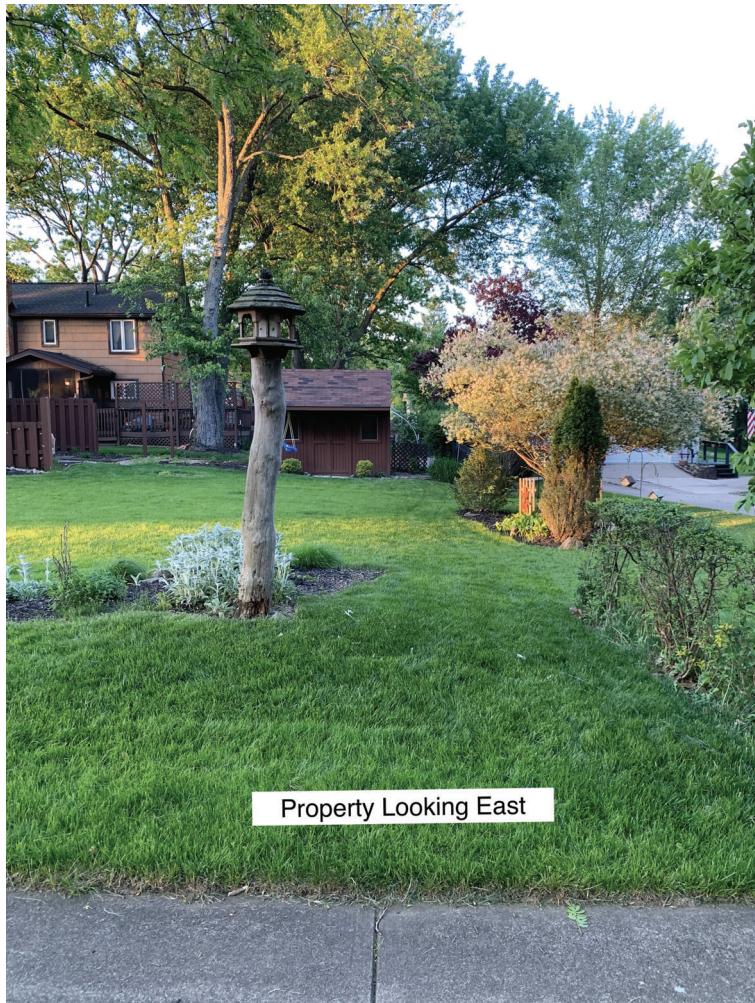
Property Looking North from Neighbor's Driveway



Property Looking South-East



Property Looking West



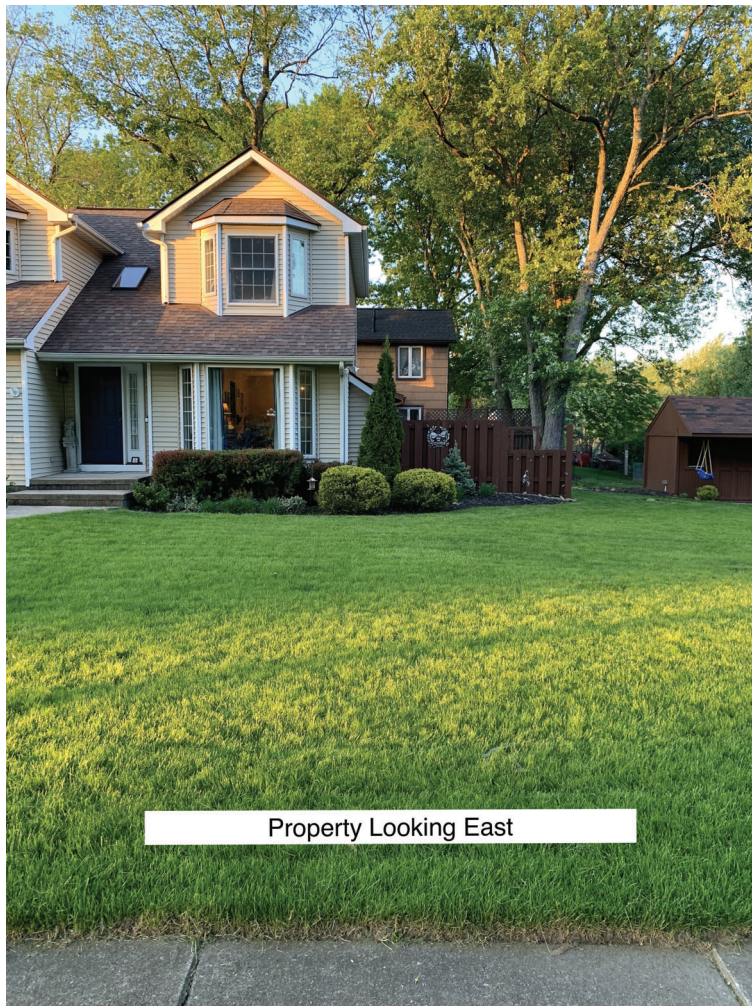
Property Looking East



View of Existing Fence and Where New Fence Will Go



View of Existing Shed and Where New Fence Will Go



Property Looking East



Property Looking North



Property Looking West



View from Intersection of
Rolling Meadows Drive and Weymouth Road
Demonstrates Visibility and Unobstrcted View for Approaching Traffic



Property Looking South