



Village of Lincolnwood Zoning Board of Appeals

Meeting
Wednesday, September 18, 2024
7:00 P.M.

in the
Gerald C. Turry Village Board Room
Lincolnwood Village Hall - 6900 North Lincoln Avenue

Meeting Agenda

1. **Call to Order/Roll Call**
2. **Pledge of Allegiances**
3. **Approval of Minutes**
July 17, 2024 Meeting Minutes
4. **Case #ZB-08-24: 7100 North Kedvale Avenue – Variation to Reduce the Required Rear Yard Setback for an Attached Accessory Structure**
Request: Consideration of a request by Ioan Tom Bura, property owner, for approval of a Zoning Variation to reduce the required rear yard setback from 30 feet to 14 feet at the property commonly known as 7100 North Kedvale Avenue. The Variation would allow for the construction of a pergola attached to the west side of the existing home. During the Public Hearing, the Zoning Board of Appeals may consider any additional relief related to this case.
5. **Case #ZB-09-24: 7125 North Kilbourn Avenue – Special Fence for Natural Screening in the Public Right-of-Way and a Variation Related to a Required Setback from the Public Sidewalk**
Request: Consideration of a request by Salman Khan, property owner, for approval of 1) a Special Fence to allow the installation of natural screening in the public right-of-way along Kilbourn Avenue pursuant to Section 3.13(8) of the Zoning Ordinance, and b) a Zoning Variation from Section 3.13(8)a.vi to waive the required three-foot setback between the proposed natural screening and the public sidewalk, at the property commonly known as 7125 North Kilbourn Avenue. The Petitioner's intent is to supplement existing legal non-conforming natural screening with new natural screening installed in the same general location. During the Public Hearing, the Zoning Board of Appeals may consider any additional relief related to this case.
6. **Next Meeting: Wednesday, October 14, 2024**
7. **Public Comment**
8. **Adjournment**

Posted: September 13, 2024



**Draft MEETING MINUTES
OF THE
July 17, 2024
ZONING BOARD OF APPEALS
LINCOLNWOOD VILLAGE HALL
Gerald C. Turry Village Board Room**

Zoning Board of Appeals Members Present: Chairman Bruce Heller, Commissioners Martin Youkhanna, Rizwan Hussain, and Meldina Dervisevic

Absent: Commissioners Anna Velasquez and Aida Cantic

Staff Present: Planning and Economic Development Manager Doug Hammel

I. Call to Order/Roll Call

Chairman Heller noted a quorum of four members and called the meeting to order at 7:10 p.m.

II. Pledge of Allegiance

III. Approval of June 26, 2024, ZBA Meeting Minutes

Motion: Commissioner Dervisevic made a motion to accept the minutes as presented.

The motion was seconded by Commissioner Youkhanna.

Aye: Chairman Heller and Commissioners Hussain, Youkhanna and Dervisevic

Nay: None

Abstain: None

Motion Approved: 4-0

IV. Case #ZB-06-24: 6531 North Knox Avenue – Variation Related to a Fence in the Interior Side Yard

Planning and Economic Development Manager Doug Hammel went over the particulars of the case. The petitioner is looking to install a six-foot-tall shadowbox fence along a portion of the property's northern lot line. The proposed fence is intended to provide additional privacy from the current neighbor directly to the north. Mr. Hammel explained why the proposed fence requires zoning relief as well as other code compliant options the applicant could pursue. Mr. Hammel also provided a couple examples of similar cases that were reviewed by the ZBA in the recent past. Finally, Mr. Hammel provided 2 examples of public comment that showed support for the proposed variation.

Petitioners: Steven Horwitz and Donna Horwitz.

Mr. Horwitz gave some context for the proposed variation and gave some history for the adjacent property. He stated that the new tenants of the neighboring property include 7 children and they are very active in their rear yard and that increased activity has led him to look for additional privacy for his home. Mr. Horwitz also provided some additional photographs to the commissioners showing the equipment that the neighbors have in their back yard that is currently in plain view of the applicant's kitchen window. He reiterated that they are not looking to expand the existing fence, only to change the type and height of the fence.

Commissioner Hussain asked if a variation would be required if it was the northern neighbor that was requesting this type of fence at the proposed location.

Mr. Hammel stated that based on the configuration of the northern neighbor's property that they would not need a variation for a similar fence.

Mrs. Horwitz addressed the commission and reiterated the points made by her husband.

Public Comment provided by Jim Hirsh in support of the proposed variation.

Commissioner Hussain noted that what makes this case unique is that if the neighbors to the north were the party requesting this relief that they would not need a variation.

Commissioner Dervisevic asked staff for more information about the prior similar requests referenced in the presentation. Mr. Hammel went over some of the specifics about the case at 6838 N. Ramona (2017) and discussed the similarities between the two cases.

Commissioner Dervisevic asked about code enforcement options in relation to the activity of the northern neighbors. Mr. Hammel stated that staff has looked into this option and presented some of the difficulties with enforcing the nature of the perceived complaint. Also he mentioned the reluctance of the petitioner to formally request code enforcement actions because they do have to live next to these neighbors and do not want to increase any potential tension.

Mrs. Horowitz addressed the commission to agree with Mr. Hammel's assessment. She stated that they understand that the neighbors have kids and don't want to limit their activities, that they are just looking for an added layer of privacy.

The commissioners took a moment to review the Variation Standards before moving forward with a vote.

Motion: Commissioner Dervisevic made a motion to recommend approval of the variation as presented by staff.

The motion was seconded by Commissioner Hussain.

Aye: Chairman Heller and Commissioners Hussain, Youkhanna and Dervisevic

Nay: None

Abstain: None

Motion Approved: 4-0

This item will go to the Village Board on August 20, 2024.

V. Discussion: 2022-2024 ZBA Biennial Report

Planning and Economic Development Manager Doug Hammel went over the report explaining that each advisory board and commission provides a biennial report to the Village Board. This specific report covers the activities of the ZBA from May 2022 through May 2024.

Mr. Hammel highlighted the activities of the ZBA including eighteen different requests and three zoning text amendments as well as one joint Plan Commission/ Zoning Board of Appeals training session. Mr. Hammel also noted the suggested goals for the next 2 years for the ZBA.

Commissioner Hussain stated that he thinks that there may be a problem with the attendance of some members. Also noting that the ZBA is currently short a member doesn't help that fact.

Chairman Heller agreed with Commissioner Hussain about the current vacancy and attendance issues. He also wanted to express thanks to Mr. Hammel for the quality and attention to detail of the staff reports and meeting presentations. He also noted that when you look at how little the Village Board deviates from the recommendations provided by the ZBA he feels like the ZBA is doing their job as intended.

Commissioner Dervisevic noted that as a newer member she feels that more resources should be put into acclimating new commissioners on the expectations of being a commissioner including a better onboarding system including training. She also mentioned that the Village should look more into outreach when looking to fill seats on the ZBA.

Motion: Commissioner Hussain recommend approval of the Biennial Report to the Village Board

The motion was seconded by Commissioner Youkhanna.

Aye: Chairman Heller and Commissioners Hussain, Youkhanna and Dervisevic

Nay: None

Abstain: None

Motion Approved: 4-0

This item will go to the Village Board on August 20, 2024.

VI. Public Comment

The public was asked if anyone participating in the meeting would like to address the Zoning Board of Appeals. Let the record state that no one came forward.

VI. Next Meeting

The next meeting of the Zoning Board of Appeals is scheduled for Wednesday, August 21, 2024.

VII. Adjournment

Motion to recommend adjournment was made by Commissioner Hussain.

The motion was seconded by Commissioner Youkhanna.

Aye: Chairman Heller and Commissioners Hussain, Youkhanna and Dervisevic

Nay: None

Abstain: None

Motion Approved: 4-0

The meeting was adjourned at 7:58 p.m.

Respectfully submitted,

Marcos Classen
Community Development Coordinator



Zoning Board of Appeals Staff Report

Case #ZB-08-24

September 18, 2024

Subject Property:
7100 North Kedvale Avenue

Zoning District: R-3 Residential

Petitioner: Ioan Tom Bura, property owners

Requested Action: Approval of Zoning Variation regarding the required rear yard setback



Notification: Notice was published in the Lincolnwood Review on August 29, 2024, a public hearing sign was installed at the subject property at 7100 North Kedvale Avenue, and mailed notices dated August 28, 2024, were sent to properties within 250 Feet.

Summary of Request

Ioan Tom Bura, property owner, seeks approval of a Variation to allow the construction of an attached pergola in the rear yard of the property commonly known as 7100 North Ridgeway Avenue. The subject property is a coresidential lot located at the northwest corner of Kedvale Avenue and Estes Avenue. It is located in the R-3 Residential zoning district and is surrounded by other properties in that same district. The lot has an area of 4,140 square feet. The garage is accessed by a curb cut located on Kedvale Avenue, and the primary entrance to the home front on Estes Avenue.

Proposed Improvement

The Petitioner seeks approval to install a pergola attached to the rear façade of the home and extending into the rear yard. The pergola would be approximately the same width as the rear façade of the home and would extent 16' into the rear yard in order to cover an existing patio. It would be constructed out of wood with standard construction methods for this type of amenity on a residential property. The pergola would include a roof membrane to provide weather protection.

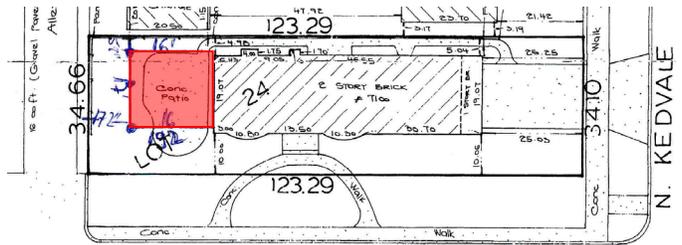
Required Approval

Section 4.11 of the Zoning ordinance establishes regulations related to bulk, scale, and setbacks in certain residential zoning districts. That section establishes a minimum rear yard setback of 30 feet for properties in the R-3 district. The setback of the existing primary structure from the rear lot line is approximately 30 feet. Therefore, any accessory structure will encroach into that required setback.



Photo of the installed pergola

The proposed structure extends approximately 16 feet from the rear façade of the home. As a result, the proposed rear yard setback would be 14 feet. A Variation from Section 4.11 is required to reduce the minimum required rear yard setback to 14’.



Plat of Survey showing the location of the pergola (red shaded area)

Considerations

The Zoning Board of Appeals (ZBA) may consider the following when determining the appropriateness of the requested relief.

Status of Pergola Installation

As evidenced by a photo submitted by the Petitioner, the pergola in question has already been installed. It was installed without a permit, and since being notified of this violation the Petitioner has been acting in good faith to seek all necessary approvals. The ZBA is under no obligation to recommend approval of the requested relief, and the Petitioner will be held to whatever determination is made regarding the requested Variation. If approved, the structure will be subject to all relevant building regulations.

Adjacency to a Public Alley

The subject property is bound on the west side by a public alley. This alley is adjacent to the property’s rear lot line. As a result, there is an additional separation of 16 feet between the west edge of the proposed pergola and the property immediately west of the subject property (4170 West Estes Avenue).

Corner Lot Configurations

Throughout the Village, corner lots are often configured differently than interior lots. Corner side yard setbacks often require the building to be placed toward the rear interior corner of the property. As a result, the primary structure is often abutting or encroaching into the required rear yard setback, resulting in minimal or no opportunity to install attached accessory structures that interior properties may be better suited to accommodate.

Existing Natural Screening

The subject property currently has natural screening along the south and west lot lines enclosing the rear yard. This natural screening may block some of the visibility of the proposed pergola from the public street and adjacent properties.



Photo showing existing natural screening along Estes Avenue frontage and rear alley

Zoning Variation Standards

When considering the appropriateness of a Variation request, Section 5.15(7) of the Zoning Code states that “there shall be taken into consideration the extent to which the following facts are established:

- a) *The requested major variation is consistent with the stated intent and purposes of this Zoning Ordinance and the Comprehensive Plan;*
- b) *The particular physical surroundings, shape or topographical conditions of the subject property would bring a particular hardship upon the owner, as distinguished from a mere inconvenience, if the strict letter of this Zoning Ordinance is enforced;*
- c) *The conditions upon which the petition for the variation is based would not be applicable generally to other property within the same zoning district;*
- d) *The variation is not solely and exclusively for the purpose of enhancing the value of or increasing the revenue from the property;*
- e) *The alleged difficulty or hardship has not been created by any person presently having an interest in the property;*
- f) *The granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located;*
- g) *The variation granted is the minimum change to the Zoning Ordinance standards necessary to alleviate the practical hardship on the subject property; and*
- h) *The proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the danger of fire, or otherwise endanger the public safety, or substantially diminish or impair property values within the neighborhood.”*

Prior Similar Relief

The following prior requests considered by the ZBA relate to a reduction in required setbacks. These may provide context for the Petitioner’s request, though each case is based on its own unique circumstances and findings of fact.

4720 West Falwell Avenue (2024)

The property owner sought a Variation to install an addition with a setback of 13.6 feet from the rear lot line. The rear lot line is abnormally shaped and the addition was found to be a limited incremental encroachment over an existing three-seasons room. The ZBA reviewed the Variation standards and determined that the unique characteristics of the subject property, and the reasonable nature of the proposed addition, warranted approval. The ZBA recommended approval of the Variation and the Village Board concurred.

6446 North Spaulding Avenue (2024)

The property owner sought a Variation to install a pergola with a setback from the rear lot line of 2.6 feet. The unique configuration of the townhouse development and subject property were found to be factors in the request. The ZBA supported the rationale for the request, but insisted that the setback be three feet in order to be consistent with what would be required of a detached accessory structure. The Village Board concurred with the ZBA's recommended approval of a three-foot setback.

6851 North Knox Avenue (2023)

The property owner originally sought Variations to install a one-story addition along the north lot line of the property. The plan required a reduction in the side yard setback from six feet to 4.66 feet (to match the existing legal non-conforming garage setback), and a reduction in the rear yard setback from 30 feet to 20 feet. The ZBA recommended approval of the requested relief. However, the Village Board requested that the Petitioner consider reconfiguring the plan to reduce the magnitude of the requested Variations. The revised plan complied with the required side yard setback and reduced the requested rear yard setback to 27 feet instead of 30 feet as required by the code. The Village Board approved the revised request by a 4-3 vote.

6721 North Lemai (2021)

The property owner sought a Variation to install an addition along the north lot line that would include an upper-floor addition above the attached garage and a two-floor addition to the rear of the garage. The ZBA unanimously recommended approval of the request, noting that the existing deck above the garage established a building height similar to the height of the proposed eave, thereby minimizing the amount of new incremental impact on the neighboring property. The Village Board concurred with the ZBA's recommendation and granted the Variation request.

Public Comment

Staff received no public comment related to this case prior to the posting of the agenda. Any public comment received after the posting of the packet will be provided to the ZBA during the public hearing.

Conclusion

The Petitioner seeks approval of a Zoning Variation from Section 4.11 to reduce the required rear yard setback for an attached accessory structure from 30 feet to 14 feet.

Documents Attached

1. Petitioner Responses to Variation Standards
2. Plat of Survey Showing the Proposed Pergola Footprint
3. Design Plan
4. Photos of the Subject Property Submitted by the Petitioner
5. Relevant Regulations
6. ZBA Commissioner Checklist of Variation Standards

ATTESTMENT AND SIGNATURE

I hereby state that I have read and understand the Village cost reimbursement requirement, as well as the requirements and procedures outlined in Article V of the Village Zoning Ordinance, and I agree to reimburse the Village within 30 days after receipt of an invoice therefor. I also understand that if I desire a Reasonable Accommodation from the Zoning Code based on disability or handicap, that I must complete and submit a different application for consideration and by submitting this application for a Variation, I am attesting that I am not seeking a Reasonable Accommodation. I further attest that all statements and information provided in this application are true and correct to the best of my knowledge and that I have vested in me the authority to execute this application.

PROPERTY OWNER:

PETITIONER: (if Different than Property Owner)

Signature

Signature

Print Name

Print Name

Date

Date

VARIATION STANDARDS

To be approved, each Variation request must meet certain specific standards. These standards are listed below. After each listed standard, explain how your Variation request satisfies the listed standard. Use additional paper if necessary.

1. The requested Variation is consistent with the stated intent and purposes of the Zoning Ordinance and the Comprehensive Plan.

I need this pergola built because when it rains or snows all water and snow falls on the lower level window and it penetrates into the house. This was a big issue when I purchased the house

2. The particular physical surroundings, shape or topographical conditions of the subject property would bring a particular hardship upon the owner, as distinguished from a mere inconvenience, if the strict letter of this Zoning Ordinance is enforced.

The pergola will not affect or bother my neighbors

3. The conditions upon which the petition for the Variation is based would not be applicable generally to other property within the same Zoning District.

This is a special situation.
I am trying to make my house comfortable for my family.

4. The Variation is not solely and exclusively for the purpose of enhancing the value of or increasing the revenue from the property.

yes, the petition is for my own use not to increase the value of the property.

VARIATION STANDARDS (Continued)

5. The alleged difficulty or hardship has not been created by any person presently having an interest in the property.

I don't plan to sell this house.

6. The granting of the Variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.

7. The Variation granted is the minimum change to the Zoning Ordinance standards necessary to alleviate the practical hardship on the subject property.

It is necessary and it helps alot to have the pergola.

8. The proposed Variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the danger of fire, or otherwise endanger the public safety, or substantially diminish or impair property values within the neighborhood.

The pergola is not affecting in any negative way the structure of the house

SIGN VARIATION STANDARDS

For all Sign Variation and/or Special Sign requests, the Applicant shall also complete Questions 9 through 12.

9. The proposed Variation is consistent with the statement of purpose set forth in Section 11.01 of the Zoning Ordinance.

10. The proposed sign complies with any additional standards or conditions set forth in Article XI of the Zoning Ordinance.

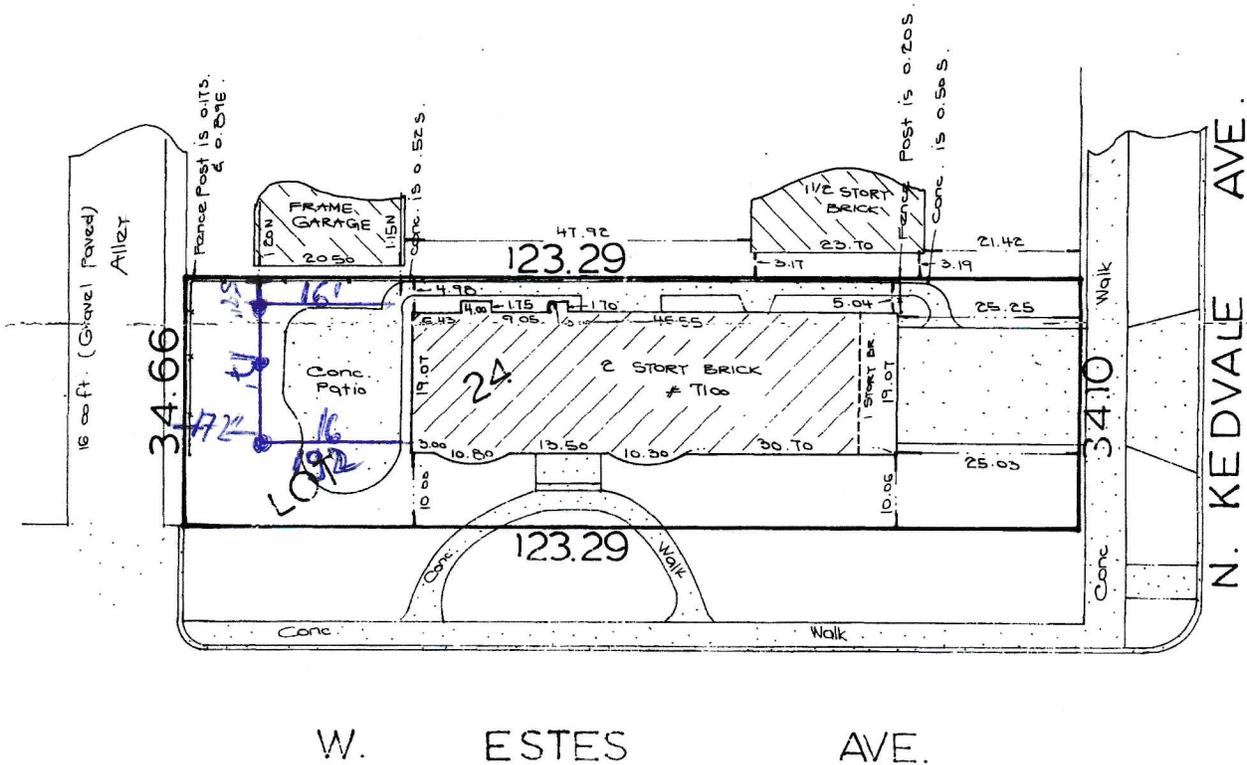
MM SURVEYING CO., INC. PLAT OF SURVEY

5812 W. HIGGINS AVE.
CHICAGO, IL 60630

PHONE: 773/282-5900
FAX: 773/282-9424



LOT 24 IN BLOCK 2 IN MOLLAHAN'S KENILWORTH AVENUE SUBDIVISION OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 34, TOWNSHIP 41 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.



Order No. 49648
Scale. 1 inch = 16 feet
Date July 10, 2000
Ordered by MCFARLAND & CORNFIELD



State of Illinois }
County of Cook }
We, M M Surveying Co., Inc., do hereby certify that we have located the building on the above property

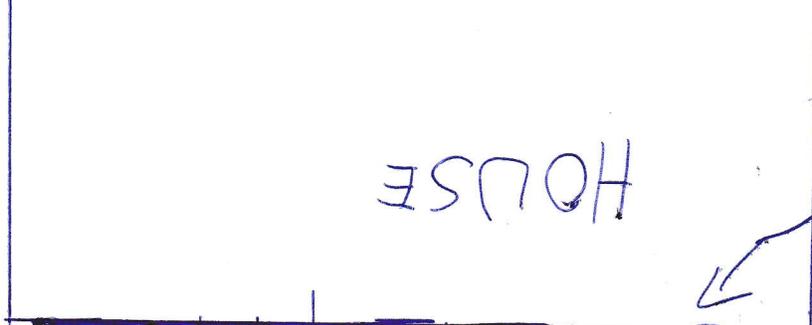
REG. ILL. Land Surveyor

COMPARE ALL POINTS BEFORE BUILDING BY SAME AND AT ONCE REPORT ANY DIFFERENCE REFER TO ABSTRACT OR DEED FOR BUILDING RESTRICTIONS COMPARE THE DESCRIPTION IN THIS PLAT WITH YOUR DEED, ABSTRACT OR CERTIFICATE OF TITLE

State of Illinois }
County of Cook }
We, M M Surveying Co., Inc., do hereby certify that we have surveyed the above described property and that the plat hereon drawn is a correct representation of said survey.

M. Mollahan

REG. ILL. Land Surveyor



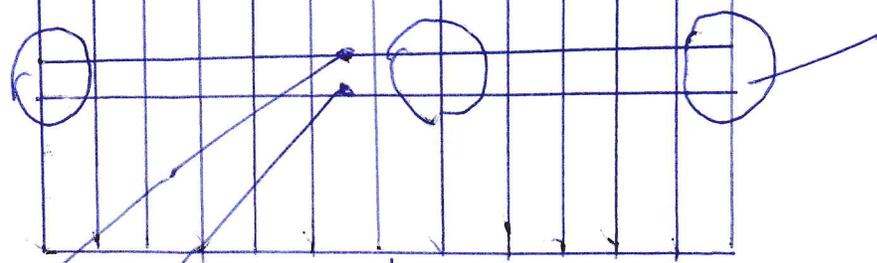
2x10
LEGER BOARD
BOLTED TO THE
HOUSE WITH
2 SIMPSON BULZ
ON EACH SIDE

2x10

2x8
2x8

2x10

42" DEEP
FOOTINGS



2x10

DOUBLE 2x10 BEAM

SITTING ON TE POST GRC NOTCHED 1.5"
WITH BOLTS



Attachment #5. Relevant Regulations

4.12 Area, bulk, density and setback standards: R-4 - General Residence District.

[Abridged for brevity]

Yard Standards

Minimum front setback (feet) (Note 5)	25
Minimum front yard coverage with landscaping (%)	50%
Min. interior side setback (feet) single-family detached dwellings	The greater of 5 or 10% of lot width
Min. interior side setback (feet) single-family semidetached dwellings (one yard only)	5
Min. interior side yard (single-family attached)	None
Min. interior side yard setback (feet) multifamily dwellings and nonresidential uses	5
Min. corner side yard setback (feet)	10
Min. rear setback (feet)	30
Min. rear setback (feet) where alley exists (measured from center line of alley)	38

3.08 Accessory buildings, structures and uses.

(1) Accessory uses shall be permitted with all permitted and special uses as allowed in the various zoning districts.

(2) Accessory uses shall be compatible with the principal use and shall not be established prior to the establishment of the principal use, and shall not include the keeping, propagation, or culture of pigeons, poultry or livestock, whether or not for profit.

(3) Every tower, pole or antenna structure shall comply with the rear yard setback requirements of this Zoning Ordinance and as specifically set forth in Subsection 3.12 of this article.

(4) Except as otherwise regulated herein, an accessory building hereafter erected, altered, enlarged or moved on a lot shall conform with the following:

- a. A detached accessory building shall not be nearer than 15 feet from the nearest wall of the principal building, nor within 60 feet of the front lot line.
- b. A detached accessory building or an accessory building when attached to the principal building shall not be located in a front yard, interior side yard or side yard abutting a street; except that an attached garage may be located in a front or side yard provided that applicable setback requirements are met.
- c. A detached accessory building or structure in a rear yard shall be not less than three feet from a lot line, except:
 - i. On corner lots: not less than five feet from a rear lot line which adjoins a lot in a Residence District and not less than required corner front yard abutting a street;
 - ii. On through lots: not less than the distance required for a front yard setback from the rear lot line abutting a street; and
 - iii. An accessory building having vehicular access from an alley not less than five feet from the lot line abutting the alley.

(5) A detached accessory building or structure greater than 120 square feet in area located in a rear yard shall not exceed one story or 17 feet in height, whichever is lower. An accessory building or structure of 120 square feet or less in area located in the rear yard shall not exceed 12 feet in height. Accessory buildings shall not occupy more than 30% of a rear yard.

(6) A building intended for an accessory use, when attached to or a part of the principal building, shall be deemed a part of the principal building with regard to all setback and other requirements hereunder. If a building intended for an accessory use is attached to or made part of the principal building, it must meet Building Code standards for the principal building.

5.15 Major variations.

(7) Standards. In determining whether in a specific case there are practical difficulties or particular hardships in the way of carrying out the strict letter of this Zoning Ordinance, there shall be taken into consideration the extent to which the following facts are established:

- a. The requested major variation is consistent with the stated intent and purposes of this Zoning Ordinance and the Comprehensive Plan;
- b. The particular physical surroundings, shape or topographical conditions of the subject property would bring a particular hardship upon the owner, as distinguished from a mere inconvenience, if the strict letter of this Zoning Ordinance is enforced;
- c. The conditions upon which the petition for the variation is based would not be applicable generally to other property within the same zoning district;
- d. The variation is not solely and exclusively for the purpose of enhancing the value of or increasing the revenue from the property;

- e. The alleged difficulty or hardship has not been created by any person presently having an interest in the property;
- f. The granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located;
- g. The variation granted is the minimum change to the Zoning Ordinance standards necessary to alleviate the practical hardship on the subject property; and
- h. The proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the danger of fire, or otherwise endanger the public safety, or substantially diminish or impair property values within the neighborhood.

Village of Lincolnwood Plan Commission: Variation Standards Checklist

ZBA Worksheet for Variation Requests

Commissioners can separate this worksheet from their packet and make their own notes in advance of the hearing. This is intended to assist in the establishment of findings of fact that may support a recommendation to be forwarded to the Village Board.

How the Standards Should Be Applied

Section 5.15(7) states that *“in determining whether in a specific case there are practical difficulties or particular hardships in the way of carrying out the strict letter of this Zoning Ordinance, there shall be taken into consideration the extent to which the following facts are established....”*

Variation Standards Worksheet

Address: 7100 North Kedvale Avenue

Case #: ZB-08-24

Requested Variation: Variation to allow an attached accessory structure with a rear yard setback of 14’

Standards	Comments/Additional Questions for Discussion
A. The requested major variation is consistent with the stated intent and purposes of this Zoning Ordinance and the Comprehensive Plan	
B. The particular physical surroundings, shape or topographical conditions of the subject property would bring a particular hardship upon the owner, as distinguished from a mere inconvenience, if the strict letter of this Zoning Ordinance is enforced	
C. The conditions upon which the petition for the variation is based would not be applicable generally to other property within the same zoning district	
D. The variation is not solely and exclusively for the purpose of enhancing the value of or increasing the revenue from the property	
E. The alleged difficulty or hardship has not been created by any person presently having an interest in the property	

Village of Lincolnwood Plan Commission: Variation Standards Checklist

<p>F. The granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located</p>	
<p>G. The variation granted is the minimum change to the Zoning Ordinance standards necessary to alleviate the practical hardship on the subject property</p>	
<p>H. The proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the danger of fire, or otherwise endanger the public safety, or substantially diminish or impair property values within the neighborhood</p>	
<p>I. For variations from Article XI (Signs) of this Zoning Ordinance:</p> <ul style="list-style-type: none">(1) The proposed variation is consistent with the statement of purpose set forth in Section 11.01 of this Zoning Ordinance;(2) The proposed sign complies with any additional standards or conditions set forth in Article XI of this ordinance;(3) The proposed sign will substantially enhance the architectural integrity of the building or other structure to which it will be attached, if any; and(4) The proposed sign conforms with the design and appearance of nearby structures and signs.	



Zoning Board of Appeals Staff Report

Case #ZB-09-24

September 18, 2024

Subject Property:
7125 North Kedvale Avenue

Zoning District: R-3 Residential

Petitioner: Salman Khan, property owners

Requested Action: Approval of Special Fence and Zoning Variation related to natural screening in the public right-of-way



Notification: Notice was published in the Lincolnwood Review on August 29, 2024, a public hearing sign was installed at the subject property at 7125 North Kilbourn Avenue, and mailed notices dated August 28, 2024, were sent to properties within 250 Feet.

Summary of Request

Salman Khan, property owner, seeks approval of a Special Fence and Zoning Variation to allow the installation of natural screening in the public right-of-way adjacent to his property commonly known as 7125 North Kilbourn Avenue. The property is located at the southeast corner of Kilbourn Avenue and Fitch Avenue and lies within the R-3 Residential zoning district. It abuts other single-family properties in the R-3 district to the east and south. However, a Planned Unit Development (PUD) for the Barclay (4545 West Touhy Avenue) is on the west side of Kilbourn Avenue, and the parking lot of a bank located in the B-3 Village Center PD district is on the north side of Fitch Avenue.

Proposed Improvement

The Petitioner seeks approval to install additional natural screening in the public right-of-way adjacent to the rear yard along the Kilbourn Avenue lot line. The proposed natural screening would supplement existing hedges that provide privacy above a certain height but lack foliage closer to the ground. The Petitioner proposes to install the screening immediately adjacent to the public sidewalk so that it is aligned with the existing hedges.

The Petitioner previously installed a fence illegally along that same lot line. In order to come into compliance, he has stated to staff that he is prepared to remove the fence, but seeks to

install the natural screening in order to create the privacy and security needed where his rear yard abuts Kilbourn Avenue.



Photo of the existing hedges along Kilbourn Avenue adjacent to the rear yard of the subject property (fence to be removed)

Required Approvals

The proposed improvement requires the following approvals:

- Section 3.13(8) of the Zoning Ordinance establishes certain types of fences or natural screening that require Special Fence approval. Specially, subsection a.vi identifies “*natural screening on public rights-of-way, utility easements, or Village property installed and maintained by private individuals at their expense....*” Because the proposed improvement meets the zoning definition of “natural screening” and it located in the public right-of-way, a Special Fence approval is required pursuant to Section 3.13(8)a.vi. (The existing hedges are considered legal non-conforming because they were installed prior to the adoption of this provision. However, and new natural screening in the public right-of-way is subject to Special Fence approval.)
- Section 3.13(8)a.vi also establishes certain standards related to the placement of natural screening subject to Special Fence approval. Specifically, it states that natural screening must be “*set back at all times not less than: five feet from all hydrants, utility poles, and similar installations; three feet from all sidewalks; and five feet from the curbline of a street.*” The Petitioner seeks to install new natural screening in the same general alignment as the existing hedges. Doing so would result in landscape materials being planted closer than three feet from the sidewalk and five feet from the curb. Therefore, a Variation from Section 3.13(8)a.vi is required in order to waive the setback requirements. (Similarly to the Special Fence approval noted above, the existing hedges are considered legal non-conforming in terms of setback from the sidewalk and curb.)

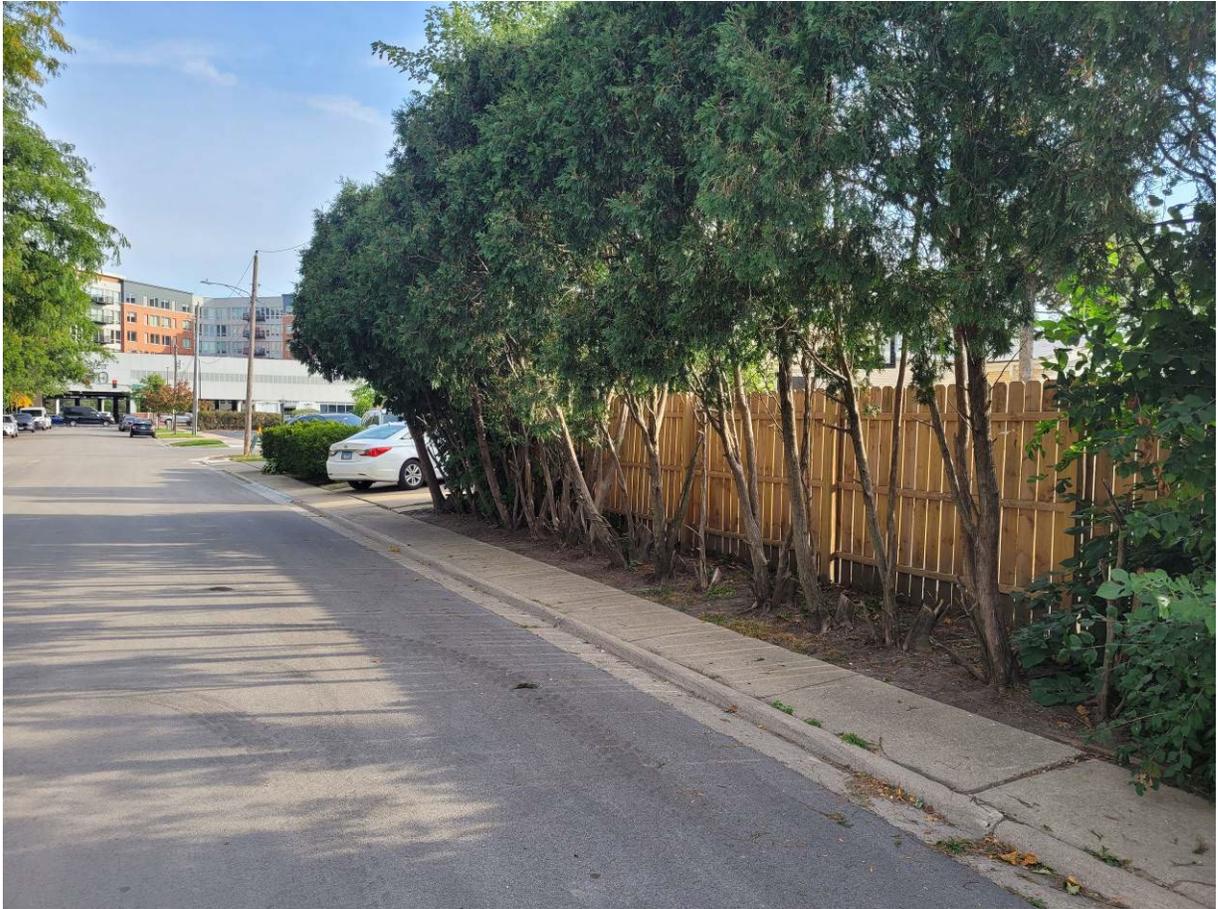


Photo of the characteristics of the public sidewalk and the proximity of the existing hedges

Considerations

The Zoning Board of Appeals (ZBA) may consider the following when determining the appropriateness of the requested approvals.

Removal of the Non-compliant Fence

As noted earlier in this report, the petitioner installed a non-compliant fence along the Kilbourn Avenue lot line. (The fence was installed without a permit, is too opaque, and is located in the public right-of-way.) The Petitioner has worked extensively with staff to consider various code-compliant alternatives and ultimately chose to seek approval of the proposed natural screening. The Petitioner has indicated to staff that he is prepared to remove the non-compliant fence, but is awaiting the outcome of this hearing process so that he can install the natural screening immediately prior to removing the fence.

Proximity to Non-residential Uses

The subject property is in close proximity to the Barclay (4545 West Touhy Avenue), a multi-story office building at 4433 West Touhy, and the mixed-use building at District 1860 (4436-4540 West Touhy). The Petitioner claims that as a result the subject property needs the level of privacy he had hoped to achieve by installing the non-compliant fence. The proposed natural screening would be an alternative means of achieving a similar benefit.



Context map showing the proximity of the subject property and surrounding non-residential uses

Public Parking on Kilbourn Avenue

The Petitioner claims that the east side of Kilbourn Avenue immediately adjacent to his property is often filled to capacity with vehicles parked to provide close access to District 1860 and other non-residential uses. (Staff has observed cars parked in this area during field visits to the property.) The Petitioner argues that the presence of these vehicles, and the people coming and going from them, reinforces his need for privacy that the proposed natural screening would provide.

Public Safety Concerns

The Petitioner claims that vehicles parked on his property have been vandalized or broken into in the recent past. While his residential driveway would not be enclosed by the proposed natural screening, he claims that the screening would provide a greater sense of security for his family in the rear yard of the property where they spend time outside.

Special Fence and Variation Standards

Section 3.13(25)b of the Zoning Ordinance establishes standards specifically related to the review of a Special Fence request. That section states that *“the Zoning Board of Appeals shall not recommend to the Board of Trustees that a special fence permit be granted unless it makes findings of fact based upon evidence presented at the hearing in any given case that:*

- i. The special fence will serve the public convenience at the location of the subject fence; or that the establishment, maintenance or operation of the special fence will not be detrimental to or endanger the visibility, public safety, comfort or general welfare.*

- ii. *The special fence will be in harmony and scale with the architecture of the building in this development and with other fences in the neighborhood.*
- iii. *The special fence will not be injurious to the use and enjoyment of other property in the immediate vicinity of the subject property for the purpose already permitted; nor substantially diminish and impair the visibility of adjacent property.*
- iv. *The nature, location and size of the special fence will not impede, substantially hinder, or discourage the installation of fences on adjacent property in accordance with the Fence Ordinance.*
- v. *The special fence shall in all other respects conform to the regulations of this Section 3.13 except as modified as provided herein.”*

It is worth noting that, unlike Variation standards that are to be considered, the Special Fence standards specifically state that such a request shall not be recommended for approval unless it is found that all standards are satisfied.

In addition to the Special fence standards, Section 5.15(7) of the Zoning Ordinance establishes standards related to all Variation requests. That section states that *“there shall be taken into consideration the extent to which the following facts are established:*

- a) *The requested major variation is consistent with the stated intent and purposes of this Zoning Ordinance and the Comprehensive Plan;*
- b) *The particular physical surroundings, shape or topographical conditions of the subject property would bring a particular hardship upon the owner, as distinguished from a mere inconvenience, if the strict letter of this Zoning Ordinance is enforced;*
- c) *The conditions upon which the petition for the variation is based would not be applicable generally to other property within the same zoning district;*
- d) *The variation is not solely and exclusively for the purpose of enhancing the value of or increasing the revenue from the property;*
- e) *The alleged difficulty or hardship has not been created by any person presently having an interest in the property;*
- f) *The granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located;*
- g) *The variation granted is the minimum change to the Zoning Ordinance standards necessary to alleviate the practical hardship on the subject property; and*
- h) *The proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the danger of fire, or otherwise endanger the public safety, or substantially diminish or impair property values within the neighborhood.”*

In addition to the Variation standards noted above that are generally applicable to all Variation requests, Section 3.13(24) of the Zoning Ordinance establishes standards specifically related to Variation requests for fencing. Subsection (b) of that section states that *“a fence variation from the provisions or requirements of this section may be recommended to the Board of Trustees where the Zoning Board of Appeals finds:*

- i. *The literal interpretation and strict application of the provisions and requirements of this article would cause undue and unnecessary hardship because of unique or unusual conditions pertaining to the specific building parcel or property in question or pertaining to some aspect of the proposed fence or in its relation to other objects;*

- ii. *The granting of the requested Fence Variation would not be materially detrimental to the property owners in the vicinity;*
- iii. *The unusual conditions applying to the specific property do not apply generally to other properties in the Village;*
- iv. *The granting of the fence variation would not be contrary to the general objective of this section; and*
- v. *The alleged hardship has not been created by any person presently having a proprietary interest in the subject fence (or property)."*

Subsection (c) of Section 3.13(24) states that *"no variations will be permitted from the requirements of this section:*

- i. *Where the effect of a variation would be to cause a fence or any portion thereof to encroach in, on, over, under, or above the public right-of-way.*
- ii. *Where a fence height of greater than six feet is sought for a fence in a residential district unless such fence is located in a rear or side yard along a lot line which abuts a lot line of a lot in a manufacturing district."*

Item (ii) above is not relevant to this request. Item (i) above would seem to impact the petitioner's ability to seek a Variation to waive the required three-foot setback from the sidewalk and five-foot setback from the curb. However, staff's opinion is that this provision would typically be applicable to fences that would otherwise be prohibited from being installed in the public right-of-way, rather than for natural screening in the right-of-way that is contemplated pursuant to Special Fence approval.

Similar Prior Requests

Due to the relatively recent enactment of Section 3.13(8)a.vi (allowing natural screening in the public right-of-way pursuant to a Special Fence approval), there is only one prior similar request to point to. In 2022, the owner of 7356 North Lockwood Avenue requested Special Fence approval for the installation of natural screening in the public right-of-way along Pratt Avenue. Pratt Avenue is adjacent to that property's corner side yard, and the owner was seeking to create privacy from the traffic along that corridor. The ZBA and Village Board supported the owner's request, and required that the natural screening be planted and maintained in a manner that is compliant with required setbacks.

Staff is not aware of any requests related to the waiving of setback requirements from sidewalk or curbs for natural screening.

Public Comment

Staff received comments from four residents prior to the public posting of this report. (Any additional comments received after the public posting of this report will be provided to the ZBA during the hearing.) All of those residents live in the Barclay condominium building at 4545 West Touhy Avenue. Their comments are provided in full as an attachment to this report. In summary, they object to the Petitioner's request and refer to the following concerns or issues:

- The sidewalk on the east side of Kilbourn is narrow, making it difficult to navigate under ideal circumstances;
- The subject property currently allows its landscaping to encroach into the sidewalk, requiring pedestrians to go into the street; and

- Traffic and parking on Kilbourn Avenue have increased since the opening of businesses in District 1860, and this should be expected to get worse as the businesses and residences become more occupied and active.

Conclusion

The Petitioner seeks approval of the following relative to Section 3.13(8)a.vi of the Zoning Ordinance:

- A Special Fence to allow the installation of natural screening in the public right-of-way along Kilbourn Avenue and adjacent to the rear yard of the subject property; and
- A Variation to waive the required three-foot setback from a public sidewalk and five-foot setback from the curb of a street that would otherwise be applicable to the proposed natural screening.

Documents Attached

1. Public Hearing Application
2. Petitioner Responses to Special Fence Standards
3. Petitioner Responses to Variation Standards
4. Plat of Survey
5. Photo of the Subject Property Submitted by the Petitioner
6. Relevant Regulations
7. ZBA Commissioner Checklist of Variation Standards



VILLAGE OF LINCOLNWOOD

6900 Lincoln Ave. | Lincolnwood, IL 60712 | Phone: 847-673-7402

www.lincolnwoodil.org | commdev@lwd.org

Public Hearing Application - Variations

SUBJECT PROPERTY

Property Address: 7125 N. KILBOURN AVE. LINCOLNWOOD.

Permanent Real Estate Index Number(s): 10-34-105-040-0000

*Zoning District: _____ *Lot Area: 5940 sqft

List all existing structures on the property. Include fencing, sheds, garages, pools, etc.

fence

Are there existing development restrictions affecting the property? Yes No
(Examples: previous Variations, conditions, easements, covenants) If yes, describe: Variation

REQUESTED ACTION

- | | |
|-------------------------------------------------------------|----------------------------------------------------------|
| <input checked="" type="checkbox"/> Variation - Residential | <input type="checkbox"/> Variation - Signs/Special Signs |
| <input type="checkbox"/> Variation - Non-Residential | <input type="checkbox"/> Minor Variation |
| <input type="checkbox"/> Variation - Off-Street Parking | <input type="checkbox"/> Other |
| <input type="checkbox"/> Variation - Design Standards | |

PROJECT DESCRIPTION

Describe the Request and Project: landscaping in public right of way.

PROPERTY OWNER/PETITIONER INFORMATION

Property Owner(s): (List all Beneficiaries if Trust)

Name: SALMAN KHAN.

Address: 7125 N. KILBOURN AVE. LINCOLNWOOD, IL 60712.

Telephone: (847) 715 6180 Fax: () E-mail: Salmank1@aol.com

Petitioner: (if Different from Owner)

Name: _____ Relationship to Property: _____

Address: _____

Telephone: () Fax: () E-mail: _____

NOTICE OF REASONABLE ACCOMMODATION PROCESS

An alternate process is provided by the Village for persons with disabilities or handicaps who seek a Reasonable Accommodation from the Zoning Code regulations in order to gain equal access to housing. If you seek a Reasonable Accommodation from the Zoning Code based on disability or handicap, do not complete this application form, but rather a separate application for Reasonable Accommodation. For more information on this process, consult Section 4.06(3) of the Zoning Code, or contact the Community Development Department at 847.673.7402.

REQUIRED ATTACHMENTS *

Check all Applicable Documents:

Plat of Survey	<input checked="" type="checkbox"/>	Applicable Zoning Worksheet	<input type="checkbox"/>
Site Plan	<input type="checkbox"/>	Photos of the Property	<input checked="" type="checkbox"/>
Proof of Ownership	<input checked="" type="checkbox"/>	PDF Files of all Drawings	<input type="checkbox"/>
Floor Plans	<input type="checkbox"/>	Elevations	<input type="checkbox"/>

*The above documents are required for all applications. The Zoning Officer may release an applicant from specific required documents or may require additional documents as deemed necessary.

COST REIMBURSEMENT REQUIREMENT

The Village requires reimbursement of certain out-of-pocket costs incurred by the Village in connection with applications for zoning approvals and relief. These costs include, but are not limited to, mailing costs, attorney and engineer costs, and other out-of-pocket costs incurred by the Village in connection with this application. In accordance with Section 5.02 of the Village of Lincolnwood Zoning Ordinance, both the Petitioner and the Property Owner shall be jointly and severally liable for the payment of such out-of-pocket costs. Out-of-pocket costs incurred shall be first applied against any hearing deposit held by the Village, with any additional sums incurred to be billed at the conclusion of the hearing process.

Invoices in connection with this application shall be directed to:

Name: SALMAN KHAN.
Address: 7125 N. KILBOURN AVE.
City, State, Zip: LINCOLNWOOD, IL 60712.



Special Fence Standards

LANDSCAPING IN PUBLIC

RIGHT-OF-WAY

To be approved, each Special fence request must meet certain specific standards. These standards are listed below. After each listed standard, explain how the Special Fence request satisfies the listed standard.

Project Address	7125 N. KILBOURN AVE. LINCOLNWOOD, IL 60712.
-----------------	----------------------------------------------

1. Please explain how the Special Fence is necessary for the public convenience at this location. (Please explain in detail)

Remove of the fence we would like to have landscaping in public right of way, before we do have landscaping in many years now once we will be removed the fence after we do need to fill the open spaces with the landscaping (existing landscaping) just like before the fence. The landscaping give some safety and privacy.

2. Please explain how the Special Fence is so designed, located, and proposed to be in harmony and scale with the architecture of the building in this development and with other fences in the neighborhood.

In our case we will not be installing special fence in that case architecture of the building and development not be comparing with neighborhood.
We would like to have landscaping 5ft. variation set back in public right of way.

3. Please explain how this Special Fence would not cause substantial injury to the value of other properties in the neighborhood in which it is located nor substantially diminish and impair the visibility of adjacent property .

We do not have special fence which would not cause substantial injury to the value of other property in the neighborhood.

4. Explain how the nature, location and size of the special fence will not impede, substantially hinder, or discourage the installation of fences on adjacent property in accordance with the Fence Ordinance.

We do not have special fence that ~~can~~ can impede the hinder the nature and location.

Once you have completed the responses to the standards above, please return to your online application and upload this document to that application.

VARIATION STANDARDS

WAIVER OF 3' SETBACK

To be approved, each Variation request must meet certain specific standards. These standards are listed below. After each listed standard, explain how your Variation request satisfies the listed standard. Use additional paper if necessary.

1. The requested Variation is consistent with the stated intent and purposes of the Zoning Ordinance and the Comprehensive Plan.

Our unique property location, where we are concerned our safety, privacy, parking, stealing, throwing garbage, district 1860 traffic and also bradley apartments effect our privacy due to all these factors we have requested to give us a Variation of 5 ft. Set back.

2. The particular physical surroundings, shape or topographical conditions of the subject property would bring a particular hardship upon the owner, as distinguished from a mere inconvenience, if the strict letter of this Zoning Ordinance is enforced.

The physical surroundings are concerning to our safety, privacy, stealing, parking, throwing garbage in our property, district 1860 traffic, restaurant bussiness and also Bradley apartments effect our privacy.

3. The conditions upon which the petition for the Variation is based would not be applicable generally to other property within the same Zoning District.

Our property lot has unique location as compare to other property where as previously factors as mentioned, which are effecting day to day living.

4. The Variation is not solely and exclusively for the purpose of enhancing the value of or increasing the revenue from the property.

Originally this property had landscaping in public right of way, over the period of above factor we have replace the previously existing landscaping with fence, Now this 5ft. variation of set back in public right of way will not increase the revenue of property.

VARIATION STANDARDS (Continued)

5. The alleged difficulty or hardship has not been created by any person presently having an interest in the property.

Variation has not difficulty or hardship created by or for any person.

6. The granting of the Variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.

The granting of 5ft variation set back will not be detrimental to the public welfare or injurious to other property or improvement of neighborhood since landscaping was originally there and now fence is need to be replacd/removed by landscaping.

7. The Variation granted is the minimum change to the Zoning Ordinance standards necessary to alleviate the practical hardship on the subject property.

The grant of 5 ft. Variation what so ever will not alleviate any kind of hardship on the property and zoning ordinance

8. The proposed Variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the danger of fire, or otherwise endanger the public safety, or substantially diminish or impair property values within the neighborhood.

5 ft. Variation set back will not be effect or impair an adequate supply of light, air, not increase the danger of fire and also not effect to public safety.

SIGN VARIATION STANDARDS

For all Sign Variation and/or Special Sign requests, the Applicant shall also complete Questions 9 through 12.

9. The proposed Variation is consistent with the statement of purpose set forth in Section 11.01 of the Zoning Ordinance.

10. The proposed sign complies with any additional standards or conditions set forth in Article XI of the Zoning Ordinance.

1425 Brummel St.
Elk Grove Village, IL 60007

TOPOGRAPHICAL-ALTA/ACSM-BOUNDARY-SUBDIVISIONS-MORTGAGE-CONDOMINIUM

Phone: (847) 734-0330
Fax: (847) 734-0333

Jens K. Doe
Professional Land Surveyors, P.C.

ORDER NO.
08-0261



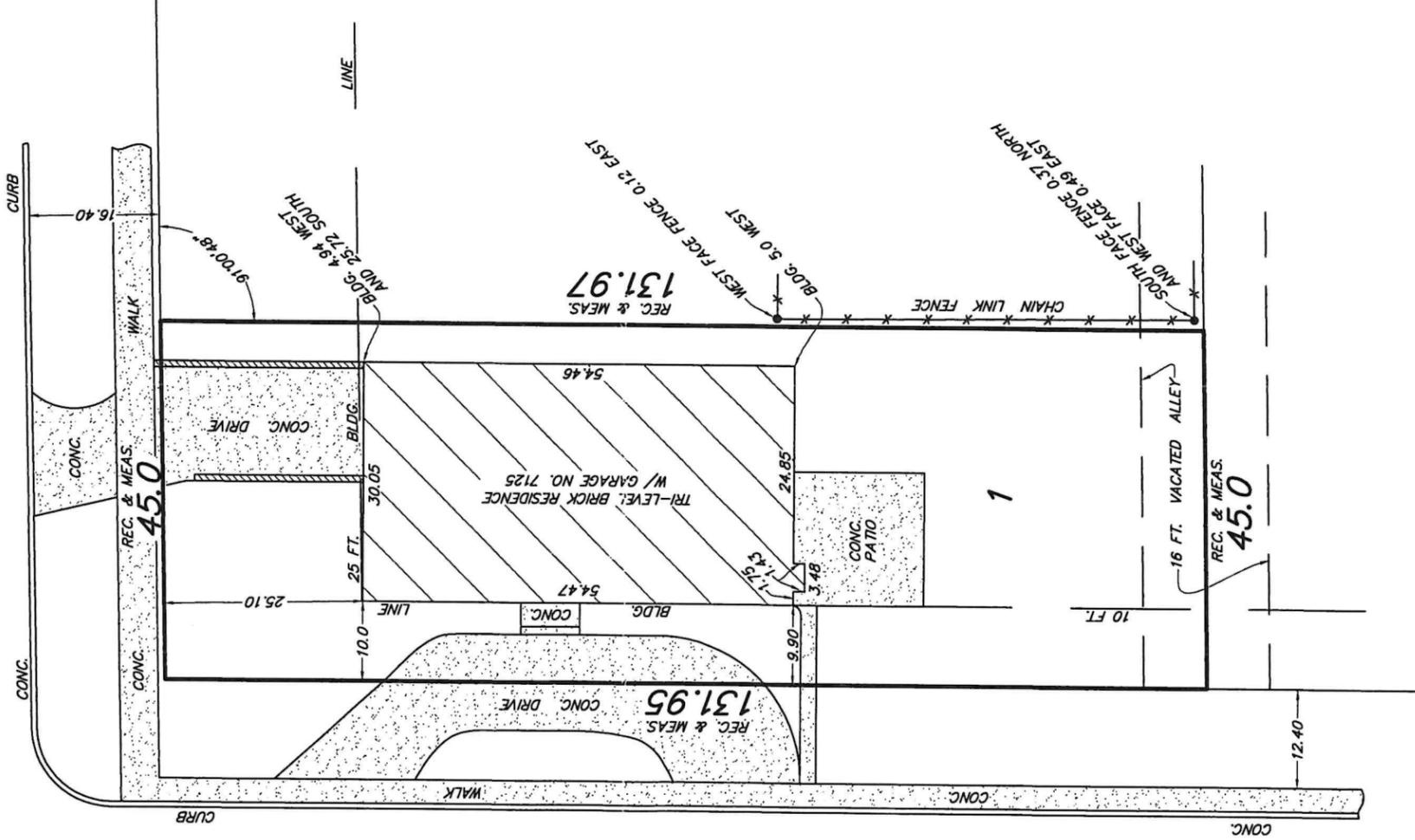
Scale - 1 inch = 20 feet

PLAT OF SURVEY

of
LOT 1 AND THE NORTH HALF OF THE VACATED ALLEY LYING SOUTH AND ADJOINING LOT 1 IN
B.J. FELBINGER SUBDIVISION, A RESUBDIVISION IN THE NORTHWEST QUARTER OF SECTION 34,
TOWNSHIP 41 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY,
ILLINOIS.

COMMONLY KNOWN AS: 7125 KILBOURN AVE., LINCOLNWOOD, IL.

FITCH AVE.



AVE.

KILBOURN

NOTE:
The legal description noted on this plat is a copy of the land survey order placed by the client and for accuracy **MUST** be compared with the Deed. For building restrictions refer to your Abstract, Deed or Contract.

Compare distances between points before building and report any discrepancy to this office immediately.

Dimensions shown hereon are not to be assumed or scaled.

Dimensions shown hereon are in feet and decimal parts thereof.

Property corners have been established to complete the plat of survey shown hereon but have not been staked or flagged per the land survey order in which it was placed by the client.

State of Illinois)
County of Cook)

JENS K. DOE PROFESSIONAL LAND SURVEYORS, P.C., does hereby certify that a survey has been made under its direction, by an Illinois Professional Land Surveyor of the property described hereon and that the plat hereon drawn is a correct representation of said survey.

Chicago, Illinois, Dated this 20th Day of May, 2008.

This professional service conforms to the current Illinois minimum standards for a boundary survey.

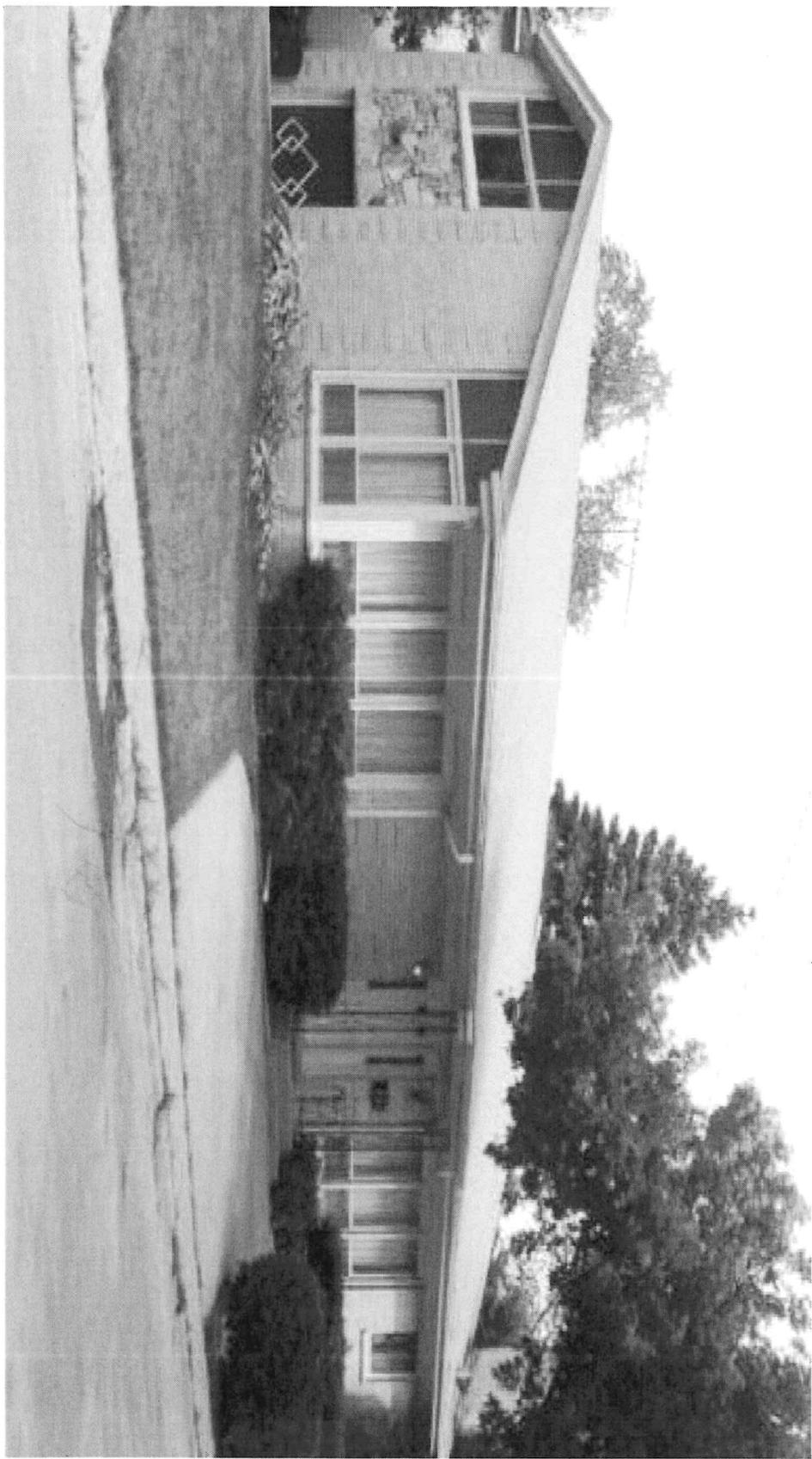
Field work completion date : **May 19, 2008.**

JENS K. DOE PROFESSIONAL LAND SURVEYORS, P.C.

DOMINICK M. BEZINICK
ILLINOIS PROFESSIONAL LAND SURVEYOR NO. 3390
LICENSE EXPIRATION : 11 - 30 - 08

ORDERED BY:
CATHERINE L. HWA

7125 N. Kilbourn Ave. Lincolnwood, IL 60712



Attachment #6. Relevant Regulations

2.02 Definitions.

NATURAL SCREENING: The use of deciduous trees, deciduous bushes, evergreen trees, evergreen bushes or other live plantings which are planted or grown in a manner that creates a hedge which acts as a barrier or boundary.

3.13 Fences and natural screening.

(8) Special fences; preexisting masonry fences: landscape terrace walls; decorative wrought iron fences, through lot fences. Special fences are those which have a greater potential than permitted fences to have an adverse impact upon the surrounding neighborhood. Special fences may be appropriate in some locations and inappropriate in other locations. The following fences may be allowed by special fence authorization in accordance with this Section 3.13 where the Zoning Board of Appeals finds that a special fence is appropriate at the location requested. The Zoning Board of Appeals may recommend, and the Board of Trustees may impose conditions, terms and restrictions in addition to those set forth herein as a condition of granting special fence authorization.

a. The following types of fences shall be special fences:

vi. Natural screening on public rights-of-way, utility easements, or Village property installed and maintained by private individuals at their expense, but only if the natural screening is set back at all times not less than: five feet from all hydrants, utility poles, and similar installations; three feet from all sidewalks; and five feet from the curblineline of a street.

(24) Variations from the requirements of this section.

b. A fence variation from the provisions or requirements of this section may be recommended to the Board of Trustees where the Zoning Board of Appeals finds:

i. The literal interpretation and strict application of the provisions and requirements of this article would cause undue and unnecessary hardship because of unique or unusual conditions pertaining to the specific building parcel or property in question or pertaining to some aspect of the proposed fence or in its relation to other objects;

ii. The granting of the requested Fence Variation would not be materially detrimental to the property owners in the vicinity;

iii. The unusual conditions applying to the specific property do not apply generally to other properties in the Village;

iv. The granting of the fence variation would not be contrary to the general objective of this section; and

v. The alleged hardship has not been created by any person presently having a proprietary interest in the subject fence (or property).

c. No variations will be permitted from the requirements of this section:

i. Where the effect of a variation would be to cause a fence or any portion thereof to encroach in, on, over, under, or above the public right-of-way.

ii. Where a fence height of greater than six feet is sought for a fence in a residential district unless such fence is located in a rear or side yard along a lot line which abuts a lot line of a lot in a manufacturing district.

d. Where there is insufficient evidence to support a finding of undue and unnecessary hardship under the immediately preceding subsection (b), but some hardship does exist, the Zoning Board of Appeals may consider the requirement fulfilled and recommend favorable action to the Board of Trustees if the proposed fence substantially enhances the architectural integrity of the building, or the fence is in conformity with nearby structures.

e. The Zoning Board of Appeals may recommend, and the Board of Trustees may impose, such conditions and restrictions upon the subject fence, the location, the character, and other features of the proposed fence, and use of the property or premises benefited by a fence variation as may be deemed necessary to assure compliance with the standards set forth in this section, to reduce or minimize the effect of such fence variation upon other property in the neighborhood, or to implement the general purpose and intent of this Section 3.13.

(25) Special fence procedures.

b. The Zoning Board of Appeals shall not recommend to the Board of Trustees that a special fence permit be granted unless it makes findings of fact based upon evidence presented at the hearing in any given case that:

i. The special fence will serve the public convenience at the location of the subject fence; or that the establishment, maintenance or operation of the special fence will not be detrimental to or endanger the visibility, public safety, comfort or general welfare.

ii. The special fence will be in harmony and scale with the architecture of the building in this development and with other fences in the neighborhood.

iii. The special fence will not be injurious to the use and enjoyment of other property in the immediate vicinity of the subject property for the purpose already permitted; nor substantially diminish and impair the visibility of adjacent property.

iv. The nature, location and size of the special fence will not impede, substantially hinder, or discourage the installation of fences on adjacent property in accordance with the Fence Ordinance.

v. The special fence shall in all other respects conform to the regulations of this Section 3.13 except as modified as provided herein.

c. The Zoning Board of Appeals may recommend the imposition of such conditions and restrictions upon a special fence, the location, the construction, design, time duration, and use of the property or premises benefited by the special fence as may be deemed necessary to assure compliance with the standards set forth in this article, to reduce or minimize the effect of such special fence upon other property in the neighborhood, or to implement the general purpose and intent of this

Fence Ordinance. A special fence will not be permitted where any portion of such special fence encroaches in, on, over, under or above the public right-of-way.

5.15 Major variations.

(7) Standards. In determining whether in a specific case there are practical difficulties or particular hardships in the way of carrying out the strict letter of this Zoning Ordinance, there shall be taken into consideration the extent to which the following facts are established:

- a. The requested major variation is consistent with the stated intent and purposes of this Zoning Ordinance and the Comprehensive Plan;
- b. The particular physical surroundings, shape or topographical conditions of the subject property would bring a particular hardship upon the owner, as distinguished from a mere inconvenience, if the strict letter of this Zoning Ordinance is enforced;
- c. The conditions upon which the petition for the variation is based would not be applicable generally to other property within the same zoning district;
- d. The variation is not solely and exclusively for the purpose of enhancing the value of or increasing the revenue from the property;
- e. The alleged difficulty or hardship has not been created by any person presently having an interest in the property;
- f. The granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located;
- g. The variation granted is the minimum change to the Zoning Ordinance standards necessary to alleviate the practical hardship on the subject property;
- h. The proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the danger of fire, or otherwise endanger the public safety, or substantially diminish or impair property values within the neighborhood; and
- i. For variations from Article XI of this Zoning Ordinance:
 - (1) The proposed variation is consistent with the statement of purpose set forth in Section 11.01 of this Zoning Ordinance;
 - (2) The proposed sign complies with any additional standards or conditions set forth in Article XI of this ordinance;
 - (3) The proposed sign will substantially enhance the architectural integrity of the building or other structure to which it will be attached, if any; and
 - (4) The proposed sign conforms with the design and appearance of nearby structures and signs.

Village of Lincolnwood Plan Commission: Variation Standards Checklist

ZBA Worksheet for Variation Requests

Commissioners can separate this worksheet from their packet and make their own notes in advance of the hearing. This is intended to assist in the establishment of findings of fact that may support a recommendation to be forwarded to the Village Board.

How the Standards Should Be Applied

Section 5.15(7) states that *“in determining whether in a specific case there are practical difficulties or particular hardships in the way of carrying out the strict letter of this Zoning Ordinance, there shall be taken into consideration the extent to which the following facts are established....”*

Variation Standards Worksheet

Address: 7125 North Kilbourn Avenue

Case #: ZB-09-24

Requested Variation: Variation to waive required setbacks for natural screening from a sidewalk and curb

Standards	Comments/Additional Questions for Discussion
A. The requested major variation is consistent with the stated intent and purposes of this Zoning Ordinance and the Comprehensive Plan	
B. The particular physical surroundings, shape or topographical conditions of the subject property would bring a particular hardship upon the owner, as distinguished from a mere inconvenience, if the strict letter of this Zoning Ordinance is enforced	
C. The conditions upon which the petition for the variation is based would not be applicable generally to other property within the same zoning district	
D. The variation is not solely and exclusively for the purpose of enhancing the value of or increasing the revenue from the property	
E. The alleged difficulty or hardship has not been created by any person presently having an interest in the property	

Village of Lincolnwood Plan Commission: Variation Standards Checklist

<p>F. The granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located</p>	
<p>G. The variation granted is the minimum change to the Zoning Ordinance standards necessary to alleviate the practical hardship on the subject property</p>	
<p>H. The proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the danger of fire, or otherwise endanger the public safety, or substantially diminish or impair property values within the neighborhood</p>	
<p>I. For variations from Article XI (Signs) of this Zoning Ordinance:</p> <ul style="list-style-type: none">(1) The proposed variation is consistent with the statement of purpose set forth in Section 11.01 of this Zoning Ordinance;(2) The proposed sign complies with any additional standards or conditions set forth in Article XI of this ordinance;(3) The proposed sign will substantially enhance the architectural integrity of the building or other structure to which it will be attached, if any; and(4) The proposed sign conforms with the design and appearance of nearby structures and signs.	