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## NOTICE OF PUBLIC MEETING

FEBRUARY 26, 2019 – 6:30PM

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### CITY OF BELLE ISLE PLANNING AND ZONING BOARD REGULAR SESSION

#### ITEM 3

#### MEMORANDUM

TO: Planning and Zoning Board

DATE: February 26, 2019

Public Hearing Case #2019-01-034 - Pursuant to Belle Isle Code Sec. 50-102 (b) (16) and Sec. 42-64, the Board shall consider and take action on a requested variance to place a 24-foot long by 4 feet high white vinyl fence in the front yard of a residential property to protect the drain field and to place a 57-foot long white vinyl fence down one side of the front yard (24 feet by 6 feet high and 35 feet by 4 feet high), submitted by applicant Darren West, located at 2218 Hoffner Avenue, Belle Isle, FL 32809 also known as Parcel #18-23-30-8856-05-640.

#### Background:

1. On January 28, 2019, the applicant Darren West submitted the application, fee, and required paperwork.
2. A Notice of Public Hearing legal advertisement was placed in the Saturday, February 16, 2019, Orlando Sentinel.
3. Letters to the abutting property owners within 300 feet of the subject property were mailed on Thursday, February 14, 2019.

The Board may adopt all, some, or none of these determinations as part of their findings-of-fact. The Board may also add any additional findings-of-fact that are presented at the public hearing.

The Board will need to determine if the criteria set forth in Chapter 42, Article III, Section 42-64(1) of the Land Development Code have been met, and approve, approve with conditions, or deny this request.

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#### SAMPLE MOTION TO APPROVE:

"I move, the criteria of Chapter 42, Article III, Sections 50-102 (b) (16) and 42-64, the Board shall consider and take action on a requested variance to place a 24-foot long by 4 feet high white vinyl fence in the front yard of a residential property to protect the drain field and to place a 57-foot long white vinyl fence down one side of the front yard (24 feet by 6 feet high and 35 feet by 4 feet high), submitted by applicant Darren West, located at 2218 Hoffner Avenue, Belle Isle, FL 32809 also known as Parcel #18-23-30-8856-05-640.

#### SAMPLE MOTION TO DENY:

"I move, the justifying criteria of the Belle Isle Land Development Code, Chapter 42, Article III, Sections 50-102 (b) (16) and 42-64, having NOT been met; ***[use only if NONE of the justifying criteria have been met]*** the requirements of section 42-64 Subsections: ***[STATE ONLY THE SUBSECTIONS BELOW THAT ARE NOT SATISFIED]*** **having NOT been met;** *[may be used in addition to above or alone]* **TO DENY** this request for a variance to place a 24-foot long by 4 feet high white vinyl fence in the front yard of a residential property to protect the drain field and to place a 57-foot long white vinyl fence down one side of the front yard (24 feet by 6 feet high and 35 feet by 4 feet high), submitted by applicant Darren West, located at 2218 Hoffner Avenue, Belle Isle, FL 32809 also known as Parcel #18-23-30-8856-05-640.

**SUBSECTION (D)**, a literal enforcement of the provisions of the zoning ordinances would result in unnecessary hardship and that said hardship is created by special conditions and circumstances peculiar to the land, structure or building involved, including but not limited to dimensions, topography or soil conditions.

**SUBSECTION (E)**, personal hardship is not being considered as grounds for a variance since the variance will continue to affect the character of the neighborhood after title to the property has passed and that the special conditions and circumstances were not created in order to circumvent the Code or for the purpose of obtaining a variance.

**SUBSECTION (F)**, the variance is the minimum variance that will make possible the reasonable use of the land, building or structure.

**SUBSECTION (G)**, the granting of the variance will be in harmony with the general purpose and intent of the Code, will not be injurious to the neighborhood, will not be detrimental to the public welfare, and will not be contrary to the public interest.

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Should any person decide to appeal any decision made regarding any matter considered at this meeting such person may need to ensure that a verbatim record of the proceedings is made to include testimony and evidence upon which the appeal is to be based. Persons with disabilities needing assistance to participate in these proceedings should contact the City Clerk at 407-851-7730 at least 24 hours in advance of the meeting.



April Fisher, AICP  
[fisherpds@outlook.com](mailto:fisherpds@outlook.com)  
407-494-8789

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February 14, 2019

**Variance Application:** 2218 Hoffner Avenue

**Applicant Request:** Pursuant to Belle Isle Code Sec. 50-102 (b) (16) and Sec. 42-64, the Board shall consider and take action on a requested variance to place a 24-foot long by 4 feet high white vinyl fence in the front yard of a residential property to protect the drain field and to place a 57-foot long white vinyl fence down one side of the front yard (24 feet by 6 feet high and 35 feet by 4 feet high), submitted by applicant Darren West, located at 2218 Hoffner Avenue, Belle Isle, FL 32809 also known as Parcel #18-23-30-8856-05-640.

**Existing Zoning/Use:** R-1-AA/ single-family home

#### **Review Comments**

This application seeks a variance to allow a fence in the front yard. The code expressly prohibits fences or walls in the front yard of a property. The applicant constructed the fence prior to receiving a permit unaware that a permit was needed. A variance is required before the wall can receive a building permit.

The board in granting an application for the variance may consider as justifying criteria, the following from Sec. 50-102 (b) (16):

1. A difference in grade between the property upon which the fence will be installed and the immediately adjacent property;
2. The height or construction materials of already existing abutting walls or fences; and/or
3. Conditions existing upon or occupational use of adjacent property creating an exceptional privacy or security need of applicant.

The requirements of Sec. 42-64 (1) except for subsections 42-64 (1) (d) and (1) (f) shall otherwise be met.

The applicant has provided information supporting the variance request. Please see this information enclosed with this agenda item packet.

#### **Staff Recommendation**

Based on the applicant's identification that protection of the septic drain field from vehicle encroachment located in the front yard and maintenance line with the adjacent property are primary issues for installing the fence in the front yard and front side yard, staff recommends approval of the requested variance. These items identified are consistent with meeting the criteria established in Sec. 50-102 (b) (16) (3) and the required criteria in Sec. 42-64 (1).

darrenwest@sky.com

City of Belle Isle

1600 Nela Avenue, Belle Isle, Florida 32809 \* Tel 407-851-7730 \* Fax 407-240-2222

APPLICATION FOR VARIANCE / SPECIAL EXCEPTION

DATE: 28 JANUARY 2019

P&Z CASE #: 2019-01-034

VARIANCE  SPECIAL EXCEPTION  OTHER

DATE OF HEARING: \_\_\_\_\_

APPLICANT: MR DARREN C WEST

OWNER: MRS CHRISTINA S WEST

ADDRESS: 2218 HOPFNER AVENUE  
BELLE ISLE, FL 32809

2218 HOPFNER AVENUE,  
BELLE ISLE, FL 32809.

PHONE: 407 427 9846

407 271 6962

PARCEL TAX ID #: 18-23-30-9856-05-640

LAND USE CLASSIFICATION: 0131-S/A ZONING DISTRICT: R-1-A

DETAILED VARIANCE REQUEST: TO CONSTRUCT A 24 FT LONG x 4 FT HIGH  
WHITE VINYL FENCE IN FRONT YARD TO PROTECT DRAIN FIELD AND  
TO CONSTRUCT A 57 FT LONG WHITE VINYL FENCE DOWN ONE  
SIDE OF FRONT YARD (24 FT x 6 FT HIGH + 33 FT x 4 FT HIGH) TO PROTECT DRIVEWAY.

SECTION OF CODE VARIANCE REQUESTED ON: 50-102(b) and 42-64

The applicant hereby states that the property for which this hearing is requested has not been the subject of a hearing before the Planning and Zoning Board of the kind and type requested in the application within a period of nine (9) months prior to the filing of the application. Further that the requested use does not violate any deed restriction of the property.

By submitting the application, I authorize City of Belle Isle employees and members of the P&Z Board to enter my property, during reasonable hours, to inspect the area of my property to which the application applies.

Applicant shall provide a minimum of ten (10) sets of three (3) photographs in support of this application as follows: at least one (1) photograph of the front of the property and at least two photographs (from different angles) of the specific area of the property to which the application applies.

Darren West  
APPLICANT'S SIGNATURE

Darren West (SEE POWER OF ATTORNEY)  
OWNER'S SIGNATURE

FOR OFFICE USE ONLY:

FEE: \$150.00

1/28/19  
Date Paid

CASH  
Check/Cash

Hwp  
Rec'd By

Determination \_\_\_\_\_

Appealed to City Council:  Yes  No

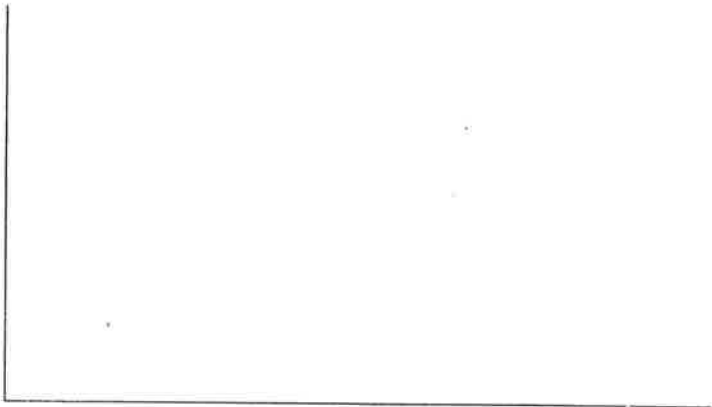
Council Action: \_\_\_\_\_

This instrument prepared by:

Name: **Brenda J. McCloud**  
**Total Title Solutions, Inc.**  
Address: **8 Broadway Avenue, Suite B**  
**Kissimmee, FL 34741**

Return to: **Total Title Solutions, Inc.**  
**FILE NO. 10-0017B**  
Address: **8 Broadway Avenue, Suite B**  
**Kissimmee, FL 34741**

Property Appraisers Parcel Identification Number(s):  
**18-23-30-8856-05640**



**THIS WARRANTY DEED** Made the 5th day of February, 2011 by Brandon Fies, a single man whose post office address is 2218 Hoffner Avenue, Orlando, FL 32809, hereinafter called the grantor, to Christina S. Penning whose post office address is , hereinafter called the grantee:

(Wherever used herein the terms "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations)

**WITNESSETH**, that the grantor, for and in consideration of the sum \$10.00 and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the grantee all that certain land situate in **ORANGE** County, State of **FLORIDA**, viz:

**Lots 64 and 65, Block E, Venetian Gardens, according to the Plat thereof as recorded in Plat Book L, Page 25, Public Records of Orange County, Florida.**

Property address is currently known as: **2218 Hoffner Avenue, Orlando, FL 32809**

**Together**, with all the tenements, hereditaments and appurtenances thereto belonging or in otherwise appertaining.

**To Have and to Hold**, the same in fee simple forever.

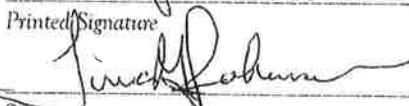
**And** the grantor hereby covenants with the grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land, and hereby warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except taxes accruing subsequent to December 31, 2010. **FURTHER SUBJECT TO** restrictions, reservations, covenants and easements of record, if any, however this reference shall not operate to reimpose same.

**In Witness Whereof**, the said grantor has signed and sealed these presents the day and year first above written.

Signed, sealed and delivered in the presence of:

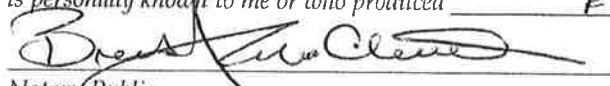
  
Signature  
**Brenda J. McCloud**

  
Brandon Fies

Printed Signature  
  
Signature  
**Tina de Johnson**

Printed Signature  
STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this 5<sup>th</sup> day of February, 2011 by **Brandon Fies, a single man**, who is personally known to me or who produced FLDC as identification and who did/did not take an oath.

  
Notary Public  
My Commission Expires: 1-24-2015

  
**BRENDA J. MCCLLOUD**  
MY COMMISSION # **EE 051750**  
EXPIRES: **January 26, 2015**  
Bonded Thru Budget Notary Services

**SPECIAL POWER OF ATTORNEY**

**PREAMBLE:** *This is a **MILITARY POWER OF ATTORNEY** prepared pursuant to Title 10, United States Code, § 1044b, and executed by a person authorized to receive legal assistance from the military services. Federal law exempts this power of attorney from any requirement of form, substance, formality, or recording that is prescribed for powers of attorney by the laws of a state, the District of Columbia, or a territory, commonwealth, or possession of the United States. Federal law specifies that this power of attorney shall be given the same legal effect as a power of attorney prepared and executed in accordance with the laws of the jurisdiction where it is presented.*

**KNOW ALL PERSONS BY THESE PRESENTS:**

That I, **Christina West**, whose address is 2218 Hoffner Avenue, Belle Isle, FL 32809, by this document do make and appoint my husband Darren C. West, also residing at 2218 Hoffner Avenue, Belle Isle, FL 32809, as my true and lawful attorney-in-fact to do and execute (or to act with persons jointly interested with myself therein in the doing or execution of) any or all of the following acts or things:

[Initial CW] To do any and all acts necessary or appropriate to maintain, lease, evict, authorize repairs, insure, pay taxes, conduct general maintenance, make general inquiries, and enforce any and all lawful rights and claims I may have on the dwellings I own under my maiden name of Christina Penning, located at: 2218 Hoffner Avenue, Belle Isle, FL 32809.

**I HEREBY GIVE AND GRANT TO** my said attorney-in-fact full power and authority to perform every act and thing whatsoever that is necessary or appropriate to accomplish the purposes for which this Power of Attorney is granted, as fully and effectually as I could do if I were present; and I hereby ratify all that my said attorney-in-fact shall lawfully do or cause to be done by virtue of this document.

**PROVIDED**, however, that all business transacted hereunder for me or for my account shall be transacted in my name, and that all endorsements and instruments executed by my said attorney-in-fact for the purpose of carrying out the foregoing powers shall contain my name, followed by that of my said attorney-in-fact and the designation "attorney-in-fact."

**FURTHER**, this power of attorney shall remain in full force and effect until **July 29, 2019**, unless sooner revoked by me. To induce any third party to act hereunder, I hereby agree that any third party receiving a duly executed copy or facsimile of this power of attorney may act hereunder, and that revocation or termination hereof shall be ineffective as to such third party unless and until actual notice or knowledge of such revocation or partial or complete termination of this power of attorney by adjudication of incapacity, suspension by initiation of proceedings to determine incapacity, or my death shall have been received by such third party in accordance with the requirements of law. I, for myself and my heirs, executors, legal representatives and assigns, hereby agree to indemnify and hold harmless any such third party from and against any and all claims that may arise against such third party by reason of such third party having relied upon the provisions of this power of attorney.

This **DURABLE POWER OF ATTORNEY** shall not be affected by my subsequent disability or incapacity, and that notwithstanding any termination date herein, or lapse of time, and that in the event of my subsequent disability or incapacity prior to the expiration or revocation of this power of attorney,

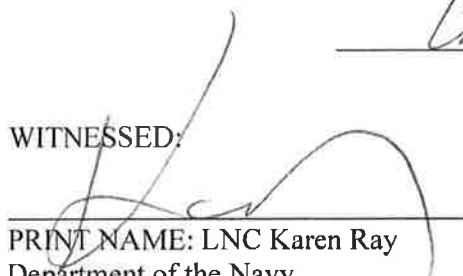
it shall not terminate but shall be extended as long as I remain in that status. It is my intent that the authority conferred herein shall be exercisable notwithstanding my physical disability or mental incapacity or incompetence.


**IN WITNESS WHEREOF**, I have hereunto set my hand and seal on this day, **21st day of July, 2018**.



**Christina West**

WITNESSED:

  
PRINT NAME: LNC Karen Ray  
Department of the Navy  
Navy Personnel Command (PERS-312F)  
5720 Integrity Drive  
Millington, TN 38055-3130

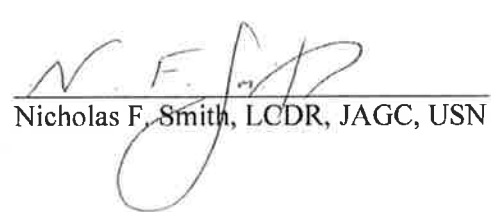
  
PRINT NAME: LCDR Mitchell D. Eisenberg, JAGC  
Department of the Navy  
Navy Personnel Command (PERS-312F)  
5720 Integrity Drive  
Millington, TN 38055-3130

**ACKNOWLEDGEMENT**

WITH THE UNITED STATES ARMED FORCES AT  
NAVY OPERATIONAL SUPPORT CENTER, MIAMI, FLORIDA, SS.:

The foregoing instrument was acknowledged before me, and the above-named witnesses, on the **21st day of July, 2018**, by **Christina West**, who produced a Uniformed Services Identification Card for identification. I do further certify that I am a person in the service of the U.S. Armed Forces authorized the general powers of a notary public under Title 10 U.S.C. 1044a and JAGMAN Chapter IX.

NO SEAL REQUIRED

  
Nicholas F. Smith, LCDR, JAGC, USN

# SWERDLOFF & FERRY

SURVEYING, INC.

370 Waymont Court • Lake Mary, FL 32746 • Voice 407.688.7631 • Fax 407.688.7691

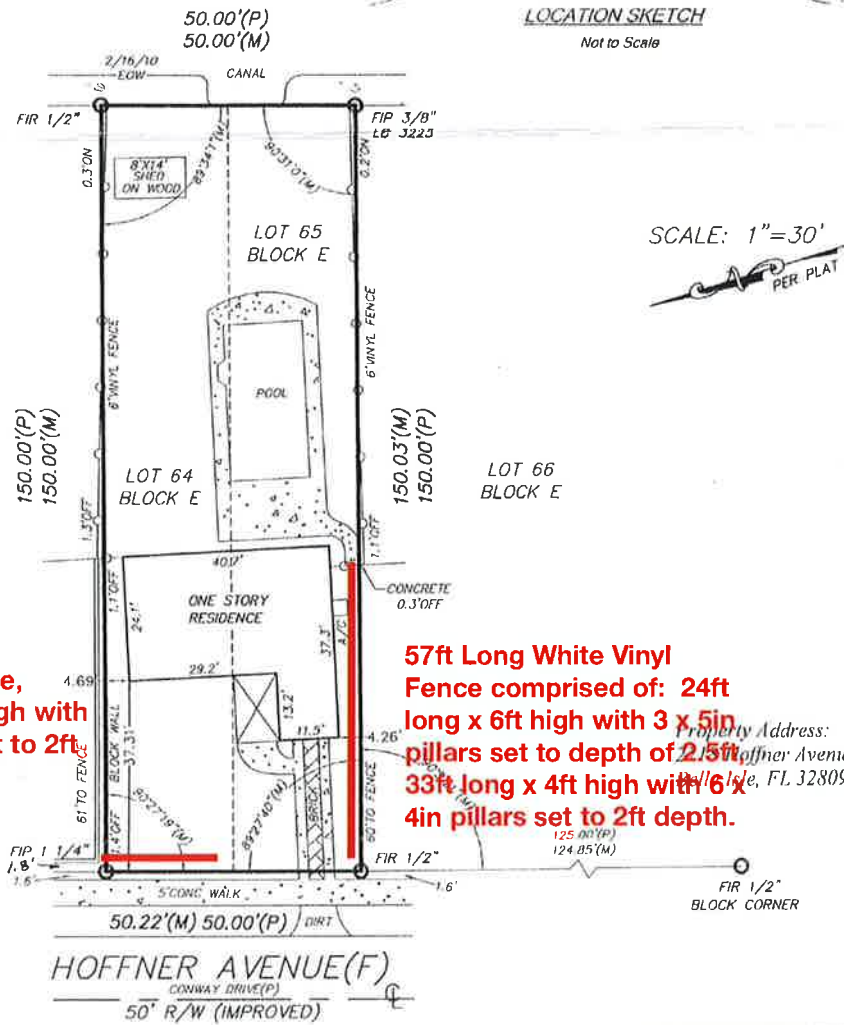
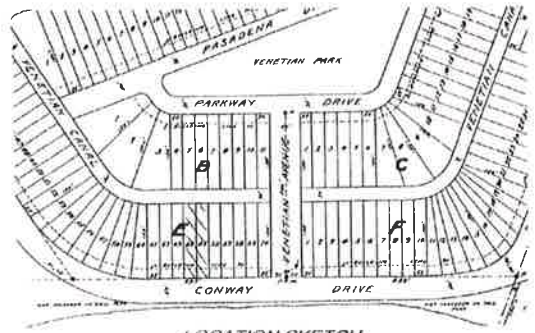
## Legal Description

Lots 64 and 65, Block E, MAP OF VENETIAN GARDENS, according to the plat thereof, as recorded in Plat Book L, Page(s) 25, of the Public Records of Orange County, FL.

Community number: 120181 Panel: 0430  
 Suffix: F F.I.R.M. Date: 9/25/2009 Flood Zone: X  
 Date of field work: 2/16/2010 Completion Date: 2/26/2010

Certified to:  
 Christina S. Penning; Total Title Solutions, Inc.; Old Republic National Title Insurance Company.

Revised Certifications: 2/7/2011



**White Vinyl Fence, 24ft long x 4ft high with 5 x 4in pillars set to 2ft.**

**57ft Long White Vinyl Fence comprised of: 24ft long x 6ft high with 3 x 5in pillars set to depth of 2.5ft, 33ft long x 4ft high with 6 x 4in pillars set to 2ft depth.**

Property Address:  
 2555 Hoffner Avenue  
 Lake Mary, FL 32809

Survey number: SL 1083

## VARIANCE APPLICATION: 2218 HOFFNER AVENUE - Building of 2 x Fences

1. This is the supporting justification to the variance to build two fences at 2218 Hoffner Avenue in contravention of City of Belle Isle Code Section 50-102 (b) and Section 42-64.

2. It should be noted that the building of the two fences are in conjunction with a full renovation of the front yard/driveway and side of house areas after years of neglect by previous owners and renters. It was not known by Mr West (from the UK) that there were conditions precluding the building of fences; the fences were built in October and November 2018. Mrs West is currently serving with the US Navy overseas and has approved the work being done by her husband on the property. The Power of Attorney (enclosed) supports this.

3. The following issues were prevalent before the renovation. *Those items in italics directly relate to the construction of the fence:*

a. *Sec 42-64(1)d* The previous owners had laid pavers over the top of the septic tank drain field and allowed the pavers to become loose, broken and for weeds bushes and grass to cover the majority of the front yard. Mr West removed the pavers (see photo1), a new drain field fitted by contractors and the area over the top of the drain field and septic tank committed to a grass, (see photo 2 - the vehicle in the background is for scale as opposed to illustrate parking on the driveway). The whole of the property was re-painted and stonework re-done by Mr West.

*Sec 42-64(1)d* b. A decorative 5ft long wall which was mounted on a large concrete plinth had to be removed as the plinth was actually covering part of the drain field. The decorative wall did not do what it was intended to do; which was to stop non-residents/visitors parking on the area over the drain field to access other properties, or to turn around. Additionally, the wall had very little effect in blocking out the noise of traffic from a busy road. The front of the plot is 50ft wide, so there was still over 40ft of access space from the road. *The 24ft fence across the front of the property precludes people from driving on to and damaging the drain field. It has also noticeably blocked some of the noise from traffic.* Of note, in building both the 24ft and the 57ft long fences, old rotten post stumps (following a similar footprint to the new fences) been unearthed, (see photo 3). It is believed the fences were probably taken down when the additional driveway pavers and decorative wall were built.

c. Several tonnes of earth which had amassed over several decades of decaying leaf build up was sifted and removed so that buried pavers and gravel could be recycled to be re-used elsewhere on the property. The level of earth was about 6in higher than the base level of the original driveway, (see photo 4). Previously, the garage and walkway to the house would be flooded every time there was a period of heavy rainfall. *Both the 57ft side fence and the 24ft front fence restricts the amount of leaves and rubbish collecting in the front yard. In*



*particular, the 57ft fence prevents the now higher level of earth and leaves from the next door (2204 Hoffner) from blowing on to or washing up on to 2218 Hoffner (see photo 5).*

d. Electrical service and telecommunication wires fed into the house walls of both 2218 Hoffner and 2204 Hoffner were a little unsightly. *The 6ft high section (24ft long) of the 57ft long side fence 'hides' the sides of each house from view from passers-by. The fences also allow enough access room to the electrical/telecommunication services which a hedge or wall would not (see photo 5).*

e. With no visible boundary between 2204 and 2218 Hoffner, it became a bit of a 'no-mans land' which meant that no previous residents would take responsibility for the build up of weeds, leaves and earth on both the properties. *The continued 4ft high section (33ft long) of the 57ft long side fence 'makes better neighbors'. The neighbors at 2204 Hoffner are also happy with the fence in that it delineates the two properties at the same time as being a feature which facilitates both neighbors of engaging in conversation over the fence.*

f. Overall, prior to the renovation of the front yard of 2218 Hoffner, the overgrown and unkempt property was viewed with disdain by neighbors and passers-by. *Of all the improvements to the front of the property, it is both the new fences which have received the most favorable and 'wow what an improvement' comments. These come not just from neighbors but also from people driving past when they have to slow down or stop behind the trash trucks. Both white fences are aesthetic and complimentary to the properties and other boundary separation constructions in the area, (see photos 7 and 8). It is believed that Wall construction would be too sizable and expensive to build. Hedges would not be suitable either as these would take a long time to establish, would require more maintenance, not block traffic noise and would not prevent leaf build up in the front yard.*

**Supporting Photo justification.**

Where the photos are taken from, and the direction they are facing, are shown on the plot plan.



Photo 1: Paver Bricks removed to be recycled.



Photo 2: Broken and Loose Pavers, Overgrown and showing 5 ft wall.



Photo 3: One of old fence buried stumps.



Photo 4: Example of earth sifted to a depth of 6+inches



Photo 5: Fence preventing higher level of earth in 2204 front yard coming into 2218.



Photo 6: Electrical Services and Telecommunication wires hidden by 6ft high section.

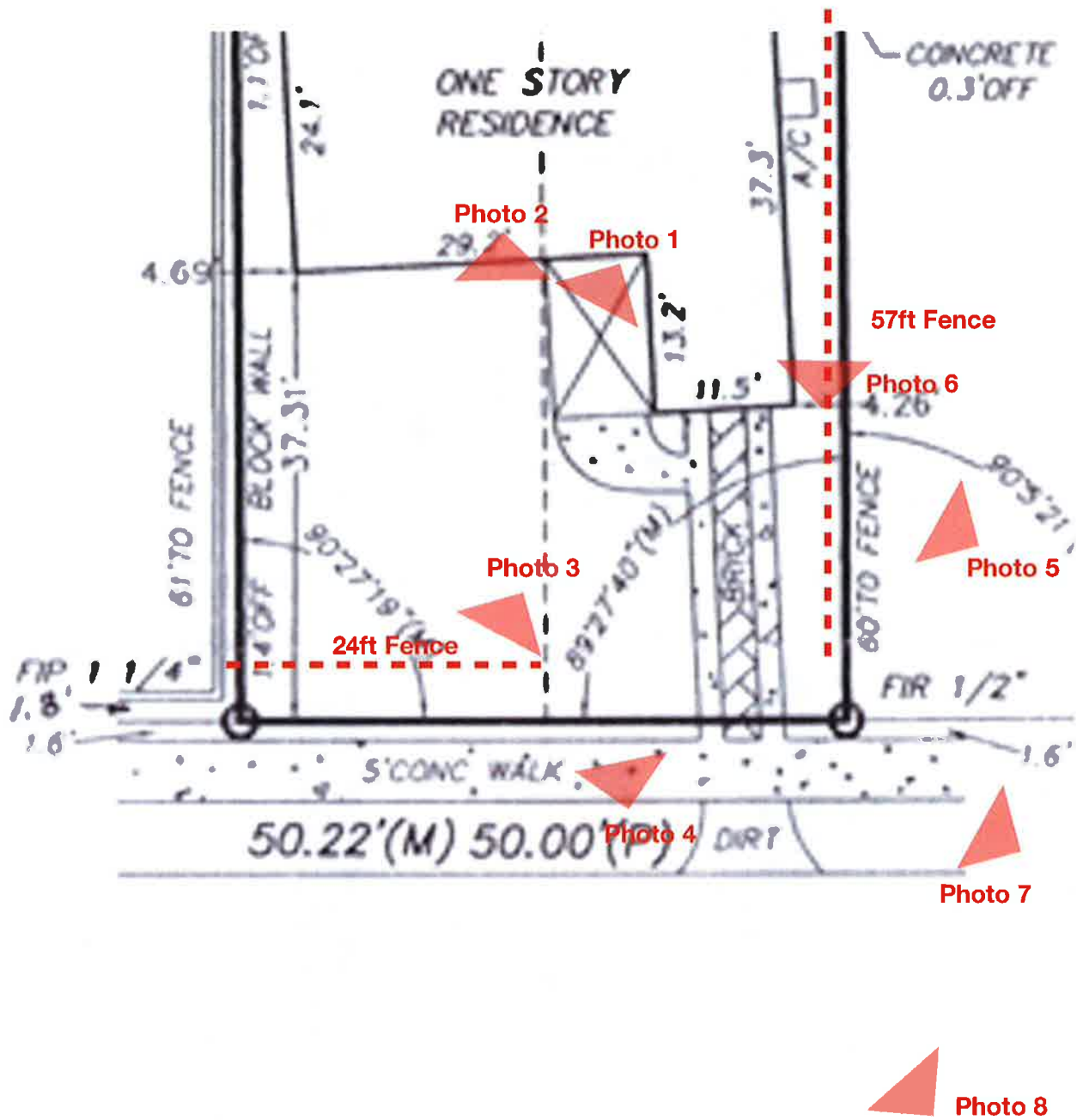


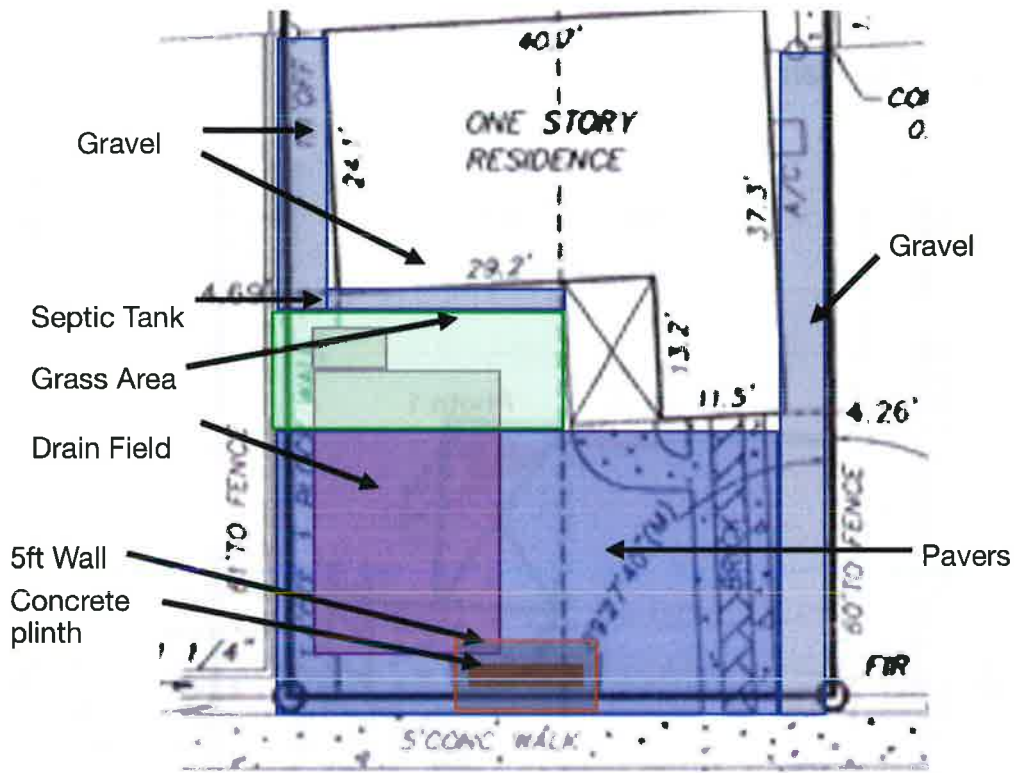
Photo 7: Aesthetic and complimentary look of fence.



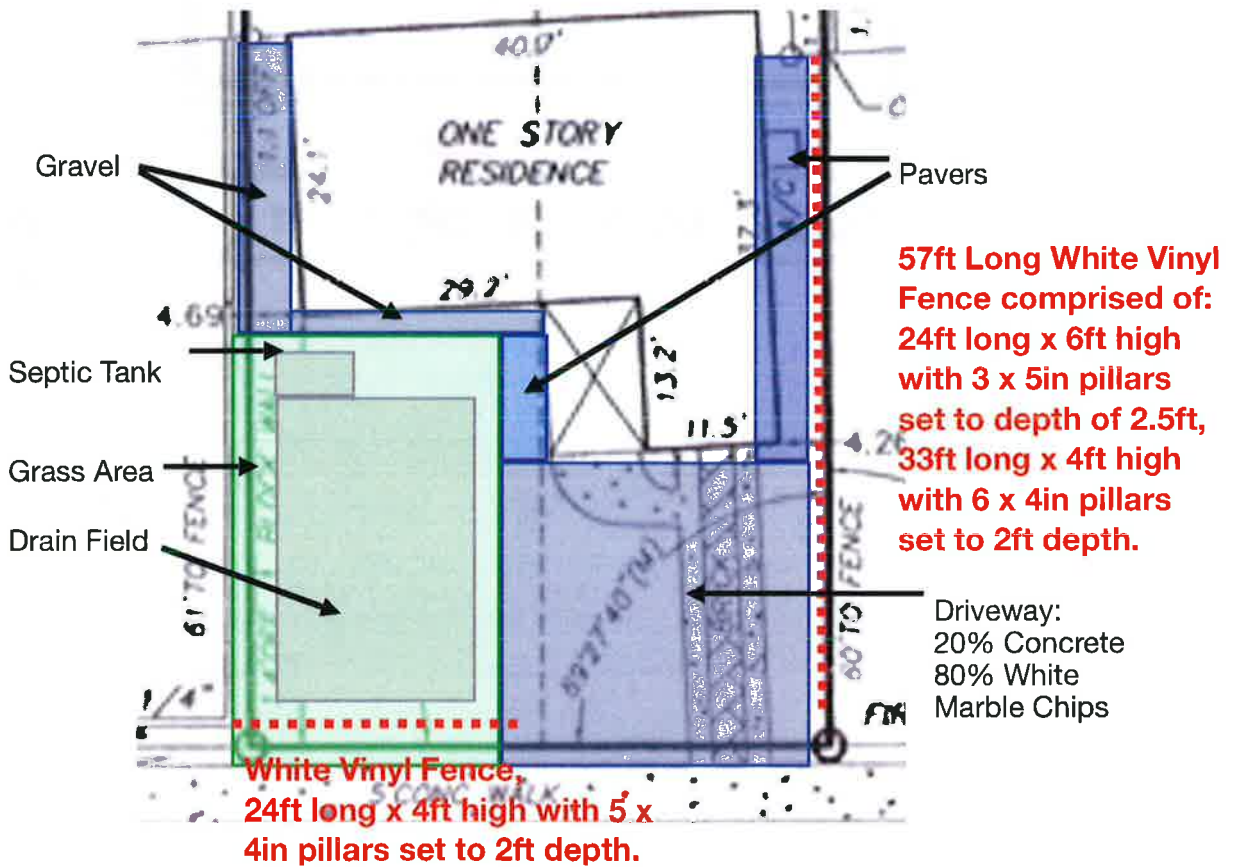
Photo 8: Aesthetic look of fence at night.

Photos shown on Plot Plan





**2218 Hoffner - Before Renovation and Fence Construction**



**2218 Hoffner - After Renovation and Fence Construction**