

# VILLAGE OF HOMEWOOD



## MEMORANDUM

DATE OF MEETING: June 26, 2025

**To:** Planning and Zoning Commission

**From:** Noah Schumerth, Assistant Director of Economic and Community Development

**Through:** Angela Mesaros, Director of Economic and Community Development

**Topic:** Case 25-23: Variance for Fence, 18657 Gottschalk

## APPLICATION INFORMATION

APPLICANT	Matt Barry
ACTION REQUESTED	Variance – Section 44-05-09.(b).(2)
ADDRESS	18657 Gottschalk Avenue
PIN	32-06-212-017

## ZONING & LAND USE

SUBJECT PROPERTY	ZONING	LAND USE
CURRENT	R-2 Single-Family Residence	Single-Family Residential
SURROUNDING	N: R-2 Single-Family Residence	Single-Family Residential
	E: R-2 Single-Family Residence	Single-Family Residential
	S: R-2 Single-Family Residence	Single-Family Residential
	W: R-2 Single-Family Residence	Single-Family Residential

## LEGAL NOTICE

Legal notice was published in *Daily Southtown* on June 11, 2025; letters were sent to property owners and residents within 250’.

## DOCUMENTS FOR REVIEW

Title	Pages	Prepared by	Date
Residential Zoning Application	2	Mark Barry, Applicant	05/20/2025
Standards for Variance Worksheet	2	Mark Barry, Applicant	05/20/2025
Fence Contract	1	Fence Masters Inc., Contractor	05/20/2025
Plat of Survey	1	Mark Barry, Applicant	04/29/2025
Site Photos	2	Mark Barry, Applicant	05/27/2025
Photos from Similar Properties	5	Mark Barry, Applicant	05/27/2025
Letter of Support from Neighboring Property Owners	1	Mark Barry, Applicant	06/12/2025
Staff Exhibits	3	Noah Schumerth, Asst. Dir. ECD	06/13/2025

## BACKGROUND

The applicant, Mark Barry, has requested a variance to allow a fence with a height of 6' within 3 feet of an exterior side yard setback.

Section 44-05-09.(b).(2) requires that any 6' fence within an exterior side yard must set back a minimum of 3' from the property line. The fence must be 80% opaque, and a landscaping buffer on the side of the fence facing the side street is required.

The proposed variance would permit the 6' fence to be located within 3' of the property line along 186<sup>th</sup> Place and allow the applicant to construct the fence without a landscaping buffer.

## DISCUSSION

The applicant has proposed the construction of a 6' fence in the location of an existing 4' fence. The fence is currently located on the exterior side lot line of the subject property. The original fence was constructed prior to the applicant taking ownership of the property.

The applicant has proposed the construction of the fence in a white vinyl material, similar to the material of the adjacent property owner's fence. The proposed vinyl is an approved fence material as stated in Section 44-05-09.(a) of the Zoning Ordinance.

The applicant has proposed the installation of a 4' gate to allow for access to the rear yard. The gate will be built in a similar vinyl material.

The fence is proposed to be located adjacent to a large Village-owned parkway located along 186<sup>th</sup> Place. There are two mature trees located within the parkway with no sidewalk or other walkway installed. The Village does not plan to extend sidewalks or walkways in this location. The parkway is approximately 15' in width.

The current fence is in alignment with the 4' fence located along the exterior side lot line of the adjacent property owner to the east. This fence was approved for construction in that location in 2006.

The applicant has stated that the purpose of the 6' fence is to screen visibility into the home from 186<sup>th</sup> Place and improve privacy of the property. The applicant has stated that there are numerous pedestrians who walk along the parkway adjacent to the home on 186<sup>th</sup> Place, who choose to walk within the parkway due to the lack of a sidewalk along 186<sup>th</sup> Place. The home is designed such that common areas and bedrooms of the home face 186<sup>th</sup> Place. The applicant has stated that pets walking along 186<sup>th</sup> Place frequently disrupt pets at the subject property with the current fence. The applicant has also stated that they wish to maximize yard space and ensure visual alignment with the neighboring property owner's fence.

The applicant has noted that there are numerous instances of 6' fences on corner lot lines in the neighborhood. Some of these fences were approved previously via variance before the adoption of the current zoning ordinance. The applicant has provided photos of similar fences which have been constructed within a ¼ mile of the subject property.

## VARIANCE STANDARDS

The Zoning Ordinance requires a 3-foot minimum setback from the exterior side lot line for any fence greater than 4' in height. The fence must be constructed to be no more than 80% opaque, and a 3-foot landscape buffer with shrubs and other plantings must be provided adjacent to the fence.

Such a variance must be reviewed against the Variance Standards found in Section 44-07-12 of the Village Zoning Ordinance.

Staff has reviewed the application using the Variance Standards to assess potential hardship or unique circumstances which may require relief via the variance process. The applicant has provided responses to the Variance Standards which are attached with this memo.

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The application must be determined by the Planning and Zoning Commission to meet each of the following three standards:

*a. Can the property in question yield a reasonable return if permitted to be used only under the conditions allowed by the regulations governing the district in which it is located?* **The property will not lose full economic return if operated under the conditions of the zoning ordinance.** While the property owner will lose approximately 289 square feet of usable area within the fenced yard, the property will not lose reasonable return as a single-family residential property.

However, the design of the home and the regular use of the parkway area create unique privacy concerns which partially restrict reasonable privacy expected for the full enjoyment of a single-family home located in another location or district. **A 4' fence as currently exists on the property may negatively impact the reasonable enjoyment of the single-family residential property.**

*b. Is the plight of the owner due to unique circumstances?* **There are unique circumstances which impact the property owner and may cause negative impacts should the fence be constructed conforming to the requirements of the Zoning Ordinance.**

There is no sidewalk adjacent to the property, creating a much wider parkway area than that found adjacent to many other properties in the vicinity. The large parkway may soften the impact of a 6' fence along the street. The lack of sidewalk may lead pedestrians to use the parkway and walk closely to the current fence line of the property owner.

The neighboring property having a previously approved fence located on the property line could negatively impact the appearance of a fence set back 3' from the property line, given the lack of alignment between fences and the appearance of a smaller yard.

The existing attached garage of the home is constructed approximately 8' from the property line. A 3' setback will reduce the length of fence extending from the home in the side yard to approximately 5'. The reduced length will impact the ability to construct a gate in the location proposed, and severely restrict the usability of yard space to the south of the garage.

The parkway also features large mature trees will likely impact the success of planting landscaping as a buffer required in Section 44-05-09.(b).(2), or as an alternative method of screening on the side of the property. The applicant also cites concerns about impacts on required landscaping by pets passing the property.

*c. If granted, will the variance alter the essential character of the locality?* **The variance is unlikely to negatively alter the character of the area surrounding the property.** The variance will permit the property owner to align the proposed fence with the neighbor's fence, which may create a more harmonious visual appearance along the segment of 186<sup>th</sup> Place adjacent to both properties.

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Additionally, the Planning and Zoning Commission may wish to consider the following secondary standards in considering a variance request. No one of these secondary standards is binding:

*d. Do the particular physical surroundings, shape, or topographical conditions of the subject property pose a particular hardship upon the owner, as distinguished from a mere inconvenience, under the strict application of these regulations?* **There are no unique physical or topographical conditions which pose a hardship on the owner under the strict application of regulations.** The lot is a standard rectangular shape with flat topography and similar dimensions to other properties in the immediate vicinity.

*e. Would the conditions upon which the petition for variance is based be generally applicable to other property within the same zoning classification?* **There are multiple unique circumstances which would not be applicable to other property within the same zoning classification.**

The standard width parkway without a sidewalk along the side of the property is unique to this location. Many other properties have sidewalks installed within adjacent right-of-way, or have reduced right-of-way width when a sidewalk is not present. The existing condition of the parkway increases the buffer distances between any road or walkway and the proposed fence in a manner not generally applicable to residential properties in the R-2 district.

The existing exterior side yard fence alignment of the adjacent property at 18656 Homewood is also unique, having been approved directly on the property line in 2006. The fence creates a unique visual impact from the enforcement of the existing ordinance, where the new fence will be set back from other adjacent fences. The existing 4' wood fence aligns with the fence on the adjacent property.

Finally, the location of the house on the subject property constitutes a unique circumstances which is not true of other properties in the area. The home was built approximately 8' from the exterior side lot line, which makes the house a legal non-conforming structure (20' minimum setback required as of 2023). Other homes in the area have larger setbacks from the exterior side yard lot line and may have less impact from a fence setback from the exterior side of the lot.

*f. Has the alleged practical difficulty or particular hardship been created by any person presently having an interest in the property?* The decision to propose the fence within 3' of the property line is the decision of the owner, and the owner is able to place the fence further back without undue financial burden or hardship. **However, the practical difficulties caused by the enforcement of the Zoning Ordinance and unique conditions of this property are not created by the property owner.** The home,

fence, adjacent property's fence, and parkway were all constructed prior to the ownership of the property by the applicant.

*g. If granted, will the variance be detrimental to the public welfare or injurious to other neighboring property?* **No negative impacts on public welfare or neighboring property are anticipated by the granting of the variance.** Due to the large existing parkway with no plans or practical feasibility for the installation of a sidewalk or expanded roadway, the reduced setback is unlikely to cause aesthetic or functional harm to neighboring property or the surrounding area.

*h. If granted, will the variance: 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 values of neighboring property?* **No negative impacts on light or air on adjacent property are anticipated. The fence will not cause any increase in fire danger or impair the value of any adjacent property.**

## FINDINGS OF FACT

The staff has prepared the draft findings of fact following the standards outlined in Section 44-07-12 of the Zoning Ordinance variance applications. The findings of fact, as proposed or as amended, may be entered into the record:

1. The subject property is a 0.21-acre property at 18657 Gottschalk Avenue;
2. The subject property is owned by Mark and Ann Barry of Homewood, Illinois;
3. The subject property is located within the R-2 Single-Family Residence zoning district;
4. Section 44-05-09.(b).(2) requires a minimum three (3) foot setback from exterior side lot lines for fences taller than 4' in height. Any fence along the exterior side of a lot must have a minimum of 80% opacity and a landscape buffer.
5. The proposed variance is to permit construction of a 6' tall fence within the required setback and without a required landscape buffer.
6. The proposed fence is proposed to have 80% opacity and will be constructed from vinyl, an approved material for fences per Section 44-05-09.(a) of the Zoning Ordinance;
7. The enforcement of standards in Section 44-05-09 of the Zoning Ordinance is determined to negatively impact reasonable return for a single-family residential property, including enjoyment and full use of property as reasonably expected for a single-family residential property;
8. The plight of the applicant is determined to be caused by unique circumstances affecting the subject property;
9. The granting of the requested variance is determined to not directly alter the condition of the locality surrounding the subject property;

10. The unique conditions related to this variance are not generally applicable to other properties within the same zoning classification, nor to properties within the vicinity of the subject property;

11. The practical hardship impacting the property owner is determined to have not been created by any person presently having an interest in the current property.

#### **RECOMMENDED PLANNING & ZONING COMMISSION ACTION**

The Planning and Zoning Commission may wish to consider the following motion:

Recommend **approval** of Case 25-23, a request for a variance to permit the construction of a 6' fence within the required exterior side yard setback; and

AND

Approve the draft Findings of Fact and incorporate the Findings of Fact into the record.