

CITY OF SHEBOYGAN

REQUEST FOR ZONING BOARD OF APPEALS CONSIDERATION

ITEM DESCRIPTION:

Address: 1004 Erie Ave

Parcel #: 204191

Owner's Name: Melanie Gutschow

Zoning: UR-12

REPORT PREPARED BY: Jeff Lutzke, Building Inspector

REPORT DATE: 08/02/2022

MEETING DATE: 08/17/2022

BACKGROUND / ANALYSIS

Owner would like to construct a 6 foot tall wood privacy fence in the required street yard of the property.

Ordinance #: 17.720(3)(c)(1) The maximum height of any fence, landscape wall, or decorative post shall be the following: 4 feet when located within a required street yard on any property, except if the house is closer to the property line than required by the zoning district in which it is located, the fence may be 6 feet high and solid for that portion between the setback line and the front of the house.

Requesting: 6 feet high

Allowed: 4 feet high

Ordinance #:

Requesting:

Allowed:

ATTACHMENTS:

Application, pictures, and drawing

APPLYING FOR A VARIANCE

Variances to zoning ordinances are considered by the CITY OF SHEBOYGAN Zoning Board of Appeals monthly on the third Wednesday at 3p.m. at a public hearing. In order to be considered for the next meeting, applications must be received in the Building Inspection Department Office **no later than 4:30p.m.** on the third Wednesday of the month prior to the scheduled public hearing:

Application Deadline Date

8/17 9/21
@ 3pm Board of Appeals Meeting Date

All applications must include:

- 1) Application forms, signed and dated, which are available at the Building Inspection Department Office and online.
- 2) The non-refundable filing fee - \$250.00.
- 3) Photographs of the property.
- 4) A site sketch, drawn to scale indicating the location of all existing structures and the proposed construction. Also indicate lot lines, size of lot, streets and other public ways, driveways, off-street parking, loading areas, and existing and proposed front, side and rear yards. Please consult with Building Inspection staff for more information.

Note:

- a) The applicant can present any additional information to inform the Board of the facts.
- b) In addition to the application information noted above, a survey is strongly recommended.
- c) Applicants should be aware staff may require a survey as part of the application information in order to clarify specific variance(s) requested.
- d) Applicants should be aware the Board of Appeals may require a survey as part of the application review and/or as a condition of approval prior to issuance of a building permit if a variance is granted.
- e) Building permits must be acquired within 6 months of the granted approval or the approval will be voided.
- f) Any information submitted on the application will become public record and is not subject to confidentiality.

FAILURE TO SUPPLY ADEQUATE AND / OR ACCURATE INFORMATION AS REQUESTED ABOVE CAN BE GROUNDS FOR DISMISSAL OF THE APPEAL REQUEST.

Applicants should be prepared to answer the following questions:

- * What **hardship** is created by the application of the Zoning Ordinance to this property? Is **reasonable use** of the property denied by the zoning regulations? In other words, is there an alternative plan that would **comply** with the ordinance?
- * Is there a **unique physical characteristic** of the property which prevents development of the property in compliance with the Zoning Ordinance?
- * Would granting the variance harm the **public interest** in any way? For example, would public safety be compromised? (Note: Lack of neighborhood opposition does not necessarily mean a variance would not harm the public interest.)

A notice of the date and time of the hearing will be mailed to all property owners within 100 feet and municipal property within 1,000 feet of your property. Notice of hearing will also be sent to the City of Sheboygan Planning Department. It is important you discuss your proposal with the Building Inspection and Planning Departments.

The property owner or a representative shall be present at the public hearing to present his or her request to the Board and answer any questions the Board members may have. Should an appearance not be made, or insufficient information presented, the appeal will not be considered and may be either placed on the agenda for the next meeting or denied. The appellant will be required to pay the additional expense incurred because of postponement of the hearing. Appellants are reminded the filing fee for a variance request is non-refundable.

I have read the above and understand my responsibilities regarding my appeal to the Zoning Board of Appeals. I have also read and understand the "Three Tests" for a Variance included with this form.

Signature

Date

7/26/22



BUILDING INSPECTION DEPARTMENT
828 Center Avenue, Suite 208
Sheboygan, WI 53081-4442
Phone: (920) 459-3477
Fax: (920) 459-0210

buildinginspection@sheboyganwi.gov

**APPEAL FROM RULING OF THE BUILDING INSPECTOR
AND/OR ZONING ADMINISTRATOR**

CASE NO: _____
FILING DATE: _____
RECEIPT NO: _____
ZONING DIST: _____

TO: THE ZONING BOARD OF APPEALS, CITY OF SHEBOYGAN, SHEBOYGAN COUNTY, WI

- 1). Appeal Location (address): _____
- 2). Applicant: Melanie Gutschow Telephone #: (920) 287-9033
Address: 1004 Erie Ave
- 3). Legal Property Description (Lot, Block, Subdivision, etc.) _____

- 4). Type of Building (Circle): Commercial - Residential
- 5). Request for (Circle): New Construction - Repairs - Alterations - Addition - Nonconforming Use - Other
(if other) please list: _____
- 6). If the request is for a nonconforming use:
Your intended use: Fence
Date last occupied as a nonconforming use: _____
By Whom: _____ Previous use: _____
- 7). Applicants interest in property: Owner
- 8). On a separate letter to the Board describe the requested variance and include what unnecessary hardship or difficulty is caused by following the regulations or requirements of the ordinance. See the attached "The Three Tests for a Variance" and be prepared to argue how you pass the THREE TESTS FOR A VARIANCE.

I HEREBY CERTIFY THAT THE ABOVE APPLICATION AND/OR APPEAL AND ALL ATTACHMENTS THERETO ARE TRUE, CORRECT AND COMPLETE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Date: 7/26/22

Signature:
Printed Name: Melanie Gutschow
Mailing Address: _____

THE THREE "TESTS" FOR A VARIANCE

The CITY OF SHEBOYGAN adheres to a set of Zoning Ordinances to make certain your proposed construction is consistent with neighboring developments, a development does not infringe on the enjoyment of property belonging to neighboring owners, it does not detract from surrounding buildings or lots and is not out of character with the neighborhood, and a project meets necessary public health and safety standards. If your proposed construction cannot meet the requirements of the zoning or sign code, a **VARIANCE** is needed.

To obtain a variance, you must establish, due to some peculiarity of the property's size, shape, topography, etc., it would be a hardship or practical difficulty to meet zoning code requirements. ***These circumstances must not be self-imposed or self-created.*** In short, your proposed construction must meet and pass the three "tests" for a variance listed below.

IT IS RECOMMENDED YOU MEET WITH THE STAFF IN THE CITY'S PLANNING DEPARTMENT AND BUILDING INSPECTION DEPARTMENT BEFORE SUBMITTING YOUR APPLICATION FOR A VARIANCE. BUILDING INSPECTION STAFF WILL REVIEW THE STANDARDS FOR A VARIANCE (BELOW) PRIOR TO YOUR FILLING OUT THE APPLICATION AND PAYING THE NON-REFUNDABLE FILING FEE.

TEST #1: UNNECESSARY HARDSHIP

The Wisconsin Supreme Court has ruled that unnecessary hardship only exists when the zoning ordinance denies ***all reasonable use*** of the property. ***If there is an alternative plan that is within the bounds of the zoning ordinance, a variance is not warranted.***

The hardship experienced ***must not be self-imposed***; loss of profit, expense already incurred and additional expense incurred to comply with zoning ordinances ***are not*** unnecessary hardships.

TEST #2: UNIQUE PROPERTY LIMITATIONS

Unique physical characteristics of your property must prevent you from completing your proposed construction in compliance with the ordinance. The **property** must qualify for the variance, **not your particular situation**.

Additionally, existing violations on other properties or improper variances previously granted are not grounds for a variance.

TEST #3: NO HARM TO PUBLIC INTEREST

The Board members will be taking into account the reason for the existence of the zoning ordinance in applying this test. Lack of opposition ***does not*** necessarily mean the proposed construction would not harm the public interest.

The Board, in granting a variance, may impose conditions on the proposed construction to assure the public's interests are protected. Board members may only grant the ***minimum relief*** necessary for the reasonable use of the property.

Your proposed construction must meet all three "tests" to qualify for a variance. Variances are meant to be an ***infrequent remedy*** where an ordinance imposes a unique and substantial burden. ***They are not intended as an accommodation for a property owner's convenience.*** A variance decision may be appealed within 30 days of the filing of the decision in the office of the board.

Please contact the staff at the City's Planning Department and/or Building Inspection Department if you have any further questions.

ESTIMATE



Prepared For

Melanie Gutschow
1004 Erie Ave
Sheboygan, WI 53081
(920) 287-9033

S&H Remodeling, Inc.

1206 Macarthur Ave.
Sheboygan, WI 53083
Phone: (920) 803-9973
Email: shremoinc@gmail.com
Web: shremodeling.net

Estimate # 545
Date 05/15/2022
Business / Tax # 31-1755926

Description

Total

NEW FENCE	\$12,800.00
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Installation approximately 280' of green treated 6' dog ear picket fence (see attached layout)
Includes installation of 4x4x10' green treated posts 4' below ground
Installation of triple green treated 2x3 between posts.
Installation of 1x6x6' green treated dog ear fence pickets.
Installation of one 4' gates
Installation of double gate (width of the existing driveway)

Material allowance of \$4,600.00 is included in the estimate
Labor allowance of \$8,200.00 is included in the estimate

Subtotal	\$12,800.00
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Total	\$12,800.00
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We propose to supply MATERIAL LABOR and EQUIPMENT to complete the phase of construction as proposed.

Workmanship and materials are guaranteed by contractor to be as specified. Any deviation from these specifications or plans involving an extra charge or a credit must be agreed upon in writing between the contracting parties before the change is made. Contractor to carry all appropriate insurance necessary to complete the above work as required by law.

Workman's compensation or general liability insurance supplied by builder.

"You are hereby notified that persons or companies furnishing labor or materials for the construction on your property may have lien rights, in addition to the undersigned contract, at those who contract directly with you or those who give you identification notice within sixty (60) days after they first furnish labor or materials for the construction. You probably will receive notice from those who furnish labor or materials for the construction, and you should give a copy of each notice you received to your mortgage lender, if any, to see that all potential lien claimants are duly paid"

PAYMENTS: 50% down payment is required, remained balance is due upon completion

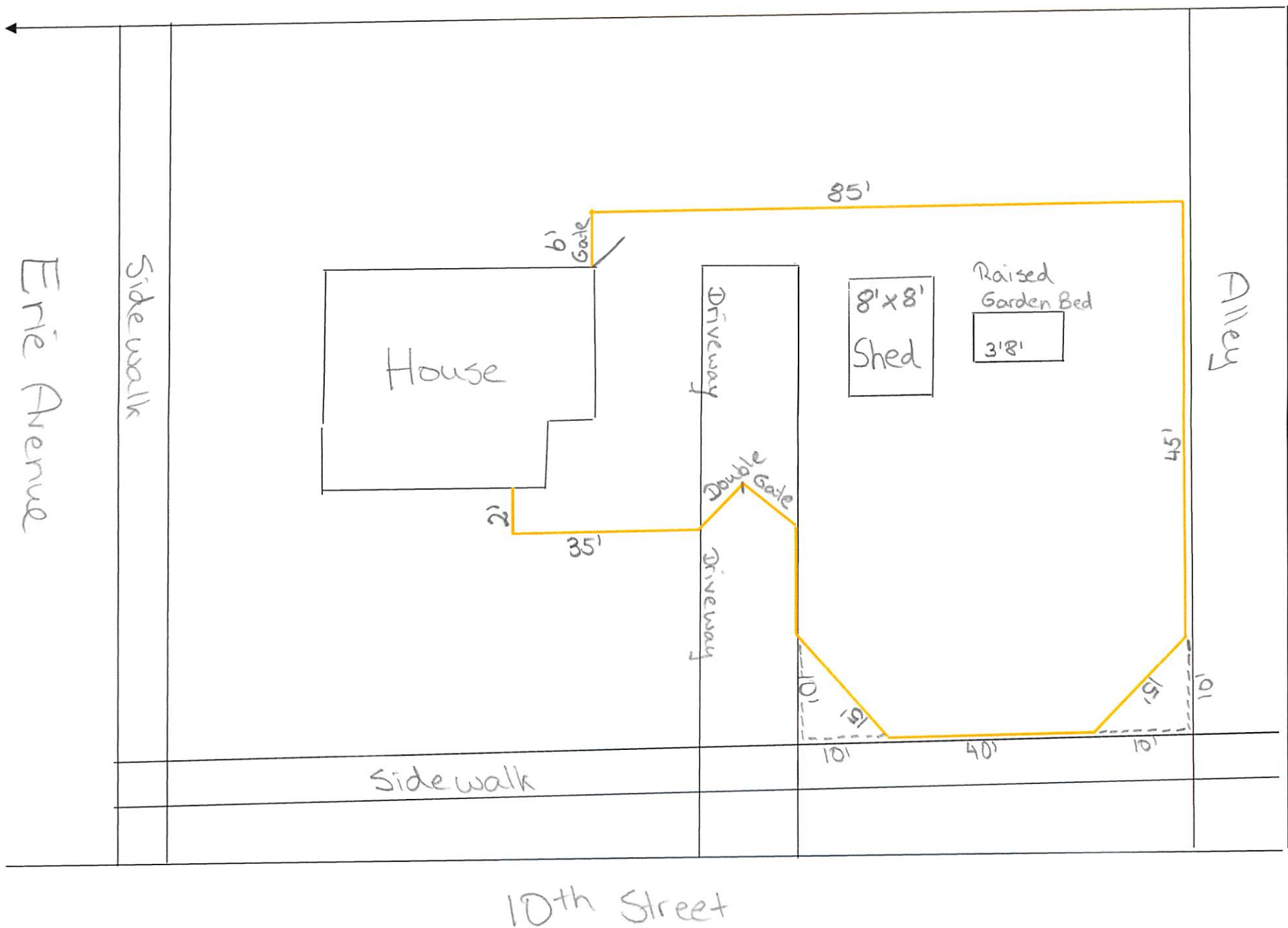
By signing this document, the customer agrees
to the services and conditions outlined above



Signed on: 05/31/2022
Sam Herdic (S&H Remodeling, Inc.)

Melanie Gutschow

Proposed Fence in yellow



Building Inspection Department
"Zoning Board of Appeals"
828 Center Avenue, Suite 208
Sheboygan, WI 53081-4442

07/26/2022

Good day everyone:

Dear members of the Zoning Board of Appeals. I am writing to seek a fence variance for my single-family home at 1004 Erie Avenue, Sheboygan, WI 53081. Current zoning rules say that fences must be no more than 4 feet tall; I respectfully request to install a fence that is 6 feet tall.

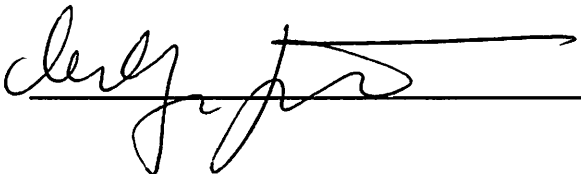
The reason for this request is that I want to be able to allow my son with his unique neurodiversity's as much safety as possible while still affording him the normal reasonable use of the space within a fence. He is nonverbal autistic and he elopes very often and a 4 foot fence would not keep him inside of the space within the fence. In addition, even despite my vigilant and responsible parenting, I am one person and part of why I was given the opportunity and home through Habitat for Humanity Build a Home program was because I met the criteria for greatest need.

Furthermore, I'd like to add that I have spoken with a few neighbors and that these neighbors agree that a 6 foot fence would not only protect my son better, but it would also afford the roadways and neighbors less possibility of disruption of their reasonable enjoyment of their space and or safety. Please review the attached proposal of the 6 foot fence on my family's property. It was and is of utmost importance to me that safety for my neighbors or pedestrians was established by adding two sight triangles.

Nevertheless, I hope you agree that my request would produce a safe outdoor space and proper addition if not an enhancement to my neighborhood. Should you have any questions, please do not hesitate to contact me at 920-287-9033. Thank you for your thoughtful consideration of this request.

Respectfully yours,

Melanie Gutschow

A handwritten signature in black ink, appearing to read 'Melanie Gutschow', is written over a horizontal line.







