

# Memorandum

**To:** Chair Hansen and Members of the Planning Commission  
**From:** Daniel R. Buchholtz, MMC, Administrator, Clerk/Treasurer  
**Date:** May 20, 2025  
**Subject:** Variance – 965 83rd Ave NE

## Background

Kurtiss Kemmet, 965 83rd Avenue NE, has submitted an application for a variance from the 4 foot height limitation for a privacy fence in the front yard.

The applicant is seeking a variance from the height limitation set forth under SLPC 16.28.030 (Fences).

The site is located at the intersection of Laddie Road and 83rd Avenue NE. The property is guided for low density residential in the 2040 Comprehensive Plan. The property is zoned R-1, Single Family Residential – allowed uses include single-family homes and duplexes. Property records show that the house on the property was constructed in 1984.



The City's current yard setback standards for the R-1 zoning district is as follows:

Dwelling, single family – front yard	35 feet
Dwelling, single family – rear yard	40 feet
Dwelling, single family – side yard	10 feet
Accessory uses, rear yard	5 feet
Accessory uses, side yard	5 feet

SLPC 16.28.030 regulates the location, height, type of construction and maintenance of fences within the City.

#### **§ 16.28.030 Fences**

- F. *Residential district fences.* In single- and multiple-family residential districts, no fence may exceed four feet in height above the ground level, in front of the front line of the residential structure, along any street or highway right-of-way, or in the front yard as defined by this title. In these districts, fences along the side lines to the rear of the front line of the residential structure and along the rear line, including rear lines abutting street or highway right-of-way zones, may not exceed six feet in height above the ground level. The required front yard of a corner lot shall not contain any fence which may cause danger to traffic on a street or public road by obscuring the view. On corner lots, no fence shall be permitted within the intersection sight distance triangle as shown in SLPC 16.64.030, App. C.

The applicant is seeking a variance from the requirement that no fence located in the front line of a residential structure may exceed four feet in height. The Zoning Code defines the front lot line as “the boundary of a lot abutting a street. On a corner lot, the shortest street lot line shall be the front lot line.” SLPC 16.20.080 (B) states that “...the front yard shall extend along the entire frontage of the lot and along both streets in the case of a double frontage or corner lot.” In addition, SLPC 16.20.080 (E)(1) states that “the required front yard of a corner lot shall remain free of any wall, fence, structure, tree, shrub, or growth that does not maintain at least 75 percent transparency.”

*Previous applications:* April 1984 - variance granted to build house with an 8 foot side yard setback. April 2001 - variance granted to allow curb cut for the driveway to be 30 feet wide, rather than the 24 foot standard.

#### **Analysis**

Section §16.60.040 of the City of Spring Lake Park’s zoning code outlines the criteria for considering variances:

“The City Council may grant a variance from the strict application of this title and impose conditions and safeguards on the variance so granted only in instances where their strict enforcement would cause practical difficulties in complying with the official control because of circumstances unique to the individual property under consideration, and may grant a variance only when it is demonstrated that such actions will be in harmony with the general purposes and intent of this title and when the variances are consistent with the Comprehensive Plan. “Practical difficulties” as used in connection with granting of a variance means that the property owner proposes to use the property in a reasonable manner not permitted by an official control, the plight of the landowner is due to circumstances unique to the property not created by the landowner, and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical

difficulties also includes, but is not limited to, direct sunlight for solar energy systems. A variance shall not be granted to allow a use that is not allowed in the zoning district involved.”

Constructing a privacy fence in a yard is a reasonable use of the property as privacy fences are frequently found in single family residential areas. The proposed fence would not change the character of the neighborhood as the corner lot property located across the street at 937 83<sup>rd</sup> Avenue has a similar privacy fence in the front yard setback as being requested by the applicant, though it does not abut a driveway. Staff will note that there is a code compliant fence at 8322 Laddie Road NE in the front yard. The property faces a unique circumstance as the garage and driveway face Laddie Road, which makes that frontage function more like a side yard, despite its legal classification as a front yard. The practical difficulty was not created by the landowner.

This provision of code has been inconsistently enforced across the City, resulting in a hodge-podge of compliant and non-compliant fences in the front yard in corner lots across the City.

### **Recommendation**

While the code is clear, this provision has been inconsistently enforced across the City, resulting in a visible mix of compliant and non-compliant fences in the front yards of corner lots. This has led to a lack of uniformity in how corner lot fencing is treated, both in terms of appearance and code compliance. The applicant’s request reflects a broader pattern of property owners seeking privacy and utility in these transitional yard spaces.

There are valid considerations both in support of and in opposition to the variance. On one hand, the lot’s configuration results in a street-facing yard that functions more like a side or rear yard, and the proposed fence may offer enhanced privacy and security without impacting visibility if placed outside the required sight triangle. On the other hand, approval of a taller, fully opaque fence could contribute to an inconsistent application of the City’s fencing standards and may diminish the open character typically associated with corner lots. Additionally, a code-compliant alternative exists: the applicant could construct a fence aligned with the front face of the garage, which would still allow for enclosure of the majority of the yard space. This raises the question of whether the request reflects a practical difficulty as defined under the zoning code, or whether it is primarily a matter of personal preference.

Given the context of prior inconsistent enforcement and the policy implications for future variance requests, staff is not making a specific recommendation and instead refers this matter to the Planning Commission for direction.

If the Planning Commission wishes to recommend approval of the variance, it would be with the following conditions:

1. Fence shall not be located no closer than 17 feet from back of curb to ensure it is outside of the City’s right-of-way.
2. Fence must be constructed of durable, residential-grade material such as vinyl, cedar or treated wood, and maintained in good repair with no warping, leaning or visible damage.
3. Applicant shall obtain a building permit for the fence prior to construction.

If the Planning Commission wishes to recommend denial of the variance application, it would be with the following findings of fact:

1. The applicant has not demonstrated practical difficulties unique to the property. The lot in question is a standard corner lot with no unusual shape, topography, or development constraints that prevent compliance with the City's fencing regulations. The desire for a taller privacy fence is based on personal preference, not a practical difficulty arising from the physical characteristics of the property.
2. The proposed variance is contrary to the clear and specific requirements of SLPC § 16.20.080(E)(1). The zoning code explicitly limits front yard fences on corner lots to 4 feet in height and requires at least 75% transparency to preserve open streetscapes and maintain traffic visibility. A 6-foot solid privacy fence does not meet these requirements.
3. The requested fence would alter the essential character of the corner lot streetscape and conflict with the City's established front yard design standards.

If you have any questions regarding this application, please don't hesitate to contact me at 763-784-6491.



865 83<sup>rd</sup> Avenue – Viewd from 83<sup>rd</sup> Avenue, facing North



865 83<sup>rd</sup> Avenue – Viewed from Laddie Road, facing East





937 83<sup>rd</sup> Avenue NE – Viewed from Laddie Road, facing West



8323 Laddie Road NE – Viewed from Laddie Road, facing West

