

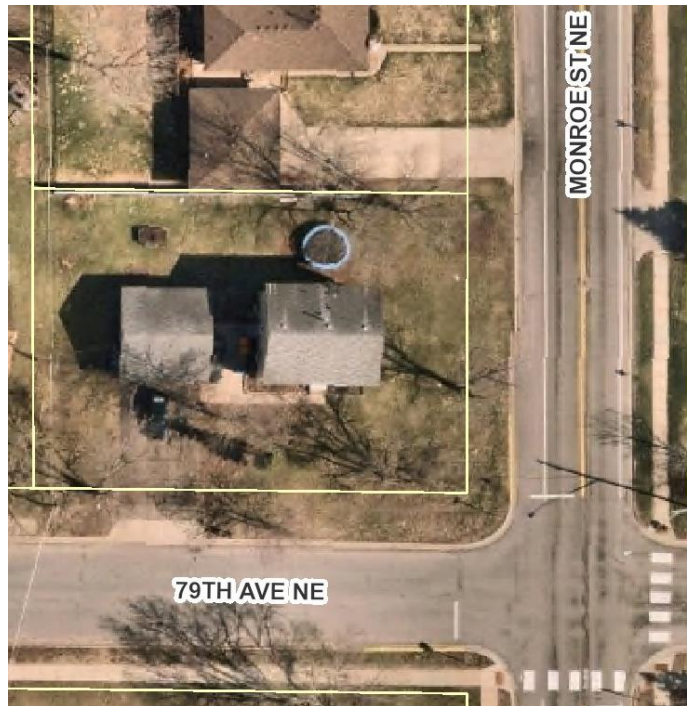
# Memorandum

**To:** Mayor Nelson and Members of the City Council  
**From:** Daniel R. Buchholtz, MMC, Administrator, Clerk/Treasurer  
**Date:** June 25, 2024  
**Subject:** Variance Request at 697 79<sup>th</sup> Avenue NE

Hamza Refaya, 697 79<sup>th</sup> Avenue NE, has submitted an application for a variance from the City Code to allow them to install a 6 foot tall fence in the front yard.

The property is a corner lot on the 600 block of 79<sup>th</sup> Avenue NE. The property is bordered by Monroe Street NE to the north. 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 property was constructed in 1956.

The applicant is seeking a variance from SLPC 16.28.030 (F), which states that “no fence may exceed four feet in height above 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.”

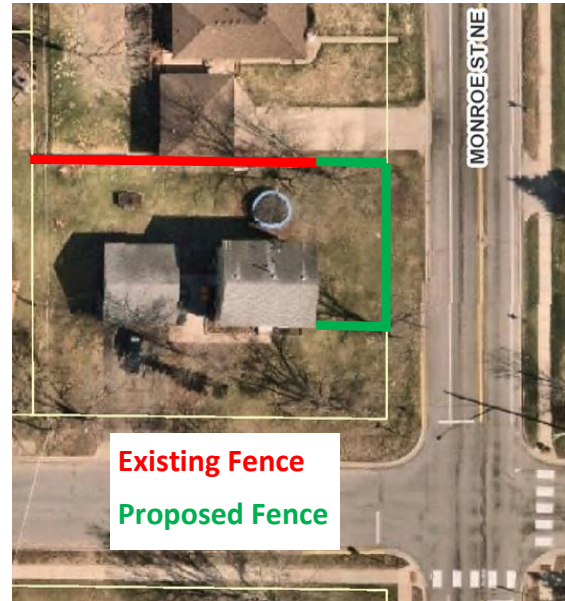


The term “Yard, Front” is defined under SLPC 16.04.070 as “a yard extending across the front of the lot between the side yard lines and lying between the front street line of the lot and the nearest line of the building. The term “Lot Line, Front” is defined as the “boundary of a lot abutting the street. On a corner lot, the shortest street lot line shall be the **FRONT LOT LINE.**” Further, SLPC 16.20.080(B) states that “except for driveways, 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.” SLPC 16.20.080(E) states that “the required front yard of a corner lot shall contain no wall, fence or other structure, tree, shrub, or growth which may cause danger to traffic on a street or public road by obscuring the view.”

## Current Condition

The property currently has a 6 foot tall white vinyl privacy fence along the northern property line, running from the western property line to the start of the front yard setback. The property owner is seeking to continue that 6 foot vinyl privacy fence to the right of way line and install a 6 foot tall privacy fence along the right-of-way line on Monroe Street, ending at a point in line with the south east corner of the house. The fence will continue to the west to terminate at the southwest corner of the house.

The sidewalk along Monroe Street is on the east side of the street, opposite of the fence. There is a parking lane on the west side of Monroe Street. No parking is allowed on the east side of Monroe Street.



## Variance

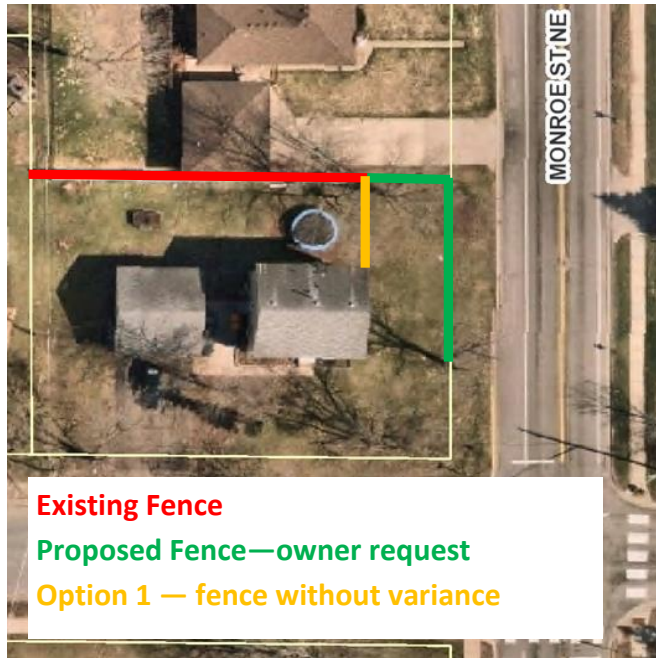
Section §16.60.040 of the City of Spring Lake Park’s zoning code outlines the criteria for considering variances:

“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.”

## Analysis

The zoning code includes regulations about fence heights in front yards for several reasons. The primary reason is for safety and visibility. Lower fences improve visibility for drivers and pedestrians, reducing the risk of accidents at driveways, street intersections and crosswalks. The lower fence height helps ensure that site lines are clear, which is especially important in areas with high foot or vehicle traffic, such as Monroe Street. A secondary reason is for aesthetic appeal.

Lower fences can contribute to a neighborhood’s visual appeal by maintaining a more open and welcoming appearance, thereby helping create a sense of community and cohesion.



There is no fencing parallel Monroe Street on this block, or on the adjacent blocks. This fence would impact the neighborhood aesthetic and could possibly lead to additional requests for front yard fencing along this busy street.

The garage for 7906 Monroe Street NE is located within 2 feet of the existing fence. The driveway is located approximately 5 feet from the property line. If the fence was to be constructed, it could impair the sight triangle when the occupants of 7906 Monroe Street back out of their driveway. With the traffic counts on this section averaging 1,000 cars per day, a 6 foot fence along the property line and Monroe Street right-of-way could reduce the safety of those backing out of this

driveway.

### **Recommendation**

Staff recommends denial of the variance, with the following findings of fact:

1. A six foot fence in the front yard along the right-of-way line is not reasonable under the circumstances as it would impair visibility for drivers and pedestrians, increasing the risk of accidents, particularly for residents backing out of nearby driveways.
2. The proposed fence would disrupt the consistent and open visual appeal of the neighborhood, thereby impacting the essential character of the neighborhood.
3. The property can continue to be used as a residential property without granting the variance. A fence can be constructed in conformance with the City Code while still providing backyard privacy to the owner of the property.
4. The variance request does not meet the criteria set forth in SLPC 16.60.040 or State Law for the practical difficulties test in that there are numerous corner lots within the City that currently comply with the City Code and insufficient unique circumstances exist on the property to support the deviation from Code standards.

The Planning Commission held a public hearing on the variance request at its meeting on June 24, 2024. After reviewing the request and public comment, the Planning Commission recommended denial of the variance and recommended adoption of the findings of fact listed above in support of the denial.

Staff recommends approval of Resolution 2024-45, denying the variance request.

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