



The City That Soars!

REQUEST FOR PLANNING COMMISSION ACTION

Meeting Date	July 23, 2013
Agenda Items	1
Title	Fence Height Variance at 1918 Autumn Street
Submitted By	Deborah Jones, Zoning and Planning Director

Description	A variance is requested to allow a fence 72 inches tall along a portion of the property line in the front yard of 1918 Autumn Street. Section 113-242 limits fences to a height of 36 inches in front yards.
Background	<p>1918 Autumn Street, Falcon Heights, PIN 162923310072, is located on the southeast curve of the north loop of the Falcon Woods neighborhood, south of Roselawn Avenue between Fairview and Cleveland Avenues. The legal description is Lot 3 Block 3 Falcon Woods. The parcel is zoned R-1 Single Family Residential and has been maintained in this use since the neighborhood was developed in the 1950s. The parcel has an area of approximately 13,503 square feet.</p> <p>1918 Autumn Street is one of a relatively small number of Falcon Heights residential properties that are not rectangular and oriented to the compass directions. The property is wedge-shaped, with a street frontage of approximately 60 feet and an average back yard width of over 100 feet. The north side lot line is approximately 104 feet; the south lot line is approximately 172 feet. The house is oriented at an angle such that the north front corner of the house is not lined up with the front of the house next door but approximately 7 feet back from the front line of the adjacent home to the north.</p> <p>The owners of 1918 Autumn Street are requesting a variance to extend their back yard privacy fence, which is 72 inches tall, forward of the front line of their house to match the fence in the adjacent yard. Because the house to the north does not line up, the neighbor's fence extends some 7 to 8 feet forward of the applicant's house. The applicants cannot extend their fence at a height of 72 inches because it is in their front yard, where fence height is restricted to 36 inches. Therefore they have applied for a height variance on a front yard fence.</p> <p>Notice of a public hearing on this matter was published in the Roseville Review on July 9. On July 5, notice was mailed to the owners of all properties within 350 feet as required by statute. One written statement was received prior to July 19; it is attached. No other public comment was received by staff as of July 19.</p>

<p>Analysis</p>	<p>In reference to Section 113-62 Variance, staff finds the following:</p> <p>a. That the variance would be in harmony with the general purposes and intent of Chapter 113.</p> <p>Staff finds that the variance requested is in harmony with the purpose and intent of the zoning chapter as stated in Section 113-1.</p> <p>b. That the variance would be consistent with the comprehensive plan.</p> <p>Staff finds that the variance requested is consistent with the comprehensive plan and that it will not impair or diminish property values or improvements in the area.</p> <p>c. That there are practical difficulties in complying with this chapter.</p> <p>Staff finds that there are practical difficulties in complying with the letter of Section 113-242 Fences. The parcel shape and orientation of the home mean that “front yard” for this residence does not line up with “front yard” for the house to the north so the 72 inch fence on the neighboring property borders a portion of the applicant’s front yard. It extends past the end of the fence they can legally build if they wish to have their own fence.</p> <p>d. That the granting of the variance will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety.</p> <p>Staff finds that the variances will not impair an adequate supply of light and air to adjacent properties, will have no effect on traffic on the public street and will not increase the danger of fire or endanger the public safety.</p> <p>e. That the requested variance is the minimum action required to eliminate the practical difficulties.</p> <p>Staff finds that the minimum action required to eliminate the practical difficulties is an extension of the fence to a line even with the house to the north. Staff finds that extending the fence a “standard” module distance is above the minimum action required. Staff recommends that any variance be limited to be in line with the adjacent fence</p> <p>e. Staff finds that the provisions regarding earth-sheltered construction and temporary use stated in Section 113-62(e)(6) do not apply to this variance.</p>
<p>Budget Impact</p>	<p>None</p>

Attachment(s)	<ul style="list-style-type: none">• Application for the fence height variance at 1918 Autumn Street• Site map and 2011 aerial photo of 1918 Autumn Street• Hearing notice published in the Roseville Review and mailed to owners of properties within 350 feet.• Letter received from neighbor at 1906 Prior Avenue, Falcon Heights.
Actions Requested	<ul style="list-style-type: none">• Hold a public hearing on the fence height variance requested for 1918 Autumn Street• Make a recommendation to the City Council



**City of Falcon Heights
Planning Application**

JUN 28 2013

Action Requested By:

Name of Property Owner Martin and Judy Mc Cleery
Phone (h) 651-646-1588 (w) _____
Address of Property Owner 1918 Autumn St. Falcon Heights, 55113
Name of Applicant (if different) _____
Address _____ Phone _____

Property Involved:

Address 1918 Autumn St. Falcon Heights, 55113
Legal Description Lot 3 Blk 3 Falcon Woods

Property Identification Number (PIN) 16.29.23 31.0072

Present Use of Property (check one):

- | | |
|--|---|
| <input checked="" type="checkbox"/> Single Family Dwelling | <input type="checkbox"/> Business/Commercial |
| <input type="checkbox"/> Duplex/Two Family Dwelling | <input type="checkbox"/> Government/Institutional |
| <input type="checkbox"/> Multi Family Complex | <input type="checkbox"/> Vacant Land |

Action Requested (NON-REFUNDABLE):

- | | |
|---|--|
| <input checked="" type="checkbox"/> Variance (\$100.00) <u>\$350.00</u> | <input type="checkbox"/> Lot Split (\$250.00) |
| <input type="checkbox"/> Conditional Use Permit (\$165.00) | <input type="checkbox"/> Site Plan Review (\$100.00) |
| <input type="checkbox"/> Rezoning (\$500.00) | <input type="checkbox"/> Other (Please Specify)
_____ |

Brief Summary of Request (applicant may submit letter to Planning Commission with details of request):

attached See also attached photos

I certify that all statements on this application are true and correct:

Judy S. McCleery
Signature of Property Owner (required)

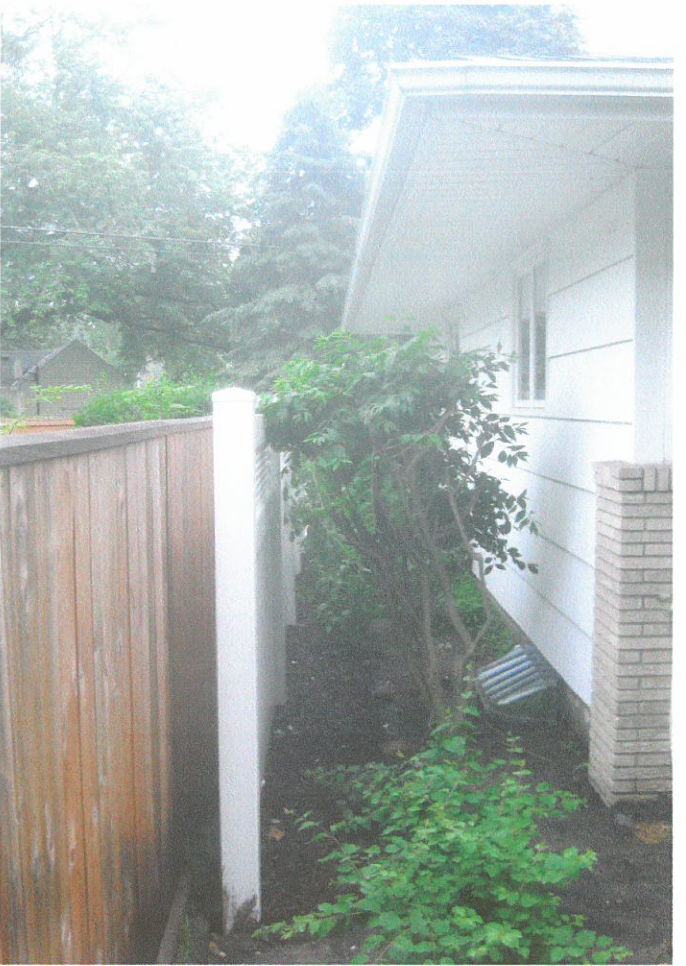
Signature of Applicant (if applicable)

We have called 1918 Autumn St. home since 1968. Two years ago our long time neighbors and friends passed away and when the current occupants took over the house (1906 Prior St.) they erected a six foot fence on their south property line (our north property line). This year we chose to align our new fence with theirs and obtained a permit with administrative approval for the construction. We proceeded with materials and labor in line with the permit granted to align our fence with theirs.

Because of a very unique property situation, the occupant's fence juts out beyond the front of our house by eight feet. This unique situation occurs because the two houses do not line up, thereby creating a situation where their fence is in line with the front of their house but juts out from the front of our house.

Work was stopped due to occupant's complaint and we were notified that the administrative approval was rescinded and that we would have to ask for a variance.

Because of the unique property situation, we are asking for a variance to finish our fence in exact line with occupant's fence for the remaining eight feet where their fence extends beyond the front of our house. This will provide for harmony in the design of both houses and enhance property values.



View of Fences - looking East on North side of home.

Martin & Judy McCleery
 1918 Autumn St.
 Falcon Heights, MN
 Falcon Woods Addition



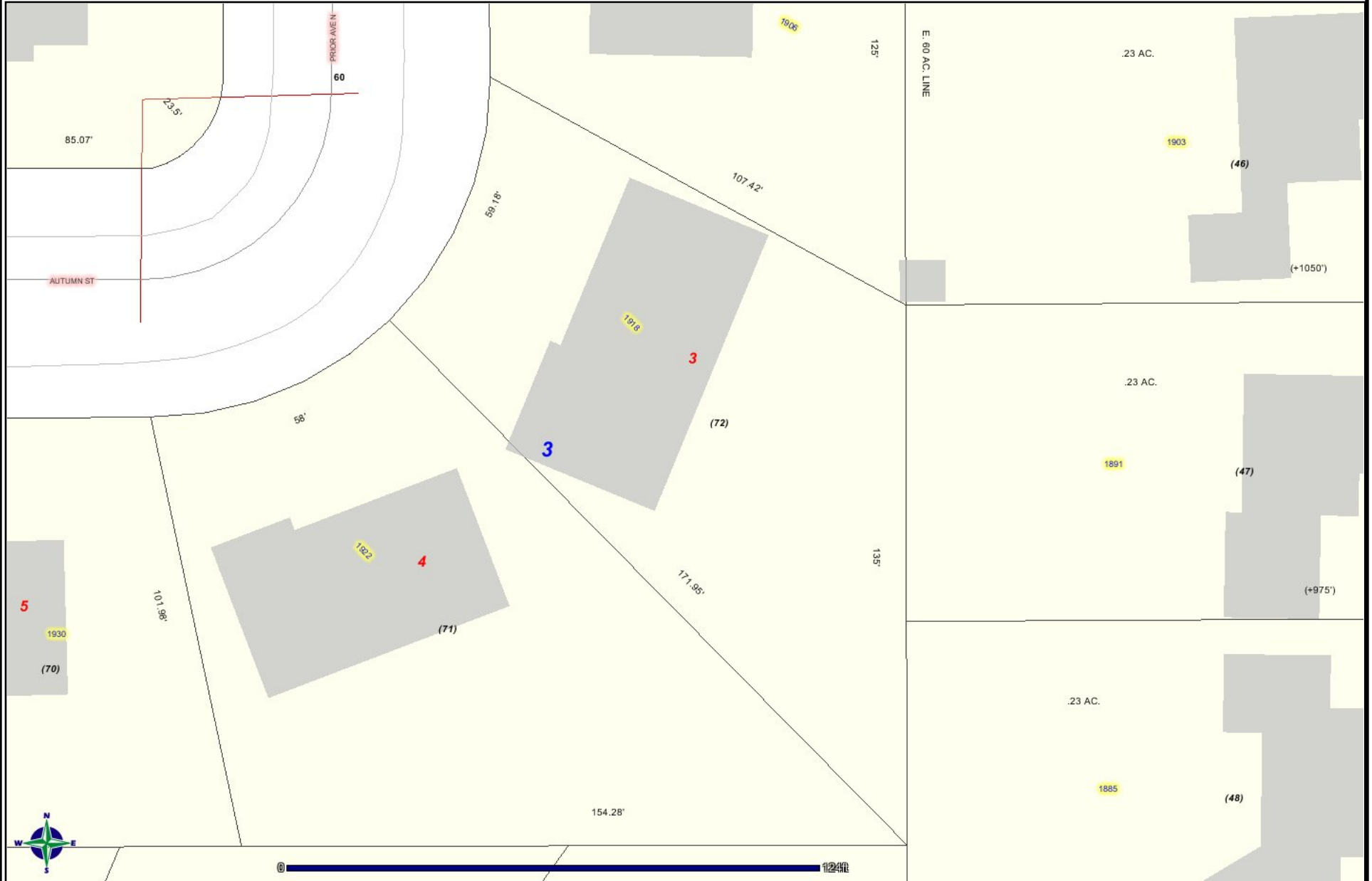
View of our fence looking North of home in back yard



View of neighbors Fence looking North of home in front yard, we propose to extend our fence to match

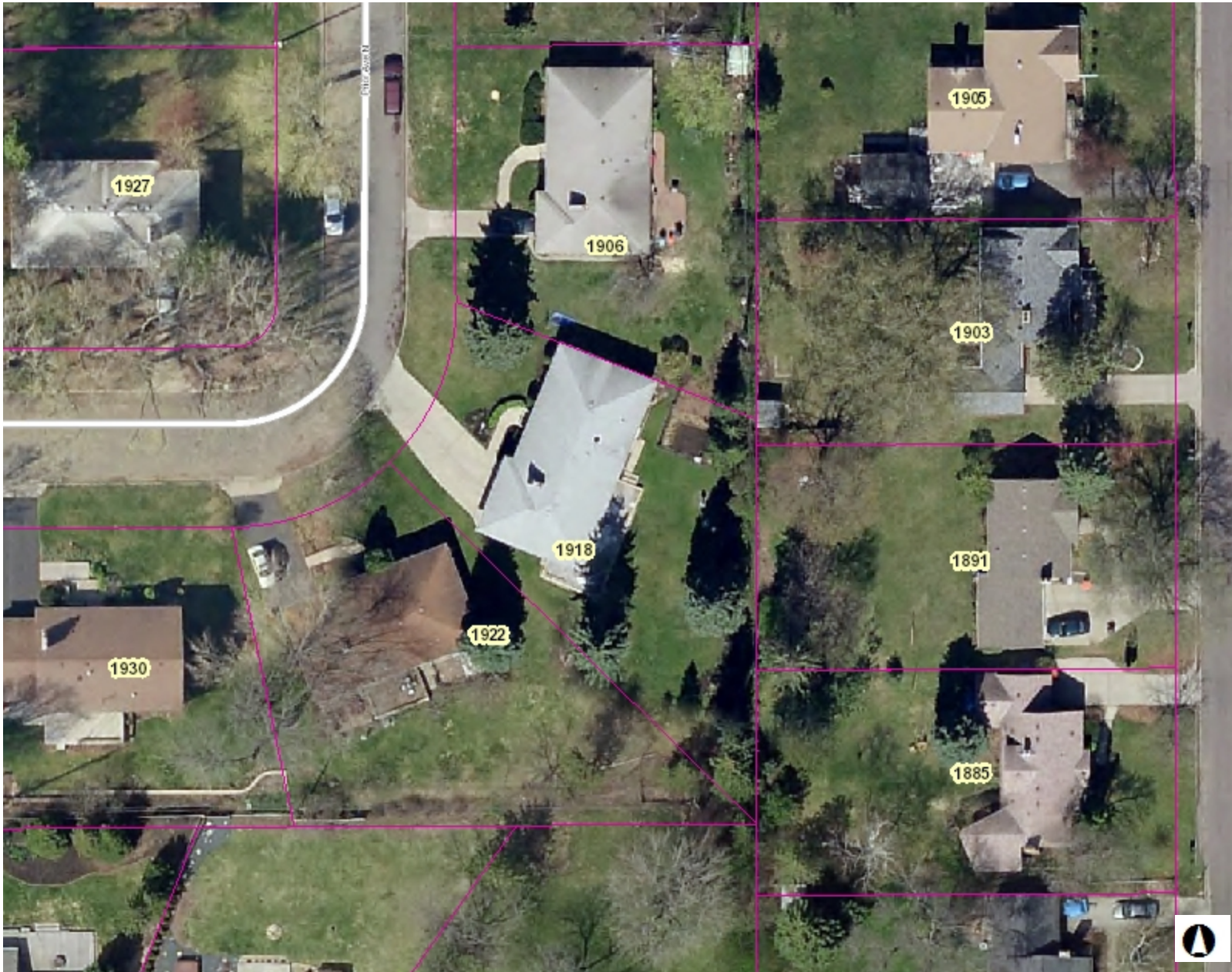
1918 Autumn Street, Falcon Heights

Ramsey County Online Maps & Data - Parcel, Structures, Pavement Edge






DISCLAIMER: This map is neither a legally recorded map nor a survey and is not intended to be used as one. This map is a compilation of records, information and data located in various city, county, state and federal offices and other sources regarding the area shown, and is to be used for reference purposes only.

SOURCES: Ramsey County (May 31, 2011), The Lawrence Group; May 31, 2011 for County parcel and property records data; May 2011 for commercial and residential data; April 2009 for color aerial imagery; All other



Legend

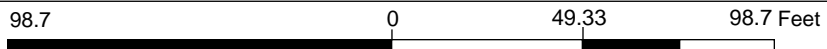


-  Parcel Points
-  Parcel Boundaries
-  County Borders



Notes

2011 Aerial Photo with property lines
(2013 corrections not shown)



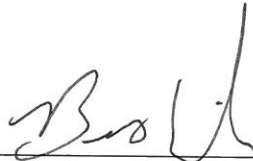
CITY OF FALCON HEIGHTS, MINNESOTA

PUBLIC HEARING NOTICE

NOTICE IS HEREBY GIVEN, that the Falcon Heights Planning Commission will meet on July 23, 2013 at approximately 7:00 p.m. at the Falcon Heights City Hall Council Chambers, 2077 Larpenteur Avenue West, Falcon Heights, Minnesota 55113, to consider a variance for a fence at 1918 Autumn Street, Falcon Heights. The property is legally described as Lot 3, Block 3, Falcon Woods. All persons who desire to speak on this issue are encouraged to attend and will be given an opportunity to be heard at this meeting. Additional information and copies of the proposed variance application can be obtained by contacting the City of Falcon Heights at (651) 792-7600.

This matter will be scheduled for the next appropriate City Council meeting following the Planning Commission meeting.

Dated: 7/2, 2013.



Bart Fischer, City Administrator/Clerk
City of Falcon Heights, Minnesota

JUL 09 2013

From:

Stephen and Joanne Sunderland
Residents at:
1906 Prior Ave N
Falcon Heights, MN 55113

To:

Falcon Heights Planning Commission
2077 Larpenteur Avenue West
Falcon Heights, MN 55113

Re:

Request for Variance to extend fence beyond allowable limits established by Falcon Heights City code at 1918 Autumn Street Falcon Heights, MN 55113

Dear Planning Commission:

We request your acceptance of this letter as testimony to be entered into consideration concerning the above referenced variance request. We request that this letter be read into the minutes of the meeting for all to reference and to be given fair and equal consideration by the planning commission. We will be traveling out of state and cannot be present at the hearing.

We are the neighbor along whose property the McCleery's have recently built a fence within six inches of the existing fence which was built one year ago by Joanne and I, on the property line in accordance with Falcon Heights City ordinance. The city is aware of the disputes surrounding the history of the first fence which was built of necessity to prevent future encroachment and to remedy existing encroachments by the McCleerys. It is not important to restate the details of this dispute. The McCleerys were opposed to our fence being built and complained to the city who sent the city manager, the city inspector and the zoning and planning director to our home to inspect. They have clearly changed their mind about fences and now have built a second fence directly alongside the first. The second fence is ill conceived and presents problems for both property owners. To extend this fence beyond allowable limits would only exaggerate the problems.

We strongly oppose the request for variance for the following reasons:

We have read the ordinance and find no criteria specified in the ordinance upon which to base a decision to extend a fence in the front yard of the property in question, which is the most visible elevation on the building site. The ordinance has been established and has worked well for a reason. We are not experts in Falcon Heights City code nor in hearings of this kind however we can suggest that our concerns derive from this absence of clear criteria. We object to this request for variance because a decision to grant this variance to one party in absence of clear criteria would of necessity discriminate against all parties who have complied with the ordinance. Granting a variance to one party would suggest that for the sake of fairness you would necessarily have to grant a similar variance to all parties who make application.

The second consideration is that in the granting of a variance the Planning Commission would want to weigh the positives of this request against the negatives in order to promote the goals and directives of the city for the benefit of all residents. We find no positives and many negatives. There are no financial

benefits to the home owner to extend the fence; fences do not carry value in appraising residential property. There are no benefits to the neighborhood, in fact the opposite will be argued. There is no benefit to the city, in fact granting this request would open the door to significantly more tedious and time consuming issues. The city manager has already suggested that the city does not have the expertise to decide on more complex issues. I cannot think of one single benefit obtained by granting this request.

The negatives are great. The presence of the second fence within six inches of the existing fence without consideration of the issues has been ill advised. When the first fence was built we took into consideration the level of the fence under the windows of the neighbor's house in order to be more pleasing to the eye. We dug into the fence line a trench of permeable rock and installed drain tiles in order that standing water would drain to lower elevations. This was done at additional expense in consideration of the neighbors. By contrast, while digging the post holes for the new fence the McCleerys threw the clay laden soil against the side of our wooden fence blocking the drainage effect of the permeable rock and drainage tiles and also damning up the terrain at that elevation. Heaving their dirt against the base of our fenced has also created a soil on wood issue that will in all likelihood cause the fence to rot prematurely. I have been told by the city that this is a civil issue and cannot be addressed by the city. However, if this request for variance is granted the city would be entering a judgment concerning this issue. The city would be extending the scope of the already untenable problem.

No positives would accrue to the city if this variance is granted and as you can see many negatives presently and in the future would be created by setting this precedent. The decision to grant a variance to extend the fence beyond the limits established by city code could be construed to be prejudicial and hence open to legal remedy by all parties harmed by this precedent. We would respectfully request that if the Planning Commission has a history of granting variances of this kind that these be identified in writing and represented in the hearing and that these variance requests that have been granted be distributed to interested parties prior to entering into a final decision. This would necessitate a future hearing.

Lastly we object to this request for practical and architectural aesthetic reasons. First as mentioned earlier the presence of the second fence is already problematic. The McCleerys have created a six inch no man's land which prevents the maintenance of either fence within that sandwich. It also creates a potential vector problem in that it will soon become the rodent highway. It is just enough land to grow a mountain of weeds, which cannot be weeded but also an irresistible tunnel for dogs and cats just big enough to get into and get wedged. This is the second non-homesteaded property for the McCleerys spending most of their time on their lake home. They will not then be the party that has to manage most of these potential problems. They have already delegated those problems to their neighbors. They have thoughtlessly built this second fence for reasons not based on sound reasoning but on criteria we can only guess at.

We thank the Planning Commission for reading our testimony into the record and request that the planning commission deny the request for variance.

Thank you,

Handwritten signatures of Stephen and Joanne Sunderland in black ink.

Stephen and Joanne Sunderland