
CITY OF ARNOLD PLANNING COMMISSION, MAY 22, 2018

TO: THE PLANNING COMMISSION
FROM: MARY P. HOLDEN, COMMUNITY DEVELOPMENT DIRECTOR
SUBJECT: 2018-19, VARIANCE REQUEST TO FENCING SETBACKS, 1130 HICKORY RIDGE TRAIL
DATE: MAY 17, 2018
CC:

Request

Mr. Michael Schwarzen has submitted a variance request to the setback requirements for a fence on a dual front lot. The request is to reconstruct a fence in the same location as the previous one that was located approximately 11 feet from the second front yard resulting in a variance request of 4 additional feet. Attached is the application, written response to the criteria, pictures and letters of support from some neighbors.

Analysis

Overall Staff has no concerns with this request. The fence has existed in this location for years with no detrimental impacts on this or other properties. There are support letters from the surrounding neighbors and the Homeowners Association, and a different location will adversely impact the neighbor since they installed their landscape improvements based on the location of prior fence.

Below is the specific section the variance is being requested.

Section 405.760. S. 3 b.(1). (b).Location.

(1) Residential districts ("R-1", "R-2", "R-3", "R-4", "R-5", and "R-6").

(b) Fences in the required front yard setback are prohibited except that on lots with more than one (1) street frontage, fences may project up to ten (10) feet into required street yards other than the required front yard.

Below is the criteria used to review this variance request:

The granting of the variance will not be detrimental to the public safety, health, or welfare or injurious to other property or improvements in the neighborhood in which the property is located.

The granting of the variance will not be detrimental to the public or safety, health or injurious to other properties in the area since the prior fence existed in the requested location for years with no adverse effects.

The conditions upon which the request for a variance is based are unique to the property to which the variance is sought, and are not applicable generally to other property.

The conditions are not unique in that there are similar situations in the City regarding fences on a dual front yard lot. However, when taken in whole, regarding the prior fence in its location for the length of time, the good condition, etc., this is unique.

Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the letter of these regulations are carried out.

It is difficult to say that due to topographic features, shape or physical surroundings warrant the granting of the variance but we do believe the physical surroundings warrant the granting based on the overall site, dual frontage, and adjacent neighbors' construction of improvements based on the prior fence location.

Recommendation

Staff recommends the Planning Commission grant the variance based on the below findings:

1. The granting of the variance will not be detrimental to the public or safety, health or injurious to other properties in the area since the prior fence existed in the requested location for years with no adverse effects.
2. The conditions are not unique in that there are similar situations in the City regarding fences on a dual front yard lot. However, when taken in whole, regarding the prior fence in its location for the length of time, the good condition, etc., this is unique.
3. It is difficult to say that due to topographic features, shape or physical surroundings warrant the granting of the variance but we do believe the physical surroundings warrant the granting based on the overall site, dual frontage, and adjacent neighbors' construction of improvements based on the prior fence location.

Community Development Department
City of Arnold
2101 Jeffco Blvd.
Arnold, MO 63010
636-282-2378
636-282-6677 Fax

May 23
mtg



PLANNING COMMISSION VARIANCE APPLICATION

File Number 208-19

\$200.00 Fee - Paid 5/9/18

APPLICANT/CONTRACT PURCHASER

OWNER

Name

Name

Address, City, State, Zip

1130 Hickory Ridge Trail, Arnold MO, 63010
Address, City, State, Zip

Telephone Number

314-809-1791
Telephone Number

Facsimile Number

Facsimile Number

Property Address (or nearest intersection)

Residential R-3
Zoning of Property

Adjacent Zoning/Uses - Residential

North

South

East

West

Requested Variance/Section of Code

Please See Attached Letter.

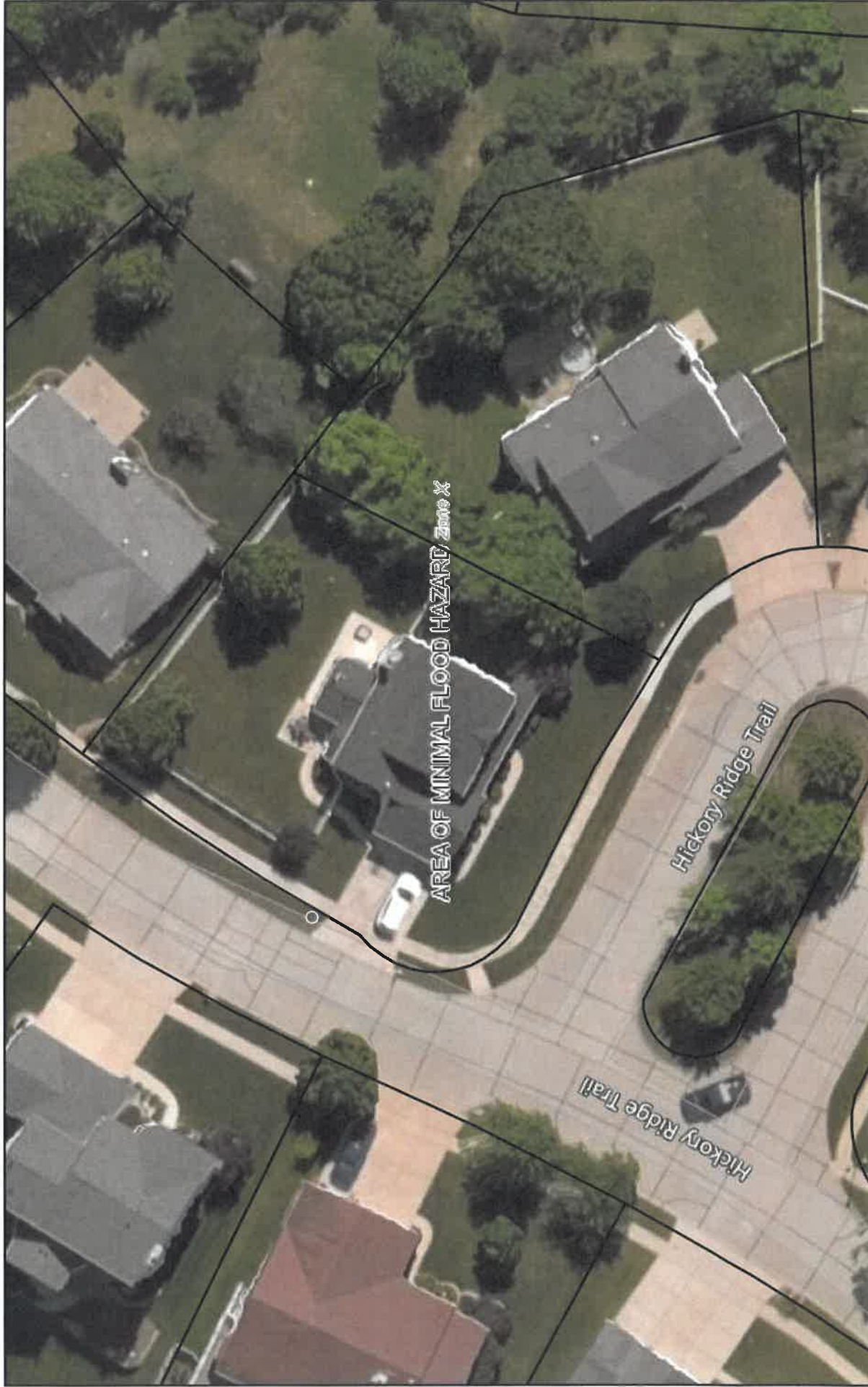
Katie Forester - 314-629-3188

May 8, 2018
Date of Application

May 22, 2018
Meeting Date Targeting

Michael Schwarzen
Signature of Applicant and/or Owner

City of Arnold MO Online GIS Base Map Viewer



May 17, 2018

- Jefferson County Parcels - Property
- Flood Hazard Zones
 - 1% Annual Chance Flood Hazard
 - 0.2% Annual Chance Flood Hazard
- Arnold_MO_City_Limits
- Regulatory Floodway
- Special Floodway
- Area of Undetermined Flood Hazard

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City of Arnold MO, Website User
City of Arnold Missouri



May 8, 2018

Via electronic mail (mholden@arnoldmo.org) and U.S. Mail with Application Fee

Community Development Department
Planning Commission
City of Arnold
2101 Jeffco Blvd.
Arnold, Missouri 63010

Re: Petition for Variance at 1130 Hickory Ridge Trail

Dear Members:

Please be advised that the undersigned and this firm represent Michael Schwarzen (the "Owner") of 1130 Hickory Ridge Trail (the "Property"). Pursuant to Section 405.760 of the Ordinances of the City of Arnold, Owner submits this petition of appeal to the Planning Commission requesting a variance for the installation of a fence located along the mainline side of the Property. The Owner purchased the Property in May of 2014. The home was built over twenty years ago and the fence was constructed on the Property approximately eighteen years ago. Since the construction of the home, the Property has had three previous owners. The Property is a corner lot with street frontage on two sides. The Owner obtained a pool permit from the City, and installation of the pool is approaching completion. In the process of installing the pool, a portion of the fence was removed in order to permit equipment and contractors access to the backyard. That portion of the fence that was removed in order to access the backyard was demolished when it was removed. It is the intent of the Owner to install a new more aesthetically pleasing fence in the same footprint of the fence that was destroyed.

Pursuant to Section 405.760(S)(3)(b), fences on lots with more than one street frontage may encroach up to ten feet into the required setback. Section 405.260 states that the standard setback for fences in an R-3 District is twenty-five feet. Since the Property has two street fronts, the setback for a fence pursuant to the ordinances would be fifteen feet. The original fence was installed prior to the Owner purchasing the Property and the present location of the fence is approximately eleven feet from the Property line. The Owner is seeking an area variance to Section 405.760 permitting the installation of a new fence in the same footprint as the fence that was destroyed during the construction of the pool. Owner's reasons for such variance are as set forth below.

1. There is no dispute that the granting of the variance will in no way be detrimental to the public safety, health, or welfare or be injurious to other property or improvements in the neighborhood. Rather, the Owner's immediate neighbor has stated that his property would suffer injury as a result of the Owner's having to relocate the fence, as the neighbor would be required to alter landscaping and realign an existing sprinkler system. Further, the new and taller fence will provide additional privacy and security for the Owner.

2. The request for the variance is unique to the Property and is not generally applicable to other property. Seeking to keep the fence in its present location is not applicable to other properties in the area as the location of the fence is directly tied to the location of the new pool installed in the Owner's backyard. The Owner is not seeking a variance from use, the Property will continue to be residential. Rather, Owner is seeking an area variance to permit the fence to be installed in the original location. The Owner relied upon the location of the fence when designing and constructing a pool layout. The shape and topography of Owner's backyard required him to place the pool closer to the fence. The backyard tapers in from the fence side across the backyard and becomes narrower on the opposite side of the yard. This unique shape required that the pool be constructed in the portion of the yard that had a wider footprint, which is closer to the fence. Allowing a new fence to be constructed in the footprint of the existing fence will not deny any neighbors or the public use or enjoyment of any public right of way. Should the Owner be required to relocate the fence, it will affect the use and appearance and of the pool area.

3. Due to the physical shape and surroundings of the Property, the Owner would suffer a hardship rather than a mere inconvenience if the variance is not granted. The Owner obtained plans for the installation of a new pool in reliance on the location of the existing fence. There are a number of practical difficulties for Owner if the fence variance is not granted. Based on the current location of the fence, the Owner expended funds for construction of the pool; installation of sprinklers; landscaping; and cement work. The variance requested by the Owner is not a substantial deviation from the requirements of the code nor will the variance alter the character of the neighborhood. The location of the current fence is four feet from the required setback. The Owner's request for the variance is a reasonable request. The variance will in no way injure any surrounding property or provide any financial gain to the Owner. Conversely, if the variance is not granted, the Owner will be required to make additional monetary expenditures to the Property as will his neighbor.

The Owner is not proposing a change in use of the Property but rather an area variance to allow the Owner to construct a more structurally sound fence. The construction of Owner's fence makes no undesirable change in character to Owner's property or the neighborhood. There will be no increase in noise or traffic. The fence will be in compliance with the City's height and material requirements. The Owner will install a fence that is even more aesthetically pleasing for the Owner as well as the neighborhood as a whole. The new fence will have no negative impact on the character of the Property or the neighborhood. The new fence will actually increase the value of Owner's Property, which will ultimately benefit the neighbors' property values. The Owner has obtained the consent of his surrounding neighbors as well as the neighborhood trustees to construct a new fence in the same location.

The fence has been in the existing location for eighteen years without any communication from the City concerning its setback. The fence has never created a problem for the neighborhood or any of the previous owners. The neighbor actual relied on the fence and its location to landscape his yard. The only reason the location of the fence has become an issue is the fact that the Owner has installed a pool in their backyard. The fence and its location have in no way created any detriment to the neighborhood. Rather, the inability of Owner to construct the new fence in the same location will be detrimental to Owner as well as to his neighbor. The Owner and his neighbor will be subject to additional hardships, including monetary expenditures for changes to landscaping and sprinkler systems if the variance is not granted. Both parties have relied on the location of the fence for over the past eighteen years without any complaints or any notice from the City that there was a violation.

The variance requested by Owner is minimal and there are no alternatives available to remedy the situation. The fence was in its current location when the Owner purchased the Property. The fence has been in its current location for the past eighteen years. There have been no complaints by anyone in the neighborhood regarding the location of the fence. For the past eighteen years, the City has failed to notify any of the owners of the Property that the fence was in violation of the setback requirement. Only now, after Owner has constructed a pool in his backyard, has the City decided to enforce the setback requirements. The Owner constructed the pool in its present location under the belief that the fence location was in compliance with the code. Neither the previous owners nor the City ever indicated over the past eighteen years that the fence was noncompliant. The denial of a variance to Owner after eighteen years of silence would not be in the interest of justice and would be detrimental to the Owner as well as his neighbors.

Granting the Owner a variance will in no way impede the public right of way or cause any harm or injury to residents or the neighborhood as a whole. As such, the Owner requests the City's Planning Commission grant the variance and allow Owner to construct a new fence in the footprint of the existing one. Enclosed with this petition for your review are photos of the Property, drawings of the new fence and correspondence from neighbors.

Very Truly Yours,



Kathryn B. Forster

1132 Hickory Ridge Trail



Image capture: Apr 2013 © 2018 Google

Arnold, Missouri

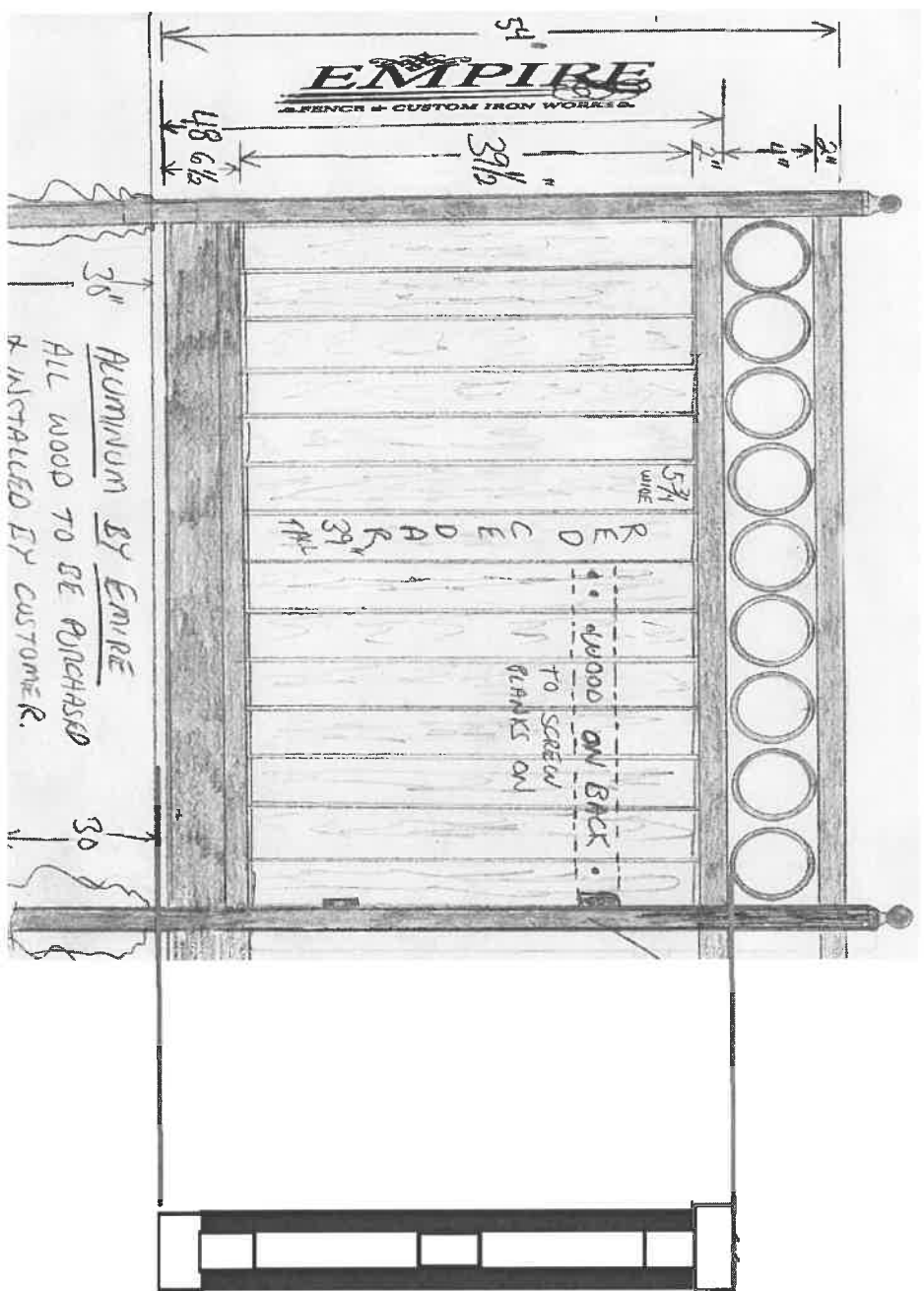
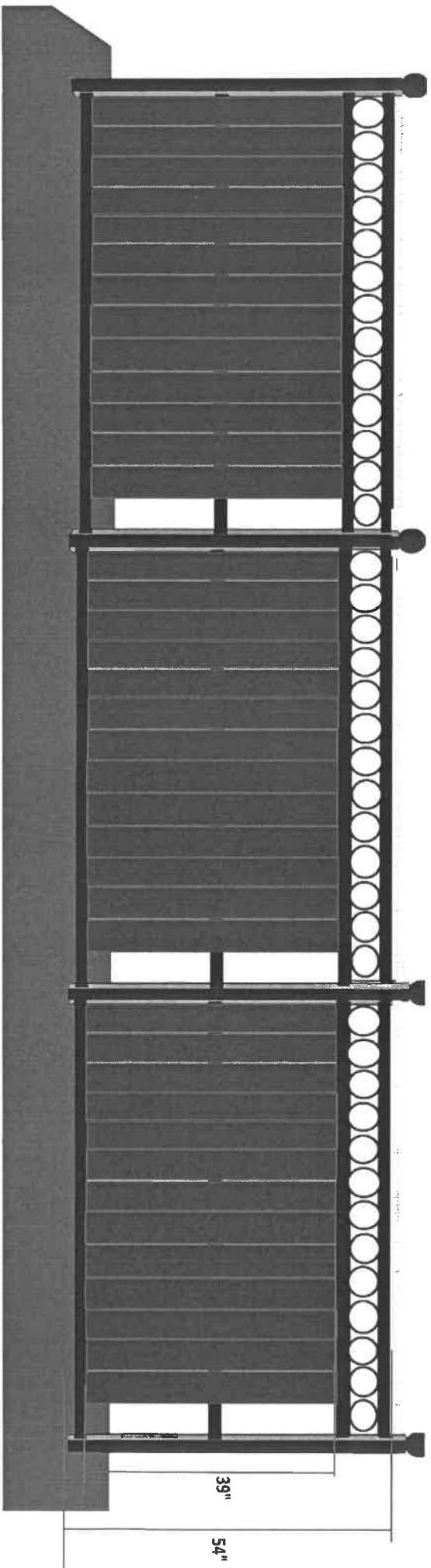


Google, Inc.

Street View - Apr 2013

1132
Hickory
Ridge
Trail





Center Wood Section Profile

Regards:

Date 4-17-2018

Mr. & Mrs. Michael Schwarzen
1130 Hickory Ridge Trail
Arnold MO 63010
Hickory Manor Subdivision Lot 888

This letter is to inform all parties involved in the appeals process regarding the fence compliance on Lot 888.

Our lot (889) adjoins to Lot 888, and for 18 years we have had not objections to the current location of the fence located in the front or side yards.

In fact, the moving of this fence would cost myself financial burden in landscaping and sprinkler realignment.

Michael R. Shipp
Gonna R. Shipp
Mr. and Mrs. Michael Shipp (Lot 889)

Regards:

Date 4-17-2018

Mr. & Mrs. Michael Schwarzen
1130 Hickory Ridge Trail
Arnold MO 63010
Hickory Manor Subdivision Lot 888

This letter is to inform all parties involved in the appeals process regarding the fence compliance on Lot 888, that I the owner of the neighboring lot have no objection to the fence remaining in its current location.

A handwritten signature in cursive script that reads "John Cressman". The signature is written in black ink and is positioned above the printed name.

Mr. and Mrs. John Cressman (Lot 880)


Regards:

Date 4-17-2018

Mr. & Mrs. Michael Schwarzen
1130 Hickory Ridge Trail
Arnold MO 63010
Hickory Manor Subdivision Lot 888

This letter is to inform all parties involved in the appeals process regarding the fence compliance on Lot 888, that I the owner of the neighboring lot have no objection to the fence remaining in its current location.

Mr. and Mrs. Barney Woods (Lot 887)

A handwritten signature in cursive script, appearing to read "Barney Woods". The signature is written in black ink and is positioned below the typed name of the sender.

Katie Forster

From: michael@vecontracting.com
Sent: Sunday, May 06, 2018 8:53 PM
To: Katie Forster
Subject: FW: Fence Schwarzen 1130 Hickory Ridge Trail

Importance: High

Katie here is the email from the Subdivision Trustees.

Thanks,
Michael

From: Maureen Clifton <mushy_3@yahoo.com>
Sent: Thursday, May 3, 2018 7:15 AM
To: michael@vecontracting.com
Subject: Fwd: Fence Schwarzen 1130 Hickory Ridge Trail

Michael and Shari,

Hickory Manor trustees have no objections to style and location of fence @ 1130 Hickory Ridge Trail.

Maureen Clifton
Hickory Manor Trustee

Sent from my iPhone