



## REPORT TO PLANNING COMMISSION

### CITY OF ARNOLD

**APPLICATION NUMBER:** 2019-43

**APPLICATION NAME:** 2113 CHELSEA CT

**APPLICANT NAME:** Damir Begovic  
2113 Chelsea Ct  
Arnold, MO 63010

**PROPERTY OWNER NAME:** Damir Begovic  
2113 Chelsea Ct  
Arnold, MO 63010

**APPLICANT'S REQUEST:** The applicant is requesting a variance to the setback and height restrictions for a fence on a double frontage lot. The purpose is to allow for a 6-foot privacy fence 2 ft. off the rear property line, which is in a street yard to Richardson Rd.

**STREET ADDRESS:** 2113 Chelsea Ct

**SITE LOCATION:** Along Richardson Road, north of Interstate 55 intersection/  
commercial area, Briarwood Manor subdivision

**ZONING DISTRICT:** "R-6" Residential District

**PARCEL ID:** 01-9.0-31.0-3-002-003

**TOTAL SITE AREA:** 0.20 acres

**MEETING DATE:** November 12, 2019

**REPORT DATE:** November 5, 2019

**CASE MANAGER:** Sarah Turner

**RECOMMENDATION:** **APPROVAL WITH CONDITIONS**





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### DESCRIPTION OF EXISTING SITE CONDITIONS

The 0.20 acre parcel is located along Richardson Rd, north of the Interstate 55 intersection. The property has two street frontages: Chelsea Ct. and Richardson Rd. The property is accessed from Chelsea Ct. and is zoned "R-6" Residential. It is developed with a single-family dwelling.

### SITE HISTORY

Prior to development, the subject site was heavily wooded and vacant. The homes on Chelsea Court were the fourth and final phase of the Briarwood Manor Subdivision which was platted in 1994. The subject property is Lot 78. The existing single-family dwelling was constructed in 2000.

### LAND USE AND ZONING CONTEXT MATRIX

DIRECTION	EXISTING LAND USE	ZONING DISTRICT	COMMENTS
North	Residential	R-3	Single-family dwellings
East	Residential	R-6	Single-family dwellings
South	Residential	R-6	Single-family dwellings
West	Residential	R-6	Single-family dwellings

### ZONING MAP



2113 Chelsea Ct

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### VARIANCE REQUEST

The applicant is requesting a variance to the setback and height restrictions for a fence on a double frontage residential lot at 2113 Chelsea Ct. The purpose is to allow for a 6-foot privacy fence 2 ft. off the rear property line, which is in a street yard to Richardson Rd.

### BACKGROUND

Damir Begovic, the applicant and property owner, recently purchased the subject property at 2113 Chelsea Ct. It is zoned "R-6" Residential. The applicant's home was built in 2000 and had one previous owner. This previous owner chose to not construct a fence along the rear property line, unlike all other property owners on the north side of Chelsea Ct (See Figure 1). Instead, the property was shielded from the light and sound of Richardson Rd by a heavily landscaped rear yard—landscaping which is now gone. The City of Arnold's fence standards were not codified until May 2004 and permits were not required for fences until April 2018, well after surrounding properties had constructed their fences. The existing fences along the north side of Chelsea Ct are pre-existing non-conforming for reasons identical to the conditions of this variance request.

After purchasing the property, Mr. Begovic submitted an application to the City in October 2019 for a building permit to construct a fence similar to adjacent properties. Due to the restrictions placed upon fences in street yards, the applicant must obtain a variance to the setback and height requirements to allow for the requested fence. The variance application fee was waived by City Staff due to the background of this request as explained above.

**FIGURE 1: SATELLITE IMAGE OF CHELSEA CT (OCT. 2018), FENCE LINE HIGHLIGHTED IN RED**



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#### PLANNING AND ZONING ANALYSIS

*Appeals to Section 405.760(S), Fencing Standards, of the Code of Ordinances, shall be made and reviewed by the Planning Commission.*

The applicant is requesting a variance to the setback and height restrictions for a fence on a double frontage lot at 2113 Chelsea Ct. The purpose is to allow for a 6-foot privacy fence 2 ft. off the rear property line, which is in a street yard to Richardson Rd.

#### **ANALYSIS OF APPLICABLE ZONING REGULATIONS**

The 0.20 acre lot and single-family dwelling located at 2113 Chelsea Ct is zoned as "R-6" Residential.

Section 405.760(S)(3)(b) of the Zoning Ordinance states:

*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.*

The section of Code above regulates fences in the front yard setback in all of the "R" Residential districts. The subject property has more than 1 street frontage, with the frontage along Chelsea Ct being the primary street yard and the frontage along Richardson Rd being the secondary street yard. The proposed site plan in Exhibit A shows the fence setback at 2 ft. The property is permitted to have a minimum fence setback from the rear property line/ Richardson Rd right-of-way of 15 ft, which is 10 ft. less than the baseline street yard setback of 25 ft.

Section 405.760(S)(3)(c) of the Zoning Ordinance states:

*A maximum four (4) foot high fence may be permitted within a required front or street yard beyond the above limitations subject to approval by the Planning Commission.*

The section of Code above is an exception to the maximum 6-ft. 6-in. height for fences. The applicant's narrative in Exhibit B describes the proposed street yard fence as a 6 ft. privacy fence, similar to adjacent properties. The maximum height allowed per the Code above is 4 ft.

⇒ In summary, Staff finds that the section of the proposed fence that is along the rear property line is non-conforming with the setback and height restrictions for fences in required street yards. To bring the fence into compliance, the fence must be modified and relocated or the applicant must obtain a variance to the sections of Code as listed above to allow for the construction of the proposed fence.

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### PLANNING AND ZONING ANALYSIS — CONTINUED

#### REVIEW CRITERIA

The appeal/variance review criteria as provided in Section 405.760(S)(3)(i), Fencing Standards, of the Zoning Ordinance are listed below in *italics*. Full statements from the applicant's narrative (Exhibit B) in response to how this request meets the criteria are quoted in **bold**.

*Appeals to this Section must be made in writing to the Planning Commission outlining their reason for appeal that addresses the following criteria:*

- 1. 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.*

Applicant Response (1): **Being granted this variance, the fence will NOT be detrimental to public safety, health, or welfare. The project will NOT obstruct traffic, the vision of vehicles, or pedestrians on Richardson Road.**

Staff Response (1): This variance would allow the applicant to construct a 6-foot rear yard privacy fence similar to the fences of his neighbors. The City has not received complaints about these other fences. Figure 2 shows a photograph taken by the applicant of the rear yard, which is highly visible and can be considered to be a detriment to the neighborhood in its current state.

- 2. 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.*

**FIGURE 2: PHOTOGRAPH OF SUBJECT PROPERTY'S REAR YARD, FACING RICHARADSON RD**



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#### PLANNING AND ZONING ANALYSIS — CONTINUED

**Applicant Response (2): All the homes located on Chelsea Court that run along Richardson Road either have a 6-foot wooden or vinyl fence enclosing their property. Being granted the hardship request, the fence would shield the light and sound from Richardson Road. My property sits in the middle of Chelsea Court and Richardson Road.**

**Staff Response (2):** Through-lots, or properties where both the front and rear yards have street frontage, are not a common occurrence in the City of Arnold. This report has previously established the street frontages on the subject property, Chelsea Ct and Richardson Rd, as well as the fact that every other through lot located on Chelsea Ct has non-conforming street yard privacy fences that were installed prior to City regulations (2004) or permit requirements (2018). These are the conditions of this variance request, which are not applicable generally to other properties in the City.

*3. 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.*

**Applicant Response (3): (Same as response to Criteria #2, see above)**

**FIGURE 3: SUBJECT PROPERTY VIEWED FROM RICHARDSON RD IN 2017 (TOP) AND 2019 (BOTTOM)**



2113 Chelsea Ct

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### PLANNING AND ZONING ANALYSIS — CONTINUED

Staff Response (3): The backside of the single-family dwelling at 2113 Chelsea Ct is about 50 ft. from the southbound lane of Richardson Rd. Included in that 50 ft. is the road's shoulder, a grass strip, and a sidewalk, as well as the applicant's rear yard. The subject property is one of the first few homes outside of the heavily-trafficked Interstate 55 intersection and commercial area as one would go north on Richardson Rd. To shield the home and its residents from the noise and light of traffic of Richardson Rd, the previous owner had chosen to landscape the yard instead of constructing a fence, as discussed previously. Figure 3 on the previous page shows a side-by-side comparison of the property from over 2 years ago and a photograph taken by Staff during the writing of this report. The landscaping as it had been installed was an ongoing maintenance concern. Encroachment of plant materials onto the sidewalk, as photographed in Figure 3, was a safety issue for both abled and disabled pedestrians. Staff considered the facts above and find the applicant to have a reasonable hardship that is distinguished from a mere inconvenience.

### FINDINGS AND RECOMMENDATION

#### DETRIMENT TO PUBLIC SAFETY/HEALTH/WELFARE OR INJURY POSED TO NEARBY NEIGHBORHOODS

Staff finds that 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.

#### UNIQUE CONDITIONS OF THE PROPERTY

Staff finds that 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.

#### HARDSHIP

Staff finds that 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.

#### RECOMMENDATION

Staff finds that the proposed variance meets the review criteria. Based on the findings listed above, Staff requests favorable consideration of the application with the following condition:

- Fence shall be sight-proof, decorative, and six (6) foot in height.

  
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Sarah Turner  
Community Development Planner

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# ATTACHMENTS

- EXHIBIT A: SITE PLAN**  
**EXHIBIT B: APPLICANT NARRATIVE**  
**PHOTOGRAPHS OF SITE**

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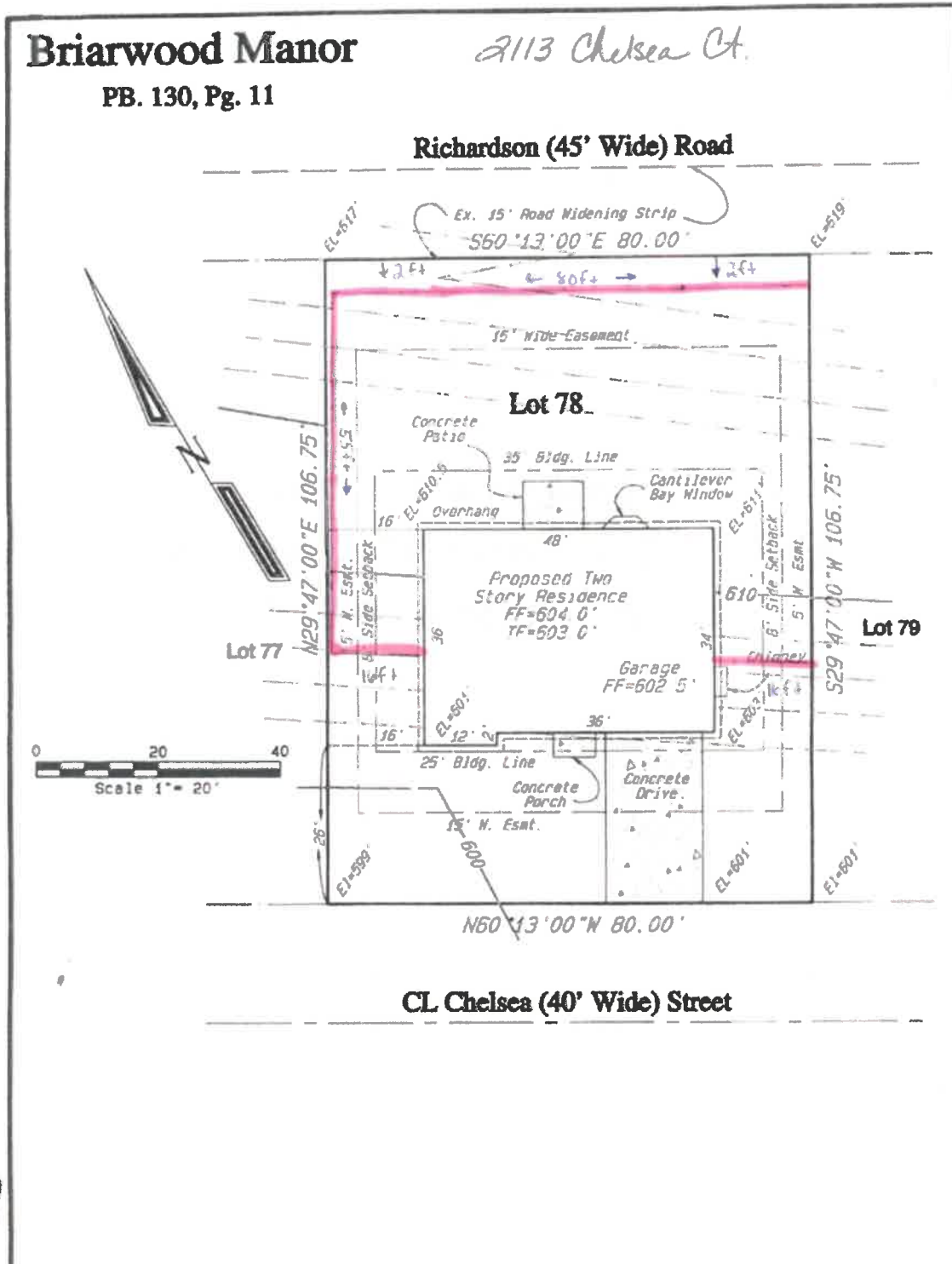


EXHIBIT A: SITE PLAN (PROPOSED FENCE HIGHLIGHTED)

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#### Fence Permit Request

The following is a proposed plan requesting a variance to the setback and height for a fence installation for the property located at 2113 Chelsea Court, Arnold, MO 63010. On October 7, 2019, a fence permit application was submitted to Arnold City Hall. On October 11, 2019, I, Damir Begovic, new owner of the property located at 2113 Chelsea Court, Arnold, MO 63010, was advised by city hall staff due to recent changes by the Community Development Department that an application for a variance must be submitted regarding the fence installation.

I'm requesting installation of a white vinyl fence that will run horizontal to Richardson Road in my backyard approximately 80 feet long, 6 feet tall, and 2 feet away from the sidewalk. The fence will run approximately 55 feet down the left side of my backyard right along my neighbor's wooden fence, and 16 feet across both right and left sides of my house. I will not be installing a fence along the right side of my yard due to my neighbor already having a white vinyl fence on that side. Please reference the property plan for a visual of where the fence will be located.

(1) Being granted this variance, the fence will NOT be detrimental to public safety, health, or welfare. The project will NOT obstruct traffic, the vision of vehicles, or pedestrians on Richardson Road.

(2) and (3): All the homes located on Chelsea Court that run along Richardson Road either have a 6-foot wooden or vinyl fence enclosing their property. Being granted the hardship request, the fence would shield the light and sound from Richardson Road. My property sits in the middle of Chelsea Court and Richardson Road.

The fence would also ensure my privacy and safety. The master bedroom looks out towards Richardson Road. I do not want others having access to my property without my consent. Without the fence, individuals will have access to my backyard at their will. I currently work in federal law enforcement; therefore, my safety is my main priority.

Please reference that photos that I have attached along with the notes on the back of the photos. I ensure you that I will maintain my property clean and suitable for living to my best ability not only on the inside of the fence, but also the back area of the fence facing Richardson Road. I have also attached my business card for verification of my federal law enforcement status. Please contact me with any questions at 314-305-8027.

Thank you for your consideration and hope that this variance can be granted as soon as possible.

#### EXHIBIT B: APPLICANT NARRATIVE

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*Fences that run  
down the right  
side of my property*



*Fences that run  
down the left  
side of my property*

**PHOTOGRAPHS OF SITE, DESCRIPTIONS BY APPLICANT**

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Neighbor's fence  
post 2ft+ from  
the sidewalk.



Neighbor's left  
fence.

**PHOTOGRAPHS OF SITE, DESCRIPTIONS BY APPLICANT**

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*Before yard waste  
clean up.*



*Before yard waste  
clean up.*

**PHOTOGRAPHS OF SITE, DESCRIPTIONS BY APPLICANT**

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*After yard waste  
clean up.*



*After yard waste  
clean up.*

**PHOTOGRAPHS OF SITE, DESCRIPTIONS BY APPLICANT**

2113 Chelsea Ct

