

BOARD OF ZONING APPEALS

STAFF REPORT

TUESDAY, JUNE 25, 2024

CASE NO: BZA 24-0004
PROJECT NAME: OLD HARSHMAN FENCE VARIANCE
PROJECT ADDRESS: 1164 OLD HARSHMAN ROAD, RIVERSIDE, OH 45431
PARCEL ID: I39 00102 0013
APPLICANT/PROPERTY INFO: DEMOND HALL, 1164 OLD HARSHMAN ROAD, RIVERSIDE, OH 45431
OWNER/PROPERTY INFO: SAME AS APPLICANT
ZONING DISTRICT: B-2 GENERAL BUSINESS DISTRICT
CURRENT USE: NONCONFORMING SINGLE-FAMILY RESIDENTIAL

REQUEST:

1) A variance from UDO Sec. 1115.01(E)(3)(a) to allow front yard fence to exceed the maximum height of four (4) feet.

LOCATION	REQUIREMENT	REQUEST	VARIANCE %
FRONT YARD	4 FEET MAX.	2 FOOT INCREASE	50% INCREASE

2) A waiver from UDO Sec. 1115.01(E)(3)(b) to permit a solid board privacy fence in the front yard.

CASE SUMMARY/BACKGROUND:

The subject site is situated between in Springfield Street and Old Harshman Road on a 0.06 acre parcel. The site is within the Source Water Protection Area. There is an existing 1,040 sf single-family dwelling on the site. The applicant is proposing to replace a 3-foot chain-link fence with 6-foot solid board privacy fence. The chain-link fence was severely damaged in 2023 when a car crashed into the subject site. The new fence is proposed in the same location as the chain-link fence. The former fence encroached into the public right-of-way. The applicant will need to seek approval from the Public Service Department for the portion of the fence proposed to encroach into the right-of-way. Service Department approval would be required even if the variance and waiver requests are not granted.

INTERESTED PARTY COMMENTS:

Staff has not received comments from interested parties or adjacent property owners.

STAFF REVIEW/FINDINGS:

- 1) *Variance* – Increase in Maximum Fence Height in Front Yard.

Recommendation: **Denial**

- 2) *Waiver* – Solid Board Privacy Fence in Front Yard.

Recommendation: **Denial**

Reason for Staff Recommendation:

Staff finds that the proposal does not meet the four (4) key criteria for granting a variance which are underlined further in the staff report for emphasis. It was also important to note a compliant fence did exist for a long period of time in the front yard of this property. The applicant lived at the subject site when the 3-foot fence was present on the property. Staff does take into consideration a fence did exist on the property for many years in the proposed location. The Public Service Department, which oversees the City roads and right-of-ways, has reviewed this case and determined placing a fence in this location will not hinder their normal operations. Therefore, it is Staff's professional opinion that denial of the fence height variance is supported by the standards for approval.

The proposal does not comply with the waiver approval criteria. The requested waiver is in conflict with the ONE Riverside plan which encourages reinforcing the design standards in the UDO when new development takes places. The zoning code and comprehensive plan do not encourage nonconformance to continue. The intent behind zoning code and comprehensive plan is to move the City closer to the shared vision of the community. A lattice fence or a compliant fence with landscaping can provide the privacy the applicant desires. These are alternative designs which are within the code regulations. Staff recommends denial of the waiver for these reasons.

ATTACHMENTS:

- Zoning Map
- Aerial Map
- Site Plan
- Justification Statement Pages
- Supplemental Information

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE PER UDO §1105.15(E):

The following factors shall be considered by the BZA in determining whether practical difficulty exists sufficient to warrant a variance to increase the maximum fence height; 1115.01(E)(3)(a):

1. Whether the property in question will yield reasonable return or whether there can be any beneficial use of the property without the variance;

Yes, the property owner could still have beneficial use of the property without the variance.

2. Whether the variance is substantial;

No, this is not a substantial variance.

3. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;

No, the essential character of the neighborhood will not be altered nor will adjacent properties be adversely affected. The property is in a section of Springfield Street which still has a few nonconforming residential structures. Additionally, the fence is out of any required clearance zones.

4. Whether the variance would adversely affect the delivery of governmental services (i.e., water, sewer, garbage);

No, the delivery of governmental services will not be impacted. This proposed fence location has had a preliminary review from the Public Service Department which oversees the City streets.

5. Whether the property owner purchased the property with knowledge of the zoning restriction;

The property was purchased after the applicable zoning regulations were in effect which restricted the fence height in the front yard.

6. Whether the property owners' predicament feasibly can be obviated through some method other than a variance;

Yes, the applicant can construct a compliant 4-foot fence in the front yard. A fence less than this height existed on the property at one time.

7. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

No, the spirit and intent of the zoning code would not be observed should the variance be granted. There are other alternatives available to the applicant which would bring the proposed fence in compliance with the zoning ordinance (see staff response to standard #6).

STANDARDS FOR APPROVAL AND STAFF ANALYSIS PER UDO §1115.13 (E):

THE FOLLOWING CRITERIA SHALL BE CONSIDERED IN REVIEWING A WAIVER REQUEST; 1115.01(E)(3)(B).

1. Whether the waiver will have an adverse effect on adjacent property owners.

The requested waiver would not have an adverse effect on adjacent property. The fence is located out of any lines of sight for neighbors pulling out of their driveways or the required clearance zone at the intersection.

2. Whether the proposed development is in conformance with the principles of the City's Comprehensive Land Use Plan.

The Place Goal, Objective #6 call for the proposal to ensure new development and redevelopment are complementary to the preferred neighborhood and future land use character of the area. When new structures are built the Land Use Plan – ONE Riverside – encourages balancing property owner's rights against the future vision of Riverside through the consist application of the City's design regulations.

3. Whether the applicant can show that the regulation will cause a practical difficulty or strict application of the provisions of the regulations would deprive the applicant of the reasonable use of the land.

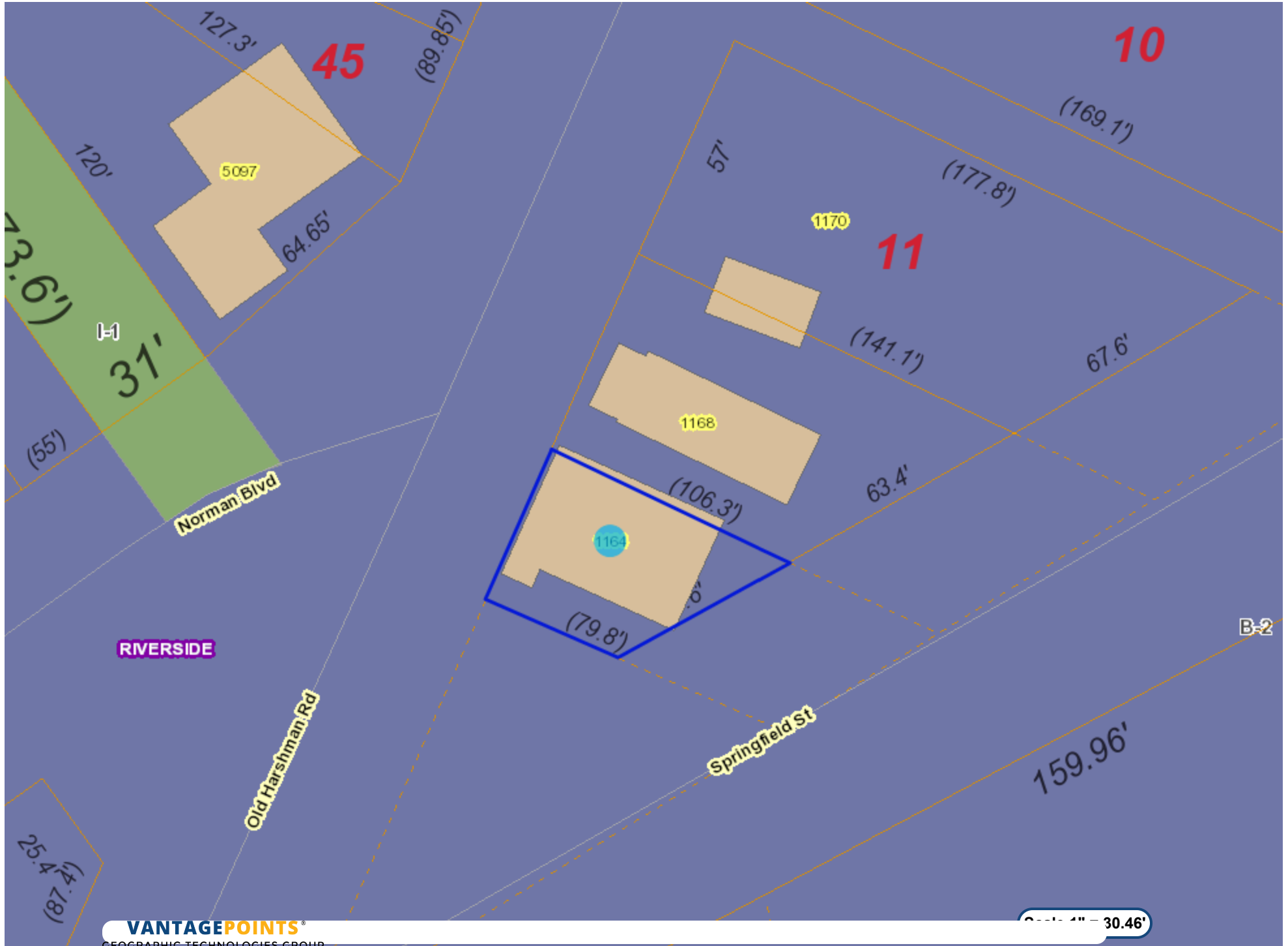
No, the strict application of the regulation will not cause practical difficulty nor deprive the applicant reasonable use of the land. The code requires fences in the front yard to have at least 50% transparency. There are fence types which will allow for the privacy the applicant desires while still keeping within the zoning code regulations.

4. Whether the proposed development design, site arrangement, and/or anticipated benefits of the proposed development justify any deviation from the design standards found herein.

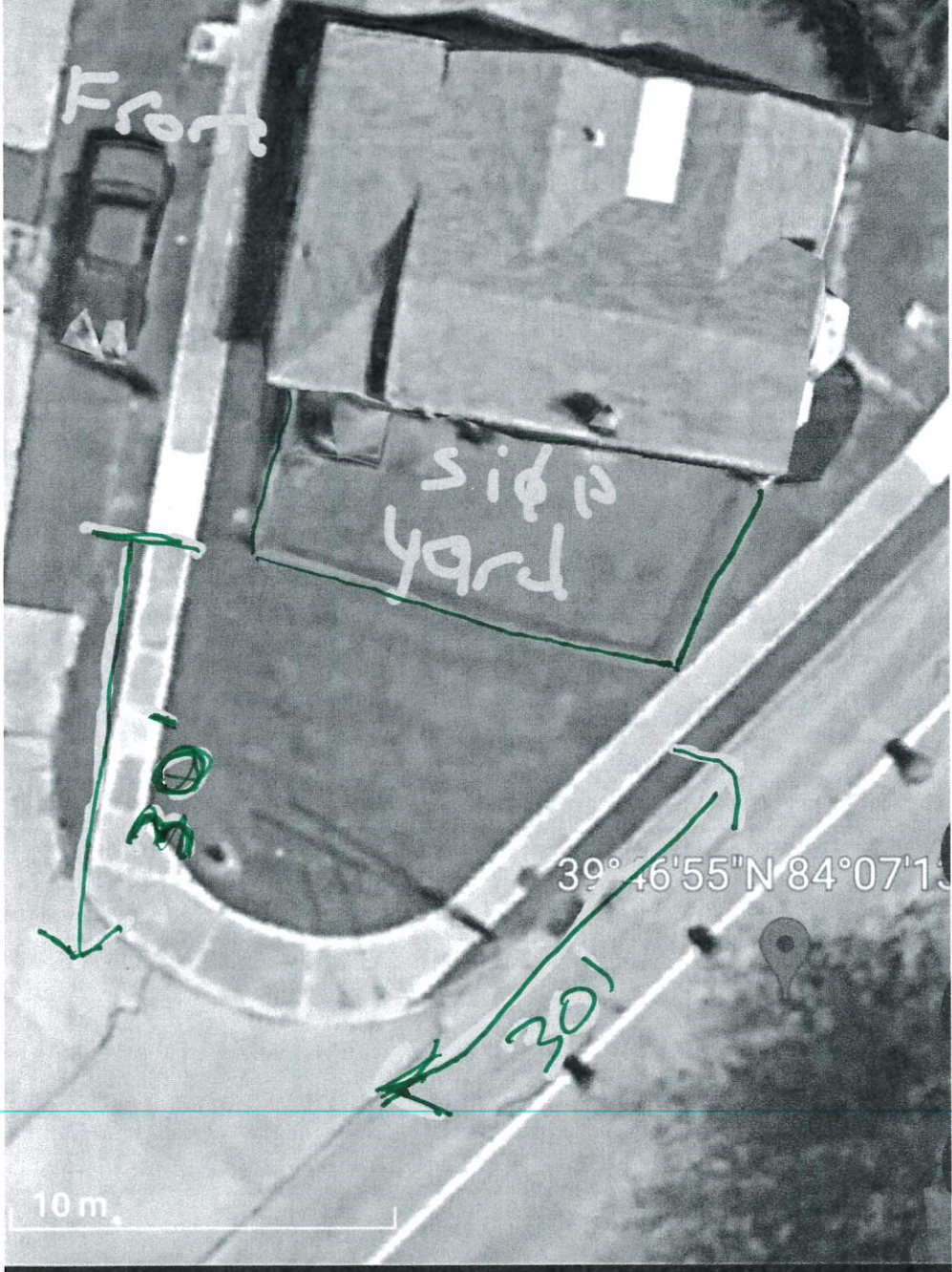
No, there are other pie-shaped corner lots along the Springfield/Huberville. These lots do not have fences at all.

5. Whether the applicant has incorporated other design measures that exceed the minimums of the requirement and compensate for non-compliance with the requirements to be waived (net beneficial effect).

No, the applicant has not offered an alternative.









Variance Justification:

In order to justify approval of any variance staff and/or the Board of Zoning Appeals considers the following criteria. Please answer all of the following questions. Use additional sheets if needed. **A response of yes, no, or N/A is not acceptable.**

1. Whether the property in question will yield reasonable return or whether there can be any beneficial use of the property without the variance.

The property will yield a reasonable return by providing aesthetics (beautification and curb appeal) to the City of Riverside. Also it will add value to the neighborhood.

2. Whether the variance is substantial.

The variance is not substantial. The fence will be added to the side yard. According to the city code the side yard is the portion of the lot that is located on each side of the house.

3. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance.

The character of the neighborhood would not be substantially altered. The fence will be located about 20 feet which is minimal, from the side of the house which is the side yard.

There are no adjoining properties on this side of this property.

4. Whether the variance would adversely affect the delivery of governmental services (i.e. water, sewer, garbage).

This variance will not impede the delivery of governmental services.

5. Whether the property owner purchased the property with knowledge of the zoning restriction.

I did not have any knowledge of zoning restrictions prior to purchasing the property. However, being conscientious, I contacted the City of Riverside Zoning department for information.

6. Whether the property owners' predicament feasibly can be obviated through some method other than a variance.

I explored all options, however, this is the preferred option at this time due to privacy and noise reduction.

7. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

Yes, definitely. I understand the rationale and need for zoning restrictions. That is exactly my purpose in contacting the City of Riverside Zoning department for guidelines and restrictions.

Waiver Justification:

In order to justify approval of any waiver staff and/or the Planning Commission considers the following criteria. Please answer **all** of the following questions. Use additional sheets if needed. **A response of yes, no, or N/A is not acceptable.**

1. Whether the waiver will have an adverse effect on adjacent property owners.

The character of the adjacent properties will not change. Property owners are to the left of the property on 1164 Old Harshman Road. The fence will be located on the right side of the house. There are no houses located on the right side of the house; therefore there will be no adverse effects to adjacent property owners.

2. Whether the proposed development is in conformance with the principles of the City's Comprehensive Land Use Plan.

The placement of the fence is in conformance with the Comprehensive Land Use Plan because it is not considered a 'technology or innovation'. According to the Comprehensive Land Use Plan the property on 1164 Old Harshman Rd. is in the technology and innovation (purple) zone.

3. Whether the applicant can show that the regulation will cause a practical difficulty or strict application of the provisions of the regulations would deprive the applicant of the reasonable use of the land;

Not having the fence would deprive me of the need for privacy and security to increase protection to me, and to the property.

4. Whether the proposed development design, site arrangement, and/or anticipated benefits of the proposed development justify any deviation from the design standards found herein;

The anticipated benefits of installing a privacy fence will add privacy and security for the home owner; as well as, aesthetics (beautification and curb appeal) to the City of Riverside stakeholders and residents.

5. Whether the applicant has incorporated other design measures that exceed the minimums of the requirement and compensate for non-compliance with the requirements to be waived (net beneficial effect).

I have not incorporated any other design measures at the property located at 1164 Old Harshman Road. This is my first request for a variance.

Demond Hall

May 19, 2024

Date: 5/05/2024 - 1:48 PM
Design ID: 336952873942
Estimate ID: 2950
Estimated Price: \$2,415.02

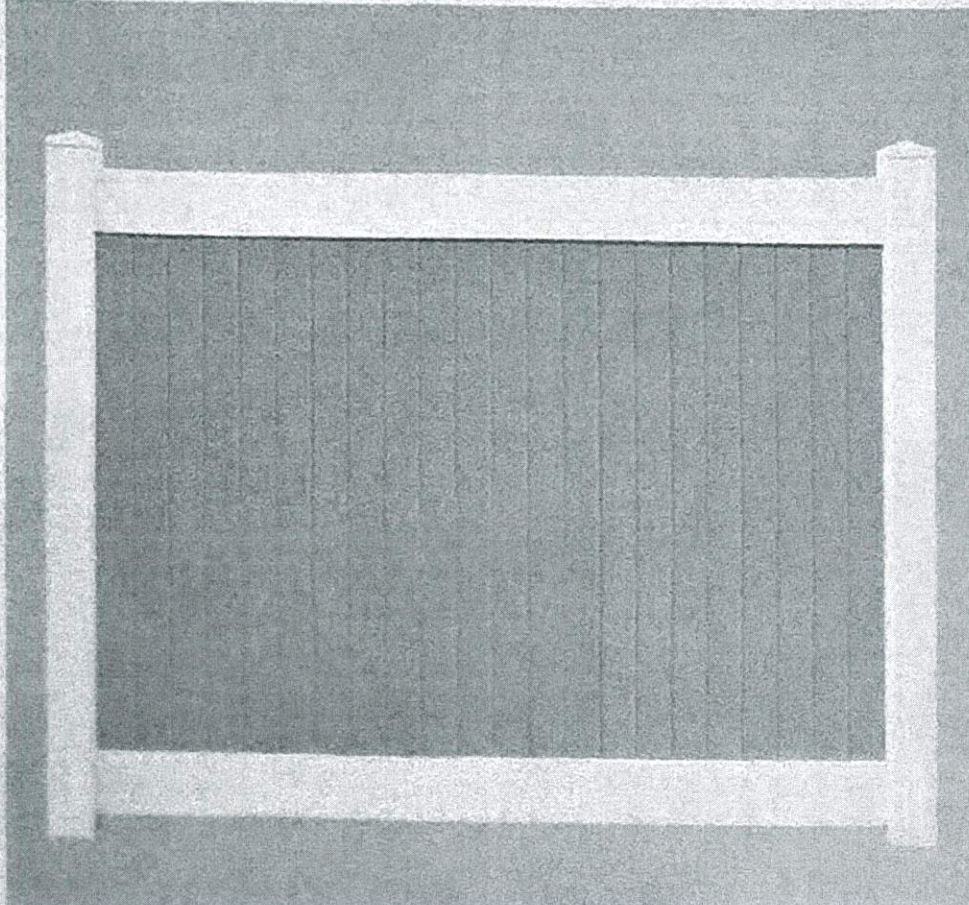
** Today's estimated price, future pricing may go up or down. Tax, labor, and delivery not included.*

MENARDS®

Design & Buy™

FENCE

Fence Image



fence selected for property

Materials

Length:	72'0"
Type:	Vinyl Panels
Fence:	6X8 Tan Richmond Panel
Gate:	6X4 Tan Richmond Gate
Post Footing:	Fast Setting Concrete Mix - 50 lb
Post Inset:	4 x 4 x 8' #2 Ground Contact AC2® Green Pressure Treated Timber
Post Kit:	5 x 5 x 8' White Vinyl Post Kit
Gravel:	Multi-Purpose Gravel - 1/2 cu ft
Top Glue:	Vinyl Fence Cement

2/5



Front of Subject Site



Adjacent Property to the East



Adjacent Property Across Old Harshman Rd



Adjacent Properties Across Springfield St



Variance Area: View from Old Harshman Rd



Variance Area: View from Springfield St.



Waiver: Proposed Location of Solid Board Privacy Fence (View 1)



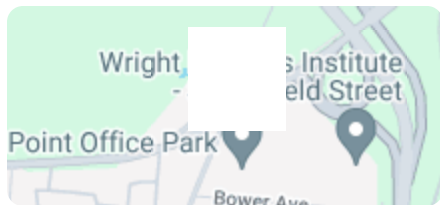
Waiver: Proposed Location of Solid Board Privacy Fence (View 2)

Google Maps 1164 Old Harshman Rd



Riverside, Ohio
Google Street View
Jul 2019 See latest date

Image capture: Jul 2019 © 2024 Google

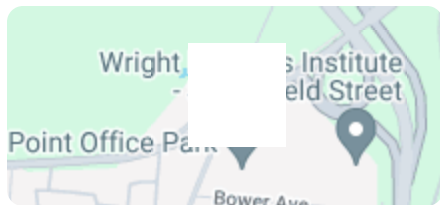


Google Maps 5101 Springfield St

Riverside, Ohio
Google Street View
Jun 2022 [See latest date](#)



Image capture: Jun 2022 © 2024 Google



Google Maps 5265 Springfield St

Riverside, Ohio
Google Street View
Aug 2021 See latest date



Image capture: Aug 2021 © 2024 Google

