

**ORDINANCE NO. O-23-02**

**AN ORDINANCE GRANTING CERTAIN VARIATIONS FOR  
THE PROPERTY AT  
226 FAIRWAY DRIVE, PROSPECT HEIGHTS, ILLINOIS**

**WHEREAS**, the provisions of the Prospect Heights Zoning Ordinance applicable to the property legally described in Exhibit A attached hereto (hereinafter "Property") and commonly known as 226 Fairway Drive prescribe that a fence is prohibited within the required 30' reverse corner side yard setbacks and the fence shall be 80% open and not of metal construction.

**WHEREAS**, the owner of the Property has submitted an application for a variation to allow for the placement of a decorative metal fence, eighty percent (80%) open, in the required reverse corner side yard. The fence will be placed at the 10' side yard setback line; and

**WHEREAS**, the Plan/Zoning Board of Appeals held a public hearing on January 26, 2023 regarding said application; and

**WHEREAS**, the Plan/Zoning Board of Appeals has recommended the Requested Variation be approved and has made the necessary finding therefore; and

**WHEREAS**, the Mayor and City Council have reviewed the recommendation of the Plan/Zoning Board of Appeals;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PROSPECT HEIGHTS, COOK COUNTY, ILLINOIS** as follows:

Section 1. The City Council hereby finds and determines that the facts set forth in the preamble hereto are true and correct and hereby incorporates them as part of this Ordinance.

Section 2. The Requested Variation is hereby granted.

Section 3. That this variation is conditioned upon applicant's construction of the fence in accordance with the approved plans and documents submitted at the public hearing on this matter and with applicable codes.

Section 4. That this Ordinance and all exhibits attached hereto shall be recorded at the Cook County Recorder's Office at the expense of the Owners.

Section 5. The City Clerk is directed to publish this ordinance in pamphlet form and this Ordinance shall be in full force and effect from and after its passage and approval as required by law.

PASSED AND APPROVED this 13<sup>th</sup> day of February 2023.

  
Matthew Dolick, Acting Mayor

ATTEST:

  
Karen Schultheis, Deputy City Clerk

AYES: Cameron, Ludvigsen, Morgan-Adams, Dash, Dolick

NAYS: None

ABSENT: None

Published in pamphlet form: February 13, 2023

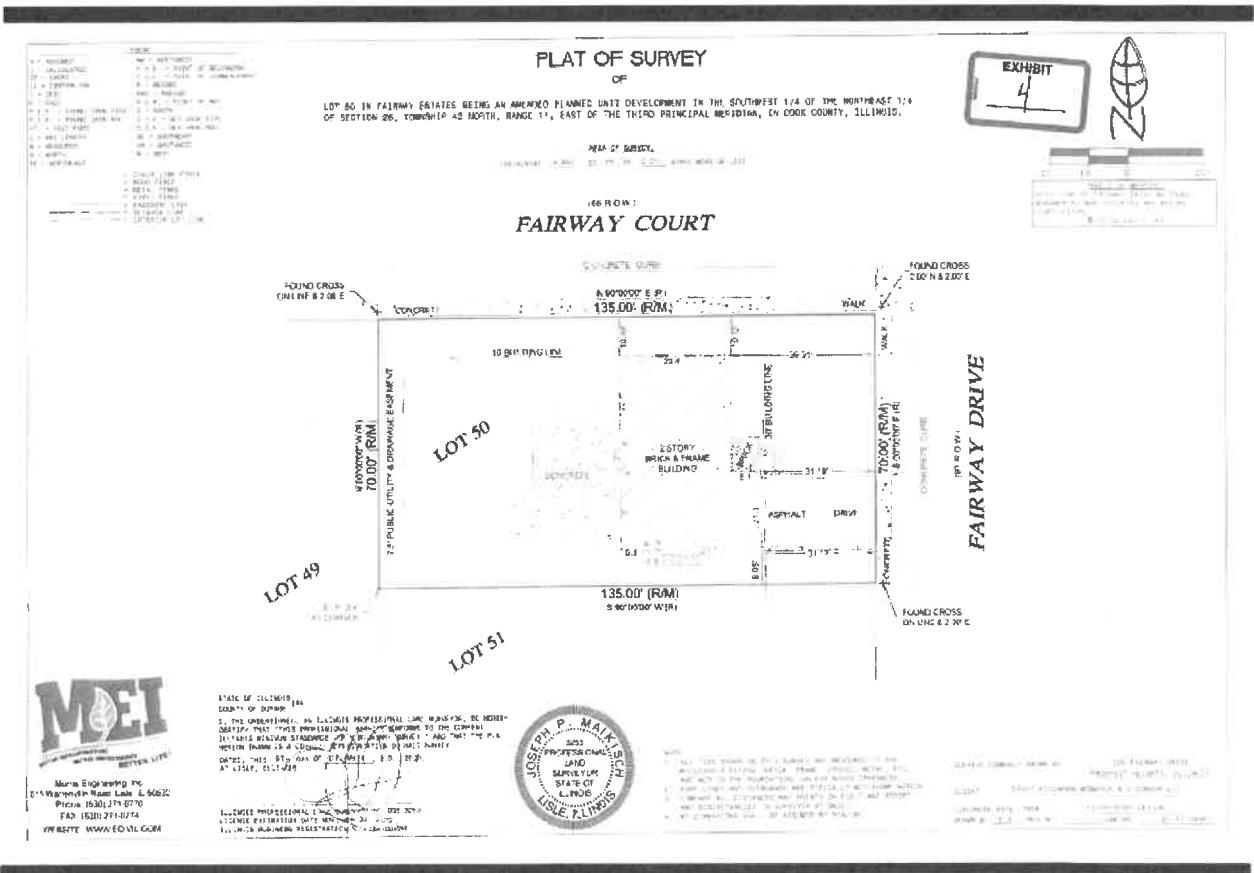


# Exhibit A

## Legal Description of 226 Fairway Drive, Prospect Heights, IL

LOT 50 IN FAIRWAY ESTATES BEING AN AMENDED PLANNED UNIT DEVELOPMENT IN THE SOUTHWEST 1/4 OF THE NORTHEAST SECTION 26, TOWNSHIP 42 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PIN #03-26-208-041-0000









# City of Prospect Heights

Department of Building & Zoning  
8 North Elmhurst Road, Prospect Heights Illinois, 60070-6070  
Office: 847/398-6070 x 211-FAX: 847/590-1854  
[www.prospect-heights.il.us](http://www.prospect-heights.il.us)

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## MEMORANDUM

Date: January 31, 2023

To: Acting Mayor Dolick and City Council

Cc: Joe Wade, City Administrator

From: Daniel A. Peterson, Director of Building & Development

Subject: ZBA Case No. #23-02 V – Fence in Required Reverse Corner Side Yard and Material Change for 226 Fairway Drive

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**ISSUE:** Consideration of a variation request to Section 5-3-4 H1f(2) to allow a reduction in the required reversed corner side yard and material change from wood to metal for placement of a decorative metal fence in an R-1 Single Family Residential District at 226 Fairway Drive.

**BACKGROUND:** The PZBA held a public hearing on January 26, 2023 to hear ZBA Case #23-02V an application for a variation request. Mr. Randall Klug, property owner, testified that he was requesting the variation to reduce the required reverse corner side yard from 30' to 10' and to change the fence material from wood to metal. He stated that the ordinance as written would significantly reduce his rear yard. Mr. Klug also testified that the proposed fence meets the 80% open design requirement. Ms. Charlotte Wresinski, 224 Fairway Court, testified that she lives directly behind the property and has no objection to the variation. Director Peterson state he received three (3) calls from neighbors who could not attend the hearing, that they had no objection to the variation request.

No other testimony was presented.

After all testimony, the Commissioners voted 5-0 to approve the variance request and forward a positive recommendation to the City Council.

Applicant has submitted a written request for waiver of first reading. Staff recommends waiver of first reading.

**RECOMMENDATION:** City Council waive first reading and approve Ordinance #O-23-02 granting certain variations for the property at 226 Fairway Drive.

# Zoning Review



Date: December 19, 2022

Reviewer: Daniel A. Peterson, Director of Building & Development

Applicant: Randall & Janet Klug

Subject Property: 226 Fairway Drive

Application: Variation for Corner Side Yard and Reverse Corner Side Yard Setbacks for Fences – Section 5-3-4 H1f(2)

Project: Construction of a fence in the required yard in the R-1 District

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Documents Reviewed: Completed Application. See list of exhibits in packet.

Applicable Zoning & Building Code Sections: Fences: 5-3-4 H1f(2) – Corner Side Yard and Reverse Corner Side Yards  
Variation Standards 5-10-8

Current Zoning: R-1 Single Family Residential District  
Current Use: Single Family Residential Permitted Use

Request: Randall & Janet Klug, owners of the subject property, are seeking a variation to Section 5-3-4 H1f(2) of the City of Prospect Heights Zoning Code to allow the reduction of the required corner side yard setback from 30' to 10' for a distance of 30' for the construction of a metal decorative fence.

## **Standards for Variations:**

### **5-10-8: VARIATIONS:**

F. Standards For Variations: The plan/zoning board of appeals shall not recommend variation of the regulations of this title unless it shall make findings of fact based upon the evidence as presented that: (Ord. 0-77-27, 7-18-1977; amd. Ord. 0-03-35, 9-15-2003)

1. Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.

**Response: 1. See owner's hardship letter. Fairway Estates is an Amended Planned Unit Development (PUD). The yard requirements are specific to the subdivision. The corner side yard setback is 10' and the front yard setback is 30'. Additionally, they are seeking relief to construct the fence from decorative metal that meets the 80% open space rule.**

2. Literal interpretation of the provisions of this title would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this title.

**Response: 1. Standard met. Review the hardship letter.**

3. The alleged hardship has not been directly created by any person presently, or a predecessor in interest, having a proprietary interest in the premises.

**Response: 1. Standard met. The property is part of a PUD that was established in 1986.**

4. The proposed variation will not be materially detrimental to the public welfare or injurious to other property or improvements in the neighborhood.

**Response: Standard met.**

5. The proposed variation will not impair an adequate supply of light and air to adjacent property, substantially increase congestion in the public streets, increase the danger of fire, or endanger the public safety.

**Response: Standard met.**

6. The proposed variation will not alter the essential character of the locality.

**Response: The overall project will not alter the essential character of the locality.**

7. The proposed variation is in harmony with the spirit and intent of this title.

**Response: Standard met.**

8. Granting the variation requested will not confer the applicant any special privilege that is denied by this title to owners of other lands, structures, or buildings in the same district.

**Response: Standard will be met as each case is reviewed and granting of the variation is not denying the right of others in the same district to seek the same variation.**

9. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted use of lands, structures, or buildings in other districts shall be considered grounds for issuance of a variation. (Ord. 0-77-27, 7-18-1977)

**Response: Standard met. This case is based upon the conditions of the property.**



10. The plan/zoning board of appeals shall further make a finding that the reasons set forth in the application justify the granting of the variation, and that the variation is the minimum variation that will make possible the reasonable use of the land, building, or structure. (Ord. 0-77-27, 7-18-1977; amd. Ord. 0-03-35, 9-15-2003)

**Response: No additional conditions are necessary.**

The board may impose such conditions and restrictions upon the location, construction, design and use of property benefited by a variation as may be necessary or appropriate to comply with the foregoing standards and to protect adjacent property and property values.

### **Conclusion**

**Staff has reviewed the project with the project architect. Staff believes the project will not create any negative impacts to the neighbors and is in keeping with the character of the neighborhood.**

**Staff concurs with the request.**

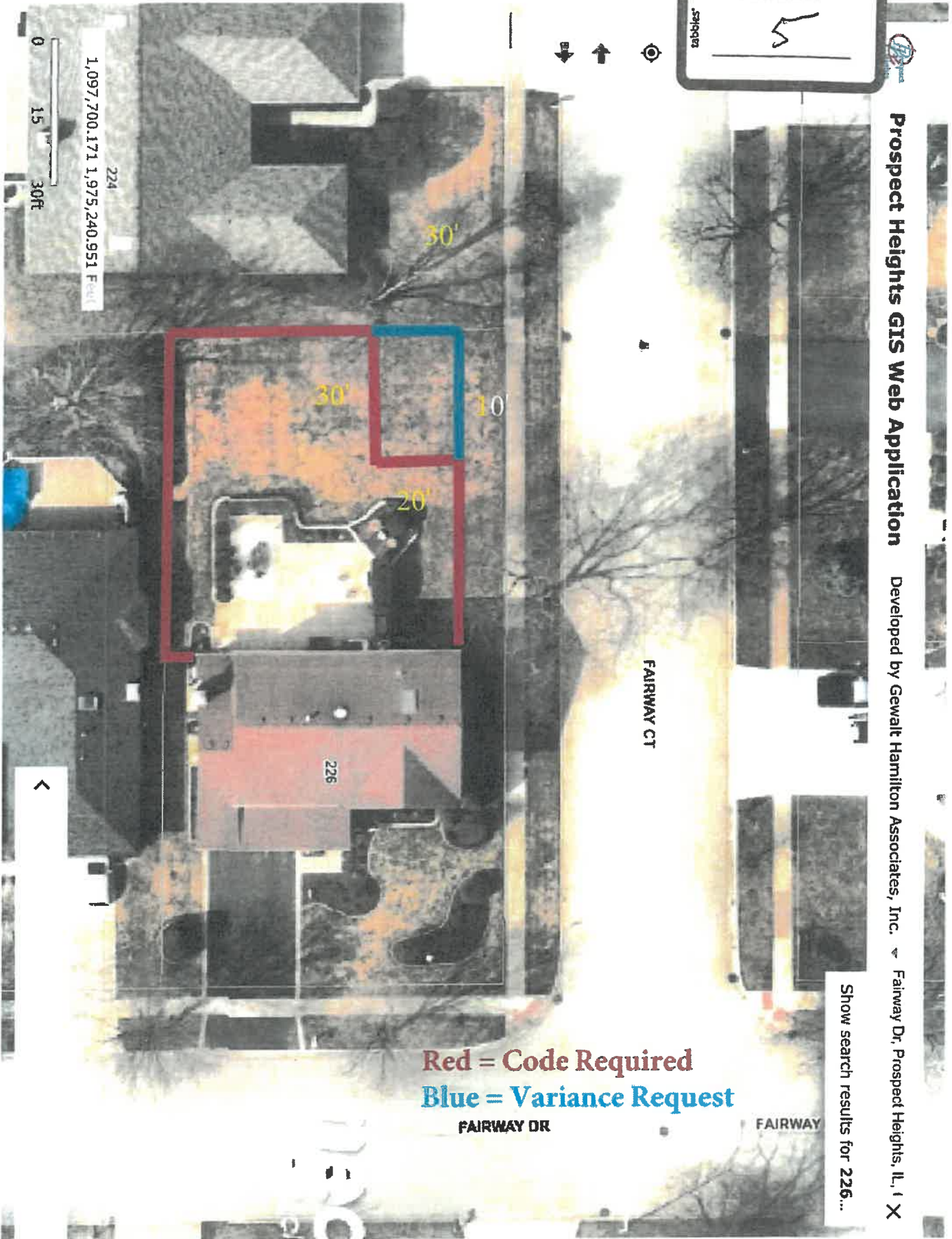
# Prospect Heights GIS Web Application

Developed by Gewalt Hamilton Associates, Inc.

Fairway Dr, Prospect Heights, IL, 1 X

**EXHIBIT**

tabbles



Show search results for 226...

**Red = Code Required**  
**Blue = Variance Request**

FAIRWAY DR

FAIRWAY



# PLAT OF SURVEY OF

LOT 50 IN FAIRWAY ESTATES BEING AN AMENDED PLANNED UNIT DEVELOPMENT IN THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 26, TOWNSHIP 42 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

AREA OF SURVEY:  
CONTAINING 5.450 SQ. FT. OR 0.21 ACRES MORE OR LESS\*

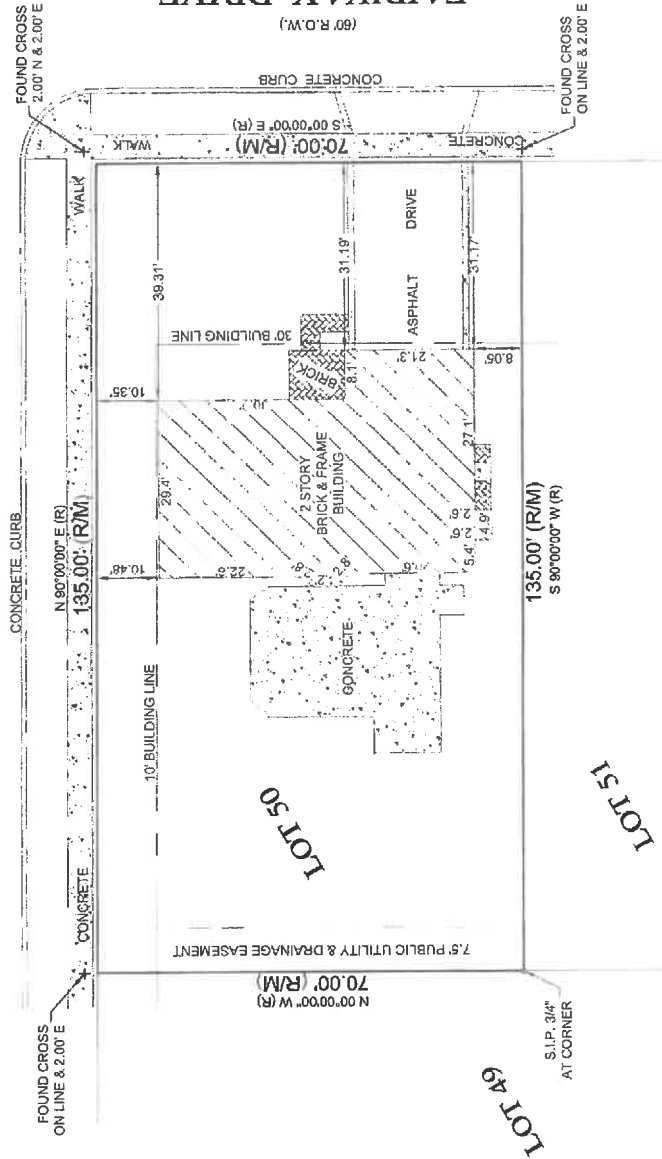
BASIS OF BEARINGS:  
WEST LINE OF FAIRWAY DRIVE AS FOUND  
UNDOCUMENTED AND OCCUPIED PER RECORD  
SURVEYS. S. 00°00'00". E (R)



- LEGEND**
- A = ASSUMED
  - Ch = CHORD
  - CL = CENTERLINE
  - D = USED
  - E = EAST
  - F.I.P. = FOUND IRON PIPE
  - F.I.R. = FOUND IRON ROD
  - FL = FEET/FOOT
  - L = ARC LENGTH
  - M = MEASURED
  - NE = NORTHEAST
  - NW = NORTHWEST
  - PL = PLANNED
  - P.O.B. = POINT OF BEGINNING
  - P.O.C. = POINT OF COMMENCEMENT
  - R.O.C. = RECORD CURB
  - R.O.W. = RIGHT OF WAY
  - S = SOUTH
  - S.I.P. = SET IRON PIPE
  - S.I.R. = SET IRON ROD
  - SE = SOUTHEAST
  - SW = SOUTHWEST
  - W = WEST
  - W.L.F. = WOOD LINK FENCE
  - W.F. = WOOD FENCE
  - M.F. = METAL FENCE
  - V.F. = VINYL FENCE
  - S.F. = SETBACK LINE
  - S.L. = SETBACK LINE
  - I.L. = INTERIOR LOT LINE

## FAIRWAY COURT

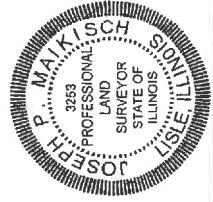
(86 R.O.W.)



Morris Engineering, Inc.  
515 Wrennville Road, Lisle, IL 60532  
Phone: (630) 271-0770  
FAX: (630) 271-0774  
WEBSITE: WWW.ECIVL.COM

STATE OF ILLINOIS  
COUNTY OF DUPAGE

I, THE UNDERSIGNED, AN ILLINOIS PROFESSIONAL LAND SURVEYOR, DO HEREBY CERTIFY THAT THIS PROFESSIONAL SURVEY CONFORMS TO THE CURRENT ILLINOIS MINIMUM STANDARDS FOR SURVEY, AND THAT THE PLAT HEREON DRAWN IS A CORRECT REPRESENTATION OF SAID SURVEY DATED THIS 07th DAY OF DECEMBER, 2020, AT LISLE, ILLINOIS.

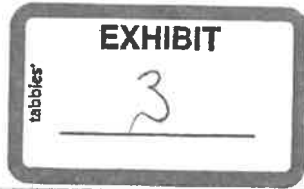


ILLINOIS PROFESSIONAL LAND SURVEYOR NO. 3253  
LICENSE EXPIRATION DATE NOVEMBER 30, 2025  
ILLINOIS BUSINESS REGISTRATION NO. 194,007,45

- NOTE:
- ALL TIES SHOWN ON THIS SURVEY ARE MEASURED TO THE BUILDING'S SIDING (BRICK, FRAME, STUCCO, METAL, ETC.) AND NOT TO THE FOUNDATION, UNLESS NOTED OTHERWISE.
  - ROOF LINES AND OVERHANGS ARE TYPICALLY NOT SHOWN HEREON.
  - CONTOUR LINES ARE NOT SHOWN. SURVEYOR AT ONCE ADVISES CHANGES TO THE FIELD AND REPORT.
  - NO DIMENSIONS SHALL BE ASSUMED BY SCALING.

ADDRESS COMMONLY KNOWN AS 206 FAIRWAY DRIVE  
PROSPECT HEIGHTS, ILLINOIS  
CLIENT DROST KYLAHAN MOHAMMAD & O'CONNOR LLC  
FIELDWORK DATE (CREW) 12/09/2020 (B/J/N)  
DRAWN BY: B.S. REVISED: 20-11-0458

11/17/22, 7:48 AM



Gmail - Re: Fence Installation

Randy & Janet Klug <rjklug85@gmail.com>

## Re: Fence Installation

1 message

**Karen Manczko** <karen.manczko@gmail.com>

Thu, Feb 17, 2022 at 1:00 PM

To: "rjklug85@gmail.com" <rjklug85@gmail.com>

Cc: Theresa Anderson <terryandersonhomes@gmail.com>, Rebecca Vorreyer <Rvorr2010@gmail.com>, fergal-tierney@yahoo.com, Liz Saitta <elizabeth.saitta@gmail.com>

Hi Randy and Janet,

Due to the location of your property, you do not need Board permission to install the fence. We appreciate you reaching out and that you chose a fence that is similar to the fencing on the east side of the street. We do ask that you ensure you have proper permits from the city for your fence.

Please do not hesitate to reach out if you have any additional questions or concerns.

We appreciate the note!

Take care,  
Karen Manczko  
773-981-2507

On Thu, Feb 17, 2022 at 12:39 PM rjklug85@gmail.com <rjklug85@gmail.com> wrote:

We are making plans to install a fence enclosing the backyard of our property at 226 Fairway Dr. Per the 2003 Amendments to Bylaws, I am writing to provide notice to the Board. I have already spoken to the Bieszczads to the south and will do so shortly with Charlotte Wresinski to the west.

The fence will be 5' aluminum as installed previously at 229-257 Fairway Dr.. I have a quote which expires in a few days which I would like to act upon. Please advise as to your approval to proceed ASAP.

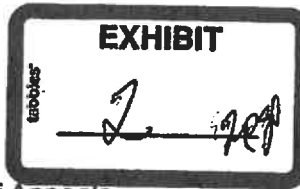


GRANITE HOME SERIES IN BLACK

4 **Activeyards** ALUMINUM SINGLE PICKET FENCE

Regards,

Randy & Janet Klug



November 16, 2022

Attn: Prospect Heights Planning/Zoning Board of Appeals

We are writing this letter of hardship in regard to the installation of a 5' high aluminum decorative fence in the backyard of our residence at 226 Fairway Drive. As a result of this being a reverse corner lot, approximately 30' of this fence would be located beyond the corner side yard building line as it extends to the front lot line of the property behind my home. The design of the fence meets the 80% open criteria of the exemption but would be of metal construction. We have spoken to the owner of the adjacent property, and she has no objection to the installation of this fence.

We are attempting to install this fence to provide security to our family dog. The proximity to both the pedestrian and automobile traffic on Fairway Court, and that of Euclid Avenue to the south, makes it imperative that a physical fence be used to contain our dog. Neither our current electric fence, nor the allowed wooden split rail fence would provide the required level of protection.

The fence style selected is common to that used on other properties on our block. There are no fence restrictions imposed by the Fairway Estates Homeowners Association on my lot. They would in fact allow a 6' high fence to be installed. A literal interpretation of the provisions of this ordinance deprives us of rights commonly enjoyed by other properties in the same district under the terms of this ordinance. The proposed variation is in harmony with the spirit and intent of the Ordinance and will not be injurious to the neighborhood, or otherwise be detrimental to the public welfare.

Currently along the 30' in question, there are shrubs planted which will, in a matter of 3-5 years, obscure the neighbor's view of the fence. The installation of this fence will not be materially detrimental to the public welfare or injurious to other property or improvements in the neighborhood. Nor will it alter the essential character of the locality or impair an adequate supply of light and air to the adjacent property.

Thank you in advance for your consideration in this matter.

Regards,

A handwritten signature in black ink, appearing to read "Randall W. Klug".

Randall W. Klug

847-282-2586

A handwritten signature in black ink, appearing to read "Janet M. Klug".

Janet M. Klug

847-909-5225



Randy &amp; Janet Klug &lt;rjklug85@gmail.com&gt;

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**Re: 226 Fairway Dr (reverse corner lot) Fencing**

1 message

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**rjklug85@gmail.com** <rjklug85@gmail.com>  
To: dpeterson@prospect-heights.org

Wed, Oct 26, 2022 at 8:53 AM

Thx for the call back today regarding our fence.

I did the calculation on the "% open" of the original decorative aluminum fence that we applied for and came up with 84% open for each panel. The posts are only 2" wide so they would bring it closer to 80% open. So the only difference then is with the material of construction. The aluminum fence will be black vs. cedar for the wood 3 rail. Studies are clear that a black fence has far greater visual transparency than other colors. That, and the fact that 90% of the disputed 30' is planted with shrubs that will form a solid 15' wall in 3-5 years makes me question again why the original design cannot be approved.

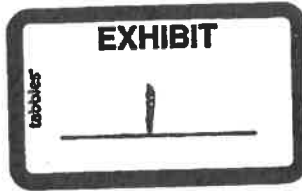
As we require the additional security the aluminum fence would provide for our dog, it would appear I will need to go through the variance process you described previously. That is unless you find my argument compelling enough to reconsider. Thanks in advance for your consideration in this matter.

Randy Klug  
847-282-2586

On Sat, Oct 22, 2022 at 11:38 AM rjklug85@gmail.com <rjklug85@gmail.com> wrote:

We have spoken in the past regarding options for perimeter fencing of the backyard of my property. The issue was the 30' which is in my neighbors front yard. The exemption exists for 80% open, non-metal construction. My thought is now a 3 rail, wood fence, 4-5' high around the entire yard. This would seem to meet the requirement, am I correct?. If so, can vinyl be used? If this option will not work, please advise as to the appeal process for my original decorative metal fence. Thank you. Regards, Randy Klug  
847-282-2586





FOR OFFICE USE ONLY:  
 FEE PAID \_\_\_\_\_  
 RECEIPT # \_\_\_\_\_  
 DATE \_\_\_\_\_  
 RECV'D BY \_\_\_\_\_  
 CASE # \_\_\_\_\_  
 MEETING DATE \_\_\_\_\_

**PLAN/ZONING BOARD OF APPEALS  
 APPLICATION**

Special use (\$400)  
 Variation (\$150)  
 Text Amendment (\$300)

Map Amendment (Refer to Ord. 0-03-18)  
 Subdivision/PUD (Refer to Ord. 0-03-18)  
 Lot Consolidation (Refer to Ord. 0-03-18)  
 Appearance Review

In addition to the application fee a refundable deposit not <\$500 nor >\$5,000 shall be required for all zoning applications to offset the direct costs of the application incurred by the City. If costs exceed the available escrow balance applicant will be required to replenish account. If balance remains the money will be refunded or applied to any building permit cost. (Refer to Ord. 0-18-06: 5-10-7(D))

APPLICANT: Randy Klug  
 ADDRESS: 226 Fairway Drive  
Prospect Hts, IL 60070  
 PHONE: 847-282-2586  
 E-MAIL: rjklug@gmail.com

ADDRESS OF SUBJECT PROPERTY: 226 Fairway Drive

PROPERTY IS LOCATED IN THE R-1 ZONING DISTRICT.

APPLICABLE SECTION OF ORDINANCE: 5-3-4 H(i) f2

DESCRIPTION OF REQUEST: Install an aluminum fence in the front of adjacent building line

Are there any covenants, conditions, restrictions or floodplain issues concerning type of improvements, setbacks, area or height requirements, occupancy or use limitations, etc. placed on the property and now of record: YES \_\_\_\_\_ NO X  
 If yes, please describe: \_\_\_\_\_

Has the property been the subject of previous or pending administrative legislative or court action:  
 YES \_\_\_\_\_ NO X If yes, give details: \_\_\_\_\_

The follow items MUST be submitted at time of filing:

1. Application (12 copies)
2. Plat of Survey (12 copies) – must be drawn to scale and indicate the location of the proposed addition or construction and must contain the legal description of the property, along with additional information to support the application. (12 copies) \*Note - please include one copy for file no longer than 11x17.
3. Proof of Ownership (1 copy)
4. Letter indicating Hardship (for variations only 12 copies)
5. Application Fee (cash or check made payable to: City of Prospect Heights)
6. Notice to Property Owners (1 copy) – will be supplied to you by the City of Prospect Heights.
7. List of Property Owners (1 copy) for Notice to Property Owners mailing - will be supplied to you by the City of Prospect Heights.

11/16/22  
 Date:

Randy Klug  
 Signature of Applicant

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# City of Prospect Heights

Department of Building & Zoning  
8 North Elmhurst Road, Prospect Heights Illinois, 60070-6070  
Office: 847/398-6070 x 211-FAX: 847/590-1854  
[www.prospect-heights.il.us](http://www.prospect-heights.il.us)

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## MEMORANDUM

Date: December 19, 2022

To: Chairman Kempa & Planning/Zoning Board of Appeals

From: Daniel A. Peterson, Director of Building & Development

Subject: ZBA Case No. 23-02 V – Variation to Allow Reduce the Reverse Corner Side Yard Setback for the installation of a fence.  
226 Fairway Drive

Please be advised that Randall & Janet Klug, owners of the subject property, are seeking a variation to Section 5-3-4 H1f(2) of the City of Prospect Heights Zoning Code to allow the reduction of the required corner yard setback from 30' to 10' and the reduction of the required reverse corner side yard setback from 30' to 10' for the construction of a metal decorative fence.

Please contact me should you have any questions regarding this application.

Thank you.