

AGENDA

December 5, 2016

PLANNING COMMISSION/BOARD OF ZONING APPEALS

7:00 PM

Roll Call

Minutes

Regular Meeting of November 7, 2016

Cases

CASE NO. 2016-2004

Richard and Marcie Cohen, property owners of 3120 Fair Haven Lane, are seeking a variance to Zoning Code 154.14 (A). The variance would allow for a six foot in height privacy fence in the rear yard, along the east property line bordering the neighbor at 3140 Fair Haven Lane.

New Business

Adjournment

MINUTES OF THE REGULAR MEETING OF THE AMBERLEY VILLAGE
BOARD OF ZONING APPEALS/PLANNING COMMISSION
HELD AT THE AMBERLEY VILLAGE MUNICIPAL BUILDING
MONDAY, NOVEMBER 7, 2016

Chairperson Richard Bardach called to order a regular meeting of the Amberley Village Board of Zoning Appeals/Planning Commission held at the Amberley Village Municipal Building on Monday, November 7, 2016 at 7:00 P.M.

Roll was called: PRESENT: Richard Bardach, Chairperson
 Rick Lauer
 Scott Rubenstein
 Scott Wolf

 ALSO PRESENT: Kevin Frank, Esq., Solicitor
 Scot Lahrmer, Village Manager
 Nicole Browder, Clerk
 Wes Brown, Project & Zoning Administrator

Chair Bardach welcomed everyone to the meeting and led them through the pledge of allegiance.

Chair Bardach asked if there were any corrections to the minutes of the October 5, 2016 meeting minutes. Mr. Lauer moved to approve the minutes as submitted. Seconded by Mr. Rubenstein and the motion carried unanimously.

Case 2002

Chair Bardach introduced the application and Mr. Brown provided the staff report. Mr. Brown reported that residents Ronald and Diane Regula, property owners of 3225 North Whitetree Circle, are seeking a variance to Village Code Section 154.12 (B). The variance would allow for the construction of a 10'x20' car shelter to be placed at the rear of the driveway with the principal access facing north toward the street.

Mr. Brown reported that the applicant's letter states that the proposed position of the car shelter is the only available option. It was noted that the property is located in Residence A and setbacks are 20 feet from the side and rear property lines. The proposed structure would be 33 feet from the east property line.

Chair Bardach invited the applicant to speak. Mr. Regula shared that during the winter months he responds to on-call requests for his employer and would like to shelter his vehicle to reduce his response time into work rather than spending time clearing the ice and snow from his vehicle. Mr. Regula indicated the structure would be made of some type of fabric more durable than vinyl, as the photos show an aluminum or light metal frame.

Discussion was held among the board and the applicant as to potential options for the location and how the structure would be anchored. Mr. Bardach asked if there were any persons present wishing to speak on the application. There were none. Mr. Bardach then read into the record an email dated November 2, 2016 from Board Member Susan Rissover (not present) to the Board as to her opposition of such structures (email attached hereto).

Mr. Rubenstein reviewed the considerations for granting variances including whether the structure is aesthetically pleasing, in keeping with the architecture of the existing home, whether any unique circumstances exist for the applicant, as well as whether it is visible from other properties. He noted that it appears this proposed structure could not be placed in another spot due to significant existing landscape.

Mr. Lauer commented that this was a new issue for the Board as typically garages are proposed. He noted each case where variances were granted an aspect of impracticality existed. He stated he was in favor of allowing people to do what they want with their property, however, this was a step further than prior cases.

Mr. Bardach agreed with Mr. Lauer, and Mr. Wolf noted that he had some concern for impact on property values. Mr. Regula shared with the Board a photo of a similar structure installed on another Village property. Mr. Lauer stated that the photo shows a structure (Winding Way) that is in violation and Mr. Brown noted he would follow-up on it as what is shown is not what was granted in the zoning approval.

Mr. Lauer moved to approve the variance, seconded by Mr. Rubenstein. Mr. Bardach asked for those opposed and the vote was as follows:

AYE: (0)

NAY: Wolf, Rubenstein, Bardach, Lauer (4)

The variance was denied.

Case 2003

Chair Bardach introduced the application and Mr. Brown provided the staff report. Mr. Brown stated that residents Carlwell and Patsy Jordan of 8520 Kentland Court have requested to allow for the construction of an accessory structure with the principal access facing the street. This would require a variance from the Village Zoning Code Section 154.12 (C) which requires the principal access of an accessory structure may not face any street, road, or highway.

Mr. Brown reported that the applicant's letter expressed storage needs for lawn equipment and patio furniture along with a truck to be removed from the existing garage and stored in the proposed car shelter. This would include extending the driveway to allow for parking of vehicles. It was noted this was a corner lot with two front yards.

Mr. Bardach invited the applicant to speak. Mr. Jordan shared that the purpose would be to provide storage in order to utilize his garage for parking and shelter during the winter months.

The Board inquired as to the material type and method of installation for security of the structure. Mr. Jordan clarified that it was a fabric stronger than vinyl and would be enclosed.

Mr. Rubenstein commented that the two front yards does make the placement restrictive. He noted five homes around the cul-de-sac that would have a direct sight line of the structure.

Discussion was held on whether the proposed structure would have an open or closed front. Mr. Jordan clarified it was fully enclosed.

Mr. Bardach asked if any residents wished to speak on the application.

Kelly Hollitz, 8560 Kentland Court, expressed her opposition to the proposed structure. She stated that this would be along the back of the property line and completely visible to all five properties nearby. She was concerned about its temporary nature, namely how it would be secured so it would not blow away in heavy winds. She also noted it was not aesthetically pleasing.

Barry Dingler, 8580 Kentland Court, expressed opposition to the proposed structure. He stated that all of the residents on Kentland will have to look at the structure when driving up Kentland. He did not feel this type of product weathered well and continued storm exposure will cause structural issues. He stated it would look unsightly and does not fit the Village. He stated he was a 25 year resident and this was not acceptable.

Esther Korner, 8575 Kentland Court, stated that the applicants are good neighbors. She doesn't prefer the tent and asked if a shed could be built instead.

Mr. Bardach noted that Board Member Susan Rissover's email was to be applied to both applications.

Mr. Wolf commented that for the same reasons as the last case, he was also against this application. He noted he was supportive of improvements to the area and did not see this as such. Mr. Bardach agreed with Mr. Wolf.

Mr. Rubenstein stated that this proposed structure affects several people. He noted the street was well manicured and a temporary tent structure does not seem to be what we want there. He stated that past exceptions, from his observation, created an aesthetically pleasing improvement that fit in and this does not. Mr. Lauer agreed.

Mr. Rubenstein moved to approve the application, seconded by Mr. Lauer. Mr. Bardach asked for those opposed and the vote was as follows:

AYE: (0)

NAY: Wolf, Rubenstein, Bardach, Lauer (4)

The variance was denied.

There being no further business the meeting was adjourned.

Nicole Browder, Clerk

Richard Bardach, Chairperson



7149 Ridge Road
Amberley Village, OH 45237

513-531-8675 *phone*
513-531-8154 *fax*

amberleyvillage.org

BOARD OF ZONING APPEALS
MEETING NOTICE

WHEN: Monday, December 5, 2016 at 7:00 p.m.

WHERE: Amberley Village Municipal Building, 7149 Ridge Road

FROM: Scot Lahrmer, Village Manager

Please be advised there will be a public meeting held by the Amberley Village Board of Zoning Appeals **Monday, December 5, 2016** at 7:00 p.m. in the Council Chambers of the Amberley Village Municipal Building, 7149 Ridge Road. The public meeting will be held to review the following item:

Residents Richard and Marcie Cohen of 3120 Fairhaven Lane are requesting a variance to allow for the construction of a six foot privacy fence along the east property line in the rear yard of their home. The request would require a variance from the zoning regulation that fences may not exceed four and a half feet in height. Code of Ordinances 154.14.

If you are interested in reviewing the application you may do so Monday through Friday, 8:00 a.m. to 4:00 p.m. at the Amberley Village Municipal Building, 7149 Ridge Road or you may attend the **December 5, 2016** Board of Zoning Appeals public meeting. If you should have any questions, please feel free to contact Scot Lahrmer at (513) 531-8675.

cc: Richard and Marcie Cohen, 3120 Fairhaven Lane
Henry Bell, 3140 Fairhaven Lane
James Byar, 3125 Fairhaven Lane
Paul Keely, 3100 Fairhaven Lane
Thomas and Anna Vissing, 8000 Ridge Road
Andrew and Karen Fogel, 8050 Ridge Road
Linnea Bowling Woodward, 8100 Ridge Road
Catherine and Gloria Fiore, 8120 Ridge Road
Members of the Board of Zoning Appeals
Mayor Thomas C. Muething
Amberley Village Council Members
Scot F. Lahrmer, Village Manager
Kevin Frank, Wood & Lamping LLP
Village Posting Boards (5)
Cincinnati Enquirer

POSTED 11/22/16

Amberley Village Planning Commission:

We are submitting a request to install a six foot tall privacy fence along the back east side of our property located at 3120 Fairhaven Lane.

We own and maintain the current split rail fence around the circumference of the back yard.

We are requesting a zoning variance to change the existing 4.5 ft x 126 ft long split rail fence to a 6 foot x 126 foot long privacy fence.

This request for a fence change is for the safety of our dogs. The dogs on the opposite side of the fence have been aggressive and pose a risk with the existing fence style.

We have tried to resolve this, but have not been successful.

Given the unfavorable track record of the neighbor on the east side, a privacy fence should hopefully prevent further/additional problems.

Please see the police records and respect this request.

Thank You for your consideration,

Richard and Marcie Cohen

Amberley Village Planning Commission:

We are submitting a request to install a six foot tall privacy fence along the back east side of our property, located at 3120 Fairhaven lane.

We own and maintain the current split rail fence around the circumference of the back yard.

We are requesting a zoning variance to change the existing 4.5 ft x 126 ft long split rail fence to a 6 foot x 126 foot long privacy fence.

Over the past thirteen years we have had multiple confrontations between our dogs and Dr. Bell's dogs. Dr. Bell has recently acquired an additional dog, a Doberman pinscher. A large dog with an aggressive nature, could be a safety risk to our dogs that weigh only ten and twelve pounds.

The six foot privacy fence would allow our dogs as well as Dr. Bell's to safely utilize our prospective yards without any further problems.

Thank you for your consideration,

Richard and Marcie Cohen

Date: 11-16-16

Mr. Scot F. Lahrmer
Village Manager
7149 Ridge Road
Cincinnati, OH 45237

RE: Zoning Approval - Variance

Dear Mr. Lahrmer:

I hereby request a zoning approval for:

a Fence Change
a Privacy Fence

The structure is proposed at the following address:

3120 Fairhaven Lane

I certify the attached plat and measurements are accurate.

Mills Fence Co

Contractor's Name

6315 Wiehe Rd

Cincinnati OH 45237

Contractor's Address

513-616-8315

Telephone Number

Sincerely,

Marcia Cohen

Homeowner's Signature

Marcia Cohen

Homeowner's Printed Name

513 226-4185

Telephone Number (daytime)



6315 Wiehe Road
Cincinnati, Ohio 45237
Phone: 513-631-0333
Fax: 513-631-2703

13200 Walton Verona Road
Walton, Kentucky 41094
Phone: 859-485-6656
Fax: 859-485-6659

www.millsfence.com

Your Mills Fence Co. Estimator Contact Information:

Name: Jim Rutherford
Cell: (513) 616-8315
Email: jamesr@millsfence.com

Proposal Submitted To: Marcie Cohen	Date: 11-15-16	Job Name:
Street: 3120 Fairhaven Lane	Email: mcohen786@gmail.com	Job Location:
City, State, Zip Code: Amberley Village 45237	Contact Number(s): Home: Cell: 226-4185	Job Phone:

We hereby submit the specifications and estimates for:

Furnish & Install:

126 LF of 54" or 72" high Cedar Dog-Ear Board on Board Privacy fence
-4"x4" treated posts, 2"x4" treated stringers, 1"x6"x6' cedar boards
-posts set in concrete footers

Notes:

-due to presence of split rail fence, the finished side (board side) of the fence will need to face inward.
-customer responsible for permits/variances

We propose hereby to furnish material and labor- complete in accordance with above specifications, for the sum of: \$ **██████████**

Terms and Conditions of Sale

Terms of payment are noted on Mills Fence's invoice. Interest will be charged at 1-1/2% per month (18% per year) on all past due accounts. All costs of enforcement of these terms and conditions of sale and collection of any balance due, including, but not limited to, reasonable attorney's fees incurred by Mills Fence, shall be paid by customer. Mills Fence reserves the right to cancel this order, delay delivery, repossess materials or demand immediate full or partial payment in advance of delivery if customer's credit standing, or ability or willingness to pay, is called into question by an event or circumstance, including, but not limited to customer's default of any obligation owed to Mills Fence. Any deposit required prior to installation is only refundable within 48 hours of transferring the funds to Mills Fence. Installation dates and times are approximate, are not guaranteed and are subject to change.

For Ohio customers: Mills Fence will arrange to have public underground utilities marked. For Kentucky and Indiana customers: Customer must call to have underground utilities marked. In Kentucky, call 1-800-762-6007; in Indiana, call 1-800-362-2764. Mills Fence assumes no responsibility for any unmarked public or private underground obstructions such as underground utilities, sprinkling systems, pipes, cables, drain tiles, tree roots, vegetation, or property lines. Customer understands that the fence line must be clear of all obstructions and that s/he will stake or mark the fence line. All customers are required to obtain their own permit, by contacting their local municipality.

All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders and will become an extra charge over and above the estimate. Mills Fence will repair or replace at our option any of our work that may prove to be defective in its workmanship or materials within a period of one year from the date of installation. As a condition precedent to this warranty, Customer grants Mills Fence the right to place a sign on the fence that is no more than 12" wide and no more than 6" high in a location solely determined by Mills Fence. MILLS FENCE HEREBY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AS TO THE QUALITY OF MATERIAL (i.e., WOOD PRODUCTS) SOLD BY MILLS FENCE. ALL WARRANTIES, IF ANY, BY A MANUFACTURER OR SUPPLIER OTHER THAN MILLS FENCE ARE THEIRS, NOT MILLS FENCE'S, AND ONLY SUCH MANUFACTURER OR SUPPLIER SHALL BE LIABLE FOR PERFORMANCE UNDER SUCH WARRANTIES.

Gates should be kept in a locked position when not in use. All agreements contingent upon strikes, accidents, or delays are beyond our control. Owner to carry fire, tornado and other necessary insurance. Our workers are fully covered by Workers' Compensation insurance.

The laws of the State of Ohio shall apply in the construction of these terms of the contract or any dispute arising hereunder without giving effect to such jurisdiction's conflict of laws principles. Customer submits to the jurisdiction in the courts of Hamilton County, Ohio.

In the event any one or more of the provisions contained herein should be invalid, illegal, or unenforceable in any respect, the remaining provisions contained herein shall not be affected or impaired in any manner.

Authorized Signature

Mills Fence Company, Inc. Authorized Representative
Note: This proposal may be withdrawn if not accepted within 30 days

Online Property Access

Parcel ID
526-0110-0071-00

Address
3120 FAIRHAVEN LN

Index Order
Parcel Number

Tax Year
2015 Payable 2016

I Want To...

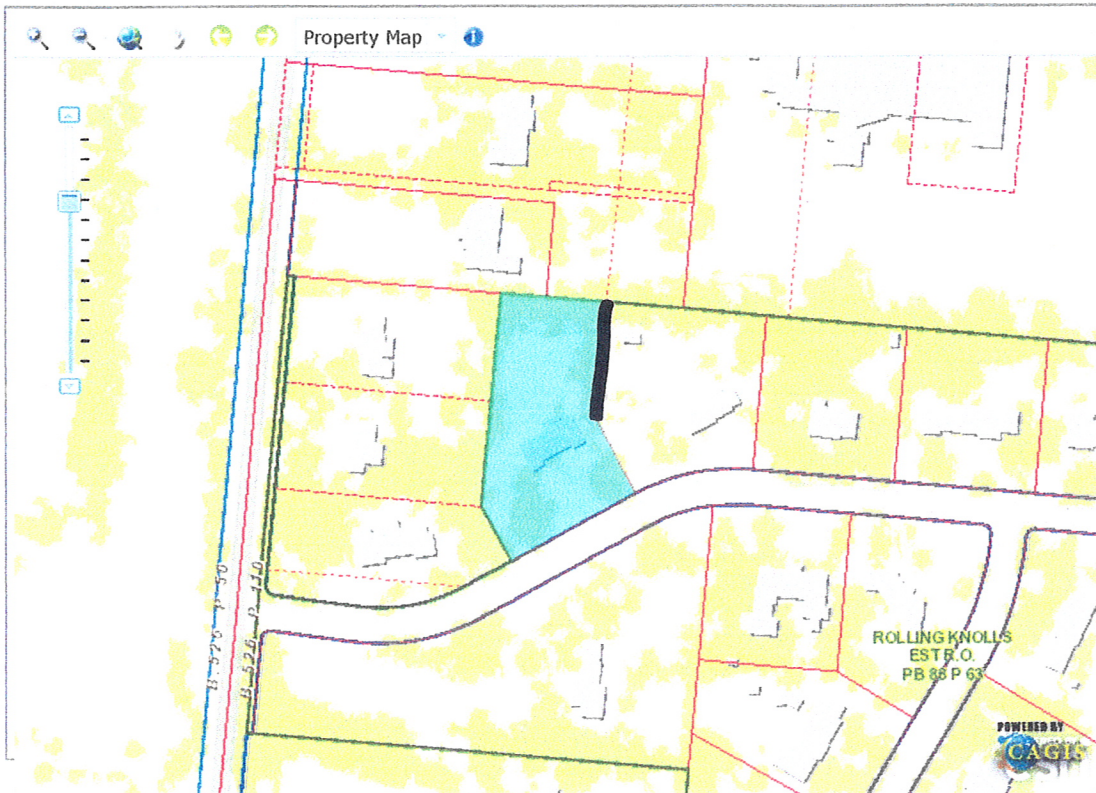
- ☐ Start a New Search
- ☐ Email the Auditor
- ☐ View the Online Help
- ☐ Auditor's Home

View:

- Property Summary
- Appraisal Information
- Levy Information
- Transfer
- Value History
- Board of Revision
- Payment Detail
- Tax Distributions
- Images
- Special Assessment/Payoff
- Tax Lien Certificates
- CAGIS Online Maps**
- Aerial Imagery
- Owner Names

Print:

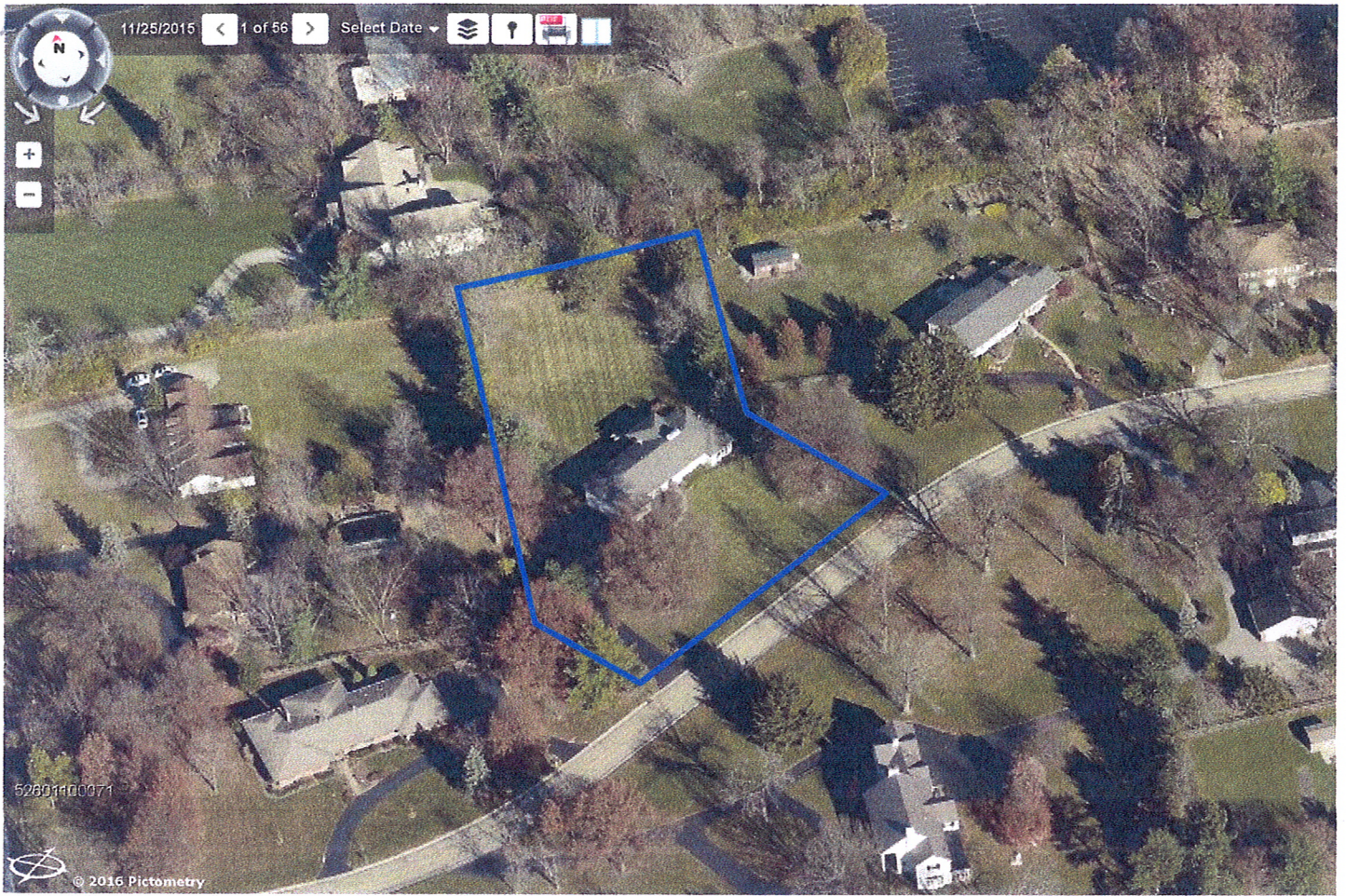
- ☐ Current Page
- ☐ Property Report



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— ✕ Fence Line



52601100071

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MILLS
FENCE & RAILROAD
SINCE 1900

Amberley Village Board of Zoning Appeals Staff Report

December 5, 2016

Subject:

3140 Fair Haven Lane

Variance:

Six foot in height fence

Item: Case#2016-2004

Variance Request: Richard and Marcie Cohen, property owners of 3120 Fair Haven Lane, are seeking a variance to Zoning Code 154.14 (A). The variance would allow for a six foot in height privacy fence in the rear yard, along the east property line bordering the neighbor at 3140 Fair Haven Lane.

Zoning Code Review: 154.14 Fences, Walls and Hedges (A) Notwithstanding other provisions of this Zoning Code, fences, walls, and hedges not exceeding four and a half feet in height may be permitted in any required side or rear yard or along the edge of any yard, provided that no fence or wall, along the sides or front edge of any front yard or in any part of a front yard shall be permitted. Hedges not over two and a half feet in height may be permitted in a front yard.

Variance Review: Mr. and Mrs. Cohen's letter states they they own and maintain the existing split rail fence around their rear yard and are requesting the variance to replace the eastern 126' portion with a six foot high privacy fence. The letter states the higher fence is needed for the safety of their dogs and due to the neighbors' dogs being aggressive and posing a risk with the existing fence style.

The letter also states that the neighbor has acquired an additional dog (Doberman Pinscher) and they feel a large dog with an aggressive nature could be a safety risk to their smaller 10 to 12 pound dogs.

Mrs. Cohen stated in a phone conversation that the neighbor allowed them to install additional wire mesh on his side of the fence but this caused a weed issue. She stated she wants to be a good neighbor and protect her dogs but her fear is when the dog gets bigger, it's going to jump the shorter fence.

Mr. Bell, property owner of 3140 Fair Haven Lane (neighbor to the east), submitted a letter stating several issues between the neighbors and his support for the six foot fence.

Project Recommendations: Staff recommends consideration of the request on its merits.

November 17, 2016

RE: 6 FT Privacy Fence

Dear Marcie and Richard Cohen,

I received your voice mail at my office this morning at 6:30 am...What a FABULOUS IDEA. I wish I had thought of it 13 years ago before I had a \$2000 dog, beloved family member, destroyed, in order to keep the peace between us. Your two dogs could have continued to run along the fence line wearing a path while barking and "Titus", causing him to become defensive. He would never have been the wiser and just maybe he would still be alive today (only GOD knows). Our outside events that seemed to catch your attention to where you felt it necessary to call the Police or blow "Fog / Air" horns would have been negated. How we chose to control "weeds" with Roundup" would not have been an issue due to your great concern for the "Health" of Verona (my wife) and our son Henry III, along with the dogs Anna and Rocky; there would have been peace and serenity between both house holds. I reflect back now at all of the conversations through the years with my wife and neighbors about your intrusions into our and their lives...the anger...the loss of sleep... and most importantly the LOST MOMENTS WITH FAMILY and FRIENDS...THE TIME WE WILL NEVER HAVE AGAIN... Such a waste.

On the Positive note, please let me know what I can do to expedite this matter so that you will be able to sleep soundly, free of any anxiety or worries. I will forward a copy of this letter to the necessary persons at the Village so that they know that the "Bell House Hold" is on board for their approval of your fence request. I will hand deliver a copy to the Police Department so that they can attach it to the Report that was made on 11/16/2016 that references the night before 11/15/2016 at about 9:15 pm in which I was outside in my backyard walking my 6 month old dog and heard this first hand as Richard exited your house with your dogs; and I quote:

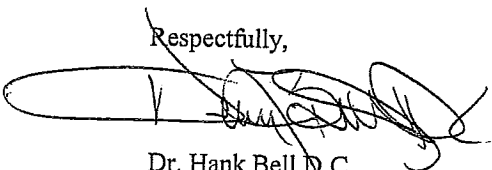
Marcie: "Do you have your gun Richard ?"

Richard: "I have it!"

I will never live in FEAR of a bullet flying over a fence onto my property potentially striking my four year old child or my wife or my dogs. I would not stand by helplessly and see that happen. My father (God rest his Soul) and my mother, would both say that they raised me better than that and the struggles that they had to endure in life were not in vain.

Let it be known, until the fence is approved, I will be more that happy to have specific times assigned that would work to your best interest to have your dogs go outside so that we do not have to be barked at or vise versa. This would help avoid them from being overly stressed.

Respectfully,



Dr. Hank Bell D.C.
3140 Fairhaven Lane

Cc:

Police Dept., Mayor Tom Muething, Vise Mayor Natalie Wolf, Village Mgr. Scot Lahrmer, Council Members Peg Conway, Richard Bardach, Ed Hattenbach, Elida Kamine and Ray Warren, Surrounding Neighbors