

AGENDA

January 3, 2017

PLANNING COMMISSION/BOARD OF ZONING APPEALS

7:00 PM

Roll Call

Minutes

Regular Meeting Minutes of December 5, 2016

Cases

CASE NO. 2016-2005

Residents Kevin and Sarah Gilles of 3210 Longmeadow Lane are requesting a variance to allow for a previously installed seven foot high fence in their rear yard to remain. The request would require a variance from Village Code Section 154.14 (A).

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, DECEMBER 5, 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, December 5, 2016 at 7:00 P.M.

Roll was called: PRESENT: Richard Bardach, Chairperson
 Rick Lauer
 Susan Rissover
 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 November 7, 2016 meeting minutes. Mr. Lauer moved to approve the minutes as submitted. Seconded by Mr. Wolf and the motion carried unanimously.

Case 2004

Chair Bardach introduced the application and Mr. Brown provided the staff report. Mr. Brown reported that residents Richard and Marcie Cohen, property owners of 3120 Fair Haven Lane, are seeking a variance to Village Code Section 154.14 (A). The variance would allow for the construction of a six foot in height fence in the rear yard, along the east property line bordering the neighbors at 3140 Fair Haven Lane.

Mr. Brown reported that the Cohen's maintain an existing split rail fence in their rear yard. The proposed six foot fence would replace a portion of the split rail along the eastern property line with 3140 Fair Haven Lane. He explained that the applicant has requested the higher fence for the safety of their dogs due to the neighbor's dog being aggressive. The neighbor has acquired a Doberman Pinscher and the Cohen's believe that this new dog poses a risk to their dogs. It was noted that wire mesh has been installed on the fence; however, it has caused a weed issue. The applicant believes that the shorter fence will be jumped by the Doberman and cause harm to their smaller dogs. The neighbor, Dr. Bell, has submitted a letter in support of the proposed six foot privacy fence.

Chair Bardach invited the applicant to speak on the variance request. Mrs. Cohen stated that they chose not to live in fear of their dogs being harmed and the fence is being requested for prevention. She stated that dogs on the neighboring property have demonstrated aggressive behavior in the past and have bloodied their face through the fence while trying to get to her dogs. She stated that they enjoy their backyard time and the dogs get frustrated and aggressive when they are out.

Mr. Cohen commented that this has been an ongoing problem for 13 years with multiple dogs owned by the neighbor. He stated they have to take their dogs inside if the neighboring dogs are out.

Chair Bardach asked if the fence is located between these two properties only. Mr. Cohen confirmed it was only along the eastern property line.

Mr. Rubenstein commented that it appears there is a contentious relationship among the two neighbors and it appears Dr. Bell is in support of the fence. He asked the Cohen's if the Village would hear back from Dr. Bell later that he is not in support or has he been informed of the type of fence being proposed.

Mrs. Cohen stated that she called Dr. Bell and he supported the proposed fence with a letter, and she had a conversation with his wife to get clarification on hours of the day to have the dogs out in turns in both yards for their safety.

Mr. Wolf clarified that the meeting material was made available to the public online which also included a photo example of the type of fence being requested. The meeting notice was also mailed to Dr. Bell.

Mr. Lauer asked if the existing split rail will be removed and Mrs. Cohen confirmed that the portion of the split rail connecting to Dr. Bell's property would be replaced with the six foot privacy fence. Mr. Lauer noted that typically the finished side of the fence would face the neighboring property.

Mr. Lauer stated that from Dr. Bell's letter he gathered that the Doberman was six months old. He asked Mrs. Cohen if the dog had been a problem to date. Mrs. Cohen stated the dog has not been a problem.

Mr. Lauer commented that the Cohen's could install a privacy fence that was 4.5 feet tall and asked if it had been considered. Mrs. Cohen responded that she believes the Doberman will climb or jump the shorter fence. Mr. Cohen stated that particular breed of dog are known for their jumping abilities.

Mr. Lauer stated that the variance request is difficult and the Board typically denies six foot fences unless the applicant borders another community or there is a problem with the lot itself.

Chair Bardach asked if there were any other residents present that wished to speak on the application. There were none. Mr. Lahrmer confirmed that no other neighbors have contacted the Village regarding this application. Mrs. Cohen stated that she has talked with the surrounding neighbors and they are in support.

Mr. Rubenstein stated that he agrees with Mr. Lauer. He then commented that what is different in with this application is that the people its impacts both want the higher fence. He noted that this area of the yard really cannot be seen except for by the applicant and Dr. Bell.

Chair Bardach stated that he agreed, and noted that he had a poodle that could jump a fence. Mr. Wolf noted that a Doberman could jump over six feet.

Ms. Rissover moved to approve the application as submitted. Seconded by Mr. Wolf.

Mr. Lauer stated that if approved, the reason this application would be different is because it can only been seen by the two neighbors involved.

Ms. Rissover stated that she agreed with Mr. Lauer. She commented that she does not believe that this Board is the place to resolve neighbor disputes. She stated that many requests for higher fences have been turned down and unapproved taller fences have been ordered to be brought into the height compliance. She stated that in her opinion both neighbors should install a 4.5 foot stockade fence with a strip of grass between the fences to create a barrier for the dogs. She noted that coyotes exist in the area and if one fence goes up for a perceived dangerous animal, then coyotes could be perceived as such.

Mr. Wolf agreed with Mr. Rubenstein that it is difficult for others to see the area of the proposed fence location. He noted it does create a problem going forward, however, these two property owners will enjoy their property more and it does not negative impact surrounding properties.

Ms. Rissover commented that the reason for the fence height in the code is to prevent vistas from being blocked. This fence would be a solid wall for a future owner.

Mr. Lauer commented that the current dog has not exhibited aggressive behavior and if it did jump the fence, it would become a police matter. He noted most of the problems shared were old.

It was asked if prior fences of this height had been approved in the Village. Mr. Lahrmer stated that typically staff discourages six foot fences due to vistas in the Village. He stated view should not be obstructed and a stockade fence would have that impact. The code would allow the applicants to install a 4.5 foot stockade fence. Six foot fences approved in the Village have bordered Golf Manor. There has been no history of approved fences for neighbor to neighbor.

Mr. Frank informed the Board that conditions can be imposed on a variance. He stated that if the Board was to choose to approve it, the condition could be the material, type or color and that the finished side would face the neighbors.

Ms. Rissover asked if there was an ordinance on dog fencing. Mr. Brown stated that there would be fencing requirements for the dog if it were considered to be a dangerous dog in legal terms. It would be a pen with a dog run, not the entire yard. Mr. Frank noted that to be a dangerous dog it has to have bitten someone or done something else to be considered dangerous.

Mr. Rubenstein moved to amend Ms. Rissover's motion to approve. Seconded by Mr. Wolf and the motion carried.

Mr. Wolf moved to amend the motion with the condition that the unfinished side of the fence face inward and the fence be made of wood. Seconded by Mr. Lauer and the motion carried.

It was stated that the motion would approve the application to include the conditions that the fence be wood stockade and the finished side would face Dr. Bell's property. The roll call showed the following vote:

AYE: Bardach, Rubenstein, Wolf (3)

NAY: Lauer, Rissover (2)

Mr. Frank explained to the applicant that the fence must be stockade wood and the finished side must face Dr. Bell's property or the Board could order the fence be brought into compliance. Mr. Brown stated that the applicant will receive a letter from the Village explaining the approval and conditions.

New Business

Chair Bardach announced that the January meeting would fall on the observed holiday for the New Year. The meeting date of January 3 was proposed for the reschedule date.

Mr. Lauer commented that there were several items the Board has had difficulty in handling due the lack of direction in the Village Code. He stated he would start the process over the next few months to begin a list of items that could be modified in the Code and report back to the Board.

There being no further business the meeting was adjourned.

Nicole Browder, Clerk

Richard Bardach, Chairperson

BOARD OF ZONING APPEALS
MEETING NOTICE

WHEN: January 3, 2017 at 7:00 PM

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 **Tuesday, January 3, 2017 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 Kevin and Sarah Gilles of 3120 Longmeadow Lane are requesting a variance to allow the previously installed seven foot high deer fence in their rear yard, surrounding their garden to remain. The request would require a variance from the zoning regulation that fences may not exceed four and one 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 **January 3, 2017** Board of Zoning Appeals public meeting. If you should have any questions, please feel free to contact Scot Lahrmer at (513) 531-8675.

cc: Kevin and Sarah Gilles, 3210 Longmeadow Lane
Cynthia Barr and Monica Lira, 3230 Longmeadow Lane
Scioto Blue River Properties LLC, 5940 Wilcox Pl (3250 Longmeadow)
Melinda Shelton, 3245 Lamarque Drive
Ashish and Harriet Kumar, 3215 Lamarque Drive
Michael Thompson, 3220 Lamarque Drive
Braddock and Theodosia Riddle, 3210 Lamarque Drive
Kelly Pierson, 3200 Lamarque Drive
Manny Comisar, 3195 Patrisal Court
Matthew Cooper, 3180 Lamarque Drive
Robert and Rita Wetterstorem, 3195 Lamarque Drive
Timothy and Janette Boone, 3175 Longmeadow Lane
Mark and Diana Woloshin, 3185 Longmeadow Lane
Donna Levine, 3205 Longmeadow Lane
Lewis Taylor, 3225 Longmeadow Lane
Srinivasa and Latha Gowda, 3245 Longmeadow Lane
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 12/22/16

Amberley Village Board of Zoning Appeals Staff Report

January 3, 2017

Subject:

3120 Longmeadow Lane

Variance:

Seven foot high fence

Item: Case#2016-2005

Variance Request: Residents Kevin and Sarah Gilles of 3210 Longmeadow Lane are requesting a variance to allow for a previously installed seven foot high fence in their rear yard to remain. The request would require a variance from Village Code Section 154.14 (A).

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. Gilles stated that they moved into the Village in 2014 because of the size of the lots and that it would allow them to have a garden. They installed a 27'x78' garden in the rear yard of their home and also installed a 7' high fence to prevent the deer and other animals from damaging the garden.

The approximate location of the garden and 7 foot fence is in the required rear yard, 4 feet south of the north property line bordering 3215 Longmeadow Drive, 48 feet from back of curb on Lamarque Drive and 36 feet west of the east property line bordering 3230 Longmeadow Lane.

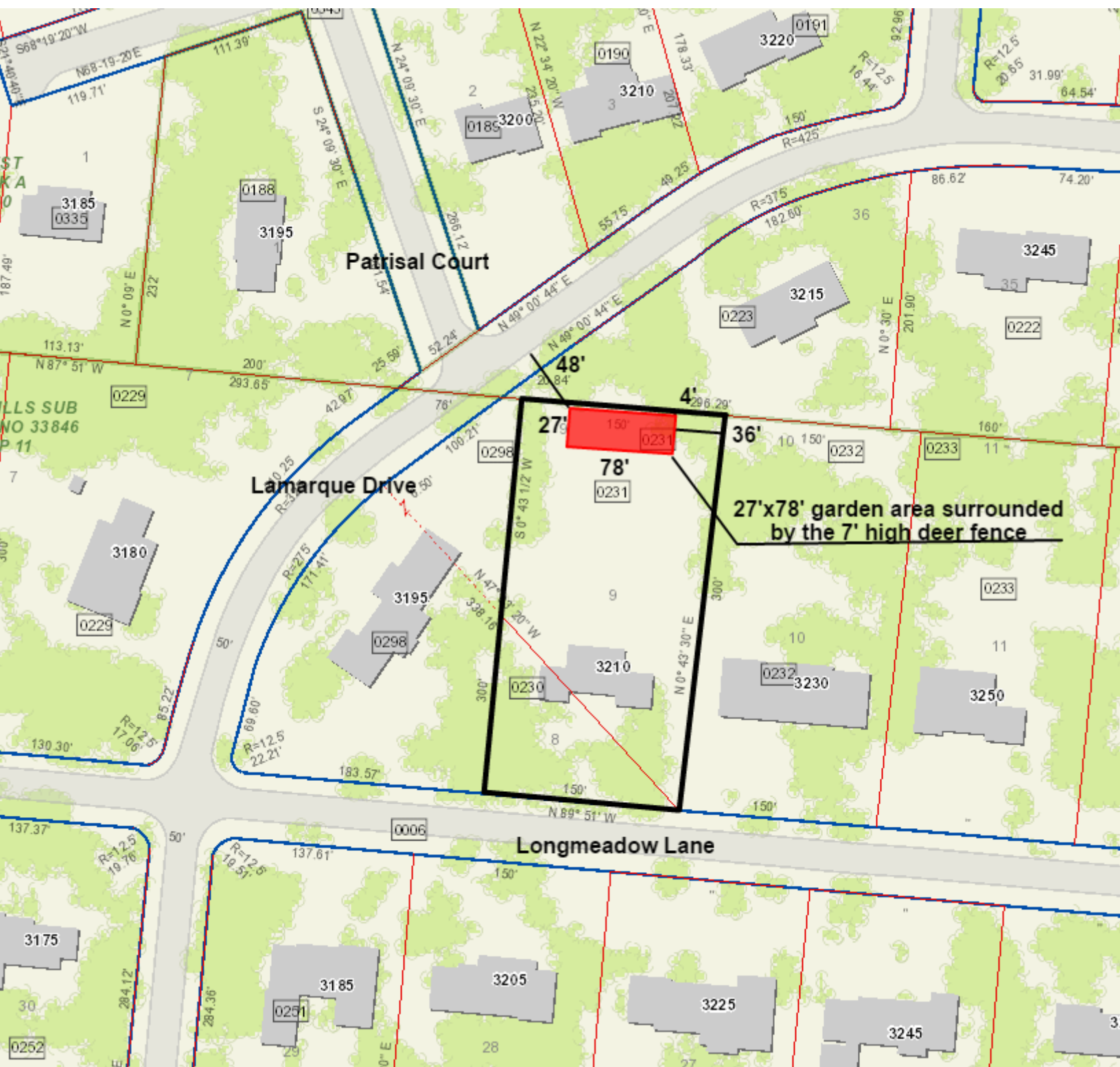
Village Zoning Code 154.14 states fences not exceeding four and a half feet in height may be permitted in a required side or rear yard. Therefore, a variance is necessary to allow a fence of this height to remain.

The letter to the board states the property owners did not check the Village Zoning Code to see if approval was needed prior to the installation, so zoning approval was not sought.

The letter also stated the material used was chosen to maintain the open air feeling of the neighborhood and to avoid the visual and spatial barrier that a solid wood fence would create.

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





Photos taken by Village staff



Photos taken by Village staff



Photos taken by Village staff



Photos taken by Village staff



Photos taken by Village staff



Photos taken by Village staff



Photos taken by Village staff



Photos taken by Village staff



Photos taken by Village staff



To: Zoning Board
From: Kevin & Sarah Gilles
Re: Variance for existing 7' deer fence
Date: 11/21/2016

I am writing to request a variance for our existing 7' deer fence. I made a mistake and installed the fence without checking Amberley Village's zoning requirements. Wesley Brown stopped over and talked with my wife about the violation.

We installed the fence to be a barrier for our garden from the deer and other critters. I purposely selected the style of fence that I did because it maintains the open air feeling we love about our neighborhood.

We moved into Amberley in November 2014 and love our property especially for the size of lot so we could have a garden. I should have checked the zoning requirements. I apologize.

I really want to avoid adding a solid wood fence since it creates visual and spatial barriers, which seems to violate the spirit of the existing zoning ordinances. I appreciate your consideration for my request to allow the variance for my existing deer fence.

Thanks!

A handwritten signature in black ink, appearing to read 'K Gilles', with a stylized flourish at the end.

Kevin G Gilles

Date: 10/22/16

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 variance for existing 7' deer fence.

Dimensions of fence are 27x78.

The structure is proposed at the following address:

3210 Longmeadow Lane

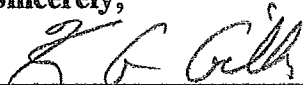
I certify the attached plat and measurements are accurate.

Contractor's Name

Contractor's Address

Telephone Number

Sincerely,


Homeowner's Signature

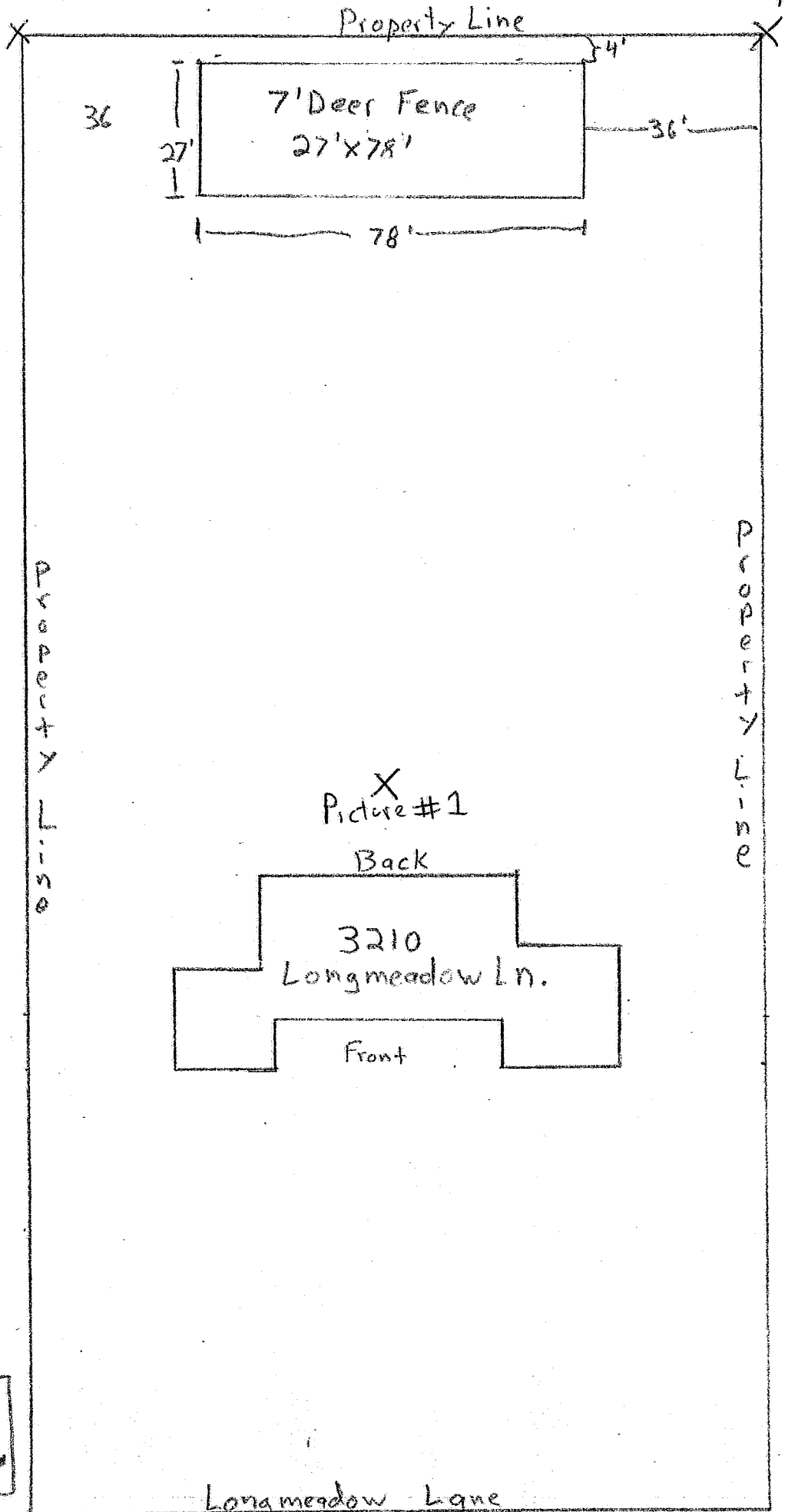
Kevin G Gilles
Homeowner's Printed Name

513.604.2990
Telephone Number (daytime)

Picture #4

Picture #2

N
W + E
S



Note: Picture #3 from
Lamarque

Scale
1" = 30'

Longmeadow Lane

Photos submitted by applicant

