

City of Waukesha
Department of Community Development
BOARD OF ZONING APPEALS
201 Delafield Street, Waukesha, WI 53188

Stamp Date Received

NOTICE: The Board meets on the first Monday of every month at 4:00 p.m. in the upper level hearing room (207) at Waukesha City Hall. **ATTENDANCE OF THE APPLICANT OR A REPRESENTATIVE IS REQUIRED.** Failure to appear could result in the application being acted on without the applicant's input, or it could result in the item being removed from the agenda, requiring the applicant to reapply and pay another filing fee.

The appeal or application must be filed with the Community Development Department at least 17 days before the Board's meeting and within 20 days of the Zoning Inspector's order or decision, accompanied by the filing fee of **\$100.00**.

This application is for (choose one)

☐ A variance from section _____ of the zoning code ☒ An appeal from the decision of the Zoning Inspector

For the property identified below:

Project Address: 3669 Olde Howell Rd Tax Key #: WAKC1317229

Current Zoning: Residential Existing Use: primary residence

ATTACH DETAILED DESCRIPTION OF PROPOSAL including what is being requested, the rationale, and if a variance request, the facts and circumstances that satisfy the criteria for variance listed on the reverse of this form.

In order to be placed on the Board of Zoning Appeals agenda, the Community Development Department must receive the completed application, fee, project description, and a set of plans in PDF format by the applicable deadline. If this is an appeal from the decision of the Zoning Inspector, also attach a copy of the decision or order rendered by the Zoning Inspector and a statement of principal points on which the appeal is based. The Community Development Department - Planning Division should be consulted to assure an application is complete before being submitted.

SEE REVERSE FOR DEADLINES AND ADDITIONAL INFORMATION.

Applicant: (Person to receive notices)

Name: Jennifer Reilly

Address: 3669 Olde Howell Rd

City & Zip: Waukesha 53188

Phone: 414-915-7601

E-mail: mysticocrystals@yahoo.com

Owner of property:

Matthew and Jennifer Reilly

I certify that the above statements and the statements contained in the materials submitted with this application are true and correct.

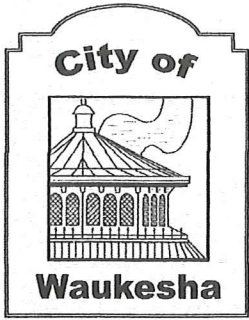
[Signature]
Applicant Signature

7-31-2020
Date

PLEASE NOTE: THIS FORM MUST BE ACCOMPANIED BY A \$100.00 FILING FEE

For Internal Use Only

Amount Paid: <u>\$100</u>	Check # <u>1439</u>	Received by: <u>ma</u>
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COMMUNITY DEVELOPMENT

201 DELAFIELD STREET
WAUKESHA, WISCONSIN 53188-3633
TELEPHONE 262/524-3750 FAX 262/524-3751

July 01, 2020

MATTHEW REILLY &
3669 OLDE HOWELL RD
WAUKESHA, WI 53188

Re: 3669 OLDE HOWELL RD - Case #CE20-00106

Dear MATTHEW REILLY &:

Be advised that a \$150 reinspection fee has been charged for failing to comply with previous orders. This fee will appear on a separate invoice. During a recent inspection, the following violations were found to remain:

22.58(2)j.3. FENCES, 6 FT, NO
STR YD:

Solid Fences are permitted in residential zoning districts, subject to the following rules: They shall not exceed a height of 6 feet; they are permitted in side and rear yards; and they are not permitted in street yards, except that they may extend on or parallel to the lot line into the street yard, no farther than the line of the adjacent property's street yard.

The 6 foot high privacy fence on your property illegally extends into the street side yard. You are hereby ordered to make the fence compliant (4 foot high with 50% opacity in the front/street side yard) or remove within 30 days from the date of this notice.

Mr. & Mrs. Reilly; I have not charged a \$75 re-inspection fee, but per our conversation on 5/28/2020 if a "zoning" variance is not submitted or the fence is not corrected prior to 6/15/2020 fees, citations and Court action are all possible enforcement actions. Your understanding is appreciated in this matter, Thank You!

If the inspector determines the Code violation has not been corrected, a \$75 fee shall be charged against the property for the first re-inspection, \$150 shall be charged for the second and any subsequent re-inspections. Any such fees shall be charged against the real estate upon which the re-inspections were made, shall be a lien on the real estate, and shall be assessed and collected as a special charge. Additional enforcement action may also be taken such as issuing citations or filing a law suit.

If you have any questions, please contact this office.

Sincerely,



RE: Case #CE20-00106

To whom this may concern,

We are writing to you to respectfully implore you to grant us a variance for code 22.58(2)j.3.FENCES,6 FT, NO STR YD. We hope after your review of the following documents and supplied answers that you will be compelled to logically grant us a variance allowing our fence to remain. Required rational, facts, and circumstances attached.

Thank you,
Matthew Reilly
Jennifer Reilly

Answers to Variance Application Questions:

1. The circumstances are unique to our property because we are being targeted for owning a corner lot that has a 6ft privacy fence. There was no complaint made against our property. Mary Strankowski, a city inspector came to our home to inspect a deck expansion on April 15, 2020. Prior to her arrival our contractor told us that she did not want any contact with us due to COVID-19. When we saw her pull up to the side of our home we brought our dogs in so she could enter yard. Inspector remained in her city vehicle for a few minutes, never exited vehicle and then drove away. No deck inspection was completed by her. The next morning I called the inspection office and spoke with Chris Buzzell. I told him what occurred. When he looked up our permit number he saw that it was approved and closed. Confused, I asked him how that could be when Mary had never come on to the property. He stated that there were notes from her that said she didn't enter because of the dogs and that she requested photos from contractor to complete inspection. Despite our dogs being brought in on her arrival she used that as an excuse to not complete inspection. Instead she decided to flag our property for the fence and on April 22, 2020 we received a letter from Property inspector Matthew Dama informing of a fence violation. Again, no complaints against our property, but rather an inspector that decided to arbitrarily enforce a hidden fence code that us, our contractor, and the developer did not even know existed.
2. Without a variance we are being denied the following substantial property rights that are enjoyed by neighboring properties. First, we are being denied the basic right to safety and security. Living on a corner lot we are completely exposed and a 6ft solid privacy fence is essential to deter crime, unwanted visitors, and solicitations. Especially in this day and age and the state of the world, security is paramount! We have an exposed walkout basement and having no fence or a 4ft fence would allow anyone to enter our property if they want to do so. We also run an online business and keep all of our inventory in our home. We should be able to secure our property in any reasonable way to prevent theft and burglary. Since it is a developing subdivision there are countless workers driving in and out who do not live here. We should not be punished because we live on a corner and have to subject ourselves to constant eyes upon us. We even have random people drive in to the subdivision and illegally use builder's dumpsters right across from this fence to put garbage in. The 6ft solid fence also provides protection against the packs of coyotes that roam the surrounding woods. At night you can hear them howl and one has even been captured on a neighbor's security camera running in the street. A 4ft fence or having no fence would allow these wild and dangerous dangerous animals to enter our yard if they wanted to. We have two children and two dogs that would be put in danger by this. Either dog could be easily killed by a coyote that entered and attacked. In addition, our two dogs enjoy running around the property and can be quite vocal if they see someone. A 6ft solid fence helps deter that barking. Without it the dogs will quickly become a menace as they would see people and other dogs walk by all day and that will cause constant barking. They would also go from being able to run and play in a large yard to being put out on a lead and not able to run. A solid fence also protects any of the many many children that are in this neighborhood from sticking a hand through and possibly getting hurt. A solid 6ft fence also deters theft of the dogs themselves. Second, we are being denied the basic right to privacy. Removal of the 6ft allows our family and it's daily activities to be exposed to anyone that walks by. We have a very active neighborhood and we shouldn't have to be seen every time we are outside. It degrades the value of our property as we can't enjoy our yard like everyone else can enjoy theirs.

3. This variance is not being requested for any economic gain. On the contrary, we will be severely financially hurt without this variance. First, we invested in this new development by purchasing a "forever" home that we paid over \$550,000 for. By investing in the home we invested in the city of Waukesha and we pay over \$10,000 in property taxes. We paid over \$12,000 for the fence and we cannot afford to lose that money we invested. It was a lot to spend for us but we thought that the security, protection and privacy it provided our family was worth it. After speaking to Matthew Damas at community development we informed him of our plan to plant large trees along the fence line so that then the fence itself wouldn't be facing the street yard, but the trees would. He informed us that there is no restriction on landscaping as long as it isn't obstructing the vision triangle. So we then went ahead and contracted the planting of trees. We invested another \$5,800 for that fence line. In total we have approximately \$17,800 invested in that fence line and our family's security and privacy. We have also gone from a two income household down to one since Covid hit and forced my husband's company to cut salary.

actually it's \$7,210 for a total of almost \$20K

4. This hardship is not self created. Before we purchased the home we made sure that the subdivision allowed the fence to be put up. It was allowed. We then followed the rules of the acting Home Owners Association, which was and still is the developer, Thompson Companies. They required us to send them the plans from our contractor. They became aware of the 6ft cedar fence that was going to be installed around the entire property and they approved it. We then went ahead with our contractor. It was his responsibility to pull any permits. He called the city and was told no permit was needed to build a fence and no additional regulations were stated. Then one year later a building inspector who was called to our property for a deck inspection flagged the fence even though there was NO complaint made against us. Please see attached print out of a screen shot taken from the City of Waukesha's website. It clearly states that building a fence does not require a permit. There are no other requirements listed. One would not think there are other regulations to follow like there are with installing a driveway and reroofing a home. As you know, or as you can see on the included screen shot printout, no permit is required for either of those activities either, but there are regulations listed that need to be followed. This is not the case with erecting a fence. There is no indication that there are any regulations or rules that need to be followed. Someone looking at this would see no permit required and think they are "good to go". This was the case with our contractor, seasoned realtors on both sides of sale, subdivision developer, and ourselves. No permit needed, no additional rules listed, then we can proceed.

5. The variance would not defeat the purpose of the zoning ordinance because our fence is not an obstruction and it is not in the vision triangle. Although we are technically in the city of Waukesha, we are in a rural area on a dead end street. We had no complaint against us.

6. Our yard will have no reasonable use if variance is not granted. We will not be able to secure the safety of our home, children, dogs, property, and business inventory. We will not be able to enjoy our time together as a family with constant eyes upon us.

Especially in these times, being able to enjoy and secure one's home is of the utmost importance.

Heating, Ventilation & Air Conditioning

[Home](#) > [Departments](#) > [Community Development](#) > [Business](#) > [Permits](#)

Required Local Permits

Digital Copy

All plans submitted to our department require an additional digital copy. See our Digital Requirements page for more information.

State Approved Plans

Prior to obtaining a permit, you may need to have plans that are State Approved if you are constructing or altering a commercial building.

Activities Requiring a Permit

- Air Conditioning Work
- Alteration of Existing Buildings
- Basement Bedrooms
- Change of Occupancy
- Construction of New Commercial
- Construction of New Residential
- Decks
- Electrical Work
- Foundation Repairs: Same Day Permit
- Garden Shed: Same Day Permit
- Gazebos
- Handrails
- Heating Work
- Installing an Awning
- Moving of Buildings (PDF)
- New Garages
- Plumbing Work
- Recreation Rooms
- Repair of Fire Damage
- Signs
- Spa
- Swimming Pools
- Ventilation Work (Furnace)
- Wheelchair Ramp Construction
- Wrecking of Buildings

Permit Applications

Activities Not Requiring a Permit

- Erecting a fence
- Installing a driveway (the approach and public sidewalk need permits issued by Public Works; contact them at 262-524-3600)
- Installing an at-grade patio
- Installing sidewalks on private property
- Landscaping
- Reroofing a home or duplex (even though a permit is not required for roofing, a maximum of 2 layers is allowed per City of Waukesha Code)

Homeowner Liability

Please Note: A homeowner intending to do their own work, and apply for a permit in their name should keep in mind that by doing so, they are assuming full liability for code compliance.

More Information

Please call the Building Inspection Division at 262-524-3530 with any questions.

Contact Us

Jennifer Andrews
Department Director
Phone: 262-524-3750

Kristin Stone
Chief Building Inspector
Email
Phone: 262-524-3530

Maria Pandazi
Deputy Director
Email
Phone: 262-524-3530

Community Development
Email the Department
Staff Directory

201 Delafield Street
Room 200
Waukesha, WI 53188
Directions & Map
Phone: 262-524-3750
Phone: 262-524-3530
Fax: 262-524-3751
Emergency: 911

Hours
(Excluding Holidays)
Monday - Friday
8 a.m. - 4:30 p.m.



NO additional regulations

Additional regulations listed

Lot 72 Fence Approval

From: Tim Smits (tsmits@thomsoncompanies.com)

To: mreilly11@att.net

Date: Thursday, February 28, 2019, 09:06 AM CST

Matt:

Thank you for your request to install a perimeter fence on Lot 72 in the Howell Oaks subdivision in Waukesha. Your submittal shows a fence made out of natural material at a height of 6' which complies with the requirements of the deed restrictions Section 3.14. As such, the ACC for Howell Oaks approves your request to install said fence. Please make sure that you obtain any permits required by the local municipality. If you have any follow up questions please feel free to let me know. Thanks.

Tim Smits

Vice President, CFO

Thomson Companies

N28W23000 Roundy Dr. Ste. #20

Pewaukee, WI 53072

(D)262-746-3625

NONE REQUIRED

- SEE PRINT OUT
and answer to
question #4

CONTRACT TOTAL	\$12,535.10
INITIAL INVESTMENT	\$6,267.55
AT START OF PROJECT	\$3,133.78
BALANCE AT COMPLETION	\$3,133.78



101 Dairy Ave.
Waukesha, WI 53188

Cell: 262-271-8765

Fax: 262-574-9288

E-mail: hansonslandscapinginc@gmail.com
www.hansonlandscaping.com

5/8/20

Matt Reilly
3669 Olde Howell Rd.
Waukesha, WI 53188

262-347-8268
mreilly11@att.net

Proposal (revised)

We propose to furnish & install a series of privacy trees along the east side of the property listed above. We will (12) 12-foot tall "Pyramidal Arborvitae" trees, evenly spaced about 4-feet apart along the back lot line. A narrow bed covered with brown colored mulch will be created to encompass the trees. The mulch bed will be curved to wrap into the corner of the patio. All excess excavated soil will be hauled away.

- o Price including labor, materials, and tax: **\$4,880.00**

We propose an alternate price to install a series of privacy trees along the west side of the property in order to hide the existing wood fence. In this location we will install (20) 6-foot tall "Pyramidal Arborvitae" trees. Another (6) trees will be installed along the north side of the fence. A narrow bed covered with brown colored mulch will be created to encompass the trees. All excess excavated soil will be hauled away.

- o Price including labor, materials, and tax: **\$5,510.00**

\$7,210.00

If both projects are done at the same time, the total cost would be **\$9,900.00** (add \$1,700 for 8-foot tall trees along the west and north sides.)

Please give me a call at (262) 271-8765 with any questions. If the scope and budget for this project meets your needs, please sign and return one copy of this agreement, keeping a copy for your records. Thank you for your business.

Signed,

Joe Hanson, PE

Accepted,

Date: 5/11/20

Payment Terms: 1/2 down payment. Balance due on completion.

Acceptance of Proposal: The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above. As required by the Wisconsin Construction Lien Law, contractor hereby notifies owner that persons or companies furnishing labor or materials for the construction on owner's land may have lien rights on owner's land & building if not paid. Those entitled to lien rights in addition to the above signed, are those who contract directly with the owner or those who give the owner notice within 60 days after they first furnish

Fence is barely seen



No
Vision
TRITNB
OBSTRUCTION



No Vision
Hiring Construction



Fence in question - will be 100%, undetectable
- once trees fill in

- barely seen now
- trees full street ~~front~~

