

STATE OF ILLINOIS)
)
COUNTY OF DUPAGE)
)
CITY OF NAPERVILLE)

**PETITION TO THE NAPERVILLE CITY COUNCIL AND PLAN COMMISSION FOR
A FENCE VARIANCE AT 1219 OLESEN DRIVE**

THE UNDERSIGNED Petitioners, Marvin Fagel and Shelley Fagel (hereinafter “the Petitioner”) respectfully petitions the City of Naperville (the “City”) to: (i) grant a variance from sections 6-2-12:1.1 and 6-2-12:1.2 to permit a four foot six inch (4’- 6”) open fence with accompanying five foot six inch (5’-6”) brick piers which are not “open” to be located in the front yard for the property legally described on **Exhibit A** (the “Property”); and (ii) such other variances, departures or deviations as may necessary to permit the installation of the fence as depicted on the plans made a part hereof as **Exhibit B** pursuant to the Naperville Municipal Code (the “Code”).

In support of this Petition, the Petitioner represents to the City as follows:

1. The Owners of the Property are Marvin Fagel and Shelley Fagel (the “Owners”).
2. The Subject Property is zoned R1A Low Density Single Family Residence District and consists of one (1) lot totaling approximately 66,059 square feet.
3. The existing land uses surrounding the Property are as follows:
 - a. North R1A PUD Detached Single Family Residential
 - b. East R1A Detached Single Family Residential
 - c. South R1A Detached Single Family Residential
 - d. West R-1 Unincorporated DuPage County Detached Single Family Residential
4. The variance from sections 6-2-12:1.1 and 6-2-12:1.2 to permit a four foot six inch (4’- 6”) open fence and five foot six inch (5’-6”) brick piers to be located in the front yard meets the requirements for a zoning variance under the Naperville Municipal Code, Section 6-3-6:2 and is appropriate based on the following factors:

- a. *The variance is in harmony with the general purpose and intent of this Title and the adopted comprehensive master plan; and*

The Property is located one lot north of the intersection of Hobson Road and Olesen Drive. The Property is occupied by a recently constructed single family home. The Petitioner would like to install a fence around the Property which consists of a four-foot six-inch (4'- 6") open fence with five foot six inch (5'-6") brick piers spaced every thirty feet (30') (depiction attached) to match the recently installed fence located to the south at 1227 Olesen Drive. Section 6-2-12:1.2 of the Code prohibits fencing from exceeding four feet (4') within the front yard. In this instance, the Property is located in close proximity to the busy intersection of Hobson Road and Olesen Drive. Petitioner believes installation of the proposed fence with the brick piers will: (i) provide a safety buffer from automobile traffic generated by Hobson Road and Olesen Drive; (ii) delineate the Property's lot lines; (iii) provide additional privacy and security; (iv) provide a cohesive appearance with the adjacent property located at 1227 Olesen Drive whose previously approved fence is identical to Petitioner's proposed fence; and (v) provide an overall aesthetic improvement to the area.

A stated purpose of the City's fence height restriction is to ensure adequate standards for the provision of light, air, and open spaces are met. Section 6-1-6 of the Code defines an "open fence" as a fence where for each one (1) foot wide segment at least thirty percent (30%) of the surface area is in open spaces which afford direct views through the fence. Here, despite the fact that the brick piers will not be "open", they are only spaced every 30' and the proposed fence overall far exceeds thirty percent (30%) to be classified as an "open fence" and as a result meets the intent of the Code because it will not interfere with light, air, and open spaces of any adjacent property owners. The fence also serves various ancillary functions including: (i) providing a clear delineation of the Property's lot lines; (ii) complementing the home, landscaping, and adjacent

property located at 1227 Olesen Drive; and (iii) allows the Petitioner to better utilize their yard. In addition, the fence will be designed to meet all vision clearance requirements. Given the location of the Property along with the style of the proposed fence, and decorative brick piers, the installation at this location will provide safety benefits, enhance the residential use of the Property, and properly delineate the Property while not visually cutting off the Property from the rest of the neighborhood.

- b. Strict enforcement of this Title would result in practical difficulties or impose exceptional hardships due to special and unusual conditions which are not generally found on other properties in the same zoning district; and*

The location and character of the Property together with the nature of the surrounding neighborhood creates a unique set of circumstances. The Property is located in close proximity to Hobson Road and Olesen Drive and the traffic that is generated by these roadways. Installation of the proposed fence will provide a clear delineation of the Property's lot lines, complement the home and landscaping, and allow the Petitioner to better utilize its side yards.

- c. The variance, if granted, will not alter the essential character of the neighborhood and will not be a substantial detriment to adjacent property.*

The variance, if granted, will not alter the essential character of the neighborhood and will not be a substantial detriment to the adjacent property. To the contrary, the fence will be appealing, tasteful and will have a positive effect to the character of the neighborhood. The proposed fence will be designed, laid out, and constructed, in a manner that achieves both balance and harmony with the neighborhood, and blends in a visually unobtrusive manner with the surroundings. In fact, the City recently granted the same variance to the adjacent property whose property address is 1227 Olesen Drive and that property owner will be erecting a fence of identical quality and design as the fence Petitioner is requesting relief for. Petitioner is working closely with the property owner at 1227 Olesen Drive to ensure the two neighboring properties have identical

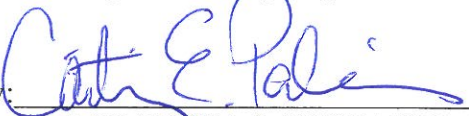
fences and a cohesive appearance.

WHEREFORE, by reason of the foregoing, the undersigned Petitioner respectfully requests the City Council and Plan Commission take the necessary steps to grant: (i) a variance from sections 6-2-12:1.1 and 6-2-12:1.2 to permit a four foot six inch (4'- 6") open fence with accompanying five foot six inch (5'-6") brick piers which are not "open" to be located in the front yard; and (ii) such other variances, departures, deviations or other relief which is deemed necessary to approve the installation of the proposed fence as depicted on the plans submitted herewith.

RESPECTFULLY SUBMITTED this 9th day of October, 2019.

PETITIONER:

Marvin Fagel & Shelley Fagel

By: 

ROSANOVA & WHITAKER, LTD.
ATTORNEY FOR PETITIONER

EXHIBIT A
LEGAL DESCRIPTION

LOT 2 IN CHARLESTON RESERVE RESUBDIVISION, BEING A SUBDIVISION OF PART OF THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 38 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 22, 2017, AS DOCUMENT R2017-085953, IN DUPAGE COUNTY, ILLINOIS.

COMMONLY KNOWN AS: 1219 Olesen, Naperville, Illinois 60540

PIN: 08-29-106-010

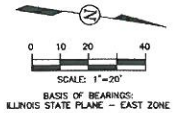
**EXHIBIT B
PLANS**

DUE TO NORMAL CONSTRUCTION TOLERANCES AND VARIATIONS BETWEEN RECORD AND ACTUAL LOT DIMENSIONS, ROWE AND ASSOCIATES, INC. CAN ACCEPT NO LIABILITY FOR MAJOR ENCROACHMENTS OF ZONING SETBACKS WHICH STRUCTURES HAVE BEEN REQUESTED TO BE Laid OUT WITHIN 6 INCHES (0.50 FT.) OF THE REQUIRED SETBACKS. FOUNDATION LAYOUT PERFORMED BY ROWE AND ASSOCIATES, INC. SHALL HAVE THE TOP OF FOUNDATION ELEVATION NOTED ON THE CURS OF HOW WITH THE CALCULATED CUT OR FILL GRADE NECESSARY TO ACHIEVE TOP OF FOUNDATION. THE CONTRACTOR SHALL VERIFY THAT THE TOP OF FOUNDATION STAGED MATCHES THE TOP OF FOUNDATION NOTED ON THE APPROVED LOT GRADING PLAN.

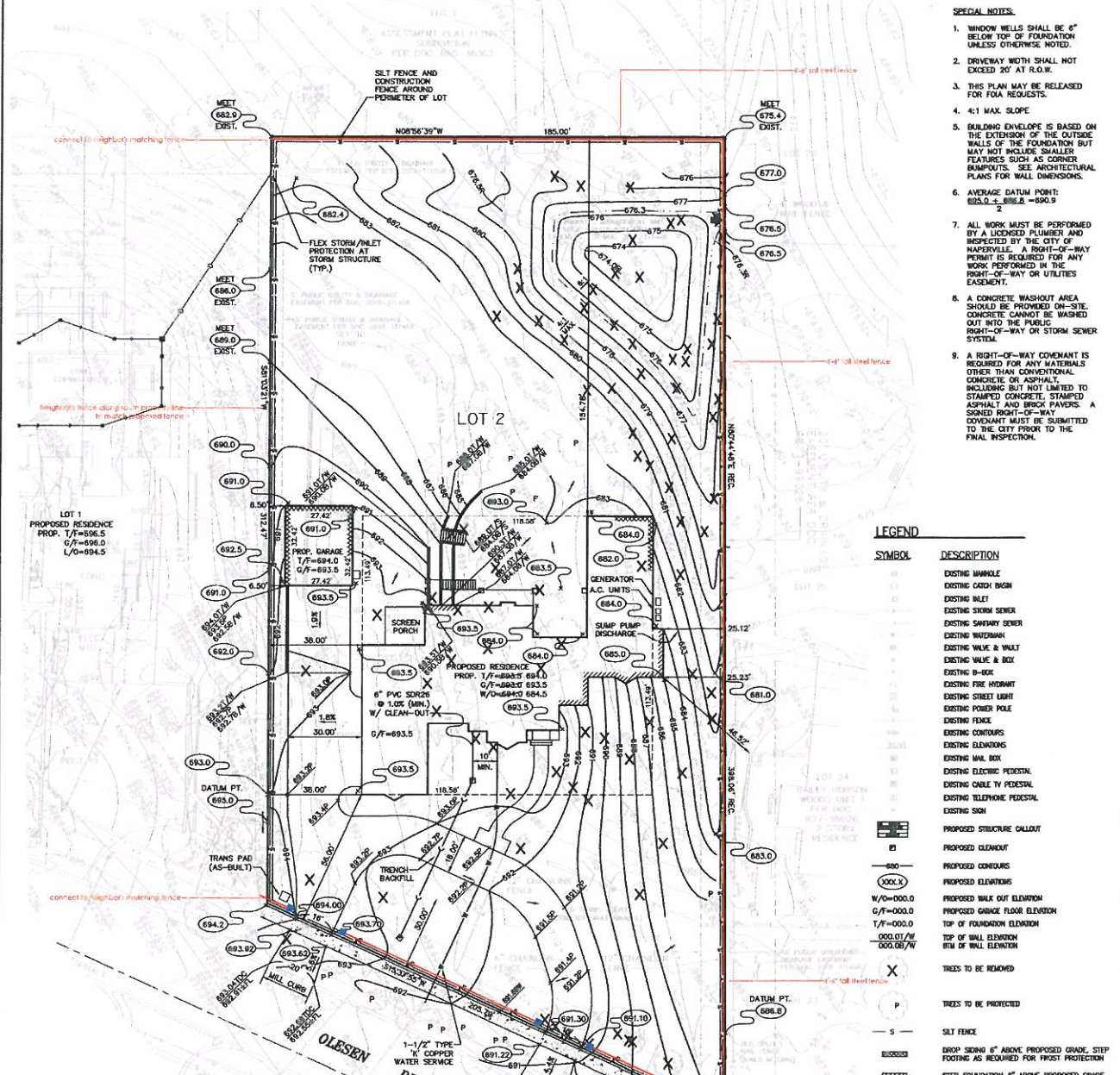
PLOT PLAN

LOT 2 IN CHARLESTON RESERVE SUBDIVISION, BEING A SUBDIVISION OF PART OF THE NORTHWEST QUARTER OF SECTION 20, TOWNSHIP 30 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 22, 2017, AS DOCUMENT R2017-089533, IN DUPAGE COUNTY, ILLINOIS.

1219 OLESEN DRIVE
LOT AREA = 66,509 S.F. OR 1.517 AC.



ZONING TABLE	
ZONING	R1A - LOW DENSITY SINGLE-FAMILY RESIDENTIAL DISTRICT
FRONT YARD	30 FEET
INTERIOR SIDEYARD (PRIOR 1/27/89)	8 FEET
INTERIOR SIDEYARD (AFTER 1/27/89)	6 FEET MINIMUM PER SIDE TOTAL OF 20 FEET
CORNER SIDEYARD	30 FEET
REAR YARD	25% OF THE LOT DEPTH NOT TO EXCEED 30 FEET.



- SPECIAL NOTES:**
- WINDOW WELLS SHALL BE 6" BELOW TOP OF FOUNDATION UNLESS OTHERWISE NOTED.
 - DRIVEWAY WIDTH SHALL NOT EXCEED 20' AT 6.0%.
 - THIS PLAN MAY BE RELEASED FOR FOIA REQUESTS.
 - 4:1 MAX. SLOPE.
 - BUILDING ENVELOPE IS BASED ON THE EXTENSION OF THE OUTSIDE WALLS OF THE FOUNDATION BUT MAY NOT INCLUDE SMALLER FEATURES SUCH AS CORNER BRACKETS. SEE ARCHITECTURAL PLANS FOR WALL DIMENSIONS.
 - AVERAGE DATUM POINT: 825.0 ± 888.8 = 890.9
 - ALL WORK MUST BE PERFORMED BY A LICENSED PLUMBER AND INSPECTED BY THE CITY OF HAVERVILLE. A RIGHT-OF-WAY PERMIT IS REQUIRED FOR ANY WORK PERFORMED IN THE RIGHT-OF-WAY OR UTILITIES EASEMENT.
 - A CONCRETE WASHOUT AREA SHOULD BE PROVIDED ON-SITE. CONCRETE CANNOT BE WASHED OUT INTO THE PUBLIC RIGHT-OF-WAY OR STORM SEWER SYSTEM.
 - A RIGHT-OF-WAY COVENANT IS REQUIRED FOR ANY MATERIALS OTHER THAN CONVENTIONAL CONCRETE OR ASPHALT, INCLUDING BUT NOT LIMITED TO STAMPED CONCRETE, STAMPED ASPHALT AND BRICK PAVERS. A SIGNED RIGHT-OF-WAY COVENANT MUST BE SUBMITTED TO THE CITY PRIOR TO THE FINAL INSPECTION.

LEGEND

SYMBOL	DESCRIPTION
(X)	EXISTING MANHOLE
(C)	EXISTING CATCH BASIN
(I)	EXISTING INLET
(S)	EXISTING STORM SEWER
(SW)	EXISTING SWEPTWAY SEWER
(W)	EXISTING WATERMAIN
(V)	EXISTING VALVE & W/WT
(VB)	EXISTING VALVE & BOX
(B)	EXISTING B-BOX
(FH)	EXISTING FIRE HYDRANT
(SL)	EXISTING STREET LIGHT
(PP)	EXISTING POWER POLE
(FC)	EXISTING FENCE
(CO)	EXISTING CONTOURS
(EL)	EXISTING ELEVATIONS
(MB)	EXISTING MAIL BOX
(EP)	EXISTING ELECTRIC PEDESTAL
(CTV)	EXISTING CABLE TV PEDESTAL
(TEL)	EXISTING TELEPHONE PEDESTAL
(SI)	EXISTING SIGN
(CS)	PROPOSED STRUCTURE CALLOUT
(E)	PROPOSED ELEVATION
(-600)	PROPOSED CONTOURS
(-000.0)	PROPOSED ELEVATIONS
(W/O=000.0)	PROPOSED WALK OUT ELEVATION
(G/F=000.0)	PROPOSED GARAGE FLOOR ELEVATION
(T/F=000.0)	TOP OF FOUNDATION ELEVATION
(000.07/W)	TOP OF WALL ELEVATION
(000.06/W)	BTM OF WALL ELEVATION
(X)	TREES TO BE REMOVED
(P)	TREES TO BE PROTECTED
(S)	SILT FENCE
(E)	DEEP SIDING 6" ABOVE PROPOSED GRADE. STEP FOOTING AS REQUIRED FOR FROST PROTECTION
(ZZZZZ)	STEP FOUNDATION 6" ABOVE PROPOSED GRADE

- SOIL EROSION NOTES:**
- ALL REQUIRED SEDIMENT PROTECTION WILL NEED TO BE PROPERLY INSTALLED BEFORE ANY EARTHWORK CAN BEGIN.
 - IF A TOPSOIL STOCKPILE IS TO REMAIN IN PLACE FOR MORE THAN THREE (3) DAYS, THEN EROSION AND SEDIMENT CONTROL SHALL BE PROVIDED FOR SUCH STOCKPILE.
 - THE SURFACE OF STRIPPED OR DISTURBED AREAS SHALL BE PERMANENTLY OR TEMPORARILY STABILIZED (SEEDED OR SOILED) WITHIN FOURTEEN (14) DAYS AFTER FINAL GRADE IS REACHED OR WHEN LEFT TOLE FOR MORE THAN FOURTEEN (14) DAYS. TEMPORARY EROSION AND SEDIMENT CONTROL MEASURES SHALL BE MAINTAINED CONTINUOUSLY UNTIL PERMANENT SOIL EROSION CONTROL MEASURES HAVE BEEN ADEQUATELY ESTABLISHED.

- BENCHMARKS:**
- REFERENCE:**
- BERNSTEIN 3D TOP SECURITY MONUMENT IN 6" PVC PIPE WITH BRASS ALUMINUM ACCESS COVER AT THE SOUTHEAST CORNER OF OXFORD LANE AND 75TH STREET. (STATION #256) ELEV=891.43
- SITE:**
- "X" IN WALK ALONG THE EAST RIGHT OF WAY OF OLESEN DRIVE AT THE NORTH WEST CORNER OF LOT 5 IN THE MERIS OF HOBBSON ROAD SUBDIVISION. SAID CROSS IS 154 FEET SOUTH OF THE FACE OF WALK CORNER. ELEV=894.93
 - "X" IN WALK 47 FEET EAST OF THE SOUTHERLY TRAFFIC SIGNAL LIGHT AT THE NORTHWEST CORNER OF HOBBSON ROAD AND OLESEN DRIVE. ELEV=891.44

STATE OF ILLINOIS
COUNTY OF DUPAGE

I HEREBY CERTIFY THAT THIS PLAN AND THE SURVEY UPON WHICH IT IS BASED, HAS BEEN PREPARED ACCORDING TO THE SUBDIVISION ACT. ALL DIMENSIONS ARE GIVEN IN FEET AND DECIMALS THEREOF. THIS PLAN HAS BEEN PREPARED BY ROWE AND ASSOCIATES, INC., A SUBDIVISION OF CIVIL & ENVIRONMENTAL CONSULTANTS, INC., AN ILLINOIS PROFESSIONAL ENGINEERING FIRM, LICENSE NO. 043-074-000, LICENSE EXPIRES APRIL 30, 2021. FOR THE EXCLUSIVE USE OF THE CLIENT, THESE PLANS, REPORTS, OR ANY OTHER DOCUMENTS ARE TO BE STRICTLY PROHIBITED WITHOUT THE WRITTEN PERMISSION OF THE UNDERSIGNED. THIS PROFESSIONAL SEALING CONFORMS TO THE CURRENT ELEVATION MEASUREMENT SYSTEMS FOR A HORIZONTAL SURVEY. FURTHER, WE CERTIFY ON THIS DAY OF _____, 2021, THAT THIS SURVEY WAS COMPLETED ON _____, 2021.

PREPARED FOR: CHARLESTON DEVELOPMENT

CONSULTING ENGINEER - LAND SURVEYORS - PLANNERS
1234 E. DOCK ROAD, SUITE 200, HAVERVILLE, IL 60141-0754-0028

TYPE	DATE	BY	NO.
WARRANT	04/06/18	MAJ	533.170300
PLAT PLAN	04/25/18	MAJ	533.170300
PLAT PLAN REV. (P&H CHECK)	05/31/19	MAJ/JHF	533.190091
PLAT PLAN REV. (P&H CLIENT)	05/17/19	MAJ/JHF	533.190091
PLAT PLAN REV. (P&H CLIENT)	06/15/18	MAJ/JHF	533.180145
PLAT PLAN REV. (P&H CLIENT)	05/09/18	MAJ/JHF	533.170300

SCALE: 1" = 20'

CCC JOB NO.: 192-709

Exhibit D



Exhibit D