



LAND USE APPLICATION SUMMARY

Property Location: 4901 Thomas Ave S
Project Name: New Fence
Prepared By: Joseph.Giant@minneapolismn.gov, City Planner, (612) 673-3489
Applicant: David & Rachel Josephitis
Project Contact: David Josephitis
Request: Construct a privacy fence.
Required Applications:

Variance	Variance to increase the maximum height of a fence in the required front yard from three (3) feet to six (6) feet
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SITE DATA

Existing Zoning	RI Single-Family District
Lot Area	6,800 square feet
Ward(s)	13
Neighborhood(s)	Fulton
Designated Future Land Use	Urban Neighborhood
Land Use Features	NA
Small Area Plan(s)	NA

Date Application Deemed Complete	April 15, 2015	Date Extension Letter Sent	NA
End of 60-Day Decision Period	June 14, 2015	End of 120-Day Decision Period	NA

BACKGROUND

SITE DESCRIPTION AND PRESENT USE. The subject property is a 6,800 square foot lot located in the RI Single-Family District on the southeast corner of Thomas Avenue South and 49th Street West in southwest Minneapolis. The property currently accommodates a one-story single-family home with an attached tuck-under garage constructed 1968.

The home sits atop a small hill that rises several feet from the public sidewalk on the north and west sides of the property before leveling off towards the center of the property. An east/west alley is located along the southern border of the property.

The principal entrance of the home faces Thomas Ave, and the property has a Thomas Ave address, but the lot was originally platted towards 49th Street. However, the property to the south was platted towards Thomas Ave, so the subject property is considered a reverse corner lot and must observe a front yard setback along both streets.

SURROUNDING PROPERTIES AND NEIGHBORHOOD. The subject property is located in the Fulton neighborhood, approximately 1.5 blocks southwest of Lake Harriet. The surrounding area is zoned single-family residential and is composed primarily of single-family homes of various architectural styles and ages.

PROJECT DESCRIPTION. The applicant has proposed to construct a wood privacy fence around a portion of the backyard. The fence would encircle the flat portion of the lot atop the hill and adjacent to the house. The fence would be located approximately 12 feet behind the public sidewalk along Thomas Ave and approximately 7 feet from the alley along the southern property line. The fence would be 6 feet in height. The bottom 4 feet would be primarily solid and the upper 2 feet would be lattice. The applicants have stated that they wish to match the height and style of the fence on the adjacent property to the east. Photos of this fence can be found on the pages following the Site Plan in the Additional Materials.

The property is considered a reverse corner lot, so a front yard setback must be observed along Thomas Ave equal to the setback of the principal structure on the adjacent lot to the south. Fences are allowed in the front yard setback, but height is limited to 3 feet for a solid fence or 4 feet for an open, decorative fence. Because the proposed fence exceeds this limit, the applicant has applied for a variance to increase the maximum height of a fence in the established front yard setback from 3 feet to 6 feet.

PUBLIC COMMENTS. The neighbor to the south has written a letter in support of the proposed variance. A copy of the letter can be found in the Additional Materials. Any further correspondence will be forwarded to the Board of Adjustment for consideration.

ANALYSIS

VARIANCE

The Department of Community Planning and Economic Development has analyzed the application for a variance of the maximum height of a fence based on the following findings:

- 1. Practical difficulties exist in complying with the ordinance because of circumstances unique to the property. The unique circumstances were not created by persons presently having an interest in the property and are not based on economic considerations alone.*

A practical difficulty exists in complying with the ordinance due to the classification of the property as a reverse corner lot. The principal structure on the adjacent lot to the south is located approximately 40 feet behind the front lot line along Thomas Ave. Consequently, nearly the entire subject property is in a required yard, greatly diminishing the ability to create a private backyard space. The vast majority of residential properties in Minneapolis have backyards that can be enclosed by a privacy fence, including properties on corner lots. If the property were located on a typical corner lot, rather than a reverse corner lot, the proposed design could be approved without a variance.

The applicant could construct a 3-foot fence without a variance. However, the privacy function of a fence improves dramatically as height increases from 3 feet to 6 feet, so the fact that a 3-foot fence could be constructed without a variance does not disaffirm the finding of a practical difficulty.

The designation of the property as a reverse corner lot and the location of the adjacent structure to the south are practical difficulties unique to the property that were not created by the applicant.

- 2. The property owner or authorized applicant proposes to use the property in a reasonable manner that will be in keeping with the spirit and intent of the ordinance and the comprehensive plan.*

The property contains a single-family home with an attached tuck-under garage. Single-family homes are a permitted use in the RI district and are the predominant land use in the surrounding area.

The purpose of regulating fence location and height is to promote the public health, safety, and welfare, encourage an aesthetic environment, and allow for privacy while maintaining access to light and air. Tall fences in the front yard setback achieve the goal of privacy at the expense of public health, safety, and welfare. Such fences are often contrary to “CPTED” (crime prevention through environmental design) principles encouraging development that promotes natural observation by maximizing opportunities for people to observe adjacent spaces and public sidewalks. The proposed fence would marginally diminish natural surveillance. The fence would be located entirely to the rear of the house, so interrupted lines of sight from the subject property towards the public sidewalk would be similar to those observed from a typical corner lot.

The fence would be located more than 20 feet from the intersection of the alley and the street, so the required site triangle between the alley and the street would not be interrupted. Therefore, staff finds that the proposed fence would not significantly affect the public health, safety, and welfare.

However, staff finds that the proposed fence unreasonably obstructs sight lines on the block. Although the fence would be composed of cedar, which is an acceptable material, the proposed

fence would be located approximately 28 feet closer to Thomas Ave than any structure on the block face with the exception of the principal structure. Therefore, the fence would interrupt the established development pattern of the block face and detract from the aesthetic environment, conflicting with the purpose of fence height regulations.

3. *The proposed variance will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity. If granted, the proposed variance will not be detrimental to the health, safety, or welfare of the general public or of those utilizing the property or nearby properties.*

The proposed fence would not be detrimental to the health, safety, and welfare of the general public or those using the property or nearby properties. However, the proposed fence would alter the essential character of the locality by significantly changing the established pattern of front yard setbacks along the Thomas Ave block face. In addition, the fence could be obtrusive to residents of the property to the south.

Although the fence would be located more than 30 feet from the principal structure on the adjacent lot to the south, the fence would be located approximately 28 feet closer to Thomas Ave than the front façade of the adjacent home. Such a deviation in front yard setback distances between adjacent structures is uncommon in both the surrounding neighborhood as well as the city-at-large. In addition, the fence would run along the crest of a hill that rises several feet above the public sidewalk. Thus, the fence would appear significantly taller than 6 feet when observed from the public sidewalk.

RECOMMENDATIONS

The Department of Community Planning and Economic Development recommends that the Zoning Board of Adjustment adopt staff findings for the application by David and Rachel Josephitis for the property located at 4901 Thomas Avenue South:

A. Variance to increase the maximum height of a fence.

Recommended motion: **Deny** the variance to increase the maximum height of a fence in the required front yard from three (3) feet to six (6) feet.

ATTACHMENTS

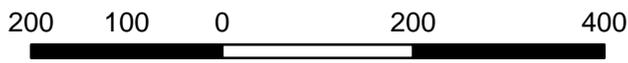
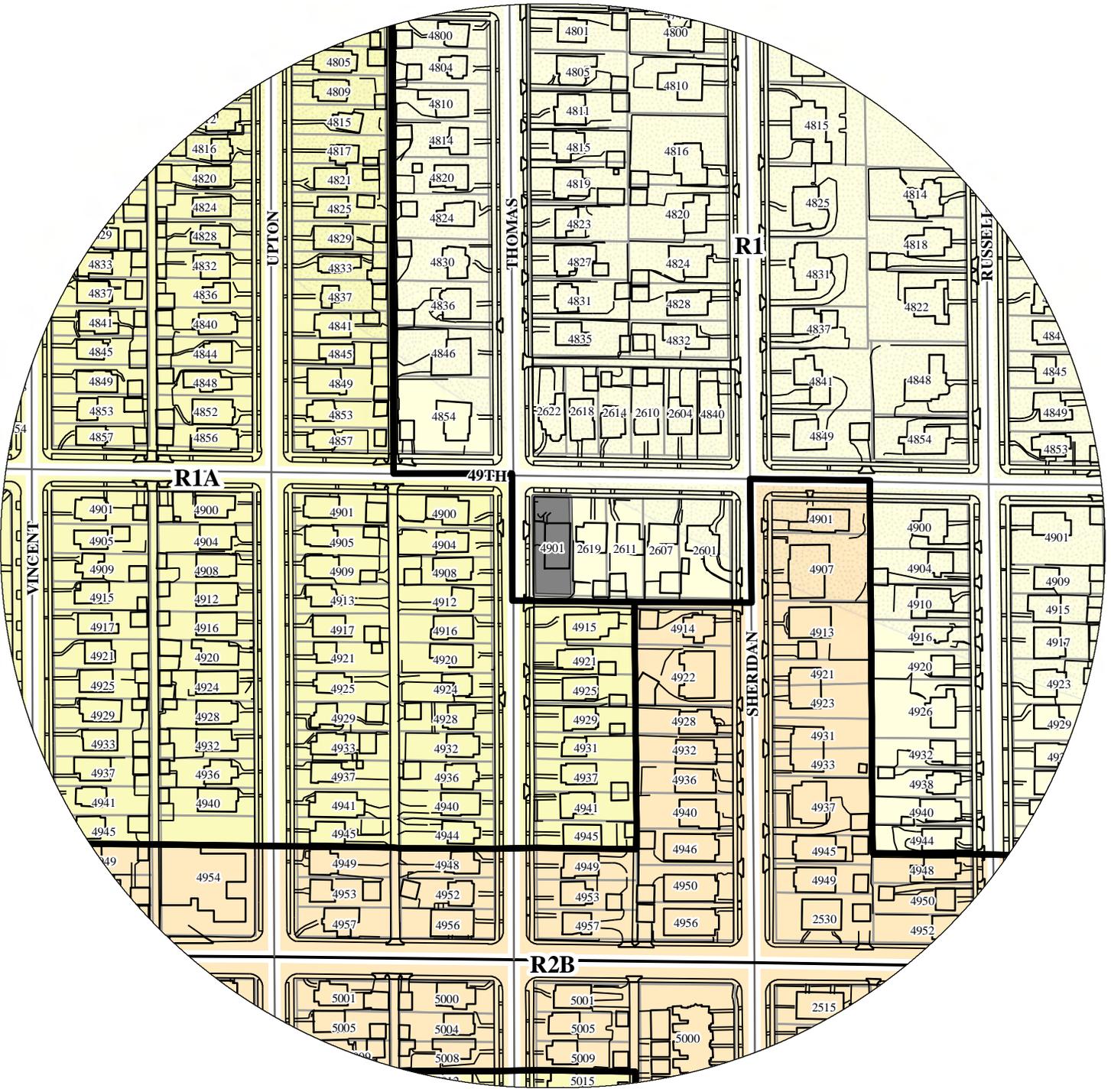
1. Zoning map
2. Written materials and variance findings from applicant
3. Site plan
4. Photos of neighbor's fence
5. Photos of property
6. Photos of site
7. Letters to neighborhood group and council office
8. Correspondence

David and Rachel Josephitis

13th

NAME OF APPLICANT

WARD



PROPERTY ADDRESS

4901 Thomas Ave S

FILE NUMBER

BZZ-7122

Statement of proposed use and Description of project:

-We would like to construct a six foot cedar wooden fence around our south facing yard. The fence placement would be set back from the property line approximately 12 ft from west side, 7 ft from south side and 1 ft from east side. The fence will ultimately be placed "on top of the hill/incline" which is intended for ensuring the safety and well-being of our young children and pet.

Variance

1. a) An obvious practical difficulty of our house is that it is a reverse corner lot. The ordinances currently do not allow us to build any solid fence higher than three feet.

b) We purchased the house one year ago and have not made any physical modifications to the exterior of the house since that time. Thus we have not “created” this problem.

c) There are no obvious economic benefits of allowing a variance to this property.

2. a) The house is a single family dwelling, and we intend to use the backyard for family activities. We would like the six foot fence in order to enhance the safety of the yard for our children and pet.

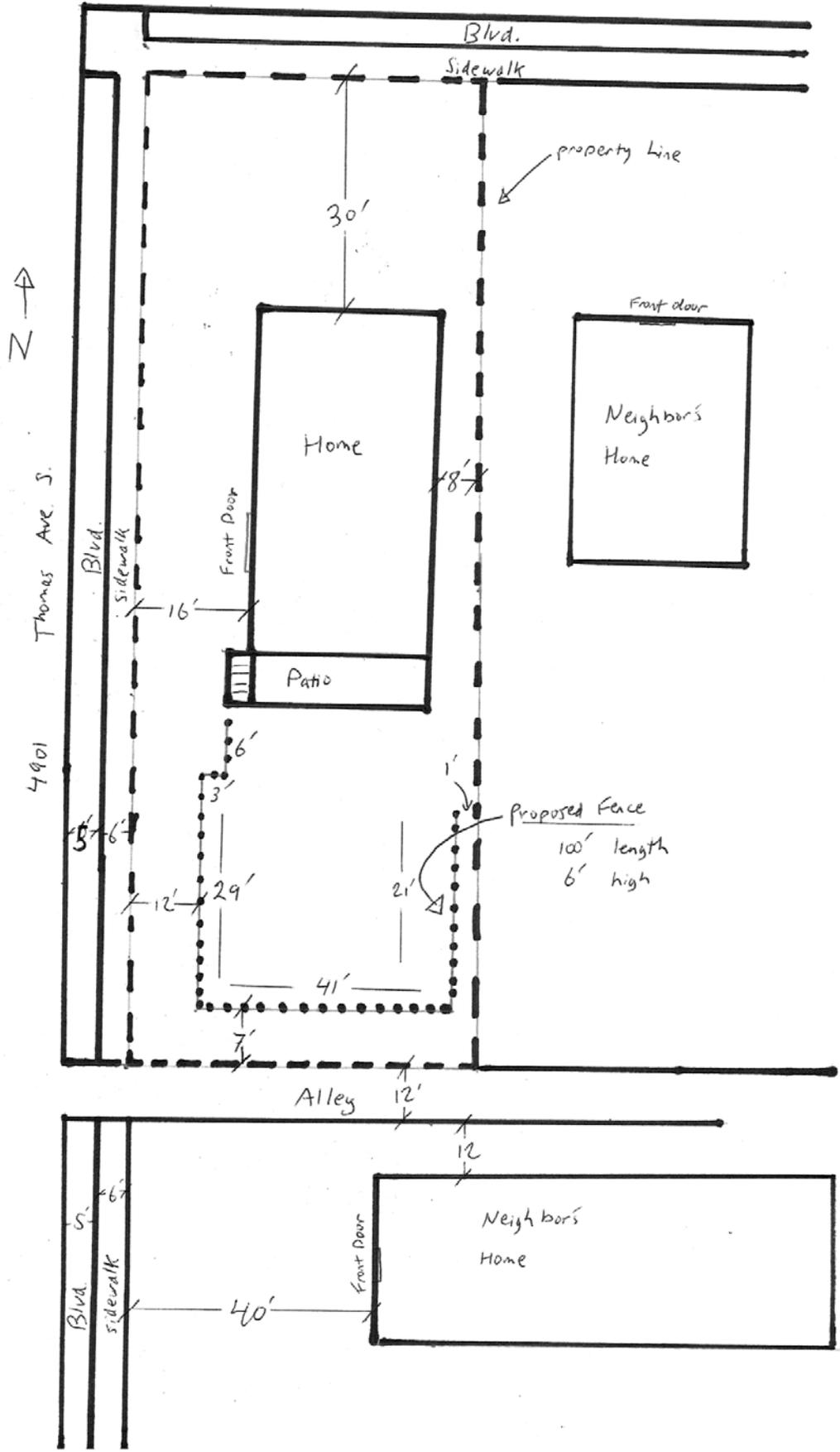
b) The height and style of the fence will be identical to our neighbor on the east. The fence will fit in with other fences that are typically seen in the neighborhood.

3. a) This variance will in no way change the local character of the neighborhood. The fence will blend in with many other nearby fences.

b) The fence will not cause any safety issues or obstructions for local traffic. There will still be a maintained 15 foot sight triangle off the corner of the fence and the alley. Also, the proposed fence will be setback from the property line from both the alley-side and sidewalk-side. The yard property is raised and there is a slope. The proposed fence will be on the top of the slope and set back from both the alley and sidewalk.

Proposed Fence @ 4901 Thomas Ave. S.

49th Street













4900

4904

4908

4912

4916

4920

4924

10m

100ft

4901

2619

2611

4915

4921

4925

AVES

Dear Council Member Palmisano,

April 14, 2015

We live on on 4901 Thomas Avenue South. I am writing with a request to allow a variance to the current fence code for our property. We are interested in having a six foot wooden fence constructed along the periphery of our south-facing yard.

We moved into the Fulton neighborhood looking forward to raising our children and forming lasting relationships with our neighbors and community. Shortly after moving in, we determined that we would like to build a fence along the one side of our home. Our property, we discovered, is unique in a few different ways. The home has an elevation like many homes in the Fulton/ Linden Hills area. Because of the elevation of the property and the steep slopes that result from this, there is no real border for the property. Toys and balls constantly migrate down and out of our yard. This fact has become a little disconcerting for us having three children under the age of five. One side of the yard slopes towards the alley and the other into the street. We knew we needed a fence to create a safe and usable space for not only our children but also for the family pet.

The other unique aspect of our home is that it is a reverse corner lot. The front door is located on Thomas avenue south. Our nearest neighbor's front door is on 49th Street. This creates the unfortunate fact that the current fence code does not allow us to erect a fence higher than three feet any farther than the front of our southern neighbor's house. This makes it impossible to create any physical outdoor space for our family. In my opinion a three foot fence, does very little to contain the wayward beach ball or the energetic family dog.

The fence that we propose will very much fit in with the current types of fences already in the neighborhood. Actually, we have become so fond of our nearest neighbor's six foot cedar fence that we plan on using the same color and design in our fence. The proposed fence that we would like to build would not be detrimental to the safety of the area or traffic coming into or out of the adjacent alley. Because the home is set up on an elevation there is a steep slope involved that actually creates somewhat of a setback on both the alley and street side of the fence. Thus, the fence will be many feet away from the sidewalk and alley and should not be out of character with the openness of the neighborhood. The fence itself will be built of cedar and will actually have an open lattice top identical to our neighbors. We plan on continuing to grow relationships within our community, with the beautification of our property and the safety of our family in mind.

Thank you for your consideration,

David and Rachel Josephitis together with Natalie (5 yrs), Julia (3 yrs), and Seth (5 months)

Contact:David Josephitis -4901 Thomas Ave. S. MPLS, MN 55410- 612.787.7707 Josephitis@hotmail.com

Dear Fulton Neighborhood Association,

April 14, 2015

We live on on 4901 Thomas Avenue South. I am writing with a request to allow a variance to the current fence code for our property. We are interested in having a six foot wooden fence constructed along the periphery of our south-facing yard.

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Contact:David Josephitis -4901 Thomas Ave. S. MPLS, MN 55410- 612.787.7707 Josephitis@hotmail.com

From: [Rachel Josephitis](#)
To: [Giant, Joseph R](#)
Subject: Fwd: 4901 Thomas Ave S. Proposed fence
Date: Friday, April 24, 2015 9:25:35 AM

Hi Joe, here are the links to our neighbor across the alley at 4915. Thanks. Rachel

----- Forwarded message -----

From: "PAUL JURSIK" <athenacare@msn.com>
Date: Apr 24, 2015 6:23 AM
Subject: 4901 Thomas Ave S. Proposed fence
To: "Rachel Josephitis" <rachel.josephitis@gmail.com>
Cc:

I am ok with a finished product as shown in the drawing you sent attached to the previous e-mail.

Paul Jursik, Owner
4915 Thomas Ave S, Minneapolis

Date: Thu, 23 Apr 2015 12:51:47 -0500
Subject: Graph.pdf
From: rachel.josephitis@gmail.com
To: athenacare@msn.com

Sure. See attached. Thanks Rachel