

Case No. 23-064-FPLAT  
Case No. 23-005-FPLAT

Final Plat  
Final Plat

2285 Webster Lane  
622 Graceland and  
1332 & 1368 Webford  
1183 S. River Road  
915 Alfini Drive  
1504 Oakwood Avenue  
1628 Rand Road

Case No. 23-047-V  
Case No. 24-001-V  
Case No. 24-002-V  
Case No. 24-004-CU

Variation  
Variation  
Variation  
Conditional Use



**DES PLAINES PLANNING AND ZONING BOARD MEETING**  
**January 23, 2024**  
**MINUTES**

The Des Plaines Planning and Zoning Board held its regularly scheduled meeting on Tuesday, January 23, 2024, at 7:00 p.m. in Room 102 of the Des Plaines Civic Center.

Chair Szabo called the meeting to order at 7:00 p.m. and roll call was established.

PRESENT: Szabo, Fowler, Weaver, Saletnik, Veremis, Catalano  
ABSENT: Hofherr  
ALSO PRESENT: Jeffrey Rogers, CED Director  
Ryan Johnson, Assistant CED Director  
Samantha Redman, Senior Planner  
Jonathan Stytz, Senior Planner  
Stewart Weiss, Legal Counsel, Elrod & Friedman, LLP.

A quorum was present.

**APPROVAL OF MINUTES**

A motion was made by Board Member Saletnik, seconded by Board Member Veremis to approve the meeting minutes of January 9, 2024.

AYES: Weaver, Szabo, Saletnik, Veremis, Fowler, Catalano  
NAYS: None  
ABSENT: Hofherr  
ABSTAIN: None

\*\*\*MOTION CARRIES\*\*\*

**PUBLIC COMMENT ON NON-AGENDA ITEM**

There was no public comment.

**Pending Applications:**

Regarding Item Number 6 on the agenda. Chair Szabo announced that the petitioner for Case Number 24-004-CU, 1628 Rand Road, requested a continuance to the February 13, 2024 meeting.

Motion by Board Member Weaver, seconded by Board Member Fowler to continue the case to the February 13, 2024 meeting.

AYES: Weaver, Szabo, Saletnik, Veremis, Fowler, Catalano  
NAYS: None  
ABSENT: Hofherr  
ABSTAIN: None

\*\*\*MOTION CARRIES\*\*\*

**1. Address: 2285 Webster Lane**

**Case Number: 23-064-FPLAT**

The applicant is requesting a Final Plat of Subdivision under 13-2 of the Subdivision regulations to subdivide one existing lot into two lots of record.

Applicant: Jean Bonk, 2285 Webster Ln, Des Plaines, IL 60018

Owner: Jean Bonk, 2285 Webster Ln, Des Plaines, IL 60018

Case Number: 23-064-FPLAT

PIN: 09-29-302-042-0000

Ward: #5, Carla Brookman

Existing Zoning: R-1, Single Family Residential

Existing Land Use: Single family residence

Surrounding Zoning: North: R-1 Single Family Residential District  
South: R-1 Single Family Residential District  
East: R-1 Single Family Residential District  
West: R-1 Single Family Residential District

Surrounding Land Use: North: Single Family Dwellings (Residential)  
South: Single Family Dwellings (Residential)  
East: Single Family Dwellings (Residential)  
West: Single Family Dwellings (Residential)

Street Classification: Webster Lane is classified as a local road.

Comprehensive Plan: The Comprehensive Plan illustrates the site as single family residential.

Zoning/Property History: Based on City records, the subject property has been one parcel throughout known history and has been owned by the same property owner for several decades. A single-family detached home has been located on the north half property since approximately 1940, per the Cook County assessor. The area to be subdivided is currently grass and other vegetation.

Project Description: The petitioner, Jean Bonk, is requesting a Final Plat of Subdivision for the property located at 2285 Webster Lane. The subject property is 21,982 square feet in size and includes one single family residence. A Tentative Plat of Subdivision and a Standard Variation to reduce the lot width from 55 to 50 feet for the property was approved in June 2023.

### Final Plat of Subdivision Report

Name of Subdivision: Bonk Subdivision

Address: 2285 Webster Lane

Request: Approval of Final Plat of Subdivision

Total Area of Subdivision: 18,682 square feet (0.42 acres)

Lot Descriptions: The petitioner's Final Plat shows the subdivision of the existing lot into two 9,341 square-foot, 50-foot-wide lots with a 25-foot building line. The property includes no easements, and the final plat does not propose any additional easements, but the plat notes utility lines including gas, water, and overhead electrical lines. The petitioner provided correspondence from ComEd and Nicor that no easements exist on the property for these utilities. Per correspondence between the petitioner and ComEd, easements may be required in the future for ComEd when a new residence is planned, but this location and size will be determined prior to approval of a building permit.

A 3,303-square-foot area (33.03 feet by 100.00 feet) is proposed to be dedicated to the city in the front area of the proposed parcels. The current property line extends into the area that is typically used for parkways and sidewalks along Webster Lane, creating a burden for the property owner in terms of maintenance and taxes, and reduces the ability for the city to easily maintain the street and the proposed parkway and public sidewalk.

Presently, there is no sidewalk or parkway in front of the property. The Preliminary Site Improvement Plan includes a 5-foot-wide sidewalk, parkway, and various other improvements. The required improvements were approved by the Director of Engineering (Refer to Final Engineering Plans) and will be included within the resolution. A financial security in the amount of 125% of the approved engineer's estimate of cost of the public improvements will be collected in a form approved by the City Attorney prior to final recordation of the plat of subdivision.

PZB Procedure:

Under Section 13-2-7 of the Subdivision Regulations, the PZB has the authority to recommend approval, approval subject to conditions, or denial of the request: A Final Plat of Subdivision to split an existing lot into two lots of record at 2285 Webster Lane. The decision should be based on review of the information presented by the applicant and the standards and conditions met by Section 13-2-7 as outlined in the Subdivision Regulations. Staff does not suggest any conditions in the event of recommended approval.

Ms. Jean Bonk was sworn in. Ms. Bonk would like to subdivide the lot in order to have real estate options.

Senior Planner Redman provided an overview of the request and explained that the PZB had approved a Tentative Plat of Subdivision in June 2023 and lot width. The petitioner will dedicate a portion of the lot, which goes into the street, to the City. The public improvements that would be completed was reviewed.

Legal Counsel Weiss reviewed the subdivision process and what is being considered for this case and for the next case on the agenda.

A motion was made by Board Member Weaver, seconded by Board Member Catalano to recommend approval of a Final Plat of Subdivision to subdivide one existing lot into two lots of record in the R-1 Single Family Residential zoning district.

- AYES: Weaver, Szabo, Saletnik, Veremis, Fowler, Catalano
- NAYS: None
- ABSENT: Hofherr
- ABSTAIN: None

\*\*\*MOTION CARRIES\*\*\*

**2 . Address: 622 Graceland**

**Case Number 23-069-V**

**Case Number: 23-069-V**

The applicant is requesting a combined Tentative and Final Plat of Subdivision under the Subdivision Regulations to consolidate the three existing lots of record on the subject property into one, as required by Section 13-1-2 of the Subdivision Regulations.

After the PZB's Plat of Subdivision review, the applicant intends to seek the following approvals from the City Council: (i) an amount for a Fee in Lieu of Dedication of Park Lands, the requirement for which is established in Chapter 13-4 of the Subdivision Regulations; and (ii) an amended redevelopment agreement.

Applicant: *Formerly* 622 Graceland Apartments, LLC, *Now* Mylo Residential Graceland Property, LLC (Manager: Joe Taylor, Principal of Compasspoint Development), 202 S. Cook Street, Suite 210, Barrington, IL 60010

Owner: *Formerly* 622 Graceland Apartments, LLC, *Now* Mylo Residential Graceland Property, LLC (Manager: Joe Taylor, Principal of Compasspoint Development), 202 S. Cook Street, Suite 210, Barrington, IL 60010

Case Number: 23-005-FPLAT

PINs: 09-17-306-036-0000; -038; -040

Ward: #3, Alderman Sean Oskerka

Existing Zoning: C-5, Central Business District

Existing Land Use: Vacant Building (former Journal of Topics headquarters)

Surrounding Zoning: North: Railroad tracks; then C-3 General Commercial District  
South: C-3, General Commercial / R-1 Single-Family Residential Districts  
East: C-5, Central Business District  
West: C-3, General Commercial District

Surrounding Land Use: North: Multi-Family Residents (Residential)  
South: Railroad; Single-Family Residents (Residential)  
East: Multi-Family Residential Building (Residential)  
West: Restaurant (Commercial)

Street Classification: Graceland Avenue is an arterial, and Webford Avenue is a local roadway.

Comprehensive Plan: The Comprehensive Plan illustrates the site as commercial.

Zoning/Property History: The principal building at 622 Graceland is the former headquarters of the Journal & Topics newspaper. According to the Des Plaines History Center, the building was constructed as a Post Office in 1940-1941. A smaller accessory building is also part of the Journal & Topics property. At 1332 Webford is a surface parking lot that was sold by the City to the applicant through Ordinance M-22-22, which was approved on September 6, 2022.

On August 1, 2022, the City Council approved a zoning map amendment for the subject property, which spans 43,500 square feet, from the C-3 General Commercial to C-5 Central Business District to accommodate the proposed development. However, the effectiveness of the approval was contingent upon the developer finalizing acquisition of the 1332 Webford Avenue property and completion of other requirements, including the approval of a Tentative and Final Plat of Subdivision to consolidate 622 Graceland and 1332-1368 Webford into one lot of record. The applicant’s original tentative plat request was denied by PZB in 2022. Between 2022 and 2024, a different tentative and final plat of subdivision was submitted and approved that included an adjacent property (1330 Webford). However, the applicant has revised their proposal and submitted a new combined Tentative and Final Plat request for consideration, which includes only 622 Graceland and 1332 and 1368 Webford.

Request Summary:

Tentative and Final Plat of Subdivision

*Overview*

The petitioner Mylo Residential Graceland Property, LLC has requested a combined Tentative and Final Plat of Subdivision to consolidate the existing three parcels detailed in the table below into one lot of record.

Address	PIN	Size	Use
622 Graceland	09-17-306-036-0000	0.52 acres	Journal & Topics
1332 Webford	09-17-306-040-0000	0.31 acres	Former City parking lot
1368 Webford	09-17-306-038-0000	0.17 acres	Journal & Topics

The proposed *Tentative and Final Plat of Graceland/Webford Subdivision* will consist of a 43,500-square-foot lot with 150 feet of frontage along Graceland Avenue (front) to the east and 290 feet of frontage on Webford Avenue (side) to the south. The subdivision will abut the Metra tracks to its north and an existing commercial building to its west. The subdivision will be 290 feet in depth in conformance with Section 13-2-5.R of the Subdivision Regulations.

*Easements, Building and Setback Lines, Utility Correspondence* The attached Tentative and Final Plat of Subdivision shows the following easements and building lines: (i) a 25-foot building line, to reflect the required side yard for the C-5 district, extending approximately 90 feet along Webford where the subject property is adjacent to residentially-zoned property; (ii) a 5-foot building line, to reflect the required side yard for the C-5 district, extending approximately 200 feet along Webford where the subject property is adjacent to commercially zoned property; (iii) a 7-foot public sidewalk easement extending along the south property line along Webford; (iv) an approximately 5-foot-wide public utilities and drainage easement on the northwestern corner of the proposed Lot 1; (v) a 16.5-foot-wide storm water detention area (bubble-hatched area); and (vi) various public utilities and drainage easements throughout the proposed Lot 1 (shaded areas). Written correspondence from major private utility providers to the applicant is attached.

*Public Improvements and Final Engineering, PWE and Fire Review*

Under Section 13-3-1 of the Subdivision Regulations, the developer is required to complete certain public improvements. The improvements will include widening the segment of Webford in front

of the proposed development and install/replace existing appropriate streetscaping (for example, sidewalk, street lighting, etc.) to match the downtown aesthetic, which is already present along the Graceland side of the site. Under the proposal, this style would be extended around the corner and onto the Webford sidewalk, with an emphasis for the area in front of the proposed restaurant/commercial space at the corner. Certain underground infrastructure, such as water mains and sewers, are required to be replaced and installed to the standards required by PWE. Specifically, the developer will be required to separate the existing combined storm and wastewater system for the entire 1300 block of Webford.

The developer has provided the City Engineer with an estimated cost of public improvements, an amount for which the City Engineer has approved in the attached memo. A performance security in the form of a letter of credit, with the City named as the beneficiary, will be required to secure the improvements. An attached memo serves as the City Engineer's approval under Section 13-2-4. The Fire Department also reviewed the Plat and Final Engineering submittal and has no changes from its recommendation regarding the design of the project from its 2022 memo.

*Open Space and Recreation; Park Land Dedication or Fee-in-Lieu*

For residential developments at the proposed scale, Chapter 13-4 of the Subdivision Regulations requires providing public park land and/or paying a fee in lieu. The rationale is that residential developments increase demand for parks and recreation. As described above, private recreational areas within the building are intended to meet needs of the anticipated future residents and potentially lessen the demand for public park facilities generated by those residents. The developer's providing of these areas may make the project eligible for credits and reductions in their obligation. However, the approval of the amount of that obligation rests with City Council.

**PZB Action and Conditions:** Pursuant to Sections 13-2-3 and 13-2-7 of the Subdivision Regulations, the PZB should take two separate motions:

- Vote on the *approval or denial* of the Tentative Plat of Subdivision; and
- Vote on *approval, approval with conditions, or denial* of the Final Plat of Subdivision, to be forwarded to the City Council for final decision.

If the PZB votes to forward Final Plat *approval* to the City Council, staff recommends the following condition.

**Condition of Approval:**

1. That construction-level street lighting detail as required in the attached Engineering memo is provided and approved by the PWE Department prior to issuance of any building or right-of-way permits.

Representatives of 622 Graceland, Katriina McGuire, Thomspson Coburn, LLP, Joe Taylor, Compasspoint Development, LLC, and Maureen Mulligan, RWG Engineering, LLC were sworn in. Ms. McGuire provided a presentation, explaining that they are requesting approval of the Tentative and Final Plat of Subdivision and Consolidation.

Senior Planner Stytz gave an overview presentation of the case and explained the proposed condition. Board Member Weaver asked if a future owner could subdivide, if it would have to be on the same lines of the current lots. Senior Planner Stytz explained that if a subdivision would have to go before PZB once more, and that it would just have to follow the minimum lot requirements in C-5 zoning, as far as depth and width.

The Dance Building is approximately 5 feet from the property line. Member Fowler expressed that this was approved in May before the purchase of the Dance Building did not go through. In addition, the Fire Department has a letter in the packet that is not recent, and the Dance Building was a park; this may need reconsideration.

Senior Planner Stytz stated that the future building is not being reviewed tonight. The distance of the Dance Building is not a matter of the subdivision consolidation and explained that he spoke with Fire Prevention Bureau Chief Dave Schuman regarding the letter before this public hearing. Chief Schuman stated that the original letter is still in effect, adding that the building will be even more accessible now because the petitioner is changing the height from 7 stories to 6 stories.

Mr. Taylor explained that the Fire Department letter predated the park concept, in which the Dance Building's property would be turned into a park, so the Fire Department letter should be valid.

Legal Counsel Weiss discussed public notice sign sufficiency for the current public hearing. State law does not require any signage when a property is being considered for subdivision. Des Plaines regulations require that a sign for a proposed subdivision be up at least 7 days prior to the public meeting. One of the two signs fell over on a couple of occasions, but the other sign remained in place the entire time.

Board Member Fowler would like the site better maintained. Snow was not removed from the sidewalks for 10 days and public notice signs kept falling over.

Tom Lovestrand, 570 Webford: Mr. Lovestrand referenced a letter from the Fire Chief stating that the building met required building codes; however, the letter did not state it met Fire Codes. Legal Counsel Weiss explained that the International Fire Code (IFC) is part of the International Construction Code family of regulations, and so the IFC is technically a building code.

Chair Szabo swore in a group of people in the audience that intended to speak.

Phil Rominski, 1333 Webford: Mr. Rominski requested that the generator be positioned inside of the building, along the railroad tracks or on the roof and requested that a condition should be added to this project. The lighting should be addressed as a condition as well. Mr. Rominski stated the Mylo project in Arlington Heights has been put on hold several times and this project should be put on hold as well.

Deb Lester, 596 Webford: Ms. Lester commented on the Mylo development in Arlington Heights. The generators are being put in the back of the building. There are no garage entrances near the residential district and the pool and dog run locations have been adjusted.

Ms. Lester asked if the NFPA 214 regulation will be followed. Fire Departments have specific plans for something to be in place during construction. There have been instances of fires during construction from this type of construction. Ms. Lester expressed her concern with the sight triangle for traffic at the corner of Webford and Graceland. Unlike Welkin, there is no stop light, so there's little opportunity for the sight triangle, as the building will be built up to the corner of the lot. When making a right hand turn from Webford to Graceland – this will be difficult.



Ms. Lester expressed concern that the that Welkin Apartments are not fully leased and now the Contour project is in progress. Ads for Welkin Apartments explain that they accept low credit scores, which indicates that these renters will not have much disposable income to be used in the downtown area. Ms. Lester asked if there will be future public hearings and if the public can review the plans. Senior Planner Stytz explained that this is the last PZB public hearing and the information can be obtained through the Freedom of Information Act.

Jim Hansen, 1339 Webford: Mr. Hansen commented that having one sign up and the other down is just meeting the bare minimum, and that's apparently all the City is going for, meeting the bare minimum. Former CED Director Carlisle made the commitment that he and one more resident would be involved in the construction discussion. If there is an emergency, and there are construction vehicles blocking them, then he'll call 911. Welkin caused issues with the drains that are still not resolved. The developer has shown no ability to stay with the original plans and needs to follow the rules.

Board Member Fowler asked if it is possible to have a public hearing for the construction plans.

Board Member Weaver wants requirements met and the PZB must rely on good judgement from staff regarding the generator and screening.

Katriina McGuire spoke on behalf of the developer, in response to the public comment:

- Sidewalks were plowed today, and the issue will be addressed in the future.
- The Fire Department comments were addressed, and they will be reviewed again at the time of the plan review.
- The NFPA sections stated at the meeting: building will be built to all appropriate codes.
- Site distances were met, and this was indicated in the traffic studies, and by IDOT.
- Utility locations have been approved.

Board Member Fowler asked if there was a consideration to move the generator. Mr. Taylor responded that there is not, it will stay there with the other utilities. The utilities will be screened with a masonry wall, and so that will not be a metal screen. It will match the façade of the building and will address visual and sound considerations.

Board Member Szabo mentioned that there is a 'soundblock' masonry material, that may help to mitigate noise.

Mr. Rominski said the generator in the front of the building was not in the first plan. Chair Szabo explained that staff is listening to this feedback, but that we are here for the Plat of Consolidation.

Board Member Fowler mentioned that she does not want to see the "bad design" of the narrow walkway as between the Mexico Restaurant and the Welkin building.

Legal Counsel Weiss explained that the new building will be conforming on the lot line. However, the Dance Building to the west is non-conforming and close to the lot line. Board Member Fowler said that members of the PZB voted for the project based on the assumption that the Dance Building was going to be taken down. Legal Counsel Weiss emphasized that the City Council

requested the condition that the sale of the dance company be in the condition of approval, but this changed as the situation with the dance company changed.

Board Member Weaver mentioned that this project has been taken out of normal progression. Emphasizes that there are processes that have been going on and will continue to go on, with staff managing the process from here.

Board Member Fowler inquired as to the next steps. Senior Planner Stytz explained that the PZB's recommendation for the Final Plat will go to City Council for consideration.

Board Member Fowler asked if they could start work and if there is asbestos in the old Post Office building. Senior Planner Stytz explained that the petitioner could apply for a demolition permit and begin that work. CED Director Rogers explained that the Cook County demolition permit requires proper asbestos remediation.

Board Member Veremis asked if there are any other steps coming before the PZB. Senior Planner Stytz explained that this is the last of the entitlements for this project, unless there are any further requests from the developer.

Moved by Board Member Weaver, to approve the Tentative Plat of Subdivision, seconded by Saletnik.

AYES:	Weaver, Szabo, Saletnik, Veremis, Catalano
NAYS:	Fowler
ABSENT:	Hofherr
ABSTAIN:	None

\*\*\*MOTION CARRIES\*\*\*

Moved by Board Member Weaver, to recommend approval to the City Council the Final Plat of Subdivision subject to Condition Number One, seconded by Board Member Saletnik.

AYES:	Weaver, Szabo, Saletnik, Veremis, Catalano
NAYS:	Fowler
ABSENT:	Hofherr
ABSTAIN:	None

\*\*\*MOTION CARRIES\*\*\*

Legal Counsel Weiss left the meeting.

### 3. Address: 1183 W. Des Plaines River Road

Case Number 23-047-V

The petitioner is requesting a major variation from Section 12-8-2.D of the Zoning Ordinance to allow a fence design with the finished side of the wood fence facing inward towards the subject property instead of the finished fence side facing neighboring properties as required.

Petitioner: Kathryn S. Kuntz, 1183 S. Des Plaines River Road, Des Plaines, IL 60016

Owners: Donald and Kathryn Kuntz, 1183 S. Des Plaines River Road, Des Plaines, IL 60016

Case Number: 23-047-V

PIN: 09-21-105-016-0000

Ward: #2, Alderman Colt Moylan

Existing Zoning: R-1, Single Family Residential District

Existing Land Use: Single Family Residence

Surrounding Zoning: North: R-1, Single Family Residential District  
South: R-1, Single Family Residential District  
East: R-1, Single Family Residential / I-1, Institutional Districts West: R-1, Single Family Residential District

Surrounding Land Use: North: Single Family Residences (residential)  
South: Single Family Residences (residential)  
East: Des Plaines River; then, Single Family Residences (residential)  
West: Single Family Residences (residential)

Street Classification: Des Plaines River Road is a minor arterial under Des Plaines jurisdiction.

Comprehensive Plan: Single Family Residential is the recommended use of the property.

Zoning/Property History: Based on historic aerial imagery, the subject property has been utilized as a single-family residence since 1961. City records indicate that the original fence permit was in 1990 approving a six-foot-tall wood fence along a portion of the north and south property lines of the subject property with the notation that the finished side of the fence must face the adjacent lots. However, the fence sections were installed with the finished side of the fence facing inward towards the subject property. It is unknown whether a final fence inspection was required or completed by City staff in 1990.

On August 24, 2022, staff received a complaint from a neighbor that the existing wood fence on the subject property was in disrepair. In 2022, a

fence permit was approved to replace 300 linear feet of the southern fence section that was in disrepair with the notation that fences shall be erected so that all supporting members (i.e., posts, rails) and the rough unfinished side face towards the permit owner's property. However, the replacement fence section was installed with the finished fence side facing inward towards the subject property resulting in a failed final fence inspection on December 14, 2022.

On April 10, 2023, staff issued another warning to the property owner to either alter the fence to meet the requirements in Section 12-8-2.D of the Zoning Ordinance or apply for a variation. The property owner did not alter the fence or apply for a variation, so staff issued a citation for May 4, 2023. Since this citation, the court hearing has been continued multiple times to provide the petitioner additional time to submit a complete application. A completed major variation application was submitted for the fence on November 28, 2023.

#### Project Description:

##### *Overview*

Petitioner Kathryn S. Kuntz has requested a Major Variation to retain the existing fence design with the finished side facing inward towards the subject property. The subject property at 1183 S. Des Plaines River Road contains a two-story single-family residence with an asphalt driveway and various patio and walkway surfaces as shown in the attached Plat of Survey. The subject property is located along Des Plaines River Road within the R-1 Single Family Residential district and is accessed by a single curb-cut. The subject property is located in the floodway based off Federal Emergency Management Agency (FEMA) data, which allows the replacement of an existing fence structure in a floodway, but not the installation of a new fence.

##### *Non-Conforming Fence Structure*

The fence regulation requiring the finished side of fences to face adjoining lots has been in existence as early as 1975—as referenced in Title VI, Chapter 7 of the city code—which predated the installation of the fence sections installed on the subject property. If the fence regulations in effect in 1990 did not have this requirement and a permit was issued, the fence would have been considered a non-conforming structure and it would have been permitted to be repaired and replaced as is, pursuant to Section 12-5-6, non-conforming structures. However, the installation was completed in conflict with the regulations and therefore the fence is considered *illegally* non-conforming.

##### *PZB Considerations*

Given the non-conforming fence described above, the PZB may wish to analyze if the hardship identified by the petitioner truly meets the standards for variation and if the approval of the variation request for an incorrectly installed fence may set a negative precedence. Nonetheless, see staff's analysis of the variation standards.

Variation Findings: Variation requests are subject to the standards set forth in Section 12-3-6.H. of the Zoning Ordinance. Rationale for how well the proposal addresses the standards is provided below and in the attached petitioner responses to standards. The Board may use the provided responses as written as its rationale, modify, or adopt its own.

1. Hardship: No variation shall be granted pursuant to this subsection H unless the applicant shall establish that carrying out the strict letter of the provisions of this title would create a particular hardship or a practical difficulty.

Comment: The hardship identified by the petitioner is the large expense associated with the alteration of a few hundred linear feet of fencing—which was installed incorrectly following the approval of the 2022 fence permit—to make it conforming with Section 12-8-2.D of the Zoning Ordinance requiring the finished side of fences to face adjoining lots. The petitioner also describes that the variation is necessary to coordinate the replacement fence section with the original section, which was installed incorrectly following approval of the 1990 fence permit. While it could be inconvenient or costly for the property owner to correct the fence section to meet the approved Site Plan, the Site Plan was approved with the condition that the fence is installed so that the finished side faces adjoining lots. As such, it can be argued that the hardship described by the petitioner was self-created (see response for standard 3 for additional details). Nonetheless, the PZB should decide.

2. Unique Physical Condition: The subject lot is exceptional as compared to other lots subject to the same provision by reason of a unique physical condition, including presence of an existing use, structure, or sign, whether conforming or nonconforming; irregular or substandard shape or size; exceptional topographical features; or other extraordinary physical conditions peculiar to and inherent in the subject lot that amount to more than a mere inconvenience to the owner and that relate to or arise out of the lot rather than the personal situation of the current owner of the lot.

Comment: The subject property is uniquely shaped and located within the floodway. However, none of these attributes impact the ability of the petitioner to install the fence sections with the finished side facing adjoining lots. The petitioner describes that the subject property abuts the rear yards of the adjoining lots, and the fence sections would not be seen from the street. However, Section 12-8-2.D does not differentiate or provide an exception from the fence design standard based on the fence location. In addition, city records indicate that the southern fence section on the subject property serves as the rear yard fence section to enclose the rear yards for the adjoining lots along Algonquin Road meaning that the unfinished side of the subject property fence is directly visible on adjoining lots. As such, it can be argued that there is no unique physical condition contributing to the hardship identified and that the variation request is based on a personal situation of the current owner.

3. Not Self-Created: The aforesaid unique physical condition is not the result of any action or inaction of the owner or its predecessors in title and existed at the time of the enactment of the provisions from which a variance is sought or was created by natural forces or was the result of governmental action, other than the adoption of this title.

Comment: There is nothing to indicate that the property owner or their predecessors created the unique physical conditions described above. However, the variation request is not related to a unique physical condition of the property, but rather the design of fence, in which the property

owner and their predecessors have directly created. The original fence in 1990 was installed incorrectly by the previous property owner and a portion of the original fence was replaced and installed incorrectly by the current property owner in 2022.

4. Denied Substantial Rights: The carrying out of the strict letter of the provision from which a variance is sought would deprive the owner of the subject lot of substantial rights commonly enjoyed by owners of other lots subject to the same provision.

*Comment:* Carrying out the strict letter of the code would require the property owner to correct the fence section installed incorrectly to match the approved Site Plan. However, it can be argued that correcting a nonconforming fence does not in itself deny the property owner of substantial rights enjoyed by other property owners. Instead, correcting the fence fosters consistency and compliance with the Zoning Ordinance in which all properties are governed. Moreover, it is not inherently a right to have a fence on a residential property—especially properties located in floodways—but, where permitted, property owners do have the ability to install a fence provided that it complies with the Zoning Ordinance.

5. Not Merely Special Privilege: The alleged hardship or difficulty is neither merely the inability of the owner or occupant to enjoy some special privilege or additional right not available to owners or occupants of other lots subject to the same provision, nor merely the inability of the owner to make more money from the use of the subject lot:

*Comment:* It can be argued the petitioner would experience a special privilege if they were allowed to retain a nonconforming fence that was installed incorrectly despite conditions stated on the approved Site Plan. Since there are many examples throughout Des Plaines of properties that are improved with code-compliant fences, the approval of this variation to allow the retention of a non-conforming fence—especially with viable alternatives available (see response to Standard 7)—could err on the side of providing a special privilege. In addition, it could set a negative precedence leading to further fence code violations and additional fence variations for property owners with similar structures.

6. Title And Plan Purposes: The variation would not result in a use or development of the subject lot that would be not in harmony with the general and specific purposes for which this title and the provision from which a variation is sought were enacted or the general purpose and intent of the comprehensive plan:

*Comment:* The request would retain an existing improvement on the subject property that is not in harmony with the general and specific purposes of Section 12-8-2 of the Zoning Ordinance. While replacing the fence section in disrepair could be construed as preservation and reinvestment in a residential property—in line with one of the general purposes of the Comprehensive Plan—the design of the fence does not meet the specific requirements for fences in Section 12-8-2, which is in effect for all properties in Des Plaines.

7. No Other Remedy: There is no means other than the requested variation by which the alleged hardship or difficulty can be avoided or remedied to a degree sufficient to permit a reasonable use of the subject lot.

*Comment:* There are viable alternatives to the existing fence design that could make the existing fence section compliant with Section 12-8-2 and avoid a variation. One alternative involves

relocating the fence panels to the other side of the post so that the finished side faces adjacent lots without the removal of the posts and the expense of additional fence material. Another remedy would be to install additional fence material and alter the existing fence so that both sides are finished. In all, reasonable use of the property is still possible without this variation.

8. Minimum Required: The requested variation is the minimum measure of relief necessary to alleviate the alleged hardship or difficulty presented by the strict application of this title.

Comment: The variation request is the minimum measure of relief necessary.

PZB Procedure and Recommended Conditions: Under Section 12-3-6.G (Procedure for Review and Decision for Major Variations) of the Zoning Ordinance, the PZB has the authority to *recommend* that the City Council approve, approve subject to conditions, or deny the above-mentioned major variation request for the fence design at 1183 S. Des Plaines River Road. City Council has final authority on the proposal.

Consideration of the request should be based on a review of the information presented by the applicant and the findings made above, as specified in Section 12-3-6.H (Findings of Fact for Variations) of the Zoning Ordinance. If the PZB recommends approval of the request, staff recommends the following condition.

Condition of Approval:

1. That the fence is altered as necessary to be in conformance with all regulations in Title 14 Flood Control in the Des Plaines Municipal Code or a variance is granted by the Director of Public Works and Engineering.

Petitioner Kathryn Kuntz was sworn in and presented her case.

Chair Szabo asked if there are any complaints about the fence. The Petitioner responded the only complaints received were when the fence was in disrepair.

Board Member Weaver asked when the property was acquired and if anyone suggested there was a fence issue at the time of sale.

The Petitioner acquired the property around 1990 and there have not been any issues. During the City's final inspection, the fence was determined to be non-compliant.

Senior Planner Stytz presented the staff overview.

There were no comments from the public.

Board Member Veremis asked if any neighbors commented on the sign for the Public Hearing. The Petitioner said the neighbors are in favor of the fence. The river is along the back property line.

Senior Planner Stytz explained the recommended condition. A part of the property is in the flood plain.

Motion by Board Member Fowler, to approve the Major Variation and not to impose the staff's recommended conditions, seconded by Board Member Weaver.

AYES:	Weaver, Szabo, Saletnik, Veremis, Catalano, Fowler
NAYS:	None
ABSENT:	Hofherr
ABSTAIN:	None

\*\*\*MOTION CARRIED \*\*\*



**4. Address: 915 Alfini Drive**

**Case Number 24-001-V**

The petitioner is requesting a Standard Variation to allow a total building coverage of 32.34 percent where a maximum of 30.00 percent is permitted for an interior lot in the R-1 district.

Petitioner: Arthur Garceau, 915 Alfini Drive, Des Plaines, IL 60016

Owner: Arthur Garceau, 915 Alfini Drive, Des Plaines, IL 60016

Case Number: 24-001-V

Real Estate Index  
Number: 09-19-216-006-0000

Ward: #3, Alderman Oskerka

Existing Zoning: R-1, Single Family Residential district

Existing Land Use: Single Family Residence

Surrounding Zoning: North: R-1 Single Family Residential district  
South: R-1 Single Family Residential district  
East: R-1 Single Family Residential district  
West: R-1 Single Family Residential district

Surrounding Land Use: North: Single Family Residence (Residential)  
South: Single Family Residence (Residential)  
East: Single Family Residence (Residential)  
West: Single Family Residence (Residential)

Street Classification: Alfini Drive is classified as a local road.

Comprehensive Plan: The Comprehensive Plan illustrates the site as residential.

Zoning/Property History: Based on City records, the subject property was annexed into the city in 1927 and has since been utilized for residential purposes with the current residence upon the property having been constructed in the 1950s. Aside from the existing 1,161 square-foot residence, there is an existing detached garage comprised of 545 square feet. The current building coverage is 1,706 square feet or 23.86 percent of the total property area (7,150 square feet).

Project Description: *Overview*

The petitioner, Arthur Garceau, has requested a standard variation to allow a total building coverage of 32.34 percent in order to construct a one-story addition onto the existing residence in the R-1 Single Family Residential district at 915 Alfini Drive. The maximum building coverage allowed for this zoning district is 30.00 percent. As defined in Section 12-13-3 of the Zoning Ordinance, building coverage is “the percentage

of the surface area of a zoning lot that is occupied by principal buildings and any accessory buildings and structures. All areas of buildings or structures covered by a roof are included in building coverage.”

The subject property is comprised of a single, 7,150 square-foot (0.16 acre) lot improved with an 1,161 square-foot 1-story vinyl-sided residence, covered entry stoop, wood deck, concrete walkway, concrete driveway off Alfini Drive, and detached garage as shown in the attached Plat of Survey and the attached Photos of Existing Conditions. The petitioners propose to remove an existing room addition comprised of approximately 180 square feet, the wood deck, and a small portion of the existing driveway with a new 681 square-foot, one-story room addition for use as an expanded family room area and new third bedroom. The proposed scope of work would include a new open loft space over the new floor area of the new room addition. For additional information on the proposal, please see the attached Site Plan and Project Narrative.

Level	Existing Area (SF)	Proposed Area (SF)
Lower Level <sup>11</sup>	<b>Total: N/A</b>	<b>Total: N/A</b>
<ul style="list-style-type: none"> <li>• Crawlspace</li> </ul>	<ul style="list-style-type: none"> <li>•N/A</li> </ul>	<ul style="list-style-type: none"> <li>•N/A</li> </ul>
First (Main) Level	<b>Total: 1,571 SF</b>	<b>Total: 2,045 SF</b>
<ul style="list-style-type: none"> <li>• <b>Kitchen</b></li> <li>• Dining Room</li> <li>• Living Room</li> <li>• Bathroom #1</li> <li>• Bedroom #1</li> <li>• Bedroom #2</li> <li>• Detached garage</li> <li>• <b>Family Room</b></li> <li>• <b>Bathroom #2</b></li> <li>• <b>Utility/Laundry Room</b></li> <li>• <b>Bedroom #3</b></li> </ul>	<ul style="list-style-type: none"> <li>• 196 SF</li> <li>• 104 SF</li> <li>• 260 SF</li> <li>• 35 SF</li> <li>• 134 SF</li> <li>• 134 SF</li> <li>• 545 SF</li> <li>• 163 SF</li> <li>• N/A</li> <li>• N/A</li> <li>• N/A</li> </ul>	<ul style="list-style-type: none"> <li>• <b>231 SF</b></li> <li>• 104 SF</li> <li>• 260 SF</li> <li>• 35 SF</li> <li>• 134 SF</li> <li>• 134 SF</li> <li>• 545 SF</li> <li>• <b>245 SF</b></li> <li>• <b>45 SF</b></li> <li>• <b>85 SF</b></li> <li>• <b>227 SF</b></li> </ul>
Second (Upper) Level <sup>22</sup>	<b>Total: N/A</b>	<b>Total: 146 SF</b>
<ul style="list-style-type: none"> <li>•<b>Proposed Loft</b></li> </ul>	<ul style="list-style-type: none"> <li>•N/A</li> </ul>	<ul style="list-style-type: none"> <li>• <b>146 SF</b></li> </ul>

The proposed 681 square-foot addition to the residence by the petitioners increases the overall building coverage to 2,312 square feet or 32.34 percent of the total property area, in violation of Section 12-7-2.J restricting building coverage of interior lots in the R-1 district to no more than 30 percent and requiring a standard variation.

<sup>1</sup> No proposed changes.

<sup>2</sup> The proposed addition features a raised roof height to accommodate a new vaulted ceiling and new loft space above the floor as identified as Bedroom #3 on the proposed floor plans.

### *Proposed Floor Plan & Elevations*

The proposed addition would feature ceiling heights of approximately 18.00 feet in the area of the proposed loft. The ceiling heights of the existing residence would remain approximately 8.17 feet. The proposed addition would offset from the southern extents of the existing residence by approximately six inches (0.507 feet) to provide a side yard setback of 5.17 feet in conformance with the required minimum side yard setback of 5.0 feet, as shown on the attached Site Plan.

The existing 1-story residence is comprised of a ground level above a crawlspace as shown on the attached Demolition Plans. The table below compares the proposed floor plan changes included with the proposal.

### *Building Design Standards*

Section 12-3-11 of the Zoning Ordinance requires that building design standards are met for projects that consisting of “additions to principal structures resulting in greater than a fifteen percent change of gross floor area.” Since the proposal does result in a greater than 15 percent change in floor area (17 percent), the exterior building material regulations in this section are required to be met.

The exterior elevation drawings of the attached Architectural Plans identify that the new addition will be constructed with cementitious siding (a material which is not permissible by-right on the ground story of a detached single-family residence). A minor variation was granted by staff for the proposed building cementitious siding materials on October 13, 2023.

As for the transparency requirements, these are not required as this regulation is only required on street-facing elevations. Since the proposed addition area faces the side and rear property boundaries, it does not need to comply with the blank wall limitations that restrict the amount of windowless area permitted on a building façade in Section 12-3-11 of the code. However, the proposed addition does include windows on all three proposed building elevations.

### *Comparison of Surrounding Properties*

The petitioner has asserted that the typical development pattern in the vicinity features single-family residences with at least 3 bedrooms and 2 bathrooms in various form factors (ranches, split-levels, multi-story, etc.) while a small minority of residences are comprised of only one floor and up to 2 bedrooms and 1 bathroom. Variations are meant to be reviewed on a case-by-case basis, examining any uniqueness and hardship presented by the conditions of a *specific property*. Comparison of the variation request with the Zoning Ordinance and comprehensive plan are discussed in staff’s responses.

Variation Findings: Variation requests are subject to the standards set forth in Section 12-3-6(H) of the Zoning Ordinance. Rationale for how well the proposal addresses the standards is provided below and in the attached petitioner responses to standards. The Board may use the provided responses as written as its rationale, modify, or adopt its own.

1. Hardship: No variation shall be granted pursuant to this subsection H unless the applicant shall establish that carrying out the strict letter of the provisions of this title would create a particular hardship or a practical difficulty.

Comment: Considering other potential alternatives available, the zoning challenges encountered may not rise to the level of particular hardship or practical difficulty. The size of the subject property (7,150 square feet) is larger than many interior lots across the City and larger than the minimum 6,875-square-foot interior lot size required. Due to the size, the property has space for a larger building footprint than many other interior lots; With the 30 percent building coverage allowance for R-1 zoned properties, the size affords the more building coverage than many other interior lots. This property characteristic not always available to owners of smaller R-1 zoned properties.

In regard to structures, however, the existing one-level design of the residence and the large existing detached garage pose design challenges to the petitioner, especially if the existing single-story design is retained over alternatives such as a split-level or two-story design which may be difficult to retrofit over the existing building footprint and foundation. These existing constraints do not deny the petitioner the ability to construct an addition on the property, but rather limit the potential size of an addition.

2. Unique Physical Condition: The subject lot is exceptional as compared to other lots subject to the same provision by reason of a unique physical condition, including presence of an existing use, structure, or sign, whether conforming or nonconforming; irregular or substandard shape or size; exceptional topographical features; or other extraordinary physical conditions peculiar to and inherent in the subject lot that amount to more than a mere inconvenience to the owner and that relate to or arise out of the lot rather than the personal situation of the current owner of the lot.

Comment: The lot area is 7,150 square feet which exceeds the minimum lot size requirement for an interior lot in the R-1 district. The existing 23.86 percent building coverage of the lot is not necessarily unique in regard to other interior residential lots in the City. Other home designs could yield more total floor area by utilizing multiple floors versus the proposed design while complying with the maximum building coverage, however the petitioner is seeking to retain the existing one-level layout and both accessibility and “visit-ability,” a term which refers to the accessibility of a structure to a visitor accessing the property from the sidewalk, throughout the entire living space. While some might question whether the proposed footprint of the addition could be reduced, others may consider the extent of the requested relief to be *de minimis*.

3. Not Self-Created: The aforesaid unique physical condition is not the result of any action or inaction of the owner or its predecessors in title and existed at the time of the enactment of the provisions from which a variance is sought or was created by natural forces or was the result of governmental action, other than the adoption of this title.

Comment: While the subject property’s location, size, and development style may not be a result of

any action or inaction of the property owner, the subject property was purchased with the understanding of these attributes and conditions. At 55 feet in width and 7,150 square feet in area, the subject property provides adequate space for a single-story residence and a single- or multi-story addition without any unique physical conditions present. However, a single-story addition at a reduced size may not achieve the intended 3-bedroom, 2-bathroom result without substantial additional modifications to the original portion of the residence, nor would a multi-story addition achieve the desired single-story, accessible floor plan.

4. Denied Substantial Rights: The carrying out of the strict letter of the provision from which a variance is sought would deprive the owner of the subject lot of substantial rights commonly enjoyed by owners of other lots subject to the same provision.

Comment: Staff's review has concluded that carrying out the strict letter of this code for building coverage would not deprive the property owners of any obvious substantial rights commonly enjoyed by owners of similar properties. First, while homeowners are able to construct an addition, as permitted by the R-1 district regulations, having the ability to construct an addition, in and of itself, is not a right granted to property owners. Enforcing the building coverage requirements does not deny the property owners the ability to construct an addition on their property but requires said addition to conform with the applicable building coverage requirements that apply to all R-1 zoned properties. One could also argue that the proposal could be redesigned to make a functional, albeit smaller, single-story addition without requiring this variation. Alternately, the PZB could consider whether a.) the proposed one-story, accessible floor plan and projected excess lot coverage of approximately 167 square feet is *de minimis*; or b.) the relationship between the extent of the variation requested and the accessibility that the variation would provide is a right to which the petitioners should be entitled.

5. Not Merely Special Privilege: The alleged hardship or difficulty is neither merely the inability of the owner or occupant to enjoy some special privilege or additional right not available to owners or occupants of other lots subject to the same provision, nor merely the inability of the owner to make more money from the use of the subject lot.

Comment: Since other alternatives exist which might yield a larger floor area with a compliant lot coverage, financial return does not seem to be among the primary motivations for the proposed design and variation request. Other interior lots in Des Plaines of various sizes and shapes have designed additions that meet the required building coverage regulations, and the petitioners have the ability to do so as well on the subject property. Improving accessibility of a residence is not typically representative of the type of concept that would be considered a special privilege, but instead a design concept intended to provide opportunities for current and future occupants to "age in place" and/or to provide living space inclusive of accommodations for individuals with mobility impairments. Variation decisions are made on a case-by-case, project-by-project basis upon applying the variation standards. When considering whether to grant a variation, the determining body (e.g. PZB and/or City Council) typically considers whether the applicant exhausted design options that do not require a variation. The PZB may wish to ask what, if any, alternative plans the petitioner considered prior to requesting the variation request.

6. Title And Plan Purposes: The variation would not result in a use or development of the subject lot that would be not in harmony with the general and specific purposes for which this title and the provision from which a variation is sought were enacted or the general purpose and intent of the comprehensive plan.

Comment: On one hand, the project would allow re-investment into a single-family home, which the Municipal Code and Comprehensive Plan encourage. The Comprehensive Plan also encourages aging-in-place strategies and the modifications of this building improve the accessibility/visit-ability of the building and increase accessible housing stock within the city. There seem to be reasonable options for redesigning the proposed addition to create additional functional and accessible living space without needing relief. The petitioner's proposal would yield a one-story structure which would appear from the street to be harmonious with other residences in the vicinity.

7. No Other Remedy: There is no means other than the requested variation by which the alleged hardship or difficulty can be avoided or remedied to a degree sufficient to permit a reasonable use of the subject lot.

Comment: There are alternatives to the proposed building coverage variation being requested. Although potentially significant design changes and more extensive modifications to the original portions of the residence would be necessary and the accessibility of all areas of the floor plan other than the main floor would be restricted. The Municipal Code allows for up to 2½ stories or 35 feet of total building height, which is possible given the height of the existing first (main) level. A smaller single-story addition with a redesigned floor plan is also possible. The PZB may wish to ask why certain alternative designs are not feasible.

8. Minimum Required: The requested variation is the minimum measure of relief necessary to alleviate the alleged hardship or difficulty presented by the strict application of this title.

Comment: The approval of the additional building coverage may provide relief for the petitioner given their current proposal. However, the proposed floor area could be achieved with a different design which might better utilize the available property and meet the building coverage requirement. The requested ground-level, single-story addition may be more convenient and less intensive than the alternative plans, such as a second-story addition, and would achieve increased accessibility throughout the space. The only other relief requested related to building materials and was previously approved as a minor variation earlier in the plan review process.

PZB Procedure and Recommended Conditions: Under Section 12-3-6(F) of the Zoning Ordinance (Standard Variations), the PZB has the authority to approve, approve subject to conditions, or deny the request. The decision should be based on review of the information presented by the applicant and the standards and conditions met by Section 12-3-6(H) (Findings of Fact for Variations) as outlined in the Zoning Ordinance. If the PZB approves the request, staff recommends the following conditions.

Conditions of Approval:

1. No easements are affected or drainage concerns are created.
2. That all appropriate building permit documents and details, including all dimensions and labels necessary to denote the addition are submitted as necessary for the proposal. All permit documents shall be sealed and signed by a design professional licensed in the State of Illinois and must comply with all City of Des Plaines building and life safety codes.

Mr. and Mrs. Garceau, their contractor, John Burta and architect Steve Kosinski were sworn in.

Mrs. Garceau presented the variation request. The request is for 32.34 percent coverage of the lot versus the 30 percent required.

CED Director Jeff Rogers presented the case.

Board Members expressed their appreciation for the concise presentation.

Moved by Board Member Weaver, to approve the Standard Variation request subject to the two conditions recommended by staff, seconded by Board Member Veremis.

AYES:	Weaver, Szabo, Saletnik, Veremis, Catalano, Fowler
NAYS:	None
ABSENT:	Hofherr
ABSTAIN:	None

\*\*\*MOTION CARRIES\*\*\*

**5. Address: 1504 Oakwood Avenue**

**Case Number 24-002-V**

The petitioner has requested a standard variation to reduce the corner side yard from 10 feet to 2 feet (80 percent reduction) to allow for a shed in the R-1 Single-Family Residential District.

Petitioner: Max Larsen, 1504 Oakwood Avenue, Des Plaines, IL 60016

Owner: Max Larsen, 1504 Oakwood Avenue, Des Plaines, IL 60016

Case Number: 24-002-V

PIN: 09-20-210-014-0000

Ward: #2, Alderman Colt Moylan

Existing Zoning: R-1, Single Family Residential

Existing Land Use: Single Family Residence

Surrounding Zoning: North: R-4, Central Core Residential District  
South: R-1, Single Family Residential District  
East: R-1, Single Family Residential District  
West: R-1, Single Family Residential District

Surrounding Land Use: North: Multifamily residential building  
South: Single family detached house  
East: Single family detached house  
West: Single family detached house

Street Classification: Oakwood Avenue and Cora Street are classified as local roads.

Comprehensive Plan: The Comprehensive Plan illustrates the site as single family residential.

Zoning/Property History: This property currently consists of a single-family detached house with a detached garage on a corner lot, bound by Oakwood Avenue, Cora Street, and an alley. A fence surrounds the property – four-feet-tall around the front yard and six-feet-tall around the corner side, side, and rear yards. A variation was granted in 2005 to allow a six-foot-tall, solid fence along a section of property fronting Cora Street. The 2005 variation was granted based on the finding that the property is located along Cora Street en route to Central School and Downtown Des Plaines, which generates more traffic than other streets and additional screening for privacy was necessary. Permits to replace portions of fencing around the property were approved in 2020 and 2023.

Project Description: *Overview*

The subject property at 1504 Oakwood Avenue consists of a two-story house, a two-car detached garage with an entrance/exit through the alley,



and several hard surface and yard features in the back yard. The subject of this variation request, the shed, was constructed in October 2023 without a permit and there is an open code enforcement case to address this issue. The petitioner requested a building permit in 2023 for the shed, but it did not pass zoning review due to the issues outlined in this staff report.

The shed is classified as an “accessory structure” and is subject to Section 12- 8-1 of the zoning ordinance, regulating location, size, and height. The shed is below the maximum height and area and building coverage requirements for the R-1 Zoning District continue to be met with the addition of the shed.

#### *Standard Variation Request*

The requested relief is to reduce the required side yard by eight feet to allow a shed structure to be located in this area. A standard variation allows the PZB to reduce required yards between 30 percent and 100 percent of the required size; the requested relief is reducing the corner side yard from 10 feet to 2 feet, an 80 percent reduction. A shed was installed in 2023 without a building permit in the required corner side yard and relief is necessary to allow the shed to remain. If the standard variation is not granted, the property owner will be required to move the existing shed.

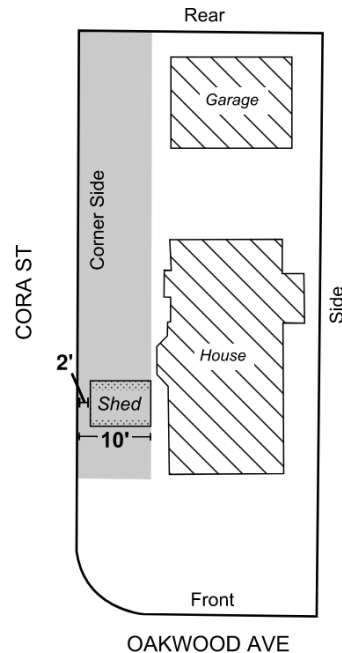
#### *Required Yards and Permitted Obstructions*

All properties have “required yards” also known as “setbacks” that are spaces intended to be free of obstruction and provide separation between buildings, structures, and other features. The definition in Section 12-13-3 reflects this purpose:

YARD: An open space on a zoning lot which is unoccupied and unobstructed from its lowest level to the sky.

To meet the intent of a yard, the zoning ordinance limits what can obstruct these areas of intended open space. Section 12-7-1.C includes a table of “Permitted Obstructions in Required Yards.” This table lists various types of structures and how much they can encroach into a required yard. Twenty-five different types of structures can encroach into a required yard, but only 14 types of structures can encroach into the required front or corner side yards. Accessory structures (i.e. sheds) are not permitted within front or corner side yards.

The illustration below demonstrates where staff have interpreted the required corner side yard to be on the subject property and the area the existing shed is encroaching.



Note two air conditioning units are located between the shed and the house. Staff have determined the existing units meet manufacturer's specifications for minimum distance from any structures, including the shed; however, if this variation is approved, a condition of approval is suggested to affirm this requirement will be met by any future replacement of this mechanical equipment.

Variation Findings: Variation requests are subject to the standards set forth in Section 12-3-6.H. of the Zoning Ordinance. Rationale for how well the proposal addresses the standards is provided below and in the attached petitioner responses to standards. The Board may use the provided responses as written as its rationale, modify, or adopt its own.

1. Hardship: No variation shall be granted pursuant to this subsection H unless the applicant shall establish that carrying out the strict letter of the provisions of this title would create a particular hardship or a practical difficulty.

Comment: The petitioner states in their response to standards that the hardship is related to the limited space on the corner lot and the presence of minimal locations on the property to locate the shed. As the site photos demonstrate, there are several existing hard surface and landscaping features on the property that limit the location of the proposed shed, including playground equipment and a patio with a seating wall. Although the movement of structures in the yard may make placement of the shed in other locations more challenging, this challenge does not necessarily rise to the level of hardship that would not be present on other similar properties. Through either testimony in the public hearing or via the submitted responses, the Board should review, question, and evaluate whether a hardship or practical difficulty exists.

2. Unique Physical Condition: The subject lot is exceptional as compared to other lots subject to the same provision by reason of a unique physical condition, including presence of an existing use, structure, or sign, whether conforming or nonconforming; irregular or substandard shape or size; exceptional topographical features; or other extraordinary physical conditions peculiar to and inherent in the subject lot that amount to more than a mere inconvenience to the owner and that relate to or

arise out of the lot rather than the personal situation of the current owner of the lot.

Comment: The petitioner states in their response to standards for variation that the property is not unique. Although this lot is narrower than many corner lots, there is not an abnormal feature that limits the location of a shed on the property. Landscaping and existing yard features may make movement of the shed to other locations on the property more challenging; however, many residential property owners have similarly sized properties with comparable limitations and are able to construct a shed that meets zoning regulations.

3. Not Self-Created: The aforesaid unique physical condition is not the result of any action or inaction of the owner or its predecessors in title and existed at the time of the enactment of the provisions from which a variance is sought or was created by natural forces or was the result of governmental action, other than the adoption of this title.

Comment: As discussed in response to standard 2, there is not a unique hardship present on the property compared to other similar properties that limits the location of the shed in areas outside of the required yards. The shed was constructed without a building permit in a required yard and this variation is necessary to allow the structure to remain.

4. Denied Substantial Rights: The carrying out of the strict letter of the provision from which a variance is sought would deprive the owner of the subject lot of substantial rights commonly enjoyed by owners of other lots subject to the same provision.

Comment: Carrying out the strict letter of the code would prevent the location of a shed in the corner side yard. It is not inherently a right to have a shed on a residential property and other areas are available on the property to locate the shed, although the petitioner states this may present practical difficulty.

5. Not Merely Special Privilege: The alleged hardship or difficulty is neither merely the inability of the owner or occupant to enjoy some special privilege or additional right not available to owners or occupants of other lots subject to the same provision, nor merely the inability of the owner to make more money from the use of the subject lot:

Comment: It can be argued the petitioner would experience a special privilege by allowing a shed in the corner side yard where many other properties in the City are not permitted to have this type of structure this close to the street.

6. Title And Plan Purposes: The variation would not result in a use or development of the subject lot that would be not in harmony with the general and specific purposes for which this title and the provision from which a variation is sought were enacted or the general purpose and intent of the comprehensive plan:

Comment: Although the adjacent property across Cora Street from this property is located very close to the property line, this appears to be the only property within the neighborhood that has structures less than two feet from the property line. However, the shed in this circumstance is behind a 6-foot tall, solid vinyl fence, which partially screens the shed from the street.

As discussed in the petitioner's response to standards and narrative, they express willingness to match the paint and shingles to the exterior of the house to minimize visual impact and create a more harmonious appearance. A suggested condition of approval is included in this report for the Board's

consideration, requiring these types of adjustments to the appearance. Refer to the attached Shed Plans for architectural details and proposed paint colors.

7. No Other Remedy: There is no means other than the requested variation by which the alleged hardship or difficulty can be avoided or remedied to a degree sufficient to permit a reasonable use of the subject lot.

Comment: Another remedy would be to locate the shed in another location on the property that is outside of the corner side yard. Note the petitioner has also expressed willingness to move the shed to another location on the property (refer to Petitioner's Proposed Alternative Site Plan); this location would require an identical variation, as it is still within the corner side yard. Reasonable use of the property is still possible without this variation.

8. Minimum Required: The requested variation is the minimum measure of relief necessary to alleviate the alleged hardship or difficulty presented by the strict application of this title.

Comment: The variation request is the minimum measure of relief necessary.

#### PZB Procedure:

##### *Standard Variation*

Under Section 12-3-6(F) of the Zoning Ordinance (Standard Variations), the PZB has the authority to approve, approve subject to conditions, or deny the request. The decision should be based on review of the information presented by the applicant and the standards and conditions met by Section 12-3-6(H) (Findings of Fact for Variations) as outlined in the Zoning Ordinance.

##### Conditions of Approval:

1. No drainage concerns shall be created by this structure. Directing any discharge from any drainage device on private property onto any public right-of-way or adjacent properties is strictly prohibited, pursuant to Section 10-9-2. At time of building permit, petitioner must demonstrate this requirement will be met and may need to install gutters or a similar drainage feature on the shed to meet this condition. Compliance with this condition to be determined by the Director of Public Works and Engineering or designee through the permit review process.
2. Any mechanical equipment must be located the required distance from the proposed structure, per manufacturer specifications.
3. Shingles and paint color of the existing house and proposed structure must be submitted with building permit to confirm appearance of the structures will be complementary.

Max Larsen was sworn in. Mr. Larsen presented his request for a setback requirement variation for a garden shed. The shed was constructed without a permit. Mr. Larsen did not think a permit was required since the shed does not have a foundation. Mr. Larsen stated that it would be difficult to relocate the shed to the middle of the yard where there is a garden and a low hanging branch. The shed is currently 16" from the air conditioning condensing unit.

Mr. Larsen suggested an alternate location next to the garage if the current location is unacceptable.

Senior Planner Redman recommended that if the shed is going to be relocated that this case should be continued to review the revised plans.

Motion by Board Member Saletnik, to continue this item until February 13, 2024, seconded by Board Member Weaver.

AYES: Weaver, Szabo, Saletnik, Veremis, Catalano, Fowler  
NAYS: None  
ABSENT: Hofherr  
ABSTAIN: None

**\*\*\*MOTION CARRIED\*\*\***

Senior Planner Redman stated that on February 6 there will be a Legal Training meeting. Teams will be available for remote connections.

Board Member Fowler inquired as to what is the process to develop a Style Branding Guide for developers.

Senior Planner Redman stated that there will be a building materials workshop in March, and this can be discussed at that time.

CED Director Rogers stated that it is the decision of the PZB as to whether they would like to formalize a guideline or not, and that documents would be subject to City Council input and approval. The PZB can make recommendations to staff, and then it would move forward.

Board member Catalano will be absent from the PZB meetings on February 13, March 12, and April 9, 2024.

**ADJOURNMENT**

Chairman Szabo adjourned the meeting at 9:09 p.m.

Sincerely,  
Laura Fast, Deputy City Clerk/Recording Secretary  
cc: City Officials, Aldermen, Planning & Zoning Board, Petitioners