



VILLAGE OF MONTGOMERY

Zoning Board of Appeals Meeting Agenda

June 2, 2016 7:00 P.M.

Village Hall Board Room

200 River Street, Montgomery, IL 60538

- I. Call to Order
- II. Pledge of Allegiance
- III. Roll Call
- IV. Approval of Minutes from March 3, 2016
- V. Items for Zoning Board of Appeals Action
 - I. ZBA 2016-015 V Public Hearing and Consideration of a Fence Height Variance Located at 309 2nd Avenue.
- VI. Other Business
- VII. Adjournment



Zoning Board of Appeals

March 3, 2016

I. CALL TO ORDER:

Board Chair Hammond called the meeting to order at 7:42 p.m.

II. ROLL CALL:

Tom Betsinger	Present	John Francis	Present
Tom Yakaitis	Present	Mildred McNeal-James	Present
Patrick Kelsey	Present	Butch Distajo	Present
Mike Hammond	Present		

Also present: Director of Community Development Richard Young; Village Attorney Laura Julien; Village Engineer Tim Paulson; Trustee Theresa Sperling, Executive Director of the Montgomery Economic Development Corporation Charlene Coulombe-Fiore and members of the audience.

III. APPROVAL OF MINUTES:

MOTION: Motion was made by Board Member Francis to approve the minutes of the February 4, 2016 Zoning Board of Appeals Meeting. Board Member McNeal-James seconded the motion.

Motion Passed 7-0.

Ayes: Francis, McNeal-James, Distajo, Betsinger, Yakaitis, Kelsey and Hammond

Nays: None.

IV. NEW BUSINESS:

- a) **ZBA 2016-007 V Continuation of a Public Hearing and Consideration of an Alternative Surfaces Setback Variance for JPC Tree Care LLC. Located at 1065 and 1079 Sard Avenue.**

Senior Planner Chipman stated that the Petitioner had withdrawn the variance request.

Board Chair Hammond closed the public hearing.

- b) **ZBA 2016-008 V Public Hearing and Consideration of a Sign Variance for Corporate Identification Solutions Located at 596 Montgomery Road.**

Senior Planner Chipman introduced the item and reviewed the staff report. It was staff's

opinion that the sign did not meet the requirements for granting a variance.

Auna Foote from Corporate Identification Solutions addressed the Zoning Board of Appeals stating that the alterations would be non-structural in nature. Ms. Foote continued in stating that the changes to the sign would consist of a face change that is allowed in the Zoning Ordinance.

Board member Kelsey asked what the change to the structure would be.

Senior Planner Chipman stated that due to the electronic cabinet changes that staff considered the proposal as an alteration.

Ms. Foote informed the Zoning Board of Appeals that the same electronic interface would be utilized, and that the new sign would be a face change.

Board Member McNeal-James expressed concerns with the sign complying with the vision of the Comprehensive Plan in regards to signage.

Board Chair Hammond opened the public hearing.

As there was no comments from the public, Board chair Hammond closed the public hearing.

1) That the property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations governing the district in which it is located; ***It is the Petitioner's opinion that the property would lose a level of advertising capabilities.***

It is staff's opinion that the sign could be constructed to comply with the maximum sizes allowed in the Zoning Ordinance, which would allow for the electronic price signage.

2) That the plight of the owner is due to unique circumstances; ***The Petitioner believes that their situation is unique due to the interpretation of the Zoning Ordinance.***

Staff believes that this is not a unique situation.

3) That the variation, if granted, will not alter the essential character of the locality; ***The Petitioner believes that the variance will not alter the essential character of the locality as the sign is already in existence and the alteration would not increase the size of the sign.***

Staff believes that allowing continued use of the sign will not alter the essential character of the area, however, allowing the sign to continue would not serve to progress the vision for the community that has been outlined in the Comprehensive Plan.

4) That the particular physical surroundings, shape, or topographical conditions of the specific property involved will bring a particular hardship upon the owner as distinguished from a mere inconvenience if the strict letter of the regulations were to be carried out; ***The Petitioner does not believe that there are physical characteristics that bring a particular hardship.***

It is staff's opinion that there are no physical characteristics of the site that render a hardship for the Petitioner.

5) That the conditions upon which the application for variation is based would not be applicable generally to other property within the same zoned classification. ***The Petitioner has indicated that they believe that the conditions of hardship are unique to their property due to the interpretation of the ordinance.***

It is staff's opinion that the conditions upon which the application is based would be applicable to other properties within the same zoning classification. Other properties in business districts contain non-conforming signs that would result in the same interpretation of the Zoning Ordinance.

6) That the need or purpose of the variation is not based exclusively upon a desire to make more money out of the property; ***The Petitioner has indicated that they believe that the ability to advertise on the property will be reduced.***

Staff believes that the sign would serve to promote advertising to the property.

7) That the granting of the variation will not be detrimental to the public welfare or unduly injurious to other property or improvements in the neighborhood in which the property is located; ***The Petitioner has indicated that they believe that the proposed sign will be in harmony with the neighborhood.***

Staff believes that the variation should not cause detriment or injury.

8) That the proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the danger of fire, or otherwise endanger the public safety or substantially diminish or impair property values within the neighborhood." ***The Petitioner has indicated that they believe that the variance will not impair light, air and property values.***

Staff agrees with the Petitioner.

Discussion ensued regarding the height of the sign and the nature of the surrounding neighborhood.

MOTION: Motion was made by Board Member Yakaitis to deny ZBA 2016-008 V Corporate Identification Solutions Sign Variance. Board Member Distajo seconded the motion.

Motion Passed 7-0.

Ayes: Yakaitis, Kelsey, Hammond, Francis, McNeal-James, Distajo and Betsinger.

Nays: None.

V. OTHER BUSINESS:

No other business to report at this time.

VI. ADJOURNMENT:

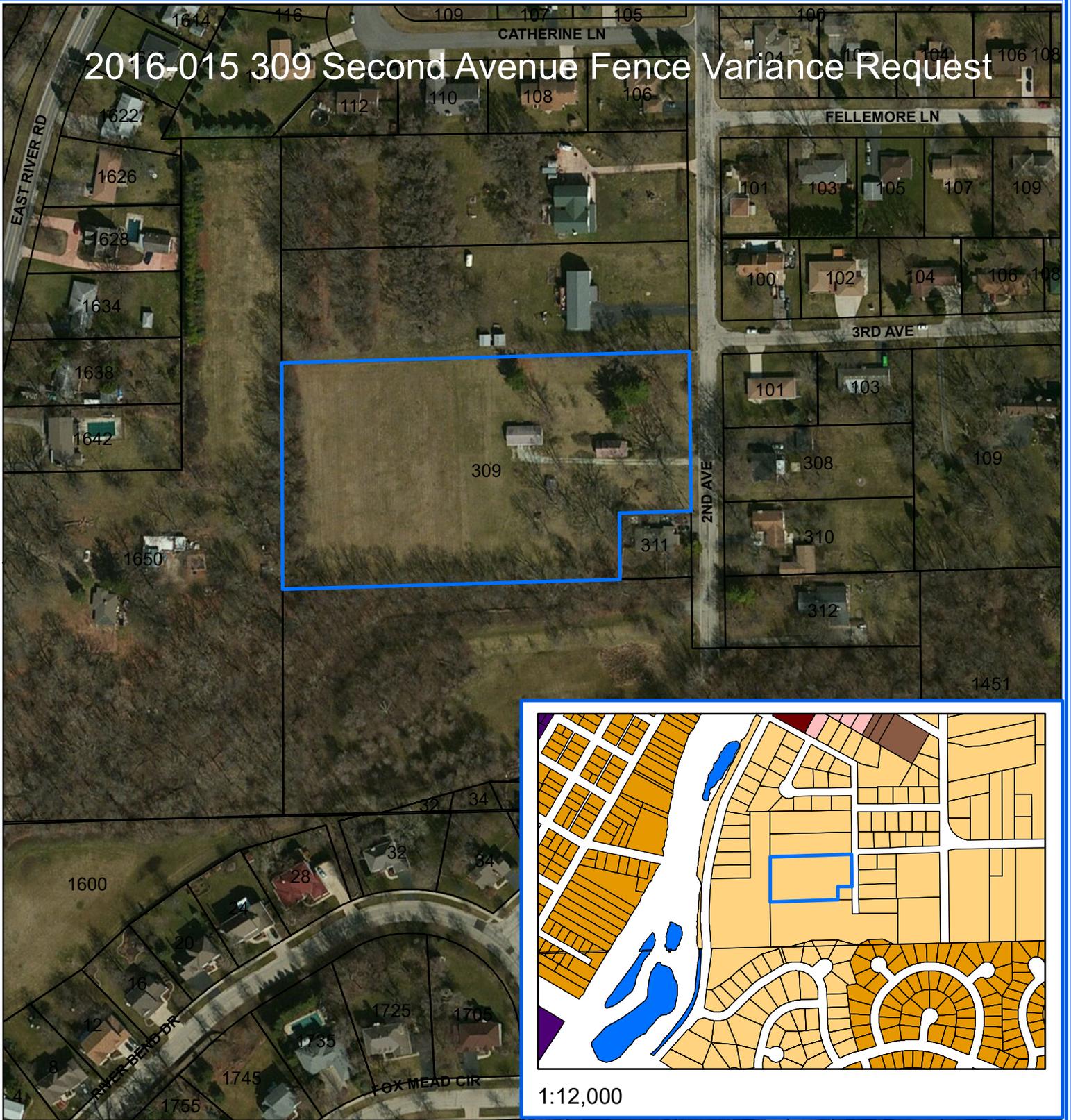
Having no further business to discuss, the Zoning Board of Appeals was adjourned at 8:03 p.m. by Board Chair Hammond

Respectfully submitted,

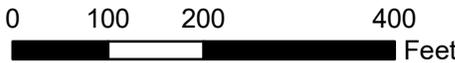
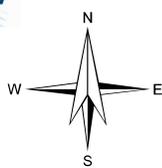
A handwritten signature in cursive script that reads "Jerad Chipman".

Jerad Chipman, AICP
Senior Planner

2016-015 309 Second Avenue Fence Variance Request



Village of Montgomery
 200 N. River Street
 Montgomery, IL 60538
 630-896-8080



- Legend**
- MD MILL DISTRICT
 - B-1 LOCAL RETAIL BUSINESS DISTRICT
 - B-2 GENERAL RETAIL BUSINESS DISTRICT
 - B-3 GENERAL AUTOMOTIVE AND WHOLESALE BUSINESS DISTRICT
 - FLOOD
 - M-1 LIMITED MANUFACTURING DISTRICT
 - M-2 GENERAL MANUFACTURING DISTRICT
 - R-2 ONE-FAMILY RESIDENCE DISTRICT
 - R-3 TRADITIONAL NEIGHBORHOOD RESIDENCE DISTRICT
 - R-4 TRADITIONAL NEIGHBORHOOD RESIDENCE DISTRICT
 - R-5A TWO-FAMILY RESIDENCE DISTRICT
 - R-5B ATTACHED SINGLE FAMILY RESIDENCE DISTRICT
 - R-6 MULTIPLE FAMILY RESIDENCE DISTRICT
- This information is for reference purposes only and the Village of Montgomery is not responsible for its accuracy



ZBA 2016-015
ZONING BOARD OF APPEALS ADVISORY REPORT

To: Chair Hammond and Members of the Zoning Board of Appeals
From: Jerad Chipman AICP
Senior Planner
Date: May 26, 2016
Subject: 2016-015 V 309 Second Avenue Fence Height Variance.

Petitioner: Terry Gaca
Location/Address: 309 Second Avenue
Requests: Variance to allow a six (6) foot tall privacy fence in the front yard setback of a residentially zoned property.
Current Zoning: R-3 Traditional Neighborhood Residence District
Comprehensive Plan: Single Family Detached Residential

Surrounding Land Uses:

Location	Adjacent Land Use	Adjacent Zoning
North	Residential	R-3
East	Residential	R-3
South	Residential	R-3
West	Residential	R-3

Background:

The Petitioner is requesting a variance to Sections 4.06(7)(c)(i) of the Zoning Ordinance to allow a six (6) foot tall privacy fence in the front yard. The Zoning Ordinance indicates that the maximum height of residential front yard fences is three (3) feet or four (4) feet if an open fence.

The Zoning Ordinance defines a front yard for residential uses as follows:

A yard which is bounded by the interior side lot lines or interior side lot line and corner side lot line, front lot line, and the front facade of a principle building or structure. A building, structure, use or other obstruction shall not encroach into the front yard except for such permitted obstructions as are set forth in this ordinance. For planning or subdivision platting purposes if there is no principle building or

structure on site than the front yard setback line shall be used in its place until a principle building or structure is proposed.

The parcel is four and a half (4.5) acres in size and the residence is setback over one hundred (100) feet from the Second Avenue right-of-way.

Attached is an exhibit that generally indicates the location of the house on the parcel and the location of the proposed fence.

Findings of Fact:

According to Section 14 of the Montgomery Zoning Ordinance “the Zoning Board of Appeals shall recommend approval of a variation from the provisions of this ordinance as authorized in this section only if the evidence, in the judgment of the Zoning Board of Appeals, sustains each of the following conditions:

Please note that the Petitioner’s answers to the questions found on the Variance application are attached to this report. Staff summarized the Petitioner’s comments in the findings of fact in this report.

1) That the property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations governing the district in which it is located; ***It is the Petitioner’s opinion that the property would yield a lower return as placing the fence over one hundred (100) feet away from the property line would be impair the property owner’s ability to define property boundaries, provide privacy and protect from trespassing.***

Staff understands that the house is setback further on the parcel in question than on most residential parcels in the Village, however, staff believes that there is adequate space for the property to yield a reasonable return as the rear of the property extends over five hundred (500) feet past the front façade of the house.

2) That the plight of the owner is due to unique circumstances; ***The Petitioner believes that their situation is unique as the house is setback over one hundred (100) feet from Second Avenue.***

Staff believes that this is an unusual scenario, however, not a unique situation since the essential character of the neighborhood includes large front yards. Several neighboring houses are setback more than one hundred (100) feet from Second Avenue.

3) That the variation, if granted, will not alter the essential character of the locality; ***The Petitioner believes that the variance will not alter the essential character of the locality as the fence will proved a buffer similar to the natural, landscape barriers found on the side and rear yards of the property.***

Staff believes that a six (6) foot privacy fence would alter the essential character of the neighborhood as there are very few front yard fences on Second Avenue and none of them are six (6) feet in height.

4) That the particular physical surroundings, shape, or topographical conditions of the specific property involved will bring a particular hardship upon the owner as distinguished from a mere

inconvenience if the strict letter of the regulations were to be carried out; ***The Petitioner believes that the physical surroundings create a hardship as a property owner is unable to enjoy the comfort and safety that a privacy fence would offer.***

It is staff's opinion that there are no physical characteristics of the site that render a hardship for the Petitioner. The property contains several acres behind the house that could be fenced off for the purpose of providing comfort and enjoyment.

5) That the conditions upon which the application for variation is based would not be applicable generally to other property within the same zoned classification. ***The Petitioner has indicated that they believe that the conditions of hardship are unique to their property as the Petitioner's house is located over one hundred (100) feet from the front yard.***

It is staff's opinion that the conditions upon which the application is based would be applicable to other properties within the same zoning classification. Other properties in the R-3 Traditional Neighborhood Residence District contain large front yard setbacks, and staff is unaware of another property in the Village that contains a six (6) foot tall privacy fence in its front yard.

6) That the need or purpose of the variation is not based exclusively upon a desire to make more money out of the property;

Staff believes that the desire to construct a fence closer to Second Avenue is not based exclusively upon a desire to make more money out of the property.

7) That the granting of the variation will not be detrimental to the public welfare or unduly injurious to other property or improvements in the neighborhood in which the property is located;

Staff believes that the variation should not cause detriment or injury.

8) That the proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the danger of fire, or otherwise endanger the public safety or substantially diminish or impair property values within the neighborhood." ***The Petitioner has indicated that they believe that the variance will not impair light, air and property values.***

Staff believes that the variation will not impair the neighboring properties environment or values, however, the fence would affect the essential character of the neighborhood.

Following the Public Hearing, the Zoning Board of Appeals should discuss the standards for granting a variation and make the findings of fact by reading each criteria and entering into the minutes the consensus on each.

Recommendation:

It is staff's opinion that the Petitioner has not met all of the conditions to grant a variance, and recommends that the variance be denied.

PART III Reasons for the Zoning Variation Request

1. This is a request to install a privacy fence beyond the facade of a homeowner's private dwelling. The purpose of a fence is to define a) property boundaries, b) provide privacy, and c) protect one's property from trespassers.

Unfortunately, the facade of the house is over 100 linear feet from the only public thoroughfare, 2nd Ave. Montgomery's ordinance would place this fence over 100 linear feet away in from a public thoroughfare, a most disadvantageous position in terms of a) defining boundaries, b) providing privacy, and c) affording protection from trespassers.

2. The characteristics described in Answer #1 above are not the result of man-made changes. The dwelling was constructed 100 years ago and sits on a 4 ½ acre, farm-like parcel. While 100 feet seem an odd placement for a house today, historical reasons likely explain the house's placement at the time of its construction when it was much a rural environment.

3. The specific constraint within the Montgomery ordinance is that a privacy fence cannot extend beyond the facade of a house; however a privacy fence is permitted along side and back property lines.

4. We have proposed a privacy fence that inset 6 LF from 2nd Ave. The minimum reduction in Montgomery's ordinance is the allowance of a privacy fence where the benefits of privacy and security are the most practical and do the most general good.

5. The practical difficulty or particular hardship with application of the code is that as a new homeowner and resident of Montgomery we would be unable to enjoy the comfort and safety that a privacy fence affords a private property and private dwelling.

2nd Ave. is the one, wide open, entry point that my property has with the general public. Erecting a fence, a generally acceptable barrier, set back over 100 linear from this entry point significantly reduces the ability of that such enhancement to provide reasonable demarcation and security.

a) From a visual perspective, this "front" of the house does not differ significantly from the sides and rear where a privacy fence is allowed. These other three sides of the property, take advantage of natural and landscape barriers which provide reasonable security.

b) It is costly to erect a fence given the price of materials, and labor intensive. I hope to do as much of the labor as possible and incur mainly material costs. Where the fence is placed does not change these costs. However, the benefit I enjoy from incurring those costs are significantly diminished if I cannot establish privacy on my property where it will do the most good.

6. Yes

7. We don't know of other similarly situated private property owners in the Village who desire to erect a privacy fence that would be in similar conflict with the Village ordinance regarding placement of privacy fencing.

8. (a) Granting the variance will be in harmony of the neighborhood and not contrary to the intent and purpose of the Zoning Ordinance.

(b) The property is not a corner lot, so there is no visibility issue for drivers.

(c) This portion of 2nd Avenue is a dead-end, and the "curb-appearance" of the fence would be no different than what one sees when passing privacy fencing along the sides or rear of a plot of land.

If so, please describe its nature: _____

PART III. Reasons for the Zoning Variation Request

Please note that the following questions must be answered completely. If additional space is needed, attach extra pages to application.

1. Briefly describe the characteristics of your property that prevent you from complying with the requirements of the Montgomery Zoning Ordinance, giving dimensions where necessary. *(Please Print or Type)*

2. Are these characteristics or conditions the result of other man-made changes, such as relocation of a road or highway? Please describe.

3. What specific requirement(s) of the Montgomery Zoning Ordinance prevent you from establishing the proposed use or construction on your property?

4. What is the minimum reduction of the requirements of the Montgomery Zoning Ordinance that would permit the proposed use or construction on your property?

5. What is the practical difficulty or particular hardship that would result if the requirements of the Montgomery Zoning Ordinance were strictly applied to your property?

6. To the best of your knowledge, can you affirm that the hardship you described above was not created by you or anyone having a proprietary interest in the subject property? YES [] NO []

If not, explain why the hardship should not be regarded as self-imposed (self-imposed hardships are not entitled to a zoning variation).

7. Are the conditions of hardship for which you request a zoning variation true only of your property? YES [] NO []

If not, how many other properties in the Village are similarly affected?

8. Will the granting of a variation in the form requested be in harmony with the Neighborhood and not contrary to the intent and purpose of the Zoning Ordinance and why?

I certify that all of the above statements and the statements and information contained in any papers, plans and other documents submitted herewith are true to the best of my knowledge and belief.

I (we) consent to the entry in or upon the premises described in this application by any authorized official of the Village of Montgomery for the purpose of posting, maintaining and removing such notices as may be required by law.

Applicant's Signature

Date



