

**Zoning Board of Appeals
May 23, 2018 Regular Meeting**

STAFF REPORT

Subject: ZBA18-014, 1817 Washtenaw Avenue

Summary:

Ryan Regan and Adriana Rodriguez, property owners, are requesting a variance from Chapter 104 Fences, Section 8:434 (1) (b) Restrictions. The owners are requesting relief to install an eight foot tall, 100 percent opaque fence starting 35 feet behind the front property line at the southeast corner of the subject property.

Background and Description:

The subject property is a triangular shaped lot located at the intersection of Washtenaw Avenue and Vinewood Boulevard. The property is 22,259 square feet in area and the home was built in 1914. The applicants are requesting an eight (8) foot tall 100 percent opaque fence in the area of the yard that limits the size of a fence to six (6) feet in height and eighty percent opacity. The proposed fence will be located in the southeast portion of the property adjacent to the neighboring church. The fence will be 75 feet in length, of which, 40 feet will be in the area requiring the variance.

The applicant states that the fence is needed to dampen and abate vehicle and truck noise from Washtenaw Avenue.

The following requirements are excerpts from Chapter 104, Section 8:434(1) (b):

(1) Fences located in residential districts:

(c) Shall not exceed six (6) feet in height and 80 percent opacity in any part which is 25 feet behind the front setback line.

Standards for Approval Chapter 104 Fences (Variance):

The Zoning Board of Appeals has all powers granted by State law and by Section 5:99, Application of the Variance Power from the City of Ann Arbor Zoning Ordinance. The following criteria shall apply:

The Zoning Board of Appeals of the City of Ann Arbor may, after a hearing in accordance with the established procedures of the Board, in its sound discretion and in the interests of the public health, safety or welfare of the inhabitants of the community, reduce or remit the requirements of this Chapter in individual cases.

The petitioner states that the combination of lot shape, slope, proximity and level of traffic noise are peculiar to this property and do not exist generally throughout the City.

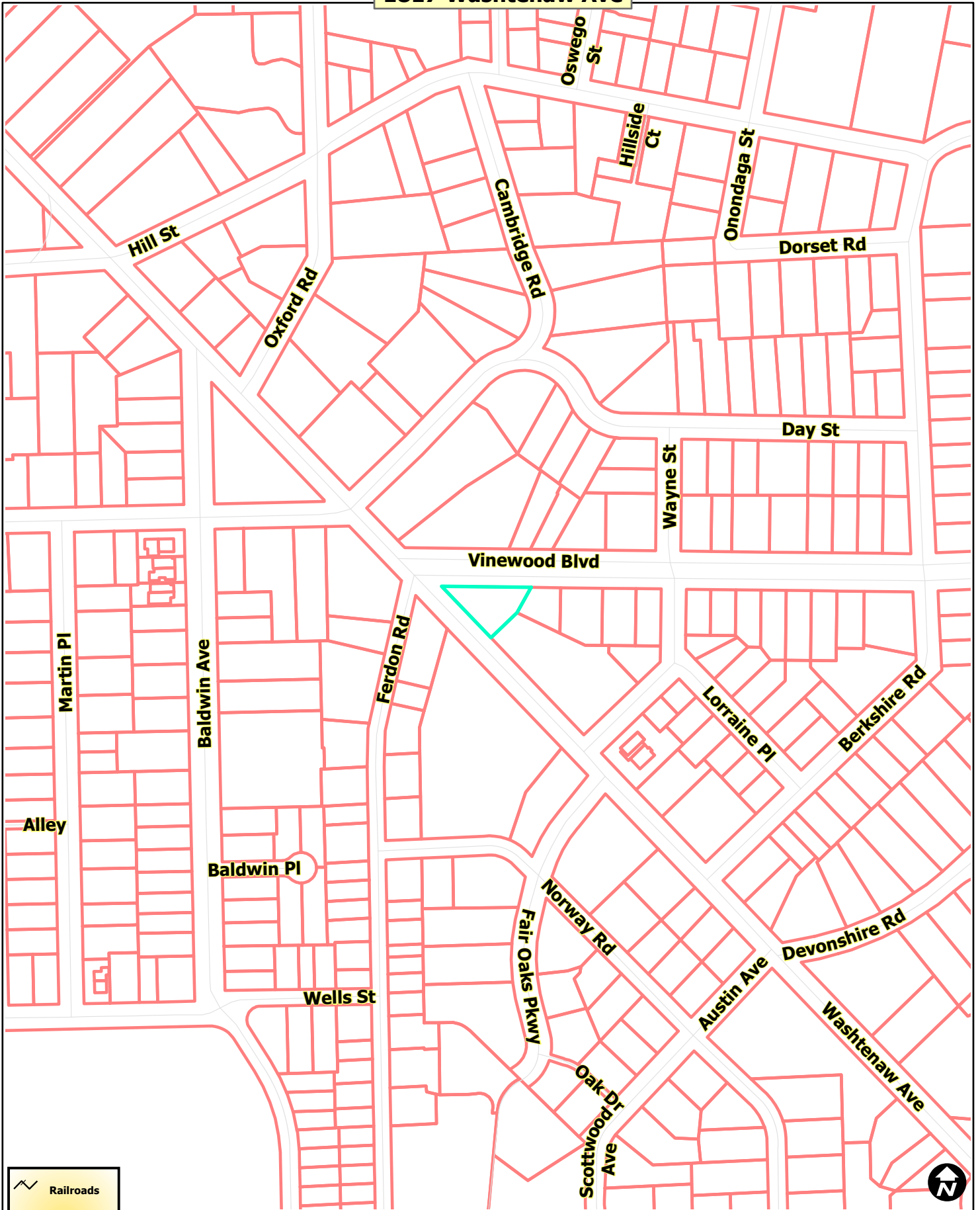
Zoning Board of Appeals
ZBA18-014 Variance
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Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Jon Barrett". The signature is stylized with large, overlapping loops for the letters "J" and "B".

Jon Barrett
Zoning Coordinator

1817 Washtenaw Ave






 Railroads
 Huron River
 Tax Parcels



Map date 4/30/2018
Any aerial imagery is circa 2015
unless otherwise noted
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1817 Washtenaw Ave

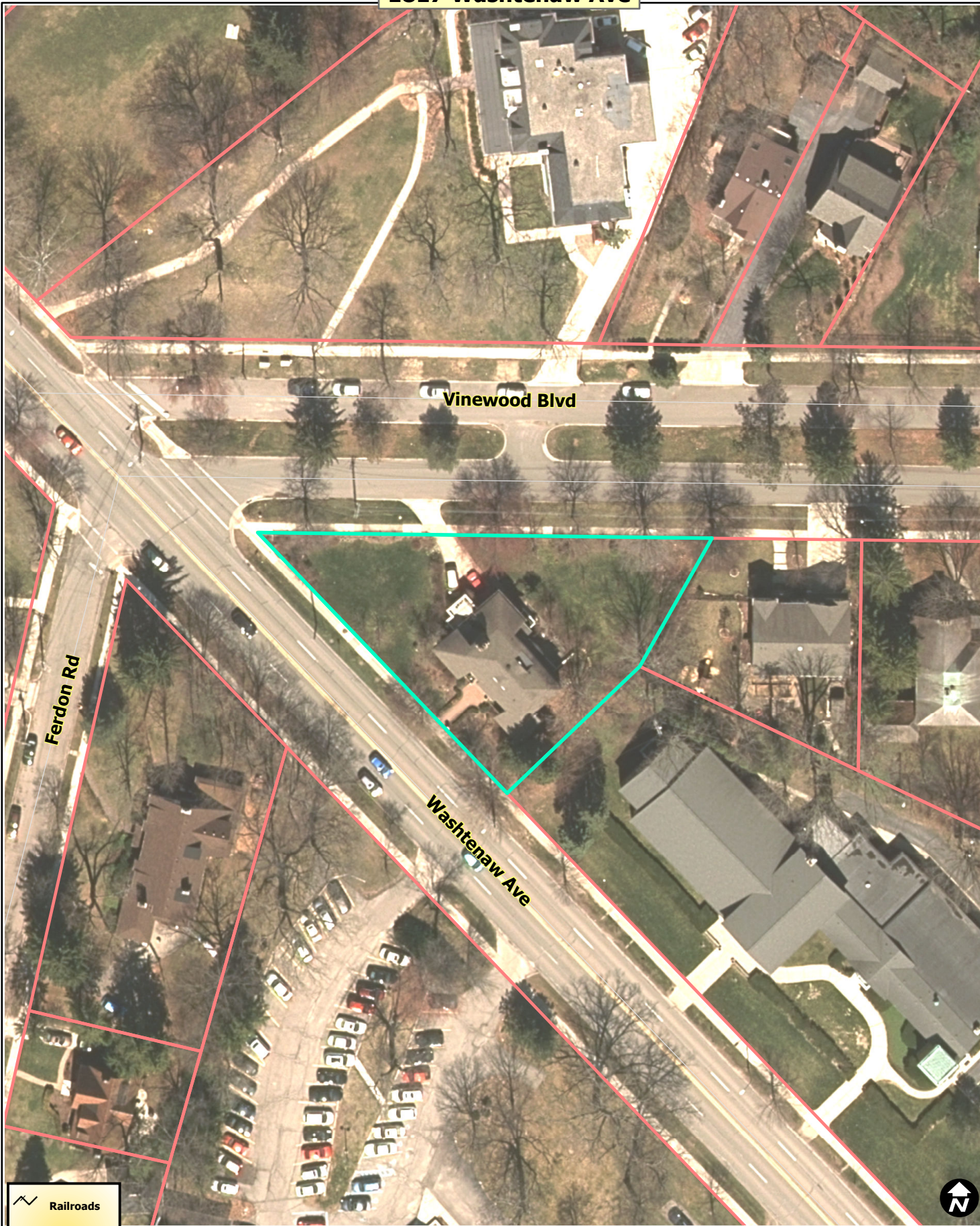





-  Railroads
-  Huron River
-  Tax Parcels



Map date 4/30/2018
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1817 Washtenaw Ave



 Railroads
 Huron River
 Tax Parcels



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**ZONING BOARD OF APPEALS
PLANNING DEPARTMENT**

City Hall: 301 E. Huron St. Ann Arbor, MI 48104-6120
 Mailing: P.O. Box 8647, Ann Arbor, MI 48107-8647
 Phone: 734.794.6265 planning@a2gov.org
 Fax: 734.994.8460

APPLICATION MUST BE FILLED OUT COMPLETELY

Office Use Only	
Fee Paid: <u>\$500.-</u>	ZBA: <u>18-014</u>
DATE STAMP CITY OF ANN ARBOR RECEIVED APR 25 2018	
PLANNING & DEVELOPMENT SERVICES	

PROPERTY INFORMATION

ADDRESS OF PROPERTY:
1817 WASHTENAW AVE., ANN ARBOR, MI 48104

ZONING CLASSIFICATION: R1B TAX ID: (if known) 09-09-33-112-005

NAME OF PROPERTY OWNER*:
RYAN REGAN AND ADRIANA RODRIGUEZ

**If different than applicant, a letter of authorization from the property owner must be provided*

APPLICANT INFORMATION

NAME OF APPLICANT:
RYAN REGAN

ADDRESS OF APPLICANT:
1817 WASHTENAW AVE, ANN ARBOR, MI 48104

DAYTIME PHONE NUMBER: 248-238-4869 FAX NO:

EMAIL:
RTREGAN@GMAIL.COM

APPLICANT'S RELATIONSHIP TO PROPERTY:
OWNER

REQUEST INFORMATION

VARIANCE REQUEST (Complete the section 1 below) ALTERATION TO A NON-CONFORMING STRUCTURE (skip to Section 2)

Section 1 - VARIANCE REQUEST

CHAPTER(S) AND SECTION(S) FROM WHICH A VARIANCE IS REQUESTED: (Example: Chapter 55, Section 5:26)
CHAPTER 104 FENCES SECTION 8:434 (1) ~~a~~ b.

Required Dimension: (Example: 40' front setback) 6FT. 80% opacity PROPOSED Dimension: (Example: 32') 8FT. 100% opacity

Give a detailed description of the work you are proposing and why it will require a variance (Attach additional sheets if necessary)
SEE ATTACHED SHEETS



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Section 1 - VARIANCE REQUEST con't

The City of Ann Arbor Zoning Board of Appeals has the powers granted by State law and City Code Chapter 55, Section 5:98. A variance may be granted by the Zoning Board of Appeals only in cases involving practical difficulties or unnecessary hardships when **ALL** of the following is found **TRUE**. Please provide a complete response to each item below. These responses, together with the required materials in Section 5 of this application, will form the basis for evaluation of the request by staff and the Zoning Board of Appeals.

- 1. That the alleged hardships or practical difficulties, or both, are exceptional and peculiar to the property of the person requesting the variance, and result from conditions which do not exist generally throughout the city.

SEE ATTACHED

- 2. That the alleged hardships are practical difficulties, or both, which will result from a failure to grant the variance, include substantially more than mere inconvenience, inability to attain a higher financial return, or both.

SEE ATTACHED

- 3. That allowing the variance will result in substantial justice being done, considering the public benefits intended to be secured by this chapter, the individual hardships that will be suffered by a failure of the board to grant a variance, and the rights of others whose property would be affected by the allowance of the variance.

SEE ATTACHED

- 4. That the conditions and circumstances on which the variance request is based shall not be a self-imposed hardship or practical difficulty.

SEE ATTACHED

- 5. A variance approved shall be the minimum variance that will make possible a reasonable use of the land or structure.

SEE ATTACHED



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Section 2 – ALTERATION TO A NON-CONFORMING STRUCTURE

Current Use of the Property:

The proposed change is allowed in accordance with Structure Non-Conformance, Section 5:87 (1) (a) & (b), which reads as follows:

(1) A non-conforming structure may be maintained or restored, but no alteration shall be made to a non-conforming structure unless one of the following conditions is met:

- a. The alteration is approved by the Zoning Board of Appeals upon finding that it complies as nearly as practicable with the requirements of this Chapter and that it will not have a detrimental effect on neighboring property.
- b. The alteration conforms to all the requirements of this Chapter and is made to a building which will be a single-family dwelling on completion of the alteration and is located in an R1, R2, R3, or R4 district.
- c. The structure is considered non-conforming due to the following reasons.

REQUIREMENT	EXISTING CONDITION	CODE REQUIREMENT
Lot Area		
Lot Width		
Floor Area Ratio		
Open Space Ratio		
Setbacks		
Parking		
Landscaping		
Other		

Describe the proposed alterations and state why you are requesting this approval:

N/A

The alteration complies as nearly as is practicable with the requirements of the Chapter and will not have a detrimental effect on neighboring property for the following reasons:

N/A



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Section 2 – ALTERATION TO A NON-CONFORMING STRUCTURE

Wherefore, Petitioner requests that permission be granted from the above named Chapter and Section of the Ann Arbor City Code in order to permit:

N/A

REQUIRED MATERIALS

The following materials are required for ALL variance requests. Failure to provide these materials will result in an incomplete application and will delay staff review and Zoning Board of Appeals consideration of the request. The materials listed below must accompany the application and constitute an inseparable part of the application.

All materials must be provided on 8 1/2" by 11" sheets:

- One (1) hardcopy and one (1) electronic copy shall be submitted.
- The electronic copy shall include all associated supporting documentation with application submission.

- Survey of the property including all existing and proposed structures, dimensions of property, and area of property.
- Building floor plans showing interior rooms, including dimensions.
- Photographs of the property and any existing buildings involved in the request.
- Any other graphic or written materials that support the request.

ACKNOWLEDGEMENT

I, the applicant, hereby request a variance from the above named Chapter (s) and Section (s) of the Ann Arbor City Code for the stated reasons, in accordance with the materials attached hereto.

Phone number: 248 238 4869

Signature: X [Signature]

Email address: RTREGAN@GMAIL.COM

Print Name: RYAN T. REGAN

I, applicant, hereby depose and say that all the aforementioned statements, and the statements contained in the materials submitted herewith, as true and correct.

[Signature]
Signature

Further, I hereby give the City of Ann Arbor Planning and Development Services unit staff and members of the Zoning Board of Appeals permission to access the subject property for the purpose of reviewing my variance request.

[Signature]
Signature

Section 1 - Variance Request

Give detailed description of the work you are proposing and why it will require a variance.

1817 Washtenaw Avenue (Parcel # 09-09-33-112-005), located at the corner of Washtenaw and Vinewood, is a single family residence built in 1914. We would like to install an eight (8) foot tall, 100% opaque board-on-board fence (see exhibit A) in the southeastern portion of the property. This fence would be located 35 feet from the front property line on Washtenaw Avenue leading away from the south wall of the house and along the southeastern property line shared with the neighbor church. The fence does not border any other properties. [See EXHIBIT A for property photos and fence examples]

The proposed fence is primarily needed to dampen and abate vehicle and truck noise from Washtenaw Avenue, a busy state trunkline, and secondarily to provide privacy from foot and vehicle traffic on Washtenaw Avenue. A variance is required because a compliant fence at six (6) feet high and 80% opacity will not achieve the sufficient noise reduction for a reasonable level of residential outdoor enjoyment. In order to fulfill the purpose of blocking noise the fence needs to be (1) **solid** to absorb and reflect the noise and (2) **tall enough** to visually and thus physically block the source of the noise. Because soundwaves will travel through any open space of a fence, 80% opacity would allow traffic noise to pass through. And because the property slopes down away from Washtenaw, six (6) feet is not tall enough to block the sight (and sound) of traffic. A similar variance was approved in 2017 for a property located adjacent to M-14 (ZBA17-006 2999 Nixon Road).

We believe the visual impact of the fence is mitigated by several factors. First, the new fence is limited to the area closest to the traffic noise and will complement the three foot tall picket fence installed on other portions of the property, as well as other tall wood fences located on Washtenaw Ave. In addition, mature landscaping, a yew, several pine trees and honeysuckles will obscure the view of the proposed fence. Third, the variance is only necessary on the 40 feet of fence closest to Washtenaw Ave per Chapter 104, Section 8:434 1(b). Lastly, we have discussed the changes with our closest residential neighbors who support the proposal.

1. **That alleged hardships or practical difficulties, or both, are exceptional and peculiar to the property of the requesting person, and result from conditions which do not exist generally throughout the city.**

An excessive amount of noise from the state trunkline impacts the recreational outdoor space creating a hardship on the property and its occupants. The cause of this hardship is due to Washtenaw Ave located 35 feet from the beginning of the recreational outdoor space. The difficulties in abating this problem is peculiar to this property due to its unusual shape, downward slope and proximity of the house to the source of the noise.

1817 Washtenaw is triangular lot with a 187 foot front property line along Washtenaw (southwest), a 235 foot front property line along Vinewood (north), and 175 foot side property line separating two neighboring properties (southeast), 95 feet between a church at 1833 Washtenaw and 80 feet between a single family residence at 1828 Vinewood. There is no rear property line. A review of lot shapes along this section of Washtenaw reveal only one other lot with similar properties.



The proximity of the house to Washtenaw (25 feet) is closer than other similar properties along Washtenaw, given the house was built when traffic and noise levels were much different.

The combination of lot shape, slope, proximity and level of traffic noise are peculiar to this property and do not exist generally throughout the city. Note that the two properties along Washtenaw where just two of the conditions exist - triangular lot shape and proximity to Washtenaw, six foot high opaque fences have been built. For example, the house at 1015 Ferdon (directly across the street), has a six foot high opaque fence along the Washtenaw property line and sidewalk. 2105 Brockman Avenue, at the corner of Washtenaw and Brockman, also has a similar six foot high opaque fence along the Washtenaw property line and sidewalk. [See EXHIBIT B for photos]

- 2. That alleged hardships or practical difficulties, or both, which will result from a failure to grant the variance include substantially more than mere inconvenience, inability to attain a higher financial return, or both.**

The hardships are substantially more than mere inconveniences. Without the variance, our enjoyment of the outdoor space and its health benefits, would be impacted by loud traffic noise and result in a reduced quality of life. This is not a matter of financial return. As outlined in Section 1, we believe an opaque fence of sufficient height is the only practical way to mitigate these hardships.

- 3. That allowing the variance will result in substantial justice being done, considering the public benefits intended to be secured by this chapter, the individual hardships that will be suffered by a failure of the board to grant a variance, and the rights of others whose property would be affected by the allowance of the variance.**

Granting the variance will not have any negative effects visually or acoustically, on the neighboring community. Please see attached answer #3 for details supporting this position.

Allowing an eight (8) foot tall, 100% opaque fence will not have a negative impact on the surrounding properties and community. The fence will be visibly obscured year-round from Washtenaw by mature landscaping of a maple tree, several pine trees, and a large yew, as well as the downward slope. The fence will be visibly obscured from the neighboring church at 1833 Washtenaw during at least 3 seasons by several old honeysuckles. The fencing will not be adjacent to any residential property. Furthermore, aesthetically the wood fence will complement existing fencing both on the property and nearby properties as described above. Lastly, we are only requesting a variance for the minimum fencing needed to address the hardship, namely to improve the quality of life in the recreational outdoor space closest to Washtenaw Avenue.

We have confirmed with our neighbors at 1828 Vinewood Ave. that they have no objections to our request for variance.

- 4. That the conditions and circumstances on which the variance request is based shall not be self-imposed hardship or practical difficulty.**

The current condition of the site is in no way self imposed. It is the direct result of the growth of the city and resulting increased traffic on Washtenaw Avenue. The natural characteristics of the property present difficulties because of the unique natural features pushed the home to the front of the property in close proximity to Washtenaw. The presence of increasing traffic on Washtenaw is not something over which the applicants have control.

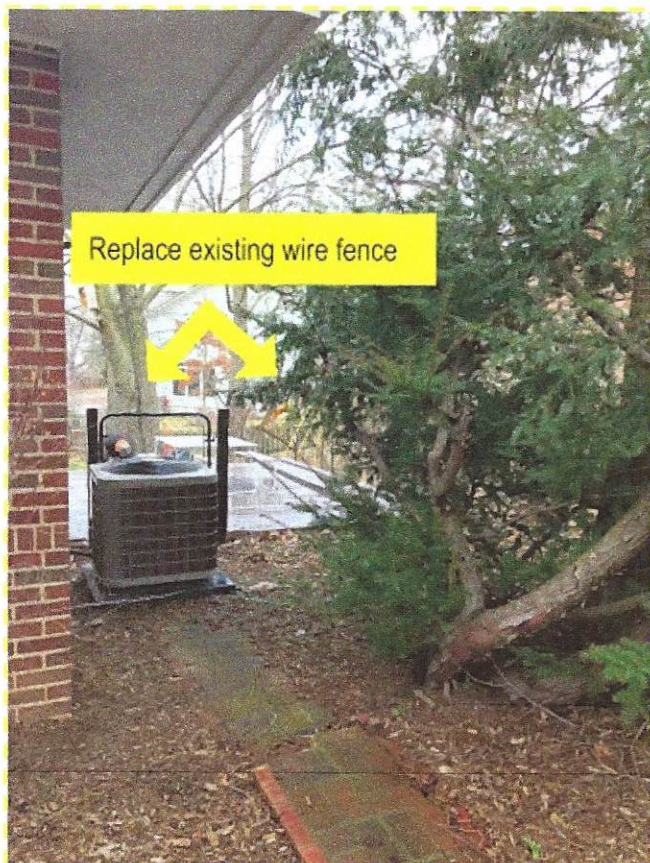
5. A variance approved shall be the minimum variance that will make possible a reasonable use of the land or structure.

As noted above, we are only requesting a variance for the recreational outdoor space located closest to Washtenaw Avenue. The variance requested is simply an additional 20% opacity and 2 feet of height. Furthermore, of the 75 feet of fencing to be installed, only 40 feet will require the variance.

EXHIBIT A: PHOTOS OF 1817 WASHTENAW INCLUDING FENCE LOCATION AND EXAMPLES



View of south east corner of property, bordering the First Church of Christ as viewed from Washtenaw



View of southeast corner from rear of property

ZBA Application for 1817 Washtenaw - Fence Variance - April 25, 2018

Shows slope of yard, high point at sidewalk between home and church.
Only ground level access to yard from house.



View of side yard to show view towards street & site placement.





Example of Fence Appearance



EXHIBIT B: EXAMPLES OF RELEVANT NEARBY PROPERTIES

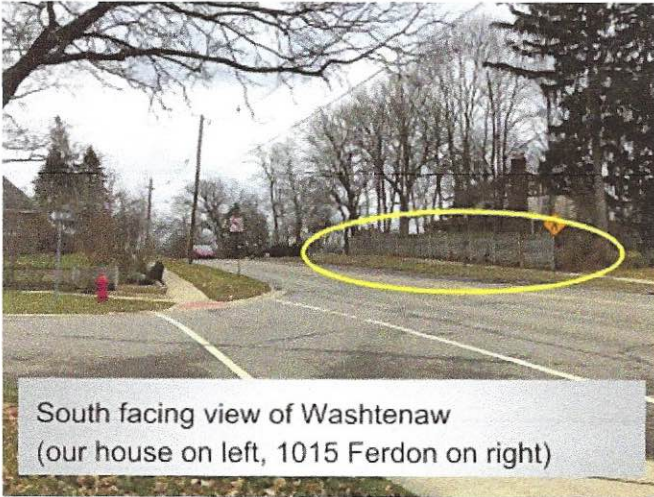
1015 Ferdon (built 1908, zoned R1B) is a similar property directly across the street from 1817 Washtenaw. The lot shape is an acute triangle, the house is set close to street, and neighbors a large community facility. On the west property line (and sidewalk) along Washtenaw is a 100% opaque, six foot tall fence.



View of 1015 Ferdon

View of Washtenaw and Ferdon

ZBA Application for 1817 Washtenaw - Fence Variance - April 25, 2018



South facing view of Washtenaw
(our house on left, 1015 Ferdon on right)

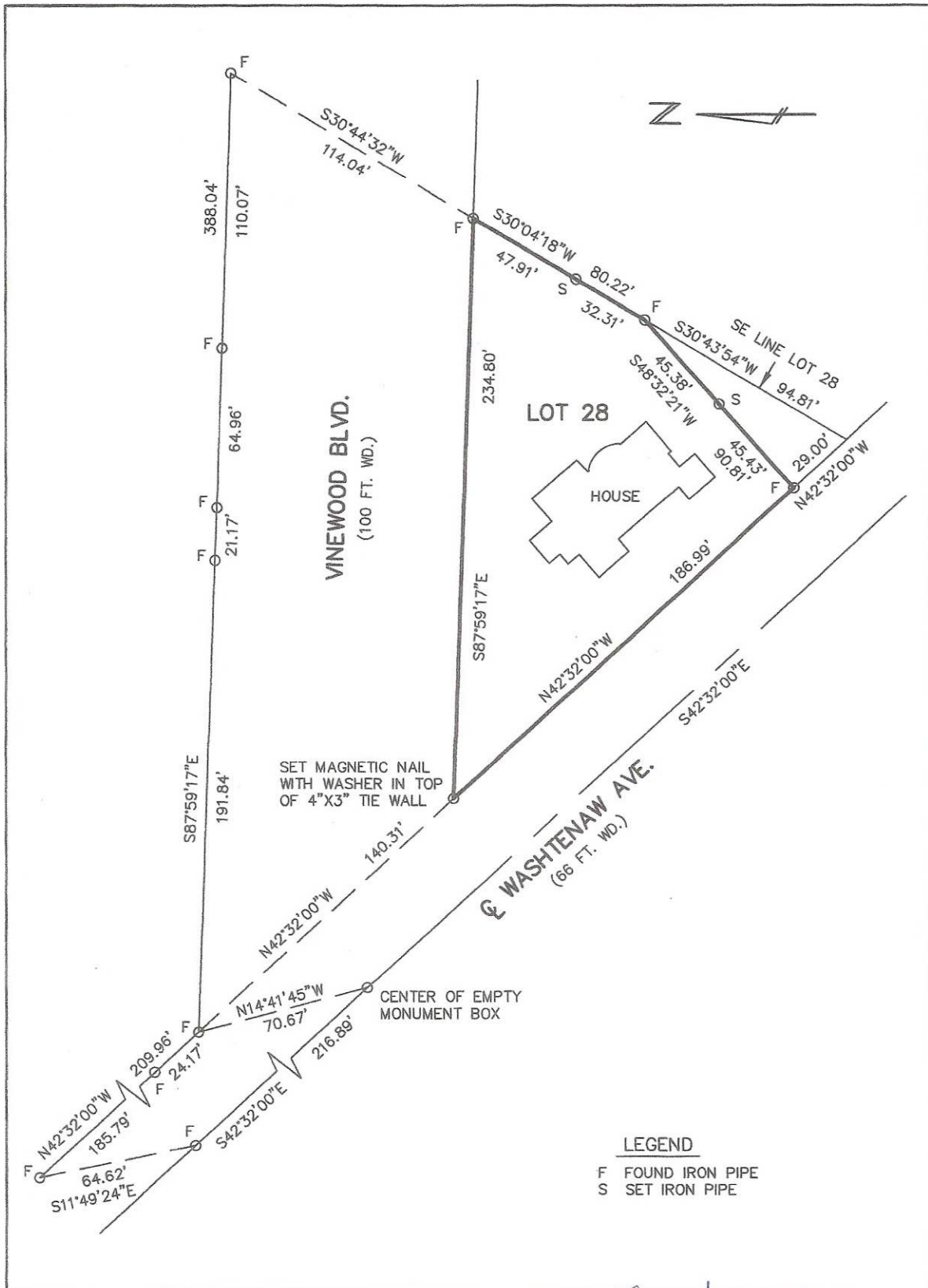


North facing view of Washtenaw
(1015 Ferdon fence on left, and our

house on right)

2105 Brockman (built 1950, zoned R1C) is a similar property 0.4 miles down the road. The lot shape is an acute triangle and the house is set close to street. On the northwest property line (and sidewalk) along Washtenaw is a 100% opaque, six foot tall fence.





COLEMAN LAND SURVEYING, PLC

4301 SALINE-WATERWORKS, RD.
SALINE, MI. 48176

PH 734-944-3266
FAX 734-944-3263

Kenneth R. Coleman
KENNETH R. COLEMAN
PROFESSIONAL SURVEYOR NO. 37271

CLIENT: RYAN REGAN

SECTION 33, TOWN 2 SOUTH, RANGE 6 EAST

SURVEY OF PART OF
LOT 28, ASSESSOR'S
PLAT NO. 15 IN THE
NE 1/4 OF SECTION 33,
T2S, R6E

CITY OF ANN ARBOR

WASHTENAW COUNTY, MICHIGAN

DATE 11-15-16

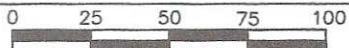
JOB NO. 1996

BOOK 33-68

CAD NO. 1996

SHEET 1 OF 1

FILE NO. 1996



ZBA Application for 1817 Washtenaw Avenue -- Photos of similar fence to be installed.

The following photos are an existing example of the style of fence we are proposing to install at 1817 Washtenaw, namely wood with caps at the top. We believe it will complement the existing fencing on the property as well as the neighborhood in general.

Best regards,
Ryan Regan

