

**Zoning Board of Appeals  
May 27, 2026, Regular Meeting**

**STAFF REPORT**

**Subject: ZBA 26-0008; 1620 Kearney Road**

**Background:**

**Location:** West side of Kearney Rd, between Adare Rd and Washtenaw Ave  
**Lot Area (approximate):** 17,860 sq ft  
**Neighborhood:** Bader-Ann Arbor Hills  
**Parcel Identification Number:** 09-09-34-302-002  
**Property Owners/Applicants:** Stephen and Mary Hunter  
**Zoning District:** R1B Single-Family Residential

**Request:**

A four (4)-foot and fifty (50)-percent variance from Section 5.26.2.B, Table 5.26-1 of the Unified Development Code (UDC) to permit an eight (8)-foot-tall, one-hundred (100)-percent opaque fence within a front yard along Washtenaw Avenue where four (4) feet is the maximum height permitted and fifty (50) percent is the maximum opacity permitted.

	Maximum	Proposed
<b>Fence Height</b>	4 ft	8 ft
<b>Fence Opacity</b>	50%	100%

**UDC Standards:**

Note that per Section 5.18.2 of the UDC, regulations pertaining to the front yard of the zoning district in which a lot is located shall be applied to every lot line abutting a public street.

<b>TABLE 5.26-1: HEIGHT AND OPACITY STANDARDS FOR FENCES</b>					
	RESIDENTIAL DISTRICTS				MIXED-USE, NONRESIDENTIAL AND SPECIAL PURPOSE DISTRICTS
	STREET CORNER TRIANGLE	FRONT YARD	SIDE YARD	REAR YARD	
<b>MAXIMUM HEIGHT</b>	30 in.	4 ft.	6 ft.	8 ft.	12 ft.
<b>MAXIMUM OPACITY</b>	50%	50%	100%	100%	100%

Street corner triangle is the area on a lot within 25 feet of the intersection of two or more Street lot lines.

## **Variance Standards:**

Under State law and the City Charter and Code, the Zoning Board of Appeals (ZBA) has the authority to grant nonuse variances. In considering a variance request, the ZBA shall consider the following criteria in Section 5.29.13.C of the UDC:

1. A variance may be allowed by the ZBA only in cases involving practical difficulties after the ZBA makes an affirmative finding that each of these criteria are met:
2. That the alleged practical difficulties are exceptional and peculiar to the property of the Person requesting the variance, and result from conditions that do not exist generally throughout the City.

*APPLICANT RESPONSE: "The practical difficulties are exceptional and peculiar to this property because the rear lot line abuts Washtenaw Avenue, a high-volume transit corridor, which causes the rear yard to be treated as a 'front yard' for fence regulation purposes even though it functions solely as a backyard. Unlike typical front yards, this rear yard has no driveway, entrance, gate, or pedestrian access from Washtenaw Avenue and is not located near an intersection, so the usual visibility and traffic-safety concerns associated with front-yard fences are not present. The property's direct exposure to constant traffic noise and public visibility creates a unique need for an 8-foot, fully opaque barrier to provide basic privacy, safety, and noise reduction—conditions that are not generally experienced by most residential lots in the City that do not back directly onto a major arterial roadway."*

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

*APPLICANT RESPONSE: "If the variance is not granted, the property owners will be required to replace a long-standing 8-foot, fully opaque barrier with a fence limited to 4 feet in height and 50% opacity along a major transit corridor. This would materially reduce privacy and security in the backyard and significantly increase exposure to traffic noise and headlights, making the rear yard far less usable for normal residential outdoor activities. In addition, the existing tall, opaque fence is an important safety feature for our household because we have three young children (ages 6, 4, and 10 months); a lower, partially open fence would provide substantially less containment and protection adjacent to a heavily traveled roadway. These impacts go well beyond mere inconvenience or financial considerations and would significantly diminish safe, reasonable residential use of the property."*

4. That allowing the variance will result in substantial justice being done, considering the public benefits intended to be secured by this chapter, the practical difficulties 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.

*APPLICANT RESPONSE: "Granting the requested variance would do substantial justice because it would allow the continued use of an existing 8-foot, fully opaque rear-yard barrier along Washtenaw Avenue that is necessary for normal and safe residential use of the property, while still respecting the public purposes of the zoning ordinance. The fence is located along the rear lot line abutting a major transit corridor"*

*and does not front a driveway, intersection, or pedestrian access point; as a result, allowing an 8-foot opaque fence at this location would not create visibility or traffic-safety impacts on Washtenaw Avenue. If the variance is denied, the required 4-foot, 50% opaque fence would materially reduce privacy and noise buffering and would significantly diminish backyard safety and usability for our family, including our three young children (ages 6, 4, and 10 months). The proposed replacement maintains the existing fence height and location, is consistent with similar tall, opaque fences along Washtenaw Avenue, and will not adversely affect neighboring properties—therefore balancing public benefit with the practical difficulties and property rights at issue.”*

5. That the conditions and circumstances on which the variance request is based are not a self-imposed practical difficulty.

*APPLICANT RESPONSE: “The conditions and circumstances supporting this variance request are not self-imposed. The practical difficulty arises from the property’s fixed location and configuration: the rear lot line directly abuts Washtenaw Avenue, a major transit corridor, causing the rear yard fence line to be regulated as ‘front yard’ for zoning purposes. The existing 8-foot fence has been in place and serves as a necessary barrier for safety, privacy, and noise reduction due to traffic volume and proximity. This request is driven by the need to replace a deteriorated, long-standing fence with a new fence of the same height and location, not by any voluntary action to create or intensify a nonconformity.”*

6. The variance to be approved is the minimum variance that will make possible a reasonable use of the land or structure.

*APPLICANT RESPONSE: “The requested variance is the minimum necessary to allow reasonable residential use of the property given its direct exposure to Washtenaw Avenue. We are not seeking to expand the fence line, relocate it, or increase the existing height; we are proposing to replace a deteriorated, existing 8-foot, fully opaque fence with a new fence of the same height and in the same location. A 4-foot, 50% opaque fence would not provide adequate safety, privacy, or noise buffering for a backyard immediately adjacent to a major transit corridor, particularly for a household with young children. Limiting the request to continuation of the existing 8-foot height and full opacity is the least relief that addresses these site-specific conditions.”*

Respectfully submitted,

Erik Perdonik, AICP  
Zoning Coordinator

