

Meeting Date: 10/09/2014

By: Tom Olson, Community Development

Information

Title:

PUBLIC HEARING: Consider a Request for a Variance to Allowable Fence Height in the Front Yard Setback Area at the Property Located at 5859 Alpine Dr NW; Case of James and Patricia Hirschman

Purpose/Background:

The City has received an application for a variance to the height limit for fencing within the front yard setback of the property located at 5859 Alpine Drive NW (the "Subject Property"), which is within the R-1 Residential (MUSA) district. The variance would allow the property owner to deviate from standards described within City Code Section 117-111 (R-1 Residential) to construct a six (6) foot high privacy fence along portions of the Subject Property's front yard, exceeding the height limit by two (2) feet. The request was prompted by the loss of trees that stood where the fencing is being proposed. Those trees were removed as a result of the reconstruction of the intersection immediately adjacent to the Subject Property.

Notification:

Staff attempted to notify all Property Owners within 350 feet of the Subject Property of the Public Hearing. A Public Notice was also advertised in the Anoka UnionHerald.

Observations/Alternatives:

The Subject Property contains 0.77 acres and is located northeast of the intersection of County State Aid Highway (CSAH) 5 and Alpine Dr NW (the "Intersection"). Its a corner lot and therefore has two (2) front yard property lines. All surrounding properties are located with the R-1 Residential (MUSA) district except the parcel to its south, which is zoned B-1 Business.

The Intersection is currently undergoing reconstruction by Anoka County (the "County"). Part of the reconstruction has included the addition of turn lanes, which have increased the road width of Alpine Dr. In addition to relocating the driveway on the Subject Property further east along Alpine Dr, this construction activity necessitated the removal of trees that stood immediately adjacent to the Intersection along the edge of the public right-of-way.

The privacy fence that the Applicant is proposing to install is intended to reconstitute the screening effect that the removed trees once provided. Its location would line the portion of the boundary of the Subject Property's front yard consistent with where the removed trees once stood, as shown in Exhibit A. The Applicant is also proposing to install fencing along remaining stretches of the front yard property line on Alpine Dr that would be four (4) feet in height. The location of the proposed fencing is within the 30-foot front yard setback for properties within the R-1 Residential (MUSA) district, which limits fencing height to four (4) feet.

If approved, the variance would not allow the Applicant to deviate from other fencing standards described in City Code Section 117-111. As part of reconstruction activities, the County will demarcate the public right-of-way boundaries at the Intersection, which will assist the Applicant in properly locating the proposed fencing to be entirely on the Subject Property.

When contemplating a variance request, there is a three (3) factor test for practical difficulties that must be met by the Applicant. The following are the three (3) factors:

1. Is the property owner proposing to use the property in a reasonable manner?
2. Is the landowner's problem due to circumstances unique to the property not caused by the landowner?
3. If granted, would the variance alter the essential character of the locality?

The request appears to satisfy all three (3) factors. Fencing and its use for screening is allowed within the R-1 Residential District and is therefore a reasonable use. The circumstances surrounding the Applicant's problem were the result of a County initiated project, not by the Applicant. And finally, the variance would have no effect on the character of the Subject Property's locality.

Alternatives

Option #1: Approve Resolutions #14-10-208 and #14-10-209 granting a Variance to the maximum height for fences within the front yard setback. The Applicant is requesting permission to reconstitute the screening condition of his removed trees via a six (6) foot tall privacy fence. What prompted this request was not due to actions by the Applicant, but by a construction project initiated by the County. If this option is selected, the Applicant would still have to comply with other fence standards described in Section 117-111. Staff recommends the option.

Option #2: Deny the request for a Variance. This action would not allow the Applicant to construct a fence six (6) feet in height, but a fence that was only four (4) feet tall. This height would not offer the degree of screening that was present with the trees, which were removed by the County and not by the Applicant's choice. The privacy fencing would only be present along a limited extent of the Subject Property facing a busy intersection. Staff does not recommend this option.

As a reminder, for variances, the Planning Commission acts in a quasi-judicial capacity rather than an advisory board.

Funding Source:

Because of the relationship of this request to the reconstruction of the intersection of CSAH 5 and Alpine Dr NW by Anoka County, all associated costs have been waived by the City.

Recommendation:

City Staff recommends approving Resolutions #14-10-208 and #14-10-209 related to a request for a variance to the height limit for fencing within the front yard setback of a residential property.

Action:

Motion to adopt Resolution #14-10-208 approving Findings of Fact #0937 and Resolution #14-10-209 approving the request for a variance related to a request for a variance to the fence height limit within the front yard setback of a residential property;

Attachments

[Site Location Map](#)

[Exhibit A - Site Plan](#)

[Details of Proposed Privacy Fence](#)

[Resolution #14-10-208: Draft Findings of Fact](#)

[Resolution #14-10-209: Draft Variance](#)

Form Review

Inbox

Chris Anderson

Tim Gladhill

Form Started By: Tom Olson

Final Approval Date: 10/01/2014

Reviewed By

Chris Anderson

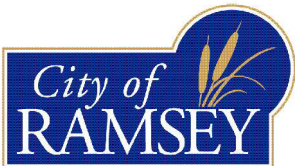
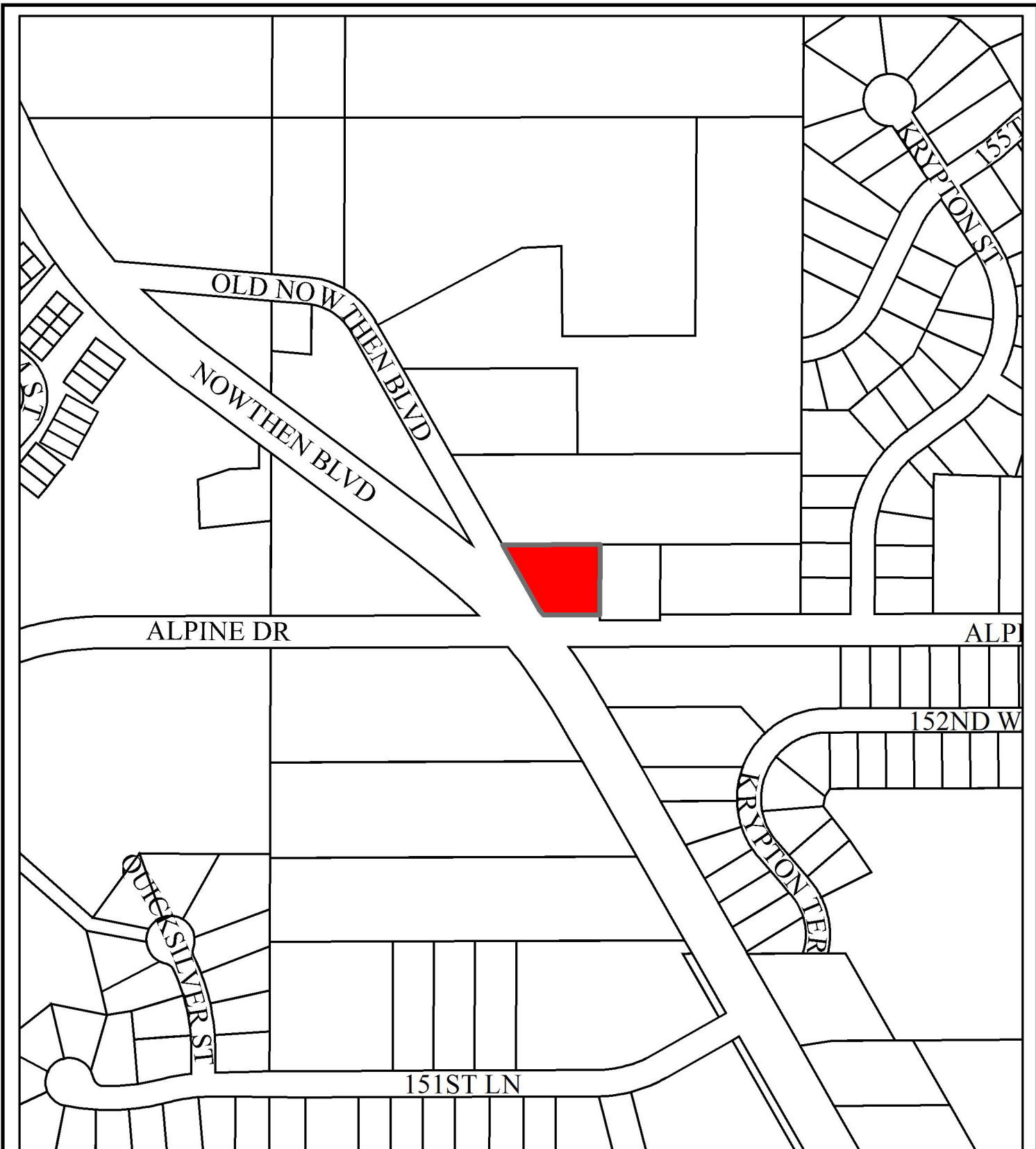
Tim Gladhill

Date

09/30/2014 03:13 PM

10/01/2014 05:25 AM

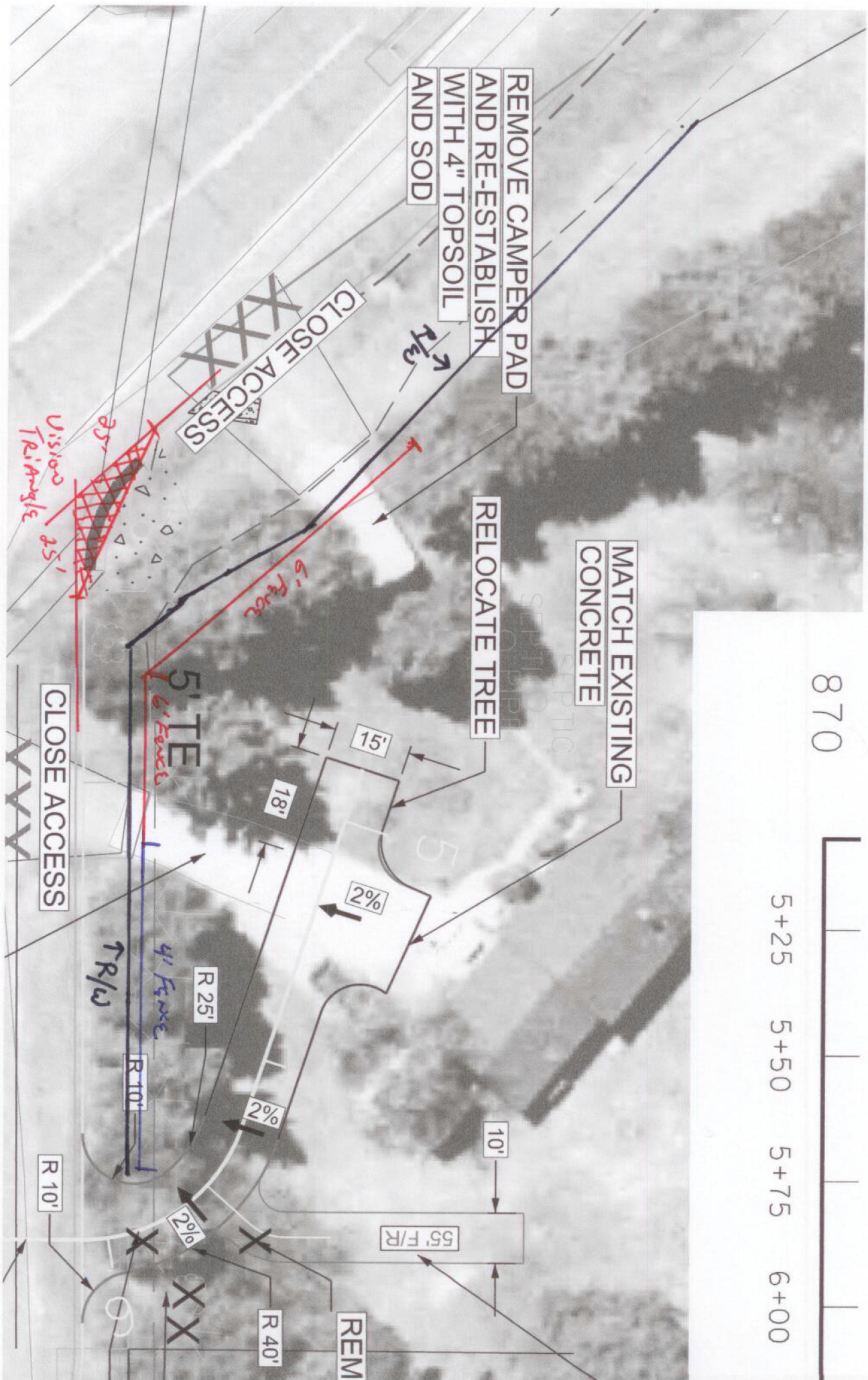
Started On: 09/29/2014 04:23 PM



5859 Alpine Drive NW
23-32-25-13-0010

Legend
 Site
 Parcels

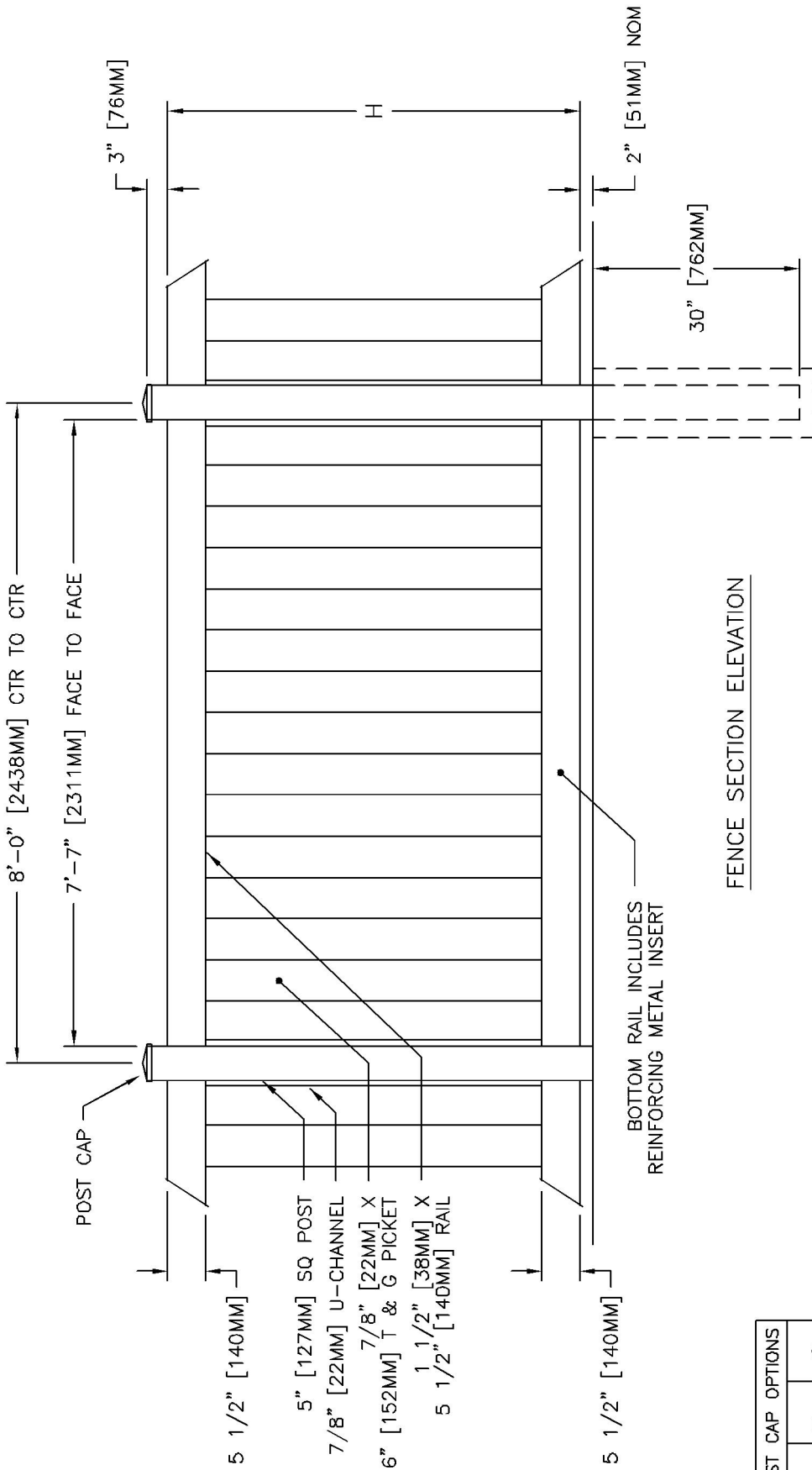




870

5+25 5+50 5+75 6+00





FENCE SECTION ELEVATION

NOM HEIGHT (H)
46" [1168MM]
58" [1473MM]
70" [1778MM]

- NOTES: 1. METRIC DIMENSIONS ARE NOMINAL EQUIVALENTS TO U.S. DIMENSIONS.
 2. SPECIFICATIONS SHOWN CAN BE CHANGED BY MASTER HALCO ONLY.
 3. FOOTING WIDTH TO BE (2)X POST WIDTH. MINIMUM DEPTH 30" [762MM].

POST CAP OPTIONS		
BALL		
FRENCH GOTHIC		
PYRAMID		

MASTER HALCO® <small>Copyright © 2001-2006 Master Halco, Inc. All Rights Reserved.</small>	LEGEND VINYL SERIES by Master Halco Orange, CA Phone No.: 800-229-5615 www.FenceOnline.com	BY: JRR DATE: 10-19-99 REV: C REV DATE: 09-20-06	DWG: 97-1460 LAYER: 1 SCALE: 1/2" = 1'-0"
	PRIVACY STYLE FENCE NOM 8' SECTION LENGTH		

Commissioner _____ introduced the following resolution and moved for its adoption:

RESOLUTION #14-10-208

RESOLUTION ADOPTING FINDINGS OF FACT #0937 RELATING TO A REQUEST FROM JAMES AND PATRICIA HIRSCHMAN FOR A VARIANCE TO HEIGHT OF FENCE WITHIN FRONT YARD SETBACK AT 5859 ALPINE DR NW

WHEREAS, James and Patricia Hirschman, hereinafter referred to as the “Applicant,” have properly applied for a variance from Section 117-111 (R-1 Residential District) of the Ramsey City Code to construct a privacy fence six (6) feet in height within the front yard setback on the property generally known as 5859 Alpine Dr NW and legally described as follows:

That part of the south 255.22 feet of the Southwest Quarter of the Northeast Quarter, as measured along east line thereof, of Section 23, Township 32, Range 25 lying easterly of the center line of CSAH No 5, except east 500 feet thereof, except road subject to eastment of record, Anoka County, Minnesota.

(the “Subject Property”).

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF ADJUSTMENT OF THE CITY OF RAMSEY, ANOKA COUNTY, STATE OF MINNESOTA, as follows:

1. That the Subject Property is approximately 0.77 acres in size and is located in the R-1 Residential (MUSA) zoning district.
2. That the Subject Property is surrounded by properties also zoned R-1 Residential (MUSA), except to the south, which parcel is zoned B-1 Business.
3. That the Subject Property is bound on its west by County State Aid Highway (CSAH) 5 and its south by Alpine Drive NW.
4. That Anoka County is reconstructing the intersection of CSAH 5 and Alpine Drive (the “Construction”).
5. That the Construction has resulted in the relocation of the driveway on the Subject Property to a new area further east along Alpine Drive.
6. That the Construction has also resulted in a loss of trees along the property lines of the Subject Property adjacent to CSAH 5 and Alpine Drive.
7. That, in order to reconstitute the screening that the removed trees provided, the Applicant is proposing to construct a six (6) foot high privacy fence on the Subject Property consistent with what is shown in Exhibit A attached hereto.

8. That the location of the proposed privacy fence will be within the front yard setback of the Subject Property and therefore will be two (2) feet greater than what is allowed according to City Code Section 117-111 (R-1 Residential District).
9. That, if granted, the Variance will not allow the Applicant to deviate from other fence standards described in City Code Section 117-111.
10. That Anoka County will locate the public right-of-way boundaries, which will assist the Applicant in properly locating the fence to be entirely on the Subject Property.
11. That economic circumstances alone do not create the practical difficulties.
12. That the plight is due to circumstances unique to the Subject Property.
13. That the plight was not created by the Applicant.
14. That, if granted, the Variance will/will not alter locality's essential character.
15. That, if granted, the Variance will/will not impair an adequate supply of light and air to adjacent property.
16. That, if granted, the Variance will/will not unreasonably increase congestion on the public street.
17. That, if granted, the Variance will/will not have the effect of allowing any uses prohibited in the applicable zoning district.
18. That if granted, the Variance will/will not permit a lesser degree of public health, safety, and general welfare.
19. That, if granted, the Variance will/will not permit standards that are lower than those required by state law.
20. That, if granted, the Variance will/will not increase the danger of fire or endanger public safety.
21. That, if granted, the Variance will/will not diminish or impair established property values within the neighborhood.

The motion for the adoption of the foregoing resolution was duly seconded by Commissioner _____, and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:

and the following abstained:

and the following were absent:

whereupon said resolution was declared duly adopted by the Ramsey Planning Commission this the 9th day of October, 2014.

Chairperson

ATTEST:

City Clerk

Commissioner _____ introduced the following resolution and moved for its adoption:

RESOLUTION #14-10-209

RESOLUTION APPROVING THE ISSUANCE OF A VARIANCE TO EXCEED THE FENCE HEIGHT LIMIT IN THE FRONT YARD SETBACK AT 5859 ALPINE DR NW AND DECLARING TERMS OF SAME

WHEREAS, James and Patricia Hirschman, hereinafter referred to as the “Permittee,” have properly applied for a variance from Section 117-111 (R-1 Residential District) of the Ramsey City Code to exceed the fence height limit in the front yard setback by two (2) feet on the property generally known as 5859 Alpine Dr NW and legally described as follows:

That part of the south 255.22 feet of the Southwest Quarter of the Northeast Quarter, as measured along east line thereof, of Section 23, Township 32, Range 25 lying easterly of the center line of CSAH No 5, except east 500 feet thereof, except road subject to eastment of record, Anoka County, Minnesota.

(the “Subject Property”).

AND WHEREAS, the Planning Commission conducted a public hearing on October 9, 2014, pursuant to Section 117-53 of the Ramsey City Code.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF ADJUSTMENT OF THE CITY OF RAMSEY, ANOKA COUNTY, STATE OF MINNESOTA, as follows:

1. That based on Findings of Fact #0937, a Variance to construct a fence six (6) feet in height within the front yard setback on the **Subject Property** is hereby granted.
2. That the fence shall be located entirely on the **Subject Property** and comply with all other fence standards described in City Code Section 117-111 (R-1 Residential).
3. That the **Permittee** is responsible for accurately locating the easterly and southerly property lines of the **Subject Property** (survey markers exposed) and having it clearly marked for the City to verify the proposed location of the fencing.
4. That the **Permittee** shall be responsible for all costs incurred in administering and enforcing this Variance.
5. That the **Permittee** shall obtain all necessary permits prior to commencing any construction of the fencing, including a Zoning Permit.
6. That this Variance shall automatically expire if the use is not initiated by October 9, 2015 and issuance of the Zoning Permit shall constitute initiation.

The motion for the adoption of the foregoing resolution was duly seconded by Commissioner _____, and upon vote being taken thereon, the following voted in favor thereof:

and sealed on behalf of said Municipal Corporation by authority of its City Council, and said Gary Levine and JoAnn M Thieling acknowledge said instrument to be the free act and deed of said Municipal Corporation.

Notary Public

This document drafted by:
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Ramsey, MN 55303

This document reviewed by:
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