

Item #1:
Public Hearing
Exceptions To Fence Regulations Along Scenic Road, 3228



MEMORANDUM

TO: Village President and Village Board
FROM: James M. Hogue, Village Planner
DATE: September 4, 2014
RE: Olmos Fence Request – 3228 Illinois Route 53.

Staff has received a request from Mr. Carlos Olmos (attached) requesting exceptions to the fence regulations of the Village Code for the Village of Long Grove, and specifically to allow a privacy fence as follows; i) a fence height of 8' to 10' feet; ii) exception of the 70% open air (non-material) requirement; and; iii) placement of the fence within 100' feet of a state, county or scenic road for property located at 3228 Illinois Route 53.

The property in question is located on the north side of Illinois Route 53 and east of the Dvorak property. The property is more or less north of the intersection of Shiloh Drive and Route 53. The site appears to be part of an old farmstead and the existing house has been in that location possibly since 1884. Aerial photographs of the site identify the location of the existing house (as currently situated) back to 1939. The property is zoned under the R-1 Residential District regulations. The property contains 41, 535 sq. ft. (0.8 acres) of land area and is non-conforming with regard to lot size and setbacks.

Per the plat of survey submitted by the petitioner the house is located approximately 33 feet from the Route 53 right-of-way at its closest point. The fence is proposed to be placed along the entire frontage of the property and approximately 30' up the east property line. No conservancy or scenic corridor easements are located on this property. A similar privacy type fence (in both location and type of fence) exists on the Dvorak property to the west.

The Village Code establishes the following standards for fences as part of the Building Regulations;

Except as otherwise specifically approved by the village board in accordance with section [4-9-4](#) of this chapter, all fences installed after September 1, 2001, shall conform with the following standards:

- (A) The fence facade, when viewed from the road right of way and excluding fence posts, shall be at least seventy percent (70%) open air (nonmaterial). An example of fencing which meets this standard would be a split rail fence. Fences with a solid facade such as stockade fences are prohibited.
- (B) Fence posts shall not exceed six inches by six inches (6" x 6") in dimension and shall be spaced not less than eight feet (8') apart.
- (C) The maximum height of the fence shall not exceed four feet (4') as measured from existing grade.
- (D) Fences shall be constructed with natural, nonmanmade materials such as wood.

(E) No fence shall be located within the road right of way or on public property. (Ord. 2007-O-16,

Exceptions to the aforementioned regulations may be granted by the Village Board as follows;

4-9-4: EXCEPTIONS:

(A) Height And Materials: The village board may, upon good cause shown and by resolution duly adopted at a meeting of the village board, approve an exception from the maximum fence height limitation contained in subsection [4-9-3\(C\)](#) of this chapter or the fence material restriction contained in subsection [4-9-3\(D\)](#) of this chapter.

(B) Open Air Fences: The village board may approve an exception from the seventy percent (70%) open air limitation contained in subsection [4-9-3\(A\)](#) of this chapter, subject to the following:

1. Procedures:

- (a) An application for an exception from the open air fence limitation must be filed with the village manager stating the reasons for requesting relief.
- (b) The village board will hold a public hearing to consider the application for relief. Notice of the hearing must be published at least ten (10) days prior to the scheduled hearing.
- (c) The village board may, but is not required to, refer the application for relief to the conservancy/scenic corridor easement committee for its review and recommendations.
- (d) If the village board determines that the application meets the provisions of this subsection (B), the village board may approve the exception by resolution.

2. Standards: The village board is authorized to grant an exception from the open air fence limitation of subsection [4-9-3\(A\)](#) of this chapter upon a determination that the exception is, in light of all applicable circumstances, in the best interests of the village and will not materially affect the character of the village. In making any such determination, the village board must find that all of the following standards are satisfied:

- (a) **The applicant has demonstrated that the open air fence limitation of subsection [4-9-3\(A\)](#) of this chapter causes a practical difficulty or particular hardship to the applicant. Examples of a practical difficulty or particular hardship might include the location or orientation of the existing principal structure on the lot or the impracticability of an alternative solution such as a berm.**
- (b) **The existing principal structure on the property is not more than thirty five feet (35') from the road right of way.**
- (c) **The existing principal structure on the lot has historic value or contributes to the character of the village. In the event that the principal structure is demolished, the fence must be promptly removed or brought into compliance with subsection [4-9-3\(A\)](#) of this chapter.**
- (d) **The application provides certain public benefits, including, without limitation, the installation of substantial landscaping on the lot.**

- (e) **The applicant agrees: 1) to maintain the fence and any associated landscaping and 2) to authorize the village to undertake such maintenance in the event the owner of the property fails to do so (and recover the cost thereof from the owner of the property).**
- (f) **The applicant agrees to record appropriate covenants and easements on the property to assure compliance with the standards and any conditions associated with the grant of an exception. (Ord. 2007-O-16, 9-11-2007)**

Conclusions

The principal structure on the property is quite old and per county records may have been constructed in 1884. Historical aerial photos indicate the house has been in this location since at least 1939 and likely much earlier than that. It is certain the right-of way for Route 53 has expanded since that time thus moving the right- of- way 7 traffic closer to the existing residence.

A privacy fence at this location does not seem unreasonable given the proximity of the house to the right-of-way and the high volume of traffic on Route 53. A similar type fence exists on the property immediately adjacent and to the west of this property (Dvorak property).

Sight lines should be maintained to the greatest degree possible from the driveway to provide safe ingress and egress to the property.

The Village Board is reminded of the standards for such exceptions as listed and above and should consider those standards in evaluating this request.

Lake County, Illinois



LakeCounty
Geographic Information System

Lake County Department
of Information Technology
18 N County St
Waukegan IL 60085
(847) 377-2373

- Forest Preserves
- Lake County Border
- Streams
- Tax Parcels
- Trails

Map Printed on 09/04/2014

Disclaimer

The selected soil feature layer may not occur anywhere in the current map extent. A Registered Land Surveyor should be consulted to determine the precise location of property boundaries on the ground. This map does not constitute a regulatory determination and is not a base for engineering design. This map is intended to be viewed and printed in color.

Lake County, Illinois



LakeCounty
Geographic Information System

Lake County Department
of Information Technology
18 N County St
Waukegan IL 60085
(847) 377-2373



- Tax Parcels: (various)
- Forest Preserves
- Lake County Border
- Streams
- Tax Parcels
- Trails

Map Printed on 09/04/2014
Parcel 14-25-400-022 is outlined.

Disclaimer

The selected soil feature layer may not occur anywhere in the current map extent. A Registered Land Surveyor should be consulted to determine the precise location of property boundaries on the ground. This map does not constitute a regulatory determination and is not a base for engineering design. This map is intended to be viewed and printed in color.

RECEIVED

AUG 11 2014

VILLAGE OF LONG GROVE

**Carlos Olmos
3228 IL Rt. 53
Long Grove IL, 60047**

July 31, 2014

To: The Village of Long Grove

RE: Permit for a fence

I am writing to inform you of the reasons for creating a fence on my property line. There are a few reasons for putting up a fence.

1. Our house is located on a very busy road where there are constant cars going back and forth, and the bright lights from the cars flash directly at our windows that come directly from the street "Shiloh" as well as the cars coming from the east and west.
2. Our home and the road are very close together by only a short distance making it very dangerous; route 53 is a busy road throughout the whole day. A fence would make our family feel safer.
3. There is no privacy due the high amount of traffic; our house is very close to the road making everything visible from our patio all year round and especially in the summer time when we are outside.
4. The noise is unbearable and with a fence from 8' to 10'; the high visibility, bright lights and noise can be greatly reduced.

The fence would be a total of 158' on the front side of the house on our property line, and it would be at the same distance from the road as our neighbor's fence on the east and our neighbor's fence on the west. The fence will extend 30' on the side of the house on the SE side alongside the fence at the house 3222 Rt. 53 that will also be on our property line. Reason being for this is due the high visibility of cars passing by which face directly at our patio.

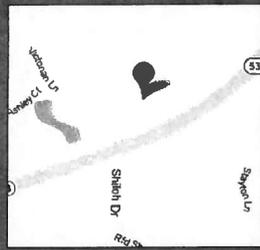
Creating this fence will help me and my family out greatly, we have already placed many plants hoping to reduce the high visibility and bright lights however our house still remains highly visible and we would feel safer and more at ease with this fence. Please contact me for any questions at my cell phone (847) 875-3405.

Thank you,
Carlos Olmos

EXACTA

Illinois Surveyors, Inc.

www.ExactaChicago.com
 P (773)305-4010 • F (773)305-4011
 1730 Park Street, Suite 204, Naperville, IL 60563



PROPERTY ADDRESS: 3228 IL ROUTE 53 LONG GROVE, ILLINOIS 60047

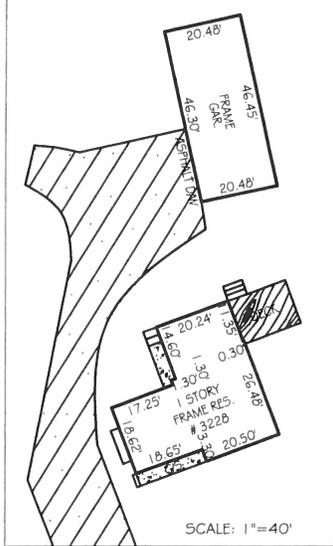
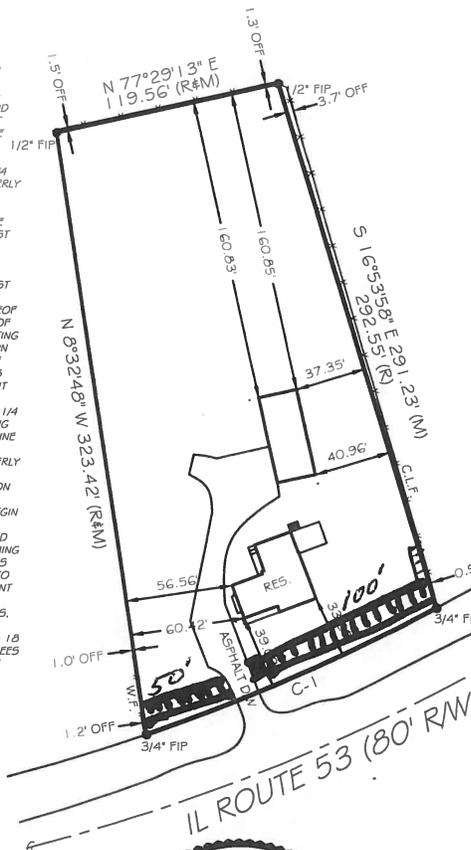
SURVEY NUMBER: 1303.0151

FIELD WORK DATE: 3/28/2013 REVISION DATE(S): (REV.0 4/1/2013)

1303.0151

BOUNDARY SURVEY
LAKE COUNTY

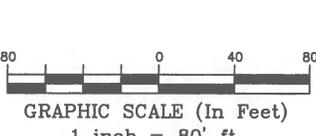
THAT PART OF THE EAST 17 ACRES OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 25, TOWNSHIP 43 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT A POINT ON THE SOUTH LINE OF SAID NORTHWEST 1/4 OF THE SOUTHEAST 1/4, 230.5 FEET WEST OF THE SOUTHEAST CORNER, THENCE NORTHERLY ON A LINE FORMING AN ANGLE OF 74 DEGREES 51 MINUTES 20 SECONDS FROM WEST TO NORTH WITH THE SOUTH LINE OF SAID NORTHWEST 1/4 OF THE SOUTHEAST 1/4 413.55 FEET; THENCE WESTERLY ON A LINE FORMING AN ANGLE OF 94 DEGREES 28 MINUTES FROM SOUTH TO WEST WITH THE LAST DESCRIBED LINE, A DISTANCE OF 220.45 FEET TO THE WEST LINE OF THE EAST 17 ACRES OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 25; THENCE SOUTH ON THE WEST LINE OF SAID EAST 17 ACRES, 356.83 FEET TO THE SOUTH LINE OF SAID NORTHWEST 1/4 OF THE SOUTHEAST 1/4, THENCE EAST ON SAID SOUTH LINE 330.33 FEET TO THE POINT OF BEGINNING, (EXCEPTING THEREFROM THAT PART THEREOF LYING SOUTH OF THE NORTHERLY LINE OF THE RIGHT OF WAY OF STATE HIGHWAY ROUTE 53 AND ALSO EXCEPTING THAT PART THEREOF LYING WESTERLY OF A LINE DRAWN FROM A POINT IN THE NORTHERLY LINE OF SAID STATE HIGHWAY ROUTE 53, 20.16 FEET NORTHEASTERLY, AS MEASURED ALONG THE NORTHERLY LINE OF SAID RIGHT OF WAY, FROM THE INTERSECTION OF SAID RIGHT OF WAY LINE WITH THE SOUTH LINE OF SAID NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 25, AND RUNNING THENCE NORTHERLY TO A POINT ON THE NORTHERLY LINE OF SAID TRACT 115.0 FEET EASTERLY, AS MEASURED ALONG SAID NORTHERLY LINE FROM THE NORTHWESTERLY CORNER OF SAID TRACT AND ALSO EXCEPT A PARCEL DESCRIBED AS FOLLOWS: COMMENCING AT A POINT ON THE SOUTH LINE OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 25, SAID POINT BEGIN 230.50 FEET WEST OF THE SOUTHEAST CORNER OF SAID NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 25; THENCE NORTHERLY ALONG A LINE FORMING AN ANGLE OF 74 DEGREES, 27 MINUTES, 40 SECONDS EAST ALONG THE LAST DESCRIBED LINE 50.0 FEET; THENCE SOUTH 75 DEGREES, 00 MINUTES, 18 SECONDS WEST, 120.0 FEET; THENCE NORTH 7 DEGREES 56 MINUTES 42 SECONDS WEST 49.92 FEET; THENCE NORTH 79 DEGREES 00 MINUTES, 18 SECONDS EAST, 113.45 FEET TO THE POINT OF BEGINNING, IN LAKE COUNTY, ILLINOIS.



C-1
 $R = 1038.65' (R\#M)$
 $L = 167.53' (R\#M)$
 $\Delta = 9^\circ 14' 29'' (R\#M)$
 $CH = 566^\circ 22' 00'' W, 167.35' (R\#M)$

STATE OF ILLINOIS } 55
 COUNTY OF GRUNDY }

THIS IS TO CERTIFY THAT THIS SERVICE CONFORMS TO THE CURRENT ILLINOIS MINIMUM STANDARDS FOR A BOUNDARY SURVEY. GIVEN UNDER MY HAND AND SEAL THIS 1st DAY OF APRIL, 2013 AT 316 E. JACKSON ST. IN MORRIS, IL 60450.



Kenneth Kennedy
 ILLINOIS PROFESSIONAL LAND SURVEYOR No. 3403
 LICENSE EXPIRES 11/30/2014
 EXACTA LAND SURVEYORS LB# 5763

RECEIVED
 AUG 11 2014
 RECEIVED
 MAR 19 2014

VILLAGE OF LONG GROVE

THE ABOVE SURVEY IS A PROFESSIONAL SERVICE IN COMPLIANCE WITH THE MINIMUM STANDARDS OF THE STATE OF ILLINOIS. NO IMPROVEMENTS SHOULD BE MADE ON THE BASIS OF THIS PLAT ALONE. PLEASE REFER ALSO TO YOUR DEED, TITLE POLICY AND LOCAL ORDINANCES. COPYRIGHT BY EXACTA ILLINOIS SURVEYORS. THIS DOCUMENT MAY ONLY BE USED BY THE PARTIES TO WHICH IT IS CERTIFIED. PLEASE DIRECT QUESTIONS OR COMMENTS TO EXACTA ILLINOIS SURVEYORS, INC. AT THE NUMBER IN THE BOTTOM RIGHT CORNER.

CLIENT NUMBER:	DATE: 4/1/2013
BUYER: Juan Olmos	
SELLER:	
CERTIFIED TO: JUAN OLMOS	

POINTS OF INTEREST
 NONE VISIBLE

Exacta Illinois Surveyors, Inc. is a full service, bonded land survey firm registered with the state of Illinois.



EXACTA
 Illinois Surveyors, Inc.
 www.ExactaChicago.com
 P (773)305-4010 • F (773)305-4011
 1730 Park Street, Suite 204, Naperville, IL 60563
 LB# 184005763









LEGAL NOTICE
VILLAGE OF LONG GROVE, ILLINOIS
NOTICE OF A PUBLIC HEARING FOR
CONSIDERATION OF EXCEPTIONS TO THE FENCE
REGULATIONS FOR A PRIVACY FENCE ON
PROPERTY AT 3228 ROUTE 53 AND WITHIN THE
VILLAGE OF LONG GROVE, ILLINOIS

PUBLIC NOTICE IS HEREBY GIVEN that on Tuesday, September 9, 2014 at 7:00 p.m., The Long Grove Village Board will hold a public hearing for consideration of a proposal by Mr. Carlos Olmos for exceptions to the fence regulations of the Village Code for the Village of Long Grove, and specifically to allow a privacy fence as follows; i) a fence height of 8' to 10' feet; ii) exception of the 70% open air (non-material) requirement; and; iii) placement of the fence within 100' feet of a state, county or scenic road for property legally described as follows;

Legal Description

That part of the east 17 acres of the Northwest Quarter of the Southeast Quarter of 25, Township 43 North, Range 10 East, of the Third Principal Meridian, described as follows; commencing at a point on the south line of said Northwest Quarter of the Southeast Quarter 230.5 feet West of the Southeast Corner, thereof, thence, northerly on line forming an angle of 74 degrees, 51 minutes, 20 seconds west to north with the south line of said Northwest Quarter of the Southeast Quarter 413.55 feet; thence westerly on a line forming an angle of 94 degrees, 28 minutes from south to west with the last described line, a distance of 228.45 feet to the west line of the east 17 acres of the Northwest Quarter of the Southeast Quarter of Section 25; thence south on the west line of said east 17 acres, 356.85 feet to the south line of said Northwest Quarter of the Southeast Quarter; thence East on said south line 330.33 feet to the point of beginning excepting therefrom property used for right-of-way purposes for Illinois Route 53, all in Lake County, Illinois.

Commonly known as; 3228 Illinois Route 53

PIN 14-25-400-022

Persons attending the hearing shall have the opportunity to provide written and oral comments and questions concerning the proposed exceptions to the fence regulations.

The Village Board reserve the rights to continue this matter to a later date and time should that become necessary.

James M. Hogue

Village Planner

Village of Long Grove

Published in Daily Herald August 28, 2014 (4384184)

CERTIFICATE OF PUBLICATION

Paddock Publications, Inc.

Daily Herald

Corporation organized and existing under and by virtue of the laws of the State of Illinois, DOES HEREBY CERTIFY that it is the publisher of the **DAILY HERALD**. That said **DAILY HERALD** is a secular newspaper and has been circulated daily in the Village(s) of Algonquin, Antioch, Arlington Heights, Aurora, Barrington, Barrington Hills, Lake Barrington, North Barrington, South Barrington, Bartlett, Batavia, Buffalo Grove, Burlington, Campton Hills, Carpentersville, Cary, Deer Park, Des Plaines, South Elgin, East Dundee, Elburn, Elgin, Elk Grove Village, Fox Lake, Fox River Grove, Geneva, Gilberts, Grayslake, Green Oaks, Gurnee, Hainesville, Hampshire, Hanover Park, Hawthorn Woods, Hoffman Estates, Huntley, Inverness, Island Lake, Kildeer, Lake Villa, Lake in the Hills, Lake Zurich, Libertyville, Lincolnshire, Lindenhurst, Long Grove, Mt. Prospect, Mundelein, Palatine, Prospect Heights, Rolling Meadows, Round Lake, Round Lake Beach, Round Lake Heights, Round Lake park, Schaumburg, Sleepy Hollow, St. Charles, Streamwood, Tower Lakes, Vernon Hills, Volo, Wauconda, Wheeling, West Dundee, Wildwood, Sugar Grove, North Aurora

County(ies) of Cook, Kane, Lake, McHenry and State of Illinois, continuously for more than one year prior to the date of the first publication of the notice hereinafter referred to and is of general circulation throughout said Village(s), County(ies) and State.

I further certify that the DAILY HERALD is a newspaper as defined in "an Act to revise the law in relation to notices" as amended in 1992 Illinois Compiled Statutes, Chapter 7150, Act 5, Section 1 and 5. That a notice of which the annexed printed slip is a true copy, was published August 28, 2014 in said DAILY HERALD.

IN WITNESS WHEREOF, the undersigned, the said PADDOCK PUBLICATIONS, Inc., has caused this certificate to be signed by, this authorized agent, at Arlington Heights, Illinois.

PADDOCK PUBLICATIONS, INC.
DAILY HERALD NEWSPAPERS

BY Daula Baltz
Authorized Agent

Control # 4384184



SEP 02 2014



August 29, 2014

Mr. Carlos Olmos
3228 RFD
Long Grove, Illinois 60047

RE: Request for Fencing – 3228 RFD

Dear Mr. Olmos,

Upon review of your request for a privacy fence on your property it has been determined that exceptions to the Village Fence regulations must be granted before such a fence can be lawfully erected. The required exceptions are as follows;

- a fence height of 8' to 10' feet;
- exception of the 70% open air (non-material) requirement; and;
- placement of the fence within 100' feet of a state, county or scenic road for property.

A public hearing has been scheduled for Village Board consideration of this matter. This hearing will occur on September 9th 2014 at 7:00 PM in the Long Grove Village Hall. You should be in attendance at this meeting to answer questions and possibly provide testimony regarding the specifics of this request. I have attached a copy of the Village fence regulations for your consideration. Please pay particular attention to the "standards" for exceptions to these regulations and how these standards relate to your request.

If you could also provide pictures of the proposed fencing as well as specifications (a "spec sheet") including materials, posts, and other relevant data regarding the type of fence being proposed that would be very helpful. If you can provide this information by, Wednesday, September 3, 2014, at 5:00 P.M. it can include it in the packet of information the Village Board receives prior to the meeting date. If this is not possible please have this information with you at the public hearing on September 9th.

Please feel free to contact me at 847-634-9440 if you have any questions.

Sincerely,

James M. Hogue

James M. Hogue
Village Planner

cc: David Lothspeich, Village Manager
Margarita Romanello; Building Commissioner

LEGAL NOTICE

VILLAGE OF LONG GROVE, ILLINOIS

NOTICE OF A PUBLIC HEARING FOR CONSIDERATION OF EXCEPTIONS TO THE FENCE REGULATIONS FOR A PRIVACY FENCE ON PROPERTY AT 3228 ROUTE 53 AND WITHIN THE VILLAGE OF LONG GROVE, ILLINOIS

PUBLIC NOTICE IS HEREBY GIVEN that on Tuesday, September 9, 2014 at 7:00 p.m., The Long Grove Village Board will hold a public hearing for consideration of a proposal by Mr. Carlos Olmos for exceptions to the fence regulations of the Village Code for the Village of Long Grove, and specifically to allow a privacy fence as follows; i) a fence height of 8' to 10' feet; ii) exception of the 70% open air (non-material) requirement; and; iii) placement of the fence within 100' feet of a state, county or scenic road for property legally described as follows;

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Commonly known as; 3228 Illinois Route 53

PIN 14-25-400-022

Persons attending the hearing shall have the opportunity to provide written and oral comments and questions concerning the proposed exceptions to the fence regulations.

The Village Board reserve the rights to continue this matter to a later date and time should that become necessary.

James M. Hogue
Village Planner
Village of Long Grove

STERLING
Sterling Codifiers, Inc.

Chapter 9

FENCES

4-9-1: PURPOSE:

The purpose of this chapter is to regulate fences to ensure compatibility with the rural character of the village and to provide aesthetically pleasing fence facades. (Ord. 2007-O-16, 9-11-2007)

4-9-2: APPLICABILITY:

This chapter shall apply to all fences which front upon and are located within one hundred feet (100') of any state or county highway or scenic road as described in chapter 11 of the 1999 Long Grove comprehensive plan, as amended. Nothing in this chapter is intended to supersede otherwise applicable restrictions for conservancy districts, scenic corridor easements, and other protected areas, as set forth in this code or in recorded easement restrictions. In the event of a conflict between the provisions of this chapter and any other provision of this code or easement restriction, the stricter provision shall control. (Ord. 2007-O-16, 9-11-2007)

4-9-3: STANDARDS:

Except as otherwise specifically approved by the village board in accordance with section 4-9-4 of this chapter, all fences installed after September 1, 2001, shall conform with the following standards:

- (A) The fence facade, when viewed from the road right of way and excluding fence posts, shall be at least seventy percent (70%) open air (nonmaterial). An example of fencing which meets this standard would be a split rail fence. Fences with a solid facade such as stockade fences are prohibited.

- (B) Fence posts shall not exceed six inches by six inches (6" x 6") in dimension and shall be spaced not less than eight feet (8') apart.

- (C) The maximum height of the fence shall not exceed four feet (4') as measured from existing grade.
- (D) Fences shall be constructed with natural, nonmanmade materials such as wood.
- (E) No fence shall be located within the road right of way or on public property. (Ord. 2007-O-16, 9-11-2007)

4-9-4: EXCEPTIONS:

- (A) Height And Materials: The village board may, upon good cause shown and by resolution duly adopted at a meeting of the village board, approve an exception from the maximum fence height limitation contained in subsection 4-9-3(C) of this chapter or the fence material restriction contained in subsection 4-9-3(D) of this chapter.
- (B) Open Air Fences: The village board may approve an exception from the seventy percent (70%) open air limitation contained in subsection 4-9-3(A) of this chapter, subject to the following:
 - 1. Procedures:
 - (a) An application for an exception from the open air fence limitation must be filed with the village manager stating the reasons for requesting relief.
 - (b) The village board will hold a public hearing to consider the application for relief. Notice of the hearing must be published at least ten (10) days prior to the scheduled hearing.
 - (c) The village board may, but is not required to, refer the application for relief to the conservancy/scenic corridor easement committee for its review and recommendations.
 - (d) If the village board determines that the application meets the provisions of this subsection (B), the village board may approve the exception by resolution.
 - 2. Standards: The village board is authorized to grant an exception from the open air fence limitation of subsection 4-9-3(A) of this chapter upon a determination that the exception is, in light of all applicable circumstances, in the best interests of the village and will not materially

affect the character of the village. In making any such determination, the village board must find that all of the following standards are satisfied:

- (a) The applicant has demonstrated that the open air fence limitation of subsection 4-9-3(A) of this chapter causes a practical difficulty or particular hardship to the applicant. Examples of a practical difficulty or particular hardship might include the location or orientation of the existing principal structure on the lot or the impracticability of an alternative solution such as a berm.
- (b) The existing principal structure on the property is not more than thirty five feet (35') from the road right of way.
- (c) The existing principal structure on the lot has historic value or contributes to the character of the village. In the event that the principal structure is demolished, the fence must be promptly removed or brought into compliance with subsection 4-9-3(A) of this chapter.
- (d) The application provides certain public benefits, including, without limitation, the installation of substantial landscaping on the lot.
- (e) The applicant agrees: 1) to maintain the fence and any associated landscaping and 2) to authorize the village to undertake such maintenance in the event the owner of the property fails to do so (and recover the cost thereof from the owner of the property).
- (f) The applicant agrees to record appropriate covenants and easements on the property to assure compliance with the standards and any conditions associated with the grant of an exception. (Ord. 2007-O-16, 9-11-2007)

4-9-5: AMORTIZATION:

Any fence which exists as of August 31, 2001, and which does not conform with the standards set forth in section 4-9-3 of this chapter, shall be brought into compliance with these standards on or before September 1, 2011. (Ord. 2007-O-16, 9-11-2007)