



**AGENDA  
FOR THE CITY OF OLIVETTE  
PLANNING AND COMMUNITY DESIGN  
COMMISSION  
MEETING OF JULY 21, 2016  
AT 7:30 P.M.  
IN THE OLIVETTE CITY COUNCIL  
CHAMBERS  
AT CITY HALL GOVERNMENT CENTER  
LOCATED AT 9473 OLIVE BOULEVARD**

1. Roll Call
2. Review Of Commission Procedures
3. Consent Business
4. Old Business
5. New Business
  - A. 22 South Covington Meadow Road  
Petition for: Site Plan Review  
Description: Request for fence variance regarding placement of post and framing  
Petitioner: Joshua Avigad  
Property Owner: Joshua Avigad and Laura Kaplan  
Documents:  

[COVINGTON MEADOWS RD S-NO 22 VARIANCE SR ATTACHMENTS.PDF](#)
  - B. Text Amendment: Chapter 440 Communications Towers  
Ordinance to amend communication tower facilities in all zoning districts.
  - C. Text Amendment For Review Procedures For Site Plan, Community Design, And Stormwater Management Under Title IV Land Use Of The Olivette Municipal Code  
Amend Review Procedures for Site Plan Review under Chapter 400 Zoning Regulations, Community Design Review under Chapter 425, and Concept Stormwater Management Plan Review under Chapter 422 Stormwater Management.
6. None.
7. Other Business
  - A. Meeting Minutes
8. Discussion Items
  - A. Stormwater Management  
Continued discussion regarding Stormwater management requirements for single family residential construction under Chapter 422 Stormwater Management.
  - B. COR And LID Districts Land Use And Parking  
Discussion regarding permitted uses, special permit uses, and off-street parking in the "LID" and "COR" Districts.

## 9. Reports

Under this agenda item, the Planning and Community Design Commission is provided updates by:

- Director of Planning and Community Development regarding planning and development activity; and
- City Council Liaison regarding City Council and city wide activities.

## 10. Adjournment

AGENDA ITEMS WILL NOT NECESSARILY BE DISCUSSED IN ORDER. IF YOU HAVE ANY QUESTIONS, PLEASE CALL CITY HALL AT (314) 993-0444.

### THE NEXT SCHEDULED MEETING IS AUGUST 4, 2016

The City of Olivette hereby advises the public, employees and qualified job applicants that they are afforded an equal opportunity to participate in the programs and service of the City regardless of race, color, religion, veteran status, national origin, sex, age, sexual orientation, the existence of a physical or mental disability, or any other classification protected by law. If you are a person with a disability and have special needs, please call Barbara Sondag, City Manager at 314.993.0444 as soon as possible but no later than one day prior to the event or call 314.993.3610 VOICE TDD, 1.800.735.2466 RELAY MISSOURI. Thank you..

Posted this 15<sup>th</sup> day of July, 2016 at 2:00 PM.

**Myra G. Bennett**

Myra G. Bennett, CMC/MPCC  
City Clerk  
City of Olivette



**DEPARTMENT MEMORANDUM**

**DATE:** JULY 21, 2016  
**TO:** PLANNING AND COMMUNITY DESIGN COMMISSION  
**FROM:** CARLOS TREJO, AICP  
DIRECTOR OF PLANNING AND COMMUNITY DEVELOPMENT  
**RE:** 22 S COVINGTON MEADOW ROAD  
PETITION FOR SITE PLAN REVIEW TO AUTHORIZE FENCE VARIANCE REQUEST  
**PETITIONER/PROPERTY OWNER:**  
JOSHUA AVIGAD

**SUMMARY OF PETITION:**

**Item Introduced: July 21, 2016 Commission has sixty (60) days to act. No later than September 19, 2016**

1. Request for Site Plan Review to authorize a variance to allow the structural support members of the replacement of the side yard fence to face away from the property and the finished surface to face the enclosed area.
2. A building permit is required for the replacement of fence pickets. The fence pickets were replaced without a permit. The structural support members were not replaced. Currently, the building permit application for the replacement of the fence pickets has been placed on hold for Commission review.
3. In 2007, the Commission authorized a fence variance to allow the structural support members of the replacement of the rear yard fence to face away from the property and the finished surface to face the enclosed area, with the exception that the segment abutting 3 Arbor to provide a finished surface on both sides.
4. Letter from Petitioner states the property was acquired with the fence finished side facing the interior of the lot.
5. Petitioner has provided authorization from the neighbor in favor of granting the variance.
6. Property is an interior lot abutting three residential parcels to the rear and one parcel per side.
7. Fence variance procedures are authorized under Section 435.050 of Title IV Land Use of the Olivette Municipal Code as follows:

**SECTION 435.050: VARIANCES**

*In accordance with the procedures outlined in Article XI Site Plan Review of Chapter 400 Zoning Regulations, where the Planning and Community Design Commission determines upon written request of an applicant that compliance with any requirement of Section 435.030 Ornamental Fences on Residential Lots or of Section 435.040 Residential Fences on Rear and Side Yards*

- will impose unnecessary hardship or
- practical difficulty

*upon a particular property, the Planning and Community Design Commission may vary the requirement.*

*In exercising this authority, the Planning and Community Design Commission shall vary requirements only to the extent necessary to alleviate the unnecessary hardship or practical difficulty consistent with the aesthetic, health and safety objectives of Sections 435.030 and 435.040 of this Chapter.*

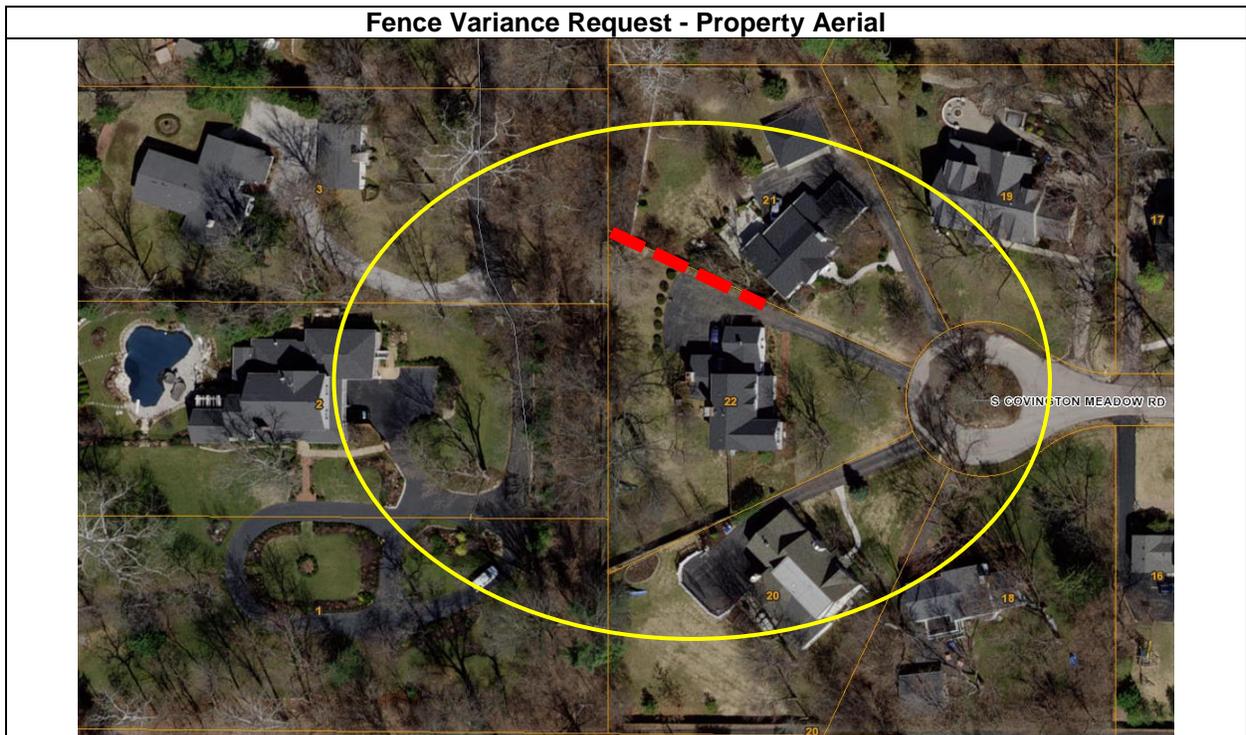
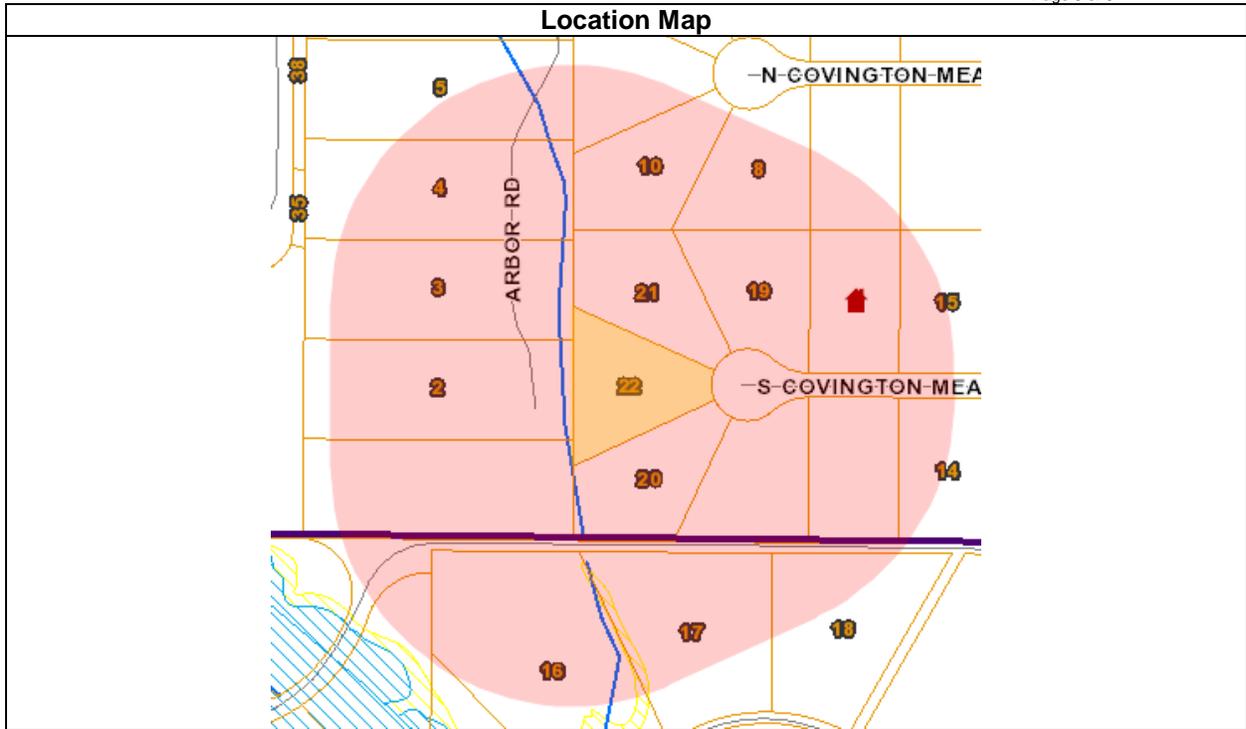
**SUGGESTED MOTION:**

Any motion made by the Commission must be in the affirmative to grant the variance request and approve the Petition for Site Plan Review:

Motion to approve the Petition for Site Plan Review for a variance to allow the post and framing to face away the enclosed area and the finished surface to face the enclosed area along the north side property line, as presented in the Memorandum from Department of Planning and Community Development dated July 21, 2016, subject to any staff conditions noted therein.

Only a simple majority is required by Code to approve the variance request.





**View of Fence Looking North on Property**



**View from Street on Property Line**



**View from Street Looking West**



# EXHIBIT A

## SECTION 435.030: ORNAMENTAL FENCES ON RESIDENTIAL LOTS

- A. Upon issuance of a building permit in accordance with this Section, ornamental fences may be erected in front yards and, with respect to corner lots, in front and side yards on residentially zoned property.
- B. All fences permitted hereunder shall conform to the following requirements:
1. Materials shall be compatible with the character of the residence located on the lot and in keeping with the general character of the surrounding neighborhood. Chain link fences, wire fences or other similar material are not permitted.
  2. Fences shall be of durable and substantial construction and shall not contain any barbed wire, sharp or protruding edges, electric charging devices or other dangerous characteristics.
  3. Fences shall be no less than eighteen (18) inches and no more than thirty-six (36) inches in height.
  4. Fences eighteen (18) inches in height shall be set back at least one (1) foot from any sidewalk used by the public and for every six (6) inch increase in height of the fence over eighteen (18) inches of height, the fence shall be located one (1) additional foot away from any sidewalk used by the public. Where no sidewalks exist, the fence shall be located no less than five (5) feet from the street right-of-way abutting the lot. Additional setback distance may be required at street intersections to provide adequate traffic site distance.
  5. The open area of a fence not built entirely of stone, rock, concrete, masonry or brick, expressed as a percentage of total vertical surface area per side, shall be as follows:

Height	Minimum Percent (%) Open Area
Up to 18 inches	None
Up to 30 inches	30%
Up to 36 inches	50%

Any fence built entirely of stone, rock, concrete, masonry or brick shall not be required to have a minimum percentage of open area.

6. Where standards established by this Subsection (B) conflict with requirements of Section 623.9 of the Building Code of the City of Olivette governing enclosures around swimming pools or any similar applicable or successor provisions or standards, the requirements of the Building Code shall govern.
- C. Any person, firm or corporation desiring to erect a fence hereunder shall apply to the Building Official for a building permit for the erection thereof on forms supplied by the Building Official and shall deliver with the application eight (8) copies of plans therefor, fully dimensioned, showing:
1. At a scale of no more than 1" = 20' the location, outline and dimensions, both linear and angular, of the lot on which the fence is proposed to be erected, all structures, driveways, easements and setback lines thereon and all adjoining streets; and the proposed location and dimensions, both linear and angular, of the fence.
  2. At a scale of not less than 1/8" = 1', the typical front view, typical side and rear views (if different from front view) and all dimensions thereof.
  3. A description of the materials to be used in the proposed fence and color thereof.
- D. Any person, firm or corporation violating any of the provisions of this Section shall be deemed guilty of an ordinance violation and upon conviction thereof shall be subject to the penalties provided for violation of Olivette ordinances.
- E. Notwithstanding anything in the Municipal Code to the contrary, any fence existing on March 1, 1989 in the front yard of a lot in a residential zone or in the front or side yard of a corner lot in a residential zone shall not be prohibited; provided that any substantial repair or replacement of any such fence shall conform with the requirements of this Section. (R.O. 2008 §40.440; Ord. No. 1621, 2-28-89; Ord. No. 1751, 6-9-92; Ord. No. 1881, 5-14-96; Ord. No. 1906, 12-10-96)

## SECTION 435.040: RESIDENTIAL FENCES ON REAR AND SIDE YARDS

Except as otherwise provided in Section 435.030, fences erected on rear and side lots shall be subject to the following provisions:

1. Fences may not exceed six (6) feet in height and may be located only within required rear or side yards. On corner lots, fences may not be located in required front and side yards.
2. All new or replacement fences shall be constructed with posts, framing and other structural support within or toward the area to be enclosed.

3. No fences shall be constructed of lightweight materials such as chicken coop wire, barbed wire or bamboo. Notwithstanding the preceding sentence, chicken coop wire may be used for vegetable gardens located within the perimeter of rear or side yards.
4. All fences shall be properly painted or preserved and shall at all times be kept in good repair.
5. Any person who desires to erect a fence on a residential lot within the City of Olivette shall file an application for a building permit with the Building Official. Such application shall contain information concerning the proposed dimensions and location of such fence and the materials from which it is to be constructed. If the proposed fence conforms to the provisions of this Section, the Building Official shall issue a permit.
6. Reserved.
7. Any person, firm or corporation violating the provisions of this Section shall be deemed guilty of an ordinance violation and upon conviction thereof shall be subject to the penalties provided for the violation of municipal ordinances. (R.O. 2008 §40.450; Ord. No. 1825, 6-28-94; Ord. No. 1947 §1, 10-14-97)

**SECTION 435.050: VARIANCES**

In accordance with the procedures outlined in Article XI Site Plan Review of Chapter 400 Zoning Regulations, where the Planning and Community Design Commission determines upon written request of an applicant that compliance with any requirement of Section 435.030 Ornamental Fences on Residential Lots or of Section 435.040 Residential Fences on Rear and Side Yards will impose unnecessary hardship or practical difficulty upon a particular property, the Planning and Community Design Commission may vary the requirement. In exercising this authority, the Planning and Community Design Commission shall vary requirements only to the extent necessary to alleviate the unnecessary hardship or practical difficulty consistent with the aesthetic, health and safety objectives of Sections 435.030 and 435.040 of this Chapter. (R.O. 2008 §40.460; Ord. No. 1947 §2, 10-14-97)

pn 6-13-2016 CR #2008 - 157.07



...in the center of it all

City of Olivette Public Services  
Department of Planning & Community Development  
1200 North Price Road  
Olivette, MO 63132

www.olivettemo.com  
(314) 993-0252 (Office)  
(314) 994-9862 (Fax)

**APPLICANT**

All correspondence prepared by staff shall be forwarded to the Applicant. The Applicant is responsible to distribute and forward this information to any other involved parties.

Name and Title: Joshua Avigad  
Company Name: N/A  
Address: 22 S Covington Meadow Rd City: Olivette Zip Code: 63132  
E-mail Address: josh@avigadlaw.com Phone Number: (314) 560-0471

As the applicant, which of the following apply:

- Developer
- Contractor
- Owner
- Registered Engineer
- Registered Architect
- Licensed Surveyor

This petition is for which of the following (Petitions may be for more than one of the items noted below):

- New Single Family Residential Construction
- Major Residential Addition and/or exterior modification
- Amendment to Active Site Plan or Community Design Review
- Accessory Structure
- Other (Site Plan Review) Fence variance
- Minor Site Plan Review

**PROPERTY INFORMATION**

Address of Property: 22 S Covington Meadow Rd  
St. Louis County Tax ID No. \_\_\_\_\_  
Legal Description of Property: \_\_\_\_\_

**OWNERSHIP (If applicant is not the owner):**

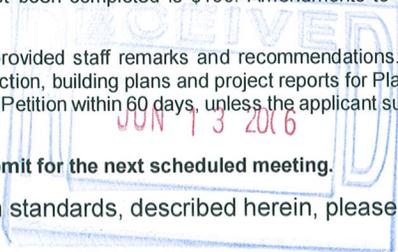
Name of Owner: Same  
Mailing Address: \_\_\_\_\_ City: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
Phone Number: ( ) \_\_\_\_\_ E-mail: \_\_\_\_\_

The petition application, three (3) sets of plans containing all the attached submission standards, PDF files of all the documents submitted, and a review fee must be submitted to the Department of Public Services thirty (30) days before a scheduled meeting. Amendments to an active Community Design or Site Plan Review in which an active Construction Permit under Article XVIII of Chapter 400 has not been completed is \$100. Amendments to active Community Design Review with Site Plan Review is \$150.

Staff will review the Petition for compliance within 10 working days. Completed petitions shall be provided staff remarks and recommendations. The applicant will have 10 days to revise the application and submit any requested revised site plan, site section, building plans and project reports for Planning and Community Design Commission (PCDC) review. By Ordinance, the PCDC must take action on the Petition within 60 days, unless the applicant submits a written request for an extension.

An incomplete petition shall be returned to the applicant. The applicant may resubmit for the next scheduled meeting.

To insure that the applicant has read and understands the Petition and submission standards, described herein, please sign the following:



X [Signature]  
Name of applicant

06/13/16  
Date

**From:** Mike Foster <fostermj62@yahoo.com>  
**To:** Laura Kaplan <kaplanavigad@aol.com>  
**Cc:** Lori Payne <paynezoo@sbcglobal.net>  
**Subject:** Re: Fwd: Fence dilemma  
**Date:** Sun, Jun 12, 2016 8:19 am

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Laura,

Thank you for the email. Lori and I appreciate your efforts addressing the fence issues. Both of us are very pleased that you took swift action when we expressed our concerns with the condition of your old fence. I guess the old adage that "no good deed goes unpunished" certainly applies here.

In as much as the current installation of your fence is essentially the same as it was when we purchased our home, we are OK with the fence with the as it is currently.

Good luck with Olivette as you work through the appeal process. Please feel welcome to contact us if we may be of additional assistance.

**Mike**

On Thursday, June 9, 2016 9:38 PM, Mike Foster <fostermj62@yahoo.com> wrote:

Mike

Begin forwarded message:

**From:** Laura Kaplan <kaplanavigad@aol.com>  
**Date:** June 9, 2016 at 5:08:57 PM CDT  
**To:** fostermj62@yahoo.com  
**Subject:** Fence dilemma

Hi Mike and Lori,

We have had some contact with the City of Olivette about the fence we replaced between our property lines. I guess one of your home inspectors saw the new fence, and we initially got a letter saying that we needed a building permit. We hadn't known that (since we were just replacing the panels), but we paid for the permit retroactively, and also got assessed a fine for it not being done in advance.

WELL, after we got the permit, we got a second letter saying that the fence was in violation of Olivette codes, as it was installed with the posts facing your property (as it had been before). Olivette is now saying that we need to install boards facing out all along your side of the fence. We have a limited time to try to appeal this.

If the fence installation as it currently exists does bother you, then I guess we will need to follow through with the remediation. If you are OK with the fence the way it is, an email reply indicating your tolerance would probably help us in our appeal. We do not want you

6/12/2016

Re: Fwd: Fence dilemma

to feel pressured to do this- we are so happy to have you as new neighbors. But we hate to go through the extra labor and expense if it is not necessary.

Many thanks,

Laura

8

Joshua Avigad  
Laura Kaplan  
22 S. Covington Meadow Rd.  
Olivette, MO 63132

Josh@Avigadlaw.com  
Direct: (314) 560-0471

June 12, 2016

Building Inspector  
City of Olivette  
State of Missouri  
1200 Price Rd,  
Olivette, MO 63132

Re: Locator Number 18L430302  
22 S. Covington Meadow Rd, St. Louis, MO 63132  
Locator Number 18L430302  
APPLICATION FOR VARIANCE

Dear Building Inspector:

The following Application for Variance is submitted in response to your June 7, 2016 letter to Joshua Avigad and Laura Kaplan of 22 S. Covington Meadow Rd, St. Louis, MO 63132 regarding the claim of a violation of the Building Code 435.040 concerning the fence on the property.

Attached to the previous permit application were pictures of the new portion of the fence, and a 2010 plat map of the property. The fence is 6 feet high and the new portion at issue is 92 feet in length. The fence has always been in place since we acquired the property in 1997. The plat map from 2010 will confirm the location and placement of the fence since the property was last surveyed. We have never modified the fence's appearance other than to add new sections to it.

At all times since we owned the property, the fence has faced inwards. At one point in the 2007, we received a variance from the Olivette Zoning board as to the inward facing nature of the fence when we previously repaired and replaced a majority of the fence, the 200 ft. portion of the fence on the N00°49'00"E line. See the attached pages numbered 1 through 6 concerning the 2007 application and approved variance. (We added three outward facing panels to address concerns from one of the neighbors on Arbor Road).

As to the 2007 Fence, we did not replace the whole fence, and kept the portion of the fence neighboring the 21 Covington Meadow Rd Property in 2007 intact as it was not in need of repair at the time. This was detailed in the 2007 variance request. See page 4 attached (portion of

fence marked with x's). This current variance request merely seeks to match the newly replaced portion of the fence with the interior facing fence previously approved and built in 2007.

As to the 2016 portion of the fence that has been made new, our neighbors at 21 Covington Meadow Rd asked us to replace our fence as the prior section of fence was looking a little worn. We did so at our expense. We did not sink new posts. The same posts in the 2007 variance request and 2010 plat map (and in existence since at least 1997) are still in place. We merely repeated the inward facing nature of the fence to match the prior panels and to further match the prior 200 feet of inward facing fence which was approved in 2007.

Attached hereto is confirmation that the 21 Covington Meadow Rd neighbors requested the renewal of the fence, and further confirmed in writing that they are satisfied with the fence as it was rebuilt facing our property in 2016. (See email of Mike Foster, owner of 21 Covington Meadow Rd, pages 7 and 8 attached). Further, prior to our beginning the project of replacing the fence, we received oral confirmation from those neighbors of 21 Covington Meadow Rd that they consented to our building the replacement fence facing inward to our property.

We are requesting a variance to allow for the fence at issue to remain in place, and that the inward facing nature of the fence be allowed to match the inward facing portion of the 2007 fence which was approved by Olivette.

Sincerely,



Joshua Avigad

October 19, 2007

Laura Kaplan  
22 Covington Meadows Road  
Olivette, MO 63132

**RE: 22 COVINGTON MEADOWS ROAD  
VARIANCE REQUEST FOR REAR YARD FENCE DESIGN**

Dear Mrs. Kaplan:

At the October 18, 2007 meeting of the City of Olivette Planning and Community Design Commission, the Commission reviewed and acted on a request for a variance to the design and construction standards for rear yard fencing for the above referenced address. The request was to allow for the structural support members of the proposed rear yard fence to face away from the property, contrary to the design standards outlined in Section 40.450 (2) of the Olivette Municipal Code.

After resolution of concerns expressed by the neighboring property owner at 3 Arbor Road, the Commission approved the granting of the variance subject to the following modifications:

- The portion of the fence abutting 3 Arbor Road have all structural support members enclosed, allowing the remaining portion of the rear yard fence to remain as requested.

The next step is to submit a request to change the approved Building Permit to reflect the design changes. Once construction has been completed, a final inspection of the fence construction is to be coordinated with the Department of Public Services.

Should you have any questions regarding the contents of this letter, please contact me at (314) 993-0252.

Respectfully,

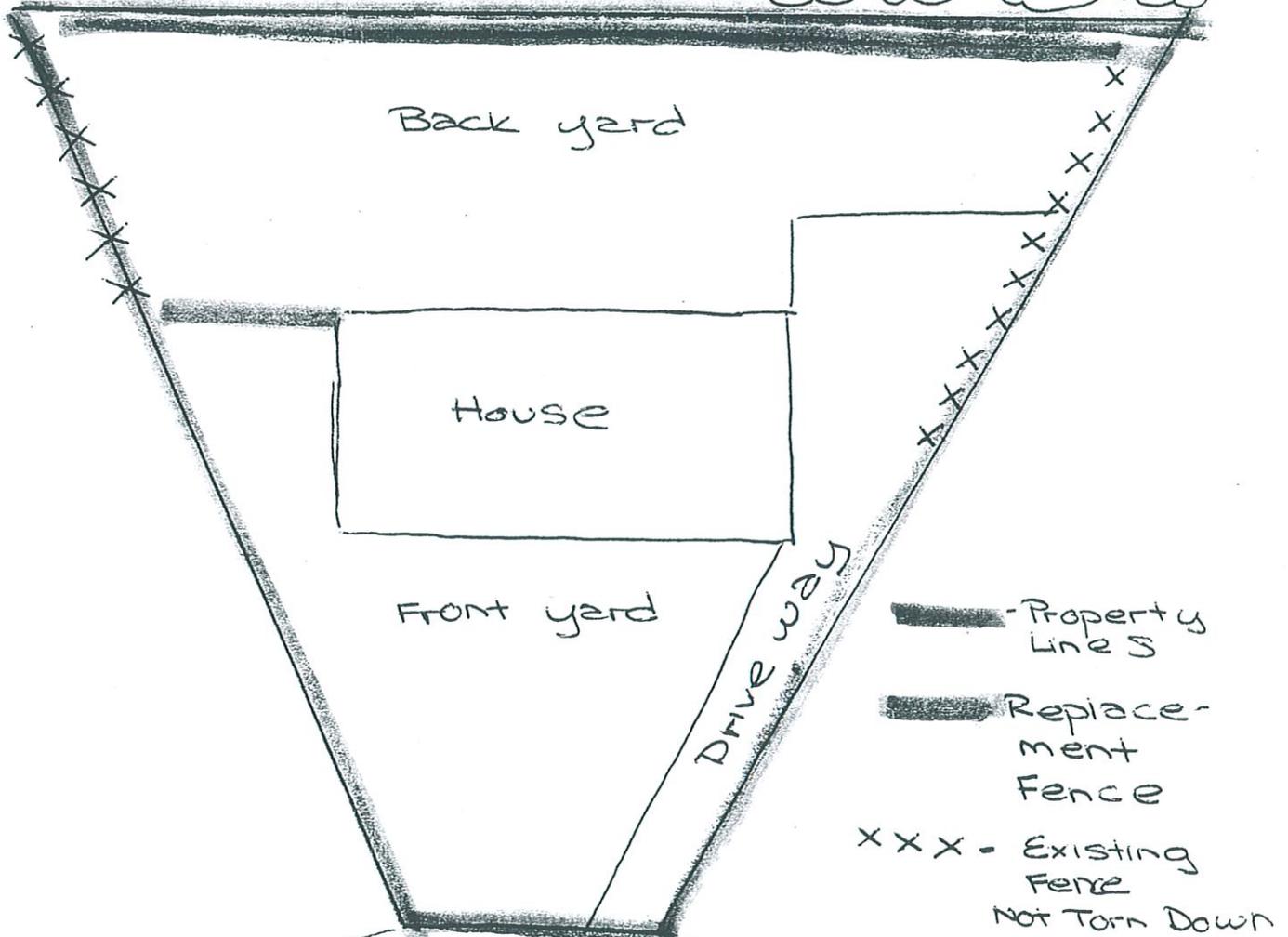


Carlos Trejo, AICP  
Planning and Zoning Administrator

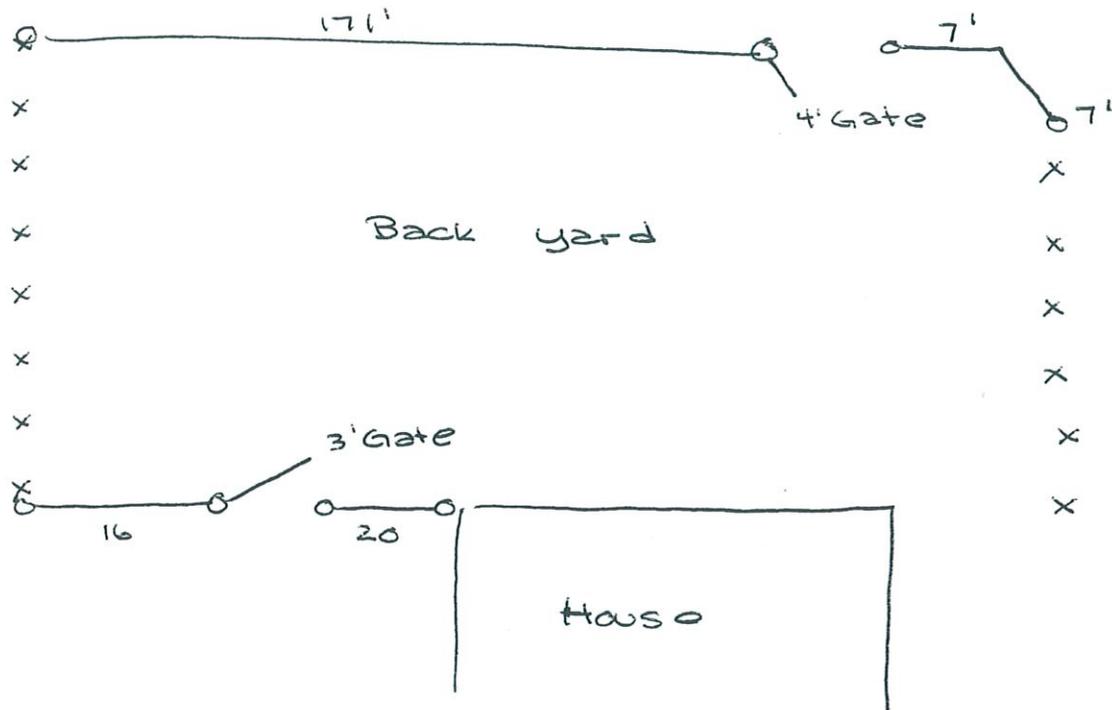
Resubmitted diagram for replacement  
of wood fence at 22 Covington Meadows

Owners: Laura Kaplan + Joshua Avigad  
Phone #: 997 - 2887

Trees + Creek



Fence for Backyard at 22 Covington Meadows  
 we are replacing an old 6' wood fence  
 with a new 6' wood fence



Homeowners: Laura Kaplan + Joshua Avigad  
 Address : 22 Covington Meadows 63132  
 Phone : 997-4821

Areas marked with "x's" in above diagram  
 designate existing fence that is not being  
 torn down.