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VARIANCE JUSTIFICATION:

1. Explain how the variance will not adversely affect the public health, safety and welfare.

This is a privacy fence that sits about 20 feet off of the road. It does not obstruct the view of traffic, in any way. We are an active family and we are constantly spending time in the back yard, whether it is work, play or just hanging out. It actually prevents distraction of wondering/curious eyes into my backyard from passing drivers and helps maintain their focus on the road. This is a very busy pass through road. It also prevents balls, Frisbees, kids and animals from flying and wondering into the road from my back yard. This sits far enough off of the road for cross streets to have a clear view of traffic while maintaining privacy and security of my family.

2. Explain how the variance will not alter the essential character of the general vicinity.

This variance will only alter the character to the surrounding property in a positive way. It improves the appearance of the general vicinity by making it look newly developed, clean and tidy. This adds value to the surrounding property. I have been told by the Neighborhood Association President that my fence, "...looks beautiful. It is an enhancement to our neighborhood Scott." I have had numerous neighbors and passer-bys compliment me on the fence. I also work in the community and have had people come up to me and say how nice my fence looks. Mr. Mallarkey even said, "It's a nice fence"

3. Explain how the variance will not cause a hazard or a nuisance to the public.

This fence prevents distraction of drivers by keeping their eyes ahead, on the road. As mentioned earlier, we are an active family. We also have friends and family over often. This fence prevents balls, Frisbees, dogs, kids, etc. from getting into the road. This used to be a problem before the fence and a constant worry for me to pay close attention to my children. I have a basketball court as part of my driveway, in the backyard. We have almost had multiple close calls from balls, Frisbees and animals running into the street. This helps contain the activities that we enjoy in the backyard. There is no obstruction of traffic view from my driveway, neighbor's driveway nor any cross streets, like Roswell Way or Watterson Trail.

4. Explain how the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations.

The area in question is clearly my backyard. No-one has ever referred by backyard as a side yard. This is where my driveway, basketball court, and garage are. It is the area behind my house which is considered the backyard on any house in this city, county, state or country. In addition, this would not allow any unreasonable circumvention because there are numerous "corner" houses within close proximity and all over the city that have their backyard fence and even side yard fence within a closer proximity to the road than my fence. There are thousands more fences around town that have been allowed to have fences in their backyards and/or side yards that have been allowed or have not been sighted.

Mr. Mullarkey even told me, "This is a really nice fence. You did a really good job. I don't see any problem with it. It doesn't obstruct any view of traffic. I can see just fine." He continued to mention how he was sorry he had to be the bearer of bad news due to a technicality.

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Additional Consideration:

1. Explain how the variance arises from special circumstances, which do not generally apply to land in the general vicinity.

The side and back of my house runs along an extremely busy pass-through, Nachand Lane. The median speed traveled along these streets is between 45-55 mph. Nachand Lane is a very common street for people to test their eighth mile and quarter mile speeds. They slam on the gas with their loud open exhausts and get up to speeds around 100 mph. Their launch or start of this speed test is in my backyard. My fence allows a barrier for safety to my family and it also provides a bit of a noise and sound barrier. This is much like the wall that houses have along the highway except mine is only 6ft tall and constructed out of pressure treated lumber. Although the speed limit does not dictate as such, the police and city council seem to disregard this. If you ask anyone that lives along these two streets, they will confirm.

2. Explain how the strict application of the provisions of the regulations would deprive the applicant of the reasonable use of the land or would create unnecessary hardship.

This is my backyard. My home. A place where I should be allowed to relax, feel safe and enjoy time with my family. This regulation restricts my ability to feel safe and secure in my own backyard. With these changing times and increased crime, my family and myself need a place where we can have our privacy and feel secure. The layout of my driveway and garage in the backyard doesn't allow me to set up privacy in any other manner without jeopardizing the privacy and security of my vehicles and garage. It would allow easy access for burglary and theft of the contents in my garage and my vehicles. The only other place that I could put a privacy fence, or fence of any kind, would be directly in the middle of my yard. This would make a barrier that would block my ability to see my vehicles in the driveway as well as my children playing on the basketball court and half of my backyard. Again, allowing for theft, injury, kidnapping, etc.

3. Are the circumstances the result of actions of the applicant taken subsequent to the adoption of the regulation from which relief is sought?

I was not aware of this regulation. I consulted contractors, neighborhood association and others. Noone was aware of this zoning code. I also have seen fences on corner lots that extend from the side of the house to encompass the back yard. I'm not sure of the reason for this regulation, but I am sure there was a good reason at the time it was adopted. However, I don't feel that this regulation fits for my particular application. The fence is a far distance off of the easement and causes no issues that would risk injury or public health and safety. It is not a nuisance and does not negatively alter the character of the general vicinity. This has been either allowed and/or not enforced. I have seen this type of "infraction" in every neighborhood I have ever been in. I have included numerous photos of individuals that have the same type of fence within a mile of my home. It was no trouble finding other propertied similar to mine.

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