
**THE VILLAGE OF HOMER GLEN
WILL COUNTY, ILLINOIS**

**ORDINANCE
NUMBER 24-004**

**AN ORDINANCE GRANTING [1] A VARIANCE TO INCREASE THE
MAXIMUM PERMITTED HEIGHT OF A FENCE LOCATED IN A
CORNER SIDE YARD FROM FOUR (4) FEET TO SIX (6) FEET; AND [2]
A VARIANCE TO PERMIT AN OPEN FENCE WITHIN THE CLEAR
VISION TRIANGLE, FOR CERTAIN REAL PROPERTY LOCATED IN
THE R-4 SINGLE-FAMILY RESIDENTIAL DISTRICT AT 13455 W
PAWNEE LANE, HOMER GLEN ILLINOIS, [CASE NO. HG-2324-V]**

**CHRISTINA NEITZKE-TROIKE, Village President
CANDICE BIELSKI, Village Clerk**

**Village Trustees
JENNIFER CONSOLINO
DAN FIALKO
CURT MASON
CJ MCNAUGHTON
ROSE REYNDERS
SUSANNA E. STEILEN**

AN ORDINANCE GRANTING [1] A VARIANCE TO INCREASE THE MAXIMUM PERMITTED HEIGHT OF A FENCE LOCATED IN A CORNER SIDE YARD FROM FOUR (4) FEET TO SIX (6) FEET; AND [2] A VARIANCE TO PERMIT AN OPEN FENCE WITHIN THE CLEAR VISION TRIANGLE, FOR CERTAIN REAL PROPERTY LOCATED IN THE R-4 SINGLE-FAMILY RESIDENTIAL DISTRICT AT 13455 W PAWNEE LANE, HOMER GLEN ILLINOIS, [CASE NO. HG-2324-V]

WHEREAS, the Village of Homer Glen, Will County, Illinois (the “Village”) is a home rule municipality pursuant to Section 6(a), Article VII of the 1970 Constitution of the State of Illinois, and as such may exercise any power and perform any function pertaining to its government and affairs (the “Home Rule Powers”); and,

WHEREAS, an application has been filed by Hans Schmidt for [1] a Variance to increase the maximum permitted height of a fence located in a corner side yard from four (4) feet to six (6) feet; and [2] a Variance to permit an open fence within the clear vision triangle, for certain real property located in the R-4 Single-Family Residential District at 13455 W Pawnee Lane, Homer Glen Illinois (Subject Property); and,

WHEREAS, the parcels that are the subject of the aforesaid application and of this Ordinance (“Subject Property”) are legally described in “Exhibit A;” and,

WHEREAS, pursuant to a public notice published in a newspaper of general circulation within the Village as required by the Code of the Village of Homer Glen, the Plan Commission of the Village held a public hearing with regard to said application on January 4, 2024 and rendered its findings of fact and recommendations to the Board of Trustees of the Village; and,

WHEREAS, the Plan Commission after due consideration of the issues, exhibits, and testimony, made findings of fact and recommended approval to the Village Board which are incorporated into the record of its proceedings, are attached hereto as Exhibit “B,” and,

WHEREAS, the Village President and Board of Trustees carefully considered public commentary and the recommendations of the Plan Commission which are incorporated into the record of its proceedings; and,

WHEREAS, the Village President and Board of Trustees, after due consideration have determined that granting of [1] a Variance to increase the maximum permitted height of a fence located in a corner side yard from four (4) feet to six (6) feet; and [2] a Variance to permit an open fence within the clear vision triangle, for certain real property located in the R-4 Single-Family Residential District at 13455 W Pawnee Lane, Homer Glen Illinois, is in conformance with the Village’s Comprehensive Plan and in the best interests of the public health, safety and welfare of the Village’s residents.

NOW, THEREFORE, BE IT ORDAINED by the Village President and Village Board of Trustees of the Village of Homer Glen, Will County, Illinois, by and through its Home Rule Powers, as follows:

Section 1. Incorporation of Recitals. That the recitals and findings set forth above and in the recommendation of the Plan Commission, attached hereto as Exhibit “B” are incorporated herein by reference the same as if they were fully set forth herein verbatim and they are adopted as the recitals of the Village Board.

Section 2. Variances. The Village hereby grants [1] a Variance to increase the maximum permitted height of a fence located in a corner side yard from four (4) feet to six (6) feet; and [2] a Variance to permit an open fence within the clear vision triangle, for certain real property located in the R-4 Single-Family Residential District at 13455 W Pawnee Lane, Homer Glen Illinois, [Case No. HG-2324-V], subject to the following conditions:

1. The applicant shall sign an encroachment agreement for the fall protection fence that will extend into the right of way.

Section 3. Severability. The various portions of this Ordinance are hereby expressly declared to be severable, and the invalidity of any such portion of this Ordinance shall not affect the validity of any other portions of this Ordinance, which shall be enforced to the fullest extent possible.

Section 4. Repealer. All Ordinances or portions of Ordinances previously passed or adopted by the Village of Homer Glen that conflict with or are inconsistent with the provisions of this Ordinance are hereby repealed.

Section 5. Effective Date. This Ordinance shall be in full force and effect from and after its passage and approval.

Section 6. Notice to Applicant. That the Village Clerk is further directed to forward a copy of this Ordinance to the applicant as notification of the passage and approval of this Ordinance.

Adopted this 24th day of January, 2024 pursuant to a roll call vote as follows:

	<u>YES</u>	<u>NO</u>	<u>ABSENT</u>	<u>PRESENT</u>
Consolino			X	
Fialko	X			
Mason	X			
McNaughton			X	
Reynders	X			
Steilen	X			
Neitzke-Troike (Village President)				
TOTAL	4		2	

APPROVED by the Village President on January 24, 2024



Christina Neitzke-Troike
Village President

ATTEST: 

Candice Bielski
Village Clerk

Legal Description – “Exhibit A”

COMMON ADDRESS: 13455 W Pawnee Lane

LOTS 1 & 2 IN BLOCK 4 IN BRASHLER AND KALL’S FIRST ADDITION TO CHICKASAW HILLS, BEING A SUBDIVISION OF PART OF SECTION 2, TOWNSHIP 36 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED OCTOBER 26, 1966 AS DOCUMENT NUMBER R66-16205, AND AS CORRECTED BY CERTIFICATES OF CORRECTION RECORDED APRIL 28, 1967 AS DOCUMENT NUMBER R67-5310 AND SEPTEMBER 6, 1967 AS DOCUMENT NUMBER R67-12900, IN WILL COUNTY, ILLINOIS.

Findings of Fact-“Exhibit B”**Standards for Variances**

Chapter 220-1207C(1-3) of the Code of the Village of Homer Glen lists the standards by which the Plan Commission shall make the findings of fact. The following are the categories with staff's recommended findings in *italics*:

1. The Plan Commission shall not vary the provisions of this Ordinance as authorized unless it has made findings based upon the evidence presented to it in the following cases:
 - (a) That the property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in that zone. *The property could indeed yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in the R-4 Single-Family Residential District.*
 - (b) That the plight of the owner is due to unique circumstances. *The size and layout of a corner lot also means that more of the rear yard is exposed to the right of way. The property owner desires a fence to secure the yard and utilize the entire property. The rear yard and corner side yard abut the front yard of the adjacent property to the southeast. The fencing proposed will be open and will meet the clear vision setbacks, as related to the adjacent property. The fencing proposed will encroach into the required clear vision triangle as it relates to the subject property driveway, but the fence will be an open obstruction. Staff has reviewed this request and does not have any issues with this obstruction. A stand of trees is located southeast of the driveway and sits directly on the property line. The applicant is proposing to install the fencing on the property line and will try to retain as many trees in the stand as possible. This property is not subject to the tree preservation ordinance.*
 - (c) That the variance, if granted, will not alter the essential character of the locality. *The variances, if granted, will not alter the essential character of the locality. The subject property already has a split rail open fence that currently encroaches into the public right of way. Other corner lots in the Chickasaw subdivision have corner side yard fencing. Many of the corner side yard fences in this subdivision are open and 4' or under. There is a fence at 13513 Seminole Trail that appears to be closer to 6' in height due to it being located on top of a wall. Note: the fences at 13513 Seminole and 13830 Kickapoo also encroach into the clear vision triangle.*
2. A variance shall be recommended to the Village Board only if the evidence, in the judgment of the Plan Commission, sustains each of the three conditions enumerated in Subsection C(1).
3. For the purpose of supplementing the above standards, the Plan Commission, in making its determination, shall also take into consideration the extent to which the following facts, favorable to the applicant, have been established by the evidence:

- (a) That the particular surroundings, shape, or topographical conditions of the specific property involved will bring a particular hardship upon the owner, as distinguished from a mere inconvenience, if the strict letter of the regulations was carried out.
The size and layout of a corner lot also means that more of the rear yard is exposed to the right of way. The property owner desires a fence to secure the yard and utilize the entire property. The rear yard and corner side yard abut the front yard of the adjacent property to the southeast. The fencing proposed will be open and will meet the clear vision setbacks, as related to the adjacent property. The fencing proposed will encroach into the required clear vision triangle as it relates to the subject property driveway, but the fence will be an open obstruction. Staff has reviewed this request and does not have any issues with this obstruction. A stand of trees is located southeast of the driveway and sits directly on the property line. The applicant is proposing to install the fencing on the property line and will try to retain as many trees in the stand as possible. This property is not subject to the tree preservation ordinance.
- (b) That the conditions upon which the petition for variance is based would not be applicable, generally, to other property within the same zoning classification.
The conditions for this variance would not be applicable to residential lots generally in the R-4 Zoning District, but could be applicable to other corner lots in the R-4 Single Family Zoning District.
- (c) That the purpose of the variance is not exclusively based upon a desire to make more money out of the property.
The purpose of this Variance is not exclusively based on the desire to make a profit out of the property, but for reasonable use of property, safety, and privacy.
- (d) That the alleged difficulty or hardship has not been created by any person presently having an interest in the property.
The applicant did not create a corner lot.
- (e) That the granting of the variance will not be detrimental to the public welfare or unduly injurious to other property or improvements in the neighborhood in which the property is located.
Village staff does not foresee the approval of these Variances as having a detrimental impact on the public welfare or being unduly injurious to other property or improvements in the Chickasaw Hills subdivision. The proposed fence abuts the front yard of the property to the southeast, but does not encroach into the clear vision triangle of that property. The proposed fence does encroach into the clear vision triangle adjacent to the subject property driveway, but due to its openness, staff does not have an issue with this and feels the trees are possible more of an obstruction than the fencing will be.
- (f) That the exterior architectural appeal and functional plan of any proposed structure will not be so at Variance with the exterior architectural appeal and functional plan of the structures already constructed, or in the course of construction in the immediate neighborhood or the character of the applicable district, as to cause a substantial depreciation in the property values within the neighborhood.

The Village's exterior materials standards do not apply to fences; instead, the Village permits a short list of acceptable fence materials stated previously in the staff report. The applicant is proposing an open iron fence, which matches the criteria. The proposed fence is complementary to a residential home and to the subdivision.

- (g) That the proposed variance will not impair an adequate supply of air to adjacent property, substantially increase the danger of fire, otherwise endanger the public safety or substantially diminish or impair property values within the neighborhood. *The proposed variances will not impair an adequate supply of air to the adjacent property, substantially increase the danger of fire, or substantially diminish or impair property values within the Chickasaw Hills Subdivision. Staff also does not see the fence endangering public safety. The proposed fence abuts the front yard of the property to the southeast, but does not encroach into the clear vision triangle of that property. The proposed fence does encroach into the clear vision triangle adjacent to the subject property driveway, but due to its openness, staff does not have an issue with this and feels the trees are possible more of an obstruction than the fencing will be.*

Plan Commission Recommendation

Chairman Hand asked for a motion. Vice-Chair McGary made a motion to recommend approval of (1) a Variance to increase the maximum permitted height of a fence located in a corner side yard from four (4) feet to six (6) feet; and (2) a Variance to permit an open fence within the clear vision triangle, for certain real property located in the R-4 Single-Family Residential District at 13455 W Pawnee Lane, Homer Glen Illinois, [Case No. HG-2324-V], subject to the following conditions:

- 1. The applicant shall sign an encroachment agreement for the fall protection fence that will extend into the right of way.*

The motion was seconded by Commissioner Bugos-Komperda. A roll call vote was taken with Commissioners Bradarich, Bugos-Komperda, Stanly, Fiskow, Foley, Vice-Chair McGary and Chairman Hand voting in favor seven (7) to zero (0). The motion passed and will go before the Village Board on January 24, 2024.

Chairman Hand asked for a motion. Vice-Chair McGary made a motion to adopt staff's findings as the findings of the Plan Commission. The motion was seconded by Commissioner Stanly. A roll call vote was taken with Commissioners Fiskow, Foley, Stanly, Bugos-Komperda, Bradarich, Vice-Chair McGary and Chairman Hand voting in favor seven (7) to zero (0). The motion passed and will go before the Village Board on January 24, 2024.