# Town of Cortland
## Agenda Request

(SUBMIT FORM TO THE TOWN CLERK NO LATER THAN ONE WEEK BEFORE THE SCHEDULED MEETING)

**ALL REQUESTS ARE SUBJECT TO THE APPROVAL OF THE MAYOR**

☐ RESOLUTION ☒ ORDINANCE ☐ INFORMATION ☒ OTHER

**DATE PREPARED: JUNE 2, 2015** **FOR MEETING ON: JUNE 8, 2015**

**DESCRIPTION/TITLE:** AN ORDINANCE GRANTING VARIATIONS FROM SECTION 9-3-13A2 AND 9-4-3E2 OF THE CORTLAND MUNICIPAL CODE TO ALLOW A SIX (6) FOOT HIGH FENCE IN THE REQUIRED CORNER SIDE YARD FOR PROPERTY AT 575 N. LONGMEADOW STREET

**REQUIRED ACTION:** A MOTION TO ACCEPT THE HEARING OFFICER'S FINDINGS OF FACT AND RECOMMENDATION. A MOTION TO APPROVE AN ORDINANCE TO GRANT VARIATIONS FROM SECTIONS 9-3-13A2 AND 9-4-3E2 OF THE CORTLAND MUNICIPAL CODE TO ALLOW A SIX (6) FOOT HIGH FENCE IN THE REQUIRED CORNER SIDE YARD FOR PROPERTY AT 575 N. LONGMEADOW STREET AS DEPICTED ON THE PROPOSED SITE PLAN ATTACHED TO THE APPLICATION.

**STAFF/COMMITTEE RECOMMENDATION:** JEFF LEWIS, AS THE TOWN'S HEARING OFFICER, HAS RECOMMENDED APPROVAL OF THE REQUESTED VARIANCES WITH THE CONDITION THAT THE 6 FOOT HIGH FENCE NOT ENCROACH UPON THE SIDE YARDS, EITHER TO THE NORTH OR THE SOUTH, ANY FURTHER THAN THE DIMENSIONS SHOWN ON THE PROPOSED SITE PLAN ATTACHED TO THE APPLICATION. STAFF NOTES THAT THE BOARD MAY REJECT OR ACCEPT THE RECOMMENDATION AND, MAY ALSO MODIFY OR REJECT ANY RECOMMENDED CONDITIONS.

**STATEMENT OF CONCERN/SUMMARY:** GRANTING THE VARIANCES WOULD ONLY APPLY TO 575 N. LONGMEADOW STREET. THEY WOULD NOT CONSTITUTE A TREND AND WOULD RUN WITH THE LAND

**AGENDA PLACEMENT:**

☐ BOARD REVIEW OF PENDING BUSINESS ☒ NEW BUSINESS ☐ CONCERNS ☐ STAFF REPORTS
☐ COMMITTEE OF THE WHOLE ☐ PRESIDENT'S REPORT ☐ CONSENT AGENDA ☐ UNFINISHED BUSINESS
☐ PUBLIC HEARING
☐ LIAISON REPORTS
- ☐ Administration –
- ☐ Finance –
- ☐ Ordinance –
- ☐ Festival & Parade –
- ☐ Operation & Maintenance –
- ☐ Police
- ☐ Sewer/Water/Utilities –
- ☐ Planning Commission –
- ☐ Facility Planning Committee District 428 –
- ☐ Airport Advisory Board –

Prepared by: _Anna B. Kurtzman_____ Approved by: _____ Date: _____

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# Town of Cortland

**59 S. Somonauk Rd.**
**P.O. Box 519**
**Cortland, IL 60112-0519**

**Town Hall:**
**Administration Office 815/756-9041**
**Town Clerk's Office 815/756-3030**
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**Operations & Maintenance:**
Town Garage 815/756-6469

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Emergencies 815/756-1910
Facsimile 815/756-1543


## ADVISORY REPORT

**TO:** Mayor Stokes
Town Board

**FROM:** Anna B. Kurtzman, Zoning Administrator ABK

**DATE:** June 2, 2015

**SUBJECT:** Zoning Variations – 575 N. Longmeadow Street
Results of May 27, 2015, Public Hearing

**APPLICANT:** Samantha (aka Sandra) L. Emmett

**RESULTS OF PUBIC HEARING:**
Jeff Lewis, as the Town's Hearing Officer, conducted a public hearing on May 27, 2015, to consider the applicant's request to increase the maximum height of a fence from four feet to six feet in a required corner side yard. A copy of the notes from this meeting is attached as Exhibit 2. Also attached to this report is Mr. Lewis' report (Exhibit 1) which includes his recommendation:

"It is recommended that the Application for Zoning Variation for the property at 575 N. Longmeadow Street, Cortland, Illinois (PIN: 09-17-378-011) be GRANTED. It is further recommended that the allowed variation be limited as follows: the six-foot high fence shall not encroach upon the side yards, either to the north or south, any further than the dimensions shown on the Proposed Site Plan attached to the Application."

**BACKGROUND:**
575 N. Longmeadow Street is located at the southwest corner of Longmeadow Street and Prairiefield Drive. The Applicant has applied to have a pool within their backyard. Per the Municipal Code, pools are required to have a barrier that can either be a four foot high fence or a guardrail along the top of the pool. Due to site conditions the Applicant is seeking to place a six-foot high fence within the corner side yard (as depicted on the site plan submitted with the application).

A public hearing was conducted on May 27, 2015, to consider her request. Details regarding the hearing are found in Exhibit 2, along with the Hearing Officer's recommendation (Exhibit 1). Further details related to the case are included in my May 21, 2015, advisory report to Jeff Lewis (Exhibit 3).

**STAFF COMMENTS:**

The Applicant is seeking two variances to address the height and location of the proposed fence that would ultimately allow a six foot high fence in a Corner Side Yard. It is important to note that variances are to be considered as exceptions to the Zoning Code, that there is something that is unique about the property that would prohibit or extremely limit the property owner from complying with the zoning regulations. The purpose of the public hearing is to gather information that will help determine if there are any unique circumstances that would support the request for a variance. Information that is collected is then analyzed and put into a report using a strict format, known as Findings of Fact (there are proposed findings of fact in my May 21st memo to Jeff Lewis, along with his Findings of Fact located in his Hearing Officer Report). Based upon the information that is gathered during the hearing process and supported by the Findings of Fact the Hearing Officer is charged with presenting the Board with a report that includes his recommendation (attached).

You may review any of the material that was collected for the public hearing (all of which is attached) and draw your own conclusions. You may accept the Hearing Officer's recommendation or reject it. Along with the Hearing Officer's recommendation, Mr. Lewis has also included a recommended condition. You may reject this condition, accept it, and/or come with different condition(s).

If the Board elects to grant the variance this must be done in the form of an ordinance. An ordinance that supports Mr. Lewis' recommendation, including the condition, is attached for your consideration.

It should be noted that variances are specific to a particular property and runs with the land. The variance cannot be used on another property nor is it attached to the property owner (if the property owner moves the variance still applies at this location).

/abk

# Exhibit 1

# Town of Cortland, Illinois

**In the matter of:**

**APPLICATION FOR ZONING VARIATION**

**Filed by:** Samantha a/k/a Sandra L. Emmett

**Subject Property:** 575 N. Longmeadow St., Cortland, Illinois
PIN: 09-17-378-011

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## REPORT OF HEARING OFFICER

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A Public Hearing on the above described matter took place:

Cortland Town Hall
59 S. Somonauk Road
Cortland, Illinois 60112

*May 27, 2015 at 7:00 p.m.*

**Hearing Officer:** Jeffrey L. Lewis

## Introduction

On April 8, 2015, Samantha a/k/a Sandra L. Emmett (the "Applicant") submitted an Application for Zoning Variation regarding the property at 575 N. Longmeadow Street, Cortland, Illinois (the "Property"). The details of said application and the conditions sought to be addressed are adequately detailed in the Advisory Report dated May 21, 2015, from Anna B. Kurtzman, Zoning Administrator.

This report is being submitted as the requisite Findings of Fact and written recommendation of the Hearing Officer, in compliance with Section 9-9-3 of the Cortland Zoning Ordinance.

The Hearing Officer conducted a Public Hearing on this matter on May 27, 2015, at 7:00 p.m., at the Cortland Town Hall. At the conclusion of the hearing, the Hearing Officer concluded that **the application should be granted**.

Following are the Hearing Officer's **Findings of Facts** and **Recommendation to the Board**.

## Findings of Fact

At the Public Hearing conducted in this matter, the Hearing Officer considered the following evidence:

- Testimony of Applicant and other witnesses
- Advisory Report of town staff, dated May 21, 2015, and Exhibits A, B, and C attached thereto
- Application dated April 8, 2015
- Additional photographs submitted by Applicant to supplement her Application

In addition, the Hearing Officer viewed the subject property and the surrounding neighborhood in drive-by fashion on May 25, 2015.

Pursuant to Section 9-3-3.B.4 of the Cortland Zoning Ordinance, the Hearing Officer submits the following **Findings of Fact**:

*a. The proposed variation is consistent with the general purposes of this title.*

Title 9 of the Cortland Zoning Ordinance includes twenty-one (21) provisions that describe the purposes of said ordinance. Granting the variation for the subject property will not violate any of these purposes. More specifically, the Town's location criteria for fences fall into the general categories of ensuring health and safety and preserving the character of a given area within the community.

Allowing this variation to increase a side yard fence height from four (4) feet to six (6) feet will not negatively impact health or safety concerns. Specifically, it will not impair visibility for any nearby intersection, roadway, or driveway. Furthermore, it will increase the likelihood that the contemplated swimming pool to be installed will be inaccessible by neighborhood children (see section "e" below).

Photographs, witness testimony, and the Hearing Officer's own observations of the neighborhood adequately demonstrate that fences are common in the neighborhood surrounding the subject property. Many of these fences are taller than four (4) feet in height. Specifically, two properties that abut the subject property to the south and west have six-foot fences already installed. The Applicant intends to install a fence that attractively ties into the existing fences, thus creating a uniform sight line around the property. Therefore, allowing this variation will not significantly alter the characteristics of the neighborhood or community.

b. *Strict application of the district requirements would result in great practical difficulties or hardship to the applicant, and prevent a reasonable return on the property.*

The Applicant testified that strict application of the code creates a hardship for multiple reasons. There is an existing tree that the Applicant wants to include as part of the fenced area, an area deemed to be part of the back yard. Installing a six (6) foot high fence that meets the current zoning code would bisect the area of the yard that Applicant considers the "back" yard, thus reducing the yard area accessible to anyone using the pool or surrounding yard.

Installing only a four (4) foot high fence in the side yards of the subject property would not provide adequate privacy. The unique slope of the side yard to the north creates an effect which visually lowers the overall fence height due to the change in elevation, thus reducing the privacy effect. The intended location of the pool, which is not easily moved due to easement and structure locations, also renders the pool visible from the street in front of the property. Thus, the fence in the south side yard is also intended to provide privacy, and a shorter fence height reduces its effectiveness.

Due to the sloped side yard, an uninvited child or animal could more easily overcome a fence of four (4) feet, thus reducing the effectiveness of the fence to ensure safety from unwanted pool access.

c. *The proposed variation is the minimum deviation from such requirements that will alleviate the difficulties/hardship, and allow a reasonable return on the property.*

Two primary characteristics of the subject property sought to be addressed are the adjoining six-foot fences and the sloped ground in the north corner side yard. Applicant has no ability to require the neighboring property owners to change the height or construction of the pre-existing fences, so allowing a six-foot fence that meets the existing fence heights is the most reasonable solution to maintaining consistency with neighboring fences.

It is conceivable that the ground slope on the north side of the property could be altered, but this would impact drainage, topography, landscaping, and potentially other issues on neighboring property owners. The cost of re-engineering the ground slope, and the labor of altering the topography to reduce the overall slope of the north corner side yard, could far exceed the cost and impact of allowing the fence height as requested.

d. *The plight of the applicant is due to peculiar circumstances not of his own making.*

Two significant impediments to Applicant's desired plan are the six-foot high fences already installed by the neighbors to the south and west, and the slope of the corner side yard to the north. Applicant did not cause either of these circumstances, nor are these within Applicant's reasonable control.

e. *The peculiar circumstances engendering the variation request are not applicable to other property within the district, and therefore, that a variation would be a more appropriate remedy than an amendment (rezoning).*

The primary reason that Applicant is not permitted to install a six-foot fence in the desired location is because the subject property is a corner lot. Such lots are significantly less common within the Town, simply by reason of the geography of street design. However, an additional characteristic of Applicant's property is the significant slope that exists on the north side.

The six-foot high fence allowed by code could be placed along the southern edge of the required corner side yard. If placed in this location the top of the fence would have an elevation of approximately 892 feet (ground elevation at this location is 886 feet). A four-foot fence is allowed within the corner side yard. At the proposed location of the fence the elevation of a four foot high fence would be 889 feet (the elevation at this location is approximately 885 feet). The elevation of the proposed six-foot fence at this same location would be 891 feet. The proposed fence would provide an additional two feet of height for both privacy and security over an allowed four-foot fence; however, it would be one foot shorter in overall elevation than a six-foot fence installed at the allowable location in the rear yard.

The complexities of the sloping elevation, corner yard layout next to an intersection, neighboring properties with legally conforming six-foot fences, and location of the physical structures within the yard setbacks all combine to make this a unique situation that is better addressed by a variation than a change in the zoning code. It is unlikely that other properties within the Town will match these unique characteristics.

f. *The variation, if granted, will not alter the essential character of the area where the premises in question are located nor materially frustrate implementation of this municipality's comprehensive plan.*

The surrounding neighborhood already has many fences that exceed four feet in height. In addition, the only two properties that adjoin the subject property have existing six-foot fences that will match the proposed fence. All of these structural characteristics are in keeping with the regulations for residential zoning permitted within the existing code. Thus, granting this variation will not alter the character of the area nor frustrate the Town's overall comprehensive plan.

Respectfully Submitted,

**Jeffrey L. Lewis,**
Hearing Officer

## Hearing Officer's Recommendation

Pursuant to Section 9-3-3.B.5 and 65 ILCS 5/11-13-11, based on the Findings of Fact as previously set forth, the Hearing Officer submits the following recommendation for consideration by the Town Board:

**It is recommended that the Application for Zoning Variation for the property at 575 N. Longmeadow Street, Cortland, Illinois (PIN: 09-17-378-011) be GRANTED.**

CONDITIONS

It is further recommended that the allowed variation be limited as follows: the six-foot high fence shall not encroach upon the side yards, either to the north or the south, any further than the dimensions shown on the Proposed Site Plan attached to the Application.

Respectfully Submitted,

**Jeffrey L. Lewis,**
Hearing Officer

Jeffrey L. Lewis
**Klein, Stoddard, Buck & Lewis, LLC**
2045 Aberdeen Court
Sycamore, Illinois 60178
Phone: 815-748-0380

# Exhibit 2

# Town of Cortland

**59 S. Somonauk Rd.**
**P.O. Box 519**
**Cortland, IL 60112-0519**

**Town Hall:**
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Facsimile 815/756-1543


Notes from May 27, 2015 Public Hearing

**SUBJECT:** Public Hearing to consider variance requests for 575 Longmeadow Street

**WHEN:** Conducted on Wednesday, May 27, 2015, at 7:00 PM

**WHERE:** Town of Cortland Town Hall, 59 S. Somonauk Road, Cortland, IL

**ATTENDANCE:** Jeff Lewis, Hearing Officier
Anna B. Kurtzman, Zoning Administrator and note taker
Samantha a/k/a Sandra L. Emmett, Applicant
Roger Emmett, father of the applicant
Tom Mann, applicant's Civil Engineer

**NOTES:**

Anna Kurtzman introduced the case, acknowledge the people in attendance and read the public notice into the record.

Jeff Lewis confirmed that written notice had been mailed to adjacent property owners.

Mr. Lewis confirmed that he had a complete packet that contained all written and photographic documentation submitted by the applicant and staff. He also confirmed that the Town had not received written testimony from the public. He confirmed with Ms. Kurtzman the extent and purpose of the variance requests.

Mr. Lewis swore in Ms. Emmett and offered her the opportunity to expand upon her request. She indicated that she wanted the fence as oppose to a barrier around the proposed pool for increased privacy. She noted that she has teenage girls and wants the increased privacy due to the fact that the house is located at a buy corner and that there are a number of registered sex offenders located nearby. She offered that the fence would not be located next to the sidewalk (that there would be approximately 10 feet from the sidewalk to where the fence would be placed) and that she would be landscaping that area.

Mr. Emmett was sworn in and also indicated that If the fence was located as allowed by code it would bisect the property in such a manner that it would render the backyard as basically unusable. He also noted that due to the slope of the property a six foot high fence would essentially only act as a four foot high fence.

Mr. Lewis asked for clarification regarding the extent of the variances being sought – that the variances addressed not only the northwestern portion of the property but also the southeastern corner. Ms. Emmett confirmed this.

Mr. Lewis questioned Ms. Emmett regarding the potential impact a six foot high fence versus a four foot high fence would have on the value of the property. Mr. and Ms. Emmett both indicated that there wouldn't be a significant difference to the value of the property.

After swearing her in, Mr. Lewis proceeded to ask Ms. Kurtzman a series of questions. Had she reviewed the application packet? She responded that she had. He sought clarification regarding the minimum barrier requirements for a pool. Ms. Kurtzman confirmed that either a four foot high fence and/or a guardrail around the pool would meet the requirements. Mr. Lewis inquired if, in Ms. Kurtzman's opinion, there would be any traffic hazards if the six foot high fence were installed as proposed. Ms. Kurtzman indicated that the fence shouldn't adversely impact the sight distance triangle.

Mr. Lewis noted that in preparing for the hearing that he had previously driven through the neighborhood. He noted that there are a number of six-foot high fences already located in the neighborhood.

Mr. Lewis stated that he would be providing the Town with his written findings of fact and recommendation but that he would share some of those thoughts with the applicant. He noted that the property is unique in that it has a two-foot slope that reduces the effectiveness of any fence.

Mr. Lewis also indicated that the neighbors to the west and south both have six foot high fences installed in compliance with the code as these fences are located in those properties' rear yards. The extension of a six foot high fence from these existing fences makes sense.

Mr. Lewis noted that some of the documents had somewhat different measurements as to where the fence would be located. As such, he sought clarification. Mr. Mann responded that the fence would placed adjacent to the southern edge of the northern easement. Mr. Lewis indicated that he would recommend that the fence be placed at least six inches from the easement to avoid encroaching into the easement.

After determining that there were no further questions or testimony Mr. Lewis closed the hearing at 7:17 pm.

Notes prepared by Anna B. Kurtzman

# Exhibit 3

# Town of Cortland

**59 S. Somonauk Rd.**
**P.O. Box 519**
**Cortland, IL 60112-0519**

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Facsimile 815/756-1543


## ADVISORY REPORT

**TO:** Jeffery Lewis, Hearing Officer

**FROM:** Anna B. Kurtzman, Zoning Administrator ABK

**DATE:** May 21, 2015

**SUBJECT:** Zoning Variation – 575 N. Longmeadow Street
Public Hearing scheduled for May 27, 2015, 7:00 PM

**APPLICANT:** Samantha (aka Sandra) L. Emmett

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PROPOSAL

The applicant is requesting a variations from Sections 9-3-13A2 and 9-4-3E2 of the Cortland Zoning Ordinance to allow a fence in the required corner side yard and to increase the height of a type II fence in the corner side yard from four (4) feet to six (6) feet. (The petitioner's application is attached as Exhibit A.)

LOCATION AND DESCRIPTION

The subject property is located at 575 N. Longmeadow Street, at the southwest corner of Longmeadow Street and Prairiefield Drive. This property is Lot 29 in Heatherfield Unit 1, platted in 2001. The subject property is improved with a single-family residential house (built in 2004) with landscaping and a shed located in the backyard. The subject property's lot size is 8,870 square feet. This property is largely level, however it slopes downwards by approximately two (2) feet as the lot extends from the house to the property lines.

*Existing and Surrounding Zoning*: The property in question is zoned R-2, high density single-family residence district. Properties located to the north, west and south are also zoned R-2. The property on the east side of Longmeadow Street is zoned C-1, Limited Retail Business District.

*Existing and Surrounding Land Uses:* The subject property and the properties to the west, north and south all have single-family detached homes with normal and customary accessory uses. The property to the east is undeveloped. The subject property does have an undocumented shed located near the western property line. Staff has requested documentation from the property owner to either provide a copy of the building permit number or provide an application for a shed permit. Staff has also requested an updated plat of survey showing where this shed is located.

BACKGROUND

The applicant has applied for a pool permit. Per Section 9-4-16B, pools are required to have a minimum of a four (4) foot high fence or guardrail around the top of the pool. To comply with the barrier requirement and to maintain a degree of privacy the applicant is seeking to install a six (6) foot high fence around the sides and rear of the property. As will be demonstrated under the technical review section, a six (6) foot high fence cannot be located in a corner side yard and complying with this requirement would bisect the backyard. The applicant has indicated verbally that they want a larger backyard area than what the regulations would allow so that an existing tree will also be included within the fenced area. In order to have a large backyard that includes the tree the fence would have to extend into the required corner side yard. The applicant also indicates that any privacy that a four (4) foot high fence located as proposed (approximately 10.5 feet from the northern property line) is further reduced as the ground slopes from the house to the street by approximately two (2) feet.

To help bolster their argument, the applicant is maintaining that there are other six (6) foot high fences located on corner lots that extend into the corner side yard setback within their neighborhood and have provided photographs to demonstrate their assertion (attached as part of their application).

TECHNICAL REVIEW

Section 9-3-13A2 states: "no accessory structure of use shall be permitted in any yard unless it is a permitted yard obstruction as provided in subsection B2 of this section." Subsection B2 is a table providing direction as to which yards accessory uses might be allowed. This table indicates that fences and walls that are more than four feet in height, that are otherwise compliant with Section 9-4-3, are only permitted in rear yards.

The definition of rear yard found in Section 9-2-2 clearly does not include the area defined as a corner side yard (YARD, REAR: A yard extending along the full length of a rear lot line and back to a line drawn parallel to the rear lot line at a distance therefrom equal to the required rear yard depth, but excluding any area encompassed within a required corner side yard). Per Section 9-3-6A, the Corner Side Yard setback is twenty-five (25) feet wide. By these definitions, the six (6) foot high fence can be placed along the rear property line, however it cannot be located within twenty-five (25) feet of the northern lot line (adjacent to Prairiefield Drive). The applicant is seeking relief from Section 9-3-13A2 to extend the six (6) foot high fence fourteen and half (14.5) feet into the required corner side yard.

Section 9-4-3E2 states: "Type II fences may be erected to a height not exceeding four feet (4') in a front yard or in a required side yard adjacent to the side of a principal structure on an adjoining lot." A Type II fence is defined in Section 9-4-3D2 as "all fences other than Type 1 fences." Type I fences are defined as "A fence in which the openings in the materials of which the fence is constructed represent more than seventy percent (70%) of the area of the fence and which do not interfere with visibility through or the free passage of air through the fence." As the applicant is seeking a solid fence that does not match the definition of a Type I fence and is therefore classified as a Type II fence. As the proposed fence is classified as a Type II fence and is higher than four (4) feet relief from Section 9-4-3E2 is being sought (the applicant is asking to extend the height of the fence by two (2) feet from the maximum of four (4) feet to six (6) feet.

Section 9-3-6A provides the bulk regulations and establishes a six (6) foot side yard setback for properties that are zoned R-2. Given the provisions established in Section 9-4-3E2, fencing that is proposed to be located south of the house at 575 N. Longmeadow Street is not to exceed four (4) feet in height. The common lot line between the property to the south (568 N. Longmeadow Street, PIN: 09-17-378-011) and the subject property is the side lot line for each of the two properties. As such, the applicant is seeking to increase the height of an allowable four (4) foot high fence by two (2) feet to allow a six (6) foot high fence within a required side yard that abuts the side of the house on the adjoining lot.

As noted previously the applicant submitted photographic evidence to support their claim that six (6) foot high fences extending into corner side yards exist throughout the neighborhood. Staff attempted to verify this claim and to determine if permits and/or variances had been granted for these properties. As the photos are not labeled with addresses staff was not able to verify every claim. Of the nine photos, two appear to be of the same house, looking at it from different angles (photo #2 and #3). Photo #6 shows a chain link fence located in a corner side yard. Chain link fences are classified as Type I fences and may be allowed in a Corner Side Yard. Therefore staff does not believe this particular fence should be included in any discussion relative to the applicant's petition. Given these two situations staff believes that the applicant has actually provided documentation relative to seven (7) properties. Of the properties staff was able to verify (two), each had received permits. Of these two, staff found no indication that variances were sought and/or granted. No documentation was found in either of these files to indicate how previous staff determined compliance with the Zoning Regulations.

FINDINGS OF FACT

Section 9-9-3B4 of the Cortland Zoning Ordinance provides a list of standards that are to be considered by the Hearing Officer before making a recommendation to the Town Board. The following Findings are presented for the Hearing Officer's consideration:

Section 9-9-3B4: *Standards For Variation: The hearing officer shall not grant any variation unless, based upon evidence presented during the public hearing, it is determined that:*

a. *The proposed variation is consistent with the general purposes of this title.*

   A copy of Title 9's (Zoning Regulation) general purposes are attached as Exhibit B. As can be seen, there are twenty-one (21) provisions within this section, that essentially boils down to whether proposed uses and structures are located in such a manner as to ensure the health and safety of a community and that the use/structures meets with the character of the community. The Town's locational criteria for fences fall into both of these general categories (health/safety and character). Most of the time the prohibition of a fence greater than four (4) feet in height in a corner side yard is to help ensure that traffic at the intersection can see other traffic. The prohibition of having a fence greater than four (4) feet in height also helps to ensure that any neighbor that might be affected by the fence can see around the fence as they back out of their driveway. Exhibit C shows that the neighbor's driveway is located toward the western end of their lot.

   Given that location of the proposed fence should not adversely impact the ability of the neighbor to see as s/he backs out of their driveway and that the fence is outside of the designated sight-distance triangle, the variation, if granted, could be deemed to be consistent with the general purpose of the zoning regulations.

b. *Strict application of the district requirements would result in a great practical difficulties or hardship to the applicant, and prevent a reasonable return on the property.*

   The applicant has indicated verbally that strict application of the code creates a hardship as there is an existing tree that they want to include as part of their fenced area, an area they deem to be part of their backyard. A four (4) high fence, as allowed by code, can be placed into the corner side yard and would still allow the applicant to maintain the perceived backyard area while including the tree.

   The applicant is also claiming a hardship as a four foot high fence (allowed by code) does not provide privacy, especially as the ground slopes away from the house thus reducing the amount of privacy a fence

would provide. The six foot high fence allowed by code could be placed along the southern edge of the required Corner Side Yard. If placed in this location the top of the fence would have an elevation of approximately 892 feet (ground elevation at this location is 886 feet). A four foot high fence is allowed within the Corner Side Yard. At the proposed location of the fence the elevation of a four foot high fence would be 889 feet (the elevation at this location is approximately 885 feet). The elevation of the proposed 6 foot high fence at this same location would have an elevation of 891 feet. The proposed fence would provide an additional two feet of height (privacy) over an allowed four foot high fence, however, it would be one foot shorter (less privacy) than if the six foot high fence were moved to where it is allowed at the southern edge of the Corner Side Yard.

Strict application of the regulations allowing a four foot high fence within the Corner Side yard reduces the privacy that a six foot high fence would accord, however it would maintain the desired backyard. Strict application of the six foot high fence would afford the greatest degree of privacy however it would bisect the perceived backyard.

c. *The proposed variation is the minimum deviation from such requirements that will alleviate the difficulties/hardship, and allow a reasonable return on the property.*

The petitioner's hardship is that they want to maximize their backyard while maintaining the highest degree of privacy possible. The petitioner is seeking to minimize the impact by limiting the extent by which the fence would extend into the required Corner Side Yard (the petition could ask that the fence extend to the northern property line, instead, the fence is extending 15 feet into the Corner Side Yard, to accommodate a tree).

d. *The plight of the applicant due to peculiar circumstances not of his own making.*

The petitioner is seeking the variations as she wants to install a pool, which requires either a four (4) foot high fence or guardrail (Section 9-4-16 of the Municipal Code). As such, the hardship is of the applicant's choosing.

e. *The peculiar circumstances engendering the variation request are not applicable to other property within the district, and therefore, that a variation would be a more appropriate remedy than an amendment (rezoning).*

The request for a six (6) foot high fence located in a corner side yard setback is unique in that the applicant has created the situation (seeking to install a pool).

*f. The variation, if granted, will not alter the essential character of the area where the premises in question are located nor materially frustrate implementation of this municipality's comprehensive plan.*

As noted there are already six (6) foot high fences located in Corner Side Yards within the neighborhood, including one across the street from the petitioner. Given the existence of these fences staff believes that granting the variance would not alter the essential character of this neighborhood.

NEXT STEPS

After the public hearing the Hearing Officer is to make a recommendation to the Town Board regarding each requested variation. Along with this recommendation the Hearing Officer shall include findings of fact that clearly indicate the Officer's reasons for his recommendation. If there are any recommended conditions to be placed

upon the variation these conditions are to be included in a separate statement. The recommendation is to be made within "a reasonable time after the public hearing." (Section 9-9-3B5 of the Municipal Code) Staff notes that the Town Board has a meeting scheduled for Monday, June 8th with another one on June 22nd.

Section 9-9-3B6 notes that the Town Board has thirty (30) days after receiving the Hearing Officer's recommendation to accept, reject or modify the Officer's recommendation.

/abk
Attachments
C: Applicant

# EXHIBIT A

# Town of Cortland
# APPLICATION
FOR
# ZONING VARIATION

APPLICATION FOR ZONING VARIATION

# NOTICE TO APPLICANTS

A variation is a zoning adjustment which permits minor changes of the requirements of the zoning district in which the property in question is located where individual properties are both harshly and uniquely burdened by the strict application of the law. The power to vary is restricted and the degree of variation is limited to the minimum change necessary to overcome the inequality inherent in the property. "Variation" means the modification of the requirements of a zoning district and does not include the substitution of uses assigned to other zoning districts.

A variation recognizes that the same zoning district requirements do not affect all properties equally and was invented to permit minor changes to allow hardship properties to enjoy equal opportunities with similarly zoned property. You must prove that your property is affected by special circumstances or unusual conditions which do not exist on other property in the same zoning district. These must result in uncommon hardship and unequal treatment under the strict application of the Cortland Zoning Ordinance. Where hardship conditions extend to other property a variation cannot be granted. The remedy for such general hardships is a change of the zoning map or the text of the Zoning Ordinance.

You must prove that the combination of the Zoning Ordinance requirements and the uncommon conditions of your property prevents you from making any reasonable use of your land as permitted by your present zoning district. Since zoning regulates land and not people, the following conditions cannot be considered pertinent to the application for zoning variation: (1) proof that a variation would increase the financial return from the land; (2) personal hardship; and, (3) self-imposed hardship.

No variation may be granted which would adversely affect surrounding property in the general neighborhood. All variations must be in harmony with the purpose and intent of the Cortland Zoning Ordinance.

# APPLICATION FOR ZONING VARIATION

# PROCEDURES

## INTRODUCTION

It is the Hearing Officer's function to hear cases concerning variations from the Zoning Ordinance and appeals from the decisions of the Zoning Administrator. The Hearing Officer does not hear cases concerning the use of land, i.e. rezoning, Special Use Permits, and planned developments, but rather cases concerning the standards for improvement to property in the Town, such as building setbacks, off-street parking requirements, signs and others as set forth in the Cortland Zoning Ordinance. The Zoning Ordinance is the set of rules, standards and procedures for the improvement of property in the Town adopted and amended from time to time by the Board of Trustees of the Town of Cortland.

The Hearing Officer, by Illinois statute, must determine that certain criteria are satisfied in order to recommend approval of a zoning variation request. The validity of the alleged hardship is the primary criterion the Hearing Officer must use to decide whether to grant or deny a variation request. The Hearing Officer is very thorough in his investigation and analysis of the alleged hardship. It is to the Applicant's benefit to focus on the validity of his/her hardship during the public hearing.

A hardship is a unique circumstance created or brought about by unusual topographic or platting conditions affecting only the Applicant's property. If a valid hardship exists and there are no viable alternatives for the proposed use or construction a zoning variation could be granted.

## PROCEDURES

The application for zoning variation involves these steps:

1. A completed **application form** must be filled out and presented to the Zoning Administrator, along with a **plat of survey** showing the location and dimensions of the property lines, easements and buildings on the property; a **legal description**; the location and dimensions of the proposed use or construction; any **other supporting documentation** that may be required by the Zoning Administrator; and, the non-refundable **application fee**.

2. When your application is completed and **accepted**, the Zoning Administrator will assign a meeting date after conferring with the Hearing Officer. You will be informed of the date and time of the meeting.

3. All variations require a public hearing. Your variation request will be published in a local newspaper no less than fifteen (15) days before the scheduled public hearing date. All of the property owners adjacent to your property will receive notification from the Town summarizing the requested zoning variation and inviting them to attend the public hearing.

4. Unless otherwise specified, all zoning variation meetings and public hearings are held at the Cortland Town Hall, 1909 Somonauk Road, Cortland, Illinois.

5. It is necessary that the Applicant or a duly authorized representative of the Applicant attend the public hearing in order to present the case and answer questions from the public and the Hearing Officer.

6. The public hearing proceeds as follows:

   a. The Hearing Officer will open the public hearing and ask the Applicant to present his or her case. During the public hearing, the Applicant must make an oral presentation addressing the following:

      1. In what respect do you want the Zoning Ordinance varied, or the decision of the Zoning Administrator changed?

      2. What, in your opinion, is the undue hardship or difficulty in complying with the Zoning Ordinance, or the decision of the Zoning Administrator?

      3. What hardship would result from the strict application of the Zoning Ordinance, or the decision of the Zoning Administrator?

   b. Following the Applicant's testimony, the Hearing Officer will permit the public to testify, after which the Hearing Officer may question the Applicant.

   c. Once the Hearing Officer is satisfied that all facts and testimony have been collected and heard, the public hearing is closed and the Hearing Officer will conduct his "findings of fact" and prepare his recommendation to the Town Board. The "findings of fact" is a summary of the testimony given during the public hearing focusing on the validity of the alleged hardship and the effect the proposed variation will have on the subject property as well as adjoining property. A Findings of Fact worksheet is attached to this application for your information.

7. The Hearing Officer will make his decision and recommendation to grant, deny, or amend the zoning variation request. The Hearing Officer may impose conditions and restrictions on the variation as he sees fit to protect adjacent property owners and neighborhood property values.

8. The Hearing Officer's recommendation and findings of fact are forwarded to the Town Board for a decision. The decision of the Town Board is final.

9. Effect of Denial. In the event the Town Board denies a zoning variation request, the property owner may not file another application for a variation for three (3) month, unless significant new information or changes to the variation request are brought forward.

If you have any questions concerning the zoning variation procedures or application requirements, please don't hesitate to call the Town Hall at (815) 756-9041.

APPLICATION FOR ZONING VARIATION

# FINDINGS OF FACT WORKSHEET

1. Would the Applicant's property yield a reasonable return if the variation were denied?

2. Do special circumstances or unusual conditions exist on the property?

3. Will the proposed variation merely serve as a convenience to the Applicant?

4. Will the proposed variation relieve a demonstrated hardship?

5. Is the alleged hardship self-imposed?

6. Has the hardship been created by any person having a proprietary interest in the premises?

7. Will the proposed variation be harmful to the public health, safety, comfort, morals, or welfare of the residents and property owners of Cortland?

8. Will the proposed variation impair adequate light and air to the subject property and/or adjacent properties?

9. Will the proposed variation increase congestion on any public street to the point of being hazardous to the public well being?

10. Will the proposed variation increase the risks of fire not only to the Subject Property, but to adjacent property?

11. Will the proposed variation alter the essential character of the neighborhood?

12. Will the proposed variation be in harmony with the spirit and intent of the Zoning Ordinance?

13. The Hearing Officer may recommend, and the Town Board may impose, such conditions and restrictions upon the location, construction, design, and use of the property benefited by a variation as may be necessary or appropriate to comply with the Zoning Ordinance and to protect the value of adjacent property in the neighborhood.

# APPLICATION FOR ZONING VARIATION

## PART I. Applicant Information

**APPLICANT:** *(Please Print or Type)*

*Name:* Samantha AKA Sandra L. Emmett

*Address:* 575 N. Longmeadow Street

*Phone:* (779) 777 - 1059 ~~Fax:~~ Cell (815) 508 - 9782

samemmett5@gmail.com

**CONTACT PERSON:** *(If different from Applicant)*

*Name:* _____

*Address:* _____

*Phone:* ( ) _____ - _____ *Fax:* ( ) _____ - _____

IS THE APPLICANT THE OWNER OF THE SUBJECT PROPERTY? YES [X] NO [ ]

*(If the Applicant is not the owner of the subject property, a letter from the Owner authorizing the Applicant to file the **Application for Zoning Variation** must be attached to this application.)*

IS THE APPLICANT AND/OR OWNER A TRUSTEE OR A BENEFICIARY OF A LAND TRUST? YES [X] NO [ ]

*(If the Applicant and/or Owner of the subject property is a Trustee of a land trust or beneficiary(ies) of a land trust, a disclosure statement identifying each beneficiary of such land trust by name and address and defining his/her interest therein shall be verified by the Trustee and shall be attached hereto.)*

## PART II. Property Information

ADDRESS OF PROPERTY: 575 N. Longmeadow St.

PARCEL INDEX NUMBER(S): 09-17-378-011

LEGAL DESCRIPTION: Attached

*A legal description must be provided or attached to this application*

IS THE PROPERTY IN QUESTION CURRENTLY SUBJECT TO A ZONING VARIATION OR A SPECIAL USE PERMIT? YES [ ] NO [X]

If so, please describe its nature: _____

IS THE PROPERTY IN QUESTION CURRENTLY NON-CONFORMING IN ANY RESPECT? YES [ ] NO [X]

If so, please describe its nature: Standard

# APPLICATION FOR ZONING VARIATION

## PART III. Reasons for the Zoning Variation Request

1. Briefly describe the physical characteristics of your property which prevent you from complying with the requirements of the Cortland Zoning Ordinance. *(Please Print or Type; Attach additional pages if necessary)*

   Requesting a height difference from 4' to 6'

2. Are these characteristics or conditions the result of other man-made changes, such as relocation of a road or highway? Please describe.

   No

3. What specific requirement(s) of the Cortland Zoning Ordinance prevent you from establishing the proposed use or construction on your property? *(Identify the specific Section(s) of the Zoning Ordinance.)*

   The Height Limitation on height fences
   R.E 4/23/15
   * Section 9-3-13A2 which deals w/ fences + walls
   * Section 9-3-13A2 which deals w/ Height of fences

4. What is the minimum reduction of the requirements of the Cortland Zoning Ordinance that would permit the proposed use or construction on your property? *(For example, reduce the required setback from 20 feet to 16 feet.)*

Increase the height of fence from 4 feet to 6 feet

5. What is the practical difficulty or particular hardship which would result if the requirements of the Cortland Zoning Ordinance were strictly applied to your property?

Loss of property usage

We Would Loose 50% Use of Our Back yard.

6. To the best of your knowledge, can you affirm that the hardship you described above was not created by you or anyone having a proprietary interest in the subject property? YES [X] NO [ ]

If not, explain why the hardship should not be regarded as self-imposed *(self-imposed hardships are not entitled to a zoning variation).*

7. Are the conditions of this hardship for which you request a zoning variation true only of your property? YES [ ] NO [X]

If not, how many other properties in the Town are similarly affected?

There are Several Other Properties identical to my Request.

9 – Photos Included – Comparison fencing in Neighborhood Including A View of Mine

I certify that all of the above statements and the statements and information contained in any papers, plans and other documents submitted herewith are true to the best of my knowledge and belief.

Applicant's Signature

4-8-15
Date

98002_Zvar.application

Call Us! 1-800-543-6511

Request an Estimate | Request Info

HOME ABOUT RESIDENTIAL COMMERCIAL AND INDUSTRIAL AUTOMATED GATES RESOURCES CONTACT US

INQUIRE ABOUT OUR
Current Specials!
CLICK HERE TO GET A
FREE Estimate!
Peerless Celebrating 50 YEARS!
click to read more!

Residential Fences
- Ornamental Fences
  - Aluminum Fencing
  - Steel
  - Custom Iron
  - Custom Gates
- Wood
  - Copperwood
  - Western Red Cedar
  - Stockade
  - Post and Rail
- Vinyl
- Simtek
- Chain Link
- Iron Railing
- Installation Process
- Warranties
- LEED

## VINYL

MADE IN AMERICA LEED LIFETIME WARRANTY

## ACTIVE YARDS

Active Yards PVC privacy fencing features exclusive GlideLock technology, a patent-pending design that snaps together and locks boards tightly in place without any gaps. It locks together for a tighter fit, enhanced strength, and privacy.

It's available in four colors – white, sand, wicker, and cypress – protected by SolarGuard technology to prevent discoloration and fading from sun exposure.

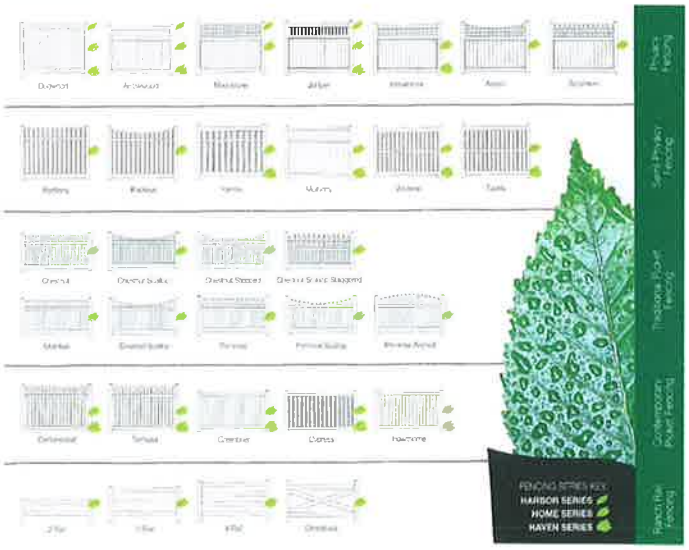
Available in three grades – Harbor, Home, and Haven – and a wide variety of models, AY PVC has a match for every style preference, privacy and strength need in a range of price points.

Active Yards products come with a Limited Lifetime Warranty from the manufacturer.

PVC-Specs

ActiveYards_Warranty

## STYLES



Inspiration Gallery
See our photo collections

"Both Phil and Victor were great to deal with on this project. We're glad we decided to have Peerless complete the project! Removing the old fence and adding the new fence and gates has really improved our property."

Read All Testimonials

Follow Us!

Peerless Fence on Facebook
Like Share 349

SALESMAN OF THE MONTH

**BRAD KNEPPER**

*Commercial Project Manager*

Brad has been a commercial project manager with our company for the past 8 years, but he has

**PEERLESS** FENCE & SUPPLY
A Division of Peerless Enterprises

33W401 Roosevelt Road
West Chicago, IL 60185
Ph: 630-584-7710
Fax: 630-584-7746

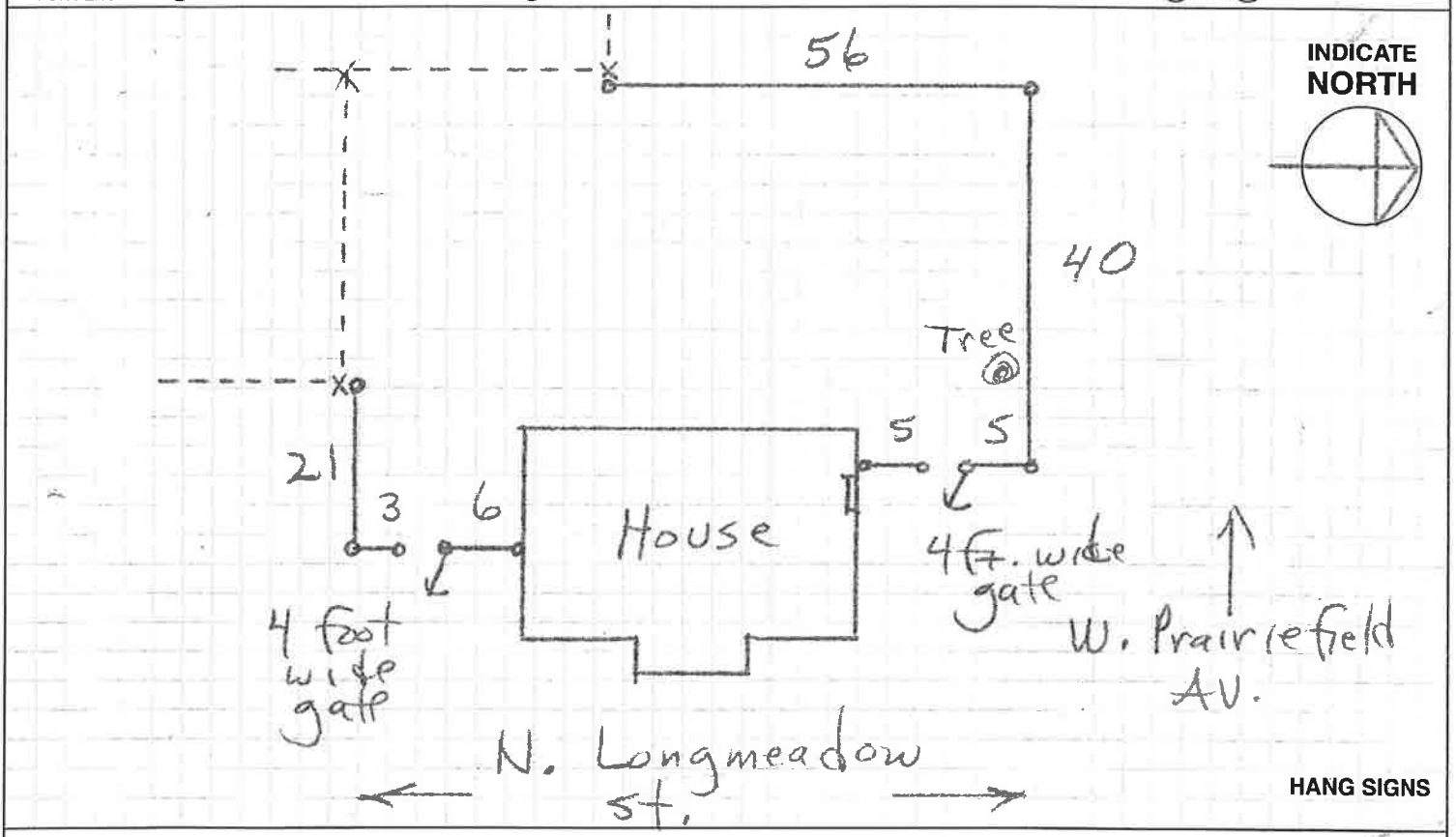
OFFICE USE ONLY
Lead Source
Project Manager Mike
Proposal Date 3/30/15
☑ New ☐ Repair
Start Date

Purchaser Samantha Emmett
Address 575 N. Longmeadow St.
City/State Cortland, IL Zip 60112
Job Location
Address
City/State Zip
Subdivision County Township
Section 1/4 Section
Julie Locate Cross Street

Home # 815-508-9782
Work #
Cell # 779-777-1059
Fax #
Email

Detail with all reference points — DIAGRAM — Show line fence for each stretch

SYMBOLS FOR FENCE: ⓧ – EXISTING TERM POST ◯ – NEW TERM POST ~~XXX~~ – EXISTING FENCE ◯—◯ – NEW FENCE




**Under no circumstances** is Peerless Fence responsible for damages to private utilities (i.e. sprinkler systems, drain tiles, down spouts, sump lines, private gas, private electric, private water, and electric fences) and/or underground items not professionally located by J.U.L.I.E. or Digger companies.

These measurements are estimated. The final billing will be based on the actual footage of fencing built and the work performed.
Customer initials _____ Date _____
☐ Changes **Foreman - Show any changes in red or re-sketch - THIS IS IMPORTANT!**

This contract contains a limited warranty on the reverse side.

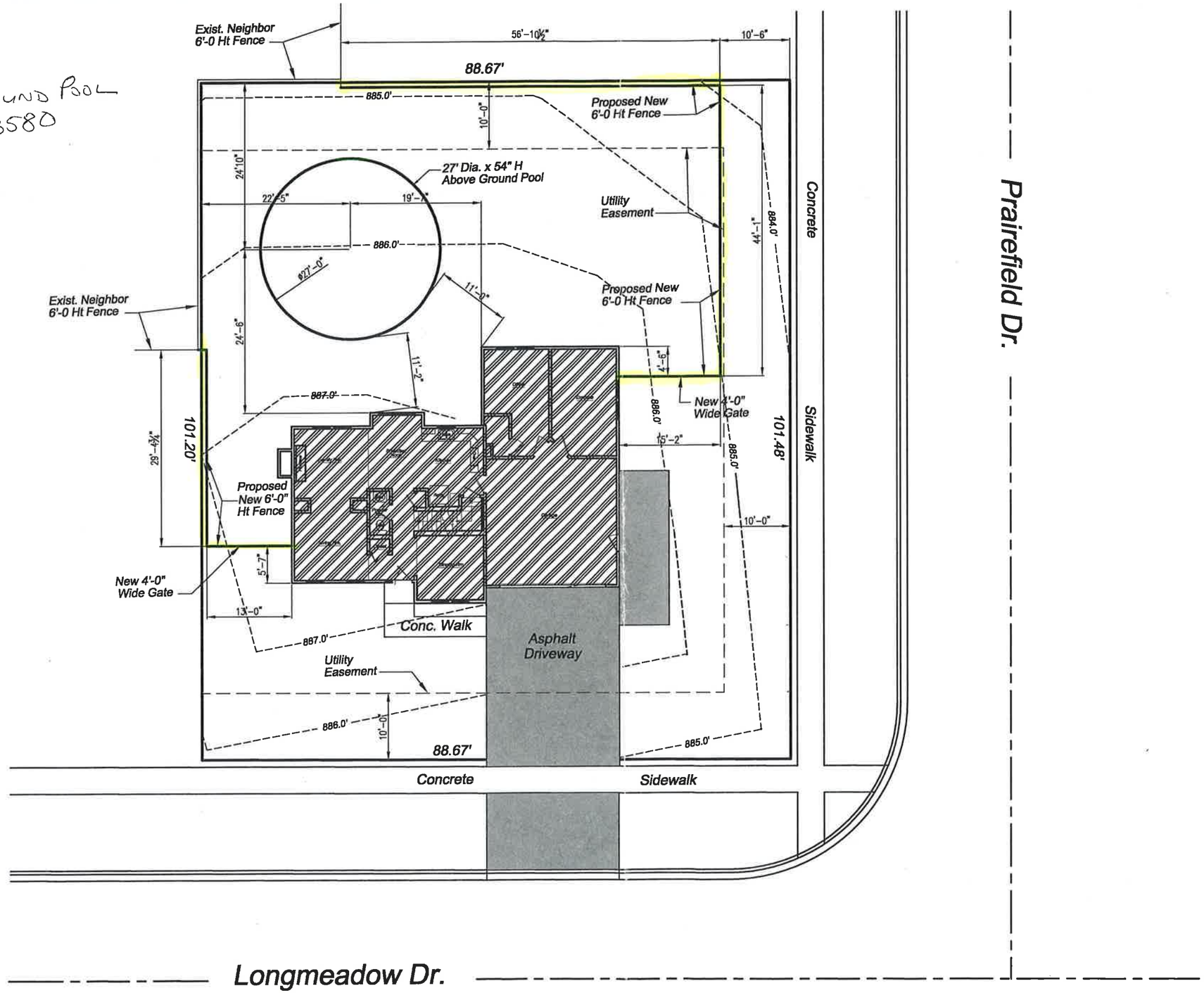
**Owner Responsibilities** - Initial SLE

- ☑ Obtain permit and inspections
- ☑ Furnish plat of survey
- ☐ Locate iron pins
- ☐ Clear fence line
- ☐ Locate private utilities
- ☐ Contain animals
- ☐ Mark location for spoils
- ☐ Clear existing fence

**Job Conditions**

- Y N Fence tight to grade
- Y N Fresh grade dirt
- Y N New grass or sod
- Y N Core drill
- Y N Flange mounted
- Y N Blacktop breaks
- Y N Concrete breaks
- Y N Concrete footings pulled

4-9-15
ABOVE GROUND POOL
BP 15 - 3580




Proposed Site Plan
Scale: 1/16" = 1'-0

Phase I Renovation
Salon & Spa
Samantha Emmett Residence
575 N. Longmeadow St.
Cortland, Il. 60112

| Rev | Date | Description |
|---|---|---|
| | | |
| | | |
| | | |
| | | |
| 1 | | Permit |

Title
Proposed Site Plan

Number
C1.0

Sheet __ of __

4-8-15

575 N. Longmeadow St

Residence: Requesting Variation of 4' to 6'
~~[illegible]~~ 11 feet From Sidewalk
I will be placing a Lanscape
Area for Beautiful View

Comparison Photos
"9" to Follow →

Across my Street 6ft up to frontage Road

1

Another Corner Lot 6' Fence

(2)

6 ft over Back

3

6FT Almost to Sidewalk &
Frontage Road

4

6ft up to Sidewalk

(5)

Frontage Road

over 6 ft Chain Link fence.

6

Frontage Rd Over 5ft to Sidewalk

7

Over 5ft frontage Road

8

Over 4ft frontage Road

9

# EXHIBIT B

## 9-1-2: PURPOSE AND INTENT:

This Title is adopted for the following purposes:

A. To promote the public health, safety, morals, comfort and general welfare of the people.

B. To divide the Town into zones or districts regulating and restricting therein the location and use of buildings, structures and land for residence, business, manufacturing and other specified purposes;

C. To protect the character and stability of the agricultural, residential, business, and manufacturing areas within the Town and to promote the orderly and beneficial development of such areas;

D. To provide adequate light, air, privacy and convenience of access to property;

E. To regulate the intensity of use of lot areas, and determine the area of open spaces surrounding buildings, necessary to provide adequate light and air and to protect the public health;

F. To establish building lines and the location of buildings designed for residential, business, and manufacturing or other uses within such areas;

G. To fix reasonable standards to which buildings or structures shall conform therein;

H. To prohibit uses, buildings or structures incompatible with the character of development or intended uses within specified zoning districts;

I. To limit congestion in the public streets and protect the public health, safety, convenience and general welfare by providing for the off-street parking of motor vehicles and the loading of commercial vehicles;

J. To protect against fire, explosion, noxious fumes, and other hazards in the interest of the public health, safety, comfort and general welfare;

K. To prevent the overcrowding of land and undue concentration of structures, so far as is possible and appropriate in each district, by regulating the use and bulk of buildings in relation to the land surrounding them;

L. To conserve and enhance the taxable value of land and buildings throughout the Town;

M. To provide for the gradual elimination of nonconforming uses of land, buildings and structures which are adversely affecting the character and value of desirable development in each district;

N. To prevent additions or alterations or remodeling of existing buildings or structures in such a way as to avoid the restrictions and limitations lawfully imposed herein;

O. To facilitate and ensure the preservation of sites, areas and structures of historical, architectural and aesthetic importance;

P. To define and limit the powers and duties of the administrative officers and bodies provided herein;

Q. To regulate or forbid any structure or activity which may hinder solar access to solar energy necessary for the proper functioning of a solar energy system;

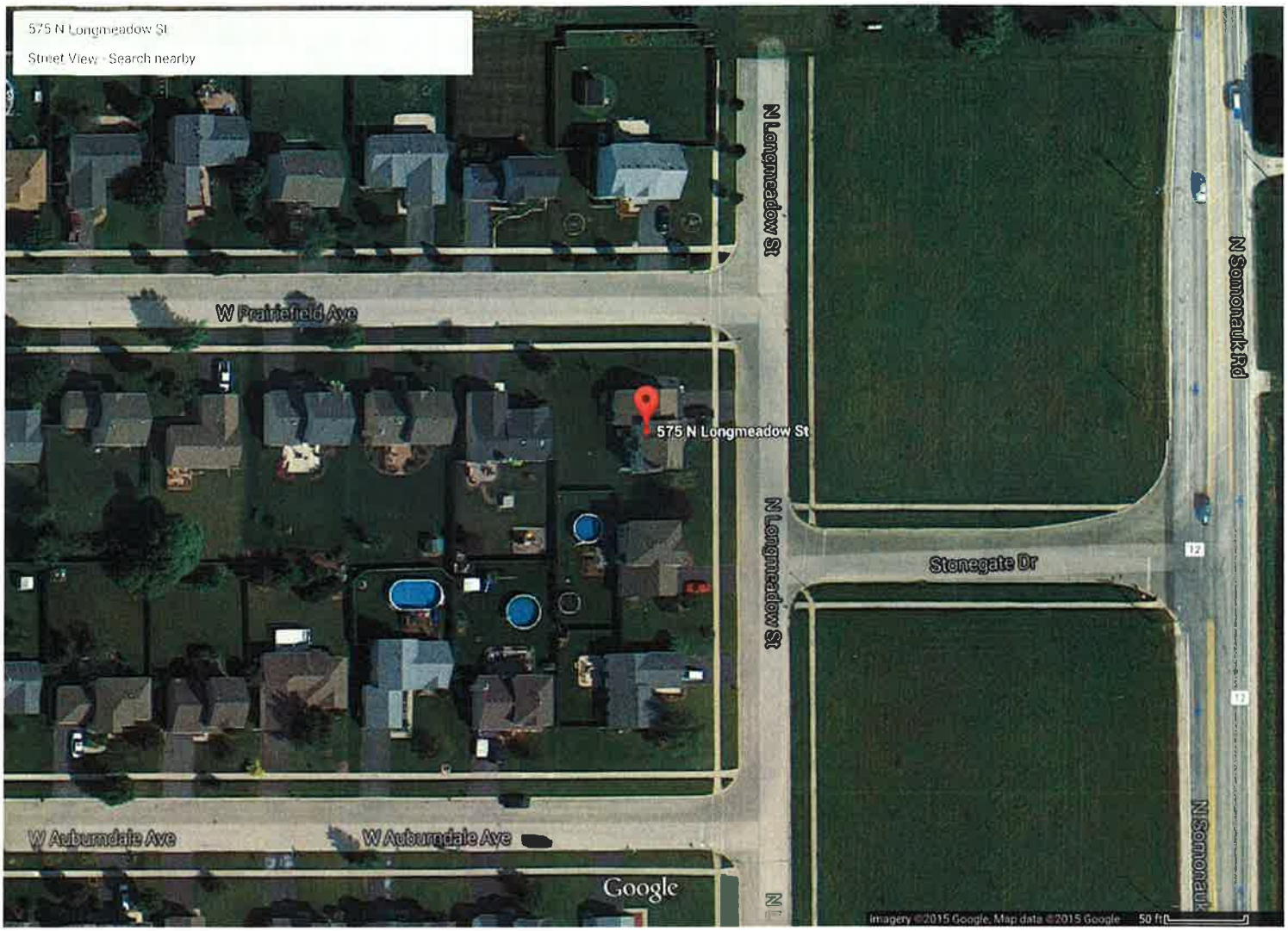
R. To enhance aesthetic values within the town;

S. To encourage the use of alternative and renewable energy sources;

T. To advance the goals and objectives of the Cortland comprehensive plan; and

U. To prescribe penalties for the violation of, and methods for the enforcement of, the provisions of this title or any amendment thereto. (Ord. 1997-17, 10-27-1997, eff. 10-27-1997)

# EXHIBIT C


575 N Longmeadow St
Street View - Search nearby
N Longmeadow St
W Prairefield Ave
575 N Longmeadow St
N Longmeadow St
Stonegate Dr
N Somonauk Rd
W Auburndale Ave
W Auburndale Ave
Google
Imagery ©2015 Google, Map data ©2015 Google 50 ft

**TOWN OF CORTLAND**
**DEKALB COUNTY, ILLINOIS**

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**ORDINANCE NO. 2015-XX**

**AN ORDINANCE GRANTING A ZONING VARIATION FOR PROPERTY LOCATED AT 575 N. LONGMEADOW ST., CORTLAND, ILLINOIS**

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**ADOPTED BY THE**
**PRESIDENT AND BOARD OF TRUSTEES**
**OF THE**
**TOWN OF CORTLAND**
**THIS ____ DAY OF _____, 2015**

Published in pamphlet form
by the authority of the President
and Board of Trustees of the
Town of Cortland, DeKalb
County, Illinois this ____
day of _____, 2015.

**TOWN OF CORTLAND**
**DEKALB COUNTY, ILLINOIS**

**ORDINANCE NO. 2015-XX**

**AN ORDINANCE GRANTING A ZONING VARIATION FOR PROPERTY LOCATED AT 575 N. LONGMEADOW ST., CORTLAND, ILLINOIS**

WHEREAS, the corporate authorities of the Town of Cortland are authorized by the Illinois Municipal Code, 65 ILCS 5/11-13-5, to vary the application of zoning regulations relating to the use, construction, or alteration of buildings or structures or use of land within the Town; and,

WHEREAS, Samantha a/k/a Sandra L. Emmett has applied for a variation from the requirement of Sections 9-3-13A2 and 9-4-3E2 of the Cortland Zoning Ordinance to allow a fence in the required corner side yard and to increase the height of a type II fence in the corner side yard from four (4) feet to six (6) feet at her residence at 575 N. Longmeadow Street; and,

WHEREAS, the subject property is located in an R-2 high density single-family residence district; and,

WHEREAS, a public hearing was held on May 27, 2015, at 7:00 p.m. by the Town hearing officer, Jeffrey L. Lewis, pursuant to proper notice and in compliance with the laws of the State of Illinois and ordinances of the Town of Cortland; and,

WHEREAS, the hearing officer recommended approval of a variation to allow a fence in the required corner side yard and to increase the height of a type II fence in the corner side yard from four (4) feet to six (6) feet; and,

WHEREAS, the Cortland Board of Trustees accepts and adopts the findings and recommendations of the hearing officer concerning the requested variation; and,

WHEREAS, the Cortland Board of Trustees finds that the Applicant has met her burden of demonstrating practical difficulties and particular hardship concerning a variation from the required no accessory structure shall be permitted in a corner side yard and that a type II fences shall be erected to a height not exceeding four (4) feet;

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE TOWN OF CORTLAND, DEKALB COUNTY, ILLINOIS as follows:

**SECTION 1:** The foregoing preambles are incorporated in this Section as if fully set forth herein.

**SECTION 2:** The property which is the subject of this Ordinance is legally described as follows:

> LOT 29 OF HEATHERFIELD UNIT ONE, A SUBDIVISION OF PART FO THE SOUTH HALF OF THE SOUTH HALF OF THE SOUTHWEST QUARTER OF SECTION 17, TOWNSHP 40 NORTH, RANGE 5 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED DECEMBER 4, 2001 IN PLAT CABINET NUMBER 9 AT SLIDE NUMBER 11-C AS DOCUMENT NUMBER 2001021577, SITUATED IN THE TOWN OF CORTLAND, CORTLAND TOWNSHIP, DEKALB COUNTY, ILLINOIS.

**SECTION 3:** A variation to allow a fence in the required corner side yard and to increase the height of a type II fence in the corner side yard from four (4) feet to six (6) feet is hereby granted, subject to the following conditions:

a. The six-foot high fence shall not encroach upon the side yards, either to the north or the south any further than the dimensions shown on the proposed Site Plan attached hereto.

**SECTION 4:** This Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by law.

PASSED THIS _____ DAY OF _____, 2015.

AYES:

NAYS:

ABSENT:

APPROVED this _____ DAY OF _____, 2015.

_____

Russell Stokes, Mayor

ATTEST:

_____

Cheryl Aldis, Town Clerk