

Board of Adjustment Staff Report

Meeting Date: July 27, 2023

Location: 3720 South Lindbergh Blvd.

Applicant: Aaron Sansone

Description: **3720 S Lindbergh Blvd. (Aaron Sansone)**: A request for a variance to construct an eight-foot (8') tall fence on a commercial property in lieu of the maximum six-foot (6') height requirement.

SUMMARY:

Anthony Sansone on behalf of Tidal Wave Wash Center is requesting a variance from the City of Sunset Hills Unified Development Ordinance (UDO) to construct an eight foot (8') tall fence on a multi-use commercial property that currently contains a gas station and car wash. Section 4.4.2.2 of the UDO states; *"In any non-residential district, no fence shall exceed six feet (6') in height except as otherwise provided for in this Ordinance"*. The proposed fence is 24' in length and located in the southeast corner of the lot. The purpose of the fence is to screen the view of brake lights from the cars entering the car wash, and to limit the noise of the car wash tunnel from disturbing the existing residential neighborhood to the east.

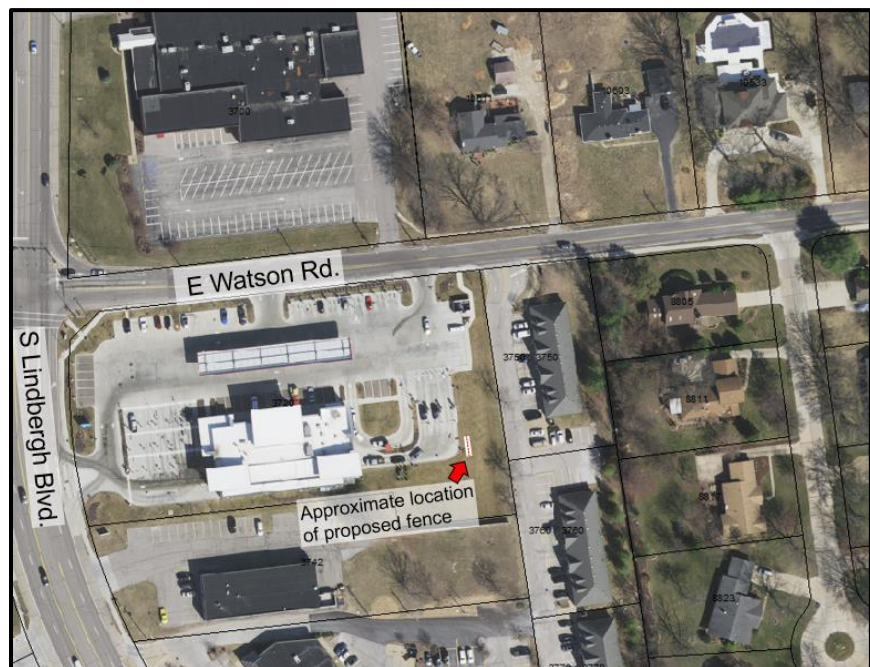


Figure 1: Approximate Location of Sign on the Subject Site

SITE HISTORY:

In 2018 an Amended Development Plan and Conditional Use Permit (CUP) were approved to demolish a vacant hotel and redevelop the property, with a multi-use development, containing a gas station, car wash, convenience store and a drive through restaurant. The multi-use commercial development received temporary occupancy in December of 2020 and final occupancy in December of 2021.

BOARD OF ADJUSTMENT POWERS AND RESPONSIBILITIES:

In consideration of a request for a variance, the Board of Adjustment is required to follow Missouri State Statute and Sunset Hills code requirements. **Chapter 89 of the Missouri Revised Statutes states, “In passing upon appeals, where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of such ordinance, to vary or modify the application of any of the regulations or provisions of such ordinance relating to the construction or alteration of buildings or structures or the use of land so that the spirit of the ordinance shall be observed, public safety and welfare secured and substantial justice done...” (emphasis added).**

APPLICANT REQUEST:

The Applicant has provided a statement of hardship, practical difficulty, or other information warranting action by the Board for consideration which is included in the Board of Adjustment packet.

The Applicant is requesting a variance to construct an 8-foot-tall fence in lieu of the maximum 6-foot-tall fence in a non-residential district. The proposed fence is 24’ in length, white in color and made of vinyl (Figure 2)



Figure 2: Fence Example

REVIEW OF VARIANCE REQUEST:

The Public Works Department has reviewed the request and submits the following information for the Board's consideration during review.

As established in the Unified Development Ordinance (UDO), the maximum fence height that City Code will permit is 6 feet in height. The burden of hardship is on the Applicant to demonstrate why the application meets the standards for variance and the Board must only act to carry out the spirit of the ordinance and may not grant a variance without competent and substantial evidence.

Section 10.3.2 of the City of Sunset Hills' UDO states: The Board of Adjustment may grant variances from the strict application of this Ordinance when by reason of the strict application of this Ordinance or Amendments thereto would result in unusual difficulty or unreasonable hardship upon the owner of said property; provided that such variance can be granted without substantial impairment of the intent, purpose and integrity of this ordinance. Before granting a variance, there must be a finding by the Board of Adjustment that **all** of the following conditions exist:

1. That if the owner complied with the provisions of this ordinance, the owner would not be able to make any reasonable use of the property which is permitted in the district in which the property is located.

Staff Comment: If the owner complied with the provisions of this ordinance regarding a six-foot fence they would be able to make use of the property as it currently exists. The additional two feet is desired to provide additional screening of light and sound from the car wash tunnel from residential properties to the east.

2. That the difficulties or hardships are peculiar to the property in question in contrast with those of other properties in the same district.

Staff Comment: The subject site is a commercial property along a major corridor which includes commercial nodes of activity at various intersections. In accordance to approved plans and St. Louis County Geographic Information Systems (GIS), the ground that serves the potential fence location is approximately 1 foot higher in elevation compared to both the commercial properties and residential properties directly to the east of the tunnel.

3. That the hardship was not the result of the applicant's own action and is not merely financial or pecuniary.

Staff Comment: There is no known evidence that the hardship was put on the Applicant but instead a desire by the Applicant to remedy a solution to restrict noise and light from a car wash tunnel through the mechanism of a fence from properties to the east.

4. That the issuance of a variance will not be detrimental to the public welfare or health or injurious to other property.

Staff Comment: There is no known evidence that the issuance of the variance would be detrimental to the public welfare or health or injurious to other property.

LETTER OF SUPPORT:

On June 13th, 2023 a letter of support for the proposed fence from the residents of Rygate Court was provided to the City of Sunset Hills. The letter has 12 signatures of support and is attached to the Board of Adjustment packet. The provided image (Figure 3) identifies Rygate Court in relation to the subject site.

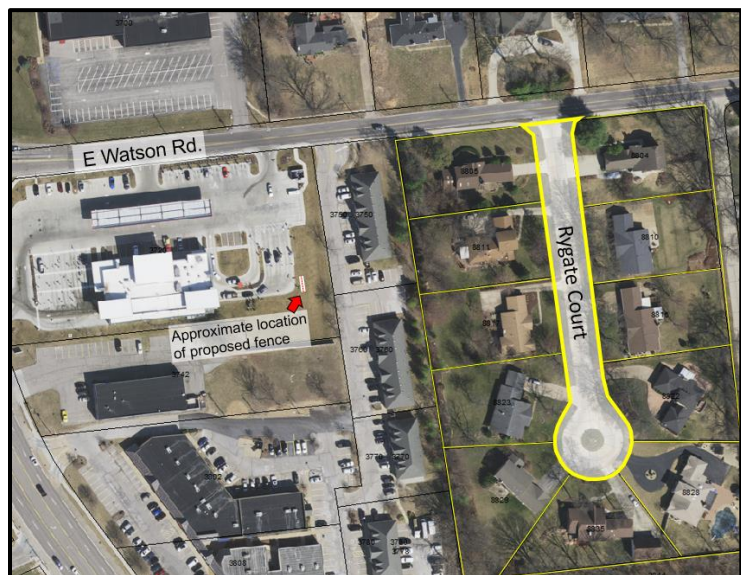


Figure 3: Rygate Court

DECISIONS ON VARIANCE APPLICATIONS:

No variation granted by the Board of Adjustment shall be valid for a period longer than six months from the date on which it grants the variation, unless within such period:

- a) A building permit or other required permit is obtained and the construction, alteration, or moving of the structure is commenced.
- b) If a building or other permit is not required, the construction of the project for which the variation was required is commenced.

DEPARTMENT INPUT

City Staff has reviewed the submittal and found the application to be in conformance with the procedures outlined in the City of Sunset Hills Unified Development Ordinance. Staff recommends action by the Board of Adjustment at the July 27th meeting.

EXHIBITS:

1. Application to the Board of Adjustment
2. Petitioner's Information
 - a. Applicant's Narrative
 - b. Exhibit of Proposed Fence Location
 - c. Fence Exhibit
 - d. Letter of Support
3. Public Hearing Information
 - a. Public Notice
 - b. Notification Mailing List