



ZONING DIVISION  
200 S. Hamilton Road  
Gahanna, Ohio 43230  
614-342-4025  
zoning@gahanna.gov  
www.gahanna.gov

## VARIANCE APPLICATION

PLEASE NOTE: This application is not to be considered complete until all documents are received and approved by the Planning & Zoning Administrator.

Project/Property Address or Location: 272 Maybank Court		Project Name/Business Name (if applicable): Relocate and replace existing east portion of privacy fence	
Parcel ID No.(s): 025-006970-00 & <del>025-006971-00</del> MB 1/9/20	Current Zoning: SF3	Total Acreage: MB 1/9/20 .20	
Description of Variance Requested: Relocate and replace existing east portion of privacy fence to be on/near the new property line.			
STAFF USE ONLY – Code Section(s) & Description of Variance: Chapter 1171.03(h) - Fence standards			
APPLICANT Name (primary contact) -do <u>not</u> use a business name: David Wehner		Applicant Address: 217 Maybank Court	
Applicant E-mail: dlwehner@aep.com		Applicant Phone No.: 614-204-0320	
BUSINESS Name (if applicable):			
ATTORNEY/AGENT Name:		Attorney/Agent Address:	
Attorney/Agent E-Mail:		Attorney/Agent Phone No.:	
ADDITIONAL CONTACTS (please list all applicable contacts)			
Name(s):		Contact Information (phone no./email):	
Contractor			
Developer			
Architect			
PROPERTY OWNER Name: (if different from Applicant)		Property Owner Contact Information (phone no./email):	

**APPLICANT SIGNATURE BELOW CONFIRMS THE SUBMISSION REQUIREMENTS HAVE BEEN COMPLETED** (see page 2)

I certify that the information on this application is complete and accurate to the best of my knowledge, and that the project as described, if approved, will be completed in accordance with the conditions and terms of that approval.

Applicant Signature: David L. Wehner Date: 12/17/19

INTERNAL USE

Zoning File No. V-0338-2019  
PC Meeting Date: \_\_\_\_\_  
PC File No. \_\_\_\_\_

RECEIVED: KAW  
DATE: 12-20-19

PAID: 250.00  
DATE: 12-20-19  
CHECK#: 8423 CC#



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## VARIANCE APPLICATION – SUBMISSION REQUIREMENTS

PLEASE NOTE: This application is not to be considered complete until all documents are received and approved by the Planning & Zoning Administrator.

STAFF USE - INTAKE	TO BE COMPLETED/SUBMITTED BY THE APPLICANT:	APPLICANT		STAFF USE	
		YES	N/A	YES	N/A
	1. Review Gahanna Code <a href="#">Section 1131</a> (visit <a href="http://www.municode.com">www.municode.com</a> ) (Sign Variances, refer to Section <a href="#">1165.12</a> ; Fence Variances, <a href="#">1171.05</a> ; Flood Plain Variances, <a href="#">1191.18</a> )	✓			
	2. Pre-application conference with staff	✓			
	3. Survey of property certified by a registered surveyor (11"x17" copy)	✓			
	4. List of contiguous property owners & their mailing address	✓			
	5. Pre-printed mailing labels for all contiguous property owners				
	6. A statement of the reason(s) for the variance request that address the following three conditions: (not applicable for Sign, Fence, or Flood Plain Variances) - Special circumstances or conditions - Necessary for preservation - Will not materially affect adversely the health or safety	✓ ✓ ✓			
	7. Application fee paid (in accordance with the <a href="#">Building &amp; Zoning Fee Schedule</a> )	✓			
	8. Application & all supporting documents submitted in digital format	✓			
	9. Application & all supporting documents submitted in hardcopy format	✓			
	10. Authorization Consent Form Complete & Notarized (see page 3)	✓			

## APPLICATION ACCEPTANCE

INTERNAL USE

This application has been reviewed and is considered complete and is hereby accepted by the Zoning Division of the City of Gahanna and shall be forwarded to the City of Gahanna Planning Commission for consideration.

☐ Planning Commission must recommend to City Council for final approval

Planning & Zoning Administrator Signature: \_\_\_\_\_

Date: 1/9/20





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## AUTHORIZATION CONSENT FORM

(must sign in the presence of a notary)

If you are filling out more than one application for the same project & address, you may submit a copy of this form with additional applications.

**AUTHORIZATION FOR OWNER'S APPLICANT OR REPRESENTATIVE(S)** If the applicant is not the property owner, this section must be completed & notarized.

I, David Wehner, the owner or authorized owner's representative of the subject property listed on this application, hereby authorize NA to act as my applicant or representative(s) in all matters pertaining to the processing and approval of this application, including modifying the project. I agree to be bound by all terms and agreements made by the designated representative.

Property Owner Signature: \_\_\_\_\_ Date: \_\_\_\_\_

## AUTHORIZATION TO VISIT THE PROPERTY

I, David Wehner, the owner or authorized owner's representative of the subject property listed on this application, hereby authorize City representatives to visit, photograph and post notice (if applicable) on the property as described in this application.

Property Owner Signature: David J. Wehner Date: 12/17/19

NOTARY

Subscribed and sworn to before me on this 17<sup>th</sup> day of December, 20 19.

State of Ohio County of Franklin

Notary Public Signature: J. Smithhisler



## AGREEMENT TO COMPLY AS APPROVED

I, David Wehner, the applicant of the subject property listed on this application, hereby agree that the project will be completed as approved and any proposed changes to the approved plans shall be submitted for review and approval to the Zoning Division staff.

Applicant Signature: David J. Wehner Date: 12/17/19

NOTARY

Subscribed and sworn to before me on this 17<sup>th</sup> day of December, 20 19.

State of Ohio County of Franklin

Notary Public Signature: J. Smithhisler



# **Project 272 Maybank Ct Fence Application – Variance Application**

## **Properties Contiguous to 272 Maybank Ct.**

### Property to the West

Balkisa Ali

266 Maybank Ct.

Columbus, OH 43230

### Property to the East

Tim K Mukaj

276 Maybank Ct.

Columbus, OH 43230

### Property to the North

Charles W. Fair

311 Highmeadow Dr.

Columbus, OH 43230

December 11, 2019

Gahanna Planning Commission  
200 South Hamilton Road  
Gahanna, OH 43230

RE: Project 272 Maybank Ct Fence Application

Dear Gahanna Planning Commission Representatives:

A variance is being requested to the October 14, 2019, correspondence from the City of Gahanna in which the proposed fence is being required to extend from the back of the house to the rear of the property, unlike the existing fence, which extends along the side of the house to the back of the attached garage. The purpose of the proposed fence was to relocate the existing fence to the new property line that was recently approved by the City of Gahanna.

Special Circumstances - A meeting was held on April 8, 2019, with several City of Gahanna representatives, including Robert Priestas, Michael Blackford and Bonnie Gard, to discuss a proposed project where my neighbors, Tim and Marianna Mukaj, would take back a majority of their property that was enclosed by the existing fence. The fence extended into their property by approximately 20 feet. This was an agreement between the Mukajs and the previous owners of the property. It was agreed that the new property line would be just to the east of the existing 10-foot wide utility easement. In order to complete the project, a small parcel of land (six foot wide by the depth of the properties) needed to be transferred from the Mukajs to me. Along with the transfer of the land, it was agreed that the east portion of the fence would be relocated/replaced (as necessary) to be along the new property line. All participants in the meeting agreed that this plan was doable without any further restrictions.

The transfer of the small parcel of land, which extends the eastern property line of the 272 Maybank Court by six (6) feet (and shortening the 276 Maybank Court western property line by six feet) was approved by the City of Gahanna on September 20, 2019. Upon approval, the survey and legal description were taken to Franklin County for posting to the county records, which was successfully recorded on November 27, 2019.

Once the transfer of the land was approved by the City of Gahanna, an application for a permit to relocate the fence was submitted to fulfill the next step in the process to relocate the eastern portion of the fence to the new property line. On October 14, 2019, I received a note from the City of Gahanna stating that the fence could not extend beyond the back of the house, which was contrary to what was agreed upon during the April 8, 2019, meeting.

Because of these extenuating circumstances, this request for a variance is being submitted.

Necessary For Preservation - The relocated fence will fulfill my requirements of our meeting. It will also provide for the use and enjoyment of both properties.

Health & Safety - This request for a variance will not adversely affect either properties health or safety.

Please review the above information and advise if there are any questions or if further clarification is required.

Thank you very much for your kind consideration in this matter.

Sincerely,



David L. Wehner  
Property Owner  
272 Maybank Court  
Columbus OH 43230  
614-204-0320





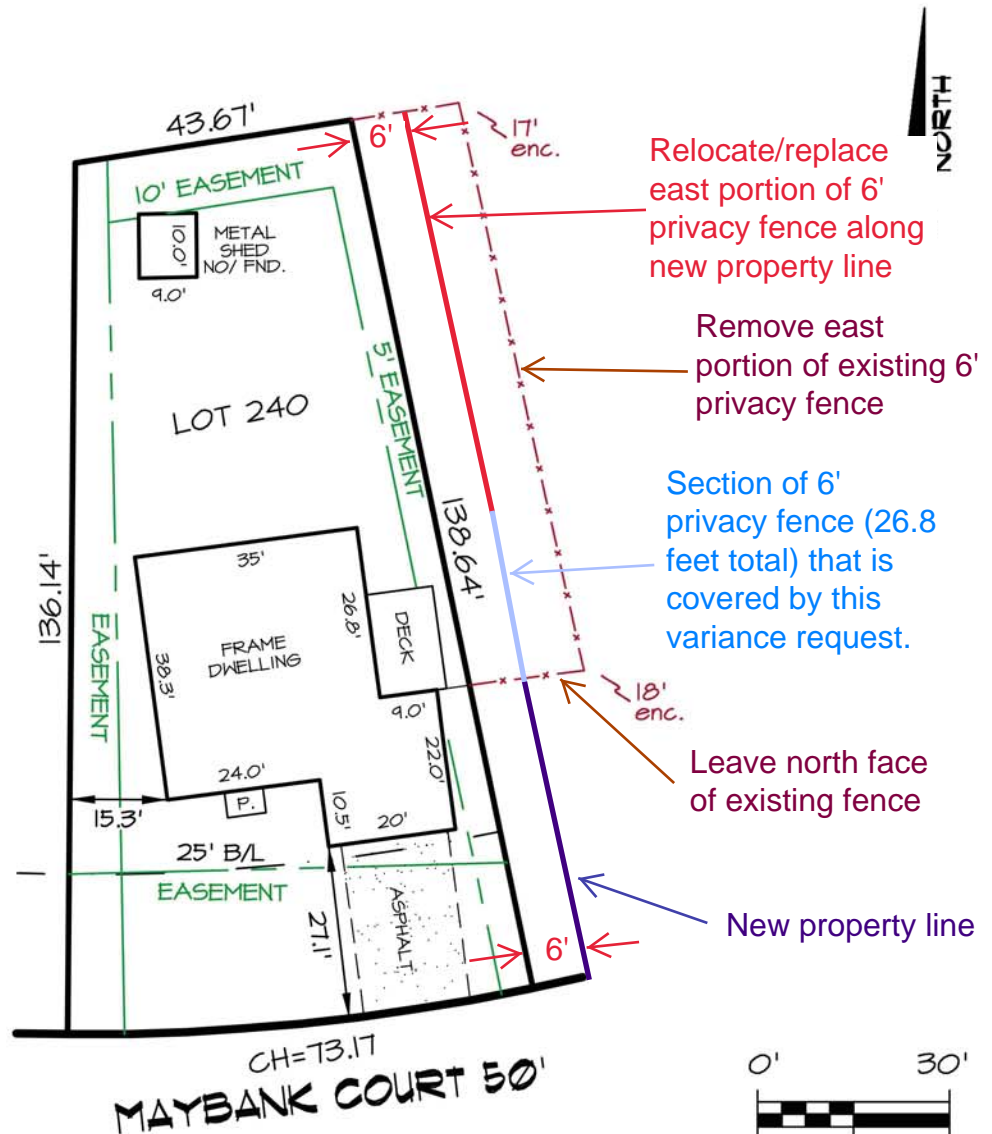
CAMPBELL &  
ASSOCIATES, INC.  
Land Surveying

614.785.9340  
Fax: 614.785.9342  
77 E Wilson Bridge Road  
Suite 205  
Worthington, OH 43085  
http://www.campbellsurvey.com

## MORTGAGE LOCATION SURVEY



**ENCROACHMENT:**  
SUBJECT'S WOOD FENCE  
ENCROACHES AS SHOWN.



I/WE HAVE RECEIVED A COPY OF THIS  
SURVEY AND FIND THE CONDITIONS  
ACCEPTABLE TO ME/US.

BUYER/OWNER

Address 272 Maybank Court

State of Ohio, County of Franklin

City of Columbus

New Owner David Wehner

Allotment: Cherry Bottom Sec 2

Plat Book: 62 Page: 86

Client Order No. 71650.OH

Date April 3, 2015

Present Owner Richard E Boyce and Kathleen S Boyce

C & A Order No.  
CO128404

This is to certify to **Great American Title Agency LLC**

that a visual inspection of the property and buildings shown (if any) has been made and there are no apparent encroachments or visible easements unless otherwise shown. This service was not performed for the purpose of establishing boundary lines, and is not to be used for that purpose.

This Mortgage Location Survey has been prepared in accordance with Chapter 4733-38, Ohio Administrative code, and is not a boundary survey pursuant to Chapter 4733-37, Ohio Administrative Code

*Matthew L. Campbell*

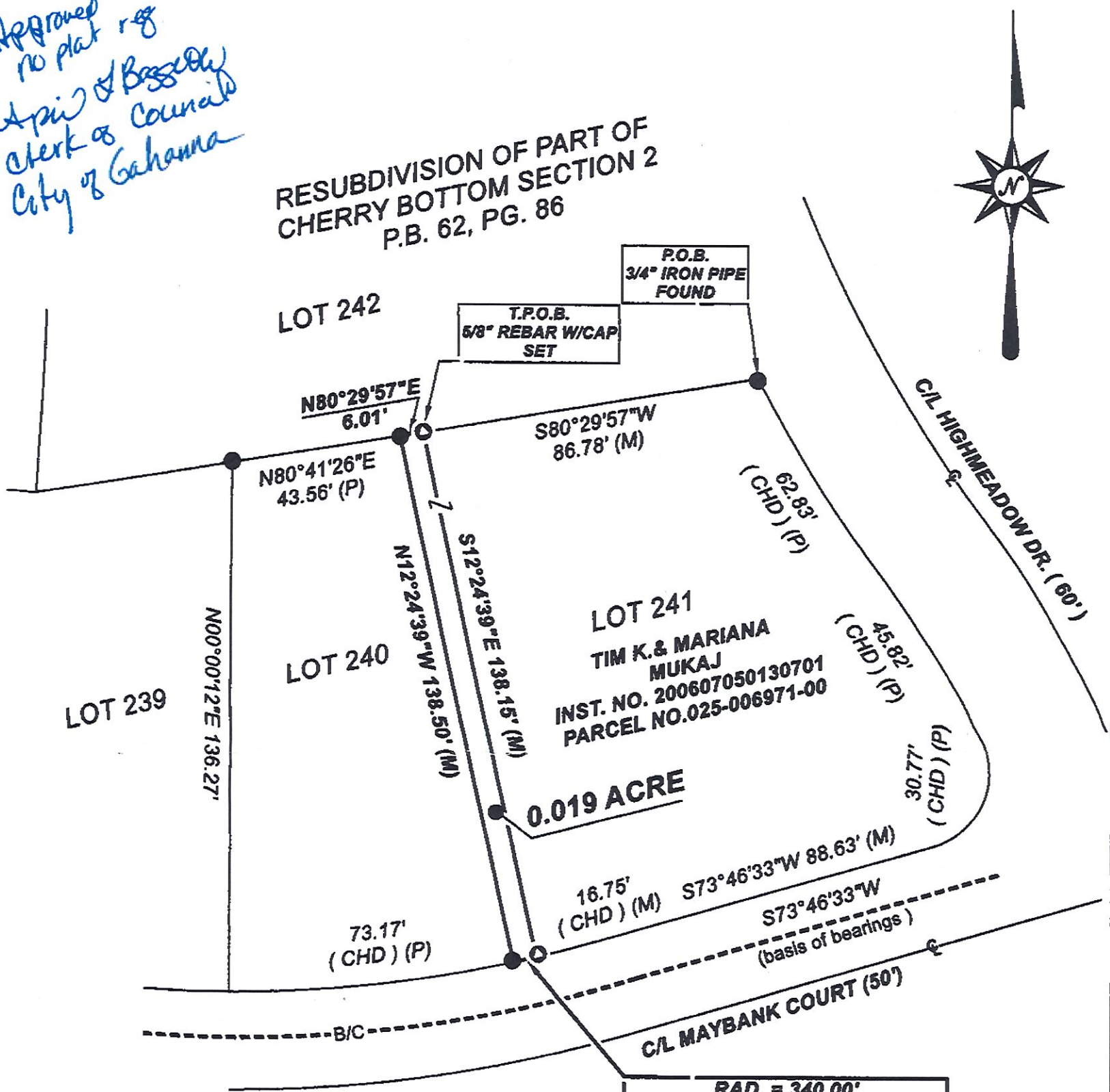
Matthew L. Campbell - Reg. Surveyor No. 8546



BOUNDARY SURVEY OF A 0.019 ACRE TRACT

SITUATED IN THE STATE OF OHIO, COUNTY OF FRANKLIN, CITY OF GAHANNA,  
LOCATED IN QUARTER TOWNSHIP 1, TOWNSHIP 1, RANGE 17, UNITED STATES  
MILITARY LANDS, BEING PART OF LOT NUMBER 241 AS NUMBERED AND DELINEATED  
UPON THE RECORD PLAT OF THE RESUBDIVISION OF PART OF CHERRY BOTTOM  
SECTION 2 IN PLAT BOOK 62, PAGE 86, AND BEING THE TRACT OF LAND AS CONVEYED  
TO TIM K. AND MARIANA B MUKAJ IN INSTRUMENT NUMBER 200607050130701

Approved  
no plat reg  
April 2019  
City of Gahanna  
Clerk of Council



NOTE: THIS 0.019 ACRE TRACT IS  
TO BE COMBINED WITH ADJOINER'S  
LOT NO. 240 AND NOT TO BE USED AS  
A SEPERATE BUILDING SITE.

RAD. = 340.00'  
ARC = 6.00'  
DELTA = 1°00'40"  
CHD. DIST = 6.00'  
CHD. BEARING = S 77°08'43" W

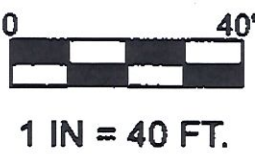
THE BASIS OF BEARINGS IS THE CENTERLINE OF  
MAYBANK COURT AS BEING S76°43'33"W AND  
WAS OBTAINED THROUGH G.P.S. OBSERVATION  
AND BY UTILIZING THE O.D.O.T V.R.S. NETWORK  
( NAD 83 ) AND IS TO BE USED TO DENOTE ANGLES ONLY.

I HEREBY CERTIFY THAT THE ATTACHED PLAT WAS  
PREPARED FROM INFORMATION OBTAINED FROM AN  
ACTUAL FIELD SURVEY OF THE PREMISES AND THAT SAID  
PLAT IS CORRECT TO THE BEST OF MY KNOWLEDGE

*Anthony W. Williams* July 25, 2019

REG. SURVEYOR NO. 7726  
ANTHONY W. WILLIAMS

JULY 25, 2019



LEGEND	
●	3/4" Iron Pipe Found ( as noted )
⊙	5/8" REBAR w/cap SET

**ACKISON**  
SURVEYING  
Office: 614-766-4000  
Cell: 614-207-8214

January 6, 2020

Gahanna Planning Commission  
200 South Hamilton Road  
Gahanna, OH 43230

RE: Project 272 Maybank Ct Fence Application

Dear Gahanna Planning Commission Representatives:

The following dispositions to your January 3, 2020, correspondence are presented for your consideration regarding the above referenced project.

**Comment 4** – *The variance application doesn't state what the variance request is specifically for.*

Response - The variance application is being submitted to allow the 6' privacy fence to extend from the rear corner of the house to the front face of the existing 6' privacy fence (which is not being altered for this project). This requires that the 26.8' of a 6' privacy fence be allowed along the side of the house structure. The relocation of this fence would be similar to the existing fence except that it would no longer encroach on the neighbor's property and would be located on/near the new property line.

**Comment 5** – *The site plan doesn't clearly show what the variance is for or to what degree.*

Response - Please refer to the attached revised mark-up of the C&A survey showing the extent of the variance section of the relocated fence. The variance requests that 26.8 feet of 6' privacy fencing be allowed along the side of the house – similar to what currently exists.

**Comment 6** – *The application includes parcel ID 025-006791 but this parcel isn't where the fence is located. Please clarify whether or not this parcel is subject to the variance request.*

Response - The inclusion of the parcel ID 025-006971 is there for informational and clarification purposes. The only aspect of the project that involves this parcel is the removal of the existing, encroaching fence from this property and relocating it to the new property line. The recent transfer of the property from the neighbor to me to create the new property line indicates that the property owner is in agreement with all of these plans.

Thank you very much for your kind consideration in this matter.

Sincerely,



David L. Wehner  
Property Owner  
272 Maybank Court  
Columbus OH 43230  
614-204-0320





January 9, 2020

David L Wehner  
272 Maybank Ct  
Columbus, OH 43230

RE: Project 272 Maybank Ct Variance Comment Letter

Dear David L Wehner:

The following comments were generated from the review of the submitted plans and documents for the referenced project.

**Building**

1. No comments. No building permit is required unless the fence is greater than 6 feet in height.

**Engineering**

2. No Comments per Kirk Neely

**Parks**

3. No Comment Per Julie Predieri

**Fire District**

4. No Comment Per Steve Welsh

**Public Safety**

5. No Comment Received.

**Soil & Water Conservation District**

6. No Comment Received.

If you have any comments or questions, please contact me at [kelly.wicker@gahanna.gov](mailto:kelly.wicker@gahanna.gov) or (614) 342-4025.

Sincerely,

Kelly Wicker  
Administrative Assistant

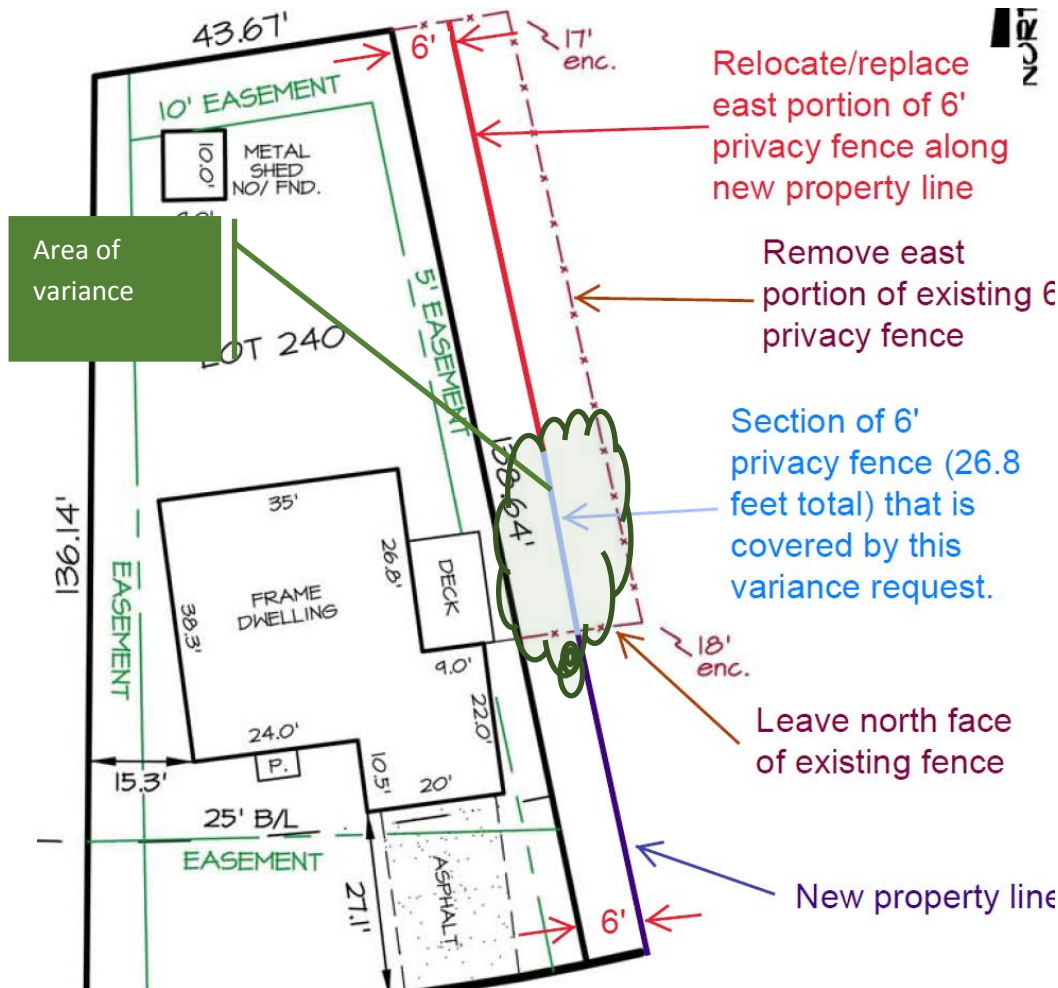
## PLANNING AND DEVELOPMENT STAFF REPORT

### Request Summary

A variance has been requested to allow a 6' tall privacy fence in the side yard for the property located at 272 Maybank Court. The code does not permit privacy fences in the side yard. Instead, privacy fences are only permitted in the rear yard. A rear yard begins at the back of the property and extends to the nearest wall of the main structure.

The site plan depicts an intrusion into the side yard of approximately 26.8'. That would leave the fence about 22' from the front yard. A similar style fence exists in a similar location, however, a variance is still necessary in order to keep the fence in the side yard.

### Site Plan







### Variance

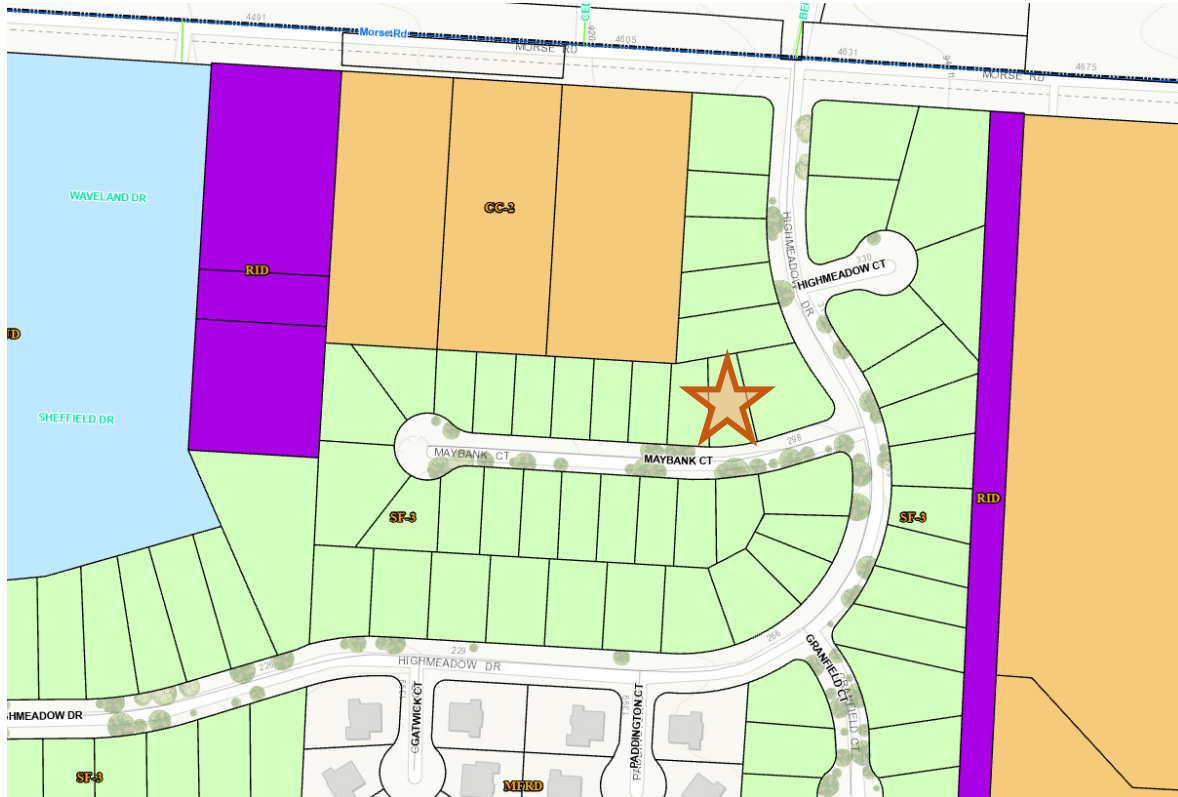
Requests to vary the requirements of the code related to fencing is subject to Chapter 1171.05. In determining whether a property owner seeking an area variance has encountered practical difficulties, Planning Commission shall consider and weigh the following factors:

- A. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;
- B. Whether the variance is substantial;
- C. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;
- D. Whether the variance would adversely affect the delivery of governmental services (e.g., water, sewer, refuse);
- E. Whether the property owner purchased the property with the knowledge of the zoning restriction;
- F. Whether the property owner's predicament feasibly can be obviated through some method other than a variance;
- G. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance;
- H. Whether the fence is sufficiently compatible with the architectural and design character of the immediate neighborhood; and
- I. Whether the fence will be hazardous to passing traffic or otherwise detrimental to the public safety and welfare.

### Recommendation

Staff supports the variance request. The property had a privacy fence in a similar location for many years. Allowing for a new fence wouldn't appear to create any negative conditions. Additionally, staff believes that privacy fences should be permissible in the side yard and anticipates revising the zoning code accordingly.

Location/Zoning Map



Respectfully Submitted By:  
Michael Blackford, AICP  
City Planner