



CITY OF TONTITOWN PLANNING OFFICE

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Meeting: **June 30, 2026**
Project: **1123 S Barrington Rd**
Fence Height Variance
Request
Planner: Brad Spurlock

AGENDA ITEM

PH2, BOZA2

VARIANCE REQUEST

1123 S Barrington
Parcel #: 830-37796-000

SUMMARY: The applicant is requesting approval of a variance from the City to allow a fence with a maximum height of four (4) feet in the required front yard area where the Tontitown Zoning Code permits a maximum height of three (3) feet.

CURRENT ZONING: R-2, (Single-Family Residential)

PROPOSED USE: R-2, (Single-Family Residential)

CITY WARD: 3 – Aldermen Tim Burress and Mike Woshkowiak

INFRASTRUCTURE SERVICE AREAS (not a guarantee of service availability):

Water: Tontitown Water

Sewer: Tontitown Sewer

Electric: Ozarks Electric

Cable: Cox Communications

Phone: AT&T

Natural Gas: Black Hills Energy

School District: Springdale

PROJECT SYNOPSIS:

The subject property is owned by Michael & Mary Bollero. The subject property is developed as a residential lot within R-2 zoning classification. The applicant proposes to install a four-foot-tall fence within the front yard area to provide containment for children and pets of the property due to safety concerns.

The requested variance represents an increase of one (1) foot above the maximum permitted fence height.

153.262 POWERS AND DUTIES

The Board of Zoning Adjustment shall have all the powers and duties prescribed by law and by these regulations, which are more particularly described as follows:

(B) To authorize upon appeal, in specific cases, such variance from the terms of this zoning chapter will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of these regulations would result in unnecessary hardship that would deprive the owner of any reasonable use of the land or building involved. A variance from the terms of these zoning regulations, shall not be granted by the Board of Zoning Adjustment unless and until:

(1) The applicant demonstrates that special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district; that literal interpretation of the provisions of these regulations would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of these regulations; that special conditions and circumstances do not result from the actions of the applicant; and that granting the variance requested will not confer on the applicant any special privilege that is denied by the zoning regulations to other lands, structures, or buildings in the same district.

STAFF ANALYSIS: The applicant has demonstrated special conditions and circumstances that are present that are peculiar to the subject property, specifically the safety of the children and pets located on Barrington Rd. These conditions are unique to the property and are not generally applicable to other properties with the same zoning district.

(2) No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

STAFF ANALYSIS: Staff find that there are no nonconforming uses in the surrounding area influencing this request, and the variance is based solely on the unique physical characteristics of the subject property.

(3) The Board of Zoning Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of land, building, or structure.

STAFF ANALYSIS: The reasons set forth in the application justify the granting of the variance, as the safety concerns of the lot, creates a hardship that limits the reasonable fence height placement. The requested height variance is the minimum necessary to allow for the reasonable use of the property while maintaining compliance with the intent of the zoning regulations.

(4) The Board of Zoning Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of these zoning regulations and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

STAFF ANALYSIS: Granting this variance will be in harmony with general purpose and intent of the zoning regulations, as the request accommodates the unique physical constraints of the property while maintaining the overall character of the surrounding area. The variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare, as the proposed development remains consistent with adjacent properties and does not introduce an adverse impact.

(5) In granting any variance, the Board of Zoning Adjustment may prescribe appropriate conditions and safeguards that it deems necessary or desirable. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of these regulations.

STAFF ANALYSIS: Appropriate conditions and safeguards may be prescribed by the BOZA as part of the

approval of this variance to ensure compliance with the intent of the zoning regulations. Any such conditions, if imposed, will be enforceable, and violations shall be deemed a violation of these regulations. Staff finds the ability to impose conditions provides adequate protection to ensure the variance will not adversely impact surrounding properties.

(6) Under no circumstances shall the Board of Zoning Adjustment grant a variance to allow a use not permissible under the terms of these zoning regulations in the district involved, or any use expressly, or by implication, prohibited by the terms of these regulations in said district.

STAFF ANALYSIS: The requested variance does not seek to allow a use that is not permissible within the zoning district. The request is limited solely to a deviation from setback requirements and does not involve any change in land use. Therefore, the variance complies with this provision, and no prohibited or impermissible use is being authorized.

Streets:

This property is located at 1123 S Barrington Rd.

NEIGHBOR COMMENTS: All neighboring properties within 200 feet of the property boundary were notified by certified mail of this project. 0 neighboring properties responded.

STAFF RECOMMENDATIONS: Staff recommend APPROVAL of this variance request, subject to the Board's findings that all variance criteria are met particularly that:

1. Unique physical conditions exist due to the safety concerns.
2. The hardship is not self-imposed.
3. The variance is the minimum necessary to allow reasonable use of the property.
4. The variance will not negatively impact surrounding properties or public welfare.

Figure 1: Vicinity Map



Figure 2: Current Zoning Map



Figure 3: Fence requirements

§ 153.215 FENCES.

Except as otherwise specifically provided in other codes and regulations of the city, the following regulations shall apply to the construction of all fences.

(A) *Maximum height.* Fences shall not exceed eight feet in height, unless approved by the Planning Commission. Fencing in I districts, and around tennis courts and other recreational amenities, shall be exempt from this height limit.

(B) *Corner visibility.* Fences shall comply with the corner visibility standards of § [153.213](#).

(C) *Construction/materials.* Fences in all residential zoning districts shall be constructed so that the horizontal and vertical support posts are inside the fenced area or hidden from view of those outside the fenced area. This requirement shall not apply to fences that abut nonresidential zoning districts or in situations where the owner of the lot adjacent to the fence agrees to a plan for placing support posts on the "outside" of the fence. All exposed steel, except galvanized metal, shall have a color finish coat applied to them and be preserved against rust and corrosion.

(D) *Design and maintenance.* All fences shall be maintained in their original upright condition. Fences designed to be painted or have other surface finishes shall be maintained in their original condition as designed. Missing boards, pickets, or posts shall be replaced in a timely manner with material of the same type and quality.

(E) *Prohibited.* Barbed wire and electrified fences shall be prohibited on all lots of less than one acres in area.

(F) *Front yard.* Unless approved by the _planning board, a fence over 36 inches in height shall not be located in the front yard or be positioned any closer to the front property line than the front surface of the building for a typical residential lot. Decorative fencing not exceeding 36 inches is allowed in front yards.