

## Staff Report

**To:** Development Review Board  
**From:** Michael Giguere, City Planner  
**Meeting Date:** April 17<sup>th</sup>, 2025  
**Subject:** Variance application requesting relief from the 6-foot height requirement for a fence to construct a stockade fence 7' – 7' 6" at the rear property line at 120 Main Street in the R1 District by Chris Vaughn, owner.

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### **PROJECT DESCRIPTION:**

The property owner at 120 Main Street seeks relief from the six (6) foot fence height limit requirement for the construction of a taller stockade fence along the rear property line abutting 35 Drury Drive. The proposed fence would be built such that the top would be level for its entire length, starting at six (6) feet high in the north property corner and terminating at seven and a half (7.5) feet at the western property corner. This fence would replace the existing four (4) foot high cedar post and galvanized roll caging fence and would be constructed with an eighteen (18) inch buffer into 120 Main Street to allow for rear maintenance access.

The applicant attests that the topographical characteristics of the two properties in question and the aggressive behavior of the neighboring property's dog necessitates requesting a variance to construct a fence that exceeds LDC height standards.

### **EXISTING CONDITIONS AND GENERAL INFORMATION:**

**Project Location:** 120 Main Street, Essex Junction, VT 05452

**Project Area Size:** 18,000 square feet

**Lot Frontage:** 80 feet

**Existing Land Use:** Residential

**Surrounding Land Use:** Residential

**Zoning District:** Residential 1

**Minimum Lot Size:** 15,000 square feet

**Lot Coverage:** 22.2%

**Permitted Lot Coverage:** 30% (buildings), 40% (total)

### **SECTION 1703: REQUESTS FOR VARIANCES FROM THE REQUIREMENTS OF CHAPTERS 6 AND 7**

B. *Action by Development Review Board*

*"The Board may approve or deny an application for a Variance. The Board may grant only the minimum relief necessary to allow the applicant reasonable use of the property in question. A*

*use variance shall not be granted. No Variance may grant rights to a particular piece of property, which is not allowed on other properties within the District except as necessary to allow reasonable use of the property as intended within the District.”*

C. Standards of Review

*In accordance with 24 V.S.A. § 4469, the Board may grant Variances if it finds that all the following standards of review are met, and such findings are included in its written decisions.*

1. *“There are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to these conditions, and not the circumstances or conditions generally created by the provisions of the bylaw in the neighborhood or district in which the property is located.”*

**There is approximately a three (3) foot height difference in grade between the applicant’s property and their neighbor’s property near the western corner, creating a unique topographical condition. This condition creates unnecessary hardship, as the neighboring property’s dog has increased visibility and access to the applicant’s property.**

2. *“Because of these physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the bylaw, and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.”*

**The applicant attests that the increased fence height is necessary to compensate for the height discrepancy between the two properties, creating a clear line of sight for the dog onto his property. He attests that a level fence would block this visual site line and fall under reasonable use of the property.**

3. *“Unnecessary hardship has not been created by the appellant.”*

**The applicant has not created any additional unnecessary hardship.**

4. *“The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, or be detrimental to public welfare.”*

**The applicant attests that the added fence height would not create any visual obstruction or restrict development for 35 Drury Drive due to the topographical conditions that place the neighbor’s yard higher than theirs.**

**Staff do not see any potential reduction in access to renewable resources or threat to public welfare as a part of this variance request.**

5. *“The variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the bylaw and from the plan.”*

**The applicant has measured the topography to determine the proper fence height that would afford relief. This variance, if granted, would only permit the applicant to expand the height of the proposed fence while still meeting all other LDC requirements.**

**The DRB should determine whether this application meets the criteria of Section 1703 of the Land Development Code, as well as 24 V.S.A. § 4469, as referenced in the LDC.**

**Recommendation:**

Staff recommend that the DRB approve the variance request seeking relief from the 6-foot height requirement for a fence to construct a level stockade fence to a maximum of 7' 6" at the rear property line at 120 Main Street in the R1 District by Chris Vaughn, owner.

**Recommended Motion:**

I move that the DRB approve the variance request seeking relief from the 6-foot height requirement for a fence to construct a level stockade fence to a maximum of 7' 6" at the rear property line at 120 Main Street in the R1 District by Chris Vaughn, owner.

**City of Essex Junction, VT  
Development Application**

For Office Use: SP3-2025 Permit #
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<b>Planned Unit Development:</b>	Scale: <input type="checkbox"/> Minor <input type="checkbox"/> Major	Stage: <input type="checkbox"/> Conceptual <input type="checkbox"/> Preliminary (optional) <input type="checkbox"/> Final
<b>Site Plan:</b>	Scale: <input type="checkbox"/> Minor <input type="checkbox"/> Major	Stage: <input type="checkbox"/> Conceptual <input type="checkbox"/> Preliminary (optional) <input type="checkbox"/> Final
<b>Subdivision:</b>	Type: <input type="checkbox"/> Sketch <input type="checkbox"/> Preliminary	Other: <input checked="" type="checkbox"/> Variance <input type="checkbox"/> Conditional Use

**Property description (address) for application**

120 MAIN STREET, ESSEX JUNCTION, VT 05452

**General Information**

Applicant CHRIS VAUGHN Day Phone# 802-363-8053  
 Address 120 MAIN STREET, ESSEX JUNCTION, VT, 05452  
 Email Address CHRISTOPHERVAUGHNPOTTERY@GMAIL.COM

**Owner of Record (attach affidavit if not applicant)**

Name \_\_\_\_\_ Day Phone# \_\_\_\_\_  
 Address \_\_\_\_\_

**Applicant's agents**

Name \_\_\_\_\_ Day Phone# \_\_\_\_\_  
 Address \_\_\_\_\_

**Property information**

Zoning District R2 Current Use RESIDENTIAL Tax Map # 37  
 Lot # 77 Lot size sf ~18,000

**Other Information**

Street frontage (public or private) 80 ft. Proposed height NOT TO EXCEED 7' 6"  
 Proposed number of stories \_\_\_\_\_ Estimated completion date JUNE 2025  
 Proposed Parking Spaces \_\_\_\_\_ Required spaces \_\_\_\_\_  
 Landscape cost \_\_\_\_\_

**Lot coverage (include all structures and impervious surface)**

Existing (sq ft.) 4,000 plus proposed (sq .ft.) 0 equals 4,000 total sq .ft.  
 Divided by 18,000 lot sq.ft. equals 22.2 percent of lot coverage.

**Submit one (1) full size copies, a PDF copy, GIS and supporting documentation required by the Code and the appropriate completed checklist for initial review by Staff. After Staff determines the application is complete, attach one (1) full size copies and six (6) 18" x 24" copies of your proposal, forty-five (45) days prior to a scheduled meeting. Applications that are not complete cannot be accepted for review.**



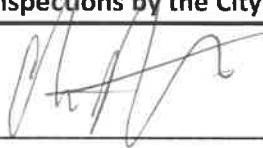
Briefly describe your proposal (attach separate sheet if necessary)

PLEASE SEE ATTACHMENT.

Describe all waiver requests (if applicable)

PLEASE SEE ATTACHMENT.

I certify that the information on this application is true and correct. I agree to abide by all the rules and regulations as specified in the land development code and any conditions placed upon approval of this application. In accordance with the *Essex Junction City Council Policy for Funding Engineer Plan Review and Inspections*, the applicant, by signing this form agrees to pay for the actual cost of engineering plan review and construction inspections by the City Engineer.

  
Applicant

03/31/2025  
Date

Land Owner (if different)

Date

**Staff Action**

Date received: \_\_\_\_\_

Meeting date: 4/17/25

Board Action Approved \_\_\_\_\_ Denied \_\_\_\_\_

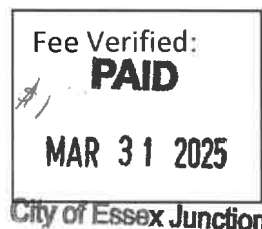
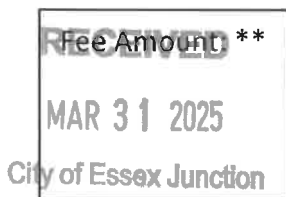
Date: \_\_\_\_\_

Other approvals/conditions: \_\_\_\_\_

**\*\*Fee based on sq.ft. of improved area per current Fee Schedule**

Staff Signature

Date



Thank you for your consideration of my request for a variance to the City of Essex Junction's Land Development Code *Section 707(B)(1)* regarding the allowable height of fences. I wish to construct a fence at the rear of my property for safety and privacy that, for portions of the fence's span, will exceed the 6' standard.

The rear line of my property at 120 Main Street primarily abuts the rear property line of 35 Drury Drive and runs at a roughly 40° angle, in rough parallel to Main Street. *See Exhibit A.* Using my home as the reference point, along the rear property line, the ground slopes downward right-to-left, with the rear left corner approximately 12" lower than the rear right corner. This rear left corner sits in a section of brush.

Roughly 3' beyond the shared property line, into my neighbor's yard, the ground slopes upward acutely. This berm adds to the difference in grade between our parcels. Where they meet on the right, the parcels are roughly level with each other – but at the rear left corner of my parcel, the combination of the downward slope of my parcel and the upward slope of 35 Drury Drive creates a roughly 3' height difference in grade. *See Exhibits B1 and B2.*

In spring 2023 I contracted Trudell Cullins Engineering (TCE) to mark the property lines and corners of my parcel in preparation for a future fence. Shortly after this site work was completed, my rear neighbor at 35 Drury Drive, Bhakta Pradhan, began constructing a fence directly on the property line made from cedar posts and galvanized roll caging. Mr. Pradhan stated the primary reason for the fence was to contain his dog. The construction of the fence was initiated by Mr. Pradhan, but with my shared interest, I helped with its construction in summer 2023. All materials were provided by Mr. Pradhan and we agreed the fence was his responsibility to maintain.

Shortly after its construction, the bottom of the fence was damaged with a string trimmer while 35 Drury Drive was being mowed/maintained. The galvanized caging was broken at the ground level across most of the fence's span. In the fall of 2023, the Pradhan's dog unfortunately escaped and was hit by a car on Route 15. Within a few months, the family acquired a new dog – and when this dog gets out through the damaged fence, it comes into my yard and is increasingly aggressive toward my family and me. I have repeatedly asked Mr. Pradhan and his family members who live in the home to repair the fence. To this point, all solutions have been temporary, consisting mainly of items being leaned against the fence to deter the dog from getting out. It is ineffective, as the dog continues to try to escape and is successful often enough that it's a significant safety concern. *See Exhibit C.* Additionally, with this winter's heavy snow pack, the dog has attempted to jump over the fence, which is currently 4' high.

For my family's safety and privacy, I wish to construct a fence parallel to my rear property line with short wings running parallel to the adjacent property lines of 116 and 124 Main Street. I wish to construct the fence at 6' at the back right corner and maintain a level top line of the fence. In order to keep the top of the fence level, due to the slope of the ground it would terminate at roughly 7' to 7'6" high at the back left corner. *See Exhibit E.* I intend to leave a minimum 18" buffer between the fence and the property lines so that I have access to the rear of the fence for maintenance.

While the left end of the fence would exceed 6' in height from the perspective of my yard, the added height would not create any an obstruction for 35 Drury Drive, as that parcel sits significantly higher than mine, as previously described. From the perspective of 35 Drury Drive, the approximately 7' to 7'6" high section of fence would appear closer to 4' or 4'6". *See Exhibit E.*

Because my measurement of the difference in the grade along my rear property line has been approximate, my formal request is as follows:

I seek approval to construct a privacy fence parallel to my rear property line, beginning at no more than 6' high at the right corner and terminating no higher than 7'6" at the left corner, in order to maintain a level top line across the entirety of the fence. The fence will have wings running parallel to the property lines of 116 and 124 Main Street, maintaining the same level top line. I will leave a minimum of 18" between the fence and the property lines to provide access for maintenance, should the fence need repair.

Thank you for your time and consideration.

Sincerely,  
Chris Vaughn

**Exhibit A** – Image taken from Essex Junction Arc GIS Zoning Map. Text added.



**Exhibit B1** – 120 Main Street rear property line without markup



Exhibit D – Proposed Fence with Property Lines

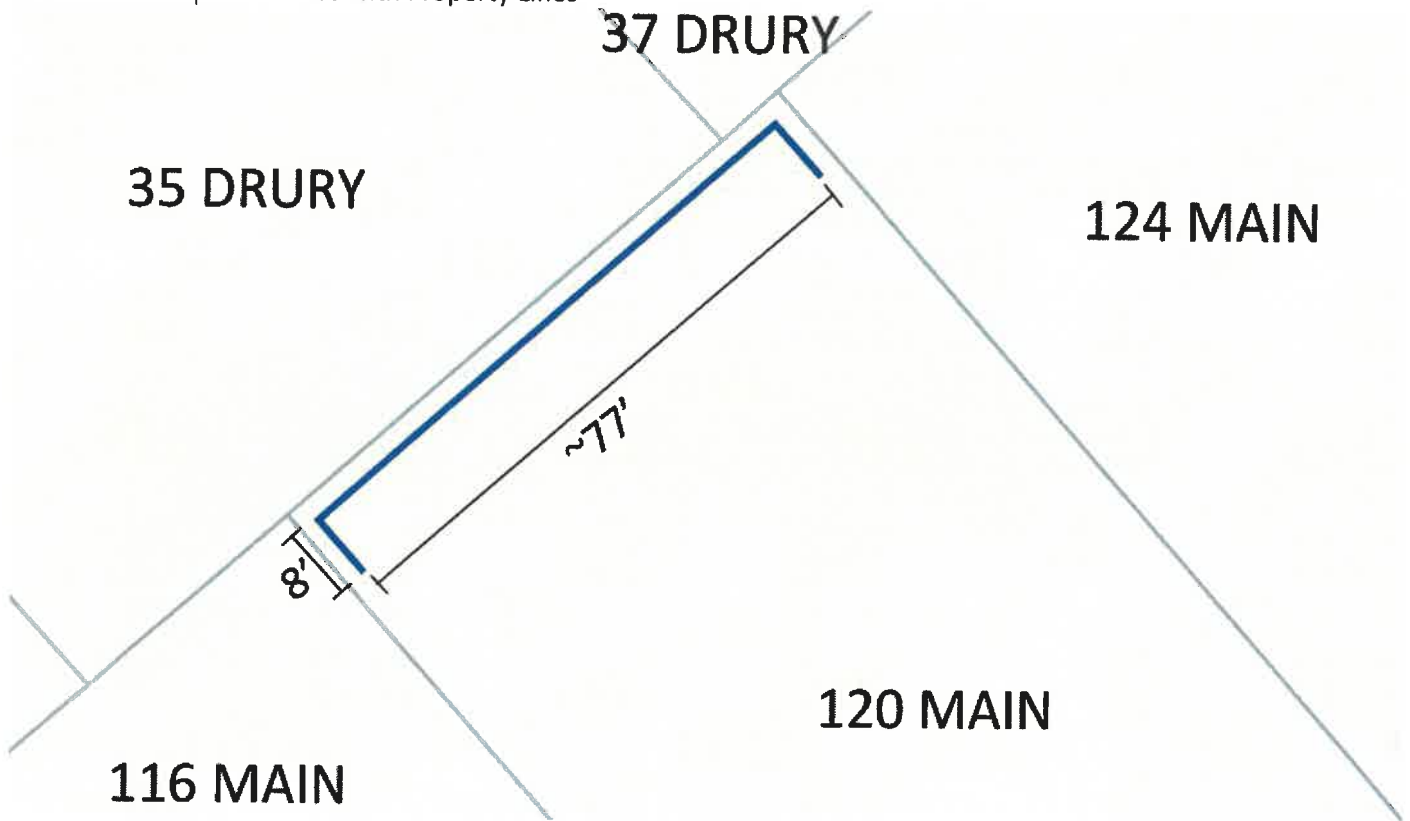


Exhibit E – Proposed Fence with Measurements





**Exhibit B2 – 120 Main Street rear property line with markup**



**Exhibit C – Current condition of fence along the property line**

