



# City of East Grand Rapids, Michigan

## CITY OF EAST GRAND RAPIDS NOTICE OF PUBLIC HEARING

A public hearing will be held on the fence variance application of Philip and Elizabeth Skaggs for the property address of 2615 Hall Street SE. The applicant has applied for a fence variance for the following:

- Fence Height and Clear Vision (Chapter 83, Section 8.61.C) - The applicant is seeking a variance to allow the construction of a 6-foot wooden privacy fence within the street side yard of their corner lot to be 1 foot off of the property line. The fence will taper off at the base of the driveway creating a 7.5' by 5.5' clear vision triangle. A fence within 10 feet of the street side yard of a corner lot is required to be no higher than 3 feet, or must be see-through. However, with the presence of a pool on the property, the Michigan Building Code requires at least a 4-foot fence to enclose the pool. Additionally, no fence or wall may be located in the clear vision area required by Chapter 32 Section 3.38 of the City Code (20' by 20' triangle at base of driveway) unless it has clear visibility through it.

The application and plans may be viewed in the Public Works Administration office at the Community Center, or by linking from this notice at [www.eastgr.org/notices](http://www.eastgr.org/notices).

The City Commission welcomes your views in this matter. You may express your views at the scheduled meeting or by writing to the Mayor and City Commission at 750 Lakeside Drive SE, East Grand Rapids, MI 49506 or by email to the City Clerk at [kbrower@eastgr.org](mailto:kbrower@eastgr.org). To be included in the hearing, written communications must contain the sender's name and address.

If you have any questions regarding this request, please contact the undersigned at (616)940-4817, or [amizikar@eastgr.org](mailto:amizikar@eastgr.org).

Date: Monday, June 3, 2019  
Time: 6:00 p.m.  
Place: East Grand Rapids Community Center Commission Chambers  
750 Lakeside Drive SE, East Grand Rapids, MI 49506

Aleksander P. Mizikar  
Zoning Administrator

### PUBLIC WORKS DEPARTMENT - ENGINEERING DIVISION

750 Lakeside Drive, SE • East Grand Rapids, Michigan 49506  
Telephone (616) 940-4817 Fax (616) 831-6121 [www.eastgr.org](http://www.eastgr.org)

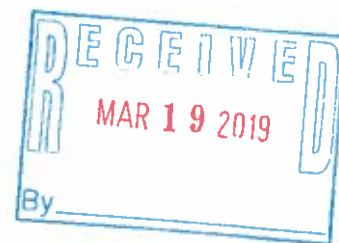
*44 notices sent*  
*pt*



Variance  
 2615 Hall Street, S. E.  
 East Grand Rapids, MI



**Philip and Elizabeth Skaggs  
2615 Hall St. SE  
Grand Rapids, Michigan 49506**



March 18, 2019

Via Hand-Delivery

Mr. Alek Mizikar  
Zoning Administrator  
City of East Grand Rapids  
750 Lakeside Drive SE  
East Grand Rapids, Michigan 49506

Re: Skaggs Request for Variance for Fence Located at 2615 Hall St. SE

Dear Mr. Mizikar:

This letter is in response to your letter dated February 20, 2019, and a follow-up to Philip's recent communications with you. Enclosed please find documents regarding our request for a safety and privacy fence at our home located at 2615 Hall St. SE, Grand Rapids MI 49506. Specifically, please find the following:

- Completed Fence and Wall Permit Application for fence located at 2615 Hall St.
- Request for Zoning Ordinance Variance
- Narrative statement supporting the Request for Zoning Ordinance Variance
- Two (2) copies of a site plan showing the existing fence at the location, along with the proposed fence

Please note that we are submitting the Request for a Zoning Ordinance Variance as a courtesy, as legally the fence in question, and the changes we are proposing, are already legally compliant. Under the doctrine of prior nonconforming use, we already have a vested right to the fence in question in its current location and at its current height, because it lawfully existed at the exact same height and in the exact same location before the effective date of any relevant, contradictory zoning regulation.

Your February 20 letter indicates that because our request for a variance under a previous City ordinance governing fences was denied, any new variance request must be "substantially different." However, the fence ordinance was significantly revised since the time of our last variance request, and the instant Request for Zoning Ordinance Variance is being submitted under the new ordinance. For this reason, and others, there is no legal obligation that this new variance request be "substantially different." Nonetheless, this new Request for Zoning Ordinance Variance is substantially different from our prior request as we are proposing to give up a significant portion of our backyard and angle the fence in order to ensure a clear vision area. It is also substantially different because we are dropping our prior requests for variances related

Mr. Alek Mizikar

March 17, 2019

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to the construction of a small shed in our backyard inside the fence. By angling the fence, we no longer have sufficient area for any such storage facility (or for any storage whatsoever in that corner, for that matter).

We are submitting these documents in good faith and with the understanding that we will be provided a fair hearing before the City Commission, sitting as the Zoning Board of Appeals. Please let us know immediately if any additional information or materials are required. Thank you for your consideration.

Sincerely,



Philip Skaggs



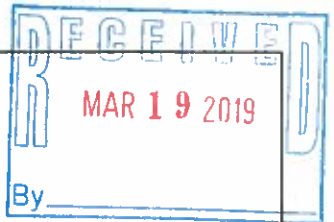
Elizabeth Skaggs

Enclosures



**CITY OF EAST GRAND RAPIDS  
FENCE AND WALL PERMIT APPLICATION**

750 Lakeside Drive SE, East Grand Rapids, MI 49506  
Phone 616.940.4817 Fax 616.831.6121 amizikar@eastgr.org



**\*No Fee Required\***

Date: 3/18/19

Property Address: 2615 Hall St. SE, Grand Rapids MI 49506  
(Check one below)

Interior Lot  Corner Lot  Through Lot

Property Owner(s): Philip and Elizabeth Skaggs

Phone: 616-446-2280 Email: pcskaggs@sbcglobal.net

(Leave blank if home owner is constructing fence)

Contractor's Name: Harder & Warner, Richard Angel

Contractor's Address: \_\_\_\_\_

Phone: 616-608-2259 Email: richard@harderandwarner.com

Fence Description (Height, Type, Location, Etc.):  
6-foot cedar wood fence in the location indicated on the enclosed site plan

- A **site plan** of the proposed fence/wall is required as an attachment to this application. Please show where the fence will be in relation to all buildings, structures, and property lines. Include all necessary dimensions and measurements for the fence and its relation to nearby structures and property lines.
- The city must be notified within 24 hours of completion for a **compliance inspection**.

**By signing below**, applicant agrees to construct the proposed fence as is described on the attached site plan and in accordance with the City of East Grand Rapids Fence Ordinance. The city is not responsible for determining property lines, nor is the city liable for any approved fence that is built not in accordance with the City of East Grand Rapids Fence Ordinance. Fences not constructed in accordance with the ordinance may be subject to post construction variance fees, citations, and/or relocation/removal.

Signature: [Signature] Elizabeth Skaggs Date: 3/18/19

(For office use only)

Date Received: 3-19-19 Date Approved: \_\_\_\_\_ Inspection Date: \_\_\_\_\_

\_\_\_\_\_  
Zoning Administrator (Site Plan Approval)

\_\_\_\_\_  
Zoning Administrator (Inspection Approval)



**Request for Zoning Ordinance Variance**

Date: 3/18/19

*Note to Applicant: Please pay careful attention to answer the questions in this application as accurately and completely as possible. This will give you the best possibility of your application appearing on the earliest agenda for action and for approval by the Board of Zoning Appeals.*

*All requests for a zoning variance are subject to a public hearing. The applicant will be advised of the hearing date, time and location and is requested to present a verbal summary of the request to the Board of Zoning Appeals prior to the public hearing. In addition, the City Services Office shall publish notice of the public hearing in a newspaper of general circulation in the local unit of government, as well as, provide notice of the public hearing to all property owners within a 300 foot radius of the subject property not less than fifteen (15) days before the date the application will be considered for approval per the Michigan Zoning Enabling Act. Per Sec. 5.100 of the City Code, a concurring vote of majority of the members of the Zoning Board of Appeals is required to approve a variance request.*

**A non-refundable filing fee of \$250.00 must accompany your application. A \$700.00 post construction fee is also required for retroactive variance requests.**

Applicant Name: Philip and Elizabeth Skaggs  
Address: 2615 Hall St. SE, Grand Rapids MI 49506

Property Address (if different than above):

Daytime Phone: 616-446-2280

Legal Description of Property\*\*:

Lot 15 Ex N 10 Ft\* Lake Drive Manor Add.

\*\* (Use Attachments if Necessary)

Permanent Parcel (Tax) Number: 41-14-34-376-031

**Briefly State the Requested Variance (Citing the specific section(s) of the Zoning Ordinance from which you are seeking a variance)\*\*:**

Relief from Sections 8.41(C) and 3.38 (as cited in 8.41(C))  
to permit a 6-foot high fence within 10 feet of the right-  
of-way, but angled at corner to ensure  
clear vision area.

\*\* (Use Attachments if Necessary)

**Sec. 5.103(c) of the City Code provides criteria for variance review, which are based on competent material and substantial evidence. Please check all the items below which are applicable to your request for variance:**

- a. The request of variance is based upon conditions and circumstances on the attached sheet which are unique to your property and not generally applicable to others in your neighborhood.
- b. The situation which causes you to seek a variance does not result from any action of yours. (see next page)

- c. A grant of the variance would do substantial justice to you as well as to other property owners and will not be of substantial detriment to neighboring properties.
- d. Compliance with the Zoning Ordinance would unreasonably prevent you from using the property or would be unnecessarily burdensome.

**Narrative Statement:**

*Please attach a narrative statement setting forth:*

- a. What you wish to do with the property.
- b. Why you need the variance.
- c. The specific decision you seek.
- d. The reason your project cannot be accomplished within the requirements of the zoning ordinance.

**Site Plan:**

Two (2) copies of a detailed, *scaled* site plan and elevation drawing showing the nature of the variance request, including, but not limited to: property boundaries, existing and proposed structures, the distance from the property lines of each existing building or structure and of each proposed building or structure, height of all proposed structures, and show and label abutting street(s). *Additional information may be required by the Zoning Administrator.*

*The Board of Zoning Appeals may attach conditions to the granting of a variance.*

*Please be advised that substantial steps toward effecting the variance must be taken within twenty-four (24) months of approval of a variance, or the variance will become null and void per section 5.104 of the City Code.*

Philip Skaggs                      Elizabeth Skaggs  
 Signature of Applicant                      Elizabeth Skaggs  
Philip Skaggs                      Elizabeth Skaggs  
 Print Name                                      Elizabeth Skaggs

\_\_\_\_\_  
 Signature of Property Owner  
 (If Different from Applicant)

\_\_\_\_\_  
 Print Name

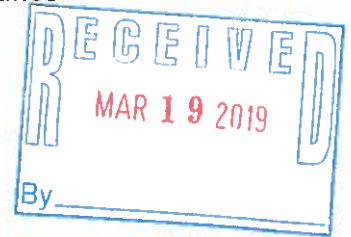


City of East Grand Rapids  
 City Services  
 750 Lakeside Dr. SE, East Grand Rapids, MI 49506  
 Phone 616.940.4817 FAX 616.831-6121

**Narrative Statement in Support of Request for Zoning Ordinance Variance**

**Philip & Elizabeth Skaggs  
2615 Hall St SE  
Grand Rapids, Michigan 49506**

March 18, 2019



We request that the City Commission, acting as the Zoning Board of Appeals, grant a variance relating to a safety and privacy fence for our property at 2615 Hall St. SE, Grand Rapids, Michigan 49506. We request approval of a 6-foot fence on the location depicted in the site plan submitted with this request. This variance is necessary for the following reasons:

- to preserve a safe fence height around the existing pool given its immediate proximity to the right-of-way;
- to preserve a minimum safe distance for the walkway around the pool inside the fence;
- to preserve usable, functional space on the property; and
- to secure our family's privacy while enjoying our backyard and pool.

This variance also ensures a clear vision area for the corner where our driveway meets the right-of-way.

The requested variance is being sought because the current fence ordinance prohibits fences in excess of 36 inches within 10 feet of the right-of-way, and requires a 20-foot clear vision area at the corner of the driveway and the right-of-way. Compliance with the 36-inch requirement would result in either a violation of the relevant ordinance regarding pool enclosures and a major safety risk (if we lowered the fence to 36 inches), or a significant loss of usable, functional property in our backyard (if we kept the fence at 6 feet but moved it to 10 feet or more from the right-of-way). Compliance with the 20-foot clear vision area is impossible as the garage already encroaches on this area, and creating a clear vision area of this magnitude would also result in the loss of significant functional space on the property. The reasonable clear vision area we have proposed should address the same concerns about safety, without creating a dramatic loss of usable property.

Our request meets all the criteria for approval of a variance under Section 5.103(C):

**A. Special conditions or circumstances exist which are peculiar to the land, structure or building involved and which are not generally applicable to other lands, structures or buildings in the same district.**

Satisfied. We are on a corner lot, with minimal backyard square footage, and have a pool. The pool (in fact, the deep end of the pool) is approximately 19 feet from the right-of-way. There are no other such houses that we know of in our neighborhood or zoning district.



**B. The special conditions or circumstances do not result from the actions of the applicant**

Satisfied. When we purchased the house in 2000, the pool and the 6-foot fence already existed in their current sizes, shapes, and locations. Based on information and belief, both the pool and the fence date to approximately 1980. Thus, under the doctrine of prior nonconforming use, we already have a vested right to the fence in its current location and at its current height.<sup>1</sup> When we purchased the house we had an expectation of privacy in our backyard based on a 6-foot fence, and an expectation of usage of the property to the east of the pool up to the edge of the existing fence.

**C. Authorizing of the variance will not be of substantial detriment to the neighboring property and will not be contrary to the spirit and purpose of this chapter.**

Satisfied. A 6-foot fence is necessary to the safety of the neighborhood, given the close proximity of the deep-end of our pool to the right-of-way. A 3- or 4-foot fence within a foot of the property line would be a safety risk to our family and to neighborhood children who would be tempted by the sight of the pool and could easily jump such a short fence. A 6-foot fence is also necessary to ensure the privacy of our family in the enjoyment of our backyard and pool. Absent a 6-foot fence, virtually our entire backyard is visible from right-of-way to any and all passers-by.

The fence we are proposing and the location will pose no substantial detriment to neighboring property as a 6-foot fence has existed in the exact same location since at least 2000, and possibly since 1980. Moreover, the clear vision area we are proposing for the corner of the driveway and the right-of-way – something that has not existed at any time that we are aware of – specifically addresses any safety concerns.

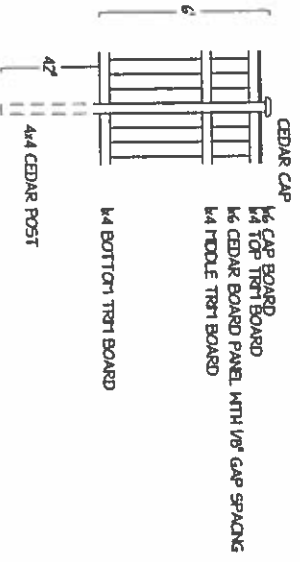
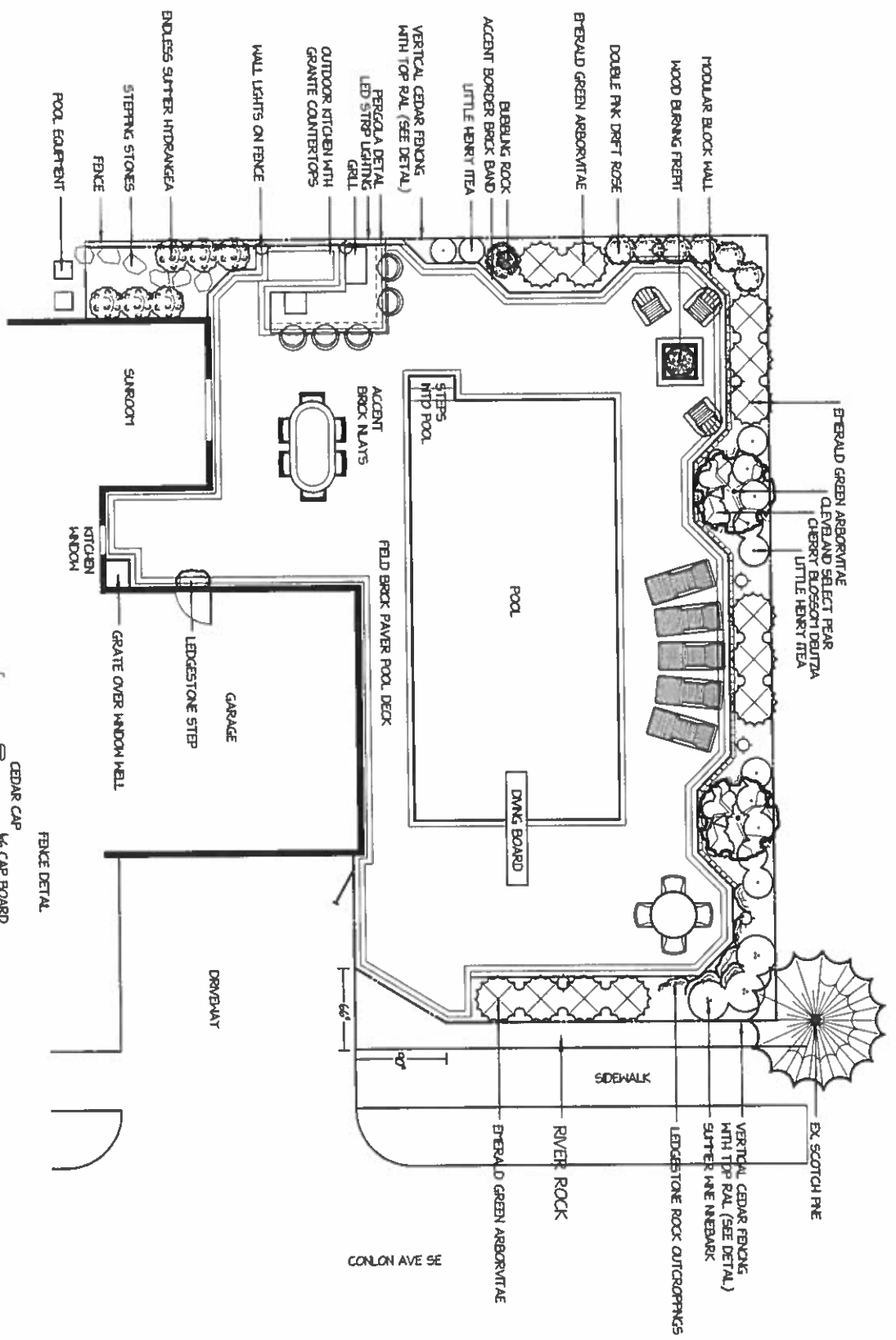
**D. With respect to use variances, the property cannot reasonably be used in a manner consistent with the existing zoning.**

We are seeking a dimensional variance, and so this standard is not applicable. Nonetheless, the same justification stated above applies. Compliance with the ordinance would result in either a violation of the relevant ordinance regarding pool enclosures and a major safety risk, or a significant loss of privacy and of usable, functional property in our backyard. We are already losing significant property with the proposal in this variance request for a clear vision area, property that we have used on a regular basis in the past and had intended to use in the future. It would be unnecessarily burdensome to lose even more property through rigid application of the fence ordinance.

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<sup>1</sup> In 1980, the 1961 City Code was in effect. Under that Code, the only limitation on fences was that they could not exceed 6 feet in height nor be placed within one foot of the right-of-way. See 1961 Code, Section 8.81.

NOTE  
 PAVEMENT LAYOUT  
 BODY OF FIELD  
 - LANTT RUSTIC SLAB  
 ACCENT BAND  
 - LANTT  
 COTTSMOLD TEST  
 - WESTON WALL  
 COTTSMOLD TEST



KEY  
 ○ PATH LIGHT  
 △ UP LIGHT

# SKAGGS RESIDENCE

2615 HALL ST. SE GRAND RAPIDS, MI

SCALE 1"=9'  
 DATE 3/18/19



R. ANGELL

HARBER & WARNER  
 LANDSCAPE ARCHITECTURE & DESIGN, INC.  
 1000 17TH AVE SE  
 GRAND RAPIDS, MI 49507  
 Phone: 268-8888 Fax: 268-8889