

**STAFF REPORT**  
**Community Development Department**  
**Petition Number: VAR-14-006**

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**To:** The Charlotte County Board of Zoning Appeals  
**From:** Shaun Cullinan, Zoning Official  
**Prepared By:** Ken Quillen, AICP, Planner III  
**Report Date:** September 30, 2014                      **BZA meeting date:** October 8, 2014

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**Requested Action/General Information:**

Sharon Boyd is requesting a variance to increase the maximum fence height allowed in a front yard from four feet to six feet to allow a six-foot high non-opaque fence in the front yard in the Residential Single-family-3.5 zoning district. Subject property is located at **5785 Gillot Boulevard** in Port Charlotte (see **Location Map**). The attached **Zoning Map** shows the zoning of subject property, which is Residential Single-family-3.5. This property has a Low Density Residential, Future Land Use Map (FLUM) designation.

Subject property consists of a single 10,000 square foot lot (80' by 125') located in the Port Charlotte Section 52 Subdivision, which was recorded in 1959. **Section 3-9-77 (Exhibit A)** of the Zoning Code allows fences up to six feet high in the required side and rear yards up to the property lines. Opaque fences or walls no more than three feet high and non-opaque fences or walls no more than four feet high are permitted in the required front yard up to the property lines. The applicant would like to erect a six-foot high non-opaque picket fence in the front yard. As such, the applicant has submitted this application for a variance.

The applicant has submitted the attached **Fence Proposal (Exhibit B-1)** from USA Fence Company showing a price quote for a six-foot privacy fence in the rear yard and a six-foot semi-privacy fence in the front yard. However, the applicant has changed the style of fence proposed to be located in the front yard to a six-foot closed picket style fence, which is shown in the attached **Enduris Brochure (Exhibit B-2)** submitted by the applicant.

Staff has prepared the attached **Site Plan (Exhibit C)** to help the applicant show the location of the existing single-family home on subject property and the proposed new six-foot non-opaque picket fence in the front yard. Staff has inspected subject property and documented the existing site conditions with **Photographs (Exhibit D)**, which show two views of the front yard of the home.

The applicant has not submitted a **Narrative**, however, she will attend the public hearing to explain to the Board of Zoning Appeals her circumstances and the reasons why the applicant is requesting this variance. The Community Development Department's Environmental Specialist has performed a cursory environmental review and their comments are in the attached **Memorandum (Exhibit E)** dated September 17, 2014.

**Findings: The seven standards for approval of a Variance according to Section 3-9-6.1(d) of the Charlotte County Zoning Code are as follows:**

1. Unique or peculiar conditions or circumstances exist which relate to the location, size and characteristics of the land or structure involved and are not generally applicable to other lands or structures.

Finding: The applicant does have unique circumstances which relate to the height of a fence necessary to protect a resident of the home. The conditions which do currently exist are not generally applicable to other lands or structures.

2. The strict and literal enforcement of the Zoning Regulations would create an undue hardship as distinguished from a mere inconvenience on the property owners. Physical handicaps or disability of the applicant may be considered where relevant to the request.

Finding: A resident of the home does have a physical handicap or disability. A strict and literal enforcement of the four-foot height limitation for non-opaque fences in the front yard would result in an undue hardship on the property owner.

3. The variance requested does not involve any use, which is prohibited in the district where the property is located.

Finding: The Zoning Code does not prohibit fences in the front yards of residential districts, but does restrict their height of non-opaque fences in front yards to four-feet in the Residential Single-family (RSF) zoning districts. Section 3-9-77 also states that deviations from these fence requirements may be allowed by approval of a variance.

4. The granting of a variance would not be injurious to or incompatible with contiguous uses, the surrounding neighborhood or otherwise detrimental to the public welfare.

Finding: Staff is not aware of any evidence that indicates granting of the requested variance would be injurious to, or incompatible with, adjacent residential uses. The proposed six-foot picket fence will be setback at least ten feet from the side lot line and would have little affect regarding the restriction of light or air to adjacent property.

5. The condition giving rise to the requested variance has not been created by any person presently having an interest in the property and the conditions cannot reasonably be corrected or avoided by the applicant.

Finding: The conditions giving rise to the requested variance have not been created by the current property owner. The property owner's son was born with a medical condition which is beyond the control of the property owner.

6. The requested variance is the minimum modification of the regulation at issue that will afford relief.

Finding: The requested variance, to increase the fence height allowed from four to six feet in the front yard, will allow construction of a six-foot high picket fence in the front yard; however, it will be setback from the front and side lot lines. The applicant has stated that this is the minimum modification that will afford relief.

7. The requested variance is consistent with the **Smart Charlotte 2050 Plan** (Charlotte County Comprehensive Plan).

Finding: **Objective 1.4** of the **Future Land Use Element**, which is titled "**Protection of Private Property Rights**" proposes to: "recognize and respect existing private property rights ... and to consider such rights and the impact upon them when preparing recommendations for land use decisions." Staff believes that this variance request may be considered consistent with this objective.

## **ANALYSIS AND CONCLUSIONS:**

After review of the site and the application requesting a variance, to allow construction of a six-foot high non-opaque fence in the front yard, staff believes that the requested variance does meet all seven criteria for granting a variance.

If the Board of Zoning Appeals decides to approve the requested variance staff recommends the following conditions are adopted, as conditions of approval, to ensure that development is in compliance with the purpose and intent of the Zoning Code. The recommended conditions are as follows:

1. The variance, as approved by the Board of Zoning Appeals, is to increase the fence height for a non-opaque fence from four-feet to six-feet in the front yard to allow a six-foot picket style fence. This fence shall be setback from the side lot line the same distance as the existing single-family residence and shall not extend more than 33 feet from the front wall of the existing single-family residence.
2. The owner or fence contractor shall obtain a fence permit and the fence shall be constructed according to all applicable building codes.
3. This variance shall be for the proposed non-opaque fence only. All other future principal and accessory structures shall comply with all County codes and ordinances in effect at that time.

**Please be advised that the final decision regarding the petition rests with the Board of Zoning Appeals, and will be decided upon consideration of all the evidence introduced at the hearing.**

Attachments: Staff Report (3), Location Map, Zoning Map, Aerial Photo, Section 3-9-77, Fence Proposal, Fence Brochure, Site Plan, Photographs, and Environmental Specialist Memorandum



Community Development

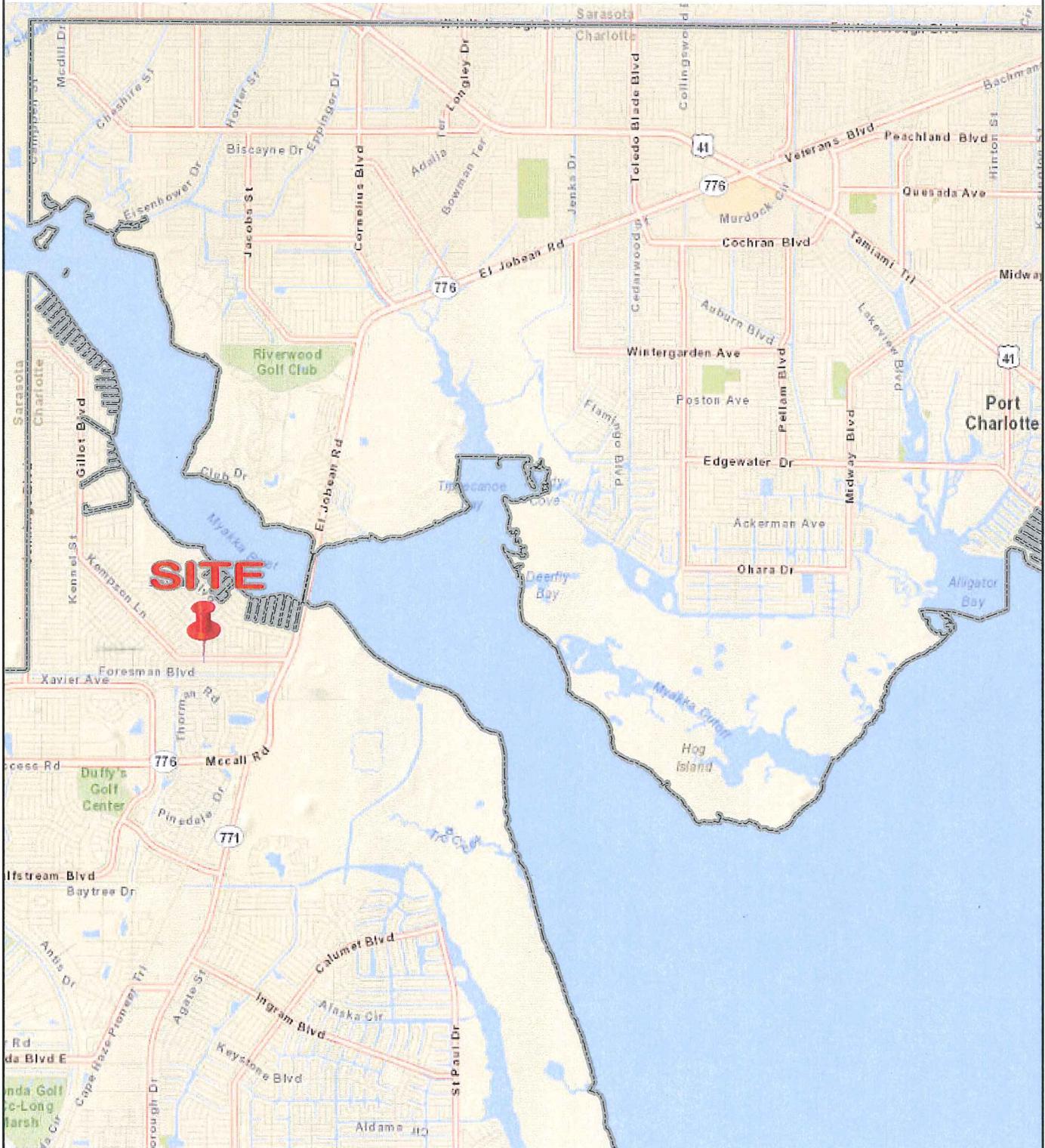
# CHARLOTTE COUNTY

## Location Map for VAR-14-006

Charlotte County Government

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### 32/40/21 West County

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Community Development

# CHARLOTTE COUNTY

## Zoning Map for VAR-14-006

Charlotte County Government

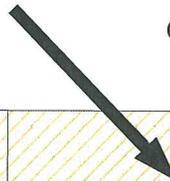
"To exceed expectations in the delivery of public services."

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19	18	17	16	15	14	13	12	11
2	3	4	5	6	7	8	9	10

RSF3.5

**SITE**



GILLOT BLVD

27	26	25	24	23	22	21	20	19
2	3	4	5	6	7	8	9	10

DRYSDALE AVE

27	26	25	24	23	22	21	20	19
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RSF3.5  
23

### 32/40/21 West County

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# CHARLOTTE COUNTY

Aerial View for VAR-14-006



**SITE**

GILLET BLVD

DRYSDALE AVE

### 32140/21 West County

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**Sec. 3-9-77. - Fences; walls.**

- (a) In all residential districts except residential estate (RE), side and rear setback requirements shall not apply to fences and walls six (6) feet high or less behind the minimum front setback line. Front setback requirements shall not apply to opaque fences or walls three (3) feet high or less or nonopaque fences or walls four (4) feet high or less.
- (b) In all nonresidential and residential estate (RE) district, fences and walls located on lot lines shall not exceed eight (8) feet in height, except as otherwise provided in section 3-9-97 (), Visibility at road intersections.
- (c) Fences charged with electricity are permitted only in agricultural districts, (AE, AG, AC and AE-10)
- (d) Barbed wire fencing shall be permitted only:
- (1) In agricultural districts;
  - (2) In commercial and industrial districts on top of fences or walls; and
  - (3) Around institutional uses and utility installations in any district.
- (e) Any deviations from the above requirements may only be allowed upon approval of a variance from the board of zoning appeals.
- (f) For the purpose of this section, the height of the fence or wall shall be measured from the finished grade of the site, excluding berms.

*(Minutes of 12-8-81, § 8; Ord. No. 89-47, § 8, 6-22-89; Ord. No. 91-06, § 3, 2-26-91; Ord. No. 92-68, § 1, 8-12-92)*

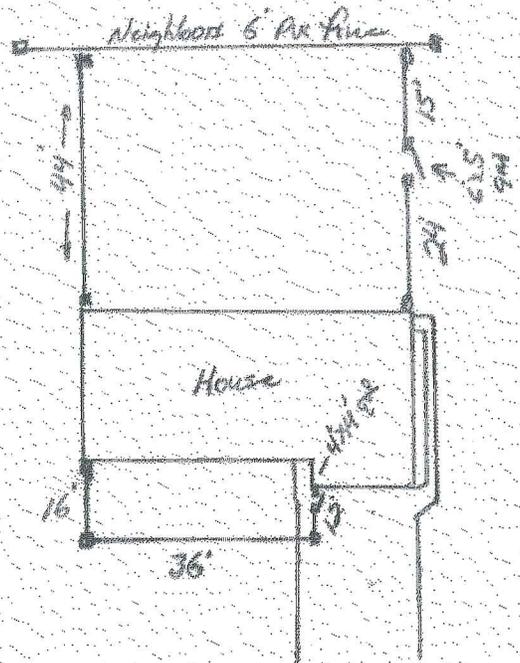
**Section 3-9-77  
( Exhibit A )**

**PROPOSAL**  
**USA FENCE CO. USA**

2880 Placida Road, Englewood, FL 34224  
(941) 697-3345 • (800) 741-3755  
Fax (941) 697-7715  
www.myusafence.com

DATE SUBMITTED	6/2/14
CONT. #	
DATE ORDERED	
DATE PROMISED	

BILL TO		Boyd, Sharon	
ADDRESS			
5785 Gillet Blvd.			
CITY			
Port Charlotte, FL 33981			
JOB LOCATION	PHONE	941-828-1674	
DESCRIPTION OF WORK			
DATE OF PLANS	ARCH		
BUYER'S AGENT	PHONE		



TOTAL INSTALLED PRICE \$ 5155.00 Good Until 30 Days  
TERMS 25% Down  
BALANCE UPON COMPLETION OF INSTALLATION

DESCRIPTION		
156'	88' 6x6 PVC Privacy fence white 14 Panels (17) 5x5x108" Posts w/ Flat Caps Set in Concrete. 1- 6x6 gate w/ Hardware (69) 6x6' PVC Picket Semi Privacy Fence 1/2" 3 Rail White (13) 5x5x108" Posts w/ Flat Caps Set in Concrete (17) 6x4 gate w/ hardware	5060.00
	* Charlotte Co. Permit & N.O.C.	95.00
	Total	5155.00

**RECEIVED**  
SEP 29 2014  
BY: *[Signature]*

SUBJECT TO ACCEPTANCE OF CONTRACT  
Salesman Booth Bell

**CHAIN LINK FENCE**

Total Height \_\_\_\_\_  
Post Spaced \_\_\_\_\_  
Style Fence \_\_\_\_\_  
Gauge  9  11 1/2  
Knuckled    
Safeguard  X X X  
Top Rail \_\_\_\_\_ O.D.  
Line Post \_\_\_\_\_ O.D.  
End Post \_\_\_\_\_ O.D.  
Corner Post \_\_\_\_\_ O.D.  
Walk Gate Post \_\_\_\_\_ O.D.  
Drive Gate Post \_\_\_\_\_ O.D.  
Gate Frames \_\_\_\_\_ O.D.

**WOOD/VINYL/ALUMINUM**

Style \_\_\_\_\_  
Height \_\_\_\_\_  
Post \_\_\_\_\_  
Walk Gate \_\_\_\_\_  
Drive Gate \_\_\_\_\_

BOARDS  
Stockade  6"  4"   
Hor. Shadow Box  6"  4"   
Vert. Shadow Box  6"  4"   
Pres. treated   
Special   
Split Rail 2  3

**Proposal**  
**( Exhibit B-1 )**

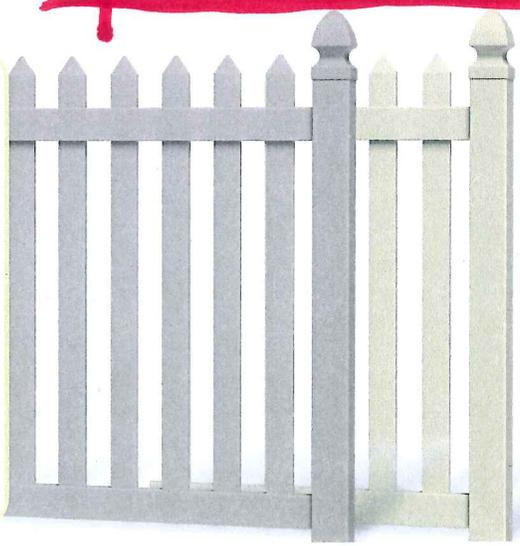
Whether you're adding a distinctive accent at the end of your driveway, or working to corral kids and pets, Enduris fencing has a style to fit.



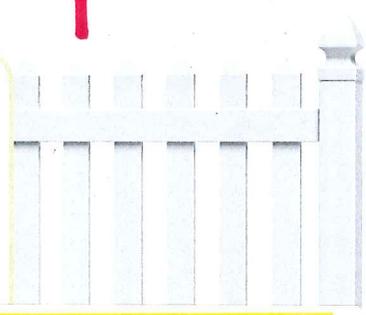
Wide Picket  
Scallop Top

Closed Picket

Select Khaki or Tan to complement or contrast with the color of your home.

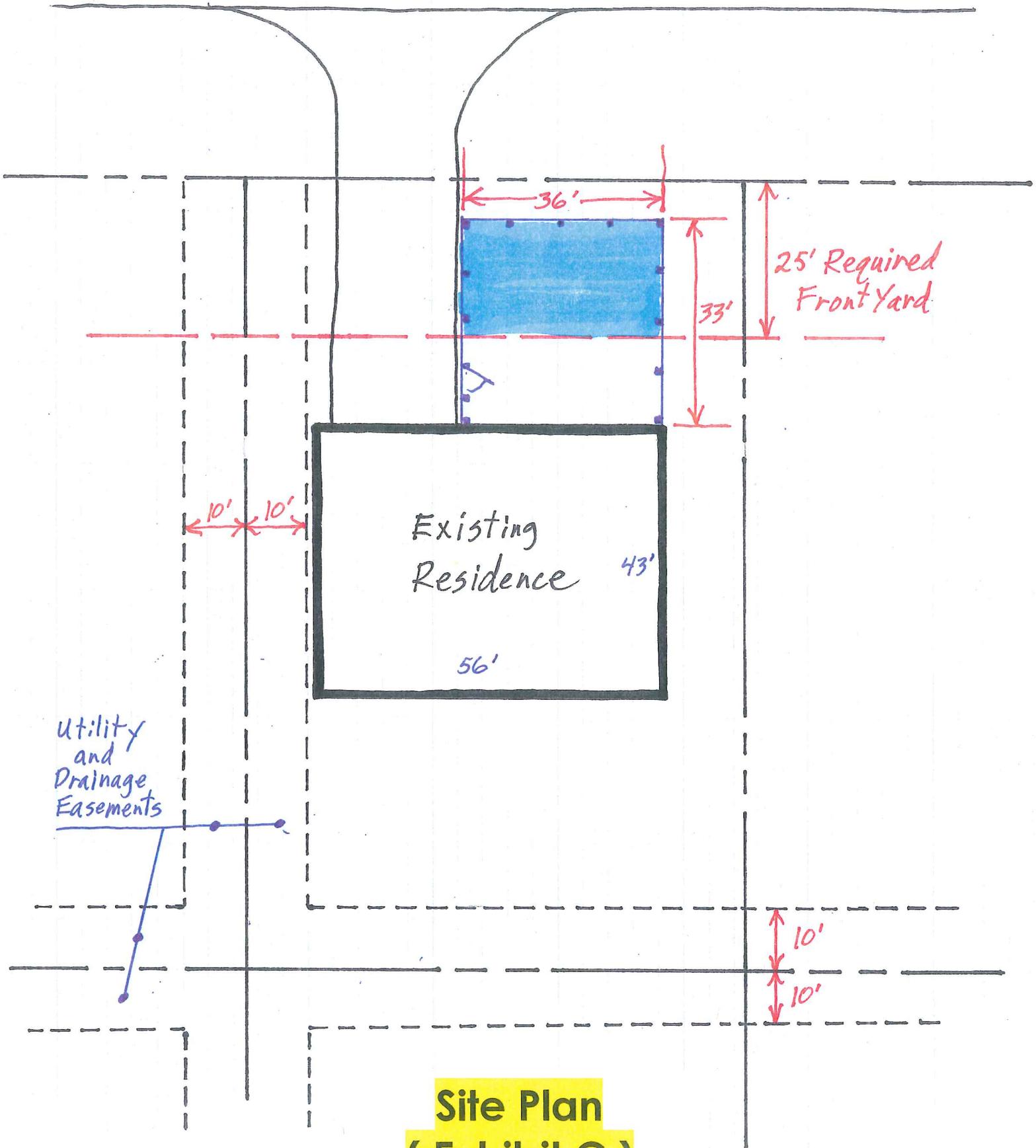


Choose White for a classic, traditional fence



**Fence Brochure  
( Exhibit B-2 )**

# Gillot Boulevard



**Site Plan  
( Exhibit C )**



**Site Photographs**

**5785 Gillot Boulevard**

**( Exhibit D )**



## MEMORANDUM

**Date:** September 17, 2014  
**To:** Ken Quillen, Planner III  
**From:** Jamie Scudera, Environmental Specialist  
**Subject:** VAR-14-006, Sharon Boyd fence, 5785 Gillot Boulevard

The Zoning Environmental Review Section has conducted a cursory review (additional wildlife or environmental reviews may be required by state and federal agencies) of the above referenced petition for compliance with Environmental, Tree and Landscaping codes or ordinances and offers the following comments:

- ❖ The site consists of an existing single family residence in a residential neighborhood.

If this petition is approved, the following conditions will be reviewed for compliance upon Site Plan Review (if required) and the issuance of any county permit or land improvement activities:

- ❖ As this proposal moves forward, the Environmental Review Section has no issues which need to be addressed.

If there are any questions pertaining to this review please feel free to contact me at (941) 743-1290.

JS

**( Exhibit E )**