

**CITY OF POWELL**  
**BOARD OF ZONING APPEALS (BZA)**  
**APPLICATION FOR VARIANCE**



ALL ITEMS ON THIS APPLICATION MUST BE COMPLETED.

**Application Fee: \$400.00\***  
**Per Fee Ordinance 2017-54**

\*Does not include transcript cost.

**Appellant:** Gabriel & Emily Norris

Address/City/State/Zip: 4696 Hunters Bend

Email Address: norris.437@gmail.com

Phone No: \_\_\_\_\_ Cell Phone No: (330)986-6898 Fax No: \_\_\_\_\_

**Property Owner:** Gabriel & Emily Norris

Address/City/State/Zip: 4696 Hunters Bend

Email Address: norris.437@gmail.com

Phone No: \_\_\_\_\_ Cell Phone No: (330)986-6898 Fax No: \_\_\_\_\_

**Attorney for Appellant:** \_\_\_\_\_

Address/City/State/Zip: \_\_\_\_\_

City / State / Zip: \_\_\_\_\_

Email Address: \_\_\_\_\_

Phone No: \_\_\_\_\_ Cell Phone No: \_\_\_\_\_ Fax No: \_\_\_\_\_

**Property Address:** 4696 Hunters Bend, Powell, OH 43065

Lot Number/Subdivision: 3648 - The Reserve at Scioto Glenn Zoning District/Use: Single Family Residential

Checklist:

- ☐ Legal description of the property.
  - ☐ Vicinity Map and site/plot plan as required.
  - ☐ Description of the existing and proposed use. Please be very detailed regarding the proposed use.
  - ☐ A narrative statement and supporting documentation establishing and substantiating that the variance conforms to each of the following standards as stated in Section [1127.06\(e\)](#) of the Codified Ordinances of Powell.
  - ☐ Provide any other information that may useful to the Planning and Zoning Commission or City Staff in the space below or attach additional pages.
  - ☐ **5 copies** of all drawings, text, any other items, and application, as well as any other drawings or written material that will help the Administration and the Board understand the nature of the proposal.
  - ☐ **1 digital copy** (CD, USB, Email) of the complete application packet.
  - ☐ Attach the required fee - \$400.00.\*
  - ☐ Post a public notice sign at least (10) days prior to a public hearing or public meeting, pursuant to ordinance 1107.035
- Public notice sign details found [here](#)

(See Over)

I agree to grant the City of Powell Staff and the Board of Zoning Appeals members considering this application access to the property subject of this application for the purposes of reviewing this application and posting public notice for this application.

Signature of Appellant: \_\_\_\_\_ Date: \_\_\_\_\_

Office Use
Received

Office Use
Type/Date: <u>11/9/18 CK 144</u>
Base Fee: <u>\$400.00</u>
Prepared by: _____
Reviewed by: _____
PAYOR: <u>Gabriel Norris</u>
RECEIPT # <u>7865</u>

City of Powell · 47 Hall Street · Powell, Ohio 43065 · (614) 885-5380 · (614) 885-5339 fax · [www.cityofpowell.us](http://www.cityofpowell.us)

## **Variance Request for 4696 Hunters Bend, Powell, OH 43065**

### **Gabriel and Emily Norris**

This variance request is to permit construction of a fence past the 30' build line of the property. We, Gabriel and Emily Norris, explicitly sought written approval for a fence as described in the attached materials prior to breaking ground on this property in August of 2017. The City of Powell provided email approval for the same. A recap of this correspondence with David Betz, Director of Development, and John Moorehead, Assistant City Engineer, is attached, as well as the actual (redacted) emails. When we applied for the permits for our fence to be installed in August of 2018, the City of Powell reversed their prior approval. After much discussion, we cannot see a scenario where the fence being built as originally proposed will be acceptable to the City. However, we are asking, as a reasonable compromise, that the fence be built no farther than 15' off of the house towards Hunters Bend (12' past the build line, but still 33' from Hunters Bend). Below are the reasons as applicable to and based on the standards of Section 1127.06(e):

- 1) The 30' build line to the one side of the home is somewhat unique to the property in that it is a corner lot. One of the reasons that we selected this property because of the large lot. The side 30' build line is not applicable to other properties where fencing may be constructed closer to the lot's perimeter. Because of this we sought and obtained the advance approval from the City of Powell. In reliance of the written email approval received, we moved forward with construction of the home, and spent over \$25,000 on a backyard patio, the placement of which was based upon the approved fence area. Having the fence come directly off the home as proposed by the City would (a) not look correct aesthetically, (b) would encroach upon the space between the fence and the patio as constructed, and (c) would severely limit the usable space in the backyard. While we intend to continue to occupy the home for the foreseeable future, all of the foregoing could likely have a detrimental effect on the home's value (and therefore the value of surrounding properties) and will certainly affect our use of it.
- 2) The twelve-foot (12') variance is not substantial and would be virtually unknown to most both visually and physically on the property, with ample spacing between the fence and the sidewalk/road.

- 3) The character of the neighborhood will not be adversely affected nor will any of the adjoining properties be adversely affected by the granting of this variance. As previously mentioned, we have provided neighbor signatures indicating their consent to the variance. Also, in most cases, a corner lot with a “perimeter fence” would affect the lot behind it (to the South in our case). This is prevented by an approximately 54’ tree line between our properties (see attached photo on page 25). We have also spoken to our neighbors and are moving forward with their support (signatures on page 36).
- 4) The granting of the variance will not adversely affect the immediate delivery of any governmental services such as water, sewer, garbage pickup and any other services. Further, from the beginning of this process, we have been amenable to any required covenants as to easements or otherwise.
- 5) As previously set forth and supported with documentation, we purchased this property with the understanding and in reliance that the fence as requested would be approved. We have made good faith efforts early and often throughout the process to maintain open communication with the City of Powell and to comply with its requirements. We specifically sought and received written (by email) approval before construction was begun, and the current condition has not been created by our actions. However, we will have detrimentally relied upon such approval to the tune of thousands of dollars with its revocation. As such, we are filing this variance request, which is reasonable.
- 6) As we cannot see a scenario where the fence being built on the 30’ build line would be acceptable, and we do not want to install in illegal fence, our predicament cannot be obviated through some other method than a variance.
- 7) The spirit and intent of the zoning requirement would still be observed by the granting of the variance. 33’ between the street and proposed fence is still an appropriate distance, and justice would be served in regard to the City’s revocation of its prior approval through granting this reasonable accommodation.



\*\*\* This is the proposed variance that we are requesting. The fence would extend 15' off of the house towards Hunters Bend, leaving 33' between the fence and Hunters Bend.

2018050504-02

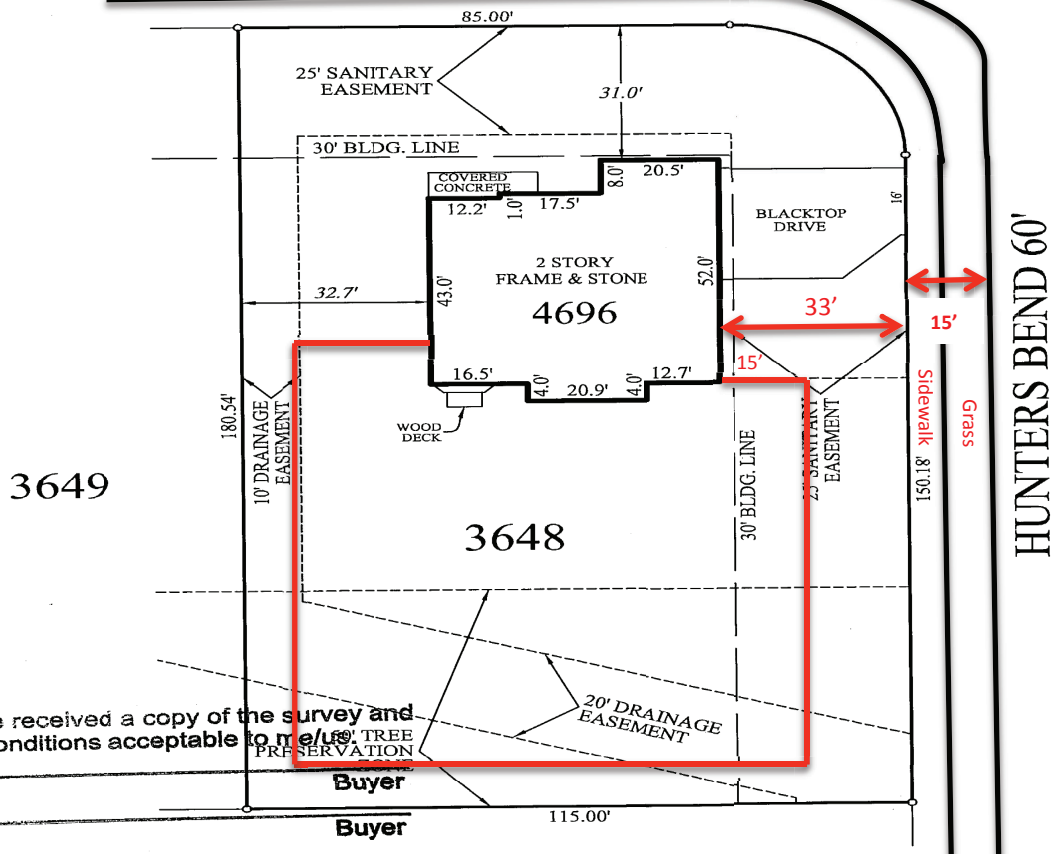
Order No.

CERTIFIED TO TRANSHIO RES TITLE COUNTY OF DELAWARE  
LENDER \_\_\_\_\_ P.B. 1474 PG. 1443 OR./D.B. \_\_\_\_\_ PG. \_\_\_\_\_  
BUYER NORRIS SCALE 1" = 30' DATE 5-17-18 DRN MM CH DBM

LOT NO. 3648  
THE RESERVE AT SCIOTO GLENN  
PHASE 3  
POWELL, OHIO



BACHMAN DRIVE 60'



We have received a copy of the survey and find the conditions acceptable to me/us

Buyer

Buyer

We hereby certify that the foregoing MORTGAGE LOCATION SURVEY was prepared in accordance with Chapter 4733-38, Ohio Administrative Code, and is not a boundary survey pursuant to Chapter 4733-37, Ohio Administrative Code. This plat is prepared for mortgage loan and title purposes only and is not to be construed as having been prepared for the owner or for the use of the owner for any purposes.

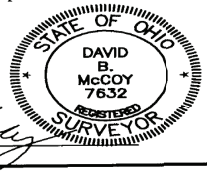
THIS PROPERTY IS LOCATED IN

FLOOD ZONE X

COMMUNITY PANEL 39041C

PAGE 0230-K DATE 4-16-09

By David B. McCoy



Delaware County  
The Grantor Has Complied With  
Section 319.202 Of The R.C.  
DATE 5-30-18 Transfer Tax Paid 1508<sup>70</sup>  
~~TRANSFERRED OR TRANSFER NOT NECESSARY~~  
Delaware County Auditor By [Signature]

  
Doc ID: 012583740002 Type: OFF  
Kind: DEED  
Recorded: 05/30/2018 at 09:18:55 AM  
Fee Amt: \$28.00 Page 1 of 2  
Workflow# 0000163807-0001  
Delaware County, OH  
Melissa Jordan County Recorder  
File# 2018-00013718  
BK **1573** PG **791-792**  
TRANSOHIO TITLE AGENCY  
3 EASTON OVAL STE 140  
COLUMBUS, OH 43219

DESCRIPTION APPROVED  
FOR TRANSFER  
Chris Bauserman  
Delaware County Engineer  
[Signature]  
5/30/18

Space above line reserved for recording purposes only.

## GENERAL WARRANTY DEED

M/I Homes of Central Ohio, LLC, an Ohio limited liability company, for valuable consideration paid grants with general warranty covenants, to

Emily K. Norris and Gabriel J. Norris, wife and husband,  
for their joint lives, remainder to the survivor of them,

whose tax mailing address is M/I FINANCIAL 3 Easton Oval #340 Columbus OH 43219,  
the real property more particularly described as follows:

Situated in the City of Powell, County of Delaware and State of Ohio:

And known as being Lot Number 3648, in THE RESERVE AT SCIOTO GLENN, PHASE 3, as the same are numbered and delineated upon the recorded plat thereof, of record in Plat Cabinet 4, Slide 47, and Official Records Volume 1474, Page 1443, Recorder's Office, Delaware County, Ohio.

Parcel No.: 319-230-28-037-000  
Address: 4696 Hunters Bend Powell, OH 43065  
Prior Instrument Reference: OR Book 1513, Page 2270  
Recorder's Office of Delaware County, Ohio

The foregoing conveyance is made subject to taxes and assessments not yet due and payable; easements, conditions and restrictions of record, legal highways and zoning ordinances.

M/I Homes of Central Ohio, LLC has caused its duly authorized officer to execute this deed this 24th day of May, 2018.

M/I Homes of Central Ohio, LLC  
an Ohio limited liability company

By: [Signature]  
Timothy C. Hall, Jr.,  
Area President

$$\} \text{SS}$$

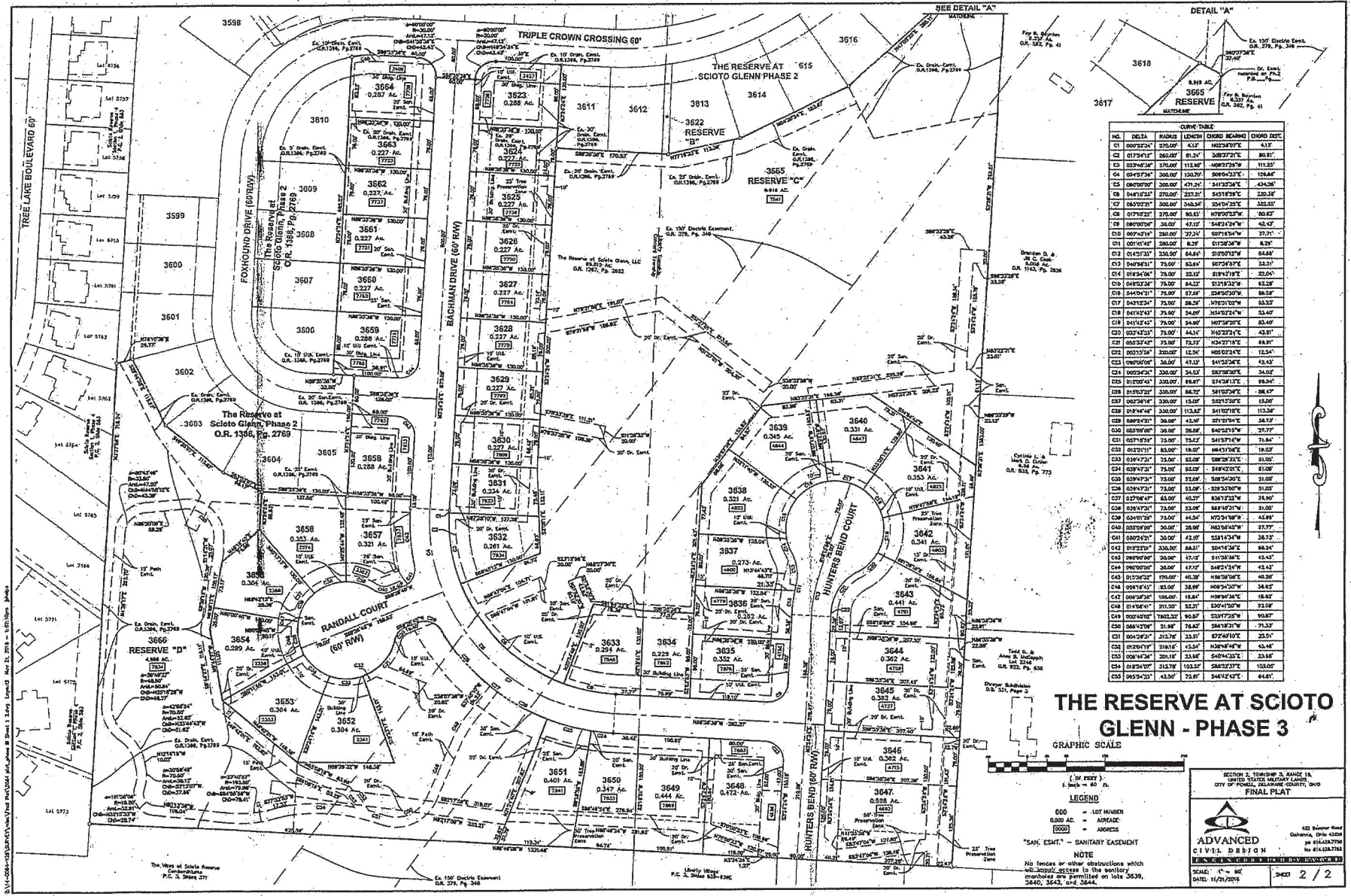
Darlene W. Smith  
 Notary Public  
 My Commission Expires: 6/25/19

7









**Consulting Engineers & Surveyors**

2550 Corporate Exchange Drive, Suite 10  
Columbus Ohio 43231  
Phone(614)885-2498 • Fax(614)885-2886

**2018050504-02**

Order No.

CERTIFIED TO TRANSHIO RES TITLE COUNTY OF DELAWARE

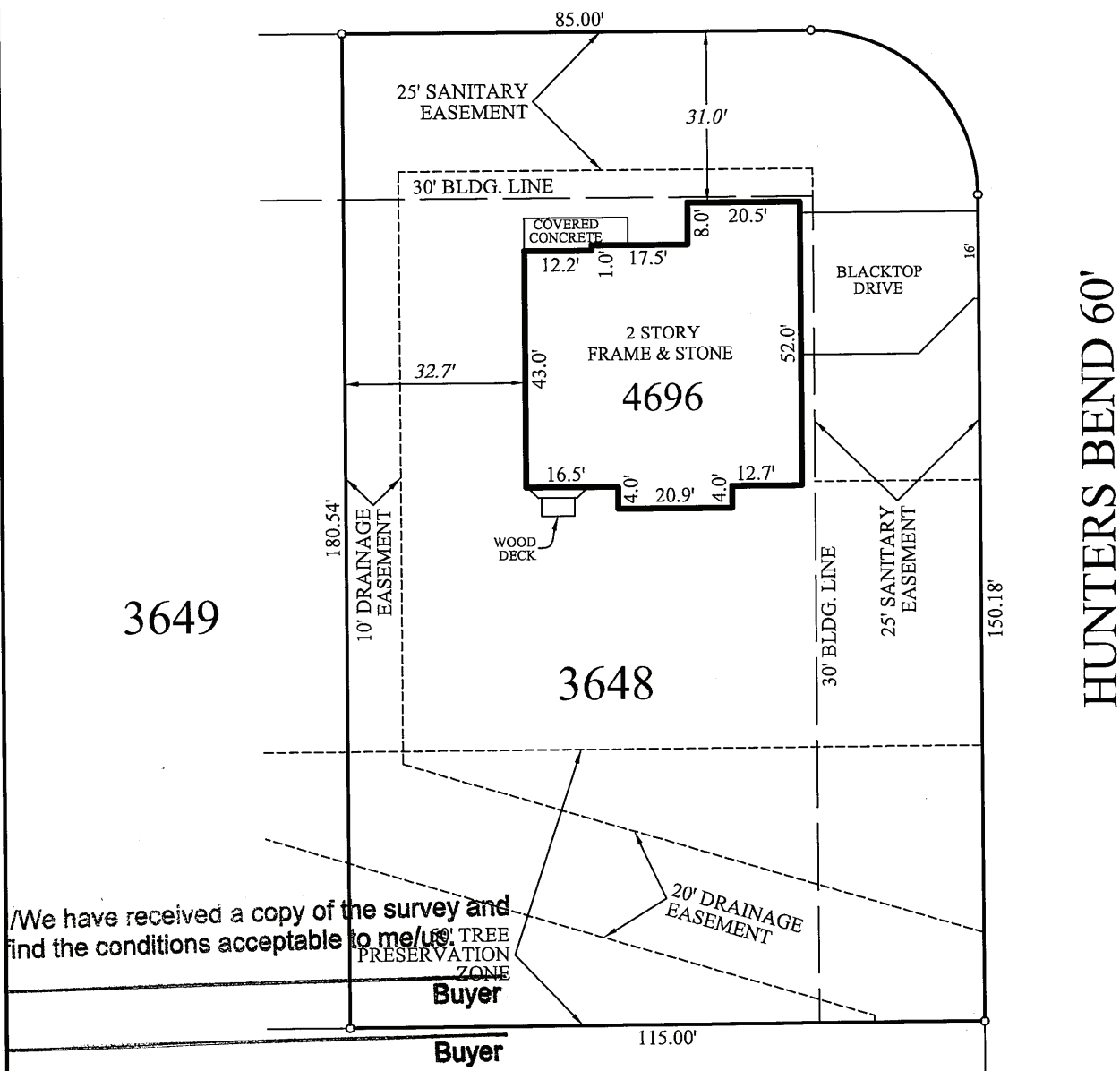
LENDER \_\_\_\_\_ P.B. 1474 PG. 1443 OR./D.B. \_\_\_\_\_ PG. \_\_\_\_\_

BUYER NORRIS SCALE 1" = 30' DATE 5-17-18 DRN MM CH DBM

LOT NO. 3648  
THE RESERVE AT SCIOTO GLENN  
PHASE 3  
POWELL, OHIO



# BACHMAN DRIVE 60'



/We have received a copy of the survey and find the conditions acceptable to me/us. <sup>501</sup> TREE PRESERVATION

**Buyer**

**Buyer**

We hereby certify that the foregoing MORTGAGE LOCATION SURVEY was prepared in accordance with Chapter 4733-38, Ohio Administrative Code, and is not a boundary survey pursuant to Chapter 4733-37, Ohio Administrative Code. This plat is prepared for mortgage loan and title purposes only and is not to be construed as having been prepared for the owner or for the use of the owner for any purposes.

THIS PROPERTY IS LOCATED IN

FLOOD ZONE \_\_\_\_\_X\_\_\_\_\_

COMMUNITY PANEL 39041C

PAGE 0230-K DATE 4-16-09

By



**proposed fence by Mr. & Mrs. Norris in August 2017. It was informally approved. \*\*\***

2550 Corporate Exchange Drive, Suite 10  
Columbus Ohio 43231  
Phone(614)885-2498 • Fax(614)885-2886

	C/O #		REVISION DATE & REQUEST
1	C	AB	06-06-17 Flip Handing
2			
3			
4			
5			

For M/T Homes of Central Ohio, L.L.C. House Style Ashford "B"  
 Lot / Subdivision 3648 The Reserve at Scioto Glenn Phase 3 City of Powell  
 Scale 1"= 30' PB. 1474 PG. 1443 Date 05-31-17 Drawn AB/JI CK. DBM CO. of Delaware  
 Flood Zone X Community Panel 39041C Panel No. 0230K Effective Map Date 04-16-09  
 Minimums R 30' S 8' Lot Width at Build Line 115.0' Drive Slope Distance 34.00'



Lot 20549.0

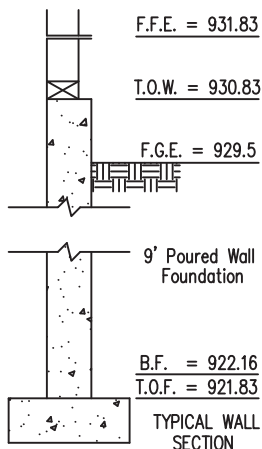
House X

Drive X

Approach X

Walk X

Sod Coverage X



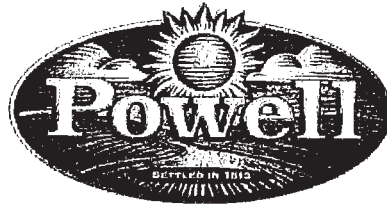
*B.M. #1; Chiseled "X" on the east rim of a  
Sanitary manhole located 115 north of the  
intersection of Fox Path Court, and Hunters Bend  
Being 40' west of the centrlne of Hunters Bend  
Elev. = 925.93*

*We hereby certify that the foregoing PLOT PLAN was prepared from information provided by the Client and data obtained from Engineered Subdivision Plan. This Plot Plan is to be used by the Client for the sole purpose of obtaining a building permit. The use of the Plot Plan for any other purpose is strictly prohibited.*

*Lot Fit*  
*Ashford "B" Farmhouse*



**ZONING CERTIFICATE**  
**CITY OF POWELL, OHIO**



CERTIFICATE NO. 20180527 <sup>4</sup>

**TYPE OF WORK**

- |   |  |
|---|--|
| <input type="checkbox"/> New Building     | <input type="checkbox"/> Patio                   |
| <input type="checkbox"/> Remodeling       | <input type="checkbox"/> Alteration              |
| <input type="checkbox"/> Deck             | <input type="checkbox"/> Change of Use/Occupancy |
| <input type="checkbox"/> Addition         | <input type="checkbox"/> Sign                    |
| <input checked="" type="checkbox"/> Fence | <input type="checkbox"/> Miscellaneous           |

Issued to: LEE'S FENCING

Address: PO BOX 14344

Premises Located at: 4696 HUNTERS BEND CT 3648 RESERVE ST SCIOTO GLEN

Description of Proposed Use: FENCE

Zoning Classification PRD Date 08/03/18

**THIS PERMIT VALID FOR SIX (6) MONTHS FROM APPROVAL DATE**

*[Signature]*  
City Engineer

8/22/18

*[Signature]*  
Director of Development

8/22/18

**CERTIFICATE OF COMPLIANCE MUST BE OBTAINED BEFORE STRUCTURE CAN BE OCCUPIED**

**THIS CARD MUST BE POSTED IN PROTECTED AREA ON EXTERIOR OF PREMISES**



# CITY OF POWELL

## APPLICATION FOR RESIDENTIAL ZONING CERTIFICATE FOR A FENCE



ALL ITEMS ON THIS APPLICATION MUST BE COMPLETED.

Permit No. 20180524

Applicant: Lee's Fencing  
Address: PO Box 14344  
City / State / Zip: Columbus, Oh 43214 Phone No.: (614) 846-8839  
E-Mail Address: leesfencing@aol.com Cell Phone No: \_\_\_\_\_  
Property Owner: Emily Norris  
Property Address: 4696 Hunters Bend Ct  
Lot Number/Subdivision: Lot 3648 Reserve Scioto Glen Lot Area: \_\_\_\_\_ Lot Depth: \_\_\_\_\_  
Lot Width at Building Line: 80 Side Yard Width, Right: 31 Left: 0'  
Rear Yard Depth (from rear of proposed building): 65' (30'in from rear property line)  
Contractor: Lee's Fencing Phone #: (614) 846-8839  
Address: PO Box 14344 City/State/Zip: Columbus, Oh 43214  
E-Mail: leesfencing@aol.com

RECEIVED

The following items are REQUIRED as part of this application:

AUG 03 2018

- 1) The required zoning fee. (\$25.00)
- 2) **Plot Plan showing the type of proposed use, structural dimensions at the ground, lot dimensions, side, front, and rear yard setbacks, and compliance with all development standards. (2 copies)**
- 3) Drawing showing type of fence or wall to be erected including height, type of material, color and type of construction. (2 copies)
- 4) Fence contractor required to be registered with the City of Powell

The undersigned certifies that this application and the attachments hereto contain all information required by the Zoning Ordinance and that all information contained herein is true and accurate. The undersigned agrees to be bound by the provisions of the Zoning Ordinance of the City of Powell, Delaware County, Ohio.

Signature of Applicant:  Date: 8-3-18

- Incomplete applications or incomplete plot plans will require resubmission and could result in resubmission fees. -

Office Use Only  
Zoning fee paid: Yes \_\_\_\_\_ No \_\_\_\_\_  
Homeowner's association approval letter received Yes \_\_\_\_\_ No \_\_\_\_\_

Receipt # 42209

Revised 01/01/2017

City of Powell Building Department · 47 Hall Street · Powell, OH 43065 · (614)885-5380 · www.cityofpowell.us

CERTIFIED TO TRANSHIO RES TITLE COUNTY OF DELAWARE  
 LENDER \_\_\_\_\_ P.B. 1474 PG. 1443 OR/D.B. \_\_\_\_\_ PG. \_\_\_\_\_  
 BUYER NORRIS SCALE 1" = 30' DATE 5-17-18 DRN MM CH DBM

LOT NO. 3648  
 THE RESERVE AT SCIOTO GLENN  
 PHASE 3  
 POWELL, OHIO

39V N1V80 10331V  
 17583EADY 3 SIMREH10 80  
 39V N1V80 9N11S1X3E 3331V  
 10N 17VHS



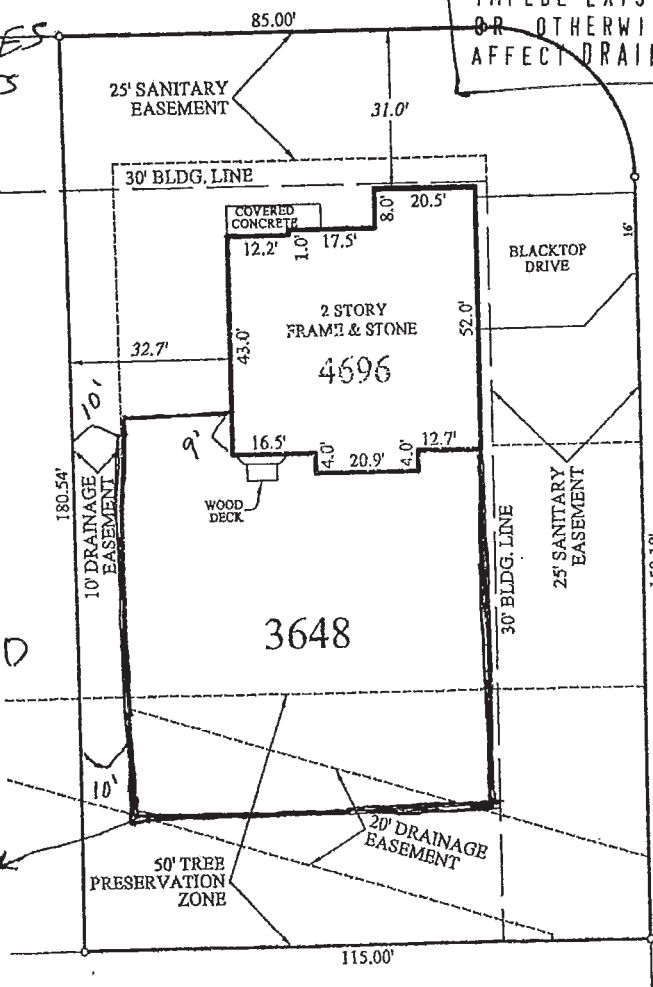
BACHMAN DRIVE 60'

FENCE... SHALL NOT  
 IMPEDE EXISTING DRAINAGE  
 OR OTHERWISE ADVERSELY  
 AFFECT DRAINAGE

• WHERE FENCE CROSSES  
 PIPE, FENCE POSTS  
 MUST BE 4' FROM  
 OUTSIDE OF PIPE

• ~~ENSURE~~ PIPE  
 VERIFY  
 LOCATION PRIOR  
 TO FENCE INSTALL

3649  
 APPROVED  
 ONLY AS NOTED  
 8-22-18  
 FENCE  
 In front  
 of tree  
 line



HUNTERS BEND 60'

This is the approved  
 fence permit that Lee's  
 and the City of Powell  
 signed off on 8/22/18.

We hereby certify that the foregoing MORTGAGE LOCATION SURVBY was prepared in accordance with Chapter 4733-38, Ohio Administrative Code, and is not a boundary survey pursuant to Chapter 4733-37, Ohio Administrative Code. This plat is prepared for mortgage loan and title purposes only and is not to be construed as having been prepared for the owner or for the use of the owner for any purposes.

THIS PROPERTY IS LOCATED IN

FLOOD ZONE \_\_\_\_\_ X \_\_\_\_\_  
 COMMUNITY PANEL \_\_\_\_\_ 39041C \_\_\_\_\_  
 PAGE \_\_\_\_\_ 0230-K \_\_\_\_\_ DATE \_\_\_\_\_ 4-16-09 \_\_\_\_\_

By David B. McCoy



**DECLARATION OF COVENANTS**

This DECLARATION OF COVENANTS (this “Declaration”) is made by \_\_\_\_\_ and \_\_\_\_\_ (collectively referred to as the “Declarant”) with an address of 4696 Hunters Bend Court, Powell, Ohio 43065.

WITNESSETH:

WHEREAS, the Declarant has acquired and currently holds fee simple title in the real property described in Exhibit A attached hereto and incorporated herein by reference (the “Property”), having acquired such title by instrument recorded in the Official Records of the Office of the Recorder of Delaware County, Ohio, in Deed Book 1573 , Pages 791 ; and 792

WHEREAS, the City of Powell (the “City”) has adopted Section 1145.34(g)(1) of the Powell Codified Ordinances, which provides that “[n]o fence will be constructed or installed within the Municipality in the course of any public easement for public utilities or drainage easement without the approval of the public utility and with the concurrence of the City Engineer and Zoning Administrator”; and

WHEREAS, the Declarant proposes to improve or cause the Property to be improved by constructing thereon a fence within the course of a public easement (the “Project”), such Project being described with more particularity on the diagram attached hereto as Exhibit B and incorporated herein by reference; and

WHEREAS, the Declarant has obtained letters of approval for the Project from all affected public utilities and/or users of the public easement; and

WHEREAS, the City Engineer and Zoning Administrator concur with the installation of the Project subject to and contingent upon the Declarant executing and recording this Declaration providing for removal of the Project in the event it is necessary to perform work on any facilities owned by the City or other user of the public easement located within the easement area;

NOW, THEREFORE, the Declarant, for themselves and their successors and assigns to or of the Property or any part thereof (the Declarant and each successor or assign is individually referred to as an “Owner” and collectively as the “Owners”), hereby declares that the foregoing recitals are incorporated into this Declaration by this reference and that the Property and the Improvements thereon shall be held, developed, encumbered, leased, occupied, improved, built upon, used and conveyed subject to the terms and provisions of this Declaration:

**Section 1. Covenant to Remove Fence To Permit Work Within the Easement Area.**

Upon five (5) days advance notice from the City and/or any affected user of the public easement, Owner shall remove the fence and any related improvements installed as a part of the Project located within the easement area as necessary to permit work to be performed within the easement. In the event that Owner fails to comply with the notice or in the event of emergency circumstances (as determined by the City/user in its sole discretion) warranting immediate access to the easement area, the City or the affected user of the public easement may remove fence and any related improvements and store the materials on the Property in an appropriate location.

**Section 2. Restoration.** Owner shall be responsible for and bear the cost of restoration of the fence and any related improvements installed as part of the Project after removal and performance of work pursuant to Section 1 above.

**Section 3. Hold Harmless.** Owner hereby releases, discharges and holds harmless the City and any and all users of the public easement from and against all claims, cost, liabilities, damages and/or expenses for any removal and performance of work pursuant to Section 1 above.

**Section 4. Covenants to Run With the Land.** It is intended and agreed that the covenants in Sections 1, 2 and 3 hereof shall be covenants running with the land and that they shall, in any event and without regard to technical classification or designation, legal or otherwise, be binding to the fullest extent permitted by law and equity, for the benefit and in favor of, and enforceable by, the City against the Property, the Improvements and the Owners. It is further intended and agreed that such covenants shall remain in effect for the full life of the Project or until the Project is removed

from the easement area. It is further agreed and declared by the Declarant that all such covenants, whether or not such provisions are included by any Owner in any deed to such Owner’s successors and assigns, shall be binding upon each Owner and shall be enforceable by the City in the manner provided herein.

**IN WITNESS WHEREOF**, the Declarant has caused this Declaration to be executed and effective as of \_\_\_\_\_, 2018.

**DECLARANT:**

\_\_\_\_\_  
Emily K Norris

\_\_\_\_\_  
Gabriel J Norris

STATE OF OHIO )  
 ) ss  
COUNTY OF DELAWARE )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_,  
2018, by \_\_\_\_\_, as being his voluntary act and deed.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

STATE OF OHIO )  
 ) ss  
COUNTY OF DELAWARE )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_,  
2018, by \_\_\_\_\_, as being his voluntary act and deed.

\_\_\_\_\_  
Notary Public

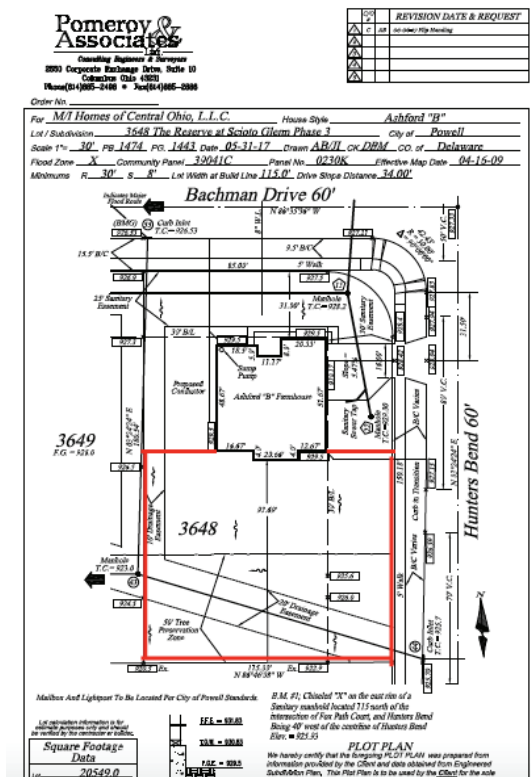
My commission expires: \_\_\_\_\_

This instrument prepared by:

Eugene L. Hollins, City Attorney  
Frost Brown Todd LLC  
10 West Broad Street, Suite 2300  
Columbus, Ohio 43215

# Recap of Communication between Gabe and Emily Norris and the City of Powell

- On August 3, 2017, Mr. Norris sent an email to Mr. David Betz and Mr. John Moorehead (incorrectly referred to as Jason) stating: “Hi Jason and Dave- I came into the office and spoke with Jason about potential fencing on a property that my wife Emily and I are building with MI Homes. Thank you so much for taking the time to speak with me and answer our questions. The address is: 4696 Hunters Bend Drive, Powell, OH 43065. I have attached the plot plan.
- Jason, I just wanted to confirm: from your perspective, we will be able to build a “perimeter fence” on the property. The red line on the plot map is roughly what we had in mind.
- I now see the elevation measurements and the slope you were talking about. Not ideal, but thanks for pointing that out. My only question is, isn’t the low point/trench, cutting diagonally across the back of our yard? Or is it parallel to the street?
- David, Jason wanted us to double-check with you that the zoning would be ok for a fence on this property and that there were no restrictions. If you are both comfortable putting something in writing that building a fence on the property would be ok from your perspectives, that would be greatly appreciated. Thank you both for all of your help. Gabe and Emily Norris (*bigger version of this attached plot plan can be found on page 11*).



- **On August 3, 2017, Mr. Betz responded:** “Hi, The fence is proposed through drainage easements where there are storm sewers. The City Engineer cannot approve this and generally we have utilized a restrictive covenant to allow us access to easement and removal of fence at the property owners cost. However, this looks more complicated so I copied our Assistant Engineer to review and provide layout advice in order for you to fence as much yard as possible that we can approve. John, please review and comment. Thanks. Dave.”
  - **On August 4, 2017, Mr. Norris responded:** “John- I am so sorry for using the incorrect name! I feel like a total idiot since we met each other earlier in the day. I had Jason stuck in my head because my wife had emailed Jason on Wednesday. I hope this clears up any confusion. Sorry again!”
  - **On August 4, 2017, Mr. Moorehead responded:** “No worries Gabe, Powell would allow fencing through your lot as shown on your plot plan. As discussed, your fence would be subject to a covenant similar to the attachment. In short, if Powell needed to access our easement you would agree to remove the fence and re-install/re-store it once we had finished working. Once you’re closer to fence construction, you’ll need to submit a residential zoning permit for the fence. We’ll get the covenant put together at that time. Thanks, John Moorehead”
- 

- At that point Mr. & Mrs. Norris were moving forward with the understanding that the proposed fence would be approved. Mr. and Mrs. Norris closed on the property May 24, 2018.
- When preparing the permit application with Lee’s Fencing and Mr. Aaron Scott, Mr. & Mrs. Norris were extremely disappointed to learn that the fence would have to be built on the 30’ build line.
- On August 22, 2018, the City of Powell approved the attached fence plan (Page 14).
- **On August 26, 2018, Mrs. Norris emailed Mr. Betz, Mr. Moorehead, Mr. Kambo, & Mr. Huber:** “Hi John, My husband, Gabe, and I contacted you and Dave over a year ago when we

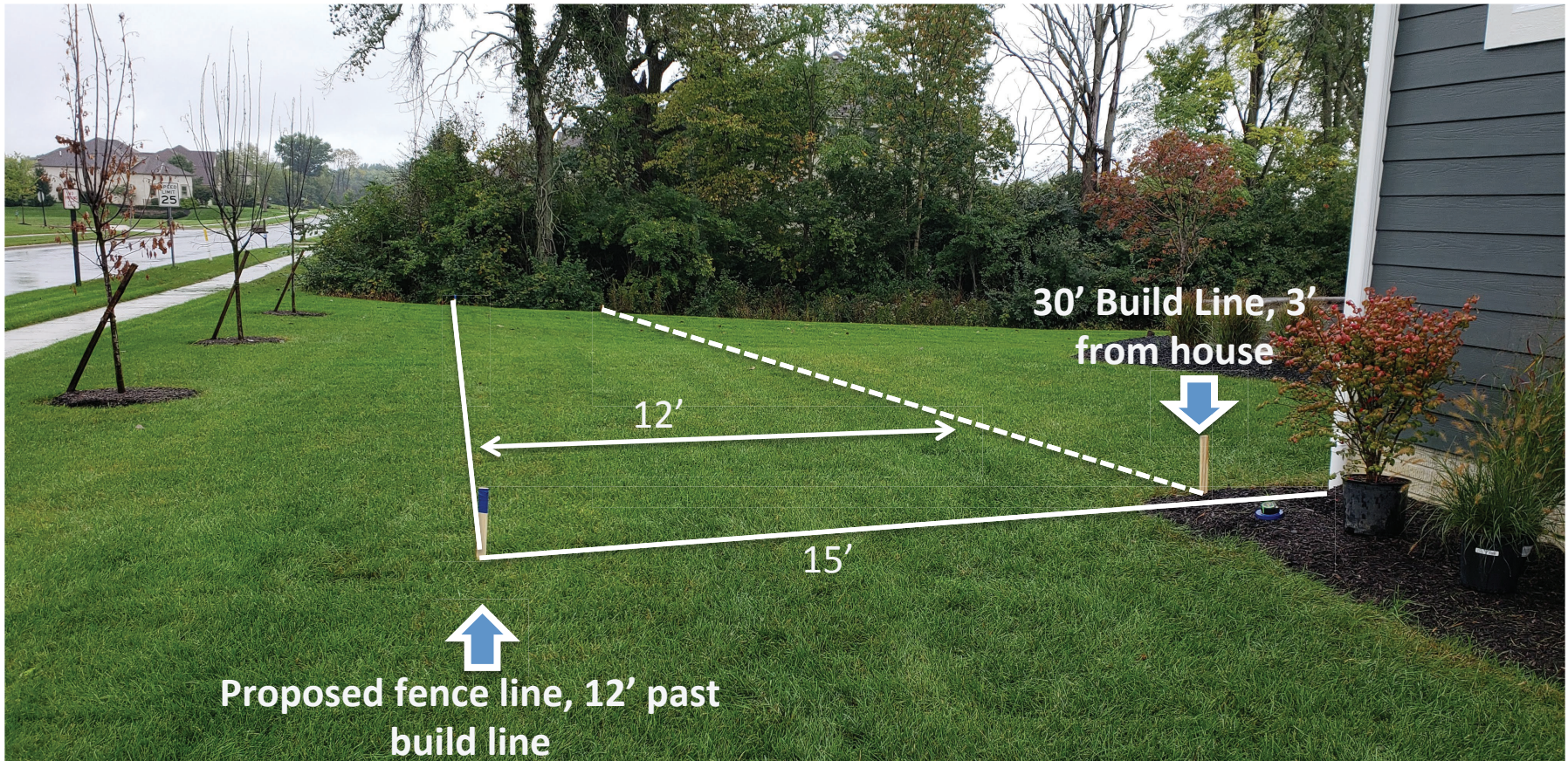


were signing for our new build. I have included all of our emails below, along with the original attachment of our plot plan (4696 Hunters Bend Court Plot Plan). We chose our lot and development because it allowed fencing, and before we broke ground, we wanted to confirm there would be no restrictions on fencing in the perimeter of our back yard. Now that we are going through the process one year later, we are very disappointed in the outcome. I have attached the plat plan that was approved by the city of Powell (4696 Hunters Bend Fence). As you can see, it is considerably smaller than our original plan. Our biggest concern/issue, is that we have to come straight off the house on the East side, along Hunters Bend. We would prefer to come off 10-15', still leaving over 30' before the road. We were surprised when we were told this wasn't possible. My husband, Gabe, stopped in the office a few weeks ago and spoke with you regarding the process for appeal, but we were discouraged by the fee for the appeal, and the likely denial. Is there anything else we can do at this point, since we did get confirmation a year ago that this wouldn't be a problem? We would submit our appeal and the fee if you thought there was a chance for approval with the documentation below. Any assistance or guidance would be greatly appreciated! Thank you for your time, Emily and Gabe Norris"

- **On August 27, 2018, Mr. Betz responded:** "Emily and Gabe, I apologize for making the mistake about not telling you that the setback along Hunter's Bend had to be met with the proposed fence back in August of 2017. At that time, I was looking at the plot plan from my cell phone as I was in Colorado visiting my Dad for his 88<sup>th</sup> birthday. I probably missed that part as I realized I had concerns about the drainage easement issue. That being said, the Variance application is the only way to allow the fence within that setback area and getting bad advice from me, unfortunately, is not going to be a reason that the BZA can utilize to approve the Variance. Some other physical hardship or other kind of practical difficulty for meeting the code requirements is necessary. I cannot say one way or another what the BZA would do. Again, I am sorry about the mistake that was made. Dave"
- Mr. & Mrs. Norris feel very strongly about the proposed fence line and have since sought guidance from Attorney Todd Weber. They have also reached out to their neighbors to ensure there are no objections, and there are not.
- At this time we have decided to move forward with requesting a variance.

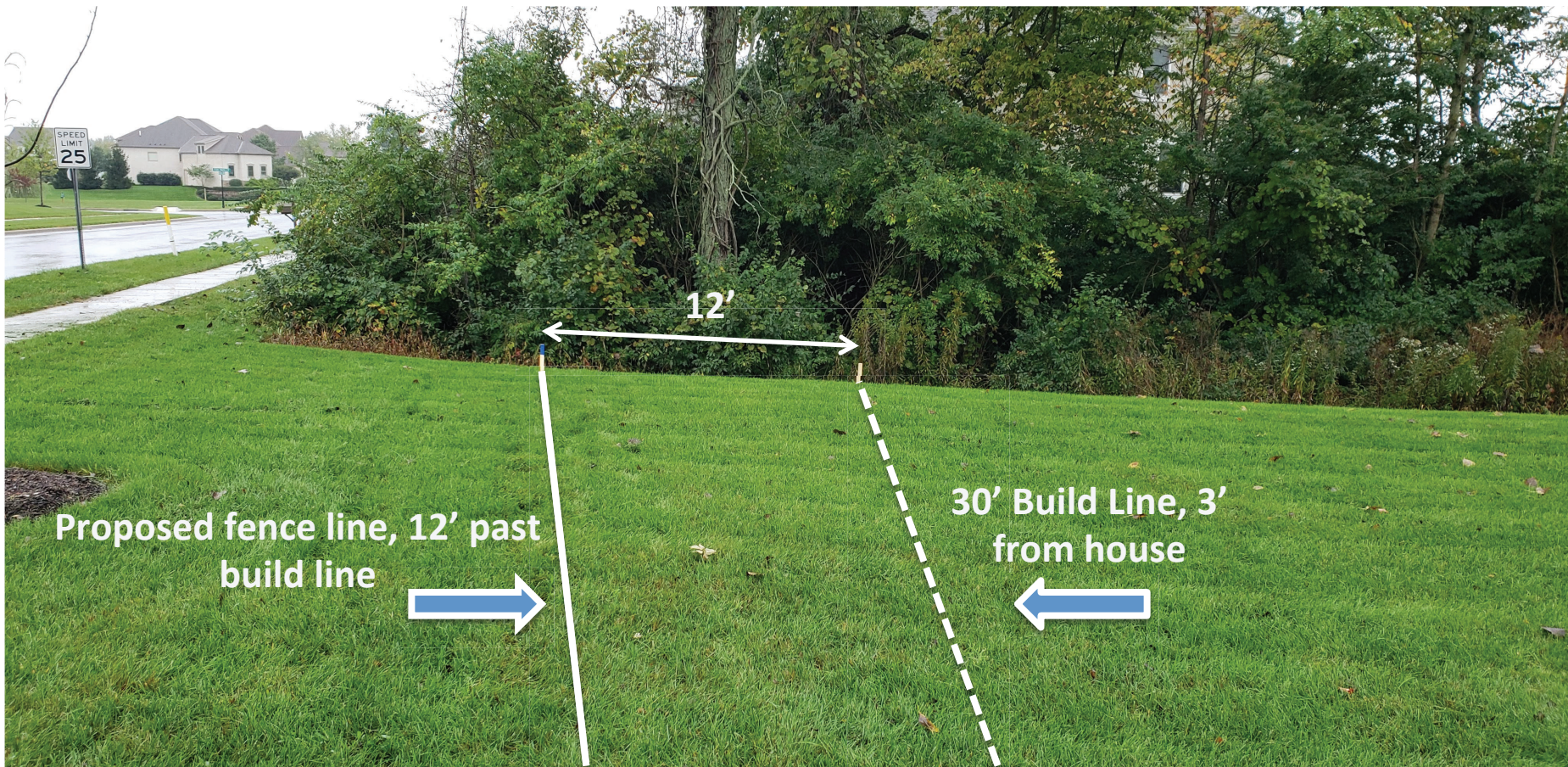
**[Actual emails as identified above are attached hereto.]**





Southern looking view, the solid line is the proposed fence line by Mr. & Mrs. Norris. The dotted line is the 30' build line and the only allowable fence line per the City of Powell.





Southern looking view of fence line and tree line.





Western looking view from across Hunters Bend.





Northern looking view up Hunters Bend. The proposed fence would not be viewable.





Western looking view of the tree line between 4696 Hunters Bend and the property to the south.





Northern looking view of build line, proposed fence line,  
and area between proposed fence line and Hunters Bend.

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**Fencing Question about Lot 3648 (4696 Hunters Bend Drive)**

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**Gabriel Norris** <norris.437@gmail.com>  
To: jmoorehead@cityofpowell.us, dbetz@cityofpowell.us  
Cc: Emily Norris <enorris0801@gmail.com>

Thu, Aug 3, 2017 at 1:41 PM

Hi Jason and Dave-

I came into the office and spoke with Jason about potential fencing on a property that my wife Emily and I are building with MI Homes.

Thank you so much for taking the time to speak with me and answer our questions.

The address is:

4696 Hunters Bend Drive,  
Powell, OH 43065

I have attached the plot plan.

Jason, just wanted to confirm: from your perspective, we will be able to build a "perimeter fence" on the property. The red line on the plot map is roughly what we had in mind.

I now see the elevation measurements and the slope you were talking about. Not ideal, but thanks for pointing that out. My only question is, isn't the low point/trench, cutting diagonally across the back of our yard? Or is it parallel to the street?

David, Jason wanted us to double-check with you that the zoning would be ok for a fence on this property and that there were no restrictions.

If you are both comfortable putting something in writing that building a fence on the property would be ok from your perspectives, that would be greatly appreciated.

Thank you both for all of your help.

Gabe and Emily Norris

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 **4696 Hunters Bend Court Plot Plan.pdf**  
689K

\*\*\* This attached plot plan can  
be found on page 11 of this  
packet \*\*\*

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**Fencing Question about Lot 3648 (4696 Hunters Bend Drive)**

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**David Betz** <DBetz@cityofpowell.us>

Thu, Aug 3, 2017 at 2:02 PM

To: Gabriel Norris &lt;norris.437@gmail.com&gt;, John Moorehead &lt;JMoorehead@cityofpowell.us&gt;

Cc: Emily Norris &lt;enorris0801@gmail.com&gt;, John Moorehead &lt;JMoorehead@cityofpowell.us&gt;, Rocky Kambo &lt;RKambo@cityofpowell.us&gt;

Hi,

The fence is proposed through drainage easements where there are storm sewers. The City Engineer can approve this and generally we have utilized a restrictive covenant to allow us access to easement and removal of fence at the property owners cost. However, this looks more complicated so I copied our Assistant Engineer to review and provide layout advice in order for you to fence as much yard as possible that we can approve. John, please review and comment.

Thanks.

Dave.

Get [Outlook for Android](#)

[Quoted text hidden]



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**Fencing Question about Lot 3648 (4696 Hunters Bend Drive)**

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**Gabe Norris** <norris.437@gmail.com>

Fri, Aug 4, 2017 at 7:31 AM

To: David Betz &lt;DBetz@cityofpowell.us&gt;

Cc: John Moorehead &lt;JMoorehead@cityofpowell.us&gt;, Emily Norris &lt;enorris0801@gmail.com&gt;, Rocky Kambo &lt;RKambo@cityofpowell.us&gt;

John-

I am so sorry for using the incorrect name! I feel like a total idiot since we met each other earlier in the day. I had Jason stuck in my head because my wife had emailed Jason on Wednesday. I hope this clears up any confusion.

Sorry again!

Gabe

[Quoted text hidden]



Gabe Norris <norris.437@gmail.com>

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## Fencing Question about Lot 3648 (4696 Hunters Bend Drive)

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**John Moorehead** <JMoorehead@cityofpowell.us>

Fri, Aug 4, 2017 at 1:21 PM

To: Gabe Norris <norris.437@gmail.com>, David Betz <DBetz@cityofpowell.us>

Cc: Emily Norris <enorris0801@gmail.com>, Rocky Kambo <RKambo@cityofpowell.us>, Chris Huber <CHuber@cityofpowell.us>

No worries Gabe,

Powell would allow fencing through your lot as shown on your plot plan. As discussed, your fence would be subject to a covenant similar to the attachment. In short, if Powell needed to access our easement you would agree to remove the fence and re-install/re-store it once we had finished working.

Once you're closer to fence construction, you'll need to submit a residential zoning permit for the fence. We'll get the covenant put together at that time.

Thanks,

John Moorehead

Assistant City Engineer

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**From:** Gabe Norris [mailto:norris.437@gmail.com]

**Sent:** Friday, August 04, 2017 7:31 AM

**To:** David Betz <DBetz@cityofpowell.us>

**Cc:** John Moorehead <JMoorehead@cityofpowell.us>; Emily Norris <enorris0801@gmail.com>; Rocky Kambo <RKambo@cityofpowell.us>

**Subject:** Re: Fencing Question about Lot 3648 (4696 Hunters Bend Drive)

[Quoted text hidden]

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 **Recorded Covenant\_9305 Wilbrook.pdf**  
1034K

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**Fencing Question about Lot 3648 (4696 Hunters Bend Drive)**

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**Emily Norris** <enorris0801@gmail.com>

Sun, Aug 26, 2018 at 9:11 PM

To: John Moorehead &lt;JMoorehead@cityofpowell.us&gt;

Cc: Gabe Norris &lt;norris.437@gmail.com&gt;, David Betz &lt;DBetz@cityofpowell.us&gt;, Rocky Kambo &lt;RKambo@cityofpowell.us&gt;, Chris Huber &lt;CHuber@cityofpowell.us&gt;

Hi John,

My husband, Gabe, and I contacted you and Dave over a year ago when we were signing for our new build. I have included all of our emails below, along with the original attachment of our plat plan (4696 Hunters Bend Court Plot Plan). We chose our lot and development because it allowed fencing, and before we broke ground, we wanted to confirm there would be no restrictions on fencing in the perimeter of our back yard. Now that we are going through the process one year later, we are very disappointed in the outcome. I have attached the plat plan that was approved by the city of Powell (4696 Hunters Bend Fence). As you can see, it is considerably smaller than our original plan.

Our biggest concern/issue, is that we have to come straight off the house on the East side, along Hunters Bend. We would prefer to come off 10-15', still leaving over 15' before the road. We were surprised when we were told this wasn't possible. My husband, Gabe, stopped in the office a few weeks ago and spoke with you regarding the process for appeal, but we were discouraged by the fee for the appeal, and the likely denial. Is there anything else we can do at this point, since we did get confirmation a year ago that this wouldn't be a problem? We would submit our appeal and the fee if you thought there was a chance for approval with the documentation below. Any assistance or guidance would be greatly appreciated!

Thank you for your time,

Emily and Gabe Norris  
4696 Hunters Bend  
Powell, OH 43065  
(740) 464-0388

[Quoted text hidden]

&lt;Recorded Covenant\_9305 Wilbrook.pdf&gt;

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**2 attachments****4696 Hunters Bend Court Plot Plan.pdf**  
801K**4696 Hunters Bend Fence.pdf**  
148K

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**Fencing Question about Lot 3648 (4696 Hunters Bend Drive)**

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**David Betz** <DBetz@cityofpowell.us>

Mon, Aug 27, 2018 at 9:05 AM

To: Emily Norris &lt;enorris0801@gmail.com&gt;, John Moorehead &lt;JMoorehead@cityofpowell.us&gt;

Cc: Gabe Norris &lt;norris.437@gmail.com&gt;, Rocky Kambo &lt;RKambo@cityofpowell.us&gt;, Chris Huber &lt;CHuber@cityofpowell.us&gt;

Emily and Gabe,

I apologize for making the mistake about not telling you that the setback along Hunter's Bend had to be met with the proposed fence back in August of 2017. At that time, I was looking at the plot plan from my cell phone as I was in Colorado visiting my Dad for his 88<sup>th</sup> birthday. I probably missed that part as I realized I had concerns about the drainage easement issue.

That being said, the Variance application is the only way to allow the fence within that setback area and getting bad advice from me, unfortunately, is not going to be a reason that the BZA can utilize to approve the Variance. Some other physical hardship or other kind of practical difficulty for meeting the code requirements is necessary. I cannot say one way or another what the BZA would do.

Again, I am sorry about the mistake that was made.

Dave

David M. Betz, AICP

Director of Development

City of Powell

47 Hall Street

Powell OH 43065

(614) 885-5380 ext. 1033

(614) 885-5339 FAX

(614) 396-3436 COLOR FAX

[dbetz@cityofpowell.us](mailto:dbetz@cityofpowell.us)

[www.cityofpowell.us](http://www.cityofpowell.us)

[www.businessinpowell.org](http://www.businessinpowell.org)



Gabe Norris <norris.437@gmail.com>

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## Fencing Question about Lot 3648 (4696 Hunters Bend Drive)

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**Gabe Norris** <norris.437@gmail.com>  
To: David Betz <DBetz@cityofpowell.us>

Fri, Aug 31, 2018 at 2:51 PM

So our house is 33' from the house side of the sidewalk to the house. Would we be able to extend the fence that 3' from the house? I know this is probably annoying, we just feel like we have a beautiful back yard and a "legal" fence kind of cuts a third of it off and are just weighing all of our options.

Thanks,  
Gabe  
[Quoted text hidden]



Gabe Norris <norris.437@gmail.com>

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## Fencing Question about Lot 3648 (4696 Hunters Bend Drive)

---

**David Betz** <DBetz@cityofpowell.us>  
To: Gabe Norris <norris.437@gmail.com>

Fri, Aug 31, 2018 at 3:04 PM

Sounds correct.

**From:** Gabe Norris [mailto:norris.437@gmail.com]  
**Sent:** Friday, August 31, 2018 2:51 PM  
**To:** David Betz <DBetz@cityofpowell.us>  
**Subject:** Re: Fencing Question about Lot 3648 (4696 Hunters Bend Drive)

So our house is 33' from the house side of the sidewalk to the house. Would we be able to extend the fence that 3' from the house? I know this is probably annoying, we just feel like we have a beautiful back yard and a "legal" fence kind of cuts a third of it off and are just weighing all of our options.

Thanks,

Gabe

On Fri, Aug 31, 2018 at 2:48 PM David Betz <DBetz@cityofpowell.us> wrote:

Gabe,

It would be 30 feet from the house side of the sidewalk.

Dave

David M. Betz, AICP  
Director of Development  
City of Powell  
47 Hall Street  
Powell OH 43065

(614) 885-5380 ext. 1033

(614) 885-5339 FAX

(614) 396-3436 COLOR FAX

November 9, 2018

City of Powell  
Village Green Municipal Building  
Council Chambers  
47 Hall Street  
Powell, OH 43065

To Whom It May Concern:

We are the owners of 4696 Hunters Bend, Powell, OH 43065. We are submitting this request for a variance (enclosed) for two principal reasons. Firstly, we would like to legally install the fence for which we received email approval from Powell's Assistant City Engineer, prior to breaking ground back in August 2017, after discussions and correspondence (including proposed plot drawings) with him and the City's Director of Development. As Emily stated in her email to the City of Powell, we picked this neighborhood and lot in reliance of their approval.

Secondly, we want to preserve and protect the aesthetic, usefulness, and value of our property by reasonably maximizing the space of the back yard. If we were permitted to install the fence as we have proposed, it would add an additional 1300 square feet of usable yard for our future children and animals to enjoy safely.

We have spoken about the issue with our neighbors and are moving forward with their support. Their signatures are on the next page.


Thank you for your time and consideration to this matter.

Sincerely,


Gabriel and Emily Norris

We support Gabriel and Emily Norris' variance for a fence on their property:


4696 Hunters Bend, Powell, OH 43065:

Name Ch White  
Address 4512 Fox Path Ct.  
Powell, OH 43065  
Signature 


Name marleen Waldron  
Address 4759 Hunters Bend Ct  
Powell, Oh, 43065  
Signature marleen Waldron

Name SARAH REDICK  
Address 4825 HUNTERS BEND CT  
POWELL 43065  
Signature 

Name \_\_\_\_\_  
Address \_\_\_\_\_  
Signature \_\_\_\_\_

Name Emily Biddle  
Address 7806 Bachman Dr  
powell OH 43065  
Signature 

Name \_\_\_\_\_  
Address \_\_\_\_\_  
Signature \_\_\_\_\_

Name Olivia Montell  
Address 4803 Hunters Bend  
Powell, Oh 43065  
Signature 

Name \_\_\_\_\_  
Address \_\_\_\_\_  
Signature \_\_\_\_\_

Name Aasia Ray  
Address 4693 Hunters Bend  
Powell oh 43065  
Signature Aasia Ray

Name \_\_\_\_\_  
Address \_\_\_\_\_  
Signature \_\_\_\_\_