ZONING BOARD OF APPEALS

INTER-DEPARTMENTAL REVIEW COMMITTEE REPORT

640 N. CHARLOTTE STREET

SEPTEMBER 25, 2013

Title

ZBA 13-05

Petitioner & Property Owner

Joelyn Kott & David Kundrot
640 N. Charlotte Street
Lombard, IL 60148

Property Location

640 N. Charlotte Street
(06-05-124-010)

Zoning

R2 PD Single Family Residence
Planned Development
(Providence Glen)

Existing Land Use

Single Family Home

Comprehensive Plan

Low Density Residential

Approval Sought

A variation to allow for the replacement of a four foot (4') tall solid fence, the maximum height allowed per the Zoning Ordinance, with a new six foot (6') tall solid fence in a required corner side yard.

Prepared By

Matt Panfil, AICP
Senior Planner

LOCATION MAP

PROJECT DESCRIPTION

The petitioner is proposing to construct a twelve foot by thirty foot (12' x 30') in ground swimming pool and a new nine foot by twenty foot (9' x 20') patio. The petitioner is proposing to replace the existing four foot (4') solid fence along the southern property line, which is considered the corner side yard, with a new six foot (6') tall solid fence. The petitioner has requested the taller fence in order to enhance security and privacy as well as match the height of the existing six foot (6') tall fence along the rear (west) property line that was permitted as part of the Providence Glen Planned Development.

APPROVAL(S) REQUIRED

Section 155.205 (A)(1)(c)(ii) of the Lombard Zoning Ordinance requires fences within a corner side yard setback be no taller than four feet (4'). A six foot (6') tall fence is only allowed within a required corner side yard if it is both: a.) made of decorative materials such as wrought iron or a comparable material; and b.) a minimum of seventy-five percent (75%) open space. As the proposed fence does not meet the criteria for a six foot (6') tall fence in a corner side yard, a variation is required.

EXISTING CONDITIONS

The property contains a two-story frame single family residence with an attached garage and covered porch. As previously discussed

PROJECT STATS

Lot & Bulk (Proposed)

Parcel Size:	7,910 sq. ft.
Pool Size:	12' x 30'
Patio Size:	9' x 20'
Fence Height:	6'
Lot Coverage:	Approx. 39%

Setbacks

Front (east)	30.36'
Side (north)	7.79'
Corner Side (south)	25.15'
Rear (west)	30'

Submittals

1. Petition for Public Hearing
2. Response to Standards for Variation
3. Proof of Ownership
4. Plat of Survey dated May 30, 2000.
5. Site Plan and Rendering; prepared by The Swim Store, Inc. submitted on 8/29/2013.

there is a four foot (4') tall solid fence along the south property line and a six foot (6') tall solid fence along the length of the west property line. As the attached garage fronts onto Charlotte Street and there is no immediate residential property to the west, there are no clear line of sight issues with the proposal.

In order to help place the request in its proper context, planning staff offers the following:

1. Surrounding Zoning & Land Use Compatibility

	Zoning Districts	Land Use
North	R2 PD	Single Family Home
South	Goebel Dr. / R2	Single Family Home
East	R2 PD	Single Family Home
West	R2	Industrial Building (Sid Harvey HVAC/R Parts & Equipment) *(Legal Nonconforming)*

2. Providence Glen Planned Development Agreement

The Prairie Place Subdivision (later renamed Providence Glen) and Planned Development were approved in November, 1998 (Ord. No. 4566). Subsequent amendments to the Planned Development granted a variance to allow for a six foot (6') tall solid fence to be placed along the front yard of the detention pond along North Avenue (Ord. No 5083) as well as a six foot (6') tall solid fence along the entire east side of the subdivision, excepting the corner side yard of Lot 1 (641 N. Charlotte Street – the property directly east of the subject property), which was to maintain a four foot (4') tall fence (Ord. No. 4772). Neither the Planned Development nor any of the amendments specified a fence height along the west or south property lines of the subject property, Lot 32.

INTER-DEPARTMENTAL REVIEW

Building Division:
The Building Division currently has no comments regarding the project. A full review will be conducted during the building permit review process.

Fire Department:
The Fire Department has no issues or concerns regarding the project.

Private Engineering Services:
Private Engineering Services (PES) has the following comment:

- ✓ PES notes that the petitioner is to maintain drainage below the fence because the low area of the property is located at the southwest corner of the property. There is also a private storm sewer that appears to be part of the subdivision drainage along the rear property line.

Public Works:
The Department of Public Works has no comments regarding the project.

Planning Services Division:
A variation may only be granted if there is a demonstrated hardship that distinguishes the subject property from other properties in the area. Within their response to the Standards for a Variation, the petitioner raised concerns regarding the level of privacy and security because the south property line abuts a public sidewalk and the pool area would be highly visible from Goebel Street. The petitioner states that the high visibility of the pool would increase the probability of trespassers. While staff recognizes that these concerns are reasonable, staff does not believe that they effectively demonstrate a hardship associated with a unique geographic characteristic of the property that warrants a variation for a six foot (6') tall fence in the corner side yard. The original planned development specifically identified areas of the subdivision with unique geographic conditions that warranted zoning relief in regards to maximum allowable fence height. However, the planned development was unclear regarding the permissible height of the fence along the entire length of the western property line where the site abuts the Sid Harvey site. The planned development restricts Lot 1 to a maximum four foot (4') tall fence along its corner side yard, but no such prohibition for Lot 32 is mentioned. It is possible that the omission regarding Lot 32 was intended in order to allow for additional screening from the adjacent industrial use. Furthermore, a fence permit obtained by the developer in 2000 illustrates that the existing fence was permitted to be four feet (4') tall along Goebel Drive, but the specific fence height along the property line abutting the Sid Harvey site is not referenced on the permit. As constructed, that portion of the fence along is six feet (6') tall.

As a matter of clarification, within their response to the Standards for a Variation, the petitioner has also mistakenly represented that a fence is not allowed within the ten foot (10') wide drainage easement that runs along the west property line. Per Section 155.205 (A)(1)(b) fences are allowed in utility and drainage easements provided that the fence does not impede drainage flow.

In order to be granted a variation the petitioner must show that they have affirmed each of the Standards for a Variation. Staff finds that the following standards have not been affirmed:

1. *Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be applied.*

   Staff finds that there are no conditions related to the property that prevent compliance with the fence height regulations. The petitioner's property does not have physical surroundings, shape, or topographical features that differ substantially from other corner lots in the neighborhood as to be demonstrative of a hardship. In fact, an amendment to the planned development agreement recognized as much by allowing the corner lot directly across from the petitioner only a four foot (4') tall fence.

2. *The conditions upon which an application for a variation is based are unique to the property for which the variation is sought, and are not generally applicable to other property within the same zoning classification.*

   Staff finds that the conditions are not unique to the subject property. Currently, the petitioner has a four foot (4') tall fence along the south property line. Staff finds that the addition of a pool and patio does not create a hardship such that the existing fence would need to be removed, let alone replaced with a non-compliant fence. Also, as mentioned in Standard 1, the corner lot directly across from the petitioner is also allowed a fence only up to four feet (4') in height.

4. *The alleged difficulty or hardship is caused by this ordinance and has not been created by any person presently having an interest in the property.*

   Staff finds that the existing four foot (4') tall fence suggests that the ordinance has not created a difficulty or hardship but rather the difficulty has been created by the petitioner's preference for the fence's height to better screen a new pool and patio.

In consideration of precedent, since 2009, six similar requests have been before the Zoning Board of Appeals. In each case the petitioner proposed a six foot (6') tall solid fence along the property line of a corner side yard. In each case, except one, staff recommended that the Zoning Board of Appeals recommend denial of the requested variation. The one exception, ZBA 11-03 (1147 E. Adams Street), staff recommended approval based on the consideration that the site abutted a higher density use (five-story residential condo building).

CASE NO.	DATE	ADDRESS	SUMMARY	ZBA	BoT
ZBA 09-09	10/15/2009	1107 Woodrow Ave	6' tall fence located along corner side yard property line	Approval, 5-0	Approval, 6-1
ZBA 09-11	1/21/2010	617 E Berkshire Ave	6' tall fence located 2' off of corner side yard property line	Approval, 5-0	Approval, 6-0
ZBA 10-02	5/20/2010	302 S Grace St	6' tall fence located along corner side yard property line	Denial, 1-4	Approved, 6-0
ZBA 11-02	6/2/2011	403 W Ethel Ave	6' tall fence	None, 3-3	Approved, 6-0
ZBA 11-03	5/19/2011	1147 E Adams St	6' tall fence located along corner side yard property line, site abuts high density residential use	Approval, 4-1	Approved, 6-0

Prior to these cases, in September 2008, a joint meeting between the Zoning Board of Appeals and Village Board of Trustees was held to discuss fence height in corner side yards and if the Zoning Ordinance needed revision in order to address the differing opinions often held by the Zoning Board of Appeals in comparison to the Village Board. The result of the meeting was a consensus that the Zoning Ordinance be left as is and that corner side yard fences proposed to be over four feet (4') tall would be reviewed on a case by case basis via the variation process.

As in ZBA 09-09, ZBA 09-11, ZBA 10-02, and ZBA 11-02, staff recommends that the petition be denied. However, if the Zoning Board of Appeals finds that it would be appropriate to grant the requested variation, staff recommends that the petitioner conforms to the submitted plans. Furthermore, if approved, the petitioner must obtain a fence permit prior to its construction.

FINDINGS & RECOMMENDATIONS

The Department of Community Development has determined that the information presented **has not affirmed** the Standards for Variations, in their entirety, for the requested variation. Based on the above

considerations, the Inter-Departmental Review Committee recommends that the Zoning Board of Appeals make the following motion recommending **denial** of the aforementioned variation:

> Based on the submitted petition and the testimony presented, the requested variations **do not comply** with the Standards for a Variation by the Lombard Zoning Ordinance; and, therefore, I move that the Zoning Board of Appeals find that the findings included as part of the Inter-Departmental Review Committee Report be the findings of the Zoning Board of Appeals and recommend to the Corporate Authorities **denial** of ZBA 13-05.

Inter-Departmental Review Committee Report approved by:

William J. Heniff, AICP
Director of Community Development

c. Petitioner

Date: August 28, 2013

To: Zoning Board of Appeals

From: David Kundrot & Joelyn Kott

Re: **Zoning Variation:**
640 N. Charlotte

The attached petition is for a variance for the installation of fifty seven linear feet of six foot board on board cedar fencing.

The petitioners, David Kundrot and Joelyn Kott are the petitioner/owner of the single family residence located within the Providence Glen subdivision at 640 N. Charlotte (northeast corner of Charlotte and Goebel). We are installing a twelve foot x thirty foot in ground swimming pool with attached patio.

The property in question has a six foot high board on board cedar fence on the west and north property line. A four foot high board on board cedar fence is on the south property line and dissects a portion of the south yard (from the southeast corner of the house to the south property line). The Providence Glen Homeowners Association requires a board on board cedar fence on all forty two properties in the subdivision. The entire subdivision as well as each residence is surrounded by a 6 foot high board on board cedar fence on each property line, for the majority of the subdivision.

The variation for the fifty seven foot of fencing includes replacing thirty foot of existing four foot high board on board fence on the south property line and new installation of a 6 foot fence from the southwest corner of the residence to the south property line. This additional fencing will totally surround and secure the in ground pool. Without the variation the fence would have to be installed ten feet from the west property line (because of a drainage easement) and twenty feet from the south property line because of an existing "building line." This would cause the yard to be "sectioned off" and unusable for family recreation. The variation would allow for consistent fencing around the entire property and allow for security, safety and privacy for the installation and use of the in ground pool.

The Village only requires a four foot fence to secure a pool area in a residential yard. Because the south property line abuts a public sidewalk and is visible from Goebel St. the access to the pool would be welcoming and the probability of trespassers would be greatly increased.

The variation would allow for fencing already approved by the Homeowners Association, be consistent throughout the neighborhood, increase the safety, security and privacy of the swimming pool and would eliminate the need to try and erect a fence across a drainage easement and cause the lack of use of the rear yard. The rear yard has a slope of at least four feet, from east to west. The swimming pool will be on grade on the east side and have a four foot wall on the west side. The installation of a fence on the south side would have include the slope of the yard and would cut across the drainage easement on the far west end.

There would be no line of sight issues for traffic on Charlotte or Goebel. The six foot fence along the south property line would end one hundred and one feet west of the Charlotte St. curb line and intersection. We only have one neighbor, to our north. The south and east side abut the public sidewalk and roadway and the west side abuts a vacant field owned by Sid Harvey's. No neighboring residences would abut the proposed fence.

Thank you in advance for your consideration of this matter.

Sincerely,

David M. Kundrot
640 N. Charlotte
Lombard, Il 60148
630-624-3811

Joelyn M. Kott

Kundrot / Kott Variation Petition

STANDARDS FOR VARIATION
SECTION 155.103.C.7 OF THE LOMBARD ZONING ORDINANCE:

1. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be applied.

There is a 4 foot slope of the rear yard from east to west, there is a 10 foot drainage easement on the west property line, and there is a 20 foot building line on the south property line. The ability to keep the integrity of the property without piecemeal fencing, sectioning off the usable part of the rear yard, the exposure to the street, keeping the rear yard open for use and still secure the proposed pool area is the hardship and is the driving force for the variation. Moving the fence into the yard would leave a 20 foot by 30 foot strip of land between two fences on the south side of the yard and a 12 foot by 73 foot strip of yard on the west side. Currently the Village only requires a four foot fence to secure a pool from the public. Our proposed pool would have a 6 foot fence on the west and north side and only a four foot fence on the south and east side. The south and east side of the rear yard has the exposure to traffic and passers by in cars and on foot. A public sidewalk exists on the south side of the property, approximately 27 feet from the proposed pool. We would like to have added safety, security and privacy for the rear yard pool and have the same fence surrounding the entire rear yard. This would be beneficial for the safety of the public and the character and integrity of the neighborhood.

2. The conditions upon which an application for a variation is based are unique to the property for which the variation is sought, and are not generally applicable to other property within the same zoning classification.

The petitioner has a corner lot with only one neighbor to the north, (farthest away from the fence variation), empty industrial lot to the west, street exposure to the south and east. Slope of backyard and drainage easement make construction costlier, less aesthetic, not as practical and not as safe. No other property within this planned development has this same set of circumstances. This requested variation is unique and would never apply elsewhere within this neighborhood.

3. The purpose of the variation is not based primarily upon a desire to increase financial gain.

There would be absolutely no financial gain by the granting of this variation in present or future uses of the property. Variation is strictly for privacy, security and safety.

4. The alleged difficulty of hardship is caused by this ordinance and has not been created by any person presently having an interest in the property.

No improvements on the property or in the neighborhood have had any affect on the proposed construction or variation requested. The current ordinance requires a four foot fence for securing a pool and allows for only a height of 4 foot for corner lot side/rear yards.

5. The granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.

There would be no detriments to the neighborhood, property or residents and nothing would be injurious to the neighborhood or residents. This variation would make the neighborhood safer and would blend in with the neighborhood.

6. The granting of the variation will not alter the essential character of the neighborhood; and.

The fence variation would be constructed per the residential Homeowners Association By-Laws and has already been approved by the Providence Glen Homeowners Association. The fence would blend right into the existing neighborhood and match the existing fence already in place. Thirty feet of the fence is replacing an existing fence. The remaining 27 feet is entirely in the petitioner's side yard and none of the fence has any line of sight issues for traffic or pedestrians. The entire subdivision is surrounded by 6 foot board on board cedar fence for all 42 residences. This would meet the Providence Glen requirements and would be welcomed by the neighborhood as being consistent and required.

7. The proposed variation will not impair an adequate supply of light and air to adjacent property or substantially increase congestion of the public streets, or increase the danger of fire, or impair natural drainage or create drainage problems on adjacent properties, or endanger public safety, or substantially diminish or impair property values in the neighborhood.

The proposed variation has absolutely no impact on light, air, traffic, fire risk, congestion, natural drainage or impairs any property values in the neighborhood. The variation seeks to replace 27 feet of existing 4 foot board on board cedar fence with a 6 foot fence along the south (street side) of the property and an additional 27 feet of 6 foot fencing from the south fence to the house. The west and north side of the rear yard is already secure with a 6 foot board on board cedar fence. A four foot fence is allowed, this is only a request for an additional two feet in height for fifty seven feet of fencing.
The construction of an in ground pool necessitates the securing of the rear yard to prohibit unauthorized access to the pool, for safety, privacy and security reasons. Consistency, aesthetics, cost, security, safety and character of the neighborhood would encourage the use of the same size, type and height of fence around the entire rear yard. Current ordinances, building line and rear yard easement necessitate the variation.

PROVIDENCE GLEN HOMEOWNERS ASSOCIATION
ARCHITECTURAL IMPROVEMENT APPLICATION AND REVIEW FORM

Date of Application: 08-14-13

Unit Owner: DAvid Kvndrat & Joelyn Kott

Address: 640 N. Charlotte

Daytime Phone: 6306243811 Evening Phone: 6302688006

Nature of Improvement:
6 foot, board on board, fence, per section 8.13 of the By-Laws

Location: south side - s/w corner of house to lot line west

Dimension (if applicable): 6 foot high 57 linear feet

Construction Material (if applicable): Western Red cedar, 1x6 boards, 4x4 posts, 2x4 back rails

Installer/Contractor: Swim Store

A REPRESENTATIVE DRAWING OF ALL PROPOSED IMPROVEMENTS MUST BE ATTACHED TO SHOW LOCATION AND DIMENSIONS.

As of the approval date of this alteration, I accept full responsibility for all of the upkeep of the altered area and agree to maintain it in a safe condition.

Signed: Joelyn M. Kott Date: 8-14-13

Received By: Kristin Pecoraro as agent Date: 8-15-13

Approved By: Kristin Pecoraro as agent Per Board Date: 8-19-13

Conditions of Approval:
Must adhere to Declaration for Community & Village Requirements.

Reason for Disapproval:

Please mail application to:

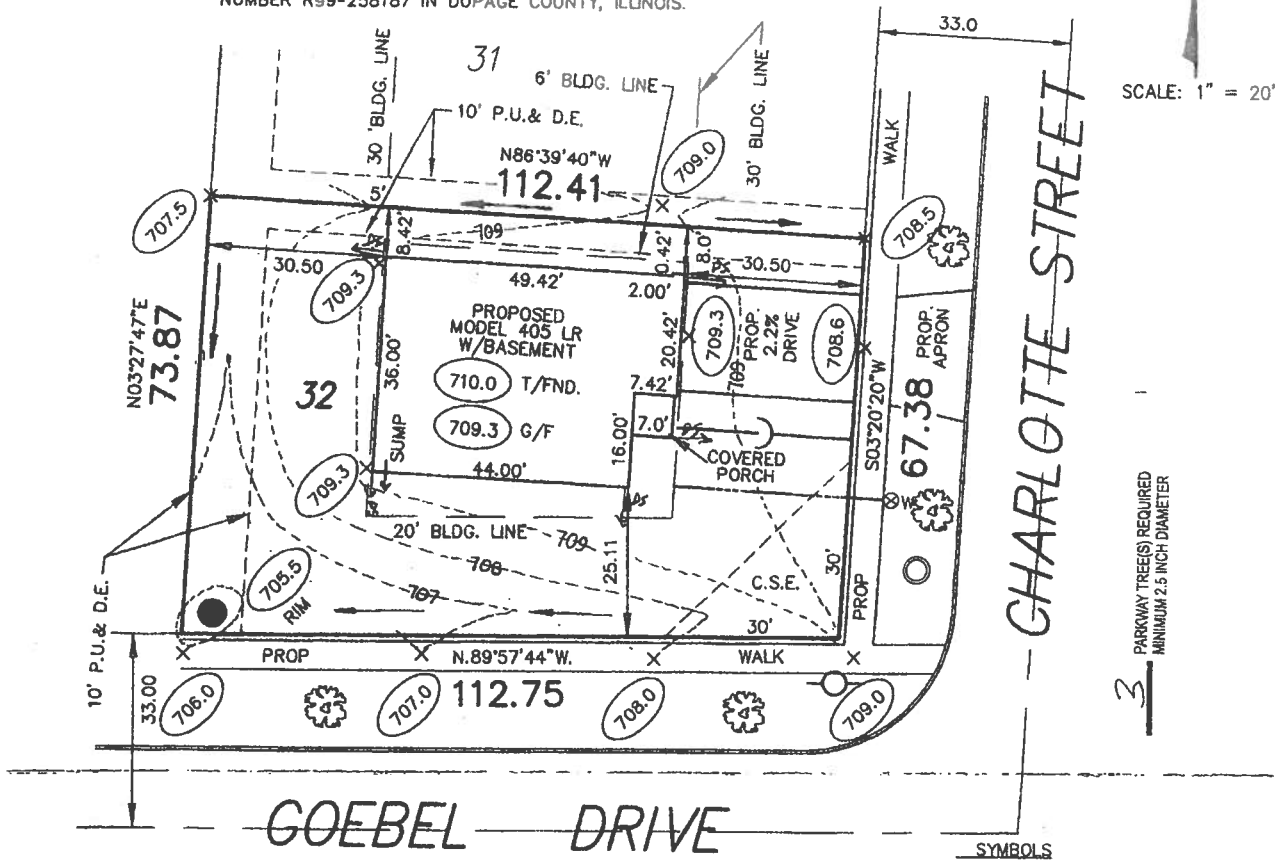
PROVIDENCE GLEN HOMEOWNERS ASSOCIATION
C/O FOSTER/PREMIER, INC.
456B N. Weber Road
Romeoville, IL 60446

PREPARED BY:
CR & A Christian–Roge & Associates
Engineers Planners Surveyors

211 WEST WACKER DRIVE
CHICAGO, ILLINOIS 60606
(312) 372 – 2023
FAX (312) 372-5274

PLAT OF SURVEY

LOT 32 IN PRAIRIE PLACE OF LOMBARD, BEING A SUBDIVISION OF PART OF THE NORTHWEST QUARTER OF SECTION 5, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED DECEMBER 15, 1999 AS DOCUMENT NUMBER R99-258187 IN DUPAGE COUNTY, ILLINOIS.



MUST MAINTAIN FOUR FEET (4') SEPERATION BETWEEN BUILDINGS / STRUCTURES.

PERMANENT STRUCTURES OR BUILDINGS ARE NOT PERMITTED WITHIN PUBLIC EASEMENTS

LEGEND

- X (746.2) — INDICATES PROPOSED SPOT ELEVATION
- 746.2 — INDICATES AS–BUILT SPOT ELEVATION
- ———— — INDICATES APPROX. LOCATION OF PROPOSED 1" TYPE "K" WATER SERVICE AS TAKEN FROM ENGINEERING IMPROVEMENT PLANS PREPARED BY SPACECO, INC. OF ROSEMENT, ILLINOIS
- —)— — INDICATES APPROX. LOCATION OF PROPOSED 6" P.V.C. SANITARY SERVICE AS TAKEN FROM ENGINEERING IMPROVEMENT PLANS PREPARED BY SPACECO ,INC. OF ROSEMENT, ILLINOIS

COMMUNITY DEVELOPMENT
PLANNING SERVICES DIVISION
APPROVED 5-16-00
BY
FOR New Res.

VILLAGE OF LOMBARD
ENGINEERING DIVISION
☐ APPROVED
☒ APPROVED AS CORRECTED
☐ REJECTED
UP-DATE SURVEY
☐ RESUBMIT
BY Matthew Fiztter DATE 5-30-00

SYMBOLS

- PROPOSED PARKWAY TREE
- SAN./STORM MANHOLE
- INLET/CATCH BASIN
- W⊗ WATER VALVE
- FIRE HYDRANT
- STREET LIGHT
- T/C INDICATES TOP OF CURB ELEVATION
- T/W INDICATES TOP OF WALL ELEVATION
- B/W INDICATES BOTTOM OF WALL ELEVATION

NOTE:
ALL ELEVATIONS SHOWN ARE PROPOSED AND DO NOT REFLECT FINAL GRADES.

NOTE:
P.U. INDICATES PUBLIC UTILITY EASEMENT
C.S.E. INDICATES CLEAR SIGHT EASEMENT
D.E. INDICATES DRAINAGE EASEMENT

STATE OF ILLINOIS } SS
COUNTY OF COOK }

WE, CHRISTIAN–ROGE AND ASSOCIATES, Hereby certify that we have located the improvements on the above described property and that the same is correctly shown on said plat.

_____ A.D. 2000

BY _____
ILL. PROFESSIONAL LAND SURVEYOR # 2585

ORDERED BY: CONCORD PROVIDENCE GLEN
DRAWN: WAM CHECKED: WEG
LOT 32 BLOCK _____ JOB NO. 00-013

REVISIONS:
1.) _____

ILL. PROFESSIONAL LAND SURVEYOR # 2585

PERMIT PLAT

WE, CHRISTIAN–ROGE & ASSOCIATES, do hereby certify that we have prepared the Permit Plat of the parcel of land hereon described for building permit purposes.

MAY - 6 TH A.D., 2000

ILL. PROFESSIONAL ENGINEER # 062-028047

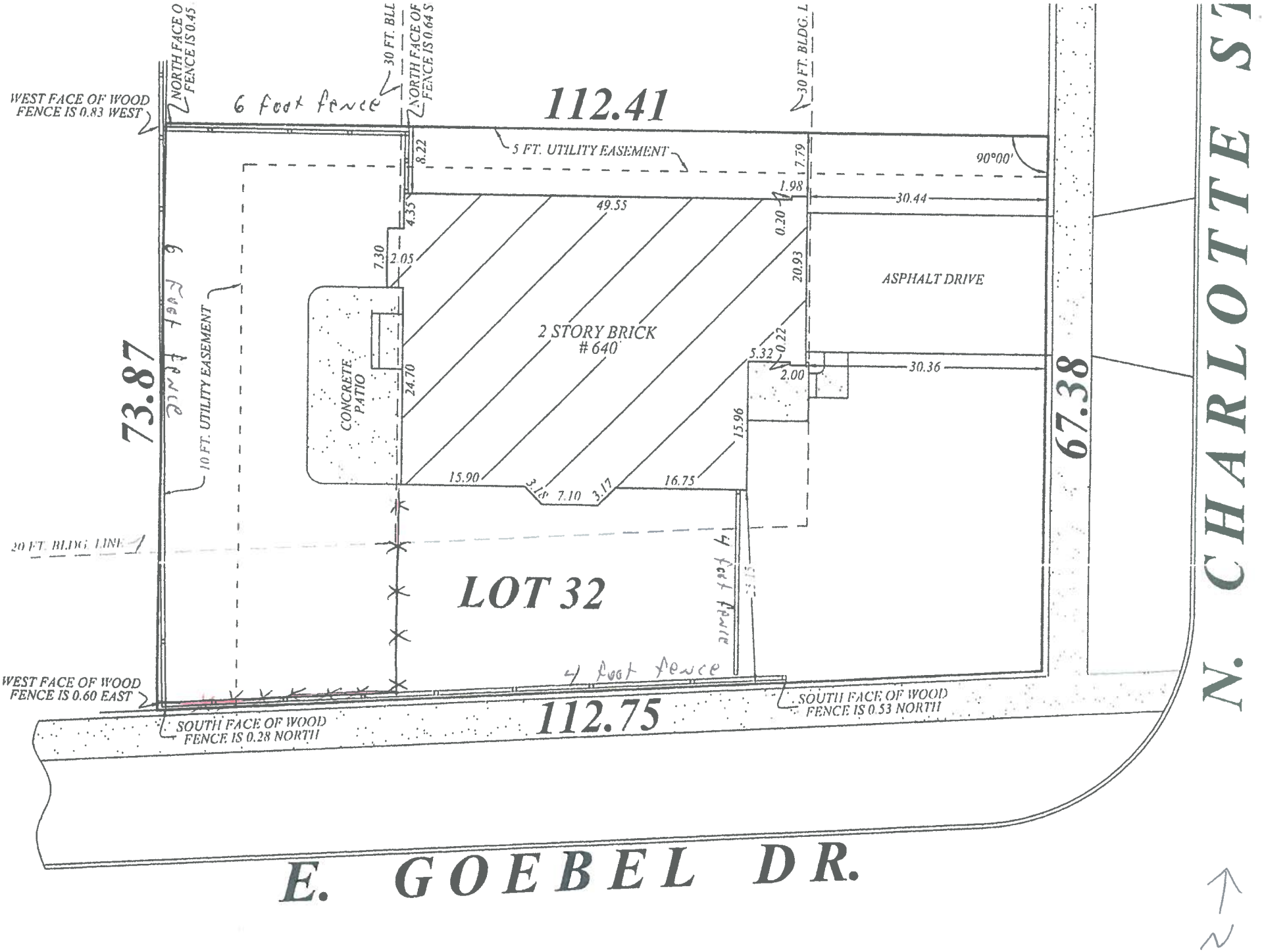
STATE OF ILLINOIS } SS
COUNTY OF COOK }

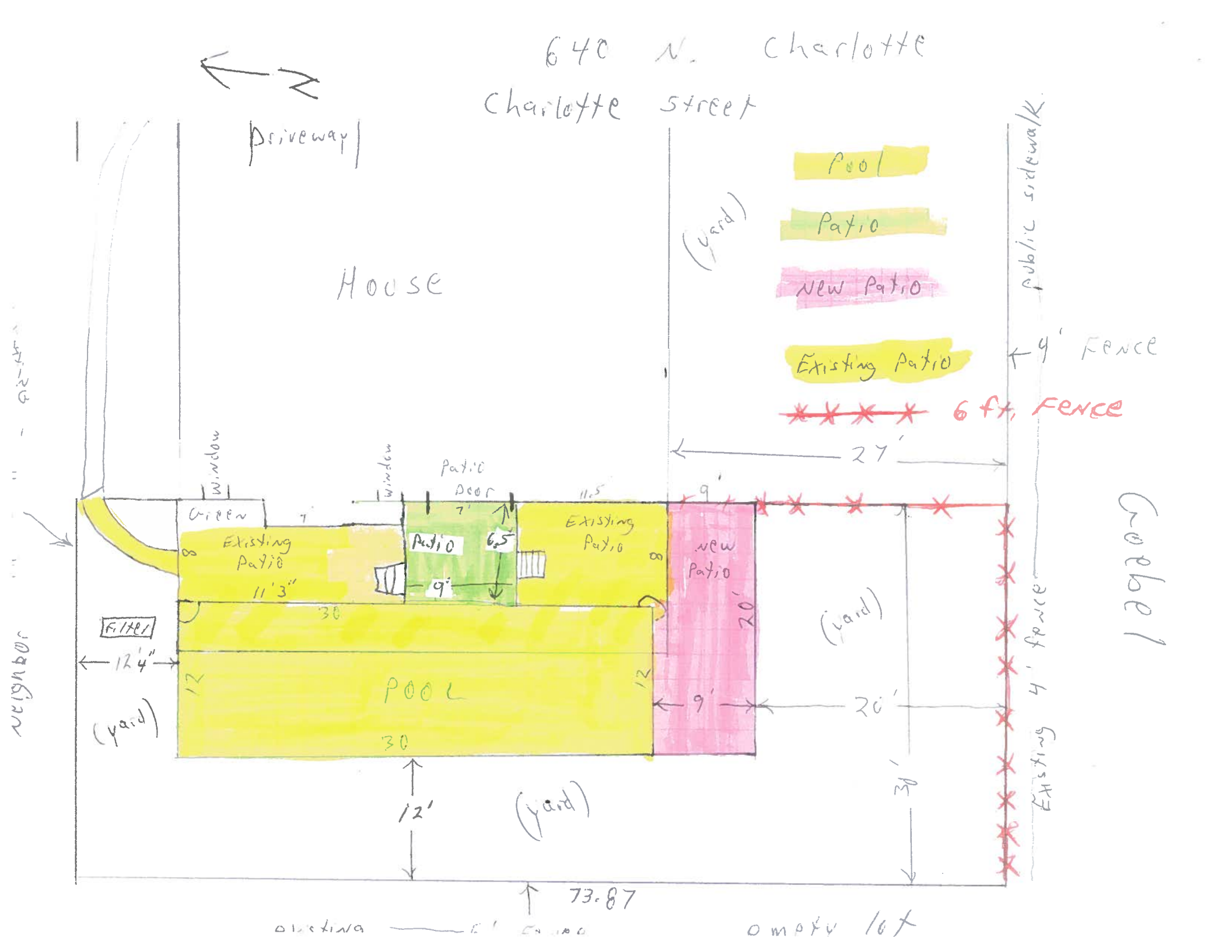
WE, CHRISTIAN–ROGE AND ASSOCIATES, Hereby certify that we have surveyed the property described hereon and that the plat hereon drawn is a correct representation of same. All distances shown are in feet and decimals thereof.

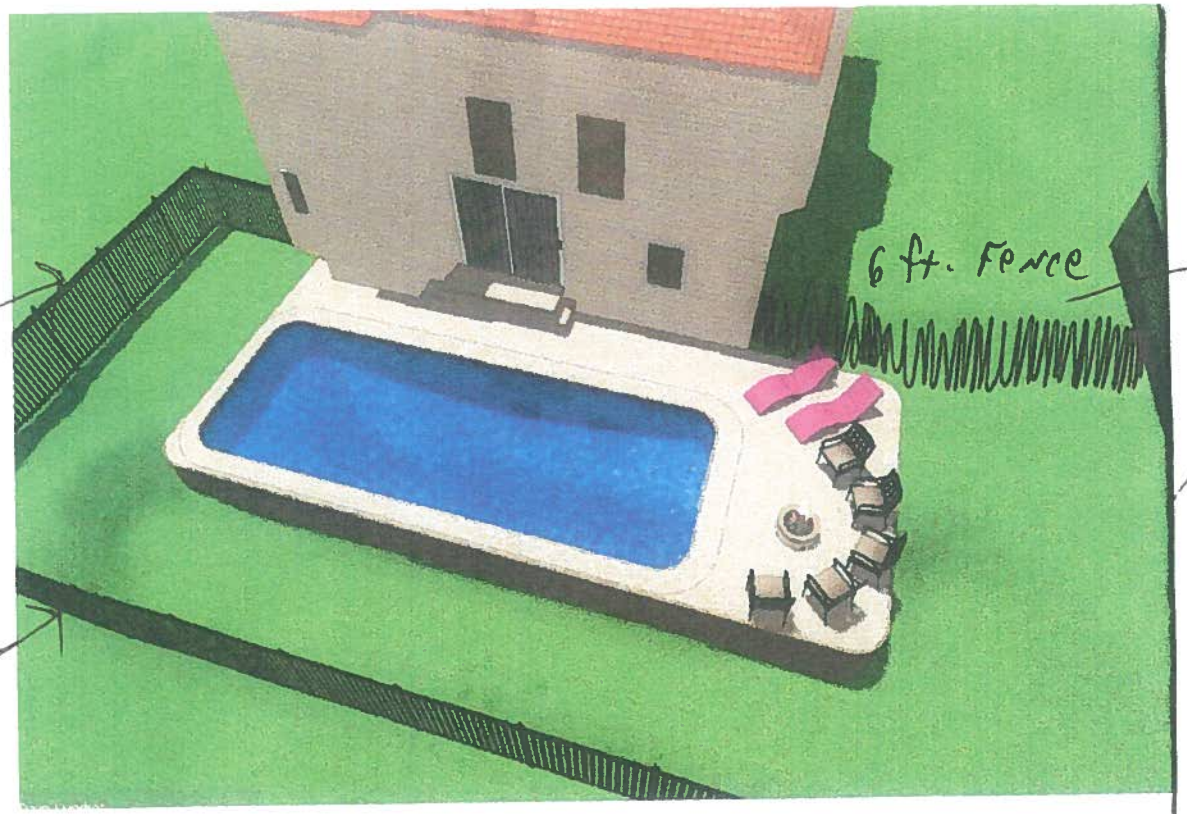
_____ A.D. 2000

BY _____
ILL. PROFESSIONAL LAND SURVEYOR # 25E

Note:
For building lines, easements and other restrictions not shown herean, refer to your deed, title policy, zoning ordinance, etc. Compare all points before building and report any difference ot once. Contact utility


112.41
6 foot fence
5 FT. UTILITY EASEMENT
30 FT. BLDG. L
90°00'
30.44
49.55
ASPHALT DRIVE
2 STORY BRICK
640
CONCRETE PATIO
73.87
10 FT. UTILITY EASEMENT
30.36
67.38
N. CHARLOTTE ST
20 FT. BLDG. LINE
LOT 32
4 foot fence
WEST FACE OF WOOD FENCE IS 0.60 EAST
SOUTH FACE OF WOOD FENCE IS 0.28 NORTH
112.75
SOUTH FACE OF WOOD FENCE IS 0.53 NORTH
E. GOEBEL DR.


640 N. Charlotte
Charlotte street
Driveway
House
(yard)
Pool
Patio
New Patio
Existing Patio
6 ft. Fence
4' Fence
27'
Public sidewalk
Window
Window
Patio Door
7'
11.5
9'
Green
7'
Existing Patio
11'3"
Patio
6.5'
9'
Existing Patio
8
8
New Patio
20'
Filter
12'4"
30
POOL
12
12
9'
20'
(yard)
(yard)
(yard)
12'
30'
Existing 4' fence
Neighbor
Gabel
73.87
existing 6' Fence
empty lot



Existing 6 foot Fence

NEW 57 ft 6 foot fence

s/w corner of house to south lot line, west to lot line.

640 N. Charlotte