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ORDINANCE NO. 77-15

AN ORDINANCE AMENDING THE LAND DEVELOPMENT REGULATIONS, SECTION 803.03, BY CHANGING THE FENCE HEIGHT REGULATIONS FOR ATYPICAL LOTS AND THROUGH LOTS; PROVIDING FOR CODIFICATION; PROVIDING FOR PUBLIC HEARING; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

9 **WHEREAS**, the City of New Smyrna Beach, 210 Sams Avenue, New
10 Smyrna Beach, FL, applicant, has requested an administrative
11 amendment to Ordinance No. 1-91, New Smyrna Beach Land Development
12 Regulations, Article VIII, Supplementary Regulations, Section
13 803.03, Regulations Pertaining to Fences, Walls and Hedges, to
14 change the fence height regulations for atypical lots and through
15 lots; and

16 **WHEREAS**, the Planning and Zoning Board, at its meeting August
17 3, 2015, by a vote of 6-0 (Chairperson Travous Dever was absent)
18 recommended to the City Commission that the requested amendment be
19 **approved**; and

20 **WHEREAS**, the City Commission deems it is in the best
21 interests of the citizens of the City of New Smyrna Beach to amend
22 the Land Development Regulations, as more particularly set forth
23 hereinafter.

24 **NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY**
25 **OF NEW SMYRNA BEACH, FLORIDA:**

26 **SECTION 1: Amendment to Article VIII, Supplementary**
27 **Regulations, Section 803.03, Regulations Pertaining to Fences,**
28 **Walls and Hedges.** That New Smyrna Beach Land Development
29 Regulations, Article V, Zoning Districts, Section 504.02, Specific
30 Regulations by District, is hereby amended to read as follows:
31 (Note: Deletions from text are indicated by ~~strikeout~~, additions
32 to text are indicated by underline, and omissions in text are
33 indicated by [...].)

34 **ARTICLE VIII. - SUPPLEMENTARY REGULATIONS**

35

36 803.03. Regulations pertaining to fences, walls and hedges:

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38 A. *Typical lots.*

39 *Properties zoned residential.*

40 Maximum height:

- 41 ● Within required front yard setback: Four feet;
- 42 ● Outside required front yard setback: Six feet;
- 43 ● ~~Hedges located outside of the required front yard~~
- 44 ~~setback may exceed six feet in height;~~
- 45 ● Tennis court fences taller than four feet in height
- 46 may be permitted within the required front yard setback
- 47 by special exception, as outlined in [sub]section 801.17;
- 48 and
- 49 ● Fences, walls, and hedges shall conform to visibility
- 50 triangle requirements for corner lots, as outlined in
- 51 [sub]section 804.01.

52 *Properties zoned non-residential.*

53 Maximum height: Six feet.

- 54 ● Fences, walls and hedges shall conform to visibility
- 55 triangle requirements for commercial and industrial lots
- 56 as outlined in [sub]section 804.01;
- 57 ● Chain link and wire fences taller than three feet in
- 58 height may be allowed in the visibility triangle,
- 59 provided that slats or other opaque materials are not
- 60 inserted in or placed on the fence; and
- 61 ● Tennis court fences taller than four feet in height
- 62 may be permitted within the required front yard setback
- 63 by special exception, as outlined in [sub]section 801.17.

PAGE 2 OF 5

Fences on Atypical Lots - Land
Development Regulations Amendment
First Reading August 25, 2015
Public Hearing September 8, 2015
August 13, 2015
9:32 am

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[Insert Amended Illustration 803.03A~~1~~
attached hereto as Exhibit "A" and by
reference made a part hereof]

B. Atypical lots.

Maximum height:

- Within required front, ~~side,~~ or rear setback: Four feet.
- Outside required front, ~~side,~~ or rear setback: Six feet.
- Tennis courts fences taller than four feet in height may be permitted within the required front, ~~side,~~ or rear setbacks by special exception, as outlined in [sub]section 801.17.
- Fences shall conform to visibility triangle requirements on corner and commercial lots as outlined in [sub]section 804.01.

[Insert Amended Illustration 803.03A~~2~~**B**
attached hereto as Exhibit "B" and by
reference made a part hereof]

[Insert Amended Illustration 803.03B~~C~~
attached hereto as Exhibit "C" and by reference made a
part hereof]

[Insert Illustration 803.03D attached hereto
as Exhibit "D" and by reference made a part
hereof]

C. Through lots.

Maximum height:

- Within required front setbacks: 4 feet.
- Outside required front setbacks: 6 feet.
- Tennis courts fences taller than 4 feet in height may be permitted within the required front setbacks by special exception, as outlined in Section 801.17.
- Fences shall conform to visibility triangle requirements on corner and commercial lots as outlined in Section 804.01.

94 [Insert Amended Illustration entitled
95 "Through Lot - Maximum Fence Heights"
96 attached hereto as Exhibit "E" and by
97 reference made a part hereof]

98 **C D.** *Barbed-wire fences.* No fence made of barbed wire, or any other
99 material whereby persons passing by day or night might be maimed or
100 injured, shall hereafter be constructed alongside of any street or
101 sidewalk or property line within the city limits unless the
102 placement is such that the city commission shall decide that it may
103 be permitted without danger. In the event the city commission
104 permits such a fence, it shall not be less than six feet in height
105 as measured from the finished grade.

106 **DE.** *Fences east of the Coastal Construction Setback Line (CCSL).*
107 Fences four feet in height or less shall be allowed to encompass
108 the area surrounding the perimeter of the pool and decking when
109 required by the Florida Building Code to address life safety
110 concerns. City commission approval shall not be required provided
111 the fence does not exceed the height or setback requirements for
112 fences on atypical lots.

113 **SECTION 2:** *Codification.* Following adoption of this ordinance,
114 the City Attorney shall transmit a copy of this ordinance to
115 Municipal Code Corporation of Tallahassee, Florida, to be codified
116 into the City's Code of Ordinances. Municipal Code Corporation's
117 usual and customary fee for said codification service is hereby
118 approved.

119 **SECTION 3:** *Public Hearing.* That a public hearing considering
120 the adoption of this ordinance held September 8, 2015, in the City
121 Commission Chambers at City Hall, 210 Sams Avenue (south entrance
122 on Julia Street), New Smyrna Beach, Florida, after notice
123 published, is found to comply with §166.041(3)(a), F.S.

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SECTION 4: *Conflicting Ordinances.* That all ordinances or parts thereof that are in conflict with this ordinance shall be and the same are hereby rescinded and repealed.

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SECTION 5: *Severability.* That if any section, sentence, clause or phrase of this ordinance is held invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

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SECTION 6: *Effective Date.* That this ordinance shall take effect immediately upon its final adoption.

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APPROVED AS TO FORM AND CORRECTNESS:

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FRANK B. GUMMEY, III

City Attorney

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DATE: 8/13/15

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Fences on Atypical Lots - Land
Development Regulations Amendment
First Reading August 25, 2015
Public Hearing September 8, 2015
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ILLUSTRATION 803.03A4

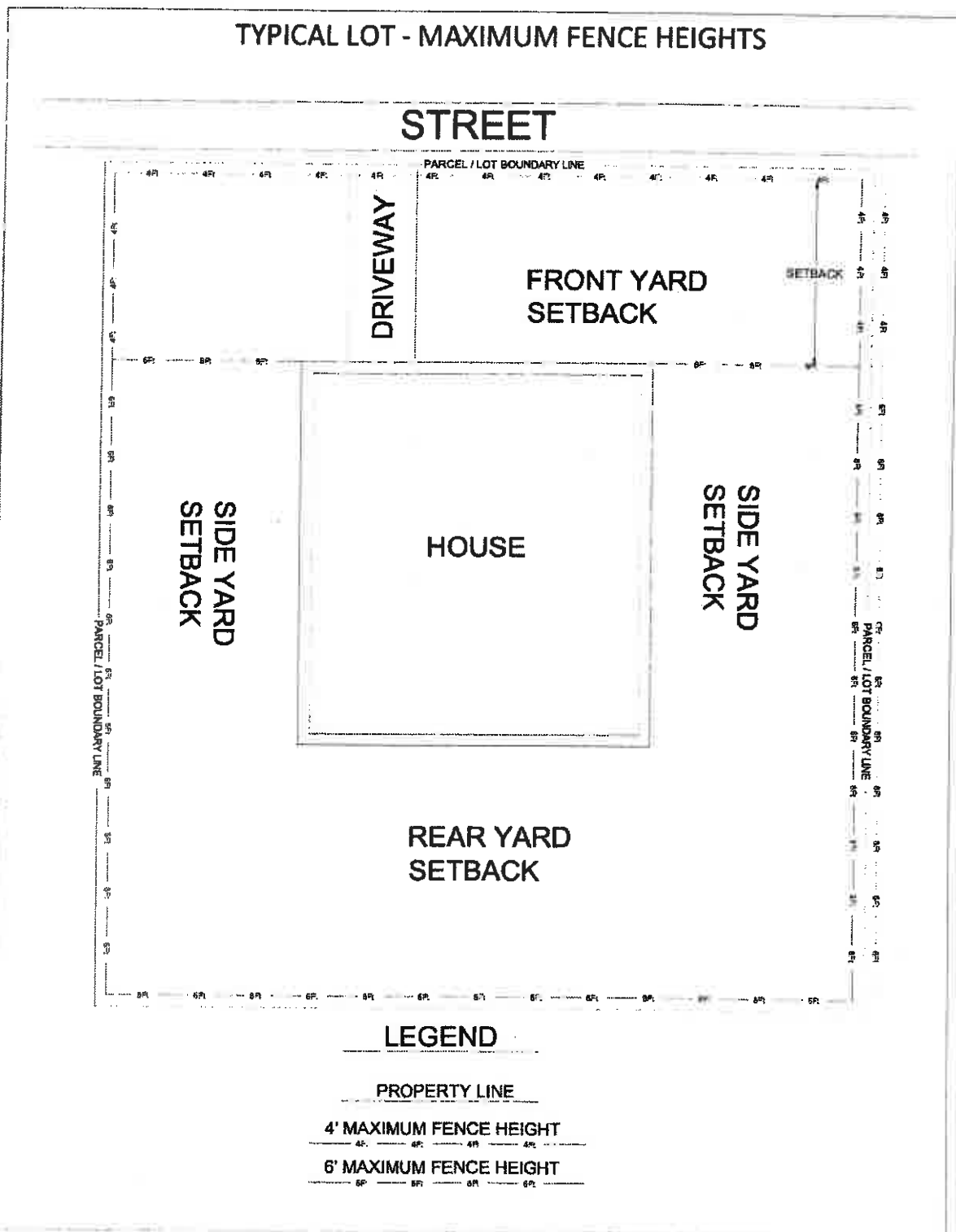


EXHIBIT
A
Ord. 77-15

ILLUSTRATION 803.03A2B

TYPICAL LOT - MAXIMUM FENCE HEIGHTS FOR CORNER LOTS

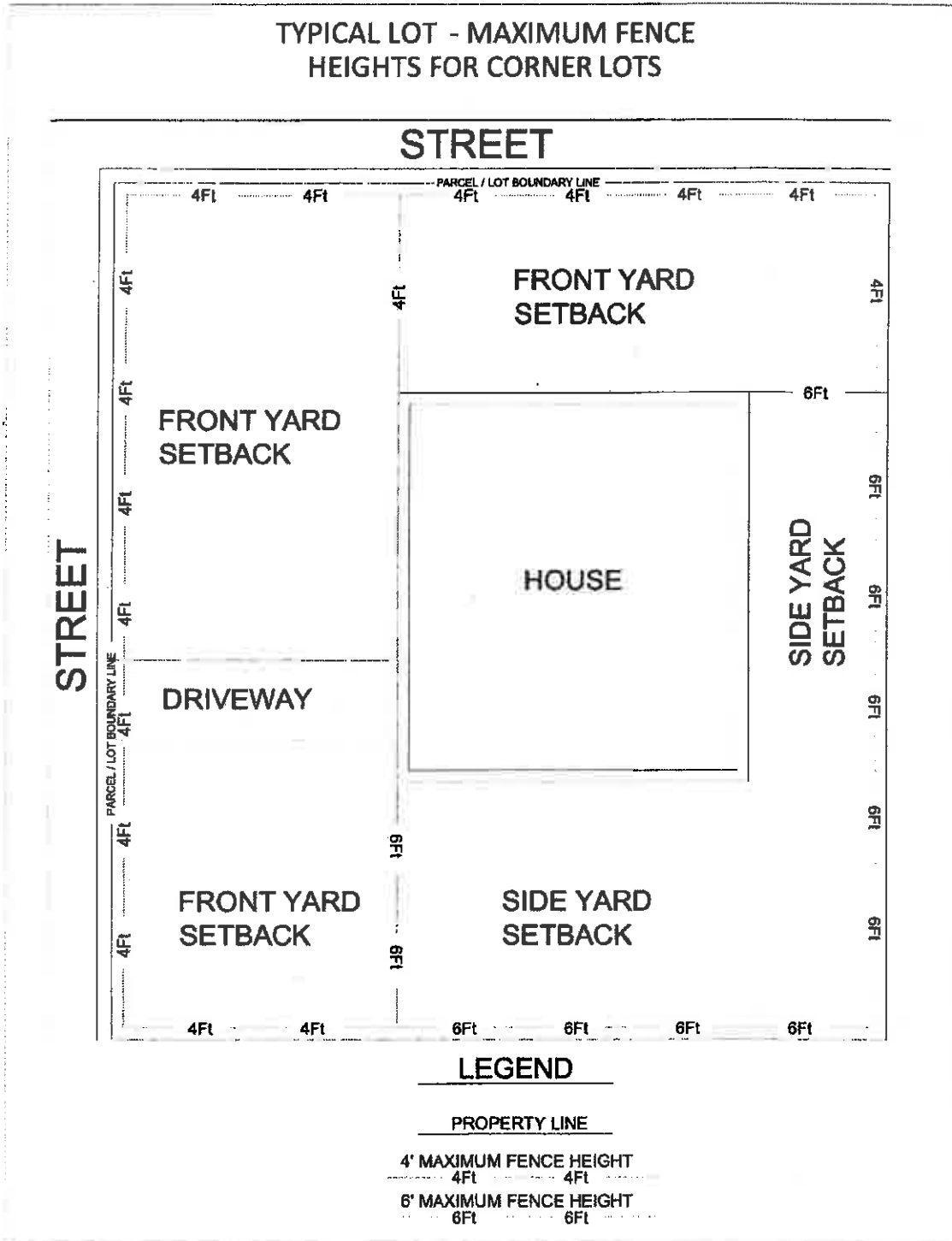


EXHIBIT
B
Ord. 77-15

ILLUSTRATION 803.03BC

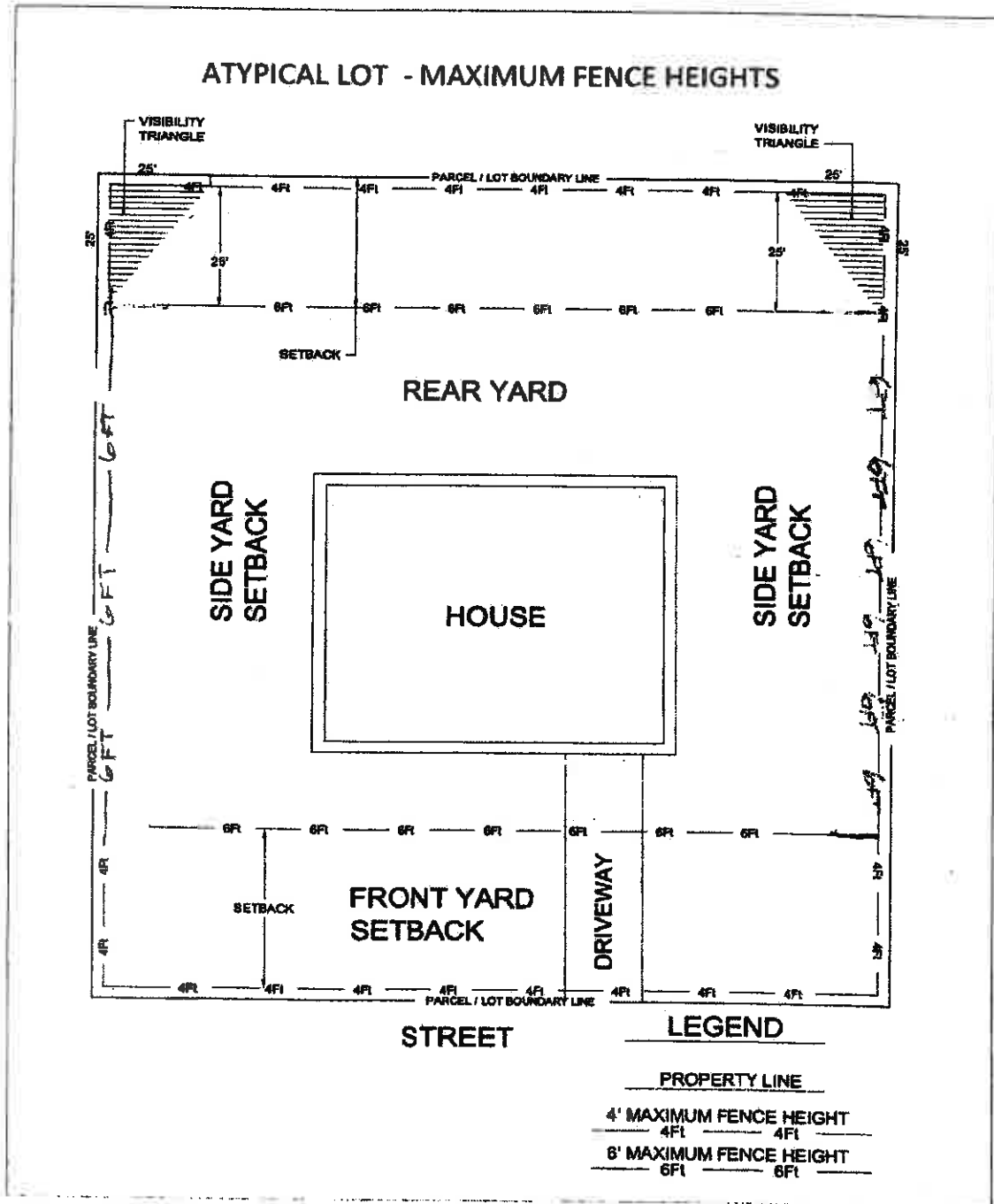
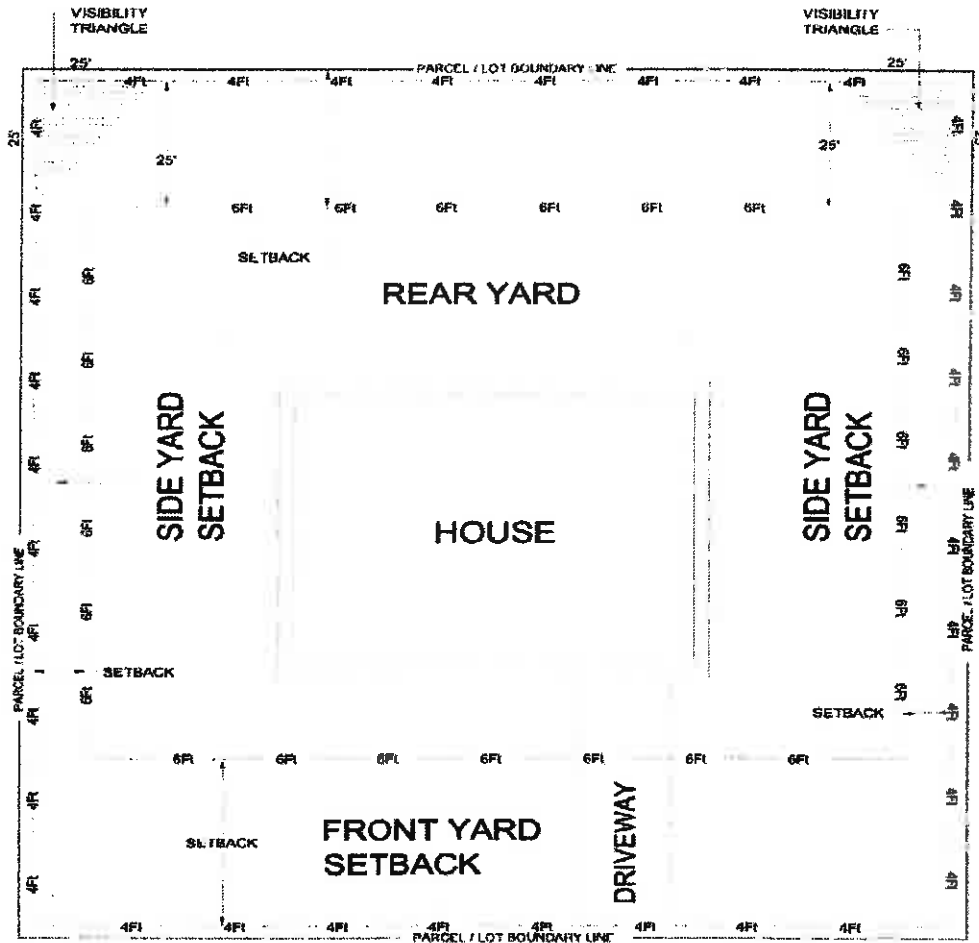


EXHIBIT
C
Ord. 77-15

ILLUSTRATION 803.03D

ATYPICAL LOT - MAXIMUM FENCE HEIGHTS



STREET

LEGEND

PROPERTY LINE

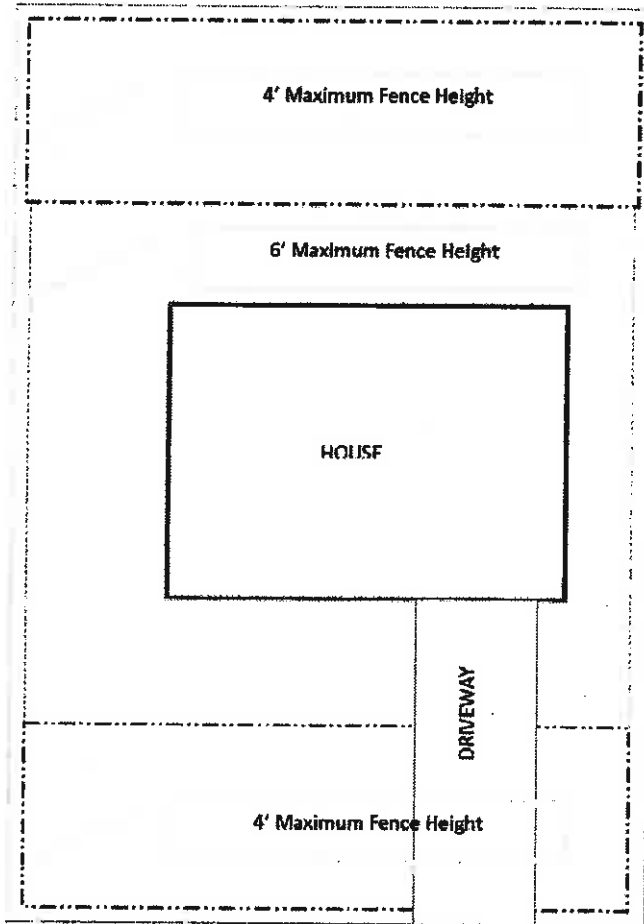
4' MAXIMUM FENCE HEIGHT
4FL 4FL

6' MAXIMUM FENCE HEIGHT
6FL 6FL

EXHIBIT
D
Ord. 77-15

THROUGH LOT – MAXIMUM FENCE HEIGHTS

STREET



STREET

LEGEND

- Property Line
- 4' Maximum Fence Height
- 6' Maximum Fence Height

