

**ORDINANCE NUMBER: 2023-15**

**AN ORDINANCE OF THE VILLAGE OF CHERRY VALLEY APPROVING A VARIANCE FROM THE MAXIMUM ALLOWED SIDE YARD FENCE HEIGHT OF 6 FEET UP TO 8 FEET FOR THE PROPERTY COMMONLY KNOWN AS 209 GENOA STREET, CHERRY VALLEY, ILLINOIS**

**WHEREAS**, the Village of Cherry Valley, Illinois (“Village”) has adopted a Zoning Code; and

**WHEREAS**, the Village owns the property located at 209 Genoa Street and with PIN 16-01-117-004 and legally described in Exhibit A, attached hereto and incorporated herein (“Village Property”); and

**WHEREAS**, the Village has found it in the best interest to build a privacy fence on the east side of the Village Property; and

**WHEREAS**, Section 82-7(e)(5)(b) of the Village Code of Ordinances limits the maximum height of side yard fences to 6 feet; and

**WHEREAS**, the Village desires to build a privacy fence 8 feet in height along the east side of the Village Property; and

**WHEREAS**, the Village has submitted an application for a variance from the maximum side yard fence height of 6 feet up to 8 feet for the Village Property; and

**WHEREAS**, the said application for the zoning variance was considered by the Village Planning and Zoning Commission at a duly noticed public hearing conducted on July 19, 2023; and

**WHEREAS**, the village’s Planning and Zoning Commission gave a positive recommendation with regards to said application upon making the findings of fact attached hereto as Exhibit B and incorporated herein.

**NOW THEREFORE BE IT ORDAINED** by the President and Board of Trustees of the Village of Cherry Valley as follows:

1. The above recitals are incorporated herein and made a part hereof.
2. That a variance from the maximum side yard fence height of 6 feet up to 8 feet for the Village Property is hereby granted.
3. Except as amended in this Ordinance, all other provisions and terms of City Code of Ordinances shall remain in full force and effect as previously enacted except that those

ordinances, or parts thereof, in conflict herewith are hereby repealed to the extent of such conflict.

4. This Ordinance shall be in full force and effect after its approval, passage and publication in pamphlet form as required by law.

PASSED UPON MOTION BY: NANCY BELT

SECONDED BY SALLY HOLLEMBEAK

BY ROLL CALL VOTE THIS 24<sup>TH</sup> DAY OF JULY, 2023, AS FOLLOWS:

VOTING "AYE": NANCY BELT, JEFF FUSTIN, SALLY HOLLEMBEAK,  
MIKE NEVILLE, BRANDI PEARSE, CARL WEDIG

VOTING "NAY": NONE

ABSENT, ABSTAIN, OTHER: NONE

APPROVED: JULY 24, 2023

ATTEST:

  
\_\_\_\_\_  
KATHY TRIMBLE, VILLAGE CLERK

  
\_\_\_\_\_  
JEFFREY B. FUSTIN, VILLAGE PRESIDENT PRO-TEM

**LEGAL DESCRIPTION**

**Exhibit A**

LOT FIVE (5) AND THE EASTERLY 25 FEET IN THE WIDTH OF LOT FOUR (4) IN BLOCK SIX (6) AS DESIGNATED UPON THE PLAT OF CHERRY VALLEY, THE PLAT OF WHICH IS RECORDED IN BOOK N OF DEED, PAGE 346 IN THE RECORDER'S OFFICE OF WINNEBAGO COUNTY, ILLINOIS, SITUATED IN THE COUNTY OF WINNEBAGO AND STATE OF ILLINOIS.

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## **Exhibit B**

### **VARIANCE - Findings of Facts for the property commonly known as 209 Genoa Street, Cherry Valley, Illinois:**

After continued discussion, Attorney Stevens read the Findings of Facts (A - F) to the commissioners as follows:

- a. 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 chapter regulations were to be carried out;  
6-AYE 0-NAY 1-ABSENT
- b. The conditions upon which a petition for a variation is based are unique to the property for which the variation is sought and are not applicable generally to other property within the same zoning classification;  
6-AYE 0-NAY 1-ABSENT
- c. The purpose of the variation is not based exclusively upon a desire to increase the value or income potential of the property;  
6-AYE 0-NAY 1-ABSENT
- d. 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;  
6-AYE 0-NAY 1-ABSENT
- e. The proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets or increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the neighborhood; and  
6-AYE 0-NAY 1-ABSENT
- f. The proposed variance complies with the spirit and intent of restrictions imposed by this chapter.  
6-AYE 0-NAY 1-ABSENT

The commissioners reviewed each of the Findings of Facts and concluded that the applicant has met all of the required findings for the variance.