



Board of Public Works and Safety

Agenda Item

Cover Sheet

MEETING DATE: June 11, 2024

- Consent Agenda Item
- New Item for Discussion
- Previously Discussed Item
- Miscellaneous

ITEM #: 6

INITIATED BY: Rina Neely

- Information Attached
- Bring Paperwork from Previous Meeting
- Verbal
- No Paperwork at Time of Packets



TO: Members of the Noblesville Board of Public Works and Safety
FROM: Rina Neeley, Planning and Development Department
DATE: May 30, 2024
RE: Permanent Encroachment Agreement for a Fence at 7142 Spayside Drive S

Dennis J & Susan K Ehman, the owner(s) of 7142 Spayside Drive S, Noblesville, IN 46062. (“the Property”), applied for a fence permit with the City of Noblesville Planning and Development Department in May 2024. The Property is located in Lochaven of Noblesville subdivision around the lake. The proposed location of the fence encroaches into the Drainage and Water Access easements at the rear of the Property. The City of Noblesville has the right to use the Drainage and Water Access easements at the rear of the Property. Per Lochaven Declaration of Covenants and Restrictions, fences are not permitted to encroach into these easements in a way that would “interfere with the utilization of such easement for the purpose intended.” Mr. Ehman is requesting to encroach into the easements to construct a fence (see attached letter).

Several entities have the rights to use the same portion of the Property, including the Lochaven Homeowners Association and the Hamilton County Drainage Board. Both approved the encroachment (see attached documents). Hamilton County Drainage Board requested that the fence is located a minimum 10 feet off of the riprap located along the rear North perimeter line.

The Board of Public Works and Safety approval is the last necessary approval before the fence permit can be issued. The Board may change the requested distance of the fence from the lake if deemed necessary.

I recommend that the Board of Public Works and Safety approves the permanent encroachment for the fence at 7142 Spayside Drive S.

Attached Exhibits:

1. Letter from Mr. Ehman
2. Site Plan
3. Encroachment Agreement with Hamilton County Drainage Board
4. HOA Approval of the Encroachment

PERMANENT ENCROACHMENT AGREEMENT
Document Cross Reference Number 2018-16295

This Permanent Encroachment Agreement (“Agreement”) entered into on the dates set out herein, between the City of Noblesville, Indiana, by and through the Board of Public Works and Safety, (hereinafter referred to as the “City”) and Dennis J & Susan K Ehman (hereinafter referred to as “Owners” or the “Owner”) for an encroachment, described herein at 7142 Spayside Dr S, Noblesville, IN 46062, Lochaven of Noblesville, Section 9C, Lot 191 Irregular Shape, 10-10-14-00-07-003.000 in the office of the Hamilton County Recorder, Hamilton County, Indiana (the “Property”). The City owns or has jurisdiction over the drainage and utility easements (the “Easement”) on the Property and agrees to allow the Owner to encroach into the Easement with the installation of a fence, as shown on the plans attached hereto as Exhibit A and incorporated herein (the “Encroachment”). In consideration of the City’s agreement to allow the Encroachment, Owner(s) agree to the following:

Initials

DJE
SKE

1. The Owner understands that the City permits the Owner to locate the Encroachment within the Easement solely for the purpose of the Encroachment. This Agreement does not constitute an approval for the construction or placement of any other improvement or structure within the Easement other than the Encroachment.

DJE
SKE

2. Owner must comply with applicable building codes for construction of the Encroachment.

DJE
SKE

3. Owner understands and agrees that City retains all interest in the Easement and reserves the right to utilize the Easement for the purposes for which the Easement was granted to the City.

DJE
SKE

4. Owner shall maintain the Encroachment at their sole expense.

DJE
SKE

5. Owner understands that there may be situations where the City must move the Encroachment. In these instances, the City will give the Owner as much notice as is practical in the circumstance.

DJE
SKE

6. The Owner understands and agrees that the City has no duty to relocate the Encroachment and may remove the Encroachment if necessary, for future public improvements or maintenance of the Easement and shall have no liability for direct or consequential damages for the removal of the Encroachment.

DJE
SKE

6. The Owner understands and agrees that the City shall not be responsible for repairing or replacing the Encroachment if the Encroachment is damaged during work performed by the City within the Easement and that the City shall have no liability for any direct or consequential damages arising out of the Owner’s use, or lack of use of the Encroachment.

DJE
SKE

7. The Owners shall have no cause of action against the City and shall indemnify and hold the City harmless for any claims or damages arising out of the Encroachment. The Owners shall have no recourse through the City to recover damages to the Encroachment made by a third party performing either permitted or unpermitted work within the easement. It shall be the Owner's exclusive duty and obligation to have the Encroachment located at its own cost for any entity entitled or permitted to work in the drainage easement.

DJE
SKE

8. The Owner shall have no course of action to recover damages against any entity entitled or permitted to work in the drainage easement who damages the Encroachment. The Owner shall indemnify and hold harmless the City for any legal actions brought against the City as a direct or indirect result of allowing the Encroachment within the easement. The Owner shall reimburse the City for all legal costs incurred in the enforcement of this Agreement and/or in defending the City against any legal actions brought against the City which are a direct or indirect result of the City allowing the Encroachment to be located within the City drainage and utility easement.

The rights and duties under this Agreement shall be binding, on the Owners and the City, their agents, heirs, assigns, and successors in interest of the real property and shall run with the land.

The parties agree that this Agreement shall be recorded in the offices of the Hamilton County Recorder, Hamilton County, Indiana.

All notices under this Agreement shall be mailed to the following addresses:

City of Noblesville
16 South 10th Street
Noblesville, IN 46060

Dennis J & Susan K Ehman
7142 Spayside Dr S
Noblesville, IN 46062

By: 
Dennis J Ehman, Property Owner

STATE OF INDIANA)
)
COUNTY OF HAMILTON) SS:

SUBSCRIBED AND SWORN to me, a Notary Public in and for said County and State, this
30 day of May, 2024.

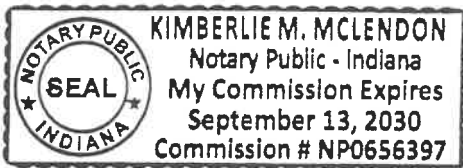


My Commission Expires:

Printed: Dennis J Ehman

9-13-2030

NOTARY PUBLIC, A resident of Boone County, Indiana



Kimberlie M. McLendon
Kimberlie M. McLendon

By: Susan K Ehman
Susan K Ehman, Property Owner

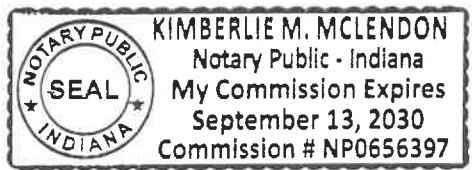
STATE OF INDIANA)
)
COUNTY OF HAMILTON) SS:

SUBSCRIBED AND SWORN to me, a Notary Public in and for said County and State, this
30 day of May, 2024.

Susan K Ehman

My Commission Expires:
9-13-2030

Printed: Susan K Ehman
NOTARY PUBLIC, A resident of Boone County, Indiana



Kimberlie M McLendon
Kimberlie M. McLendon

IN WITNESS WHEREOF, the undersigned have hereunto set their hands and seals, this

_____ day of _____, 2024.

BOARD OF PUBLIC WORKS AND SAFETY
OF THE CITY OF NOBLESVILLE

By:

Jack Martin, President

John Ditslear, Member

Laurie Dyer, Member

Robert J. Elmer, Member

Rick L. Taylor, Member

ATTEST:

Evelyn L. Lees, Clerk

Document prepared by: Jonathan. Hughes, City of Noblesville, 16 South 10th Street, Noblesville, IN 46060

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. Jonathan. Hughes

EXHIBIT 1

Dennis Ehman Fence Approval

7142 Spayside Drive South

Noblesville IN 46060

(317) 460-0828

Board of Public Works and Safety:

We want to request a new fence to be installed by Blue Bird Fences. The installation is to maximize our yard usage for the dog we inherited from my mother-in-law this spring, as she is no longer able to take care of the dog. We have decided on Blue Bird fence to match the neighbors fence which was approved and installed last year and to match their proximity to the Lake will equal distance from the fence to the rift raft.

Thank you for your time,

A handwritten signature in black ink that reads "Dennis J. Ehman". The signature is written in a cursive style with a large, sweeping flourish at the end.

Dennis J. Ehman

EXHIBIT 2

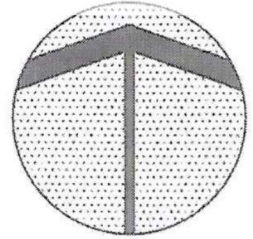
LOT # 191
±21,825 SF

PAD = 766.2
 MFPG(F) = 761.50
 MFPG(R) = 757.50
 7142 Spayside Drive S

Note:

Minimum Front yard - 30'
 Minimum Side Yard - 8' (15' Agg.)
 Minimum Rear Yard - 20'

Gar. FFE = 766.2
 1st Flr FFE = 768.0
 TOW = 767.0
 Bsmt FFE = -758.2
 Drive Slope = ±9.3%



Assumed North
 Scale: 1" = 40'

note:

Contractor should verify sump pit location with Field Manager.

note:

Retaining system for grading may be necessary for walkout basements.

Parties indicated hereon, for the express

construction documents, record drawings, and by others. This document is not based on the accuracy or completeness of this

Reference must be more than either the first or to which the

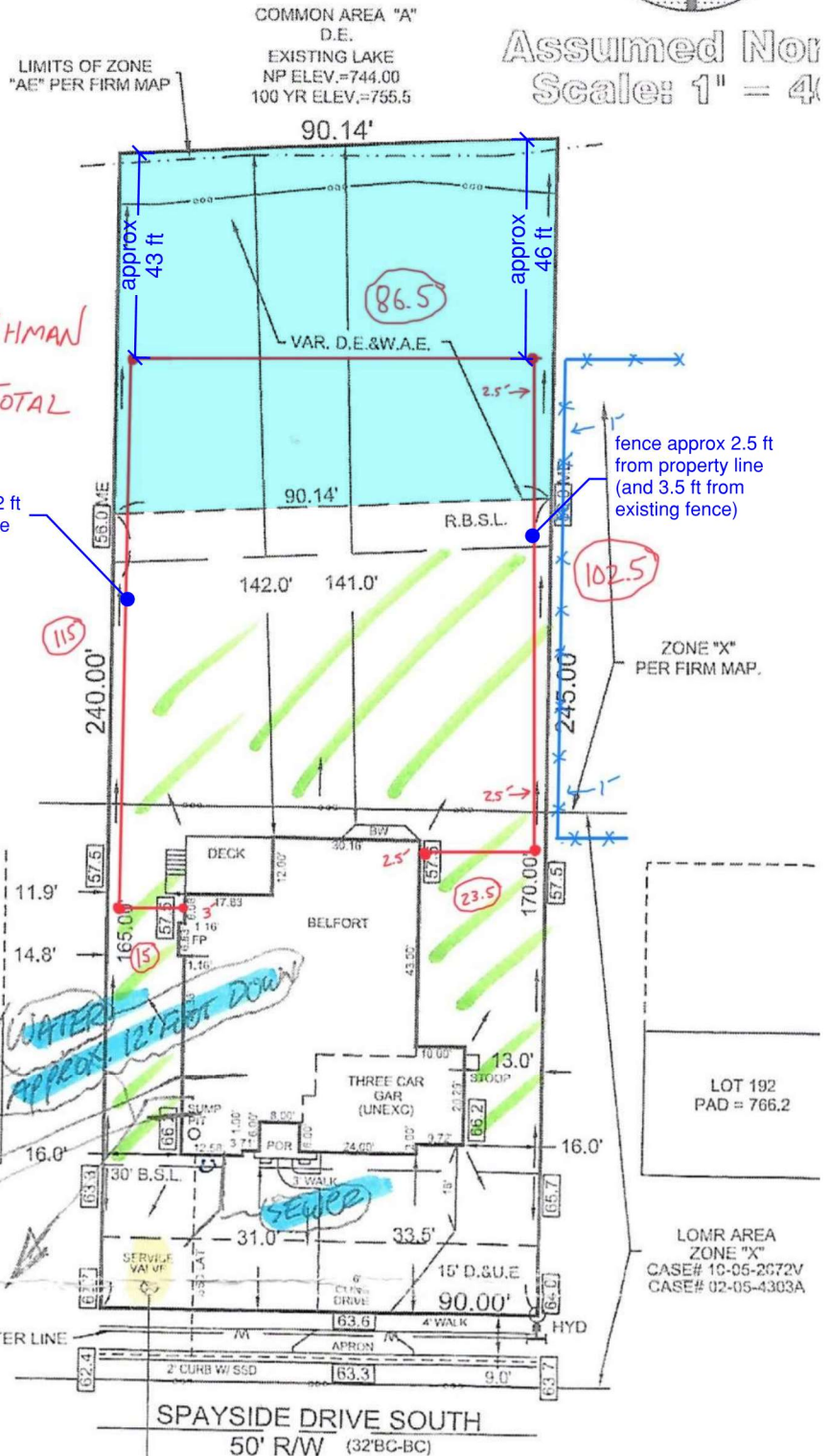
and hereon with the approved sidewalk and handicap ramp verify site specific materials. Also, Contractor location and dimensions.

According to but not limited to, conditions within the building referenced on said documents. Dimensions, certain care and dimensions as soil types and should any unsuitable soils immediately notified for further information, additional construction is.

DENNIS EHMAN
343' TOTAL

fence approx 1-2 ft from property line

fence approx 2.5 ft from property line (and 3.5 ft from existing fence)



1 Hazard No

Per Hamilton County Non-Enforcement of Drainage Easement for Fences (Document #2024017048):

*The fence will be located a minimum 10' off of the riprap located along the rear North perimeter line.

EXHIBIT 3



**NON-ENFORCEMENT OF DRAINAGE
EASEMENT FOR FENCES**

2500
4

2024017048 EASEMENTS \$25.00
05/17/2024 11:50:59A 4 PGS
Trini Beaver
HAMILTON County Recorder IN
Recorded as Presented



FILED STATE OF INDIANA)
)
APR 16 2024 COUNTY OF HAMILTON)

BEFORE THE HAMILTON
COUNTY DRAINAGE BOARD

OFFICE OF HAMILTON COUNTY SURVEYOR

WHEREAS, Dennis J. & Susan Ehman
("the Landowner") are owner(s) of a certain parcel of real estate located in Hamilton County,
Indiana, which is commonly known as Hamilton County Tax Parcel No.
10-60-14-00-07-003.000 ("the Real Estate"); and,

WHEREAS, the Real Estate is described in the Deed of the Landowner(s) in Deed
Book _____, Page _____ or Instrument No. 2018-16295 in the Office of the
Hamilton County Recorder; and,

WHEREAS, the Real Estate is subject to a Drainage Easement for the
Paulsel & Vance & Peter Paulsel - Lockhaven Drain ("the Drainage Easement")
and the Landowner(s), have requested that the Drainage Board ("the Drainage Board") waive the
right to enforce certain restrictions within the Drainage Easement.

IT IS THEREBY AGREED by the Drainage Board and the Landowner(s) as
follows:

1.) The Drainage Board agrees that the Landowner(s) may construct a fence
within the Drainage Easement subject to See pg 4

2.) In consideration of the consent set out in the above paragraph, the
Landowner(s), on behalf of themselves, successors, and assigns, as Owners of the Real Estate
acknowledge that if necessary, in order to maintain, construct, or reconstruct the drainage
improvements in the Drainage Easement, the Drainage Board, its contractors and workers
working under said authority, may remove all improvements located within the Drainage
Easement

3.) In the event of said removal, the Landowner(s), on behalf of themselves, and
successors in title to the Real Estate hereby release and waive any claim that they may have
against the Drainage Board, or any contractor or workmen operating under the authority of the
Drainage Board for the costs or damage to the improvements located within the Drainage
Easement.

INDNE-2024-00057



NON-ENFORCEMENT OF DRAINAGE EASEMENT FOR FENCES

Tax Parcel Number 10-10-14-00-07-003.000

Drain Name Paulsel + Vance + Peter Paulsel - Lockaven

4.) The Drainage Board agrees not to enforce its easement rights beyond a distance of * feet from the * side of the top of bank and/or centerline of the tile within the Drainage Easement, unless for maintenance or construction described in Section 2 above.

*See page 4.

THIS AGREEMENT WILL BECOME EFFECTIVE UPON DRAINAGE BOARD APPROVAL.

Dated this 9th day of April, 2024, by the Landowner(s).

LANDOWNER(s)

By: [Signature]

Printed: DENNIS J. EHMANN

By: [Signature]

Printed: Susan Ehman

STATE OF INDIANA)
)SS:
COUNTY OF HAMILTON)

Subscribed and sworn to before me, a Notary Public this 9th day of April, 2024, personally appeared the within named Dennis J. Ehman, and Susan K. Ehman as Landowner(s) and acknowledged the execution of the foregoing document.

WITNESS my hand and official seal.

My Commission Expires:
12/30/2031

[Signature]
Notary Public,
Residing in Clinton County, IN



\$NONE-2024-0057



NON-ENFORCEMENT OF DRAINAGE EASEMENT FOR FENCES

Tax Parcel Number 10-10-14-00-07-003-000

Drain Name Paulsel + Vance + Peter Paulsel -Lochaven

FENCE COMPANY ACKNOWLEDGMENT

The undersigned, as the authorized representative of the contractor seeking to install a fence within the regulated drainage easement described in this Non-Enforcement Application, agrees as follows:

A.) The undersigned is the duly authorized representative of Blue Bird Fence Company (printed name of contractor) which plans to install a fence within the drainage easement located on the property of the Landowner.

B.) The undersigned prior to the installation of the fence shall determine the location of the permitted encroachment of the fence, into the drainage easement.

C.) In the event the fence is constructed within the easement at a location which is not permitted by this Permit, the contractor shall be liable to the Landowner for the cost of relocating the fence.

D.) The undersigned acknowledges that the failure to comply with the terms and conditions of this Application may result in the filing of a civil complaint for an ordinance violation; have a judgment entered for One Thousand Dollars (\$1,000) for violation of the Ordinance; plus the costs of the Landowner to relocate the fence.

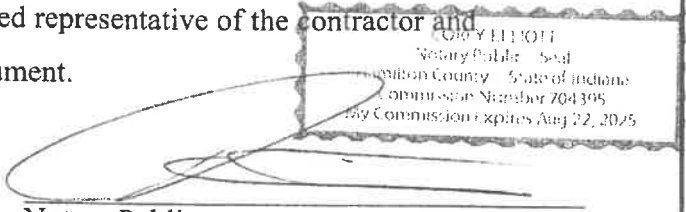
Signature: M Hannah Wise Fence Company: Blue Bird Fence Company
Printed: M. Hannah Wise Address: 3934 W IV 47 Sheridan 46069
Contact Phone Number: 317-900-9770

STATE OF INDIANA)
)SS:
COUNTY OF HAMILTON)

Subscribed and sworn to before me, a Notary Public this 11 day of April, 2024, personally appeared the within named M Hannah Wise, and M Hannah Wise as the authorized representative of the contractor and acknowledged the execution of the foregoing document.

WITNESS my hand and official seal.

My Commission Expires: 8-22-2025



Notary Public, Residing in Hamilton County, IN

INDNE-2024-00057

260



NON-ENFORCEMENT OF DRAINAGE EASEMENT FOR FENCES

Tax Parcel Number 1040-14-00-07 003.000

Drain Name Paulsel & Vance & Peter Paulsel - Lockman

Dated this 13th day of May, 2024, by the Hamilton County Drainage Board.

HAMILTON COUNTY DRAINAGE BOARD

ATTEST:

Lynette Mosbaugh
Lynette Mosbaugh, Secretary

Christine Altman
President
Christine Altman

*The fence will be located a minimum 10' off of the riprap located along the rear North perimeter line.

"I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law: Kenton C. Ward, Surveyor"

Prepared by the Hamilton County Drainage Board: Michael A. Howard, Attorney

IN ONE - 2024 - 00057

EXHIBIT 4

Lochaven Homeowners Association, Inc.
3002 East 56th Street
Indianapolis, IN 46220
317-253-1401

5/24/2024

DENNIS J & SUSAN K EHMAN
7142 SPAYSIDE DRIVE SOUTH
NOBLESVILLE, IN 46062

RE: 7142 SPAYSIDE DRIVE SOUTH
Lot#: 191

Dear DENNIS J & SUSAN K EHMAN:

The improvement request that you sent in regarding a fence was received and approved by the Architectural Control Committee.

Request: Installing a 4ft high aluminum fence in our back yard. Will be installed 2 feet inside of the property line and got to the corners of our house. Please see sample fence pictures included and Plot Plan with fencing marked in red. Install dates are estimated we will need to have the fence posts put in and then need to have some sprinkler heads moved by our irrigation company before fence completion.

- **You are still required to follow up with your local municipality to determine if a permit is necessary for your improvement.**
- **It is highly recommended that you have the property lines properly marked before any fence installation.**
- **If your improvement is going into an easement- be aware that if the local utilities or city/county need access to this easement they can require you to remove your improvement at your expense.**

You have 90 days from beginning of the project to complete the updates unless you apply to the committee for an extension.

Any questions please feel free to contact Tamara Chafey at tamara@ardsleymgmt.com.

Thank you,

Lochaven Homeowners Association, Inc.