

ZONING BOARD OF APPEALS APPLICATION

Project Name, If Applicable: _____

Project Street Address: 115 WHITE PLAINS ROAD BRONXVILLE NY 10708

Section: 17 **Block:** 2 **Lot(s):** 5 **Zone:** DISTRICT A

Applicant: ASHLEY ROSS

Address: 115 WHITE PLAINS ROAD

City: BRONXVILLE **State:** NY **Zip:** 10708

Phone #: 914-965-1011 **Email:** _____

Owner: ASHLEY ROSS

Address: 115 WHITE PLAINS ROAD

City: BRONXVILLE **State:** NY **Zip:** 10708

Phone #: 203-246-4827 **Email:** ashleyborom@gmail.com

Application is for:

- _____ An interpretation of the Zoning Law or a determination by the Superintendent of Buildings
- X Area variance(s) 310-10 D (4) List Sections
- _____ Use Variance _____ List Sections
- _____ Special Permit Use _____ List Sections

Description of the proposed project and nature of the interpretation, variance(s) and/or special permit being sought: _____

On 12.21.2021 the fence permit application was submitted and approved on 01.07.2022.

The proposed work included the following.

6 foot board/topper fence to replace existing fencing in rear and south side of property,
6 foot board/topper to replace existing fencing/additional fencing on north side of property.
Board/topper fence to replace existing fencing. Transition from lower section of yard to upper section up wall.
Note: All fencing to be at least 6 inches inside lot line. All fencing to be Azek material by Walpole.

After the fence was installed and a violation was provided 1.27.2022

As per the village municipal code 310-10 D (4) ...Fences or walls not over 6 1/2 feet in height may be erected anywhere on the lot, except that any such fence or wall erected in any front yard shall be not more than 1/2 solid.

When did present owner acquire title? June 22, 2021

Was the title acquired by purchase: Yes or No), If so from whom? _____

Are you seeking a variance from the provisions of the ordinance? Yes or No)

If so, from which ordinance, from which provision thereof and to what extent? _____

As per the village municipal code 310-10 D (4) ...Fences or walls not over 6 1/2 feet in height may be erected anywhere on the lot, except that any such fence or wall erected in any front yard shall be not more than 1/2 solid.

VOB request is to replace approximately 80 feet of solid fence installed installed in the front yard.


The extent of work requires a full replacement that will cost \$38,788.00. Modifying the installed fence will void the Walpole warranty

Our request is to keep the newly installed fence per the approved fence permit 01.07.2022

If you are seeking a variance from the provisions of the ordinance, do you contend that the effect of the ordinance on the property to which this appeal pertains is different from its effect on other properties in the same zoning district? (Yes or No) If so, in what respect and what is the cause of the difference?

Does the owner of the premises involved in this application own any contiguous property? (Yes or No)

If so, in what respect and what is the cause of the difference? _____

Owners Signature:  Date: 3/17/22

VILLAGE OF BRONXVILLE
ZONING BOARD OF APPEALS

In the Matter of:

ASHLEY ROSS

Applicant(s).

STATEMENT OF
PRINCIPAL POINTS

TO: THE HONORABLE CHAIRMAN AND MEMBERS OF THE ZONING BOARD
OF APPEALS OF THE VILLAGE OF BRONXVILLE

The petition of ASHLEY ROSS (hereinafter "Applicant") by her attorney James G. Dibbini & Associates, P.C., respectfully shows:

DECISION APPEALED

This is an application to your Honorable Board for an appeal from a determination of the Village of Bronxville Department of Buildings' Plan Review Comments Report dated March 4, 2022.

RELEVANT SECTIONS OF ZONING CODE INVOLVED

Pursuant to the Village of Bronxville Municipal Code Section 310-10 D (4), fencing erected in any front yard shall require the fence to be one-half open.

BACKGROUND

The subject premises is a one-family house located at 115 White Plains Road in Bronxville, NY ("hereinafter, the "Premises") located within the confines of District A. The Applicant, Ashley Ross, deeded owner with her husband Ian Ross, reside in the house with their one-year-old daughter Eva, and their dog Fuji.

The Applicant's fence company, Walpole Outdoors submitted a permit with the Village of Bronxville (hereinafter, "Village") for the installation of a fence around the rear and portions of the south and north sides of the property. All documents and description of the work was submitted to the Village on December 21, 2021 and the permit was approved on January 7, 2022. The new fence was needed as the existing fence had rotted badly and was unsafe.

Work started on the fence on or about January 13, 2022. On January 27, 2022 the Applicant received notice from the Village Inspector of a complaint believed to be made by the neighbor at 111 White Plains Road which is to the immediate south of the Applicant's house. The inspector came out on January 27, 2022 while construction was underway and found no issues with the plans or the construction of the fence. The inspector found the fence to be in compliance with the plans and the code and as such, the Applicant continued with the construction of the fence.

An additional complaint was filed and the Applicant received notice from the Village Inspector that the fence in the south front yard was not one-half open (slotted). This additional complaint is believed to be made by the occupants of 111 White Plains Road. The inspector came out to the Premises again and noted the permit, although approved, was approved in error. The inspector advised the Applicant that the only solution would be to remove the fence and replace the front fence portions on both the south and north side of the property with a one-half open (or slotted) fence. An additional suggested alternative was to obtain a variance from the Zoning Board of Appeals. It should be noted there were no issues with the height or the location of the fence and the fence has a topper that is one-half open (or slotted).

The Applicant is before this Board to secure a variance as removing the fence and replacing it at this time after all the work has been completed would be cost prohibitive. The

Applicant procured an estimate from the company that installed the existing new fence. It was estimated that to make the necessary changes to comport with the Village Inspector's guidance, the cost for same is \$38,788.00. *See Exhibit 7 Estimate.*

As such, the following are the five points to be considered:

POINT I

WHETHER GRANTING THE VARIANCE WILL RESULT IN AN UNDESIRABLE CHANGE IN NEIGHBORHOOD CHARACTER OR DETRIMENT TO NEARBY PROPERTIES WILL OCCUR.

The new fence replaced a dilapidated and rotted fence of equivalent height. The new fence is set-back inside the property line by 6 inches all around and made of an attractive and durable Azek material which had been professionally installed by Walpole Outdoors who have been in business for 80 years. The neighbor to the north of the property line is perfectly content with the fence and has no objection to allowing the fence to remain.

POINT II

WHETHER THERE IS SOME FEASIBLE WAY TO ACHIEVE THE SAME BENEFIT TO THE APPLICANT WITHOUT AN AREA VARIANCE.

There is no way to achieve the same benefit to the applicant without an area variance. The only other alternative is to incur additional costs of at least \$38,788.00. The Applicant has detrimentally relied on the initial Village approvals and would now be unfair to now have the Applicant incur an additional \$38,788.00 to replace the fence when the variance is very minor in nature. *See Exhibit 7 Estimate.*

POINT III

WHETHER THE REQUESTED AREA VARIANCE IS SUBSTANTIAL.

The requested variance is not substantial. It should be noted that the complaining south neighbor located at 111 White Plains Road, has their house situated much closer to the road than the Applicant. What this means is the fence that should have been one-half solid is actually in the south neighbors back yard where solid fences are permitted. The fence, as it stands now terminates at the rear of the south neighbor's back yard. It does not affect the south neighbor's front yard or views from the front yard or side windows, which may likely have been the intent of the code. See **Exhibit 6** attached hereto of aerial, street and yard photos. These images demonstrate that the south neighbor at 111 White Plains Road has their house situated much closer to the road in an easterly direction of the Applicant's house and therefore their front yard or even the side of their house are not impacted by the fencing at all.

POINT IV

WHETHER THERE WILL BE ANY ADVERSE PHYSICAL OR ENVIRONMENTAL EFFECTS OR IMPACTS ON THE NEIGHBORHOOD OR DISTRICT IF THE VARIANCE WAS GRANTED.

There will be no adverse effects on the neighborhood or district if granted. The complaining neighbor to the south will not see the fence from their front yard or their side windows and will get the benefit of having privacy in their own back yard as the fence is not slotted (or one-half open). Furthermore, the fence is located in the same location as the old fence and will not create any shading issues as the fence runs east and west, which is the same direction the sun travels. To our knowledge, there are no noted adverse physical environmental effects presently being observed.

POINT V

WHETHER THE APPLICANT CREATED THE CONDITION THAT GAVE RISE TO THE NEED FOR A VARIANCE.

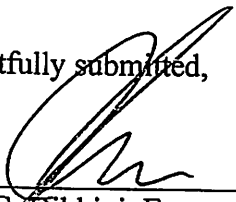
Although the Applicant built the fence, the Applicant proceeded in good faith to retain a fence company who in turn filed a permit for approval by the Village. It was only after the permit was approved did the Applicant proceed and then again after inspected by the Village, based on an initial complaint on or about January 27, 2022, concluded the installation of the fence. It is our position the Applicant did not create the condition that gave rise to the need for the variance.

CONCLUSION

The Applicant requested the Zoning Board of Appeals grant the variance to allow the fence to remain.

Dated: March 21, 2022

Respectfully submitted,



James G. Dibbini, Esq.
James G. Dibbini & Associates, P.C.
Attorney for the Applicant
570 Yonkers Avenue
Yonkers, New York 10704

VILLAGE OF BRONXVILLE
Department of Buildings
200 Pondfield Road
(914) 337-7338
(914) 337-0158 (Fax)

PLAN REVIEW COMMENTS

APPLICATION NUMB: ALT 042-22
DATE RECEIVED: March 4, 2022
LOCATION: 115 White Plains Road
SBL: 17./2/5
APPLICANT NAME: Walpole Outdoors, LLC
APPLICANT ADDRESS: 346 Ethan Allen Highway
Ridgefield, NY 06877

DESCRIPTION OF WORK : The proposed work included the following: 1) A six foot board/topper fence to replace existing fencing in rear and north and south sides of property. The bottom portion of the fence to a height of 4'6" is solid. The upper portion of 1'6" is 50% open. 2) A six foot board/topper replacement of the existing fencing transitioning the lower section of the side yard to upper section along the side yard wall. Please note that this transition is a combination of solid and 50% open. 3) All fencing is at least 6 inches inside lot line. 4) All fencing AZEK, a cellular, weather resistant material that is not susceptible to rot, moisture absorption or termites. Please note that the previous fencing material had rotted. 5) The fence was professionally installed by a team at Walpole Outdoors, a 90 year old company specializing in fences and gates.

After the fence was installed per the approved permit and inspection, a violation notice was emailed January 27th, 2022. This application is to request a variance to keep the newly installed fence per the approved fence permit 01/07/2022.

DISAPPROVED March 7, 2022, FOR THE FOLLOWING:

Your revised application for a permit on the above location has been reviewed and a permit may not be issued at this time for the reasons indicated below.

ZONING CODE REVIEW (Section Numbers refer to Village Code of 1981)

Zoning Review - ALT 042-22 Permit submitted 3/3/22

1) Fencing in front yard is required to be 1/2 open. Fence proposed does not comply with "310-10 D. (4) Exceptions to yard requirements. Cornices or cantilevered roofs may project not more than two feet into a required yard. Belt courses, windowsills and other ornamental features may project not more than six inches into a required yard. Fences or walls not over 6 1/2 feet in height may be erected anywhere on the lot, except that any such fence or wall erected in any front yard shall be **not more than 1/2 solid**. Any such fence or wall erected in any front yard of

VILLAGE OF BRONXVILLE
Department of Buildings
200 Pondfield Road
(914) 337-7338
(914) 337-0158 (Fax)

any corner lot shall not obstruct the clear sight triangle at any intersection as provided in § 310-22A of this chapter. Fences or walls with a height in excess of 6 1/2 feet shall conform to requirements set forth herein for buildings. Paved terraces, steps and walks (other than such as are needed for access to the buildings on the lot) shall not project within 15 feet of a street line or four feet of a property line.''

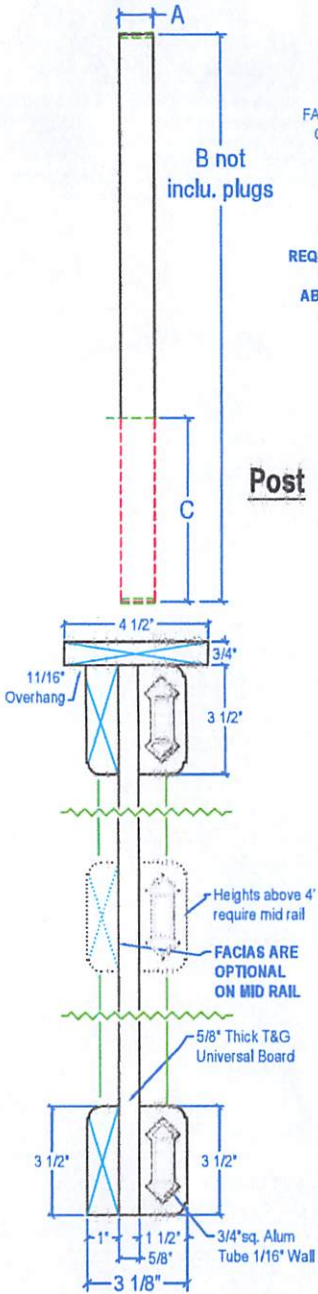
Referral to Village of Bronxville Zoning Board of Appeals is required

This document constitutes a final administrative determination by the Building Inspector denying your application for the reasons set forth above. Section 7-712(a) of the New York State Village Law provides that any appeal of this decision must be filed within 60 days of the date hereof with the Zoning Board of Appeals of the Village of Bronxville.

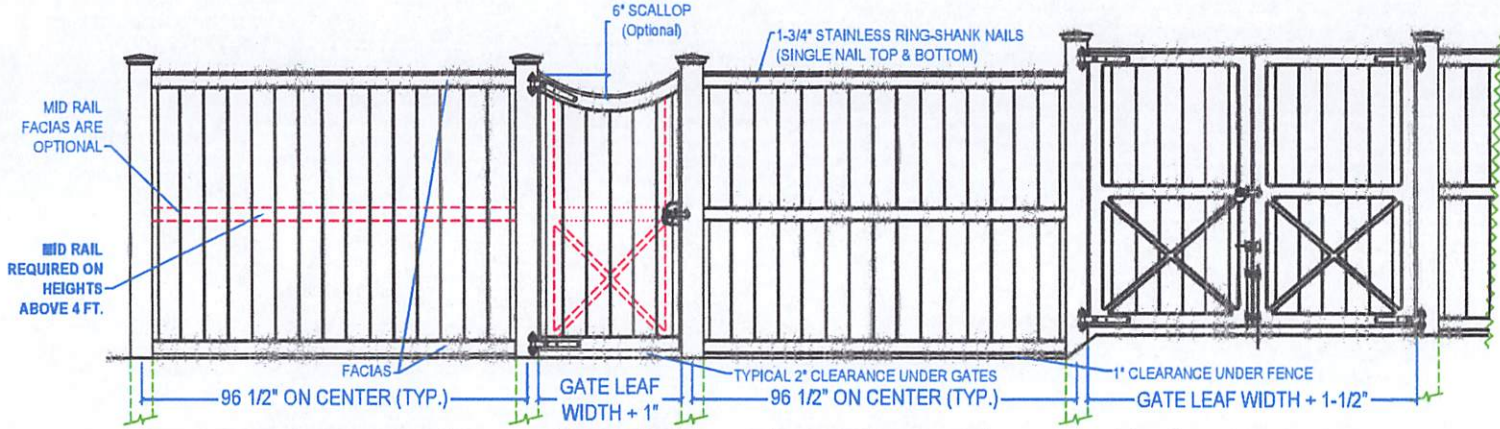


Paul Taft
Building Inspector

CC: Ross, Ashley & Ian

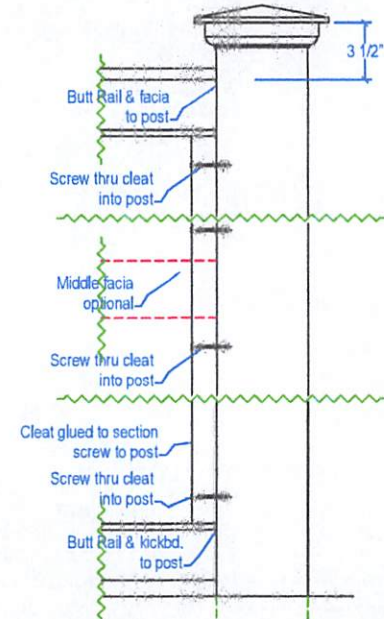


Fence Section View

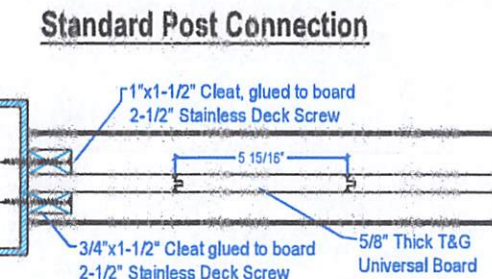
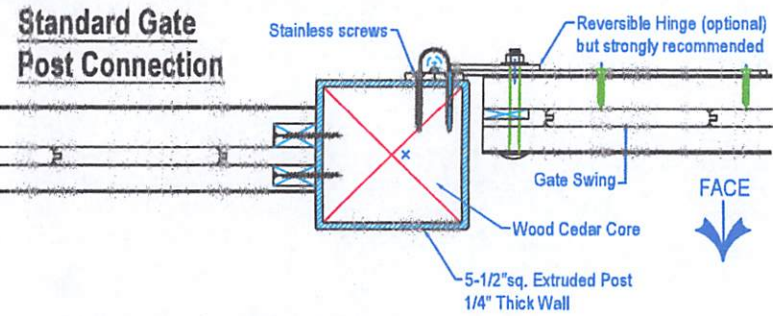


Nominal Width	Section Length	Posts O.C.	Inside Posts
4 ft.	43"	48.5"	43"
6 ft.	67"	72.5"	67"
8 ft.	91"	96.5"	91"
10 ft.	115"	120.5"	115"

Post



Fastening to Post



HEIGHT OF FENCE (FEET) STRAIGHT TOP

	4'	4 1/2'	5'	6'	8'
A	5 1/2	5 1/2	5 1/2	5 1/2	5 1/2
B	84	90	96	108	138
C	31-1/4	31-1/4	31-1/4	31-1/4	37-1/4

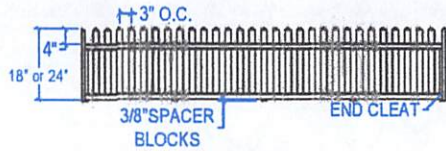
(INCHES)

8' TALL SECTIONS ARE NOT TO BE LONGER THAN 8' WIDE

-- Azek Universal -- 12/17/15

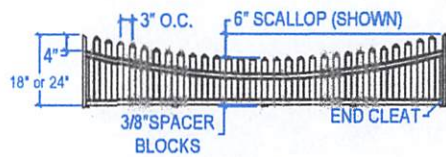


"HIGHLAND TOPPER"

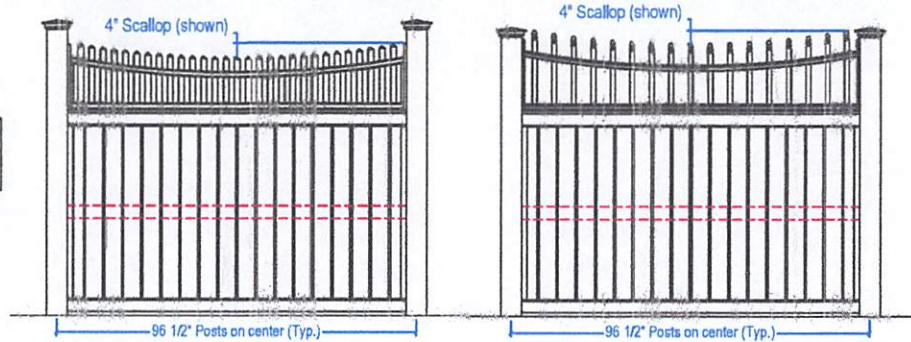
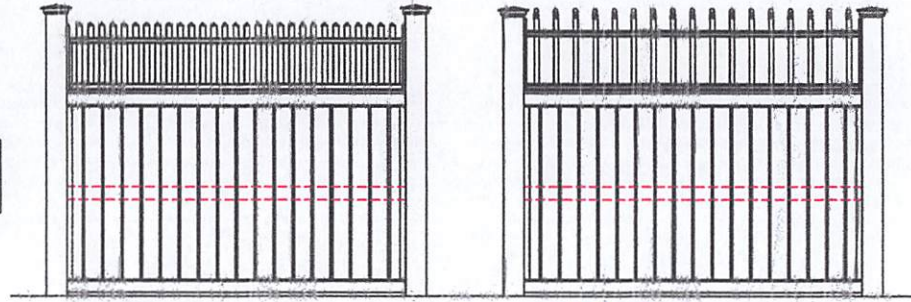


24" Straight Top

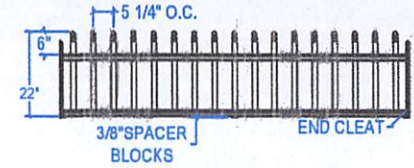
(ALL SCALLOPS ARE OPTIONAL)



24" Scallop Top

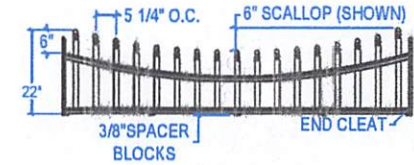


"CAMBRIDGE TOPPER"

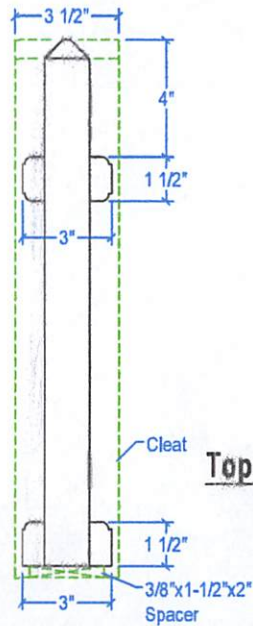


24" Straight Top

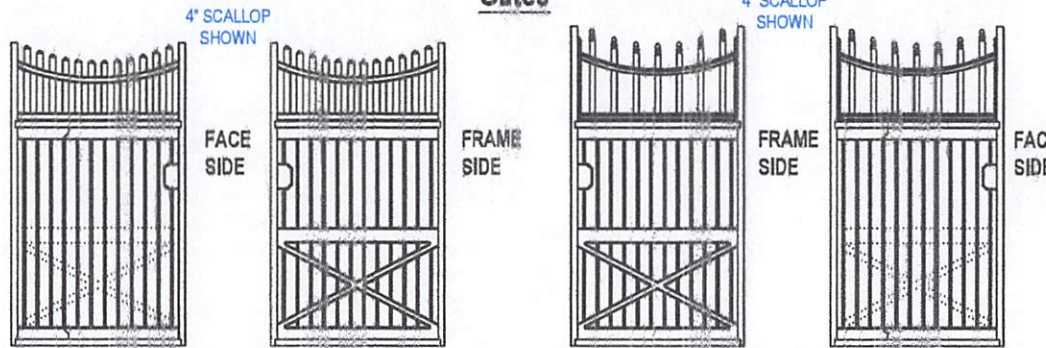
(ALL SCALLOPS ARE OPTIONAL)



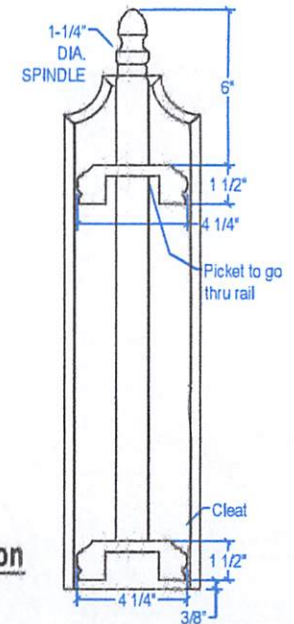
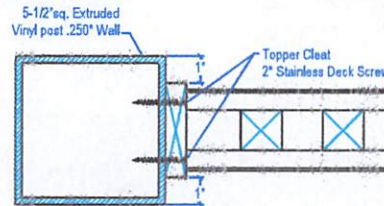
24" Scallop Top



Topper Section View



Standard Post Connection



Topper Section View

-- Azek Cambridge & Highland Topper --

12/21/2015



Photo of
New South Side Fence
115 White Plains Road, Bronxville, New York



Photo of
New North Side Fence
115 White Plains Road, Bronxville, New York

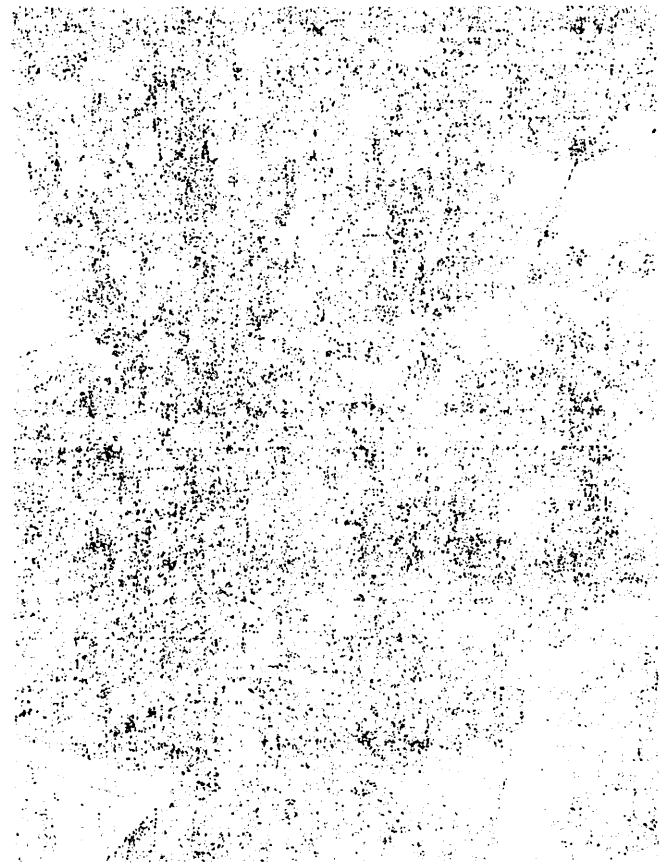
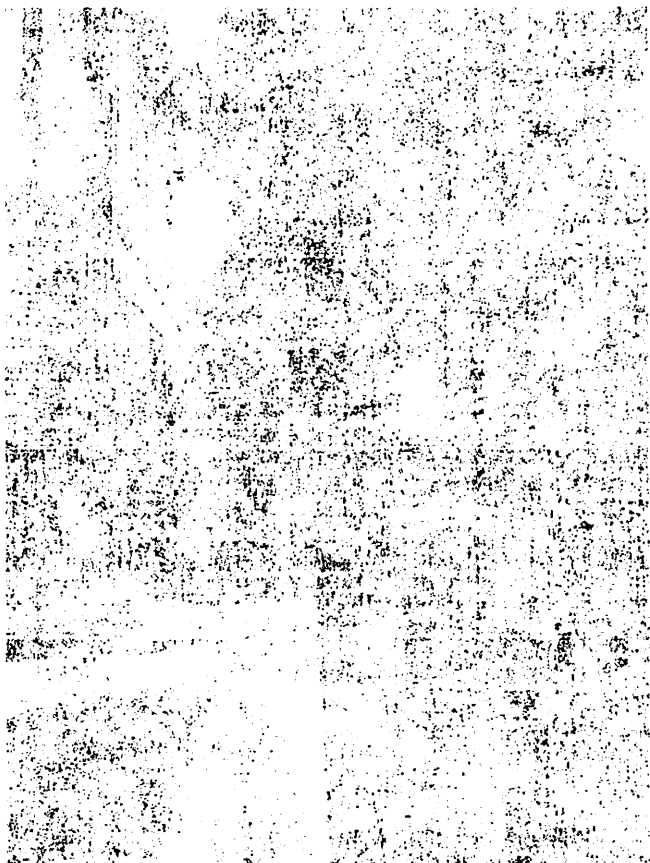
115 WHITE PLAINS RD,
EXISTING FENCE
SOUTH SIDE



THE WHITE PLAINS RD

ENTERING VILLAGE

SOUTH SIDE



115 WHITE PLAINS RD,
EXISTING FENCE
NORTH SIDE



115 WHITE PLAINS RD.
EXISTING FENCE
NORTH SIDE



ville, NY 10708

- Restaurants
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- ATMs



Send to your phone

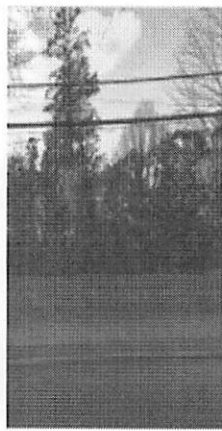
Share

115 White Plains Rd, NY 10708

White Plains Rd

Rd

rt View & 360°



111 White Plains Rd
Bronxville, New York

Google

Street View - Jan 2022



Google

Image capture: Jan 2022 © 2022 Google

80⁺ Walpole Outdoors™
years

Get the best quality and value on your fence project with us. We'll make it happen.

March 15, 2022

Ian and Ashley Ross

115 White Plains Road

Bronxville, NY 107011

Hi Ian and Ashley,

We received your request for a quote on what the cost would be to replace your new (January, 2022) 4 ½' tall Universal Board Fence with a 1 ½' tall Highland Topper (overall height of fence is 6') for the south property line fence and north property line fence starting from the front of the house extending 40 feet towards the road.

The cost to replace that 40' on the front portion of the south fence and 40 feet of the front portion of the north fence with a 6' tall Chestnut Hill Picket Fence (AZEK Fence) would be \$38,788.00. (Our quotes are only guaranteed for 10 days). Walpole can take down and dispose of the existing fence lines, but we will not buy or trade it back. If the existing fence is modified in any way, (Walpole Outdoors does not have the capacity to make modifications) the warrantee on our fence and install is voided.

Best Regards,



Robin Booth

Design Consultant

Walpole Outdoors


**AFFIDAVIT OF MAILING
LEGAL NOTICE**

I hereby swear that the following notice was given by certified mail or registered mail to the property owners listed below, at least ten (10) days prior to the hearing date:

Notice is hereby given that the Zoning Board of appeals of the Village of Bronxville will hold a public meeting at Village Hall, 200 Pondfield Rd, Bronxville on Tuesday evening, April 26, 2022 at 6:30 P.M. to give consideration to the following appeals/variances:

The request of the Ross Residence, property located at 115 White Plains Rd, Bronxville, New York, from a notice by the Building Inspector, for the following Variance: Section 310-10 D (4) - Fencing in front yard is required to be 1/2 open. Fences or walls not over 6 1/2 feet in height may be erected anywhere on the lot, except that any such fence or wall erected in any front yard shall be not more than 1/2 solid...

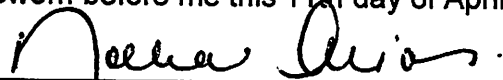
All Zoning Applications can be found on our website www.villageofbronxville.com/zoning-board-of-appeals one week prior to the meeting.



(Applicant Signature)

Ashley Ross by her Attorney, James G. Dibbini, Esq.
(Applicant Print Name)

Sworn before me this 11th day of April, 2022



Notary Public

NOELIA ARIAS
NOTARY PUBLIC, STATE OF NEW YORK
NO. 01AR6425306
QUALIFIED IN BRONX COUNTY
MY COMMISSION EXPIRES NOVEMBER 15, 2025

NOTICE OF PUBLIC HEARING FOR ADJOINING PROPERTIES FOR IN PERSON MEETINGS

NOTICE IS HEREBY GIVEN that a public hearing will be held by the Zoning Board of Appeals of the Village of Bronxville, in the Trustee Chamber/Court Room at 200 Pondfield Road, Bronxville, NY on April 26th, 2022 at 6:30 P.M. to consider and application of Ashley Ross for a zoning variance for property located at 115 White Plains Road, Bronxville, NY Section 17; Block 2; Lot 5, from Section 310-10 D (4) – Fencing in front yard is required to be ½ open. Fences or walls not over 6 ½ feet in height may be erected anywhere on the lot, except that any such fence or wall erected in any front yard shall be not more than ½ solid...

All Zoning Applications can be found on our website
www.villageofbronxville.com/zoning=board-of-appeals one week prior to the meeting.

The public is invited to attend and will be given reasonable opportunity to present oral or written presentations relevant to the application. The hearing may be adjourned from time to time at the discretion of the Zoning Board.

VILLAGE OF BRONXVILLE
Department of Buildings
200 Pondfield Road
(914) 337-7338
(914) 337-0158 (Fax)

PLAN REVIEW COMMENTS

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DATE RECEIVED: March 4, 2022
LOCATION: 115 White Plains Road
SBL: 17./2/5
APPLICANT NAME: Walpole Outdoors, LLC
APPLICANT ADDRESS: 346 Ethan Allen Highway
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Referral to Village of Bronxville Zoning Board of Appeals is required

This document constitutes a final administrative determination by the Building Inspector denying your application for the reasons set forth above. Section 7-712(a) of the New York State Village Law provides that any appeal of this decision must be filed within 60 days of the date hereof with the Zoning Board of Appeals of the Village of Bronxville.



Paul Taft
Building Inspector

CC: Ross, Ashley & Ian

Domestic Mail Only

For delivery information, visit our website at www.usps.com

OFFICIAL USE

Certified Mail Fee
\$

Extra Services & Fees (check box, add fee as appropriate)

Return Receipt (hardcopy) \$

Return Receipt (electronic) \$

Certified Mail Restricted Delivery \$

Adult Signature Required \$

Adult Signature Restricted Delivery \$

Postage
\$

Total F
\$

Sent To
Street
City, S

PS Form 3800, April 2015 PSN 7530-02-000-9047

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Extra Services & Fees (check box, add fee as appropriate)

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OFFICIAL USE

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Extra Services & Fees (check box, add fee as appropriate)

Return Receipt (hardcopy) \$

Return Receipt (electronic) \$

Certified Mail Restricted Delivery \$

Adult Signature Required \$

Adult Signature Restricted Delivery \$

Postage
\$

Total F
\$

Sent To
Street
City, S

PS Form 3800, April 2015 PSN 7530-02-000-9047

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7021 2720 0002 2764 7708

7021 2720 0002 2764 7715

7021 2720 0002 2764 7722

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DOUKAS KONSTANTINOS -
12 GREENFIELD AVE
BRONXVILLE, NY 10708

WORTEL, LIANA -
6 GREENFIELD AVE
BRONXVILLE, NY 10708

MAXEINER J &
A -
111 WHITE PLAINS RD
BRONXVILLE, NY 10708

VERMETTE PETER -
119 WHITE PLAINS RD
BRONXVILLE, NY 10708

CYGANOWSKI D &
K -
1 DUSENBERRY RD
BRONXVILLE, NY 10708

JENKINS DONALD C. -
18 GREENFIELD AVE
BRONXVILLE, NY 10708

7021 2720 0002 2764 3908

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<input type="checkbox"/> Certified Mail Restricted Delivery	\$ _____
<input type="checkbox"/> Adult Signature Required	\$ _____
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GOLIA, LISA -
10 SOUTH RD
BRONXVILLE, NY 10708

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<input type="checkbox"/> Return Receipt (electronic)	\$ _____
<input type="checkbox"/> Certified Mail Restricted Delivery	\$ _____
<input type="checkbox"/> Adult Signature Required	\$ _____
<input type="checkbox"/> Adult Signature Restricted Delivery	\$ _____
Postage	
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Total P	
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MORSER CHRISTOPHER J -
107 WHITE PLAINS RD
BRONXVILLE, NY 10708

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