

RESOLUTION NO.: 90 -2007
INTRODUCED BY: Morgan

**A RESOLUTION GRANTING A VARIANCE FOR THE HEIGHT
OF A FENCE TO BE CONSTRUCTED AT 25105 HIGHLAND
ROAD.**

WHEREAS, Anthony Miceli, owner of the property located at 25105 Highland Road in the City of Richmond Heights, filed an application with the Zoning Board of Appeals (Case No. 752) requesting a variance from Section 1313.02(a) and (b) of the Building Code to permit construction of a six-foot high board-on-board fence in the front yard of a home on a corner lot at said location when only open fences of a maximum height of three feet are permitted in a front yard under said Code section; and

WHEREAS, at its regular meeting on July 11, 2007, the Zoning Board of Appeals considered the aforesaid variance request but the Board failed to make a recommendation on the requested variance due to a tie-vote of 2 to 2 in said Case No. 752; and

WHEREAS, pursuant to Zoning Code Section 1185.08(b)(5), in the event the Zoning Board of Appeals fails to recommend a variance or takes no action, Council may, on the basis of the record in the case and the applicable provisions of the Zoning Code, either deny or grant the requested variance; and

WHEREAS, this Council determines that based upon the record before the Zoning Board of Appeals, the record before this Council's Planning and Zoning Committee, and the recommendation of the Planning and Zoning Committee to grant the aforesaid variance, the requested variance should be granted;

NOW, THEREFORE, be is Resolved by the Council of the City of Richmond Heights, State of Ohio, that:

Section 1. This Council hereby grants the variance request of Anthony Miceli at 25105 Highland Road in the City of Richmond Heights from Building Code Section 1313.02(a) and (b) in order to construct a six foot high board-on-board fence in the front yard property on this corner lot, pursuant to the plan described by the applicant to the Zoning Board of Appeals at its meeting on July 11, 2007, and with the condition that the fence be a minimum of three feet from the inside of the public sidewalk. Council finds their exists a practical difficulty which outweighs the limitations set forth in the Building Code and the granting of the variance is not contrary to the public purpose and intent of

the Building Code and that this particular property is unique due to the unusually wide tree lawns in this area which make up part of the public right-of-way.

Section 2. The Clerk is hereby instructed to mail a copy of this Resolution to the applicant.

Section 3. It is found and determined that all formal actions of the Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council, and that all deliberations of the Council and any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Section 4. This Resolution shall take effect and be in force at the earliest period allowed by law.

PASSED: _____

Daniel J. Ursu, Mayor

APPROVED: _____

ATTEST: _____

Betsy Traben
Clerk of Council

David H. Roche
President of Council