

STAFF REPORT OF THE CITY'S ZONING ADMINISTRATOR
APPLICATION FOR VARIANCE
BZA 25-06-001
Hearing Date: June 26, 2025

LOCATION: **2603 Jefferson Park Avenue**

TAX MAP & PARCEL: **200100000**
APPLICANT: **Theodora Stratos**

ZONING AND USE: **R-B, single family home**

VARIANCE

REQUESTED: Owner requests relief from 34- 2.2.2.B.6 of the Development Code:
Fences located within any front yard can only be four (4) feet tall. A front yard includes all portion of a lot between the street and the primary street lot line. The Applicant would like to erect a six (6) foot tall fence in the front yard for a total variance request of two (2) feet.

Step 1: Is this an actionable request for a Variance?

In considering this request for a variance, the BZA must follow a specific statutory procedure referenced within Virginia Code Sec. 15.2-2309 and City Code 34-5-2-12. The BZA may authorize a variance only from certain types of provisions of the City's zoning ordinance (see definition of "variance", Va. Code §15.2-2201¹). The only zoning ordinance provisions that can be varied are the following:

- A. Shape, size or area of a lot, or
- B. The size, height, area, bulk or location (e.g., setbacks) of a building or structure

Staff note: The variance requested meets the criteria in subsection B.

Step 2: If the application presents a matter that is within the definition of "variance", does evidence support the statutory findings the BZA must make prior to granting a variance?

A. Background

In the former zoning ordinance, there were no restrictions to where a fence could be located or how tall it could be as long as it didn't restrict sight lines for vehicular traffic. In fact there was a very descriptive section of the code that required a site triangle at corners and where road intersected driveways or alleyways. The Development Code, adopted on December 18, 2023 now has limitations on the height and placement of fences placed in residential zoning districts. Fences placed in a front yard are limited to four (4) feet in height. Unaware of the new ordinance, the Applicant paid a fence company to install a fence on the front property line, adjacent to Jefferson Park Avenue. The fence also runs down the property line adjacent to the property at 2607 JPA. Due

¹ Va. Code Sec. 15.2-2201 states that: "'Variance" means, in the application of a zoning ordinance, a reasonable deviation from those provisions regulating the shape, size, or area of a lot or parcel of land or the size, height, area, bulk, or location of a building or structure when the strict application of the ordinance would unreasonably restrict the utilization of the property, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the purpose of the ordinance. It shall not include a change in use, which change shall be accomplished by a rezoning or by a conditional zoning."

to the height and proximity of the fence to the property line, it obscures the site distance for the adjacent neighbor and creates a safety hazard. Section 34-4.8.1.C.2.d states that no wall or fence may interfere with visibility at intersections or driveways. There is no descriptive language calling out a required site triangle as there was in the former code.

Staff inspected the Property and sent a Notice of Violation dated April 24, 2025. The Applicant spoke with Staff about the impact of the noise from the street on her PTSD. The home is located twenty-one (21) feet from Jefferson Park Avenue. There is no sidewalk or grass strip located on this side of the street meaning that passing vehicles impact her home more than properties on the other side of the street where there is a sidewalk. The fence makes the Applicant feel safe by blocking off some of the noise from passing car, buses and fire trucks. Staff suggested that the Applicant seek a variance because of her PTSD diagnosis. A variance is one of two avenues for the Applicant to have a fence taller than 4 feet anywhere within the Front Yard of the Property, as illustrated in the green highlighted portion of the property in the image below. The other option would be to seek a Special Exception from City Council. The Development Code allows City Council to grant a modification of any physical dimensional standard. This process is more lengthy and costly than applying for a variance, which is why Staff suggested that the Applicant apply for a variance instead.



The primary issue with the height and location of the fence is that it blocks visibility for the neighbor when pulling out of the driveway. Seeing approaching vehicles coming from the left (the intersection of JPA and Old Lynchburg Road) is virtually impossible. To illustrate the safety issue, the approaching car in the below image did not come into view until it was only about 30 feet from the driveway and was already traveling at 25 mph. If the fence was a little bit shorter, a driver would be able to see over the corner of the fence.



The Applicant has suggested placing a convex mirror on a pole across from the neighbor's driveway to assist with the mitigation of the blind spot that the fence creates. Unfortunately, the Department of Public Works has noted that they will not allow the placement of the mirror on public property due to liability issues. However, there are no rules that would prevent the Applicant from placing a mirror on private property.

Statutory Requirements:

With respect to variance requests, the burden of proof is on the applicant to prove that his request meets the standard for a "variance", as defined in Va. Code §15.2-2201, and the criteria set forth in Va. Code §15.2-2309(2), see Va. Code 15.2-2309(2).

(1) Va. Code §15.2-2201 (definition of "Variance").

"A variance shall be granted if the evidence shows that... the strict application of the ordinance would unreasonably restrict the utilization of the property, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the purpose of the ordinance....It shall not include a change in use, which change shall be accomplished by a rezoning or by a conditional zoning." ²

(2) Va. Code §15.2-2309(2) (the applicant must prove, by a preponderance of evidence, that his application meets the following standards):

a. The strict application of the terms of the ordinance would unreasonably restrict the utilization of the Property;

and [in order to grant a variance, the BZA must determine that all factors (i)-(v) apply]:

- (i) the property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance;**
Staff note: The Property Owner moved into the home in 2021.
- (ii) the granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;**
Staff note: The Adjacent Neighbor can not see over the fence to look both ways before pulling out into the street with a vehicle. This is the only concern Staff has with granting this variance.
- (iii) the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance;**

² Va. Code §15.2-2201; see also City Code §34-7.2

Staff note: All five residential properties within this block are about the same distance from the road.

- (iv) the granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property;

Staff note: No

and

- (v) at the time of the filing of the variance application, the relief or remedy sought by the variance application is not otherwise available through a special use permit process or a zoning ordinance amendment.

Staff note: The Applicant has the ability to apply for a Special Exemption Permit through City Council. It would take up to 4 months for the Council to hear this request.

a) Per Va. Code §15.2-2309(2)(conditions to mitigate impact of variance):

Should the BZA determine that the applicant has met his burden of proof to establish the need for a variance, then, as part of granting the variance, the BZA may impose such conditions regarding the **location, character, and other features** of the proposed structure or use as it may deem necessary in the public interest and the BZA may require a **guarantee or bond** to ensure that the conditions imposed are being and will continue to be complied with.

A. Suggested Motion(s)

1. If you previously determined that the application presented a proper request for a matter within the definition of a variance, then possible motions include:
 - a. Denial: *"I move to deny Application BZA 25-06-001, because I find that the standards and criteria set forth within Va. Code 15.2-2309(2) are not satisfied.*
 - b. Approval: *"I move to grant a variance as requested in Application BZA 25-06-001, based on a finding that the applicant has established that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance, and meet the hardship factor (i)-(v) detailed in this staff report.*
 - i. If you wish to add conditions to an approval motion, you would also add, at the end of the above-suggested motion: *"And I further move to grant this motion subject to the following conditions: _____ [insert list of conditions].*



BOARD OF ZONING APPEALS PETITION
 Please return to: City of Charlottesville
 Department of Neighborhood Development Services
 PO Box 911, City Hall
 Charlottesville, Virginia 22902
 Telephone (434) 970-3182 Fax (434) 970-3182

Please submit six (6) copies of this application and all attachments. For an appeal, please include \$100 fee. For a variance, please include \$250 fee. Checks payable to the City of Charlottesville. All petitioners must pay \$1.00 per required mail notice to property owners, plus the cost of the required newspaper notice. Applicants will receive an invoice for these notices, and project approval is not final until the invoice has been paid.

Project Name _____
 Physical Street Address/Location 2603 Jefferson Park Avenue Tax Map and Parcel 200100000

A. Information on Property Appealed
 Zoning of Parcel RA

B. Reason for Petition (choose 1, 2 or 3)
 1. ___ Administrative Review (Sec 34-137 of the Zoning Code), the Zoning Administrator has:
 ___ Denied a Building Permit
 ___ Denied a Provisional Use Permit
 ___ Denied a Sign Permit
 ___ Other
 Reasons for denial (City Code Sections): _____

2. Variances (as outlined in Sec 34-136). The petitioner believes a variance should be granted for the following reasons:
 (a) Strict application of the ordinance would produce undue hardship.
 (b) The hardship is not shared generally by other properties in the same zoning district and vicinity.
 (c) The authorization of the variance will not be of substantial detriment to adjacent property, and the character of the district will not be changed by the granting of the variance, and
 (d) The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance.

3. ___ Interpretation Zoning District Boundaries (as outlined in Sec 34-6).

C. Petitioner Information
 Name THEODORA STRATOS
 Address 2603 Jefferson Park Ave.
Charlottesville, VA 22903
 Phone (W) _____ (H) _____
 Email theodorastratos@gmail.com

D. Property Owner Information (if not petitioner)
 Name _____
 Address _____
 Phone (W) _____ (H) _____
 Email _____

E. Attachments to be submitted by Petitioner:
 A map of property showing the location of existing improvements and demonstrating the reason for the petition. The petitioner is also encouraged to provide any additional information, drawings, photographs, etc. that will help the Board understand the reason for the petition.

F. Property Owner Permission (if not petitioner)
 I have read this petition and hereby give my consent to its submission.

Signature of Owner _____ Date _____

G. Petitioner's Signature
 I hereby request that the Board of Zoning Appeals review this petition and that a decision on the above referenced Zoning Code sections be made. (Signature also denotes commitment to pay invoice for required mail notices.)

Theodora Stratos 6 May 2025
 Signature of Petitioner Date





2603

2603

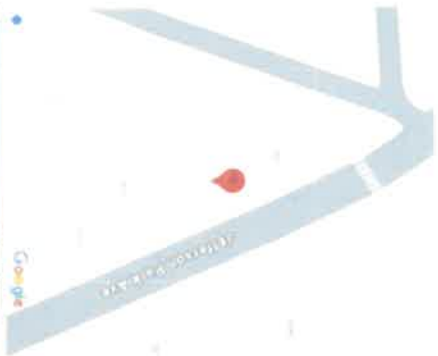


HDR



HDR





2603 Jefferson Park Avenue, Charlottesville, VA

- Potential Driver Safety Option
- Convex Safety Mirror - 26" Acrylic, Outdoor
- Mount to existing Pedestrian Sign



160 Degree



2. VARIANCES (as outlined in Sec 34-136)

Good [morning/afternoon], members of the Board of Zoning Appeals. My name is Theodora Stratos, and I'm the petitioner for 2603 Jefferson Park Ave here in Charlottesville. I'm requesting a variance to maintain my 6-foot privacy fence with lighted historic brick gate posts in my front yard, which exceeds the typical height restrictions. I believe this variance should be granted for the following reasons, and I'll explain how my situation meets the criteria you've outlined.

(a) Strict application of the ordinance would produce undue hardship.

I'm asking for this variance because strict application of the zoning ordinance creates a real hardship for me. I have a PTSD diagnosis and a certified Emotional Support Animal, and my property at 2603 Jefferson Park Ave has some unique challenges that make this fence necessary. My home directly faces Jefferson Park Avenue, a busy and noisy road, with no sidewalk to buffer the traffic. I deal with constant noise from vehicles, including fire trucks from the nearby station on Fontaine Avenue, loud-talking city buses, and even drunk passersby who have wandered onto my property. That noise and lack of privacy trigger my PTSD, and it's been a real struggle to feel safe and secure in my own home. On top of that, there are two permanent power line poles in my front yard, right on the property line, and they can't be moved. That limits my options for other screening or safety measures. This 6-foot fence blocks the noise, keeps people off my property, and gives me and my ESA the safety and peace we need. I also want to mention a serious safety concern: back on March 20, 2022, there was a gang-related shooting across the street at Fry's Spring Beach Club, just 0.3 miles from my home. Two men were injured, and police recovered 120 cartridge casings. That incident really shook me, and while there haven't been any shootings reported in 2025, it's a reminder of why I need this fence to feel safe.

(b) The hardship is not shared generally by other properties in the same zoning district and vicinity. I understand that not every property in this area faces the same challenges I do. My situation is unique because of how my property is positioned right on Jefferson Park Avenue, with no sidewalk and those power line poles I can't move. Add to that the noise from fire trucks, buses, and passersby, and it's a lot for someone with PTSD to handle. Most other properties in the Fry's Spring area don't have this exact combination of issues. Plus, the 2022 shooting at the Beach Club hits closer to home for me—literally—because my house is so close and faces the road. My medical needs and the specific conditions of my property make this hardship unique to me.

(c) The authorization of the variance will not be of substantial detriment to adjacent property, and the character of the district will not be changed by the granting of the variance.

I've taken a lot of care to make sure this fence doesn't harm the neighborhood—in fact, I think it improves it. My fence is 5 feet 8 inches tall, and I've paired it with lighted historic brick gate posts

that I believe add a touch of elegance and history to the area. The wood is ready for staining or painting, which I'll do once it's cured—experts say you should wait at least 6 months to ensure a quality finish, and I want to do this right. I truly believe the fence and gate posts enhance the visual amenity of Fry's Spring, not detract from it. I've also made sure it doesn't cause any safety issues. When I pull out onto Jefferson Park Avenue, I use my safety signal and proceed with caution, and I haven't had any trouble with sightlines. To go even further, I've offered to pay for and apply for a permit to install a 26-inch convex mirror on the street sign for extra visibility. I spoke with Mr. Reed Brodhead about this, and I'm happy to follow through if it helps ease any concerns. The fence doesn't hurt the streetscape—it adds safety and character while fitting in with the neighborhood.

(d) The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance. I don't think my situation is something that would need a broader zoning change. It's really specific to my property at 2603 Jefferson Park Ave—the way it sits on Jefferson Park Avenue, the power line poles, my medical needs with PTSD and my ESA, and the safety concerns tied to the 2022 shooting. This isn't something I see happening across the whole district, so I believe a variance is the best way to address my needs without changing the rules for everyone.

Neighborhood Impact and Variance Support:

I want to give you a bit more context about the 2022 shooting because it's a big part of why I feel so strongly about this fence. On March 20, 2022, at Fry's Spring Beach Club—just 0.3 miles from my house—there was a shooting that left two men injured. It happened after a Peace in the Streets fundraiser, and residents like Tom Bullard thought the gunfire was fireworks at first, but it was automatic weapons and speeding cars. The Beach Club held a board meeting afterward to address safety concerns, which shows how much it rattled our community. Fry's Spring is usually a quiet, UVA-adjacent area, but that incident changed things for a lot of us. For me, living so close and facing the road, it made me feel even more vulnerable. There haven't been any shootings reported in 2025, which I'm grateful for, but the impact of that event still lingers. This 6-foot fence gives me the safety and privacy I need to manage my PTSD and protect my ESA. The quality finish I'll be adding with staining or painting, the historic brick gate posts with lights, and the steps I've taken to ensure visibility—like the convex mirror I've offered to install—all show that I'm committed to being a good neighbor while addressing my needs.

Thank you for listening to my request. I truly believe this variance will allow me to feel safe and secure in my home without causing any harm to the Fry's Spring community. I'm happy to answer any questions you might have.

I'd like to reference examples that I found where variances for 6-foot front yard fences were approved despite a 4-foot height limit, often for reasons like noise, safety, and privacy, which align with my needs.

In Denver, Colorado, in 1998, the zoning board approved a 10-foot front yard fence for a Capitol Hill resident seeking privacy from street noise, despite initial resistance and a 4-foot limit.

In Montgomery County, Maryland, in 2023, a homeowner on a busy road received a variance for a 6-foot front yard fence to address noise and safety concerns, exceeding the typical 4-foot restriction.

In Austin, Texas, a 2019 ordinance permits variances for solid front yard fences up to 8 feet with Board of Adjustment approval, often for privacy and noise reduction near busy streets, similar to my situation on Jefferson Park Avenue with noise from traffic and fire trucks.

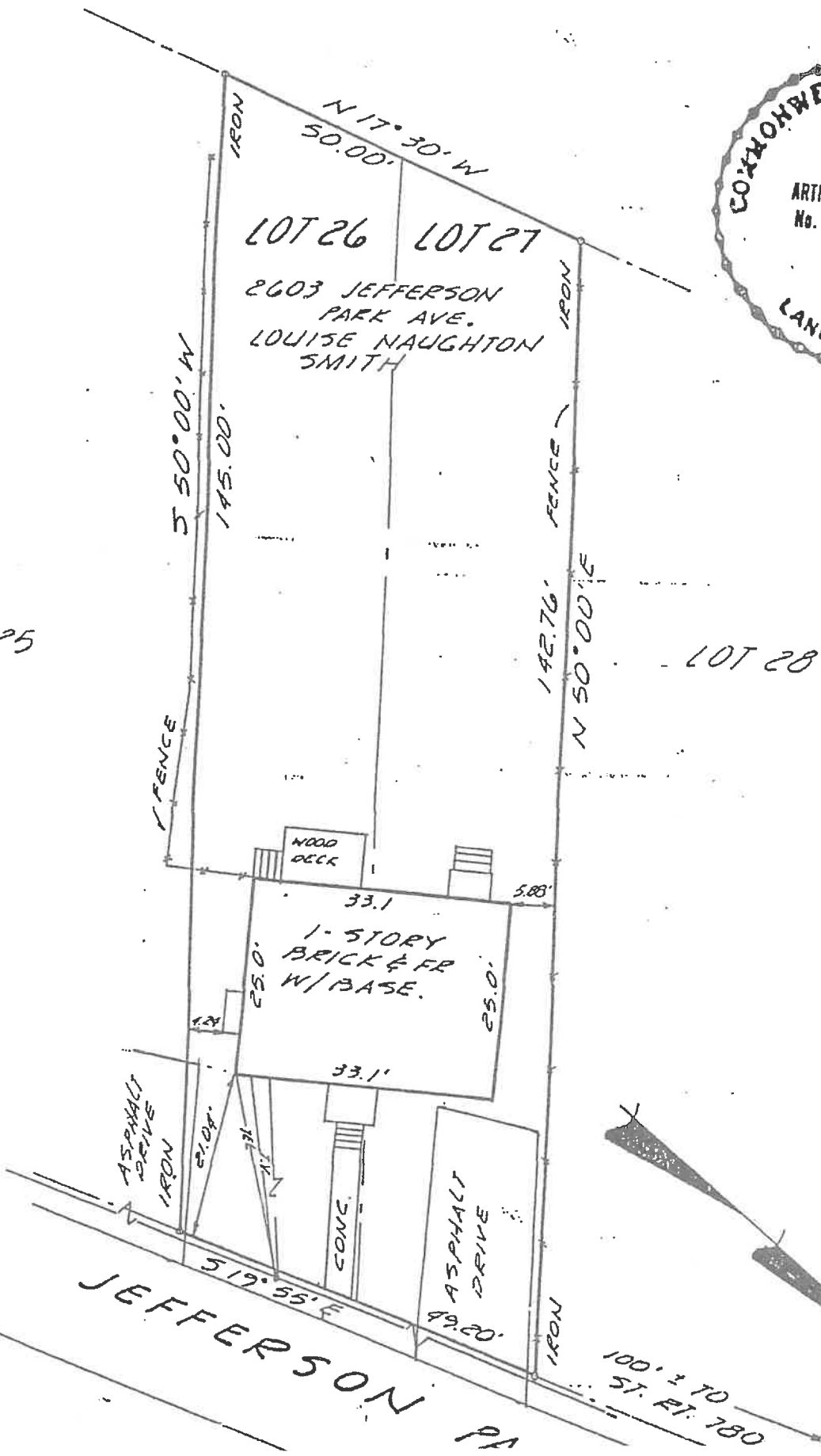
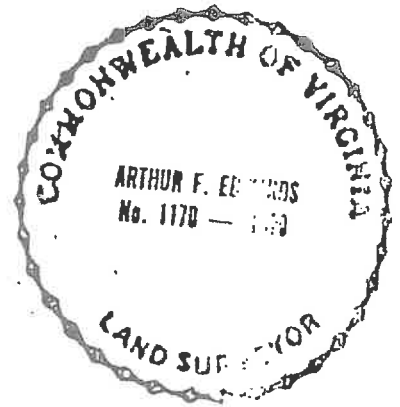
Additionally, in San Antonio, Texas, the zoning code allows 6-foot front yard fences on large lots by special exception, prioritizing safety and privacy, which mirrors my need due to my PTSD and the 2022 shooting nearby.

These cases demonstrate that variances can be granted for such needs, and I hope you'll consider this in my request. Thank you.

This plat, surveyed by Arthur F. Edwards, depicts my property at 2603 Jefferson Park Ave, encompassing Lots 26 and 27, and reveals the close proximity to Jefferson Park Avenue, a busy and noisy thoroughfare in Charlottesville. I purchased the property in August 1999 as Rental Property and made this my personal residence in August of 2021. The front measurements shown here highlight a dire situation, placing the house on Lot 27 alarmingly exposed and close to the busy road.

Together, Lots 26 and 27 form a combined parcel with a frontage of 100.00' along Jefferson Park Avenue, with each lot measuring 50.00' wide at the front. The 1.5-story brick house with a basement, located on Lot 27, is positioned a mere 33.1' from the front property line along Jefferson Park Avenue—an alarmingly shallow setback that places the home in dangerously close proximity to the street. This front measurement of just 33.1' means the house on Lot 27 is practically on top of Jefferson Park Avenue, leaving it perilously exposed to the constant barrage of traffic and noise. The layout shown here paints a stark picture of a home under siege by its proximity to the road, with no meaningful distance to shield it from the street's unrelenting activity.

THOMAS G. Colquhoun
ARTHUR F. EDWARDS



SENTARA BLUE RIDGE INTERNAL MEDICINE
2250 IVY RD
CHARLOTTESVILLE VA 22903-4977
Dept: 434-654-4550
Dept Fax: 844-307-8606

Theodora Stratos
2603 Jefferson Park Ave
Charlottesville VA 22903-4103

5/1/2025

To Whom It May Concern,

Patient suffers from post traumatic stress disorder. In order to manage her symptoms and prevent exacerbation, patient needs to limit exposure to triggers. The noise from the traffic in front of her house is a trigger. She will require a 6 foot privacy fence to reduce the noise to prevent exacerbation and for management of her chronic illness.

Sincerely,

A handwritten signature in black ink, appearing to read "Shifflett, NP". The signature is written in a cursive, flowing style.

Shaela N Shifflett, NP

May 2, 2025

To Whom It May Concern,

I am Dr. Richard Freedman, a licensed veterinarian practicing in the Commonwealth of Virginia. I am writing to confirm that Theodora Stratos, my client, for the past 11 years, has been prescribed an emotional support animal (ESA) to assist in managing her diagnosed post-traumatic stress disorder (PTSD).

Theodora Stratos has a white standard poodle named Stella, under my veterinary care, who serves as her emotional support animal. Stella provides critical therapeutic support by offering companionship, reducing anxiety, and helping to mitigate PTSD symptoms, including hypervigilance and stress triggered by environmental stimuli. This animal's presence is integral to Theodora Stratos' mental health treatment plan, as recommended by their healthcare provider.

To ensure Stella's safety and effectiveness as an ESA, it is necessary for Theodora Stratos to maintain a secure environment that prevents the animal from escaping into potentially hazardous areas, such as busy streets, which could exacerbate their PTSD symptoms. A contained yard is essential to support the therapeutic role of Stella, while ensuring the animal's well-being.

This letter verifies that Stella is a prescribed ESA for Theodora's PTSD management, based on my professional assessment of the animal's health and suitability for this role. Please consider this prescription in any relevant accommodations or requests related to Theodora Stratos' mental health needs.

Should you require further information, I can be reached at 4334-5663436 or Richard.Freedman836@gmail.com

Sincerely,



Dr. Richard Freedman, DVM

Virginia Veterinary License #,0301001710

CITY OF CHARLOTTESVILLE

"A World Class City"

Neighborhood Development Services

610 East Market Street
Charlottesville, VA 22902
Telephone 434-970-3182



April 24, 2025

Theodora Stratos
2603 Jefferson Park Avenue
Charlottesville VA 22903

RE: 2603 Jefferson Park Avenue (TMP 200100000)

To whom it may concern:

During a review of the above-referenced property, the City Zoning Administrator found one or more violations of the Charlottesville Development Code **§2.2.2.B.6**, which regulates fences and walls in the R-A zoning district in the City of Charlottesville.

Violations are outlined in the attached Notice of Violation and Order of Correction. You are advised of the following:

1. The attached Notice of Violation and Order of Correction constitute the determination of the City's Zoning Administrator that one or more violations exist at your property. In accordance with section 5.2.17(B), you have the right to appeal this determination to the Board of Zoning Appeals within thirty (30) days of the date of this letter. If an appeal is not made within this time period, then this determination becomes final.
2. Under Section 5.4.4E(1)(e) of the Charlottesville Development Code, violations of this Section are subject to a civil penalty, resulting in a first-offense fine of \$200.00. The second offense of the same violation results in a fine of \$500. Section 34-5.4.4D(7) of the Development Code provides for civil penalties for each day the violation occurs, with each additional day the violation continues constituting a separate offense and resulting in fines up to \$5,000. **If you are unwilling or unable to work with the City to correct the identified violations, the City may initiate legal proceedings for the purpose of imposing the civil sanctions allowed by law. Your prompt attention to this notice is necessary.**
3. I have scheduled **May 24, 2025** as the re-inspection date for correction of the listed violations.

Sincerely,
Read Brodhead

Zoning Administrator
City of Charlottesville

Attachments: Notice of Violation and Order of Correction

NOTICE OF VIOLATION
ORDER OF CORRECTION

TO: Theodora Stratos
DATE: April 24, 2025
INSPECTOR: Read Brodhead

ADDRESS OF VIOLATION: 2603 Jefferson Park Avenue (TMP 200100000)

VIOLATION of Charlottesville City Code Section 2.2.2.B.6.:

Fences located within a front yard can only be a maximum of 4 feet tall. A front yard includes all portions of a lot between a primary street lot line and a primary structure facing a primary street of line extending the full width of the lot. Any portion of the fence located in the front yard (green shaded area in below picture) is limited to a height of no more than 4 feet.



To correct this Violation for compliance with the Charlottesville City Code, all portions of the fence that were recently installed in the front yard of this property, must be removed so that the maximum height of the fence does not exceed 4 feet.

ORDER: You are hereby ordered to correct the above listed Violations and bring the above-referenced property into full compliance with the Charlottesville City Code §2.2.2.B.6. by **May 24, 2025, which has been designated as your re-inspection date.**