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Doc#: 1230410068 Fee: \$58.00  
Eugene "Gene" Moore  
Cook County Recorder of Deeds  
Date: 10/30/2012 03:30 PM Pg: 1 of 11

## VILLAGE OF LINCOLNWOOD

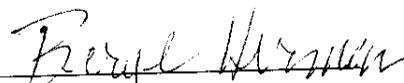
### ORDINANCE NO. 2012-3018

#### AN ORDINANCE GRANTING A VARIATION FOR THE CONSTRUCTION OF A FENCE

(6402 North Kolmar Avenue)

ADOPTED BY THE  
PRESIDENT AND BOARD OF TRUSTEES  
OF THE VILLAGE OF LINCOLNWOOD  
THIS 2<sup>nd</sup> DAY OF OCTOBER, 2012.

Published in pamphlet form  
by the authority of the  
President and Board of Trustees  
of the Village of Lincolnwood,  
Cook County, Illinois this  
2<sup>nd</sup> day of October, 2012

  
Village Clerk

RECORDING FEE 58<sup>00</sup>  
DATE 10/30/2012 COPIES 6  
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## **AN ORDINANCE GRANTING A VARIATION FOR THE CONSTRUCTION OF A FENCE**

(6402 North Kolmar Avenue)

WHEREAS, Darlene Egues ("**Owner**") is the record title owner of that certain property located in the R-2 Residential District ("**R-2 District**"), commonly known as 6402 North Kolmar Avenue, and legally described in **Exhibit A** attached to and, by this reference, made a part of this Ordinance ("**Property**"); and

WHEREAS, the Property is improved with a single-family residential structure; and

WHEREAS, pursuant to Section 3.13(11)(h) of "The Village of Lincolnwood Zoning Ordinance," as amended ("**Zoning Ordinance**"), the maximum height of a fence located in a corner side yard on a property in a residential district is four feet; and

WHEREAS, the Owner desires to construct a five-foot-tall fence in the corner side yard of the Property ("**Proposed Fence**"), in violation of the maximum fence height regulation set forth in Section 3.13(11)(h) of the Zoning Ordinance; and

WHEREAS, in order to construct the Proposed Fence, the Owner has filed an application for a variation from the maximum fence height regulation set forth in Section 3.13(11)(h) of the Zoning Ordinance ("**Requested Variation**"); and

WHEREAS, a public hearing of the Zoning Board of Appeals ("**ZBA**") of the Village of Lincolnwood to consider approval of the Requested Variation was duly advertised in the *Lincolnwood Review* on July 26, 2012, opened on August 15, 2012, and concluded on September 12, 2012;

WHEREAS, on September 12, 2012, the ZBA made findings and recommendations concerning the Requested Variation; and

WHEREAS, the Village President and Board of Trustees have determined that the Requested Variation meets the required standards for variations as set forth in Section 3.11(24) and Article V of the Zoning Ordinance; and

WHEREAS, the Village President and Board of Trustees have determined that it will serve and be in the best interests of the Village to grant the Requested Variation, subject to the conditions, restrictions, and provisions of this Ordinance;

**NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE PRESIDENT AND BOARD OF TRUSTEES OF LINCOLNWOOD, COOK COUNTY, ILLINOIS**, as follows:

SECTION 1. RECITALS. The facts and statements contained in the preamble to this Ordinance are found to be true and correct and are hereby adopted as part of this Ordinance.

SECTION 2. APPROVAL OF REQUESTED VARIATION. In accordance with and pursuant to Section 3.11(24) and Article V of the Zoning Ordinance and the home rule powers of the Village, and subject to, and contingent upon, the conditions, restrictions, and provisions set

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forth in Section Three of this Ordinance, the Village President and Board of Trustees shall, and do hereby, grant a variation from Section 3.13(11)(h) of the Zoning Ordinance to increase the maximum fence height allowed in the corner side yard on the Property, from four feet to five feet, to permit the construction of the Proposed Fence on the Property.

SECTION 3. CONDITIONS. Notwithstanding any use or development right that may be applicable or available pursuant to the provisions of the Zoning Ordinance, the approval granted pursuant to Section Two of this Ordinance shall be, and are hereby, expressly subject to, and contingent upon, the development, use, and maintenance of the Property in compliance with each and all of the following conditions:

- A. Compliance with Regulations. Except to the extent specifically provided otherwise in this Ordinance, the development, use, operation, and maintenance of the Proposed Fence and the Property shall comply at all times with all applicable Village codes and ordinances, as the same have been or may be amended from time to time.
- B. Compliance with Plans. Except for minor changes and site work approved by the Village Zoning Officer or the Village Engineer (for matters within their respective permitting authorities) in accordance with all applicable Village standards, the development, use, operation, and maintenance of the Proposed Fence and the Property shall comply with the Plat of Survey/Site Plan, a copy of which is attached to and, by this reference, made a part of this Ordinance as **Exhibit B ("Plan")**.
- C. Maintenance of Existing Arbor Vitae. All arbor vitae existing on the Property as of the effective date of this Ordinance shall be maintained by the Owner in good condition and at a minimum height of five feet, as long as the Proposed Fence is erected on the Property.
- D. Installation of Proposed Fence. The Proposed Fence shall be installed by a professional contractor with footings sufficient to withstand wind and other inclement weather conditions.
- E. Limitation of Variation. The variation granted in Section Two of this Ordinance shall apply and be limited only to the Proposed Fence, as depicted in the Plan. No future alterations or modifications that are not in conformity with the requirements of the Zoning Ordinance may be made to the Proposed Fence without first obtaining Village approval in accordance with the applicable provisions of the Zoning Ordinance.
- F. Reimbursement of Village Costs. In addition to any other costs, payments, fees, charges, contributions, or dedications required under applicable Village codes, ordinances, resolutions, rules, or regulations, the Owner shall pay to the Village, promptly upon presentation of a written demand or demands therefor, all legal fees, costs, and expenses incurred or accrued in connection with the review, negotiation, preparation, consideration, and review of this Ordinance. Payment of all such fees, costs, and expenses for which demand has been made shall be made by a certified or cashier's check. Further, the Owner shall pay upon demand all

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costs incurred by the Village for publications and recordings required in connection with the aforesaid matters.

**SECTION 4. RECORDATION; BINDING EFFECT.** A copy of this Ordinance shall be recorded with the Cook County Recorder of Deeds. This Ordinance and the privileges, obligations, and provisions contained herein shall inure solely to the benefit of, and be binding upon, the Owner and each of its heirs, representatives, successors, and assigns.

**SECTION 5. FAILURE TO COMPLY WITH CONDITIONS.** Upon the failure or refusal of the Owner to comply with any or all of the conditions, restrictions, or provisions of this Ordinance, as applicable, the variation granted in Section Two of this Ordinance shall, at the sole discretion of the Village President and Board of Trustees, by ordinance duly adopted, be revoked and become null and void; provided, however, that the Village President and Board of Trustees may not so revoke the variation granted in Section Two of this Ordinance unless they shall first provide the Owner with two months advance written notice of the reasons for revocation and an opportunity to be heard at a regular meeting of the Village President and Board of Trustees. In the event of revocation, the development and use of the Property shall be governed solely by the regulations of the R-2 District and the applicable provisions of the Zoning Ordinance, as the same may, from time to time, be amended. Further, in the event of such revocation, the Village Manager and Village Attorney are hereby authorized and directed to bring such zoning enforcement action as may be appropriate under the circumstances.

**SECTION 6. AMENDMENTS.** Any amendments to the variation granted in Section Two of this Ordinance that may be requested by the Owner after the effective date of this Ordinance may be granted only pursuant to the procedures, and subject to the standards and limitations, provided in the Zoning Ordinance.

**SECTION 7. SEVERABILITY.** If any provision of this Ordinance or part thereof is held invalid by a court of competent jurisdiction, the remaining provisions of this Ordinance shall remain in full force and effect, and shall be interpreted, applied, and enforced so as to achieve, as near as may be, the purpose and intent of this Ordinance to the greatest extent permitted by applicable law.

**SECTION 8. EFFECTIVE DATE.**

- A. This Ordinance shall be effective only upon the occurrence of all of the following events:
1. Passage by the Village President and Board of Trustees in the manner required by law;
  2. Publication in pamphlet form in the manner required by law; and
  3. The filing by the Owner with the Village Clerk of an Unconditional Agreement and Consent, in the form of **Exhibit C** attached to and, by this reference, made a part of this Ordinance, to accept and abide by each and all of the terms, conditions, and limitations set forth in this Ordinance and to indemnify the Village for any claims that may arise in connection with the approval of this Ordinance.

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B. In the event the Owner does not file fully executed copies of the Unconditional Agreement and Consent, as required by Section 8.A.3 of this Ordinance, within 30 days after the date of final passage of this Ordinance, the Village President and Board of Trustees shall have the right, in its sole discretion, to declare this Ordinance null and void and of no force or effect.

PASSED this 2<sup>nd</sup> day of October, 2012.

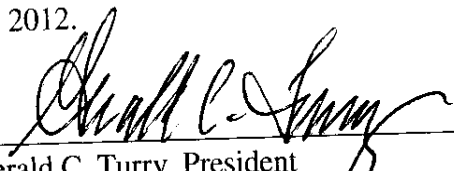
AYES: Trustees Patel, Heidtke, Leftakes, Elster, Sprogis-Marohn, Swanson

NAYS: None

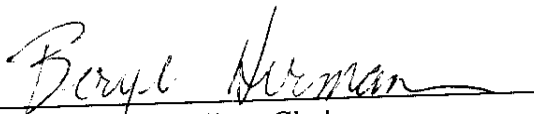
ABSENT: None

ABSTENTION: None

APPROVED by me this 2<sup>nd</sup> day of October, 2012.

  
\_\_\_\_\_  
Gerald C. Turry, President  
Village of Lincolnwood, Cook County, Illinois

ATTESTED and FILED in my office this  
2<sup>nd</sup> day of October, 2012

  
\_\_\_\_\_  
Beryl Herman, Village Clerk  
Village of Lincolnwood, Cook County, Illinois

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## EXHIBIT A

### LEGAL DESCRIPTION OF THE PROPERTY

LOT 8 (EXCEPT THE NORTH 9 FEET 2 INCHES) IN SPORLEDERS KOLMAR TERRACE IN LINCOLNWOOD BEING A SUBDIVISION OF THE EAST HALF OF THE WEST HALF OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER FO THE SOUTHWEST QUARTER OF SECTION 34, TOWNSHIP 41 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

Commonly known as: 6402 North Kolmar Avenue, Lincolnwood, Illinois.

PIN: 10 34-328-030-0000

Property of Cook County Clerk's Office

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## EXHIBIT B

### PLAN

Property of Cook County Clerk's Office

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## EXHIBIT C

### UNCONDITIONAL AGREEMENT AND CONSENT

TO: The Village of Lincolnwood, Illinois ("**Village**");

**WHEREAS**, Darlene Egues ("**Owner**") is the record title owner of that certain property located in the R-2 Residential District, commonly known as 6402 North Kolmar Avenue, in the Village ("**Property**"); and

**WHEREAS**, Ordinance No. 2012-3018, adopted by the Village President and Board of Trustees on October 2, 2012 ("**Ordinance**"), grants a variation from "The Village of Lincolnwood Zoning Ordinance" to permit the construction of a fence on the Property; and

**WHEREAS**, Section Eight of the Ordinance provides, among other things, that the Ordinance will be of no force or effect unless and until the Owner shall have filed, within 30 days following the passage of the Ordinance, its unconditional agreement and consent to accept and abide by each and all of the terms, conditions, and limitations set forth in the Ordinance;

**NOW, THEREFORE**, the Owner does hereby agree and covenant as follows:

1. The Owner shall, and does hereby, unconditionally agree to, accept, consent to, and abide by each and all of the terms, conditions, limitations, restrictions, and provisions of the Ordinance.
2. The Owner acknowledges that public notices and hearings have been properly given and held with respect to the adoption of the Ordinance, has considered the possibility of the revocation provided for in the Ordinance, and agrees not to challenge any such revocation on the grounds of any procedural infirmity or a denial of any procedural right.
3. The Owner acknowledges and agrees that the Village is not and shall not be, in any way, liable for any damages or injuries that may be sustained as a result of the Village's granting of a variation for the Property or its adoption of the Ordinance, and that the Village's approvals do not, and shall not, in any way, be deemed to insure the Owner against damage or injury of any kind and at any time.



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4. The Owner shall, and does hereby agree to, hold harmless and indemnify the Village, the Village's corporate authorities, and all Village elected and appointed officials, officers, employees, agents, representatives, and attorneys, from any and all claims that may, at any time, be asserted against any of such parties in connection with the Village's adoption of the Ordinance granting the variation for the Property.

Dated: 10/12/12, 2012

**DARLENE EGUES**

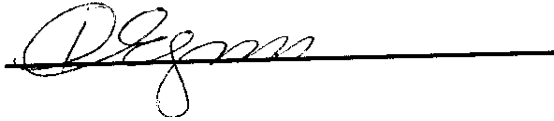


Exhibit C

Property of Cook County Clerk's Office

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# **EXHIBIT**

## **ATTACHED TO**

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Eugene "Gene" Moore  
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*1 Double  
10 pages*

## **DOCUMENT**

# **SEE PLAT INDEX**

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