

**LAND USE PLANNING BOARD OF THE
TOWNSHIP OF EASTAMPTON**

RESOLUTION #19 - 2022

**ON THE APPLICATION OF ALEXANDER SZELESTEY
GRANTING BULK VARIANCES TO CONSTRUCT A
CONNECTING FENCE ON BLOCK 1001.08, LOT 3 (6 KENT
COURT)**

WHEREAS, Alexander Szelestey ("Applicant"), the owner of Block 1001.08, Lot 3, known as 6 Kent Court ("Property"), has applied to the Land Use Planning Board ("Board") for variances from Eastampton Code §§ 540-56E(1) and 540-56E(2) to permit the construction of a fence to enclose his Property by connecting it to existing fences on adjacent lots; and

WHEREAS, the Property is located on the corner of Knightsbridge and Powell Roads; and

WHEREAS, the Applicant gave notice of a hearing before the Board to be held on October 19, 2022, and on said date the Applicant appeared and provided a survey of the Property dated July 6, 2022, prepared by Harold J. Bozarth, Jr. PLS, showing the proposed fence line, along with pictures of the fences located on the adjacent properties, and testified pursuant to oath as follows:

1. The Property is a corner lot. Each of the neighboring properties has a fence which is located in an undefined buffer area, and there is no buffer easement set forth in the deed to the Property.

2. He has three children and his wife is pregnant. He wishes to construct the fence for the safety of his family as the Property has frontage on both Knightsbridge and Powell Roads.
3. He has cleared the yard of shrubbery in preparation of constructing the fence.
4. It is his intention to construct a five-foot fence. He believes that there is sufficient sight distance.
5. The application of the minimum fence setback and maximum fence height regulations impose an exceptional and undue hardship by reason of the location of the Property as it is a corner lot; and

WHEREAS, the Board Planner, Mark A. Remsa, PP, LLA, AICP, ASLA, issued a report dated October 13, 2022, which included numerous photographs, wherein he described the Property as follows:

The subject property, which is situated in the western portion of Eastampton Township and contains 20,160.542 square feet, is located at the southern end of Kent Court at the western side of a cul-de-sac where the existing dwelling gains access. The western and southern portions of the property have double-frontages that function as the rear yard along Knightsbridge Road and Powell Road, respectively. A detached, single-family dwelling that faces Kent Court, a patio in the rear of the house, and shed in the northern portion of lot occupy the property. Detached, single family dwellings surround the property. The property is situated within the RM Residential Medium Density zoning district. A 20-foot wide "buffer area" extends along the Knightsbridge Road frontage of the property, and a wider "buffer area" traverses diagonally across the property's

frontage at the intersection of Knightsbridge Road and Powell Road. Existing wooden fences exist along the northern and southeastern property lines. The northern fence terminates within the "buffer area" near the Knightsbridge Road right-of-way. The southeastern fence ends a few feet within the "buffer area;" and

WHEREAS, Board Planner Remsa noted that the Applicant proposed "to erect approximately 223 linear feet" of fence "in the 'buffer area' along both road frontages that would connect to existing fences along the respective northern and southeastern property lines; almost 31 linear feet of the fence from the existing dwelling to a wooden fence that exists along the northern property line; and approximately 35.5 linear feet of the fence from existing dwelling to the wooden fence that exists along the southeastern to enclose the 'rear yard' of the property;" and

WHEREAS, Mr. Remsa noted that the variances were from Code § 540-56E(1) to permit a minimum fence setback of seven (7) feet to the right of way and from Code § 540-56E(2) to permit a maximum fence height of six (6) feet; and

WHEREAS, there was discussion as to whether the Board had jurisdiction to grant the requested relief as Ordinance No. 1986-7, which is no longer in effect, had provided that "[n]o subdivision showing reserve or buffer strips controlling access to street shall be approved, unless such strips are dedicated or reserved for public use by deed covenants or agreements

which subject their control to the Township under conditions approved by the Township Solicitor;" and

WHEREAS, the Board Attorney questioned whether jurisdiction was an issue as there was no evidence that the buffer area had been dedicated to the Township or reserved by deed covenants or agreements that had been approved by the Township Solicitor, and therefore was directed to request an opinion from the Township Attorney as to whether Township Council had jurisdiction; and

WHEREAS, additionally Mr. Remsa recommended that the fence have an opening along Knightsbridge Road for maintenance purposes and be located so as to preserve trees; and

WHEREAS, the hearing was opened to the public and both Nicholas Bonner and Dan and Vicki Pszonka spoke in favor of the application, and there being no further public comment, the hearing was closed.

NOW THEREFORE BE IT RESOLVED by the Land Use Planning Board of the Township of Eastampton as follows:

1. The above preamble clauses are adopted as the findings of fact and conclusions of law.
2. The Board incorporates herein the October 13, 2022 report prepared by Board Planner Mark A. Remsa, PP, LLA, AICP, ASLA.
3. The Board grants variances from Eastampton Zoning Code §§ 540-56E(1) and 540-56E(2) to permit the fence to be located seven (7) feet to

the right-of-way and to have a maximum height of six (6) feet subject to the conditions set forth hereinafter.

The variances are granted pursuant to N.J.S.A. 40:55D-70c(1)(c) by reason of the extraordinary and exceptional situation uniquely affecting the Property due to it being a corner lot with double frontages making it impossible to construct a fence which would conform with the development regulations, and without the requested relief the Applicant would suffer an exceptional and undue hardship by being unable to build a fence.

The variances can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance as fences are permitted in the zone, and the location of the fence must be approved by the Board Planner and Engineer to preserve the existing tree line and to assure that there is adequate sight distance.

4. It is a condition of this approval that the fence permit application be reviewed and approved by the Board Engineer and that the fence permit application, with the Engineer's approval letter, be attached to this resolution.

5. It is a further condition of this approval that the detail of the fence be approved by the Board Planner and that the fence shall be no higher than the height of the fence that exists on Lot 2 which abuts the Property to the north.

6. It is a further condition of this approval that the location of the fence to be located east of the line of trees along Knightsbridge Road and north of the existing trees along Powell Road be approved by the Board Planner.


7. The Board Attorney is directed to inform the Township Attorney of the jurisdictional concern regarding the Township interest in the undedicated and unrecorded buffer areas.

Members voting in favor of granting the variances on October 19, 2022: Vice-chairperson Adams, Bayles, Capocci, Chieco, Maluchnik, Chairperson Rodriguez, Councilman Santillo, Councilman Springer and Township Manager White.

Members voting in favor of adopting this resolution of memorialization on December 8, 2022: Vice-chairperson Adams, Bayles, Chieco, Councilman Santillo, Councilman Springer and Township Manager White.

The foregoing is a true copy of a resolution adopted by the Land Use Planning Board of the Township of Eastampton at its meeting held on December 8, 2022, memorializing action taken at its meeting held on October 19, 2022.

LAND USE PLANNING BOARD OF
THE TOWNSHIP OF EASTAMPTON


KIM-MARIE WHITE
Land Use Administrator