#2024-193
101 W. Terra Cotta Ave (Lee Jensen) – Variation
Project Review for Planning and Zoning Commission

Meeting Date:	December 4, 2024
Request:	A variation from Articles 3-300B.3a and 4-700B.3 to allow a six-foot fence to encroach 25 feet into the 40-foot front yard setback.
Location:	101 W. Terra Cotta Ave.
Existing Zoning:	M – Manufacturing
Surrounding Properties:	North: M – Manufacturing & B-2 General Commercial South: M – Manufacturing East: M – Manufacturing West: R-3B – Multi-Family Residential
Staff Contact:	Elizabeth Maxwell (815.356.3738)

Background:

- Existing Use: The subject property is an industrial building with outdoor storage.
- UDO Requirements: Properties along Route 176 (Terra Cotta Avenue) are subject to increased setback requirements. Therefore, the setback requirement for a six-foot fence is 40 feet.

Development Analysis:

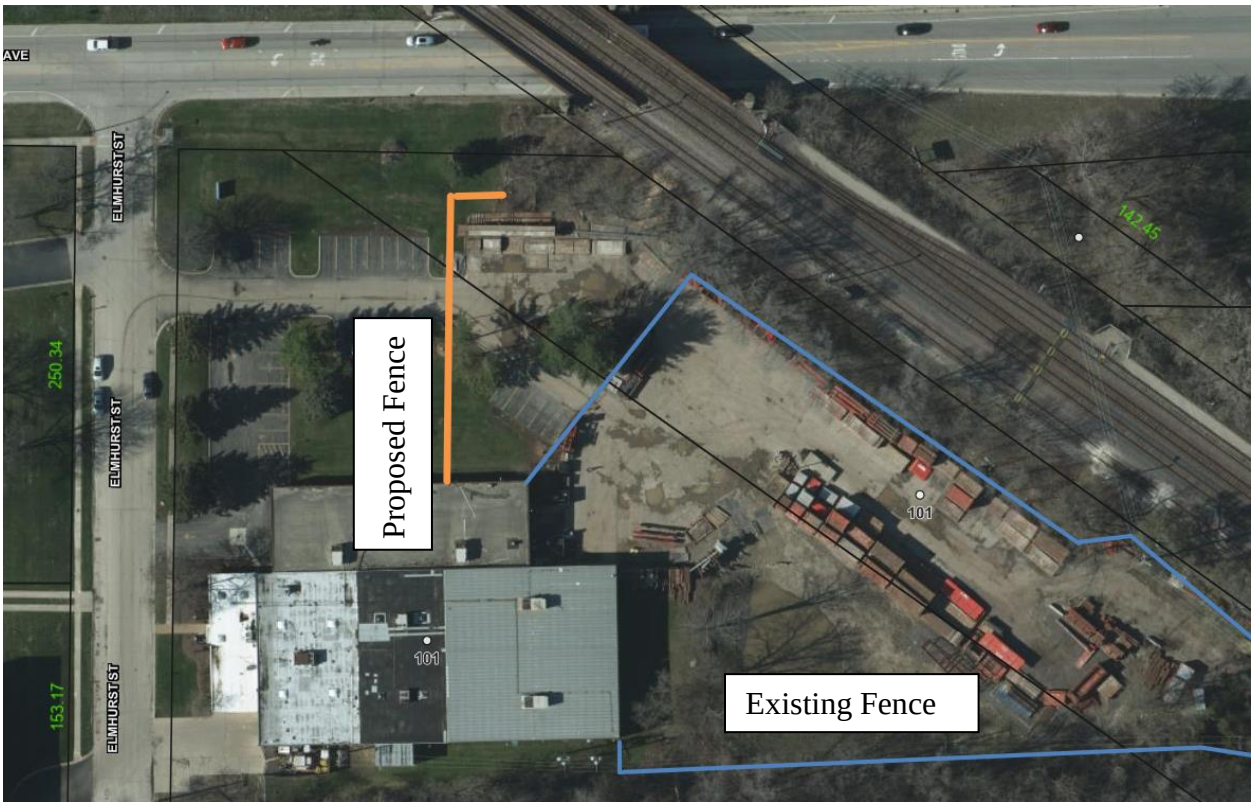
General:

- Request: The petitioner is requesting a variation to allow a six-foot fence to encroach 25 feet into the 40-foot front yard setback.
- Land Use: The Comprehensive Land Use map shows the area as Industry, which is an appropriate land use designation.
- Zoning: The site is zoned Manufacturing.

Request Overview:

- The petitioner is requesting a variation to allow a six-foot fence to encroach 25 feet into the 40-foot front yard setback.
- There is an existing chain link fence around the outdoor storage area for the property. The new fence would extend the existing fence.

- The proposed fence would be approximately 60 feet from the back of curb of Route 176.
- There is existing vegetation along the railroad tracks that screens the area.



Comprehensive Land Use Plan 2030 Vision Summary Review:

The Comprehensive Plan designates the subject property as Industry, which allows for existing and future manufacturing and commercial recreation uses. The following goals are applicable to this request:

Land Use – Industry

Goal: Support manufacturing uses within the community which contribute to the regional and local economy and Crystal Lake's live, work, play philosophy.

This can be accomplished with the following supporting actions:

Supporting Action: Expand and attract manufacturing users which provide jobs, services, and products strengthening the City's economy.

Economic Development – Attract and Retain Businesses

Goal: Establish marketing efforts to attract and retain businesses throughout the City.

This can be accomplished with the following supporting actions:

Supporting Action: Continue to solicit businesses in the City's strongest growth sectors.

Findings of Fact:

ZONING ORDINANCE VARIATION

The petitioner is requesting a variation from Articles 3-300B.3a and 4-700B.3 to allow a six-foot fence to encroach 25 feet into the 40-foot front yard setback.

The Unified Development Ordinance lists specific standards for the review and approval of a variation. The granting of a variation rests upon the applicant proving practical difficulty or hardship caused by the Ordinance requirements as they relate to the property.

To be considered a zoning hardship, the specific zoning requirements; setbacks, lot width and lot area must create a unique situation on this property. It is the responsibility of the petitioner to prove hardship at the Planning and Zoning Commission public hearing.

Standards

When evidence in a specific case shows conclusively that literal enforcement of any provision of this Ordinance would result in a practical difficulty or particular hardship because:

a. The plight of the property owner is due to unique circumstances, such as, unusual surroundings or conditions of the property involved, or by reason of exceptional narrowness, shallowness or shape of a zoning lot, or because of unique topography, or underground conditions.

☐ *Meets* ☐ *Does not meet*

b. Also, that the variation, if granted, will not alter the essential character of the locality.

☐ *Meets* ☐ *Does not meet*

For the purposes of supplementing the above standards, the Commission may take into consideration the extent to which the following facts favorable to the application have been established by the evidence presented at the public hearing:

a. That the conditions upon which the application for variation is based would not be applicable generally to other property within the same zoning classification;

☐ *Meets* ☐ *Does not meet*

b. That the alleged difficulty or hardship has not been created by any person presently having interest in the property;

☐ *Meets* ☐ *Does not meet*

c. That the granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located; or

☐ *Meets* ☐ *Does not meet*

d. That the proposed variation will not impair an adequate supply of light or air to

adjacent property, will not unreasonably diminish or impair the property values of adjacent property, will not unreasonably increase congestion in the public streets, substantially increase the danger of fire or otherwise endanger public safety.

☐ *Meets* ☐ *Does not meet*

Where the evidence is not found to justify such conditions, that fact shall be reported to the City Council with a recommendation that the variation be denied.

Recommended Conditions:

If a motion to recommend approval of the petitioner's request is made, the following conditions are recommended:

1. Approved plans, reflecting staff and advisory board recommendations, as approved by the City Council:
   A. Application (Jensen, dated 10/09/2024)
   B. Plat of Survey with mark-up (Received 10/22/2024)

2. The proposed fencing will include a fabric lining where landscaping is not present to screen the outdoor storage area.

3. The petitioner shall address all of the review comments and requirements of the Public Works and Engineering and Community Development Departments.

PIQ

101 W. Terra Cotta Ave



City of Crystal Lake
Development Application
Ownership Sign-off Acknowledgement Form

The following information is related to a development application. As the owner of the property in question, I (we) acknowledge that the information provided in the submittal was reviewed and approved.

Owner Information

Name: Christine Jensen

Address: 101 W. Terra Cotta Avenue Crystal Lake, IL 60014

Phone: 815-459-0929

E-mail: enystrom@leejensensales.com

Project Name & Description: 6' Fence installation attached to locking gate on Lot 1 - 14-32-402-002

6' Fence to extend from the gate 35' north, cornering 90 degrees and extending 33' east to edge of woods. The fence would be situated 60' from edge of Route 176 and 15' in from the lot line.

Project Address/Location: 101 W. Terra Cotta Avenue Crystal Lake IL 60014

Signature

CHRISTINE L. JENSEN Christine Jensen 10-9-24

Owner: Print and Sign name Date

NOTE: If the property is held in a trust, the trust officer must sign this petition as owner. In addition, the trust officer must provide a letter that names all beneficiaries of the trust.

City of Crystal Lake
Development Application

Office Use Only
File # _____

Project Title: Lee Jensen Sales Company, Inc. fence project

Action Requested

__ Annexation	__ Preliminary PUD
__ Comprehensive Plan Amendment	__ Preliminary Plat of Subdivision
__ Conceptual PUD Review	__ Rezoning
__ Final PUD	X Special Use Permit
__ Final PUD Amendment	X Variation
__ Final Plat of Subdivision	__ Other

Petitioner Information

Name: Eric Nystrom - Lee Jensen Sales Company
Address: 101 W. Terra Cotta Avenue
Crystal Lake, IL 60014
Phone: 815-459-0929
Fax: 815-459-6458
E-mail: enystrom@leejensensales.com

Owner Information (if different)

Name: Christine Jensen
Address: 101 W. Terra Cotta Ave.
Crystal Lake, IL 60014
Phone: 815-459-0929
Fax: 815-459-6458
E-mail: enystrom@leejensensales.com

Property Information

Project Description: 6' Fence installation attached to locking gate on Lot 1 - 14-32-402-002
6' Fence to extend from the gate 35' north, cornering 90 degrees and extending 33' east to edge of woods. The fence would be situated 60' from edge of Route 176 and 15' in from the lot line. A variance to the existing code would be required to properly secure the site from frequent trespassers. Also our site can be classified as an attractive nuisance for children as it features many conditions that may attract children and pose a danger to them. See supporting documents and photos.

Project Address/Location: 101 W. Terra Cotta Avenue Crystal Lake IL

PIN Number(s): Lot 1 - 14-32-402-002

Development Team

Please include address, phone, fax and e-mail

Developer: _____

Architect: _____

Attorney: _____

Engineer: _____

Landscape Architect: Northwest Cedar Products northwestcedarproducts@gmail.com or 815-688-6697

Planner: _____

Surveyor: _____

Other: _____

Signatures

_____ 10/9/2024

PETITIONER: Print and Sign name (*if different from owner*) **Date**

As owner of the property in question, I hereby authorize the seeking of the above requested action.

CHRISTINE L JENSEN _____ 10-9-24

OWNER: Print and Sign name **Date**

NOTE: If the property is held in trust, the trust officer must sign this petition as owner. In addition, the trust officer must provide a letter that names all beneficiaries of the trust.

Good afternoon,

We respectfully request a variance to the code that requires fencing to be only 3' tall and that fencing be 30' from the lot line on the north side of the property. We wish to install a 6-foot chain link fence from the corners of the gate that crosses our lot extending south to the building wall and north 35' from the gate, 15' off the lot line. Then cornering 90 degrees and extending 33' east to where the woods begin to house our construction equipment and deter trespassing *(see example photo 1)*. We would like to do this for the following reasons:

1. Our site can be considered an attractive nuisance as it features conditions that might attract children and pose a danger to them. This doctrine acknowledges that trespassing children may be enticed by construction equipment with safety hazards because they lack the judgement to comprehend the inherent risks. Our company could be held liable for the safety of trespassing children *(see documents 1 and 2)*. We have large steel beams and metal plates they could climb on, trucks, a forklift, and flammable chemicals including a diesel fuel pump. We also have a retention pond that a child could drown in. A six-foot fence with a locked gate housing our equipment would deter children from trespassing and protect them from harm.

2. Falls and accidental impacts are the leading cause of injury in children. The top 5 causes and risk factors associated with childhood injuries are listed as: *(see document 5)*
    1. Single Parent Households
    2. Low Socioeconomic Status
    3. Unsafe Environments (like our site)
    4. Lack of Parental Supervision
    5. Age, Race and Gender of child

    The apartments across the street from our site are classified as low-income housing. These apartments have many single parent families of various minority races living there. We often see unattended children and teens playing in the streets and cutting through our lot. Our site has many things a child could fall from or on, run into, get trapped in or under, or cut themselves on.

3. Objects on our site can cause injury to all age trespassers from 3 of the top "fatal four" accidents that happen on construction sites including: #1 Falls, #2 Being struck by an object in the yard, and #4 Getting caught in, under, or between objects in our yard. While we may not be liable for trespassing adults, we are liable for the children, and we do have a moral obligation to our community to protect our neighbors from harm. *(see document 3)*.

4. A six-foot-high fence with signage is repeatedly recommended to deter trespassers from construction areas and protect trespassers, especially children, from harm *(see documents -4)*.

5. Our site is frequently trespassed by adults living in the housing across the street. They have stolen our property, and frequently use our site as a place to drink alcohol and do drugs. We find empty alcohol containers, needles, spoons, and various used drug paraphernalia in our lot and under our trees regularly. This activity poses a safety hazard to our staff as well as the aforementioned children that can see our site as a playground. A six-foot fence would deter all trespassers from illegal activity on our site and keep our staff, our property, and our neighbors safer *(see attached photos)*.

Regards,
Eric Nystrom, Operations Manager
Lee Jensen Sales Company, Inc.
101 W. Terra Cotta Ave. Crystal Lake, IL 60014 (815) 459-0929

Document 1

In the know

SCHILL INSURANCE

CONSTRUCTION SITES & ATTRACTIVE NUISANCES

Attractive nuisances are man-made conditions on your property, vacant site or active site that draw trespassers after hours. If children trespass onsite due to these conditions, the general contractor on the site can be held liable for any injuries they sustain.

Construction sites have an abundance of attractive nuisance hazards, especially for children, including unstable walls and surfaces to climb, heavy equipment to play on and man-made ditches that could present a falling hazard. You have the power to prevent – or attempt to prevent – entrance onto your property and discourage young trespassers from getting hurt.

If you have any reason to believe that children might trespass onto your construction site, treat the problem with the highest gravity. Doing nothing to prevent the entry or injury of trespassers creates a serious risk for anyone that may enter and liability for your company.

Liability of the Owner

Even though you may not own the property, if you are working on a site, you are responsible for taking steps to ensure that anyone who enters, whether welcome or unwelcome, stays safe from injury. While warning signs are an excellent start, many children may not be able to read them, so it is important to find additional ways of protecting your worksite. Ensure that gates are secured and fences cannot be climbed easily. Adequately cover or protect any ditches, walls or other man-made physical features that might present a hazard. Your plan to protect from injury may also consist of placing sturdy fencing around hazardous areas and placing warning or "No Trespassing" signs. In addition, all safety equipment, such as hard hats, respirators and safety clothing, should be stored and locked at the end of each shift to avoid trespasser tampering.

Hazards abound for children trespassing on construction sites. You are responsible for taking steps to protect visitors from injury.

Keeping Up the Premises

Contractors are also liable for the maintenance and security that the property needs so that it remains safe for all visitors. This includes the following:

- Fixing cracks or gaps in walkways to avoid slip and fall dangers.
- Locking all tools, equipment and chemicals away from the public.
- Ensuring that employees can conduct work duties without the risk of injury.
- Hanging flood lights in areas with low visibility.
- Taking steps to install wireless electronic alarms or security doors and screens.
- Installing rescue equipment.

In attractive nuisance cases, negligence means that the contractor was aware that someone could be injured on the property and did nothing to prevent it. If you take all necessary precautions to prevent injury on site, you are less likely to be found negligent in an occupiers liability suit.

Document 2

When can you be sued for child injuries at your construction site?

On Behalf of Holden P.C. | Jul 15, 2024 | Premises & Product Liability

If you are a property owner of an ongoing construction project, you are likely aware that construction sites are inherently risky environments. The presence of uneven surfaces, heavy machinery and ongoing work can create numerous safety hazards for workers and the surrounding community.

It can help you to understand your potential liability in the event of an injury at your construction site. You may wonder if you may face legal trouble if a child gets injured, even if your construction site is not classified as an attractive nuisance, for example.

What is premises liability?

As the owner of an ongoing construction project, you are legally responsible for minimizing safety hazards for individuals who may enter your construction site. However, you are only held responsible for the safety of visitors, depending on their legal status.

For example, you're generally not responsible for the safety of trespassers, but this does not mean you should intentionally cause them harm. That said, there's a caveat: you are held responsible for the safety of trespassing children. Suppose they sustain injuries at your construction site due to hidden dangers; the kids' parents can take legal action against you.

What is an attractive nuisance?

Your construction site can be classified as an attractive nuisance if it features conditions that might attract children and pose a danger to them. This doctrine acknowledges that trespassing children may be enticed by a construction site with safety hazards because they lack the judgment to comprehend the inherent risks. Examples of these attractive safety hazards may include:

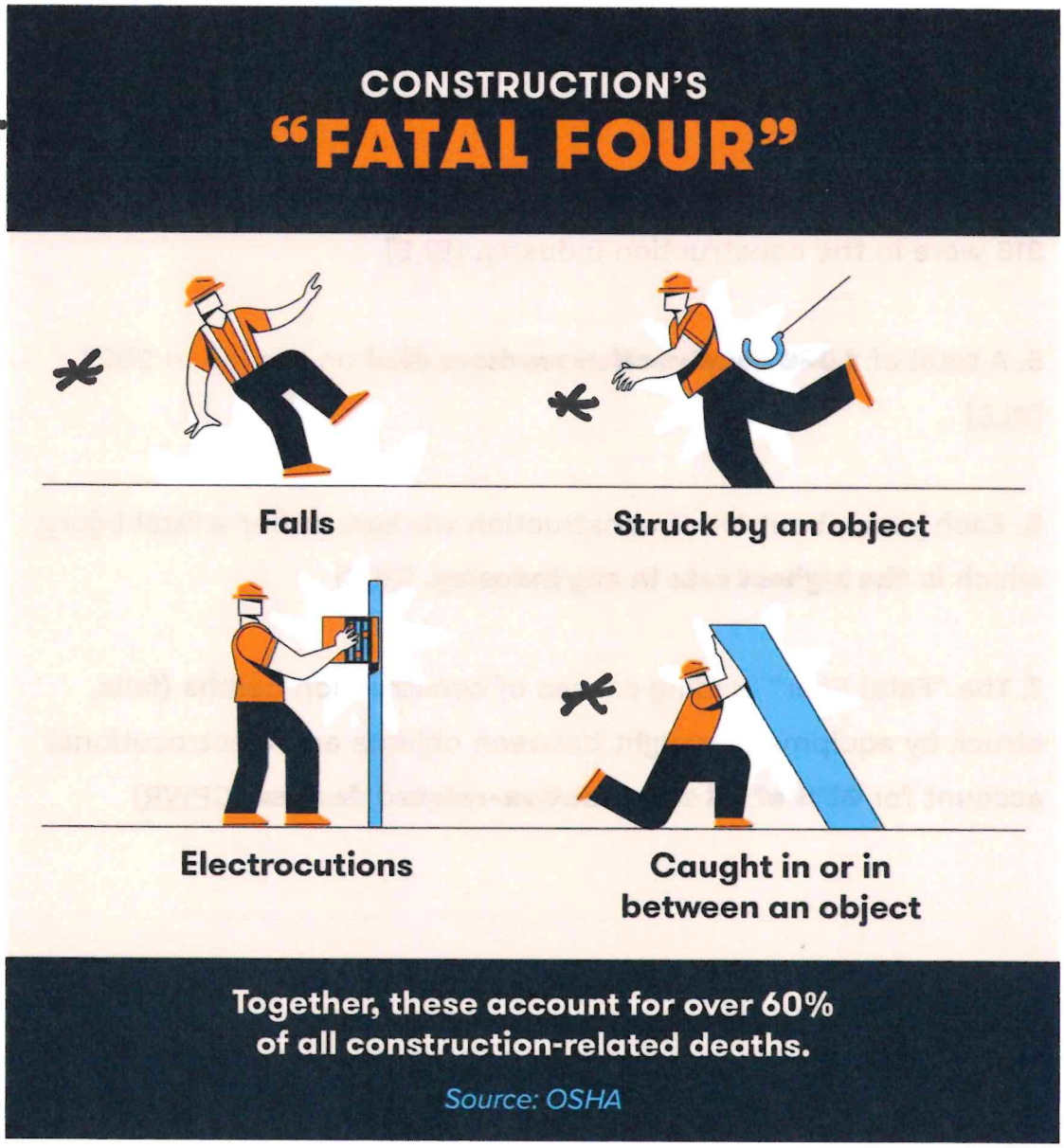
- An incomplete swimming pool that isn't barricaded

- An abandoned construction project that is accessible to the public
- Accessible construction machinery that appears to be a playground

To help ensure that your construction site isn't an attractive nuisance, it can help to take extra precautions to secure these hazards to prevent children from accessing them and getting injured. It's crucial to remember that even if the attractive nuisance doctrine doesn't apply, your general duty of care for all visitors, including trespassing children, might still lead to liability in a construction site injury case.

Suppose a trespassing child gets injured at your construction site; you might be overwhelmed by guilt and the worry of the legal trouble you may face. In such a situation, seeking appropriate legal feedback can clarify your situation.

Document 3



8. Falls, slips and trips are the **leading cause of death in construction**—of the 1,056 construction worker deaths in 2022, 423 were due to falls, slips or trips. [BLS]

9. Fatalities from falls, slips and trips in construction **increased by 1.8% in 2022.** [BLS]

10. Transportation incidents are the **second leading cause of work-related death** in construction. [BLS]

11. Struck-by incidents are responsible for **15.4% of work-related deaths** in construction. [CDC]

Understanding the Risks: Why Trespassing on Construction Sites is Dangerous

- Annually, hundreds of injuries and sometimes even fatalities occur among trespassers on construction sites.
- One of the most significant dangers on construction sites is the risk of falls from height, while idle mobile plant equipment also poses a risk, potentially even enticing people to trespass.
- Whether it's urban explorers seeking adrenaline-fueled adventures, children viewing construction sites as playgrounds, or individuals taking shortcuts through restricted areas, trespassers often expose themselves to perilous conditions.
- The allure of social media, where urban exploration profiles showcase daring escapades, further fuels this risky behaviour.
- Every year, there are hundreds of cases of trespassers being injured on construction sites and despite those injured parties trespassing, the landowner can find themselves in court facing charges.

Preventing Trespassing and Mitigating Risks

Preventing trespassing on construction sites requires a multi-pronged approach that addresses both physical barriers and behavioural factors. Here are some approaches to consider:

1. **Securing the Perimeter** – Erecting sturdy fences, installing warning signs, and employing security personnel can help deter trespassers from entering construction sites.
2. **Educating the Community** – Engaging with local communities and schools to raise awareness about the dangers of trespassing on construction sites can help prevent unauthorised access.
3. **Enhancing Surveillance** – Using CCTV cameras and motion sensors can aid in monitoring and detecting trespassers, enabling prompt intervention by security personnel.
4. **Implementing Access Controls** – Restricting access points and implementing access control measures, such as gates with electronic locks, can limit unauthorised entry.
5. **Regular Site Inspections** – Conducting regular inspections of the construction site to identify and address potential hazards can help mitigate risks for both workers and trespassers.

Minimising Falls from Height: A Key Priority

Falls from height are a leading cause of serious injury and fatalities in the construction industry. To prevent such incidents, it is essential to implement robust safety measures, including:

- Providing adequate guardrails, safety nets, and personal fall protection equipment for workers, as well as visitors – both invited and uninvited.

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ACCEPT

Document 5

Most Common Childhood Injuries

Most children are injured at some point in childhood, whether through play or accidents. Below are the seven most common childhood injuries.

1. **Falls:** A pediatric study found that falls are the most common cause of injury, with 8,000 kids treated in U.S. emergency rooms daily [2]. While most children recover quickly, this can also lead to fractures, soft tissue injuries, and head injuries.
2. **Accidental impacts:** Accidental impacts, such as walking into a wall, being hit by a falling object, getting bumped into during sports, or getting pinned underneath a fallen appliance, are very common in childhood [3]. This can lead to broken bones, difficulty breathing, bleeding, and even loss of consciousness.
3. **Car crashes:** Motor vehicle accidents are one of the leading causes of injury and accidental deaths in the United States [4]. This can lead to head, neck, and back injuries, soft tissue injuries, and broken bones.
4. **Suffocation:** Suffocation is a leading cause of both injury and mortality in childhood, especially for children under four [5]. This is caused by choking on food, small toys and objects, and unsafe sleeping arrangements.
5. **Poison:** Accidentally ingesting harmful substances is a common way that children become injured. This happens when a child takes in harmful medications or household cleaners, or is impacted by a poisonous plant. Symptoms include vomiting, loss of consciousness, and difficulty breathing.
6. **Drowning:** Drowning is a leading cause of death and injury in children. In fact, children between one and four can drown in shallow water as low as one inch [6]. Children who have experienced near drowning (nonfatal drowning) can suffer from organ failure, brain damage, hypoxia, and hypothermia [7].

7. **Foreign bodies:** A foreign body injury involves getting something in your body where it shouldn't be, such as a splinter or getting something stuck up your nose. This can happen when playing or when kids are too curious!

Important Information

Other common injuries include burns, sporting injuries, biking accidents, strangulation, scrapes, cuts, and bruises.

Causes and Risk Factors

Most kids get hurt at some point in their childhood, especially between the ages of one and four when they aren't the steadiest. But there are some measures you can take to protect your child. Below are six common causes and risk factors that you can try to avoid.

1. **Single-parent households:** The risk of childhood injury gets lower and lower with a higher number of adults in the home [8]. For instance, a household with one adult carries a higher risk of childhood injury versus a household with four adults. This is also why having a proper ratio of staff to children in childcare settings is important.
2. **Low socioeconomic status:** Injuries, and death from injuries, are higher in low- and middle-income countries [9]. Poor children are at notably higher risk.
3. **Unsafe environments:** Children who live or play near fast traffic, don't have access to safe play areas, or live in crowded homes are at higher risk of injury.
4. **Parental supervision:** A Chinese study found that parental supervision impacted the risk of childhood injury, especially in children aged four to six and in girls [10]. Parents must supervise their children, especially around bodies of water, small toys, food, and in play areas.

5. **Age, race, and gender of child:** Injury is most common in boys, babies under one, adolescents between 15 and 19, American Indian, Alaska Native, and Black children [(11)].
6. **Unsafe driving:** Unsafe driving and not properly buckling up your child is a massive risk factor, especially since motor vehicle crashes cause more deaths than other accidental injuries in children.

STATE OF ILLINOIS

COUNTY OF MCHENRY

IN THE MATTER OF THE APPLICATION OF
Lee Jensen Sales Co. INC., (NAME);

AFFIDAVIT

Eric Nystrom (Name), being first duly sworn on oath deposes and states as follows:

A. That a copy of the legal notice, concerning the hearing date for the above mentioned Petitioner, was sent to each of the persons named on the attached list by regular mail notifying them of the hearing before the Planning and Zoning Commission on December 4, 2024, at 7:00 p.m., at the City of Crystal Lake City Hall, 100 West Woodstock Street in Crystal Lake, Illinois. Said notice was mailed to each of the below mentioned persons by regular mail on November 15th 2024 (date)

B. That the posting requirements of the Unified Development Ordinance have been complied with by placing the customary public notice sign on the subject property on November 15th 2024 (date)

Eric Nystrom
(name) (Signature)

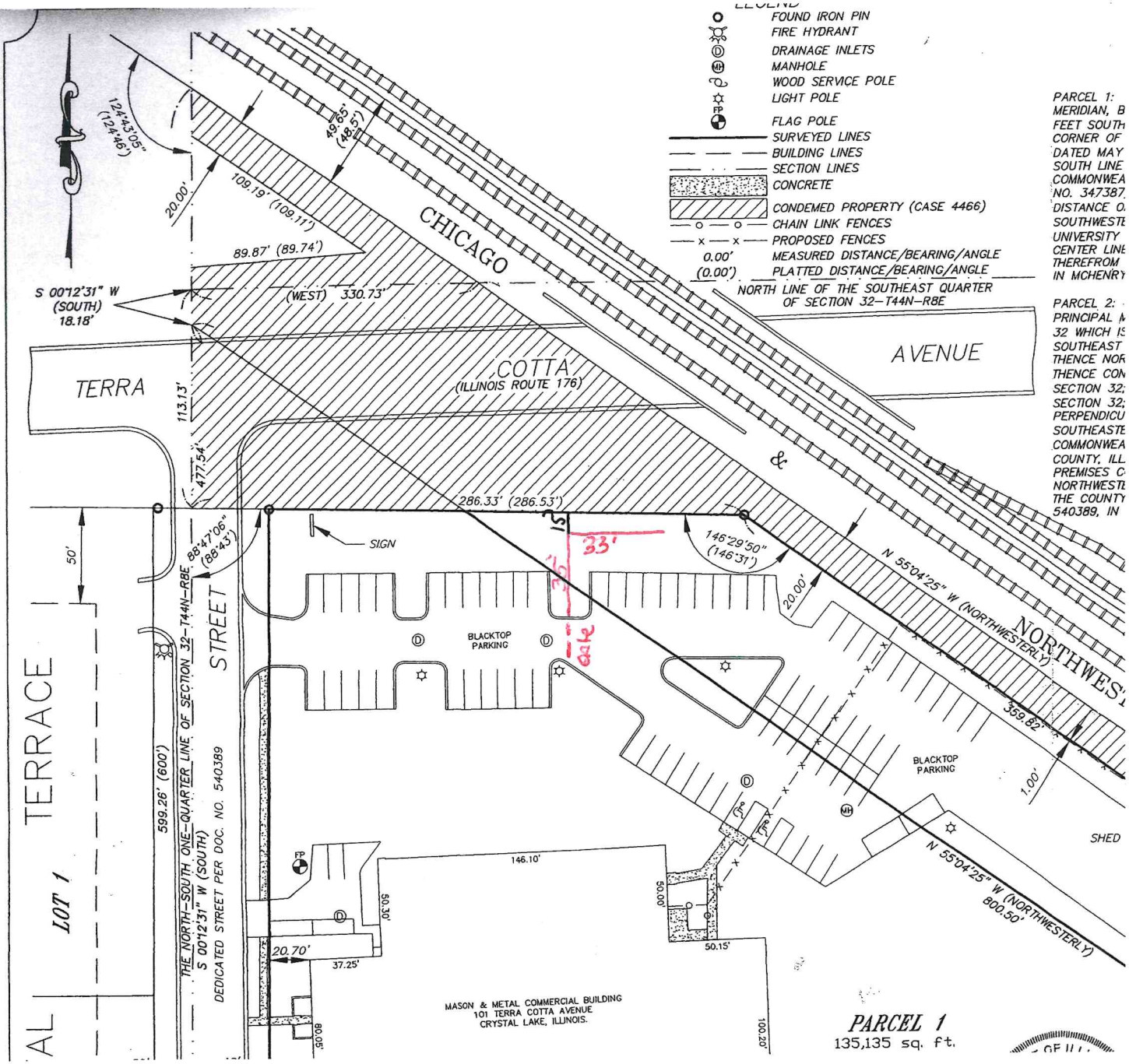
Subscribed and Sworn to me before
This 25th day of November, 2024

Wendy S. Pratola
Notary Public

OFFICIAL SEAL
WENDY S PRATOLA
NOTARY PUBLIC, STATE OF ILLINOIS
My Commission Expires 4/25/26



(A)


LEGEND
FOUND IRON PIN
FIRE HYDRANT
DRAINAGE INLETS
MANHOLE
WOOD SERVICE POLE
LIGHT POLE
FLAG POLE
SURVEYED LINES
BUILDING LINES
SECTION LINES
CONCRETE
CONDEMED PROPERTY (CASE 4466)
CHAIN LINK FENCES
PROPOSED FENCES
0.00' MEASURED DISTANCE/BEARING/ANGLE
(0.00') PLATTED DISTANCE/BEARING/ANGLE
NORTH LINE OF THE SOUTHEAST QUARTER OF SECTION 32–T44N–R8E
CHICAGO
AVENUE
TERRA
COTTA
(ILLINOIS ROUTE 176)
&
TERRACE
STREET
LOT 1
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124°43'05" (124°46')
49.65' (48.5')
20.00'
109.19' (109.11')
89.87' (89.74')
S 00°12'31" W (SOUTH) 18.18'
(WEST) 330.73'
113.13'
477.54'
286.33' (286.53')
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88°47'06" (88°43')
146°29'50" (146°31')
N 55°04'25" W (NORTHWESTERLY)
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DEDICATED STREET PER DOC. NO. 540389
BLACKTOP PARKING
BLACKTOP PARKING
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1.00'
SHED
N 55°04'25" W (NORTHWESTERLY)
800.50'
146.10'
50.30'
50.00'
50.15'
20.70'
37.25'
80.05'
100.20'
MASON & METAL COMMERCIAL BUILDING
101 TERRA COTTA AVENUE
CRYSTAL LAKE, ILLINOIS.
PARCEL 1
135,135 sq. ft.
PARCEL 1:
MERIDIAN, B
FEET SOUTH
CORNER OF
DATED MAY
SOUTH LINE
COMMONWEA
NO. 347387
DISTANCE O
SOUTHWEST
UNIVERSITY
CENTER LINE
THEREFROM
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PRINCIPAL M
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SECTION 32;
PERPENDICU
SOUTHEASTE
COMMONWEA
COUNTY, ILL
PREMISES C
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THE COUNTY
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