



**THE CITY OF
HARRISONVILLE**
WHERE TRADITION MEETS INNOVATION

**AGENDA
CITY OF HARRISONVILLE
BOARD OF ZONING ADJUSTMENTS
REGULAR MEETING
CITY HALL
MAY 9, 2023
6:00 PM**

- 1. Call to Order**
 - A. Roll Call**
- 2. Approval of Minutes**
 - A. Board of Zoning Adjustments - Regular Meeting - Dec 13, 2022 6:00 PM**
- 3. Agenda Items**
 - A. Arwood Variance to Section 405.550.A.4.e(5) - PUBLIC HEARING**
 - B. Arwood Variance to Section 405.550.A.4.e(5) - CONSIDERATION**
- 4. Discussion Items**
- 5. Adjourn**

Posted on City Hall Bulletin Board this 2nd day of May, 2023.

Daniel Barnett, City Clerk



THE CITY OF HARRISONVILLE

WHERE TRADITION MEETS INNOVATION

DRAFT
MINUTES
CITY OF HARRISONVILLE
BOARD OF ZONING ADJUSTMENTS
REGULAR MEETING
CITY HALL
DECEMBER 13, 2022
6:00 PM

1. Call to Order

The meeting was called to order at 6:03 PM by Gerald Saling

Attendee Name	Organization	Title	Status	Arrived
Jennifer Love	Harrisonville		Present	
Michelle Hart	Harrisonville		Present	
Charles Hotchkiss	Harrisonville		Absent	
April McLaughlin	Harrisonville		Present	
Gerald Saling	Harrisonville		Present	

Also in attendance were Darrell and Catherine Anthony, Applicants; Joylene Myers, Neighbor; Andrea King, Neighbor; Chris Myler, Builder; Christina Stanton, Community Development Director; and Jamie Martin, Recording Secretary.

2. Approval of Minutes

A. Board of Zoning Adjustments - Regular Meeting - Oct 11, 2022 6:00 PM

With no additions or corrections, the minutes from the October 11, 2022, meeting were unanimously accepted.

RESULT:	ACCEPTED [UNANIMOUS]
MOVER:	April McLaughlin
SECONDER:	Jennifer Love
AYES:	Jennifer Love, Michelle Hart, April McLaughlin, Gerald Saling
ABSENT:	Charles Hotchkiss

3. Agenda Items

A. Side Yard Setback Variance - 1503 S. King Ave. - PUBLIC HEARING

Director Stanton presented the Staff Report for 1503 S. King Avenue. She said the applicant is requesting a variance to the required 20 foot side yard setback in the R-1, Single-Family Residential, Zoning District and to the more restrictive 25 foot setback from the recorded "Parkwood, Lots 1-47" plat. Director Stanton stated that there are two things that are unique in the situation, the first is that the plat is more restrictive than current code and the second is that Blueberry Drive has a 60 foot right-of-way. The first

subdivision platted in this area was "Village South, Lots 1-48". All of the streets in that subdivision have a 60 foot right-of way. In the "Parkwood" subdivision that the applicant lives within, all of the streets have a 50 foot right-of-way except Blueberry Drive. Director Stanton provided a chart showing the Board how this abnormality affects the amount a footage needed for the variance. She also said that while doing the research for the variance application, it was discovered that the house on their lot does not meet the required setback of the recorded plat on the north side. April McLaughlin asked if there was a statute of limitations on what the Board could vote on and asked Director Stanton to reach out to the City's legal about the variance for the house. Ms. McLaughlin then asked to table the request for the house and move forward with the variance for the accessory structure. The present Board agreed.

Director Stanton stated that Staff recommends approval of the variance request for the Accessory Structure after researching the unique situation.

Darrell Anthony spoke to the Board. He said that originally they had planned on building a 30 x 30 foot structure, but scaled it down to 28 x 30 due to the setback requirements.

The Public Hearing was closed at 6:13 PM.

B. Side Yard Setback Variance - 1503 S. King Ave. - CONSIDERATION

April McLaughlin made a motion to approve the variance for the accessory structure only. Michelle Hart seconded the motion. The motion passed unanimously.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	April McLaughlin
SECONDER:	Michelle Hart
AYES:	Jennifer Love, Michelle Hart, April McLaughlin, Gerald Saling
ABSENT:	Charles Hotchkiss

4. Discussion Items

There were no discussion items.

5. Adjourn

With nothing further to come before the Board, Jennifer Love made a motion to adjourn. Michelle Hart seconded. The meeting was adjourned at 6:14 PM.

Respectfully Submitted,

Jamie Martin, Secretary

STAFF REPORT

TO: Board of Zoning Adjustments
FROM: Christina Stanton,
DATE: May 2, 2023
SUBJECT: Arwood Variance to Section 405.550.A.4.e(5)

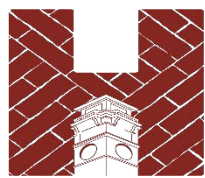
Type of Item: *Public Hearing*

A. Action Item (ID # 4517)

Arwood Variance to Section 405.550.A.4.e(5)

Attachments:

Arwood VAR Packet 5-9-23 (PDF)



To: Board of Zoning Adjustment

From: Christina Stanton, AICP, Director of Community Development

Date: May 9, 2023

Re: Request for variance of Section 405.550.A.4.e(5) to allow for a 6-foot privacy fence to be extended on property located at 1920 Eagle Drive, immediately adjacent to the side and front yard of the neighbor to the north

GENERAL INFORMATION

Applicant: Megan Arwood, 1920 Eagle Drive

Requested Actions: Approval of requested variance of Section 405.550.A.4.e(5) to allow for a 6-foot privacy fence to be extended on property located at 1920 Eagle Drive, immediately adjacent to the side and front yard of the neighbor to the north

Date of Application: March 16, 2023

PROPOSAL

Applicant is seeking a variance to the fence location requirements, specifically #5 which states:

“If all the following conditions apply to a corner lot, then the privacy fence, chain link fence, decorative fence, wall or hedge may be installed to a height of six feet abutting the property line in the rear yard of the structure.

- a. If the rear yard of a corner lot is adjacent to the rear yard of another corner lot.
- b. The front of each home on each lot faces in opposite directions.
- c. There is no driveway to either home from the street adjacent to the side yard of both lots.”

PREVIOUS ACTIONS

Required legal notices have been issued.

- February 21, 1991—The Final Plat of *Parkwood South, Lots 57 – 78* was recorded at the Cass County Recorder of Deeds Office.
- May 15, 1991—Building Permit #91039 was issued for a new single-family residential structure at 2100 Glenda Drive.
- January 4, 2007—The Final Plat of *Glen Eagle, Lots 1 – 31* was recorded at the Cass County Recorder of Deeds Office.
- November 18, 2022—Building Permit #22002 was issued for a new single-family residential structure at 1920 Eagle Drive.
- February 21, 2023—The Board of Aldermen approved Ordinance #3627, which included changes to the fencing regulations.

- February 23, 2023—The Arwood’s Warranty Deed for the property at 1920 Eagle Drive was recorded at the Cass County Recorder of Deed’s Office.

KEY ISSUES

The property is located on a corner lot with a platted side building line of 25-feet.

The property located at 1920 Eagle Drive is situated such that the rear yard is adjacent to the side and front yard of the corner lot located immediately to the north (2100 Glenda Drive); the front of these two homes do not face in opposite directions; and the driveway to the property to the north is located on the street adjacent to the side yard of 1920 Eagle Drive.

The fencing regulations changed with the approval of Ordinance #3627 on February 21, 2023. The previous regulations pertaining to residential fences simply stated that “six (6) feet in the side yard and eight (8) feet in the rear yard, provided sight distance as shall be maintained on corner lots” was allowed. The current fencing regulations are much clearer about what is allowed and where.

The applicants have fenced their property as they are currently allowed under the fencing regulations in place and have provided drone pictures of their property to show what it looks like. It is evident from the first and last such pictures that there is a deck and landing which is very near the fencing. The deck was approved with the building permit on November 18, 2022.

The Applicant is seeking a variance to the fence location requirements, specifically #5 as detailed under the “Proposal” section of the staff report. The applicant’s proposed fence would have been allowed under the prior fencing regulations.

Regarding Municipal Code: 405.615 Standards

- A. The Board of Zoning Adjustments may vary the provisions of this Chapter as authorized in this Section, but only when it shall have made findings based upon evidence presented to it in the following specific cases:

1. The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations governing the district in which it is located;

The property can yield a reasonable return, the property owners believe that “the property will be worth more if the fence is able to include more of the yard”.

2. The plight of the owner is due to unique circumstances;

This standard typically refers to the shape of the lot, topographical conditions, or other unique physical surroundings of the property such as existing utilities. A corner lot in and of itself is not unique. The plight of the owner is due to the fencing regulations changing during the purchase of the property.

3. The variance, if granted, will not alter the essential character of the locality.

The variance, if granted, will not alter the essential character of the locality. The encroachment is towards the property owner to the north and towards the street;

however, there are several other similar fences within the neighborhood to the north (see Keyed Pictures and corresponding numbers on the Aerial Map).

- B. For the purpose of supplementing the above standards, the Board of Adjustment shall also, in making the determination of whether there are practical difficulties or particular hardship, take into consideration the extent to which the following facts, favorable to the applicant, have been established by the evidence:

1. The particular physical surroundings, shape or topographical conditions of the specific property involved would bring a particular hardship upon the owner, as distinguished from a mere inconvenience, if the strict letter of the regulation were to be carried out;

The particular physical surroundings, shape or topographical conditions of the specific property do not create a particular hardship upon the owner.

2. The conditions upon which the petition for variance is based would not be applicable generally to other property within the same zoning classification;

The main reason the applicants' are requesting this variance is due to the fact that the particular regulations pertaining to fencing changed during the process of them purchasing their home.

3. The alleged difficulty or hardship has not been created by any person having an interest in the property at any time after the effective date of this Chapter;

The effective date of this chapter was in 1991. The house was permitted in 2022 and the plat was recorded in 2007. The alleged difficulty or hardship was not created by any person having an interest in the property.

4. The granting of the variance will not be detrimental to the public welfare in the neighborhood in which the property is located;

The granting of the requested variance on this property will not result in a detriment to the public welfare in the area. The encroachment is towards the property owner to the north and the street. Additionally, had the fence permit been applied for prior to February 21, 2023, it would have been approved.

5. The proposed variance will not impair an adequate supply of light and air to adjacent property or substantially increase the danger of fire or otherwise endanger the public safety or substantially diminish or impair property values within the neighborhood.

Staff does not believe the proposed variance will impair an adequate supply of light and air to adjacent property or substantially increase the danger of fire or otherwise endanger the public safety or substantially diminish or impair property values within the neighborhood.

STAFF COMMENTS AND SUGGESTIONS

While staff acknowledges that this is not a hardship in the normal sense, we do recognize that it is evident that the applicant's real estate purchase cleared just two days after the fencing regulations were changed. Staff also acknowledges that the proximity of the fence, as currently allowed and existing, to the deck steps and landing could be seen as a hazard although it does meet all required building codes. While staff sympathizes with the applicant and struggles with

issues of fairness, we are reminded that our role is to uphold the letter and intent of the Zoning Regulations.

3.A.a

In support of the requested variance are the facts that:

- Had the fence permit been applied for prior to February 21, 2023, it would have been approved;
- The encroachment is towards the property owner to the north and the street;
- There are several other similar existing situations in the neighborhood to the north (although most are chain link); and
- The granting of the variance will not result in a detriment to the public welfare or negatively impact the adequate supply of light and air to adjacent property or increase the danger of fire or otherwise endanger the public safety or diminish or impair surrounding property values.

STAFF RECOMMENDATION

Staff recommends denial of the requested variance.

ATTACHMENTS

Application and Supporting Documents
Keyed Pictures
Zoning Map
Aerial Map

Attachment: Arwood VAR Packet 5-9-23 (Arwood Variance to Section 405.550.A.4.e(5))

**APPLICATION
FOR
VARIANCE OR APPEAL
City of Harrisonville**

Case No. VAR- 23-001
BZA Date: 5/11/23
(Staff use only.)

Please print or type

It is recommended that the applicant schedule a meeting with city staff prior to the submission of an application. An application will not be considered complete until all required material has been submitted. An application will not be considered complete and The Board of Zoning Adjustment meeting will not be scheduled until all required material has been submitted and the filing fee has been delivered to the City per City Code. It is the applicant's responsibility to submit evidence that a variance is justified. The applicant should be aware that obtaining a variance is difficult and ample evidence justifying a variance must be provided. It is the applicants responsibility to obtain a copy of the agenda, staff report and staff recommendation prior to the scheduled meeting. Attach additional sheets if necessary.

Location or address of subject property: 1920 Eagle Dr. Harrisonville, MO
64701

Zoning on subject property: Residential Current Land Use: Residence

Request: Cite section and subsection of the Land Use Ordinance from which a variance or appeal of a zoning decision is being requested and describe the reason for requesting a variance.

Ordinance NO. 3627 Section 405.550 # 4

Add additional pages if necessary

PROPERTY OWNER'S NAME: Tyler & Megan Arwood PHONE: 816-456-0946

MAILING ADDRESS: 1920 Eagle Dr. Harrisonville MO 64701
STREET CITY STATE ZIP

APPLICANT/AGENT'S NAME: Megan Arwood PHONE: 816-456-0946

MAILING ADDRESS: 1920 Eagle Dr. Harrisonville MO 64701
STREET CITY STATE ZIP

Deposit Filing Fee: \$100.00

APPLICANT'S SIGNATURE: Megan Arwood

DATE: 3/16/23

Received By: J. Martin

TIME: 4:09 PM

APPLICATION FOR VARIANCE OR APPEAL

Page 2

(Attach additional sheets if necessary.)

1. Can the subject property yield a reasonable return if used under the regulations governing the zoning district in which it is located?

☒ Yes ☐ No

Explain:

See attached

2. Is the plight of the owner due to unique circumstances? (Unique circumstances may include, but is not limited to, the shape, topographical conditions, or physical surroundings of the property.)

☒ Yes ☐ No

Explain:

See attached

3. Will the variance, if granted, alter the character of the locality and/or neighborhood?

☒ Yes ☐ No

Explain:

See attached

4. Will the variance adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare? ☐ Yes ☒ No

Explain:

See attached

5. Does the request arise from a condition which was created by an action(s) of the property owner or the applicant? ☐ Yes ☒ No

Explain:

See attached

It is the applicant's responsibility to demonstrate that these conditions have been met at the time of application. Applicants are encouraged to submit any materials which will support their case, including site plans, photographs, studies, letters of support, etc.

Attachment: Arwood VAR Packet 5-9-23 (Arwood Variance to Section 405.550.A.4.e(5))

Variance or Appeal
City of Harrisonville

Below are answers to page 2 of the application:

1. The property can yield a reasonable return, The property will be worth more if the fence is able to include more of the yard. As the fence currently sits it appears the job is half done and does not blend well with the rest of the neighborhood. As the fence sits now the property is worth less than it should be due to not having 25 feet of the yard not included in the fenced area.
2. Yes, the plight of the owner due to unique circumstances. The subject property is a new construction build with the front door facing south and the rear of the residence facing north. When property owners went under contract to purchase the property there was no such ordinance in place. The property owners checked for fencing ordinances prior to signing a contract to purchase the property and there was no such ordinance in place. The property owners purchased the home knowing they would be building a privacy fence on the property for the safety and security for their family. The property owners purchased the property due to it being a corner lot and having more yard space for their family, including but not limited to 2 young kids.
3. If the variance is granted it will alter the character of the locally and/or neighborhood. It will improve the characteristics of the neighborhood. As mentioned previously this is a new build. The property sits on the main entrance/only entrance to the new subdivision. The current placement of the fence is not aesthetically pleasing. It appears as if the job is half done. That being mentioned it does not seem inviting to a new neighborhood. Therefore could alter the selling of the other properties in the neighborhood in a negative way. This impact would also affect the city of Harrisonville by a decrease in revenue such as but not limited to, taxes, utilities etc. Most people do not want to move into a brand new subdivision/home where the first residence appears to halfway complete the job.
4. The Variance or Appeal if granted will have no effect on public health,safety,morals, order, convenience, prosperity or general welfare.
5. The request did not arise from a condition which was created by action of the property owner. The ordinance took effect roughly 2 weeks before the property owner moved in.

Variance or Appeal
City of Harrisonville

For your consideration:

We are requesting this variance due to a recently passed ordinance that went into effect during our waiting period to close on our new residence. The property in question is at 1920 Eagle Drive Harrisonville MO, 64701. We are requesting a variance to allow our privacy fence to extend beyond the point it is now. Our front door faces south on eagle drive and our backyard faces north. The east side of the privacy fence is the side we are requesting the variance or appeal for. The east side of our property faces Glenda Drive, with the ordinance that has been put into place we have been forced to place our fence 25 feet from the roadway because of the neighbors behind us. It is our understanding at the guidance of your building department that the reason we have to be 25 feet from the roadway is because the residence behind us is in a different subdivision. The Parkwood South Subdivision faces Glenda Drive and our fence can not go past the front of their house. With that being said, this has required us to place our fence dangerously close to the bottom landing of our deck stairs. We are being forced to limit our property we purchased, with the back of our home that is obviously wider than the south side of their home.

The landing from our deck stairs to the fence is such a small space that our lawn mower will not fit to keep the yard mowed so we can stay in compliance with the city ordinance. So one ordinance contradicts another ordinance in this case.

The fence is too close to the landing of the deck stairs, it also becomes a safety issue if someone were to fall or trip down the stairs, they could easily land on top of the fence, hit it or even go through it. With young kids that is a concern for us along with any persons on the property.

We are also unable to install a utility shed due to how much room that would take up and we would no longer have room enough for family and friends to come over and enjoy our back yard if we choose to do so.

The possibility of installing a pool would not be an option either due to losing 25 feet of yard space that we paid for. We would also not be able to install a playground set for the kids due to lack of space.

We are asking that you allow us to extend our fence out the additional space that is allowed. We will be 5 to 5 ½ feet away from the public sidewalk. Our fence will not obstruct any views for street and driving purposes.

We have spoken with our neighbors directly behind us whose house our fence line is being based on per your ordinance and they are in favor of our variance and would be happy to sign any form you need them to, in regards to our fence extending out. Their names are Cory and Pamela Ferguson at 2100 Glenda Drive Harrisonville MO 64701. We have also spoken with your Interim Building Official John Morris who advised he is also in favor of our variance. John's contact information is 816-380-8917.

Had we known in advance that this was going to be an ordinance we would mostly like not have purchased this property. We specifically purchased a corner lot for more space for our family. Again this ordinance was not in place in December when we signed a purchase contract for the property. The ordinance did not go into effect until 2 weeks before we moved into the new property. My family desperately needs your support for us to finish our backyard so we can continue to grow and stay residents of the City of Harrisonville.

Please see attached photographs of the current property with the fence in accordance with your ordinance. We have also attached the platt picture with our line of where we would like to place the fence.

Respectfully,

Tyler and Megan Arwood
816-456-0946
memrusdun@gmail.com

Attachment: Arwood VAR Packet 5-9-23 (Arwood Variance to Section 405.550.A.4.e(5))







Attachment: Arwood VAR Packet 5-9-23 (Arwood Variance to Section 405.550.A.4.e(5))



Prepared By:
AYLETT SURVEY & ENGINEERING COMPANY
LAND SURVEYING ~ LAND PLANNING ~ CIVIL ENGINEERING
201 NW 72ND STREET ~ GLADSTONE, MISSOURI 64118
Phone: 436-0732 ~ Fax: 436-0767

ORDERED BY: VERTICAL DESIGN, LLC

JOB NO.: 54904

DESCRIPTION:

Lot 8 GLEN EAGLE, a subdivision of land in the City of Harrisonville, Cass County, Missouri.

DATE: 12/13/2021

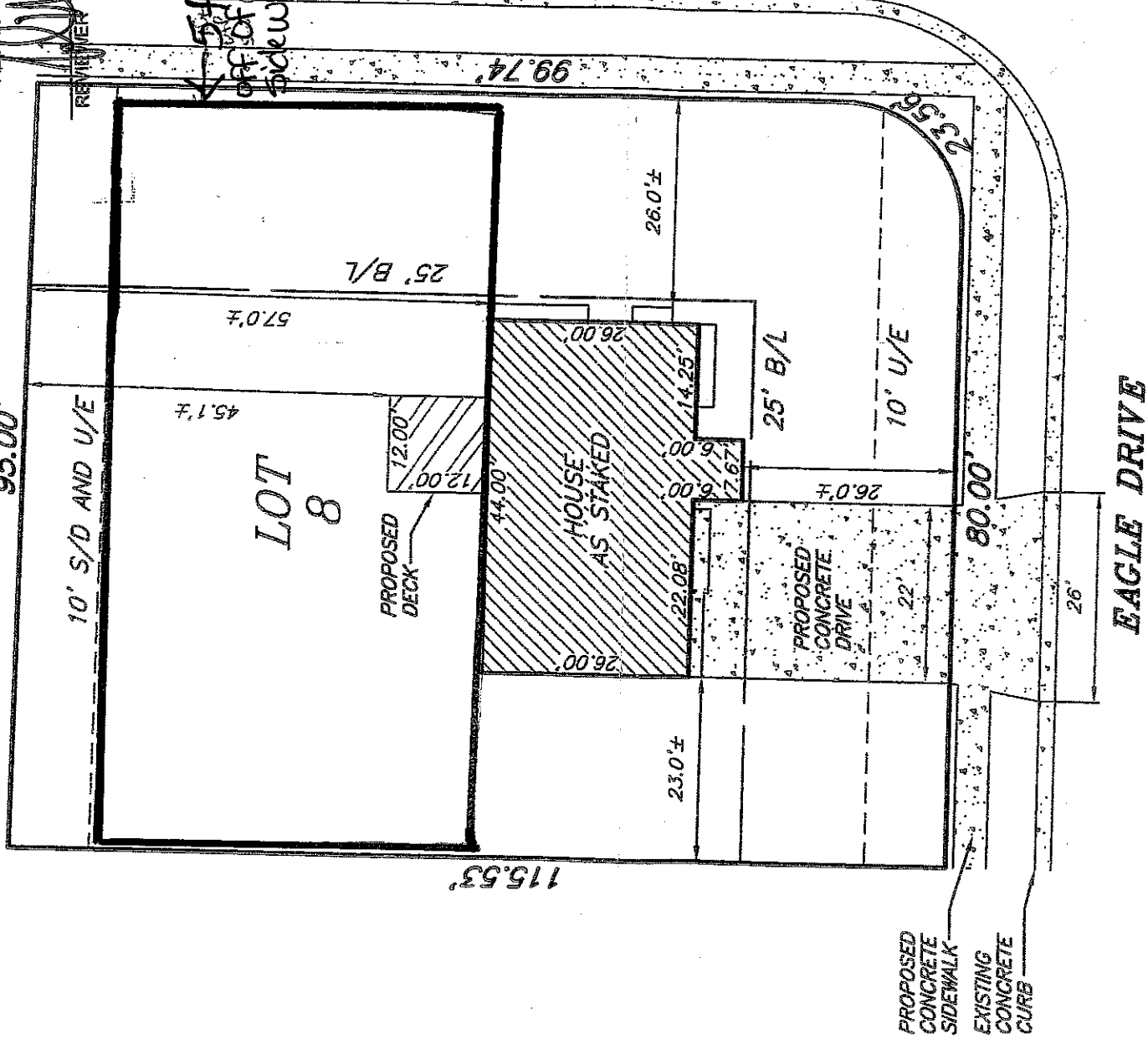
RECEIVED

DEC 23 2021

CITY OF HARRISONVILLE

CITY OF HARRISONVILLE MISSOURI
PLANS REVIEWED FOR CODE COMPLIANCE
☒ APPROVED ☐ APPROVED AS NOTED
ALL WORK PER ADOPTED ICC-CODES

REVIEWER: *[Signature]* DATE: 1-3-22



BEFORE YOU
DIG - DRILL - BLAST



SCALE: 1" = 20'

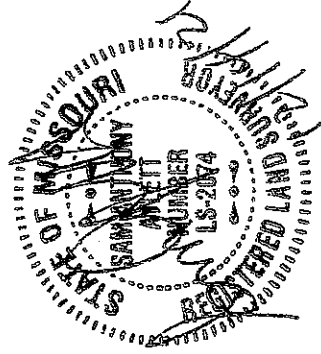
Call

1-800-344-7483 (MISSOURI)

NO TITLE REPORT FURNISHED

EXCAVATION OF FOOTINGS.

BUILDER TO VERIFY
SEWER LOCATION &
ELEVATION PRIOR TO
EXCAVATION OF FOOTINGS.

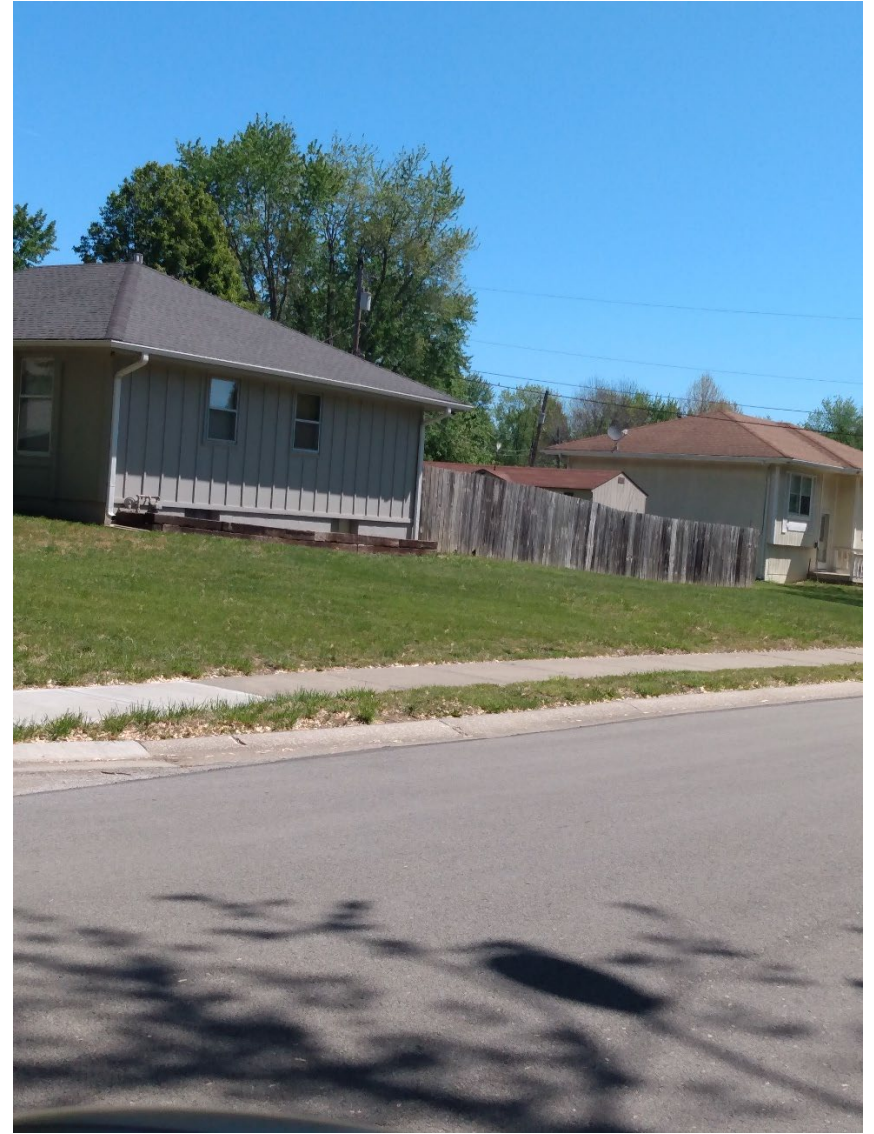


This drawing is for permit and construction purposes only. It is not to be used to establish property lines. It will be the builder's responsibility to verify that this drawing meets all City and County Regulations. No Title Commitment was furnished there may be easements of record that are not shown. Builder to place Bottom of Footing at or below the level of undisturbed soil. Any proposed elevations shown on this drawing are provided by client. This company takes no liability for its

1:



2:



3:



4:



Attachment: Arwood VAR Packet 5-9-23 (Arwood Variance to Section 405.550.A.4.e(5))

5:



6:



7:



8:



Attachment: Arwood VAR Packet 5-9-23 (Arwood Variance to Section 405.550.A.4.e(5))

Zoning Map



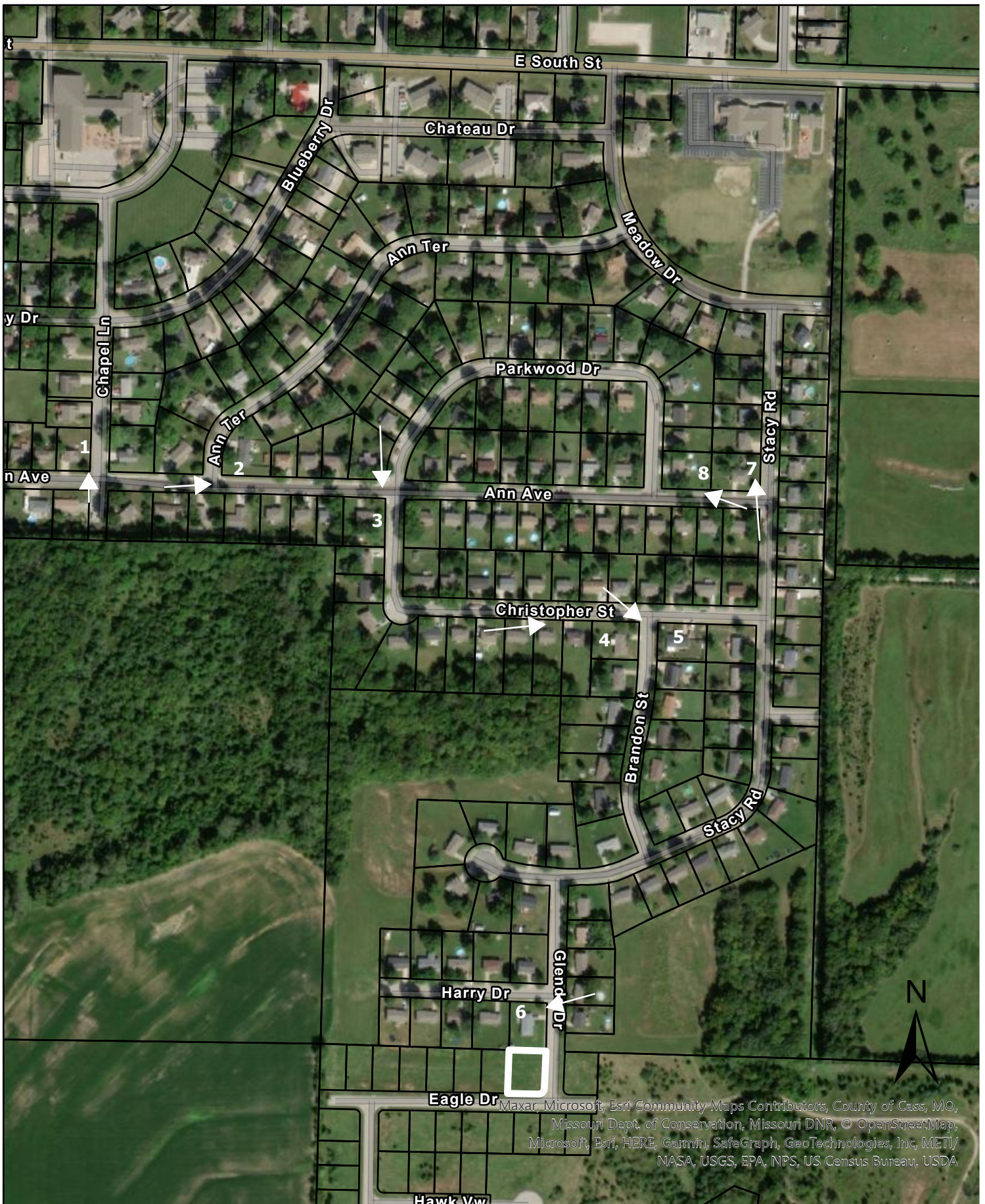
Attachment: Arwood VAR Packet 5-9-23 (Arwood Variance to Section 405.550.A.4.e(5))

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0 95 190 380 US Feet

Aerial Map

3.A.a



Attachment: Arwood VAR Packet 5-9-23 (Arwood Variance to Section 405.550.A.4.e(5))



0 120 240 480 US Feet

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NASA, USGS, EPA, NPS, US Census Bureau, USDA

STAFF REPORT

TO: Board of Zoning Adjustments
FROM: Christina Stanton,
DATE: May 2, 2023
SUBJECT: Arwood Variance to Section 405.550.A.4.e(5) - CONSIDERATION

Type of Item: *Public Hearing*

B. Action Item (ID # 4518)

Arwood Variance to Section 405.550.A.4.e(5) - CONSIDERATION