



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

AGENDA  
CITY OF HARRISONVILLE  
BOARD OF ZONING ADJUSTMENTS  
REGULAR MEETING  
CITY HALL  
JULY 9, 2024  
6:00 PM

1. **Call to Order**
  - A. **Roll Call**
2. **Approval of Minutes**
  - A. **Board of Zoning Adjustments - Regular Meeting - Jun 11, 2024 6:00 PM**
  - B. **Court Reporter Manuscript**
3. **Action Items**
  1. **Appl. #VAR-24-006--Variance of Section 405.325.B, C and D at 1720 N. St. Rte. 291 - PUBLIC HEARING**
  2. **Appl. #VAR-24-006--Variance of Section 405.325.B, C and D at 1720 N. St. Rte. 291 - CONSIDERATION**
  3. **Appl. #VAR-24-007--Variance of Section 405.550.C.5.d at 2401 Meadowlark Drive - PUBLIC HEARING**
  4. **Appl. #VAR-24-007--Variance of Section 405.550.C.5.d at 2401 Meadowlark Drive - CONSIDERATION**
  5. **Appl. #VAR-24-008--Variance of Section 405.140.B at 1905 Harry Drive - PUBLIC HEARING**
  6. **Appl. #VAR-24-008--Variance of Section 405.140.B at 1905 Harry Drive - CONSIDERATION**
4. **Discussion Items**
5. **Adjourn**

Posted on City Hall Bulletin Board this 3rd day of July, 2024.

*Daniel Barnett*

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**  
**JUNE 11, 2024**  
**6:00 PM**

## 1. Call to Order

The meeting was called to order at 6:00 PM by Gerald Saling

| Attendee Name     | Organization  | Title     | Status  | Arrived |
|-------------------|---------------|-----------|---------|---------|
| Vanessa Hargrave  | Harrisonville | Alternate | Excused |         |
| Bryan Wooten      | Harrisonville |           | Present |         |
| Michelle Hart     | Harrisonville |           | Present |         |
| Charles Hotchkiss | Harrisonville |           | Present |         |
| April McLaughlin  | Harrisonville |           | Present |         |
| Gerald Saling     | Harrisonville |           | Present |         |

*Also in attendance were Jeron and Amy Milburn, Applicants; Kenneth and Judith Krause, Residents; Alex Felzien, City Attorney; Kelly Rexroat, Court Reporter; Christina Stanton, Community Development Director; and Jamie Martin, Recording Secretary.*

## 2. Approval of Minutes

### A. Board of Zoning Adjustments - Regular Meeting - May 14, 2024 6:00 PM

*With no additions or corrections, the minutes from the May 14, 2024, meeting were unanimously accepted.*

|                  |                                             |
|------------------|---------------------------------------------|
| <b>RESULT:</b>   | <b>ACCEPTED [UNANIMOUS]</b>                 |
| <b>MOVER:</b>    | Bryan Wooten                                |
| <b>SECONDER:</b> | Michelle Hart                               |
| <b>AYES:</b>     | Wooten, Hart, Hotchkiss, McLaughlin, Saling |
| <b>EXCUSED:</b>  | Vanessa Hargrave                            |

## 3. Agenda Items

### A. Appl. #VAR-24-003--Variance on property located at 2200 Chateau Drive - PUBLIC HEARING

*Please see the Court Reporter Manuscript.*

*The Public Hearing was closed at 6:20 PM.*

**B. Appl. #VAR-24-003--Variance on property located at 2200 Chateau Drive - CONSIDERATION**

*Please see the Court Reporter Manuscript.*

|                 |                                             |
|-----------------|---------------------------------------------|
| <b>RESULT:</b>  | <b>DEFEATED [UNANIMOUS]</b>                 |
| <b>AYES:</b>    | Wooten, Hart, Hotchkiss, McLaughlin, Saling |
| <b>EXCUSED:</b> | Vanessa Hargrave                            |

**C. Appl. #VAR-24-005--Variance to Section 405.147.E.1.b - PUBLIC HEARING**

*Director Stanton presented the Variance Application for Bryan Wooten. Mr. Wooten is seeking a variance to the R-1B design standard pertaining to garages, Section 405.147.E.1.b. The requested variance is to allow for a front-loaded 2-car garage that protrudes past the front building line of the primary structure. She told the Board that the area was platted in 1867 and on August 16, 1978, the Board of Aldermen approved an Ordinance establishing certain zoning districts, including the original R-1B District which did not contain any design standards criteria or require garages to be setback. May 19, 1986, the Board of Aldermen approved an Ordinance that repealed the R-1B District. November 16, 2015, the Board of Aldermen approved an Ordinance that established the current day R-1B and R-2B Districts and their associated standards. Director Stanton said that this property is currently zoned Near Downtown Single-Family Neighborhood District and under current Zoning Regulations, Section 405.147.E.1.b, side-entry or front-loaded garages may be permitted provided the garage is set back at least ten feet behind the front building line of the primary structure and doors occupy no more than thirty-five percent of the front facade. She said the majority of the properties located within this part of Harrisonville were constructed prior to the design standards that were adopted in 2015, and since there were no previous design standards except for lot width and setbacks, there are a variety of placements for the garages within this area as is evident from the pictures and corresponding tables attached in the agenda packet. Director Stanton said there are no known unique circumstances in relation to this property. The plight of the owner is due to financial considerations. She said the granting of the variance would not alter the essential character of the area as there are various placements of the existing garages within this area since it was largely developed prior to the adoption of the current R-1B and R-2B Districts and their associated design standards. The hardship is not particular to the property. The hardship to the owner is a financial hardship, not a hardship created by unique conditions of the property in question. The granting of the requested variance would not result in a detriment to the public welfare in the area. The variance would allow the property owners to construct a house plan that they already have and have constructed elsewhere. The requested variance will not impair an adequate supply of light or air to adjacent property or substantially increase the danger of fire or otherwise endanger the public safety nor will it substantially diminish or impair the property values within the neighborhood. Staff recommended denial of the requested variance.*

*Mr. Wooten told the Board that he had already built the same house on Washington Street. He said that 90% of the homes in this district do not meet the code. He said this will be a \$250,000.00 home and will raise property values in the neighborhood. Kenneth Krause asked Mr. Wooten if the home was single-family. Mr. Wooten said yes, the variance is for the garage to be 3 feet in front of the porch. Michelle Hart commented that this is a very common floor plan.*

*The Public Hearing was closed at 6:49 PM.*

**D. Appl. #VAR-24-005--Variance to Section 405.147.E.1.b - CONSIDERATION**

*April McLaughlin made a motion to deny the variance application.*

Minutes Acceptance: Minutes of Jun 11, 2024 6:00 PM (Approval of Minutes)

*Charles Hotchkiss made a motion to approve the variance application.*

*Without 4 concurring votes, the variance fails.*

|                 |                                                 |
|-----------------|-------------------------------------------------|
| <b>RESULT:</b>  | <b>DEFEATED [3 TO 1]</b>                        |
| <b>AYES:</b>    | Michelle Hart, Charles Hotchkiss, Gerald Saling |
| <b>NAYS:</b>    | April McLaughlin                                |
| <b>EXCUSED:</b> | Vanessa Hargrave                                |
| <b>RECUSED:</b> | Bryan Wooten                                    |

#### 4. Discussion Items

Director Stanton told the Board that there will be 3 applications on the July 9, 2024, meeting.

#### 5. Adjourn

With nothing further to come before the Board, Michelle Hart made a motion to adjourn. April McLaughlin seconded. The meeting was adjourned at 6:57 PM.

Respectfully submitted,

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Jamie Martin, Recording Secretary



STAFF REPORT

**TO:** Board of Zoning Adjustments  
**FROM:** Christina Stanton,  
**DATE:** July 1, 2024  
**SUBJECT:** Court Reporter Manuscript

**Type of Item:** *Report*

**B. Action Item (ID # 4888)**  
Court Reporter Manuscript

Attachments:

BZA Transcript 6-11-24 (PDF)

*Transcript of Proceedings*  
*City of Harrisonville Board of Zoning Adjustment*

6/11/2024

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BOARD OF ZONING MEETING

TRANSCRIPT OF PROCEEDINGS

This Board of Zoning meeting comes on  
June 11, 2024, at Harrisonville City Hall, 300  
East Pearl Street, Harrisonville, MO 64701.

*Transcript of Proceedings*  
*City of Harrisonville Board of Zoning Adjustment*

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## 1 A P P E A R A N C E S

2 FOR THE CITY:

3 Alex C. Felzien, City Attorney

4 BOARD MEMBERS:

5 Gerald Saling, Chairman

Bryan Wooten

6 Michelle Hart

April McLaughlin

7 Charles Hotchkiss

8 COMMUNITY STAFF LIASON:

9 Christina Stanton

10 ALSO PRESENT:

11 Jamie Martin

Jeron and Amy Milburn

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1 (Proceedings commenced at 6:00 p.m.)

2 CHAIRMAN SALING: Let's call the  
3 meeting to order. The first approval of  
4 minutes -- or roll call. I'm sorry.

5 MS. MARTIN: Brian Wooten?

6 MR. WOOTEN: Here.

7 MS. MARTIN: Michelle Hart?

8 MS. HART: Here.

9 MS. MARTIN: Charles Hotchkiss?

10 MR. HOTCHKISS: Here.

11 MS. MARTIN: April McLaughlin?

12 MS. MCLAUGHLIN: Here.

13 MS. MARTIN: Gerald Saling?

14 CHAIRMAN SALING: Here.

15 MS. MARTIN: We have a quorum.

16 CHAIRMAN SALING: Do we want to  
17 approval of minutes? Need a motion to approve  
18 the minutes.

19 MR. WOOTEN: I'll make a motion.

20 CHAIRMAN SALING: Second?

21 MS. HURT: I'll second.

22 CHAIRMAN SALING: All those in  
23 favor? (All say "I.")

24 CHAIRMAN SALING: We move onto the  
25 regular meeting is variance of the property

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1 located at 2200 Chateau Drive in the city.

2 MS. STANTON: I wanted to just kind  
3 of go over -- you'll notice there is not a change  
4 in the packet. So we did do the public hearing  
5 at the last meeting and then the item was tabled.

6 If you have any questions on the  
7 discussion from the previous meeting, I'm happy  
8 to try to answer those, but if there are  
9 questions on the legal aspects or concerns, Alex  
10 is here representing the city's legal staff  
11 tonight to address any of those questions.

12 MR. HOTCHKISS: I think the most  
13 pressing item I think are legal --

14 MS. MCLAUGHLIN: I don't have any  
15 questions. I think it's clearly written. I  
16 don't have any legal questions.

17 MR. HOTCHKISS: Can you bring us up  
18 to date.

19 MR. FELZIEN: Yes, so my  
20 understanding is the discussion -- my  
21 understanding and Alex Felzien, city attorney, is  
22 that the discussion was regarding this language  
23 regarding within 8 feet of the front home line --  
24 is that the front property line -- and I also  
25 understand that this structure which is already

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1 built is actually located 12 feet in front of the  
2 property line. Do I have that right, Christina?

3 Yeah. So Christina mentioned this to me  
4 a couple weeks ago, and I had sent her an e-mail  
5 with my legal thoughts and these are it.

6 Essentially I don't think the ordinance  
7 is unambiguous, I don't. I think it says when  
8 you must build a structure within 8 feet of the  
9 front of the property line that necessarily means  
10 behind it. You can have all the interpretations.  
11 There are other interpretations, but anyone  
12 calling City Hall, anyone looking at the code,  
13 anyone looking at precedence would know that  
14 within 8 feet of the front of the home line does  
15 not include 8 feet literally in front of the home  
16 line. It's 8 feet within that 8 feet from the  
17 front of the home line, and so I provided  
18 Christina with that, and I had advised Brad  
19 Ratcliff, our city administrator, I believe I  
20 did, that I didn't think an ordinance change was  
21 necessary that it was going to be too much work  
22 or time or expense really is what it would be the  
23 legal bills to make that change when I think our  
24 adherence to the specific statute has been clear.  
25 We've always understood and operated, and the



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1     only reason we got rid of that rear yard language  
2     was actually to be more beneficial to people by  
3     kind of redefining, and really that comes into  
4     play with the corner lots where they really  
5     sometimes don't even have a rear area.

6                 So I'm happy to answer any questions.  
7     That is the City's interpretation. I understand  
8     that there might be other interruptions.

9                 MS. MCLAUGHLIN: Would you state  
10    that again why you removed the rear language?

11                MR. FELZIEN: Sure. The area I  
12    think it said rear yard or rear area was  
13    originally in that code language. It was removed  
14    because keeping a strict rear yard or rear area  
15    in the code would negatively impact a lot of  
16    residential lots within the city mainly corner  
17    lots who usually typically have very large side  
18    yards, but their proper back yard as defined by  
19    our code is often very miniscule, and corner lots  
20    kind of already get the shaft because they don't  
21    get tall fences anyway for site lines and so that  
22    was -- Christina correct me if I am wrong -- but  
23    really it was specifically we have a lot of  
24    corner lots and having that the rear yard  
25    definition specific to this made it a lot

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1 actually tougher on most applicants.

2 MS. MCLAUGHLIN: So then a corner  
3 lot where would they put it then if it wasn't --  
4 you didn't have anymore -- you didn't benefit --  
5 that still makes zero sense to me.

6 I'm going to tell you -- I mean, it's  
7 not a secret. I'm an attorney. When I read it  
8 the first time, I didn't know whether it was  
9 front or rear. I thought this is weird. I don't  
10 understand.

11 I mean, I do think it's very ambiguous,  
12 and the fact that the word "rear" was in there to  
13 begin with and it's not now. Listen, I would  
14 love to deny this. I think it shouldn't be  
15 there, but --

16 MR. FELZIEN: Well, it's not as if  
17 this specific instance was caused by a  
18 misunderstanding. I mean, if they had built a  
19 shed within 8 feet of the front of the house in  
20 front of the house say the 6 feet in front of the  
21 house.

22 This situation I understand what you are  
23 saying, Ms. McLaughlin, and I think lawyers with  
24 a keen eye for legal drafting might be able to  
25 draw some distinctions here, but had this shed



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1    been built within the 8 feet of the front line  
2    say it was 6 feet in front of the front of the  
3    house, that would be a much better argument as  
4    opposed to it being 12 feet in front of the  
5    house, so it's not even within the 8 feet.

6                   So even if we took your broad  
7    interpretation -- not pejoratively I'm just  
8    saying -- even if we took the broad definition to  
9    mean 8 feet on either side of the front of house,  
10   this shed still would not qualify. It would not  
11   satisfy that because, in fact, it is built 12  
12   feet beyond the front of the house.

13                   And I've actually got it highlighted so  
14   I can read it into the record. It's section  
15   405.550 subsection B.1, and the relevant portion  
16   reads, a detached accessory building shall not  
17   be -- shall be located not less than 8 feet from  
18   any side or rear lot line and no closer to the  
19   front of the building than 8 feet.

20                   MS. MCLAUGHLIN: Not less than.

21   And what was the other one?

22                   MR. FELZIEN: No closer to the  
23   front of the building than 8 feet is the  
24   operative language here so no closer than 8 feet.

25                   MS. MCLAUGHLIN: Okay.

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1 MR. HOTCHKISS: And what are we  
2 talking about the way it is now?

3 MR. FELZIEN: 12 feet I believe.  
4 It's currently 12 feet off of the front of the  
5 property the building line.

6 MS. MCLAUGHLIN: 12 is not less  
7 than 8.

8 MR. FELZIEN: I understand. But  
9 having just argued on behalf of this Board in  
10 front of the Missouri Court of Appeals, and they  
11 had a lot of language in their decision where  
12 they said that zoning officials are to read their  
13 zoning code to where it would not create  
14 ridiculous results, and if we were to read this  
15 to say you can build a shed. In fact, you can  
16 build it 30 feet in front of your home because  
17 that's not closer than 8 feet from the front of  
18 the property line. I think everyone would agree  
19 sheds that are 30 feet out in the front yard  
20 right next to the street that is not what our  
21 code intended. It's never been how we've applied  
22 it.

23 And so while you can legalistically read  
24 it to say, well, it's not closer than 8 feet, so  
25 our code by its language allows it. The actual

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1 interpretation -- I think the Court of Appeals  
2 uses the words the common sense of the code's  
3 officer has to be allowed to operate. Otherwise  
4 code's officials will be so worried about the  
5 exact legality. This is a good example of one,  
6 in fact, where you are right. Right now it is  
7 not closer than within the 8 feet, but city staff  
8 would contend it's 20 feet off its mark because  
9 it should be that 12 feet where it is now back to  
10 the front of the property line plus 8, and then  
11 it would be compliant.

12 So this is truly a variance request to  
13 allow 20 additional feet, the 12 that already is  
14 in front of the building and then the 8 that is  
15 supposed to be from behind the front of the  
16 building.

17 MS. MCLAUGHLIN: And I hear what  
18 you are saying, but that's based on the  
19 interpretation that you expect everyone to  
20 understand, but not as it's written.

21 MR. FELZIEN: Let me put it another  
22 way. They're applying for a variance because  
23 they've either been told that they need to have  
24 one or they believe they need to have one.

25 If your argument were true, they would

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1 not be here tonight because they would say that  
2 our shed is just code compliant. We don't need a  
3 variance. We just are code compliant because we  
4 are not within 8 feet of the property line.

5 MS. MCLAUGHLIN: That's what I said  
6 at the last meeting. I don't know why they're  
7 here because I think they have complied with the  
8 codes the way that they're written. That's why I  
9 was like if the codes need to change, the codes  
10 need to change, but this doesn't appear to be a  
11 variance to me.

12 MR. FELZIEN: Sure. And I'm not  
13 here to, you know, we could go twelve rounds on  
14 this. I'm not here to disabuse you of what your  
15 thoughts are on this. I'm just saying it's the  
16 City's interpretation, both the legal department  
17 and the codes enforcement, that a variance is  
18 needed that their shed is, in fact, 20 feet off  
19 of where it should be, and that for the shed to  
20 allow to remain where it is, they're going to  
21 need a variance from a majority of this Board.

22 MS. MCLAUGHLIN: Okay. So what you  
23 are saying is there is going to be a vote? There  
24 has to be a vote?

25 MR. FELZIEN: Yeah, it's proper



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1 before the chair to call for a vote. It's here.

2 We have a quorum. They have submitted a  
3 application. Yes, this is right for a vote.

4 MR. HOTCHKISS: My feeling is it  
5 doesn't meet the variance, and I think driving by  
6 it's an eyesore. I don't know any other building  
7 in the city of Harrisonville that has a building  
8 next to their driveway in front. I agree with  
9 the City on this.

10 MR. WOOTEN: Do we need a motion?

11 MR. FELZIEN: So I am sorry, what?

12 CHAIRMAN SALING: Do we have to get  
13 out of public hearing?

14 MR. FELZIEN: We have a public  
15 hearing listed on our agenda, right. So we  
16 should open up. If there is discussion, then  
17 there would be public hearing and then after the  
18 public hearing we go through the four factors for  
19 it, so no motion right now.

20 CHAIRMAN SALING: Anybody else on  
21 the public hearing need to?

22 MS. MILBURN: So since the last  
23 hearing that we were at, I also went and spoke to  
24 an attorney, and the reason that we applied for  
25 the variance is because we felt we had to.

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1 I didn't want to go that route. I  
2 wanted to call the city and say we shouldn't need  
3 a variance because it doesn't say it, but my  
4 husband wanted to try to appease the city because  
5 we want -- we don't want confrontation, and you  
6 know, when we sat in the last hearing you guys  
7 saw what we saw when we pulled up the code. The  
8 lawyer I spoke to said that this is a very vague  
9 code and we shouldn't have needed to be here for  
10 a variance and that basically it needed to be  
11 reworded if that's not what it is and that's  
12 grandfathered in, but we just kind of felt like,  
13 you know, we didn't really have a choice but to  
14 apply for the variance.

15 I didn't feel like we needed it and we  
16 spent \$267 to apply for a variance which I also  
17 did not want to do because we specifically got on  
18 line to look at the code before we put this shed  
19 there, and I understand that some people may not  
20 like it there, but legally, per the code, we  
21 didn't do anything wrong.

22 So for us to now go back because it  
23 would incur us a lot of cost, and we were doing  
24 what we were supposed to do in going to the code.

25 You know, I heard several times over the



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1 span of the time that the code had been changed  
2 which wasn't accurate. I went and got the code  
3 because that's what the attorney told me I should  
4 do, but I really feel like there shouldn't be a  
5 vote. We shouldn't have needed a variance and we  
6 should get our money back because the wording is  
7 not there, and you're saying that the code that  
8 I'm reading the line only reads not less than  
9 8 feet from any side or rear lot, and you're  
10 saying it's 12. So it's not less than 8.

11 So I feel like as a citizen I went and  
12 did what I needed to do and made sure I was  
13 abiding by what I'm supposed to do, and now we  
14 find ourselves here a second time trying to fight  
15 something that we shouldn't even have needed to  
16 fight.

17 So I understand that maybe some people  
18 don't like it, but per the code we didn't do  
19 anything wrong.

20 MR. MILBURN: I think if you would  
21 have kept the rear in the wording that would have  
22 been more understanding. I would have understood  
23 that.

24 MS. MILBURN: That would have been  
25 more understanding.

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1 MR. MILBURN: But to call it an  
2 eyesore unless you have driven by it, it's not a  
3 eyesore. I mean, my truck is let in right there.  
4 It's right by a tree. It's not even that  
5 noticeable. I'd understand if it was closer to  
6 the road blocking people's view, I would  
7 completely understand that. And it's not run  
8 down. It's a brand new. It's already prebuilt.  
9 It's not like I had someone come in and prebuilt  
10 and build itself because if I would have had it  
11 that way, I could have maybe possibly got it  
12 moved back, but the way the power lines around my  
13 property and the fencing, the sloping and the  
14 trees there is no way of getting anything back  
15 there.

16 MS. MILBURN: And I also feel like the  
17 letter that we got from the City was kind of  
18 confusing because they added in that sentence,  
19 and I'm like I don't recall reading that in the  
20 code. So I had to go online to read it.

21 So I feel like when I got the letter, it  
22 should have been the current code and not had  
23 something added here that is not here because I  
24 almost wonder if the intention was to make us  
25 think that we had done something wrong. So there

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1       hence we need a variance.

2                   That's, I guess, all I have to say.

3       Thank you.

4                   MR. WOOTEN: I got one question.

5                   MS. MILBURN: Sure.

6                   MR. WOOTEN: So at any point before  
7       you bought your building or purchased or wherever  
8       you got this building, did you ever contact the  
9       city beforehand?

10                  MS. MILBURN: We pulled up the  
11       online code on the city of Harrisonville website.  
12       So I didn't call the city.

13                  MR. WOOTEN: You automatically knew  
14       that it was small enough -- the square footage  
15       was small enough and you didn't have any  
16       variance?

17                  MS. MILBURN: We went through the  
18       code and kind of measured it out where it was at.

19                  MR. WOOTEN: No, I mean the size of  
20       the building. Are you sure the size of the  
21       building -- did you know the size of the building  
22       was in code then?

23                  MS. MILBURN: You mean the --

24                  MR. WOOTEN: The size of the  
25       building. There is a size of the building that

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1 you have to have a permit for. Did you know when  
2 you purchased that building?

3 MR. MILBURN: I didn't know there  
4 was a size.

5 MS. MILBURN: No.

6 MR. WOOTEN: So my question would  
7 have been before I purchased an outfall structure  
8 like you have, I would have thought I would have  
9 came to City Hall and asked for -- asked for --  
10 make sure that I didn't need a permit and what  
11 the setbacks were.

12 MS. MILBURN: I understand that,  
13 but I work the same hours as the city works. So  
14 that's kind of hard for me to get there during  
15 their business hours.

16 CHAIRMAN SALING: How long has that  
17 been there?

18 MR. MILBURN: Since November.

19 CHAIRMAN SALING: Since November?

20 MR. MILBURN: I mean there was even  
21 a concrete pad that was previously there before I  
22 even bought the house six years ago.

23 MR. WOOTEN: The concrete pad was  
24 for a parking lot for somebody to park on not for  
25 a building to be there.

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1 MR. MILBURN: The thing is you  
2 would have to drive through my grass to get into  
3 that thing. It's not something you would pull up  
4 on with a vehicle.

5 MR. WOOTEN: All right.

6 MR. MILBURN: It barely fits a  
7 small vehicle.

8 MR. WOOTEN: I don't have anything  
9 for me.

10 MS. MILBURN: I would just ask that  
11 I feel like there shouldn't need to be a vote,  
12 and the attorney I spoke to felt the same. He  
13 said, you know, I guess I can understand what  
14 they're trying to imply, but they are not saying  
15 it, and so legally the wording isn't there. So  
16 thank you.

17 MS. HART: Is the City not  
18 considering changing the wording at all?

19 MR. FELZIEN: No, not right now.  
20 It's not -- and even if we were, there would have  
21 to be a workshop, and I'd have to draft the  
22 ordinance and that would be months later. It's  
23 not like a thing we could just -- but no,  
24 currently we're not looking at changing it. That  
25 could be something we could discuss, but



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1 Christina -- correct me if I'm wrong -- but I  
2 believe the note closer to the front of the  
3 building than 8 feet has always been in our code.

4 MS. STANTON: I think you are  
5 correct, but let me look at it because the notice  
6 that they stated they received had the previous  
7 language.

8 MR. FELZIEN: Okay.

9 MS. HURT: So when they were  
10 notified, they were notified via letter with the  
11 previous language, not the language that was in  
12 the current code. Is that what I'm hearing  
13 correctly?

14 MR. FELZIEN: It sounds like that  
15 would be. I'll wait for Christina to confirm.

16 MS. MCLAUGHLIN: The letter had a  
17 sentence.

18 MS. HURT: That tells me that -- my  
19 opinion that would tell me that the city knew  
20 they were incorrect with the current code by  
21 using the old code with the other verbiage so  
22 they corrected it in the letter that they sent to  
23 them. Is that not correct?

24 MR. FELZIEN: Yeah, I see what you  
25 are saying. I believe so. I did not send these



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1 letters personally, so I can't like testify to  
2 that.

3 MS. HART: That would be my --

4 MS. STANTON: To the fact of it  
5 being the previous code I think the code  
6 enforcement officer did not know that it changed,  
7 and he did not have the updated version. He was  
8 sending out something that was already in the  
9 system and just clicking a button and send it.

10 The previous language said all accessory  
11 buildings shall be located in the rear yard only,  
12 and that part like I said was changed. A  
13 detached accessory building shall be located not  
14 less than 8 feet from any side or rear lot line.  
15 So that piece is the same.

16 MR. FELZIEN: Okay.

17 MS. STANTON: And as I mentioned in  
18 the previous meeting, the reason for that change  
19 and as you had mentioned as well allowed people  
20 to actually use their side yard which is a huge  
21 deal for corner lots because they don't --  
22 depending on how they're situated, they may not  
23 have a rear.

24 MS. HURT: I'm not an attorney.

25 I'm not going to read it the same way that you

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1 are or that Ms. McLaughlin is.

2 I feel like the verbiage before made way  
3 more sense to someone that is not used to the  
4 legalities, and I mean, whether they need a  
5 variance or not, I mean, I'm not going to argue  
6 that, but I just feel like someone reading the  
7 codes they're out on the website for a homeowner  
8 to go and look up themselves to try and do what  
9 is right, the verbiage showing the rear -- I  
10 mean, you got to put it in black and white. They  
11 got to be able to read it and understand it, and  
12 not just assume that they know and assume that  
13 they're an attorney and they're going to read it  
14 the same way because the homeowner is not  
15 typically going to know.

16 MR. FELZIEN: Sure. That's fair.  
17 I would say that the new code is actually more  
18 friendly to these applicants; whereas, before it  
19 said they shall only be located in the rear yard.

20 Well, clearly their's is not located in  
21 the rear yard. So if it was the old code, they  
22 would have been dead on arrival because it's just  
23 not the rear yard.

24 This new code actually allows some more  
25 flexibility for side yards to have a shed. So I

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1 appreciate that. I'll take that up with Brad.  
2 I'll talk about it with the other city attorneys.  
3 There is certainly some work we could do, but  
4 this code is actually more friendly. It's just  
5 that you all are going to have to vote. You are  
6 the ones going to have to make the decision, but  
7 it's the City's position that it is violating of  
8 the city code and that a variance is required by  
9 your vote.

10 CHAIRMAN SALING: Anybody else have  
11 anything? Anybody else in the public?

12 MR. FELZIEN: If not you'll close  
13 the public hearing.

14 CHAIRMAN SALING: Hearing none,  
15 we'll close the public hearing. And we'll move  
16 on to the consideration for the variance. So if  
17 we vote no, then will they get -- they have to  
18 remove it?

19 MR. FELZIEN: Yes.

20 CHAIRMAN SALING: If we vote for it  
21 they can keep it. Anybody else?

22 MR. WOOTEN: I'll make a motion to  
23 go with the staff recommendations and we deny the  
24 variance.

25 MR. HOTCHKISS: Second.

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1                   CHAIRMAN SALING: Second. All  
2 those in favor? All those against?

3                   MR. FELZIEN: Yeah, I'm sorry.  
4 We're going to need specific ones. I was not  
5 here at the last meeting. I'm sorry. Did you  
6 guys go through the four considerations for the  
7 variance in the code?

8                   CHAIRMAN SALING: Let's do it.

9                   MR. FELZIEN: Okay. Christina, do  
10 you have this in here. I mean I have it pulled  
11 up online. I want to make sure the four  
12 conditions for the variance in B.1. Are you able  
13 to pull up on the screen okay.

14                  Well, then here. I'll read them slowly  
15 into the record, but under our code and this is  
16 section 405.615 subsection B, it says for the  
17 purposes of supplementing the above standards,  
18 the board of adjustment shall also in making the  
19 determination of whether there are practical  
20 difficulties or a particular hardship take into  
21 consideration the extent to which the following  
22 facts favorable to the applicant have been  
23 established.

24                  So what I'm going to read now is do you  
25 agree with these or not. And so the first one is



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

7 So what that means is if your property  
8 is very unique such that you have no side yard or  
9 you are surrounded by water and you only have a  
10 front yard, then your property would be so unique  
11 that I can only put a shed in the front yard  
12 because I don't have those. That's the first.  
13 It's usually called uniqueness.

14 No. 2, the conditions upon which the  
15 variance is based would not be applicable  
16 generally to other property within the same  
17 zoning classification.

18 In laymen's terms what that means is  
19 that this code applies to all other R1 zoned  
20 properties that you must have a shed 8 feet  
21 behind the front of the property line.

22 The alleged difficulty or hardship for  
23 the reason for the variance has not been created  
24 by any person having an interest in the property  
25 at any time after the effective date of the code.



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1           Again, the City would argue that, of  
2   course, the homeowner has created this issue.  
3   They've purchased and placed it in an area that  
4   was in violating of our code. So the alleged  
5   difficulty or hardship has been created by a  
6   person who has an interest; i.e., the homeowners.

7           No. 4, that granting the variance will  
8   not be detrimental to the public welfare in the  
9   neighborhood in which the property is located.  
10   That's just for you to determine if it would  
11   endanger the welfare of the neighborhood.

12           And No. 5, the proposed variance will  
13   not impair an adequate supply of light and air to  
14   adjacent property or substantially increase the  
15   danger or fire -- danger or fire otherwise in  
16   danger of the public safety.

17           So those are the five things to consider  
18   when you are considering a variance, and how  
19   we've done this in the past is we've gone through  
20   those five and you vote yea or nay, and this is a  
21   little bit tricky here. So I'm going to try to  
22   explain it as best I can.

23           But voting yea means that you agree with  
24   the applicant and voting nay means you do not.

25           If there is no other questions about

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1 that, we can go through these five, and then if I  
2 could have you all speak instead of raising your  
3 hands, that way we just have a better, cleaner  
4 record. Does that work.

5 All right. So No. 1 again yes means you  
6 agree. No means you do not. The particular  
7 physical surroundings, shape or topographical  
8 conditions of the specific property involved  
9 would bring a particular hardship upon the owner  
10 as distinguished from a mere inconvenience if the  
11 strict letter of the regulation were to be  
12 carried out.

13 MR. WOOTEN: No.

14 MS. HURT: No.

15 MS. MCLAUGHLIN: No.

16 CHAIRMAN SALING: No.

17 MR. HOTCHKISS: No.

18 MR. FELZIEN: So since they need a  
19 majority of all of the five this variance  
20 technically fails, but we're going to go through  
21 the rest here.

22 No. 2 is the conditions upon which the  
23 petition for variance as based, would not be  
24 applicable generally to other property within the  
25 same zoning classification.

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1 MR. WOOTEN: No.

2 MS. HURT: No.

3 MS. MCLAUGHLIN: No.

4 CHAIRMAN SALING: No.

5 MR. HOTCHKISS: No. I'm sorry.

6 MR. FELZIEN: No. 3, the alleged  
7 difficulty or hardship has not been created by  
8 any person having an interest in the property at  
9 the time -- at any time after the effective date  
10 of this chapter.

11 MR. WOOTEN: No.

12 MS. HURT: I agree with that. One  
13 more time.

14 MR. FELZIEN: The alleged  
15 difficulty or hardship -- the reason we're here  
16 today the variance the shed -- has not been  
17 created by any person having an interest in the  
18 property at any time after the effective date of  
19 this chapter.

20 MS. HART: No.

21 MS. MCLAUGHLIN: No.

22 CHAIRMAN SALING: No.

23 MR. HOTCHKISS: No. No.

24 MR. FELZIEN: No. 4, the granting  
25 of the variance will not be detrimental to the

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1 public welfare in the neighborhood in which the  
2 property is located.

3 MR. WOOTEN: No.

4 MS. HURT: It will not be, no.

5 MS. MCLAUGHLIN: No.

6 CHAIRMAN SALING: No.

7 MR. HOTCHKISS: No.

8 MR. FELZIEN: No. 5, the proposed  
9 variance will not impair an adequate supply of  
10 light and air to adjacent property or  
11 substantially increase the danger of fire or  
12 otherwise endanger the public safety or  
13 substantially diminish or impair property values  
14 within the neighborhood.

15 MR. HOTCHKISS: No, it will not,  
16 right?

17 MR. FELZIEN: Yeah. Essentially do  
18 you agree that the proposed variance will not  
19 impair an adequate supply of light and air to  
20 adjacent property or substantially increase the  
21 danger of fire or otherwise endanger the public  
22 safety of the neighborhood.

23 MS. HURT: I agree with will not.

24 MR. FELZIEN: So that would be a  
25 yes?

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1 MR. WOOTEN: Yes.

2 MS. MCLAUGHLIN: Agree.

3 CHAIRMAN SALING: Yes.

4 MR. HOTCHKISS: Yes.

5 MR. FELZIEN: Having failed the  
6 first four, the request for variance fails.

7 Christina, I think you can follow up  
8 with the property owners and kind of discuss next  
9 steps, but --

10 MR. MILBURN: Glad you made that  
11 confusing.

12 MS. MILBURN: How do I get a  
13 transcript?

14 THE REPORTER: Can we go off the  
15 record?

16 MR. FELZIEN: Yes.

17 Concluded at 6:27 p.m.)  
18  
19  
20  
21  
22  
23  
24  
25



1 C E R T I F I C A T E

2

3 I, Kelly R. Rexroat, a Certified Court  
4 Reporter for the State of Missouri, hereby  
5 certify that:

6 Said testimony was recorded  
7 stenographically by me at the date and location  
8 hereinbefore stated and was thereafter  
9 transcribed under my direction;

10 The foregoing transcript is the true,  
11 correct, and complete record of the testimony  
12 given by said witness;

13 I am not a relative, employee, attorney,  
14 or counsel of any of the parties or a relative or  
15 employee of such attorney or counsel nor  
16 financially interested in the action.

17 Witness my hand and seal on this 24th  
18 day of June, 2024.

19

20

21 Kelly R. Rexroat, RPR, CSR

22 Certified Court Reporter

23

24

25

STAFF REPORT

**TO:** Board of Zoning Adjustments  
**FROM:** Christina Stanton,  
**DATE:** July 3, 2024  
**SUBJECT:** Appl. #VAR-24-006--Variance of Section 405.325.B, C and D at 1720 N. St. Rte. 291 PUBLIC HEARING

**Type of Item:** *Public Hearing*

**1. Action Item (ID # 4889)**

Appl. #VAR-24-006--Variance of Section 405.325.B, C and D at 1720 N. St. Rte. 291

Attachments:

Staff Report BZA 7\_9\_24 Murphy Oil Variance 1720 N St Rte 291(PDF)

Signed Variance Application May 2023 (PDF)

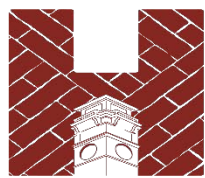
Variance Request Letter (PDF)

ALTA Survey Harrisonville, MO MUSA 6771 (PDF)

ECP - Harrisonville, MO - MUSA #5782 (PDF)

Zoning Map (PDF)

Aerial Map (PDF)



**To:** Board of Zoning Adjustments

**From:** Christina Stanton, AICP, Director of Community Development

**Date:** July 9, 2024

**Re:** Appl. #VAR-24-006—Variance of Section 405.325.B, C and D to allow for a front yard setback of 25', a side yard setback of 13.32' from the canopy on south side, and a rear yard setback of 0' from the canopy on property located at 1720 N. St. Rte. 291

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## GENERAL INFORMATION

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**Applicant:** Chris Harty, with CEI Engineering Associates, Inc., 3030 LBJ Freeway, Ste. 920, Dallas, TX

**Requested Actions:** Approval of requested variances from Section 405.325.B, C and D to allow for a front yard setback of 25', a side yard setback of 13.32' from the canopy on the south side, and a rear yard setback of 0' from the canopy on property located at 1720 N. St. Rte. 291

**Date of Application:** May 14, 2024

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## PURPOSE AND AUTHORITY

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In accordance with Section 405.610 of the City's Code, the Board of Zoning Adjustment (BZA) "may decide that there are practical difficulties or particular hardship in the way of carrying out the strict letter of these regulations". The BZA "may grant variances from the provisions of this Chapter in harmony with its general purpose and intent" based upon the standards listed in Section 405.615, which are listed below in staff's analysis. The concurring vote of four (4) members of the Board is required for approval of a variance.

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## PROPOSAL

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The applicant is seeking variances to the setback requirements for the Service Business (C-2) District (Section 405.325.B, C and D). The variances are being requested to allow for the site to be razed and redeveloped to a larger gas station. The required setbacks for this District are as follows: front yard setback is 35' (405.325.B), side yard setback is 15' (405.325.C), and rear yard setback is 15' (405.325.D). The requested variances are as follows: a variance of 10' from the required 35' front yard, which yields a setback of 25' from the front property line; a variance of 1.68' from the required 15' side yard, which yields a setback of 13.32' from the south side property line; and a variance of 15' from the required 15' rear yard, which yields a setback of 0' from the rear property line.

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## PREVIOUS ACTIONS

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Required legal notices have been issued.

- May 4, 1993—The Final Plat of *Jenkins Addition* was recorded with the Cass County Recorder's Office.
- December 6, 2007—A Lot Split creating *Lots 2A and 2B, Jenkins Addition* was recorded with the Cass County Recorder's Office.

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## KEY ISSUES

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The property is currently zoned Service Business (C-2) District.

Under current Zoning Regulations:

- Section 405.325.B: "Front yard. A front yard of not less than thirty-five (35) feet shall be provided."
- Section 405.325.C: "Side yards. There shall be a side yard o each side of not less than fifteen (15) feet on each side of a building."
- Section 405.325.D: "Rear yard. The depth of the rear yard shall be at least fifteen (15) feet."

CEI's letter states that the variance is needed due to the odd shape of the existing lot and because Wal-Mart is not willing to sell any additional property that would allow for this property to be redeveloped (raze and rebuild).

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The Applicant is seeking a variances to the front, side and rear yard setbacks to allow for a front yard setback of 25', a side setback of 13.32' on the south side, and rear setback of 0'.

### 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 existing use of the property would continue if the variances are not granted. However, the planned raze and rebuild would not be possible.**
  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. The uniqueness in this situation is that the lot is an irregular shape. This situation was created when the Lot Split was completed in 2007, which reduced the land area for Murphy's Oil. Additionally, the applicant has noted that Wal-Mart will not sell Murphy any additional 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 existing use is not proposed to change, but the building is proposed to be razed and rebuilt to a newer model. The proposed encroachment is towards:

- (to the front/east) an 80' right-of-way and the immediately adjacent existing building to the east (Show Me Auto Mall) is setback approximately 70', so the closest existing structure to the east would be approximately 150' away;
- (to the side/south) an existing drive and parking lot for Wal-Mart; and
- (to the rear/west) an existing drive and parking lot for Wal-Mart.

- 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 lot is an irregular shape and has created a situation whereby it is very difficult to construct an expansion of the existing facility whether done as an addition or a raze and rebuild. Additionally, the applicant has noted that Wal-Mart is unwilling to sell Murphy's Oil any additional land preventing their ability to raze and rebuild as planned without obtaining the requested variances.**

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 requested variances apply to this property due to the irregular shape of the lot and the desire of the applicant to raze their existing structure and rebuild a newer model.**

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 alleged difficulty or hardship is being caused by the irregular shape of the lot and the current property owner's desire to raze the existing building and rebuild a newer model.**

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 variances will not result in a detriment to the public welfare in the area. The variances would allow the property owner to have a front yard setback of 25', a south side setback of 13.32', and a rear setback of 0'. The requested 10' variance to the front setback encroaches towards an 80' right-of-way and the nearest structure is setback approximately 70', so the closest existing building to the east (Show Me Auto Mall) would be approximately 150' away. Additionally, there are no immediately adjacent structures to the south side or rear (west).**

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.



The proposed variance will not impair an adequate supply of light or air to adjacent property or substantially increase the danger of fire or otherwise endanger the public safety nor will it substantially diminish or impair property values within the neighborhood.

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#### STAFF COMMENTS AND SUGGESTIONS

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In support of the requested variances are the facts that:

- The proposed encroachments are towards:
  - (to the front/east) an 80' right-of-way and the immediately adjacent existing building to the east (Show Me Auto Mall) is setback approximately 70', so the closest existing structure to the east would be approximately 150' away;
  - (to the side/south) an existing drive and parking lot for Wal-Mart; and
  - (to the rear/west) an existing drive and parking lot for Wal-Mart;
- The intent of setbacks are to provide for separation of uses and a degree of uniformity;
- The granting of the variances 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.

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#### STAFF RECOMMENDATION

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Staff recommends approval of the requested variances.

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#### ATTACHMENTS

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Application  
 CEI Letter  
 Sheets ALTA Survey (existing conditions) and ECP  
 Zoning Map  
 Aerial Map



# THE CITY OF HARRISONVILLE

WHERE TRADITION MEETS INNOVATION

## VARIANCE APPLICATION

DATE: 5/9/2024

Applicant (Print): Chris Harty Signature: *Chris Harty*  
 Company Name: CEI Engineering Associates, Inc  
 Street Address: 3030 LBJ Freeway Suite 920 City: Dallas State: TX Zip: 75234  
 Telephone: 479-409-8032 Email: rharty@ceieng.com

### Property Owner Authorization Required if Applicant Different from Property Owner

Property Owner Name (print): Murphy Oil USA, Inc Signature: *Bassam Ziada*  
 Street Address: 200 E Peach Street City: El Dorado State: AR Zip: 71730  
 Telephone: 870-677-0481 Email: bassam.ziada@murphyusa.com

Firm Preparing Application (if applicable): \_\_\_\_\_

Contact: \_\_\_\_\_  
 Street Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Telephone: \_\_\_\_\_ Email: \_\_\_\_\_

\* All correspondence should be sent to (check one): Applicant ☒ Property Owner ☐ Firm ☐

### Project Information

General Location or Address:  
1720 State Route 291 Harrisonville, MO 64701  
 Harrisonville Properties, 08-08-33-300-000-029.001 Acres or Sq. Ft. .45 ac/19,677 Sq.Ft.

### Process and Submittal Requirements

*City of Harrisonville Zoning Ordinance Section 405.610*

*The Board of Zoning Adjustment may grant variances from the provisions of this Chapter in harmony with its general purpose and intent and may vary them only in specific instances hereinafter set forth. The Board of Zoning Adjustment, based on standards hereafter prescribed and after hearing, may decide that there are practical difficulties or hardship in the way of carrying out the strict letter of these regulations. The concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement or decision of the party appealed from or to issue an order or variance or to decide in favor of an appellant.*

Step 1. Hold pre-application conference with City staff.

Step 2. Submit complete application and the following at least thirty (30) days prior to the BZA Meeting:

1. \$200 filing fee PLUS \$65.00 notice fee, payable to the City of Harrisonville
2. Letter explaining the project and why variance needed.
3. One (1) 8 1/2 x 11 electronic copy of site plan showing property, existing and proposed structures and additional important information.

Step 3. City staff publishes legal notice and sends letters to property owners within 185 feet.

Step 4. Board of Zoning Adjustments Meeting 2<sup>nd</sup> Tuesday of month at 6 PM at City Hall.

### Please Answer Following Questions

The BZA may approve a variance to the provisions of the Zoning and Subdivision Regulations, but only as allowed by the regulations and only when it has made findings based upon evidence presented to it in specific cases. *Section 405.615 (A) Standards*

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

Applicant Response: No.

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

Applicant Response: Property the odd shape causing issues with the building setbacks. The property is  
is land locked and Walmart will not sell Murphy additional property.

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

Applicant Response: No, granting this variance will not alter the character of the locality and/or neighborhood.

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For the purpose of supplementing the above standards and in determining whether there are practical difficulties or hardships, the BZA shall also take into consideration the extent to which the following facts have been established by the evidence. *Section 405.615 (B)*

1. If the strict letter of the regulation is carried out, will the physical surroundings, shape or topographical conditions of the specific property create a hardship for the owner as distinguished from a mere inconvenience?

Applicant Response: Due to the shape of the lot and the building setbacks on 3 sides of the property will  
prevent Murphy from being able to develop to a new store at this location.

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2. Do the reasons for his variance apply just to this property or generally to other properties in the same zoning classification?

Applicant Response: The variance applies to this property only.

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3. Has the alleged difficulty or hardship been created by any person having an interest in the property at any time after May 13, 1991, the effective date of this Chapter?

Applicant Response: No

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4. Will the granting of the variance be detrimental to the public welfare in the neighborhood in which the property is located?

Applicant Response: No, this variance will not be detrimental to the public welfare.

5. Will the proposed variance impair an adequate supply of light and air to adjacent property or substantially increase the danger of fire or endanger the public safety or substantially diminish or impair property values within the neighborhood?

Applicant Response: No, it will not cause any of the above impairments.

### Resources

|                         |                                                                                                                                       |
|-------------------------|---------------------------------------------------------------------------------------------------------------------------------------|
| City Website            | <a href="http://www.ci.harrisonville.mo.us">www.ci.harrisonville.mo.us</a>                                                            |
| Zoning Map              | <a href="https://www.ci.harrisonville.mo.us/documentcenter/view/6182">https://www.ci.harrisonville.mo.us/documentcenter/view/6182</a> |
| Zoning Regulations      | <a href="https://www.ecode360.com/27908265">https://www.ecode360.com/27908265</a>                                                     |
| Subdivision Regulations | <a href="https://www.ecode360.com/27909481">https://www.ecode360.com/27909481</a>                                                     |
| Cass County GIS Map     | <a href="https://cassgis.integritygis.com/h5/index.html?viewer=cass">https://cassgis.integritygis.com/h5/index.html?viewer=cass</a>   |

### Contacts

|                                                                   |                                |                |                                                                            |
|-------------------------------------------------------------------|--------------------------------|----------------|----------------------------------------------------------------------------|
| City Hall, 300 E. Pearl, Harrisonville, MO 64701                  |                                | (816) 380-8900 | Fax (816) 380-8910                                                         |
| John Morris                                                       | Building Official              | (816) 380-8917 | <a href="mailto:jmorris@harrisonville.com">jmorris@harrisonville.com</a>   |
| Christina Stanton                                                 | Community Development Director | (816) 380-8922 | <a href="mailto:cstanton@harrisonville.com">cstanton@harrisonville.com</a> |
| Jamie Martin                                                      | Administrative Secretary       | (816) 380-8958 | <a href="mailto:jmartin@harrisonville.com">jmartin@harrisonville.com</a>   |
| Public Works Department, 201 W. Chestnut, Harrisonville, MO 64701 |                                |                | Fax (816) 380-3997                                                         |
| Carl Brooks                                                       | Director of Public Works       | (816) 380-8964 | <a href="mailto:cbrooks@harrisonville.com">cbrooks@harrisonville.com</a>   |
| Ted Martin                                                        | City Engineer                  | (816) 380-8964 | <a href="mailto:tmartin@harrisonville.com">tmartin@harrisonville.com</a>   |

### For Office Use Only

Case No: VAR-24-0060 Filing Fee. Amount Paid: \$ 265.00 Date: 5/17/2024  
 Date Application Received: 5/14/2024 BZA Meeting Date: July 9, 2024  
 Note: \_\_\_\_\_







Civil Engineering, Landscape Architecture,  
Survey, Planning & Program Management

3030 LBJ Freeway, Suite 920  
Dallas, TX 75234  
Office: 972.488.3737  
Toll-free: 1.877.488.3737  
ceieng.com

May 9, 2024

Board of Zoning Adjustment  
City of Harrisonville  
300 E Pearl  
Harrisonville, MO 64701  
816-380-8900

**Re: Murphy USA – 1720 Rt 291 Harrisonville, MO 64701 | Variance Request – Setback Requirements**

To whom it may concern:

I am writing on behalf of CEI Engineering & Associates, representing Murphy Oil USA. The purpose is to formally request a setback variance for the property located at 1720 State route 291, Harrisonville, MO identified by property # 080833300000029001.

As stipulated in code Section 405.325 Height and Area Regulations Ord. No. 1825,5-13-1991, a 35' front and 15' rear building setback are required. To accommodate the construction of a new store, a reduction of the front setback to 30' and rear setback of 1'. The justification for the need of the setback reduction is the existing lot is an odd shape and is very narrow towards the south, and Walmart is not willing to sell additional property that would allow development of this lot without seeking a variance.

Your consideration of this request is greatly appreciated. Should you require any further information or have inquiries, please do not hesitate to contact me directly.

Thank you for your time and attention.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read 'R. Chris Harty'.

Chris Harty  
Project Manager  
CEI Engineering Associates, Inc.

[rharty@ceieng.com](mailto:rharty@ceieng.com)

479-409-8032

Attachment: Variance Request Letter (Appl. #VAR-24-006--Variance of Section 405.325.B, C and D at 1720 N. St. Rte. 291 PUBLIC HEARING)





CEI ENGINEERING ASSOCIATES, INC.  
2600 NE 11TH ST, SUITE 300  
BENTONVILLE, AR 72712  
PHONE: (479) 273-9472  
FAX: (479) 273-0844  
CORPORATE TBPLS FIRM #10031500

3030 LBI FREEWAY, SUITE 920  
DALLAS, TX 75234  
PHONE: (972) 488-3737  
FAX: (972) 488-6752

ALTA/NSPS Land Title Survey  
Murphy Oil USA, Inc.  
1720 N State Route 291  
City of Harrisonville, Cass County, Missouri



|                        |           |
|------------------------|-----------|
| PROFESSIONAL OF RECORD | DGR       |
| DESIGNER               | CNS       |
| FIELD WORK             | KTC       |
| CEI PROJECT NUMBER     | 33638     |
| DATE                   | 3/12/2024 |
| REVISION               | REV-0     |

ALTA Sheet  
SHEET TITLE  
SHEET NUMBER

1 OF 1

| Title Commitment provided by: Stewart Title Guaranty Company, File No.: 207021179, Countersigned by Stewart Title of Kansas City, Inc. Effective Date: Date of Policy: September 26, 2008.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------|
| Exceptions                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Effect on Survey                               |
| 1. Standard Exceptions:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                |
| a. Rights or claims of parties in possession not shown by the public records.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Not survey related                             |
| b. Easements, or claims of easements, not shown by the public records.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | None presented to Surveyor                     |
| c. Any encroachment, encumbrance, violation, variation, or adverse circumstance that would be disclosed by an accurate and complete land survey of the Land.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | None presented to Surveyor                     |
| d. Any lien, or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the public records.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Not survey related                             |
| e. Taxes or special assessments which are not shown as existing liens by the public records.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Not survey related                             |
| 2. General taxes and special assessments for the year 2008 and subsequent years. None now due and payable.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Not survey related                             |
| 3. All real estate taxes and special assessments, if any, due the City of Harrisonville, Missouri. None now due and payable                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Not survey related                             |
| 4. Building setback lines, easements, covenants, and restrictions, if any, shown on the recorded plats in Plat Book 12 at Page 230, Plat Book 19 at Page 60, and on Lot Split in Survey Book 19 at Page 60.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | As shown hereon                                |
| 5. Easements with Covenants and Restrictions Affecting Land by and between Eric S. Zorn, Managing Trustee, Wal-Mart Real Estate Business Trust and Murphy Oil USA, Inc. recorded September 26, 2008 as Document No. 419464 in Book 3163 at Page 609.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Blanket in Nature Unable to Graphically Depict |
| 6. Declaration of Environmental Release between Eric S. Zorn, Managing Trustee, Wal-Mart Real Estate Business Trust and Murphy Oil USA, Inc. dated of even date herewith and recorded September 26, 2008 as Document No. 419465 in Book 3163 at Page 631.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Not survey related                             |
| 7. All matters shown on the survey prepared by CEI Engineering Associates, Inc. dated December 10, 2007, last revised May 16th, 2008 and known as Project No. 23049 (the "Survey").                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | As shown hereon                                |
| The land referred to in this Commitment is described as follows:<br><br>Tract 1<br><br>Lot 2(A), of the Lot Split for Murphy Oil recorded in Book 19, Page 60 of Surveys in the Official Records of Cass County in the City of Harrisonville, Cass County, Missouri, and being also described as follows:<br><br>Beginning at the Northeast corner of Lot 2A, of said Lot Split, said corner being on the westerly right-of-way line of Missouri State Highway 291; Thence along said right-of-way line South 04°06'28" West a distance of 177.24 feet; Thence, North 85°53'12" West a distance of 61.41 feet; Thence, North 40°55'08" West a distance of 106.52 feet; Thence, North 00°17'58" East a distance of 29.98 feet; Thence, South 89°42'02" East a distance of 159.98 feet to the POINT OF BEGINNING.<br><br>Tract 2<br><br>Non-exclusive appurtenant easements for access, parking, utilities, and storm water drainage, established by the Easements with Covenants and Restrictions Affecting Land recorded September 26, 2008 as Document No. 419464 in Book 3163 at Page 609.<br><br>Tract 3<br><br>Non-Exclusive Access Easements set forth on the Plat recorded in Plat Book 19, Page 60 of Surveys, Official Records of Cass County. |                                                |

GENERAL NOTES:

- This survey does not purport to be a proposed tract split or replat, or any other subdivision plat as may be defined by city, county, or state law. The land owner is encouraged to check with the local planning/development authorities for proper platting procedures before proceeding with the development.
- Except as specifically stated or shown on this plat, the survey does not purport to reflect any of the following which may be applicable to the subject real estate: Easements, other than possible easements which were visible at the time of making of this survey; building setback lines, restrictive covenants; subdivision restrictions; zoning or other land-use regulations, or any other facts which an accurate and current title search may disclose.
- This plat represents an ALTA/NSPS Land Title Survey of the Lot 2a recorded in SURVEY BK. 19, PG. 60 and described in OR BK. 3163, PG. 603 in the public records of Cass County, Missouri.
- Every document of record reviewed and considered as a part of this survey is noted hereon. Only the documents noted hereon were supplied to the surveyor.
- Declaration is made to the original purchaser of the survey and those listed in the certification for the use of this transaction only and is not transferable to any additional or subsequent owners.
- Basis of Bearings: All bearings shown hereon are grid based on Missouri State Plane Coordinate System, NAD83, West Zone, as established by a Static observation processed through the MoDOT network.
- Basis of Elevation: All elevations shown hereon are based on NAVD88, as established by a Static observation processed through the MoDOT network.
- This survey is valid only if the drawing includes the seal and signature of the surveyor.
- This survey meets the current Missouri Minimum Standards for Property Boundary Surveys.
- Subsurface and environmental conditions were not examined nor considered a part of this survey.
- Underground utilities were located by visible above ground markings as marked by utility locators and shown hereon as located by CEI Engineering Associates, Inc. survey field crews. All utility locations shown hereon are approximate. All utilities may not have been marked/located by the appropriate locators. No excavation has taken place as of this date to determine the exact location of existing underground utilities shown on this survey.
- The contractor is advised to contract the 811 One-Call Center before any construction begins, depending on the state there is a possibility of a severe penalty for not making this call. Not all utility companies are members of the One-Call Systems. Therefore the contractor is advised to contract all non-members as well as the One-Call System.
- The contractor must determine that proposed structures are clear of all boundary lines, easements, and meet building setback requirements before construction begins.

NOTES REGARDING TABLE "A" ITEMS:

- Item 2: Project Address: 1720 N State Route 291, Harrisonville, MO 64701
- Item 3: By scaled map location and graphical plotting only. This property is located in unshaded Zone "X" which are areas determined to be outside the 0.2% annual chance floodplain determined by the National Flood Insurance Program, Flood Insurance Rate Map for Cass County, Missouri.  
Map Number: 2903703186F  
Map Revised: January 2, 2013
- Item 6: No current zoning report or letter regarding zoning classification was provided to the Surveyor, the following information was obtained from the City of Harrisonville GIS map. This property is zoned C-2 (Commercial).  
Building setbacks for zone C-2 are as follows:  
Front: 35 Feet  
Side: 15 Feet  
Rear: 15 Feet
- Item 7: A building exists on the surveyed property.
- Item 9: No clearly identifiable striping, or constructed parking was observed on the subject tract.
- Item 16: No observable evidence of current earth moving work, building construction or building additions were found in the process of conducting the field work.
- Item 17: The surveyor was not aware of any changes in street Right-of-Way, and no observed evidence of street or sidewalk construction or repairs were found.

Owner  
PARCEL #080833300000029001  
MURPHY OIL USA, INC.  
1720 N State Route 291  
Harrisonville, Missouri 64701

Surveyors:  
CEI Engineering Associates, Inc.  
2600 NE 11th St, Suite 300  
Bentonville, AR 72712  
Phone: (479) 273-9472  
Fax: (479) 271-0536  
Surveyor: Dustin G. Riley, Missouri PLS #2021015321

Benchmark Information

Benchmark #1: A 5/8" rebar with a CEI cap, located south of the northerly access drive for Wal-Mart at 1700 N State Route 291, Harrisonville, Missouri 64701. The rebar is located 99 feet southwest of an existing stop sign and 53 feet west of an existing light pole.

Benchmark #2: An 8" mag spike with a CEI washer, located on the east side of the asphalt parking area Wal-Mart at 1700 N State Route 291, Harrisonville, Missouri 64701. The mag spike is located 49 feet southeast of an existing light pole and 50 feet southwest of an existing utility pole.

SURVEYOR'S CERTIFICATION TO:

Stewart Title Guaranty Company, a Texas corporation  
Stewart Title of Kansas City, Inc.  
Murphy Oil USA, Inc., a Delaware corporation

This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2021 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, jointly established and adopted by ALTA and NSPS, and includes Items 1, 2, 3, 4, 5, 6a, 7a, 8, 9, 10, 11a, 13, 16, 17, and 19 of Table A thereof. The field work was completed on March 06, 2024.

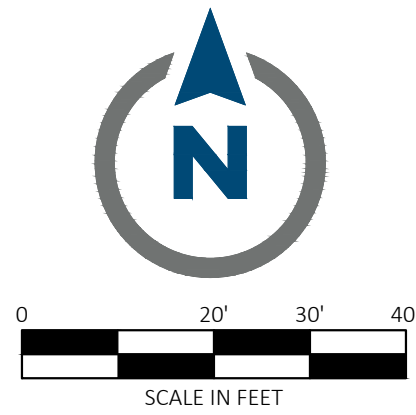
Dustin G. Riley, Missouri PLS #2021015321

Date of Plat or Map: 4.2.2024

Legend

|               |                         |                   |               |              |            |     |          |     |                        |    |                     |     |                           |      |                           |   |            |                      |                |                           |                               |                      |                                |                                       |                |             |              |                        |                 |                   |              |                |             |                             |             |                       |                      |             |                      |                      |                 |                      |                  |                  |                      |     |                 |     |                        |              |                                                                                                                                                                               |
|---------------|-------------------------|-------------------|---------------|--------------|------------|-----|----------|-----|------------------------|----|---------------------|-----|---------------------------|------|---------------------------|---|------------|----------------------|----------------|---------------------------|-------------------------------|----------------------|--------------------------------|---------------------------------------|----------------|-------------|--------------|------------------------|-----------------|-------------------|--------------|----------------|-------------|-----------------------------|-------------|-----------------------|----------------------|-------------|----------------------|----------------------|-----------------|----------------------|------------------|------------------|----------------------|-----|-----------------|-----|------------------------|--------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Boundary Line | Adjoining Boundary Line | Right-of-Way Line | Easement Line | Setback Line | Break Line | GAS | GAS Line | OHE | Overhead Electric Line | SS | Sanitary Sewer Line | UGE | Underground Electric Line | UGTV | Underground Cable TV Line | W | Water Line | Chainlink Fence Line | Benchmark (BM) | Found Monument (As Noted) | Found Aluminum Cap (As Noted) | Found Railroad Spike | Set 5/8" Rebar "LS#2021015321" | Set Mag Nail w/Washer "LS#2021015321" | Electric Meter | Water Meter | Fire Hydrant | Irrigation Control Box | Sewer Clean Out | Guy Wire / Anchor | Utility Pole | Electric Vault | Water Valve | Traffic Sign (Type of Sign) | Water Riser | Warning Gas Line Sign | Air / Vacuum Machine | Ice Machine | Light Pole (2 Lamps) | Light Pole (3 Lamps) | Monitoring Well | Bollard / Guard Post | Tree (Deciduous) | Tree (Evergreen) | Back to Back of Curb | B/B | Building Height | F/E | Finish Floor Elevation | Right-of-Way | Record Bearing & Distance per Survey BK. 19, Pg. 60 Survey BK. 12, Pg. 230 Survey prepared by CEI Engineering Associates, Inc. dated Dec. 10, 2007 Known as Project No. 23049 |
|---------------|-------------------------|-------------------|---------------|--------------|------------|-----|----------|-----|------------------------|----|---------------------|-----|---------------------------|------|---------------------------|---|------------|----------------------|----------------|---------------------------|-------------------------------|----------------------|--------------------------------|---------------------------------------|----------------|-------------|--------------|------------------------|-----------------|-------------------|--------------|----------------|-------------|-----------------------------|-------------|-----------------------|----------------------|-------------|----------------------|----------------------|-----------------|----------------------|------------------|------------------|----------------------|-----|-----------------|-----|------------------------|--------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

(XXXX)



BM - 1  
5/8" REBAR W/ CEI CAP  
N: 910.618.77  
E: 2,826.475.81  
ELEV = 920.86

SUBJECT TRACT  
LOT 2A  
JENKINS ADDITION  
SURVEY BK. 19, PG. 60  
PARCEL #080833300000029001  
MURPHY OIL USA, INC.  
OR BK. 3163, PG. 603  
ZONE: C-2

19,646 SQ. FT. ±  
OR 0.45 AC. ±

LOT 1, BLOCK 1  
JENKINS ADDITION  
SURVEY BK. 19, PG. 60  
PARCEL #080833300000029000  
WAL-MART REAL ESTATE BUSINESS TRUST  
ZONE: C-2  
NOT A PART

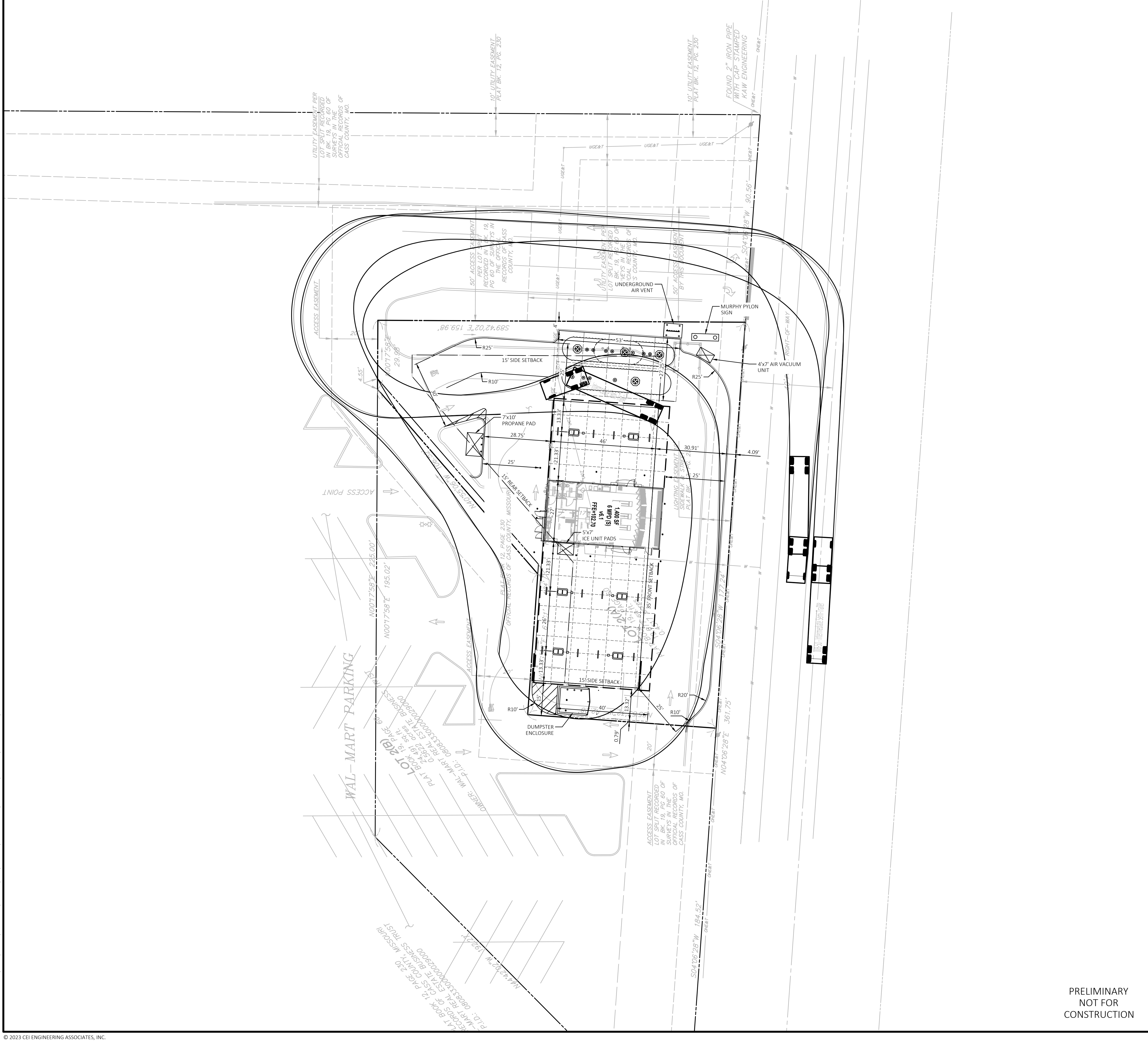


VICINITY MAP  
NOT TO SCALE  
Latitude: 38°40'02"N  
Longitude: 94°22'01"W

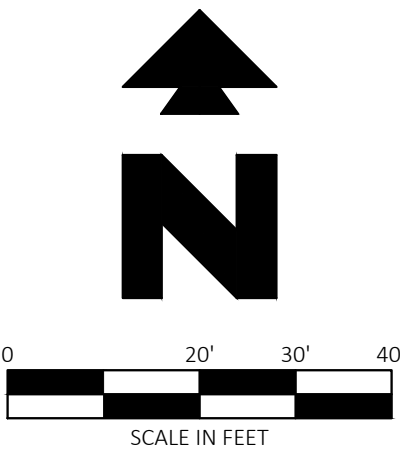


DRAWING LOCATION: P:\93000\1-01-03\PROPOSALS\MURPHY\2023\TEST FITS\HARRISONVILLE, MO #5782.DWG - SAVED BY: ARENTECOST

© 2023 CEI ENGINEERING ASSOCIATES, INC.



PRELIMINARY  
NOT FOR  
CONSTRUCTION



THE LOCATION OF EXISTING UNDERGROUND UTILITIES ARE SHOWN IN AN APPROXIMATE WAY ONLY. THE CONTRACTOR SHALL DETERMINE THE EXACT LOCATION OF ALL EXISTING UTILITIES BEFORE COMMENCING WORK. HE AGREES TO BE FULLY RESPONSIBLE FOR ANY AND ALL DAMAGES WHICH MIGHT BE OCCASIONED BY HIS FAILURE TO EXACTLY LOCATE AND PRESERVE ANY AND ALL UNDERGROUND UTILITIES.

THESE DRAWINGS DO NOT INCLUDE COMPONENTS FOR CONSTRUCTION SAFETY.

DUMPSTER HAS BEEN  
REDUCED TO 12' WIDE TO  
FIT WITHIN THE SITE.

VARIANCE WILL BE  
REQUIRED FOR SETBACKS.

### NOTES

PROPOSED LOCATION IS AN

- ☒ OUT PARCEL
- ☐ EXISTING PARKING AREA
- ☐ GRASSY AREA
- ☐ FUTURE LEASE LOT

PARKING

**±1179/5.89** EXISTING NUMBER OF PARKING SPACES / RATIO ON WAL-MART PARCEL  
**0** TOTAL NUMBER OF SPACES TO BE REMOVED FROM WAL-MART PARCEL  
**±1179/5.89** TOTAL NUMBER OF POST GAS SPACES REMAINING ON WAL-MART PARCEL / RATIO  
**±199,024** WAL-MART BUILDING SQUARE FOOTAGE - (GROSS SQ-FT)

TYPE OF STATION OPERATION:

**1400 SF** C-STORE **6(S)** MPD **122.33x46** CANOPY SIZE  
**-** KIOSK **-** MPD **-** CANOPY SIZE

PROPOSED SQUARE FOOTAGE OF OUT PARCEL AREA:

**19,677** S.F. **0.45** ACREAGE  
PERCENTAGE OF OUTLOT USED: **100%**

ZONING REQUIREMENTS:

**C-2** EXISTING ZONING  
**C-2** ZONING REQUIREMENTS FOR STATION  
**NA** PROPOSED ZONING CHANGES  
**NA** RE-PLAT

PROPOSED UTILITY EASEMENTS: ANSWER "YES" OR "NO" AND PARTIES INVOLVED:

|    |                       |     |                        |     |
|----|-----------------------|-----|------------------------|-----|
| NO | WATER                 | N/A | PUBLIC WITH            | N/A |
|    |                       | N/A | PRIVATE WITH WAL-MART  | N/A |
|    |                       | N/A | PRIVATE WITH 3RD PARTY | N/A |
| NO | SEWER                 | N/A | PUBLIC WITH            | N/A |
|    |                       | N/A | PRIVATE WITH WAL-MART  | N/A |
|    |                       | N/A | PRIVATE WITH 3RD PARTY | N/A |
| NO | UNDERGROUND ELECTRIC  | N/A | PUBLIC WITH            | N/A |
|    |                       | N/A | PRIVATE WITH WAL-MART  | N/A |
|    |                       | N/A | PRIVATE WITH 3RD PARTY | N/A |
| NO | UNDERGROUND TELEPHONE | N/A | PUBLIC WITH            | N/A |
|    |                       | N/A | PRIVATE WITH WAL-MART  | N/A |
|    |                       | N/A | PRIVATE WITH 3RD PARTY | N/A |

OTHER NOTES:

WB-50 TEMPLATE HAS BEEN USED FOR TRUCK ROUTE.



CEI ENGINEERING ASSOCIATES, INC.  
3108 SW REGENCY PKWY  
BENTONVILLE, AR 72712  
PHONE: (479) 273-9472  
FAX: (479) 273-0844

MURPHY OIL U.S.A. INC.

MURPHY  
USA  
200 PEACH STREET  
EL DORADO, AR 71730

MURPHY USA (RAZE/REBUILD)  
WALMART SUPERCENTER #96  
1720 ROUTE 291  
HARRISONVILLE, MO

|                        |           |
|------------------------|-----------|
| PROFESSIONAL OF RECORD | POR       |
| PROJECT MANAGER        | RCH       |
| DESIGNER               | AMP       |
| CEI PROJECT NUMBER     | 33638     |
| DATE                   | 9/19/2023 |
| REVISION               | REV-0     |

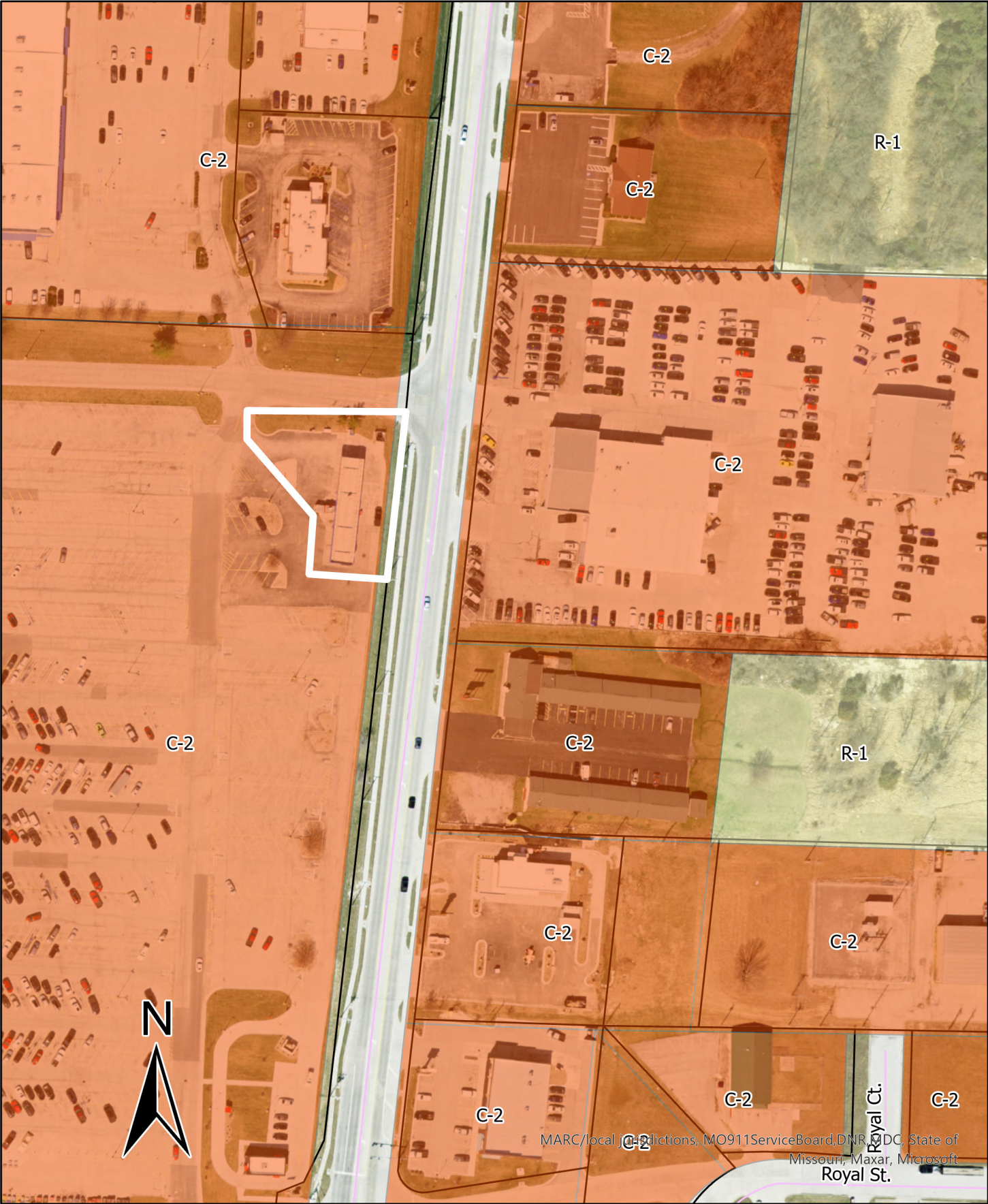
ECP

SHEET TITLE  
SHEET NUMBER

ECP



# Zoning Map



Attachment: Zoning Map (Appl. #VAR-24-006--Variance of Section 405.325.B, C and D at 1720 N. St. Rte. 291 PUBLIC HEARING)

MARC/local jurisdictions, MO911ServiceBoard.DNR, MDC, State of Missouri, Maxar, Microsoft  
Royal Ct.  
Royal St.



Aerial Map



MARC/local jurisdictions, MO911ServiceBoard,DNR,MDC, State of Missouri, Maxar, Microsoft

0 55 110 220 Feet

Attachment: Aerial Map (Appl. #VAR-24-006--Variance of Section 405.325.B, C and D at 1720 N. St. Rte. 291 PUBLIC HEARING)



STAFF REPORT

**TO:** Board of Zoning Adjustments  
**FROM:** Christina Stanton,  
**DATE:** July 3, 2024  
**SUBJECT:** Appl. #VAR-24-006--Variance of Section 405.325.B, C and D at 1720 N. St. Rte. 291 - CONSIDERATION

**Type of Item:** *Approval*

**2. Action Item (ID # 4892)**

Appl. #VAR-24-006--Variance of Section 405.325.B, C and D at 1720 N. St. Rte. 291 - CONSIDERATION

STAFF REPORT

**TO:** Board of Zoning Adjustments  
**FROM:** Christina Stanton,  
**DATE:** July 3, 2024  
**SUBJECT:** Appl. #VAR-24-007--Variance of Section 405.550.C.5.d at 2401 Meadowlark Drive - PUBLIC HEARING

**Type of Item:** *Public Hearing*

**3. Action Item (ID # 4890)**

Appl. #VAR-24-007--Variance of Section 405.550.C.5.d at 2401 Meadowlark Drive - PUBLIC HEARING

Attachments:

Staff Report BZA 7\_9\_24 Hale Variance 2401 Meadowlark Dr (PDF)

Application (PDF)

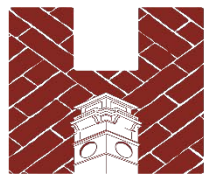
HALE LETTER (PDF)

Supporting Pictures (PDF)

Meadowview 1st Addition Lots 1-30 (PDF)

Zoning Map (PDF)

Aerial Map (PDF)



**To:** Board of Zoning Adjustment

**From:** Christina Stanton, AICP, Director of Community Development

**Date:** July 9, 2024

**Re:** Appl. #VAR-24-007—Variance of Section 405.550.C.5.d to allow for an existing 6-foot privacy fence to be removed and replaced on property located at 2401 Meadowlark Drive

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#### GENERAL INFORMATION

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**Applicant:** James Hale, 2401 Meadowlark Drive

**Requested Actions:** Approval of requested variance of Section 405.550.C.5.d to allow for an existing 6-foot privacy fence to be removed and replaced on property located at 2401 Meadowlark Drive

**Date of Application:** May 17, 2024

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#### PURPOSE AND AUTHORITY

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In accordance with Section 405.610 of the City's Code, the Board of Zoning Adjustment (BZA) "may decide that there are practical difficulties or particular hardship in the way of carrying out the strict letter of these regulations". The BZA "may grant variances from the provisions of this Chapter in harmony with its general purpose and intent" based upon the standards listed in Section 405.615, which are listed below in staff's analysis. The concurring vote of four (4) members of the Board is required for approval of a variance.

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#### PROPOSAL

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Applicant is seeking a variance to the fence location requirements, specifically #5.d which states: "On corner lots, a privacy fence, chain link fence, decorative fence, wall, or hedge may be constructed or planted to a maximum height of six (6) feet abutting the front yard setback line in the rear yard of the home. For the purposes of this Section, the rear yard is defined as the side of the house opposite the front door. (See Figure 1.)"

Additionally, 5.e 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.

- November 5, 1971—The Final Plat of *Meadow View, Lots 1 – 30* was recorded at the Cass County Recorder of Deeds Office.
- September 25, 1973—Building Permit #1312 was issued for a new single-family residential structure at 2401 Meadowlark Drive.
- February 21, 2023—The Board of Aldermen approved Ordinance #3627, which included changes to the fencing regulations.

## KEY ISSUES

The property is located on a corner lot, immediately adjacent to 109 acres of undeveloped agricultural land. It is unknown when or how the 109 acres of undeveloped agricultural land may develop.

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 fence has existed in its current state since at least 2003. If we were to assume that it was installed when the house was constructed it would mean it has existed in its current state for approximately fifty-one (51) years.

The Applicant is seeking a variance to the fence location requirements, specifically #5.d 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 use of the property as a single-family residence would not change if the variance were not granted, but the fenced in portion of the yard would be smaller.**

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 and the property owner’s desire to completely remove and replace the existing**



fence. If the fence were left in place and only partially removed/replaced as part of general maintenance, it could remain in its current location. However, once the fence is completely removed it must either have a variance to allow it to go back to the previous location or meet the current fencing location standards.

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 existing Osage Street right-of-way and the property owner located across the street and the conditions are currently existing. Additionally, staff is unaware of when or how the property to the south may develop and how it could potentially be impacted.**

- 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 applicant is requesting this variance is due to the fact that the particular regulations pertaining to fencing has changed since the fence was originally installed and the property owner would like to be able to completely remove and replace their existing fence with a newer fence.**

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 1973. The alleged difficulty or hardship was not created by any person having an interest in the property. It was created by changes to the fencing regulations and the homeowner's desire to completely remove and replace the existing fence.**

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 street (Osage) and the property owner to the east. Additionally, if the property owner were to perform general maintenance of the fence it could remain in its current location.**

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.

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#### STAFF COMMENTS AND SUGGESTIONS

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In support of the requested variance are the facts that:

- The fence has existed in its current location since for at least 20 years;
- The encroachment is towards the street (Osage) and the property owner to the east; 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.

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#### STAFF RECOMMENDATION

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Staff recommends approval of the requested variance.

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#### ATTACHMENTS

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Application and Supporting Documents  
*Meadow View, Lots 1 – 30*  
 Zoning Map  
 Aerial Map



## VARIANCE APPLICATION

DATE: 5/17/2024Applicant (Print): James Hale Signature: James HaleCompany Name: N/AStreet Address: 2401 MEADOWLARK DR City: HARRISONVILLE State: MO Zip: 64701Telephone: 816 519 5320 Email: \_\_\_\_\_

## Property Owner Authorization Required if Applicant Different from Property Owner

Property Owner Name (print): SAME AS ABOVE Signature: \_\_\_\_\_

Street Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_ Email: \_\_\_\_\_

Firm Preparing Application (if applicable): \_\_\_\_\_

Contact: N/A

Street Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_ Email: \_\_\_\_\_

\* All correspondence should be sent to (check one): Applicant ☐ Property Owner ☐ Firm ☐

## Project Information

General Location or Address:

2401 MEADOWLARK DR, HARRISONVILLE, MO 64701Harrisonville Properties, ✓ Acres or Sq. Ft. 2 lots

## Process and Submittal Requirements

City of Harrisonville Zoning Ordinance Section 405.610

The Board of Zoning Adjustment may grant variances from the provisions of this Chapter in harmony with its general purpose and intent and may vary them only in specific instances hereinafter set forth. The Board of Zoning Adjustment, based on standards hereafter prescribed and after hearing, may decide that there are practical difficulties or hardship in the way of carrying out the strict letter of these regulations. The concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement or decision of the party appealed from or to issue an order or variance or to decide in favor of an appellant.

Step 1. Hold pre-application conference with City staff.

Step 2. Submit complete application and the following at least thirty (30) days prior to the BZA Meeting:

1. \$200 filing fee PLUS \$65.00 notice fee, payable to the City of Harrisonville
2. Letter explaining the project and why variance needed.
3. One (1) 8 1/2 x 11 electronic copy of site plan showing property, existing and proposed structures and additional important information.

Step 3. City staff publishes legal notice and sends letters to property owners within 185 feet.

Step 4. Board of Zoning Adjustments Meeting 2<sup>nd</sup> Tuesday of month at 6 PM at City Hall.



## Please Answer Following Questions

The BZA may approve a variance to the provisions of the Zoning and Subdivision Regulations, but only as allowed by the regulations and only when it has made findings based upon evidence presented to it in specific cases. *Section 405.615 (A) Standards*

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

Applicant Response: YES

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

Applicant Response: YES - SEE ATTACHED LETTER AND PICTURES

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

Applicant Response: YES - WILL IMPROVE APPEARANCE OF THE NEIGHBORHOOD

For the purpose of supplementing the above standards and in determining whether there are practical difficulties or hardships, the BZA shall also take into consideration the extent to which the following facts have been established by the evidence. *Section 405.615 (B)*

1. If the strict letter of the regulation is carried out, will the physical surroundings, shape or topographical conditions of the specific property create a hardship for the owner as distinguished from a mere inconvenience?

Applicant Response: YES - SEE ATTACHED LETTER AND PICTURES

2. Do the reasons for his variance apply just to this property or generally to other properties in the same zoning classification?

Applicant Response: ONLY THIS PROPERTY -

3. Has the alleged difficulty or hardship been created by any person having an interest in the property at any time after May 13, 1991, the effective date of this Chapter?

Applicant Response: UNKNOWN



4. Will the granting of the variance be detrimental to the public welfare in the neighborhood in which the property is located?

Applicant Response:   No  

\_\_\_\_\_

\_\_\_\_\_

5. Will the proposed variance impair an adequate supply of light and air to adjacent property or substantially increase the danger of fire or endanger the public safety or substantially diminish or impair property values within the neighborhood?

Applicant Response:   No  

\_\_\_\_\_

\_\_\_\_\_

#### Resources

|                         |                                                                                                                                       |
|-------------------------|---------------------------------------------------------------------------------------------------------------------------------------|
| City Website            | <a href="http://www.ci.harrisonville.mo.us">www.ci.harrisonville.mo.us</a>                                                            |
| Zoning Map              | <a href="https://www.ci.harrisonville.mo.us/documentcenter/view/6182">https://www.ci.harrisonville.mo.us/documentcenter/view/6182</a> |
| Zoning Regulations      | <a href="https://www.ecode360.com/27908265">https://www.ecode360.com/27908265</a>                                                     |
| Subdivision Regulations | <a href="https://www.ecode360.com/27909481">https://www.ecode360.com/27909481</a>                                                     |
| Cass County GIS Map     | <a href="https://casgis.integritygis.com/h5/index.html?viewer=cass">https://casgis.integritygis.com/h5/index.html?viewer=cass</a>     |

#### Contacts

|                                                                   |                                |                |                            |
|-------------------------------------------------------------------|--------------------------------|----------------|----------------------------|
| City Hall, 300 E. Pearl, Harrisonville, MO 64701                  |                                | (816) 380-8900 | Fax (816) 380-8910         |
| John Morris                                                       | Building Official              | (816) 380-8917 | jmorris@harrisonville.com  |
| Christina Stanton                                                 | Community Development Director | (816) 380-8922 | cstanton@harrisonville.com |
| Jamie Martin                                                      | Administrative Secretary       | (816) 380-8958 | martin@harrisonville.com   |
| Public Works Department, 201 W. Chestnut, Harrisonville, MO 64701 |                                |                | Fax (816) 380-3997         |
| Carl Brooks                                                       | Director of Public Works       | (816) 380-8964 | cbrooks@harrisonville.com  |
| Ted Martin                                                        | City Engineer                  | (816) 380-8964 | tmartin@harrisonville.com  |

#### For Office Use Only

Case No. VAR 24-007 Filing Fee. Amount Paid: \$ 265.00 Date: 5/17/24

Date Application Received: 5/17/24 BZA Meeting Date: July 9, 2024

Note: \_\_\_\_\_

TO - City OF HARRISONVILLE

3.3.c

Request for code variance for replacing the approximate 30 feet portion of side street wood privacy fence that apparently does not comply with current side street set back code.

My house at 2401 Meadowlark Dr is on two lots at the corner of Meadowlark Dr and the dead end portion of Osage street and has an existing fenced back yard.

The existing Osage side street fence consists of about 30 feet of wood privacy fence and about 30 feet of chain link fence and I believe the entire 60 feet of the existing fence on Osage street has been there for years and is grandfathered in.

I have previously applied for a building permit to remove and replace the 30 feet of existing Osage side street wood privacy fence. The permit was not issued because apparently the existing grandfathered Osage side street of 30 feet of wood fence can be repaired and maintained but not removed and replaced with a new and upgraded fence as the existing fence does not conform to side street set back code.

As I wish to remove and replace all 112 feet of my existing and rotting wood privacy fence including the 30 feet of non conforming Osage side street wood section with new and upgraded fence I'm requesting a code variance be approved for replacement of the 30 feet of the non conforming wood fence on the Osage side street. I do not want to do anything with the existing 30 feet chain link section and want to leave it as is.

My two adjoining lots are the only lots on the west side of the dead end portion of Osage St and both my lots and the Osage St dead end are adjoined by a large ravine about 30 feet deep and maybe 50 feet wide and a quarter mile long bordered by large 100 feet tall

Attachment: HALE LETTER (Appl. #VAR-24-007--Variance of Section 405.550.C.5.d at 2401 Meadowlark Drive - PUBLIC HEARING)

trees and underbrush. Across the ravine is an undeveloped field which I think may belong to John Southard.

I feel that replacing my existing rotting wood fence will benefit the neighborhood and requiring a new fence to comply with current side street set back code will not benefit anyone but will decrease the useable size of my yard and impact the potential resale value of my property thus the request for variance.

Please see attached pictures for clarification.

Your consideration for a code variance is greatly appreciated.

  
James Hale

5/17/2024



RAVINE  
TREES  
BRUSH

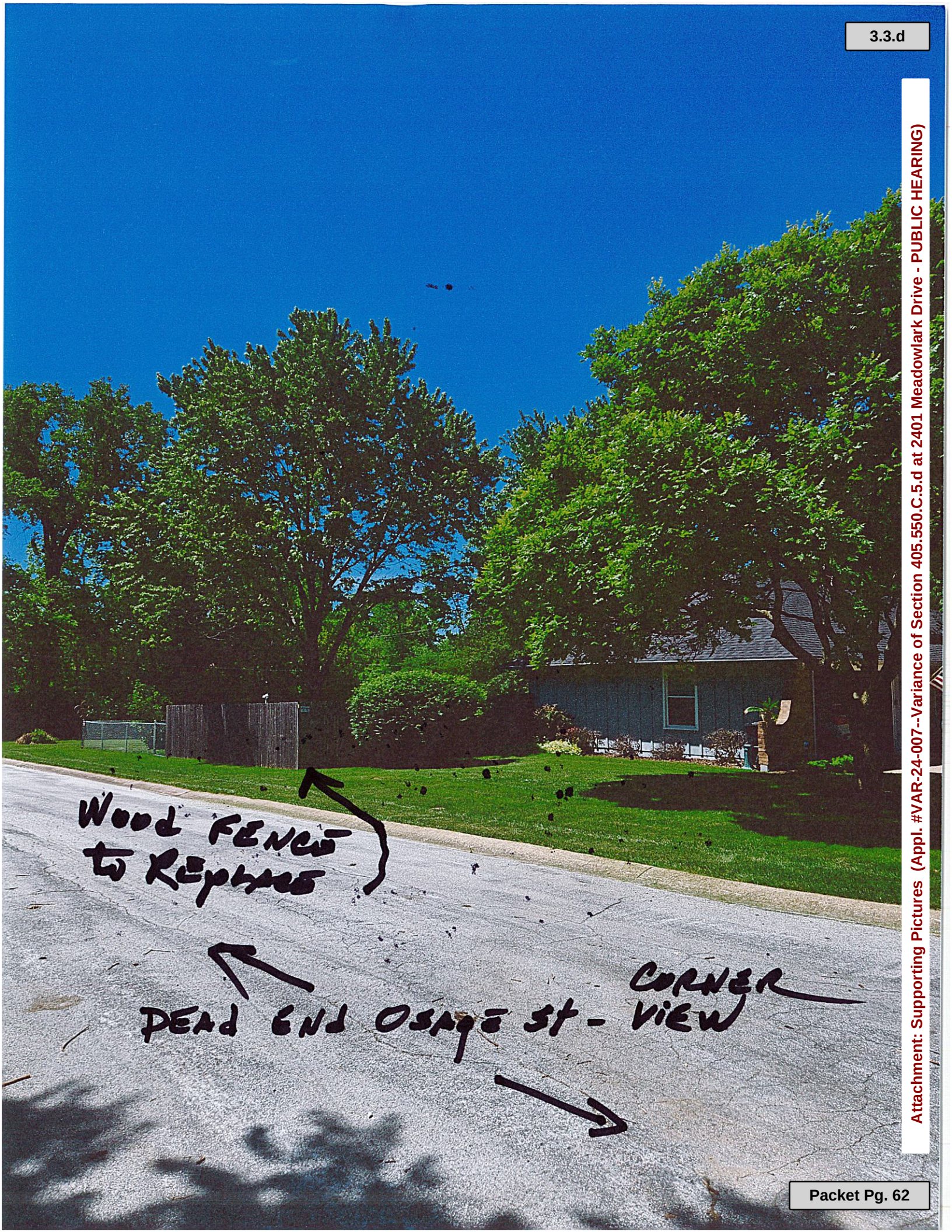
DEAD END

my lot # 2

BACK  
YARD  
PENCE

05495 ST. DEAD END VIEW

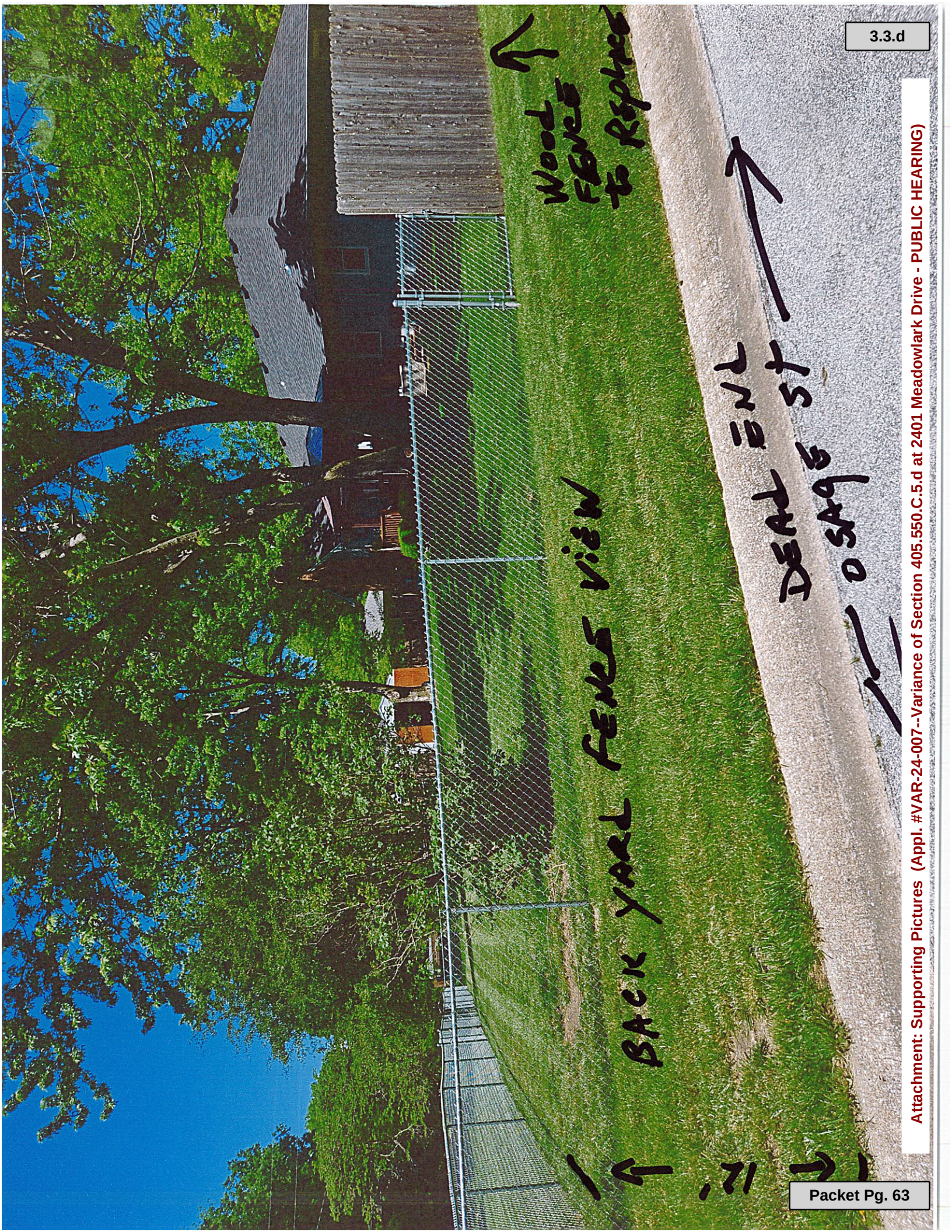




WOOD FENCE  
to REPHASE

DEAD END OSAGE ST - CORNER VIEW





WOOD  
FENCE  
→ REPLACES

BACK YARD FENCE VIEW

DEAD END ST  
OSAGE ST



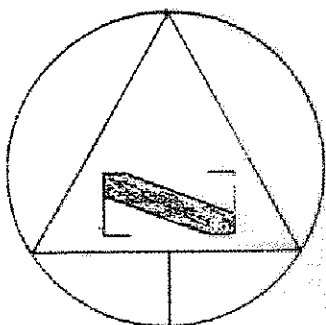




# "MEADOW VIEW"

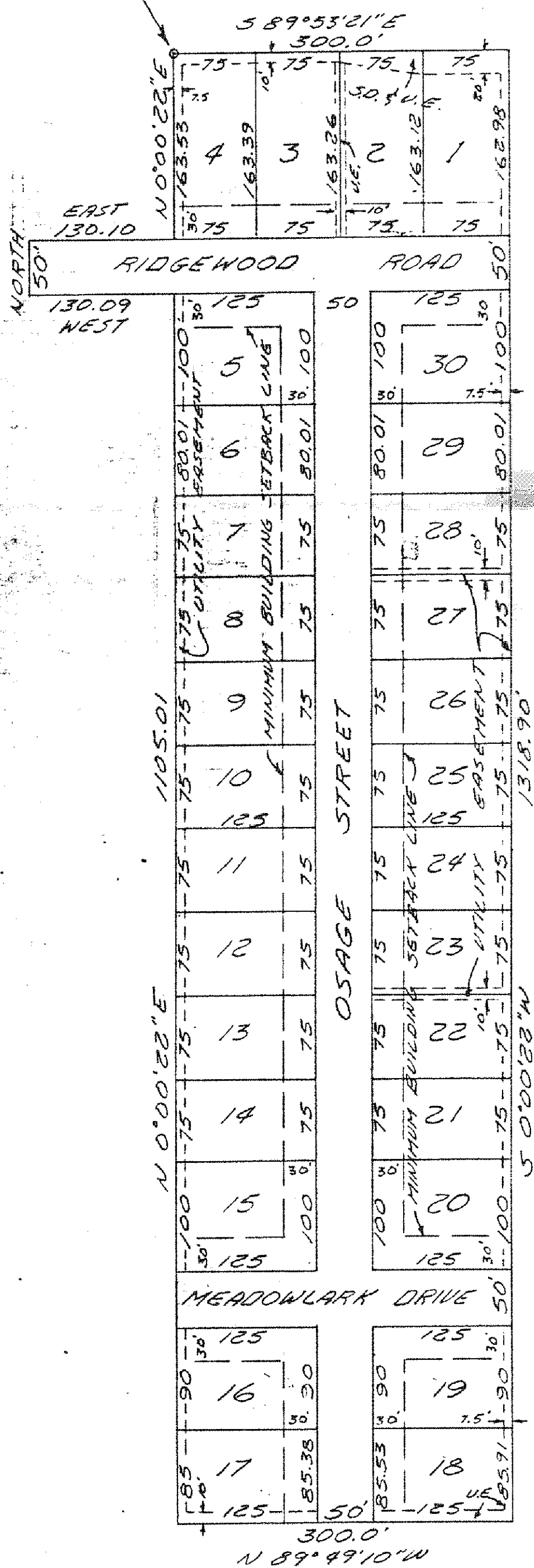
LOTS 1 THRU 30

A SUBDIVISION IN THE CITY HARRISONVILLE, MISSOURI



SCALE 1"=100'

POINT OF BEGINNING  
NW COR. LOT 4 OF NE 1/4  
SEC. 3 - TWP. 44 - R. 31  
CASS COUNTY, MISSOURI



28617

STATE OF MISSOURI  
COUNTY OF CASS | Recorder's Office  
hereby certify that this instrument of writing was filed  
for record on this 5 day of November  
1971 at 3 o'clock PM minutes PM  
and recorded in book 4 page 23  
given under my hand and official seal  
Walter E. LaRue Recorder  
Walter E. LaRue Deputy

RECORDING FEE 2.50  
STATE USER FEE 1.00  
TOTAL 3.50

DESCRIPTION: Beginning at the Northwest Corner of Lot 4 of the Northeast Quarter of Section 3, Township 44, Range 31 in Cass County Missouri; run thence South 89°53'21" East, along the North line of said Lot 4, 300.0 feet; thence South 0°00'22" West, and parallel with the West line of Lot 4 of the Northeast Quarter of Section 3, 1313.90 feet to a point in the South line thereof; thence North 39°49'10" West, 300.0 feet to the Southwest Corner of Lot 4 of the Northeast Quarter of Section 3, aforesaid; thence North 0°00'22" East, 1105.01 feet to the Northeast Corner of Lot 111 in Ridgeway as platted in the City of Harrisonville; thence West 130.09 feet to the Northwest Corner of said Lot 111; thence North 50 feet; thence East 130.10 feet; thence North 0°00'22" East, 163.1 feet to the Point of Beginning.

DEDICATION: The Undersigned proprietors of the above described tract of land have caused the same to be subdivided in the manner shown on the accompanying plat, which subdivision shall be known as "MEADOW VIEW", Lots 1 thru 30. All thoroughfares shown on this plat and not heretofore dedicated to public use are hereby so dedicated. An easement or license is hereby granted to the City of Harrisonville, Missouri, to locate, construct and maintain, or to authorize the location, construction and maintenance of conduits, water, gas and sewer pipes, poles, wires and anchors and all or any of them upon those areas in this subdivision outlined on this plat and designated by the words "UTILITY EASEMENT" (U.E.) or "STORM DRAINAGE & UTILITY EASEMENT" (S.D. & U.E.).

OWNERS' CERTIFICATE: As owner I hereby certify that I have caused the land described on this plat to be surveyed, divided, mapped, dedicated and access rights reserved as represented on the plat.

John M. Foster  
Wanda L. Foster Date November 1, 1971

ATTEST:

Subscribed and sworn before me this 1st day of November 1971.

Notary Public Francis E. LaRue

Approved: The City Planning Commission of Harrisonville, Missouri.

Signed Wm E. Fowler Date November 5, 1971  
CHAIRMAN

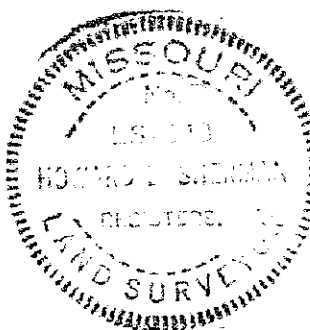
Approved: The City Council of Harrisonville, Missouri

Signed Wm E. Fowler Date November 5, 1971  
MAYOR

Attest: Verda B Day  
CITY CLERK

I hereby Certify that I have this 19th day of May, 1971, made a survey and subdivision of the above described land and that this plat correctly portrays the results of said survey and subdivision.

Edward J. Sherman  
LAND SURVEYOR MO. L.S. 918



All improvements to comply and be in accordance with Ordinance #780, Harrisonville Subdivision Regulations, dated August 24, 1968.



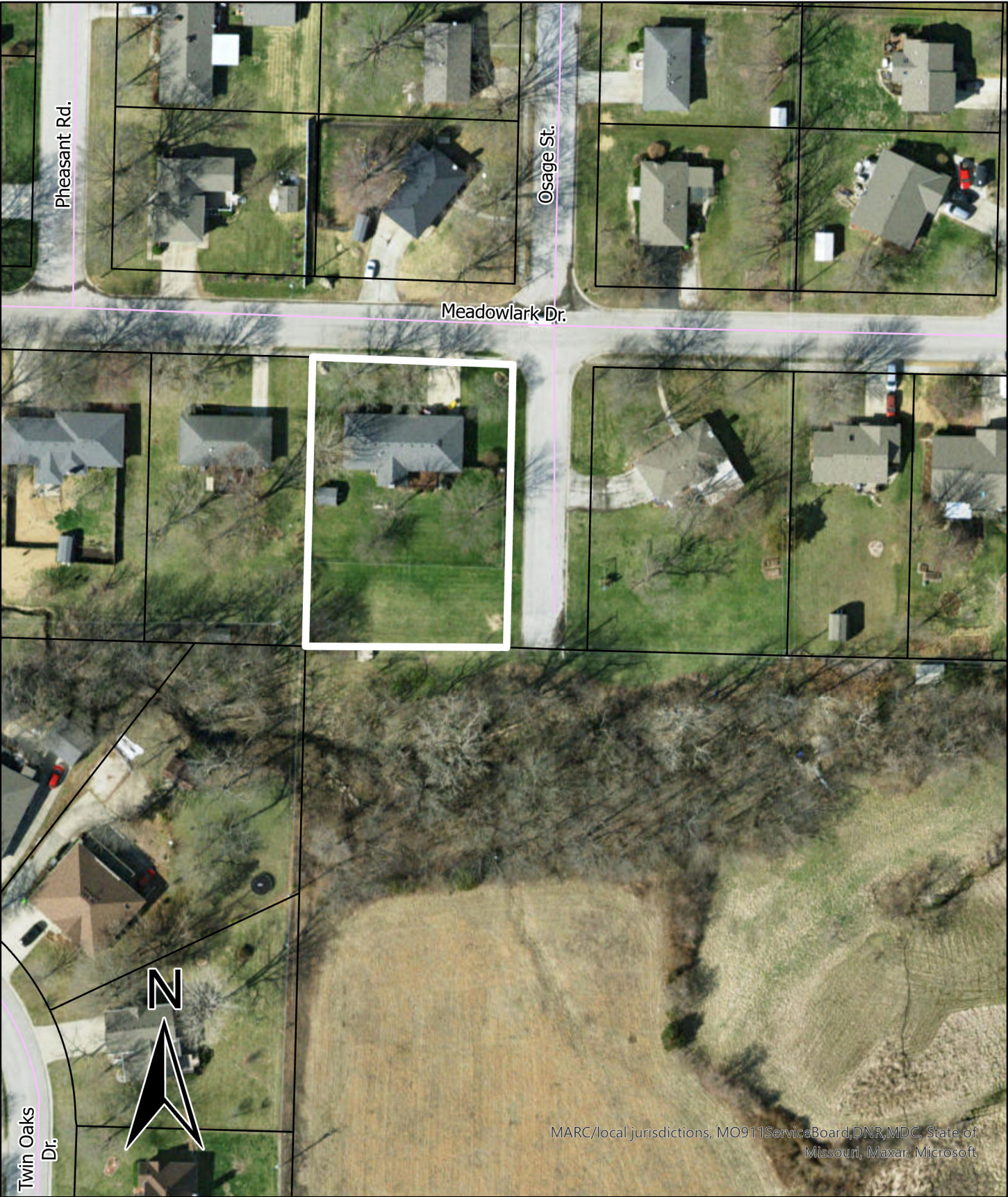
# Zoning Map



Attachment: Zoning Map (Appl. #VAR-24-007--Variance of Section 405.550.C.5.d at 2401 Meadowlark Drive - PUBLIC HEARING)



# Aerial Map



Attachment: Aerial Map (Appl. #VAR-24-007 ---Variance of Section 405.550.C.5.d at 2401 Meadowlark Drive - PUBLIC HEARING)

## STAFF REPORT

**TO:** Board of Zoning Adjustments  
**FROM:** Christina Stanton,  
**DATE:** July 3, 2024  
**SUBJECT:** Appl. #VAR-24-007--Variance of Section 405.550.C.5.d at 2401 Meadowlark Drive - CONSIDERATION

**Type of Item:** *Approval*

**4. Action Item (ID # 4893)**

Appl. #VAR-24-007--Variance of Section 405.550.C.5.d at 2401 Meadowlark Drive - CONSIDERATION



STAFF REPORT

**TO:** Board of Zoning Adjustments  
**FROM:** Christina Stanton,  
**DATE:** July 3, 2024  
**SUBJECT:** Appl. #VAR-24-008--Variance of Section 405.140.B at 1905 Harry Drive -  
**PUBLIC HEARING**

**Type of Item:** *Public Hearing*

**5. Action Item (ID # 4891)**

Appl. #VAR-24-008--Variance of Section 405.140.B at 1905 Harry Drive - PUBLIC HEARING

Attachments:

Staff Report BZA 7\_9\_24 Huffman Variance 1905 Harry Dr (PDF)

HUFFMAN APPLICATION (PDF)

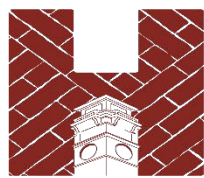
HUFFMAN APPLICATION ANSWERS (PDF)

Site Plan Drawings (PDF)

Pictures (PDF)

Zoning Map (PDF)

Aerial Map (PDF)



**To:** Board of Zoning Adjustments  
**From:** Christina Stanton, AICP, Director of Community Development  
**Date:** July 9, 2024  
**Re:** Appl. #VAR-24-008—Variance of Section 405.140.B to allow for a front yard setback of 22’2” on property located at 1905 Harry Dr.

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#### GENERAL INFORMATION

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**Applicant:** Billy Huffman, 1905 Harry Drive

**Requested Actions:** Approval of requested variance of Section 405.140.B to allow for a front yard setback of 22’2” on property located at 1905 Harry Drive

**Date of Application:** May 22, 2024

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#### PURPOSE AND AUTHORITY

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In accordance with Section 405.610 of the City’s Code, the Board of Zoning Adjustment (BZA) “may decide that there are practical difficulties or particular hardship in the way of carrying out the strict letter of these regulations”. The BZA “may grant variances from the provisions of this Chapter in harmony with its general purpose and intent” based upon the standards listed in Section 405.615, which are listed below in staff’s analysis. The concurring vote of four (4) members of the Board is required for approval of a variance.

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#### PROPOSAL

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The applicant is seeking a variance to the requirement that the front yard setback in the Single-Family Residential (R-1) District be 30’ (Section 405.140.B). The requested variance is a variance of 7’10” from the required 30’ setback, which yields a setback of 22’2” from the front property line to the existing ramp and deck. The yard exception listed in Section 405.560.F allows for an encroachment of up to 6’, which means that the applicant truly only needs a variance of 1’10” to the allowed encroachment.

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#### PREVIOUS ACTIONS

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Required legal notices have been issued.

- February 21, 1991—The Final Plat of *Parkwood South, Lots 57 – 78* was recorded with the Cass County Recorder’s Office.
- October 15, 1991—The Building Permit (#91275) was issued for the construction of a single-family residence. Certificate of occupancy was issued on February 11, 1992.



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## KEY ISSUES

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The property is currently zoned Single-Family Residential (R-1) District.

Under current Zoning Regulations, Section 405.140.B: “Front yards. Any building hereafter constructed shall provide for a front yard, the minimum depth of which shall be thirty (30) feet.”

Harry Drive has a right-of-way of 50’, which means that there is 25’ from the centerline of the street to the property line for a total of 55’ from the centerline of the street to the required front yard setback. The applicant has stated that “the overall ramp and deck are forty seven foot, two inches (47’2”) from the center of [the] street”.

The applicant’s letter states that the variance is needed to be able to provide for an existing ramp for improved mobility.

Section 405.560.F states: “Required Yard Or Court To Be Open – Exceptions. Every part of a required yard shall be open from its lowest point to the sky unobstructed, except for the ordinary projection of sills, belt courses, cornices, chimneys, buttresses, ornamental features and eaves; provided however, that none of the above projections shall extend into a minimum yard more than twenty-four (24) inches; and provided further that canopies or open porches having a roof area not exceeding sixty (60) square feet may project a maximum of six (6) feet into the required front or rear yard and existing open porches extending into the required yard shall not be enclosed.”

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The Applicant is seeking a variance of 7’10” from the required front yard setback of 30’ to allow for a front yard setback of 22’2” for the proposed expansion. The yard exception listed in Section 405.560.F allows for an encroachment of up to 6’, which means that the applicant truly only needs a variance of 1’10” to the allowed encroachment.

### 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 existing use of the property would continue if the variance is not granted. However, the applicant claims that the removal of the deck would decrease the property value.**

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. The lot itself is not unique. The house was built very near the required setback, which is not atypical. The plight of the owner is specific to their desires and health needs that has necessitated a deck and ramp in the current configuration.**

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 deck and ramp are currently existing. The encroachment is towards the 50' street right-of-way.**

- 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 physical surroundings, shape and topographical conditions of the property are not atypical and thus not unique. The need for the variance is due to the applicant's desire and physical needs to have the existing deck and ramp in its current configuration. No evidence has been submitted to staff as to whether the ramp can be reconfigured, but it does appear that there is very little room to provide for a ramp without a variance.**

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 applicant is requesting this variance is to allow for their existing deck and ramp to remain to provide them with easier access and mobility to and from the front door of their property.**

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 alleged difficulty or hardship is being caused by the current property owner's desire to have an existing deck and ramp that, in its current configuration, encroaches into the required front yard setback by 7'10". Section 405.560.F allows for an encroachment of up to 6', which means the applicant needs a variance of 1'10" to the allowed encroachment.**

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 will not result in a detriment to the public welfare in the area. The variance would allow the property owner to have a front yard setback of 22'2". The 7'10" encroachment is towards the 50' right-of-way, and the adjacent existing residential building to the north is approximately 98' (includes the 50' of right-of-way) from the existing structure.**

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.

**The proposed variance will not impair an adequate supply of light or air to adjacent property or substantially increase the danger of fire or otherwise endanger the public**

safety nor will it substantially diminish or impair property values within the neighborhood.

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## STAFF COMMENTS AND SUGGESTIONS

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In support of the requested variance are the facts that:

- Section 405.560.F provides for an encroachment of up to 6’;
- The proposed encroachment is towards a 50’ right-of-way and the adjacent existing residential building to the north is approximately 98’ away;
- The intent of setbacks are to provide for separation of uses and a degree of uniformity;
- 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.

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## STAFF RECOMMENDATION

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Staff recommends approval of the requested variance.

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## ATTACHMENTS

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Application and Supporting Documentation  
 Applicant’s Letter  
 Site Plan Drawings  
 Pictures  
 Zoning Map  
 Aerial Map





## VARIANCE APPLICATION

DATE: \_\_\_\_\_

Applicant (Print): BILLY HUFFMAN Signature: \_\_\_\_\_

Company Name: \_\_\_\_\_

Street Address: 1905 HARRY DR City: HARRISONVILLE State: MO Zip: 64701

Telephone: 816-258-8142 Email: KC@HAZ@HOTMAIL.COM

### Property Owner Authorization Required if Applicant Different from Property Owner

Property Owner Name (print): \_\_\_\_\_ Signature: \_\_\_\_\_

Street Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_ Email: \_\_\_\_\_

Firm Preparing Application (if applicable): \_\_\_\_\_

Contact: \_\_\_\_\_

Street Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_ Email: \_\_\_\_\_

\* All correspondence should be sent to (check one): Applicant ☐ Property Owner ☐ Firm ☐

### Project Information

General Location or Address: 1905 HARRY DR

Harrisonville Properties, \_\_\_\_\_ Acres or Sq. Ft. \_\_\_\_\_

### Process and Submittal Requirements

*City of Harrisonville Zoning Ordinance Section 405.610*

*The Board of Zoning Adjustment may grant variances from the provisions of this Chapter in harmony with its general purpose and intent and may vary them only in specific instances hereinafter set forth. The Board of Zoning Adjustment, based on standards hereafter prescribed and after hearing, may decide that there are practical difficulties or hardship in the way of carrying out the strict letter of these regulations. The concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement or decision of the party appealed from or to issue an order or variance or to decide in favor of an appellant.*

Step 1. Hold pre-application conference with City staff.

Step 2. Submit complete application and the following at least thirty (30) days prior to the BZA Meeting:

1. \$200 filing fee PLUS \$65.00 notice fee, payable to the City of Harrisonville
2. Letter explaining the project and why variance needed.
3. One (1) 8 1/2 x 11 electronic copy of site plan showing property, existing and proposed structures and additional important information.

Step 3. City staff publishes legal notice and sends letters to property owners within 185 feet.

Step 4. Board of Zoning Adjustments Meeting 2<sup>nd</sup> Tuesday of month at 6 PM at City Hall.

### Please Answer Following Questions

The BZA may approve a variance to the provisions of the Zoning and Subdivision Regulations, but only as allowed by the regulations and only when it has made findings based upon evidence presented to it in specific cases. *Section 405.615 (A) Standards*

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

Applicant Response: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

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

Applicant Response: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

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

Applicant Response: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

For the purpose of supplementing the above standards and in determining whether there are practical difficulties or hardships, the BZA shall also take into consideration the extent to which the following facts have been established by the evidence. *Section 405.615 (B)*

1. If the strict letter of the regulation is carried out, will the physical surroundings, shape or topographical conditions of the specific property create a hardship for the owner as distinguished from a mere inconvenience?

Applicant Response: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

2. Do the reasons for his variance apply just to this property or generally to other properties in the same zoning classification?

Applicant Response: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

3. Has the alleged difficulty or hardship been created by any person having an interest in the property at any time after May 13, 1991, the effective date of this Chapter?

Applicant Response: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_



4. Will the granting of the variance be detrimental to the public welfare in the neighborhood in which the property is located?

Applicant Response: \_\_\_\_\_

\_\_\_\_\_

5. Will the proposed variance impair an adequate supply of light and air to adjacent property or substantially increase the danger of fire or endanger the public safety or substantially diminish or impair property values within the neighborhood?

Applicant Response: \_\_\_\_\_

\_\_\_\_\_

### Resources

|                         |                                                                                                                                       |
|-------------------------|---------------------------------------------------------------------------------------------------------------------------------------|
| City Website            | <a href="http://www.ci.harrisonville.mo.us">www.ci.harrisonville.mo.us</a>                                                            |
| Zoning Map              | <a href="https://www.ci.harrisonville.mo.us/documentcenter/view/6182">https://www.ci.harrisonville.mo.us/documentcenter/view/6182</a> |
| Zoning Regulations      | <a href="https://www.ecode360.com/27908265">https://www.ecode360.com/27908265</a>                                                     |
| Subdivision Regulations | <a href="https://www.ecode360.com/27909481">https://www.ecode360.com/27909481</a>                                                     |
| Cass County GIS Map     | <a href="https://cassgis.integritygis.com/h5/index.html?viewer=cass">https://cassgis.integritygis.com/h5/index.html?viewer=cass</a>   |

### Contacts

|                                                                   |                                |                |                            |
|-------------------------------------------------------------------|--------------------------------|----------------|----------------------------|
| City Hall, 300 E. Pearl, Harrisonville, MO 64701                  |                                | (816) 380-8900 | Fax (816) 380-8910         |
| John Morris                                                       | Building Official              | (816) 380-8917 | jmorris@harrisonville.com  |
| Christina Stanton                                                 | Community Development Director | (816) 380-8922 | cstanton@harrisonville.com |
| Jamie Martin                                                      | Administrative Secretary       | (816) 380-8958 | jmartin@harrisonville.com  |
| Public Works Department, 201 W. Chestnut, Harrisonville, MO 64701 |                                |                | Fax (816) 380-3997         |
| Carl Brooks                                                       | Director of Public Works       | (816) 380-8964 | cbrooks@harrisonville.com  |
| Ted Martin                                                        | City Engineer                  | (816) 380-8964 | tmartin@harrisonville.com  |

### For Office Use Only

Case No: 24-008 Filing Fee. Amount Paid: \$ 265.00 Date: 5/22/24  
 Date Application Received: 5/22/24 BZA Meeting Date: July 11, 2024  
 Note: \_\_\_\_\_



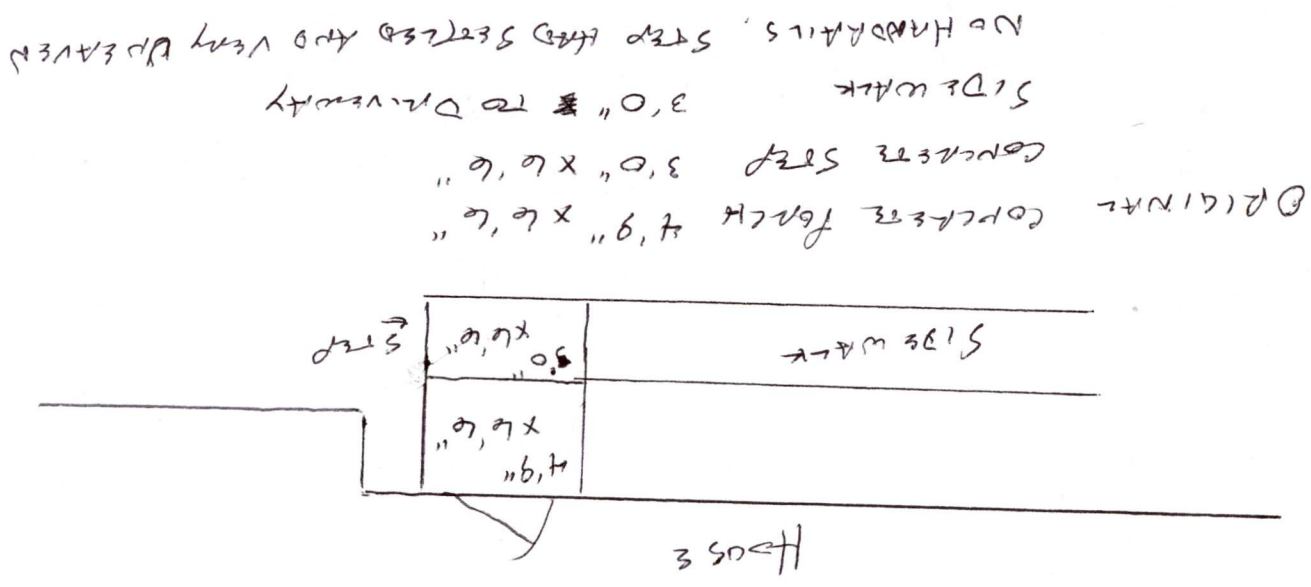
Ref: Veriance application Billy Huffman 1905 Harry Dr. Harrisonville, MO

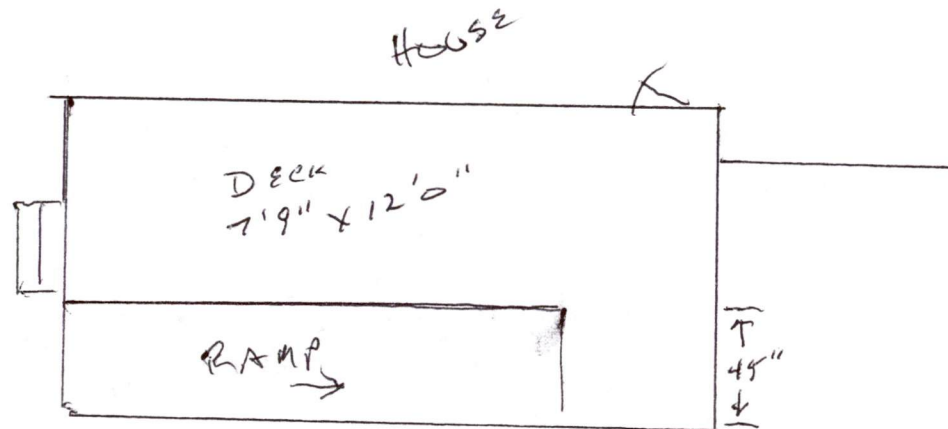
Section 1:

- 1) The property value would decrease without the deck on the front of the house.
- 2) The house was built in 1991 unbeknown to the owner until present time the house was built as far forward on the property that was allowed. The owners contacted the appropriate authorities before deck structure was built and was told nothing about this chapter. Owners were told a deck would be fine as long as it was not more than 3 feet off the ground.
- 3) The variance if granted would elebate the property value and is visually more appealing.

Section 2:

- 1) The owners of said property applying for this variance are elderly and under medical care. Both owners have ambulatory issues and are a constant fall rist. Without the deck in question, neither owner would be able to leave the house. Their way of life would not just be inconvenienced, it would be completely halted.
- 2) The 32 year old structure was build by Harry Height as well as the rest of the block. Every structure on Harry Drive is 30 feet from the road, as far forward on the properties is appartently allowed. The neighbors we have talked to were not aware of this either.
- 3) The deck in question has been in existance for 3 years. I replaced a crumbling concrete porch and stops. These were unsafe and had already played a part in the fall of one of the owners. Not to mention, the current structure is more aesthetically pleasing.
- 4) The denial of the variance would result in the removal of the structure. Removal of the structure would be a safety issue not only for the owners of hte property but for anyone who visits the residence.
- 5) The structure does not block air or light from any of the other residences and does not present a danger of any kind, fire or otherwise. The structure also does not affect the property values in a negative way.





DECK IS 7'9" x 12'0"  
 RAMP IS 45" WIDE  
 RAILING ALL AROUND IS 41" HIGH





Attachment: Pictures (Appl. #VAR-24-008--Variance of Section 405.140.B at 1905 Harry Drive - PUBLIC HEARING)







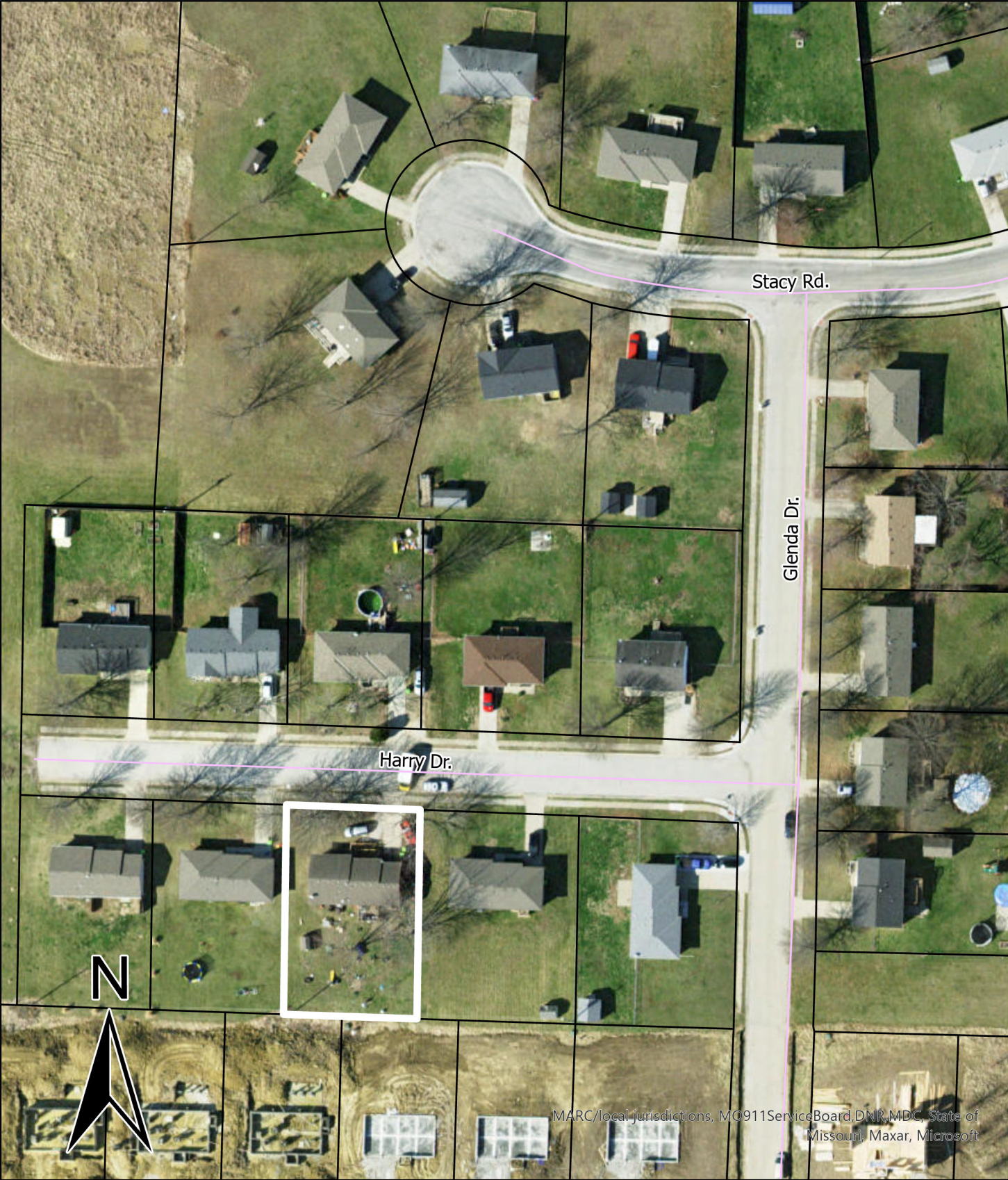
# Zoning Map



Attachment: Zoning Map (Appl. #VAR-24-008--Variance of Section 405.140.B at 1905 Harry Drive - PUBLIC HEARING)



# Aerial Map



Attachment: Aerial Map (Appl. #VAR-24-008---Variance of Section 405.140.B at 1905 Harry Drive - PUBLIC HEARING)

## STAFF REPORT

**TO:** Board of Zoning Adjustments  
**FROM:** Christina Stanton,  
**DATE:** July 3, 2024  
**SUBJECT:** Appl. #VAR-24-008--Variance of Section 405.140.B at 1905 Harry Drive -  
CONSIDERATION

**Type of Item:** *Approval*

**6. Action Item (ID # 4894)**

Appl. #VAR-24-008--Variance of Section 405.140.B at 1905 Harry Drive - CONSIDERATION