



NOTICE OF BOARD OF ADJUSTMENTS AND APPEALS MEETING

February 21, 2023

Members of the public are invited to attend remotely or in person through the options listed below. Public comment is welcome for items appearing on the agenda or on any matter of BOA concern. Each speaker is allotted a maximum of five minutes to speak.

Individuals wishing to comment on an agenda item must register in advance by contacting boaplanning@auroragov.org or 303.739.7541.

View or Listen Live

Click to join:

<https://auroragov.webex.com/auroragov/onstage/g.php?MTID=e1fb08bfad310c2bb2a4c52e2130b189e>

Event Password Aurora2020

Call-in Participation

Call 720.650.7664

Access Code 2480 742 5533

In-person Participation

Aurora Municipal Center
Aspen Room, 2nd Floor
15151 E Alameda Parkway
Aurora, CO 80012

Translation/Accessibility

If you are in need of an interpreter, please contact the Office of International and Immigrant Affairs at 303-739-7521. Si necesita un intérprete, comuníquese con la oficina de asuntos internacionales e inmigrantes al número 303.739.7521.

For more information regarding Board of Adjustments & Appeals meetings, please contact Planning & Development Services at boaplanning@auroragov.org or 303.739.7541.



AGENDA

Board of Adjustment and Appeals

Tuesday, February 21, 2023

6:00 p.m.

Hybrid Meeting

Aurora Municipal Center

15151 E Alameda Pkwy, 2nd Floor

Aurora, CO 80012

Pages

1. CALL TO ORDER

2. ROLL CALL

3. APPROVAL OF MINUTES

3.a Draft BOA Meeting Minutes 1.17.2023

2

4. ADOPTION OF AGENDA

5. GENERAL BUSINESS

5.a Case Number 02-23 - 1555 N Clinton Street Unit B

4

A request by the property owner, Jose Juan Carlos Muratalla, for the following Single-Family Dwelling Variance(s): To allow a seven-foot-tall side and rear yard fence that exceeds code requirements (six-feet in height).

6. OTHER BUSINESS

A web-only (Webex) study session for members of the Board of Adjustments and Appeals and Planning and Zoning Commission has been scheduled for Wednesday, February 22, 2023, at 4:30 pm. Instructions on how to attend can be found at the following link:

https://www.auroragov.org/city_hall/boards___commissions/board_of_adjustment___appeals

The study session is titled Planning Commission & Board of Adjustments and Appeals Training and will be presented by Linda Michow Cox & McAskin, LLP.

7. ADJOURNMENT

Planning Department
City of Aurora, Colorado

SUMMARY OF BOARD OF ADJUSTMENT AND APPEALS ACTIONS

BOA Hearing Date: January 17, 2023
Hearing Location: Virtual Public Hearing, held via Webex
Case Manager: Rachid Rabbaa

Board Members Present: Lynn Bittel
Kari Gallo
Richard Palestro
Andris Berzins
Gary Raisio
Marty Seldin
Ron Swope

Case Number: 01-23 – 431 Iola Street

Description:

Request by the property owner, Erica Mendoza, for the following Single-Family Dwelling Variance:

- An adjustment to the requirement of Section 146-4.7.9.L.1 Table 4.7-4, which requires that rear-yard fences on residential properties not exceed six-feet in height.

Recommendation from staff to approve the variance as requested.

Case Presentation Given at the Hearing:

Staff gave a presentation describing the applicant's request, the context of the neighborhood and the subject property, and an analysis of the request with respect to the Code Criteria of Approval. The applicant's request would allow an eight-foot-tall privacy fence in the rear-yard that exceeds code requirements in height.

Mr. Berzins asked if the variance was for only the rear-yard pictured in the staff report and presentation.

Mr. Rabbaa responded that was correct.

Ms. Mendoza, the applicant, was available for questions. Ms. Mendoza noted that there is a difference in the height of the fence at the property line versus the height of the sidewalk abutting the fence.

Mr. Berzins asked the applicant to clarify if there is a slope down to the fence from the sidewalk.

Ms. Mendoza responded yes, that is the case. Ms. Mendoza stated there is a slope of approximately two and ½ feet.

There was no further discussion of the case and no questions from other members of the Board.

Public Comment Given at the Hearing:

Don Lewis, a neighbor adjacent to the applicant at 421 Iola St, Aurora, CO 80010, commented on the case. Mr. Lewis noted that there is a slope down from the sidewalk to the fence at the property line. Mr. Lewis indicated that there have been incidents in which people have crossed over the fence into the property from the neighboring bus stop to shortcut through the neighborhood. Mr. Lewis expressed support for the eight-foot-tall fence due to traffic, security, and privacy concerns.

Board of Adjustment and Appeals Results

A motion was made by Mr. Raisio and seconded by Mr. Palestro.

Move to approve the variance request because the proposal complies with the required findings of Code Section 146-4.7.6.L.1 Table 4.7-4, and:

- Does not have an adverse impact on adjacent properties;
- Will not have a negative impact on existing city infrastructure or public improvements;
- Will allow safe use of the property and achieve efficiency of design: and,
- Controls for any external effects.

Action Taken: Approved

Votes for the Waiver: 7

Votes against the Waiver: 0

Absent: None

Abstaining: None

Other Topics Discussed at the Hearing:

Minutes were presented for adoption from the December 14, 2022, meeting. The minutes were approved unanimously by those present, with Mr. Berzins absent from the vote.

The Board held elections for Chair and Vice Chair. Mr. Raisio nominated Lynn Bittel as Board Chair and Mr. Swope seconded. The nomination was supported unanimously by those present, with Mr. Berzins absent from the vote for Chair. Ms. Gallo moved to nominate Andris Berzins, as Vice Chair, and Mr. Palestro seconded. The nomination was supported unanimously by the full board. The Board of Adjustments and Appeals will be chaired by Lynn Bittel, with Andris Berzins as Vice Chair, for the 2023 calendar year.

Mr. Berzins asked staff for a one-hour study session in the coming months for the board to review applicable codes, policies, and procedures for BOA. Dan Money, City Attorney, indicated that he will work with staff to arrange a study session.

SUMMARY OF PROCEEDINGS PREPARED AND SUBMITTED BY: Rachid Rabbaa

Lynn Bittel, Chairman

Rachid Rabbaa, City of Aurora

Planning Division
 15151 E. Alameda Parkway, Ste. 2300
 Aurora, Colorado 80012
 303.739.7250



MEMORANDUM

To: Lynn Bittel, Board of Adjustment Chairman
 Board Members: Andris Berzins, Kari Gallo, Ron Swope, Gary Raisio, Richard Palestro, Marty Seldin

From: Rachid Rabbaa, Planner, Board of Adjustment Staff Liaison

Date: February 08, 2023

Hearing Date: February 21, 2023

Subject: BOAA Case No. 02-23– 1555 Clinton Street

Notification: The Notice of Variance Request was mailed to abutting property owners on February 10, 2023, and a notice of virtual public hearing sign was posted on the property on the same day in accordance with Code.

Summary: Request by the property owner, Jose Juan Carlos Muratalla, for the following Single-Family Dwelling Variance:

- An adjustment to the requirement of Section 146-4.7.9.L.1, which requires that side and rear-yard fences on residential properties not exceed 6-feet in height.

Background Information: The subject property is located a half block north of Colfax Avenue at 1555 Clinton Street in the North Aurora neighborhood. The property and surrounding neighborhood are consistent with the character of mixed-use areas in Original Aurora along Colfax, with a gridded network of streets, alleys, and a mix of single-family detached residences, small multi-family and commercial buildings. The property is zoned OA-MS (Original Aurora Main Street District), as is the surrounding neighborhood. **(See Exhibit A – Aerial Photo.)**

The applicant requests to construct a fence that is 7-feet high along the north (side) and west (rear) property lines, exceeding the maximum allowable height of 6-feet. The applicant stated the reason for requesting a 7-foot-tall fence is to provide privacy. Additionally, the applicant has stated that people are continually trespassing on the property, and this presents a safety concern for the applicant and his children. **(See Exhibit B – Application).**

Analysis:

Across residential districts, the height of fences is limited to 6-feet in the rear and side yards of residential properties. One of the many reasons for this restriction is to provide a uniform standard for fence designs, allowing residents and property owners to ensure the privacy and usability of their private open space while not facilitating an image of the City of Aurora that appears closed off or uninviting. However, it has not been uncommon for property owners to request to exceed this height limit to ensure the safety and privacy of their property in extenuating circumstances.

Required Findings: According to Section 146-5.4.4.B.3 (Exhibit E), the Board of Adjustments and Appeals can grant variances based on the following criteria:

1. Effect on adjacent properties. The proposed variance will not adversely affect adjacent properties or the surrounding neighborhoods.

Staff Analysis: The proposed variance does not present an adverse effect on adjacent properties or the surrounding neighborhood.

2. The proposed variance is consistent with the majority of the criteria as follows:

a. Improved Design

Staff Analysis: The proposed variance will allow the design to include an increased height which achieves the stated goals of the applicant.

b. Consistency with Neighborhood Character

Staff Analysis: The 7-foot fence is not consistent with the character of the surrounding single-family neighborhood.

c. Compatibility with Adjacent Development

Staff Analysis: The fence is not compatible with the heights of rear yard and side fences on surrounding properties.

d. Impact on existing city infrastructure and public improvements

Staff Analysis: The proposed variance will not have an impact on existing city infrastructure or public improvements.

e. Internal efficiency of design

Staff Analysis: The variance would allow the applicant to have safe and private use of the property and thus, would achieve an internal efficiency of design.

f. Control of external effects

Staff Analysis: The proposal controls for all external effects.

Staff Recommendation:

Staff recommends **approval** of the proposed variance.

Conclusion:

Based on the required findings of Code Section 146-5.4.4.B.3, staff finds the Single-Family Dwelling Variance to Section 146-4.7.9.L.1-Table 4.7-4 as requested, to allow a 7 foot privacy fence on the north and west property lines (excluding the front yard) :

- Does not have an adverse impact on adjacent properties;
- Will not have a negative impact on existing city infrastructure or public improvements;
- Will allow safe use of the property and achieve efficiency of design; and

- Controls for external effects.

ATTACHMENTS:

Exhibit A – Vicinity Map

Exhibit B – Application and Justification

Exhibit C – Aerial Photo

Exhibit D – Site Photos

Exhibit E – City Code Section 146-5.4.4.B.3





PLANNING DEPARTMENT

15151 E. Alameda Pkwy., 2nd Floor
Aurora, Colorado 80012
303-739-7250
FAX: 303-739-7268

CASE # _____

**BOARD OF ADJUSTMENT & APPEALS
CITY OF AURORA
APPLICATION FOR VARIANCE**

1. Please type or print clearly when filling out the application. After completing the application, schedule an appointment by emailing boaplanning@auroragov.org.
2. An appointment needs to be made prior to the closing date noted at the bottom of this page.
3. When meeting with the applicant, staff will review the application for completeness and will provide instruction on the procedures of the hearing.
4. At the time of application submittal, a check for \$150.00, payable to the City of Aurora, will be required.
5. The Planning Department will prepare a public hearing sign for the applicant to post the property a minimum of ten days prior to the hearing. **(Do not remove the sign prior to the hearing.)** The sign must be posted through the entire hearing process.

HEARING DATE:

CLOSING DATE:



PLANNING AND DEVELOPMENT SERVICES DEPARTMENT

15151 E. Alameda Pkwy, Suite 2300
Aurora, Colorado 80012
303-739-7250
FAX: 303-739-7268

CASE # _____

APPLICATION TO THE BOARD OF ADJUSTMENT & APPEALS
VARIANCE

ADDRESS OF PROPERTY AFFECTED: 1555 Clinton St
Zone District _____

Applicant

Name: Jose Juan Carlos Muratalla
Address: 1555 Clinton St Aurora CO 80010 #B
Phone #: 710 380 7176 email jjcmuratalla@gmail.com

Property Owner:

Name: Jose Juan Carlos Muratalla
Address: 1555 Clinton St Aurora CO 80010 #B
Phone #: 710 380 7176 email jjcmuratalla@gmail.com

Signature 

Variance requested:

The above request does not conform to Section(s) _____ of the Aurora City Code, which requires _____

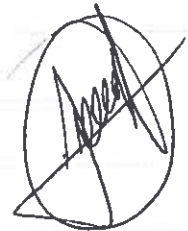
1555 Clinton St

To whom it may concern.

Our Family would like to have the 7 ft. fence, for security. Our Neighbor of 1553 Clinton. It offers assistance to the Homeless and there are many living around and on occasions they appear on our property and fighting, it is very unsafe for our Family. our neighbors at 1541 Clinton..... they broke in and burned their house, and we are afraid that we are going to wake up in flames. our neighbors at 1575 Clinton, put up a 6 foot fence and still have the problem that they keep getting into their property.

thank you very much in advance,
we trust that you will be able to
put yourself in Our Shoes.

Jose Juan Carlos Muratalla



720 380 7476

CASE # _____

Type, or print clearly, the name and complete address (including zip code) of each abutting property owner:

ABUTTING PROPERTY ADDRESS: NAME & ADDRESS OF PROPERTY OWNER

1553 Clinton St Aurora CO. 80010

Aurora Interfaith Community Services

1561 Clinton St Aurora CO 80010

1575 Clinton St Aurora CO 80010

1541 Clinton St Aurora CO 80010

Multiple sets of horizontal lines for additional property address and owner information.

EXHIBIT B

Aurora Interchurch Task Force INC
1553 Clinton St
Aurora, CO 80010

Don Owen
2788 W 104th Pl
Westminster, CO 80234

Martin La Russo
3286 Yale Dr
Broomfield, CO 80023

Agape Missionary Church
1590 Chester Ct
Aurora, CO 80010

Marco Enriquez Gomez
1563 Clinton St
AURORA, CO 80010

Megan Nicolace
1568 Clinton St
Aurora, CO 80010

Mitchell Gold
10158 Westside Cir
Littleton, CO 80125

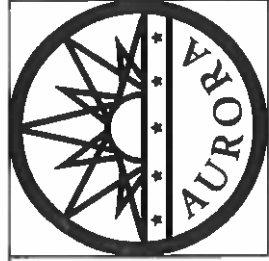
Caitlin & Sean Staggs
1560 Clinton St
Aurora, CO 80010

Larry & Gail Fedak
1576 Clinton St
Aurora, CO 80010

Hat Trick LLC
14310 Ivanhoe St
Thornton, CO 80602

Orlando Martinez
1548 Chester St
Aurora, CO 80010

Elaine Ross
1545 Clinton St
Aurora, CO 80010



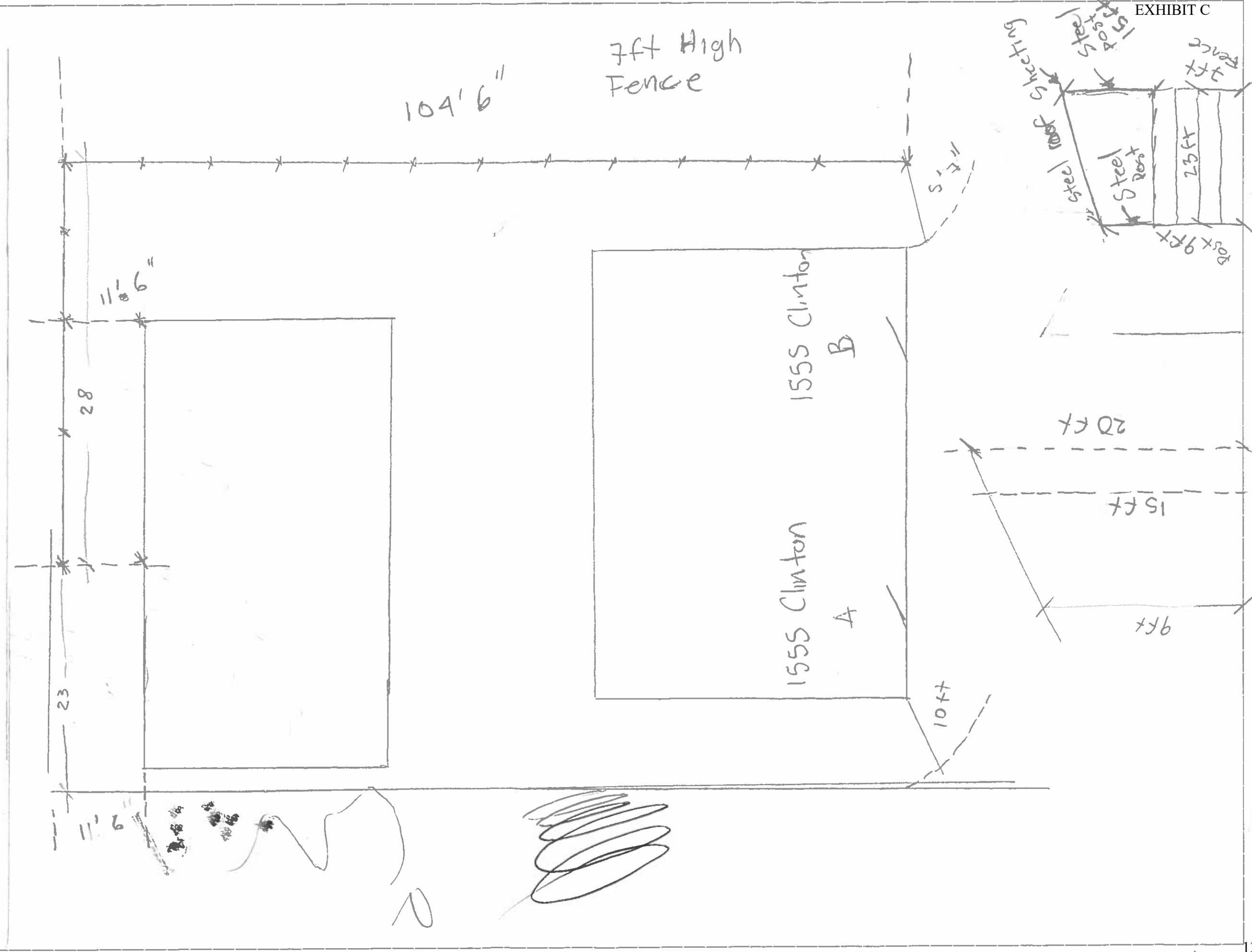
Project Name: 1555 Clinton St #A

Permit Number: _____ RSN: _____

Date: _____ Sheet: _____ of: _____



City of Aurora - Building Division
15151 E Alameda Parkway, Suite 2400
Aurora, CO 80012
Phone: 303-739-7420
www.auroragov.org











SMILE
YOU'RE ON CAMERA



028
240

SMILE
YOU'RE ON CAMERA









1555 B

PEAR



1555 B

PEAR



1557

1557

15



1555 A

1555 B

1557

1557







1555 A

1555 B

1557

Blue sign with illegible text



**BOARD OF ADJUSTMENT
AND APPEALS HEARING**
 NOTICE IS HEREBY GIVEN THAT A
 HEARING WILL BE HELD AT THE
 AURORA MUNICIPAL CENTER,
 15151 E. ALAMEDA PARKWAY,
 ASPEN ROOM, #2200
 AT 6:00 P.M., ON 02/21/2023
 TO CONSIDER A REQUEST FOR
 A WAIVER FOR THIS PROPERTY.
 FURTHER INFORMATION
 CONCERNING THIS
 REQUEST MAY BE OBTAINED
 FROM THE PLANNING DEPARTMENT
 303-739-7217

14 Hour Protection
 Montronics
 Residential Security Systems
 1-866-464-9766

1555 B

1557

1557

B. Single-Family Dwelling Variance

All applicable provisions of Section 146-5.3 (Common Procedures) apply unless specifically modified by the provisions of this Section 146-5.4.4.B.

1. Applicability

This Section 146-5.4.4.B applies to all applications for a variance from the standards and of provisions of this UDO or to the provisions of Chapter 90 as they relate to the modification of an existing single-family dwelling or the lot on which it is located that do not qualify for approval as a Minor Amendment under Section 146-5.3.15.A. This section may not be used to vary the standards or provisions of this UDO for single-family homes that have not yet obtained a certificate of occupancy or Manufactured Homes that have not yet been installed in accordance with Chapter 90.

1. Procedure

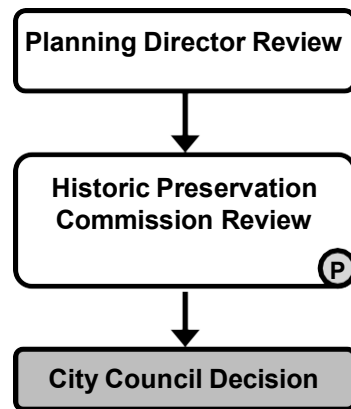
- a. Planning Director shall review the application and forward a recommendation to the Board of Adjustment and Appeals pursuant to all applicable provisions of Section 146-5.3 (Common Procedures).
- b. The Board of Adjustment and Appeals shall conduct a public hearing on the application and shall make a decision on the application pursuant to all applicable provisions of Section 146-5.3.

2. Criteria for Approval

An application for a Single-family Dwelling Variance shall be approved if the Board finds that the proposed variance will not adversely affect adjacent properties or the surrounding neighborhoods and a majority of the following criteria have been met.

- a. The proposed variance results in improved design.
- b. The proposed variance does not adversely affect the character of lower density residential areas.
- c. The proposed variance will result in development that is compatibility with adjacent land development.
- d. The proposed variance will not result in undue or unnecessary burdens on existing infrastructure and public improvements, or arrangements have been made to mitigate those impacts.
- e. The proposed variance results in development that achieves internal efficiency for its residents and does not endanger public health or convenience.
- f. The proposed variance results in development that controls external effects on nearby land uses, movement and congestion of traffic, noise generated, arrangement of signs and lighting to prevent nuisances, landscaping, and features to prevent detrimental impacts on public health, welfare, safety or convenience.

**Historic
Landmark/District
Adjustment**



(P) Indicates Public Hearing Required