



# NOTICE OF BOARD OF ADJUSTMENTS AND APPEALS MEETING

December 19, 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](mailto:boaplanning@auroragov.org).

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## In-person Participation

Aurora Municipal Center  
Aspen Room, 2<sup>nd</sup> Floor  
15151 E Alameda Parkway  
Aurora, CO 80012

*Knock to be granted access to the building by security.*

For more information regarding Board of Adjustments & Appeals meetings, please contact Planning & Development Services at [boaplanning@auroragov.org](mailto:boaplanning@auroragov.org).



## AGENDA

Board of Adjustment and Appeals

Tuesday, December 19, 2023

6:00 p.m.

Aspen Room/Hybrid

Aurora Municipal Center, 2nd Floor

15151 E Alameda Pkwy

Aurora, CO 80012

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Pages

1. CALL TO ORDER
2. ROLL CALL
3. APPROVAL OF MINUTES
  - 3.a Draft 10-17-2023 BOA Meeting Minutes 3
4. ADOPTION OF AGENDA
5. GENERAL BUSINESS
  - 5.a Case Number 13-23 - 1910 N Altura Boulevard 12

A request by the property owner, Cindy Arellano, for the following Single-Family Dwelling Variances, for property zoned Rural Residential District (R-R): (1) To allow for an existing accessory structure within one foot of the side property line resulting in a minimum setback reduction of four feet; (2) To allow for a 1600-square-foot accessory structure that exceeds the allotted structure area of 520 square feet.
  - 5.b Case Number 14-23 - 1731 N Altura Boulevard 30

A request by the property owner, Alan Quintana Maldonado, for the following Single-Family Dwelling Variances, for property zoned Rural Residential District (R-R): (1) To allow for an existing detached carport structure within three-and-a-half feet of the side property line resulting in a minimum setback reduction of one-and-a-half feet; (2) To allow for an 800-square-foot accessory structure that exceeds the allotted structure area of 528-square-feet.

**5.c Case Number 15-23 - 411 N Iola Street**

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A request by the property owner, Bruce Edwards, for the following Single-Family Dwelling Variance, for property zoned Low-Density Single-Family Residential District (R-1): To allow for an eight-foot-tall residential fence along the length of the rear lot line facing Havana Street.

**5.d Case Number 16-23 - 5003 S Elkhart Court**

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A request by the property owner, Peggy Sexton, for the following Single-Family Dwelling Variance, for property zoned Medium-Density Residential District (R-2): To allow for a fence segment/panel that is nine feet in height and seven feet, three inches in width.

**6. OTHER BUSINESS**

**7. ADJOURNMENT**

Planning Department  
City of Aurora, Colorado

## SUMMARY OF BOARD OF ADJUSTMENT AND APPEALS ACTIONS

BOA Hearing Date: October 17, 2023  
Hearing Location: Virtual Public Hearing, held via WebEx  
Case Manager: Stephen Gubrud

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

City Staff Present: Lena McClelland – Attorney for Planning and Development Services  
Brandon Cammarata – Planning Manager  
Steve Timms- Planning Supervisor  
Stephen Gubrud – City Planner  
James Schireman – City Planner  
Steven Baptista - City Code Enforcement Officer  
Eugene Johnson – City Code Enforcement Officer  
Diane Webb - Project Coordinator

Chairman Mr. Lynn Bittel commenced the meeting at approximately 6:00 p.m.

A motion was made by Mr. Berzins and seconded by Mr. Swope.

Move to rearrange the agenda to hear item 5b. Case Number 12-23 – 12290 E Vassar Drive first because the interpreter for agenda item 5a. Case Number 11-23 – 1036 Kramer Court was not yet in attendance when the meeting began.

**Action Taken:** Hear agenda item 5b. before agenda item 5a.

Votes for: 6  
Votes against: 0  
Absent: 0  
Abstaining: None

**Case Number:** 12-23 – 12290 E Vassar Drive

**Description:**

- Request by the owner, Varya Fursova, for the following Single-Family Dwelling Variance: Requesting a variance from UDO code section 146-4.7.9.L.1 which states that rear yard fences may be a maximum of 6 feet in height. The applicant's property is located in the R-1 zone district and they request a variance to allow an additional 2 feet in height for a total of 8 feet along the approximately 64-foot length of the rear lot line.

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 additional 2 feet in fence height along a portion of the rear property line.

**Board Discussion at the Hearing:**

Mr. Berzins asked how the case came to the Board of Adjustment and Appeals.

Stephen Gubrud, City Planner, responded that the case is a result of a code enforcement violation.

Mr. Berzins asked if the neighbor in the rear lot wrote the letter in favor of the variance.

Mr. Gubrud replied, yes.

Mr. Berzins asked if the variance was just for the rear lot line fence but not the wing fence or the side fence.

Mr. Gubrud replied that Mr. Berzins was correct. The variance is only for the 46-foot-long section along the rear lot line.

Ms. Gallo asked if a public hearing sign is usually posted in the front yard.

Mr. Gubrud replied, yes.

Ms. Gallo noted that she did not see the sign when she visited the site, and she asked how long the sign should be posted.

Mr. Gubrud deferred to the applicant. He stated he delivered the sign to the applicant and has documentation of that.

Mr. Seldin asked if there would be any negative results because the sign wasn't there.

Lena McClelland, Attorney for Planning and Development Services, responded that one could question whether the case was properly noticed. She added that the case was noticed on the city's website.

Mr. Seldin also stated the sign was not present when he visited the site.

Mr. Bittel stated that he visited the site.

Ms. Gallo, Mr. Seldin, and Mr. Palestro stated that they visited the site.

Mr. Berzins and Mr. Swope stated that they did not visit the site.

Mr. Bittel called upon the applicant to speak.

The applicant, Varya Fursova, 12290 E Vassar Drive, attended the meeting in person. Ms. Fursova stated she placed the public hearing sign in her yard, but her puppy kept dragging it down. There is no front yard fence so she was unable to ensure the sign would remain posted. Other homeowners'

dogs in the area also caused issues with the sign posting.

Mr. Palestro asked if dogs were ripping down the sign.

Ms. Fursova replied, yes.

General discussion ensued regarding the proper notice of the public hearing and how Ms. Fursova could have ensured proper posting.

Ms. McClelland clarified that we are looking for substantial compliance and not strict compliance with the notice posting. The notice was posted on the city's website, it was mailed to surrounding neighbors, and the sign was posted at the home for a period.

Ms. Fursova continued with her presentation. She stated that when she bought the home in 2021, it was not in good condition, so she did quite a bit of home improvement inside and outside. In 2022, Ms. Fursova had an incident at her home that prompted her to make changes to increase security. Ms. Fursova spoke to the HOA regarding the back fence height. They instructed her to work with the neighbor directly behind the fence. The fence was five feet and there was no privacy. Ms. Fursova did not realize that building an eight-foot fence would violate the City code. Since the fence has been increased to eight feet, the noise has been reduced and has improved privacy. The back fence is not visible from the main street. Ms. Fursova referenced another house in the HOA that also has a taller fence that is visible from nearly every corner.

Ms. Gallo asked if the back neighbor had any objections to the increased fence height.

Ms. Fursova replied that her back neighbor, Dan, is in favor of the fence. He also submitted a letter in support of the fence.

There were no further questions for the applicant from members of the board.

#### **Public Comment Given at the Hearing:**

An anonymous written comment was received in objection to the requested variance. The comment was made available to the board members and public.

Daniel Gay, 12291 E Villanova Drive, joined the meeting by phone. He identified himself as the homeowner who shares the back fence with Ms. Fursova. Mr. Gay cited the reasons he supports the new fence, including increased privacy, noise reduction, and protection from wildlife in the area.

General discussion ensued between the board members regarding site visits and HOA rulings vs. City code.

Mr. Berzins asked staff if the fence code violation was reported to the city by a citizen or if code enforcement discovered the violation.

Mr. Gubrud responded that a neighbor reported the violation.

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

#### **Board of Adjustment and Appeals Results**

A motion was made by Mr. Berzins and seconded by Mr. Seldin.

Move to approve the variance request because the proposal complies with the required findings of Code Section 146, and:

- Will not adversely affect adjacent properties or the surrounding neighborhood;
- Would result in an improved design that achieves internal efficiency to the site; and
- Would control for external effects and would not impact existing city infrastructure or any future public improvements.

**Action Taken: Approved**

Votes for the Waiver: 6

Votes against the Waiver: 0

Absent: 0

Abstaining: None

**Case Number:** 11-23 – 1036 Kramer Ct (Continued from September 19, 2023)

**Description:**

Request by the owner, Abu Satar Bin Abdul Bashir, for the following Single-Family Dwelling Variances:

- Request #1: An adjustment to the requirements of UDO code section 146-4.7.9.L.1, which requires that front yard fences must be no taller than 42 inches. The applicant is requesting an additional 7 inches in front yard fence height, which is 49 inches in total.
- Request #2: An adjustment to the requirements of UDO code section 146-4.7.9.L.1, which states that front yard fences must be setback from the sidewalk by at least 18 inches. The applicant is requesting a 12-inch reduction to the front setback, resulting in an approximate 6-inch setback.
- Request #3: An adjustment to the requirements of UDO code section 146-4.7.9.L.2, which states that front yard fences must be at least 50% visually permeable. The applicant is requesting a closed-style fence that is 100% opaque.

Recommendation from staff to deny the three variances 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 (1) an additional 7 inches in front yard fence height which is 49 inches total; (2) a reduction to the front setback of 12 inches resulting in a 6-inch setback; and (3) a 50% visual permeability reduction for the front yard portion of the fence resulting in a completely opaque fence.

Khinma U., the interpreter provided by the City of Aurora contractor Cesco Linguistic Services, Inc. provided Rohingya interpretation services during the meeting.

**Board Discussion at the Hearing**

Mr. Bittel stated he visited the site.

Ms. Gallo, Mr. Berzins, and Mr. Seldin stated they visited the site.

Mr. Swope and Mr. Palestro stated they did not visit the site.

Mr. Berzins asked about the extra photos in the staff memo.

Steve Timms, Planning Supervisor, clarified that the additional photos labeled “Exhibit E” are photos submitted by a neighbor who supplied them during the hearing last month.

Mr. Seldin noted he was not present at the September 19, 2023, meeting and asked why the case was continued from last month since the applicant’s daughter was able to translate.

Mr. Bittel explained that legal counsel advised the board to obtain a Rohingya interpreter provided by the city rather than having a family member interpret.

Mr. Seldin asked for clarification regarding the variances requested.

Stephen Gubrud, City Planner, clarified that the three variances are being requested for the front yard fence.

Mr. Bittel called on the applicant to speak.

The homeowner, Abu Satar Bin Abdul Bashir, 1036 Kramer Court, attended the meeting in person. The interpreter provided by the City of Aurora, Khinma U. provided Rohingya interpretation for him. Mr. Bin Abdul Bashir explained that he built the fence because the neighbors had called the police on them several times and they received a warning. They have an ongoing conflict with the neighbors, but the fence provides security for his children and a way to reduce interactions with the neighbors.

The applicant's wife also provided testimony using the interpreter. She stated she stays at home with the children. Neighbors call the police if small amounts of trash blow into the yard, but the fence prevents this from happening. She cited cultural differences as a reason for the conflict with neighbors. She stated they asked the neighbors for permission to build the fence and they said it was okay. Her family feels safer and more secure with the fence.

The applicant's daughter, Oksana, stated the neighbors take pictures and videos of them without their permission.

Mr. Seldin stated that although the board is sympathetic to the applicant's situation with the neighbors, the purpose of the meeting is to evaluate the variance requests from a city code perspective.

The applicant's wife replied that they need a safe and peaceful place to live with their children. The fence provides a way for them to avoid interacting with the neighbors. They bought the home so they would have a peaceful place and a yard for their children.

Mr. Berzins asked the applicant what the benefit is of having a 49-inch-tall fence vs. a 42-inch-tall fence. What is the benefit of the additional seven inches?

After some clarification of the question, the applicant's wife replied they were told it was okay to install a taller fence.

Mr. Bittel asked if the board members had any more questions for the applicant. There were none at the time.

#### **Public Comment Given at the Hearing:**

Matt and Anita Avalos, 1024 Kramer Ct. attended the meeting in person. Ms. Avalos read a statement to oppose granting the variances requested. She stated the applicant did not check with them before building the fence. The fence extends into their property line, obstructs the sidewalk and the view from the yard, and obstructs the lighting at the back of their house. They also have concerns about accessing their door when it snows because the fence is so close. Ms. Avalos submitted additional pictures and a certificate from the city to explain the conflict with the neighbors, to be added to the evidence as Exhibits A through G.

Rose Sabo, 1045 Kramer Ct, attended the meeting in person. Ms. Sabo read a statement to oppose granting the variances requested. Ms. Sabo stated that, among other reasons, the fence obstructs the sidewalk in violation of the Americans with Disabilities Act of 1990. She stated no property survey was done nor were the neighbors on either side contacted before the fence was built. The

neighbor's landscaping was destroyed, and the fence is too close to the property line. The fence also obstructs the view of drivers down the street. Ms. Sabo stated she and her neighbors enjoy the cultural diversity in their neighborhood.

Mr. Bin Abdul Bashir explained the reason the new fence was built higher, to mitigate fighting between the neighbors. He stated the fence materials are new and in good condition.

Ms. Gallo asked to move to close the discussion.

Mr. Bittel said it would be the board's decision.

Mr. Seldin noted some of the testimonies were going off on a tangent.

Ms. Gallo clarified she did not want to give the impression that the board has purview over matters unrelated to the variances.

Alicia Gallardo, 348 Kramer Ct., attended the meeting in person. Mr. Matt Avalos provided Spanish interpretation for Ms. Gallardo. She spoke to oppose granting the variances requested. Ms. Gallardo stated the neighbors did not consult her before building the fence. She was concerned that the applicant did not consult anyone before building the fence.

Leigh Tyson attended the meeting online. Ms. Tyson stated she lives on the other side of the block. She noted the applicant's wooden fence on the side is not see-through which makes it dangerous when she walks through the neighborhood. The sidewalks are already narrow, and the fence is very close to it. The on-street parking makes it even more difficult to walk through there.

Ms. Avalos presented a letter from a neighbor who expressed concerns about the fence, to be added to the evidence as Exhibit H.

Mr. Berzins asked city staff to clarify if the variance requests includes the side fence.

General discussion ensued regarding the side yard fence vs. the front yard fence. Mr. Gubrud provided photos from the staff presentation to illustrate the fence portion being requested for variances. The variance requests are for the fence setback, opacity, and height.

Mr. Bittel described what he observed during his site visit, including the maintenance of the yard and that the applicant's fence appeared to be over the property line.

Ms. Gallo added that she approached the property from the north and the south and visibility from the sidewalk is completely hampered by the fence as well as access going to and from the north and south. The fence doesn't hamper visibility when driving, it's the cars parked on the road that reduce visibility. The fence isn't helping to secure anyone from the road.

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

### **Board of Adjustment and Appeals Results**

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

Move to deny the variance request to allow for an additional 7 inches in front yard fence height, which is 49 inches in total because the proposal does not comply with the required finding of Code Section 146-4.7.9.L.1, and:

- Does not result in improved design;
- Adversely affects the character of the lower-density residential area;
- Does not result in development that achieves internal efficiency for its residents and endangers public health and convenience.

**Action Taken: Deny**

Votes for the Waiver: 0

Votes against the Waiver: 6

Absent: 0

Abstaining: None

A motion was made by Mr. Berzins and seconded by Mr. Seldin.

Move to deny the variance request to allow for a 12-inch reduction to the front setback, resulting in an approximate 6-inch setback because the proposal does not comply with the required finding of Code Section 146-4.7.9.L.1, and:

- Does not result in improved design;
- Adversely affects the character of the lower-density residential area;
- Does not result in development that achieves internal efficiency for its residents and endangers public health and convenience.

**Action Taken: Deny**

Votes for the Waiver: 0

Votes against the Waiver: 6

Absent: 0

Abstaining: None

A motion was made by Mr. Seldin and seconded by Ms. Gallo.

Move to deny the variance request to allow for a closed-style fence that is 100% opaque because the proposal does not comply with the required finding of Code Section 146-4.7.9.L.2, and:

- Does not result in improved design;
- Adversely affects the character of the lower-density residential area;
- Does not result in development that achieves internal efficiency for its residents and endangers public health and convenience.

**Action Taken: Deny**

Votes for the Waiver: 0

Votes against the Waiver: 6

Absent: 0

Abstaining: None

Mr. Bittel had the interpreter inform the applicant that all three variance requests had been denied.

**Other Topics Discussed at the Hearing:**

A motion was made by Mr. Berzins and seconded by Mr. Swope.

Move to accept the draft minutes for the September 19, 2023, meeting.

**Action Taken:** Accept the draft minutes for September 19, 2023.

Votes for: 6

Votes against: 0

Absent: 0

Abstaining: None

Board members discussed the November meeting scheduled for a Tuesday instead of Monday and who was planning to attend.

Chairman Mr. Lynn Bittel announced his resignation from the Board of Adjustment and Appeals since his term expired in August 2023. He announced that this would be his last meeting.

A motion was made by Mr. Berzins and seconded by Ms. Gallo.

Move to recommend to City Council the reappointment of Mr. Palestro, Mr. Seldin, and Mr. Swope to the Board of Adjustment and Appeals.

**Action Taken:** Recommend to City Council the reappointment of Mr. Palestro, Mr. Seldin, and Mr. Swope.

Votes for: 6

Votes against: 0

Absent: 0

Abstaining: None

Mr. Bittel entertained a motion to adjourn the meeting.

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

Move to adjourn the meeting.

**Action Taken:** Adjourn the meeting.

Votes for: 6

Votes against: 0

Absent: 0

Abstaining: None

The meeting adjourned at approximately 8:00 p.m.

SUMMARY OF PROCEEDINGS PREPARED AND SUBMITTED BY: Diane Webb

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Andris Berzins, Vice Chairman

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Diane Webb, City of Aurora Recording Secretary



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

**MEMORANDUM**

- To:** Board of Adjustments acting chair and board members
- From:** Stephen Gubrud, Planner, Board of Adjustment staff liaison
- Date:** December 14, 2023
- Hearing Date:** December 19, 2023
- Subject:** BOAA Case No. 13-23 – 1910 N Altura Blvd.
- Notification:** The Notice of Variance Request was mailed to abutting property owners on December 8, 2023, and a notice of virtual public hearing sign was posted on the property on or prior to the same day in accordance with Code.
- Summary:** Requests by the owner, Cindy Arellano, for the following two Single-Family Dwelling Variances:
- Requesting a variance from UDO code section 146-4.2.3.F.1.e which states accessory buildings in residential districts larger than 120 square feet shall be set back from each side property line a minimum of 5 feet. The applicant’s property is located in the R-R zone district and they request a variance to allow an existing pole barn structure within 1 foot of the side property line, resulting in a total setback reduction of 4 feet.
  - Requesting a variance from UDO code section 146-4.2.3.F.1.c which states accessory buildings in residential districts larger than 120 square feet shall: “Not exceed 450 square feet or 50 percent of the gross floor area of the principal building, whichever is greater.”

**Background Information:** The subject property is located at 1910 N Altura Blvd. in the Sable-Altura Chambers neighborhood, within the Abshire #1 Subdivision. The property is approximately 1 acre in size with an approximately 1,040 square foot primary residence, constructed in 1947 according to the Adams County Assessor’s records. The subject property and surrounding neighborhood are primarily zoned R-R (Residential -Rural District). The purpose of the R-R zone district is to allow very low density, single-family residences and limited agricultural uses within a rural environment. This district is intended to prohibit most commercial activities and permitted home occupations that are unrelated to agricultural or rural activities. The lots in the R-R district are generally larger than in other Residential districts, and some limited recreational, educational, and other uses are permitted. **(See Exhibit A – Vicinity Map).**

The applicant requests two variances to allow for an existing, approximately 1600 square foot, detached pole barn which does not meet the minimum side setback of 5 feet and exceeds the allotted accessory structure area of 520 sf. The existing non-compliant structure was identified in the Notice of Violation, which was issued to the property owner on July 21<sup>st</sup>, 2022. The applicant has stated that their reason for

building the structure was to protect their property from inclement weather. They stated that they were unaware of the setback requirements as they had noted other such structures on nearby properties with similar setback distances. If this variance is approved, the applicant will need to work with the Building Division to secure the proper permits and complete any required inspections. (See **Exhibit B– Application and Justification**).

**Analysis:** This is a rather large lot compared to most residential lots in the city. At an acre in size, it is over five times the size of many typical suburban lots. In addition, this is a very long lot, over 450 feet deep. Typical city lots are usually around 100 feet deep. The size and dimensions of this lot are not typical and may lend themselves to different approaches to accessory buildings with potentially less impact on surrounding homes. The two adjacent lots to the north and south are of similar size and dimension to the subject lot. The accessory building is approximately 20’ by 80’ along the north (side) property line. The building is over 170 feet from the primary residence as well as the primary residence of the neighbor, which can minimize the impact. The neighbor to the north does not appear to have structures adjacent to the accessory building and appears to have vehicles stored near the accessory building. Although it would have been preferable if the accessory building had setbacks and other code requirements, the large size of the lot and the seemingly compatible land use on the adjacent lot may support this variance request. The requirements of the UDO are in place to promote a safe and aesthetically enjoyable environment for all Aurora residents. The newly constructed pole barn meets this intent by reducing the need to store supplies and equipment openly in the rear yard area. Furthermore, This proposal does result in an improved design as the pole barn will help to prevent damage to the applicant’s property and reduce any negative visual impacts related to the storage of said items. The structure will have no significant impact on surrounding properties, existing city infrastructure, or any planned improvements for the area. Finally, the structure is located in the rear yard and will not impact the view or streetscape from the front.

**Required Findings:** All finding listed below are applicable to all the variances requested in this case unless otherwise explicitly stated. According to Section 146-5.4.4.B.3 (Exhibit D), the Board of Adjustments and Appeals can grant variances based on the following criteria:

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

*Staff Analysis:*

The proposed structure’s size and setback distance does not present a significant adverse effect on adjacent properties or the surrounding neighborhood. There is also ample room for maintenance of the side wall and nearby fence.

**2. The proposed variances are consistent with the majority of the criteria as follows:**

**a. Improved Design**

*Staff Analysis:*

Staff finds that the proposed structure does achieve an improved design as presented because it would help mitigate potential visual impacts created by the storage of equipment on the property. It will not crowd the lot as there is ample space on the property to accommodate a structure of this size.

**b. Consistency with Neighborhood Character**

*Staff Analysis:*

Staff finds that the proposed structure is generally consistent with the character of the neighborhood as properties with similarly sized storage structures are quite common in the surrounding area as lots in this neighborhood tend to be larger in size.

**c. Compatibility with Adjacent Development**

*Staff Analysis:*

The proposed structure would result in a design that is generally compatible with adjacent residential development.

**d. Impact on existing city infrastructure and public improvements**

*Staff Analysis:*

The proposed structure would not result in any negative impacts on existing city infrastructure or proposed future improvements.

**e. Internal efficiency of design**

*Staff Analysis:*

The size and setback distance of the proposed structure would result in an internal efficiency of design as it would not cause any significant impact to surrounding property owners. Additionally, the structure would allow for the applicant to store their belongings while mitigating any negative visual impact for the adjacent properties.

**f. Control of external effects**

*Staff Analysis:*

The proposed structure would control for any external effects as it would not place any undue burden on the surrounding residential properties or the public realm.

**Conclusion:**

Based on the required findings of Code Section 146-5.4.4.B.3, staff finds the requested variances do meet the criteria as proposed because:

- It will not adversely affect adjacent properties or the surrounding neighborhood;
- Would result in an improved design that achieves internal efficiency to the site and;
- The proposal would control for external effects and would not impact existing city infrastructure or any future public improvements.

**Staff Recommendation:**

Staff recommends **Approval** for Variance Request #1

Staff recommends **Approval** for Variance Request #2

**ATTACHMENTS:**

Exhibit A – Vicinity Map

Exhibit B – Application and Justification

Exhibit C – Site Photos

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



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**PLANNING DEPARTMENT**

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

CASE # 13-23

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

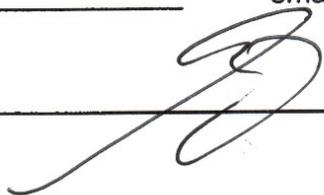
CASE # \_\_\_\_\_

APPLICATION TO THE BOARD OF ADJUSTMENT & APPEALS  
VARIANCE

ADDRESS OF PROPERTY AFFECTED: 1910 Attura Blvd Aurora, CO 80001  
Zone District \_\_\_\_\_

Applicant Name: Cindy Arellano  
Address: 1910 Attura Blvd Aurora CO 80001  
Phone #: 303.591.7678 email cindy.a.arellano@gmail.com

Property Owner: Name: same as above  
Address: \_\_\_\_\_  
Phone #: \_\_\_\_\_ email \_\_\_\_\_

Signature \_\_\_\_\_  


Variance requested:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

EXHIBIT B

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

1930 Altura Blvd

Jose & Concepcion Briones

1870 Altura Blvd

Brake Andrew T & Baker Andrew T PC  
3615 S. Tamarac Dr. STE #200  
Denver CO 80237-1400

15101 E. 18th Pl.

Caraway Marie Anita &  
Caraway Charles Gene

1877 Fraser Ct.

Martinez Barbara J

# EXHIBIT B

ANDREW BRAKE  
3615 S TAMARAC DR STE 200  
DENVER CO 80237

JOSE & CONCEPCION BRIONES  
1930 ALTURA BLVD  
AURORA CO 80011

IVY GIBSON-VAN DUVALL  
1887 FRASER CT  
AURORA CO 80011

BARBARA MARTINEZ  
1877 FRASER CT  
AURORA CO 80011

MARIE & CHARLES CARAWAY  
15101 E 18<sup>TH</sup> PL  
AURORA CO 80011

PAUL ICHINOHE, ET AL  
600 S CLAY ST  
DENVER CO 80219

RONALDO GUZMAN HERNANDEZ  
1901 ALTURA BLVD  
AURORA CO 80011

# EXHIBIT B

Cindy Arellano-Rueda

1910 Altura Blvd.

Aurora, CO 80012

To whom this may concern,

Thank you for your time in this matter. We would like to express our remorse for not having educated on the proper protocol of things prior to having moved forward with our project. We simply mimicked what was already on property. The structures already here are on the property lines and there are huge storage structures in the neighborhood.

This is our first time building in an attempt to improve our property and we did not realize that we had to check any local ordinances before we built anything.

We would like to keep the pole barn in it's place with a variance and since the property is zoned rural residential we would also like to keep the horse stables, sheds that have been in place prior to us purchasing 2 years ago.

It is not our intention to be rebellious, we are happy to comply with all that is needed in correcting our ignorant mistake. Our hope is to keep our structures and correct the lack of permitting issue.



## City of Aurora Public Works Department

# PLOT PLAN

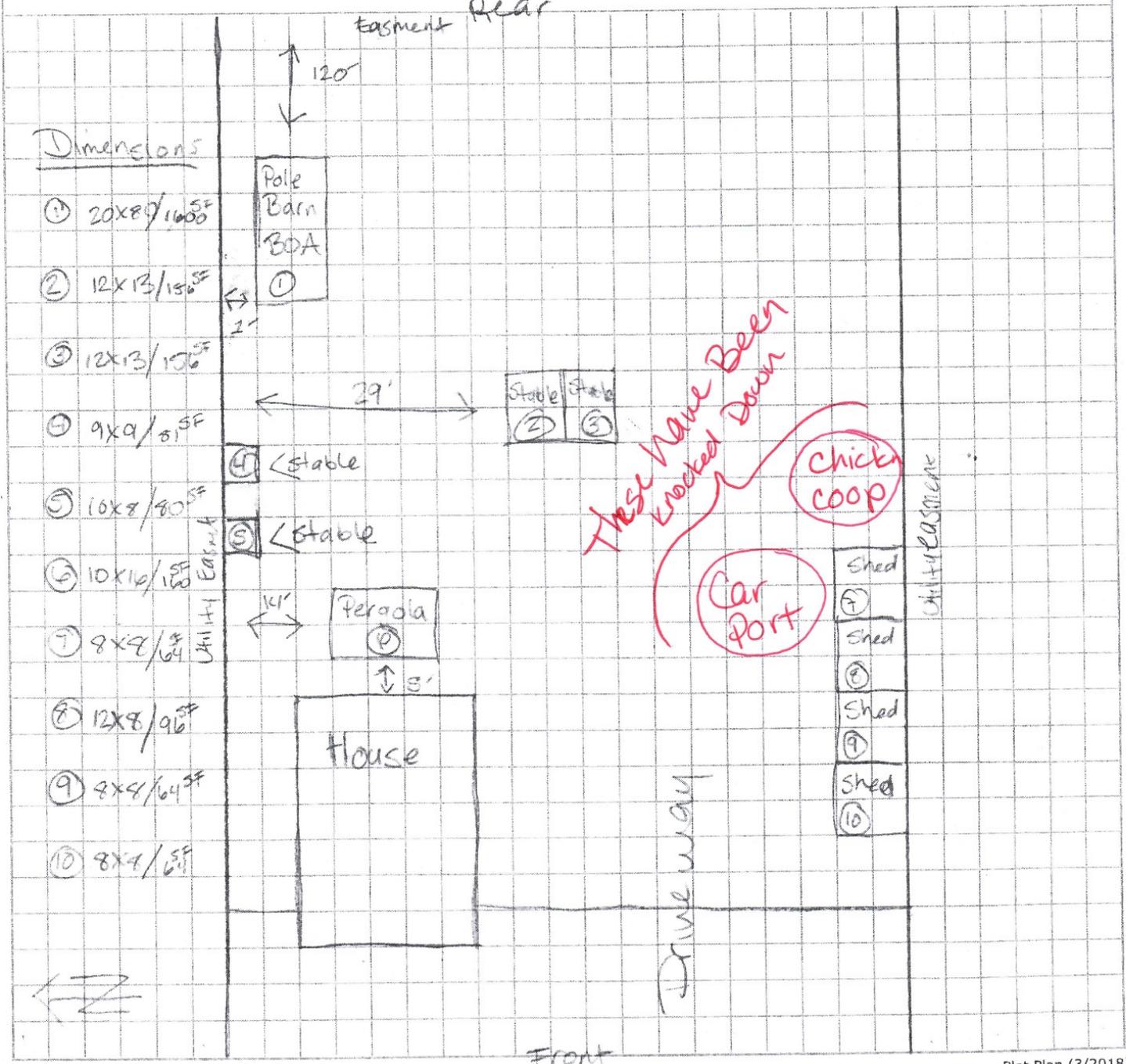
Building Division • 15151 E. Alameda Parkway, Ste 2400 • Aurora, CO 80012 • 303.739.7420  
 Email: permitcounter@auroragov.org

ADDRESS: 1910 Altura Blvd Aurora 80011 ROWID: \_\_\_\_\_



**NOTE:**

Indicate the following information - streets, alleys, and/or easement; front, rear and side yard setbacks; dimensions between buildings and dimensions of building.  
 Indicate existing structures with a solid line \_\_\_\_\_  
 Indicate proposed structures with broken line - - - - -



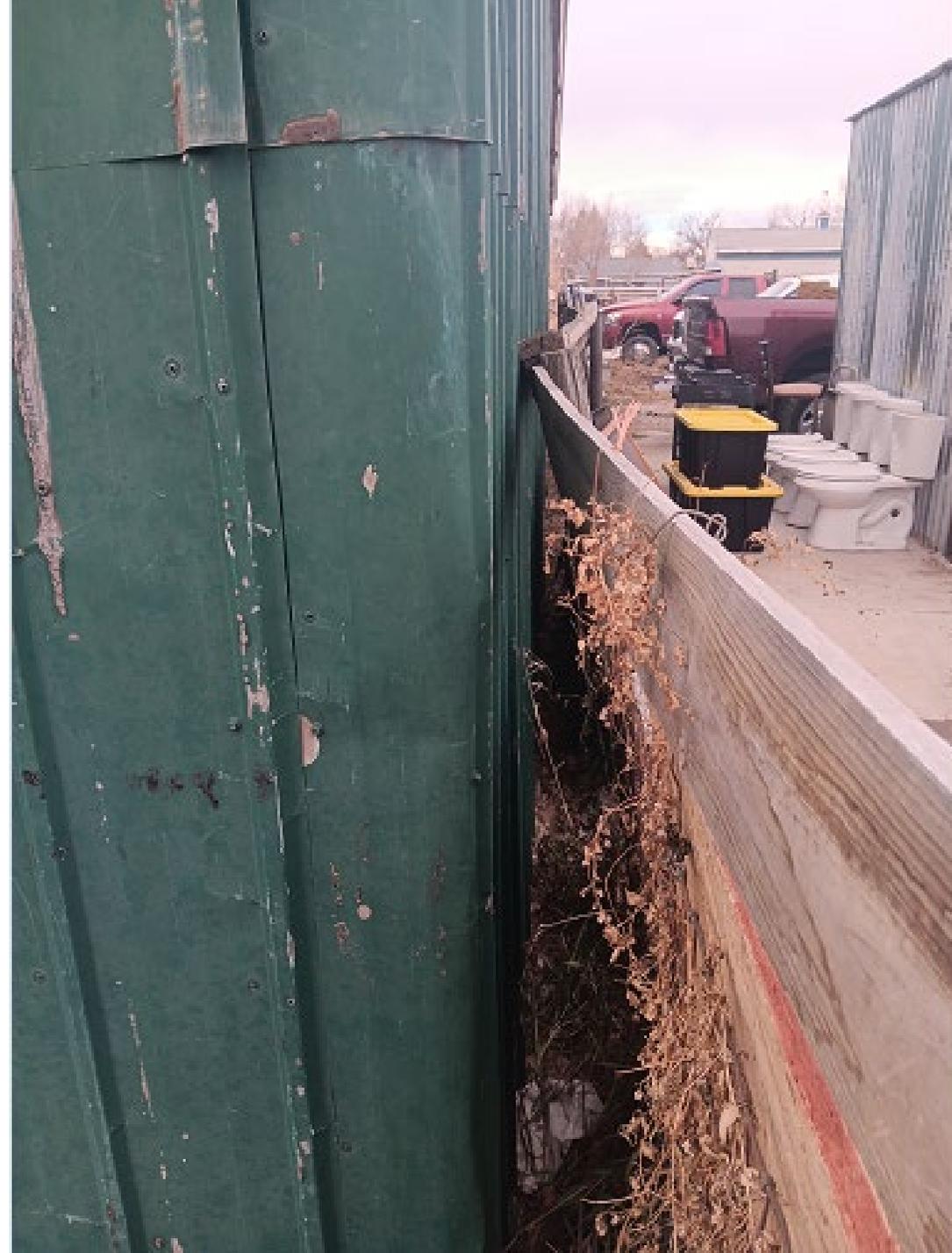














## B. Single-Family Dwelling Variance

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.

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



**MEMORANDUM**

**To:** Board of Adjustments acting chair and board members

**From:** Stephen Gubrud, Planner, Board of Adjustment staff liaison

**Date:** December 14, 2023

**Hearing Date:** December 19, 2023

**Subject:** BOAA Case No. 14-23 – 1731 N Altura Blvd.

**Notification:** The Notice of Variance Request was mailed to abutting property owners on December 8, 2023, and a notice of virtual public hearing sign was posted on the property on or prior to the same day in accordance with Code.

**Summary:** Two Requests by the owner, Alan Quintana, for the following Single-Family Dwelling Variance:

- (1) Requesting a variance from UDO code section 146-4.2.3.F.1.e which states accessory buildings in residential districts larger than 120 square feet shall be set back from each side property line a minimum of 5 feet. The applicant’s property is located in the R-R zone district and they request a variance to allow an existing detached garage/carport within 3.5 feet of the side property line, resulting in a total setback reduction of 1.5 feet.
- (2) Requesting a variance from UDO code section 146-4.2.3.F.1.c which states accessory buildings in residential districts larger than 120 square feet shall: “Not exceed 450 square feet or 50 percent of the gross floor area of the principal building, whichever is greater.” The allotted accessory structure footprint limit is 528 sf for this property and the applicant is requesting an allowance for an additional 272 sf for an existing carport structure totaling 800 sf.

**Background Information:** The subject property is located at 1731 N Altura Blvd. in the Sable-Altura Chambers neighborhood, within the Altura Farms #1 Subdivision. The property is approximately 0.404 acres with an approximately 1,056 square foot primary residence, constructed in 1938 according to the Adams County Assessor’s records. The subject property and surrounding neighborhood are primarily zoned R-R (Residential -Rural District) although there is also R-2 (Residential – Medium Density District) zoning to the west. The purpose of the R-R zone district is to allow very low density, single-family residences and limited agricultural uses within a rural environment. This district is intended to prohibit most commercial activities and home occupations that are unrelated to agricultural or rural activities. The lots in the R-R district are generally larger than in other Residential districts, and some limited recreational, educational, and other uses are permitted. (See Exhibit A – Vicinity Map).

The applicant requests two variances to allow for an existing, approximately 800 square foot, detached carport which does not meet the minimum side setback of 5 feet and exceeds the allotted accessory structure area of 528 sf. The existing non-compliant structure was identified in the Notice of Violation which was issued to the property owner on September 1<sup>st</sup>, 2023. The applicant has stated one of their reasons for building the structure was to protect their vehicle(s) from the elements, specifically potential hail damage. The applicant has also purchased and begun installing fire rated insulation within the structure which is required to mitigate fire risks that can occur due to reduced setbacks. When constructing the carport they noted that similar structures had been erected within the neighborhood. If this variance is approved the applicant will need to work with the Building Division to secure the proper permits and complete any required inspections. (See Exhibit B– Application and Justification).

**Analysis:** The requirements of the UDO are in place to promote a safe and aesthetically enjoyable environment for all Aurora residents. The newly constructed carport meets this intent by reducing the need for on-street and exposed surface parking for the property owner. Furthermore, the carport will help to prevent damage to the applicant’s property and reduce any negative automobile related visual impacts. This proposal does result in an improved design by physically and visually moving parked automobiles further from the street, allowing for traffic to operate normally without risk to the applicant’s property. The proposed car port is located on the north side of the home and is set back a short distance from the front of the home within the side yard area. The carport is accessed by one of two existing driveways from Altura Blvd. The driveway is approximately 20 feet wide. The home is setback approximately 50 feet from the back of sidewalk. The dimensions of the car port are approximately 20 feet wide and 40 feet deep. The new carport will have no significant impact on surrounding properties, existing city infrastructure, or any planned improvements for the area.

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

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

*Staff Analysis:*

The proposed structure does not present a significant adverse effect on adjacent properties or the surrounding neighborhood.

**2. The proposed variances are consistent with the majority of the criteria as follows:**

**a. Improved Design**

*Staff Analysis:*

Staff finds that the proposed structure does achieve an improved design as presented because it would help mitigate potential damage to the owner’s property and reduces the visual impact created by automobile parking in the area. The garage is located behind the front building line and the home is setback approximately 50 feet from the back of sidewalk, mitigating appearance from the street.

**b. Consistency with Neighborhood Character**

*Staff Analysis:*

Staff finds that the proposed structure is consistent with the character of the neighborhood as properties with similar parking and storage structures are quite common in the surrounding area.

**c. Compatibility with Adjacent Development**

*Staff Analysis:*

The proposed structure would result in a design that is generally compatible with adjacent residential development.

**d. Impact on existing city infrastructure and public improvements**

*Staff Analysis:*

The proposed structure would not result in any negative impacts on existing city infrastructure or proposed future improvements.

**e. Internal efficiency of design**

*Staff Analysis:*

The proposed structure would result in an internal efficiency of design as it would not cause any significant impact to surrounding property owners. Additionally, the structure would allow for the applicant and any visitors to their property to park internal to the site rather than on or near the street.

**f. Control of external effects**

*Staff Analysis:*

The proposed structure would control for any external effects as it would not place any undue burden on the surrounding residential properties or the public realm. This will be insured through the inclusion of fire rated materials by final construction.

**Conclusion:**

Based on the required findings of Code Section 146-5.4.4.B.3, staff finds the requested variances do meet the criteria as proposed because:

- It will not adversely affect adjacent properties or the surrounding neighborhood;
- Would result in an improved design that achieves internal efficiency to the site and;
- The proposal would control for external effects and would not impact existing city infrastructure or any future public improvements.

**Staff Recommendation:**

Staff recommends **Approval** for Variance Request #1

Staff recommends **Approval** for Variance Request #2

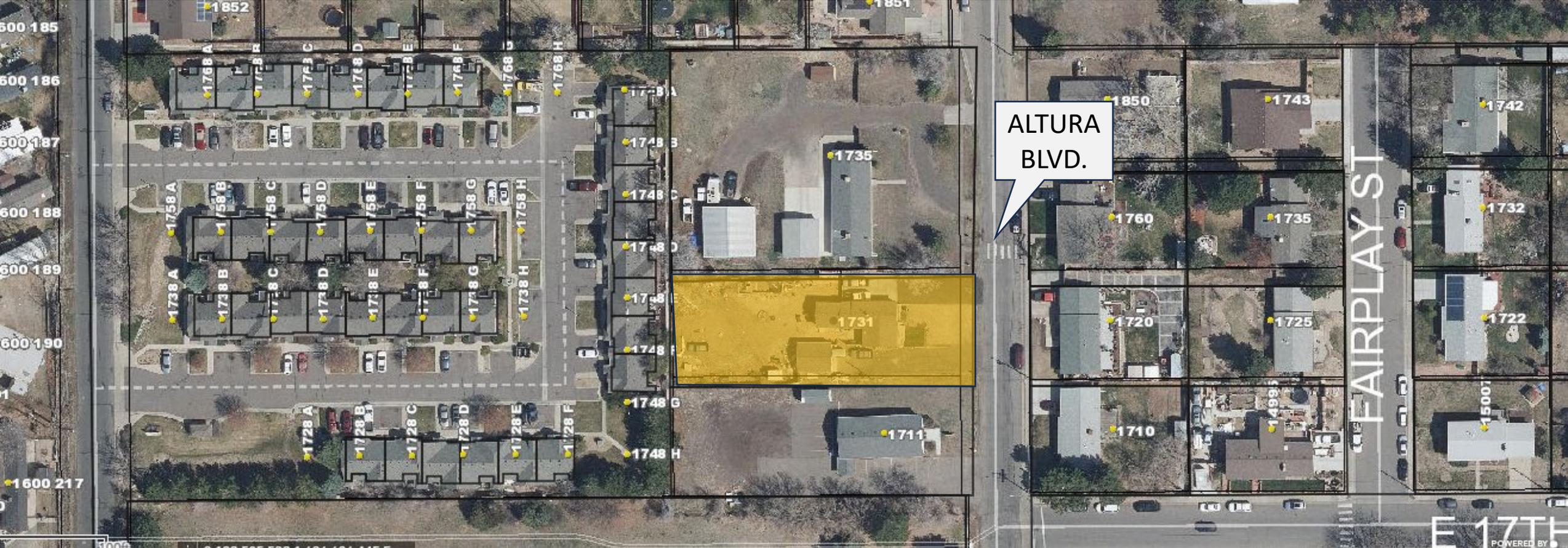
**ATTACHMENTS:**

Exhibit A – Vicinity Map

Exhibit B – Application and Justification

Exhibit C – Site Photos

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





PLANNING AND DEVELOPMENT SERVICES DEPARTMENT

15151 E. Alameda Pkwy, Suite 2300  
 Aurora, Colorado 80012  
 Office: 303-739-7217  
 Email: boaplanning@auroragov.org

**APPLICATION TO THE BOARD OF ADJUSTMENT & APPEALS**

Property Information:	
Case # (entered by staff)	14-23
Address of Subject Property:	1731 Altura Blvd.
Zone District:	R-R.
Variance Requested:	146-4.2.3.F.1.e 1'6" setback reduction.
The above request does not conform to Section(s):	
146-4.2.3.F.1.e of the Aurora Unified	
Development Code, which requires:	
5 Ft minimum Setback.	

Property Owner Information:	
Name:	Alan O Quintana Maldonado
Address:	1731 Altura Blvd.
Phone:	580-571-4405.
Email:	Aloquintana1488@Gmail.com

Does the applicant need translation services? Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, what language? \_\_\_\_\_



<b>Applicant/Representative Information:</b>	
If an applicant/representative on behalf of the owner of the property, please complete the following information:	
Name:	
Address:	
Phone:	
Email:	

I hereby certify that the above information provided to the City of Aurora is true and accurate.

Applicant/Representative/Owner Signature:

Alan Quintana

Date: 10-25-23

I hereby authorize the person named above to act as my applicant/representative in processing this application before the Board of Adjustment for the City of Aurora (only needed if name is different):

Owner's Signature: \_\_\_\_\_

Date: \_\_\_\_\_

To Be Completed by City:

<b>Staff Review Information:</b>
Case Number:
Case Manager:
Date Received:
Date Application Complete:
BOA Meeting Date:
Application Fee Paid Date:



Type, or print clearly, the name and complete address (including zip code) of each abutting (sharing a portion of the property line) property owner: These owners will be notified of the request and hearing.

ABUTTING PROPERTY  
PHYSICAL ADDRESS:

ABUTTING PROPERTY  
NAME & ADDRESS OF PROPERTY OWNER:

1758 Eagle st. Aurora co

Eagle Village

1735 Altura Blvd

DIANE L.

1711 Altura Blvd

Mt. Moriah Missionary

# EXHIBIT B

MOUNT MORIAH MISSIONARY BAPTIST  
CHURCH  
1711 ALTURA BLVD  
AURORA CO 80011

PAULETTE ERICKSON  
1735 ALTURA BLVD  
AURORA CO 80011

LEVITA & JUANITA CULLEN  
1748 EAGLE ST UNIT E  
AURORA CO 80011

LAKEVIEW EAGLE LLC  
5226 S HANOVER WAY  
ENGLEWOOD CO 80011

YOLANDA RUIZ  
1748 EAGLE ST UNIT G  
AURORA CO 80011

THUAN VU  
1748 EAGLE ST UNIT H  
AURORA CO 80011

SOTO SABINOAVILA, ET AL  
1720 ALTURA BLVD  
AURORA CO 80011

SALOMON GONZALEZ, ET AL  
1760 ALTURA BLVD  
AURORA CO 80011



**VARIANCE NARRATIVE**

General Property Information:	
1.	Property Address:
2.	Applicant's Name:
3.	Property Owner's Name:
4.	Current Zoning of the Subject Property: <i>Residential R-R.</i>

Background Information		Yes	No	
1.	Is this request an amendment to an existing variance?		✓	If yes, what was the previous case number? Case# _____
2.	Is this application an attempt to correct a code violation of some kind?	✓		If yes, please attach a copy of the violation notice.

Section 5.4.4.B.3 of the UDO stipulates specific criteria for the approval of variances. No application for a variance shall be approved unless the BOA finds that the following criteria are met.

- a. The proposed variance results in improved design;
- b. The proposed variance does not adversely affect the character of the lower density residential area;
- c. The proposed variance will result in development that is compatible 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; and
- 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.

The following pages contain specific questions about the nature of your request. Therefore, it is in your best interest to answer them in as much detail as possible to help limit the number of questions and advance the application. Please do not simply answer with yes or no.



1. Describe in detail the nature of this request and why you are asking for this variance.

Reason Asking For this Variance is to request a setback reduction. do to not having 5ft of Variance. From New Structure Build. I only have a Variance of 3ft 6"

2. Describe in detail all efforts made to comply with the requirements of the regulation or ordinance and why, in this particular case, that was not possible?

1. Built the Building with out knowing I needed 5ft Variance. Now the Building is Built and it would be difficult For me to move it.

3. Describe how the proposed variance results in an improved design in comparison to what would be allowed under the code.

No different on Building desing it would be the same desing. other then the 5ft Variance. I event include Fire rate insolation. and used same Color on Building From the house.

4. Does the proposed variance result in development that is not compatible with adjacent land development?

My Neighbor From the North have a Compatible Garage structure. that is also metal.



5. Will the proposed variance have any burdens on existing infrastructure or future public improvements in the area?

Structure is on property i don't think it would effect any thing is also out side of any essment.

6. Does the proposed variance create greater efficiency, convenience, and public health?

to protect my. personal vehicle.

7. Will the proposed variance affect traffic, noise, signage, lighting, or landscaping in the area?

None of this item woud impact. and traffic woud be issue. Now i can park my vehicles on my property and not on the street.

# IMPROVEMENT SURVEY PLAT

OF A PART OF TRACT 15, ALTURA FARMS, TRACT NO.2  
 IN THE SE QUARTER OF SECTION 31, T. 3 S., R. 66 W OF THE 6TH P.M.  
 COUNTY OF ADAMS, STATE OF COLORADO

## LEGAL DESCRIPTION (RECORD)

LEGAL (RECORD)  
 AS RECORDED BY DEED AT RECEPTION NO. 2018000075999  
 THE NORTH 80 FEET OF THE SOUTH 165 FEET OF THE EAST 220 FEET OF  
 TRACT 15, ALTURA FARMS TRACT NO.2,  
 COUNTY OF ADAMS, STATE OF COLORADO

ALSO KNOWN BY STREET AND NUMBER AS:  
 1731 ALTURA BOULEVARD, AURORA, CO 80011

## GENERAL NOTES

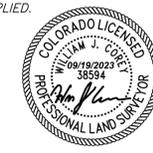
- NOTICE: ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON.
- ANY PERSON WHO KNOWINGLY REMOVES, ALTERS OR DEFACTS ANY PUBLIC LAND SURVEY MONUMENT OR ACCESSORY COMMITS A CLASS TWO (2) MISDEMEANOR PURSUANT TO STATE STATUTE 18-4-508, C.R.S.
- THIS SURVEY WAS PREPARED WITHOUT A TITLE COMMITMENT. A TITLE SEARCH WAS NOT PERFORMED BY COLORADO SURVEYS TO DETERMINE OWNERSHIP, EASEMENTS OR OTHER MATTERS OF PUBLIC RECORD.
- BASIS OF BEARING  
 A GRID BEARING (COLORADO STATE PLANE - CENTRAL, NAD83) OF N89°46'03"E ALONG A LINE BETWEEN MONUMENTS AS DESCRIBED ALONG THE SOUTH LINE OF TRACT 15 AS SHOWN HEREON AND RELATIVE THERETO.
- ALL DISTANCES ARE GROUND MEASUREMENTS IN U.S. SURVEY FEET, DEFINED AS EXACTLY 1200/3937 METERS.
- COLORADO SURVEYS MAKES NO REPRESENTATION REGARDING UNDERGROUND UTILITIES. ALL UNDERGROUND UTILITIES SHOWN HEREON ARE BASED UPON ACTUAL FIELD EVIDENCE OF PIN FLAGS OR PAINT MARKINGS. STANDARD UTILITY NOTIFICATION PROTOCOL SHOULD BE ADHERED TO PRIOR TO CONSTRUCTION OR EXCAVATION.
- PROPERTY ADDRESS: 1731 ALTURA BOULEVARD, AURORA, CO 80011
- THE 18" CMP (CORRUGATED METAL PIPE), AS SHOWN, COINCIDES WITH THE LOCATION OF THE FEATURE LABELED AS "OLD DITCH" ON THE PLAT OF ALTURA FARMS TRACT NO.2, NO EASEMENT OF RECORD WAS PROVIDED OR RECOVERED DURING THE COURSE OF THIS SURVEY.
- LAND TO THE NORTH AND SOUTH OF THE SUBJECT PROPERTY BOTH REFERENCE DEDICATIONS OR EXCEPTIONS TO PUBLIC RIGHTS-OF-WAY ALONG THE WESTERLY BOUNDS OF ALTURA BOULEVARD, NO SUCH DEDICATION OR EXCEPTION WAS PROVIDED OR RECOVERED DURING THE COURSE OF THIS SURVEY.

## LEGEND

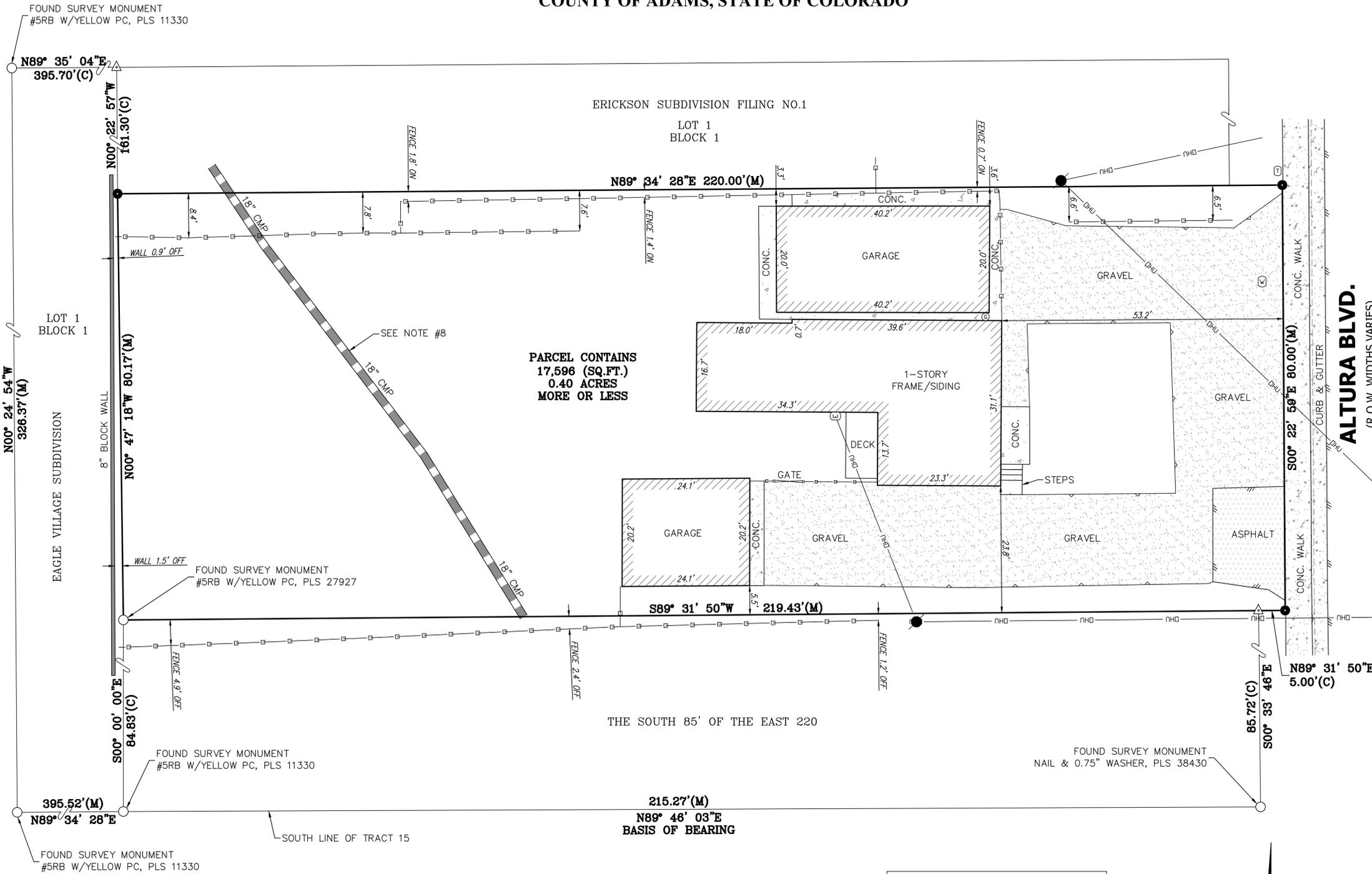
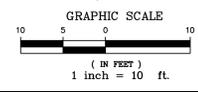
	= COMPUTED POINT
	= FOUND SURVEY MONUMENT AS NOTED
	= SET #5RB W/1.5" AC, PLS 38594
ac	= ALUMINUM CAP
r.o.w.	= RIGHT OF WAY
rb	= REBAR
(P)	= PLAT
(M)	= MEASURED
(C)	= COMPUTED
	= PROPERTY LINE
	= LOT LINE
	= EDGE OF ASPHALT
	= EDGE OF GRAVEL
	= OVERHEAD UTILITY LINE
	= WOOD FENCE
	= CORRUGATED METAL PIPE
	= CONCRETE
	= GRAVEL
	= WATER METER
	= UTILITY POLE
	= ELECTRIC METER
	= GAS METER
	= TELEPHONE PEDESTAL

## SURVEYOR'S CERTIFICATE

I, WILLIAM J. COREY, A PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT THIS SURVEY WAS PREPARED UNDER MY RESPONSIBLE CHARGE AND IS CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF. THIS CERTIFICATION IS NOT A GUARANTY OR WARRANTY, EITHER EXPRESSED OR IMPLIED.



WILLIAM J. COREY, P.L.S. 38594  
 COLORADO PROFESSIONAL LAND SURVEYOR



PARCEL CONTAINS  
 17,596 (SQ.FT.)  
 0.40 ACRES  
 MORE OR LESS

## COUNTY CLERK / RECORDER FILING CERTIFICATE

DEPOSITED THIS \_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_, IN BOOK \_\_\_\_\_, PAGE \_\_\_\_\_, RECEPTION No. \_\_\_\_\_, COUNTY CLERK/RECORDER

PREPARED FOR:	
ALAN QUINTANA	
JOB NUMBER	2023-361
NO. DATE 9-19-2023	5994 SOUTH HOLLY ST. #190 GREENWOOD VILLAGE, CO 80111 720-767-7321
REVISION	D.M.





EXHIBIT C







EXHIBIT C











## 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.



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

Worth Discovering • auroragov.org

**MEMORANDUM**

**To:** Board of Adjustments acting chair and board members

**From:** Stephen Gubrud, Planner, Board of Adjustment staff liaison

**Date:** September 14, 2023

**Hearing Date:** September 19, 2023

**Subject:** BOAA Case No. 15-23 – 411 N Iola St.

**Notification:** The Notice of Variance Request was mailed to abutting property owners on December 8, 2023, and a notice of virtual public hearing sign was posted on the property on or prior to the same day in accordance with Code.

**Summary:** Request by the owner, Bruce Edwards, for the following Single-Family Dwelling Variance:

- Requesting a variance from UDO code section 146-4.7.9.L.1 which states that new side and rear yard fences along arterial and collector streets may be a maximum of 6 feet in height. The applicant’s property is located in the R-1 zone district and they request a variance to allow an additional 2 feet of height for a total fence height of 8 feet as measured from the exterior, only along the rear property line.

**Background Information:** The subject property is located at 411 N Iola St. in the Highland Park East neighborhood, within the Highland Park #4 subdivision. The property is approximately 0.245 acres with an approximately 1,176 square foot primary residence, constructed in 1960 according to the Arapahoe County Assessor’s records. The subject property and surrounding neighborhood to the north and east is primarily zoned R-1 (Low-Density Single-Family Residential District) and is made up of primarily single-family homes. There is also a portion of MU-C (Mixed Use - Corridor) zoning to the south and west, which contains primarily commercial/retail businesses and multifamily dwellings . The rear property line abuts Havana Street, which is a high-volume arterial street with a posted speed limit of 40 mph. The purpose of the R-1 zone district is to promote and preserve safe and attractive low-density, single-family residences. This district is intended to prohibit all commercial activities except for permitted home occupations. The R-1 district is generally comprised of medium to large suburban single-family lots. **(See Exhibit A – Vicinity Map).**

The applicant requests a variance to allow for an existing, 8-foot tall, rear yard fence which exceeds the UDO fence height limit of 6 feet. The existing non-compliant fence was identified in the Notice of Violation which was issued to the property owner on September 6<sup>th</sup> of 2022. According to the applicant he previously had an approximately 8-foot tall solid fence along this property line, however the previous fence was damaged after being struck by a motor vehicle. The property owner did not rebuild the fence

for a number of years and if there were a legal non-conforming situation, it had clearly passed. The applicant has stated some of their reasons for rebuilding the fence at this height is to enhance the privacy of the property and mitigate the noise produced at relatively high levels along Havana St. The rear yard fence is sited directly onto Havana St. and does have a bus stop located nearby. Additionally, the applicant has expressed ongoing construction at the multifamily site across Havana St. is also having a noise impact and may give some neighbors across the street (approximately 120 feet away) the ability to see into the owner's yard. (**See Exhibit B– Application and Justification**).

**Analysis:** The requirements of the UDO as it pertains to this case are in place to promote a safe and aesthetically enjoyable environment for all Aurora residents. The newly constructed fence meets this intent by increasing the buffer to a high-speed arterial that otherwise has no spatial or landscape buffer. Furthermore, this proposal does result in an improved design by providing screening for the homeowner where none previously existed. The fence will also serve to mitigate general street noise from Havana St. The newly constructed fence occupies the same location as the previous one and meets all other city code requirements. The new fence will have no significant impact on surrounding properties, existing city infrastructure, or any planned improvements for the area.

**Required Findings:** According to Section 146-5.4.4.B.3 (Exhibit D), 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 fence does not present a significant adverse effect on adjacent properties or the surrounding neighborhood. The applicant has no neighbors directly abutting the rear yard fence.

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

**a. Improved Design**

*Staff Analysis:*

Staff finds that the proposed fence does achieve an improved design as presented because it would serve to screen a portion of the rear yard to an abutting highspeed arterial.

**b. Consistency with Neighborhood Character**

*Staff Analysis:*

Staff finds that the proposed fence is consistent with the character of the neighborhood as properties with fences exceeding 6 feet in height are not uncommon in the area along the arterial street. The existing side yard fence segments, as well as the previous fence, were also 8 feet in height.

**c. Compatibility with Adjacent Development**

*Staff Analysis:*

The proposed fence would result in a design that is generally compatible with adjacent residential development and is not located along a shared lot line with any other residential property.

**d. Impact on existing city infrastructure and public improvements**

*Staff Analysis:*

The proposed fence would not result in any negative impacts on existing city infrastructure or proposed future improvements.

**e. Internal efficiency of design**

*Staff Analysis:*

The proposed fence would result in an internal efficiency of design as it would address the noise and safety impacts of being situated along a busy arterial road such as Havana without eliciting any adverse effects on the neighbors or the public realm.

**f. Control of external effects**

*Staff Analysis:*

The proposed fence would control for any external effects as it would not place any undue burden on the surrounding residential properties or the public realm.

**Conclusion:**

Based on the required findings of Code Section 146-5.4.4.B.3, staff finds the requested variance does meet the criteria as proposed because:

- It will not adversely affect adjacent properties or the surrounding neighborhood;
- Would result in an improved design that achieves internal efficiency to the site and;
- The proposal would control for external effects and would not impact existing city infrastructure or any future public improvements.

**Staff Recommendation:**

Staff recommends **Approval** of the proposed variance as requested.

**ATTACHMENTS:**

- Exhibit A – Vicinity Map
- Exhibit B – Application and Justification
- Exhibit C – Site Photos
- Exhibit D – City Code Section 146-5.4.4.B.3





PLANNING AND DEVELOPMENT SERVICES DEPARTMENT

15151 E. Alameda Pkwy, Suite 2300  
Aurora, Colorado 80012  
Office: 303-739-7217  
Email: boaplanning@auroragov.org

APPLICATION TO THE BOARD OF ADJUSTMENT & APPEALS

Property Information:	
Case # (entered by staff)	15-23
Address of Subject Property:	411 IOLA ST
Zone District:	R-1
Variance Requested:	8 Foot Fence
The above request does not conform to Section(s): 146-4.7.9(C)(1) of the Aurora Unified Development Code, which requires: 6 foot max height for rear fences.	

Property Owner Information:	
Name:	BRUCE EDWARDS
Address:	411 IOLA ST AURORA CO 80010-4529
Phone:	720.656.1601
Email:	RECORDPLAYER61@GMAIL.COM



<b>Applicant/Representative Information:</b>	
If an applicant/representative on behalf of the owner of the property, please complete the following information:	
Name:	
Address:	
Phone:	
Email:	

I hereby certify that the above information provided to the City of Aurora is true and accurate.

Applicant/Representative/Owner Signature:

Bruce Edwards

Date: 9.19.23

I hereby authorize the person named above to act as my applicant/representative in processing this application before the Board of Adjustment for the City of Aurora (only needed if name is different):

Owner's Signature: \_\_\_\_\_

Date: \_\_\_\_\_

To Be Completed by City:

<b>Staff Review Information:</b>
Case Number:
Case Manager:
Date Received:
Date Application Complete:
BOA Meeting Date:
Application Fee Paid Date:



Type, or print clearly, the name and complete address (including zip code) of each abutting (sharing a portion of the property line) property owner: These owners will be notified of the request and hearing.

ABUTTING PROPERTY  
PHYSICAL ADDRESS:

ABUTTING PROPERTY  
NAME & ADDRESS OF PROPERTY OWNER:

401 IOLA ST  
AURORA CO 80010

421 IOLA ST  
AURORA CO 80010

Blank lines for entering abutting property physical addresses.

Blank lines for entering abutting property owner names and addresses.

# EXHIBIT B

NADYEZDA & PYOTR KOZLYYCHUK  
420 IOLA ST  
AURORA CO 80010

ERNESTO HERNANDEZ LUNA  
401 IOLA ST  
AURORA CO 80010

DON & GLADIS LEWIS  
421 IOLA ST  
AURORA CO 80010

DORIS JEAN DUSEK TRUST  
410 IOLA ST  
AURORA CO 80010

ARGENTA LLC  
900 CASTLETON RD STE 118  
CASTLE ROCK CO 80109



VARIANCE NARRATIVE

General Property Information:	
1.	Property Address: 411 IOLA ST AURORA CO 80010-4529
2.	Applicant's Name: BRUCE EDWARDS
3.	Property Owner's Name:
4.	Current Zoning of the Subject Property: R-1

Background Information		Yes	No	
1.	Is this request an amendment to an existing variance?		X	If yes, what was the previous case number? Case# _____
2.	Is this application an attempt to correct a code violation of some kind?	X		If yes, please attach a copy of the violation notice.

Section 5.4.4.B.3 of the UDO stipulates specific criteria for the approval of variances. No application for a variance shall be approved unless the BOA finds that the following criteria are met.

- a. The proposed variance results in improved design;
- b. The proposed variance does not adversely affect the character of the lower density residential area;
- c. The proposed variance will result in development that is compatible 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; and
- 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.

The following pages contain specific questions about the nature of your request. Therefore, it is in your best interest to answer them in as much detail as possible to help limit the number of questions and advance the application. Please do not simply answer with yes or no.



1. Describe in detail the nature of this request and why you are asking for this variance.

A DRUNK DRIVER DROVE THROUGH MY BACKYARD FENCE AND HE WAS UNINSURED. I REPAIRED MY FENCE AT THE POINT OF ENTRY BUT THEN THE ADJOINING POST STARTED TO WEAKEN. I TOOK THE POST DOWN AND REPLACED WITH METAL POSTS. I REPAIRED THE FENCE BACK TO THE HEIGHT THAT WAS THERE WHEN I MOVED IN (2005). I HAD SOME DELAY WITH COMPLETING THE REPAIR: WORK ISSUE, DEATH OF WIFE, MATERIALS

2. Describe in detail all efforts made to comply with the requirements of the regulation or ordinance and why, in this particular case, that was not possible?

THE FENCE IS ALREADY ERECTED WITH 8' METAL POSTS AND IS THE SAME HEIGHT AS THE ORIGINAL.

3. Describe how the proposed variance results in an improved design in comparison to what would be allowed under the code.

ON HAVANA ST PAST THE SIDEWALK THERE IS A 2 FT SLOPE BY THE BUS STOP THAT IF I HAD A SHORTER FENCE THEN PEOPLE WAITING OR WALKING BY SEE INTO MY BACK YARD.

4. Does the proposed variance result in development that is not compatible with adjacent land development?

NO. THERE ARE OTHER FENCES ALONG HAVANA THAT ARE THE SAME HEIGHT.



5. Will the proposed variance have any burdens on existing infrastructure or future public improvements in the area?

NO THE FENCE IS ON MY PROPERTY LINE

6. Does the proposed variance create greater efficiency, convenience, and public health?

CREATES SAFETY FOR MY PROPERTY AND GREATER EFFICIENCY.

7. Will the proposed variance affect traffic, noise, signage, lighting, or landscaping in the area?

NO THE FENCE DOES NOT AFFECT THE AREA

City of Aurora  
HOUSING AND COMMUNITY SERVICES  
SUMMONS AND COMPLAINT

RSN  
1657970

IN THE MUNICIPAL COURT IN AND FOR THE CITY OF AURORA, AND THE STATE OF COLORADO  
THE CITY OF AURORA BY AND ON BEHALF OF THE PEOPLE OF THE STATE OF COLORADO

VS. SUMMONS **Z 24551**  
Name EDWARDS BRUCE, DEFENDANT Phone Number \_\_\_\_\_  
Last First Middle

Business Name \_\_\_\_\_  
Address 411 N IOLA ST AURORA CO 80010  
Street City State Zip  
Date of Birth 2/25/65 Race BLACK Sex MALE Height 6'1" Weight 160  
Hair BROWN Eyes BROWN ID Number 943631350 State CO Type of ID DL

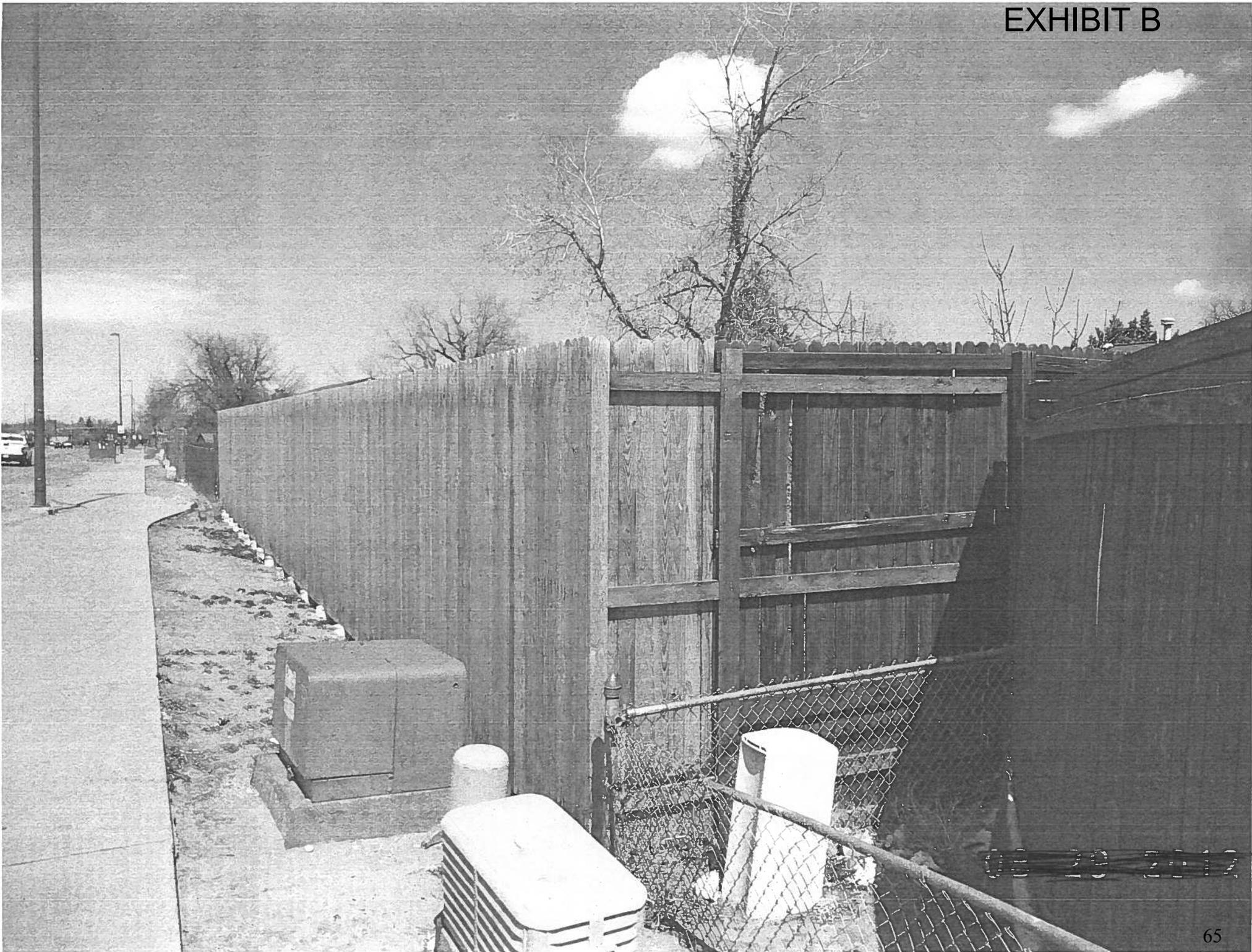
YOU ARE HEREBY ORDERED TO APPEAR BEFORE DIVISION 7 OF THE AURORA MUNICIPAL JUSTICE CENTER AT 10:00 O'CLOCK A.M. ON THE 4<sup>th</sup> DAY OF APRIL, 2023 LOCATED AT 14999 EAST ALAMEDA PARKWAY, AURORA, COLORADO 80012, TO ANSWER TO THE CHARGE(S) OF VIOLATING THE FOLLOWING SECTION(S) OF THE CITY CODE OF THE CITY OF AURORA, STATE OF COLORADO, AS AMENDED. Which occurred at 411 IOLA ST in the City of Aurora, State of Colorado on the 1<sup>st</sup> day of MARCH, 2023 through the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

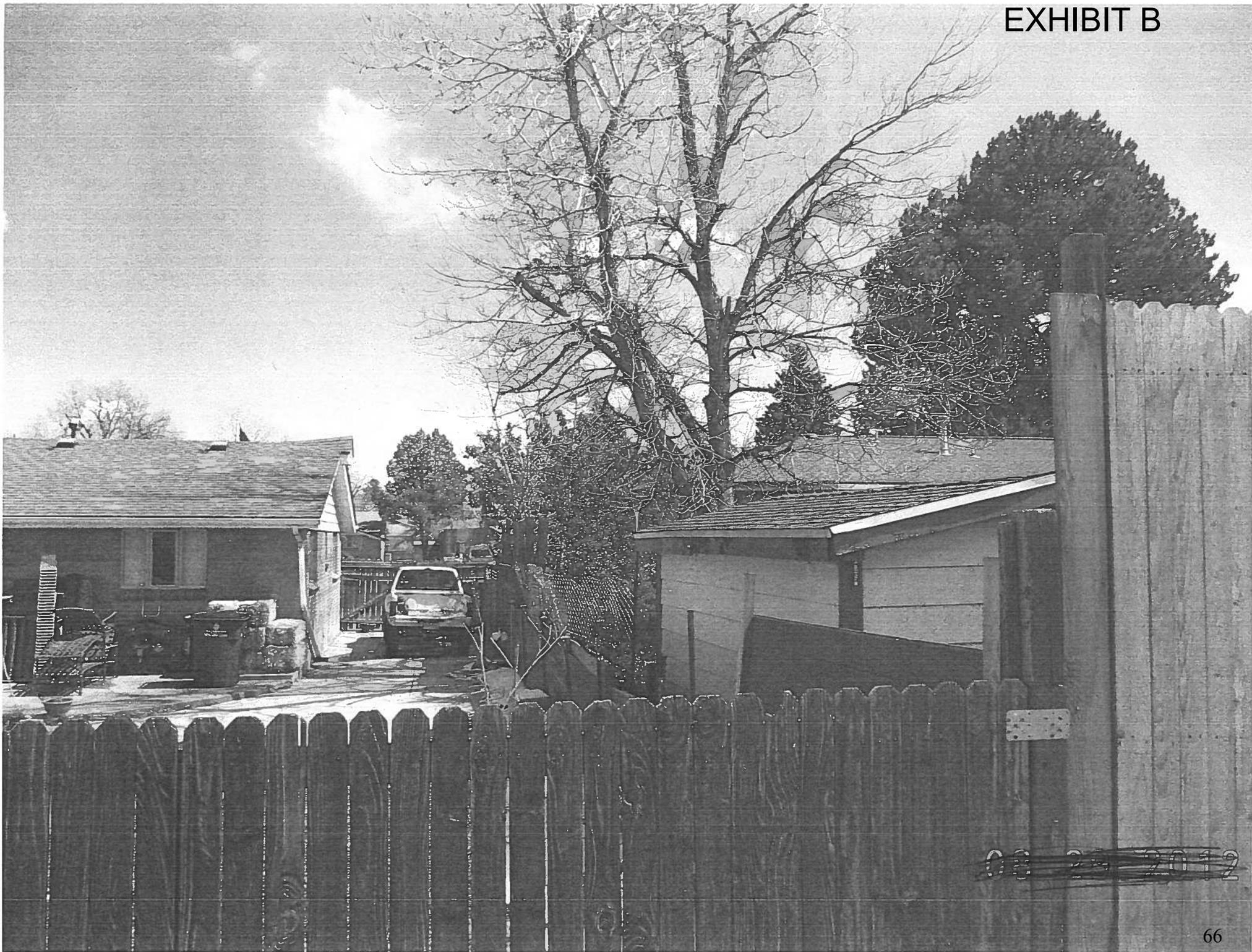
✓	SECTION NO.	RELATING TO	✓	SECTION NO.	RELATING TO
	22-636(a)(2)	Failure to maintain building & equipment - 7390		142-75( )	Duty to provide & maintain landscaping - 7399
	22-636(a)(3)	Failure to maintain premises - 7399		142-75( )	Duty to provide & maintain landscaping - 7399
	114-28(a)	Unlawful vehicle - 7392		146-4.6.3(B)(2)	Parking on landscape - 7399
	114-29( )	Trash/debris removal & disposal - 7393		146-4.11.2(B)(2)	Unlawful outdoor storage - 7399
✓	114-35(A)	Failure to keep property free of litter - 7381		146-5.4.3(B)(1)(c)	Site plans - 7399
	142-73( )	Duty to remove weeds - 7394	✓	114-27(A)	Accumulation; storage-trash screening - 7399
	146-4.11.1( )	Maintenance requirement - 7399	✓	142-74(c)	Unsafe tree
	146-4.6.3(B)( )	Use and place restrictions - 7399	✓	146-4.7.9(L)(1)	Height restriction on fence

THE UNDERSIGNED HAS PROBABLE CAUSE TO BELIEVE THAT THE DEFENDANT COMMITTED THE ABOVE OFFENSE(S)/VIOLATION(S) AND AFFIRMS THAT A COPY OF THIS SUMMONS AND COMPLAINT WAS DULY SERVED BY PERSONAL SERVICE \_\_\_\_\_/CERTIFIED MAIL  UPON THE DEFENDANT AS PROVIDED BY LAW.

ISSUED AND SERVED BY AURORA CODE ENFORCEMENT  
OFFICER [Signature] # 0318673 DATE 3/1/23

SERVED TO  DEFENDANT: OR  
 OTHER \_\_\_\_\_ OVER 18 YEARS OF AGE  
 TRANSLATOR NEEDED LANGUAGE \_\_\_\_\_







08 29 2012



PLOT PLAN

Building Division • 15151 E. Alameda Parkway, Ste 2400 • Aurora, CO 80012 • 303.739.7420  
Email: permitcounter@auroragov.org

ADDRESS: 411 Iola St.

ROWID: N/A

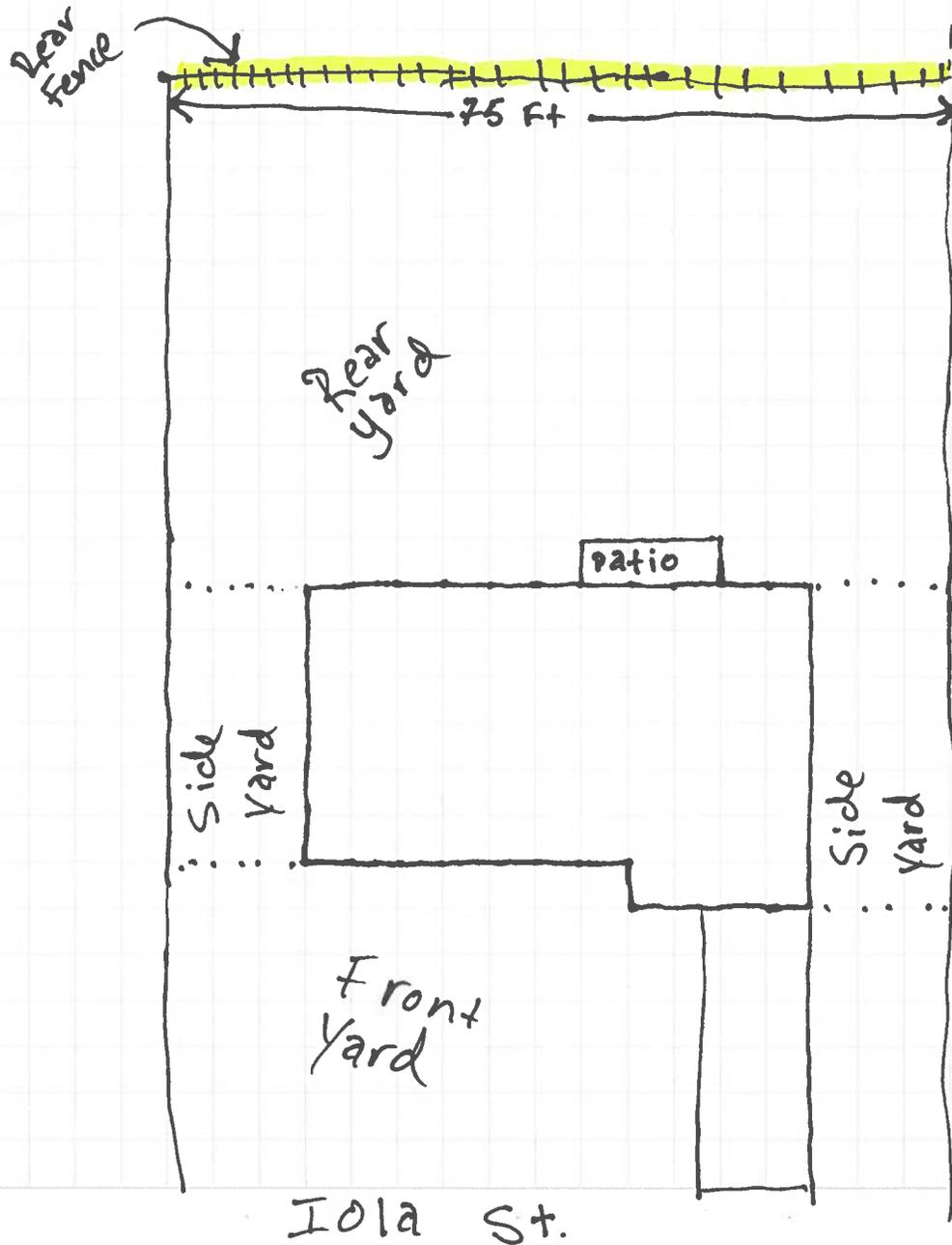


INDICATE  
N

NOTE:

Indicate the following information - streets, alleys, and/or easement; front, rear and side yard setbacks; dimensions between buildings and dimensions of building.  
Indicate existing structures with a solid line \_\_\_\_\_  
Indicate proposed structures with broken line - - - - -

Havana St.

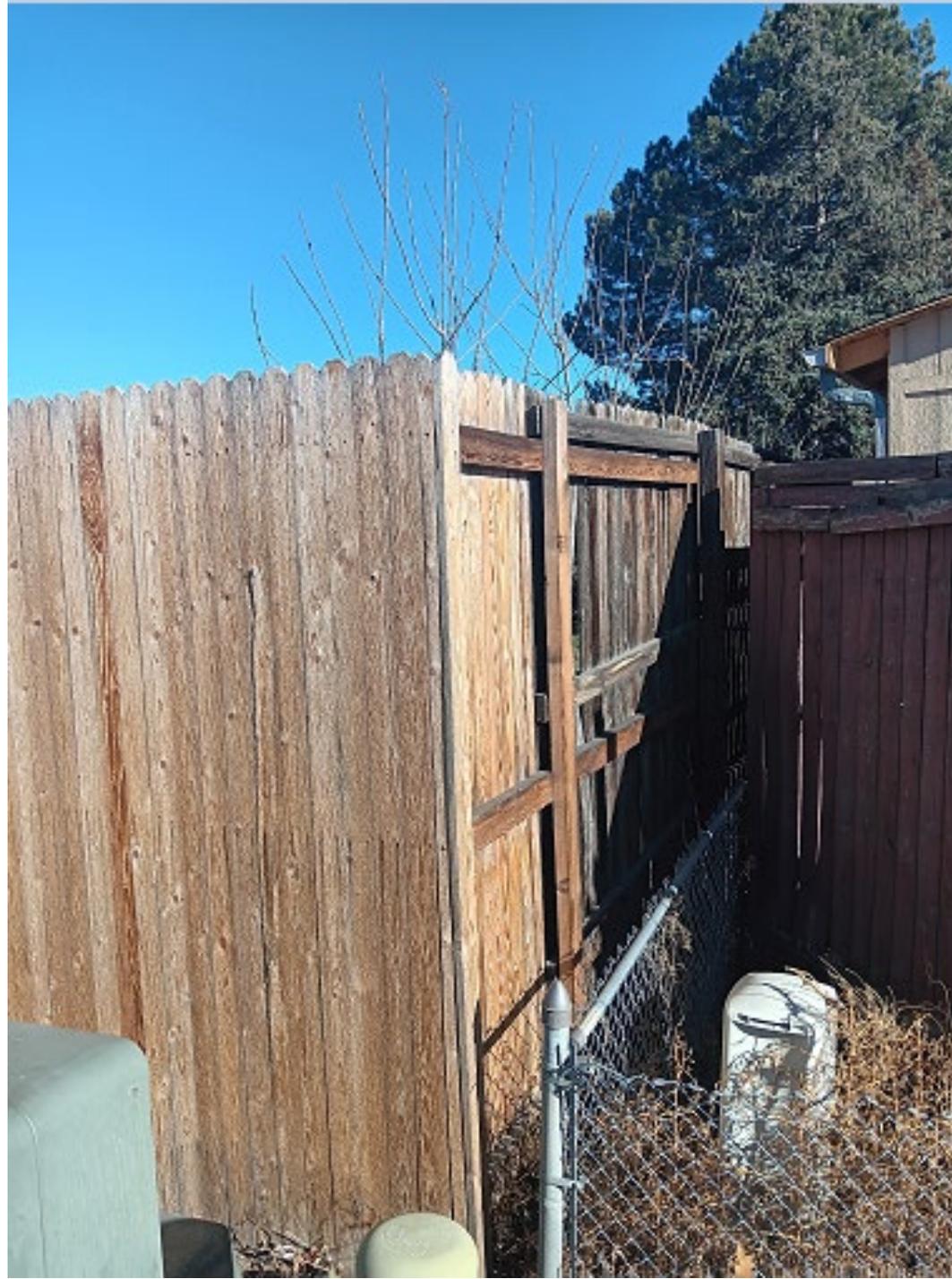














## B. Single-Family Dwelling Variance

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.



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

**MEMORANDUM**

**To:** Board of Adjustments acting chair and board members

**From:** Stephen Gubrud, Planner, Board of Adjustment staff liaison

**Date:** December 14, 2023

**Hearing Date:** December 19, 2023

**Subject:** BOAA Case No. 16-23 – 5003 S Elkhart Ct.

**Notification:** The Notice of Variance Request was mailed to abutting property owners on December 8, 2023, and a notice of virtual public hearing sign was posted on the property on or prior to the same day in accordance with Code.

**Summary:** Request by the owner, Peggy Sexton, for the following Single-Family Dwelling Variance:

- Requesting a variance from UDO code section 146-4.7.9.L.1 which states that new side and rear yard fences for residential properties may be a maximum of 6 feet in height. The applicant’s property is located in the R-1 zone district and she requests a variance to allow an additional 3 feet of side yard fence height for a total fence height of 9 feet along approximately 7 feet and 3 inches of the length of southern interior side lot line.

**Background Information:** The subject property is located at 5003 S Elkhart Ct. in the Woodgate neighborhood, within the Woodgate #8 subdivision. The property is approximately 0.139 acres with an approximately 2,070 square foot primary residence, constructed in 1990 according to the Arapahoe County Assessor’s records. The subject property and surrounding neighborhood are primarily zoned R-2 (Medium-Density Residential District) and is made up of primarily single-family homes. The purpose of the R-2 district is to promote and preserve various types of medium density housing with adequate amounts of usable common space and amenities. Development pursuant to a Small Residential Lot option is allowed in Subarea C. This district is intended for use close to collector streets and public transit facilities. The primary use in this district is single-family residences, but several types of attached dwellings are also permitted. The district generally prohibits commercial activity except for home occupations and typical neighborhood services. (See Exhibit A – Vicinity Map).

The applicant requests a variance to allow for an existing, 9-foot tall by 7.25 foot wide, side yard fence segment feature which exceeds the UDO fence height limit of 6 feet. The existing non-compliant fence feature was identified in the Notice of Violation which was issued to the property owner on June 27<sup>h</sup> of 2023. The applicant has stated one of the reasons for building this fence feature at this height is to screen their view of the neighboring property’s rear patio area. There was previously tall landscaping which grew along the area where the fence feature is now located. These plants have since died and the applicant

was hoping to create a more water conscious solution to their screening issue rather than replant them. The fence segment is located along the southern interior side lot line and is set back from the existing approximately 5-foot side yard fence by 20 inches. (See Exhibit B– Application and Justification).

**Analysis:** The requirements of the UDO as it pertains to this case are in place to promote a safe and aesthetically enjoyable environment for all Aurora residents. The newly constructed fence feature meets this intent by increasing the privacy of the homeowner’s property while not affecting the aesthetics of the property from the street. Furthermore, this proposal does result in an improved design by providing specific screening for the homeowner where the existing 5-foot fence did not. The fence feature is located internally to the applicant’s property and thus requires no maintenance from the neighboring property owners. The fence feature will have no significant impact on surrounding properties, existing city infrastructure, or any planned improvements for the area.

**Required Findings:** According to Section 146-5.4.4.B.3 (Exhibit D), 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 fence feature does not present a significant adverse effect on adjacent properties or the surrounding neighborhood. Although this fence feature is located near the side lot line it is completely internal to the applicant’s property. The fence feature is specifically located to only affect views to and from the applicant’s and neighbor’s patio living space.

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

**a. Improved Design**

*Staff Analysis:*

Staff finds that the proposed fence feature does achieve an improved design as presented because it would serve to screen a small portion of each yard and eliminates the need for water usage and frequent maintenance presented by the previous landscaping.

**b. Consistency with Neighborhood Character**

*Staff Analysis:*

Staff finds that the proposed fence feature’s materials and design is consistent with the character of the neighborhood. As this structure is only a small fence segment not many similar examples are available in the surrounding neighborhood. That being the case, fences exceeding 6 feet in height are uncommon in the area.

**c. Compatibility with Adjacent Development**

*Staff Analysis:*

The proposed fence feature would result in a design that is generally compatible with adjacent residential development and is not located directly along the shared lot line of the neighboring property.

**d. Impact on existing city infrastructure and public improvements**

*Staff Analysis:*

The proposed fence feature would not result in any negative impacts on existing city infrastructure or proposed future improvements.

**e. Internal efficiency of design**

*Staff Analysis:*

The proposed fence feature would result in an internal efficiency of design as it would address the visual impacts of the existing approximately 5-foot fence. Furthermore, the structure itself is located entirely within the applicant's property.

**f. Control of external effects**

*Staff Analysis:*

The proposed fence feature would control for any external effects as it would not place any undue burden on the surrounding residential properties or the public realm and is not highly visible from the sidewalk.

**Conclusion:**

Based on the required findings of Code Section 146-5.4.4.B.3, staff finds the requested variance does meet the criteria as proposed because:

- It will not adversely affect adjacent properties or the surrounding neighborhood;
- Would result in an improved design that achieves internal efficiency to the site and;
- The proposal would control for external effects and would not impact existing city infrastructure or any future public improvements.

**Staff Recommendation:**

Staff recommends **Approval** of the proposed variance as requested.

**ATTACHMENTS:**

- Exhibit A – Vicinity Map
- Exhibit B – Application and Justification
- Exhibit C – Site Photos
- Exhibit D – City Code Section 146-5.4.4.B.3






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**PLANNING DEPARTMENT**

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

### **Board of Adjustments and Appeals**

The Board of Adjustments and Appeals (or BOA) is a volunteer-based Board comprised of 7 residents of the City of Aurora. They have the authority to deliberate on and approve or deny Variance requests.

#### **So, what does that mean for me?**

- The BOA is the deciding body for requests from Aurora homeowners who wish to make any alteration or improvement to their residential property which does not meet applicable standards of the Unified Development Ordinance (UDO).
- What are some examples of Variance requests?
  - A proposed new detached garage which would exceed the maximum allowable square footage.
  - A fence which was built and exceeds the maximum allowable height.
  - A proposed home addition which encroaches into the rear yard setback.

#### **How do the hearings work?**

- The BOA meets at 6 pm on the 3<sup>rd</sup> Tuesday of every month.
- Important information for applicants:
  - The 2022 application fee is \$150 and is non-refundable once the hearing occurs, even if your request is denied.
  - A completed application form and fee payment must be received by the City by the first Friday of the month, one month prior to the target hearing date. (for example, if you wish to have your request heard at the August hearing, your application is due the first Friday of June)
  - 10 days before the hearing, you must post a Notice of Public Hearing sign on your property.
  - 10 days before the hearing, mailed notices summarizing your request will be sent to the owners of each property adjacent to yours.
- At the hearing, your request will be presented to the BOA. The request should include how your application complies with the Criteria of Approval in Section 146-5.4.4.A.3 (Hardship) or Section 146-5.4.4.B.3 (Single-Family) and will be voted to approve or deny by the Board.
- The BOA Members are finders of fact and have the authority to interpret compliance with the Criteria of Approval.

CASE # 16-23

BOARD OF ADJUSTMENT & APPEALS  
CITY OF AURORA  
APPLICATION FOR VARIANCE

- 1. **A complete application with a check for \$150.00, payable to the City of Aurora, must be received no later than the first Friday of the month to be included in the agenda for the following months' hearing.**
- 2. Please type or print clearly when filling out the application. After completing the application, schedule an appointment by emailing **boaplanning@auroragov.org**.
- 3. **An appointment needs to be scheduled by the first Friday of the month.**
- 4. When meeting with the applicant, staff will review the application for completeness and will provide instruction on the procedures of the hearing.
- 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:  
\_\_\_\_\_



CASE # \_\_\_\_\_

APPLICATION TO THE BOARD OF ADJUSTMENT & APPEALS  
VARIANCE

ADDRESS OF PROPERTY AFFECTED: 5003 S. ELKHART CT

Zone District RD

Applicant Name: PEGGY SEXTON

Address: 5003 S. ELKHART CT

Phone #: 3-1080-9419 email PEGSEXT@G.MAIL.COM.

Property Owner: Name: SAME.

Address: \_\_\_\_\_

Phone #: \_\_\_\_\_ email \_\_\_\_\_

Signature [Signature]

Variance requested: INCREASE FENCE HEIGHT ←

The above request does not conform to Section(s) KK-4.7.9<sup>L1</sup> of the Aurora City Code, which requires A MAXIMUM FENCE HT OF 6 FEET



# EXHIBIT B

IVAN A GRACHEV TRUST  
4655 S MONACO ST UNIT 102  
DENVER CO 80237

MICHAEL & CHERYL CONWAY  
5023 S ELKHART CT  
AURORA CO 80015

BRADLEY & SUSAN HETTICH  
4991 S ELKHART CT  
AURORA CO 80015

JOHN SMITH & CHRISTINE MINERD  
5004 S ELKHART CT  
AURORA CO 80015

7' 3" WIDTH

6' FENCE

6' FENCE

9 FT HEIGHT

19'-20"

FENCE TO DAM  
19'-20"



31"  $\updownarrow$  ~~24"~~ 24"?



PATIO

DEPTH OF PANEL 5 1/2"

LEFT FENCE TO PATIO IS 4' 3"

BBQ 22"

A The proposed variance results in improved design.

The "fence" design/concept comes from a landscaping design company which has been actively enhancing and designing outdoor living spaces for over a decade in the Denver area. Therefore, this design is not only aesthetically pleasing but serves a much needed purpose and that is one of privacy for both parties involved.

B The proposed variance does not adversely affect the character of lower density residential areas.

The "fence" is a structure which can be seen by the plaintiffs, the neighbors on the other side of my home and myself. When questioning these neighbors if they could see it and if they found it offensive the response was quite the contrary. They not only found the addition pleasing but felt it was an upgrade to the property. Others who may see it must be actively looking for it. The general consensus of people who have seen it have relayed positive feedback and thus not impacting the character of this neighborhood in any negative fashion.....actually the opposite!

C The proposed variance will result in development that is compatible with adjacent land development.

The "fence" brings privacy to both parties. One of the neighborhood realtors in fact felt the plaintiffs should be grateful for having someone else pay for their privacy, especially given how close their hot tube resides next to the property fence. The height of the "fence" is no taller than their own structure on their patio. It is made of high quality wood and does not interfere with any other structures or would be structures. It simply creates a restricted visual from the back door straight out approximately 7 feet. This minimizes witnessing daily treks to the hot tub and viewing the dozens of wind chimes and trinkets hanging from there homemade "pergola". The "fence" also helps to buffer the noise from both activities.

Joyce Blady 4-24-91

CITY OF AURORA BUILDING PERMIT & PLOT PLAN APPROVAL

20H

Address of Job 5003 S. ELKHART CT Date 7-17-90

Legal Description Lot 5 Block 3 Subdivision WOODGATE #8

PROPOSED USE OF STRUCTURE

CLASS OF WORK:

AREA AT GRADE (SQ) <u>1751</u>	GARAGE: SINGLE <input checked="" type="checkbox"/> DOUBLE <input type="checkbox"/>	NO. OF STORIES <u>2</u>	TOTAL UNITS <u>1</u>	OCCUPANCY GROUP & DIV <u>R-3</u>	USE ZONE <u>RL1A</u>
TOT. BLDG. (SQ) <u>2190</u>	BASEMENT FIN. <input type="checkbox"/> UNFIN. <input type="checkbox"/>	HEIGHT (FEET) <u>26'</u>		TYPE CONSTR. <u>UN</u>	DATE PLAN

CONTACT PERSON:

PHONE NUMBER:

DEPT/DIV	AUTHORIZED BY	DATE
ZONING	<u>CP</u>	<u>7-20-90</u>
ENGINEERING	<u>TEP</u>	<u>7/24/90</u>
TRAFFIC	<u>B</u>	<u>7-20-90</u>
LIFE SAFETY	<u>QC</u>	<u>7-20-90</u>
RIGHT OF WAY	<u>CKC</u>	<u>7-25-90</u>
WATER	<u>WS207K</u>	<u>7-26-90</u>
WASTEWATER		
FORESTRY	<u>VST</u>	<u>7-24-90</u>
PLANNING		
PLAND EXAM		
BUILDING		
REMARKS:		

NOTE: Indicate the following information - streets, alleys, and/or easement; front, rear and side yard setbacks; dimensions between buildings and dimensions of buildings. Indicate existing structures with a solid line. Proposed

**RICHMOND PLOT PLAN** LOT 5 BLOCK 3

REVISION: Model Changes from 1050 TO 1066

SUBDIVISION: WOODGATE PHASE No. 8

ADDRESS: 5003 S. ELKHART CT.

DRAWN BY: REL DATE: 2-1-90 APPROVED BY: REL DATE: 7-6-90

REVISION BY: REL DATE REVISION: 7-6-90

MINIMUM SETBACKS: FRONT 25' REAR 10' SIDE 0' CORNER 10'

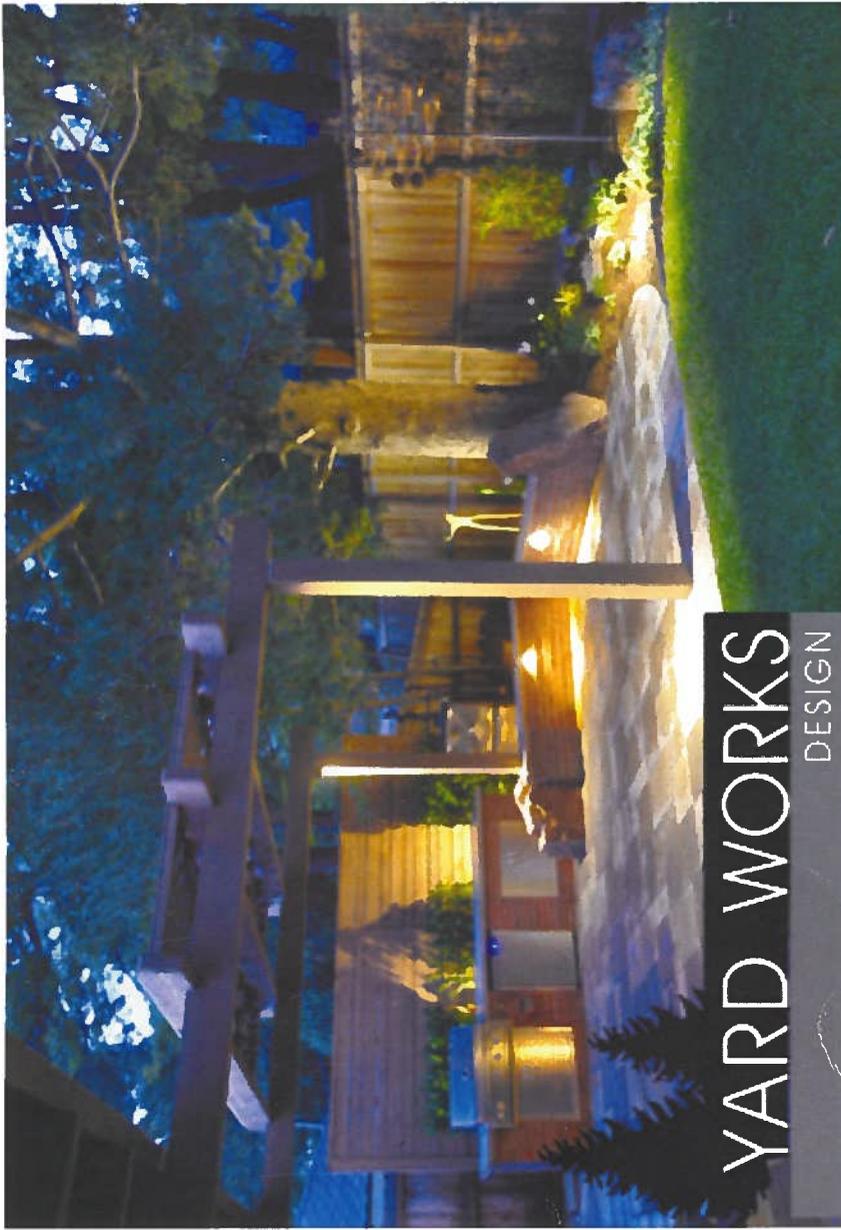
MINIMUM UNOCCUPIED YARD OF P.L.A. 10'

ADJUSTED P.O. 112 UNOCCUPIED GARAGE: 0.25'

FOUNDATION: A 0 0 0 OTHER: 1026 D.

We certify that no use will be operated on the land or in the structure(s) identified above except the use(s) set forth above unless a new certificate of occupancy is obtained, the use will be operated in compliance with the regulations contained in the Aurora City Code.

Name(s) of Owner(s) of Otto & Structure(s) (Print) \_\_\_\_\_ Signature of Owner(s) or Authorized Representative \_\_\_\_\_



# YARD WORKS DESIGN

Yard Works Design is an award winning landscape design and construction firm serving homeowners throughout the Denver region and in numerous mountain communities. Our passion is creating one of a kind landscapes by providing creative designs, quality products and superior customer service from start to finish. We are your one stop shop for breathtaking landscapes.

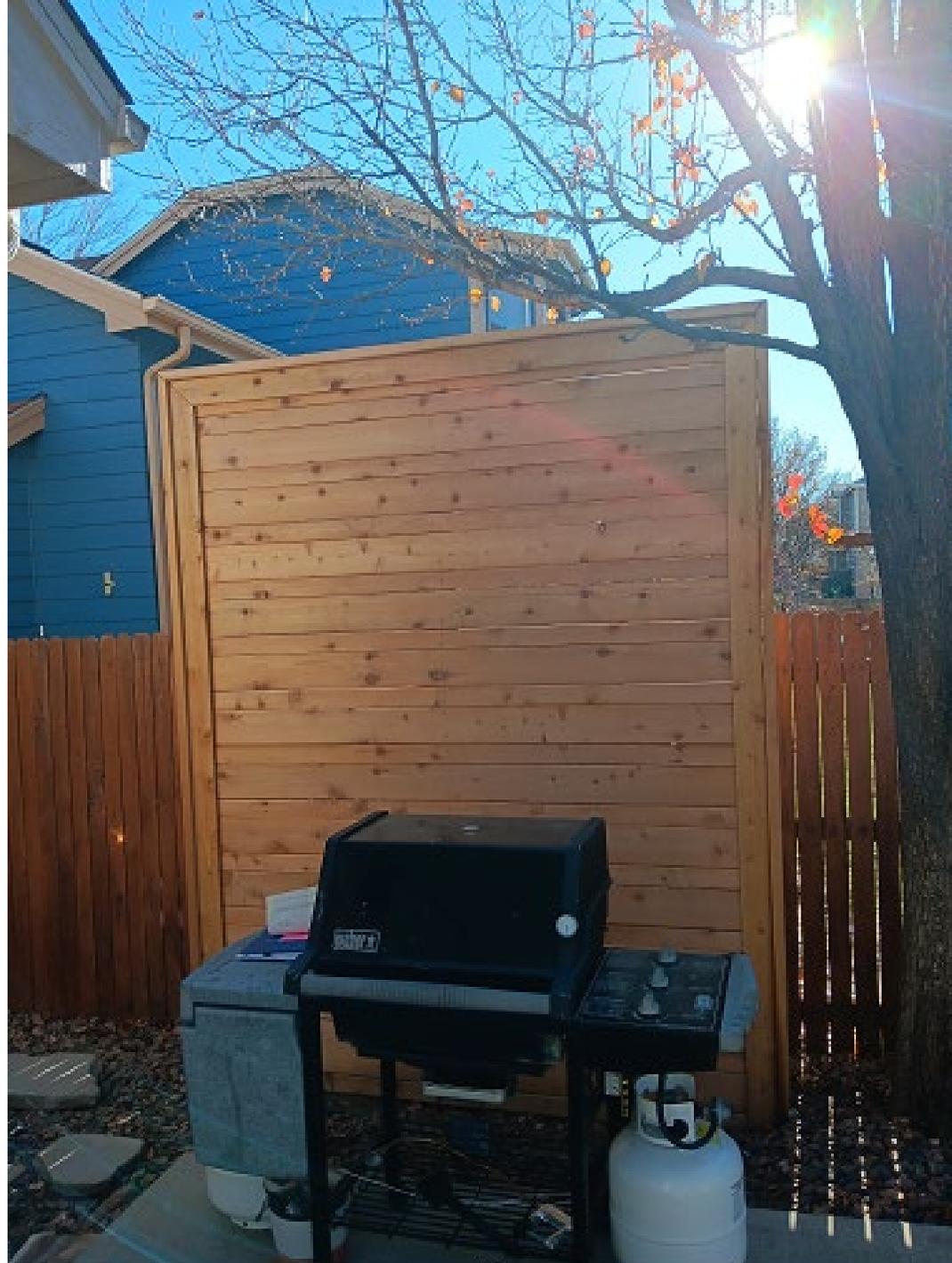


## EXHIBIT B

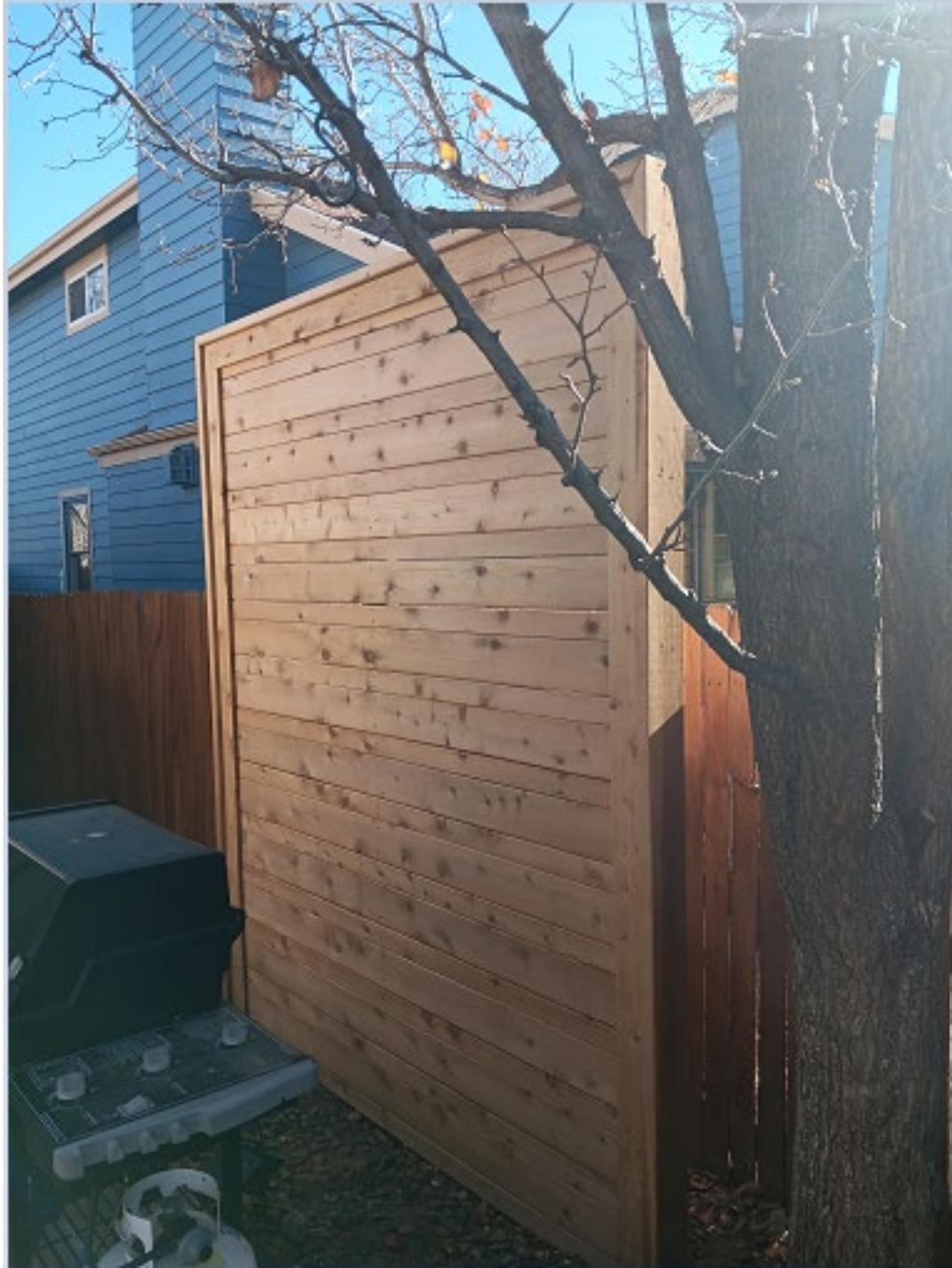
**YARD WORKS DESIGN**  
387 CORONA ST. #554  
DENVER, CO  
720.381.0858  
[www.yardworksdesign.com](http://www.yardworksdesign.com)

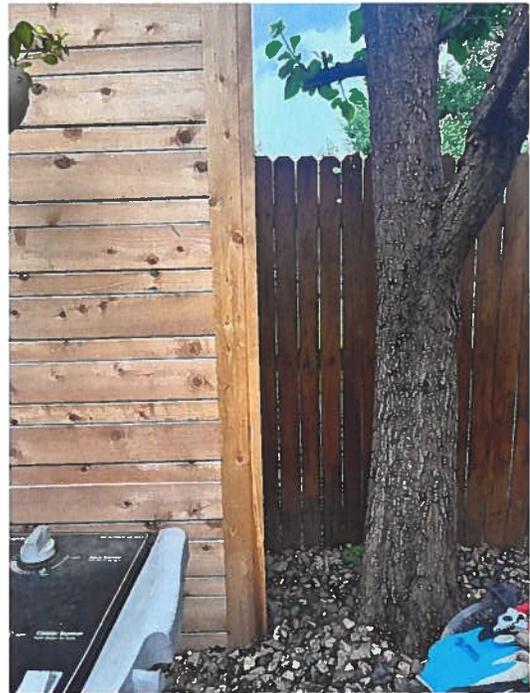
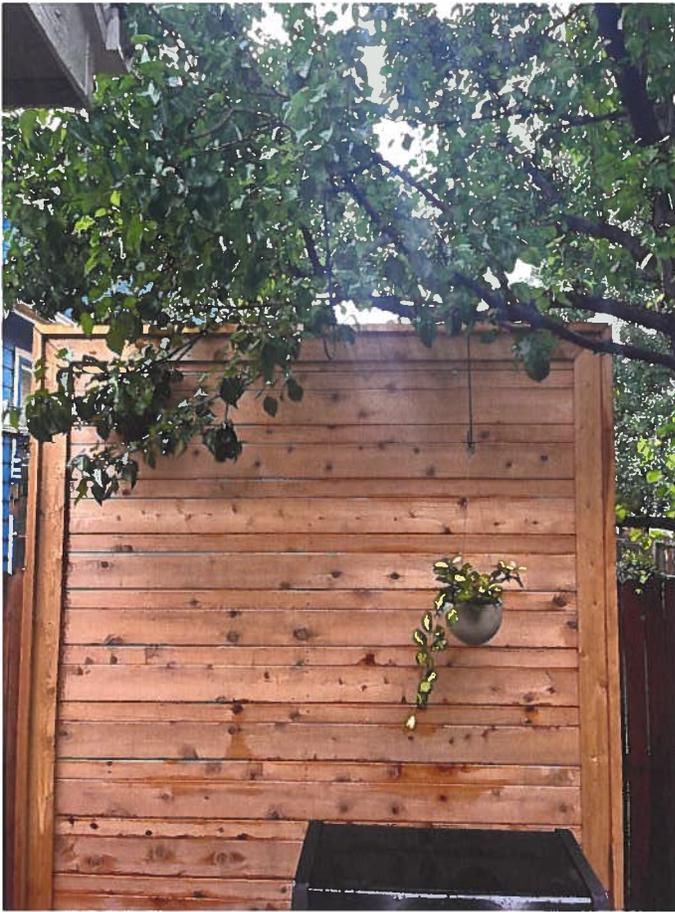




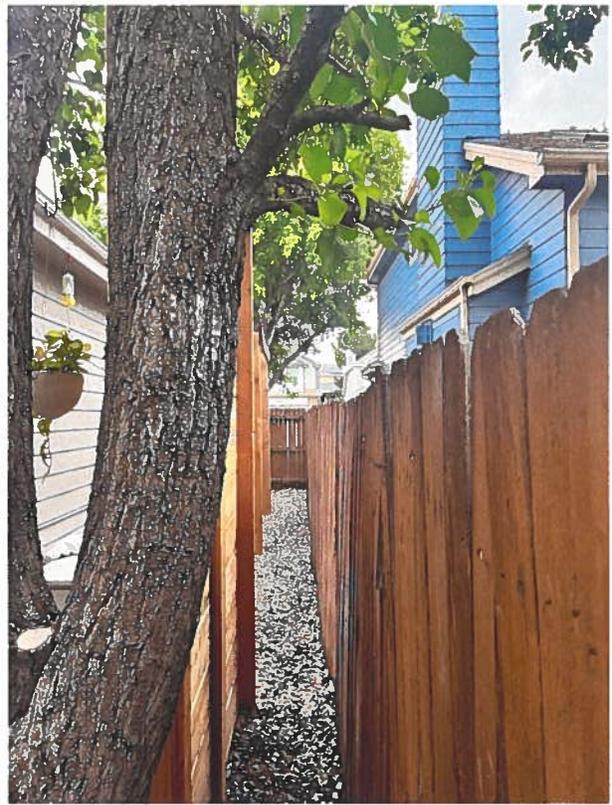
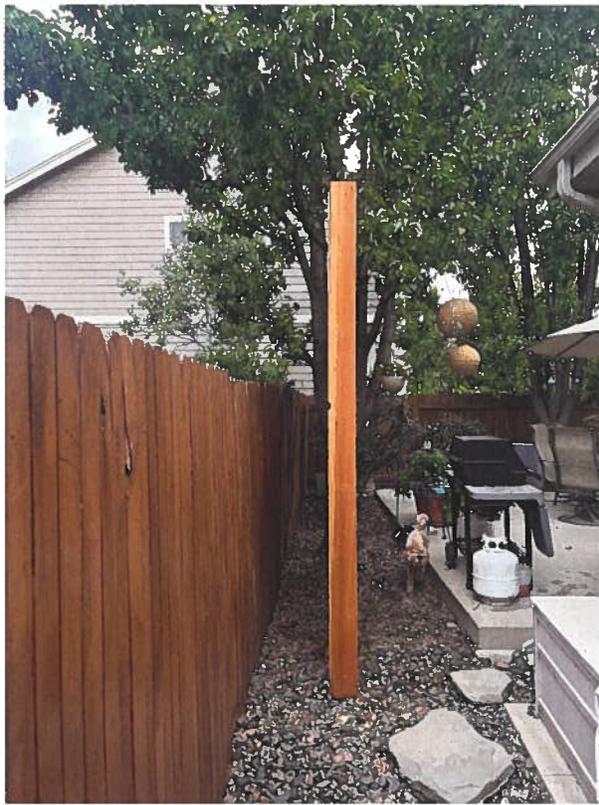








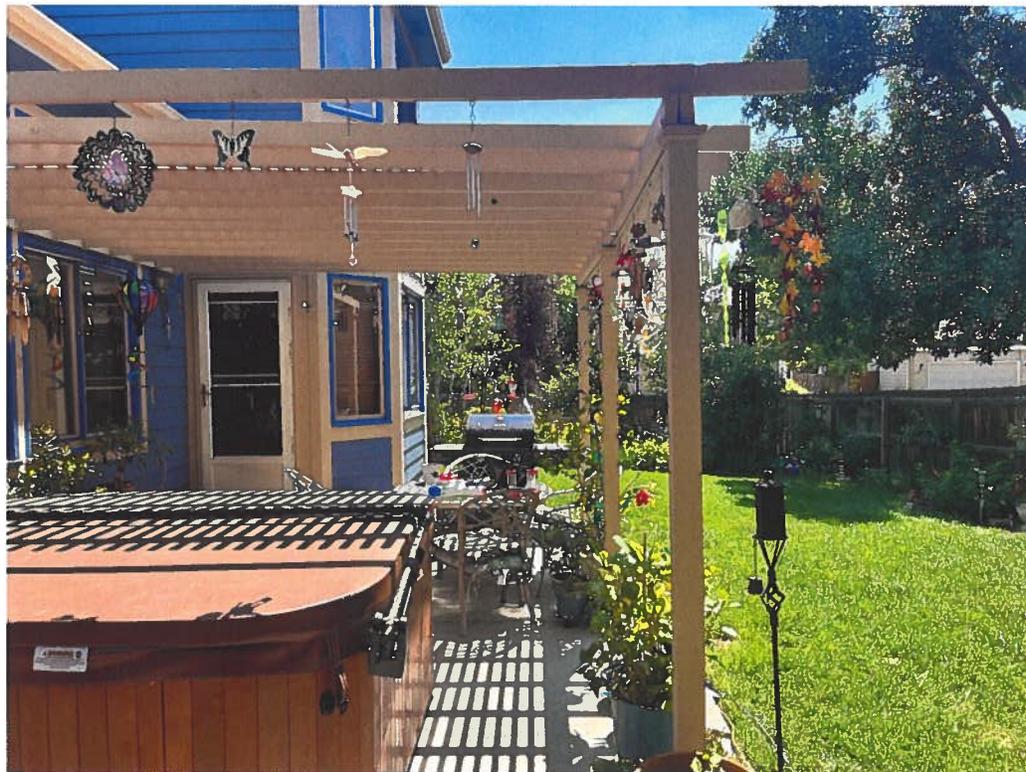
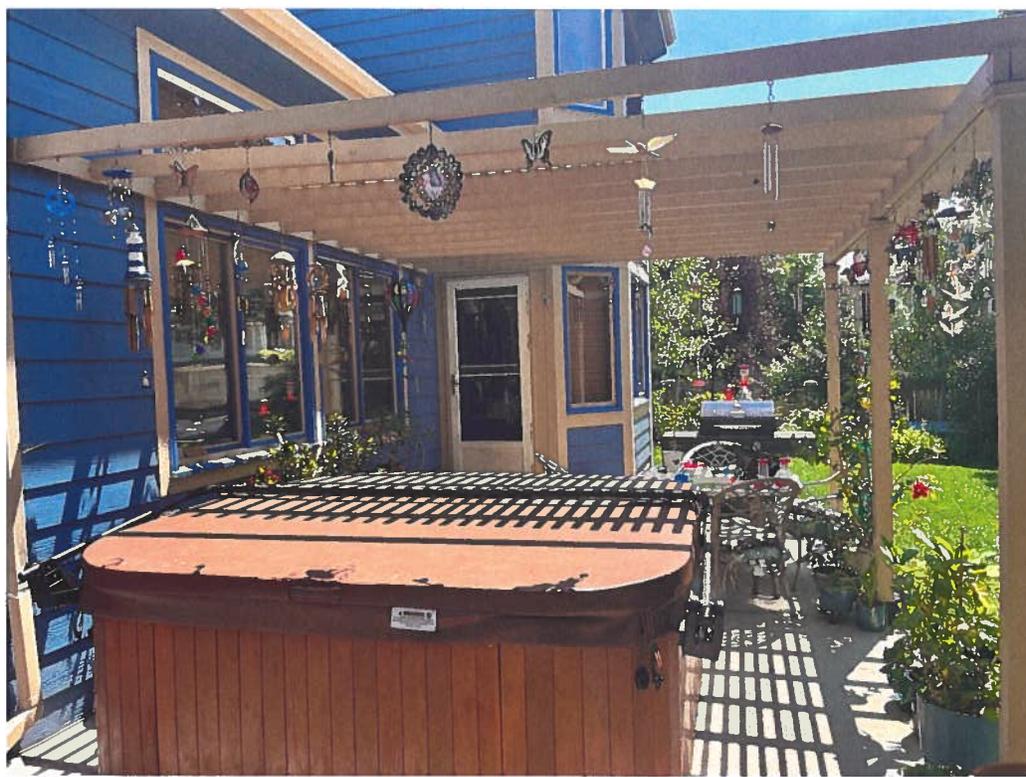
View of the "fence" from front perspective. Detail of trim and quality of wood.



View of the "fence" from side perspective. Spacing from fence on property line allows for maintenance.



Solid placement and level to the ground.



View behind the "fence". Close proximity to hot tub. Dozens of wind chimes and trinkets hanging from neighbors homemade structure.

## 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.

Additional Public Evidence for Case # 16-23 Presented at  
Tuesday, December 19, 2023, Board of Adjustment and Appeals  
Meeting

# PROXY

For Hybrid Public Meeting Case No. 16-23  
City of Aurora Board of Adjustments and Appeals (303-739-7217)  
6 pm, Tues Dec. 19, 2023

## Subject Property: 5003 S. Elkhart Court

A request by property owner Peggy Sexton for the following Single-Family Dwelling Variance, for the property zoned Medium-Density Residential District (R-2):

- Request: To allow for a fence segment/panel that is **NINE FEET (9') IN HEIGHT and SEVEN FEET, THREE INCHES (7'3") IN WIDTH.**
- Applicable Code: Code Section (146-4.7.9.L.1, Table 4.7-4) which states that the **MAXIMUM HEIGHT FOR RESIDENTIAL FENCES IS SIX FEET (6').**

Casey Conway CnwyCasey@aol.com  
Grantor's Name: Grantor's Email Address:  
5023 S Elkhart Court Aurora, CO 80015  
Grantor's Address:

Proxy's Name: Cheryl Conway Proxy's email address: c.cnwy@hotmail.com

Proxy's Address: 5023 S Elkhart Court, Aurora, CO 80015

### Agreement:

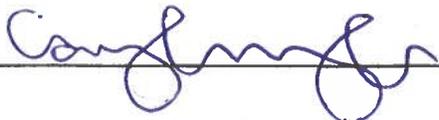


I confirm that the proxy I have listed may act on my behalf.

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### Additional Comments:

IS every one in the subdivision able to build fence extensions? Can we make one around our corner lot fence?

Signature: 

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Inga Light  
Granter's Name:

ingalight2020@outlook.com  
Granter's Email Address:

14823 E. Grand Pl.  
Granter's Address:

Aurora, CO 80015

Proxy's Name: Cheryl Conway

Proxy's email address: c.cnwy@hotmail.com

Proxy's Address: 5023 S Elkhart Court, Aurora, CO 80015

### Agreement:



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### Additional Comments:

no variance

Signature:

Peggy Sexton

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Anjali  
Granter's Name:

zanjali.yadav@gmail.com  
Granter's Email Address:

14824 E Grand Pl Aurora Aurora, CO 80015  
Granter's Address:

Proxy's Name: Cheryl Conway

Proxy's email address: c.cnwy@hotmail.com

Proxy's Address: 5023 S Elkhart Court, Aurora, CO 80015

### Agreement:



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### Additional Comments:

No

Signature: Anjali

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Heather Sheets

Granter's Name:

Heather.Sheets18@gmail.com

Granter's Email Address:

5044 S. Elkhart Ct

Granter's Address:

Aurora, CO 80015

Proxy's Name: Cheryl Conway

Proxy's email address: c.cnwy@hotmail.com

Proxy's Address: 5023 S Elkhart Court, Aurora, CO 80015

### Agreement:



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### Additional Comments:

No

Signature: \_\_\_\_\_

[Handwritten Signature]

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Jay Muehlenkamp  
Granter's Name: \_\_\_\_\_ Granter's Email Address: \_\_\_\_\_  
14839 E GRAND PL \_\_\_\_\_ Aurora, CO 80015  
Granter's Address:

Proxy's Name: Cheryl Conway      Proxy's email address: c.cnwy@hotmail.com

Proxy's Address: 5023 S Elkhart Court, Aurora, CO 80015

### Agreement:

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### Additional Comments:

no

Signature: Jay Muehlenkamp

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JEFFRY L Geller

Grantor's Name:

JEFFRY Geller@YAHOO.COM

Grantor's Email Address:

4969 SELKHART WAY

Grantor's Address:

Aurora, CO 80015

Proxy's Name: Cheryl Conway

Proxy's email address: c.cnwy@hotmail.com

Proxy's Address: 5023 S Elkhart Court, Aurora, CO 80015

### Agreement:



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### Additional Comments:

No

Signature:

Jeffrey L Geller

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*Irina Kalanogor*

**Grantor's Name:**

**Grantor's Email Address:**

*4950 S. Elkhart way*

Aurora, CO 80015

**Grantor's Address:**

**Proxy's Name:** Cheryl Conway

**Proxy's email address:** c.cnwy@hotmail.com

**Proxy's Address:** 5023 S Elkhart Court, Aurora, CO 80015

**Agreement:**



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**Additional Comments:**

no

**Signature:**

*I. Kalanogor*

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Jesse Barnes  
Granter's Name:

Cadotbarnes@yahoo.com  
Granter's Email Address:

4870 S Elkhart Ct Aurora, CO 80015  
Granter's Address:

Proxy's Name: Cheryl Conway

Proxy's email address: c.cnwy@hotmail.com

Proxy's Address: 5023 S Elkhart Court, Aurora, CO 80015

### Agreement:



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### Additional Comments:

NO

Signature: 

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Timothy Paton

Granter's Name:

PATON5290@GMAIL.COM

Granter's Email Address:

2480 S. ELKHART CT

Granter's Address:

Aurora, CO 80015

Proxy's Name: Cheryl Conway

Proxy's email address: c.cnwy@hotmail.com

Proxy's Address: 5023 S Elkhart Court, Aurora, CO 80015

Agreement:



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Additional Comments:

No

Signature:

[Handwritten Signature]

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Ryan Stoneberg  
Grantor's Name:

rstoneberg14@gmail.com  
Grantor's Email Address:

4992 S Elkhart Ct  
Grantor's Address:

Aurora, CO 80015

Proxy's Name: Cheryl Conway

Proxy's email address: c.cnwy@hotmail.com

Proxy's Address: 5023 S Elkhart Court, Aurora, CO 80015

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### Additional Comments:

No

Signature: Ry S

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JULIA KIRGAN

Granter's Name:

DRJKMDAMAZON@gmail.com

Granter's Email Address:

14831 E GRAND PL, AURORA, CO 80015

Granter's Address:

Aurora, CO 80015

Proxy's Name: Cheryl Conway

Proxy's email address: c.cnwy@hotmail.com

Proxy's Address: 5023 S Elkhart Court, Aurora, CO 80015

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### Additional Comments:

No

Signature: \_\_\_\_\_



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Silvia Adriano  
\_\_\_\_\_  
**Granter's Name:** \_\_\_\_\_ **Granter's Email Address:** \_\_\_\_\_  
14813 E-Grand Pl \_\_\_\_\_ Aurora, CO 80015  
**Granter's Address:** \_\_\_\_\_

**Proxy's Name:** Cheryl Conway      **Proxy's email address:** c.cnwy@hotmail.com  
**Proxy's Address:** 5023 S Elkhart Court, Aurora, CO 80015

### Agreement:

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### Additional Comments:

NO

**Signature:** \_\_\_\_\_ 

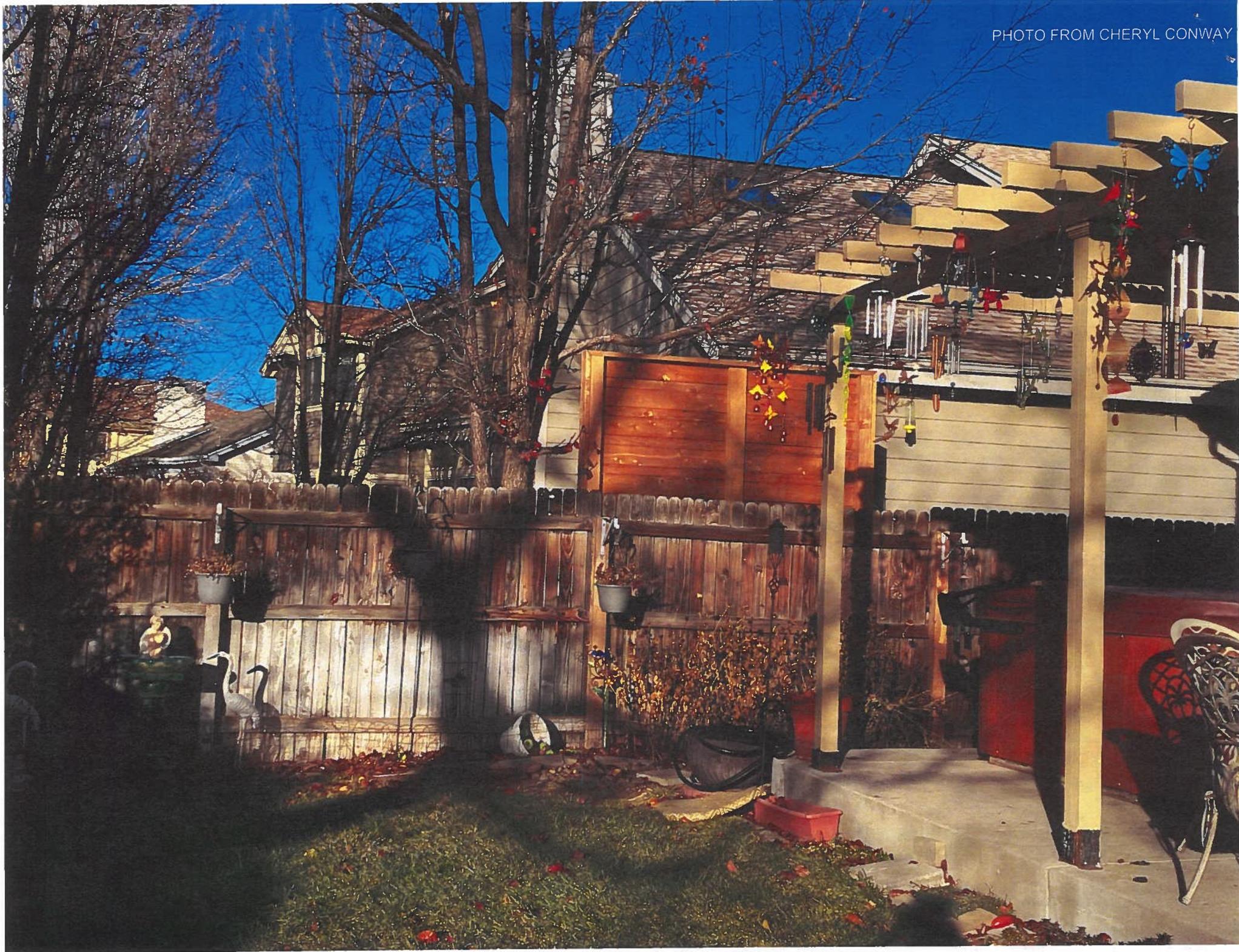




PHOTO FROM CHERYL CONWAY