



CITY OF INDIANOLA BOARD OF ADJUSTMENT MEETING

August 7, 2024

6:00 PM

City Council Chambers

Agenda

- 1. Call to Order**
- 2. Roll Call**
- 3. Agenda Approval**
 - A. Approval of the August 7, 2024 agenda.
- 4. Minutes Approval**
 - A. Approval of the July 3, 2024 meeting minutes.
- 5. New Business**
 - A. Consider request from Michael Schumacher to vary from maximum fence height requirements for fencing located in the front yard at 601 N Kenwood Blvd.
 - B. Consider request from Michael Schumacher to vary from accessory structure location requirements.
 - C. Consider request from Jay Clark to vary from the 40-foot minimum required front yard setback by 25-feet for a total front yard setback of 15-feet and to vary from the 40-foot required rear yard setback by 10-feet, for a total rear yard setback of 30-feet.
 - D. Consider request from John and Tammy Hoyman for a variance for property located at 1301 Country Club Rd.
- 6. Comments**
- 7. Adjourn**



MEMORANDUM

To: Board of Adjustment
From:
Date: August 7, 2024
Subject: Approval of the August 7, 2024 agenda.

Recommendation:

Attachments: None



CITY OF INDIANOLA BOARD OF ADJUSTMENT MEETING

July 3, 2024

6:00 PM

City Council Chambers

Minutes

1. Call to Order

The meeting was called to order at 6:00 PM.

2. Roll Call

Commission members present: Amy Mitchell, Rene Soldwisch, Lee Bash, Deidre Hoover.

Staff members present: Emily Rizvic, Kristen Hoss, Tara Bosteder.

3. Agenda Approval

A. Approval of the July 3, 2024 agenda.

Soldwisch made a motion to approve the agenda.

Mitchell seconded the motion.

Motion was passed.

4. Minutes Approval

A. Approval of the April 3, 2024 meeting minutes.

Mitchell made a motion to approve the April 3, 2024 meeting minutes.

Soldwisch seconded the motion.

Motion was passed.

B. Approval of the June 5, 2024 meeting minutes.

Hoover made a motion to approve the June 5, 2024 meeting minutes.

Soldwisch seconded the motion.

Motion was passed.

5. New Business

A. Consider request from Alex Gross for a variance for property located at 302 East Trail Ridge Ave.

Soldwisch made a motion to approve the agenda item.

Mitchell seconded the motion.

Motion was passed by a unanimous vote.

6. Comments

7. Adjourn

Soldwisch made a motion to adjourn.

Mitchell seconded the motion.

The meeting was adjourned at 6:20 PM.



MEMORANDUM

To: Board of Adjustment

From: Emily Rizvic, Associate Planner

Date: August 7, 2024

Subject: Consider request from Michael Schumacher to vary from maximum fence height requirements for fencing located in the front yard at 601 N Kenwood Blvd.

Recommendation: Staff recommends that the Indianola Board of Adjustment move alternative 3, deny the variance request, as submitted.

- Attachments:**
- 1. Staff Report
 - 2. Written Narrative
 - 3. Application
 - 4. 601 N Kenwood Blvd Aerial
 - 5. On-Site Images
 - 6. Decision and Order



COMMUNITY DEVELOPMENT

110 N. First Street, Indianola IA 50125-0299 • www.indianolaiowa.gov
(515) 961-9430 • comdev@indianolaiowa.gov

STAFF REPORT

BOARD OF ADJUSTMENT

Date of Meeting: August 7, 2024

Agenda Item: 5.A Consider request from Michael Schumacher to vary from maximum fence height requirements for fencing located in the front yard at 601 N Kenwood Blvd.

Application Type: Variance

Applicant/Property Owner: Michael and Jaynell Schumacher

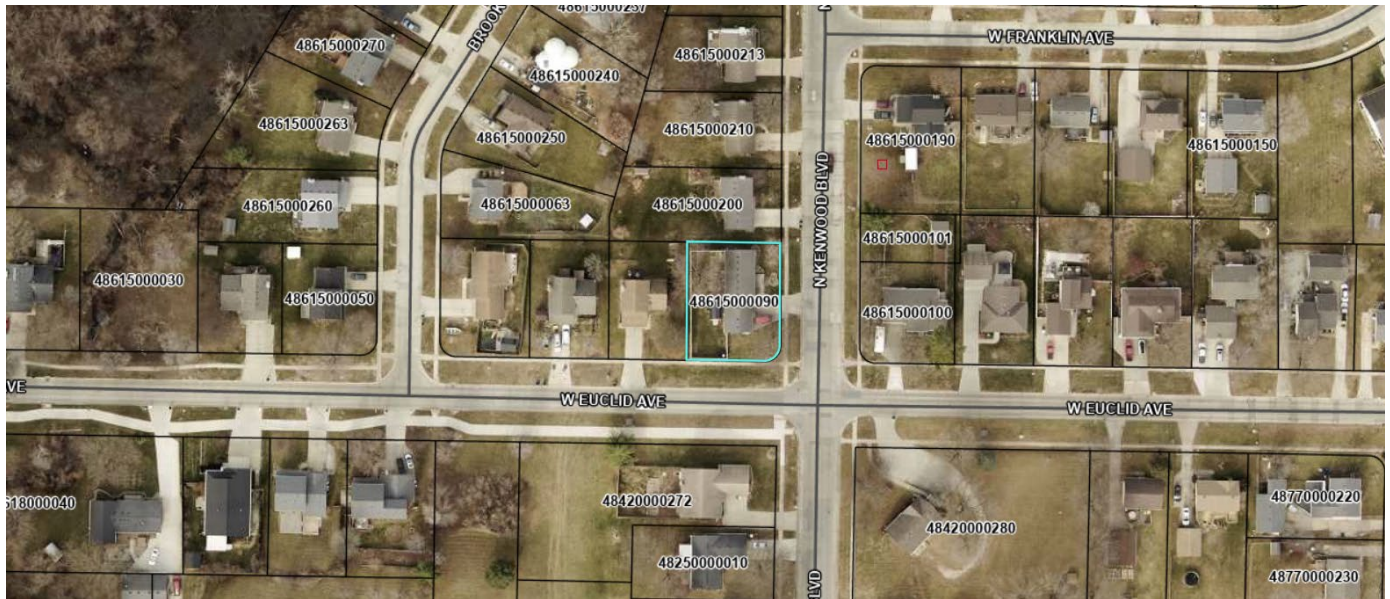
Property Address: 601 N Kenwood Blvd (Parcel ID #486/1500-0090)

Zoning: R-1, Single-Family Residential Detached Zoning District

Application Summary

Michael Schumacher has submitted a variance request for property located at 601 N Kenwood Blvd. The request is to vary from the maximum allowable fence height of 4-feet in a designated front yard area by 2-feet, for a total fence height of 6-feet. Such proposal would not conform to City Zoning Code Section 165.04.4.A(1) and Section 165.04.4.A(2).

AERIAL MAP



APPLICABLE CODE SECTIONS

The following code sections of the Code of Ordinances of Indianola, Iowa apply to this request:

165.02(3)(B) POWERS AND DUTIES OF THE BOARD OF ADJUSTMENT.

The Board of Adjustment has the following powers and duties:

3. Variances: Conditions Governing Applications; Procedures. To authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest where, owing to the special conditions, a literal enforcement of the provisions of this chapter would result in unnecessary hardship. A variance from the terms of this chapter shall not be granted by the Board of Adjustment unless and until:

A. A written application of a variance is submitted demonstrating:

- (1) That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district;
- (2) That literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter;
- (3) That the special conditions and circumstances do not result from the actions of the applicant;
- (4) That granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures, or buildings in the same district. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted use of land, structures or buildings in other districts shall be considered grounds for the issuance of a variance.

B. Notice of public hearing shall be given as in subsection 2(B) above.

C. The public hearing shall be held. Any party may appear in person, or by agent or by attorney.

D. The Board of Adjustment shall make findings that the requirements of paragraph A of this subsection have been met by the applicant for a variance.

E. The Board of Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure.

F. The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this chapter, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this chapter. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter and punishable under Section 165.23 of this chapter. Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this chapter in the district involved, or any use expressly or by implication prohibited by the terms of this chapter in said district.

165.03 DEFINITIONS

The following terms are defined for the purposes of this chapter:

167.B Yard, front – A yard extending across the full width of the lot and measured between the front lot line and the building or any projection thereof.

165.04.4 FENCES AND WALLS

A. Residential Districts.

(1) In all residential zoning district, fences and walls not exceeding six (6) feet in height are permitted within the limits of side and rear yards. Fences and walls are permitted in the front yard with a maximum height of forty-eight (48) inches. All fences and retaining walls within a front yard shall be a minimum of two (2) feet from any property line abutting frontage to a public street and shall be subject to the restrictions and standards herein this section. All fences located between the front property line and the front yard building setback, shall be designed within a minimum open space of forty percent (40%). Retaining walls shall be the only type of wall allowed within a residential front yard.

(2) Any yard abutting a public street shall be considered a front yard. Residential corner lots contain two (2) front yards, and any fence extending into either front yard shall be a maximum of forty-eight (48) inches in height and shall be subject to all other requirements for front yard fences.

ANALYSIS

Subject Property and Surrounding Land Uses

Michael Schumacher has submitted a variance for the property at 601 N Kenwood Blvd (Parcel #486/1500-0090) to allow for a fence height that exceeds the maximum allowable height for a fence located in a front yard area. The fence for the property was constructed May of 2021. The subject property is a 0.23-acre lot and contains a single-family dwelling. The subject property is currently zoned for the R-1 'Single-Family Residential Detached' Zoning District.

To the North, East, South, and West of this property exists single-family dwellings, on parcels of varying sizes. The subject property is a corner lot and fronts along North Kenwood Blvd and W Euclid Avenue. According to the Iowa Department of Transportation (IDOT), the estimated Average Annual Daily Traffic (AADT) for Kenwood Blvd is 1,650 vehicles, as of 2012. The AADT for W Euclid is 1,840 as of 2012.

Kenwood Blvd is classified as a minor arterial roadway, connecting Iowa Highway 92 to Iowa Avenue and Euclid Avenue and will continue to grow in AADT and vehicle traffic as Western

Indianola develops. West Euclid Avenue is considered a minor collector, serving as a connection point to major collectors and arterial streets.

The subject parcel appears to contain topographic conditions, including slopes near the northwest corner of the property, located in the rear yard. The subject parcel does not contain floodplain.

Future Land Use

According to the “Elevate Indianola” Comprehensive Plan, the future land use of this area is designated as Low Density Residential. The Low Density Residential land use designation guides for 2-5 dwelling units per gross acre with residential building types including single-family detached dwellings, accessory dwelling units, and innovative or non-traditional single-family forms. Civic uses and places of worship are permitted if compatibility standards are met.

The applicant is seeking a variance to allow for a fence that exceeds the maximum allowable fence height in the front yard area of a residentially zoned property of four feet by two feet for a total fence height of six feet. If approved, this request would allow for a six foot fence to be constructed or placed in the front yard areas of the property.

FINDINGS OF FACT

According to Section 165.02.3.B.(3)b. of Indianola’s Zoning Code, in deciding whether to grant a variance request, the Board of Adjustment shall consider all the following legal principles. **All legal principles shall be satisfied in order for the Board of Adjustment to grant a variance.**

- i. **That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district;**

Staff Comment: This finding of fact asks for the Board to find whether special conditions or circumstances exist which are peculiar to the land and which are not applicable to other lands in the R-1 'Single-Family Residential' Zoning District.

While the subject area does include slope or topographic conditions to the northwest corner and may be considered as exceptionally narrow due to building orientation on the lot, there are no special circumstances applicable to the property, demonstrated in this report that would result in a special condition or circumstance peculiar to the site that does not apply to other lands, structures, or buildings within the R-1 ‘Single-Family Residential’ Zoning District or other residentially zoned properties as it relates to the fencing requirement for a residential property.

Furthermore, the request would cause a detriment to the public as the location and type of fence would be along the front property line, creating a decreased line of sight and visibility at the intersections. Such request would not be in harmony with the general purpose and intent of the zoning code or the comprehensive plan. Similarly, the approval of such request would be inconsistent upon limitations of other properties within the regulatory zone, as such request would be denied administratively for other residential corner lots.

As such, staff cannot find that a special condition or circumstance exists that is specifically peculiar to the land, structure or building involved that is not applicable to other lands, structures or buildings.

This criteria is not met.

Applicant Comment: a.) Seeking a variance for the privacy fence height and placement on my property. I would like to have a 6ft privacy fence in the front yard/side yard of my property. A 6ft fence would not affect the neighbors in any way. I would like to have a pool installed on my property and would like to put it southwest of the garage on the property. The location needed, is the flattest spot in the yard for a pool.

- ii. **That literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter.**

Staff Comment: In regards to the request to allow for a fence to be constructed or placed in the front yard area that exceeds the maximum allowable fence height in a front yard area, the applicant would not be deprived of a right that is otherwise commonly enjoyed by other properties within the R-1 Zoning District.

Firstly, other properties within this established zoning district or regulatory zone, including residential corner lots, are not allowed to build a fence that exceeds the maximum allowable fence height of four feet in the front yard area. If the application was approved, the property owner would be granted a privilege that is not applicable to other residential corner lots within a residentially zoned property.

Likewise, the strict application of the regulation does not result in exceptional and undue hardships upon the owner of the property and the owner is not deprived of developing the property in the same manner as surrounding properties. This includes other residential corner lots. The approval of such variance request would result in a violation of this finding as other properties within the regulatory zone do not enjoy the privilege of erecting a six foot fence within the front yard area.

Denial of the request would not constitute an unnecessary hardship upon the applicant but more so an inconvenience, as the property owner is able to make reasonable and economically viable use of the property if required to conform to fence height requirements within a front yard area. As such, staff finds that this finding of fact cannot be found favorably.

This criteria is not met.

Applicant Comment: The property slopes severely to the north and slightly to the west on my property. The southwest part of the property is the only semi level part of the property.

- iii. **That the special conditions and circumstances do not result from the actions of the applicant;**

Staff Comment: This finding of fact asks whether conditions or hardship experienced by the applicant are self-imposed. While any lot characteristics and building characteristics

and orientations are not at the fault of the applicant, the request of a fence height higher than four feet within a designated front yard area is at the choice and direction of the applicant.

The applicant may reduce the size of the fence height to four feet in height within the front yard areas or may keep a privacy fence of 6 feet in height within the designated rear yard area of the home, however the property owner is making a choice not to. As such, the property owner is presented with alternatives for the site and can still make reasonable and economically viable use of the property should they be required to conform to the zoning code requirement.

While staff acknowledges that a six foot fence is required for the construction of a pool for a residential property, and it is the desire of the applicants to construct a pool on the site, the applicant is able to place such structure within the rear yard area of the home while meeting fence height requirements appropriate to the regulatory zone and type of property classified for the subject area.

Staff acknowledges the applicant's narrative stating that the fence was constructed or erected in Spring of 2021 before an overhaul of zoning code updates took place in Indianola, however, the zoning code that was in effect at the time of construction and erection of the fence (Section 165.10.9) outlined that fences within the front yard areas of the property may not exceed a height of four feet, which is consistent with today's adoption and interpretation of the code section outlined in Section 165.04.4.A(1) and (2).

For these reasons, staff cannot find that this finding of fact is met.

This criteria is not met.

Applicant Comment: My house was planned and built in 1989. Being that the house is on the top of the hill in the neighborhood, the general lay of the land prevents any level areas on my property.

- iv. **That granting the variance request will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures, or buildings in the same district. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted use of land, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.**

Staff Comment: This finding of fact asks whether a special privilege would be granted to the applicant that is otherwise denied to other lands, structures, or buildings within the same zoning district. Variances are granted when a hardship for a property owner occurs, which simultaneously disenfranchises the property owner from a right that other property owners within the same zoning district commonly have. If the variance were to be granted, it would confer a right or special privilege to this property that other buildable properties within the R-1 Zoning District or other residentially zoned properties do not have, and as such would be administratively denied.

While staff acknowledges the existence of fences near the subject area that do not meet the requirements and regulations outlined in the City Zoning Code, these nonconforming conditions cannot be considered for grounds of the issuance of a variance request and

such decision that is considered as grounds of approval would therefore result in a direct violation of this finding.

It is essential to uphold the integrity and consistency of zoning regulations to ensure that each property owner is treated fairly and equally within the established guidelines. A deviation from the Zoning Code requirement would confer a special privilege and right to the property owner that other properties within this regulatory zone do not have, and as such would alter the character of residential neighborhoods and would not be in harmony with the general purpose and intent of the zoning code.

This criteria is not met.

Applicant Comment: Granting this variance would not be a special case. Other neighbors in the area have fences that extend past the house or garage. This would be a “common sense” location on the property and would allow a fence to surround the pool.

SUMMARY OF FINDINGS

The following summary of findings are provided as part of this variance request:

- 1) The request is not favorable towards one or more findings of fact, outlined in the Zoning Code.
- 2) The variance is not created by the regulations and arises from an action (desire) of the applicant.
- 3) The fencing is visible from the adjacent public streets and at the street intersection, including North Kenwood Boulevard and West Euclid Avenue.
- 4) At the time of construction and erection of the fence, the zoning code did not allow for fences located within the front yard area of a residential zoning district to exceed four feet in height.
- 5) Granting the variance would provide a right and privilege that other properties do not have under the City of Indianola’s Zoning Code Regulations.
- 6) Deviation from the Zoning Code Regulations would not be in harmony with the intent and purpose of the zoning code.
- 7) An unnecessary hardship does not exist if the request is denied, as the applicant has other options and the property owner can still build an accessory structure that is up to code requirements.

If the variance were to be granted, the Board of Adjustment should be prepared to summarize, for inclusion in the minutes of the meetings, its reasons to approve, which will serve as the applications decision and order.

COMMENTS FROM THE GENERAL PUBLIC

Notification letters were mailed to surrounding property owners regarding the variance request the week of July 26, 2024. No comments were received at the time of the writing of this report.

ALTERNATIVES

The City of Indianola Board of Adjustment may consider the following alternatives:

- 1) The City of Indianola Board of Adjustment approves the variance request, as submitted.
- 2) The City of Indianola Board of Adjustment approved the variance request, with conditions.
- 3) The City of Indianola Board of Adjustment denies the variance request.**
- 4) The City of Indianola Board of Adjustment remands the variance request back to the applicant and/or staff for further review and/or modifications and directs staff to place this item on a future Board of Adjustment agenda.

RECOMMENDATION

Staff recommends that the Indianola Board of Adjustment move alternative 3, deny the variance request, as submitted.

July 7, 2024

re: privacy fence variance
601 N Kenwood Blvd
Indianola, Ia 50125

This letter is in regards to the privacy fence that was constructed on my property as listed above.

On or about the early part of April 2021, I contacted the City of Indianola in regards to constructing a privacy fence at my property.

The first conversation my wife had with the city, instructed her that the fence was to be 4ft tall from my garage, south to the sidewalk on my property. This was because the south side of the residence was considered a "front yard". My intentions from the start was to install a swimming pool on my property and wanted to have the fence in place before installation.

After the initial contact with the city, I contacted them again and wanted to talk to someone about the height of the fence. I did not want a 4 ft high fence around half my yard with a pool. I talked with someone, not sure who, but after talking with them it was concluded that the city originally thought I wanted to come off the front of the garage, to the sidewalk. I advised them that was not the case. I wanted to come off the back of the garage to the sidewalk. They advised that there was a misunderstanding and coming off the back of the garage to the sidewalk would not be a problem, that would be considered my back yard.

Problem solved, so I thought. 3 years later, I am ready to install my pool. My contractor went to pull permits and was advised that the fence at my property was not compliant. This was the 1st I had heard of any problems.

Long story short, I am asking for a variance for the fence at my property, 601 N Kenwood Blvd. I have met all the requirements regarding the material used, color, and the ability of water to run under the fence. This variance would just allow a 6 ft fence around the yard and pool, which faces the street on the south side of my property and keep unwanted people from jumping the fence and swimming in the pool when we are not around.

Thank you,
Mike Schumacher

BOARD OF ADJUSTMENT APPLICATION

Community Development

110 North 1st Street, Indianola, Iowa 50125-0299
(515) 961-9430 • community@indianolaia.org



PROPERTY OWNER

(Last Name) Schumacher
(First Name) Mike
(Address) 601 N Kenwood Blvd
(City) Indianola (State) Ia (Zip) 50125
(Phone) 515-240-4580 (Email) shoeracer4@msn.com

APPLICANT (if not Property Owner)

(Last Name) _____
(First Name) _____
(Address) _____
(City) _____ (State) _____ (Zip) _____
(Phone) _____ (Email) _____

☐ APPEAL

Submittal Requirements:

All submittal requirements must be completed.
Incomplete applications will not be considered

- ☐ Completed Application
- ☐ Filing Fee: \$300 per request
- ☐ Written narrative indicating where it is alleged there is error in any order, requirement, decision, or determination made by the Administrative Officer in the enforcement of this Code of Ordinances of Indianola, Iowa.
- ☐ Other Information as required by Director

☐ SPECIAL USE PERMIT

Submittal Requirements:

All submittal requirements must be completed.
Incomplete applications will not be considered

- ☐ Property Address: _____
- ☐ Completed Application
- ☐ Filing Fee: \$300 per request
- ☐ Site Plan and Elevations as outlined in 165.06
- ☐ Written narrative indicating the special use permit sought and response to the criteria outlined in Section 165.02(3)(B)(3)(c)(v) of the Code of Ordinances of Indianola, Iowa
- ☐ Other Information as required by Director



VARIANCE

Submittal Requirements:

All submittal requirements must be completed.
Incomplete applications will not be considered

- ☒ Property Address: 601 N Kenwood Blvd Indianola, Ia
- ☐ Completed Application
- ☐ Filing Fee: \$300 per request
- ☐ Site Plan and Elevations
- ☐ Written narrative indicating justification for proposed variance and response to the criteria outlined in Section 165.02(3)(B)(3)(b) of the Code of Ordinances of Indianola, Iowa
- ☐ Other Information as required by Director

I certify that the information and exhibits submitted are true and correct to the best of my knowledge and that in filing this application I am acting with the knowledge, consent and authority of the owner(s) of the property. Pursuant to said authority, I hereby permit City officials to enter upon the property for the purpose of inspection related to this application.

Signature Mike Schumacher
Name (printed) Mike Schumacher

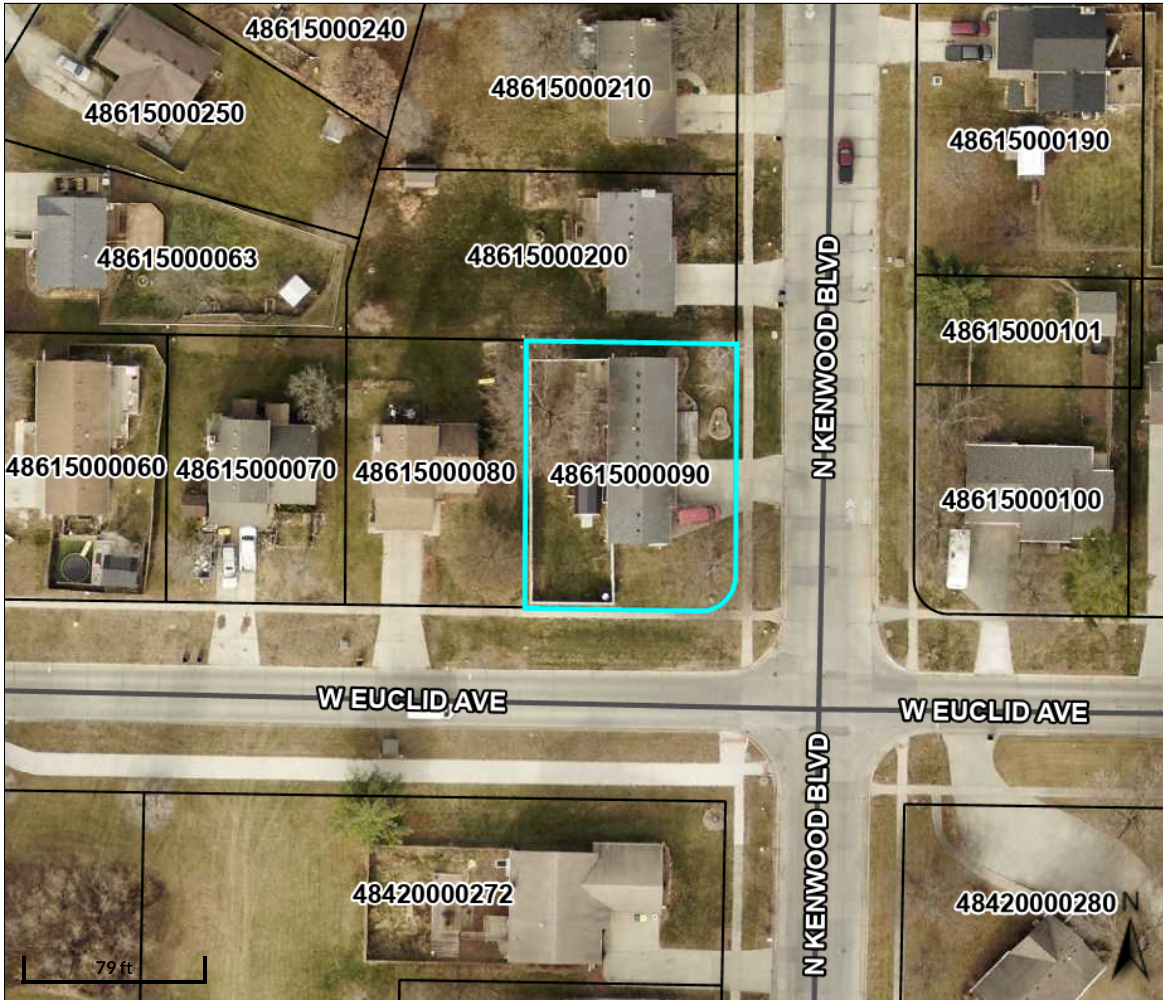
Date 7/7/24

FOR OFFICE USE ONLY Code to 45180

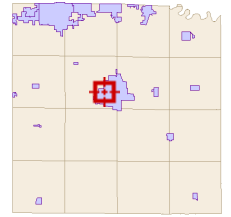
COMMUNITY DEVELOPMENT

Date Received: _____
Receipt No: JUL 18 2024
Receipt Amount: _____
BOA Agenda Date: _____

INDIANOLA, IA



Overview



Legend

Roads

- Interstate
- Highway
- Ramp
- County Gravel
- County Level B
- County Level C
- City Gravel
- City Street
- Private Street
- <all other values>

- Corporate Limits
- Parcels
- Political Townships

Major Roads

- County Hwy
- State Hwy
- US Hwy
- Interstate

Water

Flood Plains

- 100-year floodplain
- 500-year floodplain

Parcel ID	48615000090	Alternate ID	n/a	Owner Address	SCHUMACHER, MICHAEL W/JAYNELL MARIE
Sec/Twp/Rng	n/a	Class	R		601 N KENWOOD BLVD
Property Address	601 N KENWOOD BLVD	Acreage	n/a		INDIANOLA, IA 50125
	INDIANOLA				

District 48300
Brief Tax Description 23-76-24 ROLLING HILLS SUB DIV PART 1 LOT 9 EX N 23'

(Note: Not to be used on legal documents)

Disclaimer:

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CITY OF INDIANOLA, IOWA

BOARD OF ADJUSTMENT

IN THE MATTER OF THE APPLICATION OF:

Michael Schumacher for a variance under the terms of Section 165.02(3)(B) of the Code of Ordinances of Indianola, Iowa, to vary from maximum fence height requirements for fencing located in the front yard area from 4-feet by 2-feet, for a maximum allowable fence height of 6-feet in front yard areas to which if allowed as requested, would not be in conformity with the requirements of Section 165.04.4.A(1) and 165.04.4.A(2) of the Code of Ordinances of Indianola, Iowa.

FINDINGS OF FACT

The City of Indianola, Iowa Board of Adjustment has reached the following Findings of Fact:

- 1. The property identified as 601 North Kenwood Boulevard is owned by Michael and Jaynell Schumacher.*
- 2. The property identified as 601 North Kenwood Boulevard is zoned for the R-1 Single-Family Residential Detached Zoning District.*
- 3. The property identified as 601 North Kenwood Boulevard is identified as a residential corner lot, containing two frontages.*
- 4. City Zoning Code Section 165.04.4.A(1) allows for fencing within the front yard areas of a residential zoning district of up to forty-eight inches in height, or four feet.*
- 5. City Zoning Code Section 165.04.4.A(2) classifies front yard areas as being any yard abutting a public street.*
- 6. City Zoning Code Section 165.04.4.A(2) also states that residential corner lots contain two front yard areas and regulates fencing in these areas to a maximum height of forty-eight inches or four feet.*
- 7. The property owner placed and/or erected the six-foot fence on the front yard areas of the property in May of 2021.*
- 8. Retired Zoning Code Section 165.10.9, which was in place in May of 2021, outlined that fences located in the front yard area of a residential zoning districts shall not exceed four feet in height.*
- 9. A variance is requested in order to allow for the six-foot fence to remain in the front yard areas of the property.*
- 10. The fencing is visible from the adjacent public streets and at the street intersection, including North Kenwood Boulevard and West Euclid Avenue.*
- 11. The request does not meet all four findings of fact required for the approval of a variance application.*

DECISION

According to Section 165.02(3)(B)(3)(b) of the Code of Ordinances of Indianola, Iowa to grant a variance from the terms of the Zoning Ordinance when a property owner can show that the owner's property was acquired in good faith and where by reason of exceptional narrowness,

shallowness, or shape of a specific piece of property, or where by reason of exceptional topographical conditions or other extraordinary or exceptional situation, the strict application of the terms of the Zoning Ordinance actually prohibits the use of such property in a manner reasonably similar to that of other property in the same district, and where the Board is satisfied under the evidence before it that a literal enforcement of the provisions of the Zoning Ordinance would result in unnecessary hardship; provided, however, all variations granted under this clause shall be in harmony with the general purpose and intent of the Zoning Ordinance. Furthermore, the following findings shall be made in order to grant a variance:

- i. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district;
- ii. That literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance;
- iii. That the special conditions and circumstances do not result from the actions of the applicant;
- iv. That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same district. No nonconforming use of neighboring lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance.

In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violation of any such conditions and safeguards shall be deemed a violation of this Ordinance. Under no circumstances shall the Board grant a variance to allow a use not permissible under the terms of the Zoning Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of the Zoning Ordinance in said district. If relevant and applicable, the Board may prescribe a time limit within which the action for which the variance is required shall begin or be completed, or both. Failure to begin or complete, or both, such action within the time limit shall void the variance. If no time limit is set by the Board and if relevant to the variance, then the granted variances shall become void eighteen months after the date of the Board approval unless a building permit has been issued for the construction provided for by the variance. In the event the building permit for the construction provided for by the variance expires or is canceled, then the variance approval shall become void.

Analysis of Code Criteria

Michael Schumacher is seeking a variance to allow for fencing located in the front yard area to exceed the maximum allowable height of four feet by two feet, for a maximum allowable height of six feet. The fencing is located on 601 North Kenwood Boulevard, a residential corner lot. The fence was placed on the property in May of 2021.

The subject property fronts along North Kenwood Boulevard and West Euclid Avenue. According to the Iowa Department of Transportation (IDOT), the estimated Average Annual Daily Traffic (AADT) for Kenwood Blvd is 1,650 vehicles, as of 2012. The AADT for W Euclid is 1,840 as of 2012. Kenwood Blvd is classified as a minor arterial roadway, connecting Iowa Highway 92 to Iowa Avenue and Euclid Avenue and will continue to grow in AADT and vehicle traffic as Western Indianola develops. West Euclid Avenue is considered a minor collector, serving as a connection point to major collectors and arterial streets.

Lot characteristics show that there are topographic conditions that exist for the site, including slopes near the northwest corner of the property, located in the rear yard area.

The Zoning Code today and as was adopted in May of 2021 does not allow for fencing located in the front yard areas of a property to exceed a maximum height of four feet. The purpose and the intent of limiting the maximum height requirement for fencing within the front yard areas is to ensure visibility at street intersections, as well as maintain open space. As a result, approval of the request would result in the detriment to the public as the location of the fence will be along the front property line and create a decreased line of sight.

The strict application of the zoning code requirement would not result in an exceptional and undue hardship on the owner of the property, as the owner is not deprived of developing the property in the same manner as surrounding properties. Likewise, approval of the request would bestow upon the property and property owner a special privilege inconsistent with the limitations upon other properties within the vicinity and regulatory zone.

ORDER

MOTION:

Move to deny the request from Michael Schumacher for a variance under the terms of Section 165.02(3)(B) of the Code of Ordinances of Indianola, Iowa, to vary from maximum fence height requirements for fencing located in the front yard area from 4-feet by 2-feet, for a maximum allowable fence height of 6-feet in front yard areas to which if allowed as requested, would not be in conformity with the requirements of Section 165.04.4.A(1) and 165.04.4.A(2) of the Code of Ordinances of Indianola, Iowa.

VOTE:(_____) (_____)

WHEREFORE, it is ordered that the application from Michael Schumacher for a variance under the terms of Section 165.02(3)(B) of the Code of Ordinances of Indianola, Iowa, to vary from maximum fence height requirements for fencing located in the front yard area from 4-feet by 2-feet, for a maximum allowable fence height of 6-feet in front yard areas to which if allowed as requested, would not be in conformity with the requirements of Section 165.04.4.A(1) and 165.04.4.A(2) of the Code of Ordinances of Indianola, Iowa is hereby **denied**, as evidence by the Board's finding that all code criteria **have not** been met as required by the Code of Ordinances of Indianola, Iowa; and

WHEREFORE, any taxpayer, or any officer, department, board or bureau of the City, or any person or persons jointly or severally aggrieved by any decision of the Board may present to a court of record a petition, pursuant to Iowa Code 17A.19, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) days after the filing of the decision in the office of the Board.

Ordered this 7th day of August, 2024

Chairperson
Board of Adjustment

FILING DATE:

City of Indianola, Iowa



MEMORANDUM

To: Board of Adjustment

From: Emily Rizvic, Associate Planner

Date: August 7, 2024

Subject: Consider request from Michael Schumacher to vary from accessory structure location requirements.

Recommendation: Staff recommends that the Indianola Board of Adjustment move alternative 1, to approve of the variance request, as submitted.

- Attachments:**
- 1. Staff Report
 - 2. Written Narrative
 - 3. Application
 - 4. Site Plan
 - 5. On-Site Images
 - 6. Decision and Order



COMMUNITY DEVELOPMENT

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STAFF REPORT

BOARD OF ADJUSTMENT

Date of Meeting: August 7, 2024

Agenda Item: 5.B Consider request from Michael Schumacher to vary from accessory structure location requirements.

Application Type: Variance

Applicant/Property Owner: Michael and Jaynell Schumacher

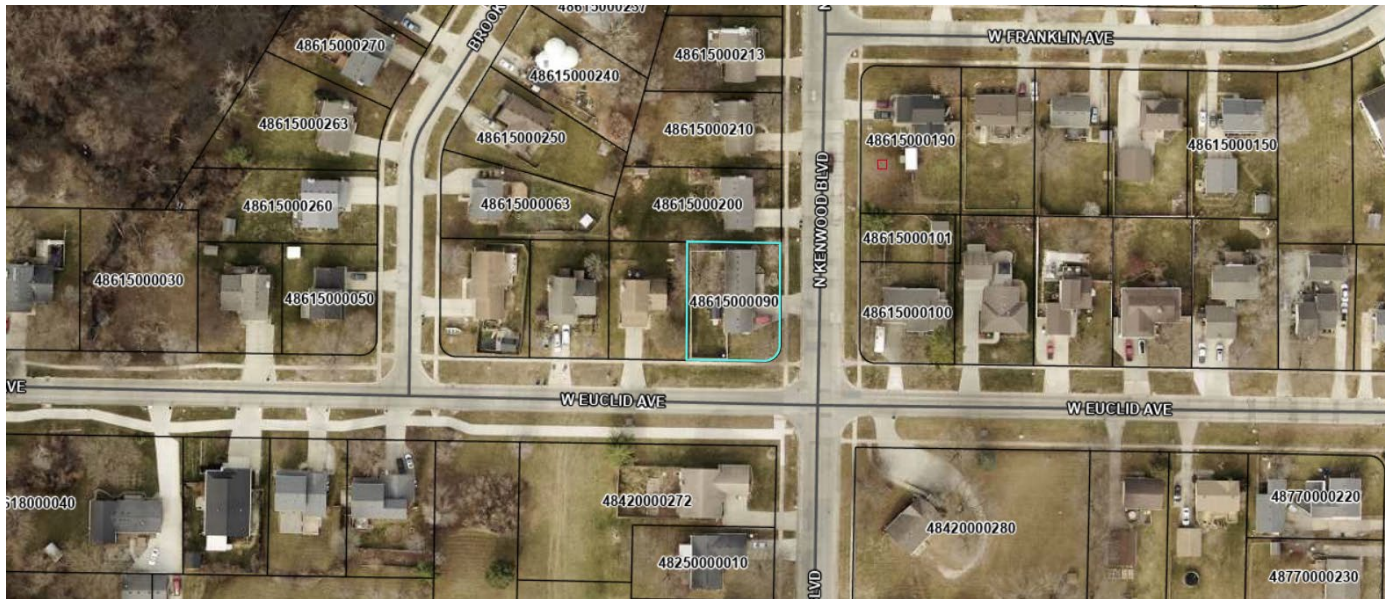
Property Address: 601 N Kenwood Blvd (Parcel ID #486/1500-0090)

Zoning: R-1, Single-Family Residential Detached Zoning District

Application Summary

Michael Schumacher has submitted a variance request for property located at 601 N Kenwood Blvd. The request is to vary from accessory structure location requirements, which requires accessory structures to be located in the rear yard. The applicant proposed the request to permit the construction of an above-ground pool within the front yard area. Such proposal would not conform to the City Zoning Code Section 165.04.2(D)(1) and Section 165.04.2(D)(3).

AERIAL MAP



APPLICABLE CODE SECTIONS

The following code sections of the Code of Ordinances of Indianola, Iowa apply to this request:

165.02(3)(B) POWERS AND DUTIES OF THE BOARD OF ADJUSTMENT.

The Board of Adjustment has the following powers and duties:

3. Variances: Conditions Governing Applications; Procedures. To authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest where, owing to the special conditions, a literal enforcement of the provisions of this chapter would result in unnecessary hardship. A variance from the terms of this chapter shall not be granted by the Board of Adjustment unless and until:

A. A written application of a variance is submitted demonstrating:

- (1) That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district;
- (2) That literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter;
- (3) That the special conditions and circumstances do not result from the actions of the applicant;
- (4) That granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures, or buildings in the same district. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted use of land, structures or buildings in other districts shall be considered grounds for the issuance of a variance.

B. Notice of public hearing shall be given as in subsection 2(B) above.

C. The public hearing shall be held. Any party may appear in person, or by agent or by attorney.

D. The Board of Adjustment shall make findings that the requirements of paragraph A of this subsection have been met by the applicant for a variance.

E. The Board of Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure.

F. The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this chapter, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this chapter. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter and punishable under Section 165.23 of this chapter. Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this chapter in the district involved, or any use expressly or by implication prohibited by the terms of this chapter in said district.

165.04(2) ACCESSORY BUILDINGS AND STRUCTURES.

D. Location and Setbacks. The following location and setback requirements shall apply to all accessory buildings and structures:

(1) Accessory buildings and structures shall only be erected to the rear of any principal building. No accessory structure shall be located between any principal building and any street. A detached, private garage may be constructed along the side of a principal building provided that said garage is no closer than ten (10) feet from the principal building and does not extend past the front face of the principal building.

(3) When located upon a corner lot, the front yard regulation shall apply to each street frontage and no accessory building or structure shall be located within either of these front yards.

ANALYSIS

Subject Property and Surrounding Land Uses

Michael Schumacher has submitted a variance for the property at 601 N Kenwood Blvd (Parcel #486/1500-0090) to allow for the construction of an accessory structure within the front yard area of the property. The proposed accessory structure is for an above-ground pool. The subject property is a 0.23-acre lot and contains a single-family dwelling. The subject property is currently zoned for the R-1 'Single-Family Residential Detached' Zoning District.

To the North, East, South, and West of this property exists single-family dwellings, on parcels of varying sizes. The subject property is a corner lot and fronts along North Kenwood Blvd and W Euclid Avenue. According to the Iowa Department of Transportation (IDOT), the estimated Average Annual Daily Traffic (AADT) for Kenwood Blvd is 1,650 vehicles, as of 2012. The AADT for W Euclid is 1,840 as of 2012.

Kenwood Blvd is classified as a minor arterial roadway, connecting Iowa Highway 92 to Iowa Avenue and Euclid Avenue and will continue to grow in AADT and vehicle traffic as Western Indianola develops. West Euclid Avenue is considered a minor collector, serving as a connection point to major collectors and arterial streets.

The subject parcel appears to contain topographic conditions, including slopes near the northwest corner of the property, located in the rear yard. The subject parcel does not contain floodplain.

Future Land Use

According to the “Elevate Indianola” Comprehensive Plan, the future land use of this area is designated as Low Density Residential. The Low Density Residential land use designation guides for 2-5 dwelling units per gross acre with residential building types including single-family detached dwellings, accessory dwelling units, and innovative or non-traditional single-family forms. Civic uses and places of worship are permitted if compatibility standards are met.

FINDINGS OF FACT

According to Section 165.02.3.B.(3)b. of Indianola’s Zoning Code, in deciding whether to grant a variance request, the Board of Adjustment shall consider all the following legal principles. **All legal principles shall be satisfied in order for the Board of Adjustment to grant a variance.**

- i. **That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district;**

Staff Comment: This finding of fact asks for the Board to find whether special conditions or circumstances exist which are peculiar to the land and which are not applicable to other lands in the R-1 'Single-Family Residential Detached' Zoning District.

The applicant is proposing a variance request to permit the construction of an accessory structure within the front yard of 601 North Kenwood Boulevard. The subject area does include slope or topographic conditions, including at the northwest corner, which may impact the siting of an accessory structure on the site. Similarly, the site may be considered as exceptionally narrow due to building orientation on the lot.

The site may be exceptionally narrow due to building orientation as the building is oriented towards the lots widest frontage along North Kenwood Boulevard. This frontage is measured at 119.91 feet, versus the south frontage along West Euclid Avenue, which measures at 74.80 feet. Because the house is oriented towards the widest frontage, this reduces the available area to site an accessory structure for the lot.

Because of these conditions and characteristics of the lot and property, staff views this finding favorably.

This criteria is met.

Applicant Comment: Seeking a variance to extend the pool location, southwest of the garage, into the side yard. Due to the fact that I have a corner property, the side yard is considered the front yard, but is the only suitable location for the pool.

- ii. **That literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter.**

Staff Comment: In regards to the request to allow for an accessory structure to be constructed or placed in the front yard area, the applicant could be deprived of a right that is otherwise commonly enjoyed by other properties within the R-1 Zoning District, as there

is limited buildable area to place an accessory structure on-site, as indicated in the previous analysis.

This criteria is met.

Applicant Comment: I do not have any other spot on the property that would be suitable for pool placement.

iii. That the special conditions and circumstances do not result from the actions of the applicant;

Staff Comment: This finding of fact asks whether conditions or hardship experienced by the applicant are self-imposed. The applicant is not responsible for topographic conditions on the site, the building orientation, nor the lot dimensions on the site that limit the siting of an accessory structure. These conditions are characteristic of the lot itself and are not a direct result from the actions of the applicant.

The strict application of the siting requirements for an accessory structure in the R-1 Zoning District may constitute an unnecessary hardship upon the applicant, and as such, staff finds this finding favorably.

This criteria is not met.

Applicant Comment: The area requested is the only semi level spot on the property. There are several neighbors in the area that have accessory buildings in their front or side yard.

iv. That granting the variance request will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures, or buildings in the same district. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted use of land, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

Staff Comment: This finding of fact asks whether a special privilege would be granted to the applicant that is otherwise denied to other lands, structures, or buildings within the same zoning district. Variances are granted when a hardship for a property owner occurs, which simultaneously disenfranchises the property owner from a right that other property owners within the same zoning district commonly have. If the variance were to be granted, the applicant would not receive any special privilege that are denied to other lands, structures, or buildings.

Because the siting of an accessory structure is limited due to topographic conditions and due to being an exceptionally narrow lot due to building orientation, the request would grant relief to the applicant that most properties have a right to. As a result, staff finds this finding favorably.

This criteria is not met.

Applicant Comment: There are other items throughout the neighborhood are located in the front yard. In my opinion, granting this variance would not be special treatment, due to

circumstances out of my control. If these variances are approved, we will have a chance to enjoy our property.

SUMMARY OF FINDINGS

The following summary of findings are provided as part of this variance request:

- 1) The request is favorable towards all findings of fact, outlined in the Zoning Code.
- 2) Topographic conditions, including slopes near the northwest corner of the property, limits the siting of an accessory structure.
- 3) The site is considered exceptionally narrow due to the primary building being orientated towards the widest street frontage.
- 4) Granting the variance would not provide a right and privilege that other properties do not have under the City of Indianola's Zoning Code Regulations.
- 5) Deviation from the Zoning Code Regulations would be in harmony with the intent and purpose of the zoning code, if conditions are placed
- 6) An unnecessary hardship does not exist if the request is denied, as the applicant has other options and the property owner can still build an accessory structure that is up to code requirements.

If the variance were to be denied, the Board of Adjustment should be prepared to summarize, for inclusion in the minutes of the meetings, its reasons to approve, which will serve as the applications decision and order.

COMMENTS FROM THE GENERAL PUBLIC

Notification letters were mailed to surrounding property owners regarding the variance request the week of July 26, 2024. No comments were received at the time of the writing of this report.

ALTERNATIVES

The City of Indianola Board of Adjustment may consider the following alternatives:

- 1) **The City of Indianola Board of Adjustment approves the variance request, as submitted.**
- 2) The City of Indianola Board of Adjustment approved the variance request, with conditions.
- 3) The City of Indianola Board of Adjustment denies the variance request.
- 4) The City of Indianola Board of Adjustment remands the variance request back to the applicant and/or staff for further review and/or modifications and directs staff to place this item on a future Board of Adjustment agenda.

RECOMMENDATION

Staff recommends that the Indianola Board of Adjustment move alternative 1, to approve of the variance request, as submitted.

July 7, 2024

re: swimming pool
601 N Kenwood Blvd
Indianola, Ia 50125

This letter is in regards to the installation of a swimming pool on my property at 601 N Kenwood Blvd. On June 28th, 2024, my contractor called and was going to pull permits to install a swimming pool on my property. He was advised that the pool location would not be compliant at this location. Due to my property being a corner lot, the pool would be located in my “front yard”.

My property at the top of the hill of Euclid Ave and Kenwood Blvd, slopes severely down hill to the north. I have a large tree in the back yard along with a storage shed. These two items along with the slope, prevent any pool to be located in the “back yard”. The only halfway level spot is located to the southwest of my garage on my property. I have a privacy fence in place to help hide the pool from the street view.

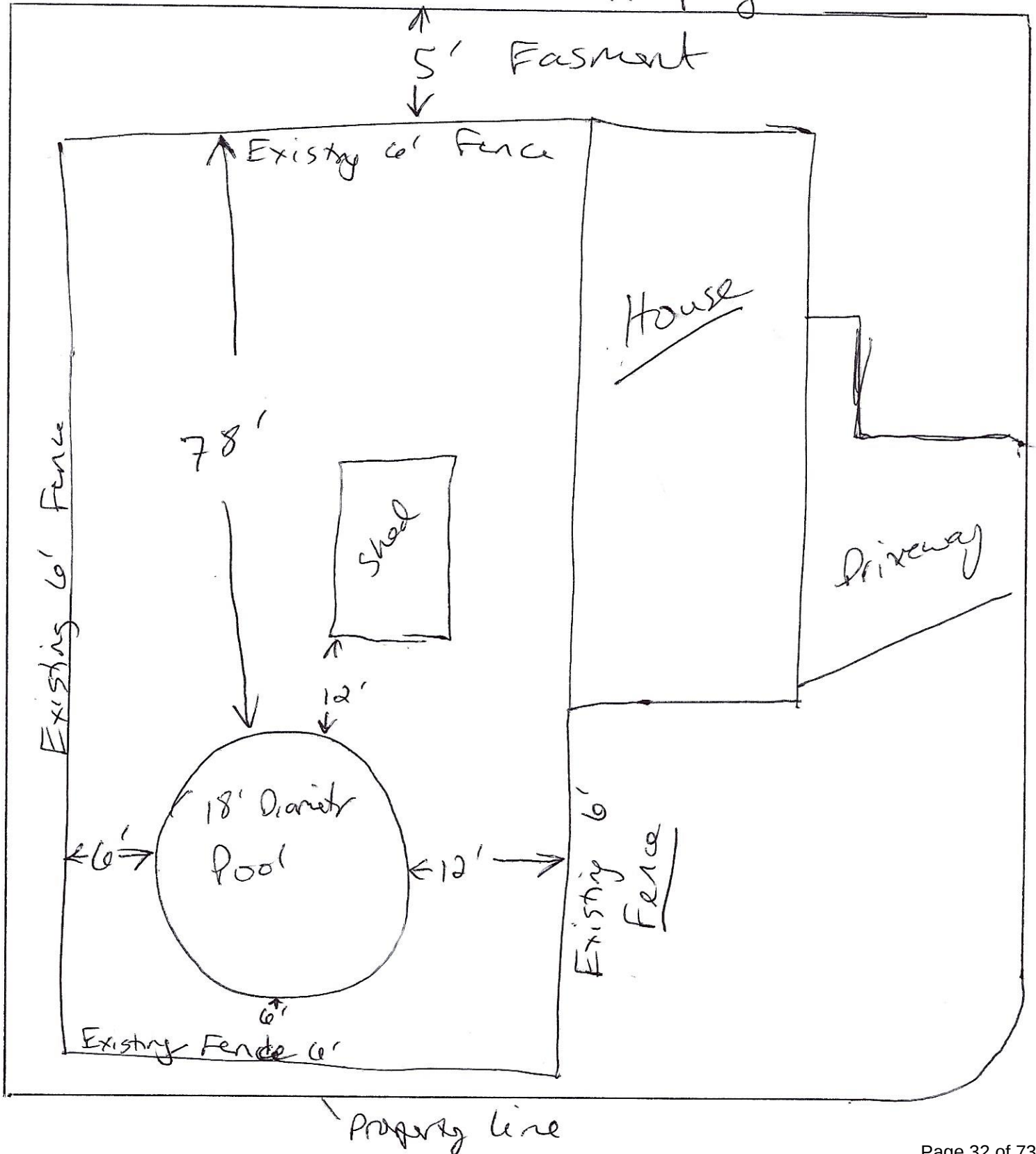
I am asking for a variance to allow the pool to be placed in the “front yard” behind the fence along the south side of my property at 601 N Kenwood Blvd.

Thank you,
Mike Schumacher

BOARD OF ADJUSTMENT APPLICATION		Community Development 110 North 1st Street, Indianola, Iowa 50125-0299 (515) 961-9430 • community@indianolaiowa.gov	
PROPERTY OWNER (Last Name) <u>Schumacher</u> (First Name) <u>Mike</u> (Address) <u>601 N Kenwood Blvd</u> (City) <u>Indianola</u> (State) <u>Ia</u> (Zip) <u>50125</u> (Phone) <u>515-240-4580</u> (Email) <u>shoeracer4@msn.com</u>		APPLICANT (if not Property Owner) (Last Name) _____ (First Name) _____ (Address) _____ (City) _____ (State) _____ (Zip) _____ (Phone) _____ (Email) _____	
☐ APPEAL <u>Submittal Requirements:</u> <i>All submittal requirements must be completed. Incomplete applications will not be considered</i> ☐ Completed Application ☐ Filing Fee: <u>\$300 per request</u> ☐ Written narrative indicating where it is alleged there is error in any order, requirement, decision, or determination made by the Administrative Officer in the enforcement of this Code of Ordinances of Indianola, Iowa. ☐ Other Information as required by Director	☐ SPECIAL USE PERMIT <u>Submittal Requirements:</u> <i>All submittal requirements must be completed. Incomplete applications will not be considered</i> ☐ Property Address: _____ ☐ Completed Application ☐ Filing Fee: <u>\$300 per request</u> ☐ Site Plan and Elevations as outlined in 165.06 ☐ Written narrative indicating the special use permit sought and response to the criteria outlined in Section 165.02(3)(B)(3)(c)(v) of the Code of Ordinances of Indianola, Iowa ☐ Other Information as required by Director	☒ VARIANCE <u>Submittal Requirements:</u> <i>All submittal requirements must be completed. Incomplete applications will not be considered</i> ☒ Property Address: <u>601 N Kenwood Blvd Indianola, Ia</u> ☐ Completed Application ☐ Filing Fee: <u>\$300 per request</u> ☐ Site Plan and Elevations ☐ Written narrative indicating justification for proposed variance and response to the criteria outlined in Section 165.02(3)(B)(3)(b) of the Code of Ordinances of Indianola, Iowa ☐ Other Information as required by Director	FOR OFFICE USE ONLY Date Received: <u>JUL 18 2024</u> Receipt No: _____ Receipt Amount: _____ BOA Agent: <u>INDIANOLA, IA</u>
I certify that the information and exhibits submitted are true and correct to the best of my knowledge and that in filing this application I am acting with the knowledge, consent and authority of the owner(s) of the property. Pursuant to said authority, I hereby permit City officials to enter upon the property for the purpose of inspection related to this application.			
Signature <u>Mike Schumacher</u> Name (printed) <u>Mike Schumacher</u>		Date <u>7-7-24</u>	

Schumacher Residence
601 N Kenwood Blvd
Indianapolis, IN

Property line





CITY OF INDIANOLA, IOWA

BOARD OF ADJUSTMENT

IN THE MATTER OF THE APPLICATION OF:

Michael Schumacher for a variance under the terms of Section 165.02(3)(B) of the Code of Ordinances of Indianola, Iowa, to allow for the construction of an accessory structure to be located within the front yard area to which if allowed as requested, would not be in conformity with the requirements of Section 165.04.2(D)(1) and 165.04.2(D)(3) of the Code of Ordinances of Indianola, Iowa.

FINDINGS OF FACT

The City of Indianola, Iowa Board of Adjustment has reached the following Findings of Fact:

- 1. The property identified as 601 North Kenwood Boulevard is owned by Michael and Jaynell Schumacher.*
- 2. The property identified as 601 North Kenwood Boulevard is zoned for the R-1 Single-Family Residential Detached Zoning District.*
- 3. The property identified as 601 North Kenwood Boulevard is identified as a residential corner lot, containing two frontages.*
- 4. The property identified as 601 North Kenwood Boulevard contains topographic conditions, including slopes near the northwest corner of the property which may limit the siting of an accessory structure.*
- 5. The property identified as 601 North Kenwood Boulevard is considered exceptionally narrow due to the primary building being oriented towards the widest street frontage.*
- 6. City Zoning Code Section 165.04.2(D)(1) requires accessory buildings and structures to be erected in the rear of any principal building.*
- 7. City Zoning Code Section 165.04.2(D)(1) prohibits accessory structures from being located between any principal building and any street.*
- 8. City Zoning Code Section 165.04.2(D)(3) clarifies that for residential corner lots, the front yard regulation shall apply to each street frontage, prohibiting accessory buildings and structures from being located within the front yard areas.*
- 9. A variance is requested in order to allow for accessory structures to be placed in the front yard areas of the property.*
- 10. The request meets all four findings of fact required for the approval of a variance application.*

DECISION

According to Section 165.02(3)(B)(3)(b) of the Code of Ordinances of Indianola, Iowa to grant a variance from the terms of the Zoning Ordinance when a property owner can show that the owner's property was acquired in good faith and where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property, or where by reason of exceptional topographical conditions or other extraordinary or exceptional situation, the strict application of

the terms of the Zoning Ordinance actually prohibits the use of such property in a manner reasonably similar to that of other property in the same district, and where the Board is satisfied under the evidence before it that a literal enforcement of the provisions of the Zoning Ordinance would result in unnecessary hardship; provided, however, all variations granted under this clause shall be in harmony with the general purpose and intent of the Zoning Ordinance. Furthermore, the following findings shall be made in order to grant a variance:

- i. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district;
- ii. That literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance;
- iii. That the special conditions and circumstances do not result from the actions of the applicant;
- iv. That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same district. No nonconforming use of neighboring lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance.

In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violation of any such conditions and safeguards shall be deemed a violation of this Ordinance. Under no circumstances shall the Board grant a variance to allow a use not permissible under the terms of the Zoning Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of the Zoning Ordinance in said district. If relevant and applicable, the Board may prescribe a time limit within which the action for which the variance is required shall begin or be completed, or both. Failure to begin or complete, or both, such action within the time limit shall void the variance. If no time limit is set by the Board and if relevant to the variance, then the granted variances shall become void eighteen months after the date of the Board approval unless a building permit has been issued for the construction provided for by the variance. In the event the building permit for the construction provided for by the variance expires or is canceled, then the variance approval shall become void.

Analysis of Code Criteria

Michael Schumacher is seeking a variance to allow for the construction of an accessory structure to be located within the front yard area at property identified as 601 North Kenwood Boulevard, a residential corner lot.

The subject property fronts along North Kenwood Boulevard and West Euclid Avenue. According to the Iowa Department of Transportation (IDOT), the estimated Average Annual Daily Traffic (AADT) for Kenwood Blvd is 1,650 vehicles, as of 2012. The AADT for W Euclid is 1,840 as of 2012. Kenwood Blvd is classified as a minor arterial roadway, connecting Iowa Highway 92 to Iowa Avenue and Euclid Avenue and will continue to grow in AADT and vehicle traffic as Western Indianola develops. West Euclid Avenue is considered a minor collector, serving as a connection point to major collectors and arterial streets.

Lot characteristics show that there are topographic conditions that exist for the site, including slopes near the northwest corner of the property, located in the rear yard area. Additionally, the site is considered exceptionally narrow due to building orientation, as the primary structure is oriented towards the widest frontage, effectively narrowing the rear yard area for the site.

The strict application of the zoning code requirement would result in an exceptional and undue hardship on the owner of the property, as the owner is deprived of developing the property in the same manner as surrounding properties. Likewise, approval of the request would not bestow upon the property and property owner a special privilege inconsistent with the limitations upon other properties within the vicinity and regulatory zone.

ORDER

MOTION:

Move to approve the request from Michael Schumacher for a variance under the terms of Section 165.02(3)(B) of the Code of Ordinances of Indianola, Iowa, to allow for the construction of an accessory structure to be located within the front yard area to which if allowed as requested, would not be in conformity with the requirements of Section 165.04.2(D)(1) and 165.04.2(D)(3) of the Code of Ordinances of Indianola, Iowa.

VOTE:(_____) (_____)

WHEREFORE, it is ordered that the application from Michael Schumacher for a variance under the terms of Section 165.02(3)(B) of the Code of Ordinances of Indianola, Iowa, to allow for the construction of an accessory structure to be located within the front yard area to which if allowed as requested, would not be in conformity with the requirements of Section 165.04.2(D)(1) and 165.04.2(D)(3) of the Code of Ordinances of Indianola, Iowa is hereby **approved**, as evidence by the Board's finding that all code criteria **have** been met as required by the Code of Ordinances of Indianola, Iowa; and

WHEREFORE, any taxpayer, or any officer, department, board or bureau of the City, or any person or persons jointly or severally aggrieved by any decision of the Board may present to a court of record a petition, pursuant to Iowa Code 17A.19, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) days after the filing of the decision in the office of the Board.

Ordered this 7th day of August, 2024

Chairperson
Board of Adjustment
City of Indianola, Iowa

FILING DATE:



MEMORANDUM

To: Board of Adjustment

From: Emily Rizvic, Associate Planner, Kristen Hoss

Date: August 7, 2024

Subject: Consider request from Jay Clark to vary from the 40-foot minimum required front yard setback by 25-feet for a total front yard setback of 15-feet and to vary from the 40-foot required rear yard setback by 10-feet, for a total rear yard setback of 30-feet.

Recommendation: Staff recommends that the Indianola Board of Adjustment move alternative 1, to approve the variance request, as submitted.

Attachments:

1. Staff Report
2. Written Narrative
3. Application Form
4. Site Plan, Proposed
5. Architectural Elevations, Proposed
6. Decision and Order



COMMUNITY DEVELOPMENT

110 N. First Street, Indianola IA 50125-0299 • www.indianolaiowa.gov
(515) 961-9430 • comdev@indianolaiowa.gov

STAFF REPORT

BOARD OF ADJUSTMENT

Date of Meeting: August 7, 2024

Agenda Item: 5.C Consider request from Jay Clark to vary from the 40-foot minimum required front yard setback by 25-feet for a total front yard setback of 15-feet and to vary from the 40-foot required rear yard setback by 10-feet, for a total rear yard setback of 30-feet.

Application Type: Variance

Applicant and Property Owner: Brenda and Jay Clark

Property Address/Parcel: 203 West 2nd Avenue (Parcel ID #486/6004-0020 and -0033)

Zoning: C-2 'Highway Commercial' Zoning District

Application Summary

Jay Clark is requesting a variance for 203 West 2nd Avenue to vary from the 40-foot required front yard setback by 25-feet, for a total front yard setback of 15-feet, and to vary from the 40-foot required rear yard setback by 10-feet, for a total rear yard setback of 30-feet.

Agenda Item: 5.C Consider request from Jay Clark to vary from the 40-foot minimum required front yard setback by 25-feet for a total front yard setback of 15-feet and to vary from the 40-foot required rear yard setback by 10-feet, for a total rear yard setback of 30-feet.

AERIAL MAP



APPLICABLE CODE SECTIONS

The following code sections of the Code of Ordinances of Indianola, Iowa apply to this request:

165.02(3)(B) POWERS AND DUTIES OF THE BOARD OF ADJUSTMENT. The Board of Adjustment has the following powers and duties:

3. Variances: Conditions Governing Applications; Procedures. To authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest where, owing to the special conditions, a literal enforcement of the provisions of this chapter would result in unnecessary hardship. A variance from the terms of this chapter shall not be granted by the Board of Adjustment unless and until:

A. A written application of a variance is submitted demonstrating:

- (1) That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district;
- (2) That literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter;
- (3) That the special conditions and circumstances do not result from the actions of the applicant;
- (4) That granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures, or buildings in the same district. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted use of land, structures or buildings in other districts shall be considered grounds for the issuance of a variance.

B. Notice of public hearing shall be given as in subsection 2(B) above.

C. The public hearing shall be held. Any party may appear in person, or by agent or by attorney.

D. The Board of Adjustment shall make findings that the requirements of paragraph A of this subsection have been met by the applicant for a variance.

Agenda Item: 5.C Consider request from Jay Clark to vary from the 40-foot minimum required front yard setback by 25-feet for a total front yard setback of 15-feet and to vary from the 40-foot required rear yard setback by 10-feet, for a total rear yard setback of 30-feet.

E. The Board of Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure.

F. The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this chapter, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this chapter. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter and punishable under Section 165.23 of this chapter. Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this chapter in the district involved, or any use expressly or by implication prohibited by the terms of this chapter in said district.

165.05.3 NON-RESIDENTIAL BULK AND DENSITY REGULATIONS TABLE

NON-RESIDENTIAL BULK AND DENSITY REGULATIONS TABLE					
BULK AND DENSITY REGULATION BY ZONING DISTRICT	ZONING DISTRICTS				
	C-1	C-2	C-3	M-1	M-2
Front Yard Setback	30 ft	40 ft	0 ft	35 ft	35 ft
Side Yard Setback ¹	10 ft	10 ft	0 ft	20 ft	20 ft
Rear Yard Setback ²	10 ft	10 ft	0 ft	35 ft	35 ft
¹ 30 feet when said yard adjoins a residential zoning district or existing residential property.					
² 40 feet when said yard adjoins a R-1 or R-2 zoning district or existing single-family property.					

ANALYSIS

Subject Property

Matthew Palan, on behalf of Jay and Brenda Clark, is requesting a variance to reduce the minimum required front yard setback of 40-feet by 25-feet for a total front yard setback of 15-feet. The applicant is also requesting to vary from the 40-foot minimum required rear yard setback by 10-feet, for total rear yard setback of 30-feet. The subject property is currently vacant. The property owner has a development case in review for a site plan on file with the City, for the site. The proposed future use of the site is office (therapy services).

Surrounding land uses include a commercial building housing the ISU Extension and Outreach office to the north, a commercial facility offering car and tire services to the east, and single-family residential properties to the south and west.

The property is a corner lot with frontage along West 2nd Avenue and South Buxton Street. According to the Iowa Department of Transportation (IDOT), the Annual Average Daily Traffic (AADT) for West 2nd Avenue, a state highway, is 12,100 vehicles. The AADT for South Buxton Street, a local road, is 730 vehicles. The site is currently proposing access from South Buxton Street.

The subject area does not appear to contain environmentally sensitive features.

Future Land Use

According to the "Elevate Indianola" Comprehensive Plan, the future land use of this site is designated for Regional Mixed Use. The Regional Mixed Use land use designation includes

Agenda Item: 5.C Consider request from Jay Clark to vary from the 40-foot minimum required front yard setback by 25-feet for a total front yard setback of 15-feet and to vary from the 40-foot required rear yard setback by 10-feet, for a total rear yard setback of 30-feet.

retail, office, restaurants, bars, personal and business services, and similar commercial uses, generally of a large scale. It may incorporate multi-family residential uses up to 25 dwelling units per gross acre, if compatibility standards are met through a special exception review.

The variance application would allow for the front yard setback to be reduced from the required 40-foot setback by 25-feet, for a total front yard setback of 15-feet. It would also allow for the rear yard setback to be reduced from the required 40-foot setback by 10-feet, for a total rear yard setback of 30-feet. The applicant is requesting the proposal in order to develop the property in accordance with the Comprehensive Plan and underlying zoning district.

FINDINGS OF FACT

According to Section 165.02.3.B.(3)b. of Indianola's Zoning Code, in deciding whether to grant a variance request, the Board of Adjustment shall consider all the following legal principles. **All legal principles shall be satisfied in order for the Board of Adjustment to grant a variance.**

- i. **That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district;**

Staff Comment: This finding of fact asks for the Board to find whether special conditions or circumstances exist which are peculiar to the land and which are not applicable to other lands in the same zoning district. The subject property is unique compared to other properties within the C-2 'Highway Commercial' zoning district due to the location and layout of the development.

In addition to the corner lot containing two frontages, one along West 2nd Avenue and one along South Buxton Street, the shape of the lot is irregular in characteristic and layout due to its L-shaped configuration and significantly limits the siting of a building. Likewise, the properties are adjacent to residential uses. Adjacency to a residentially developed or zoned property imposes greater setbacks for the commercial property, hindering the property in being able to reasonably develop the site.

For the average commercial property in the C-2 Zoning District, the rear yard setback requirement for a C-2 zoned property is 10-feet. However, due to the adjacency of a residential property to the south, the rear setback is increased to 40-feet. This adjustment introduces additional constraints that are specific to this property.

Given the property's irregular configuration and unique circumstances that do not apply to other properties within the same zoning district, staff finds that this finding of fact can be met.

This criterion is met.

Applicant Comment: This lot has been vacant for 6 months. The requirements for the drive entrances from State Highway 92 make site circulation difficult. The drive separation requirement of 650 feet means that a drive entrance along Highway 92 is not allowed.

- ii. **That literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter. This finding of fact asks if the applicant would be deprived of a right commonly enjoyed by other properties within the zoning district;**

Staff Comment: This finding of fact asks whether the applicant would be deprived of a right that is commonly enjoyed by other properties within the same zoning district, under the terms of this chapter. Staff can find that applying the front and rear yard setback requirements would place significant constraints on the development of the subject property, depriving the applicant of the ability to utilize the property in a manner consistent with other properties within the C-2 Zoning District.

If the site were required to meet setback requirements as outlined in the Zoning Code for a C-2 Zoned Property, the subject area would have a buildable footprint that is approximately 15' x 80' in size (1,200 square feet). This buildable footprint does not account for the need to provide off-street parking to service the site, on-site circulation, and other site development requirements outlined in the code.

For these reasons, staff finds that this finding of fact may be viewed favorably.

This criteria is met.

Applicant Comment: The drive entrance from Buxton is set back as far as possible. The building is set back sufficiently from the corner that vision clearance triangles are not interrupted.

- iii. **That the special conditions and circumstances do not result from the actions of the applicant;**

Staff Comment: This finding of fact asks whether conditions or hardship experienced by the applicant are self-imposed. In this case, the unique challenges associated with the property are not the direct result of any actions taken by the applicant. Likewise, the applicant is limited in alternatives for reasonable use of the property.

Staff finds that this criteria is met.

This criteria is met.

Applicant Comment: The effective Building envelope for this site is a rectangle 15 feet deep by 80 feet long. This is also a corner lot that provides us with a double whammy for large setbacks from the street front and from the rear yard.

- iv. **That granting the variance request will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures, or buildings in the same district. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted use of land, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.**

Agenda Item: 5.C Consider request from Jay Clark to vary from the 40-foot minimum required front yard setback by 25-feet for a total front yard setback of 15-feet and to vary from the 40-foot required rear yard setback by 10-feet, for a total rear yard setback of 30-feet.

Staff Comment: This finding of fact asks whether a special privilege would be granted to the applicant that is otherwise denied to other lands, structures, or buildings within the same zoning district. Variances are granted when a hardship for a property owner occurs, which simultaneously disenfranchises the property owner from a right that other property owners within the same zoning district commonly have.

If this variance were to be granted, staff does not find that a special right or privilege would be granted to the property that other properties within the C-2 Zoning District do not have. Likewise, staff finds that the applicant may be disenfranchised if the request is not approved, because no alternatives exist for the applicant to make reasonable use of the site.

For this reason, staff finds that this finding can be met favorably.

This criteria is met.

Applicant Comment: Owners of other small corner lots will have the same hardships as this. The goal of the zoning may be to have similar situations handled on a case-by-case basis.

SUMMARY OF FINDINGS

The following summary of findings are provided as reasonings to deny the variance request:

- 1) The variance request is favorable towards all findings of fact, outlined in the Zoning Code.
- 2) The property is unique due to the characteristics of the site and the established use on the site.
- 3) The irregular shape and characteristics of the site, including adjacency to residentially zoned and developed properties, limits the siting and placement of a commercial building.
- 4) Granting the variance would not provide a right and privilege that other properties do not
- 5) The proposed property meets the intent and purpose of the City of Indianola Zoning Code.
- 6) A hardship could exist if the request is denied, as the applicants would not be able to make reasonable economical use of the land.

If the variance were to be denied, the Board of Adjustment should be prepared to summarize, for inclusion in the minutes of the meetings, its reasons to deny, which will serve as the applications decision and order.

COMMENTS FROM THE GENERAL PUBLIC

Agenda Item: 5.C Consider request from Jay Clark to vary from the 40-foot minimum required front yard setback by 25-feet for a total front yard setback of 15-feet and to vary from the 40-foot required rear yard setback by 10-feet, for a total rear yard setback of 30-feet.

Notification letters were mailed to surrounding property owners within 200-feet of the subject property regarding the variance request on July 26, 2024. No comments were received at the time of the writing of this report.

ALTERNATIVES

The City of Indianola Board of Adjustment may consider the following alternatives:

- 1) **The City of Indianola Board of Adjustment approves the variance request, as submitted.**
- 2) The City of Indianola Board of Adjustment approved the variance request, with conditions.
- 3) The City of Indianola Board of Adjustment denies the variance request.
- 4) The City of Indianola Board of Adjustment remands the variance request back to the applicant and/or staff for further review and/or modifications and directs staff to place this item on a future Board of Adjustment agenda.

RECOMMENDATION

Staff recommends that the Indianola Board of Adjustment move alternative 1, to approve the variance request, as submitted.

J & B Enterprises, LLC
2829 Buena Vista Dr
Clive, IA 53025
515-360-8481

Board of Adjustments
City of Indianola
110 N 1st St
Indianola, IA 50125

Re: J & B Enterprises, LLC project – Variance Request

To Whom it May Concern,

The J & B Enterprises, LLC project located at 203 W 2nd Ave includes lot improvements as well as the 2000 Sq Ft building. The proposed project generates one item of which a variance is requested:

Variance request #1 – Setbacks on the North side (facing Highway 92), East Side (facing Buxton St) and the southside of the lot.

We are requesting a setback of 15' on the North side, 15' on the East side and 30' on the South side of our 203 W 2nd Ave lot. This information was included on the variance request form submitted on 7/24/24 by our architect Matt Palan of Creative Concepts Architecture.

Please reach out to me on 515 360 8481 for any further needs.

Sincerely,

Jay Clark
J & B Enterprises, LLC

BOARD OF ADJUSTMENT APPLICATION

Community Development

110 North 1st Street, Indianola, Iowa 50125-0299
(515) 961-9430 • comdev@indianolaiowa.gov



PROPERTY OWNER

(Last Name) _____
(First Name) _____
(Address) _____
(City) _____ (State) _____ (Zip) _____
(Phone) _____ (Email) _____

APPLICANT (if not Property Owner)

(Last Name) _____
(First Name) _____
(Address) _____
(City) _____ (State) _____ (Zip) _____
(Phone) _____ (Email) _____

☐ APPEAL

Submittal Requirements:

*All submittal requirements must be completed.
Incomplete applications will not be considered*

- ☐ Completed Application
- ☐ Filing Fee: \$300 per request
- ☐ Written narrative indicating where it is alleged there is error in any order, requirement, decision, or determination made by the Administrative Officer in the enforcement of this Code of Ordinances of Indianola, Iowa .
- ☐ Other Information as required by Director

☐ SPECIAL USE PERMIT

Submittal Requirements:

*All submittal requirements must be completed.
Incomplete applications will not be considered*

- ☐ Property Address: _____
- ☐ Completed Application
- ☐ Filing Fee: \$300 per request
- ☐ Site Plan and Elevations as outlined in 165.06
- ☐ Written narrative indicating the special use permit sought and response to the criteria outlined in Section 165.02(3)(B)(3)(c)(v) of the Code of Ordinances of Indianola, Iowa
- ☐ Other Information as required by Director

☐ VARIANCE

Submittal Requirements:

*All submittal requirements must be completed.
Incomplete applications will not be considered*

- ☐ Property Address: _____
- ☐ Completed Application
- ☐ Filing Fee: \$300 per request
- ☐ Site Plan and Elevations
- ☐ Written narrative indicating justification for proposed variance and response to the criteria outlined in Section 165.02(3)(B)(3)(b) of the Code of Ordinances of Indianola, Iowa
- ☐ Other Information as required by Director

I certify that the information and exhibits submitted are true and correct to the best of my knowledge and that in filing this application I am acting with the knowledge, consent and authority of the owner(s) of the property. Pursuant to said authority, I hereby permit City officials to enter upon the property for the purpose of inspection related to this application.

Signature *Matthew J. Pala*

Name (printed) _____ Date _____

FOR OFFICE USE ONLY:

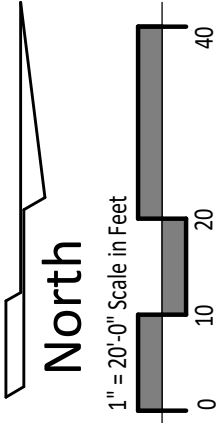
Code to 45180

Date Received: _____
Receipt No: _____
Receipt Amount: _____
BOA Agenda Date: _____

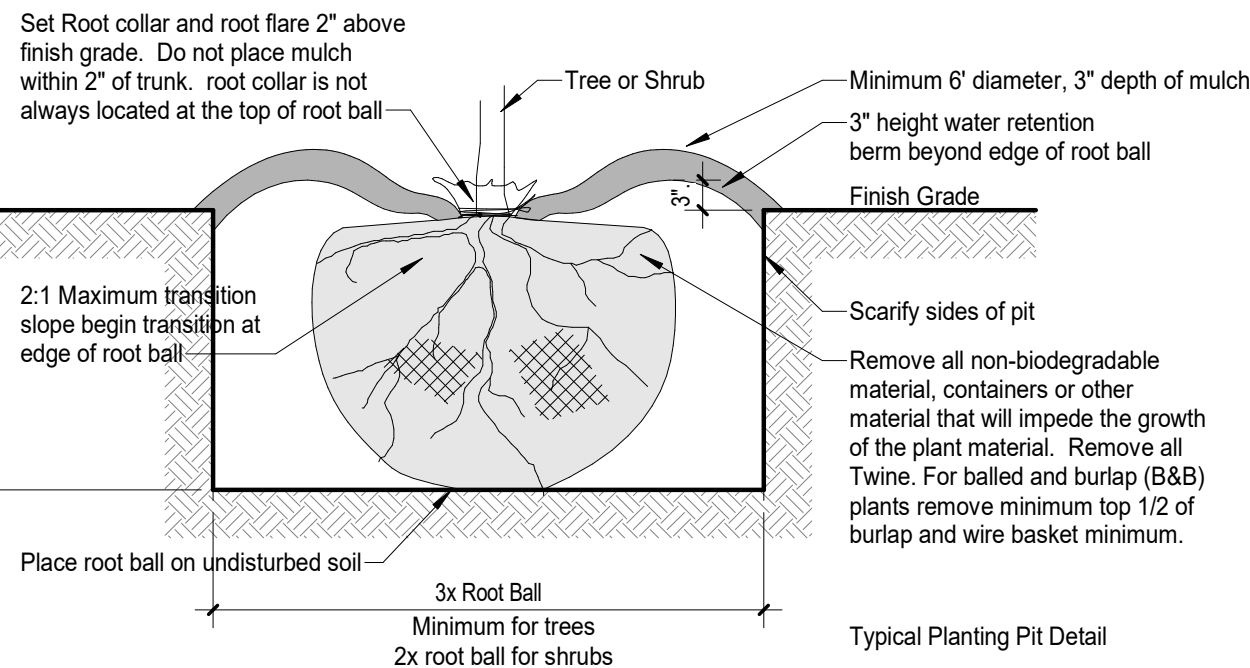
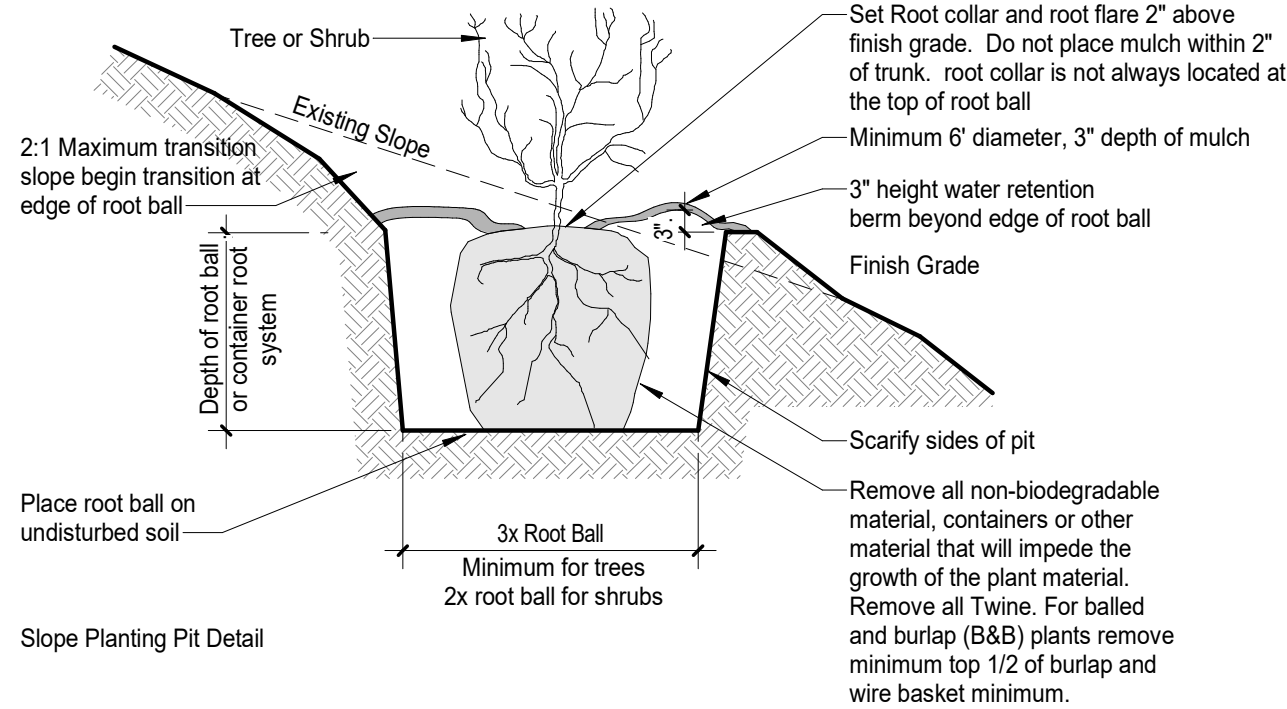
Planting Notes



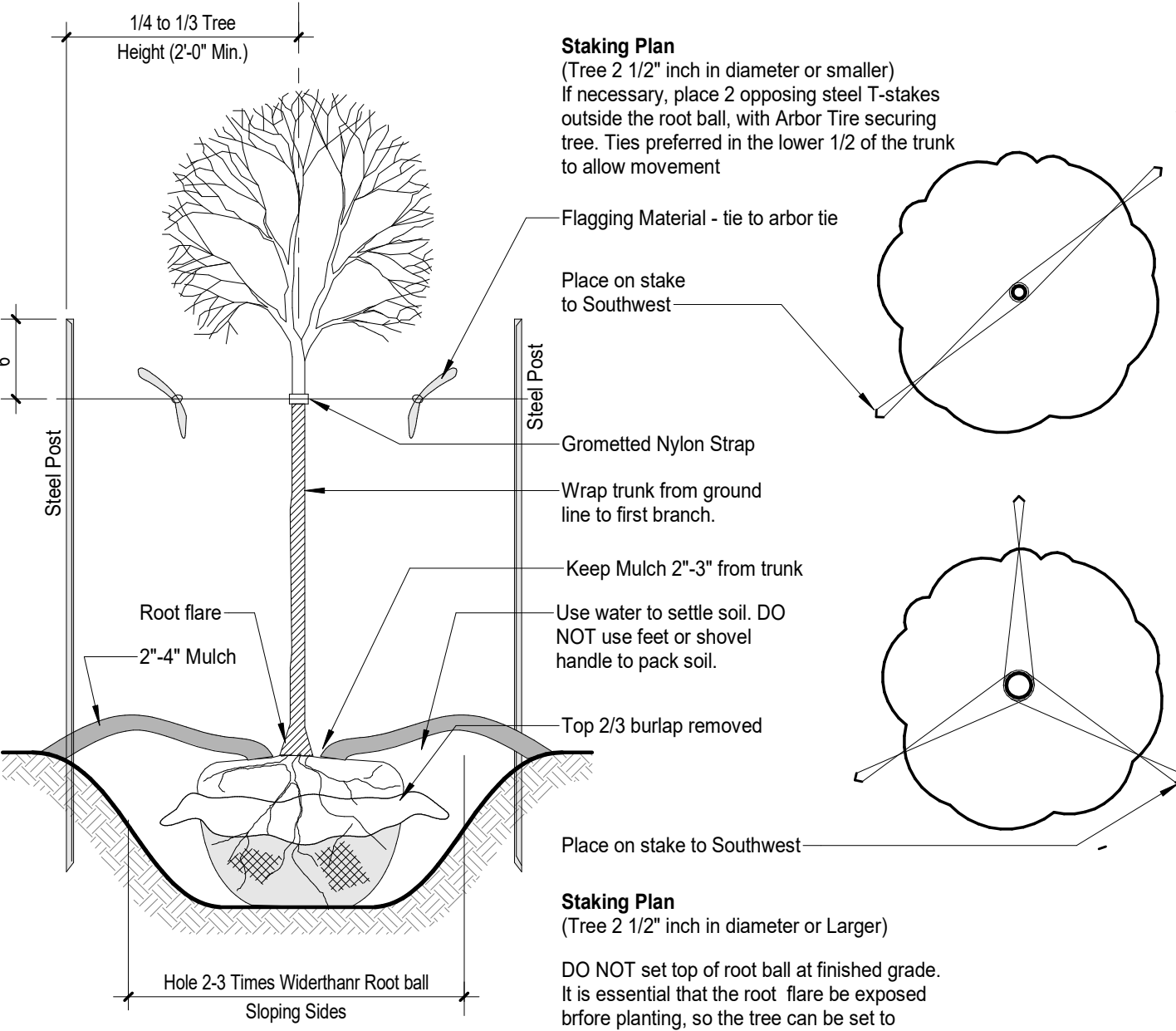
Parking setbacks
15' Front Yard
10' Rear Yard
10' Side Yard



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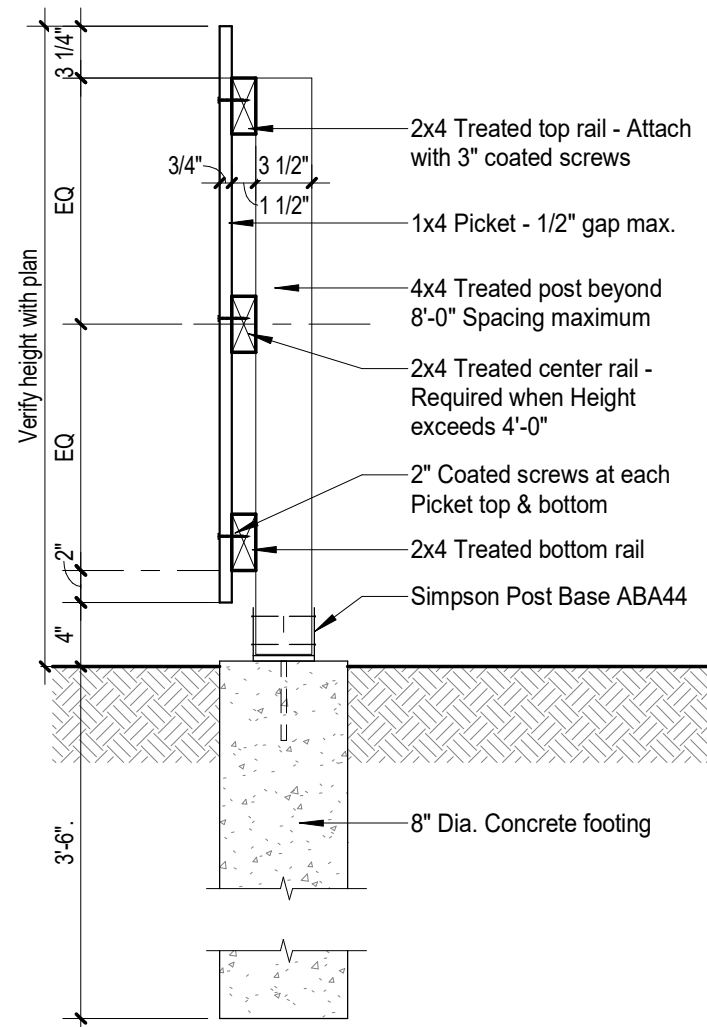


8 Shrub Planting



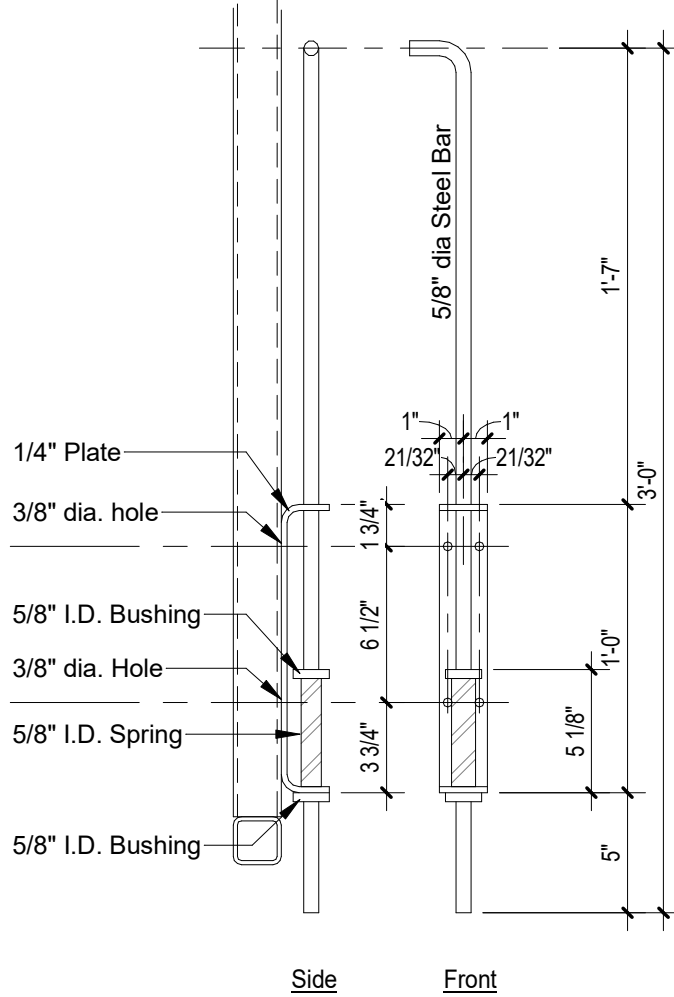
9 Tree Planting Detail

C102 1" = 1'-0"



7 Fence Detail

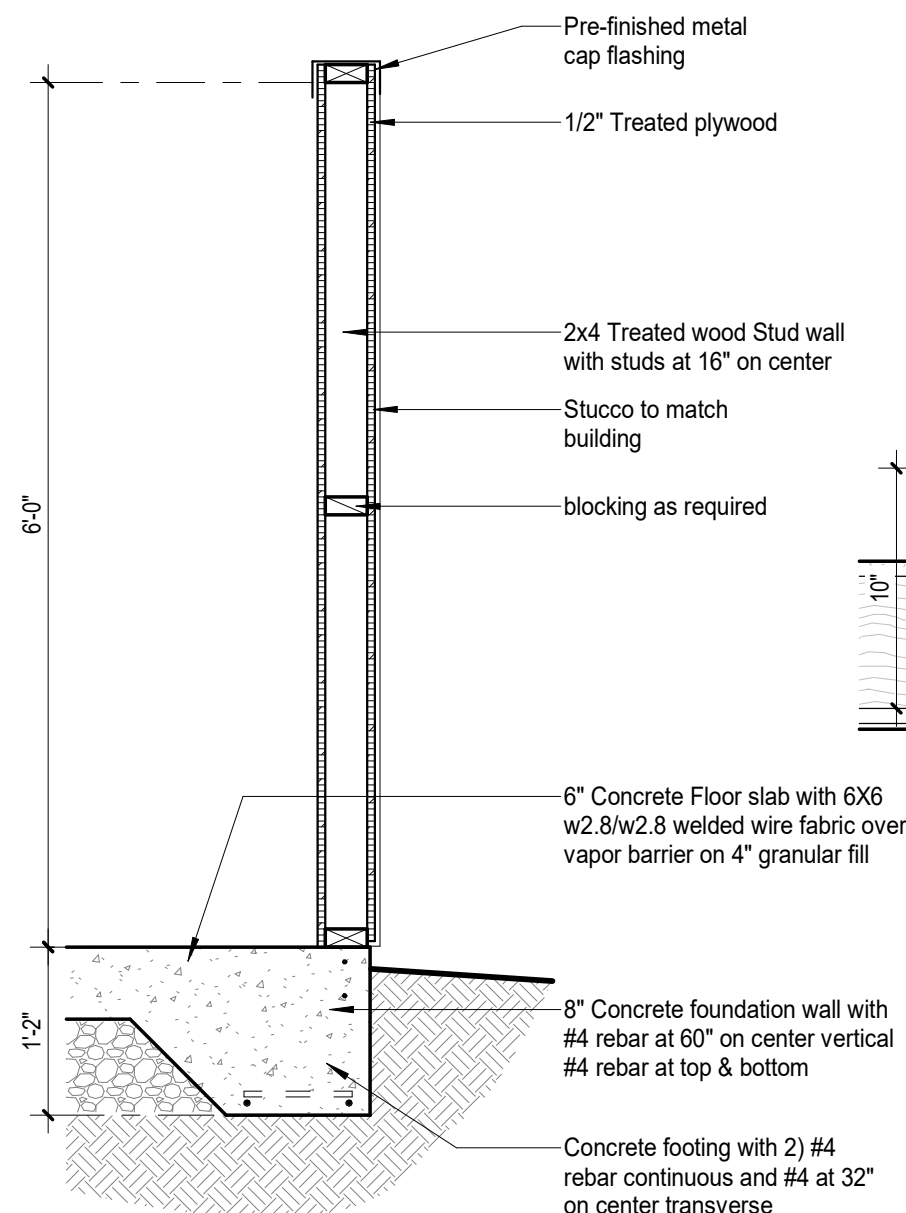
C102 1" = 1'-0"



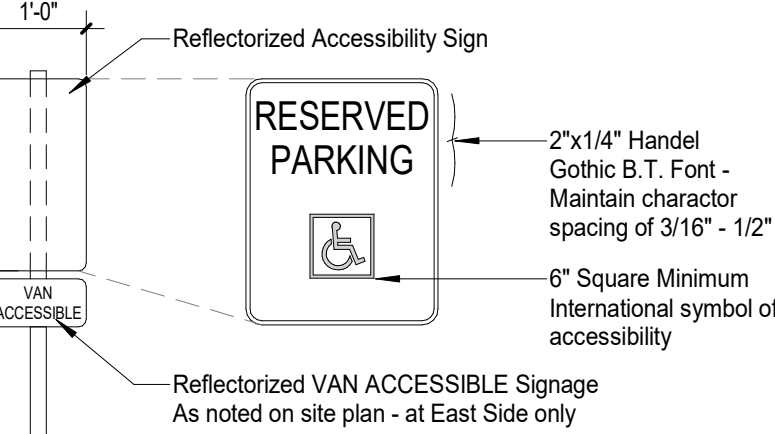
10 Cane Bolt

C102 1 1/2" = 1'-0"

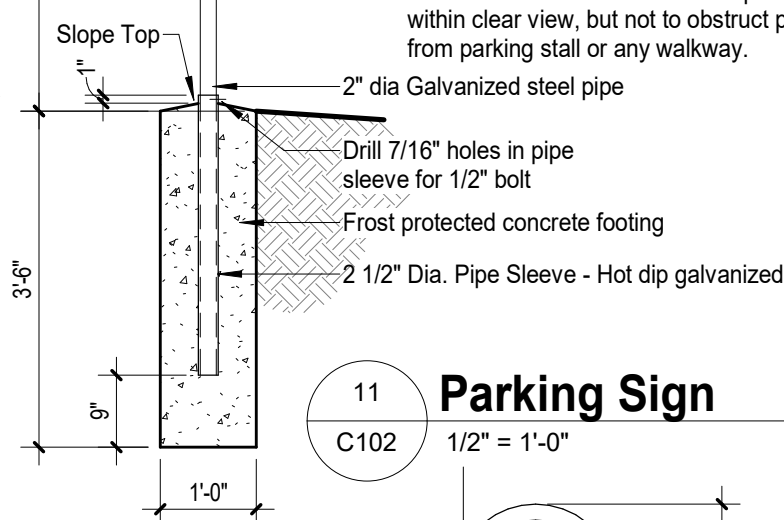
- Step 1 - peel back rope/burlap/cage and remove sufficient soil to expose root flare.
Step 2 - measure from root flare to bottom of root ball.
Step 3 - dig hole to depth where topmost roots are buried 1-2 inches and the root flare sits slightly above ground level. Dig a hole 2-3 times wider than the diameter of the root ball with sloping sides to allow for proper root growth.
Step 4 - remove lower third of wire cage.
Step 5 - set tree in hole. Support with some soil. Ensure that it's straight, then remove entire wire cage and top Two-thirds of burlap.
Step 6 - backfill with two-thirds of loose native soil (unless it's all clay) and use water to settle. Do not tamp Or step on soil.
Step 7 - backfill balance and water again. Excess soil may be used to create a berm/saucer outside of root ball.
Step 8 - add 2-4 inches of wood mulch, leaving a 1- to 2-inch clearance between the mulch and the trunk.
Step 9 - water a final time.
Step 10 - if necessary, place two opposing steel t-stakes outside the root ball with arbor tie securing tree. Ties preferred on lower half of trunk to allow movement.



4 Trash Enclosure Section

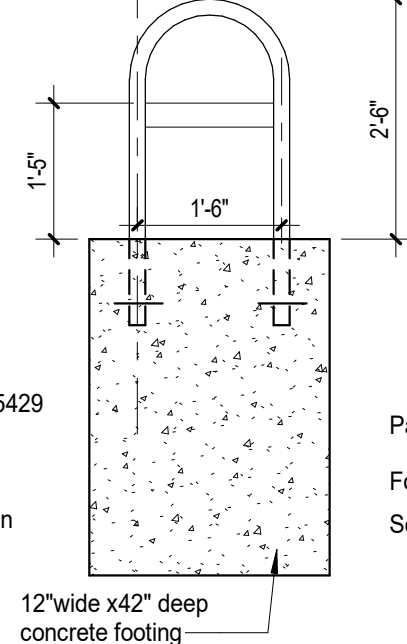


- Notes:
- Sign shall be constructed of 0.062" thick aluminum Minimum.
 - Lettering, Symbol and Border shall be reflective white, on blue background. with standard 3M Scotchlite sign face #R7-32. or equivalent
 - Place in front of each Accessible parking stall within clear view, but not to obstruct passage from parking stall or any walkway.



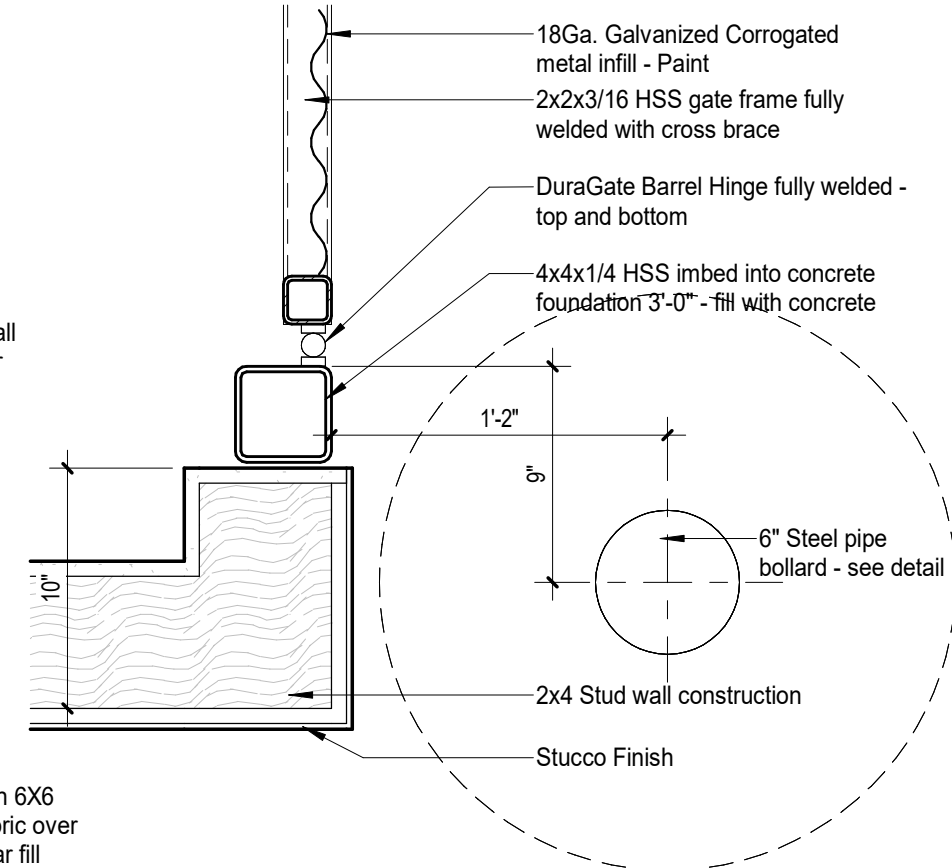
11 Parking Sign

C102 1/2" = 1'-0"



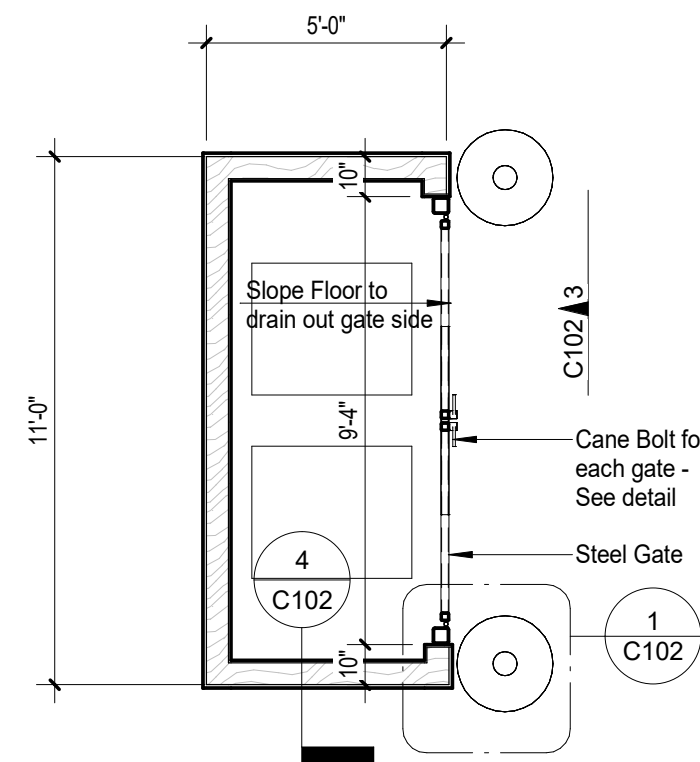
5 Bike Rack

C102 1/2" = 1'-0"



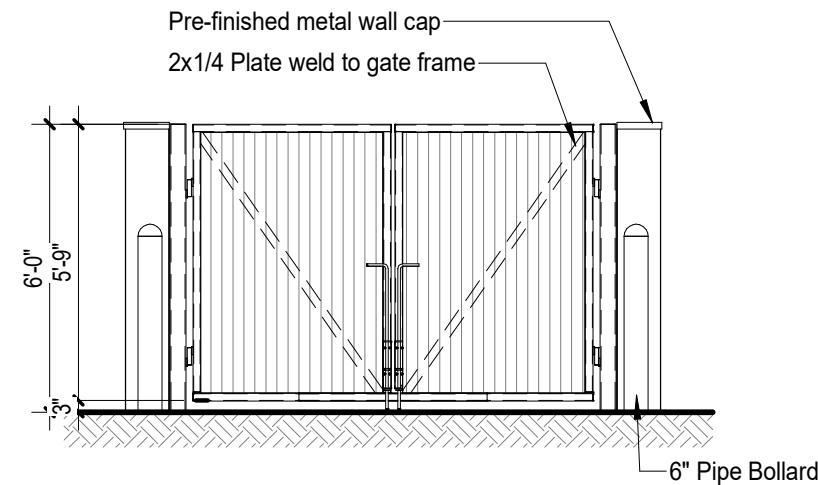
1 Gate Post

C102 1 1/2" = 1'-0"



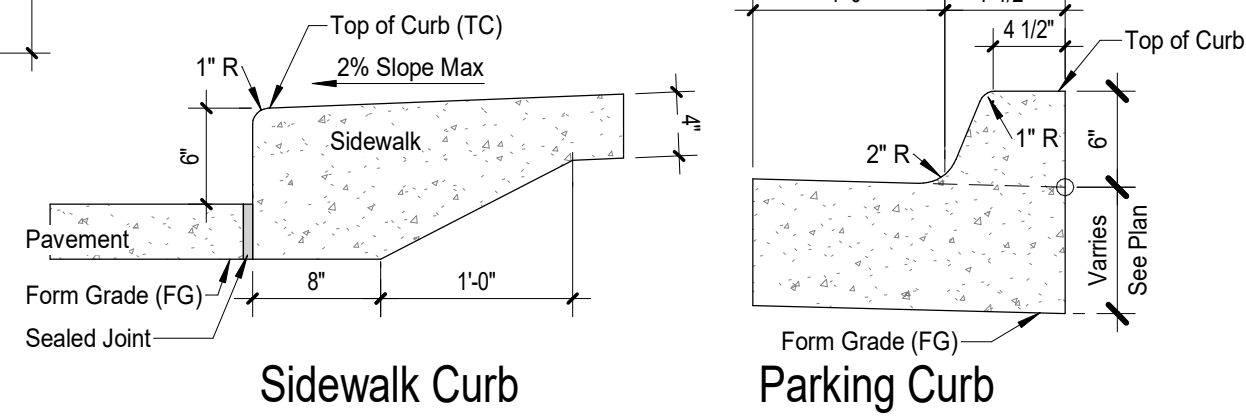
2 Dumpster Enclosure

C102 1/4" = 1'-0"



3 North Elevation - Trash Enc.

C102 1/4" = 1'-0"

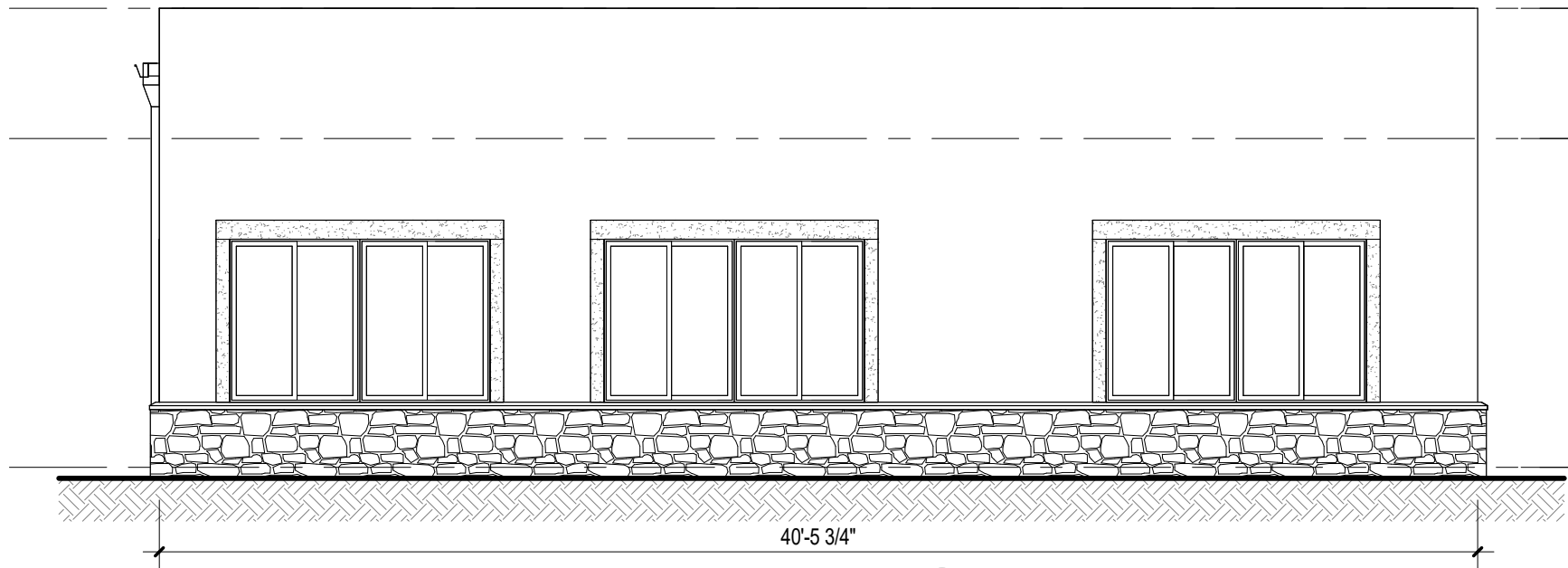


6 Curb Detail

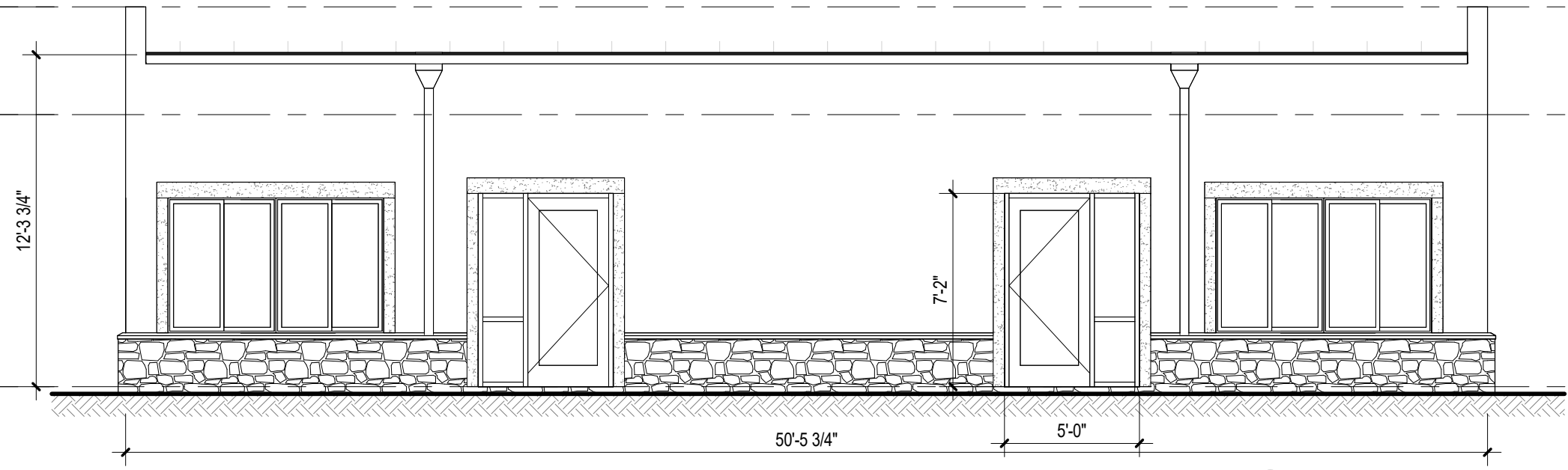
C102 1" = 1'-0"

#	Date	Description
2	06/27/24	Revision 1
1	05/16/24	for Permit
7/23/2024 6:05:53 PM		
PROJECT NUMBER: 2311E		
TITLE: Site Details		
SHEET: C102		

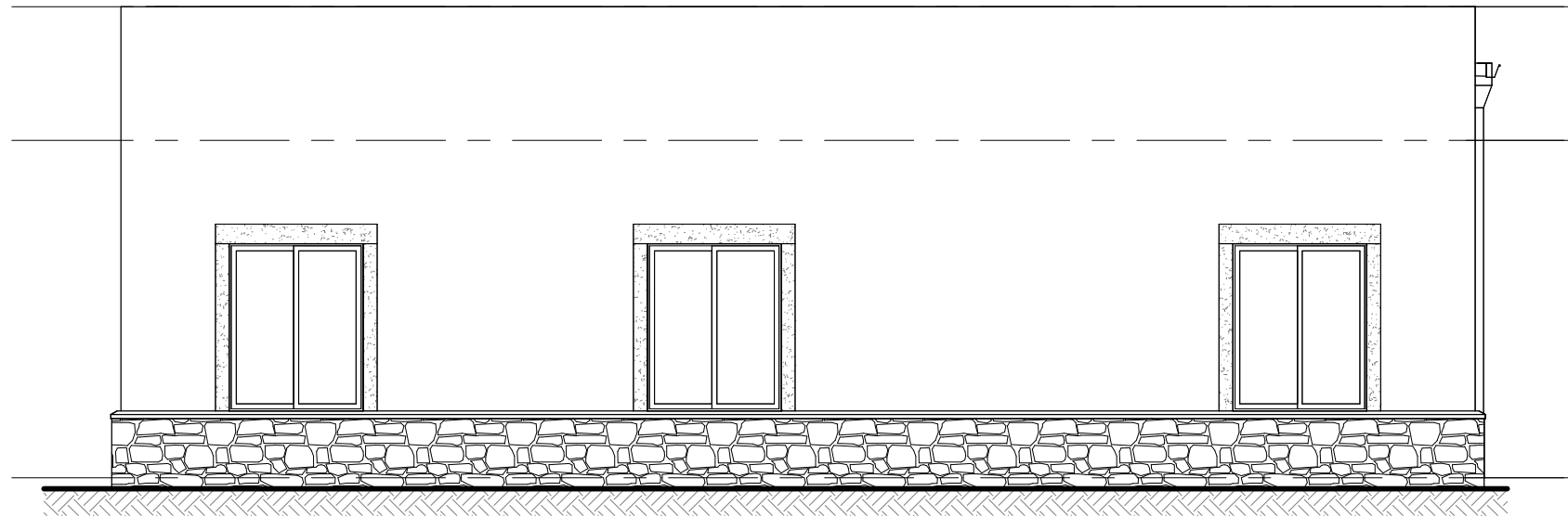
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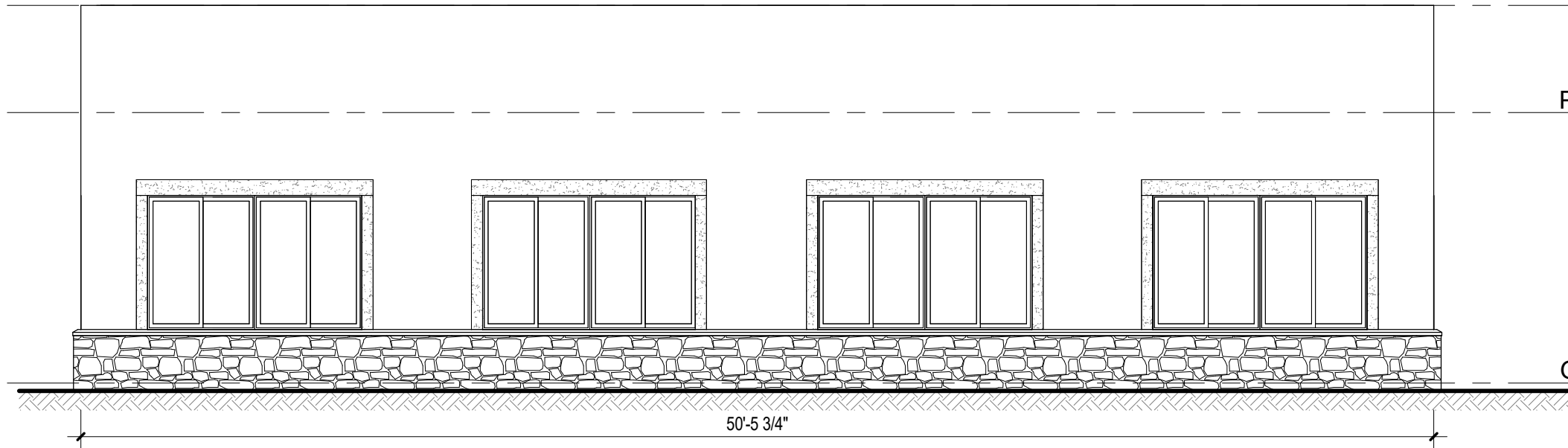
1 North Elevation
A201 3/16" = 1'-0"



3 West Elevation
A201 3/16" = 1'-0"



4 South Elevation
A201 3/16" = 1'-0"



2 East Elevation
A201 3/16" = 1'-0"

Wall Material - Overall		
Material	Area	Percent
East		
Stucco	126 SF	4%
North		
Glass	160 SF	5%
Stucco	564 SF	18%
Cultured Fieldledge	124 SF	4%
South		
Stucco	467 SF	15%
Cultured Fieldledge	99 SF	3%
West		
Glass	60 SF	2%
Stucco	480 SF	16%
Cultured Fieldledge	106 SF	3%
Grand total: 17	3083 SF	

Roof: Class 1 Metal / Black
Siding: Exterior Finish Insulation System
Cultured Stone Wainscot

Primary Wall Material - South		
Material	Area	Percent
South		
Glass	260 SF	29%
Stucco	537 SF	60%
Cultured Fieldledge	99 SF	11%
Grand total: 4	896 SF	

Primary Wall Material - North		
Material	Area	Percent
North		
Stucco	467 SF	82%
Cultured Fieldledge	99 SF	18%
Grand total: 2	566 SF	

Wall Material - West		
Material	Area	Percent
West		
Glass	60 SF	9%
Stucco	480 SF	74%
Cultured Fieldledge	106 SF	16%
Grand total: 3	646 SF	

Primary Wall Material - East			
Material		Area	Percent
East			
Glass		160 SF	19%
Stucco		564 SF	66%
Cultured Fieldledge		124 SF	15%
Grand total: 3		848 SF	

#	Date	Description
2	06/27/24	Revision 1
1	05/16/24	for Permit

7/23/2024 6:05:52 PM

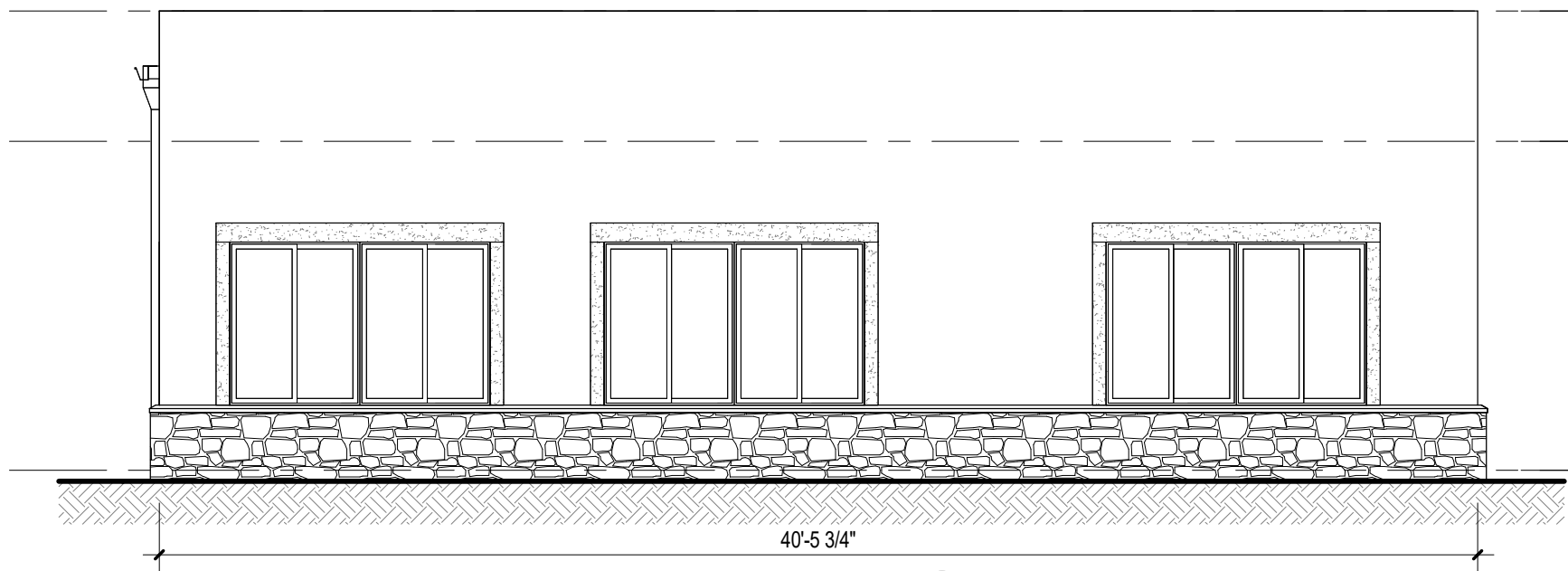
PROJECT NUMBER:
2311E

TITLE:
Exterior
Elevations

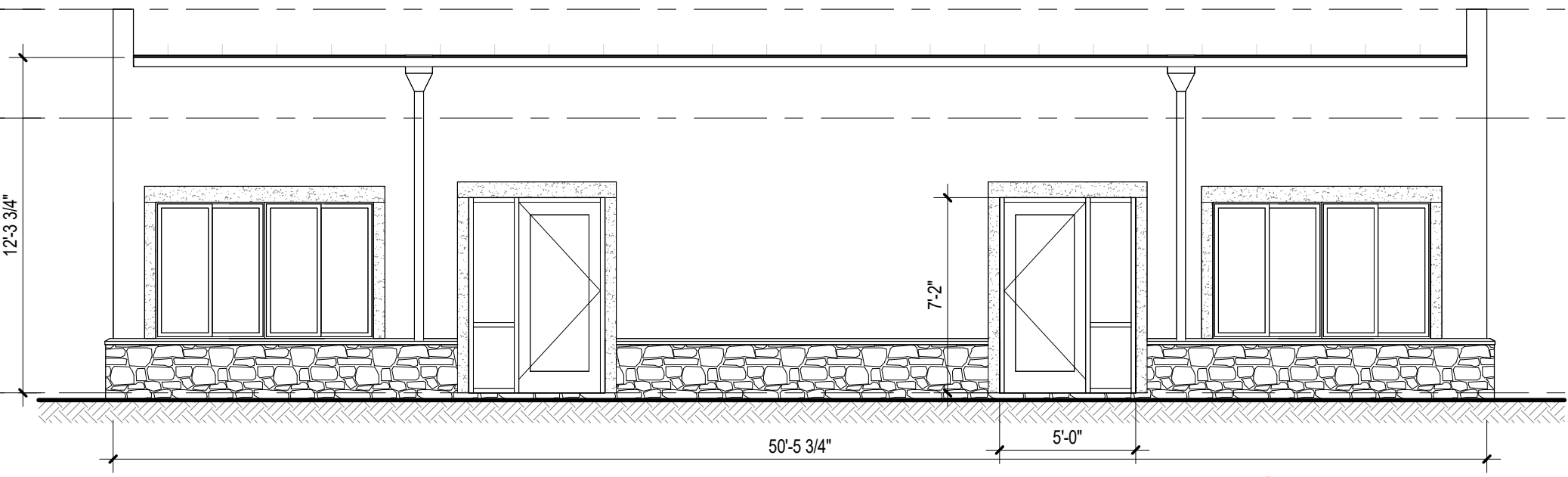
SHEET:

A201

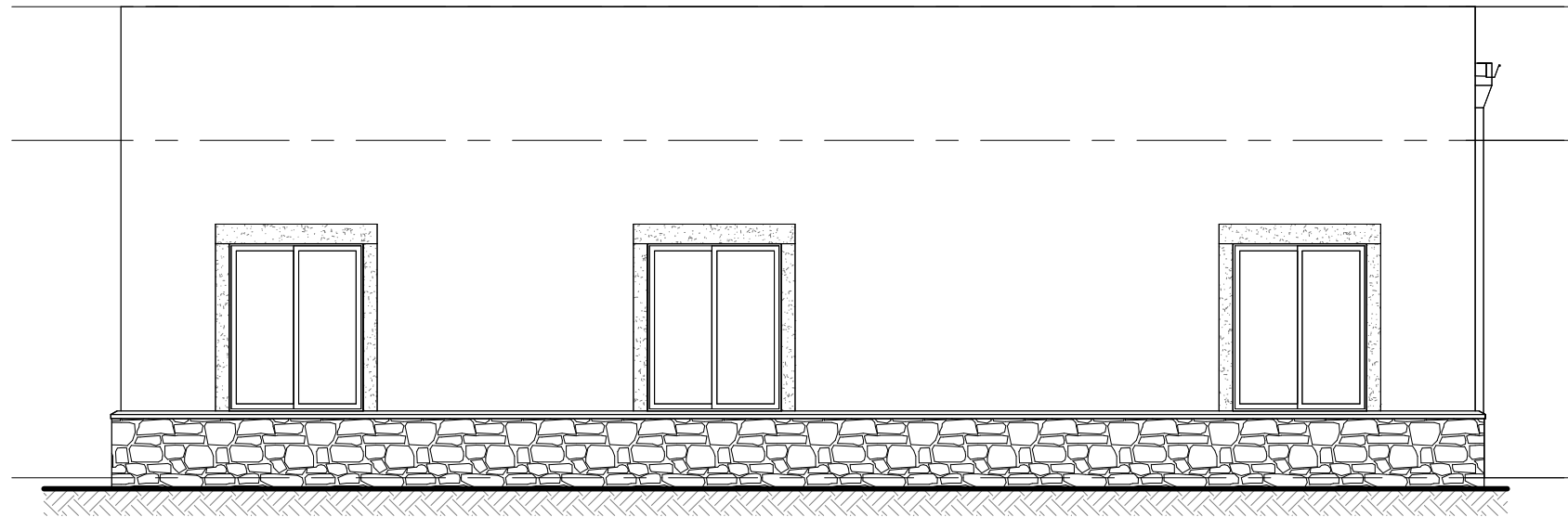
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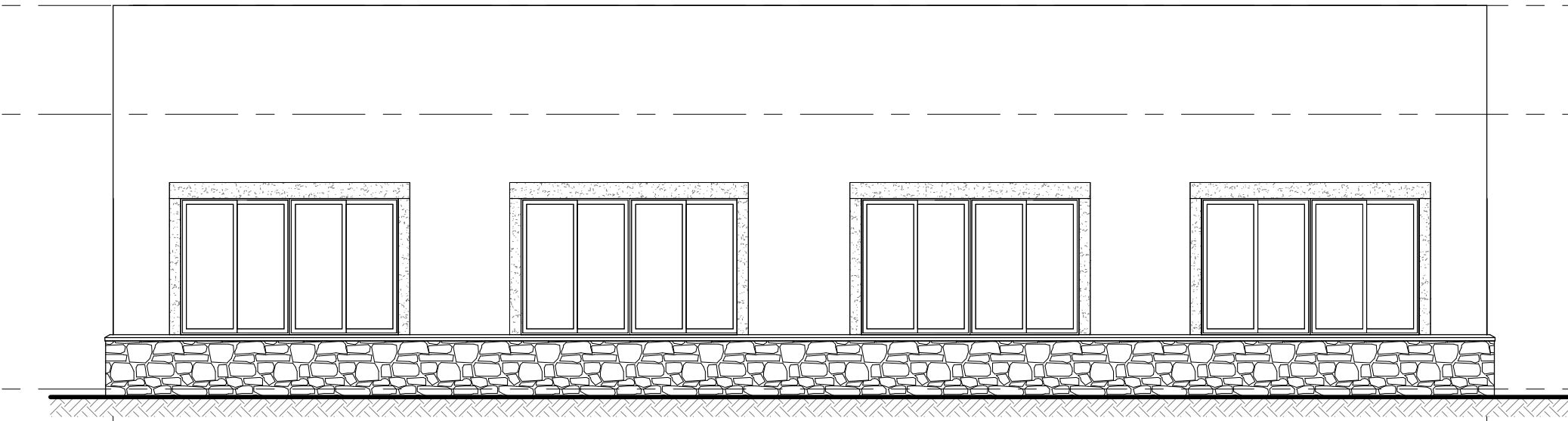
1 North Elevation
A201 3/16" = 1'-0"



3 West Elevation
A201 3/16" = 1'-0"



4 South Elevation
A201 3/16" = 1'-0"



2 East Elevation
A201 3/16" = 1'-0"

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Cultured Stone Wainscot

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Cultured Fieldledge	99 SF	11%
Grand total: 4	896 SF	

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Stucco		564 SF	66%
Cultured Fieldledge		124 SF	15%
Grand total: 3		848 SF	

#	Date	Description
2	06/27/24	Revision 1
1	05/16/24	for Permit

7/22/2024 2:03:15 PM

PROJECT NUMBER:
2311E

TITLE:
Exterior
Elevations

SHEET:

A201

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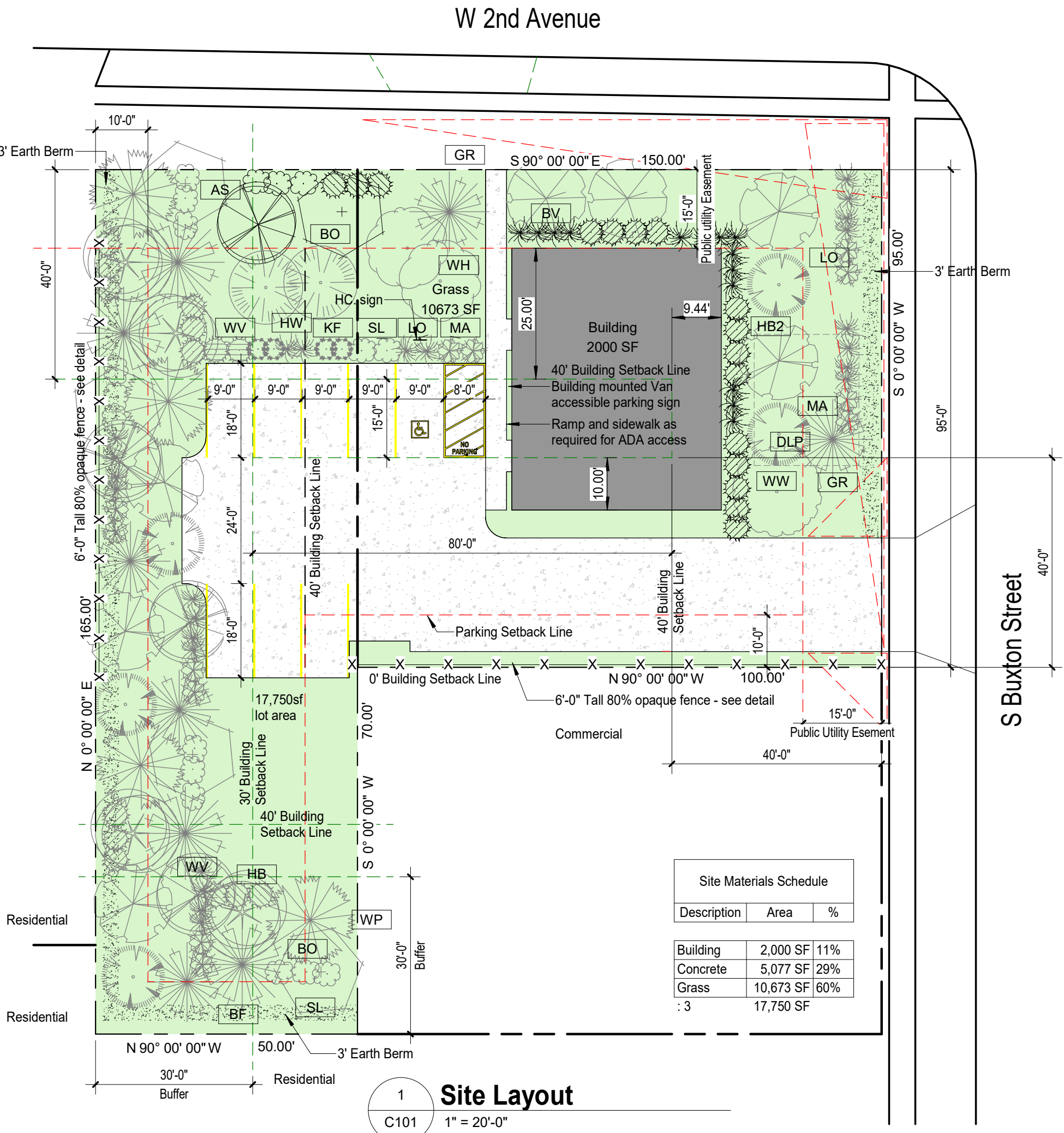
Site Notes

- All work in the city right-of-way shall be done in accordance with SUDAS and the City General Supplemental Specifications to SUDAS effective at the time of plan approval.
- All work in the city right-of-way requires a right-of-way permit.
- This site shall be maintained in compliance with all city code applicable on the date of site plan approval.
- Any new rooftop mechanical equipment must be screened from street level view. screening details will be provided. All exterior mounted roof top building equipment, including hvac, mechanical equipment, vents, piping, roof access ladder, and utility meters shall be located out of view or screened from all adjacent streets and residentially developed zoned properties.
- Transformers, junction boxes, air conditioners over 3 feet in height, or other such items may not be located in the required setback areas.
- Any amendments or changes to the project site that do not meet what is shown on the site plan need to be approved with the Community Development Department prior to installation/construction.
- Lighting must be low glare cut-off type fixtures to reduce the glare of light pollution on surrounding properties.
- The required landscaping, both existing and proposed, shall be maintained for the life of the Certificate of Occupancy.
- All disturbed areas should be restored by seeding or sodding.
- No parking or storage on unpaved surfaces is allowed.
- Sidewalk / Drive Approach Permit is Required.
- Limited Access Gates and Locks: All developments, communities, structures, facilities, or property similar in nature that has controlled access points requiring a key, key card, coded key pad, or similar device to limit access shall have a lock box with keys, key cards, codes, or similar device to gain access or shall have a lock box key activated opening device. All lock boxes or lock box key activated devices shall be operable with the existing lock box key used by the City of Indianola Fire Department. Contact the Fire Prevention Bureau for more information. (Exception: Controlled access points that have security present 24 hours a day).
- Rooftop equipment to be screened. Mechanical equipment screen: Counter weighted - by Roof Screen mfg. Inc. or LINEA by Modwerks.
- Any new parking lot lighting shall be pedestrian in scale, with light poles no taller than 20 feet in height (including base).
- All new exterior signs are reviewed separately and must be approved with Zoning Enforcement before sign permits can be issued. This note is for your information only and requires no formal addressing on the future submittal.
- All new ground and building signage are reviewed separately. A sign permit must be acquired through the Community Development Department prior to erection of new signage.
- An enclosure upgrade may be required at the discretion of the zoning administrator for unscreened dilapidated overflowing or inappropriately sited waste containers
- Trash enclosure will be required prior to certificate of occupancy to enclose proposed waste containers. - Trash will be kept inside the building and placed out for pickup on collection day.
- Buxton Avenue must be approved by the Iowa Department of Transportation DOT.

Planting Notes

- Tree or shrub shall stand plumb
- Plants shall be true to species, size and variety specified
- Do not allow air pockets to form when backfilling – Soil should never be placed over the root ball.
- Contractor shall guarantee all plant material for one year from date of project Completion.
- Contractor to provide a 4" depth clean vertical cut edge to define mulch planting bed limits.
- All trees to be planted a minimum distance of 4 feet from fire hydrants and pavements.
- The contractor is responsible for plants awaiting installation and shall protect them from injury.
- Trees should have their North side marked at the nursery and be planted at the site with the same orientation.
- All plant material shall be handled by the balled and bur lapped (b&b) root ball, container or root mass.
- Remove all twine, rope, and wire from the root ball. Remove wire basket completely, cut the bottom third prior to planting. Set the plant or tree in pit an backfill to stabilize root ball.
- All plant material shall at least meet minimum requirements shown in the "American Standards for Nursery Stock" (ANSI Z60, 1-latest edition).
- Plant material shall be specimen quality, healthy, free of disease and insects and shall have healthy, well-developed root systems; plants shall also be free from physical damage or other conditions that would prevent vigorous growth.
- Pruning of trees and shrubs at time of planting should be kept at a minimal; the contractor shall prune to remove broken, damaged or diseased branches, no pruning paint or sealer is allowed. All other pruning shall be approved by the landscape architect.
- Provide 3-inch depth shredded hardwood mulch around all plantings to a min. 3-foot perimeter, provide continuous mulch beds in areas indicated on the plan do not place mulch within 2-inches of root collar or trunk.
- Contractor to seed all areas disturbed by construction with type 1, lawn seed mixture, unless noted otherwise.
- All plant material to be approved by owner before planting, substitutions of plant materials will not be permitted unless authorized in writing by the owner.
- All wire, twine and burlap shall be removed from the rootball of street trees prior to planting.
- No staking of trees is allowed.

Proposed Planting Schedule						
Mark	Size	Common Name	Description	Native	Count	
GR	72" Tall	Black Hills Spruce	Picea glauca	X	5	
BF	60" Tall	Concolor Fir	Abies concolor		4	
WP	60" Tall	Eastern White Pine	Pinus Strobus	X	4	
DLP	60" Tall	Norway Spruce	Picea abies	X	5	
Evergreen: 18						
BO	2"	Bur Oak	Quercus macrocarpa	X	5	
HB	2"	Hackberry	Celtis Occidentalis	X	4	
AS	2"	London Planetree	Platanus x acerifolia	X	4	
WW	2"	Prairie Cascade Weeping	Salix 'Prairie Cascade'		1	
Overstory: 14						
LO	3 Gal	Daylilly Orange			24	
HB2	3 Gal	Hibiscus Bush			5	
KF	1 Gallon	Karl Foster Grass			4	
MA	3 Gal	Manzanita			12	
SL	3 Gal	Miss Kim Lilac			17	
WV	3 Gal	Variegated Dwarf Weigela	Weigela florida 'Variegata Nana'		17	
Shrub: 79						
BV	2"	American Hornbeam	Ostrya Virginiana		2	
WH	2"	Autumn Brilliance	Amelanchier x grandiflora		2	
HW	2"	Hawthorne, Winter King	Crataegus viridis		2	
Understory: 6						
Grand total: 117						



Site Layout

1" = 20'-0"

Parking Requirement:

1 Space per 250sf - Retail
2,000 sf / 250 sf = 8 Spaces required

8 spaces + 1 HC Space provided

Open Space:

17,750 sf Site area
7,558 sf Impervious surface
42% Total Openspace
20% Open Space = 3,550 sf Minimum
Open Space Required

Planting Calculation:

3,550 sf Open Space Required
3,550 sf / 2,000 sf = 1,775 sf
2 Deciduous shade trees Provided
4 Ornamentals Provided
4 Shrubs Provided

Equivalent Residential Unit (ERU):

3,400 sf Impervious surface = 1ERU
17,750sf - 3,400sf = 14,350sf / 340sf = 42.20
.1 * 42.20 = 4.22 ERU Total

Property Owner:

Brenda and Jay Clark
209 W 2nd Ave.
Indianola, IA 50125

Property Address:

203 W 2nd Ave
Indianola, IA 50125

Legal Description:

25-76-24 South Indianola Lot 3 & Alley
on South Lot 3 Block 4, now include in
and forming part of the city of indianola

Zoning:

C-2, Highway Commercial Zoning
District

Bulk Regulations:

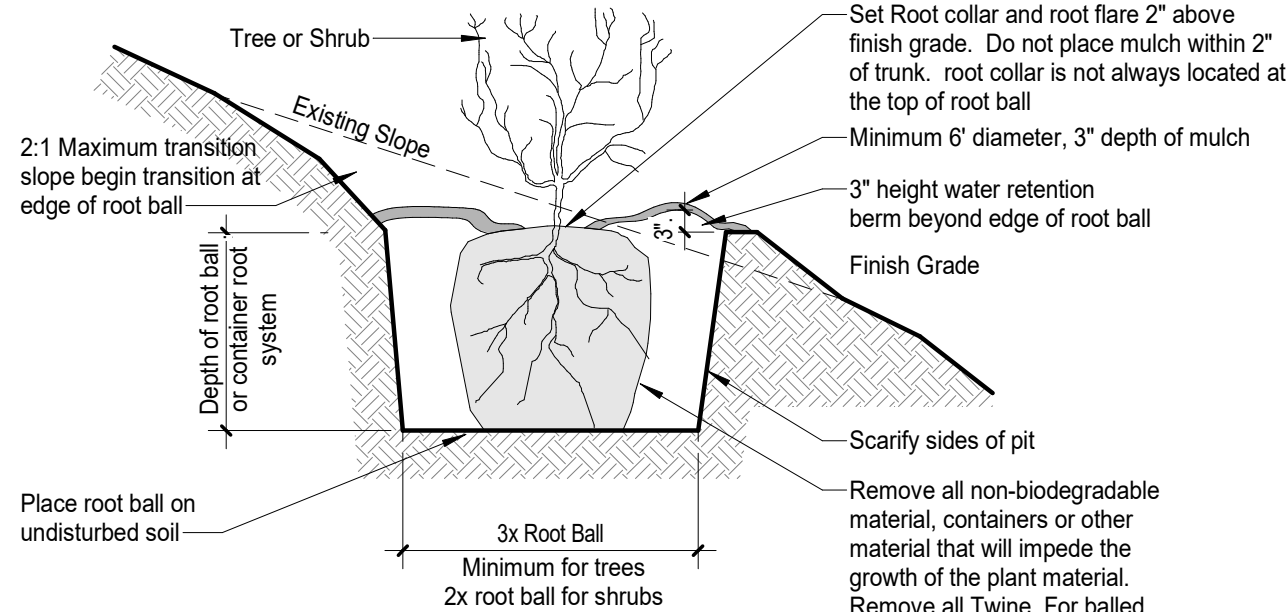
40' Front setback
40' Rear setback
30' Side Yard
50' Max Building Height
20' Building separation
150' Lot width
40' Street Frontage
20% Min. Open Space

Parking setbacks
15' Front Yard
10' Rear Yard
10' Side Yard

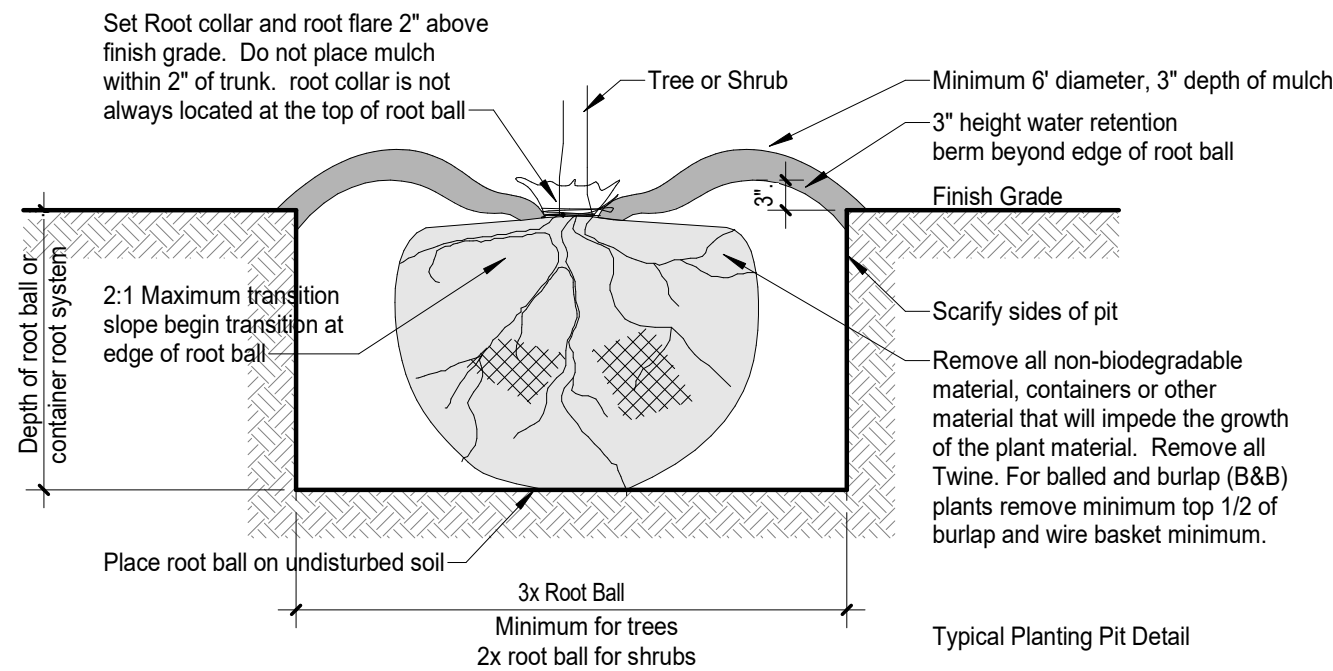
North
1" = 20'-0" Scale in Feet

Description		Date	Revision	Permit
#	2	06/27/24	1	05/16/24
7/22/2024 2:03:15 PM				
PROJECT NUMBER:				
2311E				
TITLE:				
site plan				
SHEET:				
C101				

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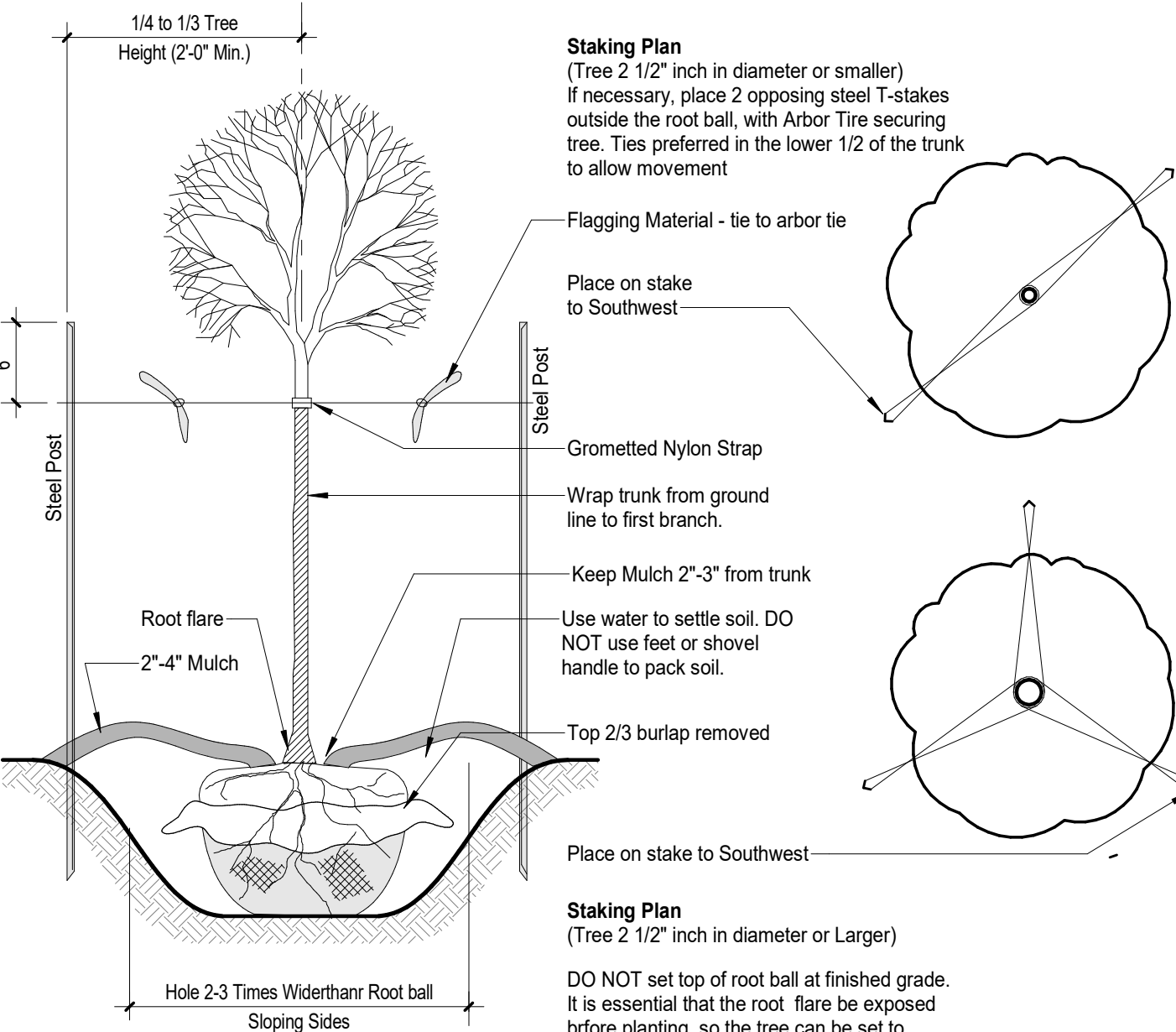


Slope Planting Pit Detail



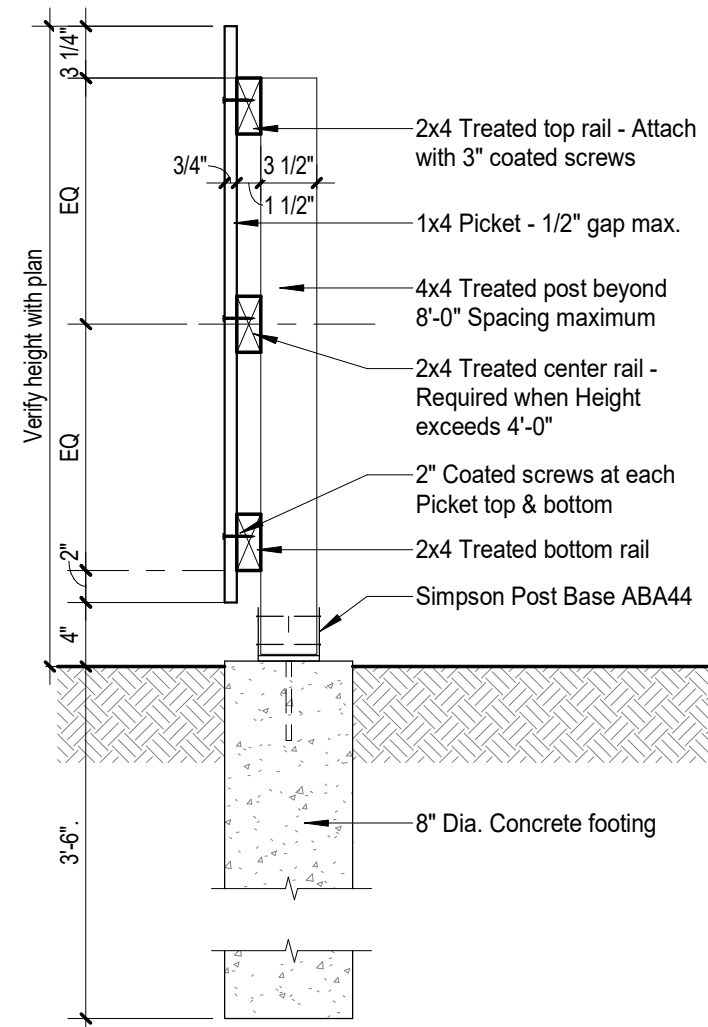
Typical Planting Pit Detail

8 Shrub Planting



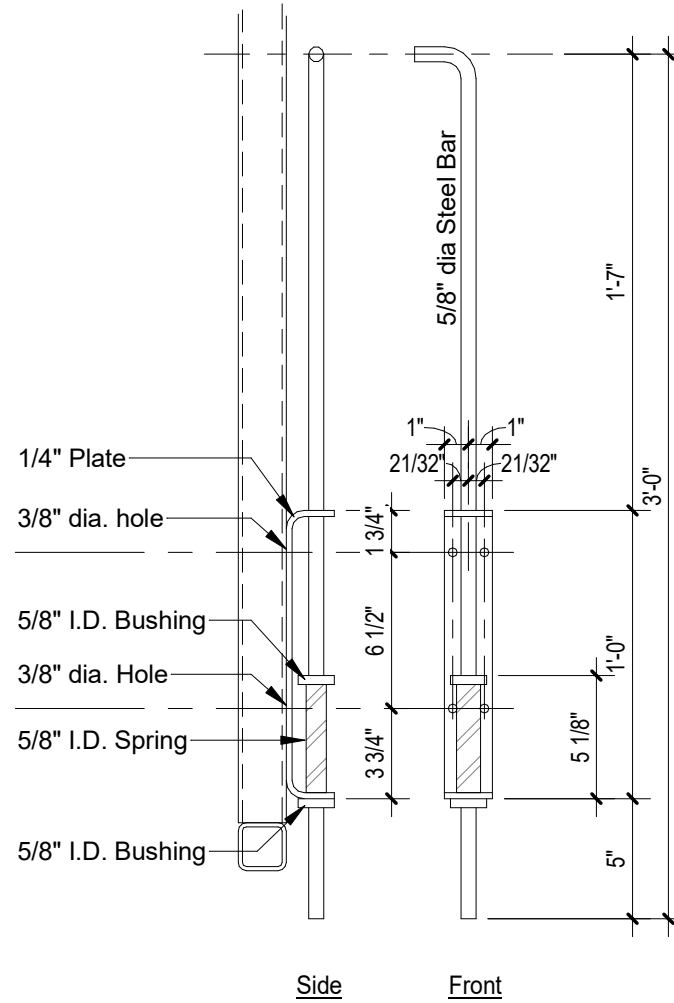
9 Tree Planting Detail

C102 1" = 1'-0"



7 Fence Detail

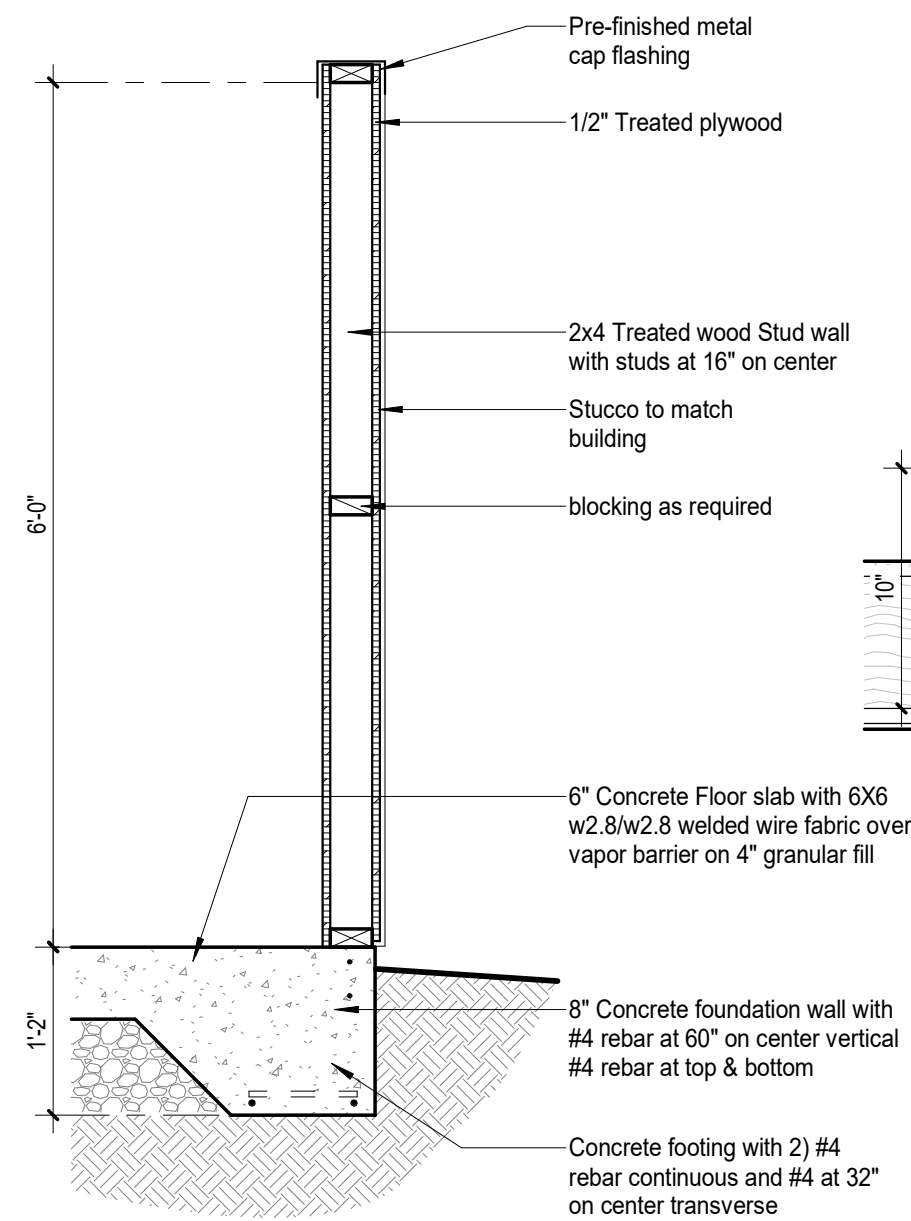
C102 1" = 1'-0"



10 Cane Bolt

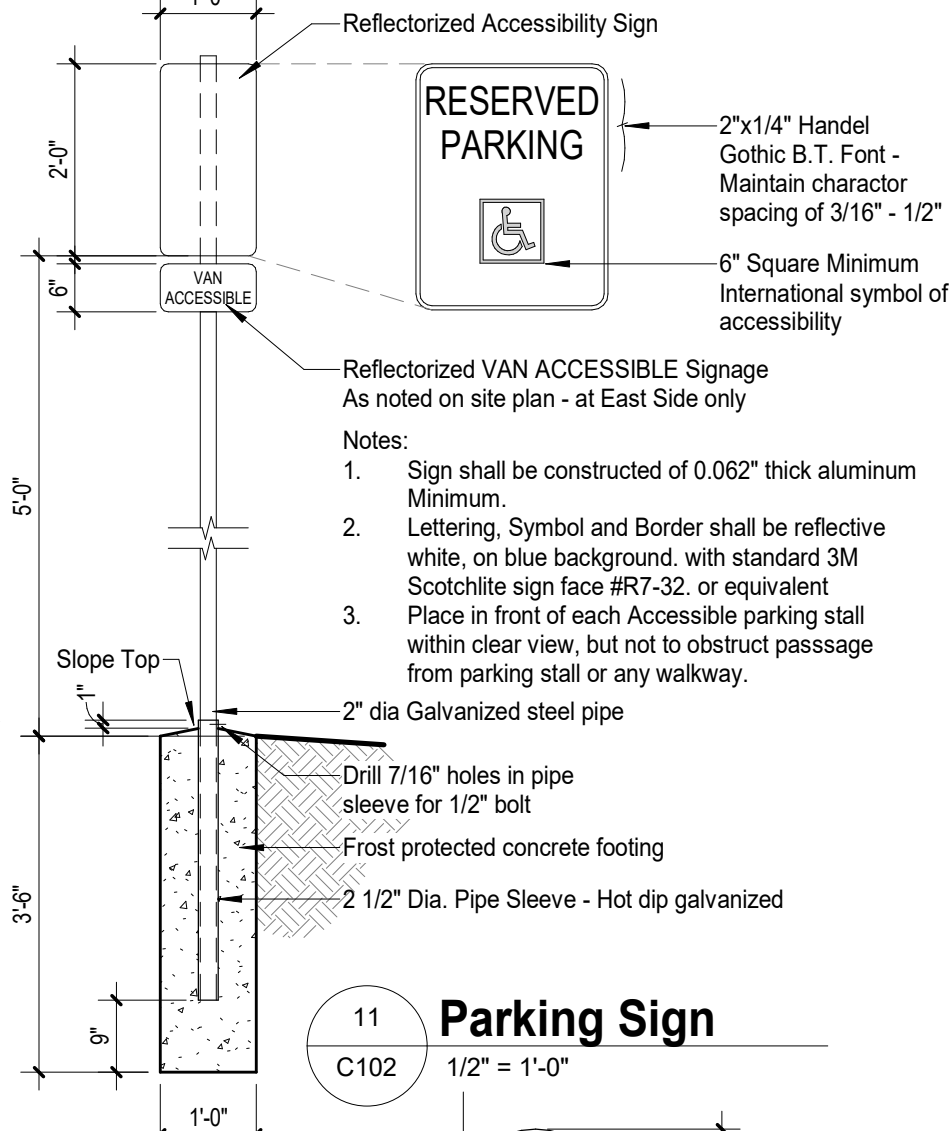
C102 1 1/2" = 1'-0"

- Step 1 - peel back rope/burlap/cage and remove sufficient soil to expose root flare.
Step 2 - measure from root flare to bottom of root ball.
Step 3 - dig hole to depth where topmost roots are buried 1-2 inches and the root flare sits slightly above ground level. Dig a hole 2-3 times wider than the diameter of the root ball with sloping sides to allow for proper root growth.
Step 4 - remove lower third of wire cage.
Step 5 - set tree in hole. Support with some soil. Ensure that it's straight, then remove entire wire cage and top Two-thirds of burlap.
Step 6 - backfill with two-thirds of loose native soil (unless it's all clay) and use water to settle. Do not tamp Or step on soil.
Step 7 - backfill balance and water again. Excess soil may be used to create a berm/saucer outside of root ball.
Step 8 - add 2-4 inches of wood mulch, leaving a 1- to 2-inch clearance between the mulch and the trunk.
Step 9 - water a final time.
Step 10 - if necessary, place two opposing steel t-stakes outside the root ball with arbor tie securing tree. Ties preferred on lower half of trunk to allow movement.



4 Trash Enclosure Section

C102 3/4" = 1'-0"



11 Parking Sign

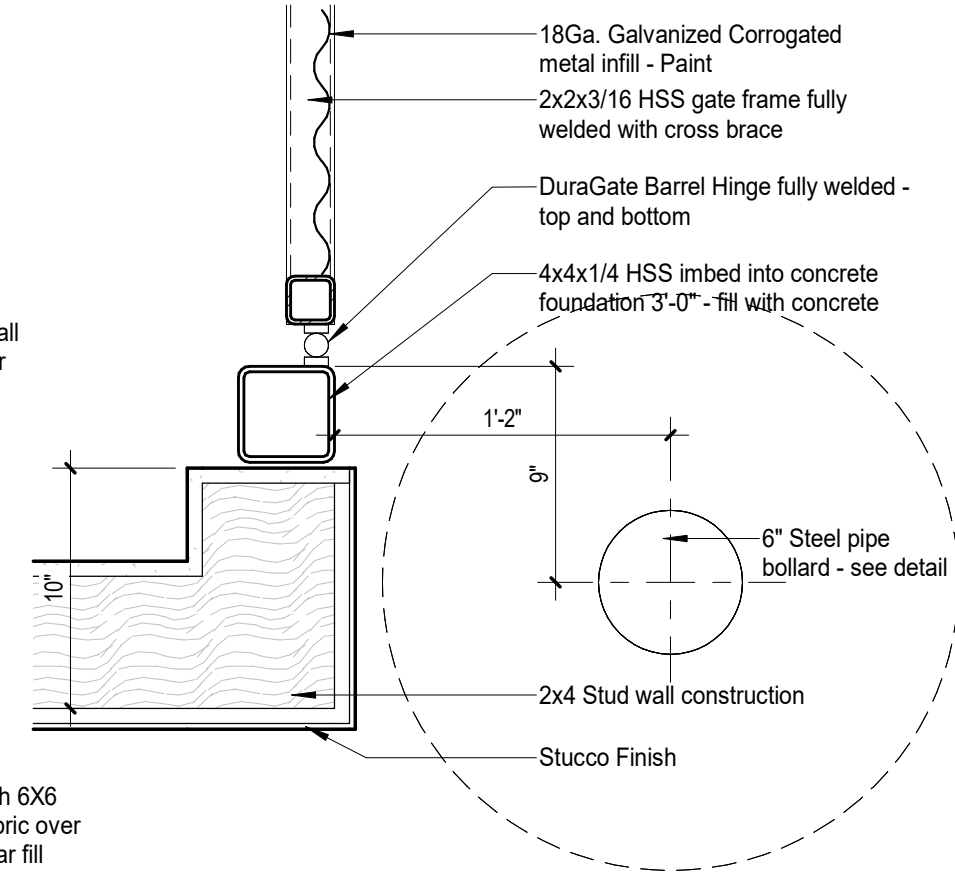
C102 1/2" = 1'-0"

Dero HQ
(888) 337-6729
5522 Lakeland Ave. N.
Minneapolis, Minnesota 55429
www.dero.com

Install per manufacturers recommended specification

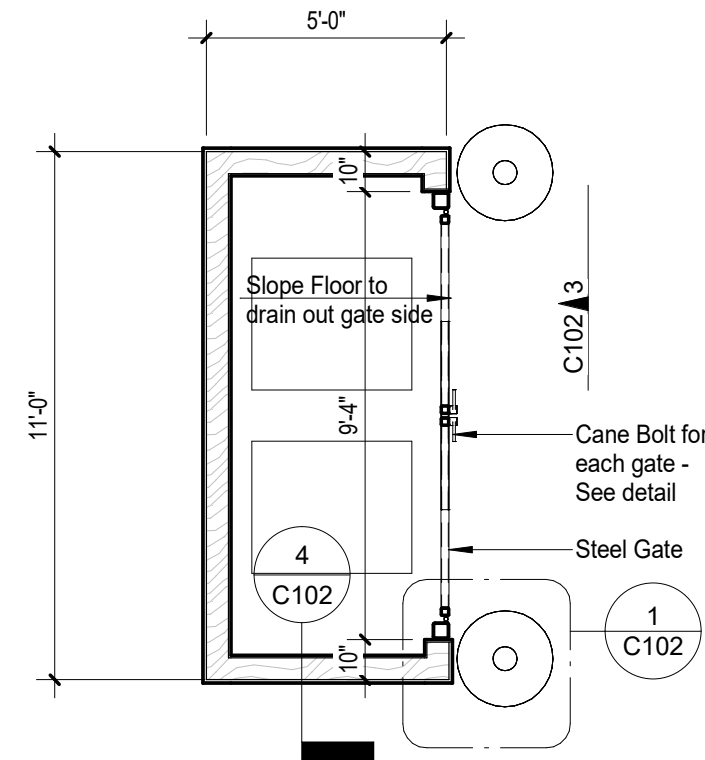
5 Bike Rack

C102 1/2" = 1'-0"



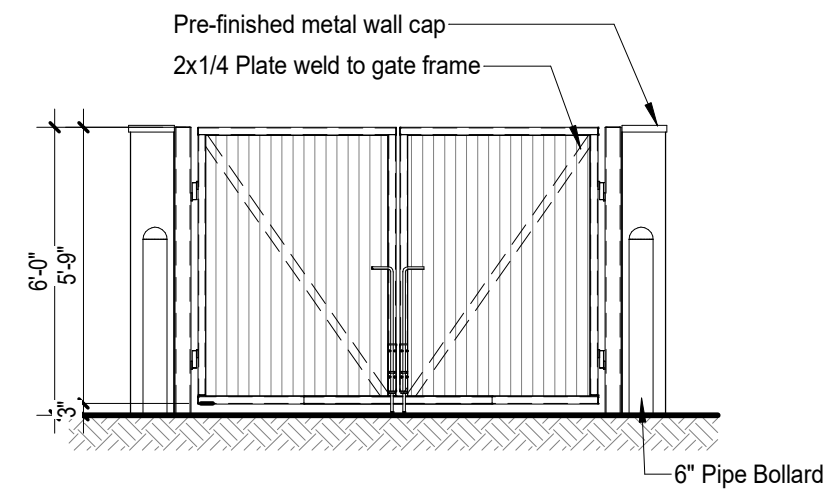
1 Gate Post

C102 1 1/2" = 1'-0"



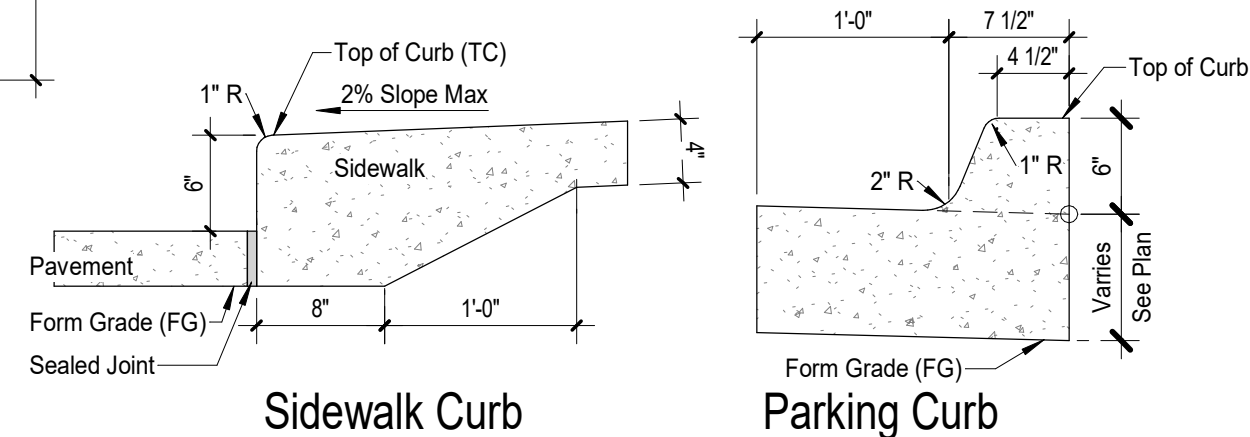
2 Dumpster Enclosure

C102 1/4" = 1'-0"



3 North Elevation - Trash Enc.

C102 1/4" = 1'-0"



6 Curb Detail

C102 1" = 1'-0"

#	Date	Description
2	06/27/24	Revision 1
1	05/16/24	for Permit
7/22/2024 2:03:15 PM		
PROJECT NUMBER: 2311E		
TITLE: Site Details		

CITY OF INDIANOLA, IOWA

BOARD OF ADJUSTMENT

IN THE MATTER OF THE APPLICATION OF:

Matthew Palan, on behalf of Jay and Brenda Clark, is requesting a variance to reduce the minimum required front yard setback of 40-feet by 25-feet for a total front yard setback of 15-feet. The applicant is also requesting to vary from the 40-foot minimum required rear yard setback by 10-feet, for total rear yard setback of 30-feet. Such proposal would not conform to minimum required front and rear yard setback requirements for non-residential developments in the C-2 Zoning District, outlined in Section 165.05.3 of the City of Indianola Zoning Code.

FINDINGS OF FACT

The City of Indianola, Iowa Board of Adjustment has reached the following Findings of Fact:

- 1. The property identified as 203 West 2nd Avenue (Parcel ID #486-6004-0020 and -0033) is owned by Jay and Brenda Clark.*
- 2. The property identified as 203 West 2nd Avenue is in the C-2 'Highway Commercial' Zoning District.*
- 3. City Ordinance Section 165.07.3.B(3) requires a front yard setback of 40-feet within the C-2 Highway Commercial Zoning District.*
- 4. City Ordinance Section 165.07.3.B(3) requires a rear yard setback of 40-feet within the C-2 Highway Commercial Zoning District.*
- 5. A variance is requested in order to reduce the minimum required front yard setback of 40-feet by 25-feet, for a total front yard setback of 15-feet, and to reduce the minimum required rear yard setback of 40-feet by 10-feet, for a total rear yard setback of 30-feet.*
- 6. The irregular shape and characteristics of the site, including adjacency to residentially zoned and developed properties, limits the siting and placement of a commercial building.*
- 7. The property is unique due to the characteristics of the site and the established use of the site.*
- 8. The proposed development meets the intent and purpose of the City of Indianola Zoning Code.*
- 9. The variance request is found to be favorable towards all findings of fact, outlined in the Zoning Code.*

DECISION

According to Section 165.02(3)(B)(3)(b) of the Code of Ordinances of Indianola, Iowa to grant a variance from the terms of the Zoning Ordinance when a property owner can show that the owner's property was acquired in good faith and where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property, or where by reason of exceptional topographical conditions or other extraordinary or exceptional situation, the strict application of the terms of the Zoning Ordinance actually prohibits the use of such property in a manner reasonably similar to that of other property in the same district, and where the Board is satisfied

under the evidence before it that a literal enforcement of the provisions of the Zoning Ordinance would result in unnecessary hardship; provided, however, all variations granted under this clause shall be in harmony with the general purpose and intent of the Zoning Ordinance. Furthermore, the following findings shall be made in order to grant a variance:

- i. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district;
- ii. That literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance;
- iii. That the special conditions and circumstances do not result from the actions of the applicant;
- iv. That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same district. No nonconforming use of neighboring lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance.

In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violation of any such conditions and safeguards shall be deemed a violation of this Ordinance. Under no circumstances shall the Board grant a variance to allow a use not permissible under the terms of the Zoning Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of the Zoning Ordinance in said district. If relevant and applicable, the Board may prescribe a time limit within which the action for which the variance is required shall begin or be completed, or both. Failure to begin or complete, or both, such action within the time limit shall void the variance. If no time limit is set by the Board and if relevant to the variance, then the granted variances shall become void eighteen months after the date of the Board approval unless a building permit has been issued for the construction provided for by the variance. In the event the building permit for the construction provided for by the variance expires or is canceled, then the variance approval shall become void.

Analysis of Code Criteria

Matthew Palan, on behalf of Jay and Brenda Clark, for a variance under the terms of Section 165.02(3)(B) of the Code of Ordinances of Indianola, Iowa, to reduce the minimum required front yard setback of 40-feet by 25-feet for a total front yard setback of 15-feet, along with the request to vary from the 40-foot minimum required rear yard setback by 10-feet, for total rear yard setback of 30-feet. Such proposal would not conform to minimum required front and rear yard setback requirements for non-residential developments in the C-2 "Highway Commercial" Zoning District, outlined in Section 165.05.3 of the City of Indianola Zoning Code.

The subject property is currently vacant. The property owner has a development case in review for a site plan on file with the City, for the site. The proposed future use of the site is office (therapy services).

Surrounding land uses include a commercial building housing the ISU Extension and Outreach office to the north, a commercial facility offering car and tire services to the east, and single-family residential properties to the south and west.

The property is a corner lot with frontage along West 2nd Avenue and South Buxton Street. According to the Iowa Department of Transportation (IDOT), the Annual Average Daily Traffic (AADT) for West 2nd Avenue, a state highway, is 12,100 vehicles. The AADT for South Buxton Street, a local road, is 730 vehicles. The site is currently proposing access from South Buxton Street.

The site contains a buildable envelope of approximately 15' x 80' in size, totaling 1,200 square feet.

ORDER

MOTION:

Move to approve the request from Matthew Palan, on behalf of Jay and Brenda Clark, for a variance under the terms of Section 165.02(3)(B) of the Code of Ordinances of Indianola, Iowa, to reduce the minimum required front yard setback of 40-feet by 25-feet for a total front yard setback of 15-feet, along with the request to vary from the 40-foot minimum required rear yard setback by 10-feet, for total rear yard setback of 30-feet. Such proposal would not conform to minimum required front and rear yard setback requirements for non-residential developments in the C-2 Zoning District, outlined in Section 165.05.3 of the City of Indianola Zoning Code.

VOTE:(_____ - _____) (_____ - _____)

WHEREFORE, it is ordered that the application from Matthew Palan, on behalf of Jay and Brenda Clark, for a variance under the terms of Section 165.02(3)(B) of the Code of Ordinances of Indianola, Iowa, to reduce the minimum required front yard setback of 40-feet by 25-feet for a total front yard setback of 15-feet, along with the request to vary from the 40-foot minimum required rear yard setback by 10-feet, for total rear yard setback of 30-feet. If allowed as requested, it would not be in conformity with the requirements of Section 165.05.3 of the City of Indianola Zoning Code. is hereby **approved**, as evidence by the Board's finding that all code criteria **have** been met as required by the Code of Ordinances of Indianola, Iowa; and

WHEREFORE, any taxpayer, or any officer, department, board or bureau of the City, or any person or persons jointly or severally aggrieved by any decision of the Board may present to a court of record a petition, pursuant to Iowa Code 17A.19, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) days after the filing of the decision in the office of the Board.

Ordered this 7th day of August 2024

Chairperson
Board of Adjustment
City of Indianola, Iowa

FILING DATE:



MEMORANDUM

To: Board of Adjustment

From: Emily Rizvic, Associate Planner, Kristen Hoss

Date: August 7, 2024

Subject: Consider request from John and Tammy Hoyman for a variance for property located at 1301 Country Club Rd.

Recommendation: Staff recommends that the Indianola Board of Adjustment move alternative 3, to deny the variance request.

Attachments:

1. Staff Report
2. Written Narrative
3. Application
4. Plans and Elevations
5. Decision and Order



COMMUNITY DEVELOPMENT

110 N. First Street, Indianola IA 50125-0299 • www.indianolaiowa.gov
(515) 961-9430 • comdev@indianolaiowa.gov

STAFF REPORT

BOARD OF ADJUSTMENT

Date of Meeting: August 7, 2024

Agenda Item: 5.D Consider request from John and Tammy Hoyman for a variance for property located at 1301 Country Club Rd.

Application Type: Variance

Applicant and Property Owner: John and Tammy Hoyman

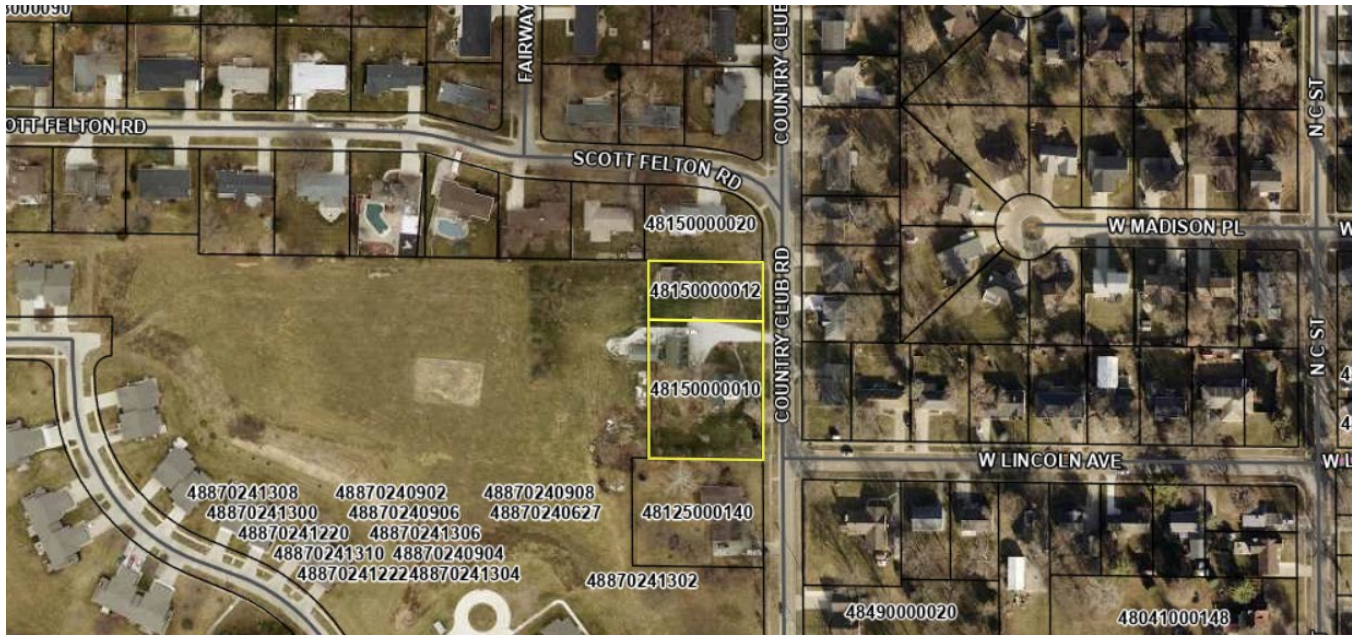
Property Address/Parcel: 1301 Country Club Rd (Parcel ID #481/5000-0010 and -0012)

Zoning: R-1 '*Single-Family Residential Detached*' Zoning District

Application Summary

John and Tammy Hoyman are requesting a variance for their property at 1301 Country Club Road. The request is to permit the construction of an accessory structure that would exceed the maximum allowable square footage for accessory structures in a residential zoning district, which is 1,800 square feet. The proposed 546 square foot accessory structure, combined with the two pre-existing accessory structures, would result in a total square footage of 2,602 square feet. Such proposal would not conform to Section 165.04.2.E(1) of the City of Indianola Code of Ordinances.

AERIAL MAP



APPLICABLE CODE SECTIONS

The following code sections of the Code of Ordinances of Indianola, Iowa apply to this request:

165.02(3)(B) POWERS AND DUTIES OF THE BOARD OF ADJUSTMENT. The Board of Adjustment has the following powers and duties:

3. Variances: Conditions Governing Applications; Procedures. To authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest where, owing to the special conditions, a literal enforcement of the provisions of this chapter would result in unnecessary hardship. A variance from the terms of this chapter shall not be granted by the Board of Adjustment unless and until:

A. A written application of a variance is submitted demonstrating:

- (1) That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district;
- (2) That literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter;
- (3) That the special conditions and circumstances do not result from the actions of the applicant;
- (4) That granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures, or buildings in the same district. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted use of land, structures or buildings in other districts shall be considered grounds for the issuance of a variance.

B. Notice of public hearing shall be given as in subsection 2(B) above.

C. The public hearing shall be held. Any party may appear in person, or by agent or by attorney.

D. The Board of Adjustment shall make findings that the requirements of paragraph A of this subsection have been met by the applicant for a variance.

E. The Board of Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure.

F. The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this chapter, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this chapter. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter and punishable under Section 165.23 of this chapter. Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this chapter in the district involved, or any use expressly or by implication prohibited by the terms of this chapter in said district.

165.04(2) ACCESSORY BUILDINGS AND STRUCTURES.

E. Area and Height Limit.

- (1) Accessory buildings and structures shall be limited to a maximum of two (2) total buildings, including a garage, of which all total accessory buildings shall not occupy more than ten (10) percent of the total lot area nor exceed a total square footage of 1,800 square feet. However, this regulation shall not prohibit the construction of at least one garage not to exceed six hundred (600) square feet gross building area and at least one accessory storage building not to exceed one hundred twenty (120) square feet gross building area.

ANALYSIS

Subject Property

John and Tammy Hoyman are requesting a variance for the property at 1301 Country Club Road (Parcel ID #481/5000-0010 and -0012) relating to the construction of an accessory structure. The request would allow for an oversized accessory structure at the property. The request would not conform to Section 165.04.2.E(1) of the City of Indianola Code of Ordinances.

The subject property is a 1.2-acre lot and contains a single-family dwelling built in 1910. The lot also contains two existing accessory buildings that are a total of 2,056 square feet. One is a three-car garage that is 1,440 square feet and the other is a woodworking shop that is 616 square feet. The existing accessory structures exceed the 1,800 square foot size maximum by 256 square feet, but are allowed due to being grandfathered in. The subject property is currently zoned for the R-1 'Single-Family Residential Detached' Zoning District.

The applicant is requesting the variance to construct a 546 square foot addition of a covered 42-foot by 13-foot post-and-beam storage area, attached to the west (rear) of the existing three-car garage. This proposed addition will result in a total area exceeding the maximum allowable 1,800 square feet by 802 square feet, creating a total of 2,602 square feet of accessory structures on the property. This excess includes the existing, grandfathered 256 square feet that already exceeds the limit, combined with the proposed 546 square foot addition.

To the North, East, and South exists all R-1 Single-Family Residential Detached Zoning Districts. To the West exists a Planned Unit Development (PUD) that is owned by Wesley Retirement Services.

The property fronts along Country Club Road. According to the Iowa Department of Transportation (IDOT), the Annual Average Daily Traffic (AADT) for Country Club Road is 1,950 vehicles, as of 2016.

The subject area does not appear to contain environmentally sensitive features.

Future Land Use

According to the “Elevate Indianola” Comprehensive Plan, the future land use of this area is designated as Low Density Residential. The Low Density Residential land use designation guides for 2-5 dwelling units per gross acre with residential building types including single-family detached dwellings, accessory dwelling units, and innovative or non-traditional single-family forms. Civic used and places of worship are permitted if compatibility standards are met.

If the variance were to be approved, it would allow the applicant to exceed the maximum size limitations for accessory structures. The proposed addition is 546 square feet, which exceeds the allowable size limit. Given that the existing accessory structures are grandfathered and already exceed the limit by 256 square feet, adding the 546 square foot structure to the three-car garage would result in a total excess of 802 square feet beyond the maximum allowable size of 1,800 square feet.

FINDINGS OF FACT

According to Section 165.02.3.B.(3)b. of Indianola’s Zoning Code, in deciding whether to grant a variance request, the Board of Adjustment shall consider all the following legal principles. **All legal principles shall be satisfied in order for the Board of Adjustment to grant a variance.**

- i. **That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district;**

Staff Comment: This finding of fact asks for the Board to find whether special conditions or circumstances exist which are peculiar to the land and which are not applicable to other lands in the same zoning district. The applicant is seeking a variance to the maximum allowable size of an accessory structure which is 1,800 square feet. The applicant proposes an additional 546 square foot accessory structure to be built. The site contains 2,056 square feet of accessory structures that are preexisting/legal, nonconforming.

There are no special conditions or circumstances for the lot impacting a need for an additional, oversized structure, as the request is out of desire and not needed. No topographic conditions, such as streams and floodplains, or abnormal lot characteristics, such as size and shape, are present.

If the variance regarding the size of the structure were to be approved, it would not meet neighborhood expectations of enforcement and compliance with city zoning code regulations. Likewise, it would establish a precedent for future development and subsequently alter the character of residential neighborhoods that would not be in harmony with the general purpose and intent of the zoning code or comprehensive plan.

As a result, staff cannot find that this finding of fact is found favorably.

This criterion is not met.

Applicant Comment: Our situation satisfies the requirement of “special conditions and circumstances” due to the origin of the house and farm buildings that pre-date other lots and homes in the area by 50+ years. Moreover, the size of our lot is unusually large for our neighborhood and can easily absorb the requested variance. The attached structure will be used to store equipment that we use infrequently, and it will not be seen from Country Club Road or Scott Felton Road. This includes items such as a skidloader, snowblower, lawn mowers, garden tiller, log splitter, and pallets of firewood. The design of this addition will preserve the residential appearance of the existing 3-car garage, as recommended by City staff in 2004 when it was constructed.

- ii. **That literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter. This finding of fact asks if the applicant would be deprived of a right commonly enjoyed by other properties within the zoning district;**

Staff Comment: This finding of fact asks whether the applicant would be deprived of a right that is commonly enjoyed by other properties within the same zoning district, under the terms of this chapter. In regard to the request to allow for an accessory structure that exceeds maximum square footage requirements, the applicant is not being deprived of a right that is otherwise commonly enjoyed by other properties within the Zoning District. Other properties within this established zoning district are not allowed to build an oversized accessory structure that exceeds the maximum allowable size 1,800 square feet. If this application was approved, this applicant would have a right that other properties do not have.

Likewise, the strict application of the maximum square footage requirement does not constitute an unnecessary hardship upon the applicant, but more so an inconvenience, as the property owner can still make reasonable and economically viable use of the property, if required to conform to zoning code requirements relating to maximum allowable accessory structure size.

The purpose and intent of this related code section is to outline standards and regulations for accessory structures that are necessary and customarily associated with and are appropriate, incidental, and subordinate to principal uses. The purpose and intent outlined in Chapter 165 as it relates to accessory structures is to regulate the size and number of these structures, in order to protect general welfare and to encourage the most appropriate use of land.

If the variance were to be approved, it could adversely affect the order, convenience, and/or general welfare of the neighborhood, as the oversized structure would not meet neighborhood expectations of enforcement and compliance with City Zoning Code Regulations. The purpose of these regulations is to maintain the character and integrity of the neighborhood while ensuring that accessory structures do not become disproportionately large or intrusive.

Staff finds that this finding of fact can be seen as unfavorable.

This criteria is not met.

Applicant Comment: We cannot identify like circumstances for comparison due to the unique history of the property as a working farm until approximately 1960 and the unique arrangement for use of the area/farm building we have enjoyed with Wesley Life’s permission since 2000. Our request would provide us “rights commonly enjoyed” by others in the same district.

- iii. **That the special conditions and circumstances do not result from the actions of the applicant;**

Staff Comment: This finding of fact asks whether conditions or hardship experienced by the applicant are self-imposed. The strict application of the size requirement does not constitute an unnecessary hardship upon the applicant, but more of an inconvenience, because the property owner can still make reasonable and economically viable use of the property, if required to conform to zoning code requirements.

Staff acknowledges that the applicant currently has an agreement with Wesley Life, the adjacent property to the west, that allows them to use an old farm building for storage and equipment. The building is located on the property line between the two sites and is scheduled for demolition in August. The applicant has submitted the request to replace lost storage due to this demolition. The proposed additional accessory structure would be used to replace the covered storage lost to the demolition. However, nonconformities are only permitted and allowed to be used until they are removed. Creating a new nonconformity would be inconsistent and out of harmony with the City of Indianola Zoning Code.

Likewise, the request for additional square footage of accessory structures on the property would be deemed a want, rather than a necessity. Building an addition onto the three-car garage that would further exceed the maximum 1,800 square footage requirement by an additional 546 square feet does not conform to zoning code requirements and is not a necessity. Alternative storage spaces can be utilized within the existing accessory structures or off of property.

If the variance regarding the size of the structure were to be approved, it would not meet neighborhood expectations of enforcement and compliance with city zoning code regulations. Additionally, this accessory structure would become disproportionately large and disrupt the character and integrity of the neighborhood. It would establish a precedent for future development and subsequently alter the character of residential neighborhoods that would not be in harmony with the general purpose and intent of the zoning code or comprehensive plan.

Staff does not find that this finding of fact can be met.

This criteria is not met.

Applicant Comment: Because Wesley Life will be demolishing the farm building on or about 8/16/24 to develop additional senior living townhomes on their property, we have not created the conditions and circumstances that warrant our need for additional storage. Instead, our application would allow an addition to the existing 3-car garage that will be more similar in design, and smaller in area, than the existing old farm building.

- iv. **That granting the variance request will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures, or buildings in the same district. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted use of land, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.**

Staff Comment: This finding of fact asks whether a special privilege would be granted to the applicant that is otherwise denied to other lands, structures, or buildings within the same zoning district. Variances are granted when a hardship for a property owner occurs, which simultaneously disenfranchise the property owner from a right that other property owners within the same zoning district commonly have.

If this variance were to be granted to allow for an oversized accessory structure, staff finds that a special right or privilege would be granted to the property that other properties within the Zoning District do not have. It would be denied administratively through the building permit process.

It is essential to uphold the integrity and consistency of zoning regulations to ensure that each property owner is treated fairly and equally within the established guidelines. Granting variance that deviated from the zoning code would set a precedent that may lead to future development deviations and ultimately alter the character of residential neighborhoods, which may not be in harmony with the general purpose and intent of the zoning code.

For those reasons, staff finds that this finding of fact cannot be viewed favorably.

This criteria is not met.

Applicant Comment: Our requests creates an addition to an existing structure that is very similar in design and purpose to many other existing carport-type structures within residential zoning districts. This request therefore satisfies requirement of a variance that it is not “superior or a right another property owner many not have”.

SUMMARY OF FINDINGS

The following summary of findings are provided as reasonings to deny the variance request:

- 1) The variance request is not favorable towards one or more findings of fact outlined in the Zoning Code.
- 2) The variance is not created by the regulations and arises from an action (desire) of the applicant to construct an oversized accessory structure.
- 3) Granting the variance would provide a right and privilege that other properties do not have.
- 4) Deviation from the Zoning Code Regulations would not be in harmony with the intent and purpose of the Zoning Code, which is to protect the general welfare of the neighborhood.
- 5) An unnecessary hardship does not exist if the request is denied, as the applicant has other avenues that are up to code requirements.

If the variance were to be approved, the Board of Adjustment should be prepared to summarize, for inclusion in the minutes of the meetings, its reasons to approve, which will serve as the applications decision and order.

COMMENTS FROM THE GENERAL PUBLIC

Notification letters were mailed to surrounding property owners within 200-feet of the subject property regarding the variance request on July 26, 2024. No comments were received at the time of the writing of this report.

ALTERNATIVES

The City of Indianola Board of Adjustment may consider the following alternatives:

- 1) The City of Indianola Board of Adjustment approves the variance request, as submitted.
- 2) The City of Indianola Board of Adjustment approved the variance request, with conditions.
- 3) The City of Indianola Board of Adjustment denies the variance request.**
- 4) The City of Indianola Board of Adjustment remands the variance request back to the applicant and/or staff for further review and/or modifications and directs staff to place this item on a future Board of Adjustment agenda.

RECOMMENDATION

Staff recommends that the Indianola Board of Adjustment move alternative 3, to deny the variance request.

City of Indianola application to the Board of Adjustment for variance

John and Tammy Hoyman

1301 Country Club Road

Indianola, IA 50125

Lot size= 300' x 175'= 52,500 sq ft.

Single family dwelling built in 1910

Two (2) existing accessory buildings (2,056 sq ft. total)

- One is a 3-car garage 48' x 30'=1,440 sq. ft.
- The other is a woodworking shop 28' x 22'=616 sq ft.

Reason for request for variance:

Wesley Life has notified us they plan to start development on the land west of and adjacent to our property. For the past 24 years that we have lived in our house, Wesley Life has allowed us to use some property for equipment storage, firewood splitting and storage, and gardening. The equipment storage has been in an 800 sq. ft. farm building built in 1931. This building straddles the Wesley Life and Hoyman property line and is scheduled for demolition on or about 8/16/24 by Wesley Life.

Request for variance:

We request a variance to allow construction of a post and beam carport-type attachment to the rear of the existing 3-car garage to replace some of the covered storage lost to the impending demolition by Wesley Life. This situation satisfies the requirement of "special condition and circumstance" (see Fact Finding (i.)) due to the origins of the house and farm buildings that pre-date other lots and homes in the area by 50+ years and exceed the size of typical existing lots in the area.

The attached structure will be used to store equipment that we use infrequently- and will not be seen from Country Club Road or Scott Felton Road. The equipment includes items such as a skidloader, snowblower, lawn mowers, garden tiller, log splitter, and pallets of firewood.

We cannot identify "like circumstances" for comparison due to the unique circumstances of the history of the property as a working farm until approximately 1960 and the unique arrangement for use of the area/farm building we have enjoyed with Wesley Life's permission since 2000. Our request satisfies the requirement of "rights commonly enjoyed" (see Fact Finding (ii.)) due to a lack of comparable properties.

And for requirement "not resulting from actions of the applicant" (Fact Finding (iii.)), because Wesley Life will be demolishing the farm building on or about 8/16/24 to develop additional

senior living townhomes on their property, satisfying the requirement that the conditions described were not self-imposed by the applicant.

Regarding requirement, “no special privilege conferred”, (see Fact Finding (iv.)), this request for approval creates an addition to an existing structure that is very similar in design and purpose to many other existing carport-type structures within residential zoning districts. This request therefore satisfies requirement (iv.) of a variance that it is not “superior or a right another property owner many not have”.

In summary, we have two (2) existing accessory buildings. We are NOT requesting a variance to construct a third. The two existing accessory buildings exceed the current 1,800 sq. ft. code maximum by 256 sq. ft. Instead, we are requesting a 546 sq. ft. variance to construct the addition of a covered 42’ x 13’ post and beam carport-type storage area attached to the west (rear) of the existing 3-car garage.

If this request is permitted, our total accessory building area would be 2,602 sq. ft on a 52,500 sq. ft. lot. (See attached architectural drawings created by Steven E. Gray, AIA of Grayscale Architecture, LLC)

Thank you for your consideration of this request. We will be present at the August 6 Board of Adjustment meeting to answer any additional questions.

John and Tammy Hoyman
515-681-0455
515-681-7495

BOARD OF ADJUSTMENT APPLICATION

Community Development

110 North 1st Street, Indianola, Iowa 50125-0299
(515) 961-9430 • comdev@indianolaiowa.gov



PROPERTY OWNER

(Last Name) Hoyman
(First Name) John and Tammy
(Address) 1301 Country Club Road
(City) Indianola (State) IA (Zip) 50125
(Phone) 515-681-0455 (Email) jtajhoyman@gmail.com

APPLICANT (if not Property Owner)

(Last Name) _____
(First Name) _____
(Address) _____
(City) _____ (State) _____ (Zip) _____
(Phone) _____ (Email) _____

APPEAL

Submittal Requirements:

*All submittal requirements must be completed.
Incomplete applications will not be considered*

- ☐ Completed Application
- ☐ Filing Fee: \$300 per request
- ☐ Written narrative indicating where it is alleged there is error in any order, requirement, decision, or determination made by the Administrative Officer in the enforcement of this Code of Ordinances of Indianola, Iowa.
- ☐ Other Information as required by Director

SPECIAL USE PERMIT

Submittal Requirements:

*All submittal requirements must be completed.
Incomplete applications will not be considered*

- ☐ Property Address: _____
- ☐ Completed Application
- ☐ Filing Fee: \$300 per request
- ☐ Site Plan and Elevations as outlined in 165.06
- ☐ Written narrative indicating the special use permit sought and response to the criteria outlined in Section 165.02(3)(B)(3)(c)(v) of the Code of Ordinances of Indianola, Iowa
- ☐ Other Information as required by Director



VARIANCE

Submittal Requirements:

*All submittal requirements must be completed.
Incomplete applications will not be considered*

- ☒ Property Address: 1301 Country Club Road
- ☒ Completed Application
- ☒ Filing Fee: \$300 per request
- ☒ Site Plan and Elevations
- ☒ Written narrative indicating justification for proposed variance and response to the criteria outlined in Section 165.02(3)(B)(3)(b) of the Code of Ordinances of Indianola, Iowa
- ☐ Other Information as required by Director

I certify that the information and exhibits submitted are true and correct to the best of my knowledge and that in filing this application I am acting with the knowledge, consent and authority of the owner(s) of the property. Pursuant to said authority, I hereby permit City officials to enter upon the property for the purpose of inspection related to this application.

Signature

John Hoyman Tammy Hoyman
Name (printed) John Hoyman Tammy Hoyman Date 7-22-24

FOR OFFICE USE ONLY:

Code to 45180

Date Received: _____
Receipt No: _____
Receipt Amount: _____
BOA Agenda Date: _____

*Dropped off
7-22-24
2:24pm CH*



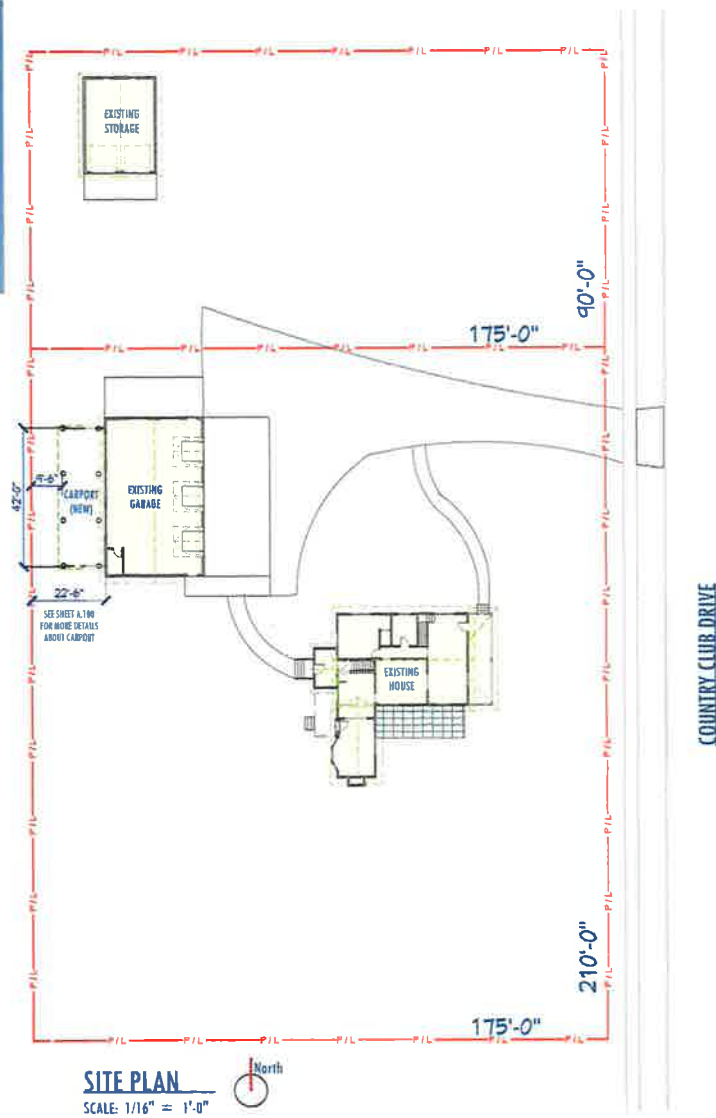
AERIAL VIEW OF PROPERTY AT 1301 COUNTRY CLUB DRIVE - INDIANOLA, IOWA -- LOOKING NORTHEAST



NEW CARPORT ATTACHED TO EXISTING GARAGE -- LOOKING SOUTHEAST



NEW CARPORT ATTACHED TO EXISTING GARAGE -- LOOKING NORTHEAST



GRAYSCALE ARCHITECTURE, LLC
13762 HARTSON STREET
INDIANOLA, IA 50125-8118
515.423.8497
GENERAL CONTRACTOR

PROJECT NAME
CARPORT
ADDITION
for

JOHN-TAMMY
HOYMAN

1301 COUNTRY
CLUB DRIVE
INDIANOLA, IA
50125

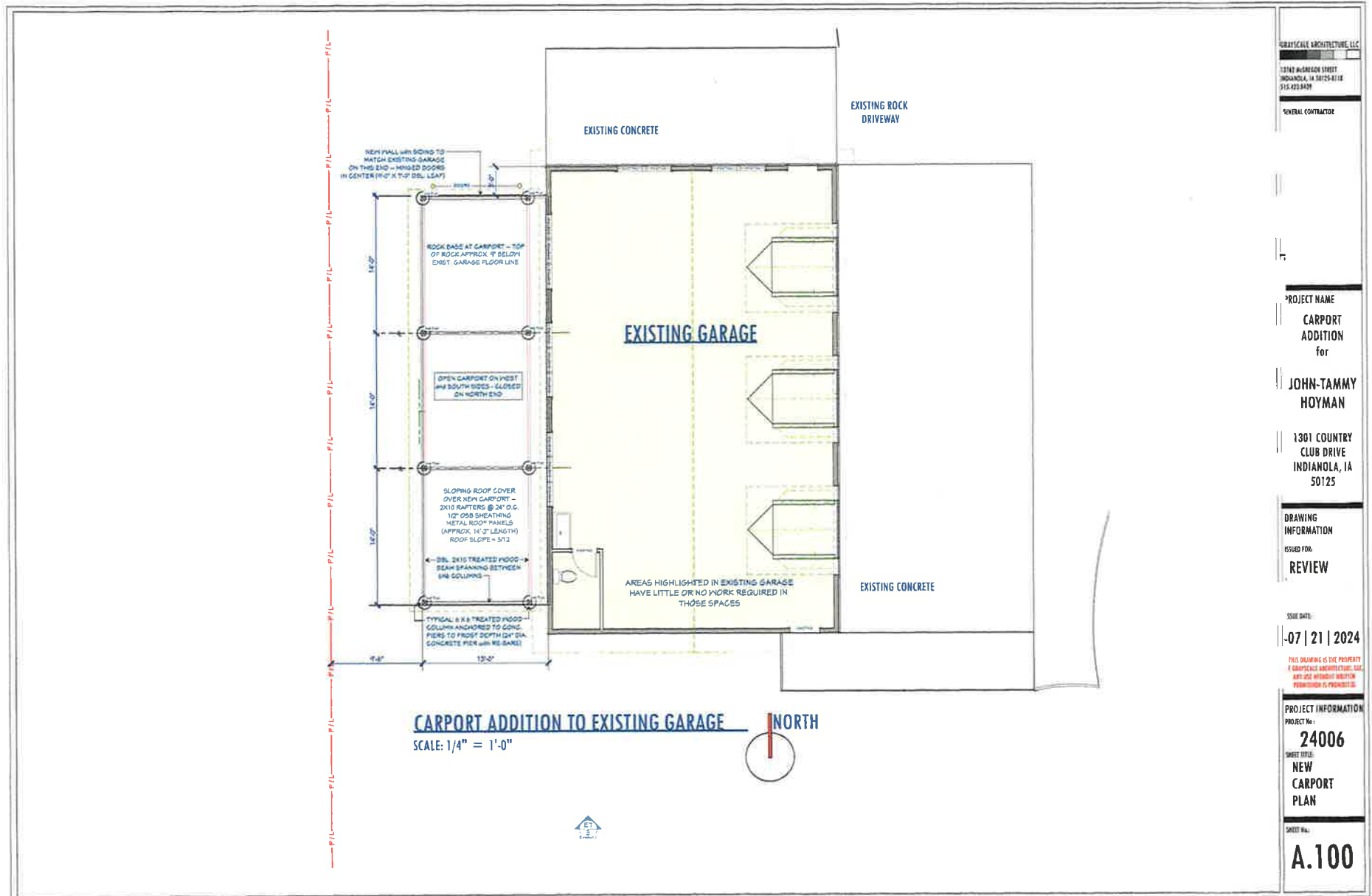
DRAWING
INFORMATION
SIGNED FOR:
REVIEW

ISSUE DATE:
07 | 21 | 2024

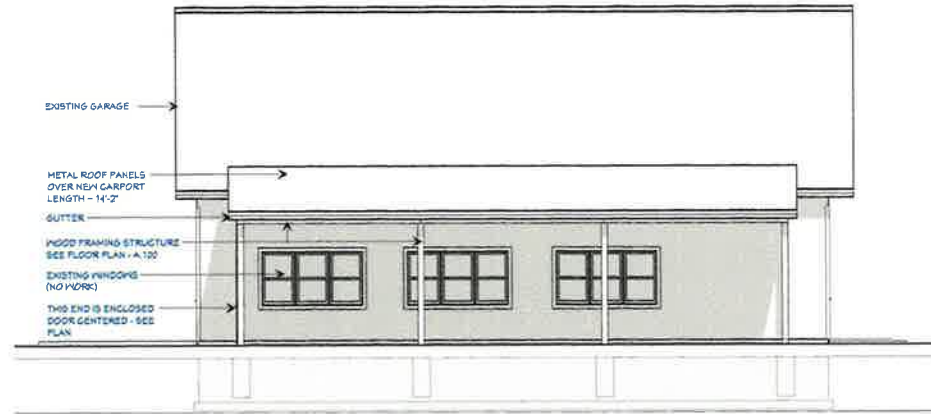
THIS DRAWING IS THE PROPERTY
OF GRAYSCALE ARCHITECTURE, LLC.
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PERMISSION IS PROHIBITED.

PROJECT INFORMATION
PROJECT No.:
24006
SHEET TITLE:
SITE PLAN

SHEET No.:
SP.100



GRAPHSCALE ARCHITECTURE, LLC
 13762 HARRISON STREET
 INDIANOLA, IA 50125-8118
 515.432.8439
 GENERAL CONTRACTOR



WEST ELEVATION -- CARPORT IN FRONT

SCALE: 1/4" = 1'-0"

PROJECT NAME
 CARPORT
 ADDITION
 for
 JOHN-TAMMY
 HOYMAN
 1301 COUNTRY
 CLUB DRIVE
 INDIANOLA, IA
 50125

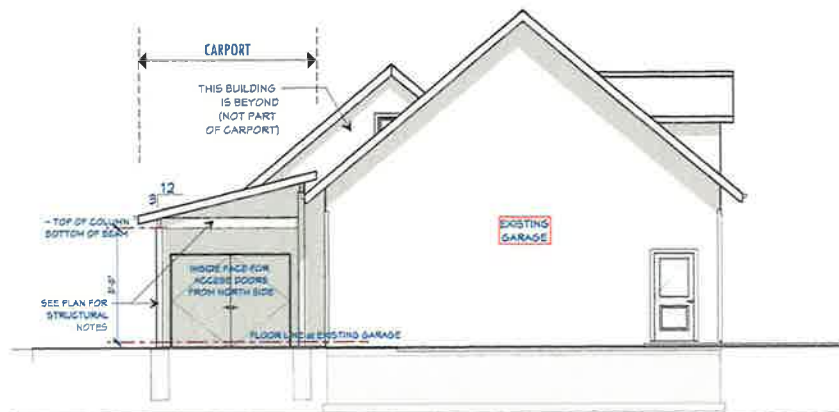
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ISSUE DATE:
 07 | 21 | 2024

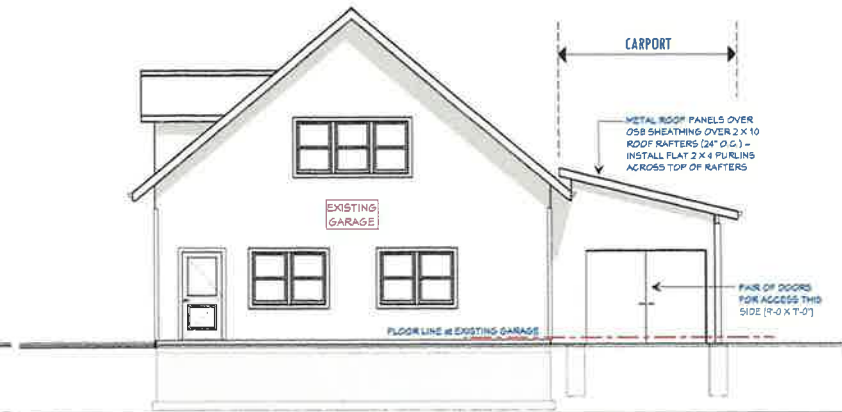
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 PERMISSION IS PROHIBITED.

PROJECT INFORMATION
 PROJECT No.:
 24006
 SHEET TITLE:
 CARPORT
 ELEVATIONS

SHEET No.:
 A.200



SOUTH ELEVATION -- CARPORT ON LEFT



NORTH ELEVATION -- CARPORT ON RIGHT

CITY OF INDIANOLA, IOWA

BOARD OF ADJUSTMENT

IN THE MATTER OF THE APPLICATION OF:

John and Tammy Hoyman for a variance under the terms of Section 165.02(3)(B) of the Code of Ordinances of Indianola, Iowa, to permit the construction of an accessory structure that would exceed the maximum allowable square footage of 1,800 for accessory structures in a residential zoning district, which is 1,800 square feet, to which if allowed, such proposal would not conform to Section 165.04.2.E(1) of the City of Indianola Code of Ordinances.

FINDINGS OF FACT

The City of Indianola, Iowa Board of Adjustment has reached the following Findings of Fact:

- 1. The property identified as 1301 Country Club Road is owned by John and Tammy Hoyman.*
- 2. The property identified as 1301 Country Club Road is in the R-1 Single-Family Residential Detached Zoning District.*
- 3. City Zoning Code Section 165.04.2.E(1) requires accessory structures not to exceed 1,800 square feet in size.*
- 4. A variance is requested to permit the construction of an accessory structure that would exceed the maximum allowable square footage for accessory structures in a residential zoning district, which is 1,800 square feet. The proposed 546 square foot accessory structure, combined with the two pre-existing grandfathered accessory structures, would result in a total square footage of 2,602 square feet.*
- 5. The variance is not created by the regulations and arises from an action (desire) of the applicant to construct an over-sized accessory structure.*
- 6. Granting the variance would provide a right and privilege that other properties do not have under the City of Indianola's Zoning Code Regulations.*
- 7. An unnecessary hardship does not exist if the request is denied, as the applicant has other reasonable and economically viable options.*
- 8. Deviation from the Zoning Code Regulations would not be in harmony with the intent and purpose of the Zoning Code, which is to protect the general welfare of the neighborhood.*

DECISION

According to Section 165.02(3)(B)(3)(b) of the Code of Ordinances of Indianola, Iowa to grant a variance from the terms of the Zoning Ordinance when a property owner can show that the owner's property was acquired in good faith and where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property, or where by reason of exceptional topographical conditions or other extraordinary or exceptional situation, the strict application of the terms of the Zoning Ordinance actually prohibits the use of such property in a manner reasonably similar to that of other property in the same district, and where the Board is satisfied under the evidence before it that a literal enforcement of the provisions of the Zoning Ordinance would result in unnecessary hardship; provided, however, all variations granted under this clause

shall be in harmony with the general purpose and intent of the Zoning Ordinance. Furthermore, the following findings shall be made in order to grant a variance:

- i. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district;
- ii. That literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance;
- iii. That the special conditions and circumstances do not result from the actions of the applicant;
- iv. That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same district. No nonconforming use of neighboring lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance.

In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violation of any such conditions and safeguards shall be deemed a violation of this Ordinance. Under no circumstances shall the Board grant a variance to allow a use not permissible under the terms of the Zoning Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of the Zoning Ordinance in said district. If relevant and applicable, the Board may prescribe a time limit within which the action for which the variance is required shall begin or be completed, or both. Failure to begin or complete, or both, such action within the time limit shall void the variance. If no time limit is set by the Board and if relevant to the variance, then the granted variances shall become void eighteen months after the date of the Board approval unless a building permit has been issued for the construction provided for by the variance. In the event the building permit for the construction provided for by the variance expires or is canceled, then the variance approval shall become void.

Analysis of Code Criteria

John and Tammy Hoyman are seeking to construct a forty-two by thirteen-foot (42 x 13) accessory structure on property addressed as 1301 Country Club Road. The lot in question, which is 1.2 acres in size, contains a single-family structure built in 1910. The site also includes two existing accessory structures. One is a three-car garage that is 1,440 square feet and the other is a woodworking shop that is 616 square feet.

To the North, East, and South exists all R-1 Single-Family Residential Detached Zoning Districts. To the West exists a Planned Unit Development (PUD) that is owned by Wesley Retirement Services. The property fronts along Country Club Road. According to the Iowa Department of Transportation (IDOT), the Annual Average Daily Traffic (AADT) for Country Club Road is 1,950 vehicles, as of 2016.

Lot characteristics show that there are no topographic conditions, such as steep slopes and bodies of water on the site that may limit the location of an accessory structure. The proposed accessory structure would be a 546 square foot addition attached to the west (rear) of the existing three-car garage. This proposed addition will result in a total area exceeding the maximum allowable 1,800 square feet by 802 square feet, creating a total of 2,602 square feet of accessory structures on the property. This excess includes the pre-existing 256 square feet that already exceeds the limit, combined with the proposed 546 square foot addition.

ORDER

MOTION:

Move to approve the request from John and Tammy Hoyman for a variance under the terms of Section 165.02(3)(B) of the Code of Ordinances of Indianola, Iowa, to permit the construction of an accessory structure that would exceed the maximum allowable square footage of 1,800 for accessory structures in a residential zoning district, which is 1,800 square feet, to which if allowed, such proposal would not conform to Section 165.04.2.E(1) of the City of Indianola Code of Ordinances.

VOTE:(_____ – _____) (_____ – _____)

WHEREFORE, it is ordered that the application from John and Tammy Hoyman for a variance under the terms of Section 165.02(3)(B) of the Code of Ordinances of Indianola, Iowa, to permit the construction of an accessory structure that would exceed the maximum allowable square footage of 1,800 for accessory structures in a residential zoning district, which is 1,800 square feet, to which if allowed, such proposal would not conform to Section 165.04.2.E(1) of the City of Indianola Code of Ordinances, is hereby ***denied***, as evidence by the Board's finding that all code criteria ***have not*** been met as required by the Code of Ordinances of Indianola, Iowa; and

WHEREFORE, any taxpayer, or any officer, department, board or bureau of the City, or any person or persons jointly or severally aggrieved by any decision of the Board may present to a court of record a petition, pursuant to Iowa Code 17A.19, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) days after the filing of the decision in the office of the Board.

Ordered this 7th day of August, 2024

Chairperson
Board of Adjustment
City of Indianola, Iowa

FILING DATE: