

City of MISSION

City Hall - 6090 Woodson Street - Mission, Kansas 66202
Community development Department
(913) 676-8360 - Fax (913) 722-6318

CITY OF MISSION BOARD OF ZONING APPEALS

AGENDA November 28, 2016 6:30 PM

1. Election of Officers for 2016
2. Approval of the Minutes of the October 26, 2015 meeting
3. Application #16-01 Fence Variance-Public Hearing
5500 Outlook Street

Staff Report #16-01

Application

Applicant Findings

Photographs

Fence Plot Plan

Approved Fence Plot Plan

Variance Guidance

MINUTES OF THE BOARD OF ZONING APPEALS MEETING

October 26, 2015

The regular meeting of the City of Mission Board of Zoning Appeals was called to order by Acting Chair Stuart Braden at 6:30 PM Monday, October 26, 2015. Members also present: Mike Lee, Robin Dukelow and Carla Mills. Jim Brown was absent. Also in attendance: Interim Community Development Director Danielle Murray.

APPROVAL OF MINUTES OF August 24, 2015

Mrs. Dukelow moved and Mr. Lee seconded a motion to approve the minutes of the August 24, 2015 meeting. The vote was taken (4-0-0). The **motion carried**.

APPLICATION #15-05 VARIANCE – PUBLIC HEARING **5710 Johnson Drive**

Ms. Murray: Tonight you're hearing an application for a variance to the sign code. It is the section relating to pole signs. This is for a sign located at 5710 Johnson Drive, Mission, Kansas.

By way of background, the sign is part of the previous use of the property which was a gas station. In searching City records, we can find a mention of the sign going back to 1970. There is no sign permit on file for the sign. The business that operated there operated at least for the last 50 years. So, this is a change-over in business. While the business is also a non-conforming use, that is not an issue that is under debate tonight. The new owner intends to continue the existing use and would do so under the rules for non-conforming uses. The issue tonight is the reuse of the pole sign. Pole signs are a prohibited sign type in the city except for certain circumstances. This sign does not fit those certain circumstances, so it can only be maintained and not refaced for a new business. So, the request that you're hearing tonight is to allow it to be refaced and reused for a new business.

Since there is no sign permit on file, we don't have the details of the current sign, but it appears it's within 5 to 7 feet of the property and is approximately 18 feet in height. It is a single pole with a sign face at the top of it and it does project up through the existing canopy. When the previous business left, the gas pumps and the underground gasoline tanks were removed from the site. In the staff report, there's a picture of what the site looked like when it was operating previously, and there's a picture more recently showing the current state. The face of the sign has been removed, as you can see in that picture.

Included in the staff report is a summary of all the other BZA cases regarding signs that we can find. The current property is zoned MS1, which does not allow either a pole sign or a monument sign. Included in the staff report is a summary of all the relevant sign code ordinances for this property, including definitions of what sign maintenance, sign refacing for a pole sign, and what a monument sign would be. As always, the Board of Zoning Appeals has the authority to grant variances to this section of the code, including signs. Granting of the requested variance would allow staff to approve a sign permit for the refacing of the existing pole sign on the subject property to support the establishment of a new business by the applicant. Staff suggests that

the pole sign be in lieu of one wall sign as normally permitted by the sign code. Of course, when considering variance applications, you have the five findings that you would need to meet to rule to allow that variance. This does require a public hearing, and the applicant is here tonight. That concludes staff's report.

Mr. Braden: Any questions of staff, or discussion? [None.] Would the applicant like to come forward and make his case?

Carl Casey, Applicant, appeared before the Planning Commission and made the following comments:

Mr. Casey: [Introduces his wife, Cathy.] We try to run a very clean auto repair business and try to maintain that integrity. We don't use a lot of banners flying around or temporary signs. But this, coming down Johnson Drive, a sign right there really draws attention towards the building because it sits so far back from Johnson Drive. It's not right on the drive. It's actually farther back. So, that being said, when you're driving down Johnson Drive, of course you want to keep your eyes forward, and if you're set back too far, then you're not going to be seen. The sign, like she said, has been there for many, many years. It's not a freestanding sign, as you can see. It looks like a rooftop sign almost. So, even though it is a pole sign, it doesn't look like a freestanding pole sign in the middle of nowhere. It looks like it's part of the awning. The sign that we're proposing would be a different shape than that. I have a drawing here from a sign company that we got an estimate from. The oval will be smaller than that and won't take up as much room. The colors will be our logo colors and it will be smaller than what's in that picture. We're also going to reface the building to give it more appeal, and redo the inside, as well.

So, that's where we would like to go with it. We would like to be able to put a sign back up there.

Mr. Braden: Questions of the applicant?

Mr. Lee: Do you know what the height of the fascia is above your canopy?

Mr. Casey: I'm sorry, I don't.

Mr. Lee: You don't know if it's tall enough [unclear] same effect?

Mr. Casey: You mean illuminate the pole or just put the sign on the canopy?

Mr. Lee: [unclear].

Mr. Casey: Yeah, we could do that. We don't have to have the pole to support it.

Ms. Dukelow: Mike, are you suggesting putting this sign on the canopy?

Mr. Lee: Not on top. On the side.

Mr. Casey: Are you talking about on the side of the canopy?

Mr. Lee: No, where he used to have banners hanging there. Out closer to the main road. Is there actually a wall sign there - ?

Mr. Casey: We could put narrower signs there with our logo. It would be so small because of the width of the canopy.

Mr. Lee: That's why I'm asking if you knew what the height of it is.

Mr. Casey: It's about 2 feet wide.

Ms. Dukelow: Have you explored different configurations for the sign, such as a sign now below the level of the awning, the canopy?

Mr. Casey: You're talking about putting one on the face of Johnson Drive?

Ms. Dukelow: Perpendicular to Johnson Drive. Or even a monument sign on the ground.

Mr. Casey: Well, the monument sign on the ground, I think that might cause a problem for people when they pull out because it's hard to see cars coming anyway with cars parked there. If we had a monument sign there it might hurt somebody that can't see traffic coming down Johnson Drive. And there's a little pathway right there that you can drive cars through. So, the monument sign would almost have to be right at the edge of Johnson Drive.

Ms. Dukelow: I believe there's only one small landscaped area across the whole front of that property and it's on the southeast corner. The rest is all concrete and asphalt.

Mr. Casey: There's another one at the other side of that. [*Pointed out landscaped areas on the site.*] If we put the signs on the side of the canopies, we'd have to put one on each side, but it would be so narrow. I don't know if it would look like. It would have to be really small to be there.

Ms. Dukelow: Is it your intention to maintain the canopy?

Mr. Casey: Yes. Our plans are to reface that and put new lights underneath it, and then paint. The yard lights in the parking lot, we want to re-do those with LEDs. It will give it kind of a nostalgic look.

Mr. Braden: When you were referring to a problem with the monument sign, where were you talking about?

Mr. Casey: I don't know where you could put it. Right off Johnson Drive is a curb, like a sidewalk, and on the other side of that, in between that sidewalk and where the canopy pole is, that's a pathway for cars to drive through. I suppose you could put a monument sign there, but that would eliminate a pass-through. Our future plans are, in between [*points out*] where the base of the sign is, there's another island here where they had gas pumps here and here. Down the road, we'd like to put some nice walls and have an atrium there for people to sit. It would be in the middle of the parking lot, about 20 feet from Johnson Drive.

Ms. Dukelow: It wouldn't be attached to the existing building?

Mr. Casey: No, it would be more like a patio. It would be under the canopy. That's down the road. Our intentions would be to have something there for people to sit outside.

Ms. Dukelow: Maybe incorporate a monument sign with that.

Mr. Casey: Maybe so, yeah. We try our best to keep it clean. We don't keep tires and stuff like that around. I've never liked a lot of flying flags and things like that. That's just my taste. With the City guidelines, we'd probably have to do another variance to get a monument sign there, I would imagine

Ms. Dukelow: If I interpret it correctly, monument signs are for MS2 and they're MS1.

Mr. Casey: I just thought since the sign has been there for long time, people are used to seeing it. It would be refreshed, a better-looking sign, but still a sign.

Ms. Mills: Is the pole sign the only sign option that you've explored? If you can't get the pole sign, what's your next-best option on visibility?

Mr. Casey: If we can't get the pole sign, obviously we'd have to take down the signs there, and we'd have to do something on the canopy sides so that you can see it from both directions. We were going to do a lighted sign on the front of the building anyway, but it sits back so far that I don't think driving down the road, you could see it. But, I don't know if we would be allowed to do that on both sides of that canopy, and I don't know if that would look better or worse than a pole sign. I certainly don't want to make it any worse. Our goal is to keep things pretty and looking good. I don't think a pole sign would make it not look good, but I'm not in your position. You guys know better than me. But, I can assure that we would maintain it and keep it looking nice.

Mr. Braden: Anything else?

The Chairman called for public comment, and hearing none, closed the public hearing.

Mr. Lee: I have a question for staff. I heard refacing, which is not what we're doing, correct? In this case, are we actually taking down an existing sign and replacing it with a totally new canopy?

Ms. Murray: I think, technically, our sign code would consider this to be a sign refacing, which is changing or replacing the words, numerals, face of the sign to serve a different establishment or business without altering, removing or replacing the structure, frame, pole or bracket. So, the pole is still going to be there.

Mr. Lee: It's a new cabinet. It's not a reface. It would be no different than putting a monument sign there. I'm talking strictly from the standpoint of our position here, the fact that we're going to allow pole signs. If we take the position of refacing it, that's not what we're doing. You're coming back in here with a design to fit in that existing cabinet. That would be a reface. You're talking about a totally new cabinet.

Ms. Murray: Okay. That's probably a finer level of detail than a variance needs to be. They couldn't reface it anyway. It would be a non-conforming sign. It's just not allowed as a sign type anymore, anyway. So, however you want to consider it, whether it's a refacing or a new pole sign. The variance would allow a pole sign.

Mr. Lee: But if they were to switch it and ask for a monument, could we do that.

Ms. Murray: It's still a prohibited sign type. It's just a different type of sign. The zoning district does not allow for a freestanding sign of any kind.

Mr. Lee: So it wouldn't be any different with a monument sign.

Ms. Murray: Well, there are different qualities to both. We don't allow pole signs anywhere in the city, but for that very specific limitation. Monument signs are allowed more freely in other zoning districts, so you might say it's a little bit less of a variance for a monument sign because it's closer to our current standards, but it's still not exactly fitting the zoning district in which it is.

Ms. Dukelow: If, for example, the applicant wanted to hang a sign beneath the awning – What's the height restriction? It has to be 7 feet to the bottom, would be the maximum, if I remember correctly. Would that be allowed in the zoning district.

Ms. Murray: The zoning district allows for a wall sign or projecting sign or a pedestrian-oriented sign that is under a non-retractable awning or canopy. So, I think that would be the sign type. That's limited to 3 square feet, and the lowest point is a 7 foot clearance. To be perfectly conforming without needing a variance, those would be the standards that would have to be met.

Mr. Lee: You would consider a projecting sign if it was flush - ?

Ms. Murray: Not if it's flush. If it's flush on the side on the canopy, I would consider it a wall sign. If it's going to hang down below that edge of the canopy, then it's not a wall sign anymore. It probably would be classified as a pedestrian-oriented sign, which has smaller dimensions than a wall sign.

Mr. Lee: And because it is attached to the building, [unclear] square foot is allowed [unclear] that same elevation on the [unclear] as well, correct?

Ms. Murray: That's a little bit of a gray area. It depends on what other signs they're proposing. But, if you wanted to count, for example, the east face of the canopy and the east face of the main structure, they are touching. If you wanted to consider all that square footage together, that might work.

Mr. Braden: I have a question of the applicant. You're saying that you're refacing the building. Were you doing something with the canopy itself?

Cathy Casey, Applicant, appeared before the Planning Commission and made the following comments:

Mrs. Casey: Yes, we were planning to redo the canopy.

Mr. Braden: My question is, you talk about that 2 foot height being too small to do a sign or something like that, but since you're refacing it anyway, could you increase the height of the façade, of the canopy, to have a larger sign?

Mr. Casey: There would be a cost to do that, and I don't know that it would be structurally sound at that point because of the way that it's supported with the columns. I think if you get too wide, the wind may cause a problem. They may say we've got to re-do the base and make it stronger. As it is, it's been there for many years and it's been fine. I'm not a structural engineer, so I don't know if making those canopy sides bigger would pose a problem during high winds, etc. I guess that would be something that could be explored. Cost is a factor there because if I get too much money invested in the outside of the building, then I'm not conforming again for auto repair. So, I'd have to go through a whole other set of hoops to be able to do auto repair there. Because if you put too much money into a building, the way that I understand, it comes to a certain point of value for the building, then you have to reapply.

Ms. Dukelow: I have a question for staff. It's my understanding that this process required a fee and 30-day notification, so we're also considering time and money. So, if the Applicant hasn't considered other alternatives and would like to do so, would it be prudent for us to consider - ? My thought is that perhaps the Applicant would like the opportunity to consider other alternatives. Is this a case where we might consider tabling the motion - ? I guess I'm not really sure what to do here. I feel like if we close it, then we have [unclear] processing fee. Or, if the Applicant decides to pursue a monument sign.

Ms. Murray: You've already closed the public hearing, so continuing the public hearing under those original notices couldn't occur at this point. Nobody has made a motion yet or signaled any kind of position. The vote that would need to happen to pass any motion tonight would be 3 of 5. Your fifth is gone, so it's still 3 of 4. At this point, the public hearing is going to have to be re-advertised because it's been opened and closed. So, you could make a motion tonight and be done with this case and we could simply bring it back for another variance of a different type. We can waive the application fee. That's not an issue, just the publication notice that we need to do. I think there would still be time to do it next month, but I can't guarantee the next meeting date..

Mr. Lee: My position is that I don't have a problem with refacing. I do have a problem with moving the cabinet. I don't think that's the same thing.

Ms. Mills: I don't think the code distinguishes that. It doesn't matter whether it's refacing or if it's a new cabinet. It's not permitted. So, you're making a distinction that isn't in the code.

Mr. Lee: But it's not new. We're not adding.

Ms. Mills: But it doesn't say that. It just says they're not permitted. So, with a change of ownership, it's supposed to come down. So, I think my issue is, when we look at the five criteria and we're supposed to meet all of them, I don't see that it meets all those conditions.

Ms. Dukelow: I concur. There's a building nearby that's set back as far, and I'm concerned about the precedent that's been set for allowing pole signs to continue. Even in less-stringent districts. But I do know that we have allowed monument signs in extenuating circumstances in this zoning district.

Ms. Murray: I would say, as Chairman Brown normally advises, make your motion in the affirmative according to the by-laws, even though you may or may not support that motion, and then, take a vote.

Mr. Lee moved and Mrs. Dukelow seconded the following motion:

To make the following findings and approve the proposed variance for property located at 5710 Johnson Drive, allowing for the refacing of the existing pole sign by the applicant in lieu of one (1) wall sign as normally permitted by the sign code.

The vote was taken (0-4-0). The **motion failed and the request for a variance was denied.**

ADJOURNMENT

With no other agenda items, Mrs. Mills moved and the Commission seconded a motion to adjourn. The vote was unanimous. The motion carried. The meeting adjourned at 7:00 p.m.

Jim Brown, Chair

ATTEST:

Danielle Murray
Interim Community Development Director

STAFF REPORT
Board of Zoning Appeals Meeting November 28, 2016

AGENDA ITEM NO.: 3

PROJECT # / TITLE: Variance Application # 16-01, exterior side yard fence height and design

REQUEST: Application for variance to Section 415.030 to allow for the height of an exterior side yard fence to exceed 3' and to enclose the yard.

LOCATION: 5500 Outlook Street
Mission, Kansas 66202

OWNER/APPLICANT: Jeff and Amber Randel

ADVERTISEMENT: 11/8/2016 - The Legal Record Newspaper

PUBLIC HEARING: 11/28/2016-BZA



BACKGROUND INFORMATION:

The subject property was platted as part of Missionhill Acres subdivision in 1925-26. The lot is 120' by 140' with the side of the lot with least dimension is along Outlook Street. This parcel matches the original platted lot while many of the surrounding homes in the subdivision were developed on half lots. The property is currently zoned Single-Family Residential District "R-1" and was constructed in 1925. The original plot plan is not available. The applicant has owned the home since 2006.

Johnson County AIMS aerial imagery is available from 1941-2016. In reviewing this, it appears that the original driveway may have been on the north side of the lot. Also, the existing chain link fence is visible as far back as 2000. Photos from the Johnson County Appraiser and Google Street view indicate that there was a deck on the north side of the home from 1993-2011. There is currently no deck on the north side of the home. Building permit data indicates that the current owners remodeled in 2011 and constructed an

800 sqft. addition to the rear of the home. The submitted building plan in 2011 also included a new deck which was not constructed. It appears the existing deck was removed with that project. Over the years the home has alternated between having and not having an exterior door on this facade. Currently the owners have applied for and been approved for construction of a deck on the north and west side of the home. The permit is pending issuance for payment. A fence permit application was also made and rejected as submitted. The proposed privacy fence would have encroached into the side exterior yard. The owners of the home wish to replace the existing fence to accommodate the proposed deck.

APPLICABLE ORDINANCES

Section 415.020. Purpose and Intent.

It is the purpose and intent of this Article to improve the well-being of the community by the control of fencing and the requiring of proper screening to enhance visual surroundings by screening out unsightly views and conditions, to increase the quality of living by upgrading conditions within the City of Mission, to protect the residential community by affording a level of privacy and at the same time establishing better scale and controls to the business and commercial areas. It is desirable to encourage combinations of elements of appropriate fencing, land berming and planting barriers and to soften hard transition areas. It is equally desirable to maintain a high degree of traffic safety by proper location of screening and fencing so that safety will remain paramount.

Section 415.040. Where Screening and Fencing Is Prohibited.

Post and rail fencing or other such decorative fencing may be built to a height of three (3) feet in the front yard or side yard abutting a street. The maximum height of a fence in the rear yard of a lot zoned residential shall be six (6) feet. The smooth side of the fence must face the neighboring property. Installation of electric, barbed wire razor ribbon, barbed wire or other similar fences shall be prohibited in all zoning districts. Barbed wire assemblages atop fences shall be prohibited in residential zoning districts. In the interest of safety, every attempt shall be made to eliminate blind corners near all drive and street intersections. Nothing shall discourage or prohibit the landscaping, planting or screening of other areas that are not hazardous to traffic.

Section 405.020 Definitions

LOT, CORNER: A lot abutting upon two (2) or more streets at their intersection. A corner lot shall be deemed to front on that street on which it has its least dimension, unless otherwise specified by the Building Official, except that a lot as defined in this Title, when made up of more than one (1) platted lot, shall be deemed to front on the street upon which the platted lots front.

LOT LINE, FRONT: The boundary between a lot and the right-of-way on which it fronts.

LOT LINE, REAR: The boundary line which is opposite and most distant from the front street line; except that in the case of uncertainty the Building Official shall determine the rear line.

LOT LINE, SIDE: Any lot boundary line not a front or rear line thereof. A side line may be a party lot line, a line bordering on an alley or place or a side street line.

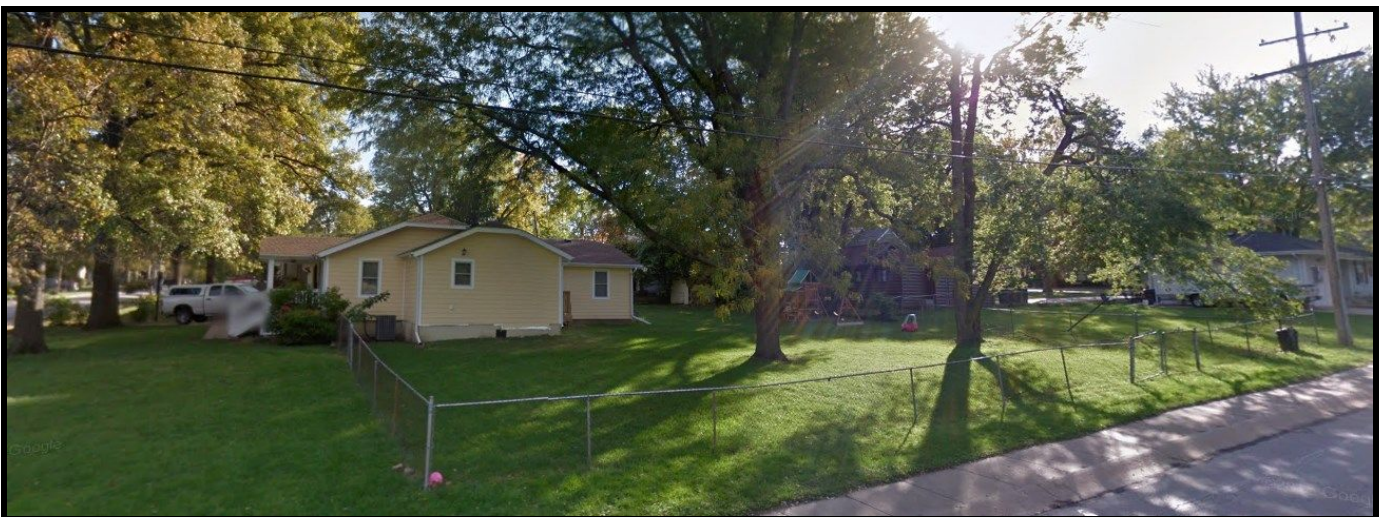
YARD: An open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided. In measuring a yard for the purpose of determining the width of a side yard, the depth

- a. The variance requested arises from such condition which is unique to the property in question, is not ordinarily found in the same zone or district and is not created by an action or actions of the property owner or the applicant.
- b. The granting of the variance will not adversely affect the rights of adjacent property owners or residents.
- c. The strict application of the provisions of this Title would constitute unnecessary hardship upon the property owner represented in the application.
- d. The variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.
- e. Granting the variance will not be opposed to the general spirit and intent of this Title.

East facade of home October 2014-Google Street View



North facade of home October 2014-Google Street View



East facade of home June 2011-Google Street View



North facade of home June 2011-Google Street View



CITY OF
MISSION

KANSAS

Community Development Department
6090 Woodson Street
Mission, KS 66202
Phone: (913) 676-8360
Fax: (913) 722-1415

Permit # ____ - ____

Application to the Board of Zoning Appeals

Applicant Name: <u>Jeff & Amber Randel</u> Company: _____	
Address: <u>5500 Outlook St.</u>	
City/State/Zip: <u>Mission, KS 66202</u>	
Telephone: <u>785-766-5754</u>	
Email: <u>JSrandel@yahoo.com</u>	
Property Owner Name: <u>Jeff & Amber Randel</u> Company: _____	
Address: <u>5500 Outlook St.</u>	
City/State/Zip: <u>Mission, KS 66202</u>	
Telephone: <u>785-766-5754</u>	
Email: <u>JSrandel@yahoo.com</u>	
Address of Property: <u>" "</u>	
City/State/Zip: <u>" "</u>	
Zoning: <u>Fence</u>	
Application Type	
Variance <input checked="" type="checkbox"/>	Appeal <input type="checkbox"/>
Description of Request	
Please provide a brief description of the request including specific Code Section and quantity of variance or decision for appeals:	
<u>See attached document</u>	

Consideration of Variances

The Board of Zoning Appeals has the authority to grant variances upon a finding that all of the following conditions have been met. Please explain how your application satisfies the conditions. Attach additional sheets if necessary.

See attached document

- 1) The Variance requested arises from such condition which is unique to the property in question, is not ordinarily found in the same zone or district and is not created by an action of the property owner of applicant.
- 2) The granting of the variance will not adversely affect the rights of adjacent property owners or residents.
- 3) The strict application of the provisions of this Title would constitute unnecessary hardship upon the property owner represented in the application.
- 4) The variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.
- 5) Granting the variance will not be opposed to the general spirit and intent of the Title.

Agreement to Pay Expenses

Applicant intends to file an application with the Community Development Department of the City of Mission, Kansas (City). As a result of the filing of said application, City may incur certain expenses, such as but not limited to publication costs, consulting fee, attorney fee, and court reporter fees. Applicant hereby agrees to be responsible for and to reimburse City for all cost incurred by City as a result of said application. Said costs shall be paid within ten (10) days of the receipt of any bill submitted by City to Applicant. It is understood that no requests granted by City or any of its commissions will be effective until all costs have been paid. Costs will be owed whether or not Applicant obtains the relief requested in the application.

X *Ann Rame* Date 10-15-16
 Signature (Owner)

X *JSRM* Date 10/15/16
 Signature (Owner's Agent)

*****FOR OFFICE USE ONLY*****

File Fee: \$	Meeting Date
	PC CC
	Date Notices Sent
Total:	
Receipt #	Date Published
Notes:	
	Decision

Description: We request a variance to the following ordinance:

The maximum height of a fence in the front yard or exterior side yard on a corner lot shall be (3) feet. Only decorative fencing may be built in these yards.

We are replacing our chain-link fence with a privacy fence and need our deck area to be within the fence, which would require using some of the side yard. We are asking that we be allowed to start our new fence off the front corner, as opposed to the back corner, of our house as the current fence does.

Consideration #1: The original footprint of our house has the deck located in our exterior side yard (see photos 1 and 2), which is on a corner lot. Logically, our chain-link fence includes the deck area. Most homes either have a bare wall or a garage on the side, so a fence is not needed there. In our case, there is a deck in the side yard that needs to be within the fence. Our house also sits much further from the street than many corner houses.

Consideration #2: Our house sits far from the street, and our side yard is not near any houses. Starting the new fence off the front corner of the house, where the current fence has been located for many years, should make no difference to our neighbors.

Consideration #3: The exterior side of the house was built to accommodate a deck. This was done before we moved in 10 years ago. We removed the original deck to make repairs to the house, with the intention of rebuilding it. There is a window and an electrical outlet that are at an abnormal height without the deck. The siding and base of our house do not look nice (see photo 2) because they are meant to be covered by the deck. Because of this, we intend to rebuild the deck off the house in its original location – the side yard (permit has been approved).

Our current chain-link fence goes around the deck area and side yard, as we need it to. However, because we have two young daughters and 55th Street has become very busy over the years, we want to replace the chain link with a privacy fence. The chain-link fence is also old and does not look nice anymore. Replacing it would improve the appearance of our property. Due to the current ordinance, we cannot replace the fence in its current location, and any new fence would not go around our deck. We would have a deck that is on the outside of our fence, which is impractical and would look odd. We could connect a three-foot fence to the six-foot fence in the side yard portion, but we feel this would look very odd. It would also not provide privacy and may not adequately contain our dog.

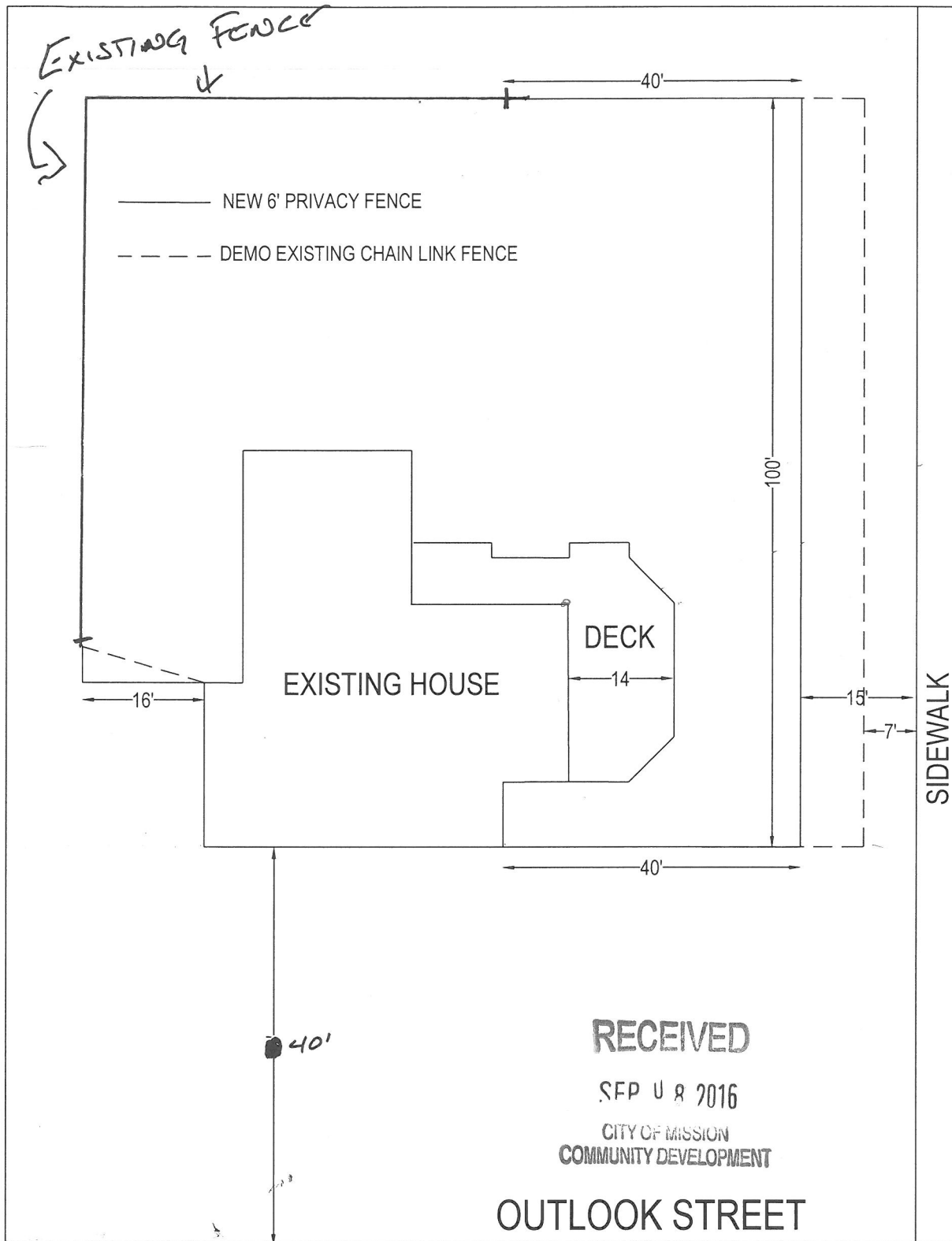
We always intended to replace the deck and fence in their original locations and do not want to unnecessarily change the footprint. We think keeping the fence and deck in their original locations would make our home look its best, which is to the advantage of the whole neighborhood.

Consideration #4 and #5: Our property has had a fence in the exterior side yard since before we moved in 10 years ago. We simply want to put in a nicer and more private fence where a fence has always been. We will voluntarily bring the fence back approximately 15 feet from the sidewalk/street. The fence will not be intrusive, and there will be a significant amount of our yard on the outside of the fence – more so than there is now. The fence will look nice, will set back from the street, and will keep our daughters protected while they play.

Thank you for your consideration. If we are not granted a variance, we ask for an explanation of the reasoning. We do not understand why extending our fence to a portion of the side yard would be an issue for the city or our neighbors.







This plot plan was prepared for use before and during the foundation construction only. We are not responsible for unknown or unplatted easements of any kind unless we are furnished the easement descriptions before the field work is performed. Contractor to check and verify house dimensions and elevations on job site. Final decision as to foundation height is the responsibility of the builder on the job site.

Jeff Randel 5500 Outlook Fence Plan

Scale: 1" = 20'

Date: 07-25-16

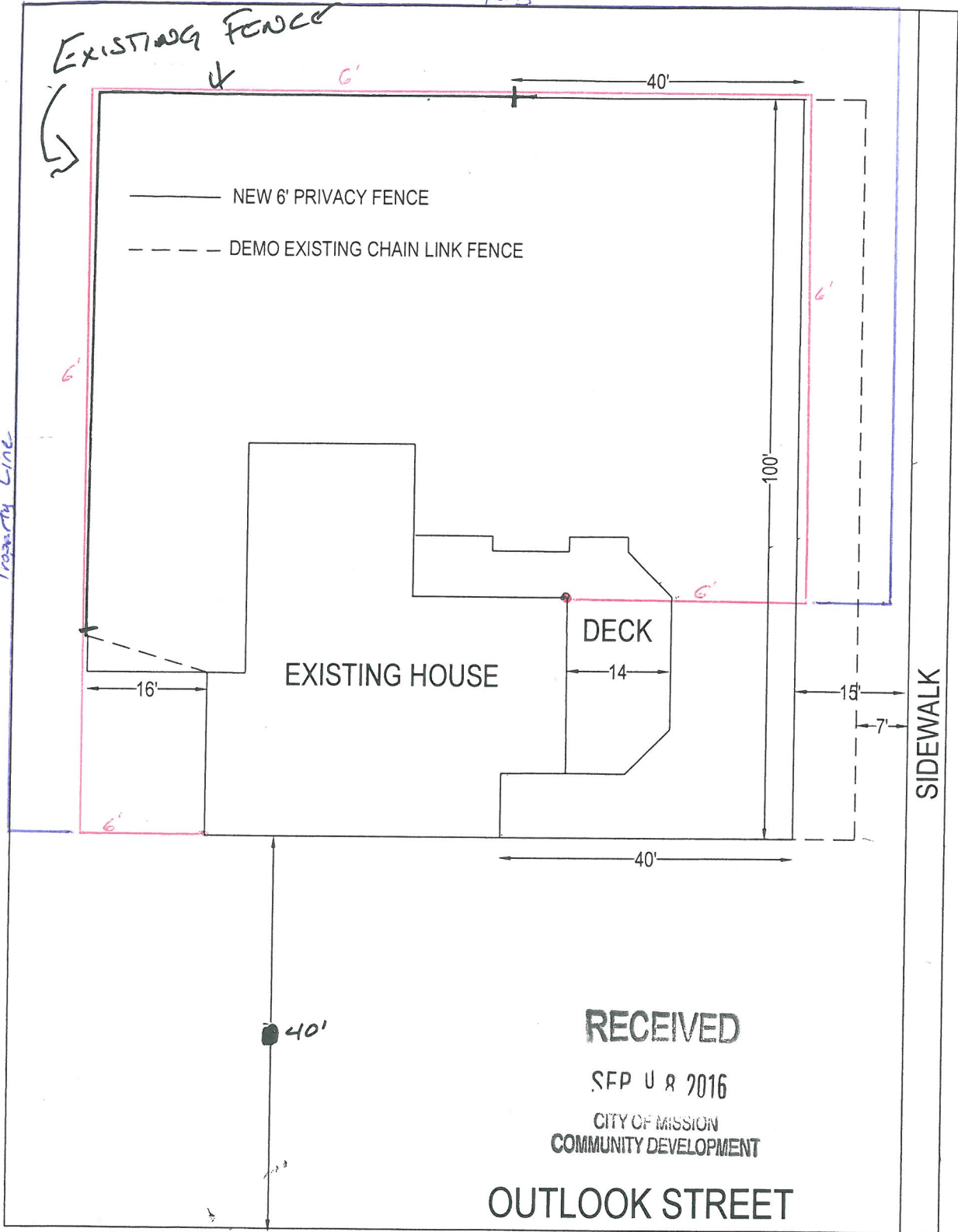
Proj. # 27645

SCALE: 1"=20'



Property Line

EXISTING FENCE



RECEIVED

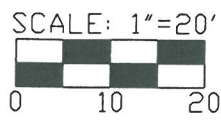
SEP 18 2016

CITY OF MISSION
COMMUNITY DEVELOPMENT

OUTLOOK STREET

This plot plan was prepared for use before and during the foundation construction only. We are not responsible for unknown or unplatted easements of any kind unless we are furnished the easement descriptions before the field work is performed. Contractor to check and verify house dimensions and elevations on job site. Final decision as to foundation height is the responsibility of the builder on the job site.

Jeff Randel 5500 Outlook Fence Plan	
Scale: 1" = 20'	
Date: 07-25-16	
Proj. # 27645	





ZONING VARIANCES

A Guide to Applying for a Variance from the City of Mission Board of Zoning Appeals

Background

Zoning regulations are intended to protect and serve the public good. To do so, they should be applied universally and consistently. Sometimes, however, because of atypical conditions unique to a particular property, carrying out the strict letter of a zoning regulation would not allow reasonable use of that property. To avoid unjust and unnecessary imposition of such extreme hardships on property owners the Mission Municipal Code provides a relief from the standards in unique circumstances. The Code authorizes the Board of Appeals (BZA) to grant variances from zoning regulations.

Definition

A variance is a waiver from compliance with a specific provision of the zoning ordinances. It is a type of exemption to a zoning regulation that allows a property owner to be legally in compliance with the zoning regulations without complying with specific requirements of that regulation. Variances are granted to a particular property owner because of the practical difficulties or unnecessary hardship that would be imposed upon him/her by the strict application of the provisions of the regulation. Zoning regulations that may be waived include yard size, building size, fence height, parking, landscaping, etc. A variance may not be granted in a planned zoning district.

Conditions

Submission of an application for a variance does not guarantee approval. The BZA must find that the zoning regulation in question causes a hardship. A hardship relates to the physical characteristics of the property, not the personal circumstances of the owner or user. The applicant must show that the physical characteristics of their property, like shape or

contour, actually prohibit the practical use of his/her property in the manner similar to that of other property in the zoning district where it is located. A variance may be appropriate if a property has unique physical conditions and the spirit and intent of the ordinance will be satisfied while varying from the regulations in the manner requested. The applicant must also show that the public health, safety, and welfare are not adversely affected by their request. If these legal tests cannot be met, a variance should not be granted. A variance is not appropriate as a matter of convenience, or if it would grant special privileges to an individual property. Economic considerations alone do not constitute a hardship if a reasonable use for the property exists under the Municipal Code.

Process

The granting of a variance in Mission is the responsibility of the BZA. The Board is made up of up to 5 citizen members appointed by the Mayor. A majority vote is necessary to approve or deny a variance. Applications for variances are reviewed by City Staff and the BZA. Any person considering seeking a variance should first contact Community Development Department Staff who will explain the review process and provide the necessary forms, checklists, and deadlines.

To request a hearing, an application must be submitted to the Community Development Department prior to the monthly filing deadline. Staff will review the application for completeness and consistency with applicable plans and ordinances. If the application is complete, the case will be scheduled for review at the next available BZA meeting. Before the meeting, Staff prepares a report containing a summary of the case and the applicant's proposed findings.

In addition to review by City Staff and the BZA, the application is subject to comment from the general public. A public hearing is conducted at the BZA meeting where the application is presented.

Decision

At the conclusion of the public hearing the BZA will deliberate and issue a decision. The BZA may only grant a variance upon a finding that all of the necessary conditions have been met.

Contacts

Community Development Department
913-676-8360

Fees

Application-\$75
Public Notice-\$6.49 per property owner within two hundred (200) feet which requires notification as required by City Code.