

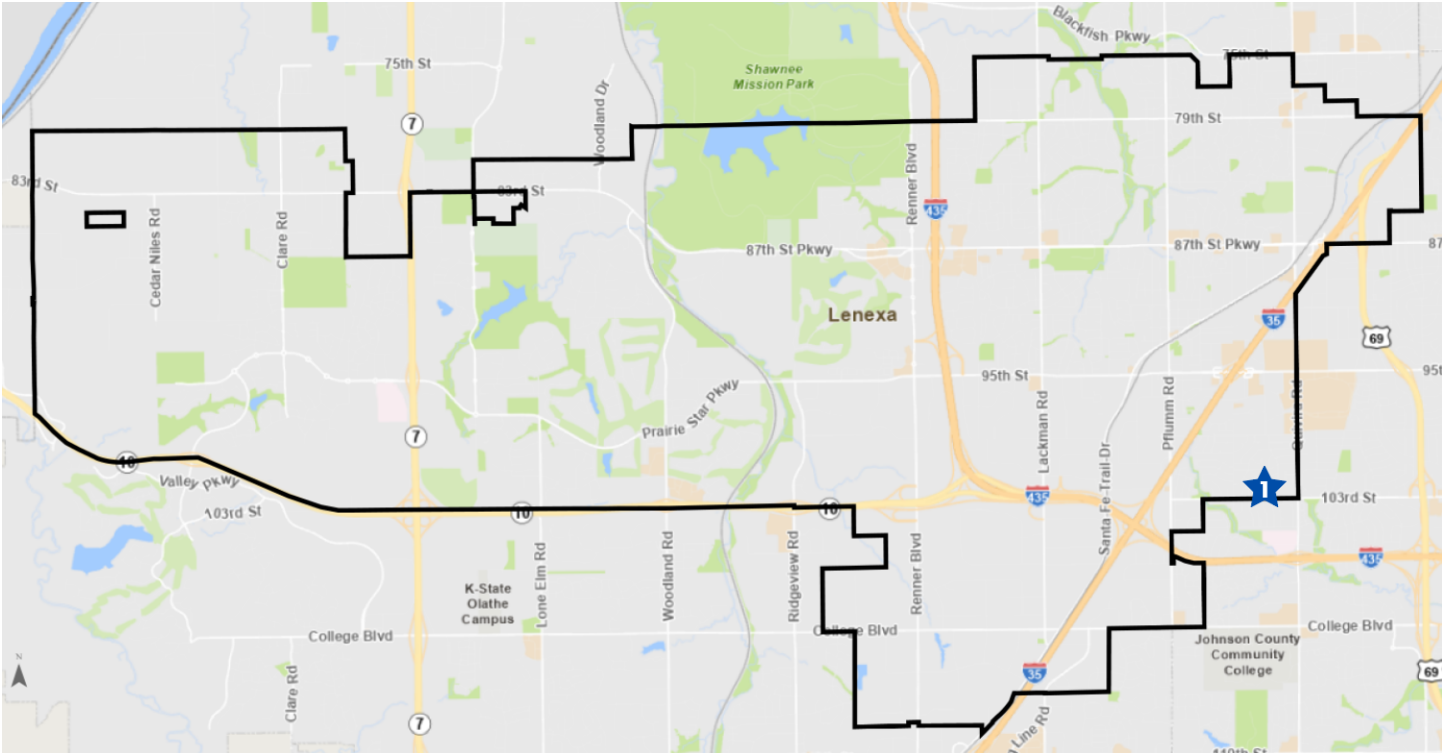


BOARD OF ZONING APPEALS AGENDA

NOVEMBER 6, 2023 at 7:00 PM

Community Forum at City Hall
17101 W. 87th Street Parkway
Lenexa, KS 66219

AGENDA MAP



CALL TO ORDER

ROLL CALL

APPROVE MINUTES

REGULAR AGENDA

1. **Aguilera Fence Appeal - Consideration of an appeal to Staff's denial of an administrative deviation to allow a fence constructed in violation of the approved fence permit to be set back two-feet from the south property line. BZ23-03**

ADJOURN

APPENDIX

2. Draft Minutes - October 2, 2023

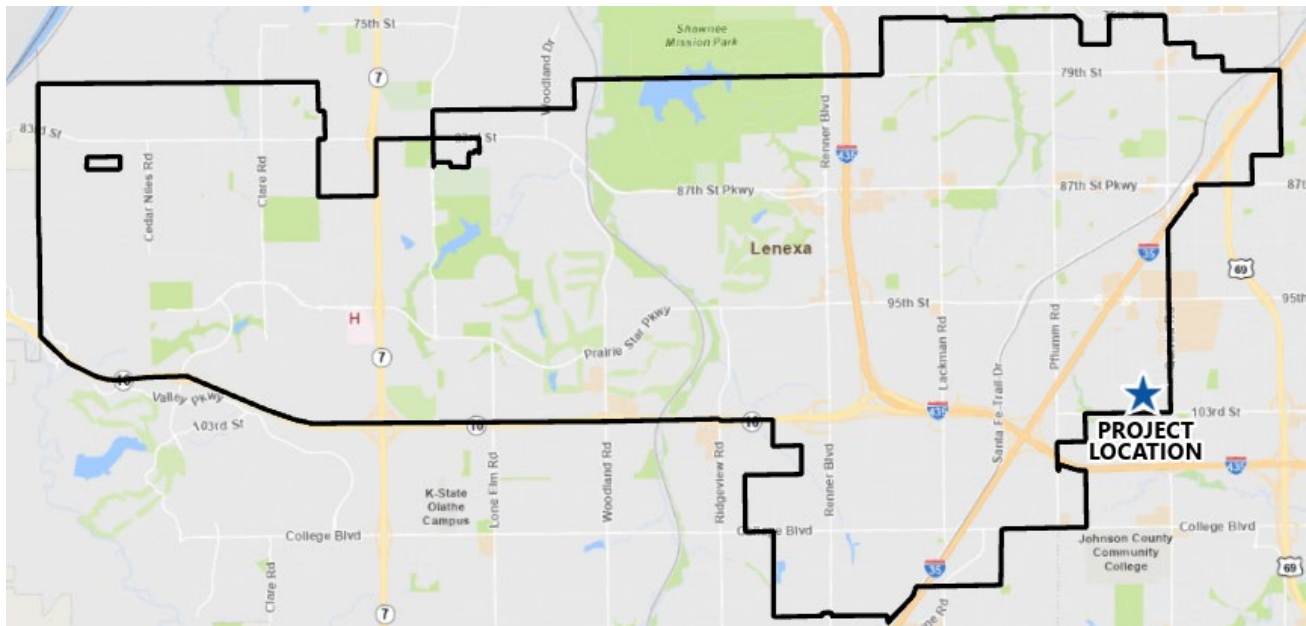
If you have any questions about this agenda, please contact Stephanie Kisler, Planning Manager, at skisler@lenexa.com.

*If you need any accommodations for the meeting, please contact the City ADA Coordinator at 913-477-7550 at least 48 hours prior to the meeting.
Kansas Relay Service: 800-766-3777*

Assistive Listening Devices are available for use in the Community Forum by request.

AGUILERA FENCE APPEAL

Project #:	BZ23-03	Location:	10249 Caenen Street
Applicant:	Heather Loo, All About Fencing	Project Type:	Appeal
Staff Planner:	Logan Strasburger	Proposed Use:	Accessory Use of a Fence in R-1, Single-Family Residential Zoning



APPEAL SUMMARY

This appeal request concerns a fence that was constructed in violation of approved plans associated with permit B23-0754 and the requirements for fences within the Unified Development Code (UDC). As it is currently built, the 6-foot-tall privacy fence sits approximately 3-feet from the sidewalk (2-feet from the south property line). The fence is in violation of the approved plan, which noted that the fence must be 25-feet from the sidewalk (a 24-foot setback from the south property line). The code would allow the 6-foot-tall privacy fence to be located at a setback of 20-feet from the south property line.

After a post-construction inspection and notice of the noncompliant fence, the applicant requested an administrative deviation of 22-feet into the plan approved 24-foot setback from the south property line to allow the fence to remain in its current location of 2-feet from the south property line. Staff denied the administrative deviation request and the applicant requested an appeal of Staff's decision.

The Board of Zoning Appeals has the power to hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this Chapter. In considering appeals, the Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination and, to that end, shall have all the powers of the officer from whom the appeal is taken, may attach appropriate conditions, and may issue or direct the issuance of a permit.

This report includes the record by which Staff's decision was made and provides information related to the criteria for review and the reasoning for Staff's denial of the administrative deviation request.

SITE INFORMATION

10249 Caenen Street is located on a corner lot in the R-1, Single-Family Residential Zoning District. The property is on the northwest corner of the intersection of Caenen Street and 103rd Street in southeastern Lenexa. Overland Park is on the south side of 103rd Street. The property occupies Block 46, Lot 22 of the Oak Park (Plat 16) subdivision. The plat was recorded in 1973 and the home was constructed in 1974.

LAND AREA (AC)	BUILDING AREA (SF)	CURRENT ZONING	COMP. PLAN
0.28	1,538	R-1	Suburban Residential



Exhibit 1: Aerial image of subject site.

On May 16, 2023, the Governing Body approved amendments to the UDC for fences, walls, and retaining walls. The Governing Body indicated they were uncomfortable with an initial proposal for a 15-foot street-side side yard setback for corner lots; however, they did support reducing the street-side side yard setback to 15-feet for fences that are an “open-style”, defined by the code as < 50% opacity, and no taller than 4-feet. Fences that are greater than 4-feet tall and are privacy-style, defined by the code as > 50% opacity, are to be setback 20-feet.

[illegible]

KA Installing a total of 250' of 6' tall vinyl fencing. Smooth side faces out. Fence must be 25' from the sidewalk.

3 of 8

FENCE TIMELINE

- June 5, 2023: Staff received an application for the fence permit (B23-0754).
- June 12, 2023: Staff approved the fence permit application and fence plan in compliance with the code (see [Exhibit 2](#)).
- July 14, 2023: Staff conducted an inspection of the fence and determined that the fence was not built according to the approved plan and in violation of the code.
- July 24, 2023: Staff sent a courtesy letter and email to notify the applicant that the fence was in violation of City code and provided the applicant with avenues to correct the violations.
- August 28, 2023: The applicant initially applied for a variance requesting to maintain the fence at its constructed location (essentially a deviation request to reduce the approved 24-foot setback from the south property line).
- August 31, 2023: Staff sent an email to the applicant informing them that the initial variance application was changed to an administrative deviation application (per procedural requirements). The email also advised that Staff denied the request for an administrative deviation for a reduced setback from the south property line. The same email also included Staff's analysis of the criteria for reviewing deviations (see analysis below in this report). The date of this email serves as the day City Staff made the decision to deny the administrative deviation request. Applicant advised Staff of the intent to appeal Staff's decision to deny the administrative deviation.
- September 7, 2023: Staff provided an appeal application form for the applicant to complete and submit along with the application fee. The applicant never completed the form. The form outlines the appeal request. The applicant did pay the appeal application fee. The applicant provided picture copies of an email sent to Staff in August and Staff has used these pictures as the formal appeal request (attached to this report). Staff worked to place the appeal on the October 2, 2023 agenda.
- September 20, 2023: Applicant requested that the appeal be placed on the November 6, 2023 meeting agenda.



Exhibit 3: View from Caenen Street looking east.



Exhibit 4: Close up of fence distance from sidewalk. The fence is approximately 3-feet from the sidewalk.



Exhibit 5: Approved Plan with 25-foot setback. Approved fence footprint is shown in red. Property line shown in black.

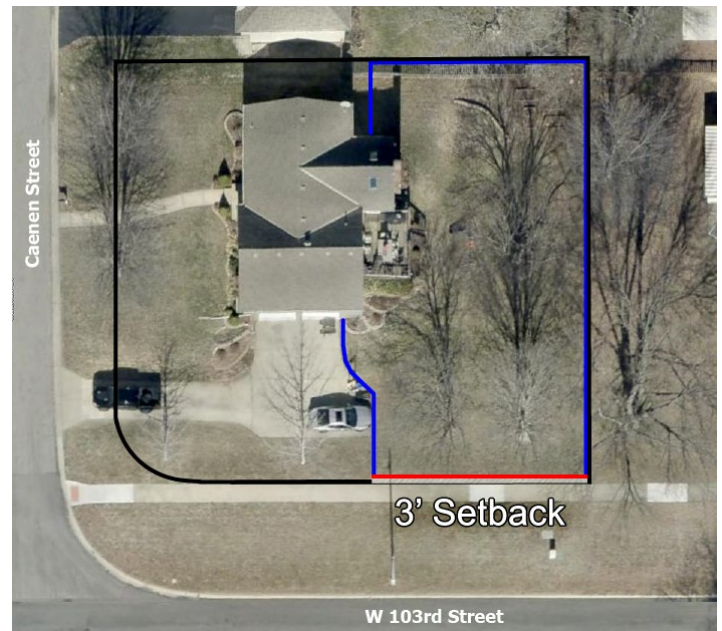


Exhibit 6: Aerial image depicting how fence was built out of compliance with approved plan. Built to 3-foot setback.

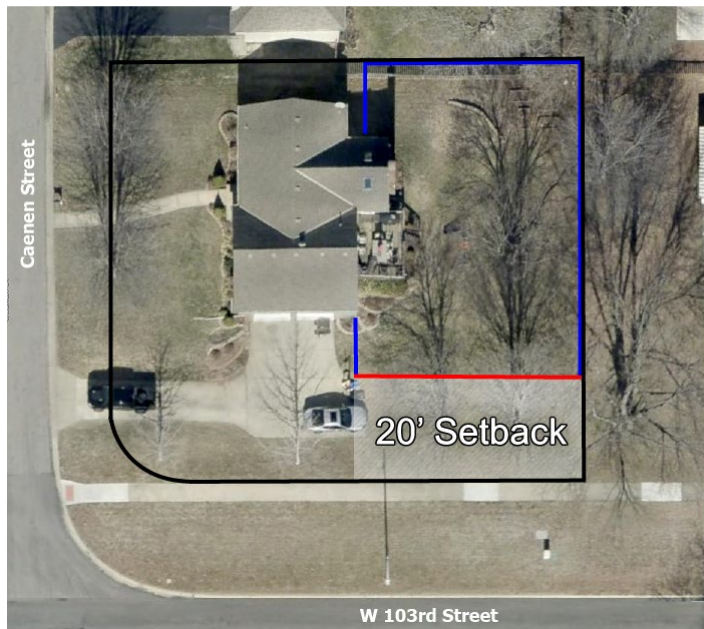


Exhibit 7: 20-foot Setback per code for privacy fences, open-style fences > 4-feet tall.

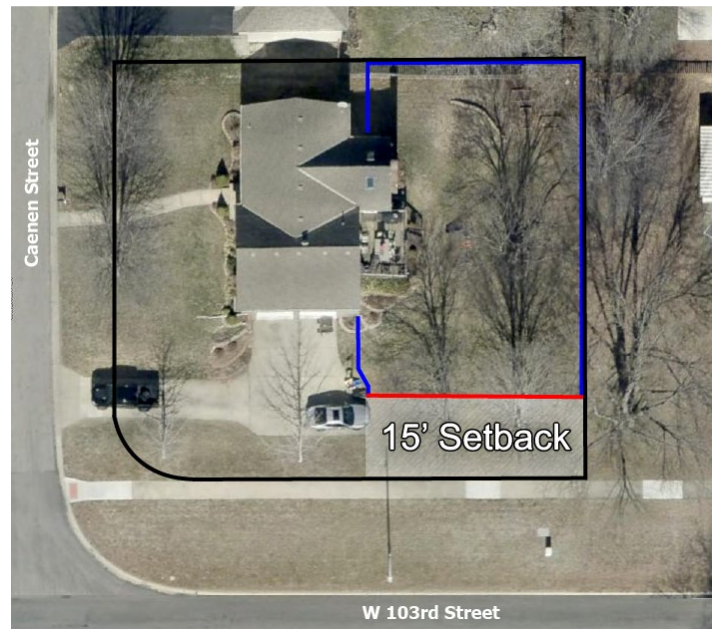


Exhibit 8: 15-foot Setback per code for open style fences ≤ 4-feet tall.

■ Setback Line ■ Property Line ■ Fence

CRITERIA ANALYSIS

[Section 4-1-B-24-F-5-c](#) of the Unified Development Code (UDC) grants the Community Development Director the authority to approve deviations from strict compliance with the regulations for permit approvals within the *Fences, Walls, and Retaining Walls* subsection of the *Accessory Uses and Structures* Section of the UDC. [Section 4-1-K-3](#) grants any party that is aggrieved by a decision made by the Community Development Director, Building Official, or any other public official administering Chapter 4-1 of the UDC the right to appeal said decision.

The applicant is appealing the Community Development Director's denial of their request to encroach 22-feet into the plan approved 24-foot setback from south property line (an 18-foot deviation from the code allowance of 20-feet for a 6-foot-tall privacy fence).

The UDC recognizes that site conditions vary greatly among sites and that the design, scale, and character of neighborhoods is varied. After consideration, the application for the revised fence permit (B23-0754) was denied by the Community Development Director on August 31, 2023. This denial determination was based on the following six criteria to be considered as outlined in [Section 4-1-B-24-F-e](#), which includes:

- a. Purpose and intent of the Code.
- b. Impact on adjacent properties.
- c. Safety.
- d. Unique site conditions and constraints.
- e. Promotion of high quality or unique design.
- f. Character of the neighborhood.

Staff examined these criteria when reviewing the administrative deviation request. The following analysis of the criteria is directly from the communication with the applicant on August 31, 2023.

- a. **Purpose and intent of the Code.** The code has a purpose of preserving and improving the public health, safety, and general welfare of the citizens of Lenexa. The fence code maintains aesthetic and safety standards to balance the needs and desires of the property owner and the neighborhood. Requiring fence permits is one way to ensure the consistent standards are being met. The City very recently changed the code and received confirmation from the Planning Commission and City Council that these standards are expected to be enforced. The fence, as it is built now, does not meet these standards.
- b. **Impact on adjacent properties.** The City Council recently revised the fence standards to balance the needs of property owners with the aesthetic and safety effects for drivers and the community at large. The Council desired to not create “canyons” within street corridors where fences would press in on the street and the pedestrian sidewalk. The fence, as proposed, would work to create such an effect along 103rd Street and the sidewalk.
- c. **Safety.** In staff's opinion, the location of the fence does not pose a potential safety risk.
- d. **Unique site conditions and constraints.** Staff finds no unique site condition or constraint that would push the fence location out to the desired location. In fact, staff approved a code-compliant site plan, and the fence was not constructed to this plan. The violation was noted in the follow-up inspection.
- e. **Promotion of high quality or unique design.** See note above about promotion of aesthetics along 103rd Street as well as the preservation of an open corridor for pedestrians on the sidewalk.

- f. **Character of the neighborhood.** Yours is a relatively older neighborhood. The neighborhood is a mix of code compliant and noncompliant fences; however, the majority of permitted fences appear to be compliant. Bringing your fence into compliance with the approved fence permit site plan will further the character of the neighborhood coming into greater compliance with the fence standards. While the effect of fences close to sidewalks on properties across 103rd Street are appreciated by staff, those properties are within the jurisdiction of Overland Park and therefore not considered with this fence. The majority of properties along 103rd on the Lenexa side have code-compliant fences.

Exhibit 9 below, which was not shared with the applicant at the time of the decision but is provided as context, reflects fences along 103rd Street. Conforming fences are outlined in green and nonconforming fences are outlined in red. One of the nonconforming fences was built in 2022 and Staff is currently enforcing compliance with the code for this property. The south side of 103rd Street is within the City of Overland Park and is subject to Overland Park's regulations for fencing.



Exhibit 9: Aerial image showing 103rd Street between Century Lane and Monrovia Street. The subject property is indicated by the yellow star.

REVIEW PROCESS

A hearing is required to consider this matter. The Board of Zoning Appeals is the final authority for this appeal of administrative decision and request for deviation. Per Section 4-1-K-3 of the UDC, the Board shall have power to hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this Chapter.

In considering appeals, the Board, in conformity with this Chapter and with K.S.A. 12-759, as amended, may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination and, to that end, shall have all the powers of the officer from whom the appeal is taken, may attach appropriate conditions and may issue or direct the issuance of a permit.

BOARD OF ZONING APPEALS OPTIONS

Staff is of the opinion that the analysis was completed in a credible manner and that no error was made in considering the deviation request. Staff recommends the Board uphold Staff's decision and deny the appeal.

The Board of Zoning Appeals has the following options to consider for this appeal to Staff's denial of an administrative deviation request related to the property line setback for a fence located at 10249 Caenen Street in the R-1, Residential Single-Family Zoning District:

1. **Find that Staff did not make an error in its decision and uphold Staff's decision and DENY** the applicant's appeal for a deviation for the fence to encroach 22-feet into the plan approved 24-foot setback. This results in the applicant having to remove the noncompliant fencing with the options to reinstall the fencing in compliance with the approved fence permit at a 24-foot setback from the south property line or apply for a new fence permit and relocate it to the code-allowed 20-foot setback.
2. **Find that Staff did make an error in its decision and reverse Staff's decision and APPROVE** the deviation request but **MODIFY** the amount of encroachment into the street-side yard setback to a specified distance the Board of Zoning Appeals determines is reasonable. This results in the applicant modifying the location of the fencing as discussed by the Board.
3. **Find that Staff did make an error in its decision and reverse Staff's decision and APPROVE** the deviation request as proposed by the applicant to encroach 22-feet into the plan approved 24-foot setback. This results in the applicant keeping the fencing as installed at a 2-foot setback from the property line.

ATTACHMENTS

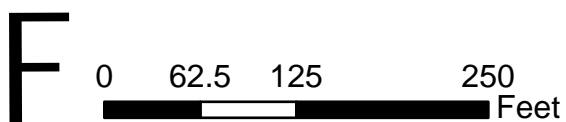
1. Applicant Provided Formal Appeal Request
2. Applicant Provided Revised Plot Plan
3. Approved Site Plan
4. Emails



Document Path: C:\Users\cdlogan\OneDrive - City of Lenexa\Documents\ArcGIS\Projects\Vicinity Map\Vicinity Map.aprx

Data Source: City of Lenexa and Johnson County Kansas
For further information, please call 913-477-7500

Aguilera Fence Appeal BZ23-03

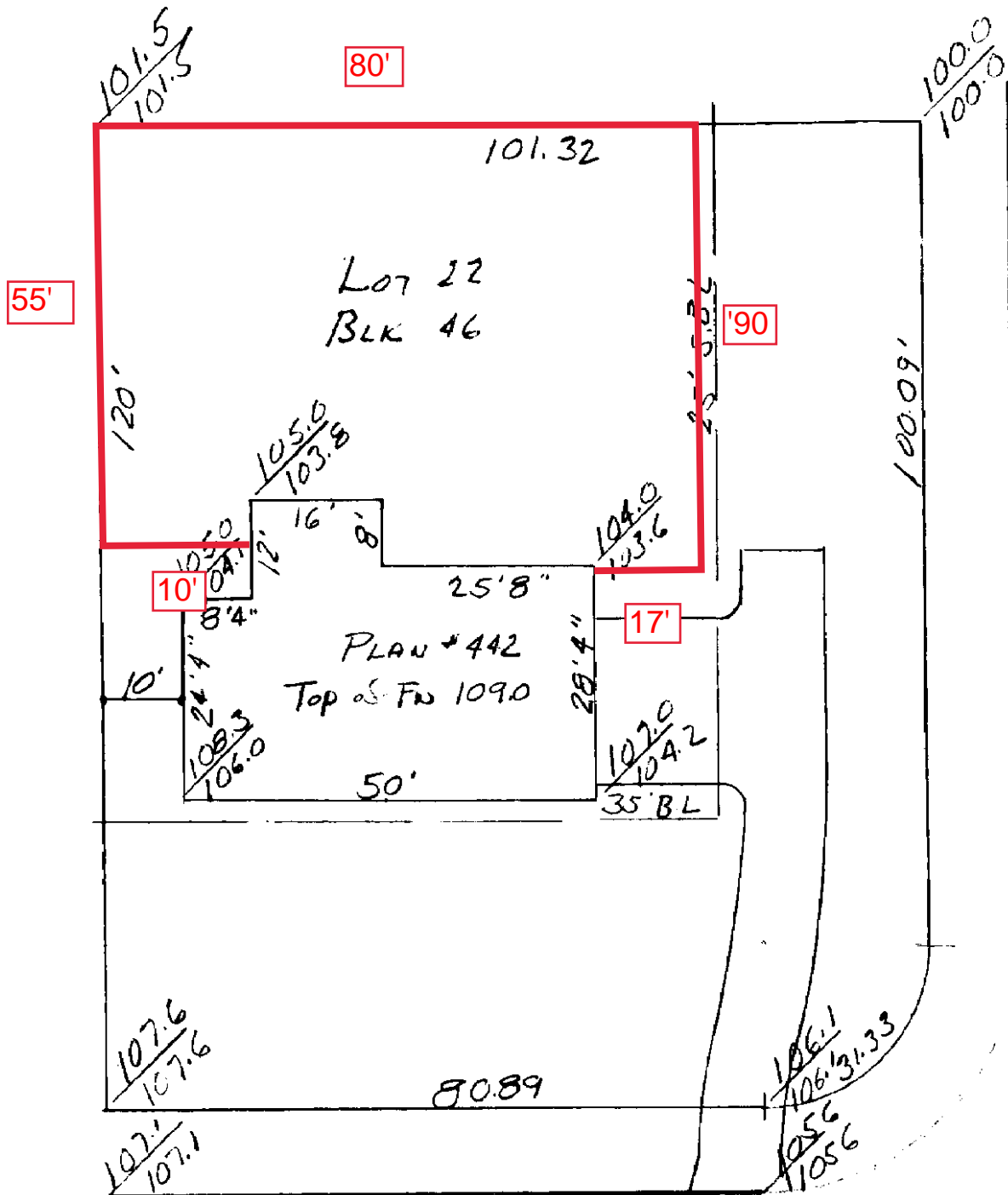


HOMES OF DISTINCTION



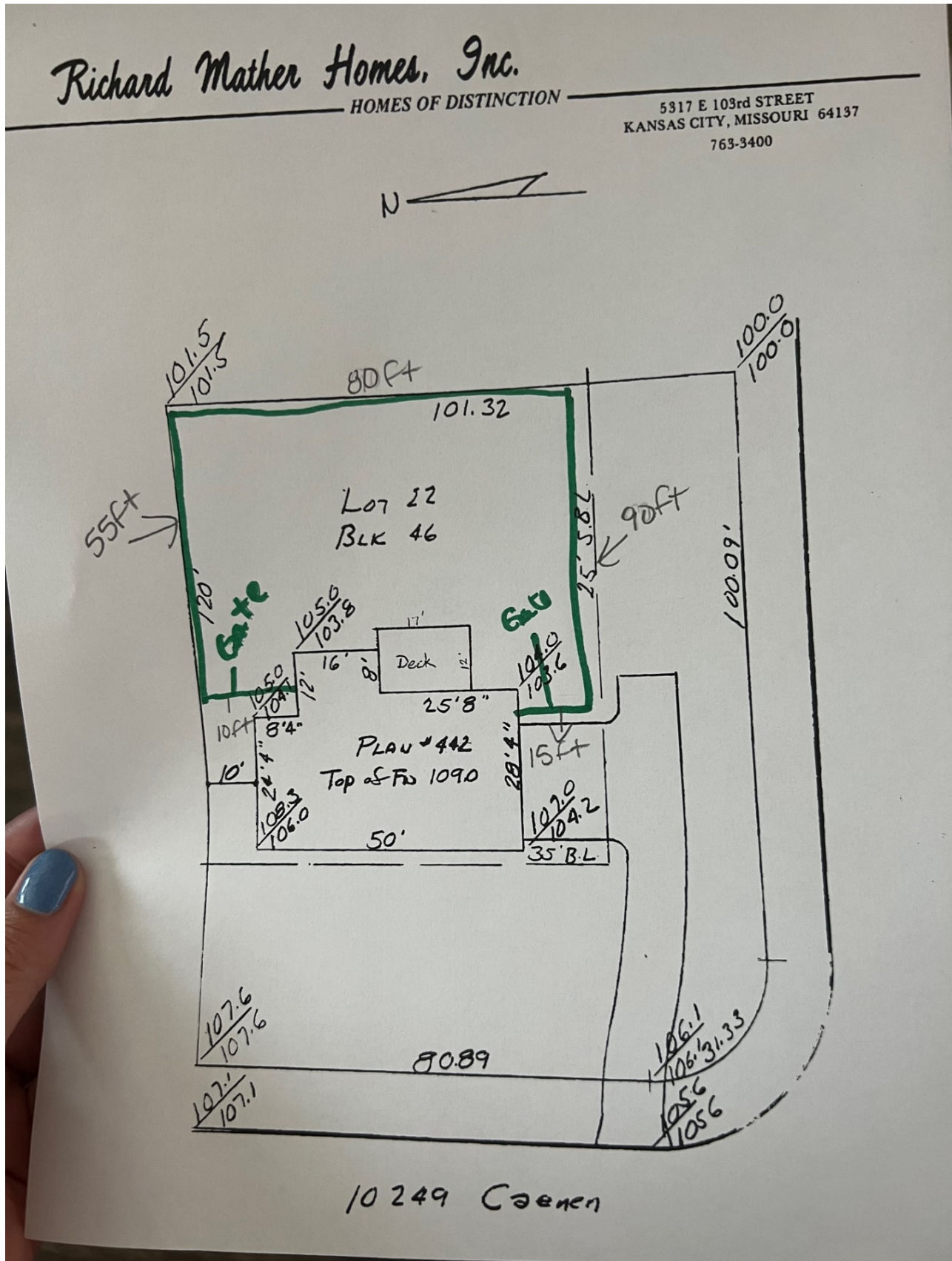
By: Colter Stevenson 06/12/2023

Installing a total of 250' of 6' tall vinyl fencing. Smooth side faces out. Fence must be 25' from the sidewalk.



10249 Соенен

Applicant Submitted Revised Plot Plan



Signed and Approved Fence Permit

Permit will become null and void if construction work is not started within 180 days of the date the permit is issued, or if work authorized is suspended or abandoned for 180 days as documented by an inspection from the City. Approved plans must be retained on the job.

This permit is issued on the express condition that the above work shall conform in all respects to the statements certified in the application for such permit, and that all work shall be done in accordance with all applicable codes and ordinances of the City of Lenexa, Kansas and all State and Federal regulations.

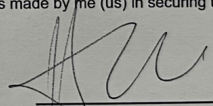
Loss control is the responsibility of the recipient of this permit. The City's observations are intended to assist you. Recommendations are a result of conditions observed at the time of the inspector's visit. They do not necessarily include every possible loss potential, code violation, or exception to good practice.

No building or structure shall be occupied without a certificate of occupancy.

Fees	Assessed
Residential Permit Fee	\$60.00
Residential Plan Review	\$25.00
Total Fees:	\$85.00

Total Payments:	\$85.00
Total Due:	\$0.00

I (we) certify that I (we) have read and understand the requirements of this permit and that all statements made by me (us) in securing this permit are true and complete to the best of my (our) knowledge.



Applicant's Printed Name

Heather Low

Applicant's Signature

6/12/23

Date

From: Heather Loo <info@allaboutfencing.net>
Sent: Monday, June 12, 2023 1:24 PM
To: Colter Stevenson <cstevenson@lenexa.com>
Subject: Re: 10249 Caenen

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Thank you. And yes. I didn't send one of my guys out there to measure and I have it going 17 feet from the edge of the house around the edge of the driveway and over.
Sorry for the delay.

Sent from my iPhone

On Jun 12, 2023, at 9:14 AM, Colter Stevenson <cstevenson@lenexa.com> wrote:

Hi Heather,

I wanted to reach out about the fence application at this address – last week we discussed you going out to remeasure at some point. Do you still plan to do that?
Thanks, and I hope your head is feeling better.

Colter Stevenson

Management Analyst

City of Lenexa

Phone: 913.477.7694

cstevenson@lenexa.com | www.lenexa.com

From: [Colter Stevenson](#)
To: [Logan Strasburger](#)
Subject: FW: 10249 Caenen Fence Code Violation
Date: Friday, September 8, 2023 12:35:01 PM
Attachments: [Outlook-horizontal.png](#)
[Outlook-ALL ABOUT .png](#)

From: Heather Loo <info@allaboutfencing.net>
Sent: Tuesday, July 25, 2023 11:07 AM
To: Colter Stevenson <cstevenson@lenexa.com>
Subject: Re: 10249 Caenen Fence Code Violation

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good Morning-

I will go back by the project on Friday.

I do know that the morning of installation they moved it a little further over than the work order stated.

I didn't think it was by much though.

I will go back out and look on Friday- unfortunately I can't get out there before then.

We had one of our employees pass away over the weekend, and I just don't have the capability to get there before that.

What can I do though?

Thanks

Heather

Heather Loo

ALL ABOUT FENCING



816-205-1120

<http://www.allaboutfencing.net>

From: Colter Stevenson <cstevenson@lenexa.com>
Sent: Monday, July 24, 2023 3:59 PM
To: Heather Loo <info@allaboutfencing.net>
Subject: 10249 Caenen Fence Code Violation

Hello,

Please see the attached letter for information about a fence code violation at 10249 Caenen Street, Lenexa, KS, 66215. Thank you.

Colter Stevenson

Management Analyst

City of Lenexa

Phone: 913.477.7694

cstevenson@lenexa.com | www.lenexa.com

CONFIDENTIALITY NOTICE:

This e-mail, including any files transmitted with it, is the property of the City of Lenexa, Kansas. It is confidential and is intended solely for the use of the individual, or entity, to whom the e-mail is addressed. If you are not the named recipient, or otherwise have reason to believe that you have received this message in error, please notify the sender at (913) 477-7500 and delete this message immediately from your computer. Any other use, retention, dissemination, forwarding, printing, or copying of this e-mail is strictly prohibited.



7/24/2023

Heather Loo
All About Fencing Co.

RE: 10249 Caenen St. – B23-0754

Ms. Loo,

It has come to the City of Lenexa's attention a fence permit issued to you, B23-0754, opened on 06/05/2023 for installation at 10249 Caenen Street, Lenexa, KS for Carlos Aguilera, was installed out of compliance with city code.

On Friday, July 14th, 2023, an inspector visited the site and found that a fence was installed beyond what was approved on the fence plan. I have included a copy of the approved permit showing the fence was to be installed 25 feet from the property line along W 103rd Street.

The subject property is in violation of Article 4-1-L-1 of the Unified Development Code:

Any of the following shall be a violation of this Chapter and shall be subject to the enforcement remedies and penalties provided by this Chapter and by State law:

- B. **Development or Use Inconsistent with Permit or Approval:** To engage in any development, use, construction, remodeling or other activity of any nature in any way inconsistent with the terms and conditions of any permit, approval, certificate or other form of authorization required in order to engage in such activity.

Additionally, the subject property is in violation of Section 4-1-B-24-F-5-b-2 of the Development Code which states:

Corner Lots: Fences and walls shall be located no closer to the side lot line than the side yard setback line of residential corner lots which adjoin interior lots that front or face onto a side street.

To avoid the City taking further enforcement actions, the fence must be moved back to be in compliance with the approved plan on or before August 26th, 2023. Another site visit will be made on that day to ensure the fence along 103rd street has been moved.

If you have questions regarding this letter, please contact me at 913-477-7694 or cstevenson@lenexa.com.

Failure to comply with this letter by August 26th may result in the City sending a Notice of Violation. If the fence is not brought into compliance within a month of receiving the Notice of Violation, the City may commence legal action under Section 4-1-L-2 of the Unified Development Code, including but not

limited to, issuing of a Notice to Appear in Municipal Court. Please be advised that the alleged Code violation may be punishable by a fine of not more than two thousand five hundred dollars (\$2,500.00), imprisonment for not more than one (1) year, or both fine and imprisonment. Each day's violation constitutes a separate offense.

Sincerely,

Colter Stevenson
Management Analyst

From: Colter Stevenson

Sent: Thursday, August 31, 2023 12:39 PM

To: Heather Loo <info@allaboutfencing.net>

Cc: Scott McCullough <smccullough@lenexa.com>; Gloria Lambert <glambert@lenexa.com>;
Stephanie Kisler <skisler@lenexa.com>

Subject: 10249 Caenen Street Variance Update

Hello,

I am following up on our previous direction to submit a variance application to allow the recently installed 6' tall, view-obscuring vinyl fence at 10249 Caenen Street to locate approximately 3' from the south property line where the approved and code-compliant site plan associated with fence permit no. B23-0754 showed the fence set back 25' from the south property line.

We erred in the process associated with this case. Instead of pursuing a variance, in this case you would request a deviation to the setback, which is reviewed by staff. Staff's analysis and decision as to whether to grant the deviation is provided below. Assuming, based on your application for variance, you wish to appeal staff's decision, then the appeal will be submitted to the Board of Zoning Appeals as an appeal to staff's decision. Staff will convert your variance application to an appeal application and you will remain on the timeframe to be considered by the Board of Zoning Appeals on October 2nd.

Your deviation request is to allow a setback of 3' where the code requires 25'. The code includes the following criteria for reviewing deviations. Staff has analyzed your request against this criteria as follows.

- **Purpose and intent of the Code.** The code has a purpose of preserving and improving the public health, safety and general welfare of the citizens of Lenexa. The fence code maintains aesthetic and safety standards to balance the needs and desires of the property owner and the neighborhood. Requiring fence permits is one way to ensure the consistent standards are being met. The City very recently changed the code and received confirmation from the Planning Commission and City Council that these standards are expected to be enforced. The fence, as it is built now, does not meet these standards.
- **Impact on adjacent properties.** The City Council recently revised the fence standards to balance the needs of property owners with the aesthetic and safety effects for drivers and the community at large. The Council desired to not create "canyons" within street corridors where fences would press in on the street and the pedestrian sidewalk. The fence, as proposed, would work to create such an effect along 103rd Street and the

sidewalk.

- **Safety.** In staff's opinion, the location of the fence does not pose a potential safety risk.
- **Unique site conditions and constraints.** Staff finds no unique site condition or constraint that would push the fence location out to the desired location. In fact, staff approved a code-compliant site plan and the fence was not constructed to this plan. The violation was noted in the follow-up inspection.
- **Promotion of high quality or unique design.** See note above about promotion of aesthetics along 103rd Street as well as the preservation of an open corridor for pedestrians on the sidewalk.
- **Character of the neighborhood.** Yours is a relatively older neighborhood. The neighborhood is a mix of code compliant and noncompliant fences; however, the majority of permitted fences appear to be compliant. Bringing your fence into compliance with the approved fence permit site plan will further the character of the neighborhood coming into greater compliance with the fence standards. While the effect of fences close to sidewalks on properties across 103rd Street are appreciated by staff, those properties are within the jurisdiction of Overland Park and therefore not considered with this fence. The majority of properties along 103rd on the Lenexa side have code compliant fences.

If you have questions about why this is an appeal for a deviation rather than a variance, email Stephanie Kisler, CC'd on this email. If you have questions about the specifics of the appeal process, email Gloria Lambert, also CC'd. Thank you!

Colter Stevenson

Management Analyst

City of Lenexa

Phone: 913.477.7694

cstevenson@lenexa.com | www.lenexa.com

From: Gloria Lambert
Sent: Wednesday, September 20, 2023 2:10 PM
To: Heather Loo <info@allaboutfencing.net>
Cc: Logan Strasburger <Lstrasburger@lenexa.com>; Stephanie Kisler <skisler@lenexa.com>; Scott McCullough <smccullough@lenexa.com>; Colter Stevenson <cstevenson@lenexa.com>
Subject: RE: 10249 Caenen Street Variance Update

Heather,

The fence appeal has been rescheduled for November 6th per your request. Let us know if you have any questions going forward.

Gloria Lambert
Senior Administrative Assistant
City of Lenexa | Community Development
PH: 913-477-7729
glambert@lenexa.com | www.lenexa.com

The City of Lenexa: Leaders in the delivery of exceptional public service.

From: Heather Loo <info@allaboutfencing.net>
Sent: Wednesday, September 20, 2023 1:25 PM
To: Gloria Lambert <glambert@lenexa.com>
Subject: Re: 10249 Caenen Street Variance Update

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Hello Gloria. I spoke to Carlos Aguilera today and made him aware of the situation that I have with me breaking my foot and unable to attend on October 2. He does have a work conflict that has him out of town that whole entire week and would like to know if we can possibly move it from October 2 to the next available meeting.

Please let me know. Thanks

Sent from my iPhone

On Sep 20, 2023, at 1:13 PM, Heather Loo <info@allaboutfencing.net> wrote:

Hi Gloria. I just spoke to Carlos Aguilera and he is not available to be there for the appeal on October 2.

Due to me, breaking my foot, it does limit my ability to be there. Obviously, we want

this to go in a positive direction for them, what can we do to get it pushed to the next meeting?

Thanks

Sent from my iPhone

On Sep 20, 2023, at 12:47 PM, Gloria Lambert <glambert@lenexa.com> wrote:

Hello Heather,

I called the office phone at (816) 344-9077 and that's where I left a message.

Gloria Lambert
Senior Administrative Assistant
City of Lenexa | Community Development
PH: 913-477-7729
glambert@lenexa.com | www.lenexa.com

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From: Heather Loo <info@allaboutfencing.net>
Sent: Wednesday, September 20, 2023 8:37 AM
To: Gloria Lambert <glambert@lenexa.com>
Cc: Logan Strasburger <Lstrasburger@lenexa.com>; Colter Stevenson <cstevenson@lenexa.com>
Subject: Re: 10249 Caenen Street Variance Update

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Good morning. That's ironic because my phone hasn't rang at all this morning.

I thought I had everything uploaded and filled out already in there, but I will sit down and do that this morning.

I do have a question if I need to be present on October 2? I broke my right foot, and I am unable to walk or drive for the next five weeks.

But if I need to let Carlos Aguilera know that he needs to be there I want to go ahead and do that sooner than later.

Thanks

Heather

Sent from my iPhone

On Sep 20, 2023, at 8:26 AM, Gloria Lambert
<glambert@lenexa.com> wrote:

Good morning Heather,
I just left you a voice message and I am following up with this email. Thank you for your payment that was received yesterday but to go forward with the pending fence appeal through the Board of Zoning Appeals we still need the attached application form completed and returned today to remain on the October 2nd agenda. It is imperative that you work with Logan to give her the needed information to move forward with the appeal. We look forward to hearing from you today. Thank you.

Gloria Lambert
Senior Administrative Assistant
City of Lenexa | Community Development
PH: 913-477-7729
glambert@lenexa.com | www.lenexa.com

The City of Lenexa: Leaders in the delivery of exceptional public service.

From: Gloria Lambert <glambert@lenexa.com>
Sent: Wednesday, September 13, 2023 10:59 AM
To: Heather Loo <info@allaboutfencing.net>
Cc: Logan Strasburger <Lstrasburger@lenexa.com>; Colter Stevenson <cstevenson@lenexa.com>
Subject: Re: 10249 Caenen Street Variance Update

Heather,
Since we have not received a response since Thursday, I am reaching out to see if you plan to continue the fence appeal process. To remain on the October 2nd Board of Zoning Appeals agenda, the application fee of \$100 will need to be paid and submittal of the attached form by the end of today. Please let me know if you have any questions.

Get [Outlook for iOS](#)

From: Heather Loo <info@allaboutfencing.net>
Sent: Thursday, September 7, 2023 4:35:00 PM
To: Gloria Lambert <glambert@lenexa.com>

Cc: Scott McCullough <smccullough@lenexa.com>;
Stephanie Kisler <skisler@lenexa.com>; Colter Stevenson
<cstevenson@lenexa.com>
Subject: Re: 10249 Caenen Street Variance Update

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

That's no problem- I will take care of it tomorrow. Thanks

Sent from my iPhone

On Sep 7, 2023, at 8:56 AM, Gloria Lambert
<glambert@lenexa.com> wrote:

Good morning Heather,
It has been determined that the application fee for an appeal of a variance is \$100. Fees may be paid online at our [portal](#) with a (credit card), at City Hall (cash, check or credit card), over the phone (credit card), or you may mail a check made payable to the City of Lenexa, Kansas.

Mailing Address:
Lenexa City Hall
Community Development
Attention: Gloria Lambert
17101 W. 87th Street Parkway
Lenexa, KS 66219

Please let me know if you have any more questions.

Gloria Lambert
Senior Administrative Assistant
City of Lenexa | Community Development
PH: 913-477-7729
glambert@lenexa.com | www.lenexa.com

The City of Lenexa: Leaders in the delivery of exceptional public service.

CALL TO ORDER

Chairman Poss called the regular meeting of the Lenexa Board of Zoning Appeals to order at 7:00 p.m. on Monday, October 2, 2023. The meeting was held in the Community Forum at Lenexa City Hall at 17101 W. 87th Street Parkway, Lenexa, Kansas.

ROLL CALL

COMMISSIONERS PRESENT

Chairman Chris Poss
Vice-Chairman Mike Burson
Commissioner Ben Harber
Commissioner Don Horine
Commissioner David Woolf
Commissioner John Handley
Commissioner Brenda Macke
Commissioner Cara Wagner
Commissioner Curt Katterhenry

COMMISSIONERS ABSENT

None

STAFF PRESENT

Scott McCullough, Director of Community Development
Stephanie Kisler, Planning Manager
Tim Collins, Engineering Construction Services Administrator
Andrew Diekemper, Assistant Chief – Fire Prevention
Steven Shrout, Assistant City Attorney
Dave Dalecky, Planner II
Kim Portillo, Planner III
Will Sharp, Planning Intern
Gloria Lambert, Senior Administrative Assistant

APPROVAL OF MINUTES

The minutes of the May 1, 2023 meeting were presented for approval. Chairman Poss entertained a motion to **APPROVE** the minutes. Moved by Commissioner Horine, seconded by Commissioner Burson, and **APPROVED** by a unanimous voice vote.

REGULAR AGENDA

1. **Woods Shed - Consideration of variances from the rear yard and side yard setback requirements to allow an accessory structure to remain in it's current location on property located at 9420 Gillette Street within the R-1, Single-Family Residential District. BZ23-02**

APPLICANT PRESENTATION

Mike Woods, property owner, explained that he constructed a shed in 2016 and when applying for a building permit to install a pergola, Staff discovered the shed did not meet the City's code. The shed was built with a 3-foot setback instead of the required 5-foot setback from the property line. He gave two reasons for the shed's location. First, the residents westerly adjacent to his property have runoff water that cause flooding. To alleviate the problem, he installed a drainage system around the shed that now runs down and funnels the water toward the west fence line. The second reason is an issue with the same neighbors leaving their flood lights on in their backyard 24-hours-a-day, so the shed is also used as a buffer to obstruct the lighting. Because of the extremely high cost associated with moving the shed, he is requesting a variance.

STAFF PRESENTATION

Stephanie Kisler presented the Staff Report. The request is for two variances, one a side yard setback and the other a rear yard setback. She displayed an aerial of the subject site and noted the location, zoning designation of the subject property and surrounding properties. She showed an aerial of the subject shed, noting the 3-foot setback for both the north and west property line. Five feet is the required for setback for both sides, so the variance request is for 2-feet on each side. She provided history and background information for the applicant's property. The shed was discovered to be noncompliant after the property owner recently applied for a building permit to construct a pergola.

Ms. Kisler noted there is a neighbor that also has a shed that is more than likely noncompliant, but Staff will not move forward with enforcement against the property owner at this time. If that property owner were to apply for a building permit, staff would look at enforcement at that time.

Ms. Kisler noted Staff evaluated the Variance Criteria to review the applicant's request. The applicant is asking the Board of Zoning Appeals to approve a variance for the existing shed to make the nonconforming structure legal. Staff believes allowing the shed remain in its current location would not negatively impact the vicinity and that it would be somewhat of a hardship on the applicant to move the shed to a different location to comply with the five-foot setback requirement. She noted for the record, had the building permit come to the City for review before the shed was constructed, Staff may not have supported the variance request, but in this instance Staff is supportive of the applicant's request.

PUBLIC HEARING

Chairman Poss **OPENED** the Public Hearing and asked if anyone wished to speak on this item. No one from the audience came forward.

Chairman Poss entertained a motion to **CLOSE** the Public Hearing. Moved by Commissioner Handley, seconded by Commissioner Woolf, and carried by a unanimous voice vote.

PLANNING COMMISSION DISCUSSION

Don Horine said he was concerned with setting a precedence by approving pre-existing structures that residents have built without a building permit and then request variances to bring into conformity. He

commented, it would need to be a really good case in order to allow a variance to be approved outside of City regulations.

Chairman Poss agreed with Commissioner Horine and said after reviewing staff's report the criteria outlined in the report has been met.

MOTION

Chairman Poss entertained a motion to recommend **APPROVAL** of BZ23-02 – **Woods Shed Variance** allowing a 2-foot variance from the 5-foot rear yard setback and a 2-foot variance from the 5-foot side yard setback requirement for accessory structures to allow an existing shed to remain at its current location on the property located at 9420 Gillette Street, in the R-1, Residential Single-Family District. Moved by Commissioner Harber, seconded by Commissioner Macke, and carried by a unanimous voice vote.

Moved by Commissioner Katterhenry, seconded by Commissioner Burson, and carried by a unanimous voice vote.

ADJOURNMENT

Chairman Poss ended the regular meeting of the Lenexa Board of Zoning Appeals at 7:12 p.m. on Monday, October 2, 2023.