

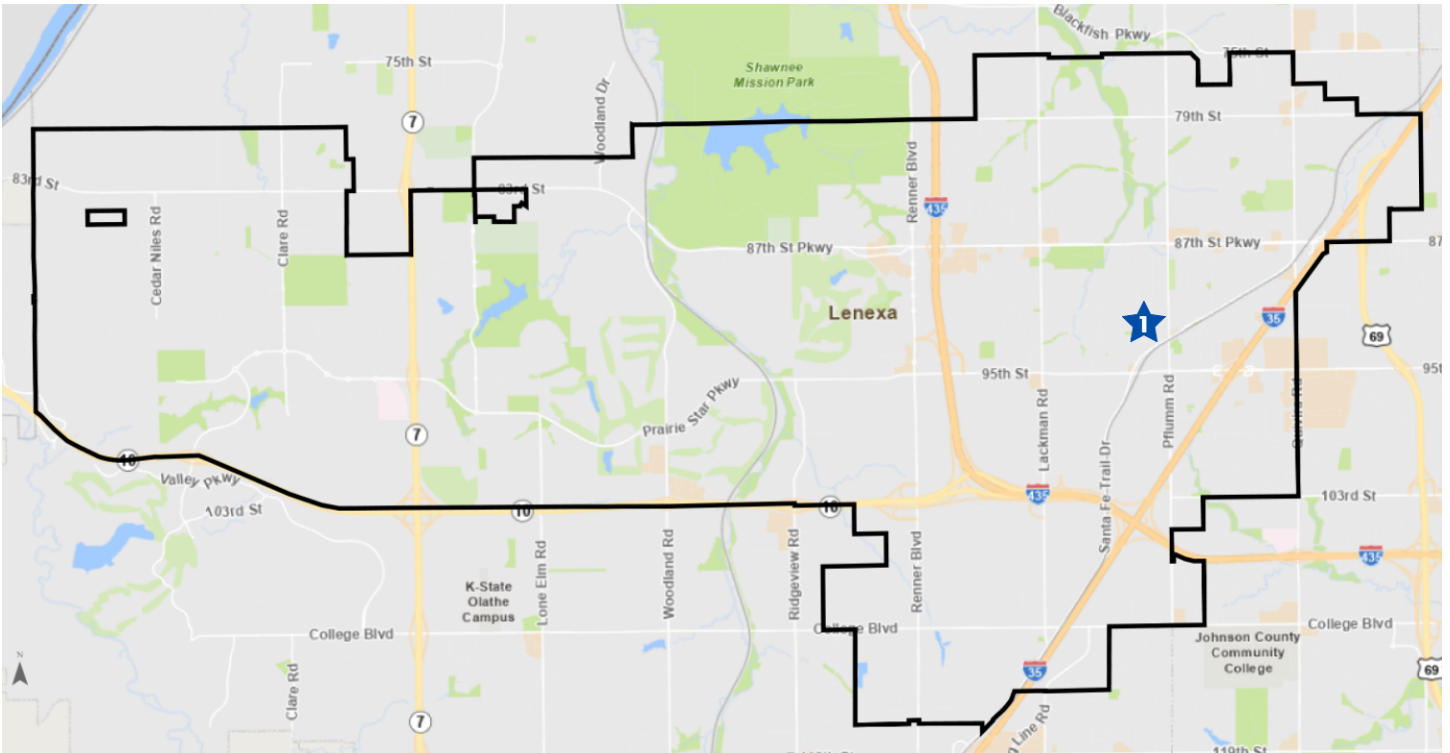
BOARD OF ZONING APPEALS AGENDA

MAY 6, 2024 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 FROM THE MARCH 4, 2024 MEETING

REGULAR AGENDA

1. **Stehli Front Porch - Consideration of a variance request from the required front yard setback to allow a porch that was already constructed on property located at 915 Summit Street within the RP-2, Residential Planned (Intermediate Density) District. BZ24-04**

ADJOURN

APPENDIX

2. Draft Meeting Minutes - March 4, 2024

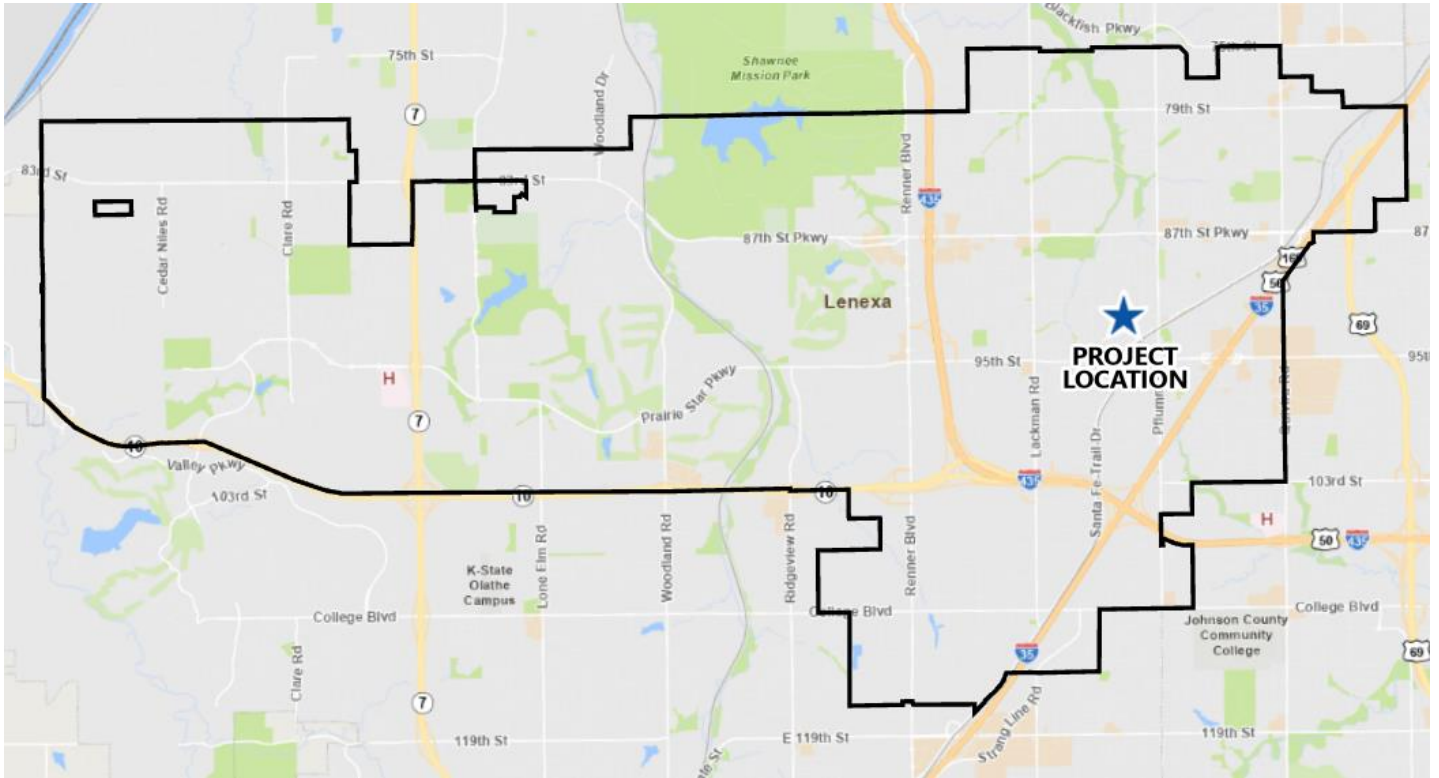
If you have any questions about this agenda, please contact Stephanie Kisler, Planning Manager, at skisler@lenexa.com.

*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.

STEHLI FRONT PORCH VARIANCE

Project #:	BZ24-04	Location:	9115 Summit Street
Applicant:	Pamela Stehli	Project Type:	Variance
Staff Planner:	Will Sharp	Proposed Use:	Duplex



VARIANCE SUMMARY

The applicant requests one variance for Lot 13 of Block 3 of Taylor’s Addition located at 9115 Summit Street. The variance request relates to an encroachment into the front yard setback requirement in the RP-2, Residential Planned (Intermediate-Density) District. The front porch, which was constructed in its current configuration in 2023 without a permit, does not meet the required front yard setback of 25 feet. The applicant seeks approval of a 13-foot variance to allow the existing front porch and stairs to remain at a 12-foot setback from the front (west) property line. A Public Hearing is required.

STAFF RECOMMENDATION: DENIAL

SITE INFORMATION

The site is located in the Taylor’s Addition subdivision, which was platted in 1881, and contains a duplex structure. The subdivision is in the RP-2, Residential Planned (Intermediate-Density) District. The RP-2 Zoning District has a 25-foot required minimum setback from the front property line. The duplex was built in 1985.

LAND AREA (AC)	BUILDING AREA (SF)	CURRENT ZONING	COMP. PLAN
0.15	952	RP-2	Medium Density Residential



Exhibit 1: Aerial image of subject site.

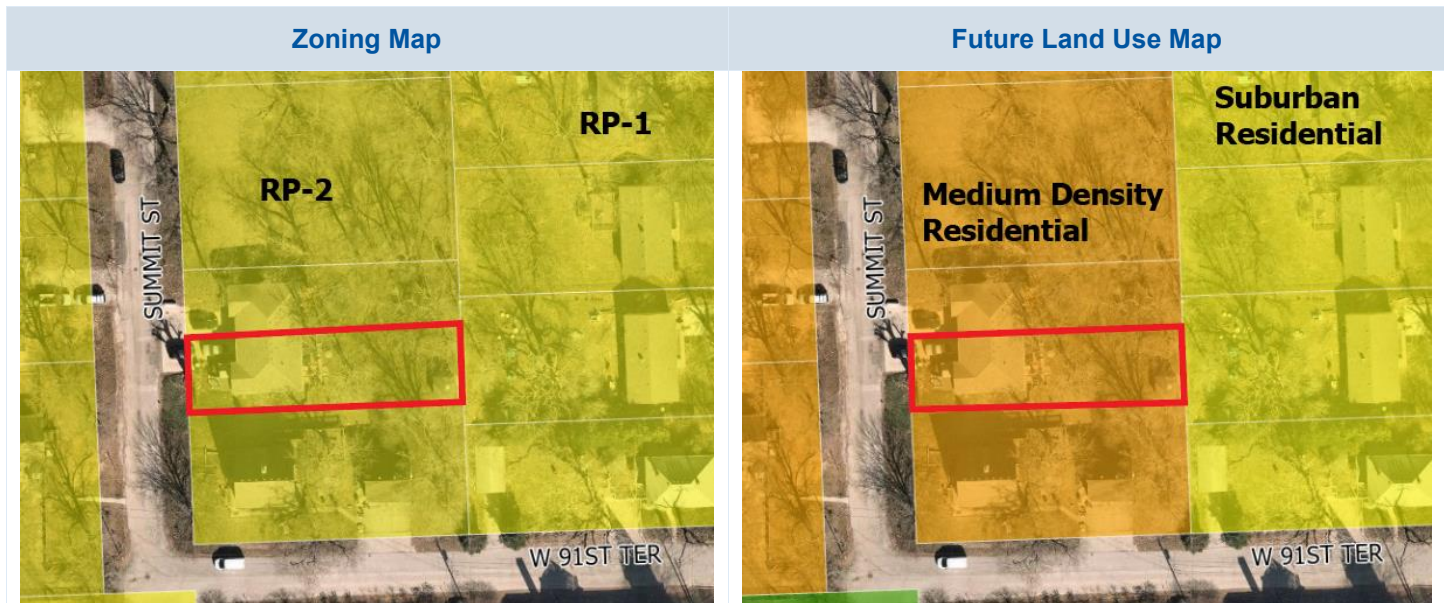


TABLE 1: COMPARISON OF SURROUNDING PROPERTIES

Vicinity	Land Use Designation	Zoning	Current Use
Subject Property	Medium Density Residential	RP-2	Duplex
North	Medium Density Residential	RP-2	Duplex
South	Medium Density Residential	RP-2	Single-Family Residential
East	Suburban Density Residential	RP-1	Single-Family Residential
West	Medium Density Residential	RP-2	Duplex, Single-Family Residential

BACKGROUND INFORMATION

The applicant is requesting a variance from [Section 4-1-B-7-F](#) of the Unified Development Code (UDC). According to this section, the required front yard setback in the RP-2 Zoning District is 25 feet. This request is for a 13-foot variance, leaving a 12-foot front yard setback between the front property line and the stairs of the front porch.

The original front porch and stairs were damaged in a storm in July 2023 (see Exhibit 9). Following this, the applicant constructed a new porch and stairs but did not apply for a building permit prior to construction. A City staff member was in the area, observed the porch, and notified the applicant of the need for a permit. The applicant then filed an application for a building permit in September 2023, after construction was complete. Planning Division Staff became aware of the encroachment issue in January 2024. The building permit applied for in September 2023 has not yet been approved.

The new porch is 8 feet deep by 14 feet wide. Because the house sits one foot back from the 25-foot building line, the porch itself encroaches 7 feet into the required front yard setback. The stairs, being perpendicular to Summit Street, add an additional 6 feet of encroachment into the required front yard setback.

The original porch was approximately 4 feet deep by 14 feet wide. This resulted in a 3-foot encroachment into the required 25-foot front yard setback. This encroachment appears to have been approved at the time the house was originally constructed in 1985. The UDC allows an encroachment of up to 3 feet with administrative approval, which is discussed in greater detail within this report. The stairs did not add any further encroachment because they were constructed parallel to Summit Street.

PERMIT HISTORY

Staff believes that the original porch and stairs were constructed with the house in 1985. The original permit application and the plot plan do not mention or show the original porch (see Exhibit 2). The porch appears to have encroached into the front yard setback approximately three feet as noted below.

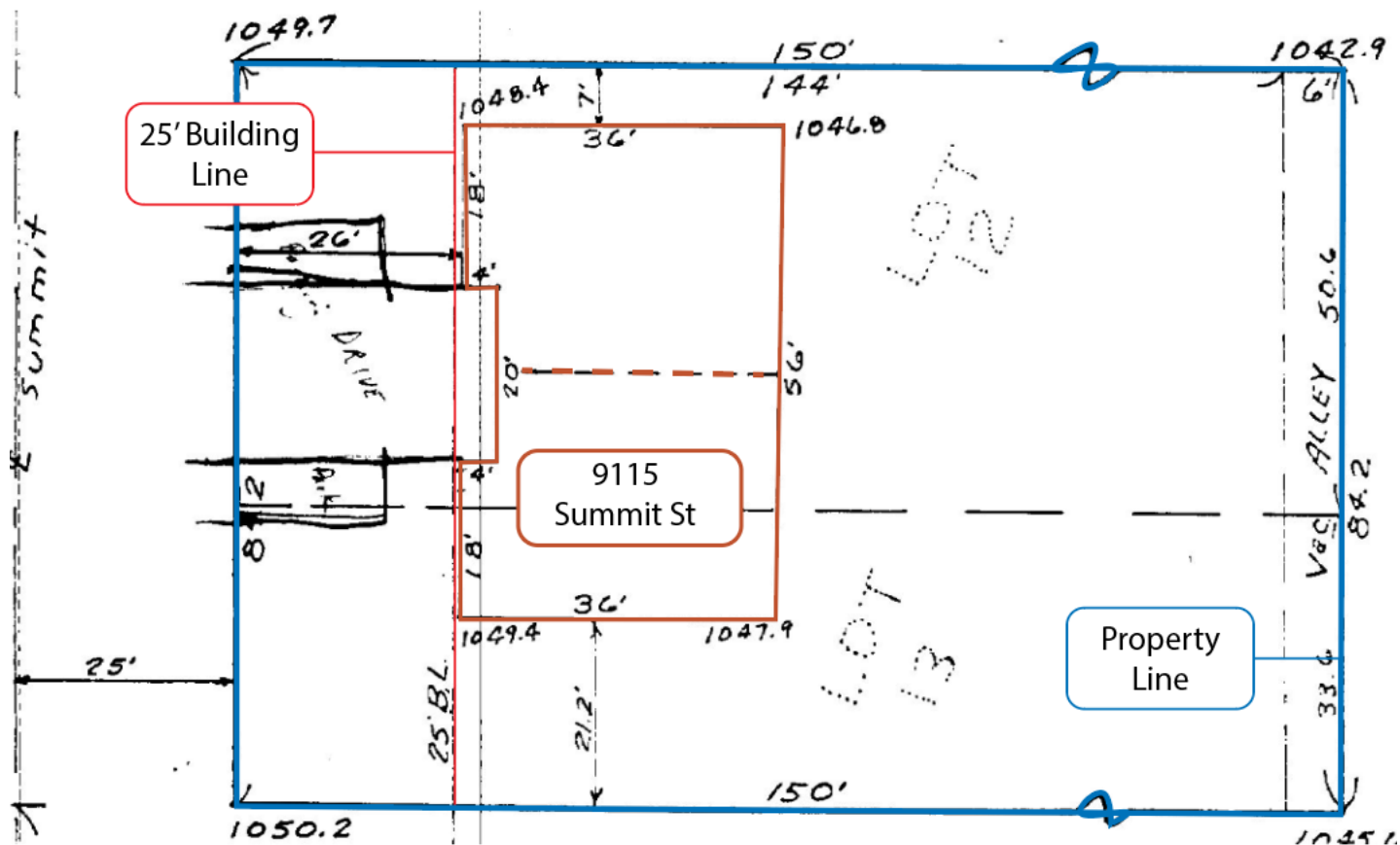


Exhibit 2: The front porch is not included in the original permit from 1985.

UDC [Section 4-1-B-26-B-7-a](#) provides exceptions for some structures to encroach into required setbacks. The code allows a 3-foot maximum encroachment into a required yard setback for decks, porches, and patios where the structure is no more than 18 inches above the natural grade along the perimeter. The original front porch was higher than 18 inches above grade. Additionally, the code allows a 5-foot maximum encroachment into a required front yard setback for residential steps, stairs, and stoops where the structure is not enclosed or covered. The original front porch was covered.

There is a note to [Section 4-1-B-26-B-7-a](#) referenced above. The note explains that the Building Services Supervisor may allow front porches to encroach up to 3 feet if the finished deck elevation is less than 30 inches. Staff assumes that the original front porch was permitted under this code standard even though it does not appear to have met the height requirement detailed in the note (the base of the door is 52 inches above grade). This administrative approval created a conforming encroachment of 3 feet for both porches of the duplex. Therefore, the homeowner may reconstruct their front porch with the same 3-foot encroachment into the required 25-foot front yard setback after obtaining a building permit without the need for a variance.

TABLE 2: REQUESTED VARIANCE			
Structure	Required Minimum Front Yard Setback	Proposed Front Yard Setback	Difference
Front Porch and Stairs	25 ft	12 ft	13 ft

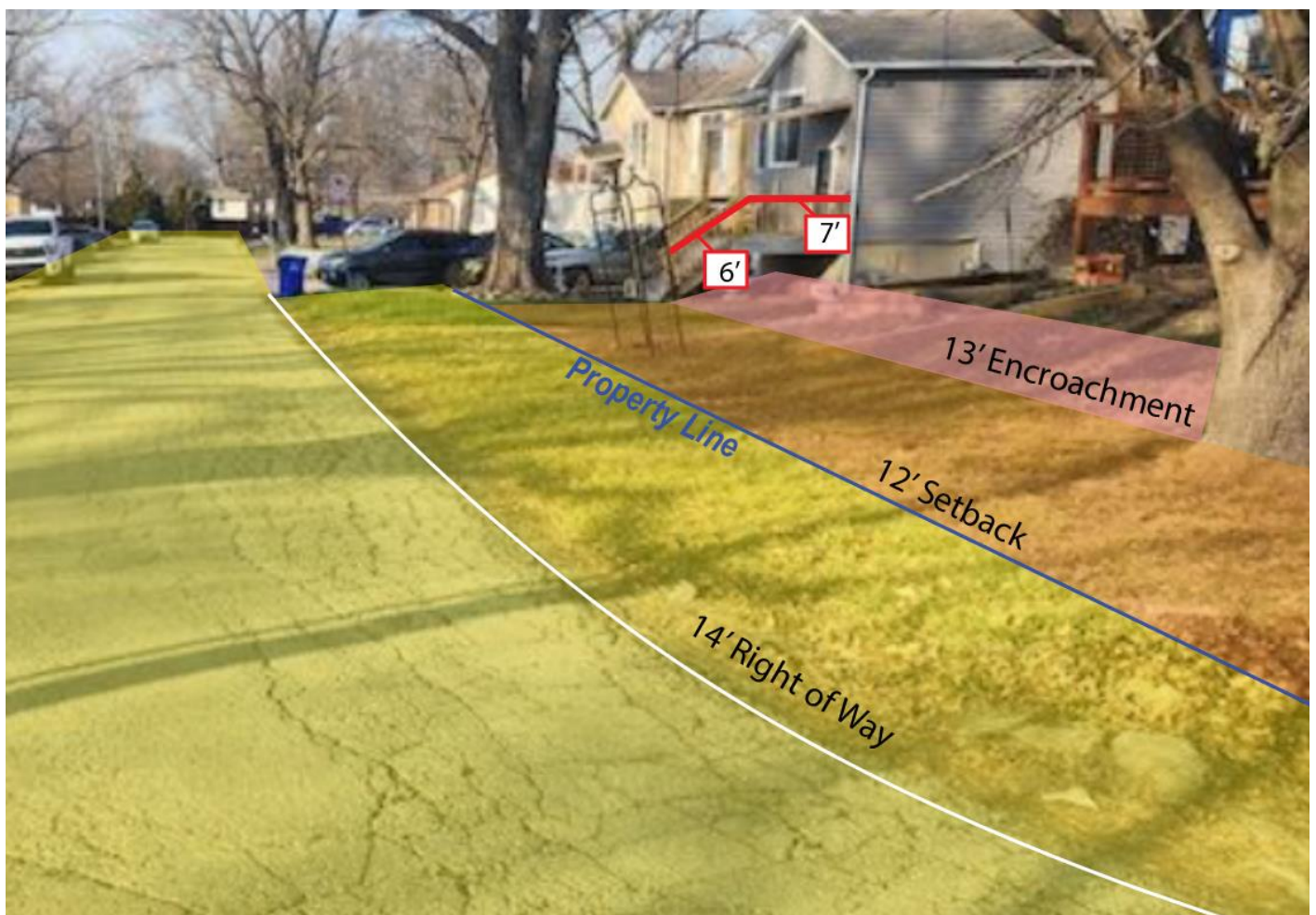


Exhibit 3: View facing north showing encroachment into setback and dimensions of front porch.



Exhibit 4: Original front porch with a three-foot encroachment (picture from March 2016)



Exhibit 5: Newly constructed front porch encroaching 13 feet into required setback.

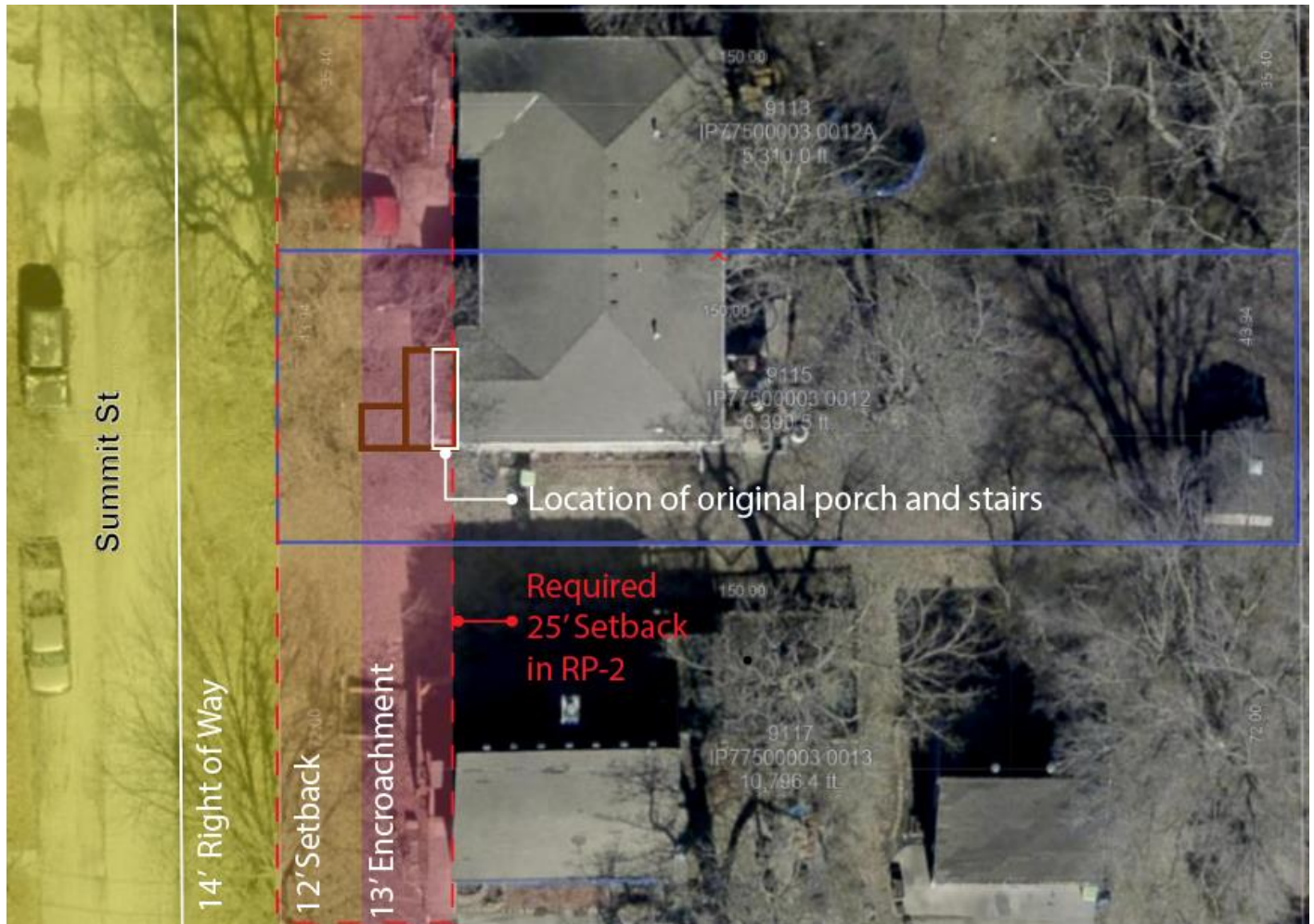


Exhibit 6: Aerial view with location of new porch and stairs shown in brown.

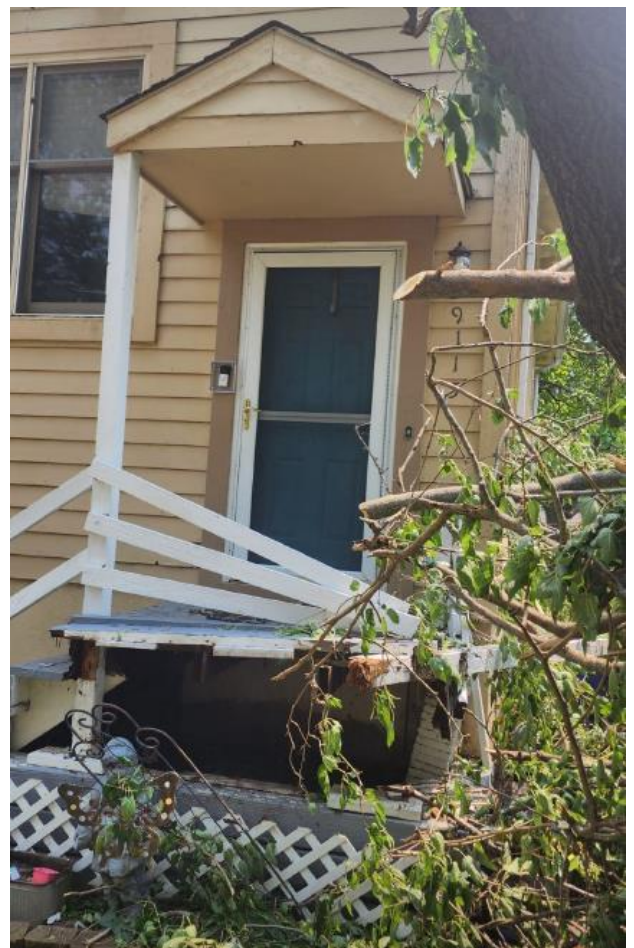


Exhibit 7: Original front porch matching neighbor's (picture from January 2022).



Exhibit 8: Similar view showing current conditions of both front porches.

At Right: Exhibit 9: Storm damage from July 2023. Picture provided by the applicant.



VARIANCE CRITERIA REVIEW

The Board of Zoning Appeals may approve a variance from any zoning requirements of the UDC, provided the variance is not contrary to the public interest and special conditions exist that cause enforcement of the code to result in an unnecessary hardship. [Section 4-1-K-4](#) of the UDC lists six criteria that a variance application must meet. Criteria are provided below with a summary of Staff's analysis of each. The applicant's responses to the criteria are attached in a separate document.

- 1. That the variance requested arises from condition which is unique to the property in question and which is not ordinarily found in the same zone or district and is not created by an action of the property owner or the applicant.**

The variance requested does not arise from a condition that is unique to the property. The placement and construction of the subject property's original porch and the neighboring unit's front porch demonstrates the ability to build a conforming front porch and stairs.

The variance requested arises from an action of the applicant to have a modified layout and size of the porch through the unpermitted construction of a front porch within the 25-foot setback of the RP-2 Zoning District.

2. That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.

The granting of the variance will not adversely affect the rights of adjacent property owners or residents. However, Staff is wary of granting more lenient development rights to one side of a duplex structure that the other side does not enjoy under similar circumstances.

3. That the strict application of the provisions of this Chapter from which a variance is requested will constitute unnecessary hardship upon the property owner represented in the application.

Strict application of the 25-foot setback requirement of the RP-2 Zoning District does not constitute an unnecessary hardship upon the property owner as access into the home can be provided with a conforming structure. Staff acknowledges that the applicant will face an increased financial burden if the variance request is denied; however, an increased financial burden, as the result of a self-created condition, does not in itself constitute an unnecessary hardship. A conforming front porch that provides access to the home is possible within the constraints of the property as evidenced by the neighboring unit's front porch and the original front porch.

4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, the general welfare or the harmonious development of the City.

The variance requested will not adversely affect the health, safety, or welfare of the community; however, Staff believes that the sense of order of the block will be adversely affected by allowing a 13-foot encroachment into the required front yard setback as all but a few minor, unpermitted encroachments meet the 25-foot setback along the block.

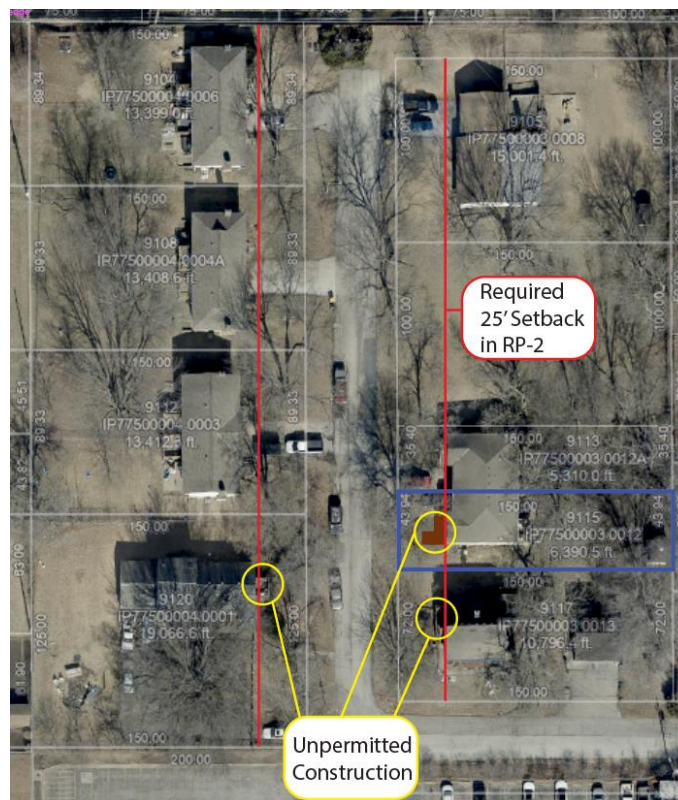


Exhibit 10: Aerial image of the block. Subject site outlined in blue.

5. That granting the variance desired will not be opposed to the general spirit and intent of this Chapter.

The intent of this Chapter is that all properties within the RP-2 Zoning District adhere to the minimum property development regulations set forth therein. In this case, one side of a duplex would be conforming and the other side would not, even though it has the ability to do so. Granting the variance desired will therefore oppose the intent of this Chapter.

6. That the variance, if granted, is the minimum variance that will afford relief and is the least modification possible of the provisions of this Chapter which are in question.

In Staff's opinion, relief from the setback standard is not necessary to provide viable access into the dwelling unit. The variance request is created by a desire of the owner to have a larger porch with a revised layout.

While Staff appreciates the applicant's desire to have a larger porch with a layout modified from the previous design, Staff finds that not all the six criteria are met in this instance and must recommend denial of the variance request.

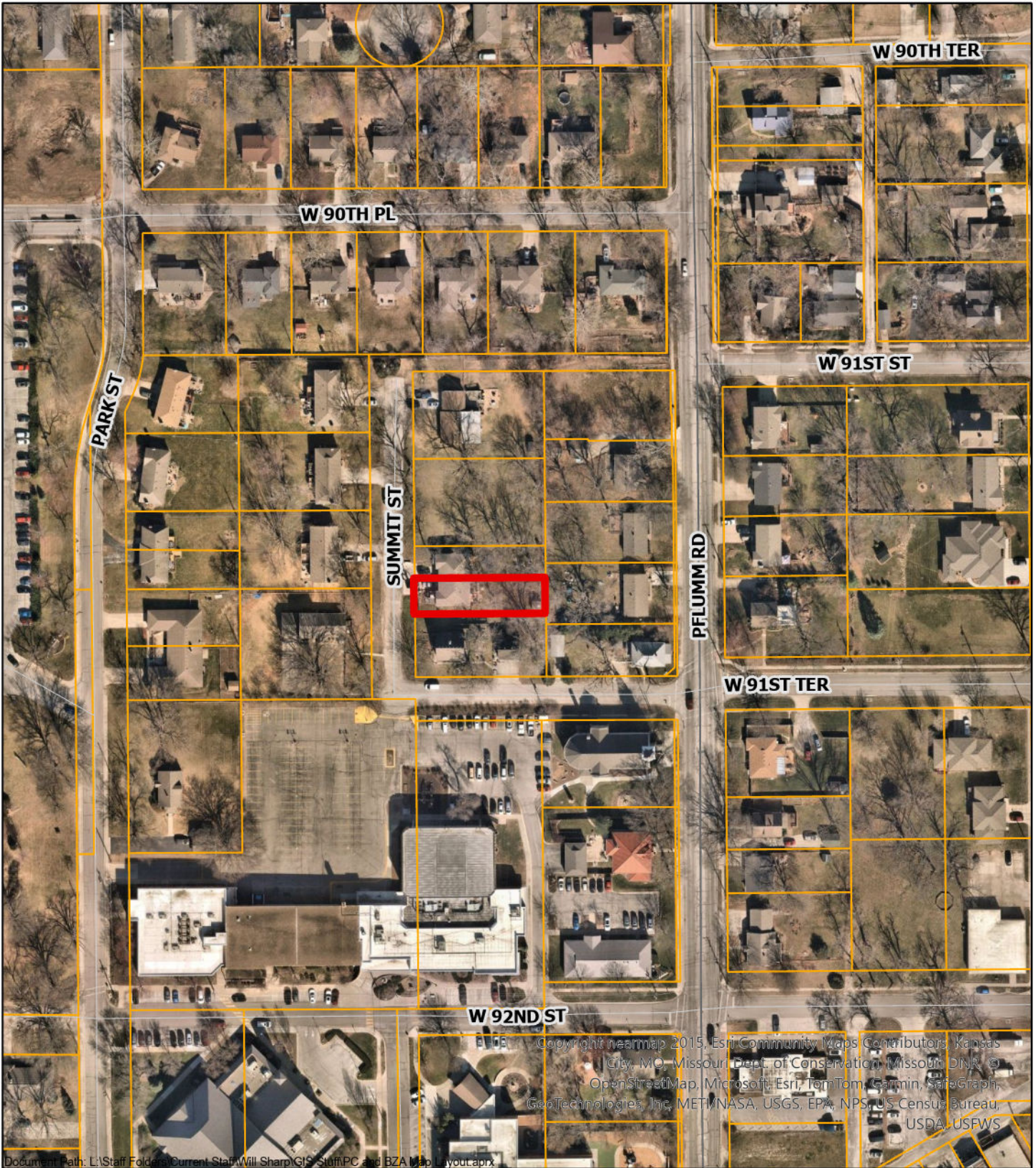
If the Board of Zoning Appeals denies the variance request, the applicant must revise the building permit application to show plans for a new conforming front porch, remove the current noncompliant porch, and construct a permitted porch.

RECOMMENDATION FROM PROFESSIONAL STAFF

- ★ **Conduct a Public Hearing.**
- ★ **Staff recommends denial of the Stehli Front Porch variance because the request does not meet all six of the required variance criteria.**

VARIANCE

Staff recommends **denial** of **BZ24-04, Stehli Front Porch Variance** for a 13-foot variance from the 25-foot front yard setback requirement to allow a front porch and stairs to be constructed at a 12-foot setback from the west property line located at 9115 Summit Street in the RP-2, Residential Planned (Intermediate-Density) District.



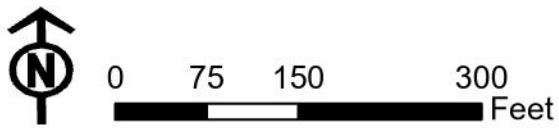
Document Path: L:\Staff\Folders\Current Staff\Will Sharp\GIS Stuff\PC and BZA Map Layout.aprx

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

Stehli Front Porch Variance

BZ24-04



City Zoning Committee

Lenexa, KS

Re: ZONING VARIANCE REQUEST

Pamela Stehli, 9115 Summit, Lenexa, KS 66215

Let it be known that I am the legal and equitable owner of the property located at 9115 Summit in Lenexa, KS. For decades, my name has been on the deed to this property, and during all that time, there has never been a question regarding my disrespect of any city zoning issues. On July 14, 2023, a sudden summer storm blew through our city. During that brief wind surge, the southwest corner of my house was severely damaged. Some of the worst damages were to my front porch, door, and stairway to the porch. Those steps had been separated from the house and were extremely unstable. They were definitely unsafe for anyone. Repairing or replacing the damaged entrance to my home was an urgent matter. Unfortunately, my house was not the only house in the city that suffered damage. While I waited for my insurance agent to initiate the claim, the many contractors in our locale were busy with other victims of the storm. When everything was finally cleared to move forward, contractors were in short supply. There was one contractor who seemed like a godsend as he said he could accept the job and start almost immediately!

Admittedly, there has never been an occasion for me to reconstruct or remodel any portion of my home and, frankly, I did not know the proper procedure. I did ask the contractor if a permit was required and he said one was not needed because "the house is on a cul de sac." (It is actually on a dead end street.) Eventually, a representative of the city did come by and inspect the porch yet did not mention the setback dimensions. That inspection rendered a few issues which needed to be addressed and those were immediately resolved by the contractor. It was only after a second inspection and the project was complete that the setback was mentioned. Apparently, the newly constructed steps reach into the setback dimension of the zoning requirements. I would like to point out, these extended steps do not present a public safety hazard. Additionally, there is no alteration of the essential character of the locality. When one looks down the street where my home stands, the steps do not appear out of place nor do they diminish the overall appeal of the neighborhood. In my point of view, they enhance the appearance. In other words, the minor extension of the porch across the setback line will cause no unnecessary hardship for any of the residents on my street. For that reason, in this one instance, I am requesting a dimensional variance on the setback allowance.

If it were physically possible for me to adjust the steps in order to stay within the allowed space, I would have addressed the issue immediately. Unfortunately, this matter comes at a difficult time for me, both financially and physically. Since December, I have been off work due to health issues. There are an unknown number of blood clots in my system, a torn rotary cuff on my right shoulder, and planters fasciitis in my foot which all have to heal more before I can succumb to a much needed surgery. Since December, I have been on bed rest and will continue to be until my body is strong enough to go through knee replacement surgery. That rolls over to the financial situation in which I find myself. The financial hardship speaks for itself. With limited income, I cannot afford to hire someone to rebuild the steps.

The practical difficulty of strict compliance with the zoning code is prohibitive. I, by no means, intend to sound disrespectful of the ordinance, as my sole intention is to provide justification for the variance.

In summary, I did not create the situation at hand. During the project, I understood I was doing everything that was expected of me. Admittedly, I was overwhelmed with my front door and porch being such a safety hazard after the storm. There was a lot more involved than just the porch replacement. Cleaning up the tree limbs, in itself, was challenging. The roof of my house, the siding, etc., each commanded my time and energy. Yes, I depended on the contractor. Yes, I know it was my responsibility. But, I learned that after the fact. Everything was all rebuilt and "good to go," until I was told about the setback problem. I am asking for a dimensional variance. It will not alter the essential character of the neighborhood nor will it impair the use of and enjoyment of the neighboring homes. If the variance could be granted, it would represent a minimal modification of the regulation at issue. Thank you for your consideration.

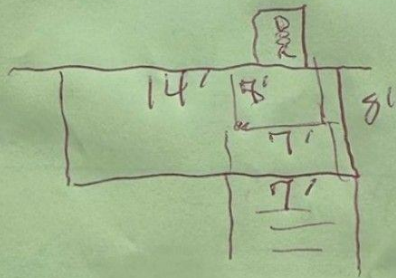
Description
of Damage

Date
Loss

Additional Detail
Information

6x6 - Post
 2x6 - Joist
 2x10 - Frame
 Composite decking

Front
 House



Rebuilt 14'x8' deck

2x10 Frame and 2x6
 Joist. Joist are 16" on
 Center. Railing wood
 Spindels 3.5" inch space
 Composite decking. Stairs

7' wide 2x12 stringer. Post 6x6 on 12x12x36 pier
 on sit on pier go to top of railing and flat 7'x8' cover
 on sit on pier to cover. Cover 2x6 joist + frame 16" on center
 OSB cover



Picture of storm damage provided by applicant



Picture of storm damage provided by applicant

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, March 4, 2024. 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
Commissioner Ben Harber
Commissioner Don Horine
Commissioner Brenda Macke
Commissioner David Woolf
Commissioner John Handley
Commissioner Curt Katterhenry

COMMISSIONERS ABSENT

Vice-Chairman Mike Burson
Commissioner Cara Wagner

STAFF PRESENT

Scott McCullough, Director of Community Development
Stephanie Kisler, Planning Manager
Tim Collins, Engineering Construction Services Administrator
Steven Shrout, Assistant City Attorney II
Kim Portillo, Planner III
Dave Dalecky, Planner II
Logan Strasburger, Planner I
Will Sharp, Planning Specialist I
Gloria Lambert, Senior Administrative Assistant

APPROVAL OF MINUTES

The minutes of the January 8, 2024 meeting were presented for approval. Chairman Poss entertained a motion to **APPROVE** the minutes. Moved by Commissioner Handley, seconded by Commissioner Horine, and **APPROVED** by a unanimous voice vote.

REGULAR AGENDA

1. Waldron Fence Appeal - Consideration of a fence appeal for a noncompliant fence on a residential corner lot located at 10019 Gillette Street within the R-1, Single-Family Residential District. BZ24-03

APPLICANT PRESENTATION

Luke Slagle of Slagle Fence addressed the Board, discussing the Staff Report's presentation of three alternative choices for the Board's consideration. He expressed reservations about two of the options, stating the possible difficulties for his client if required to relocate the fence. Mr. Slagle advocated for the third option, favoring the retention of the fence in its current position. Additionally, he informed the Board that his company had provided additional property photographs to the Staff earlier in the day, using them to highlight the challenges associated with adhering to the City's regulations regarding fence placement. He respectfully urged the Board to select the option allowing the fence to remain in its current location. Mr. Slagle also acknowledged a procedural oversight on his company's part during the permit process. Despite submitting the permit application to the City on November 28, 2023, they failed to respond to communication from City employee Colter Stevenson, who was responsible for fence permits. Consequently, the fence was installed on December 18, 2023, without providing necessary clarifications to Staff or obtaining a fence permit. Communication from Mr. Stevenson was received on December 27, 2023, prompting acknowledgment of their error in overlooking permit guidelines, resulting in the fence's non-compliance with city regulations.

STAFF PRESENTATION

Logan Strasburger presented the Staff Report and stated that the applicant submitted a deviation request to retain a fence in its current position at 10019 Gillette Street. She detailed how Slagle Fence had submitted a building permit on November 28, 2023 to replace the existing fence. However, Staff, upon reviewing the permit, contacted Slagle Fence shortly afterward to ensure compliance with the City's Code. Despite two attempts by Staff to reach out in December 2023, there was no response from the applicant until January 15, 2024, when it was stated that the fence had already been constructed. The fence currently stands at an 8-foot setback, with the applicant requesting it to remain as is. Ms. Strasburger proceeded to share an aerial view of the site location and displayed graphics illustrating the unapproved plans submitted with the building permit by the applicant. She showcased the applicant's proposed plans to replace the entire fence at its original location, along with additional graphics depicting different views of the fence's current position. She highlighted how the fence impacts sight distance from the driveway of neighboring properties to the east. Regarding compliance options, Ms. Strasburger outlined two choices given to the applicant: reconstructing the fence at a 20-foot street-side yard setback for a 6-foot privacy fence or constructing it at a 15-foot street-side side yard setback for a 4-foot open-style fence. She emphasized the presence of open-style fencing along 110th Terrace Street until reaching the subject site, noting concerns about sight distance for westbound travelers on 100th Terrace. Furthermore, Ms. Strasburger reviewed the six Criteria for Review used to assess the application and discussed the Board's responsibility to determine whether to amend, reverse, affirm, or modify the appeal before them. Ultimately, Staff recommended that the Board uphold Staff's decision and deny the appeal. She listed the Board's three options in which to rule:

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.
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.

3. Find that Staff did make an error in its decision and reverse Staff's decision and approve the deviation request.

PLANNING COMMISSION DISCUSSION

Commissioner Harber remarked that upon observing the other corner lots in the vicinity, he would find it challenging not to support Staff's recommendation to deny the appeal. He expressed concern that granting the appeal could set a precedent for other residents seeking similar allowances. Mr. Harber acknowledged that while miscommunication may have occurred, it does not warrant making an exception in this case.

Commissioner Horine expressed reservations about establishing a precedent, stating that he has concerns about doing so. He emphasized that the applicant's oversight does not provide grounds for the Board to rule in their favor.

Commissioner Katterhenry stated that he does not believe that Staff made an error and stands behind their decision to deny the applicant's appeal.

Luke Slagle conveyed his understanding of the City's Code; however, he highlighted a practical challenge his company faces in bringing the fence into compliance. He explained that existing garden beds and a retaining wall would obstruct the installation of the fence along that line.

Chairman Poss emphasized that the Board had invested significant effort into revising the fence code specifically to address this issue. He emphasized the importance of adhering to the guidelines outlined in the revised fence code.

MOTION

Chairman Poss entertained a motion for Option #1, to recommend **DENIAL** of the applicant's appeal related to Staff's denial of an administrative deviation for the fence to encroach 12-feet into the 20-foot setback from the property line as required by the UDC.

- This results in the applicant submitting a revised fence plan for the fence permit (B23-1942) to receive plan approval to remove existing fencing and relocate it to the code-allowed 20-foot setback. The fence permit must be issued before the fence can be relocated.

Moved by Commissioner Horine, seconded by Commissioner Macke, and carried by a unanimous voice vote.

ADJOURNMENT

Chairman Poss ended the regular meeting of the Lenexa Board of Zoning Appeals at 7:14 p.m. on Monday, March 4, 2024.