

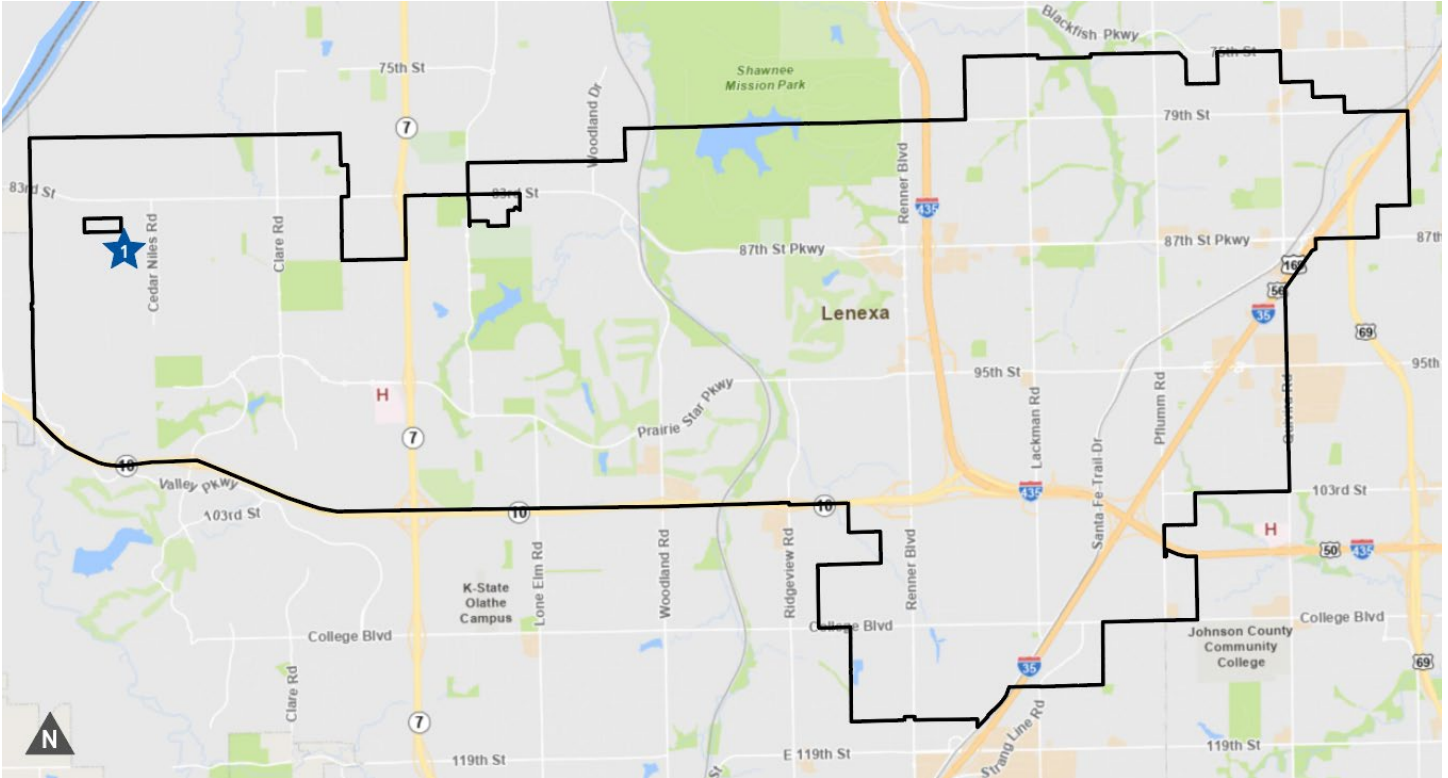


BOARD OF ZONING APPEALS AGENDA

DECEMBER 1, 2025 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 AUGUST 25, 2025 MEETING

REGULAR AGENDA

1. **Guthrie-Vielman Fence Appeal - Consideration of an appeal to Staff's denial of a deviation request to reduce the required setbacks to 0-feet for a fence on a corner lot located at 26510 87th Street in the R-1, Residential Single-Family Zoning District. B25-05**

ADJOURN

APPENDIX

2. **Draft Minutes - August 25, 2025**

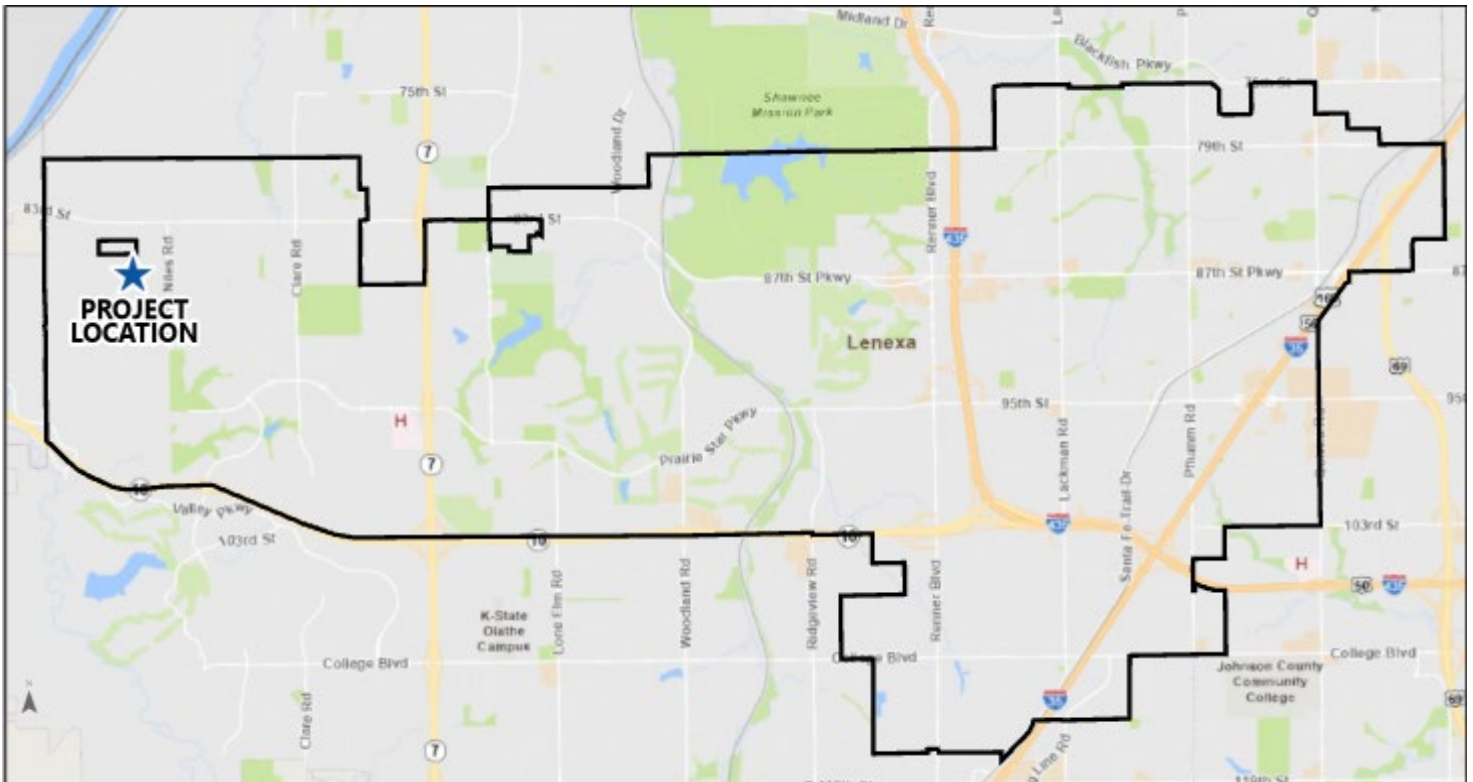
If you have any questions about this agenda, please contact the Stephanie Sullivan, Planning Manager, at ssullivan@lenexa.com.

*If you need any accommodations for the meeting, please contact the City Clerk's Office 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.

GUTHRIE-VIELMAN FENCE APPEAL

Project #:	BZ25-05	Location:	26510 W. 87 th Street
Applicant:	Anna Guthrie-Vielman	Project Type:	Appeal
Staff Planner:	Noah Vaughan	Proposed Use:	Accessory Use of a Fence in R-1, Residential Single-Family Zoning District



APPEAL SUMMARY

This appeal concerns the applicant's request for an administrative deviation to construct a 6-foot-tall chain-link fence on a corner lot at 26510 W. 87th Street. The proposed fence does not meet the Unified Development Code's (UDC) street-side side yard or front yard setback requirements and would be built at a 0' setback along both 87th Street (south property line) and Gabriel Lane (east property line). Staff denied the applicant's request for an administrative deviation because the fence design does not meet the code's intent, would negatively impact neighborhood character and established aesthetics, and lacks any unique site conditions that would warrant relief from the City's recently affirmed fence standards.

The Board of Zoning Appeals has the authority 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

The subject site is a corner lot in the R-1, Residential Single-Family Zoning District. The property is on the northwest corner of the intersection of 87th Street and Gabriel Lane. The property includes Lots 13 and 14 as they were originally platted in the Gabriel Estates subdivision. The plat was recorded in 1966 and the home was constructed in 1974.

Three adjacent properties to the subject site contain fences: 8637 Greentree Drive, 8669 Greentree Drive, and 8667 Gabriel Lane. All three of these properties contain 6-foot-tall split-rail or privacy fences constructed of wood material. While none of these properties are corner lots, all fences meet the code requirements and provide private backyard spaces to each lot. Other fences observed further north of the property are consistent with this design and style of fencing.

LAND AREA (AC)	BUILDING AREA (SF)	CURRENT ZONING	COMP. PLAN
1.9	2,021	R-1	Low-Density Residential



Exhibit 1: Aerial Image of Subject Site

BACKGROUND INFORMATION

On May 16, 2023, the Governing Body approved amendments to the UDC for fences, walls, and retaining walls. The Governing Body supported allowing fences aligning with the front of the principal structure and on corner lots they supported 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.

Per the UDC [Section 4-1-B-24-F-5-a-1](#), all new fences require a permit prior to construction. The permit application must include a scaled and dimensioned plan showing the location of the proposed fence together with all property lines, setbacks, and structures. An application for a fence permit was received in September 2025 following discussions between the applicant and Staff. The permit application was submitted with the deviation request to allow the proposed setbacks.

FENCE TIMELINE

- July 13, 2021: Applicant initially inquired about the fence regulations within the City of Lenexa. No permit was submitted at this time. Staff provided a sample code compliant design to the applicant (see Exhibit 4).
- May 16, 2023: Governing Body approves the UDC amendment related to the fence code.
- November 4, 2024: Applicant inquired via email about placing a 6-foot-tall chain-link fence at the property and included the same fence design that is being requested within this deviation appeal as an attachment. Staff responded, stating that the proposed design could not be approved without a deviation or revision to meet code requirements. No permit was submitted at this time and another sample code compliant design was sent by Staff.
- April 11, 2025: Applicant contacts Staff again regarding the design sent by Staff in November, as this differed from the Staff design sent in July 2021.
- April 18, 2025: Staff respond to this inquiry, stating that some confusion occurred due to how the front wall of the residence on the property is defined by the UDC, which would change the allowable design of the fence. Because the site is a corner lot and the house was constructed at an angle, Staff needed to determine the front of the house and the side street. Because the narrower lot frontage is along 87th Street, this is defined as the front, making Gabriel Lane the side street. After internal discussion, Staff notified the applicant that the original design sent by Staff in July 2021 would still represent the limitations of a fence that could be approved at the site without a deviation.
- July 29, 2025: Following a phone conversation with the applicant, a section of the UDC containing the deviation criteria that applies to accessory structures was sent to the applicant.
- September 2, 2025: Applicant submits a fence permit for a 6-foot-tall chain-link fence along with the deviation application and supporting documentation.
- September 5, 2025: Staff denies the administrative deviation for the fence location and sends the formal denial letter and information about appeals to the applicant.
- October 3, 2025: The applicant submitted and paid for an Appeal of Staff’s decision to deny their administrative deviation request for the fence.

Anna Guthrie-Vielman
26510 W 87th ST
Lenexa, KS 66227

— Proposed Placement



This is not a legal binding document and proposed fence placement may or may not be of correct scale.
It is merely an approximation of the proposed placement included in the Proposal for Contract.

ROYAL
FENCE AND DESIGN LLC

Exhibit 2: Submitted Fence Plan for 26510 W 87th Street.



Exhibit 3: Picture of Subject Site taken at the intersection of 87th Street and Gabriel Lane.

CRITERIA ANALYSIS

[Section 4-1-B-24-F-5-c](#) of the 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 construct a fence at a 0-foot setback from the eastern property line rather than the required 20-foot setback and their request for the fence to extend in front of the front wall of the residence located on the subject property.

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 administrative deviation was denied on September 5, 2025. 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 was provided to the applicant on September 5, 2025, at the time the administrative deviation was denied.

a. Purpose and intent of the Code.

Staff Evaluation: The code has a purpose of preserving and improving the public health, safety, and general welfare of the citizens of Lenexa, and to implement the official Comprehensive Plan for the City of Lenexa (Section 4-1-A-2). The fence code maintains aesthetic and safety standards to balance the needs and desires of the property owner and the neighborhood. The fence code must also be applied fairly across all properties throughout Lenexa.

The City last updated its fence code in 2023, with confirmation from the Planning Commission and City Council that these standards are to be enforced. Extensive discussions during that process addressed fences on corner lots, and clear expectations were incorporated into the current code. The fence, as proposed, does not comply with these standards. While it is appropriate to grant deviations from the fence code in certain instances, this deviation seeks to eliminate the street-side setback and front wall structural setback requirements entirely.

The proposed design does not meet the purpose and intent of the code as it would not be a fair application of the process if granted and would defeat the intent to maintain a unified aesthetic of fences within the neighborhood and the City.

b. Impact on adjacent properties.

Staff Evaluation: The City Council recently revised the fence code to balance the needs of property owners with the aesthetics and safety needed for drivers, pedestrians, and the community at large. The Council desired to maintain consistency within street corridors where fences would maintain an open feel

if allowed to extend closer toward the street and sidewalks and reduce impact to the front yards of properties that back up to street-side side-yards. While the street corridor and visual safety along the road is unlikely to be impacted based on the open-style nature of the fence, allowing the deviation would disturb the established aesthetic of the neighborhood and existing surrounding fences. All neighboring fences are compliant with the existing fence code and further reasoning is needed to justify the extreme requests of the deviation as opposed to permitting of another code-compliant fence at the site.

c. Safety.

Staff Evaluation: The applicant explains in their deviation criteria responses that the primary reason for the deviation request is to create a safe and secure backyard for both their children and pet dog that would utilize the space. While the proposed design would not present any new safety issues, it is Staff's opinion that a code-compliant fence could be constructed on the site that would provide adequate backyard space for this purpose that would be safe for use by the applicant's family and pets.

d. Unique site conditions and constraints.

Staff Evaluation: Staff finds no unique site conditions or constraints that would necessitate allowing the fence location to be extended to southern and eastern property lines as shown. The property does not contain unique topography, excessive vegetation, or another valid constraint that supports this criteria. While the house is uniquely angled at the site, this would not prevent a code-compliant fence from being installed at the property that would provide an adequate fenced-in area.

e. Promotion of high quality or unique design.

Staff Evaluation: The proposed fence is not of high-quality materials (chain-link) nor does it feature a unique design. The proposed fence does not align with the City Council's directive to maintain a high-quality aesthetic city-wide with consistent setbacks and openness along street corridors. The intent of the code is to maintain the front fence setback consistently throughout the City as it provides a unified aesthetic, which the proposed fence deviation does not support.

f. Character of the neighborhood.

Gabriel Estates is an older subdivision with relatively low density lots and a rural character. Minimal traffic is generated on the nearby streets, Gabriel Lane and 87th Street. The subject property is a combination of two lots that were originally platted separately in the subdivision. The owners of the property have an advantage when compared to their neighbors due to the size of their lot, allowing them to capture a larger backyard through the installation of a fence. Staff's opinion is that the proposed design would not add to the character of the neighborhood and would instead have a negative impact by eliminating the open feel of adjacent lots and street corridors by adding a barrier along the property lines bordering 87th Street and Gabriel Lane.



Exhibit 3: Fence as proposed by the applicant's administrative deviation request, capturing ~67,000 SF of backyard.



Exhibit 4: Fence that meets fence code requirements, capturing ~59,000 SF of backyard.

REVIEW PROCESS

The Board of Zoning Appeals has reviewed three fence appeals since the update to the fence code, BZ23-03 (10249 Caenen Street), BZ24-03 (10019 Gillette Street), and BZ25-01 (8117 Millridge Street). In all cases, the applicants requested relief from the street-side setback requirement for the location of a fence on a corner lot. These appeals were denied and the applicants were required to have their fences come into compliance with the code requirements. Staff inspected the fences following the appeal and permit process and confirmed the final fence installations meet code requirements.

A hearing is required to consider this matter. The Board of Zoning Appeals is the final authority for this appeal of administrative decision for request for deviations. 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 setback requirements for a fence located at 26510 W. 87th 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 be built past the front build line of the principal structure and at a 0-foot street-side yard setback rather than a 20-foot setback from the property line as required by the UDC.
 - This results in a denial of the appeal and disapproval of the applicant's existing fence permit (B25-1484). Any future proposed fencing to be placed on the property would need to conform to the UDC's fence code. The fence permit could be revised to meet code.
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 and/or the amount of encroachment past the front wall of the structure to a specified distance that the Board of Zoning Appeals determines is reasonable.
 - This results in the applicant modifying the location of the fencing as discussed by the Board. The applicant must submit a revised fence plan for the fence permit (B25-1484) and the fence permit must be issued before the fence can be installed.
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, allowing both a 0-foot setback from the fence to the street-side property line and for the fence to extend past the front wall of the structure on the property to a 0-foot setback on the front property line.
 - This results in an approval of the applicant's proposed fence design, which directs Staff to approve the existing fence permit (B25-1484).



GABRIEL LN

W 87TH ST

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

Guthrie-Vielman Fence Deviation Appeal



0 50 100 200 Feet



Samuel Vielman & Anna Guthrie-Vielman
26510 West 87th Street
Lenexa, KS 66227
913-605-6260
samvielman@gmail.com & anna.guthrie.89@gmail.com

Dear City of Lenexa Community Development Department,

I hope you're doing well. I am here today to request approval for the installation of a 6-foot chain-link fence on my property. My request for this fence aligns with the intent and purpose of the Code, and I believe it meets the criteria for a deviation.

1. **Safety:** My primary reason for installing this fence is to provide a safe and secure environment for my children.
 - The fence will ensure their protection while playing in the yard and prevent them from wandering into any potentially hazardous areas.
 - Additionally, we plan on adopting a dog that would be spending time outdoors and would need to be contained.
2. **Impact on Adjacent Properties:** The fence will have a minimal impact on my neighbors. The property to the south of my house is farmland, and the surrounding houses will not be negatively affected since the fence is not meant for privacy and only for safety. I've had a professional survey of my property performed in order to prevent any issues with surrounding properties.
3. **Character of the Neighborhood:** My house is located in an older neighborhood, and I believe a 6-foot chain link fence installed by professionals will not negatively affect the established character of the area, rather it would enhance it.
4. **Unique Site Conditions and Constraints:**
 - While not explicitly mentioned, my property's location being directly across farmland could be considered a unique site condition that warrants the need for a protective enclosure.
 - There is an underground water line pipeline running across my property which already limits my ability to expand my house.
 - 87th street has a dead end at Cedar Niles Road hence the traffic on that street is minimal, and special consideration should be taken.
5. **Promotion of High-Quality Design:** The use of chain-link, as an allowed material, will provide a durable and long-lasting fence that promotes a high-quality standard for my property.

I have also prepared the required scaled and dimensioned plot plan showing the proposed fence, property lines, and setbacks, as well a letter from surrounding neighbors in which they affirm that they have no objects to the deviation request.

Regards,

Samuel Vielman & Anna Guthrie-Vielman
26510 West 87th Street Lenexa, KS 66227

Samuel Vielman & Anna Guthrie-Vielman
26510 West 87th Street
Lenexa, KS 66227
913-605-6260

8/3/2025

Dear Neighbor,

I hope you're doing well. I'm writing to inform you of a deviation request we are submitting to the City of Lenexa regarding the installation of a 6-foot chain link fence around my property at 26510 West 87th Street.

The purpose of this deviation is to request relief from the standard setback requirements for residential fences, allowing the fence to be placed directly along the surveyed property lines. I've completed a professional survey to ensure the fence will remain entirely within my property boundaries.

This fence will help improve safety, security, and functionality while maintaining a clean and unobtrusive appearance. I understand that deviations require community awareness and support, and I'd greatly appreciate your acknowledgment of this request.

Your signature below simply indicates that you've been informed of the proposed deviation and have no objections to the installation of the fence as described.

Please feel free to reach out if you have any questions or concerns. Thank you for your time and consideration.

Warm regards,
Samuel Vielman & Anna Guthrie-Vielman

Neighbor Acknowledgment of Fence Deviation Request

I, the undersigned, acknowledge that I have been informed of Samuel & Anna Vielman's request for a deviation to install a 6-foot chain link fence at 26510 West 87th Street, Lenexa, KS, with the intent to waive standard setback requirements. I have no objections to this request.

Name: KAREN LUKOWICZ

Address: 8636 S. D. TUL

Signature: [Signature]

Date: 8/5/25

Name: Larry Freestone

Address: 9067 Gabriel Ln

Signature: [Signature]

Date: 8.5.25

Name: Chew Fadda

Address: 8635 Gabriel Ln

Signature: [Signature]

Date: 8/10

Name: Darrell Lewis

Address: 8669 Greentree Dr

Signature: [Signature]

Date: 8/10



BOARD OF ZONING APPEALS NOTICE OF APPEAL FORM

Notice of Appeal Forms must be submitted online through Lenexa's [Permitting Portal](#), but you will need to contact [Gloria Lambert](#) or the [Licensing and Permitting Division](#) to obtain a licensed professional number before submitting online. You may call 913-477-7500 for assistance.

PROPERTY DESCRIPTION

Address: 26510 W. 87th St. Lenexa, KS 66227

Zoning: RI

Subdivision: Gabriel Estates

Description of proposed project: Property Fence

Property Tax ID #: IP245000000013

Size of Property (sq.ft.): 82,800.26

Current Use: Single Family Fence

APPEAL INFORMATION

Note: Attach additional information as needed.

What are you appealing?: X Code Section: 4-1-B-24-F-5-b

X Administrative Decision (attach documentation)

Reason for appeal: The 2023 codes that are being applied to our project do not seem to align with the following unique conditions of our property: having farmland south of the front of the property, minimal traffic on both 87th street and Gabriel Lane, no sidewalk on either 87th or Gabriel Lane, a 24" water line cutting across our property, and having numerous neighbors who are supportive of our project.

APPLICANT & PROPERTY OWNER INFORMATION

Note: If the applicant is anyone other than the fee simple owner, the signature of the fee simple owner designating the applicant as the authorized agent for all matters concerning this request must be submitted with this application.

Applicant/Contact Person:

Name: Anna Guthrie-Vielman

Company: NA. Residential/Private Property

Address: 26510 W. 87th St

City, State, ZIP: Lenexa, KS 66227

Phone: 913-669-7864

Email: anna.guthrie89@gmail.com

Owner of Record:

Name: Anna Guthrie-Vielman

Company: NA. Residential/Private Property

Address: 26510 W. 87th St

City, State, ZIP: Lenexa, KS 66227

Phone: 913-669-7864

Email: anna.guthrie89@gmail.com

NOTICE OF APPEAL FEE

\$100.00 (non-refundable; will be invoiced after online submission)

Applicant Signature: Anna Guthrie-Vielman Date: 10/02/2025



BOARD OF ZONING APPEALS

NOTICE OF APPEAL INFO

APPEAL PROCESS

When you disagree with an action taken by the Director of Community Development, Building Official, or other public official administering the Unified Development Code, you may appeal that action by following this process through the Lenexa Board of Zoning Appeals.

1. Submit a Notice of Appeal Form to the Planning Division of the Community Development Department within 30 days of the action that is being appealed. The Form may be accompanied by additional information in support of your position.
2. Upon receipt of the Notice of Appeal Form, the City will invoice the applicant the Notice of Appeal Fee and provide a due date for payment.
3. The City will place the appeal on the next available Board of Zoning Appeals meeting agenda. At least 20 days prior to the meeting, the City will publish public notice of the appeal in the official newspaper. A copy of the notice will be sent to the applicant and to the Board.
4. Staff will review all submitted information and write a report with a recommendation to the Board, which will be sent to the applicant and the Board the week before the meeting.
5. At the meeting, both the applicant and Staff will make presentations to the Board.
6. The meeting will then be opened for a public hearing to allow comments from the public.
7. The Board will discuss the information presented and take action on the appeal. The Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination and may attach appropriate conditions and may issue or direct the issuance of a permit.
8. If the applicant is dissatisfied with the Board's decision and wish to appeal it, an appeal must be filed with the Johnson County District Court within 30 days of the Board's decision.

Administrative Review of Deviation Criteria:

1. Purpose and intent of the code.

Staff mentioned that the intent is to “maintain a unified aesthetic in the vicinity” and that the granting of this deviation request would “defeat” that intent. We would like to contend that, in fact, the installation of a chain link fence would allow our property to share the already established aesthetics of an older neighborhood and its inhabitants given that many already have a chain link fence as well. (please see examples of the pictures of neighbors’ fences) Some of the chain link fences have wooden posts and some have metal posts.

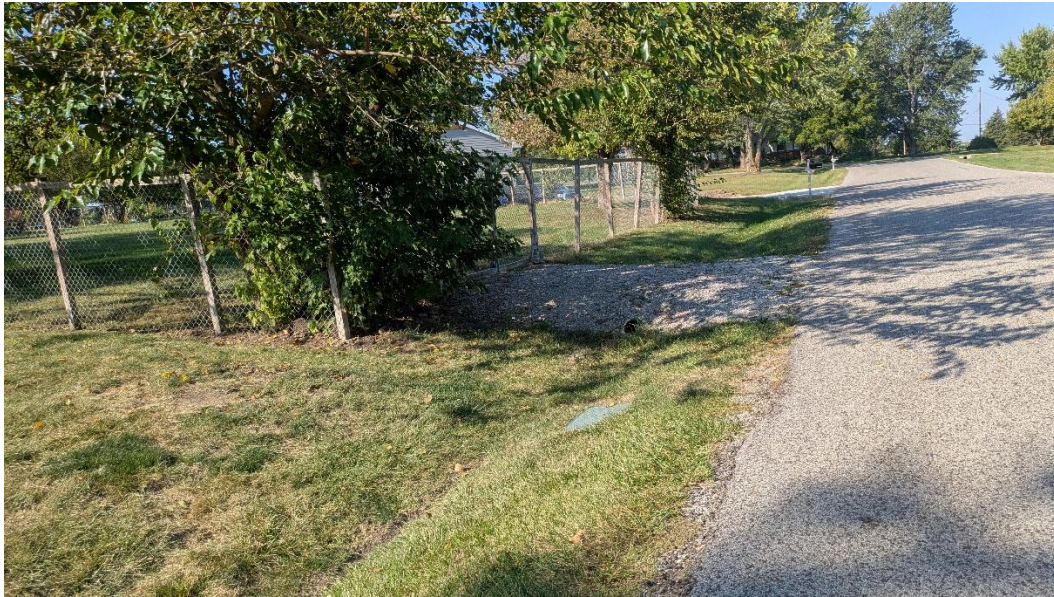












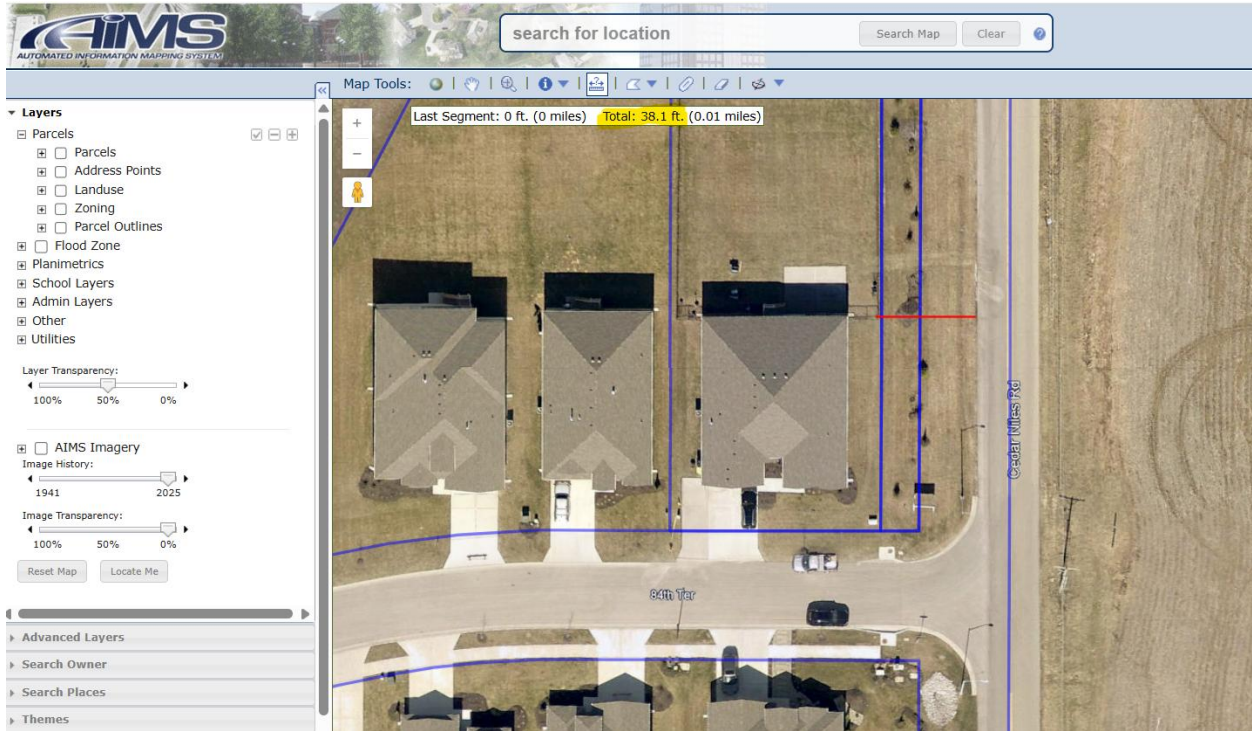




2. Impact on adjacent properties.

Staff mentioned that the installation of our chain link fence being at our property line would “substantially deviate from the established aesthetic of the neighborhood and existing surrounding fences.” As mentioned above, we have numerous neighbors who have chain link fences, so ours would not stand out or diminish the aesthetics of the neighborhood. Additionally, it should be taken in to account that we got signatures from 4 different surrounding neighbors who affirmed that they have no issues with our proposed fence installation project, and are supportive of it (this letter with the names, dates, and signatures was provided as a part of our deviation request).

It was also mentioned by staff that “neighboring fences in the area are in compliance with Lenexa’s fence code, however, (as can be seen in some of the above photos and the ones below) these fences (one in our neighborhood and the other in the new development behind our neighborhood) are deviating from Lenexa’s fence code.





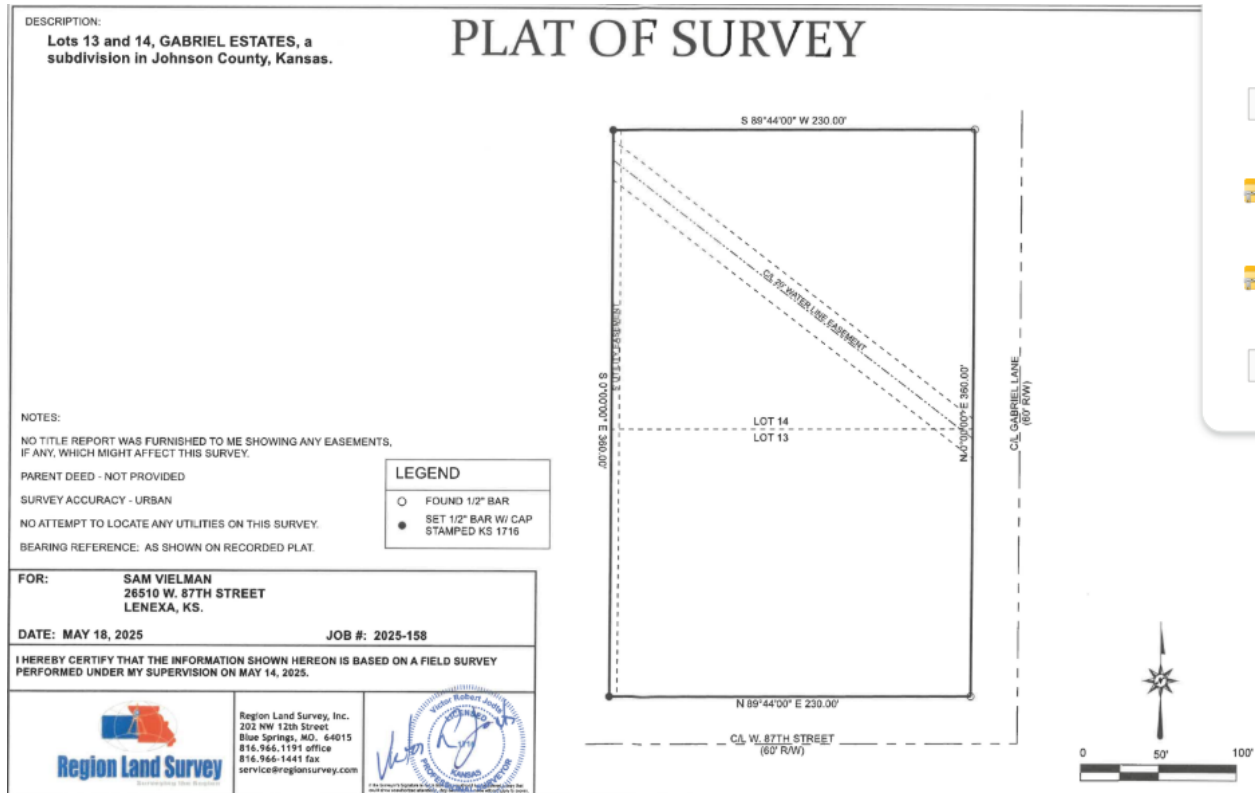
12/23/2021



3. Safety

4. Unique site conditions and constraints

- a. While not explicitly mentioned, my property's location being directly across farmland could be considered a unique site condition that warrants the need for a protective enclosure.
- b. There are no sidewalks on either the 87th street or Gabriel Lane side, which means people are walking in the street anyways, therefore our fence would not be creating any sort of barrier.
- c. There is a 20" underground water line easement running across my property which already limits my ability to expand my house. Additionally, on the Gabriel Lane side where the water line runs to, a sidewalk could not be laid on top of that line anyway. (please see photo of water line from our surveyor)
- d. 87th street has a dead end at Cedar Niles Road hence the traffic on that street is minimal, and special consideration should be taken.



5. & 6. Promotion of high quality or unique design/character of the neighborhood.

As mentioned before, fences with chain-link material are widely used in our neighborhood, and this fence would be done by a fence installation professional hence there will warranty and quality on their work. One of the unique aspects of our neighborhood is that it is an older neighborhood with rural character (as the city mentioned). The installation of our chain-link fence would not only nicely blend in with the established aesthetics of our neighborhood, but it would also enhance the property by show casing the size of the lot.

Additionally, in the long term, a chain-link fence is a more aesthetically appealing option when you consider its durability compared to a wooden privacy fence. The average duration of a privacy fence is around 10-20 years and requires a lot more upkeep due to the effects of environmental factors such as climate, sun exposure and insects. On the other hand, the average lifespan of a galvanized steel chain-link fence is considerably longer, ranging anywhere from 20-30 years and (as long as it is properly installed) requires minimal upkeep. As can be noted from multiple pictures in those listed above, there are several wooden, privacy fences in our neighborhood that are rotting and not aesthetically appealing.

CALL TO ORDER

Chairman Poss called the regular meeting of the Lenexa Board of Zoning Appeals to order at 7:00 pm on Monday, August 25, 2025. 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 Jermaine Jamison
Commissioner Curt Katterhenry
Commissioner Cara Wagner
Commissioner David Woolf

COMMISSIONERS ABSENT

Commissioner Sunny Dharod

STAFF PRESENT

Scott McCullough, Community Development Director
Stephanie Sullivan, Planning Manager
Tim Collins, Engineering and Construction Services Administrator
Andrew Diekemper, Assistant Chief – Fire Prevention
Steven Shrout, Assistant City Attorney II
Dave Dalecky, Planner II
James Molloy, Planner II
Jessica Lemanski, Planner II
Noah Vaughan, Planning Specialist I
Gloria Lambert, Senior Administrative Assistant

APPROVAL OF MINUTES

The minutes of the August 4, 2025 meeting were presented for approval. Chairman Poss entertained a motion to **APPROVE** the minutes. Moved by Commissioner Katterhenry, seconded by Commissioner Horine and **APPROVED** by a unanimous voice vote.

REGULAR AGENDA

1. **Rueger Basketball Court - Consideration of a variance request for a basketball court to encroach into the required setback from the rear property line on property located at 10019 Sunset Drive within the R-1, Single-Family Residential District. BZ25-04 (Public Hearing)**

APPLICANT PRESENTATION

John Rueger, 10019 Sunset Drive, appeared before the Board of Zoning Appeals with his wife and three of their four children to request a variance for construction of a backyard basketball court. Mr. Rueger explained that the project began as a Christmas gift for his children and was intended to provide a healthy recreational outlet, particularly important given his military service and frequent absences from home. He has served more than twenty years in the U.S. Army, which requires significant time away from his family.

Mr. Rueger stated that he researched HOA restrictions, reviewed city resources, and observed other neighborhood improvements before beginning the project, believing it to be permitted. Construction was stopped once he was informed that the court did not meet City setback requirements. The variance requested would allow a ten-foot encroachment into the required seventeen-foot rear setback, leaving a seven-foot setback. He noted that his lot is shallower than others in the neighborhood and abuts a cul-de-sac lot, limiting placement options. The chosen location balances usability of the court with minimal impact on neighbors.

Mr. Rueger addressed stormwater concerns by explaining that the court was designed with minimal slope and aligned with an existing swale. He indicated a willingness to work with staff on additional measures if needed. He explained that without the variance, the court would be too small to be functional. He added that the project is consistent with the neighborhood's character, where pools, patios, and play structures are common, and that it does not obstruct views, light, or airflow. As a compromise, he offered to reduce the size of the court by six feet to increase setback distance while maintaining usability. In closing, Mr. Rueger requested approval of the variance or consideration of the compromise and suggested that the city consider establishing a permit process for backyard amenities to prevent future misunderstandings. He thanked the board for their service and reiterated his intent to provide his children with a safe recreational amenity while balancing his duties to family and country.

STAFF PRESENTATION

Dave Dalecky, representing planning staff, addressed the board and provided a detailed summary of the variance request for 10019 Sunset Drive in the Highland Crest subdivision. He began by walking through graphics showing the property location, the zoning classification of R-1, Single-Family Residential District, and the Future Land Use designation of Suburban Residential. Using aerial images, he highlighted the site's context, showing John Rueger's home, neighboring lots, and the placement of the existing court. Mr. Dalecky explained that Staff became aware of the project after receiving a call about the installation of a paved athletic court. Because the property owner's involvement was initially unclear, field staff contacted the contractor on site and instructed them to coordinate with the planning division and install erosion control fencing. Staff then communicated directly with John Rueger to explain that the paved court did not comply with the required setbacks, prompting the halt of construction while the variance process began.

Mr. Dalecky explained that under the City Code, six criteria must be met to approve a variance. He focused on the three key criteria that staff found not met. The first criterion concerns whether the property has unique constraints. Staff concluded that the property is not unique, noting that the 10,000-square-foot lot exceeds minimum size requirements and has a typical lot depth compared with surrounding lots. The second criterion examines whether the variance will adversely affect neighboring properties. Staff highlighted that the court generates additional stormwater runoff, which has impacted adjacent properties. The third criterion addresses hardship for the property owner. Staff observed that sufficient space exists elsewhere on the lot to build a compliant patio or smaller accessory structure without encroaching on the rear yard setback. Dave Dalecky

reviewed the specifics of the setback requirements. The 20-foot rear yard setback must be maintained for accessory structures unless certain exceptions, such as a three-foot encroachment or structures under 200 square feet, apply. He compared this with nearby properties that have pools, which are allowed certain deviations, but emphasized that rules differ for patios and courts. Photographs illustrated the existing encroachment, the relative position of the court to neighbors' properties, and erosion control measures along the easterly property line. He noted that John Rueger had proposed a modified layout that would reduce the court's size to gain additional setback, but this still constitutes a variance and must meet all six criteria. Mr. Dalecky briefly addressed criteria related to the harmonious development of the community, explaining that while the patio does not block light or air, it is a larger structure than typically expected in rear yards. In conclusion, Staff recommended denial of the variance request for the rear yard setback encroachment, citing the property's lack of uniqueness, potential adverse effects on neighboring properties due to stormwater, and the absence of a demonstrated hardship.

PUBLIC HEARING

Chairman Poss **OPENED** the Public Hearing and asked if anyone wished to speak on this item.

Julie Daicoff addressed the Commissioners, explaining the personal impact of a basketball court installed by her neighbor, John Rueger, in violation of Lenexa's setback regulations. She introduced herself as a retired high school math teacher and her husband, Maurice Jim Stack, as a retired small business owner and disabled Vietnam veteran, noting that he was recently hospitalized with pneumonia. They moved to Lenexa 21 years ago for its quality of life, safety, and well-planned community, and they take pride in their city. Ms. Daicoff described the basketball court as significantly affecting their property values, safety, and overall quality of life. She emphasized that the project was entirely voluntary on Mr. Rueger's part and could have been halted early. She detailed that the neighbor and city staff had been informed before concrete was poured that the project was in violation of City ordinances, yet the contractor proceeded regardless. Ms. Daicoff emphasized that proper procedure should have involved stopping the work, seeking clarification, and only then continuing in compliance.

Julie Daicoff highlighted stormwater runoff as the primary hardship, explaining that the basketball court's installation redirected water toward their property, causing basement and drainage issues and extending the time it takes for water to absorb. To mitigate these problems, they had to install a French drain at their own cost of \$2,830, which was a significant burden for two retired people on a fixed income. She stressed that John Rueger's actions directly imposed these hardships and lowered the quality of life in their home. Ms. Daicoff also criticized inconsistencies in correspondence from Mr. Rueger and the HOA, disputing claims that the setback issue was unknown to him before the concrete was poured. She emphasized that the neighbor's justification, comparing the court to a playground, was not valid, as the basketball court dramatically increased runoff. She offered alternative locations for basketball play nearby and noted that other placement suggestions could still create drainage issues, requesting that any necessary drainage from deconstruction be directed away from their property. In closing, Ms. Daicoff thanked the board for their time, acknowledged the emotional nature of the situation, and requested that the variance be denied preventing further harm to their property and quality of life.

Amanda Neugebauer, who lives at 10016 Sunset Drive and serves on the HOA Board, stated that while she understood some of the concerns that had been raised, there were also several untruths in the discussion. She emphasized that the Ruegers had done their due diligence before beginning the project. They consulted their contractor and were told a permit was not required. They then came to the HOA Board, requested approval, and received it before moving forward. Believing everything had been handled properly, they began construction until a neighbor later objected. Ms. Neugebauer noted that the objection seemed to stem largely from the neighbor's belief that the court was an eyesore, something the neighbor had stated herself. However, she pointed out that the court was not directly behind the neighbor's house, but rather behind the yard, with the house offset from it. As a voting member of the HOA, Neugebauer voiced her full support for the Ruegers and their basketball court, adding that the HOA had previously voted to send a letter of support for the project. She highlighted that John Rueger works hard, often deploying for military service, and simply wanted to give his family something nice. She stressed that nothing about the project was done maliciously, and she did not appreciate the attacks on his character.

Joe Beveridge, a neighbor living at 10023 Sunset Drive, just south of the Ruegers, expressed full support for their proposed single-family sports court. Mr. Beveridge believed the use is reasonable, low-impact, consistent with the neighborhood, and serves the public interest by encouraging outdoor activity for kids. He argued that zoning rules should be fair and proportional, and that the board should not block the project.

Kurt Elmore, a nearby resident at 10023 Sunset Drive, expressed his family's support for the proposed sports court. He noted that the neighborhood's narrow streets and frequent on-street parking leave few safe places for children to play, and many homes have sloped driveways that aren't suitable for outdoor activities. He argued that the sports court would provide a safe alternative and reduce the need for children to cross a busy thoroughfare to reach the court at Life Church. He concluded that the project would not harm the community and deserve support.

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

COMMISSION DISCUSSION

Commissioner Horine's main concern focused on conflicting accounts of the construction timeline. Staff reports indicated that inspectors visited the property on June 4th and told the contractor not to pour concrete, while the applicant's timeline suggested staff had approved the work. Horine noted that from a resident's perspective, guidance from city staff would carry authority, and the key issue was whether the contractor proceeded despite being explicitly told not to, or whether the city inadvertently gave the impression that the project was acceptable. David Dalecky explained that field staff visited the site and observed preparation work, noting a drainage issue and requiring erosion-control measures, but they did not identify a setback problem. The setback issue arose later during Mr. Dalecky's follow-up call with the contractor, in which he informed the contractor that the project did not comply with setback requirements. Mr. Dalecky could not confirm exactly what field staff said during the site visit but emphasized that they are not typically responsible for interpreting setback compliance. He also acknowledged that the contractor poured concrete after he personally notified them of the violation. Commissioner Horine then confirmed with Mr. Dalecky that the contractor was preparing to pour concrete when staff visited, and that Mr. Dalecky informed them of the setback problem, but the work proceeded anyway. Mr. Rueger explained he was largely unavailable due to travel and only learned the concrete had been poured when a door hanger was placed on the property, which prompted his first conversation with Mr. Dalecky about the issue.

Commissioner Horine concluded that if a violation occurred unknowingly and in good faith, it would be reasonable to work with the applicant. But if the contractor knowingly ignored instructions, seeking approval afterward creates a "slippery slope." He identified this as his main concern but indicated potential openness to the applicant's alternative plan for a smaller setback, pending further discussion.

Commissioner Harber commented that features like patios and sport courts, which used to be more unusual, are now fairly common. He noted that the applicant did try to research whether a permit was needed and asks City Staff how difficult it is for someone to determine if a permit is required for things like patios, pools, or sport courts. Scott McCullough responds that patios or sport courts are not typically items that require a permit, though he would need to review it from a consumer perspective to be sure. He noted that while permits are usually required for things involving detailed plans, costs, or more extensive construction, features like these mainly need to comply with setback requirements, similar to how a small shed might not need a permit but still must meet setbacks. Commissioner Harber said he would be open to supporting a compromise if the commission chose to allow one.

Commissioner Wagner acknowledged concerns about water runoff, noting that runoff depends on the total area of hard surfaces. She said the total square footage could still be allowed, but placement matters. She is open to a compromise if additional measures are taken to manage runoff and reduce impact on neighboring properties.

Commissioner Burson said that he reviewed the Ordinance as a consumer and finds it unclear, particularly the definition of “structure,” which doesn’t clearly address sports courts. He acknowledges the applicant likely did due diligence but expresses concern about the precedent of ignoring Staffs recommendations. He notes that similar hard-surface installations could be done without a permit, potentially causing significant runoff, and cites unusual rainfall during the relevant timeframe. He sees some gray area in the Ordinance and the variance criteria, and views the proposed compromise, reducing the variance and including drainage and landscaping measures, as a reasonable way to balance the intent of the Ordinance with supporting the applicant.

Commissioner Jamison emphasized the importance of compromise. He reviewed the communication timeline and the difficulty of determining responsibility for clarity on permits. He acknowledged neighbors’ concerns about runoff and stressed maintaining the integrity of neighborhoods. His focus is on finding a solution that balances the interests of the applicant, neighbors, and the community.

Commissioner Woolf said he is supportive of a compromise with a requirement for reasonable water mitigation and then landscaping that would fill in the gap.

Commissioner Katterhenry says he generally avoids setting precedents but supports the compromise in this case. He explains that the court cannot work in the driveway due to slope issues and relocating it elsewhere on the property would create more problems. Therefore, he believes compromise is the best solution.

Chairman Poss says he initially thought the case was a clear denial because the contractor proceeded after being told not to, which is normally unacceptable. However, after reviewing the report and hearing other commissioners, he sees the proposed compromise, allowing a total seven-foot variance beyond the three-foot right, as reasonable. He notes the variance amounts to about 210 square feet in the setback area, comparable to an accessory structure, and asks for clarification on pool deck setbacks, specifically whether the code applies to above-ground pools, below-ground pools, or pools in general. David Dalecky clarified that it applies to either above or below ground pools.

Commissioner Horine asked whether the commission can approve the proposed option directly or if it would need to be resubmitted for a new variance request. He wants to confirm that a simple vote on the suggested compromise would be sufficient.

Scott McCullough clarified that the commission could act on the applicant’s proposed compromise, even if it’s a lesser variance than originally noticed. He confirms that the six variance criteria would apply to the compromise and assures the commission that they are legally within their authority to approve it that evening. Mr. McCullough also advises that because the staff recommendation notes not all six variance criteria are met, the motion should clearly articulate how the proposed variance satisfies the criteria. He also suggests that if the commission wants to condition approval of measures like stormwater management or a landscaping plan, those conditions should be clearly stated so staff can implement them.

Chairman Poss outlined the first part of a motion: a seven-foot variance with stormwater mitigation measures to protect neighboring properties. He notes the applicant is proposing landscaping but expresses uncertainty about how the commission could enforce or specify the landscaping. Commissioner Burson suggested evergreen as a buffer and adds to the motion, stating that he supports the variance based on the applicant’s presentation addressing the six criteria.

MOTION

Chairman Poss entertained a motion to **APPROVE** a reduced rear yard setback of seven feet for the sports court, reflecting the applicant’s revised proposal to remove six feet of the existing concrete. The approval included the conditions that the applicant implement stormwater mitigation measures to prevent adverse impacts to adjacent properties and add landscaping to provide reasonable buffering and visual screening. The Board

found that the reduced request satisfies Variance Criterion #6, representing the minimum modification necessary to afford relief.

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

ADJOURNMENT

Chairman Poss ended the regular meeting of the Board of Zoning Appeals at 8:15 p.m. on Monday, August 25, 2025.