

**TO: CANNON FALLS CITY COUNCIL**  
**FROM: Dianne Howard, Land Use and Licensing Specialist**  
**SUBJECT: Variance for E. Juno & Erica Nayagam at 717 State Street W.**  
**MEETING DATE: Tuesday, May 18, 2021**

### **BACKGROUND**

A public hearing was held at the May 10, 2021 Planning Commission meeting for a variance request for E. Juno & Erica Nayagam at 717 State Street W. The Planning Commission voted and approved unanimously. This lot is zoned *R-3 Medium Density Residential District*.

The following exhibits are enclosed to further describe the proposal:

1. Copy of Development application from E. Juno & Erica Nayagam
2. Copy of Fence Permit Application
3. Five photos of property
4. GIS overhead depiction of lot and neighboring lots
5. 152.276 FENCES, ordinance
6. Ordinance terms defining, “Yard, Rear”

A 2 ft. high variance is being requested to allow the homeowners to extend a 6 ft. high maintenance-free, privacy fence into the side yards on the east and west side of the property. The home is a one-story with a walkout basement. The backyard drops down into a bowl. The proposed side yard fences will be minimally visible from the street. The fence will be obscured by wood line on the west and south sides of the property. The fence on the east side of the property line will start at the bottom of the hill, below the retaining wall.

### **REQUESTED COUNCIL ACTION**

Please consider and make a motion to approve Resolution 2548 as recommended by the Planning Commission.

**CITY OF CANNON FALLS  
GOODHUE COUNTY, MINNESOTA**

**RESOLUTION NUMBER 2548**

**VARIANCE FOR E. JUNO & ERICA NAYAGAM AT 717 STATE STREET E.**

WHEREAS, E. Juno and Erica Nayagam have made application for a 2 ft. high Variance to allow them to extend a 6 ft. high maintenance-free privacy fence into the side yards on the east and west side of the property at 717 State Street W. (PID 521001250), as regulated by the Zoning Ordinance; and

WHEREAS, Minn. Stat. §462.357, Subd. 6 allows a variance to be granted if it is in harmony with the general purposes and intent of the Zoning Ordinance, consistent with the Comprehensive Plan and there are practical difficulties in complying with the Zoning Ordinance. Practical differences exist if the property owner proposes to use the property in a reasonable manner not permitted by the Zoning Ordinance, the plight of the landowner is due to circumstances unique to the property not created by the landowner, and the variance, if granted, will not alter the essential character of the locality; and

WHEREAS, the Planning Commission conducted a hearing on May 10, 2021 to accept testimony relating to the application; and

WHEREAS, the Planning Commission finds the granting of the Variance is reasonable, in harmony with the general purposes and intent of the Zoning Ordinance, and in conformance with the City of Cannon Falls Comprehensive Plan.

WHEREAS, the Planning Commission finds that the proposed fence is a reasonable use of the property and not permitted by the Zoning Ordinance, that the Variance is needed due to the unique geography of the property, and that the fence will not alter the essential character of the locality.

WHEREAS, The Cannon Falls Planning Commission hereby recommends to the Cannon Falls City Council that the application for Variance be approved.

**NOW THEREFORE, LET IT BE RESOLVED BY THE CITY OF CANNON FALLS, GOODHUE COUNTY, MINNESOTA,** that based on the findings of the Planning Commission which are hereby adopted by the City Council that the Variance be approved subject to compliance with all applicable requirements of the City of Cannon Falls Zoning Chapter 152 and the State of Minnesota Building Code requirements.

**ADOPTED** by the City Council of Cannon Falls this 18<sup>th</sup> day of May 2021.

**CITY OF CANNON FALLS**

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John O. Althoff, Mayor

ATTEST: \_\_\_\_\_  
Neil L. Jensen, City Administrator

V 7/16/21



DEVELOPMENT APPLICATION

918 River Road
Cannon Falls, MN 55009
507-263-9308

SUBJECT TO STAFF REVIEW

Street Location of Property: 717 STATE STREET WEST

Legal Description of Property: ORIGINAL PLAT LOT 3 BLK 24 DOC #615083 LOT 3 BLK 24 #2-0100-10800

Owner of Record: Name: E. JUNO & ERICA NAYAGAM

Daytime Phone: (507) 208-2505

Address: 717 STATE STREET WEST

CANNON FALLS, MN 55009

E-Mail Address: WE.HEINLEIN@GMAIL.COM

Applicant (if other than owner)

Name: Notary Stamp

Daytime Phone:

Address:

E-Mail Address:

Nature of Legal or Equitable Interest of Applicant (Documentation must be attached :)

- Request: [ ] Conditional Use Permit [ ] Rezoning/Ordinance Text Amendment
[ ] Subdivision [X] Variance
[ ] Concept [ ] Interim Use Permit
[ ] Preliminary Plat [ ] Amendment
[ ] Final Plat [ ] CUP/PUD
[ ] Administrative [ ] Site Plan Review
[ ] Administrative Permit [ ] Special Home Occupation
[ ] Vacation [ ] Annexation Petition
[ ] Comp Plan Amendment [ ] Appeal
[ ] Other

**Note:** Each requested approval may require a separate fee and/or escrow amount, even where they apply to the same project.

Date Application Received: 4/19/21

Date Submission Deemed to be Complete: \_\_\_\_\_

Give detailed description of project and reason for conditional use or variance, if applicable:

~~-VARIANCE IS REQUESTED TO EXTEND 6' HIGH, MAINTENANCE FREE PRIVACY FENCE INTO SIDE YARDS ON EAST AND WEST SIDES OF PROPERTY. HOME IS 1 STORY WITH WALK-OUT BASEMENT; BACK YARD DROPS DOWN INTO A BOWL. PROPOSED SIDE YARD FENCES WILL BE MINIMALLY VISIBLE FROM THE STREET. FENCE WILL BE OBSCURED BY WOODLINE ON WEST AND SOUTH SIDES OF PROPERTY. FENCE ON EAST PROPERTY LINE WILL START AT BOTTOM OF HILL, BELOW RETAINING WALL.~~  
~~-PROPOSED FENCE TO EXTEND 15' BEYOND REAR CORNER OF HOUSE ON WEST SIDE.~~  
~~-PROPOSED FENCE TO EXTEND 25' BEYOND REAR CORNER OF HOUSE ON EAST SIDE. FENCE WILL BE LOCATED DOWN IN THE LOWER PART OF THE YARD, AT BOTTOM OF HILL BELOW RETAINING WALL.~~  
~~-ACCESS TO BACK YARD AT EAST PROPERTY LINE (707 STATE ST W) WILL BE MAINTAINED.~~  
~~-PROPERTY OWNERS AT EAST PROPERTY LINE (707 STATE ST W) TAKE NO OBJECTION TO FENCE LOCATION/HEIGHT.~~  
~~-PROPERTY OWNER TO WEST (725 STATE ST W) WAS PREVIOUSLY GIVEN VARIANCE TO EBECT 6' HIGH PRIVACY FENCE IN FRONT YARD AND FRONT SIDE YARD, DIRECTLY FACING STATE STREET.~~  
~~-SEE ATTACHED PHOTOS~~

**SUPPORTING DOCUMENTATION:** Applicant must submit with the application all documentation required by the Zoning or Subdivision Ordinance relating to the requested approval. Applicant will be advised of the completeness. Only when it has been determined that an application is complete will it be placed on a Planning Commission agenda for consideration. Applications that do not include the proper plans and/or documentation may be delayed from formal review. **FAILURE ON THE PART OF THE APPLICANT TO SUPPLY ALL NECESSARY SUPPORTIVE INFORMATION MAY BE GROUNDS FOR DENIAL OF THE REQUEST.**

**APPLICANT RESPONSIBILITY FOR PAYMENT OF ALL CITY FEES AND COSTS IN PROCESSING APPLICATION:** Applicant acknowledges that she/he understands that before this request can be considered and/or approved, all fees, including the basic application fee and any escrow processing deposits must be paid to the city and that, if additional fees are required to cover costs incurred by the City, the City Clerk has a right to require additional escrow amounts and payment. These fees include all actual costs including, but not limited to, planning, engineering, public notification and legal costs. All processing of an application will be halted if payments are not made within 30 days of receipt of a monthly statement from the City, in the event any escrow account established is insufficient to cover the costs.

**SIGNED:**

  
\_\_\_\_\_  
Property Owner

Date: 4.19.2021

\_\_\_\_\_  
Applicant (if not the Property Owner)

Date: \_\_\_\_\_

**FOR CITY USE ONLY**

Date Application Filed: 4/19/21

Basic Fees: 450.00

Received By: [Signature]

Escrow Deposit: \_\_\_\_\_

Evidence of Ownership Submitted:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Required
Certified Lot Survey:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Required
Legal Description Adequate:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Required

Date of Planning Commission Meeting: 5/10/2021

Recommendation of Planning Commission on: \_\_\_\_\_  Approve  Deny

Recommendation of City Council on: \_\_\_\_\_  Approve  Deny

Subject to following conditions: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_



P A I D APR 12 2021

V L3320

\$35.00 Permit Fee

Date: 4/12/21

Check #: 13320

**FENCE PLAN REVIEW/PERMIT APPLICATION**

Project Address: 717 State St W		PID #
Contractor, (please include contact person): Dakota Unlimited, Inc	Address: 15953 Biscayne Ave-Rosemount	Phone: 651-423-3995
Contractor's Email: jennifer.brizius@dakotaunlimited.com		
Property Owner, (please include contact person):		
Property Owner Address: Same as above	Phone: 507-208-2505	

TYPE OF FENCE: Maintenance-Free Fence, (Chain Link, Plastic):   
Maintenance Required Fence, (Wood):

**FENCE HEIGHT, (feet and inches--including posts):**

Front Yard: \_\_\_\_\_ Side Yard: \_\_\_\_\_ Rear Yard: 46'

**FENCE LENGTH, (total linear feet):** 237

**NATURE OF CONSTRUCTION:** New:  Addition:  Replacement:

**ESTIMATED VALUE OF PROJECT:** \$ 18,670.00

\*Will the fence be erected on a corner lot? Yes  No

**REQUIREMENTS:**

A drawing of the proposed fence location on a survey of site plan must indicate the following information:

- All lot dimensions.
- Location of dwelling unit and/or other structures.
- Street and alley locations.
- Location and height/length of fence segments.
- Corner lots must be indicated.

Signature of Applicant: Andrew Galbert

Date: 4-7-21

Site Plan Submitted \_\_\_\_\_

\*It is the owner's responsibility to ensure that the fence is placed within the property boundary. If there is a discrepancy, it is the owner's responsibility to conduct a land survey to identify the property boundaries.

Office: 651-423-3995  
 Fax: 651-423-3996  
 www.dakotaunlimited.com  
 MN License # BC131577



Work Order# 20096

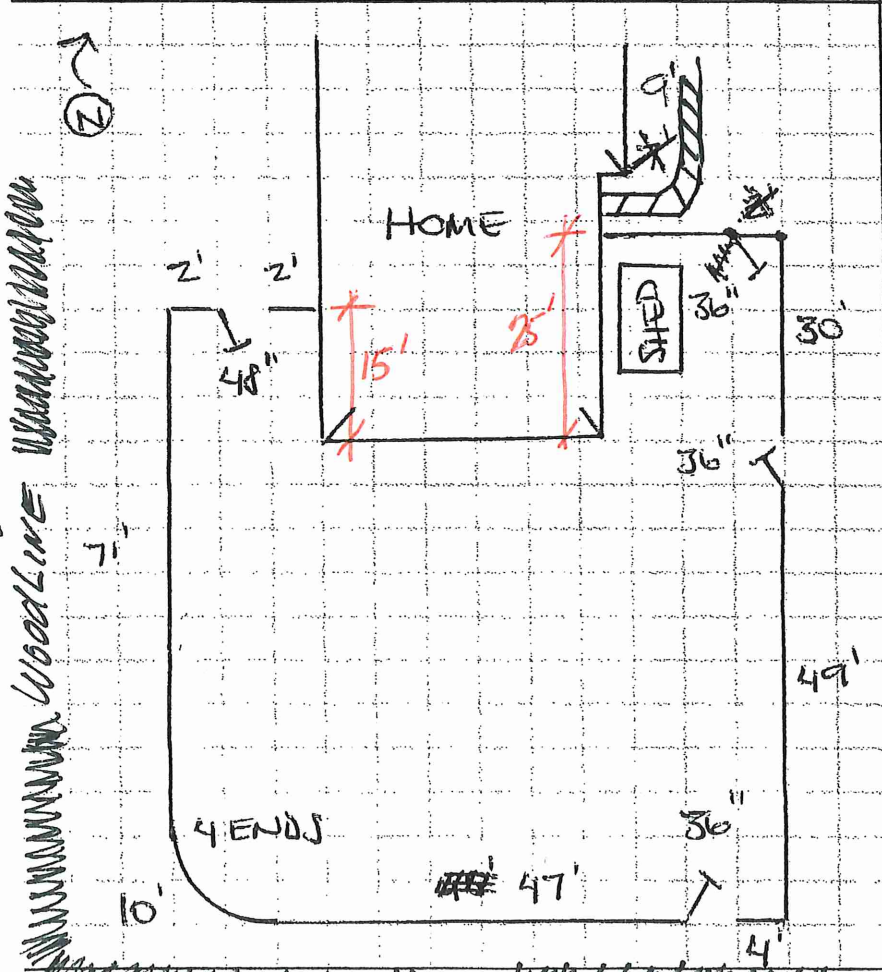
15953 Biscayne Avenue  
 Rosemount, MN 55068

Estimate Date 3/20/21  
 Order Date

<b>INSTALLATION ADDRESS:</b>		<b>BILLING ADDRESS (IF DIFFERENT)</b>	
Name ERICA NAYAGIAN		Name	
Address 717 STATE ST W		Address	
City CANNON FALLS	State MN	City	State Zip
Zip 55009			
Phone (H) 507 208-2505 (W) ( ) -		Contact: W.E. HEINLEIN @GMAIL.COM	
<b>ORNAMENTAL ALUMINUM</b>	Footage:	Phone: ( ) -	Email:
Brand:	Color:	PVC: BUFFTECH	Footage: 237'
Grade:	Walk Gates:	Height: 72"	Walk Gates: 4
Height:	Drive Gates:	Style: NEW LEXINGTON	Drive Gates:
Style:	Latch Type:	Color: ALMOND	Other:
Posts:		Posts: 5 x 5 x 107"	Post Caps: FLAT EXT
Spacing:		Est. Install Date: 20-22 WEEKS FROM SEASON START	

- |   |   |   |
|---|---|---|
| <input type="checkbox"/> Combination Job                  | <input type="checkbox"/> Pool             | <b>Permit Responsibility</b>                      |
| <input type="checkbox"/> Sprinkler System                 | <input type="checkbox"/> Private/Gas Elec | <input type="checkbox"/> Customer                 |
| <input type="checkbox"/> Obstructed Fence Line            | <input type="checkbox"/> Flanged          | <input checked="" type="checkbox"/> Dakota \$4500 |
| <input checked="" type="checkbox"/> Property Pins Visible | <input type="checkbox"/> Hard Holes       | <input checked="" type="checkbox"/> Not Needed    |

- ADD-ONS**
- |   |  |
|---|--|
| <input type="checkbox"/> Dirt Haul \$ 800 <sup>00</sup> | Survey \$ _____                                      |
| <input type="checkbox"/> Tear Out \$ _____              | <input checked="" type="checkbox"/> Homeowner        |
| <input type="checkbox"/> Disposal                       | <input type="checkbox"/> Certified Survey            |
|   | <input type="checkbox"/> Dakota Unlimited to Attempt |



- Customer to see back of contract for terms/conditions of sale.
- Customer agrees to assume all financial responsibility for repairs to damaged sprinkler system.
- Customer agrees to clear obstructions along fence lines.
- All work performed by Dakota Unlimited's specialized crews.
- Uniform spacing of sections.
- DAKOTA TO INSTALL 235' OF 72" ALMOND SMOOTH NEW LEXINGTON PVC.
- ALL POSTS SET IN BELL SHAPED CONCRETE FOOTINGS.
- CUSTOM ROUTE END POSTS TO ACCOMMODATE GRADE.
- GATED CUSTOM BUILT FOUR GRADE.
- SELF-CLOSING, AUTO LATCHING, & LOCKABLE BY KEY.

WOODLINE



VIEW FROM FRONTYARD Looking SOUTH  
(WEST PROPERTY LINE)



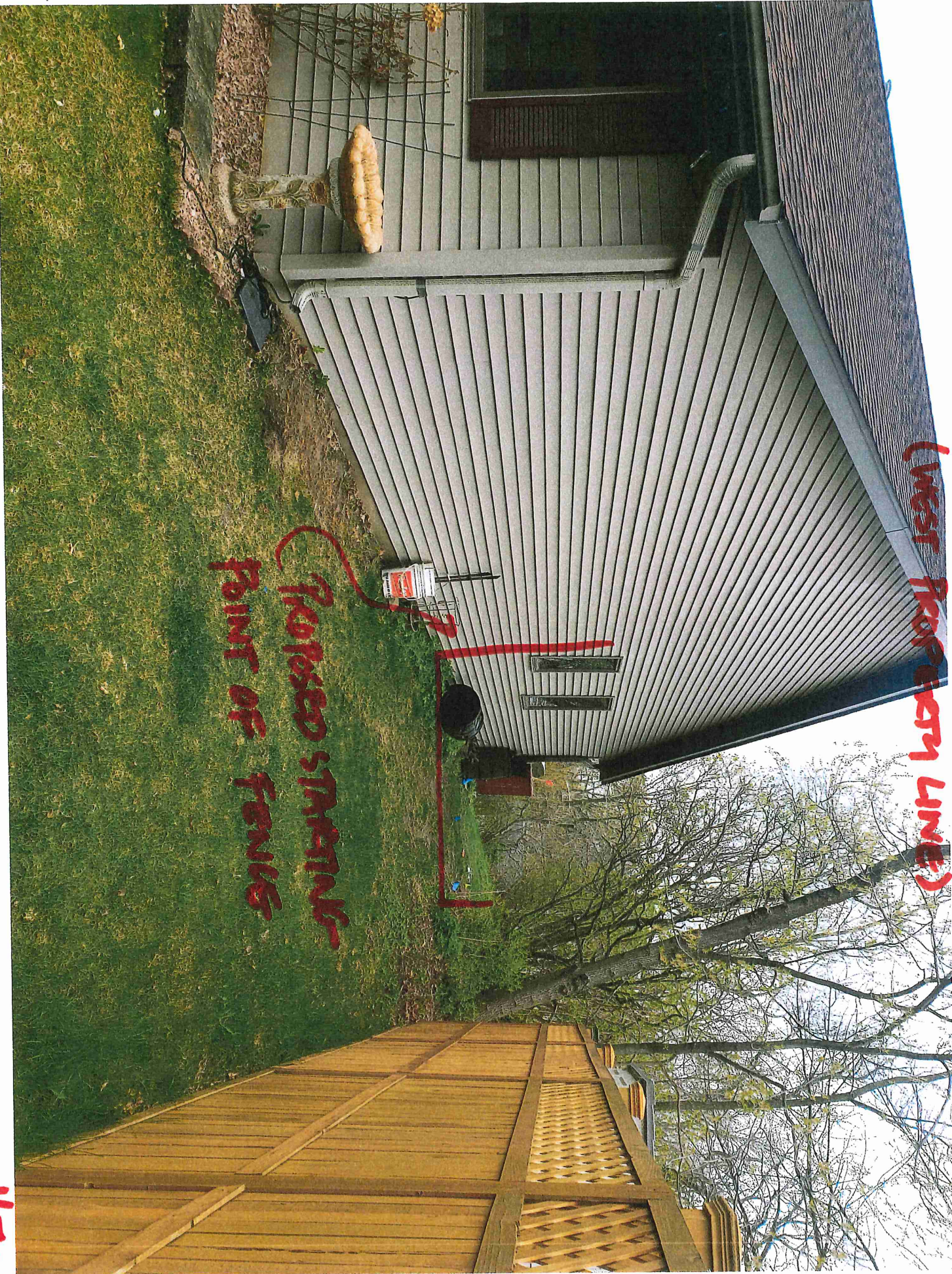
#717 STATE ST W

#725 STATE ST. W

VIEW FROM FRONTYARD LOOKING SOUTH

(WEST PROPERTY LINE)

PROPOSED STRUCTURE  
POINT OF FOCUS



44117

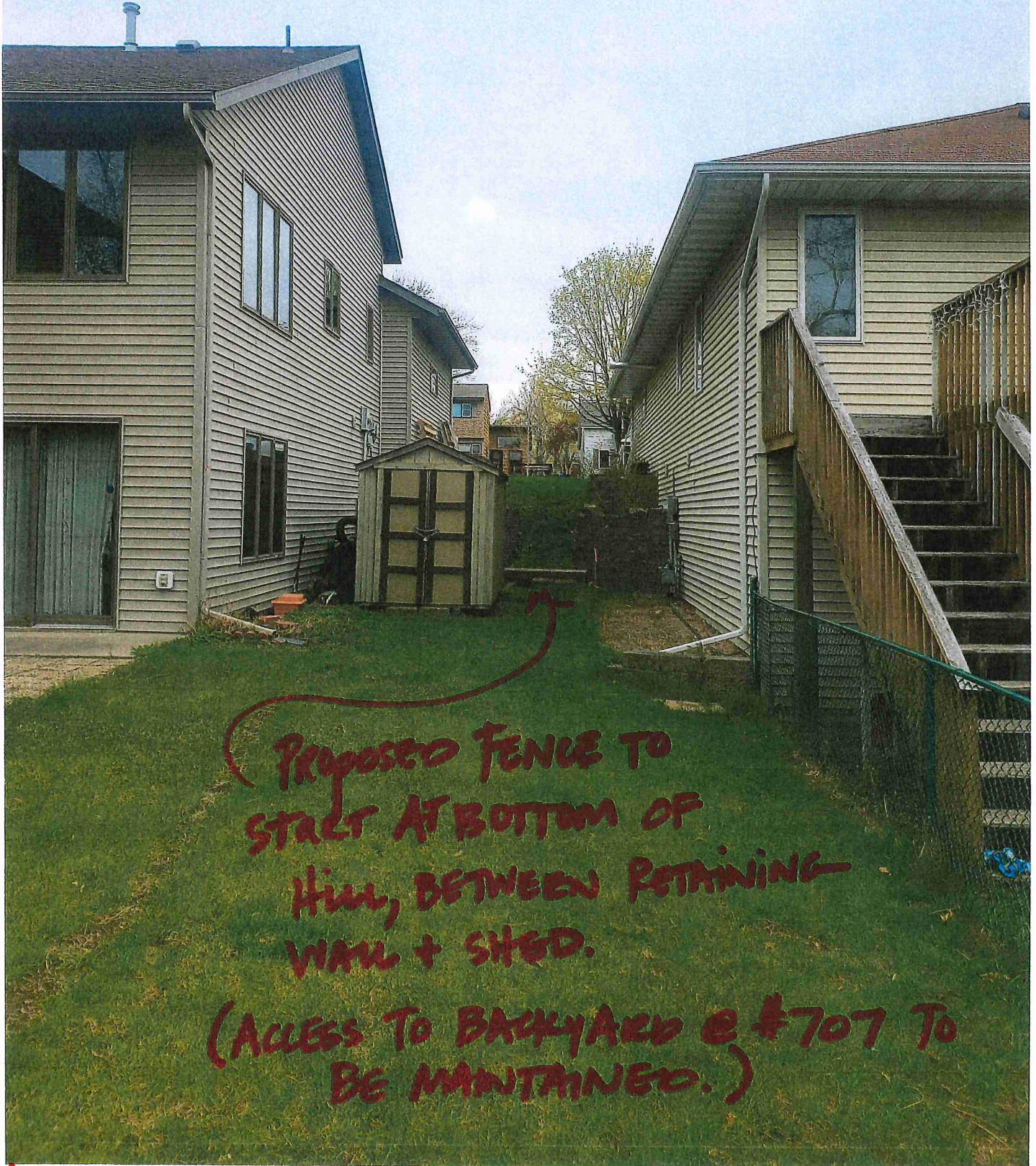
44725

VIEW FROM BACKYARD LOOKING NORTH

(AT WEST PROPERTY LINE)



**VIEW FROM BACKYARD LOOKING NORTH  
(EAST PROPERTY LINE)**



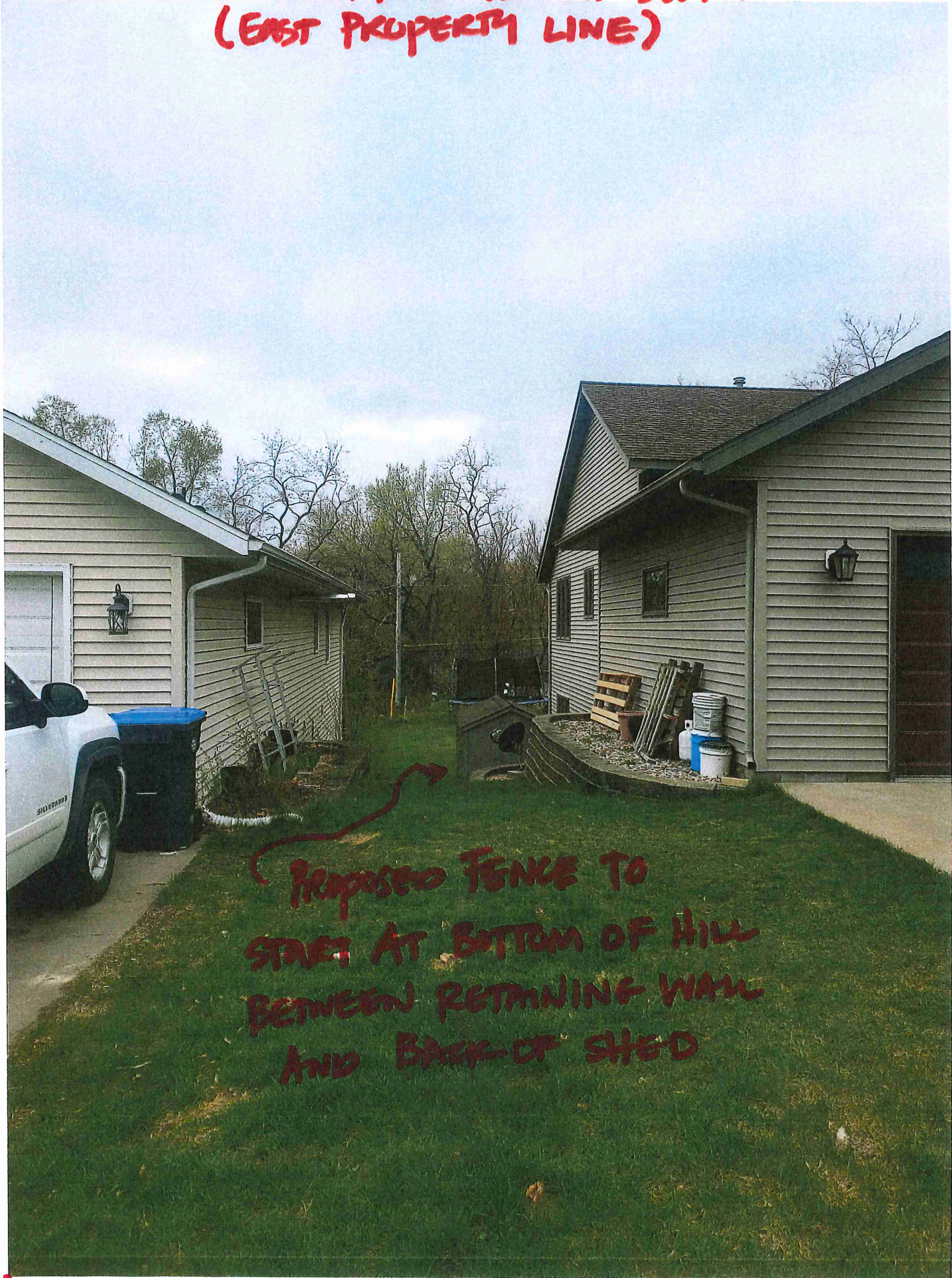
**PROPOSED FENCE TO  
START AT BOTTOM OF  
HILL, BETWEEN RETAINING  
WALL + SHED.**

**(ACCESS TO BACKYARD @ #707 TO  
BE MAINTAINED.)**

**#717**

**#707**

**VIEW FROM FRONTYARD LOOKING SOUTH  
(EAST PROPERTY LINE)**



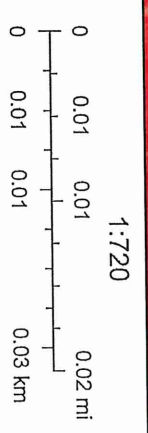
**PROPOSED FENCE TO  
START AT BOTTOM OF HILL  
BETWEEN RETAINING WALL  
AND BACK OF SHED**

# ArcGIS WebMap



May 4, 2021

- Township or Other Roads
- Township or Other Roads
- House Number
- Township or Other Roads
- Parcels



CITY APPROVAL

Approval to install fence at: \_\_\_\_\_  
is granted.

\_\_\_\_\_  
*Signature of Zoning Administrator*

\_\_\_\_\_  
*Date*

**152.276 FENCES.**

No person shall construct any fence without first making an application.

A fence that requires periodic maintenance (i.e. wood) shall be located no closer than two feet (2') from any side or rear yard lot line on the property of the person constructing the fence.

A fence that is maintenance free, such as chain link of steel, plastic or vinyl may be constructed up to the side or rear yard property line.

The City Code allows residential fences of no more than forty-eight (48") high in front and front side yard. Fences no more than six feet (6') high are allowed in rear yards.

No fence shall be place on or extend into public right-of-way or onto public property.

The side of the fence considered to be its "face" (i.e. the finished side having no structural supports) shall face abutting property of street right-of-way.

On corner lots, no fence shall be permitted within the traffic sight visibility triangle specified by City Code 152.186.

Fences shall be at least 5% open for passage of air, light and drainage.

Fences extending across front yards and side yards, abutting a public right-of-way shall not exceed forty-eight inches (48") in height and shall be at least fifty percent open space for passage of air and light.

The City may require an applicant for a fence permit to establish the boundary lines of the property by a survey thereof to be made by any land surveyor.

Every fence shall be maintained in a condition of reasonable repair and shall not be allowed to become and remain in a condition or disrepair or danger, or constitute a nuisance, public or private.

**YOU MUST also call Gopher State one (1-800-252-1166) for locations of underground utilities prior to digging.**

waters than the normal structure setback. Examples of these structures and facilities include boathouses, gazebos, screen houses, fish houses, pump houses and detached docks.

**WATERBODY.** A body of water (lake, pond) or a depression of land or expanded part of a river or an enclosed basin that holds water and is surrounded by land.

**WATERCOURSE.** A channel or depression through which water flows year-round or intermittently, such as rivers, streams or creeks.

**WETLANDS.** Lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this chapter, **WETLANDS** must have the following three attributes:

- (1) Have a predominance of hydric soils;
- (2) Are inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and
- (3) Under normal circumstances, support a prevalence of vegetation.

**WIND ENERGY CONVERSION SYSTEM (WECS).** Any device that is designed to convert wind power to another form of energy such as electricity or heat (also referred to by common names as wind charger, wind turbine and windmill).

**WINDOW HEAD.** The upper horizontal cross member or decorative element of a window frame. The **HEADS OF WINDOWS** are formed in a variety of ways; some are semi-circle, arches or triangular shapes. Some have bold and rich decorative moldings.

**WINDOW SIGN.** A sign affixed to or inside of a window in view of the general public. This does not include merchandise on display.

**YARD.** Any open space on the same lot with a building, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein. In measuring a **YARD** for the purpose of determining the width of a side yard, the mean horizontal distance between the lot line and the main building shall be used except in the case of a lot containing or adjacent to all or a portion of a wetland, in which case the distance between the nearest edge of the wetland and the main building shall be as provided by § 152.184 of this chapter.

**YARD, FRONT.** The area extending along the full length of a front lot line between side lot lines and to the depth required in the yard regulations for the district in which it is located. In the case of a corner lot abutting one or more streets, both yards shall be considered **FRONT YARDS**.

**YARD, REAR.** A yard extending across the full width of the lot lying between the rear lot line of the lot and the nearest line of the principal building.