



Board of Adjustment

April 20, 2022

Agenda

Meeting Held Electronically due to COVID-19

5:30 P.M.

Electronic Meeting as Provided Under Iowa Code, Chapter 21*

***Please note that this Grimes Board of Adjustment Meeting will be an electronic meeting pursuant to Iowa Code Section 21.8 due to the national health emergency that makes it impossible or impractical for an in-person meeting.**

The public is welcome and encouraged to attend and participate in this meeting by either internet or phone as follows:

- 1. Internet- Meeting attendance may be obtained by “Join Zoom Meeting”. Simply enter the following internet address and ID:**

Join Zoom Meeting

<https://us06web.zoom.us/j/84282638363?pwd=ZUpmb1pxSThZWlkyO9QcVpGdVRHQ09>

Meeting ID: 842 8263 8363

Passcode: 1234

- 2. By Phone: 877 853 5257 US Toll-free.**

Hearing Assistance: If you are deaf or hard of hearing, Grimes will provide a sign language communicator on the internet Zoom meeting video presentation upon request. Please contact the Grimes City Clerk Rochelle Williams by email at rwilliams@grimesiowa.gov to request this service.

For any additional assistance or questions in attending the meeting, please call 515-986-3036 from 8 a.m. to 5 p.m., or contact the Grimes City Clerk Rochelle Williams by email at rwilliams@grimesiowa.gov.

For any additional assistance or questions in attending the meeting, please call 515-986-3036 from 8 a.m. to 5 p.m. Monday-Friday.

Meetings will be recorded

AGENDA

I. GENERAL AGENDA ITEMS.

- 1. Roll Call**
- 2. Approval of the Agenda**
- 3. Approval of Minutes from previous meeting**

II. PUBLIC AGENDA ITEMS.

- 1. Application for Variance: Request to Reduce Fence Setback along the Sidewalk – 603 SE Dolan Drive**

III. ADJOURNMENT



**BOARD OF ADJUSTMENT MINUTES
MARCH 16, 2022**

DEVELOPMENT SERVICES

101 NE Harvey St.

Grimes, Iowa 50111

P: (515)986-4050

F: (515)986-4480

www.grimesiowa.gov

LETSCH CALLED THE MEETING TO ORDER AT 5:30 P.M.

BOARD MEMBERS PRESENT: LETSCH, MORAN, STRUTT

BOARD MEMBERS ABSENT: NA

STAFF PRESENT: MARTIN, MANNEL

I. APPROVAL OF THE AGENDA

MOVED BY STRUTT, SECONDED BY MORAN – AYE: UNANIMOUS

II. APPROVAL OF MINUTES – AS AMENDED

MOVED BY MORAN, SECONDED BY STRUTT – AYE: UNANIMOUS

III. PUBLIC AGENDA ITEMS

Public Hearing Appeal #1-22 request to paint non-earth toned color on precast materials at 2150 E 1st Street.

Staff member Mannel provided a staff report to the Board of Adjustment. The request is for Wal-Mart located at 2150 E 1st Street. The lot is currently zoned C-2 and located within Zone 1 of the Highway 141 Mixed Use Development Overlay District where precast materials may not be painted any color except earth-toned colors. The applicant, Harrison French & Associates, would like to paint the northwest corner of the building the Wal-Mart branded blue color. The top portion is made up of a precast paneling. The precast material is currently a grey-brown color.

Mannel also presented some alternatives to the variance request. First, the applicant could work with their client to change the paint scheme to something that would fit the requirements of Zone 1 of the Highway 141 Mixed Use Development Overlay District. Second, a sign could be done in the branded blue color. The existing CMU block on the northwest corner could be painted blue, and this is located under the precast paneling. Lastly, different building materials could be proposed to meet the architectural requirements. Staff does propose that if the case is approved to limit the precast painted blue to the north elevation.

The Board and staff discussed whether other buildings in the Highway 141 Corridor have made this sort of request or if any of them would want to if this were approved. Only one building was mentioned as having blue-colored precast material in the Corridor, and it was part of the reason for the requirement of earth-toned colored precast.

The Board asked the applicant if they could possibly work with the City to figure out something without the use of a variance, and the applicant was agreeable with this plan of action.

The Board discussed with the applicant and staff whether to table the case or to vote. The applicant requested to table the case.



Board Action Ref: #1-22

MOVED BY MORAN TO TABLE REQUEST TO PAINT NON-EARTH TONED COLOR ON PRECAST MATERIAL AT
2150 E 1ST STREET, SECONDED BY STRUTT
AYE: UNANIMOUS

IV. ADJOURNMENT

Meeting adjourned at 6:12 p.m.

Signature

CITY OF
GRIMES

GENERAL INFORMATION:

Sondra Hansen

Variance request to reduce fence setback along the sidewalk

[illegible]

Grimes Development Services 410 SE Main Street, #102, Grimes, IA 50111 Phone 515-986-4050 Fax 515-986-4480 www.grimesiowa.gov

LAND USES & ZONING:

Location	Existing Land Use	Land Use Plan Designation	Current Zoning
Subject Site	Single-Family	Low Density Residential	R-2
North	Single-Family	Low Density Residential	R-2
South	Single-Family	Low Density Residential	R-2
East	Single-Family	Low Density Residential	R-2
West	Single-Family	Low Density Residential	R-2

BACKGROUND:

In 1994, a previous property owner installed a 6' wood privacy fence 5-7' from the sidewalk along SE 6th Street. In 2009, the fence regulations were amended requiring fences to be placed at least 10 feet from the public right-of-way on double frontage lots which made the existing fence legal non-conforming. The applicant purchased the property in 2011 with the original fence in place.

Because the subject property is a double frontage lot, meaning the rear yard backs up to a street, fences are required to be placed 10 feet from the sidewalk. The 10-foot setback requirement is in place to improve aesthetics and to avoid creating a tunnel effect along the public-right-away. Placing fences 10 feet from sidewalks opens up the public corridor and creates a pedestrian friendly environment.

The applicant was planning to repair some damaged fencing. However, the overall condition of the fence was poor and the decision was made to replace the entire fence. Staff noticed the fence was being replaced without a fence permit on file and notified the applicant of the permit and fence setback requirements. Because the entire fence was removed, the fence is required to meet the existing zoning requirements and a fence permit is required.

Upon review of the property, staff found that there is a 10-foot water main easement running along the west side of the property. Staff does not allow fences to be placed within water main easements to allow the City proper access to maintain and repair the water main. Therefore, the fence needs to be moved two feet east to be located outside of the water main easement. The west fence line is not part of this variance request but may be a factor when rendering a decision on this variance case. A variance cannot be granted for the west fence line because the easement is not regulated by the zoning ordinance. Therefore, the Board does not have authority to grant a variance to place the fence within the easement.

Due to a combination of factors, which are outlined within this report, the applicant is requesting a variance to reduce the fence setback from the sidewalk along SE 6th Street.

ANALYSIS:

Based upon the approved ordinance, the Board of Adjustment may grant a Variance provided the Board can make a finding on the following factors:

1. A showing of good and sufficient cause; and
2. A determination that a literal enforcement of the ordinance would result in a substantial hardship to the applicant; and
3. A determination that the hardship is not self-imposed; and
4. A determination that the granting of the variance will not be contrary to the public interest or neighborhood integrity; and
5. A determination that the granting of a variance is the minimum necessary to afford relief from this Code of Ordinances while preserving the spirit of the zoning ordinance.

Notice of the variance request was mailed to surrounding property owners within a 250-foot radius.

Based on a detailed analysis of the application, staff has the following comments to offer concerning this variance request:

GOOD AND SUFFICIENT CAUSE

The applicant states several reasons for requesting the variance. The fence would be placed in the same place as the previous fence that was existing when the house was purchased and would not be placed closer to the sidewalk and street. The current fence location would not create a tunnel effect because there is not a backyard along the north side of SE 6th Street. The fence needs to be moved two feet closer to the house on the west side of the property due to a water main easement. Therefore, the applicant wants to keep as much of the yard within the fence line as possible. In addition, if the fence were placed 10 feet from the sidewalk, the existing tree at the northwest corner of the lot could become damaged by the fence placement, therefore requiring the fence to be placed further than 10' from the sidewalk. Finally, the applicant was not aware of the fence setback requirement along SE 6th Street.

SUBSTANTIAL HARDSHIP

The applicant believes that a literal enforcement of the ordinance would result in a substantial hardship because the yard is already small and would be losing space within the fence line in addition to the two feet along the west side of the property. The reduced yard size could hurt resale values and would make it inconvenient to go outside the fence line to maintain the tree.

SELF-IMPOSED HARDSHIP

The applicant does not believe the hardship is self-imposed, because the fence was already in place when the house was purchased in 2011. The applicant feels the 10-foot requirement seems a bit excessive as the existing fence is between 5 and 7 feet from the sidewalk.

PUBLIC INTEREST

The applicant does not believe that granting the variance will be contrary to the public interest or neighborhood integrity because the fence would be placed in the original location. The applicant does not believe the fence will be inhibiting anyone as 5 to 7 feet of separation will be provided between the fence and sidewalk, and the street and sidewalk curve away from the property.

Staff asks the Board to consider that a negative precedent may be established if the variance is granted. There are several properties throughout Grimes that have rear yards along the right-of-way and sidewalk. Granting a variance could allow other properties within Grimes to place fences closer than 10' from the sidewalk. Staff would ask that the Board consider what may be unique about this property compared to others within Grimes.

ALTERNATIVES TO VARIANCE REQUEST

1. Remove the fence which would not provide privacy and safety for the applicant.
2. Arborvitae trees could be planted along the property edges to provide privacy but would not be as secure as a fence and would require more upkeep.
3. Install the fence 10 feet from the sidewalk which could damage the existing tree at the northwest corner of the property.
4. Install the fence further than 10 feet from the sidewalk on a portion of the property to avoid damaging the tree.

SUMMARY

The applicant is requesting a variance to reduce the fence setback along the sidewalk.

Staff would suggest that if approved, the following conditions be imposed:

1. Approve the fence to be installed no closer to the sidewalk than the original fence.

CITY OF GRIMES

Evann Martin
Assistant Planner



DEVELOPMENT SERVICES

410 SE Main Street, Suite 102 , Grimes, Iowa 50111

P: 515.986.4050 | F: 515.986.4480

BOARD OF ADJUSTMENT
APPLICATION FOR
VARIANCE REQUEST

Applications are due the first of the month at
12:00 p.m. to be added to the next BOA agenda.

You are required to attend your hearing—by agent or
in person. Please read application thoroughly. The
City has the right to refuse an incomplete application.

INSTRUCTIONS FOR REQUIRED INFORMATION

**NO REQUEST FOR VARIANCE CAN BE ACCEPTED FOR FILING UNLESS
ALL OF THE REQUIRED INFORMATION IS PRESENTED**

1. GENERAL INFORMATION. The Grimes Board of Adjustment (BOA) is empowered by Iowa law and by Ordinance to hear requests for variance(s) and to make decisions on said requests pertaining to the Zoning Ordinance, Chapter 165.37 and for certain exceptions to the district regulations. The BOA is a five-member quasi-judicial body with authority to grant variances in exceptional cases and is limited to such cases that are consistent with the general purpose and spirit of the zoning regulations. The BOA has no authority to allow a variance that would have the effect of establishing a non-conforming use of land or to change district boundaries except as outlined in the Zoning Ordinance.

2. MEETING DATES. The Board of Adjustment meets at 5:30 p.m. on the third ~~Tuesday~~ ^{Wednesday} of each month. Submittal of all the information does not in any way guarantee that the application will be placed on the next available BOA agenda. All BOA meetings are open to the public and are held in the Council Chambers of City Hall, 101 NE Harvey Street, Grimes, Iowa. ^{Apr 20}
^{zoom meeting}

3. FILING DEADLINE: The deadline to file an application for variance with the BOA is 12:00 p.m. the first day of the month of the board meeting. All materials must be filed in the Development Services Department office at 410 SE Maine Street Suite 102, Grimes, Iowa.

NOTE: Be sure that you have all required materials at that time. Failure to do so may result in your request for variance being delayed to the next regularly scheduled meeting.

4. FILING FEE: A filing fee is required at the time the materials are filed with the Development Services Department office. The fee covers administrative expenses and legal notification of surrounding property owners within 250 feet of the property in question. No request for variance is to be considered filed until this fee is received. The fee is \$150.00 to request a variance and payment must be submitted with the application. The fee shall be paid at the Development Services Department office, 410 SE Main Street Suite 102. Make all checks payable to the City of Grimes. The fee is nonrefundable.

5. SITE PLAN: The applicant must submit a site plan that clearly shows the variance being requested. The site plan should be drawn to scale, and should be a reproducible, black line drawing or free hand drawing on a sheet of paper no larger than 24" x 36" *{Use of an actual property survey is suggested but not required}*. The applicant may submit the same site plan that was submitted for a building permit. The site plan shall include the following information:

a) Property lines and dimensions

- b) Location and size of all existing and proposed structures (buildings, driveways, parking lots, sidewalks, fences, etc.)
- c) Required setback and buffer location(s)
- d) Any other pertinent information necessary to fully understand the need for a variance (e.g. significant change in topography, location and size of mature trees, etc.)

NOTE: If the request for variance is for a sign, the request must be accompanied by both a fully dimensioned, to-scale elevation drawing of the sign, as well as a fully dimensioned to-scale site plan showing the exact location of the sign whether it is a free standing or a building sign.

6. SUPPORTING INFORMATION FORM: The Board of Adjustment may grant a variance provided that "unnecessary hardship" exists; that the variance is not contrary to the public interest; and that the spirit of the Zoning Ordinance is upheld. The Supporting Information form addresses these issues and asks for responses to each of the "tests" in order to grant a variance. The Supporting Information form must be completely filled out in order to process the application for a variance.

7. ADDITIONAL INFORMATION: If you have questions about this form, or should you require additional information regarding the variance process, please contact the Development Services Department at (515)986-4050.

APPLICATION FOR VARIANCE

All required information must be presented before acceptance of application.
The applicant must complete all sections in bold for review to begin.

Please type or print:

1. **Date:** 4/1/2022
Applicant Name: Sondra Hansen
Address: 603 SE Dolan Dr Grimes IA 50111
(Street) (City) (State) (Zip)
Telephone Number: 515-371-5578
(Home) (Work)
E-Mail Address: sonihansen@msn.com
2. **Location of Property**
Street Address: 603 SE Dolan Dr
Legal Description: Lot 4 Shawver Meadows Plat 1

Zoning Classification: R-2

This request for variance cannot be processed until all required materials are submitted. In addition to this application, the following information is required for submission. On a separate sheet of paper please type or print the following:

3. **Response to the attached supporting information form**
4. **Site plan drawn to scale**

This plan shall be no larger than 24" x 36" and easily reproducible.

5. **Application fee**

An application is not considered filed until filing fee is paid.

The Board of Adjustment may grant a variance provided the BOA can make a finding of unnecessary hardship and can determine that the variance will not be contrary to the public interest and the spirit of the Zoning Ordinance.

The Board of Adjustment may grant a variance provided the BOA can make a finding of unnecessary hardship and can determine that the variance will not be contrary to the public interest and the spirit of the Zoning Ordinance.

This request for variance will not be granted unless sufficient facts are presented in this application and at the BOA hearing to support a positive finding by the BOA. In support of this request, a Supporting Information form shall be completed by the applicant(s).

Approval of this request for variance by the Board of Adjustment in no way absolves the applicant from subsequently obtaining the necessary development approvals, such as site plan, building permits, etc. from the City of Grimes or any other applicable agency.

I (We) certify that I (We) have been denied a Building/Zoning permit and I (We) have submitted all the required information to request for a variance and that such information is factual.

Signed by: Som Ableson on date: 4/4/2022
(Owner)

Or: _____ on date: _____
(Owners Agent)

See attachment

SUPPORTING INFORMATION FORM

The Board of Adjustment is authorized to grant a variance provided all the following requirements are satisfied. Use a separate sheet of paper if desired, and address each issue below:

- I. A finding showing of good and sufficient cause. **The applicant must show that there is a reason for applying.**

- II. A determination that a literal enforcement of the ordinance would result in a substantial hardship to the applicant. **The applicant must show that there is a hardship (utilities, parking, etc.).**

- III. The hardship is not self-imposed. **The applicant must show that the proposed hardship is being caused by the strict interpretation of the Zoning Ordinance and not self-imposed by the applicant.**

- IV. The variance will not be contrary to the public interest or neighborhood integrity. **The applicant must present information to indicate that the variance will not result in injury or endangerment to other property or persons nor will it devalue nearby property.**

- V. The granting of a variance is the minimum necessary to afford relief from this Code of Ordinances while preserving the spirit of the zoning ordinance. **The applicant must list other options that have been considered in lieu of granting a variance.**

Support Information Form

4/1/2022

Sondra Hansen
603 SE Dolan Dr

Question 1

- The new fence is a direct replacement with no changes from when the house was purchased.
- The Fence is a barrier from drivers, road noise, pedestrians, the street, and the sidewalk. SE 6th has consistent traffic, and the fence may help deter a driver from going off the road into the yard.
- There isn't a house/yard on the other side of the sidewalk, just a street, therefore no tunnel effect.
- The backyard is already losing 2 feet on the west side due to the water easement that the city requires.
- The fence doesn't need to be closer to the sidewalk, just in its original location.
- Taking into consideration the tree and its roots in the NW corner of the yard
- No one was notified of the new 10ft change

Question 2

- The yard is already small and will be losing side and backyard space.
- To trim the tree, it will be inconvenient to go outside the fence.
- Trying to save as much square footage of yard as possible due to losing space because of the water easement.
- This setback would encroach on the useable yard space and thus hurt resale of anyone who values a yard
- There may be extra costs to move the posts from their current placement.

Question 3

- The house was purchased in 2011, with the fence already in place
- The 10 ft requirement seems a bit excessive. The current location of the posts are between 5-7 ft from the sidewalk.

Question 4

- Replacing the fence in the same place that it was originally, improving neighborhood appeal
- The fence is not inhibiting anyone or anything
- There is still at least 6ft of space between the sidewalk and the fence
- The street and sidewalk curve away from the fence/property

Question 5

- Not replace the fence and therefore no privacy and no safety
- The proposed 10 ft setback could cause damage to the NW tree and its roots
- Arborvitae trees. Trees are not as private as a fence. Someone could enter the yard through the trees. Trees require more upkeep.
- Originally, I was planning to repair the damaged posts. Since the pickets were old and rotting anyway, the decision was made to replace the whole fence. Instead of an eye sore, a new fence would be more appealing.

Pictures included

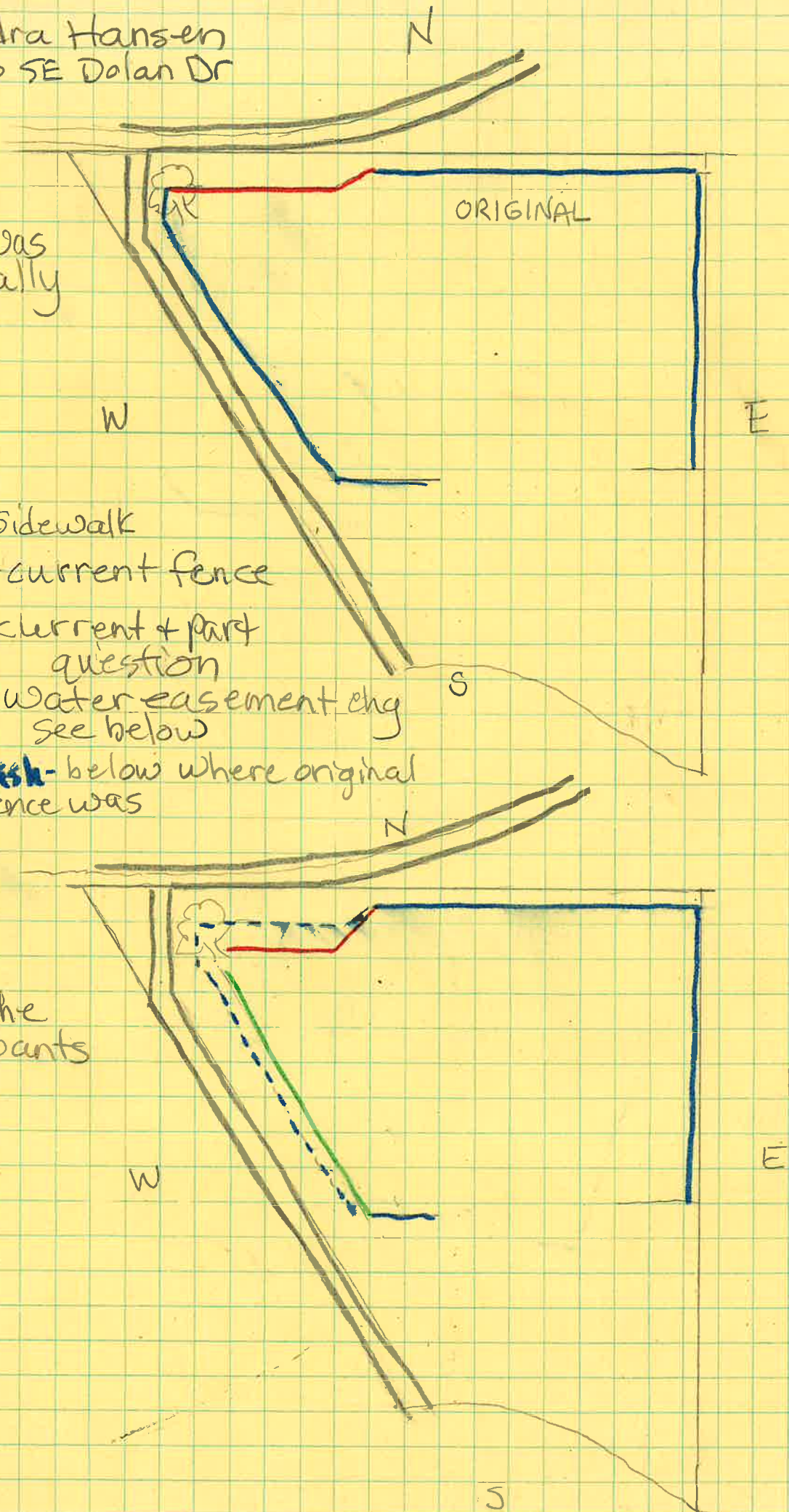
- The original fence and the corner where the crab apple tree is, where we used to take family pictures.
- Standing on the west sidewalk looking east down the fence line
- Standing on the north sidewalk looking west at the tree. The white flags are approximately 10 ft from the sidewalk.
- Standing on the west sidewalk near the current post and the tree. The white flags show the 10 ft from sidewalk or easement.

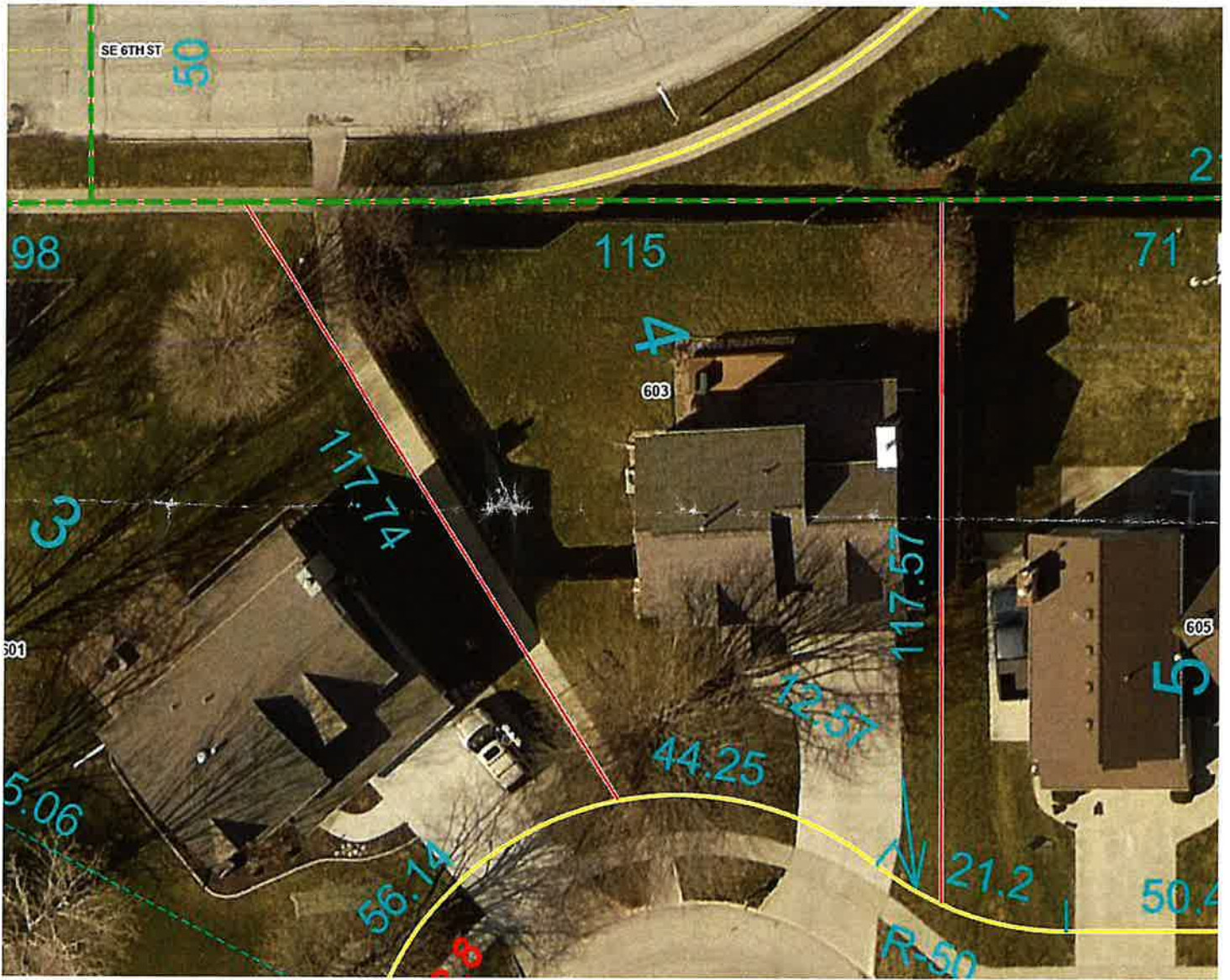
Sondra Hansen
603 SE Dolan Dr

As it was
originally

- Gray - Sidewalk
- Blue - current fence
- Red - current + part question
- Green - water easement chg see below
- Blue dash - below where original fence was

What the
city wants













From: [Dunphy, Brenda](#)
To: [Evann Martin](#)
Date: Monday, April 11, 2022 12:44:16 PM

IT is ok to have my neighbor build a fence in her yard where her other fence was.. My neighbor is Sondra Hansen at 603 SE Dolan Dr in Grimes, Iowa
Thank you

Brenda Dunphy, AIC

Workers' Compensation Specialist

bdunphy@berkleyag.com | O: 515-473-3601 | F: 866-342-0630

www.berkleyag.com



Your feedback regarding Customer Service is important to me.

Please let my manager Wendy Gregg know how I did at wgregg@berkleyag.com.

ATTENTION CALIFORNIA RESIDENTS: For information on how we will use your personal information, please refer to our [California Consumer Protection Act Pre-Disclosure Notice](#).

CONFIDENTIALITY NOTICE: This e-mail and the transmitted documents contain private, privileged and confidential information belonging to the sender. The information therein is solely for the use of the addressee. If your receipt of this transmission has occurred as the result of an error, please immediately notify us so we can arrange for the return of the documents. In such circumstances, you are advised that you may not disclose, copy, distribute or take any other action in reliance on the information transmitted.

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From: [Randall Millang](#)
To: emartin@grimesiowa.gov
Subject: Sanda Hansen 603 SE Dolan DR
Date: Saturday, April 2, 2022 9:09:37 AM

Dear planning and Zoning Commission - City of Grimes .

I have no issues or concerns with any variance's Sanda Hansen at 603 SE Dolan Drive might need for replacing her existing fence and would support any specific provision zoning ordinance variance , I can attend any public approval hearing that may be needed in this matter .

Should you have any questions, please do not hesitate to contact me at 515 205-5857

Thank you

Randall Millang
605 SE Dolan Dr.
Grimes Iowa ,50111

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Development Services
410 SE Main Street, Suite 102
Grimes, IA 50111
Phone (515) 986-4050
www.grimesiowa.gov

March 25, 2022

Sondra Hansen
603 SE Dolan Drive
Grimes, IA 50111

Dear Ms. Hansen,

City staff noticed that you are currently installing a fence on your property. Upon records review, I could not find that you or your contractor applied for a permit to install a fence.

To ensure that the fence meets zoning requirements and is not placed in any easements, it is important that you apply for the proper permit. Staff has reviewed your property and current fence, and found that some changes will have to be made to meet City requirements.

There is a 10' water main easement running along the west side of your property. The fence posts are currently installed within the easement. The City needs to be able to gain access to the easement for maintenance purposes. In order to do so, the fence will need to be moved out of the water main easement. The fence will also need to be located at least 10' from the sidewalk along SE 6th Street to meet the zoning requirements.

I have enclosed a fence permit with this letter for you to complete and return to Grimes Development Services for review. Also included is an aerial image of your lot. Please use this aerial to draw the location of the fence. To prevent any further action by the City, I politely ask that you return the completed permit application to Grimes Development Services for staff to review and issue a permit prior to continuing with the fence installation. Please mail a copy of the permit and \$20 permit fee to Grimes Development Services, located at 410 SE Main Street, Suite 102, or drop it off in our office anytime Monday-Friday from 8am – 4:30 pm.

I wanted to get this out to you as soon as possible before the installation gets too far along and welcome any questions you may have so that we can work together to resolve this situation. Please feel free to contact me at (515) 514-1042 or by email at emartin@grimesiowa.gov.

Sincerely,

A handwritten signature in blue ink that reads 'Evann Martin'.

Evann Martin
Assistant Planner

Attachments: Photos from 3/25/2022



