

# Grimes Board of Adjustment Agenda

Grimes Community Complex  
410 SE Main Street, Room 202  
Grimes, Iowa 50111  
Phone | 515.986.4050  
www.grimesiowa.gov

**Chair** | Matthew Moran  
**Board Members** | Charles Strutt, Joshua  
Stott, Trevor Brown

## Mission Statement

The mission of Grimes City Government is to provide excellent/exceptional city services and facilities in a financially responsible and community-friendly manner through a high performing city team that result in adding value to resident's lives.

## **Grimes Board of Adjustment Meeting May 15, 2024 @ 5:30 PM**

**In Person at Grimes Community Center, 410 SE Main Street, Room 202**

### **GENERAL AGENDA ITEMS**

1. Roll Call
2. Approval of Agenda
3. Approval of Minutes from Previous Meeting

### **PUBLIC AGENDA ITEMS**

1. Variance Request to Reduce Fence Setback at 420 SE 6th Street

### **ADJOURNMENT**



101 NE Harvey Street, Grimes, Iowa 50111 | P: 515.986.3036

This meeting of the Grimes Board of Adjustment was called to order Wednesday, April 17, 2024 at 5:30 P.M.

Roll Call: Present: Matthew Moran, Charles Strutt, Trevor Brown

Staff: Evann Martin, Molly Mannel, Rachel Greving

Absent: Joshua Stott

**A. GENERAL AGENDA ITEMS**

**1. APPROVAL OF THE AGENDA**

Motion by Brown, Second by Strutt, to approve the agenda

Roll Call: Ayes-All; Nays-0 Motion passes: 3-0

**2. APPROVAL OF THE MINUTES**

Motion by Strutt, Second by Brown, to approve the minutes from the March 20<sup>th</sup>, 2024 meeting

Roll call: Ayes-All: Nays-0 Motion passes: 3-0

**B. PUBLIC AGENDA ITEMS**

Application for Variance: Request for a Reduced Setback within the Secondary Frontage for the Installation of a Fence – 312 NW 10<sup>th</sup> Circle

Staff member Mannel provided a staff report to the Board of Adjustment. The applicant would like to replace the existing fence with a new fence in the same place, but also extend it forward to the north as well. The proposed fence would be about five feet from the sidewalk, but the ordinance requires a ten-foot setback. There is a patio in the rear yard that would be in the way of a ten-foot setback. There was no record of a fence permit being issued for the existing fence, and the current fence would not comply with the ordinance that was in place when it would have been constructed as well. Some alternatives to the variance would be to install a fence at the ten-foot setback or to install the fence at the ten-foot setback and abut the fence to the concrete pad. Staff suggests that if the variance is granted that the fence still follow the ten-foot setback except where the patio is located.

The applicant, Almir Smailbegovic of 312 NW 10<sup>th</sup> Circle, presented the request to the Board of Adjustment. He purchased the home in 2022 when the fence was already in place. It was poorly

installed, and he would like to use the same holes from the current fence to construct the new fence.

The Board discussed the request and asked questions of the applicant and staff to confirm the scope of work. Board members discussed allowing the front portion of the fence the lesser setback due to it being a completely new addition.

Motion by Strutt, Second by Brown to approve variance request for a reduced setback within the secondary frontage for the installation of a fence for the replacement of the existing fence in the same place but with a 10-foot setback for the additional fence – 312 NW 10<sup>th</sup> Circle

Roll Call: Aye-All Nay-0 **Motion Passes 3-0**

MOTION BY STRUTT TO APPROVE VARIANCE REQUEST FOR A REDUCED SETBACK WITHIN THE SECONDARY FRONTAGE FOR THE INSTALLATION OF A FENCE FOR THE REPLACEMENT OF THE EXISTING FENCE IN THE SAME PLACE BUT WITH A 10-FOOT SETBACK FOR THE ADDITIONAL

FENCE, SECOND BY BROWN

AYE: UNANIMOUS

#### **1. ADJOURNMENT**

Meeting is adjourned at 6:00 p.m.

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Chairperson Signature

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Clerk Signature

**DATE**

May 15, 2024

**APPLICANT**

City of Grimes

**LOCATION**

420 SE 6th Street

**REQUESTED ACTION**

Variance request to reduce setback along the secondary frontage for the installation of a fence

**ZONING**

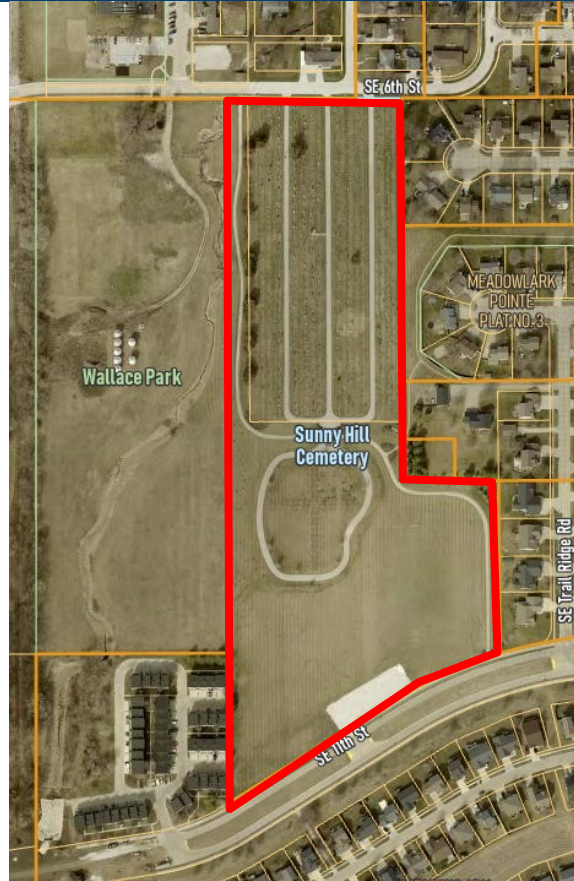
Cemetery

**PLANNER**

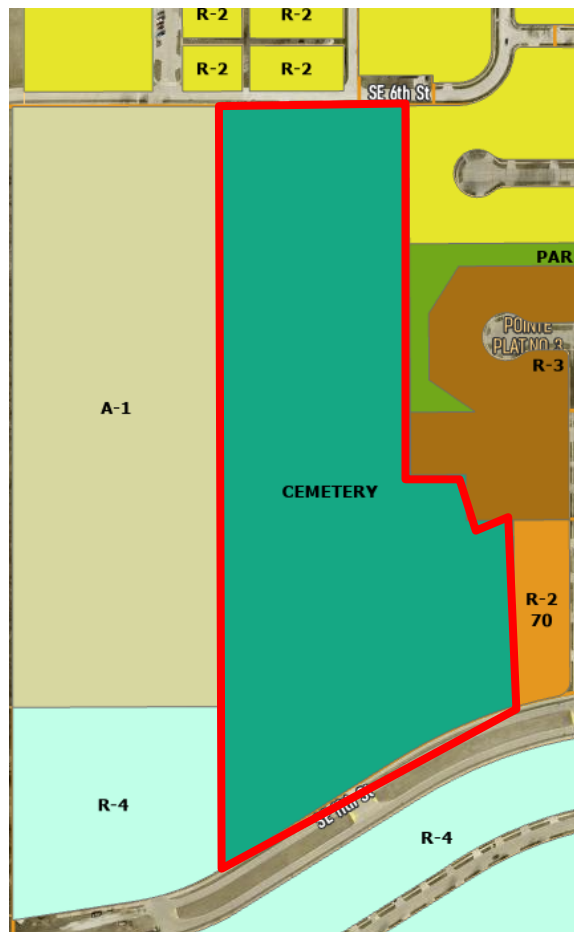
Evann Martin

emartin@grimesiowa.gov

(515)986-4050



Location Map



Zoning Map

# Background

## LAND USES & ZONING

Location	Existing Land Use	Land Use Plan Designation	Current Zoning
Subject Site	Civic	Civic	Cemetery
North	Residential	Low-Density Residential	R-2
South	Residential	Low-Density Residential	R-4
East	Residential	Low-Density Residential	R-2, R-3, R-2 70
West	Vacant	Future Park	A-1

At Sunnyhill Cemetery, there is an existing 4' black vinyl chainlink fence located along the north side of the cemetery on SE 6th Street. The fence has been in place at least since the year 2000. The fence is currently located within the City right-of-way and does not meet the required 10' setback from the property line.



Example of New Ornamental Fence

The City has recently been approached by a generous donor who would like to provide the City with the funds to replace the existing chainlink fence with a 4' ornamental steel fence. The current fence has seen better days and is damaged and started to lean in a few places. A new fence would dress up the front entrance into the cemetery.

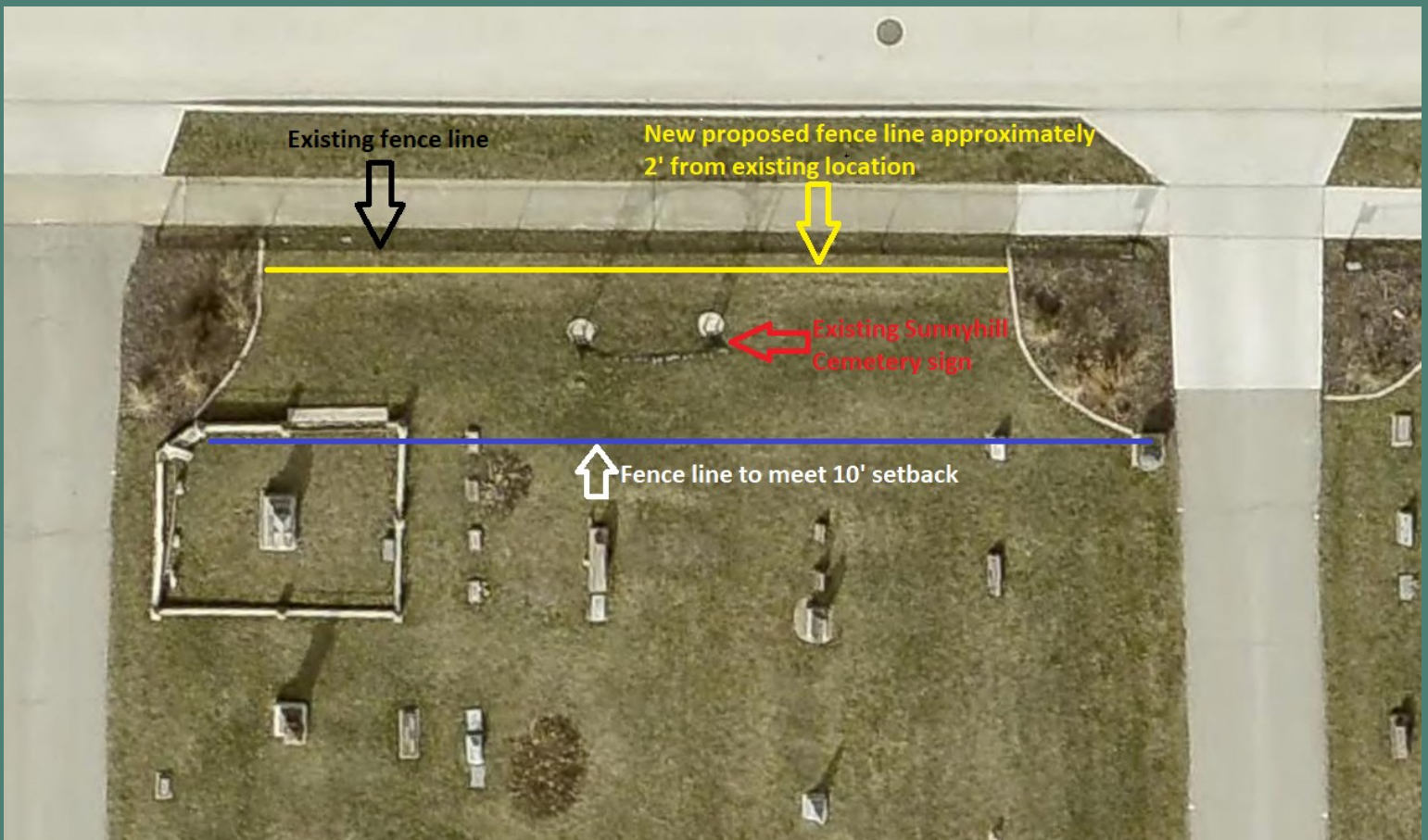


Existing Fence Damage



# Background

The City desires to replace the fence and shift the fence line approximately 2' back from the current location. Therefore, a variance would be required because the fence would not meet the required 10' setback per the zoning ordinance. Moving the fence to meet the 10' required setback would mean that the fence would be placed within the existing cemetery plots, disturbing the graves. In addition, placing the fence at the 10' setback would not allow any aisle space for walking along the north side of the cemetery and would not allow adequate space to utilize some of the open burial plots along the north side of the cemetery. Moreover, maintenance of the headstones and surrounding grave sites would be difficult in close proximity to the fence.



Shifting the fence location approximately 2' back will provide more space between the sidewalk and fence line which would help to increase the conformance of the new fence line while still preserving the existing graves and providing adequate maintenance space between the fence line and graves and around the Sunnyhill Cemetery sign.

The City is requesting a variance for a reduced fence setback along the street frontage of SE 6th Street to install a new fence for the cemetery in the same location as the existing fence.

## Previous Case History

In 2024, the Board reviewed a variance request to reduce the fence setback along the street frontage along NW Norton Street for the property at 312 NW 10th Circle.

In 2009/2010, a previous property owner installed a 6' wood privacy fence 5-7' from the sidewalk along NW Norton Street. Since then, the zoning ordinance has changed making the fence legal non-conforming. The applicant had purchased the property in 2022 with the original fence in place.

Because the subject property was a corner lot, with street frontage along the side yard, the fence was required to be placed 10 feet from the property line.

The applicant stated that the existing fence continued to fall down during high-wind events, received complaints from neighbors for the fallen fence, and planned to repair the damaged fencing, however, the overall condition of the fence was poor and there were no concrete footings for the existing fence posts to provide support. Ultimately, the applicant desired to replace the entire fence.

In addition, there was an existing concrete patio poured near the existing fence location. The patio was poured in 2021/2022 which would not allow the fence to be installed at the 10' setback without overlapping the concrete patio.

The applicant requested a variance for a reduced setback along NW Norton Street, to install a new fence where their existing fence was located.

The Board unanimously approved the variance request to allow the fence to be replaced in the same location as the previous fence line. Any new fence line was required to follow the 10' setback.

# Analysis

## 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.

## GOOD AND SUFFICIENT CAUSE

The City is requesting to replace the existing cemetery fence and install it approximately 2' back from the existing location. Moving the fence to meet the 10' setback would disturb the existing graves along the north side of the cemetery.

## SUBSTANTIAL HARDSHIP

The literal enforcement of the ordinance would result in a substantial hardship to the City, as well as those buried and their families, because the fence would be required to be located within existing graves in the cemetery.

## NON SELF-IMPOSED HARDSHIP

The hardship is not self-imposed because the grave plots have been in place since the mid-1800s, around the time Grimes was established and long before the zoning ordinance was established. The fence has been in place at least since the year 2000, which was prior to the establishment of the fence setback requirements. In addition, the City is replacing the fence in response to a generous donation to enhance our cemetery.

## PUBLIC INTEREST

Granting the variance will not be contrary to the public interest or neighborhood integrity because the fence will be replaced with a new, high quality fence in the same location as it exists today. The current fence is damaged and leaning in some areas so the new fence will be an aesthetic improvement. In addition, not disturbing graves would be in the public interest as there is a cultural respect for graves, community connections to the people buried, religious sentiment, and an interest in preserving good karma.

## PRESERVING SPIRIT OF ORDINANCE

Granting the variance would be the minimum necessary to afford relief from the code so as to not disturb existing graves. Moving the fence approximately 2' would preserve the spirit of the zoning ordinance by providing more space between the fence and sidewalk. Granting the variance would also allow the existing fence that is damaged and leaning to be replaced with a new, high quality decorative fence to improve the aesthetics of the cemetery and surrounding neighborhood.

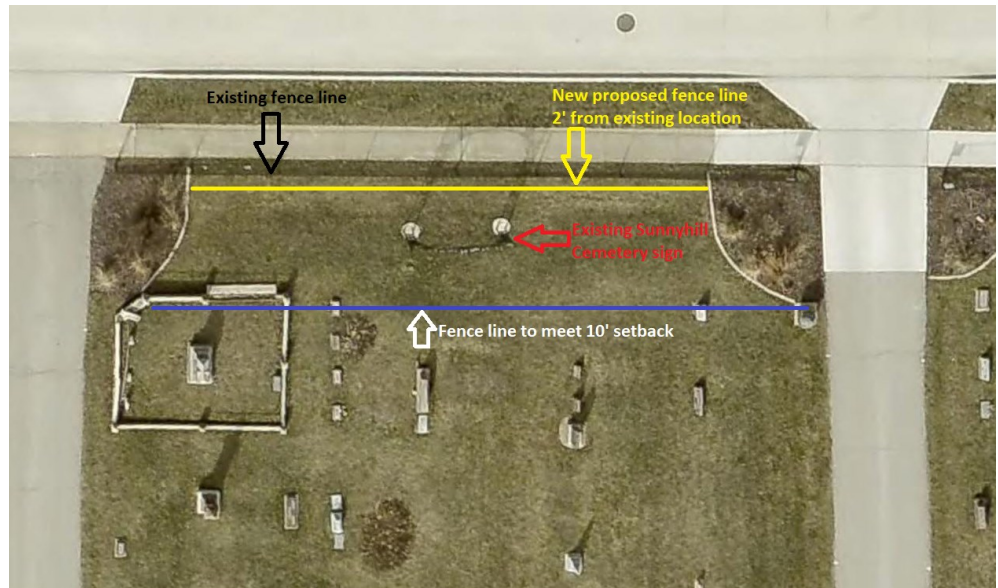
# Conclusion

## ALTERNATIVES TO REQUEST

1. Move the fence to provide approximately 5' additional space between the fence and sidewalk. The fence line would need to be shortened to accommodate the existing landscape beds at the corners of the entrance drives into the cemetery. The maintenance area along the north side of the cemetery would be reduced and the fence line would be about 6 inches from the footings of the Sunnyhill Cemetery. Placing the fence so close to the Sunnyhill sign could cause issues with the structural integrity of the sign, difficulties maintaining grass around the sign, and would take away from the aesthetics of the sign if the fence is placed right in front of the sign.
2. Remove the fence altogether. This option would not allow the donor to provide funds for a new fence.

## SUMMARY

The City is requesting a variance for a reduced fence setback along the street frontage of SE 6th Street to install a new fence for the cemetery in the same location as the existing fence. The fence cannot be installed to meet the required 10' setback without disturbing graves.



Existing Fence to be Replaced

