

**CITY OF ABILENE**  
**PLANNING COMMISSION**  
**AGENDA**

August 11, 2020 at 4:00 p.m.  
Abilene Public Library ~ Meeting Room  
209 NW 4<sup>th</sup> Street

| Agenda Item                                                                                                                                                                                                                                                            |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. Call to Order                                                                                                                                                                                                                                                       |
| 2. Roll Call: ____ Robin Black, ____ Jennifer Green, ____ Rod Boyd,<br>____ Bill Marshall, ____ Vice Chair: Brenda Finn-Bowers, ____ Chair: Travis Sawyer                                                                                                              |
| 3. Approval of Agenda                                                                                                                                                                                                                                                  |
| 4. Approval of Minutes of July 14, 2020                                                                                                                                                                                                                                |
| Business<br>5. Open Public Hearing: BAZ 20-01 Application for Variance for Joel and Cynthia Taggart 519 N Broadway, Abilene Ks 67410<br>*Public Comment<br>* Commission Comment<br>Close Public Hearing<br>Action:<br>6. Update on Current Property within City Limits |
| 7. Planning Commission Comments<br>8. Staff Comments<br>9. Adjournment                                                                                                                                                                                                 |



**Abilene Planning Commission Minutes**  
**Abilene Public Library - 209 NW Fourth Street**  
**June 16, 2020 @ 4:00 p.m.**  
**Abilene, Kansas**

**1. Call to Order**

**2. Roll Call** – Planning Commission Present: Jennifer Green, Rod Boyd, Vice Chair Brenda Finn-Bowers and by phone Robin Black and Chair Travis Sawyer.

Staff Present: Travis Steerman, Brenda Wildman and City Manager Jane Foltz.

Others Present: David Wells representative for US Cellular.

**3. Approval of Agenda**

Motion by Commissioner Boyd, seconded by Commissioner Green to approve the agenda. Motion carried, all voting "Aye."

**4. Minutes**

Motion by Chair Sawyer, seconded by Commissioner Black to approve the November 13, 2019 and March 3, 2020 agenda with the spelling correction of Duane Scragg to Duane Schrag on the March 3, 2020 agenda. Motion carried, all voting "Aye."

**Business Discussion**

**5. Apply for in-text amendment to Zoning code Section 27 regarding Electronic Message.**

There was discussion regarding the Electronic Message Center regarding dimming and the moving message. A motion was made by Commissioner Boyd, seconded by Commissioner Green to direct city staff to initiate a text amendment, on behalf of the planning commission, to amend Section 27-401© of the Abilene Zoning Regulations, to provide for a minimum hold time of three seconds for all electronic message center signs now and hereafter approved by a conditional use permit. Motion carried, all voting "Aye."

**6. Apply for in-text amendment to Zoning code Section 29 regarding membership of Heritage Commission.**

No Action taken.

**7. Public Hearing for PC 20-6**

Vice Chair Brenda Finn-Bowers opened the public hearing at 4:13 p.m.

David Wells for US Cellular provided information regarding the cell tower to the commission. Mr. Well also informed the commission that the cell tower meets all FAA and FCC requirements.

Vice Chair Brenda Finn-Bowers closed the public hearing at 4:23 p.m.

## **8. Action on Public Hearing**

Motion by Commissioner Black, seconded by Commissioner Boyd to approve the Conditional Use Permit for a cellular tower in the Light Industrial District (I-1) for the properties located at 401 N Cottage and 507 N Cottage Street to include the following requirements: a) All criteria for the conditional use permit must be met. b) All building codes be met. Motion carried, all voting "Aye."

## **9. Critical Drainage Ordinance Review**

Discussion and Presentation from city staff and City Manager Jane Foltz were given. The Planning Commission had discussion on the area that would be included in the ordinance.

Motion by Commissioner Black, seconded by Commissioner Boyd to proceed with the Critical Drainage notification for a public hearing. Motion carried, all voting "Aye."

## **10. Discussion on updating/review Comprehensive Plan**

Commissioner Black requested this be put on the agenda because the planning commission should be reviewing the comprehensive plan every year. The planning commission would like to be updated by city staff regarding items the city is looking at. They would like to have on each agenda an update on what is happening in areas of town.

## **11. Planning Commission Comments and Staff Updates**

None currently.

## **12. Adjournment**

Motion by Commissioner Boyd, seconded by Commissioner Green to adjourn. Motion carried, all voting "Aye."

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Travis Sawyer, Chair  
Brenda Finn-Bowers, Vice Chair

2020-242 for fence permit

CITY OF ABILENE, KANSAS  
**DEVELOPMENT APPROVAL APPLICATION FORM**

419 N. Broadway · Abilene, Kansas 67410 · Tel: (785) 263-2355 · Fax: (785) 263-2552 · www.abilenecityhall.com

**INSTRUCTIONS:** This Application and all required fees and information must be submitted in accordance with the Code of the City of Abilene and the City of Abilene Zoning and Subdivision Regulations. All information requested in this application must be provided and answered completely.

**PART I: TO BE COMPLETED BY APPLICANT**

**APPLICATION INFORMATION**

**APPLICATION FOR (CHECK APPROPRIATE BOX):**

- |                                                         |                                                            |
|---------------------------------------------------------|------------------------------------------------------------|
| <input type="checkbox"/> ADMINISTRATIVE APPEAL          | <input type="checkbox"/> LOT SPLIT                         |
| <input type="checkbox"/> ANNEXATION                     | <input type="checkbox"/> NON-CONFORMING USE CERTIFICATE    |
| <input type="checkbox"/> CERTIFICATE OF APPROPRIATENESS | <input type="checkbox"/> PRELIMINARY PLAT                  |
| <input type="checkbox"/> COMPREHENSIVE PLAN AMENDMENT   | <input type="checkbox"/> PLANNED DEVELOPMENT               |
| <input type="checkbox"/> CONDITIONAL USE PERMIT         | <input type="checkbox"/> REPLAT                            |
| <input type="checkbox"/> DEVELOPMENT CODE AMENDMENT     | <input type="checkbox"/> REZONING / ZONING MAP AMENDMENT   |
| <input type="checkbox"/> FINAL PLAT                     | <input type="checkbox"/> SITE PLAN                         |
| <input type="checkbox"/> HOME OCCUPATION PERMIT         | <input type="checkbox"/> VACATION (PLAT, STREET, EASEMENT) |
| <input type="checkbox"/> LANDMARK DESIGNATION           | <input checked="" type="checkbox"/> VARIANCE               |
| <input type="checkbox"/> LOT SPLIT                      |                                                            |

**FOR OFFICIAL USE ONLY**

Appn Number: B2A 20-01

Date Received: 7-7-20

Received By: BW

✓ # 1707 = \$200.00

**BRIEF DESCRIPTION OF APPLICATION PURPOSE:**

Respectfully request a variance to install a privacy fence along the side walk in the backyard of 519 N Broadway.

**APPLICANT INFORMATION**

**APPLICANT/AGENT (If Not Property Owner):**

Name: Joel + Cynthia Taggart Tel: (785) 210.6157  
Business Name: \_\_\_\_\_ Fax: (\_\_\_\_)  
Address: 519 N Broadway  
City: Abilene State: KS Zip Code: 67410  
E-mail: joel.taggart@gmail.com

**PROPERTY OWNER (If Different from Applicant/Agent):**

Name: \_\_\_\_\_ Tel: (\_\_\_\_)  
Business Name: \_\_\_\_\_ Fax: (\_\_\_\_)  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
E-mail: \_\_\_\_\_

**ENGINEER/ARCHITECT/SURVEYOR:**

Name: \_\_\_\_\_ Tel: (\_\_\_\_)  
Business Name: \_\_\_\_\_ Fax: (\_\_\_\_)  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
E-mail: \_\_\_\_\_

**PROPERTY INFORMATION****PROPERTY ADDRESS OR GENERAL LOCATION (IN RELATION TO NEAREST STREETS):**519 N Broadway**PROPERTY TAX IDENTIFICATION**NUMBER: CAMA number : 021115160301400200000

ZONING: Existing: \_\_\_\_\_ Proposed: \_\_\_\_\_

LAND USE: Existing: \_\_\_\_\_ Proposed: \_\_\_\_\_

**GROSS SIZE OF PLAT/LOT:**

Residential: \_\_\_\_\_ Commercial: \_\_\_\_\_ Industrial: \_\_\_\_\_ Other: \_\_\_\_\_ Total: \_\_\_\_\_

**NUMBER OF LOTS:**

Residential: \_\_\_\_\_ Commercial: \_\_\_\_\_ Industrial: \_\_\_\_\_ Other: \_\_\_\_\_ Total: \_\_\_\_\_

**IMPROVEMENT CHARACTERISTICS:**

Number of Buildings or Structures: \_\_\_\_\_

Total Building Area: \_\_\_\_\_

Maximum Height of Buildings or Structures: \_\_\_\_\_

Total Impervious Area: \_\_\_\_\_

**EXISTING PUBLIC FACILITIES:**

Public Private Other (Describe)

Water Service: ☒ ☐ ☐ \_\_\_\_\_Wastewater Service: ☒ ☐ ☐ \_\_\_\_\_Roadway Access: ☒ ☐ ☐ \_\_\_\_\_**FLOODPLAIN INFORMATION:**Floodway: ☐ Yes ☒ No

FIRM Map-Panel Number: \_\_\_\_\_

Floodway Fringe: ☐ Yes ☒ No

Zone: \_\_\_\_\_

**ARE ANY OTHER PERMITS OR DEVELOPMENT APPROVALS REQUIRED, APPLIED FOR OR RECEIVED FOR THE APPLICATION PROPERTY BY THE CITY OR ANY OTHER JURISDICTION OR AGENCY?**☐ Yes ☐ No If Yes, Describe Briefly and Attach a Copy of Each Permit, Approval or Application**APPLICANT/PROPERTY OWNER CERTIFICATION\***

I/we acknowledge receipt of the instruction sheet explaining the method of submitting this application. I/we realize that this application cannot be processed unless it is completely filled in; is accompanied by a current abstractor's certificate as required in the instruction sheet; and is accompanied by the appropriate fee. I/we further certify that the foregoing information is true and correct to the best of our knowledge. I/we acknowledge that the City of Abilene Planning Commission, Board of Zoning Appeals or City Commission shall have authority to impose such conditions as it deems necessary in order to serve the public interest and welfare.

*Cynthia L. Jaggart*  
Applicant Signature26 JUN 2020  
Date*Cynthia L. Jaggart*  
Property Owner Signature26 JUN 2020  
Date

\* This Application must bear the signature(s) of the property owner(s). If an authorized agent signs on the owner's behalf, the agent shall sign his own name and attach the owner's written notarized authorization to this Application.

**PART II - TO BE COMPLETED BY STAFF**

**DOCUMENTS TO BE SUBMITTED WITH APPLICATION\*\***

- |                                                            |                                                                 |                                                                     |
|------------------------------------------------------------|-----------------------------------------------------------------|---------------------------------------------------------------------|
| <input type="checkbox"/> Copy of Deed                      | <input type="checkbox"/> Easements and Covenants                | <input type="checkbox"/> Location Map                               |
| <input type="checkbox"/> Site Plan                         | <input type="checkbox"/> Preliminary Plat                       | <input type="checkbox"/> Final Plat                                 |
| <input type="checkbox"/> Infrastructure Plans              | <input type="checkbox"/> Development Agreement                  | <input type="checkbox"/> Grading and Stormwater Plans               |
| <input type="checkbox"/> Elevation Survey                  | <input type="checkbox"/> Traffic Impact Study                   | <input type="checkbox"/> Construction Plans                         |
| <input type="checkbox"/> Performance Agreement             | <input type="checkbox"/> Proof of Notification                  | <input type="checkbox"/> Utility Plans                              |
| <input type="checkbox"/> Text Amendment Language           | <input type="checkbox"/> Property Owner List                    | <input type="checkbox"/> Comprehensive Plan Amendment Justification |
| <input type="checkbox"/> Annexation Boundary Map           | <input type="checkbox"/> Operating Characteristics Report       | <input type="checkbox"/> Administrative Appeal Justification        |
| <input checked="" type="checkbox"/> Variance Justification | <input checked="" type="checkbox"/> Other <u>Sketch drawing</u> |                                                                     |

Additional document requirements provided to applicant on \_\_\_\_\_. The applicant is advised that the application is not accepted for public review until such time as the above identified documents are submitted and a Determination of Complete Application is certified.

|           |       |
|-----------|-------|
| _____     | _____ |
| Name      | Title |
| _____     | _____ |
| Signature | Date  |

**\*\* Number of copies for submission determined by Zoning Administrator. The Zoning Administrator may request additional information as deemed necessary to properly evaluate the permit application.**

**APPLICATION REVIEW**

**DECISION-MAKING BODY:** ☐ Staff    ☐ Planning Commission    ☐ Board of Zoning Appeals    ☐ City Commission  
☐ Heritage Commission    ☐ Other (specify): \_\_\_\_\_

**DATE OF INITIAL HEARING(S):** \_\_\_\_\_

**FEE AMOUNT:** \$200.00                      **DATE FEE PAID:** 7/7/20

**DETERMINATION OF COMPLETE APPLICATION:**

I certify that the Development Approval Application and attached documents are sufficient in form and content for review and recommendation by the decision-making bodies of the City of Abilene. As such, all required notifications and hearings may proceed pursuant to City regulations and procedures. This certification does not preclude the review, recommendation and/or decision-making bodies from requesting additional information as deemed necessary to serve the public interest.

|           |       |
|-----------|-------|
| _____     | _____ |
| Name      | Title |
| _____     | _____ |
| Signature | Date  |

Joel and Cynthia Taggart  
519 N Broadway  
Abilene, KS 67410

In this case we are respectfully requesting the authorization of a variance from the specific terms regulating privacy fence at 519 N Broadway in the City of Abilene Kansas. This variance request arises from a topographical condition that is unique to the property.

Justification for variance addressed in Section 25-401.b.

1. Condition: The variance requested arises from a condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by action of the property owner or applicant.

Justification: All other properties on this side of the block run in an East to West direction, however, 519 N Broadway runs in a North to South direction which is a condition that is unique to this property. All other properties on this side of the block have traditional backyards, and the unique topographical layout at 519 was sold as the backyard to the home.

2. Condition: Granting a permit for variance will not adversely affect the rights of the adjacent property owners or residents.

Justification: There is a well-established line of mature, old-growth trees, a well-established line of mature, old-growth shrubs, and a public alley between the proposed privacy fence separating the backyard of 519 N Broadway and the adjacent property to the south. All trees and all shrubs will remain intact and the backyard fence will be installed inside of the property line of 519 N Broadway which will not adversely affect the rights of the adjacent property owners or residents to the south. There is a well-established line of mature, old-growth trees, and a well-established line of mature, old-growth shrubs separating the backyard of 519 N Broadway and the adjacent property to the east. All trees and all shrubs will remain intact and the backyard fence will be installed inside of the property line of 519 N Broadway which will not adversely affect the rights of the adjacent property owners or residents to the east.

3. Condition: The strict application of the provisions of the zoning regulations to this open lot is constituting unnecessary hardship on the property owners represented in the application.

Justification: The owners of 519 N Broadway have endured the unnecessary hardship of aggressive feral cats defecating on private property in the backyard, and destroying expensive vegetation due to the lack of demarcation in the backyard. The owners of 519 N Broadway have experienced the unnecessary hardship of aggressive, feral cats gaining access to the interior of the home as residents enter the premises through the backdoor due to the lack of an established boundary in the backyard. The owners of

519 N Broadway have endured the unnecessary hardship of aggressive, feral cats attempting to breach the back porch by accessing the back-porch area through the open backyard. The owners of 519 N Broadway have endured the unnecessary hardship of neighbors walking their dogs and allowing their dogs to urinate and defecate on plants destroying heirloom peonies, ornament grasses and newly planted shrubs in the backyard. The owners of 519 N Broadway have endured the unnecessary hardship of having to call 911 in reference to a male suspect fleeing on foot, and using the backyard (i.e., the area of the Variance request), and the side area (i.e., the driveway on the east property line) to hide from, and avoid law enforcement. The Abilene Police Department was called and they took a report.

4. Condition: The variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.

Justification: The proposed backyard privacy fence at 519 N Broadway will add value to the existing neighborhood by creating clean lines to the street view, and will add structure to an empty backyard. This proposed backyard privacy fence will not impede, harm, obstruct public safety or substantial justice for the community and neighbors.

5. Condition: The granting of the variance desired will not be opposed to the general spirit and intent of the zoning regulations.

Justification: Two other structures on this side N Broadway are placed next to the sidewalk so the proposed fence will remain in the original intent of the street view of 519 N Broadway.

#### Regarding Appendix C, Section 20-9 of the Zoning Regulations

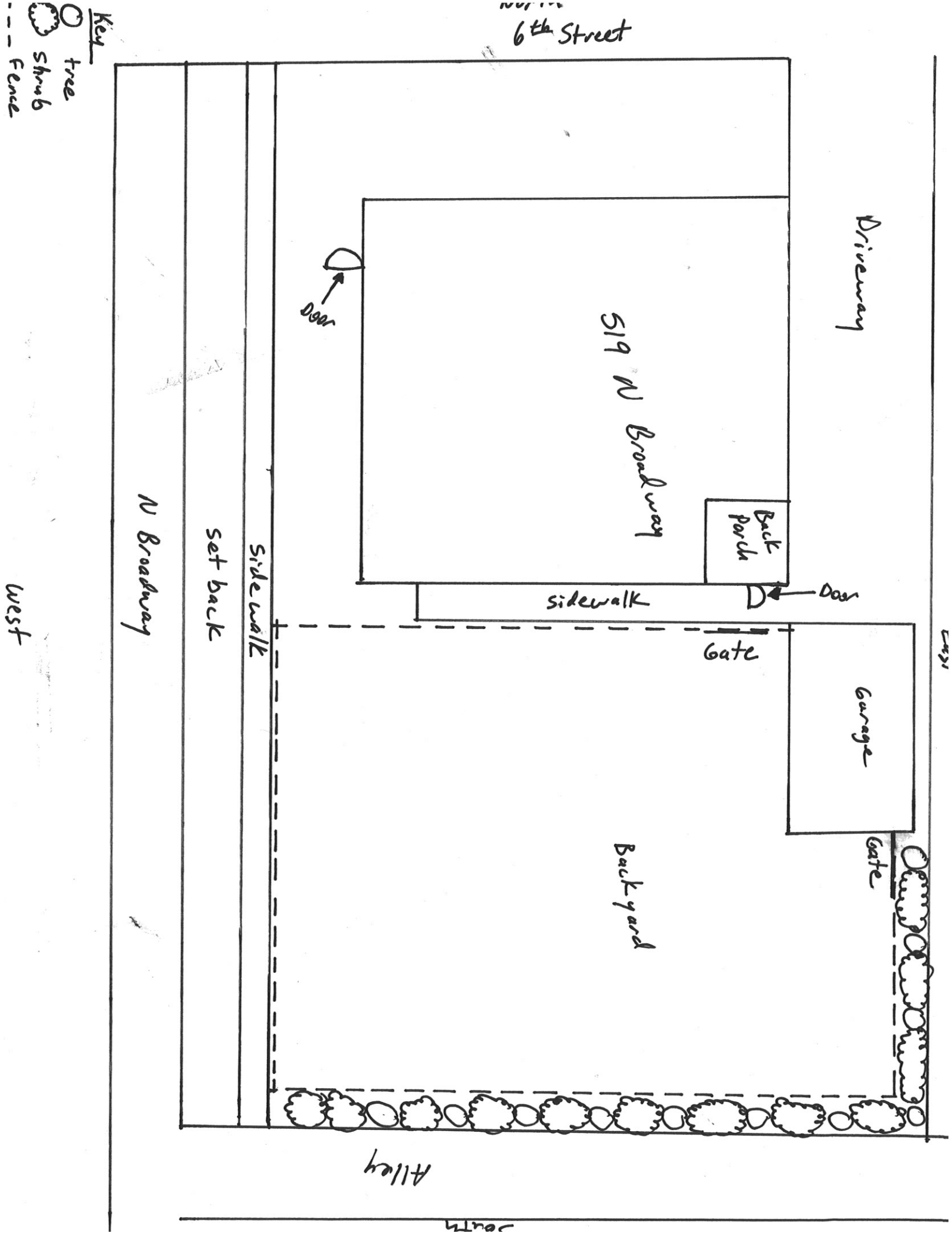
The construction of the proposed privacy fence in the backyard at 519 N Broadway will not constitute a traffic hazard. This request meets the regulation in (c) where a corner lot back-to-back with another corner lot “the fence may be installed up to the non-address side property line, in the front yard setback area” and “All sides adjacent to a street shall be considered front yards, with the one on the non-address side having the lesser setback requirement.”

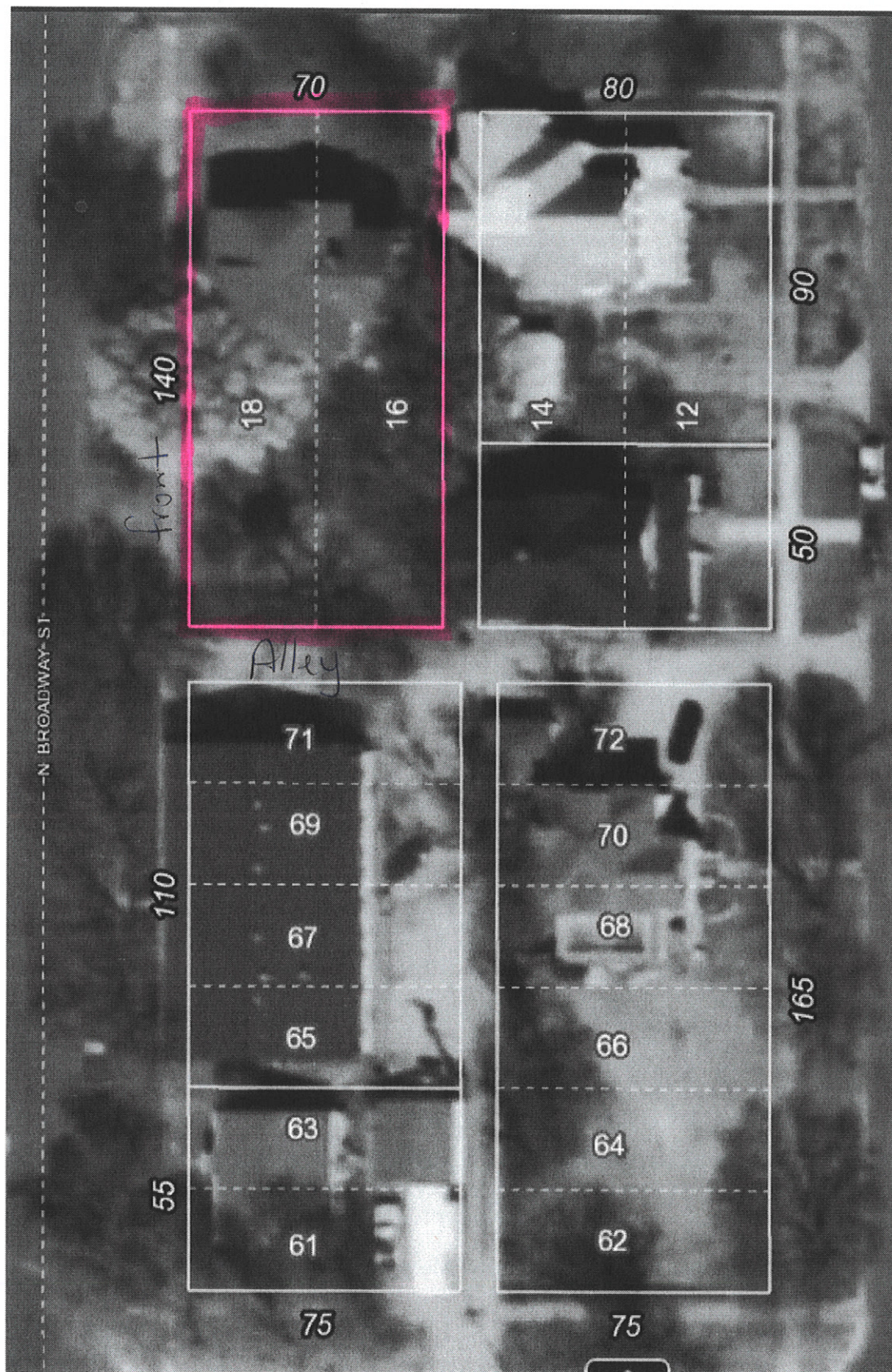
#### Conclusion

The proposed privacy fence for the backyard at 519 N Broadway will not be adverse to the welfare or convenience of the public, and will not cause substantial injury to the value of other property in the neighborhood in which it is to be located. Due to the irregularities in depths of existing front yards on the 500 block of N. Broadway Street we are respectfully requesting a variance authorization to install a privacy fence along the sidewalk on the west side of our backyard property. Under the current statute there is an unnecessary hardship to the owner/applicant of this particular property, because no other residents or owners have similar or equivalent topographical restrictions. The proposed privacy fence does not constitute a traffic

hazard (i.e., it does not occlude the sidewalk). The property at 519 N Broadway was acquired in good faith, and it was presented as a property with a backyard that extended to the sidewalk. This large open space was a large reason we purchased the property. The proposed privacy fence will not be adverse to the welfare or convenience of the public and will not cause substantial injury to the value of other property in the neighborhood in which it is to be located.

- Key
- tree
  - shrub
  - fence





70

80

front 140

18

16

14

12

90

50

Alley

71

69

67

65

63

61

110

55

75

72

70

68

66

64

62

165

75