

CITY OF BLOOMINGTON



September 21, 2016 @ 2:00 p.m.
CITY HALL -
KELLY CONFERENCE ROOM #155

CITY OF BLOOMINGTON
HEARING OFFICER
September 21, 2016 at 2:00 p.m.

*Kelly Conference Room #155

PETITIONS:

- V-26-16 **Ryan Tschetter**
1900 E. Atwater Ave.
Request: Variance from maximum fence height requirements.
Case Manager: James Roach

- V-27-16 **Habitat for Humanity of Monroe County**
909 W. Moravec Way
Request: Variance from front yard building setback standards for a single-family residence.
Case Manager: Eric Greulich

BLOOMINGTON HEARING OFFICER
STAFF REPORT DATE:
LOCATION: 1900 E. Atwater Avenue

CASE #: V-26-16
September 21, 2016

PETITIONER: Ryan Tschetter
 1801 E. Hillside Dr., Bloomington

REQUEST: The petitioner is requesting a variance to allow a 5-foot tall fence forward of the front building wall.

SUMMARY: The property is located on the southeast corner of E. Atwater Avenue and S Rose Avenue. It has been developed with a single family house and is zoned Residential Core (RC). To the south and east are other single-family homes, also zoned RC. The lots to the north and west are vacant.

The petitioner proposes to construct a five foot tall fence along E. Atwater Avenue which functions as a side yard, in order to enclose the back yard area, which contains an in-ground pool. The petitioner believes that the fence will improve the security and safety of the property. The proposed fence is in a traditional open wrought iron fence style. The UDO prohibits fences above four feet tall between the street and the "front building wall." The "front building wall" is defined as "the building elevation which fronts on a public street." Corner lots effectively have two front building walls. Because the area between the house and the street can contain a fence that is a maximum of four feet tall, the petitioner is requesting a variance to allow the five foot tall fence between the northern building wall and the adjacent street, Atwater Avenue.

The UDO requires that fences enclosing pools be no less than five feet tall, and not greater than eight feet tall. The UDO also limits fence height in front yards to 4 feet in order to limit tall fences looming near sidewalks; keep front yards and structures from being fenced off from the street view; prevent obstructed views for vehicular traffic; and promote a more engaging, pedestrian-friendly atmosphere. The petitioner is requesting a variance to allow construction of a five foot tall fence between Atwater Avenue and the front building wall.

CRITERIA AND FINDINGS FOR DEVELOPMENT STANDARDS VARIANCE

20.09.130 e) Standards for Granting Variances from Development Standards: A variance from the development standards of the Unified Development Ordinance may be approved only upon determination in writing that each of the following criteria is met:

- 1) *The approval will not be injurious to the public health, safety, morals, and general welfare of the community.*

STAFF FINDING: Staff finds no injury to the general welfare. Since no electrification or barbed wire is proposed, the chosen fence style will not endanger public safety. Taller, solid fences in front yards are considered undesirable because they can create barriers that make it uncomfortable or unsafe for

pedestrians. The proposed five foot tall open wrought-iron fence will allow for continued interaction between the public and private spaces.

- 2) *The use and value of the area adjacent to the property included in the Development Standards Variance will not be affected in a substantially adverse manner.*

STAFF FINDING: Staff finds no negative impact on the use and value of adjacent properties. The proposed five foot tall fence will not block sight lines or hinder pedestrian comfort along Atwater Avenue because of its open design and small scale.

- 3) *The strict application of the terms of the Unified Development Ordinance will result in practical difficulties in the use of the property; that the practical difficulties are peculiar to the property in question; that the Development Standards Variance will relieve the practical difficulties.*

STAFF FINDING: Strict application of the terms of the Unified Development Ordinance would require that the fence would either be a maximum of four feet tall or built behind the front building wall of the house. Staff finds that peculiar condition in the layout of the property combined with the fence regulations. First, because the property is a corner lot, it has two front building walls. The building wall along Atwater Avenue does not function as the front of the building. The location of the fence is chosen to enclose the entire backyard area, while the regulation speaks to what is typically a front yard on a property. Second, this corner lot contains a pool, which when fenced, requires a minimum height of five feet. Finally, the regulation was created in order to limit tall fences looming near sidewalks; keep front yards and structures from being fenced off from the street view; prevent obstructed views for vehicular traffic; and promote a more engaging, pedestrian-friendly atmosphere. The proposed five foot wrought iron style fence meets all of the objectives of the regulation, while making the pool area safer. Practical difficulty is found in the combination of the space being a functional backyard that has street frontage, and the need for a five foot fence because of the pool.

RECOMMENDATION: Based upon the written findings above, staff recommends approval of V-26-16 with the following condition.

1. The fence must be placed a minimum of 18 inches from the back of the sidewalk.

To whom it may concern:

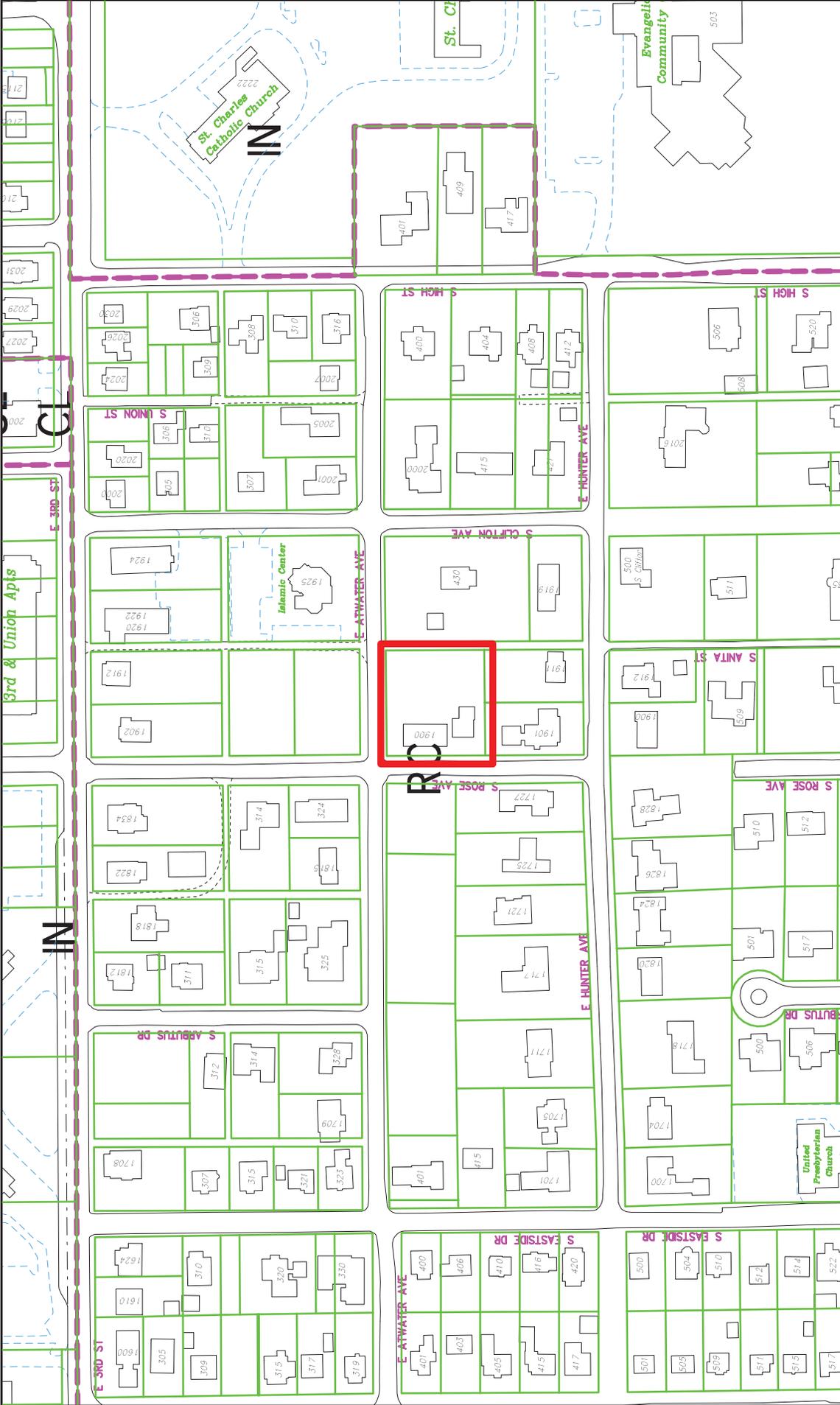
My home sits on a corner lot on 1900 East Atwater Ave in Bloomington, Indiana. In 2015, we had an in ground pool constructed in the back yard(which is legally considered my side yard). My home faces Atwater(north) and sits in the NW corner of the lot. This layout gives my home two street fronts and one side yard on the east side of the property. With my proximity to the university and on a major east west street, my home gets a lot of foot and vehicular traffic. The present guidelines doesn't allow for a five foot fence in front of the building line in front of my house which faces Atwater. To meet the existing requirements for a five foot fence, the fence would go through the middle of my back yard. In order to provide security, safety, and to improve the look of the property, I am requesting a variance to the existing guidelines to allow me to put a 5 foot security fence along my property next to the sidewalk on the busy street of Atwater.

Sincerely,



Ryan D Tschetter

Petitioner's Statement



City of Bloomington
Planning & Transportation



Scale: 1" = 200'



By: scanlanj
14 Sep 16

For reference only; map information NOT warranted.



By: scanlanj
14 Sep 16



For reference only; map information NOT warranted.

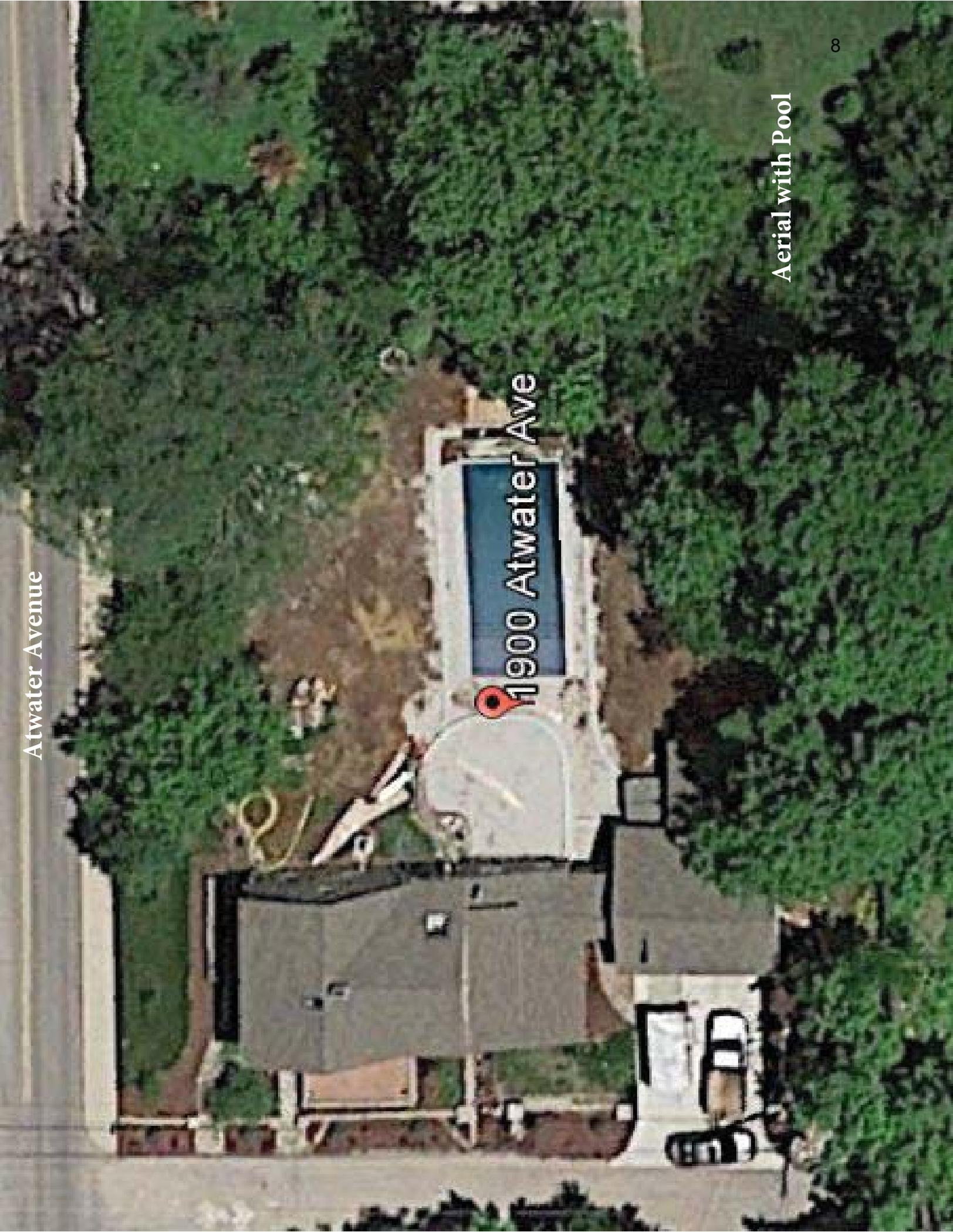
City of Bloomington
Planning & Transportation



Scale: 1" = 30'



Atwater Avenue



Aerial with Pool



**Fence Example Provided
by Petitioner**

ESTIMATE AND PROPOSAL VALUE FENCE COMPANY



ESTIMATE DATE

7-1-16

OWNER: KIRK MULLIS
7122 W. DINSMORE ROAD
BLOOMINGTON INDIANA • 47403
PHONE: 812-824-9881
EMAIL: VALUEFENCE@COMCAST.NET

C 812 345 7711

RYAN Tschetter

(812) 336-5525 W

Customer/Company Name

Phone #

Work/Cell #

RdTe JCD Smiles.com

1900 E. ATTwater

Job Site

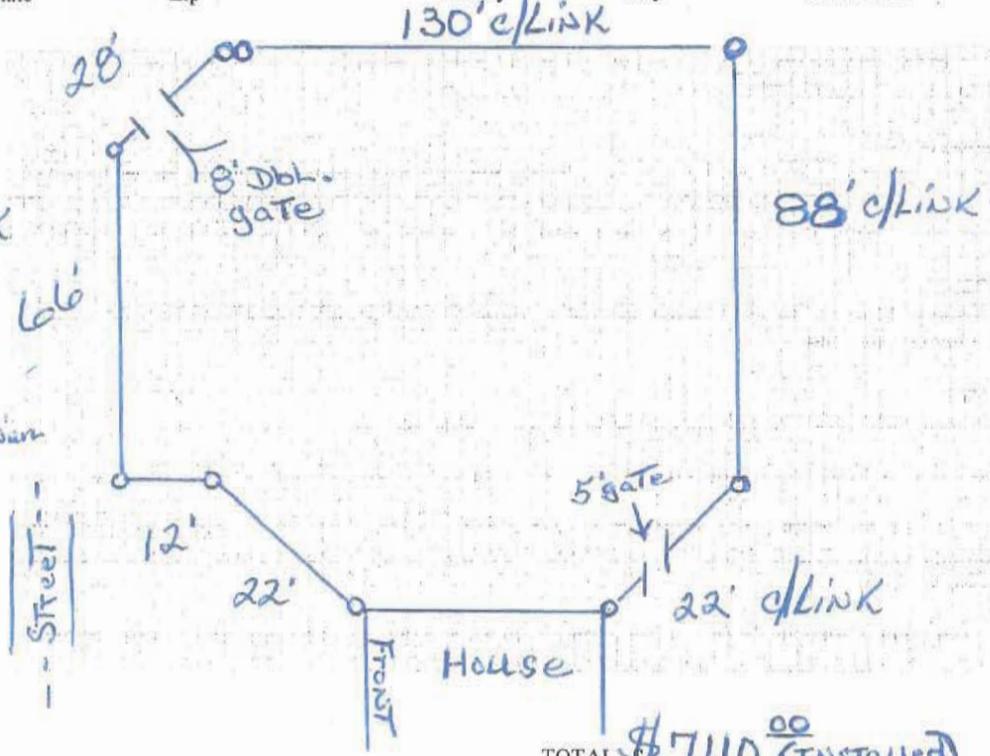
Mailing Address

Fax #

Bloomington, IN

City State Zip County Twp. Cross Street

- WALK GATES 1 DGATES 1
- RESIDENTIAL CHAIN LINK
- COMMERCIAL CHAIN LINK
- GALVANIZED WIRE
- VINYL COATED WIRE
- VINYL COATED WIRE 5' Black
- WOOD PICKET
- WOOD PRIVACY
- SPLIT RAIL
- GALVANIZED WIRE
- VINYL COATED WIRE
- CUSTOM PICKET
- CUSTOM PRIVACY
- OTHER 5' Black Aluminium
- PROPERTY PINS FOUND
- FOLLOW CONTOUR - FENCE
- CLOSE TO GROUND,
TOP MAY BE UNEVEN
- EVEN AT TOP



TOTAL \$ 7110.00 (INSTALLED)

INSTRUCTIONS AND COMMENTS:

- * INSTALL 128' OF 5' "Buehingham" Series "B" WITH (1) 8' Double gate
- * INSTALL 240' OF 5' Black Chain Link WITH (1) 5' WALK gate
- * ALUMINIUM FENCE TO HAVE 2 1/2" POST A MORE STURDY "BEEFY" POST
- * C/LINK = 2 1/2" corner post 1 1/2" line post
- 11.5 gauge Fabric w/a 9 gauge Finish 1 3/4" Top Rail.

THIS CONTRACT IS SUBJECT TO THE TERMS AND CONDITIONS PRINTED ON THE REVERSE SIDE AND WHICH ARE MADE A PART HEREOF BY THIS REFERENCE. PAYMENT IN FULL IS DUE UPON COMPLETION OF FENCE. UNPAID BALANCES ARE SUBJECT TO AN INTEREST RATE OF 1 1/2% MONTH FROM DATE OF COMPLETION OF FENCE.

VALUE FENCE COMPANY (SELLER)

BY: Scott B. Ends
(Authorized Signature)

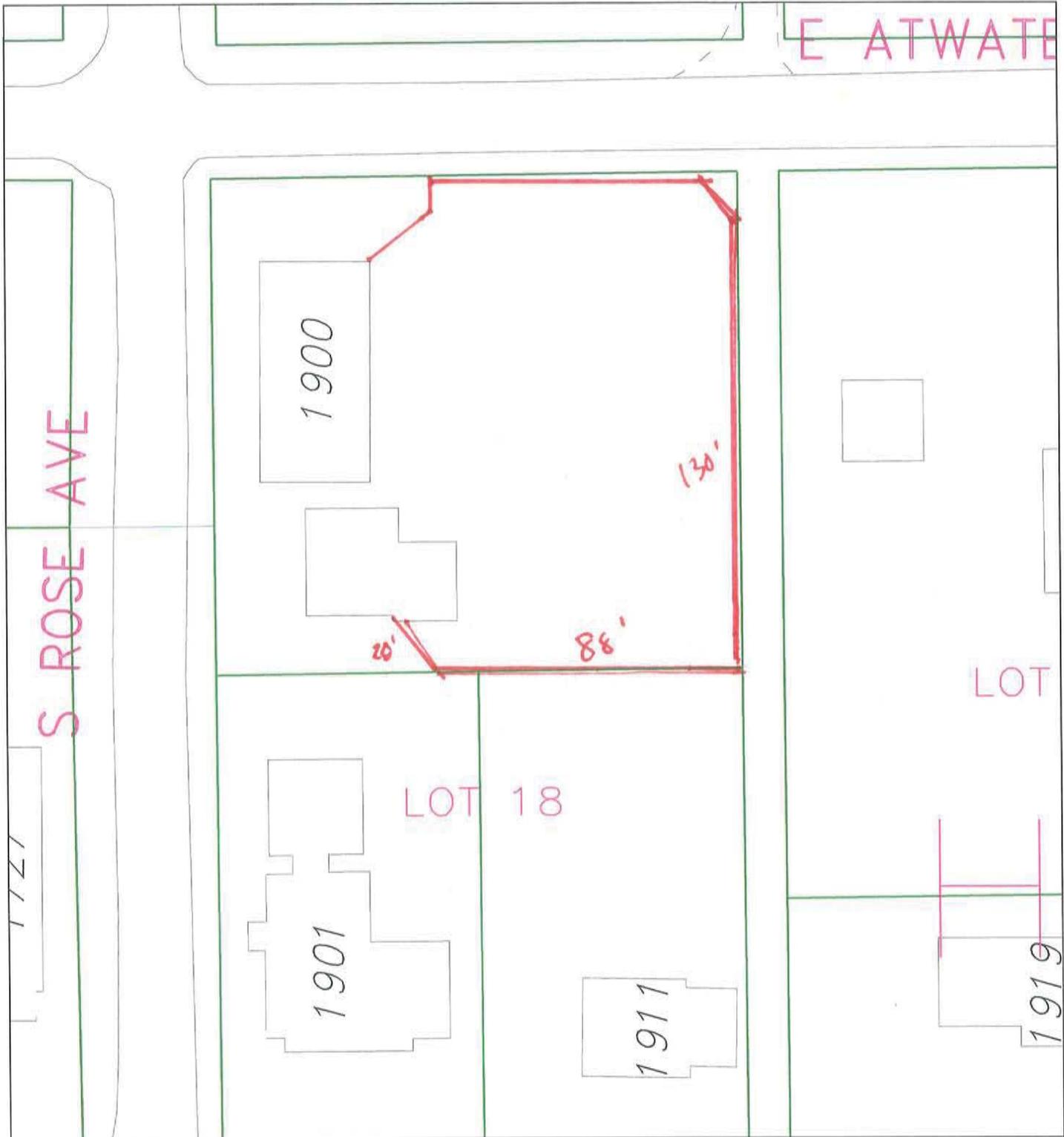
Acceptance of Proposal - The prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Signature: (X)

Date of Acceptance: (X)

Signature: _____

Petitioner's Site Plan (1 of 2)



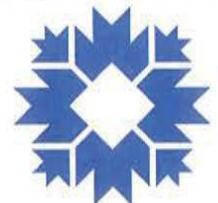
Petitioner's Site Plan (2 of 2)

By: roachja
9 Sep 16

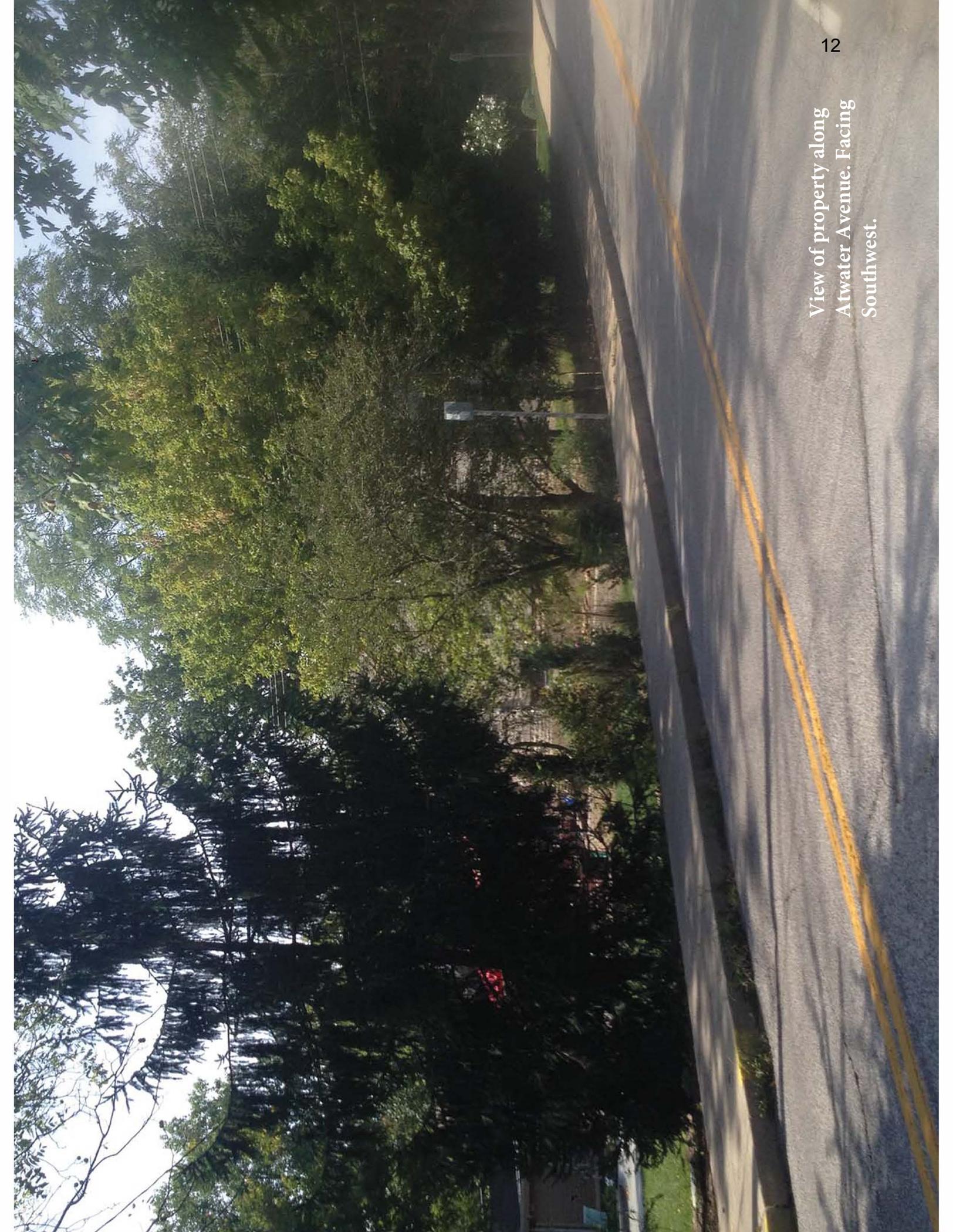


For reference only; map information NOT warranted.

City of Bloomington
Planning & Transportation



Scale: 1" = 40'



View of property along
Atwater Avenue, Facing
Southwest.

BLOOMINGTON HEARING OFFICER
STAFF REPORT
LOCATION: 909 W. Moravec Way

CASE #: V-27-16
DATE: September 21, 2016

PETITIONER: Habitat for Humanity
213 E Kirkwood Ave

REQUEST: The petitioner is requesting a variance from front yard building setback standards.

PUD Requirement
 8' from property line

Proposed/Existing
 4'

STAFF REPORT: This property is located at 909 W. Moravec Way on Lot #3 of the Trail View Neighborhood. This PUD was approved for single family residences in 2014 (PUD-01-14). The property is surrounded by single family residences to the north, east, west, and south.

The petitioner received a building permit on July 15, 2016 (CZC-C16-383) to construct a new single family residence on the property. The submitted site plan met all setback requirements. During the initial layout for the placement of the footers, the location of the foundation was incorrectly marked in the field and as a result the front porch of the residence extends into the setback by 4'. The main wall of the building itself still meets the 8' setback requirement and it is only the front porch that extends into the setback.

The petitioner is requesting a variance from front yard building setback standards to allow the existing setback of 4' for the residence.

CRITERIA AND FINDINGS

20.09.130 (e) Standards for Granting Variances from Development Standards:

A variance from the development standards of the Unified Development Ordinance may be approved only upon determination in writing that each of the following criteria is met:

1. *The approval will not be injurious to the public health, safety, morals, and general welfare of the community.*

Staff's Finding: The granting of a variance from the setback standards will not be injurious to the public health, safety, morals, and general welfare. The location of the residence will not create any negative impacts. No public utilities would be impacted. The majority of the house still meets the required setback.

2. *The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.*

Staff's Finding: Staff finds no negative effects from this proposal on the areas adjacent to the property. This property is in a group of only 4 other lots so the location of this house 4' closer will not create an adverse impact on adjacent lots.

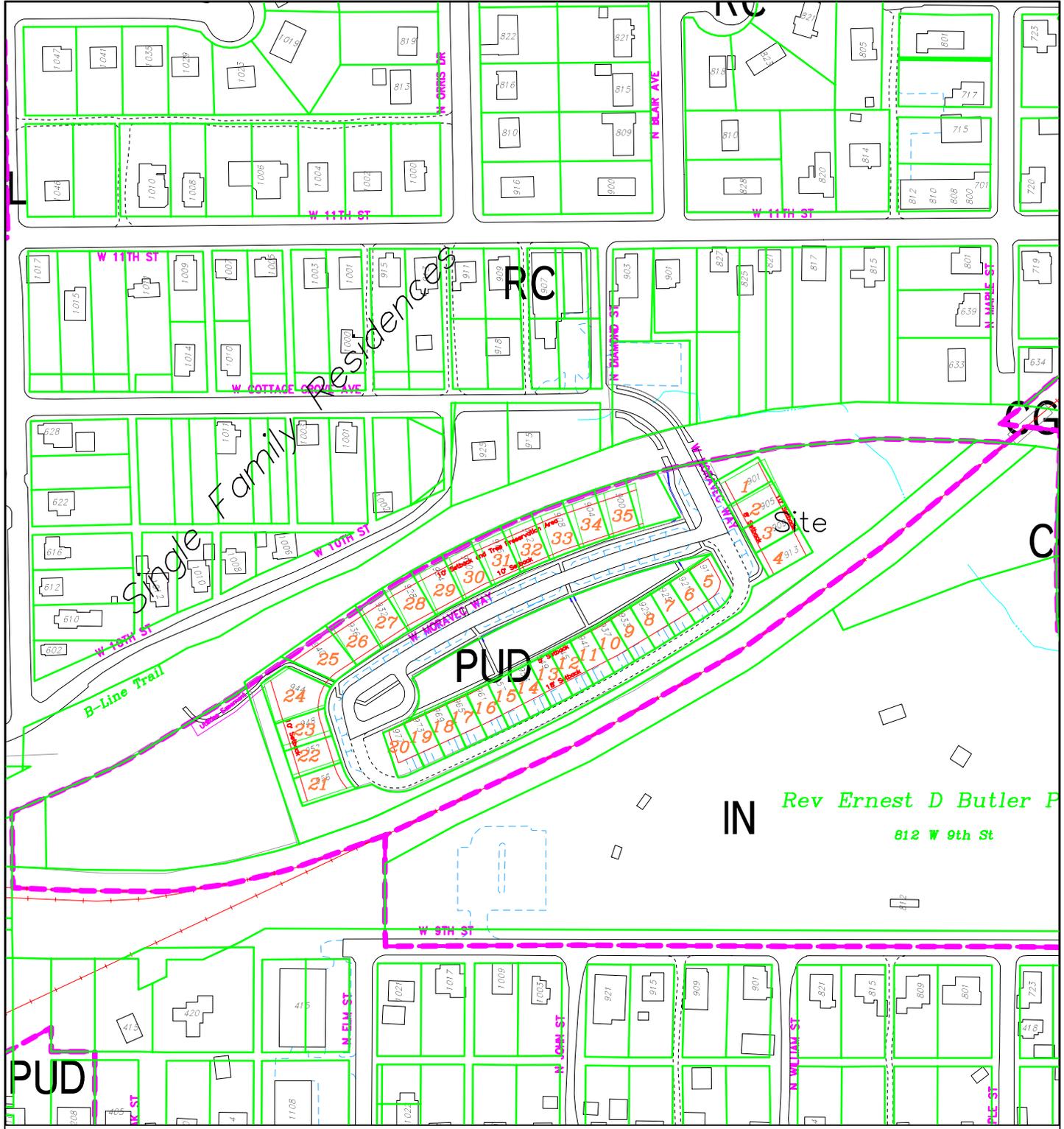
3. *The strict application of the terms of the Unified Development Ordinance will result in practical difficulties in the use of the property; that the practical difficulties are peculiar to the property in question; that the variance will relieve practical difficulties.*

Staff's Finding: Although staff does not find any practical difficulties in the use of the property, staff does find the strict application of the terms of the Unified Development Ordinance would require substantial cost on the applicant's behalf to tear down and redo the concrete foundation that is under construction. The encroachment into the setback will not be highly visible or noticeable.

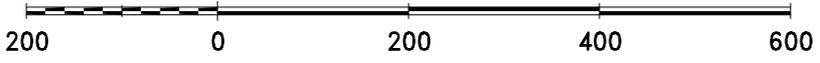
CONCLUSION: While staff does not want to encourage the practice of approving variances for builder error, the hardship of requiring the structure to be demolished would have substantial impacts on the entire residence and petitioner. The encroachment is minor and will have little visual impact.

RECOMMENDATION: Based upon the written findings above, staff recommends approval of the variance request with the following conditions:

1. This variance applies only to the existing structure under construction. Any future construction or addition must meet the 8' setback requirement.

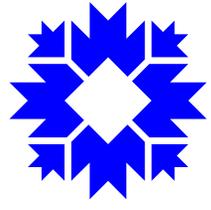


V-27-16 Habitat for Humanity
 909 W. Moravec Way
 Hearing Officer
 Site Location, Zoning, Parcels, Land Use
 By: greulice
 16 Sep 16

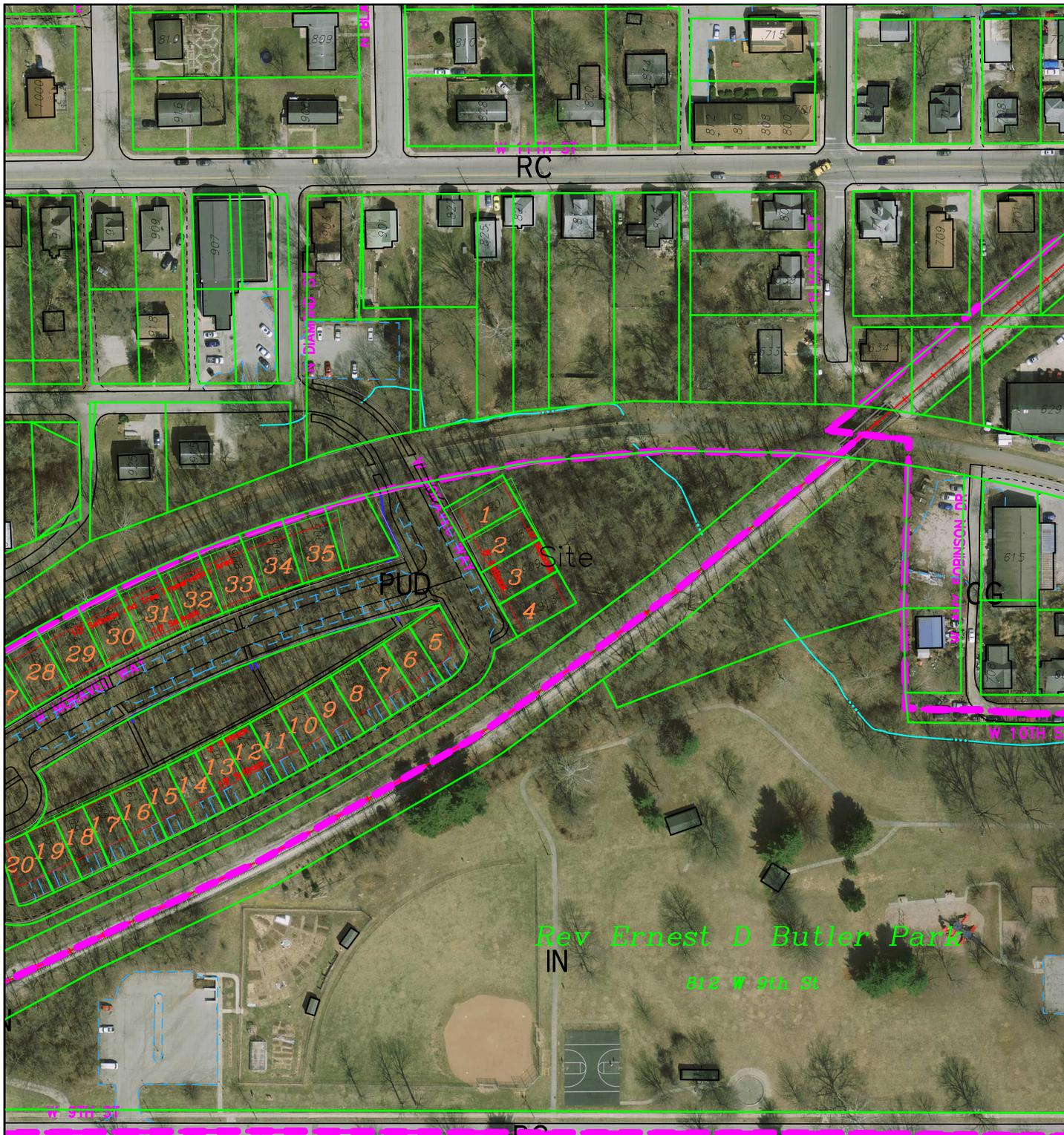


For reference only; map information NOT warranted.

City of Bloomington
 Planning & Transportation



Scale: 1" = 200'



V-27-16 Habitat for Humanity

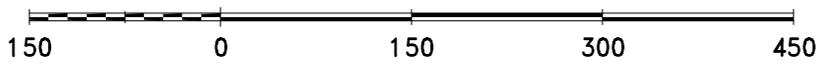
909 W Moravec Way

Hearing Officer

2014 Aerial Photograph

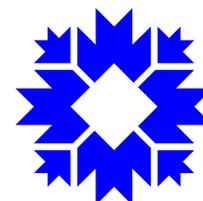
By: greulice

16 Sep 16



For reference only; map information NOT warranted.

City of Bloomington
Planning & Transportation



Scale: 1" = 150'



Habitat for Humanity is in the process of building a new 3-bedroom home at 909 W. Moravec Way in the Trail View neighborhood, off the north end of the B-Line Trail. There was an error when the foundation layout happened and the porch that extends beyond the front of the house is sitting within the 8' setback by 4'. We are requesting a variance from the front parking set back to allow a 4' setback instead of the 8' setback. The porch is the only part of the structure that would be within the setback as the house itself meets the setback requirements. The issue was not discovered until after all the foundation material was in place and the cost to correct the error would be significant at this point in the project. We expect there to be little, if any, impact on the neighbors as this house is on a short run (4) of houses.


MARCI BECKER
9-6-16

V-27-16
Petitioner Statement

213 E. Kirkwood Avenue, Bloomington, IN 47408-3532 USA

Phone: (812) 331-4069 Fax: (812) 336-6022 www.monroecountyhabitat.org habitat@monroecountyhabitat.org

