

CITY OF BLOOMINGTON



March 18, 2021 @ 5:30 p.m.

Zoom Meeting:

<https://bloomington.zoom.us/j/93936834993?pwd=dmlxVTVyK21XQzNYeE15SFRYN002UT09>

**CITY OF BLOOMINGTON
BOARD OF ZONING APPEALS
March 18, 2021 at 5:30 p.m.**

❖ **Virtual Meeting:**

<https://bloomington.zoom.us/j/93936834993?pwd=dmIxVTVvK2lXQzNYeEI5SFRYN002UT09>

ROLL CALL

APPROVAL OF MINUTES: None at this time

REPORTS, RESOLUTIONS, AND COMMUNICATIONS:

ELECTION OF OFFICERS:

- Current President: Barre Klapper
- Current Vice-President: Jo Throckmorton

PETITION WITHDRAWN:

V-29-20 **The Standard at Bloomington, LLC**
301 E. Brownstone Dr.
Request: Variance from buffer yard setback requirements.
Case Manager: Eric Greulich

PETITIONS CONTINUED TO: April 22, 2021

CU/V-19-20 **Robert Iatarola**
1504 W. Arlington Rd.
Request: Conditional Use approval for a Home Occupation in the R2 zoning district. Also requested are variances to allow a Home Occupation to be located within an accessory structure and to allow deliveries (of pallets) to the property.
Case Manager: Ryan Robling

PETITIONS:

V-01-20 **Dex and Kelly Conaway**
1358 E Mercedes Dr.
Request: A variance to allow a fence in excess of four feet forward of the front building setback line along the lot frontage of the secondary front building wall.
Case Manager: Ryan Robling

****Next Meeting: April 22, 2021**

Auxiliary aids for people with disabilities are available upon request with adequate notice. Please call [812-349-3429](tel:812-349-3429) or e-mail human.rights@bloomington.in.gov.

BLOOMINGTON BOARD OF ZONING APPEALS
STAFF REPORT
Location: 1358 E. Mercedes Dr.

CASE #: V-01-21
DATE: March 18, 2021

PETITIONER: Kelly and Dex Conaway
 1358 E. Mercedes Dr., Bloomington

REQUEST: A variance to allow a fence in excess of four feet forward of the front building setback line along the lot frontage of the secondary front building wall.

SITE DESCRIPTION: This 0.30 acre property is located at 1358 E. Mercedes Dr. and is zoned (R2) Residential Medium Lot and has been developed with a “dwelling, single-family” structure. The surrounding properties to the north, south, east, and west are all zoned R2 and have been developed with “dwelling, single-family” structures. The property is fronted by both E. Mercedes Dr. to the north and S. Allendale Dr. to the east, with S. Allendale Dr. serving as the secondary front.

The petitioners are proposing to construct an 8 foot tall fence intended to protect their currently existing food garden plot from animals. The entire fence is proposed to feature voids and solids and be of open construction. The proposed fence will run along a portion of the western property line, north of the southern property line, 6 feet from the eastern property line, and will be even with the southern wall of the primary structure to the north. 9 feet of the proposed fence along the eastern property will be forward of, east of, the front building setback line along S. Allendale Dr.

The Unified Development Ordinance (UDO) allows that fences intended exclusively to protect food garden plots from animals shall not be more than 12 feet in height, unless otherwise restricted in the UDO. On corner lots in the R2 district, the UDO does not allow portions of a fence along the lot frontage of the secondary front building wall to exceed four feet forward of the building setback line. The R2 district has a front building setback of 15 feet or the median front setback of abutting residential structure whichever is less. The front building setback for 1358 E. Mercedes Dr. is 15 feet. The proposed fence will encroach roughly 9 feet into the front building setback and will exceed the 4 foot maximum. While fences are allowed in that area, the height in excess of 4 feet requires a variance. The petitioner is requesting to allow a fence in excess of four feet forward of the front building setback line along the lot frontage of the secondary 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; and*

PROPOSED FINDING: No injury is found with the requested variance allowing a fence

in excess of four feet forward of the front building setback line along the lot frontage of the secondary front building wall. The fence is located well outside of the vision clearance triangle of the intersection of E. Mercedes Dr. and S. Allendale. The fence will also feature an open design allowing for visibility through the fence from the sidewalk and street.

- (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; and*

PROPOSED FINDING: Parking Setback: The use and value of the area adjacent to the property are not expected to be substantially affected as a result of the requested variance. The property and all of the surrounding uses are developed as “dwelling, single family.” The current use on the property will continue. The portion of the fence which will require a variance does not abut an adjacent property. Food garden plots are not uncommon in the R2, and the UDO acknowledges and encourages fences to protect them from deer and other animals.

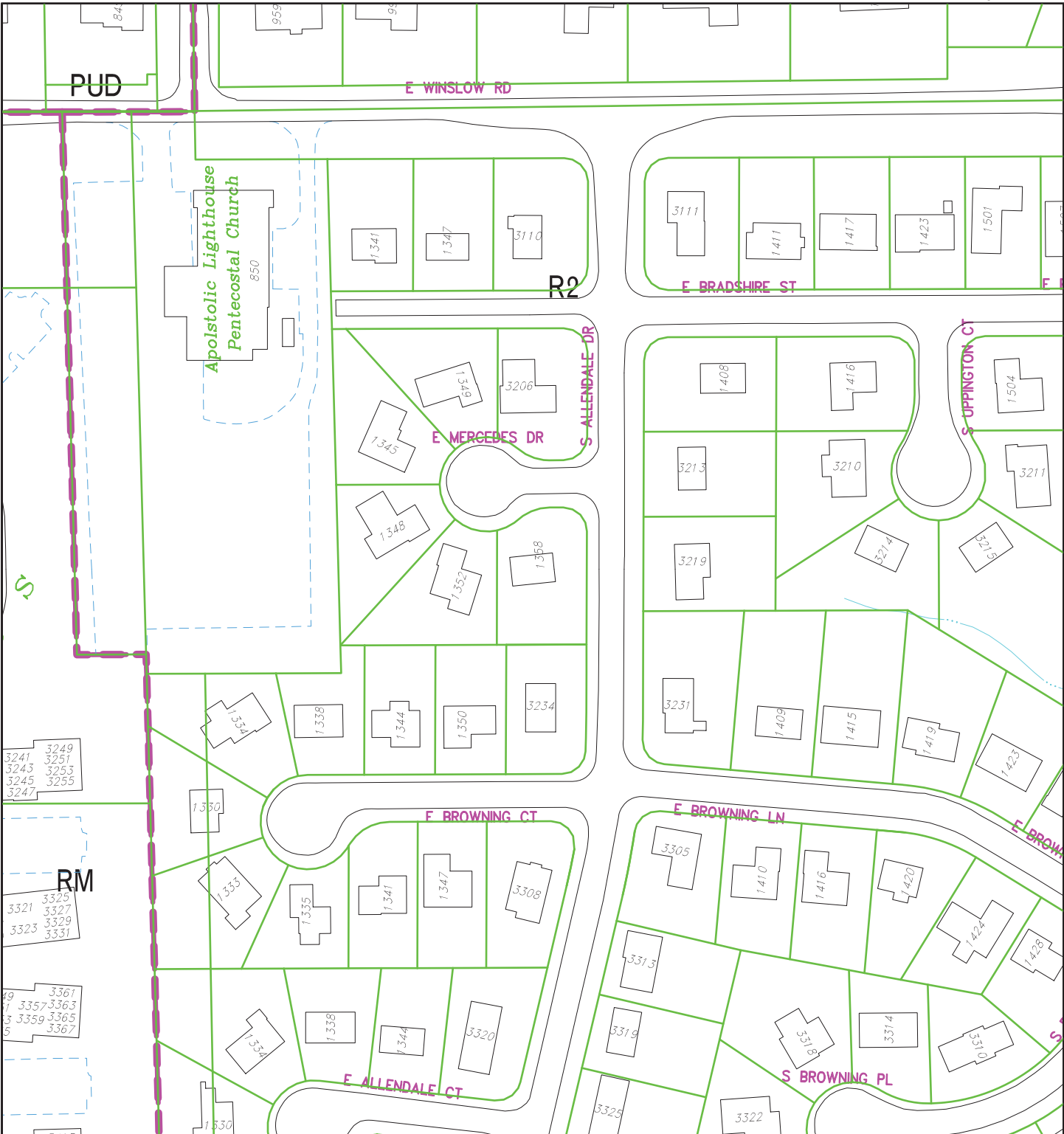
- (3) *The strict application of the terms of the Unified Development Ordinance will result in practical difficulties in the use of the property; that the practical difficulties are peculiar to the property in questions; that the development standards variance will relieve the practical difficulties; and*

PROPOSED FINDING: Practical difficulty is found in the required 4 foot maximum height forward of the front building setback line along the lot frontage of the secondary front building wall. Fences intended exclusively to protect food garden plots from animals are specifically permitted to exceed most height restrictions within the UDO. This allowance for additional height is not extended to portions of corners lots along the lot frontage of the secondary front building setback line. Due to the peculiar conditions on this property, discussed below, locating a food garden plot with a fence adequate to deter deer and other animals is difficult. The petitioners have attempted to install and utilize permitted deer deterrents to protect the current food garden plot but have found none to be successful.

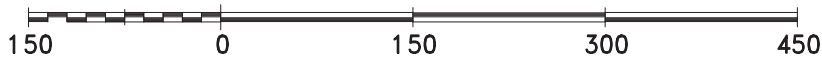
Peculiar condition is found in the location of a large maple tree in the southwestern portion of the property. This large maple tree shades much of the property and prevents adequate light from reaching a majority of the property behind the primary structure. The entire property south of the primary structure is roughly 6,250 sq. ft. The dripline of the tree covers more than 47% (2,950 sq. ft.) of the southern portion of the property. This leaves only 53% of the southern portion of the property uncovered, or partially uncovered by the large maple tree’s canopy. However, 5,200 sq. ft. of the southern portion of the property falls between the front building setback and the front property line along S. Allendale Dr. further reducing the eligible space for the location of a food garden plot which is also protected from deer and other animals. The large maple tree and the location of the house on the lot combine to reduce the usable food garden plot area to the point where the petitioners needed to locate the plot in an area where a code-compliant fence could not protect the plot from deer and other animals. As a result, a variance is needed.

RECOMMENDATION: Based upon the written report, the Department recommends the Board of Zoning Appeals adopt the proposed findings and approve V-01-21 with the following conditions:

1. The entirety of the fence forward of the front building setback line along the lot frontage of the secondary front building wall will be of open construction as shown in the drawings.
2. The fence height of the fence forward of the front building setback line along the lot frontage of the secondary front building wall will not exceed 8 feet in height.
3. If the food garden plot is removed the portion of the fence forward of the front building setback line along the lot frontage of the secondary front building wall that exceeds 4 feet shall be removed.

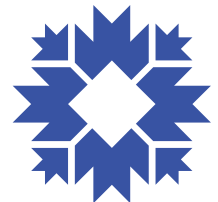


By: roblngr
12 Mar 21

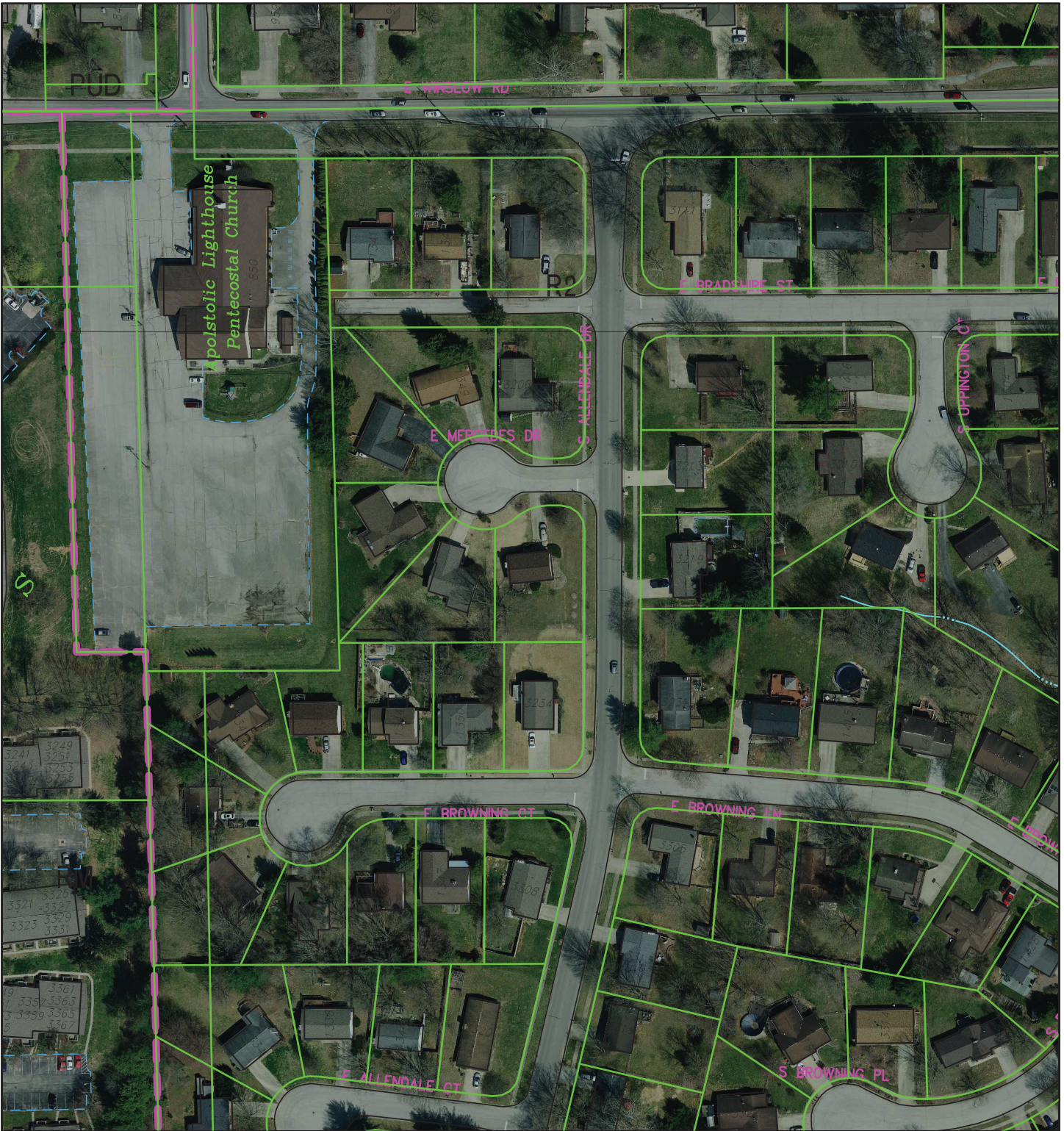


For reference only; map information NOT warranted.

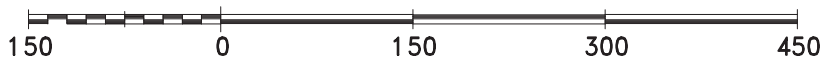
City of Bloomington
Planning



Scale: 1" = 150'

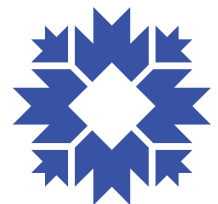


By: roblingr
12 Mar 21



For reference only; map information NOT warranted.

City of Bloomington
Planning



Scale: 1" = 150'

Conaway

1358 E Mercedes Dr.

Bloomington IN 47401

Petitioner's Statement for Variance Request

Hello, I am requesting a variance to allow a fence in excess of four feet forward of the front building setback line along the lot frontage of the secondary front building wall.

My husband and I are both IU alumni and chose to raise our kids in this town for many reasons. The biodiversity and gorgeous hardwood forests drew us back here from Indianapolis. A close connection to nature and teaching our children how to grow their own food are lessons we find very valuable.

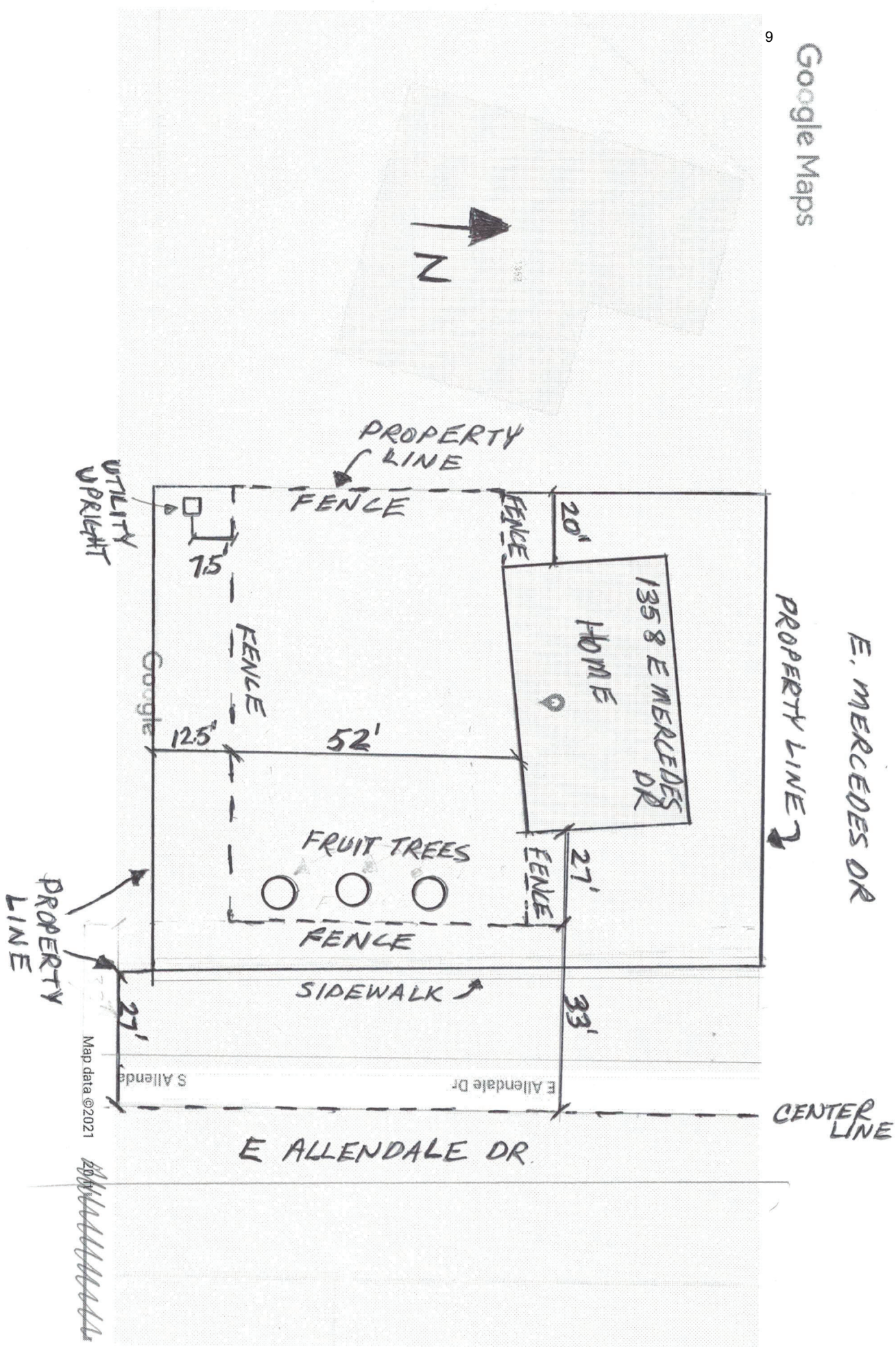
We bought the property we are currently at due to the neighborhood, the parks, and the vision of gardening in the backyard. There is a very large silver maple in the rear west side of the lot that is close to 40 years old. It's beautiful but also shades most of the backyard. Therefore, the only spot to grow any food or fruit trees is the east side of the property. The summer that we moved in we planted peach, cherry and apple trees with our kids. They are beautiful healthy trees and are also amazing pollinators. We quickly realized that Sherwood Oaks has tremendous deer pressure. They devour everything, even "deer resistant" plants. Our fruit trees have been caged but are outgrowing their cages and need fenced in order to continue to grow and produce fruits.

We are requesting an 8ft fence be erected in order to protect our fruit trees from the deer and increase the biodiversity of the neighborhood. We are hoping you will grant this variance due to:

1. The fence is starting at the rear of the house which is approximately 90 feet from Mercedes Dr.
2. The fence will be constructed out of posts and hog wire which you will be able to see through. This will not obstruct any driver or pedestrian's visual access.
3. There are only 5 other houses in the Mercedes Dr. cul-de-sac so this is not a heavy traffic area, furthermore there are no curves or hills on this stretch of Allendale so pulling out is not a difficult maneuver.
4. The particulars of this property are the very large silver maple at the rear west side of the lot. We want to preserve this 40 year old tree, but it severely limits the full sun exposure of the backyard. Our space is limited for growing food to the rear east side of the lot.

Thank you for your time and consideration.

Kelly Conaway



E. MERCEDES DR

PROPERTY LINE

CENTER LINE

1358 EMERLEN DR

HOME

PROPERTY LINE
FENCE

UTILITY UPRIGHT

75

FENCE

52'

125'

FRUIT TREES

FENCE

FENCE

20'

FENCE

27'

33'

SIDEWALK

S Allendale Dr

E Allendale Dr

E ALLENDALE DR

PROPERTY LINE

Map data ©2021



DEX CONAWAY
 SITE PLAN
 1358 EMERLEN DR
 BLOOMINGTON, IN 47401

