

AGENDA

WYOMING ZONING BOARD OF APPEALS

CITY COUNCIL CHAMBERS

Monday, July 21, 2025 – 1:30 P.M.

1. Call to Order
2. Roll Call
3. Approval of Minutes
4. Public Hearings

Application Number: PZV2025-0002
Applicant: Bruce Philpott
Location: 3634 Michael Ave SW
Parcel Number: 41-17-23-131-013
Previous Variances: V110173 (Approved)

Request: The applicant is requesting a variance for Section 90-312(2), which limits the maximum height of fences to 6 feet. The applicant is also requesting a variance for Section 90-312(3), which restricts the maximum height of fences to 3 feet within the first 10 feet of the secondary front yard.

The applicant is requesting to exceed height restrictions for a 6 foot 7 inch fence that is located 3 feet from the secondary front yard lot line.

5. Public Comment
6. Election of Officers
7. Informational Items

THESE MINUTES ARE SUBJECT TO FORMAL APPROVAL BY THE WYOMING BOARD
OF ZONING APPEALS AT ITS NEXT REGULAR MEETING.

BOARD OF ZONING APPEALS
MEETING MINUTES OF JULY 7, 2025
CITY COUNCIL CHAMBERS
CITY OF WYOMING, MICHIGAN

MEMBERS PRESENT: Buist, Burrill, Hall, LaPlaca, Tobian, VanderSluis, Yonkers

MEMBERS ABSENT: Richter, VandenBerg

STAFF PRESENT: Hofert, Director, Community & Economic Development
Smith, Assistant Director, Community & Economic Development
Ortlieb, Recording Secretary

CALL TO ORDER

Chair VanderSluis called the meeting to order at 1:30 PM.

A motion was made by Burrill, supported by Hall, to excuse Richter and VandenBerg.

APPROVAL OF MINUTES

The minutes of December 2, 2024 were approved to stand as read.

APPROVAL OF AGENDA

The agenda was approved to stand as read.

AGENDA ITEM NO. 1

Application Number: PZV2025-0001

Applicant: ECA Properties LLC

Location: 2829 Division Ave S

Parcel Number: 41-17-13-226-048

Secretary Burrill read the request. The applicant is requesting a variance for Section 90-2017, which limits the size of wall signs to a maximum of 48 square feet in the FBC-CG Form Based Code Corridor General Context Area. The applicant is requesting to exceed the wall sign limit by 78 square feet, for a total sign size of 126 square feet.

Chair VanderSluis opened the public hearing.

The owner of the business making the request Pablo Rodriguez (1349 Old Oak Hill Drive, Ada, MI 49301) spoke on behalf of his request.

Rodriguez thanked the board for hearing his variance request. He explained that the building for his business Rodriguez Supermarket is currently under construction. When the building plans were submitted for review, he mistakenly thought the sign was approved when the building plans were approved; he explained that he now understands there is a separate permitting process for signs.

Rodriguez stated that the building currently under construction is an old Walgreens which had a sign significantly larger than what his business is requesting. He was under the assumption that his sign would be approved based on the comparison to the Walgreens sign.

Rodriguez is looking to enhance the corner of Division Avenue and 28th Street with the alteration of the building and the opening of his store. He also stated that he believes in the importance of zoning rules in line with a community's master plan. He would not ask the board to consider a variance of a zoning ordinance that would have a negative impact on the aesthetic of the community or surrounding area.

Rodriguez acknowledged that the existing pylon sign on the property is existing non-conforming and would not be allowed to be erected again if it were torn down. However, he stated that the sign offers limited visibility depending on the direction of travel. Additionally, the large trees along 28th Street are blocking the visibility of the sign.

Rodriguez explained that the sign he would like to install was chosen for aesthetic and safety reasons. He emphasized that he wanted a sign that was easy to read while traveling down the road. In Rodriguez's opinion, the size of a sign allowed under the zoning ordinance would be small and difficult to read, as well as disproportionate to the size of the building.

Michael Bunch with Pinnacle Construction Group (11078 Estate Court, Allendale, MI 49401) spoke on behalf of the applicant. He wanted to highlight the unique differences between the Rodriguez Supermarket building and the other buildings along the Division Avenue corridor that also fall within the form-based code.

Bunch explained that the building is set back much further from the street compared to other buildings; he could find only one other building in the area that has a similar set back. He also highlighted the tree canopy requirement and stated other areas along the corridor do not have those same requirements; the trees create a visibility hinderance for both the proposed building wall sign and the existing pylon sign.

Bunch stated that the bus stop on the corner of Division Avenue and 28th Street also creates a unique situation for this parcel. The location of the Silver Line bus stop increases foot traffic and restricts visibility. Bunch stated that allowing a sign larger than 48 square feet is necessary for motorists to identify and read the sign safely, especially with the increased pedestrian foot traffic of the bus stop. Bunch believed that these elements satisfy the first requirement of the variance process.

Chair VanderSluis thanked Rodriguez and Bunch for speaking.

There being no further remarks, Chair VanderSluis closed the public hearing.

Smith spoke to the board. To start, Smith shared a personal note that he and his family frequent Mr. Rodriguez's other stores and stated that the City of Wyoming is very excited about the new location opening in the City.

Smith spoke to the board to address the reasoning for the code section being referenced. The applicant is requesting a variance for Section 90-2017, which limits the size of wall signs to a maximum of 48 square feet in the FBC-CG Form Based Code Corridor General Context Area. The applicant is requesting to exceed the wall sign limit by 78 square feet, for a total sign size of 126 square feet.

Smith provided a view of the applicant's parcel (2829 Division Ave S). He highlighted where the business would like to install the proposed signs on the exterior walls of the building parallel to Division Avenue and 28th Street. He also highlighted the location of an existing nonconforming pylon sign at the corner of Division Avenue and 28th Street.

Smith presented the City staff's Findings of Fact.

1. That there are exceptional or extraordinary circumstances or conditions applicable to the property or to the intended use that do not apply generally to other property or class of use in the same vicinity and district because:

This property is not exceptional or extraordinary in its circumstances or conditions. The building and its location are typical for a mid-sized commercial property with parking located around the site. Central building placement is not only typical for commercial properties, both in Wyoming and beyond, but this is the historic building pattern that is common to most commercial properties in the area.

Per section 90-328, all developments are required to provide 1 tree for every 50 feet of frontage or fraction thereof. Property owners are encouraged to trim and maintain those trees appropriately, but it is not exceptional or extraordinary for trees to partially obstruct the signage of a commercial property.

Likewise, public transit stops can be found throughout the city. Public transportation stops are a typical part of the urban environment.

The only atypical element of the applicant's site is the existing nonconforming pylon sign. Pylon signs are not permitted in the form-based code and any pylons signs currently in use within the form-based code districts are considered existing nonconforming. These signs may be refaced or repaired. The applicant's pylon sign is 75 sq ft, visible from the intersection, and located above landscaping elements and the bus stop. This sign provides significant brand visibility along both street frontages.

The applicant contends that there is a hazard to motorists if there are not large wall signs on the property. All motorists are expected to operate their vehicles safely and at appropriate speeds. The form based code provides for several types of signs to provide for both brand awareness and navigation, including directional signs that identify appropriate entrances and exits for the property. Without any exceptional or extraordinary elements making it more difficult for prospective customers to identify the applicant's property or locate entrances to the applicant's parking lot, there is not indication that safety is a greater concern for the applicant's property.

2. That such variance is necessary for the preservation and enjoyment of substantial property rights because:

The applicant currently has a variety of signage options available to promote their business, including the existing nonconforming pylon sign. Pylon signs are not permitted in the form-based code, but property owners are allowed to use existing nonconforming pylon signs so long as they are in continuous use and kept in good repair. The property owner's existing nonconforming pylon sign is visible from more than 775 feet along 28th Street from the west, 450 feet along 28th Street from the east, 350 feet along S Division Avenue from the north, and 440 feet along S Division Avenue from the south. This is a sign type unavailable to most business owners along the 28th Street or S Division Avenue commercial corridors and provides significant visibility along both street frontages.

Additionally, the form-based code is not overly prescriptive as to wall sign location. If there are obstructions that impact the effectiveness of a particular wall sign, the property owner has the freedom to relocate that wall sign to maximize its efficacy. The property owner may also trim or replace landscaping elements, including required street trees, to increase the visibility of their signage.

The site plan for this development was approved administratively on October 1, 2024. This approves the general development plan and allows the developer to pull permits for the implementation of the project. Planning approval does not include sign quantity or size approval, and all signs are subject to the sign code. The applicant had the opportunity to verify the maximum sign size for the building at any point in the development process with the building

inspector that reviews sign permits. City staff work with current and prospective business owners to develop sign packages that include an appropriate variety of sign types to meet the needs of each property and use.

3. That the granting of such variance will not diminish the marketable value of adjacent land and improvements, or unduly increase congestion in the public streets because:

A sign that exceeds the maximum square footage for a wall sign would diminish the marketable value of adjacent land. All parcels located along Division Avenue S north of 50th Street SW are zoned FBC Corridor General. Permitting the variance would increase the value of 2829 Division Avenue S by allowing larger signage for any use, thereby impairing the value of nearby properties that are also subject to the same sign code with no relief.

While the previous wall signs at this location exceeded current code requirements, they met the sign code at the time of implementation and were considered an existing nonconformity when the sign code was updated. Existing nonconforming signs may be refaced but may not be replaced. For the existing nonconforming pylon sign with a rectangular sign shape, refacing is a straightforward task and the sign can easily be adapted to the new business owner's brand. The wall signs are more complicated because the new business owner's brand does not easily fit the previous business owner's sign cabinets. The differences in logos designs necessitate new sign cabinets and that means that those signs must be brought into conformity with the form-based code. Allowing this property to maintain the same wall sign size while any other properties must conform to the sign code would also impair the value of those properties in comparison.

4. That the condition or situation of a specific piece of property, or the intended use of said property, for which the variance is sought is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such condition or situation because:

The condition for which this variance is sought is general and recurrent in nature. Large commercial buildings located central to the parcel exist throughout the city, and site aspects such as bus stops, trees, and parking lots are also commonplace. It is also not unusual for new developments to request greater signage—whether in size or quantity—than allowed by the City's zoning code. Planning and Inspections staff work closely with these applicants to develop sign packages that meet the business owners' needs and also comply with the City's zoning codes. Without an exceptional or extraordinary element on the applicant's site, granting relief from this provision of the form-based code could establish a broad precedent and therefore would be a policy decision better left to Planning Commission and City Council.

In summary, Smith revisited each of the four criteria and noted that each recommended denial, and therefore the City recommended denial of the variance request.

Chair VanderSluis had multiple questions for City staff. VanderSluis asked where directional signs could be placed and asked what brand identification can be on those signs. Smith responded that directional signs can have brand colors and a small logo. They are smaller signs and can be placed near each entrance of the property at eye level. VanderSluis asked if the existing trees could be cut down and replaced with smaller trees. Smith responded yes, this is an option; trimming the existing trees is also an option open to the business. VanderSluis asked if the City could consider allowing the business to alter the existing Walgreens sign boxes slightly so they can be used. Smith responded that the business would have to use the exact shape of the existing sign boxes, so using them would be difficult in this instance.

Tobian also had questions about the existing Walgreens sign boxes and the possibility of the business using them for their own sign. Tobian asked if Walgreens needed a variance for their sign when it was installed. Smith responded that the Form Based Code was established in this area around 2016; Walgreens predated the implementation of the code, so their sign did not require a variance. The wall signs and pylon sign is existing nonconforming.

Yonkers had a question regarding the pylon sign. He asked if the pylon sign could be altered to become a rotating sign to allow for more visibility. Smith responded that the sign cannot be changed. Additionally, signs that move or flash are specifically prohibited in the code.

Buist asked if removing the existing nonconforming pylon sign would be advantageous to the City at this point. Smith responded that removing the sign would bring the property closer to complying with the code. However, if the City agreed to allow the larger wall signs with the removal of the pylon sign, they would be creating a precedent for larger wall signs that staff would struggle with in the future. Smith added that he did not want to advocate for the removal of the already existing pylon sign.

Burrill has multiple questions for City staff. Burrill asked where the DDA was located along 28th Street. Smith responded that the DDA goes down 28th Street to Division Avenue. Burrill wondered if the tree canopy requirement came from the business' location within the DDA. Smith responded that the requirement was City wide in commercial and industrial areas. Burrill asked what types of trees were required and if a different type of tree might interfere less with visibility. Smith responded that he wasn't familiar with the various types of trees allowed per the City regulations and added that there are a variety to choose from. Burrill sought to compare a business at 54th Street and Division Avenue that has a larger sign than the one proposed by the applicant. He asked if a variance had been granted for that particular sign. Smith responded that he wasn't familiar with the property because it pre-dated his time with the City. Burrill asked if there were any provisions in the form based code to give relief to nonconforming businesses set further back from the road to allow for bigger signage. Smith responded that there is no relief currently and added that this would be an excellent text amendment for the Planning Commission to vote on. Burrill asked if there was any relief possible for the business based on time, i.e. the business is granted relief because they occupied the space within a certain time frame after Walgreens was closed. Smith responded that time-related existing nonconformity compliance is possible for certain situations but signs are exempt.

Tobian had a question and asked if the City took into consideration the “dead space” of the sign. Smith replied that the code is written clearly and that the City is applying the same rule to all signs.

LaPlaca asked for examples of conforming elements in the area. He clarified that it can be difficult to be the first business in an area after a new code is adopted. He stated that there are many pylon signs or larger wall signs along the corridor that the business highlighted in their request that would also be considered existing nonconforming. Smith agreed that there are more pylon signs along the north end of the area compared to the south. Smith stated that this situation is a natural part of the transition for redevelopment that results in more properties being in compliance with the code. The code tries to minimize the disruptive effects of those changes over time, e.g. a building does not have to be fully brought up to code if it is being altered only slightly. However, Smith stated, signage easier to bring up to code and the City strives to bring the area into compliance in a way that respects the needs of businesses while also bringing the area closer to the vision the residents give the City in regards to the form based code.

A motion was made by LaPlaca, supported by Buist to deny the variance request based on the City staff's Findings of Fact.

The Chair invited the discussion of the variance request.

Buist stated that this type of potential change to code is a more appropriate decision for the Planning Commission. He appreciates bigger signage and states that this is a difficult decision, but the precedence approving this variance request would be concerning. He made a comparison to a past decision regarding sign size that may have been too small, so he encouraged the Planning Commission to consider code changes for sign size in the future.

LaPlace agreed with Buist and stated that this Board can do very little in regards to allowing a variance that could create a precedent that could have potential negative effects in the future. He also encouraged the Planning Commission to consider exploring changes to the code.

Hall stated that there are a number of redevelopment projects beginning to happen along this corridor. He emphasized that there will significant investment in the area. The problem he heard while listening to Board discussion regarding this specific proposal was with the form based code. Although he empathized with the applicant, out of fairness for the rest of the properties within the approved form based code.

Tobian commented that this is a difficult decision because the applicant's business is bettering the area, but the guidance should be followed.

A vote on the motion to deny the variance was called. Burrill, Hall, LaPlaca, Tobian, VanderSluis, and Yonkers voted in favor. Buist voted against. The variance was denied.

PUBLIC COMMENT

Chair VanderSluis opened the public hearing.

Rodriguez spoke to the board and stated that he accepted the board's decision. He emphasized that he is still excited to do business in the City of Wyoming. He spoke to his history in the area as a business owner who invested and improved the communities he opened businesses in. He stated that he does feel his business will be disadvantaged with a smaller sign compared to other businesses in the area. He added that he is passionate about making the area better in many ways. Rodriguez appreciated the role of the board regarding this decision.

Chair VanderSluis closed the public hearing.

INFORMATIONAL ITEMS

Smith informed the board that there will be a hearing on July 21 regarding a fence with Nicole Hofert acting as staff representative. He also stated that elections will be held at the upcoming meeting and that there will be some new members joining the board.

Burrill asked if the variance request before the board on July 21 is similar to past applications regarding fences and, if so, asked for previous request examples. Smith responded in the affirmative and assured the board that previous examples will be highlighted in the meeting documents.

Tobian requested a list of board members to prepare for the upcoming elections. Smith stated that information will be provided to the board ahead of the next meeting.

VanderSluis had a question regarding the departure of Buist, specifically regarding the nature of reaching his term and tenure limit; he was unfamiliar with this reason for leaving the board. Smith explained that City Council set a policy within the last few years for the good of the community to rotate members off and on boards to ensure a variety of community members get the opportunity to provide public service. There are guidelines for how long a member can serve, given there is a replacement available. Smith stated that Vice Chair Buist has served admirably for 10 years; his term ended on June 30, 2025, while his tenure expired last year.

Tobian asked for information about term length and tenure limits. Smith stated that this information would be sent out to members.

Smith stated that Hall would also leave the board. Smith explained that LaPlaca is being appointed to the Planning Commission and that only one member of the board can be on both Planning Commission and the Board of Zoning Appeals. Therefore, Hall will step down as his role of dual member and LaPlaca will take his place.

Burrill asked if these changes were a result of state law or City Council policy. Hofert stated that these changes were dictated by state law, specifically the Michigan Zoning Enabling Act.

VanderSluis wanted clarification of the policy. Smith stated that if there was no valid applicant at the time a member's term and tenure is ending, that member would be asked to continue serving as long as they are willing.

VanderSluis thanked Buist and Hall for their service. He stated that they have done an excellent job serving on this board and that they will be missed. He also complimented Smith on the City's preparation for this meeting. Although the application was denied, he hoped the applicant appreciated the thorough presentation from the City for their reasoning.

ADJOURNMENT

The meeting was adjourned at 2:16 PM.

Dan Burrill, Secretary
Board of Zoning Appeals

Kathleen Ortlieb, Recording Secretary
Board of Zoning Appeals

WYOMING ZONING BOARD OF APPEALS

AGENDA ITEM

NO. 1

BZA MEETING DATE: July 21, 2025

APPLICATION NUMBER: PZV2025-0002

APPLICANT: Bruce Philpott

LOCATION: 3634 Michael Ave SW, Parcel Number 41-17-23-131-013

I. Application Materials

- a. Application
- b. Narrative
- c. Site Plan
- d. Site Pictures

II. Findings of Fact



COMMUNITY AND
ECONOMIC DEVELOPMENT

1155 28th Street SW, Wyoming, MI 49509
616.530.7285 | wyomingmi.gov

BOARD OF ZONING APPEALS – APPLICATION FOR REVIEW

Please contact the City Planner at 616-530-7285 or email plan_info@wyomingmi.gov if you have any questions. Applicants are encouraged to discuss the proposal with the City Planner prior to submitting to facilitate the review process. Please note that applications will not proceed for review until all required information and fees are provided.

Type of Variance Requested:

☐

Use Variance

☒

Non-Use Variance

Zoning Ordinance Section(s) Appealed: 90-312 FENCES

Brief Description of Appeal: REQUEST 10' SET BACK OF 6' FENCE TO 3' OF SIDEWALK, MAX HEIGHT TO 6' 7" DUE TO DESIGN OF FENCE AND CONTOUR OF LOT.

Address of Variance: 3634 MICHAEL AVE S.W., WYOMING 49509

Parcel Number: 411723131013

Authorization for City staff and BZA members to enter the property for evaluation:

☒

Yes

☐

No

Applicant: BRUCE PHILPOTT Property Owner: SAME

Address: 3634 MICHAEL AVE S.W., WYOMING, MI 49509 Address: SAME
SAME

Phone: 616.724.7251 Phone: _____

Email: SGT PHANUEL@AOL.COM Email: _____

Date: 16 Jun 2025 Date: _____

Signature: [Signature] Signature: _____

Filing Fee

☒

Non-Use Variance: 1 & 2 Family Uses \$275.00

☐

Non-Use Variance: All Other Uses \$525.00

☐

Use Variance: All Uses \$525.00

Total _____

Statement to address section 2 in the Non-use Variance Procedures and Regulations.

2a. The only thing that might be considered exceptional or extraordinary circumstances or conditions by some is that the owner and resident of property is a retired Veteran with 28yrs of service and 3 combat tours.

2b. This is requested to provide more safe running and play space for my dogs and privacy for my gardening hobby as Oakcrest St. as the secondary road, is a main throughfare in the neighborhood.

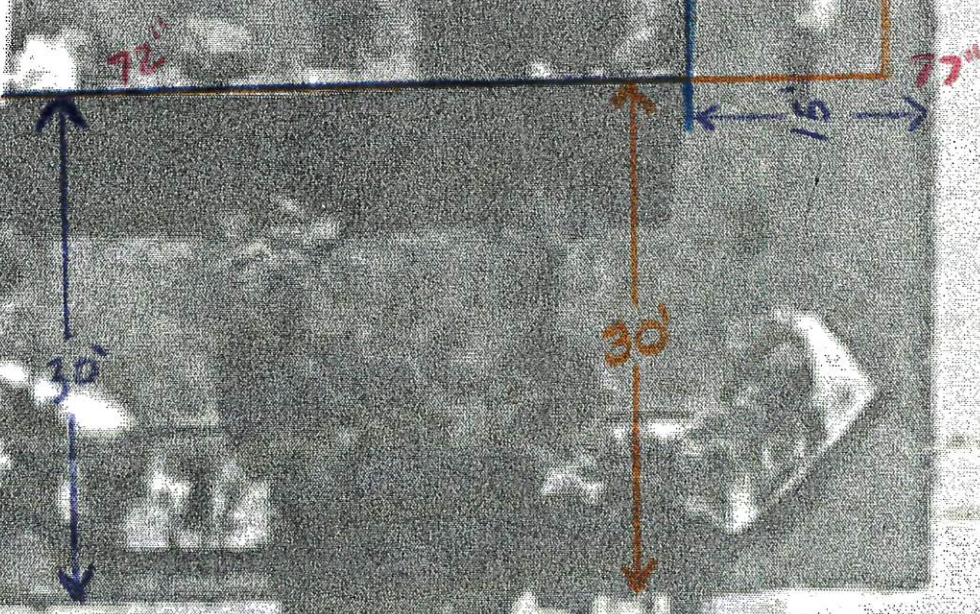
2c. This request will not diminish value or unduly increase congestion in public streets.

2d. No this is not general or recurrent.

A

Purple = Current
Orange = Requested

5684



Key to pictures and color coding.

Pictures: A. Aerial view of property.

B1. Front fence elevation view. Finished section.

B2. Front fence angle view

C1. South fence angle view

C2. South fence elevation step detail

C3. South fence elevation step detail

D1. At Stop sign left view

D2. At intersection left view

D3. At Stop sign right view

Colors: Purple Current Fence, pic A

Orange Purposed/Requested fence, pic A

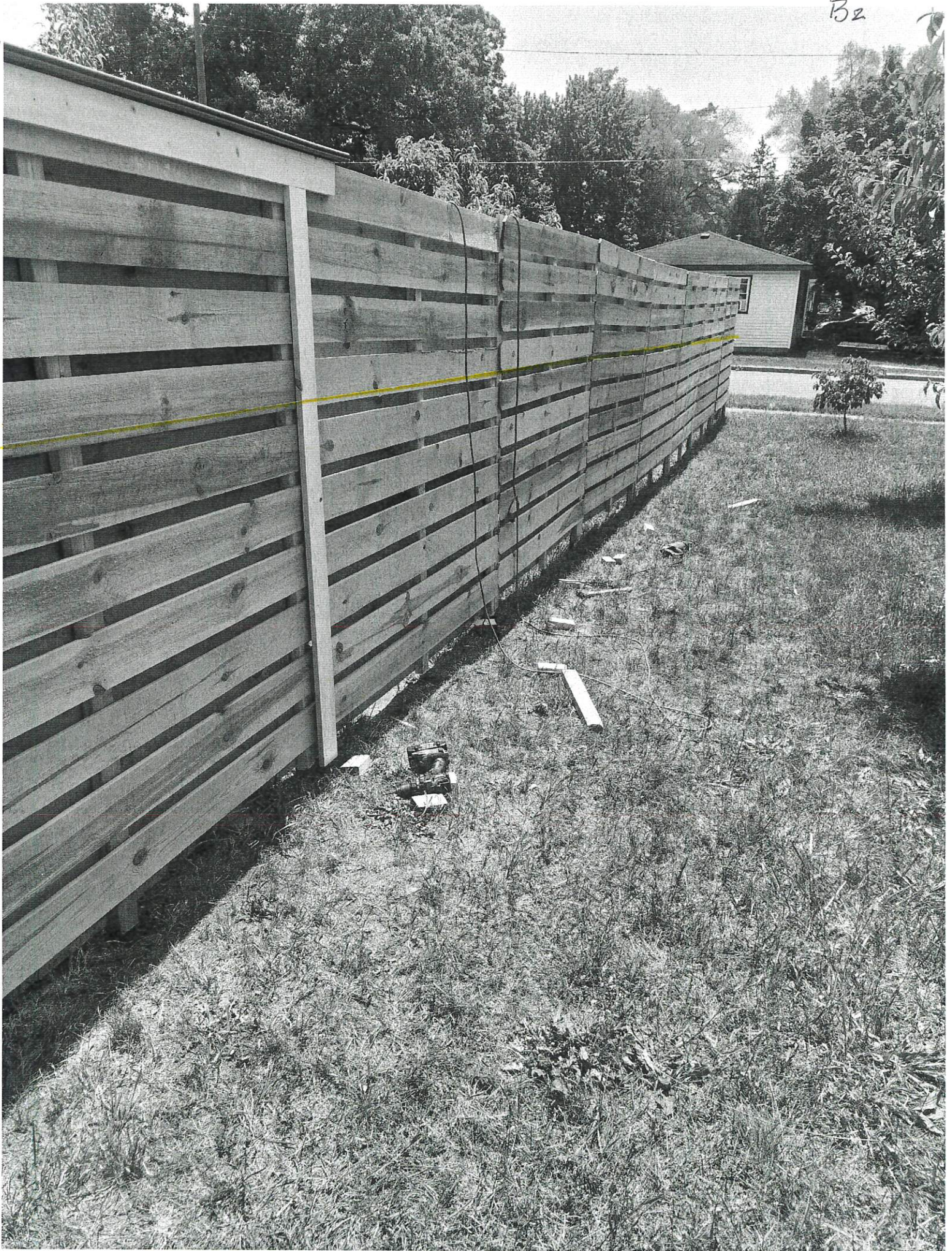
Yellow Level line, pics B1, B2, and C1

Red Approximate Measurement, pics A, B1, C1, C2, and C3

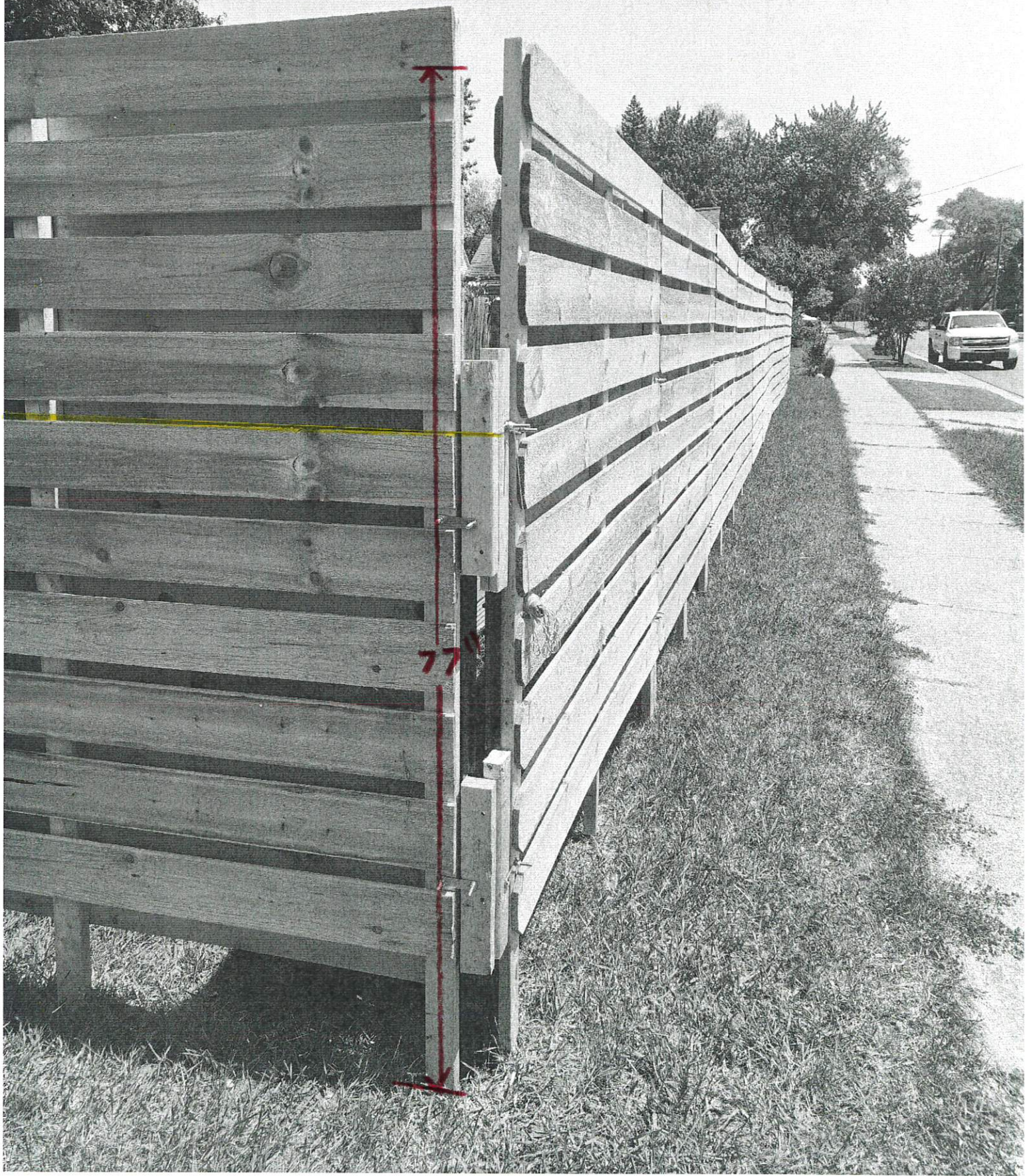
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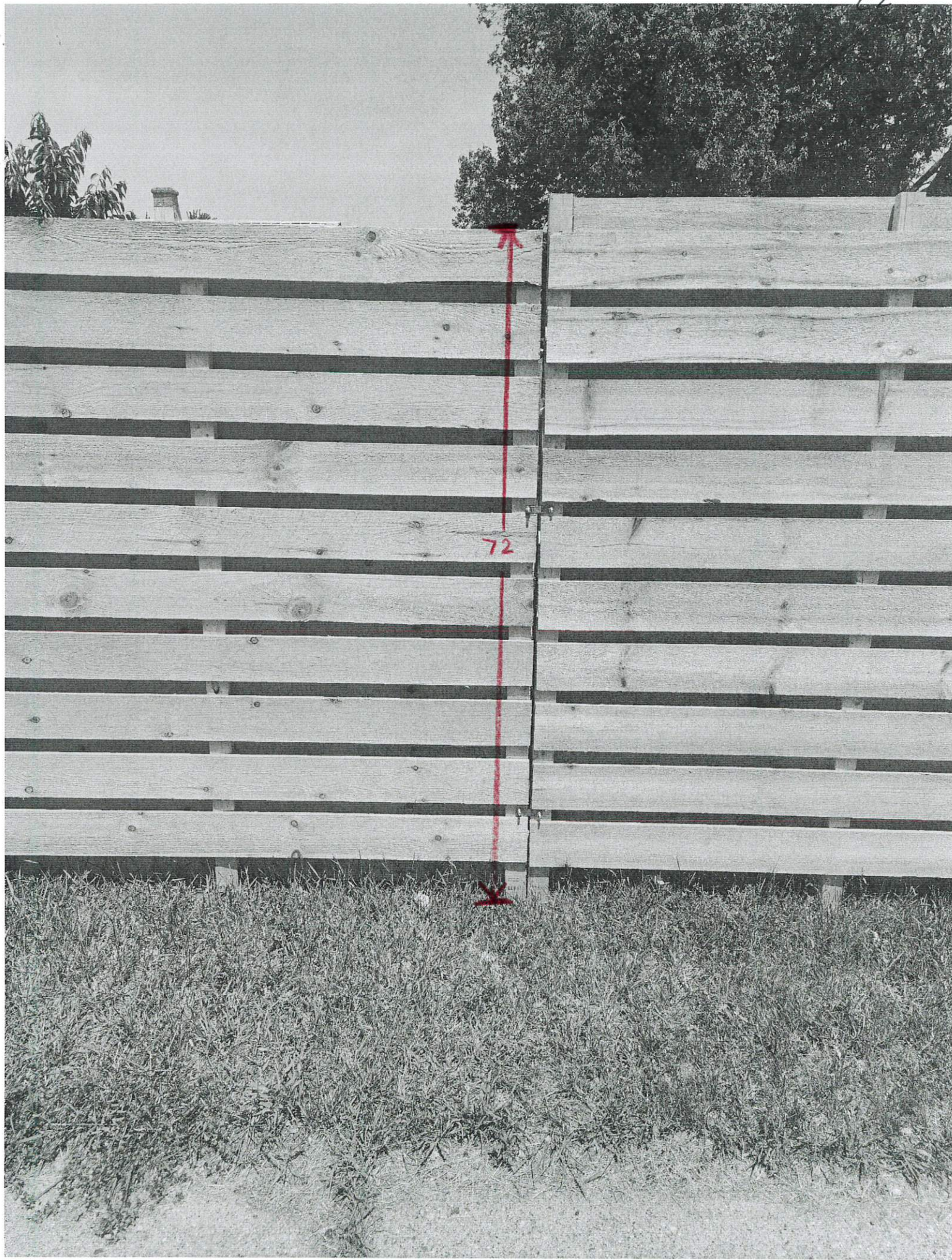


B2

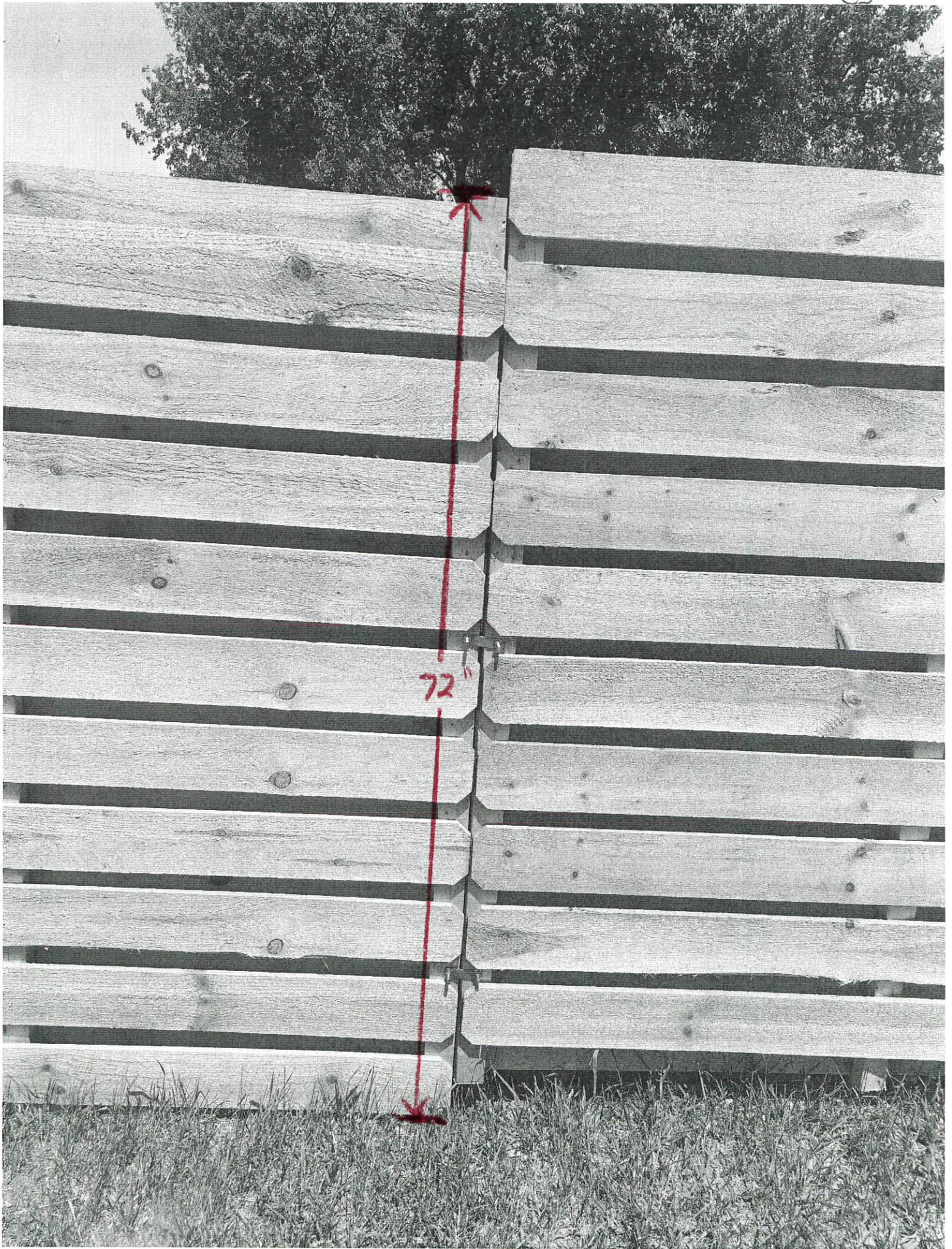


C_H



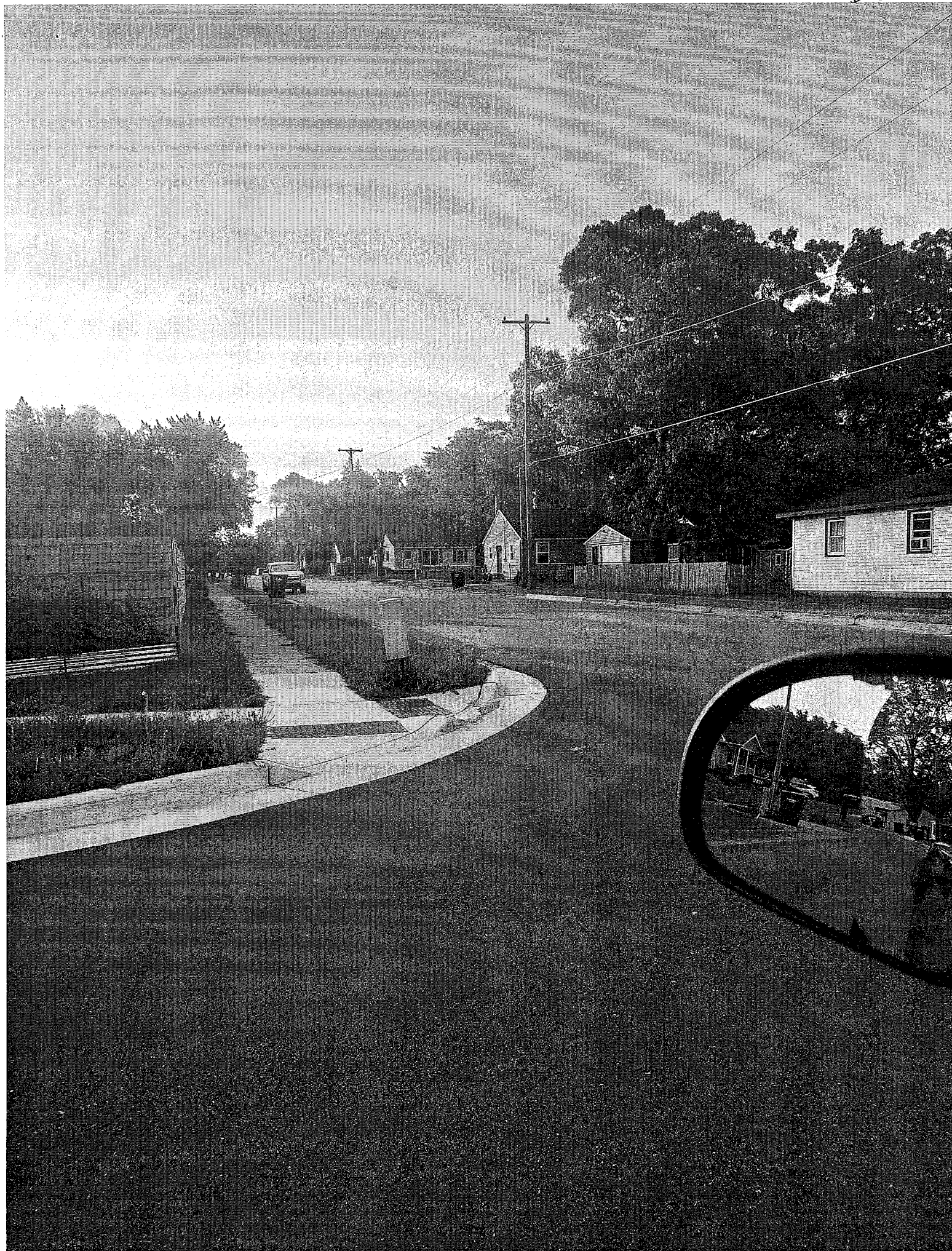


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VC





Application No.:	<u>PZV2025-0002</u>	STAFF RECOMMENDATION
Applicant:	<u>Bruce Philpott</u>	Approve: _____
Address:	<u>3634 Michael Ave SW</u>	Deny: <u>X</u>

FINDINGS OF FACT SHEET

1. That there are exceptional or extraordinary circumstances or conditions applicable to the property or to the intended use that do not apply generally to other property or class of use in the same vicinity and district because:

This property is not exceptional in its size, location, or shape. The subject parcel is larger than the typical parcel in the immediate vicinity but is comparable in size to at least a dozen other parcels in the surrounding neighborhood. Further, there are dozens of corner-lots along Oakcrest Street which are corner lots, including another three similar sized corner lots within 1000 feet, all of which share a similar shape in terms of width and depth.

This parcel, similar to its neighbors, is bordered by a sidewalk that runs parallel to the street right-of-way on both the primary front yard (along Michael Avenue) and the secondary front yard (Oakcrest Street). This parcel has just as much frontage along Oakcrest Street as every adjacent parcel, and while the house is set back further from the sidewalk than all adjacent parcels, this provides more room for a fence than the adjacent properties. To reiterate, this property is not unique in location, size, or shape.

2. That such variance is necessary for the preservation and enjoyment of substantial property rights because:

This variance is not necessary for the preservation and enjoyment of substantial property rights. The applicant is currently allowed to fence in their yard along the sidewalk, so long as they remain below 3 feet in height. Additionally, the applicant is also allowed to have a 6ft privacy fence, so long as they place it 10 feet from the edge of the sidewalk. Both options were available to the applicant prior to the construction of their fence. Neither of the options would have required a variance and the terms of the ordinance are not so overly restrictive as to remove the applicant's ability to have a fenced-in yard.

Further, allowing fences to abut the right-of-way creates a burden on vehicular traffic, which will need to come to a legal stop at the back of the sidewalk and then inch forward to gain visibility around the fence; and also creates a threat to pedestrian traffic, which will not be visible to or have visibility of vehicles using the neighboring driveway to the east. As noted above, the applicant does not need a variance to enclose a significant portion of their backyard with a 6-foot fence, so they have not been denied substantial enjoyment of their property rights.

3. That the granting of such variance will not diminish the marketable value of adjacent land and improvements, or unduly increase congestion in the public streets because:

Granting this variance would diminish the marketable value of adjacent land. All properties along Oakcrest Street that do not front on Oakcrest Street are held to the same standard as noted above; 3ft in height adjacent to the sidewalk, or 6ft in height 10ft from the sidewalk. With this variance, the property at 3634 Michael Avenue would be allowed to create a larger fenced-in yard than their neighbors are allowed, thereby increasing the value of their property and decreasing the value of adjacent land.

The applicant has also noted that this fence is required for the safety of his dogs. The zoning code for the City of Wyoming requires all fences in secondary front yards that exceed 3 feet in height to be pulled back from the sidewalk at least 10 feet in order to provide both drivers and pedestrians with the ability to see one another. This includes pedestrians, cyclists, and especially children being given the ability to see a car that is backing out

of a driveway and into the sidewalk/road right-of-way. This also would allow for the drivers of said vehicles to identify whether or not someone is currently using the sidewalk behind them, or if there is cross traffic. Should this variance be granted, both of these opportunities would be removed/restricted, and would make the neighborhood surrounding this property less safe for both pedestrians and drivers alike.

Further, the property to the east of the applicant is directly affected by this request. The driveway to their detached garage lies along the applicant's eastern property line. The proposed variance would make this driveway unsafe. In a previous board of zoning appeals hearing in 2011, the Board's findings of fact call out the need to "retain visibility for traffic and pedestrians" and effectively outlines the intent to require that the applicant maintain proper sight lines around the fence proposed at that time. While the City's zoning ordinance has reduced the required setback to 10ft, a new variance to allow the fence to move any closer to the sidewalk would overrule a prior Board of Zoning Appeals finding and also would likely impact the marketable value of the neighboring property in a future sale.

4. That the condition or situation of a specific piece of property, or the intended use of said property, for which the variance is sought is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such condition or situation because:

The condition for which this variance is sought is general and recurrent in nature, and relief should be sought through an ordinance amendment. As mentioned above, it is commonplace for homes in residential districts to have sidewalks running adjacent to their homes. In a text amendment that was approved by City Council on July 7, 2025, the zoning ordinance was revised to remove the requirement for fences to adhere to the building setbacks in residential zoning districts. The intention was to allow 6-foot fences to be placed in line with the front face of houses in front yards, and 10 feet from the sidewalk in all secondary front yards. These changes were prompted by repeated requests from residents and previous variance applications, such as the one sought in 2011 for this property.

As this is a general and recurring issue for any property owner wishing to install a 6-foot fence close than 10 feet from the secondary front yard property line, the granting of a variance to this single property is not the proper procedure. The conditions affecting this property are so commonplace that the requested relief is actually a policy decision, rather than a quasi-judicial decision. If the intention is to exempt all properties from adhering to the 10-foot minimum setback for fences over 36 inches in height in secondary front yards, then that is a policy decision best addressed through a text amendment approved by Planning Commission and City Council.