



Board of Adjustment

**June 20, 2024 6:30 PM,
Council Chambers - 111 E. Maple Ave.**

CALL TO ORDER

ROLL CALL

PUBLIC HEARING

1. Case 24-999-05 – Justin Tharp – Variances to the fence at 2932 S Santa Fe Road

APPROVAL OF MINUTES

1. April 18, 2024

ADJOURNMENT

MEETING DATE: June 20, 2024

STAFF: Josh Garrett, Planner

PROJECT NAME: 2932 S Santa Fe Road Variance Fence

CASE NUMBER: 24-999-05 – A variance to the residential fencing standards.

APPLICANT/OWNER: Justin Tharp

PROPERTY ADDRESS: 2932 S Santa Fe Road, Independence, MO 64052

SURROUNDING ZONING/LAND USE:

N/S/E/W: R-6 (Single Family Residential) – Single Family Homes

PUBLIC NOTICE:

- Notification letters sent out to property owners within 185 feet on June 3, 2024
- Legal notification published in the Independence Examiner on May 28, 2024

VARIANCE REQUEST

CITY CODE REQUIREMENTS/VARIANCE:

City Code Section 14-400-02-B, “Except for fencing around bona-fide agricultural activities, no fence or wall located in front yard of a residence, or along a side street in front of a residence, shall exceed three feet in height.” The proposed 6ft privacy fence extends into the front yard area.

VARIANCE REQUEST AND BACKGROUND:

The applicant seeks to build a 6ft privacy fence along a portion of the front yard boundary. This would provide additional screening between the neighbor’s driveway and the front and side yard of the subject property.

ANALYSIS

Comprehensive Plan Guiding Land Use Principles:

The City’s Comprehensive Plan designates residential neighborhood uses for this property.

REVIEW CRITERIA

Recommendations made by staff and decisions of the Board of Adjustment must be based on consideration of all the following criteria. All six criteria **MUST** be met for variance to be granted.

1. **The requested variance arises from conditions which are unique to the subject property, that are not ordinarily found in the same zoning district and that are not a result of the owner’s intentional action.** *Yes, the angle of the neighbor’s driveway is unusual in residential neighborhoods. Most properties are not configured in this way.*

2. **The requested variance will not adversely affect the rights of adjacent property owners or residents.** *Yes, this will not adversely affect the rights of adjacent property owners.*
3. **Requiring strict compliance with the subject zoning regulation will constitute a practical difficulty for the subject property owner.** *Yes, without a fence along this portion of the front yard, the neighbor's headlights can shine into the applicant's home.*
4. **The requested variance will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.** *Yes, this will not adversely affect any of the previously listed things.*
5. **The alleged hardship has not been created by any person presently having an interest in the property.** *Yes, the hardship has not been created by the property owner. It was created when the neighbor's driveway as configured in such a way as to affect the adjacent property.*
6. **The variance, if granted, will not alter the essential character of the neighborhood.** *Yes, if the variance is granted it will not alter the character of the neighborhood.*

EXHIBITS

1. Narrative
2. Application and
3. Applicants Variance Criteria
4. Code Section
5. Notification letter
6. Addresses
7. Affidavit
8. Plot Plan

Justin Tharp

2932 South Santa Fe Rd

Independence, MO 64052

816-499-0946

Dear Board of Adjustment:

We are writing you seeking permission to build a six-foot wooden privacy fence along a small section of our front yard. The fence will add beauty and privacy to our home area. My wife and I will be absorbing all costs involved (*this will be an expensive project*). The “good side” of the fence will face toward our neighbors. The fence will have an attractive topper and be stained upon completion. Many of our neighbors on Santa Fe Road already have this type of fence in the front, and we would very much like to have one as well. There is already an existing chain link fence there now, which we will have removed first. The fence sits well back from the street (*roughly 50 feet*) and will not block any driver’s visibility whatsoever. There are no safety concerns at all. It will simply provide an attractive buffer between our front yard garden area and the neighbor’s driveway.

Thank you. We look forward to hearing from you.



Justin Tharp

Application Type (check all that apply)

Land Use	Land Subdivision	Site Development	Use Permit	Other
☐ Rezoning ☐ PUD Rezoning	☐ Preliminary Plat ☐ Final Plat ☐ Minor Subdivision	☐ Final Site Plan ☐ Preliminary Dev Plan ☐ Final Dev Plan (PUD)	☐ Special Use ☐ Homebased Business ☐ Short-Term Rental	☐ Admin. Adjustment ☒ Variance ☐ Street Name Change ☐ Special Sign Permit

Project Information and Location

2932 S SANTA FE RD VARIANCE FENCE

Project Name

2932 S SANTA FE RD INDEPENDENCE, MO 64052

Project Address/Location

.38 1 YES

Sq. Ft. of Building Acreage Number of Lots/Tracts Steam Buffer (Yes or No)

R-6 SINGLE FAMILY

Existing Zoning Proposed Zoning Existing Land Use Proposed Land Use

Basic Application Requirements (See the Planning & Zoning Application Guide for additional requirements)

☐ Completed & Signed Application Form ☐ Application Fee ☐ Cover Letter Describing Details of Project	☐ One 24" x 36" set of plans for Land Sub. & Site Dev. ☐ One PDF copy of a plat map or site plan ☐ Legal Description of the property in question
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Contact Information

Applicant

JUSTIN THARP

Name Company

2932 S SANTA FE RD

Address 64052

816-499-0946 justintharptr@gmail

Phone Email

Architect/Engineer/Surveyor/Other: _____

Name Company

Address

Phone Email

Owner

↑

Name Company

SAME

Address

↓

Phone Email

Architect/Engineer/Surveyor/Other: _____

Name Company

Address

Phone Email

The applicant hereby agrees that the information provided above is accurate.

[Signature] 5-23-24 [Signature] 5-23-24

Applicant's Signature Date Owner's Signature Date

VARIANCE CRITERIA

The Board of Adjustment must make a determination on each criteria listed below. Please explain how the requested variance meets the following criteria. Attach additional sheets if necessary.

1. The requested variance arises from conditions which are unique to the subject property, that are not ordinarily found in the same zoning district and that are not a result of the owner's intentional action.

☒ Yes ☐ No

Explain: The neighbor's rental house and driveway is located very close (roughly 10 feet) from our front yard garden area and is often filled with multiple vehicles both in the driveway as well as the grass.

2. The requested variance will not adversely affect the rights of adjacent property owners or residents.

☒ Yes ☐ No

Explain: The fence will in no way block any desired view from the neighbors house

3. Requiring strict compliance with the subject zoning regulation will constitute a practical difficulty for the subject property owner.

☒ Yes ☐ No

Explain: The neighbor's rental house and driveway are located extremely close to our yard and garden greatly reducing the beauty of the area and our ability to enjoy our home and garden

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

☒ Yes ☐ No

Explain: The fence will sit well back from the street (roughly 50 feet) and will not obstruct traffic in any way whatsoever. There are no health, safety or morals that will be adversely affected in any way.

5. The alleged hardship has not been created by any person presently having an interest in the property.

☒ Yes ☐ No

Explain: My wife and I own and live in the property in which our request has been submitted

6. The variance, if granted, will not alter the essential character of the neighborhood.

☒ Yes ☐ No

Explain: Actually quite the opposite; the fence will enhance the look and character of the neighborhood. We are using a professional fence company and attractive, high grade materials which will enhance the overall look

14-400-02 - Fences

14-400-0 General. The general regulations of this subsection apply to all fences, regardless of the

2-A. zoning district in which they are located.

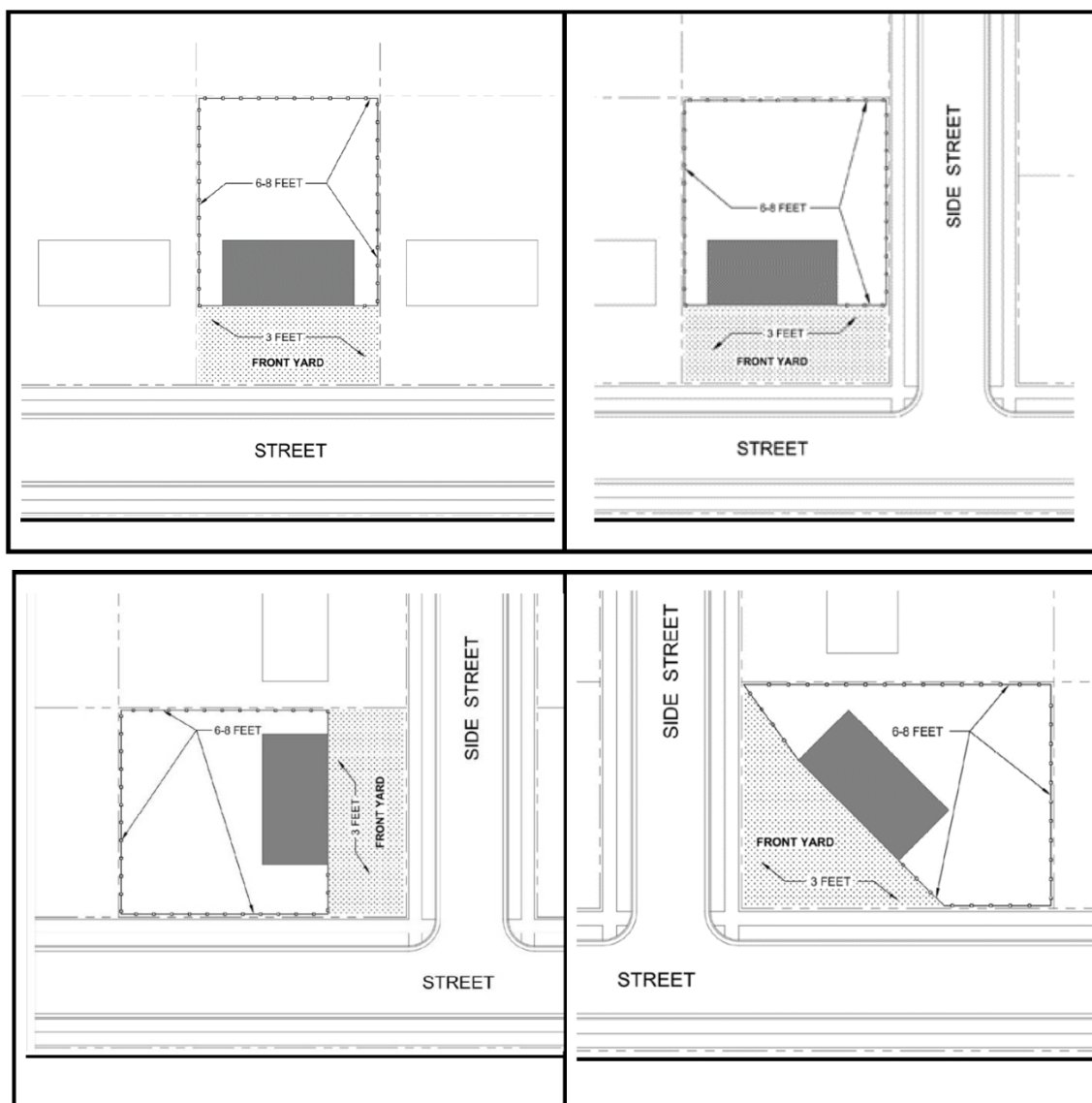
1. All fences must be constructed in a workman-like manner of customary or normal fencing materials.
2. The materials used in fence construction must be manufactured and marketed for construction of permanent fences.
3. Plastic-coated, chain-link fences are allowed only in those instances where chain-link fencing is allowed.
4. Materials typically used for temporary fences, such as plastic, PVC, or similar materials may not be used for permanent fences.
5. Bright colors such as orange, yellow or red are not permitted for permanent fences.
6. Not more than two different types of materials may be used in the construction of any fence.
7. All fence support structures must be located on the inside of the fence covering material.
8. All fences must be maintained in a reasonable condition and vertical position, and any missing or deteriorated slats, pickets, other fencing material, or structural elements must be replaced in a timely manner with the same quality of material and workmanship.
9. No fence may be used to display any sign or advertising material other than a small—maximum one square foot—placard identifying the sign contractor/manufacturer. Advisory 'No Trespassing' and related safety/warning signs of two square feet or less may be posted on fences.
10. No private fence shall be installed on public property, including in the street right-of-way. Fences are subject to the intersection visibility standards of the Public Works Manual.
11. Fences around tennis courts, swimming pools and other similar recreational facilities are limited to ten feet in height. Such fences must comply with any other requirements of the City Code.
12. Electrically charged fences are prohibited except in the R-A district, where they may be used in conjunction with bona-fide farming activities.
13. Barbed wire fencing is prohibited except where it may be used in conjunction with bona-fide agricultural activities. Barbed wire fencing may also be approved as an administrative adjustment when deemed necessary to protect health and safety in association with utility structures, landfills, airports or similar facilities. When approved as an administrative adjustment, barbed wire fencing must be located at least seven feet above grade. For the

purposes of this chapter, the term "barbed wire" shall include concertina wire, razor wire, razor ribbon and other security wire types.

14-400-0 Residential Zoning Districts. The regulations of this subsection apply to all fences in R zoning 2-B. districts.

1. Chain-link fences must be installed with barbs turned down.
2. No fence or wall in a residential district may exceed eight feet in height.
3. Residential fencing locations, see Figure 400-1 below.
 - (a) Interior Side and Rear Yards — Fences or walls in interior side or rear yards shall not exceed six feet without a fence permit, or up to eight feet with a fence permit.
 - (b) Front and Street Side Yards — Except for fencing around bona-fide agricultural activities, no fence or wall located in front yard of a residence, or along a side street in front of a residence, shall exceed three feet in height. Such fence shall be at least 50 percent transparent and may include chain-link, picket, wrought iron, and split rail fencing. Fences or walls in street side yards not in front of a residence, shall not exceed six feet without a permit, or up to eight feet with a fence permit.

Figure 400-1. Residential Fence Locations



4. For fencing on through lots, the rear yard fence shall be located no closer to the abutting street than the established building line or the required building setback for that street in the following instances:
- (a) where the rear property abuts a street where the principle building on the adjacent property fronts on that street, or;
 - (b) where the adjacent property has the potential to be subdivided into a lot which fronts onto that street.

The Community Development Director shall have the authority to reduce the required rear setback for the through lot upon consideration of the available/proposed sight distance, the height and opaqueness of the fence, the elevation of affected properties, the street's classification, and the character of the neighborhood.

14-400-0 Office, Commercial and Industrial Zoning Districts. The regulations of this subsection apply

2-C. to all fences in O, C, and I zoning districts.

1. Location—A fence may be constructed on any side or rear property line but shall not be located in any required exterior setback or be closer to any public or private street than the principal building, whichever is greater.
2. Height—Fences shall not exceed eight feet in height.
- 3. Lots adjacent to arterial, minor arterial and collector streets—Fences shall consist of either brick, stone, integrally colored decorative concrete masonry units (CMU), exterior stucco, pre-cast concrete panels, wrought iron, plastic (PVC) or wood. The Community Development Director may approve alternate materials and designs of similar quality to those listed herein.
4. Lots adjacent to other streets—Fences shall consist of either vinyl clad chain link fabric or the materials identified in #3 above. The Community Development Director may approve alternate materials and designs of similar quality to those listed herein.
5. Vacant lots—Vacant lots shall not be fenced. The Community Development Director may waive this prohibition for temporary or seasonal uses.
6. Anti-graffiti—When possible, fencing shall utilize anti-graffiti materials or treatment.
7. Permit required—All fencing constructed in O, C, and I districts shall require a permit from the Community Development Department.

(Ord. No. 17446; Ord. No. 17832; Ord. No. 17942; Ord. No. 17496; Ord. No. 19149, § 1, 8-17-2020)

Property Owner Notification Letter

City of Independence, Missouri

Date: 5/31/2024

Case No. 24-999-05

Dear Property Owner:

This letter is to notify you that an application has been submitted for consideration of a variance. The Board of Adjustment will consider the case on the property, date and time identified below.

Proposed project description: We are seeking and adjustment from the Board of
Adjustment to construct a six-foot wooden privacy fence along a small section of our
front yard.

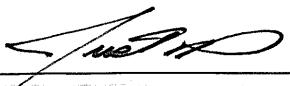
Applicant: Justin Tharp

Location of Property: 2932 S. Santa Fe Road

Board of Adjustment Meeting Date: June 20, 2024, at 6:30 p.m.

Location of public hearings: City Council Chambers, City Hall
111 E Maple Ave, Independence, Missouri, 64050

All interested persons are invited to attend and will have an opportunity to be heard at the public hearing.



Applicant (or Owner/Agent)

For more information, contact the Community Development Department at 816-325-7421.

Owner	Address	City	State	Zip Code
HIGBEE IIGA	2913 S SANTA FE RD	INDEPENDENCE	MO	64052
MCCRACKEN ALLEN J	2929 S SANTA FE RD	INDEPENDENCE	MO	64052
REAVES KIN W	829 W 29TH ST	INDEPENDENCE	MO	64055
GLOVER TAMMY JEAN	2910 SANTA FE RD	INDEPENDENCE	MO	64052
HEARRON RICHARD T	815 W 29TH ST S	INDEPENDENCE	MO	64055
BECKER CHRISTOPHER	3101 S SANTA FE RD	INDEPENDENCE	MO	64055
VOCHATZER JERRY D	3005 SANTA FE RD	INDEPENDENCE	MO	64055
RHOADS ELLA M-TRUSTEE	831 W 29TH ST S	INDEPENDENCE	MO	64055
MOORE AMY E	2909 S SANTA FE RD	INDEPENDENCE	MO	64052
YANG IVY & NI AL YUN	734 NW 6TH ST TER	BLUE SPRINGS	MO	64014
EVANS GERALD D & MARY	112 BRIARCLIFF DR	HATTIESBURG	MS	39402
CHRISTY JENNIFER M	827 W 29TH ST S	INDEPENDENCE	MO	64055
ROSS JAMES L	2915 S SANTA FE RD	INDEPENDENCE	MO	64052
NGUYEN VUONG	16295 FALLBROOK DR	LAKEVILLE	MN	55044
GARRETT BARBARA ELIZABETH	3001 S SANTA FE RD	INDEPENDENCE	MO	64055
ASKEW HOWARD L & PATRICIA A-TRUSTEES	811 W 29TH ST S	INDEPENDENCE	MO	64055
THE CARPATHIAN LLC	202 CHERRY HILL DR	BELTON	MO	64012
AMPARAN-DIAZ MICHELLE	814 W 30TH ST S	INDEPENDENCE	MO	64055

Property Owner Notification Affidavit

STATE OF MISSOURI

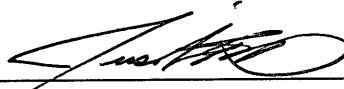
COUNTY OF JACKSON

Case No. 24-999-05

I, Justin Tharp, of lawful age being first duly sworn upon oath, state:

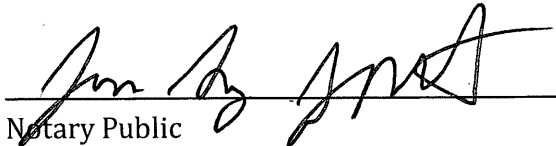
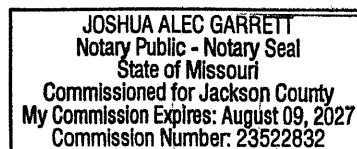
That I am the (agent, owner, attorney) for the property for which the application was filed and did, not later than fifteen (15) days prior to the date of the public hearing scheduled before the Board of Adjustment, mail notices to all persons owning property within 185 feet of the subject property. **The list of property owners to whom notice has been mailed is attached.**

These notices were mailed on the 3rd day of June, 2024.



Signature of Agent, Owner or Attorney

Subscribed and sworn to before me this 3RD day of JUNE, 2024.


Notary Public

August 9, 2027
Commission Expiration Date



Variance for ≈ 22.4 ft of left fence in front yard.

MINUTES
INDEPENDENCE BOARD OF ADJUSTMENT
April 18, 2024

MEMBERS PRESENT

Roy Browne – Chairman
John Davies
Jack Layman
Anthony Sommer
Cody Atkinson

STAFF PRESENT

Brian Harker – Senior Planner
Mitch Langford – City Prosecutor

A meeting of the Independence Board of Adjustment was held at 6:30 p.m. on April 18, 2024, in the City Council Chambers of City Hall, 111 E. Maple Avenue. The meeting was called to order.

Case 24-999-04 – Englewood Farm – Variances to the building setback standards at 1505 S. Sterling Avenue.

Brian Harker gave the staff report. Anthony Sommer made a motion to approve Case #24-999-04. The motion was seconded by Cory Atkinson. The motion was approved with four affirmative votes.

ADJOURNMENT – The meeting was adjourned at 7:23 p.m.