



CITY OF IDAHO SPRINGS
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NOTICE AND AGENDA
VARIANCE BOARD OF ADJUSTMENTS
Idaho Springs City Hall
1711 Miner Street
Wednesday, April 20, 2022 – 5:30 p.m.

Call to Order
Roll Call
Approve Minutes of February 16, 2022
New Business- Public hearing

1. **Proposed Variance to allow for a taller fence in the front yard of 514 Virginia Street**

Adjourn

**IN-PERSON AND REMOTE MEETING PUBLIC ATTENDANCE AND PARTICIPATION
INSTRUCTIONS**

The Public is able to view and hear this meeting remotely at the following address on the City's website:

<https://www.colorado.gov/pacific/idahosprings/city-council-live>

To provide public comment remotely please use the link below

<https://us02web.zoom.us/j/86242977785?pwd=L3V5L3B0eVBhTWFJR2QyWVJ2eS80Zz09>

Passcode: 017248

For in-person Unscheduled Public Comment, please sign-in at the entrance to the Council Chambers.

Each individual that is providing public comment is limited to three (3) minutes.



**VARIANCE BOARD OF ADJUSTMENTS
MINUTES
FEBRUARY 16, 2022**

CALL TO ORDER

Chairman Smith called the meeting to order at 5:30 PM.

Board members present were: Doug Smith, Ann Zimmerman and John Hatch and Dru Van Doren. City staff present was City Administrator Andrew Marsh and Community Development Planner Jerad Chipman.

APPROVAL OF MINUTES

Ann Zimmerman moved to approve the minutes of October 21, 2021. and Dru Van Doren seconded, and the motion carried by unanimous roll call vote.

NEW BUSINESS

Public Hearing

2033 Wall Street- Proposed Variance to the Setbacks and Minimum Unobstructed Open Space Requirement at 2033 Wall Street, Idaho Springs, CO 80452.

Chairman Smith opened the public hearing at 5:31 pm.

Jerad Chipman presented the staff report outlining the request. Applicant John Hatch requests approval of a variance to allow a garage to be constructed within both side yard setbacks and rear yard setback of the property. Mr. Hatch brought up that the entire property is on a slope, he drives thru 3 other properties parking areas to get to his own parking area. East wall of his property is the actual property line. Mr. Hatch also mentioned that the Slaymakers parking area would also be improved with this proposed garage variance. At this time, the entire parking area is just a dirt lot. Mr. Hatch has spoken with all of his neighbors on this proposed project and all of them have expressed to Mr. Hatch that they favor this project. Mr. Hatch would like to make the most out of his property and would like to be able to work out of the dirt. Mr. Hatch said he would make sure that the drainage and the foundation conditions are adhered too and built to current city standards. Mr. Hatch also mentioned that if this variance request was not successful, he would not build a garage at all because to fit a garage in the current setbacks he would only be able to fit one vehicle, not four. Mr. Hatch also mentioned that this project would include a substantial engineered retaining wall on the south side of the garage build.

PUBLIC COMMENT

Steve Swanson who resides at 2020 Virginia Street stated that he did not have any objections to this variance and that he was on the call just to catch the outcome of the variance board meeting. Mr. Swanson stated that he is for this variance.

DISCUSSION

Board member Dru Van Doren asked Mr. Swanson to confirm if he was against or in favor of this variance request. Mr. Swanson replied that he is in favor of this variance request. Board member Ann Zimmerman did not have any comments. Chairman Doug Smith asked Community Development Planner Jerad Chipman if the Fire Department had any comments/suggestions on this variance. Mr. Chipman advised Mr. Smith that the fire chief had reached out to Mr. Chipman and stated he had no concerns at this time and reiterated that this project would require full sets of building plans including engineering.

Chairman Smith asked applicant John Hatch is he was in agreement with both conditions listed on the resolution:

1. Prior to the issuance of a building permit, the applicant shall file with the city a stormwater drainage plan reflecting post-construction stormwater drainage flow that is acceptable to and approved by the City Engineer.
2. Prior to the issuance of a building permit, the applicant shall file with the city any amended plans and reports necessary, as determined by the City Engineer, to ensure that the garage is located entirely within the Property boundaries and that the southern end of the garage is safely engineered and constructed to accommodate the slope of the southern portion of the Property – including but not limited to potentially reducing the size of the southern portion of the garage and the construction of a retaining wall.

Mr. Hatch replied yes to both conditions.

Chairman Smith closed the public hearing at 5:37 pm

Doug Smith moved to approve the request to allow a garage to be constructed within both side yard setbacks and rear yard setback of the property located at 2033 Wall Street. Board Member Dru Van Doren seconded followed by an all-in favor roll call vote. Variance passes 3-0.

ADJOURN

With no further business before the board Chairman Smith adjourned the meeting at 5:49 p.m.

CITY OF IDAHO SPRINGS

Variance Board Communication



MEETING DATE: APRIL 20, 2022

REPORT DATE: APRIL 14, 2022

FROM: JERAD CHIPMAN, COMMUNITY DEVELOPMENT PLANNER

THROUGH: ANDREW MARSH, CITY ADMINISTRATOR

RE: FENCE HEIGHT VARIANCE 514 VIRGINIA STREET: VARIANCE REQUEST TO ALLOW A TALLER FENCE TO BE INSTALLED IN A FRONT YARD SETBACK.

PROPOSAL:

Bethany Miller (the Applicant), owner of 514 Virginia Street (the Property), requests approval of a variance to allow a fence that exceeds the maximum fence height in the front yard.

BACKGROUND:

Property description. Currently, the property has a six (6) foot fence across the front of the property. The existing fence is in the front yard setback and located on the property line. The proposed fence is similar in design, however, contains a shorter four (4) foot high fence directly in front of the building and six (6) foot tall fence on the front property line west of the house. The house is located very close to the front property line and encroaches into the setback. The parcel is approximately 20,000 square feet, however, the majority of that area is not conducive to a yard or buildable area due to the retaining wall and slope of the mountain located a short distance behind the house. The new fence reduces the non-conformity of the property.

Zoning and Land Use. The front of the property, which contains the house, is zoned Residential One (R-1). The rear of the property is zoned Conservation (CONS), which contains a steep mountain slope. The neighboring properties are zoned and used per the below table:

<u>Location</u>	<u>Adjacent Land Use</u>	<u>Adjacent Zoning</u>
North	Open Space	Conservation
East	Residential	R-1
South	Residential	R-1
West	Residential	R-1

Applicable Zoning Ordinance regulations. The variance is being requested to Section 21-210 of the Idaho Springs Municipal Code. The fence restriction indicates that front yard fences shall be no taller than forty-eight (48) inches. An excerpt from the Municipal Code is as follows:

(A) *Fences*, walls and retaining walls not exceeding forty-eight (48) inches in height may be erected on any part of the lot including within the front setback and, on any other part of the lot, may be erected to a height not to exceed seventy-two (72) inches

ROLE OF THE VARIANCE BOARD:

The Board's Authority. Per Section 21-109 of the City of Idaho Springs Land Development Regulations (LDR), the Variance Board may authorize variances from the requirements of the Municipal Code. A variance must be considered an extraordinary remedy. When considering a variance from a standard in the LDR, the Variance Board shall apply the criteria listed later in this staff report.

Conditions. In granting any variance, the Variance Board may prescribe appropriate conditions and safeguards in conformity with this Chapter and the Comprehensive Plan.

REFERRALS:

The application was referred to the following, with specific comments noted.

- City Administrator – reviews all staff reports to City boards.
- City Attorney – reviews all staff reports to City boards.
- Deputy City Clerk
- Public Works Superintendent
- JVA, the City's Engineering Consultant
- SAFEbuilt, the City's Building Consultant
- Fire Chief

STAFF ANALYSIS OF VARIANCE CRITERIA:

Per Section 21-109 of the Land Development Regulations, the Variance Board may authorize variances from the requirements of the Code. A variance shall be considered an extraordinary remedy. When considering a variance from the requirements of this Chapter, the Variance Board shall apply the criteria set forth below.

1. *The Applicant would suffer hardship as a result of the strict application of these regulations, which hardship is not generally applicable to other lands or structures in the same zone district because of considerations relating to the preservation of historic structures, the unusual configuration of the Applicant's' property boundaries, or unique circumstances related to existing structures or topographic conditions.*

Staff Analysis: The applicant has an unusual site that does lend towards a hardship if the strict application of these regulations was applied. The site is confined by the presence of the mountain slope behind the house. Locating the higher fence at the front setback line of fifteen (15) feet would significantly reduce the area of the usable yard.

2. *There are no reasonable design alternatives or alternative locations for structures that would eliminate or reduce the need for the requested variance, or decrease the scope or extent of the variance required, that do not involve unreasonable expense under the circumstances.*

Staff Analysis: A change in the design could lower the amount of encroachment into the setback; however, moving the fence back to the setback line would decrease yard space and lowering the fence in the front yard would reduce privacy for a property that is located very close to the street. There is less than five (5) feet from the street to the house, and no sidewalk to serve as a buffer.

3. *The need for the variance does not result from the intentional, reckless or negligent actions of the Applicant or his or her agent, a violation of any provision of this Chapter, this Code, any other code or ordinance adopted and in effect in the City or a previously granted variance.*

Staff Analysis: The need for the variance is not a result of intentional, reckless or negligent actions on the part of the Applicant.

4. *Reasonable protections are afforded adjacent properties.*

Staff Analysis: The proposed variance is unlikely to have a large impact on neighboring properties as a similar fence exists on the property.

5. *The variance is the minimum variance that will make possible the reasonable use of the land or structure.*

Staff Analysis: The variance request does not represent the minimum variance that will allow for reasonable use of the land as the fence could be altered in location or height, however, those alterations would affect useable yard area or privacy.

6. *The granting of the variance will:*

- a. *Observe the spirit of this Chapter;*

Staff Analysis: The proposed variance could meet the spirit of this chapter as the strict letter of the law would result in minimizing the already small yard area.

- b. *Secure the public safety and welfare; and,*

Staff Analysis: The proposed fence will have little effect on the public safety and welfare of surrounding properties as it is to be located in a similar location as the existing non-conforming six (6) foot tall fence.

- c. *Ensure that substantial justice is done.*

Staff Analysis: If granted, the variance could be cited by other property owners as an example of a fence that does not meet City Ordinance.

PUBLIC NOTICE:

A sign is posted on the property, and letters were sent to the owners of properties within 300 feet of this property, using information from the Assessor listed on the County's "Clear Map" website.

PUBLIC COMMENT:

As of the date of this report, one public comment has been received in support of the variance.

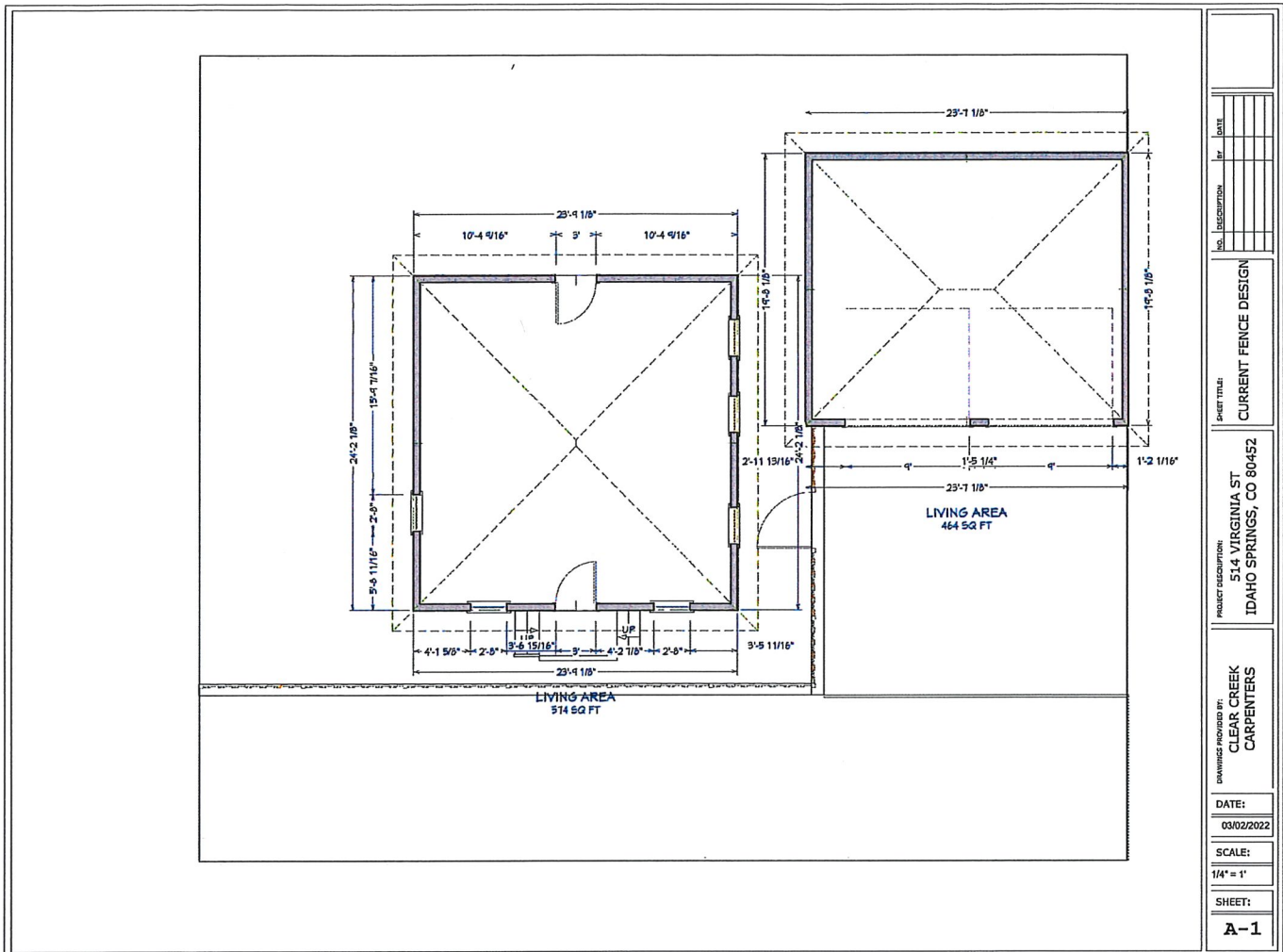
PLANNING STAFF SUMMARY AND RECOMMENDATION:

Staff recommends approval of the requested variance, even though not all of the findings meet the criteria for approval, as the proposed fence does reduce the existing non-conformity and preserves both privacy and the usable yard space.

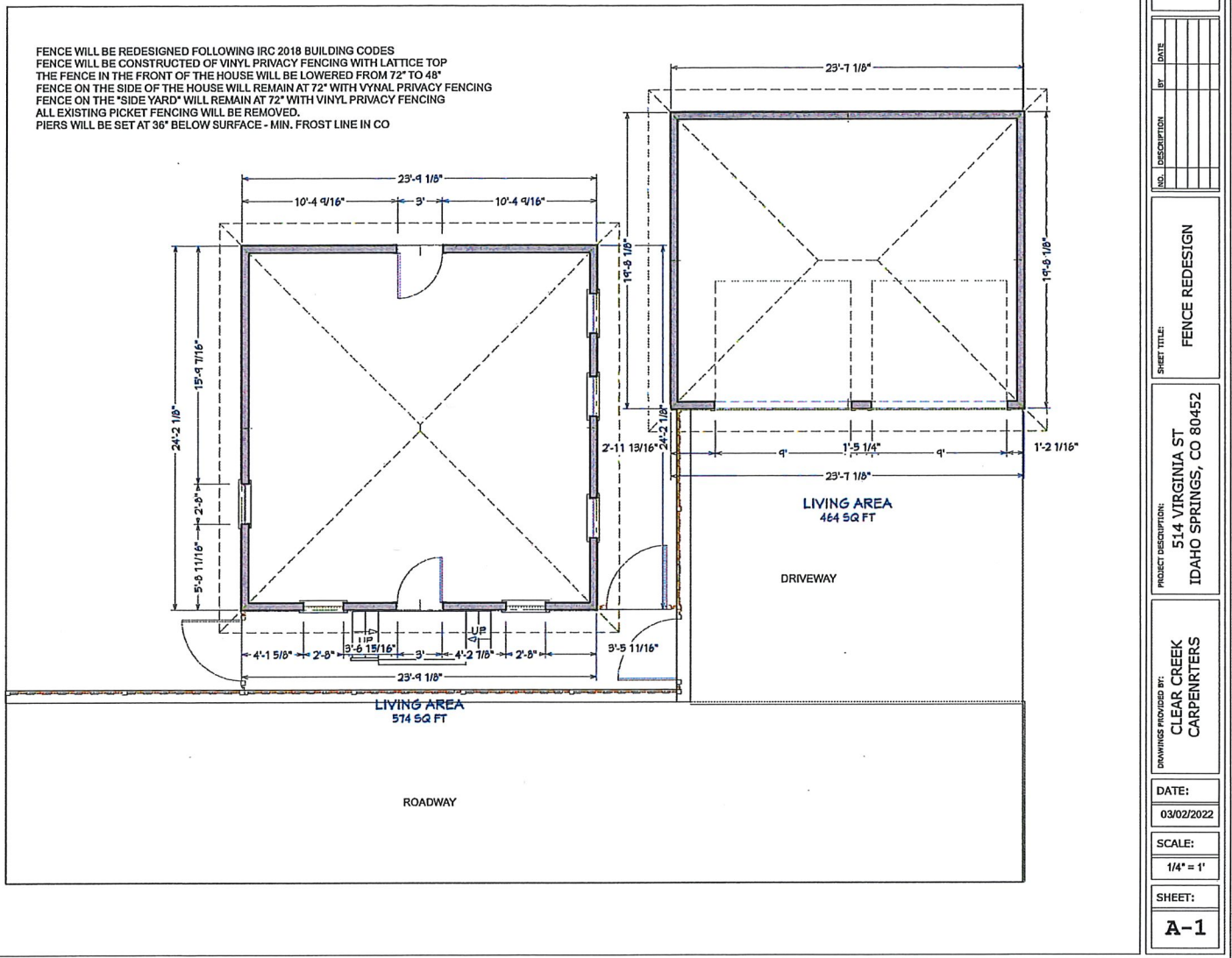
PROPOSED MOTION AND FINDINGS:

Based on the findings made on the record of this matter and in the Resolution, I move to approve Resolution #VB 22-02; A Resolution Approving an Application for a Variance at 514 Virginia Street to Allow for a six (6) foot tall fence within the front yard setback as indicated within the attached plans.

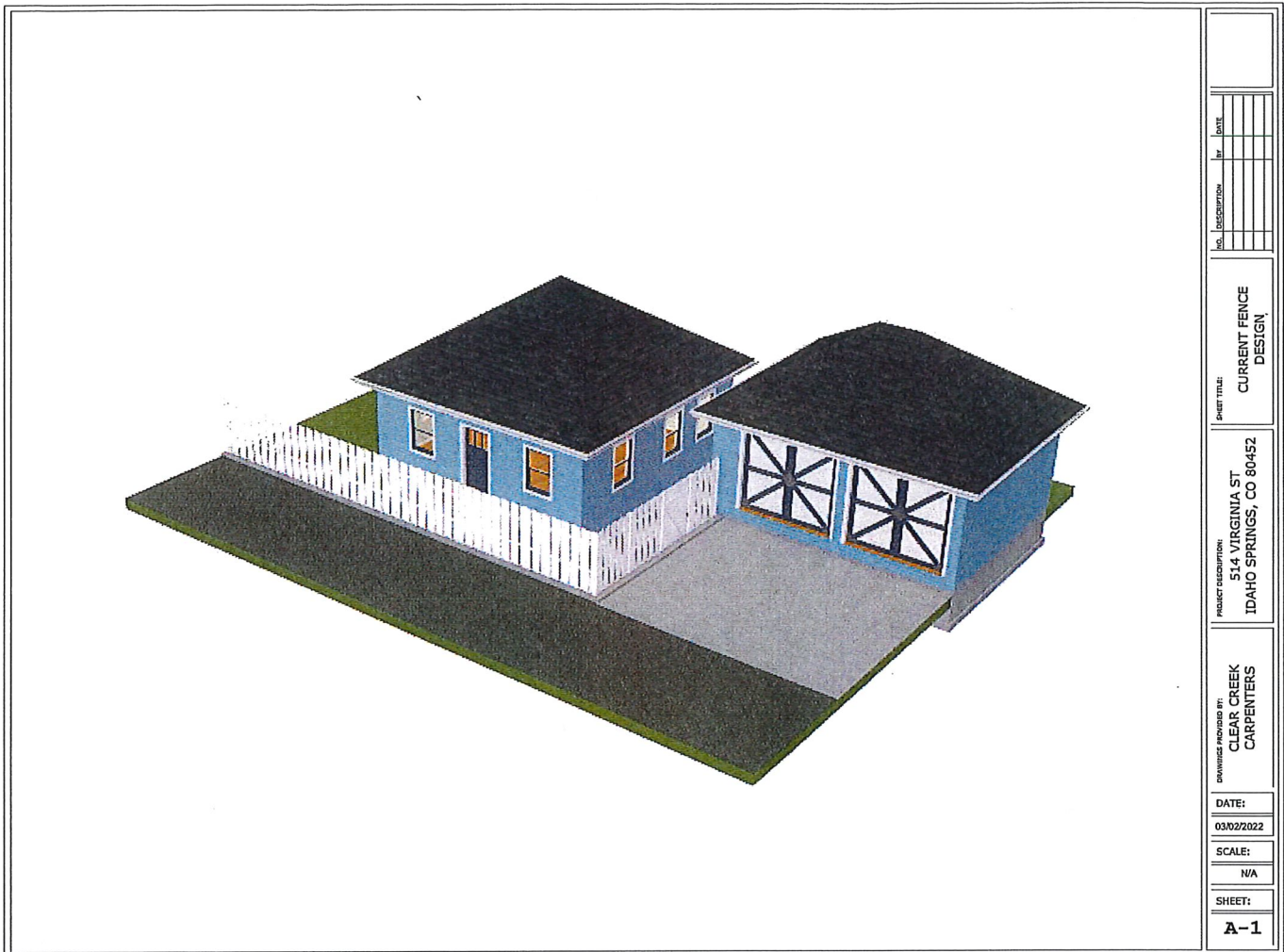
Site Plan – Existing fence.



Site Plan – Proposed fence.



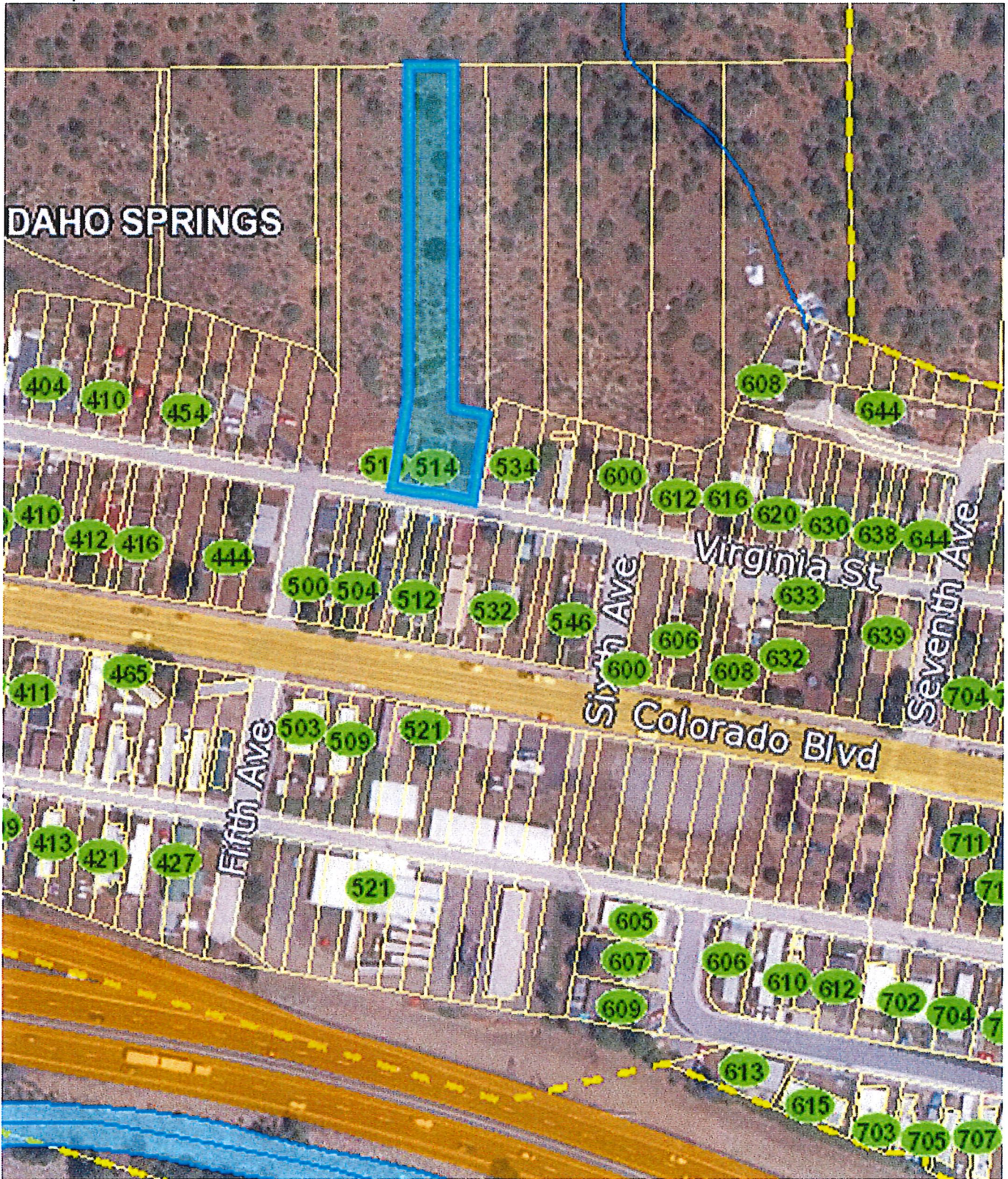
Sketch – Existing fence



Sketch – Existing fence



Site Map



APPLICATION FOR REQUEST FOR VARIANCE

APPLICANT NAME: Bethany Miller

APPLICANT ADDRESS: 514 Virginia St Idaho Springs CO 80452

LEGAL DESCRIPTION OF THE PROPERTY: (Must attach legal from Clear Creek County) 514 Virginia St Idaho Springs CO 80452

CITATION TO OR COPY OF ORDINANCE FROM WHICH THE VARIANCE IS BEING REQUESTED, OR A COPY OF THE BUILDING OFFICIAL'S ORDER, REQUIREMENT, DECISION OR DETERMINATION FROM WHICH AN APPEAL IS TAKEN:

REASON FOR FILING AN APPEAL OR REQUEST FOR VARIANCE: (Requests for variances must describe the evidence supporting each of the conditions required in order for a variance to be granted)

Through the variance, it would allow more protection between the street (less than 4ft from our yard) & our yard. For the safety of our family, child & dog. There are no reasonable design alternatives because of our property being so close to the street.

A LIST OF NAMES AND ADDRESSES OF THE OWNERS OF ALL PROPERTIES WITHIN ONE HUNDRED (100) FEET OF ANY PART OF THE AFFECTED PROPERTY:

IDAHO SPRINGS VARIANCE BOARD

RESOLUTION NO. VB 22 - 02

A RESOLUTION APPROVING AN APPLICATION FOR A VARIANCE AT 514 VIRGINIA STREET TO ALLOW FOR A SIX (6) FOOT TALL FENCE WITHIN THE FRONT YARD SETBACK

WHEREAS, the Idaho Springs Variance Board (the "Board") has received an application (the "Application") requesting approval of a variance to construct a six foot tall fence within the front yard setback areas at 514 Virginia Street, Idaho Springs, Colorado (the "Property"); and

WHEREAS, the relevant portion of the Property is zoned Residential-One (R-1); and

WHEREAS, Idaho Springs Municipal Code ("Code") Section 21-210 establishes the maximum permissible fence height within front yard setback areas as forty-eight (48) inches; and

WHEREAS, after conducting a public hearing on the Application after due and proper notice of the same was given, and after reviewing all the evidence and testimony given at the hearing, the Board finds that the proposed six foot fence in certain areas of the front yard setback area at the Property meets the relevant variance criteria and would not do substantial harm to neighboring properties or the City in general, as further set forth herein.

NOW, THEREFORE, BE IT RESOLVED BY THE VARIANCE BOARD OF THE CITY OF IDAHO SPRINGS, COLORADO, THAT:

Section 1. Findings: The application filed by Bethany Miller (the "Applicant"), as owner of the property known as 514 Virginia Street, Idaho Springs, Colorado, proposing the replacement of certain existing fencing and the construction of new fencing within the front yard setback areas of the Property, as reflected and specifically proposed on the plans filed with the Application, largely meets the Code criteria for variances found at Code Section 21-109.

The Board finds that the Property has significant physical limitations and that the proposed fence replacement project as a whole would observe and promote the spirit of Chapter 21 of the Code as well as Code Sec. 21-109 (variances). The Board specifically notes that the fence project as a whole would decrease the existing non-conformity currently present on the Property by reducing the height of much of the existing front property line fencing from its current six feet to four feet.

Section 2. Decision: Based on the findings set forth in Section 1 above, the Board hereby APPROVES the Application.

DONE and ORDERED by a vote of ____ to ____ , on April 20, 2022.

Doug Smith, Chair

ATTEST:

Wonder Martell, Clerk to the Board