



**CITY OF GRAIN VALLEY  
BOARD OF ZONING ADJUSTMENT  
Tuesday, July 16, 2024 – 6:30 PM  
Grain Valley City Hall – Council Chambers - 711 Main St**

**AGENDA**

**I. CALL MEETING TO ORDER**

**II. ROLL CALL**

**III. APPROVAL OF MINUTES**

- March 29, 2023

**IV. PUBLIC HEARING:**

**The following item requires a Public Hearing and has been duly advertised for this meeting. Staff will present information on item first, then input from the applicant and then public testimony will be taken. The public hearing will then be closed, and the Board will discuss and vote on the item.**

- 1) VAR2024-01 ANGEL THOMAS** – Requesting a variance to Section 400.230 C.9 to allow an 8-foot-high fence gate instead of the required 6-foot-high fence gate in District R-1 (Single Family Residential). The fence access is a metal roll-up garage door. The existing lot is located 200 feet west of SW Ridgeview Drive on the south side of SW Gateway Drive and is legally described as Lot 223 in Countryside at Sni-A-Bar 5<sup>th</sup> Plat subdivision aka 609 SW Gateway Drive.

**Exhibits:**

- 1) Area Variance Application
- 2) Photo of Fence Gate
- 3) Photos of Arbors and Rolling Door
- 4) Aerial Photo of Property
- 5) Photo of previous Permitted Fence Gate
- 6) Staff Report

**V. NEW BUSINESS**

- Election of a Chairperson

**VI. ADJOURNMENT**

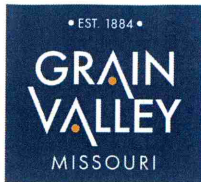
PEOPLE REQUIRING AN ACCOMMODATION TO ATTEND AND PARTICIPATE IN THE MEETING SHOULD CONTACT THE CITY CLERK AT 816-847-6211 AT LEAST 48 HOURS BEFORE THE MEETING. THE CITY OF GRAIN VALLEY IS INTERESTED IN EFFECTIVE COMMUNICATION FOR ALL PERSONS.

UPON REQUEST, THE MINUTES FROM THIS MEETING CAN BE MADE AVAILABLE BY CALLING 816-847-6221.

711 Main Street  
Grain Valley, MO 64029  
816.847.6200

[cityofgrainvalley.org](http://cityofgrainvalley.org)

**LIFE OUTSIDE THE LINES**



City of Grain Valley  
Board of Zoning Adjustment  
Meeting Minutes Summary

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**ITEM I: CALL TO ORDER**

- The Board of Zoning Adjustment of the City of Grain Valley, Missouri met on March 29, 2023, in the City Hall Council Chambers.
- The meeting was called to order at 6:30 PM by Chair Steve Shatto.

**ITEM II: ROLL CALL**

- *Present: Steve Shatto*
- *Present: Mark Clark*
- *Present: Jim Wyzard*
- *Present: Joe Panza*
- *Present: Lynne Berend*

**ITEM III: APPROVAL OF MINUTES**

- Board member Clark made a motion to approve the minutes from the March 15, 2023 meeting. The Board approved the minutes by vote 5-0.

**ITEM IV: CONTINUED FROM MARCH 15, 2023 MEETING**

Chair Shatto stated this item was continued from the March 15<sup>th</sup> meeting and introduced the variance request as:

- 1) VAR2023-01 John Riotte – Requesting a variance to Section 400.230 C.9 pertaining to allowable fence materials in a residential zoned subdivision. The applicant used a hog metal panel framed with cedar wood along the east property line or rear yard and on the gates that are on the front side of the property. The existing lot is located near the southwest corner NE Hoot Owl Street and NE Andeon Street and is legally described as Lot 20 in Hoot Owl Estates Plat, a subdivision in the Northwest Quarter of Section 26, Township 49 North, Range 30 West in Grain Valley, Missouri aka 1603 NE Andeon Street.
- Director Trosen stated the following exhibits were entered into the public record at the last meeting and there were no further exhibits:

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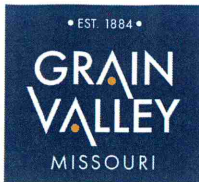
**Board Members Present**

Mark Clark  
Mike Coon  
Steve Shatto  
Lynne Berend  
Joe Panza

**Board Members Absent**

**Staff Officials Present**

Mark Trosen – CD Director  
Jeff Deane – City Attorney



# City of Grain Valley

## Board of Zoning Adjustment

### Meeting Minutes Summary

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- 1) Use Variance Application
- 2) Applicant Plot Plan
- 3) Aerial Map
- 4) Staff Report
- 5) Photos of the Fence
- 6) Hoot Owl Estates
- 7) Display Boards from Applicant
- 8) Support letter from William Nixon, 1605 NE Andeon St., dated 3/7/2023.
- 9) Support letter from Justeen & Cameron Humphrey, 209 NE Hoot Owl St., dated 3/15/23.

- Board Member Wyzard asked Director Trosen regarding code enforcement in the future, what does that look like if this variance is approved? Does this adversely impact the Code Enforcement Officer reporting other fence issues? Director Trosen responded that this variance request only pertains to this particular property. So, if he sees another property in violation of fence materials then, he will notify the property owner regarding that violation of the code.
- Board member Wyzard asked do you see any issue with precedence? Director Trosen responded that was a particularly good question. He said the Board needs to consider this variance pertaining to this particular property and that the Board should consider if the applicant has proven the 5 statements as noted in the staff report. Board member Wyzard says that he does not have an issue with this fence but just wants to make sure we are not weakening the ability of code enforcement if there is another violation through visual precedence.
- Board member Wyzard asked if the Board would be obligated to approve another variance with similar construction. Chair Shatto replied no, each case should be considered individually.
- Board Member Berend asked is there something wrong with the fence because she is not getting the jest here. Director Trosen explained the history regarding this fence and the need for the applicant to apply for a variance. Board Member Berend asked is it like this for all the other houses in town. Director Trosen responded no. The other property owners comply with the zoning regulation and install the allowable fence materials.
- Board Member Panza asked if metal allowed? Director Trosen responded chain link is allowed. Board Member Panza asked is there farmland behind this house? Director Trosen

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**Board Members Present**

Mark Clark  
Mike Coon  
Steve Shatto  
Lynne Berend  
Joe Panza

**Board Members Absent****Staff Officials Present**

Mark Trosen – CD Director  
Jeff Deane – City Attorney





# City of Grain Valley

## Board of Zoning Adjustment

### Meeting Minutes Summary

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said yes. Board Member Panza said there is nothing wrong with the fence and asked if the city wants to adopt new rules for fences. Director Trosen said that would be a decision of the Board of Aldermen after hearing a recommendation from the Planning and Zoning Commission.

- Board Member Clark pointed out to the benefit of the Members not present during the public hearing, there were several neighbors that appeared and supported the fence and variance request.
- Board Member Wyzard said there is significant risk in changing the guidelines and ordinance because what might happen the fence may not look as nice as this one and someone could install t-posts and the hog metal panels and we have changed the ordinance so that it would be difficult for code enforcement do anything and therefore, I would caution the change of regulations. I think what we are doing here and looking at this case individually is the best solution.
- Board Member Clark made a motion to approve the variance request. Board Member Panza seconded the motion. The Board approved the motion by a vote of 5 to 0.

#### ITEM VIII: PREVIOUS BUSINESS

- None

#### ITEM IX: NEW BUSINESS

- Election of a Chairperson
- Board member Berend made a motion to re-elect Steve Shatto as Chair. There were no other nominations or motions. The motion was approved by a vote of 5 to 0.

#### ITEM X: ADJOURNMENT

- Board Member Panza motioned to adjourn the meeting. Board Member Clark second the motion. The Board approved the motion by a vote of 5 to 0.

*-The Meeting Adjourned at 6:40 PM-*

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#### Board Members Present

Mark Clark  
Mike Coon  
Steve Shatto  
Lynne Berend  
Joe Panza

#### Board Members Absent

#### Staff Officials Present

Mark Trosen – CD Director  
Jeff Deane – City Attorney

Under Review

Active

### Application Review Status

Pre-Review	Approved	
Planning and Zoning	Not Reviewed	06/07/2024
Final-Review	Not Reviewed	

Fees		Payments		
Variance	\$250.00	06/07/2024	Card Visa *1498	\$250.00
Subtotal	\$250.00	Total Paid		\$250.00
Amount Paid	\$250.00			
Total Due	\$0.00			

### Application Form Data

(Empty fields are not included)

Variance Type  
Area Variance




Please explain the requested variance

I would like a variance in regards to a gate for a 6 ft fence. The new gate is 8 foot tall to allow for a 6 foot clearance for a person to go through the gate. We have fought for years to maintain a gate that is secure and stable. Due to the excess water run off from neighbors homes, we have found it to be challenging and all attempts have failed. As I understand it, an 8 ft fence is allowed in an M1 or M2 industrial area for security purposes. We are asking for the same security consideration for a citizen of Grain Valley that is afforded to a business. My husband is a contractor by profession and we have a shed on that side of the yard that contains thousands upon thousands of dollars in tools and equipment that we want to have secure. Additionally, for the safety and protection of our pets as all previous attempts for a secure gate have failed.

Please provide a legal description of the variance

8 ft tall gate on a 6 ft tall privacy fence with a roll up door to move large objects in and out of the yard into the shed. The roll up gate will be painted to look like a wood door (See attached example). We will be decorating the structure as you would a trellis or Arbor. Vertical garden wall, Vines, flowers, Arbor surrounding door. Attached are multiple pictures that depict the vision(s) that we have for the structure.

Additional Attachments

-  Rolling Door.jpg
-  Vertical Wall 2.jpg
-  Vertical Wall.jpg
-  Arbor.jpg
-  Arbor Entrance.jpg
-  Arbor entrance 2.jpg

Property Street Address  
609 SW Gateway Dr.

City  
Grain Valley

State  
MO

Zip Code  
64029

First Name  
Angel

Last Name  
Thomas

Phone Number  
(816) 520-0615

Email  
angedwards@sbcglobal.net

Street Address  
609 SW Gateway Dr.

City  
Grain Valley

State  
MO

Zip Code

Is the applicant also the property owner?

**Yes**

The variance requested arises from a condition which is unique and peculiar to the property in question and which is not ordinarily found in the same zone or district, and further, is not created by an action or actions of the property owner or applicant.

**The area my neighborhood was built in was a creek bed. The french drain I installed takes care of my main yard, however water runoff from the neighbors make the side yard wet all the time.**

**Maintaining a fence is challenging as the ground is mud and is constantly shifting, and the wight of a gate sags and is not secure.**

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

**It will have no adverse affect on the adjacent property.**

Strict Application of the provisions of the City's zoning regulations of which the variance is requested will constitute practical difficulties for the property owner. Missouri Courts have stated that the following factors are helpful in determining practical difficulties: (1) How substantial the deviation (variance) is in relation to the requirement; (2) Whether there will be a substantial change in the character of the neighborhood or a substantial detriment to adjoining properties; (3) Can the problem be corrected by a feasible alternative to the grant of a variance; (4) Whether fairness can be achieved for all by allowing the variance.

**The gate side of the fence will be 2 feet higher and there will be a rolling door that will be painted to look like wood. There is no visual disturbances for adjacent properties. The addition once completed and decorated will only enhance the look of the home and neighborhood as it will go from a sagging broken fence to an Arbor covered area with plants, vines, flowers. We have tried metal attached to the gate, replacement of the gate multiple times, as long as the water floods the area, there are no other options. I think the fairness comes in to play, with again allowing a citizen the same right as an industrial buisness.**

The variance requested will not adversely affect the public health, safety, morals, or general welfare of the community.

**There is nothing about this structure that will have an affect on public health, safety, moral, or general welfare of the community.**

The granting of the variance will not be opposed to the general spirit and intent of the ordinance from which the variance is sought.

**No, the additional 2 feet affect one side of the fence around that yard and will be decorated to enhance the area.**

Substantial justice (i.e., is it fair to all affected parties) will be done by the granting of this variance. (Why is this request fair to all affected?)

**There are no other affected parties.**

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## Signature

I agree that the facts stated in this application are true, and upon changes I will provide notification as needed.

Angel Thomas - 06/07/2024 9:25 am









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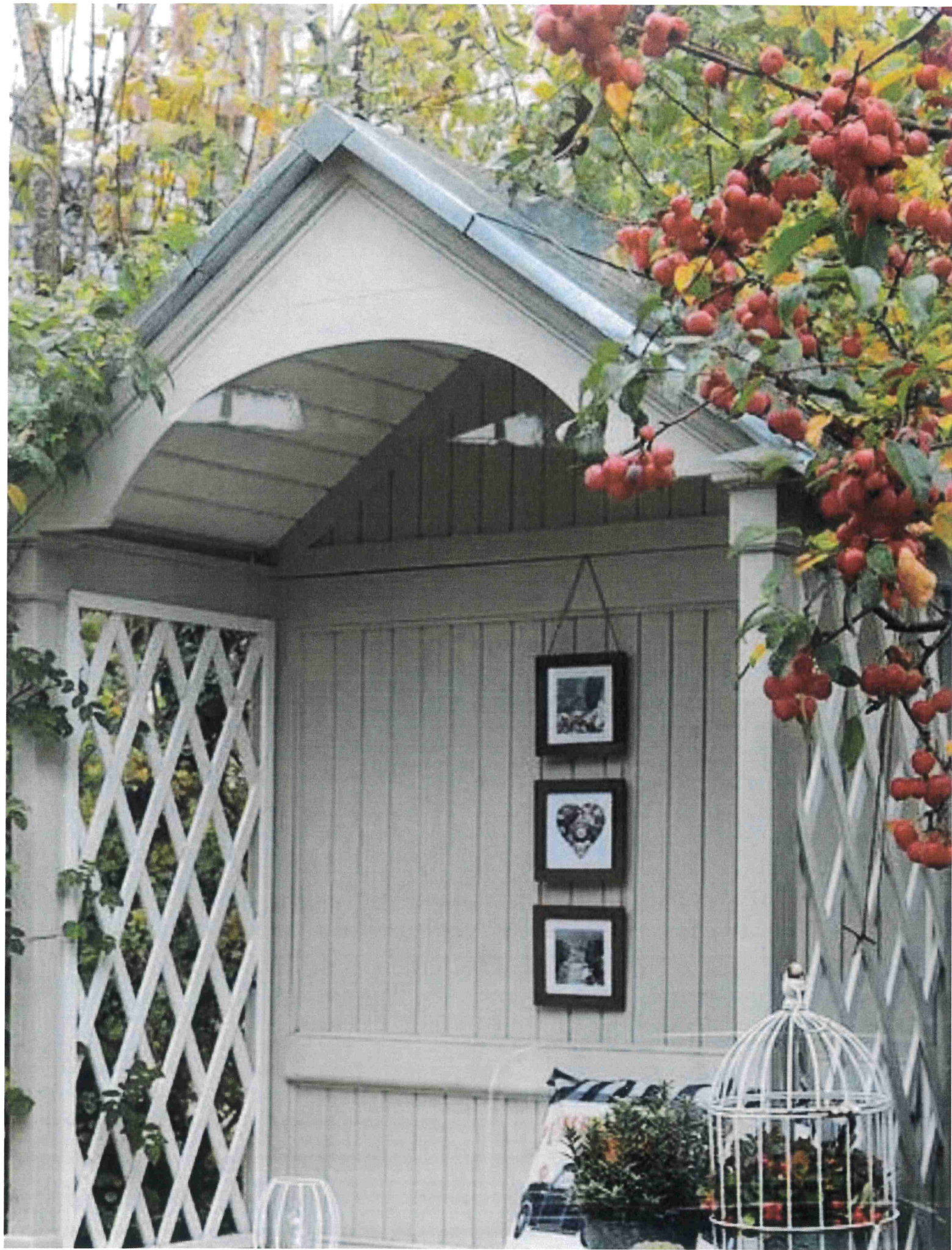
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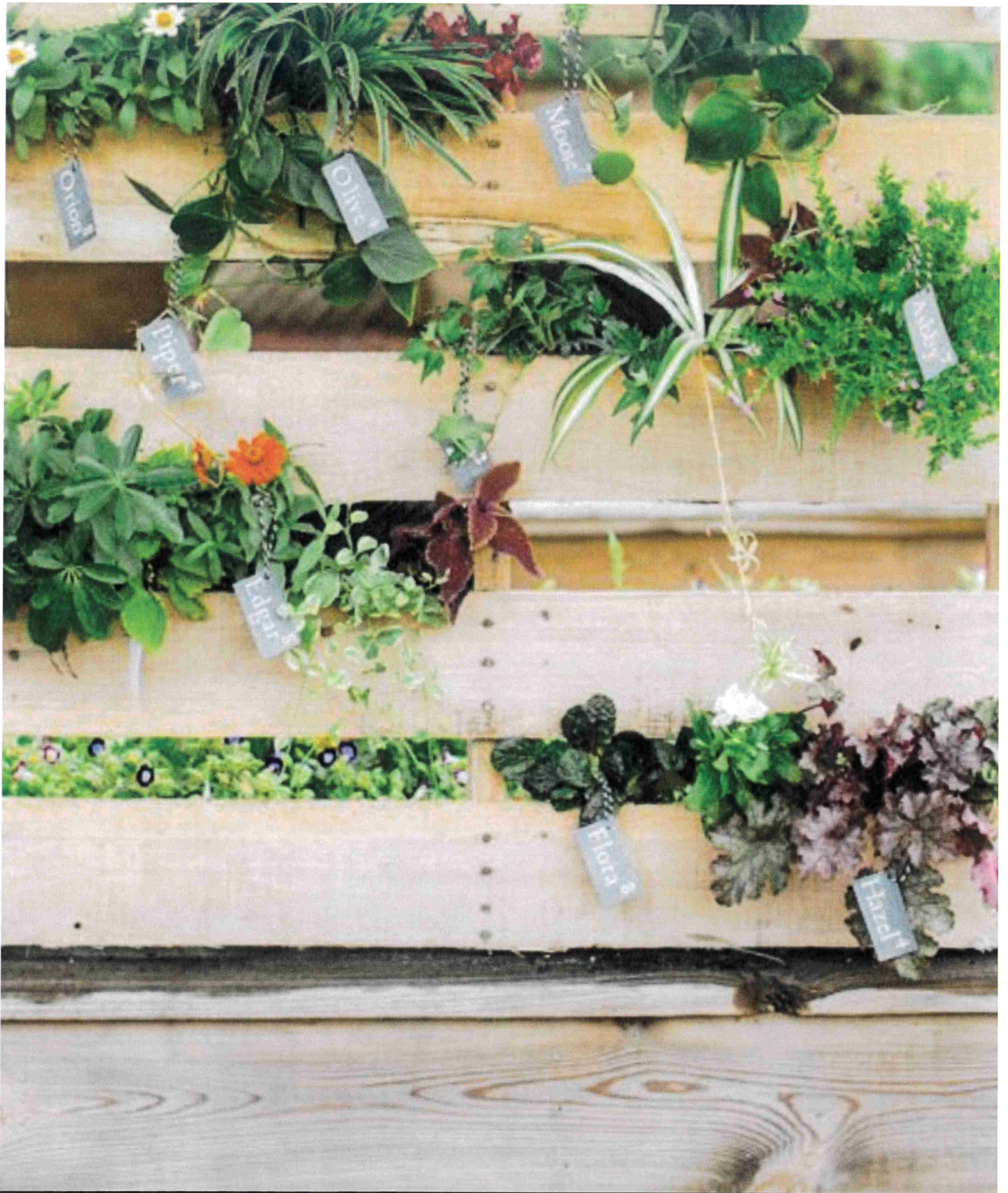












Wall Ideas - ...

may be subject to





















**Staff Report**  
**July 16, 2024**

**Case VAR2024-01:**

Submitted by Angel Thomas. Requesting an area variance to Section 400.230 C.9 to allow an 8-foot-high fence gate instead of the required 6-foot-high fence gate. The fence access is a metal roll-up garage door. The lot is located 200 feet west of SW Ridgeview Drive on the south side of SW Gateway Drive, aka 609 SW Gateway Drive.

**Background:**

The lot referenced above is legally described as Lot 223 in Countryside at Sni-A-Bar 5<sup>th</sup> Plat subdivision.

The property is zoned District R-1 (Single Family Residential).

**Analysis:**

Referencing the Zoning Regulations, Chapter 400 of the City's Municipal Code, Section 400.230 C.9 d. states:

"Fences shall be limited to the height of six (6) feet for side and rear yards in any zone, except "M-1" and "M-2" zoned areas which allow eight (8) foot fences. Fences over six (6) feet must meet the requirements of the Building Code."

In 2018, the property owner (applicant) was issued a permit (Number 20180157) to install a 6-foot-high privacy fence. A photo showing the approved fence gate is included. A final inspection was made and approved by the Building Official on May 4, 2018.

The applicant removed the 6-foot-high wood privacy fence gate and replaced it with an 8-foot fence that has a metal roll-up garage door and solid door that provide access to the property owner's rear yard. The property owner did not apply nor was a permit issued for this modification.

The Code Enforcement Officer received a citizen complaint. The Code Enforcement Officer conducted an on-site visit and sent a notice letter dated May 30, 2024 to the property owner citing the violation with city code.

Building Official Mike Russell has the following concerns with the construction and the structural stability of the wall (fence gate) that was built:

1. The wall has been covered without inspection to know the material and spacing of the studs used to construct the wall.





**Page 2, Staff Report, VAR2024-01**

2. What sizes are the headers built for the two doors? Is it one continuous header or two separate headers?
3. How is the wall attached to the house? There are requirements that need to be met at corners and intersections of walls.
4. If the ground is too marshy to hold a fence post stable, how will it support a wall of this size and weight without a proper footing being placed underneath the wall. Without a proper footing and being attached to it this wall will sway and lean and sink pulling it away from the house and not only damaging the wall itself but the house where it's attached. It does appear to rest on concrete from the photos but there are no signs from the front anyway that a footing was ever dug. The minimum size trench footing would be 12" wide by 36" deep to get below the frost line.
5. There is no protection for this wall. There is not a roof to protect it and there is not a wall to help hold it on both ends. This wall will be just like a big windsail catching all the wind, again buckling and swaying the wall or even ripping it right off the house damaging the wall and house where it is attached. It may be attached to the fence on the opposite side. Where a fence is designed to help hold and support another section of fence when built like a box the existing fence is not designed to support the weight and height of this wall especially when it comes to higher winds.
6. The minimum wind rating for overhead doors in our area is 115 mph wind rating. I do not believe this overhead door has such rating.
7. The code requires a landing outside all exterior personal doors as well as a light fixture outside each door.

**Standard for Area Variance:**

An area variance allows the property owner to make physical changes to a property that zoning requirements would typically restrict.

The standard for obtaining an area variance is "practical difficulties". The property owner must show a unique physical condition of the property which makes strict compliance with the regulations of the zoning ordinance impractical. The practical difficulties must relate to the property and not be personal to the owner.



### Page 3, Staff Report, VAR2024-01

The following six factors need to be proved by the property owner for the BZA to consider if “practical difficulties” exist and there is justification to grant an area variance:

1. The variance requested arises from a condition which is unique and peculiar to the property in question, and which is not prevalent in the neighborhood and ordinarily not found in the same zone or district and, further, is not created by an action or actions of the property owner or applicant.
2. The granting of the variance will not adversely affect the rights of adjacent property owners or residents.
3. The strict application of the provisions of the city’s zoning regulations of which the variance is requested will constitute practical difficulties for the property owner.
4. The variance requested will not adversely affect the public health, safety, morals, or general welfare of the community.
5. The granting of the variance will not be opposed to the general spirit and intent of the ordinance from which the variance is sought.
6. Substantial justice (i.e., is it fair to all affected parties) will be done by the granting of this variance. (Why is this request fair to all affected?)

The applicant has provided a response to these six factors in the application. The applicant states that there is a drainage issue which makes the side yard wet all the time. In reviewing an aerial photo of the property, the property owner may be contributing to the water issue since the perimeter of the backyard is not grass. Turf grass helps to slow down the water run-off and often absorbs it into the ground.

Even with the wet ground, a fence post, when installed properly, can be set to provide the structural integrity to support a typically privacy fence gate. This is the fence gate that is shown in the photo when the fence was originally built. When the ground is wet, it is recommended that the post hole be at least 36 inches deep, then backfill the bottom third of the post hole with tamped gravel. Insert the post and pour concrete mix around it. Brace the post until the concrete sets. Therefore, the condition is created by the action of the applicant and does not meet the first factor above.



**Page 4, Staff Report, VAR2024-01**

The granting of this variance would be opposed to the intent of the ordinance. The purpose of regulating the maximum height of a fence in a residential area to 6 feet is to provide uniformity within the neighborhood and the community. By allowing the gate access to remain as a metal roll-up garage door would be unsightly and unaesthetic to the neighboring properties.

Staff contends that the applicant has not proven “practical difficulties” exist and therefore, a variance should not be granted.