BOARD OF ZONING APPEALS CITY OF PRAIRIE VILLAGE, KANSAS **AGENDA** April 4, 2017 6:30 P.M.

- I. **ROLL CALL**
- II. APPROVAL OF MINUTES - July 12, 2016
- III. **ACTION ITEM**

BZA2017-01 Request for a Variance from PVMC 19.08.030 to allow a

reduction of the rear yard setback from 25 feet to 14'5" 4510 West 71st Terrace

Zoning: R-1a Single Family Residential District Applicant: Eric Piper for Steve & Marianne Noll

- IV. **OTHER BUSINESS**
- V. **OLD BUSINESS**
- VI. **ADJOURNMENT**

If you cannot be present, comments can be made by e-mail to Cityclerk@Pvkansas.com

BOARD OF ZONING APPEALS CITY OF PRAIRIE VILLAGE, KANSAS MINUTES TUESDAY, JULY 12, 2016

ROLL CALL

The meeting of the Board of Zoning Appeals of the City of Prairie Village, Kansas was held on Tuesday, July 12, 2016 in the Multi-Purpose Room of the Municipal Building at 7700 Mission Road. Chairman Gregory Wolf called the meeting to order at 6:30 p.m. with the following members present: Jonathan Birkel, Melissa Brown, Jeffrey Valentino, James Breneman and Nancy Wallerstein. Also present in their advisory capacity to the Board of Zoning Appeals were: Chris Brewster, Planning Consultant; Mitch Dringman, City Building Official and Joyce Hagen Mundy, Board Secretary.

APPROVAL OF MINUTES

Nancy Wallerstein moved the approval of the minutes of the June 6, 2016 meeting as presented. The motion was seconded by Jonathan Birkel and passed by a vote of 5 to 0 with James Breneman abstaining.

BZA2016-05 Request for a Variance from PVMC 19.06.030 (A) to allow the construction of a house within 14 feet of the dwelling on the adjacent lot 3009 West 71st Street

Debra Hudacek, 8005 High Drive, stated the foundation of the new home is 1.5" to 2.5" too close to the foundation of the home on the adjacent property as the result of an error in a survey notation not discovered until after construction was well under way. This occurs at two 4'1/2" sections of the east wall. The majority of the house is well inside the setbacks required. Ms. Hudacek noted that only the foundation, not the framed wall of the house, is located outside of the required setback.

Gregory Wolf confirmed that the information submitted to City's Building Official was different than what was given to the contractor.

Chairman Gregory Wolf opened the hearing for comments.

Jill Rodick, 3005 West 71st Street, has lived in this area for the past 4 years. She feels that Prairie Village is losing its value in not enforcing strict building conditions particularly, but not only, in this area. Oversized homes are compromising the aesthetics of Prairie Village.

Michael Hill, 3014 West 71st Terrace, directly behind the applicant's property, stated he does not the building of homes in the area that are oversized. He noted on Springfield there is a \$600,000 home that completely fills the lot surrounded by \$150,000 homes.

He does not want to see the city continue to grant exceptions. He encouraged the city to look at the loss of green space on these properties. Mr. Hill acknowledged that this home is not overpowering in comparison to his such as those across the street.

Steve Rodrick, 3005 West 71st Street, of the Countryside East Design Guideline Board, stated he felt if the northeast area of the city would adopt guidelines similar to the Countryside East Overlay District this issue would be addressed.

Ann Gusewelle, 3103 West 71st Terrace, noted that two other homes have been torn down in this neighborhood resulting in a transformation of their street.

Joanne Scurato, 3009 West 71st Street, owner of the home stated the previous home was 1700 square feet. Their new home is 1800 square feet and one and a half story. It does not take up their entire lot.

With no further comments, the public hearing was closed at 6:45 p.m.

Chris Brewster noted that the plans for this home were approved showing a 14 foot separation between the proposed home and the home on the adjacent property; however, was constructed 13'9" to 13'10" from the neighboring home. He noted however, the foundation is located more than the required 5' from the side lot line.

Mr. Brewster noted that many of the comments addressed issues that the city has been discussing for the past several months. He noted some changes were recently adopted; however, this application was filed prior to their adoption and the current code prevails. He added that the issue of scale and mass is continuing to be discussed by the city.

Gregory Wolf confirmed that the plans submitted to and approved by the City met all the codes. Melissa Brown asked how the building line was established. Mitch Dringman replied by measurement from the existing structure. Mr. Wolf as if the City took on site measurements. Mr. Dringman replied he usually takes the measure from the survey submitted. The on-site measurement was taken as the result of a complaint received. The difference could have occurred in the process of setting of the foundation blocks.

Jeffrey Valentine confirmed that the measurement was taken from foundation to foundation and that the actual wall structures are within the required setback. Mrs. Brown asked if the foundation of the neighboring property could vary at different points as this one does. Mr. Dringman replied it could and that measurements were not taken at multiple locations.

Mr. Wolf asked what would happen if the variance was denied. Mr. Dringman replied the foundation above the grade would need to be shaved to come into compliance.

The Board reviewed the criteria required for granting a variance as presented in the staff report.

A. Uniqueness

That the variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owner or the applicant. In order for the property to meet the condition of uniqueness, it must have some peculiar physical surroundings, shape, or topographical condition that would result in a practical difficulty as distinguished from a mere inconvenience to utilize the property without granting the variance.

The required lot standard for this zoning district is 80' x 100'; however, many lots in this zoning district and in this specific vicinity are larger than this. The subject lot is an interior lot on a long block. It is 85' x 135'. Most lots on this block range in size from 80' to 100' wide. Lots on the north side of the block are typically 95' to 100' wide; lots on the south side of the block are typically 80' to 85' wide. All lots have a conventional rectangular configuration with few irregularities, except to accommodate slight cures in the street and lot frontage.

Mr. Wolf stated that he does believe that the uniqueness criteria has been met for this application. Nancy Wallerstein moved the Board does not find favorably on Criteria A "Uniqueness". The motion was seconded by Gregory Wolf.

Jeffrey Valentino noted that looking at the façade of the building as a whole 99.9% is in compliance with code. Jonathan Birkel noted that in the new code adopted the Building Official is allowed to approve a minimal variance of height from plans during the building process and asked if a construction tolerance could be applied in this situation. Mr. Wolf stated this property is not unique as required by statute. The requested variance is from a condition created by the applicant.

The motion was voted on and passed by a vote of 4 to 2 with Mr. Breneman and Valentino voting in opposition.

B. Adjacent Property

That the granting of the permit for the variance would not adversely affect the rights of adjacent property owners or residents.

The requested variance would place the foundation 1.5" to 2.5" closer to the structure to the east than is permitted by ordinance. The subject property is approximately 5.3' from the side lot line and the structure to the west is approximately 7.6' from the side lot line both meeting the required setback from the lot line.

Gregory Wolf stated the minimal distance for which the variance is requested does not adversely affect the adjacent property owners or residents. Nancy Wallerstein moved the Board find favorably on Criteria B "Adjacent Property". The motion was seconded James Breneman and passed by a vote of 6 to 0.

C. Hardship

That the strict application of the provisions of these regulations from which a variance is requested will constitute an unnecessary hardship upon the property owner represented in the application.

The lot is 85' wide. Meeting both the side setback and building separation requirements would yield a potential buildable area of approximately 5,120 to 6,000 square feet. (using a depth of 80' - 135' deep lot, minus 30' front setback and 25' rear setback). The 85' wide lot produces a width of the buildable area between 64' (if each adjacent building were built within 5' of the side lot lines, and this lot needed to provide 9' on each side) and 75' (if each adjacent building were 9' or more from the side lot lines and this lot only needed to meet the 5' setback). The actual width of the buildable area based on the existing location of adjacent buildings is approximately 74', yielding a potential buildable area of 5,920 square feet.

Gregory Wolf noted the structure meets the property line setback; however, the location of the adjacent house requires the additional distance. The location of that home was not created by the applicant and the resulting strict application of code requiring changes to the existing foundation would result in significant hardship to the application Nancy Wallerstein moved the Board find favorably on Criteria C "Hardship". The motion was seconded by James Breneman and passed by a vote of 6 to 0.

D. Public Interest

That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.

The proposed building complies with all other setback and building coverage standards, and with the 5' lot line portion of the side setback. The deviation requested from the building separation requirement is small - amounting to less than 2% of the required building separation.

Jonathan Birkel moved the Board find favorably on Criteria D "Public Interest". The motion was seconded by James Breneman and passed by a vote of 6 to 0.

E. Spirit and Intent of the Regulation

That the granting of the variance desired would not be opposed to the general spirit and intent of these regulations.

The extent of the deviation from the required building separation is small. The intent of the ordinance is to allow some flexibility for location of buildings and buildable areas in relation to the lot (5' minimum side setbacks on fairly wide lots), but also require appropriate relationships to adjacent buildings (14' separation between buildings. This results in the 4' difference to be managed between the abutting lots (at least 5' on each side, less the 14' minimum). In this case 2.6 feet of that 4' is coming from the adjacent lot and the remaining 1.4 feet is to be made up by this lot.

Nancy Wallerstein moved the Board find favorably on Criteria E "Spirit and Intent of the Regulation". The motion was seconded by James Breneman and passed by a vote of 6 to 0.

Nancy Wallerstein moved that the Board reconsider their finding on the uniqueness criteria and approve BZA 2016-05 granting a variance only to the extent shown on the submitted plans and only for the existing foundation; only for the extent shown on the plans (no extension of the side building line for any portions of the structure); and only to

the depth shown (between 1.5" and 2.5") and that the variance be recorded with the County Register of Deeds within 1 year of approval. The motion was seconded by James Breneman.

James Breneman felt the measurement should be taken from exterior wall to exterior wall and not foundation to foundation, noting with that measurement this home would be in compliance with code. Jeffrey Valentino felt the Board is overstepping its direction when it considers only the measurement from foundation to foundation and not the exterior wall. Mr. Breneman felt this was simply a minor construction error and had it been greater he would have voted differently. Mrs. Wallerstein stated that overall this application meets the criteria for approval. The motion and passed by a vote of 5 to 1 with Gregory Wolf voting in opposition.

OLD BUSINESS

There was no Old Business to come before the Board.

NEXT MEETING

Board Secretary Joyce Hagen Mundy reported the filing deadline for the August meeting has past and no applications were filed for the Board for consideration in August.

ADJOURNMENT

Chairman Gregory Wolf adjourned the meeting of the Board of Zoning Appeals at 7:05 p.m.

Gregory Wolf Chairman

STAFF REPORT

TO: Prairie Village Board of Zoning Appeals

FROM: Chris Brewster, AICP, Gould Evans, Planning Consultant

DATE: April 4, 2017

Application: BZA 2017-01

Request: Variance from Rear Yard Setback - Required 14' building

separation.

Property Address: 4510 West 71st Terrace

<u>Applicant:</u> Piper-Wind Architects

Current Zoning and Land Use: R-1B Single-Family Residential - Single-Family Dwellings

Surrounding Zoning and Land Use: North: R-1B Single-Family Residential - Single-Family Dwellings

East: R-1B Single-Family Residential - Single-Family Dwellings
 South: R-1BSingle-Family Residential - Single-Family Dwellings
 West: R-1B Single-Family Residential - Single-Family Dwellings

Legal Description: PRAIRIE VILLAGE LOT 17 BLK 18 PVC-0798

Property Area: 6,465.17 s.f. (0.15 acres)

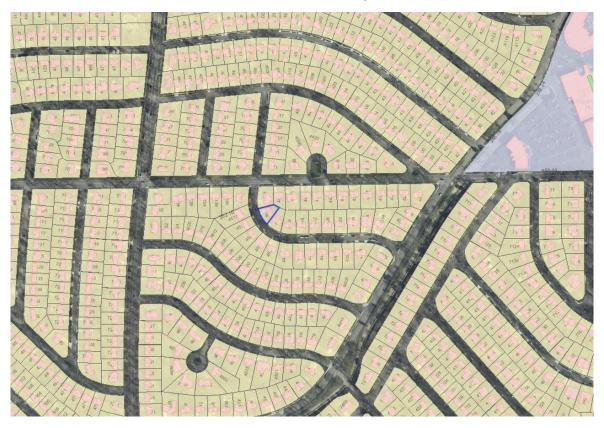
Related Case Files: None

Attachments: Application, Drawings & Photos

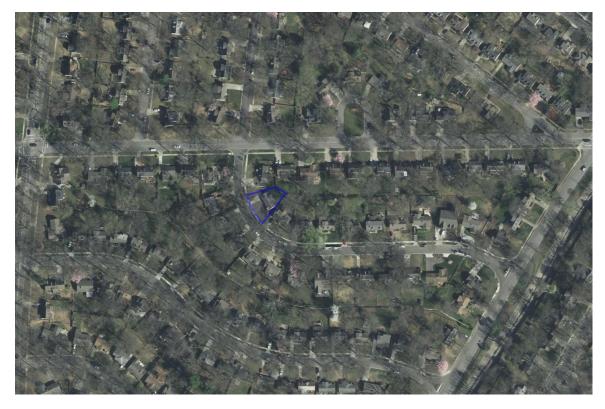
STAFF REPORT BZA 2017-01

April 4, 2017

General Location Map



Aerial Map



STAFF REPORT BZA 2017-01

April 4, 2017

Aerial Site



SUMMARY:

The applicant is requesting a variance from Section 19.08.030. to allow an addition to the existing structure to be placed closer than 25' to the rear property line. The existing building encroaches into the required rear yard slightly on the northeast corner (approximately 2' to 3'). An existing screened porch is off-set from this corner to the south, but due to the angle of the lot also encroaches into the required rear yard on the north east corner of the screened porch (approximately 2' to 3'). The applicant is proposing to replace the screened porch with an enclosed addition and new balcony, that would encroach into the required rear yard approximately 10'7" at the deepest point (northeast corner), but tapers back to being compliant with the rear setback at the southeast corner. The addition is 1.5 stories with a gabled roof facing the rear lot line, and with dormers facing both the side lot line and interior of the lot. A proposed balcony on the upper level also encroaches into the setback and is centered on the addition, but due to the angle of the lot, it does not encroach as much as the deepest point at the northeast corner of the proposed addition. Some dormers are also proposed on the front and rear elevations in association with these improvements, and these elements meet all applicable standards.

ANALYSIS:

This variance request affects a portion of the required side yard setback for the R-1B zoning district. Section 19.08.030. reads as follows:

A rear yard of not less than twenty-five (25) feet shall be provided.

STAFF REPORT BZA 2017-01

April 4, 2017

The rear lot line is defined as the boundary line which is opposite to and most distant from the front lot line, with the front lot line being the boundary between the lot and the street right-of-way on which it fronts. The required rear yard is formed by the rear lot line and the rear building line extended at the side lot lines.

Section 19.54.030 of the Zoning Ordinance requires the Board to find that all five of the following conditions are met in order to grant a variance:

A. Uniqueness

That the variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owner or the applicant.

In order for the property to meet the condition of uniqueness, it must have some peculiar physical surroundings, shape, or topographical condition that would result in a practical difficulty as distinguished from a mere inconvenience to utilize the property without granting the variance.

This lot is located on a exterior curve of a street. It produces a long and curved front lot line, but a short rear lot line due to the "pie-shaped" lot resulting from this curve. Further, due to the lot configurations within this block, the rear lot line of this lot and the lot immediately to the south and east is on an angle. For the subject lot, this results in a longer side lot line on the southeast side of the lot and a shorter lot line on the northwest side of the lot. As a result the rear lot line and rear setback line created by definition is not parallel to the front building line and street, but rather is skewed on the lot. The affect of this is that the north rear setback line impacts the buildable footprint more substantially than the west portion.

B. Adjacent Property

That the granting of the permit for the variance would not adversely affect the rights of adjacent property owners or residents.

Although this is a rear setback variance request, the proposal impacts the buildings to the north most significantly – at location where the side setback controls the relationship of these two buildings. In this case the proposed addition meets all required side setbacks. The closest portion of the building to the structure to the north is the southeast portion of the existing building (approximately 23' 10" between structures at the closest point, but further in most other areas due to the angle of each building and the varied massing and offsets in each building footprint.) The requested variance encroachment to the rear may also impact the lot that shares a rear lot boundary with the subject lot. It too has an angled rear lot line resulting in a skewed building footprint. The existing structure is substantially further from the subject house and due to the configuration of all lots on this block and corner, the side setbacks will enable structures to be nearer to one another than would the rear setbacks. (for example, the lot immediately to the north is approximately 10' from its rear lot line due to its corner orientation, resulting in these two homes being much closer than the impact of the subject request – this having a more of a side-side orientation, rather than rear-side orientation)

C. Hardship

That the strict application of the provisions of these regulations from which a variance is requested will constitute an unnecessary hardship upon the property owner represented in the application.

The lot is a "pie-shaped" lot with approximately 95' of frontage along the front lot line, but approximately 37' of lot line along the rear lot line. This results in a skewed permitted building footprint for this lot. The existing building footprint typical of homes in the area but still smaller than most, and due to its orientation and the configuration of this lot, it does not fit within the permitted building footprint (a small portion of the northeast corner encroaches into the setback). Therefore, any addition to the existing building would not be possible without increasing this encroachment into the required setbacks in some manner.

D. Public Interest

April 4, 2017

That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.

The proposed building complies with all other setback and building coverage standards. The proposed addition is consistent with the architectural character of the existing building and enhances the character of the neighborhood, as it is representative of many buildings in the vicinity.

E. Spirit and Intent of the Regulation

That the granting of the variance desired would not be opposed to the general spirit and intent of these regulations.

The extent of the deviation is modest compared to the shape of the lot and the resulting permissible building footprint. The addition is centered on the back of the home (off set from the prevailing side building line at the subject corner), and tapers to where it is fully compliant with the required rear setback towards the center of the lot. Further, the off-sets in the building footprint do not place any portion of the proposed addition closer to the nearest adjacent building than the northeast corner of the existing building, which will remain the closest point between two buildings. The addition ties into the rooflines of the existing building with a gable running perpendicular to the ridge line of the existing roof, matching the current building heights. The angles of the roof of the addition and dormers also place the highest point of the addition at a more central portion of the lot where the encroachment into the required rear setback is slight.

VARIANCE RECOMMENDATION:

After reviewing the information submitted and consideration of the testimony during the public hearing, if the Board finds that all five conditions can be met as required by state statutes and Section 19.54.030 of the Prairie Village Zoning Ordinance, then it can grant the variance. If the Board does approve the variance, it should be subject to the following condition:

- 1. That the variance be granted for only to the extent shown on the submitted plans, and specifically only to allow an encroachment of up to 10' 7" at the northeast corner of the proposed addition.
- 2. The variance, if approved, be recorded with the County Register of Deeds within 1 year of approval.

VARIANCE APPLICATION BOARD OF ZONING APPEALS

CITY OF PRAIRIE VILLAGE, KANSAS	For Office Use Only
	Case No:
	Filing Fee:
	Deposit:
	Date Advertised:
	Public Hearing Date:
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APPLICANT: Eric J. Piper, AIA	
ADDRESS: 2121 Central St. Suite 143, K	ansas City, MO ZIP: 64108
OWNER: Steve and Marianne Noll	PHONE:
ADDRESS 4500 W. 71st Terrace, Prairie	Village, KS ZIP: 66208
LOCATION OF PROPERTY: 4510 W. 71	
LEGAL DESCRIPTION: Lot 17, Block 1	
division in the City of Prairie V	
division in the city of Flatfie v	illage, bomison councy, Ransas
Variance Requested Prairie Village	- Zoning Regulation 19.08.030
Request a variance from the 25'	cear yard requirement to 14'-5".
Request a variance from the 25':	tear yard requirement to 14'-5".
Request a variance from the 25': ADJACENT ZONING AND LAND USE:	rear yard requirement to 14'-5".
ADJACENT ZONING AND LAND USE:	
ADJACENT ZONING AND LAND USE: <u>Land Use</u>	Zoning
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City Clerk City of Prairie Village 7700 Mission Road Prairie Village, Kansas 66208

applica	e indicate below the extent to which the following standards a ant's opinion. Provide an explanation on a separate sheet for is found to be met.			
1.	UNIQUENESS	<u>x</u>	Yes	_No
	The variance requested arises from conditions which are unit in question, which are not ordinarily found in the same zoning are not caused by actions of the property owners or applicant include the peculiar physical surroundings, shape, or topograthe specific property involved which would result in a practical unnecessary hardship for the applicant, as distinguished from inconvenience, if the requested variance was not granted.	g dis it. S aphi al di	strict, ai Such co cal con fficulty	nd which nditions dition of
2.	ADJACENT PROPERTY	<u>X</u>	_Yes	_No
	The granting of the variance will not be materially detrimenta the rights of adjacent property owners or residents.	l of	adverse	ely affect
3.	HARDSHIP	_X	_Yes	_No
	The strict application of the provision of the zoning regulation variance is requested will constitute an unnecessary hardshi Although the desire to increase the profitability of the proper indication of hardship, it shall not be sufficient reason by itse variance.	p up ty m	oon the ay be a	applicant in
4.	PUBLIC INTEREST	<u>x</u>	_Yes	_No
	The variance desired will not adversely affect the public heal order, convenience, or general welfare of the community. The variance shall not impair an adequate supply of light or air to substantially increase the congestion in the public streets, in fire, endanger the public safety, or substantially diminish or invalues within the neighborhood.	he p adj crea	ropose acent p ase the	d roperty, danger of
5.	SPIRIT AND INTENT	<u>X</u>	_Yes	_No
	Granting the requested variance will not be opposed to the gintent of the zoning regulations.	jene	eral spir	it and
6.	MINIMUM YARIANCE	<u> </u>	_Yes	_No
	The variance requested is the minimum variance that will ma reasonable use of the land or structure.	ake	possible	e the

DATE March 2, 2017

SIGNATURE:__

BY: Eric J. Piper, AIA
TITLE: Principal, Piper-Wind Architects, Inc.

PIPER-WIND ARCHITECTS, Inc.

2121 Central Street, Suite 143 Kansas City, Missouri 64108 phone (816) 474-3050 fax (816) 474-3051

March 2, 2017

Board of Zoning Appeals City of Prairie Village, Kansas 7700 Mission Road Prairie Village, KS 66208

RE: Application for Variance – 4510 West 71st Terrace

25' Rear Yard building setback requirement for an R1b lot

Dear Members of the Board:

As a supplement to the submitted application for variance to PV Zoning Regulation 19.08.030 (25' rear yard setback requirement), please find below the statement in response to the criteria necessary for granting such a variance and in support of finding the requirements of PVMC 19.44.070 have been met.

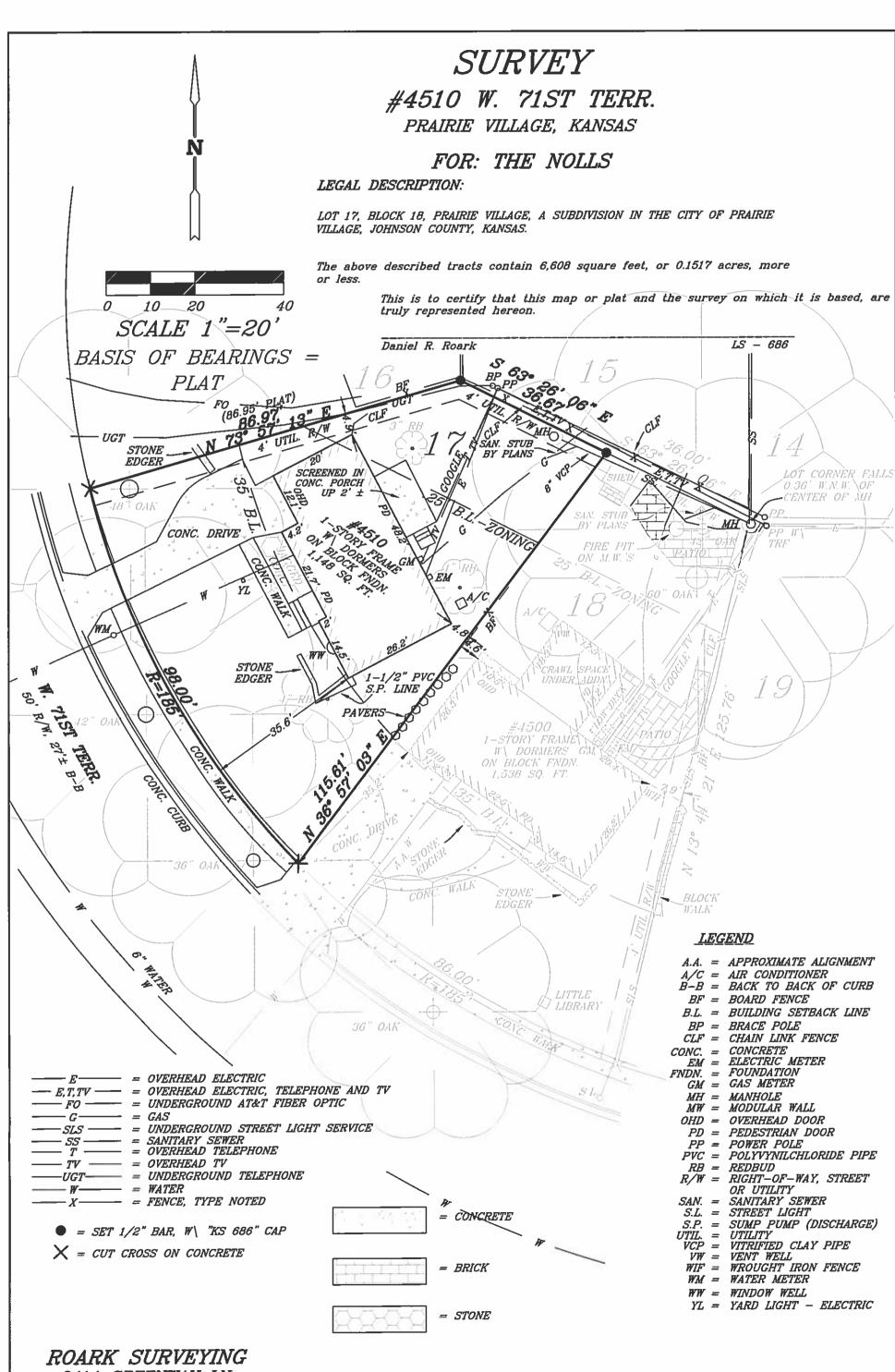
Criteria #1. That the variance requested arise from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district, and is not created by an action or actions of the property owner or applicant.

The house is on an irregularly shaped lot, an inside corner, due to the curvature of 71st Terrace as it connects with 71st St. The lot depth on the short leg is roughly 87' and on the long leg is roughly 116'. The more standard lot depths in this part of the City are 125-135' (60'x132.5' is common on the block along 71st St, 70' x 132.5' on the north side of 71st Terrace and 65'x137.50' on the south side of 71st Terrace). Thus, the 25' rear yard lot setback line makes is impossible to provide any addition to the rear yard. In fact, the existing house already encroaches on the 25' rear yard setback line as shown on the attached site survey. In addition, there is only a 15' distance from the platted front building line and the rear yard setback line at the short leg side property line. This condition is a unique condition to an inside corner lot at a street turning 90 degrees to subtend the adjacent street.

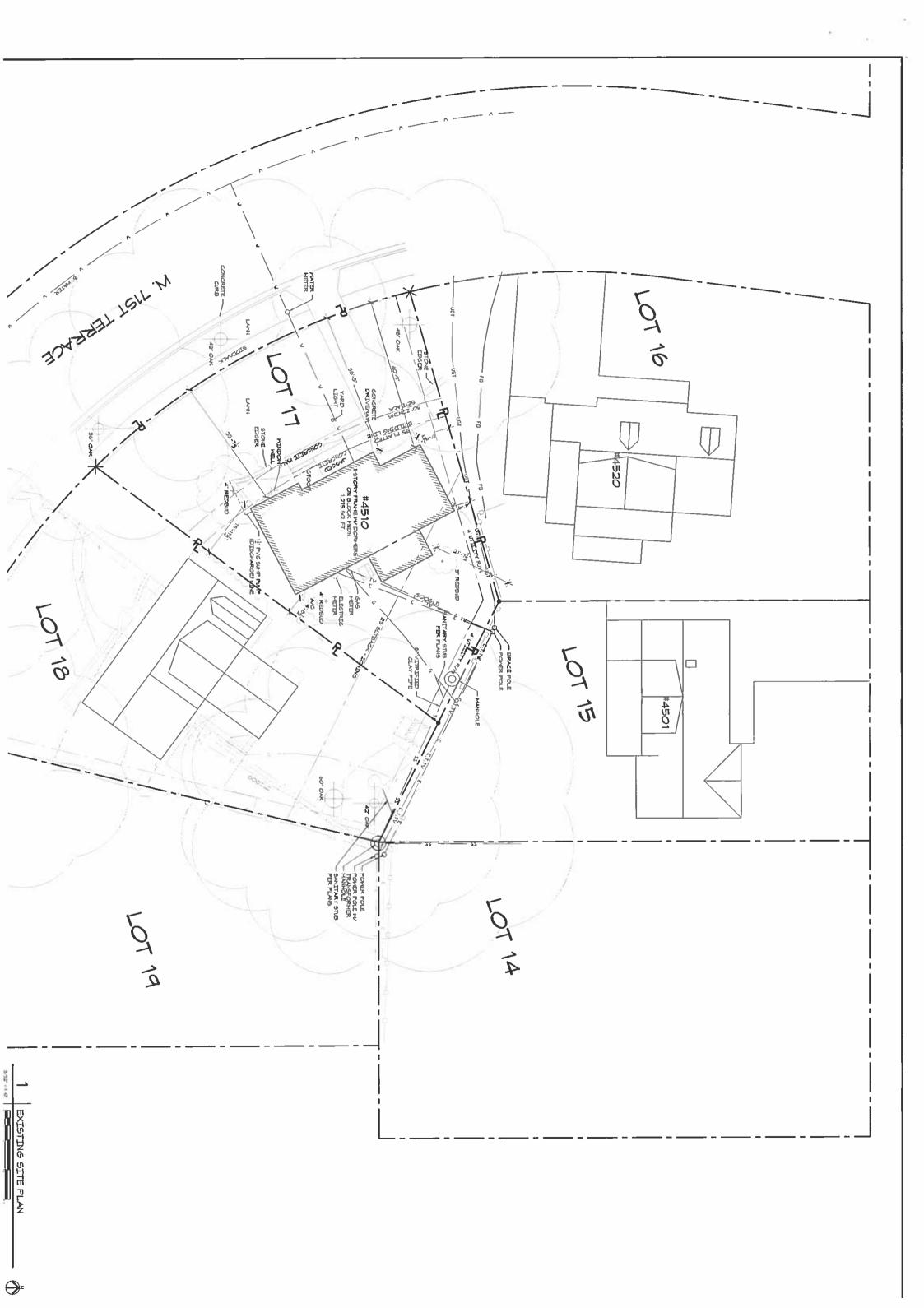
Criteria #2. That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.

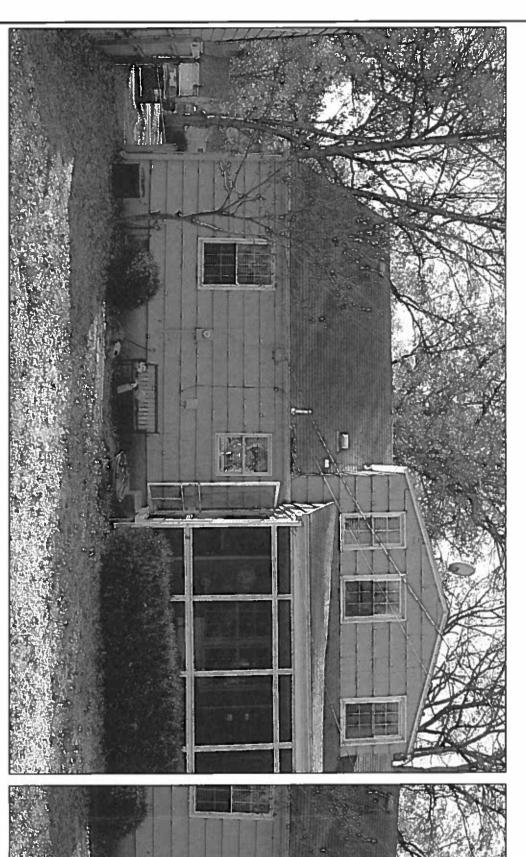
The adjacent rear lots are deeper, and therefore, the rear yard open space is not compromised by this addition. Given that the lot is at an angle to both its side yard neighbors and its rear yard neighbor, neither has any sort of direct view from their yard or house to this addition. The distance from their nearest neighbor to the north is not affected by this addition, which is larger than required by Zoning Ordinance.

Criteria #3. That the strict application of the provisions of this title of which the variance is requested will constitute unnecessary hardship upon the property owner represented in the application.

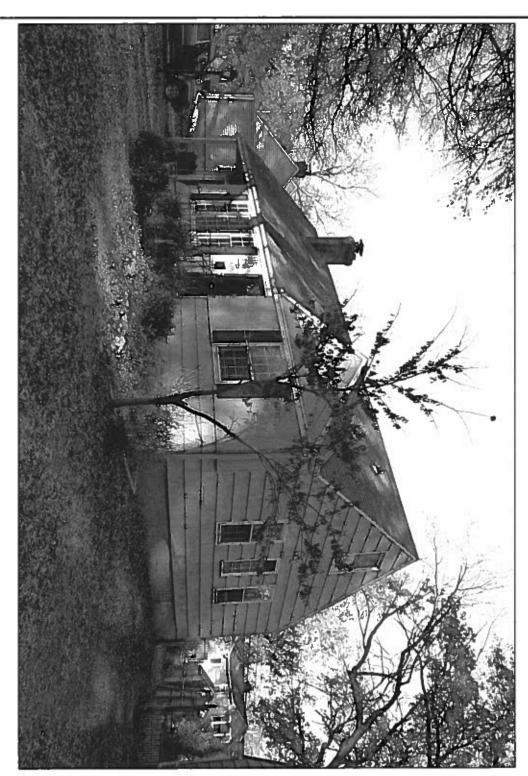


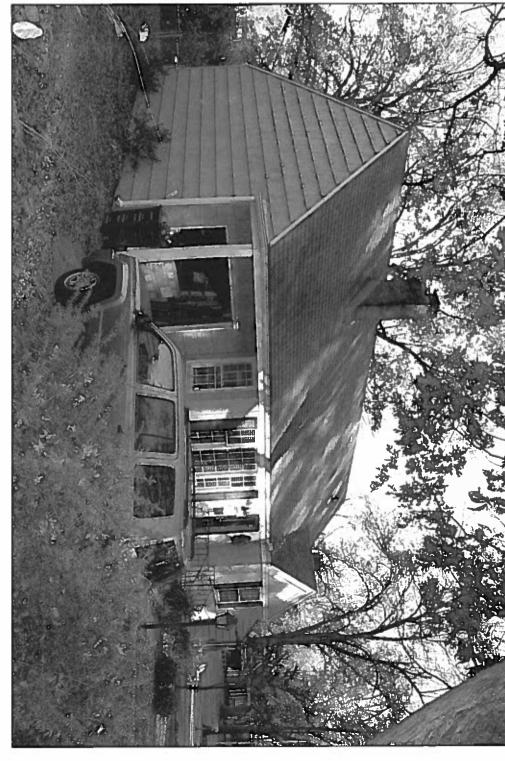
9414 GREENWAY LN.

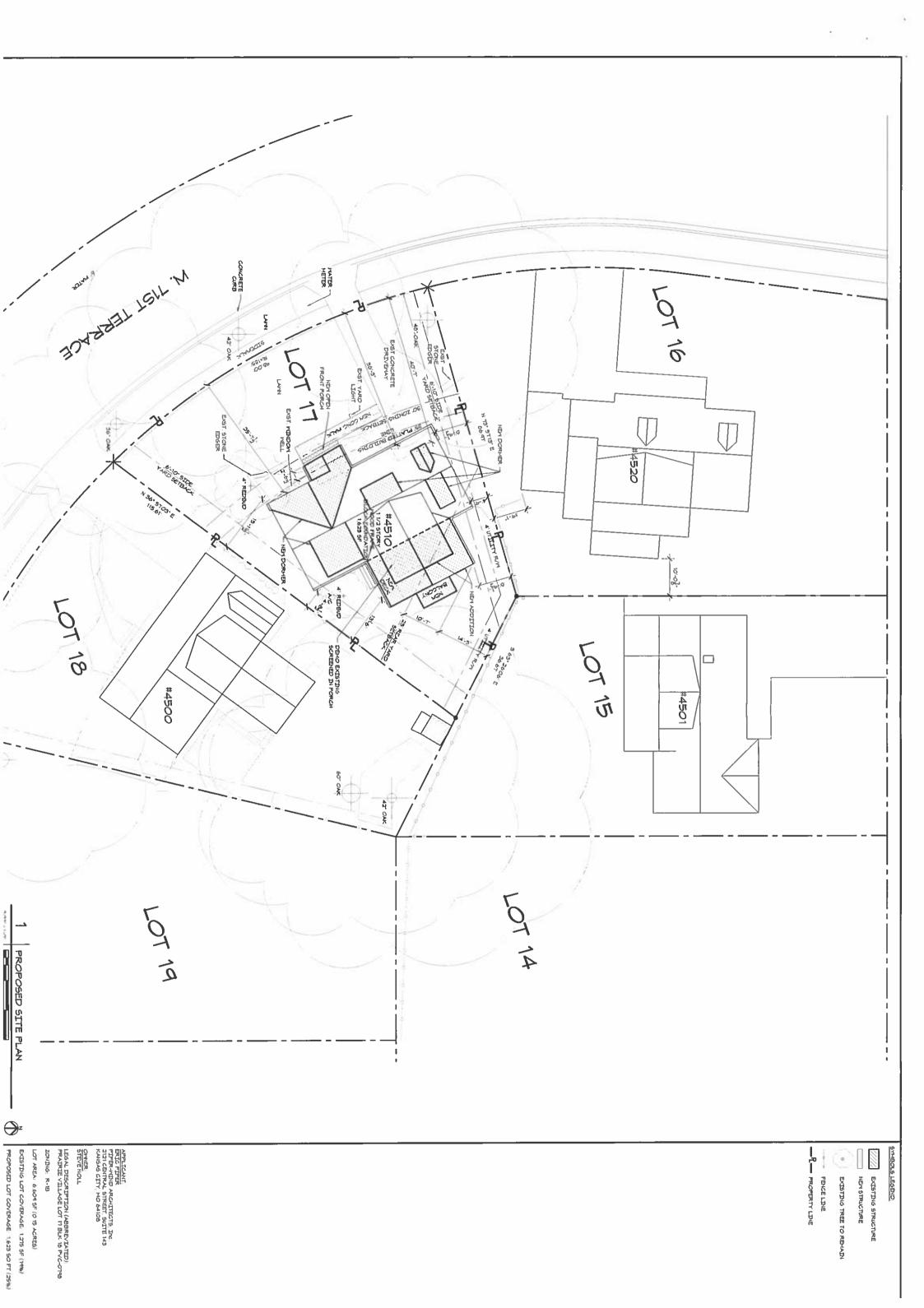




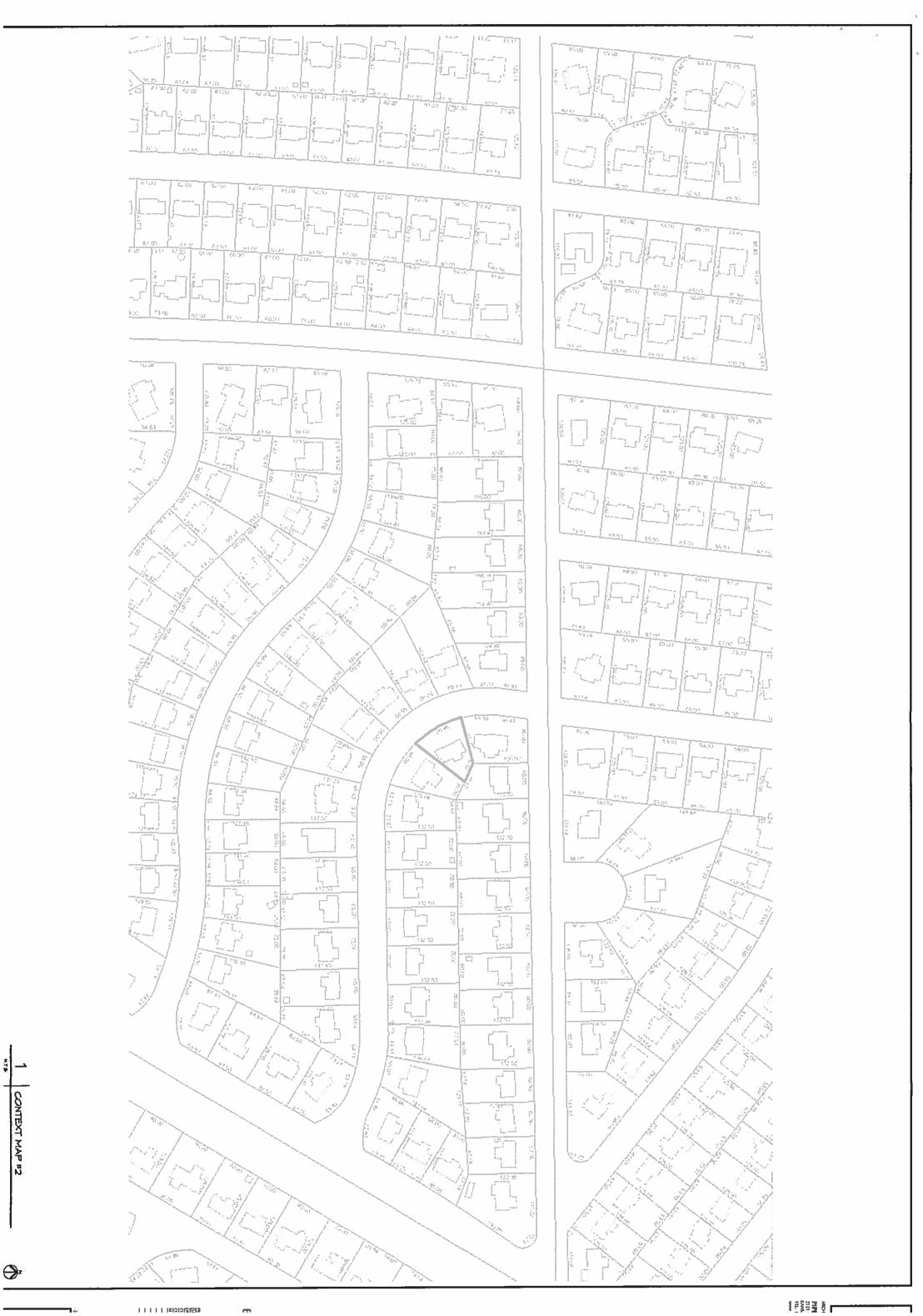








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