



**CITY OF GRAIN VALLEY  
BOARD OF ZONING ADJUSTMENT  
Wednesday, March 15, 2023 – 6:30 PM  
Grain Valley City Hall – Council Chambers - 711 Main St**

**AGENDA**

**I. CALL MEETING TO ORDER**

**II. ROLL CALL – Welcome Jim Wyzard**

**III. APPROVAL OF MINUTES**

- December 15, 2022

**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) **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.

Exhibits:

- 1) Use Variance Application
- 2) Applicant Plot Plan
- 3) Aerial Map
- 4) Staff Report
- 5) Photos of the Fence
- 6) Hoot Owl Estates

**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.



**City of Grain Valley**  
**Board of Zoning Adjustment**  
**Meeting Minutes Summary**

**12/15/2022**  
*Page 1 of 3*

**ITEM I: CALL TO ORDER**

- The Board of Zoning Adjustment of the City of Grain Valley, Missouri met on December 15, 2022, 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: Mike Coon*
- *Present: Joe Panza*
- *Absent: Lynne Berend*
- ***There was a quorum.***

**ITEM III: APPROVAL OF MINUTES**

- Board member Clark made a motion to approve the minutes from the November 2, 2021, meeting. Board member Coon second the motion. The Board approved the minutes by vote 4-0.

**ITEM IV: PUBLIC HEARING**

Chair Shatto opened the following public hearing:

- 1) **VAR2022-01 Nilesh Patel** – Requesting a 765-foot variance to the 10,000 square foot minimum lot area in Section 400.080 C.6, District R-2 (Duplex Residential District). The applicant wants to split an existing lot that contains 19,235 square feet into two lots which one lot will have the minimum lot area of 10,000 square feet more or less and the other lot will have 9,235 square feet more or less. The existing vacant lot is located at the southeast corner NW Sni-A-Bar Blvd. and NW Sni-A-Bar Parkway and is legally described as Lot 50 in Creekside Landing – 2<sup>nd</sup> Plat, a subdivision in the Southwest Quarter of Section 34, Township 49 North, Range 30 West in Grain Valley, Missouri aka 111-113 NW Sni-A-Bar Parkway.

---

**Board Members Present**

Mark Clark  
Mike Coon  
Joe Panza  
Steve Shatto

**Board Members Absent**

Lynne Berend

**Staff Officials Present**

Mark Trosen – CD Director  
Joe Lauber – City Attorney



**City of Grain Valley**  
**Board of Zoning Adjustment**  
**Meeting Minutes Summary**

**12/15/2022**  
*Page 2 of 3*

Exhibits:

- 1) Area Variance Application
- 2) Applicant Plot Plan
- 3) Aerial Map
- 4) Staff Report
- 5) Building Plan
- 6) Creekside Landing – 2<sup>nd</sup> Plat

- Director Trosen entered the exhibits and presented the Staff Report. The granting of the variance will not adversely affect the rights of adjacent property owners. With the Applicant's statements of why a variance should be granted and the facts presented, the interests of justice will be served by granting the variance.
- Nilesh Patel presented his request for a variance and stated that this property has been platted for several years but no interest in building on.
- Board member Panza asked if these duplexes were going to be rental units. Patel stated yes initially but if the market changes, then they could be sold.
- Board member Panza asked how many square feet. Patel responded that they will be 3 bedrooms and 2 baths with approximately 1,400 square foot per unit.
- City Attorney Lauber stated that Mr. Patel is dividing into two lots and only one lot needs the variance. He is still 92.35% compliant with the standards and the practical difficulties are the lower of the two standards for granting a variance. Given the street right-of-way and the FEMA floodway, this is probably one of the better examples of why variance is needed.
- The City Attorney cautions the Board that we are here tonight to look at the lot sizes and not to be concerned about what product will be built on the lots. I asked Mr. Trosen if the proposed product would meet the required setback requirements and he said yes.
- Board member Clark made a motion to approve the variance as requested by the applicant. Mr. Coon second the motion. The motion was approved by a vote of 4 to 0.

**ITEM VIII: PREVIOUS BUSINESS**

- None

**ITEM IX: NEW BUSINESS**

- Director Trosen announced that this would be Mr. Coon's last meeting. Mr. Coon was moving to Oak Grove and would no longer be able to serve on the Board.

---

**Board Members Present**

Mark Clark  
Mike Coon  
Joe Panza  
Steve Shatto

**Board Members Absent**

Lynne Berend

**Staff Officials Present**

Mark Trosen – CD Director  
Joe Lauber – City Attorney



**City of Grain Valley**  
**Board of Zoning Adjustment**  
**Meeting Minutes Summary**

**12/15/2022**  
*Page 3 of 3*

Mr. Trosen thanked Mr. Coon for his service to the BZA and the countless hours he spent attending meetings.

**ITEM X: ADJOURNMENT**

- Board member Clark motioned to adjourn the meeting. Board member Coon second the motion. The Board approved the motion by a vote of 4 to 0.

*-The Meeting Adjourned at 6:50 PM-*

---

**Board Members Present**

Mark Clark  
Mike Coon  
Joe Panza  
Steve Shatto

**Board Members Absent**

Lynne Berend

**Staff Officials Present**

Mark Trosen – CD Director  
Joe Lauber – City Attorney



1603 NE Andeon St

01/18/2023 - 01/17/2024

5813475

Variance

General

79096b30-95d0-11ed-aea6-6dec1892fac9

Under Review

Active

## Application Review Status

|                     |              |            |
|---------------------|--------------|------------|
| Pre-Review          | Approved     |            |
| Planning and Zoning | Not Reviewed | 01/16/2023 |
| Final-Review        | Not Reviewed |            |

## Fees

## Payments

|                    |                 |                                  |                 |
|--------------------|-----------------|----------------------------------|-----------------|
| Variance           | \$250.00        | 01/18/2023 Card MasterCard *6027 | \$250.00        |
| <b>Subtotal</b>    | <b>\$250.00</b> | <b>Total Paid</b>                | <b>\$250.00</b> |
| <b>Amount Paid</b> | <b>\$250.00</b> |                                  |                 |
| <b>Total Due</b>   | <b>\$0.00</b>   |                                  |                 |

## Application Form Data

(Empty fields are not included)

Variance Type

Use Variance

Please explain the requested variance

Request of a variance for property fencing materials (reference of Ord. No. 2506, 6-8-2020) to include custom built hog panels (2"x4" rectangle pattern) within cedar wood framing (front facing gates and rearward of the home which abuts to 10' easement to farmland). Please see photos below.

Please provide a legal description of the variance

Ord. No. 2506, 6-8-2020 Design Standards Fences shall be constructed out of any of the following materials; • Wood or vinyl simulating wood; • Wrought iron or aluminum simulating wrought iron; • Masonry: stone, brick, concrete with stone or brick veneer, or precast concrete simulated stone or brick; • Composite or plastic; or • Chain link (in rear and side yards only). o The above fences are permitted in all zoning districts provided a building permit is obtained for a fee (see fee schedule) and the above conditions are met:

Additional Attachments

-  thumbnail\_image3.jpg
-  thumbnail\_image5.jpg
-  thumbnail\_image4.jpg
-  thumbnail\_image2.jpg
-  thumbnail\_image1.jpg
-  20230116\_Property Survey.png
-  thumbnail\_image0.jpg

Property Street Address

**1603 NE Andeon St**

City

**Grain Valley**

State

**MO**

Zip Code

**64029**

First Name

**John**

Last Name

**Riotte**

Phone Number

**(401) 626-5164**

Email

**jriotte001@hotmail.com**

Street Address

**1603 NE Andeon St**

City

**Grain Valley**

State

**MO**

Zip Code

**64029**

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 original application for fence permitting from the fence installation company H&A Fence Company, due to an administrative error, omitted the wording of "Hog Panels framed in wood". This omission was an oversight and was not intended to circumvent any ordinance by the City of Grain Valley, MO. As homeowners, we were not made aware of this omission until after the fence had been installed, paid for, and a violation notice was received from Officer Draper.

---

Strict Application of the provisions of the City's zoning regulations of which the variance is requested will constitute an unnecessary hardship upon the property owner.

The fence has been installed and paid for. A rejection of this variance request will cause additional hardship in the re-permitting, scheduling, resourcing, dismantling, and re-construction with a less durable and less visually appealing fencing materials.

---

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

The fence is custom built to provide unobstructed views of the farmland and valley located East of the property, while providing a safe and secure area in the yard for our dog. The South and North boundaries of the property are fenced with cedar wood privacy fencing. The West facing gates provide an unobstructed street view for better visibility for our dog (giving the impression of a larger yard area).

---

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

While chain link fencing is referenced in the ordinance as an allowable material, the custom-made hog panels, framed in cedar panels, proved a more attractive and practical material to utilize in a frame, due to the strength of the panel.

---

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

This fence is not an eye-sore for the neighborhood and promotes good community engagement, as several of our neighbors complimented us on the uniqueness and attractiveness of the fence

---

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

Yes. This type of fencing, though newer in style for Grain Valley was custom designed, made, and installed to enhance the property while still meeting the intent of this ordinance as we wanted to provide a safe and secure enclosed area for our dog, while being able to see and enjoy the beauty of the valley to our east. We are requesting this variance be granted and for a review of updated verbiage in this ordinance for the future benefit of Grain Valley, MO residents who may wish to construct non-standard custom fencing.

---

## Signature

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

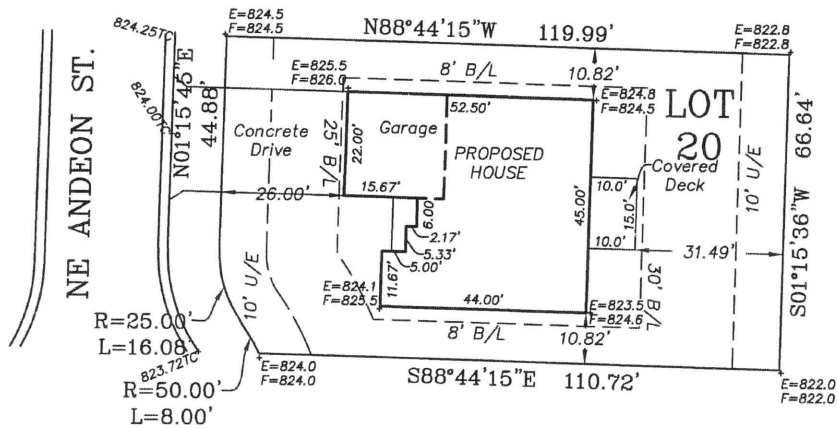
John j Riotte - 01/16/2023 1:03 pm

# PLOT PLAN

DESCRIPTION: As Provided By: CLIENT

Lot 20, HOOT OWL ESTATES, a subdivision in Grain Valley, Jackson County, Missouri.

LOT SQUARE AREA=7,923 Sq. Ft.  
BUILDING FOOTPRINT=2,097 Sq. Ft.



STATE OF MISSOURI  
JEPREY D. LOVELACE  
11-01-18

NOTES:

1. LEGAL DESCRIPTION OF PROPERTY PROVIDED BY CONTRACTOR. THIS PLOT PLAN DOES NOT CONSTITUTE OR REPRESENT A BOUNDARY SURVEY. THE CONTRACTOR AND/OR OWNER SHALL BE RESPONSIBLE FOR VERIFICATION OF PROPERTY BOUNDARY, PROPERTY CORNERS, DEED DESCRIPTIONS AND LOCATIONS OF PROPOSED HOUSE WITH RESPECT TO PROPERTY LINES.
2. EASEMENTS, BUILDING LINES AND SET-BACKS TAKEN FROM RECORDED PLAT ONLY.
3. CONTRACTOR TO VERIFY LOCATION AND DEPTH OF SANITARY SEWER SERVICE PRIOR TO CONSTRUCTION.
4. CONTRACTOR TO VERIFY ALL DIMENSIONS, ELEVATIONS AND LOCATIONS PRIOR TO CONSTRUCTION.
5. CONTRACTOR TO VERIFY CONDITION OF ALL FILL PRIOR TO CONSTRUCTION.
6. GRADES ARE SUGGESTED GRADES ONLY. FINAL GRADING AND ELEVATIONS SHALL BE CONTRACTORS RESPONSIBILITY.
7. THIS IS A REPRESENTATION OF THE STRUCTURE AS STAKED BY THIS COMPANY.


|  |                 |
|--|-----------------|
| Ordered By<br>Grahams Homes L.L.C.<br>701 W. SW Eagel Dr.<br>Oak Grove, Mo 64075   |                 |
| LOVELACE & ASSOCIATES, LLC<br>LAND SURVEYING AND PLANNING SERVICES<br>929 SE 3RD STREET / P.O. BOX 68<br>Lee's Summit, MO. 64063/ 816-347-9997 |                 |
| Drawn by: J. Smith, Jr.<br>Checked by: J. Lovelace   | SCALE: 1" = 30' |
| DATE: 11/01/2018   | JOB NO.18466-5  |




# Letter ANSI A Landscape



2/27/2023


 Tax Parcels

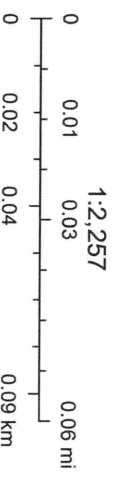
 Nearmap

 Green: Band\_2

Address Points

 Red: Band\_1

 Blue: Band\_3



Copyright nearmap 2015, Esri Community Maps Contributors, Jackson County, MO, Missouri Dept. of Conservation, Missouri DNR, ©





**Staff Report**  
**March 15, 2023**

**Case VAR2023-01:**

Submitted by John Riotte. Requesting a use 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 lot is located near the southwest corner of NE Hoot Owl Street and NE Andeon Street aka 1603 NE Andeon Street.

**Background:**

The lot referenced above is legally described as Lot 20 in the Hoot Owl Estates Plat. This plat was recorded on July 2, 2018. Lot 20 is 7,923 square feet in area.

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

**Analysis:**

Referencing the Zoning Regulations, Chapter 400 of the City's Municipal Code, the following are the allowable fence materials according to Section 400.230 C.9:

- Wood or vinyl simulating wood;
- Wrought iron or aluminum simulating wrought iron;
- Masonry: stone, brick, concrete with stone or brick veneer, or precast concrete simulated stone or brick;
- Composite or plastic; or
- Chain link (in the rear and side yard only).

The applicant's contractor, H&A Fence Company, applied for a fence permit, indicating on the application that it would be a 6-foot-high wood privacy fence. The permit was issued on October 26, 2022.

Code Enforcement Officer drove by and noticed that a fence was constructed using materials not allowed by city ordinance. The Code Enforcement Officer notified the property owner.

The property owner, also the applicant, filed the use variance application. In the application, it states that H&A Fence, due to an administrative error, omitted the wording of "hog panels framed in wood". It further states that this omission was an oversight and was not intended to circumvent any ordinance by the City.

If this wording had been in the fence application, then the application would have been denied and the fence would not have been built.



**Page 2, Staff Report, VAR2023-01**

**Standard for Use Variance:**

A use variance is one which permits a use that would not be allowed under the zoning regulations.

The standard for obtaining a use variance is “unnecessary hardship”. The applicant must show the following:

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 regulations complained of will constitute unnecessary hardship to the applicant.
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.

In granting a variance, the Board may impose such conditions, safeguards and restrictions upon the premises benefited by the variance as may be necessary to reduce or minimize any potentially injurious effect of such variance upon other property in the neighborhood and to carry out the general purpose and intent of these regulations.

The Board could consider imposing a condition to this variance request by allowing the fence along the east property line to stay since this fence line is adjacent to undeveloped land but require the two west gates be changed and constructed to wood privacy or picket board gates.







