



CITY OF GRAIN VALLEY
BOARD OF ZONING ADJUSTMENT
Wednesday, March 29, 2023 – 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 15, 2023

IV. CONTINUED FROM MARCH 15, 2023 MEETING:

- 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 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
- 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

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

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 15, 2023, in the City Hall Council Chambers.
- The meeting was called to order at 6:45 PM by Chair Steve Shatto.

ITEM II: ROLL CALL

- *Present: Steve Shatto*
- *Present: Mark Clark*
- *Present: Jim Wyzard*
- *Absent: Joe Panza*
- *Absent: Lynne Berend*
- ***There was a quorum to open the meeting and conduct the public hearing. City Attorney Anthony Hernandez advised the Board that the City Ordinance states four members are required to approve a variance. Testimony can be taken during the public hearing, but the Board will need to continue meeting to a date when at least four members are present to decide on the variance.***

ITEM III: APPROVAL OF MINUTES

- Board member Clark made a motion to approve the minutes from the December 15,2022 meeting. The Board approved the minutes by vote 3-0.

ITEM IV: PUBLIC HEARING

Chair Shatto opened the following public hearing:

- 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

Board Members Present
Mark Clark
Mike Coon
Steve Shatto

Board Members Absent
Lynne Berend
Joe Panza

Staff Officials Present
Mark Trosen – CD Director
Anthony Hernandez – City Attorney



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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 entered the following exhibits into the public record:
 - 1) Use Variance Application
 - 2) Applicant Plot Plan
 - 3) Aerial Map
 - 4) Staff Report
 - 5) Photos of the Fence
 - 6) Hoot Owl Estates

Director Trosen reviewed the Staff Report. Director Trosen reviewed the five factors that the applicant should prove that a use variance exists because of an “unnecessary hardship”. Director Trosen stated that 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 potential impact upon other property in the neighborhood.

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

- John Riotte introduced himself as the property owner and applicant and stated that he and his wife reside at 1603 NE Andeon Street. Mr. Riotte said that although he had described them as hog panels, they are horse panels. Mr. Riotte offered as an exhibit two display boards that show what a typical hog panel looks like and the other board illustrates photos of the fence installed with horse metal panels in cedar wood frames.

Mr. Riotte stated that the horse panel is a heavier gage and looks better. He said the fence secures the yard, maximize the views to the east and west and allows the dog to see out instead of barking. He said that we also had neighbors write letters as well as appear tonight in favor of the fence and variance. Mr. Riotte offered as exhibit and read the letter from William Nixon at 1605 NE Andeon Street. Mr. Riotte offered as exhibit and read the letter

Board Members Present

Mark Clark
Mike Coon
Steve Shatto

Board Members Absent

Lynne Berend
Joe Panza

Staff Officials Present

Mark Trosen – CD Director
Anthony Hernandez – City Attorney



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from Justeen and Cameron Humphrey at 209 NE Hoot Owl Street in support of existing fence.

Mr. Riotte said that when they built the fence for the dog, they wanted to provide privacy but allow the dog to view the property to the east. Mr. Riotte explained what had happen on the application with the fence company. He said that he wanted to install something different, a more rural look. He said they spent around \$6,000 on the fence.

Board member Clark asked Mr. Riotte if the Board asked him to change the gates on the west side, how would that impact him negatively. Mr. Riotte said the hardship would be the cost to replace and figuring out how the fence would be constructed since it basically fits as a puzzle now. Jacki Mata, Mr. Riotte's wife, testified that the gates are constructed for the dog so that he can look out. She said that they had the fence up for about a month before they were made aware that a variance is needed. She said wrought iron would not look right and then you would have three sets of materials used in one fence. She said that it is a custom fence with the cedar wood being constructed around the horse panel.

- Katie Crum introduced herself and said that she owns the modern farm house at 1602 NE Andeon Street which is across the street. Ms. Crum said that she was glad that they had gone through the permitting process and that we as neighbors in a new subdivision find this very important. She said she encourages the Board to look at creative building materials in modern architecture and there are environmentally friendly materials that are being used in both softscapes and hardscapes. She described the fence as gorgeous and emphasized the Z-brace on the gate and commented that she used that concept throughout her custom built home. She would be mortified if that fence would be changed into a chain link. She thinks this is a launching point for the community to think outside the box. She said that she watches the sunrise from her front door and for the gates to have the horse panel allows her to see it without blocking her view. She is the only one that looks directly into the house. She said that she sees the hardship in requiring the property owner to change it.
- Laura Frasher introduced herself and said that she owns the house at 1601 NE Andeon Street. She said that she is jealous that she didn't think of this type of fence first and she loves it. She is next door and asked the Board to not require the property owner to change the fence.

Board Members Present

Mark Clark
Mike Coon
Steve Shatto

Board Members Absent

Lynne Berend
Joe Panza

Staff Officials Present

Mark Trosen – CD Director
Anthony Hernandez – City Attorney



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- Lamar Orndorff introduced himself and said that he owns the house at 205 NE Hoot Owl Street. He said the fence is eye-catching, very attractive and adds to the neighborhood. He is in favor of the fence staying because it adds value to the neighborhood.
- Mr. Trosen stated that the two display boards offered by Mr. Riotte are marked as Exhibit 7, the letter from Mr. Nixon is marked as Exhibit 8 and the Humphrey's letter is marked as Exhibit 9.
- Chair Shatto closed the public hearing.
- Board member Clark made a motion to table the variance request until a date can be established for more BZA members to be present and decide the request based on the information and testimony presented tonight. The motion passed by a vote of 3 to 0.

ITEM VIII: PREVIOUS BUSINESS

- None

ITEM IX: NEW BUSINESS

- Although the election of a Chairperson was on the agenda, no action was taken until more members can be present.

ITEM X: ADJOURNMENT

- Board member Clark motioned to adjourn the meeting. The Board approved the motion by a vote of 3 to 0.

-The Meeting Adjourned at 7:10 PM-

Board Members Present
Mark Clark
Mike Coon
Steve Shatto

Board Members Absent
Lynne Berend
Joe Panza

Staff Officials Present
Mark Trosen – CD Director
Anthony Hernandez – 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
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
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:

Ex. 1

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.

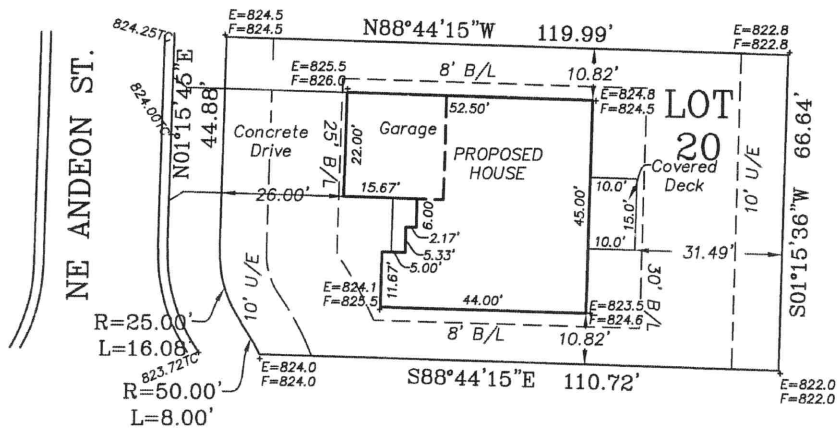
John j Riotte - 01/16/2023 1:03 pm

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



11-01-18

NOTES:

- 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.
- EASEMENTS, BUILDING LINES AND SET-BACKS TAKEN FROM RECORDED PLAT ONLY.
- CONTRACTOR TO VERIFY LOCATION AND DEPTH OF SANITARY SEWER SERVICE PRIOR TO CONSTRUCTION.
- CONTRACTOR TO VERIFY ALL DIMENSIONS, ELEVATIONS AND LOCATIONS PRIOR TO CONSTRUCTION.
- CONTRACTOR TO VERIFY CONDITION OF ALL FILL PRIOR TO CONSTRUCTION.
- GRADES ARE SUGGESTED GRADES ONLY. FINAL GRADING AND ELEVATIONS SHALL BE CONTRACTORS RESPONSIBILITY.
- THIS IS A REPRESENTATION OF THE STRUCTURE AS STAKED BY THIS COMPANY.

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

Letter ANSI A Landscape



2/27/2023

Tax Parcels

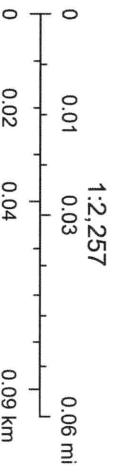
Nearmap

Green: Band_2

Address Points

Red: Band_1

Blue: Band_3



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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.

711 Main Street
Grain Valley, MO 64029
816.847.6200

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LIFE OUTSIDE THE LINES

Ex. 4



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.

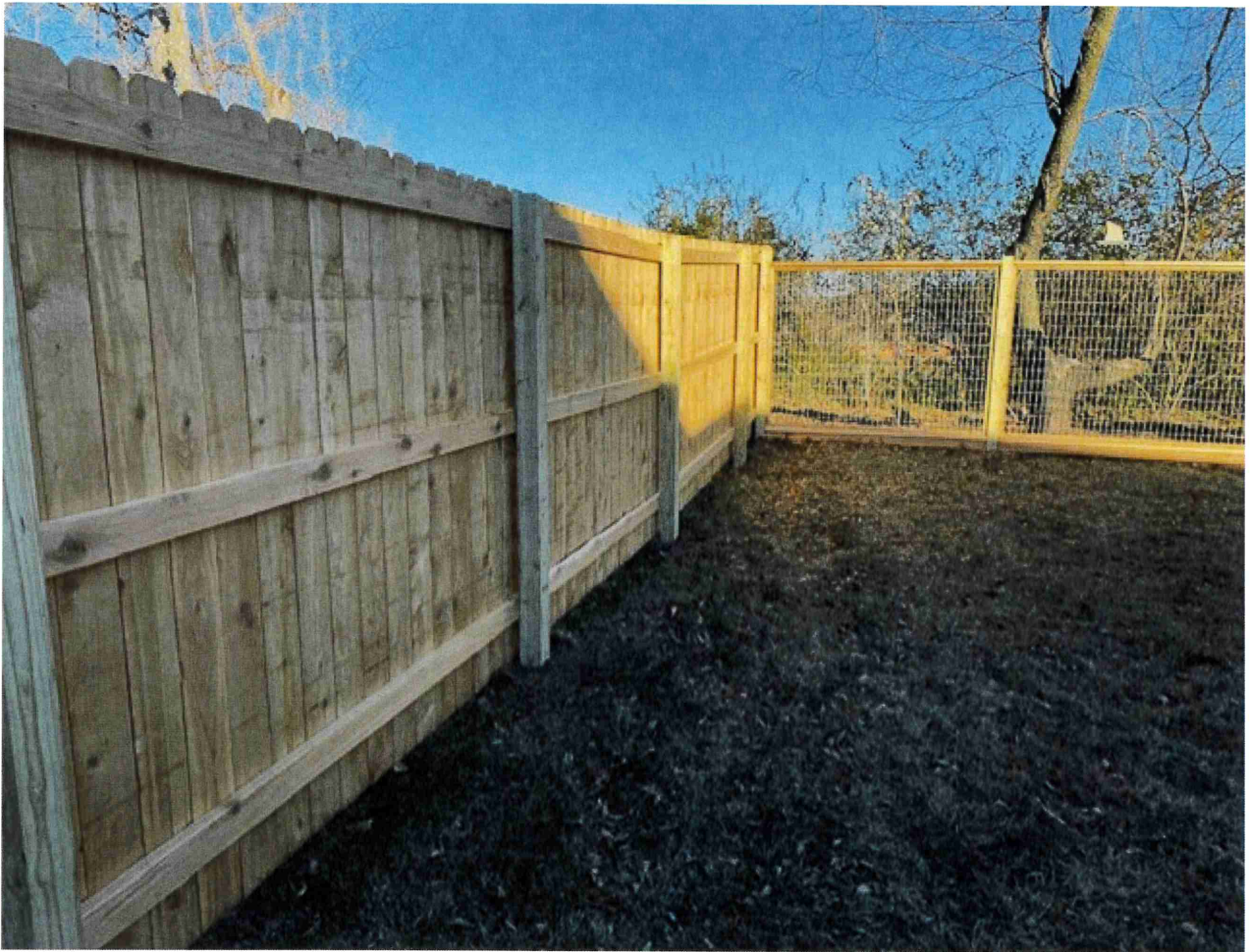












William Nixon

1605 NE Andeon St.
Grain Valley, MO 64029
417-942-9156
wcnixon11@gmail.com

7th March 2023

City of Grain Valley

711 N Main St.
Grain Valley, MO 64029

To Whom It May Concern,

My family and I have lived next to John Riotte and Jacki Mata at 1603 NE Andeon St. since the beginning of January 2023. In regards to their fencing, we have not found any dislike or concern in functionality or aesthetic. We feel as though the fence serves its purpose of privacy and containment while being tasteful and beautiful to look at.

If you have any questions or concerns, please do not hesitate to reach out.

Sincerely,

A handwritten signature in black ink, appearing to read 'W. Nixon', with a stylized flourish at the end.

William Nixon

March 15th, 2023


Grain Valley MO Zoning Board
711 N Main Street
Grain Valley, MO 64029


Dear Grain Valley Zoning Board,

We are writing in regards to Jacki & John Riotte-Mata's fence located on their property at 1603 NE Andeon St., Grain Valley MO 64029. We live 1 house down from them at 209 NE Hoot Owl St., Grain Valley MO 64029 & do not have any issues with their fence & definitely do not think it is an eyesore whatsoever! Before this situation was even brought to our attention both me & my husband commented on the fence being super cool, we liked their different take on it compared to everyone else's simple & mundane wood fences. We fully support them keeping their fence as is & think it not only enhances their property but the neighborhood.

Sincerely,

Justeen & Cameron Humphrey

 3.15.23

 3/15/23