



City of North Royalton

Mayor Larry Antoskiewicz

Community Development, Building Division

Dan Kulchytsky Building Commissioner

11545 Royalton Road, North Royalton, OH 44133

Phone: 440-582-3001

Fax: 440-582-3089

CITY OF NORTH ROYALTON BOARD OF ZONING APPEALS APPLICATION

1. This request is made for the following property:

5060 Brookhaven Dr. James & Amy Toth
Address Occupant, Business or Tenant (if applicable)

PPN: 48624015 Zoning District Ward No.
Permanent Parcel Number

HOA Name: _____
Letter of Approval Rec'd: Yes or No
Letter of Denial Rec'd: Yes or No

2. Property Owner:

James Toth _____
Name Name of Business (if applicable)

5060 Brookhaven Dr. 216-440-7535
Address Phone

N. Royalton OH 44133 jimnet1999@yahoo.com
City, State and Postal Code Email (electronic mail)

3. This request is being made by the following responsible party (Owner / Authorized Representative):

DALE KUKWA American Post Construction
Name Name of Business (if applicable)

4664 Newton Rd. 216-470-0595
Address Phone

Rickfield OH 44286 DALE KUKWA@yahoo.com
City, State and Postal Code Email (electronic mail)

For Office Use Only

Date Application Submitted

Meeting Date Assigned

\$
Application Fee

BZA --
Identification Number Assigned

Payment Information (date, check number, cash, etc.)

Application Fee Received by

Other Application Fee Information

CITY OF NORTH ROYALTON BOARD OF ZONING APPEALS APPLICATION

4. Board of Zoning Appeals review: (please check all that apply)

Type of Variance:

- ☐ **Area Variance NRO 1264.08(e)(1)** – complete sections 5, 6, 7 and questions relative to area variances
- ☐ **Use Variance NRO 1264.08(e)(2)** – complete sections 5, 6, 7 and questions relative to use variance
- ☐ **Riparian and/or Wetland Setback Variance NRO 1492.11** – complete sections 5, 6, 7 and questions relative to riparian setback and complete waiver
- ☐ **Administrative Appeal NRO 1264.04** – complete Notice of Appeal (pg. 13)

5. Narrative statement establishing and substantiating the justification for the variance pursuant to Section 1264.08(e) – reason the variance is needed.

To erect a 4' high ornamental fence along property lines in back yard. The 10'-12' setback on west line of yard would cut large section of yard and go through existing landscaping.

6. Description or the nature of the variance(s) requested and the corresponding Section(s) from the City of North Royalton Code of Ordinances.

*Electric / Cable / and Gas are within the 10' setback
NRO 1264.08 (e)(2)*

The Board of Zoning Appeals or its agent(s) is hereby authorized to enter upon the property for which this variance is sought, without further notification, to inspect said property. Any such inspection shall be conducted between the hours of 9 a.m. and 5 p.m. on any day of the week, including weekends.

I further understand that any misrepresentation of data or facts or violations of the Ordinances of the City of North Royalton are cause for refusal, suspension or revocation of this license if issued.

Dale Kukwa / DALE KUKWA
Applicant Signature, Printed Name and Title

12-20-2021
Date

James Toth / JAMES TOTH
Property Owner Signature, Printed Name and Title

12-21-2021
Date

CITY OF NORTH ROYALTON BOARD OF ZONING APPEALS APPLICATION

7. Written Authority Form (complete this form if you are unable to be present at meeting).
(submit original – do not fax or email)

I, _____ (name) of _____
(company, if applicable), hereby certify that I/we are the _____
(owner(s), executor(s), etc.) of _____ (property address or
permanent parcel number) and further verify that _____ (name
of representative) is authorized to represent my/our interests and make decisions on my/our behalf
when appearing before the North Royalton Board of Zoning Appeals.

Signature Date

Before me, a Notary Public in and for said county, personally appeared _____
who acknowledged that he or she did sign the foregoing instrument and the same is his or her free
act and deed.

In testimony whereof I have hereunto set my hand and official seal at _____,
Ohio on this _____ day of _____, 20____

Notary Signature

Seal:

State of Ohio
County of Cuyahoga

CITY OF NORTH ROYALTON BOARD OF ZONING APPEALS APPLICATION

QUESTIONS RELATIVE TO AREA VARIANCES

Address of subject property: 5060 BROOKHAVEN DR NORTH ROYALTON OH

The Board of Zoning Appeals shall review each request for a variance to determine if such request complies with the purpose and intent of this Zoning Code and the Master Plan, and the applicant can demonstrate that the literal enforcement of this Code will result in practical difficulty or, in the case of a use variance, unnecessary hardship.

The following factors shall be considered and weighed by the Board in determining practical difficulty:

(Please provide any relevant responsive information, including sketches, drawings, photographs or other exhibits.)

A. Whether there can be any beneficial use of the property without the variance;

The UTILITY CASMENT IS ALREADY THERE, THE FENCE WOULD
BE REMOVED TO ALLOW UTILITY CONSTRUCTION AND PUT BACK
IN PLACE ONCE WORK IS COMPLETED. THE PROPERTY IS OWNED BY
REGISTERED.

B. Whether the variance is substantial or is the minimum necessary to make possible the reasonable use of the land or structure;

THE VARIANCE REQUESTED IS THE MINIMUM NECESSARY

C. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer substantial detriment as a result of the variance;

NO

D. Whether the variance would adversely affect the delivery of governmental services (e.g., water, sewer, garbage collection);

NO

E. Whether the variance sought is for relief from a zoning provision which was enacted after the creation of an existing condition or circumstance to the property in question;

I DO NOT BELIEVE THIS IS THE CASE

- F. Whether special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable generally to other lands or structures in the same Zoning District; examples of such special conditions or circumstances are: exceptional irregularity, narrowness, shallowness or steepness of the lot or adjacency to nonconforming and inharmonious uses, structures or conditions;

No

- G. Whether the property owner's predicament feasibly can be obviated through some method other than a variance;

It would require the fence to be placed in the middle of my yard, in essence splitting my yard in half

- H. Whether the granting of the variance will create a nonconforming lot pursuant to Section 1270.16 of the Zoning Code;

No

- I. Whether special conditions or circumstances exist as a result of actions of the owner;

Only condition would be, if needed, by utility to dig, I would need to remove a portion of the fence. Really no different than what was stated in the utility easement

- J. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting a variance.

~~I believe~~ A variance would allow me not to split my yard

CITY OF NORTH ROYALTON BOARD OF ZONING APPEALS APPLICATION

QUESTIONS RELATIVE TO USE VARIANCES ONLY

Address of subject property: 5060 BROOKHAGEN DR NORTH ROYALTON OH

No variance shall be granted to allow a use not permissible under the terms of this Zoning Code in the zoning district in which the property is located unless the Board finds that the applicant will suffer unnecessary hardship if strict compliance with the terms of the Code is required and such hardship must be demonstrated by clear and convincing evidence as to all of the following criteria:

(Please provide any relevant responsive information, including sketches, drawings, photographs or other exhibits.)

- A. Where the literal application of the provisions of this Zoning Code would result in no economically viable use of the property for any purpose for which the property and not based on conditions created by the owner. (A theoretical loss or limiting possibilities of economic advantage are general hardships, not unnecessary hardships.)

The requested fence would not result in no economically viable use of the property

- B. Where other exceptional circumstances or conditions (such as topographic or geological conditions or type of adjoining development) are unique to the property involved and do not apply to other property within the same zone unless the same exceptional circumstances or conditions exists.

The lot is a corner lot that has an easement for underground utility connections. In the event that a substantial digging is involved the fence can be removed

- C. Where the granting of a variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the neighborhood in which the property is located.

The fence will not be materially detrimental to public welfare or injurious to the property

- D. Where the granting of a variance will not be contrary to the general purpose, intent and objectives of this Zoning Code and the Master Plan of the City of North Royalton.

The fence is removable at owners expense and will not impact the Master Plan of the City of North Royalton

- E. The variance sought is the minimum which will afford relief to the applicant.

It is

CITY OF NORTH ROYALTON BOARD OF ZONING APPEALS APPLICATION

QUESTIONS RELATIVE TO RIPARIAN OR WETLAND SETBACK VARIANCES

Address of subject property: 5060 BROOKHAVEN DR NORTH Royalton OH

The Board of Zoning Appeals may consult with representatives from the Cuyahoga SWCD; the Ohio Department of Natural Resources, Division of Natural Area; the Ohio Environmental Protection Agency, Division of Surface Water; the Army Corps of Engineers; the County of Cuyahoga Engineer; the Cuyahoga County Health Department or other technical experts at the expense of the applicant as necessary to consider variance requests.

In reviewing whether to grant variances, the Board of Zoning Appeals shall consider the following: PLEASE PROVIDE ANY RELEVANT RESPONSIVE INFORMATION, INCLUDING SKETCHES, DRAWINGS, PHOTOGRAPHS OR OTHER EXHIBITS.

- (1) The extent to which the requested variance impairs the flood control, soil erosion control, sediment control, water quality protection or other functions of the riparian and/or wetland area.

N/A

- (2) The soil type and natural vegetation of the parcel as well as the percentage of the parcel that is in the 100-year floodplain. The criteria of the City's flood damage reduction regulations (Chapter 1466) may be used as guidance when granting variances in the 100-year floodplain.

N/A

- (3) Varying the front, rear and side yard setbacks before the riparian and wetland setbacks are varied.

N/A

- (4) Variances should not be granted for asphalt or concrete paving in the riparian and wetland setbacks in any situation where gravel or porous pavement (i.e., porous pavers and similar products) will do the job.

N/A

- (5) Soil-disturbing activities permitted in a riparian and/or wetland setback through variances should be implemented in order to minimize clearing to the extent possible, and to include best management practices necessary to minimize soil erosion and maximize sediment control.

N/A

- (6) The presence of significant impervious cover, or smooth vegetation such as maintained lawns in riparian setback areas compromises their benefits to the City.

N/A

- (7) A reduction in storm water infiltration into the soil on wetland areas will occur.

N/A

- (8) The degree of hardship these regulations place on the applicant and the availability of alternatives to the proposed activity.

If propose fence location is not APPROVED a fence will be need to be placed, splitting the yard

- (9) A parcel existing at the time of passage of this section is made substantially unbuildable.

N/A

- (10) A requested above-ground fence does not increase the existing area of mowed grass or lawn.

The fence will NOT INCREASE the existing area of mowed grass or lawn

(11) Modifying parking requirements before varying the riparian setback.

N/A

(12) Modifying building shape, size or design to avoid or minimize intrusion into the riparian setback.

N/A

(13) In the case of a lot made substantially unbuildable by this regulation, consider the minimum variance needed to make it buildable for an appropriately sized and compatibly designed structure, while following the guidance provided in this section.

N/A

(14) Whether the variance will increase the likelihood for flood or erosion damage to either the applicant's property or to other properties.

N/A

(15) Culverting of watercourses should be avoided.

N/A

(16) Whether the variance will result in the need for artificial slope or bank stabilization measures that could interfere with the function of the riparian zone.

N/A

RELATIVE TO RIPARIAN OR WETLAND SETBACK VARIANCES

City of North Royalton
14600 State Road
North Royalton, OH 44133
440-237-5686

**Codified Ordinance Chapter 1492
Release and Waiver**

This acknowledges that applicant(s), whose signature appears below, has applied for a permit to construct or expand a structure or create or expand a use that would be located within a riparian or wetland zone and/or their respective setback areas (the zones) on the applicant's property. Although the City Code does permit such structure or use to be placed in that location, it is understood and agreed that the City of North Royalton assumes no responsibility or liability for any damage whatsoever that may occur to this use or structure because of the location of said structure or use being place in either a riparian or wetland zone or their setback areas. Applicant(s) fully agree and understand completely the implications and possibilities connected with their decision to locate the structure or use within the riparian or wetland zone(s). Applicant(s) and their successors or assigns assume full responsibility and hereby release, discharge and/or otherwise indemnify and agree to save harmless the City of North Royalton, its elected officials, directors, employees and associated personnel, attorneys, against any claim by or on behalf of the applicant as a result of the applicant(s) construction of and location of said structure or use in the riparian or wetland zones.

Signature of Applicant

Date

Subscribed and sworn to before me this _____ day of _____, 20_____.

Notary Public

AUTHORIZED
OWN ON THIS
ADOPT THIS
THE SAME
RECORDING.

LTD

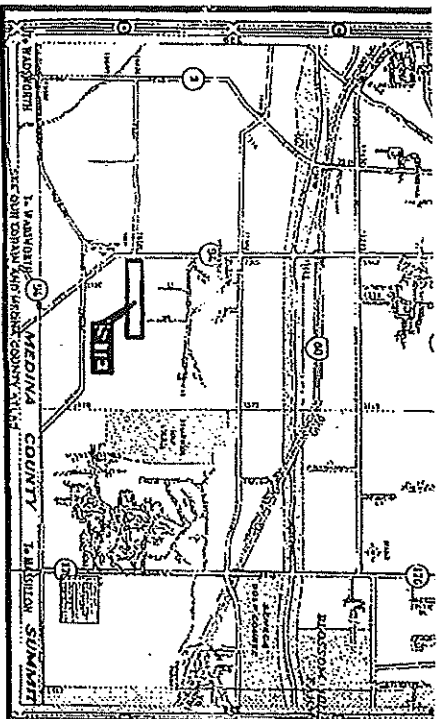
JUNTY
AMED

KING OF
THIS PLAT
WHEREOF I
FICIAL
Y OF

UTILITY ACCEPTANCE

We, the owners of the within platted land, do hereby grant unto the Illuminating Company, SBC Ameritech, Adelphia Cable, and Columbia Gas of Ohio, their successors and assigns, (hereinafter referred to as the Grantees) a permanent right of way and easement twelve (12) feet in width under, over and through all sublots and all lands shown hereon and parallel with and contiguous to all street lines to construct, place, ducts, conduits, surface or below ground mounted transformers and pedestals, concrete pads and other facilities as are deemed necessary or convenient by the Grantees for distributing and transmitting electricity and communication signals, for public and private use at such locations as the Grantees may determine, upon, within and across said easement premises. Said segment rights shall include the right without liability therefore, to remove any and all facilities not contemplated in the rights conveyed to Grantees by this easement grant within said easement premises including, but not limited to, irrigation systems, electronic animal fencing trees and landscaping including lawns, flowers or shrubbery and landscape lighting within and without said easement premises which may interfere with the installation, maintenance, repair or operation of said electric and communication facilities, the right to install, repair, augment and maintain service cables outside the above described easement premises, and with the right of access, ingress and egress to and from any of the within described premises for exercising any of the purposes of this right of way and easement grant. All sublots and all lands shall be restricted to underground utility service.

The Illuminating Company



LOCATION MAP

THIS PL
THE CITY
PUBLIC
THIS

SECRET

THIS PLAT
OF NORTH

BY ORDINA

THIS PL
THE CIT

THIS

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L
L
L
L

APPLICATION

PINE HILL SUBDIVISION
ARCHITECTURAL REVIEW COMMITTEE
PINE HILL HOMEOWNERS ASSOCIATION, INC.
C/O 5866 BROADVIEW ROAD, CLEVELAND, OH 44134
TELEPHONE NO. (216)351-7210

Sublot No.: 11

Builder/Homeowner: James Dennis & Amy Heston Toth
5060 Brookhaven Drive
North Royalton/Ohio/44133

Description of Building Plans:

Per attached .pdf document. We will be installing a private pool (12X25). The pool will include a concrete
deck/patio around the pool. The pool heaters and filters will be located in the northeast corner of the house
and a privacy fence will hide the equipment. A fence will be installed in the back and side yard to provide
the necessary security. We will also place pine trees for additional privacy.

Square Feet: Pool (300) Pool with patio apprx (725)

Date Submitted: 09.13.2021

Submitted By: James and Amy Toth

For Architectural Review Committee Use

Approved: yes

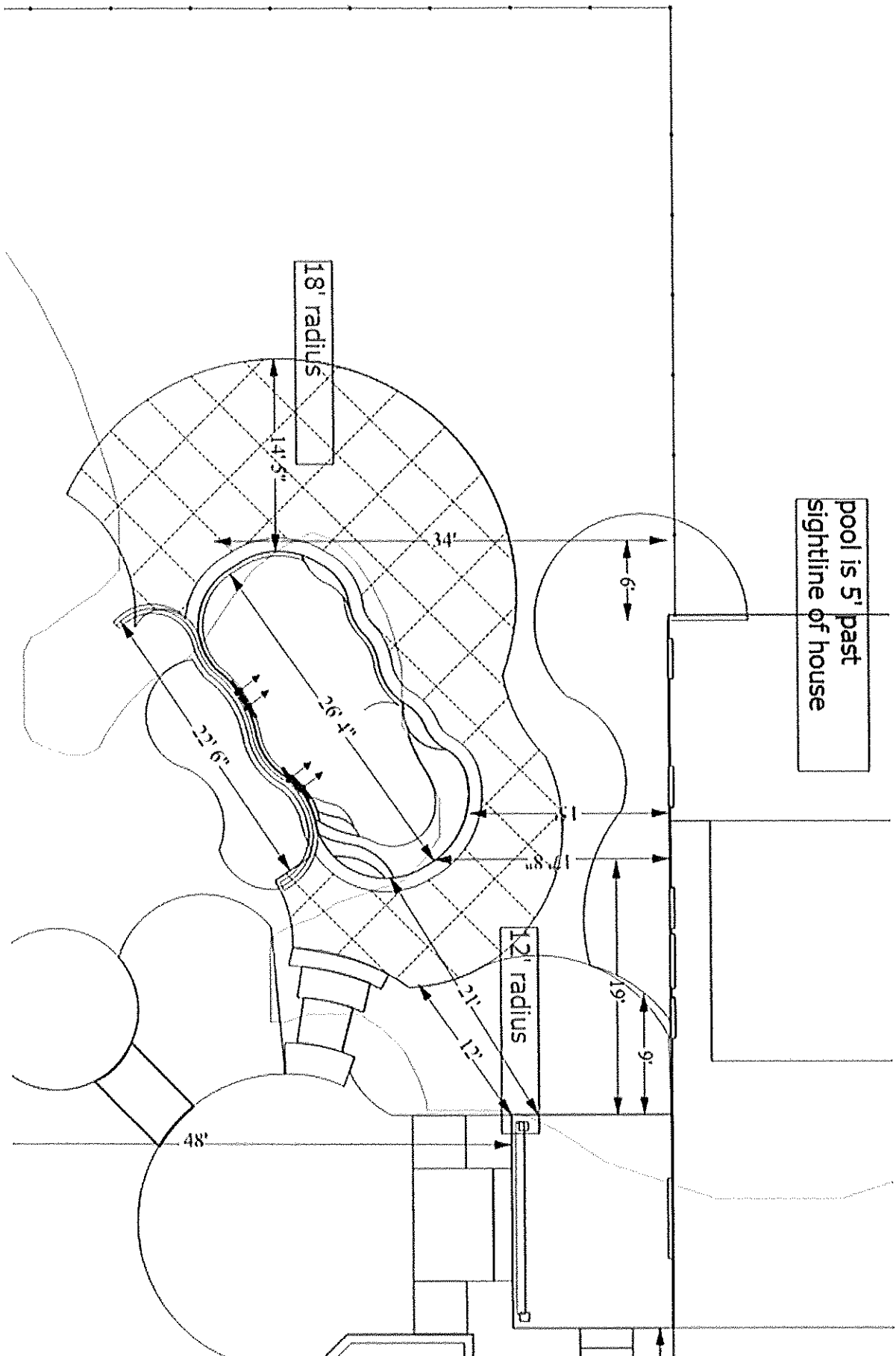
Rejected: _____

Modification Required: SUBJECT TO ALL CITY BUILDING, ENGINEERING AND
ZONING CODES.

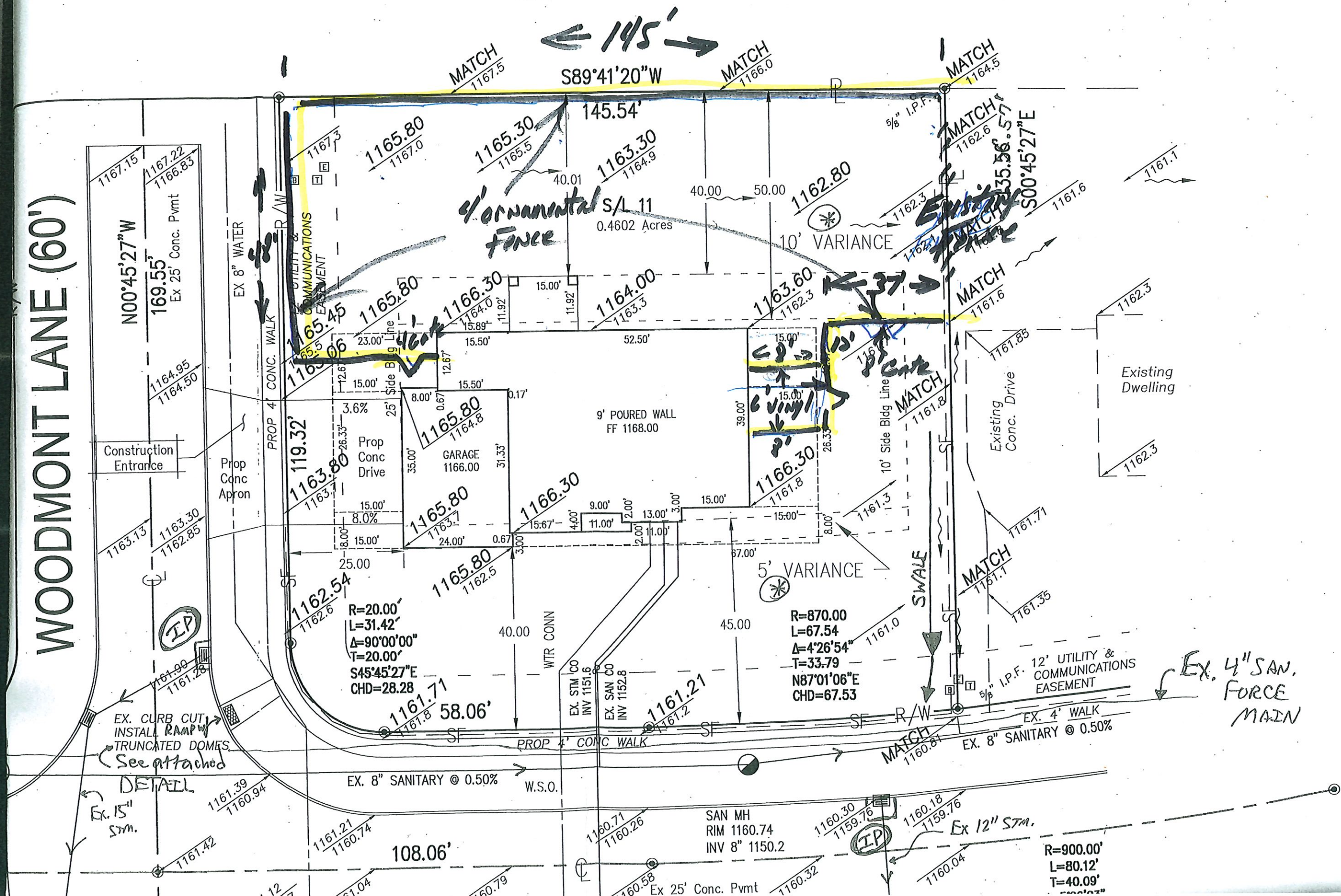
Adjoining Lot Owners Notified: Via mail 9/13/21

By: 5220

Date 9/21/21



WOODMONT LANE (60')





48623040

48623041

48624015

48624016

48624017

BLOCK
"B"

48623043

48623042

48624030

48624029

48624028

48624027

48623023