

**BOARD OF ADJUSTMENT AGENDA  
REGULAR MEETING  
MONDAY, SEPTEMBER 24, 2012  
CITY COUNCIL CHAMBERS  
4:30 P.M.**

1. Meeting Called to Order.
2. Roll Call, Determination as to Legality, Notice of Meeting and Agenda.
3. Reading of the Minutes of the August 27, 2012 Regular Meeting.
4. Public comment period. The general public is invited to address the Board of Adjustment regarding any item on this agenda. The overall and individual speaking time allotments may be limited by the Chair.
5. Consider request of Jed A. Grovijohn to erect a 6 foot high privacy fence within the front and side yard setback at 1247 East 6<sup>th</sup> Street, Fremont, Dodge County, Nebraska. Article 7, Section 707 (i) and Article 4, Table 4-3. R2 – Moderate Density Residential District.
6. Consider request of Wade A. Ulmer to erect a 24' x 40' attached garage with insufficient side yard setback at 1235 North "H" Street, Fremont, Dodge County, Nebraska. Article 4, Section 4-2. R2 – Moderate Density Residential District.
7. Consider request of Investors Unlimited, LLC to erect a duplex with insufficient lot width at 1521 West Iowa Street, Fremont, Dodge County, Nebraska. Article 4, Section 4-2. R2 – Moderate Density Residential District.
8. Consider request of Bosselman's to erect an additional pole sign in excess of the allowable sign budget at 3441 East 24<sup>th</sup> Street, Fremont, Dodge County, Nebraska. GC – General Commercial District. Article 10, Table 10-3.
9. Consider request of Patrick C. and Bambi Cleary to park in front of a residence in the required front yard setback at 437 North Downing. Article 909 b. R1 – Single Family Residential District.

**THIS MEETING WAS PRECEDED BY PUBLICIZED NOTICE IN THE FREMONT TRIBUNE AND THE AGENDA DISPLAYED IN THE LOBBY OF THE MUNICIPAL BUILDING AND POSTED ONLINE AT [WWW.FREMONTNE.GOV](http://WWW.FREMONTNE.GOV) AND DISTRIBUTED TO THE BOARD OF ADJUSTMENT, MAYOR AND CITY COUNCIL ON SEPTEMBER 19, 2012 AND IS OPEN TO THE PUBLIC. A COPY OF THE AGENDA WAS KEPT CONTINUALLY CURRENT AND AVAILABLE TO THE PUBLIC AT 400 EAST MILITARY, 3<sup>RD</sup> FLOOR. A COPY OF THE OPEN MEETING LAW IS POSTED CONTINUALLY FOR PUBLIC INSPECTION LOCATED NEAR THE COUNCIL CHAMBERS ENTRANCE DOOR BY THE AGENDAS. THE BOARD OF ADJUSTMENT RESERVES THE RIGHT TO ADJUST THE ORDER OF ITEMS ON THIS AGENDA.**

## STAFF REPORT

**TO:** Board of Adjustment

**FROM:** Rian Harkins, AICP, Planning Director

**DATE:** 13 September 2012

**SUBJECT:** Variance to allow for the construction of a 6 foot privacy fence within the rear and street side yard setback and allow parking in the street side yard setback (1247 East 6<sup>th</sup> Street) (Grovijohn)

<b>Recommendation:</b> Staff recommends approval.
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### **Request:**

The applicant requests a variance to allow for the construction of a six foot privacy fence for the single family dwelling at the rear of the lot.

### **Background**

Located in the R-2 Moderate Density Residential Zoning District, this property is located at the southwest corner of Grant and 6<sup>th</sup> Streets. There are currently two houses on the property, both single family residential dwellings.

The variance request is for the dwelling located to the rear of the lot. The request is to construct a 6 foot privacy fence within the rear and street side yard setback. If built, the south side of fence would sit about five feet from the rear property line; with the east run of the fence situated 12 feet from the property line along the street property line.

Additionally, due to layout of the two dwellings on the lot, the only place for the occupants of the rear house to park is within the street side yard setback.

Because of the layout of the two dwellings on the lot, the fact that this is the only location where a yard could be placed for this house, and that this is the only place to provide off street parking on the lot, staff is recommending approval. Additionally, staff finds that:

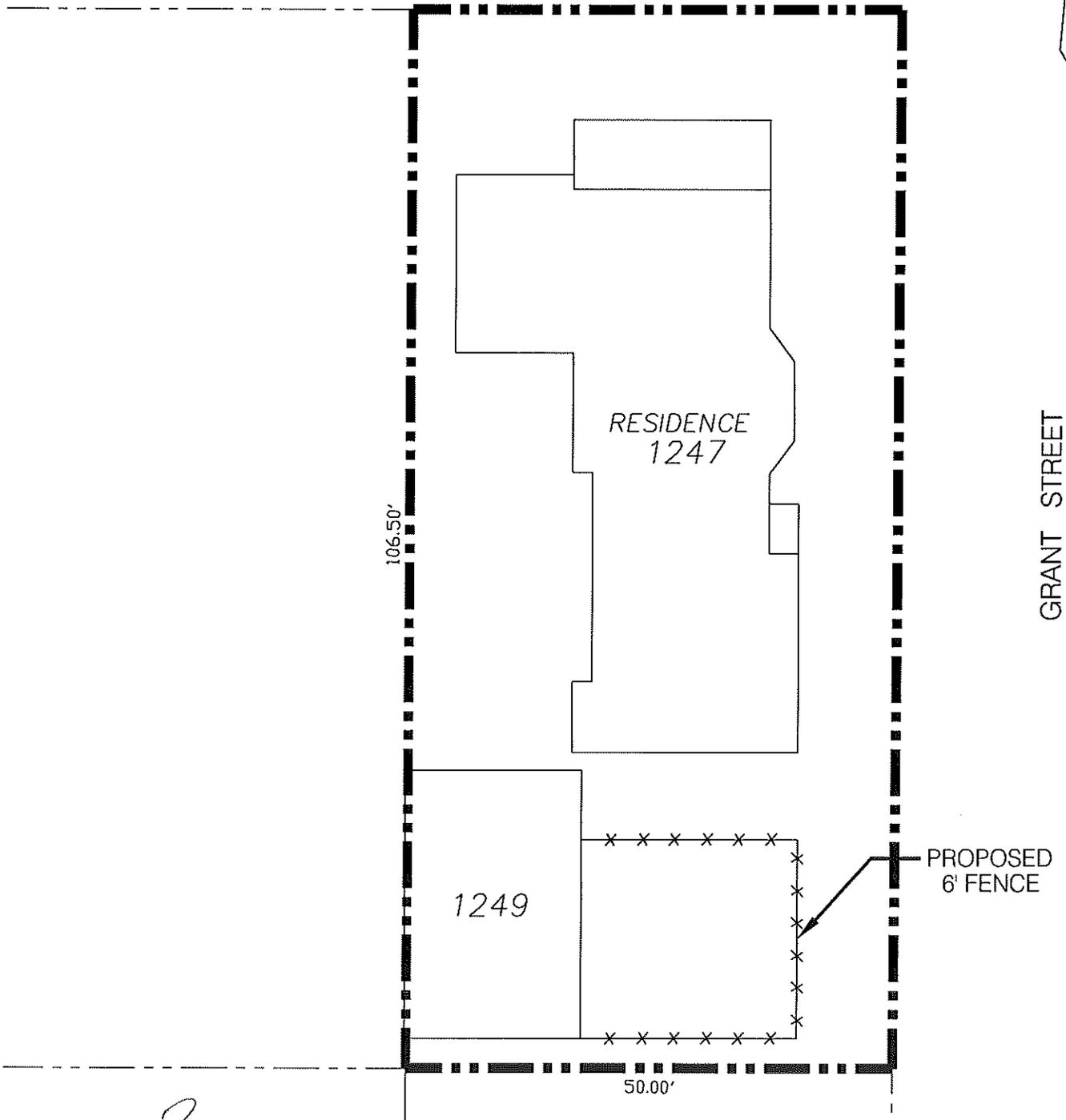
- The granting of the variance would not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance.
- Such hardship is shared generally by other properties in the same zoning district and in the same vicinity.

### **Required findings:**

- (a) The strict application of the zoning regulations will produce undue hardship.
- (b) Such hardship is not shared generally by other properties in the same zoning district and in the same vicinity.
- (c) The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance.

- (d) The granting of such variance is based upon reason of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit, or caprice.
- (e) The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable a general regulation to be adopted as an amendment to these Zoning Regulations.
- (f) The granting of the variance will not cause substantial detriment to the public good and will not substantially impair the intent and purpose of any Ordinance or Resolution.

SIXTH STREET



106.50'

RESIDENCE  
1247

GRANT STREET

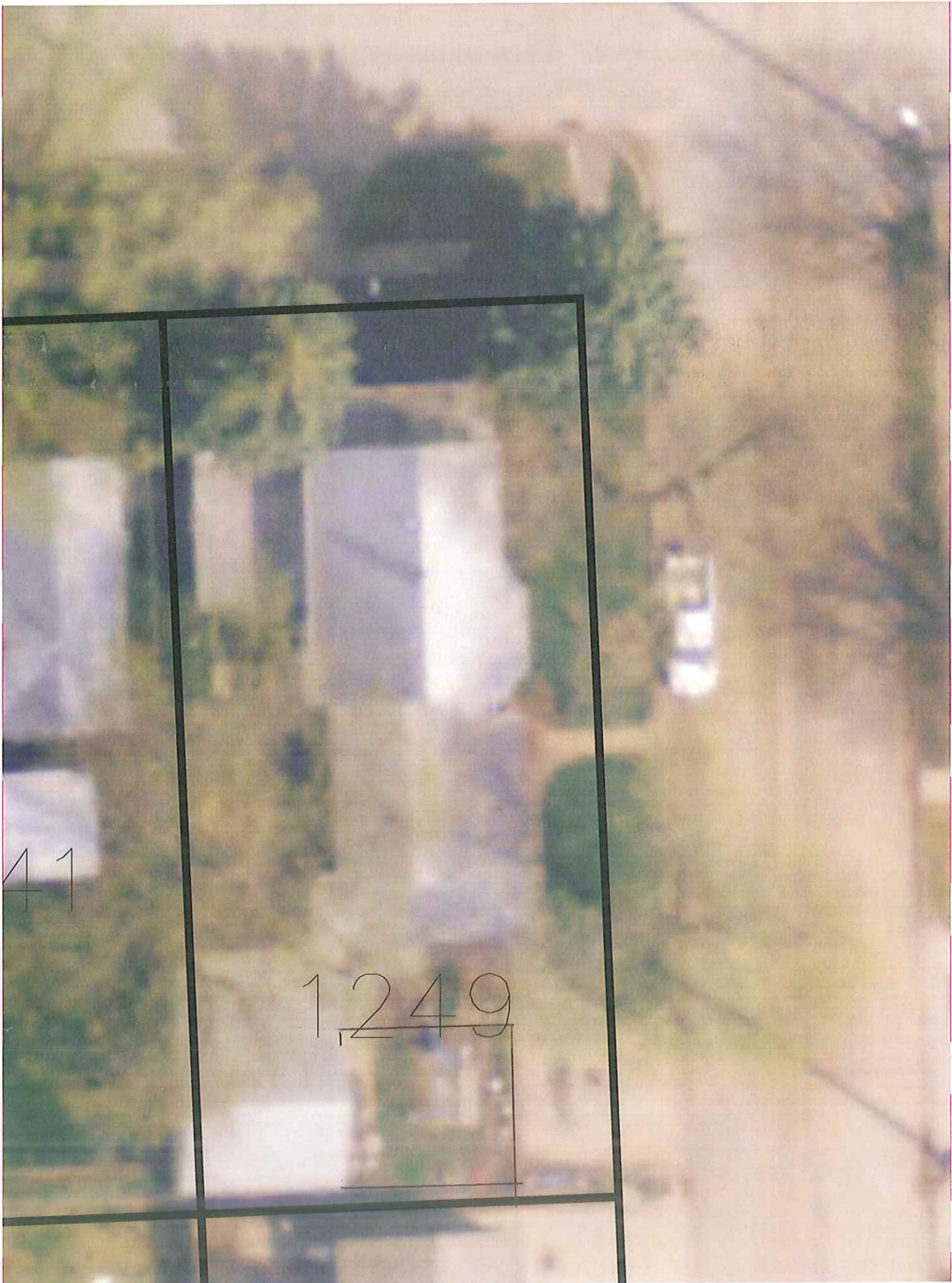
1249

PROPOSED  
6' FENCE

50.00'

?  
 FRONT YARD SETBACK PROPOSED  
 25' FRONT YARD SETBACK REQUIRED  
 ?  
 SIDE YARD SETBACK PROPOSED  
 15' SIDE YARD SETBACK REQUIRED

Jed A. Grovijohn  
 1247 East 6th Street  
 Fremont, Nebraska  
 Zoned R2  
 Date: 9-2012



1"=15'

## STAFF REPORT

**TO:** Board of Adjustment

**FROM:** Rian Harkins, AICP, Planning Director

**DATE:** 13 September 2012

**SUBJECT:** Variance to erect an attached garage with insufficient side yard setback at 1235 North "H" Street, Fremont, Nebraska (Ulmer)

<b>Recommendation: Staff recommends approval.</b>
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**Request:**

The applicant requests a variance to allow an existing accessory structure to be replaced with a new attached garage.

**Background**

The property is situated in the R-2 Moderate Density residential zoning district. The lot contains an existing single family dwelling with a detached garage that is in poor condition. The existing garage is located three feet from the property line. The variance would allow the applicant to replace the garage with an attached garage that has the south wall at the same location (3 feet from the property line).

Due to the layout of the house and existing garage on the property, the fact that this layout preserves the majority of the rear yard, and the fact that this proposal would not encroach any further into the side yard setback than the existing garage, staff is recommending approval. Additionally, the granting of the variance would not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance.

**Required findings:**

- (a) The strict application of the zoning regulations will produce undue hardship.
- (b) Such hardship is not shared generally by other properties in the same zoning district and in the same vicinity.
- (c) The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance.
- (d) The granting of such variance is based upon reason of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit, or caprice.
- (e) The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable a general regulation to be adopted as an amendment to these Zoning Regulations.
- (f) The granting of the variance will not cause substantial detriment to the public good and will not substantially impair the intent and purpose of any Ordinance or Resolution.

LINDEN AVENUE



1249

4  
1  
1  
SIDE YARD SETBACK PROPOSED  
5' SIDE YARD SETBACK REQUIRED

140.00'

PROPOSED  
GARAGE

24'

RESIDENCE  
1235

40'

Garage

"H" STREET

70.00'

1215

Wade A. Ulmer  
1235 North "H" Street  
Fremont, Nebraska  
Zoned R2  
Date: 9-2012

1235

1" = 15'



## STAFF REPORT

**TO:** Board of Adjustment

**FROM:** Rian Harkins, AICP, Planning Director

**DATE:** 13 September 2012

**SUBJECT:** Variance to erect a duplex with insufficient lot width at 1521 West Iowa St, Fremont, Nebraska (Investors Unlimited, LLC)

<b>Recommendation: Staff recommends approval.</b>
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### **Request:**

The applicant requests a variance to allow for the construction of a duplex on the property with insufficient lot width.

### **Background**

The property is currently a vacant lot located in the R-2 Moderate Density Residential District. The property is surrounded single family dwellings and duplexes.

The lot is only 65 feet wide. While the front and rear yard setbacks of this zoning district can be maintained with the proposed duplex, the side yard setback would only be 6 feet.

Due to the size of the lot, the only way a dwelling unit of any type can be built is if a variance is granted. With this in mind, staff is recommending approval. Additionally, the granting of the variance would not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance.

### **Required findings:**

- (a) The strict application of the zoning regulations will produce undue hardship.
- (b) Such hardship is not shared generally by other properties in the same zoning district and in the same vicinity.
- (c) The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance.
- (d) The granting of such variance is based upon reason of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit, or caprice.
- (e) The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable a general regulation to be adopted as an amendment to these Zoning Regulations.
- (f) The granting of the variance will not cause substantial detriment to the public good and will not substantially impair the intent and purpose of any Ordinance or Resolution.



Our Lot

2

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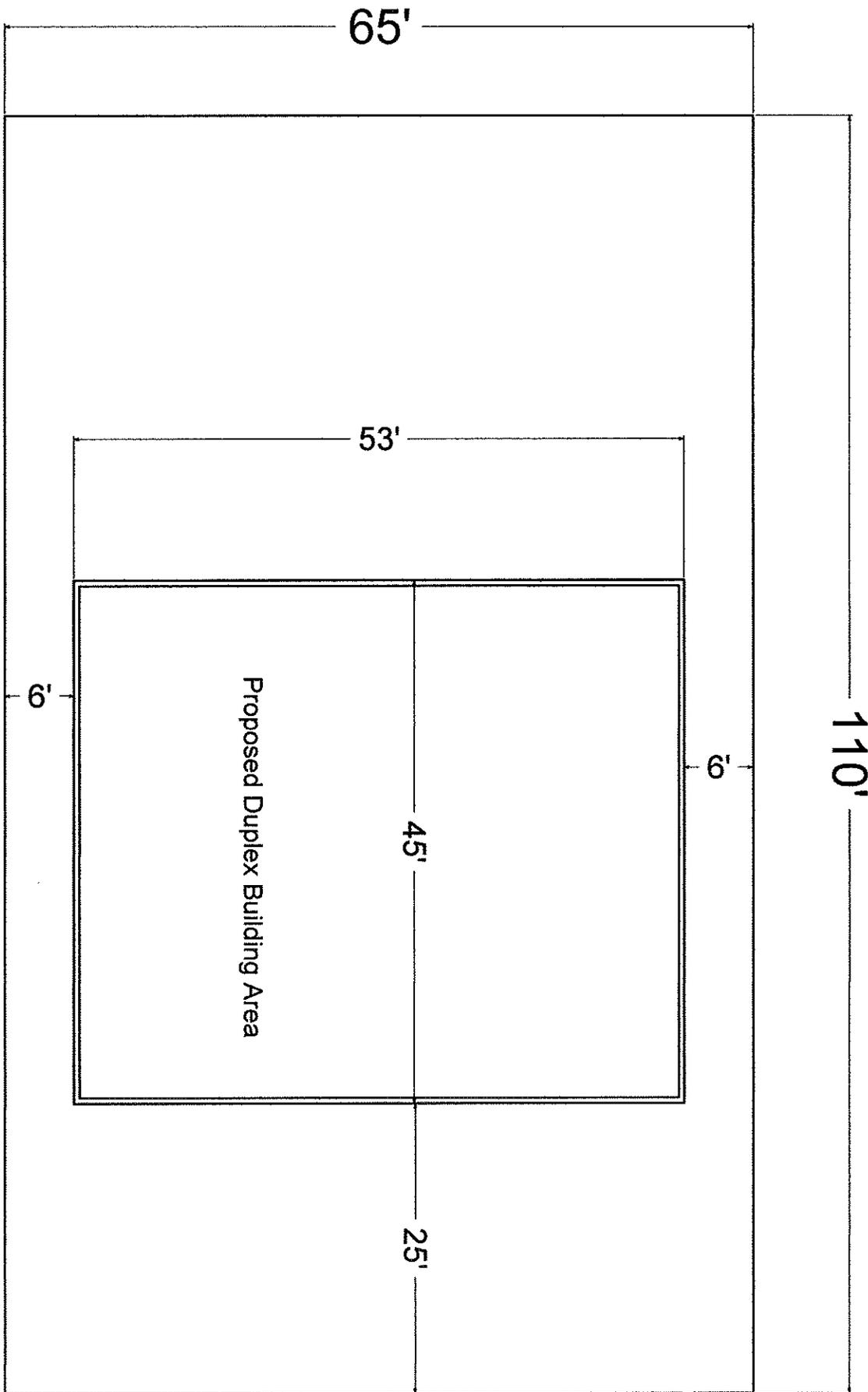
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© 2012 Google

Google Earth



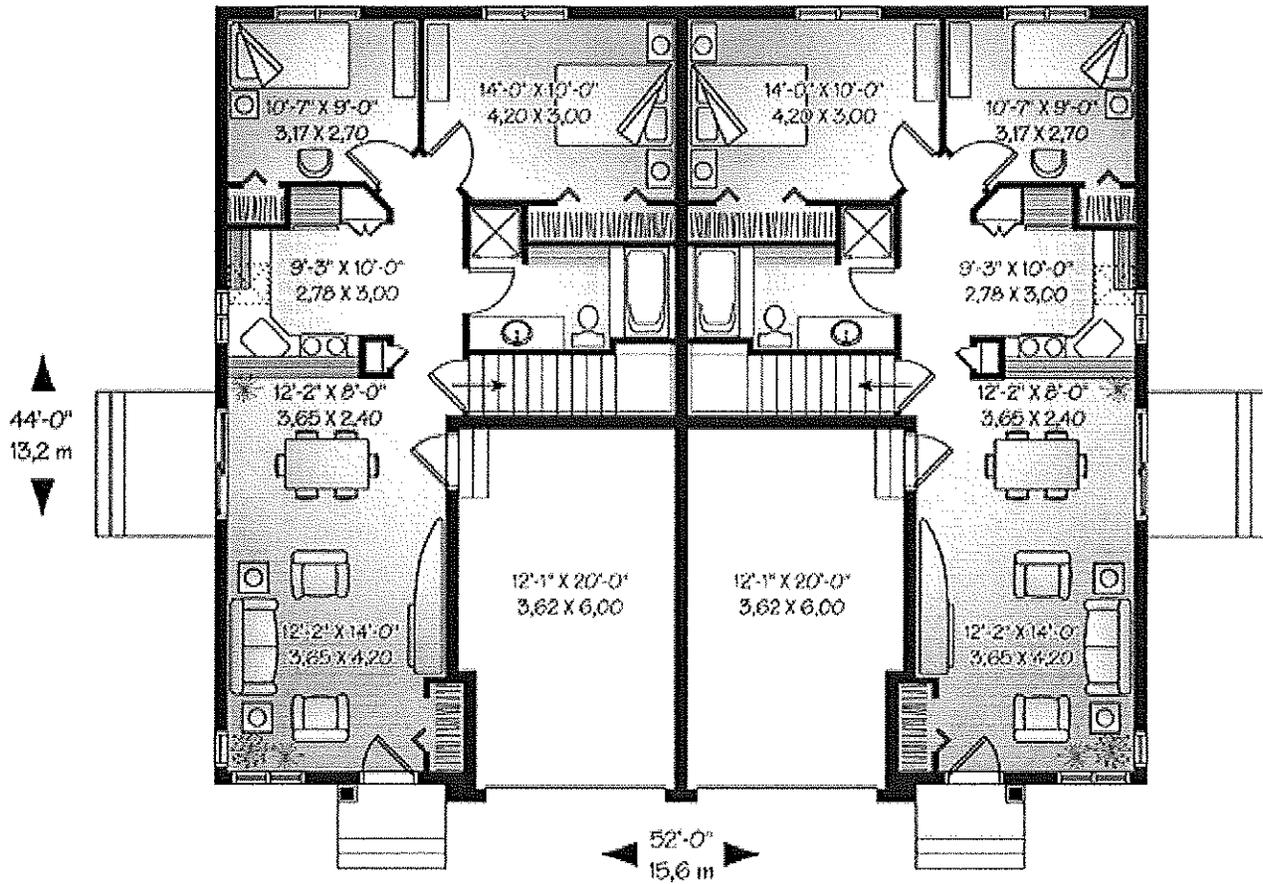
Drawn By:  
Jarod Borisow 8/31/12  
Scale:  
1/8" = 1'



Lot 1 Block 3  
Washington Heights 3rd

*Investors Unlimited L.L.C.*

Pull down the "File Menu" then click on the "Print" option or [Click Here To Print This Page.](#)



1st Floor Plan of COOLhouseplans.com Plan ID: chp-44105, Order Code: C101

To Order call 1-800-482-0464

« [Back to Previous Page.](#)

## STAFF REPORT

**TO:** Board of Adjustment

**FROM:** Rian Harkins, AICP, Planning Director

**DATE:** 13 September 2012

**SUBJECT:** Variance to allow signage in excess of the allowable sign budget, more particularly, to erect an additional pole sign in excess of the allowable sign budget at 3441 East 24<sup>th</sup>, Fremont, Nebraska (Bosselman's)

<b>Recommendation: Staff recommends approval.</b>
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### **Request:**

The applicant requests a variance to allow for an additional pole sign, which would be in excess of the allowable sign budget.

### **Background**

The property is located at the intersection of East 23<sup>rd</sup> Street and Diers Parkway in the GC General Commercial Zoning District.

The property is proposed to be developed at a gas station with other potential features in the future. The site currently contains the signage for Menard's, which has transferred ownership of the property to the applicant. Menard's is unwilling to move the existing sign or tear it down. Although the GC zoning district allows for 700 square feet of signage, the existing sign (300 square feet) is included in that figure. Because of this, the applicant is faced with a hardship due to existing conditions at the site that cannot be rectified through other legal channels.

The variance would allow an additional 55.5 square feet of signage beyond the 700 square feet that the zoning ordinance prescribes.

Because of the hardship created by the existing conditions of the site, the fact that authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance, and the fact that the granting of the variance will not cause substantial detriment to the public good and will not substantially impair the intent and purpose of any Ordinance or Resolution, staff recommends approval.

### **Required findings:**

- (a) The strict application of the zoning regulations will produce undue hardship.
- (b) Such hardship is not shared generally by other properties in the same zoning district and in the same vicinity.
- (c) The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance.

- (d) The granting of such variance is based upon reason of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit, or caprice.
- (e) The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable a general regulation to be adopted as an amendment to these Zoning Regulations.
- (f) The granting of the variance will not cause substantial detriment to the public good and will not substantially impair the intent and purpose of any Ordinance or Resolution.

Pump & Pantry- Fremont, NE.

Building and Canopy signs-

- (1) Set Pump & Pantry Letters on Large Canopy West Elevation- 44.2 Sq feet
- (2) Set Pump & Pantry Letters on Small Canopy East and West Elevation.11.1 Sq. Feet each –Total 22.2 Sq. feet
- (1) Set Pump & Pantry Letters with Danger Dog logo on West building elevation. 73 Sq. feet
- (1) Electronic price display on large canopy South elevation. 31.6 Sq. feet.

Total square feet building and canopy signs- 171Sq. Feet

Free Standing Signs-

Highway Sign – 190 Sq. Feet- 35' Overall height

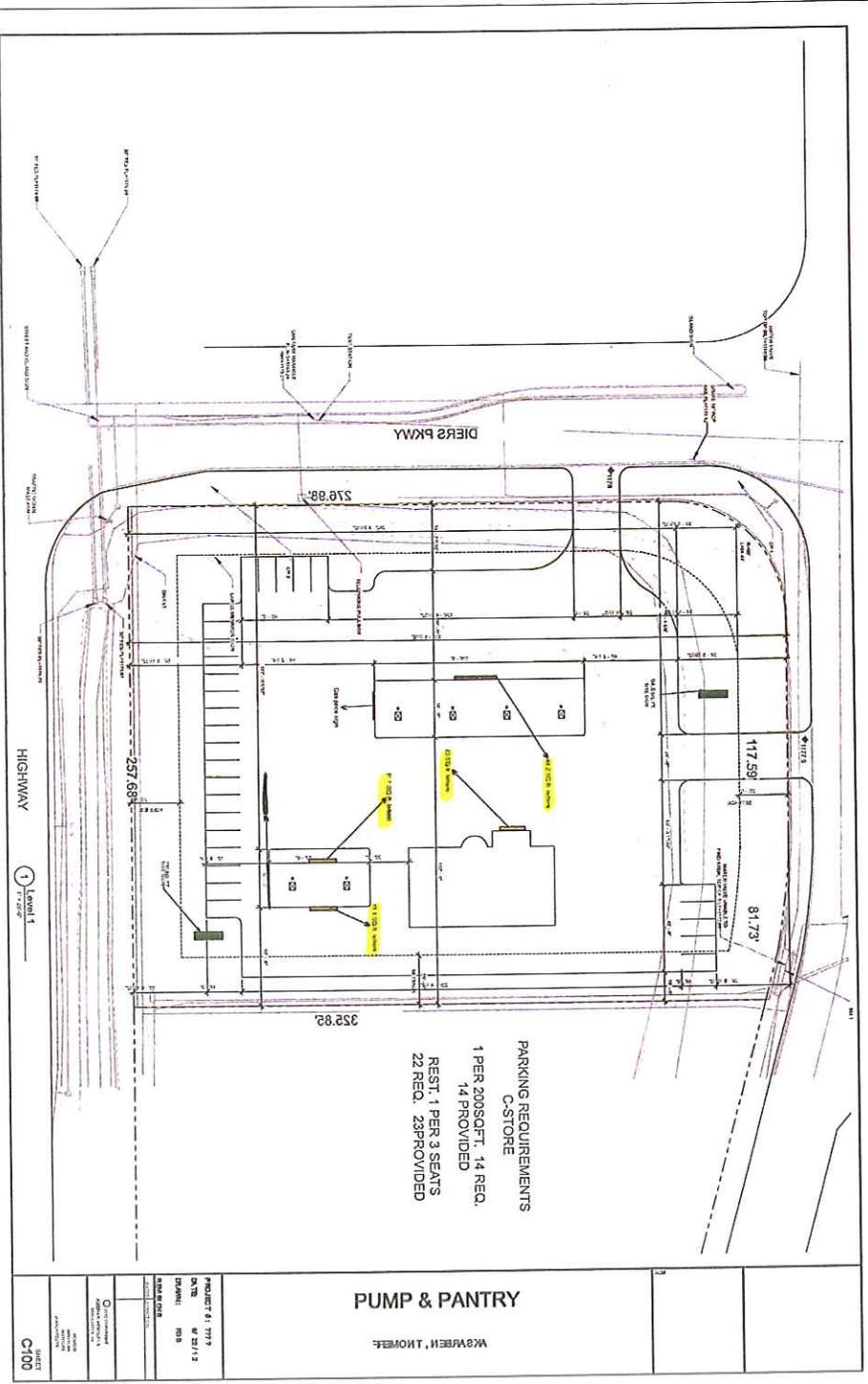
Lumber Drive- 94.5 Sq. Feet- 24'-6" Overall height

Total square feet free Standing signs – 284.5 Sq. Feet

Total Square feet for project- 455.5

Total Square feet allowed- 400

55.5 Square feet of question



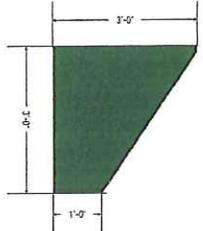
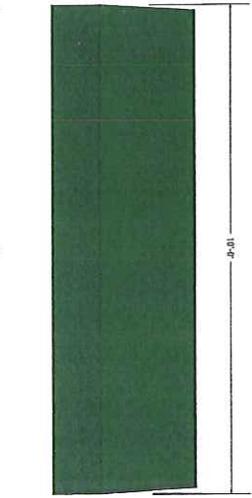
**PARKING REQUIREMENTS**  
 C-STORE  
 1 PER 200SQFT. 14 REQ.  
 14 PROVIDED  
 REST. 1 PER 3 SEATS  
 22 REQ. 23 PROVIDED

**PUMP & PANTRY**

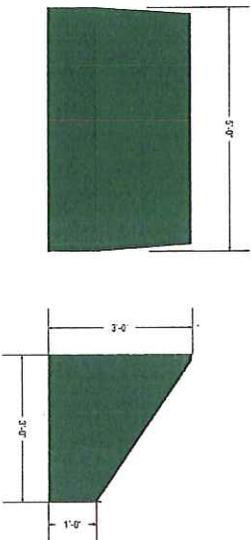
W. G. WARE, INC. ENGINEERS

PROJECT #	17273
DATE	12/11/13
DRAWN	MS
CHECKED	
DATE	
SCALE	
APPROVED	
DATE	
PROJECT LOCATION	
OWNER	
DESIGNER	
DATE	
SHEET	C100

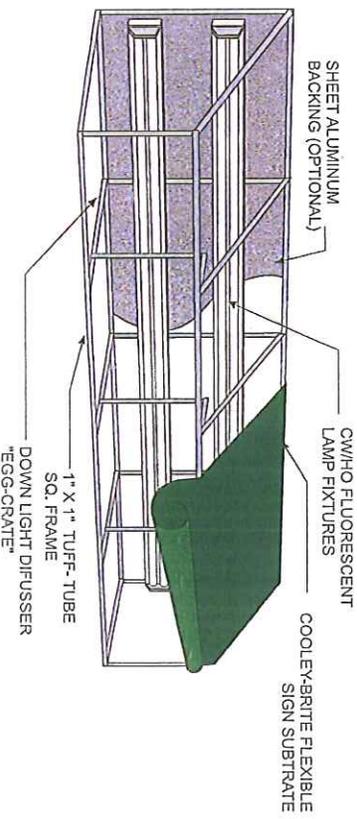




**SCALE - 1/2" = 1'-0"**  
 FABRICATE AND INSTALL (1) ONE NEW INTERNALLY ILLUMINATED AWNING ON THE SOUTH ELEVATION IN CUSTOMER APPROVED LOCATION THAT IS CONSTRUCTED AS NOTED USING LIGHT GREEN COOLEY-BRITE (COLOR TO BE APPROVED.)



**SCALE - 1/2" = 1'-0"**  
 FABRICATE AND INSTALL (2) TWO NEW INTERNALLY ILLUMINATED AWNINGS ON THE EAST ELEVATION IN CUSTOMER APPROVED LOCATIONS THAT ARE CONSTRUCTED AS NOTED USING LIGHT GREEN COOLEY-BRITE. (COLOR TO BE APPROVED.)



DESIGN TYPE	
<input checked="" type="checkbox"/> INTERIOR	<input type="checkbox"/> EXTERIOR
<input type="checkbox"/> MESH DISPLAY	<input type="checkbox"/> CHANNEL LETTERS
<input type="checkbox"/> PERMANENT SIGNAGE	<input type="checkbox"/> RET. CHANNEL LETTERS
<input type="checkbox"/> PORTAL SIGN	<input type="checkbox"/> SPANTEL SIGN
<input type="checkbox"/> SIGN ON GLASS	<input type="checkbox"/> SIGN ON METAL
<input type="checkbox"/> CHANNEL LETTERS/BOARD THE DISPLAY	
PROJECT TYPE	
<input type="checkbox"/> NEW CONSTRUCTION	
<input type="checkbox"/> RENOVATING	
<input type="checkbox"/> TENANT CHANGES	
<input type="checkbox"/> LANDSCAPE IMPROVEMENTS	
<input type="checkbox"/> COMMERCE TECHS	
<input type="checkbox"/> ARCHITECT TO EXISTING SIGNAGE	

This sign is intended to be installed in accordance with the requirements of Article 600 of the National Electric Code and/or other applicable codes and all other applicable codes and standards. The sign must be properly bonded and bonded to the sign.

**NOTICE:**

CONSTRUCTIONS ARE SUBJECT TO APPROVAL OF AUTHORIZED CLIENT AS OF THE DATE OF THE SIGNAGE. THE SIGNAGE IS NOT TO BE CONSIDERED A PERMANENT SIGN UNLESS INDICATED OTHERWISE. THE SIGNAGE IS NOT TO BE CONSIDERED A PERMANENT SIGN UNLESS INDICATED OTHERWISE.

DRAWING NO. **75648**

SALES DEPT. Bill Mikes

DRAWN BY: *[Signature]*

Scale: As Noted

Date: 09.12.12

INSPECTED BY:

Revised:





## STAFF REPORT

**TO:** Board of Adjustment

**FROM:** Rian Harkins, AICP, Planning Director

**DATE:** 13 September 2012

**SUBJECT:** Variance to allow parking in the required front yard setback, 437 North Downing, Fremont, Nebraska (Cleary)

<b>Recommendation: Staff recommends denial.</b>
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### **Request:**

The applicant requests a variance to allow for parking within the required front yard setback.

### **Background**

Located in the R-1 Single Family Residential zoning district, the property is located just to the south of the intersection of 5<sup>th</sup> Street and Downing.

The property contains a single family dwelling with a detached garage in the rear of the property. There is a long driveway that leads to the detached garage. The detached garage and driveway were approved in 2001.

This is a repeat of a request made in 2001 that was denied by the board due to lack of hardship.

Unless the applicant can show a reasonable hardship, staff recommends denial based upon the following:

- The hardship is merely one of convenience
- This situation is shared generally by other properties within this zoning district.
- There are no unique features of the lot that would delineate a hardship.

### **Required findings:**

- (a) The strict application of the zoning regulations will produce undue hardship.
- (b) Such hardship is not shared generally by other properties in the same zoning district and in the same vicinity.
- (c) The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance.
- (d) The granting of such variance is based upon reason of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit, or caprice.
- (e) The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable a general regulation to be adopted as an amendment to these Zoning Regulations.

(f) The granting of the variance will not cause substantial detriment to the public good and will not substantially impair the intent and purpose of any Ordinance or Resolution.



To see all the details that are visible on the screen, use the "Print" link next to the map.

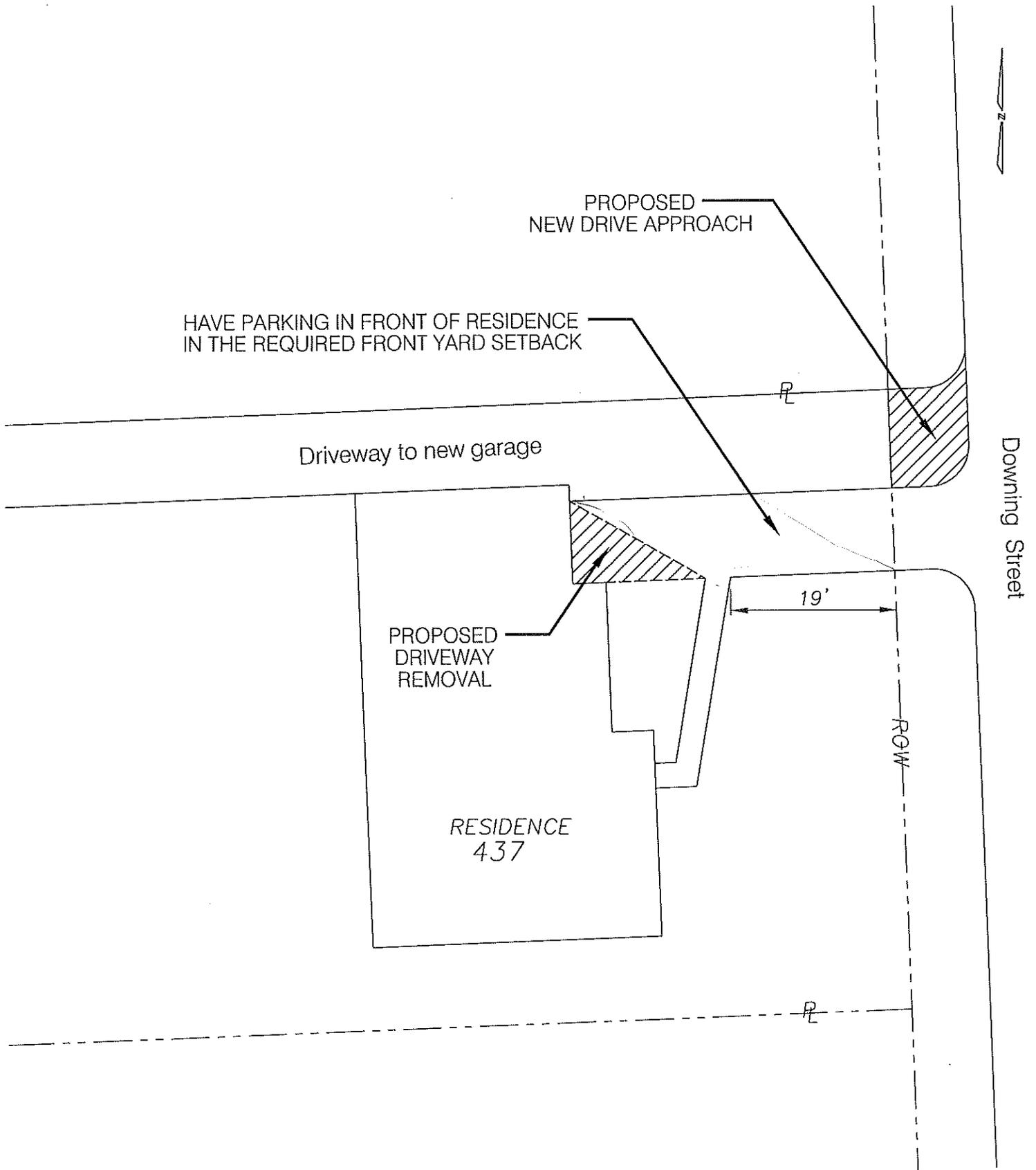


Map data ©2012 Google -



437

T1 = 15



Patrick C. & Bambi Cleary  
 437 North Downing  
 Fremont, Nebraska  
 Zoned R1  
 Date: 11-2011