

AGENDA

**PROPERTY OWNERS APPEAL BOARD
MONDAY, OCTOBER 13, 2014 ~ 11:00 A.M.
CITY OF FORT SMITH OFFICES
PLANNING DEPARTMENT CONFERENCE ROOM
623 GARRISON AVENUE, ROOM 326**

CALL TO ORDER

ROLL CALL

- Karen Lewis (Chair) Megan Raynor Scott Monroe
 Joel Culberson Dennis Shaeffer

STATEMENT OF QUALIFICATIONS AND INTRODUCTION OF CITY STAFF

APPROVE MINUTES OF THE JULY 14, 2014 MEETING

ITEMS OF BUSINESS:

1. Variance Request
Property Location: 8807 South Fresno Street
Property Owner: Burel P. Schaberg
Regarding: Parking of Recreational and Utility Vehicles on Residential Streets and Properties *(Fort Smith Municipal Code Section 14-55)*

2. Variance Request
Property Location: 8815 South Fresno Street
Property Owner: James D. Cox
Regarding: Parking of Recreational and Utility Vehicles on Residential Streets and Properties *(Fort Smith Municipal Code Section 14-55)*

3. Appeal
Property Location: 2nd lot north of 2125 North 14th
Property Owner: Leotha Wright, Sr.
Regarding: Delinquent property cleanup lien discussed at the September 24, 2014 public hearing *(Fort Smith Municipal Code Section 16-15)*

OTHER BUSINESS

ADJOURN



Neighborhood Services Division

P.O. Box 1908, 623 Garrison Ave., Fort Smith, AR 72902

September 19, 2014

**To: Karen Lewis, Chairperson
Property Owners Appeal Board**

Re: Variance Request #2014-11

NOTICE OF PUBLIC HEARING

Notice is hereby given that the following owner(s) or agent for the owner(s) has filed with the Supervisor of Neighborhood Services a written application pursuant to Ordinance 33-08, Section 14-55 of the City of Fort Smith Municipal Code to secure the following variance(s).

Request has been made for a variance of Ordinance 33-08, Section 14-55 – Parking of Recreational and Utility Vehicles on Residential Streets and Properties

Burel P Schaberg, Owner
Lot 60 Replat of Lots 60-66; Chaffin East subdivision, Fort Smith, AR 72903
More commonly known as 8807 South Fresno St.

The applicant will present said application at the regular Property Owners Appeal Board meeting on October 13, 2014 at 11:00am in the Stephens Building, 623 Garrison Ave., 3rd floor conference room #326.

Respectfully,

Rick Ruth

Property Maintenance Supervisor
Neighborhood Services Division

Phone: (479) 784-1027
Fax: (479) 784-1030
E-Mail: rruth@fortsmithar.gov

See attached for additional information.

To: Property Owners Appeal Board

From: Neighborhood Services Division

Re: Variance Request #2014-11; A request by, Mr. Burel P Schaberg, for Board consideration of a variance from ORDINANCE 33-08, Section 14-55: Parking of Recreational and Utility Vehicles on Residential Streets and Properties

Requested Variance

Mr. Schaberg is requesting to allow his boat and trailer to remain parked in his front yard located at 8807 South Fresno St. The applicant sites his hardship as:

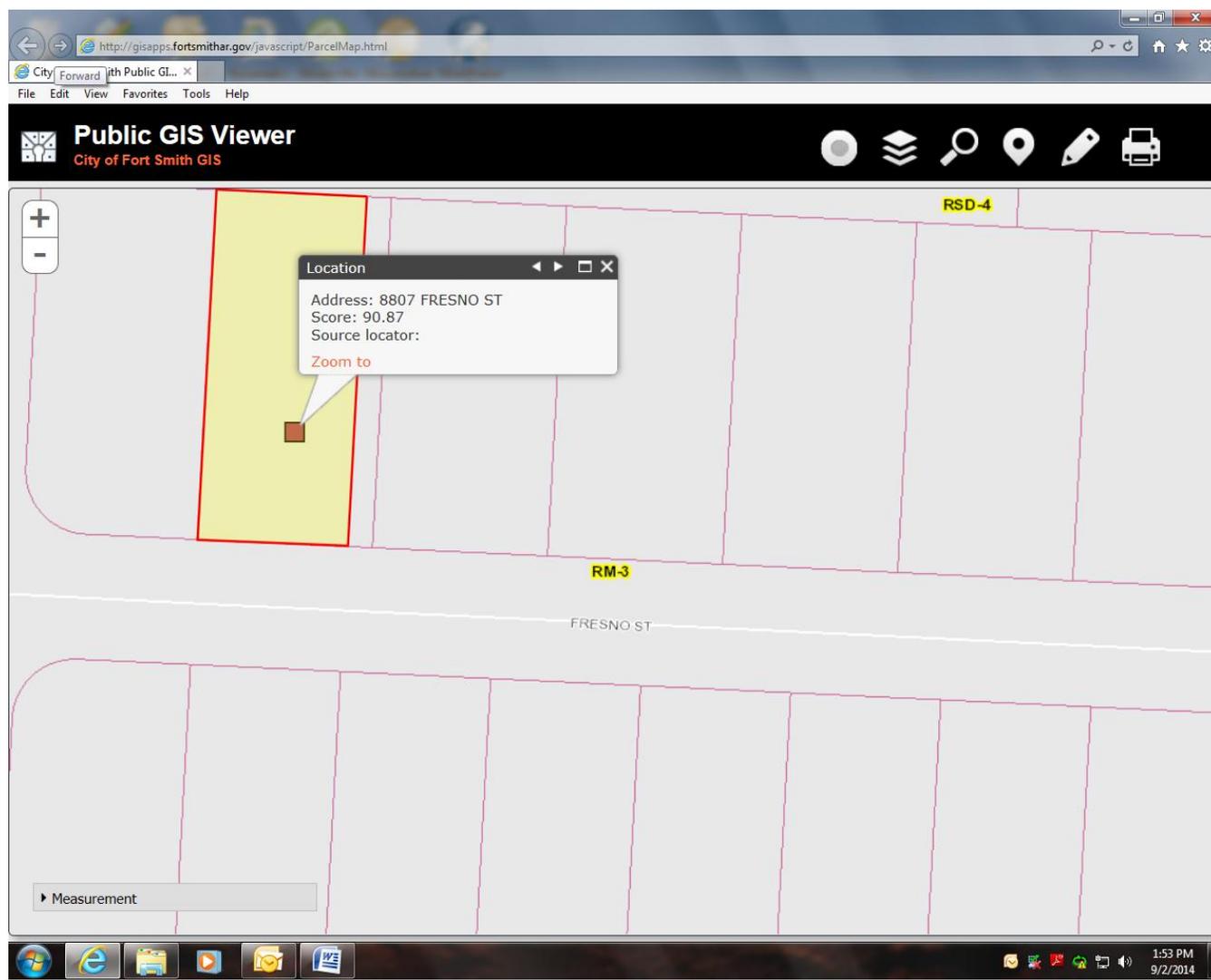
There is no other place to put my boat and trailer other than my front yard. I have no way of putting the boat in my back yard. My side gate is only big enough to get a mower through. There is no gate on the left side of my house and if there was it isn't wide enough to get a boat through because of my house and the neighbor's fence. I can't get around back because there isn't an alley and the Boys & Girls Club baseball field is in the back and there are a lot of shrubs between my fence and the baseball field. I also called three different mini storages and none of them had any openings plus two are \$30 a month and one is \$35.95 a month. I shouldn't be forced to pay for mini storage when I can park my boat where it is. The boat & trailer is tagged and legal with a cover over it. My yard is not torn up because of the boat like my neighbor's yard from them parking in the yard.

Lot Location

The subject property is located in the Chaffin East subdivision of the city of Fort Smith.

Surrounding land use

The property is centrally located in a RM-3 zone.



- *Refer to the Complete Ordinance beginning on the following page:*

PARKING OF RECREATIONAL AND UTILITY VEHICLES ON RESIDENTIAL STREETS AND PROPERTIES

Sec. 14-55. Parking of recreational and utility vehicles on residential streets and properties.

(a) *Recreational and utility vehicles.* For the purposes of this section, recreational and utility vehicles are defined as travel trailers, folding tent trailers, motor homes, truck campers removed from a truck or pickup, horse trailers, boat trailers with or without boats, and utility trailers. It shall be unlawful to park or leave unattended a recreational and utility vehicle:

(1) On any street or right-of-way classified as residential or as a residential collector by the city master street plan; or

(2) In a front or exterior side yard setback area as defined in chapter 27 of the Fort Smith Municipal Code on any property zoned residential or utilized for residential purposes.

Any recreational and utility vehicle properly parked pursuant to the preceding sentence shall be maintained in a clean, well-kept state which does not detract from the appearance of the surrounding area. At no time shall a parked or stored recreational and utility vehicle be occupied or used as a dwelling unit.

(b) *Exemptions.* The following exemptions to the provisions of subsection (a) shall apply:

(1) A recreational and utility vehicle may be temporarily parked in the identified building setbacks or in the identified street right-of-way for no more than four (4) days.

(2) A recreational and utility vehicle may be parked under a carport or structure approved by the board of zoning adjustment or that exists as a non-conforming structure as defined in section 27-39(d) of the Fort Smith Municipal Code.

(3) Guests may reside in a recreational and utility vehicle on the host's premises for a period not longer than two (2) weeks in any ninety-day period. The vehicle may be parked in the building setback areas during the two (2) weeks.

(c) *Variances.* In instances where strict enforcement of the requirements of subsection (a) would cause undue hardship due to circumstances unique to the individual property under consideration, and the granting of such variance is demonstrated to be within the spirit and intent of the provisions of this ordinance, the property owners appeals board may grant a variance of the requirements of the section according to the following guidelines:

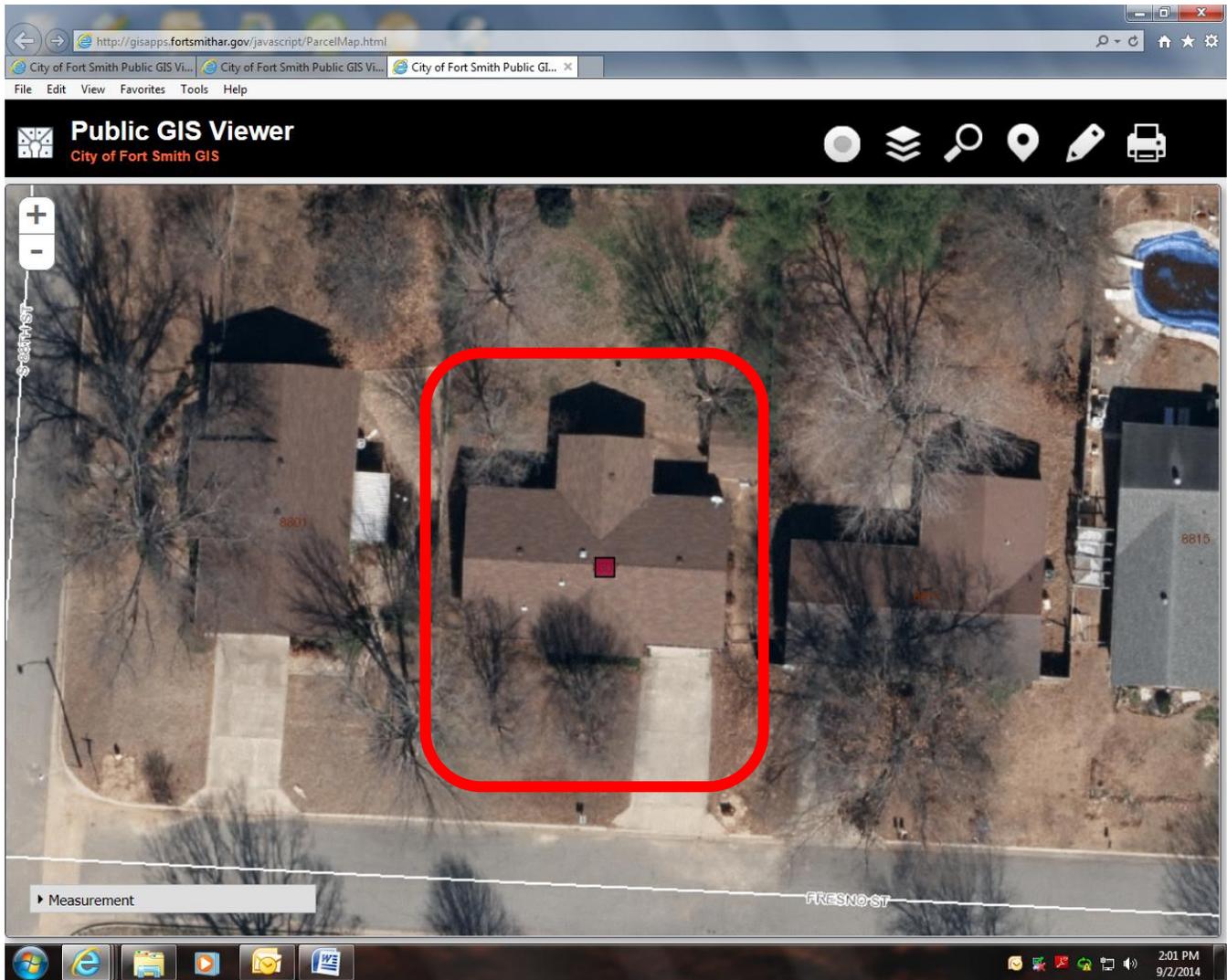
(1) Upon the showing required by (2) below, the property owners appeals board may modify the requirements of subsection (a) to the extent deemed just and proper so as to relieve such hardship, provided that such relief may be granted without detriment to the public interest.

(2) When the applicant can show the property was acquired in good faith and where by reason of the exceptional narrowness, shallowness, size or shape of a specific piece of property, or where by reason of exceptional topographic conditions or other extraordinary situation or condition of the piece of property, the strict application of the provisions of subsection (a) would prohibit or unreasonably restrict the use of the property, and the property owners appeals board is satisfied that the granting of a variance would alleviate a hardship, as distinguished from a special privilege or convenience sought by the applicant, such variance may be granted; provided that all variances shall be in harmony with the intended purpose of this section.

(3) Any party owner aggrieved by the property owners appeals board in granting or denying a variance may appeal the decision to the court of jurisdiction within thirty (30) days of the property owners appeals board's decision.

(Ord. No. 33-08, § 1, 7-15- Secs. 14-56--14-60. Reserved.)

Red outline is property location / *See Pictures below:











Neighborhood Services Division

P.O. Box 1908, 623 Garrison Ave., Fort Smith, AR 72902

September 30, 2014

**To: Karen Lewis, Chairperson
Property Owners Appeal Board**

Re: Variance Request #2014-12

NOTICE OF PUBLIC HEARING

Notice is hereby given that the following owner(s) or agent for the owner(s) has filed with the Supervisor of Neighborhood Services a written application pursuant to Ordinance 33-08, Section 14-55 of the City of Fort Smith Municipal Code to secure the following variance(s).

Request has been made for a variance of Ordinance 33-08, Section 14-55 – Parking of Recreational and Utility Vehicles on Residential Streets and Properties

James D Cox, Owner
Lot 62 Replat of Lots 60-66; Chaffin East subdivision, Fort Smith, AR 72903
More commonly known as 8815 South Fresno St.

The applicant will present said application at the regular Property Owners Appeal Board meeting on October 13, 2014 at 11:00am in the Stephens Building, 623 Garrison Ave., 3rd floor conference room #326.

Respectfully,

Rick Ruth

Property Maintenance Supervisor
Neighborhood Services Division

Phone: (479) 784-1027
Fax: (479) 784-1030
E-Mail: rruth@fortsmithar.gov

See attached for additional information.

To: Property Owners Appeal Board

From: Neighborhood Services Division

Re: Variance Request #2014-12; A request by, Mr. James D Cox, for Board consideration of a variance from ORDINANCE 33-08, Section 14-55: Parking of Recreational and Utility Vehicles on Residential Streets and Properties

Requested Variance

Mr. Cox is requesting to allow his boat and trailer to remain parked in his front yard located at 8815 South Fresno St. The applicant sites his hardship as:

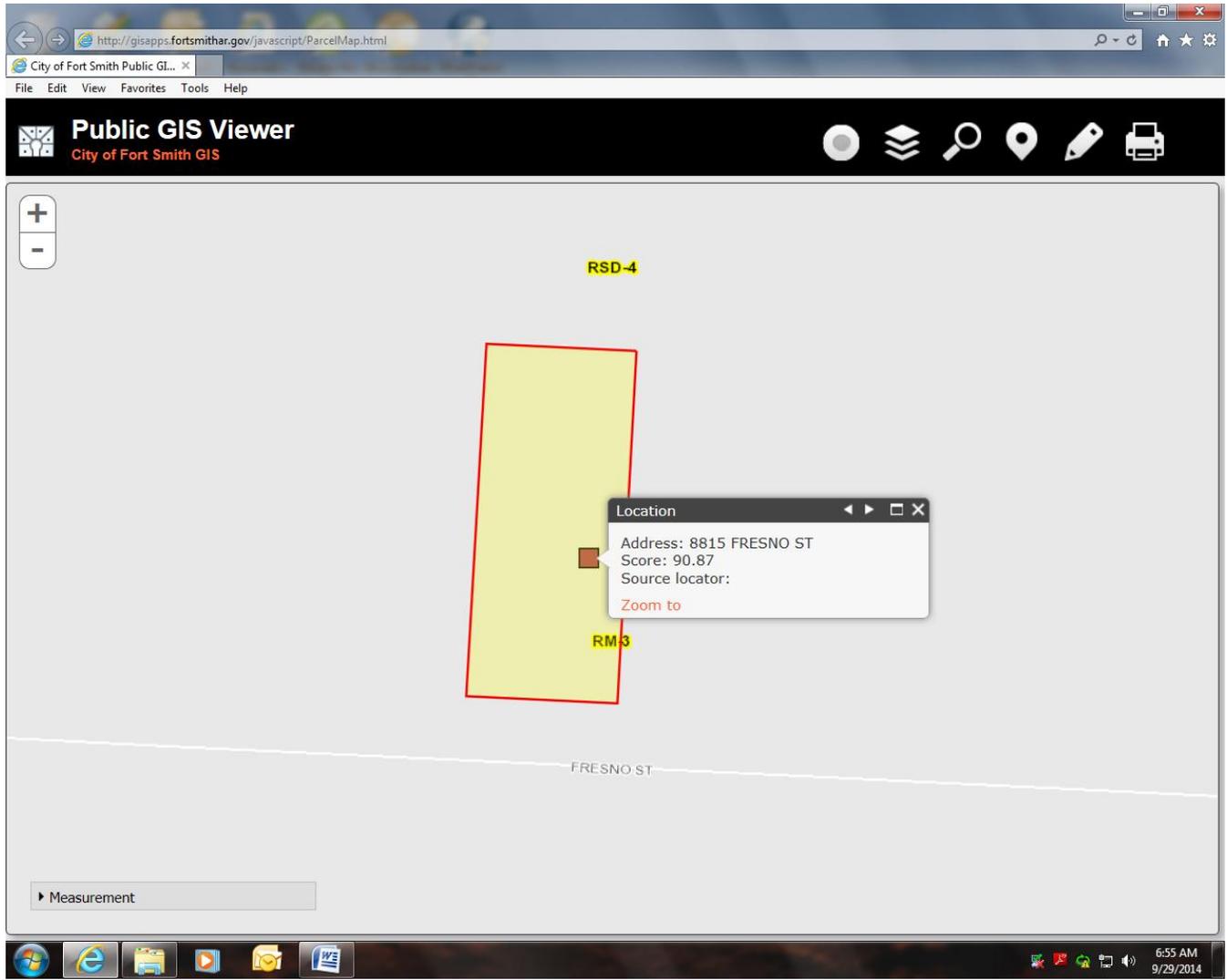
I have moved the boat/trailer to within one foot (1') of the fence at the front of my house; yet it is only twenty feet (20') from the tongue of the trailer to the water line location instead of the twenty-five (25') required by the law. I have no other place to park this boat and trailer.

Lot Location

The subject property is located in the Chaffin East subdivision of the city of Fort Smith.

Surrounding land use

The property is centrally located in a RM-3 zone.



- *Refer to the Complete Ordinance beginning on the following page:*

PARKING OF RECREATIONAL AND UTILITY VEHICLES ON RESIDENTIAL STREETS AND PROPERTIES

Sec. 14-55. Parking of recreational and utility vehicles on residential streets and properties.

(a) *Recreational and utility vehicles.* For the purposes of this section, recreational and utility vehicles are defined as travel trailers, folding tent trailers, motor homes, truck campers removed from a truck or pickup, horse trailers, boat trailers with or without boats, and utility trailers. It shall be unlawful to park or leave unattended a recreational and utility vehicle:

(1) On any street or right-of-way classified as residential or as a residential collector by the city master street plan; or

(2) In a front or exterior side yard setback area as defined in chapter 27 of the Fort Smith Municipal Code on any property zoned residential or utilized for residential purposes.

Any recreational and utility vehicle properly parked pursuant to the preceding sentence shall be maintained in a clean, well-kept state which does not detract from the appearance of the surrounding area. At no time shall a parked or stored recreational and utility vehicle be occupied or used as a dwelling unit.

(b) *Exemptions.* The following exemptions to the provisions of subsection (a) shall apply:

(1) A recreational and utility vehicle may be temporarily parked in the identified building setbacks or in the identified street right-of-way for no more than four (4) days.

(2) A recreational and utility vehicle may be parked under a carport or structure approved by the board of zoning adjustment or that exists as a non-conforming structure as defined in section 27-39(d) of the Fort Smith Municipal Code.

(3) Guests may reside in a recreational and utility vehicle on the host's premises for a period not longer than two (2) weeks in any ninety-day period. The vehicle may be parked in the building setback areas during the two (2) weeks.

(c) *Variances.* In instances where strict enforcement of the requirements of subsection (a) would cause undue hardship due to circumstances unique to the individual property under consideration, and the granting of such variance is demonstrated to be within the spirit and intent of the provisions of this ordinance, the property owners appeals board may grant a variance of the requirements of the section according to the following guidelines:

(1) Upon the showing required by (2) below, the property owners appeals board may modify the requirements of subsection (a) to the extent deemed just and proper so as to relieve such hardship, provided that such relief may be granted without detriment to the public interest.

(2) When the applicant can show the property was acquired in good faith and where by reason of the exceptional narrowness, shallowness, size or shape of a specific piece of property, or where by reason of exceptional topographic conditions or other extraordinary situation or condition of the piece of property, the strict application of the provisions of subsection (a) would prohibit or unreasonably restrict the use of the property, and the property owners appeals board is satisfied that the granting of a variance would alleviate a hardship, as distinguished from a special privilege or convenience sought by the applicant, such variance may be granted; provided that all variances shall be in harmony with the intended purpose of this section.

(3) Any party owner aggrieved by the property owners appeals board in granting or denying a variance may appeal the decision to the court of jurisdiction within thirty (30) days of the property owners appeals board's decision.

(Ord. No. 33-08, § 1, 7-15- Secs. 14-56--14-60. Reserved.)



Measurement

FRESNO ST









Neighborhood Services Division

P.O. Box 1908, 623 Garrison Ave., Fort Smith, AR 72902

MEMO

October 10, 2014

To: Sherri Gard, City Clerk

Re: Reassessment of appeal of N. 14th St. property owned by Leotha Wright, Jr.

Following the receipt of information from Director Good with the mention of a 'small parcel with trees next to the fence' we delved further into the county records. The information on the county's website shows the lot to be 74' x 131' which is the information used in filming the property and assigning it to a contractor for abatement (as of this date the website still shows this same information). However, a search of the physical documents at the courthouse show a 25' parcel beside the fence where a lot of the abatement took place, and the Wright's property to only be a 50' wide lot (rather than 74'). As the known facts have changed regarding this property we ask that it be placed back before the POAB at the October 13th meeting for reassessment of the previous findings.

Thanks,

Rick Ruth

**Property Maintenance Supervisor
Neighborhood Services Division**

Phone: (479) 784-1027

Fax: (479) 784-1030

E-Mail: rruth@fortsmithar.gov