

AGENDA

PROPERTY OWNERS APPEAL BOARD

MONDAY, APRIL 11, 2016 ~ 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 FEBRUARY 8, 2016 MEETING

ITEMS OF BUSINESS

1. Review proposed ordinance amendment regarding parking in cul-de-sacs

2. Variance Request No. 2016-02

Property Location: 3010 Virginia Avenue

Property Owner: Carolyn Nelms

Regarding: Parking of Recreational and Utility Vehicles on Residential Streets and Properties *(Fort Smith Municipal Code Section 14-55)*

3. Variance Request No. 2016-03

Property Location: 3926 North Street

Property Owner: Joseph and Jennifer Ham

Regarding: Parking of Recreational and Utility Vehicles on Residential Streets and Properties *(Fort Smith Municipal Code Section 14-55)*

OTHER BUSINESS

ADJOURN



Memorandum

To: Property Owner Appeals Board
From: Wally Bailey, Director of Development Services
Date: March 11, 2016
Subject: Cul-de-Sac parking

Recently the Property Owner Appeals Board reviewed a variance from the maximum paving or improved area for parking vehicles in a front yard. The variance was from forty (40%) percent to fifty (50%) coverage with a concrete driveway. The applicant was building a new single family home with a three (3) car garage which was located on the radius of a cul-de-sac. At the meeting you indicated an interest in reviewing an amendment to the Ordinance that would provide some relief on lots platted on the radius of a cul-de-sac.

Lots on the radius of a cul-de-sac have limited property in the front yard because of the lot shape. Attached are copies from a subdivision plat that show the size and shape of lots on the radius of a cul-de-sac. *See exhibits 1.*

Homebuilders have attempted to comply with the regulations as evidenced in the photographic *exhibit 2*. *Exhibit 3* is a photograph of the driveway you approved with the variance from 40% to 50%.

The issue of providing some latitude for lots on the radius of a cul-de-sac already exists in the Fort Smith Municipal Code. Section 27-404 (c) (5) allows these lots to have a front yard setback of twenty (20) feet regardless of the front yard setback for the specific zoning classification of the property. *See exhibit 4*. Many single family homes cannot take advantage of this exception because of the forty (40) percent rule.

Originally we had discussed an amendment for single family home constructed on the circle of a cul-de-sac. However, it has come to my attention that the same problem exists when a duplex is constructed on a cul-de-sac lot. *See exhibit 5*. As you can see from the photographs, the shape of the driveway is promoting wheel ruts beside the driveway. Therefore, my recommendation is for an amendment that is not limited to single family construction.

I have prepared a proposed amendment for section 14-52 (c) from the Fort Smith Municipal Code. The amendment will allow for the improved area to be increased to fifty (50) percent of the gross front or exterior yard land area when the residential lot is on the radius of a cul-de-sac. A copy of the proposed amendment is enclosed as *exhibit 6*.

I look forward to our continued discussion on this subject. Please feel free to contact me if you have any questions.

PLAT CERTIFIED CORRECT:

David R. Williams
 Douglas R. Whitlock
 Professional Surveyors
 Arkansas No. 1339

PLANNING COMMISSION APPROVED
 Date: *11/16/10*
 Chairman: *Samuel L. King*
 Secretary: *Jeffery J. King*

FILED FOR RECORD this *14th* Day of *May*
 20 *11* A.M. at *10:23* O'clock P.M.
 Clerk and Ex-Officio Recorder SHAWN BROOKS
Shawn Brooks



THIS PLAT FILED for the purpose of placing on record

The BOROUGH at MIDDLETON
 Lots 1 Thru 36 and Tract A

The right-in-and-out as shown on this plat is hereby dedicated to the City of Fort Smith (2007) for public use. The easements shown on this plat are hereby dedicated to the City for Utility, drainage, access and other purposes. Any easement designated as a "Utility easement" is dedicated to the City for the installation, operation and maintenance of City owned utilities and utilities, including cable TV, operated by utility companies having a franchise agreement with the City. The City and city franchised utility companies shall have access through and along designated easements for their personnel and equipment at all times with the authority to cut down and keep trimmed from the dedicated easements trees, bushes and shrubs that may interfere with or encroach such utilities. In the event that fencing of individual lots is desired, gates that provide free ingress and egress to, and within, the dedicated easement shall be provided. Easements designated "canal easements" are provided for the purpose of trimming tree limbs which extend into the easement; the easement begins twelve feet above the ground and extends vertically upward.

PLATTORS: RYE HILL DEVELOPERS PHASE I, LLC.

Richard B. Griffin
 Richard B. Griffin, Operating Manager

STATE OF ARKANSAS
 COUNTY OF SEBASTIAN: Survey and subscribed before me this *10th* Day of *May* 2011
 Notary Public in and for the County of Sebastian, Arkansas
 My Commission Expires *12/15/11*

LEGEND

	Utility Easement
	Drainage Easement
	Sanitary Sewer Easement
	Right-of-way
	Building Setback Line
	Lot Line

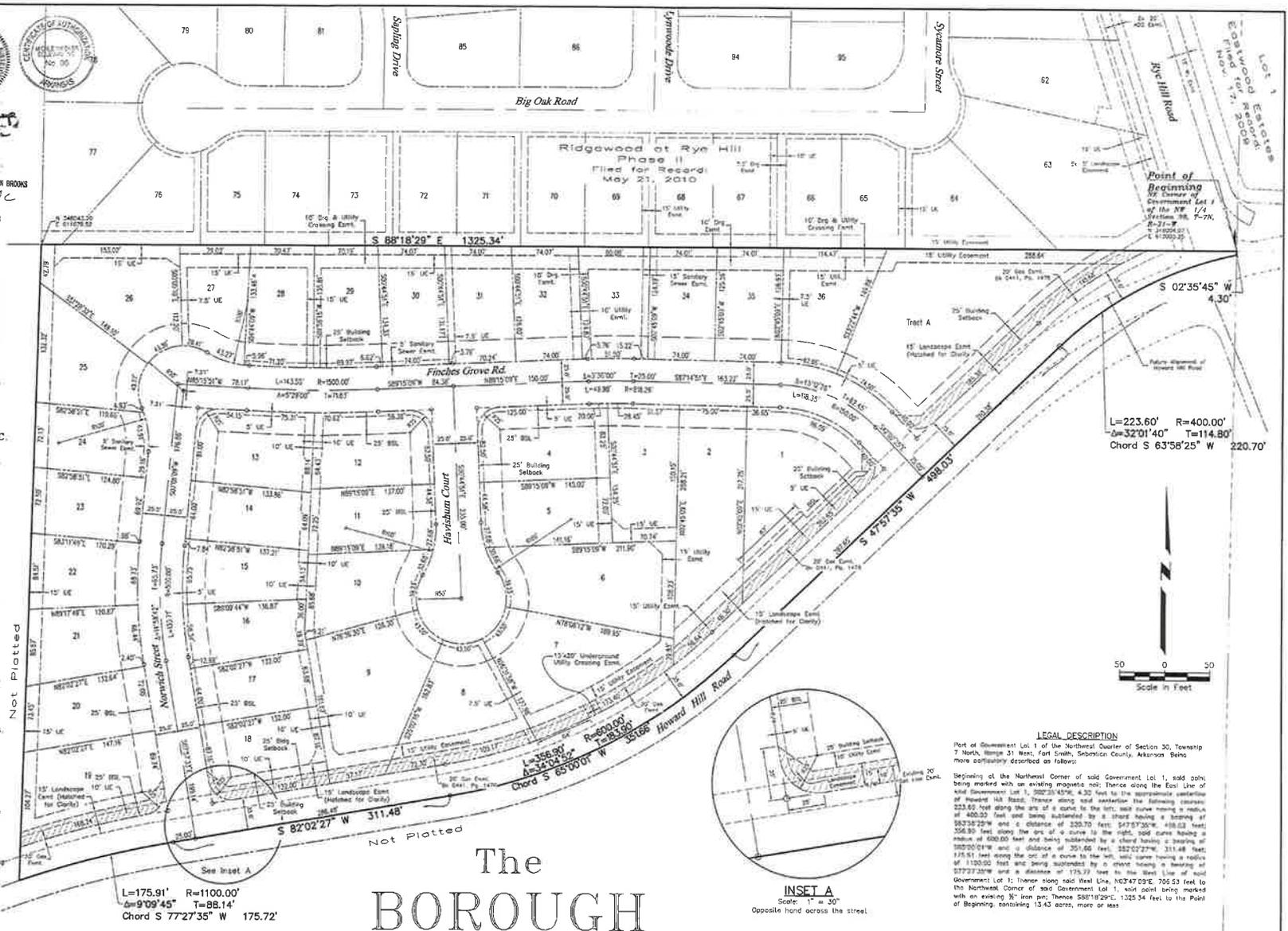
- NOTES:
- 1/2" Iron Pin Set At Property Corners
 - All Right of Way Return Road 25.0'
 - All Distances along Curves are Chord Distances Unless Otherwise Noted
 - Basis of Bearings: Bearings are Grid, all North, Zone, NAD83
 - Basis of Coordinates: Coordinates are NAD83, Arkansas State Plane, North Zone, U.S. Foot
 - Tract A is not a residential building lot. It is intended for the operation and maintenance of a storm detention/water quality facility.
 - Section 27-503-19 of the City of Fort Smith Development Code requires sidewalks on one side of internal residential streets. The Developer hereby designates the sidewalk locations as follows:
 Along the street frontage of Lots 4 thru 6 and 19 thru 36, one on follow:

Lot	Min. Finished Floor Elev.*
4	425.3
5	425.3
6	425.3
 - Recommended minimum finished floor elevations are as follows:

Lot	Min. Finished Floor Elev.*
7	425.3
8	425.3
9	425.3
10	425.3
11	425.3
12	425.3
13	425.3
14	425.3
15	425.3
16	425.3
17	425.3
18	425.3
19	425.3
20	425.3
21	425.3
22	425.3
23	425.3
24	425.3
25	425.3
26	425.3
27	425.3
28	425.3
29	425.3
30	425.3
31	425.3
32	425.3
33	425.3
34	425.3
35	425.3
36	425.3

*The recommended minimum finished floor elevations shown are for guidance only, and are not to be considered a restrictive covenant. The structure are 1.0' or more above the 100 year flood elevation of the streamways as indicated on the lot in question. Finished floor elevations are based on a structure set at the minimum front yard setback, changing the front yard setback, including any other setbacks, changing the finished floor elevations will also change the recommended finished floor elevations.

Setting a structure at the elevation shown is not an assurance that flooding will not occur once impound or site grading can lead to flooding during a 100-year event; a professional engineer must be consulted to prepare a site specific grading plan.



INSET A
 Scale: 1" = 30'
 Opposite hand across the street

$L=223.60'$ $R=400.00'$
 $\Delta=320'40''$ $T=114.80'$
 Chord $S 63'58'25'' W 220.70'$



The BOROUGH at MIDDLETON

Lots 1 thru 36 and Tract A, Part of the Northwest Quarter, Section 30, T-7-N, R-31-W
 Fort Smith, Sebastian County, Arkansas

Owner & Developer
 Rye Hill Developers Phase I, LLC
 810 Towson Avenue
 Fort Smith, Arkansas 72901

MICKLE-WAGNER-COLEMAN, INC.
 Engineers Surveyors Consultants
 P.O. Box 1507 Fort Smith, Arkansas
 Scale: 1" = 50' May 2014

Exhibit B

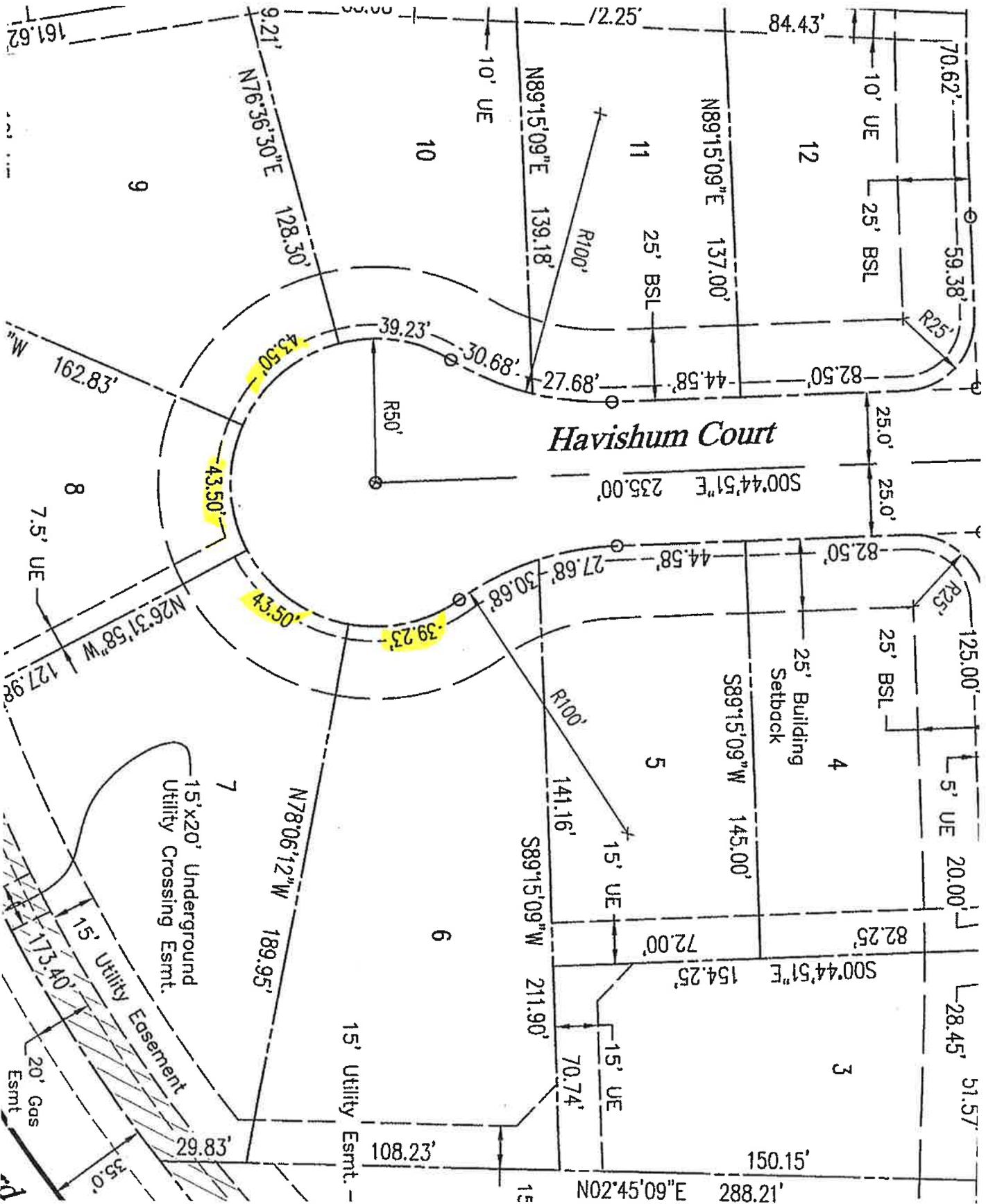
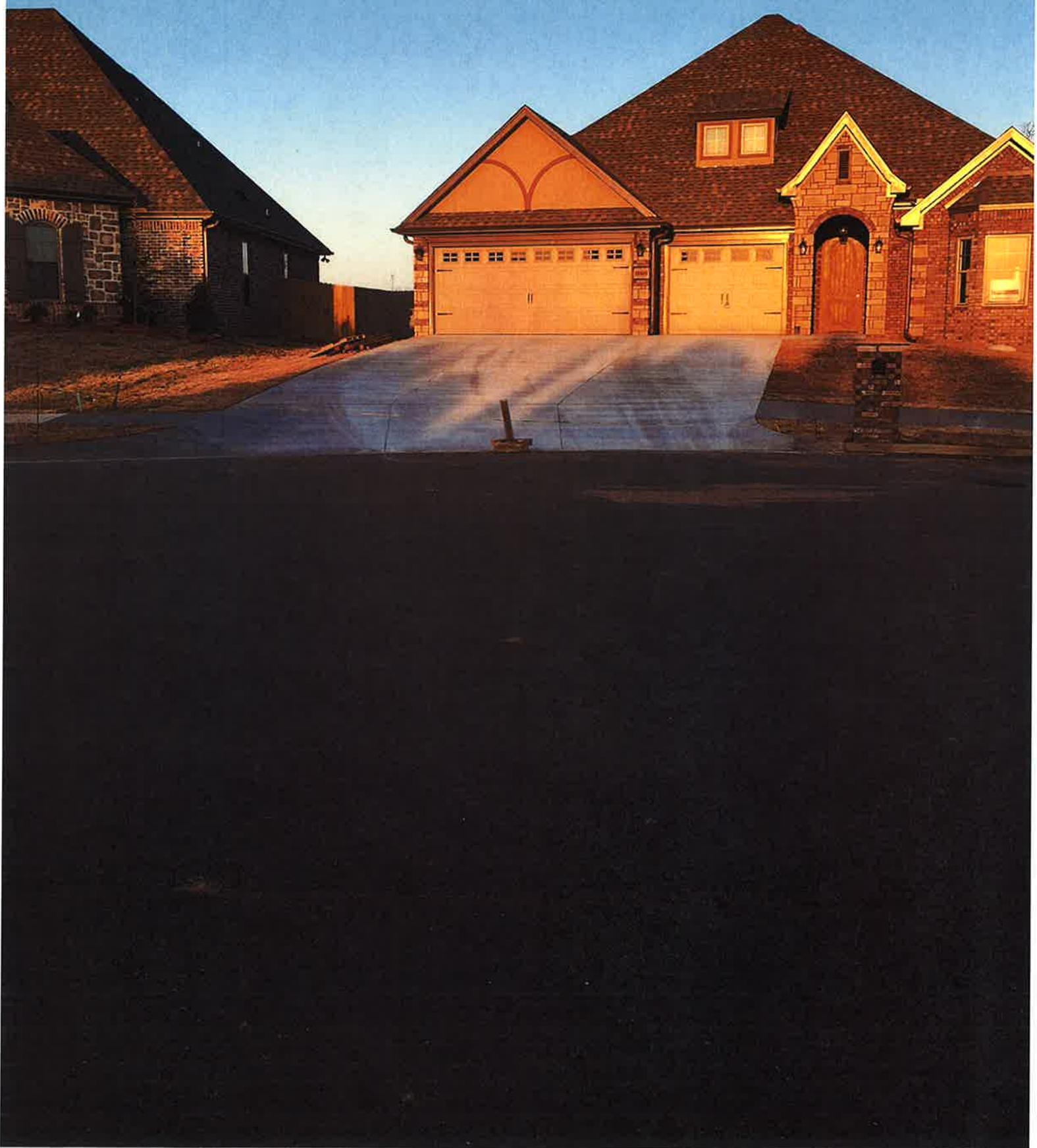


Exhibit 2





Fort Smith Municipal Code (UDO) Section 27-404 (c) (5)

All residential lots on a cul-de-sac street that have frontage on the radius of the cul-de-sac are permitted to have a front yard setback of twenty (20) feet.

Exhibit 5



Fort Smith Municipal Code Section 14-52 (c)

- It shall be unlawful for the operator of any vehicle to cause the vehicle to be parked or stored on an unimproved surface on the front yard or exterior side yard of any one- or two-family dwelling structure or on any portion of an adjacent or contiguous undeveloped property. The improved surface shall consist of concrete, asphalt, or brick pavers. The improved area for parking vehicles in a front yard shall be limited to forty (40) percent of the gross front or exterior side yard land area. The following exemptions shall apply:
 - (1) Each one or two-family dwelling structure shall be permitted one (1) exempt parking space located on the property. The size of the exempt parking space shall not exceed nine (9) feet by nineteen (19) feet and shall be contiguous to the property's driveway. If the exempt parking is not maintained with adequate grasses, plants, or landscaping materials to prevent the area from becoming rutted or muddy and thereafter is identified as being in violation of this provision, the property owner shall be required to pave the designated parking area in accordance with the provisions of this chapter.
 - (2) An existing gravel, loose aggregate, rock, or SB2 driveway shall be permitted to remain unless it deteriorates so that more than fifty (50) percent of the surface is composed of dirt, grass and weeds. An existing driveway of the gravel, loose aggregate, rock or SB2 may be expanded with similar material but not to exceed the forty (40) percent of the gross front or exterior side yard land area.
 - (3) A vehicle may be parked for twenty-four (24) hours on an unimproved surface in conjunction with a family or social gathering. This exemption shall be used no more than once within a seven-day period.
 - (4) A vehicle may be parked up to seven (7) days on an unimproved surface by visitors in connection with a vacation or other family occasion, i.e., a wedding or funeral.
 - (5) The improved area for parking vehicles on residential lots that are platted on a Cul-de-sac and where the lots are on the radius of the cul-de-sac and where the lot has a reduced frontage shall be limited to fifty (50) percent of the gross front or exterior side yard land area.



Neighborhood Services Division

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

March 15, 2016

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

Re: Variance Request #2016-02

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

Carolyn Nelms, Owner
Lot 4; Moore's Floral Park subdivision, Fort Smith, AR 72904
More commonly known as 3010 Virginia Ave.

The applicant will present said application at the regular Property Owners Appeal Board meeting on April 11, 2016 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 #2016-2; A request by Carolyn Nelms, for Board consideration of a variance from ORDINANCE 33-08, Section 14-55: Parking of Recreational and Utility Vehicles on Residential Streets and Properties

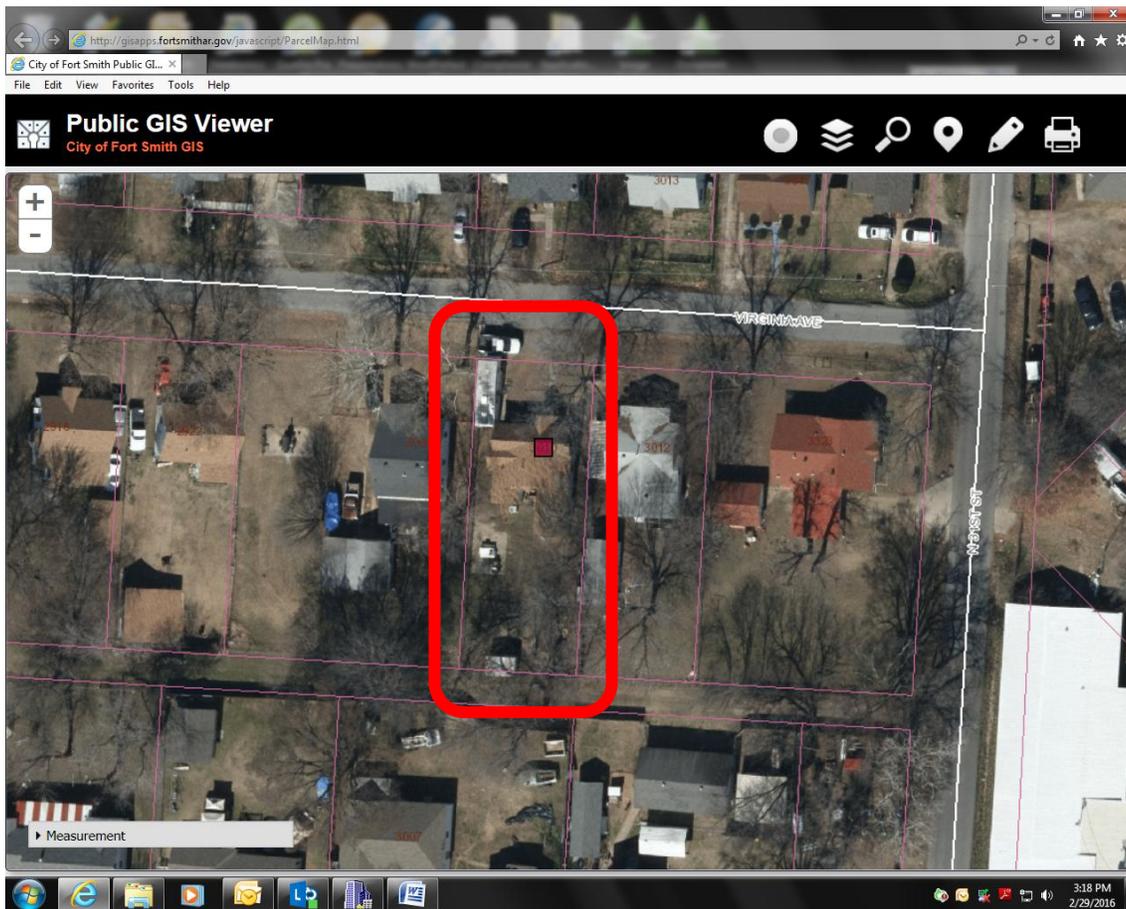
Requested Variance

Ms. Nelms is requesting to allow her camper trailer to remain parked in the driveway located at 3010 Virginia Ave. The applicant sites her hardship as:

It is not possible to move the camper trailer back 50 feet because of the space between the house and fence. To move to the back yard, I would have to back down a narrow alley with tree limbs that would damage the top and sides of the camper trailer. Also, there is only a narrow space to put the camper trailer through the gate.

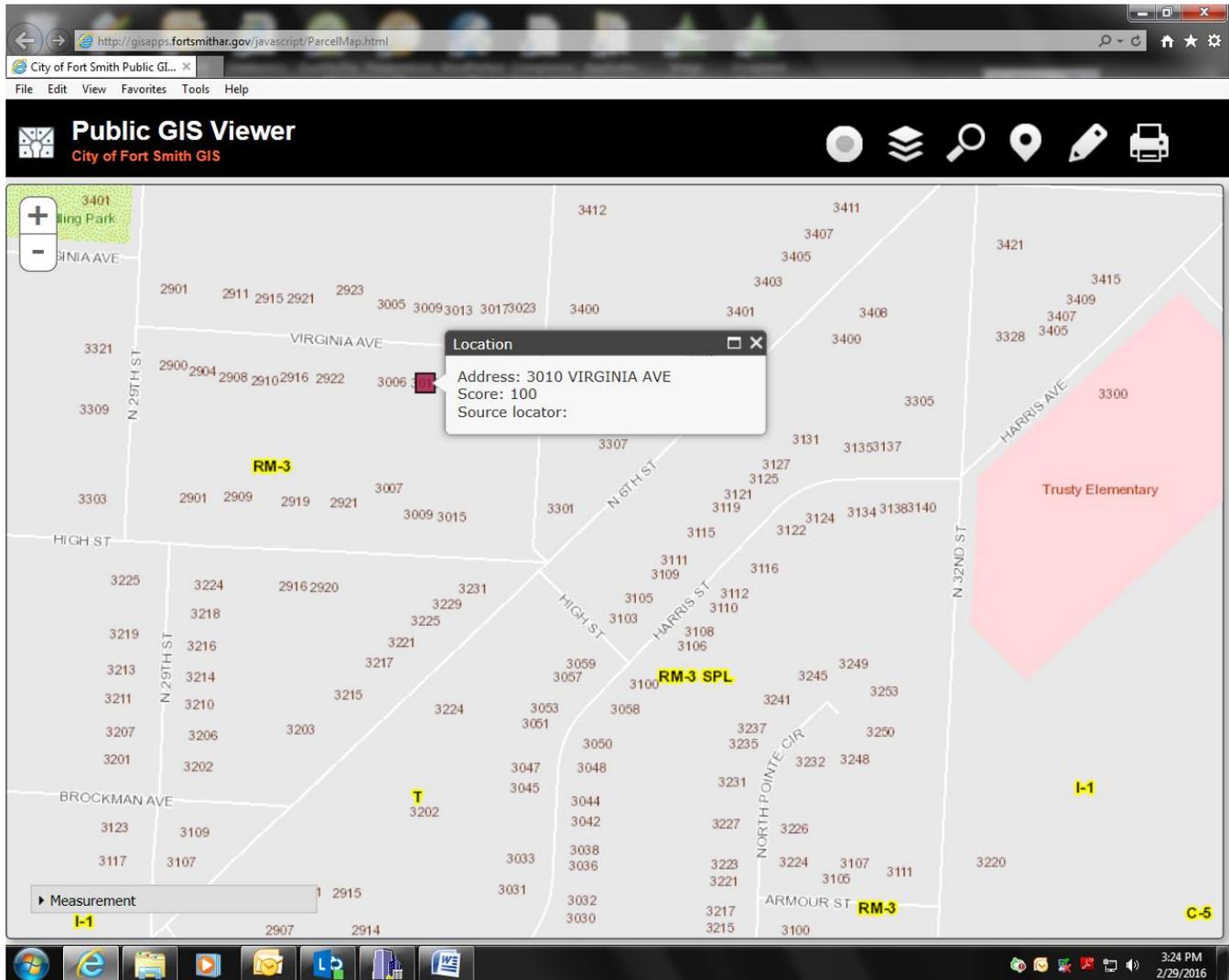
Lot Location

The subject property is located in the Moore’s Floral Park 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.)





Neighborhood Services Division

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

March 23, 2016

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

Re: Variance Request #2016-03

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

Joseph & Jennifer Ham, Owners; Kenneth Ham, Son (Agent)
Lot W/2 of Lot 10; Midland Heights subdivision, Fort Smith, AR 72904
More commonly known as 3926 North St.

The applicant will present said application at the regular Property Owners Appeal Board meeting on April 11, 2016 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 #2016-3; A request by Kenneth Ham, owners' son, for Board consideration of a variance from ORDINANCE 33-08, Section 14-55: Parking of Recreational and Utility Vehicles on Residential Streets and Properties

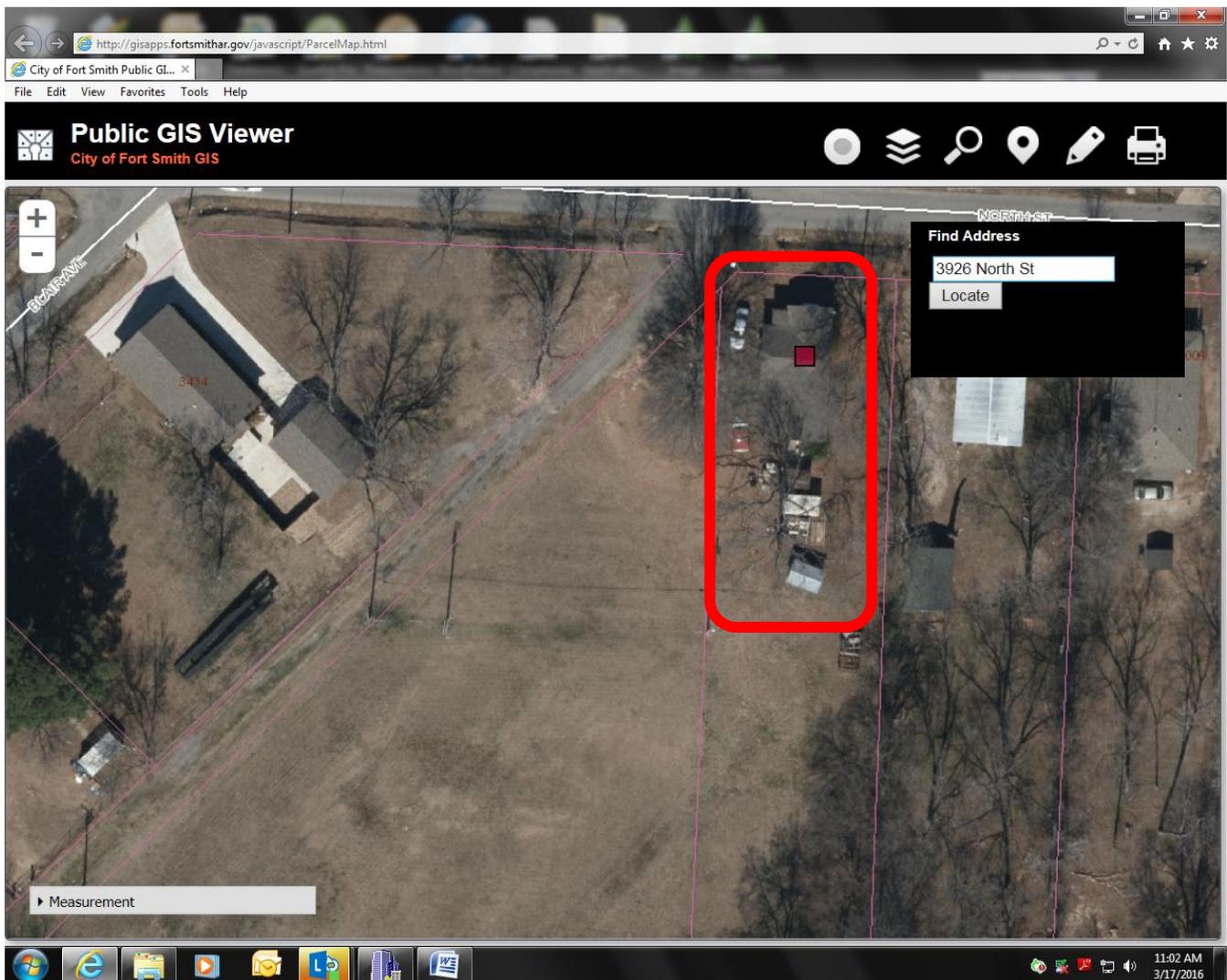
Requested Variance

Mr. Ham is requesting to allow him to reside in the camper trailer parked in the back yard located at 3926 North St. The applicant sites his hardship as:

My parents live in the house and need their space. I need my space. They need me around to help.

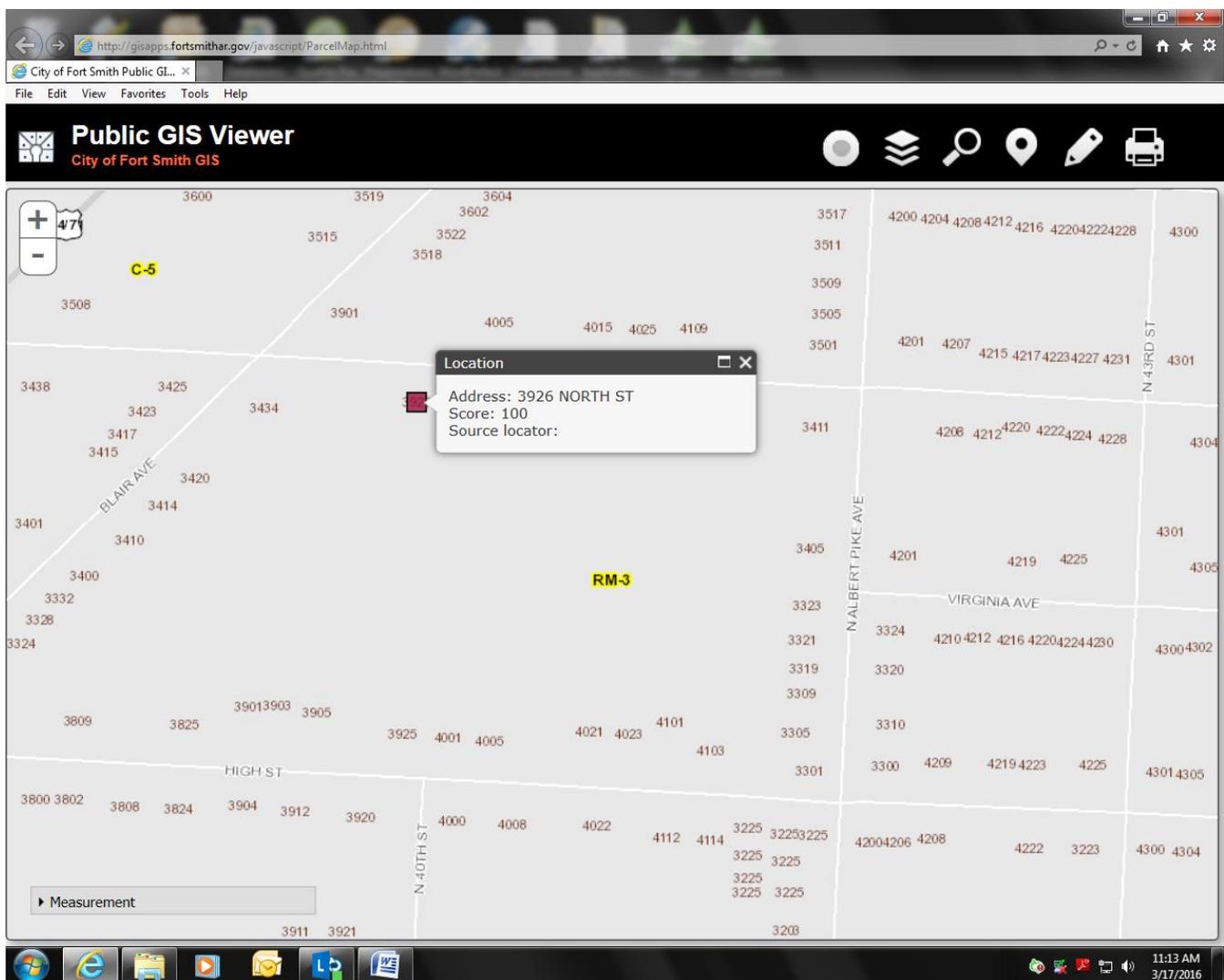
Lot Location

The subject property is located in the Midland Heights 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:

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(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.





2016/02/28



2016/02/28





APPLICATION FOR VARIANCE/APPEAL

Notice is hereby given that the undersigned as Owner(s) or Agent(s) of Owner(s) of the following property in the Fort Smith District of Sebastian County, Arkansas, to-wit:

Address of Property: 3926 North St.

Zoning Classification: RM3

has filed with the Neighborhood Services Division a written application to secure a variance from the literal provisions of the following:

Ordinance: 33-08 Sec. 14-55 ^{title} Parking of recreational + utility vehicles on residential streets + properties

Description: _____

At no time shall a parked or stored recreational + utility vehicle be occupied or used as a dwelling unit.

Please describe your hardship: My parents live in the house and need their space and I need mine. They need me around to help.

