

AGENDA

PROPERTY OWNERS APPEAL BOARD

MONDAY, JUNE 13, 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 APRIL 11, 2016 MEETING

ITEMS OF BUSINESS

1. Variance Request No. 2016-04

Property Location: 8809 Vickery Lane

Property Owner: Luis Roberto and Veronica Espino

Regarding: Parking, Screening Vehicles on Residentially Zoned Property
(Fort Smith Municipal Code Section 14-52)

OTHER BUSINESS

ADJOURN



Neighborhood Services Division

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

May 20, 2016

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

Re: Variance Request #2016-04

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 34-08, Section 14-52 of the City of Fort Smith Municipal Code to secure the following variance(s).

Request has been made for a variance of Ordinance 34-08 Sec 14-52 (c), Vehicle Parking; No more than 40% of front yard shall be paved.

Luis Roberto & Veronica Espino, Owners
Lot 25; Southfield Heights Villas subdivision, Fort Smith, AR 72908
More commonly known as 8809 Vickery Lane

The applicant will present said application at the regular Property Owners Appeal Board meeting on June 13, 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 #2016-04; A request by Luis Roberto and Veronica Espino for Board consideration of a variance from Ordinance 34-08 Sec. 14-52 (c), Vehicle Parking; No more than 40% of front yard shall be paved.

Requested Variance

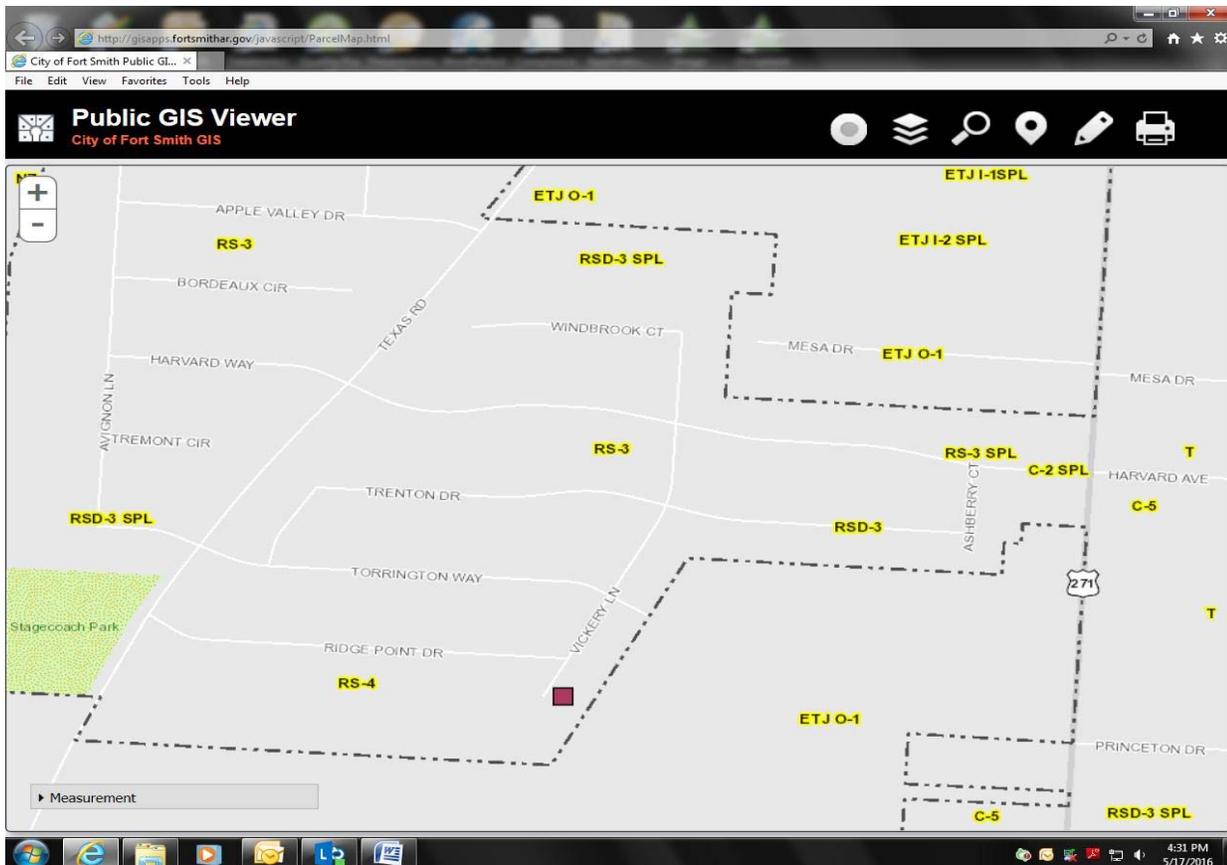
Mr. and Mrs. Espino added new concrete to their driveway which paved over more than 40% of the front yard. They had this done in order to accommodate Mrs. Espino’s parents when they come to visit because they are in wheelchairs and the extra paved area will provide more access for them to enter and leave the house without having to worry if their wheelchairs will tip over or get stuck on the grass or mud.

Lot Location

The subject property is located in the Southfield Heights Villas subdivision of the city of Fort Smith.

Surrounding land use

The property is centrally located in a RS-4 zone.



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

PARKING, SCREENING VEHICLES ON RESIDENTIALLY ZONED PROPERTY

Sec. 14-52. Parking, screening vehicles on residentially zoned property.

(a) The following definitions shall apply to this section:

(1) Vehicles shall mean any device in, upon or by which any person or property is or may be transported or drawn upon a highway or street, except devices moved by human power or used exclusively upon stationary rails or tracks.

(2) Front yard shall mean the open space extending across the full width of the lot, the depth of which shall be the least distance between the front lot line and the exterior face of any building or structure. The front yard shall not include any portion of the city right-of-way.

(3) Side yard shall mean the area of open space between any building or structure and the side lot line, extending from the front yard to the rear yard, the width of which shall be the least distance between the side lot line and the nearest point of the exterior face of any building or structure.

(4) Exterior side yard shall mean the area of open space between the side wall of the building and side property line abutting a street right-of-way on corner lots.

(5) Rear yard shall mean the area of open space extending across the full width of the lot, the depth of which shall be the least distance between the rear lot line and the nearest point of the exterior face of any building or structure.

(6) Unimproved surface shall mean grass, dirt surfaces, and sidewalks which are not a part of a garage, carport or driveway leading directly from the public right-of-way to a building or structure on the subject property.

(b) It shall be unlawful for the occupants of any one- and two-family dwelling structures to keep more than six (6) vehicles in the front and exterior side yard. Each such vehicle exceeding a total of six (6) shall be:

(1) Screened from public view by a permanent opaque screen fence a minimum of six (6) feet in height and constructed of wood or masonry materials;

(2) Capable of being driven if a vehicle or capable of being pulled if a trailer;

(3) Parked on an area constructed of asphalt, concrete or gravel surface; and

(4) Parked in a rear yard.

(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 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 (7) 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.

(d) It shall be unlawful for the owner of any residential property to construct, reconstruct, or alter any hard surface parking area without having obtained a permit. The permit fee shall be thirty (30) dollars.

(e) Variances. In instances where strict enforcement of the requirements of subsections (b), (c), and (d) of this section 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 appeal board may grant requests for variances of the requirements of the subsections according to the following guidelines:

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

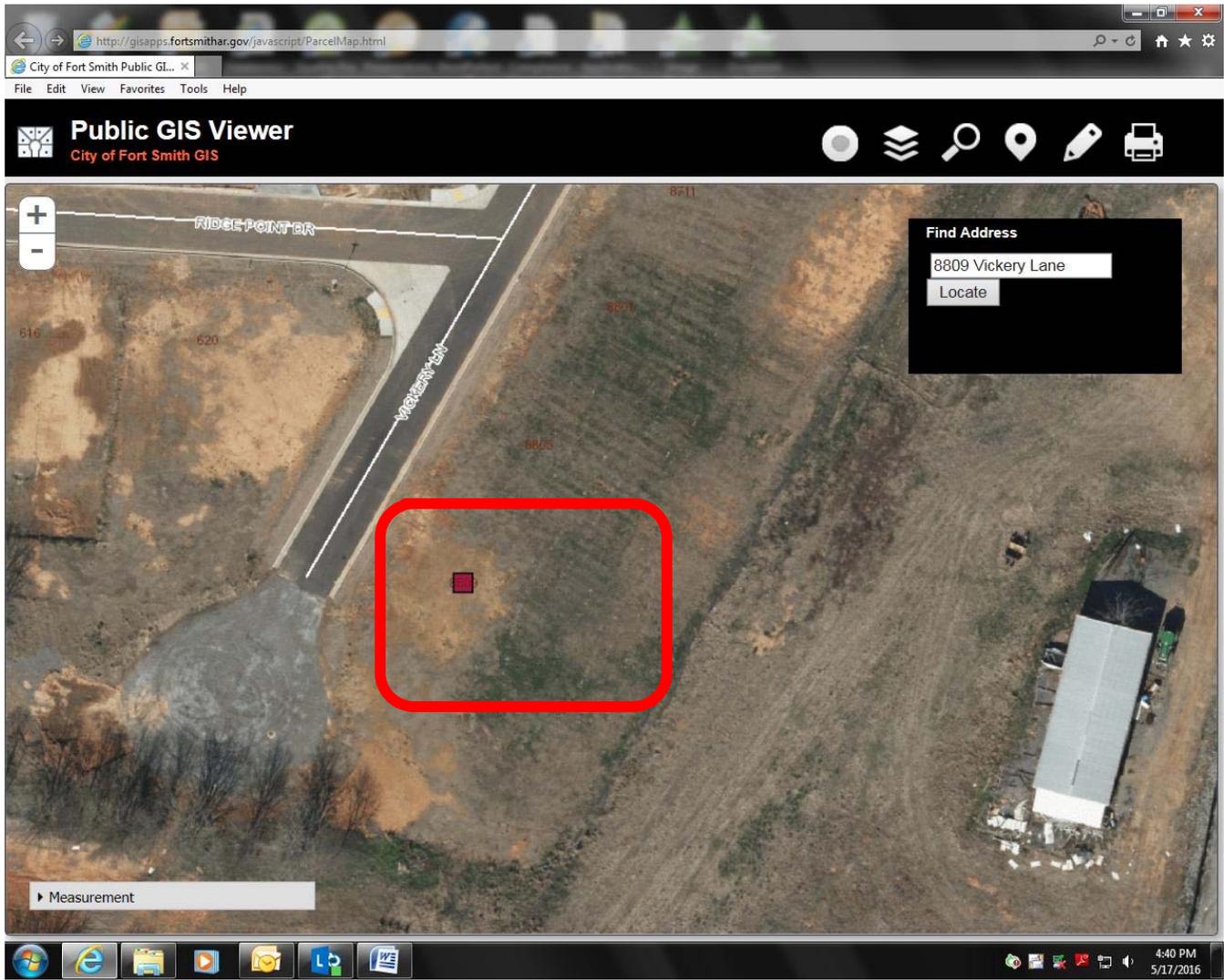
(2) When the applicant can show the property was acquired in good faith and where by reason of the exceptional narrowness, shallowness, size or shape of a specific piece of property, or where by reason of exceptional topographic conditions or other extraordinary situation or condition of the piece of property, the strict application of such provisions would prohibit or unreasonably restrict the use of the property, and the property owners appeal board is satisfied that the granting of a variance would alleviate a clear 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 chapter.

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

(f) Any person found guilty of violating the provisions of this section shall be subject to the penalties set forth in section 1-9 of the Fort Smith Code of Ordinances.

(Ord. No. 28-93, §§ 1, 2, 6-15-93; Ord. No. 34-08, §§ 1, 2, 7-15-08; Ord. No. 47-09, §§ 1--3, 6-23-09)

Red outline is property location / *See Pictures below:









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: 8809 Vickery Lane

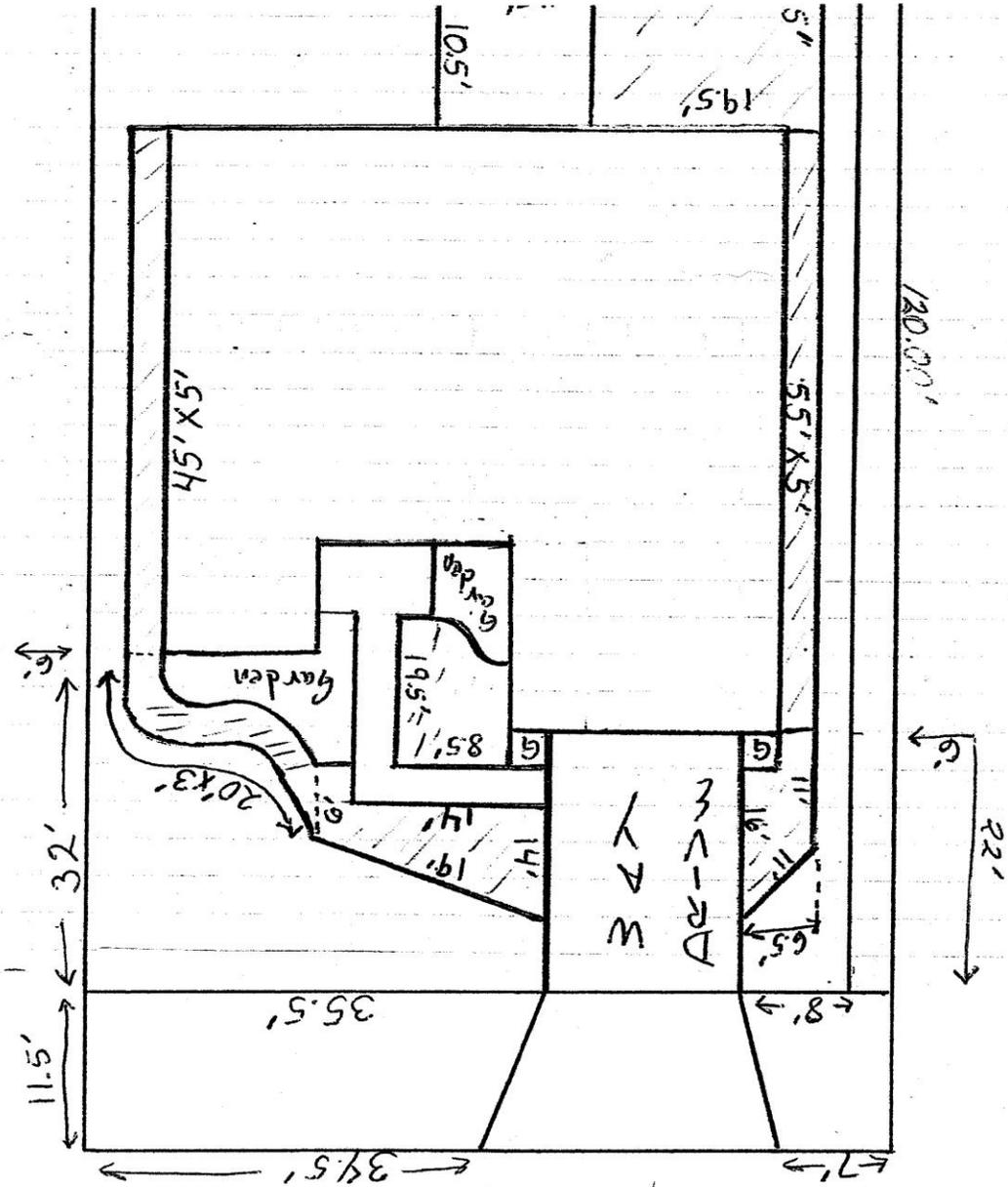
Zoning Classification: Residential Single Family High Density (RS-4)

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

Ordinance: Code violation 14-52 (C) Title Parking/Screening Vehicles on Residentially Zoned Property

Description: Pave over 40% of front yard set back from house.

Please describe your hardship: The reason that we chose to add additional concrete to our driveway was so that when my parents come to visit me we can accommodate them better. Due to the fact that my parents are in wheelchairs, the extra concrete on the driveway will provide more access for them to enter and leave our house without having to worry if their wheelchairs will tip over or get stuck on the grass or mud. We appreciate your understanding.



8809 VICKERY LANE