

BOARD OF ADJUSTMENT STAFF REPORT

Fourt



210 SW O Street

BOA Date: 2/10/2021

Reviewer: Ali Worley, Planning Technician

Project Number	VAR21-0003
Applicant / Current Owner	Fourt
Site Area	+/- 6.08 acres
Current Zoning	A-1, Agricultural
Variance Request	Land Development Code Article 1100.06

Property Description

This property is located at 210 SW O Street and is currently zoned A-1, Agricultural. Surrounding zonings include R-O, Residential Office to the north, A-1 to the west, and R-1, Single Family Residential to the south and east.

Regulation

According to Land Development Code Article 1100.06, Fence and Wall Requirements, section h, Fence design standards, subsection 1, Fence height, the maximum fence height shall be six feet.

Variance Request

The applicant is requesting a fence height of eight feet, which is a variance of two feet.

Background

According to the applicant's narrative, they are requesting an 8-foot fence to provide privacy from the two-story apartments to the west and the Museum of Native American History to the north. The 8-foot portion will only be in the northwest corner.

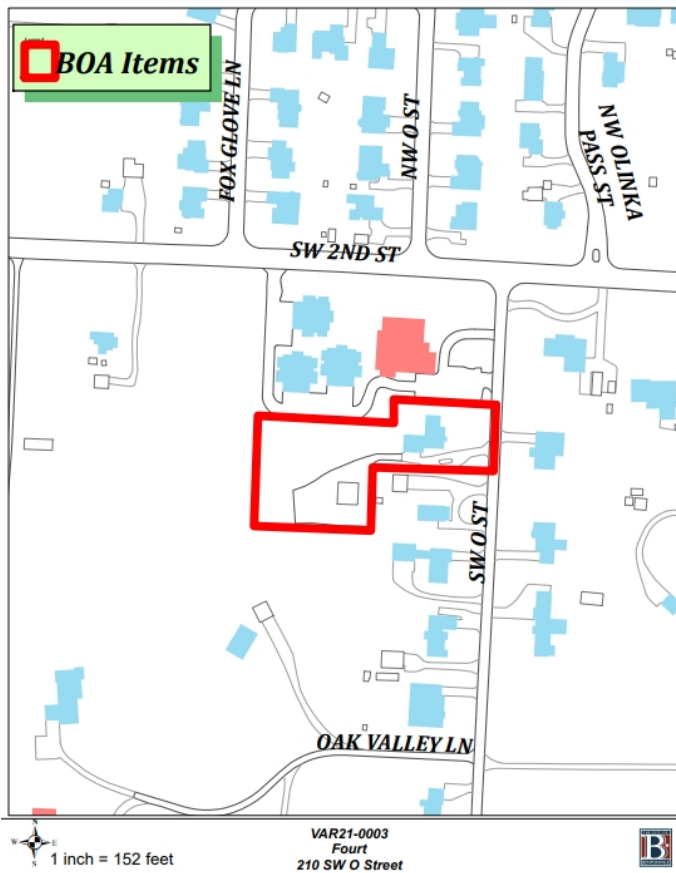
Public Comment

Staff has **NOT** received public comment regarding this request.

Conditions of Approval

If approved, the following conditions shall apply:

1. The approved variance shall be for the proposed fence height, location, and materials as provided by the applicant within the application.
2. The applicant shall be required to obtain an approved fence permit prior to constructing the fence.
3. The fence shall meet the requirements for fences located within utility easements listed within the Land Development Code.



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Section 301.10.c, Standards of Approval, of the Zoning Code

Standards for approval. A variance from the terms of this chapter shall not be granted by the board of adjustment unless and until:

(1) The applicant demonstrates that:

- a. special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structure or buildings in the same district;
- b. that literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter;
- c. that special conditions and circumstances do not result from the actions of the applicant; and,
- d. that granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures, or buildings in the same district.

(2) No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

(3) The board of adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance and that the variance is the minimum variance that will make possible the reasonable use of land, building or structure.

(4) The board of adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this chapter, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

(5) *Conditions.* In granting any variance, the board of adjustment may prescribe appropriate conditions and safeguards that it deems necessary or desirable. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter.

(6) *Uses.* Under no circumstances shall the board of adjustment grant a variance to allow a use not permissible under the terms of this chapter in the district involved, or any use expressly or by implication prohibited by the terms of this chapter in said district.