



# City of West Allis

## Meeting Agenda - Final

### Board of Appeals

Tuesday, June 13, 2023

5:30 PM

City Hall, Room 128  
7525 W. Greenfield Ave.

#### REGULAR MEETING

NOTICE IS HEREBY GIVEN that the Board of Appeals of the City of West Allis will conduct a hearing regarding requests for variance to the City of West Allis Municipal Code, in meeting Room 128, West Allis City Hall, 7525 W. Greenfield Avenue, West Allis, Wisconsin, on Tuesday June 13, 2023, at 5:30 P.M., or as soon thereafter as the matter may be heard, on the following. Regarding any appeal hereafter listed, any interested person(s) may express an opinion by calling (414)302-8466 or in writing prior to the meeting by sending communications to [planning@westalliswi.gov](mailto:planning@westalliswi.gov) or Board of Appeals, c/o Planning & Zoning, 7525 West Greenfield Avenue, West Allis, WI 53214. For further information, call (414)302 8466. (Notice is posted in the "Daily Reporter" weekly newspaper and mailed to property owners within 100 feet of each listed property.)

#### A. CALL TO ORDER

#### B. ROLL CALL

#### C. APPROVAL OF MINUTES

1. [23-0391](#) Approval of Draft Minutes from 9-13-2022

Attachments: [Minutes 13-Sep-2022 - Draft](#)

#### D. MATTERS FOR DISCUSSION/ACTION

2. [23-0392](#) Property Address: 11101 W. Cleveland Ave.  
Tax Key: 520-0070-000

Appeal by Roger Smith to construct a Gazebo that will be 52 feet from the front property line which is 8 feet less than the minimum front setback of 60 feet and will be 192 square feet which is 42 square feet more than the code allows.

Attachments: [11101 W Cleveland Ave - Gazebo Survey](#)  
[11101 W Cleveland Ave - Staff Report](#)

3. [23-0390](#) Property Address: 2823 S. 111 St.  
Tax Key: 520-0111-000

Appeal by Thomas Little to construct a fence in the required front yard which is not allowed by code.

**Attachments:** [2823 S 111 St - Fence](#)  
[2823 S 111 St - Staff Report](#)

## J. ADJOURNMENT



All meetings of the Board of Appeals are public meetings. In order for the general public to make comments at the committee meetings, the individual(s) must be scheduled (as an appearance) with the chair of the committee or the appropriate staff contact; otherwise, the meeting of the committee is a working session for the committee itself, and discussion by those in attendance is limited to committee members, the mayor, other alderpersons, staff and others that may be a party to the matter being discussed.

### NOTICE OF POSSIBLE QUORUM

It is possible that members of, and possibly a quorum of, members of other governmental bodies of the municipality may be in attendance at the above-stated meeting to gather information. No action will be taken by any governmental body at the above-stated meeting other than the governmental body specifically referred to above in this notice.

### NON-DISCRIMINATION STATEMENT

The City of West Allis does not discriminate against individuals on the basis of race, color, religion, age, marital or veterans' status, sex, national origin, disability or any other legally protected status in the admission or access to, or treatment or employment in, its services, programs or activities.

### AMERICANS WITH DISABILITIES ACT NOTICE

Upon reasonable notice the City will furnish appropriate auxiliary aids and services when necessary to afford individuals with disabilities an equal opportunity to participate in and to enjoy the benefits of a service, program or activity provided by the City.

### LIMITED ENGLISH PROFICIENCY STATEMENT

It is the policy of the City of West Allis to provide language access services to populations of persons with Limited English Proficiency (LEP) who are eligible to be served or likely to be directly affected by our programs. Such services will be focused on providing meaningful access to our programs, services and/or benefits.



# City of West Allis

## Meeting Minutes - Draft

### Board of Appeals

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Tuesday, September 13, 2022

5:30 PM

City Hall, Room 128

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#### A. CALL TO ORDER

#### B. ROLL CALL

**Present** 3 - Mr. Michael Pranghofer, Mr. William Johnson, and Mr. Paul Budiak

**Excused** 3 - Mr. Brian Keller, Ms. Allisa Olstad, and Ms. Alice Behnke

#### C. APPROVAL OF MINUTES

1. [22-0426](#) Approval of Draft Minutes from July 12, 2022.

Attachments: [MeetingMinutes\(short\)13-Jul-2022 - Draft](#)

A motion was made by Mr. Pranghofer, seconded by Mr. Budiak, that this matter be approved. The motion carried unanimously.

#### D. MATTERS FOR DISCUSSION/ACTION

2. [22-0427](#) Property Address: 2245 S. 108 St.  
Tax Key Number: 481-9990-001

Area variance to section 19.34(2) of the zoning code to appeal eliminate a 3,500-ft setback requirement for a secondhand article sales use at 2245 S. 108 St. (Tax key no. 481-9990-001).

Attachments: [PayMore \(BOA\) area variance 2245 S 108 St - Staff Report](#)

A motion was made by Mr. Budiak, seconded by Mr. Pranghofer, that this matter be approved as it is not contrary to public interest and public safety and welfare would not be affected. The motion carried unanimously.

#### E. ADJOURNMENT

A motion to adjourn was made by Mr. Pranghofer, seconded by Mr. Budiak. The motion was carried unanimously and the meeting was adjourned at 5:40 p.m.



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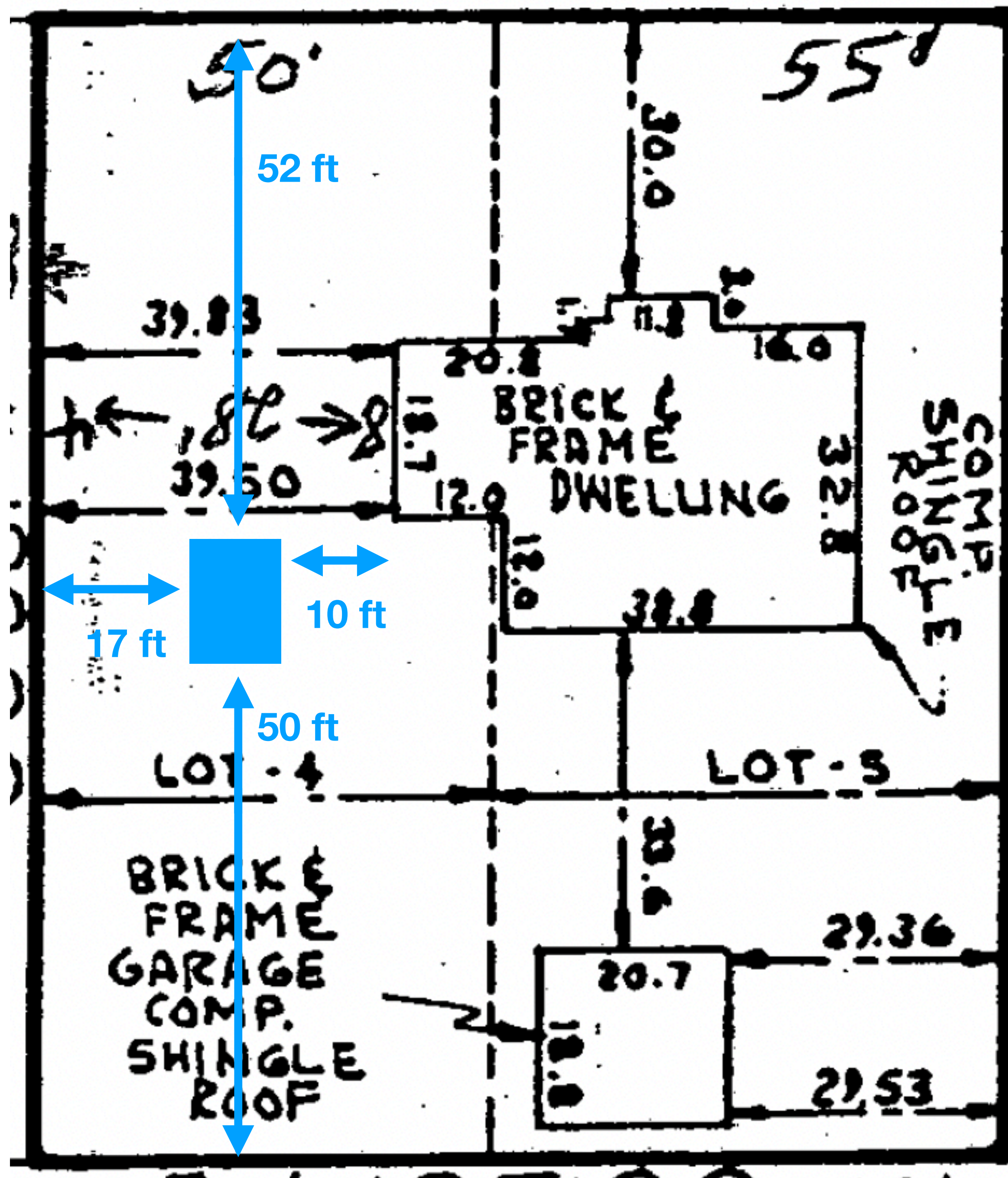
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Address:  
11101 W Cleveland Ave  
West Allis, WI 53227

Blue box represents the 12'x16' gazebo

Gazebo is 10'4" tall at peak

Gazebo will be anchored to existing concrete patio  
Within the backyard privacy fence

Picture of gazebo and property views attached

Distances from Gazebo to lot lines (Blue Arrows)  
West Lot line to West edge of Gazebo: 17 ft  
West edge of house to east edge of Gazebo: 10 ft  
North edge of gazebo to north lot line: 52 ft  
- Measured to sidewalk  
South edge of gazebo to south lot line: 50 ft



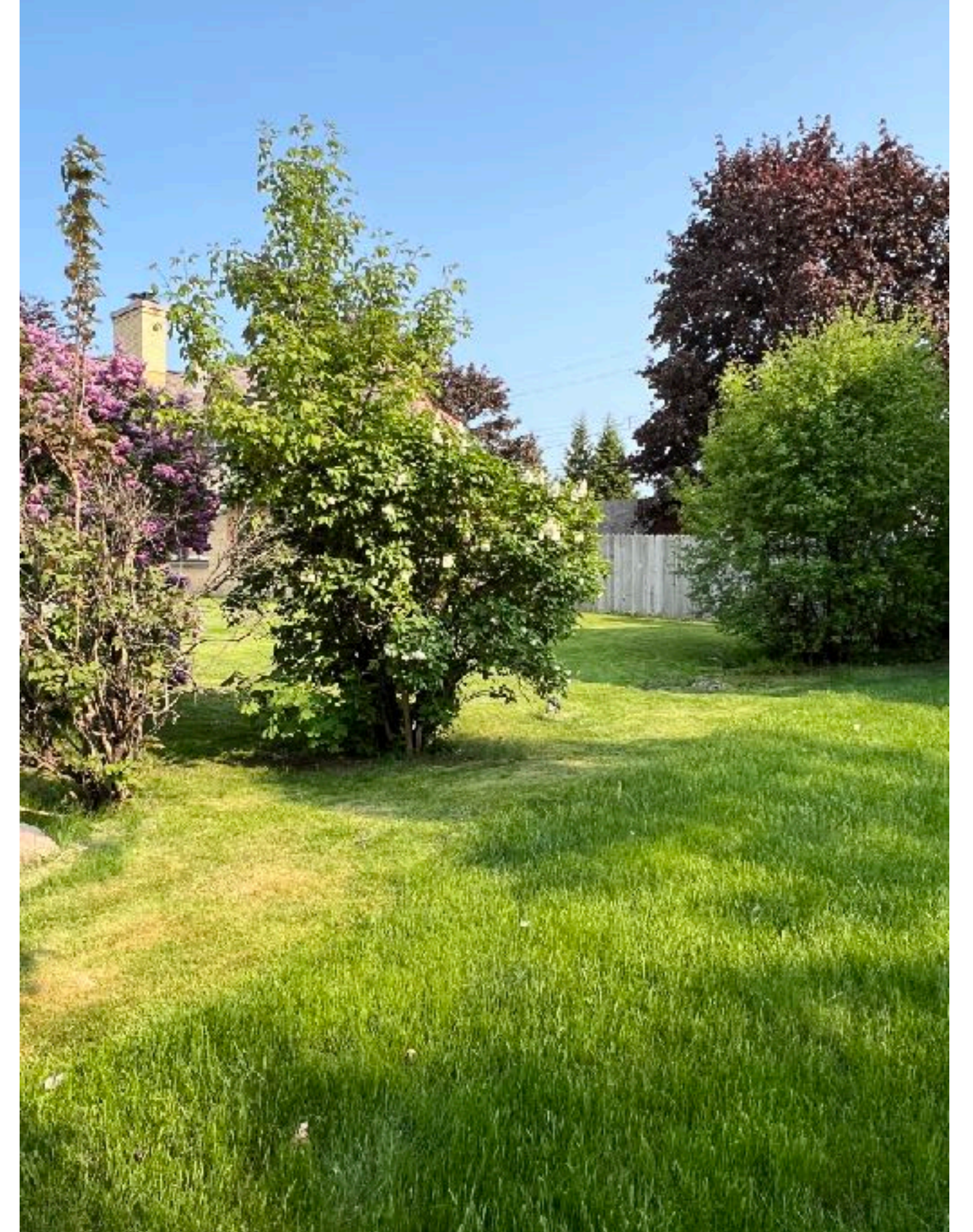
# Intended Gazebo

- “Yardistry” brand prefabricated kit (From Costco)



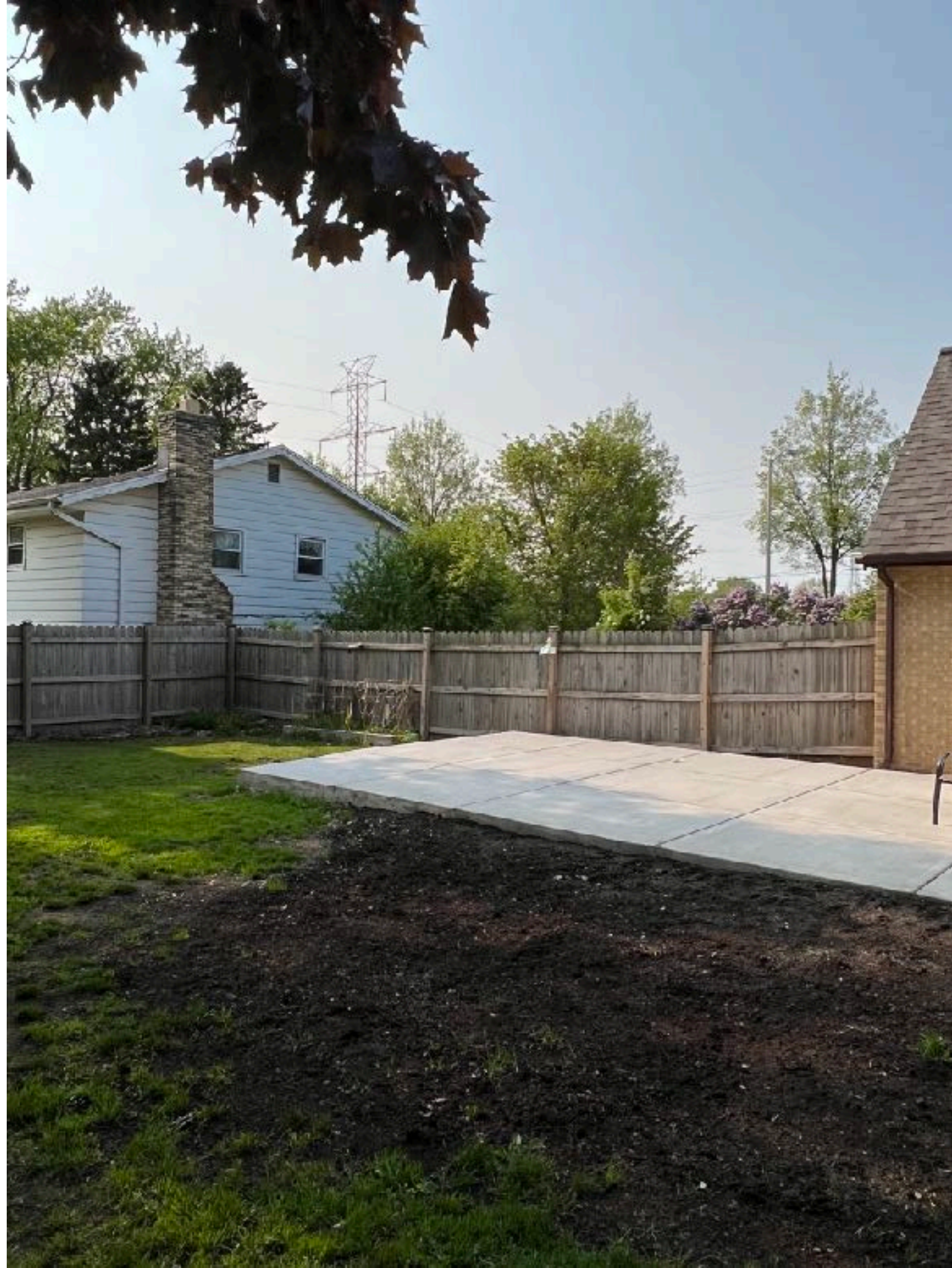


# Property Photos - Cleveland View

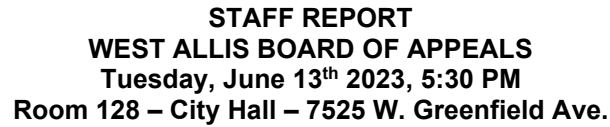




# Property Photos - Back yard

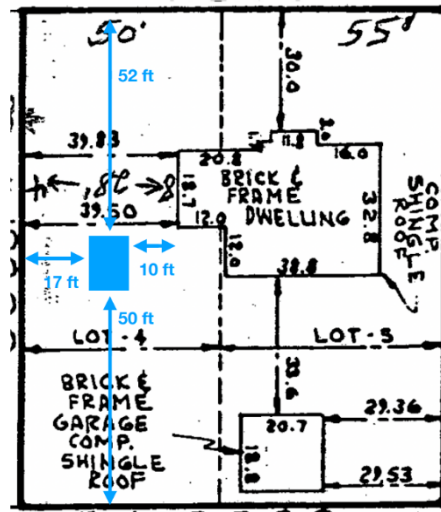






**2. Property Address: 11101 W. Cleveland Ave. Tax Key: 520-0070-000 Appeal by Roger Smith to construct a Gazebo that will be 52 feet from the front property line which is 8 feet less than the minimum front setback of 60 feet and will be 192 square feet which is 42 square feet more than the code allows.**

The proposed gazebo will be located on the backyard patio of the house. At its closest point, this location is 52 ft. from the front lot line, 8 ft. closer than allowed by code. The proposed gazebo is also 192 sq. ft. which is 42 sq. ft. more than the code allows.

9

**Staff Comments: Front Setback**

While the location of the building does not satisfy the exact letter of the law, the proposal meets the intent of the regulation. The minimum 60 ft. setback rule is designed to limit views of accessory buildings from the front of the lot. In the unique circumstances of this property, the gazebo will be minimally visible from the front of the lot due to its location behind the house and fence.

Additionally, this lot is unique in that it is nearly wider (105 ft.) than it is deep (120 ft.); this is an atypical residential lot configuration for West Allis. This unique orientation results in a unique placement of the main home and an unusual yard configuration. The proposed gazebo placement is respectful of the design and is suitably tucked behind the main building on the patio.

**Staff Comments: Size**

The proposed gazebo, while technically an 'accessory building', doesn't entirely meet its definition. It is somewhere between a building: defined in the code as a structure that shields persons or property from the elements, and a structure: any object that is affixed to the ground and not created by nature. Additionally, the gazebo functions as part of the patio. Therefore, the accessory structure is not adding to impervious surface on the lot.



Because of the unique nature of this accessory building and its unique circumstances on the lot, staff believes the 192 sq. ft. structure (42 sq. ft. larger than the typical regulation) is acceptable.

**Recommendation:** Approval of an appeal for by Roger Smith to construct a Gazebo that will be 52 feet from the front property line which is 8 feet less than the minimum front setback of 60 feet and will be 192 square feet which is 42 square feet more than the code allows at 11101 W. Cleveland Ave. (Tax Key No. 520-0070-000)



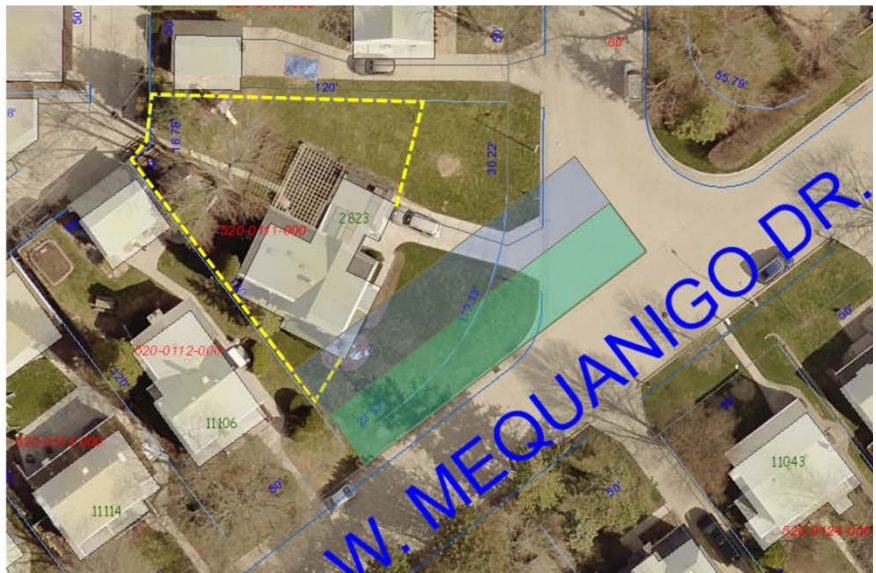
## Lot Lines

Front -----  
Side -----  
Rear -----

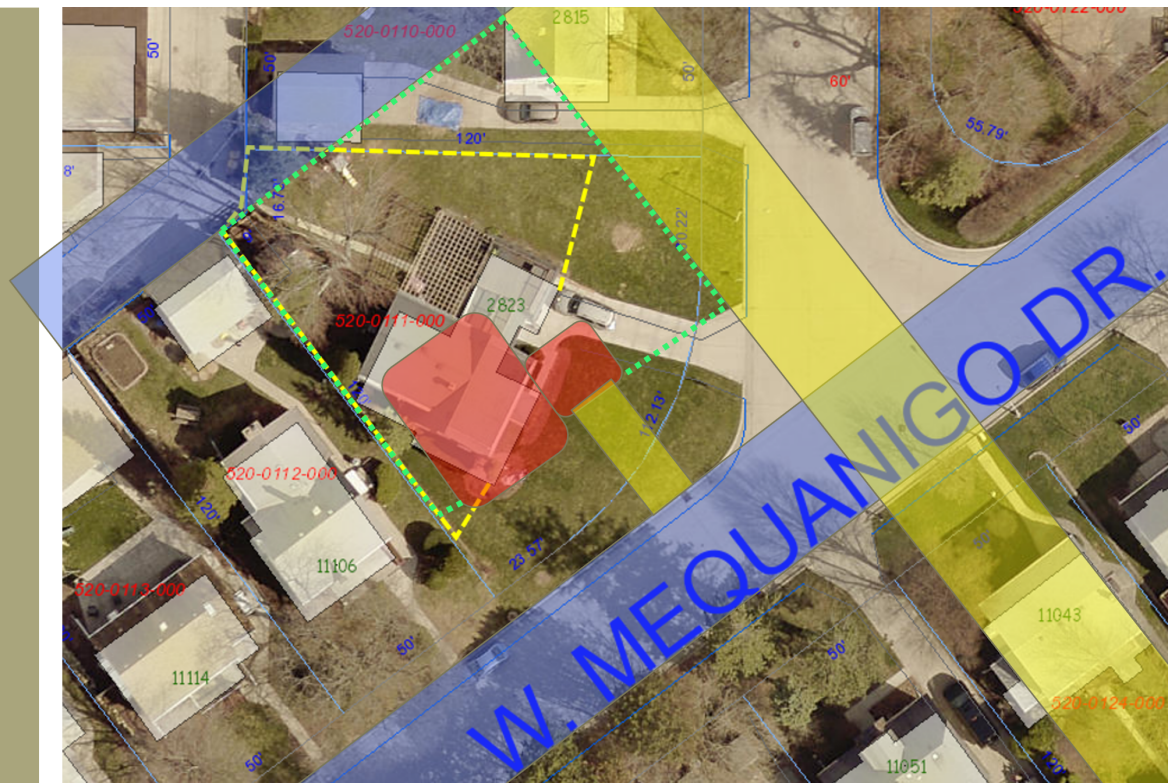


## Front Setback

Min = 20'   
Max = 40'



If the house was more traditionally positioned, would this still be such a question?







# City of West Allis Code Enforcement Department

## Informational Bulletin

# ***Fences and Site Obstructions***

### for One and Two Family Dwellings

Fences may be constructed in all residential districts of the City. Permits are not required for fences; however there are several regulations that have to be followed for all fences. This handout will explain the basics of the fence requirements. A full list of fence requirements and regulations can be found in the Revised Municipal Code of West Allis.

<https://westallis.municipalcodeonline.com/book?type=ordinances#name=13.31 Fence Regulations>

For non-1 or 2 family use properties please contact the Planning Department for further submittal and approval requirements at [planning@westalliswi.gov](mailto:planning@westalliswi.gov).

### **Fencing Materials**

- Fences must be constructed of approved materials such as prefabricated fencing sold at retail outlets or treated lumber. Fences may not be constructed of sheet metal or other salvage materials. The building inspector will determine appropriate building materials.
- Electrified fences are not permitted.
- Barbed wire fences are not permitted on residential properties.

### **Good Side Out**

- The "good" side of a fence must face outward from the property towards the neighbor, the street, or the alley.

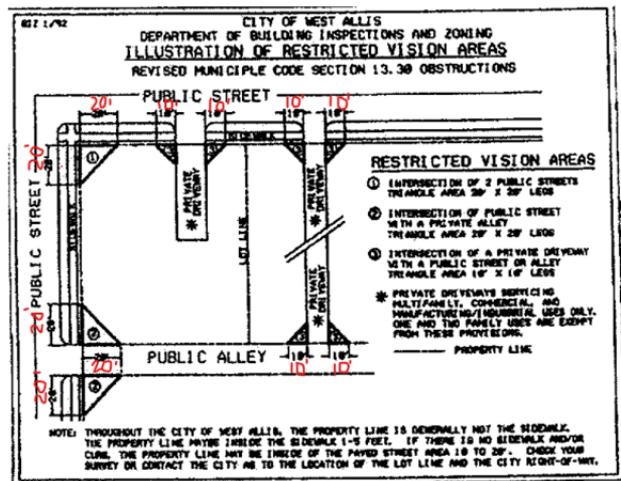
### **Good Neighbor**

- The City suggests contacting your neighbors before installing your fence. Early discussions of property line locations and fence type may defuse disputes that may occur after the fence is installed. The City recommends that you have a surveyor mark your lot lines or visit the Department of Building Inspection and Neighborhood Services to see if we have a current survey on file for your property.
- Disputes between property owners as to property lines are a civil matter and are to be resolved between property owners. The City will not get involved in property line disputes. You may be required to get a survey of your lot to resolve disputes.

- All fences shall be kept in good repair. When a fence is located up to a neighbor's lot line, it is still the owner of the fence's responsibility to maintain the fence.

### **Fence Locations & Height Requirements**

- Fences may be located up to a property line but may not extend onto or over the property line adjacent thereto or into the City right-of-way.
- Required Front Yard.** No fences are permitted in the required front yard. The required front yard is determined by the zoning district classification but typically will consist of the area in front of the house, not including porches or decks. Fences typically start at the front foundation wall of the house.
- Side and Rear Yards.** Fences are permitted in all side and rear yards.
- Corner Lots.** For corner lots, the longer dimension of the lot abutting the street is considered the side yard, regardless of how the property is designated for addressing or other purposes. Fences are permitted in the side yard area, but not in the required front yard setback.
- Fence Height.** The maximum height of a fence is 6' unless located within a vision triangle (see below).
- Vision Triangle.** The maximum height of a fence located in the vision triangle is three feet. Restricted vision areas include the area on a lot where two streets intersect; a street intersects with an alley; or an alley intersects with an alley.



**City of West Allis Code Enforcement Department**

7525 W. Greenfield Ave., West Allis, WI 53214

Phone: (414)302-8400







**STAFF REPORT**  
**WEST ALLIS BOARD OF APPEALS**  
**Tuesday, June 13, 2023, 5:30 PM**  
**Room 128 – City Hall – 7525 W. Greenfield Ave.**

1. **Property Address: 2823 S. 111 St. Tax Key: 520-0111-000 Appeal by Thomas Little to construct a fence in the required front yard which is not allowed by code.**

**Request for Area Variance - Overview**

Thomas Little and Apurba Banerjee own the property and constructed a fence in the front yard area. In advance of installing the fence work, the property owners reviewed section 13.31 of the municipal code that regulates fences in residential areas and a corresponding fence handout guide as provided by the Code Enforcement department. While fence permits are not required by the city, property owners are required to adhere to both zoning yard requirements found in section 19.43 and fence construction regulations found in section 13.31 of the municipal code.

**Staff comment** – The property is zoned RA-3. The subject property is at the intersection of two streets (S. 111 St. and W. Mequanigo Dr.). The lot has a unique shape (it's not a rectangle – it's rounded). Most of the lot's frontage is along a rounded/curved section of lot line and flanked by two smaller segments of frontage. The front elevation of the home and attached garage face both streets.

The applicant disagrees with City Planning's determination of front yard and front lot line (see City Planning's diagram below). The applicants also assert that an error in code has created an unnecessary hardship to otherwise remove or relocate the fence.

**City Planning determination of front yard and front lot line**

**Yard areas**



### Applicant's interpretation of front lot line



### Zoning Chapter 19

Our zoning code [sec. 19.43](#) doesn't allow fences within the front yard area.

Front yard definition - the part of a lot from the front lot line to the principal building and any adjacent land.

Front lot line definition - If one street borders a lot, the portion of a lot that borders that street. If multiple streets border a lot, the portion of a lot that borders the street is deemed primary by the Manager of Planning and zoning.

2323 S. 111 St. - The front lot line is east of the home and the front yard is an area between the east side of the house and the street frontages. The home's orientation on the lot faces not one, but two streets. The front lot line are the three (3) parts that border the street. Planning considers the front lot line to be the sum of three parts (a 23.57-ft segment fronting Mequonigo Dr., a 112.13-ft rounded part fronting both Mequonigo Dr. and S. 111 St., and a 30.22-ft part fronting S. 111 St.).

The home's 1950's building permit references this as an internal lot, but that could be because it was in the center of a subdivision or deemed internal based on the home's orientation on the lot. Of note, both streets were in place back in 1951. Despite the building permit, Planning interprets this as a corner lot, with the front yard area being in front of the house including adjacent areas (see yard diagram previous page).

Planning believes its decision on front yard and front lot line determinations are sound. We also recognize the potential for misinterpreting the code regulations and how that could create an issue like this one. Staff acknowledges that a clean-up of sec. 13.31 to best align with our zoning code (sec 19.43) is in order.

### Building Code Chapter 13



The applicants indicate an issue with a portion of the [building code sec 13.31](#) fence regulations. The part that is misaligned with the city zoning ordinance is shared as follows:

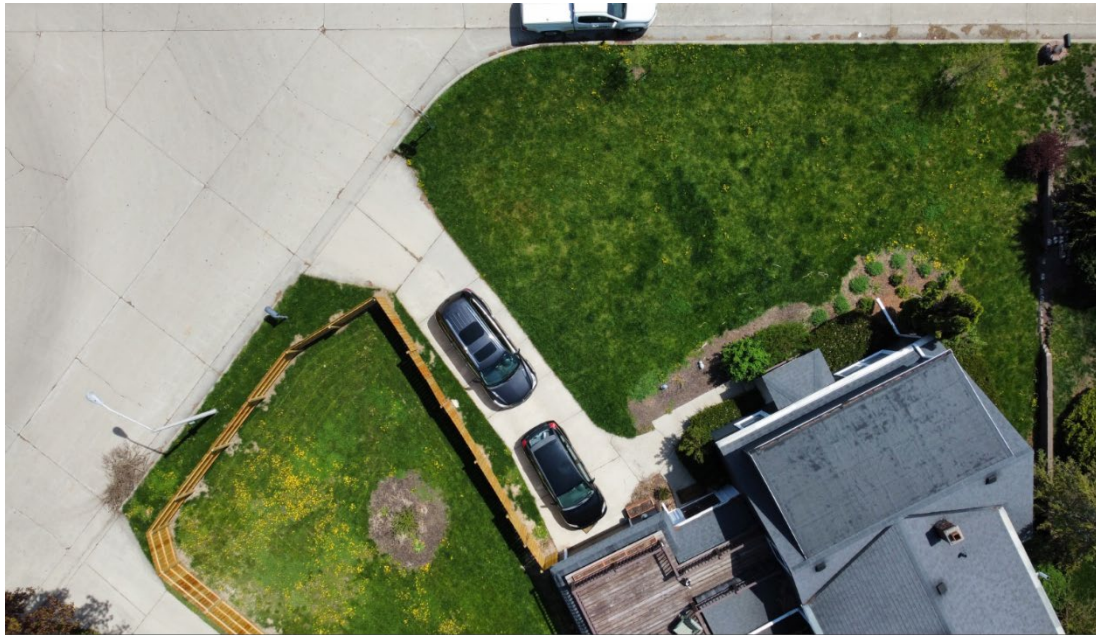
- 13.31(2)(a)(iii) Corner lots. The shorter dimension of a corner lot abutting a street shall be considered the front yard and shall not be permitted to have a fence in the required front yard setback regardless of the property address or other designation of the lot. The longer dimension of a corner lot abutting a street shall be considered a side yard and fences shall be allowed, not to exceed six (6) feet in height.

### Board of Appeals

The applicants state: If not for this 13.31(2)(a)(iii) language, referencing corner lot parameters (shorter/longer dimension...), that I saw in the "City of West Allis Code Enforcement Department Informational Bulletin "Fences and Site Obstructions" for One- and Two-family dwellings, I would not have built the fence as situated. We originally planned to put the fence in a similar place as we are told now it should have gone, but reading it made me believe that we could put the fence in the side lot. We paid almost double the price to extend the fence and it used up a lot of our savings. We thought it would be nice to have more yard for our dog to play in. It will cost a lot more to move the fence back and end up costing 3-4 times what it should have. Another layer of confusion is that our lot has a unique shape, so interpreting the code is difficult.



Based staff's review of the applicant's statement and Board of Appeals application staff notes that the zoning requirements in 19.43 are clear, but the building code requirements in 13.31 create some confusion, and correction to better sync zoning and building code is needed.



*State Statutes 62.23(7)(e)7 "area variance" means a modification to a dimensional, physical, or locational requirement such as a setback, frontage, height, bulk, or density restriction for a structure that is granted by the board of appeals under this paragraph.*

*The board of appeals shall have the following powers: To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this section or of any ordinance adopted pursuant thereto; to hear and decide special exception to the terms of the ordinance upon which such board is required to pass under such ordinance; to authorize upon appeal in specific cases such variance from the terms of the ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in practical difficulty or unnecessary hardship, so that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.*

**Recommendation:** Recommend approval of an area variance to section 19.43 to allow the existing location of the fence as built within the front yard of property at 2823 S. 111 St. (Tax key no. 520-0111-000), subject to property owners proving that the fence is not located within city right-of-way. A survey being submitted to ensure the fence is located on their property and out of city right-of-way is recommended. If the fence is within the city right of way, it being relocated in accordance with the zoning code and out of the front yard area. One example of that is shown below.



City of West Allis Code Enforcement Department  
Informational Bulletin  
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for One and Two Family Dwellings

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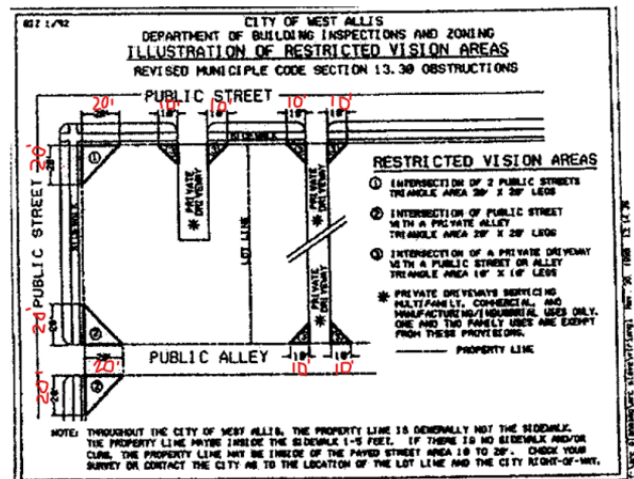
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