



APPLICATION FOR APPEAL:

Appeal No. BOA-24-001
Date Filed: 4-10-2024
Fee Paid: \$25
Date Hearing Advertised: 4-24-2024
Date Notice Mailed: 4-19-2024
Date of Hearing: 5-8-2024

**BOARD OF ADJUSTMENT
CITY OF HILSHIRE VILLAGE, TEXAS
8301 WESTVIEW
HOUSTON, TEXAS 77055**

(I) (WE) *Scott Sicinski and Lauren Sicinski*
OF *1326 Ridgeley Dr.*
Mailing Address: *8830 Cedarspur Dr.; Houston, Tx 77055*

TEL NO: 713.657.0887

REQUEST THAT A DETERMINATION BE MADE BY THE BOARD OF ADJUSTMENT ON THE FOLLOWING REQUEST(S).

- An interpretation – DECISION MADE BY CITY OFFICIAL ON DATE _____.
- A special exception – SECTION 90.04 SUBSECTION *91:04.01* OF THE ZONING ORDINANCE.
- A variance – TO SECTION _____, SUBSECTION _____, PARAGRAPH _____, SUB-PARAGRAPH, _____, ITEM _____, OF THE ZONING ORDINANCE.

WE SPECIFICALLY REQUEST: (State specific request below or attach an addendum)

For District R:1, the standard side yard building line setback is 8 feet to any side property line (see 11:01:04). This distance is increased to 25 feet, when a lot has a side property line that is adjacent to Westview Dr. Due to lot width constraints and consistency with other lots side lot lines on Westview Dr., we respectfully request a special exception be granted to permit us to build a new residence on the lot that has a Westview Dr. side property line setback of 10 feet (i.e., still larger than the 8 foot standard setback rule).

THE DESCRIPTION OF THE PROPERTY IN THIS APPEAL IS AS FOLLOWS:

Location: 1326 Ridgeley

Zoning District: (R-1) (R-2) (R-3) (R-4) (C-1) (C-2) (Circle Appropriate One)

Lot Size: 16,950 sq ft

Present Use: Homestead

Present Improvements upon Land: 1,874 sq ft home built in 1954 (uninhabitable)

Proposed Use or Improvements: Construction of new residence

WHAT IS THE APPROXIMATE COST OF THE WORK INVOLVED (IF ANY)? \$1,000,000+

WHAT IS THE APPLICANT'S INTEREST IN THE PREMISES AFFECTED? Owner

HAS ANY PREVIOUS APPLICATION FOR APPEAL BEEN FILED IN CONNECTION WITH THESE PREMISES?

Yes

No

I (OR WE) BELIEVE THAT THE BOARD SHOULD APPROVE THIS REQUEST BECAUSE: (State the grounds for appeal, or reasons both with respect to law and fact for granting the appeal or special exception or variance, and if hardship is claimed, state the specific hardship)

Please see attached addendum for full discussion.

ATTACH NAMES AND ADDRESSES OF OWNERS OF PROPERTY WITHIN A DISTANCE OF TWO HUNDRED FEET (200 FEET) FROM THE EXTERIOR LIMITS (North, South, East and West) are listed below and on addendum attached (if necessary), which is attached to and considered part of this application). (a letter will be prepared and mailed out by the City Office)

8201 Westview Dr COTTER MATTHEW & SAYURE
8201 WESTVIEW DR
HOUSTON TX 77055-6735

1314 Ridgeley Dr HESTER LARRY T
1314 RIDGELEY DR
HOUSTON TX 77055-6728

1317 Ridgeley Dr CURRENT OWNER
1317 RIDGELEY DR
HOUSTON TX 77055-6727

1318 Ridgeley Dr LIVESAY MARK
LOMBANA PAMELA
1318 RIDGELEY DR
HOUSTON TX 77055-6728

1322 Ridgeley Dr SHERMAN VADIM & ERICA
1322 RIDGELEY DR
HOUSTON TX 77055-6728

1323 Ridgeley Dr GAROFALO MICHAEL J & CAROLYN E
1323 RIDGELEY DR
HOUSTON TX 77055-6727

1318 Bridle Spur Ln ROGERS BRYAN K
1318 BRIDLE SPUR LN
HOUSTON TX 77055-6749

1311 Bridle Spur Ln LEE STEPHEN P & JEANNIE B
1311 BRIDLE SPUR LN
HOUSTON TX 77055-6708

1314 Bridle Spur Ln DETATA DONALD J & COLLEEN
1314 BRIDLE SPUR LN
HOUSTON TX 77055-6749

1315 Bridle Spur Ln KELLY CLARENCE L JR
ADAMS CHARLES D
KELLY DAVID T
8003 LABREA DR
HOUSTON TX 77083-5015

1317 Bridle Spur Ln KLAM JEFFREY D
1317 BRIDLE SPUR LN
HOUSTON TX 77055-6708

I hereby certify that all of the above statements and the statements contained in any papers or plans submitted herewith are true to best of my knowledge and belief.



Scott Sicinski



Lauren Sicinski

Date 04/08/2024

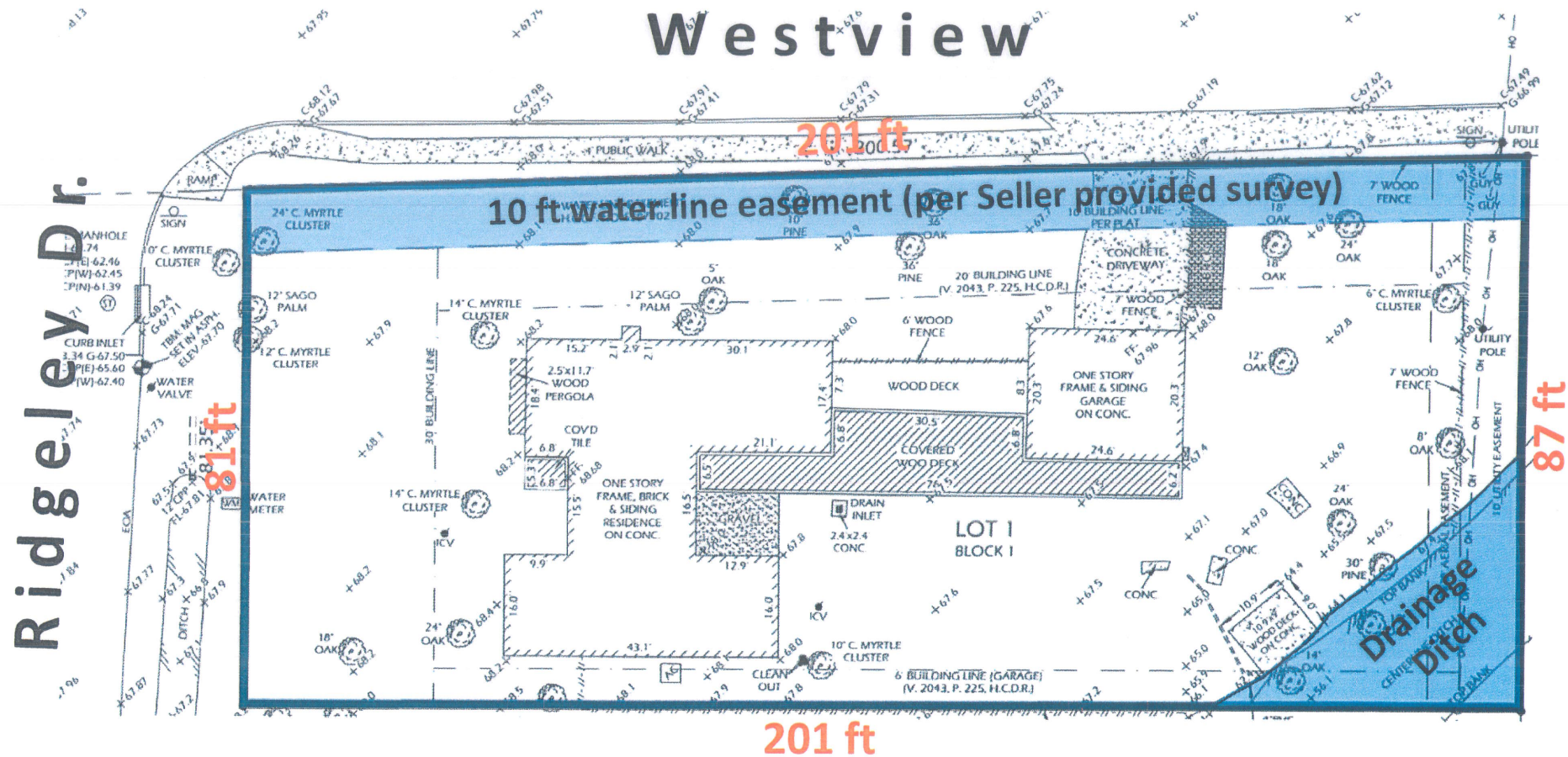
NOTE: This application must be filled out by applicant with 12 duplicate copies. The original shall be deposited with the City Secretary (with a check to cover the advertising cost plus \$25.00 filing fee). A copy of the plan of real estate affected showing location and size of lot, the size of improvements now erected or proposed to be erected, or other change desired, together with any other information pertinent to the appeal or required by the Board of Adjustment, must be attached to each copy of this application. If more space is required, attach a separate sheet to each copy of this application and make specific reference to the question being answered.

Addendum to 1326 Ridgeley Dr Special Exception Application

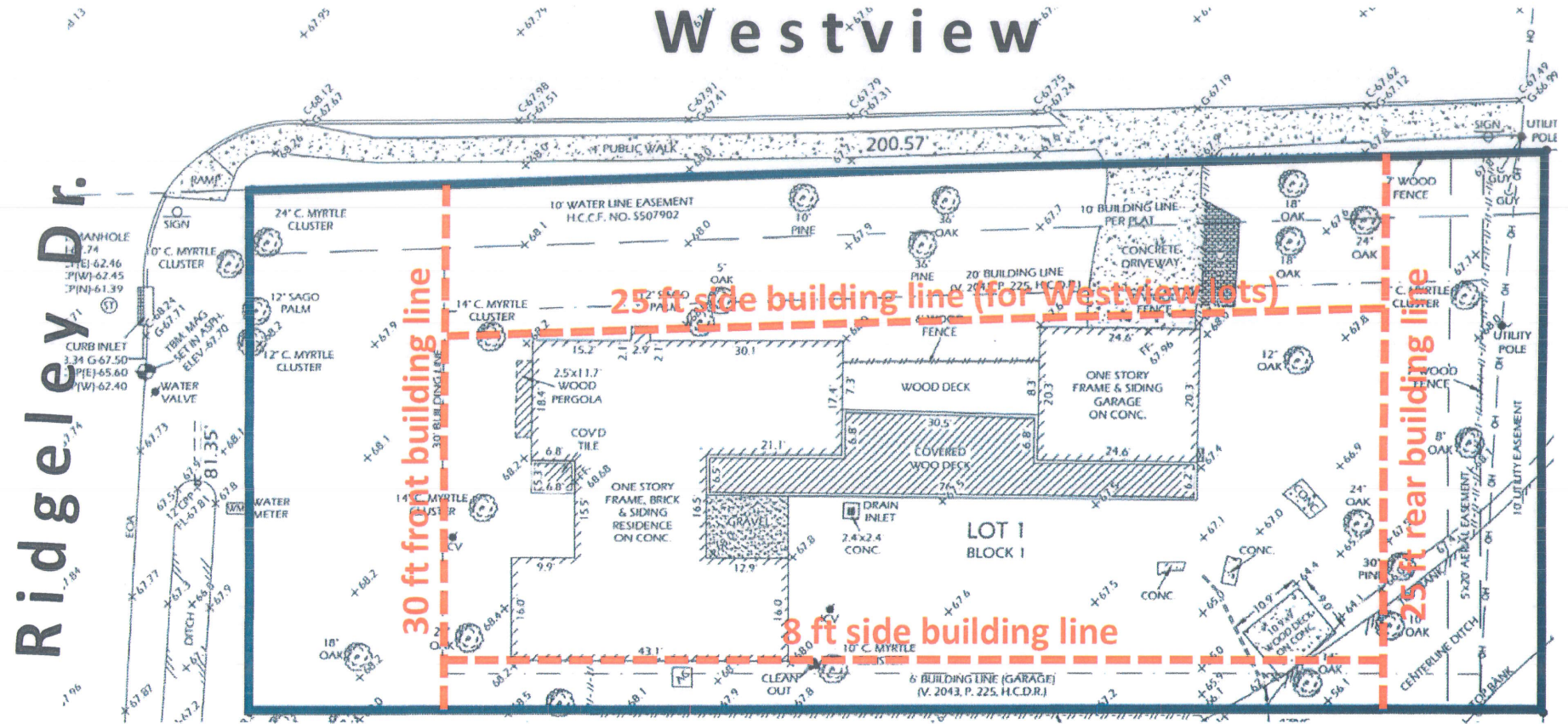
Lot Background: Front and Side View



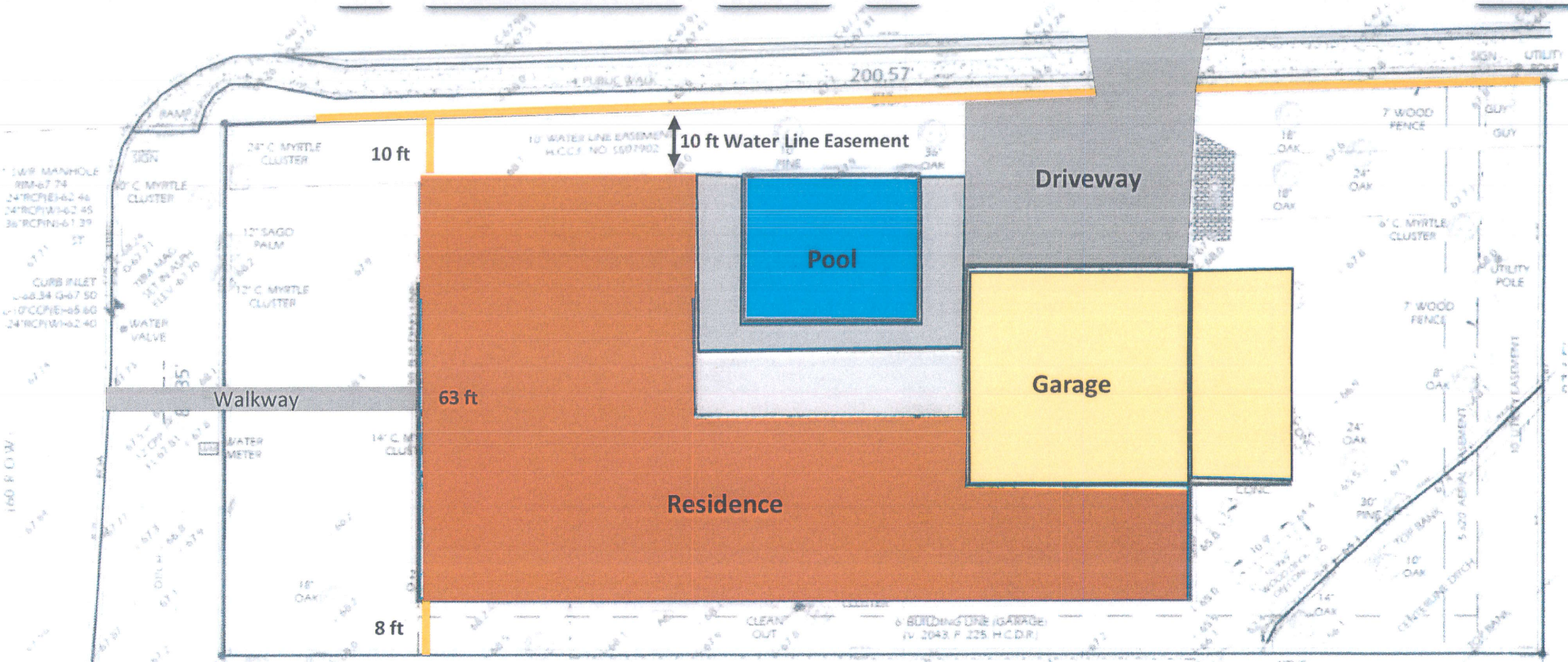
Lot Background: 16,950 sq ft



Lot Background: Offset Rules (w/o Special Exception)

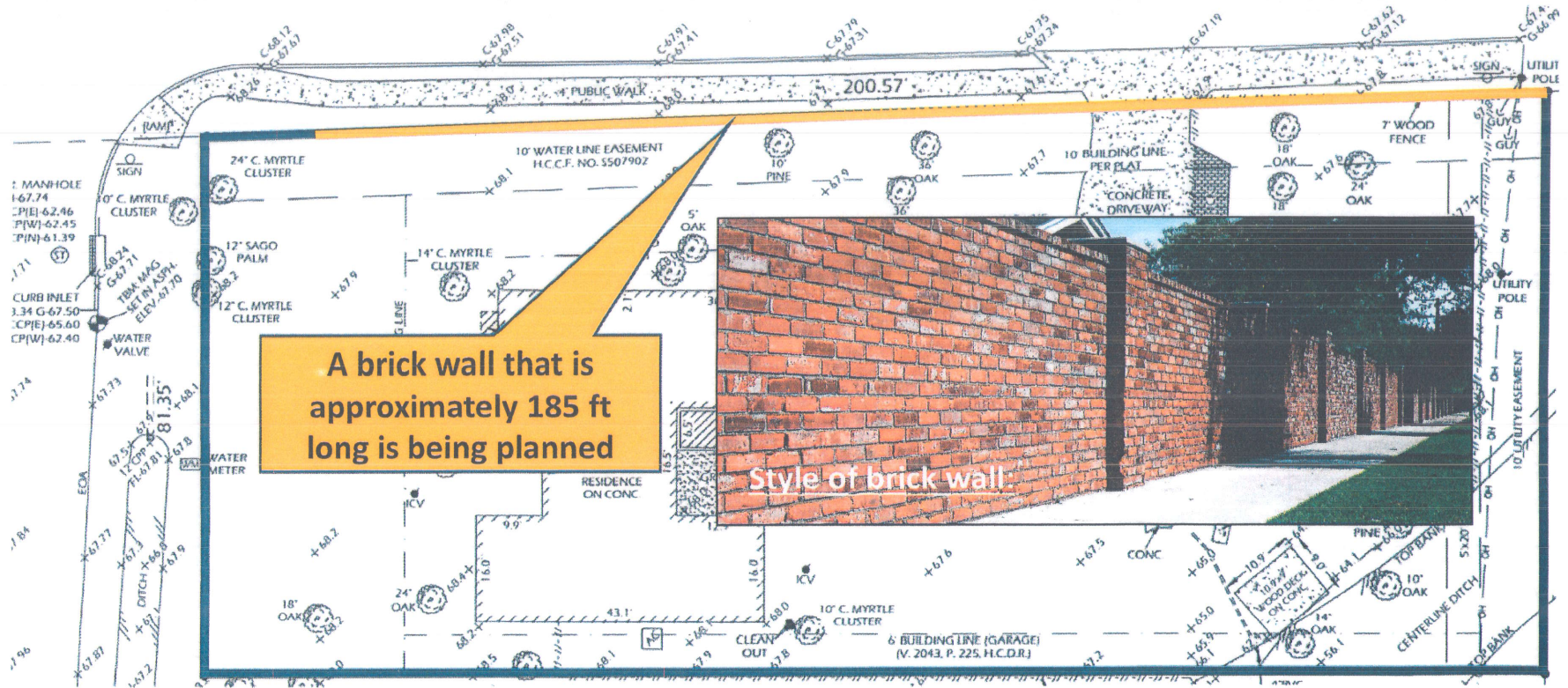


Proposed Development: Site Plan

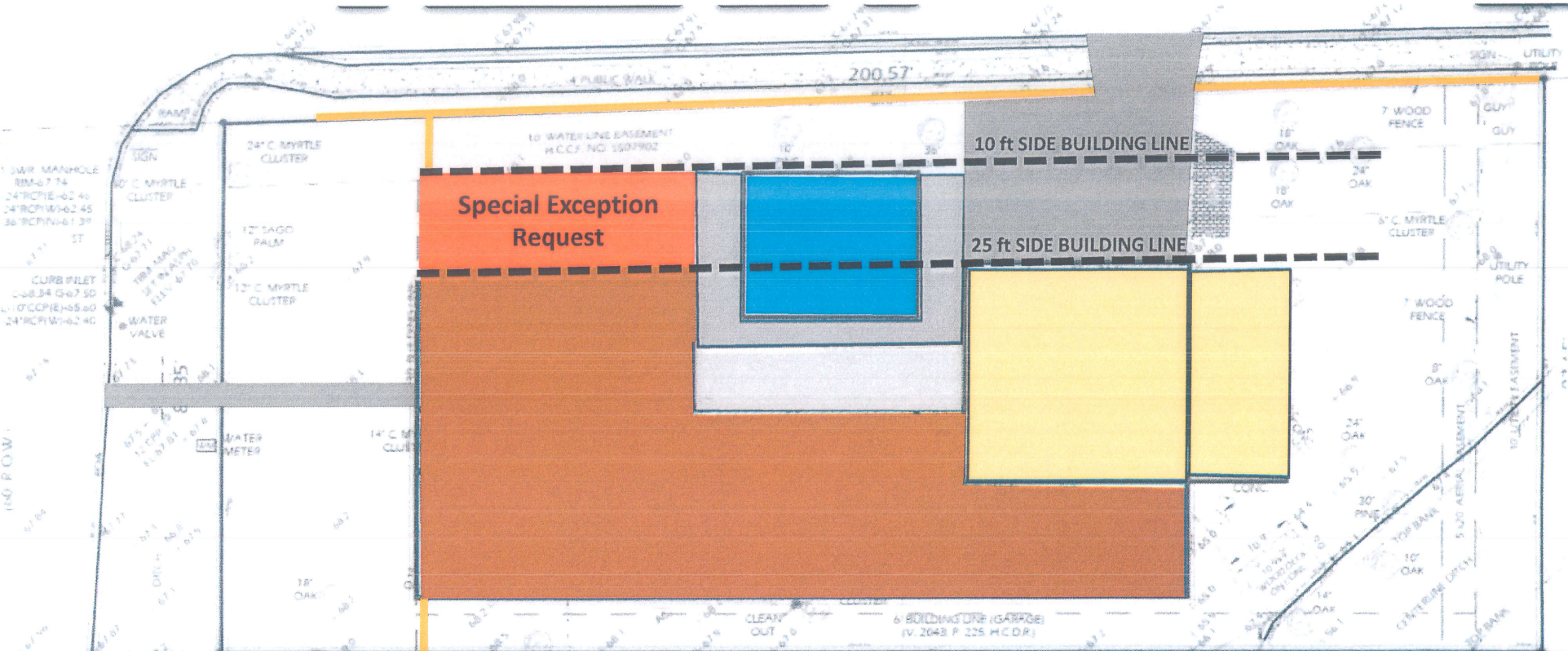


Observation: We intend to construct a traditional home with an attached garage that has driveway access from Westview (subject to finalization of plans).

Proposed Development: Brick Wall



Approximately 15 ft of the house is past the side build line



<p>Observation:</p>	<p>Because this lot has a side lot line that abuts Westview Dr, the side building setback line is 25 ft (compared to 8 ft if it was not off of Westview)</p> <p>This results in only 48 ft of permissible building width at the front lot line. <i>(81 ft – 8 ft – 25 ft = 48 ft) (the permissible building width would be 65 ft if not for this additional offset rule)</i></p>
<p>Request:</p>	<p>We are requesting a Special Exception from the 25 ft side build line requirement, going from 25 ft to 10 ft as depicted in the site plan above.</p>

Special Exception Requirements

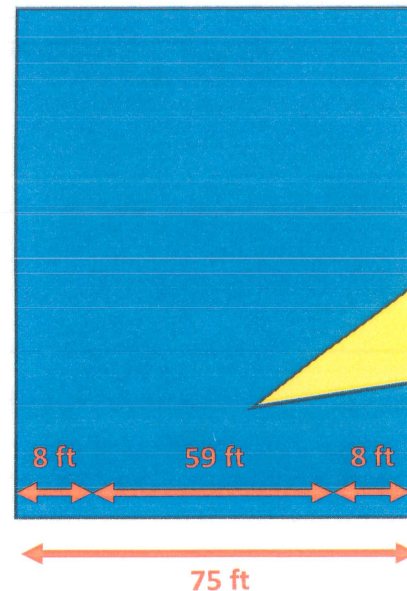
Special Exception Request Requirements:

Under 91:03.02 / 91:04.01, the Board of Adjustment is permitted to grant “a variation in the setback requirements when there are unusual and practical difficulties in the carrying out of the setback rules due to an irregular shape of the lot, topographical or other similar condition.”

Note: Under *ejusdem generis*, the rule of construction of statutes and municipal ordinances is that where general words follow specific words that designate specific things, the general words will be considered as limited to things of the same general character as those specified. Here, it should be noted that courts have said that the term "other condition" means some physical characteristic peculiar to the lot which gives rise to the difficulty, and can include length (*Conner v. Herd, 452 S.W.2d 272, 277 (Mo.App.1970)*).

As depicted in the following slides, the small width of this lot in relation to the setback requirements of the Ordinance creates unusual and practical difficulties. As such, a Special Exception is permitted to be requested under 91:04.01.

Unusual & Practical Difficulty: Current Ordinance rules require a Minimum Lot Width at the Building Line of 59 ft.



Default Minimum
Lot Width at
Building Line

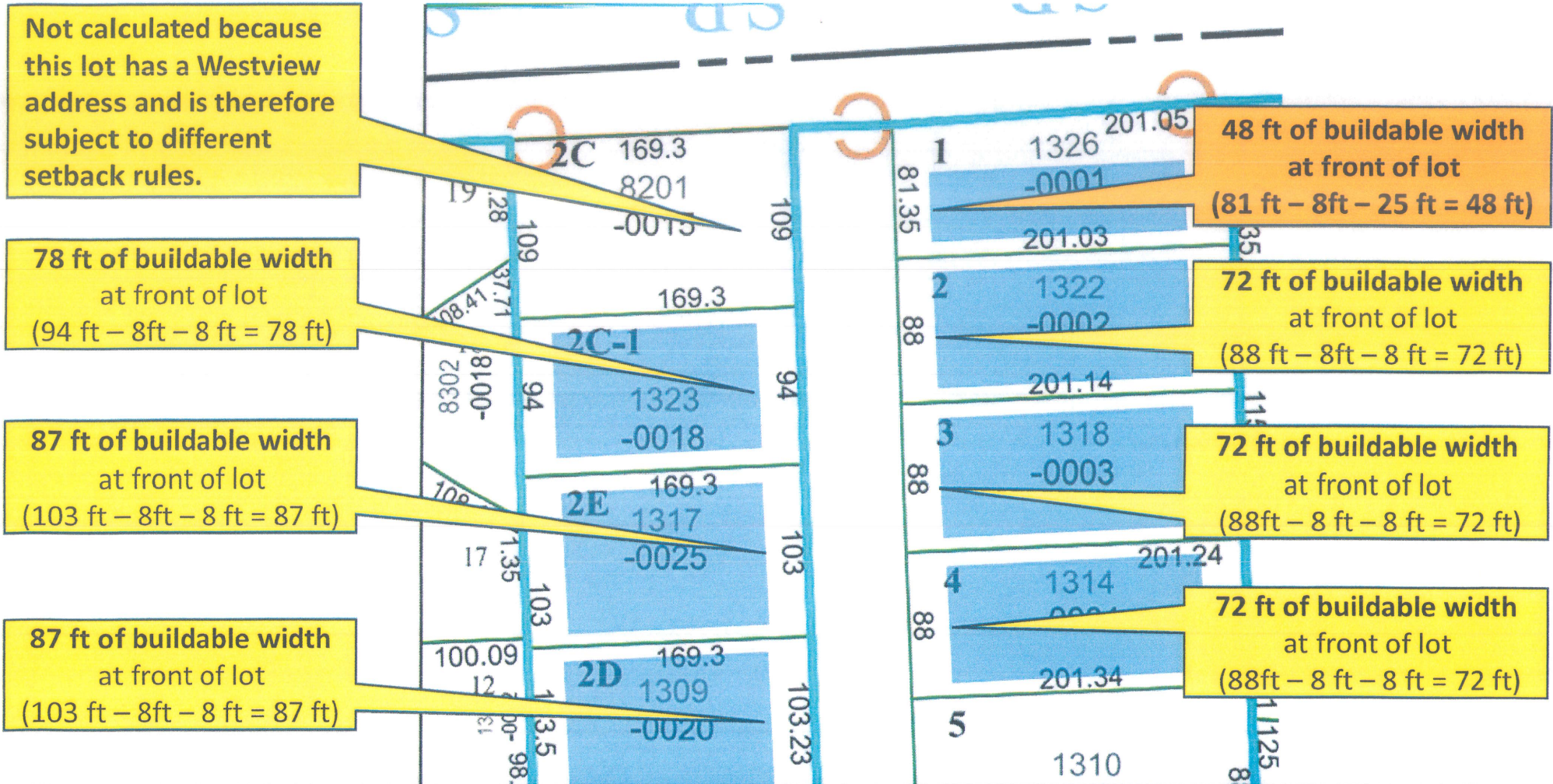
11:01 RESIDENTIAL LOT

11:01.02 Minimum lot width: No lot shall be less than...seventy-five (75) feet wide at the front building line.

Observation: Applying the standard 8 ft side offset rule, this implies that the Ordinance requires building widths at a minimum of 59 ft.

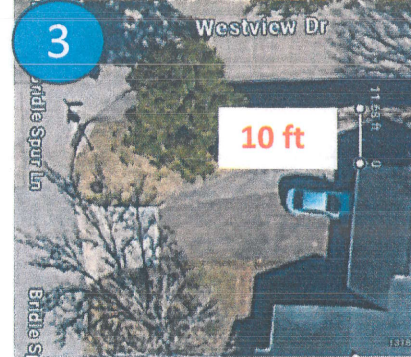
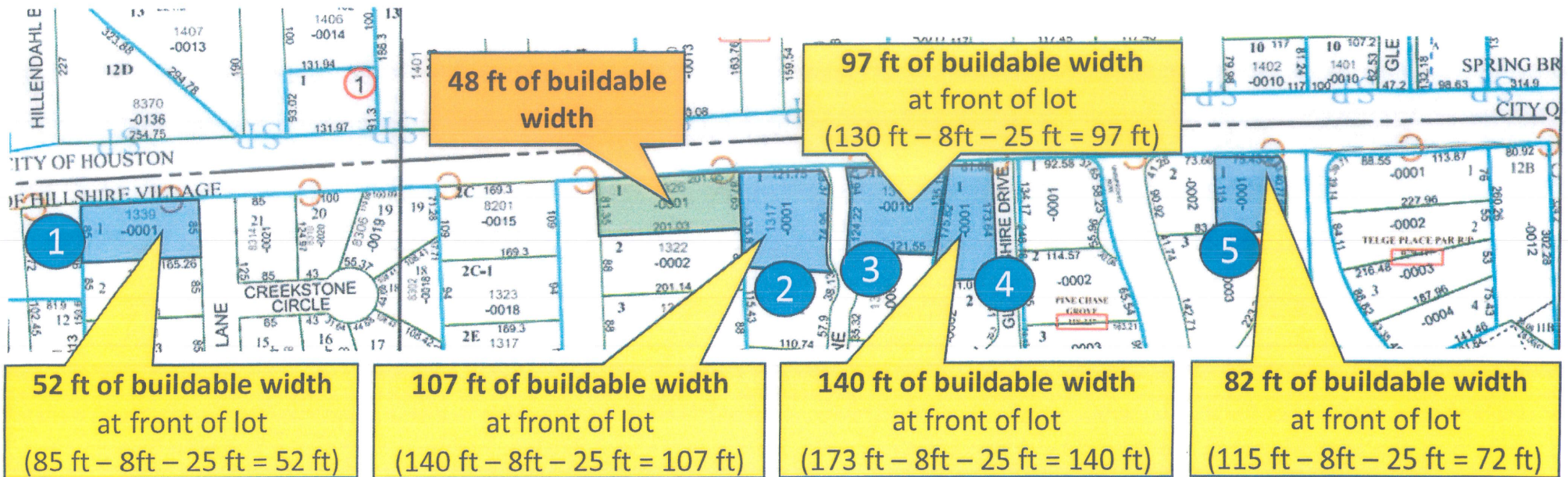
8326 Ridgeley is at 48 ft with the current setback rules being applied (i.e., below the minimum width)

Unusual & Practical Difficulty with this Lot (Ridgeley Peers)



Observation: A 48 ft wide home built at 1326 Ridgeley will be noticeably different from its peers and not desirable from an aesthetics/consistency perspective. Additionally, most corner lots have wider widths to compensate for larger setback requirements. This was not done here during the platting of the property, as this corner lot width is actually smaller than nearby lots.

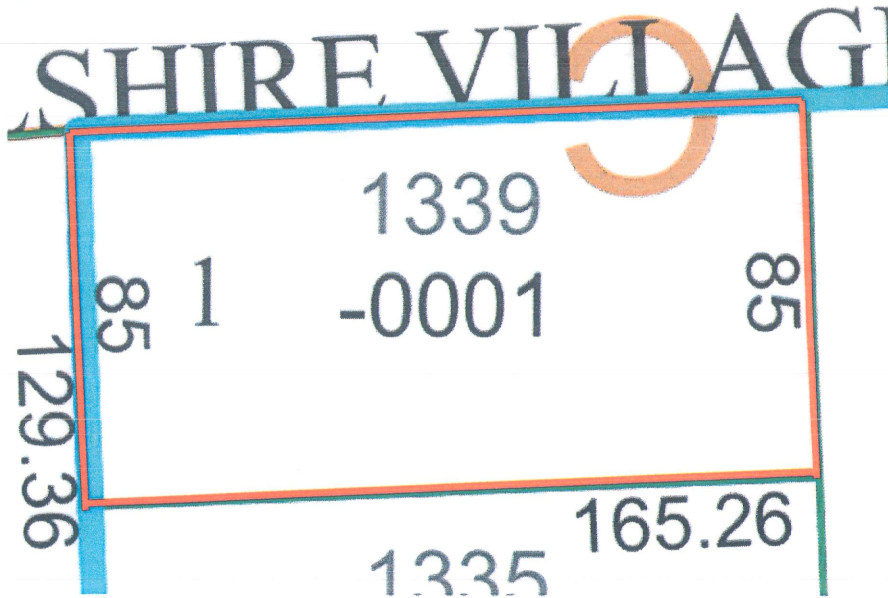
Unusual & Practical Difficulty with this Lot (Westview Peers)



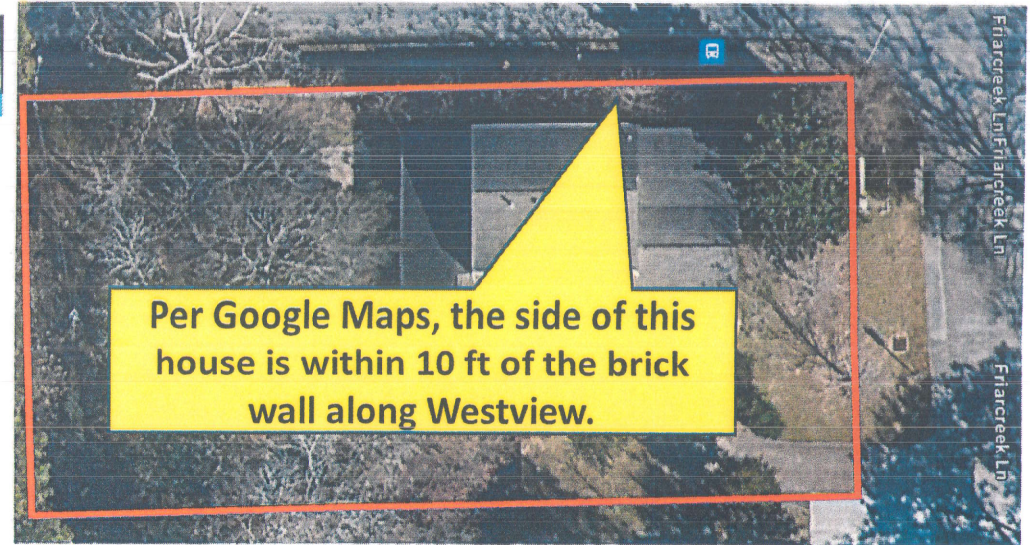
Observation: Every peer Westview lot has a permissible building width greater than 48 ft.

Unusual & Practical Difficulty with this Lot (Westview Peer: 1339 Friar Creek Ln)

Facet Map



Aerial View



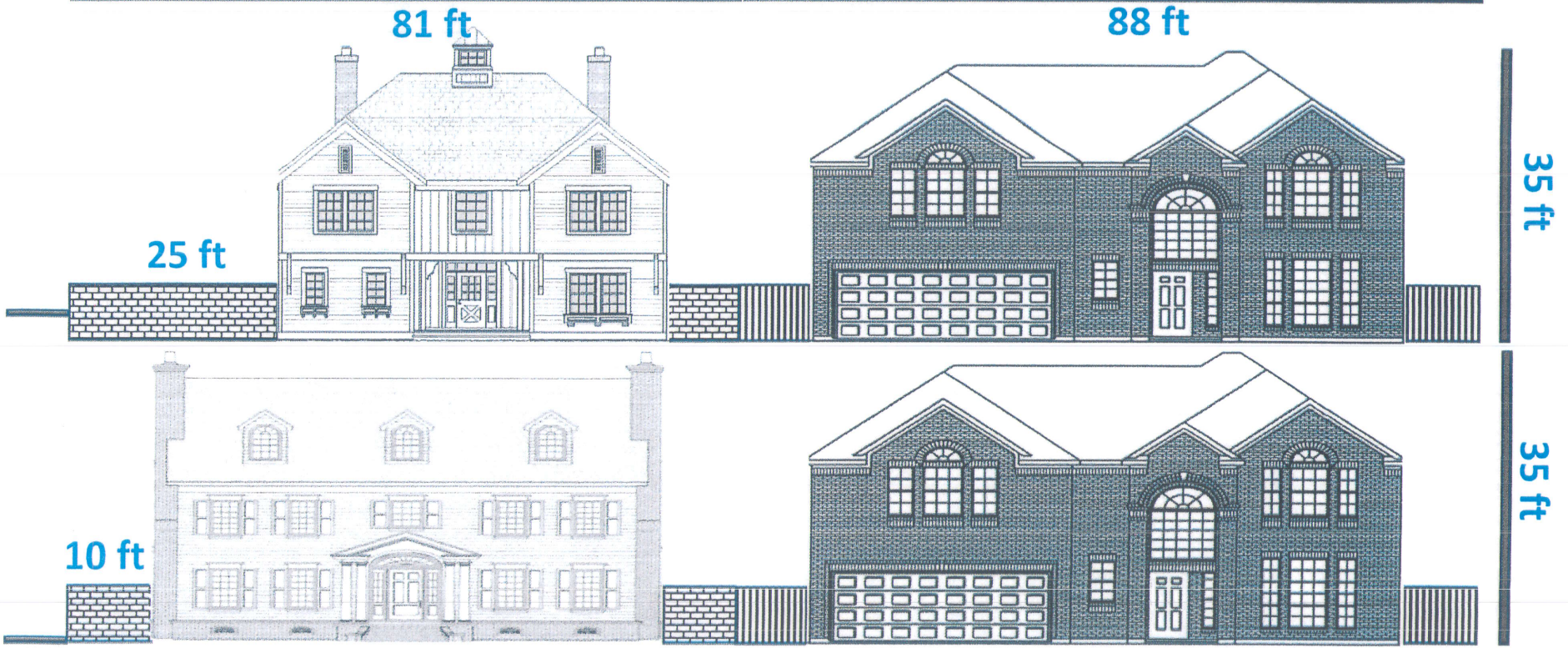
Observation:

From a lot width perspective, 1339 Friar Creek is the closest Westview peer at 85 ft (compared to 81 ft for Ridgeley). Despite the 25 ft setback rule, it is currently within 10 feet of the brick wall along Westview (i.e., not conforming to the current side setback rules).

Special Exception Requirements

<p>Special Exception Request Requirements:</p>	<p>Upon showing that there are unusual and practical difficulties, such that the Special Exception 91:04.01 is applicable, the standard of review by the BOA is as follows:</p> <p><u>A special exception is permitted if the exception being requested is <i>in harmony with the general purpose and intent of the setback rule</i>, the exception <i>will not be contrary to the public interest</i>, and <i>the exception will not result in substantial injury to surrounding property</i>.</u></p>
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For this lot, the special 25 ft setback rule will fail to create harmony between 1326 Ridgeley and 1322 Ridgeley (and other homes along Ridgeley)



Observation: Allowing a side setback of 10 ft (instead of 25 ft) will create more harmony with the other Ridgeley homes, which have wide building fronts.

Purpose of 25 ft Westview setback rule is now negated with the predominance of fences/walls along Westview

Setback Rule Policy:

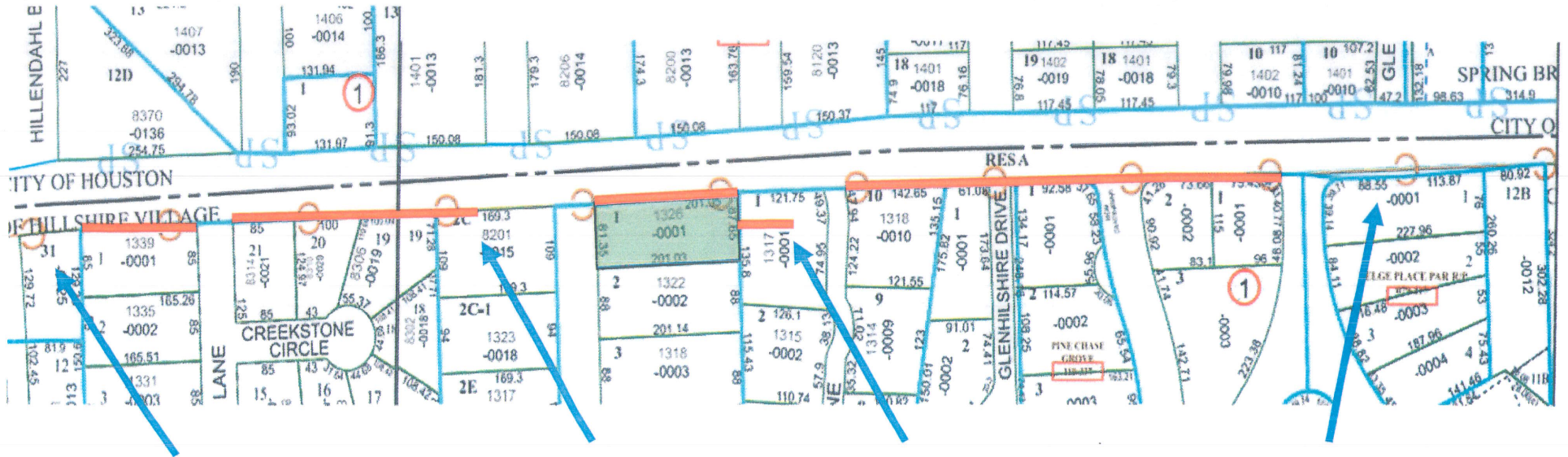
Municipalities adopt setback rules to provide yard space for lawns/trees, keep dwellings safe from the noise of the street, as well as adding to the general attractiveness of the property. Such yard space creates a better home environment, reduces fire hazards by providing a greater distance between homes, and provides for adequate light and air.

Observation:

Presumably, the main drivers for increasing the side lot line setback, for lots orientated with sides on Westview, from 8 ft to 25 ft were, (1) aesthetics, (2) privacy, and (3) safety.

With fences being permissible along Westview, however, these reasons are effectively negated when a homeowner constructs a fence on the side lot line (this can be seen on two lots with side lot lines on Westview, where both have fences constructed on Westview and both have a residential structure within 10 feet of the property line --- see next 2 slides).

Fences/Walls are very prevalent along Westview



City Hall

Lot has a Westview Address, so it is not permitted to have a fence on Westview under current rules

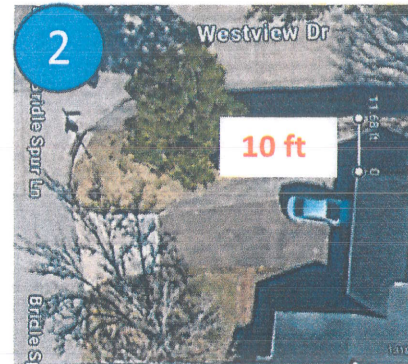
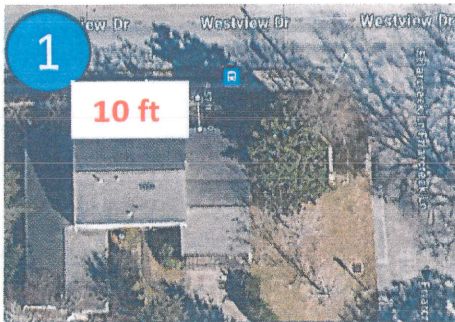
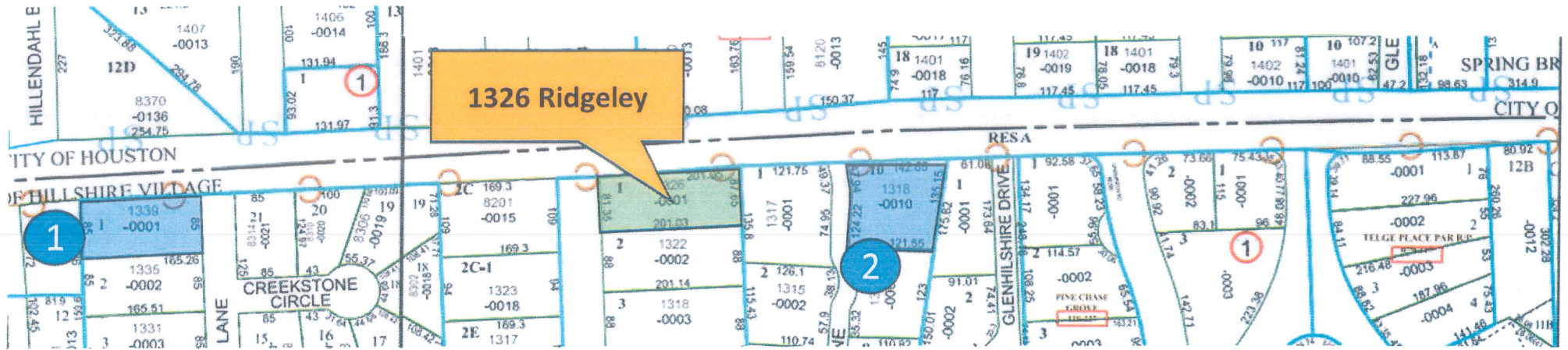
Has physical restrictions due to storm drain / open channel transition

Lot has no residence on it and has never been developed

Observation:

The general status quo is for lots with side lot lines on Westview to have a brick or wood fence along the lot line (see red lines). To maintain this consistency within Hilshire, a 185 ft brick wall is being planned on this lot.

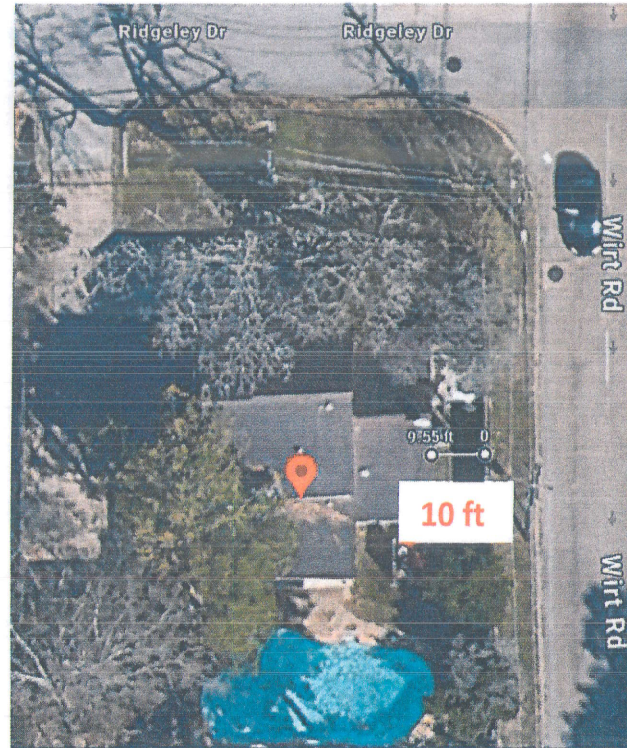
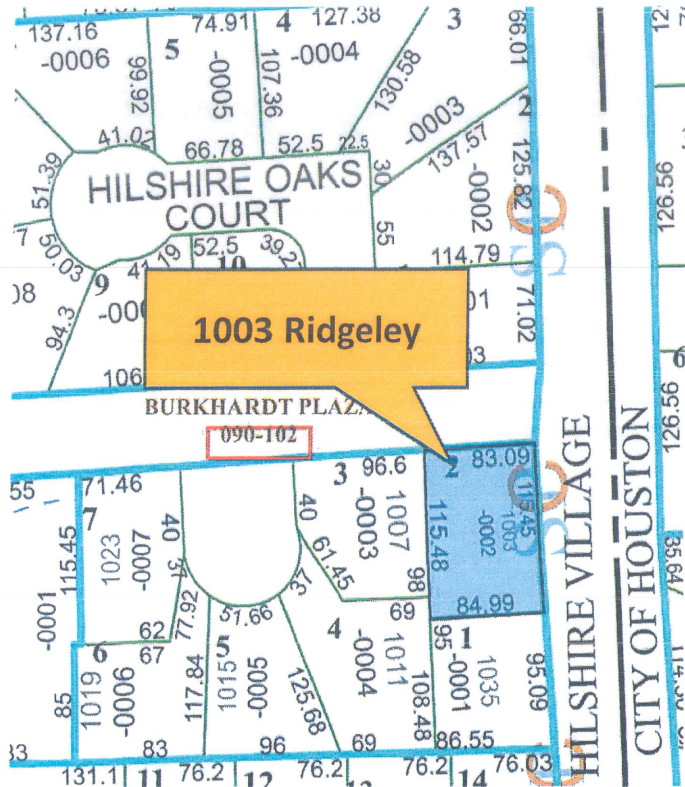
Fences & Walls on Westview negate the 25 ft setback rule



Observation:

10 ft offsets on Westview already exist.

Fences & Walls on Wirt negate 25 ft setback rule as well



Observation:

11:01:04 states that special 25 ft side lot setback line applies to any side property line that is adjacent to Wirt Road or Westview Drive.

It should be noted that 10 ft offsets on Wirt also already exist when a brick wall runs along Wirt. Additionally, for this particular lot, 1003 Ridgeley, it should be noted that it has a slightly larger width at 83 ft (compared to 81 ft at 1326 Ridgeley).

Summary of Special Exception Analysis

91:03.03 Grant special exception:

The applicant notes that 91:04.01 says that a special exception to the setback rules can be applied for “where there are unusual and practical difficulties in the carrying out of [setback rules] due to an irregular shape of the lot, topographical or other similar condition.” Based on the above slides, the applicant believes that this has been adequately demonstrated, as courts have held that “other similar condition” includes length and this lot’s limited width of 81 ft and large side setback of 25 ft creates unusual and practical difficulties in carrying out the setback rules (Note: factoring in the setback rules, the lot only has 48 ft of buildable width).

As such, when a special exception can be applied for under 91:04.01, 91:03.03 states that the Board of Adjustment may make a special exception when the following conditions are met:

- 1) The exception will allow the lot to continue to be in harmony with the general purpose and intent of the side setback rules of 11:01:04;

Discussion: It should be noted that Hilshire’s ordinance has a default 8 ft side setback requirement for lots. When a lot has a side lot line on Westview, however, the ordinance requires the setback distance to go from 8 ft to 25 ft. Presumably, this increased distance was included for aesthetic/privacy/safety reasons given the heavy traffic (vehicle and pedestrian) on Westview Dr.

In practice, however, this “extended” setback requirement is not followed and is arguably negated with the predominant use of brick walls and wood fences on lots similarly situated like 1326 Ridgeley (see above slides). Additionally, it should be noted that many homes on these lots are currently within 10 ft of the side lot line (i.e., not following the 25ft requirement). This 10 ft distance is the exact distance that the applicant is requesting, and is still larger than the default setback. (continued)

Summary of Special Exception Analysis (continued)

In summary, the applicant is requesting a special exception from the 25 ft setback rule, not the 8 ft setback rule. Due to the construction of a brick wall, which will mirror the other lots bordering Westview, the applicant believes that the need for this additional setback distance is no longer necessary. Consequently, the applicant believes that by still abiding by the default side setback standards, this special exception will allow the lot to still continue to be in harmony with the general purpose and intent of the side setback rules.

2) The exception will not be contrary to the public interest; and

Discussion: The public interest is to have residential lots that are developed, evenly spaced, and aesthetically pleasing. This special exception, which will allow the property to be developed with a new residence, will allow the house to be evenly spaced with its peers and mirror the widths of homes on the street. As such, the special exception will not be contrary to the public interest.

3) The exception will not result in substantial injury to surrounding property.

Discussion: This special exception will allow the lot to still be within the default spacing requirement of 8 ft, thus it will not be inconsistent with nearby homes, and will in fact be in harmony with the neighboring lots by granting the special exception (as compared to denying the Special Exception). Please refer to the support of the neighbors.

Conclusion: A special exception to permit a 10 ft side setback on the lot should be granted (going from a 25 ft setback to a 10 ft setback).