

COUNCIL ACTION FORM

Meeting Date: March 14, 2024

Staff Contact: Leslie Herring, City Administrator; Nick Finck, Building Official

Agenda Item: Consider Fence Variance Request – 4815 Booth St.; variance requested for placement

Background / Description of Item

On March 7, 2024, City staff received an application for a fence variance for 4815 Booth St. Homeowner Jeff Hirleman is proposing to replace a 4' chain link fence with a new 4' black chain link fence in his side yard and a 4' cedar fence across the back. This application requires a variance for:

Westwood Zoning Ordinance 4.3.9.C.3. On a corner lot, no fence or wall shall be closer than ten (10) feet to the street-side property line.

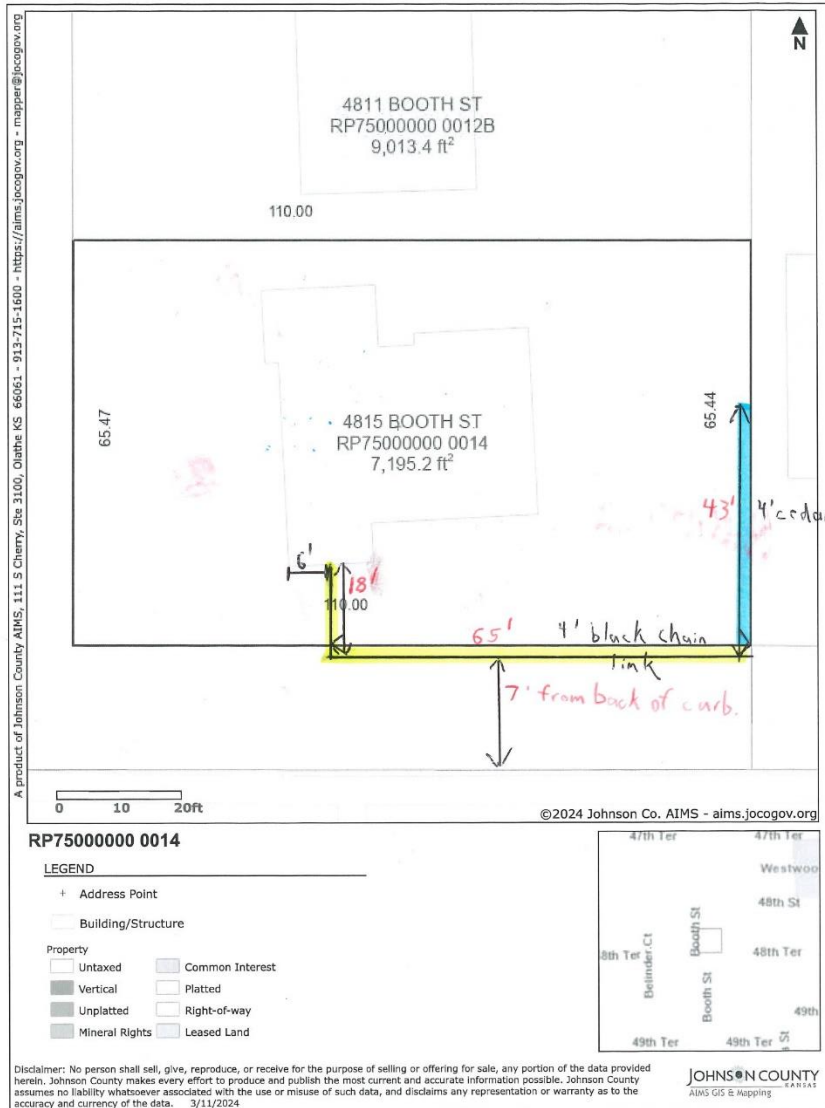
The City Council may approve fence variances pursuant to Westwood Zoning Ord. Section 4.3.9.F, and as set forth below.

4.3.9 Fence and Wall Standards

- F. *Fences or walls which would fail to comply with any other requirement of this Ordinance may be constructed and maintained, contingent upon the following:*
 - 1. *Application shall be made to the Governing Body, which shall study said application to determine the following:*
 - a. *the fence or wall will not adversely affect the general welfare of the immediate neighborhood in which the fence or wall is to be erected, taking into consideration factors including, but not limited to, the value of the property and the safety of residences in said neighborhood;*
 - b. *the appearance, location, and purpose of the proposed fence or wall;*
 - c. *the effect on adjoining properties;*
 - d. *the size of the area to be enclosed; and*
 - e. *the desirability of open views with regard to beauty, value and safety of the neighborhood; and*
 - f. *with respect to any fence on a lot adjacent to a street, a variance shall not be granted if the proposed fence would interfere with a safe view of the street for vehicular traffic, or would impair the view from any nearby driveway, or would extend closer to the street than the adjacent front yard setbacks.*
 - 2. *Said application must be approved by at least four of the five members of the Governing Body.*

Proposed Fence

An illustration of the location of the proposed fence is provided below.



The applicant desires to replace the existing fence, which encroaches 32" into the right-of-way on W. 48th Terrace. The new fence would be placed outside of the right-of-way and on the side yard property line. However, situating it on the property line would still result in a violation of Westwood Zoning Ordinance 4.3.9.C.3., which disallows fences from being closer than ten (10) feet to the street-side property line. The fence proposed to be situated on the property line would be seven (7) feet from the back of curb. A strict application of this Zoning Ordinance provision would require the fence be situated not closer than 17' from the back of curb, ten (10) feet into the resident's side yard.

Staff Comments/Recommendation

Pursuant to previous City Council direction, City staff has evaluated the following factors:

- a. Neighbor acknowledgement/consent – Applicant confirmed coordination with impacted neighbor;
- b. ROW impediment – No;
- c. Established tree impact/removal – No; and
- d. Resulting sight lines issues - No.

Staff does not have any objections to the requested variance.

Suggested Motion

I move to approve the requested fence variance at 4815 Booth St. to allow a 4' tall chain link fence in the side yard of the primary structure on a corner lot as described in the application.