



**PLANNING COMMISSION MEETING
RICHFIELD MUNICIPAL CENTER, COUNCIL CHAMBERS
OCTOBER 26, 2020
7:00 PM**

Call to Order

Approval of the Minutes

Opportunity for Citizens to Address the Commission on items not on the Agenda

Agenda Approval

Public Hearings

1. Public hearing to consider a request for variance at 7329 4th Avenue for an air conditioner located approximately 2 feet from the lot line.

20-VAR-01

Liaison Reports

Community Services Advisory Commission
City Council
Housing and Redevelopment Authority (HRA)
Richfield School Board
Transportation Commission
Chamber of Commerce
Other

City Planner's Reports

2. Next Meeting Time and Location

Monday, November 23, 2020, via Webex

3. Adjournment

Auxiliary aids for individuals with disabilities are available upon request. Requests must be made at least 96 hours in advance to the City Clerk at 612-861-9738.



Planning Commission Minutes

September 28, 2020

MEMBERS PRESENT: Chair Kathryn Quam, Commissioners Bryan Pynn, Sean Hayford Oleary, Peter Lavin, and James Rudolph, Susan Rosenberg, Brett Stursa

MEMBERS ABSENT: none

STAFF PRESENT: Melissa Poehlman, Asst. Director of Community Development
Nellie Jerome, Assistant Planner

OTHERS PRESENT: Christine and Renato Kirsnik for Public Hearing Item #1; Paul Lynch, PLH & Associates, and Charlie Bird, for Public Hearing Item #2

Chairperson Quam called the meeting to order at 7:00 p.m.

APPROVAL OF MINUTES

M/Rudolph, S/Lavin to approve the minutes of the July 27, 2020, meeting.

Motion carried: 7-0

OPEN FORUM

No members of the public spoke, no comments received.

APPROVAL OF AGENDA

M/Lavin, S/Pynn to approve the agenda.

Motion carried: 7-0

PUBLIC HEARINGS

ITEM #1

Public hearing to consider a request for variance for a driveway wider than the allowed maximum at 2015 Forest Drive. Assistant Planner Nellie Jerome read the staff report for this variance application. Commissioners discussed hardships of bringing the driveway into compliance, and the requirements for granting a variance. The applicants were present and stated that this was a mistake made by their contractor. Public comments were supportive of granting the variance as it does not alter the character of the neighborhood. Assistant Community Development Director Melissa Poehlman explained that the requirements for granting a variance are dictated by the State, and the Planning Commission decides if those requirements are met.

M/ Rudolph, S/ Pynn to close the public hearing.

Motion carried: 7-0

M/Rudolph, S/Lavin to approve the variance for a driveway wider than the allowed maximum at 2015 Forest Drive, finding that the required conditions for variance approval are met.

Commissioner Lavin discussed difficulties of removing the excess driveway pavement.

Motion failed: 3-4 (nay votes from Quam, Rosenberg, Stursa, and Hayford-Oleary)

M/Stursa, S/Rosenberg to approve the resolution denying a variance for a driveway wider than the allowed maximum at 2015 Forest Drive.

Commissioners discussed the

Motion carried: 4-3 (nay votes from Rudolph, Lavin, and Pynn)

ITEM #2

Consideration of an amendment to approve final development plans for a mixed use development at 101 66th Street East (66th Street and 1st Avenue). The proposed amendment reduces commercial space and increases the number of apartments in the project. Assistant Community Development Director Poehlman presented the staff report for the project known as the Emi. The developer is requesting to reduce ground floor commercial space and provide affordable housing units instead.

Commissioners discussed parking ratio minimums and maximums, and staff explained that the current proposal is above the parking maximums for both residential and commercial spaces. Staff clarified that they were recommending that the developer remove a row of twelve spaces and keep it as pervious landscaping, with the option to add parking if needed in the future. The developer was present to answer questions. The developer proposed bringing the parking ratio under the maximum by removing 5 parking stalls instead of 12.

Written comments that were received before the meeting were given to Commissioners. During the meeting, callers brought up concerns with unpleasant construction disturbance with projects like this, the size of the building, neighborhood traffic and parking, trash around the project site, and a want for more inclusion of community members in the planning process. An adjacent neighbor noted that he preferred that the additional 12 parking stalls on the south side be kept as landscaping.

Assistant Community Development Director Melissa Poehlman addressed the written comments and concerns from callers, noting that the façade is of high-quality materials and that the proposal being considered tonight will reduce traffic and parking with the reduction of commercial space. She added that the choice of environmental friendly landscape maintenance will be up to the developer. Commissioners requested that this project be completed soon.

M/ Pynn, S/ Quam to close the public hearing.

Motion carried: 7-0

Commissioners discussed design changes in approved projects and what threshold of changes would require a return to the Planning Commission for re-approval. Assistant Community Development Director Poehlman explained that she can bring the concern up at the City Council meeting.

M/ Pynn, S/ Hayford Oleary to approve recommended action with the condition that the number of parking stalls is limited to 67 total.

Motion carried: 6-1 (nay vote from Rudolph)

LIAISON REPORTS

Community Services Advisory Commission: playgrounds are going in at Washington, Taft, and Madison, and the dog park is nearly ready.

City Council: no report

Housing and Redevelopment Authority (HRA): no report

Richfield School Board: no report

Transportation Commission: Nothing to report.

September 28, 2020

Chamber of Commerce: (vacant)

CITY PLANNER'S REPORT

Nothing to report

ADJOURNMENT

The next regular meeting will be Monday, October 26, 2020, at 7pm on Webex online meeting platform.

M/Pynn, S/Hayford Oleary to adjourn the meeting.

Motion carried: 7-0

The meeting was adjourned by unanimous consent at **9:25 p.m.**

Planning Commission Secretary

AGENDA SECTION:	Public Hearings
AGENDA ITEM #	1.
CASE NO.:	20-VAR-01



PLANNING COMMISSION MEETING 10/26/2020

REPORT PREPARED BY: Nellie Jerome, Assistant Planner

CITYPLANNER REVIEW: Melissa Poehlman, Asst. Community Development Director
10/21/2020

ITEM FOR COMMISSION CONSIDERATION:

Public hearing to consider a request for variance at 7329 4th Avenue for an air conditioner located approximately 2 feet from the lot line.

EXECUTIVE SUMMARY:

The property located at 7329 4th Avenue South is in the R (Single Family Residential) Zoning District. The applicant is requesting a variance to allow an air conditioner closer to the lot line than allowed by the Zoning Code.

The Zoning Code requires that air conditioning units be set back at least 5 feet from the side lot line in the R (Single-Family Residential) Zoning District. The purpose of this regulation is to minimize the effect of mechanical noise on neighboring properties, and to provide sufficient space to maintain the equipment even if a fence, screening, or landscaping is installed along the property line.

The applicant has installed a split-system air conditioning unit approximately 2 feet from the side lot line. There are two components to the split-system air conditioning unit: a wall mounted component and a ground component. Based on the construction of the house, the wall unit can only be installed in the living room wall, where it is currently located. The ground component cannot be moved any further from the wall component, as it would stretch the vent pipes too far and would lose significant energy efficiency. This type of ductless air conditioning system is more practical in many older homes where modifications or additions to duct work could require extensive internal work.

The applicant's house sits at approximately the 5 foot setback line, which does not allow space for the ground component to meet setback requirements. The applicant reported that the neighbor adjacent to the AC unit is supportive of a variance approval.

In order to grant a variance, the Commission must find that the six criteria identified in Subsection 547.11 of the City Code are met. A full discussion of these criteria are included in the policy section of this report.

It is the opinion of staff that all criteria are met and staff recommends approval, conditioned upon submittal of an official property survey with the setback of the air conditioning unit identified for recording purposes.

RECOMMENDED ACTION:

Conduct and close a public hearing and by motion: Approve a resolution allowing a variance for an air conditioner closer to the lot line than allowed by Zoning Code, at 7329 4th Avenue South.

BASIS OF RECOMMENDATION:

A. HISTORICAL CONTEXT

None.

B. POLICIES (resolutions, ordinances, regulations, statutes, etc):

7329 4th Avenue South is zoned R (Single Family Residential). Air conditioner setback requirements are located in Zoning Code Subsection 509.13 and require air conditioner units to meet the required setback of the principle building. In the R district, the side setback for the principle building is 5 feet.

The findings necessary to approve a variance are as follows (Subsection 547.11):

1. *The applicant establishes that there are practical difficulties in complying with the official control. "Practical difficulties," as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by an official control. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. A split-system air conditioner is a ductless air conditioning system that makes sense for many older homes where installation of a traditional system would require extensive internal modifications to the home. In this case, there is one wall of the home (south wall) where the installation of the wall component of the system was feasible. The ground component must be installed nearby in order for the system to function properly; however, there is not room for this unit without encroaching into the required 5 foot setback. These conditions create a practical difficulty for the applicant.*
2. *Unusual or unique circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and such circumstances were not created by any persons presently having an interest in the property;* An air conditioner could not be placed at the side of the house and meet the side setback. The layout of the house does not allow an air conditioner anywhere else but where it is presently installed. The applicant did not cause these conditions.
3. *The variance, if granted, would not alter the character of the neighborhood. The completed project would not impair an adequate supply of light and air to adjacent properties, or substantially increase the congestion of public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish property values, or have a detrimental or injurious impact on surrounding properties;* Granting a variance to allow a split system air conditioner closer to the lot line than allowed by code will not alter the character of the neighborhood. The adjacent neighbor is supportive of the proposed variance. It will be up to the applicant to ensure that he is able to maintain the system in this location.
4. *The variance requested is the minimum variance that would alleviate the practical difficulty.* Yes, this is the minimum action necessary to alleviate the practical difficulty.
5. *The variance requested will not alter the essential character of the locality.* Granting a variance to allow an air conditioner closer to the lot line will not alter the character of the locality.
6. *The variance requested is in harmony with the general purpose and intent of the ordinance and consistent with the comprehensive plan.* The variance will not be inconsistent with the comprehensive plan and is generally in harmony with the intent of the ordinance.

C. CRITICAL TIMING ISSUES:

- 60-DAY RULE: The 60-day clock 'started' when a complete application was received on October 12, 2020. A decision is required by December 11, 2020 or the Council must notify the applicant that it is extending the deadline (up to a maximum of 60 additional days or 120 days total) for issuing a decision.

D. FINANCIAL IMPACT:

- None.

E. LEGAL CONSIDERATION:

- Notice of this public hearing was published in the *Sun Current* newspaper and mailed to properties within 350 feet of the site on October 15, 2020.

ALTERNATIVE RECOMMENDATION(S):

Deny the request with findings that it does not meet conditions necessary for a variance.

PRINCIPAL PARTIES EXPECTED AT MEETING:

Keith Ainsley, applicant

ATTACHMENTS:

Description	Type
☐ Resolution	Resolution Letter
☐ Site Plan	Backup Material
☐ Property Pictures	Backup Material
☐ Zoning Map	Backup Material

RESOLUTION NO. 238

**RESOLUTION OF THE RICHFIELD PLANNING COMMISSION
APPROVING A VARIANCE AT
7329 4TH AVE**

WHEREAS, an application has been filed with the City of Richfield which requests approval of a variance on the parcel of land commonly known as 7329 4th Ave (the “property”) and legally described as:

Lot 017, Block 002, Blairs Wooddale Third Addition, Hennepin County, Minnesota

WHEREAS, Richfield Zoning Code, Subsection 509.13 states that the air conditioners must meet the required setback of the principle building

WHEREAS, Richfield Zoning Code, Subsection 547.11 states that a variance may only be granted when all required criteria are met; and

WHEREAS, Minnesota Statutes Section 462.357, Subdivision 6, provides for the granting of variances to the literal provisions of the zoning regulations in instances where enforcement would cause “practical difficulty” to the owners of the property under consideration; and

WHEREAS, the Planning Commission of the City of Richfield held a public hearing for the requested variance at its October 26, 2020 meeting; and

WHEREAS, notice of the public hearing was published in the Sun Current newspaper and mailed to properties within 350 feet of the subject property; and

NOW, THEREFORE, BE IT RESOLVED, by the Planning Commission of the City of Richfield, Minnesota, as follows:

1. The Planning Commission adopts as its Findings of Fact the **WHEREAS** clauses set forth above, as well as the following:
2. With respect to the application for a variance from the above-listed requirements, the Planning Commission makes the following findings regarding variance requirements:
 - a. *The applicant establishes that there are practical difficulties in complying with the official control. "Practical difficulties," as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by an official control. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. A split-system air conditioner is a ductless air conditioning system that makes sense for many older homes where installation of a traditional system would require extensive internal modifications to the home. In this case, there is one wall of the home (south wall) where the installation of the wall component of the system was feasible. The ground component must be installed nearby in order for the system to function properly; however, there is not room for this unit without encroaching into the required 5 foot setback. These conditions create a practical difficulty for the applicant.*

- b. *Unusual or unique circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and such circumstances were not created by any persons presently having an interest in the property;* An air conditioner could not be placed at the side of the house and meet the side setback. The layout of the house does not allow an air conditioner anywhere else but where it is presently installed. The applicant did not cause these conditions.
 - c. *The variance, if granted, would not alter the character of the neighborhood. The completed project would not impair an adequate supply of light and air to adjacent properties, or substantially increase the congestion of public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish property values, or have a detrimental or injurious impact on surrounding properties;* Granting a variance to allow a split system air conditioner closer to the lot line than allowed by code will not alter the character of the neighborhood.
 - d. *The variance requested is the minimum variance that would alleviate the practical difficulty.* Yes, this is the minimum action necessary to alleviate the practical difficulty.
 - e. *The variance requested will not alter the essential character of the locality.* Granting a variance to allow an air conditioner closer to the lot line will not alter the character of the locality.
 - f. *The variance requested is in harmony with the general purpose and intent of the ordinance and consistent with the comprehensive plan.* The variance will not be inconsistent with the comprehensive plan and is generally in harmony with the intent of the ordinance.
3. Based on the foregoing findings, the application for a variance for an air conditioner closer to the lot line than allowed by the Zoning Code is approved, subject to the following conditions:
- a. The homeowner must submit a Certificate of Survey to the city within 60 days in order to document the exact setback of the air conditioning unit from the side setback line.

Adopted by the Planning Commission of the City of Richfield, Minnesota, this 26th day of October 2020.

Chairperson, Richfield Planning Commission

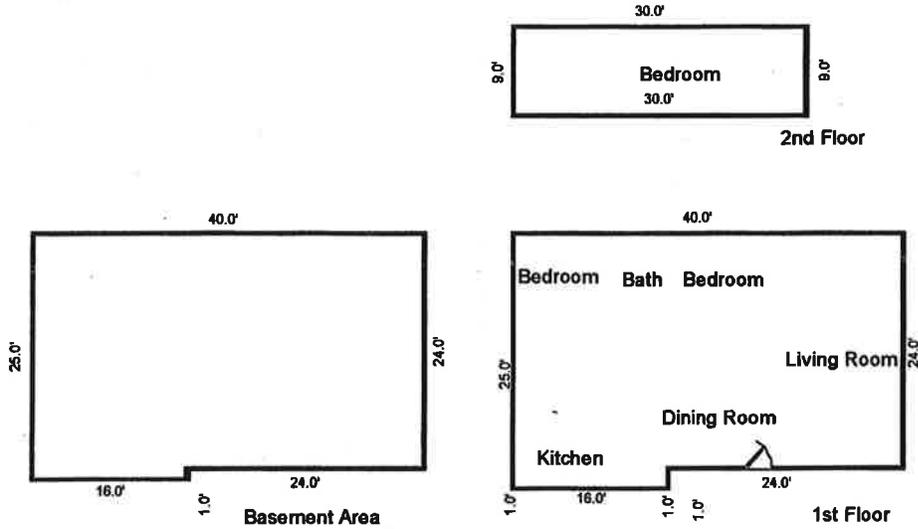
ATTEST:

Secretary, Richfield Planning Commission

FLOORPLAN

Borrower: Keith R / Beatrice M & Andrew Ainsley File No.: 56173750
 Property Address: 7329 4th Ave S Case No.: 2770382092
 City: RICHFIELD State: MN Zip: 55423-3204
 Lender: Wells Fargo Bank, N.A. - 036817

1.5-Story/Full Basement



SetbyApp/™

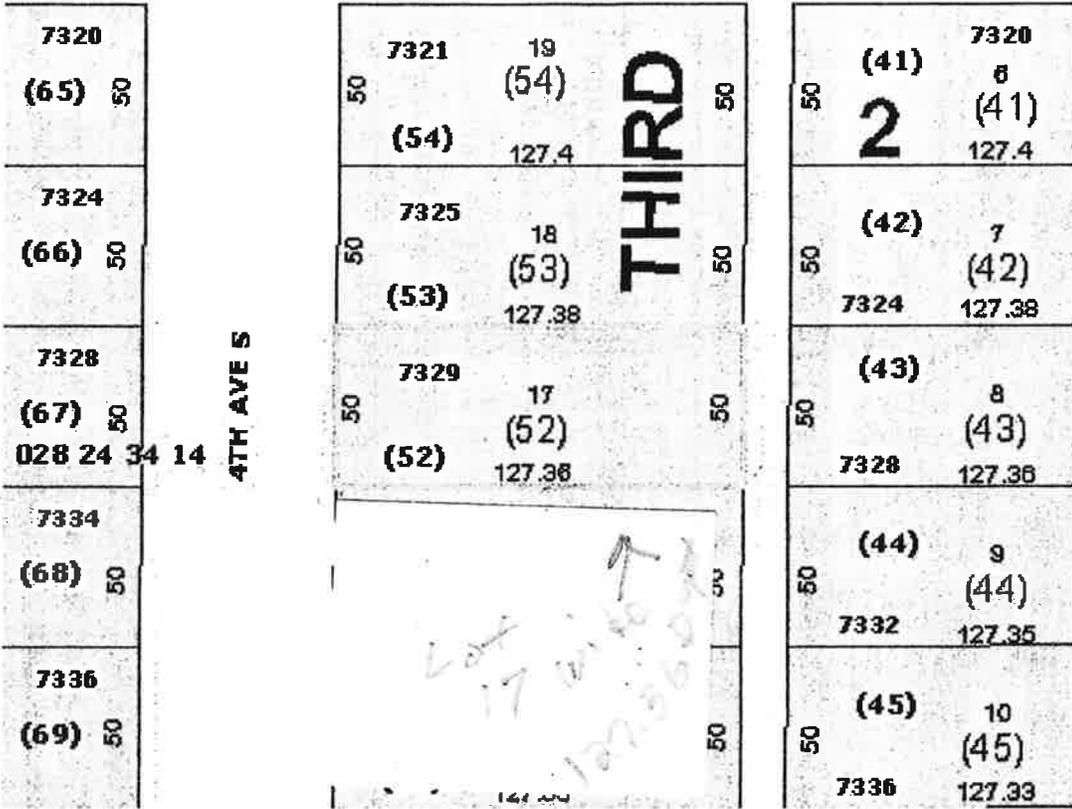
Comments:

AREA CALCULATIONS SUMMARY			
Code	Description	Size	Net Totals
GLA1	First Floor	992.00	992.00
GLA2	Second Floor	270.00	270.00
BBMT	Basement	976.00	976.00
TOTAL LIVABLE (rounded)			1262

LIVING AREA BREAKDOWN		
	Breakdown	Subtotals
First Floor		
	1.0 x 16.0	16.00
	24.0 x 40.0	960.00
	1.0 x 16.0	16.00
Second Floor		
	9.0 x 30.0	270.00
4 Calculations Total (rounded)		1262

PLAT MAP

Borrower: Keith R / Beatrice M & Andrew Ainsley	File No.: 56173750
Property Address: 7329 4th Ave S	Case No.: 2770382092
City: RICHFIELD	State: MN
Lender: Wells Fargo Bank, N.A. - 036817	Zip: 55423-3204

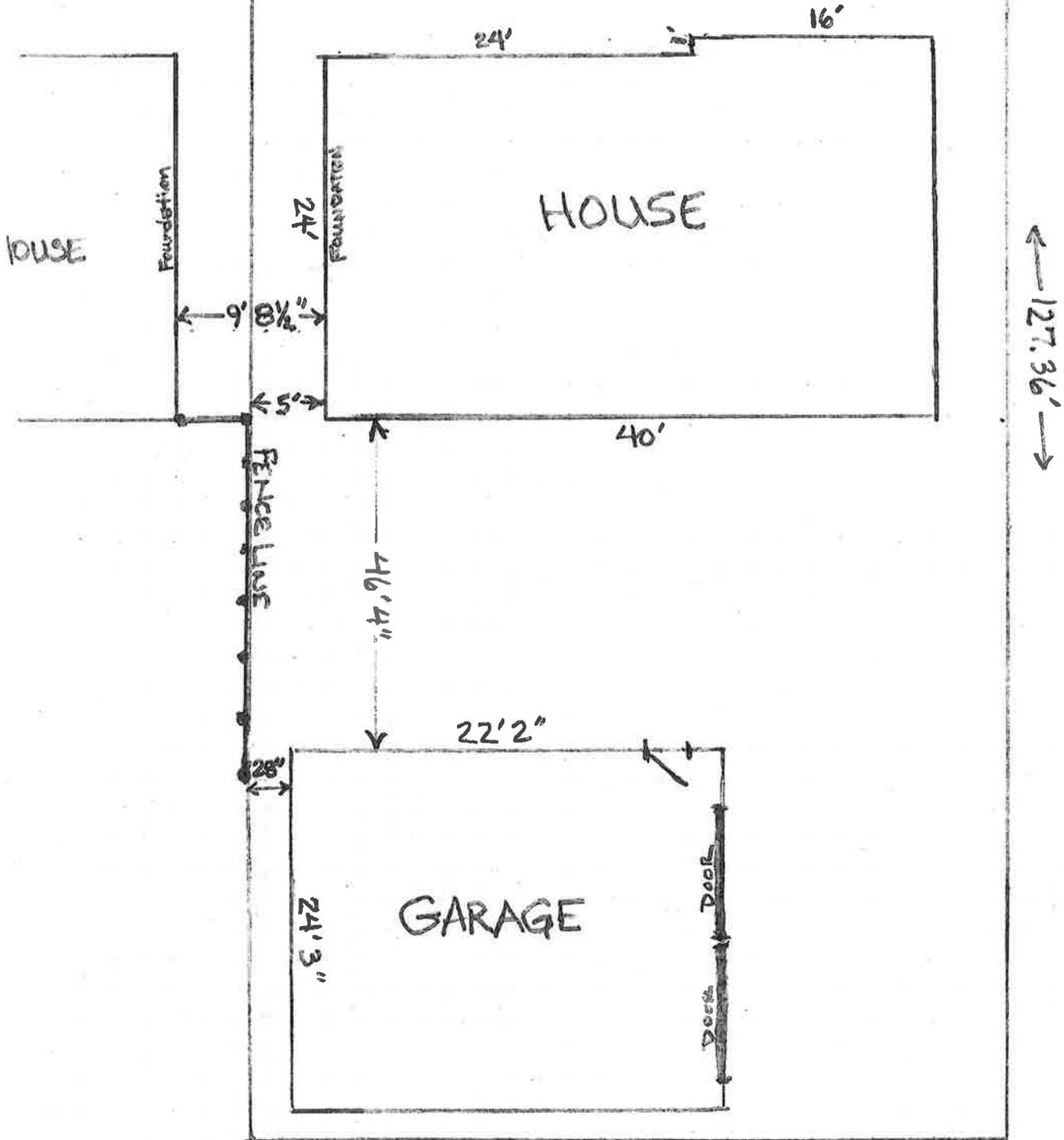


4TH AVENUE SOUTH

CURB ← 50' →

7329
LOT 17

7333
LOT 16



ALLEY WAY

STREET



NORTH

7329
LOT 17

7333
LOT 16

4'9"



← fireplace/chimney

5'4"

2'2"



BASMENT WINDOW

4'4"

15"



BASMENT WINDOW

4'4"

9'8 1/2"

40"



AC PAD

40"

SLIDING DOOR

3'9"

← 5' →

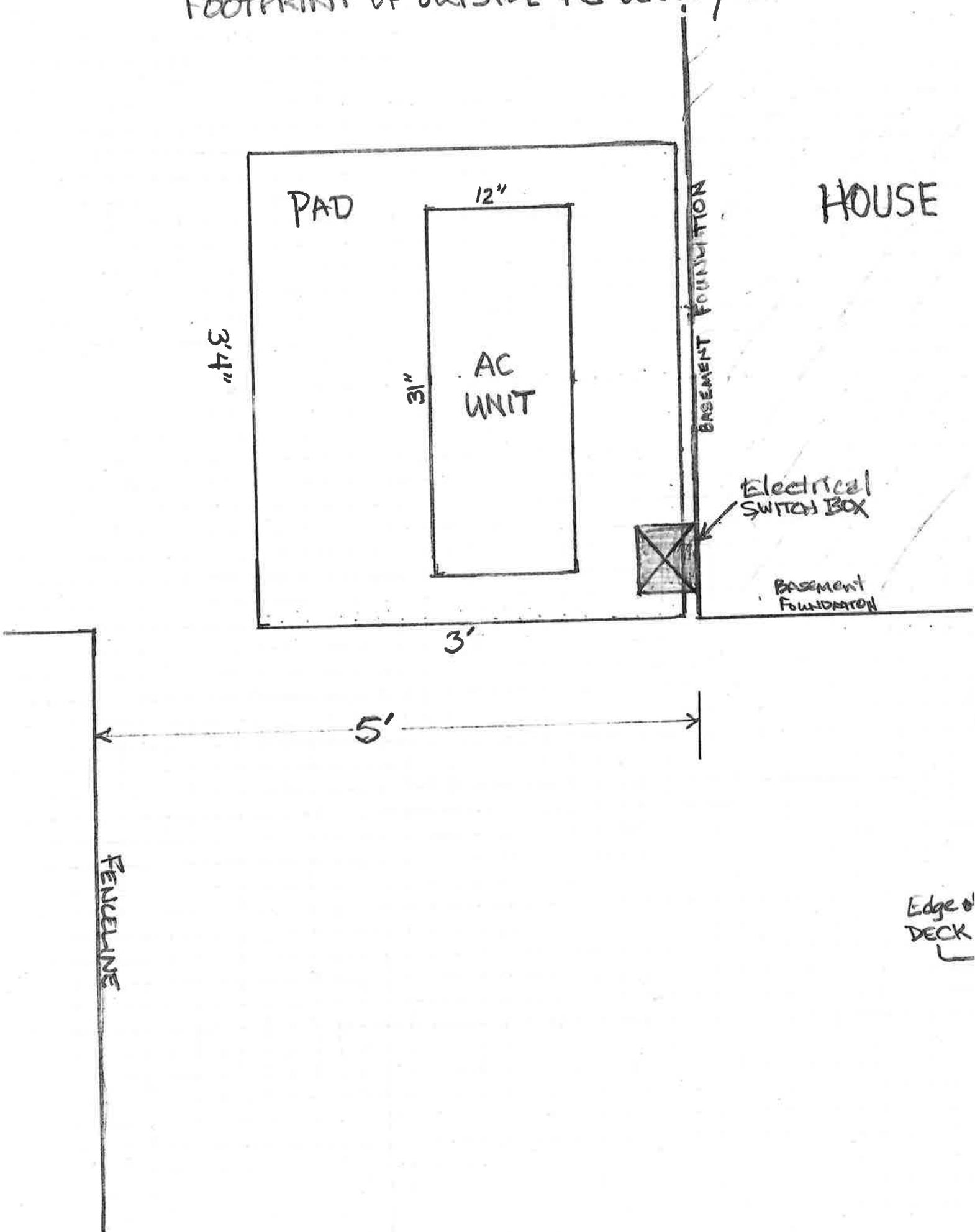


UNATTACHED DECK

BACKYARD

FENCE LINE

FOOTPRINT OF OUTSIDE AC UNIT / PAD



PAD

12"

HOUSE

3'4"

31"

AC UNIT

BASEMENT FOUNDATION

Electrical SWITCH BOX

Basement FOUNDATION

3'

5'

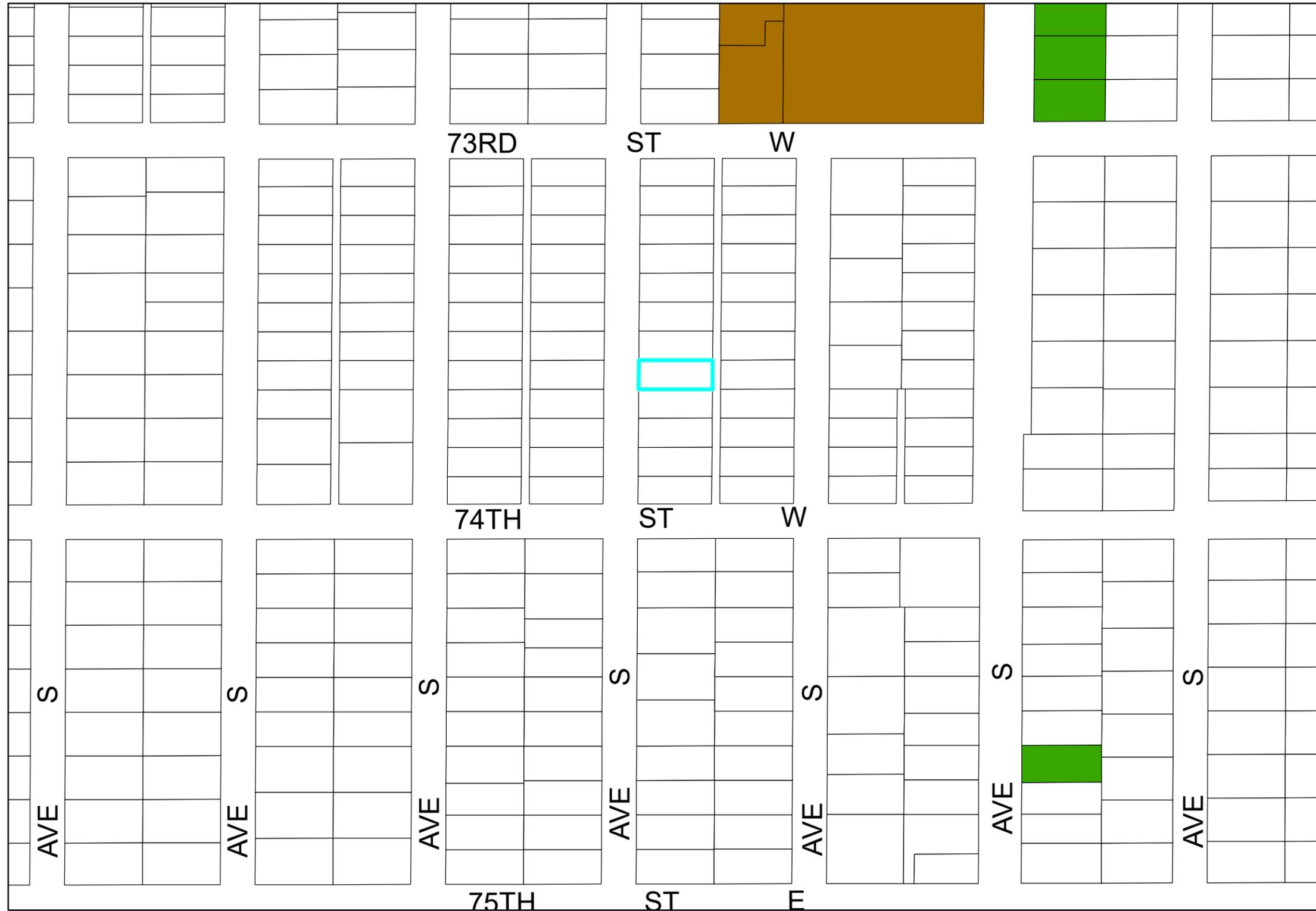
FENCELINE

Edge of DECK





Richfield Zoning Map



Context Map

-  7329 4th Ave
-  R Single-Family
-  MR-1 Two-Family
-  MR-3 High-Density Multi-Family



LAST UPDATED: 5/20/2020

