



# City of Havre de

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## DEPARTMENT OF PLANNING STAFF REPORT Board of Appeals – April 2, 2026 (Rescheduled from March 5)

**BOA CASE NO.:** 558  
**PROJECT:** Variances – Fence Exceeding Four Feet in Height/Shed in Front Yard  
**PETITIONER:** Mark Perrault – Property Owner  
**LOCATION:** 728 Water Street  
Tax Map: 601 / Parcels: 454 (the “Property”)  
**AREA:** 0.11 Acre or 4,791 square feet  
**ZONING:** RB/Residential Business



## I. Background Information

### Site Description

The Property is an 0.11-acre or 4,791 square feet irregular corner lot and relatively flat sloping towards the east with approximately 67.66 linear feet fronting Erie Street and 46.44 linear feet fronting Water Street within the City's recognized National Register Historic District. The Property contains two existing structures and a dwelling onsite. 1) A detached garage approximately 10' x 20' located in the side yard to the west; and 2) A shed, approximately 7' x 8', located in the front yard to the east towards Water Street. Vehicular access is through two paved driveways with access off of Erie Street and Water Street; and 3) A single-family detached dwelling built in 2017, according to SDAT records, to replace the former building which fronted Erie Street in Historical Plans and Imagery with a centrally located dwelling within the lot and front door facing Water Street, i.e. the 728 Water Street address. (See Attached) A fence is also present on the west and south lot line and extends from the front yard of Water Street to the rear of the Property.

## II. Applicant's Request:

The Applicant is requesting approval of two variances for 1) Fence exceeding four (4) feet in height in a front yard per [§205-9I](#) of the Zoning Code and; 2) Shed location within a front yard per [§205-9B](#) and [§205-28](#) of the Zoning Code.

## III. Analysis

### Environmental Features

The Property is located entirely within the Chesapeake Bay Critical Area IDA zone (1,000 feet buffer) and within the FEMA 100-year/500-year floodplain zones AE and X as seen on DFIRM Panel#24025C0212E, Effective 04.19.2016. There is no existing forest on the Property nor stream/non-tidal wetlands. A Forest Conservation and Landscape Plan are not required for this application and there are no known environmentally sensitive areas or rare, threatened or endangered species. (See attached)

### Zoning:

The Property is zoned RB/Residential Business, including the adjacent neighborhoods, and is intended to allow for various residential and supporting uses, defined as *"This district is comprised almost entirely of the older sections of the City. Most of it lies within the City's recognized National Historic Register District. It is diverse in character, containing the downtown commercial area, a large residential component of single-family and multifamily dwellings, and the intensely developed area (IDA) of the City's Chesapeake Bay Critical Area waterfront. It is intended to allow for compact urban residential areas with convenient public services and commercial uses that are compatible with nearby residential neighborhoods"* per §205-26A of the Zoning Code.

The Property is a corner lot, per §205-9B of the Zoning Code, which states, *"In the case of corner lots platted after the effective date of this subsection (1982), a full front yard with the required setback shall be provided on both frontages. The shortest lot line opposite the right-of-way shall be considered the rear lot line, and the longest lot line opposite the right-of-way shall be considered the side lot line."*

- B. The minimum front yard setback shall be measured from the front line to the building envelope in the following manner:
- (1) In the case of corner lots platted after the effective date of this subsection, a full front yard with the required setback shall be provided on both frontages. The shortest lot line opposite the right-of-way shall be considered the rear lot line, and the longest lot line opposite the right-of-way shall be considered the side lot line.



Corner Lot

Corner Lot, per §205-13 Definitions, is defined as, “A lot abutting on two or more roads at their intersection or upon two parts of the same road forming an interior angle of less than 135°.”

Front Lot Line is defined as, “The line separating the lot from the street right-of-way upon which it fronts. In the case of a corner or through lot, it shall be the line separating said lot from the street right-of-way as determined by the Department of Planning to be the front yard at the time of a request for a building permit.”

Front Yard is defined as, “An open space extending the full width of a lot between any part of a main building and the front lot line.”

Rear Lot Line is defined as, “The lot boundary opposite and more distant from the front lot line. In the case of a pointed or irregular lot, it shall be an imaginary line parallel to and farthest from the front lot line, not less than 10 feet long and wholly within the lot.”

Rear Yard is defined as, “An open space extending the full width of the lot between any part of a main building and the rear lot line.”

Side Lot Line is defined as, “Any lot line that is not a front lot line or a rear lot line.”

Side Yard is defined as, “An open space extending from the front yard to the rear yard between any part of a main building and the side lot line.”

The setbacks are as follows: in the case of corner lots, a full front yard shall be provided on both frontages. Two front yards extend from the building façade on the north and east side out towards Erie Street and Water Street, respectively. The side yard of the building is to the west. The rear yard is from the south line of the building between the rear and front building lines out to the property line but not to extend past the front facing, eastern most building line, towards Water Street. (see attached)

Moreso, per §205-28 of the RB Zoning Code states, “Accessory structures shall not be located in a front yard and shall not occupy more than 50% of the entire yard. Accessory structures and uses customarily incidental to any principal permitted use or conditional use shall be permitted without hearing.” Fences and sheds are accessory structures incidental to the principal use and permitted as of right in compliance with the regulations stated in the Zoning Code.

Comprehensive Plan:

The Comprehensive Plan refers to Building Codes and Zoning matters generally in relation to land uses throughout the document. Consistency with neighborhoods and streetscape is called out as important items to embrace and enhance.

Land Uses Within the Neighborhood

Across Water Street/Erie Street is a boat storage and marina including a small yoga studio. To the north is the Havre de Grace Lock House Museum and sewer pumping station. To the south and west is more single-family residential with accessory structures. Further south is a Seafood Restaurant, public parking lot and public park/boat ramp. The existing land uses, including accessory uses, on the Property are consistent with the Applicants' proposal and typical for surrounding neighborhoods. However, Fences and Sheds must comply with zoning regulations specified therein. The existing six-foot solid fence located in the Water Street front yard exceeds the permitted four-feet in height limit for front yards per §205-9I(6)(b) of the Zoning Code. The existing shed located in the Water Street front yard is not permitted per §205-28 of the Zoning Code. Although, both are incidental accessory structures of residential subdivisions and permitted as of right, a variance approval by the Board of Appeals is necessary to proceed as requested by the Applicant. See response below.

**IV. Findings:** Detailed Analysis and Response Below Provided by Department of Planning Staff  
(Applicant Response Provided as Attachment 5)

**Section 25-17(C): Variance – Fence & Shed**

*A variance from the terms of this article may be authorized by the Board of Appeals upon proof by the evidence of record. If a conflict between this statute and state law exists, the state law prevails. The Board shall not grant a request for a variance unless the Board finds:*

*1) Because of certain unique physical conditions, such as irregularity, narrowness or shallowness of lot size and shape, or exceptional topographical conditions peculiar to and inherent in the particular lot, there is no reasonable possibility in pursuing the proposed use or developing the lot in strict conformance with zoning regulations;*

The Property is a corner lot that is substandard to the 5,000 square foot minimum lot size and is slightly irregular. However, these physical conditions are not unique to the Property, as there are many lots in the vicinity with similar characteristics. Additionally, the Property is developed with a single-family detached home that was constructed in 2017 and the fences/accessory structures on the Property complied with the height/setback requirements until the recent expansion. An open fence four feet in height is permitted without a variance in the front yard. Therefore, strict conformance with the zoning regulations has not prevented “reasonable” use and development of the lot, since it is developed with a single-family detached home with multiple accessory structures.

*2) Because of exceptional circumstances other than financial considerations, the granting of a variance is necessary to avoid practical difficulties or unnecessary hardship, and to enable the applicant to pursue the proposed use or development of the lot;*

The Property is developed with a single-family detached home with multiple accessory structures. Therefore, use and development of the lot has occurred without the need for a variance.

*3) That literal enforcement of the ordinance would result in practical difficulty or unreasonable hardship;*

The Property is developed with a single-family detached home with multiple accessory structures. An open fence four feet in height is permitted without a variance in the front yard. Therefore, the enforcement of zoning regulations does not deprive the property owner of reasonable use of the property or result in practical difficulty/unreasonable hardship.

*4) Granting the relief requested would not do substantial injury to the public health, safety and general welfare and is the minimum necessary relief to permit the petitioners' use or development of the lot;*

As stated above, the zoning regulations afford the petitioner reasonable use of the lot; therefore, relief is not warranted.

Department of Planning  
BOA Staff Report  
728 Water Street  
Variance – Fence & Shed

**RECOMMENDATION**

The Department of Planning has examined the appropriateness of the petitioner’s request and per §25-16E of the City Code recommends **DENIAL** for the **variance** requests for a fence exceeding four feet in height and a shed in the front yard on the Property located at 728 Water Street for the reasons found in the above analysis.

Sincerely,

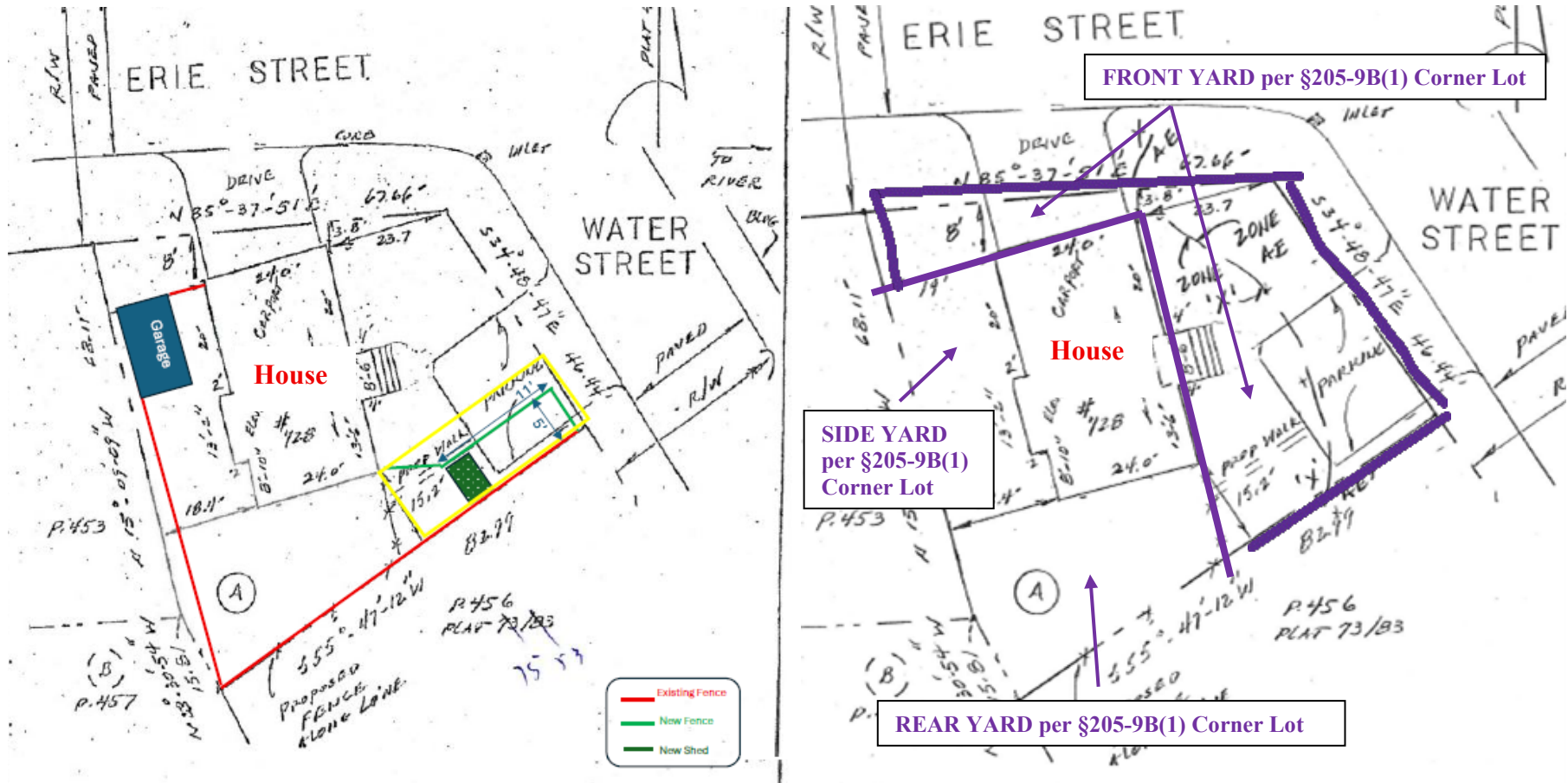
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Eric V. Lawrence, MLA & MUDP    Date  
City Planner / Project Manager  
Department of Planning

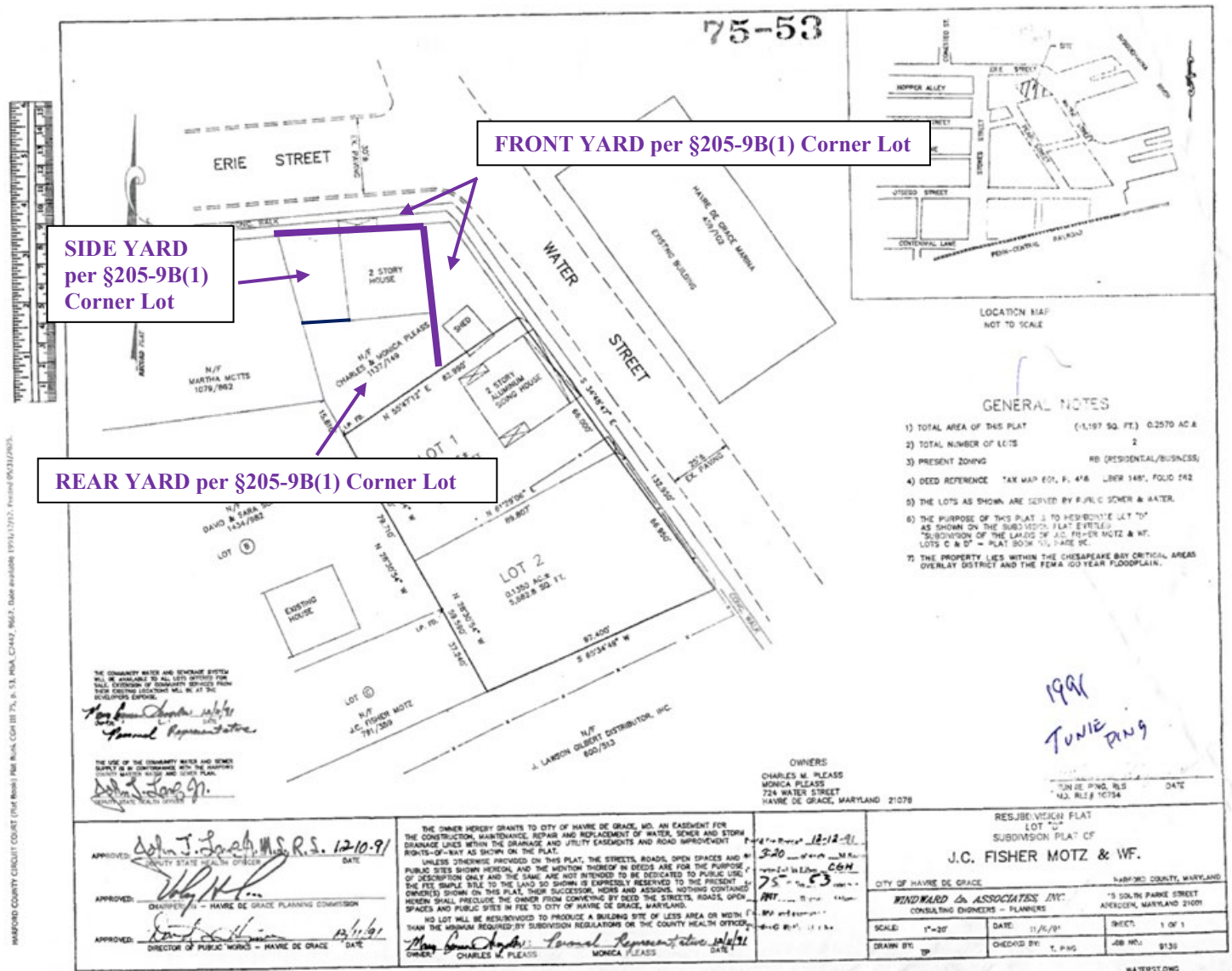
cc: Board of Appeals Members  
Department of Planning Staff  
Department of Public Works Staff  
City Administration Staff  
City Attorney

Mark Perrault, Property Owner

### ATTACHMENT 1.A – SITE PLAN



ATTACHMENT 1.B – SITE PLAN

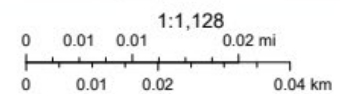
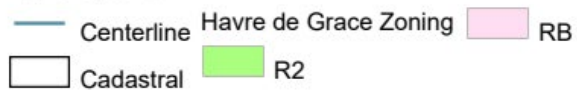


### ATTACHMENT 2 – ZONING MAP

728 Water Street



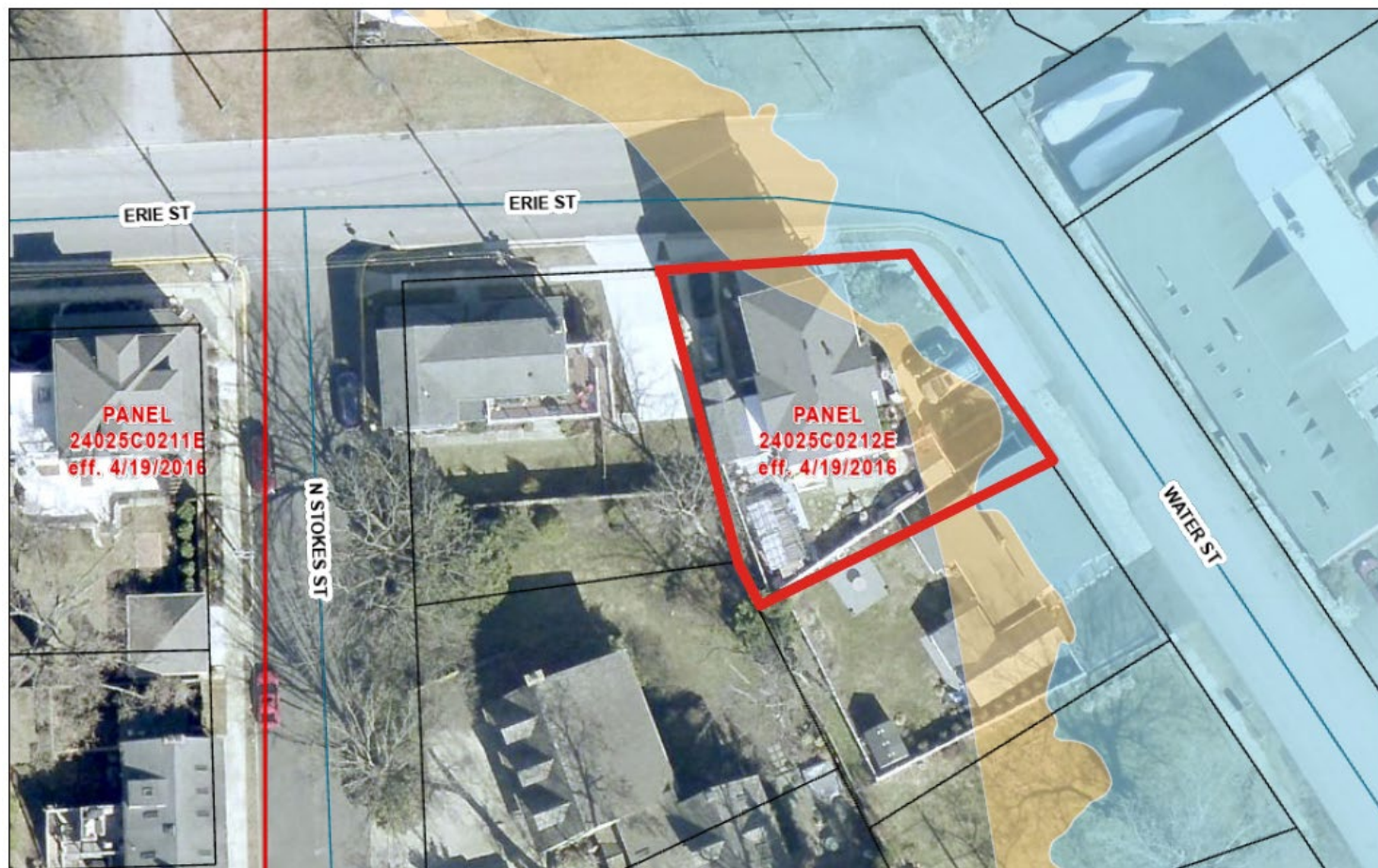
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Sources: Esri, Vantor, Airbus DS, USGS, NGA, NASA, CGIAR, N Robinson, NCEAS, NLS, OS, NMA, Geodatasyrelsen, Rijkswaterstaat, GSA, Geoland.

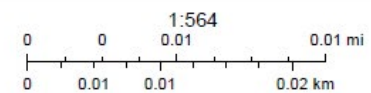
### ATTACHMENT 3 - HYDROLOGY

728 Water Street



1/9/2026, 9:38:11 AM

- Centerline
- 0.2 PCT ANNUAL CHANCE FLOOD HAZARD
- Cadastral
- 100 Year Flood Zone
- DFIRM Panel
- AE



Sources: Esri, Vantor, Airbus DS, USGS, NGA, NASA, CGIAR, N Robinson, NCEAS, NLS, OS, NMA, Geodatastyrelsen, Rijkswaterstaat, GSA, Geoland,

**ATTACHEMNT 4.a – SITE PHOTOS**



**ATTACHEMNT 4.b – APPLICANTS SITE PHOTOS**



## ATTACHMENT 5.a – APPLICANTS RESPONSE

C. Variances. A variance from the terms of this article may be authorized by the Board of Appeals upon proof by the evidence of record. If a conflict between this statute and state law exists, the state law prevails. The Board shall not grant a request for a variance unless the Board finds:

(1) Because of certain unique physical conditions, such as irregularity, narrowness or shallowness of lot size and shape, or exceptional topographical conditions peculiar to and inherent in the particular lot, there is no reasonable possibility in pursuing the proposed use or developing the lot in strict conformance with zoning regulations; and

Our residential lot is .110 acres in size and is a corner lot, bordered by Erie and Water Streets. There is very little outdoor space to the south and west sides of the home. Every square foot is a precious commodity.

Our neighbor's home at 724 Water Street is set on the east side of the lot, abutting the sidewalk, with no front yard. There is an existing fence on the boundary line between the homes and it runs forward to the front edge of their home. We have placed our front fence panel immediately adjacent to and in line with their fence panel in an effort to make it the most aesthetically pleasing. We have also matched the material, height, and color of the fencing on the boundary line and our neighbors front fence panel (see attached pictures).

We have enclosed the southeast corner of our lot with fencing to allow us to store our yard equipment, sports equipment, and trashcans out of sight. We have placed a small (7x8) composite shed in the enclosed area to store household items for our daughter while she is assigned to a job in Alaska. The shed is the same style and aesthetic of the house in an effort to blend in.

The intention of putting the fence up and shed behind it was to present a more pleasing vista to the constant stream of visitors to the city that ride on the trolley, walk into events like First Fridays, or walk into the festivals hosted at the Lockhouse Museum.

## ATTACHMENT 5.b – APPLICANTS RESPONSE

(2) Because of exceptional circumstances other than financial considerations, the granting of a variance is necessary to avoid practical difficulties or unnecessary hardship, and to enable the applicant to pursue the proposed use or development of the lot; and

In our limited outdoor space, we have had to install a therapy spa on the west side of the property to aid one of our family members with their health issues. This makes the space on the south east corner of the property the only usable space for storing the outdoor sports equipment also used for therapy.

(3) That literal enforcement of the ordinance would result in practical difficulty or unreasonable hardship; and

If required to move our shed and/or fence, we would no longer have the secure space to store outdoor sports equipment. Without a fence in the area, the outdoor sports equipment would be subject to theft and/or vandalism.

(4) Granting the relief requested would not do substantial injury to the public health, safety and general welfare and is the minimum necessary relief to permit the petitioners' use or development of the lot.

The relief requested would in no way impact the public health, safety, or general welfare. We are not requesting to enclose the entire outdoor space of our home, only the space necessary for secure storage of our outdoor items.