





# DEVELOPMENT APPLICATION

Community Development Department  
 250 North 5th Street, Grand Junction, CO 81501  
 (303) 244-1430

Receipt 2489  
 Date 6-14-95  
 Rec'd By me  
 File No. VAR-95-112

We, the undersigned, being the owners of property situated in Mesa County, State of Colorado, as described herein do hereby petition this:

PETITION	PHASE	SIZE	LOCATION	ZONE	LAND USE
<input type="checkbox"/> Subdivision Plat/Plan	<input type="checkbox"/> Minor <input type="checkbox"/> Major <input type="checkbox"/> Resub				
<input type="checkbox"/> Rezone				From: To:	
<input type="checkbox"/> Planned Development	<input type="checkbox"/> ODP <input type="checkbox"/> Prelim <input type="checkbox"/> Final				
<input type="checkbox"/> Conditional Use					
<input type="checkbox"/> Zone of Annex					
<input checked="" type="checkbox"/> Variance				PR	SFR
<input type="checkbox"/> Special Use					
<input type="checkbox"/> Vacation					<input type="checkbox"/> Right-of Way <input type="checkbox"/> Easement
<input type="checkbox"/> Revocable Permit					

PROPERTY OWNER       DEVELOPER       REPRESENTATIVE

BRADLEY J AND LESLIE A SCHAEFER  
 Name Name Name  
430 1/2 E PROSPECTORS POINT  
 Address Address Address  
GRAND JUNCTION CO 81503  
 City/State/Zip City/State/Zip City/State/Zip  
(970) 248-8144      (970) 241-1519  
 Business Phone No. Business Phone No. Business Phone No.  
 HOME

NOTE: Legal property owner is owner of record on date of submittal.

We hereby acknowledge that we have familiarized ourselves with the rules and regulations with respect to the preparation of this submittal, that the foregoing information is true and complete to the best of our knowledge, and that we assume the responsibility to monitor the status of the application and the review comments. We recognize that we or our representative(s) must be present at all required hearings. In the event that the petitioner is not represented, the item will be dropped from the agenda, and an additional fee charged to cover rescheduling expenses before it can again be placed on the agenda.

Bradley J. Schaefer      June 11, 1995  
 Signature of Person Completing Application Date

Leslie A. Schaefer      June 11, 1995  
 Signature of Property Owner(s) - attach additional sheets if necessary Date

# CITY OF GRAND JUNCTION PETITION FOR VARIANCE

DATE RECEIVED: 6-13-95

FILE NO. VAR-95-112

RECEIVED BY: MR

RECEIPT NO. 2489

PROPERTY OWNER: BRADLEY J. AND LESLIE A. SCHAEFER

MAILING ADDRESS: 430 1/2 E. PROSPECTORS POINT

PHONE: (HOME) (970) 241-1519 (WORK) (970) 248-8144

I (We), the undersigned, hereby petition for a variance on the property located at:

ADDRESS: SAME AS ABOVE

TAX SCHEDULE #: 2945-174-29-033 ZONE CLASSIFICATION: PR

1. Section(s) of the City of Grand Junction Zoning and Development Code which are requested to be varied:

10-1-1-B. 2.

I (WE) HEREBY ACKNOWLEDGE THAT WE HAVE FAMILIARIZED OURSELVES WITH THE RULES AND REGULATIONS WITH RESPECT TO THE PREPARATION OF THIS SUBMITTAL, THAT THE FOREGOING INFORMATION IS TRUE AND COMPLETE TO THE BEST OF OUR KNOWLEDGE, AND THAT WE ASSUME RESPONSIBILITY TO MONITOR THE STATUS OF THE APPLICATION. WE RECOGNIZE THAT WE, OURSELVES, OR OUR REPRESENTATIVE MUST BE PRESENT AT ALL HEARINGS. IN THE EVENT THAT THE PETITIONER IS NOT REPRESENTED, THE ITEM WILL BE DROPPED FROM THE AGENDA, AND AN ADDITIONAL FEE CHARGED TO COVER RESCHEDULING EXPENSES BEFORE IT CAN AGAIN BE PLACED ON THE AGENDA.

Bradley J. Schaefer  
Signature of Property Owner

JUNE 11, 1995  
Date

Leslie A. Schaefer  
Signature of Joint Property Owner (if applicable)

June 11, 1995  
Date

**APPLICATION FOR VARIANCE  
GENERAL PROJECT REPORT**

Petitioners: Brad and Leslie Schaefer

Address: 430 1/2 E. Prospector's Pt.  
Grand Junction, CO 81503

Description of Requested Variance:

A variance is requested to grant relief from the 30 inch, maximum fence height requirement within the 20 foot, front set-back area of the property. As proposed, a cedar privacy fence would be constructed along the side property line dividing lots 33A and 34A of the Ridges Filing No. Six, Block Nine (also known as 430 1/2 and 432 E. Prospector's Pt. respectively). The fence would be constructed 54 inches high at the front property line (which is set-back approximately 10 1/2 feet from the street), taper up to 72 inches high in the first ten (10) feet of length and maintain this height extending to the rear property line. An illustration of this construction is provided in the attached letter to the Ridges Subdivision, Architectural Control Committee. A building permit has been issued for the portions of the fence within code. The variance only pertains to the proposed construction within the twenty (20) foot set-back area.

Considerations:

The city does not have an adopted comprehensive plan, therefore, granting of the variance will not conflict with the public interest as expressed by such.

Our home is situated on a small (60' X 100') lot which provides only minimal outdoor space for private enjoyment. We have no backyard and the side yards are narrow. The close proximity of the adjacent house tends to make the two properties 'run together'. Building a fence along the common line is intended to provide physical and visual separation between the two properties to facilitate the creation of outdoor private space. The area within the twenty foot set-back represents the largest outdoor space on the property and thus offers the most opportunities for private enjoyment. A 30 inch high fence per code would do little to promote privacy. The height variance and the intended fence design would promote the desired privacy without detracting from the esthetics of the neighborhood.

The requested variance would also provide visual relief from the adjoining property. The adjacent neighbor poured a concrete slab, parallel to the existing, double width driveway to accommodate additional vehicle parking. This slab extends to the common property line and is used to park a pick-up camper and frequently a Public Service Utility (Boom) truck. We recognize that the additional parking capacity is a convenience for the neighbor, however, it creates an unsightly 'parking lot' effect which severely limits enjoyment of our property. Permission to construct the fence as proposed would increase our sense of privacy by isolating ourself from the busy scene next door. This effect is felt from inside our home as well. One of the most attractive areas in our home (for personal enjoyment as well as entertaining guests) is the breakfast nook which over looks the street view. The close proximity to and busy appearance of the 'parking lot' detracts from the peaceful, quiet atmosphere in this focal area of our home. The height variance would provide visual separation and promote greater enjoyment of our property, both inside and out.

Granting of this variance will not be detrimental to public health, safety or welfare due to the physical layout of the street and adjoining properties. East Prospector's Point is not a busy thoroughfare, but rather a quiet street which services the residences of an isolated area. The proposed fence will extend along the side property line which is 10 1/2 feet removed from the street at the closest point. Further, the street curves away from our and adjacent properties as shown on the attached plot view of the Ridges Filing No. Six. Because of the 10 1/2 foot setback and curvature of the street, the variance request will not adversely restrict viability of traffic traveling in either direction. The setback and proposed, tapered fence design would provide adequate visibility of vehicles and activities entering the street from the property adjacent to the fence. Since requested variance only applies along the side property line, it will not restrict the view of the house from the street.

The requested variance is necessary to establish separation from the adjoining property and facilitate privacy. Lack of privacy not only affects our quality of life, but also reduces the property value to prospective buyers.

The requested variance will not be injurious to, or reduce the value of adjacent properties or improvements. The proposed fence is consistent with local guidelines pertaining to design and materials. We have discussed the proposed fence design and variance request with the property owners who share the common border. It is our understanding from this conversation, that

they support our request. We have also had similar discussions with the owners of the next three closest properties without objections. Further, granting this variance will not create a 'permanent' structure which would adversely impact future improvements to this area.

A letter was submitted to the Ridges Architectural Control Committee requesting their approval of the proposed fence layout and design. Our request was approved as of 2/29/95. A copy of the approved request is attached to this application.

Barbara J. Sun 6-11-95

Leslie Schaefer 2/11/95

February 19, 1995

Architectural Control Committee  
Ridges Subdivision  
Grand Junction, CO 81503

Dear Committee Members:

**NEW PRIVACY FENCE APPROVAL REQUEST**

Attached are two sketches illustrating the plans for a new privacy fence to be installed along the west property line of lot 33A (430 1/2 E. Prospectors' Point). Sketch 1 is an overview of the property and shows the intended position of the proposed fence.

The structure will start at the indicated property marker (approximately 10' 8" from the street) and continue to the rear property marker. Per sketch 2, the fence will be approximately 4' 6" above the existing grade at the front most point. The fence will taper to approximately 6' 0" high over the next 10' and will maintain that height to the rear property marker.

The fence will be constructed of cedar. Supporting posts will be secured in concrete or compacted soil.

If you have any questions, we can be contacted at 241-1519. Thank you for your consideration.

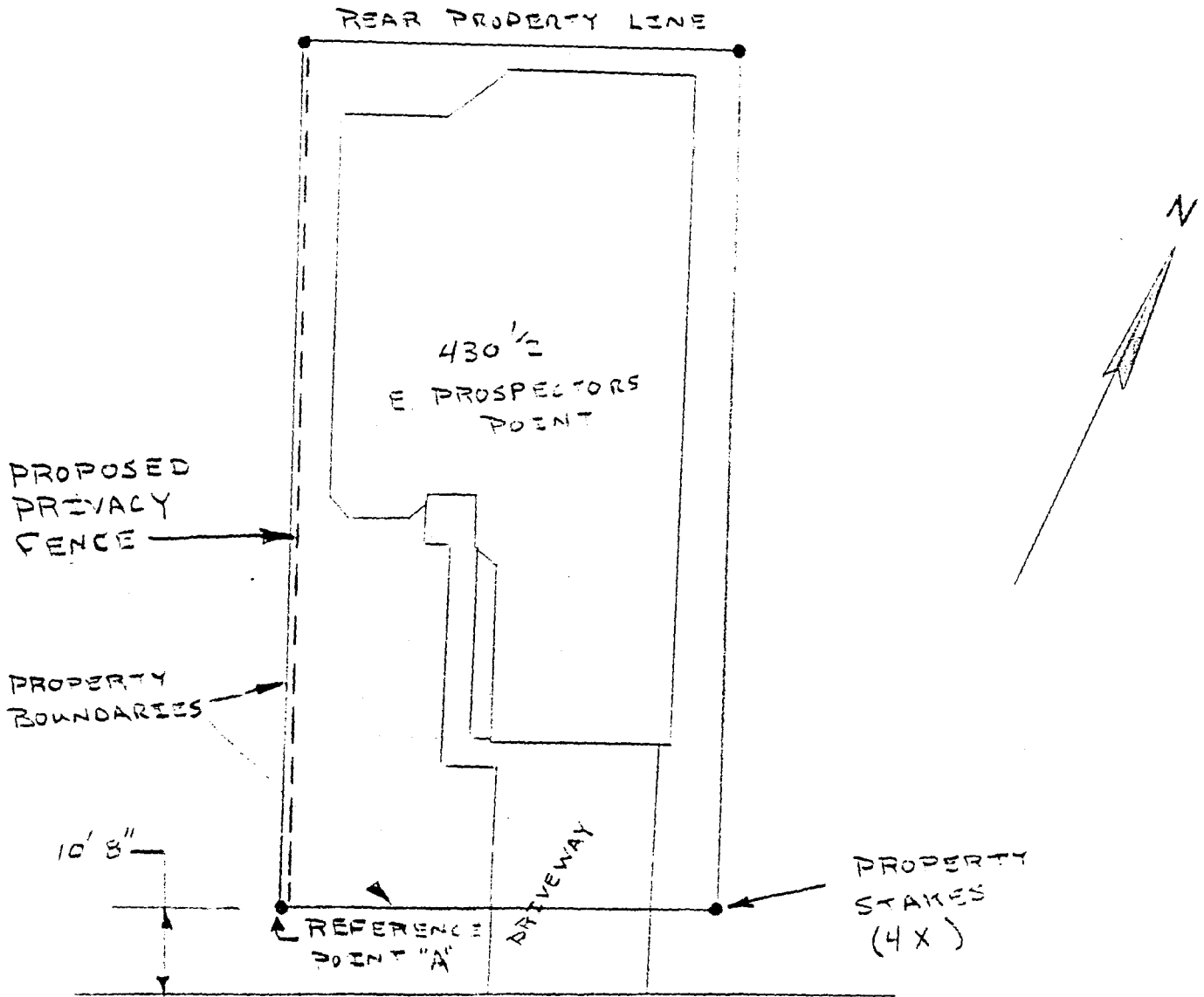
Cordially,

*Leslie Schaefer*  
*Brad Schaefer*

Brad and Leslie Schaefer

APPROVED Ridges Architecture  
Control Committee

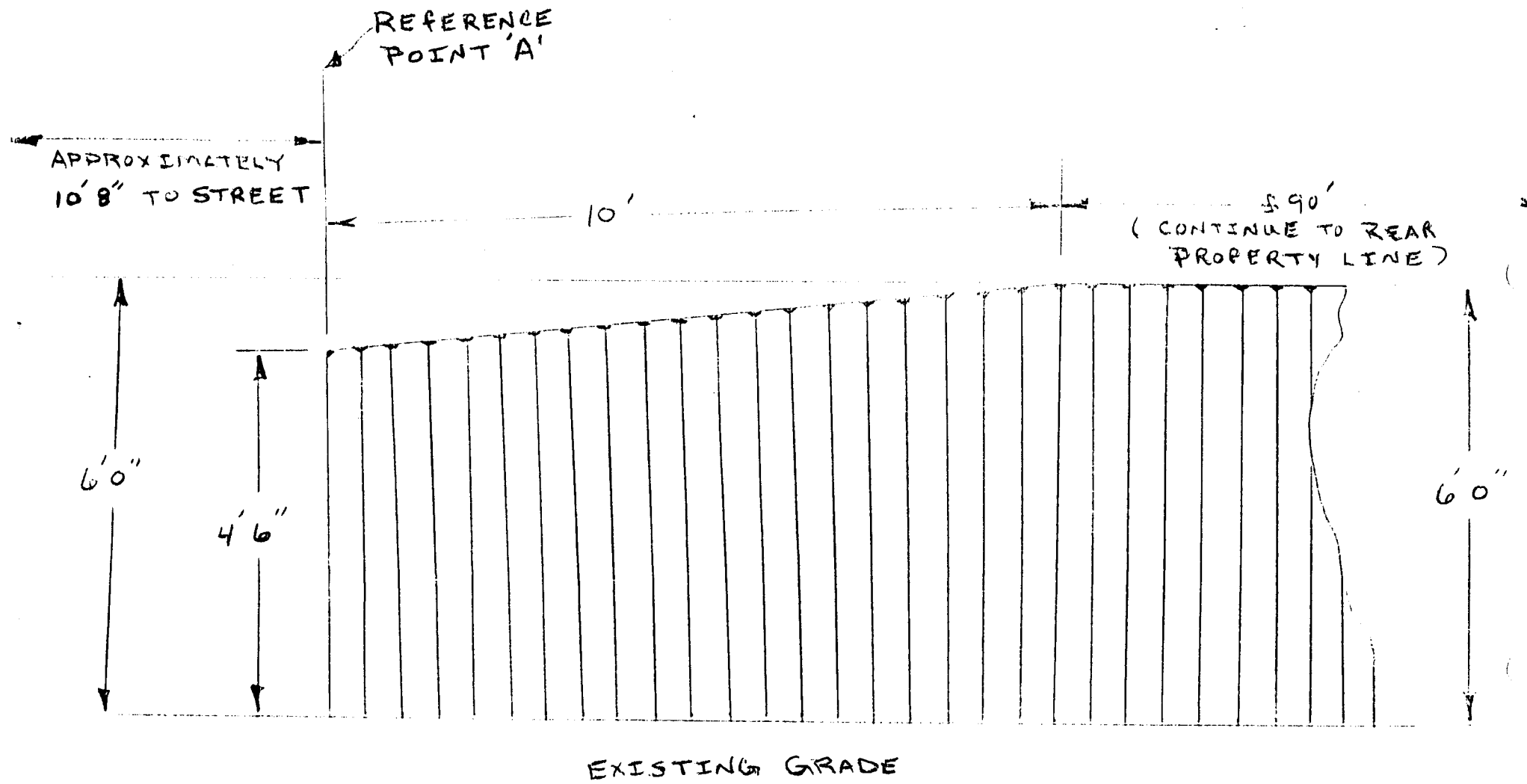
*[Signature]*  
2/22/95  
*[Signature]*



E. PROSPECTORS POINT



SKETCH 2



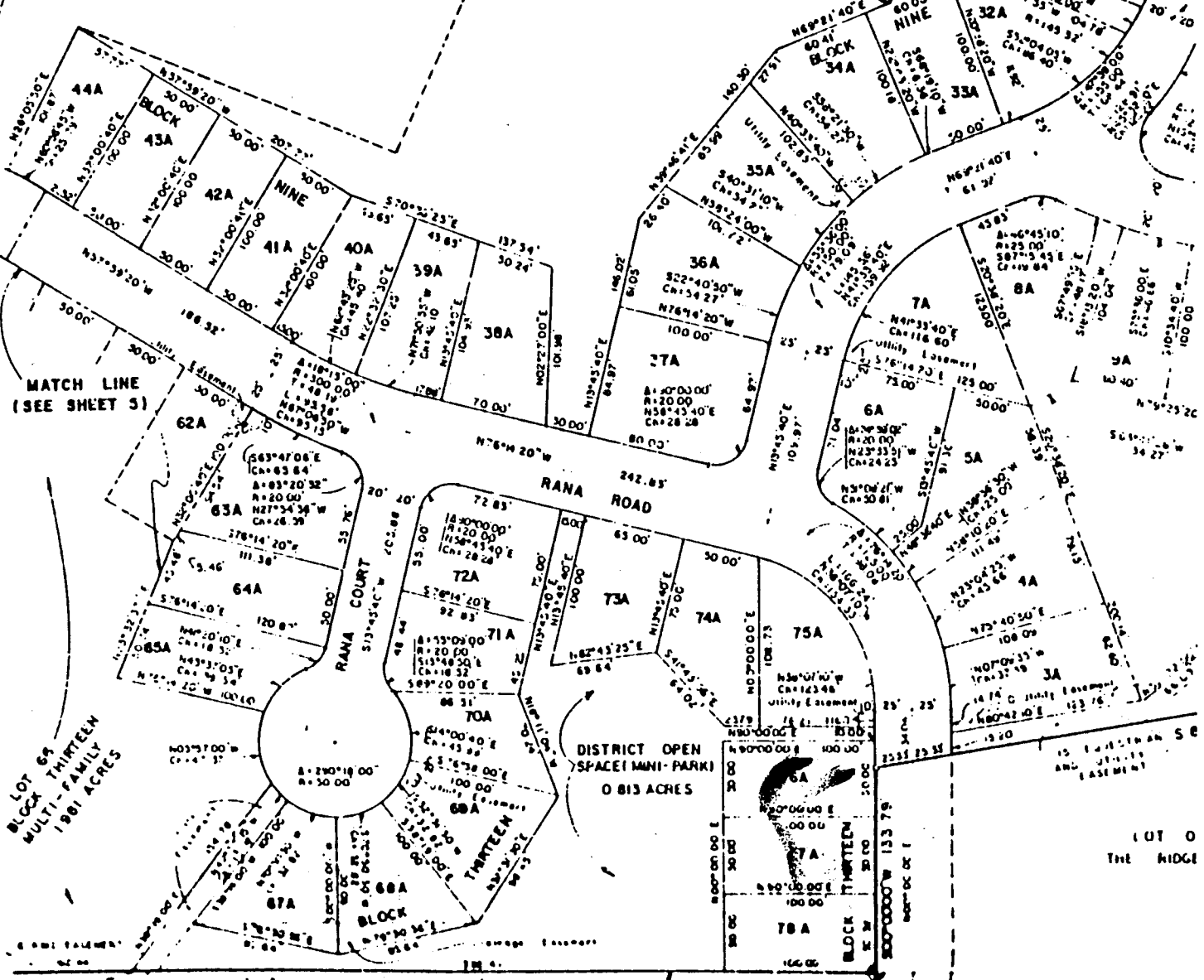
# THE RIDGES FILING NO. SIX

- NOTES
1. USES ALLOWED WILL BE IN ACCORDANCE WITH COVENANTS RECORDED. NECESSARY INTERPRETATIONS WILL BE MADE BY THE RIDGES METROPOLITAN DISTRICT OR THE ARCHITECTURAL CONTROL COMMITTEE.
  2. A IRRIGATION AND/OR WATER EASEMENT IS HEREBY GRANTED TO THE RIDGES METROPOLITAN DISTRICT ON ALL LOT LINES AND MAY BE IN WHOLE OR IN PART OR ANY PORTION THEREOF RELEASED BY THE RIDGES METROPOLITAN DISTRICT AT SOME FUTURE DATE AT THEIR DISCRETION.
  3. ALL MULTI-FAMILY AREAS ARE TO BE DEVELOPED THROUGH COUNTY PROCESSES AND REGULATIONS, NUMBER OF UNITS PER ACRE IS VARIABLE.
  4. PRINCIPLE BUILDINGS WILL REQUIRE AN ENGINEERED FOUNDATION, BASED ON A SOIL INVESTIGATION, PRIOR TO ISSUANCE OF A BUILDING PERMIT.
  5. A TEN FOOT WIDE UTILITY EASEMENT IS PROVIDED ACROSS ALL "A" LOTS, ADJACENT AND PARALLEL TO ALL ROADS AND CUL-DE-SACS.

MATCH LINE  
(SEE SHEET 4)

DISTRICT OPEN SPACE  
25.353 ACRES

LOT 45 BLOCK NINE  
MULTI-FAMILY  
7.641 ACRES



MATCH LINE  
(SEE SHEET 3)

LOT 69  
BLOCK THIRTEEN  
MULTI-FAMILY  
1.981 ACRES

DISTRICT OPEN SPACE (MINI-PARK)  
0.813 ACRES

LOT 0  
THE RIDGE

DATE OF THE SURVEY METHOD OF SURVEY MADE BY ENGINEER

RIDGE DRIVE

POINT OF BEGINNING

Larry P Bunnell  
Judith E  
432½ Prospectors Pt  
Grand Junction, CO 81503-0000

Helen E Booth  
411½ PROSPECTORS Pt  
Grand Junction, CO 81503

James Emmons  
Janet  
PO Box 1623  
Grand Junction, CO 81502-1623

Marvin D Stevenson  
Chalon N Stevenson  
411 Prspector Pt  
Grand Junction, CO  
81503-1527

Richard D Genova  
2234 Rimrock Rd  
Grand Junction, CO 81503-1177

Deena R Fimbres  
1111 Horizon Dr Apt 112  
Grand Junction, CO  
81506-1452

Douglas A Thomason  
Donna K Aichele  
575 28½ RD Apt 51  
Grand Junction, CO 81501-6877

Michael L Michalke  
Shelley K  
431 Prospectors Pt  
Grand Junction, CO 81503

Jerald Catt  
Diane L  
PO Box 4266  
Grand Junction, CO 81502-4266

Dorothy L Stewart  
421½ Prospectors Pt  
Grand Junction, CO 81503

John D Cain  
Vera L  
404 Prospectors Pt  
Grand Junction, CO 81503

Jean A Wilson  
2090 Hodesha Way  
Grand Junction, CO  
81503-1049

William H Odell  
Julie C Odell  
406 Prospectors Pt  
Grand Junction, CO 81503

James D Pulsipher  
526 Tiara Dr  
Grand Junction, CO  
81503-9762

Janet L Nelson  
408 Prospectors Pt  
Grand Junction, CO 81503-1580

Richard A Provenza  
Mary Jane Provenza  
1043 Rowland Ave  
Camarillo, CA 93010-4568

Mary F Roberts  
410 Prospectors Pt  
Grand Junction, CO 81503-1580

Paul Lloyd Kuntz  
Dolores Elnora Kuntz-  
Trustees  
27970 RCR 18  
Steamboat Springs, CO  
80487

Bill R Clevenger  
Linda Diane  
532 Grand Valley Drive  
Grand Junction, CO 81504-5786

Steven L Ausmus  
426 Prospectors PT  
Grand Junction, CO 81503

Gregory Gumnor  
Barbara L Gumnor  
428 Prospectors Pt  
Grand Junction, CO 81503-1529

Patrick M Still  
Nancy J Still  
430 Prospectors Pt  
Grand Junction, CO 81503-1578

Thomas M Tribble  
Joan E  
10223 Farralone Ave  
Chatsworth, CA 91311

Justin W Tate  
Pamela A  
432 Prospectors Pt  
Grand Junction, CO 81503

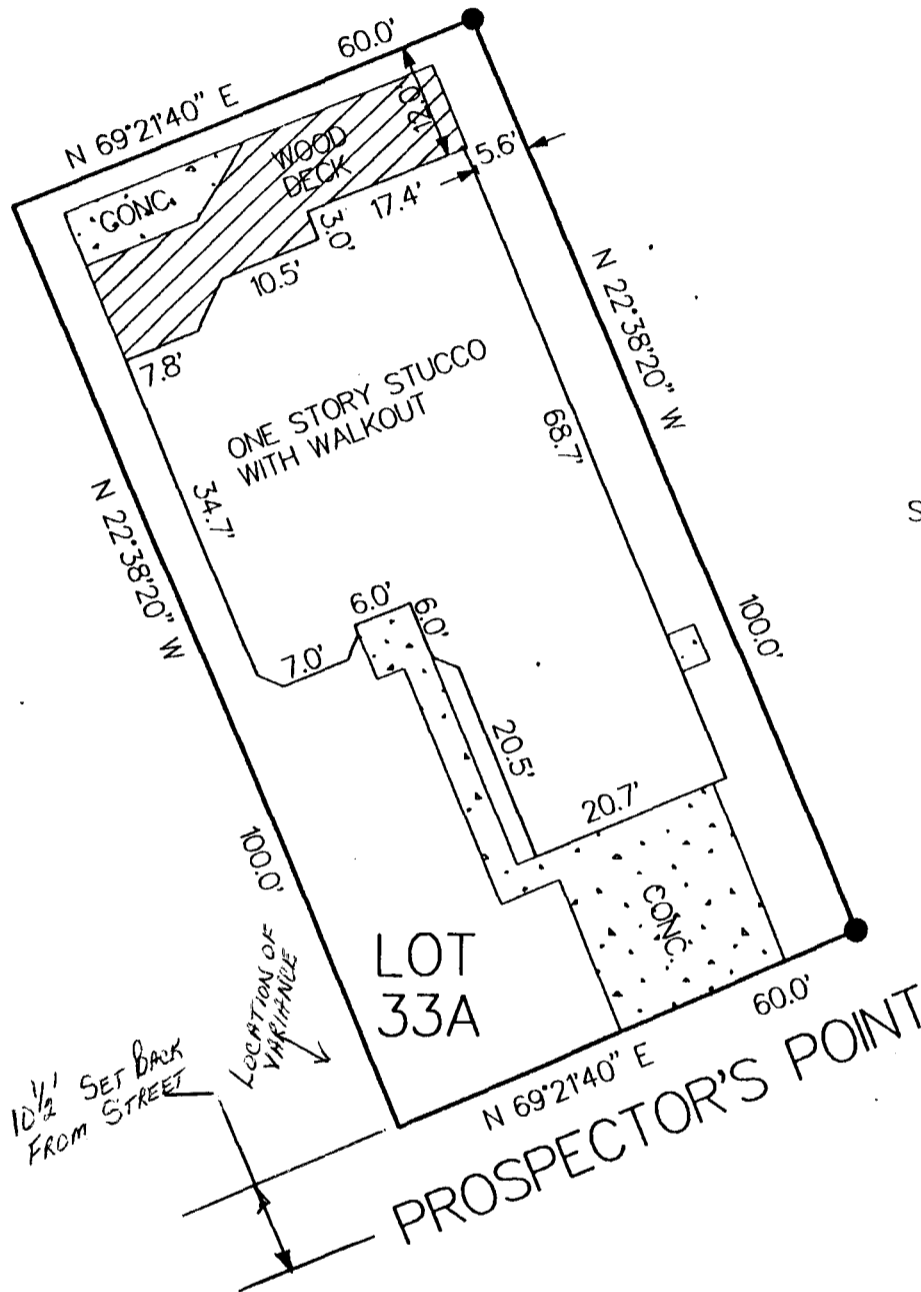
Gary G Stubler  
Patti Lynn Stubler  
2374 Rana Rd  
Grand Junction, CO 81503-1584

City of Grand Junction  
250 N 5th St  
Grand Junction, CO 81501-2628

# IMPROVEMENT LOCATION CERTIFICATE

430 1/2 EAST PROSPECTOR'S POINT

SCHAEFER ACCT.  
 AMERICAN LAND TITLE #ALTC-7765  
 LOT THIRTY-THREE A (33A) IN BLOCK NINE (9) OF THE RIDGES, FILING #6, ACCORDING TO  
 THE OFFICIAL PLAT THEREOF RECORDED IN PLAT BOOK 13, AT PAGE 386, OFFICIAL RECORDS  
 OF MESA COUNTY, COLORADO.



SCALE: 1" = 20'

NOTE: THIS PROPERTY DOES NOT FALL WITHIN ANY 100 YEAR FLOODPLAIN.

I HEREBY CERTIFY THAT THIS IMPROVEMENT LOCATION CERTIFICATE WAS PREPARED FOR UNIFIRST MORTGAGE - LORI, THAT IT IS NOT A LAND SURVEY PLAT OR IMPROVEMENT SURVEY PLAT, AND THAT IT IS NOT TO BE RELIED UPON FOR THE ESTABLISHMENT OF FENCE, BUILDING OR OTHER FUTURE IMPROVEMENT LINES. I FURTHER CERTIFY THE IMPROVEMENTS ON THE ABOVE DESCRIBED PARCEL ON THIS DATE, 8/4/93 EXCEPT UTILITY CONNECTIONS, ARE ENTIRELY WITHIN THE BOUNDARIES OF THE PARCEL, EXCEPT AS SHOWN, THAT THERE ARE NO ENCROACHMENTS UPON THE DESCRIBED PREMISES BY IMPROVEMENTS ON ANY ADJOINING PREMISES, EXCEPT AS INDICATED, AND THAT THERE IS NO EVIDENCE OR SIGN OF ANY EASEMENT CROSSING OR BURDENING ANY PART OF SAID PARCEL, EXCEPT AS NOTED.

● = FOUND PIN

*Kenneth L. Glenn*  
 KENNETH L. GLENN R.L.S. 12770



**SURVEYIT**



by **GLENN**

MAILING:  
 2004 NORTH 12th  
 SUITE 7  
 GRAND JUNCTION, CO. 81501

PHONE: 303-245-3777      FAX: 241-4847

SURVEYED BY: B.H.

DATE SURVEYED: 8/4/93

DRAWN BY: J.G.

DATE DRAWN: 8/4/93

REVISION:

SCALE: 1" = 20'

# REVIEW COMMENTS

Page 1 of 2

FILE #VAR-95-112

TITLE HEADING: Variance - Fence Height in Front  
Yard Setback

LOCATION: 430 1/2 E. Prospector's Point

PETITIONER: Brad & Leslie Schaefer

PETITIONER'S ADDRESS/TELEPHONE: 430 1/2 E. Prospector's Point  
Grand Junction, CO 81503  
241-1519

STAFF REPRESENTATIVE: Mike Pelletier

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**NOTE: THE PETITIONER IS REQUIRED TO SUBMIT FOUR (4) COPIES OF WRITTEN RESPONSE AND REVISED DRAWINGS ADDRESSING ALL REVIEW COMMENTS ON OR BEFORE 5:00 P.M., JULY 5, 1995.**

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**CITY CODE ENFORCEMENT**  
**Jan Koehn**

**6/27/95**  
**244-1593**

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Cannot see any hardship that is not self-induced. Granting the variance for this property could set a precedent for fences to exceed the front yard height allowance if they don't like the view of their neighbor's property. A 20' sight triangle at the driveway intersections must also be maintained at a height not to exceed 30" (Section 5-3-2.A).

**CITY UTILITY ENGINEER**  
**Trent Prall**

**6/27/95**  
**244-1590**

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No comment.

**COMMUNITY DEVELOPMENT DEPARTMENT**  
**Mike Pelletier**

**6/21/95**  
**244-1447**

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Staff recommends denial of the fence variance as requested because criteria (b), (d), and (e) of Section 10-1-1.B.2 of the Code (copy attached) are not met satisfactorily. The situation does not classify as "undue hardship" that is unique to this property owner since many homes in this neighborhood have small side yard setbacks. The owner can plant vegetative screening (although this is not a quick fix) that would be more attractive and would encourage others to plant vegetation instead of encouraging the neighbors to build tall fences in the front yards. Finally, fence regulations are not part of the bulk requirements and therefore cannot be considered under paragraph (e). Even if it was a bulk requirement, the fence would not be a general benefit to the neighborhood.

CITY DEVELOPMENT ENGINEER  
Jody Kliska

6/28/95  
244-1591

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Sight distance will be a problem if the variance is granted as proposed.

**TO DATE, COMMENTS HAVE NOT BEEN RECEIVED FROM:**

City Attorney  
City Property Agent

PETITIONER RESPONSE TO REVIEW COMMENTS

FILE: #VAR-95-112

TITLE HEADING: Variance - Fence Height in Front Yard Setback

LOCATION: 430 1/2 E. Prospectors' Point

PETITIONERS: Brad and Leslie Schaefer

Re: Comments submitted by Jan Koehn for City Code Enforcement

We do not agree that the hardship is self-induced. Our property was within three weeks of completion when we entered into a contract to purchase. Closing was on August 9, 1993. Construction on the neighboring property did not begin until later that year (October-November) and the driveway extension was not poured until the spring of 1994. Existing Ridges Subdivision Covenants required a 10 foot minimum side set-back on the common property line separating 432 and 430 1/2. The covenants also prohibit owners from parking 'RVS' on the property (an enclosed parking lot is provided within the subdivision for this purpose). The eventual location of the neighboring house was foreseeable, however, the extended parking lot was not. We objected to the parking extension immediately when we became aware of its intended construction and our objection was supported by the Ridges Architectural Control Committee, represented by Lee Garrett. This objection was overruled by the City on the grounds that the extension did not violate City code and they (the City) would not enforce that particular restriction of the Ridges covenants. The matter was settled within several days without a public hearing. Further, even though the covenants prohibit parking an RV, they do not specifically exclude a utility service truck of similar size. Our current situation is not self-induced or as result of poor foresight, but rather due to technicalities and a breakdown in the enforcement of covenants which should have prevented this very situation.

The proposed fence would not restrict the 20' sight triangle if that triangle is laid out in relation to the street and the edge of the driveway leading into the neighbors garage (excluding the parking extension). The attached sketch depicts this situation in a 1" = 6' scale. Per the sketch, the front property line is set-back approximately 10.5 feet from the street. The 20' sight triangle (highlighted in yellow) starts at the intersection of the original driveway and the street, extends 20' back along the driveway edge and 20' along the street. As the sketch shows, the



location of the proposed fence variance would not fall within the triangle. We do not feel that we should be penalized because the neighbor provided additional parking space between his driveway and the property line.

We also do not believe that granting our variance will set a precedence which will encourage other residents in the neighborhood to construct similar fences. A fence similar to what we have proposed has existed for approximately one year between the addresses of 412 1/2 and 414 E. Prospectors' Point. This fence starts at approximately 40 inches high within 6 feet of the street and tapers up to approximately 72 inches. It is within a block from us and we do not have any objections to it. It is not an eyesore to the neighborhood and in our opinion does not create any safety hazards. Jan Koehn stated in a phone conversation with me on June 29, that she was not aware that this fence existed. Apparently no one has objected, nor has there been any proliferation of similar fences as a result.

Regarding comments submitted by Mike Pelletier, Community Development Dept:

As stated above, we strongly believe that our situation is unique to the neighborhood because of the additional parking capacity existing on the adjoining property. We are directly affected and therefore feel a greater hardship than an unrelated, casual observer. The 'parking lot' increases the value of the neighbors property, but negatively impacts ours. In our assessment, the variance is required to provide necessary privacy in order to derive reasonable use of the property. The variance will not negatively impact the area. We have discussed the fence with the adjacent and surrounding neighbors without objections. The Ridges Architectural Control Committee has reviewed and approved our proposal.

It was suggested that vegetative screening could serve as an alternate to the fence variance. Trees and shrubs of suitable size could not be planted close to the property line without impacting the neighbor and would substantially reduce an already small outdoor area.

Reiterating from above, a similar fence has existed in the neighborhood for an extended period. That fence has not detracted from the area, nor has it encouraged others to build tall front yard fences. If our fence does not negatively impact the neighborhood, but increases our benefit, the net impact to the neighborhood is positive.

432

E. Prospector's Pt.

Property  
Line

430 1/2 E. Prospector's Pt.

20' Front Property Set-Back

Original Driveway at 432

13'

Add'l  
Parking

Variance Location

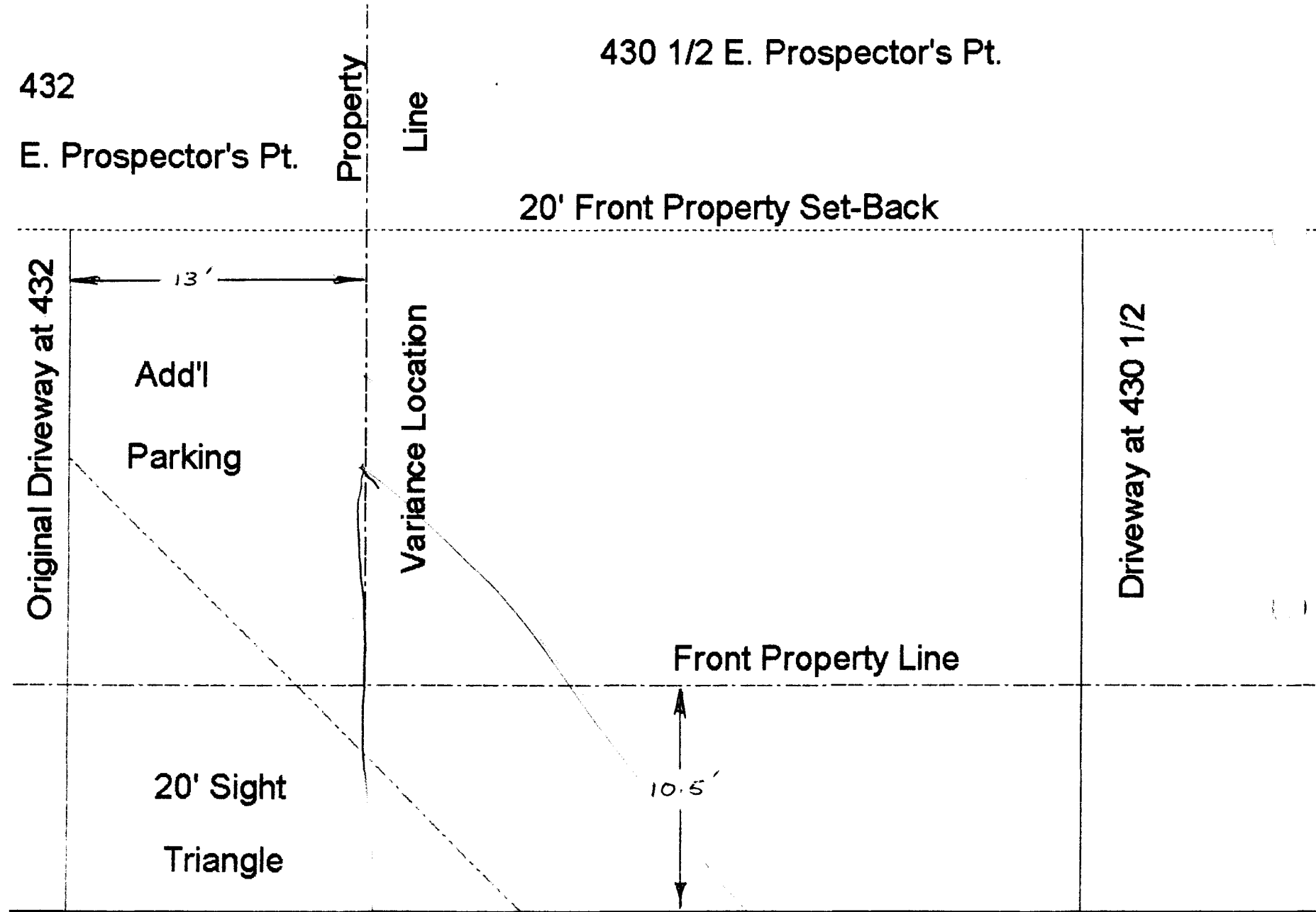
Driveway at 430 1/2

Front Property Line

20' Sight  
Triangle

10.5'

Prospectors' Pt.



BOARD OF APPEALS - STAFF REVIEW

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FILE: VAR-95-112  
DATE: July 5, 1995  
STAFF: Mike Pelletier  
REQUEST: Fence Height in Front Yard Setback  
LOCATION: 430 1/2 E. Prospectors Point  
ZONING: PR  
APPLICANT: Bradley and Leslie Schaefer

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EXISTING LAND USE: Single Family Residential

PROPOSED LAND USE: Single Family Residential

SURROUNDING LAND USE:

NORTH: Single Family Residential  
SOUTH: Single Family Residential  
EAST: Single Family Residential  
WEST: Single Family Residential

EXISTING ZONING: PR

SURROUNDING ZONING:

NORTH: PR  
SOUTH: PR  
EAST: PR  
WEST: PR

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ZONING AND DEVELOPMENT CODE REQUIREMENT:

Section 5-1-5-A-1 - Fences in the required front yard setback area shall not exceed thirty inches in height. Such fences may be increased to forty-eight inches maximum height if the fencing material is at a ratio of two-thirds open space to one-third closed space per square foot for that part of the fence extending above the thirty inch height.

VARIANCE REQUESTED:

Taper a fence from an initial height of 4 feet 6 inches at the front property line up to 6 feet within a 10 feet distance and then continue fence at a 6 foot height to the front yard setback. From this point the fence will continue at a 6 foot height to the rear property line, which is in compliance and a permit has been issued.

Approved

#### APPLICANTS REASON FOR REQUEST:

- 1) to increase privacy in the front yard since it is the largest yard in the lot.
- 2) to block the view from the front room of the petitioner's house into the neighbor's driveway where a pickup truck/camper and frequently a Public Service utility "boom" truck are parked.

#### STAFF ANALYSIS:

This variance request requires a decision on the appropriate balance between the homeowners right to privacy and visual aesthetics versus the aesthetics of the neighborhood streetscape. The extra fence provided by this variance would increase the petitioners privacy from the neighbor on the other side of fence and decrease the area of the neighbor's trucks that are in the line of sight. However, the extra fence would detract from the visual quality of the streetscape and encourage similar fences in this neighborhood that has recently developed and currently has little vegetative screening.

The applicant mentions the existing fence between 412 1/2 and 414 as partial justification for this variance since it is similar to what the applicant is proposing. This fence was put up illegally over a year ago by a previous owner and the new owners have stated an intent to bring it into compliance within a few weeks.

The applicant presents a sight triangle diagram in the response to staff's comments that is inaccurate. The triangle should be based on the current edge of the parking area, not the original driveway, since vehicles will be backing out onto the street from the new parking area. The fence is clearly within the sight triangle, when it is drawn correctly.

Also, in the applicants response to staff comments it is incorrectly stated that the City overruled the Ridges Architectural Control Committee's objection to the neighbors driveway extension. The City does not enforce covenant restrictions.

#### FINDINGS OF REVIEW:

Section 10-1-1B(2) of the Zoning and Development Code says that the applicant must meet all of the following criteria in order to be granted a variance.

- a) The granting of a variance will not conflict with the public interest as expressed by the City's adopted comprehensive plan;
- b) There are exceptional conditions creating an undue hardship, applicable only to the property involved or the intended use thereof, which do not apply generally to the other land areas or uses within the same zone district, and such exceptional conditions or undue hardship was not created by the action or inaction of the applicant or owner of the property;
- c) The granting of a variance will not be detrimental to the public health, safety or welfare;
- d) The applicant and the owner of the property can not derive a reasonable

- use of the property without a variance, and
- e) The variance will not be injurious to, or reduce the value of, the adjacent properties or improvements. In granting a variance, the Board may impose conditions deemed necessary to protect affected property owners and to protect the intent of this Code. In considering variance requests to the bulk requirements of the zone districts, if all of the criteria listed in this subsection are not met, yet the Board finds that the variance request would harm no one and would be a general benefit to the neighborhood or community, a variance may be permitted.

**STAFF RECOMMENDATION:**

Denial of the fence variance as requested because criteria (b) and (d) are not met satisfactorily. The situation does not classify as "undue hardship" that is unique to this property owner since many homes in this neighborhood have small side yard setbacks. The owner can plant vegetative screening (although this is not a quick fix) that would be more attractive and would encourage others to plant vegetation instead of encouraging the neighbors to build tall fences in the front yards.

Also, fence regulations are not part of the bulk requirements and therefore cannot be considered under the second half of paragraph (e) above. Even if it was a bulk requirement, the fence would not be a general benefit to the neighborhood.

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**RECOMMENDED BOARD MOTIONS:**

Mr. Chairman, on item 95-112, a variance request from the fence height restrictions in the front yard setback at 430 1/2 East Prospector's Point, I move that we ("**deny**" or "**approve**") the request for the following reasons: