

CITY OF SHELBYVILLE

Adam M. Rude  
Director



Allan Henderson  
Deputy Director

BOARD OF ZONING APPEALS

MEETING DATE: 3/28/2023

<b>Case #:</b>	BZA 2023-1: 1121 Elm Street; DSV			
<b>Petitioner's Name:</b>	V. Scott and Sherri Sharp			
<b>Owner's Name:</b>	V. Scott and Sherri Sharp			
<b>Petitioner's Representative:</b>	V. Scott and Sherri Sharp			
<b>Address of Property:</b>	1121 Elm Street, Shelbyville, IN			
<b>Subject Property Zoning Classification:</b>	R1 - Single-family Residential			
<b>Comprehensive Future Land use:</b>	Single-family Residential			
	<b>North</b>	<b>East</b>	<b>South</b>	<b>West</b>
<b>Surrounding Properties' Zoning Classifications:</b>	R1 – Single-family Residential	R1 – Single-family Residential	R1 – Single-family Residential	R1 – Single-family Residential
<b>Surrounding Properties' Comprehensive Future Land Use</b>	Single-family Residential	Single-family Residential	Single-family Residential	Single-family Residential
<b>History:</b>	The petitioner owns their home at 1121 Elm Street. In 2013, the petitioner purchased 956 Tompkins Street, installed a fence (similar to the proposed) and turned the property into a garden oasis.			
<b>Vicinity Map:</b>				
<b>Action Requested:</b>	A request for two Development Standards Variances, one from UDO 5.17 (A)(2) to reduce the front yard setback for a fence and one from UDO 5.18 (A)(1) to increase the height of a fence in the front yard.			

1. The petitioner purchased the property at 1111 Elm Street in 2022. At the time there was a dilapidated house on the property. The petitioner had the home demolished and debris removed. The petitioner's main residence is 1121 Elm Street. The petitioner also owns 1117 Elm Street, the lot between the petitioner's residence and 1111 Elm Street. The petitioner would like to make 1117 and 1111 Elm Street part of their side yard and build a garden oasis on the properties. As part of the design, they would like to install a fence all around the property. The fence would be located 4' from the back of the sidewalk and constructed to a height of 4'. UDO 5.18 Residential Fence, Hedge, and Wall Standards does not allow fences forward of the front plane of a house. Placing the fence four (4) feet from the back of the sidewalk would put the fence in that space. Additionally, UDO 5.17 General Fence, Hedge, and Wall Standards does not allow fences in front yard to be taller than 2'6". At 4', the fence would be taller than this requirement.

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**BZA 2023-01. A Variance From UDO 5.17(A)(2) and UDO 5.18(A)(1), Fence, Hedge, and Wall Standards**

Finding of Fact #1 – Explain why granting the request for a development standard variance will not be harmful to the public health, safety and general welfare of the City of Shelbyville.

*Applicant provided the following response to Finding of Fact #1: "Whether or not the fence line is located at a distance of 4 feet from the sidewalk as opposed to 10 feet would seem irrelevant regarding public health. In regards to safety, having the fence 4 feet from the sidewalk provide plenty of separation between the pedestrian right-of-way and the barrier. Since the fence line in question will be located in the middle of a city block and not near a corner, a line of sight for traffic is not an issue. Furthermore, placing the fence closer to the sidewalk allows for incorporation of approximately 480 square feet of additional space that can be used for the enclosed garden feature."*

The planning staff has determined that the requested variance from the setback standards for the front yard should not be injurious to the public health, safety, morals, or general welfare of the community. The planning staff believes the reduction in setback is in keeping with the character of this residential area and is in line with other properties in the neighborhood.

*Finding #1 has been satisfied by the petitioner*

Finding of Fact #2 – Explain why the development standard variance request will not affect the use and value of adjacent properties.

*Applicant provided the following response to Finding of Fact #2: "There are just 2 properties that are directly adjacent to the future garden area. One is our home location at 1121 Elm Street. The other is located at 1107 Elm Street. Concerning these two locations (and other properties located nearby), it is our belief that an enclosed area of maximal size (using a 4-foot setback from Elm Street as opposed to 10-foot) would serve the project best and potentially increase property values in the immediate vicinity. In our view, the location of the front fence line would have no affect regarding the adjacent neighbor's use of their own property."*

The planning staff has determined that the requested variance from the setback standards should not have a substantial adverse affect on the use and value of the adjacent areas. The petitioner demolished two (2) homes on lots 1111 and 1117 Elm Street. Both homes were dilapidated and in

disrepair, having the affect of bringing down property values in the area. With the homes removed and the construction of a garden, property values are stabilized.

*Finding #2 has been satisfied by the petitioner*

Finding of Fact #3 – Please state the difficulties that will be faced if the project is not granted the requested development standard variance. The practical difficulty shall not be self-imposed, nor based on a perceived reduction of, or restriction on, economic gain.

*Applicant provided the following response to Finding of Fact #3: “Locating the fence offset from the sidewalk by 10 feet (instead of the requested 4 feet) will cause a notable limitation in the size of the usable space. Such a location would force a disjointed approach towards the overall landscape plan.”*

The planning staff has determined that the strict application of the terms of the ordinance will result in a practical difficulty that is neither self-imposed nor based on a perceived reduction of, or restriction on economic gain. The petitioner demolished two homes adjacent to their residential property with the intent of building a garden oasis. Since these properties are on the “interior” of the block reducing the front yard setback allows the property owner to utilize more of the property for their garden and the increase in fence height will not be obstructive especially since the fence is not solid.

*Finding #3 has been satisfied by the petitioner*

## STAFF RECOMMENDATION: APPROVAL

**DEVELOPMENT STANDARDS VARIANCE: BZA 2023-01: 1111 Elm Street; DSV**

**FINDINGS OF FACT BY THE SHELBYVILLE BOARD OF ZONING APPEALS**

**Staff Prepared**

Motion:

(I) would like to make a motion to approve the requested development standard variances from UDO 5.17(A)(2) and UDO 5.18 (A)(1) to allow for a reduced front yard setback and an increase in the height of the fence in accordance with the plans provided to this board, pursuant to the findings of fact presented in the planning staff's report.

- 1.  The approval of the Development Standards Variance **will not** be injurious to the public health, safety, morals and general welfare of the community.
- The approval of the Development Standards Variance **will** be injurious to the public health, safety, morals and general welfare of the community.
- 2.  The use and value of the area adjacent to the subject property seeking a Development Standards Variance **will not** be affected in a substantially adverse manner.
- The use and value of the area adjacent to the subject property seeking a Development Standards Variance **will** be affected in a substantially adverse manner.
- 3.  The strict application of the terms of the ordinance **will** result in practical difficulties in the use of the property. The practical difficulty shall not be self-imposed, nor based on a perceived reduction of, or restriction on, economic gain.
- The strict application of the terms of the ordinance **will not** result in practical difficulties in the use of the property. The practical difficulty shall not be self-imposed, nor based on a perceived reduction of, or restriction on, economic gain.

Additional conditions imposed by the Board of Zoning Appeals:

- 1.
- 2.
- 3.

Shelbyville Board of Zoning Appeals

By: \_\_\_\_\_

Chairperson / Presiding Officer

Attest: \_\_\_\_\_

Adam M. Rude, Secretary





# DEVELOPMENT STANDARDS VARIANCE APPLICATION

Shelbyville Planning & Building Department  
44 West Washington Street  
Shelbyville, IN 46176  
P: 317.392.5102

**For Office Use Only:**

Case #: BZA 2023-1

Hearing Date: 3-28-23

Fees Paid: \$ 125.00

Final Decision:

Approved

Denied

**1.**

**Applicant**

Name: V. Scott and Sheri Sharp

Address: 1121 Elm St., Shelbyville, IN

Phone Number: 317-364-8842

Fax Number: \_\_\_\_\_

Email: sharp.servant@gmail.com

**Property Owners Information (if different than Applicant)**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Fax Number: \_\_\_\_\_

Email: \_\_\_\_\_

**2.**

**Applicant's Attorney/Representative**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Fax Number: \_\_\_\_\_

Email: \_\_\_\_\_

**Project Engineer**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Fax Number: \_\_\_\_\_

Email: \_\_\_\_\_

**3. Project Information:**

General Location of Property (and address is applicable): \_\_\_\_\_

1121 Elm St. (which includes the former 1117 Elm St.) and 1111 Elm St.

Current Zoning Classification: R1 Existing Use: Open land

Number of Requested Variances: 2 Proposed Use: Landscape garden / Green space

Section(s) of the Ordinance Requesting Variance(s) from; including Article, Section, Subsection, and Page Number: \_\_\_\_\_

5.17 FN-01(A)(2)  
5.18 FN-02(A)(1)

**4. Attachments**

Affidavit and Consent of Property Owner (if applicable)

Vicinity Map

Proof of Ownership (copy of deed, recent property card)

Findings of Fact

Letter of Intent

Application Fee

Supporting Documents and Exhibits (Optional)

**The undersigned states the above information is true and correct as s/he is informed and believes.**

Applicant: \_\_\_\_\_ Date: \_\_\_\_\_

State of Indiana  
County of Shelby SS:

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public Printed

Residing in \_\_\_\_\_ County. My Commission Expires: \_\_\_\_\_



**DEVELOPMENT STANDARDS VARIANCE**  
**FINDINGS OF FACT**

Petitioner's Name: V. Scott and Sheri Sharp  
Location: 1121 & 1111 Elm St.  
Variance for: Fence Frontage Location Along Elm St.

The Shelbyville Board of Zoning Appeals must determine that the following criteria have been met in order to approve an application for a Development Standard Variance. Using the lines provided, please explain how your request meets each of these criteria.

- 1. **General Welfare:** Explain why granting the request for a development standard variance will not be harmful to the public health, safety and general welfare of the City of Shelbyville.

Whether or not the fence line is located at a distance of 4 feet from the sidewalk as opposed to 10 feet would seem irrelevant regarding public health. In regard to safety, having the fence 4 feet from the sidewalk provides plenty of separation between the pedestrian right-of-way and the barrier. Since the fence line in question will be located in the middle of a city block and not near a corner, line of sight for traffic is not an issue. Furthermore, placing the fence closer to the sidewalk allows for the incorporation of approximately 480 square feet of additional space that can be used for the enclosed garden feature.

- 2. **Adjacent Property:** Explain why the development standard variance request will not affect the use and the value of adjacent properties.

There are just two properties that are directly adjacent to the future garden area. One is our home location at 1121 Elm St. The other is located at 1107 Elm St. Concerning these two locations (and other properties located nearby), it is our belief that an enclosed area of maximal size (using a 4-foot backset from Elm St. as opposed to 10-foot) would serve the project best and potentially increase property values in the immediate vicinity. In our view, the location of the front fence line would have no affect regarding the adjacent neighbor's use of their own property.

- 3. **Practical Difficulty:** Please state the difficulties that will be faced if the project is not granted the requested development standard variance.

Locating the fence offset from the sidewalk by 10 feet (instead of the requested 4 feet) will cause a notable limitation in the size of usable space. Such a location would force a "disjointed" approach toward the overall landscape plan.

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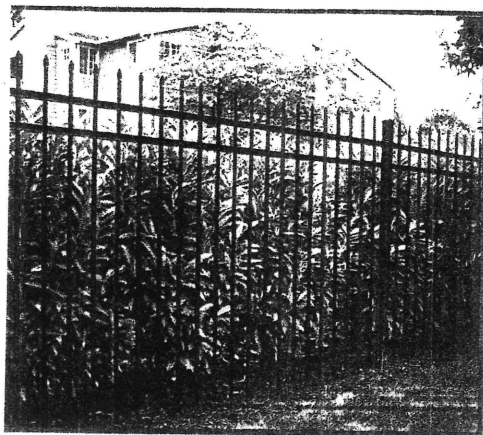
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*Note: For petitions with multiple requested variances, please submit one completed "Findings of Fact" for each requested variance.*

**A brief summary of the case we are presenting:**

Our home is located at 1121 Elm Street (named “Elm Cottage”) and our plan is to develop a landscaped green space to fill the now empty lots located to our north (formerly known as 1117 and 1111 Elm St.) To be modeled after a typical English Garden motif, we intend to enclose the area using a 4’ high quality black steel see-thru fence like the one we installed at “Corner Green” at 214 St. (see accompanying photos for examples)

We plan to design the area on Elm St. in similar fashion to this garden we created at the NE corner of Tompkins and 4<sup>th</sup> across from the Shelbyville Parks Dept. We respectfully submit that the granting of our variance request (locating the 4’ fence along Elm St. at a distance of 4 feet from the sidewalk as opposed to 10 feet) would create a more continuous area of garden space with ease of care, as opposed to a line of division created by a backset of the fence.

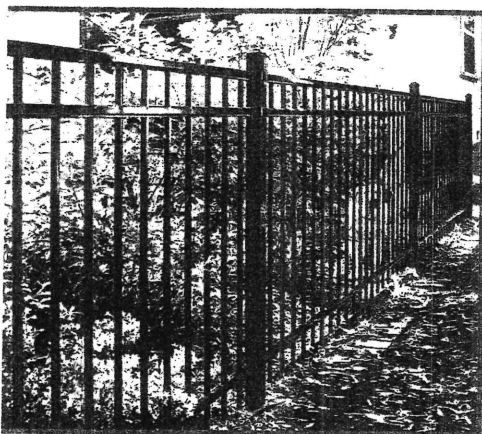


## CLASSIC™

### *Timeless Elegance*

Classic style features extended pickets that culminate to an arrow-pointed spear capture the beautiful look of old style wrought iron fencing. Single, double and arched walk gates that perfectly match this fence style are also available.

- ❖ 2-rail panels in 3', 3½', 4' and 5' heights, with a standard or flush bottom rail
- ❖ 3-rail panels in 3', 3½', 4', 5' and 6' heights, with a standard or flush bottom rail

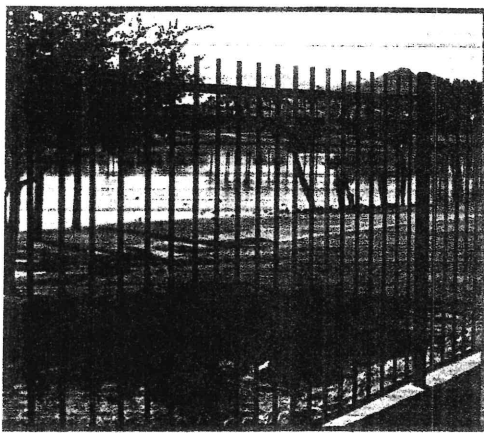


## MAJESTIC™

### *Modern Beauty*

Majestic's flush top rail projects a clean, streamlined look that make it one of the most popular styles in the Montage family. Single, double and arched walk gates that perfectly match this fence style are available as well.

- ❖ 2-rail panels in 3', 3½', 4' and 5' heights, with a standard or flush bottom rail
- ❖ 3-rail panels in 3', 3½', 4', 5' and 6' heights, with a standard or flush bottom rail (4½' panels available with flush bottom rail only)



## GENESIS™

### *Creatively Distinct*

Genesis style's extended flat-topped pickets serve as a foundation for your choice of accent finials providing a customized design. Single, double and arched walk gates that perfectly match this fence style are available as well.

- ❖ 2-rail panels in 3', 3½', 4' and 5' heights, with a standard or flush bottom rail
- ★ ❖ 3-rail panels in 3', 3½', 4', 5' and 6' heights, with a standard or flush bottom rail



**General Information**  
 Parcel Number 73-11-05-300-805.000-002  
 Local Parcel Number

**Ownership**  
 SHARP, V. SCOTT & SHERI L H & W  
 1121 ELM ST  
 SHELBYVILLE, IN 46176

**Transfer of Ownership**  
 Date 10/12/2021  
 Owner SHARP, V. SCOTT & S  
 Doc ID Af  
 Code /  
 Book/Page /  
 Adj Sale Price \$0  
 V/ I

**Legal**  
 CD SIMS ELM ST LOTS 40 & 41

**Notes**  
 12/2/2021 COMB: 22PAY23 COMBINED 73-11-05-300-162.000-002 AND 73-11-05-300-161.000-002  
 PER ASSESSOR REQUEST 10/12/21 KW 12/2/21

Tax ID:  
 Routing Number

Property Class 510  
 1 Family Dwell - Platted Lot

Year: 2023

**Location Information**  
 County Shelby  
 Township ADDISON TOWNSHIP  
 District 002 (Local 041)  
 SHELBYVILLE CITY-ADDISON TO  
 School Corp 7365  
 SHELBYVILLE CENTRAL  
 Neighborhood 7302028-002  
 DOWNTOWN NEAR SW  
 Section/Plat 5

**Location Information**  
 Location Address (1)  
 1121 ELM ST  
 SHELBYVILLE, IN 46176

**Assessment Year** 2022

**Reason For Change** AA

**As Of Date** 04/12/2022

**Valuation Method** Indiana Cost Mod

**Equalization Factor** 1.0000

**Notice Required**

**Land**  
 Land Res (1) \$16,600  
 Land Non Res (2) \$0  
 Land Non Res (3) \$16,600

**Improvement**  
 Imp Res (1) \$97,900  
 Imp Non Res (2) \$0  
 Imp Non Res (3) \$0

**Total**  
 Total Res (1) \$114,500  
 Total Non Res (2) \$97,900  
 Total Non Res (3) \$16,600

**Land Data (Standard Depth: Res 120', CI 120', Base Lot: Res 40' X 120', CI 40' X 120')**

**Land Pricing Soil**  
 Type Method ID F F  
 Act Front. 40  
 Size Factor 0.88  
 Rate \$243.39  
 Adj. Rate \$214  
 Ext. Value \$17,120  
 Infr. % 0%  
 Res Market Elig % 100%  
 Factor 1.0000  
 Value \$17,120

**Land Computations**  
 Calculated Acreage 0.17  
 Actual Frontage 40  
 Developer Discount   
 Parcel Acreage 0.17  
 81 Legal Drain NV 0.00  
 82 Public Roads NV 0.00  
 83 UT Towers NV 0.00  
 9 Homesite 0.00  
 91/92 Acres 0.00  
 Total Acres Farmland 0.17  
 Farmland Value \$0  
 Measured Acreage 0.00  
 Avg Farmland Value/Acre 0.0  
 Value of Farmland \$0  
 Classified Total \$0  
 Farm / Classified Value \$0  
 Homesite(s) Value \$0  
 91/92 Value \$0  
 Supp. Page Land Value \$0  
 CAP 1 Value \$17,100  
 CAP 2 Value \$0  
 CAP 3 Value \$0  
 Total Value \$17,100

**Characteristics**  
 Topography Level   
 Flood Hazard ERA   
 Public Utilities All TIF   
 Streets or Roads Paved, Sidewalk   
 Neighborhood Life Cycle Stage Other

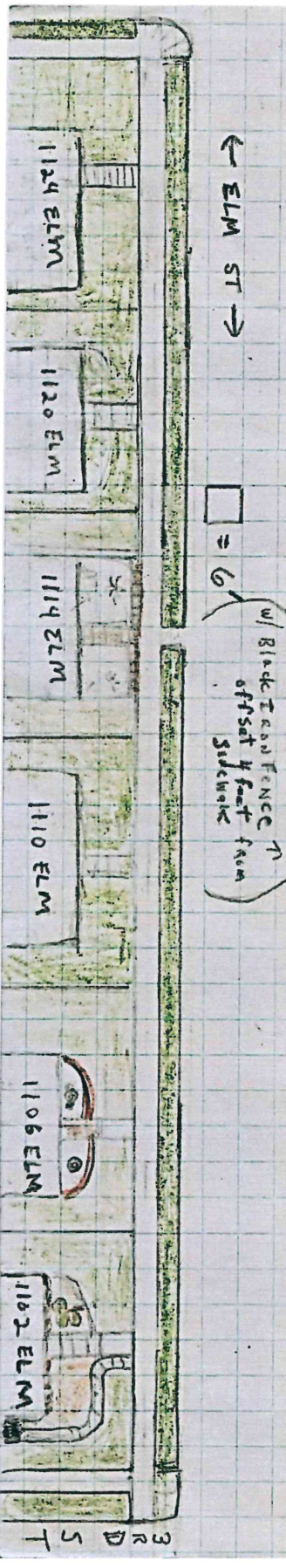
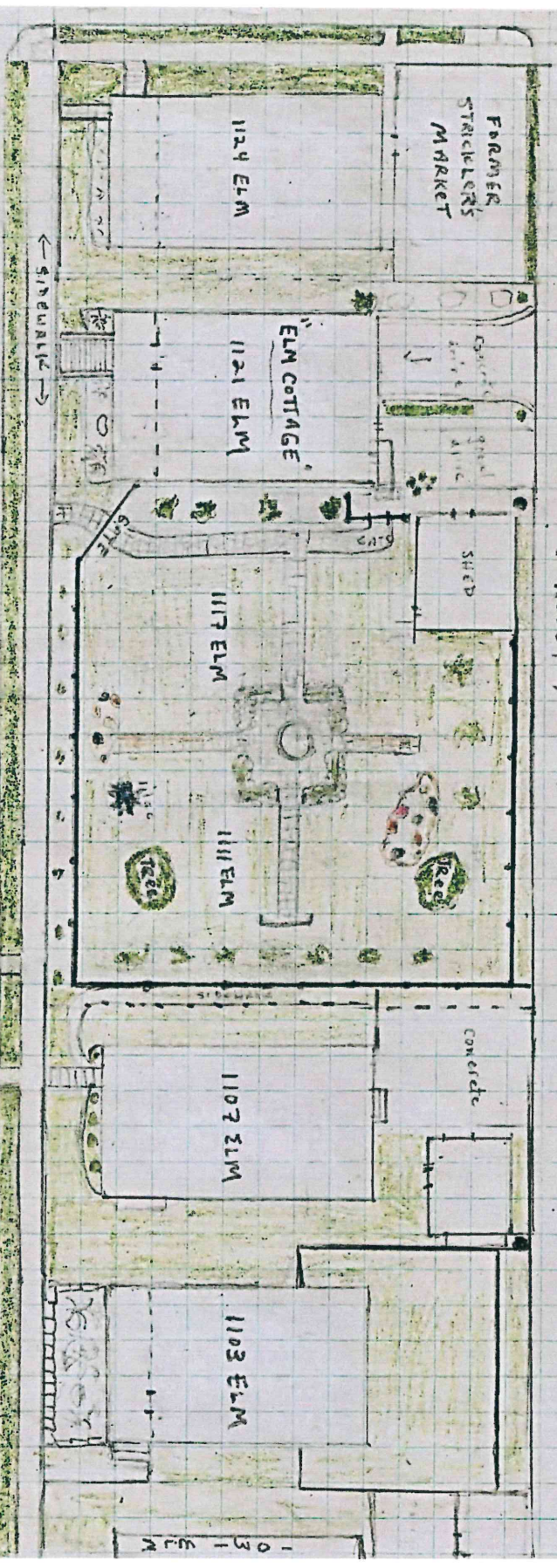
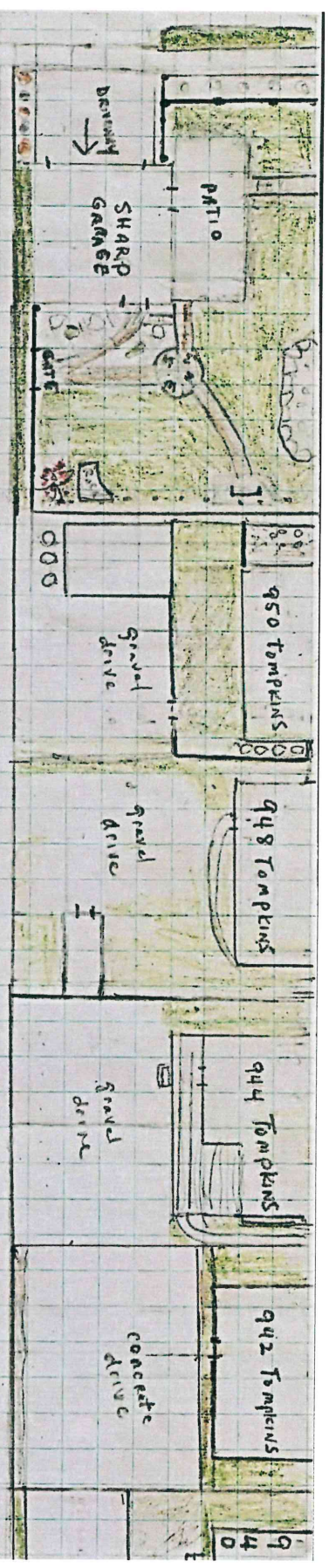
**Data Source** External Only  
**Collector** JH  
**Appraiser** 11/23/2021 SD

**Review Group** 2022  
 Wednesday, February 22, 2023









← ELM ST →

= 6' (w/ Black Iron Fence  
 offset 4 feet from  
 sidewalk)

3RD ST

1031 ELM

940







