

NOTICE TO THE AUDIENCE. PLEASE REMEMBER THAT IF YOU ARE INTERESTED IN MATTERS ON THE AGENDA THAT WILL HAVE SUBSEQUENT MEETINGS, IT IS YOUR RESPONSIBILITY TO NOTE THE DATES, TIMES, AND PLACES. NO FURTHER LETTERS OR REMINDERS WILL BE SENT. OF COURSE, IF YOU HAVE ANY QUESTIONS ABOUT ANY GIVEN MATTER, DO NOT HESITATE TO CONTACT THE PLANNING DEPARTMENT IN THE CITY HALL ANNEX, 4403 DEVILS GLEN ROAD, BETTENDORF, IOWA (344-4100).

MEETING NOTICE
BOARD OF ADJUSTMENT
JANUARY 9, 2025
5:00 P.M.

PLACE: Bettendorf City Hall Council Chambers, Second Floor, 1609 State Street

1. Roll Call: Gallagher _____, Spranger _____, Tansey _____, Tombergs _____, Vermillion _____
2. Review of Board Procedures.
3. The Board to review and approve the minutes of the meeting of October 10, 2024.
4. Election of officers.
5. The Board to hold a public hearing on the following case:
 - a. **Case 25-001-VAR; 5690 Devils Glen Road (A-2)** – Variance to allow a 5-foot-high fence in a required front yard along Field Sike Drive, submitted by Carlos Calderon. (Staff: Beck)



The materials for the Board of Adjustment meeting can be accessed by scanning the QR Code.

IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT AND OTHER APPLICABLE FEDERAL AND STATE LAWS, ALL PUBLIC HEARINGS AND MEETINGS HELD OR SPONSORED BY THE CITY OF BETTENDORF, IOWA, WILL BE ACCESSIBLE TO INDIVIDUALS WITH DISABILITIES. PERSONS REQUIRING AUXILIARY AIDS AND SERVICES SHOULD CONTACT BETTENDORF CITY HALL AT (563) 344-4000 FIVE (5) DAYS PRIOR TO THE HEARING OR MEETING TO INFORM OF THEIR ANTICIPATED ATTENDANCE.

The following are minutes of the Bettendorf Board of Adjustment and are a synopsis of the discussion that took place at this meeting and as such may not include the entirety of each statement made. The minutes of each meeting do not become official until approved at the next Board meeting.

MINUTES
BETTENDORF BOARD OF ADJUSTMENT
OCTOBER 10, 2024
5:00 P.M.

Tombergs called the meeting to order at 5:00 p.m.

Item 1. Roll Call

PRESENT: Spranger, Tombergs, Vermillion

ABSENT: Gallagher, Tansey

STAFF: Beck, Hunt

Item 2. Review of Board procedures.

Item 3. The Board to review and approve the minutes of the meeting of August 15, 2024.

On motion by Spranger, seconded by Vermillion, that the minutes of the meeting of August 15, 2024 be approved as submitted.

ALL AYES

Motion carried.

Item 4. The Board to hold a public hearing on the following items:

- a. **Case 24-053; 2460 State Street (C-3)** – Special Use Permit to allow an outdoor service area with alcohol, submitted by Judith Mariscal. (Staff: Beck) (Deferred from meeting of August 15, 2024.)

Tombergs asked if there is an affidavit of publication for all of the cases on the agenda. Hunt confirmed this.

Beck reviewed the staff report. Hunt added that the condition referred to in the staff report has been met and the business has been opened.

There being no one present wishing to speak In favor of or In objection to the request, Tombergs closed the public hearing.

On motion by Spranger, seconded by Vermillion, that a special use permit to allow an outdoor service area with alcohol be approved in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #2 to these minutes.

- b. **Case 24-061; 4614 – 34th Street (R-2)** – Variance to allow a 6-foot high fence in a required front yard, submitted by Ahmed Osman. (Staff: Beck)

Beck reviewed the staff report. Hunt added that the Code was updated in 2022 to allow a 6-foot high fence to be placed 12 feet from the property line on through lots if one evergreen tree is planted every 25 feet outside of the fence line or 15 feet from the property line if not. He added that during the upcoming ordinance update, staff plans to recommend that that code section be applied to corner lots as well.

Spranger asked if the partially-built fence is on the property line. Hunt confirmed this.

Vermillion asked if the fence interferes with the vision triangle. Hunt stated that it does not.

A brief discussion was held regarding the reason why a 4-foot high fence would be allowed but a 6-foot high fence is not. Hunt stated that most communities do not wish to create a tunnel-like effect with 6-foot high fences along the city's rights of way.

Tombergs asked if there was anyone present wishing to speak in favor of the request.

James Menees, the applicant's contractor, explained that the fence would be placed far enough back from the street so it would not cause a visual obstruction. He commented that the applicant wishes to have a higher fence because of the large volume of traffic in the area and the desire to have more privacy.

Tombergs asked if it would be feasible to move the fence given the presence of a large tree in the yard. Hunt stated that the tree would have to be removed or the fence installed around it. He reminded the Board that a very similar case that was presented at the last meeting was denied.

Vermillion asked if Menees had originally agreed to install a 4-foot high fence given that part of it is already built. Menees stated that the section in question has not been installed yet. Tombergs asked if the fencing that is already built would have to be moved and replaced with 6-foot high fencing if the request is approved. Menees explained that the posts are 6 feet tall but that no 6-foot high fencing is in yet. Spranger commented that if the applicant chooses to accept staff's recommendation the posts would have to be moved.

Tombergs asked if the applicant was aware of the setback requirements when they requested the change to a 6-foot high fence. Menees explained that the applicant had contracted for a 6-foot high fence but that he had begun the work before the building permit was approved and had been unaware of the restriction on the height in the required setback. He stated that once he became aware of the limitation, he completed the sections that are allowed by code to be 6 feet high.

A brief discussion was held regarding possible methods of installing the fence without requiring the removal of the tree.

Tombergs asked if contractors are allowed to begin projects without first obtaining a building permit. Hunt stated that they are not.

There being no one else present wishing to speak In favor of or In objection to the request, Tombergs closed the public hearing.

On motion by Vermillion, seconded by Spranger, that a variance allow a 6-foot high fence in a required front yard be denied in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #3 to these minutes.

- c. **Case 24-062; 2846 Villa Court (R-5)** – Variance to reduce the required rear yard setback from 25 feet to 21 feet to allow construction of a deck, submitted by Pfitz’s Fence & Deck. (Staff: Beck)

Beck reviewed the staff report.

There being no one else present wishing to speak In favor of or In objection to the request, Tombergs closed the public hearing.

On motion by Spranger, seconded by Vermillion, that a variance to reduce the required rear yard setback from 25 feet to 21 feet to allow construction of a deck be approved in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #4 to these minutes.

There being no further business, it was unanimously approved to adjourn the meeting at approximately 5:30 p.m.

STAFF REPORT

Subject: Board of Adjustment - Variance
Author: Greg Beck
Department: Community Development
Date: January 9, 2025



Case No.: 25-001
Request: Variance to allow a 5-foot-high fence in the required front yard along Field Sike Drive.
Location: 5690 Devils Glen Road
Legal Description: Lot 8, Creek View Addition (Parcel #: [8410003108](#))
Applicant: Carlos Calderon
Current Zoning: A-2, Rural Residence District
Future Land Use: Neighborhood Light

Background Information & Facts

Carlos Calderon is requesting a variance to permit a 5-foot high fence within the required front yard along Field Sike Drive. The property is a corner lot with 40-foot front yard setbacks on Devils Glen Road and Field Sike Drive.

City code generally allows up to 4-foot high fences within a required front yard. The code does make an exception for 6-foot-high fences on through-lots when the front yard abuts a minor collector road or higher classified roadway. Field Sike Drive is defined as a local road in the 2024 Comprehensive Plan (p.57, Premiering Bettendorf Comprehensive Plan). The Board has recently applied this through-lot exception.

Staff Analysis & Recommendations

Field Sike Drive links several residential subdivisions but does not provide direct access to commercial or industrial uses. Staff contends Field Sike Drive is correctly classified as a local road in the 2024 Comprehensive Plan.

A clear precedent exists to deny the request as presented by Mr. Calderon. Similar cases that have been denied include:

- 7054 St. Anne Drive 5 feet in height (2022)
- 7037 St. Anne Drive 5 feet in height (2022)
- 2624 Rosehill Avenue 6 feet in height (2016)

- 4287 Happiness Lane 6 feet in height (2016)
- 4889 Allen Road 6 feet in height (2014)

Because the street classification of minor collector or higher is not met at Field Sike Drive, a variance to the 4-foot height regulation is not supported by code or previous rulings of this Board. Staff finds no other hardship related to this request.

To establish a hardship, a property owner must show all of the following elements:

- The land in question cannot yield a reasonable return from any use permitted by the regulations of the district in which the land is located.
- The plight of the owner is due to unique circumstances not of the owner's own making, which unique circumstances must relate specifically to the land in question and not to general conditions in the neighborhood.
- The *use* to be authorized by the variance will not alter the essential character of the locality of the land in question.

It is worth noting that approximately 6,412 square feet of the property could be enclosed within a 5-foot high fence without encroaching into the required front yard.

Staff recommends denial of the petitioner's request to place a 5-foot high fence in the required front yard along Field Sike Drive.

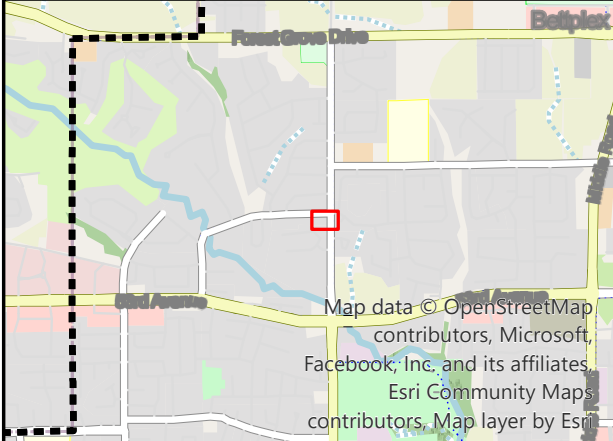
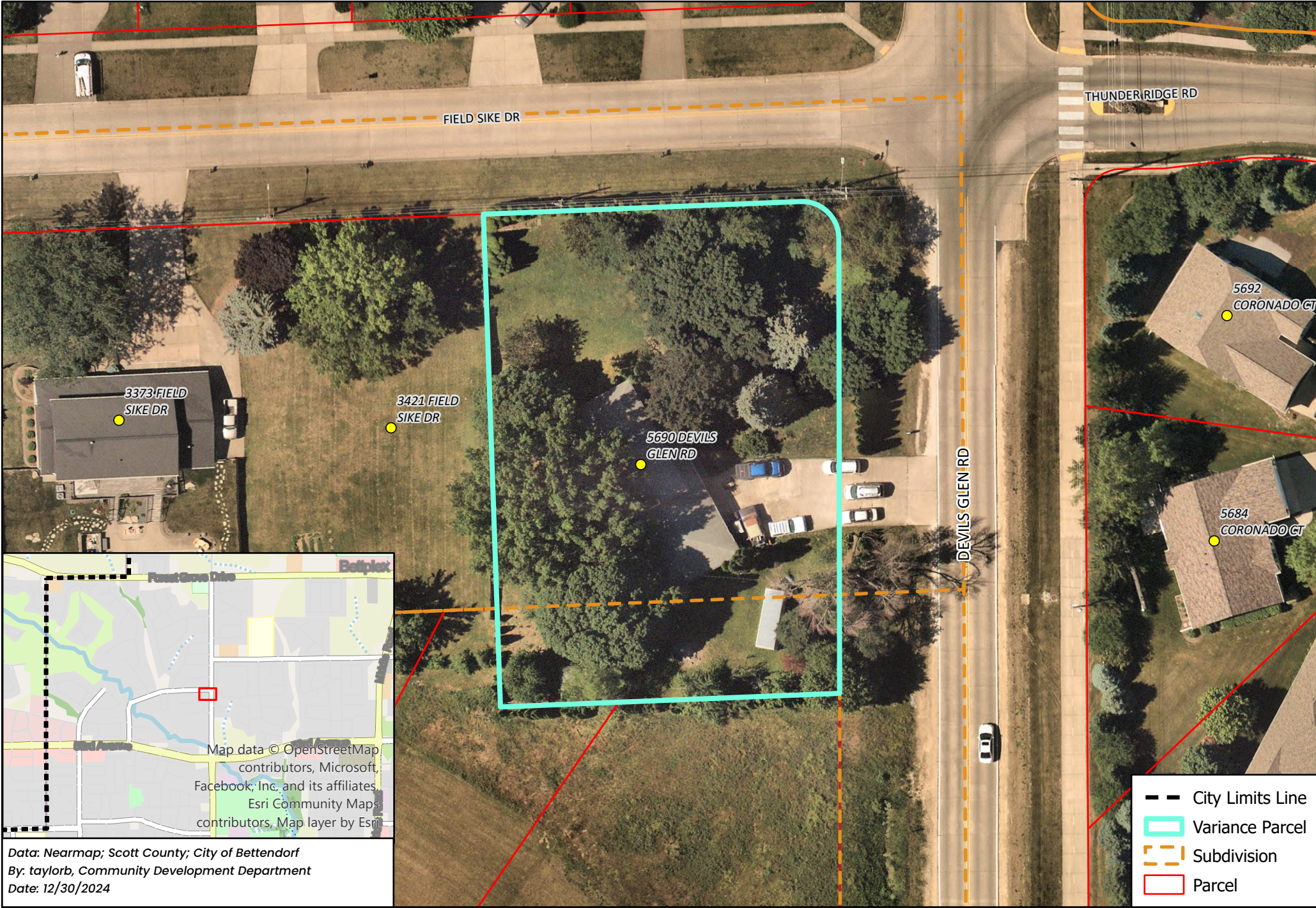
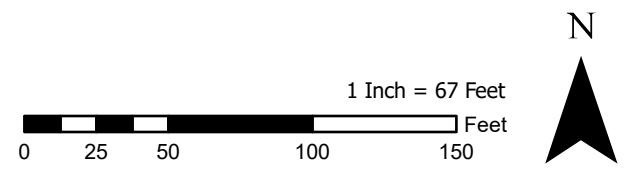
Respectfully submitted,

Greg Beck
City Planner

List of Attachments:

- A – Aerial Location Map
- B – FLUM and Zoning Map
- C – Proposed Fence Layout
- D – Petitioner's Plot Plan
- E – Site Photo of Setback

Case No. 25-001-VAR: 5690 Devils Glen Road
Variance: Fence Height in Front-yard Setback
Aerial - Attachment A



Data: Nearmap; Scott County; City of Bettendorf
By: taylorb, Community Development Department
Date: 12/30/2024

- City Limits Line
- Variance Parcel
- Subdivision
- Parcel

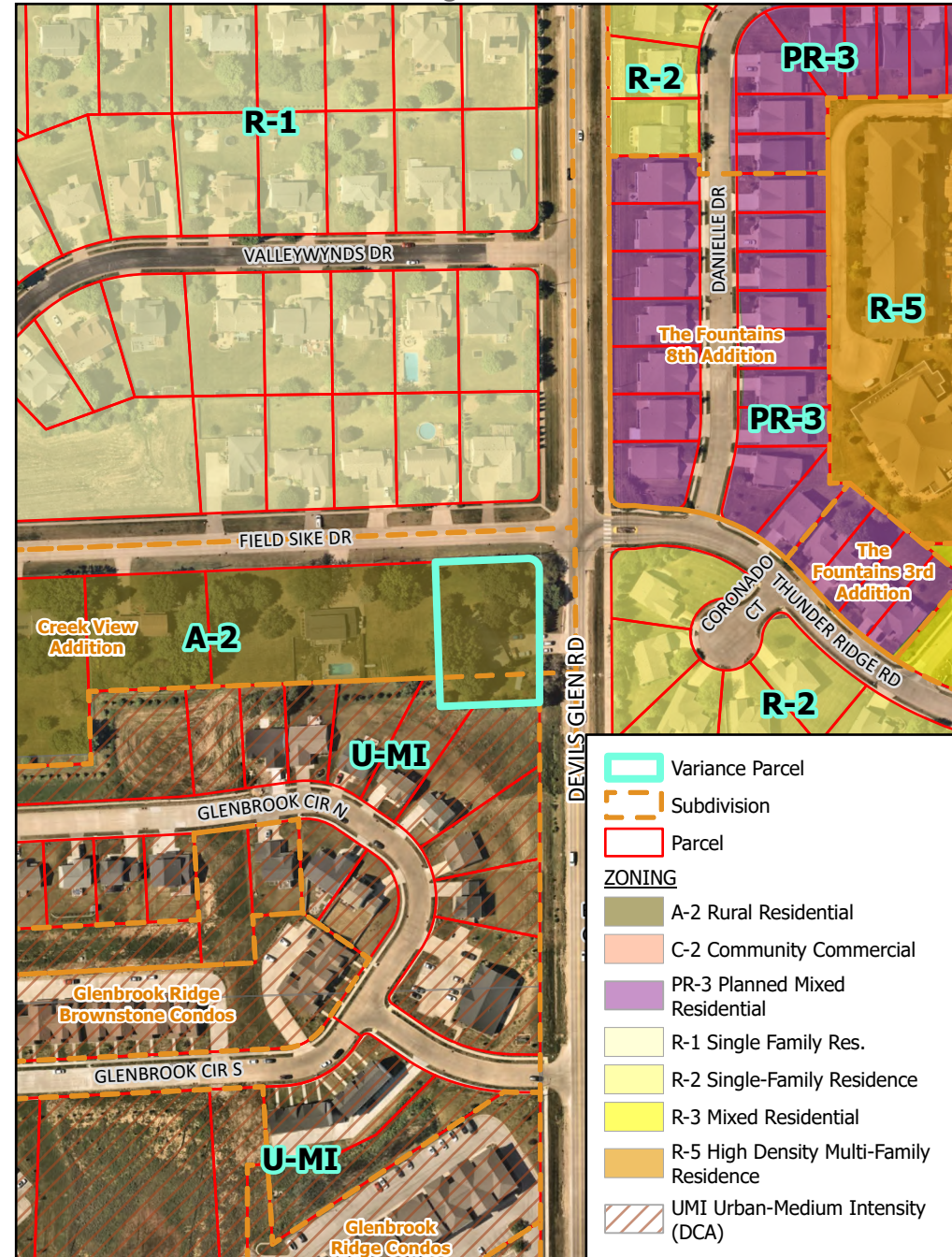
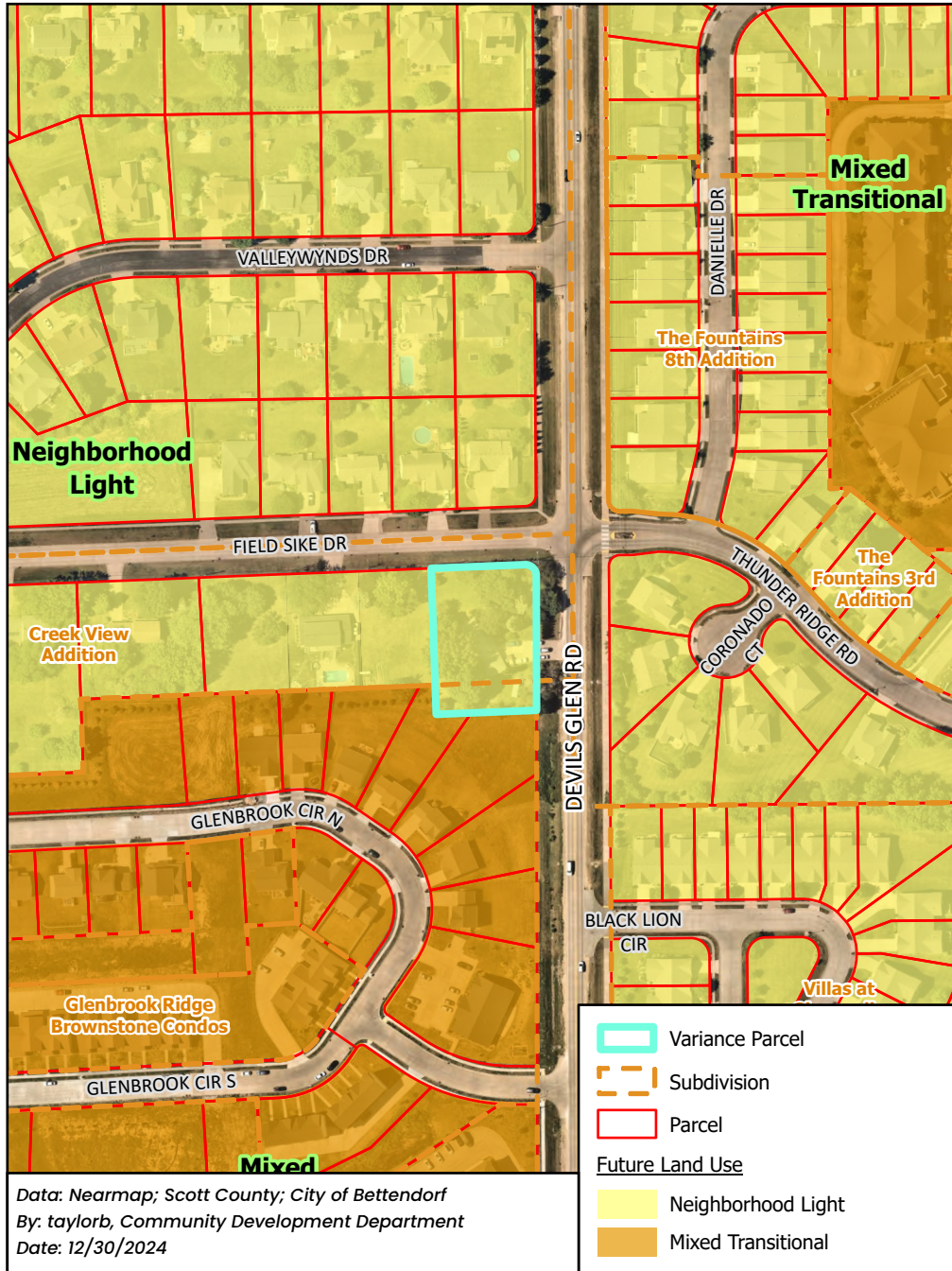
Case No. 25-001-VAR: 5690 Devils Glen Road
Variance: Fence Height in Front-yard Setback
Future Land Use & Zoning - Attachment B

1 Inch = 333 Feet
0 185 370 740

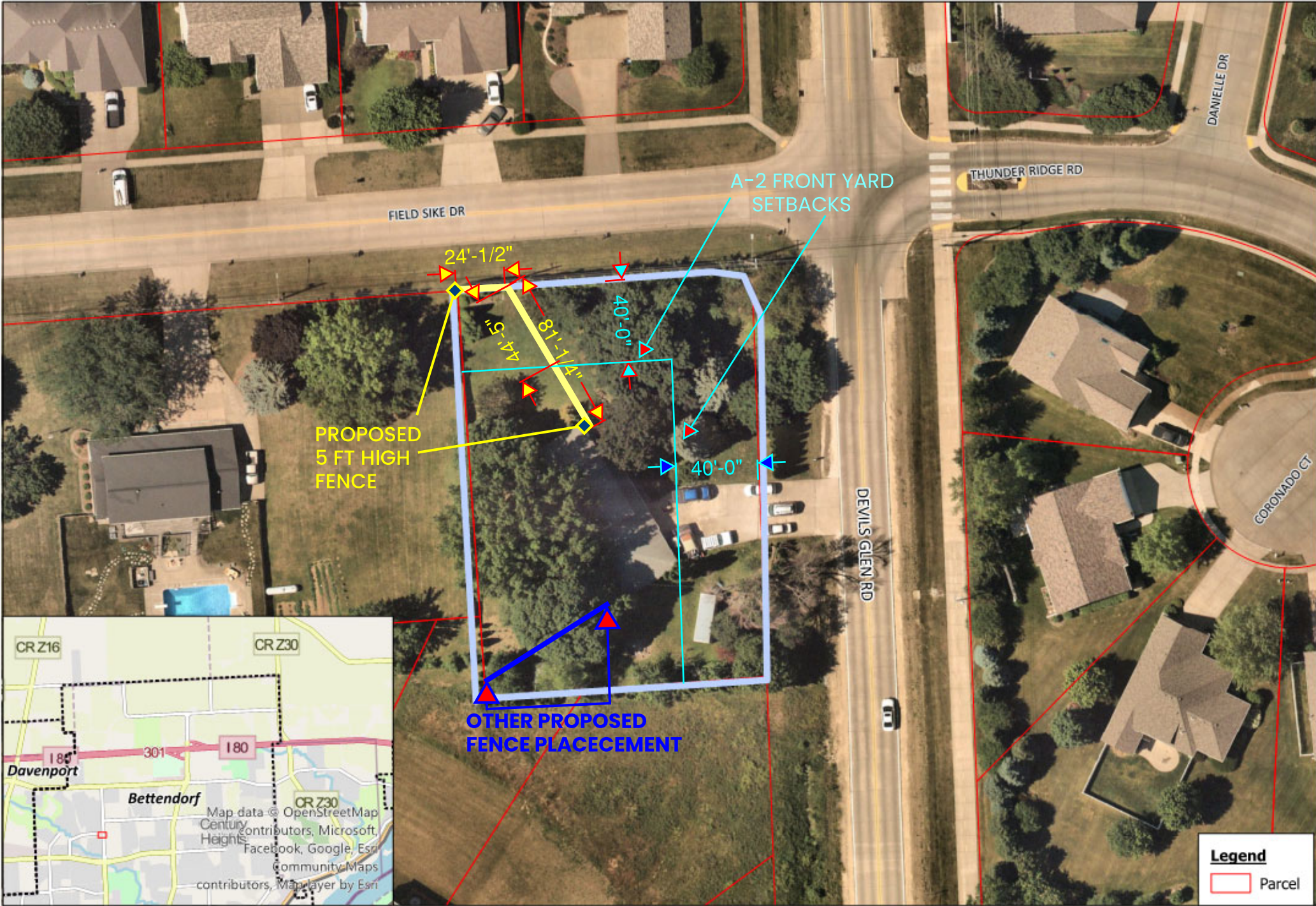


Future Land Use

Zoning (Current)



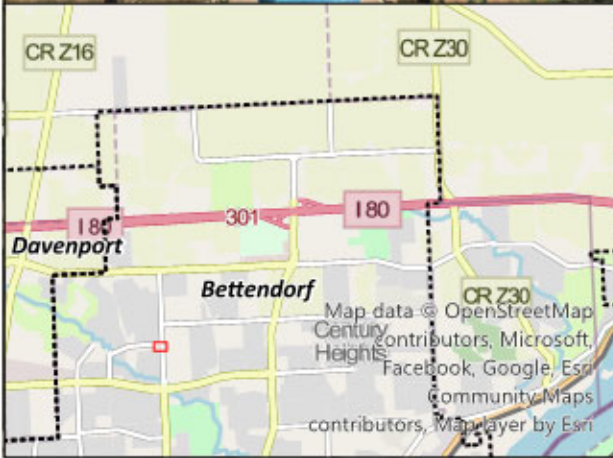
1 Inch = 60 Feet



PROPOSED 5 FT HIGH FENCE

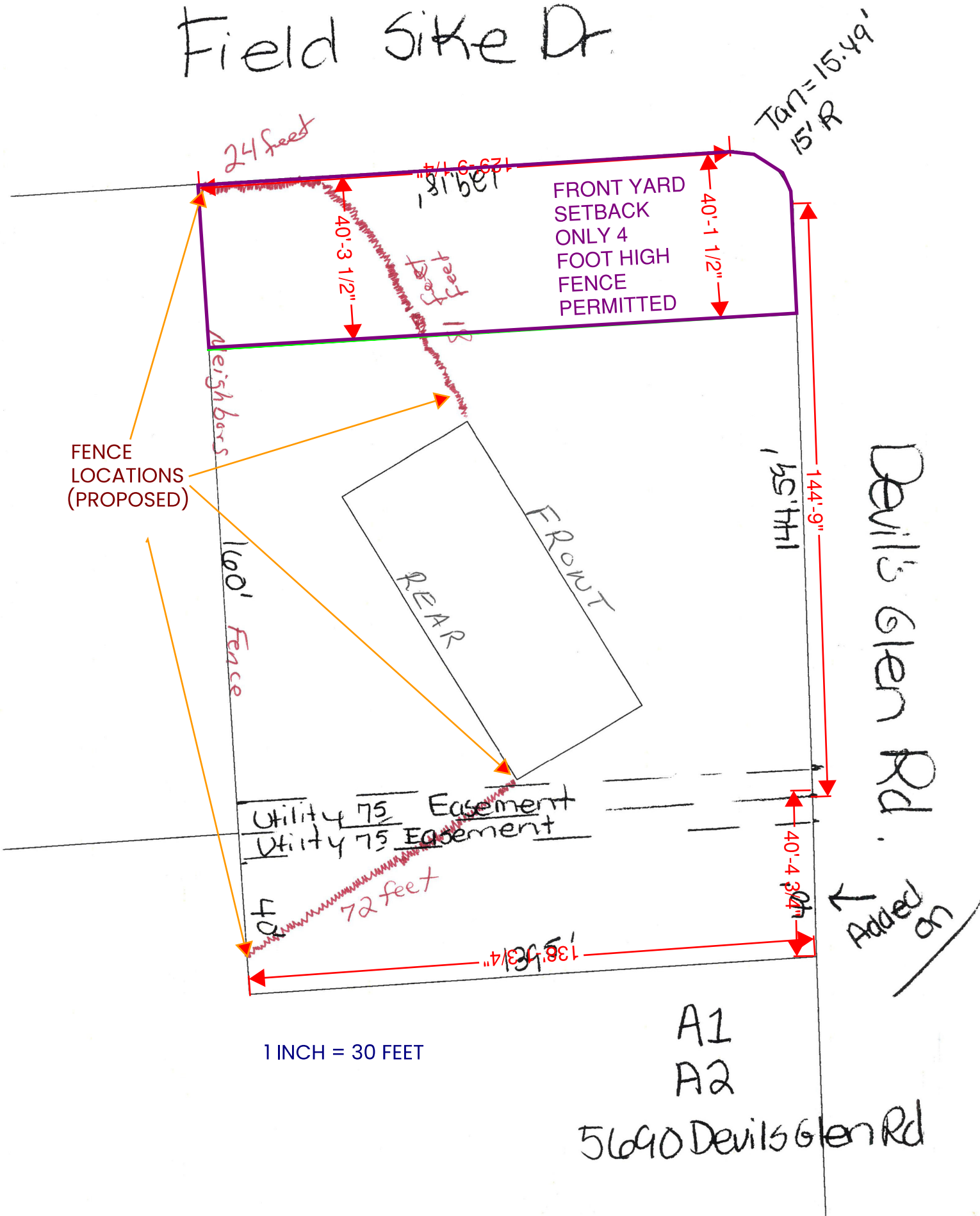
A-2 FRONT YARD SETBACKS

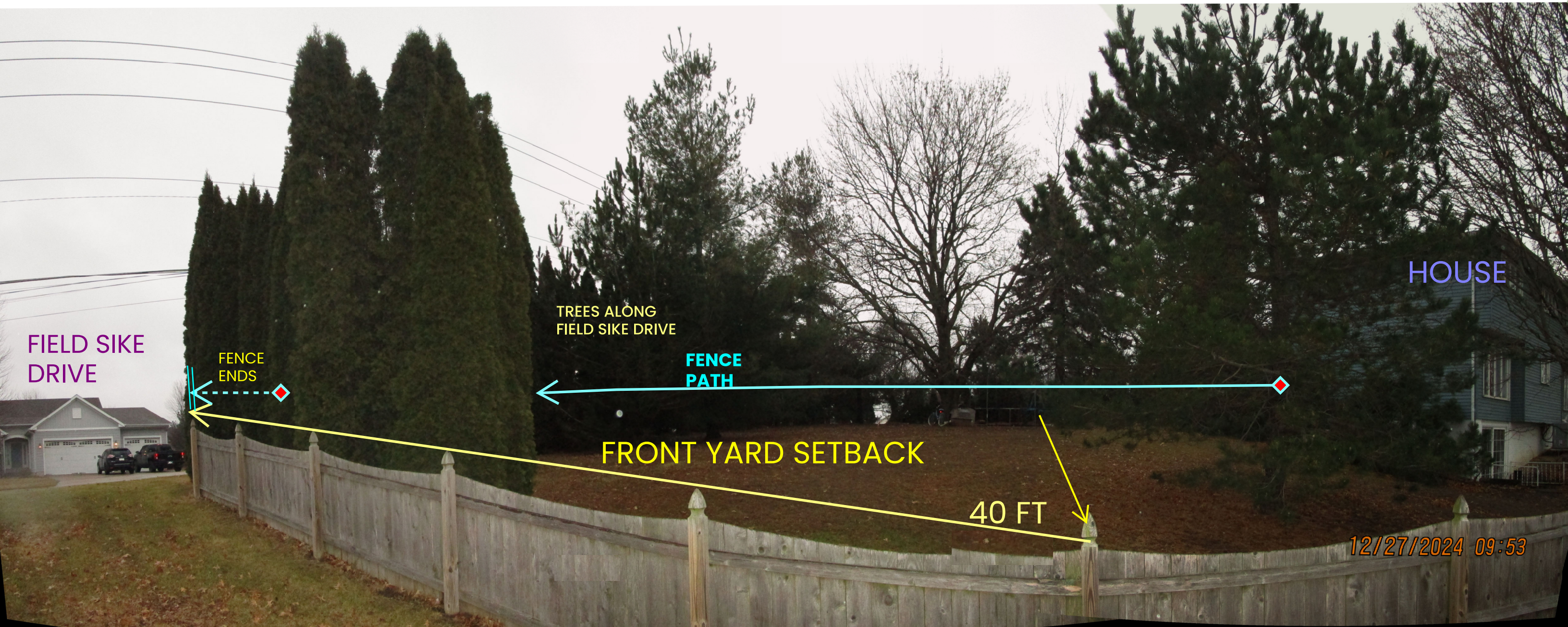
OTHER PROPOSED FENCE PLACEMENT



Legend
Parcel

Field Side Dr





LOOKING EAST AT PROPOSED 5 FOOT HIGH FENCE ENCROACHMENT