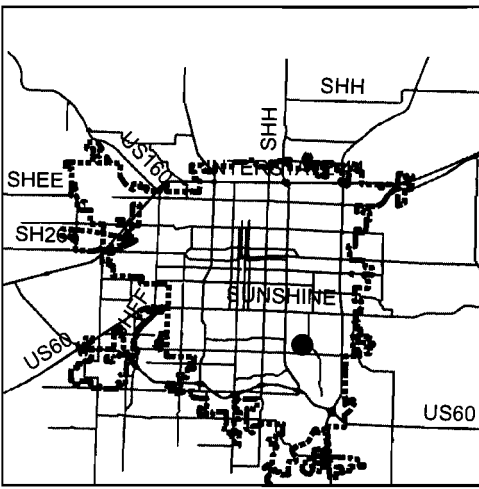


Zoning & Subdivision Report

Planning & Development - 417/864-1611
840 Boonville - Springfield, Missouri 65801

Subdivision Variance 326

Location: 2744 and 2754 South Glendale Avenue



LOCATION SKETCH



- Area of Proposal



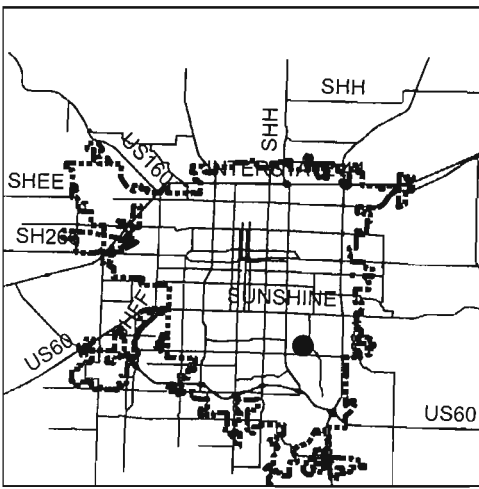
1 inch equals 200 feet

Zoning & Subdivision Report

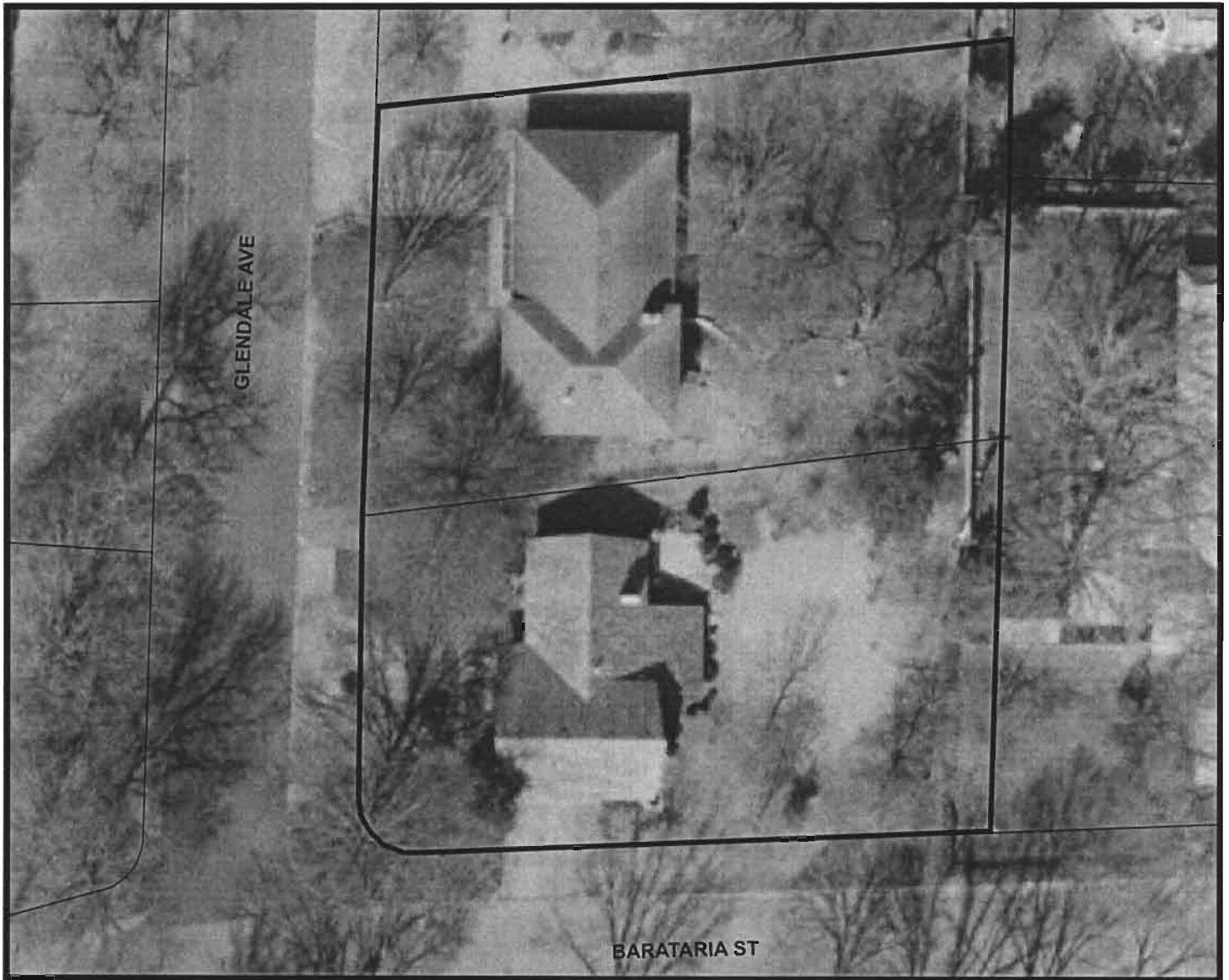
Planning & Development - 417/864-1611
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Subdivision Variance 326

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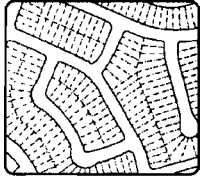
LOCATION SKETCH



- Area of Proposal



1 inch equals 40 feet



Zoning & Subdivision Report

Planning & Development Department ~ 417/864-1611
840 Boonville Avenue ~ Springfield, Missouri 65801

SUBDIVISION VARIANCE NUMBER 326

DATE: September 4, 2008

PURPOSE: The applicant is requesting a variance from the Subdivision Regulations requirement for side lot lines to be perpendicular to the street.

BACKGROUND:

LOCATION: 2744 and 2754 South Glendale Avenue

APPLICANT: Paul A. and Dyanne Y. Kirk and Joyce D. Wilson

RECOMMENDATION:

If Commission decides that the conditions for variance approval have been met, staff recommends the request be **approved**.

FINDINGS:

1. The original lot line was established prior to the property being annexed into the city.
2. The proposed lot line is slightly more perpendicular to the street than the old line.

STAFF CONTACT PERSON:

K. A. Giles
Associate Planner

Attachment A: Approval Criteria
Attachment B: Background Report
Attachment C: Portion of the Survey

ATTACHMENT A
APPROVAL CRITERIA
SUBDIVISION VARIANCE NUMBER -326

Section 106 of the Subdivision Regulations state in part:

Conditions of Variance Approval. No variance shall be granted unless it is found that:

- (a) There are special and unusual circumstances affecting said property such that the strict application of the provisions of this Article would deprive the owner of the reasonable use of his land and is not the mere granting of a privilege, and

APPLICANT'S RESPONSE:

Joyce D. Wilson is the owner of the property to the north of ours at 2754 S. Glendale. Her address is 2744 S. Glendale. Some 36 years ago her husband installed a fence between our two properties. This fence did not run perpendicular to the curb. It also did not follow the property line. Recently in the process of installing a sprinkler system, the original surveyor's pins were located with the use of a metal detector. What a surprise. The difference at the curb is in excess of 5 feet. The fence installed was more perpendicular to the curb. Property that we had thought was ours was not. At this point I visited with our neighbor, Joyce Wilson, who agreed that the property line should be along the line where the fence had been installed to avoid any future problems between neighbors. Any claim for adverse possession would be removed if this variance request is approved.

- (b) The variance is necessary for the preservation and enjoyment of a substantial property right of the owner, and

APPLICANT'S RESPONSE:

Having thought the property in question was theirs, the Kirk's would be deprived of the enjoyment of a substantial property right. This agreement of the neighbors is to restore to the Kirks what both Joyce Wilson and the Kirks thought was the real property line.

- (c) The granting of the variance would not be detrimental to the public safety, convenience or welfare or be injurious to other property in the vicinity.

APPLICANT'S RESPONSE:

No other property owners are affected. The only purpose of this requested variance is to establish a property line between neighbors that is more

perpendicular with the curb and where the owners thought the property line was.

The Planning and Zoning Commission must first decide if all of these conditions are met before this variance can be approved.

STAFF RESPONSE:

This proposal meets the conditions listed above.

ATTACHMENT B
BACKGROUND REPORT
SUBDIVISION VARIANCE NUMBER 326

APPLICANT'S PROPOSAL:

The applicant is requesting a variance from Section 407(3) of the Subdivision Regulations to allow the creation of a lot line which is not perpendicular to the street.

SUBDIVISION REGULATIONS:

The Subdivision Regulations require side lot lines to be substantially at right angles to straight street lines or radial to curved street lines.

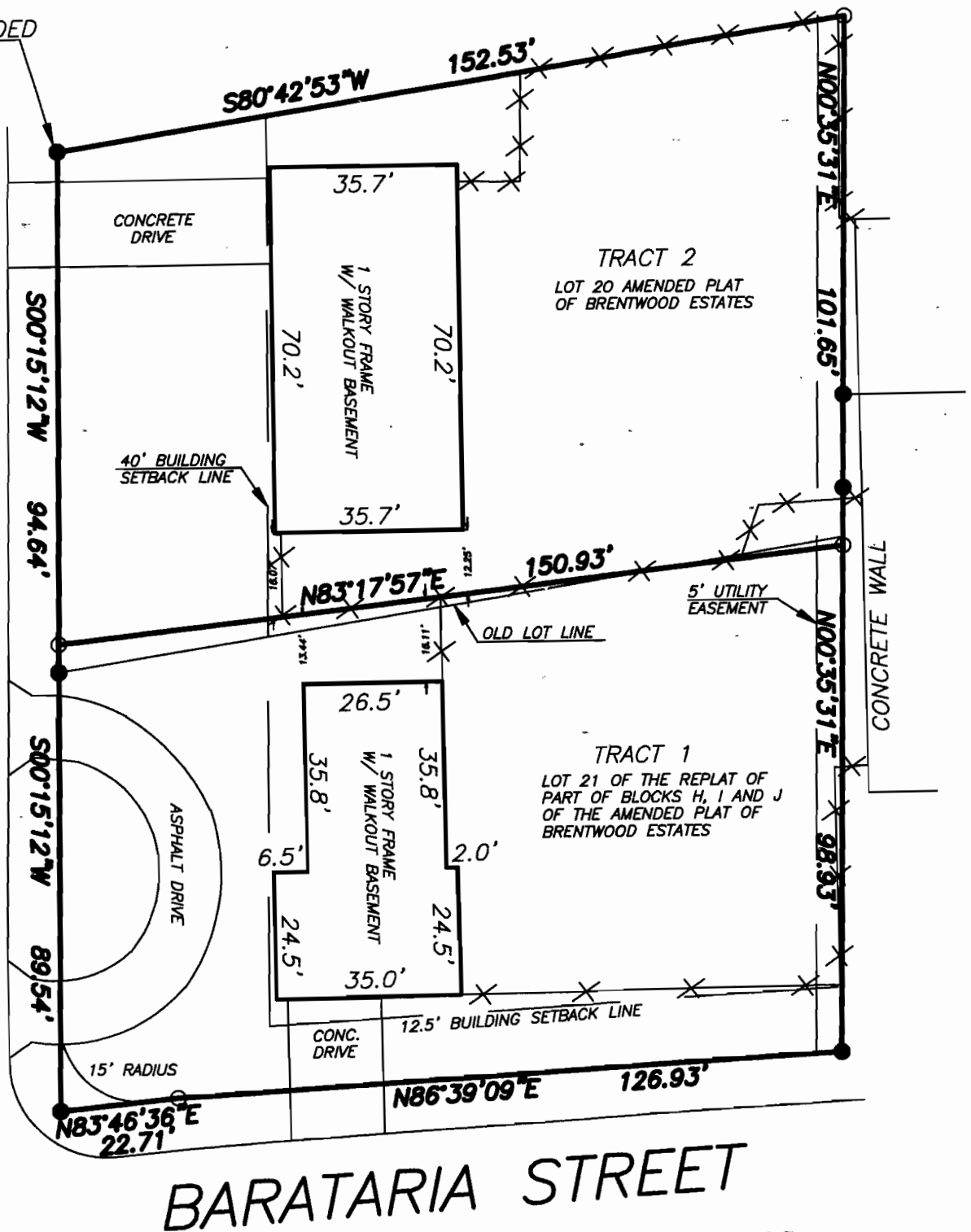
STAFF COMMENTS:

1. The owners of the two properties have applied for an administrative subdivision lot line adjustment to move the property line between them to coincide with the existing fence. Both property owners have agreed on where the line will be located.
2. This property was platted prior to being annexed into the city in 1955. The original side lot line was not perpendicular to the street line. The city *Subdivision Regulations* started requiring side lot lines to be perpendicular to the street in 1956. The proposed lot line is slightly closer to perpendicular (see Attachment C).

SubV326SR.wpd

EAST CORNER LOT 20 AMENDED
OF BRENTWOOD ESTATES

GLENDALE AVENUE



ATTACHMENT C
SUBDIVISION VARIANCE NUMBER 326

SURVEYORS DECL
I HEREBY DECLAR
IS BASED UPON
WAS PERFORMED