

Board of Adjustment
Wednesday, April 16, 2025 4:30 PM
Crete City Hall
243 E 13th Street
Crete, NE 68333

1. Open Meeting

- In accordance with Nebraska law, a copy of the Open Meetings Act can be found in the back of the Council Chambers.
- Items listed on the agenda may be considered in any order.

2. Roll Call

- Attendance of members will be recorded to determine the presence of a quorum for official actions.

3. Items of Business

- Action may be taken to discuss/limit discussion, to hear testimony in favor of or in opposition to, and to approve or disapprove any matter presented under this title.

3.A. February 12th, 2025 Meeting Minutes

3.B. Variance Request for 1165 Lakeshore Drive

4. Officers' Reports

- Reports may be given by Officers, City Departments, Committees, or Board members concerning the current operations of the Airport.
- No action can be taken on matters presented under this title except to answer any questions or to refer the matter for further action.

5. Adjournment

Disclaimers & Notices

- The Council may enter into closed session to discuss any matter on this agenda when it is determined that a closed session is clearly necessary for the protection of the public interest or the prevention of needless injury to the reputation of an individual (if such individual has not requested a public meeting) or as otherwise allowed by law. Any closed session shall be limited to the subject matter for which the closed session was called. If the motion to close passes, then immediately prior to the closed session the Mayor shall restate on the record the limitation of the subject matter of the closed session.
- The City of Crete assures that no person shall on the grounds of race, color, national origin, age, disability, handicap or sex, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity of the City receiving Federal financial assistance. To report discrimination, contact the City Clerk's office.
- The complete agenda with attachments is available at www.crete.ne.gov.



CRETE BOARD OF ADJUSTMENT

February 12th, 2025 at 4:15 PM
Crete City Hall, 243 East 13th Street

MINUTES

Notice of the meeting was given by posting, the appointed method for giving notice as shown by the attached notice, at the following locations:

City Hall, 243 East 13th Street
Post Office, 1242 Linden Avenue
City Bank and Trust, 1135 Main Avenue

Advance notice of the meeting was also given to committee members. Pursuant to Section 84-1412(8) of the Nebraska Open Meetings Act, the City has posted a current copy of the Open meetings Act, Laws of the State of Nebraska, in the back of the council chambers. All proceedings shown were taken while the meeting was open to the attendance of the public.

Open Meeting:

Roll Call:

Blaine Spanjer: Present
Colten Mach: Present
Chris Kirkpatrick: Present
Jay Quinn: Present
Randall Shelton: Present

Alternate: Jeff Wenz also present but did not vote

Others Present: City Administrator Tom Ourada, City Attorney Anna Burge, City Inspector Trent Griffin, City Clerk Nancy Tellez, Katie & Rick Bevins, Justin Kozisek, Josh Popp, Tony Fitzgerald

1. Discussion with City Administrator regarding variance and the board of adjustment process.

City Administrator Tom Ourada explained that this involves the City in some ways and it doesn't involve the City in other ways. The City has rules and regulations that people are required to follow, by law. On occasion there are situations where people cannot follow ordinances and times that they just do not want to follow the ordinance. If people do not want to follow an ordinance, zoning, building code, or whatever it may be, that doesn't qualify for a variance. But, if they can't follow for a qualifying, specific reason, or reasons, that may qualify for a variance request. The reasons are outlined in city ordinance and state statute. The City of

Crete usually doesn't take a position unless they feel a certain law or ordinance could be adjusted. Upon a determination one way or another, there is an appeal procedure that the requestor, or anybody else can follow and go to district court for a final resolution. City Attorney Anna Burge will talk about the hardships and when the Board of Adjustment can rule on that. The City Council cannot overturn a decision. Again, it goes to the appeal procedure in district court.

Ourada explained that with this variance request in particular, there is an easement involved. Easements cannot be altered. An Easement is a conveyance of property rights and it is a legal document that is filed with the county. You do not have any authority to undo a contract. For that reason, the request was altered to not include the easement.

Ourada stated that the City of Crete is not going to take a position on this.

2. Variance request for 1240 Lakeshore Drive.

Justin Kozisek addressed the Board of Adjustment and stated that he lives across the street from where the request is being made and he is in favor of the variance request being approved. Kozisek stated that having the home built on that lot would be a positive impact for the neighborhood. Kozisek thanked the Board for their time and for allowing him to voice his support of this variance request.

Property owner and Katie Bevins addressed the Board of Adjustment and stated that they purchased the lot in March 2024. They would like to build a home, but with the constraints of the easement, she is not sure how a home could be built on that lot without standing out.

Josh Popp with Provision Realty Group RE/MAX Concepts stated that they started with a title search and were able to find the easements on the property with the help of Water Superintendent Jesse Yager and Building Inspector Trent Griffin. Popp stated that they drafted the measurements of the layout and by making it more linear, it makes the front of the house completely flat. This would take away from the ability to set a front entrance and there would be no front landing. Popp added that they changed the garage to fit the easement, not the lot. The front bedroom is what is encroaching on the setback.

City Administrator Tom Ourada and Board of Adjustment Chair Blaine Spanjer stated that on the plans part of the house is on the easement and will have to be moved. Popp stated that they can work with the 3ft that they need to manipulate to get out of the easement. However, to do 8ft with that and the front setback that would change the layout of the house. Spanjer added that a porch that is not covered can be on the setback. Ourada stated that it can if it is not covered and also on an easement, but you have to be careful with that since they wouldn't have any property rights to it.

Spanjer added that he asked that stakes be put in to mark the corners of where the house would be to see how that would look. Spanjer stated that none of the houses in the neighborhood sit square to the road on that side.

City Attorney Anna Burge clarified what an undo hardship is;

- They have to consider if there have been alternate considerations made whether there are other options available and they are choosing not to take. That becomes a choice of if they what to do this or not, not an undue hardship.
- If something costs more than another project, this is not an undue hardship
- The inability to find any options to develop the property would be an undue hardship

1.) The strict application of the Zoning Regulations would produce hardship; in that: Spanjer stated that the property owner's argument is because of the easement requires the house to be built into the easement. Spanjer restated to the property owners that the three feet that are on the easement have to be cut off. Popp stated that they will go through the proper building channels.

2.) Such hardship is not shared generally by other properties in the same zoning district and the same vicinity; in that: No other properties have the limited building envelope.

3.) The authorization of such variance will not be of substantial detriment to the adjacent property and the character of the district will not be changed by the granting of the variance; in that: No specific findings made.

4.) The granting of such variance is based upon reason of demonstrable and exceptional hardship as distinguished from variation for purposes of convenience, profit or caprice; in that: No specific findings made.

Jay Quinn moved to motion to approve the variance request for 1240 Lakeshore Drive allowing 5 ft int the front yard set back and Randall Shelton seconded the motion.

Colten Mach: Aye, Chris Kirkpatrick: Aye, Jay Quinn: Aye, Randall Shelton: Aye, Blaine Spanjer: Aye

Aye:5

No: 0

The meeting adjourned at 5:06 p.m.



CITY OF CRETE
APPLICATION FOR VARIANCE
BOARD OF ADJUSTMENT

Applicant Al & Pat Erikson

Address 1165 Lakeshore Drive

Phone Number 619 952 0569

Legal Description of Property Involved:

Lot 15 Block

Subdivision Pine Ridge 2nd addition

Present/ Future use of Property:

Single family home

Site Plan Attached: X Yes No

This is a request for a variance from Ordinance § 11-502.

Property is located in the Zoning District.

A) The existing situation is:

New house Regulations only allows 6' fence back of house which is 10' from where we want to not block

DO NOT WRITE IN THIS SPACE

Date Received

Receipt #

BOA Case #

Hearing Date

* Last updated on 9-1-10 *

DISPOSITION

Approved Denied

Conditions Imposed? (See Minutes)

Date of Initial Appeal

Permit Issued

B) Granting of this petition would permit:

Want to Not block windows

NEBRASKA STATE STATUTES STATE IN PART THAT:

“NO VARIANCE SHALL BE AUTHORIZED UNLESS THE BOARD FINDS THAT THE CONDITION OR SITUATION OF THE PROPERTY CONCERNED OR THE INTENDED USE OF THE PROPERTY IS NOT OF SO GENERAL OR RECURRING A NATURE AS TO MAKE REASONABLY PRACTICABLE THE FORMULATION OF A GENERAL REGULATION TO BE ADOPTED AS AN AMENDMENT TO THE ZONING REGULATIONS”.

BEFORE A VARIANCE MAY BE GRANTED, THE APPLICANT MUST PROVE THAT EACH OF THE FOLLOWING FOUR (4) CONDITIONS HAS BEEN FULFILLED. ANSWER EACH OF THE CONDITIONS IN DETAIL. USE ADDITIONAL SHEETS IF NECESSARY.

THE UNDERSIGNED ALLEGES THAT:

1) The strict application of the Zoning Regulations would produce undue hardship; in that:

the fence would be about 5ft from our back yard facing windows with the strict application of zoning regulations

2) Such hardship is not shared generally by other properties in the same zoning district and the same vicinity; in that:

the corner property is expansive, please see attached documents. Our design has the requested fence 25 ft from the property line.

3) The authorization of such variance will not be of substantial detriment to the adjacent property and the character of the district will not be changed by the granting of the variance; in that:

The requested fence does not obscure the site triangle. The typical site triangle is 25 ft. Our fence design would result in a site triangle over 75ft. The adjoining street ends with a gravel road to a farm.

4) The granting of such variance is based upon reason of demonstrable and exceptional hardship as distinguished from variation for purposes of convenience, profit or caprice; in that:

the regulation fence would obstruct the view from 2 large back windows looking into our back yard.

Basicly We would be looking at a fence 5 ft from our windows.

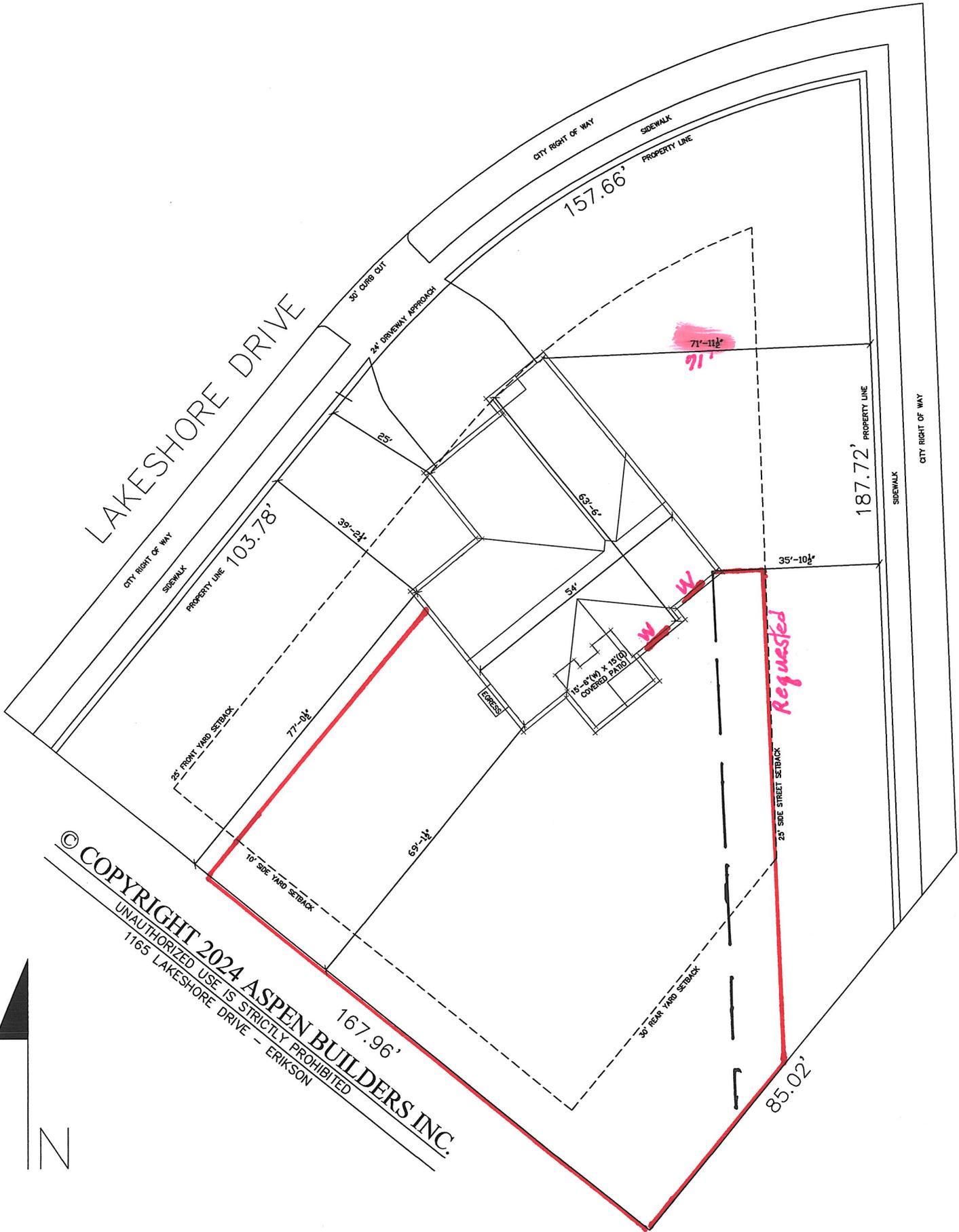
Signature of Authorized Agent



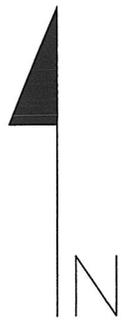
Signature of Property Owner

LAKESHORE DRIVE

LAKESHORE DRIVE

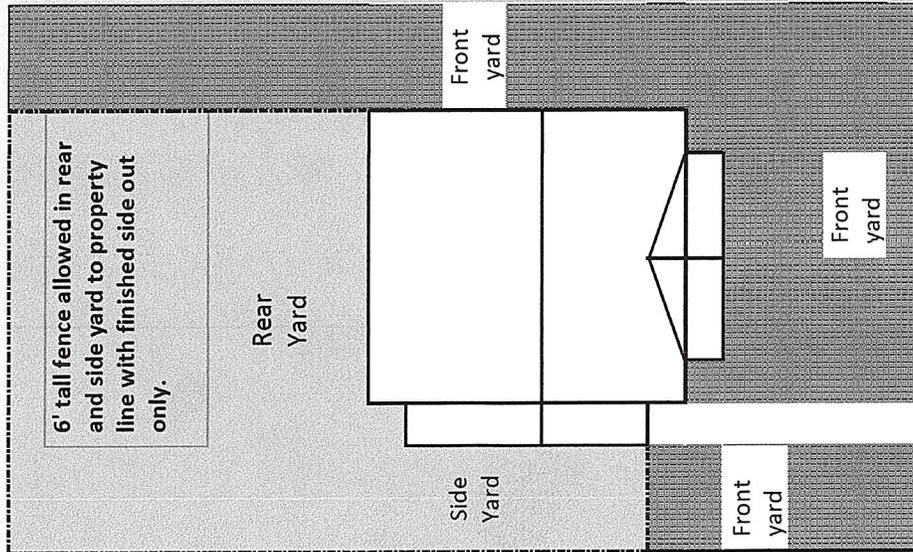


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 UNAUTHORIZED USE IS STRICTLY PROHIBITED
 1165 LAKESHORE DRIVE - ERIKSON

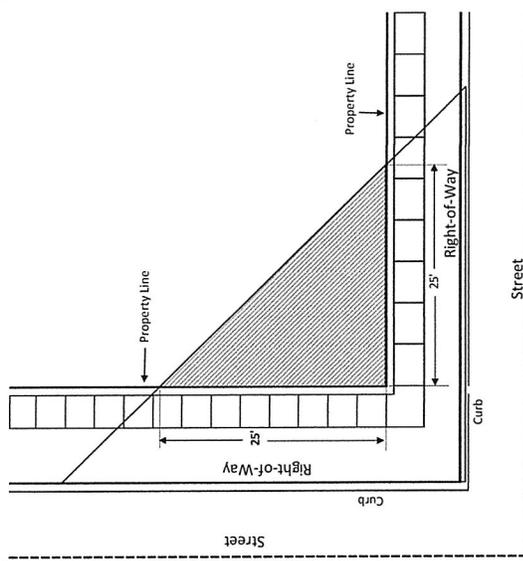


CORNER LOT

Fences on corner lots must meet visibility triangles at street corners and driveway entrances. Corner lot fences have 2 front yards.



VISIBILITY TRIANGLE



Dimensions of Vision Clearance Triangle	
Street Road	Length of Triangle
Alley	20 feet
Non-Residential Drive	25 feet
Local	25 feet
Collector	40 feet
Arterial	55 feet

CALL BEFORE YOU DIG

The City of Crete and State of Nebraska require all residents to call the One-Call Notification System prior to excavating or disturbing the ground. State Law requires a 2-business day advance notification prior to digging. Regular, non-emergency locate requests will be processed during the business hours of 7 a.m. to 7 p.m., Monday through Friday (holidays excluded). Be prepared to give details of the property and project.

811 or 1.800.331.5666 | www.ne1call.com

You are encouraged to mark your excavation site with white flags or paint prior to having the area located; flags are available from Digger's upon request.



FENCE CONSTRUCTION



Fence permits are required forms and can be found online or in the Building Inspector's office in City Hall.

City Hall
243 East 13th Street
Crete, NE 68333
402.826.4312



Building Permits
 at www.crete.ne.gov

ne1call.com



LOCATION

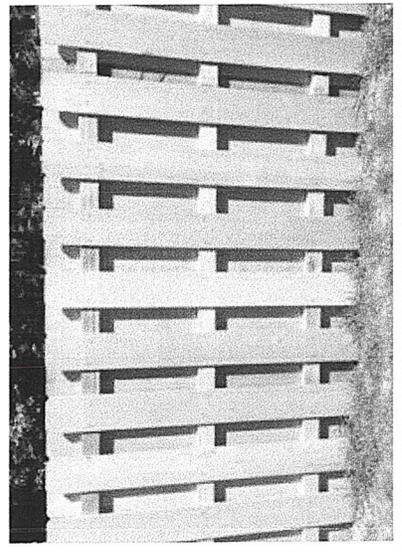
Fences in any front yard, beyond the house itself, may not be taller than 4 feet including post and must be of an open weave or see-through design to allow for traffic visibility. Fences in rear or side yards may not be higher than 6 feet and must include a gate for access of utility personal.

Fences on corner lots must meet visibility triangles at street corners and driveway entrances. Corner lot fences have 2 front yards.

Property lines need to be located by survey or other professional means to the satisfaction of the building inspector. Fences may be installed to the inside of the property line and be no closer than 18 inches from sidewalk which ever is more restrictive.

DESIGN

All fences shall have the finished side facing out with post and supports to the inside.



Design Example: Shadowbox

MATERIALS

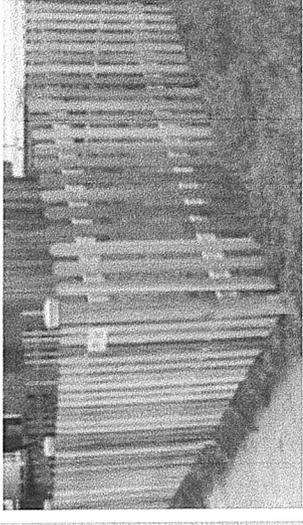
Fences are required to be constructed of approved materials rated for exterior use including wood, brick, masonry block, stone, tubular steel, wrought iron, vinyl, composite or recycled materials, chain-link or other manufactured material or combination of materials commonly used for fencing. Materials not listed must be approved by the Zoning Administrator. Some areas have covenant regulations dictating whether fences can be installed and the type of fence. Check with local home owner association in regards to their bylaws.

Swimming pools are required to have a fence installed. Contact the building inspector about information pertaining to swimming pool fences.

PROHIBITED MATERIALS

Scrap materials such as scrap lumber, scrap metal, metal roof panels, corrugated or sheet metal, pallet wood, tarps, plywood, barbed and razor wire, hog wire, chicken wire, horseman wire mesh, v-mesh, field fence, woven field fence, welded utility fence, electrified wire fence or any similar or like wire fencing material is not permitted in residential R-1 through R-4 or commercial zones C-1 through C-3. Barbed or razor wire may be permitted as security fence at top of allowed fence material.

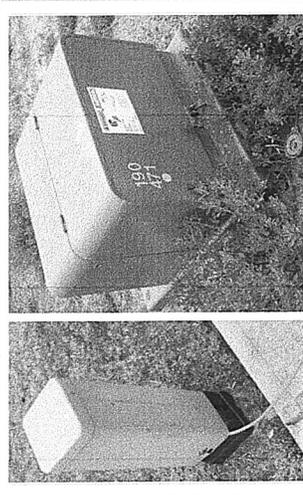
Fences built with valid permits prior to the effective date of this chapter or fences on properties annexed to the City after the effective date of this chapter are exempt.



Design Example: Open weave

EASEMENTS

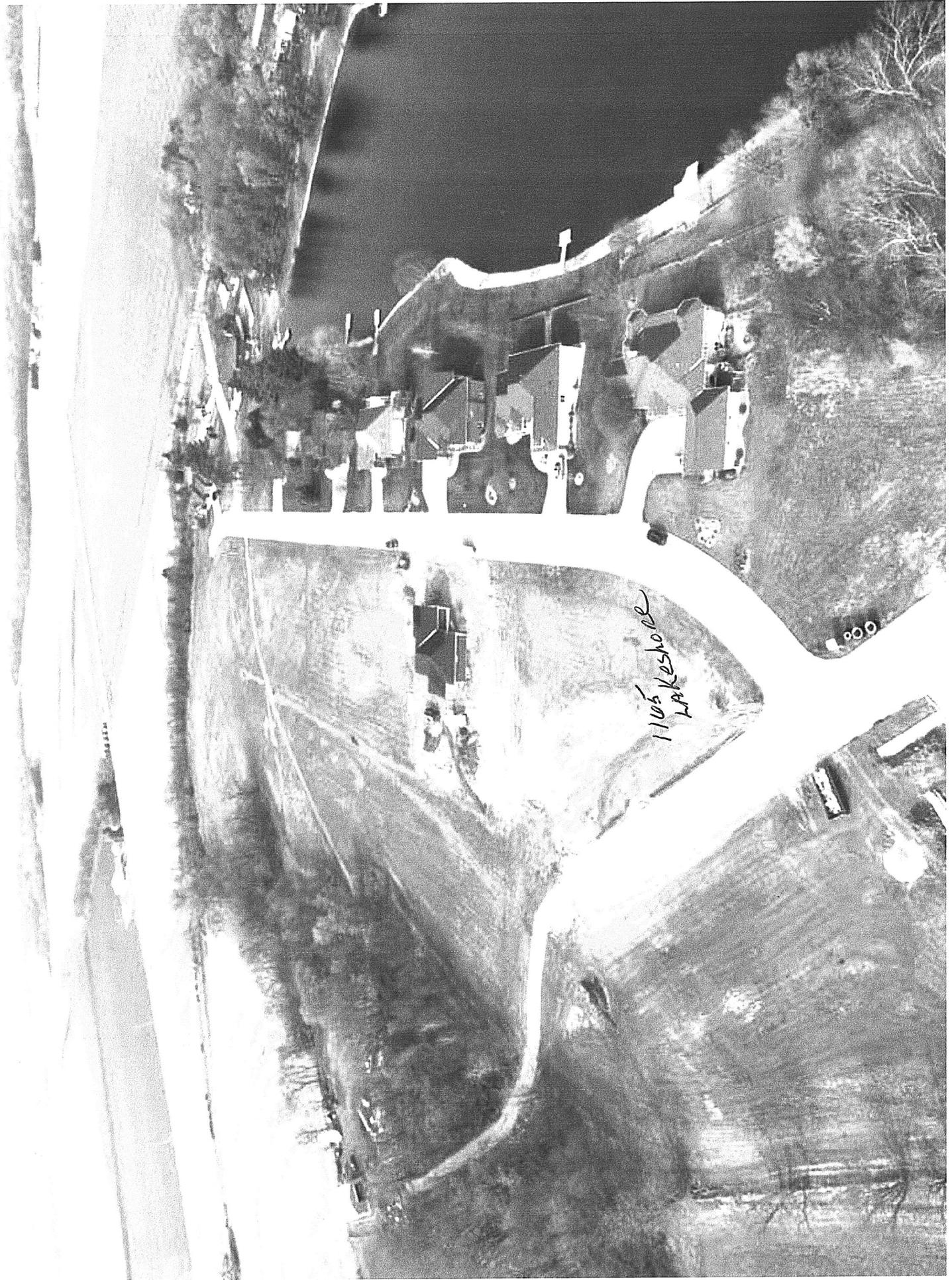
A 5 foot clearance on the sides and back shall be maintained around all Transformers. A 10 foot clearance is required in front. A 3 foot clearance shall be maintained around pedestals on all sides. If the clearance cannot be achieved then all fence panels shall be made removable without the use of tools. You are required to submit a locate request for buried cables and gas lines by calling 811 before digging.



Pedestal Transformer

TEMPORARY FENCE

Temporary fencing for gardens, construction fencing and silt fencing do not require a permit and need to be removed at completion of construction or when not being used.



1105 Kesho Rd
LA Kesho Rd



243 East 13th Street
P.O. Box 86
Crete, NE 68333-0086
Telephone (402) 826-4312

CITY OF CRETE APPLICATION FOR RESIDENTIAL FENCE PERMIT

FEE _____ NUMBER _____ DATE _____

OWNER NAME Alan Erikson INSTALLER NAME AKL Fences

OWNER ADDRESS 1165 Lakeshore Dr INSTALLER ADDRESS PO Box 72305 Lincoln 68542

OWNER PHONE # 619-952-0569 INSTALLER PHONE # 402-499-6454

JOBSITE ADDRESS 1165 Lakeshore Dr CONTACT E-MAIL akl-fences@hotmail.com

JOBSITE LEGAL DESCRIPTION: LOT _____ BLOCK _____ ADDITION _____

FENCE REQUIREMENTS: CRETE MUNICIPAL CODE SECTION 11-502

- 1) FENCE MAY NOT BE HIGHER THAN **SIX FOOT** ON SIDE AND REAR YARDS.
- 2) FENCES MAY NOT BE PLACED ON AN **EASEMENT** OF ANY KIND.
- 3) FENCES GOOD SIDE MUST FACE OUTWARD FROM OWNERS PROPERTY; GOOD SIDE OUT.
- 4) FENCES IN ANY FRONT YARD, BEYOND THE HOUSE ITSELF, MAY NOT BE HIGHER THAN **FOUR FOOT** AND MUST BE OF AN **OPEN WEAVE** OR **SEE-THROUGH** DESIGN TO ALLOW FOR TRAFFIC VISABILITY.
- 5) **CALL DIGGERS HOTLINE** TO LOCATE ALL BURIED UTILITIES BEFORE DIGGING AT 1-800-331-5666.
- 6) IF YOU HAVE A **CORNER LOT** YOU EFFECTIVELY HAVE **TWO FRONT YARDS** FOR TRAFFIC VISABILITY CONSIDERATIONS. **OPEN WEAVE AND FOUR FOOT HEIGHT LIMITS** APPLY TO BOTH SIDES OF LOT, TOWARD EACH STREET SIDE.
- 7) A GATE IS REQUIRED FOR CITY METER READERS TO ACCESS THE METERS MONTHLY.

PROPERTY LINES MUST BE LOCATED BY LEGAL SURVEY OR OTHER PROFESSIONAL MEANS TO THE SATISFACTION OF THE BUILDING INSPECTOR TO ENSURE PROPER FENCE PLACEMENT. E-mail ray.sueper@crete.ne.gov .
(OVER PLEASE)

CALL 826-4312 FOR A "PRE-BUILD" PROPERTY INSPECTION

PLEASE SHOW PROPERTY DIMENSIONS FOR YOUR LOT AND LENGTHS OF FENCE OR FENCES BELOW.

DRAW THE INTENDED LOCATION OF THE FENCE RELATIVE TO YOUR HOUSE, PROPERTY LINES, AND OTHER STRUCTURES ON THE PROPERTY.

See attached drawing

Gate 1 5'

Gate 2 3'

Gate 3 8'

(SHOW NORTH ARROW)

Alan J. Esri

APPLICANT'S SIGNATURE

Alan J. Esri

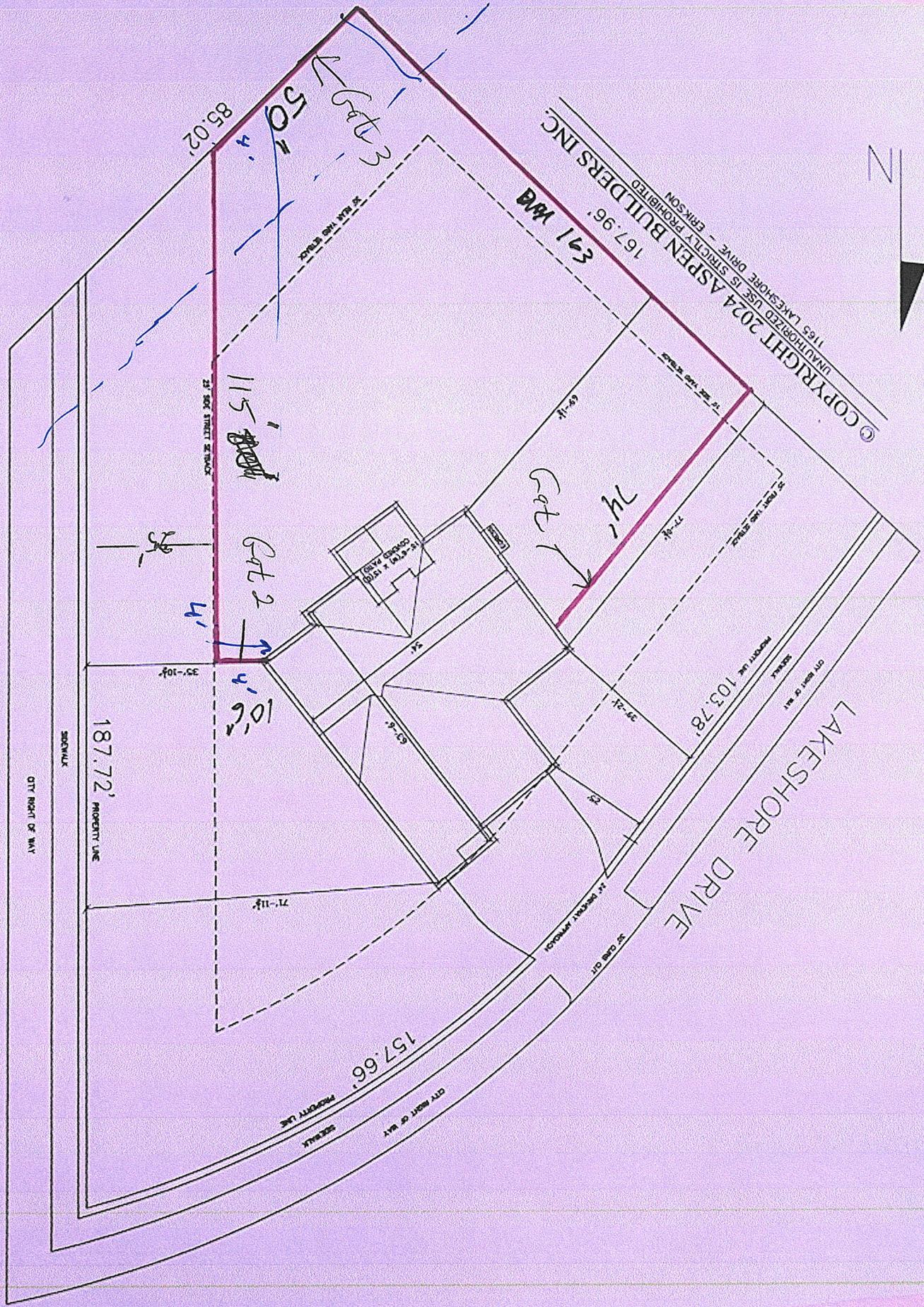
OWNER'S SIGNATURE



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 UNAUTHORIZED USE IS STRICTLY PROHIBITED
 1165 LAKESHORE DRIVE - ERIKSSON
 167.96'

LAKESHORE DRIVE

LAKESHORE DRIVE



Fencing

AFL Fences

Estimate

PO Box 22305
 Lincoln, NE 68542
 Travis Kramer (402)499-6454

Date	Estimate #
3/4/25	

Name/Address
Alan Erikson 1165 Lakeshore Drive Crete, NE 68333

Email: al.erikson@gmail.com

Phone # (619) 952-0569

Description	Total
Install 378' of 6' tall Country Estate vinyl privacy fence, lakeland style w/ 4 gates Two gates will be made for a Double gate w/ a removable post IF linear footage changes the price per foot for billing is Adobe \$37.32 plus \$2000 for gates Adobe streaked \$41.38 plus \$2000 for gates PLEASE READ NOTES: Price is good for 7 days. Base price includes materials, installation, and sales tax but not additional options. AFL Fences is NOT responsible for sprinkler damages, damage to public or private utility lines, or other private lines not located by Diggers Hotline. AFL Fences will be responsible for calling Diggers Hotline for all publicly ran utilities but NO private utilities. IF any damage occurs, the homeowner is responsible for damages. Please pick up pet waste, flag sprinkler heads, and mow the yard prior to installation. Please do not water for 48 hours prior to installation. Thank you for considering us for the next addition to your home. If you have any questions, please call Travis @ 402- 499-6454 We can accept credit card for a 4% FEE	Adobe \$16,107. ²⁰ Adobe Streaked \$17,641. ²⁰ Heavy posts - Add \$35 per post Permit NOT included <u>Additional Options not</u> <u>included above</u> Sprinkler Insurance Add \$250 Haul away dirt: ADD \$ spread out base Hand dig holes within 18 inches of utilities: ADD \$25 per hole Pick up Pet Waste Add \$150.00 Survey Add \$500 (in Lincoln) (residential lot) may be more in Crete
40% down payment required- 25% Non Refundable	

Customer Signature
 AFL FENCES 

DATE
 DATE 3/4/25

11-502 Fences, Walls, And Hedges

(1) Notwithstanding other sections or provisions of the City Code, fences, walls, and hedges are permitted in any required yard, provided that no fence, wall, or hedge along the sides or front edge of any front yard shall be erected over four feet in height and all fences in the front yard must be of an open weave or see-through design. Hedges and walls up to four feet in height will be allowed in the front yard only upon application for a special permit and approval by the City.

(2) The following regulations shall apply to the construction of all fences:

(a) All fences constructed in the City of Crete shall comply with this section and a building permit must be obtained.

(b) All fences shall conform to the construction standards of the Building Code and all other applicable ordinances and resolutions.

(c) No fence shall be constructed closer to the street than the property line, and no fence shall be closer than eighteen inches to the sidewalk. The good side of the fence shall face the outside of the property.

(d) No fence erected in a required front yard shall materially obstruct public view. Permitted types of fences for use in front yards shall include split rail, chain link, or other similar open-spaced or see-through material. No component of a front yard fence shall exceed four feet in height, nor shall any structural member exceed three feet in cross-sectional area.

(e) No fence shall be constructed which will constitute a traffic hazard as identified in the sight triangle of a corner lot.

(f) No fence shall be constructed in such a manner or be of such design as to be hazardous or dangerous to persons or animals by intent of its construction or by inadequate maintenance.

(g) No fence shall be constructed within a designated floodway.

(h) No component of a fence within Residential Districts, except fences erected upon public or parochial school grounds or in public parks and playgrounds, shall be constructed of a height greater than six feet.

(i) In Commercial and Industrial Districts, the maximum height of fences shall be eight feet; however, when industry standards for certain types of businesses recommend fences of greater heights, the City may allow greater heights upon application for and approval of a special permit.

Source: *Ord. 1142 (1991); Ord. 1261 (1995); Ord. 1928 (2015); Ord. 2106 (2020)*