

**Zoning Board of Appeals
June 23, 2021 Regular Meeting**

STAFF REPORT

Subject: ZBA21-020, 216 Beakes Street

Summary:

EDB Enterprises, INC., property owner, is requesting a variance from Section 5.26.2(C) Fences, in order to install a fence four feet tall and less than 50% opaque at the intersection of Beakes and North Fifth Street. Fences within 25 feet of intersections in residential districts must not exceed 30 inches in height. The property is zoned R4C, Multiple-Family Dwelling District.

Background:

The subject property accommodates a children's daycare center located at the southwest intersection of Beakes Street and North Fifth Avenue.

Description:

The applicants are seeking to replace an existing fence with the same design, height, location and color as the existing fence. The existing fence is four feet tall and approximately 20% opaque.

Section 5.26.2 (C) states: All Fences located within 25 feet of the intersection of two or more street Lot Lines where the minimum Required Front Setback of the zoning district in which the Lot is located is greater than none shall not be higher than 30 inches above the sidewalk Grade.

Standards for Approval- Variance

The Zoning Board of Appeals has all the power granted by State law and by Section 5:99, Application of the Variance Power from the City of Ann Arbor Zoning Ordinance. The following criteria shall apply:

- (a). ***That the alleged hardships or practical difficulties, or both, are exceptional and peculiar to the property of the person requesting the variance and result from conditions which do not exist generally throughout the City.***

The business is located at a street intersection where the sidewalk is over 30 feet in width. This enlarged sidewalk right of way provides a much larger barrier from the street than the other corner lots at the subject intersection.

- (b). ***That the alleged hardships or practical difficulties, or both, which will result from a failure to grant the variance, include substantially more than mere inconvenience, inability to attain a higher financial return, or both.***

The fence is required to protect the children's play area and a failure to grant the variance will result in a 30-inch fence that will not provide adequate protection. The applicants state that due to the property layout another location is not possible.

- (c). ***That allowing the variance will result in substantial justice being done, considering the public benefits intended to be secured by this Chapter, the individual hardships that will be suffered by a failure of the Board to grant a variance, and the rights of others whose property would be affected by the allowance of the variance.***

The variance will benefit the property owner, clients of the business, the public and all who benefit from the services provided.

- (d). ***That the conditions and circumstances on which the variance request is based shall not be a self-imposed hardship or practical difficulty.***

The applicant states that due to the property location, street intersection and the sidewalk installation the practical difficulties are not self-imposed.

- (e). ***A variance approved shall be the minimum variance that will make possible a reasonable use of the land or structure***

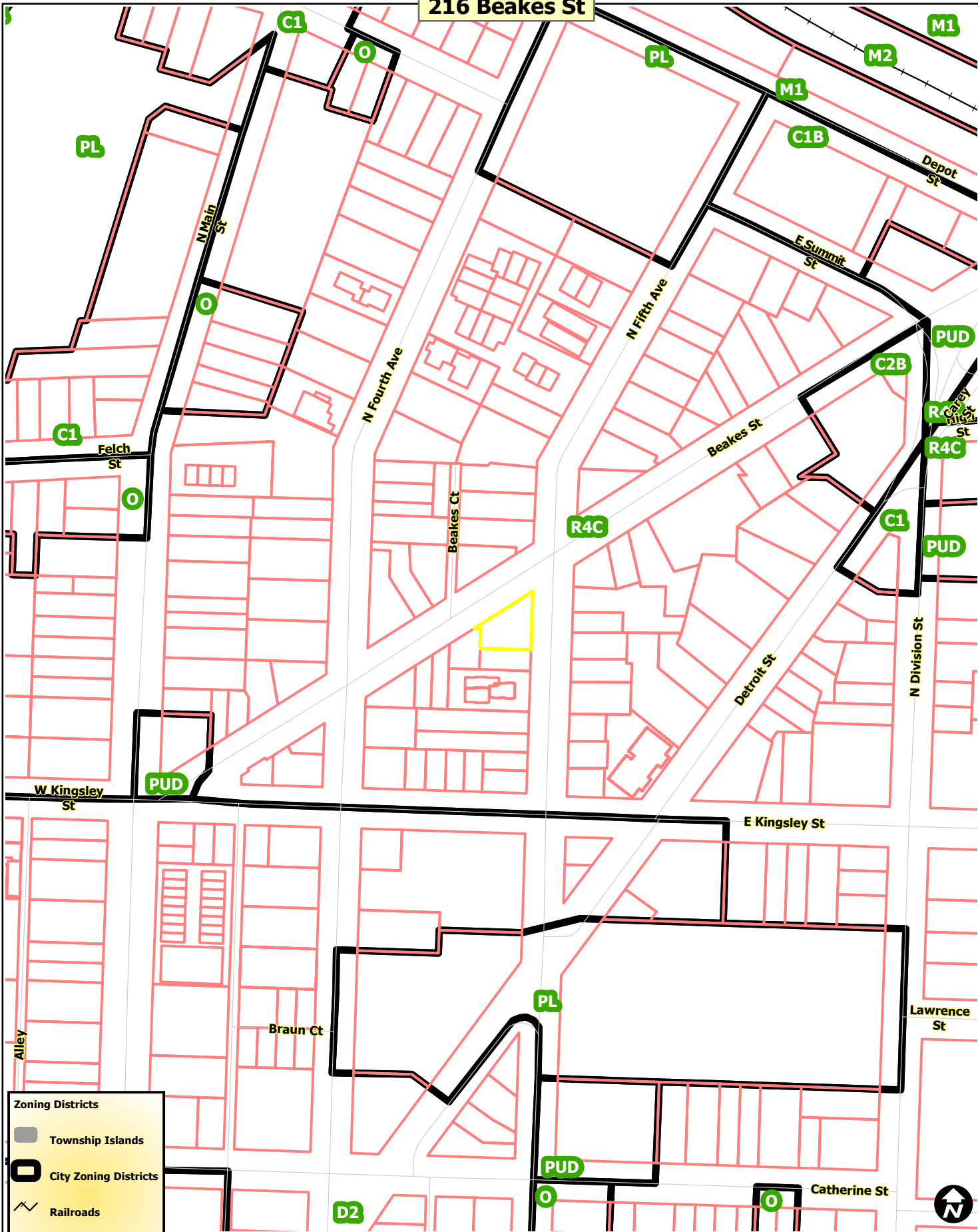
The 18- inch height variance request is the minimum variance necessary in order to make reasonable use of the land and structure.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Jon Barrett". The signature is stylized with loops and a cursive-like flow.

Jon Barrett
Zoning Coordinator, CZO

216 Beakes St



Zoning Districts

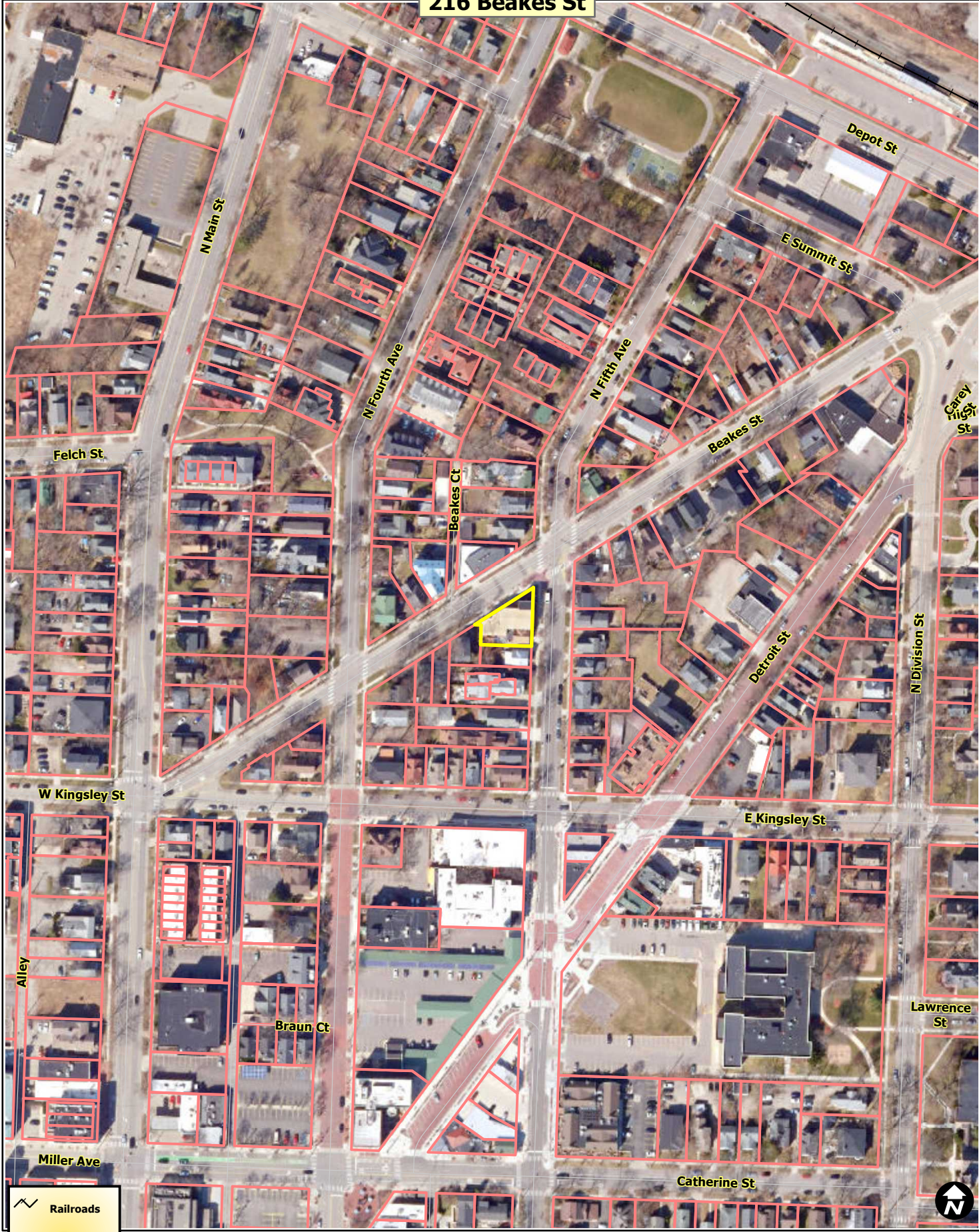
- Township Islands
- City Zoning Districts
- Railroads
- Huron River
- Tax Parcels






Map date: 6/3/2021
 Any aerial imagery is circa 2020 unless otherwise noted
 Terms of use: www.a2gov.org/terms



216 Beakes St



-  Railroads
-  Huron River
-  Tax Parcels






Map date: 6/3/2021
Any aerial imagery is circa 2020 unless otherwise noted
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216 Beakes St

Beakes Ct

Beakes St

N Fifth Ave

-  Railroads
-  Huron River
-  Tax Parcels



Map date: 6/3/2021
 Any aerial imagery is circa 2020
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ZONING BOARD OF APPEALS APPLICATION

City of Ann Arbor Planning Services

City Hall: 301 E Huron Street Ann Arbor, MI 48107-8647

Phone: 734-794-6265 Fax: 734-794-8460 Email: planning@a2gov.org

PROPERTY INFORMATION

| | | |
|--|---|-------------------|
| ADDRESS OF PROPERTY 216 Beakes St. Ann Arbor MI | | ZIP CODE 48104 |
| ZONING CLASSIFICATION Commercial Personal | NAME OF PROPERTY OWNER *If different than applicant, a letter of authorization from the property owner must be provided EDB ENTERPRISES, INC | |
| PARCEL NUMBER 09-90-00-032-000 | OWNER EMAIL ADDRESS rbk5172@gmail.com | |

APPLICANT INFORMATION

| | | | |
|---|-------------------|-----------------------|-------------------|
| NAME EDB ENTERPRISES, INC | | | |
| ADDRESS 5350 PARK RD | CITY Ann Arbor | STATE MI | ZIP CODE 48103 |
| EMAIL rbk5172@gmail.com | | PHONE 734-223-6873 | |
| APPLICANT'S RELATIONSHIP TO PROPERTY OWNER | | | |

REQUEST INFORMATION

| | |
|--|---|
| <input checked="" type="checkbox"/> VARIANCE REQUEST Complete Section 1 of this application | <input type="checkbox"/> REQUEST TO ALTER A NONCONFORMING STRUCTURE Complete Section 2 of this application |
|--|---|

REQUIRED MATERIALS

One hard copy application complete with all required attachments must be submitted. Digital copies of supportive materials included in the submitted hard copy will only be accepted in PDF format by email or accompanying the hard copy application on a USB flash drive.

Required Attachments:

- Boundary Survey of the property including all existing and proposed structures, dimensions of property, and area of property.
- Building floor plans showing interior rooms, including dimensions.
- Photographs of the property and any existing buildings involved in the request.

OFFICE USE ONLY

Fee Paid: ZBA: 2BA21-020

DATE STAMP

ACKNOWLEDGEMENT

All information and materials submitted with this application are true and correct.

Permission is granted to City of Ann Arbor Planning Services and members of the Zoning Board of Appeals to access the subject property for the purpose of reviewing the variance request.

Property Owner Signature: 

Date: 4/19/21

Section 1 City of Ann Arbor Planning Services – Zoning Board of Appeals Application

VARIANCE REQUEST

ARTICLE(S) AND SECTION(S) FROM WHICH A VARIANCE IS REQUESTED: (Example: Article 3, Section 5.26)

Fence Guidelines

REQUIRED DIMENSION: (Example: 40' front setback)

Feet: 25 Inches:

PROPOSED DIMENSION: (Example: 32 foot 8 inch front setback)

Feet: 0 Inches:

DESCRIPTION OF PROPOSED WORK AND REASON FOR VARIANCE:

We are seeking to replace an existing fence. The new fence will be of the same design, height, color, and location as the existing fence. The current regulations require that on corner lots, the first 25' of fencing must not exceed 30" in height. The fence is located at a children's center, and needs to remain at the current 48" height for safety reasons.

The City of Ann Arbor Zoning Board of Appeals has the powers granted by State law and City Code Chapter 55, Section 5:29. A variance may be granted by the Zoning Board of Appeals only in cases involving practical difficulties or unnecessary hardships when all of the following statements are found to be true. Please provide a complete response to each of the statements below.

The alleged practical difficulties are exceptional and peculiar to the property of the Person requesting the variance, and result from conditions that do not exist generally throughout the City.

The property exists at a street corner where the sidewalk is over 30' in width. This creates a much larger distance from the street corner than other corner lots. (see attached image)

The alleged practical difficulties that will result from a failure to grant the variance, include substantially more than mere inconvenience, inability to attain a higher financial return, or both.

This fence is required to protect the children's play area. Failure to grant the variance would result in a fence that is not high enough to protect the play area. Due to the layout of the property, installing the fence in another location is not possible.

Allowing the variance will result in substantial justice being done, considering the public benefits intended to be secured by this chapter, the practical difficulties that will be suffered by a failure of the Board to grant a variance, and the rights of others whose property would be affected by the allowance of the variance.

This would be beneficial to the public, property owner, and all who benefit from the services provided.

The conditions and circumstances on which the variance request is based shall not be a self-imposed practical difficulty.

Due to the layout of the property and sidewalks, this is not a self imposed difficulty.

A variance approved shall be the minimum variance that will make possible a reasonable use of the land or structure.

We will install the fence at the minimum variance that will make possible the reasonable use of the land and structure.

Section 2 City of Ann Arbor Planning Services – Zoning Board of Appeals Application

REQUEST TO ALTER A NONCONFORMING STRUCTURE

For the purposes of Article VI: Nonconformities Section 5.32.2 Nonconforming Structure, **alteration** is defined as any change in a Building that results in additional Floor Area being fit for occupancy, a greater number of dwelling or rooming units or an increase in the exterior dimensions of the Building.

A nonconforming structure may be maintained or restored, but permission to alter a nonconforming structure will only be approved by the Zoning Board of Appeals upon finding that it complies as nearly as practicable with the requirements of this Chapter and that it will not have a detrimental effect on neighboring property.

In the space below, describe the current use of the property, the proposed alteration, and the impact it would have on neighboring property.

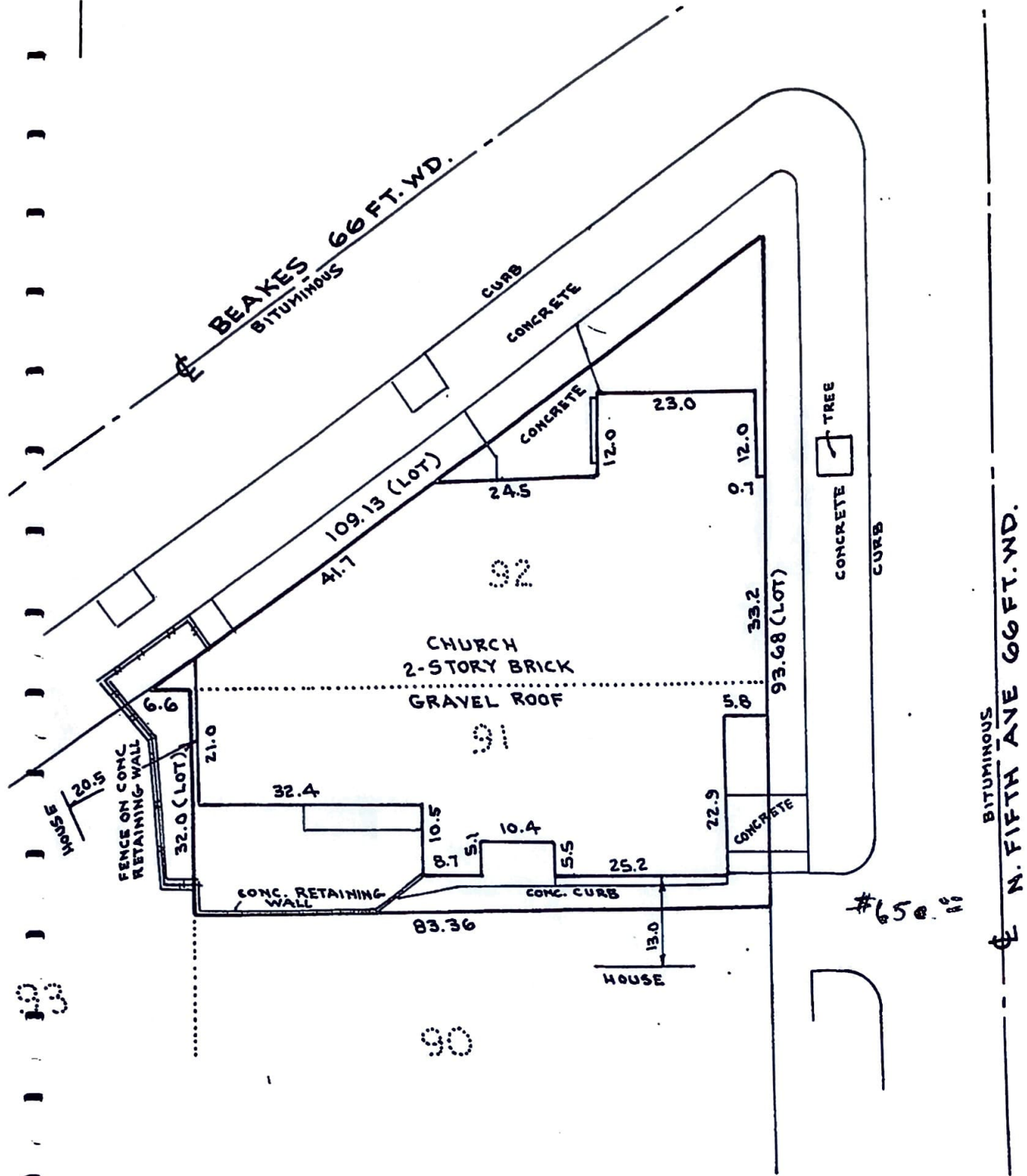
The property is currently used as a children's center. There is an existing fence in the proposed location that is in need of replacement. We are seeking to replace it with a new fence. It will be installed in the same location as the existing fence. It will be of the same height, opacity, color, and design as the existing fence.

There are several reasons we think it would reasonable to approve this variance:

- This fence is intended to protect the children's play area.
- There has been a fence in this location for multiple decades.
- The width of the sidewalk (30'+) creates a natural setback from the street corner.
- This corner lot is located at the intersection of two one-way streets, therefor this fence should not impede traffic flow.
- This fence has a very low opacity (approx 20%) with 3/4" wide pickets and 3 3/4" spacing between each picket.

Please complete the table below as it relates to your request

| Requirement | Existing Condition | Code Requirement |
|------------------|--|------------------|
| Lot Area | | |
| Lot Width | | |
| Floor Area Ratio | | |
| Setbacks | | |
| Parking | | |
| Landscaping | | |
| Other | 30" maximum height within first 25' from corner. We are requesting 48" height in that location | |



PLATED JAN. 22, 1986
 JOB NO. M-11187
 CLIENT: GREAT LAKES FEDERAL SAVINGS

Todd Shelly
 994-4000

IN SECOND BAPTIST CHURCH

ATWELL-HICKS, INC.
 LAND SURVEYORS • CIVIL ENGINEERS • PLANNERS
 ANN ARBOR

SCALE: 1 INCH = 20 FEET

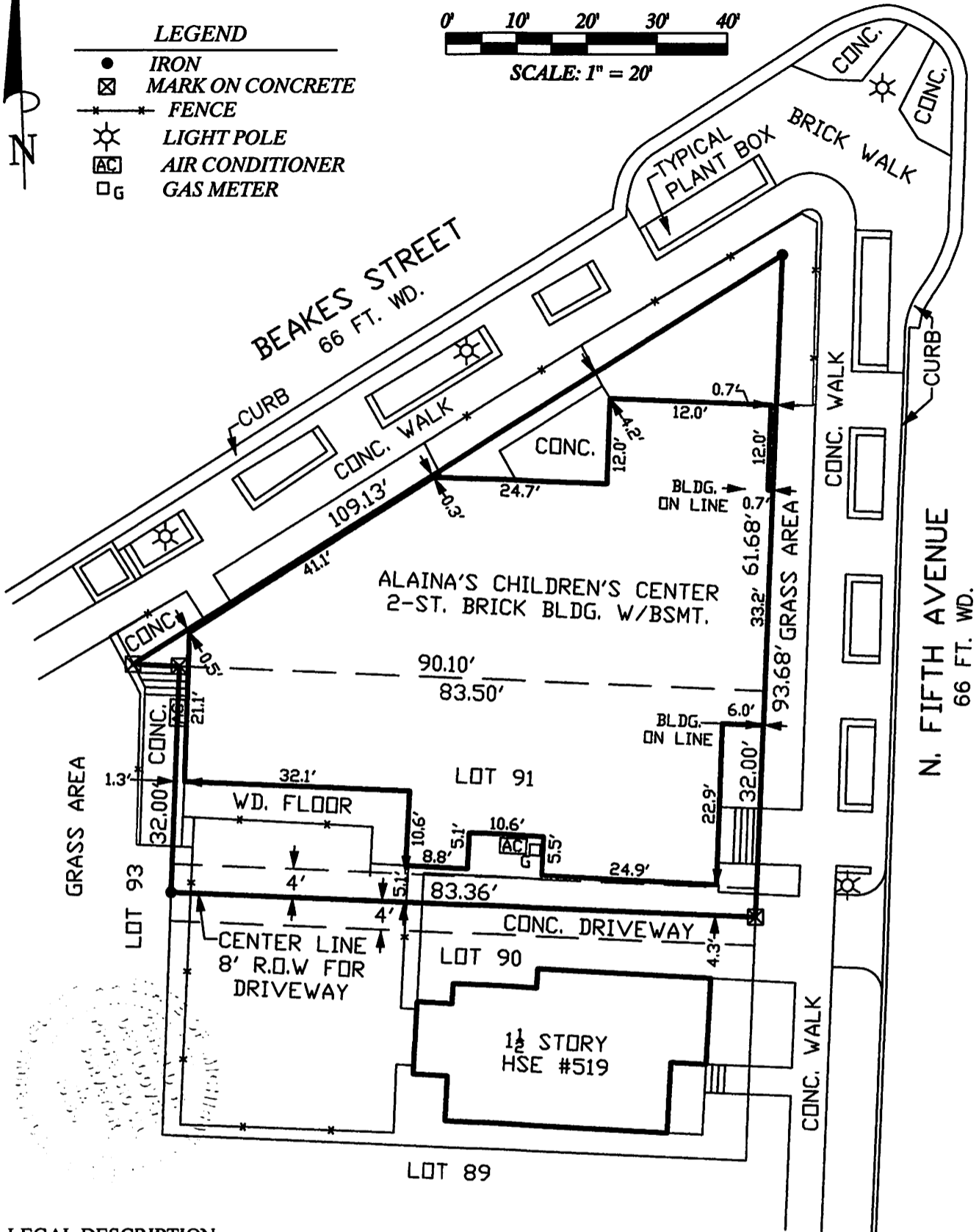
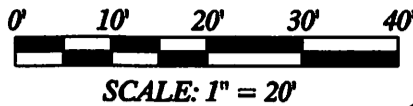
DR. CPM

MORTGAGE REPORT
 LOTS 91 AND 92
 ASSESSORS PLAT NO 29

CERTIFICATE OF SURVEY

LEGEND

- IRON
- ⊠ MARK ON CONCRETE
- *—*— FENCE
- ☼ LIGHT POLE
- ⊠ AC AIR CONDITIONER
- G GAS METER



LEGAL DESCRIPTION:

LOTS 91 AND 92 ASSESSOR'S PLAT NO. 29, BEING A REPLAT OF BLOCKS 3 AND 4 NORTH, RANGES 4, 5, AND 6 EAST ON THE PLAT OF THE VILLAGE OF ANN ARBOR, CITY OF ANN ARBOR, WASHTENAW COUNTY, MICHIGAN, RECORDED IN LIBER 9 OF PLATS, PAGE 20 OF WASHTENAW COUNTY RECORDS. TOGETHER WITH AND SUBJECT TO AN 8 FOOT RIGHT-OF-WAY FOR DRIVEWAY PURPOSES, BEING THE SOUTH 4 FEET OF SAID LOT 91, ALONG WITH THE NORTH 4 FEET OF LOT 90 ASSESSOR'S PLAT NO. 29.

I HEREBY CERTIFY THAT I HAVE SURVEYED AND MAPPED THE LAND ABOVE ON MAY 6, 2021 AND THAT THE RATIO OF CLOSURE ON THE UNADJUSTED FIELD OBSERVATIONS OF SUCH SURVEY WAS 1/15000, AND THAT ALL OF THE REQUIREMENTS OF P.A. 132, 1970, AS AMENDED HAVE BEEN COMPLIED WITH.

AMERICAN LANDMARK SURVEY P.L.C.

SURVEY OF LOTS 91 AND 92
ASSESSOR'S PLAT NO. 29,
CITY OF ANN ARBOR,
WASHTENAW COUNTY,
MICHIGAN.

CLIENT: ROBERT KENNEDY

DATE: 5/19/2021

DRAWN BY: GFD

SCALE: 1" = 20'

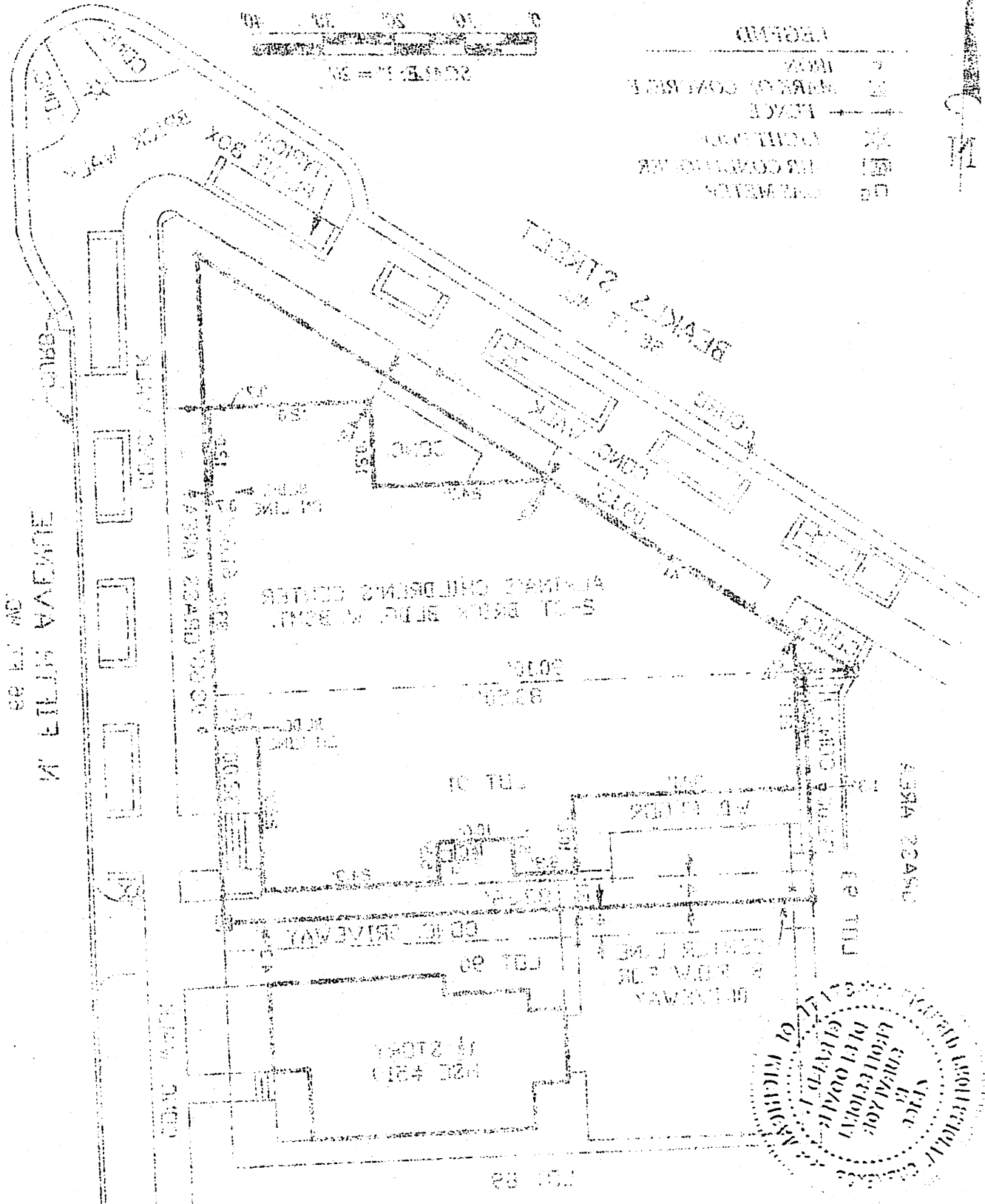
SHEET 1 OF 1

JOB# 21129

Gerald F. Desloover
GERALD F. DESLOOVER
PROFESSIONAL SURVEYOR
NO. 45168
P.O. BOX 130043
ANN ARBOR, MI 48113
734-677-7000



CERTIFICATE OF SURVEY

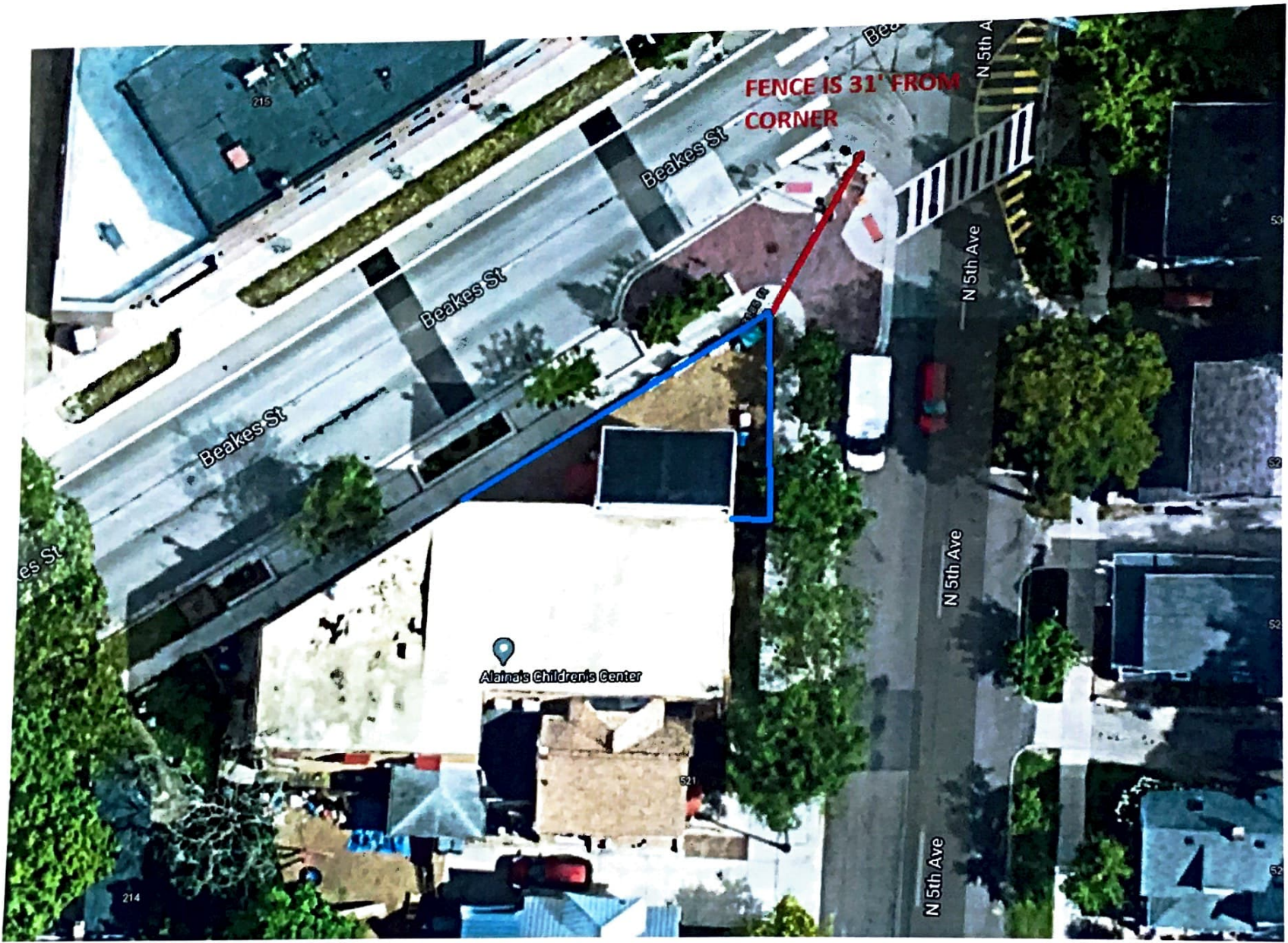


I HEREBY CERTIFY THAT I HAVE CAREFULLY AND MINDFULLY SURVEYED THE ABOVE DESCRIBED LOTS AND STREETS AND THAT ALL OF THE RECORDS AND PLATS OF THE SURVEY HAVE BEEN EXAMINED AND FOUND TO BE CORRECT AND THAT ALL OF THE RECORDS AND PLATS OF THE SURVEY HAVE BEEN EXAMINED AND FOUND TO BE CORRECT AND THAT ALL OF THE RECORDS AND PLATS OF THE SURVEY HAVE BEEN EXAMINED AND FOUND TO BE CORRECT.



GERALD H. DESNOYER
 PROFESSIONAL SURVEYOR
 NO. 4398
 P.O. BOX 18000
 ANN ARBOR, MI 48106
 1984-2000

| | |
|-----------------------------|------------------|
| CLIENT: REBECCA KENNEDY | DATE: 10/1/80 |
| CITY OF ANN ARBOR, MICHIGAN | SCALE: AS SHOWN |
| ASSISTOR'S PLAT NO. 20 | OWNER: ANN ARBOR |
| SURVEY OF LOTS 21 AND 22 | OWNER: ANN ARBOR |
| AMERICAN LUMBER & SHED CO. | |



 = existing location of old fence, and proposed location of new fence

*both Beakes and N 5th are one way streets

Exterior Elevations of Element I



Photograph Taken by Wendy Chapman on September 26, 2005



Photograph Taken by Wendy Chapman on September 26, 2005





N 5th Ave

Beaker St

