



CITY OF TONTITOWN PLANNING OFFICE

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Meeting: **March 30, 2026**
Project: **319 & 351 Baker Ave.**
Fence Variance Request
Planner: Brad Spurlock

AGENDA ITEM **PH1, BOZA1** VARIANCE REQUEST

319 & 351 Baker Ave.
Parcel #: 830-38063-000 & 830-38062-000

SUMMARY: The applicant is requesting approval of a variance from the City of Tontitown fence regulations to allow a fence within the front yard that does not meet the prescribed standards.

CURRENT ZONING: R-3, (Single-Family Residential)

PROPOSED USE: R-3, (Single-Family Residential)

CITY WARD: 2 – Alderperson Danny Montez and Larry Ardemagni

INFRASTRUCTURE SERVICE AREAS (not a guarantee of service availability):

Water: Tontitown Water
Sewer: Washington Co. Septic
Electric: Ozarks Electric
Cable: Cox Communications
Phone: AT&T
Natural Gas: Black Hills Energy
School District: Springdale

PROJECT SYNOPSIS:

The subject property is owned by Juanita F Chandler Trust with Jennifer Mick acting as Power of Attorney. The City's zoning regulations restrict fences with the front yard not to exceed 3' or 36" to maintain visibility, neighborhood character and safety. The applicant has indicated the variance is necessary due to safety concerns for the stated properties. The request is to install a 6' fence around the properties with a gate on each entrance.

153.262 POWERS AND DUTIES

The Board of Zoning Adjustment shall have all the powers and duties prescribed by law and by these regulations, which are more particularly described as follows:

(B) To authorize upon appeal, in specific cases, such variance from the terms of this zoning chapter will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of these regulations would result in unnecessary hardship that would deprive the owner of any reasonable use of the land or building involved. A variance from the terms of these zoning regulations, shall not be granted by the Board of Zoning Adjustment unless and until:

(1) The applicant demonstrates that special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district; that literal interpretation of the provisions of these regulations would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of these regulations; that special conditions and circumstances do not result from the actions of the applicant; and that granting the variance requested will not confer on the applicant any special privilege that is denied by the zoning regulations to other lands, structures, or buildings in the same district.

STAFF ANALYSIS: The applicant has demonstrated that the property is subject to safety concerns of located at Baker Ave. The variance request addresses genuine hardship rather than a mere preference.

(2) No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

STAFF ANALYSIS: The intent of the zoning ordinance is to promote orderly development, adequate open space, and protection of property values and adjacent uses. The fence will meet other dimensional standards and will not have negative impacts on light, air, circulation, utilities or safety. Therefore, the request is in harmony with the broader objectives of the ordinance.

(3) The Board of Zoning Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of land, building, or structure.

STAFF ANALYSIS: The variance the staff has reviewed has determined the height requirement required is a minimal variance due to safety concerns.

(4) The Board of Zoning Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of these zoning regulations and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

STAFF ANALYSIS: The proposed fence is generally compatible with the surrounding area. While it deviates from standard front yard requirements, similar fencing or screening features may exist in the vicinity and the proposal is not expected to negatively impact neighboring properties.

(5) In granting any variance, the Board of Zoning Adjustment may prescribe appropriate conditions and safeguards that it deems necessary or desirable. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of these regulations.

STAFF ANALYSIS: The granting of this variance will be upheld by the Building Inspection to ensure the building is not constructed closer to the property line than approved in the variance.

(6) Under no circumstances shall the Board of Zoning Adjustment grant a variance to allow a use not permissible under the terms of these zoning regulations in the district involved, or any use expressly, or by implication, prohibited by the terms of these regulations in said district.

STAFF ANALYSIS: Per the Code 153.140, accessory buildings/uses are permitted in all residential zones. The accessory building/use will conform to the location, size and height requirements set forth in Code 153.141.

Streets:

This property is located at 319 and 351 W. Baker Ave.

NEIGHBOR COMMENTS: All neighboring properties within 200 feet of the property boundary were notified by certified mail of this project.

STAFF FINDINGS: *Per City Code 153.215, "a literal enforcement of the provisions of the regulations do result in unnecessary hardship that would deprive the owner of any reasonable use of the land or building involved." Due to the concerns of safety, granting this variance would not afford the landowner a special privilege. Granting this variance will not be injurious to neighboring properties.*

STAFF RECOMMENDATIONS:

Based on the foregoing analysis, Planning Staff recommends **approval** of the variance request to encroach into the required side setback for the construction of the pool in the R-3 zoning district, subject to the following conditions:

- The fence shall be located no higher than 6' as requested.
- The construction/materials of the fence shall be in accordance with Tontitown Municipal Code §153.215.
- All other applicable zoning and building permit requirements shall be met
- The variance approval shall apply only to the fence as shown on the approved plan; any changes in size will require a new variance.

Figure 1: Vicinity Map



Figure 2: Current Zoning Map



Figure 3: Fence requirements

§ 153.215 FENCES.

Except as otherwise specifically provided in other codes and regulations of the city, the following regulations shall apply to the construction of all fences.

(A) *Maximum height.* Fences shall not exceed eight feet in height, unless approved by the Planning Commission. Fencing in I districts, and around tennis courts and other recreational amenities, shall be exempt from this height limit.

(B) *Corner visibility.* Fences shall comply with the corner visibility standards of § 153.213.

(C) *Construction/materials.* Fences in all residential zoning districts shall be constructed so that the horizontal and vertical support posts are inside the fenced area or hidden from view of those outside the fenced area. This requirement shall not apply to fences that abut nonresidential zoning districts or in situations where the owner of the lot adjacent to the fence agrees to a plan for placing support posts on the "outside" of the fence. All exposed steel, except galvanized metal, shall have a color finish coat applied to them and be preserved against rust and corrosion.

(D) *Design and maintenance.* All fences shall be maintained in their original upright condition. Fences designed to be painted or have other surface finishes shall be maintained in their original condition as designed. Missing boards, pickets, or posts shall be replaced in a timely manner with material of the same type and quality.

(E) *Prohibited.* Barbed wire and electrified fences shall be prohibited on all lots of less than one acres in area.

(F) *Front yard.* Unless approved by the _planning board, a fence over 36 inches in height shall not be located in the front yard or be positioned any closer to the front property line than the front surface of the building for a typical residential lot. Decorative fencing not exceeding 36 inches is allowed in front yards.

(G) *Pools and spas.* Refer to International Building Code, Swimming Pool Enclosures and Safety Devices.