

CITY OF FAIRWAY
5240 Belinder Road
BOARD OF ZONING APPEALS
AGENDA
Monday, May 18, 2026 - 5:30 P.M.

1. MINUTES.

- a. Approval of Minutes from meeting held March 30, 2026.

2. OLD BUSINESS.

None

3. NEW BUSINESS.

- a. Public Hearing to consider an appeal of an administrative decision of the Community Development Director denying application to finish basement without required egress (per IRC Sec. R310) submitted by Andrew Shepherd, property owner, for property located at 5600 Belinder Rd, Fairway, KS.
- b. Public Hearing to consider a variance request to encroach into the 8-foot side yard setback for reconstruction of the garage and addition, as submitted by Brett and Jaimie Deuth, property owners, for property located at 6118 Reinhardt Dr., Fairway, KS.

4. ADDITIONAL BUSINESS.

- a. Next meeting date June 29, 2026 – pending applications

5. ADJOURNMENT

THESE MINUTES ARE NOT FOR PUBLIC DISSEMINATION UNTIL THEY HAVE BEEN APPROVED BY
THE FAIRWAY BOARD OF ZONING APPEALS

**MINUTES OF THE PUBLIC HEARING
OF THE BOARD OF ZONING APPEALS
OF THE CITY OF FAIRWAY, KANSAS**

The Board of Zoning Appeals of the City of Fairway, Kansas (the "Board") conducted a meeting on Monday, March 30, 2026. The meeting was called to order at 5:30 P.M.

Present: Board Members Douglas Huffman, Patrick Wiederaenders, Jennifer Sheffield, William Stafford, Peter Ho.

Absent: Board Members Amy Berlau.

Presiding: Chair Chris Shank.

Staff Present: City Clerk Abbie Aldridge; Zoning Counsel Anna Krstulic; Community Development Director Basil Alani; Recording Secretary Barb Fox.

Visitors: Jeff Ashner, Ashner Construction Company, 16611 Riggs Road, Stillwell; Weston Coble, ESC Architects, 10880 Benson Drive, Overland Park; Ashley and Kyle Pryor, 5613 Suwanee Road.

1. MINUTES.

a. APPROVAL OF MINUTES FROM MEETING HELD JANUARY 26, 2026

Chair Shank asked for a motion to approve the minutes from the January 26, 2026 meeting.

MOTION: Motion was made by Mr. Ho to approve the January 26, 2026 minutes. Mr. Stafford seconded the motion.

The motion carried unanimously.

2. OLD BUSINESS.

None.

3. NEW BUSINESS.

a. PUBLIC HEARING TO CONSIDER THE VARIANCE REQUEST TO REQUEST TO ENCROACH INTO THE 22.5-FOOT MINIMUM SIDE YARD SETBACK FOR A GARAGE ADDITION AS SUBMITTED BY JEFF ASHNER OF ASHNER CONSTRUCTION CO. INC. ON BEHALF OF DONALD AND ANNA FRIEND, PROPERTY OWNERS, FOR PROPERTY LOCATED AT 5766 WINDSOR CIRCLE, FAIRWAY, KANSAS.

Chair Shank opened the Public Hearing and asked the applicant to address the Board.

Jeff Ashner, Ashner Construction Company, 16611 Riggs Road, Stillwell, Kansas, stated that the project will add a third garage to allow the homeowner the ability to park off their driveway and have more room in their garage for storage. The garage width is minimal at 13.4 feet and will match the rest of the architecture. Staff has calculated the side setback at 22.5 feet and the garage will be located 19.1 feet from the property line, or 3.4 feet into the setback. They have a wide backyard, which is the determining factor in the required 22.5-foot setback. In looking around the

neighborhood, there are many different side setbacks, which he understands have to do with lot width.

Chair Shank requested the staff report and apologized for requesting it out of order.

Director Alani referred to the report as submitted. The applicant is seeking to encroach into the required side setback to add a single garage addition and remodel. The existing home is in compliance with the setback. The new structure will encroach into the side setback by 3.4 feet. The new garage will be 19.1 feet from the property line. The rear setback line was measured to be 225 feet so the side setback for the lot is 10% of the rear setback line or 22.5 feet. Notice was published and the property owner mailed certified notices to property owners within 200 feet of the property. No neighbors opposed the variance request.

If the Board of Zoning Appeals grants the requested variance, staff recommends the following conditions:

1. Building permit must be obtained and fees paid, as required by City Code.
2. Project must comply with all City ordinances and the 2012 International Residential Code, the 2012 Building Code and other incorporated technical codes.
3. Application and approval are void if a building permit is not obtained within one year from the date of Board of Zoning Appeals approval.

Chair Shank asked if there were questions for staff. Hearing none, he asked the applicant to address the 5 criteria for granting the variance.

Mr. Ashner addressed the five criteria for granting a variance, as follows:

1. The property is unique because the homeowner would like to add a third car garage and the only place it fits is on the westerly edge of the existing 2 car garage. The size is minimal and will leave over 19 feet of separation from the property line. There are many other homes in the neighborhood that are much closer to the property line than 19 feet.
2. The granting of the variance will not adversely affect the rights of adjacent property owners because the addition of the garage will still be 19.1 feet from the property line of the neighbors to the west. There are other homes in the neighborhood that have smaller side setbacks because they have substantially smaller backyards. The property owners talked with all their neighbors and there was no opposition.
3. The strict application of the zoning ordinance would constitute unnecessary hardship because it would prevent the homeowner from adding a third garage space for inside parking and needed storage space. The width of the garage is as minimal as possible to limit the encroachment.
4. The variance requested will not adversely affect public welfare.
5. The granting of the variance will not be opposed to the general spirit and intent of the zoning ordinance because the garage will still have greater than 19 feet separation from the property line.

Chair Shank asked if there were questions for the applicant.

Mr. Wiederaenders noted that the problem is the lot is pie shaped and gets narrower as it comes down to the curb. He also noted that the area where the extra garage will be built is already paved so there is no change in the permeable surface.

There is a discussion concerning whether a side entry garage could be put in rather than the front entry garage. The applicant stated that there would not be sufficient area to make the turn into a side-entry garage. Side entry garages normally require 35 feet width in order to enter from the side so they did not consider adding a side-entry garage.

Chair Shank asked if there were additional comments from the public. Hearing none, he closed the Public Hearing on this item.

Chair Shank asked for discussion from the Board.

Mr. Huffman stated that he believes the applicant has met the 5 criteria and is supportive of granting the variance.

The remaining Boardmembers agreed that the 5 criteria have been met for granting the variance.

Chair Shank asked for a motion.

MOTION: Motion was made by Mr. Ho to approve the variance request to encroach into the 22.5-foot minimum side yard setback for a garage addition as submitted by Jeff Ashner of Ashner Construction Co. Inc. on behalf of Donald and Anna Friend, property owners, for property located at 5766 Windsor Cir, Fairway, Kansas, subject to staff recommendations. Mr. Wiederaenders seconded the motion.

Motion carried unanimously.

- b. PUBLIC HEARING TO CONSIDER TWO VARIANCE REQUESTS, REQUEST TO ENCROACH INTO THE 30-FOOT FRONT YARD SETBACK FOR AN UNENCLOSED COVERED FRONT ENTRY PORCH AND NEW WINDOW WELL, AND REQUEST TO ENCROACH INTO THE 8-FOOT SIDE YARD SETBACK FOR RECONSTRUCTION OF THE GARAGE AND ADDITION AS SUBMITTED BY KYLE AND ASHLEY PRYOR, PROPERTY OWNERS, FOR PROPERTY LOCATED AT 5613 SUWANEE RD., FAIRWAY, KANSAS.

Chair Shank opened the Public Hearing and requested the staff report.

Director Alani referred to the report as submitted. The applicant is requesting two variances, one to encroach into the 30-foot required front setback with an unenclosed covered front entry porch and a new window well. The second variance request is to encroach into the minimum 8-foot required side setback to replace the garage and a new addition.

The existing home encroaches into the required 40-foot front setback and has a 30-foot front building line. The house was constructed at this setback before 1945 and is considered a lawful non-conformance. The project will need a variance for the 30-foot front setback. The new entry feature will encroach into the front setback by 6 inches and reduce the front setback to 29.49 feet. The proposed new window well will encroach into the front setback 2.16 feet and reduce it to 27.84 feet.

With respect to the side setback, the home was constructed with a side setback of 6.2 feet and is considered a legal non-conformance. Since the existing garage is being demolished, the new garage will include an addition to the back with the same degree of non-conformance and a variance is required. The rear setback line was measured to be 95 feet so the side setback for the lot is 8 feet. The new garage will encroach into the side setback by 2.1 feet.

The variance requests were properly published and certified notices were mailed to property owners within 200 feet of the property.

Staff is not opposed to the requested variances subject to the Board granting approval with the following conditions:

1. Building permit must be obtained and fees paid, as required by City Code.
2. Project must comply with all City ordinances and the 2012 International Residential Code, the 2012 Building Code and other incorporated technical codes.
3. Application and approval are void if a building permit is not obtained within one year from the date of Board of Zoning Appeals approval.

Chair Shank noted that the Board received an email from Michele Kiehl, 5600 Suwanee Road, indicating she is in favor of granting the variance requests.

Chair Shank opened the Public Hearing on this item and asked the applicant to address the Board.

Weston Coble, ESC Architects, 10880 Benson Drive, Overland Park, Kansas, stated that he is the architect on the project. Ashley and Kyle Pryor, 5613 Suwanee Road, stated that they are the property owners.

Mr. Coble explained that that the current garage was constructed at 6.2 feet from the property line and it is roughly 20 feet deep. The existing stone foundation is failing causing the structure to pull away from the home. The property owners would like to reconstruct the garage, remove the foundation, and install a new concrete foundation in the same location as the stone foundation. They would like to extend the garage by 7 or 8 feet to allow for a deeper garage for additional storage. He explained that 95% of the new addition that is being added to the rear is within the existing required setback.

They also plan to build out a new front entry porch. This will allow them to enlarge the stair landing inside the home. Currently the landing is about 4 ½ feet deep. The home is a split-level entry so when you enter the front door, you immediately come to stairs so it is cumbersome and a little dangerous for falling down the stairs. They propose moving the front door and front porch out about 6 feet. The existing house was built almost right up to the 30-foot front setback so the addition would encroach about 6 inches into the front setback. They are also adding a new addition onto the right side to provide additional living space on the main floor and an office on the second floor. This space does not encroach into the 30-foot front setback. The home has a half buried concrete wall at the front. They will be adding a window well, which will allow for a longer window that will match the left side of the home to balance out the symmetry. The window well will encroach 2.7 feet into the setback, but it would be a window at grade and will be about 18 inches deep down to the bottom of the window.

Mr. Coble addressed the five criteria for granting a variance, as follows:

1. The property is unique because both variance requests arise out of the original placement of the home and are not caused by the homeowners.
2. The granting of the variances will not adversely affect the rights of adjacent property owners. For the garage, the variance will result in no change in location of the home. With respect to variance request to the front setback, it would only encroach 6 inches beyond the platted setback and will keep the street façade in relationship to neighboring lots.
3. He believes the strict application of the zoning ordinance would constitute unnecessary hardship because the current garage stone foundation is failing, causing the garage to pull

away from the home. Not allowing the garage to be rebuilt in its current location would not allow for 2 garage spaces. As to the front addition, not allowing the front addition would severely impact the ability to increase the depth of the interior landing at the stairway which is currently 4 foot 6 inches deep and dangerous when greeting guests at the front door to the existing split stairway.

4. The variances requested will not adversely affect public welfare because the end result will be similar to neighboring lots.
5. The granting of the variances will not be opposed to the general spirit and intent of the zoning ordinance because the zoning ordinance allows for allowances for these situations.

Chair Shank asked if there were questions for the applicant.

Mr. Wiederaenders asked if the garage is already settling.

Mr. Pryor explained that the garage slab itself is not tied into the foundation and as a result of the foundation wall failing, it has pulled away about 5 inches at the top.

Chair Shank asked if there were additional questions for the applicant. Hearing none, he asked for comments from the public on this item. Hearing none, he closed the Public Hearing.

Chair Shank asked for discussion from the Board.

Mr. Ho stated that he believes the applicant has met the 5 criteria for granting the variance. All other Boardmembers agreed that the 5 criteria have been met.

Chair Shank asked for a motion.

MOTION: Motion was made by Mr. Ho to approve the two variance requests, request to encroach into the 30-foot front yard setback for an unenclosed covered front entry porch and new window well, and request to encroach into the 8-foot side yard setback for reconstruction of the garage and addition as submitted by Kyle and Ashley Pryor, property owners, for property located at 5613 Suwanee Rd., Fairway, Kansas, subject to staff recommendations. Mr. Wiederaenders seconded the motion.

Motion carried unanimously.

4. ADDITIONAL BUSINESS.

a. SET NEXT MEETING DATE.

City Clerk Aldridge explained that the next Board of Zoning Appeals meeting is scheduled for April 27, 2026, pending applications.

5. ADJOURNMENT.

MOTION: Mr. Stafford made a motion to adjourn. Ms. Sheffield seconded the motion.

Motion carried unanimously.

Meeting adjourned at 5:27 P.M.

Abbie Aldridge, City Clerk



STAFF REPORT
Board of Zoning Appeals
May 18, 2026

TO: Chair Chris Shank
Board of Zoning Appeals Members
Anna Krstulic, Zoning Counsel

FROM: Basil Alani, Community Development Director

APPLICANT: Andrew Shepherd, property owner

PROPERTY: 5600 Belinder Rd – FAIRWAY LOT 1 BLK 14 FAC-0506

OWNER: Whitney Kleinman & Andrew Shepherd

ZONING: R-1

TYPE OF APPEAL: Appeal of Administrative Decision – Requiring window egress from Basement

BACKGROUND:

March 24, 2026 **The City received a permit application with a scope of (Complete basement finish with demo of existing non-load bearing walls)**

March 31, 2026 **The review was complete and an email was sent to the applicant to address items (Please provide:**

- 1- Provide existing layout of basement, what walls will be removed and the location of new walls.**
- 2- Need to install egress window for finished basement Per IRC Sec R310 (please show the egress window on the plans)**
- 3- Need to comply with IRC Sec. R311.7.2 (Stairs headroom of 6'8")**
- 4- Need to comply with IRC Sec. R305 (Ceiling Height)**

April 7, 2026 **The city received revised plans in response to the March 31, 2026 request. The plans indicate “Homeowner Added Egress”.**

April 14, 2026 **Permit is “On Hold” as the homeowner does not want to install egress**

APPLICABLE CODE PROVISIONS:

Sec. 15-777. - Appeals of Administrative Decisions

(a) Appeals. The Board of Zoning Appeals shall hear and decide appeals by any person, officer of the City, governmental agency or body affected by any decision of the officer administering the provisions of the zoning regulations where it is alleged there is error in any order, requirement, decision or determination made by said officer in the enforcement of the zoning regulations. An appeal shall be made within thirty

(30) days of the order, requirement, decision or determination by filing a notice of appeal in writing with the City Clerk, specifying the grounds for the appeal, along with any applicable fee.

Applicant filed application for appeal on April 15, 2026. See attached Nature of appeal submitted by applicant

(b) Hearing and notice. The Board of Zoning Appeals shall fix a reasonable time for the hearing of an appeal. Notice of the time, place and subject of such hearing shall be published once in the official City newspaper at least twenty (20) days prior to the date fixed for hearing. A copy of the notice shall be mailed to each party of the appeal.

Notice of appeal was published in *The Legal Record* on April 28, 2026 and City Clerk Abbie Aldridge provided a copy of the notice to Mr. Shepherd.

(c) Record. The officer from whom the appeal is taken shall transmit to the Board of Zoning Appeals all papers constituting the record of the matter being appealed.

Attached are the Community Development Director's papers constituting the record of the matter being appealed, which include:

- **Original plans submitted on March 24, 2026.**
- **Email sent to the Applicant on March 31, 2026.**
- **Email received from Applicant with the revised plans.**
- **2012 IRC Sec R102**
- **2012 IRC Sec R310**
- **2012 IRC Chapter 2**
- **The city of Fairway miscellaneous permit guideline**

No City record of building permits issued for previous work in the basement. The City adopted the 2012 IRC with no amendments to the sections in question.

(d) Action by Board. In exercising these powers, the Board of Zoning Appeals, in conformity with the provisions of this chapter, may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination, and to that end shall have all the powers of the officer from whom the appeal is taken. The Board of Zoning Appeals may attach any appropriate conditions and may order the issuance of a permit.

Sec. 15-852. - Application procedure.

Applications for building permits shall be filed with the City Clerk or authorized designee on a form furnished by the City for such purpose. The application shall be accompanied by any applicable fee. A building permit for a proposed project may be issued by the City if the application sets forth in reasonable detail all information required to determine that the construction, erection, alteration, restoration, remodeling or improvement shall in all respects conform with the provisions of this chapter.

...

(e) Appeal. In the event of the refusal of the City to issue a building permit, the applicant shall have the right to appeal such decision to the Board of Zoning Appeals in accordance with the provisions of this chapter and State statutes.

Sec. 15-880. – Adoption of residential code.

(a) General incorporation of residential code. There is hereby incorporated by reference the International Residential Code (IRC), 2012 Edition, prepared and published by the International Code Council, Inc., including appendices A, B, C, G, and J, but excluding its other appendices. Provided that, parts or portions thereof shall be omitted, amended, replaced or supplemented as specified by the following Subsection (b). At least one (1) copy of this Code shall be marked or stamped "Official copy as incorporated by Ordinance

No. 1610, " with all sections or portions thereof intended to be omitted, amended, replaced, or supplemented clearly marked to show any such omission, amendment, replacement, or supplementation, and to which shall be attached a copy of the incorporating ordinance, and filed with the City Clerk to be open for inspection and available to the public at all reasonable business hours. Provided that, no official copy filed with the City Clerk shall be removed from City Hall. All departments of the City charged with the enforcement of this Code shall be supplied, at the expense of the City, such number of official copies of this Code similarly marked as may be deemed expedient by the governing body. Should any provision of this Code conflict with any other provision of the Code of the City of Fairway, Kansas, then the more restrictive of the two (2) provisions shall take precedence.

(b) Amendment to residential code as published. The following provisions of the International Residential Code (IRC), 2012 Edition, shall be omitted, amended, replaced or supplemented as follows:

...

(10) Section R112.1 of the International Residential Code, 2012 Edition, Board of appeals, is hereby amended to read as follows:

R112.1 Board of appeals.

In order to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretation of this code, there shall be and is hereby created a board of appeals. The board of appeals shall be the Board of Zoning Appeals of the City of Fairway Kansas.

2012 IRC – R112.2 Limitations on authority.

An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equally good or better form of construction is proposed. The board shall have no authority to waive the requirements of this code.

2012 IRC – R112.4 Administration.

The building official shall take immediate action in accordance with the decision of the board.

BOARD REVIEW:

At the hearing, Community Development Director Basil Alani will address the basis of the administrative decision. Then Applicant will be allowed to address the basis of the appeal. There is no public comment on an appeal of this nature.

After hearing from the parties and considering the matter, the standards of review set forth in Code Section 15-777(d) and R112.2 of the 2012 IRC (incorporated pursuant to Code Section 15-880) apply. These provisions are set forth above.

Pursuant to Code Section 15-779, if any of the parties or other affected persons are dissatisfied with the determination of the Board in this matter, such person may, within 30 days of the Board's final decision, bring an action in Johnson County District Court in order to determine the reasonableness of the Board's decision.

NATURE OF APPEAL:

The City has required installation of an emergency egress window as a condition of a building permit for the following basement scope of work: drywalling exterior basement walls, upgrading electrical systems (lights and moving laundry location), and installing a decorative mirror on one interior wall. I am appealing this determination on the grounds that the subject basement contains no habitable space as defined by 2012 IRC R202, that multiple sections of the 2012 IRC confirm egress obligations apply only to basements functioning as habitable levels, that the proposed work creates no sleeping room or habitable space of any kind, and that no amendment to R310 exists in Fairway's adopted code. Full written grounds are set forth in Attachment A.

ATTACHMENT A — WRITTEN GROUNDS FOR APPEAL

CITY OF FAIRWAY, KANSAS BOARD OF ZONING APPEALS ATTACHMENT A — WRITTEN GROUNDS FOR APPEAL OF ADMINISTRATIVE DECISION

Property Address: 5600 Belinder Rd, Fairway, KS 66205

Applicant: Andrew Shepherd

Code Section Appealed: 2012 IRC Section R310.1, as adopted by City of Fairway Sec. 15-880

Decision Appealed: Building official's requirement for an emergency escape and rescue opening (egress window) as a condition of a permit for basement work consisting of drywalling exterior walls, electrical upgrades, and installation of a decorative mirror.

BACKGROUND

We moved into our home in July 2024. The basement had finished drywall around the exterior walls and carpet in one room. In August the basement flooded, as there was no sump system installed, the previous owners pulled no permits to finish the basement and did as part of a flip to house. That same month of August 2024 we had a foundation work company come in an remove all of the finished drywall on the exterior walls and rip out the carpet, as both were ruined. They then put in a sump pump system, including a Vapor barrier, lining the walls. The electrical in the basement was left hanging and unfinished.

The basement is an unfinished basement used exclusively for storage, laundry facilities, HVAC equipment, and lawn irrigation system infrastructure. No person lives, sleeps, eats, or cooks in the basement. The proposed permit scope — drywalling exterior walls (which currently are stone walls with a Vapor Barrier lining in front of it), upgrading electrical systems (currently electric for the lights, outlets, and laundry are free hanging after demoing the old walls), and installing a decorative mirror — does not create a sleeping room, living area, or any other habitable space. But it puts back walls and frames electrical where before there were none.

The building official conditioned permit approval on installation of an egress window. I respectfully submit that this requirement is unsupported by the 2012 IRC as adopted by Fairway, and appeals on the following grounds.

GROUND 1: The Basement Contains No Habitable Space Under the IRC's Own Definition

The 2012 IRC Chapter 2 defines Habitable Space as: *"A space in a building for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces and similar areas are not considered habitable spaces."* Every use in the basement — storage, laundry, HVAC equipment, lawn irrigation infrastructure, and potential exercise equipment — falls within the category of storage and utility spaces that the IRC expressly excludes from the definition of habitable space. No habitable space exists before the proposed work, and none will exist after it.

GROUND 2: R311.4 Confirms Egress Requirements Apply Only to Habitable Levels — Basements Are a Subset of That Category

Section R311.4 of the 2012 IRC (Means of Egress, Vertical Egress) states: *"Egress from habitable levels including habitable attics and basements not provided with an egress door in accordance with Section R311.2 shall be by a ramp in accordance with Section R311.8 or a stairway in accordance with Section R311.7."* The phrase "habitable levels including habitable attics and basements" grammatically places basements as a component of habitable levels, not as an independent unconditional category. This is the same code edition — the 2012 IRC, March 2019 printing — as adopted by Fairway. Reading R310.1 and R311.4 together as a unified code, the egress framework applies to basements only when they function as habitable levels. The subject basement does not function as a habitable level and R310.1's requirement is therefore not triggered.

GROUND 3: The R310.1 Exception Confirms the Egress Obligation Is Use-Based, Not Classification-Based

The Exception to 2012 IRC R310.1 exempts "basements used only to house mechanical equipment not exceeding a total floor area of 200 square feet." The existence of this use-based exception within R310.1 itself confirms that the code drafters tied egress obligations to the use and occupancy of the space, not merely to the architectural classification of "basement." The basement uses of mechanical equipment, storage, laundry, lawn irrigation infrastructure, and exercise equipment are substantively the same category of non-habitable utility use the exception was designed to address.

The 200 square foot threshold was aimed at small standalone mechanical rooms; the underlying principle that non-occupied, non-habitable utility spaces do not require egress applies with equal force to the subject basement.

GROUND 4: The Johnson County Building Officials Association Guideline Confirms the Regional Standard

Johnson County's Code of Regulation for Building and Construction utilizes the **2018 IRC Codes**, which are adopted and endorsed by Lenexa, Leawood, Overland Park, Olathe, and Shawnee. It states in its published Basement Addition, Remodeling and Repair Code Guidelines, under Emergency Escape and Egress Openings **R310**: "*Basements, habitable attics, and every sleeping room shall have not less than one operable emergency escape and rescue opening. Where Basements contain one or more sleeping rooms, an emergency escape and rescue opening shall be required in each sleeping room.*" The regional standard among Johnson County municipalities, including those immediately surrounding Fairway, confirms that egress windows are required in basements with sleeping rooms, not in all basements categorically.

Furthermore, that same document states under "Addition, Alteration or Repair of Existing Basements R310.6": "An emergency escape and rescue opening is not required where existing basements undergo alterations or repairs. Exception: New sleeping rooms created in an existing basement shall be provided with emergency escape and rescue openings in accordance with R310.1." While this section references the 2018 IRC which added R310.6 explicitly, it reflects the consistent regional interpretation that egress is tied to sleeping room creation, not to cosmetic and systems work. The building official's requirement in this case is inconsistent with the standard applied by every other Johnson County municipality of comparable size and character.

GROUND 8: Fairway's Own Adopted Code Classifies This Basement as Non-Habitable

Fairway's adopted amendment to 2012 IRC Section E3902.5, codified at Sec. 15-880(b)(36), defines unfinished basements as "*portions or areas of the basement not intended as habitable rooms and limited to storage areas, work areas, and the like.*" The basement under appeal only contains, storage, laundry, HVAC, lawn irrigation, exercise equipment area. Precisely the type of space the City of Fairway's own adopted code classifies as an unfinished, non-habitable basement. Fairway has itself drawn the distinction between habitable and non-habitable basement space within its own municipal code.

GROUND 7: The Proposed Work Does Not Create Habitable Space or Change the Use

Drywalling exterior walls, upgrading electrical systems, and installing a decorative mirror in an exercise equipment area do not create a sleeping room, a living area, a dining area, a cooking space, or any other habitable space as defined by IRC R202. A decorative mirror is a single cosmetic element routinely found in non-habitable spaces including gyms, exercise areas, and utility rooms. Its presence does not indicate living, sleeping, eating, or cooking activity. The use and occupancy of the basement is identical before and after the proposed work. No condition that would trigger R310.1's egress obligation is created by this permit scope.

Ground 8: Disproportionate Hardship Confirms the Unreasonableness of the Interpretation

While this is an appeal of a code interpretation rather than a variance request, the Board should consider the practical consequences of the building official's interpretation as further evidence that it exceeds the intent of the code.

The egress window requirement as applied to this non-habitable basement carries an estimated cost of \$7,435 for stone foundation work, egress window, and window well cover alone — representing approximately 17% of the total \$43,700 project budget — for a life-safety measure in a space where no person lives or sleeps. This estimate does not include the additional cost of relocating an existing water line and drainage system required to accommodate the opening.

Further, the home has a stone foundation. Cutting an egress opening through a stone foundation is materially more complex, more expensive, and more structurally sensitive than a standard installation in poured concrete or block. Stone foundations develop

structural integrity through the continuity of their mass; an opening requires careful engineering and lintel work to redistribute load, introducing structural risk to the home's original foundation. An interpretation of R310.1 that produces this result — imposing costly, structurally sensitive foundation work on a homeowner undertaking cosmetic and systems upgrades to a utility and storage basement where no one resides — is inconsistent with the life-safety purpose the code was designed to serve and is precisely the type of unreasonable outcome the Board's appellate authority exists to correct.

RELIEF REQUESTED

I respectfully request that the Board of Zoning Appeals reverse the building official's determination and confirm that no emergency escape and rescue opening is required for the proposed scope of work. The basement is non-habitable by definition, its physical configuration is incompatible with habitable use under the IRC's own dimensional standards, Fairway's own code recognizes the distinction between habitable and non-habitable basement space, the regional standard among all surrounding Johnson County municipalities ties egress to sleeping rooms rather than to all basements categorically, and the 2012 IRC as adopted by Fairway does not mandate egress in a utility and storage basement undergoing cosmetic and systems work that creates no habitable space.

Attachment B – Photos of Existing Basement & Window

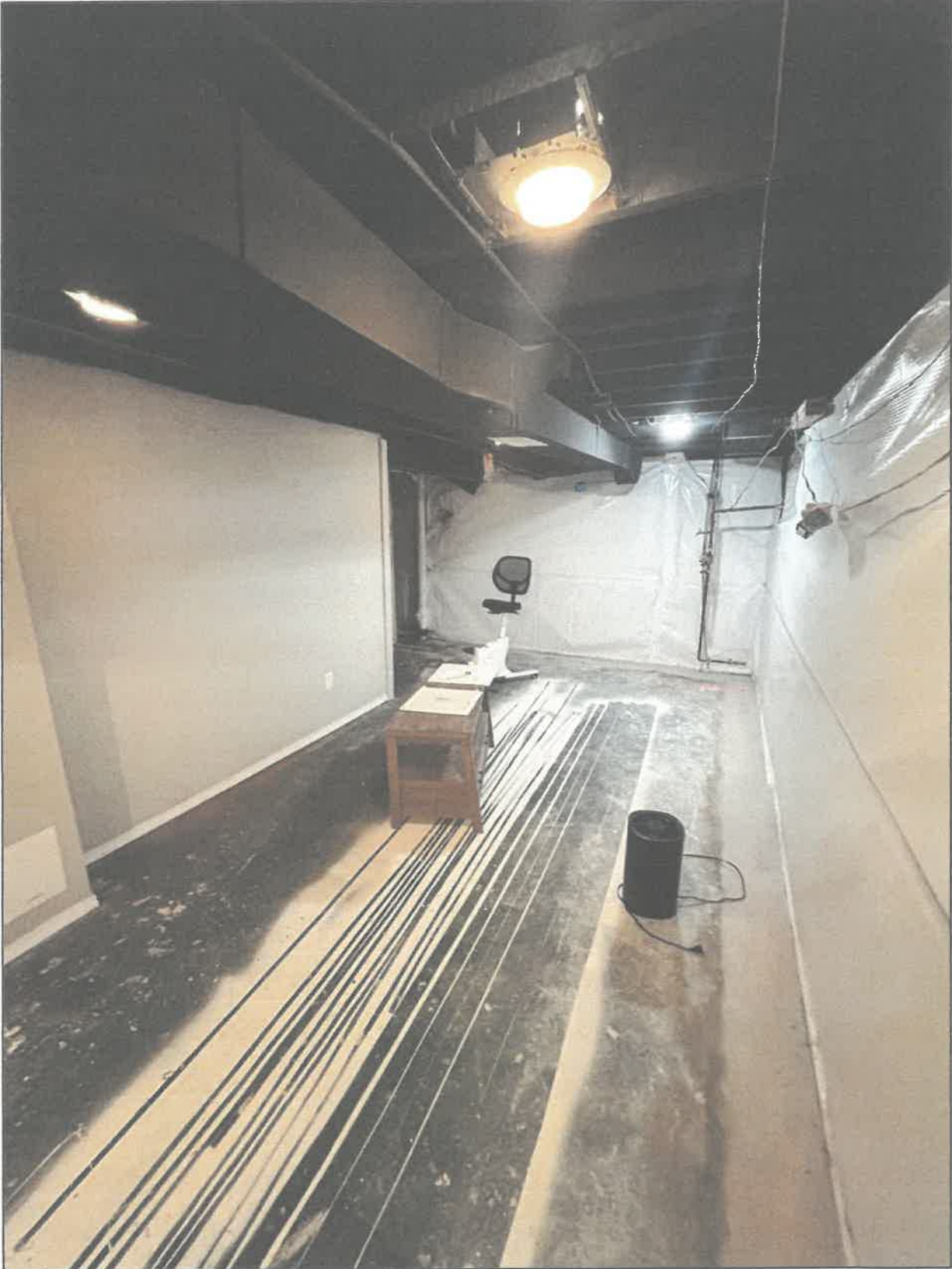
Picture 1 – Current Basement: Window in the Basement that would require an Egress Window.



Picture 2 - Current Basement: showing reasoning for new walls and framing of electrical.



Picture 3 - Current Basement: showing where mirror wall would be located, existing vapor barrier, and unfinished floors.



Picture 4: Showing existing basement layout, vapor barrier walls, unfinished floor and ceiling.





Andrew <ashepherd62@gmail.com>

Estimate 4002 from One Source KC, LLC

1 message

One Source KC, LLC <quickbooks@notification.intuit.com>

Thu, Apr 23, 2026 at 2:50 PM

Reply-To: curtiss@onesourcekc.com

To: ashepherd62@gmail.com

Cc: curtiss@onesourcekc.com

ESTIMATE 4002 DETAILS



One Source KC, LLC

DUE 10/31/2026

\$7,435.00

Review and approve

Powered by QuickBooks

Andrew,

Please review the estimate below. Feel free to contact us if you have any questions.

You can view pictures by visiting our website at www.onesourcekc.com.

Thank you for the opportunity to bid on your project. We look forward to working with you.

Curtiss Hutsell

One Source KC, LLC
816-582-1066
www.onesourcekc.com

Address

Andrew Shepherd
Andrew Shepherd
5600 Belinder Rd.
Fairway, KS

Egress Window**\$5,995.00****STONE FOUNDATION:****Egress Window:**

- Excavate area for egress window well.
- Cut STONE FOUNDATION for egress window install: Remove and dispose of Stone.
- Excavate to existing drain tile system, add corrugated pipe and backfill with 1/2" clean gravel.
- Install & provide one (1) Egress Vinyl White Casement Window to Code.
- Install egress window well (White Interior) and ladder.

We typically install ProVia Windows:

<https://www.provia.com/windows/>

We install Monarch Window Wells: White

<https://www.monmatgrp.com/stif-back-ii-reg.html>

Price includes excavation, prep work and removal of all dirt and concrete.

Unfinished basement in an existing window opening.

STONE FOUNDATION: Due to the nature of the stone foundation, often the window well does not sit flat all the way along the foundation.

Exterior is finished with primed and caulked Smart Siding Trim. It will be ready for paint by owner.

We will remove any extra dirt from excavation, unless requested to keep on-site.

Includes all labor and material needed to complete the job.

Does NOT include any permit, engineering reports or inspection fees.

Some cities have begun requiring an engineering report prior to approving permits.

ESTIMATE DOES NOT INCLUDE:

-Does NOT include interior refinish.

-Estimate DOES NOT include stone repair work in the event of stones crumbling or falling out during the cutting of the window.

-Does NOT include installing or re installing existing landscaping post install.

-We will set aside any existing landscaping or dispose of it, if that is preferred.

-It is best to let the dirt settle around the well before performing any landscaping work.

-Does NOT include relocating or moving French drains or buried downspouts.

-Does NOT include any sprinkler or irrigation work.

-Does NOT include relocating existing irrigation lines or sprinkler heads.

-We are often unaware of where the irrigating lines or sprinkler heads are located.

-If we hit a irrigation line or sprinkler head during the excavation, we will mark it and show you so you can have your sprinkler company perform any necessary repairs.

1 X \$5,995.00

Window Well Cover

\$0.00

OPTION: Two-Piece: Steel Grate & Poly Window Well Cover: \$495

0 X \$495.00

Window Well Cover

\$495.00

OPTION: EZ Thermal Window Well Cover: \$495

1 X \$495.00

Egress Window

\$0.00

OPTION: Upgrade to a StoneView Window Well: \$200

0 X \$200.00

Egress Window

\$945.00

OPTION: Houses built prior to the 1980s typically do not have drain tile around the perimeter of the house. In this case, One Source KC recommends a sump pump.

Install Exterior Sump Pump. Includes pump and installing external GFCI outlet on the outside.

We will leave a coil of electrical wire on the inside to be terminated by the homeowner. Electrical supply, to power the outlet, to be provided by owner:

Once power is supplied to outlet. The GFCI must be reset on the outside: \$945

1 X \$945.00

One Source KC carries \$1,000,000 in Liability Insurance. All of our on-site workers are Fully Covered with Worker's Compensation Insurance.

Settling will occur in the disturbed area around the egress window well. Please contact One Source we will bring out more dirt as needed.

To ensure proper drainage for the egress window the homeowner will need to ensure clean and properly working gutters and downspouts and maintain proper grading around window well.

Total \$7,435.00

Thank you! We really appreciate your business. Curtiss

Review and approve

One Source KC, LLC

PO Box 190 Belton, MO 64012

+18165821066 curtiss@onesourcekc.com www.onesourcekc.com

If you receive an email that seems fraudulent, please check with the business owner before paying.

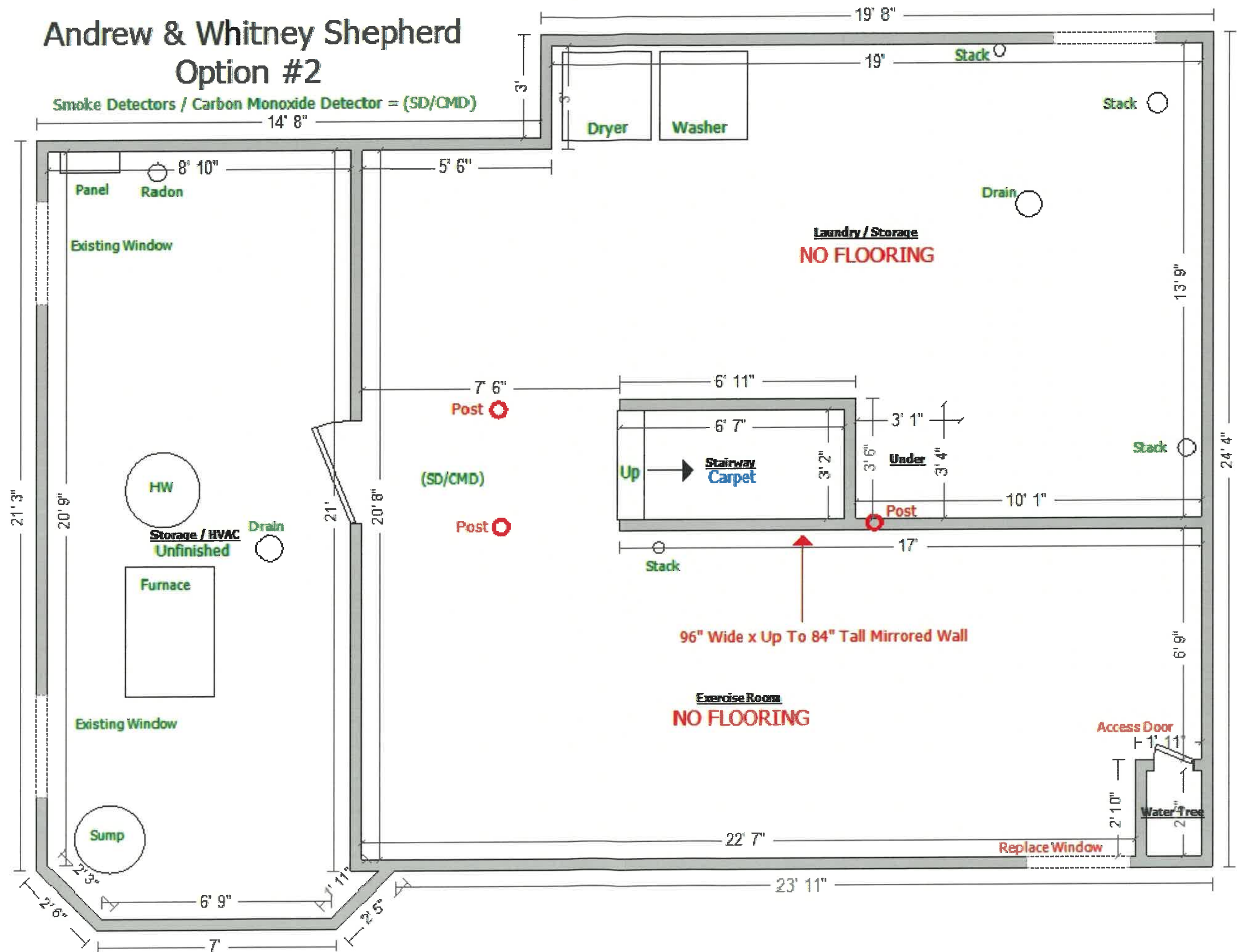


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 **Estimate_4002_from_One_Source_KC_LLC.pdf**
41K

Andrew & Whitney Shepherd Option #2

Smoke Detectors / Carbon Monoxide Detector = (SD/CMD)



From: balani@fairwaykansas.org
Sent: 03/31/2026 - 01:03 PM
To: connect@empireremodelingkc.com
CC:
Subject: permit review

Please provide:

- 1- Provide existing layout of basement, what walls will be removed and the location of new walls.
- 2- Need to install egress window for finished basement Per IRC Sec R310 (please show the egress window on the plans)
- 3- Need to comply with IRC Sec. R311.7.2 (Stairs headroom of 6'8")
- 4- Need to comply with IRC Sec. R305 (Ceiling Height)

Re: permit review

From Connect Empire <Connect@empireremodelingkc.com>

Date Tue 4/7/2026 6:53 PM

To Basil Alani <balani@fairwaykansas.org>

 1 attachment (284 KB)

Shepherd Plan For The City.jpg;

Good evening

My apologies for the delayed response. The salesperson for that job was on vacation. I have attached the revised plan for your review.

If you have any questions or need further clarification, please let me know.

Thank you

Pamela James
Empire Remodeling KC

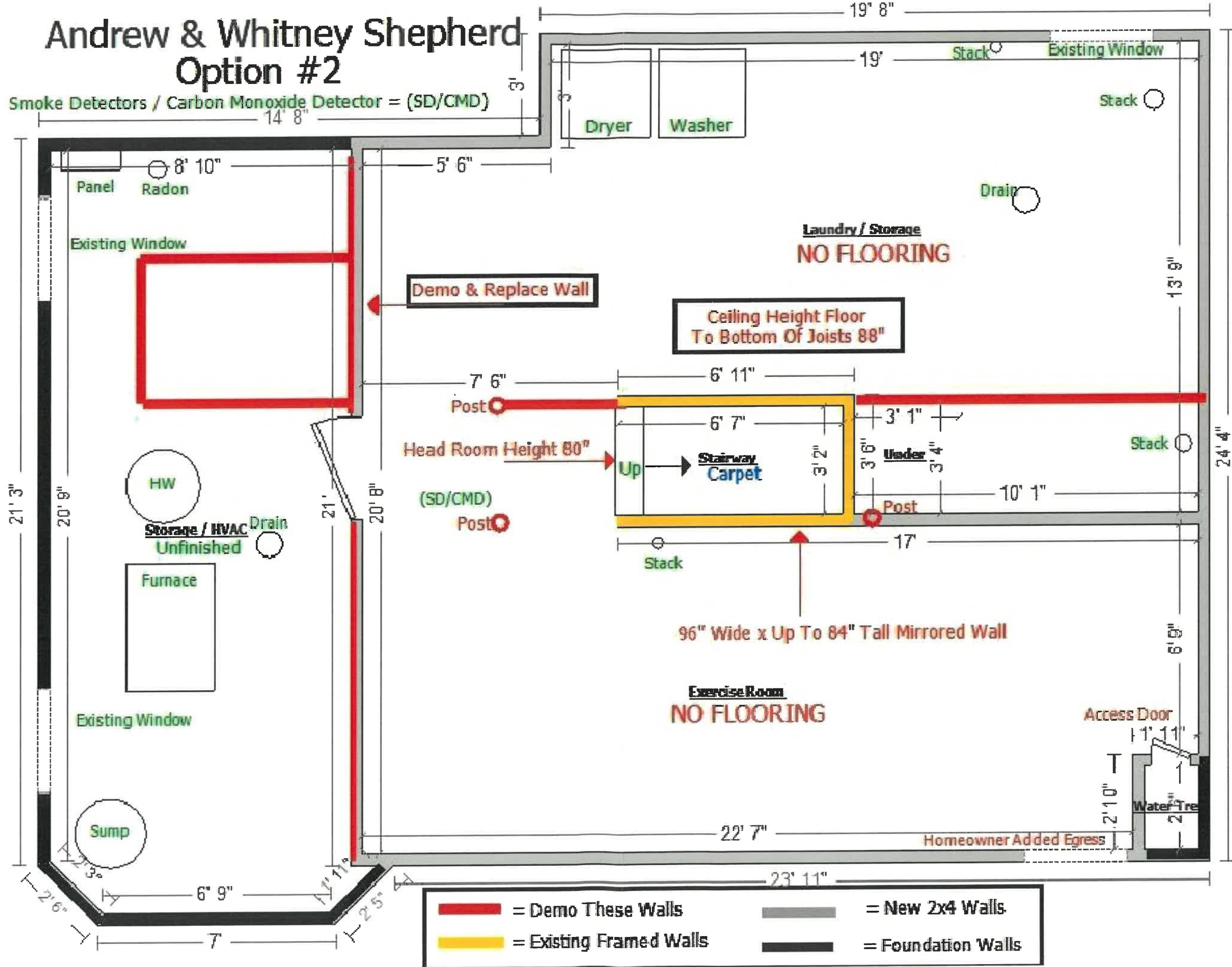
On Tue, Mar 31, 2026 at 1:03 PM <balani@fairwaykansas.org> wrote:

Please provide:

- 1- Provide existing layout of basement, what walls will be removed and the location of new walls.
- 2- Need to install egress window for finished basement Per IRC Sec R310 (please show the egress window on the plans)
- 3- Need to comply with IRC Sec. R311.7.2 (Stairs headroom of 6'8")
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Andrew & Whitney Shepherd Option #2

Smoke Detectors / Carbon Monoxide Detector = (SD/CMD)



Part I—Administrative

CHAPTER 1

SCOPE AND ADMINISTRATION

PART 1—SCOPE AND APPLICATION

SECTION R101 GENERAL

R101.1 Title. These provisions shall be known as the *Residential Code for One- and Two-family Dwellings* of [NAME OF JURISDICTION], and shall be cited as such and will be referred to herein as “this code.”

R101.2 Scope. The provisions of the *International Residential Code for One- and Two-family Dwellings* shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, removal and demolition of detached one- and two-family dwellings and townhouses not more than three stories above grade plane in height with a separate means of egress and their accessory structures.

Exceptions:

1. Live/work units complying with the requirements of Section 419 of the *International Building Code* shall be permitted to be built as one- and two-family dwellings or townhouses. Fire suppression required by Section 419.5 of the *International Building Code* when constructed under the *International Residential Code for One- and Two-family Dwellings* shall conform to Section P2904.
2. Owner-occupied lodging houses with five or fewer guestrooms shall be permitted to be constructed in accordance with the *International Residential Code for One- and Two-family Dwellings* when equipped with a fire sprinkler system in accordance with Section P2904.

R101.3 Intent. The purpose of this code is to establish minimum requirements to safeguard the public safety, health and general welfare through affordability, structural strength, means of egress facilities, stability, sanitation, light and ventilation, energy conservation and safety to life and property from fire and other hazards attributed to the built environment and to provide safety to fire fighters and emergency responders during emergency operations.

SECTION R102 APPLICABILITY

R102.1 General. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable. Where, in any specific case, different sections of this code specify different materials, methods

of construction or other requirements, the most restrictive shall govern.

R102.2 Other laws. The provisions of this code shall not be deemed to nullify any provisions of local, state or federal law.

R102.3 Application of references. References to chapter or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such chapter, section or provision of this code.

R102.4 Referenced codes and standards. The codes and standards referenced in this code shall be considered part of the requirements of this code to the prescribed extent of each such reference and as further regulated in Sections R102.4.1 and R102.4.2.

Exception: Where enforcement of a code provision would violate the conditions of the listing of the equipment or appliance, the conditions of the listing and manufacturer’s instructions shall apply.

R102.4.1 Conflicts. Where conflicts occur between provisions of this code and referenced codes and standards, the provisions of this code shall apply.

R102.4.2 Provisions in referenced codes and standards. Where the extent of the reference to a referenced code or standard includes subject matter that is within the scope of this code, the provisions of this code, as applicable, shall take precedence over the provisions in the referenced code or standard.

R102.5 Appendices. Provisions in the appendices shall not apply unless specifically referenced in the adopting ordinance.

R102.6 Partial invalidity. In the event any part or provision of this code is held to be illegal or void, this shall not have the effect of making void or illegal any of the other parts or provisions.

R102.7 Existing structures. The legal occupancy of any structure existing on the date of adoption of this code shall be permitted to continue without change, except as is specifically covered in this code, the *International Property Maintenance Code* or the *International Fire Code*, or as is deemed necessary by the building official for the general safety and welfare of the occupants and the public.

R102.7.1 Additions, alterations or repairs. Additions, alterations or repairs to any structure shall conform to the requirements for a new structure without requiring the existing structure to comply with all of the requirements of this code, unless otherwise stated. Additions, alterations or repairs shall not cause an existing structure to become unsafe or adversely affect the performance of the building.

R308.6.4 Screens with multiple glazing. When the inboard pane is fully tempered, heat-strengthened or wired glass, a retaining screen meeting the requirements of Section R308.6.7 shall be installed below the glass, except for either condition listed in Section R308.6.5. All other panes in the multiple glazing may be of any type listed in Section R308.6.2.

R308.6.5 Screens not required. Screens shall not be required when fully tempered glass is used as single glazing or the inboard pane in multiple glazing and either of the following conditions are met:

1. Glass area 16 square feet (1.49 m²) or less. Highest point of glass not more than 12 feet (3658 mm) above a walking surface or other accessible area, nominal glass thickness not more than $\frac{3}{16}$ inch (4.8 mm), and (for multiple glazing only) the other pane or panes fully tempered, laminated or wired glass.
2. Glass area greater than 16 square feet (1.49 m²). Glass sloped 30 degrees (0.52 rad) or less from vertical, and highest point of glass not more than 10 feet (3048 mm) above a walking surface or other accessible area.

R308.6.6 Glass in greenhouses. Any glazing material is permitted to be installed without screening in the sloped areas of greenhouses, provided the greenhouse height at the ridge does not exceed 20 feet (6096 mm) above *grade*.

R308.6.7 Screen characteristics. The screen and its fastenings shall be capable of supporting twice the weight of the glazing, be firmly and substantially fastened to the framing members, and have a mesh opening of no more than 1 inch by 1 inch (25 mm by 25 mm).

R308.6.8 Curbs for skylights. All unit skylights installed in a roof with a pitch flatter than three units vertical in 12 units horizontal (25-percent slope) shall be mounted on a curb extending at least 4 inches (102 mm) above the plane of the roof unless otherwise specified in the manufacturer's installation instructions.

R308.6.9 Testing and labeling. Unit skylights and tubular daylighting devices shall be tested by an *approved* independent laboratory, and bear a *label* identifying manufacturer, performance *grade* rating and *approved* inspection agency to indicate compliance with the requirements of AAMA/WDMA/CSA 101/I.S.2/A440.

SECTION R309 GARAGES AND CARPORTS

R309.1 Floor surface. Garage floor surfaces shall be of *approved* noncombustible material.

The area of floor used for parking of automobiles or other vehicles shall be sloped to facilitate the movement of liquids to a drain or toward the main vehicle entry doorway.

R309.2 Carports. Carports shall be open on at least two sides. Carport floor surfaces shall be of *approved* noncombustible material. Carports not open on at least two sides shall

be considered a garage and shall comply with the provisions of this section for garages.

Exception: Asphalt surfaces shall be permitted at ground level in carports.

The area of floor used for parking of automobiles or other vehicles shall be sloped to facilitate the movement of liquids to a drain or toward the main vehicle entry doorway.

R309.3 Flood hazard areas. For buildings located in flood hazard areas as established by Table R301.2(1), garage floors shall be:

1. Elevated to or above the design flood elevation as determined in Section R322; or
2. Located below the design flood elevation provided they are at or above *grade* on at least one side, are used solely for parking, building access or storage, meet the requirements of Section R322 and are otherwise constructed in accordance with this code.

R309.4 Automatic garage door openers. Automatic garage door openers, if provided, shall be listed and labeled in accordance with UL 325.

R309.5 Fire sprinklers. Private garages shall be protected by fire sprinklers where the garage wall has been designed based on Table R302.1(2), Footnote a. Sprinklers in garages shall be connected to an automatic sprinkler system that complies with Section P2904. Garage sprinklers shall be residential sprinklers or quick-response sprinklers, designed to provide a density of 0.05 gpm/ft². Garage doors shall not be considered obstructions with respect to sprinkler placement.

SECTION R310

EMERGENCY ESCAPE AND RESCUE OPENINGS

R310.1 Emergency escape and rescue required. *Basements*, habitable attics and every sleeping room shall have at least one operable emergency escape and rescue opening. Where *basements* contain one or more sleeping rooms, emergency egress and rescue openings shall be required in each sleeping room. Where emergency escape and rescue openings are provided they shall have a sill height of not more than 44 inches (1118 mm) measured from the finished floor to the bottom of the clear opening. Where a door opening having a threshold below the adjacent ground elevation serves as an emergency escape and rescue opening and is provided with a bulkhead enclosure, the bulkhead enclosure shall comply with Section R310.3. The net clear opening dimensions required by this section shall be obtained by the normal operation of the emergency escape and rescue opening from the inside. Emergency escape and rescue openings with a finished sill height below the adjacent ground elevation shall be provided with a window well in accordance with Section R310.2. Emergency escape and rescue openings shall open directly into a public way, or to a *yard* or court that opens to a public way.

Exception: *Basements* used only to house mechanical *equipment* and not exceeding total floor area of 200 square feet (18.58 m²).

Part II—Definitions

CHAPTER 2

DEFINITIONS

SECTION R201 GENERAL

R201.1 Scope. Unless otherwise expressly stated, the following words and terms shall, for the purposes of this code, have the meanings indicated in this chapter.

R201.2 Interchangeability. Words used in the present tense include the future; words in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural, the singular.

R201.3 Terms defined in other codes. Where terms are not defined in this code such terms shall have meanings ascribed to them as in other code publications of the International Code Council.

R201.4 Terms not defined. Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies.

SECTION R202 DEFINITIONS

ACCESSIBLE. Signifies access that requires the removal of an access panel or similar removable obstruction.

ACCESSIBLE, READILY. Signifies access without the necessity for removing a panel or similar obstruction.

ACCESSORY STRUCTURE. A structure not greater than 3,000 square feet (279 m²) in floor area, and not over two stories in height, the use of which is customarily accessory to and incidental to that of the dwelling(s) and which is located on the same lot.

ADDITION. An extension or increase in floor area or height of a building or structure.

ADHERED STONE OR MASONRY VENEER. Stone or masonry veneer secured and supported through the adhesion of an *approved* bonding material applied to an *approved* backing.

AIR ADMITTANCE VALVE. A one-way valve designed to allow air into the plumbing drainage system when a negative pressure develops in the piping. This device shall close by gravity and seal the terminal under conditions of zero differential pressure (no flow conditions) and under positive internal pressure.

AIR BARRIER. See Section N1101.9 for definition applicable in Chapter 11.

AIR BREAK (DRAINAGE SYSTEM). An arrangement in which a discharge pipe from a fixture, *appliance* or device

drains indirectly into a receptor below the flood-level rim of the receptor, and above the trap seal.

AIR CIRCULATION, FORCED. A means of providing space conditioning utilizing movement of air through ducts or plenums by mechanical means.

AIR-CONDITIONING SYSTEM. A system that consists of heat exchangers, blowers, filters, supply, exhaust and return-air systems, and shall include any apparatus installed in connection therewith.

AIR GAP, DRAINAGE SYSTEM. The unobstructed vertical distance through free atmosphere between the outlet of a waste pipe and the flood-level rim of the fixture or receptor into which it is discharging.

AIR GAP, WATER-DISTRIBUTION SYSTEM. The unobstructed vertical distance through free atmosphere between the lowest opening from a water supply discharge to the flood-level rim of a plumbing fixture.

AIR-IMPERMEABLE INSULATION. An insulation having an air permeance equal to or less than 0.02 L/s-m² at 75 Pa pressure differential tested according to ASTM E 2178 or E 283.

ALTERATION. Any construction or renovation to an existing structure other than repair or addition that requires a *permit*. Also, a change in a mechanical system that involves an extension, addition or change to the arrangement, type or purpose of the original installation that requires a *permit*.

ANCHORED STONE OR MASONRY VENEER. Stone or masonry veneer secured with *approved* mechanical fasteners to an approved backing.

ANCHORS. See "Supports."

ANTISIPHON. A term applied to valves or mechanical devices that eliminate siphonage.

APPLIANCE. A device or apparatus that is manufactured and designed to utilize energy and for which this code provides specific requirements.

APPROVED. Acceptable to the *building official*.

APPROVED AGENCY. An established and recognized agency regularly engaged in conducting tests or furnishing inspection services, when such agency has been *approved* by the building official.

ASPECT RATIO. The ratio of longest to shortest perpendicular dimensions, or for wall sections, the ratio of height to length.

ATTIC. The unfinished space between the ceiling assembly of the top *story* and the roof assembly.

DEFINITIONS

ATTIC, HABITABLE. A finished or unfinished area, not considered a *story*, complying with all of the following requirements:

1. The occupiable floor area is at least 70 square feet (17 m²), in accordance with Section R304,
2. The occupiable floor area has a ceiling height in accordance with Section R305, and
3. The occupiable space is enclosed by the roof assembly above, knee walls (if applicable) on the sides and the floor-ceiling assembly below.

BACKFLOW, DRAINAGE. A reversal of flow in the drainage system.

BACKFLOW PREVENTER. A device or means to prevent backflow.

BACKFLOW PREVENTER, REDUCED-PRESSURE-ZONE TYPE. A backflow-prevention device consisting of two independently acting check valves, internally force loaded to a normally closed position and separated by an intermediate chamber (or zone) in which there is an automatic relief means of venting to atmosphere internally loaded to a normally open position between two tightly closing shut-off valves and with means for testing for tightness of the checks and opening of relief means.

BACKFLOW, WATER DISTRIBUTION. The flow of water or other liquids into the potable water-supply piping from any sources other than its intended source. Backsiphonage is one type of backflow.

BACKPRESSURE. Pressure created by any means in the water distribution system, which by being in excess of the pressure in the water supply mains causes a potential backflow condition.

BACKPRESSURE, LOW HEAD. A pressure less than or equal to 4.33 psi (29.88 kPa) or the pressure exerted by a 10-foot (3048 mm) column of water.

BACKSIPHONAGE. The flowing back of used or contaminated water from piping into a potable water-supply pipe due to a negative pressure in such pipe.

BACKWATER VALVE. A device installed in a drain or pipe to prevent backflow of sewage.

BASEMENT. A *story* that is not a *story above grade plane*. (see "*Story above grade plane*").

BASEMENT WALL. The opaque portion of a wall that encloses one side of a *basement* and has an average below *grade* wall area that is 50 percent or more of the total opaque and non-opaque area of that enclosing side.

BASIC WIND SPEED. Three-second gust speed at 33 feet (10 058 mm) above the ground in Exposure C (see Section R301.2.1) as given in Figure R301.2(4)A.

BATHROOM GROUP. A group of fixtures, including or excluding a bidet, consisting of a water closet, lavatory, and bathtub or shower. Such fixtures are located together on the same floor level.

BEND. A drainage fitting, designed to provide a change in direction of a drain pipe of less than the angle specified by the

amount necessary to establish the desired slope of the line (see "Elbow" and "Sweep").

BOILER. A self-contained *appliance* from which hot water is circulated for heating purposes and then returned to the boiler, and which operates at water pressures not exceeding 160 pounds per square inch gage (psig) (1102 kPa gage) and at water temperatures not exceeding 250°F (121°C).

BOND BEAM. A horizontal grouted element within masonry in which reinforcement is embedded.

BRACED WALL LINE. A straight line through the building plan that represents the location of the lateral resistance provided by the wall bracing.

BRACED WALL LINE, CONTINUOUSLY SHEATHED. A *braced wall line* with structural sheathing applied to all sheathable surfaces including the areas above and below openings.

BRACED WALL PANEL. A full-height section of wall constructed to resist in-plane shear loads through interaction of framing members, sheathing material and anchors. The panel's length meets the requirements of its particular bracing method, and contributes toward the total amount of bracing required along its *braced wall line* in accordance with Section R602.10.1.

BRANCH. Any part of the piping system other than a riser, main or stack.

BRANCH, FIXTURE. See "Fixture branch, drainage."

BRANCH, HORIZONTAL. See "Horizontal branch, drainage."

BRANCH INTERVAL. A vertical measurement of distance, 8 feet (2438 mm) or more in *developed length*, between the connections of horizontal branches to a drainage stack. Measurements are taken down the stack from the highest horizontal branch connection.

BRANCH, MAIN. A water-distribution pipe that extends horizontally off a main or riser to convey water to branches or fixture groups.

BRANCH, VENT. A vent connecting two or more individual vents with a vent stack or stack vent.

BTU/H. The *listed* maximum capacity of an *appliance*, absorption unit or burner expressed in British thermal units input per hour.

BUILDING. Building shall mean any one- and two-family dwelling or portion thereof, including *townhouses*, that is used, or designed or intended to be used for human habitation, for living, sleeping, cooking or eating purposes, or any combination thereof, and shall include accessory structures thereto.

BUILDING DRAIN. The lowest piping that collects the discharge from all other drainage piping inside the house and extends 30 inches (762 mm) in *developed length* of pipe, beyond the *exterior walls* and conveys the drainage to the *building sewer*.

BUILDING, EXISTING. Existing building is a building erected prior to the adoption of this code, or one for which a legal building *permit* has been issued.

and similar decorative or protective materials used in fixed applications.

FUEL-PIPING SYSTEM. All piping, tubing, valves and fittings used to connect fuel utilization *equipment* to the point of fuel delivery.

FULLWAY VALVE. A valve that in the full open position has an opening cross-sectional area equal to a minimum of 85 percent of the cross-sectional area of the connecting pipe.

FURNACE. A vented heating *appliance* designed or arranged to discharge heated air into a *conditioned space* or through a duct or ducts.

GLAZING AREA. The interior surface area of all glazed fenestration, including the area of sash, curbing or other framing elements, that enclose *conditioned space*. Includes the area of glazed fenestration assemblies in walls bounding *conditioned basements*.

GRADE. The finished ground level adjoining the building at all *exterior walls*.

GRADE FLOOR OPENING. A window or other opening located such that the sill height of the opening is not more than 44 inches (1118 mm) above or below the finished ground level adjacent to the opening.

GRADE, PIPING. See "Slope."

GRADE PLANE. A reference plane representing the average of the finished ground level adjoining the building at all *exterior walls*. Where the finished ground level slopes away from the *exterior walls*, the reference plane shall be established by the lowest points within the area between the building and the *lot line* or, where the *lot line* is more than 6 feet (1829 mm) from the building between the structure and a point 6 feet (1829 mm) from the building.

GRAY WATER. Waste discharged from lavatories, bathtubs, showers, clothes washers and laundry trays.

GRIDDED WATER DISTRIBUTION SYSTEM. A water distribution system where every water distribution pipe is interconnected so as to provide two or more paths to each fixture supply pipe.

GROSS AREA OF EXTERIOR WALLS. The normal projection of all *exterior walls*, including the area of all windows and doors installed therein.

GROUND-SOURCE HEAT PUMP LOOP SYSTEM. Piping buried in horizontal or vertical excavations or placed in a body of water for the purpose of transporting heat transfer liquid to and from a heat pump. Included in this definition are closed loop systems in which the liquid is recirculated and open loop systems in which the liquid is drawn from a well or other source.

GUARD. A building component or a system of building components located near the open sides of elevated walking surfaces that minimizes the possibility of a fall from the walking surface to the lower level.

GUESTROOM. Any room or rooms used or intended to be used by one or more guests for living or sleeping purposes.

HABITABLE SPACE. A space in a building for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets,

halls, storage or utility spaces and similar areas are not considered *habitable spaces*.

HANDRAIL. A horizontal or sloping rail intended for grasping by the hand for guidance or support.

HANGERS. See "Supports."

HAZARDOUS LOCATION. Any location considered to be a fire hazard for flammable vapors, dust, combustible fibers or other highly combustible substances.

HEAT PUMP. An *appliance* having heating or heating/cooling capability and that uses refrigerants to extract heat from air, liquid or other sources.

HEATING DEGREE DAYS (HDD). The sum, on an annual basis, of the difference between 65°F (18°C) and the mean temperature for each day as determined from "NOAA Annual Degree Days to Selected Bases Derived from the 1960-1990 Normals" or other weather data sources acceptable to the code official.

HEIGHT, BUILDING. The vertical distance from *grade plane* to the average height of the highest roof surface.

HEIGHT, STORY. The vertical distance from top to top of two successive tiers of beams or finished floor surfaces; and, for the topmost *story*, from the top of the floor finish to the top of the ceiling joists or, where there is not a ceiling, to the top of the roof rafters.

HIGH-EFFICACY LAMPS. See Section N1101.9 for definition applicable in Chapter 11.

HIGH-TEMPERATURE (H.T.) CHIMNEY. A high temperature chimney complying with the requirements of UL 103. A Type H.T. chimney is identifiable by the markings "Type H.T." on each chimney pipe section.

HILL. With respect to topographic wind effects, a land surface characterized by strong relief in any horizontal direction.

HORIZONTAL BRANCH, DRAINAGE. A drain pipe extending laterally from a soil or waste stack or *building drain*, that receives the discharge from one or more *fixture drains*.

HORIZONTAL PIPE. Any pipe or fitting that makes an angle of less than 45 degrees (0.79 rad) with the horizontal.

HOT WATER. Water at a temperature greater than or equal to 110°F (43°C).

HURRICANE-PRONE REGIONS. Areas vulnerable to hurricanes, defined as the U.S. Atlantic Ocean and Gulf of Mexico coasts where the basic wind speed is greater than 90 miles per hour (40 m/s), and Hawaii, Puerto Rico, Guam, Virgin Islands, and America Samoa.

HYDROGEN GENERATING APPLIANCE. A self-contained package or factory-matched packages of integrated systems for generating gaseous hydrogen. Hydrogen generating *appliances* utilize electrolysis, reformation, chemical, or other processes to generate hydrogen.

IGNITION SOURCE. A flame, spark or hot surface capable of igniting flammable vapors or fumes. Such sources include *appliance* burners, burner ignitions and electrical switching devices.



Residential/Commercial – Miscellaneous Permit Guidelines

(2/28/2018)

CONSTRUCTION PROJECTS AND RIGHT-OF-WAY TREES

Right-of-Way (ROW) Trees are the trees that are typically located within 10 feet of the curb.

NEW HOMES, ADDITIONS, ALL REMODELS require protective/temporary fencing (4' in height) to be installed and pass inspection by the Fairway Public Works Department BEFORE the building permit will be issued. View the [Public Tree Protection Ordinance](#) for fencing location requirements.

To schedule the tree fencing and/or erosion control inspections **contact the Fairway Public Works Department at 913-722-2822.**

Building permits issued for small projects (ex: electrical upgrade, HVAC, water heater) will not require the fencing to be installed. However, property owners and contractors still must adhere to the Public Tree Protection Ordinance.

All violations of the **PUBLIC TREE PROTECTION** shall be required to meet the requirements of Section 11-92 Fairway Tree Fund (paying \$100.00 per diameter inch at breast height of the tree) and may also result in the administrative fine of not more than \$500.00 for each incident.

Right-Of-Way Permits

A permit to excavate and/or construct within public right-of-way (ROW area 10-12' from curb) is required and application for the permit shall be made at the prior to project start date. At the discretion of the Public Works Director, a separate permit may be required for each separate phase of work. All information required by the permit must be completed prior to the approval and issuance of the permit.

If you have any questions please contact [Right-of-Way Specialist Rick Allen](#) with the Public Works Department at (913) 722-2822.

NEW HOMES AND ADDITIONS

Contact City Hall 913-262-0350 x0 early in your process when planning an addition, making significant changes to your house or building a new house. These projects may require additional approval by the Planning Commission and in some cases the Board of Zoning Appeals. Since the bodies meet only once a month, your project could potentially be delayed by several weeks if you miss the application deadline.

CONTRACTOR LICENSING

The following contractors: general, plumbing, electrical, mechanical, roof, and wood framing, are required to have a currently valid Johnson County Contractors License. Homeowner occupants physically doing the work on their own personal home projects do not need to be licensed; however, any subcontractors that they hire are required to have a valid Johnson County license. For licensing information, please contact [Johnson County Contractor Licensing](#) (913) 715-2233.

If you have questions please contact Fairway City Hall at (913) 262-0350 x0

BUILDING PERMIT GUIDELINES

The following list provides general information regarding permit requirements for various construction and maintenance activities. The City may have requirements for work even if a permit is not required.

If you have questions please contact Fairway City Hall at (913) 262-0350 x0

Accessory Structure (detached/residential) - garages, sheds, carports, gazebos and greenhouses

One accessory structure is allowed per each residence. A permit is required for all accessory structures. A plot plan detailing green space, setbacks and utility easements must be provided by the resident/contractor. Materials used must be compatible with residential construction. *FINAL INSPECTION REQUIRED*

Addition

A permit is required. The addition of a building area to a dwelling requires a permit regardless of the area size. Planning Commission approval is required if either: adds to or replaces more than 50% of existing building footprints; adds more than 600 sq. ft. of building footprint; alters the façade on 25% of any street facing or side elevation; any application regardless of the size that requires an exception to the code. *FOOTING, FOUNDATION, ROUGH IN, MECHANICAL, ELECTRICAL, PLUMBING (AS NEEDED) AND FINAL INSPECTIONS REQUIRED*

Air Conditioner Replacement

A permit is required for air conditioners (except window air conditioners). Repairs do not require a permit (includes condenser replacement). If the demand for the unit is greater than the old unit, conductor sizes may need to be increased. The wiring of the unit must meet all current electrical standards. A means to disconnect power is required within sight of the unit. *FINAL INSPECTION REQUIRED*

Alarm/Security System

A permit is not required by the Building Codes Department. Low voltage wiring (less than 12 volts) does not require a permit. An alarm permit is required by the Fairway Police Department, 913-262-2364. *NO INSPECTION REQUIRED*

Arbor/Trellis/Shade Structure

A permit is required. A plot plan or survey must be provided in order to verify the location on the lot and to ensure that green space requirements are maintained. *ROUGH-IN INSPECTION & FINAL INSPECTION TO VERIFY LOCATION REQUIRED*

Awning/Canopies

A permit is not required; however, we recommend that you check with the Building Official to discuss the project prior to proceeding with the project. *NO INSPECTION REQUIRED.*

Basement Finish – residential

A permit is required. Permits are required to install walls or framing to finish a basement. Egress windows are required in all finished basements and sleeping areas in basements. *ROUGH IN, MECHANICAL, ELECTRICAL, PLUMBING (AS NEEDED) AND FINAL INSPECTIONS REQUIRED*

Basketball goals or tether poles

A permit is required, however there is no permit fee associated with the installation of a basketball goal/pole. The goal must be at least 20 feet from the front property line and not less than 3 feet from the side property line. *FINAL INSPECTION TO VERIFY LOCATION REQUIRED*

Cabinet Installation/Replacement

No permit is required. Cabinets and shelves are non-structural and generally are treated similar to furniture. Electrical or plumbing modifications associated with cabinet replacement require a permit. **Refer to electrical and plumbing requirements as well as the possible inspection requirements.** Please contact the Building Official at 913-262-0350 for more information. *NO INSPECTION REQUIRED*

Chimney / Fireplace

A permit is required. Installation/repair of the internal and external components must be performed by a mechanical contractor. *FINAL INSPECTION REQUIRED*

Decks/Balconies/Porches

A permit is required for new decks or replacement of existing decks, balconies or porches (regardless of the height above grade). Setbacks from property lines and the aspects of the deck, balcony or porch will be reviewed as part of the permit and inspection process. A plot plan or a survey must be provided with the permit application. A brochure showing comprehensive requirements is available. *PIER PAD, ROUGH IN AND FINAL INSPECTIONS REQUIRED*

Demolition Permits

A permit is required. A plot plan must be provided documenting the location of Right-of-Way Trees and installation of 4' safety fencing protecting 75% of the tree's drip line. All releases from the utility companies (KCPL, KS Gas, JOCO Wastewater, Water District 1, etc) must be provided to the city in order to ensure all utility connections are turned off or terminated to the building prior to a permit being issued. A \$5000.00 construction (mud) bond is required. *PRE-DEMO INSPECTION OF EROSION CONTROL AND ROW TREE FENCING. FINAL INSPECTION REQUIRED*

Dishwasher - new and replacement A permit is not required to replace an existing dishwasher. New installations require an electrical permit when installation requires a new branch circuit. Dishwashers and disposals are to be on a separate circuit from the two required counter top small appliance circuits. *POSSIBLE PLUMBING AND ELECTRICAL REQUIRED*

Driveways and Drive Approach Replacement

A building permit and a right of way (ROW) permit are required for driveway replacement. Driveways on private property require a hard surface material (no gravel or crushed rock driveways) or minimum 4-inch air entrained concrete. No driveway or curb cut shall be located within 2 feet of any property line. The driveway approach requires a minimum 6-inch paving, KCMMB 4000lb mix. The driveway approach must have a tooled joint or a saw cut separating it from both the curb and the rest of the driveway (joint at 10 feet). A plot plan or a survey must be provided in order to verify the location on the property and to ensure that green space requirements are maintained. Contact the Building Official (913-262-0350) or Public Works (913-722-2822) for additional information. *ROUGH IN INSPECTION TO DETERMINE DEPTH AND REINFORCEMENT PLACEMENT REQUIRED*

Electrical Low Voltage Wiring

A permit is not required for electrical wiring, devices, appliances, apparatus or equipment operating at less than 25 volts and not capable of supplying more than 50 watts of energy and not part of a fire alarm system. *NO INSPECTION REQUIRED*

Electrical Service Upgrade

A permit is required for electrical service upgrades. *FINAL INSPECTION REQUIRED*

Electrical Generator

A permit is required for a generator that is direct wired to the building's main electrical system. A transfer switch is required and may require manufacturer's information and schematic plan of the installation for review. A plot plan is also required showing the location of the generator from the property lines, dimension of generator pad, and distance from the house. See Fairway Municipal code Section 15-298 (6) Emergency generators for the placement requirements. *ROUGH IN AND FINAL INSPECTION REQUIRED*

Electrical Miscellaneous Repair/Replacement

A permit is required for new branch circuits or extension of branch circuits or placing additional fixtures or receptacles on an existing circuit. Replacement of receptacles or light fixtures is considered repair and does not require a permit. *ROUGH IN AND FINAL INSPECTION REQUIRED*

Elevator

A permit is required for installation of elevators, platform lifts and stairway lifts in existing buildings or if adding weight (additional dead loads) that is more than 5% of cars total dead weight. *CERTIFICATE OF INSPECTION FROM LICENSED STATE OF KANSAS ELEVATOR INSPECTOR*

Fence

A permit is required for all new and replacement fences. A plot plan must be provided to verify the location on the lot. A survey may be required if the property line is questioned. Additionally, substantial repairs (for example,

replacing more than 10% of the total fence) to fences require a permit. A permit is not required for minor repairs (ie. replacing a few of the fence slats). Does not require a licensed contractor. **FINAL INSPECTION REQUIRED**

Flags and flag poles

A permit is not required for residential flags less than or equal to 25 sq. ft. in area. A business entity or public institution may display a maximum of 3 flags; provided that any nongovernmental flag must be approved under the same procedure required for business signs. **NO INSPECTION REQUIRED**

Flatwork - driveway, sidewalks, concrete patio

A permit is required for flatwork (concrete slabs on grade) on private property and not supporting a structure. The applicant must provide a plot plan or a survey to ensure that green space requirements are maintained. Does not require a licensed contractor. **ROUGH IN INSPECTION AND POSSIBLE FINAL INSPECTION REQUIRED – PLEASE CONTACT THE CITY WITH ANY QUESTIONS**

Foundation Repair

A permit is required except for maintenance and repair, such as, epoxy injection. Wall replacement or the addition of structural columns or bulkhead requires a permit and an engineered design (sealed plan). **FINAL INSPECTION REQUIRED**

Furnace Replacement

A permit is required. Many new furnaces and hot water heaters have venting systems which are fan-assisted and are high efficiency. The existing venting system may not be adequately designed for the new system. Repair does not require a permit (including fan replacement). **FINAL INSPECTION REQUIRED**

Garage (see accessory structure)

Garage Door Opener

No permit is required. Cord and plug-connected equipment does not require a permit. **NO INSPECTION REQUIRED**

Gas Line (inside/outside a building) - installation/replacement

A permit is required for gas line installations and replacements. A permit is required for lines from the house to gaslights, cookers, or other accessory structures (yard lines). The new line shall be tested with test pressure of 15 lbs. and the duration shall be not less than 15 minutes. The line from the house to the meter (service line) is the responsibility of Kansas Gas Service and does not require a permit. **PRESSURE TEST AND DEPTH INSPECTION REQUIRED**

Garbage Disposal - new/replacement

A permit is not required for replacing a garbage disposal unless it is a new installation which requires a separate circuit (can be combined with dishwasher circuit). If a new branch circuit is installed, an electrical permit is required. The dishwasher and disposal are to be on a separate circuit from the two required counter top small appliance branch circuits. **POSSIBLE PLUMBING AND ELECTRICAL INSPECTIONS REQUIRED**

Lawn Irrigation System

A building permit is not required. Any work in the public right-of-way (ROW area 10-12' from curb) requires issuance of a right-of-way work permit; contact the Public Works Department (913-722-2822) for more information. **NO INSPECTION REQUIRED**

Patios

A permit is required. See **Flatwork**. **ROUGH IN AND FINAL INSPECTION REQUIRED**

Playground Equipment

A permit is not required; however certain standards apply to the placement of the equipment. **NO INSPECTION REQUIRED**

Plumbing Fixture Installation - repair/replacement

A permit is required for installation or replacement of the building water piping or drainage system. A permit is not required for fixture replacement for sinks, lavatories, tubs, showers, valves, garbage disposals, dishwashers, etc. which are considered repair/maintenance. **NO INSPECTION REQUIRED**

Plumbing - Backwater Valve

A permit is required. Backwater valves are installed to prevent sewer backups into the floor below the level of the upstream manhole. The Johnson County Wastewater District requires these on dwellings in locations subject to sewer backups. Only fixtures below the manhole level can drain through these valves since they require a high degree of maintenance. *ROUGH IN INSPECTION REQUIRED*

Porches (See Decks/Balconies/Porches)**Pools (See Swimming Pools)****Ponds (Decorative)**

A permit is required for ponds more than 24 inches deep. *FINAL INSPECTION REQUIRED*

Retaining Walls

A permit is required for retaining walls over 24 inches in height. A plot plan or survey must be provided to verify the location on the lot. Retaining walls over 36 inches require an engineered (sealed) design and be constructed by a licensed contractor. Retaining walls less than 36 inches in height do not require a licensed contractor.

FOOTING AND WALL REINFORCEMENT INSPECTION REQUIRED

Roofing - repair/replacement

A permit is required. A composition roof may be installed over wood shingles (not permitted over shakes). No more than two layers of any type of covering may be placed on a roof. If two layers of roofing are in place, all layers shall be removed prior to installation of additional roofing. A permit is not required for repairs less than 10% of the total roof. *MIDPHASE INSPECTION REQUIRED*

Roof Deck - repair/replacement

A permit is required. *ROUGH IN INSPECTION REQUIRED*

Satellite Dishes

A permit is not required for one- and two-family dwellings. *NO INSPECTION REQUIRED*

Sewer Line Replacement - exterior

The Johnson County Wastewater District (913/715-8520) regulates the sewer line from the exterior wall to the sewer main. Interior sewer replacement will require a permit from the City and exterior sewer replacement may require a permit from Johnson County Wastewater. Contact the Public Works Department 913/722-2822 to determine whether or not your project will take place in the Right of Way (ROW area 10-12' from curb). If the project is in the ROW, a separate permit will be required. *ROUGH IN INSPECTION REQUIRED*

Sidewalk Replacement in Right-of-Way

City sidewalks are replaced or repaired by the city. Contact the Public Works Department (913/722-2822) if you have sidewalks which need to be repaired or replaced.

Septic Tank Demolition and Connection to Public Sewer System

A permit is required. No drawings needed, provide a copy of sewer connection permit from Johnson County Wastewater with permit application. *ROUGH IN INSPECTION REQUIRED*

Siding - replacement/repair

A permit is required. Certain materials are restricted from use in the City of Fairway. *MIDPHASE INSPECTION REQUIRED*

Signs - Banners

A permit is required. Permanent commercial signs must be approved by both the Planning Commission and the Governing Body. *FINAL INSPECTION REQUIRED*

Spas and Hot Tubs

A permit is required. There are specific electrical and enclosure requirements for spas and hot tubs. A plot plan or a survey must be provided to verify the location on the lot and to ensure greenspace requirements are maintained. *POSSIBLE PLUMBING AND ELECTRICAL INSPECTIONS REQUIRED*

Sump pumps – drain tile

Issued as a foundation permit. A site plan must be provided showing the termination point(s) of the discharge lines. Sump pump discharge shall not be closer than 5 feet to any adjoining property line, including the City

Right-of-Way(ROW area 10-12' from curb). Johnson County Wastewater District does not allow sump pump connections to the sanitary sewer system. New sump pumps require a dedicated single receptacle or a GFCI protected receptacle. A licensed electrician is required for a new branch circuits. A permit is not required for replacement of an existing pump.

COMBINED ELECTRICAL and FINAL INSPECTION REQUIRED

Swimming Pools

A permit is required. Swimming pools more than 24 inches deep and all spas and hot tubs require a permit prior to installation. A plot plan with setbacks, utility easements, and green space information is also required.

PLUMBING, ELECTRICAL, ELECTRICAL BONDING AND STRUCTURAL STEEL INSPECTIONS REQUIRED.

Tree Houses

A permit is not required; however, certain standards apply to the placement of the tree house. *NO INSPECTION REQUIRED*

Towers - radio/communication

A Special Use Permit is required and must be approved by the Planning Commission and the Governing Body. Additionally, a separate building permit is also required. *FINAL INSPECTION REQUIRED*

Water Heater Replacement

A permit is required. Many new furnaces and hot water heaters have venting systems that are fan-assisted and are high efficiency; the existing venting system may not be adequately designed for the new system. *FINAL INSPECTION REQUIRED*

Water Line Replacement - exterior

A permit is required for the replacement or repair of fire service mains serving private fire hydrants, fire suppression systems (sprinkler) or standpipe systems. *FINAL INSPECTION REQUIRED*

Window Replacement

A permit is not required for an in-kind replacement. *NO INSPECTION REQUIRED*

Alternations made to exterior walls to allow for the installation of a larger window require a permit. *ROUGH IN AND FINAL INSPECTION REQUIRED*



STAFF REPORT
Board of Zoning Appeals
May 18, 2026

TO: Chairman Chris Shank
Board of Zoning Appeals Members
Anna Krstulic, Zoning Counsel

FROM: Basil Alani, Community Development Director

APPLICANT: Brett and Jaimie Death, Property Owners

PROPERTY: 6118 Reinhardt Dr. – REINHARDT ESTATES UNIT NO. 1 LT 14 BLK 7 FAC 1023

ZONING: R-1

PROJECT: Variance to encroach into the minimum 8 feet required side setback to replace existing garage

BACKGROUND:

Existing house encroaches into the required 8-foot side setback. The existing garage is 6.5-feet from the property line. Staff reviewed AIMS aerials and photos and it appears the house was constructed at this setback before 1952. The home is considered a lawful non-conformance. Since the existing garage is to be demolished and the new garage will be built in the same location the project will need a variance.

APPLICABLE CODE PROVISIONS:

Sec. 15-658. - Lawful nonconformities.

...

(b) Structures. Structures that were lawfully constructed prior to the adoption or amendment of the ordinance from which this article is derived, but which could not be constructed under the terms of this article by reason of restrictions on area, lot coverage, height, setbacks, location on the lot or other requirements concerning structures, shall hereafter be considered lawful nonconforming structures. As such, they may continue to exist so long as they remain otherwise lawful, provided that no reconstruction, enlargement or alteration of these structures shall occur that will increase their nonconformity either in degree of nonconformity or in the portion of the structure that is nonconforming, except as provided for in this subdivision. However, any lawful nonconforming structure or portion thereof may be altered to reduce its nonconformity.

....

A variance will need to be granted to proceed with the project as proposed. The lawful non-conformity does not allow the existing garage to be removed and rebuilt with the degree of non-conformity.

Code Section 15-296. – Dimension standards.

(a) Lots.

Lot	
Minimum side setback	<ul style="list-style-type: none">• Less than 80-foot lot width = 6 feet• 80 – 100-foot lot width = 8 feet• More than 100-foot lot width = 10% of lot width

Lot is 100-feet wide and requires a side setback of 8-feet. Proposed setback is 6.5-feet.

REVIEW CRITERIA:

Code Section 15-778. – Variances.

(a) *Variances.* The Board of Zoning Appeals may grant, in specific cases, a variance from the specific terms of the zoning regulations, which will not be contrary to the public interest and where, due to special conditions, a literal enforcement of the provisions of the zoning regulations, in an individual case, results in unnecessary hardship; and provided that, the spirit of the zoning regulations shall be observed, public safety and welfare secured, and substantial justice done. Variance shall permit any use not permitted by the zoning regulations for the applicable district. A request for a variance may be granted in this case upon a finding that all the following conditions have been met:

- (1) That the variance requested arises from a condition that is unique to the property in question and that is not ordinarily found in the same zone or district, and is not created by an action or actions of the property owners or the applicant;
- (2) That the granting of the variance will not adversely affect the rights of adjacent property owners or residents;
- (3) That the strict application of the zoning regulations from which a variance is requested will constitute unnecessary hardship upon the property owner represented in the application;
- (4) That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare; and
- (5) That granting the variance desired will not be opposed to the general spirit and intent of the zoning regulations.

Applicant submitted responses that address each of these criteria for the variance requested. Variance request was noticed in the April 28, 2026 edition of *The Legal Record*. Property owner mailed certified notices of the hearing to property owners with 200 feet of the property on April 24, 2026. The property owner’s letter contained the required notification.

STAFF RECOMMENDATION:

Staff is not opposed to the requested variance subject to the Board granting approval with the following conditions:

1. Application and nine set of plans submitted to Planning Commission for Project approval
2. Building permit must be obtained and fees paid, as required by City Code.
3. Project must comply with all City ordinances and the 2012 International Residential Code, the 2012 Building Code and other incorporated technical codes.
4. Application and approval is void if a building permit is not obtained within one year from the date of Board of Zoning Appeals approval.

Criteria for Granting a Variance or Appeal of an Administrative Decision

A. Variance:

In specific cases the Board may authorize a variance from the specific terms of the ordinance which will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of the ordinance will, in an individual case, result in unnecessary hardship, and provided that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done. Such variance shall not permit any use not permitted by zoning ordinance. A request for a variance may be granted in such case upon a finding of the Board that all the following conditions have been met. Applicant must provide a statement for each condition for granting a variance as follows:

1. That the variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district, and is not created by an action or actions of the property owners or applicant; _____

2. That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents; _____

3. That the strict application of the provisions of the zoning ordinance for which the variance is requested will constitute unnecessary hardship upon the property owner represented in the application; _____

4. That the variance desired will not adversely affect the public welfare;
and _____
5. That granting the variance desired will not be opposed to the general spirit and intent of the zoning ordinance; _____

Criteria for Granting a Variance or Appeal of an Administrative Decision

A. Variance:

In specific cases the Board may authorize a variance from the specific terms of the ordinance which will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of the ordinance will, in an individual case, result in unnecessary hardship, and provided that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done. Such variance shall not permit any use not permitted by zoning ordinance. A request for a variance may be granted in such case upon a finding of the Board that all the following conditions have been met. Applicant must provide a statement for each condition for granting a variance as follows:

1. Unique condition / not self-created

The existing garage wall along the north property line was constructed within the required setback prior to the current ownership. This condition is unique to the property due to the original placement of the structure and the configuration of the lot. The current owner did not create this condition. The proposed work is limited to removing and replacing a failing CMU foundation wall in the same general location, not creating a new encroachment.

2. No adverse impact to adjacent property owners

The proposed work will not increase the impact on the adjacent property. The wall is being reconstructed in approximately the same location as the existing condition. The project maintains the existing relationship between properties.

3. Unnecessary hardship

Strict application of the setback requirement would require relocation of the garage wall, which would significantly impact the functionality of the existing structure and the overall design of the home. More importantly, the existing CMU foundation wall is failing and must be replaced. Requiring full compliance would create an unnecessary hardship by forcing a substantial redesign and reconstruction beyond what is needed to address the structural issue.

4. No adverse effect on public welfare

The proposed work improves the safety and structural integrity of the home by replacing a failing foundation wall. There is no change in use, no increase in density, and no impact to public infrastructure. The project will have a positive effect by bringing the structure into better condition without introducing new risks.

5. Consistent with the intent of the zoning code

The intent of the setback regulations is to ensure appropriate spacing, light, air, and compatibility between neighboring properties. This request maintains an existing condition while improving the structure. It does not intensify the use or further encroach into the setback. Granting the variance allows for responsible reinvestment in the property while remaining consistent with the overall intent of the zoning regulations.

CERTIFICATE OF SURVEY 6118 REINHARDT DRIVE

DESCRIPTION

Lot 14, Block 7, REINHARDT ESTATES—UNIT NO.1,
a subdivision in the City of Fairway, Johnson
County, Kansas.

GENERAL NOTES:

The bearings shown hereon are based on the
State Plane Coordinate System, Kansas North
Zone NAD 83

Elevations shown hereon are based on NAVD88,
contours are in 1 foot intervals.

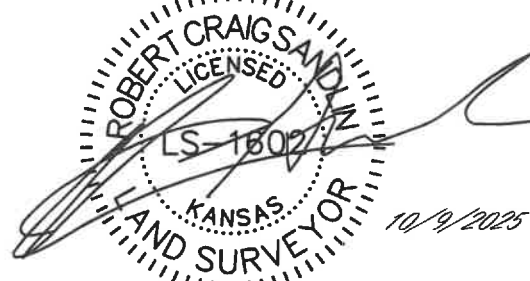
Existing home was located as part of this
survey.

The subject property address is: 6118
Reinhardt Drive.

Easements shown hereon taken from the Final
Plat of REINHARDT ESTATES—UNIT NO.1.

AREA = 17,614 Sq. Ft or 0.404 Acres ±

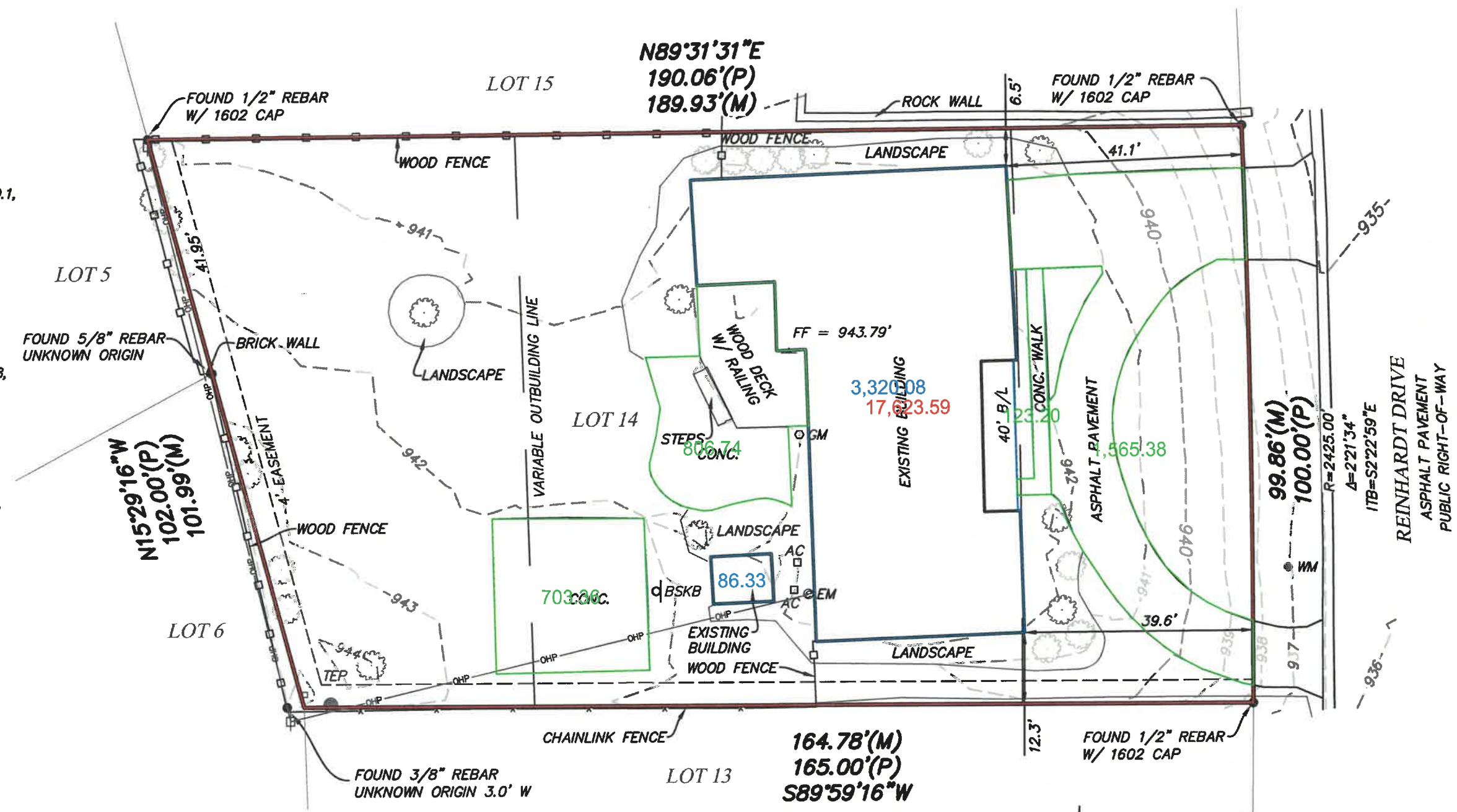
I hereby certify that this survey was completed
by me or under my direct supervision. Field
work was completed on 10/6/2025.



Robert C. Sandlin, KLS-1602

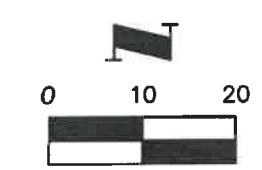
Beyond Surveying
29390 W 119th Street
Olathe, KS 66061
Main: 913-717-8538
www.beyondsurveying.com

PROJECT NO. 2025-0076 DATE 10/8/2025 BY klg

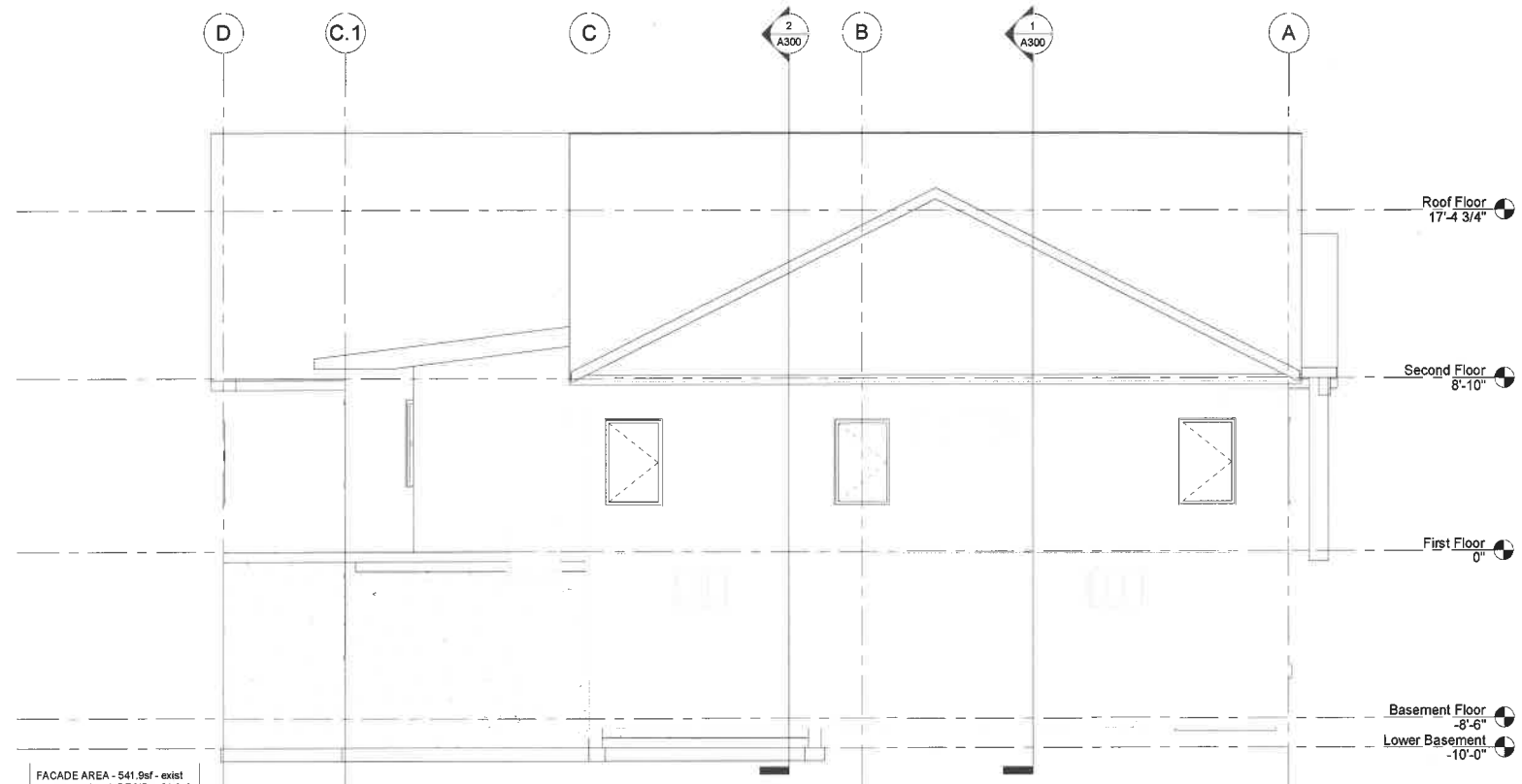


- LEGEND**
- AC = AIR CONDITIONER
 - ⊕ BSKB = BASKET BALL GOAL POST
 - ⊙ EM = ELECTRIC METER
 - = MONUMENT AS NOTED
 - ▲ = FINISH FLOOR
 - GM = GAS METER
 - ⊕ PP = POWER POLE
 - TEP = TELEPHONE PEDESTAL
 - ⊙ = TREE
 - UMH = UNKNOWN MH
 - WM = WATER METER

Total Lot Area = 17,614SF
 Impervious Area:
 1,565.38 + 123.20 + 3,320.08 +
 806.74 + 703.80 + 86.33 = 6,605.53 SF
 Total Existing Green Space:
 17164 - 6605.53 = 11,008.47 SF (62%)
 Required Green Space = 11,710 SF (66.5%)

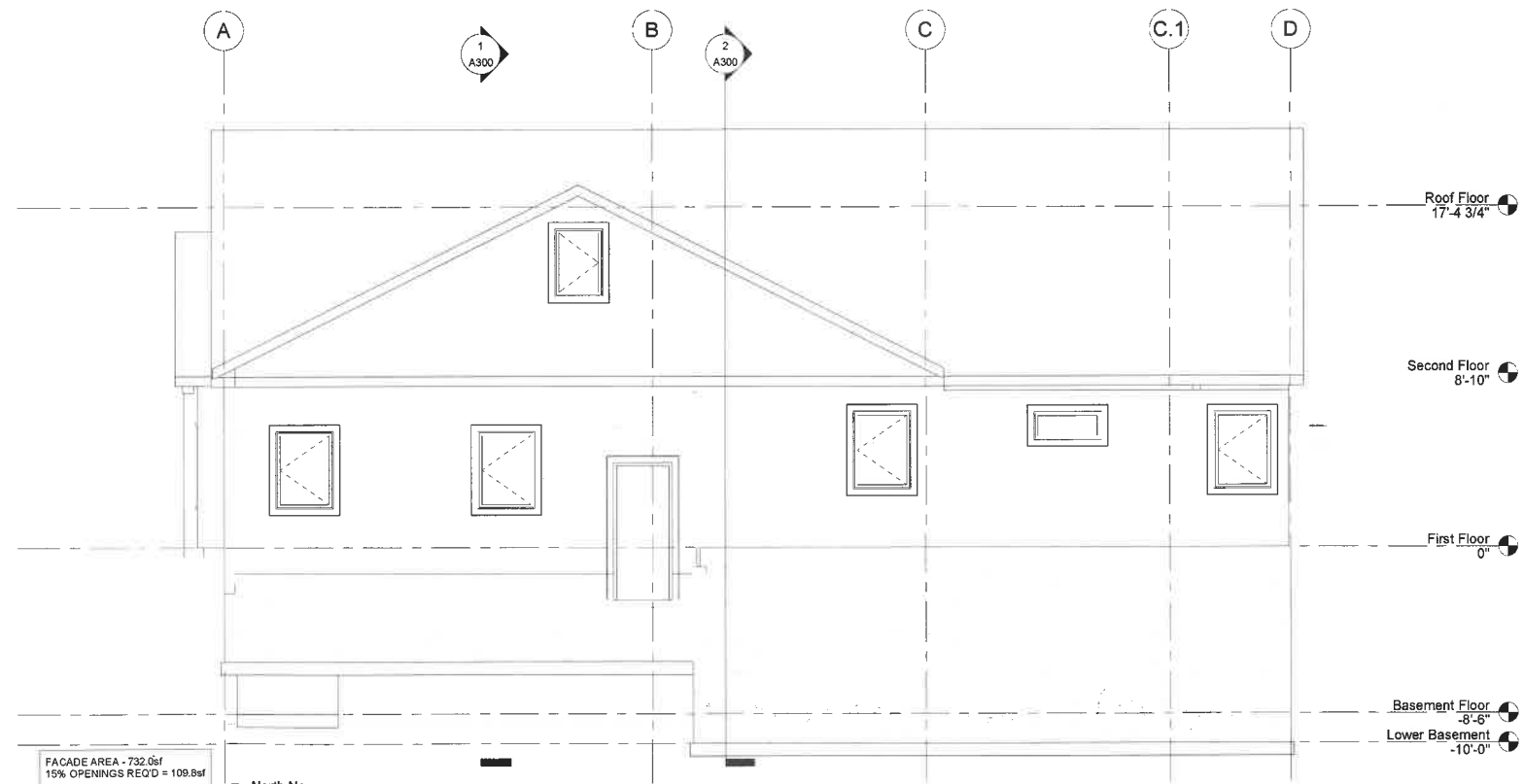


Green Space Total Lot



FACADE AREA - 541.9sf - exist
 15% OPENINGS REQ'D = 81.3sf
 OPENING PROVIDED - 81.3sf
 WINDOW REPLACEMENT ONLY
 NO NEW WINDOWS

② South New
 1/4" = 1'-0"



FACADE AREA - 732.0sf
 15% OPENINGS REQ'D = 109.8sf
 OPENING PROVIDED - 113.55sf

① North New
 1/4" = 1'-0"

LICENCE NUMBER

architecture and design studio

CSN+design
 NELSON DESIGN, BUILD
 [csn + design, inc.]
 913-522-7084
 craig@nelsondesignbuild

DEUTH HOME ADDITION
 6118 REINHARDT DR.
 FAIRWAY, KS 66205

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Revision Schedule	
Rev #	Date

PROJECT ISSUE DATE
 03/04/26

PROJECT NUMBER
 2514

SHEET NAME
 ELEVATIONS

SHEET NUMBER
A203