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**SUBJECT:** Waiver request to the Land Development Code Section 36.03 (H) for a fence, to reduce the required setback from 2' to 0' from a platted alleyway (Case# 2026-08 CRD-W)

**ACTION REQUESTED:** Approval/Denial of Waiver Request Pursuant to Section 100.00 of the Comprehensive Zoning and Land Development Code.

**REQUESTED BY:** Cecilia Chen, Senior Planner/GIS Analyst

**SUPPORTING DOCUMENTS:** Yes

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### **SUMMARY**

The Community Development Department received a Waiver application from the property owners, Andrew and Marci Rosenberg, for a fence located at 737 2<sup>nd</sup> St N.

The property is located within the Traditional Neighborhood Development -1 (TND-1) Character District in the Community Redevelopment District (CRD) and is developed with a Single-family residential dwelling. Maps of the subject property are attached.

In January 2026, a building permit was approved for a fence located at this address. The fence has been installed and is pending inspection.

According to Land Development Code section 36.03, fences are required to be located at least 2 feet from a platted alleyway. The applicants stated that the newly installed fence has created an inconsistency to the existing fences on the neighboring property and along the rest of the alley. The applicants submitted a Waiver application, proposing to reinstall a section of the fence to be located 0' from the alleyway. The applicants' narrative and site photos are attached.

#### **36.03 Fences, walls and hedges.**

*(H)Fences and walls (including retaining walls) shall be set back at least two (2) feet from a platted alleyway or the edge of a sidewalk. A permit to replace seventy-five percent or more of an existing wall, fence, or retaining wall shall be subject to this requirement, unless the City Arborist determines that moving a retaining wall around a protected tree with a condition rating of 2.5 or greater would be harmful to the tree's health.*

According to Land Development Code Section 100.00 below, Waivers may be approved if at least one of the five conditions is met:

**100.00 Waivers.**

*(A) In connection with the approval of a development order in the Community Redevelopment District, the City Commission may waive or modify any requirement of this Code with the exception of the use restrictions.*

*(B) No waiver or modification may be granted unless one or more of the following circumstances exists:*

*(1) Superior Alternatives. Where the development will provide an alternative which will achieve the purposes of the requirement through clearly superior design, efficiency, or performance.*

*(2) Protection of Significant Features. Where the waiver or modification is necessary to preserve or enhance significant existing environmental or cultural features, such as trees, scenic areas, historic sites or public facilities, related to the development site.*

*(3) Deprivation of Reasonable Use. Where the strict application of the requirement would effectively deprive the owner of all reasonable use of the land, due to its unusual size, shape, topography, natural conditions or location; provided:*

*(a) Such effect upon the owner is not outweighed by a valid public purpose in imposing the requirement in this case, and*

*(b) The unusual conditions involved are not personal to, nor the result of actions of the developer or property owner, their predecessors or agents.*

*(4) Technical Impracticality. Where strict application of the requirement would be technically impractical in terms of engineering, design, or construction practices, due to the unusual size, shape, topography, natural conditions or location of the land or due to improved efficiency, performance, safety, or construction practices which will be realized; provided:*

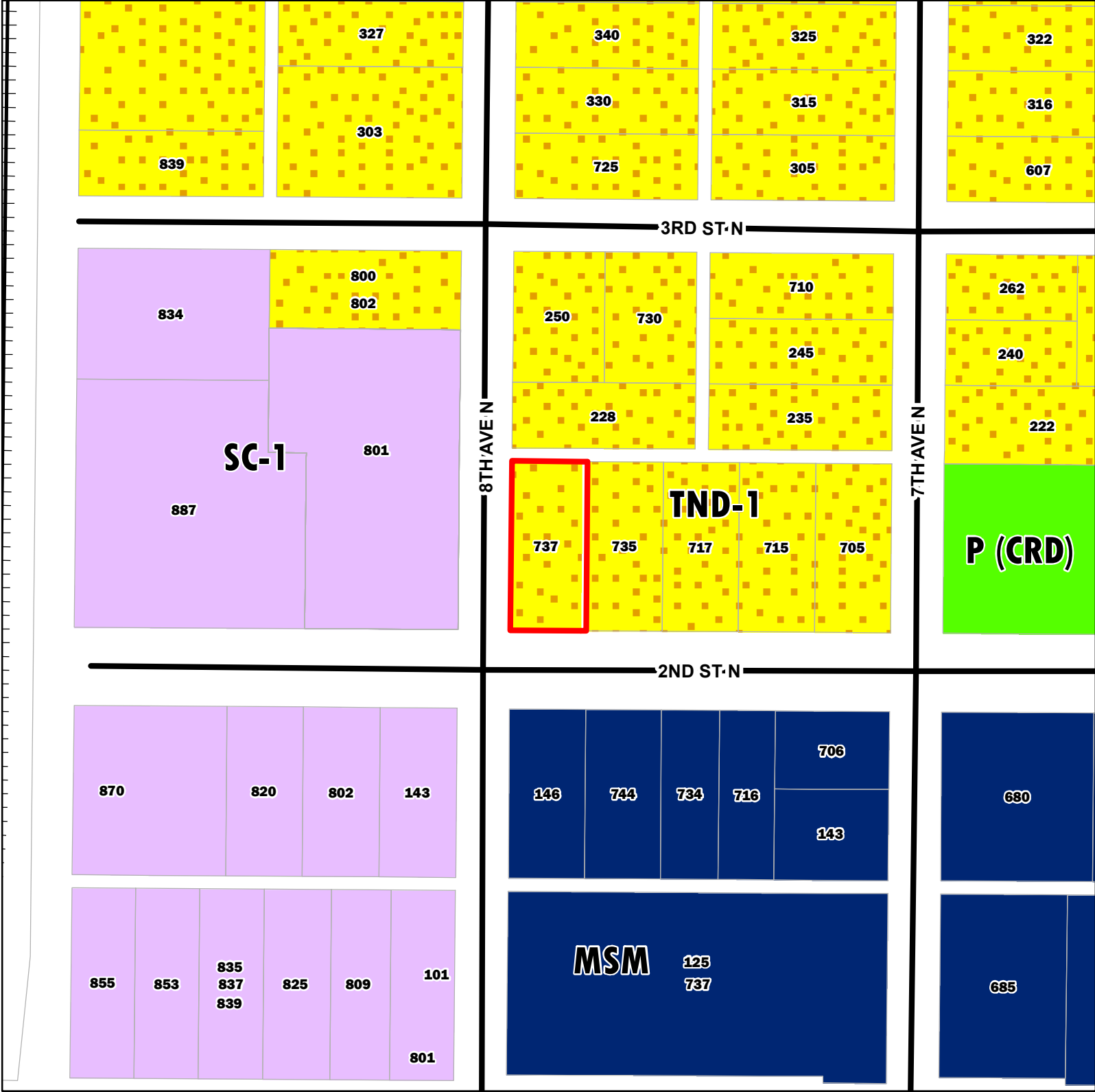
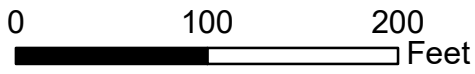
*(a) The development will provide an alternative adequate to achieve the purposes of the requirement; and*

*(b) Any unusual conditions creating the impracticality are not personal to, nor the result of the actions of the developer or property owner, their predecessors or agents.*

*(5) No Relationship to the Development or its Impacts. Where all or any part of the requirement has no relationship to the development, or to the impact of the development on the public facilities, land use, traffic, or environment of the neighborhood and the general community, due to the location, scale, or type of development involved.*

The City Commission may approve, approve with modifications, or deny the Waiver request. If the decision is to approve, staff recommend adding a condition that the Public Works Department's comments are addressed (attached).

# 2026-08 CRD-W ZONING MAP

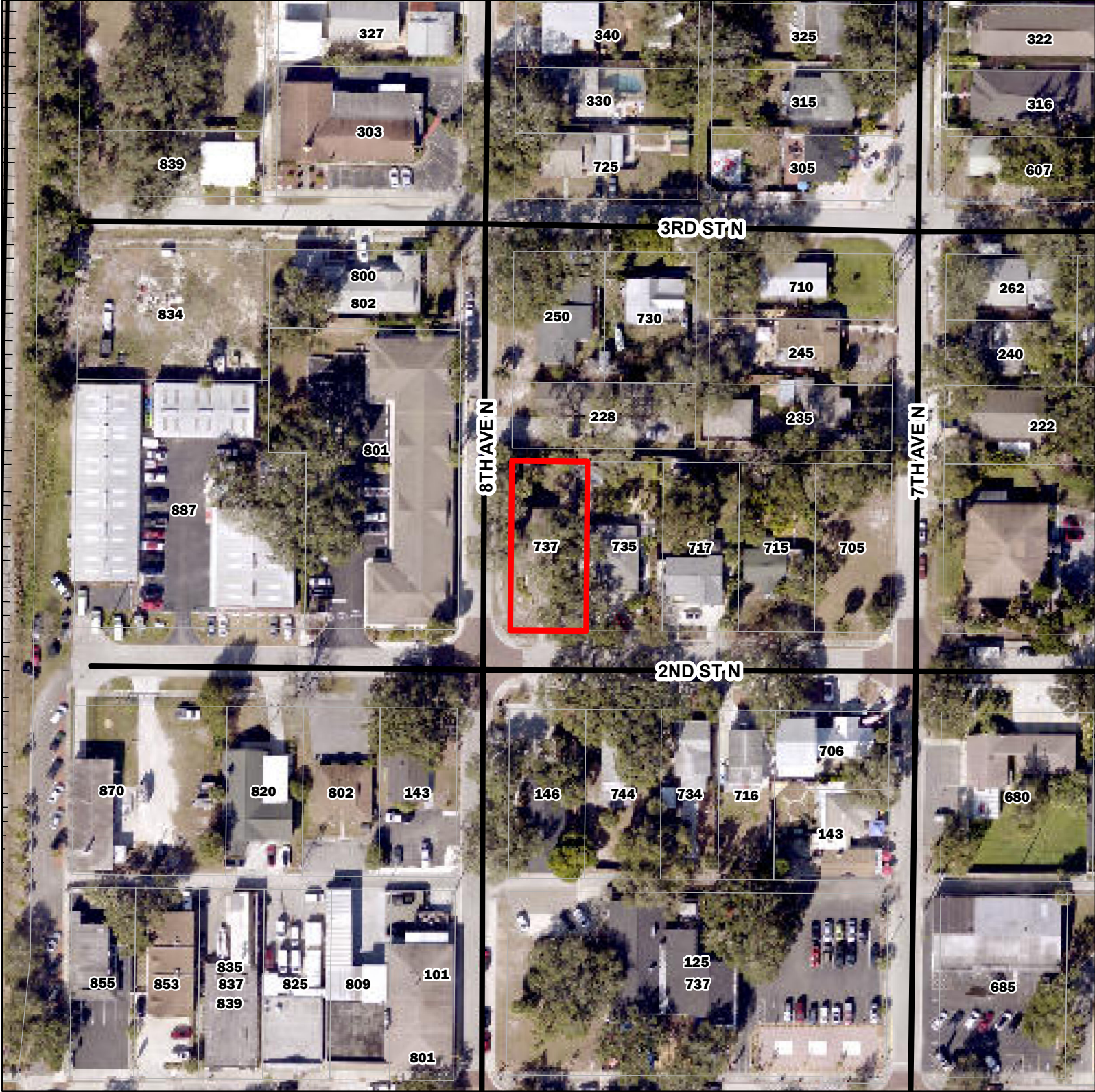
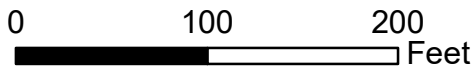


**737 2ND ST N**  
**PARCEL ID#: 03-29-16-96498-022-0070**

- Subject Site
- Traditional Neighborhood Development 1 (TND-1)
- Main Street Marketplace (MSM)
- Parcels
- Public (P)
- Service Corridor 1 (SC-1)



# 2026-08 CRD-W AERIAL MAP



**737 2ND ST N**  
**PARCEL ID#: 03-29-16-96498-022-0070**

-  Subject Site
-  Parcels

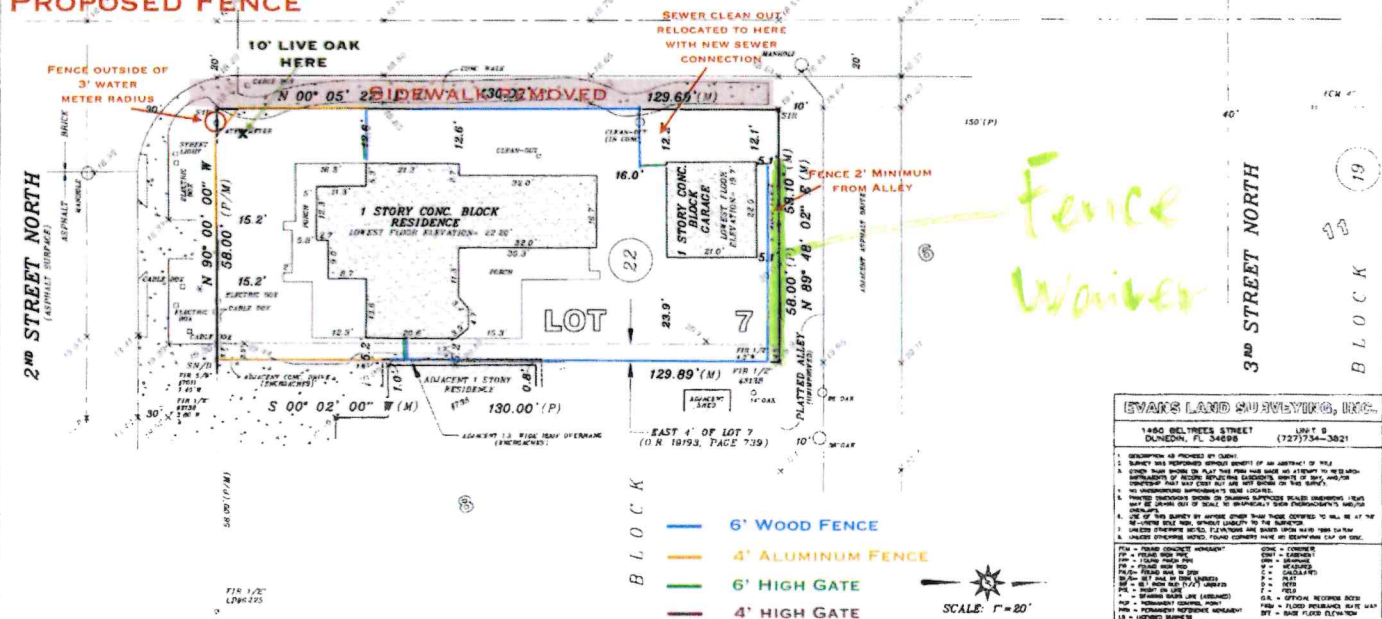


PREPARED EXCLUSIVELY FOR: ANDREW AND MARCI ROSENBERG

SECTION 3, TOWNSHIP 29S., RANGE 16E.  
PINELLAS COUNTY, FLORIDA

**737 2ND ST. N.**  
**PROPOSED FENCE**

**8TH AVENUE NORTH**  
(ASPHALT SURFACE)



**NOTE**

- 1.) ELEVATIONS SHOWN BASED ON PINELLAS COUNTY BENCHMARK "SAFETY P", PUBLISHED ELEVATION=19.04' (NORTH AMERICAN VERTICAL DATUM OF 1988)
- 2.) X-CROSS DENOTES SPOT ELEVATION
- 3.) EAST 4' OF LOT 7 WAS QUIT-CLAIMED TO THIS PROPERTY IN 2016

A SURVEY OF LOT 7, BLOCK 22, WEST GREEN SPRINGS, ACCORDING TO THE MAP OR PLAT THEREOF, AS RECORDED IN PLAT BOOK 4, PAGE 53, OF THE PUBLIC RECORDS OF PINELLAS COUNTY, FLORIDA

- 6' WOOD FENCE
- 4' ALUMINUM FENCE
- 6' HIGH GATE
- 4' HIGH GATE



**EVANS LAND SURVEYING, INC.**

1480 BELTRES STREET  
DUNEDIN, FL 34698

LOT 7  
(727)734-3821

1. DESCRIPTION AS PROVIDED BY CLIENT
2. SURVEY WAS PERFORMED WITHOUT BENEFIT OF AN ABSTRACT OF TITLE
3. CLIENT HAS BEEN ADVISED THAT THIS SURVEY WAS MADE AS ATTEMPT TO RE-LOCATE BOUNDARIES OF RECORD INCLUDING EXISTING SURVEY OF 1967, AND FOR INFORMATION ONLY AND DOES NOT CONSTITUTE A GUARANTEE OF THE BOUNDARIES.
4. NO UNDERGROUND UTILITIES WERE LOCATED.
5. ALL PROPERTY BOUNDARIES SHOWN ON THIS SURVEY ARE BASED ON THE RECORDS OF THE PUBLIC RECORDS OF PINELLAS COUNTY, FLORIDA.
6. THE SURVEY WAS PERFORMED BY A LICENSED SURVEYOR IN THE STATE OF FLORIDA.
7. THE SURVEY WAS PERFORMED ON THE DATE SHOWN ON THIS SURVEY.
8. THE SURVEY WAS PERFORMED ON THE DATE SHOWN ON THIS SURVEY.
9. THE SURVEY WAS PERFORMED ON THE DATE SHOWN ON THIS SURVEY.
10. THE SURVEY WAS PERFORMED ON THE DATE SHOWN ON THIS SURVEY.

SURVEY TYPE	DATE	REV. NO.
BOUNDARY SURVEY	12/21/2023	2023-001
BUILDING "AS-STARVED"	12/21/2024	2024-019
TIE-IN SURVEY	3/23/2025	2025-158

1. I HEREBY CERTIFY THAT THE SURVEY REPRESENTED HEREON MEETS THE MINIMUM REQUIREMENTS OF CHAPTER 401.11 OF THE FLORIDA CONSTITUTION.

*Andrew Rosenberg* 5-22-25

LARRY L. EVANS JOHN C. BINDER  
FL. REG. NO. 3037 FL. REG. NO. 4588  
VERIFIED BUSINESS NO. 8225  
VERIFIED BUSINESS NO. 8225

**Date-** February 13, 2026

Application attached

**Request for Variance at 737 2<sup>nd</sup> St N- Rosenberg Residence:**

We respectfully request approval of a variance to allow our fence to be installed on (or immediately adjacent to) the rear property line along the unmaintained alley, consistent with the existing fence alignment along this alleyway.

**Code Section- 36.03**

**Requirement-** Fence and walls, including retaining walls, should be set back at least 2 feet from the platted alleyway or the edge of the sidewalk.

**Deviation-** Place a fence on the property line in alignment with the neighboring fences

**Hardship / practical difficulty:**

Strict compliance with the requirement to place the fence two (2) feet inside the property line would create an unnecessary and unreasonable hardship due to the limited size of our rear yard and the established pattern of fencing along the alley. Setting the fence in by two feet would materially encroach on our already small yard and reduce usable outdoor space without providing a corresponding public benefit. Additionally, it significantly limits our access to our yard space behind our garage, which is where we have plans to install an outdoor utility sink and shower. This would hinder our ability to access this (see attached photo).

Additionally, the existing conditions along the alley demonstrate a consistent fence line at the property boundary. The adjoining neighbor's fence is located on the property line and extends approximately five (5) feet along the boundary in the same manner as other fences serving multiple homes on this alleyway. If we were required to install our fence two (2) feet inside our property line, we would either:

1. need to remove a portion of the neighbor's fence that currently occupies the shared boundary alignment, and/or
2. create a two-foot gap between fences that would leave an opening and discontinuity along the alley.

This would result in an inconsistent fence layout compared to the rest of the unmaintained alley, create an avoidable opening between properties, and introduce confusion regarding the intended enclosure line. Approval of the variance would allow the fence to align with the established fencing pattern along the entire alleyway, preserve usable yard area, and maintain a continuous, consistent fence line.

737 2<sup>nd</sup> St. N.

Andrew and Marci Rosenberg

Variance – 26-08

2/16/2026

#### PW Comments

- Water meter and sewer clean-out must remain accessible, not behind a fence.
- Fence shall not be installed beyond the property line into the right-of-way.
- Fence installations shall meet required visibility triangles as per Land Development Code Sec. 37.00.





