

BOA GENERAL REVIEW COVERSHEET

CASE: C15-2019-0060

BOA DATE: November 7, 2019

ADDRESS: 5112 Bluffside Dr

COUNCIL DISTRICT: 10

OWNER: Terence Kearns

AGENT: same as Owner

ZONING: PUD

LEGAL DESCRIPTION: LOT 103 BLK B GREAT HILLS VII-A PLUS .636% INT IN COM AREA

VARIANCE REQUEST: 8 ft. fence

SUMMARY: complete fence to enclose swimming pool

ISSUES: fence is built adjacent to a zero lot line dwelling

	ZONING	LAND USES
<i>Site</i>	PUD	Single-Family
<i>North</i>	PUD	Single-Family
<i>South</i>	PUD	Single-Family
<i>East</i>	PUD	Single-Family
<i>West</i>	PUD	Single-Family

NEIGHBORHOOD ORGANIZATIONS:

Austin Independent School District

Austin Lost and Found Pets

Bike Austin

Friends of Austin Neighborhoods

Great Hills VII HOA

Long Canyon Homeowners Assn

Mountain Neighborhood Association (MNA)

Neighborhood Empowerment Foundation

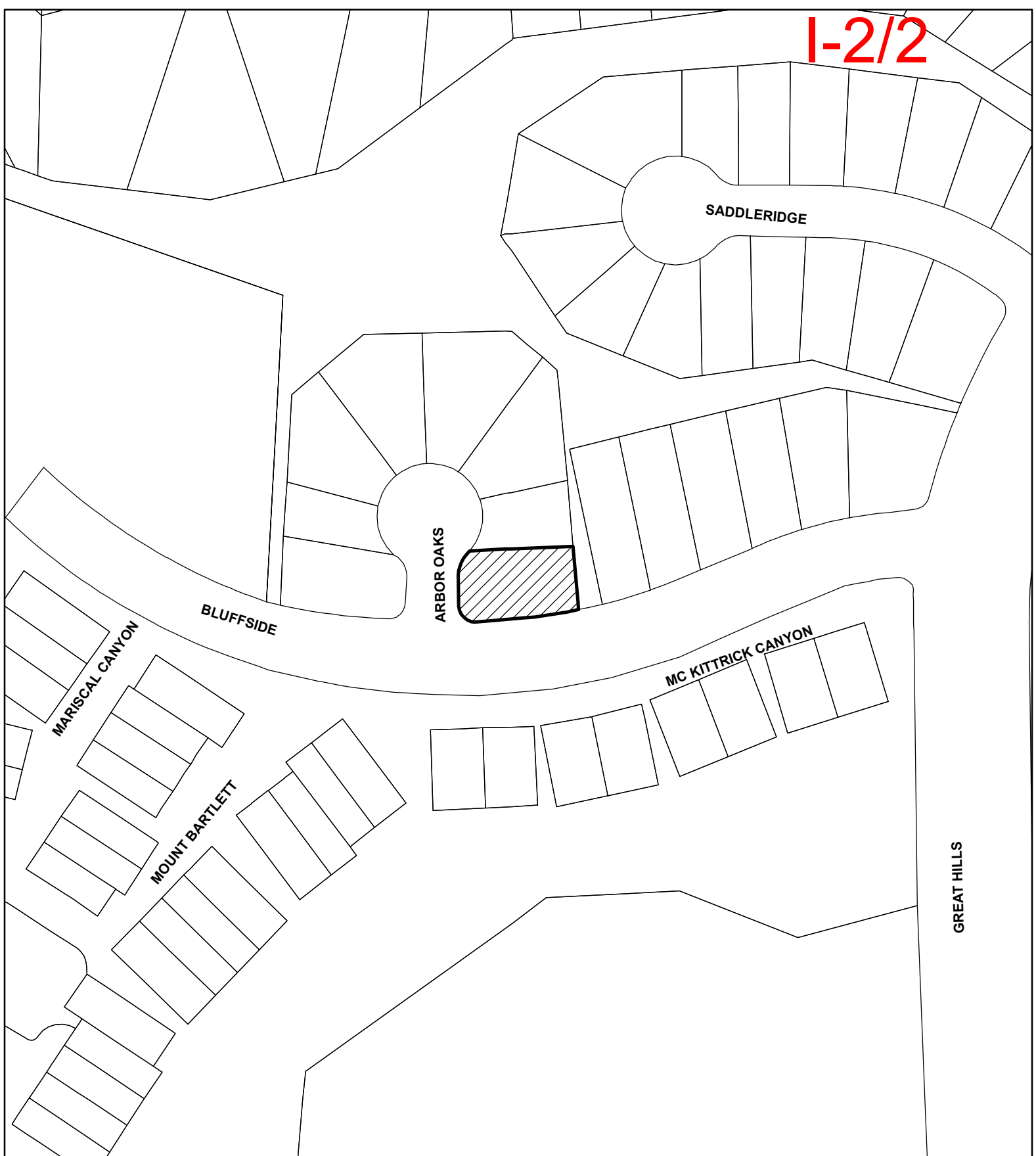
North Oaks Neighborhood Assn

SEL Texas

Sierra Club, Austin Regional Group

TNR BCP – Travis County Natural Resources

I-2/2



SUBJECT TRACT



PENDING CASE



ZONING BOUNDARY

NOTIFICATIONS

CASE#: C15-2019-0060
LOCATION: 5112 Bluffside Dr.

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

This product has been produced by CTM for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.



1" = 119'



CITY OF AUSTIN

Development Services Department

One Texas Center | Phone: 512.978.4000

505 Barton Springs Road, Austin, Texas 78704

I-2/3

Board of Adjustment General/Parking Variance Application

WARNING: Filing of this appeal stops all affected construction activity.

This application is a fillable PDF that can be completed electronically. To ensure your information is saved, [click here to Save](#) the form to your computer, then open your copy and continue.

The Tab key may be used to navigate to each field; Shift + Tab moves to the previous field. The Enter key activates links, emails, and buttons. Use the Up & Down Arrow keys to scroll through drop-down lists and check boxes, and hit Enter to make a selection.

The application must be complete and accurate prior to submittal. ***If more space is required, please complete Section 6 as needed.*** All information is required (if applicable).

For Office Use Only

Case # _____ ROW # _____ Tax # _____

Section 1: Applicant Statement

Street Address: _____

Subdivision Legal Description:

Lot(s): _____ Block(s): _____

Outlot: _____ Division: _____

Zoning District: _____

I/We _____ on behalf of myself/ourselves as
authorized agent for _____ affirm that on
Month _____, Day _____, Year _____, hereby apply for a hearing before the
Board of Adjustment for consideration to (select appropriate option below):

☐ Erect ☐ Attach ☐ Complete ☐ Remodel ☐ Maintain ☐ Other: _____

Type of Structure: _____

Portion of the City of Austin Land Development Code applicant is seeking a variance from:

Section 2: Variance Findings

The Board must determine the existence of, sufficiency of, and weight of evidence supporting the findings described below. Therefore, you must complete each of the applicable Findings Statements as part of your application. Failure to do so may result in your application being rejected as incomplete. Please attach any additional supporting documents.

NOTE: The Board cannot grant a variance that would provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated.

I contend that my entitlement to the requested variance is based on the following findings:

Reasonable Use

The zoning regulations applicable to the property do not allow for a reasonable use because:

Hardship

a) The hardship for which the variance is requested is unique to the property in that:

b) The hardship is not general to the area in which the property is located because:

Area Character

The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purpose of the regulations of the zoning district in which the property is located because:

Parking (additional criteria for parking variances only)

Request for a parking variance requires the Board to make additional findings. The Board may grant a variance to a regulation prescribed in the City of Austin Land Development Code Chapter 25-6, Appendix A with respect to the number of off-street parking spaces or loading facilities required if it makes findings of fact that the following additional circumstances also apply:

1. Neither present nor anticipated future traffic volumes generated by the use of the site or the uses of sites in the vicinity reasonably require strict or literal interpretation and enforcement of the specific regulation because:

2. The granting of this variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic of the streets because:

3. The granting of this variance will not create a safety hazard or any other condition inconsistent with the objectives of this Ordinance because:

4. The variance will run with the use or uses to which it pertains and shall not run with the site because:

Section 3: Applicant Certificate

I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Applicant Signature: _____ Date: _____

Applicant Name (typed or printed): _____

Applicant Mailing Address: _____

City: _____ State: _____ Zip: _____

Phone (will be public information): _____

Email (optional – will be public information): [REDACTED] _____

Section 4: Owner Certificate

I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Owner Signature: _____ Date: _____

Owner Name (typed or printed): _____

Owner Mailing Address: _____

City: _____ State: _____ Zip: _____

Phone (will be public information): _____

Email (optional – will be public information): [REDACTED] _____

Section 5: Agent Information

Agent Name: _____

Agent Mailing Address: _____

City: _____ State: _____ Zip: _____

Phone (will be public information): _____

Email (optional – will be public information): _____

Section 6: Additional Space (if applicable)

Please use the space below to provide additional information as needed. To ensure the information is referenced to the proper item, include the Section and Field names as well (continued on next page).

Section 3: Applicant Certificate

I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Applicant Signature: Terence Kearns

Digitally signed by Terence Kearns
DN: C=US, CN=Terence Kearns, E=terkearns@hotmail.com
Reason: I am the author of this document
Location: Terence F Kearns
Date: 2019-10-07 18:40:29
Font Reader Version: 9.5.0

Date: 10/07/2019

Applicant Name (typed or printed): _____

Applicant Mailing Address: _____

City: _____ State: _____ Zip: _____

Phone (will be public information): _____

Email (optional – will be public information): _____

Section 4: Owner Certificate

I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Owner Signature: _____ Date: _____

Owner Name (typed or printed): _____

Owner Mailing Address: _____

City: _____ State: _____ Zip: _____

Phone (will be public information): _____

Email (optional – will be public information): _____

Section 5: Agent Information

Agent Name: _____

Agent Mailing Address: _____

City: _____ State: _____ Zip: _____

Phone (will be public information): _____

Email (optional – will be public information): _____

Section 6: Additional Space (if applicable)

Please use the space below to provide additional information as needed. To ensure the information is referenced to the proper item, include the Section and Field names as well (continued on next page).

From: [REDACTED]
To: [Ramirez, Elaine](#)
Cc: [REDACTED]
Subject: Re: REMINDER: C15-2019-0060 / 5112 Bluffside Dr 1 of 2
Date: Monday, October 14, 2019 9:02:42 PM
Attachments: [image001.png](#)
[Exhibit 1 Legacy fence partition.pdf](#)
[Exhibit 2 Fence damage 082819.pdf](#)
[Exhibit 3 Code compliance notice.pdf](#)
[Exhibit 4 Legacy fence outside view.pdf](#)
[Exhibit 5 Legacy fence outside view 2.pdf](#)

*** External Email - Exercise Caution ***

C15-2019-0060 / 5112 Bluffside Dr

Additional documentation to be included as part of my Advanced Packet

Exhibit 1 Legacy fence partition. This photo shows the original partition which blocked access to our yard. It was cantilevered across the property line approximately 14 inches and did not attach to neighbor's house.

Exhibit 2 Fence damage 082819. This is a narrative which describes criminal mischief. A police report was filed, but the investigating detective ruled the incident to be a civil matter.

Exhibit 3 Code_compliance_notice. To comply with City code, we built a fence the length of the property line. Neighbor apparently didn't like our new fence.

Exhibit 4 Legacy fence outside view

Exhibit 5 Legacy fence outside view 2

Exhibit 6 Legacy fence inside view. These fences have been in place since 2007. The lattice panels prevented a youngster from climbing over the fence and entering our pool. Code compliance has been silent all these years.

Exhibit 7 Compromised_fence_view. This is the partition shown in Exhibit 1 after the event described in Exhibit 2. Note the little wire fence neighbor installed on the property line.

Exhibit 8 New Fence. 6 foot pickets with 2 foot lattice.

Exhibit 9 New fence back side. Lattice required to prevent a youngster from climbing over.

Sent in 2 emails.

Thanks,

Terry Kearns

From: Ramirez, Elaine <Elaine.Ramirez@austintexas.gov>
Sent: Wednesday, October 9, 2019 11:33 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: REMINDER: C15-2019-0060 / 5112 Bluffside Dr

Hi Terence,

This is a friendly reminder: You have until **Wednesday, October 23rd before 3p.m.** to submit any maps, surveys, drawings, photos and any additional documentation you want included as part of your Advanced Packet for your BOA variance case. This will need to be submitted to me via e-mail in PDF format.

If you would like the Board to follow along with you, you will need to present a presentation, bring it on a thumb drive and you will hand it to our City Technician. The Board **will not** have anything to view on the overhead other than the Advanced Packets they have in front of them on the dais that was given to them a week prior to the meeting.

Please note: Any late support that will be accepted after this deadline date of Oct. 23rd, 2019 will **only** be for Opposition and Support letters for this case.

Respectfully,

Elaine Ramirez

Board of Adjustment Liaison

Planner Senior

[City of Austin Development Services Department](#)

One Texas Center, 1st Floor

505 Barton Springs Rd

Office: 512-974-2202



Follow us on [Facebook](#), [Twitter](#) & [Instagram](#) @DevelopmentATX

Scheduled Meeting Disclosure Information:

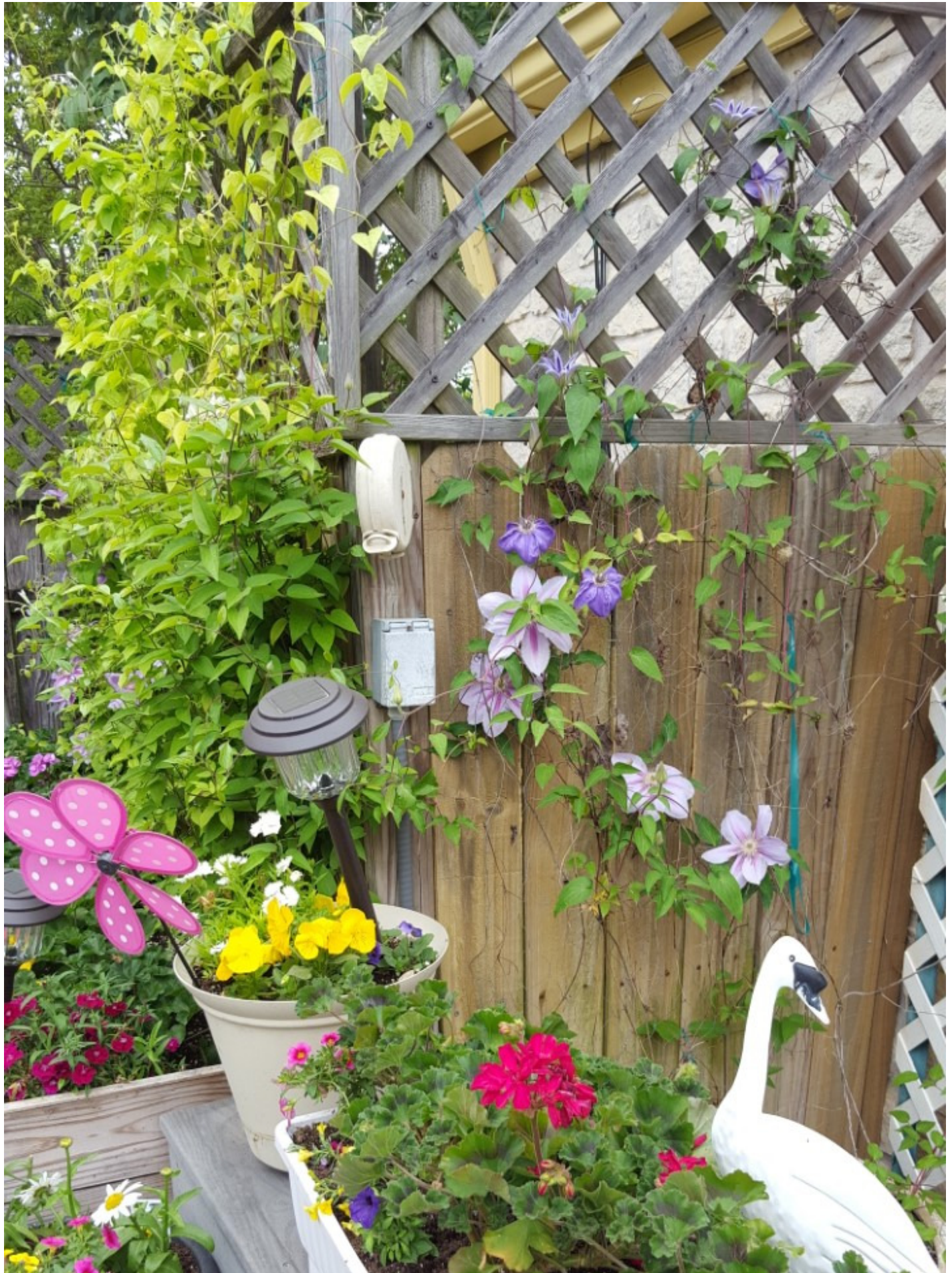
In accordance with City of Austin Ordinance 20160922-005, responsibility of written disclosure is required by visitors when attending a scheduled meeting with a City Official regarding a municipal question as defined within City Code 4-8-2 for compensation on behalf of another person.

Development Services Department has elected to implement an electronic survey as the methodology to provide the opportunity to record information as required of the department under Section 4-8-8 (E) of the City Code. Individuals scheduling or accepting a meeting invitation with a City Official are requested to provide responses to the questions included in the department survey available at the following link: [DSD Survey](#). Please note that all information provided is subject to public disclosure via DSD's open data portal.

For more information please visit: [City Clerk's website](#)

CAUTION: This email was received at the City of Austin, from an EXTERNAL source. Please use caution when clicking links or opening attachments. If you believe this to be a malicious and/or phishing email, please forward this email to CSIRT@austintexas.gov.

I-2/12



On August 27th, neighbor sent me a text message indicating that she had workers coming to perform unspecified work. On the morning of August 28th, I sent the following reply from my surgeon's waiting room while awaiting day surgery.

Wednesday, August 28, 2019 7:50 AM

Susan,

We will abide by the provisions set forth in the letter dated August 12th from our attorney to yours. Please advise the scope of work and the proposed schedule. I am working full time and will have to get time off to let your workers in.

After I was discharged, my wife and I returned home around noon to find that our back yard had been vandalized, apparently by neighbor's workers. Many plants and shrubs were destroyed. The deed was recorded on our security system. The damage done to our plants is described below.

Item	Quantity	Price	Total
Climbing rose bushes	3	\$300.00	\$900.00
Plumbago plants	3	\$175.00	\$525.00
Clematis plants	10	\$160.00	\$1,600.00
		Total	\$3,025.00

In addition, the workers removed sections of security fence at both ends of the yard, compromising the security of our pool and violating City of Austin code.

THE CODE OF THE CITY OF AUSTIN, TEXAS

CHAPTER 10-7. - POOLS AND SPAS.

§ 10-7-41 - ENCLOSURE REQUIRED FOR PRIVATE FACILITY.

I-2/14

Required Resolution

DATE: 10-3-19

ADDRESS: 5112 Bluffsboro

The new fence height
is in violation. A fence
must average 6' with
a max height of 7'.

Please reduce the height
of the fence

Correspond within 3 days.

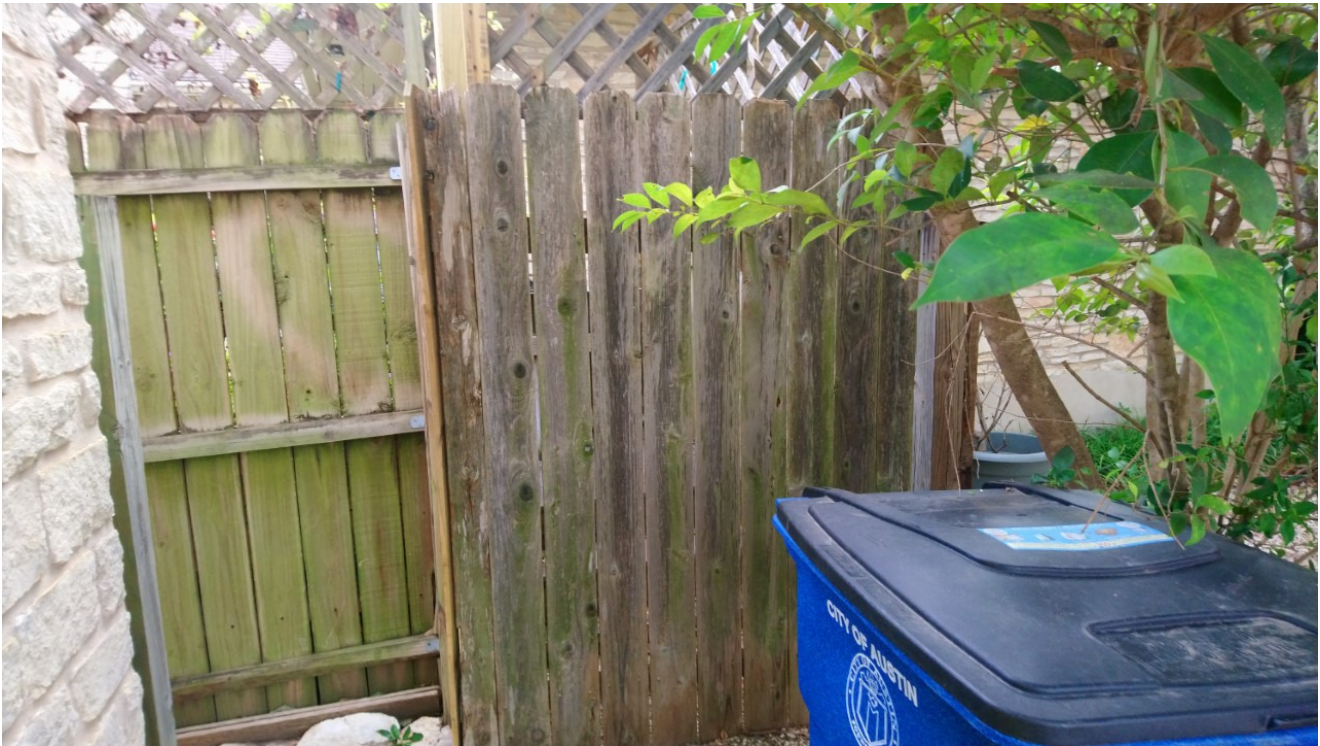
I-2/15

Legacy fence 2

TERENCE KEARNS [REDACTED]

Mon 10/14/2019 11:45 AM

To: Terence Kearns <[REDACTED]>



[Sent from Yahoo Mail on Android](#)

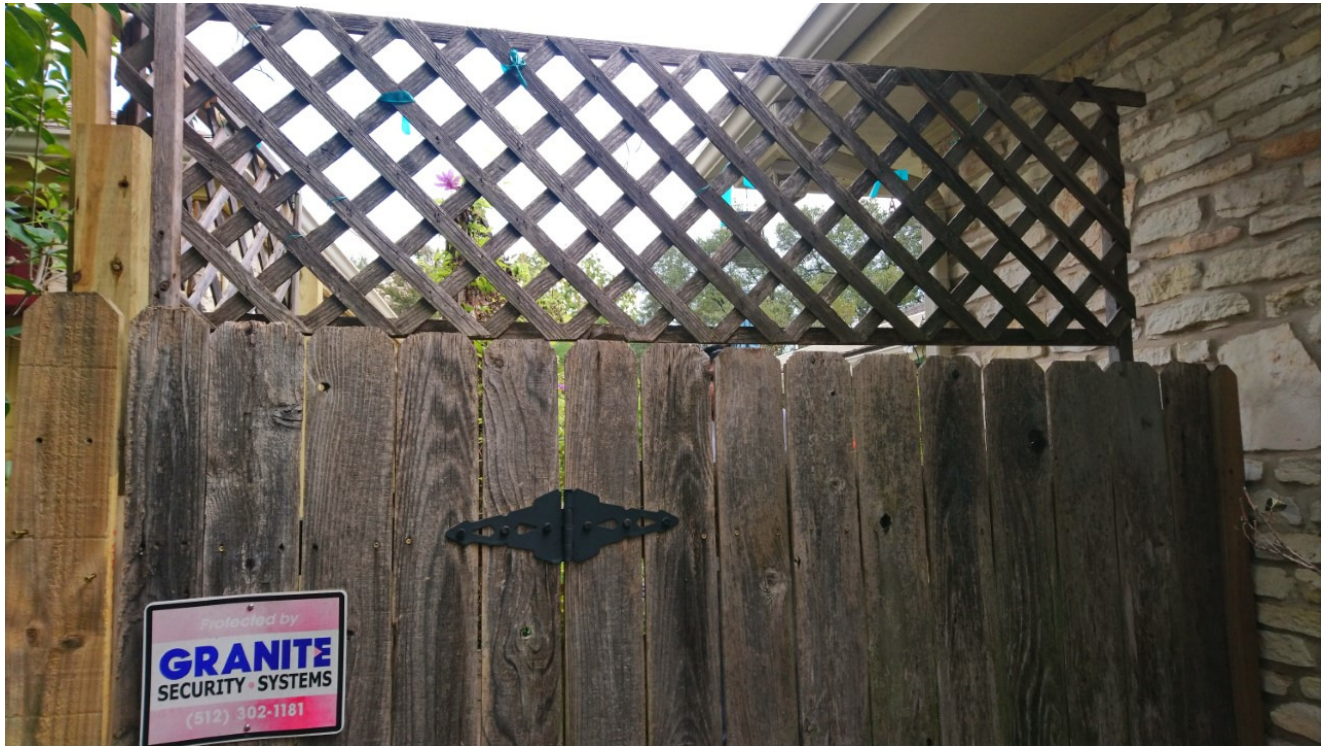
I-2/16

Legacy fence

TERENCE KEARNS [REDACTED]

Mon 10/14/2019 11:44 AM

To: Terence Kearns [REDACTED]



[Sent from Yahoo Mail on Android](#)

I-2/17

Legacy fence inside view

TERENCE KEARNS [REDACTED]

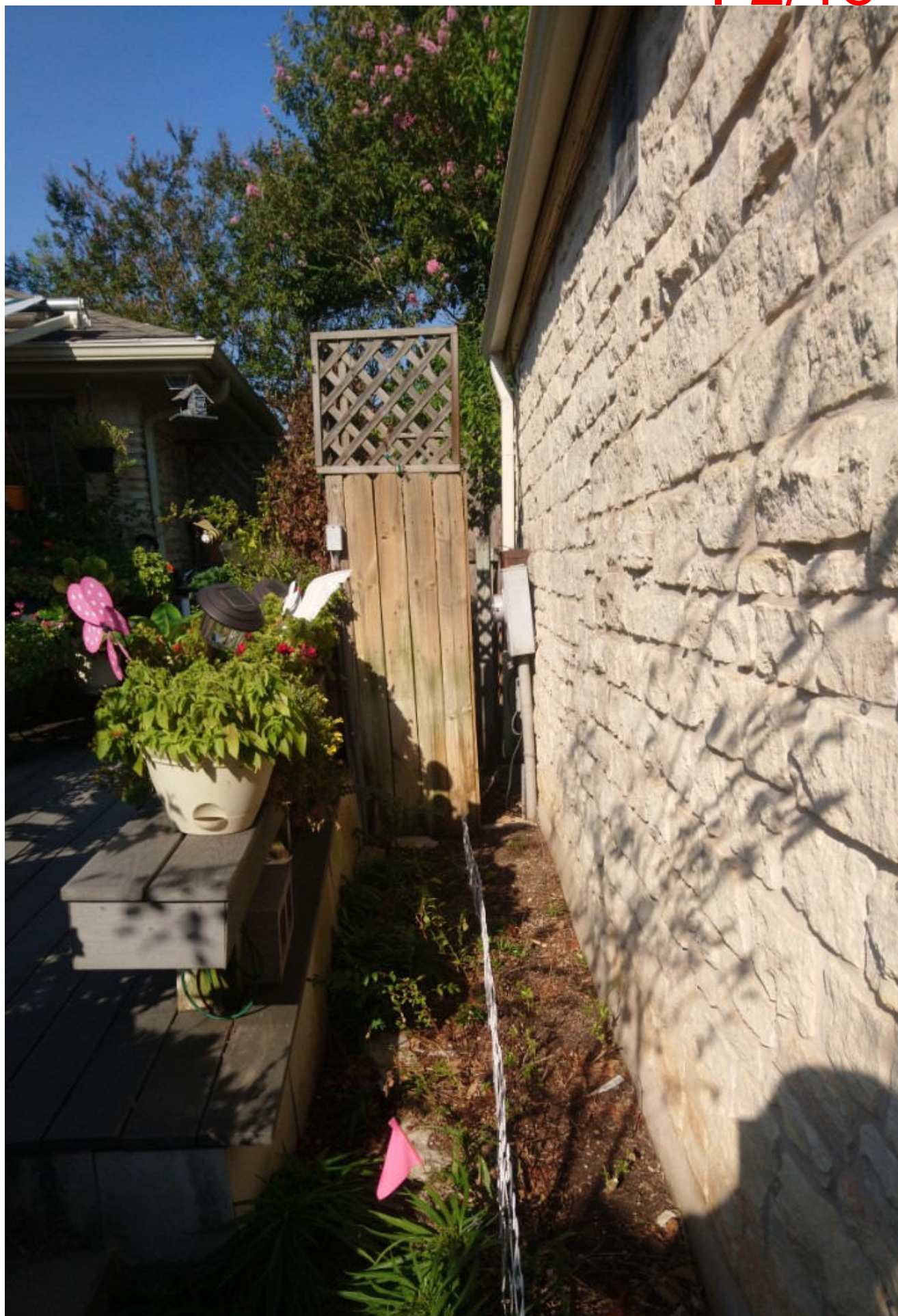
Mon 10/14/2019 11:47 AM

To: Terence Kearns <[REDACTED]>



[Sent from Yahoo Mail on Android](#)

I-2/18



I-2/19



I-2/20

New fence back side

TERENCE KEARNS <[REDACTED]>

Mon 10/14/2019 11:46 AM

To: Terence Kearns <t[REDACTED]>



[Sent from Yahoo Mail on Android](#)