



January 29, 2025

Via Hand Delivery

Board of Adjustment
Planning & Development Services Department
City of Scottsdale
7447 E. Indian School Road, Suite #105
Scottsdale, Arizona, 85251

Re: Variance Application for the Location of Safety Net at 14062 N. 106th Way, Scottsdale, Arizona, Assessor Parcel #217-65-618 (the "Property") - (Final v2)

Dear Board of Adjustment Members:

Our office represents Michael and Bonnie Fannin regarding their home at 14062 N. 106th Way in Scottsdale. As explained herein, special and unique conditions apply to the Property which necessitate action (a variance) to not only preserve basic property privileges, but to provide essential safety to the Fannins and anyone that might visit their home. Specifically, the home's rear yard abuts the adjacent McDowell Mountain Golf Course. Recent changes to the course design have created an unsafe environment in which stray golf balls are continuously bombarding the home and property. The Fannins would like to install a golf ball safety net, a portion of which would be located within the required rear yard setback.

I. Property

The lot in questions is roughly 22,000 square feet in size located within the Sienna Canyon development in Scottsdale. The Property is zoned R1-18, ESL and is currently developed with a roughly 3,600 square foot, single-family home constructed in 2003. See aerial and zoning exhibits enclosed at **TAB A**.

II. Variance Requested

A variance to allow a golf ball safety net to be located within the required rear yard (west property line) setback. 0 feet requested. 30 feet required. **Section 5.304.E.3.**

III. Background

As a homeowner situated near a golf course, our client understands a reasonable amount of inherent risk of errant golf balls. Back in 2014, the Fannins received HOA approval for the construction of a small, 15-foot protective net. This worked fine for a while. In recent months, however, the frequency and severity of the bombardment has become incredibly dangerous and past acceptable. The condition is so extreme, they can no longer safely enjoy their backyard - and even portions of the interior of the house have become unsafe as golf balls have shattered through windows. A small sampling of images of the ongoing damage are enclosed herein at **TAB B**. (Many additional images can be provided as well if necessary).

The Fannins, at their own time and expense, have taken multiple steps to try and stop, or at least reduce the assault. They installed eight (8) trees on the north side of the Property. Then, when that failed, they added additional trees in between these locations to try and thicken the protective growth, but to no avail. They then added two (2) Ficus trees at the northwest corner of the Property. These actions have still failed to stop the assault.

The Fannins then obtained bids and HOA approval (again) for the construction of a 30-foot maximum height protective net. (See enclosed 30-foot approval documents at **TAB C**). The protective golf ball net is located along the north yard of the house (a side yard) and a small portion along the west property line (the rear yard). The net was planned to be 30 feet in height for the 5 poles near the northwest corner of the house - (the most dangerous location where most balls enter the property) - and reduced down to 20 feet in height along the remainder of the north side of the house. (Please note, the approved drawings at **TAB C** depict a 30-foot high net. At this time, our client is proposing to reduce all the poles down to 20 feet as noted in **Section IV** below).

While under construction of the 30-foot net, the Fannins received a Compliance Notice from the City noting that permits are required to erect such a net. See Compliance Notice enclosed at **TAB D**. They immediately ceased work and while attempting to obtain a permit, were informed the net was subject to setback regulations which the current design violated. The net location complies with the side yard (north) setback requirements (minimum 10 feet required) but is located within the rear yard (west) setback requirement (minimum 30 feet required).

IV. A Reasonable Solution for Safety

As this time, the Fannins are proposing to reduce all of the poles down from 30 feet to 20 feet in height. In fact, they have dismantled the 30 foot sections that were installed prior to the Compliance Notice and all poles are now at 20 feet as seen in the exhibits

enclosed at **TAB E**. It should be noted, the maximum height permitted in R1-18 is 30 feet while the ESL maximum height is 24 feet. So, the proposed height of 20-feet is below that which is permitted by zoning. The protective net and poles are located as seen in the enclosed exhibits, with a small portion extending into the rear yard setback.

V. APPROVAL CRITERIA

The requested variance meets or exceeds the four (4) approval criteria as set forth in Section 1.804 of the Zoning Ordinance, specifically:

- 1) *That because of special circumstances applicable to the property including its size, shape, topography, location, or surroundings, the strict application of the zoning ordinance will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district:***

Special circumstances exist and are applicable to this Property. Specifically, its location along a golf course, mid-fairway and, even more specifically, along a playing hole which has recently been modified, the results of which have endangered the Property occupants. While there may be a fair number of properties in the City with R1-18, ESL zoning which are located along a golf course, a much smaller number are located mid-fairway and, (it would be reasonable to conclude), an exceedingly rare number have been placed in this circumstance – where changes occurring off of their Property have resulted in such a dramatic and damaging bombardment of golf balls.

- 2) *That the authorization of the variance is necessary for the preservation of privileges and rights enjoyed by other property of the same classification in the same zoning district, and does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located.***

It would be reasonable to expect a modicum of comfort and safety within one's own backyard. The Fannins had such a condition, until changes occurred (by no action of their own) that dramatically reduced that comfort and safety. It is not a "special" privilege to be able to safely reside in one's own backyard. It is also not a "special" privilege to enjoy peace inside one's home without the loud, thudding noise of golf balls hitting the house at irregular intervals. The Fannins have also had to endure near constant expenses to repair stucco, paint, doors and windows resulting from the barrage of golf balls.

The solution proposed is also reasonable and necessary for the preservation of basic property rights. It is not uncommon to see golf ball nets at residential (and

commercial) properties – this is a common solution. If the net was located in conformance with the 30-foot setback, a large portion of the Fannin’s backyard would be unprotected (and therefore unusable).

3) *That the special circumstances applicable to the property were not self-imposed or created by the owner or applicant:*

The conditions described were not self-imposed. They are a direct result of changes made on the adjacent golf course property – something the Fannins have no control over. The conditions did not exist at the time of purchase. If so, they most certainly would not have purchased the home.

4) *That authorization of the variance will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood or to the public welfare in general:*

The proposed location of the net will in no way be materially detrimental to others in the vicinity. In fact, the difference in location will be fairly undiscernible to the general public. It is important to remember, the installation of a golf ball safety net is permitted, as is the height being proposed. The only request is for a portion of the net to be located within the rear setback – a location which is actually further away from the closest neighbors. That small difference in location of the net will in no way be materially detrimental to others but will mean all the world to the Fannins.

V. CONCLUSION

Given the above noted conditions and unique circumstances, strict application of the zoning Ordinance would deprive this Property and these homeowners of the substantial property rights and privileges enjoyed by others. The granting of this request will by no means be materially detrimental to others but will have significant and positive implications upon the homeowners. We look forward to discussing this application with the Board and respectfully request your approval.

Sincerely yours,
WITHEY MORRIS BAUGH, P.L.C.

By 
George Pasquel III

Enclosure: application exhibits and materials

Tab A

Aerial Map

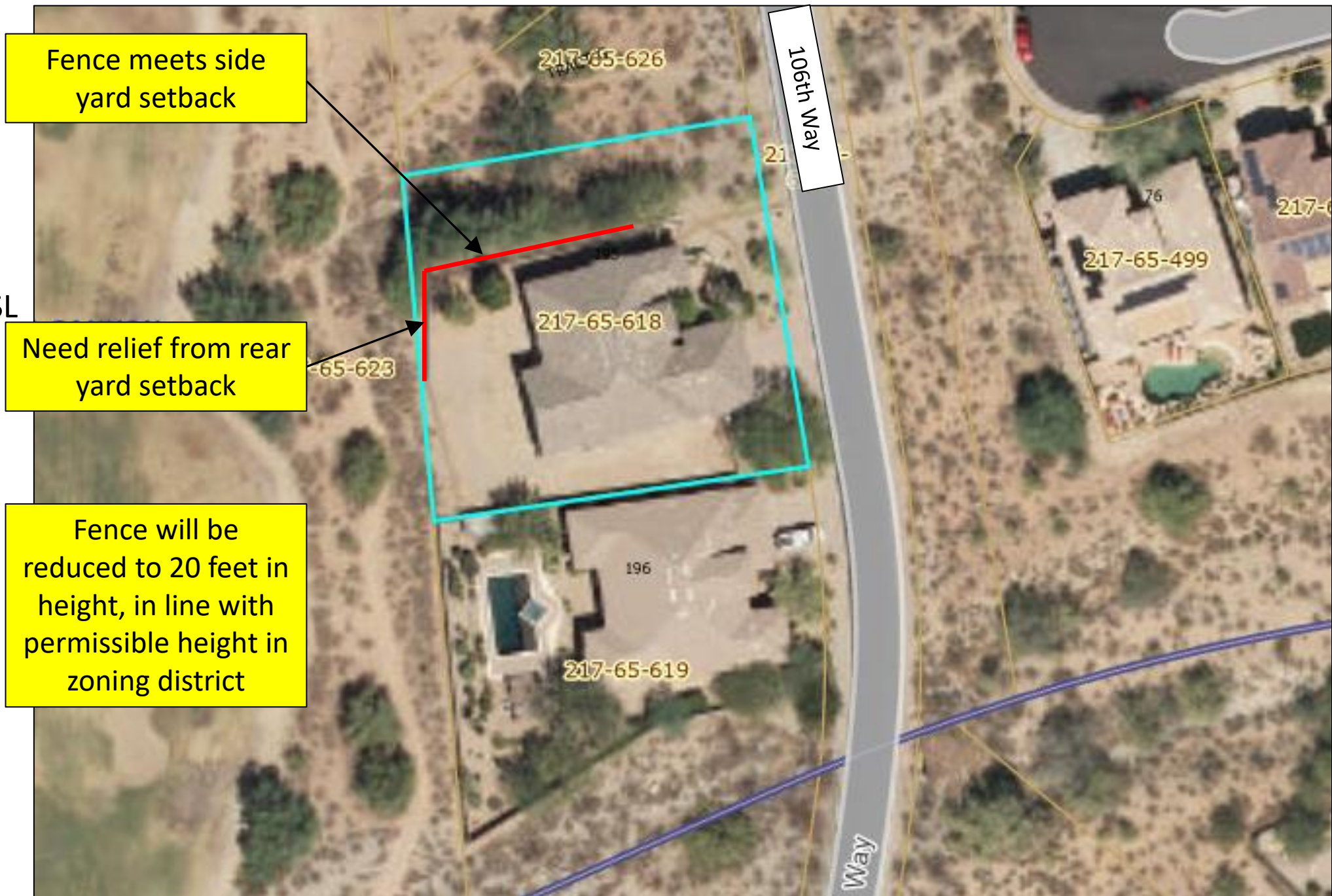
- APN: 217-65-618
- Sienna Canyon Subdivision
- Zoning = R1-18, ESL

Hole No. 1



Aerial Map

- APN: 217-65-618
- Sienna Canyon Subdivision
- Zoning = R1-18, ESL



Fence meets side yard setback

Need relief from rear yard setback

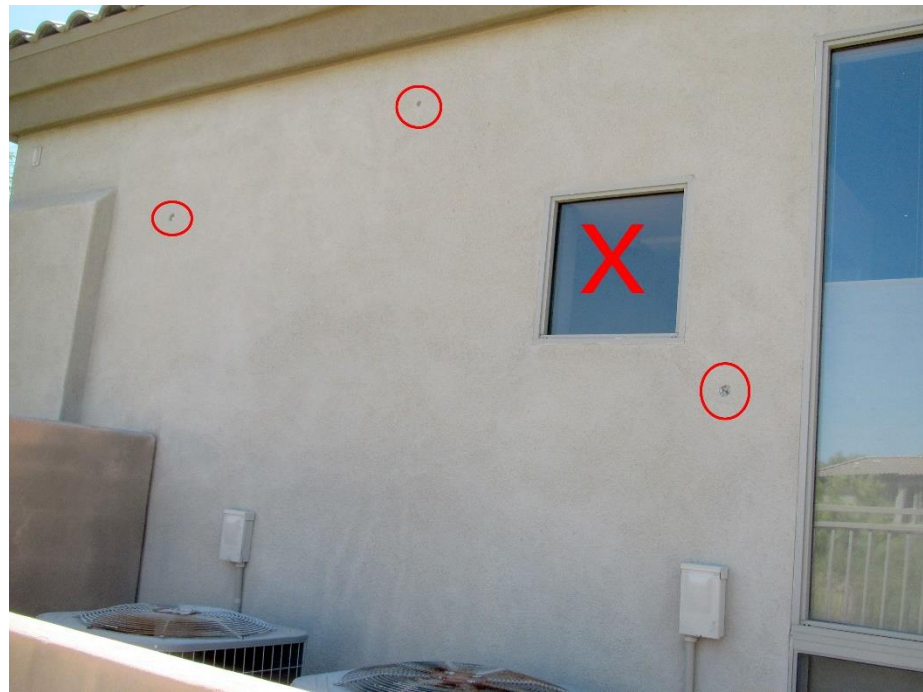
Fence will be reduced to 20 feet in height, in line with permissible height in zoning district

Tab B

Sample Damage



Sample Damage



Repairing damage with new stucco job



Tab C

McDowell Mountain Ranch Community Association

16116 N McDowell Mountain Ranch Rd
Scottsdale, AZ 85255

Phone: 480-473-0877

Michael E Fannin
14062 N 106th Way
Scottsdale, AZ 85255-1761

RE: Architectural Submittal for 14062 N 106th Way
Account#: 1456430
Submittal: Screen Enclosure Beyond Existing

June 13, 2024

Dear Michael E Fannin,

Your recent request to install a golf screen on the North and West side of your property has been reviewed and **APPROVED WITH STIPULATIONS**. The stipulations are outlined below:

Proposal #2 has been approved - 30' for first 5 poles on most West side of property, 20' for remaining poles on East side of property. The existing trees shall be maintained for proper screening.

This approval is subject to all County, City, State and Federal permits, codes, statutes, laws, rules, and regulations, which are the sole responsibility of the homeowner. This approval shall not be deemed a warranty or representation as to the quality of the construction, installation, addition, alteration, repair, change or other work.

Upon the completion of the approved project, please notify McDowell Mountain Ranch Community Association. Management reserves the right to inspect the completed work to ensure the project was completed as submitted.

Should you have any questions, please feel free to contact me at 480-473-0877 or by email at crichardson@associatedasset.com. We thank you for your patience with this process.

Sincerely,

Chris Richardson
Community Manager
For the Architectural Committee of
McDowell Mountain Ranch Community Association

RESIDENCE
BACKYARD




NOTE(S):

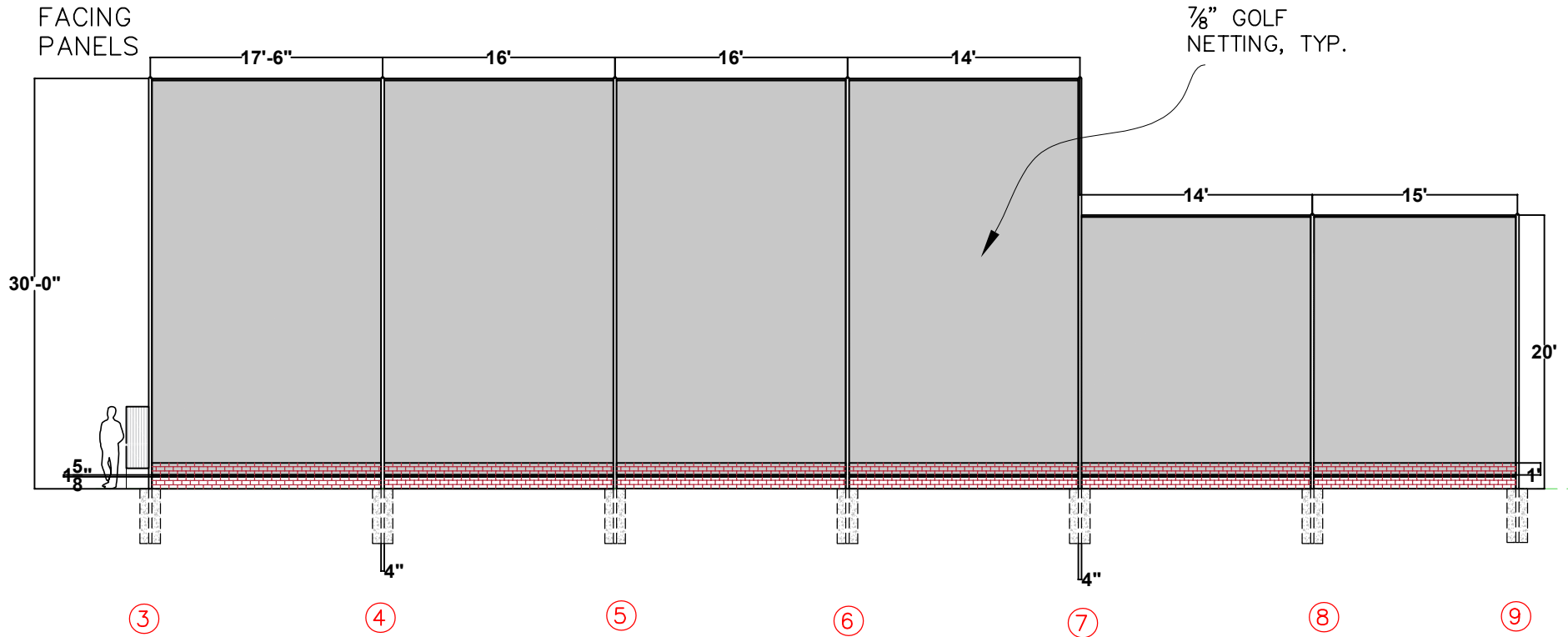
- STRUCTURE TO BE OFFSET FROM EXISTING FENCE BY 2'-0"
- NEW STRUCTURE TO BEGIN AT POLE #3 IN CURRENT POLE LOCATION ONCE REMOVED.

NET #	HEIGHT	LENGTH
2	29'	49.5'
1	29'-0"	46'-0"
3	19'-0"	29'-0"

1 PLAN VIEW
2 SCALE: NOT TO SCALE

 SHEET NUMBER 2 DRAWN BY: KR	FANNIN RESIDENCE NEW NETTING	
	PROJECT LOCATION: 14062 N. 106th Way Scottsdale, AZ 85260	SCALE: NTS
	CONTACT INFORMATION: Mike Fannin(602)-448-4460 mefannin@cox.net	DATE: 05/06/2024
		REVISED: N/A
This drawing represents visual concepts and construction suggestions based on industry standards. Nets Unlimited does not assume responsibility for damage caused by neglect or misuse, whether intentionally or unintentionally.		
NETS Unlimited, Inc. · 20625 N. 29TH PL. · PHOENIX, AZ 85050 (480)515-1300 · SALES@NETSUNLIMITED.COM		

NORTH
FACING
PANELS



7/8" GOLF
NETTING, TYP.

30'-0"

4 5/8"

4"

4"

20'

③

④

⑤

⑥

⑦

⑧


⑨

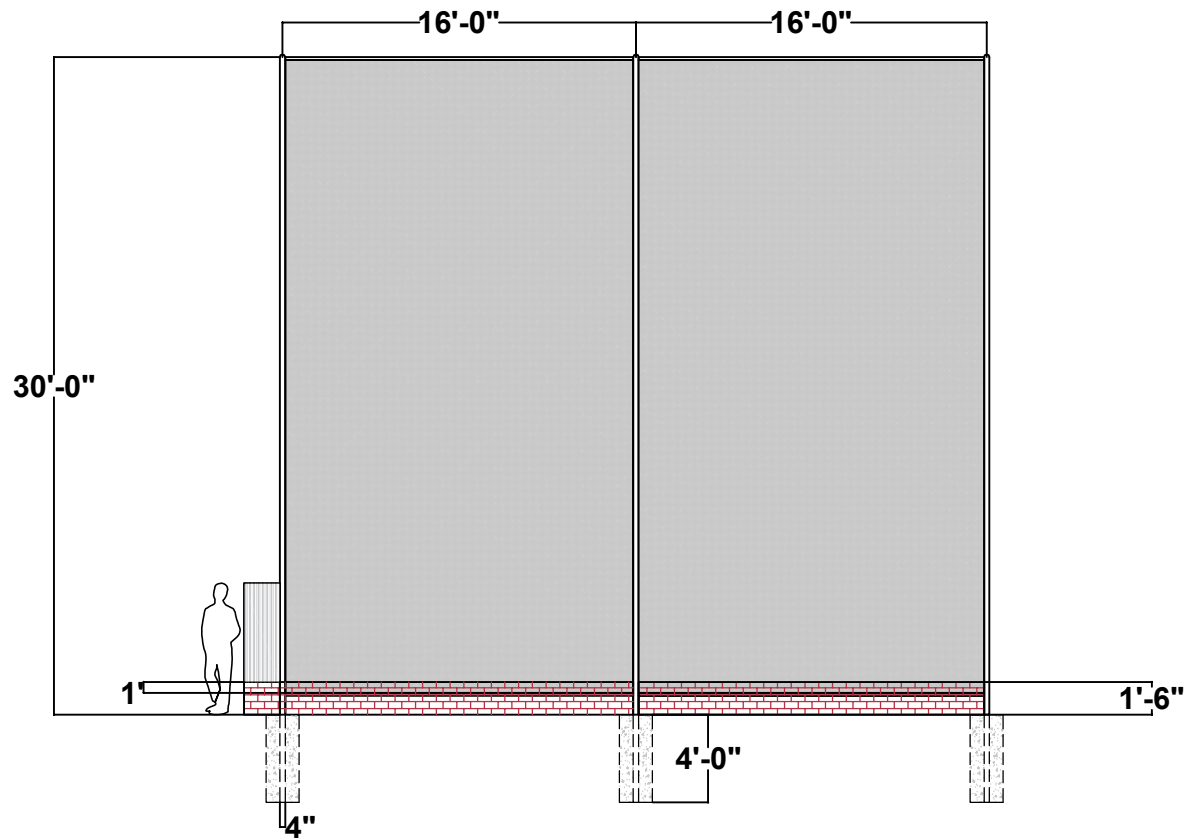
①
③
ELEVATION
SCALE: NOT TO SCALE



NOTE(S):



- STRUCTURE TO BE OFFSET FROM EXISTING FENCE BY 2'-0"
- SEE PAGE 5 FOR CONCRETE FOOTER & STRUCTURE DETAILS
- BOTTOM HORIZONTAL RAIL TO BE 1' BELOW TOP OF BLOCK FENCE

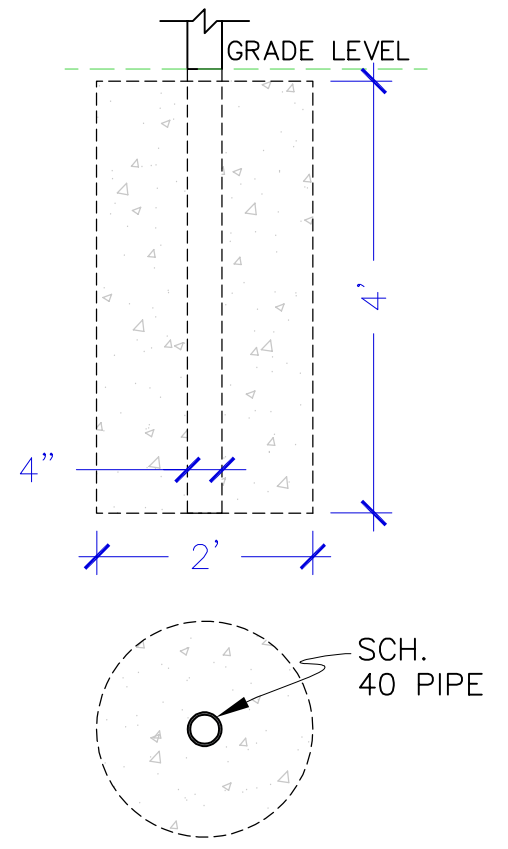
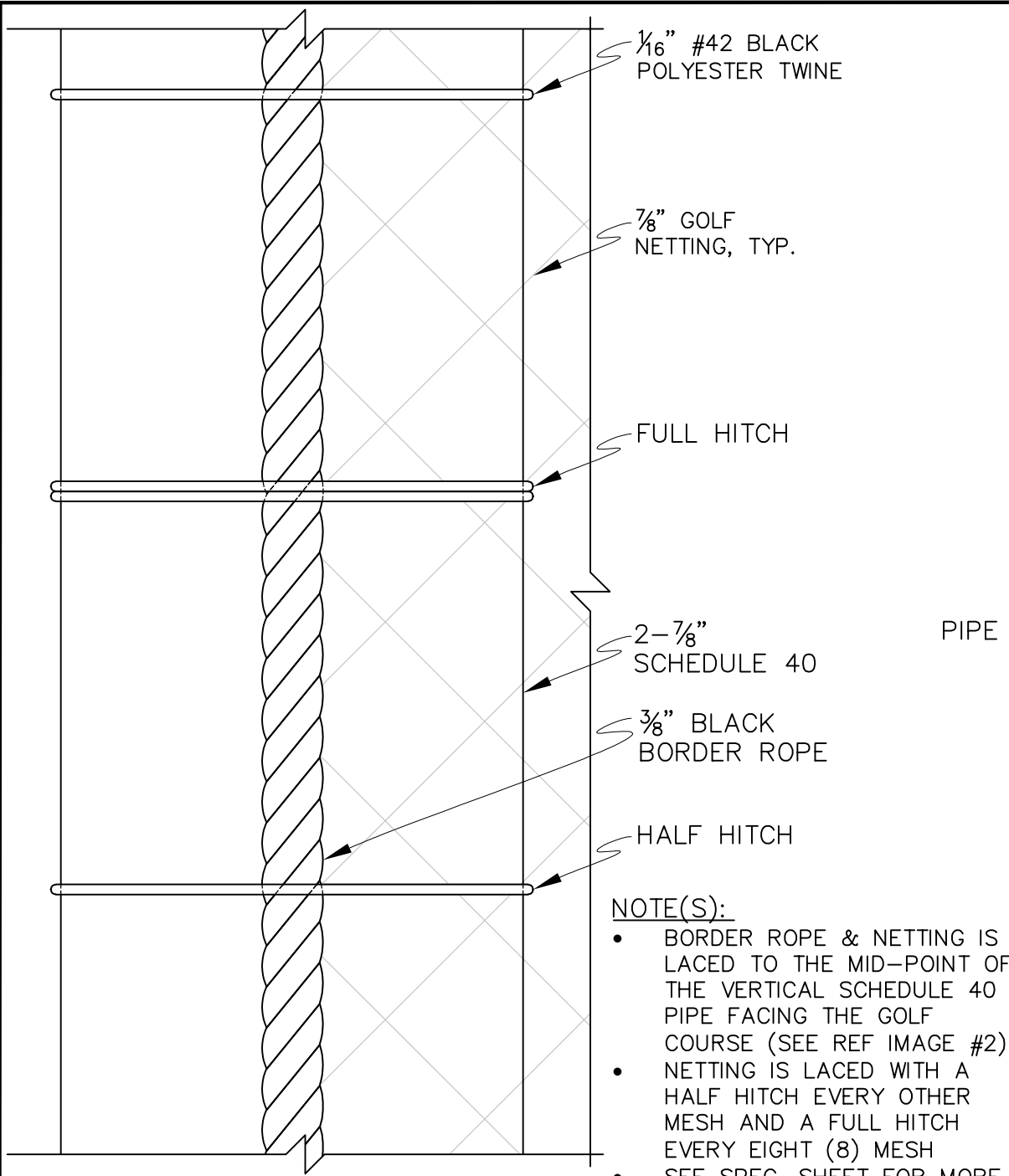
	FANNIN RESIDENCE NEW NETTING	
	PROJECT LOCATION: 14062 N. 106th Way Scottsdale, AZ 85260	SCALE: NTS
SHEET NUMBER 3	CONTACT INFORMATION: Mike Fannin(602)-448-4460 mefannin@cox.net	DATE: 05/06/2024
DRAWN BY: KR		REVISED: N/A
This drawing represents visual concepts and construction suggestions based on industry standards. Nets Unlimited does not assume responsibility for damage caused by neglect or misuse, whether intentionally or unintentionally.		
NETS Unlimited, Inc. · 20625 N. 29TH PL. · PHOENIX, AZ 85050 (480)515-1300 · SALES@NETSUNLIMITED.COM		



PROPOSED STRUCTURE DETAILS:

- 4" DIAMETER SCHEDULE 40 VERTICAL POSTS
- 1-5/8" DIAMETER SCHEDULE 27 HORIZONTAL RAILS
- HORIZONTAL RAILS CONNECTED TO VERTICAL POSTS WITH GALVANIZED STEEL CONNECTIVE HARDWARE
- 24" W x 48" D CONCRETE FOOTERS FOR VERTICAL POSTS
- STEEL SUPPORT STRUCTURE TO BE BLACK
- COMMERCIAL GRADE 7/8" MESH BLACK HIGH-TENACITY UV STABILIZED POLYESTER GOLF DETERRENT NETTING WITH BLACK 3/8" POLYPROPYLENE ROPE BORDER

 SHEET NUMBER  DRAWN BY: KR	FANNIN RESIDENCE NEW NETTING	
	PROJECT LOCATION: 14062 N. 106th Way Scottsdale, AZ 85260	SCALE: NTS
CONTACT INFORMATION: Mike Fannin(602)-448-4460 mefannin@cox.net	DATE: 05/06/2024	
This drawing represents visual concepts and construction suggestions based on industry standards. Nets Unlimited does not assume responsibility for damage caused by neglect or misuse, whether intentionally or unintentionally.		REVISED: N/A
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② CONC. FOOTER DETS.
SCALE: 3/4" = 1'-0"

- NOTE(S):**
- BORDER ROPE & NETTING IS LACED TO THE MID-POINT OF THE VERTICAL SCHEDULE 40 PIPE FACING THE GOLF COURSE (SEE REF IMAGE #2)
 - NETTING IS LACED WITH A HALF HITCH EVERY OTHER MESH AND A FULL HITCH EVERY EIGHT (8) MESH
 - SEE SPEC. SHEET FOR MORE DETAILS

⑤ LACING DETAILS
SCALE: FULL SCALE

 SHEET NUMBER 5 DRAWN BY: KR	FANNIN RESIDENCE NEW NETTING	
	PROJECT LOCATION: 14062 N. 106th Way Scottsdale, AZ 85260	SCALE: NTS
	CONTACT INFORMATION: Mike Fannin(602)-448-4460 mefannin@cox.net	DATE: 05/06/2024
	REVISED: N/A	
This drawing represents visual concepts and construction suggestions based on industry standards. Nets Unlimited does not assume responsibility for damage caused by neglect or misuse, whether intentionally or unintentionally. NETS Unlimited, Inc. · 20625 N. 29TH PL. PHOENIX, AZ 85050 (480)515-1300 · SALES@NETSUNLIMITED.COM		

Tab D

November 06, 2024



Code Enforcement

COMPLIANCE NOTICE

FANNIN MICHAEL E/BONNIE K
14062 N 106TH WY
SCOTTSDALE, AZ 85259

RE: Case# 378285 - 14062 N 106TH WY, SCOTTSDALE, AZ 85255 (APN: 217-65-618)

This notice to comply is to inform you that on Wednesday, November 6, 2024, the property listed above was inspected and found to be in violation of the City of Scottsdale codes or Arizona Revised Statutes as listed on the attached pages. A re-inspection will be conducted on or after Thursday, December 5, 2024 to verify compliance. If the property is brought into compliance with the Code prior to the scheduled re-inspection date listed above, you will not be subject to citations or fines for the violation(s). This letter serves as a legal notice of violation (s) of the following subsection(s) of the Property Maintenance Ordinance - Chapter 18, Zoning Ordinance of the Scottsdale City Code or Arizona Revised Statutes.

We appreciate your cooperation in this matter. If for any reason you have difficulty complying with the noted corrective actions listed on the attached page or need further information, please contact us by using any of the following methods below:

- Call Code Inspector:** John Stumbaugh-reach directly at 480-312-3023(Office hours vary)
- Email Us:** Code@ScottsdaleAZ.gov
- Write Us:** 7447 E. Indian School Rd. Ste. 100, Scottsdale, AZ 85251
- Call Us:** Mon-Fri 8 AM - 5 PM at (480) 312-2546 or Fax (480) 312-2455
- Web Address:** <http://www.ScottsdaleAZ.gov/codes/code-enforcement>

Please Note: *Scottsdale Code Inspectors work varied hours and days each week at different locations other than our main address. You are encouraged to call us before visiting our office.*

For TTY users, have operator at the AZ Relay Services (711) call our number. This information is available in alternate format upon request. Thank you.

VIOLATION DETAIL(S)

Please be advised that an investigation has shown that this property is in violation of the City Nuisance and Property Maintenance Ordinance or City Code in the following area(s):

Correct all violation(s) by: **Thursday, December 5, 2024**

Violation Code: 1.1101 - Building Permits Required

Violation Description:

Constructing, altering, repairing, removing or demolishing, or commencing construction, alteration, removal or demolition of a building or structure without a formal permit from the Zoning Administrator. Contact the City's Code Compliance Department at 480-312-3031, on line at <http://www.scottsdaleaz.gov/codes/code-enforcement>, or visit the One Stop Shop at 7447 E. Indian School Road for more information and to initiate the process to obtain required permits.

Note: Based on building and zoning code requirements, it may be determined that your construction is not allowed and must be removed.

Corrective Action:

A exterior fence was found constructed without the proper building permits. Please cease all construction until the proper building permits are acquired. Contact the One Stop Shop at 7447 E Indian School Rd. Suite 100, Scottsdale, AZ 85251. Thank you.

Applicable in instances of non-compliance

Civil and Criminal Penalties: Persistent or uncorrected violations may result in fines of up to \$2,500 for each day a violation is found, six (6) months in jail, probation, or any combination thereof. Property Maintenance Ordinance violations that are not corrected may be abated by a City hired contractor with an assessment against the property for the costs incurred. Recidivists (repeat offenders) may receive only ONE official Notice of Ordinance Violation.

Tab E

Protective Net Images

Initial installation – 30 feet



Current installation – 20 feet



Protective Net Images

Initial installation – 30 feet



Current installation – 20 feet



Protective Net Images

Current installation – 20 feet

View from 106th Way

