



RAYMORE BOARD OF ADJUSTMENT AGENDA

Tuesday, June 21, 2016 - 6:00 p.m.

City Hall Council Chambers
100 Municipal Circle
Raymore, Missouri 64083

1. Call to Order
2. Pledge of Allegiance
3. Roll Call
4. Personal Appearances - None
5. Consent Agenda
 - a. Acceptance of Minutes of April 19, 2016 meeting
6. Old Business - None
7. New Business -
 - a. Case #16012 - Woodward Variance, 815 Creekmoor Pond Lane (*public hearing*)
8. Staff Comments
9. Board Member Comments
10. Adjournment

Any person requiring special accommodation (i.e. qualified interpreter, large print, hearing assistance) in order to attend this meeting, please notify the City Clerk at (816) 331-0488 no later than forty-eight (48) hours prior to the scheduled commencement of the meeting.

THE **BOARD OF ADJUSTMENT** OF THE CITY OF RAYMORE, MISSOURI, MET IN REGULAR SESSION **TUESDAY, APRIL 19, 2016** IN THE COUNCIL CHAMBERS OF CITY HALL, 100 MUNICIPAL CIRCLE, RAYMORE, MISSOURI WITH THE FOLLOWING BOARD MEMBERS PRESENT: TOM BUECHLER, DAVID WOSTE, MIKE VINCK, GERALD JENKINS AND STEPHEN GRUBE. ALSO PRESENT WERE COMMUNITY DEVELOPMENT DIRECTOR JIM CADORET, ASSISTANT PUBLIC WORKS DIRECTOR ED IEANS, AND CITY ATTORNEY JONATHAN ZERR.

1. **Call to Order** –Chairman Grube called the meeting to order at 6:00 p.m.
2. **Pledge of Allegiance**
3. **Roll Call** – Roll was taken and Chairman Grube declared a quorum present to conduct business.
4. **Personal Appearances – None.**
5. **Consent Agenda –**
 - A. Acceptance of Minutes of November 10, 2015 meeting

Motion by Board member Vinck, Second by Board member Woste to accept the minutes of November 10, 2015 as written.

Vote on Motion:

Board member Jenkins	Aye
Board member Buechler	Aye
Board member Grube	Aye
Board member Woste	Aye
Board member Vinck	Aye

Motion passed 5-0-0

6. **Old Business – None**
7. **New Business**

A. Case #16005 - Wehmeir Variance, 429/431 Kreisel Drive

Chairman Grube opened Case #16005 - Wehmeir Variance, 429/431 Kreisel Drive.

Keith Wehmeir, representing Harper Building LLC, owner of 429/431 Kreisel Drive, presented his request to the Board. Mr. Wehmeir indicated he is wanting to construct a two-family dwelling on the lot but needs to avoid the flood plain area that exists in the rear yard. He would like to move the building five feet closer to Kreisel Drive to avoid the flood plain. The two-family dwelling is the same design as the two structures currently under construction on adjacent lots..

Jim Cadoret, Community Development Director, presented the staff report. The applicant is requesting a variance to the Raymore Unified Development Code (UDC) Section 405.030A to reduce the required minimum front yard building setback from thirty feet (30') down to twenty-five feet (25').

Mr. Cadoret indicated the staff report includes photographs taken of the property that illustrate the stream area that existis on the rear portion of the lot. Mr. Cadoret stated this is an

oversized and uniquely shaped cul-de-sac lot. At the time the lot was established the City Code allowed flood plain area to extend onto a platted lot. Under today's code no portion of a platted lot can contain flood plain area. As this was a public hearing, Mr. Cadoret entered for the record: Mailed Notices to Adjoining Property Owners; Notice of Publication; Unified Development Code; Application; Growth Management Plan; Staff Report; Applicant justification and the proposed Site Plan.

Mr. Cadoret indicated that a letter of map amendment to the FEMA flood plain boundary line was approved in 2008 and established the elevation of the flood plain boundary line. The plot plan indicates the slab of the home will be approximately five feet above the flood plain boundary line. Mr. Cadoret indicated that Mr. leans, Assistant Public Works Director, did visit the site and review the plot plan and does recommend the variance be granted, allowing the home to be moved further away from the flood plain boundary line.

Mr. Cadoret stated he had contacted 8 adjacent properites but had not been contacted by any of the adjacent property owners.

Mr. Cadoret stated that staff had submitted Proposed Findings of Fact as the board is required to make findings of fact as part of their review. Staff recommends the Board of Adjustment accept the staff proposed findings of fact and approve the variance as requested. This concluded the staff report.

Chairman Grube opened and closed the floor for public comment at 6:08 p.m. as no public came forward to speak.

Board member Woste asked about sidewalk in the neighborhood.

Mr. Cadoret indicated that this two-family dwelling, and all other lots in the subdivision, will have sidewalk installed.

Board member Vinck asked where the stream and stream bank are in relation to the structure.

Mr. Wehmeir indicated the stream is approximately 20 to 25 feet from the rear of the proposed structure.

Motion by Board member Jenkins, Second by Board member Vinck to accept the Staff Proposed Findings of Fact and approve Case #16005 Wehmeir Variance, 429/431 Kreisel Drivet.

Vote on Motion:

Board member Jenkins	Aye
Board member Buechler	Aye
Board member Grube	Aye
Board member Woste	Aye
Board member Vinck	Aye

Motion passed 5-0-0

8. Staff Comments - None

9. Board member Comment – None

10. Adjournment

Motion by Board member Vinck, Second by Board member Jenkins to adjourn.

Vote on Motion:

Board member Jenkins	Aye
Board member Buechler	Aye
Board member Grube	Aye
Board member Woste	Aye
Board member Vinck	Aye

Motion passed 5-0-0

The Board of Adjustment meeting for April 19, 2016 adjourned at 6:11 p.m.

Respectfully submitted,

Jim Cadoret



To: Board of Adjustment
From: City Staff
Date: June 21, 2016
Re: Case #16012 - Woodward Variance
815 Creekmoor Pond Lane

GENERAL INFORMATION

Applicant/
Property Owner: Henry Woodward
815 Creekmoor Pond Lane
Raymore, MO 64083

Requested Action: Variance on location of privacy fence

Property Location: 815 Creekmoor Pond Lane; Southern Hills at Creekmoor
Second Plat Lot 86



2014 Aerial Photograph:



Property Photographs:



(View from Creekmoor Pond Lane looking south at property)



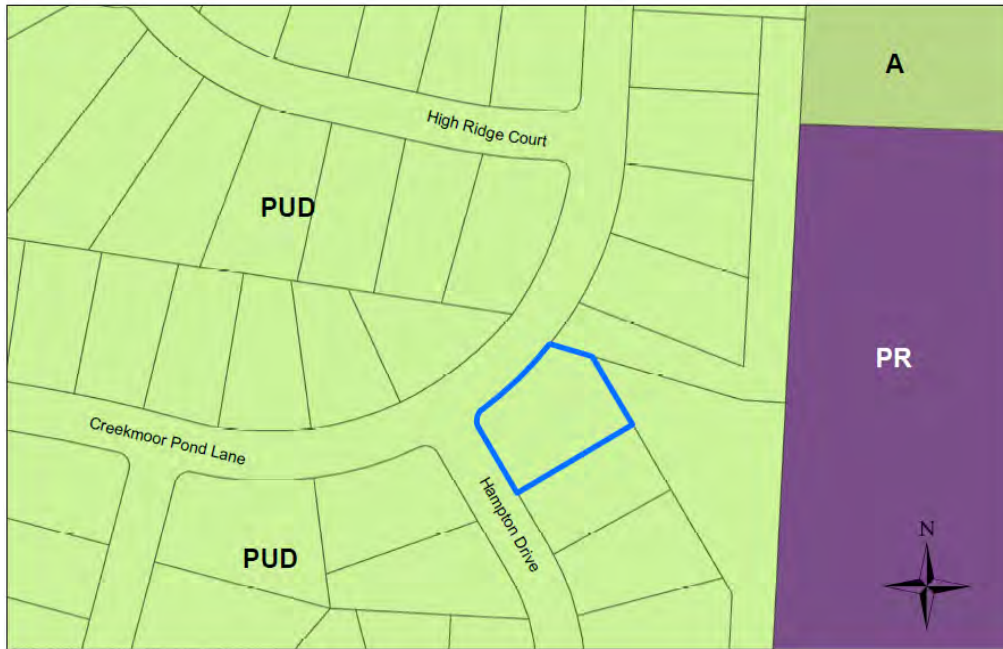
(View from from Hampton Drive looking east at property)



(View from intersection of Hampton and Creekmoor Pond Lane looking southeast at lot)

Existing Zoning:

“PUD” Planned Unit Development District

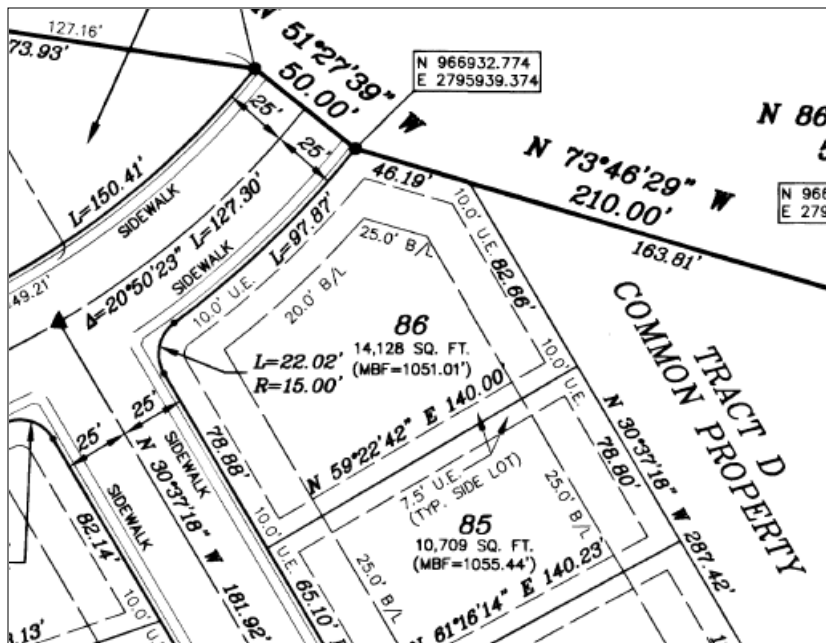


Existing Surrounding Uses:

- North: Single Family Residential
- South: Single Family Residential
- East: Open space/future park land
- West: Single Family Residential

Total Tract Size: 14,128 sq. ft. (.32 acres)

Subdivision Plat: Southern Hills at Creekmoor Second Plat Lot 86



Growth Management Plan: The Future Land Use Plan Map contained in the Growth Management Plan identifies this property as appropriate for low density residential development.

Major Street Plan: The Major Thoroughfare Plan Map contained in the Growth Management Plan has Creekmoor Pond Lane and Hampton Drive classified as local streets.

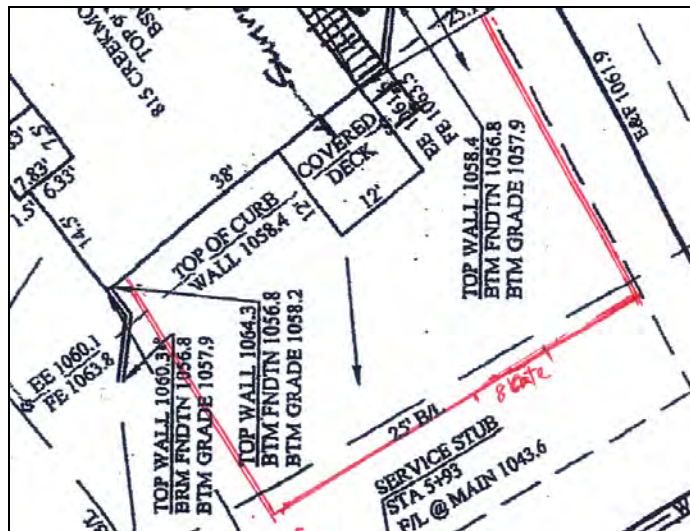
Advertisement: June 2, 2016 Journal Newspaper

Public Hearing: June 21, 2016 Board of Adjustment

Items of Record: Exhibit 1. Mailed Notices to Adjoining Property Owners
Exhibit 2. Notice of Publication
Exhibit 3. Unified Development Code
Exhibit 4. Application
Exhibit 5. Growth Management Plan
Exhibit 6. Staff Report
Exhibit 7. Proposed Site Plan

PROPOSAL

The applicant is requesting a variance to the Raymore Unified Development Code (UDC) Section 440.030C1 to allow a privacy fence to be placed within ten feet (10') of the front corner of his home located at 815 Creekmoor Pond Lane, legally described as Southern Hills at Creekmoor Second Plat Lot 86. The variance will allow for the placement of a privacy fence within four feet (4') of the front corner of the home along Hampton Drive.



VARIANCE REQUIREMENTS AND STANDARDS

1. The following section of the Unified Development Code is applicable to this application:

Section 470.060 Zoning Variances

A. Authority and Applicability

The zoning variance procedures of this section authorize the Board of Adjustment to approve, in specific cases, variances from specific zoning standards of this Code that will not be contrary to public interest and where, owing to special conditions, a literal enforcement of zoning standards would result in unnecessary hardship. In approving variances where there are practical difficulties or unnecessary hardship, the Board may vary or modify the application of any provisions of such ordinance relating to construction or alteration of use of land if it determines the public safety and welfare will be secured and substantial justice will be done.

B. Prohibited Variances

The Board of Adjustment may grant variances from all requirements of this Code except:

1. the requirements for public improvements contained within Chapter 445;
2. uses permitted within a particular district as specified in Chapter 405 and Chapter 410;
3. any provision in Chapter 460, Flood Protection; and
4. any provision in Chapter 455, Natural Resource Protection.

C. Applications

An application for a variance may be obtained from the Community Development Director. The application must be completed in its entirety in accordance with Section 470.010C and filed with the Community Development Director so that a public hearing date can be established in accordance with Section 470.010E.

D. Procedure

1. Board of Adjustment Public Hearing

All proposed variance applications must be submitted to the Board of Adjustment. The Board of Adjustment will hold a public hearing on the application in accordance with Section 470.010E. The public hearing must be held at the next regular meeting of the Board of Adjustment for which the application may be scheduled given public notice deadlines, unless the applicant has consented to an extension of this time period. The Community

Development Director or other appointed official as designated by the Planning and Zoning Commission must prepare a written summary of the proceedings, and give notice of the hearing as provided in Section 470.010E.

2. Board of Adjustment Action

Upon conclusion of the public hearing, the Board of Adjustment must approve, approve with conditions or disapprove the requested variance. A concurring vote of at least four members of the Board of Adjustment is required to approve any variance request.

E. Findings of Fact

A request for a variance may be granted upon a finding of the Board that all of the following conditions have been met. The Board will make a determination on each condition, and the finding will be entered into the record.

1. 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 owner, applicant, or their agent, employee or contractor.
2. The strict application of the provisions of the Unified Development Code of which the variance is requested will constitute an unnecessary hardship or practical difficulty upon the property owner represented in the application and that such unnecessary hardships or practical difficulties are not generally applicable to other property in the same district.
3. The granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.
4. The granting of the variance will not result in advantages or special privileges to the applicant or property owner that this code denies to other land, structures or uses in the same district.
5. Whether the requested variance is the minimum variance necessary to provide relief.
6. The variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.
7. The granting of the variance desired will not be opposed to the relevant purposes and intents of this Unified Development Code.
8. The variance will result in substantial justice being done, considering both the public benefits intended to be secured by this code and the individual hardships or practical difficulties that will be suffered if the variance request is denied.

F. Conditions of Approval

1. In making any decision varying or modifying any provisions of the Unified Development Code, the Board may impose such conditions, restrictions, terms, time limitations, landscaping, screening and other appropriate safeguards as needed to protect adjoining property.
2. The Board may require a performance bond to guarantee the installation of improvements such as parking lot surfacing, landscaping, etc. The amount of the bond will be based on a general estimate of cost for the improvements as determined by the Board and will be enforceable by, or payable to, the City Council in the sum equal to the cost of constructing the required improvements.
3. In lieu of the performance bond requirement, the Board may specify a time limit for the completion of such required improvements and in the event the improvements are not completed within the specified time, the Board may declare the granting of the application null and void after reconsideration.

G. Appeal of Board's Decision

Any person or persons jointly or severally aggrieved by any decision of the Board, any neighborhood organization as defined in Section 32.105, RSMo. representing such person or persons, or any officer, department, board or bureau of the municipality may present to the Circuit Court of the County a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition must be presented to the Court within 30 days after the filing of the decision in the office of the Board.

PREVIOUS ACTIONS ON OR NEAR THE PROPERTY

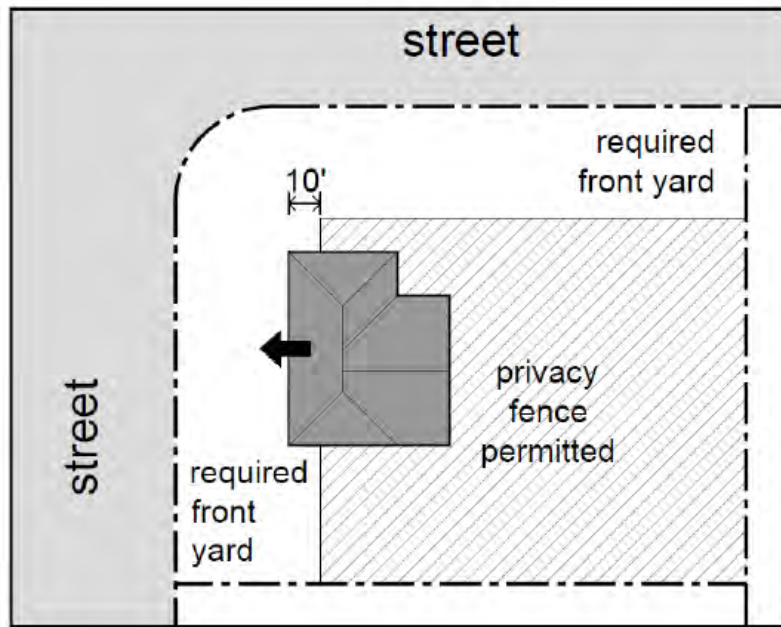
1. The "PUD" Planned Unit Development Zoning designation was established on January 24, 2004.
2. The Southern Hills at Creekmoor Second Plat was recorded on August 11, 2005 .

STAFF COMMENTS

1. When the Unified Development Code (UDC) was adopted in 2009 a privacy fence was allowed to be constructed up to the midpoint between the front and rear corner of the home. Prior to the adoption of the UDC a privacy fence could be no closer to the front property line than the rear corner of the home.

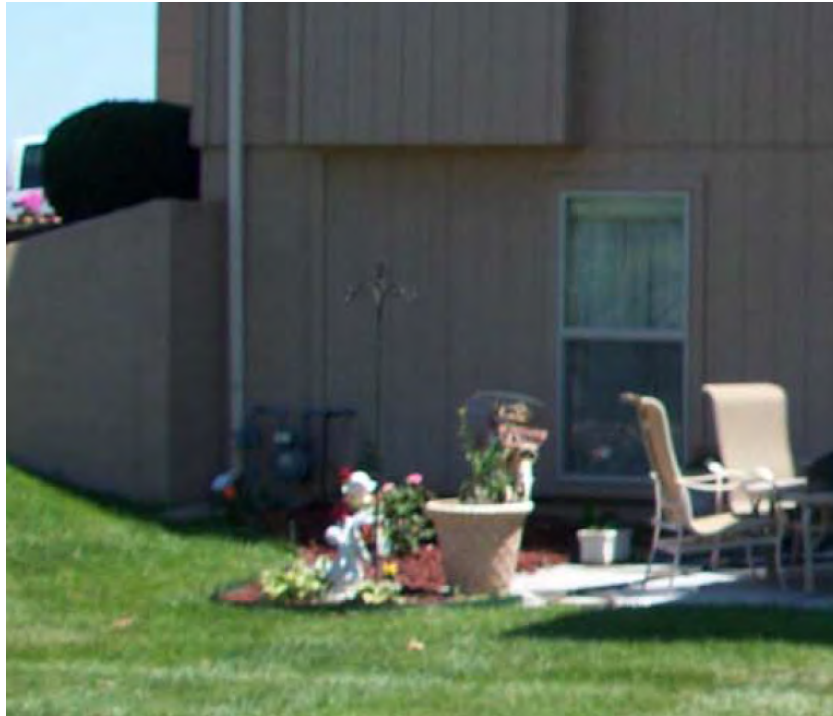
- In August of 2013 the UDC was amended to allow a privacy fence to be ten feet (10') from the front corner of the home. This change was based upon several variance applications that had been filed wherein the Board of Adjustment allowed a privacy fence closer to the front of the home than the midpoint but not all the way forward to be even with the front of the home. The code provision is illustrated in the UDC as shown below:

Type	Maximum Height	Permitted Location
Privacy fences, walls or hedges	6 feet	in the side and rear yard provided no portion extends within ten (10) feet of the front corner of the house.



- The subject property is a corner lot with two front yard areas, one along Creekmoor Pond Lane and one along Hampton Drive. The home faces Creekmoor Pond Lane and the privacy fence must not be any closer to the front of the home than ten feet (10'). Along Hampton Drive, the privacy fence must be at least twenty-five feet (25') from the property line along Hampton Drive. The applicant's drawing of the proposed fence shows the fence closer than twenty-five feet. The drawing will need to be revised when a fence permit is issued.
- The principal reason for not allowing a privacy fence to be even with the front of a home is to avoid a "wall" appearance along streets. On many streets the homes are all set back an equal distance from the street. If a privacy fence was allowed on each lot to be even with the front of the home, the combination of the front of the home and the privacy fence would create a wall effect along the street, which many residents would find unacceptable and unsightly.

5. Applicant indicates the fence will be a four foot (4') high wood privacy fence. The fence will be located four feet (4') from the front corner of the home. The applicant wants the fence to enclose the outdoor patio area on the west side of the home and keep the window on the side of the home within the fenced in area (see photograph below):



6. The adjacent home to the south along Hampton Drive is twenty-five feet (25') from the front property line, and the property line curves away from the home at 815 Creekmoor Pond Lane.
7. Notices of the variance request were mailed to 8 property owners that lived within one-hundred eighty-five feet (185') of the subject property. Staff has not been contacted to date by any of the nearby property owners on this application request.
8. A concurring vote of four (4) members of the Board shall be necessary to decide in favor of the applicant.

STAFF PROPOSED FINDINGS OF FACT

Section 470.060 of the Unified Development Code directs the Board of Adjustment concerning their actions in dealing with a variance request. Specifically, Section 470.060(E) directs the Board of Adjustment to make determinations on eight specific

conditions and the findings entered into the public record. The eight conditions and Staff's recommendation concerning each condition are as follows:

1. 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 owner and applicant or their agent, employee or contractor.

The lot is a uniquely shaped corner lot with a retaining wall at the front corner of the home. The home is situated at an angle on the lot to be parallel with Creekmoor Pond Lane.

2. The strict application of the provisions of the Unified Development Code of which the variance is requested will constitute an unnecessary hardship or practical difficulty upon the property owner represented in the application and that such unnecessary hardships or practical difficulties are not generally applicable to other property in the same district.

An unnecessary hardship arises when the physical characteristics of a property, coupled with imposed governmental regulations, preclude a property owner from any reasonable use of their land. If the fence were to be installed ten feet from the front corner of the home the fence would conflict with the location of the window on the west side of the home.

3. The granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.

Granting of the variance will not adversely affect the rights of adjoining property owners. The height of the fence will be four feet. The curvature of Hampton Drive provides the illusion of differing front setbacks for each home. The fence will not be located all the way to the south property line and will not impede on sight visibility from the front of the adjacent home.

4. The granting of the variance will not result in advantages or special privileges to the applicant or property owner that this code denies to other land, structures or uses in the same district.

Granting of the variance will not result in advantages or special privileges to the applicant. The requested variance is a reasonable request that remains in compliance with all other provisions applicable to buildings, including side and rear minimum setbacks.

5. Whether the requested variance is the minimum variance necessary to provide relief.

The requested variance is the minimum variance necessary to allow the property owner to construct the four foot high privacy fence around the outdoor patio.

6. The variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.

The variance will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare. The fence is limited in height and will not impede on the sight visibility from adjacent properties.

7. The granting of the variance desired will not be opposed to the relevant purposes and intents of this Unified Development Code.

Relevant purposes and intents of the UDC include the promotion of health, safety, and general welfare and the protection of property values through the regulation of density and mass of structures. The granting of the proposed variance will not be opposed to said purposes and intents of the UDC. The encroachment of the fence closer to the front of the home on the subject property is not against the intent of the code.

8. The variance will result in substantial justice being done, considering both the public benefits intended to be secured by this code and the individual hardships or practical difficulties that will be suffered if the variance request is denied.

As stated above, the requested variance is not contrary to the purpose and intent of the Code and will not adversely affect the public health, safety or welfare. The fence will not be even with the front of the home, will not create a “wall” effect with the home, and does not encroach upon any adjacent properties.

STAFF RECOMMENDATION

The subject property is a uniquely shaped corner lot with a retaining wall at the front corner of the home. Due to the topography of the lot the fence will be below the top of the retaining wall and have limited visibility from Creekmoor Pond Lane. Allowing the fence to be closer to the front of the home than code allows does not create any “wall” effect on the lot; does not encroach upon any adjacent properties; and is a reasonable request for the subject property.

Staff recommends the Board of Adjustment accept the staff proposed findings of fact and approve the variance as requested.

