

# CITY OF SMYRNA

## COMMUNITY DEVELOPMENT

## MEMORANDUM

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To: License and Variance Board

From: Rusty Martin, Community Development Director  
Joey Staubes, Planner II

Date: August 31, 2021

**RE: VARIANCE CASE V21-097**  
**3840 Highview Terrace – Allow six-foot wooden privacy fence in front yard on a corner lot.**

**VARIANCE CASE V21-098**  
**3840 Highview Terrace – Allow reduction of side setback from 10 feet to 3 feet.**

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### BACKGROUND

The applicant is requesting a variance to allow a six-foot wooden privacy fence in the front yard at 3840 Highview Terrace. The subject property has road frontage along two sides of the property, which creates front yards on both Highview Drive and Highview Terrace. The applicant is looking to enclose the backyard for safety and security. Section 501 controls the location and height of fences in the Zoning Code. Additionally, the applicant is proposing to replace an existing non-conforming deck. Section 801 controls the setbacks for residential structures.

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### ANALYSIS

The subject property is a 0.31-acre parcel located at the northern intersection of Highview Drive & Highview Terrace (see Figure 1) creating two road frontages. The subject property and all adjacent properties are zoned R-15 and are occupied with single-family detached homes.

In August 2021, the applicant erected a 6-foot wooden privacy fence along the property line on Highview Drive. However, due to the property having two road frontages, both frontages are considered a front yard. Section 501 restricts the height of fences within a front yard to four feet. Strict application of the ordinance would require a fence greater than four feet in height be setback 23 feet from the property line on the Highview Drive, which in this case would nearly be touching the house and severely limit the backyard space. As currently constructed the fence causes no visibility concerns at the intersection.

Additionally, the applicant began rebuilding a non-conforming deck at the rear of the home. The deck consists of a 21.5' x 15' upper deck and a 21.5' x 15' lower deck. The lower deck was originally constructed 3 feet from the side property line. Thus, to rebuild the deck a side setback variance from 10 feet to 3 feet is required. The deck was constructed to make more of the rear

yard usable due to topographical issues. The original deck did not create any external impacts on the adjacent property, therefore there should be no impacts for the deck replacement.

The applicant is requesting a variance to have a new six-foot wooden privacy fence along the road to provide safety and security, and a side setback variance to replace an existing non-conforming deck. Community Development believes the variances requested are the minimum variances needed and that, at times, a four-foot fence may not provide adequate privacy on a corner lot.

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### STAFF COMMENTS

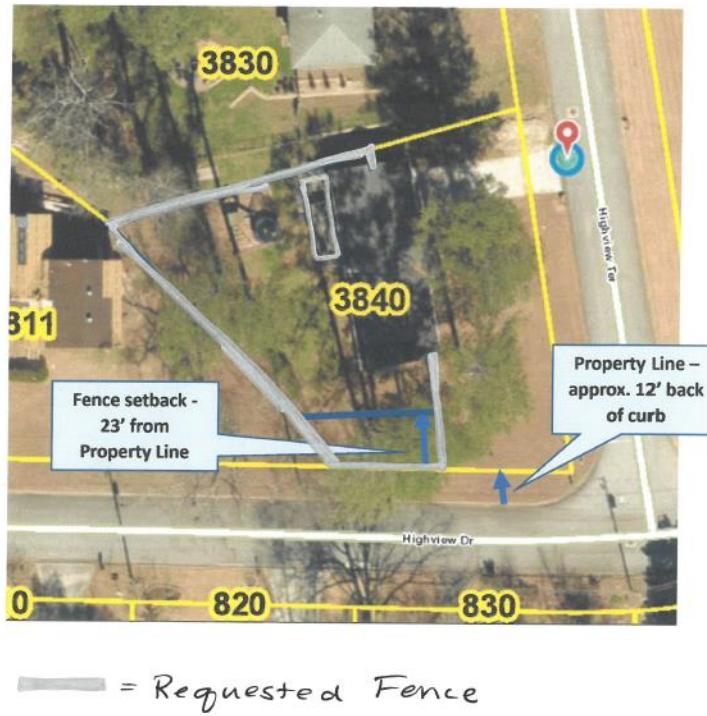
The applicant is requesting a variance to allow a six-foot wooden privacy fence in the front yard on a corner lot at 3840 Highview Terrace. According to Section 1403 of the Zoning Ordinance, variances must be reviewed under the following standards: (1) Whether there are unique and special or extraordinary circumstances applying to the property; (2) Whether any alleged hardship is self-created by any person having an interest in the property; (3) Whether strict application of the relevant provisions of the code would deprive the applicant of reasonable use of the property; and (4) Whether the variance proposed is the minimum variance needed. Community Development has reviewed the request against the variance review standards and found it to be in compliance with four (4) of the four (4) standards. Community Development has not received any calls in opposition to the request. After a review of the standards above Community Development believes that the variance will not adversely affect surrounding properties; therefore, staff recommends approval of the requested variance with the following condition:

1. Approval of the subject property for the requested variance shall be conditioned upon substantial compliance with the site plan submitted.
2. If the City of Smyrna must work within the right-of-way, the property owner may be required to move the fence at their own expense.

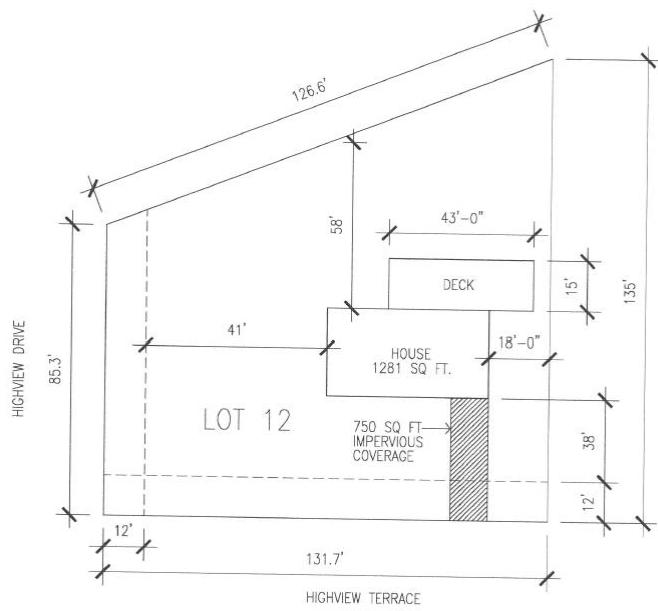
**Figure – 1**



**Figure – 2**  
**Fence Location Plan**



**Figure – 3**  
**Site Plan**



**Figure – 4**  
**Subject Property from Corner of Highview Drive**



**Figure – 5**  
**Subject Property from Highview Drive**



**Figure – 6**  
**Subject Property from Highview Terrace**



**Figure – 7**  
**Adjacent Property**



**Figure – 8**  
**Adjacent Property**



**Figure – 9**  
**Adjacent Property**

