

CITY OF SMYRNA

COMMUNITY DEVELOPMENT

MEMORANDUM

To: License and Variance Board

From: Rusty Martin, AICP, Community Development Director
Caitlin Crowe, Planner I

Date: May 21, 2021

RE: VARIANCE CASE V21-047
360 Havilon Way – Allow 6-foot wooden fence in front yard on a corner lot

BACKGROUND

The applicant is requesting a variance to allow for a 6-foot wooden fence in the front yard on the corner lot at 360 Havilon Way. Section 503-A controls the location and height of fences in the Zoning Code.

ANALYSIS

The subject parcel is a 0.33-acre lot located to the southwestern intersection of Concord Road and Havilon Way (see Figure 1). The subject parcel and all adjoining parcels are zoned R-20 and are occupied by single-family detached homes.

Due to the property having road frontage on two sides, both sides are considered a front yard regarding fencing. Section 503-A 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 23.3 feet from the property line on the Concord Road side. The applicant currently has a 6-foot wooden fence that meets code, but significantly shrinks the usable property. The applicant is looking to move the existing fence to roughly 3 feet from the property line; there will be approximately 22 feet from the back of curb of Concord Road to the proposed location of the fence. The City Engineer has reviewed the proposed site plan and does not foresee any sight distance issues. Concord Road is a very busy road, so the increased fence area provides additional safety and security for the applicant's family. Due to the fence's previous existence and its location on the corner lot, Community Development believes it is the minimum variance needed to enclose a portion of the yard.

The applicant is requesting a variance to move the six-foot wooden privacy fence closer to Concord Road to provide safety and security. Community Development believes the variance requested is the minimum variance needed and that, at times, a four-foot fence may not provide adequate privacy on a corner lot.

STAFF COMMENTS

VARIANCE CASE V21-047

May 21, 2021

Page 2 of 6

The applicant is requesting to deviate from the development standards established by Section 503-A, which requires a four-foot fence in the front yard. 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. After a review of the standards above, Community Development believes that the encroachment will not adversely affect surrounding residents; therefore, staff recommends **approval** of the requested variance with the following conditions:

1. Approval of the requested variance shall be conditioned upon the development of the property in substantial compliance with the site plan submitted with the variance application.
2. A survey shall be performed prior to fence installation to ensure the fence is fully within the subject property.
3. If any part of the fence falls within the City's Right-of-Way and the City must work within the area, the fence may be required to be moved at the owner's expense.

Figure – 1



**Figure – 2
Site Plan**



**Figure – 3
Existing Wooden Fence**



Figure – 4
Subject Property from Havilon Way



Figure – 5
Subject Property from Concord Road



Figure – 6
Adjacent Property across Havelon Way



Figure – 7
Adjacent Property to the Southeast



Figure – 8
Adjacent Property across Concord Road

