

CITY OF SMYRNA COMMUNITY DEVELOPMENT MEMORANDUM

To: License and Variance Board

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

Date: July 5, 2019

RE: VARIANCE CASE V19-025
591 Summertree Court – Allow six foot wooden privacy fence in front yard on a corner lot

BACKGROUND

The applicant is requesting a variance to allow a six foot wooden privacy fence in the front yard at 591 Summertree Court. The fence is constructed along the property line adjacent to Summerwood Drive and Nickajack Road. The subject property has road frontage along three sides of the property, which creates front yards on three sides. Section 501 controls the location of fences in the Code of Ordinances.

ANALYSIS

The subject property is located at the intersection of Summerwood Drive, Summertree Court, and Nickajack Road (See Figure 1). The adjacent properties to the north, south, and east are zoned R-15 and are occupied with residential uses. The property to the west is Thompson Park located in Cobb County. The subject property is 0.41 acres.

The subject property is accessed from Summertree Court, however it also has road frontage along Summerwood Drive on the southern property line and Nickajack Road on the western property line. The applicant is requesting a six foot fence be allowed along Summerwood Drive and Nickajack Road. Due to the property having road frontage on three sides, each of those sides is considered a front yard. However, due to the orientation of the existing home the area being fenced is the back yard of the home. 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 Summerwood Drive and 35 feet from the property line on Nickajack Road.

The fence on the subject property has already been constructed with a six foot wooden privacy fence. The fence is attached to the existing subdivision sign on the applicant's property. The brick subdivision sign is at least equal in height to the wooden privacy fence. The applicant constructed the fence before becoming aware that the maximum fence height along a right-of-way is four feet. The applicant has stated that a four foot fence is inadequate to provide sufficient privacy and security. The City Engineer performed an inspection of the fence and

determined there to be no visibility concerns from the installation of the new wooden privacy fence.

The applicant is requesting a variance to allow a six foot wooden privacy fence along Summerwood Drive and Nickajack Road. Due to the subject property having multiple road frontages, a variance is required to install a six foot wooden privacy fence on the subject property adjacent to right-of-way. Strict application of the ordinance would require a six foot fence be setback 23 feet from the Summerwood Drive property line and 35 feet from the Nickajack Road property line, or the fence be decreased in height to four feet. Community Development believes the variance requested is the minimum variance needed, and that at times a four foot fence may not provide adequate privacy. Community Development has received several calls and emails from residents in the subdivision that are in opposition to the variance request.

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 591 Summertree Court. 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 received several calls in opposition to the request. After a review of the standards above Community Development believes that the variance will not adversely affect the health, safety, or welfare of surrounding properties; therefore, staff recommends **approval** of the requested variance.

Figure – 1



Figure – 2
Subject Property



Figure – 3
Subject Property



Figure – 4
Adjacent Property



Figure – 5
Adjacent Property

