

CITY OF SMYRNA COMMUNITY DEVELOPMENT MEMORANDUM

To: License and Variance Board

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

Date: October 19, 2021

**RE: VARIANCE CASE V21-107
3861 N Cooper Lake Rd – Allow 5-foot fence in front yard on a corner lot**

BACKGROUND

The applicant is requesting a variance to allow for a 5-foot aluminum fence in the front yard on the corner lot at 3861 N Cooper Lake Road. Section 503-A controls the location and height of fences in the Zoning Code.

ANALYSIS

The subject parcel is a 0.45-acre lot located on the southeastern corner of the intersection of N Cooper Lake Road and Highview Drive (see Figure 1). The subject parcel and the adjoining parcels to the north, south, and east are zoned R-15 while the adjacent parcels to the west are zoned R-20. All are occupied by single-family detached homes.

In September 2021, the applicant erected a 5-foot aluminum fence along N Cooper Lake Road and Highview Drive, close to the City Right-of-Way. 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 4 feet in height be setback 35 feet from the property line on N Cooper Lake Road and 23 feet from the property line on Highview Drive. The applicant is requesting a variance to allow the 5-foot aluminum fence to stay at its current distance along the property line to provide safety and security from the intersection for the applicant's family and animals. No additional variances are needed.

The applicant is requesting a variance to allow the 5-foot aluminum fence to remain on the property line along N Cooper Lake Road and Highview Drive to provide safety and security for the applicant and family. Community Development believes the variance requested is the minimum variance needed and that, at times, a 4-foot fence may not provide adequate security on a corner lot. Community Development and the City Engineer recommend approval provided the applicant demonstrate that there are no sight-line impediments caused by the location of the fence.

STAFF COMMENTS

The applicant is requesting to deviate from the development standards established by Section 503-A, which requires a 4-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. 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.
3. The applicant shall ensure corner sight distance requirements are satisfied in accordance with GDOT Driveway and Encroachment Control Manual. The applicant shall coordinate the fence location along N Cooper Lake Road with the City Engineer to ensure compliance with GDOT standards.

Figure – 1



Figure – 2
Fence Location



Figure – 3
Fence at Intersection



Figure – 4
Fence along Highview Drive



Figure – 5
Subject Property from N Cooper Lake Rd

