

To: Zoning Board of Adjustment

From: Justin Wilkins, Building Official (BO)

..Title

PUBLIC HEARING: Consider an application requesting a variance to Section 8.07(G) of the Unified Development Code (UDC) which requires all fences adjacent to an open space and/or a common space area shall be constructed of ornamental metal, tubular steel, or similar material. The applicant is requesting a variance to allow a wooden privacy fence. The property is on approximately 0.3435-acres legally described as Lot 15, Block B of Spyglass Hill Estates, zoned Single-Family 15,000 square-foot minimum lots (SF-15) and addressed as 1521 Spanish Bay Dr. Heather Donato, Owner/Applicant. (ZBA-2504-0004)..**Body**

Request:

The Applicant is requesting a variance to allow a recently constructed wooden privacy fence to remain in the same location in lieu of constructing an ornamental metal fence.

Background:

On February 24, 2025, City Staff was made aware of a fence that was replaced without a permit. The fence has been reconstructed out of wood material. The Applicant/Owner was notified they would need to request for a variance to allow the fence to be constructed out of wood as they replaced more than 60% of the legal non-conforming portion of the fence.

UDC Section 9.07(G). – Requirements for lots in or adjacent to an Open Space or a Common Space. All fences adjacent to an open space and/or a common space area shall be constructed of ornamental metal, tubular steel, or similar material.

Citizen Input:

On May 22, 2025, the City mailed out 22 Letters of Notification to all property owners within 200' of the subject property for this Public Hearing.

Staff has received one letter of support in response to this request.

Summary:

Section 8.02 (C)(6) of the UDC states that when considering a variance request, the following Zoning Board of Adjustment shall Use the following criteria:

- 1) That literal enforcement of the controls will create an unnecessary hardship or practical difficulty in the development of the affected property;
- 2) That the situation causing the hardship or difficulty is neither self-imposed nor generally affecting all or most properties in the same zoning district;
- 3) That the relief sought will not injure the permitted use of adjacent conforming

property; and

- 4) That the granting of a variance will be in harmony with the spirit and purpose of these regulations.

Authority of the Board:

Each case before the Board of Adjustment must be heard by at least seventy five percent (75%) of the Board members. The concurring vote of four (4) members of the Board is necessary to:

- 1) Approve as submitted
- 2) Approve with modified or additional condition(s)
- 3) Deny

Supporting Documents:

- Maps
- Staff Attachment - Application and information
- Staff Attachment - Staff Photos