

PUBLIC HEARING: Consider an application requesting a variance to Section 9.07.G in the United Development Code (UDC) which states Requirements for Lots in or Adjacent to a Open Space or a Common Space. All fences adjacent to an open space and /or common space area shall be constructed of ornamental metal, tubular steel or similar material. The property is on approximately 0.344 acres, located in Spyglass Hill Estates, legally described as Spyglass Hill Estates Lot 15 Block B, parcel 41287010. This property is zoned residential and addressed as 1521 Spanish Bay Driver. Owners, Brian & Heather Donato. (205)388-7434

**1. State the section of the Unified Development Code or describe the regulation for which you are requesting a variance.**

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 common space area shall be constructed of ornamental metal, tubular steel or similar material.

**2. Describe how your request will differ from the requirement(s) of the Code:**

Our request differs from the code in that our fence is wood and not ornamental metal. We are asking for a variance to keep the current wood fence. We purchased our home in September 2024. At the time of purchase, a 6 foot wooden fence was in place on our property line that borders the Spyglass Hill Estates Drainage & Utility Easement. The wood fence was original to the time the house was built in 2011. We replaced this fence with a 6 foot wooden fence.

**3. Describe how the situation causing the hardship or difficulty is neither self-imposed nor generally affecting all or most properties in the same zoning district.**

The hardship is not self-imposed as we were replacing the fence that was already wood and left it in the same location that it was when we moved in. The fence was constructed without our knowledge of the United Development Code given that we were replacing an existing fence, like-for-like.

This situation does not generally affect other properties in the same zoning area.

**4. Describe how literal enforcement of the regulation will create an unnecessary hardship or practical difficulty in the development of this property.**

We purchased this home in Q3 of 2024 with a wooden fence installed at the property line in question. The fence was constructed with identical dimensions and material as the replacement fence that currently sits in its place. We purchased the home for \$1.2M, largely because the already installed fence protected the view of the developed backyard which includes a pool and covered porch.

We are unaware of the variance that permitted a wooden fence at time of construction (2011) as the pool wasn't installed until 2023. What has been consistent is that the lot presents a unique situation in which a residential backyard borders a drainage easement backed by a city parking lot and main thoroughfare, Bear Creek Parkway with four lanes and a sidewalk. It is the design, almost universally, that all of the side/back yards of the homes that border Bear Creek Parkway are separated from the road by a brick wall.

**5. Explain how the variance requested will not negatively impact the adjacent property.**

The fence borders a drainage & utility easement which is the property of Spyglass Hill estates. The drainage & utility easement (1517 Spanish Bay Drive) borders the parking lot for Keller Fire Department Station 1. The KFD Station 1 parking lot is separated from Bear Creek Parkway by a common area. This put the fence about 200' from the Bear Creek Parkway across a common space, a two deep parking lot, a row of trees, a wrought iron fence, another row of trees and the width of the drainage & utility easement. It will be stained and match other fences visible from this same vantage point.

**6. Explain how the granting of the variance will be in harmony with the spirit and purpose of the regulation:**

Our request extends the prior approval. We improved the quality of the fence and upgraded material to cedar.

