



Legislation Details (With Text)

**File #:** 20-408      **Version:** 1

**Type:** New Business      **Status:** Agenda Ready

**File created:** 8/27/2020      **In control:** Zoning Board of Adjustment

**On agenda:** 8/31/2020      **Final action:**

**Title:** PUBLIC HEARING: Consider an application requesting a variance to Section 8.11 (I)(2)(a)(3) of the Unified Development Code (UDC). The Applicant is requesting a variance to construct a drive gate with a 35 foot setback in lieu of the required 50 foot setback. The property is located on 2.33-acres, situated approximately 650 feet southeast of the Mount Gilead and Edgemere Drive intersection, being Lot 3, Block 1, of the Overton Estates Addition, zoned Single-Family 36,000 square-foot lots (SF -36), and addressed as 790 Mount Gilead. Troy Ragle, Owner/Applicant. (ZBA-20-0007)

**Attachments:** 1. Maps, 2. Exhibit A- Application

Date	Ver.	Action By	Action	Result
------	------	-----------	--------	--------

**To:** Zoning Board of Adjustment

**From:** Matthew Cyr, Planner I

**Subject:**  
PUBLIC HEARING: Consider an application requesting a variance to Section 8.11 (I)(2)(a)(3) of the Unified Development Code (UDC). The Applicant is requesting a variance to construct a drive gate with a 35 foot setback in lieu of the required 50 foot setback. The property is located on 2.33-acres, situated approximately 650 feet southeast of the Mount Gilead and Edgemere Drive intersection, being Lot 3, Block 1, of the Overton Estates Addition, zoned Single-Family 36,000 square-foot lots (SF-36), and addressed as 790 Mount Gilead. Troy Ragle, Owner/Applicant. (ZBA-20-0007)

**Background:**

The Applicant submitted building plans in 2019 that also included the location of the circle drive and a gate location of thirty-five feet from Mount Gilead Road. The house, driveway, and the entire site were deasigned to accommodate a thirty-five foot setback for the gate. After this submittal the depth for drive gates was to 50 feet to accommodate horse trailers, fire apparatuses, and other similar vehicles without blocking the street. During the home construction, the circle drive and drive access was poured. The homeowner then applied for a fence permit with the drive gate at the base of the circle- 35-feet from Mount Gilead Road. The Applicant explained that the 50' setback would not be feasible because the gate would be located in the middle of the "O" shaped driveway.

**Code:**

Section 8.11 (I)(2)(a)(3) states "All drive gates directly adjacent to a thoroughfare as shown on the Thoroughfare Plan must be inset for a minimum of fifty feet (50') from the edge of the curb or pavement."

The Applicant is proposing the drive-gate to be constructed 35-feet from Mount Gilead Road in lieu of

the required 50' setback. The Applicant proposes to meet all other UDC requirements. Because of the prior approval of the building permit which indicated the location of the drive and gate, Staff has no objections to the request.

**Citizen Input:**

On May August 21, 2020, the City mailed out nine (9) Letters of Notification for this Public Hearing to property owners within 200' feet. Staff has not received any emails, phone calls, or written letters regarding this application.

**Summary:**

Section 8.02 (C)(6) of the UDC states that when considering a variance request, the 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) Reverse an order, requirement, decision, or determination of an administrative official.
- 2) Decide in favor of an applicant on a matter on which the Board is required to pass under this Code. (Not applicable here.)
- 3) Authorize a variation from the terms of this Code.

**Supporting Documents:**

- Maps
- Exhibit A
  - o Application