



## Legislation Text

---

**File #:** 21-499, **Version:** 1

---

**To:** Zoning Board of Adjustment

**From:** Matthew Cyr, Planner I

**Subject:**

PUBLIC HEARING: Consider an application requesting a variance to Section 8.11 (C) of the Unified Development Code (UDC). The Applicant is requesting a variance to utilize wood materials to replace a legal-nonconforming fence in lieu of the required open style fencing. The property is approximately on 0.45-acres, situated south of Farm View Trail, legally described as Lot 12, Block E of Harmonson Farms, zoned Planned Development Single-Family Mixed-Density (PD-SF-MD), and addressed as 913 Pimlico Drive. Ralph Davis, Applicant/Owner. (ZBA-21-0002)

**Request:**

The applicant is requesting a variance to the fencing materials (open style) to continue utilizing wood materials on the south and east portion of the property as the applicant owns a corner lot.

**Background:**

On January 5, 2021, City Council approved Unified Development Code (UDC) amendments to revise residential fence location regulations.

**Why Action is Required:**

Section 8.11 (C) of the Unified Development Code states for the location of fences adjacent to a street on corner lots: "The fence must be open-style from the front of the main structure of the adjacent property up to the four foot (4') setback from the property line."

**Staff supports this request:**

The lot itself is unique. The lot is considered "irregular" and does not face the cul-de-sac like the neighboring lots. If the lot shape and the orientation of the house was built to mimic the other neighboring properties, the Applicant would not be required to request a variance.

**Citizen Input:**

On July 23, 2021, the City mailed out twenty-four (24) Letters of Notification for this Public Hearing. Staff has not received any emails, phone calls, or written letters regarding this item.

**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-at least. 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
  - o Application
  - o Photos