

**BOARD OF ZONING APPEALS
STAFF REPORT**

TUESDAY, JUNE 25, 2024

CASE NO: BZA 24-0003
PROJECT NAME: FOREST RIDGE FENCE VARIANCE
PROJECT ADDRESS: 4000 FOREST RIDGE BOULEVARD, RIVERSIDE, OH 45424
PARCEL ID: I39300215 0017
APPLICANT/PROPERTY INFO: MICHAEL BELL, 4000 FOREST RIDGE BOULEVARD, RIVERSIDE, OH 45424
OWNER/PROPERTY INFO: SAME AS APPLICANT
ZONING DISTRICT: R-3 MEDIUM DENSITY RESIDENTIAL DISTRICT
CURRENT USE: SINGLE-FAMILY RESIDENTIAL

REQUEST:

1) A variance from UDO Sec. 1115.01(E)(3)(a) to allow front yard fence to exceed the maximum height of four (4) feet.

LOCATION	REQUIREMENT	REQUEST	VARIANCE %
FRONT YARD	4 FEET MAX.	2 FOOT INCREASE	50% INCREASE

2) A waiver from UDO Sec. 1115.01(E)(3)(b) to permit a solid board privacy fence in the front yard.

CASE SUMMARY/BACKGROUND:

The subject site is located in the northeast corner of Forest Ridge Boulevard and Honeyleaf Way on a 0.33 acre parcel. The site is outside the Source Water Protection Area. There is an existing 1,632 sf single-family dwelling and 448 sf pool on the site. The applicant is proposing to replace and extend the current 6-foot solid board privacy fence. The change would align the fence with the rear neighbor’s fence off Honeyleaf Way. It should be noted that the property behind the subject site made changes to the existing fence without permits or approval. There is an open code enforcement case for this property (4001 Cozycroft Dr). The proposed fence required the applicant to request a variance for the height and a waiver for the fence type. The revised development procedures permit a waiver to be heard with a variance application. This allows the Board of Zoning Appeals to act on both requests.

INTERESTED PARTY COMMENTS:

Staff has received one (1) call from an adjacent property owner.

STAFF REVIEW/FINDINGS:

- 1) Variance – Increase in Maximum Fence Height in Front Yard.

Recommendation: **Approval with Conditions**

Recommended Conditions:

- a. The 6-foot fence does not encroach more than 12 feet into the front yard along Honeyleaf Way.
- b. A revised plan depicting the updated fence location shall be submitted to the Community Development Department within 14 business days of Board approval.

- 2) *Waiver* – Solid Board Privacy Fence in Front Yard.

Recommendation: **Denial**

Reason for Staff Recommendation:

Staff finds that the proposal meets the four (4) key criteria for granting a variance which are underlined further in the staff report for emphasis. Variances are most appropriate to address unique or special physical circumstance related to a property which restrict the reasonable land use. That is not the situation in this variance case. The safety and pool clearance concerns raised by the applicant are not unique to the subject property nor applicable to this case. The applicant purchase the property with the current site arrangement. Staff does take into consideration a 6-foot fence does exist on the property and has for many years. Therefore, it is Staff's professional opinion that approval with the above conditions is supported by the standards for approval.

The proposal does not comply with the waiver approval criteria. The requested waiver is in conflict with the Comprehensive Plan which encourages reinforcing the design standards in the UDO when new development takes places. Following a site inspection of the subject site Staff found multiple corner lots in the general vicinity with compliant fences or vegetation for screening proposes. A lattice fence or a compliant fence with landscaping can provide the screening the applicant desires. These are alterative designs which are within the code regulations. Staff does not recommend approval of the waiver for these reasons.

ATTACHMENTS:

- Zoning Map
- Aerial Map
- Site Plan
- Justification Statement Pages
- Supplemental Information

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE PER UDO §1105.15(E):

The following factors shall be considered by the BZA in determining whether practical difficulty exists sufficient to warrant a variance to increase the maximum fence height; 1115.01(E)(3)(a):

1. Whether the property in question will yield reasonable return or whether there can be any beneficial use of the property without the variance;

Yes, the property owner could still have beneficial use of the property without the variance.

2. Whether the variance is substantial;

No, this is not a substantial variance.

3. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;

No, the essential character of the neighborhood will not be altered nor will adjacent properties be adversely affected. The fence is out of any required clearance zones.

4. Whether the variance would adversely affect the delivery of governmental services (i.e., water, sewer, garbage);

No, the delivery of governmental services will not be impacted.

5. Whether the property owner purchased the property with knowledge of the zoning restriction;

The property was purchased after the applicable zoning regulations were in effect.

6. Whether the property owners' predicament feasibly can be obviated through some method other than a variance;

No, there is a patio which prevents the fence from being constructed in line with the house. The applicant can reduce the degree of encroachment into the front yard off of Honeyleaf Way by placing the new fence in the original location. The original location is a 10-foot encroachment. The proposal includes an 18-foot encroachment into the front yard.

7. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

The fence height permitted in the front yard is lower to protect the public safety and preserve an unobstructed view. This is the spirit and intent of the zoning code. Vision of cars coming into and out of the neighboring driveway is not restricted in this case.

STANDARDS FOR APPROVAL AND STAFF ANALYSIS PER UDO §1115.13 (E):

THE FOLLOWING CRITERIA SHALL BE CONSIDERED IN REVIEWING A WAIVER REQUEST; 1115.01(E)(3)(B).

1. Whether the waiver will have an adverse effect on adjacent property owners.

The requested waiver would not have an adverse effect on adjacent property. The fence is located out of any lines of sight for neighbors pulling out of their driveways or the required clearance zone at the intersection.

2. Whether the proposed development is in conformance with the principles of the City's Comprehensive Land Use Plan.

The Place Goal, Objective #6 call for the proposal to ensure new development and redevelopment are complementary to the preferred neighborhood and future land use character of the area. When new structures are built the Land Use Plan – ONE Riverside – encourages balancing property owner's rights against the future vision of Riverside through the consistent application of the City's design regulations.

3. Whether the applicant can show that the regulation will cause a practical difficulty or strict application of the provisions of the regulations would deprive the applicant of the reasonable use of the land.

No, the strict application of the regulation will not cause practical difficulty nor deprive the applicant reasonable use of the land. The code requires fences in the front yard to have at least 50% transparency. There are fence types which will allow for the security and child safety the applicant desires while still keeping within the zoning code regulations.

4. Whether the proposed development design, site arrangement, and/or anticipated benefits of the proposed development justify any deviation from the design standards found herein.

No, there are other corner lots in this neighborhood which have compliant fences or no fences at all.

5. Whether the applicant has incorporated other design measures that exceed the minimums of the requirement and compensate for non-compliance with the requirements to be waived (net beneficial effect).

No, the applicant has not offered an alternative.

Variance Justification:

In order to justify approval of any variance staff and/or the Board of Zoning Appeals considers the following criteria. Please answer **all** of the following questions. Use additional sheets if needed. **A response of yes, no, or N/A is not acceptable.**

1. Whether the property in question will yield reasonable return or whether there can be any beneficial use of the property without the variance.

The benefit of the variance is to grant more clearance in the yard, specifically around an in-ground pool. The variance makes the property more consistent with the community, as several other properties have this variance approved. Most notably is the neighboring property directly behind this one.

2. Whether the variance is substantial.

Being this variance is approve elsewhere and involves extending a fenceline that will not cause any visual obstruction to traffic, I do not believe it is substantial.

3. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance.

As mentioned above, this is approved in the neighborhood and should not cause any detriment.

4. Whether the variance would adversely affect the delivery of governmental services (i.e. water, sewer, garbage).

It will not impact governmental services, as the garbage is taken from the curb. Water/sewage is located on another side of the property from this variance.

5. Whether the property owner purchased the property with knowledge of the zoning restriction.

I was not aware of the zoning restrictions to corner lots. The property already had an approved fence, so I naturally thought extending it would not be an issue.

6. Whether the property owners' predicament feasibly can be obviated through some method other than a variance.

With the in-ground pool, I do not believe I could safely use a shorter style open fence that is approved.

7. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

To the best of my knowledge, this approval would be beneficial for all parties. It allows the property to match the neighboring properties, while keeping the security of the in-ground pool.

Waiver Justification:

In order to justify approval of any waiver staff and/or the Planning Commission considers the following criteria. Please answer all of the following questions. Use additional sheets if needed. **A response of yes, no, or N/A is not acceptable.**

1. Whether the waiver will have an adverse effect on adjacent property owners.

It will not, the neighboring property directly behind this one has this variance approved and this would promote consistency by aligning our fence lines.

2. Whether the proposed development is in conformance with the principles of the City’s Comprehensive Land Use Plan.

Based on my understanding this would be in conformance as this is a residential property and the waiver would be promoting conformance with the exiting neighborhood.

3. Whether the applicant can show that the regulation will cause a practical difficulty or strict application of the provisions of the regulations would deprive the applicant of the reasonable use of the land;

The primary purpose of the zoning waiver is to extend the fence line of the side yard into the front yard of a corner lot. This would give additional space and security for the existing in-ground pool, as well as allow for additional use of the land for children residing at the residence to play. Currently the portion of land in question is not utilized due to consistent traffic, creating an unsafe environment for kids to play.

4. Whether the proposed development design, site arrangement, and/or anticipated benefits of the proposed development justify any deviation from the design standards found herein;

Please refer to response to question 3 for proposal and benefits. Being the homeowner, I believe this deviation would be beneficial to all parties and have no negative impact.

5. Whether the applicant has incorporated other design measures that exceed the minimums of the requirement and compensate for non-compliance with the requirements to be waived (net beneficial effect).

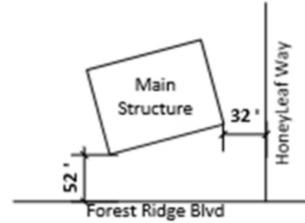
Due to the exiting in-ground pool and it's security, there is no other way to utilize the space with approved fencing for corner lots front yard.

4000 Forest Ridge Blvd.
Riverside, Ohio 45424

Scale: 1" = 10'



Vicinity Map (Not to Scale)





Front of Subject Site



Adjacent Property Across Honeyleaf Way



Adjacent Property Across Forest Ridge Blvd



Adjacent Properties to the East



Variance Area: View from Honeyleaf Way.



Variance Area: View from Forest Ridge Blvd



Waiver: Proposed Location of Solid Board Privacy Fence

APPLICANT PHOTOS

