



Legislation Details (With Text)

**File #:** 20-1249B      **Version:** 1

**Type:** Ordinance      **Status:** Passed

**File created:** 11/9/2020      **In control:** City Council

**On agenda:** 11/17/2020      **Final action:** 11/17/2020

**Title:** Pass the ordinance granting a variance to permit a 6’ tall solid fence in the required corner side yard for the property located at 616 Caraway Court- PZC 19-1-095

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Ordinance, 2. Exhibit A - Legal Description, 3. Exhibit B - Plat of Survey, 4. Exhibit C - Site Plan, 5. Exhibit D - Response to Standards, 6. Application, 7. Disclosure of Beneficiaries, 8. Location Map, 9. Public Comment

Date	Ver.	Action By	Action	Result
11/17/2020	1	City Council	passed	Pass

**CITY COUNCIL AGENDA ITEM**

**ACTION REQUESTED:**

Pass the ordinance granting a variance to permit a 6’ tall solid fence in the required corner side yard for the property located at 616 Caraway Court- PZC 19-1-095

**DEPARTMENT:** Transportation, Engineering and Development

**SUBMITTED BY:** Gabrielle Mattingly, Community Planner

**BOARD/COMMISSION REVIEW:**

The Planning and Zoning Commission (PZC) considered PZC 19-1-095 on October 21, 2020 and voted to recommend approval of the request (approved 6,0). Staff concurs.

**BACKGROUND:**

The subject property is zoned R3A PUD (Medium Density Multiple-Family Residence District Planned Unit Development) and is located on the northeast corner of Caraway Court and Feldott Lane. The 14,747-square foot property is currently improved with a single-family residence and a fenced-in pool. The owners and petitioners, Rocco and Lisa DiFranco, request approval of a variance in order to move the existing 6’ tall solid style fence currently located around the pool, 5’ toward the street into the 15’ required corner side yard (site plan showing the location of the fence is included in the attachments).

**DISCUSSION:**

The subject property has a 15’ required corner side yard. The variance request is to move the existing fence 5’ toward Feldott Lane, locating the fence 10’ from the property line. The petitioners currently have a fenced-in pool in the backyard. The purpose for relocating the fence is to increase handicap accessibility around the pool for a family member.

Per Section 6-2-12:1 (General Zoning Provisions: Fences), an open, or picket style, fence 4' tall or less is permitted in the required corner side yard. An open fence is defined in Section 6-1-6 (Zoning Title, Purpose, Definitions: Definitions) as a fence which has at least 30% of the surface area in open spaces which afford direct views through the fence. Due to the proposed location of the fence in the 15' required corner side yard, the solid style of the fence, and the 6' height, a variance is required.

As noted above, only 4' tall open (picket style) fences are permitted in the required corner side yard. The corner fence regulations are intended to preserve sight lines and the open nature of the corner side yard. Additionally, Feldott Lane has a curve. When the petitioner first submitted the fence variance application, they requested a 10' encroachment into the 15' corner side yard (which would result in the fence being 5' from the property line). Given the fence regulations and taking the curvature of the road with the posted speed limit into account, staff expressed concern for this large of an encroachment and requested the fence be located no closer than 7.5' from the property. The petitioner revised the proposal to locate the fence 10' from the property line in order to preserve sight lines. City staff reviewed the revised proposal of a 5' encroachment into the corner side yard and found it will not impede sight lines.

The petitioner's responses to the Standards for Granting a Variance are included in the Development Petition. Staff and the PZC are in general agreement with the petitioner's findings and recommend adoption by the City Council.

### ***Planning and Zoning Commission***

The PZC opened the public hearing on October 21, 2020 to consider PZC 19-1-095. No public comment was received, the public hearing was closed, and the PZC voted to recommend approval (approved 6,0). Staff concurs.

### ***Key Takeaways***

- The petitioner requests a variance to permit a 6' tall, solid style wooden fence that encroaches 5' into the required corner side yard. Staff reviewed the fence location and recommends approval of the variance request.

### **FISCAL IMPACT:**

N/A