



Petition Number: 1511-VS-15
Subject Site Address: 336 Elnora Lane (Countryside)
Petitioner: Josh Netherton
Request: The Petitioner is requesting a Variance of Standard for a reduction of the Rear Yard Minimum Building Setback Line in the SF3 Cluster: Single-Family Medium Density District (Article 4.6 (E)(3)(a)).
Current Zoning: SF3 Cluster: Single-Family Medium Density District
Current Land Use: Residential
Approximate Acreage: 0.26 acres+/-
Exhibits:
1. Staff Report
2. Location Map
3. Site Plan Exhibit
4. Existing Conditions Exhibit
5. Petitioner's Application
Staff Reviewer: Amanda Rubadue, Associate Planner

PETITION HISTORY

This petition will receive a public hearing at the November 10, 2015, Board of Zoning Appeals meeting.

PROPERTY INFORMATION

The subject property is 0.26 acres +/- in size and is located at 336 Elnora Lane within the Countryside subdivision (see **Exhibit 2**). The property is improved with a single family dwelling.

The property is zoned SF3 Cluster: Single-Family Medium Density District. The surrounding properties include other single family dwellings in the Countryside subdivision.

VARIANCE REQUEST

The petitioner is requesting this variance to allow for a reduction in the Minimum Building Setback Line for the Rear Yard to accommodate an existing covered porch , as generally illustrated on the Site Plan Exhibit (see **Exhibit 3**)and Existing Conditions Exhibit (see **Exhibit 4**) .

The standard for the Minimum Building Setback Line for the Rear Yard is thirty (30) feet (Article 4.6(E)(3)). The home, prior to the construction of the deck, had a rear yard setback of 31 feet +/- , which complied. However, once the petitioner constructed the 12'-wide by 13'-deep covered deck, the Property no longer complied with the Minimum Building Setback Line for the Rear Yard. As a result, the petitioner is requesting this variance for a reduction from thirty (30) feet to



seventeen (17) feet to accommodate the covered porch. An existing ten (10') foot drainage and utility easement runs along the south end of the Property. The existing improvements are not located within this easement.

PROCEDURAL

Public Notice: The Board of Zoning Appeals is required to hold a public hearing on its consideration of a Variance of Development Standard. This petition is scheduled to receive its public hearing at the November 10, 2015, Board of Zoning Appeals meeting. Notice of the public hearing was properly advertised in accordance with Indiana law and the Board of Zoning Appeals' Rules of Procedure.

Conditions: The UDO¹ and Indiana law provide that the Board of Zoning Appeals may impose reasonable conditions and limitations concerning use, construction, character, location, landscaping, screening, and other matters relating to the purposes and objectives of the UDO upon any Lot benefited by a variance as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject Lot or upon public facilities and services. Such conditions shall be expressly set forth in the order granting the variance.

Acknowledgement of Variance: If the Board of Zoning Appeals approves this petition, then the UDO² requires that the approval of the variance shall be memorialized in an acknowledgement of variance instrument prepared by the Department. The acknowledgement shall: (i) specify the granted variance and any commitments made or conditions imposed in granting of the variance; (ii) be signed by the Director, Property Owner and Applicant (if Applicant is different than Property Owner); and (iii) be recorded against the subject property in the Office of the Recorder of Hamilton County, Indiana. A copy of the recorded acknowledgement shall be provided to the Department prior to the issuance of any subsequent permit or commencement of uses pursuant to the granted variance.

Variations of Development Standard: The Board of Zoning Appeals shall approve or deny variances from the development standards (such as height, bulk, or area) of the underlying zoning ordinance. A variance may be approved under Indiana Code § 36-7-4-918.5 only upon a determination in writing that:

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and

¹ Article 10.14(I) Processes and Permits; Variances; Conditions of the UDO.

² Article 10.14(K) Processes and Permits; Variances; Acknowledgement of Variance of the UDO.

3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property.
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DEPARTMENT COMMENTS:

Recommended Findings for Approval:

If the Board is inclined to approve the variance, then the Department recommends the following findings:

- 1) *The approval will not be injurious to the public health, safety, morals, and general welfare of the community:*

Finding: It is unlikely that approving the requested variance would be injurious to the public health, safety, morals, and general welfare of the community because the SF3 District permits the existing improvements and parcel will otherwise comply with or exceed the applicable standards of the SF3 District.

- 2) *The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner:*

Finding: It is unlikely the use and value of adjacent property will be affected in a substantially adverse manner. The proposed variance should not have a negative impact on surrounding properties because: (i) the existing improvement has enhanced the value of the subject property; (ii) the parcel will otherwise comply with or exceed the applicable standards of the SF3 District; and (iii) the approval of the variance will allow for the continued use and improvement of the property in a manner substantially consistent with the quality and character of the surrounding area and Comprehensive Plan.

- 3) *The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property:*

Finding: Strict adherence to the zoning ordinance would result in the inability to improve the property, as proposed, in accordance with the Unified Development Ordinance. The use is permitted by the Unified Development Ordinance and the existing improvements and parcel would otherwise be permitted and comply with the Unified Development Ordinance.



Recommended Findings for Denial:

If the Board is inclined to deny the variance, then the Department recommends the following findings:

- 1) *The approval will be injurious to the public health, safety, morals, and general welfare of the community:*

Finding: It is not likely that approving the requested variance would be injurious to the public health, safety, morals, and general welfare of the community because the SF3 District permits the proposed improvements and the resulting improvements and parcel will otherwise comply with or exceed the applicable standards of the SF3 District.

- 2) *The use and value of the area adjacent to the property included in the variance will be affected in a substantially adverse manner:*

Finding: It is likely the use and value of adjacent property will be affected in a substantially adverse manner. The proposed variance would result in a reduced separation between the adjacent property and proposed improvements than otherwise permitted by the applicable standards of the SF3 District.

- 3) *The strict application of the terms of the zoning ordinance will not result in practical difficulties in the use of the subject property:*

Finding: Strict adherence to the zoning ordinance would not result in the inability to use the property as permitted for a single-family dwelling. **!**