



Petition Number: 1509-VS-12

Subject Site Address: 14946 Trotter Court (Village Farms)

Petitioner: Amy Heid by Mudslingers Pool & Patio

Request: The Petitioner is requesting a Variance of Standard for a reduction of the Rear Yard Minimum Building Setback Line in the SF2: Single-Family Low Density District (Article 4.5 (E)(3)(a)).

Current Zoning: SF2: Single-Family Low Density District

Current Land Use: Residential

Approximate Acreage: 0.4 acres+/-

Exhibits:

1. Staff Report
2. Location Map
3. Site Plan Exhibit
4. Petitioner's Application

Staff Reviewer: Amanda Rubadue, Associate Planner

PETITION HISTORY

This petition will receive a public hearing at the September 15, 2015, Board of Zoning Appeals meeting.

PROPERTY INFORMATION

The subject property is 0.4 acres +/- in size and is located at 14946 Trotter Court within the Village Farms subdivision (see **Exhibit 2**). The property is improved with a single family dwelling.

The property is zoned SF2: Single-Family Low Density District. The surrounding properties include other single family dwellings in the Village Farms subdivision.

VARIANCE REQUEST

The petitioner is requesting this variance to allow the construction of a proposed in-ground swimming pool that would be located in the rear yard, as generally illustrated on the Site Plan Exhibit (see **Exhibit 3**).

The standard for the Minimum Building Setback Line for the Rear Yard is thirty (30) feet (Article 4.5(E)(3)). The home currently has a rear yard setback of approximately 50 feet +/- . The petitioner is requesting a rear yard setback of nineteen (19) feet to accommodate the proposed 28'-wide by 14'-deep swimming pool with a 3' to 8' wide pool deck. An existing ten (10') foot drainage and utility easement runs along the west and south ends of the Property. The proposed pool improvements are not located within the existing 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 September 15, 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
3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property.

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.



DEPARTMENT COMMENTS:

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

Recommended Findings for Approval:

- 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 SF2 District permits the proposed improvements and the resulting improvements and parcel will otherwise comply with or exceed the applicable standards of the SF2 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 proposed improvement will enhance the value of the subject property; (ii) the improvements are below ground; (iii) the parcel will otherwise comply with or exceed the applicable standards of the SF2 District; and (iv) 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 proposed improvements and parcel would otherwise be permitted and comply with the Unified Development Ordinance.

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

Recommended Findings for Denial:

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

Finding: It is likely that approving the requested variance would not be injurious to the public health, safety, morals, and general welfare of the community because the SF2 District permits the proposed improvements and the resulting improvements and parcel will otherwise comply with or exceed the applicable standards of the SF2 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 SF2 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 because an alternative design of the proposed use and associated improvements could otherwise comply with the standards of the Unified Development Ordinance.