

We are in the process of renovating our pool, patio and side yard area, after having discovered defects in the paver patio construction completed in 2008 (part of a complete rebuild of the home after discovering severe termite damage). After a long legal battle, we are moving forward on renovations. To date, we have completed the new seawall cap, batter pilings and concrete dock. The renovation plan includes relocation of the hot tub (portable, stand-alone) which is currently located on the north side of the property, to the southeast corner of the lot, along with a privacy fence on the south lot line and a privacy fence at the northwest corner of the front lot. This will require variances from the City's Code, as follows:

1. Variance from Code Sec. 155.5302 FENCES AND WALLS (D)(2)(a) to allow a 6' privacy fence in the front yard (NW corner);
2. Variance from Code Sec. 155.5302 FENCES AND WALLS (D)(5)(a) to allow a 6' privacy fence on the South side property line; and
3. Variance from Code Sec. 155.4302(B)(2)(h) to allow placement of the hot tub within the 15' setback.

Following are the standards upon which a Variance application shall be evaluated and approved. A review of the following issues should lead to a finding that there is competent substantial evidence in the record to approve the requested variances.

**a. There are extraordinary and exceptional conditions (such as topographic conditions, narrowness, shallowness, or the shape of the parcel of land) pertaining to the particular land or structure for which the Variance is sought, that do not generally apply to other lands or structures in the vicinity.**

The property is a point lot uniquely situated in the City in that it is directly adjacent to the S.E. 11<sup>th</sup> Avenue / 6<sup>th</sup> Terrace bridge. As the bridge is currently configured, it provides a direct line of sight to the property adversely impacting the privacy and security of the home, side yard, pool, and patio area. In the past, we have had several items stolen from our property. Currently the bridge is undergoing a City-initiated renovation project that will involve several years of design and construction, including potentially raising the elevation of the bridge. This project will further adversely impact the privacy of the home side yard, pool, and patio area, including the hot tub as currently located.

**b. The extraordinary and exceptional conditions referred to in paragraph a., above, are not the result of the actions of the landowner.**

The bridge has been in place since the subdivision was developed and the bridge renovation is a City-initiated project. We have opposed the bridge project in large part due to the adverse impact it will have on our property.

**c. Because of the extraordinary and exceptional conditions referred to in paragraph a. above, the application of this Code to the land or structure for which the Variance is sought would effectively prohibit or unreasonably restrict the utilization of the land or structure and result in unnecessary and undue hardship.**

The north property line abuts the C-14 Canal and the bridge which as noted above creates privacy issues, as the entire north side of the property and approximately 75% of the rear pool and patio area are in a direct line of sight from the bridge. See photos attached to this application. Additionally, since this is a point lot, the 15' setback from the water

affects the entire North and East property lines severely restricting potential locations for the hot tub.

**d. The Variance would not confer any special privilege on the landowner that is denied to other lands or structures that are similarly situated.**

As noted above, the property is uniquely situated so there are few, if any similarly situated properties. Further, multiple other waterfront properties on the same canal and elsewhere in the City do not adhere to the sight visibility triangle requirements. For example, the neighboring residence owners have already installed landscaping along the property line to provide some measure of privacy for their pool and patio area, as have their neighbors to the south. Approving the variances would not confer any special privilege not already enjoyed by other property owners.

**e. The extent of the Variance is the minimum necessary to allow a reasonable use of the land or structure.**

Due to the proximity to the bridge and the point lot location, there are few areas where we could locate the hot tub to afford some privacy. The location of the hot tub on the site plan submitted, along with the privacy fence to supplement the neighboring property's landscaping is the minimum variance necessary to provide privacy and enable a harmonious development plan. The variance for the front fence is also the minimum variance necessary to provide privacy and security to our yard.

**f. The Variance is in harmony with the general purpose and intent of this Code and preserves its spirit.**

The purpose of the Residential Base Zoning Districts (Sec. 155.3201) provides that the districts are intended to provide a comfortable, healthy, safe and pleasant environment in which to live, more specifically, to “ensure adequate light, air, **privacy**, and recreational and open space areas for each dwelling, and **protect residents from the negative effects of noise**, incompatible population density, **traffic congestion**, flooding, and **other significant adverse environmental impacts.**” (Emphasis added). Approving the variance application would certainly allow us to enjoy some privacy, protect us from the negative effects of the bridge traffic, maximize the enjoyment of our property and enhance the security of our home.

**g. The Variance would not adversely affect the health or safety of persons residing or working in the neighborhood, be injurious to property or improvements in the neighborhood, or otherwise be detrimental to the public welfare.**

As evidenced by the photographs attached to the Application, the neighboring residence has landscaping along the adjoining property line which is at least 5' in height. Allowing a 6' fence on the property line would not adversely affect the current sight lines of the only adjoining property, nor would placement of the hot tub in the requested location create any adverse effect as it would not be above the current sight line. Further the front privacy fence will shield our pool and patio area from the busy street - SE 6 Terrace – which is the only entrance to the Garden Isles and adjacent neighborhoods from the North.

**h. The Variance is consistent with the comprehensive plan.**

The Variance would be in accord with the comprehensive plan as it allows for privacy and effective use of the property, with no adverse effect on surrounding properties, or the City as a whole.