

REPORT TO THE BOARD OF ZONING APPEALS

DATE: May 15, 2025

SUBJECT:

Case #250815 - 936 Aldwick Drive - Request approval of a Variance to allow an opaque fence taller than 48 inches to be located closer than 20 feet to the back-of-curb.

INTRODUCTION:

- Steven Williams (Crews Development), on behalf of property owner Michelle Van Horn, is requesting a variance to allow an opaque fence taller than 48 inches to be located closer than 20 feet to the back-of-curb (see Exhibits 3 & 6).
- The property, a fee simple townhome use, is located in the Byhalia Commons Planning Development (PD) north of Aldwick Drive and east of Armel Drive (see Exhibit 1).
- The property is zoned SCC: Shopping Center Commercial with a PD overlay allowing for townhomes.

BACKGROUND:

- The Byhalia Commons PD was originally approved in 2010. It does not contain custom fence standards for small alley-loaded lots.
- The Towne at Byhalia Commons Phase 3B (within the Byhalia Commons PD) was approved in 2023. There are fence design standards required for perimeter subdivision fencing; but the columns are not required for individual lots (see Exhibit 5, Page 7).
- Lot 56 (subject property) is part of Building 17 within the Towne at Byhalia Commons and was constructed in 2024.

KEY POINTS:

1. The requested variance would allow a 6-foot cedar fence along the west side of the lot to be closer than 20 feet from the back of the curb along Armel Drive (see Exhibits 3 & 6). The encroachment into the required setback from the curb would be one (1) foot.

- The proposed fence would be located 19 feet from the back of the curb (four (4) feet behind sidewalk).
- The Towne at Byhalia Commons has a 22-foot minimum required front yard setback and a 20-foot rear yard setback.
- The applicant states the fence must be constructed in the side yard, as there is no small back yard on this corner lot, like most of the homes within this Subdivision (see Exhibit 5).
- The applicant proposes a gate to be approximately three (3) feet from the face of the HVAC unit.

2. The townhouse is on a corner lot, accessed by a rear alley and atypical in shape (see Exhibits 6 & 7).

- This lot is atypical because there is no option for fencing in another location other than the side yard, as the north elevation is the garage adjacent to the alleyway, and the east elevation is a shared wall to the adjacent property owner (see Exhibits 3 & 7).
- The applicant is requesting the variance to construct a fence on the west side of the lot to enclose the side porch of the home, ensuring the safety of the property owner's pets.
- The property owner has approval from the Homeowners' Association for the fence design and

location.

3. The Zoning Ordinance §151.006(C)(4)&(9) prescribes the maximum fence height based on location within a yard.

- On corner lots, on the street side on which the house does not face, an opaque fence or wall not exceeding 6 feet in height may extend no more than ten (10) feet into the front yard setback. In no case shall a fence or wall greater than 48 inches in height be located closer than 20 feet from the back edge of the curb (or edge of pavement for a rural road cross section).
- The proposed six (6) foot (72 inches) fence would extend three (3) feet into the front yard setback and would be located 19 feet from the back of the curb.

4. The Zoning Ordinance §151.006(C)(4)&(8) prescribes the maximum opacity based on location within a yard.

- For front yard fences, the body of a fence located between a street and a principal structure may have a maximum opacity of 75%.
- Opacity is defined as the degree of openness to which light or views are blocked, measured perpendicular to the fence for each fence section between supports. Picket-style fences often have an opacity of 75% or less.
- Opacity limitations are meant to maintain an open appearance along public streets and to prevent crime.
- There are exceptions to the opacity limitations including common open space fences, reverse frontage fences/walls abutting an arterial or a 4-lane or greater collector street, a screen fence/wall, masonry walls subject to Design Review Commission (DRC) approval, retaining walls, or a pool barrier as required by the Swimming Pool Code.
- The applicant states they are providing approximately 170 feet of intersection sight distance for west-bound traffic on Aldwick Drive, which is enough (in their opinion) to avoid any sightline issue (see Exhibit 6). The Town's Traffic Engineer is not concerned about the proposed fence placement.

5. There are alternatives to allowing the solid fence one (1) foot closer to the curb than normally allowed.

- The 6-foot fence could be 20 feet from the back of the curb, instead of 19 feet as proposed.
- The property owner can reduce the fence height from 6 feet to 4 feet and decrease the opacity to a minimum of 75% to allow it to extend closer to the back edge of the curb. In this case it could not block the sidewalk. Examples of a more open fence include metal or wooden pickets.
- The property owner can also install evergreen landscaping by itself or in addition to the 4-foot fence to provide privacy.
- A PD Amendment could be requested to allow an opaque 6-foot fence in the front yard to be closer to the curb for small-lot neighborhoods such as this.
- The applicant could apply to change the Zoning Ordinance to allow for a 6-foot fence to be closer to the curb for smaller lots. Staff plans to address fencing on small lots in an upcoming "clean-up ordinance" later this year but the exact language has not been drafted, and it is uncertain if the Board of Mayor and Aldermen (BMA) would adopt the changes.

6. The BZA approved variances similar to this before for corner lots in small-lot developments:

- 3513 Rokeby Farm Lane (Lot 16, Village at Strathmore Planned Development) in April 2021, with a 6-foot fence located 10 feet back from the curb.
- 1720 Chadwick Farms Loop S in July 2024, for an opaque fence taller than 48 inches to be located closer than 20 feet from the back edge of the curb.
- 221 Chadwick Woods Lane in July 2024, allow for an opaque fence taller than 48 inches to be

located closer than 20 feet from the back edge of the curb on a corner lot.

To grant a variance, the Board must identify exceptional physical conditions on the property creating an undue hardship or practical difficulty, preventing reasonable use under the Zoning Ordinance. The ordinance allows a variance only if it does not cause substantial harm to the public good or significantly impair the ordinance's intent.

The Ordinance requires the Board to review a specific set of criteria, Section 151.309(F)(1), in considering each request. The Board must find the request meets all the applicable criteria based upon the evidence presented. If the request does not meet the criteria, it must be denied. The staff analysis of the criteria ("Standards for Variances") is found in Exhibit 4. The applicant's full responses are found in Exhibit 3.

STAFF RECOMMENDATION: Approval of the variance is recommended because the Standards for Variances (Exhibits 3 & 4) have been satisfactorily addressed, and the conditions of approval (Exhibit 2) will limit potential adverse impacts.

ATTACHMENTS:

[Exhibit 1 Vicinity Map 4.30.25.pdf](#)
[Exhibit 2 Conditions of Approval 5.9.25.pdf](#)
[Exhibit 3 Cover Letter 3.27.2025.pdf](#)
[Exhibit 4 Standards for Variances 5.9.25.pdf](#)
[Exhibit 5 Photo 3.27.25.pdf](#)
[Exhibit 6 Fence Site Layout 5.8.25.pdf](#)
[Exhibit 7 Recorded Plat 3.27.25.pdf](#)

PROPOSED MOTION:

To approve a Variance to allow an opaque fence taller than 48 inches to be located closer than 20 feet from the back edge of the curb at the property located at 936 Aldwick Drive, subject to the conditions in Exhibit 2.

CONTACT INFORMATION:

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