

**MINUTES  
BOARD OF ADJUSTMENT MEETING  
OCTOBER 23, 2018  
MEETING 5:00 P.M.**

**CALL TO ORDER:** Chair Ike Fountain

**INVOCATION AND PLEDGE OF ALLEGIANCE** Vice Chair Joyce Schmidt

Those in attendance were Chair Ike Fountain, Vice Chair Joyce Schmidt, Luis Diaz, and Irving Spokony.

Staff in attendance were Community Development Director Ameen Bailey and Deputy Clerk Mamie Drane.

**Board Members** absent: William Castle and Rick Roach.

With a quorum present; the meeting was called to order.

**Board Member Spokony** made a motion to accept the September 17<sup>th</sup> 2018 minutes, **Vice Chair Schmidt** seconded the motion. The motion was approved by unanimous voice call vote.

**BUSINESS ITEMS**

**PUBLIC HEARING:**

**1. VARIANCE REQUEST REGARDING THE HEIGHT AND SETBACK FOR A FENCE  
LOCATED AT 863 LAKE CUMMINGS BLVD.**

**Community Development Director Bailey** stated the applicant has submitted the variance application stating their desire to install a fence to provide a protected play area for their children. Within the Lake Cummings subdivision, there are several homes with 6' fences similar to the fence requested by the applicant. In addition, the lot across the street (448 Lake Cummings Blvd.) was allowed to install a 6' fence on a corner lot. The applicant had initially requested the 6' foot fence within the setback which greatly limited his yard. The Building Official allowed the 6' fence as long as they met the 30' setback based on the last sentence of the code above. "Fences or walls that exceed the height limits established in this Section shall meet side and rear setback requirements applicable to accessory structures, and front setback requirements applicable to principal structures." The property owner across the street did meet the 30' setback and was not required to request a variance. The site plans show the difference in the lot layout and where the 30' setback is located on each property. The difference between the two lots is the direction of the side street and how it impacts the rear yard setback. Lot 448 was able to meet the 30' setback without intruding into the rear yard. **Director Bailey** pointed out specific areas and gave explanations using on screen pictures and maps. She stated, on corner lots the main reason for the 30 foot setback in the front is to accommodate additional parking. The setback for the sides is to allow pedestrian and vehicular visibility at the corner. Because this lot is so big, even at the ten foot setback, there would still be visibility. Based on the site layout and neighboring property fence, staff recommends approval of the height and setback variance, with the stipulation that the fence not impact the 10' utility easement. The 10' area would also provide sufficient area to see vehicles and pedestrians around the corner.

**Alberto Viezcas Jr.** 863 Lake Cummings Blvd. stated the main reason he is asking for the fence is that there are three reregistered sex offenders that live within sight of his house. He has small children and does not feel comfortable allowing them to play outside, without a privacy fence.

**Chair Fountain** asked about the placement of the fence, then addressing the Board, he asked the Board Members if they had any comments or objections concerning the fence as presented on the site plan.

**Board Member Spokony** stated he appreciates the fact that he wants the fence to keep his children safe.

**Board Member Diaz** asked if the HOA approved the fence.

**Mr. Viezcas** stated the HOA has approved every different variation of the fence placement that he has submitted to them.

**Chair Fountain** read the conditions of approval

1. Approval of this variance shall only apply to the fence proposed at 863 Lake Cummings Blvd.
2. The fence shall meet a minimum 10' setback along Lake Cummings Blvd. to prevent the fence from impacting the utility easement.
3. Approval of this variance shall not constitute a waiver or an additional variance from any applicable development regulation unless specifically noted in the conditions of approval and consistent with ULDC. Therefore. Any other fences, additions, or structures placed on the property shall be required to meet the setback requirements of the R-1AA zoning district or obtain another variance.
4. The applicant shall apply for the necessary building permits for the proposed structure by October 23, 2019 or this approval shall be void.

**Board Member Spokony** moved to grant the variance request as presented, with the staff conditions of approval, after hearing competent substantial evidence that meets all the variance criteria set forth; and hereby authorize the Chairman to sign a Development Order to be recorded in Polk County Public Records; motion was seconded by **Board Member Diaz**. The motion was approved by unanimous voice call vote.

## **2. VARIANCE REQUEST REGARDING A REAR YARD SETBACK LOCATED AT 526 HAYWOOD DR.**

**Board Member Diaz** moved to table the variance request presented to allow the applicant an opportunity to provide additional evidence or to modify the request; it was seconded by **Board Member Spokony**. The motion was approved by unanimous voice call vote.

With no further business the meeting was adjourned at 5:28 pm.

Respectfully submitted,



Mamie Drane  
Deputy City Clerk