

Board of Adjustment

Staff Report

CASE NUMBER: BOA18-00570
STAFF PLANNER: Evan Balmer, AICP
LOCATION/ADDRESS: 1141 North Miller Street - the 1100 block of North Miller Street (east side) and the 1000 block of East Brown Road (south side)
COUNCIL DISTRICT: District 1
OWNER: Richard and Marilyn Corrow
APPLICANT: Richard Corrow

REQUEST: *Requesting a Variance to allow a wall height encroachment in the RS-9-BIZ district.*

SUMMARY OF APPLICANT'S REQUEST

The applicant is requesting a variance to allow a wall to exceed the maximum allowed height in a 10 foot portion of the front yard setback in the RS-9-BIZ district.

STAFF RECOMMENDATION

Staff recommends **approval** of case BOA18-00570, **with the following conditions:**

1. *Compliance with the site plan submitted.*
2. *Compliance with the conditions of approval of case ZON18-00221.*
3. *Compliance with all requirements of the Development Services Division in the issuance of building permits.*

SITE CONTEXT

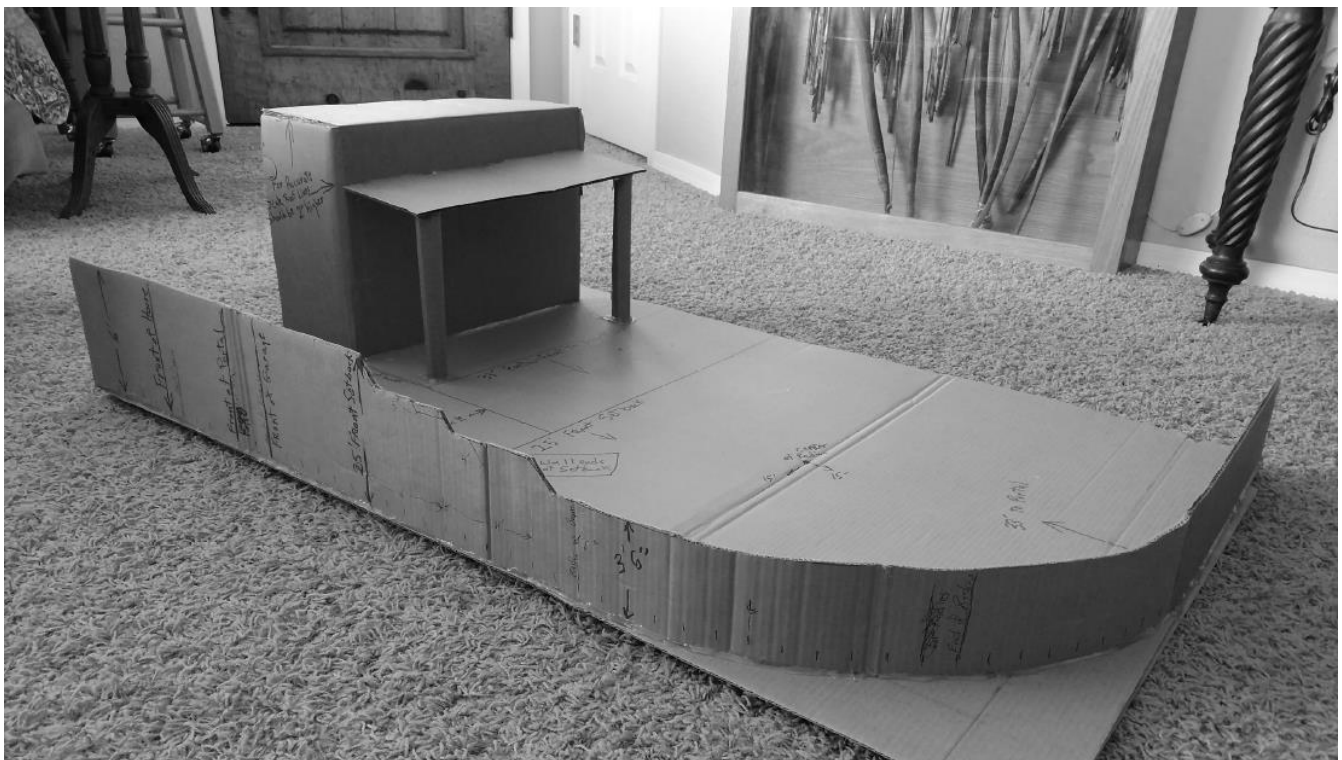
CASE SITE: Vacant – zoned RS-9-BIZ
NORTH: (Across Brown Road) existing office – zoned OC
EAST: Existing single residence – zoned RS-9
SOUTH: Existing single residence – zoned RS-9
WEST: Existing church – zoned RS-9

STAFF SUMMARY AND ANALYSIS

The applicant recently rezoned the subject property (ZON18-00221), which is currently vacant, from OC to RS-9-BIZ and intends to construct a new single-family residence on the property. The property is located on the southeast corner of Brown Road and Miller Street and is Lot 1 of the Michael Estates subdivision, which was platted in 1973. The lot is still in its original platted configuration and meets all of the standards of the RS-9 district. However, there are some unique topographic issues that are present on the subject property that are not present on the majority of other lots in the subdivision. There is a canal that crosses Brown Road approximately 95 feet northeast of the property. In order to accommodate the canal, the grade of Brown Road begins to increase west of the applicant's property, resulting in an elevated road grade that is even higher at the rear of the property than it is in the front of the property. This can be seen in the images below:



MZO section 11-30-4 allows fences and freestanding walls in the RS zones to be a maximum of 6 feet high along the property line when located in the side and rear yards. When the fence is located in the required front yard setback, the maximum height allowed is 3.5 feet if the fence is solid, or 4.5 feet with the top 1.5 feet being visually transparent. The applicant is intending to build a Santa Fe style home and would like the property-line wall along Brown Road to be architecturally consistent with the design of the home. To accommodate that goal, the applicant's proposal is to continue the 6 foot wall height into the 25-foot front setback (required in the RS-9 zone) and then step the wall down in 8 inch increments over a 10 foot span down to the allowable height of 3.5 feet as shown in the model provided by the applicant below:



As justification for the requested variance, the applicant has noted:

1. Due to the canal located behind their property, the elevation of Brown Road is higher at the rear of the

- property than it is at the front of the property.
2. The increased height of the wall may help to decrease some of the traffic noise of Brown Road.
 3. The proposed wall is architecturally consistent with the home the applicant intends to build on the property.

The Board of Adjustment must find the following items are present to approve a variance:

- a) *There are special circumstances applicable to the property, including its size, shape, topography, location, or surroundings. **See Findings 1***
- b) *That such special circumstances are pre-existing, and not created by the property owner or appellant. **See Findings 1 and 2***
- c) *The strict application of the Mesa Zoning Ordinance will deprive such property of privileges enjoyed by other properties of the same classification in the same zoning district. **See Findings 3 and 4***
- d) *Any variance granted will assure that the adjustment authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located. **See Findings 3 and 4***

FINDINGS

1. The raised elevation of Brown Road, adjacent to the side of this parcel is a topographical issue present on this property that is not present on the other lots in the subdivision.
2. The property is in its original configuration from when the Michael Estates subdivision was platted in 1973. There have been no subsequent alterations to the property lines or site elevations.
3. Other properties in the area do not have the same grade change as the subject property, which presents unique issues with regard to privacy and noise concerns.
4. Strict compliance with Code would deprive the applicant of the ability to construct a sufficient fence that will provide separation from the property and the adjacent roadway.
5. The wall encroachment is ± 10 feet in length, and steps down in 8 inch increments to the height allowed in the front setback.

ORDINANCE REQUIREMENTS

Zoning Ordinance, Sec. 11-30-4– Fences and Freestanding walls in the AG, RS, RSL, RM and DR Districts:

1. Maximum Height.
 - a. Front Yards . No opaque or non-transparent fence or freestanding wall within or along the exterior boundary of the required front yard shall exceed a height of 3.5 feet. Fences or freestanding walls over 3.5 feet high are allowed in front yards, provided the fence or freestanding wall does not exceed a maximum height of 4.5 feet, and the topmost 1.5 feet is visually transparent and not opaque.
 - b. Side and Rear Yards . No fence or freestanding wall within or along the exterior boundary of the required side or rear yards shall exceed a height of 6 feet.

Zoning Ordinance Sec. 11-80-3: Required Findings:

A variance shall not be granted unless the Zoning Administrator, when acting as a Hearing Officer, or Board of Adjustment shall find upon sufficient evidence make a determination:

- A. There are special circumstances applicable to the property, including its size, shape, topography, location, or surroundings, and
- B. That such special circumstances are pre-existing, and not created by the property owner or appellant; and
- C. The strict application of the zoning Ordinance will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district; and

- D. Any variance granted will assure that the adjustment authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located