



City of Powell  
Board of Zoning Appeals

APPLICATION FOR VARIANCE

Applicant: Gabriel & Emily Norris

Location: 4696 Hunters Bend

Zoning: (PR) Planned Residence District

Request: Approval of a variance in order to build a fence 12 feet past the 30 foot build line.

A public hearing was held before the City of Powell Board of Zoning Appeals December 6, 2018, pursuant to Codified Ordinance Chapter 1127 concerning the Application for Variance of Gabriel & Emily Norris ("the Applicant") to allow a fence to be built 12 feet past the 30-foot build line located at 4696 Hunters Bend ("the Property").

Members Duncan, Hiles, Short and Wiencek were present, constituting a quorum of the Board. Board Member Hiles swore in all present who intended to testify.

Assistant Director of Development Rocky Kambo presented the staff report on the request, which recommended approval of the architectural and site details.

The Applicant testified in support of the request.

No one testified in opposition to the request.

Upon consideration of the oral testimony together with documents and exhibits marked and admitted, the Board makes the following findings and decisions:

**I. FINDINGS OF FACT**

1. Section 1127.06 of the Codified Ordinances of the City of Powell set forth the following standards for variance requests:

- a. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property in question [without the variance];
  - b. Whether the variance is substantial;
  - c. Whether the character of the neighborhood would be adversely affected or whether adjoining properties would suffer an adverse impact as a result of the variance;
  - d. Whether the variance would adversely affect the delivery of governmental services (e.g., water, sewer, garbage);
  - e. Whether the property owner purchased the property with knowledge of the zoning restriction;
  - f. Whether the property owner's predicament feasibly can be obviated through some method other than a variance;
  - g. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.
2. On November 9, 2018, the Applicant, Gabriel & Emily Norris, submitted an Application for Variance concerning the Property, located at 4696 Hunters Bend in the City of Powell.
  3. The parcel in question is subject to a 30' side-yard setback.
  4. The proposed fence would encroach 12' into the 30' side-yard setback.
  5. The property owner inquired about permissible fence locations prior to purchasing the property, and received a mistaken response that the proposed location would be permitted.
  6. The 12' encroachment into the side-yard setback of this parcel is insubstantial in the context of this parcel and its surroundings.
  7. The character of the neighborhood would not be adversely affected by this variance, and adjoining properties would not suffer adverse consequence due to the variance.
  8. The property owner did not purchase the property with knowledge of the restriction.
  9. The variance will not adversely affect delivery of government services.
  10. The property owner's predicament cannot feasibly be obviated other than through a variance.
  11. The property would be deprived of beneficial use without this variance.
  12. The spirit and intent behind the zoning requirement would be observed and substantial justice done by granting this variance.

13. Installation of landscaping between the street and the fence would assist in alleviating the impact of the fencing permitted by the variance.
14. The Board conducted its hearing in an open meeting.
15. All who testified were duly sworn in.
16. These proceedings were conducted in accordance with Chapter 1127 of the Powell Codified Ordinances, including all provisions for notice.
17. The application meets each of the standards set for granting variance, and the variance granted is the minimum variance that will make possible a reasonable use of the land.

## II. DECISION

Upon consideration of the testimony and exhibits admitted, by a vote of 4-0, the Board of Zoning Appeals agrees the variance satisfies the criteria for variances set forth in Section 1127.06 of the Codified Ordinances, subject to condition; therefore the Board approve the Application for Variance for the property located at 4696 Hunters Bend as represented by Gabriel & Emily Norris, to allow a fence to be built 12 feet past the 30 foot build line, subject to the following conditions:

1. That the Applicant shall obtain approval from City Staff and the Home Owner's Association for installation of landscaping along the street side of the fence.

The City and/or the Applicant are authorized to take any further action consistent with this decision. The Board's decision is appealable as provided by law.

Dated this 11 day of JAN, 2019.

For the Board of Zoning Appeals:

  
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Robert Hiles, Board Member

Approved as to Form per C.O. 1127.13:

  
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Eugene L. Hollins  
Law Director