



Legislation Text

File #: 19-0215, **Version:** 1

ITEM TITLE:

Approval of Variance Application #19-01 from Mary Mehlberg for a 12-foot Tall Retaining Wall on Lots 54 & 55, Block 2, Mineral Creek Heights Subdivision

SUBMITTED BY: Kate Huber, Senior Planner

FISCAL NOTES:

Expenditure Required: N/A

Unencumbered Balance: N/A

Funding Source: N/A

RECOMMENDATION:

Approve Variance Application #19-01 from Mary Mehlberg for a 12-foot tall retaining wall on Lots 54 & 55, Block 2, Mineral Creek Heights Subdivision.

SUMMARY STATEMENT:

On April 5, 2019, Mary Mehlberg submitted an application for a variance to allow the construction of a retaining wall on her lots 54 & 55, Block 2, Mineral Creek Heights Subdivision. The retaining wall is 12 feet tall at its highest point. VMC 17.48.070 states that “any fence, wall or hedge may not exceed four feet in height along the side yard within the front yard setback or along the front property line”. Because the planned retaining wall exceeds four feet in height, a variance is required before the building permit application can be approved during a zoning review. As defined by VMC 17.06.050, “a variance grants an exception to a standard of a zoning district but not to the use restriction of that zoning district, and then only when unusual physical characteristics of the land make application of the standard an undue hardship”. In the case of a variance the following provisions shall apply:

1. A variance or exception shall not be granted that will permit a land use in a district in which that use is prohibited.

Variance Application #19-01 is for a wall to be constructed to allow for the construction of a single-family residence, which is a permitted principal use in the zoning district. (VMC 17.14.020)

2. A variance or exception shall not be granted because of conditions of financial hardship or convenience, or when caused by actions of the applicant seeking relief.

The applicant cites lot topography as reason for variance, not financial hardship.

3. There are exceptional physical characteristics or conditions pertaining to the property which may affect intended use or development which do not generally apply to other properties in the same zoning district;

The applicant cites the steep up-sloping hillside from street level on the lot, leaving the lot largely unbuildable without a retaining wall as the reason for the variance request

4. The strict application of the provisions of this title would result in practical difficulties or unnecessary hardship;

The applicant states that construction on the property would be cost prohibitive without creating some level area. The applicant sees a retaining wall as the best way to address this issue.

5. The granting of the variance will not result in material damage or prejudice to other properties in the vicinity nor be detrimental to the public health, safety or welfare;

The applicant states that the wall will be constructed from solid concrete using a form liner to create a cobblestone appearance. More detail is available in the attached application, including engineered plans and an artist's rendition of the wall design.

6. The granting of the variance will not be contrary to the objectives of the comprehensive plan.

Staff does not believe that the granting of this variance will be contrary to the objectives of the comprehensive plan. The applicant plans to construct a single-family residence in an area that has been designated for such use and is already serviced by utilities. The construction of a new home aligns with the following goal of the comprehensive plan:

Goal/Residential Land Use - Provide safe, convenient, and attractive residential areas that protect and enhance property values while encouraging economies in necessary community expenditures for required community infrastructure and utilities.

Due to scheduling concerns for the contractor on this project, Harris Sand & Gravel, the Planning and Zoning Commission approved a request from Ms. Mehlberg to hold the public hearing and commission decision for the variance application at the same meeting (May 9, 2019). This decision was made at their meeting on April 24, 2019. Staff asks that the commissioners take any public testimony from the public hearing into consideration as they make their decision.

The City's Building Inspector, Jay Yunker, did an initial review of the plans that were submitted for the retaining wall. He did not express any concerns, except that he would like to see more detail regarding the utility locations. He also questioned the location of the wall from the street. The wall runs along the property line of each parcel. Because the street does not currently extend the entire width of the plated right-of-way, the wall will be set back from the street at this time. See attached designs and map for more detail.

Staff will seek comments from the Public Works department regarding the wall and utility locations. Any further comments received will be presented during the meeting for the record.

Please note that if the removal of the lot line between Lots 54 and 55 is approved by the Planning & Zoning Commission, staff will correct the legal description to reflect the changes made on the new

plat before the variance is executed.