



# WILDWOOD

## Determination of Issues and Findings of Facts

### Board of Adjustment Case **B.A. #11-16**

City of Wildwood's Board of Adjustment

Public Hearing of July 21, 2016

City Hall Council Chambers

16860 Main Street

### **Nature of Request:**

**B.A. 11-16 Comia Home Builders, 101 Royallmanor Lane, O'Fallon, Missouri 63368** - requests exceptions to the *Minimum Yard Requirements (General)* and the *Natural Resource Protection Standards* for the purposes of constructing a two (2) story, single-family dwelling, with a 4-car, side-entry garage, at 3737 Bear Tooth Lane (Locator Number 25Y220083; Black Bear Ridge Estates, Lot 1), which would thereby authorize the following: (1.) an encroachment of eight (8) feet into the required twenty-five (25) foot Foundation Setback Area from the Final Resource Protection Area Line; and (2.) an individual household treatment system that requires its encroachment into the Natural Resource Protection Area to accommodate its placement. This extent of encroachment of this system into this one hundred percent (100%) protected area of the overall lot is approximately 3,100 square feet. This request is contrary to the requirements of Chapter 420.200 Natural Resource Protection Standards and Procedures of the City of Wildwood *Subdivision and Development Regulations* and Chapter 415.090 NU Non-Urban Residence District Regulations of the City of Wildwood Zoning Ordinance. **(Ward Six)**

### **Determination of Issues:**

Principle to this request is the identification of its issues. This identification process is intended to determine whether the variance is reasonable and appropriate under the criteria that the property's site-specific characteristics create a unique hardship or practical difficulty with the application of individual ordinance requirements and, if granted, its impacts are contained to the tract of land under consideration or negligible enough upon adjoining properties to be considered acceptable. In the instance of B.A. 11-16, the issues relating to the variance's reasonableness and appropriateness are as follows:

### **General Site and Area Conditions**

1. The subject site of this request is a 10.32 acre parcel of ground that is part of the Black Bear Ridge Estates Subdivision and has over twelve hundred thirty (1,230) feet of frontage, nearly a quarter of a mile, along Bear Tooth Lane, which is a privately-maintained roadway by the Homeowners Association of this residential subdivision.
2. The subject property, known as Lot 1 of Black Bear Ridge Estates, is zoned NU Non-Urban Residence District and vacant at this time. This zoning district designation establishes certain areas on the lot, where building and structures cannot be located (setbacks), along with the

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disturbance/preservation requirements established by the Natural Resource Protection Standards.

3. The subject site was platted by the City of Wildwood, as part of a seven (7) lot residential subdivision, and is governed by the regulations and procedures of the Natural Resource Protection Standards of the Subdivision and Development Regulations. These standards establish the 'Final Resource Protection Line,' and an accompanying twenty-five (25) foot foundation setback on the lot, which is platted as part of this overall subdivision. These standards specify where development on a lot can occur and areas on the same where no disturbance is allowed. Approximately 9.33 acres, or 90.4%, of the site is preserved by these standards and cannot be disturbed.
4. The twenty-five (25) foot setback from the 'Final Resource Protection Line' is intended to limit the placement of the building's foundation, but allows grading and the construction of accessory structures, such as pools, decks, and outbuildings, to occur within it.
5. The intent of the Natural Resource Protection Standards is to protect those areas of the site that are most susceptible to erosion due to development practices and preserve other locations on the property where stormwater runoff naturally drains to avoid potential problems with their alteration, while allowing use of appropriate portions of the tract of land due to their soil depth, shape, content (attributes and restrictive layers), and slope.
6. The development of these regulations were prompted by conditions that existed at the time of the City's incorporation, and verified by an eminent soil scientist from the University of Missouri – Columbia, which were causing degradation of watersheds and related ecosystems, loss of private property, and damage to public infrastructure.
7. The Natural Resource Protection Standards have been applied to a number of residential subdivisions, like Black Bear Ridge Estates, since its adoption in 1996.
8. The City of Wildwood mandates the requirements relating to the Natural Resource Protection Standards be included on the Record Plat and within the Trust Indentures, before any lot can be sold.

### **Current Request**

9. The intent of this request is to allow the home's foundation to encroach eight (8) feet into the twenty-five (25) foot foundation setback of the Final Resource Protection Area, as well as authorize a three thousand one hundred square foot (3,100) portion of the individual household treatment system to encroach into the current 'Final Resource Protection Limits' on the site.
10. The information provided by the applicant in support of this request indicates an decrease in the overall protected area by 0.08 of an acre and reducing the overall protected area to 9.25 acres of the site.
11. The proposed area for this dwelling's location is slightly less steep, minus extensive vegetative cover, and does not have drainageways in its proximity, like much of the remainder of the site.

### **Correspondences and Previous Actions**

12. The site was duly posted in accordance with City code requirements, including the placement of a sign on the property, an advertisement in a newspaper, and a posting at City Hall. Along with these notifications, a direct mailing was sent to surrounding properties advertising the request.
13. The Department of Planning has received three (3) comments in opposition, of said request, at the time of the writing of this report.

14. The Department's review of the Board of Adjustment's files indicates no variances have been granted to this particular lot, while two (2) previous variances have been granted in this residential subdivision. These previous variances, which were granted in October 2004 and June 2015, requested similar allowances relative to the current request, i.e. 1.) a reduction in the foundation setback from the Final Resource Protection Area (this request was on Lot 2); and 2.) a relocation of the defined Natural Resource Protection Area from its existing location on the lot to another area of it (this request was on Lot 5).

#### **Findings of Fact:**

The Department of Planning has reviewed this request with regard to the criteria established for its approval or denial, i.e. site characteristics, which render a unique hardship or a practical difficulty and impacts on adjoining properties, and believes this request **does meet** the requirements set forth to be considered reasonable and appropriate. This position is premised upon a number of site-specific findings. These findings are as follows:

1. The requested encroachment of the disturbance area defined upon the lot is minimal [0.08 of an acre] and logical from the standpoint of topography and attribute protection levels. This change guarantees the developable area of this site will not cause harm to the surrounding environment.
2. The Natural Resource Protection Standards allow for some flexibility in the movement of the Final Resource Protection Line, especially given that the net result will be a minimum amount of reduced preservation area upon the respective site.
3. The proposed disturbance area keeps the potential activity and construction off the steeper slopes and drainage areas that traverse much of the site and is entirely located within a portion of the property that has the least amount of tree cover.
4. The impacts on surrounding properties are limited, since the proposed dwelling location is to be centrally placed on this lot and retains the vegetative buffer on the remaining 9.25 acres of the site.
5. The design of the buildable areas on the seven (7) lots that form this subdivision were premised on housing footprints over a decade ago, which have changed, along with these properties being sold for custom-designed homes and not mass-produced models, thereby rendering a standard footprint less likely to match. Additionally, this subdivision requires a minimum home square footage of 3,000 square feet, which generally is a larger footprint.

#### **Recommendation:**

Considering the above-listed Findings of Fact, the Department recommends the Board of Adjustment approve the requested variance, as submitted by the petitioner. The Department would request as part of the Board of Adjustment's favorable action that it require the Natural Resource Final Protection Line, and the accompanying twenty-five (25) foot foundation setback line, be replatted and recorded with St. Louis County to accommodate the proposed location of the homesite and individual household treatment system.

Respectfully submitted,  
CITY OF WILDWOOD

Department of Planning