



# WILDWOOD

## Determination of Issues and Findings of Facts

### Board of Adjustment Case **B.A. #13-16**

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. 13-16 Vern M. and Kristen Heyer, 16775 Will's Trace Court, Wildwood, Missouri 63005** - request an exception to the *Natural Resource Protection Standards* for the purpose of allowing an existing retaining wall at 16775 Wills Trace (Locator Number 20U440082, Wills Trace Subdivision, Lot 19) to be retained at its current placement, which would thereby authorize a minimum nine (9) foot encroachment into the Final Resource Protection Area of the subject lot. 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*, Chapter 415.090 NU Non-Urban Residence District Regulations of the City of Wildwood Zoning Ordinance, Planned Residential Development Overlay District Ordinance #445, and the Record Plat Ordinance approved by City Council on October 23, 2000. (**Ward Two**)

### **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. 13-16**, 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 1.64 acre parcel of ground that is part of the Wills Trace Subdivision and has over two seventy (270) feet of frontage along Will's Trace Court, which is a privately-maintained roadway by the Homeowners Association of this residential subdivision.
2. The subject property, known as Lot 19 of Will's Trace, is zoned NU Non-Urban Residence District with a Planned Residential Development Overlay District, and has a single-family residence, which was constructed in 2002, located upon it, along with associated accessory structures at this time. This zoning district designation establishes certain areas on the lot, where building and structures cannot be located (setbacks), along with the 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 twenty-one (21) lot residential subdivision, and is governed by the regulations and procedures of the Natural Resource

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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 0.88 acres, or 53.3%, of the site is preserved by these standards.

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 Will's Trace, 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 encroachment of an existing retaining wall and fencing into the current 'Final Resource Protection Line,'
10. The current owner is selling the property and, as part of the property sale, a survey of it was completed. The results of this survey found that the retaining wall, and pool fencing, which were installed at the time of the swimming pool installation in 2004, both encroach into the Final Resource Protection Area.
11. The fencing encroaches less than five (5) feet, and the retaining wall approximately nine (9) to ten (10) feet on the eastern end of its length, then approximately five (5) feet in its central portion, extending to the northwest, into the Final Resource Protection Area.

#### **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 one (1) comment in support 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 three (3) previous variances have been approved in this residential subdivision. These previous variances, which were granted in January 2006, December 2007, and August 2008 respectively, requested similar encroachments into the defined limits of

the Natural Resource Protection Area. These requests were on Lot 5 and 1 (Both 2007 and 2008 requests were on this property).

### **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 rear of the property has a steep slope, in excess of thirty percent (30%) from the retaining wall to the rear corner of the lot. From this rear corner of this lot, the elevation continues to decrease into a large, ten (10) acre common ground area behind this property, for forty-eight (48) feet in elevation difference.
2. The retaining wall is a necessary improvement to provide the homeowner use of their allowed backyard area.
3. The discovered disturbance area is very small relative to the overall protected area.
4. The impacts on surrounding properties are minimal and unseen by any neighboring residence, since the encroachment is centrally located on the petitioner's property, to the rear of the home, and faces only wooded common ground area.

### **Recommendation:**

Considering the above-listed Findings of Fact, the Department recommends the Board of Adjustment approve the requested variance, as submitted by the petitioner.

Respectfully submitted,  
CITY OF WILDWOOD

Department of Planning