

## MEMORANDUM

TO: Chapel Hill Board of Adjustment

FROM: Tas Lagoo, Principal Planner

SUBJECT: 7608 Justin Place: Dimensional Variance  
(PIN 9890-06-2216, Project # BOA-25-3)

DATE: June 5, 2025

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### VARIANCE REQUEST SUMMARY

The applicant, Michael McNulty, requests a variance from the maximum height limit for fences located within property setbacks.

### BACKGROUND

The applicant owns the home located at 7608 Justin Place and has resided there since 1989.

The property is located adjacent to the Weavers Grove community, which was approved by the Chapel Hill Town Council on June 24, 2020. Prior to the development of the Weavers Grove community, the Town owned an unused right-of-way north of the applicant's property. On January 11, 2023, the Town Council closed a portion of the right-of-way and transferred sections of it to the owners of the Weavers Grove community and to several property owners in the Chandler's Green community, including the applicant.

An 8-ft tall fence is currently located on the applicant's old property line.

### EXTENT OF VARIANCE

LUMO § 3.8.3 allows fences to be located at or near property lines so long as they do not exceed defined height limits. To install a fence that exceeds the defined height limits, a property owner must either place the fence outside of the applicable setback or seek a variance.

LUMO § 3.8.3 – Exceptions to Setback and Height Regulations	Current	Requested
Northern property line (adjacent to Weavers Grove)	6 feet	8 feet

### DISCUSSION

In the case of applications for a variance, the board's decision must be based on findings as to each of the determinations required in LUMO Section 4.12. The board may choose to approve, approve subject to conditions, or deny the application. The board may impose reasonable conditions on the granting of any variance to ensure that the public health, safety, and general welfare are protected and substantial justice is done. In its consideration of applications for a

variance, the board shall not use the existence of nonconformities in the vicinity as justification for the granting of variances.

Section 4.12.2(a) of the LUMO provides:

When unnecessary hardships would result from carrying out the strict letter of a zoning ordinance, the Board of Adjustment shall have the power to vary or modify any of the regulations or provisions of the ordinance upon a showing of all of the following:

(1) Unnecessary hardship would result from the strict application of the ordinance.

It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

(2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.

(3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.

(4) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

The attached materials include two resolutions:

- **Resolution A** directs staff to prepare a written order **granting** the variance.
- **Resolution B** directs staff to prepare a written order **denying** the variance.

The board will need to formally adopt the written order prepared by staff at its next meeting.

**Attachments:**

1. Resolution A (directing staff to prepare a written order **granting** the variance)
2. Resolution B (directing staff to prepare a written order **denying** the variance)
3. Variance Procedures
4. Application Materials