

## **FENCE APPLICATION – 7608 JUSTIN PLACE**

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- 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.
- We are requesting a dimensional variance to allow for replacement of our current 8-foot tall with a new 8-foot tall fence along our property line adjacent to a new development (Weavers Grove).
- Although exceeding dimensional restrictions by 2 feet, the height of the proposed replacement fence is the same as our current fence height, is equal to that of our neighbor's fence which was approved several years ago, and is supported by the developer of the land adjacent to our home.
- Unnecessary hardship would result from strict application of the ordinance. Reducing the height of the fence would diminish our ability to mitigate effects of the ongoing development on the land adjacent to our home. Reduction of the fence height would unnecessarily compound the hardships associated with the development of Weavers Grove that we are experiencing. These hardships could not have been anticipated when we built our home in 1989 and are not the result of any action on our part.
- 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.
- Our property line is the longest one in Chandler's Green that abuts Weavers Grove (see survey and attached development plans). Our home has minimal distance between our interior living areas and the new development. The clearcut removal of trees has considerably increased the noise from I40 (and from the new development's traffic and construction) that reaches our house (both inside our home and in our yard and outside recreational areas). The state will not be installing a sound barrier along the section of I40 closest to our home since the development was initiated with full knowledge of the effects of I40, and so no noise reduction will be available by that means. The developers graded the area behind our home such that there is an increase in the downward slope between our home and the new neighborhood, worsening the impact of the removal of a landscape buffer and increased traffic noise in our home.
- Effects of construction on our quality of life began in 2020 with tree clearing, heavy equipment, and construction staging areas in clear view of our home. We have experienced long periods of construction noise, blasting of rock, grading, and resultant plumes of dust and debris coating our deck, backyard and rear windows and siding. Despite the impact to date, the portion of the development

directly adjacent to our home is not scheduled to be completed until 2028, providing us with 3 more years of the above mentioned effects and poorer quality of life.

- 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.
- We built our family home at 7608 Justin Place in 1989. We have lived in this home since that time. Until 2021, the property that is now Weavers Grove was a 32 acre natural dense forest. Five private homes and a small garden nursery were tucked in the forest, not visible from our home.
- The dense forest provided an effective buffer to the noise from I40, blocked the view of the existing homes, was a beautiful habitat for wild animals, and enhanced the beauty and privacy of our back yard.
- Over the 36 years we have lived in our home, we have invested in numerous home improvements including a windowed 4 season room facing the previously wooded acreage and an elevated deck with a view of the forest.
- Never could we have anticipated that the town of Chapel Hill would annex the land. Following annexing, the town applied R-2 zoning (in 2020), equivalent to existing county zoning. Subsequently, the land was rezoned from R2 to R6-CZ. A residential development of 235 units was approved. The existing homes were demolished and the land was clearcut. The forest destruction included a number of trees adjacent to our property that, according to the original site plan, were to have been retained (specimen trees), but were not. These actions drastically altered our ability to enjoy our main living areas and the outside recreational/entertainment spaces in our backyard. Since 2021, construction activities have taken place from early in the morning past dinner time and on weekends.
- The development has removed a considerable barrier to I40 traffic noise, and has diminished the beauty and privacy we once enjoyed. The effects of the 235 housing units comprising the development are in the early stages and will dramatically increase over the next several years.
- The developers of Weavers Grove have assured us that they would support our application to the BOA. Richard Turlington, VP of Construction, Habitat for Humanity of Orange County, stated the following in an email on November 28, 2022, in support of the 8-foot fence proposal:

“ .... Habitat will support any request for a variance as to the fence question. “

- 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.

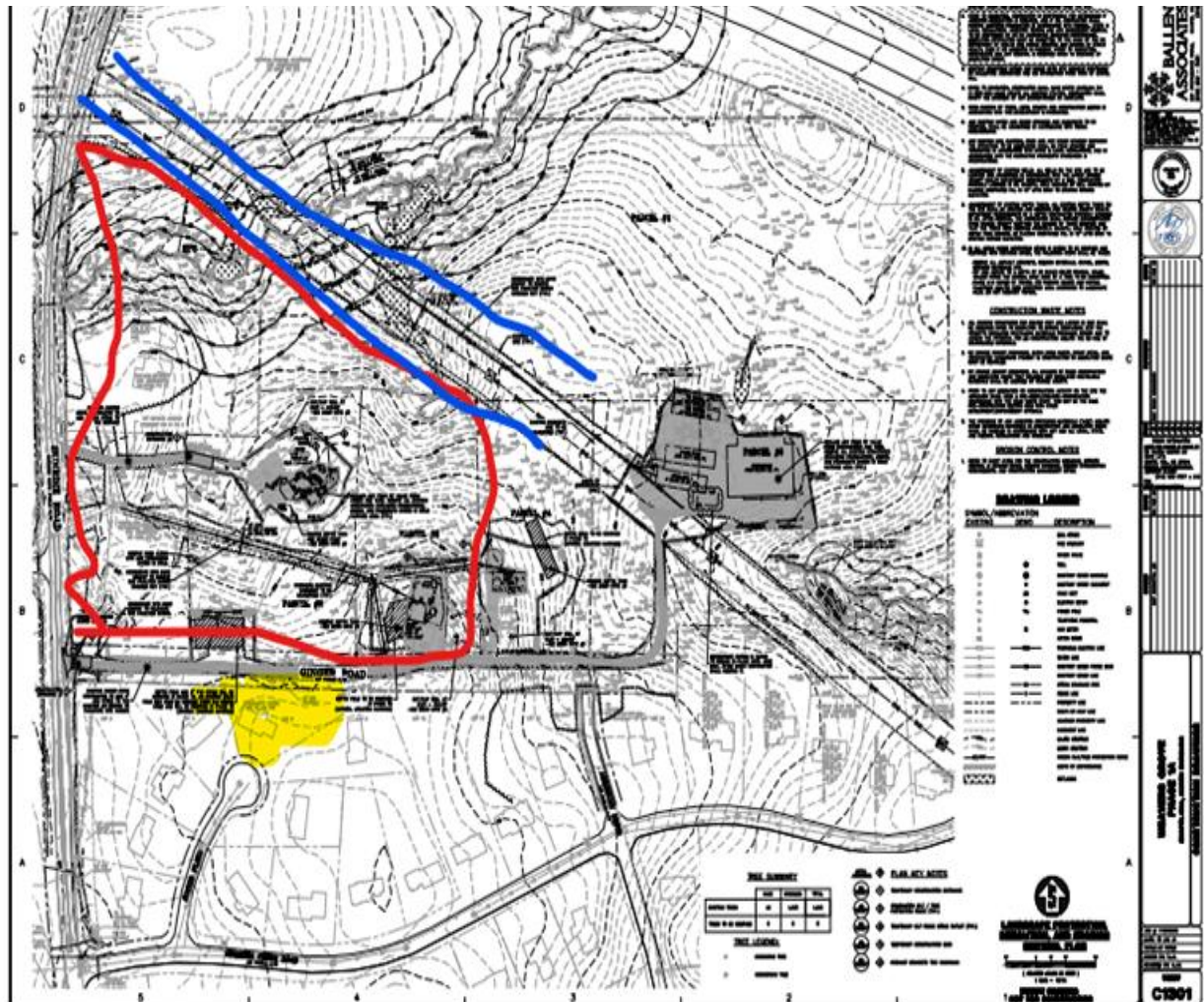
Our house, and that of our immediate neighbors, the Benjamin family (7609 Justin Place), was built 36 years ago by the same contractor. That contractor installed a contiguous 8-ft tall fence along the property line that once ran behind both homes, along Ginger Road. The Benjamin family replaced their section of that fence a few years ago, and were permitted by the town to erect an 8-ft fence as a replacement. We are requesting the same thing - we'd like to replace our existing 8-ft fence with a new 8-ft fence, situated on the new property line that resulted from the closing of the small gravel road (Ginger Road behind our home).

Our children and grandchildren live in Chapel Hill and we made the decision to stay in our home despite the significant negative impact of the ongoing construction. The need for replacement of the current fence with a similar fence is clear.

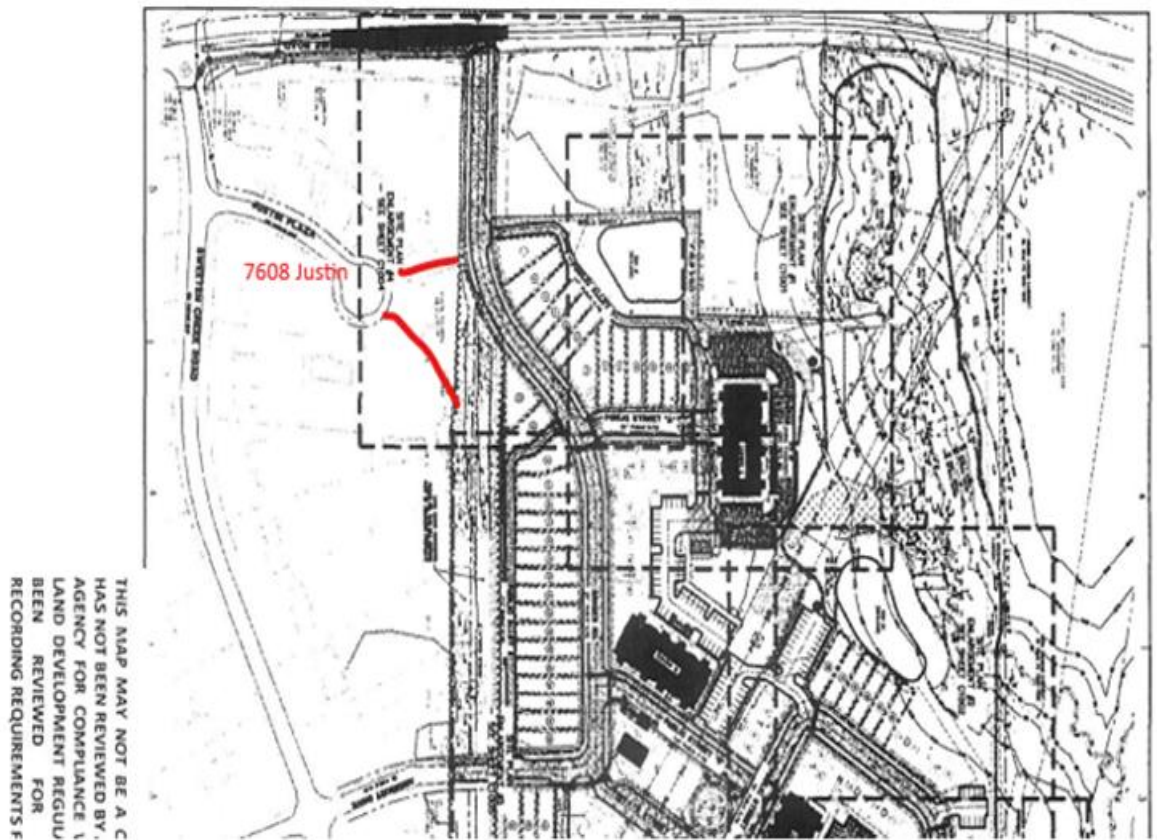
This somewhat modest variance request, given the impact of the current development on our lives, would provide us with a sense of safety and security. The granting of this dimensional variance is a positive property improvement that will provide relief from some of the hardships associated with living immediately adjacent to a massive construction project lasting at least 8 years. It will provide some level of justice for us as long time residents of Chapel Hill. The height of the fence would cause no harm to anyone or anything.

Thank you for your consideration of this request.

Note that the original Ginger Rd at our rear property line was a narrow gravel drive. There was very little decline in the slope of the land from our rear property line (edge of yellow highlight), across Ginger Rd and into the woods (marked in red) leading to I40 (marked in blue).



Location of our home (in red) and new construction adjacent to our property:



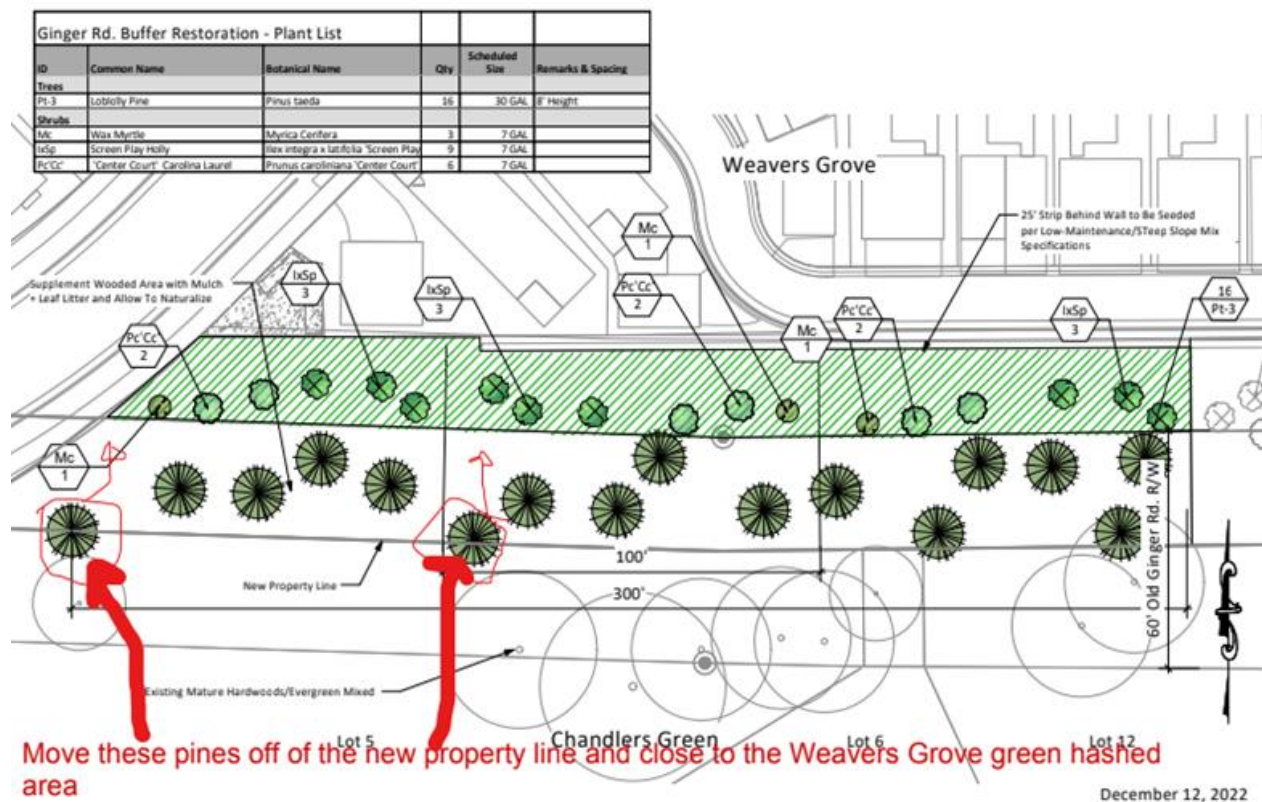
Documentation of the specimen trees behind our property (marked in red) and within the new land granted upon the closing of Ginger Rd. All of the trees were removed despite being tagged as specimen trees prior to clear cutting:



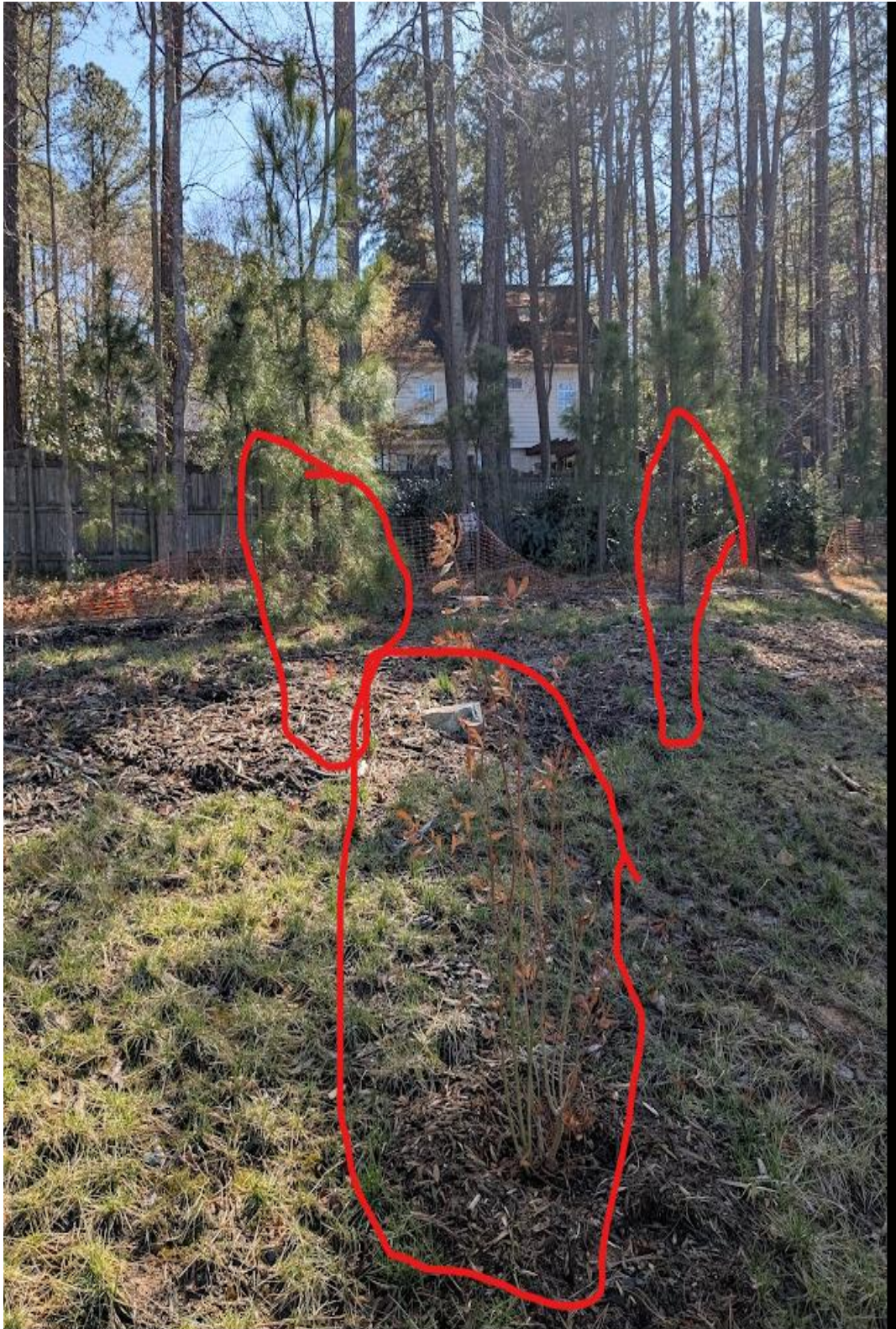
Our next door neighbors fence, approved through town of Chapel Hill:



New development landscape plan which was intended to restore the tree line between our home and I40:



These are the only 3 trees planted by the developer behind the main living areas of our home. Vastly insignificant, one is dead already:



Nearly all the land between our property line and the sidewalk of the new development contains no trees. One of the 30 ft tall streetlights glares into our deck and house at night:



Illustration of development plan in our view. The area outlined in red will contain 12 homes and a condominium building. These are scheduled to be completed in 2028. The land will remain clear cut and vacant until that time:



View from our elevated deck:



View from our main living area:







**Chris Roberts** <croberts@townofchapelhill.org>

Mon, Jan 30,  
2023, 4:42 PM

to me, Mike

Ms. McNulty,

I just came back from the Orange County Deeds office to have the attached [recorded](#). Unless you work with documents like these all day, they are hard to follow

Basically, the adjacent property to yours, that is on the map that I mailed to you earlier this [month has](#) been associated to [your name](#). Mapwise, it belongs to you. I would advise that you consult with your attorney to have the description of this land added to your deed so that it all matches up. [Is all](#) your attorney needs is the attached. Where you see "5A" on the first sheet (Multiple PIN Assignment) is the reference to your land.

Please let me know if you have any questions!

Sincerely,  
Chris R

*Melvin Kump*

MULTIPLE PIN ASSIGNMENT

1 of 1

NORTH CAROLINA  
ORANGE COUNTY

1/30/2023

Verified By: *XKB*

THE FOLLOWING PINS ASSIGNED TO S/INS 6806 / 1056  
Document Type Book/Page

SUBDIVISION DESCRIPTION \_\_\_\_\_ PLAT \_\_\_\_\_/\_\_\_\_\_

PIN: 9890062353	DESC: P/O GINGER ROAD AKA 1A
PIN: 9890061595	DESC: 1 RANDALL G SMITH PROP P41/4 & P/O GINGER ROAD AKA 1A
PIN: 9890064373	DESC: P/O GINGER ROAD AKA 2A
PIN: 9890064575	DESC: N/S SWEETEN CREEK RD & P/O GINGER ROAD AKA 2A
PIN: 9890066392	DESC: P/O GINGER ROAD AKA 3A
PIN: 9890067506	DESC: E/O 1732 & P/O GINGER ROAD AKA 3A
PIN: 9890069312	DESC: P/O GINGER ROAD AKA 04A
PIN: 9890161587	DESC: E/O 1732 & P/O GINGER ROAD AKA 04A
PIN: 9890060269	DESC: P/O GINGER ROAD AKA 4A
PIN: 9890060213	DESC: MAJ P/O 4 SEC 1A CHANDLERS & P/O GINGER ROAD AKA 4A
PIN: 9890062340	DESC: P/O GINGER ROAD AKA 5A
PIN: 9890062216	DESC: MAJ P/O 5 SM P/O 4 PH 1A CHANDLERS GREEN P47/196 & P/O GINGER ROAD AKA 5A

EXHIBIT 3

