



## TOWN OF WARRENTON

Department of Community Development

PO BOX 341  
WARRENTON, VIRGINIA 20188  
<http://www.warrentonva.gov>  
[Permittech@warrentonva.gov](mailto:Permittech@warrentonva.gov)  
(540) 347-2465

### STAFF REPORT

**April 16, 2025**

<b>Property Owner(s) / Applicant(s):</b>	David and Jennfer George
<b>Application #</b>	BZA #2025-1
<b>Location:</b>	579 Pineview Court
<b>PIN:</b>	6984-70-6177-000
<b>Acreage:</b>	0.349 (15,201 square feet)
<b>Zoning</b>	Residential R-15
<b>Comprehensive Plan Designation:</b>	Low Density Residential
<b>Land Use:</b>	Single Family Detached Residential
<b>Request:</b>	The Applicant is seeking approval of a Variance pursuant to Zoning Ordinance Article 2-19.1, to allow the construction of a fence greater than four feet in height within a secondary front setback.

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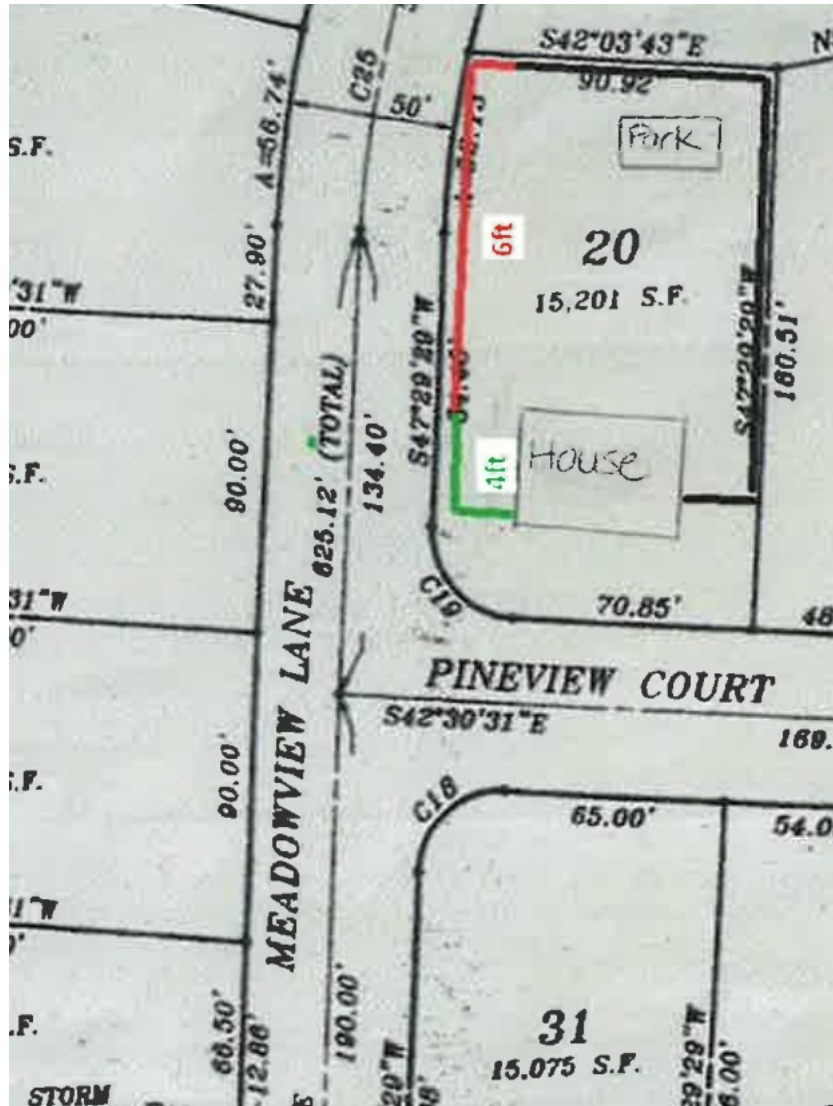
### REQUEST

The applicants are requesting a variance from Article 2-19.1 of the Zoning Ordinance to construct a fence greater than four feet in height within the secondary front yard setback of the subject property. The Zoning Ordinance permits the following with regards to fence height:

*Fences and walls may be erected up to a height of six (6) feet in all zoning districts, except for fences or walls that extend within the required front setback, unless otherwise restricted by the ARB within the Historic District. Within the area bounded by the front setback and the side lot lines, fences and walls shall not exceed four (4) feet in height, unless otherwise restricted by the provisions of this Ordinance. Excluded are walls or fences encompassing swimming pools or other uses which are required by law.*

The proposed location for the fence is along the front property line along Meadowview Lane and to enclose the rear yard of the property, with a small section of 4' fencing to be located at the front corner of the home at the intersection of Meadowview Lane and Pineview Court. As fences up to six feet in height are permitted in all zoning districts except within a front setback, approval of the application would grant a variance of 18.5 feet from the required 18.5-foot secondary front setback for a six-foot fence or in other words a variance to allow a two-foot height increase for a fence located in the secondary front setback.

The six-foot fence is being requested to provide safety and privacy for the property owner and their two large family dogs. The current 4-foot fencing on the property allows the community to reach over the fencing to interact with the dogs, and the homeowner wishes to prevent potential issues such as dog bites and attacks. The proposed 6-foot fence would be wooden board on batten and approximately 98 feet in length along Meadowview Lane. There will also be approximately 64 feet of 4' board on batten fencing along Pineview Court, the property's primary frontage.



## BACKGROUND

The single family detached house was constructed in 2004 according to Fauquier County Real Estate records and acquired by the George's in 2021. The parcel, known as "lot 20" on the subdivision plat, is part of a larger 47-lot subdivision, Monroe Estates, recorded on October 22, 2002, in deed book 982, page 940. The property is zoned residential (R-15) and is 0.349 acres or approximately 15,201 square feet in size. The existing house, constructed between 2003 and 2004, meets all required setbacks, and the lot meets the minimum lot size of 15,000 square feet for the R-15 District as stated within Article 3-4.1.4 of the Zoning Ordinance. There is an existing 4' tall fence installed in 2004 located along both property street frontages that appears to be in conformance with the current Zoning Ordinance. The original fencing was restricted to 4' in height along both frontages when permitted on August 3, 2004.



*The image above shows the property in its existing condition with the current 4' fencing.*

The property fronts on Pineview Court and Meadowview Lane, which are public roads maintained by the Town. Adjacent to the property are single family detached dwellings to the north, south, and west, which are also zoned R-15. The proposed Warrenton Crossing subdivision, which contains single-family detached dwellings, is located to the North and is zoned Residential (R-6) and Residential (R-15). Other fences along Meadowview Lane appear to meet Zoning Ordinance requirements or have received variances from the Board of Zoning Appeals similar to this request. The adjacent parcel across the street, 580 Pineview Court, was required to relocate their 6' fence outside of the 18.5' secondary front setback along Meadowview Court. Similarly, a property further up the street, 576 Galina Way, received a variance from the BZA in 2023 to allow a 6' fence along their secondary property frontage on Meadowview Lane.





The image above shows the location of the subject property in relation to neighboring properties with 6' fences and the Warrenton Crossing Subdivision that has yet to be constructed.

## ANALYSIS

A variance is defined by State Code Section § 15.2-2201 and Article 12 of the Zoning Ordinance as:

*Variance – In the application of a zoning ordinance, a reasonable deviation from those provisions regulating the shape, size, or area of a lot or parcel of land or the size, height, area, bulk, or location of a building or structure when the strict application of the ordinance would unreasonably restrict the utilization of the property, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the purpose of the ordinance. It shall not include a change in use, which change shall be accomplished by a rezoning or by a conditional zoning.*

Under Virginia State Code Section § 15.2-2309, powers and duties of the Board of Zoning Appeals, In granting a variance, the BZA may impose such conditions regarding the location, character, and other features of the proposed structure or use as it may deem necessary in the public interest and may require a guarantee or bond to ensure that the conditions imposed are being, and will continue to be, complied with. The property upon which a property owner has been granted a variance shall be treated as conforming for all purposes under state law and

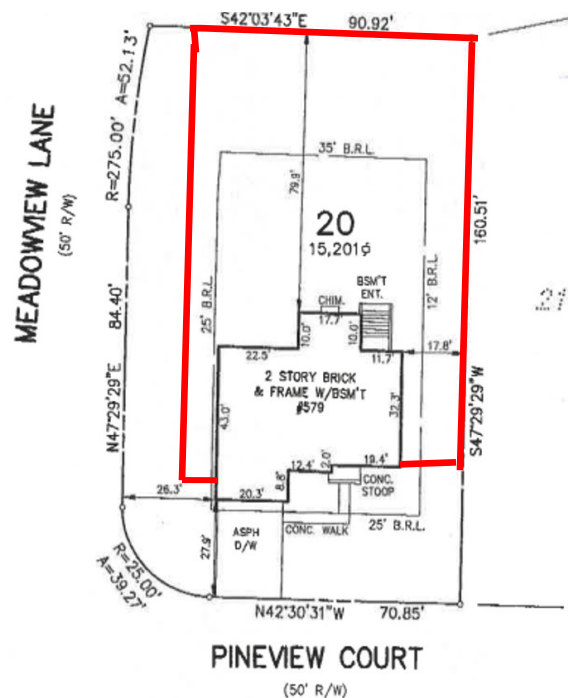
local Ordinance; however, the structure permitted by the variance may not be expanded unless the expansion is within an area of the site or part of the structure for which no variance is required under the Ordinance. Where the expansion is proposed within an area of the site or part of the structure for which a variance is required, the approval of an additional variance shall be required.

Notwithstanding any other provision of law, general or special, a variance shall be granted if the evidence shows that the strict application of the terms of the ordinance would;

1.) Unreasonably restrict the utilization of the property or,

The *Vallerie Holdings v. County of Louisa* case represented a turning point for how a local government defines a “reasonable utilization of the property”. This case law indicated the intent was to expand the availability of a variance to property owners and to “lower the bar”. The case law indicated the BZA “shall” issue a variance if the effect of the Zoning Ordinance is to limit the use or enjoyment of the property in a way that is irrational, capricious, or not fair or sensible under the circumstances in which it is presented.

In analyzing this variance request, staff finds that the applicant has “reasonable utilization” of the property as a single-family residence, but the Zoning Ordinance with the reduced secondary front setback allowance under Articles 2-13.10 and 2-19.3, appears to hinder enjoyment of the property due to the secondary front yard setback requirement and limitation on fence heights within a front yard setback. In the image below, staff roughly illustrates the applicant’s ability to place a 6’ fence on the property meeting the current Zoning Ordinance restrictions. The use of the secondary front yard is severely reduced by the 18.5’ secondary front setback, limiting the usable yard area.





- 2.) That the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance, or,

The subject property, known as lot 20 within the Monroe Estates Subdivision, is one of approximately 7 corner lots, also known as lots with two street frontages, within the existing subdivision. These additional corner lots are held to the same standards within the Zoning Ordinance limiting the height of proposed fencing to 4' within the front yard setbacks, which staff is of the opinion does not condone a hardship.

Additionally, Staff finds the property is largely level, with a gentle slope affecting the rear yard, which staff maintains this does not constitute a hardship.



*The image above is intended to show the gentle slope on the property.*

- 3.) Alleviate a hardship by granting a reasonable modification to a property or improvements thereon requested by, or on behalf of, a person with a disability.

The applicant indicates the requested variance is not being requested by or on behalf of a person with a disability.

Additionally, under Virginia State Code Section § 15.2-2309, no variance shall be authorized by the BZA unless it is determined that the request meets all five of the following criteria:

- a) *The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance;*

The property was purchased in good faith by the owners in 2021, as recorded in deed book 1686, pages 2097-2099.

A variance would have been needed for a six-foot-tall fence within the front setback starting in 1991. The 1991 Zoning Ordinance was in effect at the time the subdivision was created in 2002, as recorded in deed book 982, page 940. This regulation has remained in effect since at least 1991, however, the 1991 Zoning Ordinance further restricted the development of corner lots by requiring the “side yard adjacent to the side street” or, the secondary front yard, to conform to the minimum front yard setback.

The Zoning Ordinance was then updated in 2006 to remove the requirement for the secondary front yard to meet front yard setback requirements, and a reduced setback equivalent to the average between the required front and side yard setbacks was implemented.

Staff feel the hardship is created by the applicants due to the reduction in setback permitted by Articles 2-13.10 and 2-19.2 of the 2006 Zoning Ordinance.

- b) *The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;*

The proposed 6' fence would be placed along the property line on Meadowview Lane, with a 4' section of fencing proposed at the intersection of Pineview Court and Meadowview Lane, which the applicants claim will eliminate sight-distance issues. Staff suggest a condition of approval be considered to require this section of fencing to be maintained at 4' in height to maintain a clear sight triangle in an attempt to alleviate any potential visibility issues for pedestrians and vehicular traffic. The remaining fencing along the primary frontage, Pineview Court, is proposed to be 4' in height.

Two properties within the Monroe Estates subdivision have 6' tall fences; 576 Galina Way obtained a variance from the Board of Zoning Appeals in 2023 for the 6' section along Meadowview and 580 Pineview Court was required to move their 6' fence outside of the 18.5' secondary front setback along Meadowview Lane and did not seek a variance from the Board of Zoning Appeals. These properties are two of the seven corner lots within the Monroe Estates subdivision, and are subject to the same secondary front yard setback restrictions as the subject property.

- c) *The condition or situation of the property is not of so general or recurring of a nature as to be adopted as an amendment to the ordinance;*

The Zoning Ordinance requires that fences be limited to four feet in height within the front yard setback on all properties within the Town. The primary reason for the restriction is to maintain line of site. Some fence designs, such as stepped/tiered fences, or open metal material, may alleviate this concern; but the Zoning Ordinance does not require specific fence designs unless they are within the Historic District.

The Board has heard 6 cases for variances to increase the height of a fence over the course of the last two years. The Board may choose to recommend a Zoning Ordinance Text Amendment to alleviate this issue for lots with a primary and secondary front yard.

- d) *The granting of the variance does not result in a use that is not otherwise permitted on such property, or a change in the zoning classification of the property; and*

The permitted use on the property is a single family detached dwelling. Fences are permitted within all zoning districts in the Town and the installation of a six-foot tall fence should the Board choose to grant this variance, would not change the use of the property as a single-family detached dwelling.

- e) *The relief or remedy sought by the variance application is not available through a special use permit process that is authorized in the Ordinance or the process for modification to the Zoning Ordinance at the time of the filing of the variance application.*

A Special Use Permit cannot provide relief from the limitation on fence height within front yard setbacks, nor are there any waivers available for fences for this property.

## CONCLUSION

Should the Board find that this request meets one of the three criteria listed in Section § 15.2-2309 of the State Code, and all five of the standards listed in Section § 15.2-2309 of the State Code, and moves to grant the requested variance, staff recommends the following approval conditions so as to secure the public interest and to minimize potential negative impacts on local residents and adjoining property owners:

- 1.) The site shall be in general conformance with the information and drawings submitted with the variance application except as specifically modified by the conditions below or as necessary to meet Zoning Ordinance requirements.
- 2.) The fencing Along Meadowview Lane shall not exceed 6' in height at any point.
- 3.) The portion of fencing at the intersection of Meadowview Lane and Pineview Court shall be reduced to 4' as shown in the plat submitted with the application materials to maintain a clear sight triangle for vehicles and pedestrians on or entering Meadowview Lane.



Staff Report, Board of Zoning Appeals

BZA #2025-1

Meeting Date: May 6, 2025

**ATTACHMENTS**

- A. Proposed Conditions of Approval / Proposed Motion for Denial
- B. Maps
- C. Variance Application Materials
- D. Deed of Purchase- George- Db 1686 Pg 2097-2099
- E. Deed of Subdivision- Monroe Estates- Db 982 Pg 940
- F. Certificate of Occupancy- 579 Pineview Court
- G. Plat of 576 Pineview Court