



# WILDWOOD

## **Determination of Issues and Findings of Facts**

### **Board of Adjustment Case B.A. #03-22**

City of Wildwood's Board of Adjustment

Public Hearing of February 17, 2022

City Hall Council Chambers | 16860 Main Street

And Via Online Meeting Process [Zoom]

### ***Nature of Request:***

**B.A. 03-22 Tim Klingler, 930 Wilderness Way Drive, Eureka, Missouri, 63025, c/o John Taylor, P.O. Box 127, Pacific, Missouri 63069** - requests an exception to the Natural Resource Protection Standards for the purpose of constructing an attached three-car garage upon the property located at 19023 Old Wild Turkey Lane (Locator Number 28Y130123, Timbers at Fox Mountain Subdivision – Lot 6), which would thereby authorize relocation of the identified Natural Resource Protection Area, as well as its associated twenty-five (25) foot foundation setback area, to accommodate the placement of the proposed structure, as well as associated grading, while maintaining the approximate amount of preservation area on the overall parcel of ground [i.e. an exchange between preservation and building areas]. This request is contrary to the requirements of Chapter 420.200 Natural Resource Protection Standards and Procedures of the Subdivision and Development Regulations of the City of Wildwood Municipal Code, as applied to the properties located in the NU Non-Urban Residence District, 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 **BA #03-22**, the issues relating to the variance's reasonableness and appropriateness are as follows:

*Planning Tomorrow Today™*

## General Site and Area Conditions

1. The subject site of this request is an 8.08-acre parcel of ground located on a hilltop summit, and part of the eight (8) large lot residential subdivision, the Timbers at Fox Mountain Subdivision (formally named Wild Turkey Lane). This subdivision is located on the north side of Model Realty Road, west of Fox Creek Road, in the far southwestern corner of Wildwood.
2. The lot sizes in this subdivision range from six point six (6.6) acres to almost nineteen (19) acres in area, with almost sixty-four (64) acres of the overall site protected of the total seventy-eight (78) acres constituting the subdivision. This density is well-under what is permitted by the underlying zoning district.
3. The individual lots in this subdivision will be served by household treatment systems located on each property.
4. The southeastern portion of the subject parcel of ground contains the section of Old Wild Turkey Lane, where it terminates into a cul-de-sac, which is a forty (40) foot wide privately maintained roadway by the Homeowners Association of this residential subdivision.
5. The subject property, identified on the plat as Lot 6 of the Timbers at Fox Mountain Subdivision, 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 disturbance/preservation requirements established by the Natural Resource Protection Standards, which is represented upon the Record Plat of the subdivision approved by the Wildwood City Council, per Ordinances #1336 and #2229.
6. The physical characteristics of this area are typical for this portion of Wildwood, in that, the vacant subject lot is almost entirely treed and has over one hundred and ten (110) feet of relief, indicative of its difficult slope. The highest elevations are located around the cul-de-sac.
7. The subject site was platted by the City of Wildwood 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 the overall subdivision. These standards specify where development on a lot can occur and areas on the same where no disturbance is allowed.
8. The twenty-five (25) foot setback from the 'Final Resource Protection Line' is intended to limit the placement of the building's foundation to a reasonable distance from the preserved area of the lot, while allowing grading and the construction of accessory structures, such as pools, decks, and outbuildings, to occur within it.

9. 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.
10. 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.
11. The Natural Resource Protection Standards have been applied to a number of residential subdivisions, like the Timbers at Fox Mountain, since its adoption in 1996.
12. 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**

13. This request pertains to the proposed construction of a single-family dwelling, inclusive of an attached three-car garage, on the subject lot. The garage, where it is proposed to be placed, is located within the twenty-five (25) foot setback of the Natural Resource Protection Area, and the associated grading intrudes into the protected area, as well as the side yard setback. The intent of this request is to allow an equal exchange of building area and Natural Resource Protection Area, thereby accommodating the proposed improvements.
14. The information provided by the applicant, in support of this request, indicates an exchange of land area between that portion of the lot originally calculated for allowable disturbance and what will now be protected and intended for building use. The petitioner notes on his application that the extreme slope on the northern portion of the property presents a hardship for adjusting the placement of the proposed construction.
15. The adjoining lot (Lot 5) located at 19030 Old Wild Turkey Lane, also owned by the petitioner, is a related subject of this request (see B.A. 07-22). The requested grading will also take place on this lot, with another equal exchange of building area and Natural Resource Protection Area proposed upon it. The petitioner has noted the grading work in that area is intended to increase the accessibility of the lot for a future buyer.
16. The Department of Public Works has visited both sites to review their characteristics in association with the proposed grading in the setback and has no objections to the work. It was commented during this visit that it could potentially be less impactful to do this grading, as one (1) occurrence versus two (2) separate occurrences.

## Correspondences and Previous Actions

17. 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.
18. The applicant has submitted approval of the variance request from the subdivision Trustees, as part of their application. The Department of Planning has received one (1) public comment in opposition to said request, at the time of the writing of this report.
19. The Department's review of records indicates that, given no other lots have yet been developed in the Timbers at Fox Mountain Subdivision, there is no record of previously approved or denied variances.

### 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 significant amount of slope to the north presents a practical difficulty in moving the proposed improvements in that direction.
2. The Natural Resource Protection Standards do allow for some flexibility. In this case, there is an equal exchange of buildable area with Natural Resource Protection Area, and its associated twenty-five (25) foot setback zone, being proposed. The proposed new area is located farther back into the lot and away from areas of disturbance, which potentially has a greater ecological value. Furthermore, the overall subdivision was designed for a residential density well-below what is permitted by the underlying zoning district, helping to minimize the environmental impact of this type of exchange to the surrounding area, which will result in no net loss in protected acreage.
3. The impact of the proposed garage location to the adjoining property is minimal, given it will meet the required building setback. The petitioner, who currently owns both lots, has indicated that the purpose of the grading is to level out the access area into both lots, making it easier for a future owner to approach into and out of the buildable area of the lot. The Department of Public Works has commented that it could potentially be less impactful to the environment to do this work as one (1) occurrence. This grading allowance may present a benefit to a future owner.

4. The impact to other surrounding properties in the area is minimal from a privacy and aesthetic standpoint, given the secluded location and large size of both lots.

***Recommendation:***

Considering the above-listed Findings of Fact, the Department recommends the Board of Adjustment approve the requested variance, as submitted by the petitioner, with the following Conditions of Approval:

- Each lot is to have its own Tree Preservation Plan, disturbance limit calculations, and Grand Tree identifications. All required mitigation work is to be completed by the petitioner, prior to any transfers of property.
- A revised deed and exhibit of the lot reflecting the changes in the resource protection areas and the associated setbacks shall be submitted to the Department of Planning for review and acceptance and then released for recording by the St. Louis Recorder of Deeds.

Respectfully submitted,  
**CITY OF WILDWOOD**  
Department of Planning