



Legislation Text

File #: 21-0235, **Version:** 1

Subdivision Exception Application by Christopher R. and Amy W. Barbour for Exceptions to Subdivision Ordinance Sections 35-10(B)(2), 35-10(B)(6), And 35-71(H) at 13 Thomas Nelson Drive

Background Statement:

UPDATE: Applicant is requesting a deferral of this item until the October 13, 2021, meeting of the City Council.

This is a subdivision exception application for 13 Thomas Nelson Drive. The property owners have applied for a Boundary Line Adjustment to alter the property line between Lot 3A and Lot 3B within the subdivision, which would result in Lot 3A increasing by 1,150 square feet and becoming irregularly shaped. Creation of irregularly shaped lots is prohibited by section 35-10 of the Hampton City Code, however, the Subdivision Agent can administratively approve an irregular lot if the applicant can establish that, due to exceptional physical or topographical circumstances and conditions affecting the overall parcel, approval is necessary. In this case, the Subdivision Agent denied the administrative request.

Since the City Council updated the subdivision chapter in 2011 to preclude the creation of irregularly shaped lots, this is only the second exception application. Subdivision exception applications are a different type of request compared to other land use applications, such as rezonings and use permits, which typically reviewed and acted upon by Planning Commission and City Council. Where rezoning and use permit decisions are generally higher level questions of zoning and land use, and are made based upon adopted policy and plans, subdivision exceptions applications are a request for a waiver of regulations and requirements of the subdivision ordinance.

Section 35-7 of the City Code states that subdivision exception requests are to be granted only if all of six specific criteria are met. The burden is on the applicant to demonstrate the need for the exception. The six criteria are:

1. Strict adherence to the ordinance requirement will cause undue hardship.
2. The granting of the exception will not be detrimental to public safety, health, or welfare, and will not adversely affect the property of others.
3. The facts upon which the petition request is based are unique to the property for which the relief is sought and are not applicable generally to other property so as not to make

reasonably practical the formulation of general regulations to be adopted as an amendment to this chapter.

4. No objection to the exception has been received in writing from the city's fire chief, or any affected state, federal, or local agency, including but not limited to Langley Air Force Base.
5. The hardship is created by the unusual character of the property, including dimensions and topography, or by other extraordinary situation or condition of property. Personal, financial, or self-inflicted hardship shall not be considered proper justification for an exception.
6. The relief sought will not in any manner vary the provisions of chapters 9, 13.1, 33.1, and 44.1 of the City Code, the "City of Hampton Landscape Guidelines", the Zoning Ordinance, Comprehensive Plan, or official map, except that those documents may be amended in the manner prescribed by law.

In reviewing this proposal, staff finds that the application fails to meet three of the six criteria for an exception. The application does not identify any qualifying hardship. Additionally, the relief sought through this application could be attained through an easement.

Recommendations:

Staff Recommendation:

Deny

Planning Commission Recommendation:

Deny