

#### LAND USE HEARING OFFICER VARIANCE REPORT

APPLICATION NUMBER: VAR 23-0529	
LUHO HEARING DATE: July 31, 2023	CASE REVIEWER: Chris Grandlienard, AICP

**REQUEST:** The applicant is requesting a height variance for an existing fence on property zoned PD 76-0166.

#### **VARIANCE(S):**

Per LDC Section 6.07.02.C.1.f., the maximum average height of any fence shall be six feet, except under certain circumstances that do not apply to this case. The applicant requests a 2-foot increase to the maximum permitted height to allow an 8-foot-high fence along the eastern property boundary.

#### **FINDINGS:**

- During staff review, it was discovered that the existing 10x6 storage building on the north side of the lot is closer to the street than part of the house, therefore, it must meet the principal structure side yard setback required by the PD (7.5-foot side yard setback). The applicant advised staff that they did not wish to add the storage building setback to the variance application.
- The subject fence is the subject of a Code Enforcement Case # CE23004570 which has been placed in the case file for this application.

#### **DISCLAIMER:**

The variance listed above is based on the information provided in the application by the applicant. Additional variances may be needed after the site has applied for development permits. The granting of these variances does not obviate the applicant or property owner from attaining all additional required approvals including but not limited to: subdivision or site development approvals and building permit approvals.

ADMINISTRATOR'S SIGN-OFF

a Marchall

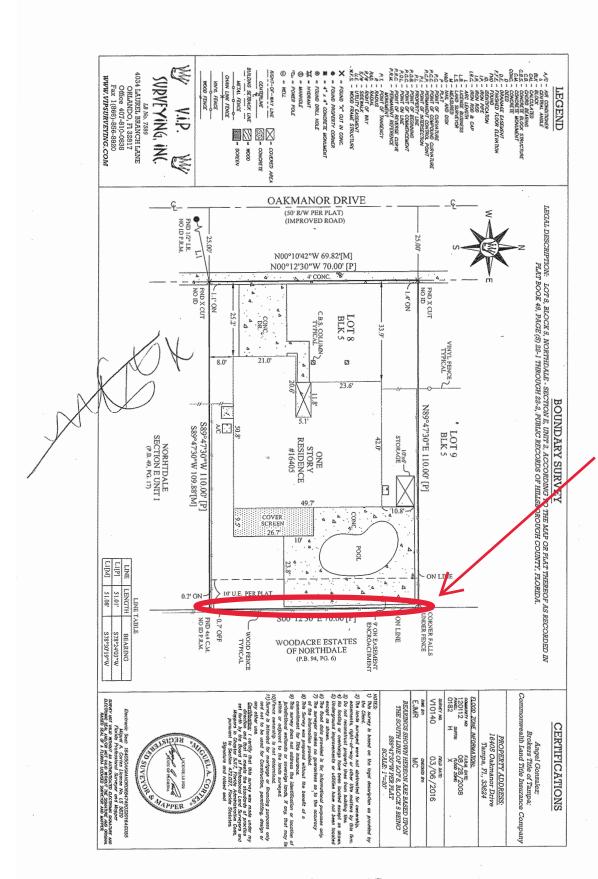
Coll een Marshall Tue Jul 18 2023 12:45:25

Attachments: Application Site Plan

**Petitioner's Written Statement** 

**Current Deed** 







Application No:
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## **Project Description (Variance Request)**

1. In the space below describe the variance including any history and/or related facts that may be helpful in understanding the request. This explanation shall also specifically identify what is being requested (e.g. Variance of 10 feet from the required rear yard setback of 25 feet resulting in a rear yard of 15 feet). If additional space is needed, please attach extra pages to this application.

Variance in height of backyard fence from 6 to 8 feet, due to different grade level of terrain between properties. The property owned by applicant sits at a grade 2 to 3 feet lower than the property at the other side of the fence, creating a significant hardship on the applicant because a fence of the height required by the LDC would not afford the property and its occupants any privacy, and would also potentially place their safety in peril.

In 2001, the land behind applicant's property was developed and the terrain was raised three feet above the level applicant's property. This raised land is immediately adjacent to the rear of applicant's property and is the reason a traditional 6-foot cannot provide adequate privacy or security.

Applicant is a law enforcement officer involved in sensitive investigations and is worried of unknown individuals being able to look into his property from a higher elevation.

The variance would serve to afford the property the same privacy rights enjoyed by other property owners with six foot fences under normal terrain conditions. (see additional pages)

2.	A Variance is requested from the following Section(s) of the Hillsborough County Land Development Code:			
Hillsborough County Land Development Code Section 6.07.02				
	Additional Information			
1.	Have you been cited by Hillsborough County Code Enforcement?  No Yes  If yes, you must submit a copy of the Citation with this Application.			
2.	Do you have any other applications filed with Hillsborough County that are related to the subject property?			
	No			
3.	. Is this a request for a wetland setback variance? No Yes  If yes, you must complete the Wetland Setback Memorandum and all required information must be included with the Application Packet.			
4.	Please indicate the existing or proposed utilities for the subject property:			
	Public Water ` Public Wastewater Private Well Septic Tank			
5.	Is the variance to allow a third lot on well or non-residential development with an intensity of three ERC's?			
	No Yes If yes, you must submit a final determination of the "Water, Wastewater, and/or Re-			

claimed Water – Service Application Conditional Approval – Reservation of Capacity" prior to your public hearing

May 15, 2023,

Land Use Hearing Officer Hillsborough County, Florida

RE: Variance Application 16405 Oakmanor Drive - Folio 15929-0296 Continuation sheet with additional information

Dear Master and/or Board of Commissioners,

I am writing to explain the urgent need for a variance for the fence around my home, which is the property located at 16405 Oakmanor Drive, Tampa, FL 33624. The 8-foot-high section of fence for which I am requesting a variance runs along the rear of my property and is necessary for privacy and safety due to a significant difference in elevation with the adjacent property behind my home.

According to neighbors currently facing similar issues of their own, when they moved into their house in the mid 90's the property behind them was an open parcel of land surrounded on three sides by houses, and the fourth side was fully enclosed by a swampy area with mature Cypress trees. They were told by the selling real estate agent that the land behind their property could never be developed as the trees were protected, making the terrain behind their homes 'land locked' to development. In 2001 however, development started in this land and truckloads of dirt were brought in to raise the level of the terrain three feet above the level of our properties. This raised land is immediately adjacent to the rear of our properties, and as a result our homes sit on land that is much lower, making it impossible to have any privacy or safety with a traditional six-foot fence.

Due to the above, the people who previously owned my property put up an eight-foot fence which was standing when I purchased the home in 2016. In 2020, that fence was replaced with a new fence of the same height. Last month, in April 2023, I received a violation notice from the Hillsborough County Code Enforcement Office, stating the fence violated code requirements for being too high. I was immediately concerned, as I knew the higher terrain behind our home would make it impossible to have any privacy or safety with a 6-foot privacy fence.

At its current height and from the point of view of the adjacent sidewalk and street, our fence is within the 6-foot requirement. In other words, because the fence is on terrain that is 3-feet lower than the level of the adjacent sidewalk and street, it looks and functions like a 5–6-foot fence would on level terrain. Therefore, a 6-foot fence would be like having a 3-foot fence, which would certainly lack the minimum height required for effective privacy and security.

Because our home has large sliding glass doors and windows facing the backyard, a lower fence would allow anyone on the nearby sidewalk or road to look directly into our kitchen, our family room, and our master bedroom, in addition to the entire backyard. We would have to live with curtains closed 24/7 to have any privacy and keep any prying eyes from taking advantage of the situation. Having a dark wooded area on the other side of the street behind our home is an additional cause for concern because a lower fence would allow anyone hiding in the darkness to look directly into our home, undetected. In addition, passing cars would shine their lights into our home at all hours. Overall, our life would drastically change for the worst if we lost our current fence.

Since moving into the property in 2016, no neighbors have ever complained or expressed concerns over the height of the fence. Great care was taken, and a large sum of money was invested, to ensure our current fence blended well and complemented the surrounding area and improved the overall appearance of the community.

Based on the above, I respectfully request that our variance request be granted to allow us to keep our fence at its current height for safety and privacy reasons.

Thank you for your attention to this matter.

Sincerely, Angel D. Gonzalez 16405 Oakmanor Drive Tampa, FL 33624 Folio 15929-0296





## **Variance Criteria Response**

1. Explain how the alleged hardships or practical difficulties are unique and singular to the subject property and are not those suffered in common with other property similarly located?

The maximum height of six feet for residential backyard fences presents a unique hardship to my property in that the subdivision directly behind my property was built at a grade approximately 2-3 feet higher than my property, and as a result a standard six foot fence would offer zero privacy and would place my property in peril.

2. Describe how the literal requirements of the Land Development Code (LDC) would deprive you of rights commonly enjoyed by other properties in the same district and area under the terms of the LDC.

The literal requirments of the LDC requiring a maximum height of six feet for backyard fences, deprives me of the privacy rights enjoyed by other home owners in the same district and area in that while it affords others significant privacy, it would deny my property any privacy due to the grade level difference between my property and the properties directly behind it.

3. Explain how the variance, if allowed, will not substantially interfere with or injure the rights of others whose property would be affected by allowance of the variance.

The heightened fence does not obstruct any views or cause any inconvenience to neighboring properties. We have taken great care to ensure that the fence blends well with the surroundings and does not detract from the aesthetics of the area. Furthermore, a lower fence will negatively impact surrounding properties in that my backyard and inside of my home would be exposed to their unobstructed view.

4. Explain how the variance is in harmony with and serves the general intent and purpose of the LDC and the Comprehensive Plan (refer to Section 1.02.02 and 1.02.03 of the LDC for description of intent/purpose).

The variance is in harmony with and serves the general intent and purpose of the LDC and the comprehensive plan, in that its approval would promote equity by affording the property, which sits on a lower grade or elevation, with the same rights to safety and privacy that are enjoyed by properties not suffering from the disadvantage of existing in a lower grade of terrain.

5. Explain how the situation sought to be relieved by the variance does not result from an illegal act or result from the actions of the applicant, resulting in a self-imposed hardship.

The applicant installed the current fence to replace an 8-foot which previously stood in its place after it was damaged during hurricane Irma, and did so in good faith with a fence that improved the overall aesthetics of the community and not knowing a variance did not previously exist for the fence being replaced.

6. Explain how allowing the variance will result in substantial justice being done, considering both the public benefits intended to be secured by the LDC and the individual hardships that will be suffered by a failure to grant a variance.

The variance would result in a substantial justice being done because it will would rectify a wrong that was done to the property when a newer community was built directly behind it by filling in terrain not otherwise suitable for construction, resulting in a drastic difference in the grade of elevation between the properties and having a negative impact on the safety and privacy of the property

#### **Grandlienard, Christopher**

From: Todd Pressman <todd@pressmaninc.com>

**Sent:** Tuesday, July 18, 2023 8:54 AM **To:** Grandlienard, Christopher

**Cc:** Pressman Todd

**Subject:** Fwd: Todd: Fwd: VAR 23-0530 & VAR 23-0529/URGENT

External email: Use caution when clicking on links, opening attachments or replying to this email.

This is one response:

TODD PRESSMAN
President, Pressman & Associates, Inc.
200 2nd Ave., South #451
St. Petersburg, FL 33701
Cell. 727-804-1760
Fx. 1-800-977-1179

CAUTION: The approvals that Pressman & Associates, Inc., gain are only part of the entire development process and additional permits, reviews, approvals, applications and submittals WILL absolutely be required at the city, county state or federal levels. It is not the case that a zoning type approval entitles you to proceed with any development of a project of any type. ALSO, Pressman & Associates, Inc. is NOT a law firm, Mr. Todd Pressman is not an Attorney & any & all advise or consultation is not to be accepted as legal advice in any manner CONFIDENTIALITY NOTICE: this email communication and any attachments may contain confidential and privileged information for the use of the designated recipients - if you are not the intended recipient, you are hereby notified that you received this communication in error and that any review, disclosure, dissemination, distribution or copying of its contents is prohibited - if you have received this communication in error please destroy all copies of this communication and any attachments and contact the sender by reply by email or telephone at 727-894-1760.

#### Begin forwarded message:

From: Angel Gonzalez <adgonz76@gmail.com>

Subject: Re: Todd: Fwd: VAR 23-0530 & VAR 23-0529/URGENT

Date: July 17, 2023 at 10:55:35 PM EDT

To: Todd Pressman <todd@pressmaninc.com>

Todd I had already provided a response to the county to let them know the issues would be resolved but that I did not want to include them in the fence variance. Could you relay my response to them?

On Mon, Jul 17, 2023 at 10:17 PM Todd Pressman < todd@pressmaninc.com > wrote:

See email below from the county. You have a decision to make, must be early tomorrow.

Issue is the relatively the same for you both.

Angel, you have a storage shed that is in the setback and the pool deck issues.

Peters, you have a side setback issue of the house.

The decision is the same for you both:

You can add the variances to the application now, but that will move you to next month's hearing (out of order for July). Or, you can move forward with just the fence variance and get that addressed, pass or fail. There is a small chance they could come later sometime, to cite you on the shed and side setback & pool deck. I think that's unlikely - it will be in the staff report, but they don't send that to code enforcement - but it is 'out there'. If so, that would be a new application and fee - the whole thing again, if not included now. Todd Pressman's opinion, and my personal action, would be to ignore it. But obviously it's up to you both.

Angel you could move the shed. On the pool deck that's not even a variance (that would be a vacating of the easement and that's a whole other world) I'd personally definitely ignore that, my opinion only so that's not in play now.

#### **COUNTY MUST HAVE AN ANSWER IN THE MORNING!**

#### Thx

TODD PRESSMAN
President, Pressman & Associates, Inc.
200 2nd Ave., South #451
St. Petersburg, FL 33701
Cell. 727-804-1760

Fx. 1-800-977-1179

CAUTION: The approvals that Pressman & Associates, Inc., gain are only part of the entire development process and additional permits, reviews, approvals, applications and submittals WILL absolutely be required at the city, county state or federal levels. It is not the case that a zoning type approval entitles you to proceed with any development of a project of any type. ALSO, Pressman & Associates, Inc. is NOT a law firm, Mr. Todd Pressman is not an Attorney & any & all advise or consultation is not to be accepted as legal advice in any manner

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Begin forwarded message:

From: "Grandlienard, Christopher" < Grandlienard C@hillsboroughcounty.org >

**Subject: VAR 23-0530 & VAR 23-0529 Date:** July 17, 2023 at 3:50:08 PM EDT

To: Todd Pressman < todd@pressmaninc.com>

Cc: "Marshall, Colleen" < MarshallC@hillsboroughcounty.org >

Per our phone conversation:

VAR 23-0529 Gonzalez Fence: The 10x6 storage building on the north side of the lot is closer to the street than part of the house, therefore, it must meet the principal side yard setback required by the PD (7.5 foot side yard setback). Ask the applicant if they wish to add the shed to the variance. Advise the applicant that the pool deck is located within the utility easement and they will need to seek a vacation of the easement through Real Estate if they choose to bring it into compliance. (However, since the pool does not have a screen enclosure, no setback is required per LDC Section 6.11.94.C.)

VAR 23-0530 Peters Fence: Please ask the applicant if they would like to include a side yard setback variance for the existing home, as it does not meet the 7.5 foot side yard setback required by the PD.

Please let the applicants know if they want to add the additional variances, they will need to continue their cases to August and renotice.

Please let me know, ASAP.

Thanks.

#### Chris Grandlienard, AICP

**Senior Planner** 

Community Development Section
Development Services Department

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P: (813) 276-8372

E: mailto:GrandlienardC@HillsboroughCounty.org

W: HCFLGoc.net

**Hillsborough County** 

601 E. Kennedy Blvd., Tampa, FL 33602

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Please note: All correspondence to or from this office is subject to Florida's Public Records law.

INSTRUMENT#: 2016111775, BK: 23959 PG: 138 PGS: 138 - 138 03/23/2016 at 03:03:57 PM, DOC TAX PD(F.S.201.02) \$1554.00 DEPUTY CLERK: PWATSON Pat

Frank, Clerk of the Circuit Court Hillsborough County

Prepared By: Virginia Brown Brokers Title of Tampa, LLC 3644 Madaca Lane Tampa, FL 33618 incidental to the issuance of a title insurance policy. File Number: 01-10255

Parcel ID #: 015929-0296

### WARRANTY DEED (INDIVIDUAL)

This WARRANTY DEED, dated March 18, 2016 by Brian E. Briars and Alison Briars, husband and wife, whose post office address is 2216 Argyle Circle Plano TX 75023, hereinafter called the GRANTOR, to Angel Gonzalez, an unmarried man, whose post office address is 16405 Oakmanor Dr, Tampa, Florida 33624, hereinafter called the GRANTEE:

(Wherever used herein the terms "Grantor" and "Grantee" shall include all parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations.)

WITNESSETH: That the GRANTOR, for and in consideration of the sum of \$10.00 and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the GRANTEE, all that certain land situate in Hillsborough County FL, viz:

Lot 8, Block 5, Northdale - Section E, Unit 2, according to the map or plat thereof, as recorded in Plat Book 49, Page(s) 22-1 and 22-2, of the Public Records of Hillsborough County, Florida.

SUBJECT TO covenants, conditions, restrictions, reservations, limitations, easements and agreements of record, if any; taxes and assessments for the year 2016 and subsequent years; and to all applicable zoning ordinances and/or restrictions and prohibitions imposed by governmental authorities, if any.

TOGETHER with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

TO HAVE AND TO HOLD, the same in fee simple forever.

AND THE GRANTOR hereby covenants with said GRANTEE that except as above noted, the GRANTOR is lawfully seized of said land in fee simple; that the GRANTOR has good, right and lawful authority to sell and convey said land; that the GRANTOR hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever.

IN WITNESS WHEREOF, GRANTOR has signed and sealed these presents the date set forth above.

SIGNED IN THE PRESENCE OF THE FOLLOWING WITNESSES:

1 Ana A. Kuzi	Frian & Prices	
Toggth R. Lontonice -Witness	Brian E. Brians	- Seller
Alles X Wrok	Illan Oriaro	
Wacey Sanda - Witness	Alison Briars	- Seller
STATE OF FL, COUNTY OF HILLSBOROUGH		
THE FOREGOING INSTRUMENT was acknowledged	1 2-18	
THE FOREGOING INSTRUMENT was acknowledged	i before the this, 2016 by Brian	E. Briars
and Alison Briars who is/are personally known to	me or/who/has/have produced Drivers Li	icense as
identification.		
(SEAL) TRACEY SPANOLA	Thurst alich	
MY COMMISSION # FF 087327	Notary Public	
EXPIRES: April 13, 2016  Sonded Thru Notary Public Underwriters	Print Name: / /	
	My Commission Expires	



# Property/Applicant/Owner Information Form

Official U			
Application No: <u>VAR 23-0529</u>	Intake Date: <u>05/16/2023</u>		
Hearing(s) and type: Date: <u>07/31/2023</u> Type: <u>LUH</u>			
Date: Type:	Intake Staff Signature: NEWW KWW		
Property In	formation		
Address: 16405 Oakmanor Dr	City/State/Zip: Tampa, FL 33624		
TWN-RN-SEC: 28-27-RNG Folio(s): 15929-0296 Zoning: 76-0	Property Size: 0.16918699		
Property Owne			
Name: Angel Gonzalez			
Address: 16405 Oakmanor Drive			
addonz76@dmail.com	Fax Number		
Applicant In			
Address: 16405 Oakmanor Drive Cit	<sub>y/State/Zip:</sub> Tampa, FL 33624		
<sub>Email:</sub> adgonz76@gmail.com	Fax Number		
Applicant's Representative (if different than above)			
Name: Todd Pressman			
Address: 200 2nd Ave., South #451	y/State/Zip: St. Petersburg, FL 33701		
todd@pressmaninc.com	Fax Number 1-800-977-1179		
I hereby swear or affirm that all the information	I hereby authorize the processing of this application		

provided in the submitted application packet is true and accurate, to the best of my knowledge, and authorize the representative listed above to act on my behalf on this application.

Signature of the Applicant

**Angel Gonzalez** 

Type or print name

I hereby authorize the processing of this application and recognize that the final action taken on this petition shall be binding to the property as well as to the current and any future owners.

Signature of the Owner(s) – (All parties on the deed must sign)

**Angel Gonzalez** 

Type or print name



## PARCEL INFORMATION HILLSBOROUGH COUNTY FLORIDA

L	
Jurisdiction	Unincorporated County
Zoning Category	Planned Development
Zoning	PD
Description	Planned Development
RZ	76-0166
Flood Zone:X	AREA OF MINIMAL FLOOD HAZARD
FIRM Panel	0182H
FIRM Panel	12057C0182H
Suffix	Н
Effective Date	Thu Aug 28 2008
Pre 2008 Flood Zone	Х
Pre 2008 Firm Panel	1201120185F
County Wide Planning Area	Greater Carrollwood Northdale
Community Base Planning Area	Greater Carrollwood Northdale
Planned Development	PD
Re-zoning	null
Major Modifications	95-0154 DENIED, 17-1330
Personal Appearances	10-0933,10-0140,06-0900, 02-1371,96-0050,90-0115, 87-0043,87-0031,14-0724, 15-0157,16-0293
Census Data	Tract: 011524 Block: 3007
Future Landuse	R-4
Future Landuse	R-4
Future Landuse	R-4
Urban Service Area	USA
Mobility Assessment District	Urban
Mobility Benefit District	1
Fire Impact Fee	Northwest
Parks/Schools Impact Fee	NORTHWEST
ROW/Transportation Impact Fee	ZONE 1
Wind Borne Debris Area	140 MPH Area
Competitive Sites	NO
Redevelopment Area	NO



Folio: 15929.0296 PIN: U-28-27-18-0P0-000005-00008.0 Angel Gonzalez

Hillsborough County Florida

Mailing Address: 16405 Oakmanor Dr null

Tampa, Fl 33624-1234 Site Address:

16405 Oakmanor Dr Tampa, Fl 33624

SEC-TWN-RNG: 28-27-18 Acreage: 0.16918699 Market Value: \$298,710.00 Landuse Code: 0100 Single Family

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2. Any decision made or action taken or not taken by any person in reliance upon any information or data furnished hereunder.

