



REPORT TO PLANNING COMMISSION

CITY OF ARNOLD

APPLICATION NUMBER: PC-2020-15

APPLICATION NAME: 1801 OZARK DRIVE

APPLICANT NAME: Rebecca Vollmer-Kelly
1801 Ozark Dr.
Arnold, MO 63010

PROPERTY OWNER NAME: Rebecca Vollmer-Kelly
1801 Ozark Dr.
Arnold, MO 63010

APPLICANT'S REQUEST: The applicant is requesting approval of an appeal to the fencing materials regulations in order to allow for a garden fence constructed with deer/wildlife netting and wooden pallets.

STREET ADDRESS: 1801 Ozark Dr

SITE LOCATION: Along Ozark Dr, about half a mile south of Church Rd

ZONING DISTRICT: "R-3" Residential District

PARCEL ID: 01-9.0-30.0-4-003-033

TOTAL SITE AREA: ± 1.03 acres

MEETING DATE: July 14, 2020

REPORT DATE: July 7, 2020

CASE MANAGER: Sarah Turner

RECOMMENDATION: **SHOULD THE COMMISSION CHOOSE TO APPROVE THE REQUEST, STAFF HAS INCLUDED PROPOSED CONDITIONS.**



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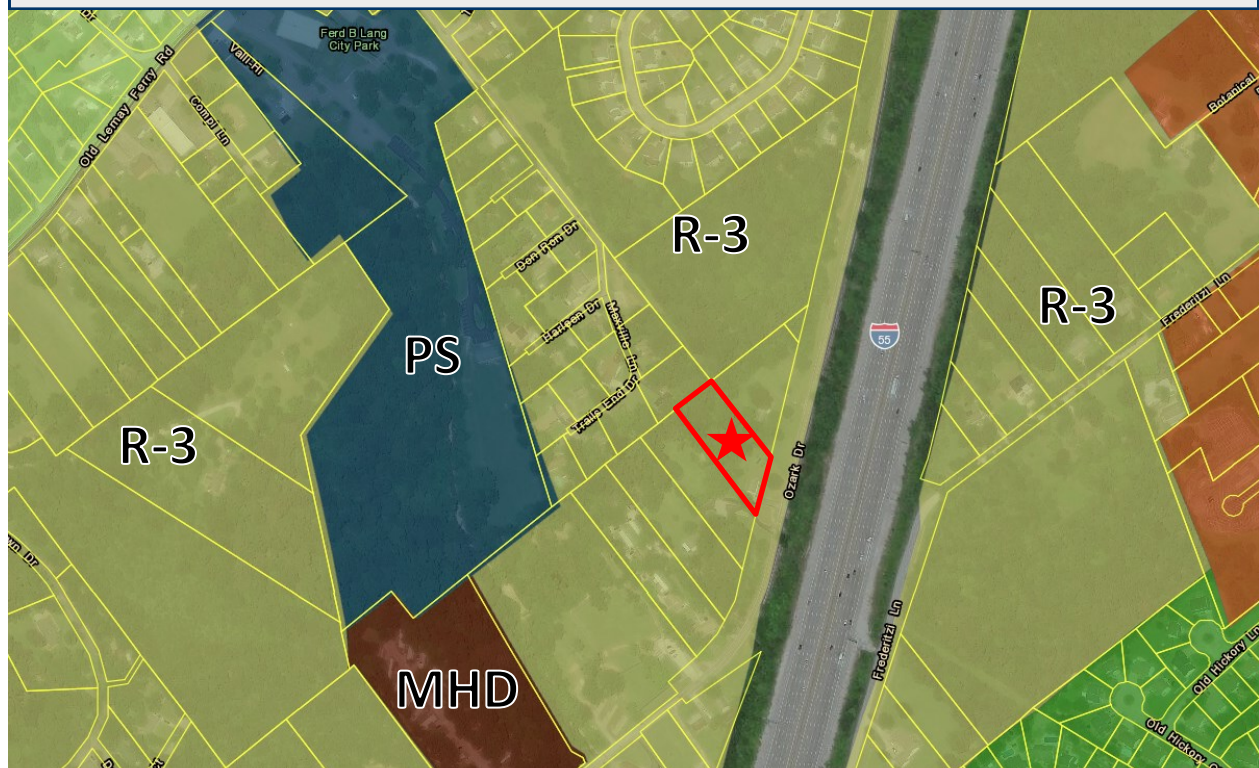
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DESCRIPTION OF EXISTING SITE CONDITIONS

The 1.03 acre parcel is located along Ozark Dr., which can be accessed by Church Rd. The property is zoned "R-3" Residential. The home, which was built in 1980, sits near Ozark Dr. The back portion of the parcel is undeveloped with trees and a small creek.

LAND USE AND ZONING CONTEXT MATRIX			
DIRECTION	EXISTING LAND USE	ZONING DISTRICT	COMMENTS
North	Residential	R-3	Low density single-family dwellings
East	Other	N/A	Interstate 55
South	Residential	R-3	Low density single-family dwellings
West	Residential	R-3	Low density single-family dwellings

ZONING MAP



1801 Ozark Dr.

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REQUEST FOR APPEAL

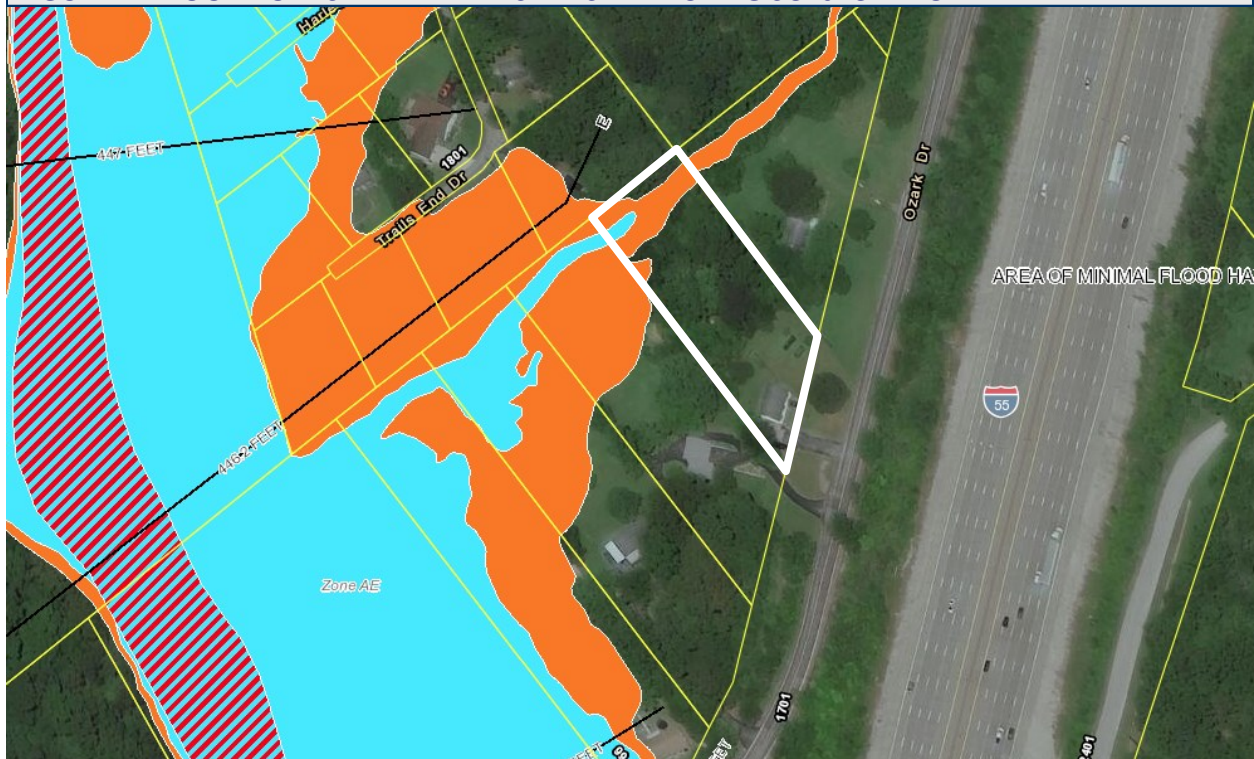
The applicant is requesting for approval of an appeal to the fencing materials regulations in order to allow for a garden fence constructed with deer/wildlife netting and wooden pallets at 1801 Ozark Drive.

BACKGROUND

Rebecca Vollmer-Kelly is the applicant and property owner of 1801 Ozark Dr. It is zoned "R-3" Residential. The area surrounding the subject property is not in an established subdivision and is more rural in nature. There is a small creek in the rear of the property which attracts wildlife to the property (See Figure 1).

The applicant has attempted to have a vegetable garden in previous years but has had issues with wildlife consuming their garden. In April 2020, the applicant had applied for a building permit to construct a fence with wildlife/deer screening and pallet wood to prevent the loss of their garden. Due to the restrictions placed upon fencing materials, the applicant must request an appeal to these regulations to allow for the requested fence.

FIGURE 1: FLOOD ZONES AND WATERSHEDS IMPACTING SUBJECT PROPERTY





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“The second picture is an idea semi-close to the use of the pallets along the bottom half of the fence. There will most likely not be spaces between the wood. Herbs will be planted on the inside of the pallet wood.” - Applicant

EXAMPLES OF PROPOSED FENCE

1801 Ozark Dr.

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PLANNING AND ZONING ANALYSIS

Appeals to Section 405.760(S), Fencing Standards, of the Code of Ordinances, shall be made and reviewed by the Planning Commission.

The applicant is requesting approval of an appeal to the fencing materials regulations for a fence at 1801 Ozark Dr. The purpose is to allow for a 6-foot garden fence constructed with deer/wildlife netting and wooden pallets.

ANALYSIS OF APPLICABLE ZONING REGULATIONS

The 1.03 acre lot and single-family dwelling located at 1801 Ozark Dr is zoned as "R-3" Residential.

Section 405.760(S)(3)(a)(1) of the Zoning Ordinance states:

Residential districts ("R-1", "R-2", "R-3", "R-4", "R-5" and "R-6"). Acceptable materials for fencing and decorative posts include masonry, rigid synthetic materials, wood, wrought iron, and chain link. Barbed wire, razor wire, hardware cloth, electric, and wire mesh fencing is strictly prohibited.

The section of Code above regulates materials for fences in all of the "R" Residential districts. The proposed fence (examples of which are shown on page 7) would be constructed with wooden pallets and deer/wildlife netting. While "wood" is an acceptable material, that has generally been interpreted to mean wooden fencing such as pickets or privacy slats. The prohibition of "wire mesh" as a fencing material includes the netting/screening that is proposed.

⇒ In summary, Staff finds that proposed fence is non-conforming with the material restrictions for fences in "R" Residential districts. To bring the fence into compliance, the choice of materials must be modified or the applicant must obtain a variance to the section of Code as listed above to allow for the construction of the proposed fence.

FIGURE 2: 1801 OZARK DR





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PLANNING AND ZONING ANALYSIS —CONTINUED

REVIEW CRITERIA

The appeal/variance review criteria as provided in Section 405.760(S)(3)(i), Fencing Standards, of the Zoning Ordinance are listed below in *italics*. Full statements from the applicant’s narrative (Exhibit B) in response to how this request meets the criteria are quoted in **bold**.

Appeals to this Section must be made in writing to the Planning Commission outlining their reason for appeal that addresses the following criteria:

- 1. The granting of the variance will not be detrimental to the public safety, health, or welfare or injurious to other property or improvements in the neighborhood in which the property is located.*

Applicant Response (1): **Having “fencing” around the garden is not detrimental to public safety, health, welfare, or injurious to other property. It will not hinder improvements in the neighborhood were the property is located.**

Staff Response (1): This request for appeal, if approved, would allow the applicant to construct a 6-foot fence constructed of wildlife/deer screening and wood pallets in their side yard. The current location of their garden (as seen in Figure 3 below) is encroaching into the front yard. The applicant has stated that they intend to move the garden back so that the garden and proposed fence would be fully in the side yard.

This fence would be highly visible from Ozark Drive (not I-55 however, as seen in Figure 4 on page 10) and such materials could be controversial with surrounding properties. It is important to consider that this area of the City is more rural in character than many other parts of Arnold. Given the circumstances, Staff finds that the first review criteria may be met, but recommends that the Planning Commission set a condition that this variance expire in three (3) years in order to re-assess its impacts. The applicant could come back for another request for appeal at that time.

FIGURE 3: VIEW OF 1801 OZARK DR, FACING SOUTH



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PLANNING AND ZONING ANALYSIS —CONTINUED

2. *The conditions upon which the request for a variance is based are unique to the property to which the variance is sought, and are not applicable generally to other property.*

Applicant Response (2): **The reason a variance is being requested is because the white vinyl fencing that is accepted will not keep the wildlife out of the garden. Also, the plants require full sun, the vinyl fence does not allow for full sun. The other fencing materials, Chain-link and the wood fence will not do both, keep the wildlife out of the garden and allow for full sun. We will be using posts (some will be 4x4 and some may be 6x6 to support the required gate needed) and the deer “fencing”/netting will be secured to the posts. This fencing is what is recommended by experts.**

Staff Response (2): The fencing material being requested is deer/wildlife netting and wood pallets. The portion of this response speaking to “full sun” from the applicant is contradictory, as using wood pallets would block as much sun as a wood picket fence.

However, the argument for wire mesh is more compelling. Most residential properties in the City of Arnold are in established subdivisions or other more suburban settings. 1801 Ozark Drive is an approximately one acre parcel with an area of trees and a creek in the rear. Wildlife tends to congregate near such water bodies more so than the typical property in a subdivision.

With the above in mind, Staff recommends that the request for appeal to allow for the use of wood pallet be denied, as the applicant could use typical fencing materials in place of the pallets. However, the conditions upon which the request is made to allow for the wildlife/deer screening may be unique and not applicable generally to other properties in the City.

FIGURE 4: GOOGLE STREETVIEW OF 1801 OZARK DR, FACING SOUTH (MARCH 2012)





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PLANNING AND ZONING ANALYSIS —CONTINUED

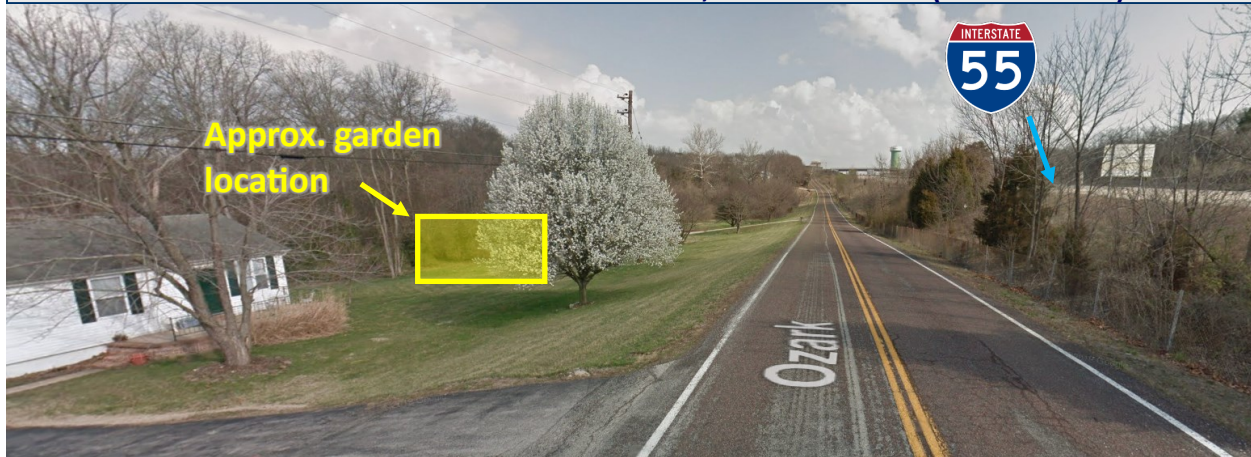
3. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the letter of these regulations are carried out.

Applicant Response (3): We are requesting a variance and the “fencing” around the garden to be approved. Due to the physical surroundings a large amount of deer and other wildlife thrive on this property and surrounding property. There is open grassland, wooded area, and a creek running through the back of the property. We are requesting to put “fencing” up to keep the wildlife out of the garden. Though this may appear to be a permanent structure, it is not. The fencing will be erected while the garden is active. When the garden is inactive it will not be up.

Last year, we planted a garden. We stayed within what is allowed with permission from the city and everything we planted was consumed by the wildlife. As you can see the plot of land dedicated to the garden is large enough that we should have had enough produce for this family and to donate to the Arnold food pantry. I went out one day to see almost 100 green tomatoes. The next day I went out and they were all consumed. We had at least 10 squash plants thriving, went out and they were consumed. We had at least 20 corn plants, consumed

Staff Response (3): As discussed in the previous review criteria discussion, the rural nature of this property combined with the heightened presence of wildlife due to the creek create conditions unique to 1801 Ozark Dr. Due to these conditions, the applicant is unable to keep a garden without the plants and crops being consumed by wildlife. If the applicant were not allowed to build the fence with wildlife/deer netting, the garden would either not have enough sun with other fencing materials or it would be eaten with no fence at all. The hardship claimed by the application may be reasonable and distinguishable from a mere inconvenience.

FIGURE 5: GOOGLE STREETVIEW OF 1801 OZARK DR, FACING NORTH (MARCH 2012)



1801 Ozark Dr.

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FINDINGS AND RECOMMENDATION

DETRIMENT TO PUBLIC SAFETY/HEALTH/WELFARE OR INJURY POSED TO NEARBY NEIGHBORHOODS

The granting of the variance may not be detrimental to the public safety, health, or welfare or injurious to other property or improvements in the neighborhood in which the property is located, subject to conditions.

UNIQUE CONDITIONS OF THE PROPERTY

The conditions upon which the request for a variance is based may be unique to the property to which the variance is sought, and are not applicable generally to other property, subject to conditions.

HARDSHIP

Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner may result, as distinguished from a mere inconvenience, if the letter of these regulations are carried out.

RECOMMENDATION

There is one request for appeal to the fencing regulations contained in this application:

- Request for relief from Section 405.760(S)(3)(a)(1) (wire mesh as a prohibited fencing material) for the purpose of allowing for a deer/wildlife netting and wood pallet garden fence.

For this request, the Commission's options are to approve, approve with conditions that would assist in securing the objectives or requirements of the Zoning Ordinance, or deny. Should the Planning Commission vote to approve, Staff recommends the Commission do so with the following conditions:

- **Wood pallets and wire mesh (with the exception of wildlife/deer screening) are prohibited fencing materials.**
- **The garden fence must be relocated so that it is fully behind the front building line, as shown on the site plan.**
- **This appeal decision expires three (3) years after approval.**

A handwritten signature in black ink, appearing to read "Sarah Turner", is written over a horizontal line.

Sarah Turner
Community Development Planner



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ATTACHMENTS

EXHIBIT A: SITE PLAN

EXHIBIT B: FENCE EXAMPLES

EXHIBIT C: APPLICANT NARRATIVE

PHOTOGRAPHS OF SITE



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EXHIBIT B: FENCE EXAMPLES

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3. Written petition stating the basis for such appeal, the specific relief sought, and responses to the following:

A.) The granting of the variance will not be detrimental to the public safety, health, or welfare or injurious to other property or improvements in the neighborhood in which the property is located.

Having “fencing” around the garden is not detrimental to public safety, health, welfare, or injurious to other property. It will not hinder improvements in the neighborhood were the property is located.

B.) The conditions upon which the request for a variance is based are unique to the property to which the variance is sought, and are not applicable generally to other property.

The reason a variance is being requested is because the white vinyl fencing that is accepted will not keep the wildlife out of the garden. Also, the plants require full sun, the vinyl fence does not allow for full sun. The other fencing materials, Chain-link and the wood fence will not do both, keep the wildlife out of the garden and allow for full sun. We will be using posts (some will be 4x4 and some may be 6x6 to support the required gate needed) and the deer “fencing”/netting will be secured to the posts. This fencing is what is recommended by experts.

C.) Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the letter of these regulations are carried out.

We are requesting a variance and the “fencing” around the garden to be approved. Due to the physical surroundings a large amount of deer and other wildlife thrive on this property and surrounding property. There is open grassland, wooded area, and a creek running through the back of the property. We are requesting to put “fencing” up to keep the wildlife out of the garden. Though this may appear to be a permanent structure, it is not. The fencing will be erected while the garden is active. When the garden is inactive it will not be up.

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EXHIBIT B: APPLICANT NARRATIVE



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SITE PHOTOS SUBMITTED BY APPLICANT

1801 Ozark Dr.

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SITE PHOTOS SUBMITTED BY APPLICANT