

**ZONING BOARD OF ADJUSTMENT – October 2, 2017**  
**STAFF REPORT**



<b>APPLICATION TYPE:</b>		<b>CASE:</b>	
Variance		ZBA17-19: Tankersley	
<b>SYNOPSIS:</b>			
<p>The applicant's requested variance is from Section 501.A of the Zoning Ordinance, to rebuild a fence 17' from the front-yard setback in lieu of the required 25 feet, due to his property being considered as having double lot frontage. He is seeking to rebuild a fence that was damaged during the last storm. The applicant's property is a corner lot, located at the intersection of Old Post Road and Forest Trail. As such, his lot is considered a double lot, and his side-yard is considered a front-yard with a 25' setback. The applicant is requesting to rebuild his fence in the same location that his current fence resides, and to the same height. His current fence is angled, with one side being situated 17 feet from the property line and the other side sitting at 20 feet from the property line.</p>			
<b>LOCATION:</b>		<b>LEGAL DESCRIPTION:</b>	
3553 Old Post Road; generally located at the southeast corner of the intersection of Old Post Road and Forest Trail		College Hills West Addition, Block 1, Lot 11 – Less the east two feet in Section 1	
<b>SM DISTRICT / NEIGHBORHOOD:</b>		<b>ZONING:</b>	<b>FLU:</b>
SMD District #6 – Billie DeWitt Sunset Neighborhood		RS-1 – Single Family Residential	N – Neighborhood
			<b>SIZE:</b>
			0.24 acres
<b>THOROUGHFARE PLAN:</b>			
<p><b>Old Post Road</b> – Urban Local Street                  Required: 50' right-of-way, 40' pavement or 36' pavement with a 4-foot-wide sidewalk                  Provided: 55' right-of-way, 40' pavement with no sidewalk</p> <p><b>Forest Trail</b> – Urban Local Street                  Required: 50' right-of-way, 40' pavement or 36' pavement with a 4-foot-wide sidewalk                  Provided: 55' right-of-way, 40' pavement with no sidewalk</p>			
<b>NOTIFICATIONS:</b>			
22 notifications were mailed out within a 200-foot radius on September 20, 2017. Staff has received one letter in support and zero in opposition.			
<b>STAFF RECOMMENDATION:</b>			
Staff recommends that the Zoning Board of Adjustment <b>APPROVE</b> a Variance from Section 501.A of the Zoning Ordinance to allow for a front yard setback of 17 feet in lieu of 25 feet for the construction of a fence, subject to <b>three</b> Conditions of Approval.			
<b>PROPERTY OWNER/PETITIONER:</b>			
<p><i>Property Owners:</i> Laddell and Kristy Tankersley</p> <p><i>Agent:</i> None</p>			
<b>STAFF CONTACT:</b>			
Kristina Heredia, Planner (325) 657-4210, Extension 1546 <a href="mailto:Kristina.Heredia@cosatx.us">Kristina.Heredia@cosatx.us</a>			

**Special Uses:** Section 207(F) of the Zoning Ordinance requires that an applicant for a variance must show that a hardship exists and that the Zoning Board of Adjustment make an affirmative finding that each and every one of the following six (6) criteria are met:

1. **Special circumstances exist that are peculiar to the land or structure that are not applicable to other land or structures in the same zoning district and are not merely financial.**

The applicant's lot is situated in a manner that the City deems to have double frontage. While the front of the house is clearly on Old Post Road, the fact that the driveway approach to the applicant's property, as well as the driveway approaches to all the houses on Forest Trail, is accessed off of Forest Trail means that the applicant's "side yard" on Forest Trail is actually also considered a front-yard. The applicant is requesting to rebuild a fence that, under other circumstances, would not require a variance.

2. **These special circumstances are not the result of the actions of the applicant.**

When the applicant purchased his home a few years ago, the current fence was already in place. The applicant learned of his special status as double frontage when he came in for a permit to rebuild the fence after it was destroyed in the last storm. While the fence is protruding into the "front-yard," it is still far enough back that it does not appear to compromise line-of-sight for drivers, nor does it act like a front-yard fence. The purpose of the fence is to enclose the back-yard of the applicant's property.

3. **Literal interpretation and enforcement of the terms and provisions of this Zoning Ordinance would deprive the applicant of rights commonly enjoyed by other land in the same zoning district, and would cause an unnecessary and undue hardship.**

A hardship would be created for the applicant if a literal interpretation was enforced. As the fence is acting to contain the back yard of the applicant's property, not allowing the applicant the opportunity to rebuild in the same location would be inconsistent with how this lot, and the adjacent lots along Forest Trail, were developed. The subject site is the only one on this side of the street that has double frontage, and thus, the increased setback. Permitting the fence to be in the same general location as the others would make for a more cohesive and uniform appearance.

4. **Granting the variance is the minimum action that will make possible the use of the land or structure which is not contrary to the public interest, and would carry out the spirit of this Zoning Ordinance and substantial justice.**

The granting of the sole variance will allow the applicant to do what he is requesting: no other action is necessary. The applicant does not want to encroach anymore into the setback that his fence already does.

5. **Granting the variance will not adversely affect adjacent land in a material way.**

The current fence attaches to the adjoining property's fence at the south end of the property. Allowing the applicant to rebuild in the same location will not appear to adversely affect this neighbor as the neighbor's fence was also constructed closer to the property line. Because the fence would be more consistent with adjacent fencing, granting the variance should not create any adverse effects.

6. **Granting the variance will be generally consistent with the purposes and intent of this Zoning Ordinance.**

The Zoning Ordinance allows property owners the ability to build higher fences in the back and side yards to enclose their backyards. Though the applicant has a double frontage lot, the fence in the yard in question acts like a side-yard fence and is used to separate the backyard from the rest of the property. Allowing the applicant to rebuild his fence to the same specifications and location of the current fence appears to be consistent with the purposes and intent of the Zoning Ordinance given that the fence would not obstruct line of sight to the actual front of the residence.

**Recommendation:**

Staff recommends that the Zoning Board of Adjustment APPROVE a Variance from Section 501.A of the Zoning Ordinance to allow for a front yard setback of 17 feet in lieu of 25 feet for the construction of a fence, on property located within the Single-Family Residential (RS-1) Zoning District, subject to **the following three Conditions of Approval:**

1. This approval for a reduced front yard setback shall only apply to the construction of a fence. Any future structures or additions within a required setback shall require a new variance application and approval.
2. The wooden fence shall be built in a manner that is compatible with the materials and finishes of the existing fence.
3. The applicant shall move the existing BBQ grill from under the covered gazebo, or rebuild the gazebo with non-combustible materials, within 180 days of the approval of this variance, ensuring that all required setbacks are met.

**Attachments:**

Aerial Map  
Future Land Use Map  
Zoning Map  
Notification Map  
Photographs  
Proposed Carport Brochure  
Site Plan  
Application

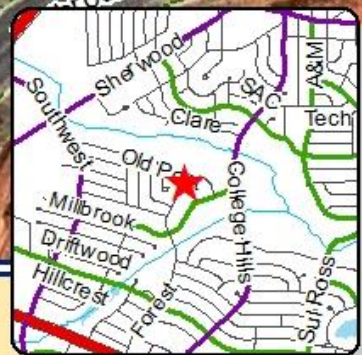


**Aerial Map**  
**Case ZBA17-19**

Council District: Billie DeWitt  
Neighborhood: Sunset  
Scale: 1" approx. = 150 ft  
Subject Property Legal Description(s): College Hills West Addition, North, Block 1, Lot 11

**Legend**

- Subject Properties: —
- Current Zoning: **RS 1**
- Requested Zoning Change: **N/A**
- Vision: **Neighborhood**





**Future Land Use (FLU) Map**

**Case ZBA17-19**

Council District: Billie DeWitt

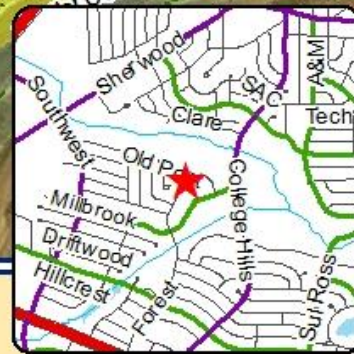
Neighborhood: Sunset

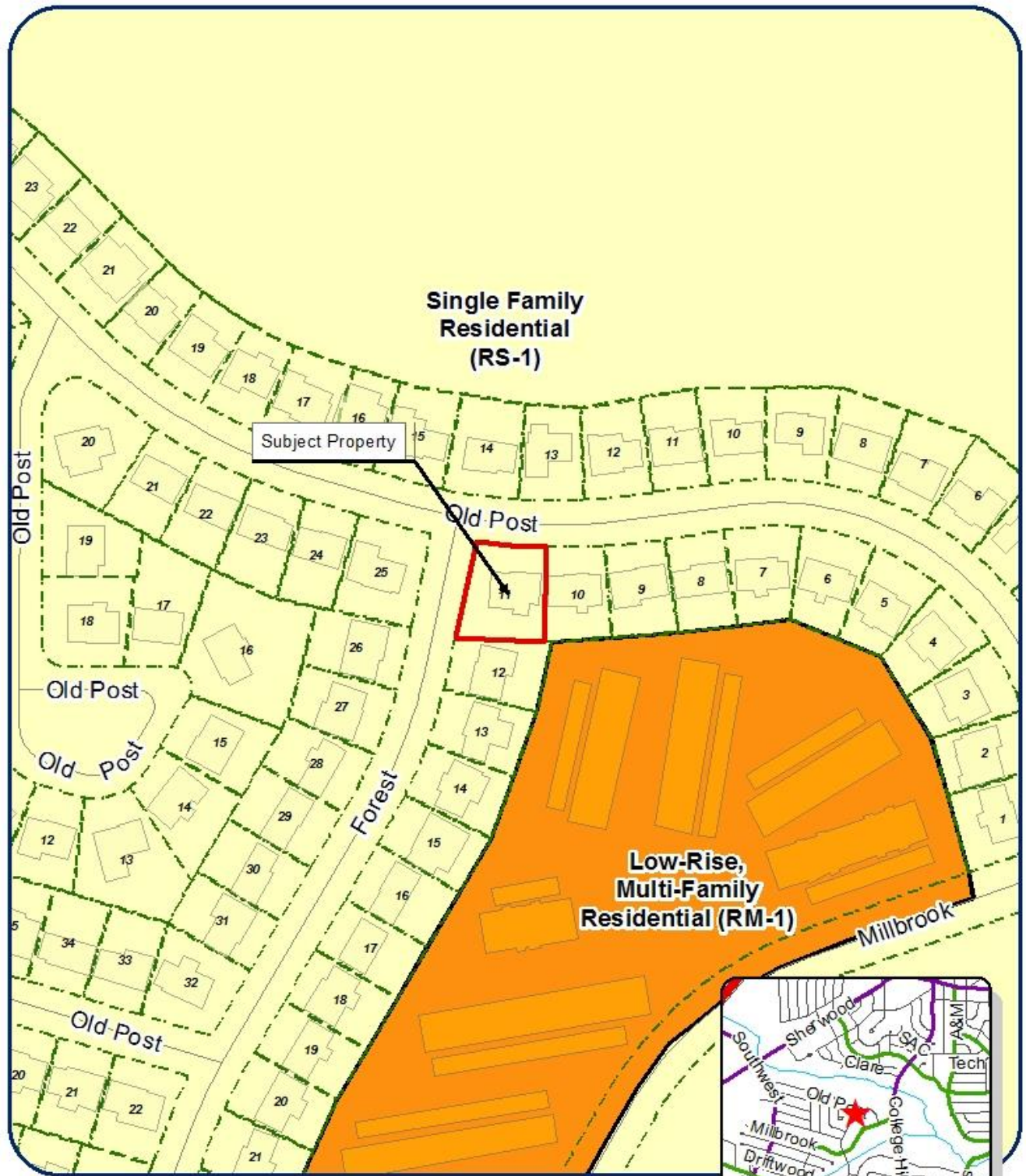
Scale: 1" approx. = 150 ft

Subject Property Legal Description(s): College Hills West Addition, North, Block 1, Lot 11

**Legend**

- Subject Properties: —
- Current Zoning: **RS 1**
- Requested Zoning Change: **N/A**
- Vision: **Neighborhood**



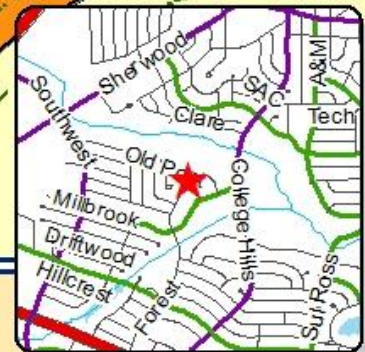


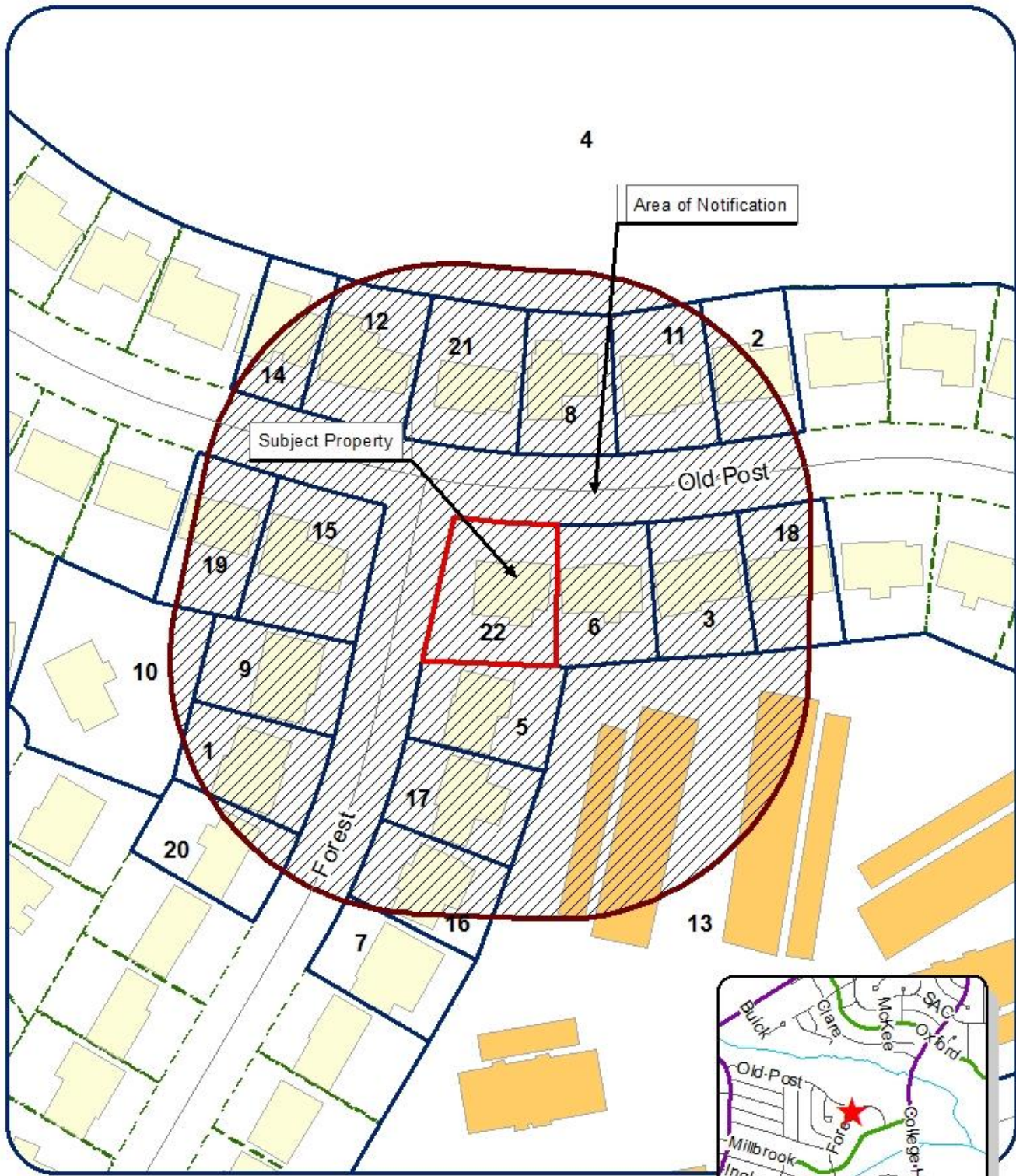
**Zoning Map**  
**Case ZBA17-19**

Council District: Billie DeWitt  
 Neighborhood: Sunset  
 Scale: 1" approx. = 150 ft  
 Subject Property Legal Description(s): College Hills West Addition, North, Block 1, Lot 11

**Legend**

- Subject Properties: —
- Current Zoning: **RS 1**
- Requested Zoning Change: **N/A**
- Vision: **Neighborhood**





**Notification Map**  
**Case ZBA17-19**

Council District: Billie DeWitt  
 Neighborhood: Sunset  
 Scale: 1" approx. = 100 ft  
 Subject Property Legal Description(s): College Hills West Addition, North, Block 1, Lot 11

**Legend**

- Subject Properties: —
- Current Zoning: **RS 1**
- Requested Zoning Change: **N/A**
- Vision: **Neighborhood**



**Photos of Site and Surrounding Area**

**FRONT ON OLD POST ROAD**



**SIDE ON FOREST TRAIL**



**LOOKING WEST ON OLD POST ROAD**



**LOOKING SOUTH ON FOREST TRAIL**





**Photos of Site and Surrounding Area**

**SIDE OF FENCE, 17' FROM PROPERTY LINE**



**MISSING FENCE**

