

**Docket Number:** 20/9473

**Appellant:** Jack and Beth Miller Family Trust  
Trustee: Jill Brady, 7404 SE Vandalia Drive, Runnells,  
IA 50237 (Property Owner)

**Appeal:** The Appellant requests a Variance to construct a residential privacy fence with a height of eight (8) feet along the southerly property line within portions of the front yard setback and rear yard, in lieu of the maximum allowable height of four and one-half (4½) feet and six (6) feet.

**Appeal Given:** “On a section of the property on the Southeast side, along the property line of Deborah and Steve Roeder (7450 SE Vandalia Drive), we have requested to be allowed to construct an 8’ fence. The Roeders are in agreement with this decision. The Roeders have an above ground pool and an 8’ fence would provide necessary privacy to not disrupt the activities of either party. There has always been currently a fence along that line, we are just respectfully requesting an 8’ fence to increase privacy.”.

### **Background**

The subject property is located at 7404 SE Vandalia Drive, Runnells, and consists of two (2) tax parcels. The property is legally described as approximately 9.51-acres located within the NE¼ NW¼ of Section 24 in Fourmile Township. The subject property is located at the northeast corner of SE 74<sup>th</sup> Street and SE Vandalia Drive, and is approximately 1.1 miles from the corporate boundary of the City of Pleasant Hill. The subject property contains a single-family residential dwelling, as well as two (2) detached accessory structures.

The subject property is zoned “RR” Rural Residential District, as are all of the surrounding properties. The location of the subject property is generally residential in nature, with a mixture of lots being predominantly wooded, turf grass, or farmed agricultural ground. Of the seven properties which abut the subject parcels, six contain residential dwellings, and properties range in size from 0.9 acres to 26 acres. The subject property also contains a commercial Christmas Tree Farm, known as the Miller Tree Farm, which is generally in operation from Thanksgiving to Christmas each year. See *Attachment A* at the end of this report for an aerial vicinity map of the subject property and surrounding area.

### **Summary of Request**

The Polk County Zoning Ordinance, *Article 4: Use Regulations, Division 6, Section 5 Fences and Retaining Walls (A1)* stipulates that residential fences shall not exceed four and one-half (4½) feet in height within the front yard setback, and six (6) feet in height within a side or rear yard setback. The appellant is proposing to construct a new 275-foot long segment of privacy fence to be placed along the southerly property line within portions of the front yard setback and rear yard abutting the adjacent property at 7450 SE Vandalia Drive. The appellant requests a variance to permit the proposed fence at eight (8) feet in height to provide the desired level of privacy. See *Attachment B* at the end of this report for a copy of the site plan submitted with the variance application.

Staff mailed out fifteen (15) notices regarding this request, including the date and time of the public hearing, to surrounding property owners within the 250-foot notification boundary. To-date staff has received three (3) responses in support of the request.

### **Natural Resources**

The subject property is not located within a mapped floodplain. The site features a steady slope from the high elevation point of approximately 910 Feet along the Western side of the property, to a low point of approximately 830 Feet along a creek bed at the Northeast corner of the property, a total elevation change of 80 feet over 1,290 feet. The topography around the proposed fence location is relatively flat. There is a creek that runs through the East half of the subject property, and would be approximately 400 feet from the proposed fence.

### **Roads & Utilities**

The subject property has approximately 170.39 feet of frontage onto SE Vandalia Drive, and approximately 204.25 feet of frontage onto SE 74<sup>th</sup> Street. The property contains two driveway entrances near the intersection of SE Vandalia Drive and SE 74<sup>th</sup> Street, and one additional driveway entrance onto SE Vandalia Drive. At the location of the subject property, Vandalia Road travels Northwesterly/Southeasterly, whereas SE 74<sup>th</sup> Street is due North/South. The resulting oblique intersection creates unique lot layouts and intersection points from abutting properties.

The home on the subject property was constructed in 1952, according to the Polk County Assessor's available information on the subject property. The home is served by an on-site septic system, and the fence must be constructed a minimum of 10 feet away from the septic system. There is a 6 inch Des Moines Water Works water main running adjacent to the subject property on the North side of the right-of-way of SE Vandalia Drive.

### **Recommendation**

**The Board of Adjustment may grant a variance if items 1 through 5 are affirmed.**

- 1.) Are there exceptional or extraordinary circumstances or special conditions applying only to the property in question and which do not exist generally on other properties in the same zoning district which makes it impossible to place a use permitted in the district on the property?  
Yes. The neighboring property (7450 SE Vandalia Road) is triangular in shape due to the oblique intersection based on the differing travel directions of SE Vandalia Road and SE 74<sup>th</sup> Street. The above-ground swimming pool at 7450 SE Vandalia Road was otherwise constructed in an allowable location, but the proximity to the property line and height of the pool creates privacy concerns between the two properties.
  
- 2.) Is the variance necessary for the preservation and enjoyment of property rights possessed by other properties in the same zoning district in the same vicinity? (No variance can permit uses that are prohibited in a district)  
Yes. The height of the above-ground swimming pool means those standing on the deck surrounding the pool will be above ground level, and a six (6) foot privacy fence would provide little screening between the two properties. A fence of six (6) feet in height would otherwise be allowed in the "RR" Rural Residential District at the proposed location.

- 3.) Will the variance preserve adjacent property and support the purpose of the ordinance and the public interest?
- Yes. The proposed privacy fence will provide a desired barrier between the adjacent properties. The location of the fence does not appear likely to have any impact on any other nearby properties or public areas.
- 4.) Is there a special condition or circumstance that did not result from the actions of the applicant?
- Yes. The neighboring property constructed an above-ground swimming pool that is located nearby the applicant's southern property line. The neighboring property had limited options for the location of their swimming pool based on the unique shape of their property.
- 5.) Does the variance support the intent of Article 7 Natural Resource Protection and Article 8 Stormwater and Erosion Control Management of the Polk County Zoning Ordinance?
- Yes. The appellant is required to meet the environmental provisions of the Polk County Zoning Ordinance. It does not appear that any environmentally sensitive areas will be impacted with the construction of this privacy fence.

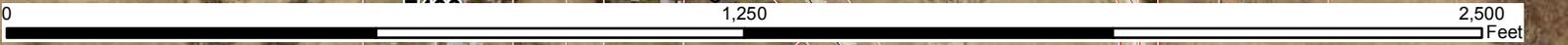
The Board of Adjustment may grant a variance if items 1 through 5 are affirmed. Since items 1-5 were answered in the affirmative, staff recommends approval of the requested variance, subject to the following conditions of approval:

1. This variance permits the fence to be located along the southern property line as depicted on the attached site plan. The fence shall be constructed no closer to the front property line / southwest property corner than 43 feet as depicted.

Attachment 'A'



7404 SE Vandalia Drive



**Attachment 'B'**

Address:  
7404 SE Vandalia Dr  
Runnells, IA 50237

Owner:  
Jack and Beth Miller  
Family Trust

Applicant:  
Jill Brady (TTE)

Phone:  
515-710-5691

