

Board of Zoning Adjustment
Staff Report
 March 27, 2023



Case No:	23-VARIANCE-0018
Project Name:	Poplar Hill Estates Variance
Location:	10 Poplar Manor Rd
Owner:	Murray G. Turner
Applicant:	Dean Wilkinson, Wilkinson Builders Inc.
Representative:	Cliff Ashburner, Dinsmore & Shohl LLP
Jurisdiction:	City of Indian Hills
Council District:	16 – Scott Reed
Case Manager:	Amy Brooks, Planner I

REQUESTS:

Variance from the City of Indian Hills Land Development Code Article 4.6.C.2.a to reduce the required front yard setback from 30 to 15 feet.

Location	Requirement	Request	Variance
Front Yard Setback	30 ft.	15 ft.	15 ft.

CASE SUMMARY/BACKGROUND

The subject site is zoned R-4 single family residential in the City of Indian Hills. The Poplar Hills Estates subdivision was approved by the Planning Commission in 2010 under case # 9243. The subdivision plan and subsequent record plat approved 12 buildable lots and 2 open space lots on 11 acres. The site is surrounded on all sides by R-4 single- family residential. There are steep slopes over 20% along the portion of the site that is adjacent to Blankenbaker Lane and Poplar Hill Road. In fact, eight of the proposed lots are affected by steep slopes thus posing environmental constraints on the buildable lots. The applicant is requesting that the required 30-foot front yard setback be reduced to 15 feet.

STAFF FINDINGS

Staff finds that the requested variance is adequately justified and meets standards of review.

Based upon the information in the staff report, and the testimony and evidence provided at the public hearing, the Board of Zoning Adjustment must determine if the proposal meets the standards for granting a variance from section 4.6.C.2.a as established in the City of Indian Hills Land Development Code.

TECHNICAL REVIEW

None. Approved by the Planning Commission as a major subdivision.

INTERESTED PARTY COMMENTS

No interested party comments were received by staff.

RELATED CASES

9243: Major Subdivision Approval
19RECORDPLAT1000.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM Article 4.6.C.2.a

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The requested variance will not adversely affect the public health, safety or welfare as the proposed 15- foot setback will not impede the safe movement of pedestrians or vehicles along Poplar Manor Rd. The reduction in setback will be internal to the site itself, as well, thereby not affecting any setback adjacent to the more-traveled Blankenbaker Lane.

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The requested variance will not alter the essential character of the general vicinity as the reduced front yard setback is internal to this specific subdivision; thus, any future development on the parcels would be built to this new reduced setback thus establishing a consistent and complementary pattern. There is also other clustered development in Indian Hills that subscribes to a less than 30-foot setback on land with similar topography.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The requested variance will not cause a hazard or nuisance to the public because the requested reduced front yard setback will increase the distance future residential structures will be built from adjacent single-family development.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variance will not allow an unreasonable circumvention of the zoning regulations as the individual lots have environmental constraints, including steep slope which restricts the ability to develop the property.

ADDITIONAL CONSIDERATIONS:

- a. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone.

STAFF: The requested variance does arise from special circumstances which do not generally apply to land in the general vicinity because the land has natural contours that limit its development.

- b. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the property has existing conditions that make providing the required 30-foot front yard setback rather difficult.

- c. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the applicant is requesting the variance and has not begun construction.

- d. the variance will not adversely affect the public health, safety and welfare, and will not alter the essential character of the general vicinity and will not cause a hazard or a nuisance to the public.

STAFF: The requested variance will not adversely affect the public health, safety or welfare, and will not alter the essential character of the general vicinity and will not cause a hazard or a nuisance to the public because the front yard setback is internal to the site itself and future development will comply with all applicable building regulations and the Land Development Code, except where relief is requested.

VARIANCE PLAN REQUIREMENT

In accordance with City of Indian Hills LDC Section 11.5B.1.C (Requirement to Follow Approved Plan), a variance shall be approved only on the basis of the plan approved by the Board and shall be valid only for the location and area shown on the approved plan. All construction and operations must be conducted in accordance with the approved plan and conditions attached to the variance.

NOTIFICATION

Date	Purpose of Notice	Recipients
03/09/2023	Hearing before BOZA	1 st tier adjoining property owners and current residents
03/10/2023		Registered Neighborhood Groups in Council District 16
03/13/2023	Hearing before BOZA	Notice posted on property

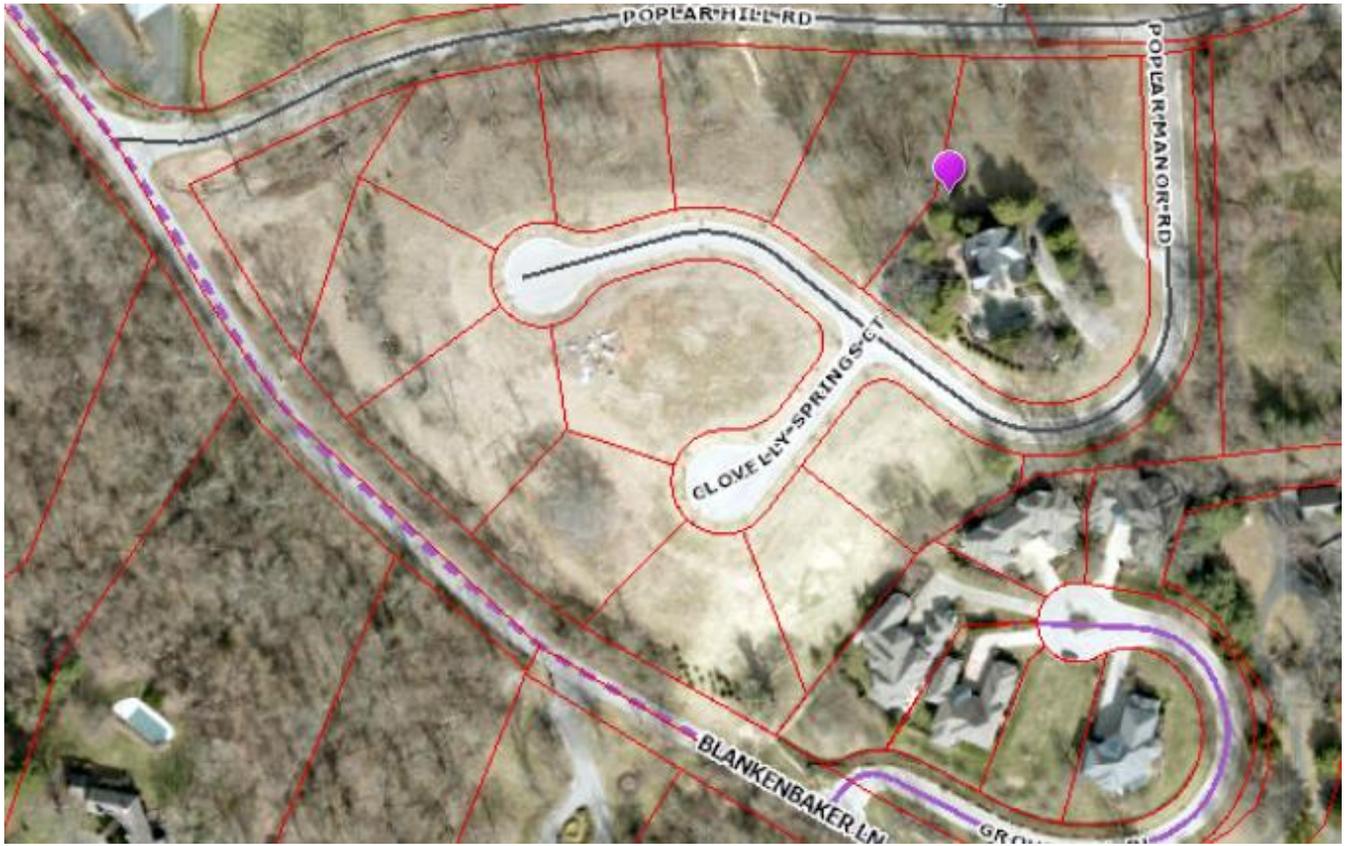
ATTACHMENTS

- 1. Zoning Map
- 2. Aerial Photograph
- 3. Site Plan
- 4. Site Photos

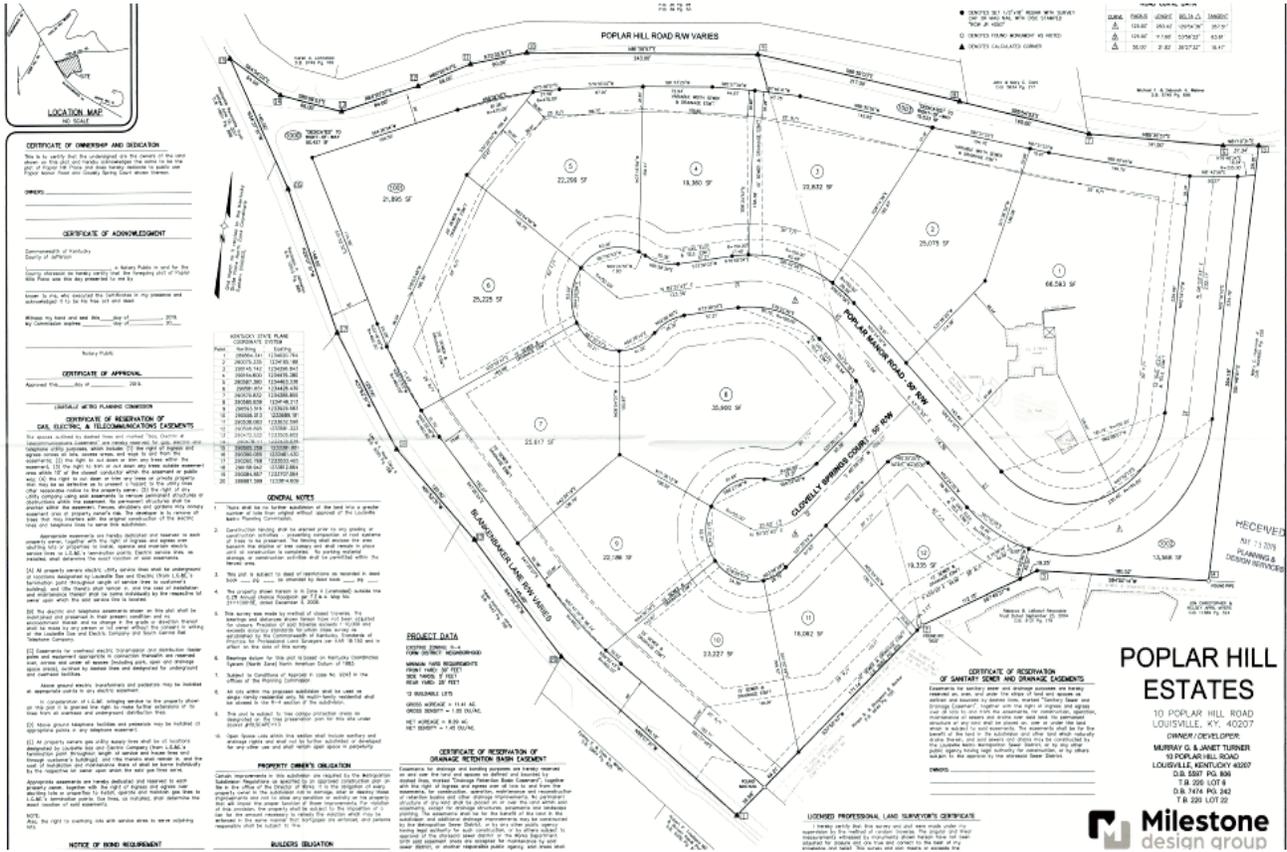
1. Zoning Map



2. Aerial Photograph



3. Site Plan



4. Site Photos



Entrance to subdivision.



Looking west on Poplar Manor Rd.



Looking westward on Clovelly Springs Ct.



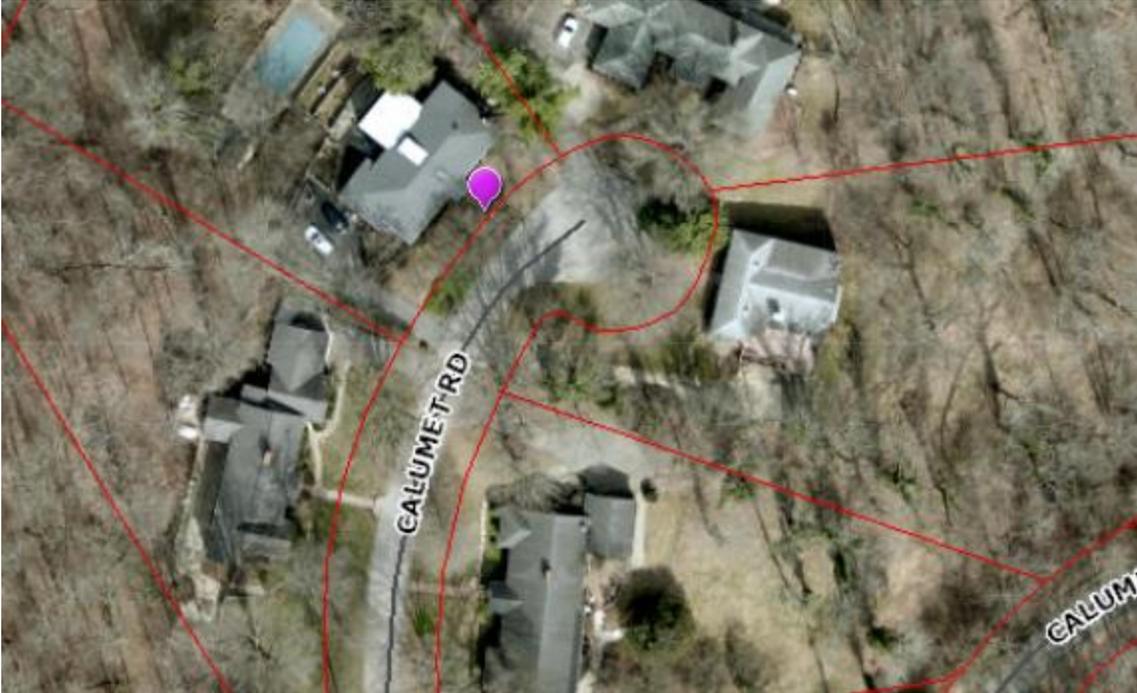
Clovelly Springs Ct.



Existing house in subdivision.



Overview of subdivision.



Examples of clustered housing in the City of Indian Hills with less than the required 30 foot setback.