

VARIANCE JUSTIFICATION STATEMENT

THE PHYLLIS A FETTER LIVING TRUST

2107 Twin Hill Road

March 13, 2017

The applicant, The Phyllis A. Fetter Living Trust, is requesting a variance to allow the existing single-family home located at 2107 Twin Hill Road to encroach 4.71 feet into the 30-foot front yard setback requirement. The subject property is zoned R-4 Single-Family Residential and is located in the Neighborhood Form District. The Fetter family acquired the existing home nearly 10 years ago from the builder, who resided in it after its construction until he conveyed it to the Fetter family. It wasn't until just this year when the subject property was under contract for purchase and a recent survey of the property was conducted that this encroachment was discovered, hence the need for variance relief. For the reasons stated herein, the requested variance complies with the criteria set forth in KRS 100.243 and, therefore, should be approved.

The proposed variance will not alter the essential character of the area or adversely affect the public health, safety or welfare because the home, as constructed in its current location, has existed on the subject property for almost 12 years and is consistent with the pattern of suburban development in the neighborhood. The existing house is clearly compatible with the surrounding area and has not caused any negative impacts to surrounding properties. Accordingly, granting the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations.

The house's minor encroachment—only a fraction of the front facade breaches the front yard setback requirement by less than 5 feet—has existed unbeknownst to anyone in area, including the current property owner, until this year. The subject property is the first parcel on the southern side of Twin Hill Road, from Blankenbaker Lane. From Blankenbaker, Twin Hill Road curves southward before going up a hill. It is foreseeable that when the builder constructed the home to address Twin Hill Road, the house was turned counterclockwise slightly to front Twin Hill, as Twin Hill curves southward. Consequently, when the builder oriented the house in this location on the property, the builder failed to account for how said orientation related to the 30-foot front yard setback, thereby misplacing the right front corner of the house into the required front yard. No surrounding uses have been or will be impacted by the requested variance and no new construction is proposed. Therefore, the proposed variance will not cause a hazard or nuisance to the public.

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Special circumstances exist that do not apply to land in the general vicinity or in the same zone because the house was constructed in its current location on the lot likely based on a mismeasurement or miscalculation by the builder, who subsequently sold it two years later to the Fetters. Certainly, it can be said that the Board's subsequent determination that the homebuilder's 12-year old construction error constitutes a special circumstance that does not apply to land in the general vicinity.

The home was constructed in 2005, and the Fetters purchased the subject property from the builder of the home on June 11, 2007. Therefore, the circumstances are not the result of actions taken by the applicant subsequent to the adoption of the zoning regulation from which relief is sought, and the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land. Denial of the variance would create an unnecessary hardship because the applicant would potentially have to remove the front portion of the existing residence that encroaches into the front yard setback, putting an extreme and unequitable financial burden on the applicant. The applicant should not have to incur such a great expense to cure a construction error created by someone else prior to applicant's purchase of the property.

For the foregoing reasons, the applicant respectfully requests that the Board approve a front yard variance to allow the existing home at 2107 Twin Hill Road to be located 25.29 feet from the front property line.

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