

John Mounce, Mayor Pro Tem
Tomas Mendoza, Councilmember
Chrissa Hartle, Councilmember



James Clark, Councilmember
Jim Tate, Councilmember

Elizabeth Woodall, Mayor

**CITY OF JUSTIN
BOARD OF ADJUSTMENT**

**DECEMBER 13, 2022
415 N. COLLEGE AVE.
5:30 P.M.**

CALL TO ORDER

PUBLIC HEARING:

1. Conduct a Public Hearing to consider a variance to Chapter 10 of the Code of Ordinances relating to Fencing Standards for the properties legally described as O T JUSTIN BLK 48 LOT 2, O T JUSTIN BLK 48 LOT 1, DONALD-HARMONSON ADDN BLK 7 LOT 1-6, and DONALD-HARMONSON ADDN BLK 10.

- a. Open public hearing
- b. Close public hearing
- c. Consider and take appropriate action

FUTURE AGENDA ITEMS

ADJOURN

I, the undersigned authority, do hereby certify that the above notice of the meeting of the Zoning Board of Adjustment of the City of Justin, Texas, is a true and correct copy of the said notice that I posted on the official bulletin board at Justin Municipal Complex, 415 North College Street, Justin, Texas, a place of convenience and readily accessible to the general public at all times, and said notice posted this 8th day of December, 2022 by 5:00 p.m., at least 72 hours preceding the scheduled meeting time.

Brittany Andrews

Brittany Andrews, City Secretary

Zoning Board of Adjustment Meeting

December 13, 2022

Justin City Hall, 415 North College Street

Zoning Board of Adjustment Cover Sheet

Agenda Item: #1

Title: Conduct a Public Hearing to consider a variance to Chapter 10 of the Code of Ordinances relating to Fencing Standards for the properties legally described as O T JUSTIN BLK 48 LOT 2, O T JUSTIN BLK 48 LOT 1, DONALD-HARMONSON ADDN BLK 7 LOT 1-6, and DONALD-HARMONSON ADDN BLK 10.

Department: Administration

Contact: Director of Planning and Development, Matt Cyr

Recommendation: Staff recommends approval based on the request meeting the criteria in the ordinance.

Background:

The Applicant is requesting a variance to permit open style fencing on the corners of the property.

Currently, the code prohibits any fencing to be utilized within the Visibility triangle (25 x 25).

Criteria to be Considered (Sec. 10-254):

The board of adjustment shall have the authority to authorize variances from the terms of this article if it shall determine after notice and public hearing in the same manner as a zoning case that the requested variance meets two of the following four criteria:

- (a) The proposed fence will not adversely impact the adjacent property (visibility, size and the like);
- (b) The proposed fence is of a unique design or configuration or serves a unique function;

(c) The variance is needed due to restricted area, shape, topography, physical features, or conditions that are unique to the property on which the proposed fence would be constructed; or

(d) The variance will substantially improve the health, safety, or welfare of the public and does not violate the spirit of this article.

Staff Analysis:

1. The proposed fence will not adversely impact the adjacent property (visibility, size and the like);
 - a. Staff does not believe the fence will impact adjacent property owners due to the subject property's adjacency to the roadway. This request will not impact any adjacent property owners and still provides visibility.
2. The proposed fence is of a unique design or configuration or serves a unique function.
 - a. Staff believes the fence will serve a unique function to ensure there is visibility around the corners of the development, while also providing security to the owners of each individual lot. Without the design of this fence, there would not be any uniformity on the corner lots nor any security for these potential homeowners.
3. The variance is needed due to restricted area, shape, topography, physical features, or conditions that are unique to the property on which the proposed fence would be constructed;
 - a. While there is an argument to be made relating to the restricted area for each lot, this was essentially self-created based on the creation of this development. There is also not any physical conditions with the property such as easements, topography (related to fencing), or any other physical features, that prevent compliance as described above. Staff believes it does not meet this specific provision.
4. The variance will substantially improve the health, safety, or welfare of the public and does not violate the spirit of this article.
 - a. Staff believes this will improve the health, safety, and welfare of the public and does not violate the spirit of this article. The spirit and intent of the article is to ensure there is visibility on the corners to reduce any potential collisions due to an obstructed view. With the fence being proposed as open style, this would match up with the intent of the ordinance, which provides security for residents, but also provides visibility.

The overall request from the Applicant meets at least three out of the four criteria. Based on the ordinance, Staff is recommending the Zoning Board of Adjustment approve the variance request.

City Attorney Review: N/A

Attachments:

1. Map
2. Supporting Documents
3. Code of Ordinances





415 N. College Ave
Justin, Texas 76247
(940) 648-2541

City of Justin

Variance Application

Reference #:

Variance Applicant

Address

Telephone #

Email

Lot(s)

Blocks(s)

Acreage

Requested Variance

Reason for Variance Request

Please attach all necessary supporting documents

Property Owner Information: (For multiple owners - submit info on each owner)

Name

Address

Telephone #

Email

If the property owner(s) is(are) represented by an authorized agent, please complete the following:

Agent Name

Agent's Address

Agent Title

Telephone #

Email

I, the undersigned, do hereby certify that I am the authorized Applicant/Owner/Agent of the property above described on the date of this application.

Signature of Applicant, Owner, or Authorized Agent

Date

Planning Official

Fee: \$

Date of BOA Hearing

Signature of Planning Official

FOR OFFICE USE ONLY

Received By

Date Received

Date Approved

Date Paid

☐

Cash

☐

CC

☐

Check #(s):





Sec. 10-248. General requirements.

- (a) *Encroachment on city or public right-of-way.* No person shall construct a fence, guy wire, brace or any fence post upon or protruding over any city or public right-of-way.
- (b) *Fence not to create a traffic hazard.* It is unlawful to erect, maintain, suffer, or permit any fence on any corner lot in such a manner as to create a traffic hazard or restrict visibility. Failure of the owner, agent or occupant to remove such obstruction within the specified time limit required on the receipt of notice to do so is a violation of this article.
- (c) *Fence orientation.* Fence sections essentially parallel with a public street or public park space shall have their backside (the side with the exposed posts and rails) oriented to the interior of the residential lot to minimize their exposure to the public.
- (d) *Gate required.* Each fence constructed under the provisions of this article shall include in its perimeter at least one gate with a minimum width of three feet.
- (e) *Fence not to be in right-of-way or easement.* No fence shall be erected within, on, or across any right-of-way, public or private easement, or visibility triangle. Property owners that allow a fence to be constructed in a utility or other easement on their property do so at their own risk. Unless the terms of a specific easement state otherwise, fences constructed within utility easements may be removed by a franchise utility company or its contractor with rights to the easement and such utility company shall not be responsible for replacement of the fence or liable for damage to the fence that occurred during its removal.
- (f) *Fence materials.* Fences on residential and commercial property (to exclude any areas zoned for industrial or light industrial use) shall be constructed of materials expressly designed for fencing. This shall include products such as chain link, wood planks and boards, commercial or livestock grade vinyl (supported by the manufacturer's specifications), masonry as defined by the building code, pipe and cable, wrought iron, or ornamental iron. Materials or products such as rope, string, barbed wire, razor ribbon wire, corrugated metal, plywood, or a fence that has in it or on it barbs, projections, broken glass, or anything reasonably capable of causing harm to persons or animals are prohibited. Wood, metal, or plastic products that are designed specifically for use other than fence construction are also prohibited.

For properties located in industrial or light industrial zoning districts, all fence materials allowed for residential and commercial zoning shall also be allowed. In addition, screening with chain link fencing shall also be allowed, and reasonably necessary barbed wire or other security fencing shall be allowed.
- (g) *Landscape in lieu of fence.* Except where otherwise required in this Code, regulations governing the height, location and opacity of fences also applies to walls, hedges or landscaping used in lieu of a fence or in combination with a fence.
- (h) *Temporary fences.* Temporary fences are prohibited, except where required by city Code or state or federal law for construction, excavation, or life safety issues. Temporary fence materials may include, but are not limited to, rope; string; wire products such as chicken wire, hog wire, wire fabric, and similar welded or woven wire fabrics; chain; live bamboo; netting; cut or broken glass; paper; unapproved corrugated metal panels; galvanized sheet metal; plywood; or fiberglass panels in any fence or any other material that are not manufactured specifically as fencing materials. The city manager or his/her designee may require the applicant to provide the manufacturer's standard to establish the intended use of a proposed fencing material. Exceptions shall include:
 - (1) A dog window may be installed in a fence no larger than 288 square inches with corrosion resistant material capable of restraining the dog.
 - (2) Temporary fences made of wire, with heights not over 36 inches, in residential districts are permitted for residential garden uses only.

Sec. 10-254. Variances.

The board of adjustment shall have the authority to authorize variances from the terms of this article if it shall determine after notice and public hearing in the same manner as a zoning case that the requested variance meets two of the following four criteria:

- (a) The proposed fence will not adversely impact the adjacent property (visibility, size and the like);
- (b) The proposed fence is of a unique design or configuration or serves a unique function;
- (c) The variance is needed due to restricted area, shape, topography, physical features, or conditions that are unique to the property on which the proposed fence would be constructed; or
- (d) The variance will substantially improve the health, safety, or welfare of the public and does not violate the spirit of this article.

(Ord. No. 624-17, § 1, 7-31-2017)