

To: Zoning Board of Adjustment

From: Justin Wilkins, Building Official (BO)

..Title

PUBLIC HEARING: Consider an application requesting a variance to Section 9.07.(C)1. in the Unified Development Code (UDC) which states In all zoning districts, fences adjacent to a street must be inset a minimum of four feet (4') from the property line except when front property line is adjacent to a bar ditch. The property is on approximately 0.2591-acres, located at the corner of College St and Bear Creek Pkwy intersection, legally described as Block 3, Lot 12, of Park Addition (Keller), zoned Residential and addressed as 357 College St. Edward, Smola, Applicant/Owner. (ZBA-2410-0005)

..Body

Request:

The Applicant is requesting a variance to allow a recently repaired fence to remain in the same location in lieu of moving fence 4' away from property line.

Background: On October 28, 2024, City Staff was made aware of a fence that was approved and permitted was built on the property line in lieu of the 4' minimum insert from property line. The Applicant/Owner was notified they would need to request for a variance to allow the fence to remain in the same location as the previous fence.

UDC Section 9.07(C)1. – In all zoning districts, fences adjacent to a street must be inset a minimum of four feet (4') from the property line except when front property line is adjacent to a bar ditch.

On November 21, 2024, the City mailed out 32 Letters of Notification to all property owners within 200' of the subject property for this Public Hearing.

Staff has not received any response from the public regarding this request.

Summary:

Section 8.02 (C)(6) of the UDC states that when considering a variance request, the following Zoning Board of Adjustment shall Use the following criteria:

- 1) That literal enforcement of the controls will create an unnecessary hardship or practical difficulty in the development of the affected property;
- 2) That the situation causing the hardship or difficulty is neither self-imposed nor generally affecting all or most properties in the same zoning district;
- 3) That the relief sought will not injure the permitted use of adjacent conforming property; and
- 4) That the granting of a variance will be in harmony with the spirit and purpose of these regulations.

Authority of the Board:

Each case before the Board of Adjustment must be heard by at least seventy five percent (75%) of the Board members. The concurring vote of four (4) members of the Board is necessary to:

- 1) Approve as submitted
- 2) Approve with modified or additional condition(s)
- 3) Deny

Supporting Documents:

- Maps
- Staff Attachment - Application and information
- Staff Attachment - Staff Photos