

To: Zoning Board of Adjustment

From: Sarah Hensley, Director of Development Services

PUBLIC HEARING: Consider a request to appeal a decision made by an administrative official related to the drive gate located at 536 Bancroft Rd, Keller, Texas 76248. Valez, Carlos, Applicant/Owner. (ZBA-2510-0008)

Request:

The applicant is requesting to appeal the decision of an Administrative Official. Please see all attachments marked "Applicant Packet" to view all documents provided by the Applicant.

Background:

- August 22, 2025: Code Compliance received a complaint about a fence being built without a permit.
- August 27, 2025: A site visit was completed by staff, who confirmed a fence with a drive gate was completed without a permit.
- August 27, 2025: Courtesy notice sent to Applicant by Code Compliance.
- September 5, 2025: Fence permit application submitted by Applicant.
- September 9-10, 2025: Review comments returned, stating, "Drive gate must be a minimum of 50' from edge of road," and "Fence is currently at 28'7" Drive gate will need to be moved to meet the approved 50' setback from road. Permit was issued so construction modifications could be made.
- October 28, 2025: Applicant submitted a ZBA variance application
- March 6, 2026: ZBA Application fee paid
- May 11, 2026: Applicant clarified that "For docketing and scheduling purposes only, I select Option 1: appeal of a decision of an administrative official. The exact decision being appealed is the April 21, 2026 Final Notice in Code Case #2508-0551, including the City's determination that the drive-gate/fence condition at 536 Bancroft Road violates the UDC drive-gate setback provisions, the City's measurement and application of that setback requirement, and the related nuisance/enforcement classification." (see Staff Attachment for full text of May 11, 2026 email)

Citizen Input:

On May 14, 2026, the City mailed out 15 Letters of Notification to the property owners within 200' of the subject property for this Public Hearing. The original notices contained a typo on the meeting date, so corrected notices were mailed out on May 19, 2026.

Staff has not received any responses from the public.

Summary:

Section 8.02 (C)(8)(c) of the Unified Development Code (UDC) provides the following guidelines for the ZBA when considering an appeal:

- 1) An appeal may be taken from the decision of an administrative official by an applicant for the permit on which the decision is rendered, by any person or persons directly aggrieved by the decision or by any officer, department, board, or bureau of the municipality affected by the decision.
- 2) The appellant must file with the Board and the official against whom the appeal is taken a written notice of appeal specifying the grounds for the appeal within fifteen (15) days after the decision has been rendered. The officer to whom the appeal is made shall forthwith transmit to the Board all papers constituting the record of the action that is appealed.
- 3) An appeal stays all proceedings in furtherance of the action that is appealed unless the official from whom the appeal is taken certified in writing to the Board that facts supporting the official's opinion that a stay would cause imminent peril to life or property. In that case, the proceedings may be stayed only by a restraining order granted by the Board or a court of record on application, after notice to the official, if due cause is shown.
- 4) The Board shall set a reasonable time for the appeal hearing and shall give public notice of the hearing and due notice to the parties. The appellant party may appear at the appeal hearing in person or by agent or attorney.
- 5) The Board shall decide the appeal within three (3) weeks after placement on its agenda after which time the request shall be deemed automatically approved. The Board may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision, or determination from which an appeal is taken, and make the correct order, requirement, decision, or determination.
 - a) Vote Required for Board Decisions. The concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, decision, or determination of an administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under these zoning regulations, or to effect any variance to the zoning regulations granted by the Board.
 - b) Judicial Review. Any person or persons, jointly or severally, aggrieved by a decision of the Board of Adjustment, or any taxpayer, or any officer, department, or Board of the City may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition must be presented within ten (10) days after the date the decision is filed in the Board's office.

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