

536 Bancroft Road - ZBA Handout

ZBA-2510-0008 | Code Case #2508-0551 | Residential gate/fence on unimproved Bancroft Road frontage

REQUESTED ACTION BY THE BOARD

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| <ul style="list-style-type: none"> Confirm that the pending ZBA appeal stays further code-enforcement action unless the City produces the written imminent-peril certification required by Tex. Loc. Gov't Code §211.010(c). Reverse or modify the administrative determination that the existing residential fence/gate is a nuisance while the measurement origin, setback classification, and variance request remain unresolved. Resolve the controlling measurement point before applying the 50-ft rule: the City redline origin is 28.7 ft; the survey/easement origin is 39.4 ft. | <ul style="list-style-type: none"> Grant an as-applied variance or interpretation allowing the existing fence/gate to remain, or recognizing the 36-40 ft pavement/easement condition as functionally equivalent for an unimproved collector frontage. If the Board will not grant relief today, continue the case and maintain the stay until the City identifies the measurement standard, comparator criteria, and any Fire/access review relied on. Preserve objection to any hearing held without timely agenda, packet, posting, or meaningful notice of time and scope. |
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RECORD POSTURE

ZBA pending	Portal record shows Plan ZBA-2510-0008 as a ZBA Variance with fees paid, applied 10/28/2025, workflow active, and description stating the enforcement hold was acknowledged pending ZBA review. [C2]
City hold / May 4	Hensley correspondence moved the matter to May 4, 2026; City response also stated the code case "was put, and remains, on hold." [C3]
Final Notice	Final Notice dated April 21, 2026 labels the property non-compliant/nuisance and demands abatement within ten days, while the ZBA matter remained unresolved. [C1]
No shown peril certificate	Applicant has not been provided any written certification to the ZBA that a stay would cause imminent peril to life or property. [C10]

MEASUREMENT ISSUE AND DRIVEWAY GEOMETRY

Model	Origin to existing gate	Inward move to reach 50 ft	Effect on 60-ft driveway model
City redline	28.7 ft	$50 - 28.7 = 21.3$ ft	Consumes ~35.5% of the 60-ft strip; leaves only ~10.7 ft total clear/chute after soffit + Toyota + gate swing, or ~9.8 ft under field stack.
Survey/easement	39.4 ft	$50 - 39.4 = 10.6$ ft	Consumes ~17.7% of the 60-ft strip; leaves ~21.4 ft clear/chute after soffit + Toyota + gate swing.
Material difference	10.7 ft spread	Different origin = different violation	The City's measurement origin changes residential function, storage, gate swing, egress, and safe access.

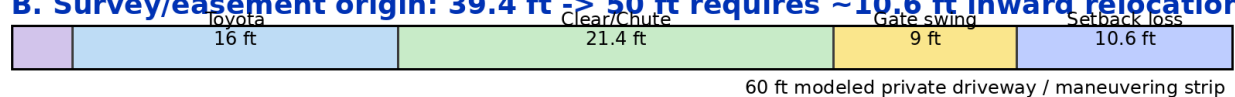
Modeled fixed commitments: 3-ft soffit + 16-ft Toyota 4Runner + 9-ft gate swing = 28 ft before any setback loss. The disputed origin controls whether the driveway remains functional.

A. City redline origin: 28.7 ft -> 50 ft requires ~21.3 ft inward relocation



Applicant field stack preserves ~9.8 ft clear space; less than 1 ft residual chute remains under the redline model.

B. Survey/easement origin: 39.4 ft -> 50 ft requires ~10.6 ft inward relocation



NUISANCE AND COMPARATOR ISSUE

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| <ul style="list-style-type: none"> The Final Notice does not identify an obstruction, sight-distance failure, Fire Marshal finding, emergency-access failure, or imminent peril. It rests on the disputed setback calculation. [C1] The UDC text cited by the City measures from "edge of curb or pavement." Bancroft's unimproved frontage and competing 28.7-ft / 39.4-ft origins must be resolved first. [C1] | <ul style="list-style-type: none"> Comparator exhibits show fence/gate conditions closer to the roadway along Bancroft/Bourland. The City has not identified written criteria explaining why 536 Bancroft is a nuisance while comparable corridor conditions are not. [C9][C10] A nuisance label should not be used to bypass the ZBA appeal, the automatic stay, or the Board's authority to modify the administrative decision. |
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536 Bancroft Road - Applicable Rules and Board Findings Requested

LEGAL / TECHNICAL AUTHORITIES SUPPORTING RELIEF		
Authority	Key rule / standard	Why it supports the requested relief
Tex. Loc. Gov't Code §211.010(c)	A ZBA appeal stays proceedings in furtherance of the appealed action unless the official certifies in writing to the Board that the stay would cause imminent peril to life or property.	Final Notice should be withdrawn or held unless the City produces the required written certification. [C4][C10]
Tex. Loc. Gov't Code §211.009(a)-(b)	Board may hear appeals alleging administrative error, reverse/affirm/modify the official decision, and grant variances where literal enforcement creates unnecessary hardship and substantial justice requires relief.	The Board has authority to correct the measurement/application decision and grant as-applied relief. [C4]
Keller UDC §9.07(K)(3)(c)	The 50-ft drive-gate rule cited by the City is measured from the edge of curb or pavement.	On unimproved frontage with no curb and conflicting origins, the City must identify the controlling edge before calling the property a nuisance. [C1]
Keller UDC §5.03	Streets/access must be safe, convenient, functional, related to existing/planned streets and driveways; points of access and emergency access/egress are relevant; TIA/fire alternatives may be required depending on context.	Gate relocation must be reconciled with driveway function, safe ingress/egress, and emergency access rather than applied mechanically. [C5]
FHWA Access Management - Driveways	Local/rural driveway review should consider context, roadway speed/traffic, property lines, geometry, grade, sight distance, turning radius, drainage, and safe ingress/egress; turnaround space can prevent backing into the roadway.	Supports a site-specific safety/geometry review before forcing a 21.3-ft inward relocation. [C6]
43 Tex. Admin. Code §11.51	Defines a private driveway as access to/from a single-family dwelling/farm/ranch and distinguishes it from commercial driveways; engineering study/TIA concepts measure mobility/safety impacts.	536 Bancroft is a single-family residential driveway, not a commercial/subdivision gate. [C7]
IFC Appendix D / fire-access guidance	Appendix D is not mandatory unless adopted, but it addresses fire apparatus access, loading, widths, turning radius, gates, and turnaround conditions subject to fire-code official review.	If the City relies on safety/fire access, it should produce a site-specific Fire/access review before enforcement. [C8]
Open Meetings / notice objection	OMA requires public notice of meeting date, time, place, and subject before the Board acts.	Applicant preserves objection to any hearing convened without timely agenda/packet/time notice after repeated requests. [C11]

FINDINGS REQUESTED

<ul style="list-style-type: none"> The City has not carried a clean record showing the controlling “edge of curb or pavement” on this unimproved frontage. The 28.7-ft redline origin and 39.4-ft survey/easement origin materially change the outcome and must be reconciled before enforcement. The pending ZBA appeal and portal record support stay treatment; no imminent-peril certification has been produced. 	<ul style="list-style-type: none"> The nuisance designation is unsupported without evidence of actual obstruction, sight-distance failure, Fire/access failure, or emergency hazard. Comparator conditions in the corridor require a written explanation of uniform enforcement and why 536 Bancroft is treated differently. Literal enforcement under the redline model consumes a substantial portion of the 60-ft driveway strip and undermines residential access geometry.
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SOURCE LIST / EXHIBITS

- [C1] City of Keller Code Compliance Final Notice dated Apr. 21, 2026, Re: 536 Bancroft Rd; cites UDC §9.07 and 10-day abatement/nuisance language.
- [C2] City portal record, ZBA-2510-0008, showing ZBA Variance, fees paid, applied 10/28/2025, workflow active/link to code case, and enforcement-hold description.
- [C3] Hensley/Rector correspondence packet, including March 13, 2026 email moving ZBA hearing to May 4 and April 2, 2026 responses on permit/code-case status.
- [C4] Texas Local Government Code Chapter 211, including §§211.009 and 211.010(c).
- [C5] Keller UDC §5.03, Streets and Thoroughfares / approach roads / points of access / emergency access factors.
- [C6] FHWA Local and Rural Road Safety Briefing Sheet, Access Management (Driveways).
- [C7] 43 Tex. Admin. Code §11.51 definitions: private driveway, commercial driveway, engineering study, traffic impact analysis.
- [C8] IFC Appendix D / Dallas Fire Code 2021 excerpt, Fire Apparatus Access Roads; used only as guidance unless adopted.
- [C9] 09_525_Bancroft_Imagery.pdf and corridor/comparator photos.
- [C10] OAG Second Supplemental Complaint / April 24 notice packet: missing measurement, comparator, Fire/access, and imminent-peril certification records.
- [C11] Texas Open Meetings Act Handbook / Government Code ch. 551 notice principles.

Requested disposition: reverse/modify enforcement, withdraw nuisance label, grant as-applied variance/interpretation allowing the fence/gate to remain; or continue and maintain stay until the record is complete.