



## Legislation Details (With Text)

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<b>Type:</b>	New Business	<b>Status:</b>	Approved
<b>File created:</b>	3/9/2018	<b>In control:</b>	City Council
<b>On agenda:</b>	3/20/2018	<b>Final action:</b>	3/20/2018
<b>Title:</b>	Consider a resolution approving a variance to the City of Keller Unified Development Code, Article 8, Zoning/Development Standards, Section 8.11 Fencing Requirements in Residential Zoning Districts, for 520 Bennington Lane, a 0.23-acre single-family lot, located on the southwest corner of the Bennington Lane and Bristol Hill intersection, being Lot 8, Block D, Woodford Phase II Addition, and zoned SF-8.4 (Single Family Residential -8,400 square foot minimum). Dewayne Gray, applicant, Drees Custom Homes, owner. (UDC-18-0004)		
<b>Attachments:</b>	1. 03202018_520 BenningtonUDCVariance_Res.No. 3987, 2. 03202018_520 BenningtonUDCVariance_Exhibit A - Fence Permit, 3. 03202018_520 BenningtonUDCVariance_Exhibit A - Narrative Letter and Site Layout, 4. 03202018_520 BenningtonUDCVariance_Maps, 5. 03202018_520 BenningtonUDCVariance_Staff Attachment - Site Photos, 6. 03202018_520 BenningtonUDCVariance_Staff Attachment - Woodford Addition PH II, 7. 03202018_520 BenningtonUDCVariance_Staff Attachment_LettersfromNieghbors, 8. 520 Bennington Lane- Variance Addendum, 9. Presentation H-1 - 520 Bennington		

Date	Ver.	Action By	Action	Result
3/20/2018	1	City Council		

**To:** Mark Hafner, City Manager

**From:** Susan Kenney, Director of Community Development

### Subject:

Consider a resolution approving a variance to the City of Keller Unified Development Code, Article 8, Zoning/Development Standards, Section 8.11 Fencing Requirements in Residential Zoning Districts, for 520 Bennington Lane, a 0.23-acre single-family lot, located on the southwest corner of the Bennington Lane and Bristol Hill intersection, being Lot 8, Block D, Woodford Phase II Addition, and zoned SF-8.4 (Single Family Residential -8,400 square foot minimum). Dewayne Gray, applicant, Drees Custom Homes, owner. (UDC-18-0004)

### Action Requested:

Consider a resolution approving a variance to fencing requirements for 520 Bennington Lane, a single-family home currently under construction.

### Background:

The Woodford Phase II final plat was approved by the Planning and Zoning Commission on June 23, 2014. The Building permit for the house was approved on October 30, 2017. A fence permit was denied on February 16, 2018 due to the location of the fence being within the fifteen-foot (15') side yard building line, on top of a retaining wall.

### Analysis:

The purpose of this variance application is to request that a six foot (6') wooden privacy fence be allowed on top of a retaining wall, approximately two feet (2') from the north property line.

The fencing regulations in the Unified Development Code (UDC) shall apply. Section 8.11(L.1) of the UDC states:

The location of fences for double frontage lots or corner lots adjacent to a street shall be in accordance with the building setback line as shown on the final plat. If a property is not platted, the location of fences shall comply with the building setback requirements of the zoning district that the property is located in. The distance may be reduced to eight feet (8') from the property line if the fence is constructed of ornamental metal, tubular steel, or similar material with live screening.

The subject property is a corner lot. The minimum side yard setback is fifteen feet (15').

The retaining wall is six feet (6') to four feet (4') in height along the rear of the property. Along the north side property line the retaining wall is four feet (4') to two feet (2') in height and located between two and a half feet (2.5') to three feet (3') from the sidewalk.

**Variance Request:**

To allow a six foot (6') high wooden privacy fence to be located on top of the retaining wall, approximately two feet (2') from the property line as shown in "Exhibit A."

**Existing Roadway Access:**

Bennington Drive, a two (2) lane residential street.

**Surrounding Zoning & Land Uses:**

North, South, East, West: Woodford Phase II, single family residential homes, zoned SF-8.4

**Summary:**

Section 2.07(A.2) of the UDC, lists criteria for approval of a variance.

- a. That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this Code would deprive the applicant of the reasonable use of his land.
- b. That the granting of the variance will not be detrimental to the public health, safety or welfare, or injurious to other properties in the area.
- c. That the granting of the variance will not have the effect of preventing the orderly subdivision of other lands in the area in accordance with the provisions of this Code.
- d. That the granting of the variance will not constitute a violation of any other valid ordinance of the City of Keller.
- e. That strict compliance with the regulations, and/or that the purpose of the regulations will be served to a greater extent by the alternative proposal.

**Citizen Input:**

A UDC variance application does not require a public hearing, so no public hearing notifications were sent out to the surrounding property owners for this request. There has been no response from the public to this application. The public will have an opportunity to speak on this agenda item at the

“Persons To Be Heard”.

**Professional Opinion:**

This is the only corner lot with a retaining wall adjacent to a street that is below the grade of the street in the Woodford development. Other lots which contain retaining walls have the walls above the street grade, or have an open space lot adjacent. A privacy fence six feet (6') in height located at the fifteen foot (15') building line would not provide the subject property the same level of privacy provided to other corner lots within the subdivision. The placement of the fence on top of the retaining wall would also enclose the area below the street grade. The property owner would still be responsible for maintaining landscaping along the side yard between the fence and the curb. It is the opinion of staff to support the variance request as shown in “Exhibit A.”

Staff forwards this UDC variance request for City Council consideration with the following condition:

1. The variance request for a six foot (6') high wooden privacy fence to be located on top of the retaining wall, approximately two feet (2') from the property line as shown in “Exhibit A” shall be allowed.

**Board Review:**

The Planning and Zoning Commission considered this item on March 12, 2018 and recommended approval by a vote of 7-0.

**City Council Action:**

The City Council has the following options when considering a Variance to the Unified Development Code:

- Approve as submitted (with requested variance)
- Approve with modified or additional condition(s)
- Tabling the agenda item to a specific date with clarification of intent and purpose
- Deny