



Legislation Details (With Text)

File #: 19-067 **Version:** 1

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File created: 2/13/2019 **In control:** City Council

On agenda: 2/19/2019 **Final action:**

Title: Consider a resolution approving a variance to the Unified Development Code, Section 8.11, Fencing Requirements in Residential Zoning Districts to allow a six-foot (6') privacy fence, and ornamental iron fence and gate, to exceed the maximum height of five feet (5') to be located on the property line, located on 1.16-acres, on the west side of Buckner Lane, being Lot 1, Spann Addition, at 8747 Buckner Lane, and zoned SF-36 (Single Family Residential - 36,000 square-foot lot size minimum). Superior Exteriors, Fence Contractor; Maksym & Sharon Kohanyuk, owner. (UDC-19-0003)

Attachments: 1. 03052019_FenceVariance8747Buckner_ProposedResolution, 2. 03052019_FenceVariance8747Buckner_Memo, 3. 03052019_FenceVariance8747Buckner_ExhibitA_EvidenceVarianceLetter, 4. 03052019_FenceVariance8747Buckner_ExhibitA_SupportLetters, 5. 03052019_FenceVariance8747Buckner_ExhibitA_UpdatedApplication_Survey_Photos, 6. 03052019_FenceVariance8747Buckner_ExhibitA_OriginalApplication, 7. 03052019_FenceVariance8747Buckner_StaffAttachment_FenceWithoutPermits, 8. 03052019_FenceVariance8747Buckner_StaffAttachment_CodeEnforcementCase, 9. 03052019_FenceVariance8747Buckner_StaffAttachment_Photos, 10. 03052019_FenceVariance8747Buckner_StaffAttachment_OriginalPlat, 11. H-2 Presentation

Date	Ver.	Action By	Action	Result
2/19/2019	1	City Council	approve	

To: Mark Hafner, City Manager

From: Scott Bradburn, Planner I

Subject:

Consider a resolution approving a variance to the Unified Development Code, Section 8.11, Fencing Requirements in Residential Zoning Districts to allow a six-foot (6') privacy fence, and ornamental iron fence and gate, to exceed the maximum height of five feet (5') to be located on the property line, located on 1.16-acres, on the west side of Buckner Lane, being Lot 1, Spann Addition, at 8747 Buckner Lane, and zoned SF-36 (Single Family Residential - 36,000 square-foot lot size minimum). Superior Exteriors, Fence Contractor; Maksym & Sharon Kohanyuk, owner. (UDC-19-0003)

Background:

- The subject property was platted LD-R (Low Density-Residential) and approved by the Planning and Zoning Commission on August 16, 1983. The land was originally annexed by the City of Keller in 1969, Ordinance 61-63.
- On July 7, 2015, the property was rezoned SF-36 (Single Family Residential - 36,000 square-foot lot size minimum) from LD-R (Low Density-Residential).
- The home was constructed in 1985 and the improvements were recorded with the Tarrant County Appraisal District.
- Prior to the current owner's move in, the fencing off Buckner Lane was barbed wire.
- The current fence was constructed without a permit on March 2018.

- An anonymous complaint was forwarded to code enforcement on January 4, 2019. A warning letter was submitted to the owner by Code Enforcement on the same date for a fence built without a permit.
- A second warning letter was submitted on January 10, 2019 by Code Enforcement, mailed to the owner and the fence contractor.
- A fence permit was submitted on January 11, 2019 and has since been denied regarding the height and material, leading to this variance request.

Analysis:

- The purpose of this UDC variance request is to allow a six-foot (6') pre-stained, cedar, board on board privacy fence with an ornamental iron fence/gate across the driveway in the front yard or in front of the primary structure, contrary to **Section 8.11 (G.2) of the UDC which requires;**
 - The maximum height requirements, as measured from the grade of the property, shall be five feet (5') for the front yard or in front of the main structure in SF-36 zoning district if constructed of split rail, ornamental metal, tubular steel, or similar open face material.

Variance Request:

1. To allow a variance to exceed the maximum five feet (5') in height. The applicant wishes for the fence to be six feet (6') in height in front of the primary structure, with a six foot (6') ornamental iron fence and gate for vehicle access.
2. To allow a variance to construct a privacy fence in lieu of the required open fencing.
 - The applicant's property is approximately one hundred eighty two feet (182') in width fronting Buckner Lane. The applicant's installed fencing is approximately one hundred sixty feet (160') in length, adjacent to Buckner Lane.
 - The property immediately to the south of the applicant's property has ornamental iron fencing adjacent to Buckner Lane. The property immediately east of the applicant's property is absent of fencing. The remainder of properties along Buckner Lane have either open fencing (ornamental iron, split rail, wire fencing), or no fencing. Several properties along Buckner have had current fencing in place for many years.

UDC Variance Summary:

The applicant has met the requirements of the UDC variance application. UDC Section 2.07 (A.2) states that no variance shall be granted unless the Planning and Zoning Commission and City Council finds:

1. 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.
2. 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.
3. 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
4. That the granting of the variance will not constitute a violation of any other valid ordinance of the City of Keller.
5. 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.

**Professional
Analysis:**

There are no special circumstances or conditions affecting the land in such a way that provisions of the code would deprive the applicant of the reasonable use of the land. Staff has seen the properties which front Buckner Lane and all properties have open fencing or are absent of fencing. Staff can visually see the open space associated with the lots off Buckner Lane and as stated in the UDC for SF-36 zoning, encourage more open space and characteristics of semi-rural areas. The applicant's fencing does not blend with the open space atmosphere and is not comparable to the surrounding properties.

Staff forwards this UDC variance request to City Council for their consideration as presented with the following conditions:

1. To allow a variance to exceed the maximum five feet (5') in height. The applicant wishes for the fence to be six foot (6') in height in front of the primary structure, with a six foot (6') ornamental iron fence/gate for vehicle access.
2. To allow a variance to construct a privacy fence in lieu of the required open fencing.

Alternatives:

City Council has the following options when considering a UDC Variance application:

- Approve as submitted (with conditions and variances)
- Approve with modifications or additional condition(s)
- Table the agenda item to a specific date with clarification of intent and purpose
- Deny

Board Action:

The Planning and Zoning Commission took action on this agenda item on February 11, 2019 and recommended approval by a vote of (6-1). Nay, Osgood.