



## Legislation Details (With Text)

|                      |   |                      |                            |
|----------------------|---|----------------------|----------------------------|
| <b>File #:</b>       | 20-407  | <b>Version:</b>      | 1                          |
| <b>Type:</b>         | New Business  | <b>Status:</b>       | Agenda Ready               |
| <b>File created:</b> | 8/27/2020   | <b>In control:</b>   | Zoning Board of Adjustment |
| <b>On agenda:</b>    | 8/31/2020   | <b>Final action:</b> |                            |
| <b>Title:</b>        | PUBLIC HEARING: Consider an application requesting a variance to Section 8.11 (I) (1) of the Unified Development Code (UDC). The Applicant is requesting a variance to allow wooden slats on an existing drive gate. The property is located on .20-acres, situated approximately 200 feet southwest of the Bear Creek Parkway and Eagle Trail intersection, being Lot 14, Block B, of the Hidden Lakes Addition, zoned Single-Family 8,400 square-foot lots (SF-8.4), and addressed as 601 Eagle Court. Tabitha & Justin Richter, Owner/Applicant. |                      |                            |
| <b>Attachments:</b>  | 1. Maps, 2. Exhibit A- Application, 3. Exhibit A- Photos  |                      |                            |

| Date | Ver. | Action By | Action | Result |
|------|------|-----------|--------|--------|
|------|------|-----------|--------|--------|

**To:** Zoning Board of Adjustment

**From:** Matthew Cyr, Planner I

### Subject:

PUBLIC HEARING: Consider an application requesting a variance to Section 8.11 (I) (1) of the Unified Development Code (UDC). The Applicant is requesting a variance to allow wooden slats on an existing drive gate. The property is located on .20-acres, situated approximately 200 feet southwest of the Bear Creek Parkway and Eagle Trail intersection, being Lot 14, Block B, of the Hidden Lakes Addition, zoned Single-Family 8,400 square-foot lots (SF-8.4), and addressed as 601 Eagle Court. Tabitha & Justin Richter, Owner/Applicant.

### Background:

The existing gate was constructed in the mid-1990s and is currently legal-nonconforming. The gate is currently located adjacent to a masonry Landscape Screening Wall along Bear Creek Parkway and is approximately twenty-five feet away from the curb.

Today, the Applicant is requesting to add cedar wood slats to the existing gate for additional privacy for a new pool in lieu of the required open-faced material. (Because the drive-gate is located in front of the main structure, they are required by code to have an open-style material.) However, the home is built on a cul-de-sac (an irregularly shaped lot) and given the angle and open section of the landscape screening wall, people driving or walking in the neighborhood as well as those driving or walking along Bear Creek Parkway will be able to see into the backyard where the pool will be built. Given the unusual physical circumstances surrounding this particular lot and the obvious need for privacy, staff has no objections to the request.

### Code:

Section 8.11 (I)(1) states "The maximum height requirements, as measured from the grade of the property, shall be as follows for lots other than corner lots:

1.Thirty-six inches (36") for front-yard and side-yard in front of the main structure in SF-8.4, SF-10,

SF-12, and SF-15 zoning districts and is constructed of split rail, open wood, ornamental metal, tubular steel, composite decking, or similar open-faced material. Vinyl fencing is strictly prohibited.”

The Applicant proposes to place cedar wood covering the entirety of the existing gate. Because the gate was legally constructed in the 1990s and the only other options to offer privacy for this size constrained lot are to either move the gate back, which would impede access to the driveway, or to move the house flush with the existing gate; Staff has no objections to this request.

**Citizen Input:**

On August 21, 2020, the City mailed out fifteen (15) Letters of Notification for this Public Hearing. Staff has received one phone call expressing support for the request, however, no formal support or opposition has been provided for this request.

**Summary:**

Section 8.02 (C)(6) of the UDC states that when considering a variance request, the 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) Reverse an order, requirement, decision, or determination of an administrative official.
- 2) Decide in favor of an applicant on a matter on which the Board is required to pass under this Code.
- 3) Authorize a variation from the terms of this Code.

**Supporting Documents:**

- Maps
- Exhibit A
  - o Application
  - o Photos