



ZONING BOARD OF ADJUSTMENT MEMORANDUM

FROM: Planning & Zoning Department **DATE:** January 26, 2023
SUBJECT: ZBA22-0006 Public hearing and consideration of a request from David Salgado for a variance from Section 118-873 (screening wall and fence criteria) of the North Richland Hills zoning ordinance at 7933 Joreen Drive, being 0.363 acres described as Lot 26, Block 5, Clear View Addition.
PRESENTER: Clayton Husband, Principal Planner

SUMMARY

David Salgado is requesting approval of a variance to the screening wall and fence criteria to allow construction of a six-foot tall fence in the side yard adjacent to the street on 0.363 acres of land located at 7933 Joreen Drive.

BACKGROUND INFORMATION

The property is located at the northeast corner Joreen Drive and Standley Street. The lot is 15,812 square feet (0.363 acres) in size. The property is developed with a single-family residence, constructed in 1961, with a swimming pool located in the rear yard. The house faces Joreen Drive, and the driveway and garage access are located on Standley Street.

On September 17, 2022, a code compliance officer observed that the existing chain link fence adjacent to the street was in disrepair, resulting in the swimming pool in the back yard being unsecured. The property owner was advised of the need to repair the fence.

On September 23, 2022, the applicant applied for a fence permit to replace the chain link fence with a six-foot tall cedar fence in the street side yard on Standley Street. During the review of the fence permit application, it was determined that the proposed fence location did not comply with the minimum side yard setback required on Standley Street.

The applicant was advised that a fence could not be constructed at the property line as proposed. On a corner lot, the zoning ordinance permits a fence to be constructed at the property line only when the rear yards of two corner lots abut. The rear yard of the subject property abuts the side yard of an adjacent residence on Standley Street, which requires that the side yard fence be constructed at the building setback line. Since the required location of the fence would conflict with existing decking around the swimming pool, the applicant has applied for a variance to allow the fence to be constructed at the proposed location.

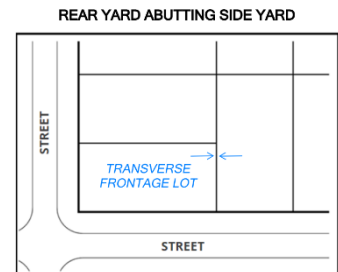
The variance application and supporting materials are attached. The materials include a copy of the application explaining the reasoning for the variance request, a survey of the

lot, and a plot plan showing the proposed improvements to the property. An analysis of the request and relevant codes is below.

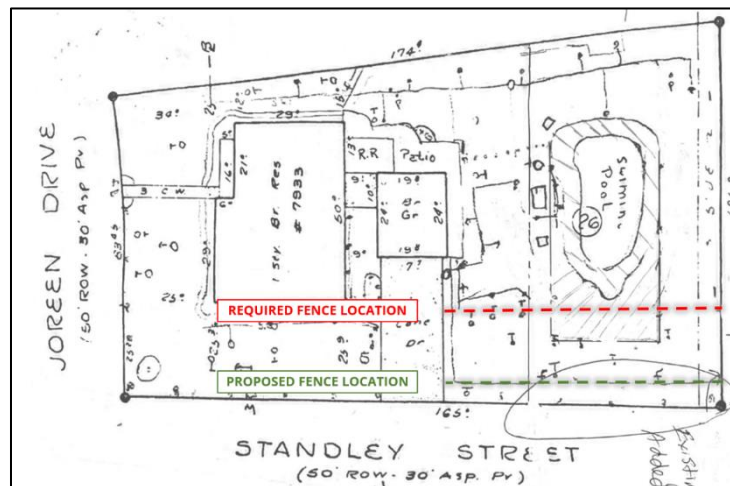
ANALYSIS

The applicant proposes to construct a six-foot tall cedar fence along the side property line on Standley Street. The fence would enclose the rear yard and function as a required barrier fence for the swimming pool. The lot in question is 83 feet wide on Joreen Drive and 165 feet deep along Standley Street. The lot has a 25-foot front building line on both street frontages, per the recorded subdivision plat. The property is zoned R-2 (Single-Family Residential).

The variance request is related to the side yard fence standards contained in [Section 118-873\(e\)](#) of the zoning ordinance. This section addresses transverse frontage lots, which are lots where the rear yard of the lot abuts the side yard of the adjacent lot (see graphic right). This section prohibits the construction of a fence in the side yard on the transverse frontage lot.



The owner is requesting a variance from the setback standards and proposes to construct the fence within the side yard. The applicant states in the supporting materials that the required location for the fence would encroach into the existing decking area around the swimming pool. The exhibit below shows the proposed and required locations for the fence on the property.



FINDINGS FOR VARIANCE APPROVAL

[Section 118-86\(4\)](#) of the zoning ordinance authorizes the Zoning Board of Adjustment "...to authorize upon appeal, in specific cases, such variance from the terms of [the Zoning Ordinance] as will not be contrary to the public interest and where, because of special conditions, the enforcement of the [Zoning Ordinance] would result in an unnecessary hardship."

In exercising its powers to grant a variance, the board of adjustment must make specific findings and show in its minutes that:

- a. Literal enforcement of the controls will create an unnecessary hardship or practical difficulty in the development of the affected property.
- b. The situation causing the hardship or difficulty is neither self-imposed nor generally affecting all or most properties in the same zoning district.
- c. The relief sought will not injure the permitted use of adjacent conforming property.
- d. The granting of the variance will be in harmony with the spirit and purposes of these regulations.

OPTIONS FOR BOARD CONSIDERATION

The Zoning Board of Adjustment has the following options on this application.

1. Approve the variance as presented. This action would allow the six-foot fence to be constructed in the side yard as proposed.
2. Approve the variance with conditions. This action would allow the fence to be constructed subject to the owner making modifications to its size, location, or design as directed by the Board.
3. Deny the variance. This action would require the owner to construct the fence to comply with the side yard fence standards.