

## ZONING BOARD OF ADJUSTMENT MEMORANDUM

**FROM:** Planning & Zoning Department **DATE:** October 24, 2024  
**SUBJECT:** ZBA24-0017 Public hearing and consideration of a request from Hamilton Duffy PC for a variance from Section 118-874 (screening of outdoor refuse containers) of the North Richland Hills zoning ordinance at 8237 and 8241 Mid-Cities Boulevard, being 1.01 acres described as Lots 10 and 11, Block 1, Pavilion Park Addition.

**PRESENTER:** Clayton Husband, Principal Planner

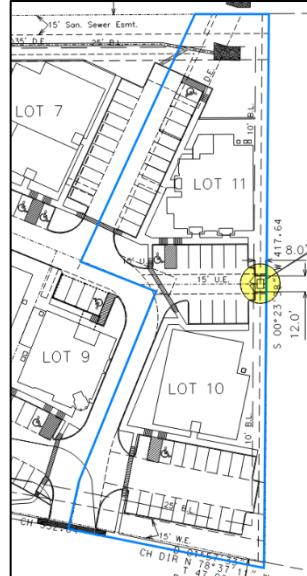
### SUMMARY

Hamilton Duffy PC and Bohannan Dentistry are requesting approval of a variance to the screening requirements for outdoor refuse containers to allow a wood screening fence for a container on a commercial lot located at 8237 and 8241 Mid-Cities Boulevard.

### BACKGROUND INFORMATION

The property under consideration includes two commercial lots totaling 1.01 acres in the Pavilion Park office development. The office park includes 11 buildings located on the north side of Mid-Cities Boulevard just east of Davis Boulevard. The two properties included in the application are located on the east end of office park. One building faces Mid-Cities Boulevard and is occupied by a dentist office. The other building is located behind the dentist office and interior to the site and is occupied by an engineering firm and surveyor office. The two buildings share a refuse container that is in the parking area between the buildings. The property is zoned C-1 (Commercial).

On October 13, 2023, code compliance officers conducted a routine inspection of the office park development. During the inspection it was noted that the refuse container serving the two lots did not include the required screening fence. The owners were advised that the screening must be installed by October 27, 2023. Follow-up inspections were conducted on the property on February 12 and July 24, 2024, where it was observed that the screening fence had not been installed.



On August 15, 2024, the owner submitted a fence permit to construct a screening fence for the container. During the review of the application, it was noted that proposed fence would be constructed of wood rather than masonry materials as required by the zoning ordinance. The applicant was advised that the design must be adjusted to comply with



these standards. Rather than adjust the design, the applicant has applied for variance to allow a wood fence instead of a masonry fence.

The variance application and supporting materials are attached. The materials include a copy of the application explaining the reasoning for the variance request, plans showing the proposed improvements to the property, photos, and other documents. An analysis of the request and relevant codes is below.

## **ANALYSIS**

The variance request is related to the screening standards for outdoor refuse containers contained in [Section 118-874](#) of the zoning ordinance. The screening standards apply to all refuse containers, trash dumpsters, compactors, and similar containers used for the disposal of waste. A complete copy of the standards is attached and include container enclosure materials and dimension standards, location and orientation requirements, setbacks, landscape screening, and recycling containers.

The variance request is related to standards as they apply to container enclosure materials and dimensions, as summarized in the table below.

ENCLOSURE FEATURE	REQUIRED STANDARD	PROPOSED ENCLOSURE
<b>MATERIALS</b>	<ul style="list-style-type: none"><li><input type="radio"/> Brick</li><li><input type="radio"/> Stone</li><li><input type="radio"/> split-face concrete masonry unit with integral color</li><li><input type="radio"/> similar masonry materials</li></ul>	<ul style="list-style-type: none"><li><input type="radio"/> Wood stockade fence with metal posts</li></ul>
<b>DIMENSIONS</b>	<ul style="list-style-type: none"><li><input type="radio"/> Internal dimensions of 12 ft by 12 ft</li><li><input type="radio"/> Pedestrian access door (self-closing)</li></ul>	<ul style="list-style-type: none"><li><input type="radio"/> 12 ft wide by 8 ft deep</li><li><input type="radio"/> No pedestrian access door</li></ul>
<b>GATES</b>	<ul style="list-style-type: none"><li><input type="radio"/> Opaque metal gates on 20 gauge metal deck</li></ul>	<ul style="list-style-type: none"><li><input type="radio"/> Opaque wood gates</li></ul>

The enclosure would be located at the east dead end of a driving aisle located between the two office buildings. The adjacent property is vacant. The proposed screening fence is an eight-foot tall wood fence with opaque wood gates. The type of wood material is not specified. The dimensions of the enclosure are twelve feet wide by eight feet deep.

The materials for the fence and gate and the dimensions of the enclosure are not compliant with zoning ordinance standards. The material standards are intended to provide for durable materials that can withstand the activities associated with servicing the container on a weekly basis. The dimensional standards provide sufficient space for servicing an eight-cubic yard container, which is six feet wide by five and one-half feet deep.



VIEW OF CONTAINER BETWEEN BUILDINGS



CONTAINER LOCATION IN PARKING AREA

### **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 a wood container screen to be constructed as proposed.
2. Approve the variance in part and/or with conditions. This action would allow a wood container screen to be constructed, subject to the owner making modifications to its size, location, or design as directed by the Board. These modifications could include fence and/or gate material standards, landscaping, dimensions, and similar improvements.
3. Deny the variance. This action would require the container screen to be constructed in compliance with zoning ordinance standards.