



ZONING BOARD OF ADJUSTMENT MEMORANDUM

FROM: The Office of the City Manager **DATE:** April 26, 2018

SUBJECT: BA 2018-01 Public hearing and consideration of a request from James and Kimberlee Scott for a zoning variance to North Richland Hills zoning ordinance Section 118-873 – Screening Wall and Fence Criteria at 7416 Bursey Road, being 1.92 acres described as Lot 1, Block 1, Oakvale Addition.

PRESENTER: Clayton Comstock, Planning Manager

SUMMARY

James and Kimberlee Scott are requesting approval of a variance to the screening wall and fence criteria to allow construction of a six-foot tall front yard fence on 1.92 acres of land located at 7416 Bursey Road.

BACKGROUND INFORMATION

The property is located on the south side of Bursey Road between Londonderry Drive and Bursey Road South. The lot is 1.92 acres (83,433 square feet) in size. The owners are constructing a new 5,921-square-foot residence and 1,284-square-foot accessory building on the property.

On March 29, 2018, the applicant's fence contractor applied for a fence permit to construct an ornamental metal fence in the front yard of the property. During the review of the application, it was determined that the proposed fence was not permitted by the zoning ordinance, as the property does not satisfy the criteria to allow the requested style of fence to be located in the front yard. The applicant was advised that the requested six-foot fence height could not be constructed between the house and the front property line, but four feet would be permitted. A six-foot tall fence could also be constructed between the front corners of the house and the side property lines. Rather than relocate the fence or reduce the height of the fence, the applicant has submitted an application for variance.

The variance application and supporting materials are attached. The materials include a statement from the applicant 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

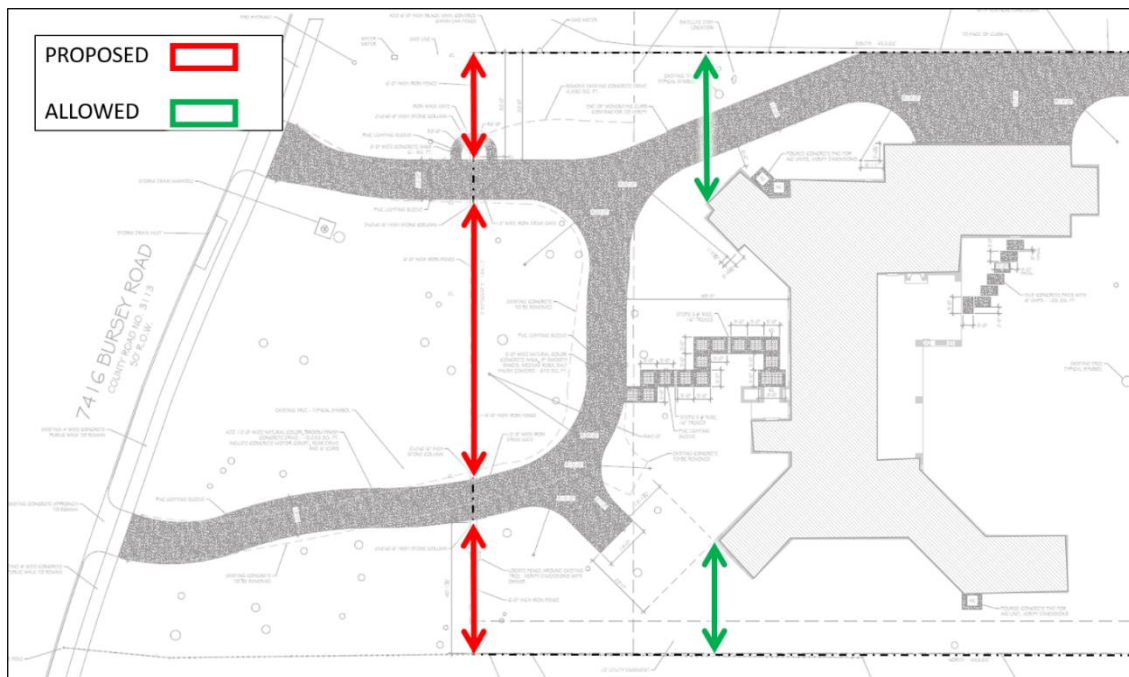
The applicant proposes to construct a six-foot tall ornamental metal fence along the front property line. The fence includes two driveway gates with six-foot tall stone columns. Due

to the curve in Bursey Road, the front property line is located approximately 60 to 125 feet from the street pavement (see attached property survey). The lot in question is 184 feet wide at the front property line. The other seven lots in the Oakvale Addition are approximately the same in width, depth, and area (see attached plat).

The variance request is related to the front yard fence standards contained in [Section 118-873\(c\)](#) of the zoning ordinance. The zoning ordinance further defines front yard as “the area extending across the entire width of the lot and situated between the front lot line and the most extreme corners of the building.” The design of front yard fences is conditioned on the following standards:

1. The property must have at least 100 feet of street frontage.
2. The fence must not exceed four feet in height. However, a fence may be up to six feet in height if the property has at least 200 feet of street frontage.
3. The fence must be ornamental metal material, and may have brick or stone columns. The columns must be spaced 20 to 50 feet apart.

The exhibit below shows the proposed and allowed locations for the construction of a six-foot tall ornamental metal fence on the property. For reference, there are two existing front yard fences in the Oakvale Addition on this section of Bursey Road. At 7516 Bursey Road, a five-foot tall ornamental metal fence was constructed in 2014. A five-foot tall chain link fence is located at 7512 Bursey Road, but permit records do not indicate the year of construction; however, it does appear in images from October 2007. The existence of these fences does not establish a hardship or precedent for the approval or denial of the proposed application.





ORDINANCE 3244

The front yard fence standards have been reviewed and confirmed by the Planning and Zoning Commission and City Council through Ordinance 3244, passed April 22, 2013. Those revisions added a category for more rural fence types and added flexibility to the code, but maintained the previous regulation that lots between 100 and 200 feet wide may not have front yard fences greater than four feet in height.

FINDINGS FOR VARIANCE APPROVAL

Zoning Ordinance Section 118-86(4) 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 ornamental metal fence to be constructed in the front 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. One example condition may be the number, size, appearance and spacing of masonry columns.
3. Deny the variance. This action would require the owner to construct the fence to comply with the front yard fence standards.