

**Notice of Meeting for the  
Zoning Board of Adjustment  
of the City of Georgetown  
June 15, 2021 at 5:00 PM  
at Virtual**

The City of Georgetown is committed to compliance with the Americans with Disabilities Act (ADA). If you require assistance in participating at a public meeting due to a disability, as defined under the ADA, reasonable assistance, adaptations, or accommodations will be provided upon request. Please contact the City Secretary's Office, at least three (3) days prior to the scheduled meeting date, at (512) 930-3652 or City Hall at 808 Martin Luther King Jr. Street, Georgetown, TX 78626 for additional information; TTY users route through Relay Texas at 711.

**The regular meeting will convene at 5:00 p.m. on June 15, 2021 via teleconference. To participate, please copy and paste the following weblink into your browser:**

**Weblink: <https://bit.ly/3hh8ouo>**

**Webinar ID: 993-7009-3837**

**Password: 767604**

**To participate by phone:**

**Call in Number: (346)248-7799 or Toll Free: 833-548-0282**

**Password: 767604**

**Citizen comments are accepted in three different formats:**

- 1. Submit written comments to [planning@georgetown.org](mailto:planning@georgetown.org) by 5pm on the date of the meeting and the Recording Secretary will read your comments into the recording during the item that is being discussed.**
- 2. Log onto the meeting at the link above and "raise your hand" during the item**
- 3. Use your home/mobile phone to call the toll-free number To join a zoom meeting, click on the link provided and join as an attendee. You will be asked to enter your name and email address (this is so we can identify you when you are called upon). To speak on an item, click on the "raise your hand" option at the bottom of the Zoom meeting webpage once that item has opened. When you are called upon by the Recording Secretary, your device will be remotely un-muted by the Administrator and you may speak for three minutes. Please state your name clearly, and when your time is over, your device will be muted again.**

**Use of profanity, threatening language, slanderous remarks or threats of harm are not allowed and will result in you being immediately removed from the meeting.**

**Discussion on how the Zoning Board of Adjustment virtual conference will be conducted, to include options for public comments and how the public may address the Commission -- Sofia Nelson, CNU-A, Planning Director**

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## **Public Wishing to Address the Board**

On a subject that is posted on this agenda: Please fill out a speaker registration form which can be found at the Board meeting. Clearly print your name, the letter of the item on which you wish to speak, and present it to the Staff Liaison, preferably prior to the start of the meeting. You will be called forward to speak when the Board considers that item.

On a subject not posted on the agenda: Persons may add an item to a future Board agenda by filing a written request with the Staff Liaison no later than one week prior to the Board meeting. The request must include the speaker's name and the specific topic to be addressed with sufficient information to inform the board and the public. For Board Liaison contact information, please logon to <http://government.georgetown.org/category/boards-commissions/>.

A At the time of posting, no persons had signed up to address the Board.

## **Legislative Regular Agenda**

B Consideration and possible action to approve the minutes from the April 20, 2021 regular meeting of the Zoning Board of Adjustment -- Mirna Garcia, Management Analyst.

C **Public Hearing and possible action** on a request for a **Zoning Variance** from UDC Section 8.07.040.A for a six-foot tall opaque fence to be set back 5.5 feet from the property line, a 63% decrease in the required 15 foot side street yard setback of Ordinance 2016-24, for the property located at 601 Shiner Lane, bearing the legal description of Lot 4, Block F, Kasper Subdivision Section 9 (2021-5-VAR) – Ryan Clark, Planner

## **Adjournment**

### **Certificate of Posting**

I, Robyn Densmore, City Secretary for the City of Georgetown, Texas, do hereby certify that this Notice of Meeting was posted at City Hall, 808 Martin Luther King Jr. Street, Georgetown, TX 78626, a place readily accessible to the general public as required by law, on the \_\_\_\_\_ day of \_\_\_\_\_, 2021, at \_\_\_\_\_, and remained so posted for at least 72 continuous hours preceding the scheduled time of said meeting.

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Robyn Densmore, City Secretary

City of Georgetown, Texas  
Zoning Board of Adjustment  
June 15, 2021

**SUBJECT:**

Consideration and possible action to approve the minutes from the April 20, 2021 regular meeting of the Zoning Board of Adjustment -- Mirna Garcia, Management Analyst.

**ITEM SUMMARY:**

**FINANCIAL IMPACT:**

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**SUBMITTED BY:**

Mirna Garcia, Management Analyst

**ATTACHMENTS:**

Description		Type
☐	minutes	Backup Material

City of Georgetown, Texas  
Zoning Board of Adjustment Meeting

**Minutes**

Tuesday, April 20, 2021 at 5:00 p.m.  
Teleconference Meeting: <http://bit.ly/3eLI5vd>

**The regular meeting convened at 5:00PM on April 20, 2021 via teleconference at:**

**<http://bit.ly/3eLI5vd>. Webinar ID: 994 6500 4449. To participate by phone: Call-In Number: 346.248.7799 or Toll Free 833.548.0282. Password: 498019. Public Comment was allowed via the conference option; no in-person input was allowed.**

**Commissioners present:** John Marler, Chair; Kaylah McCord; Ed Whitmore; Stephaney Lafears

**Commissions absent:** Deb Meyer; Tim Haynie, Travis Perthuis

**Staff Present:** Andreina Davila-Quintero, Current Planning Manager; Sofia Nelson, Planning Director; Ethan Harwell, Senior Planner and Stephanie McNickle, Planning Specialist

Chair Marler called the meeting to order at 5:08 p.m.

**Regular Session**

(This Regular Session may, at any time, be recessed to convene an Executive Session for any purpose authorized by the Open Meetings Act, Texas Government Code 551.)

- A. Nomination and selection of Vice-chair for the 2021-22 year.  
**Motion** by Whitmore to nominate McCord to serve as Vice-chair for the Zoning Board of Adjustment 2021-22. **Second** by Chair Marler. **Approved.** (4-0)
- B. Nomination and selection of Secretary for the 2021-22 year.  
**Motion** by McCord to nominate Whitmore to serve as Secretary for the Zoning Board of Adjustment 2021-22. **Second** by Chair Marler. **Approved.** (4-0)  
Nomination by McCord to nominate
- C. Discussion and possible action to approve meeting time, date and place for 2021-22 year.  
**Motion** by Chair Marler to continue meeting the same time, date and place for 2021-22. **Second** by Whitmore. **Approved.** (4-0)
- D. Consideration and possible action to confirm the bylaws for the Zoning Board of Adjustment – Sofia Nelson, CNU-A, Planning Director  
**Motion** by Chair Marler to approve the bylaws for the Zoning Board of Adjustment. **Second** by Whitmore. **Approved.** (4-0)

**Public Wishing to Address the Board**

On a subject that is posted on this agenda: Please fill out a speaker registration form which can be found at the Board meeting. Clearly print your name, the letter of the item on which you wish to speak, and present it to the Staff Liaison, preferably prior to the start of the meeting. You will be called forward to speak when the Board considers that item.

On a subject not posted on the agenda: Persons may add an item to a future Board agenda by filing a written request with the Staff Liaison no later than one week prior to the Board meeting. The request must include the speaker's name and the specific topic to be addressed with sufficient information to inform the board and the public. For Board Liaison contact information, please logon to <http://government.georgetown.org/category/boards-commissions/>.

E. At the time of posting, no persons had signed up to address the Board.

### **Legislative Regular Agenda**

F. Consideration and possible action to approve the minutes from the January 19, 2021 regular meeting of the Zoning Board of Adjustment -- Mirna Garcia, Management Analyst.

**Motion by Whitmore to approve the minutes from the January 19, 2021 meeting. Second by McCord. Approved. (4-0)**

G. Public Hearing and possible action on a request for a Zoning Variance from UDC Section 6.05.010.C for an 11.5% increase from the 25% of the principal structure maximum size requirement for an accessory structure to allow an accessory structure that is 36.5% of the size of the principal structure, for the property located at 500 Toledo Trail, bearing the legal description of Lot 22, Block 4, Serenada East Unit 2 (2021-4-VAR) -- Ethan Harwell, Senior Planner

Staff report by Ethan Harwell. The Applicant is requesting a variance from the maximum size requirement to allow the construction of an accessory structure in the rear yard of a single-family home that would be 11.5% larger than what is allowed by the UDC (25% of the size of the primary structure ). The applicant intends to use the accessory structure as a Guest House. A "Guest House" is defined by UDC Section 16.02 as "an attached or detached accessory building used to house guests of the occupants of the principal building, which is never rented or offered for rent, and does not contain a kitchen."

The Zoning Board of Adjustment may authorize a variance from the requirements of the zoning provisions of the UDC if the variance from the terms of the zoning provisions is not contrary to the public interest and, due to special conditions, a literal enforcement of the requirements would result in unnecessary hardship, so the spirit of this Code is preserved, and substantial justice done. No variance shall be granted unless the ZBA finds all of the required findings established in UDC Section 3.15.030.A.

Staff has reviewed the request in accordance with the Unified Development Code (UDC) and other applicable codes. Staff has determined that the proposed request complies with 3 of the 7 the criteria established in UDC Section 3.15.030 for a Zoning Variance.

Staff stated in general the variance request does not substantially conflict with UDC guidelines on the size of accessory structure nor would it create any nuisance or conflict with other

requirements. However, there is no substantial site constraint or condition that is requiring the Applicant to build such a large accessory structure.

Chair Marler invited the applicant to speak. Craig Schmidt, 500 Toledo explained to the Board the reason for his application. He is requesting for his guest house to be 646 sq ft and it will be a nice structure. Mr. Schmidt stated the structure will not affect adjacent properties or people in a negative way.

The Board reviewed the letter of intent from the applicant.

Chair Marler opened the Public Hearing.

Debbie Dobernecki 504 Toledo Trail had several comments directed towards staff regarding the property located at 500 Toledo. Staff stated they will be glad to review with her.

Chair Marler closed the Public Hearing.

**Motion by Whitmore to approve the variance due to**

- 1) Extraordinary Conditions- the house being on the corner lot and setbacks.
- 2) No Substantial Detriment- the application complies.
- 3) Other Property- it does not affect other properties.
- 4) Applicant's Actions- not caused by anything the applicant did.
- 5) Comprehensive Plan- application complies.
- 6) Utilization – it complies partially.
- 7) Insufficient Findings- the application complies.

**Second by Chair Marler.**

McCord stated she would like to support the variance and it creates no detriment to the neighborhood. However, the application does not meet the 7 criteria's and the property does not present extraordinary conditions. It feels like the applicant just wants a bigger accessory structure and it could potentially open the door for anyone to apply for another residence on a larger lot.

**Motion Denied. 1 (Whitmore) -3 (McCord, Lafears, Marler)**

**Motion to adjourn at 5:57pm . Approved (4-0).**

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John Marler, Chair Attest,

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Ed Whitmore, Secretary

City of Georgetown, Texas  
Zoning Board of Adjustment  
June 15, 2021

**SUBJECT:**

**Public Hearing and possible action** on a request for a **Zoning Variance** from UDC Section 8.07.040.A for a six-foot tall opaque fence to be set back 5.5 feet from the property line, a 63% decrease in the required 15 foot side street yard setback of Ordinance 2016-24, for the property located at 601 Shiner Lane, bearing the legal description of Lot 4, Block F, Kasper Subdivision Section 9 (2021-5-VAR) – Ryan Clark, Planner

**ITEM SUMMARY:**

**Overview of Applicant's Request:**

The applicant is requesting a variance from the height limitation of four feet for fences located in side yard setbacks to allow for a six foot tall, fully opaque fence 5.5 feet from the property line, 63.3% less than the UDC required 15 feet setback for fences of this height and transparency. The applicant intends to construct the six-foot fence 5.5 feet from the property line to allow for a portion of the side of the house to be screened from Fairhaven Gateway for the purpose of securing additional privacy and safety.

**Staff's Analysis:**

Staff has reviewed the request in accordance with the Unified Development Code (UDC) and other applicable codes. Staff has determined that the proposed request complies with 2 of the 7 the criteria established in UDC Section 3.15.030 for a Zoning Variance, partially complies with 1 of the 7 criteria, and does not comply with 4 of the 7, as outlined in the attached Staff Report.

**Public Comments:**

As required by the Unified Development Code (UDC), all property owners and registered neighborhood associations within 300-feet of the subject property were notified of the request (1 notice mailed), a legal notice advertising the public hearing was placed in the Sun Newspaper (May 30, 2021) and signs were posted on-site. As of the publication date of this report, staff has received 0 written comments in favor or in opposition of the request.

**FINANCIAL IMPACT:**

None. The applicant has paid the required application fees.

**SUBMITTED BY:**

Ryan Clark, Planner

**ATTACHMENTS:**

	Description	Type
□	Staff Report	Cover Memo
□	Exhibit 1 - Location Map	Exhibit
□	Exhibit 2 - Conceptual Plan	Exhibit
□	Exhibit 3 - Letter of Intent	Exhibit
□	Presentation	Presentation

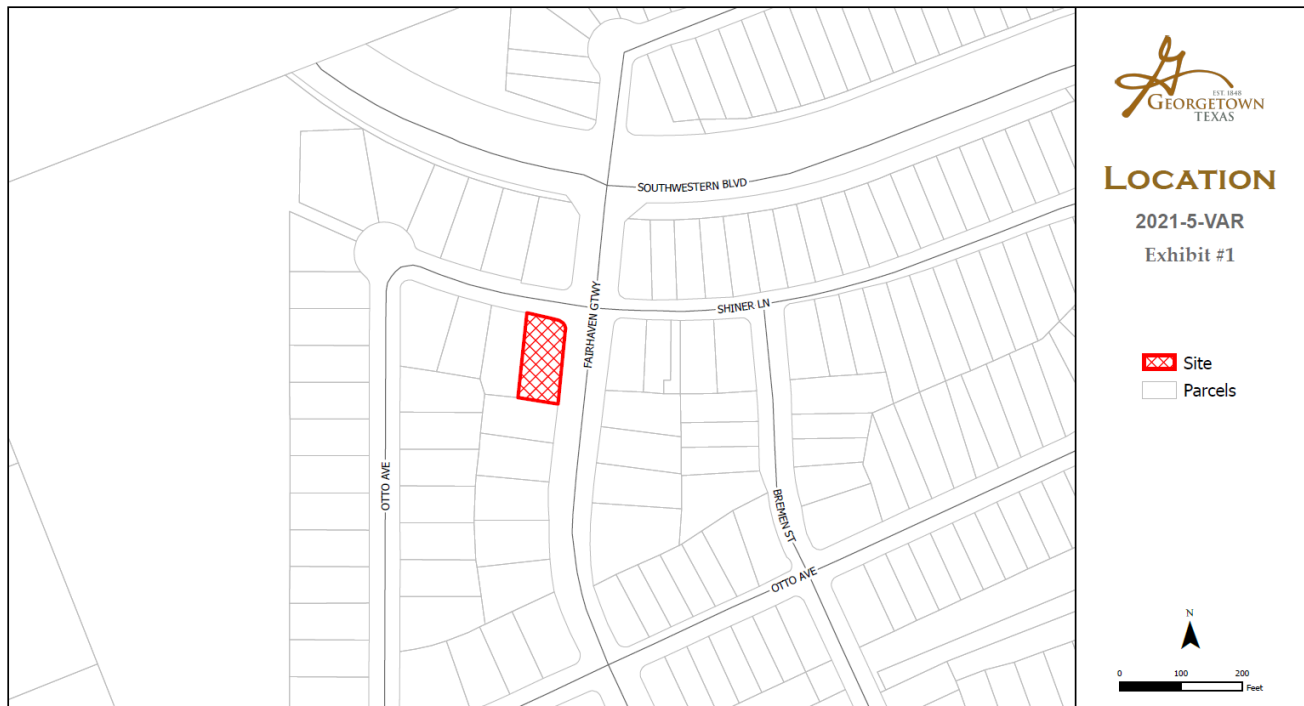


## Zoning Board of Adjustment Planning Department Staff Report

**Report Date:** June 11, 2021  
**Case No:** 2021-5-VAR  
**Project Planner:** Ryan Clark, Planner

### Item Details

**Project Name:** Fence Variance at 601 Shiner Lane  
**Project Location:** 601 Shiner Lane, within City Council district No. 7.  
**Legal Description:** Lot 4, Block F, Kasper, Section 9  
**Applicant:** Patrick and Amy Jacobsen  
**Property Owner:** Patrick and Amy Jacobsen  
**Request:** Zoning Variance from UDC Section 8.070.40.A.1. to allow for a six-foot tall, fully opaque fence to be set back 5.5 feet from the property line, a 9.5-foot variance from the required 15 feet side street setback of the Residential Single-Family Zoning District.  
**Case History:** This is the first public hearing of this request.



### Overview of Applicant's Request

The applicant is requesting a variance from the height limitation of four feet for fences located in side yard setbacks to allow for a six foot tall, fully opaque fence 5.5 feet from the side property line, 63.3% less than the UDC required 15 feet setback for fences of this height and transparency. The applicant



## Planning Department Staff Report

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intends to construct the six-foot fence 5.5 feet from the property line to allow a portion of the side of the house to be screened from Fairhaven Gateway for the purpose of securing additional privacy and safety.

### Site Information

#### Location:

The subject property is in the Fairhaven Subdivision, a neighborhood that is on the west side of the intersection of Rockride Lane and Southwestern Boulevard in the southeastern part of Georgetown. The subject property is situated at the southwest corner of Shiner Lane and Fairhaven Gateway and used as a single-family home.

#### Physical and Natural Features:

The subject property has been recently developed as a single-family home in a small-lot, single-family subdivision. The property has a flat grade and does not have any accessory structures.

#### Future Land Use and Zoning Designations:

The subject property has a Mixed Density Neighborhood designation and is currently zoned Residential Single-Family (RS) in addition to Planned Unit Development (Ordinance 2016-24).

#### Surrounding Properties:

Surrounding properties are all located within the Fairhaven Subdivision. They are single-family homes on small lots similar to the subject property.

The current zoning, Future Land Use designation, and existing uses of the adjacent properties to the north, south, east and west are outlined in the table below:

DIRECTION	ZONING DISTRICT	FUTURE LAND USE	EXISTING USE
North	RS (PUD Ord. 2016-24)	Mixed-Density Neighborhood	Single-Family Home
South	RS (PUD Ord. 2016-24)	Mixed-Density Neighborhood	Single-Family Home
East	RS (PUD Ord. 2016-24)	Mixed-Density Neighborhood	Single-Family Home
West	RS (PUD Ord. 2016-24)	Mixed-Density Neighborhood	Single-Family Home



### Approval Criteria

The following section of the Unified Development Code (UDC) is applicable to this request:

- UDC Section 8.07.040.A. requires that all fences located in a front or side yard setbacks abutting a local or collector-level street are to be limited to four feet in height and must be a minimum of 50% transparent.

Staff has reviewed the variance request and the applicant's stated findings, and has evaluated the request based on the UDC required findings for a variance in accordance with UDC Section 3.15.030.

### Required Findings

The Zoning Board of Adjustment may authorize a variance from the requirements of the zoning provisions of the UDC if the variance from the terms of the zoning provisions is not contrary to the public interest and, due to special conditions, a literal enforcement of the requirements would result in unnecessary hardship, so the spirit of this Code is preserved, and substantial justice done. No variance shall be granted unless the ZBA finds all of the required findings established in UDC Section 3.15.030.A.

Staff has reviewed the submitted Zoning Variance request in accordance with the UDC and other applicable codes. Staff has determined that the request complies with 1, partially complies with 1, and does not comply with 5 of the 7 required findings established in UDC Section 3.15.030.A for a Zoning Variance as outlined below:

ZONING MAP VARIANCE APPROVAL CRITERIA	
<p><b>1. Extraordinary Conditions</b> That there are extraordinary or special conditions affecting the land involved such that strict application of the provisions of this Unified Development Code will deprive the applicant of the reasonable use of their land. For example, a Zoning Variance might be justified because of topographic or other special conditions unique to the property and development involved, while it would not be justified due to inconvenience or financial disadvantage.</p>	<b>Does Not Comply</b>
<p>In general, there are no extraordinary conditions on the subject property that would prevent the applicant from constructing a six-foot tall opaque fence on the property within the side yard setback to adequately screen the rear yard behind the structure. The applicant is seeking the variance in order to allow for additional screening between the side of the structure and Fairhaven Gateway. While a six-foot tall opaque fence is not allowed within a side setback, a combination of a four-foot fence that is 50% transparent and additional plantings is allowed by the UDC and could accomplish the same purpose, albeit with more land area of the side yard being used.</p>	
<p><b>2. No Substantial Detriment</b> That the granting of the Zoning Variance will not be detrimental to the public health, safety or welfare or injurious to other property in the area or to the City in administering this Code.</p>	<b>Complies</b>
<p>The granting of this Zoning Variance would not be detrimental to health, safety or welfare. The proposed fence line does not encroach upon the 25 foot sight triangle required on corner lots, and the proposed location of the fence is not directly adjacent to other comparable fence lines within the block, and would not cause an inconsistency in the aesthetic character of the immediate block of the subject property. Additionally, the two corner properties on the north side of the intersection of Fairhaven Gateway and Shiner Lane have residential boundary walls along their property lines, and the proposed fence line would be in a comparable location to two of the three other corners of this intersection.</p>	
<p><b>3. Other Property</b> That the conditions that create the need for the Zoning Variance do not generally apply to other property in the vicinity.</p>	<b>Does Not Comply</b>
<p>The conditions that create the need for the Zoning Variance are evident in many other properties within this subdivision and PUD. The condition that creates this need are that many of the structures were built to the side setback line, inhibiting the ability to build a six-foot fence to cover the side of the structure. Nearby properties such as 117 Bremen Street two blocks to the southeast were built to the side setback of a corner lot, as are many other properties within this subdivision. Many of these such including 117 Bremen Street have already completed construction of the principal structure and fence and do not have a fence located in their side yard as the applicant is requesting.</p>	
<p><b>4. Applicant's Actions</b> That the conditions that create the need for the Zoning Variance are not the result of the applicant's own actions.</p>	<b>Does Not Comply</b>

ZONING MAP VARIANCE APPROVAL CRITERIA	
The applicant is initiating this request to construct a taller and less transparent fence than is currently permitted. The applicant did not construct the home and is not responsible for its current orientation and size on the lot, but it is possible for the applicant to construct a six-foot tall opaque fence comparable to other properties in the subdivision within the parameters established by the UDC and by the PUD.	
<p><b>5. Comprehensive Plan</b> That the granting of the Zoning Variance would not substantially conflict with the Comprehensive Plan and the purposes of this Code.</p>	<b>Partially Complies</b>
The purpose of the Code in limiting six-foot opaque fences to be within setbacks is to ensure a consistent aesthetic character, ensure adequate visibility for pedestrians and automobiles, and ensure a consistent development density. The proposed Zoning Variance does not substantially conflict with ensuring adequate visibility for pedestrians or automobiles, as it is not in a sight triangle and will be 23.5 feet from the curb of Fairhaven Gateway. Additionally, this request will not conflict with the Comprehensive Plan's envisioned character for this area as a Mixed-Density Neighborhood. This Zoning Variance will, however, create a fence product that differs from the fence products of other properties in the neighborhood, and will create an altered fence setback closer to the sidewalk along Fairhaven Gateway in this particular area.	
<p><b>6. Utilization</b> That because of the conditions that create the need for the Zoning Variance, the application of this Code to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.</p>	<b>Does Not Comply</b>
There is not a unique need for the Zoning Variance as the conditions stem from a desire to have greater privacy than what is typical of this neighborhood. The application of the Code to this particular property does not unreasonably restrict the utilization of the property as the structure has already been built and a fully fenced in backyard is still possible under the Code.	
<p><b>7. Insufficient Findings</b> The following types of possible findings do not constitute sufficient grounds for granting a Zoning Variance:</p> <ul style="list-style-type: none"> <li>a. That the property cannot be used for its highest and best use.</li> <li>b. That there is a financial or economic hardship.</li> <li>c. That there is a self-created hardship by the property owner or their agent.</li> <li>d. That the development objectives of the property owner are or will be frustrated.</li> </ul>	<b>Does Not Comply</b>
<p>The above insufficient findings are applicable to this case.</p> <ul style="list-style-type: none"> <li>- Staff has found that the granting of this variance is not needed for the highest and best use of the property. A single-family residential home can still be constructed and maintained on this site.</li> <li>- Staff has found that there is not a financial or economic hardship, as this variance is sought out of a concern for privacy and aesthetic preference.</li> <li>- Staff has found that there not a hardship related to the requirement that the six-foot opaque fence be in the rear yard setback where it is permitted by the UDC rather than in the side yard setback.</li> <li>- Staff has found that the development objectives of the property owner could be</li> </ul>	

## Planning Department Staff Report

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### ZONING MAP VARIANCE APPROVAL CRITERIA

accomplished without the granting of a variance through a combination of allowed plantings within the setback and a 50% transparent four-foot tall fence permitted within the side yard setback by the UDC to provide the desired privacy and screening.

The granting of this Zoning Variance would not create a substantial negative impact on the neighborhood. However, there are numerous other properties in this neighborhood with the same condition that have developed their properties in compliance with current UDC standards. There are not extraordinary or unique conditions that prevent this property from having a privacy fence equal to comparable corner lots within this subdivision.

### Public Notification

As required by the Unified Development Code, all property owners within a 300-foot radius of the subject property were notified of the Zoning Variance request (1 notice), a legal notice advertising the public hearing was placed in the Sun Newspaper May 30, 2021 and signs were posted on-site. To date, staff has received 0 written comments in favor, and 0 in opposition to the request.

### Attachments

Exhibit 1 – Location Map  
Exhibit 2 – Conceptual Plan  
Exhibit 3 – Letter of Intent

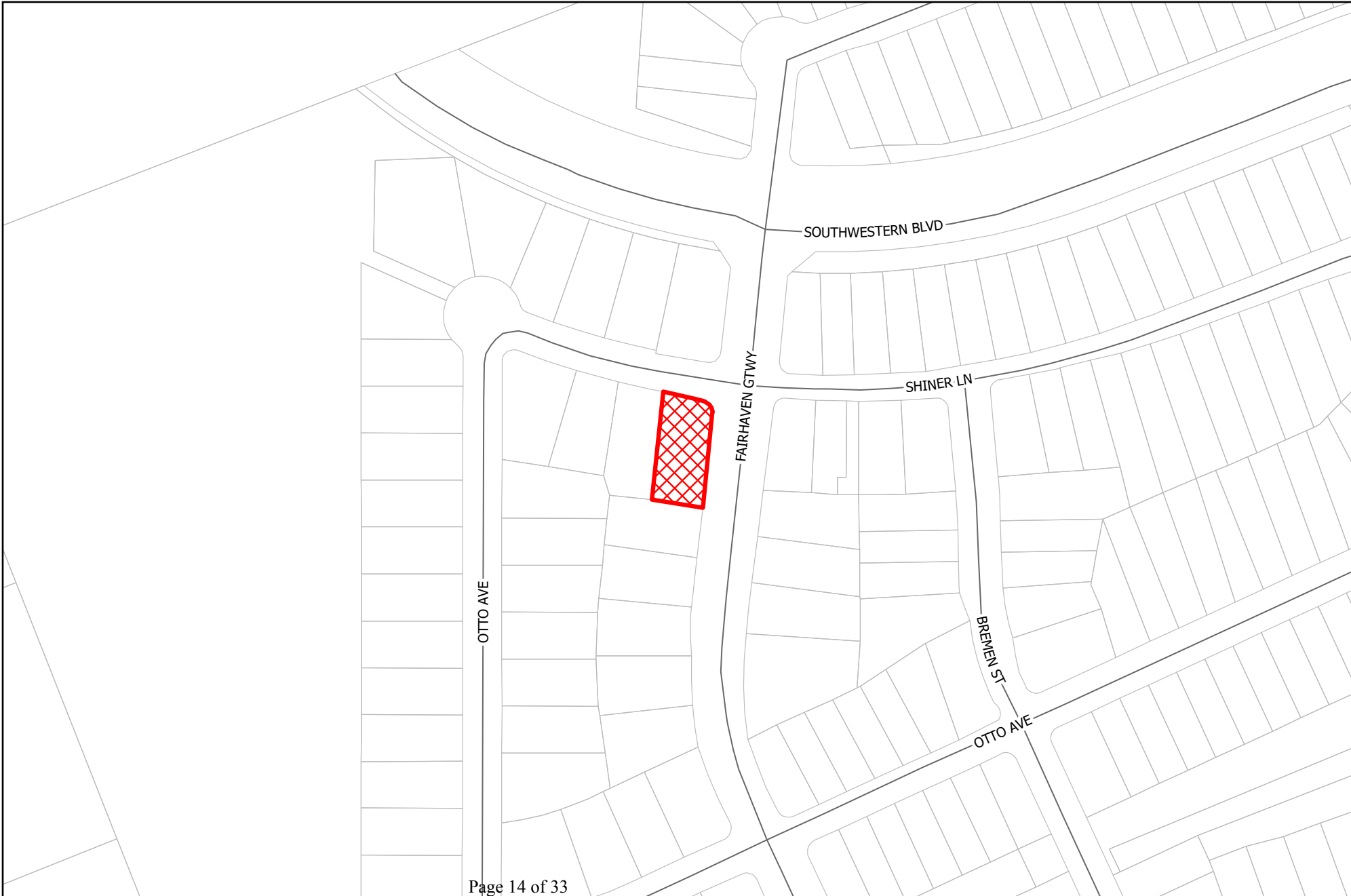
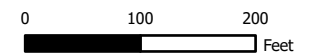


# LOCATION

2021-5-VAR

Exhibit #1

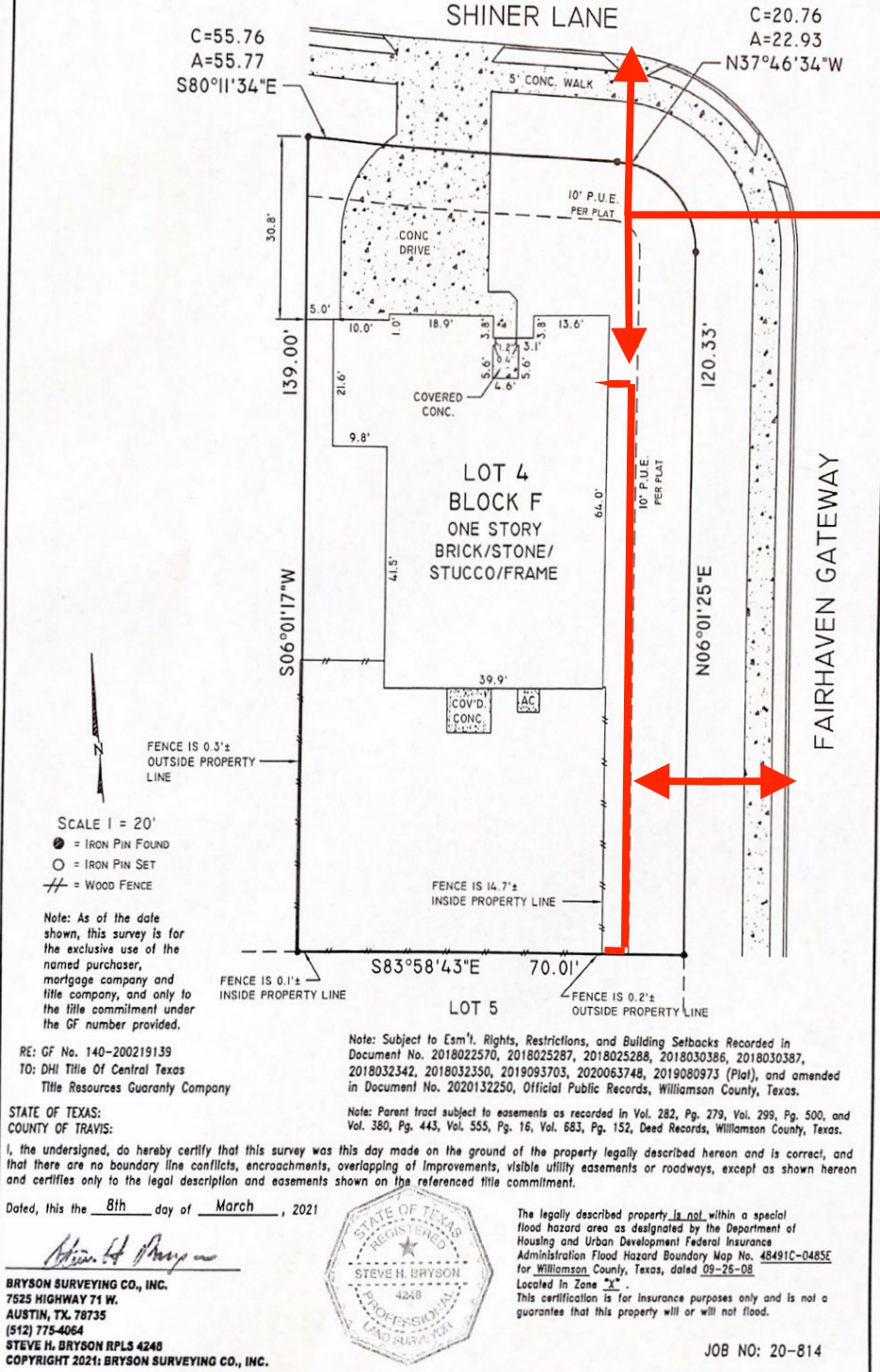
-  Site
-  Parcels





# SURVEY PLAT OF

Local Address: 601 Shiner Lane Re: \_\_\_\_\_  
 Legal Description: Lot 4, Block F, Kasper, Section 9  
 a Subdivision of record in Document No. 2019080973\* of the Williamson County, Texas  
 Plat Records, situated in Williamson County, Texas  
 \* Amended in Document No. 2020132250.



We are also requesting to move the fence forward 40 ft (north) to make sure bedroom windows are secured behind the fence. This leaves 52 ft from the front of the fence to the street of Shiner Lane.

We are requesting to come out 9.5 ft from the current fence line (east) as seen with the red line (which would be 5.5 ft from the property line). This would leave 23.5 ft from new fence to the street of Fairhaven Gateway (includes part of our property and easement) and does not impede the oncoming traffic or neighbors behind us.

Monday, April 19th, 2021

Patrick and Amy Jacobsen

601 Shiner Ln, Georgetown, TX 78626

To Whom It May Concern,

We are writing to seek a fence variance for our single-family home at 601 Shiner Lane in Georgetown. Current UDC states that the fence facing the street must be 15 feet from the property line on corner lots; We respectfully request to install a fence 5.5 feet from the property line. Explanation as to how our request meets the approval criteria is as follows:

- **Extraordinary Conditions:** The strict application of the provisions of this Unified Development Code will deprive us, the applicants, of the reasonable use of our land because the conditions are unique to the property due to the "back" property line also acting as the "side property" line - traditionally yards are back to back, but our back yard is adjacent to the neighbor's driveway instead of their back yard. This gives us, the owners, virtually no room to make any type of fence extension on the side of our house per current UDC.
- **No Substantial Detriment:** This variance will be in no way detrimental to public health, safety or welfare or injurious to other property in the area or to the City in administering this Code. It will not affect, in any way, line of sight for drivers or pedestrians. In fact, we strongly feel this variance will help improve the safety and security for our small growing family as the children's bedrooms are on the side of the house facing the street.
- **Other Property:** The conditions that create the need for the Zoning Variance do not generally apply to other property in the vicinity, which appears to be the case since other corner lots in the vicinity do not have their fence line match up to their build line.
- **Applicant's Actions:** The conditions that create the need for the Zoning Variance are not the result of the applicant's own actions. The permitting department ended up denying our permit request due to current UDC and suggested applying for a variance request.
- **Comprehensive Plan:** The granting of the Zoning Variance would not substantially conflict with the Comprehensive Plan and the purposes of this Code. Currently, the neighborhood has a cohesive and aesthetically pleasing look. We would like to maintain the same look with 6 feet tall cedar pickets and metal posts for our fence extension. We also understand there are sight lines that are required by city code, but we measured from the street, traffic on the side street and the home behind us will not be impeded since our property line does not go up to the side street, which creates more length due to the easement and still meet the "sight triangle" criteria.
- **Utilization:** The conditions that create the need for the Zoning Variance, the application of this Code to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property because it comes down to safety and security for our family.
- **Insufficient Findings:** None of the listed grounds under this section are the reasons we are requesting for this zoning variance; again it comes down to security and safety by fencing off our side property up to the bedroom windows where our children sleep. In addition, we hope to maintain an aesthetically proper addition to our neighborhood.

We hope you agree our request is submitted with the intention of ensuring safety; maintaining privacy on a corner property; conserving the property value; conserving aesthetics of the neighborhood and encouraging the most practical and appropriate use of the land. Thank you for your thoughtful consideration of this request.

Sincerely,

Patrick & Amy Jacobsen



# Fence Variance for 601 Shiner Lane 2021-5-VAR

Zoning Board of Adjustment  
June 15, 2021

# Item Under Consideration

## 2021-5-VAR

- Public Hearing and possible action on a request for a Zoning Variance from UDC Section 8.07.040.A for a six-foot tall opaque fence to be set back 5.5 feet from the property line, a 63% decrease in the required 15 foot side street yard setback of Ordinance 2016-24, for the property located at 601 Shiner Lane, bearing the legal description of Lot 4, Block F, Kasper Subdivision Section 9.

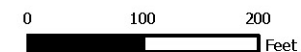


## LOCATION

2021-5-VAR

Exhibit #1

-  Site
-  Parcels



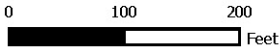




**AERIAL**  
2021-5-VAR

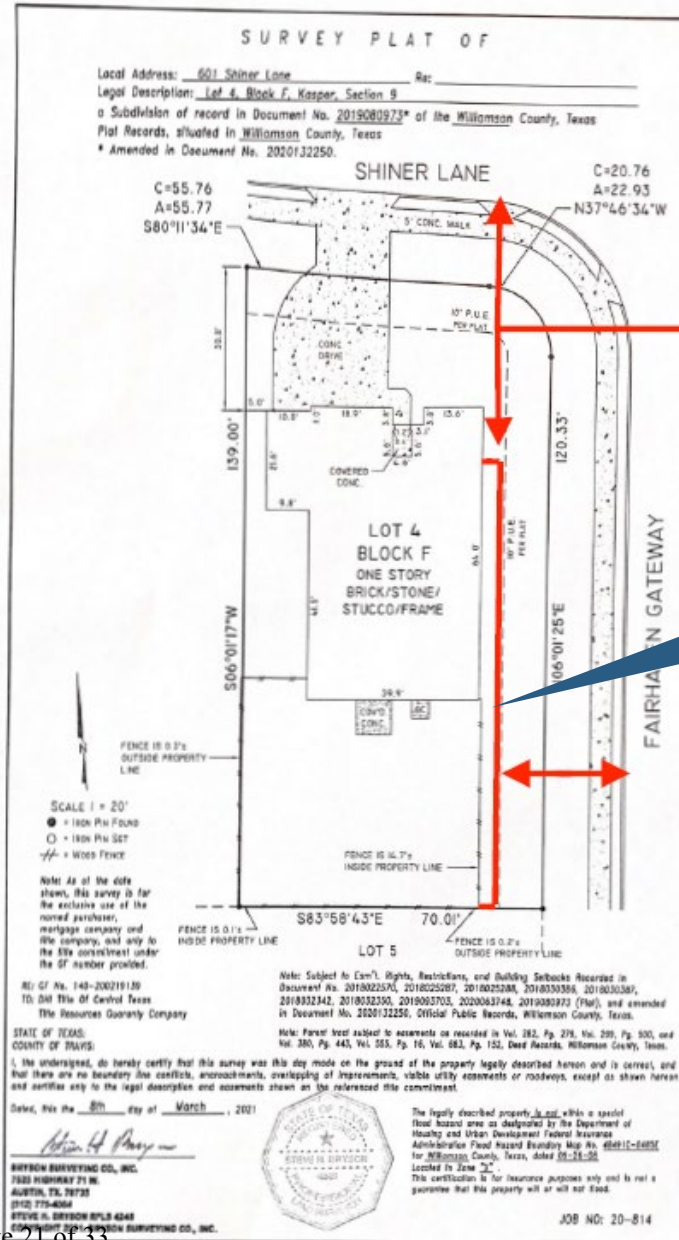


Site





# Exhibit 1



We are also requesting to move the fence forward 40 ft (north) to make sure bedroom windows are secured behind the fence. This leaves 52 ft from the front of the fence to the street of Shiner Lane.

Applicant is requesting to have a six-foot opaque fence set 9.5 feet into the 15-foot side setback; a variance from UDC Sec. 8.07.040

We are requesting to come out 9.5 ft from the current fence line (east) as seen with the red line (which would be 5.5 ft from the property line). This would leave 23.5 ft from new fence to the street of Fairhaven Gateway (includes part of our property and easement) and does not impede the oncoming traffic or neighbors behind us.

# Zoning Variance

The Zoning Board of Adjustment may authorize a Zoning Variance from the requirements of the zoning provisions of the Unified Development Code if the Variance from the terms of the zoning provisions is:

- Not contrary to the public interest
- Due to special conditions
- A literal enforcement of the requirements would result in unnecessary hardship
- The spirit of this Code is preserved
- Substantial justice is done

# Approval Criteria

## 1. Extraordinary Conditions

That there are extraordinary or special conditions affecting the land involved such that strict application of the provisions of this Unified Development Code will deprive the applicant of the reasonable use of their land. For example, a Zoning Variance might be justified because of topographic or other special conditions unique to the property and development involved, while it would not be justified due to inconvenience or financial disadvantage.

# Approval Criteria

## **2. No Substantial Detriment**

That the granting of the Zoning Variance will not be detrimental to the public health, safety or welfare or injurious to other property in the area or to the City in administering this Code.

## **3. Other Property**

That the conditions that create the need for the Zoning Variance do not generally apply to other property in the vicinity.



# Approval Criteria

## **4. Applicant's Actions**

That the conditions that create the need for the Zoning Variance are not the result of the applicant's own actions.

## **5. Comprehensive Plan**

That the granting of the Zoning Variance would not substantially conflict with the Comprehensive Plan and the purposes of this Code.

# Approval Criteria

## 6. Utilization

That because of the conditions that create the need for the Zoning Variance, the application of this Code to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.

## 7. Insufficient Findings

The following types of possible findings do not constitute sufficient grounds for granting a Zoning Variance:

- That the property cannot be used for its highest and best use.
- That there is a financial or economic hardship.
- That there is a self-created hardship by the property owner or their agent.
- That the development objectives of the property owner are or will be frustrated.

# Approval Criteria – UDC Section 3.15.030

Criteria for a Variance	Complies	Partially Complies	Does Not Comply
1. Extraordinary Conditions			X
2. No Substantial Detriment	X		
3. Other Property			X
4. Applicant's Actions			X
5. Comprehensive Plan		X	
6. Utilization			X
7. Insufficient Findings			X

# Existing Conditions

★ View 1

★ View 2



Comparable  
house fenced to  
UDC Standard



# Existing Conditions

View 1



601 Shiner Lane – **SUBJECT PROPERTY**

View 2



501 Shiner Lane – Similar property one block away

# Insufficient Findings

**The following types of possible findings do not constitute sufficient grounds for granting a Zoning Variance:**

- That the property cannot be used for its highest and best use.
  - *Single-family home can still be constructed and maintained.*
- That there is a financial or economic hardship.
  - *No financial or economic hardship, aesthetic and privacy concerns.*

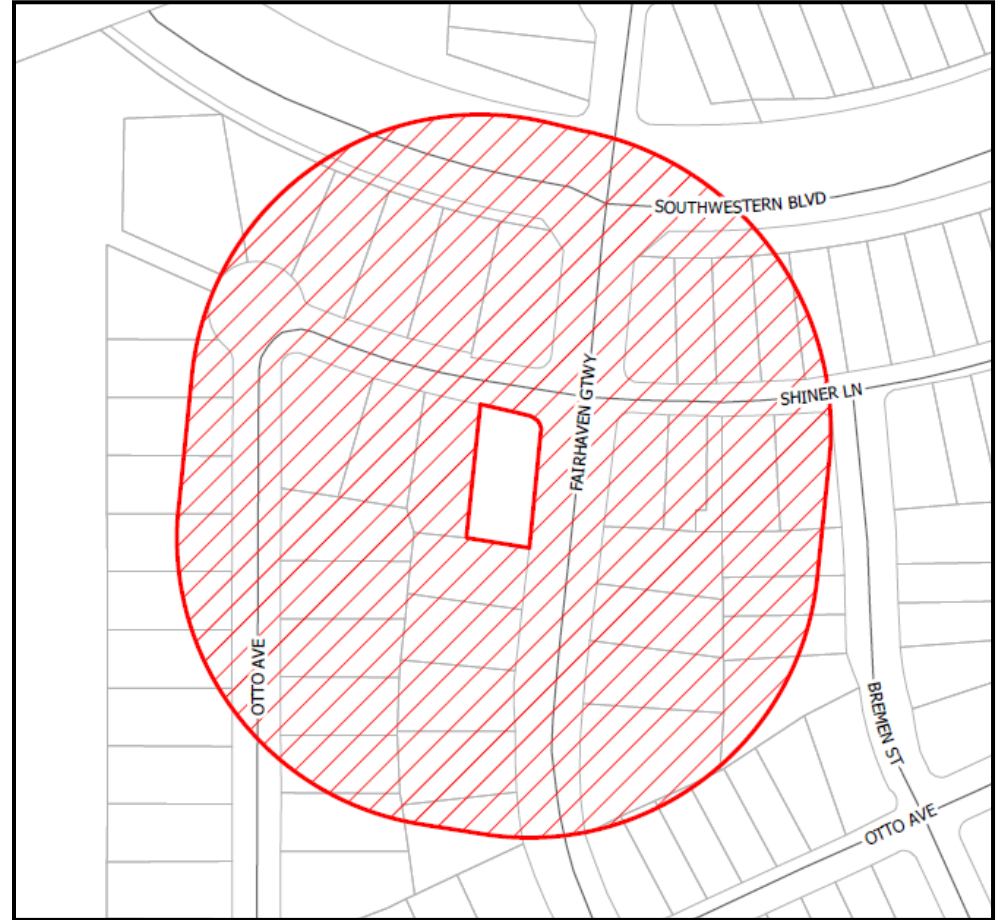
# Insufficient Findings (Continued)

**The following types of possible findings do not constitute sufficient grounds for granting a Zoning Variance:**

- That there is a self-created hardship by the property owner or their agent.
  - *No external or self-created hardship.*
- That the development objectives of the property owner are or will be frustrated.
  - *The development objective can be accomplished within the current standards of the UDC.*

# Public Notifications

- 1 property owner within the 300' buffer
- Notice in Sun News on Sunday, May 30 2021
- Signs posted on the property
- To date, staff has received:
  - 0 written comments IN FAVOR
  - 0 written comments OPPOSED





# Summary

- Public Hearing and possible action on a request for a Zoning Variance from UDC Section 8.07.040.A for a six-foot tall opaque fence to be set back 5.5 feet from the property line, a 63% decrease in the required 15 foot side street yard setback of Ordinance 2016-24, for the property located at 601 Shiner Lane, bearing the legal description of Lot 4, Block F, Kasper Subdivision Section 9.
- A supermajority (3/4) vote of the Board is required to grant a Variance.
- When making a motion, the Board must make a finding of the criteria.