

Variance Justification:

In order to justify approval of any variance, the Board of Zoning Adjustment considers the following criteria. Please answer all of the following items. Use additional sheets if needed. A response of yes, no, or N/A is not acceptable.

1. Explain how the variance will not adversely affect the public health, safety or welfare.

The proposed (existing) fence is an aluminum/wrought iron style and is located around a courtyard and outdoor patio area, completely away from the public sidewalk. The fence does not provide a hiding spot anywhere along its length.

2. Explain how the variance will not alter the essential character of the general vicinity.

The fence is an open (non-privacy) wrought iron style material and is dark in color to blend with the surrounding area.

3. Explain how the variance will not cause a hazard or a nuisance to the public.

The fence does not visually block any lines of sight from the sidewalks along Bonnycastle Avenue or Cherokee Road. The fence does not provide a hiding spot anywhere along its length.

4. Explain how the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations.

The required Side Yard is 15 ft. and the Street Side Yard is only 3 ft. Normally, you would expect the Front Yard to be along Cherokee Road, but due to a Minor Plat approved in 2003 and the resulting lot shape and size, the Front Yard (15 ft.) is actually along Bonnycastle Avenue.

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Additional consideration:

1. Explain how the variance arises from special circumstances, which do not generally apply to land in the general vicinity (please specify/identify).

A Minor Plat was approved in 2003 that created this lot and as a result, made the Front Yard to be along Bonnycastle Avenue instead of along Cherokee Road as you might expect since the front door to the building faces Cherokee Road.

2. Explain how the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship.

Strict application of the Code would require the fence that is in the 15 ft. front yard along Bonnycastle Avenue to either be reduced to no more than 42 inches high or be relocated to 15 ft. from the Bonnycastle Avenue Right-of-Way line. This would reduce the courtyard/patio for the tenants.

3. Are the circumstances the result of actions of the applicant taken subsequent to the adoption of the regulation from which relief is sought?

No. The Minor Plat that changed the Front Yard from Cherokee Road to Bonnycastle Avenue was done by the previous owner in 2003.