

The Board of Adjustment of the City of Anna will hold a meeting at 6:30 p.m. on Wednesday, September 14, 2022, at the Development Services Conference Room in Anna City Hall located at 120 W Seventh Street, to consider the following items.

1. **Call to Order and Establishment of Quorum**
2. **Invocation and Pledge of Allegiance**
3. **Neighbor Comments:** At this time, any person may address the Board of Adjustment regarding an item on this meeting agenda that is not scheduled for public hearing. Also, at this time any person may address the Commission regarding an item that is not on this meeting agenda. Each person will be allowed up to 3 minutes to speak. We are encouraging neighbors who wish to have their comments included, e-mail Nader Jeri, Building Official (NJERI@annatexas.gov) by September 14, no later than 3:00 PM so it may be read into the record.

No discussion or action may be taken at this meeting on items not listed on this agenda, other than to make statements of specific factual information in response to a citizen's inquiry or to recite existing policy in response to the inquiry.

Items for Individual Consideration

4. Consider/Discuss/Action to approve minutes from the September 29, 2021 Board of Adjustment meeting.
5. Conduct a public hearing/consider/discuss/action on a variance request regarding 205 Hardwood Trail (The Villages of Hurricane Creek, Phase I, Block C, Lot 14), zoned Planned Development-SF-84 Single-Family Residence 84 (PD-SF-84), for a variance pertaining to the required fence setback of the side yard along a street for a key lots.
6. **Adjourn**

This is to certify that I, Nader Jeri, Building Official, verify that this agenda was posted at a place readily accessible to the public at the Anna City Hall and on the City Hall bulletin board at or before 6:30 p.m. September 9, 2022.



Nader Jeri
Building Official

Persons with a disability who want to attend this meeting who may need assistance should contact the City Secretary, at 972-924-3325 two working days prior to the meeting so that appropriate arrangements can be made.



MINUTES

BOARD OF ADJUSTMENT

September 29, 2021

The Board of Adjustment of the City of Anna met September 29, 2021, at 6:30 p.m. at the Anna City Hall Administration Building, located at 111 North Powell Parkway (Hwy 5), to consider the following items.

1. Call to Order, Roll Call and Establishment of Quorum.

The meeting was called to order at 6:54 p.m. by Chairman Jon Hendricks.

Members present:

Place 1 – Jon Hendricks – Chairman, Place 1A – Choya Morrison (Alternate), Place 2 – Kelly Patterson, Place 4 – David Nylec

Staff present:

Mr. Nader Jeri, Building Official

Mr. Bret Wilkinson, Plans Examiner

Property Owners present:

Mr. Ted Hoyt and Mrs. Kim Hoyt

2. Invocation and Pledge of Allegiance

Ms. Kelly Patterson gave the invocation. All who were present gave the Pledge of Allegiance.

3. Neighbor Comments

Chairman Jon Hendricks asked if there were any neighbor comments. Neighbors Greg Kelley, Kylee Kelly, Billy Hendrix, and Anthony Smith stated they were in attendance to support their neighbors and supported the passing of the variance.

4. **Conduct Public** to consider a variance request at 3003 Crossing Drive (Urban Crossing, Block A, Lot 23R) for a variance of 14' of encroachment to a Guest House within the required yard space rear setback of 25'.

Chairman Jon Hendricks opened public hearing at 6:59 p.m. Mr. Hendricks read the reason for Board meeting.

Mr. Nader Jeri, Building Official, provided a brief description and timeline for the building of the structure. In December 2020, the Building Department received the submission of a permit and plot plans for an accessory building (guest house) structure 25 feet from the main residence. The permit application and plans provided were accepted by the City of Anna. Construction started in January 2021 but were not able to build at the location due to the buried septic system. The accessory building was moved further back, without notice to the city, causing an encroachment of the rear setback.

Mr. Ted Hoyt, Property Owner, provided a brief description and timeline for the building of the structure. During the start of construction of the accessory building, the location of the buried septic system, as well as the slope of the rear yard, were the contributing factors to move the construction of the structure further back. Mr. Hoyt contacted the septic company about moving the system, which was advised they could not do. Mr. Hoyt had the architect re-draw the plans to move the building in guidance with the HOA setbacks, unaware of the City of Anna's rear yard setback.

The Board Members held a discussion and requested additional information from the Property Owner and Building Official regarding the following:

- 1) Why not move the accessory building north in the rear yard towards Urban Way?
- 2) What are the future plans of County Road 368?
- 3) How are the property setbacks determined?

Mr. Ted Hoyt explained that the north of the rear yard had a large slope so the only semi-flat area where the accessory building could be built is at its current location. As well, due to a large tree in the rear yard, he also had to ask his HOA for a variance for the accessory building's location near the tree.

Mr. Nader Jeri explained that County Road 368 will be expanded in the future but did not currently have the information on the expansion. He also explained that the setbacks are not determined by the size of the lot, but the developer when they submit the plat for that particular lot.

Consider and act on variance request regarding 3003 Crossing Drive (Urban Crossing, Block A, Lot 23R) pertaining to 14' of encroachment to a Guest House within the required yard space rear setback of 25'.

Mr. Jon Hendricks stated that it would not be a good option to oppose the variance as it would have the Property Owners tear down the structure and rebuild it elsewhere.

Board Actions:

A motion was made by Ms. Kelly Patterson to grant a variance and seconded by Mr. David Nylec.

Vote on Motion/Roll Call

Ayes:

Place 1 – Jon Hendricks – Chairman, Place 1A – Choya Morrison (Alternate), Place 2 – Kelly Patterson, Place 4 – David Nylec

Nays:

None

Motion passed by a vote of 4 Ayes and 0 Nays.

5. Adjourn

A motion was made by Mr. Jon Hendricks to adjourn the meeting. The vote was unanimous. The Board of Adjustment meeting was adjourned at 7:19 p.m.

Jon Hendricks
Board of Adjustment Chairman

Attest:

Nader Jeri
Building Official

BOA – 205 Hardwood Trail



THE CITY OF
Anna

N

- Subject Property
- City Limits
- 200' Notice Boundary
- ETJ

0 75 150 300 Feet

August 2022

CITY OF ANNA

Board of Adjustment

September 14, 2022

Variance: 205 Hardwood Trail

AGENDA ITEM:

Consider/Discuss/Action on the 205 Hardwood Trail, Variance.

REMARKS:

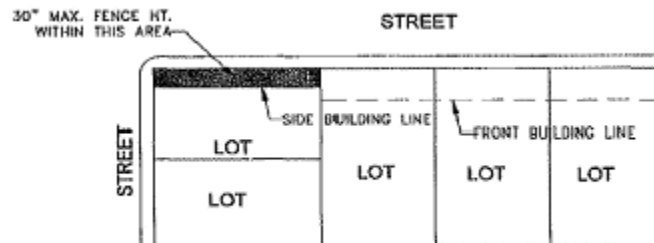
Within the Zoning Ordinance under Subsection (e) (Variances) of Section 9.04.042 (Board of Adjustment) it states that board of adjustment shall have the power to authorize upon appeal in specific cases such variance from the terms of this article as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this article will result in unnecessary hardship and so that the spirit of this article shall be observed and substantial justice done, including the following:

- (1) Permit a variance in the yard requirements of any district where there are unusual and practical difficulties or unnecessary hardships in the carrying out of the provisions due to an irregular shape of the lot or topographical or other conditions, provided such variance will not seriously affect any adjoining property or the general welfare.

SUMMARY:

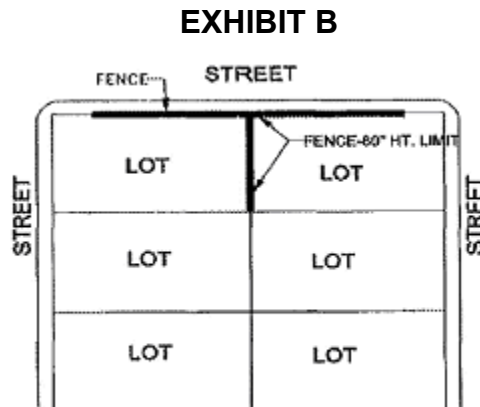
Development Services was recently contacted by future neighbors Peter & Tracy Jagersky who are currently having a home constructed at 205 Hardwood Trail within the Villages of Hurricane Creek. This particular property is considered a “Key Lot” which is a type of lot that shall have a front building line on both streets and whose rear yard is adjacent to the neighboring side yard which limits the location/height of fencing (see Exhibit A).

EXHIBIT A



On all corner lots in residential districts where the rear lot line is opposed to a side lot line of an adjoining lot, no fence exceeding 30 inches in height shall be constructed between the side of the building line and the side yard line which is next to the street, as indicated in Exhibit A.

Most other corner lots in the Villages of Hurricane Creek have rear yards backing toward each other which allows a taller fencing to be installed along the property boundary, outside of the front building setback (see Exhibit B).



On all corner lots in residential districts which have opposing rear lot lines, fences may be constructed not to exceed 80 inches in height along the side and rear yard lines, as indicated in Exhibit B below

During a scheduled inspection the Building Official noticed that the recently installed backyard fence posts were set along the property boundary and brought this violation to the attention of the home builder, First Texas Homes. The builder indicated that they had an approved fence permit (Exhibit 1) dated July 22, 2022, which showed the fence in the location it had been installed. The city informed First Texas Home that city staff does not have the authority to modify zoning regulations. The approval was incorrect, and the fence posts would need to be relocated accordingly or a variance application would need to be submitted and approved to keep the post along the property boundary.

The Jagersky's submitted a letter (Exhibit 2) on August 18, 2022, that included some background information and pictures of the property, fence line, and surrounding area along with justification that a variance would not be contrary to the public interest and literal enforcement of the ordinance would result in unnecessary hardship. Additionally, if granted the variance it would not seriously affect the adjoining property or the general welfare.

RECOMMENDATION:

City staff has reviewed the variance request and determined that there would be neither an affect on any adjoining property or the general welfare. The location of the proposed side yard fence along Lakeshore Drive, as shown on the Fence Permit Application, will not hamper the line of sight of vehicular traffic due to:

- a) The location of the rear/side yard fence of 205 Harwood Trail will be 90± feet from the intersection of Hardwood Trail and Lakshore Drive; and
- b) The driveway location for the adjacent home along the rear property boundary (3025 Lakeshore Drive) will be installed on the opposite side of the lot that there would be neither affect either the general welfare of the adjoining property.

EXHIBIT 1

1 OF 2

2021-2027



Fence Permit Application

Permit Number

2021-2027

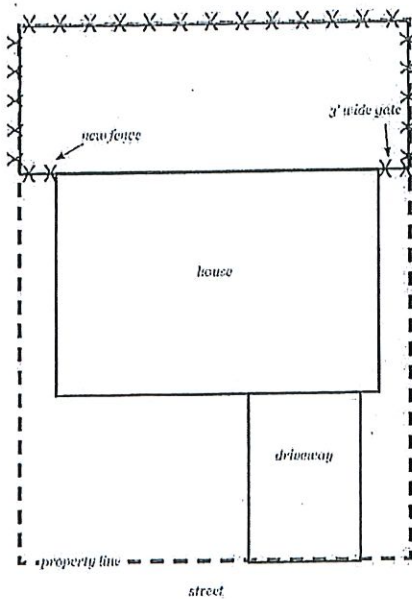
PROJECT INFORMATION			
Project Address 205 HARDWOOD	Apt #	Subdivision HURRICANE CREEK	Lot 14 Block C
Property Owner Name FIRST TEXAS HOMES	Property Owner Address (if different) 500 CRESCENT CT #350 DALLAS, TX 75201		Phone 214-613-3339
Contractor Name/Company ACE FENCE - DFW	Contractor Address PO BOX 860767 PLANO, TX 75086		Phone 972-578-5775
Contact Email: SCOTT@ACEFENCES.COM			

DESCRIPTION OF WORK

Property Type: Commercial Residential Fence Height & Material: **6' WOOD FENCE ON STEEL POSTS**
 Interior Lot Corner Lot

Please provide a sketch of the proposed work similar to the sample. Indicate new fences with X's along a line
 Please include, showing precise dimensions (in feet): House, driveway, street(s), new & existing fences

SAMPLE:



YOUR SKETCH:

PLOT ATTACHED

NOTICE

I hereby make application for a permit to construct or cause to be constructed, a fence on the described property as shown on the above sketch. I am familiar with the City of Anna fence regulations and this fence structure will comply therewith. I agree to request an inspection upon completion.

Applicant Name (print)

SCOTT MILLER

Applicant Signature

Date

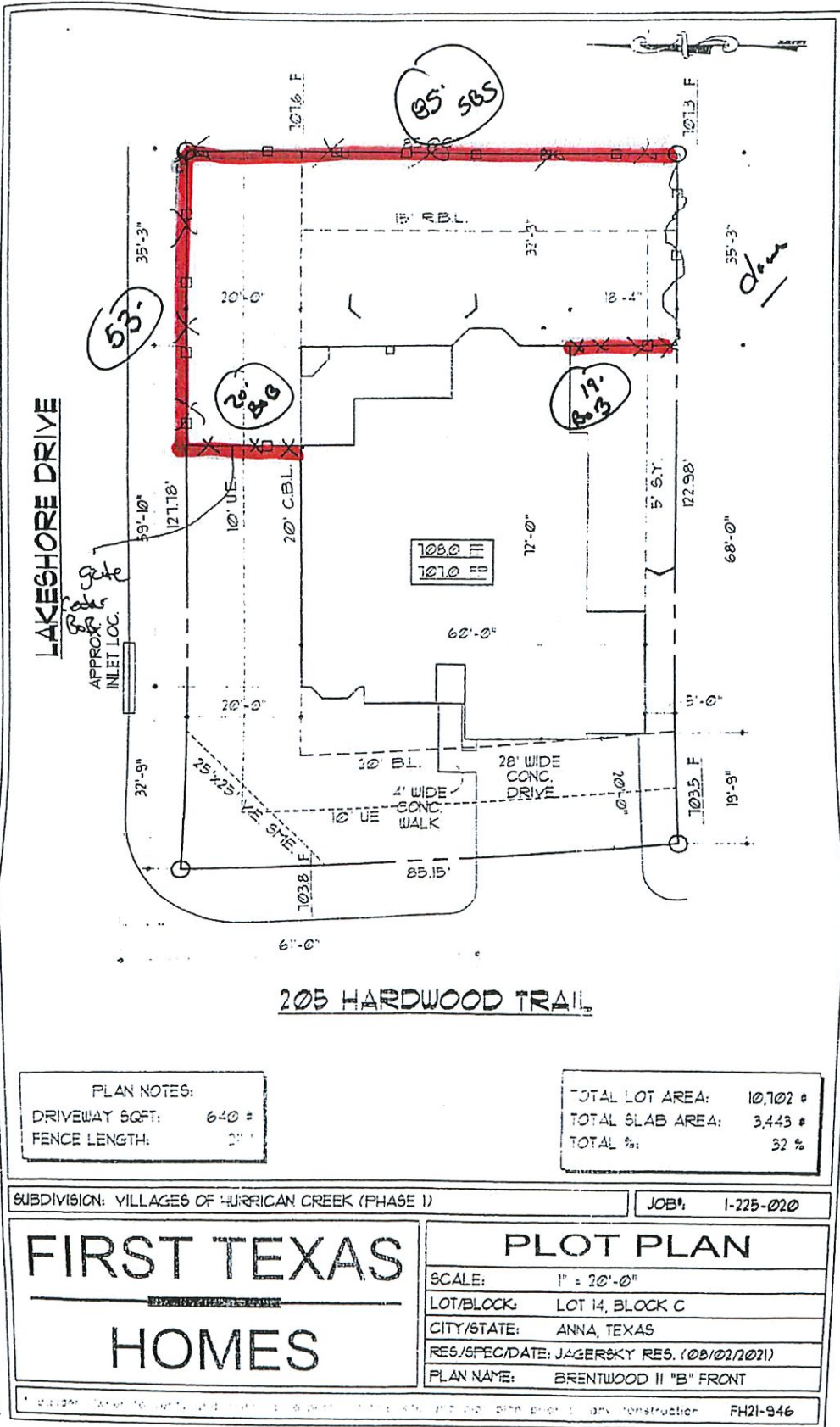
7-20-22

For a complete application, payment must be received within 48 hours of submission.

OFFICE USE ONLY BELOW THIS LINE

Plan Review Fee: FEES PAID	Received By: HS	Date: 7/20/22
Permit Fee: WITH NEW BUILD	Approved By:	Date:

EXHIBIT 1
2 OF 2



PLAN NOTES:	
DRIVEWAY SQFT:	640 #
FENCE LENGTH:	211'

TOTAL LOT AREA:	10,102 #
TOTAL SLAB AREA:	3,443 #
TOTAL %:	32 %

SUBDIVISION: VILLAGES OF HURRICAN CREEK (PHASE 1) JOB#: 1-225-020

FIRST TEXAS
HOMES

PLOT PLAN	
SCALE:	1" = 20'-0"
LOT/BLOCK:	LOT 14, BLOCK C
CITY/STATE:	ANNA, TEXAS
RES/SPEC/DATE:	JAGERSKY RES. (08/02/2021)
PLAN NAME:	BRENTWOOD II "B" FRONT

EXHIBIT 2

1 OF 7

8/18/2022

Good afternoon,

I am writing to gain some clarification on news that has been presented to my husband and I as we continue to build our home in The Villages of Hurricane Creek. Just a small backstory...

Last July, we finally found a development and home that would suit our family after over a year of travel back and forth from New Jersey to find our "forever home." Once we had chosen the model of home, we wanted that would fit our large family (6 children moving with us (2 that are special needs), the two of us and our ½ black lab ½ German shepherd large dog). We decided that if this was going to be our forever home, we would go the extra mile and add things that would make this new home a comfortable, spacious place to live for our children to be comfortable and secure. Now, with each extra we added, there was a cost, and a large cost at that. Buying an oversized corner lot for more outdoor space, \$10,000. Extended patio, fireplace, gas line added for a barbecue, wiring to add entertainment in this amazing outdoor space. Each and everyone of these additional items added on at a large cost and approved by the Anna Planning Board.

As anyone can imagine the anticipation, the planning to move halfway across the country, takes a lot, add onto all this the delays that have been presented due to Covid-19, the delays in manufacturing, the delays of delivery and the lack of people willing to work, etc. our anticipated closing keeps moving further and further back. To the point where we had to move out here and have to live in an Air B&B while costing again a large amount financially, moving, storage, rent, etc. Three children in Collin County which I have to pay out of state out of county tuition. I know none of this is your issue, your worry, not costing you a thing...

So, why all this information? Well, our builder/designer First Texas Homes has informed us that there are issues with our fence, as my husband Peter has spoken to you about. I know that the suggestion was that we put in a "variance", however, the builder refuses to pay for or submit the variance, the builder informed us to put in the variance, but my husband is under the impression that we cannot do that because we do not "own" the property or home as of yet.

Now what has been shared with me by the builder, relaying what he was told by the inspector "Nadar." The fence, where it is currently mapped out to be (poles were already set, and lets not forget approved for by the planning board when the prints of the house were sent in, in regards to that I was told by the builder that the planning board stated that they only approve the house, not the fence, WHY was a notation not made on that plan stating that if that is the anticipated location of the fence it won't be approved? I ask this because if I had known this 11-12 months ago, I would have picked a different lot!)

Earlier today I stopped at the property, I walked the property, I drove around, I parked in the neighbor's driveway, which let me say is elevated higher than my land and has not only his side yard but his living room window, front door then his garages which is a long distance from my fence, and I STILL don't see the problem. Where I do see a problem is in the fact that I am now left with a large section of my yard that is useless to our family, that I will be required to maintain by the HOA, that the city will tax me on, that I paid EXTRA for, and WE won't have any use for it. Let's not forget that who in the future is going to want to purchase a home with all of that? We had a plan to put in a pool in a year or two and can't even do that because we no longer have a safe, private, secure yard. However, the family at 204 Hardwood Trail who already live in the home have a fence in the same place and their fence even begins

EXHIBIT 2

2 OF 7

at a higher elevation but goes all the way to the sidewalk, they too then are blocking driveway of the home behind theirs, so why is it ok for them, but not for me. Which means our family must be penalized out of all the extras that we purchased and again that the planning board approved? And every day I get to leave my new home and look at the family across the street and be angry wondering why it was ok for them and not us. Below are some photos that will better explain the multitude of issues.

This is the fence for 204 Hardwood Trail, directly across the street from our home...



Sitting behind that fence is the garages for the home behind them. That home sits on the next block but the garages are on Lakeside Drive. And as you can see in the picture stopping at the stop sign you can see down to the left with no issues.

Now, I will share the photos for our property located directly across the street at 205 Hardwood Trail. You will be able to see where the poles for the fence have been placed. Please keep in mind that the inspector has informed the builder that the fence needs to now be placed at the edge of the fireplace, even with the home, and that since that leaves a portion of our patio exposed then a brick wall or a metal fence would have to be placed on the edge of the patio.

EXHIBIT 2
3 OF 7



As you can see in this picture if you follow the sidewalk to the house across the street our fence would be out just as far as that fence is.



This is from the neighbor's driveway, me standing there taking a photo, there is a long distance between his driveway and our property/grass/potential fence.

EXHIBIT 2
4 OF 7



This is from my car, as you can see there is clear vision of the street from the driveway.



This is from my car at the corner/stop sign where you can see there is a view of any oncoming traffic.

EXHIBIT 2

5 OF 7



Same stop sign looking for oncoming traffic coming the other way, and there is the fence across the street again that was approved, CO provided, and the residents are already living in.



Please take note of where the fence posts are. We have been informed that they need to be removed and placed flush with the corner of the fireplace. Look at the amount of land, that we again paid extra for, that

EXHIBIT 2

6 OF 7

we are now being told we cannot use as our backyard, but I will have to maintain it for the HOA and Pay the City of Anna taxes on, for what?



The red represents the side of our extended patio that would now need to have bricked or an iron fence placed on the cement edge of, which of course is where the gas line was approved for, by the city, for our barbecue.

EXHIBIT 2

7 OF 7

We have spoken to First Texas Homes, and we will not be reimbursed any funds for any of these issues. I asked if the fence could not be placed until after the closing and then we would put in for a variance and I was told that they have nothing to do with the fence once the closing takes place.

I need the city of Anna to explain to me what the difference is between my home/property and the one directly across the street sitting on the opposite side is? I need to know why his fence which is next to his neighbor's driveway was approved and mine isn't, I need to know if there is any other solution other than a fence being flush with the house, if it was to come a foot in (which again is more than the house across the street has done) would that be sufficient?

The purpose of all of this is to open the door for discussion onto what the next steps are, we have been placed in a bad position between the City of Anna and the builder for nothing that was our fault. It is unfair for our children (again 2 that are special needs) to understand why, their dream yard with a future pool is now not going to happen because communication seems to have broken down all the way around and we weren't informed of any of it until it was way too late.

We are seeking your professional courtesy as we all come together and move forward.

Peter & Tracy Jagersky

732-551-4748