

August 3, 2020
Board of Adjustments Meeting
6:30 p.m.



AGENDA
City of Dickinson
**BOARD OF
ADJUSTMENTS
REGULAR MEETING**

August 3, 2020

NOTICE is hereby given of a **Regular Meeting** of the Board of Adjustments of the City of Dickinson, Texas to be held on **Monday, August 3, 2020 at 6:30 p.m.** in the Council Chambers at City Hall, 4403 Highway 3, for the purpose of considering the following numbered items.

In accordance with order of the Office of the Governor issued March 16, 2020, the Board of Adjustments of the City of Dickinson, Texas will **conduct the meeting by telephone and online video conference** in order to advance the public health goal of limiting face-to-face meetings (also called "social distancing") to slow the spread of the Coronavirus (COVID-19).

The public may use any of the following toll-free dial-in numbers to participate telephonically in the meeting: 877-853-5257, 888-475-4499, 833-548-0276, or 833-548-0282, Meeting ID: 959 0773 1566, Meeting Passcode: 77539

The public may use the following Uniform Resource Locator (URL) to participate by video conference in the meeting: <https://zoom.us/j/95907731566> Meeting ID: 959 0773 1566, Meeting Passcode: 77539

The Board of Adjustments of the City of Dickinson, Texas, reserves the right to meet in a closed session on any of the below items should the need arise and if applicable pursuant to authorization by Title 5, Chapter 551, of the Texas Government Code.

ITEM 1.) CALL TO ORDER AND CERTIFICATION OF A QUORUM:

Roll Call of Members
Invocation
Pledge of Allegiance

ITEM 2.) CONSIDERATION AND POSSIBLE ACTION CONCERNING: Approval of the Minutes of the July 6, 2020 Regular Meeting.

ITEM 3.) CONDUCT A PUBLIC HEARING CONCERNING: VARIANCE NUMBER 20200423, A Variance Request to Section 18-69(b)(1) of the Zoning Ordinance. The Request is to allow for a fence to remain partially in the "required front yard" to the Northwest side of the home at 4020 Bentwood Drive, Dickinson, Texas 77539.

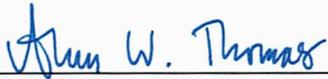
- A. Staff's Presentation of the Variance
- B. Applicant's Statement
- C. Those in Favor
- D. Those Opposed
- E. Applicant's Rebuttal
- F. Adjourn Public Hearing

ITEM 4.) CONSIDERATION AND POSSIBLE ACTION REGARDING: VARIANCE NUMBER 20200423, A Variance Request to Section 18-69(b)(1) of the Zoning Ordinance. The Request is to allow for a fence to remain partially in the “required front yard” to the Northwest side of the home at 4020 Bentwood Drive, Dickinson, Texas 77539.

ITEM 5.) ADJOURN

CERTIFICATION

This is to certify that a copy of the notice of a Regular Meeting of the Board of Adjustments for August 3, 2020, was posted on the bulletin board at City Hall, 4403 State Highway 3, Dickinson, Texas, on the 29th day of July 2020, prior to 6:30 p.m.



Alun W. Thomas, City Secretary



In compliance with the Americans With Disabilities Act, we will provide for reasonable accommodations for disabled persons attending our meetings. Request should be received at least 24 hours prior to the scheduled meeting by contacting the City Secretary's office at (281) 337-6217.

SUPPLEMENTAL NOTICE OF MEETING BY TELEPHONE CONFERENCE:

In accordance with order of the Office of the Governor issued March 16, 2020, the Board of Adjustments of the City of Dickinson, Texas will conduct the meeting scheduled at 6:30 p.m. on Monday, August 3, 2020 at 4403 Highway 3, Dickinson, Texas 77539 by telephone and online video conference in order to advance the public health goal of limiting face-to-face meetings (also called "social distancing") to slow the spread of the Coronavirus (COVID-19). [There will be no public access to the location described above.]

This supplemental written notice, the meeting agenda, and the agenda packet, are posted online at <http://www.ci.dickinson.tx.us/agendacenter>.

The public may use any of the following toll-free dial-in numbers to participate telephonically in the meeting: 877-853-5257, 888-475-4499, 833-548-0276, or 833-548-0282, Meeting ID: 959 0773 1566, Meeting Passcode: 77539

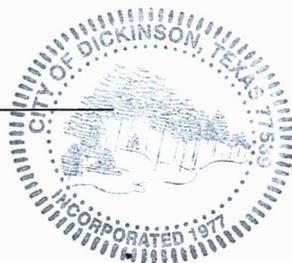
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The public will be permitted to offer public comments telephonically or via video conference as provided by the agendas and as permitted by the presiding officer during the meetings.

A recording of the telephonic meeting will be made, and will be available to the public in accordance with the Open Meetings Act upon written request.



Alun W. Thomas, City Secretary



Board of Adjustments

ITEM 1

**Call to Order and Certification
of a Quorum**

**CITY OF DICKINSON, TEXAS
BOARD OF ADJUSTMENTS MEETING
ATTENDANCE LIST**

MEETING DATE: August 3, 2020

BOARD MEMBERS

PRESENT

ABSENT

DAWN KING, Chairperson

TIM PHILPOT, Vice-Chairperson

SHAMARION BARBER

ALLEN CARLILE

KEVIN EDMONDS

ALTERNATE MEMBERS

RONALD HEBERT

JOSEPH KELLY

ALSO IN ATTENDANCE

DAVID OLSON, City Attorney

Kola Olayiwola, Director of Community Services

S. R. Burgess, Chief Building Official

Board of Adjustments

ITEM 2

MINUTES
City of Dickinson
**BOARD OF
ADJUSTMENTS
REGULAR MEETING**

July 6, 2020

The Board of Adjustments of the City of Dickinson, Texas met in a duly called and announced **REGULAR MEETING** on **Monday, July 6, 2020**, at **6:30 p.m.** In accordance with order of the Office of the Governor issued March 16, 2020, the Board of Adjustments conducted the meeting by telephone conference in order to advance the public health goal of limiting face-to-face meetings (also called “social distancing”) to slow the spread of the Coronavirus (COVID-19). The meeting was held for the purpose of considering the following items:

ITEM 1.) CALL TO ORDER AND CERTIFICATION OF A QUORUM:

Roll Call of Members
Invocation
Pledge of Allegiance

Chairperson Dawn King called the meeting to order at 6:30 p.m. City Secretary Alun Thomas called roll and certified a quorum. Board of Adjustment Members present were as follows: Chairperson Dawn King, Vice-Chairperson Tim Philpot, and Board Members Shamarion Barber, and Allen Carlile. Also present were Alternate Members Ronald Hebert and Joseph Kelly, and Chief Building Official S. R. Burgess. Board Member Kevin Edmonds was absent.

ITEM 2.) CONSIDERATION AND POSSIBLE ACTION CONCERNING: Approval of the Minutes of the January 6, 2020 Regular Meeting.

Board Member Barber made a motion to approve the minutes of the January, 6, 2020 Regular Meeting, and Board Member Carlile seconded the motion. There being no discussion, Chairperson King called for a vote.

VOTE:

5 AYES (Barber, Carlile, Hebert, King, Philpot)
0 NAYS

MOTION PASSED

ITEM 3.) CONDUCT A PUBLIC HEARING CONCERNING: VARIANCE NUMBER 20200254, A Variance Request to Section 18-50 of the Zoning Ordinance. The Request is to allow for a variance to the rear setback requirement at 2411 21st Street, Dickinson, Texas 77539.

Chairperson King opened the public hearing at 6:32 p.m.

A. Staff's Presentation of the Variance

Chief Building Official S. R. Burgess presented the Item and explained the request to the Board. The request, he explained, was to allow the Applicant to build a house with an 8.4' rear setback, rather than the required 15' rear setback. Mr. Burgess noted that the proposed home is a part of the Texas Land Office's program to rebuild after Hurricane Harvey. He said that staff recommends approval of the request.

B. Applicant's Statement

Yolanda Morgan, 2411 21st Street, Dickinson Texas – Ms. Morgan simply asked that the Board of Adjustments approve her request.

C. Those in Favor

Daisha Morgan, 401 Adams Lake Boulevard, Atlanta, Georgia – Ms. Morgan is the Applicant's niece. She said that the house is very important to her family, and that her family has been a part of the Dickinson community for many years. She asked that the application for a variance be approved.

D. Those Opposed

None.

E. Applicant's Rebuttal

None.

F. Adjourn Public Hearing

Chairperson King adjourned the public hearing at 6:36 p.m.

ITEM 4.) CONSIDERATION AND POSSIBLE ACTION REGARDING: VARIANCE NUMBER 20200254, A Variance Request to Section 18-50 of the Zoning Ordinance. The Request is to allow for a variance to the rear setback requirement at 2411 21st Street, Dickinson, Texas 77539.

Beverly Yale, 2007 Avenue H, Dickinson, Texas – Ms. Yale asked for clarification of what the proposed variance would accomplish, and Chairperson King explained the change in the rear setback requirement and what that meant.

Following that brief discussion, Board Member Barber made a motion to approve the variance request, and Vice-Chairperson Philpot seconded the

motion. There being no further discussion, Chairperson King called for a vote.

VOTE:

5 AYES (Barber, Carlile, Hebert, King, Philpot)

0 NAYS

MOTION PASSED

ITEM 5.) ADJOURN

Board Member Carlile made a motion to adjourn the meeting at 6:40 p.m. and Board Member Barber seconded the motion.

VOTE:

5 AYES (Barber, Carlile, Hebert, King, Philpot)

0 NAYS

MOTION PASSED

Dawn King, Chairperson

Board of Adjustments

ITEM 3

Dickinson Board of Adjustments
Agenda Item Data Sheet

MEETING DATE July 6, 2020

TOPIC:	CONDUCT A PUBLIC HEARING CONCERNING: VARIANCE NUMBER 20200423 , A Variance Request to Section 18-69(b)(1) of the Zoning Ordinance. The Request is to allow for a fence to remain partially in the “required front yard” to the Northwest side of the home at 4020 Bentwood Drive, Dickinson, Texas 77539.
BACKGROUND:	Please see the letter from the City Attorney’s Office.
ATTACHMENTS:	<ul style="list-style-type: none">• Variance Application• Letter from the City Attorney’s Office (Olson & Olson)• Address Affidavit• Sign Affidavit• Copy of Notice Publication
SUBMITTING STAFF MEMBER	Alun W. Thomas, City Secretary, by request from S.R. Burgess, Chief Building Official

ACTIONS TAKEN		
APPROVAL <input type="checkbox"/> YES <input type="checkbox"/> NO	READINGS PASSED <input type="checkbox"/> 1 st <input type="checkbox"/> 2 nd <input type="checkbox"/> 3 rd	OTHER



BOARD OF ADJUSTMENTS VARIANCE APPLICATION



PROPERTY INFORMATION

Legal Address: 4020 Bentwood Dr., Dickinson, TX 77539

Legal Description: BENTWOOD AT BAY COLONY SEC 1 (2005) ABST 19, BLOCK 3, LOT 11, ACRES 0.357

Present Zoning: Small Lot Residential "SR"

Variance Being Requested Description:

A variance to §18-69(b)(1) of the Zoning Ordinance to allow a fence to remain partially in the "required front yard" to the North West side of the home.

OWNER INFORMATION

Owner Name: Nicholas & Timary Beaudry

Phone #:

Address: 4020 Bentwood Dr.,

City: Dickinson

State: TX

Zip: 77573

APPLICANT/AGENT INFORMATION

Applicant Name: Justin Kornegay

Phone #: (281) 895-2410

Address: 303 E. Main St., Suite 100

City: League City

State: TX

Zip: 77573

* If applicant is different than property owner a **Notarized Letter of Authorization** must be attached to the application

PROPERTY OWNER/AGENT AUTHORIZATION

Property Owner Consent/Agent Authorization: By my signature, I hereby affirm that I am the property owner of record, or if the applicant is an organization or business entity, that authorization has been granted to represent the owner, organization or business in this application. I certify that the preceding information is complete and accurate, and it is understood that I agree to the application being requested for this property. Additionally, my signature below indicates my awareness of the fee required at the time of the application submittal and any additional fees as noted in the City's fee schedule. This fee is non-refundable even in the event of application withdrawal. I have the power to authorize and hereby grant permission for City of Dickinson officials to enter the property on official business as part of the application process

Signature of Contractor/Authorized Agent (handwritten signature)

Justin Kornegay

Printed Name

07/10/2020

Application Date

FOR OFFICE USE ONLY

Variance Number: 20200423

Fees Due: \$650.00

Date Submitted: 7/10/2020

Payment: Check # 2243

Plan Reviewer: Jeff Palhman

Date: 7/14/2020

Approved Denied

Board Of Adjustments Meeting Date: _____

Approved Denied



BOARD OF ADJUSTMENTS VARIANCE APPLICATION

Attach These Items With Completed Application:

- Map from Central Appraisal District with 200' radius
- List of owners within 200' (from Central Appraisal District)
- Existing Site Plan
- Site Plan with Requested Variance Shown
- \$525.00 Fee **\$650**

Submit Immediately *AFTER* Notices Have Been postmarked:

- Sign & Address Affidavit

Bring these items to the Board of Adjustment Meeting:

- Return receipts of mailed notice, including envelopes that are returned

What is a variance?

A variance is a deviation from the property development standards for the district where development is proposed.

Who may request a variance?

A variance may be requested by the owner of the property or another person having written, notarized authorization to act as the agent of the property owner.

How long does a variance request take?

Many factors influence the amount of time required to complete a variance request. A good estimate is 5-6 weeks from the pre-application conference. The Board of Adjustments has a Regular Meeting time of the First Monday of the month, however the Board of Adjustments does not meet on a regular basis, because of this fact please allow for time and consideration in an effort to ensure staff can have a quorum for the meetings.

How do I submit a request?

The City of Dickinson will supply the application form and staff will assist you in completing it. When several owners are involved, one person should be authorized (by notarized letter) to act as the signatory and applicant.

What is the cost of a variance request?

A non-refundable fee of \$525.00 must accompany a completed Board of Adjustment Variance application. In some instances, staff, the Planning & Zoning Commission or City Council may require technical studies (engineering, noise, traffic, impact, etc.). The cost for these studies is borne by the applicant. The breakdown of the \$525.00 is as follows:

- \$250.00 Non-refundable Application Fee
- \$250.00 Newspaper Notice Fee
- 25.00/Variance Sign, to be placed every 200' of public street frontage



BOARD OF ADJUSTMENTS VARIANCE APPLICATION

What is the purpose of the public hearings?

Zoning regulations are established to protect the public health, safety and general welfare of all citizens. The public hearing process gives all residents to express how they feel the proposed variance could affect them positively or negatively.

What key information should be presented?

- Present Zoning or Use of Property
- Special circumstances that are peculiar to the land or structure
- Proof these special circumstances are not self-imposed or the result of the applicant's actions
- Description of compatibility of proposed variance with the surrounding area
- Evidence variance will not adversely affect the health, safety or welfare of the public
- Other facts that may affect a decision

Who should present the proposal at the public hearings?

The owner should be present at the public hearings. The owner, applicant or an agent may make the presentation to the Board of Adjustments.

Conditions for considering variances:

To approve an application for a variance, the board shall make an affirmative finding that each of the following criteria is met:

- Special circumstances exist that are peculiar to the land or structure.
- These special circumstances are not self-imposed or the result of the actions of the applicant.
- Literal interpretation and enforcement of the terms and provisions of this chapter would cause an unnecessary and undue hardship.
- Granting the variance is a minimum action that will make use of the land or structure which is not contrary to the public interest and which would carry out the spirit of this chapter and would result in substantial justice.
- Such variance will not alter the essential character of the district in which it is located or the property for which the variance is sought.
- Such variance will not authorize a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located.
- The variance will not adversely affect the health, safety or welfare of the public.

July 10, 2020

Board of Adjustments
City of Dickinson
4403 Hwy 3
Dickinson, TX 77539

Re: Letter of Authorization for Variance Request

To whom it may concern,

This letter serves to authorize Justin M. Kornegay and the firm Johnson & Associates, Attorneys at Law, PLLC to represent Nicholas Beaudry in requesting and applying for a variance to §18-69(b)(1) of the Zoning Ordinance to allow a fence to remain partially in the required front yard of 4020 Bentwood Dr., Dickinson, Texas 77539, more particularly described as: Bentwood At Bay Colony Sec 1(2005), Abst 19, Block 3, Lot 11, Acres 0.357.

I, Nicholas Beaudry authorizes Justin M. Kornegay and the above referenced firm to request a variance for the above-described property and to represent him in related land-use matters.

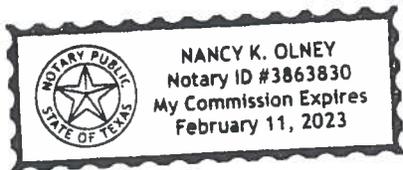


Nicholas Beaudry

Sworn to and subscribed before me by Nicholas Beaudry on July 10th, 2020.



Notary Public in and for the State of Texas



Galveston Central Appraisal District



Geospatial or map data maintained by the Galveston Central Appraisal District is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and only represents the approximate relative location of property boundaries.

EXISTING SITE PLAN

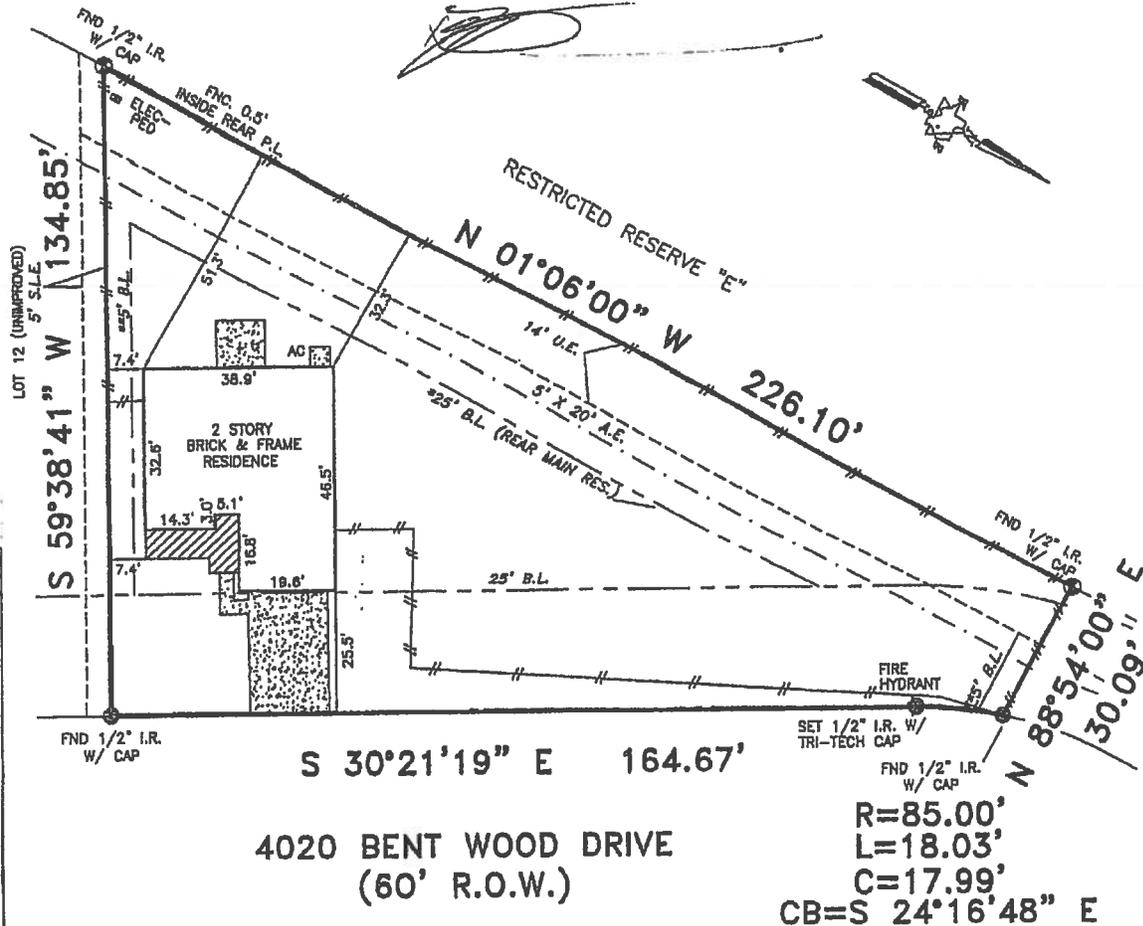


TRI-TECH SURVEYING CO., L.P.

5210 SPRUCE STREET

BELLAIRE, TEXAS. 77401

PHONE: (713) 667-0800



4020 BENT WOOD DRIVE
(60' R.O.W.)

R=85.00'
L=18.03'
C=17.99'
CB=S 24°16'48" E

ALL EASEMENTS AND BUILDING LINES SHOWN ARE PER THE RECORDED PLAT UNLESS OTHERWISE NOTED.

*CITY OF DICKINSON ORDINANCES
**DEED RESTRICTIONS PER G.A.C. FILE NO. 2004028844

ALL ROD CAPS ARE STAMPED "ESOR 2634", UNLESS OTHERWISE NOTED.

PROPERTY SUBJECT TO RESTRICTIVE COVENANTS AND EASEMENTS AS DEFINED PER VOLUME 2004A, PAGE 109, M.R.G.C.TX., G.A.C. FILE NOS. 2004028844

BEARINGS REFERENCED TO: PLAT NORTH.

NOTE: PROPERTY SUBJECT TO RECORDED RESTRICTIONS, REGULATIONS, & ORDINANCES IF ANY.

FLOOD INFORMATION PROVIDED HEREON IS BASED ON SCALING THE LOCATION OF THE SUBJECT TRACT ON THE FLOOD INSURANCE RATE MAPS. THE INFORMATION SHOULD BE USED TO DETERMINE FLOOD INSURANCE RATES ONLY AND IS NOT INTENDED TO IDENTIFY SPECIFIC FLOODING CONDITIONS. WE ARE NOT RESPONSIBLE FOR ITS ACCURACY.

THIS SURVEY IS VALID ONLY WITH ORIGINAL SIGNATURE AND SEAL. THIS SURVEY IS VALID FOR THIS TRANSACTION ONLY. © 2005, TRI-TECH SURVEYING CO., L.P.

LEGEND

CONCRETE	CALL	REVISION
COVERED	IRON FENCE	CONTROLLING MONUMENT 1-03-05
ASPHALT	WOOD FENCE	CHAIN LINK FENCE

ABSTRACT INFORMATION PROVIDED HEREON IS BELIEVED TO BE SUFFICIENT AND CORRECT BY THE UNDERSIGNED SURVEYOR, THIS SURVEY DOES NOT CONSTITUTE A TITLE SEARCH BY THE SURVEYOR. THE ENCUMBRANCES OF RECORD, AS REFLECTED ON THIS SURVEY ARE BASED ON THE RECORDED MAP OR PLAT AND TITLE INFORMATION PROVIDED BY DHI TITLE COMPANY G.F. No. 150-050201938-167, DATED 01-11-05.

I, the undersigned registered professional land surveyor, do hereby state that the plat shown hereon represents a boundary survey made on the ground under my direction and supervision on the tract or parcel of land, according to the map or plat thereof, indicated below.

drawn by: J. TORRES

04-01-05

BOUNDARY SURVEY OF

ADDRESS: 4020 BENT WOOD DRIVE, DICKINSON, TEXAS, 77539

LOT 11, BLOCK 3 OF SECOND AMENDED PLAT OF BENTWOOD AT BAY COLONY SECTION 1

RECORDED IN VOLUME: 2004A PAGE: 109 MAP RECORDS GALVESTON COUNTY, TX

BORROWER: JOHN EDWARD BRETSCHNEIDER AND ANGELA M. CASON

TITLE COMPANY: DHI TITLE COMPANY G.F.# 150-050201938-167

SURVEYED FOR: D.R. HORTON AMERICA'S BUILDER

F.I.R.M. MAP NO. 481569 PANEL# 0005B ZONE "C" REVISED 3-4-91

DATE: 03-31-05 SCALE: 1" = 30' JOB NO. D5512-04

© Copyright Horton America's Builder 04/23/05 09:47:20 AM 1:11:48 PM, Issues: 0-30

[Handwritten Signature]
SURVEYOR REGISTRATION

**SITE PLAN
WITH REQUESTED
VARIANCE SHOWN**

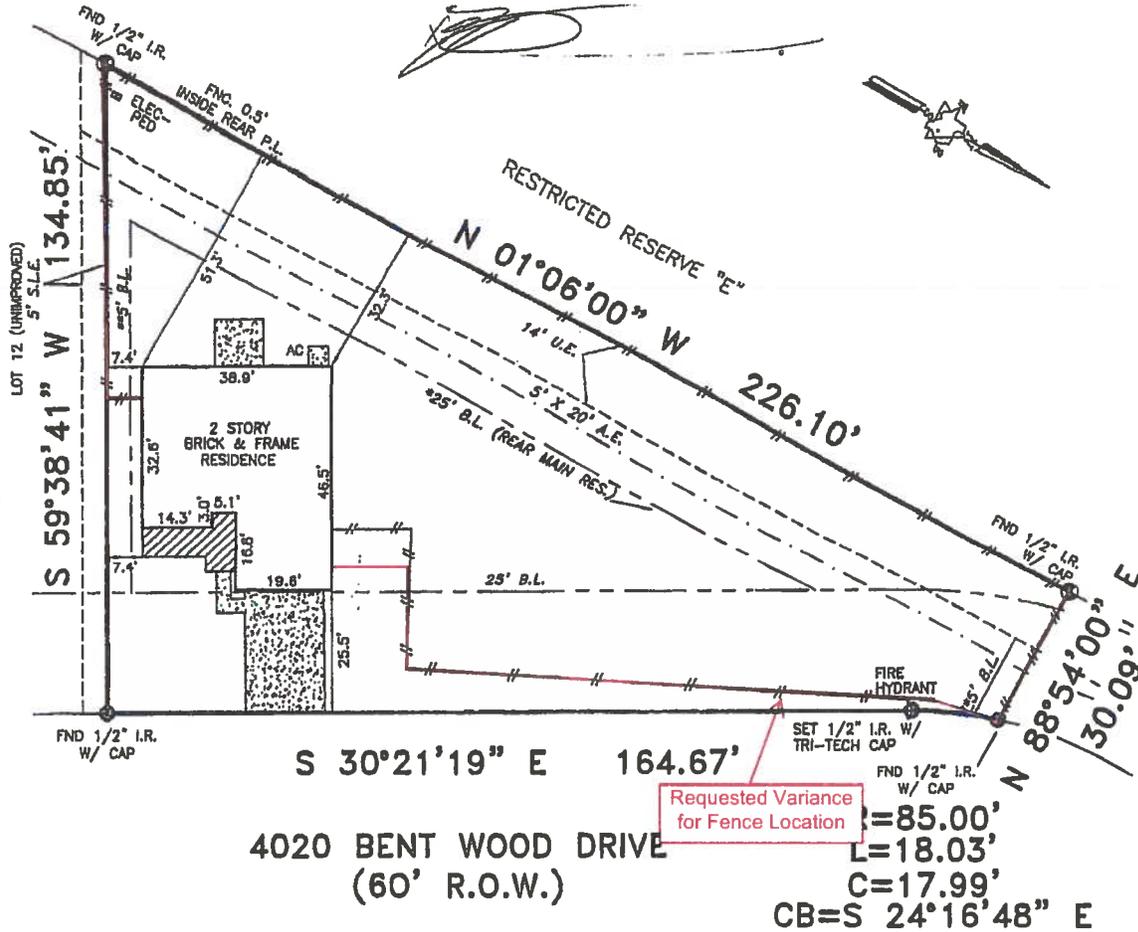


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5210 SPRUCE STREET

BELLAIRE, TEXAS. 77401

PHONE: (713) 667-0800



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THIS SURVEY IS VALID ONLY WITH ORIGINAL SIGNATURE AND SEAL. THIS SURVEY IS VALID FOR THIS TRANSACTION ONLY. © 2005, TRI-TECH SURVEYING CO., L.P.

LEGEND	
	CONCRETE
	COVERED
	ASPHALT
	< > CALL
	IRON FENCE
	WOOD FENCE
	REVISION
	CONTROLLING MONUMENT 1-03-05
	CHAIN LINK FENCE

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drawn by: J. TORRES

04-01-05

BOUNDARY SURVEY OF

ADDRESS: 4020 BENT WOOD DRIVE, DICKINSON, TEXAS, 77538

LOT 11, BLOCK 3 OF SECOND AMENDED PLAT OF BENTWOOD AT BAY COLONY SECTION 1

RECORDED IN VOLUME 2004A PAGE 109 MAP RECORDS GALVESTON COUNTY, TX

BORROWER: JOHN EDWARD BRETSCHEIDER AND ANGELA M. CASON

TITLE COMPANY: DHI TITLE COMPANY G.F.# 150-050201938-167

SURVEYED FOR: D.R. HORTON AMERICA'S BUILDER

F.I.R.M. MAP NO. 481569 PANEL# 0005B ZONE "C" REVISED 3-4-91

DATE: 03-31-05 SCALE: 1" = 30' JOB NO. D5512-04

0:000009 Haden America's Builder 03/31/05 4/12/00 1:11:59 PM, Texas, 7:30

SURVEYOR REGISTRATION

July 10, 2020

Board of Adjustments
City of Dickinson
4403 Hwy 3
Dickinson, TX 77539

Re: Variance Request to Section 18-69(b)(1) of the Zoning Ordinance
4020 Bentwood Dr
Bentwood At Bay Colony Sec 1(2005)
Abst 19, Block 3, Lot 11, Acres 0.357

Nicholas Beaudry respectfully requests this Board to grant a variance to §18-69(b)(1) of the Zoning Ordinance to allow a fence to remain partially in the required front yard of 4020 Bentwood Dr.

A. Background

The Second Amended Plat of Bentwood at Bay Colony Section 1 was filed on July 21, 2004, platting Lot 11 of Block 3 as .35 residential lot commonly known as 4020 Bentwood Dr., Dickinson, TX 77539 (the "Property"). The Property is platted in a uniquely quadrilateral polygon shape at the intersection of two streets, essentially making it a corner lot. *See Exhibit A: GIS Parcel View; County Clerk's File No. 2004048674 (2nd Am. Plat).*

The home at on the Property was built in 2005 by D.R. Horton. The Survey prepared by Ralph C. Hilton, R.P.L.S. No. 5797, dated April 1, 2005, indicates that the fence was erected on the Property by the builder prior to its sale of the home. *See Exhibit B: Survey; Exhibit C: 2006 Google Earth Imagery; Exhibit D: GCAD Deed History.* The fence continued to exist for 15 years in the location of the present fence from 2005 to 2020 without any notice or citation from the City of Dickinson Code enforcement.

In 2015, Mr. Beaudry and his wife purchased the Property, based in part on the lot's large fenced in yard. *See Exhibit E: HAR Listing Photos.* By January 2020, the fence on the Property was beginning to rot and show signs of distress. When Mr. Beaudry began erecting an accessory building on his Property, he chose to remove the damaged fence and replace it with new material at the same location. In meetings to permit this construction Mr. Burgess and Mr. Pahlman stated that the fence could not be replaced in the same location but would have to be moved out of the "required front yard." Because the fence being repaired had been in place since 2005, Mr. Beaudry believed the requirement was a mistake, and contacted the Home Owners Association who informed him there should be no issue so long as the fence is the same as the original fence, and approved the construction. Mr. Beaudry replaced the fence in the same location based on the HOA's approval and analysis, believing he was repairing either a prior lawful structure or at the least a prior nonconforming use, which was part of the basis for his purchase of the home.

Indeed, upon receiving a Notice of Violation from City of Dickinson Code Enforcement Officer Mr. Pahlman, Mr. Beaudry retained the undersigned counsel to respond, preparing an analysis of the applicable Ordinances and requesting the City to reconsider its position and rescind its Notice of Violation.

Counsel wrote the City, arguing that while Mr. Beaudry's fence is partially in the "required front yard", it should not be forced into compliance with § 18-69(b)(1) because the nonconforming structure is authorized to continue. Further, it was argued that the fence was replaced in compliance with §18-111, as Mr. Beaudry repaired the fence in its same location without creating any new noncompliance or increasing the degree of the existing noncompliance of all or any part of the structure. *See* Exhibit D: Survey with Requested Variance. Unfortunately, City Attorney David Olson disagreed with this analysis but allowed time for Mr. Beaudry to request this Variance.

B. Zoning Ordinances

Section 18-5 of the Zoning Ordinance states that the purpose of Chapter 18 is protecting the health, safety, and general welfare of the residents, citizens, and inhabitants of the City of Dickinson, Texas.

Section 18-5 further provides that the regulations are designed to:(1) Lessen congestion in the streets; (2) Secure safety from fire, panic, and other dangers;(3) Promote health and general welfare; (4)Provide adequate light and air; (5)Prevent the overcrowding of land;(6) Avoid undue concentration of population; and, (7)Facilitate the adequate provision of transportation, water, sewers, schools, parks and other public requirements for the benefit of the citizens of Dickinson.

Mr. Beaudry respectfully requests a variance from § 18-69(b)(1) of the Zoning Ordinance, which provides in relevant part:

Fences and freestanding fence-type walls may be constructed within a required front yard if not exceeding three (3) feet in height; however, a fence not exceeding six (6) feet in height above the natural grade of the lot at the lot line adjacent to such fence may be constructed within a required front yard if the fence is set back at least three (3) feet from the adjacent front lot line, and the fence is an eighty (80) percent fence.

C. Request for Variance to §18-69(b)(1) of the Zoning Ordinance

Nicholas Beaudry respectfully requests this Board to grant a variance to §18-69(b)(1) of the Zoning Ordinance to allow a fence to remain partially in the required front yard of 4020 Bentwood, where a fence has been located since the home's was construction in April 2005. Section 18-34 of the Code of Ordinances list seven criteria for approving an application for a variance, all of which are satisfied in this case.

(1) Special circumstances regarding the Property exist, which are peculiar to the land. Specifically, the size, shape, and location of the lot which has much greater road frontage than nearby properties. *See* Exhibit A: GIS Parcel View. This uniquely quadrilateral polygon shape leaves a very meniscal amount of land in what the Ordinance defines as the "back yard," with the

majority of the Property's yard extending off the north west corner of the home. *See* Exhibit B; Exhibit C. Additionally, the Property parallels much more street frontage than other homes in the neighborhood. *See* Exhibit A: GIS Parcel View; County Clerk's File No. 2004048674 (2nd Am. Plat).

Because the "required front yard" is defined as extending "across the front of a lot between the side lot lines, and being the required minimum horizontal distance between the street right-of-way and the main building" a disproportionate amount of the Property is categorized as a "required front yard." Additionally, the Property is located in such a place and is of such a shape that it is essentially a corner lot. *See* Exhibit A; Exhibit C. However, the Property has not been categorized as a corner lot because Riverwood Dr. curves into Bentwood Dr. rather than intersecting across. *See* Exhibit A.

(3) These special circumstances are not self-imposed as Mr. Beaudry had no part in platting the land or designing the lot, and no notice was given that the fence on the Property was in the "required front yard" until fifteen years after its construction and five years after he purchased the Property. While it is true that Mr. Beaudry was informed that he would be required to move his fence to be in compliance with § 18-69(b)(1) in January of this year, doing so after fifteen years without complaint would have damaged the Property's fair market value, hindered the use and enjoyment of the Property, and deprived Mr. Beaudry of the benefit of the bargain he made in purchasing the Property.

(4) Literal interpretation and enforcement of the terms and provisions of this chapter would cause an unnecessary and undue hardship. To avoid issues such as those faced here, by complying with § 18-69(b)(1), the Ordinance defines "required front yard" differently for corner lots, stating "the front yard shall be considered as parallel to the street upon which the lot has its least dimension." While perhaps not within the technical definition of "corner lot" as it does not fully abut upon two or more streets at their intersection, literal interpretation and enforcement of these provisions and terms leads to unnecessary and undue hardship.

As previously stated, the fence was erected on the Property by the builder in 2005. *See* Exhibit B: Survey; Exhibit C: 2006 Google Earth Imagery; Exhibit D: GCAD Deed History. The fence continued to exist for 15 years in the location of the present fence from 2005 to 2020 without any notice or citation from the City of Dickinson Code enforcement. Relying on the fact that the fence has been present since the home's construction, creating a large, safe, and enclosed yard Mr. Beaudry and his wife purchased the Property. The private yard being a material basis for their purchase *See* Exhibit E: HAR Listing Photos. Requiring the fence to be brought into compliance with § 18-69(b)(1) would not only hinder the Beaudry's use and enjoyment of their Property, but it would also substantially decrease the fair market value of their Property.

(5) Granting the variance is the minimum action that will make possible the use of the land or structure which is not contrary to the public interest and which would carry out the spirit of this chapter and would result in substantial justice. Without a variance Mr. Beaudry will be forced to tear down the structure and lose the meaningful use of a large portion of his Property. Granting this variance to allow Mr. Beaudry to keep his fence in the same location it has been in for the last 15 years is the minimum action that can be taken that results in substantial justice. The fence being partially located in the "required front yard" is not contrary to the public interest as demonstrated

by the fact that there was no issue or complaint for fifteen years. Additionally, the Property has approximately 65 feet of unobstructed "required front yard" in front of the home, which is the standard size of "required front yard" in the majority of lots in the neighborhood. *See* Exhibit F: Google Street View; Exhibit A; Exhibit B. Moreover, the variance not being against public interest is further evidenced by the fifteen neighbors near the Property supporting the variance. *See* Exhibit G: Supporting Neighbors' Signature Sheet.

(6) (7) Such variance will not authorize a use other than those uses specifically authorized for the district in which the Property is located and will not alter the essential character of the district where the Property is located. The zoning district in which the Property is located is "SR" Small Lot Residential, and a variance to keep the fence on the Property in its present location does not change the character of the district or violate the permitted uses of 18-51(1) of the Zoning Ordinance. Finally, as evidenced by the fifteen years the fence stood at its present location before it was repaired, and by the fifteen neighboring property owners being in support, the variance will not adversely affect the health, safety or welfare of the public.

Given the above, Mr. Beaudry respectfully request this Board to grant a variance to §18-69(b)(1) of the Zoning Ordinance to allow a fence to remain partially in the required front yard of 4020 Bentwood Dr. as depicted on the attached Exhibit H.

Sincerely,



Justin M. Kornegay

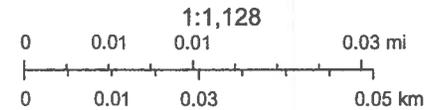
EXHIBIT A

4020 Bentwood Parcel



7/8/2020, 4:40:04 PM

 Address Parcels



Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community, Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, (c) OpenStreetMap

Web AppBuilder for ArcGIS

EXHIBIT B

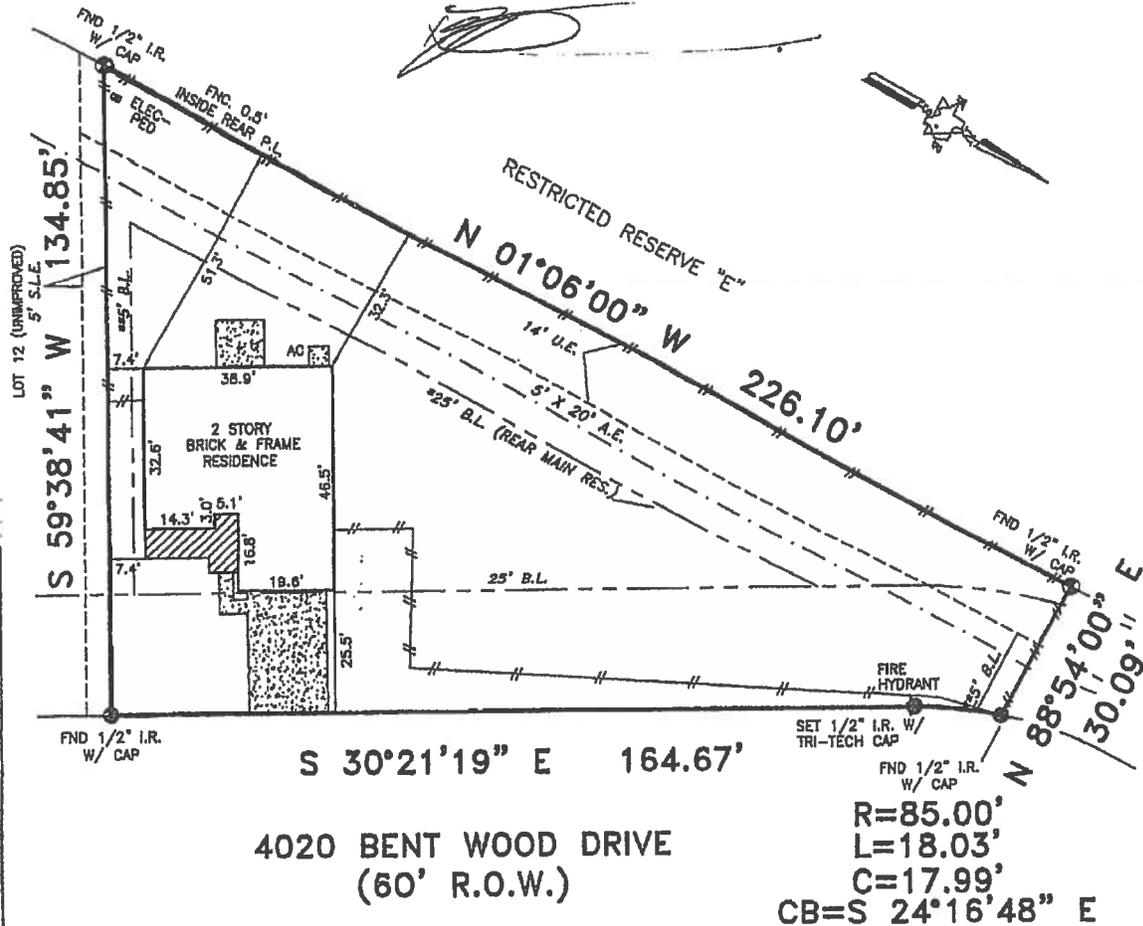


TRI-TECH SURVEYING CO., L.P.

5210 SPRUCE STREET

BELLAIRE, TEXAS. 77401

PHONE: (713) 667-0800



ALL EASEMENTS AND BUILDING LINES SHOWN ARE PER THE RECORDED PLAT UNLESS OTHERWISE NOTED.

*CITY OF DICKINSON ORDINANCES
**DEED RESTRICTIONS PER G.A.C. FILE NO. 2004028844

ALL ROD CAPS ARE STAMPED "ESOR 2834", UNLESS OTHERWISE NOTED.

PROPERTY SUBJECT TO RESTRICTIVE COVENANTS AND EASEMENTS AS DEFINED PER VOLUME 2004A, PAGE 109, M.R.G.C.T.X., G.A.C. FILE NOS. 2004028844

BEARINGS REFERENCED TO: PLAT NORTH.

NOTE: PROPERTY SUBJECT TO RECORDED RESTRICTIONS, REGULATIONS, & ORDINANCES IF ANY.

FLOOD INFORMATION PROVIDED HEREON IS BASED ON SCALING THE LOCATION OF THE SUBJECT TRACT ON THE FLOOD INSURANCE RATE MAPS. THE INFORMATION SHOULD BE USED TO DETERMINE FLOOD INSURANCE RATES ONLY AND IS NOT INTENDED TO IDENTIFY SPECIFIC FLOODING CONDITIONS. WE ARE NOT RESPONSIBLE FOR ITS ACCURACY.

THIS SURVEY IS VALID ONLY WITH ORIGINAL SIGNATURE AND SEAL. THIS SURVEY IS VALID FOR THIS TRANSACTION ONLY. © 2005, TRI-TECH SURVEYING CO., L.P.

LEGEND		REVISION	ABSTRACT INFORMATION PROVIDED HEREON IS BELIEVED TO BE SUFFICIENT AND CORRECT BY THE UNDERSIGNED SURVEYOR. THIS SURVEY DOES NOT CONSTITUTE A TITLE SEARCH BY THE SURVEYOR. THE ENCUMBRANCES OF RECORD, AS REFLECTED ON THIS SURVEY ARE BASED ON THE RECORDED MAP OR PLAT AND TITLE INFORMATION PROVIDED BY DHI TITLE COMPANY G.F. No. 150-050201938-187, DATED 01-11-05.
CONCRETE	CALL		
COVERED	IRON FENCE	CONTROLLING MONUMENT 1-03-05	
ASPHALT	WOOD FENCE	CHAIN LINK FENCE	

I, the undersigned registered professional land surveyor, do hereby state that the plat shown hereon represents a boundary survey made on the ground under my direction and supervision on the tract or parcel of land, according to the map or plat thereof, indicated below.

drawn by: J. TORRES

04-01-05

BOUNDARY SURVEY OF

ADDRESS: 4020 BENT WOOD DRIVE, DICKINSON, TEXAS, 77539

LOT 11, BLOCK 3 OF SECOND AMENDED PLAT OF BENTWOOD AT BAY COLONY SECTION 1

RECORDED IN VOLUME: 2004A PAGE: 109 MAP RECORDS GALVESTON COUNTY, TX

BORROWER: JOHN EDWARD BRETSCHNEIDER AND ANGELA M. CASON

TITLE COMPANY: DHI TITLE COMPANY G.F.# 150-050201938-167

SURVEYED FOR: D.R. HORTON AMERICA'S BUILDER

F.I.R.M. MAP NO. 481569 PANEL# 0005B ZONE "C" REVISED 3-4-91

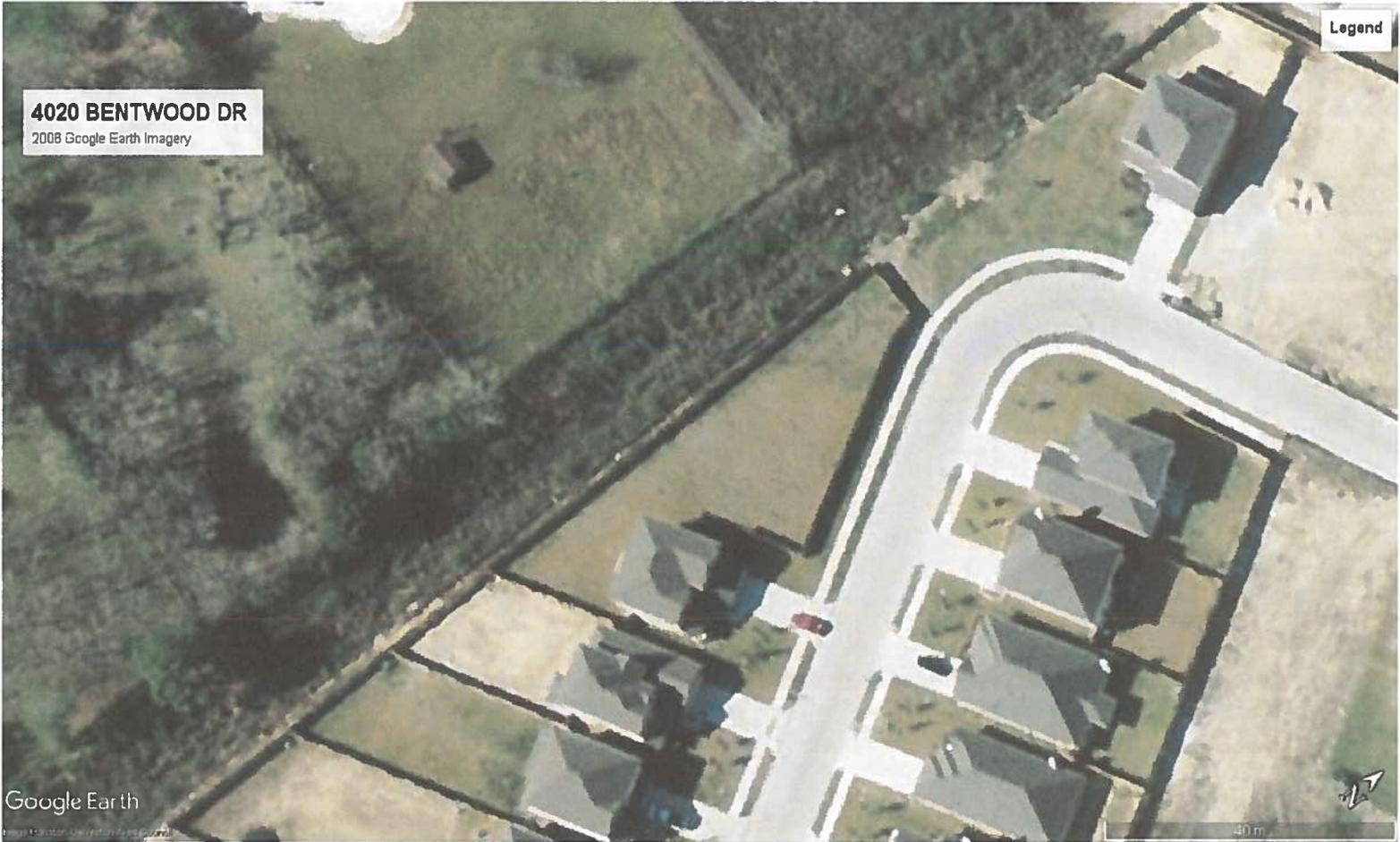
DATE: 03-31-05 SCALE: 1" = 30' JOB NO. D5512-04

SURVEYOR REGISTRATION

EXHIBIT C

4020 BENTWOOD DR
2008 Google Earth Imagery

Legend



Google Earth

Image provided by Google Earth

EXHIBIT D

[Property Search](#) > 425863 BEAUDRY NICHOLAS & TIMARY for Year 2020

Tax Year: 2020

[New Search](#)
[Details](#)
Click on a title bar to expand or collapse the information.
[Expand All](#)
Property
Account

Property ID:	425863	Legal Description:	BENTWOOD AT BAY COLONY SEC 1 (2005) ABST 19, BLOCK 3, LOT 11, ACRES 0.357
Geographic ID:	1757-0003-0011-000	Zoning:	
Type:	Real	Agent Code:	
Property Use Code:			
Property Use Description:			

Location

Address:	4020 BENTWOOD DR DICKINSON, TX 77539	Mapsc0:	
Neighborhood:	BENTWOOD AT BAY COLONY 1 (2005)	Map ID:	211-B
Neighborhood CD:	1757		

Owner

Name:	BEAUDRY NICHOLAS & TIMARY	Owner ID:	619811
Mailing Address:	4020 BENTWOOD DR DICKINSON, TX 77539	% Ownership:	100.0000000000%
		Exemptions:	HS

Values
Taxing Jurisdiction
Improvement / Building
Land
Roll Value History
Deed History - (Last 3 Deed Transactions)

#	Deed Date	Type	Description	Grantor	Grantee	Volume	Page	Deed Number
1	10/29/2015	WV	WARRANTY DEED	BRETSCHNEIDER JOHN E	BEAUDRY NICHOLAS & TIMARY	2015069078		2015069078
2	4/22/2005	WD	WARRANTY DEED	D R HORTON-EMERALD LTD	BRETSCHNEIDER JOHN E	2005026118		2005026118
3	11/16/2004	WD	WARRANTY DEED	DICKINSON 517-646 VENTURE LTD	D R HORTON-EMERALD LTD	2004077508		2004077508

EXHIBIT E





EXHIBIT F



Image capture: Jul 2013 © 2020 Google

Dickinson, Texas



Street View



EXHIBIT G

To: The City of Dickinson, Board of Adjustments

Re: The Fence located at 4020 Bentwood Dr., Dickinson, TX 77539

We, the undersigned, are neighbors of Mr. Beaudry in the Bentwood at Bay Colony Subdivision and provide our signatures here to indicate to the Board of Adjustments that we support Mr. Beaudry's fence being allowed to continue in its present location and feel that the Board of Adjustment should grant Mr. Beaudry's application for a variance.

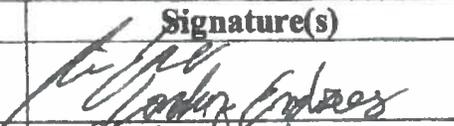
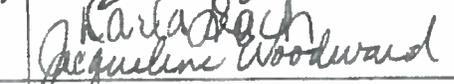
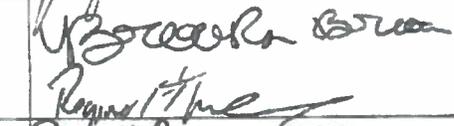
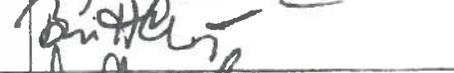
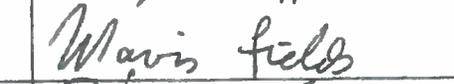
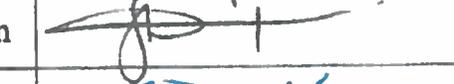
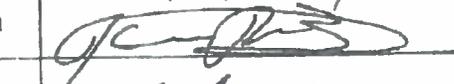
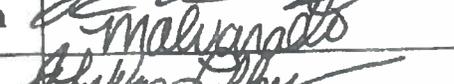
Name	Address	Signature(s)
Kevin & London Endres	4017 Bentwood Dr., Dickinson	
Jacqueline Woodward & Darla Diane Leach	4019 Bentwood Dr., Dickinson	
Brooklyn Britton & Reginald Thomas Jr.	4021 Bentwood Dr., Dickinson	
Brian & Michele Hopkins	4023 Bentwood Dr., Dickinson	
Heather & David Reneau	4025 Bentwood Dr., Dickinson	
Mavis Fields	4027 Bentwood Dr., Dickinson	
Amanda Crawford	4029 Bentwood Dr., Dickinson	
Charles & Sydney Jeffcoat	4031 Bentwood Dr., Dickinson	
Wilson Jason Ashley	1041 Riverwood Dr., Dickinson	
Justin Komegay	1045 Riverwood Dr., Dickinson	
Danny & Kathy Long	1047 Riverwood Dr., Dickinson	
Abigail Myers	4024 Bentwood Dr., Dickinson	
Vanessa Perez Jorge Rosencruz	4026 Bentwood Dr., Dickinson	
Richard & Michelle Alvarado	4028 Bentwood Dr., Dickinson	
John & Anita Laffey	4035 Bentwood Dr., Dickinson	

EXHIBIT H

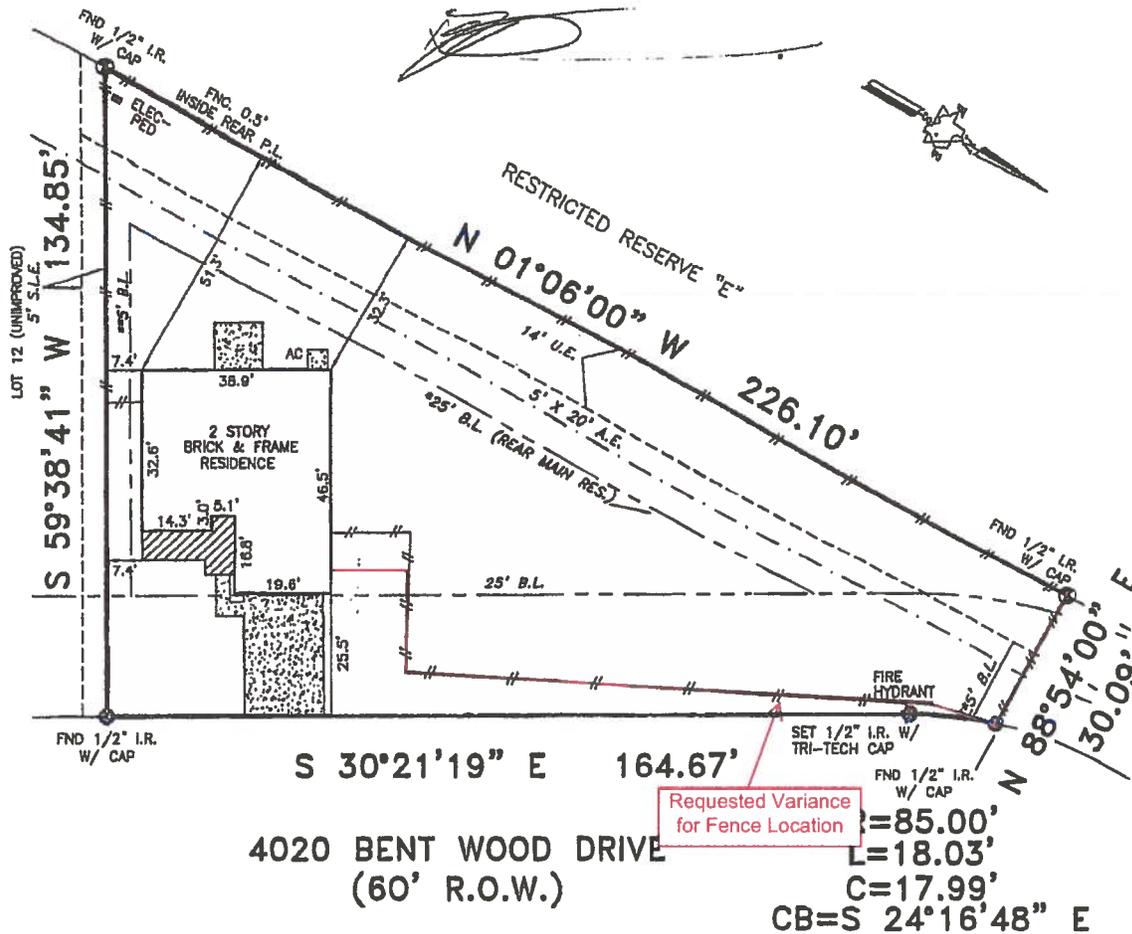


TRI-TECH SURVEYING CO., L.P.

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BELLAIRE, TEXAS. 77401

PHONE: (713) 667-0800



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*CITY OF DICKINSON ORDINANCES
**DEED RESTRICTIONS PER G.A.C. FILE NO. 2004028844

ALL ROD CAPS ARE STAMPED "ESOR 2634", UNLESS OTHERWISE NOTED.

PROPERTY SUBJECT TO RESTRICTIVE COVENANTS AND EASEMENTS AS DEFINED PER VOLUME 2004A, PAGE 109, M.R.G.C.TX., G.A.C. FILE NOS. 2004028844

BEARINGS REFERENCED TO: PLAT NORTH.

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LEGEND	
	CONCRETE
	COVERED
	ASPHALT
	< > CALL
	IRON FENCE
	WOOD FENCE
	REVISION
	CONTROLLING MONUMENT 1-03-05
	CHAIN LINK FENCE

ABSTRACT INFORMATION PROVIDED HEREON IS BELIEVED TO BE SUFFICIENT AND CORRECT BY THE UNDERSIGNED SURVEYOR, THIS SURVEY DOES NOT CONSTITUTE A TITLE SEARCH BY THE SURVEYOR. THE ENCUMBRANCES OF RECORD, AS REFLECTED ON THIS SURVEY ARE BASED ON THE RECORDED MAP OR PLAT AND TITLE INFORMATION PROVIDED BY DHI TITLE COMPANY G.F. No. 150-050201938-167, DATED 01-11-05.

I, the undersigned registered professional land surveyor, do hereby state that the plat shown hereon represents a boundary survey made on the ground under my direction and supervision on the tract or parcel of land, according to the map or plat thereof, indicated below.

drawn by: J. TORRES

04-01-05

BOUNDARY SURVEY OF

ADDRESS: 4020 BENT WOOD DRIVE, DICKINSON, TEXAS, 77539

LOT 11, BLOCK 3 OF SECOND AMENDED PLAT OF BENTWOOD AT BAY COLONY SECTION 1

RECORDED IN VOLUME: 2004A PAGE: 109 MAP RECORDS, GALVESTON COUNTY, TX

BORROWER: JOHN EDWARD BRETSCHNEIDER AND ANGELA M. CASON

TITLE COMPANY: DHI TITLE COMPANY

G.F.# 150-050201938-167

SURVEYED FOR: D.R. HORTON AMERICA'S BUILDER

F.I.R.M. MAP NO. 481569 PANEL # 0005B ZONE "C" REVISED 3-4-91

DATE: 03-31-05 SCALE: 1" = 30' JOB NO. D5512-04

© 2004 DHI Herten Amster's Builder/0557201E.dwg 4/12/05 11:59 PM (lras, r-30)

[Handwritten Signature]
SURVEYOR REGISTRATION

DIVIDER PAGE

June 16, 2020

Justin M. Kornegay
Johnson & Associates
303 East Main Street, Suite 100
League City, Texas 77573

VIA EMAIL: Justin @Johnson-attorneys.com

Re: Fence violation at 4020 Bentwood Drive

Dear Mr. Kornegay:

I have had the opportunity to review this matter and discuss the issues presented with Dickinson staff. After review, I have the following comments and suggestions:

Facts: According to the Interim Community Development Director at the time, Ray Burgess, and the City's Inspector, Jeff Pahlman, both gentlemen stopped by 4020 Bentwood Drive on January 23, 2020, to inform Mr. Beaudry that he needed a permit to construct the accessory building and that the fence he had removed must be replaced in compliance with the City's fence ordinance (see attached Picture #1 and Picture #2). On January 24, 2020, Ray Burgess and Jeff Pahlman again visited the site to hand deliver copies of the fence ordinance to Mr. Beaudry. On March 3, 2020, Mr. Beaudry visited City offices and spoke to Ray Burgess and Jeff Pahlman about the proper placement of the fence. On April 16, 2020, Jeff Pahlman revisited the property at issue and discovered that the fence had been replaced in the original location in direct violation of the City's fence ordinance (see attached Picture #3 and Picture #4). On that same date, Jeff Pahlman issued Mr. Beaudry a notice of violation (see attached notice of violation).

Issue #1: The portion of Mr. Beaudry's fence located in the designated front yard did not predate the adoption of the specific zoning regulation at issue [Section 18-69(b)(1)], which was adopted by Ordinance 508-2003 on January 13, 2003 (see attachment to email). According to your letter, "Mr. Beaudry's home at 4020 Bentwood Drive was built in 2005. The fence in the required front yard has been in the same location as it is today since that time." [emphasis added]. Therefore, the portion of the fence located in the designated front yard does not qualify as a lawfully existing nonconforming structure, as provided by Article X of Chapter 18 of the City's Code of Ordinances.

Issue #2: The application to the Community Association for approval of the proposed fence repair is irrelevant as it relates to the approval process for the City. The email from Kathryn Bennett, on behalf of the Houston Community Management Services and assumed to be representing the home owner's association (or similar type of organization), does not represent the City's process for consideration and approval of permit applications, or affects the City's ability to enforce its own rules and regulations.

Issue #3: Section 18-110(c) states that “[i]f a structure that contains a nonconforming use is destroyed to the extent of fifty (50) percent or more of its appraised value by fire or natural calamity or is voluntarily razed or is required to by law to be razed, the nonconforming use shall not be resumed.” [emphasis added]. Mr. Beaudry voluntarily removed (razed) his fence and any nonconforming use would not be allowed to resume. Furthermore, Section 18-110(c) states that “[t]he determination of the extent of damage or destruction (in this case, voluntarily razed) under this subsection shall be based on the ratio of the estimated cost of restoring the structure to its condition before the damage or destruction to the estimated cost of duplicating the entire structure as it existed prior to the damage or destruction.” [comment added]. Since the fence was removed in its entirety, the cost of restoring the fence is equal to 100% of the cost of duplicating the structure. In short, the cost to restore/replace the voluntarily razed fence far exceeds 50 percent or more of the structure’s appraised value, as calculated in accordance with the aforementioned Subsection; therefore, any recognized nonconforming use (if applicable) could not be resumed.

Issue #4: The City has determined that the fence does not qualify as a lawfully existing nonconforming structure. The complete removal and attempted replacement of the fence at issue does not constitute normal maintenance or incidental repair. Once the nonconforming structure has been completely removed, it is no longer categorized as a legally nonconforming structure. Regardless, it is apparent that the fence was originally constructed illegally in 2005 and would not be eligible for nonconforming status nevertheless. Section 18-105(a) specifically states that “[t]he use of ... structures, which was lawful upon the effective date of the provisions of this chapter, ... may be continued subject to the terms of this article.” [emphasis added]. In addition, Section 18-107 of the City’s Code of Ordinances requires nonconforming uses to be lawfully existing at the time of the adoption of the applicable provision or amendment in order to be declared a lawfully existing nonconforming structure. The fence never lawfully existed and therefore does not qualify as a lawfully existing nonconforming structure.

The portion of the fence located at 4020 Bentwood within the designated front yard is in violation of Section 18-69(b)(1) of the City’s Code of Ordinances. The City will refrain from issuing a citation during the requested fourteen-day period in order to allow you and your client the opportunity to apply for relief that you and your client deem appropriate; however, the City will issue a citation for such violation after the expiration of the fourteen-day period if the matter is not corrected or an application for consideration by the Zoning Board of Adjustment is not properly submitted. If you have any further questions or concerns, you can contact me directly via my cell phone (713-201-5626) or email.

Sincerely,

David W. Olson

David W. Olson
City Attorney, City of Dickinson

Justin M. Kornegay

June 16, 2020

Page 3

cc: **Via Email**

Kola Olayiwola, Community Development Director [kolayiwola@ci.dickinson.tx.us]

Ray Burgess, Chief Building Official [rburgess@ci.dickinson.tx.us]

Jeff Pahlman, City Inspector [jpahlman@ci.dickinson.tx.us]

Community Development

City of Dickinson

4403 Highway 3

Dickinson, Texas 77539











City of Dickinson
4403 Hwy 3
Dickinson, TX 77539

Phone (281) 337-6259
Fax (281) 337-6190

04/16/2020

ID #: 1929

NICHOLAS BEAUDRY
4020 BENTWOOD DR
DICKINSON, TX 77539

Re: Fence violation at 4020 BENTWOOD DR
BENTWOOD AT BAY COLONY SEC 1 (2005) ABST 19, BLOCK 3, LOT 11, ACRES 0.357

Dear NICHOLAS BEAUDRY:

An inspection of the above referenced property was made on April 15, 2020. At the time of this inspection, the condition described below was observed:

The fence constructed in the required front yard shall be removed and replaced with an 80% Condition: visibility fence or the solid wood fence shall be relocated to be parallel with the front corner of the house all the way to the side property line.

The condition of the described above is in violation of the following **City of Dickinson Ordinances** which state:

Section 18-69 (b)-Fences front yard - Fences and freestanding fence type walls may be constructed within a required front yard if not exceeding three (3) feet in height; however, a fence not exceeding six (6) feet in height above the natural grade of the lot at the lot line adjacent to such fence may be constructed within a required front yard if the fence is set back at least three (3) feet from the adjacent front lot line, and the fence is an eighty (80) percent fence.

An eighty (80) percent fence shall mean a fence constructed in such a manner that any portion of the fence that exceeds three feet in height contains at least eighty (80) percent unobstructed, open views, comprised of uniformly spaced gaps separated by visually solid materials not less than one-half (1/2) inch in width, and supports for such fence are of visually solid construction uniformly spaced, and such fence contains no wire or chain-link portions.

All violations must be brought into compliance within fourteen (14) days of the receipt of this letter. This will be your only warning for the year. Future violations will result in charges being filed on a weekly bases until all violations are corrected.

Your assistance in this matter is greatly appreciated. If you have any questions regarding this notice, please feel free to contact our office at (281) 337-6274.

Sincerely,

Jeff Pahlman
Code Enforcement Officer

Certified Mail # 7015 1660 0000 4013 7692

DIVIDER PAGE



COMMUNITY DEVELOPMENT
VARIANCE APPLICATION

Address Affidavit

Section 18-20 #1 requires an affidavit stating the names and addresses of the persons to who notice was sent. This can be accomplished by adding a statement to the bottom of the list of addresses from the Galveston Central Appraisal District.

"I hereby certify notice was sent by certified mail, return receipt requested, to all property owners within 200'." (see attached address list)

Jeff Pahlman
Signature
Date: July 29th, 2020

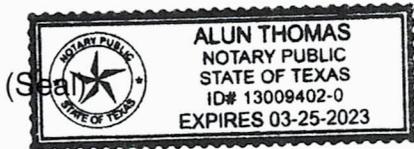
Jeff Pahlman
Printed Name

ACKNOWLEDGMENT

THE STATE OF TEXAS §
COUNTY OF GALVESTON §

BEFORE ME, the undersigned authority, on this day personally appeared Jeff Pahlman, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that (s)he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this 29th day of July 2020.



Alun W. Thomas
Notary Public In and For the State of Texas
My Commission Expires: 3-25-2023

ID	NAME	ADDRESS	ADDRESS2	ADDRESS3	CITY	ST	ZIP
1	162104	LACY WILLIE V & MARY D	<null>	PO BOX 794	<null>	FRESNO	TX 77545-0794
2	162105	GALVAN ELFEGO & IRASEMA	<null>	4017 LOVERS LN	<null>	DICKINSON	TX 77539
3	162107	BEDROSSIAN NAZARETH S &	<null>	MELINDA ELIZABET	4021 LOVERS LN	DICKINSON	TX 77539
4	162108	NEVES KERRY L & SHARON B	<null>	4025 LOVERS LN	<null>	DICKINSON	TX 77539-8229
5	415758	WCID #1	<null>	PO BOX 307	<null>	DICKINSON	TX 77539-0307
6	425804	BENTWOOD AT BAY COLONY	HOMEOWNERS ASSOC	17049 EL CAMINO REAL STE 100	<null>	HOUSTON	TX 77058
	425806	BENTWOOD AT BAY COLONY	HOMEOWNERS ASSOC	17049 EL CAMINO REAL STE 100	<null>	HOUSTON	TX 77058
	425808	BENTWOOD AT BAY COLONY	HOMEOWNERS ASSOC	17049 EL CAMINO REAL STE 100	<null>	HOUSTON	TX 77058
7	425836	ENDRES KEVIN MICHAEL & LONDON KELSEY	<null>	4017 BENTWOOD DR	<null>	DICKINSON	TX 77539-8333
8	425837	LEACH DARLA DIANE &	<null>	JACQUELINE WOODWARD	4019 BENTWOOD DR	DICKINSON	TX 77539
9	425838	BRITTON BROOKLYN R & REGINALD THOMAS JR	<null>	4021 BENTWOOD DR	<null>	DICKINSON	TX 77539
10	425839	HOPKINS BRIAN DANIEL & MICHELE MARIE	<null>	4023 BENTWOOD DR	<null>	DICKINSON	TX 77539
11	425840	RENEAU DAVID H & HEATHER	<null>	4025 BENTWOOD DR	<null>	DICKINSON	TX 77539-8333
12	425841	FIELDS MAVIS	<null>	4027 BENTWOOD DR	<null>	DICKINSON	TX 77539-8333
13	425842	CRAWFORD AMANDA M	<null>	4029 BENTWOOD DR	<null>	DICKINSON	TX 77539-8333
14	425843	JEFFCOAT CHARLES RYAN	<null>	4031 BENTWOOD DR	<null>	DICKINSON	TX 77539
15	425861	KORNEGAY JUSTIN MATTHEW	<null>	1045 RIVERWOOD DR	<null>	DICKINSON	TX 77539-8331
16	425862	LONG DANNY L & KATHY M	<null>	1047 RIVERWOOD DR	<null>	DICKINSON	TX 77539-8331
17	425864	MYERS JOHNATHON & ABIGAIL	<null>	4024 BENTWOOD DR	<null>	DICKINSON	TX 77539
18	425865	PEREZ VANESSA M	<null>	4026 BENTWOOD DR	<null>	DICKINSON	TX 77539
19	425866	ALVARADO RICHARD JR & MICHELLE M	<null>	4028 BENTWOOD DR	<null>	DICKINSON	TX 77539-8338
20	425867	THOMAS ESMERALDA C	<null>	1049 INVERNESS CV	<null>	DICKINSON	TX 77539-8335
21	425868	MALONEY BRIDGET MARIE	<null>	1051 INVERNESS CV	<null>	DICKINSON	TX 77539
22	425869	WILSON AL T	<null>	1053 INVERNESS COVE	<null>	DICKINSON	TX 77539
23	425870	HUERTA TEODORA & JUAN	<null>	1055 INVERNESS CV	<null>	DICKINSON	TX 77539

DIVIDER PAGE



COMMUNITY DEVELOPMENT
VARIANCE APPLICATION

Sign Affidavit

Section 18-20 #2 requires an affidavit verifying that the sign(s) were posted as required. The sign(s) must be posted at least 10 days before the public hearing.

"I hereby certify that the public hearing signs were posted at 4020 Bentwood Drive, Dickinson, TX 77539, on July 21st, 2020, which is at least ten (10) days prior to the meeting of the Board of Adjustments at which the variance will be considered, and I understand that such public hearing signs must remain posted until final action on the requested application has been taken by the Dickinson City Council."

Jeff Pahlman
Signature
Date: July 29th, 2020

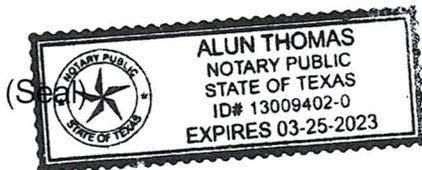
Jeff Pahlman
Printed Name

ACKNOWLEDGMENT

THE STATE OF TEXAS §
COUNTY OF GALVESTON §

BEFORE ME, the undersigned authority, on this day personally appeared Jeff Pahlman, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that (s)he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this 29th day of July 2020.



Alun W. Thomas
Notary Public In and For the State of Texas
My Commission Expires: 3-25-2023

ZONING

VARIANCE

The Board of Adjustments of the City of Dickinson will hold a public hearing to consider a requested map change, variance or Specific Use Permit.

Address of requested change: 4020 BentwoodSt Dickinson, TX 77539

Meeting time & location

At 6:30 p.m. on Monday, August 3rd, 2020
At City Hall, 4403 State Highway 3, Dickinson, Texas 77539

This property is currently zoned: Conventional Residential

A request has been made for: To allow a fence to remain partially in the "required front yard" to the North West side of the home.





RECEIVED
JUL 21 2020
B. *Jeff Padman*

DIVIDER PAGE

Legal Notices

Legal Notices

Notice of Public Hearing

This notice is provided in accordance with Dickinson Code of Ordinances Section 18-69. It will be sent to all property owners within 200 feet of the property listed below regarding a Zoning Change Application. You are welcome to attend the Board of Adjustments public hearing to learn more about the proposed project and/or to voice your opinions on this proposal.

Address of Property: 4020 Bentwood Drive
Dickinson, TX. 77539

Legal Description: Bentwood at Bay Colony
Sec 1 (2005) Abst 19 Blk 3 Lot 11, Acres 0.357

Proposal: To allow a fence to remain partially in the "required front yard" to the North West side of the home.

Meeting Date: Monday, August 3rd, 2020 At
6:30 p.m.

Meeting Location: Council Chambers
4403 Highway 3, Dickinson, TX, 77539

If you would like additional information regarding the details of this proposal, please contact Ray Burgess, Building Official at 281-337-8833.

Published: July 18/19, 2020 (weekend edition)

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DIVIDER PAGE

Sec. 18-34. - Conditions for considering variances.

To approve an application for a variance, the board shall make an affirmative finding that each of the following criteria are met:

- (1) Special circumstances exist that are peculiar to the land or structure.
- (2) These special circumstances are not self-imposed or the result of the actions of the applicant.
- (3) Literal interpretation and enforcement of the terms and provisions of this chapter would cause an unnecessary and undue hardship.
- (4) Granting the variance is the minimum action that will make possible the use of the land or structure which is not contrary to the public interest and which would carry out the spirit of this chapter and would result in substantial justice.
- (5) Such variance will not alter the essential character of the district in which it is located or the property for which the variance is sought.
- (6) Such variance will not authorize a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located.
- (7) The variance will not adversely affect the health, safety or welfare of the public.

(Ord. No. 420-2001, § 1, 7-24-01)

Board of Adjustments

ITEM 4

**Dickinson Board of Adjustments
Agenda Item Data Sheet**

MEETING DATE August 3, 2020

TOPIC:	CONSIDERATION AND POSSIBLE ACTION CONCERNING: VARIANCE NUMBER 20200423 , A Variance Request to Section 18-69(b)(1) of the Zoning Ordinance. The Request is to allow for a fence to remain partially in the “required front yard” to the Northwest side of the home at 4020 Bentwood Drive, Dickinson, Texas 77539.
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BACKGROUND:	In the previous agenda item, the Board of Adjustments conducted a public hearing concerning the variance request. This item allows the Board to take action in the Request should it so choose.
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RECOMMENDATION:	Staff Recommends Denial of the Variance Request
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ATTACHMENTS:	<ul style="list-style-type: none"> • None
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SUBMITTING STAFF MEMBER	Alun W. Thomas, City Secretary, by request from S.R. Burgess, Chief Building Official
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ACTIONS TAKEN		
APPROVAL	READINGS PASSED	OTHER
<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> 1 st <input type="checkbox"/> 2 nd <input type="checkbox"/> 3 rd	

Board of Adjustments

ITEM 5

Adjourn