

AGENDA
CITY OF THE COLONY, TEXAS
BOARD OF ADJUSTMENT
Wednesday, September 21, 2016

After determining that a quorum is present, the Board of Adjustment of the City of The Colony, Texas will convene into Regular Session which will be held on Wednesday, September 21, 2016, at 6:30 PM in the City Council Chambers located in City Hall, 6800 Main Street, The Colony, Texas, at which time the following items will be addressed:

1.0	CALL REGULAR SESSION TO ORDER
2.0	ITEM FOR CONSIDERATION
2.1	Consider approval of the minutes of the regular session of the August 17, 2016 Board of Adjustment meeting.
3.0	PUBLIC HEARING ITEMS
3.1	<i>BOA16-0004 – Safety Fence around Swimming Pool in Front Yard at 8 Holden Circle</i> Conduct a public hearing, discuss and consider a variance request from Zoning Ordinance Section 18. Fence and Wall Regulations, specifically from Section 18-604: Front yard requirements stating: “No fence shall be erected to a height greater than four feet above the finished lot grade” and “The solid area of the fence shall not exceed 50 percent of the total area of the fence”, to build a wooden solid safety and privacy fence with a portion being taller than 4’ around a swimming pool in the front yard at 8 Holden Circle property.

“Pursuant to the Texas Open Meetings Act, Government Code Chapter 551, one or more of the above items may be considered in executive session closed to the public. Any decision held on such matter will be taken or conducted in open session following the conclusion of the executive session.”

Persons with disabilities who plan to attend this meeting who may need auxiliary aids such as interpreters for persons who are deaf or hearing impaired, readers or, large print are requested to contact Tina Stewart, City Secretary, at 972-624-3105 at least two (2) working days prior to the meeting so that appropriate arrangements can be made.

CERTIFICATION

I hereby certify that above notice of meeting was posted outside the front door of City Hall by 5:00 PM on the 16th day of September 2016.



A handwritten signature in cursive script that reads "Tina Stewart".

Tina Stewart, City Secretary

**MINUTES
CITY OF THE COLONY
BOARD OF ADJUSTMENT
Wednesday, August 17, 2016**

After determining that a quorum was present, the Board of Adjustment of the City of The Colony, Texas convened into Regular Session which was held on Wednesday, August 17, 2016 at 6:31 p.m. in the City Council Chambers located in City Hall, 6800 Main Street, The Colony, Texas, at which time the following items were addressed:

Board Members Present: Jan Partin, Constance Yahwak, Joel Ortega, Gerald Odum and Casey Truskunas

Board Members Absent: None

Present from Staff: Gordon Scruggs, P.E, Director of Engineering and Development Services; Surupa Sen, AICP, Senior Planner, Brian McNulty, Technical Assistant, and Jeff Moore, City Attorney

1.0	CALL REGULAR SESSION TO ORDER
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Vice-Chairman Yahwak called the meeting to order at 6:31 p.m.

2.0	ITEM FOR CONSIDERATION
2.1	Election of Chair and Vice-Chair for the Board

Board Member Truskunas nominated Vice-Chairman Connie Yahwak as the Chair of the Board, seconded by Board Member Ortega. The motion carried (5-0)

Board Member Odum nominated Board Member Joel Ortega as the Vice-Chair of the Board, seconded by Chairman Yahwak. The motion carried (5-0)

2.2	Consider approval of the minutes of the regular session of the May 18, 2016 Board of Adjustment meeting.
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Board Member Ortega moved to approve the minutes with stated corrections, seconded by Board Member Odum. The motion carried (5-0).

3.0	PUBLIC HEARING ITEM
3.1	<i>BOA16-0003 – Swimming Pool at 8 Holden Circle</i> Conduct a public hearing, discuss and consider a variance request from Zoning Ordinance Section 10.300 Definitions and explanations applicable to use schedule, that defines “Swimming Pool, (private)” and states “nor shall it be constructed in the required front yard” to build a swimming pool in the front yard at 8 Holden Circle property.

Chairman Yahwak read public hearing item 3.1 into record.

Ms. Sen presented the staff report.

Board member Truskunas stated that the survey showing the wood deck encroaching over the property line is that permitted?

Mr. Scruggs responded that the previous owner had that area under long term lease which has expired. Staff presented this to the Council and has received approval from Council to process a new lease agreement with the current owner.

Board member Ortega asked if the pool will be encroaching on City property as well.

Ms. Sen answered that the pool will be built completely within the property as shown on the survey.

Mr. Scruggs added that the sewer main is running along the eastern and southeastern boundary of this property but outside the property line. So the City will have access to the sewer main.

Board member Odum asked what the square footage is of the area that is available in the back yard.

Chairman Yahwak opened the public hearing at 6:50 pm.

Applicant and property owner Mr. Craig Sloan approached the Board and spoke regarding his variance request.

Board member Partin asked what type of fence will be placed around the pool.

Mr. Sloan stated that a 4' tall wrought iron fence will be placed on three sides and a 6' tall wooden privacy fence will be installed on the side next to the City property where there is a drainage structure.

Board member Partin asked if there is a requirement for a taller fence around swimming pools.

Ms. Sen answered that as per building code the applicant is only required to install a 4' fence for safety.

Board member Odum asked if there was any concern expressed by the neighbors regarding this request.

Ms. Sen stated that staff has posted this public hearing notice on the newspaper but haven't received any comments.

Chairman Yahwak closed the public hearing at 6:54 p.m.

Board of Adjustment Minutes

August 17, 2016

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Board Member Ortega moved to approve item 3.1, seconded by Board Member Truskunas. The motion carried (5-0).

Being no further discussion, Chairman Yahwak adjourned the meeting at 6:55 p.m.

Connie Yahwak, Chairman

Surupa Sen, AICP, Senior Planner

BOARD OF ADJUSTMENT STAFF REPORT

AGENDA DATE: September 21, 2016
DEPARTMENT: Engineering/Development Services Department
PLANNER: Surupa Sen, AICP, Senior Planner, 972-624-3164

SUBJECT: *BOA16-0004 – Safety Fence around Swimming Pool in Front Yard at 8 Holden Circle*

Conduct a public hearing, discuss and consider a variance request from Zoning Ordinance Section 18. Fence and Wall Regulations, specifically from Section 18-604: Front yard requirements stating: “No fence shall be erected to a height greater than four feet above the finished lot grade” and “The solid area of the fence shall not exceed 50 percent of the total area of the fence”, to build a wooden solid safety and privacy fence with a portion being taller than 4’ around a swimming pool in the front yard at 8 Holden Circle property.

APPLICANT/OWNER:

Craig Sloan

The Colony, Texas

BACKGROUND:

Applicant Mr. Sloan owns the property located at 8 Holden Circle, described as Colony No 28, Lot 4, Block 245. The property is zoned SF-4. The property has a single family residence with a patio at the back and an outdoor deck. This lot is on a cul-de-sac and the eastern boundary is adjacent to City owned land majority of which is under floodplain. The trail along the Lewisville Lake is also within close proximity of this lot. Sewer mains run along the southeastern and southwestern property lines of this lot.

The applicant was approved by the Board of Adjustment (BOA) at their August 17th meeting to install a swimming pool in the front yard behind the front yard setback on his property. Due to safety requirements the applicant will have to install a minimum 4’ tall fence around the swimming pool. Given the location of the pool and accessibility for anyone to the lake area along the eastern edge of the property, the applicant is requesting to install a 6’ tall solid wooden fence along the eastern edge of the property. The rest of the safety fence will be 4’ tall, wrought iron fence.

The Colony Zoning Ordinance Section 18-604 - Front yard requirements states

(A) No fence shall be erected to a height greater than four feet above the finished lot grade.

(B) The solid area of the fence shall not exceed 50 percent of the total area of the fence.

So the variance is being requested to install a 6’ tall solid wood fence on the eastern boundary of the pool.

FINDINGS:

According to Section 21-103 of the Code of Ordinances, The Board of Adjustment may grant a Variance if all of the following exist.

- 1. The variance is necessary to permit development of a specific parcel of land which differs from other parcels of land because of special circumstances concerning the size, shape, area, topography, conditions and location of the parcel that is the subject of the variance request.**

The 8 Holden Circle property is adjacent to City owned open space and flood plain area. The open area with access to the Lake Lewisville also has a trail running along the lake. Citizens and residents of The Colony frequently access this natural area walking next to the property on 8 Holden Circle. As a result a taller, solid fence is requested for privacy issues.

- 2. The granting of the variance will not adversely affect the land use pattern as outlined by the land use plan and will not adversely affect any other feature of the Comprehensive Zoning Plan of the City.**

The 6' tall solid fence is being requested to protect the homeowner's and neighbor's privacy and aesthetics of the neighborhood.

- 3. The granting of the variance will not be materially detrimental to the public welfare or to the use, enjoyment or values of the surrounding properties.**

The lot is adjacent to City owned land; there is a drainage structure and bushes along the eastern property line of the lot. So there is no neighboring house on the eastern side of the lot where this 6' tall fence is being planned.

NOTIFICATION

Board of Adjustment public hearings require newspaper notification a minimum of ten (10) days prior to the meeting date. A legal notice was published in the *Dallas Morning News* on September 2, 2016. No comments either for or against this request were received as of the printing of this packet.

OPTIONS

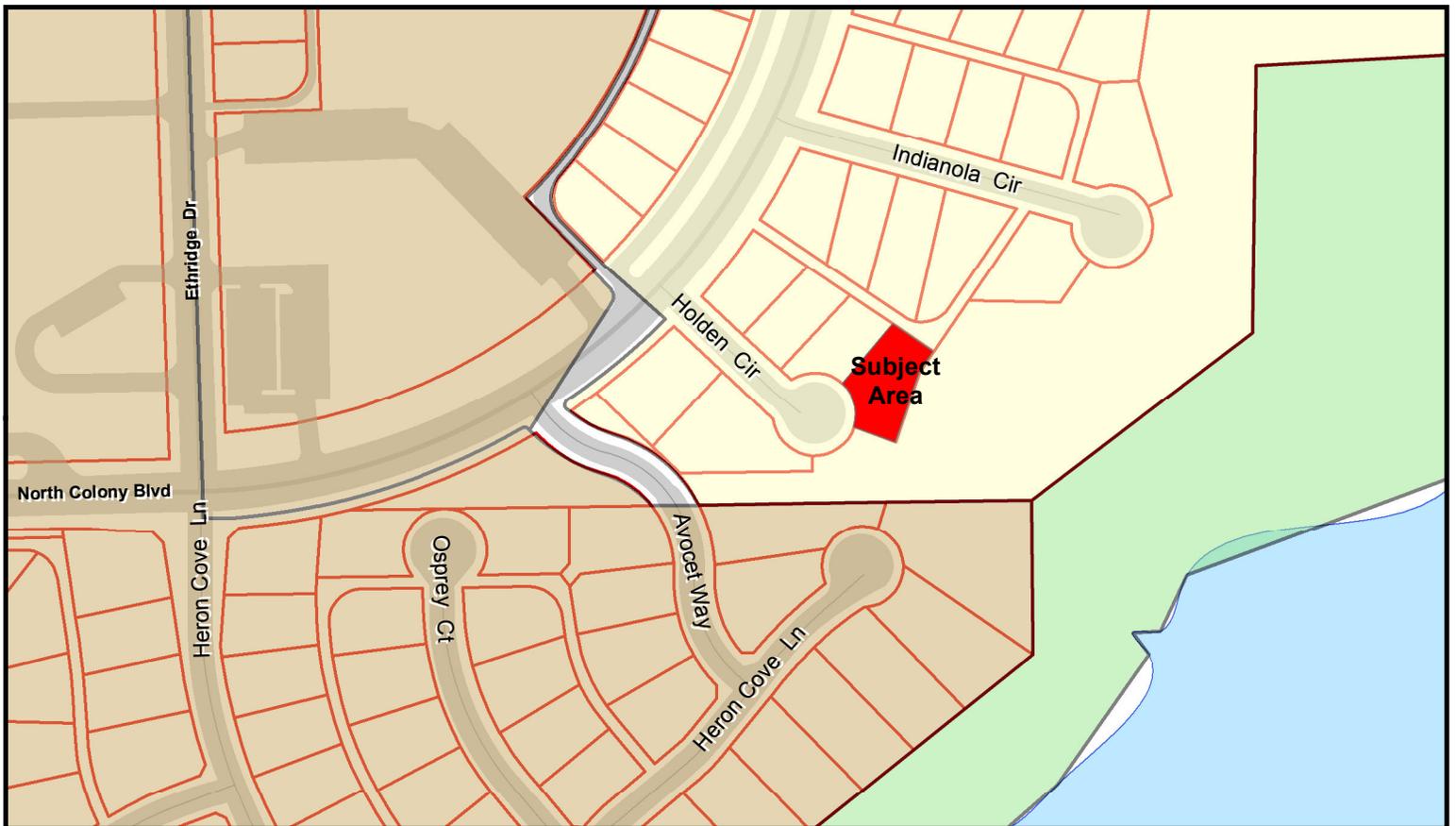
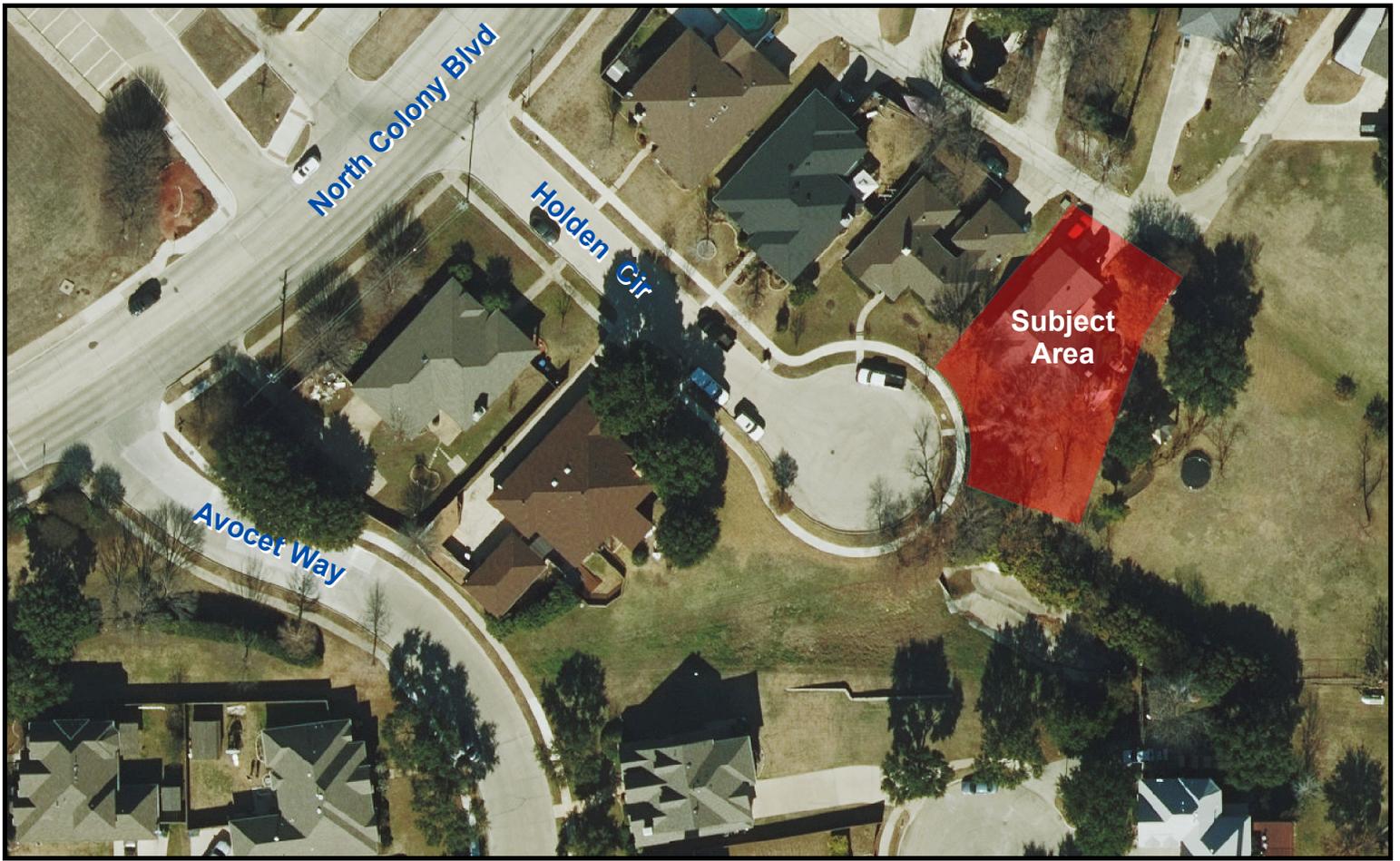
1. Approve as requested
2. Deny
3. Postpone consideration
4. Table item

RECOMMENDATION

Staff recommends approval for the requested Variance.

ATTACHMENTS

1. Location Map
2. Survey showing swimming pool and the fence location
3. Fence graphics



Project No. BOA16-0003 - Project Name: Swimming Pool at 8 Holden Circle



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|-----------------|--------------------------|------------------|----------------------|------------------------|
| 8 Holden Circle | Business Park/Industrial | Heavy Commercial | Mobile Home | Planned Development |
| Agricultural | Duplex Dwelling | Industrial | Neighborhood Service | Shopping Center |
| Business Park | General Retail | Light Commercial | Office District 1 | Single Family Dwelling |

This map was generated by GIS data provided by The Colony GIS Department. The City of The Colony does not guarantee the correctness or accuracy of any features on this map. These digital products are for illustration purposes only and are not suitable for site-specific decision making.



