



Helen Ward, Commissioner
Lauren Turner, Vice Chairman

Victor Molaschi, Chairman

Lewis Rice, Commissioner
Eric Heimbrecht, Commissioner

**ROANOKE ZONING BOARD OF
ADJUSTMENT REGULAR MEETING
MINUTES
April 17, 2025
7:00 P.M.**

**ROANOKE CITY HALL
500 S. OAK STREET
ROANOKE, TEXAS 76262**

Present: Chairman Victor Molaschi; Vice Chairman Lauren Turner; Commissioners: Helen Ward, and Lewis Rice; City Planner Kelly Carlson, and Executive Assistant Babette Welch.

Absent: Commissioner Eric Heimbrecht.

A. CALL TO ORDER

Meeting called to order at 7:00 p.m.

B. PUBLIC INPUT

No one wished to speak.

C. APPROVAL OF THE MINUTES

1. Motion made by Lewis Rice second by Helen Ward to approve the minutes from the Zoning Board of Adjustment regular meeting held on January 16, 2025.
Motion carried unanimously.

D. NEW BUSINESS

1. Public hearing to consider a variance request (V-2025-03) from Matt Schultheis, seeking relief from the City's Code of Ordinances Section 12.772(l) regarding Fences in Residential Areas – Front Yard Fencing Requirements for property located at 1111 Bentley Drive, Lot 14, Block S Briarwyck, Phase 3D.

Public hearing started at 7:01 p.m.

Chairman Victor Molaschi read the following statements:



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Rick Myers, President - Briarwyck HOA Board of Directors

To: Roanoke Zoning Board of Adjustment

I write to you as president of the Briarwyck HOA Board of Directors. I wish I were able to attend the meeting set for April 17, 2025, on the variance request filed by the owners of 1111 Bentley, but I will be out of state. If I were able to attend, I would let you know the following:

The homeowners at 1111 Bentley submitted a request for approval of a new fence to the Briarwyck HOA in December of 2024. This submission was approved. However, the submission was inaccurate. Attached is a portion of the submission indicating that no fencing would be moved and the same type of materials would be used:

While Robert Frost once wrote that good fences make good neighbors, if you install a fence that falls outside of your community's standards, you might find your relationship with your neighbors souring. We can help make sure that your chosen fence is within the community's standards when you submit an improvement request.
Touchbase with us before making any of the following changes:
* Adding a new fence.
* Changing an existing fence.
* Painting, staining, or otherwise changing the look of an existing fence.
* Replacing an existing fence
Are you moving the fencing location? No
Will you be using the same type of material as your current fence? Yes
#1 GRADE 1X6X8 WESTERN RED CEDAR BOARD ON BOARD FENCE - FLAT TOP *2X4 CEDAR RAILS *1X4 CEDAR FACER *2X6 CECHAR CAP *2 3/8" X SCHEDULE 20 GALVANIZED STEEL POSTS or PostMaster

HOA discovered the non-conforming fence when it was partially completed in February, 2025. Unfortunately, the fence being constructed did not conform with what was submitted to HOA. The homeowner moved the fence closer to the sidewalk (which the homeowner indicated would not be done) and replaced a four-foot metal fence in front of the house and along the sidewalk with an eight-foot solid wood fence (which is not the same type of material as the existing fence). The homeowner was sent a cease-and-desist letter by HOA and was asked to submit an accurate request for approval of what was being constructed. The homeowner did this, and his accurate request was denied. The homeowner currently does not have authority from HOA to build the fence as it is constructed.

This is the property before the fence was altered. Note that the fence was quite a bit back off the sidewalk.



This is the property after completion of the fence.



Among the reasons the request was denied is that the eight-foot wooden fence along the front portion of the property is not be in aesthetic harmony or conformity with the rest of the neighborhood, which is a requirement for approval. I am not aware of any other home in Briarwyck that has fencing like this in front of the property. There were also concerns for safety, both for walkers along the fence and road users- It appears the fence may obstruct the neighbor's view of the street and/r walker's view of the driveway.

Examples were given of other corner lot properties, with the appropriate location of fencing, stating, "there is no fencing in the front of the house."

These examples do not support a variance in this case, where the homeowner seeks to construct a solid eight-foot fence in front of the property.

The homeowner's reasons for requesting a variance do not meet the criteria which would allow for the variance to be granted. Section 12.96 of the Roanoke City Code requires that there be an undue hardship resulting from strict compliance with the zoning rules. No undue hardship exists in this case.

1. Safety. The "Safety" described by the homeowner is really a desire to prevent trespassers. It is not alleged that people may accidentally fall, but that people who purposefully attempt to leap the fence would get hurt (although the homeowner does not describe any such instance even though the four-foot fence was there for ten years). Further, safety could be addressed with a taller iron fence, which would be more in line with the rest of the neighborhood.

2. Liability. No instance of someone getting injured or falling has been cited by the homeowner. If liability were a concern, the iron fence could have been moved further back away from the sidewalk. Or, a new, taller iron fence have been installed. Regardless, concerns over liability is not undue hardship, which Section 12.96(3) of the Roanoke City Code defines as:



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(3) *Findings of Undue Hardship.*

- (A) In order to grant a variance, the Board must make findings that an undue hardship exists, using the following criteria:
- (i) That literal enforcement of the controls will create an unnecessary hardship or practical difficulty in the development of the affected property;
 - (ii) That the situation causing the hardship or difficulty is neither self-imposed nor generally affecting all or most properties in the same zoning district;
 - (iii) That the relief sought will not injure the permitted use of adjacent conforming property; and
 - (iv) That the granting of a variance will be in harmony with the spirit and purpose of the [Section].
- (B) In order to grant a variance, the Board may make findings that an undue hardship exists, using the following criteria:
- (i) The financial cost of compliance is greater than fifty (50) percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the City under Section 26.01, Tax Code;
 - (ii) Compliance would result in a loss to the lot on which the structure is located of at least twenty-five (25) percent of the area on which development may physically occur;
 - (iii) Compliance would result in the structure not being in compliance with a requirement of City Code of Ordinances, building code, or other requirement;
 - (iv) Compliance would result in the unreasonable encroachment on an adjacent property or easement; or
 - (v) The City considers the structure to be a nonconforming structure.

3. **Trespassing.** Again, trespassing is not an undue hardship under Section 12.96(3). Further, deterrence could be accomplished with a "Private Property" sign, and such a sign would alleviate confusion as to whether the property is public or private. Or perhaps a taller iron fence.

4. **Completion of the fence.** Section 12.96(4) specifically states that "A variance shall not be granted to relieve a self-created or personal hardship. The fact that the homeowner began construction of the fence without city approval (and not as described in the submissions to HOA) cuts against the request for a variance, not for it.

Lastly, Section 12.96(2) requires a finding that a special circumstance exists such that strict compliance with zoning would deprive the applicant of reasonable use of his land. No such circumstances are set forth in the application. The applicant is not being deprived of reasonable use of his land.

In sum, it does not appear that the variance request meets the criteria for the granting of a variance. Further, the fence as modified is not in aesthetic harmony or conformity with the rest of the neighborhood, and raises concerns for safety, both for walkers along the fence and road users.

The Carnahan Family – Briarwyck resident

Roanoke Zoning Board of Adjustment,

We are writing in support of the variance regarding the fence located at 1111 Bentley Drive.

We believe the fence will add value to the property. The fence also provides much needed

privacy for the family's property use.

Thank you for your consideration of this matter.

Matt Schultheis 1111 Bentley Drive - applicant

To: Roanoke Zoning Board of Adjustment

Subject: Addendum to Variance Request – Lot Uniqueness and Justification

Dear Members of the Variance Board,

As a supplement to my original variance request for the completion of the 8-foot wooden fence along the retaining wall at 1111 Bentley Drive, I would like to respectfully highlight the unique physical characteristics of my lot, which directly support the need for this variance. My backyard is located below street level, with a retaining wall separating the city sidewalk and street from the private yard. This configuration is highly uncommon in residential areas and creates specific challenges in securing the property. The drop in elevation—combined with the absence of natural barriers or visual cues—has contributed to the space being repeatedly mistaken for public land or a vacant lot. Over the past decade, people have approached from the street, crossed over the short existing fence, and descended the retaining wall into the backyard, treating the area as if it were open access. This confusion has resulted in multiple instances of unauthorized entry, raising legitimate safety concerns and potential liability for both myself and my adjacent neighbor. This variance request is not intended to create a precedent, but rather to address a very specific and rare lot condition. The 8-foot fence we are seeking approval to complete is a tailored solution that directly responds to the elevation, visibility, and security challenges that this unique parcel presents. For these reasons, I respectfully request that the Board consider the distinct nature of this property when evaluating the variance request. Thank you for your time and thoughtful consideration. See the photo below for reference. This was the view and drop off from the public sidewalk looking North into my backyard. I appreciate your additional considerations.





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Ordinance- Residential Fences
From Permits Inbox <permits@roanoketexas.com>
Date Mon 2/24/2025 12:53 PM
To: Matt Schultheis

Hello,
As requested, please visit the following link to read more about our residential fence ordinances,
Residential Fence – (highlighted information from this link is listed below)

Thank you,
Jessica Mulcahy
Permit Tech
500 S. Oak St. Roanoke, TX 76262

Sec. 12.772. – Fences in Residential Areas.

(e) "Permit Requirement. It shall be unlawful for any person to construct or repair a fence that is equal to or greater than twenty-five (25) percent of the total existing linear footage of a fence on any lot without having first obtained a fence permit from the Building Inspection Department. The fence permit fee shall be as provided for in the fee schedule found in the appendix of this Code. A person may not construct or repair less than twenty-five (25) percent of the total linear footage of a fence more than once in a consecutive six-month period. Adequate plans and specifications, as determined by the Building Official, must accompany each application for a permit."

(2)(B) "the Board of Adjustment may authorize special exceptions to the regulations provided in this article in order to permit reasonable development and improvement of property where the literal enforcement of the regulations would result in an unnecessary hardship."

Mr. Schultheis read a letter, which he had received from the Briarwyck 114 Home Owners Association (HOA) Architectural Control Committee dated December 11, 2024, stating his submission of the fence request was approved by Briarwyck 114 HOA. Mr. Schultheis explained all of the information regarding requirements from the Briarwyck HOA and the City of Roanoke, for the fence.

Aaron Jones, resident, stated he is in support of Mr. Schultheis' fence. Mr. Jones further stated Mr. Schultheis has made tremendous improvements to the property, his lot is unique to any other lot in the subdivision, and believes he is being treated unfairly.

Steven Wood, adjacent resident and applicant of Items D3 and D4, gave an overview of safety and liability concerns of the area between his and Mr. Schultheis' property. Mr. Wood further stated he is in support of the fence.

Public hearing ended at 7:36 p.m.



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2. Motion made by Lauren Turner second by Lewis Rice to approve a variance request (V 2025-03) from Matt Schultheis seeking relief from the City's Code of Ordinances Section 12.772(i), regarding Fences in Residential Areas – Front Yard Fencing requirements for property located at 1111 Bentley Drive, Lot 14, Block S Briarwyck, Phase 3D.

Motion carried unanimously.

3. Public hearing to consider a variance request (V-2025-04) from Stephen Wood, seeking relief from the City's Code of Ordinances Section 12.772(l) regarding Fences in Residential Areas – Front Yard Fencing requirements for property located at 1113 Bentley Drive, Lot 13, Block S Briarwyck, Phase 3D.

Public hearing started at 8:06 p.m.

Steven Wood, adjacent resident and applicant, stated the wooden fence creates more security for his family. Mr. Wood explained that common areas have wrought iron fencing, however, the area between his property and Mr. Schultheis' property is not a common area, but is private property. The wooden fence will help alleviate the issue of people coming onto their property, thinking it is a common area.

Aaron Jones, resident, stated he is in support of Mr. Wood's fence.

Matt Schultheis, resident, stated he is in full support of Mr. Wood's request for the fence.

Public hearing ended at 8:12 p.m.

4. Motion made by Helen Ward second by Lauren Turner to approve a variance request (V 2025-04) from Stephen Wood, seeking relief from the City's Code of Ordinances Section 12.772(l) regarding Fences in Residential Areas – Front Yard Fencing requirements for property located at 1113 Bentley Drive, Lot 13, Block S Briarwyck, Phase 3D, with amendment to keep fence the same as Matt Schultheis'.

Motion carried unanimously.

E. ADJOURNMENT

Motion made by Lewis Rice second by Lauren Turner to adjourn the meeting at 8:15 p.m.

Motion carried unanimously.


Babette Welch, Executive Assistant


Victor Molaschi, Chairman