



# AGENDA ITEM SUMMARY FORM

**MEETING DATE:** March 20, 2024

**PREPARED BY:** Otis T. Spriggs, AICP, Development Services Director

**AGENDA CONTENT:** Conduct a public hearing, discussion, and take possible action on a variance request for a proposed 10'-6" high privacy fence, per Local Gov. Code 211.008 and Section 28-23 of the City of Angleton, Code of Ordinances. Section 28-104- Fencing, walls and screening requirements, (c) Fences in residential areas: (1) Any fence or wall located to the rear of the minimum required front yard line shall not exceed eight feet in height". The subject property is located at 32 Colony Square, also known as Block 1, Lot 15; and zoned Single Family Residential, (SF 7.2) District.

**AGENDA ITEM SECTION:** Public Hearings and Action Items

**BUDGETED AMOUNT:** N/A

**FUNDS REQUESTED:** N/A

**FUND:** N/A

**EXECUTIVE SUMMARY:**

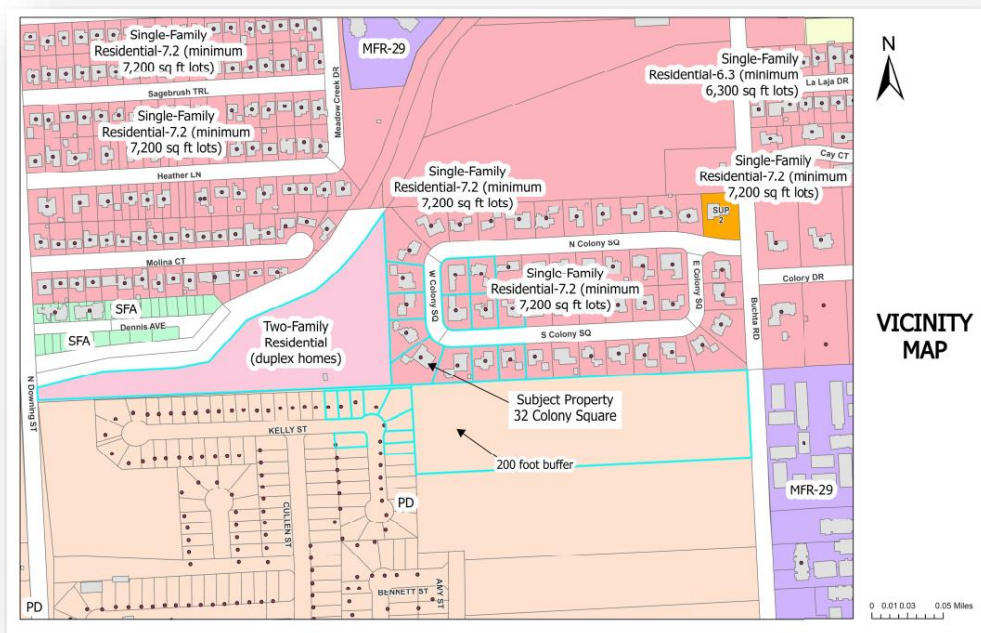
The applicant has filed a variance application on the subject property located at 32 Colony Square, also known as Block 1, Lot 15; and zoned Single Family Residential, (SF 7.2) District for a rear yard privacy fence at a height of 10.5-ft, which will abut the Riverwood Ranch-North Subdivision project which is immediately south of Colony Square Subdivision.

As noted under the City of Angleton Zoning Ordinance, Sec. 28-104- Fencing, walls and screening requirements, (c) Fences in residential areas: (1) Any fence or wall located to the rear of the minimum required front yard line shall not exceed eight feet in height.

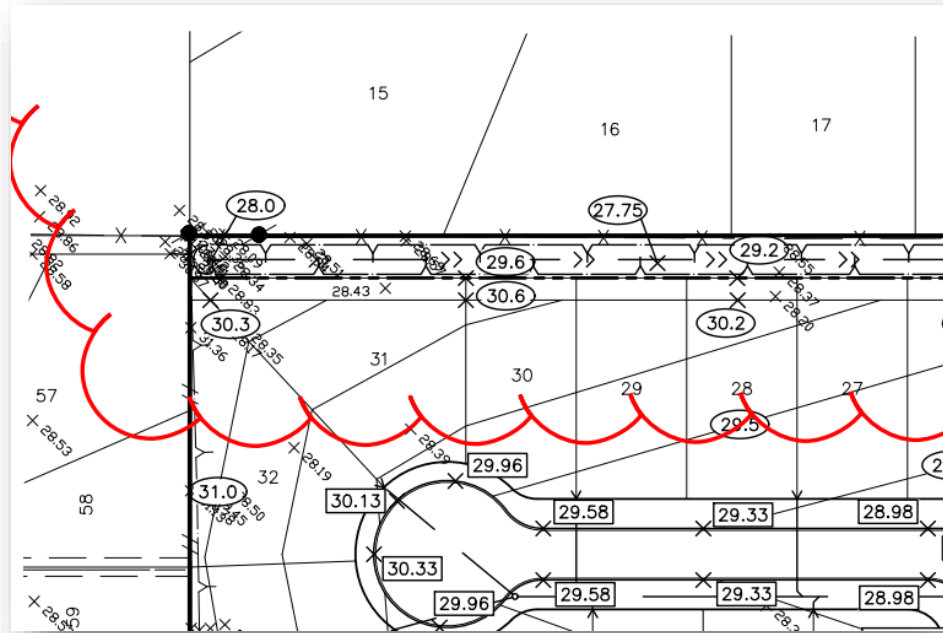
Staff has processed this application and scheduled the public hearing. Property owners within 200 ft. of the property were notified as well as the legal notice was posted in the local newspaper.



Photograph from subject site looking South towards Riverwood Ranch Subdivision.



Vicinity & Zoning MAP



*Lot Site Grading Plan at common property line*

**Zoning Code / Variance Analysis:**

**Sec. 28-23. Board of adjustment (BOA). F. (2).** No variance shall be granted without first having given public notice and having held a public hearing on the variance request in accordance with subsection (h) of this section and unless the board of adjustment finds:

a. That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of his/her land; *Staff confirms that the resulting difference in elevation could cause new homes to be higher in terms of sight line.*

b. That the variance is necessary for the preservation and enjoyment of a substantial property right of the applicant; *Applicant seeks relief by the Board to protect their level of privacy in their rear yard.*

c. That the granting of the variance will not be detrimental to the public health, safety or welfare, or injurious to other property within the area;

*Staff confirms that the variance will not cause any detriment to public health and safety.*

d. That the granting of the variance will not have the effect of preventing the orderly use of other land within the area in accordance with the provisions of this chapter; and

*Staff confirms granting the variance will not prevent the orderly use of other land within the area.*

- e. **That a finding of undue hardship exists (see subsection (f)(3) below).**

*Such findings of the board of adjustment, together with the specific facts upon which such findings are based, shall be incorporated into the official minutes of the board of adjustment meeting at which such variance is granted. Variances may be granted only when in harmony with the general purpose and intent of this chapter so that public health, safety and welfare may be secured, and that substantial justice may be done.*

*Staff agrees the findings of undue hardship in granting this variance are properly established.*

**In order to grant a variance, the board of adjustment must make written findings that an undue hardship exists:**

Staff concurs that the difficulty caused is neither financial in nature, self-imposed nor generally affecting all or most properties in the same zoning district; and the relief sought will not injure the permitted use of adjacent conforming property; and the granting of a variance will be in harmony with the spirit and purpose of these regulations.

**RECOMMENDATION:**

Staff recommends that the Board of Zoning Adjustment grant the variance to **Sec. 28-104- Fencing**, for a 10.5 ft. high privacy fence in the rear yard at 32 Colony Square for the reason that the abutting new development is establishing a finish floor and ground level, higher than the subject property referenced when built in 1991 and the board finds that a hardship exists.