

Staff Report

Agenda Date: January 5, 2026

Agenda Item: Variance Request Fakir A & Pervin Ahmed- 4200 County Road 48, Iowa Colony, TX 77583

Project Description: Variances to regulations of the Zoning Ordinance, Article V, Performance Standards, Section 55 – Fences and the Unified Development Code pertaining to Screening and Fencing Appendix B, Ch.3, Article 3, Division 2, Sec,3.3.2.1 (b), (2)

Zoning Designation: Single Family Residential

Building Official: Albert Cantu

SUMMARY

This request was made by Fakir Ahmed for a variance to Zoning Ordinance, Article V, Performance Standards, Section 55 – Fences and the Unified Development Code pertaining to Screening and Fencing Appendix B, Ch.3, Article 3, Division 2, Sec,3.3.2.1 (b), (2)

Zoning Ordinance, Article V, Performance Standards, Section 55 – Fences

- a. General fence regulations.
 - 1. Height restrictions.
 - a) The following portions of a fence shall not exceed four feet in height:
 - i. The portion of the fence in front of the front wall of the main building, if any, on the lot, tract, or parcel of land, if there is any building larger than 300 square feet thereon; and
 - ii. The portion of the fence that is closer to any street right-of-way than the applicable yard requirement or building setback line under the zoning ordinance, subdivision ordinance, or any other applicable law.
 - b) A portion of a fence not subject to the four-foot height limit under this subsection [subsection a.1(a)] (height restrictions) shall not exceed eight feet in height.
 - c) Agricultural exception. The fence height regulations under subsection a.1[(a)] (height restrictions) shall not apply to an otherwise lawful fence that is both:
 - i. Lawfully placed or used to turn, halt, or contain livestock, regardless whether livestock is temporarily absent from the property; and
 - ii. Constructed of barbed wire, hog wire, or similar materials that make the completed fence about as transparent as a barbed wire or hog wire fence, but not chicken wire, cyclone fence wire, or similar

materials that make a completed fence about as much of a visual obstruction as a cyclone fence or chicken wire fence, due to having a mesh size generally similar to a cyclone fence or chicken wire.

- d) Lawful junkyard exception. The fence height regulations under [this] subsection a.1 (height restrictions) shall not apply to an otherwise lawful fence around a lawful junkyard or lawful salvage yard.

2. Fencing materials.

- i. Without a specific use permit granted by the city council, no fence shall be wholly or partly constructed of concertina wire.
- ii. No sharp or broken glass shall protrude from any surface of any fence. This paragraph does not prohibit the decorative use of unbroken glass that is not sharp enough to cut human flesh.

3. Grandfather exception for lawful nonconforming uses.

- i. Except as otherwise provided herein, fences are subject to the same regulations as other structures concerning nonconforming uses. This subsection 55.a (general fence regulations) is enacted on August 18, 2014.
- ii. However, if a fence or portion of a fence is built after August 18, 2014, and if the existence or location of a structure on that property is later changed so that the fence then becomes unlawful, then the fence is not a lawful nonconforming use, and the fence must be modified or removed as necessary to comply with this ordinance, within 30 days after it becomes unlawful.

- b. [Screening fences required.] When there is a common side or rear lot line or lot lines between land being used in a manner that would be prohibited in a SFR zone (herein called the "nonresidential land," regardless how zoned), and land being used for a single family residence (herein called "the residential land," regardless how zoned), the owner of said nonresidential land shall erect a fence that properly screens adjacent residential land from adverse influences such as noise, vehicular lights, trespass, and other adverse influences. However, if the nonresidential use is in place before the single-family residential use, such fence is not required. Such fence shall be at least eight feet but not more than ten feet in height and shall form a solid continuous screen between the residential and nonresidential land. The fence required by this paragraph shall extend along the entire boundary line between the residential and nonresidential land, except for the portion of that boundary that is closer to any street right-of-way than the applicable yard requirement or building setback line under the zoning ordinance, subdivision ordinance, or any other applicable law. Each such screening fence shall be maintained in good condition by the person required to provide the fence. The obligation to provide and maintain the fence shall run with the land. This subsection applies according to how the land is actually used, not according to how the land is zoned, and not to unused land.

Unified Development Code Screening and Fencing Appendix B, Ch.3, Article 3, Division 2, Sec.3.3.2.1 (b), (2)

Sec. 3.3.2.1. Fencing allowed.

- a. Fences in residential areas/districts, except multiple family.
 - 1. Materials permitted. Fences may be constructed of approved wood, decorative metal, chain link or woven wire mesh, and other materials traditionally used in

private fence construction. New and innovative materials such as plastics, PVCs, metal panel or metal slat, "honeycomb," cementitious fiber board (e.g., "WoodCrete"), and other similar materials may be approved for use by the city's building official if the material is proven to be sturdy, durable and relatively maintenance-free.

b. Fences permitted in front yard(s) adjacent to a public street.

1. Except as provided by subsection (b)(2) (decorative fences) below, no fence or wall shall be permitted within the required front yard of any single-family or duplex residential lot which is adjacent to a public street. No residential fence shall be closer than 15 feet to a public street; however, in cases where the side or rear building line of the yards on continuous corner lots adjoin (i.e., the side yard lot is not a key corner lot), the fence may be constructed out to the property line of the side yard, such that the street side yard may be included as part of the lot's rear yard area.
2. Decorative fences. Decorative fences with openings not less than 50 percent of the fence area and not exceeding four feet in height are permitted in front yards. Chain link, woven wire mesh metal panel, or similar materials are not considered decorative fencing, and are therefore not allowed in front yards.

Variance Request:

1. The ordinance itself is flawed and not written for rural properties. To attempt to conform to an ordinance written for subdivisions is an extreme on myself and all citizens in rural Iowa Colony. The fence is comparative to other properties in the neighborhood.

2. At the time the fence was built the primary consideration was safety for my family. At that time my wife, daughters and I made regular trips every summer to Bangladesh, and a privacy fence kept people from seeing that cars were not moving or lawn not as well cared for indicating no one was home. Although we have neighbors and people who checked on the house, the privacy fence kept the house vacant from being known by people passing by. In addition, being Muslim we wanted our daughters to have the freedom of wearing shorts or swimsuits (we have a pool) in their own yard without peering eyes.

3. Lastly, we have cattle and the privacy fence keeps the wet weather unsightly trampling from view. In addition, it seems cattle rustling is still a crime being committed in Brazoria County and in Texas, so such thieves are not able to see inside the fence that we have prime Angus cattle. We have also heard of cattle being shot in their pasture. If the fence were cut to 4' or less as in one letter saying cut over 50% making it 3', the cattle would get out.

At the time the fence was built 8 years ago, these were my concerns and they are the same today. We had no way to know of this UDC ordinance despite being at City Hall on a regular basis while building a home. No one told us about this ordinance, it was not online as it is today and permits for fences were not and are still not required.

The financial hardship created as well for removing this fence, relocating our cattle and all that would be required to comply with these requirements is unreasonable considering almost EVERY fence in rural Iowa Colony is in some way NON COMPLIANT.

RECOMMENDATION

Staff recommend that the variance **NOT** be granted due to not meeting the criteria required for approval of a variance under the City's zoning and fencing regulations. Specifically, the request does not demonstrate a hardship unique to the property that is not self-imposed, nor does it meet the intent of the ordinance to protect public safety, maintain neighborhood character, and ensure consistent application of City standards.

The proposed fence, as submitted, does not comply with the applicable requirements related to [height, placement, visibility, material, and approval of the variance would constitute a deviation from established regulations without sufficient justification.

Albert Cantu

Albert Cantu, Building Official

Images



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2025-09-04 DSCF0890.JPG



2025-09-04 DSCF0891.JPG



2025-09-04 DSCF0893.JPG



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