

RESOLUTION No.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LEON VALLEY, TEXAS, GRANTING A VARIANCE TO THE LEON VALLEY CODE OF ORDINANCES, CHAPTER 3 BUILDING REGULATIONS, ARTICLE 3.05 FENCES, SECTION 3.05.005 DIMENSIONS AND APPEARANCES, SUBSECTION (a)(1)(A) TO ALLOW A SIX FOOT HIGH FENCE IN THE REQUIRED FRONT YARD, LOCATED AT 6406 ROYALTY PT STREET; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Leon Valley, as a Home Rule Municipality, derives its powers from its Home Rule Charter and is limited in authority only by express provisions of the Texas Constitution and the State statutes; and

WHEREAS, in accordance with such powers, the City Council adopted Chapter 3 Building Regulations, Article 3.05 Fences, to regulate the construction, maintenance, repair, and replacement of fences within the City's corporate limits; and

WHEREAS, Section 3.05.004 provides that City Council may authorize variances to the requirements of Article 3.05, when its opinion undue hardship will result from requiring strict compliance; and

WHEREAS, in granting a variance, the council shall prescribe only conditions that it deems necessary to or desirable in the public interest; and

WHEREAS, the owner of the improved real property located at 6406 Royalty Pt Street legally described as CB 4429A Blk 1 Lot 25 (Seneca Estates), Leon Valley, Bexar County, Texas (hereinafter the "Property") submitted a variance request to construct a six foot fence in the front yard; and

WHEREAS, the City Council has found that the request meets the criteria established by Section 3.05.004 of the City Code for granting variances; and

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LEON VALLEY, TEXAS THAT:

Section 1. Request. The owner of the property requests a variance from the height regulations found in the Leon Valley Code of Ordinance Chapter 3 Building Regulations, Article 3.05 Fences, Section 3.05.005 Dimensions and Appearances, Subsection (a) (1) (A) and shall be allowed to construct a six foot tall fence in the front yard

Section 2. Findings. City Council grants the variance according to the request and makes the following findings as prescribed by Section 3.05.004 of the City Code:

- (1) There are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this article would deprive the applicant of the reasonable use of this land;

Finding - **Affirmative**

- (2) The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant; and

Finding - **Affirmative**

- (3) The granting of the variance will not be detrimental to the public health, safety or welfare, or injurious to other property in the area.

Finding - **Affirmative**

Section 3. Conditions. This variance shall be conditioned upon the following:

1. An 6-foot-tall fence shall only be permitted in the front yard as requested by the applicant on the proposed site plan.

Section 4. Expiration. This variance shall expire and be of no further lawful effect if the fence authorized by this variance is not lawfully constructed on the Property on, or before, May 17, 2024.

Section 5. Recitals. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Resolution for all purposes and are adopted as a part of the judgment and findings of the Council.

Section 6. Conflicts. All Resolutions and codes, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

Section 7. Savings. That all rights and privileges of the City are expressly saved as to any and all violations of the provision of any Resolutions repealed by this Resolution which have accrued at the time of the effective date of this Resolutions; and, as to such accrued violation and all pending litigation, both civil and criminal, whether pending in court or not, under such Resolutions, same shall not be affected by this Resolution but may be prosecuted until final disposition by the courts.

Section 8. Severability. This Resolution is not severable.

Section 9. TOMA compliance. It is officially found, determined, and declared that the meeting at which this Resolution is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Resolution, was given, all as required by Chapter 551, as amended, Texas Government Code.

Section 10. Effective date. This Resolution shall be effective upon the date of final adoption hereof and any publication required by law.

PASSED, ADOPTED AND APPROVED by the City Council of the City of Leon Valley
this the 17th day of October 2023.

APPROVED

CHRIS RILEY

Attest:

SAUNDRA PASSAILAIGUE, TRMC
City Secretary

Approved as to Form: City Attorney