



Memorandum

May 6, 2026

TO: Zoning Board of Adjustment

FROM: Israel B. Roberts, AICP
Planning Manager

SUBJECT: Public hearing on a variance to fence height and style requirements

BACKGROUND: This is a request for approval of a variance to allow an 8-foot tall privacy fence in lieu of a 6-foot tall open fence. The 1.14-acre site is located at 711 Oakglen Circle and is zoned for the (RE-1) One-acre Ranch Estate District. Applicant: Jacob Scoggins with Architecture Underground, INC. representing owner Michael Presti.

STATUS OF ISSUE: The applicant is requesting a variance to the Town fence regulations to be able to construct an 8-foot tall privacy fence in lieu of the 6-foot tall open fence in order to block the headlights of southbound traffic on Meandering Way.

The subject lot has double frontage on both Oakglen Circle (front yard to the south) and Meandering Way (backyard to the north). Due to the alignment of Meandering Way to the north, as vehicles are travelling southbound and making the turn to the east, headlights from the vehicles are shining directly in the home on the subject site. The current property owners completed construction on the home in 2024.

Town fence regulations limit fencing in the backyard to a maximum of 6-feet in height. Additionally, fences are required to be 50% see-through, thus prohibiting solid privacy fencing.

In the case, in order to block the headlights of southbound traffic shining into their home, the applicant is requesting a variance to allow a 8-foot tall privacy fence along the northern property line of the lot.

ATTACHMENTS:

- Aerial
- Applicant's Statement
- Exhibits

HARDSHIP STATEMENT

Submitted to the Town of Fairview Board of Adjustment

Applicants:	Michael and Alice Presti
Property Address:	711 Oak Glen Circle, Fairview, TX 75069
Request:	Partial variance to allow an 8-foot board-on-board privacy fence along the Meandering Way roadway frontage
Date:	April 17, 2026

I. Introduction

Michael and Alice Presti, homeowners at 711 Oak Glen Circle, Fairview, Texas 75069, respectfully submit this Hardship Statement to the Town of Fairview Board of Adjustment in support of a variance request. The applicants seek limited relief from the Town's fence height and design regulations to permit the installation of an 8-foot board-on-board privacy fence **ONLY** along the Meandering Way section of roadway abutting their backyard. All other proposed fencing on the property is fully code-compliant and is not part of this variance request.

This request is brought under Texas Local Government Code § 211.009(a)(3), which authorizes the Board of Adjustment to grant variances where literal enforcement of the zoning ordinance would result in unnecessary hardship, provided the spirit of the ordinance is observed and substantial justice is done. The relief requested here satisfies that standard: it is the narrowest possible remedy for a site-specific condition, and it preserves the underlying purposes of the Town's fence regulations—neighborhood character, sightline safety, and orderly development.

The hardship also implicates well-settled Texas nuisance law. Sustained, nightly headlight intrusion into a bedroom and onto residential living space constitutes a classic "light trespass" nuisance cognizable under Texas common law (see *Schneider National Carriers, Inc. v. Bates*, 147 S.W.3d 264 (Tex. 2004), recognizing recurrent, predictable intrusions on the use and enjoyment of land as actionable nuisance). The requested variance is a reasonable, private, self-help remedy that abates the nuisance at the applicants' own expense, on their own property, without imposing any burden on the Town, the roadway, or neighboring owners.

II. Statement of Hardship

The property at 711 Oak Glen Circle has direct frontage on Meandering Way, a public roadway. Due to the lot's orientation, elevation, and the angle of approaching traffic,

vehicle headlights create a predictable, sustained intrusion onto the property every evening and throughout the night. Specifically, headlights:

- Shine directly into the master bedroom windows, causing repeated sleep disruption;
- Illuminate the backyard and pool area, eliminating privacy and the quiet enjoyment of outdoor living space; and
- Occur repeatedly and predictably every evening and nighttime—this is not an occasional inconvenience but a nightly condition.

The result is a measurable interference with the **health, safety, privacy, and reasonable use and enjoyment of the property by the homeowners.**

III. Why a Code-Compliant Fence Does Not Address the Hardship

Under the Town's current ordinance, a 6-foot open-design fence would be permitted along the Meandering Way frontage. However, this type of fence is wholly inadequate to address the hardship because it:

- Does not block headlight glare due to the open picket design;
- Does not eliminate the direct line-of-sight from the roadway into the bedroom and backyard; and
- Is insufficient given the height of modern vehicle headlights, the angle of the roadway relative to the home, and the absence of any residential buffering between the road and the property.

Therefore, strict application of the ordinance fails to resolve the hardship and results in an unnecessary burden on this particular property.

A 6-Foot Board-on-Board (Solid) Fence Also Fails to Resolve the Hardship

The Board may reasonably ask whether a solid, 6-foot board-on-board fence—rather than the 6-foot open-design fence currently permitted by right—would suffice. It does not, for quantitative and geometric reasons specific to this lot:

- Headlamp origin height. Modern SUVs and light trucks carry their headlamps at approximately 33 to 45 inches above roadway grade, and these vehicles represent a substantial and growing share of the nighttime traffic on Meandering Way. Low-clearance passenger cars are no longer the dominant vehicle class.
- Roadway-to-property elevation differential. Meandering Way sits at or slightly above the applicants' lot elevation at this section of frontage. Any elevation of the roadway above lot grade is added directly to the effective headlamp origin height: a vehicle with 45-inch headlamps on a roadway 12 inches above lot grade produces a beam origin at approximately 57 inches (4 feet 9 inches) above lot grade.
- Beam trajectory over a 6-foot fence. Headlamps project a divergent cone, not a point beam, and the upper portion of the beam rises with distance. A beam originating at 4½ to 5 feet above lot grade clears the top of a 6-foot fence set a short distance back from

the road and continues to rise as it travels toward the home, where it strikes the master bedroom window at sill height and above.

- Bedroom window and pool-area sightlines. The master bedroom window sill is at ordinary residential height, and the pool and rear living area sit at or just below grade. A 6-foot solid fence trims only the lowest portion of the headlight cone; it does not break the line-of-sight from an elevated headlamp to the bedroom window, nor does it eliminate downward visual surveillance of the pool and rear yard from SUV and truck cabs passing on the roadway.
- Directional flare from turning vehicles. Vehicles turning onto Meandering Way, or changing lanes on approach, produce lateral headlamp sweeps that enter the property at angles a 6-foot fence cannot fully intercept. An 8-foot fence extends the interception angle meaningfully closer to vertical, eliminating the sweep component.
- Why 8 feet is the true minimum. Each additional foot of fence height above the 6-foot baseline removes a proportional amount of beam intrusion. Eight feet is the lowest height at which the geometry—elevated headlamp origin, roadway differential, beam divergence, and bedroom/pool sightlines—resolves, rather than merely reduces, the hardship. The applicants are not seeking extra height for preference; they are seeking the height actually required for the fence to function.

For these reasons, neither a 6-foot open-design fence (permitted by right) nor a 6-foot solid board-on-board fence (sometimes proposed as a compromise) fully addresses the nightly headlight intrusion. The 2-foot variance over the 6-foot baseline is the minimum relief that actually works.

IV. Minimum Relief Requested

The applicants request only the minimum variance necessary to eliminate the hardship:

- An 8-foot board-on-board privacy fence (Fence Type "B" per the attached Fence Plan) along the Meandering Way roadway frontage only (approximately 210 linear feet, shown as the red segment on the site plan);
- Installation of two (2) new double gates as shown on the Fence Plan;
- All remaining fencing on the property (approximately 335 linear feet of Fence Type "A" metallic open picket fencing along the west and south property lines, shown in green) is fully code-compliant and is not part of this variance request.

This request is surgical and narrowly tailored—limited to the single frontage segment where the hardship exists.

V. Response to Board of Adjustment Required Findings

Pursuant to the Town of Fairview's requirements, the applicants address each of the four required findings below:

(1) The Hardship Is Not Self-Imposed

The hardship is created entirely by conditions beyond the applicants' control: the existing public roadway (Meandering Way), the lot's orientation and geometry, prevailing traffic patterns, and the angle at which headlights strike the property. The home and lot configuration predate this request. The applicants did not create the roadway, the elevation and angle conditions, or the headlight intrusion. These are pre-existing, external conditions inherent to the property's relationship with the adjacent roadway.

(2) The Hardship Is Unique to the Property and Precedent is Already Established

- a) **Unique to the Property:** Unlike typical lots in the area, this property has extended roadway frontage along Meandering Way abutting the entirety of the backyard. The backyard and master bedroom, living room, and kitchen are directly exposed to the oncoming traffic headlights. Most surrounding homes are buffered by adjacent residential lots and do not experience direct headlight penetration into living and sleeping areas.
- b) **No New Precedent if Partial Variance Granted:** Notably, there are only two other properties in close proximity whose **backyards** face Meandering Way (there are other houses but their backyards do not face Meandering), and both of those properties already have board-on-board privacy fencing installed. The date of their construction is irrelevant because their **purpose** is clear, to **block the intrusion of light into their backyards**.
- c) The attached site plan and fence plan clearly illustrate that the road-facing boundary (red segment) is uniquely exposed. This is a location-specific condition driven by the size, shape, and topography of the lot—not a neighborhood-wide issue.

(3) The Hardship Is Not Financial in Nature

This request is not based on cost savings, property value enhancement, or any financial consideration. The variance is sought solely to address health and safety concerns (sleep disruption caused by nightly headlight intrusion), privacy and security (direct exposure of the backyard and pool area to the public roadway), and the reasonable use and enjoyment of the residential property. The hardship exists regardless of any cost considerations.

(4) The Hardship Does Not Simply Preclude "Highest and Best Use"

The property is already developed and used as intended—as a single-family residence. The variance is not sought to expand development or change the use of the property. It is solely to eliminate an external impact and restore normal residential living conditions that are currently compromised by the nightly headlight intrusion.

VI. Additional Supporting Information

Public Interest

The proposed fence will have no adverse impact on traffic visibility, sightlines, easements, or right-of-way. The fence will be installed entirely on private property. The privacy fence will enhance the safety and security of the property, including reducing visibility of the pool area from the public roadway.

Consistency with Prior Board Actions

This request is more limited than many prior approvals, as it is confined to a single frontage segment and all other fencing remains fully compliant.

Site-Specific Evidence

The attached Fence Plan (dated April 15, 2026, prepared by Keane Landscaping, Inc.) clearly demonstrates the surgical nature of this request. The red line on the site plan identifies the requested privacy fence segment along Meandering Way. The green lines identify the fully code-compliant metallic open picket fencing along the remaining property lines. The plan includes detailed construction specifications for both fence types.

Traffic Volume and Anticipated Increase from the Fairview Texas Temple

Current traffic conditions on the roadways immediately adjacent to 711 Oak Glen Circle, as published by the North Central Texas Council of Governments (NCTCOG) Historical Traffic Counts, are as follows:

- Meandering Way (NCTCOG Count Station 20185, located directly adjacent to the property at latitude 33.131, longitude -96.6286): 1,890 vehicles per day, both directions (2019 count, most recent available);
- East Stacy Road, immediately west of Meandering Way: 15,554 vehicles per day (2023);
- East Stacy Road, immediately east of Meandering Way: 18,991 vehicles per day (2018).

The Time-of-Day distribution for Station 20185 shows a pronounced evening peak, confirming that the headlight intrusion described in Section II is a predictable, recurring nighttime condition rather than an occasional occurrence.

These counts predate the Fairview Texas Temple, a facility of The Church of Jesus Christ of Latter-day Saints approved by the Town Council on April 29, 2025, for construction at the intersection of Stacy Road and Meandering Way—directly adjacent to the roadway adjacent to applicants' property. Publicly available information, including the Church's own due-diligence traffic study, projects the following impacts upon opening:

- Approximately 80,000 monthly patrons at full operation;
- Approximately 27,000 additional monthly vehicle trips on Stacy Road;
- Operating hours of Tuesday through Saturday, 7:00 a.m. to 10:00 p.m., extending peak vehicular activity substantially later into the evening than typical residential traffic patterns; and

- At least three intersections along Stacy Road between Meandering Way and State Highway 5 projected to operate at failing levels of service without additional signalization (per the Church's own Due Diligence Study).

Meandering Way is the principal north–south collector serving the temple site. A material increase in vehicle traffic on the segment of Meandering Way abutting 711 Oak Glen Circle is therefore not speculative—it is documented by the applicant-of-the-use's own study—and a disproportionate share of that traffic is projected to occur during after-dark hours, precisely when the headlight intrusion described in Section II already causes the hardship. The approved temple thus intensifies, rather than alleviates, the conditions giving rise to this variance request.

The validity of the temple approval was challenged in *Fairview United v. Town of Fairview*, Cause No. 471-03967-2025, in the District Court of Collin County, Texas. On December 22, 2025, the Court entered Final Judgment upholding Town of Fairview Ordinance No. 2025-08. The temple is therefore proceeding as a matter of law, and the projected traffic increase on Meandering Way is a legally fixed condition to which the applicants' property will be subject. This wholly external, unavoidable, and already-permitted change to the surrounding roadway environment independently satisfies the requirement that the hardship be non-self-imposed (Section V(1)) and underscores that the minimum relief requested here is both reasonable and necessary.

Landscape Screening Is Not a Viable Alternative

The applicants anticipate the question of whether landscaping or vegetation could substitute for an 8-foot privacy fence. For the following site-specific, horticultural, and practical reasons, it cannot:

- Headlight geometry defeats most hedges. Modern SUV and light-truck headlamps are mounted approximately 33 to 45 inches above grade. To fully intercept the beam at the elevation differential between Meandering Way and the bedroom windows of the home, a planting would need to be substantial in height, optically opaque from roughly 2 feet to at least 8 feet above grade, and continuous along the entire 210 linear feet of roadway frontage. No economically available hedge reliably meets all three criteria.
- Time to maturity. Even fast-growing evergreen species appropriate to North Texas require five to ten years to reach a height and density capable of meaningful headlight screening. The hardship is occurring nightly, now; a multi-year maturation period is not a remedy.
- Precedent of adjacent properties. The two other Meandering Way properties whose rear yards face the roadway addressed this exact condition with board-on-board privacy fencing, not landscaping. If landscape screening had been a workable solution, those owners would have adopted it.

For the reasons above, landscape screening is not an equivalent remedy and does not obviate the need for the requested variance. The applicants have not overlooked the

landscaping option; they have evaluated it and concluded—on site-specific grounds—that it cannot resolve the nightly headlight intrusion that gives rise to this request.

VII. Conclusion

This is not a matter of preference—it is about preventing nightly headlight intrusion into the master bedroom and backyard, which a compliant 6-foot open-design fence simply cannot address. The applicants respectfully request that the Board grant the minimum variance necessary to allow an 8-foot board-on-board privacy fence along the Meandering Way frontage of their property, as depicted in the attached Fence Plan. All four required findings for the granting of a variance are satisfied, and the requested relief is the narrowest possible to restore normal residential living conditions.

Respectfully submitted,



Michael Presti

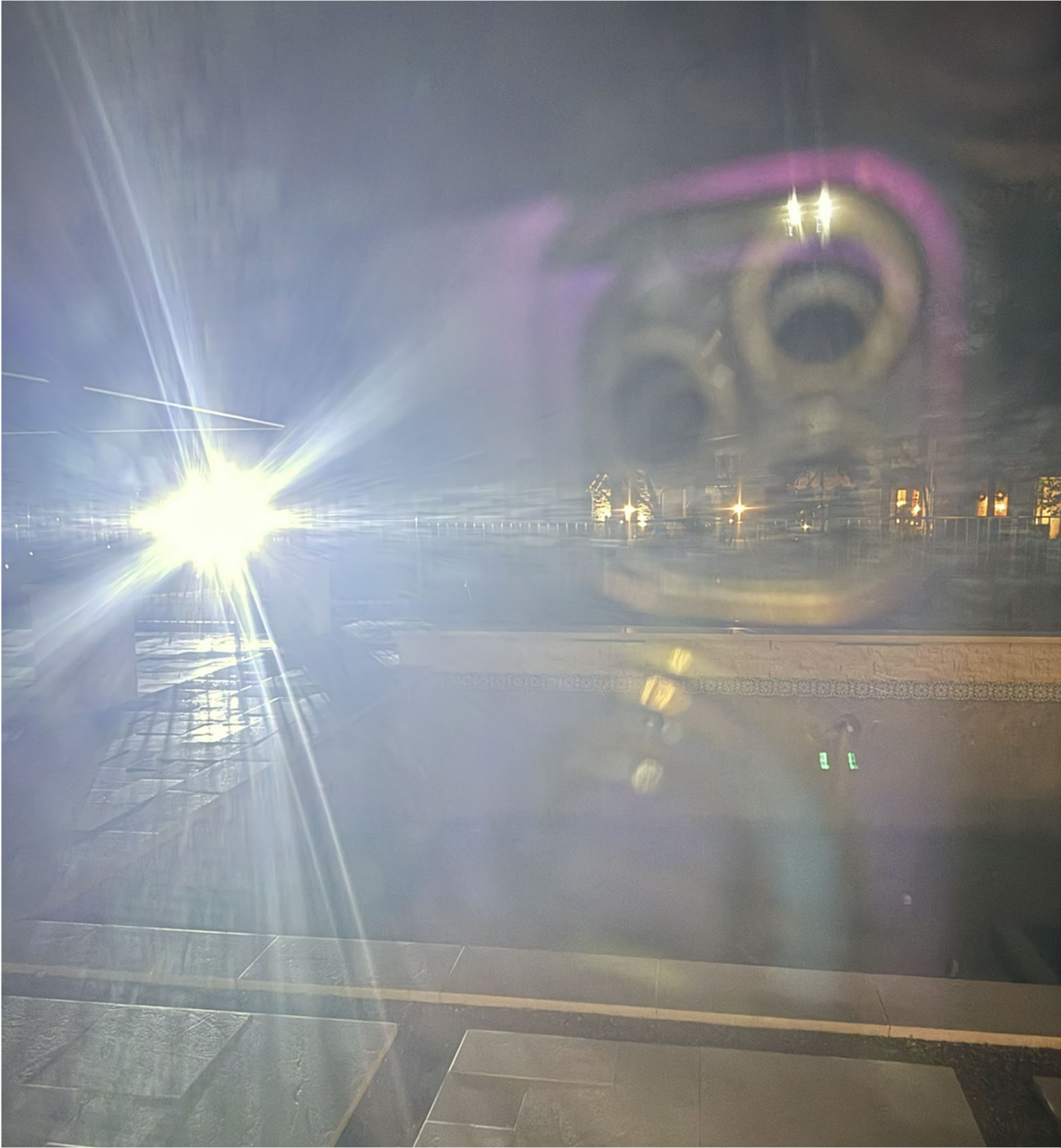


Alice Presti

711 Oak Glen Circle
Fairview, TX 75069

Attachment: Fence Plan (Sheet A1), dated April 15, 2026, prepared by Keane Landscaping, Inc.

**VIEW FROM INSIDE OF HOUSE LOOKING TOWARDS
MEANDERING WAY**



**VIEW FROM BACKYWARD LOOKING TOWARDS
MEANDERING WAY**

