



AGENDA REQUEST
City of Bunker Hill Village
Zoning Board of Adjustment

Agenda Date:	October 18, 2023
Agenda Item:	VII - VIII
Subject:	Variance Request
Exhibits:	Application Packet & Proposed Plans
Funding:	N/A
Presenter(s):	Elvin Hernandez, Director of Public Works

Executive Summary

The City has received a project submittal for a fence at 421 Blalock. The proposed fence is ten (10') feet in height and located on the west side of the property. City Ordinance requires that a fence not exceed eight (8') feet in height.

§ 7.10. Fences and walls.

Except as otherwise specifically permitted herein, no fence or wall shall be erected or constructed in the required front yard of a lot. Fences and freestanding fence-type walls, not to exceed eight (8) feet in height, may be erected or constructed in or along any required side yard or rear yard of a lot. All fences and fence-type walls shall be kept in good repair and maintained so as to comply with the provisions of this ordinance. A fence or wall may be erected within a required front yard of a corner lot along the exterior lot line adjacent to the side street if same is located at the entrance to a subdivision and if such wall or fence does not exceed three (3) feet in height.

Recommended Action

Staff recommends the Board take the following actions:

1. Hold a public hearing
2. Discuss and take action regarding the variance request



CITY OF BUNKER HILL VILLAGE
APPLICATION FOR
BOARD OF ADJUSTMENT REQUEST

Owner's Name: Shane Cupic Phone: 832.431.8380

Mailing Address: 1763 Campbell Rd. Zip: Houston, TX 77080

Property Address (If Different): 421 Blalock Rd (to be 11619 Greenbay)

Action Requested: Variance Appeal Special Exceptions Zoning District (A) B


Project Description and Request: On behalf of the 14 members of the Deed restricted community of the above address, we are requesting a fence height of 10ft on the west side of the property to keep the neighbors safe from exposure from Blalock.

Section of Code at Issue: 7.10 Fences and Walls

Attachments as applicable:

- Site Plan
- Letter of Permit Denial
- Any Additional Information

A fee of \$300.00 is required for processing

Signature of Applicant: 

Date: 9/7/23



THE BOARD OF ADJUSTMENT of THE CITY OF BUNKER HILL VILLAGE

Function Of The Board Of Adjustment

The City of Bunker Hill Village Board of Adjustment is a legally created entity, which enables you, under very limited circumstances, to seek relief from decisions of the City Building Official, or the application of the Zoning Ordinance to you or your property.

Board Members do not have jurisdiction or authority to change existing Ordinances in any way. That responsibility rests solely with the Bunker Hill Village City Council. While the Board's jurisdiction includes the authority to grant variances from the City's Zoning Ordinance, that authority is extremely limited. Current law prohibits the Board from granting a variance unless they find, by a seventy-five percent (75%) majority vote of the five-member Board, that the variance requested is necessary to prevent "undue hardship." Absent this determination, the Board has no legal authority to grant a variance.

To prove "undue hardship," A PROPERTY OWNER MUST SHOW THAT ENFORCEMENT OF THE ORDINANCE WOULD DESTROY ANY REASONABLE USE OF HIS PROPERTY. A variance is not authorized to accommodate the highest and best use of property, or to allow deviations for the convenience of a property owner, but to grant relief where strict application of the Zoning Ordinance does not permit ANY REASONABLE USE of the applicant's property.

The granting of a variance without "undue hardship" is tantamount to the Board amending the City's zoning regulations for the benefit or convenience of one individual, to the exclusion of others. This is discriminatory against the citizens who comply with the regulation.

The Board is made up of five regular members. There are four alternate members, who are available to serve in the absence of a regular member. One member serves as Chairman of the Board and presides over the meetings. All are Bunker Hill residents and property owners with varied backgrounds. They are appointed by the City Council and volunteer their time and efforts to apply our Zoning Ordinances in a fair and impartial manner.

It is important for you to understand that the Board of Adjustment cannot approve an application simply because the Board's members may personally like the goal pursued by the applicant, or may personally question the wisdom of the Building Official's decision being reviewed or the particular zoning regulation in question.

Role of Our Building Official:

The key person you deal with in your activities related to our Zoning Ordinance is our Building Official. He is appointed by the City Council and charged with the duty of issuing permits and certificates of occupancy, and he carries the primary responsibility of enforcing our zoning code in the manner in which it has been enacted by the City Council. He is well experienced in these matters, both from a technical and community relations' viewpoint. In carrying out his duties, he has available to him the services of our Legal Counsel and other City Officials.

When To Request A Board Of Adjustment Hearing:

You can request the Board of Adjustment to receive your application and conduct a hearing in one or the other of three areas:

- (1) You can request the Board to consider your appeal wherein you allege our Building Official has made an error in an order, requirement, decision or determination in enforcement of our Zoning Ordinances. For example, if you believe our Building Official has wrongfully denied you a permit or wrongfully decided you have violated the Zoning Ordinance because he incorrectly interpreted the requirements of the Ordinance, then you can appeal this alleged error to the Board;
- (2) You can request the Board to consider your request for a special exception to the terms of the Zoning Ordinance, but this consideration can only be made in those few instances when the Ordinance requires the Board to do so; or
- (3) You can request the Board to consider your particular case and authorize a variance from the terms of the Zoning Ordinance. As part of your request you must show that:
 - (a) The variance will not be contrary to the public interest of the other citizens of Bunker Hill;
 - (b) Due to your special conditions peculiar to your particular property, a literal enforcement of the Ordinance would cause you an unnecessary hardship; and
 - (c) The spirit of the Ordinance will still be observed and substantial justice will be done if your variance is granted.

In considering an application for a variance, the most critical question to be asked is whether or not you will be deprived of any reasonable use of your property if the variance is not granted. If the answer is no, you are not entitled to a variance. Keep in mind when making your application that your personal choice, your preferred construction plan, a more pleasing construction project, or cheaper construction costs are not considered unnecessary hardships. The Board is without legal authority to grant a variance unless there is a showing of an “unnecessary hardship”. There are very clear court cases, which have set precedence that unless you can show an unnecessary hardship, you are not entitled to the relief you request.

Procedure For Requesting A Board Of Adjustment Hearing:

First, thoroughly discuss the matter with our Building Official, and try every way possible to work things out at this level.

If you cannot work things out, prepare and submit the completed Application for a Board of Adjustment Hearing, which is attached. It must include:

- (1) A thorough site plan, drawn to scale, showing the dimensions of your lot and the location and dimensions of all your existing and proposed lot improvements. If applicable, include the proposed floor plans and elevations.

- (2) If applicable, a copy of the City of Bunker Hill Building Official's letter of denial.
- (3) If applicable, your statement of acts and reasons to your proposal as to why a literal application of the code should not be applied and how the standards which govern the Board's actions, would be satisfied. If requesting a variance, you should thoroughly address how application of the Code will specifically impose an unnecessary hardship on you.
- (4) Add anything else you might think will enhance your application in the way of additional narrative information; drawings, photographs or other details, which can better inform the Board about the exact nature of your request.
- (5) If you intend for an agent to speak on your behalf, include with your application a notarized letter of designation of your agent.
- (6) After all of this material has been accumulated and the application completed, ten (10) copies of this material must be submitted to our City Secretary no later than fifteen (15) days after you were notified of the decision of our Building Official. The City Secretary will arrange for the copies of your application to be distributed to all the proper parties.

The Hearing:

After the administrative procedures have been completed and proper notice has been given to all affected parties, your hearing will be conducted at a designated date and time at City Hall. The hearing will be open to the public and conducted in a respectful, non-adversarial manner, in a way which is intended to allow you to present your best case. Neither questioning nor arguments between individuals appearing before the Board will be permitted. At the hearing, the Chairman will preside and:

- (1) All interested parties appearing before the Board will be sworn;
- (2) To support your application, you will be called upon, under oath, to present your case and all relative material;
- (3) Any other people who support your application will be given an opportunity to speak under oath in favor of your application;
- (4) Anyone who opposes your application will be given an opportunity to speak or present material. They will also be under oath;
- (5) You can rebut any opposing statements or add to what you have previously presented;
- (6) Members of the Board may question you or any of the people who speak for or against your application;
- (7) The Chairman will solicit comments or questions among the Board members, the Building Official, the Board's Legal Counsel, or anyone else who might be appropriate.

Ruling Of The Board:

After your appeal has been presented and after proper deliberation among the Board's members, they will make a ruling on your application. Law requires the approval of four of the five Board members; a simple majority is not sufficient. There are four options available to the Board.

- (1) Grant the relief you have requested in your application.
- (2) Grant the relief you have requested upon satisfaction of whatever conditions might be imposed by the Board.
- (3) Deny the relief you have requested, but grant some sort of modification of the relief requested.
- (4) Deny the relief you have requested.

Action After The Hearing:

Any approval granted by the Board will expire ninety (90) days after the date of the Board's decision unless proper permits and approvals have been obtained from our Building Official, or unless more time has been requested in your application, which was approved by the Board. If you need additional time, you should promptly contact our Building Official.

If the Board has made a ruling which you choose not to accept and you want to proceed to formal court action, you must present to a court of record a verified petition which states that the decision of the Board is illegal in whole or in part and specify the grounds of the illegality. The petition must be presented within ten (10) days after the date the decision is filed by the Board. The matter is then under the Court's jurisdiction and will proceed accordingly.

Additional Assistance:

If you need any additional explanation or assistance in this matter, you are welcome to contact our Building Official or the other personnel at City Hall, who will help you in every way possible.

§ 7.10. - Fences and walls.

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(Ord. No. 92-130, § 11, 12-15-92)

PROBSTFELD & ASSOCIATES

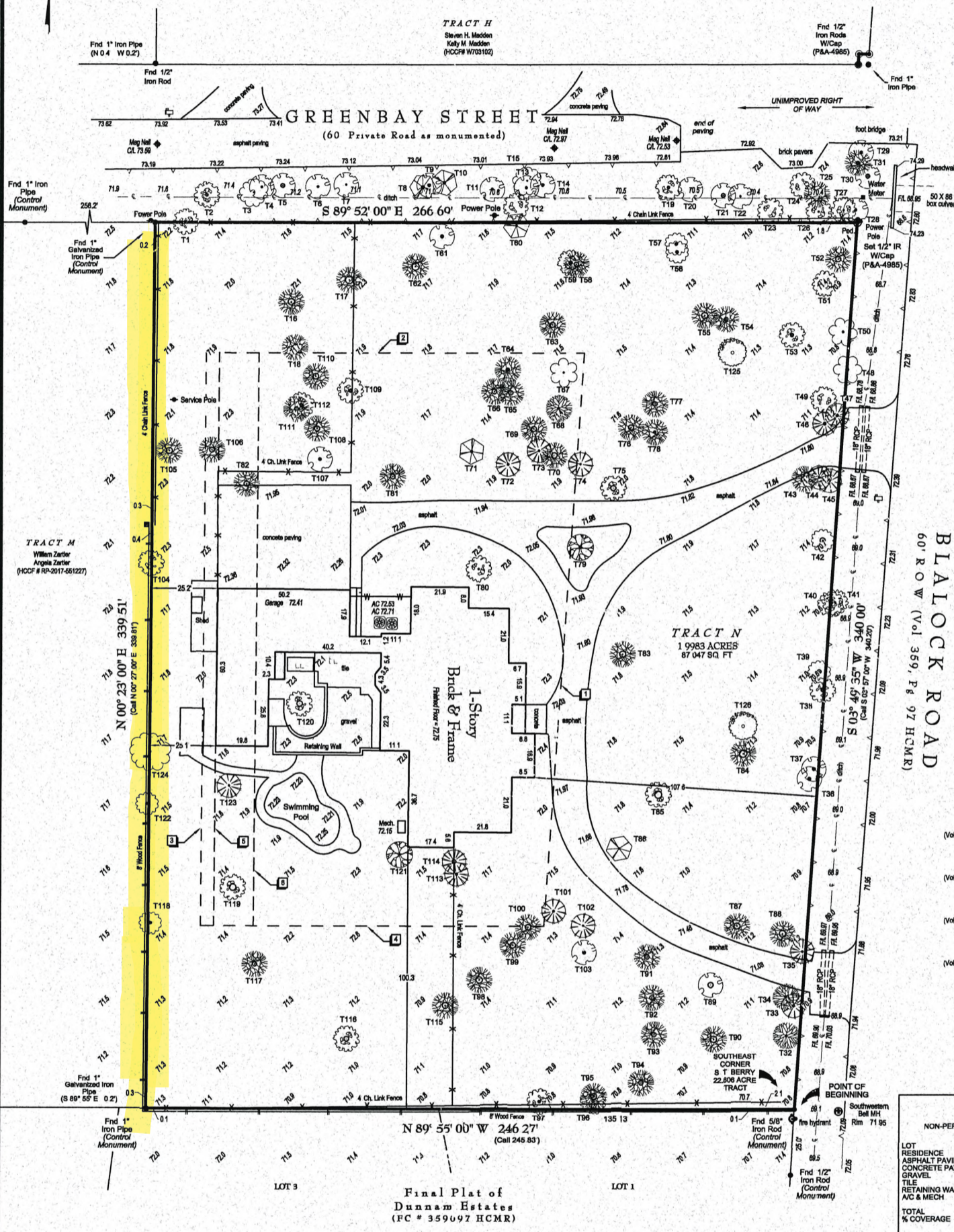
PROFESSIONAL LAND SURVEYORS

515 PARK GROVE DRIVE, SUITE 102 ▲ KATY, TEXAS 77450 ▲ (281) 829-0034 ▲ FAX (281) 829 0233

JOHN D TAYLOR
SURVEY
ABSTRACT 72
Harris County Texas

TRACT H
Steven H. Madden
Kathy M. Madden
(HCCF# W703102)

Find 1/2" Iron Rod
W/Cap
(P&A-4985)



Tree #	Common Name	Trunk Diameter	Canopy Radius
T1	Oak Tree	10"	20'
T2	Oak Tree	12"	25'
T3	Hackberry Tree	6"	15'
T4	Elm Tree	8"	25'
T5	Elm Tree	16"	25'
T6	Elm Tree	8"	15'
T7	Elm Tree	6"	20'
T8	Holly Tree	14"	20'
T9	Elm Tree	12"	25'
T10	Holly Tree	12"	20'
T11	Elm Tree	10"	20'
T12	Oak Tree	4"	15'
T13	Elm Tree	10"	15'
T14	Elm Tree	12"	20'
T15	Hackberry Tree	4"	20'
T16	Pine Tree	30"	25'
T17	Pine Tree	36"	25'
T18	Pine Tree	24"	25'
T19	Oak Tree	12"	20'
T20	Oak Tree	14"	25'
T21	Elm Tree	16"	15'
T22	Elm Tree	8"	15'
T23	Oak Tree	4"	10'
T24	Oak Tree	4"	20'
T25	Pine Tree	6"	15'
T26	Oak Tree	6"	15'
T27	Oak Tree	6"	15'
T28	Elm Tree	10"	15'
T29	Elm Tree	12"	20'
T30	Pine Tree	24"	25'
T31	Elm Tree	16"	25'
T32	Tee	8"	15'
T33	Crape Myrtle	10"	15'
T34	Tree	8"	15'
T35	Crape Myrtle	8"	10'
T36	Oak Tree	12"	20'
T37	Elm Tree	14"	25'
T38	Oak Tree	14"	20'
T39	Ash Tree	16"	20'
T40	Oak Tree	8"	10'
T41	Oak Tree	8"	10'
T42	Ash Tree	24"	30'
T43	Pine Tree	28"	30'
T44	Crape Myrtle	6"	10'
T45	Crape Myrtle	6"	10'
T46	Crape Myrtle	12"	10'
T47	Crape Myrtle	12"	10'
T48	Tallow Tree	12"	20'
T49	Oak Tree	6"	10'
T50	Tallow Tree	8"	20'
T51	Oak Tree	8"	15'
T52	Pine Tree	24"	30'
T53	Oak Tree	16"	20'
T54	Pine Tree	24"	30'
T55	Pine Tree	28"	25'
T56	Ash Tree	12"	30'
T57	Ash Tree	12"	30'
T58	Pine Tree	20"	20'
T59	Oak Tree	16"	30'
T60	Holly Tree	8"	15'
T61	Elm Tree	14"	20'
T62	Pine Tree	34"	30'
T63	Pine Tree	24"	25'
T64	Pine Tree	16"	20'
T65	Pine Tree	20"	20'
T66	Pine Tree	20"	20'
T67	Tallow Tree	6"	15'
T68	Tree	10"	10'
T69	Pine Tree	24"	25'
T70	Pine Tree	26"	25'
T71	Holly Tree	10"	20'
T72	Crape Myrtle	8"	15'
T73	Crape Myrtle	8"	10'
T74	Crape Myrtle	6"	10'
T75	Oak Tree	24"	10'
T76	Pine Tree	24"	25'
T77	Pine Tree	20"	20'
T78	Pine Tree	12"	25'
T79	Magnolia Tree	12"	10'
T80	Oak Tree	6"	15'
T81	Pine Tree	22"	25'
T82	Pine Tree	24"	20'
T83	Pine Tree	28"	25'
T84	Pine Tree	28"	25'
T85	Oak Tree	32"	40'
T86	Holly Tree	6"	15'
T87	Pine Tree	26"	25'
T88	Pine Tree	30"	30'
T89	Sweetgum Tree	24"	30'
T90	Pine Tree	28"	25'
T91	Pine Tree	20"	20'
T92	Pine Tree	20"	20'
T93	Pine Tree	20"	20'
T94	Pine Tree	20"	20'
T95	Pine Tree	28"	25'
T96	Oak Tree	12"	25'
T97	Oak Tree	12"	25'
T98	Pine Tree	30"	30'
T99	Pine Tree	26"	25'
T100	Pine Tree	26"	30'
T101	Crape Myrtle	8"	10'
T102	Crape Myrtle	6"	10'
T103	Elm Tree	14"	25'
T104	Oak Tree	6"	15'
T105	Pine Tree	28"	30'
T106	Pine Tree	22"	25'
T107	Elm Tree	12"	15'
T108	Pine Tree	24"	25'
T109	Oak Tree	16"	25'
T110	Pine Tree	26"	20'
T111	Pine Tree	16"	20'
T112	Oak Tree	14"	25'
T113	Crape Myrtle	10"	10'
T114	Crape Myrtle	6"	10'
T115	Pine Tree	28"	30'
T116	Oak Tree	22"	30'
T117	Pine Tree	20"	20'
T118	Ash Tree	12"	23.0'
T119	Oak Tree	30"	30'
T120	Oak Tree	28"	40'
T121	Magnolia Tree	6"	10'
T122	Ash Tree	10"	20'
T123	Crape Myrtle	6"	10'
T124	Hackberry Tree	10"	20'
T125	Cypress Tree	12"	15'
T 26	Cypress Tree	10"	10'

BLALOCK ROAD
60' ROW (Vol. 359, P. 97 HCMR)

- 1 100' Setback Line (Vol. 2892, Pg. 856 HCDR) (HCCF # J839462)
- 2 50' Setback Line (Vol. 2892, Pg. 858 HCDR) (HCCF # J839462)
- 3 20' Setback Line (Vol. 2892, Pg. 858 HCDR) (HCCF # J839462)
- 4 70' Setback Line (Vol. 2892, Pg. 858 HCDR) (HCCF # J839462)
- 5 25' Rear Yard (Dist. A - Act. V)
- 6 40' Rear Yard (Dist. A - Act. V)

APPROXIMATE LOT COVERAGE AREAS (5/10/2022)	
NON-PERMEABLE LOT COVERAGE	PERMEABLE LOT COVERAGE
LOT RESIDENCE 8' 047 SQ. FT.	LOT SWIMMING POOL 67 047 SQ. FT.
ASPHALT PAVING 8 449 SQ. FT.	TOTAL 444 53 FT.
CONCRETE PAVING 3 392 SQ. FT.	% COVERAGE (0.005) or 1%
GRAVEL 551 SQ. FT.	
TILE 511 SQ. FT.	
RETAINING WALL 67 SQ. FT.	
AC & MECH 31 SQ. FT.	
TOTAL 16 100 SQ. FT. (0.184) or 18%	TOTAL COVERAGE 87 047 SQ. FT. 16 100 SQ. FT. 444 53 FT.
% COVERAGE	TOTAL % COVERAGE 16 544 SQ. FT. (0.190) or 19%

PLAT OF PROPERTY
FOR **SHANE CUPIC**
AT **421 BLALOCK ROAD • BUNKER HILL VILLAGE, TX**
L.G.L. **A TRACT OR PARCEL OF LAND CONTAINING 1.9983 ACRES, (87,047 SQ. FT.) LOCATED IN THE JOHN D. TAYLOR SURVEY, ABSTRACT 72, HARRIS COUNTY, TEXAS, AND BEING OUT OF AND A PART OF THE S. T. BERRY 22,806 ACRE SUBDIVISION (UNRECORDED) OF THAT CERTAIN 50 ACRE TRACT OF LAND CONVEYED TO S. T. BERRY AS RECORDED IN VOLUME 589, PAGE 282 OF THE DEED RECORDS OF HARRIS COUNTY, TEXAS. (metes & bounds attached)**
SCALE **N.T.S.**
DATE **5/10/2022** REVISED DATE _____
This Property DOES NOT Lie within the designated 100 year Floodplain.
PANEL NO **48201C 0645 L**
ZONE **X** EFF DATE **06/18/2007**
BASE FLOOD ELEVATION **N/A**
LOCATED BY GRAPHIC PLOTTING ONLY AND NOT RESPONSIBLE FOR ACTUAL DETERMINATION
THIS SURVEY WAS PERFORMED IN ACCORDANCE WITH TITLE COMMITMENT PROVIDED BY OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY
GF# **22002782 (04/12/2022)**

NOTES:
1 Elevations shown based on City of Bunker Hill Village Benchmark No. 2 Elevation = 73.40 NAVD88 (2001 adjustment)
2 Fences do not follow boundary lines as shown above
3 Lot subject to any and all zoning ordinances or proposed zoning ordinances including those by the City of Bunker Hill Village, Texas. Rear yards shown above as set forth per Article V - District A Regulations. A one-story main building shall not exceed 25 feet in height; a multiple story main building shall not exceed 35 feet in height. Chimneys may extend a maximum of 5 feet above the roofline. The impermeable building area shall not exceed 45 percent of the area of the lot. Impermeable building area shall include portions of a lot which are covered with buildings or structures including, but not limited to, building foundations, driveways, sidewalks, walkways, sundecks, patios, tennis courts or other impervious surfaces. The water surface of a swimming pool shall be considered a permeable surface. The maximum lot coverage calculation shall not exceed 55 percent of the area of the lot. This shall include both impermeable and permeable surfaces. Additional conditions for accessory structures, sports courts, generators, swimming pools, fences, etc. are not shown and should be verified prior to any planning or construction.
4 The S. T. Berry 22,806 acre tract is a deed restricted community. Front side and rear setback lines shown as set forth and described under Volume 2892, Page 658 of the Deed Records of Harris County, Texas, and also under Harris County Clerk's File No. J839462. Deed restrictions may change from time to time. It is the responsibility of the property owner to determine the deed restriction status of their property and to comply with all requirements prior to any planning or construction. Written approval by the Architectural Control Committee may be required.
5 Surveyor has not abstracted this property. This survey has been prepared based upon information provided by the title company. No independent investigation of the accuracy of the title company's work has been performed by the surveyor. Zoning ordinances and zoning building setback lines (if any) are not shown. Surveyor has not reviewed restrictive covenants as set forth under Exceptions From Coverage in Schedule B of the Title Commitment.
6 All bearings are based on the West right of way line of Blalock Street. (S 03° 49' 35" W)

I hereby certify that the above plat correctly represents the facts found at the time of the survey made on the ground, under my supervision and there are no apparent encroachments at the time of this survey, unless shown or noted otherwise.

MATHEW J PROBSTFELD
Registered Professional Land Surveyor
State of Texas No. 4985
PROBSTFELD & ASSOCIATES, INC. • FIRM #10068100

JOB # **2334 036** DRAWN BY **RK DL**

THIS SURVEY IS THE PROPERTY OF PROBSTFELD & ASSOCIATES, INC., IS CERTIFIED FOR THIS TRANSACTION ONLY, AND IS NOT TRANSFERABLE TO ADDITIONAL INSTITUTIONS OR OWNERS.

City of
BUNKER HILL VILLAGE
WWW.BUNKERHILLTX.GOV

October 4, 2023

Dear Resident:

This letter serves as notice to adjacent residents for the following public hearing:

Notice of Public Hearing

The Zoning Board of Adjustment of the City of Bunker Hill Village, Texas will hold a public hearing in the Council Chambers and online via ZOOM, Bunker Hill Village City Hall, 11977 Memorial Drive, Houston, Texas at 5:00 p.m. on Wednesday, October 18, 2023 to consider the following:

**AN APPLICATION FROM SHANE CUPIC REQUESTING A VARIANCE TO APPENDIX
A, SECTION 7.10 FENCES AND WALLS
FOR 421 BLALOCK**

The application and materials may be examined on the City's website at www.bunkerhilltx.gov and in the office of the Director of Public Works, 11977 Memorial Drive, during normal business hours between the hours of 7:00 a.m. to 12:00 p.m. and 1:00 p.m. to 4:30 p.m. Monday through Thursday and 7:00 a.m. to 12:00 p.m. on Friday excluding City Holidays.

At said hearing all interested parties shall have the right and opportunity to appear and be heard on the subject. Instructions to provide public comments via ZOOM are included on the City's Website at www.bunkerhilltx.gov.

Sincerely,

Gerardo Barrera, City Administrator/ Acting City Secretary

This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive service must be made 48 hours prior to this meeting. Please contact the City Secretary's office at 713-467-9762 for further information.

