# ZONING BOARD OF ADJUSTMENT STAFF REPORT 

January 22, 2024
ZBA-04-24

## GENERAL INFORMATION

Property Owner (X) Petitioner (X)
Josh Dugat

## Requested Action and Purpose

Petition for a special exception from the fence and wall regulations to construct a fence

Location and Existing Zoning
3507 8th Street. Zoned R-3. (Council District 1)

Size and Existing Land Use
Approximately 0.32 acres, Single-family Residential

## Surrounding Land Use and Zoning

North: Single Family Residential, R-3
East: Vacant land, R-3
South: Single Family Residential, R-3
West: Single Family Residential, R-3

## Applicable Regulations

Sec. 24-102. - Fences and walls.

In Business and Industrial Districts, no wall or fence shall exceed a height of ten (10) feet, and in Residence Districts, no wall or fence shall exceed a height of eight (8) feet. No fence or wall in any district shall project into the unobstructed space required at an intersection by section 24-101. In a required front yard, no wall or fence shall be permitted except an open fence, such as chainlink, wrought iron, and picket fences, with no less than fifty (50) per cent of the fence area left unobstructed by opaque materials. No part of a fence in a required front yard shall be within ten (10) feet of the curbline, nor shall it be on the public right-of-way. In a residence district, no fence in a required front yard shall exceed four (4) feet in height. The zoning board of adjustment, as a special exception, may approve exceptions to any of the standards specified in this section upon a finding that the proposed exceptions are desirable from the standpoint of privacy and/or security, will not injure neighborhood appearance or character, and will not pose a traffic hazard.

## SUMMARY

The petitioner is requesting a special exception from the fence and wall regulations to construct an eight-foot wood fence along their property line. The fence will extend past the front façade of the house and into the required front yard. However, the fence is at least ten feet from the curbline. Per the petitioner, a "significant hedge formed a barrier along the entire eastern side" of their property from the time of purchase until a few months ago. The petitioner is requesting to install the fence along the property line to "regain some semblance" of their "prior privacy and security". The petitioner also states the fence will also prevent trash from blowing into their yard; an issue they have recently encountered since the hedge was removed.

Office of Urban Development, Planning Division: No comment

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January 22, 2024
Office of Urban Development, Codes and Development Services Division: No violations found or complaints received

Office of Urban Development, Building and Inspections Division: No comment Infrastructure and Public Services, Engineering Division: No comment

Tuscaloosa Fire and Rescue Service: No comment

# Please complete all of the following required fields: <br> Location of Petitioned Property 

Address: 3507 8th St

Property Owner
Name: Josh Dugat
Phone: (512) 771-7498
Address: 3507 8th St

Name: $\qquad$
Petitioner (if different from owner)
Phone: $\qquad$ Email: Zip Code:

The Petitioner requests the following item(s) from the Zoning Board of Adjustment:
A special exception is a conditional use which the zoning ordinance expressly permits under conditions specified in the zoning ordinance. A variance is a deviation from the regulations in the zoning ordinance which requires proof of an unnecessary hardship. An appeal is a formal challenge of the zoning officer's ruling.

| Special Exception | $\square$ Use Variance | $\square$ Variance |
| :--- | :--- | :--- |
| Commercial ........ $\$ 200.00$ per lot | Commercial ....... $\$ 200.00$ per lot | Commercial ........ $\$ 200.00$ per lot |
| Residential .......... $\$ 50.00$ per lot | Residential ......... $\$ 50.00$ per lot | Residential .......... $\$ 50.00$ per lot |

$\square$ Appeal Zoning Officer's ruling $\qquad$ $\$ 10.00$ per lot

Provide a detailed description of the proposed request. Include any related information, such as the history of the property in relation to the proposed use, number of parking spaces, hours of operation, number of employees, etc.

Please see the attached six pages for a description of our request (a special exception to
Ord. No. 1754, § 35-82, 10-3-72, as stated in Sec. 24-102). Four photos are included. Thank you for your
consideration and assistance as we seek a privacy fence to re-establish our family's security. I am happy
to provide additional information.
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## Answer the following for Variance/Use Variance requests ONLY:

When a variance is at issue, the primary consideration is whether a literal enforcement of a zoning ordinance will result in an unnecessary hardship. Circumstances that are not hardships include self-inflicted or self-created, inconvenient, financial or personal. The petitioner must specifically state a hardship for the variance.

Explain in detail any special circumstances or conditions that are particular to the property or buildings where a strict application of the ordinance would deprive the applicant of the reasonable use of such property or building.

Explain in detail how the granting of the variance/use variance would be in harmony with the character of the surrounding area and why it would not be detrimental to the neighborhood.
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$\qquad$

## Important Items to Note:

- For all variance requests pertaining to a dimensional requirement of the site (setbacks, height, etc.), a scaled site plan and/or building elevation produced by a registered land surveyor, professional engineer, or architect is required to be submitted alone with this application.
- A filing fee related to the specific request (reference page one of this petition) is required to be submitted along with this petition. Check is preferred, but an invoice can be sent upon request.
- In-person attendance at the ZBA meeting is mandatory for the petitioner.
- Any request which will not be represented by the property owner at the public hearing must be accompanied by a notarized designation of agent affidavit.


## Certification of Applicant

I certify that the foregoing facts, to the best of my knowledge, are true and correct and that except for the exception, variance, or appeal requested in this petition, the proposed construction and use complies with all requirements for the zoning district in which the property is located. I also acknowledge that if the Board determines that any of the foregoing information is not accurate, my petition may be denied because it contained false or otherwise incorrect information. I recognize the city will send public notification and place a sign on the property with information for the public. This Petition will not be accepted until all required information is provided.

Print Name:
 Signature:
 Date: $\qquad$
$12 / 23$

## Dear Members of the Zoning Board of Adjustment,

I am writing to seek a privacy and security related special exception to Ord. No. 1754, § 35-82, 10-3-72, as stated in Sec. 24-102 ("Fences and walls"). My family and I live at 3507 8th St, Tuscaloosa, 35401, a home we purchased in summer of 2020 . From the time of purchase until October, 2023, a significant hedge formed a barrier along the entire eastern side of our property. This hedge was in place well before our ownership of the home, dating back at least 20 years. The vegetation was up to four feet thick and approximately fifteen feet in height, forming a formidable privacy and security barrier between our yard and the adjacent property, a gravel parking lot with a garbage dumpster owned by The Phoenix House of Tuscaloosa. Such a barrier has been important to our family's privacy, safety, and wellbeing. In summer 2023, two separate armed robberies occurred within our block. I have been in communication with city officials regarding gunfire in our neighborhood. The hedge provided a barrier between our home and the parking lot, which regularly sees garbage - including beer cans, liquor bottles and broken glass - accumulating adjacent to our property line. On Sundays, the parking lot is filled with cars that back up to our yard. The dumpster is visited at night and very early morning hours. We have two small children, ages one and four, that had felt safe playing in our yard, protected from the trash and vehicles, the noise and passersby, thanks to the tall, opaque boundary that the hedge used to create.

In October, 2023, The Phoenix House removed the hedge barrier between our home and the parking lot with the garbage dumpster, leveling the hedge to the ground, up to and along our property line. We sought to obtain an 8 foot privacy fence along the eastern side of our property in order to regain some semblance of our prior privacy and security. Upon application for a permit to install the fence, we learned of the ordinance stipulating that open fences, four feet in height are mandated along front yards. We are requesting a special exception to this code, so that an 8 ft privacy fence can be installed along our eastern property line, in the place where the privacy hedge previously stood. It is our understanding that such exceptions may be granted if "desirable from the standpoint of privacy and/or security," and so long as the fence "will not injure neighborhood appearance or character, and will not pose a traffic hazard". An 8 ft fence extending to the front of our property line would be shorter than the previous hedge barrier that existed until mid-October, and would be replacing a previously existing barrier (the hedge). The fence would be wood, and professionally installed, matching the style we plan to erect along the remaining eastern property boundary and southeast corner. The portion for which we are submitting this special exemption request will prevent garbage from blowing into our yard, which is now a regular occurrence. It will return privacy to our family by reestablishing an opaque boundary between our home and a parking lot in full public
view. It will meaningfully impact the safety of our children who play on our porch and in our yard.

We are committed to holistically improving the safety of our community, and are active participants in neighborhood meetings and city collaborations to make sure our surrounding area is a positive place for children and families. We have an acute need to regain security and privacy in our residence by reestablishing a barrier along the eastern perimeter of our home and yard, including the required front yard to which this special exception request applies. I am submitting four photos to accompany this special exception request.

We thank you for your consideration of our family's safety and wellbeing. Please reach out to me with any questions.

With gratitude,


Josh Dugat
3507 8th Street, Tuscaloosa, AL 35401
josh.dugat@gmail.com
(512) 771-7498

This image (taken Dec. 12, after the removal of the hedge) from the sidewalk looks southwest, through the corner of the Phoenix House parking lot into our front yard. Before the removal of the hedge, this was a 15 foot tall, 4 foot wide opaque hedge, which shielded our home and yard from the parking lot. As can be seen below, the barrier no longer exists, leaving our home and yard open to the parking lot.


The following images indicate the extent of the privacy created by the previous hedge.

This image was taken from our front yard looking east, before the hedge was removed. The flagging indicates the property line.


This image is taken in the same approximate location on December 12, after the removal of the hedge (the crepe myrtle in the upper right of the previous image is that which is featured prominently in the image below). This is our front yard, which is now exposed to the Phoenix House parking lot. The previous hedge had created a formidable, green barrier here between our yard and the parking lot.


This image was taken from the sidewalk on the north side of our property, before the hedge was removed. The flagging indicates the property line.


## 3507 8th Street














[^0]:    PIEASE SUBMIT AN ELECTRONIC COPY OF THIS APPLICATION AND ANY NECESSARY SUPPORTING MATERIALS TO:
    Office of Urban Development:
    Planning Division
    2201 University Boulevard, Annex III Tuscaloosa, AL 35401

    Email: zba@tuscaloosa.com

