

STAFF REPORT



Meeting: April 6, 2015

To: Planning Commission

From: Patrick B. Howard, AICP
Director

Through: Rebeca A. Guerra, AICP, LEED-AP, CPD
Planning Manager

Staff Planner: Edward Vigil
Senior Planner

Case: ZBA15-05

Request: A request for approval of a Variance from Section 401(1) of the Zoning Ordinance to allow for a detached, accessory apartment in the Two-Family Residential (RS-2) District to be 1,300 square feet in size, in lieu of 900 square feet on the following property:

Location: 204 N. Washington Street

Legal

Description: Lot 7, Block 55, in the San Angelo Heights Addition

General Information

Zoning:	Two-Family Residential (RS-2)
Existing Land Use:	Existing single-family detached residence

Future Land Use: Neighborhood

Surrounding Zoning/Land Use:

North:	Two-Family Residential (RS-2)	Single-family detached residences
West:	Two-Family Residential (RS-2)	Single-family detached residences
South:	Two-Family Residential (RS-2)	Single-family detached residence
East:	Two-Family Residential (RS-2)	Single-family detached residences

District: CMD # 5 Elizabeth Grindstaff

Neighborhood: Central Neighborhood

Notification Required: Yes

Notifications Sent: 24

Responses in Favor: 0

Responses in Opposition: 0

Recommendation:

The Planning Division recommends APPROVAL of this request.

History and Background:

The property has been located within the City’s boundaries since at least 1940, and is zoned Two-family (RS-2) Residential District. This zoning district allows for up to two family dwellings on one lot. The existing single family home, a detached single story accessory apartment, and an attached carport were constructed in 1958. The accessory apartment and attached carport are located behind the existing single

family home on the same lot, and have access both from an alley and from Rio Grande Street. The existing accessory apartment and attached carport total 688 square feet.

On February 23, 2015, the applicant submitted an application for a Variance from Section 401(1) of the Zoning Ordinance to allow for a detached, accessory apartment to be 1,300 square feet in size. The Zoning Ordinance allows for accessory apartments to be constructed up to 900 square feet in size. The property owners plan to remodel the accessory apartment and attached carport by converting the carport into a living room and adding a second floor. The purpose of this request is to allow the applicants' aging and ill parents to relocate into the existing single family home with a live-in family member to provide 24 hour care. The owners of the property will then move into the new two story accessory apartment. They are proposing to repair the existing structure and add an additional 612 square feet, creating a two-story accessory apartment with a gross floor area of 1,300 square feet.

Section 401(1) of the Zoning Ordinance states, "The accessory apartment shall be clearly subordinate to the primary dwelling unit and an accessory apartment shall contain less than 900 square feet in total floor area. The accessory apartment shall comprise less than 50% of the total enclosed square footage of the primary structure."

The existing single family home is 1,320 square feet in size. By this rule, the accessory apartment could only be 660 square feet. The applicants' parents are aging, the dad is disabled, and the mother is battling cancer. The applicants feel that 660 square feet of living space is not adequate for a three member family to live in. The applicants would like to enclose the existing attached carport and add a second floor so that it may accommodate two bedrooms instead of only one, and create two bathrooms, a kitchen, and a living room. Again, the applicants feel this is the minimum amount of space they will need for themselves and their family.

With the existing single family home and the proposed two-story accessory apartment, the lot will have a total floor area of 2,620 square feet. The Zoning Ordinance allows two family uses to have a floor area ratio of 50% of the total lot size. This existing lot is 8,395 square feet. This would allow for 4,197 square feet of gross floor area on this particular lot. The applicant is asking for a combined 2,620 square feet of gross floor area which is 32% of the allowable 50%. Section 803 (C) (3) of the Zoning Ordinance defines FAR as: "the gross floor area of the building divided by the total area of the lot on which it is constructed or proposed." The applicant would be under the 50% requirement for Gross Floor Area for this specific lot. The applicants' proposal appears to comply with all other provisions of the Zoning Ordinance.

Analysis:

Section 207(F) of the Zoning Ordinance requires that an applicant for a Variance must show that a hardship exists and that the Zoning Board of Adjustment make an affirmative finding that each and every one of the following six (6) criteria are met.

- 1. Special circumstances exist that are peculiar to the land or structure that are not applicable to other land or structures in the same zoning district and are not merely financial;**

The special circumstances in this case are that the proposed site and surrounding area are all zoned Two-Family Residential (RS-2) and several of the properties within this neighborhood have existing accessory apartments that range from 480 square feet, up to 1,300 square feet. This request is not merely financial, nor are the applicants requesting any type of financial relief. Another special circumstance is the health of the parents as they age and require additional assistance to attend doctor appointments and to perform their normal daily routines. The father is disabled and the mother is ill with cancer. The property owners wish for their parents to live as close as possible so that they may see to their needs.

- 2. These special circumstances are not the result of the actions of the applicant;**

The applicants' stated that when they purchased the property, the single family home and the existing accessory apartment with attached carport already existed. The applicants' would to be able to take care of their parents and want them nearby so they can provide the healthcare and assistance they will need as they get older. The existing structure which they intend to build the addition upon has a set foundation. It is the applicants' intent to follow this form when constructing the accessory apartment.

- 3. Literal interpretation and enforcement of the terms and provisions of this Zoning Ordinance would deprive the applicant of rights commonly enjoyed by other land in the same zoning district, and would cause an unnecessary and undue hardship;**

A literal interpretation of the Zoning Ordinance would in this case deprive the applicant of rights enjoyed by its neighbors who have existing single story and two story accessory apartments. Many of the existing accessory apartments have floor areas that range from 480 square feet to 1,300 square feet. The applicants feel that if they were not able to build the addition, they would be deprived of being able to provide living accommodations, healthcare, and assistance to their aging and disabled parents. In addition, the existing zoning of the property allows for two family uses such as the proposed accessory

apartment, but limiting the apartment to a 660 square foot living area would be considered an undue hardship for this specific situation.

- 4. Granting the variance is the minimum action that will make possible the use of the land or structure which is not contrary to the public interest, and would carry out the spirit of this Zoning Ordinance and substantial justice;**

Staff conducted a site visit and found many properties with existing accessory apartments in their rear yard. In addition, the County Appraisal District shows several properties with accessory apartments that range from 480 square feet to 1,300 square feet. The proposed addition will maintain all requirements described in the Zoning Ordinance, Section 401(1) for accessory apartments including setback and height requirements. The proposed two story accessory apartment appears to “fit in” within the neighborhood and would not appear to impede the adjacent property owner’s visibility, or that of any other abutting owners’ since most of the adjacent property owners have accessory apartments or accessory structures in their side or rear yards.

- 5. Granting the variance will not adversely affect adjacent land in a material way;**

Staff does not anticipate this variance to have adverse effects on neighboring properties. As mentioned above, most of the adjacent properties have existing accessory apartments or accessory structures in their side or rear yards. In addition, this property is on a corner and would have access to the proposed accessory apartment from a 20-foot wide alley or Rio Grande Street. The proposed structure will be built and inspected according to the City’s Zoning Ordinance and Building Code requirements.

- 6. Granting the variance will be generally consistent with the purposes and intent of this Zoning Ordinance.**

Staff believes this variance appears to be consistent with all the purposes and intent of the Zoning Ordinance. The proposed accessory apartment also appears to comply in all other respects of the Zoning Ordinance.

Action Requested:

The action requested is for the Zoning Board of Adjustment to **APPROVE** Case ZBA15-05 and approve the Variance from Section 401(1) of the Zoning Ordinance to allow for a detached, accessory apartment in the Two-Family Residential (RS-2) District to be 1,300 square feet in size, in lieu of 900 square feet.

Effect of Variance:

Per Section 207(H) of the Zoning Ordinance:

1. Issuance of a Variance shall authorize only the particular variation which is approved in the Variance. A Variance shall run with the land.
2. Unless otherwise specified in the Variance, an application to commence construction of the improvements that were the subject of the Variance request must be applied for and approved within 12 months of the date of the approval of the Variance; otherwise, the Variance shall automatically become null and void. Permitted time frames do not change with successive owners. Upon written request, only one (1) extension from the 12-month period may be granted by the Planning Manager if it is determined that conditions of the site and immediately surrounding area are substantially unchanged.

Attachments:

Aerial Map
Future Land Use Map
Zoning Map
Notification Map
Site Plan
Application
Applicants' Responses
Site Photos



Zoning Case File

Case Z15-05

Council District: Elizabeth Grindstaff

Neighborhood: Central

Scale: 1" approx. = 100 ft

Subject Property Legal Description(s): Lot 7 Block 55 Angelo Heights Addition

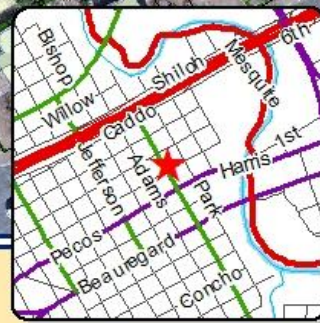
Legend

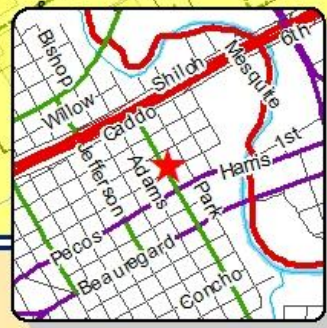
Subject Properties: —

Current Zoning: **RS 1**

Requested Zoning Change: **N/A**

Vision: **Neighborhood**





Zoning Case File		Legend	
Case Z15-05		Subject Properties: —	
Council District: Elizabeth Grindstaff		Current Zoning: RS 1	
Neighborhood: Central		Requested Zoning Change: N/A	
Scale: 1" approx. = 100 ft		Vision: Neighborhood	
Subject Property Legal Description(s): Lot 7 Block 55 Angelo Heights Addition			





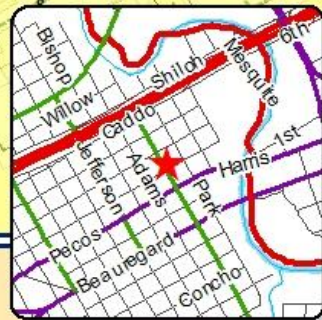
Zoning Case File

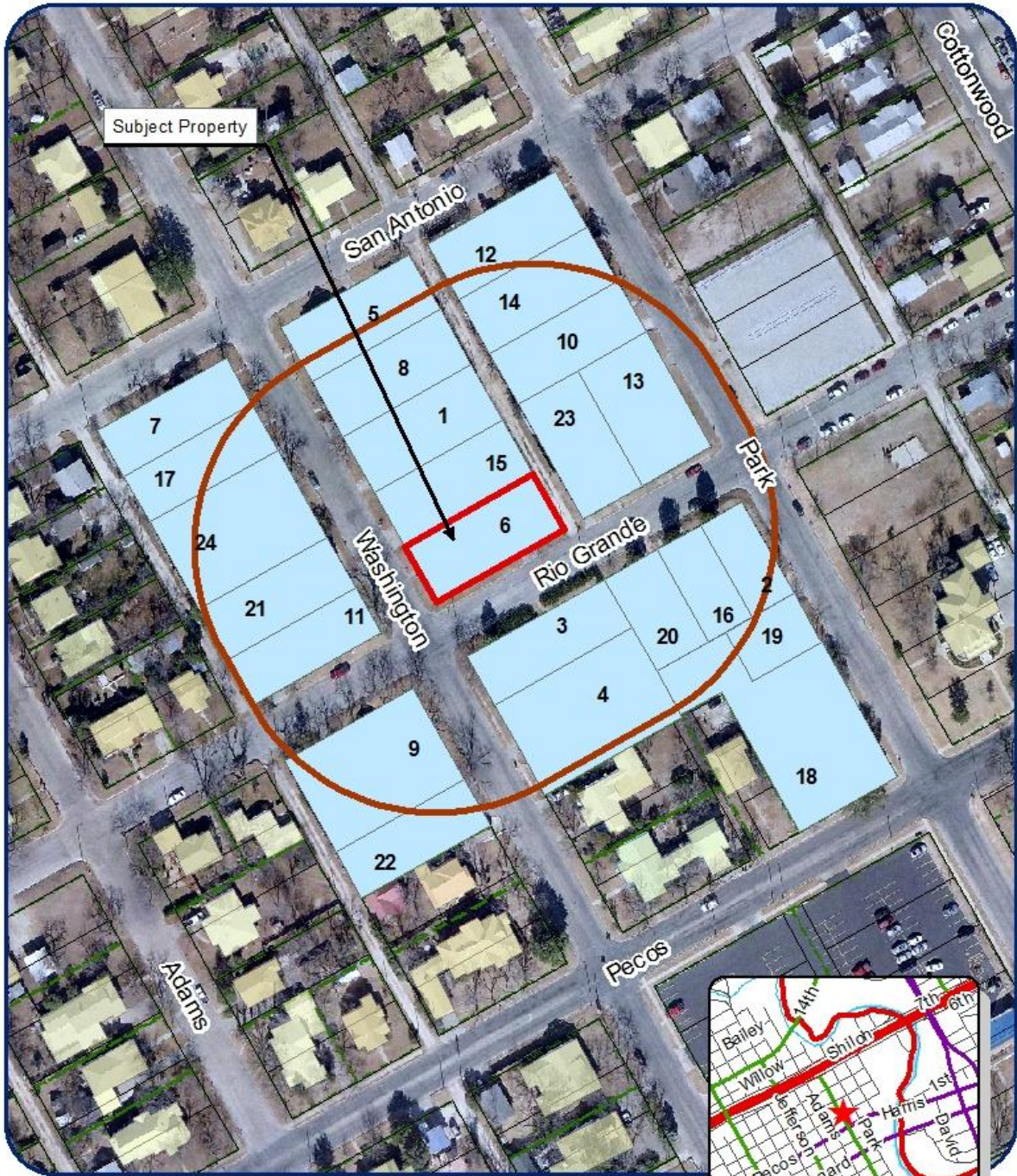
Case Z15-05

Council District: Elizabeth Grindstaff
 Neighborhood: Central
 Scale: 1" approx. = 100 ft
 Subject Property Legal Description(s): Lot 7 Block 55 Angelo Heights Addition

Legend

Subject Properties: —
 Current Zoning: **RS 1**
 Requested Zoning Change: **N/A**
 Vision: **Neighborhood**





Zoning Case File

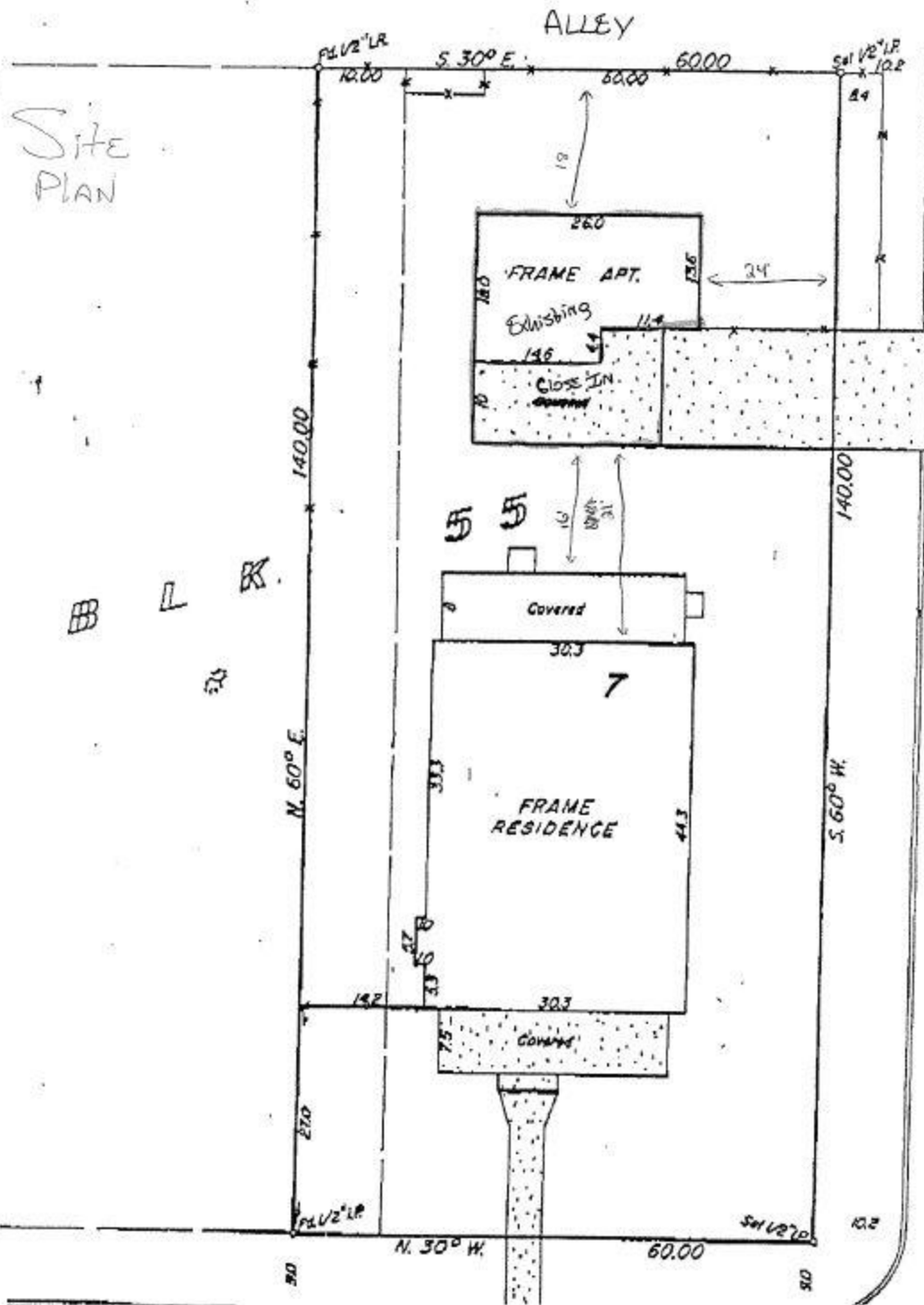
Case Z15-05

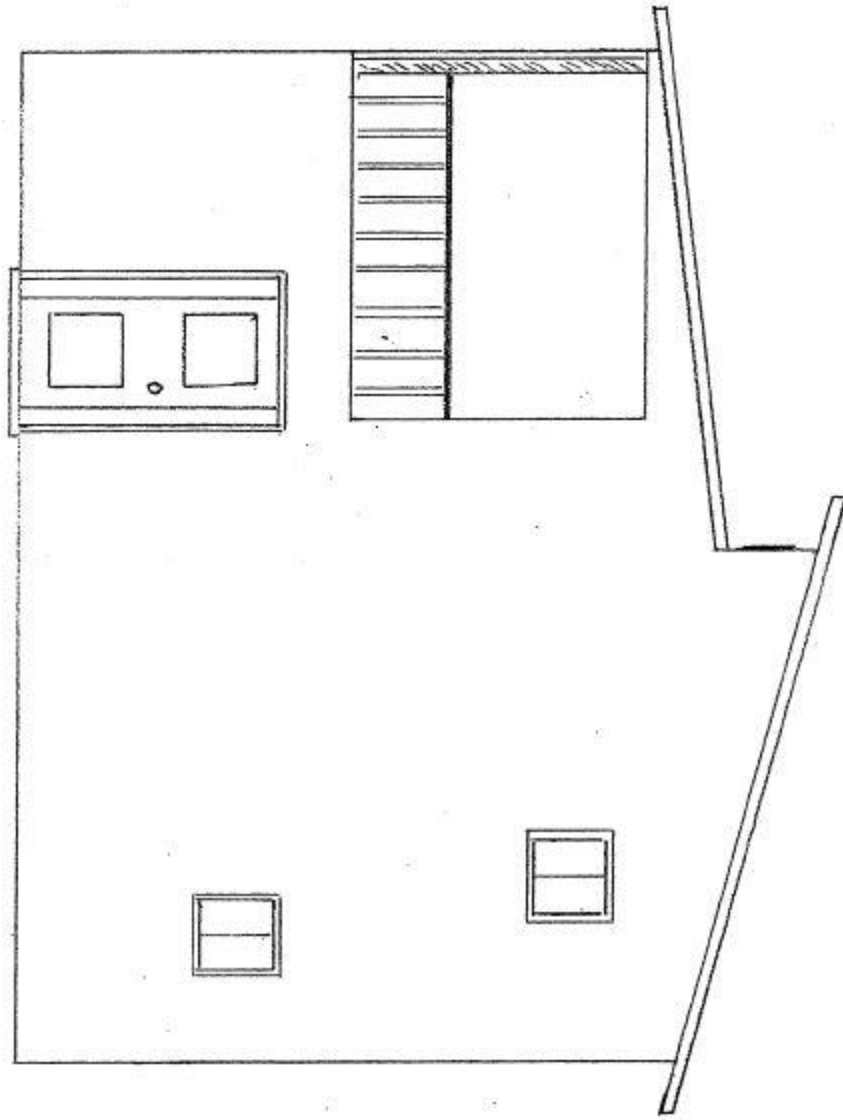
Council District: Elizabeth Grindstaff
 Neighborhood: Central
 Scale: 1" approx. = 120 ft
 Subject Property Legal Description(s): Lot 7 Block 55 Angelo Heights Addition

Legend

Subject Properties:
 Current Zoning: **RS 1**
 Requested Zoning Change: **N/A**
 Vision: **Neighborhood**

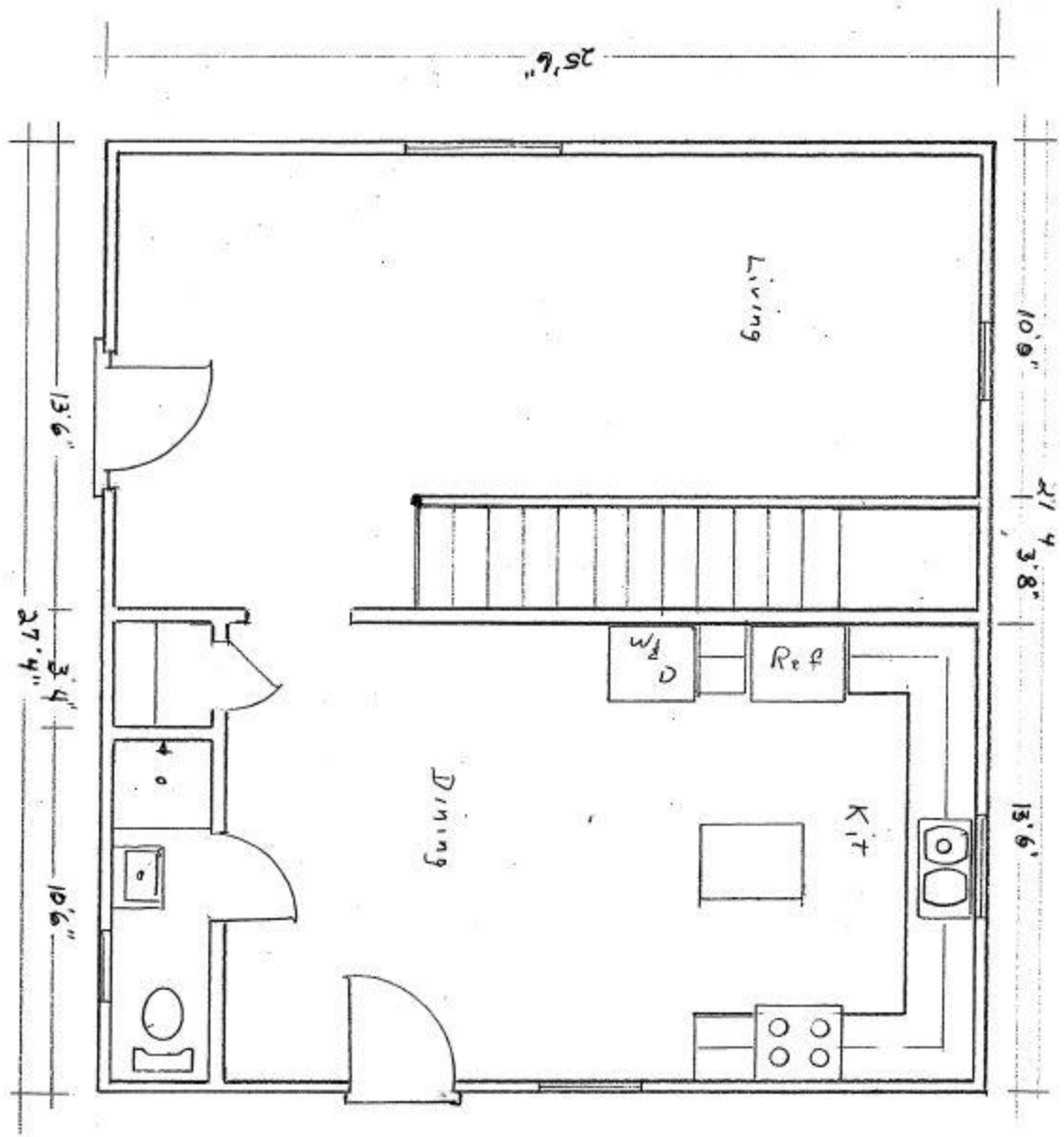




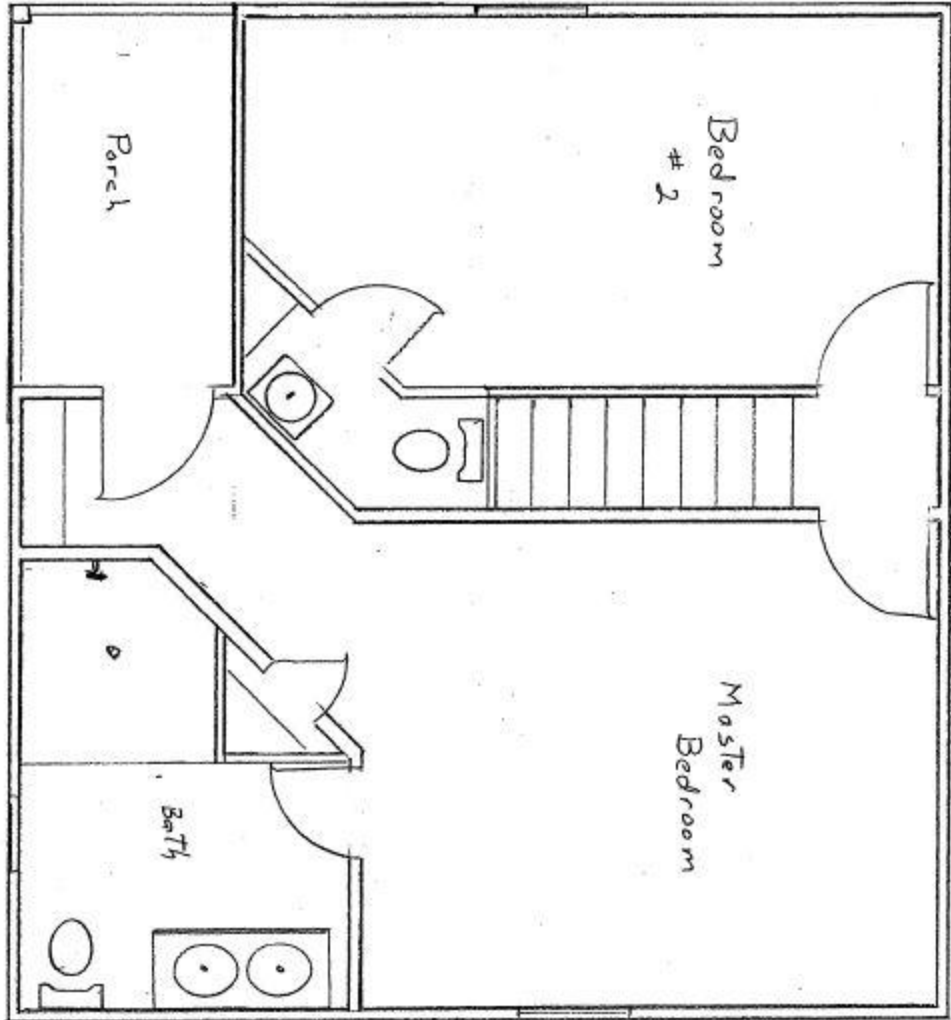


1st Floor

Scale
1/4" = 1'-0"



2nd
Floor



SITE PHOTOS

SUBJECT PROPERTY - FRONT



SUBJECT PROPERTY - SIDE



SUBJECT SIDE-REAR YARD EXISTING ACCESSORY APARTMENT AND ATTACHED GARAGE-VIEW FROM RIO GRANDE



REAR YARD VIEW OF ACCESSORY APARTMENT FROM ALLEY



**ADJACENT PROPERTIES WITH SIMILAR
ACCESSORY APARTMENTS**



1010 RIO GRANDE STREET



1005 & 1007 Rio Grande



1010 San Antonio Street & 303 N. Park Street



321 N. Bishop Street



403 N. Adams Street

City of San Angelo, Texas - Planning Division
Application for Variance from Zoning Regulations

Name of Applicant(s): Shae McClure

Owner Tenant Representative (Affidavit required)

Mailing Address: PO Box 62828 Telephone: 325-277-9742

City/State/Zip: SAN ANGELO, TX 76906 Fax/other: _____

Email Address: ~~shae@shae.com~~ DW outfitters@gmail.com

Subject Property Address and/or Location*:
204 N. WASHINGTON ST.
SAN ANGELO TX 76901

Legal Description*:
Lot 7, Block 55, Angelo Heights Addition, SAN ANGELO, TOM GREEN COUNTY, TEXAS

Zoning: RS-2

Specific Description of Request*:
Add second floor to existing apartment where (1) the total ^{square footage} ~~footage~~ would exceed 900 sqft (2) be more than 50% of the primary structure. The existing site plan will NOT change.

* use attachment, if necessary

I/We the undersigned acknowledge that the information provided above is true and correct, and have read the statements below.


Signature

2/23/2015
Date

- I understand that the Zoning Board of Adjustment is bound by criteria established by state law; I further understand that my request is not guaranteed to be approved and that it constitutes an exception from regulations of the City of San Angelo;
- I/We the undersigned acknowledge that the information provided above is true and correct. I/We understand that any variation(s) authorized by the Zoning Board of Adjustment will require me/us to obtain a building permit for that stated variation within **twelve (12) months** of the approval date by the Board, unless the Board has specifically granted a longer period;
- I understand that all drawings, pictures, documents or other information used during your testimony to the Board must be kept in the permanent files of the Planning Division; and
- I understand that any appeal of a decision made by the Zoning Board of Adjustment must be presented to a court of record with a verified petition stating that the decision of the Zoning Board of Adjustment is illegal in whole or in part and specifying the grounds of the illegality. This petition for appeal must be presented within ten (10) days after the date the decision is filed in the board's office.

I assert that my request for variance meets all of the required criteria **based on my explanation(s)** below:

- Special circumstances exist that are peculiar to the land or structure that are not applicable to other land or structures in the same zoning district and are not merely financial;

Explanation: The ground space and slab for apartment are already there. This apartment would be a two bedroom simple home to allow disabled parents immediate care with independence.

- These special circumstances are not the result of the actions of the applicant;

Explanation: The apartment was here when we bought the house. The disability was caused by ^{car} accident in the case of the father who is a paraplegic, and cancer in the case of mother.

- Literal interpretation and enforcement of the Zoning Ordinance would deprive the applicant of rights commonly enjoyed by other land in the same zoning district, and would cause an unnecessary and undue hardship;

Explanation: There are other homes in the area with apartments whose ground space alone equals the primary residence. ^{+ 3 person family} Fitting ~~normal~~ disabled parents into the primary residence will cause undue hardship.

- Granting the variance is the minimum action that will make possible the use of the land or structure which is not contrary to the public interest, and would carry out the spirit of the Zoning Ordinance and substantial justice;

Explanation: Growing the existing apartment up will allow for immediate family members to share space and utilities.

- Granting the variance will not adversely affect adjacent land in a material way; and

Explanation: There will be no difference in ^{existing} site plan. The added space will be where existing carport is. And then up not out.

- Granting the variance will be generally consistent with the purposes and intent of the Zoning Ordinance.

Explanation: RS-2 allows for accessory apartments

OFFICE USE ONLY	
Case no.: ZBA <u>15 - 005</u>	Date of application: <u>MARCH 2, 2015</u>
Fully-dimensioned site plan: <input checked="" type="checkbox"/>	Nonrefundable fee: \$ <u>225.00</u> Date paid: <u>3.2.15</u>
Date to be heard by ZBA: <u>4/6</u>	
Received by: <u>Edward Vivil</u>	Receipt Number: _____
Ordinance section(s) from which variance(s) is/are requested: <u>SECTION 401</u>	