

STAFF REPORT



Meeting: January 4, 2016

To: Zoning Board of Adjustment

From: Jon James, AICP
Director of Planning and Development Services

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

Staff Planner: David Fee
Senior Planner

Case: ZBA15-24

Request: Variance from Section 501(A) of the Zoning Ordinance to allow for a 20-foot front yard setback in lieu of 25 feet in the Single-Family Residence (RS-1) Zoning District

Location: 5905 Merrick Street; generally located approximately 250 feet west of the intersection of Canadian Street and Tarin Street

Legal Description: Occupying Lot 17A of the Amended Plat of Lots 15, 16 and 17 in the Trinity West Subdivision, Section 2, Block 1

Size: 0.15 acres

General Information

Zoning: RS-1 (Single-Family Residence)
District

Future Land Use: Neighborhood
 Existing Land Use: Existing single-family detached residences

Surrounding Zoning/Land Use:

North:	RS-1	Single-family detached residences
West:	RS-1	Single-family detached residences
South:	RS-1	Single-family detached residences
East:	RS-1	Single-family detached residences

District: SMD #1 - Rodney Fleming

Neighborhood: Country Club Neighborhood

History and Background:

The property is zoned Single-Family Residence (RS-1) Zoning District and is located within the Trinity West Subdivision. The existing house was constructed in 2015 with a front setback of 20 feet. Section 501(A) of the Zoning Ordinance requires a front setback of 25 feet. During the final survey, the builder discovered the attached garage encroached 5 feet into the front yard setback. During construction, the north property pin of lot 17A was moved 10 feet north in order to obtain the proper side lot setback distance to lot 16A to the north. This change lead to an error in the angle of the home’s construction resulting in a 5 foot encroachment into the 25-foot front yard setback which went unnoticed during construction of the home. On November 11, 2015, the applicants submitted an application for a Variance to allow them to have a front setback of 20 feet, five feet less than what is required. The single-family residence complies 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;**

Special circumstances do not exist on this particular property as the lot is not irregularly shaped, the contour of the land is similar to other lots, and the required front yard setbacks are not unique because they apply to all lots within this subdivision. However, the applicant states that there are special circumstances due to the home builder trying to maintain the side setback without realizing the home was built at an angle that resulted in a 5-foot encroachment.

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

These circumstances were the direct result of the applicant's actions as they contracted to have the house built in its current location. The applicants state, however, that when the house was constructed in 2015, they were not aware that the setback requirement had been mistakenly breached for the front yard.

- 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 and enforcement of the Zoning Ordinance would not deprive the applicant of any rights commonly enjoyed by other land owners. All homes built along this street meet the required front yard setback. Moreover, Staff could not find any similar types of variances granted in the immediate area indicating there was no systematic disregard for the front yard setback in the subdivision.

- 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;**

The subject property and the existing detached single-family residence comply with all other provisions of the Zoning Ordinance other than the required 25-foot

front yard setback. Granting the variance is the minimum action that would make possible the use of this land and the existing structure and does not appear to be contrary to the public interest.

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

It does not appear that granting a variance from Section 501(A) of the Zoning Ordinance to allow for a 20-foot front yard setback in lieu of 25 feet for a detached, single family residence would adversely affect adjacent land or property owners other than being closer to the street by 5 feet. However, granting such a Variance may set a precedent for allowing other properties on the same side of the street to be granted reduced setbacks as well.

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

The proposed Variance request to allow for a 20-foot front yard setback in lieu of 25 feet for a detached, single family residence is not consistent with the purposes and intent of the Zoning Ordinance, and although the existing single family structure does comply with all other provisions of the Zoning Ordinance, it does not currently meet the front yard setback.

Notification:

On December 23, 2015, 10 notifications were mailed out within a 200-foot radius of the subject site. As of December 30, 2015, there was zero (0) responses in favor and zero (0) responses in opposition of the request.

Staff Recommendation:

Staff's recommendation is for the Zoning Board of Adjustment to **DENY** Case ZBA15-24 for a Variance from Section 501(A) of the Zoning Ordinance to allow for a 20-foot front yard setback in lieu of 25 feet in the Single-Family Residence (RS-1) Zoning District.

However, should the Board wish to approve the request, Staff recommends that one condition of approval be added in the event that house is ever destroyed or permanently damaged by 50% or more.

1. If the nonconforming structure (single family residence) is destroyed or damaged by 50% or more, the nonconforming structure shall be rebuilt with the required 25-foot front yard setback as dictated by the Zoning Ordinance, Chapter 12, Section 501.

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
Survey
Application



Variance Case File

Z15-24: Sierra Vista Construction

Council District: Rodney Fleming (SMD #1)
 Neighborhood: Country Club
 Scale: 1" approx. = 75 ft
 Subject Property: 5905 Merrick Street

Legend

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





Variance Case File

Z15-24: Sierra Vista Construction

Council District: Rodney Fleming (SMD #1)
 Neighborhood: Country Club
 Scale: 1" approx. = 75 ft
 Subject Property: 5905 Merrick Street

Legend

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





Variance Case File

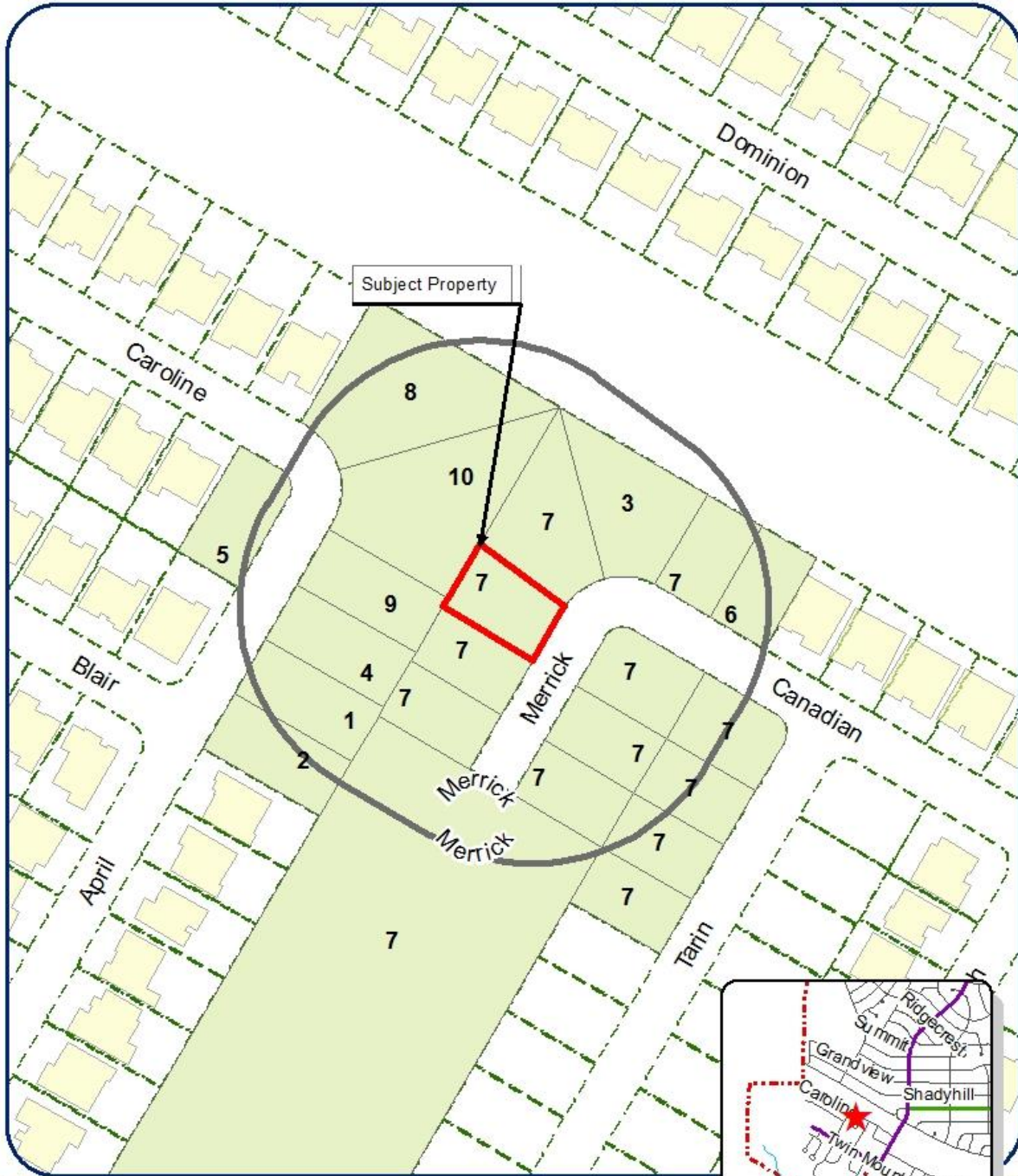
Z15-24: Sierra Vista Construction

Council District: Rodney Fleming (SMD #1)
 Neighborhood: Country Club
 Scale: 1" approx. = 75 ft
 Subject Property: 5905 Merrick Street

Legend

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





Variance Case File

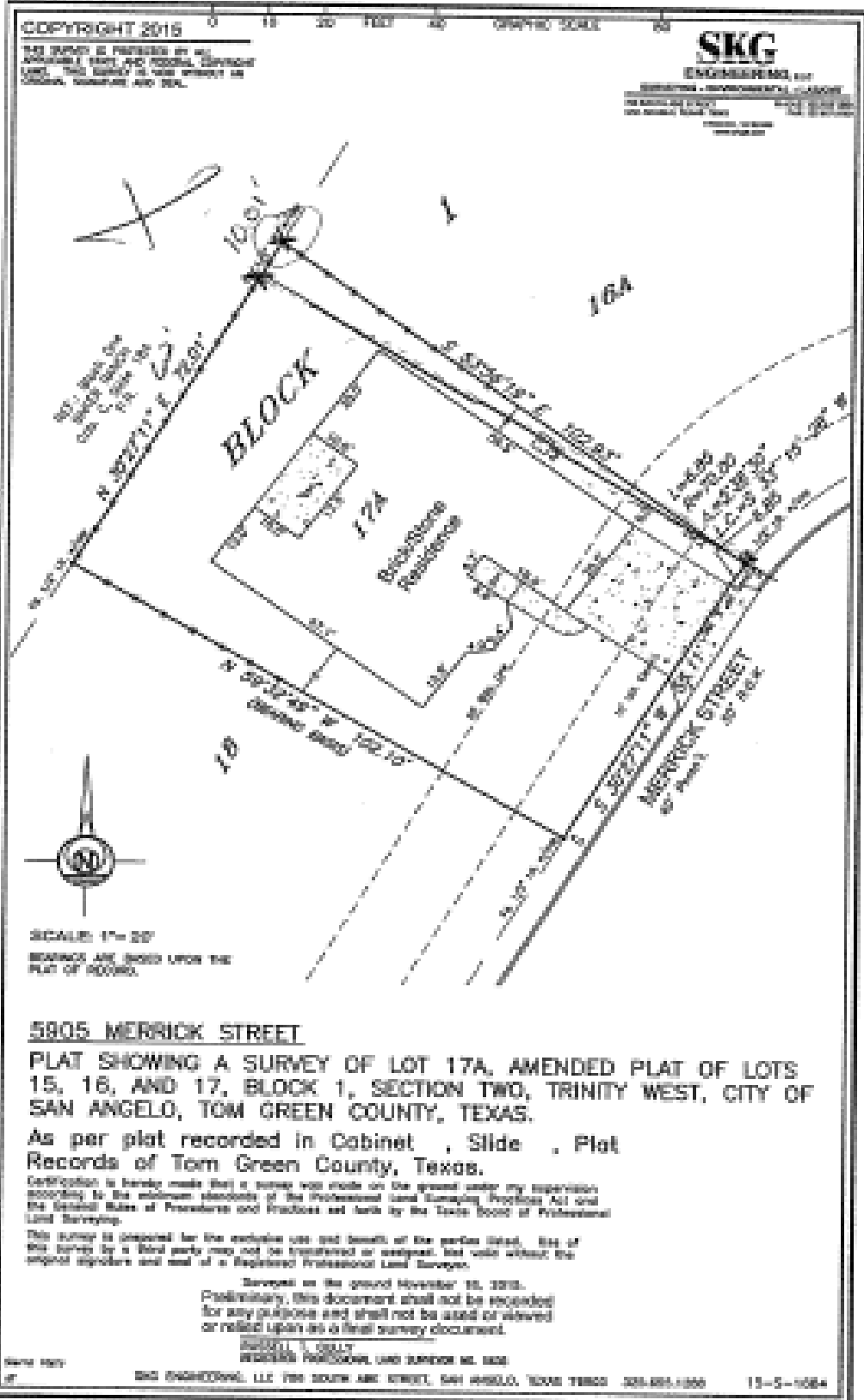
Z15-24: Sierra Vista Construction

Council District: Rodney Fleming (SMD #1)
 Neighborhood: Country Club
 Scale: 1" approx. = 125 ft
 Subject Property: 5905 Merrick Street

Legend

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





REVISED

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

Name of Applicant(s): Serra Vista Construction, Inc.

Owner Tenant Representative (Affidavit required)

Mailing Address: 1002 Ashford Dr. Telephone: 325-374-2199

City/State/Zip: San Angelo TX 76901 Fax/other: 325-227-6581

Email Address: Serra.vista.construction@live.com

Subject Property Address and/or Location*:
5905 Merrick St., San Angelo, TX 76904

Legal Description*:
Lot 17, Block 1, Section 2, Trinity West
Lot 17A

Zoning: RS-1

Specific Description of Request*:
Grant variance due to encroachment upon 25'
building line in the amount of 4.8 feet along the longest run.
4.8

* 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]
Signature

11/8/15
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 lot exist along a radius turn and backs up to an adjacent neighbor with differing property pins.
- These special circumstances are not the result of the actions of the applicant;
Explanation: A conscious effort was made to abide by the setback lines
- 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: It is not possible to meet the front setback since the foundation has been poured
- 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: The variance is in the best interest of the future buyer and does not effect adjacent properties.
- Granting the variance will not adversely affect adjacent land in a material way; and
Explanation: The front boundary is the only boundary effected by the variance. Thus, no adjacent land will be effected.
- Granting the variance will be generally consistent with the purposes and intent of the Zoning Ordinance.
Explanation: Not withstanding the front setback the property would meet the Zoning Ordinance.

OFFICE USE ONLY	
Case no.: ZBA <u>15 - 24</u>	Date of application: <u>11/18/15</u>
Fully-dimensioned site plan: <input checked="" type="checkbox"/>	Nonrefundable fee: <u>\$250.00</u> Date paid: <u>11/18/15</u>
Date to be heard by ZBA: <u>1/4/16</u>	
Received by: <u>David L. Glep</u>	Receipt Number: <u>254833</u>
Ordinance section(s) from which variance(s) is/are requested: <u>Att. 5 Sec. 501 A</u>	

Sierra Vista Construction, Inc.
1002 Ashford Dr.
San Angelo, TX 76901

The City of San Angelo, Texas Planning Division
52 West College Avenue
San Angelo, Texas 76903

18 November 2015

SUBJECT: Formal request from developer for variance from the original 25' building line established by the plat recorded for Trinity West Section 2, 3, & 4 San Angelo, Texas. The property in question surpasses the boundary by 4.8 feet at the longest length.

PROPERTY: 5905 Merrick St. Lot 17A, Block 1, Section 2, Trinity West.

To Whomever It May Concern:

This letter is to notify the members of the City of San Angelo Planning Division that Sierra Vista Construction, Inc. is the sole developer for Section 2, 3, & 4 of the Trinity West Development. As such, we hereby grant the necessary action for approving the adjustment of the front boundary line to prevent future issues from arising.

For further assistance regarding this information please contact Danny Aguero at telephone number (325) 374-2199.

Danny Aguero, President
Sierra Vista Construction, Inc.

STAFF REPORT



Meeting: January 4, 2016

To: Zoning Board of Adjustment

From: Jon James, AICP
Planning & Development Services Director

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

Staff Planner: David Stallworth, AICP
Principal Planner

Case: ZBA 15-026

Request: Variance from Section 501(A) of the Zoning Ordinance to allow for a 19-foot front yard setback in lieu of 25 feet in the Single-Family Residence (RS-1) Zoning District

Location: 3966 Caroline Lane; generally located along the northeast side of Caroline Lane, between April Street and Tesla Lane

Legal Description: Baker Ranch Addition, Section 2, Lot 29, Block 1

Size: 0.26 acres

General Information

Future Land Use: Neighborhood

Zoning: Single-Family Residential (RS-1)

Existing Land Use: Vacant

Surrounding Zoning / Land Use:

North:	Single-Family Residential (RS-1)	Railroad Right-of-Way
West:	Single-Family Residential (RS-1)	Single-family detached residential
South:	Single-Family Residential (RS-1)	Single-family detached residential
East:	Single-Family Residential (RS-1)	Single-family detached residential

District: SMD #1 - Rodney Fleming

Neighborhood: Country Club Neighborhood

History and Background:

The 0.26-acre subject property was annexed into the City in April of 2006 and is zoned Single-Family Residential (RS-1) District. The subject property was platted in March of 2014 as part of the Baker Ranch – Section 2 Addition (Cabinet G, Slide 248). A single family detached residence is under construction on the site.

The subject property is somewhat rectilinear in configuration with a northeast-to-southwest orientation. The terrain is relatively flat and contains no known unusual topographic issues or site peculiarities. The subject property is subject to the following setbacks: Front – 25 feet; Side – 5 feet; Rear – 20 feet. The applicant is seeking to finish the construction of a 3200-square foot single family detached residence within 19.4 feet of the front property line in response to an error in measurement.

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.**

There are no known special circumstances or site peculiarities that are applicable to the Variance request. The special circumstance, in this instance, an error in field measurement, is not due to site-related irregularities. Although this circumstance may likely trigger a financial hardship, such is not a determinant for this request.

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

The special circumstance stated in the applicant's response was created as a result of actions by either the applicant or a third party due to a misjudgment of the appropriate setback line.

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.

The configuration and land area of the platted subject property does not preclude the owner/applicant from constructing a single-family detached residence in accordance with the minimum RS-1 development standards outlined in the Zoning Ordinance. Examination of nearby lots confirms that other single family residences were correctly constructed at the appropriate front setback line.

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.

As stated above, other properties within the immediate area have adhered to the same RS-1 development standards that the subject property is required to follow, particularly the 25-foot front setback line. Although there is nothing to indicate that overall public safety and welfare will be compromised if the request is granted, building planes and defensible spaces may be somewhat impacted, nevertheless.

5. Granting the Variance will not adversely affect adjacent land in a material way.

There is nothing to indicate that the granting of this request will impact area properties in a materially negative way. However, granting such a Variance may set a precedent for allowing other properties on the same side of the street to be granted reduced setbacks as well.

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

The granting of this request will be inconsistent with the criteria for the granting of a Variance found in Section 207(F) of the Zoning Ordinance, and thereby being inconsistent with the overall purpose and intent of the Ordinance. However, the single family residence under construction appears to be consistent with all other site requirements for the RS-1 Zoning District.

Notification:

On December 23, 2015, thirteen (13) notifications were mailed out within a 200-foot radius of the property. As of December 30, 2015, there were zero (0) responses in favor and zero (0) in opposition of the request.

Staff Recommendation:

Staff's recommendation is for the Zoning Board of Adjustment to **DENY** Case ZBA 15-026 for a Variance from Section 501(A) of the Zoning Ordinance to allow for a 19-foot front yard setback in lieu of 25 feet in the Single-Family Residence (RS-1) Zoning District.

However, should the Board wish to approve the request, Staff recommends that one condition of approval be added in the event the house is ever destroyed or permanently damaged by 50% or more:

1. If the nonconforming structure (single family residence) is destroyed or damaged by 50% or more, the nonconforming structure shall be rebuilt with the required 25-foot front yard setback as dictated by the Zoning Ordinance, Chapter 12, Section 501.

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
Survey
Applicant's Responses



Subject Property



Variance Case File

Z15-26: Meeks

Council District: Rodney Fleming (SMD #1)
 Neighborhood: Country Club
 Scale: 1" approx. = 100 ft
 Subject Property: 3966 Caroline Ln.

Legend

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






Variance Case File

Z15-26: Meeks

Council District: Rodney Fleming (SMD #1)
 Neighborhood: Country Club
 Scale: 1" approx. = 100 ft
 Subject Property: 3966 Caroline Ln.

Legend

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





Variance Case File

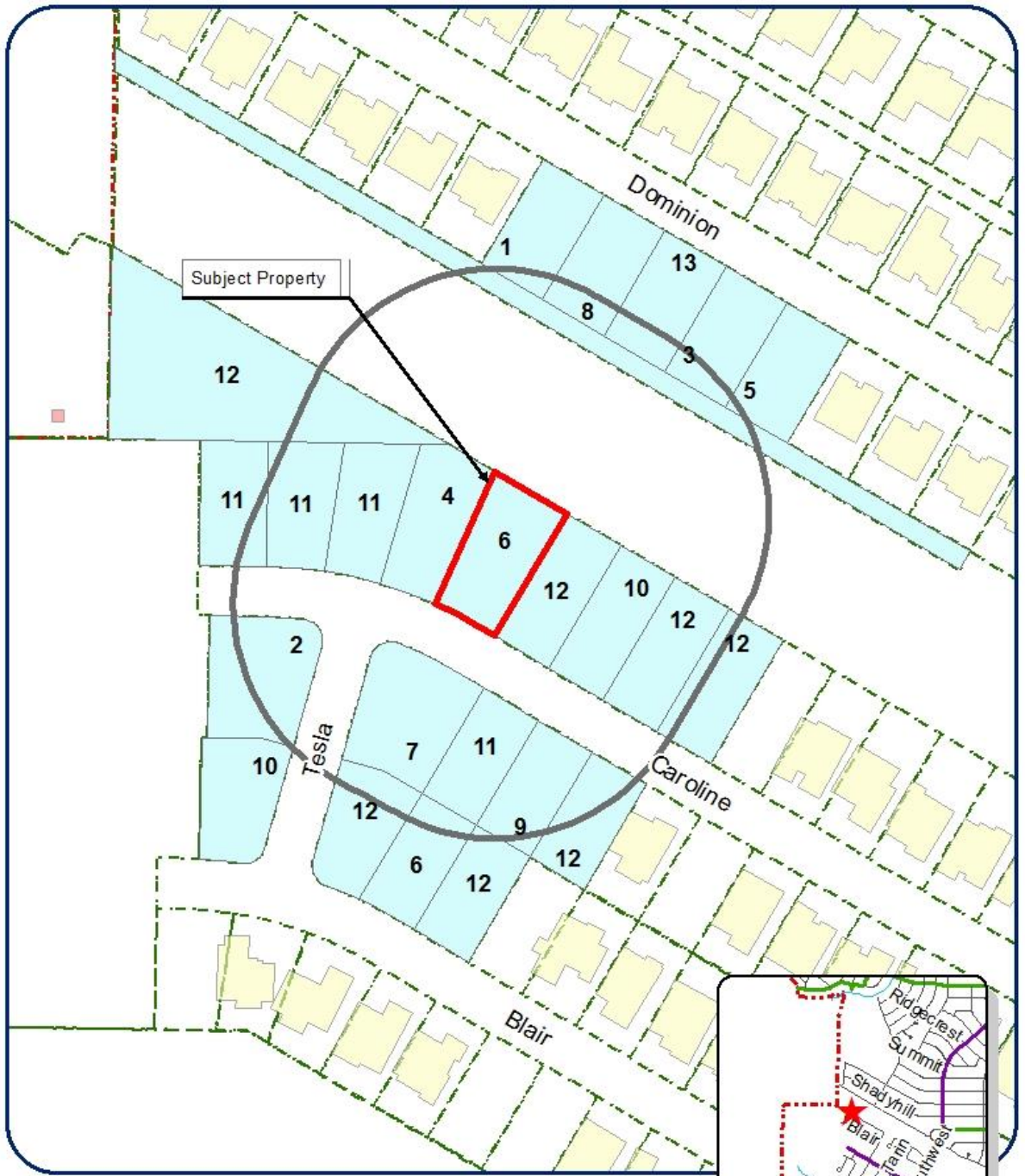
Z15-26: Meeks

Council District: Rodney Fleming (SMD #1)
 Neighborhood: Country Club
 Scale: 1" approx. = 100 ft
 Subject Property: 3966 Caroline Ln.

Legend

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





Variance Case File

Z15-26: Meeks

Council District: Rodney Fleming (SMD #1)
 Neighborhood: Country Club
 Scale: 1" approx. = 125 ft
 Subject Property: 3966 Caroline Ln.

Legend

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



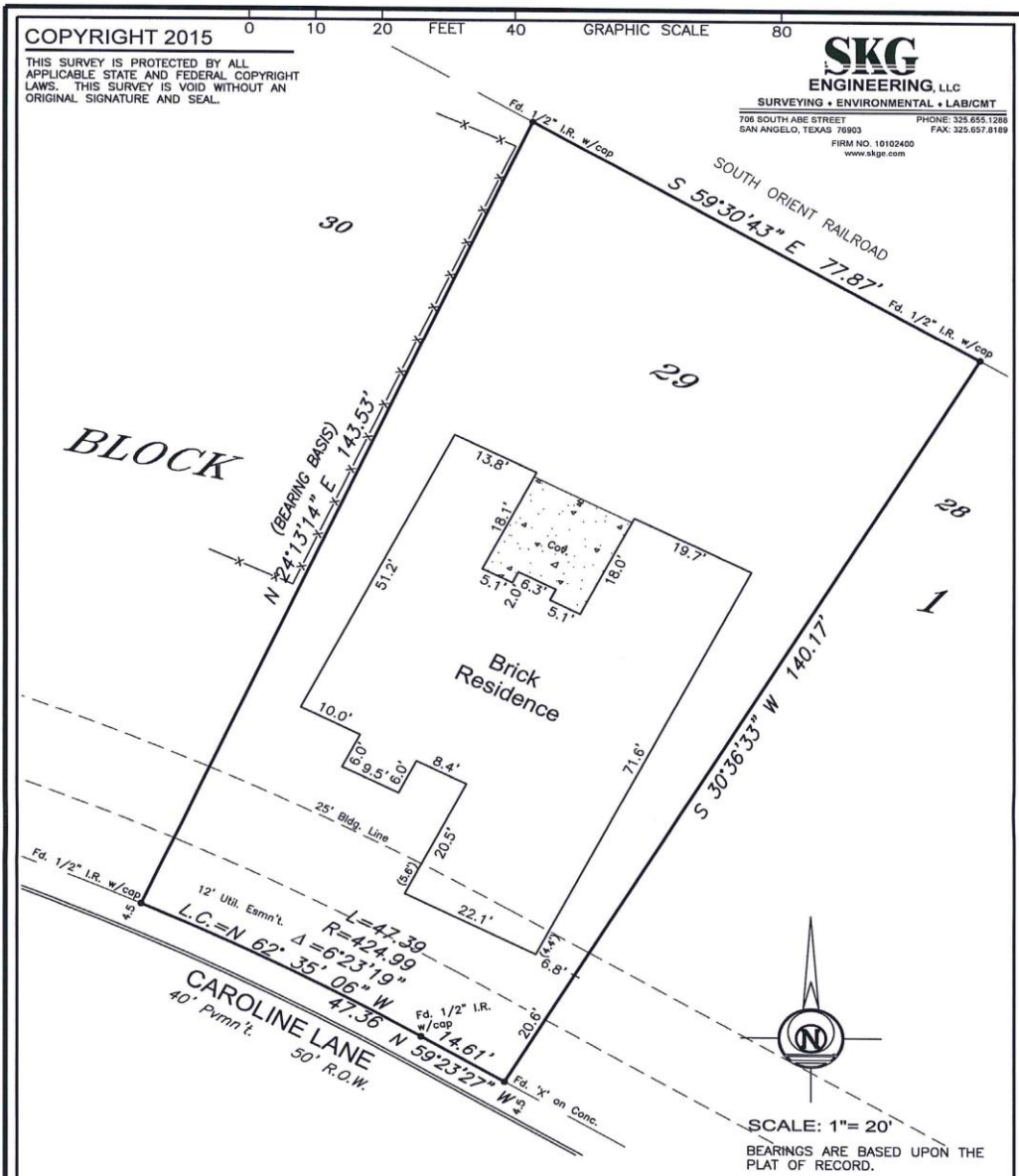
COPYRIGHT 2015

THIS SURVEY IS PROTECTED BY ALL APPLICABLE STATE AND FEDERAL COPYRIGHT LAWS. THIS SURVEY IS VOID WITHOUT AN ORIGINAL SIGNATURE AND SEAL.

0 10 20 FEET 40 GRAPHIC SCALE 80

SKG
ENGINEERING, LLC

SURVEYING • ENVIRONMENTAL • LAB/CMT
706 SOUTH ABE STREET PHONE: 325.655.1288
SAN ANGELO, TEXAS 76903 FAX: 325.657.8189
FIRM NO. 10102400
www.skge.com



SCALE: 1"= 20'
BEARINGS ARE BASED UPON THE PLAT OF RECORD.

3966 CAROLINE LANE

PLAT SHOWING A SURVEY OF LOT 29, BLOCK 1, SECTION 2, BAKER RANCH, CITY OF SAN ANGELO, TOM GREEN COUNTY, TEXAS.

As per plat recorded in Cabinet G, Slide 248, Plat Records of Tom Green County, Texas.

Certification is hereby made that a survey was made on the ground under my supervision according to the minimum standards of the Professional Land Surveying Practices Act and the General Rules of Procedures and Practices set forth by the Texas Board of Professional Land Surveying.

This survey is prepared for the exclusive use and benefit of the parties listed. Use of this survey by a third party may not be transferred or assigned. Not valid without the original signature and seal of a Registered Professional Land Surveyor.

Surveyed on the ground November 24, 2015.

Russell T. Gully

RUSSELL T. GULLY
REGISTERED PROFESSIONAL LAND SURVEYOR NO. 5636



MEEKES
dt

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

Name of Applicant(s): H Cubek Homes SA, LLC - Chad Meeks

Owner Tenant Representative (Affidavit required)

Mailing Address: PO Box 61846 Telephone: 325-939-3465

City/State/Zip: San Angelo, TX 76906 Fax/other: _____

Email Address: chad@h3dftw.com

Subject Property Address and/or Location*:
3966 Caroline Ln. San Angelo, TX 76904

Legal Description*:
Lot 29 Sec. 2 Blk. 1 Subd. Baker Ranch

Zoning: Residential - R1

Specific Description of Request*:
To bring into compliance a single family dwelling now under construction with a front yard set back of 19.4' in lieu of the existing 25' building line.

* use attachment, if necessary

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

Chad Meeks
Signature

12-1-15
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 home was permitted with minimum 25' set back as required. Unfortunately when foundation was poured, the contractor measured from the curb instead of the property pin. See front right corner of house on survey showing 4.4' encroachment + 4.6' distance between property pin and the street.

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

Explanation: My intentions were to build within compliance as per site plan. Regrettably, when the foundation was poured it encroached the 25' set back.

- 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: The house has already been built. This is an extremely regrettable mistake that could potentially put me out of business.

- 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: I'm asking for nothing more than the described variance in set back.

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

Explanation: The encroachment of the building line will not adversely affect ~~back~~ adjacent land in a material way. The house does not protrude in front of other around

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

Explanation: Yes, this home is complying in all other aspects

OFFICE USE ONLY	
Case no.: ZBA <u>15-26</u>	Date of application: <u>12/1/15</u>
Fully-dimensioned site plan: <input checked="" type="checkbox"/> Nonrefundable fee: \$ <u>250.00</u>	Date paid: <u>12/1/15</u>
Date to be heard by ZBA: <u>Jan 9/2016</u>	
Received by: <u>JEFF FISHER</u>	Receipt Number: <u>254836</u>
Ordinance section(s) from which variance(s) is/are requested: <u>501.A</u>	

STAFF REPORT



Meeting: January 4, 2016

To: Zoning Board of Adjustment

From: Jon James, AICP
Director of Planning and Development Services

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

Staff Planner: Jeff Fisher
Planner I

Case: ZBA15-27

Request: Variance from Section 402(A)2 of the Zoning Ordinance to allow an accessory building in the Ranch and Estate (R&E) Zoning District to have a floor area that is 33% larger than the floor area of the principal dwelling. The R&E Zoning District allows accessory buildings to have the same floor area as, but not more than, the principal dwelling

Location: 5319 Oriole Drive; generally located approximately 380 feet south of the intersection of Bluegrass Drive and Oriole Drive

Size: 2 acres

Legal Description: Specifically occupying 2.0 acres in the Green Acres Estates Subdivision, Section 2, Block 4, Lot 14

General Information

Zoning: Ranch and Estate (R&E)

Existing Land Use: Existing Single Family Residence with attached garage and 2 enclosed porches, built 1977 = 2,687 square feet

Existing RV-port Building, built 1998 = 672 square feet (to be removed)

2 Existing storage buildings, built 2005 = 400 square feet

Existing workshop, built 2003 = 800 square feet (to be converted into guest quarters)

Future Land Use: Rural

Surrounding Zoning/Land Use:

North:	Ranch and Estate (R&E)	Single Family Residences
West:	Ranch and Estate (R&E)	Single Family Residences
South:	Ranch and Estate (R&E)	Single Family Residences
East:	Ranch and Estate (R&E)	Single Family Residences

District: SMD#2 – Marty Self

Neighborhood: Lake View Neighborhood

History and Background:

On December 4, 2015, the applicants submitted an application for a Variance to allow a total accessory building to have a floor area 33% larger than the principal dwelling in the Ranch and Estate (R&E) Zone District. The R&E zoning allows a maximum accessory building floor area of 100% of the principal dwelling. The purpose of the request is to allow the applicant to build a new 40-foot by 60-foot metal storage/workshop building to store personal vehicles and equipment. The floor plan shows that approximately half of the floor space inside will be used for welding, woodworking, and a lunch room with bathroom. The custom-built building, as shown in the rendering provided, would be grey colored at the front and a light beige on the sides with a brown roof. The light beige sides and brown roof are consistent with the existing workshop and storage buildings already on the property. The new building will be a pitched roof consistent with the other storage buildings on the site, 17 feet in height at the ridgeline, and tapering to 12 feet at the eaves.

The applicants explained they require the new storage/workshop building to store their personal vehicles which include two classic cars, a motorcycle, a pickup truck, and three tractors, as well as to provide a personal workshop area. They indicated that they would remove the existing RV carport structure and want to convert the existing workshop building into a guest living quarters, which is permitted in the R&E Zoning District, provided the guest quarter does not include facilities for both cooking and sanitation. It will also have to meet all requirements set forth in the applicable International Residential Code.

The total floor area of the house is 2,687 square feet, and assuming the RV carport is removed, the total floor area of all accessory buildings, including the new storage/workshop building, would be 3,600 square feet, which is 133% of the floor area of the house (or 33% greater than the house itself). If this request is approved, the applicant has indicated they would construct a second driveway that would extend from the north side of the property abutting Oriole Drive past the existing workshop and then south in an L-shape to the new storage/workshop building which is located approximately half way inside the property and setback 30 feet from the south side property line.

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.

Planning Staff conducted a site visit on December 23, 2015, and found the applicant's tractors parked outside due to lack of space. The existing 800-square foot workshop was used for mainly storage, allowing sufficient room for only one vehicle to park adequately. Staff believes the additional spacing needs of the applicants to repair and store their vehicles constitutes a special circumstance in this case. However, Staff believes the proposed accessory building floor area of 133% of the principal dwelling is excessive. Further review found that within a 2,000-foot radius of the property, other variances were given by the Zoning Board of Adjustment close to this percentage, but in these cases, the Planning Division had recommended denial on the grounds that without size limitation, these buildings would look commercial or industrial in nature and would negatively affect the overall appeal of residential districts. The two greatest variations in this area that the Planning Division had supported were two administrative adjustments, one on January 24, 2007, (ZBA07-01) for a 1,500-square foot accessory building at 217 Clover Drive, at 114.7%, subject to conditions that the materials and color match the other storage building on the site, as well as additional windows and maximum roof pitch; and on July 30, 2009, (ZBA09-29) for a 2,200-square foot accessory building at 206 Clover Drive, 60% of the principal dwelling, which equates to an increase of 120% more than allowed. It should be noted that before August 2, 2011, accessory buildings in the R&E Zoning District could only be 50% of the total area of the principal dwelling, but the Planning Director could adjust this to any amount administratively. The fact that residents in the R&E Zoning District now have the advantage of adding more accessory coverage than in August of 2011, gives credence to the requirement to demonstrate a special circumstance. If the applicant purchases a new metal building which is 400 square feet less than the one proposed, the total accessory coverage would now be 3,200 square feet, or exactly 120% of the principal building, consistent with past recommendations and approvals. When reviewing the floor plan provided by the applicants, staff believes the applicants would still have sufficient space to store and repair their vehicles inside a new storage/workshop building which is 400 square feet less in size.

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

The applicants purchased the home in March 2015 and did not erect the existing buildings which have been on the property for at least ten years or more. The applicant are agreeing to remove the existing RV carport which would reduce the accessory building coverage by 672 square feet. Staff believes if they purchase a new building that is 400 square feet less in size, they would be more in keeping with the surrounding area.

- 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 may deprive the applicants the rights enjoyed by others given that previous variances and administrative adjustments have been granted for similar requests in the surrounding area. Staff believes a slight increase in the total accessory building coverage given the 2-acre size of the lot is reasonable. However, Staff cautions that any approvals remain within the range of 120%, that is, no more than 20% greater than the principal dwelling, otherwise, it would set a negative precedent for changing the character of the residential neighborhood into that having more of a commercial or industrial appearance.

- 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 believes an increase in accessory building area to 120% of the principal building – but not more – is reasonable in this case given the applicant requires the additional storage space and would be consistent with previous administrative adjustments granted in the immediate area.

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

There are other accessory buildings off of Oriole Drive that appear even larger than what the applicant is proposing. However, it appears that these buildings were once agricultural buildings when they were constructed back in the 1970's which were not subject to the maximum 100% provision in the Zoning Ordinance. As stated previously, there were also several variances granted for accessory buildings in this neighborhood that exceeded the maximum requirements. Staff does not believe granting this variance (capped at 120%) with the conditions contained at the end of this report would negatively affect any adjacent land.

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

Staff believes the proposed variance is consistent with the purpose and intent of the Zoning Ordinance. The applicants indicated that the vehicles and workshop are for their personal use and enjoyment only and this would not be a commercial business. The location and height of the building complies with all other provisions of the Zoning Ordinance.

Notification:

On November 23, 2015, thirteen (13) notifications were mailed out within a 200-foot radius of the subject site. As of December 30, 2015, there were two (2) responses in favor and zero (0) in opposition of the request.

Staff Recommendation:

Staff's recommendation is for the Zoning Board of Adjustment to **APPROVE** Case ZBA15-27 for a Variance from Section 402.A.2 of the Zoning Ordinance to allow an accessory building in the Ranch and Estate (R&E) Zoning District to have a floor area 20% larger than the floor area of the principal dwelling, **subject to the following (5) Conditions of Approval:**

1. The maximum accessory building floor area shall not be more than 20% larger than the principal dwelling.
2. The new building shall be painted to match the colors of the existing accessory buildings on the property.
3. The pitch and shape of the new building's roofline shall be consistent with the pitch and shape of the existing accessory buildings on the property.
4. The applicant shall obtain a Demolition Permit for the existing RV carport from the Permits and Inspection Division. No permit for the new accessory building shall be issued until a final inspection of the demolition has been completed.
5. The applicant shall obtain a Change of Occupancy Permit to convert the existing workshop into a guest quarters, from the Permits and Inspection Division, in compliance with the *International Residential Building Code*. No permit for the new accessory building shall be issued until a final inspection of the Change of Occupancy has been completed.

Effect of Variance:

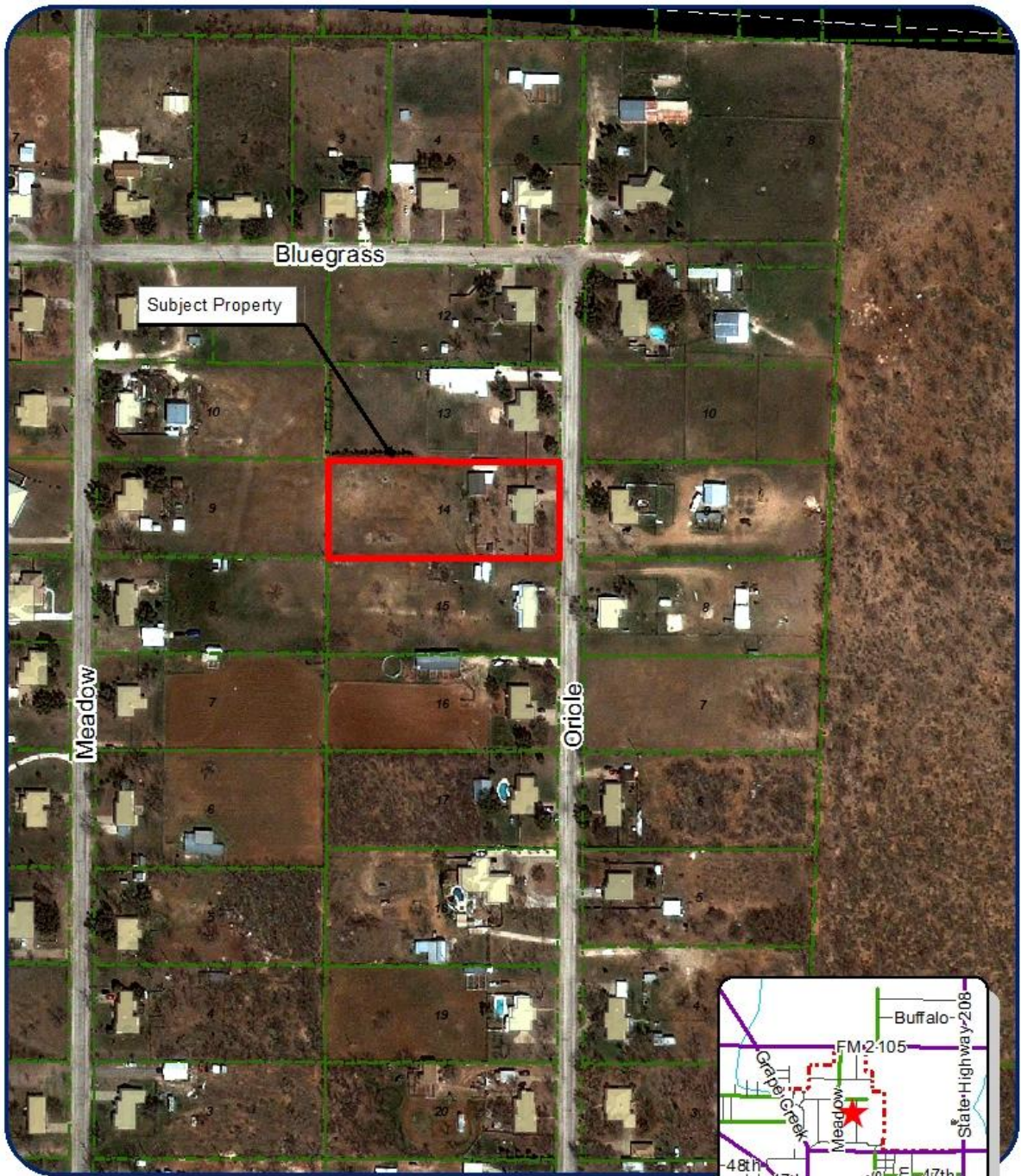
Per Section 207(H) of the Zoning Ordinance:

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.

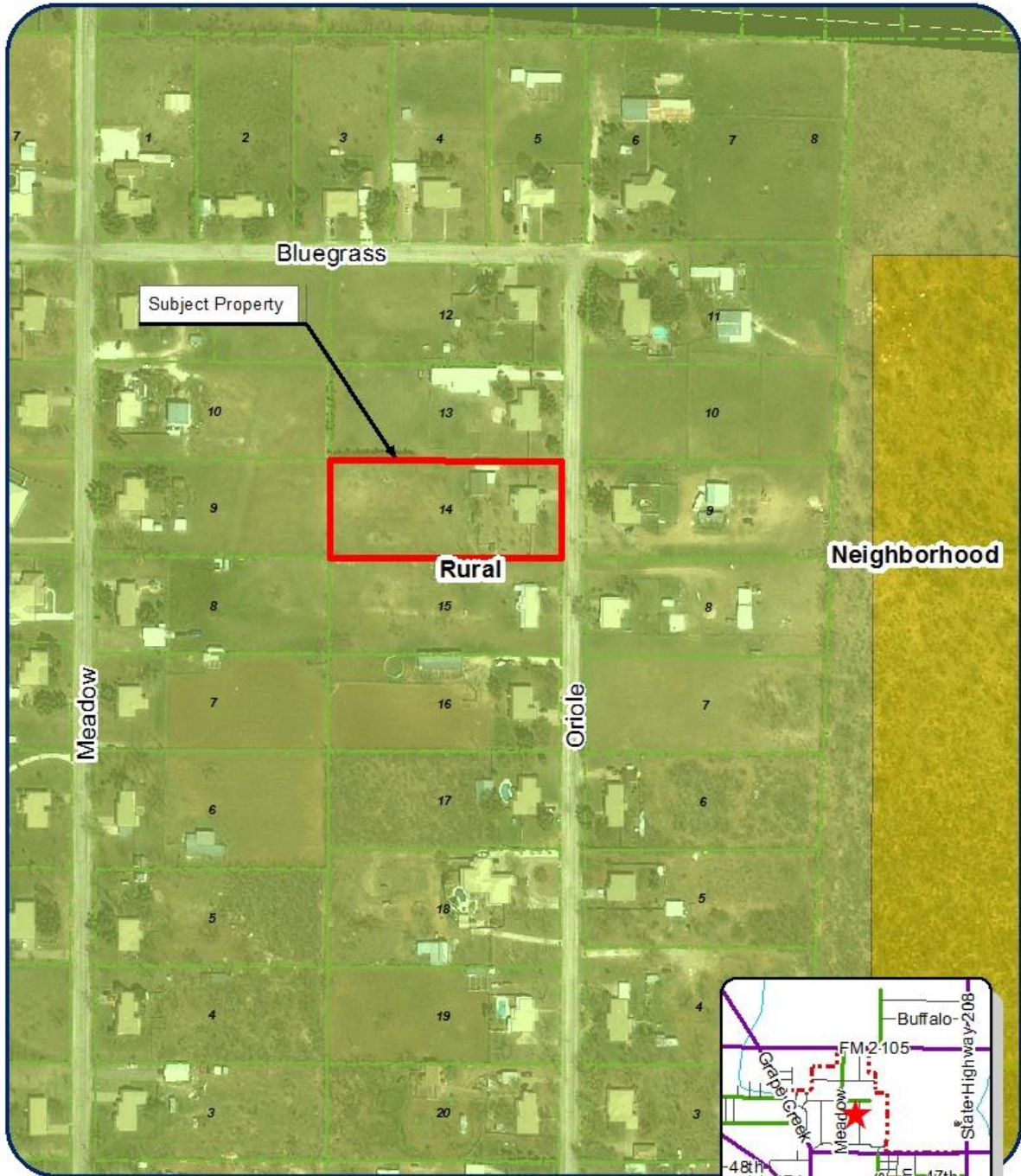
Attachments:

Aerial Map
Future Land Use Map
Zoning Map
Notification Map
Response Letters
Site Plan
Elevation
Site Photos
Application



Variance Case File		Legend	
Z15-27: Page		Subject Properties:	
Council District: Marty Self (SMD #2)		Current Zoning: RS-1	
Neighborhood: Lake View		Requested Zoning Change: N/A	
Scale: 1" approx. = 250 ft		Vision: Rural	
Subject Property: 5319 Oriole Dr.			

N



Variance Case File

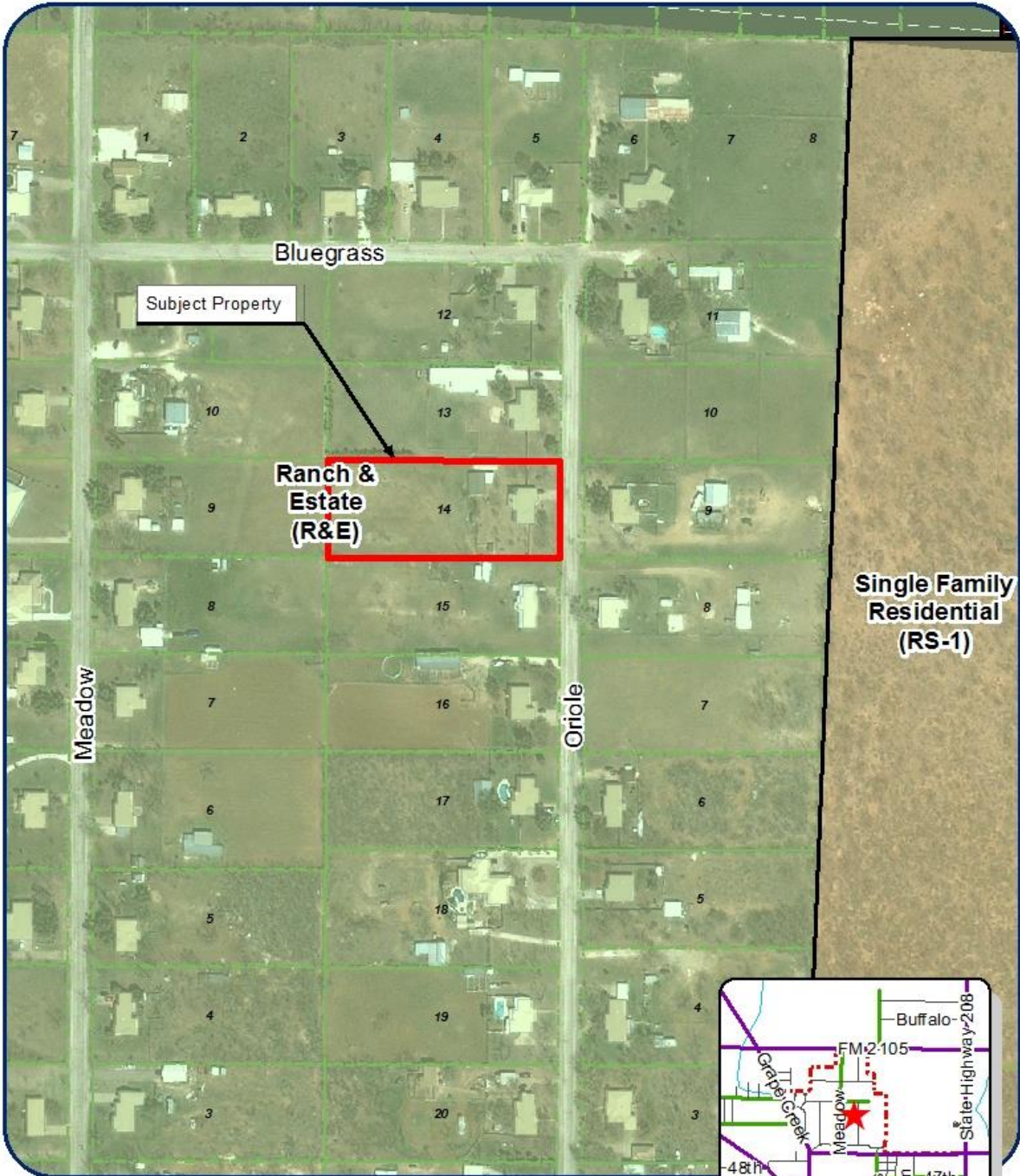
Z15-27: Page

Council District: Marty Self (SMD #2)
 Neighborhood: Lake View
 Scale: 1" approx. = 250 ft
 Subject Property: 5319 Oriole Dr.

Legend

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





Variance Case File

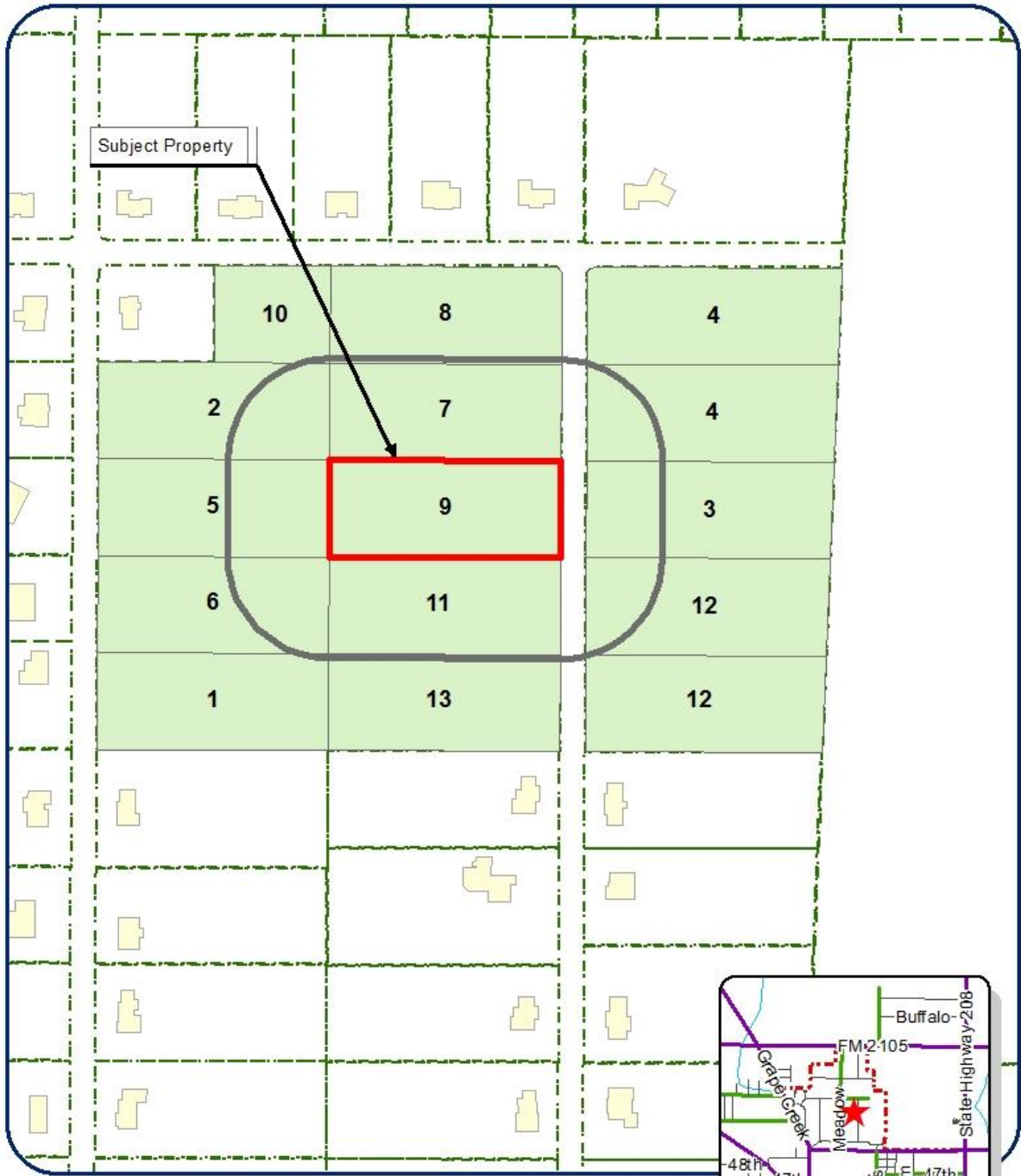
Z15-27: Page

Council District: Marty Self (SMD #2)
 Neighborhood: Lake View
 Scale: 1" approx. = 250 ft
 Subject Property: 5319 Oriole Dr.

Legend

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





Variance Case File

Z15-27: Page

Council District: Marty Self (SMD #2)
 Neighborhood: Lake View
 Scale: 1" approx. = 250 ft
 Subject Property: 5319 Oriole Dr.

Legend

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



TO BE FORMALLY ON RECORD IN FAVOR OR AGAINST THIS REQUEST, YOU MAY ALSO FILL OUT THIS FORM, SIGN IT AND MAIL IT BACK TO THE PLANNING DIVISION AT 52 W COLLEGE STREET IN SAN ANGELO, TEXAS 76903. THIS FORM CAN ALSO BE FAXED TO THE PLANNING DIVISION AT 325-657-4227.

() IN FAVOR () IN OPPOSITION

REASON(S) MORE THAN ENOUGH LAND.

NAME: JEFF SEARCY

ADDRESS: 307 BIVEGRASS (OFFICE 3722 SAN ANGELO)
SAN ANGELO, TX 76903

SIGNATURE: 

ZBA15-27: Page
property owner number: 10

If you have any questions about these proceedings, please call Mr. Jeff Fisher, Planner, with the City of San Angelo's Planning Division at telephone number 325-657-4210. The Planning Division staff may also be reached by email at jeff.fisher@cosatx.us.

TO BE FORMALLY ON RECORD IN FAVOR OR AGAINST THIS REQUEST, YOU MAY ALSO FILL OUT THIS FORM, SIGN IT AND MAIL IT BACK TO THE PLANNING DIVISION AT 52 W COLLEGE STREET IN SAN ANGELO, TEXAS 76903. THIS FORM CAN ALSO BE FAXED TO THE PLANNING DIVISION AT 325-657-4227.

() IN FAVOR () IN OPPOSITION

REASON(S) _____

NAME: Robert F. Theris

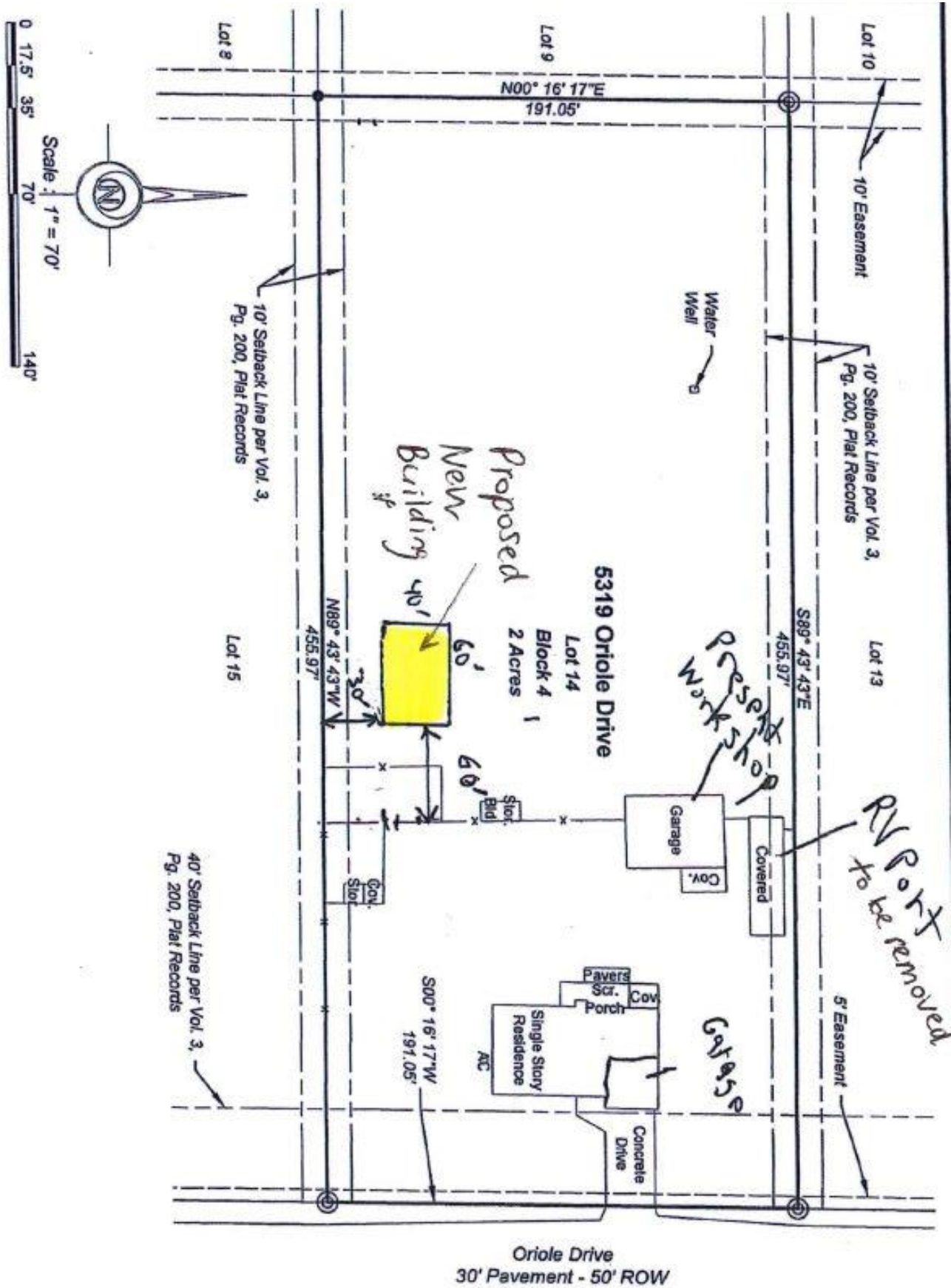
ADDRESS: 5314 Oriole Dr

SIGNATURE: Robert F. Theris

ZBA15-27: Page
property owner number: 12

If you have any questions about these proceedings, please call Mr. Jeff Fisher, Planner, with the City of San Angelo's Planning Division at telephone number 325-657-4210. The Planning Division staff may also be reached by email at jeff.fisher@cosatx.us.

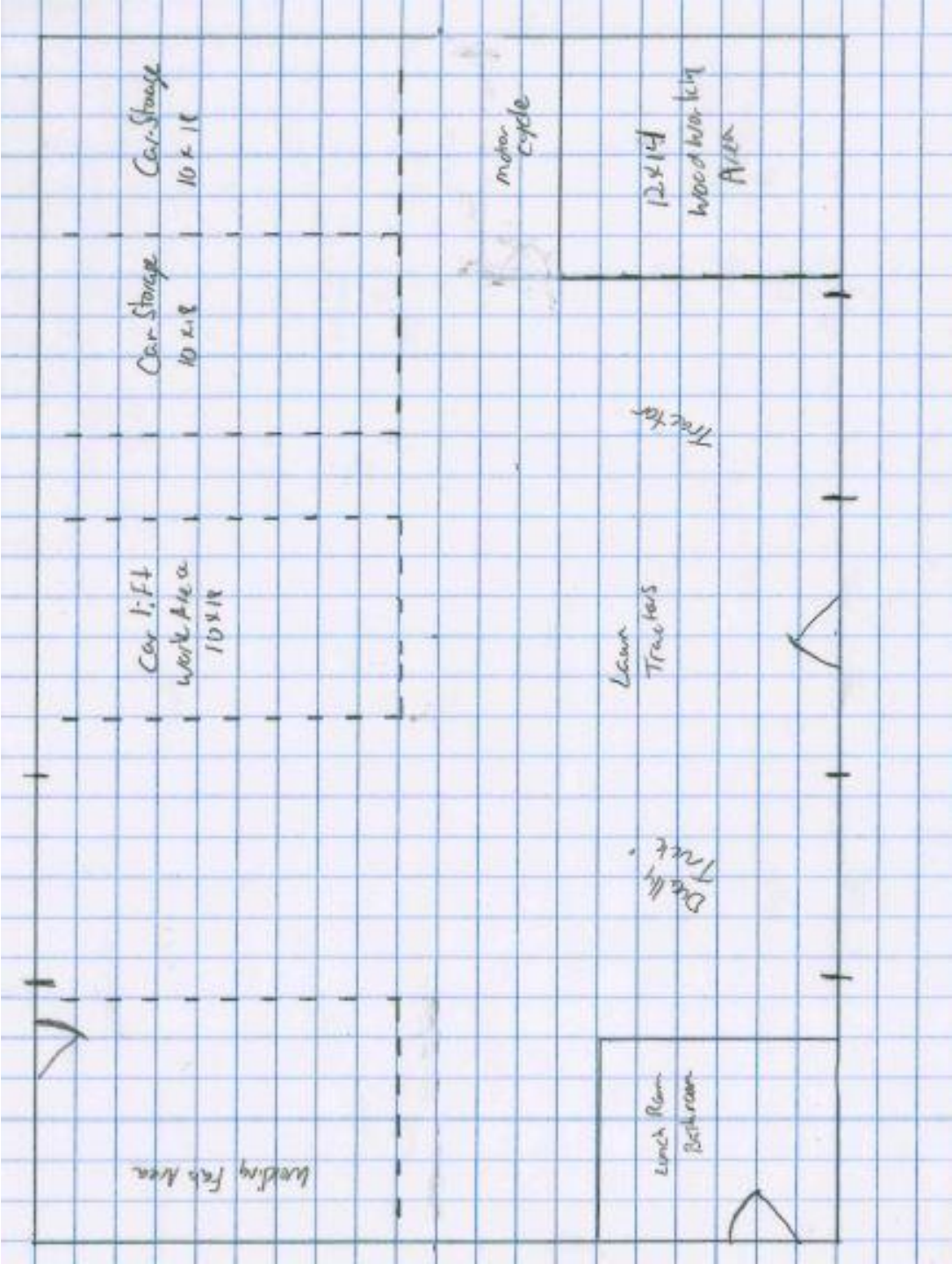
Site Plan



Elevation



Floor Plan



SITE PHOTOS

North



South



West at House



East



SITE PHOTOS - CONTINUED

West at House



Existing Workshop Building and RV-port



Proposed location of new Storage Building



Existing small storage building



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

Name of Applicant(s): Bart & Rani Page

Owner Tenant Representative (Affidavit required)

Mailing Address: 5319 Oriole Drive

Telephone: (307) 462-3155

City/State/Zip: San Angelo, TX 76903

Fax/other:

Email Address: bpagee@msn.com

Subject Property Address and/or Location:

5319 Oriole Drive, San Angelo, TX 76903

Legal Description:

Lot 14, Block 4, Sect 2, Green Acres

Zoning: R & E Ranch & Estate

Specific Description of Request:

Erect 40 x 60 engineered metal building as a workshop. To comply with section 402.A.2, we are seeking a variance to allow maximum square footage of new building and existing out buildings (3600 square feet) which total 133% of principal building (2687 square feet). The Ranch & Estate zoning district allows for a maximum of 100% of square area of principal building. Existing work shop will be converted into quest quarters, also the RV building will be removed to help meet the square footage ratio.

There will be attachments showing square footages of existing out buildings, engineered drawings for the new proposed metal building. Pictures to show existing out buildings, pictures of the engineered metal building, including descriptions of how out buildings will be utilized to comply with section 402.A.2.

* use attachment, if necessary

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

Bart & Rani Page
Signature

December 4, 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:

- **(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;**

Explanation:

The metal building is not being built for financial gain, its intended use is for a workshop, storage for personal items, maintain integrity of all equipment to be housed in metal building and not out in the elements.

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

Explanation:

Existing work shop is inadequate in size to store personal items, vehicles, equipment, and will be converted to quest quarters.

- **(3) 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:

We have over an acre of bare land that the new metal building will be built on. The building will solve storage problems for personal items, vehicles, and equipment. This will prevent from working on equipment outside and having unsightly projects out in the open.

- **(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 the Zoning Ordinance and substantial justice;**

Explanation:

Building will not affect neighbors, but will add value to the property, which adds value to the neighborhood, and eliminates projects being conducted out in the open which would lower the value of property

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

Explanation:

Other properties located in Green Acres have shops or out buildings that are of all different shapes, sizes, colors, and the square footage ratio appears to be over the 100% ratio looking on google maps. Our new metal building is brand new and matches the color scheme of our existing house and out buildings.

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

Explanation:

Looking around at other properties located in Green Acres, the variance we are asking for will be consistent with (zoning RE) Ranch Estate properties.

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

- 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;

Explanation: The metal building is not being built for financial gain, its intended use is for a workshop, storage for

- 2) • These special circumstances are not the result of the actions of the applicant, personal items, maintain integrity of all equipment → over

Explanation: Existing work shop is inadequate in size to store personal items, vehicles, equipment, and will be converted to guest quarters.

- 3) • 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: We have over an acre of bare land that the new metal building will be built on. The building will solve storage problems for personal items, vehicles, and → over

- 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 the Zoning Ordinance and substantial justice;

Explanation: Building will not affect neighbors, but will add value to the property, which adds value to the neighborhood, and eliminates projects being conducted

- 5) • Granting the variance will not adversely affect adjacent land in a material way, and

Explanation: Other properties located in Green Acres have over shops or out buildings that are of all different shapes, sizes, colors, and the square footage ratio appears to be → over

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

Explanation: Looking around at other properties in Green Acres, the variance we are asking for will be consistent with (zoning RE) Ranch Estate properties.

OFFICE USE ONLY

Case no.: ZBA 15-2627

Date of application: 12/4/15

Fully-dimensioned site plan: Nonrefundable fee: \$ 250.00 Date paid: 12/4/15

Date to be heard by ZBA: 1/4/16

Received by: David A. Jell Receipt Number: 254842

Ordinance section(s) from which variance(s) is/are requested:

Section 402, A.2