

STAFF REPORT



Meeting: April 18, 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, AICP
Senior Planner

Case: ZBA16-02

Request: Variance from Section 402.A.2 of the Zoning Ordinance to allow an accessory building in the Single Family Residence (RS-1) Zoning District that is 103% larger than the floor area of the principal dwelling. The RS-1 Zoning District allows accessory buildings to have up to 50% of the floor area as the principal dwelling

Location: 202 East 43rd Street; generally located at the northwest corner of East 43rd Street and Goliad Street

Size: 9.058 acres

Legal Description: Specifically occupying 9.058 acres out of east 1/2 of 25.00 acres, in the T H Dawson Survey #9, Abstract 8046

General Information

Zoning: Single Family Residence (RS-1)

Existing Land Use: Existing Single Family Residence built in 1952 = 1,110 square feet

Existing carport building, built 1952 = 840 square feet

Existing non-enclosed shed, built 1952 = 594 square feet

Existing enclosed detached storage building, built 1952 = 240 square feet

Existing shipping type container, built date unknown = size unknown (to be removed)

Future Land Use: Neighborhood

Surrounding Zoning/Land Use:

North:	General Commercial (CG)	Red Barn Arena, City of San Angelo
West:	Single Family Residences (RS-1)	Single Family Residences
South:	Single Family Residences (RS-1)	Single Family Residences
East:	Single Family Residences (RS-1)	Single Family Residences

District: SMD#2 – Marty Self

Neighborhood: Lake View Neighborhood

History and Background:

On February 5, 2016, the applicants submitted an application for a Variance to allow a total accessory building to have a floor area 103% larger than the principal dwelling in the Single Family Residences (RS-1) Zoning District. The RS-1 Zoning District allows a maximum accessory building floor area of 50% of the principal dwelling. The purpose of the request is to allow the applicant to build a new 30-foot by 60-foot metal storage building. When determining whether the maximum allowable area of an accessory building counts against the size of the principal building, only the enclosed portion with two opposing walls is considered enclosed. In this case, the enclosed portion is 30 by 30 feet or 900 square feet of the overall 1,800 square foot proposed structure. The roof would have a 1:12 pitch. The new building will be 17 feet in height at the ridgeline, and tapering to 16 feet at the eaves.

The applicants plan to use the proposed building as a barn to store feed and hay for their horses and keep the horses in the building during storms. The applicants keep their horses for personal use and enjoyment only and do not intend to operate the property on a commercial basis. Oats are grown on the property as feed for the horses which is a reasonable use just as gardens are allowed for personal consumption in residential district zones.

The applicants live on a lot that is over 9 acres and have more than adequate space for the proposed building. It will be located 140 feet from the eastern property line and 260 feet from 43rd Street to the south, so it should not impose on their neighbors. Furthermore, the applicants believe they should not be penalized for owning a home that was built in 1952 and is 1,110 square feet which the basis for determining the relative size of their accessory building. The applicants have indicated they will remove the shipping type storage container currently on the property.

As indicated above, the total floor area of the house is 1,110 square feet and there is a 240 square foot detached storage building. Assuming the shipping container is removed, the total floor area of all accessory buildings, including 900 square feet of the proposed building, would be 1,140 square feet, which is 103% of the floor area of the house (or 3% greater than the house itself).

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 February 25, 2016. 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 variances requested were largely for carports or the placement of mobile homes. Carports are not currently considered when determining the maximum size of accessory buildings as a percentage of the principle structure because they are not enclosed buildings unless they have two opposing walls. A single variance, ZBA1419, was granted in 1983 at 256 East 43rd Street in the Single Family Residence (then R-1) Zoning District. The accessory building, a 720 square foot detached garage, was allowed to exceed 50% of the principle building which was a 900 square foot house on a .287 acre lot. There were no other approvals or denials for accessory buildings coming close to matching the subject property's lot size, the type of structure approved or related intended use. Special circumstances apply in this case because large lots that were more rural in character like the subject property existed before they were incorporated into the R-1 Zoning District. In essence, they functioned like similar properties zoned in the Ranch and Estate (R&E) Zoning District, but they were included with smaller residential lots that had more stringent development standards.

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

The applicants purchased the home in 2004 and did not erect the existing permitted buildings which have been on the property for at least 64 years. When the property was given an RS-1 Zoning designation when the R-1 Zoning District was done away with, the site was held to the more restrictive 50% cap on accessory structures. The applicants seek only to build the minimum required to safely house their livestock, and to this end, have agreed to remove the existing shipping type container storage unit which would further reduce the accessory building coverage.

- 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 residing on large lots in the surrounding area. The site visit of the surrounding area also revealed that horses are currently kept on at least one property at the corner of Alamo Street and East 46th Street on .34 acres. Also the City owns the Red Barn Arena as part of Rodeo Fairgrounds

north of the subject property. It is zoned General Commercial and the barn is 57,500 square feet on 8.991 acres. Staff believes a slight increase in the total accessory building coverage given the 9.058 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 103% of the principal building – but not more – is reasonable in this case given the 9-acre size of the property and the proposed use of the structure for housing livestock and farming-related equipment. Granting the variance would be the minimum action necessary. All other requirements set forth in the Zoning Ordinance for this type of structure will be met or exceeded.

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

Given that the subject property is characterized by large lots to the north and west which function essentially as ranch related uses, the property acts as a buffer to the smaller residential lots to the south and a few to the east. The property is over 9 acres, and therefore appears to be more than adequately sized for the proposed building. It will be located 140 feet from the eastern property line and 260 feet from 43rd Street to the south so it should not impose on their neighbors. The Planning Division has received one (1) positive and zero (0) negative comments from the nineteen notices that were sent within 200 feet of the property. Consequently, granting this variance with the conditions contained at the end of this report would not appear to 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 horses and feed storage are for their personal use and enjoyment only. The location and height of the building complies with all other provisions of the Zoning Ordinance. The rationale for limiting the size of accessory buildings rests on protecting the character of residential the zoning districts from large accessory buildings that are more commercial in appearance and function which are incompatible with the expectations of those who live in residential districts. In this case, the applicants seek to build an accessory building to make use of the large lot's resources. This

is not likely to lead to more requests for similar structures for smaller neighboring properties to the south and east that are more typically residential in character.

Notification:

On February 23, 2016, sixteen (16) notifications were mailed out within a 200-foot radius of the subject site. Due to cancelation of the ZBA meetings scheduled for March 7 and April 4, sixteen (16) notifications were mailed three times on February 23, March 23 and April 5, 2016. As of April 6, 2016, there were five (5) responses (two responses were from the same individual) 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 ZBA16-02 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 103% larger than the floor area of the principal dwelling, **subject to the following four (4) Conditions of Approval:**

1. The new building shall be painted to match the colors of the existing accessory buildings on the property.
2. 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.
3. Removal of the existing shipping container shall be completed within 30 days of the approval of the final inspection of the new accessory building.
4. If the property is subdivided in the future, resulting in a lot or lots less than 9 acres in size, the accessory building shall be removed or made to comply with Zoning Ordinance requirements for an accessory building in that Zoning District.

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



**SUBJECT AREA
(In Orange)**


**APPROXIMATE
LOCATION OF
NEW BARN**

Variance Case File

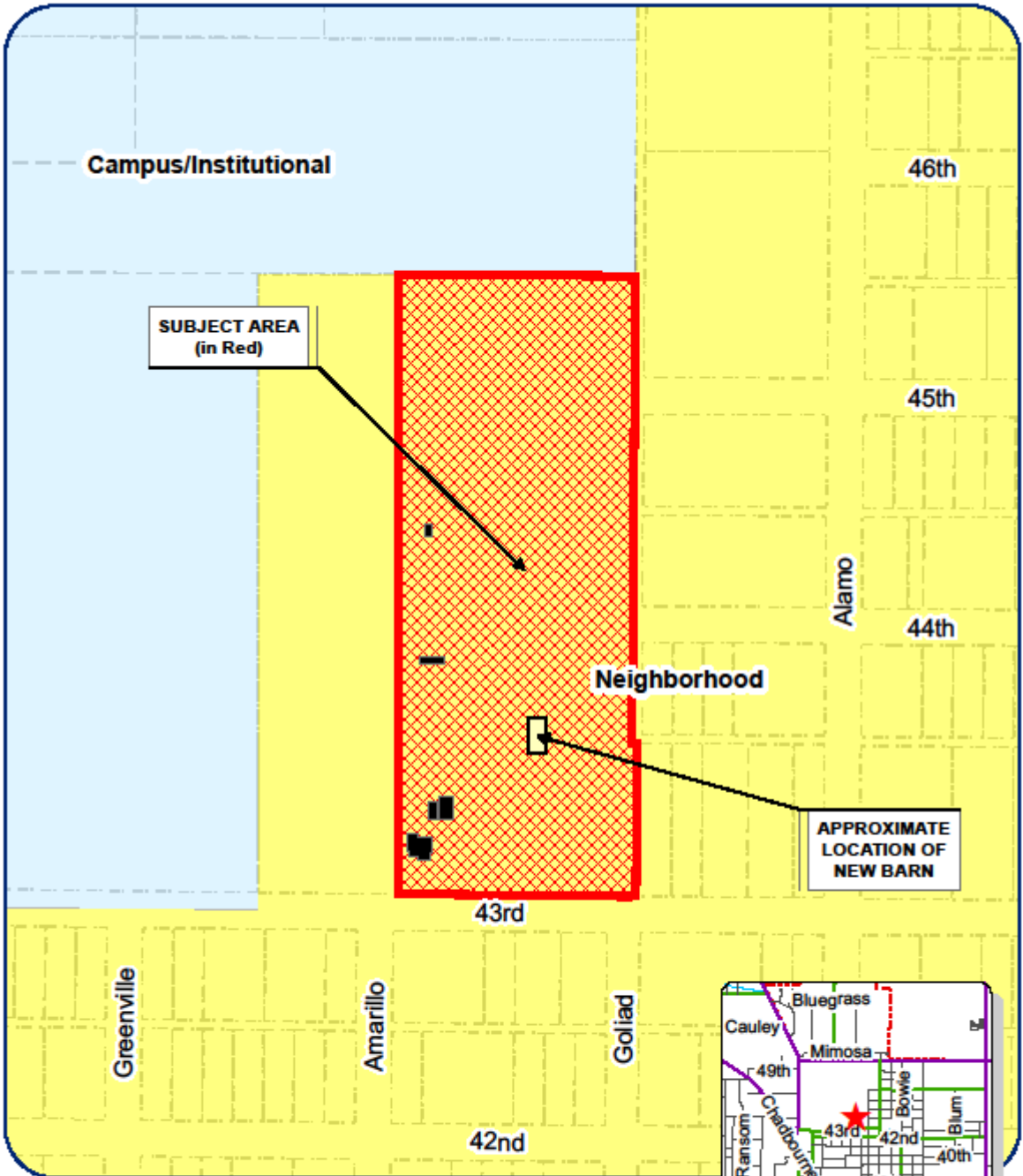
Case ZBA16_02, Lampier

Council District: Marty Self
 Neighborhood: Lake View
 Scale: 1 inch :: 500 feet
 Legal Description(s): 9.058 AC out of the E-1/2 of 25.00 AC, T H Dawson Surv-0009, Abs 8046


Legend

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

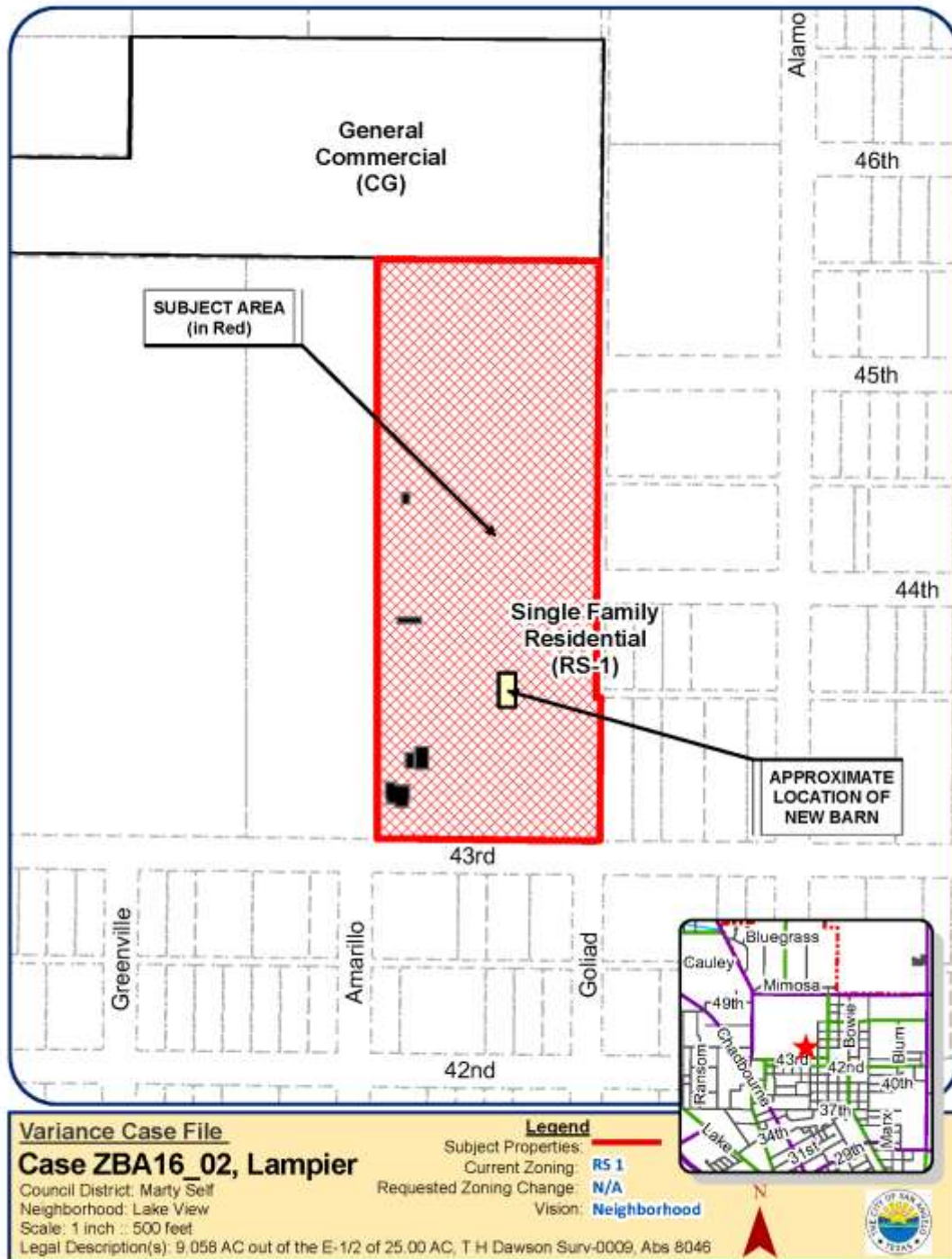


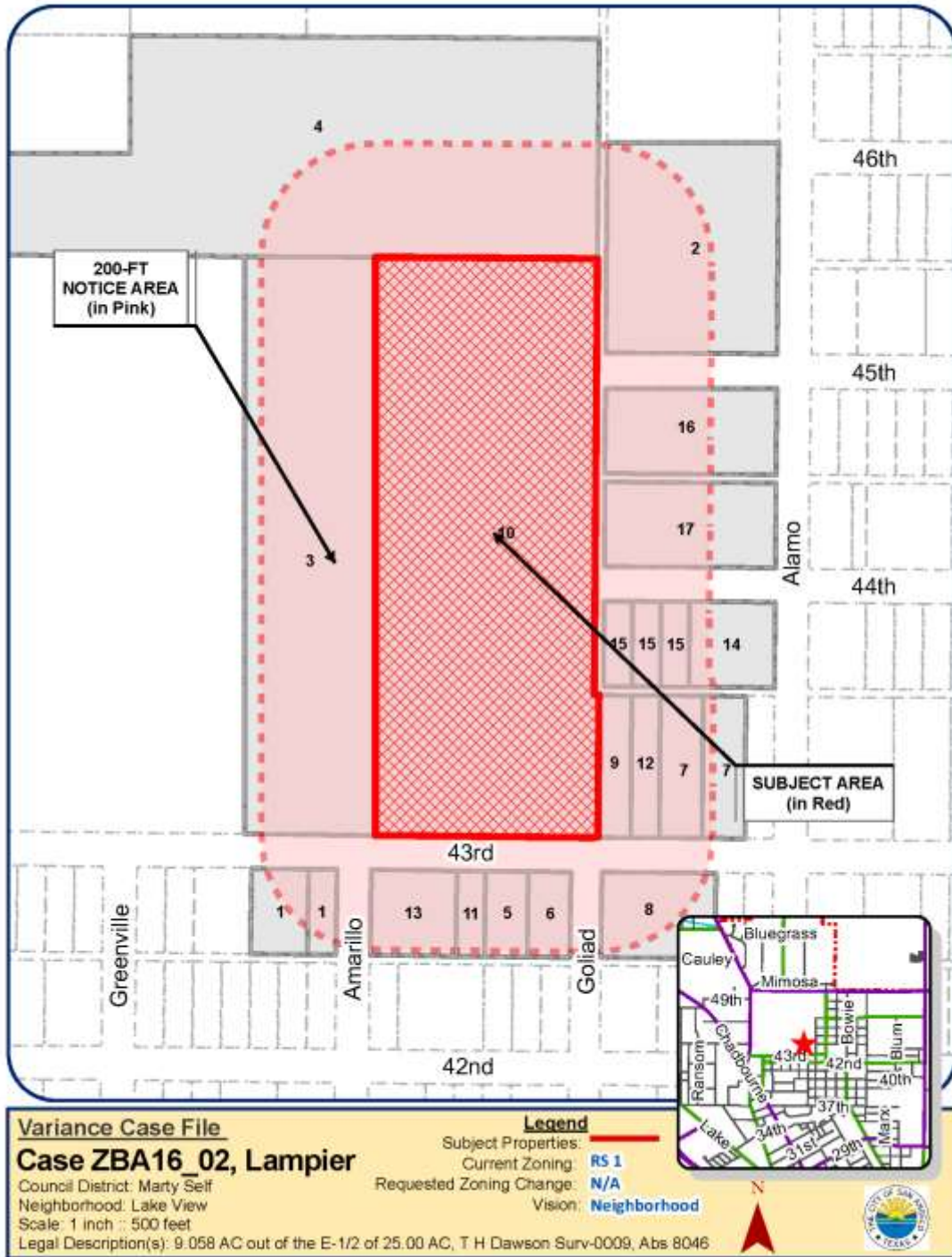


Variance Case File
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 Neighborhood: Lake View
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Legend
 Subject Properties: 
 Current Zoning: **RS 1**
 Requested Zoning Change: **N/A**
 Vision: **Neighborhood**







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 WEST COLLEGE AVENUE IN SAN ANGELO, TEXAS 76903.

() IN FAVOR () IN OPPOSITION

REASON(S) Since Mr. Lampier has been my neighbor, he has done lots of improvement to the property and has made our neighborhood more appealing.

NAME: Eddie Ginn

ADDRESS: 268 E. 43rd

SIGNATURE: Eddie Ginn

ZBA16-02: LAMPIER

Property owner number: 7

If you have any questions about these proceedings, please call Mr. David Fee, Senior Planner, with the City of San Angelo's Planning Division at telephone number 325-857-4210. The Planning Division staff may also be reached by email at david.fee@csa.tx.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 WEST COLLEGE AVENUE IN SAN ANGELO, TEXAS 76903.

() IN FAVOR () IN OPPOSITION

REASON(S) Justin bought a long neglected plot
and has made it into a very nice addition
to the neighborhood.
Justin is the best neighbor anyone
could hope for.

NAME:

Jennifer Johnson

ADDRESS:

252 East 4th

San Angelo Tx 76903

SIGNATURE:

Jennifer Johnson

ZBA16-02: LAMPIER

Property owner number: 9

If you have any questions about these proceedings, please call Mr. David Fee, Senior 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 david.fee@cosatx.us

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() IN FAVOR () IN OPPOSITION

REASON(S) Justin has been the best asset to
the neighborhood in all respects. His work is always
first class and he always follows the city statutes.

NAME: Jersey A. Johnson

ADDRESS: 252 East 4th St 76903

SIGNATURE: 

ZBA16-02: LAMPIER
Property owner number: 9

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() **IN FAVOR** () **IN OPPOSITION**

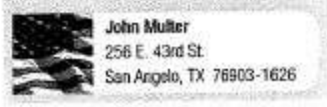
REASON(S) I strongly recommend APPROVAL of this request for construction on this property.

This is a good neighbor who does everything with style + grace, who maintains and operates his property to the highest standards in the neighborhood. All that he does on his property is first class, is an enhancement, is an improvement.

I am happy to recommend approval and ask the City to look with favor on this request. Anything he will build/add will be an asset to our neighborhood.

NAME: John Multer John Multer
ADDRESS: 256 E 43 St San Angelo TX 76903

SIGNATURE: John Multer 325 658-1655



ZBA16-02: LAMPIER
Property owner number: 12

If you have any questions about these proceedings, please call Mr. David Fee, Senior 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 david.fee@cosatx.us
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() IN FAVOR () IN OPPOSITION

REASON(S) On the recommendation of
San Angelo Zoning Ordinance and
the desire to help a neighbor.

NAME: Lynda Groves

ADDRESS: 4401 ~~Alamo~~ Alamo
San Angelo, Texas

SIGNATURE: Lynda Groves

ZBA16-02: LAMPIER
Property owner number: 17

If you have any questions about these proceedings, please call Mr. David Fee, Senior 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 david.fee@cosatx.us

Site Plan

Google Maps



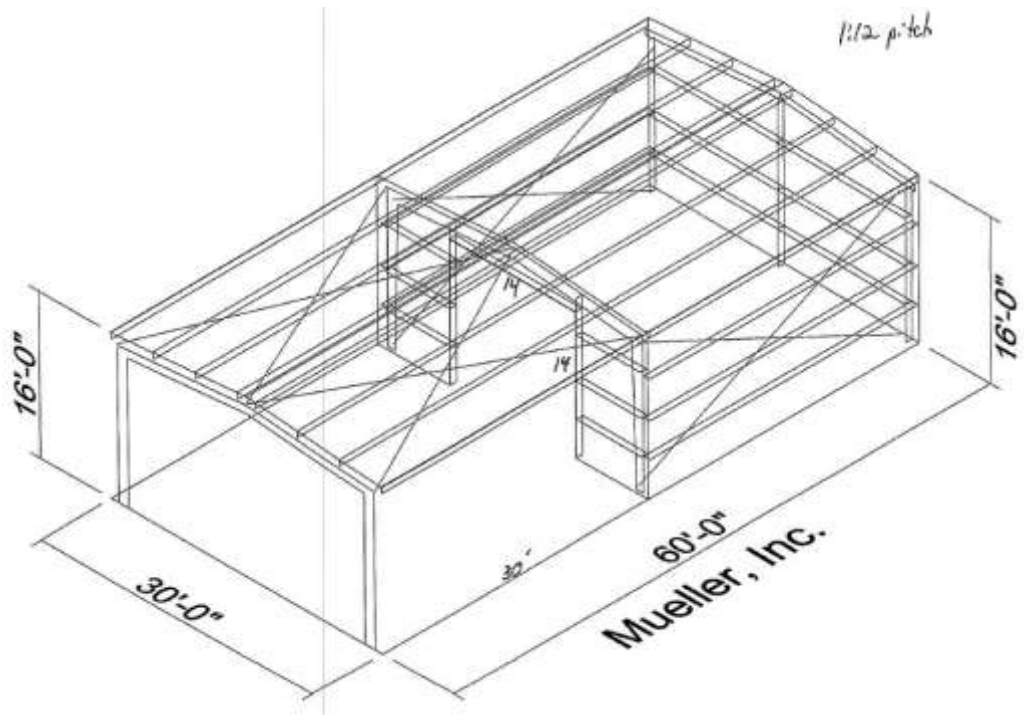
Imagery ©2016 Google, Map data ©2016 Google 50 ft

Google Maps



Imagery ©2016 Google, Map data ©2016 Google 50 ft

Elevation



SITE PHOTOS

North



South



West



East



SITE PHOTOS – SURROUNDING AREA

Red Barn Arena north of property



Hay bales and windmill on East 43rd St.



Existing 240 square foot accessory building



Existing shipping container (to be removed)



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

Name of Applicant(s): Justin Lampier

Owner Tenant Representative (Affidavit required)

Mailing Address: 202 East 43rd Telephone: 325 650-2699

City/State/Zip: San Angelo, TX 76903 Fax/other: _____

Email Address: jwlampier@yahoo.com

Subject Property Address and/or Location*:

202 East 43rd STREET

San Angelo, TX 76903

Legal Description*:

ABST: A-8046 S-009, Survey TH Dawson, 9.058 Acres out of East 1/2 of 25.00 acres

Situs: 202 E 43rd ST.

Zoning RS - 1

Specific Description of Request*:

Would like to be allowed to build a 30x30 barn with a 30x30 overhang.

* use attachment, if necessary

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

Justin Lampier
Signature

2-5-16
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: I have over 9 acres with my property instead of just a lot. I also own the property adjacent to the west that is approximately 6 more acres. 15+/- total.
- These special circumstances are not the result of the actions of the applicant.
Explanation: No, I just want cover for my animals and their safety, and a place to store feed and hay.
- 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: I need the barn for my animals
- 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: It will not be contrary to public interest
- Granting the variance will not adversely affect adjacent land in a material way, and
Explanation: It will not affect anyone in a negative way
- Granting the variance will be generally consistent with the purposes and intent of the Zoning Ordinance.
Explanation: People move to Lakeview to have more land and have the ability to have animals. It will not be a negative impact to our neighbors or neighborhood.

OFFICE USE ONLY	
Case no.: ZBA <u>16-02</u>	Date of application: <u>2/5/16</u>
Fully-dimensioned site plan: <input checked="" type="checkbox"/>	Nonrefundable fee: <u>\$250.00</u> Date paid: <u>2/5/16</u>
Date to be heard by ZBA: <u>3/7/16</u>	
Received by: <u>David Fee</u>	Receipt Number: <u>254870</u>
Ordinance section(s) from which variance(s) is/are requested: <u>SEC 402 Accessory Uses and Structures</u>	

To whom it may concern:

My name is Justin Lampier. My wife and I purchased this property in 2004. At first, I bought my home that sits upon approximately 3+/- acres. A year or two later, we purchased the land adjacent to us on the east. It consisted of approximately 6 +/- acres. A couple years ago, I also purchased the house and 6 more acres to the west of my home.

The 6 acre tract was completely covered in mesquite and brush. A person could not walk through it without a chainsaw. The fences on my home place and the extra six acres were built out of box spring mattresses. Over the last 12 years, I have built new fences around my entire place, without any help from my neighbors. I didn't ask for any monetary or voluntary help. I also cleared 98 % of the brush on the land and got rid of all the debris. I left a few of the larger trees for shade. I have also got the ground in great shape and have been plowing and planting wheat and or oats on it yearly for my 2 horses.

I have always had high hopes of eventually building a barn on my place to keep feed and hay in. I also wanted it for protection for my horses when storms came. A year or two ago, I was told that I could not build the barn on the extra six acres I purchase. I was told it needed a house on it before I could do that. Well, obviously I don't need two houses. They said I could get around that by going to the appraisal district and getting my 3 and 6 acres combined into one 9 acre tract. So that is what I did. It took a few months for that to go through.

Now, a couple years later, I am back to trying to build a barn, and I am told that I can only build a small one due to the size of my home. I strongly feel that I should be able to build one. I do not own just a small lot, like most people around me. I have 9 acres, along with the property to the west of mine that is 6 more acres, giving me a total of approximately 15 acres. The city of San Angelo borders me on 2 sides with the Coliseum drainage ditch and the red barn roping arena. I don't feel like me building a small barn on my property will impact my neighbors or the city. The barn will be well over 100 feet from my closest neighbor and over 250 feet from 43rd street.

The building I am trying to get built is an engineered building that will be purchased at Mueller Metal here in San Angelo. It is a 30x30 enclosed space with a 30x30 overhang. It is not something that I am just going to throw together.

Please take all this into consideration.

Thanks for your time,
Justin Lampier
325 650-2699

STAFF REPORT



Meeting: April 18, 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 16-03

Request: Two Variances from Section 501(A) of the Zoning Code to allow for: (1) a 9-foot side yard setback in lieu of a 1-foot maximum side yard setback along the west lot line and (2) a 9-foot side yard setback in lieu of a 10-foot minimum side yard setback along the east lot line of a property within the Zero-Lot-Line/Twinhome/Townhome Residential (RS-3) Zoning District

Location: 6018 Warwick; generally located along the north side of Warwick Drive between Avondale Avenue and Ashford Drive

Legal Description: Lot 16, Block 13, Section 7 of The Bluffs Addition

Size: 0.25 acres

General Information

Future Land Use: Neighborhood
Zoning: Zero-Lot-Line/Twinhome/Townhome (RS-3)
Existing Land Use: Residence under construction
Surrounding Zoning / Land Use:

North:	Single-Family Residential (RS-1)	Single-family residential
West:	Zero-Lot-Line / Twinhome / Townhome (RS-3)	Single-family residential
South:	Zero-Lot-Line / Twinhome / Townhome (RS-3)	Single-family residential
East:	Zero-Lot-Line / Twinhome / Townhome (RS-3)	Single-family residential

District: SMD #6 – Charlotte Farmer
Neighborhood: The Bluffs

History and Background:

This application was originally scheduled for the March 7, 2016 public hearing of the City’s Zoning Board of Adjustment. This meeting was cancelled, however, due to a lack of quorum.

The 0.26-acre subject property was annexed into the City in July of 1985 and is zoned Zero-Lot-Line/Twinhome/Townhome (RS-3) District. The subject property was platted in January of 1986 as part of The Bluffs Addition – Section 7 (Cabinet D, Slide 228). 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 features or peculiarities. The subject property is subject to the following setbacks: Front – 15 feet; Side – 0 to 1-foot, with the opposing side being 10 feet; Rear – 10 feet. The applicant is seeking to finish the construction of the residence within 9.4 feet of the east property line and within 9.6 feet of the west property line in accordance with approved Building Plans.

The subject property is located in the RS-3 Zoning District, which is a somewhat unconventional single family residential district that constitutes just under two percent of the total local residential inventory not intended for multi-family purposes. The RS-3 Zoning District, or Zero Lot Line, Twinhome and Townhome District, is intended to provide opportunities for medium density residential development using townhome, twinhome and zero lot line concepts to incorporate: (1) more efficient use of land than typical single-family development, making needed housing more affordable; (2) design of dwellings that integrate and relate internal/external living areas resulting in more pleasant and enjoyable housing; and (3) placement of dwellings against the property line, permitting outdoor space to be grouped and utilized to its maximum benefit. With this in mind, the unique development standards for this Zoning District are:

- Front – 15 feet;
- Side – 1-foot maximum setback on one (1) side;
- Opposing Side – 10-foot minimum setback, and;
- Rear – 10 feet

According to the Official Zoning Map, this particular Zoning District is found dispersed throughout the City, with the heaviest concentration of RS-3 Zoning being located within an area bound by the Houston Harte Expressway, Sherwood Way, Southland Boulevard and Oak Grove Boulevard (Ellison Estates and Twin Oaks additions). The subject property does not fall within this concentration, however. It is, instead, part of a 21-lot unique residential enclave, one of five such enclaves throughout the overall Bluffs residential neighborhood that are intended to provide a variety of high-end housing options by facilitating townhome, twinhome and zero-lot-line development. These RS-3 enclaves, however, only constitute a little over five percent of the overall residential development for the Bluffs, which is largely designed for Single-family Detached Residential (RS-1) use.

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 peculiar to the existing structure relate to a combination of system-related events that resulted in this Variance request. Building plans were submitted inconsistent with the development standards of the Zero-Lot-Line/Twinhome/Townhome (RS-3) Zoning District. Former staff

incorrectly issued a building permit for its construction as a result of misunderstanding the unique development standards inherent to the RS-3 Zoning District. The basis for this misunderstanding is unknown, but it may have been rooted in the level of typical single-family detached residential development commonly found throughout the overall Bluffs neighborhood.

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

The special circumstances indicated were the result of erroneous conclusions and actions by multiple parties. Miscalculations in the original plan submission were discovered, and subsequent revisions were submitted. As a result, building plans were improperly released with the side setbacks indicated.

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-3 development standards outlined in the Zoning Ordinance. Under normal circumstances, the applicant would either have to construct a residence in accordance with prescribed RS-3 development standards or seek Variance relief prior to the Permit's release. There is nothing to indicate that the applicant intended to construct anything other than a zero-lot-line residence, however. In light of this, a denial of the Variance could impose an undue hardship on the applicant, given the unusual circumstances involved.

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.

There is nothing to indicate that overall public safety and welfare will be compromised if the request is granted. There is also nothing to indicate that the applicant intended to build something other than what is generally allowed in the RS-3 Zoning District. Although the subject property is located within a unique residential enclave designed to offer various high-end housing options, the resulting new residence might not sharply contrast with the prevailing single-family development found throughout the overall Bluffs neighborhood. The Variance request along the east property line could also have been approved administratively as it falls under the ten-percent threshold for allowable building encroachments.

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. Granting this Variance will not set a precedent for allowing similar encroachments for neighboring undeveloped properties as this is nothing more than a benign anomaly that resulted from a series of unintentional and unfortunate steps. Despite the subject property being located within a unique residential enclave designed to offer various high-end housing options, the resulting new residence will not sharply contrast with the prevailing single-family development found throughout the overall Bluffs neighborhood.

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

The granting of this request will be consistent with the criteria for the granting of a Variance found in Section 207(F) of the Zoning Ordinance, and thereby being consistent with the overall purpose and intent of the Ordinance, particularly as a matter of substantive justice. The single family residence under construction appears to be consistent with all other site requirements for the RS-3 Zoning District. The Variance request along the east property line could have been approved administratively as it falls under the ten-percent threshold for allowable building encroachments. As an otherwise benign and unintentional anomaly, the resulting new residence will not sharply contrast with the prevailing single-family development found throughout the overall Bluffs neighborhood.

Notification:

On February 24, 2015, twenty-one (22) notifications were mailed out within a 200-foot radius of the property. As of the publication of this report, there were zero (0) responses either in favor of, or in opposition to the request.

Staff Recommendation:

Staff's recommendation is for the Zoning Board of Adjustment to **APPROVE** Case ZBA 15-026 to allow for Two Variances from Section 501(A) of the Zoning Code to allow for: (1) a 9-foot side yard setback in lieu of a 1-foot maximum side yard setback along the west lot line and (2) a 9-foot side yard setback in lieu of a 10-foot minimum side yard setback along the east lot line of a property within the Zero-Lot-Line/Twinhome/Townhome Residential (RS-3) Zoning District, subject to the following one (1) Condition of Approval:

1. If the nonconforming structure (single family residence) is destroyed or damaged by 50% or more, the nonconforming structure shall be rebuilt in accordance with the required setbacks for RS-3 development as dictated by the Zoning Ordinance, Chapter 12, Section 501.

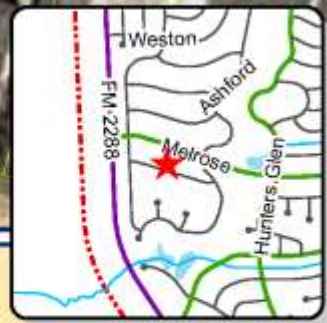
Effect of Variance:

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




Variance Case File

Case ZBA16_003 (Mason)

Council District: Charlotte Farmer
 Neighborhood: Bluffs
 Scale: 1 inch = 200 feet
 Legal Description(s): Lot 16, Blk 13, Sec 7 - The Bluffs Add'n

Legend

Subject Properties: 
 Current Zoning: **RS 3**
 Requested Zoning Change: **N/A**
 Vision: **Neighborhood**

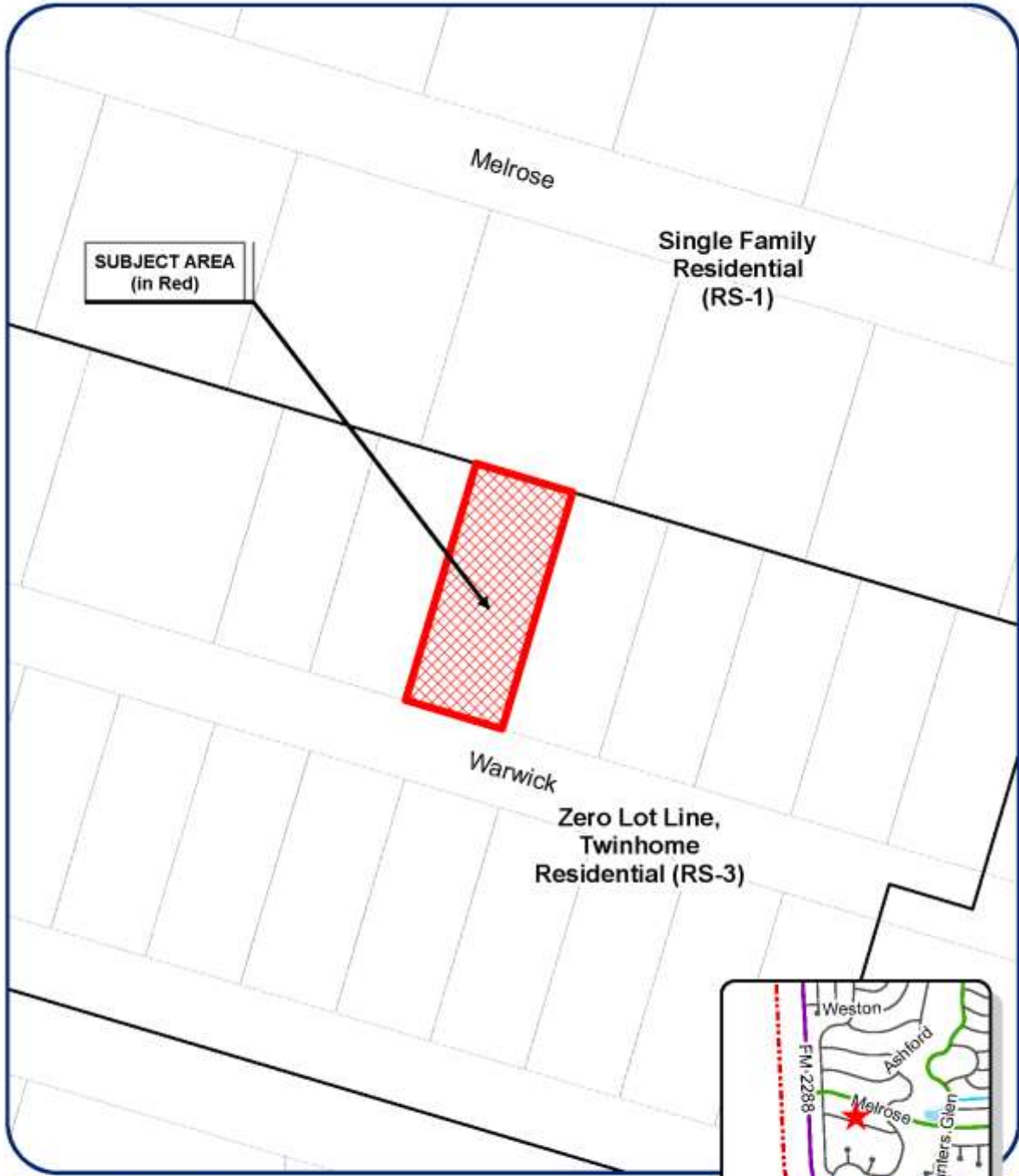




Variance Case File
Case ZBA16_003 (Mason)
 Council District: Charlotte Farmer
 Neighborhood: Bluffs
 Scale: 1 inch = 200 feet
 Legal Description(s): Lot 16, Blk 13, Sec 7 - The Bluffs Add'n

Legend
 Subject Properties: 
 Current Zoning: **RS 3**
 Requested Zoning Change: **N/A**
 Vision: **Neighborhood**






Variance Case File

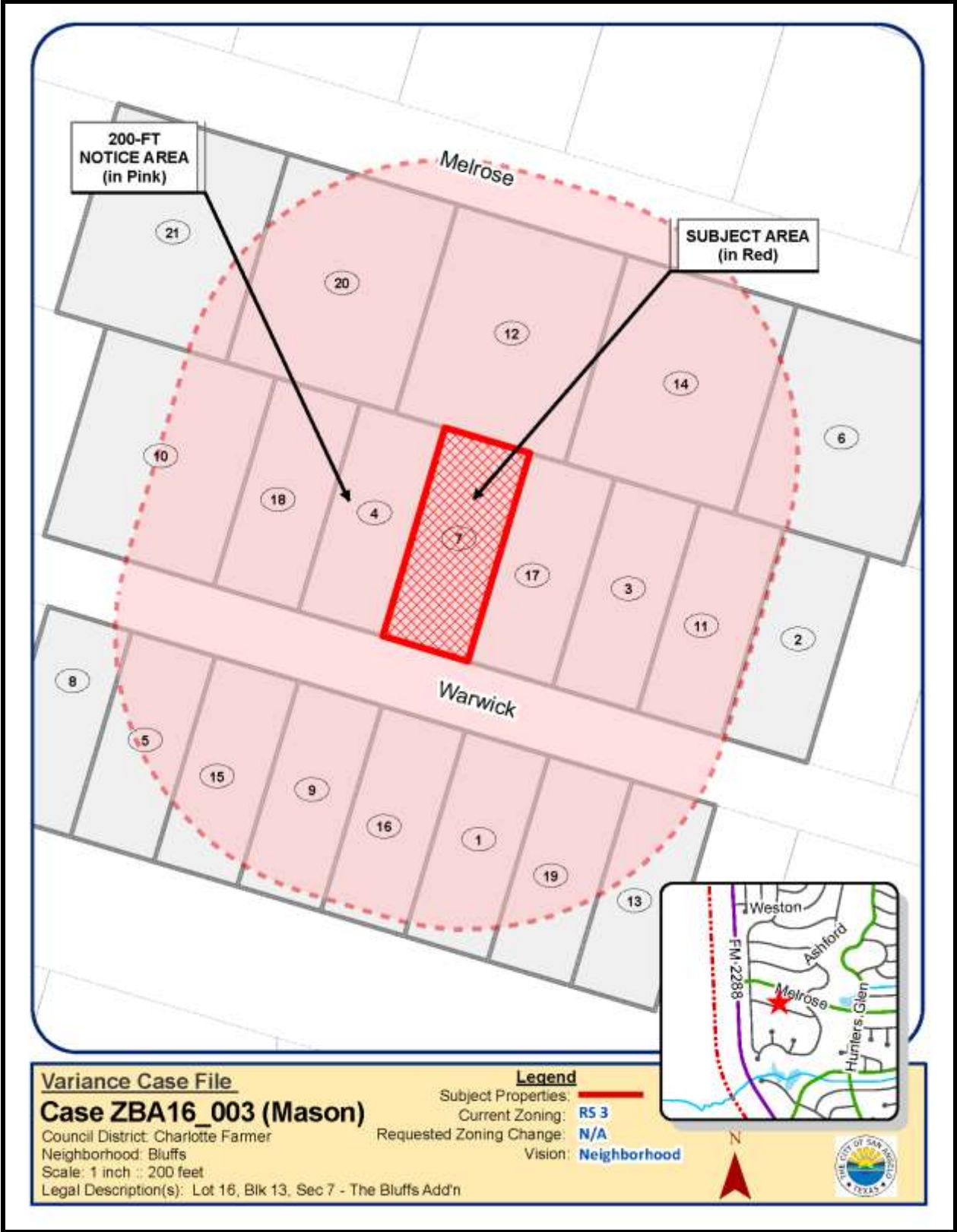
Case ZBA16_003 (Mason)

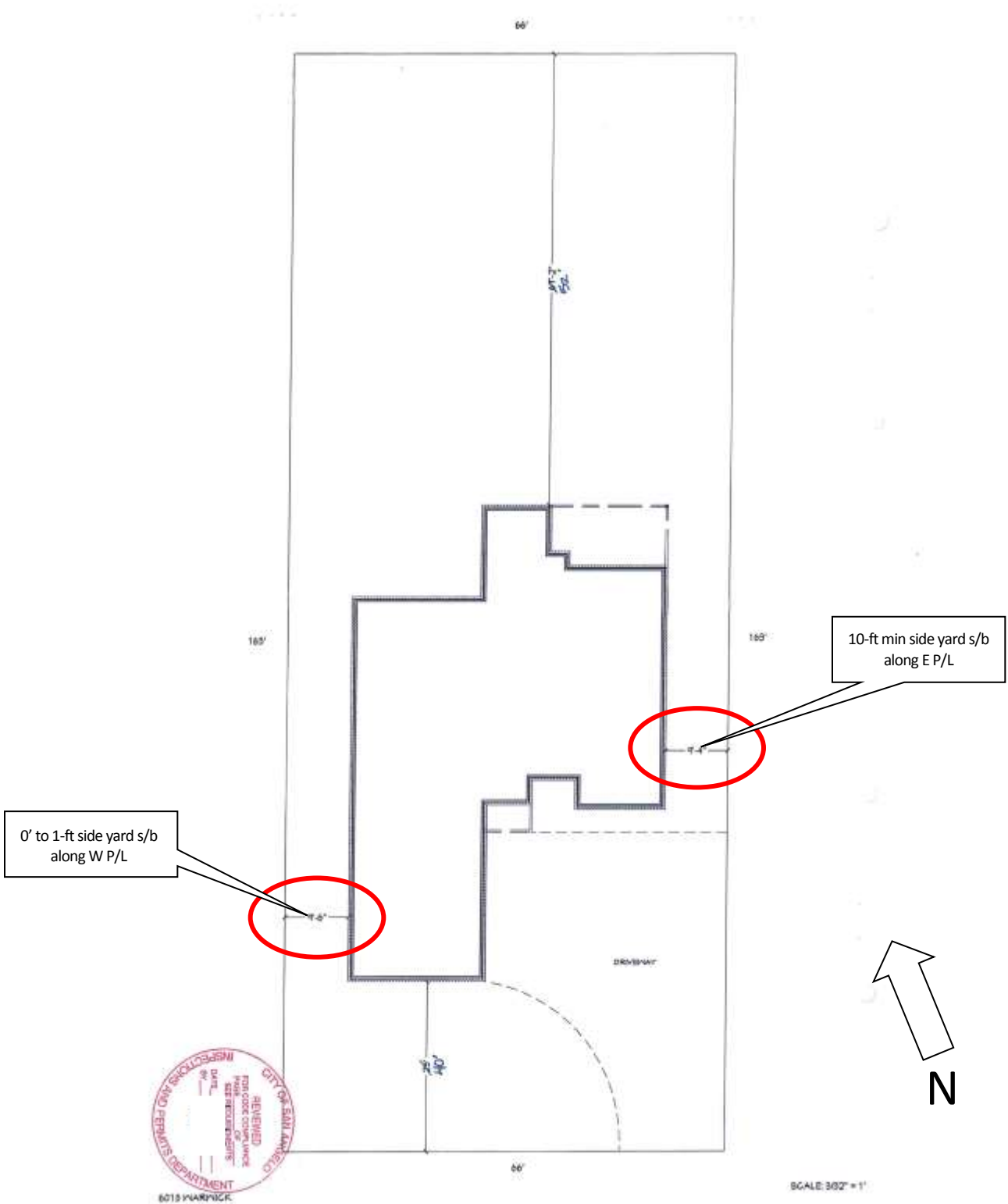
Council District: Charlotte Farmer
 Neighborhood: Bluffs
 Scale: 1 inch :: 200 feet
 Legal Description(s): Lot 16, Blk 13, Sec 7 - The Bluffs Add'n

Legend

Subject Properties: 
 Current Zoning: **RS 3**
 Requested Zoning Change: **N/A**
 Vision: **Neighborhood**

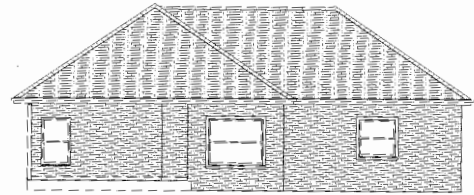








FRONT OF HOUSE



REAR OF HOUSE

SUBJECT PROPERTY



VIEW LOOKING WEST



VIEW LOOKING EAST



VIEW LOOKING SOUTH



Application for Variance from Zoning Regulations

Name of Applicant(s): Dudley Mason Management Co LLC

Owner Tenant Representative (Affidavit required)

Mailing Address: P.O. Box 41164 Telephone: (325) 690-1825

City/State/Zip: Abitene, TX 79608 Fax/other: (325) 690-1821

Email Address: _____

Subject Property Address and/or Location*:
6018 Warwick San Angelo, TX 76901

Legal Description*:
Lot 16, BIK 13 Sec 7, The Bluffs Add.

Zoning: Zero Lot Line, Two Home, + Townhome Residential District (RS-3)

Specific Description of Request*:
Variance from Section 501 to allow for a 9.4' side setback in lieu of 10' on the eastern facade
Variance from Section 501 to allow for a 9.6' side setback in lieu of a maximum of 1 feet, in the R-3 Zoning District western facade

* use attachment, if necessary

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

Dudley Mason
Signature

1-24-16
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: Plot plan & house plan were approved by city permit.

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

Explanation: Followed city guidelines of applying for permit.

- 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: No hardships for others.

- 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: Yes granting the variance would be the minimum action.

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

Explanation: No it will not.

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

Explanation: Yes.

OFFICE USE ONLY	
Case no.: ZBA <u>15-03</u>	Date of application: <u>1/26/2015</u>
Fully-dimensioned site plan: <input checked="" type="checkbox"/> Nonrefundable fee: \$ <u>250</u>	Date paid: <u>1/26/2015</u>
Date to be heard by ZBA: <u>3/9/2016</u>	
Received by: <u>Jeff Fisher</u>	Receipt Number: <u>254865</u>
Ordinance section(s) from which variance(s) is/are requested: <u>section 501.B.2.a. and 501.B.2.b.</u>	

Dudley Mason Management

Variance Request Application

Lot: 16 Block: 13 The Bluffs

Address: 6018 Warwick

City: San Angelo

State: Texas

Zip Code: 79601

Regarding the variance at above mentioned property, please accept our request for variance approval. If not approved, we will make needed adjustments to the property to comply with the City of San Angelo R-3 zoning regulations.



Dudley Mason

STAFF REPORT



Meeting: April 18, 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: ZBA16-06

Request: Variance from 424.D of the Zoning Ordinance to allow a Radio Broadcast Tower, which exceeds 35 feet in height, to have a 41-foot setback from the boundary of a lot in a residential zoning district in lieu of 100 feet

Location: 901 North Main Street; generally located at the northwest corner of North Main Street and East 8th Street

Size: 0.987 acres

Legal Description: Specifically being 0.987 acres in the Exall Addition, Block 5, Lots 9-14

General Information

Zoning: Office Commercial (CO)

Existing Land Use: 901 N. Main Street: Ninth & Main Church of Christ
 825 N. Main Street: Concho Valley Baptist Association

Future Land Use: Campus / Institutional

Surrounding Zoning/Land Use:

North:	Two-Family Residence (RS-2)	Concho Valley Baptist Association, Baptist Retirement Community
West:	Two-Family Residence (RS-2), Low Rise Multifamily Residence (RM-1)	Baptist Retirement Community, Future Memorial Care Assisted Living Houses
South:	General Commercial (CG)	Shell Gas and Convenience
East:	General Commercial (CG)	Auto Zone

District: SMD#3 – Johnny Silvas

Neighborhood: Reagan Neighborhood

History and Background:

The applicant operates an existing church from the subject properties at 901 North Main Street (Lots 9-14, Block 5, Exall Addition) and plans to construct a new church radio station and a 90-foot radio tall broadcast tower on Lot 13. The properties were rezoned in January 5, 2016, from Two-Family Residence (RS-2) to Office Commercial (CO) to make consistent the existing church uses on the property which have operated since 1959 with the City’s Zoning Ordinance.

On March 4, 2016, the applicant submitted this application for a Variance to facilitate the construction of a 90-foot tall radio broadcast tower with a 41-foot setback from the boundary of a residential lot in lieu of 100 feet, as required by Section 424.D. of the Zoning Ordinance. The adjacent residential lot is located west of the property, separated by a 20-foot alley, and is occupied by the Baptist Retirement Community which is in support of the Variance request. The setback from the nearest building on the Baptist Retirement Community site to the base of the tower is approximately 58 feet.

The existing church to the south is located on the western portion of Lots 9-12 with a parking area at the front. The applicant plans to erect the tower on the western portion of Lot 13, allowing sufficient space and maneuvering area for a future parking lot and radio studio building on the eastern side of the lot. As this lot is only 150 feet in length, meeting both the required 100 foot setback from the residential lot to the west and meet the 50-foot required front yard setback from the public right-of-way on Main Street is problematic. The applicant has submitted a Site Plan and Elevation depicting the location and height of the proposed tower. The 90-foot tower will sit on a 10-foot base and will be surrounded by a 7-foot high security fence. The tower appears to comply with all development standards in the Zoning Ordinance except for the setback from the residentially-zoned district to the west.

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 believes that the existing structural layout of the buildings and parking area, as well as the small lot size, is a special circumstance. The existing church is situated on Lots 9-12 of the subject site with a parking area in the front, along the east side adjacent to Main Street. To be consistent with the existing development and to allow sufficient maneuvering area and parking, the applicant plans to erect the tower closer to the western side of Lot 13. This will allow a new parking area to be located on the east half of the lot as well on Lot 14, consistent with the existing church development to the south. This would serve to better ensure traffic safety as there would be a continuous parking area at the front of the property. If the building and tower were placed at the front instead, vehicles would have a narrow access to the rear as the proposed radio building is 38 feet wide and the lot is only 50 feet wide. In addition, Section 424 of the Zoning Ordinance requires a tower to have a 50-foot front yard setback, in addition to a 100-foot setback, to a residential lot. The subject lot is only 150 feet in length, which would require the tower to be located somewhere in the center of the lot. This would create a hardship to the applicant, both logistically as well as aesthetically, as the tower would separate the radio studio building from the parking area. For these reasons, Planning Staff believes a bona fide special circumstance exists.

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

The existing church and parking area cover all of Lots 9-12, leaving only Lots 13 and 14 to the north for future development. All of the lots were already platted with only 150 feet of depth and 50 feet of width, creating limited space for the applicant to meet the required setbacks for the radio tower. The applicant did not create this circumstance and did not foresee the need for a radio station and tower until only recently. Planning Staff believe the applicant is utilizing the site in the most efficient way possible by proposing to locate the tower and radio studio building on the west portion of the site to allow the parking lot expansion to the east. As mentioned, the setback between the closest building on the Baptist Retirement Community site and the proposed tower is approximately 58 feet.

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.

Planning Staff believes that a literal interpretation of the Zoning Ordinance may deprive the applicants the rights enjoyed by others in the Office Commercial (CO) Zoning District. The CO District is a pseudo-commercial Zoning District that is typically surrounded by other commercial or office uses. In this particular case, however, the subject properties are adjacent to residential zoning to the west which requires that telecommunication towers be setback a minimum of 100 feet from a lot in a residential zoning district, and 50 feet from a street right-of-way to the east. Given that the lots are only 150 feet wide, even with a 20-foot alley in between the properties, this leaves only a small amount of space to fit the tower, a radio studio building, and another future parking area.

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 that granting a Variance to allow for a 41-foot setback to the residentially zoned lot to the west is not in contrary to the public interest. The Baptist Retirement Community whom owns the residential land to the west has provided a letter in support of the request, and as indicated previously, there is approximately 58 feet between the proposed tower location and the nearest building on the Baptist site.

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

Planning Staff does not believe any adjacent land will be affected in a material way. The radio tower is only 90 feet in height, unlike traditional telecommunications towers which can range from 150-180 feet in height. The substantial setback to the actual buildings on the Baptist site provides further justification to support this Variance request. Finally, no indications of objection have been received from any adjacent property owners.

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. Moreover, the proposed radio tower appears to comply with all development standards of the Zoning Ordinance in all other respects. It is noted, however, that the small accessory structure located on Lot 14 will have to be removed prior any future development, and that the applicant will have to erect a 6-foot high solid screen privacy fence along the west property line of Lot 13 adjacent to the residential zoning district, as per Section 509.A of the Zoning Ordinance, as well as on Lot 14, prior to any future development on that property. A portion of the required 7-foot high tower security fence may be used to satisfy this requirement, providing it is opaque and constructed of wood, masonry, or metal.

Notification:

On March 23, 2016, eight (8) notifications were mailed out within a 200-foot radius of the subject site. As of March 29, 2016, there were two (2) responses in favor and none (0) in opposition of the request. The attached letters of support were from the Baptist Retirement Community located immediately west of the subject property and Concho Valley Baptist Association located immediately to the north.

Staff Recommendation:

Staff's recommendation is for the Zoning Board of Adjustment to **APPROVE** Case ZBA16-06 for a Variance from 424.D of the Zoning Ordinance to allow a Radio Broadcast Tower, which exceeds 35 feet in height to have a 41-foot setback from the boundary of a lot in a residential zoning district in lieu of 100 feet, **subject to the following (3) Conditions of Approval:**

1. The applicant shall be required to install a minimum 6-foot high opaque privacy fence along the west property line adjacent to the residential Zoning District, prior to any future development on Lot 13 or Lot 14. A portion of the required 7-foot high tower security fence shown on the Site Plan may be used to satisfy this requirement, providing it is opaque and of wood, masonry, or metal construction.
2. The applicant shall demolish the existing accessory structure on Lot 14 prior to any development on this lot. A demolition permit shall be required from the Permits and Inspections Division with a final inspection completed.
3. The applicant is required to obtain a permit from the Permits and Inspections Division for the new radio tower.

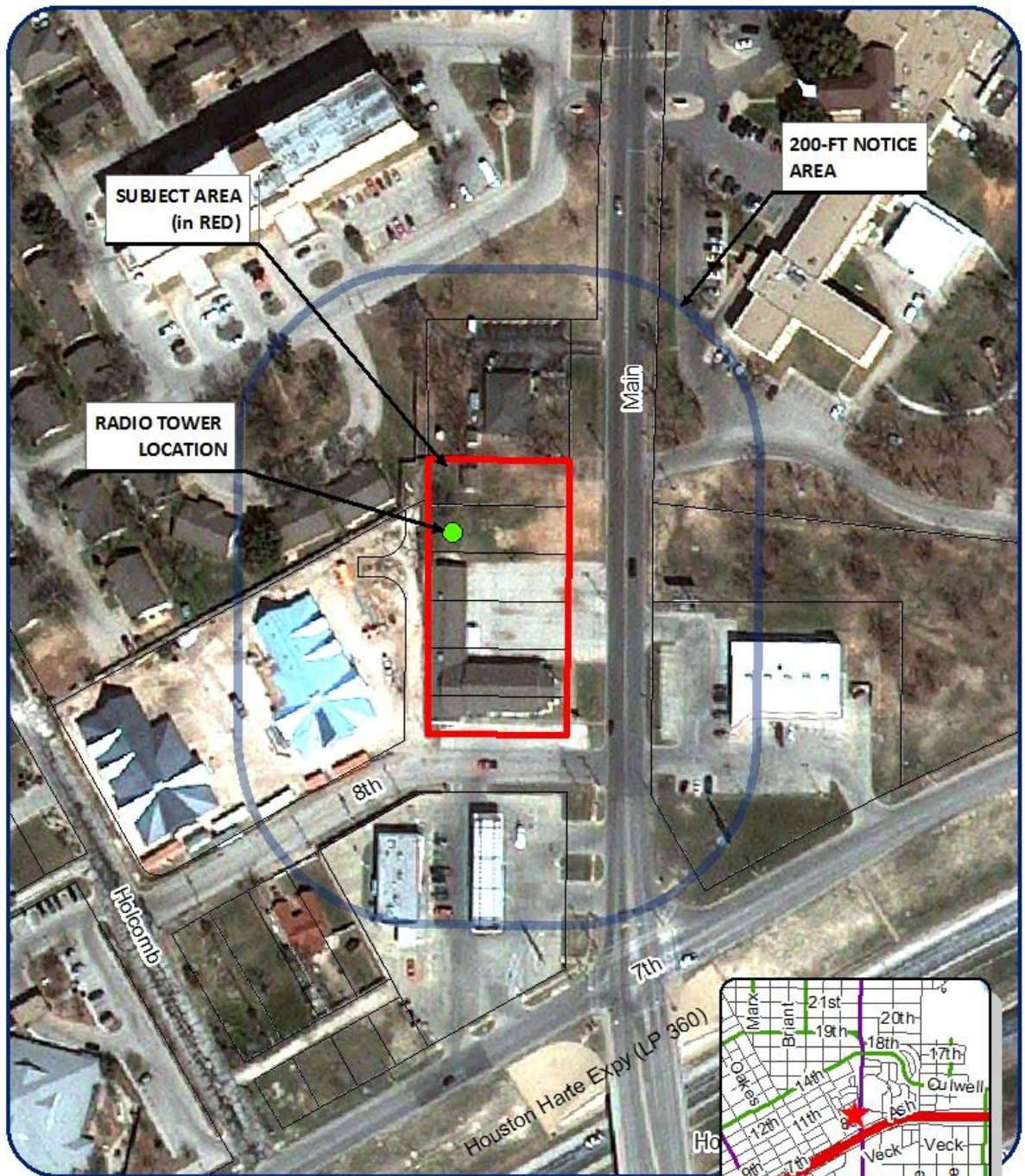
Effect of Variance:

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
Letters of Support
Full Site Plan
Partial Site Plan
Elevation
Site Photos
Application



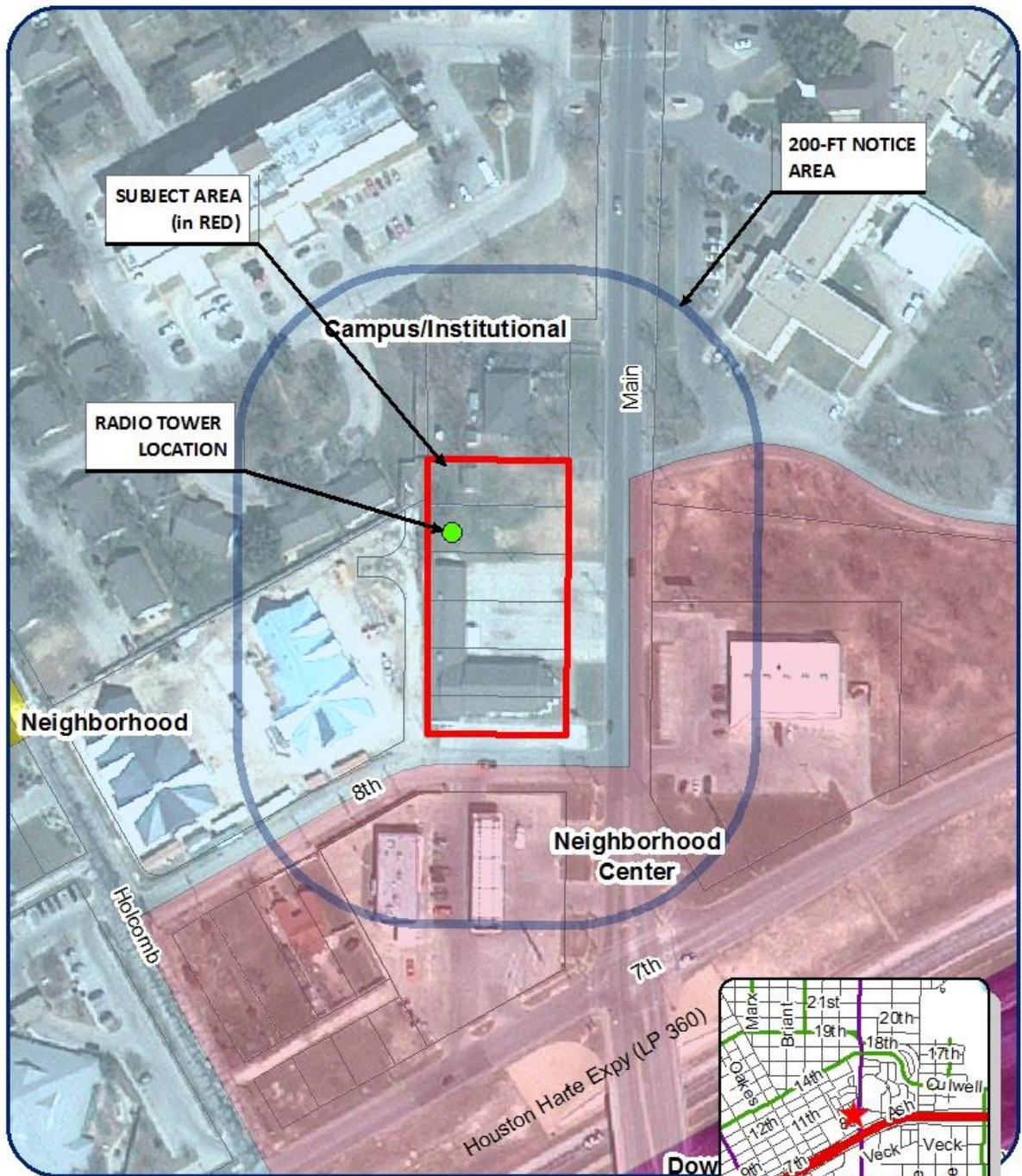
Variance Case File
Case ZBA16-06, 9th & Main C-of-C

Council District: Johnny Silvas
 Neighborhood: Reagan
 Scale: 1 inch :: 150 feet
 Legal Desc.: Lots 9 - 14, Blk 5, Exall Add'n

Legend

Subject Properties: 
 Current Zoning: **CO**
 Requested Zoning Change: **N/A**
 Vision: **Campus/Institutional**





Variance Case File

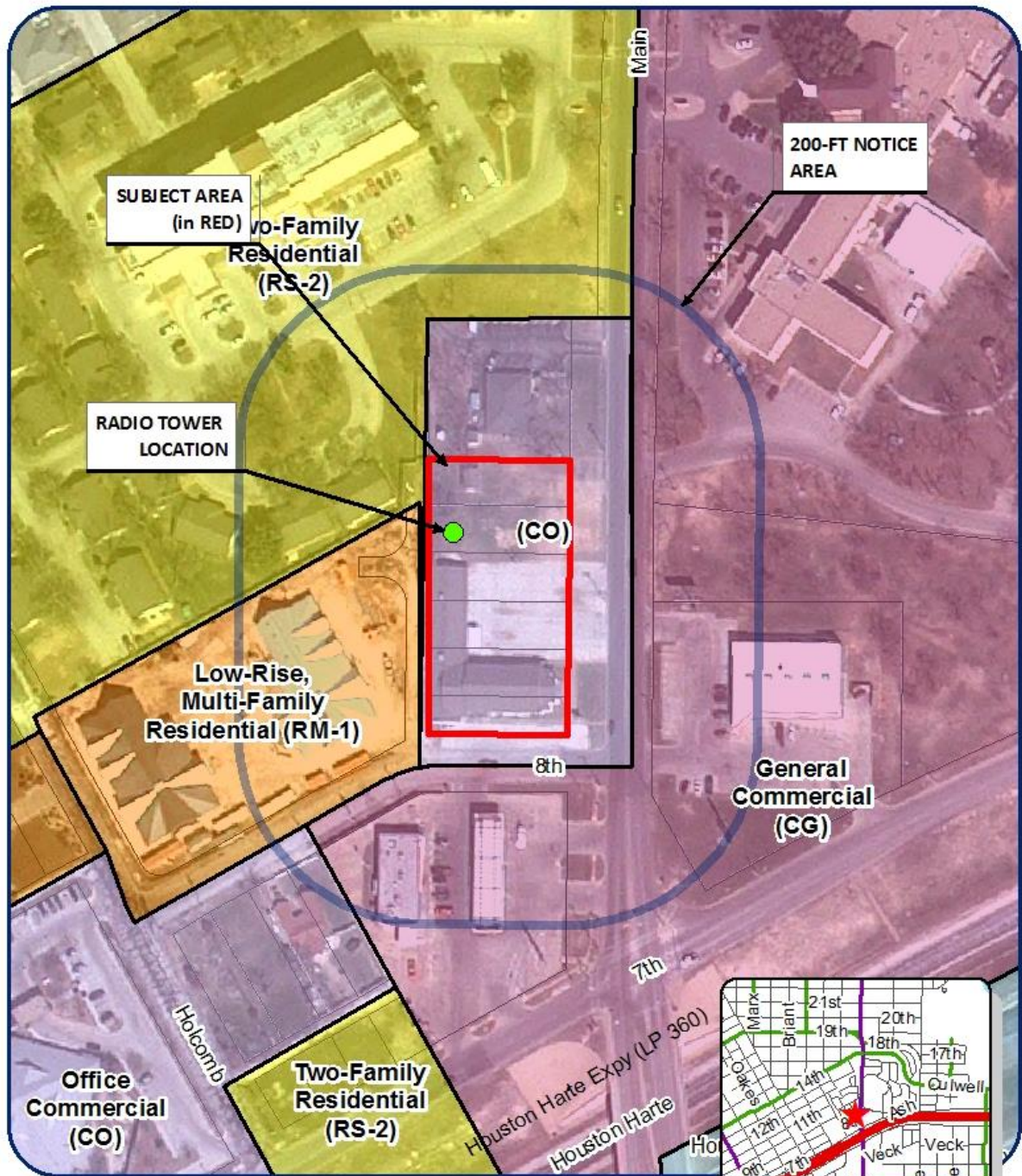
Case ZBA16-06, 9th & Main C-of-C

Council District: Johnny Silvas
 Neighborhood: Reagan
 Scale: 1 inch = 150 feet
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Legend

- Subject Properties: —
- Current Zoning: CO
- Requested Zoning Change: N/A
- Vision: Campus/Institutional

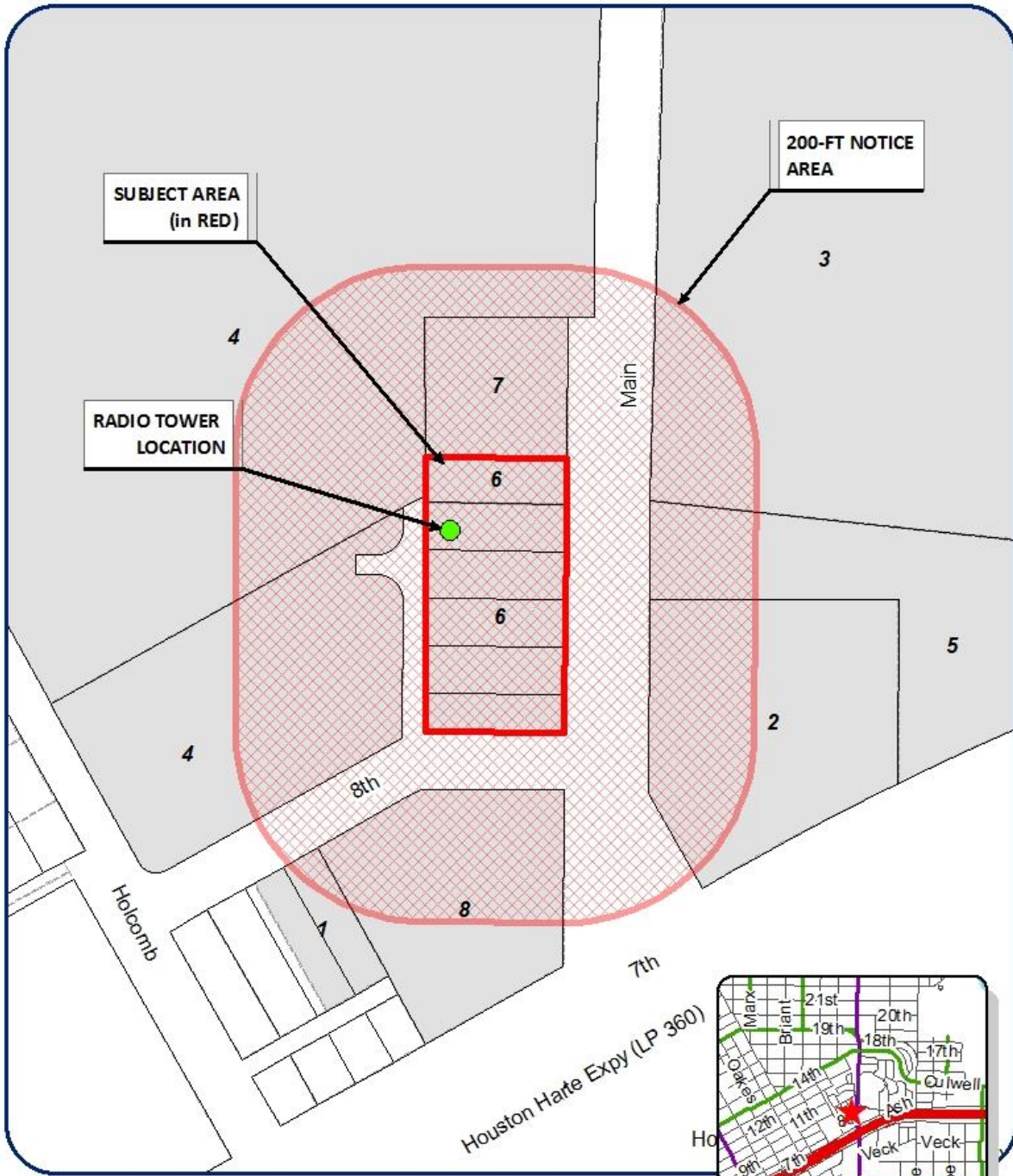




Variance Case File
Case ZBA16-06, 9th & Main C-of-C
 Council District: Johnny Silvas
 Neighborhood: Reagan
 Scale: 1 inch = 150 feet
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Legend
 Subject Properties:
 Current Zoning: **CO**
 Requested Zoning Change: **N/A**
 Vision: **Campus/Institutional**

N



Variance Case File
Case ZBA16-06, 9th & Main C-of-C
 Council District: Johnny Silvas
 Neighborhood: Reagan
 Scale: 1 inch = 150 feet
 Legal Desc.: Lots 9 - 14, Blk 5, Exall Add'n

Legend
 Subject Properties:
 Current Zoning: CO
 Requested Zoning Change: N/A
 Vision: Campus/Institutional

Dennis Reed

From: Quinda Feil-Duncan <Quinda.Feil-Duncan@baptistretirement.org>
Sent: Thursday, March 03, 2016 5:28 PM
To: Dennis Reed
Subject: RE: Radio Station and Tower

Dennis,

I hope this email can serve as an indication of Baptist Retirement Community's support of the radio station and tower which you wish to build along North Main Street. We appreciate what the church is doing to enhance the area and to serve a broader mission field. We look forward to seeing your progress as we too expand our services and invest in the neighborhood.

Thank you,

Quinda Feil-Duncan
Executive Director
Baptist Retirement Community

From: Dennis Reed [mailto:dennisreed@juno.com]
Sent: Thursday, March 03, 2016 2:46 PM
To: Quinda Feil-Duncan
Subject: Radio Station and Tower

Good afternoon Quinda,

I have attached James' layout of the station and tower. We found out just today that if we can file the variance tomorrow, we can get on this month's agenda. If you can at all possible write the letter of support and e-mail it to me it would be greatly appreciated. Please give me a call if you have any questions.

Thanks so much,

Dennis Reed

This e-mail, including any attachments, is intended solely for the person(s) or entities for whom it was intended, even if addressed incorrectly, and may contain confidential and/or privileged information belonging to the sender. Any disclosure, review, dissemination, copying, printing or other use of this email by persons or entities other than the addressee is prohibited. If you have received this email in error, please contact the sender immediately and delete it and any attachments from your system and any computer. Thank you for your compliance.

Fisher, Jeff

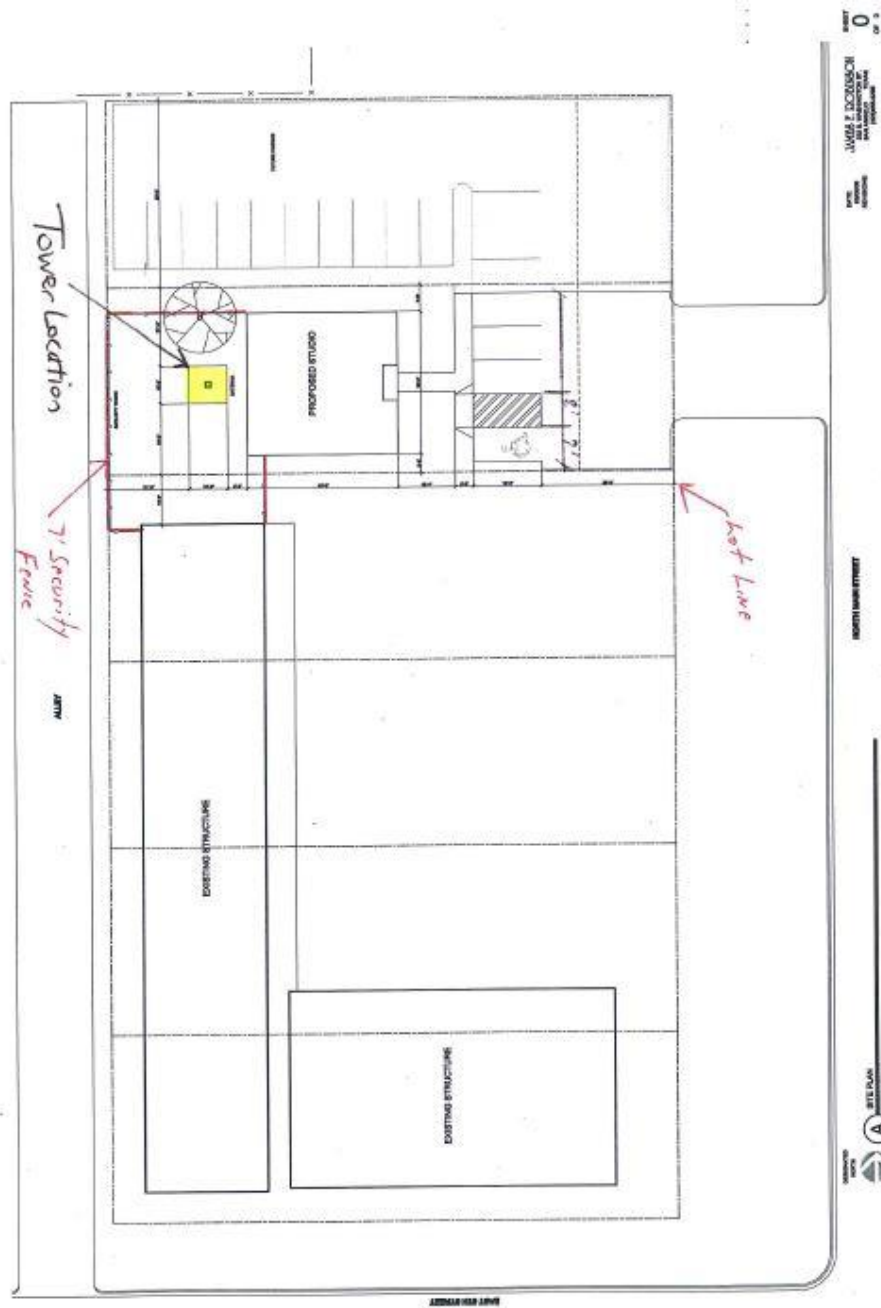
From: Jeff Box <jeff@cvba.org>
Sent: Tuesday, March 29, 2016 9:33 AM
To: Fisher, Jeff
Subject: ZBA 16-06: Ninth and Main Church of Christ

I am Ninth and Main's next door neighbor. I hope to be at the zoning meeting, but if I can not be there I wanted to you know that I have no problem with the variance proposal. It has my full support.

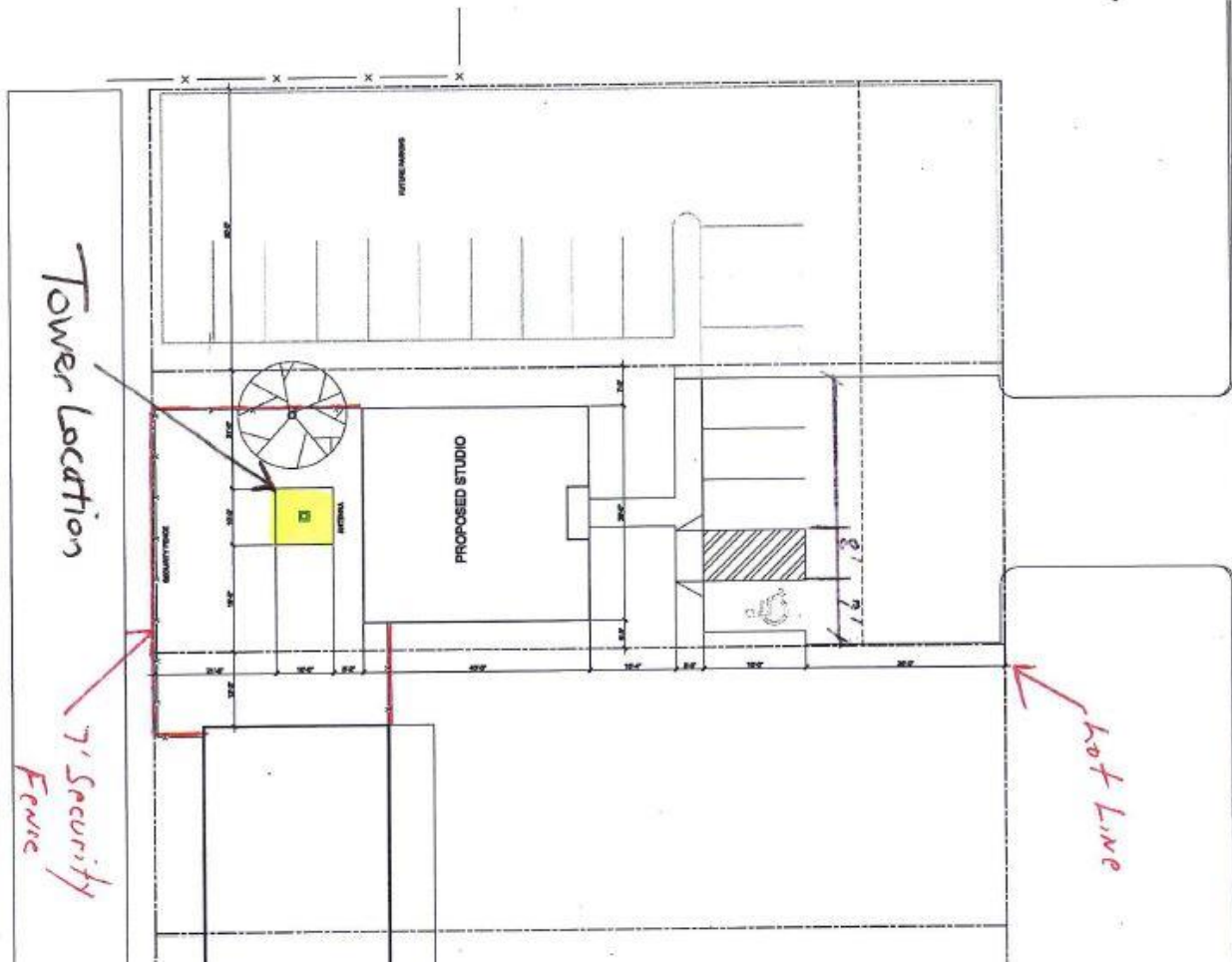
Jeff Box
Director, Concho Valley Baptist Association
825 N. Main
San Angelo, Texas 76903
325.653.4898

...seeking first the Kingdom of God... MTTHEW 6:33

Full Site Plan



Partial Site Plan



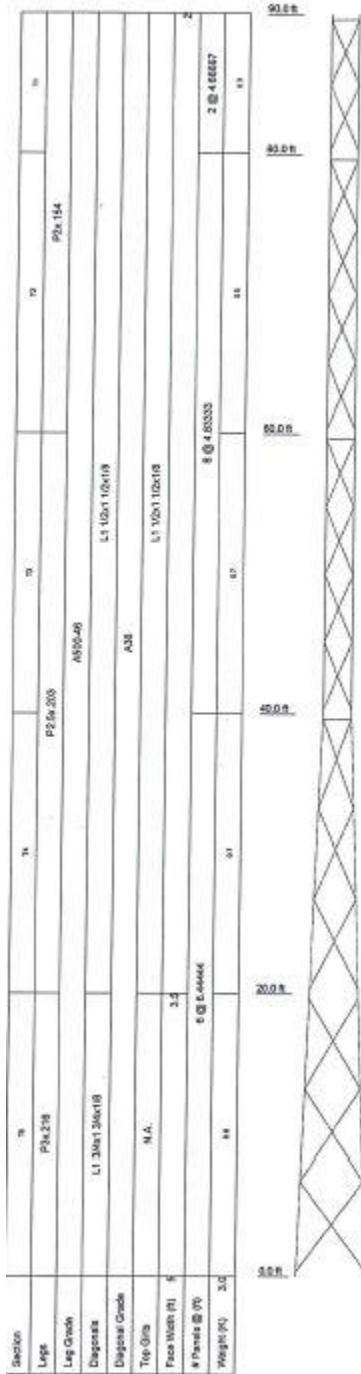
DATE: 06/03/09
PROJECT: REVISIONS

JAMES F. DOBSON
2211 W. WASHINGTON ST.
SAN ANGELO, TEXAS
(325) 926-4300

SHEET 0
OF 3

NORTH MAIN STREET

Elevation



DESIGNED APPURTENANCE LOADING

TYPE	ELEVATION	TYPE	ELEVATION
AISC-1	00		

MATERIAL STRENGTH

GRADE	Fy	Fu	GRADE	Fy	Fu
A500-49	46 ksi	62 ksi	A36	36 ksi	58 ksi

TOWER DESIGN NOTES

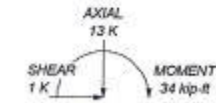
1. Tower is located in Tom Green County, Texas.
2. Tower designed for Exposure C to the TIA-222-G Standard.
3. Tower designed for a 90 mph basic wind in accordance with the TIA-222-G Standard.
4. Tower is also designed for a 30 mph basic wind with 0.75 in ice. Ice is considered to increase in thickness with height.
5. Deflections are based upon a 60 mph wind.
6. Tower Structure Class II.
7. Topographic Category 1 with Crest Height of 0.00 ft
8. Connections use galvanized A325 bolts, nuts and locking devices. Installation per TIA/EIA-222 and AISC Specifications.
9. Tower members are "hot dipped" galvanized in accordance with ASTM A123 and ASTM A153 Standards.
10. TOWER RATING: 94.7%

ALL REACTIONS
ARE FACTORED

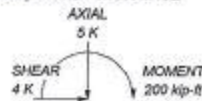
MAX. CORNER REACTIONS AT BASE:

DOWN: 49 K
SHEAR: 3 K

UPLIFT: -41 K
SHEAR: 2 K



TORQUE 0 kip-ft
30 mph WIND - 0.7500 in ICE



TORQUE 0 kip-ft
REACTIONS - 90 mph WIND

SITE PHOTOS

North



South



West



East



SITE PHOTOS - CONTINUED

West at Church (Lots 9-12)



West at Future Tower Location (Lot 13)



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

Name of Applicant(s): 9th and Main St Church of Christ

Owner Tenant Representative (Affidavit required)

Mailing Address: 901 N. Main St Telephone: (325) 942-8984/(325) 653-4642
City/State/Zip: San Angelo, TX 76903 Fax/other: (325) 942-5751
Email Address: dennisreed@juno.com

Subject Property Address and/or Location*:

The 9th and Main St church of Christ located at the corner of 8th St and Main.

Location includes lots 9 through 14 of block 5, Exall addition

Legal Description*:

Exall Addition, Block 5, Lot 13. This is the legal description of the lot where the variance is being requested.

Zoning: Office Commercial (CO)

Specific Description of Request*:

We are requesting a variance to allow the construction of our FM radio tower to be located 21'6.5" from our western most property line. With the inclusion of the alley allowance, the tower base will begin 41'6.5" from the western most 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.

Signature

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: This is an existing church property which will be using a portion of its' existing parking for the radio tower and station. It would be detrimental to place the tower in the center of the parking area. There is no financial benefit to us.
- These special circumstances are not the result of the actions of the applicant;
Explanation: The current zoning setbacks for telecommunication towers force us to request a variance. With 100' and 50' setbacks on a lot 150' long there is no place to place the tower without a variance.
- 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: Given that the lot is 150' long we have no choice but to request the variance. Without the variance we will be deprived the right to construct and operate our FM radio station as granted by the FCC.
- 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 radio tower and station are in accordance with the zoning of this property. The radio station will be operated in harmony with the existing property usage by the church.
- Granting the variance will not adversely affect adjacent land in a material way; and
Explanation: We have spoken with our neighbors on the west side of Main St. They are in agreement with the proposed location. This location is obviously better for all neighbors aesthetically.
- Granting the variance will be generally consistent with the purposes and intent of the Zoning Ordinance.
Explanation: This current usage as well as the operation of a radio station are and will be in compliance with the existing zoning of Office Commercial.

OFFICE USE ONLY	
Case no.: ZBA <u>16-06</u>	Date of application: <u>3/4/2016</u>
Fully-dimensioned site plan: <input checked="" type="checkbox"/> Nonrefundable fee: \$ <u>250.00</u>	Date paid: <u>3/4/2016</u>
Date to be heard by ZBA: <u>4/4/2016</u>	
Received by: <u>Jeff Fisher</u>	Receipt Number: <u>254883</u>
Ordinance section(s) from which variance(s) is/are requested: <u>Section 423.D.</u>	