

STAFF REPORT



Meeting: July 11, 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 16-08

Request: A request for approval of a Variance from Section 509.B.3 of the Zoning Ordinance to allow for a 6-foot-high privacy fence to extend into the required front yard, in lieu of the maximum 4 feet, for property within the General Commercial (CG) Zoning District

Location: 4750 South Chadbourne Street (Texas Farm-to-Market Road 1223), generally located along the northeast side of South Chadbourne Street, northwest of Texas Farm-to-Market Road 765

Legal Description: Lot 2, Block 1, Krislynn Subdivision, Section One

Size: 8.140 acres

General Information

Future Land Use: Commercial

Zoning: General Commercial (CG)

Existing Land Use: Construction Office; Accessory Shop Building

Surrounding Zoning / Land Use:

North:	General Commercial (CG)	Vacant land
West:	Light Manufacturing (ML)	Vacant land; Construction Equipment Company
South:	General Commercial (CG); Rural/Estate (R&E)	Vacant land
East:	General Commercial (CG)	Vacant land

District: SMD #1 – Bill Richardson

Neighborhood: Glenmore

History and Background:

The 8.140-acre subject property was part of a larger 2014 Rezoning from the Rural and Estate (R&E) Zoning District to the General Commercial (CG) Zoning District (RE: Z14-30, approved 11/4/2014). The subject property was platted in March of 2015 as part of the Krislynn Subdivision – Section 1 (Cabinet G, Slide 283). In addition to the Rezoning, at least two (2) Special Use applications and one (1) amendment to a Special Use were authorized on the subject property:

1. SU14-04, Chris Shrum (approved 11/4/2014), allowing limited outdoor storage uses generally allowed in the Office use category on a property located within the General Commercial (CG) Zoning District, subject to the following Conditions:
 - a. Limited outdoor storage shall be defined in Section 504.B of the Zoning Ordinance and be utilized exclusively for uses that are consistent with the “Office” use category.
 - b. Outdoor storage shall be located behind any proposed office structures. (Furthermore), any areas that are visible from a right-of-way shall be screen with a 6-foot opaque fence.

- c. All exterior lighting shall be shielded and positioned in such a manner so as to not spill over onto any adjacent property.
 - d. The storage of hazardous materials on the subject property shall be prohibited.
- 2. SU14-05, Shrum/Cardenas (approved 12/16/2014), allowing limited outdoor storage uses generally allowed in the Office use category on a property located within the General Commercial (CG) Zoning District, subject to the following Conditions:
 - a. Limited outdoor storage shall be defined in Section 504.B of the Zoning Ordinance and be utilized exclusively for uses that are consistent with the “Office” use category.
 - b. Outdoor storage shall be located behind any proposed office structures. (Furthermore), any areas that are visible from a right-of-way shall be screen with a 6-foot opaque fence.
 - c. All exterior lighting shall be shielded and positioned in such a manner so as to not spill over onto any adjacent property.
 - d. The storage of hazardous materials on the subject property shall be prohibited.
- 3. Amendment to SU14-05, Darnell Construction LLC (approved 12/1/2015), to allow additional uses such as repair, refueling, maintenance of equipment and indoor storage of equipment and materials, subject to the following Conditions:
 - a. Construction of any permanent, limited outdoor storage, as defined in Section 504.B of the Zoning Ordinance, shall be limited to a maximum of 1,000 square feet and shall be utilized exclusively for uses that are consistent with the “Office” use category.
 - b. Outdoor storage shall be located behind any proposed office structures. (Furthermore), any areas that are visible from a right-of-way shall be screen with a 6-foot opaque fence.
 - c. All exterior lighting shall be shielded and positioned in such a manner so as to not spill over onto any adjacent property.
 - d. The storage of hazardous materials on the subject property shall be prohibited.
 - e. All equipment repair and maintenance shall be fully conducted indoors

A two-story office building and separate shop building with canopies have been recently constructed on the premises and are awaiting final Certificates of Occupancy. A recent site inspection of the property found that a 6-foot-high, partially screened chain-link fence (fencing with interwoven vinyl slats) had already been erected along the property's Chadbourne Street frontage prior to the public hearing for this Variance application.

The subject property is irregular in configuration with a northeast-to-southwest orientation and approximately 650 feet of frontage along Chadbourne. 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 and Rear – 0 feet. There is no residential adjacency along the perimeter of the property, therefore buffering will not be required.

Analysis:

Applicable Zoning Standards: Section 509 of the Zoning Ordinance addresses fencing requirements for all districts. Section 509.B.3.a of the Ordinance limits fencing within both residential and less-intense non-residential properties that extend into the front yard setback to a maximum height of four feet (4'). Section 509.B.3.b, however, exempts more intensive properties (Heavy Commercial [CH] and greater, as well as mobile home parks and subdivisions) from the aforementioned requirement.

Findings: 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 apparent extreme topographical issues or site peculiarities associated with this Variance request. The applicant could have erected a 6-foot-high unscreened chain-link fencing at least 25 feet from the front property line. Instead, however, he has chosen to erect 6-foot-high screened fencing in a manner which conflicts with the Zoning Ordinance's requirements, citing a desire for site security. The applicant does not offer any solid evidence that suggests the existence of circumstances that would warrant such action, nor does the applicant show a quantifiable or proportional relationship to the added security value that the desired fencing placement and height could bring.

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

The applicant does not cite any special circumstances or site peculiarities driving the request other than a desire for site security. Such desires or personal preferences do not typically qualify as a special circumstance that warrants Variance approval. Moreover, the 6-foot-high screened fencing along the front property line was constructed prior to obtaining Variance approval.

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.

An office and accessory building has already been constructed in accordance with the intent of the approved Special Use, therefore no private property or personal rights area being abridged due to current fence height regulations. Furthermore, all non-residential properties that are zoned General Commercial, or lesser, are restricted to a four-foot (4') maximum height within the front yard setback, per section 509.B.3.b of the Zoning Ordinance. Only Heavy Commercial (CH) and more intensive non-residential properties are exempt from this restriction. Lastly, no empirical evidence has been furnished to suggest that current fence limitations do not provide a reasonable level of security, thereby imposing an undue and unnecessary hardship that is not financially based.

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.

Current fence height restrictions have not precluded the applicant from constructing office and accessory buildings in accordance with the letter and spirit of both the approved Special Use and General Commercial (CG) standards. If increased or enhanced safety is the underlying premise behind the Variance, then the reliance upon less sturdy chain-link fencing instead of more sturdy opaque materials such as masonry appears uncertain at best.

Although there is nothing to indicate that overall public safety and welfare will be compromised if the request is granted, granting the Variance will nevertheless be contradictory to both the letter and spirit of the Zoning Ordinance.

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

In addition to vacant lands surrounding the area, there are notable light industrial uses within close proximity to the subject area. Cater-corner to the west is a construction equipment company enclosed by unscreened chain-link fencing. This property, however, is zoned Light Manufacturing (ML). Approximately 1000 feet to the northwest of the project area, along the east side of Chadbourne, is another light industrial equipment company that is enclosed by unscreened chain-link fencing. The perimeter fencing surrounding this property, however, maintains a 6-foot height profile outside of the front yard setback. While granting the Variance may not appear to adversely impact nearby properties in a material fashion, it would represent a disproportional favor to the applicant over other area property owners who have adhered to the Zoning Ordinance.

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

Granting the request will appear to be inconsistent with the criteria for the granting of a Variance found in Section 207(F) of the Zoning Ordinance. Given the property's General Commercial zoning, section 509.B.3.b prohibits owners of less intensive non-residential properties from maintaining fencing with profiles higher than four feet (4').

Notification:

On June 24, 2016, six (6) notifications were mailed out within a 200-foot radius of the property. As of July 5, 2016, there were zero (0) responses in favor of, and zero (0) responses in opposition to, the request.

Staff Recommendation:

Staff's recommendation is for the Zoning Board of Adjustment to **DENY** Case ZBA 16-08 for a Variance from Section 509.B.3 of the Zoning Ordinance to allow for a 6-foot-high privacy fence to extend into the required front yard, in lieu of the maximum 4 feet, for property within the General Commercial (CG) Zoning District.

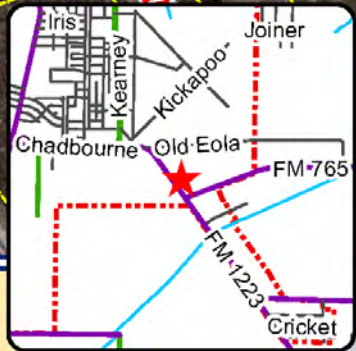
Effect of Variance:

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
Thoroughfare Map
Notification Package
Application and Survey
Site Photographs



Variance Case File

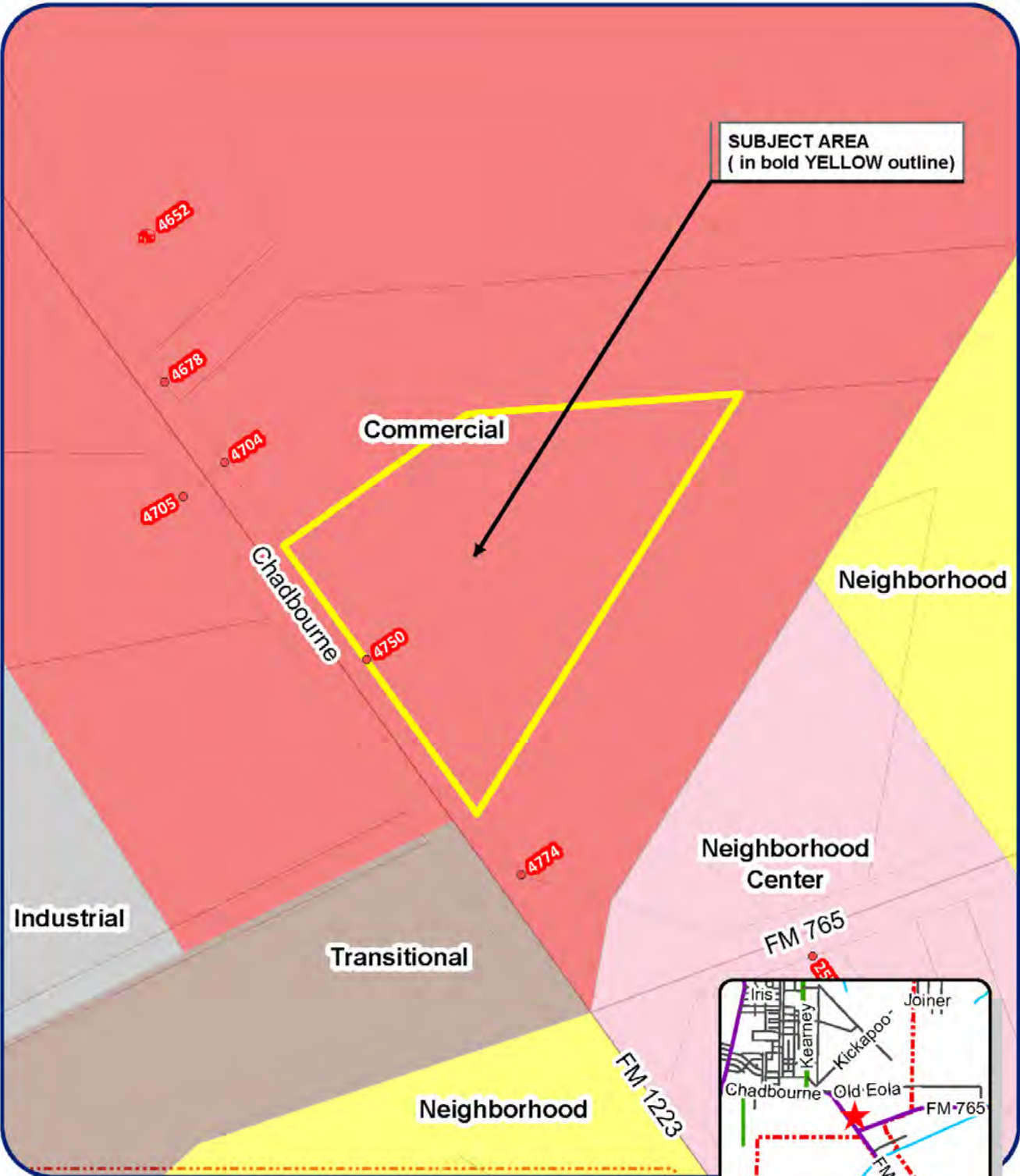
Case ZBA16_08, Darrell Construction

Council District: Bill Richardson
 Neighborhood: Glenmore
 Scale: 1 inch :: 300 feet
 Legal Descr.: +/-8.2 ac out of Lot 2, S-1, Blk-1, Krislynn Sub'd

Legend

Subject Properties: —
 Current Zoning: **CG**
 Requested Zoning Change: **N/A**
 Vision: **Commercial**





SUBJECT AREA
(in bold **YELLOW** outline)

Commercial

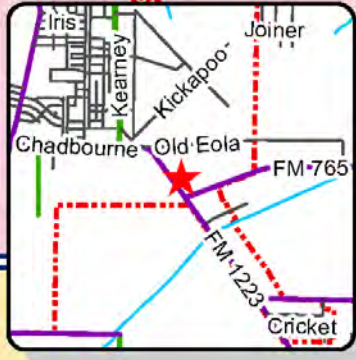
Neighborhood

Industrial

Transitional

Neighborhood Center

Neighborhood




Variance Case File

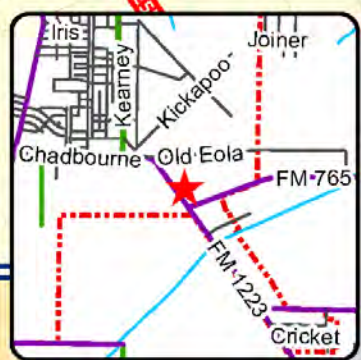
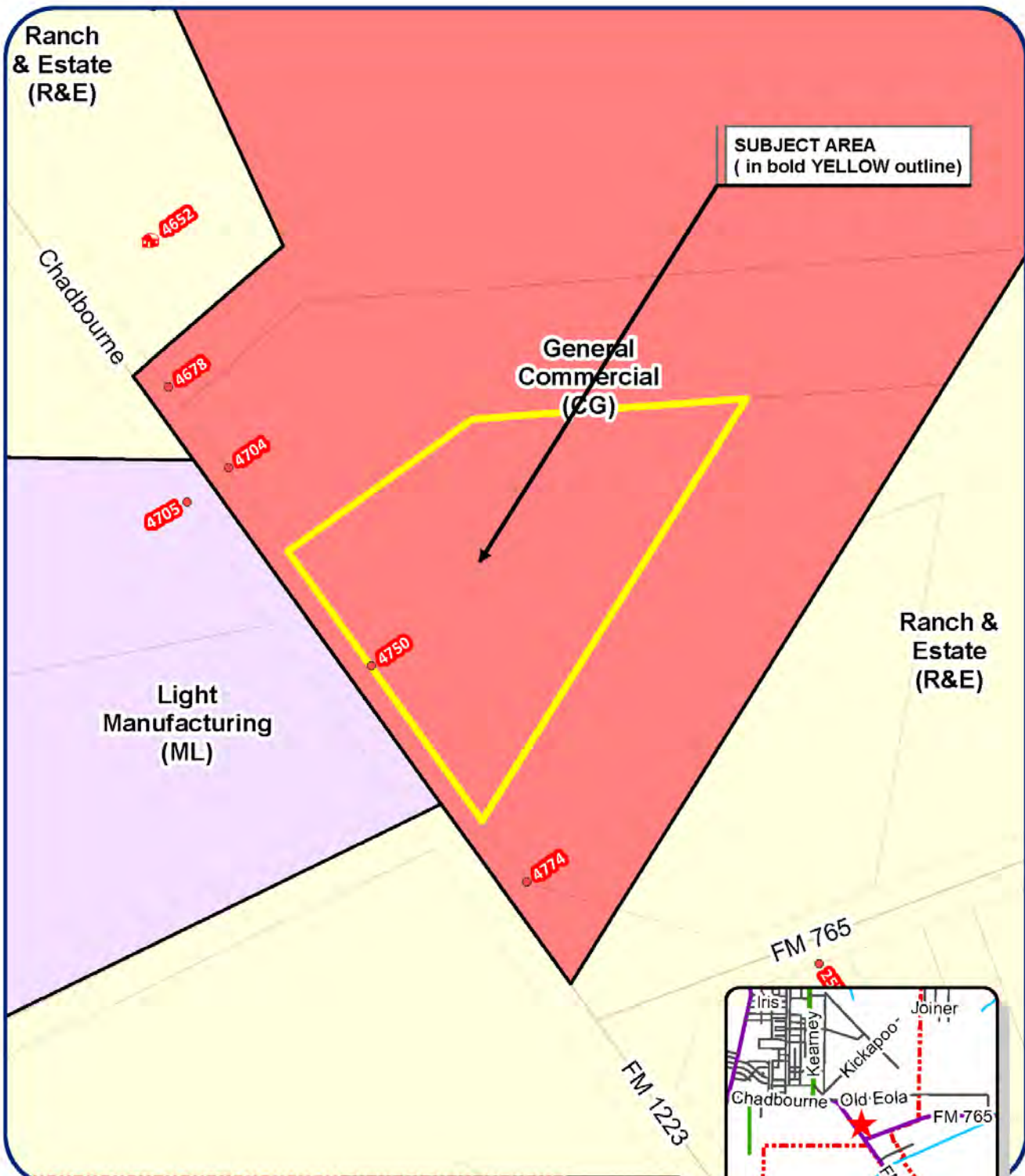
Case ZBA16_08, Darnell Construction

Council District: Bill Richardson
 Neighborhood: Glenmore
 Scale: 1 inch :: 300 feet
 Legal Description: Lot 2, Block 1, Krislynn Subdivision - Section 1

Legend

Subject Properties: 
 Current Zoning: **CG**
 Requested Zoning Change: **N/A**
 Vision: **Commercial**

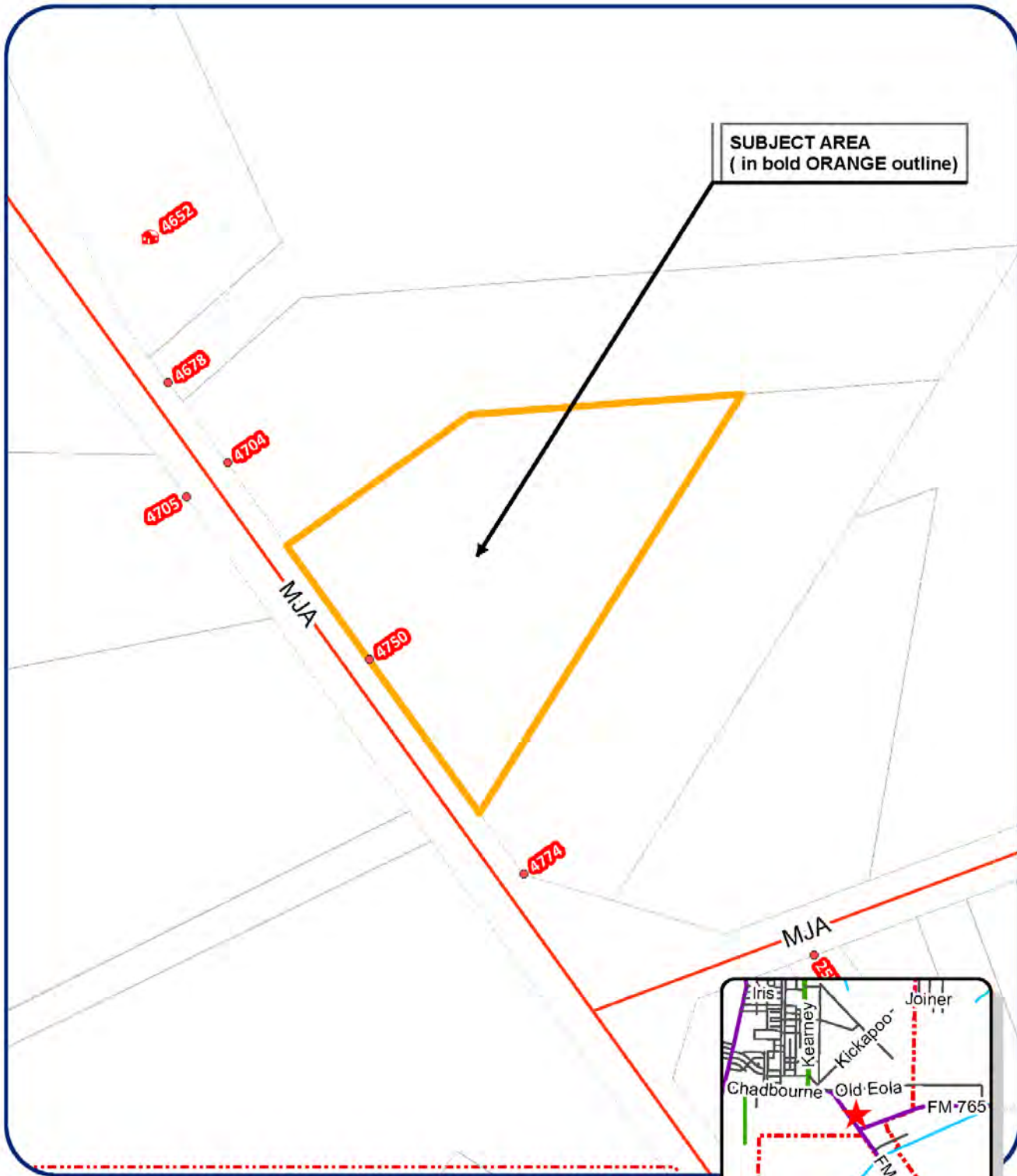




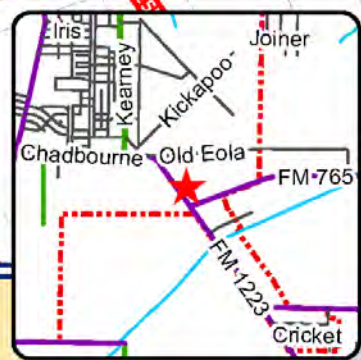
Variance Case File
Case ZBA16_08, Darrell Construction
 Council District: Bill Richardson
 Neighborhood: Glenmore
 Scale: 1 inch :: 300 feet
 Legal Description: Lot 2, Block 1, Krislynn Subdivision - Section 1

Legend
 Subject Properties:
 Current Zoning: **CG**
 Requested Zoning Change: **N/A**
 Vision: **Commercial**





SUBJECT AREA
(in bold ORANGE outline)




Variance Case File

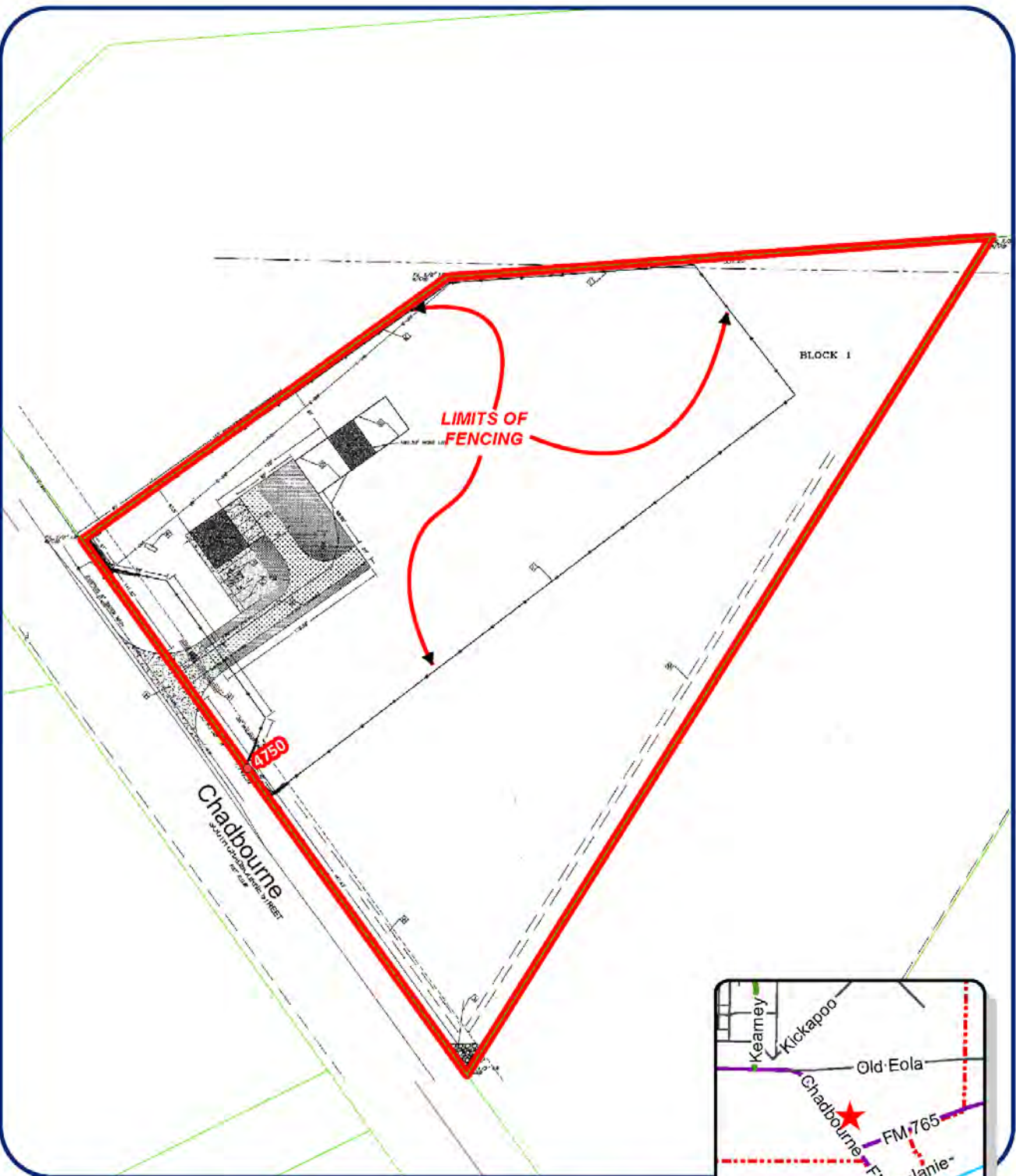
Case ZBA16_08, Darrell Construction

Council District: Bill Richardson
 Neighborhood: Glenmore
 Scale: 1 inch :: 300 feet
 Legal Description: Lot 2, Block 1, Krislynn Subdivision - Section 1

Legend

Subject Properties: 
 Current Zoning: **CG**
 Requested Zoning Change: **N/A**
 Vision: **Commercial**






Variance Case File

Case ZBA16_08, Darrell Construction

Council District: Bill Richardson
 Neighborhood: Glenmore
 Scale: 1 inch = 150 feet
 Legal Descr.: +/-8.2 ac out of Lot 2, S-1, Blk-1, Krislynn Sub'd

Legend

Subject Properties: 
 Current Zoning: **CG**
 Requested Zoning Change: **N/A**
 Vision: **Commercial**



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

Name of Applicant(s): DARWELL Construction LLC

Owner Tenant Representative (Affidavit required)

Mailing Address: 1602 E. 18th Street Telephone: 325-653-1920

City/State/Zip: San Angelo, Tx. 76902 Fax/other: 325-658-5324

Email Address: ddarwell@suddenlinkmail.com

Subject Property Address and/or Location*:

4750 South Chadbourne Street (Hwy 1223)
SAN ANGELO, TEX. 76901

Legal Description*:

8.140 Acres of the KRISTLYNN Subdivision, Section 1, Block 1, Lot 2

Zoning: General Commercial (CG)

Specific Description of Request*:

To make use of all property, for security purpose and to match existing fences adjacent to our property. To allow for six foot fence in 25 ft ground SET back.

* 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

5/13/16
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: Security And added space for yard.

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

Explanation: We are in a pre-dominant Commercial area and were matching existing fences

- 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: Adjacent land owner have exact type fencing and location to there property.

- 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 increase in height is just for security reasons.

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

Explanation: adjacent land owner have same type fence and there locations are on the property line.

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

Explanation: By granting this Variance fencing will match existing fences in the area. Give us the security we need.

OFFICE USE ONLY

Case no.: ZBA 16 - 08

Date of application: 5/16/16

Fully-dimensioned site plan: Nonrefundable fee: \$250.00 Date paid: 5/16/16

Date to be heard by ZBA: 7/11/16

Received by: David Fee Receipt Number: 247325

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

SEC 509, B. 3 Any fence extending into a required front yard shall not exceed a height of 4 feet

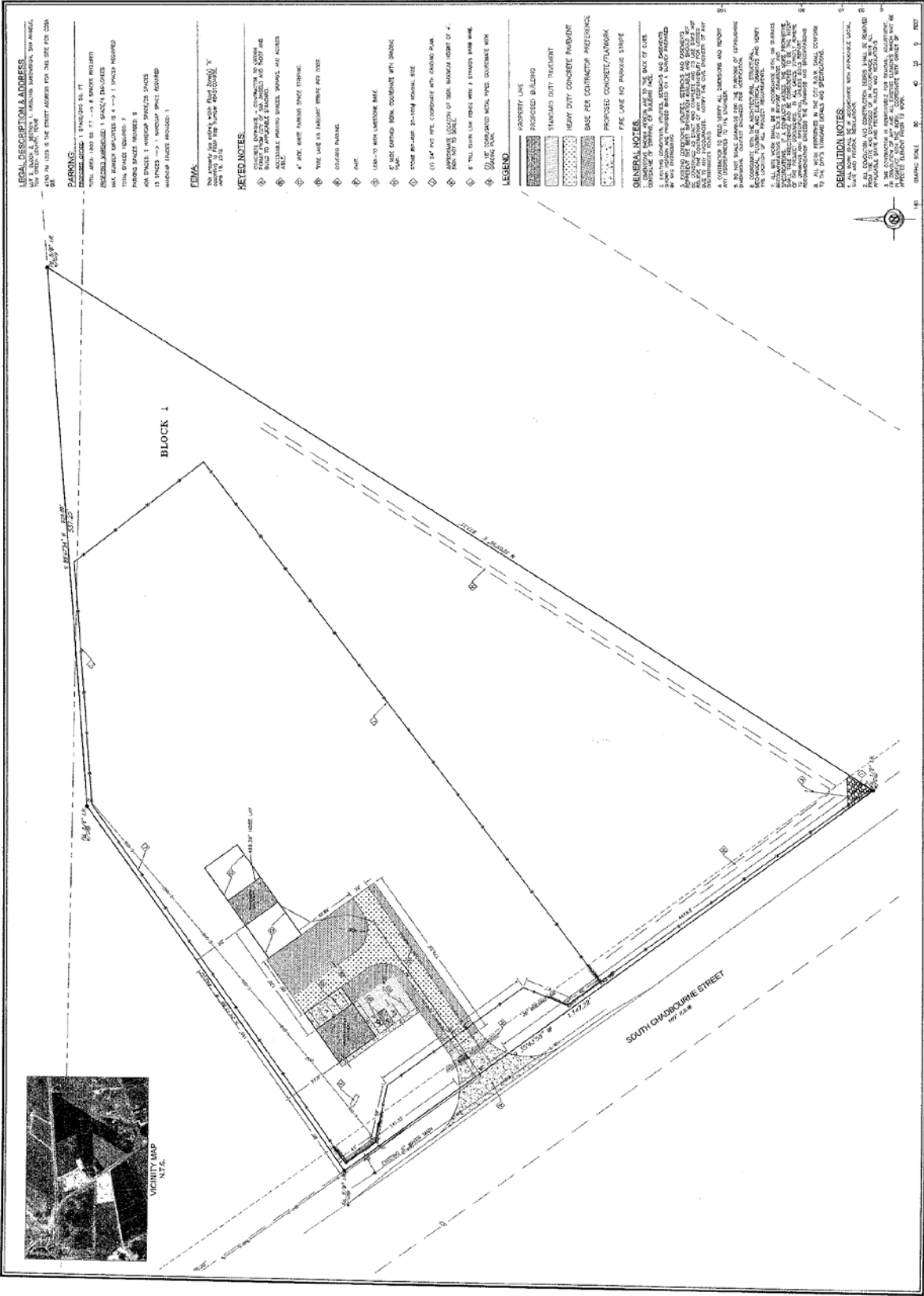
SKG ENGINEERING, L.P.
 4270 FM 1523
 DANFORTH CONSTRUCTION
 SAN ANGELO, TEXAS

DANFORTH CONSTRUCTION
 4270 FM 1523
 SAN ANGELO, TEXAS

PROPOSED OFFICE & WAREHOUSE
SAN ANGELO, TEXAS

SITE LAYOUT PLAN

C1.1
 SHEET NO. 1 OF 1
 DATE: 08/11/2011
 PROJECT: PROPOSED OFFICE & WAREHOUSE



LEGAL DESCRIPTION & ADDRESS
 BLOCK 1, TRACT 1, SUBDIVISION 1, SAN ANGELO, TEXAS
 SAN ANGELO, TEXAS

PARKING:
 1 SPACES - 1 SPACES
 2 SPACES - 2 SPACES
 3 SPACES - 3 SPACES

KEY NOTES:
 1. ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.
 2. ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.
 3. ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.

GENERAL NOTES:
 1. ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.
 2. ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.
 3. ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.

LEGEND:
 PROPERTY LINE
 PROPOSED BUILDING
 STANDARD CITY TREATMENT
 HEAVY DUTY CONCRETE PAVEMENT
 BASE PER CONSTRUCTION PREFERENCE

DEMOLITION NOTES:
 1. ALL EXISTING STRUCTURES TO BE DEMOLISHED.
 2. ALL EXISTING UTILITIES TO BE REMOVED.
 3. ALL EXISTING UTILITIES TO BE REMOVED.

GENERAL NOTES:
 1. ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.
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 1. ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.
 2. ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.
 3. ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.



LOOKING SOUTH ALONG CHADBOURNE



LOOKING EAST INTO PROJECT SITE



LOOKING NORTH ALONG CHADBOURNE

STAFF REPORT



Meeting: July 11, 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: ZBA16-09

Request: A request for two Variances from Section 501.A of the Zoning Ordinance: 1) to allow for a 13-foot rear yard setback along the east property line in lieu of 25 feet for an existing building addition and 2) to allow for an 18-foot rear yard setback along the east property line in lieu of 25 feet for a proposed covered porch for a property located within the Single-family Residential (RS-1) Zoning District

Location: 1218 Hugo Lane; generally located along the east side of Hugo Lane, between Ricks Drive and 1st Atlas Street

Size: 0.13 acres

Legal Description: Specifically being 0.13 acres in the Paulann West Addition, Section 7, Block 7, Lot 23

General Information

Zoning: Single-Family Residence (RS-1)
Existing Land Use: Single-Family Residence (built 2006)
Future Land Use: Neighborhood

Surrounding Zoning/Land Use:

North:	Single-Family Residence (RS-1)	Single-Family Residences
West:	Single-Family Residence (RS-1)	Single-Family Residences
South:	Single-Family Residence (RS-1)	Single-Family Residences
East:	Single-Family Residence (RS-1)	Single-Family Residences

District: SMD#4 – Lucy Gonzales
Neighborhood: Paulann Neighborhood

History and Background:

The applicants' purchased the subject property in 2015 which contains the existing single-family dwelling. On November 24, 2015, they received a permit (Permit No. 15-5112) from the Permits and Inspections Division to add a 180-square foot family room to the rear of the dwelling. They are now seeking to expand their existing unenclosed rear yard porch of 54-square feet by an additional 4.5 feet into the rear yard, to provide an entertainment area covered from the elements. The total square footage of the porch after expansion would be 273 square feet. The proposed porch extension requires a Variance because it would be 18 feet from the rear yard lot line and the Single-Family Residence (RS-1) Zoning District requires a 20-foot rear yard setback. It was discovered that the family room addition built in 2015 was only 13 feet from the rear lot line, requiring a second Variance as part of this application. Therefore, the subject application includes two variance requests – to allow the existing family room with a 13-foot rear yard setback and to allow the proposed porch with an 18-foot rear yard setback in lieu of 20 feet in the RS-1 Zoning District.

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.**

As indicated, a permit was issued in 2015 in error for the rear family room with a 13-foot rear yard setback in lieu of the 20-foot required rear yard setback. The Planning Division supports this Variance request to maintain the 13-foot setback as the City erroneously issued permits for that construction. The Planning Division does not believe that this mistake, however, should set a precedent for further setback reductions in and of themselves. Had the applicant attempted to build the new porch extension to 13 feet as well, the Planning Division would have recommended denial. However, the applicant is requesting an additional 4.5-foot porch extension into the rear yard, maintaining 18 feet from the rear yard lot line. The applicant had an option of having this setback approved administratively by the Planning Director as it is within 10% of the required 20-foot rear yard, however, the applicant chose to apply for the setback reduction as a Variance request to the Zoning Board of Adjustment, which is subject to more stringent criteria. In addition, there is a 56-foot drainage easement buffer separating the property from the nearest rear property. The Planning Division believes the combination of the existing family room, the minimal nature of the request, and the drainage area to the rear result in a special circumstance for this property.

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

The existing family room was built 13 feet from the rear lot line pursuant to a permit issued in error. The applicants are doing their best by seeking a minor reduction in the required rear yard setback for the porch addition – only a 2-foot deviation from the Zoning Ordinance.

- 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.**

Denying the Variance to recognize the existing family room would create an unnecessary hardship as the applicant would be forced to remove a portion of their home. In this case, allowing a 2-foot setback reduction of 18 feet from the rear lot line would appear minimal given the 56-foot wide drainage easement behind the rear lot line. As indicated above, this easement acts as an additional buffer from the adjacent lot.

- 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 Planning Division believes that the proposed Variances are the minimum actions necessary to allow the applicants to continue to enjoy use of their family room and have additional porch area. The applicants are not asking for any expansion to the existing family room and the porch addition, as indicated, would only encroach 2 feet into the required 20-foot rear yard setback.

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

The Planning Division does not foresee any adverse impacts if the requested Variances were approved. The family room was already permitted and the proposed porch extension would cover an existing patio area already utilized by the applicants. The porch would be covered, but not enclosed, thereby maintaining visual openness underneath the roof. As indicated above, there is a 56-foot drainage easement separating the applicants' rear yard and the closest lot fronting Henry Lane. From this distance, the improvements would not appear to create any negative visual impacts.

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

The proposed unenclosed porch and existing family room addition appear to be generally consistent with the Zoning Ordinance. The family room is not being expanded any further. The unenclosed porch addition, as mentioned previously, may have been approved administratively, but the applicants chose to bring this Variance to the Zoning Board of Adjustment. The extension would still maintain 18 feet from the rear lot line, with 90% of the required rear yard meeting a setback of 20 feet.

Notification:

On June 28, 2016, 33 notifications were mailed out within a 200-foot radius of the subject site. As of June 30, 2016, 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 **APPROVE** Case ZBA16-09 for two Variances from Section 501.A of the Zoning Ordinance: 1) to allow for a 13-foot rear yard setback along the east property line in lieu of 25 feet for an existing building addition and 2) to allow for an 18-foot rear yard setback along the east property line in lieu of 25 feet for a proposed covered porch, for property located within the Single-family Residential (RS-1) Zoning District, **subject to the following (2) Conditions of Approval:**

1. The applicant is required to obtain a permit from the Permits and Inspections Division for the covered porch addition.
2. This approval for reduced rear yard setbacks shall only apply to the existing family room and the proposed covered porch extension at their respective square footages. Any future structures or additions within a required setback shall require a new Variance Application.

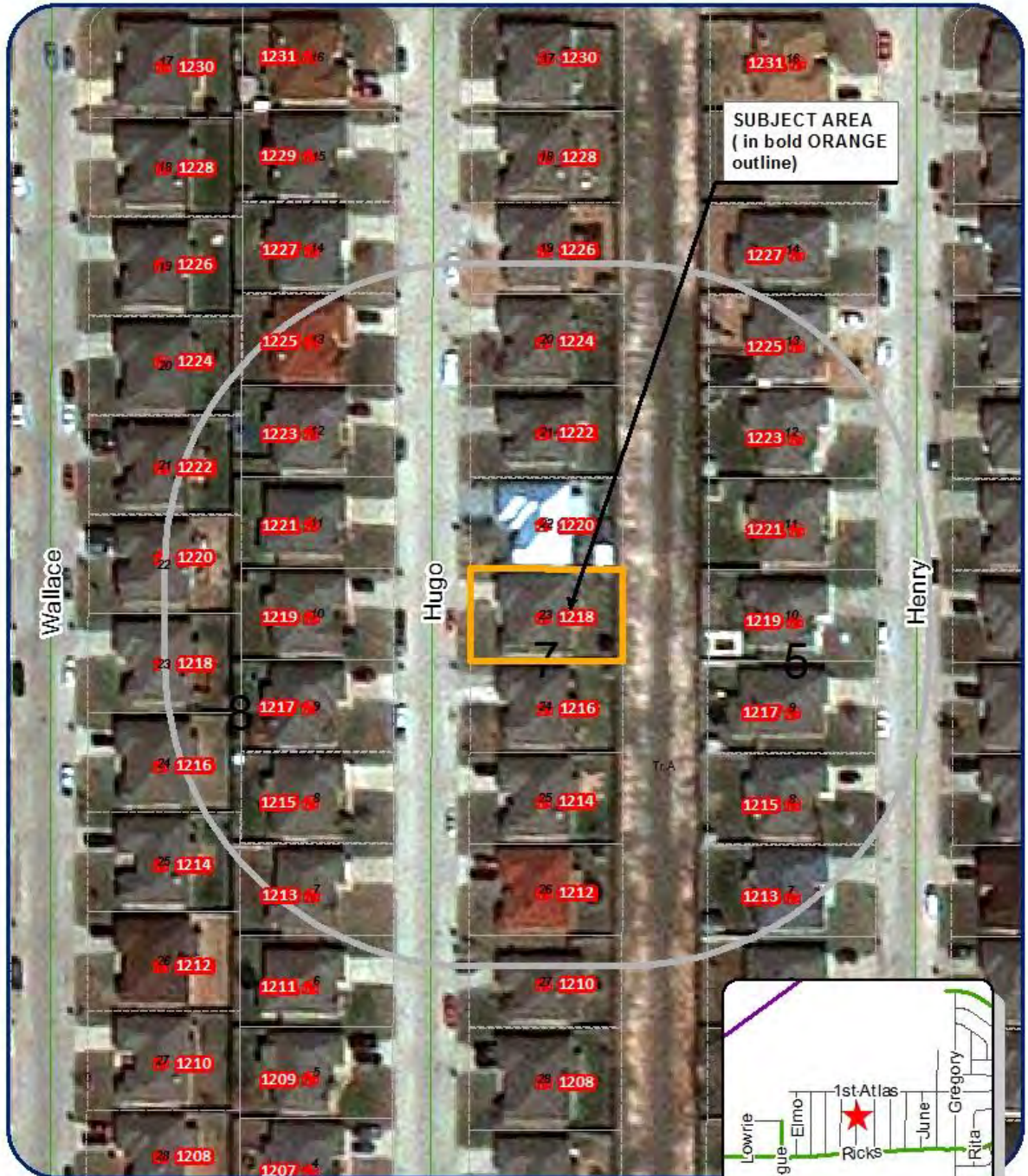
Effect of Variance:

Per Section 207(H) of the Zoning Ordinance:

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

Attachments:

Aerial Map
Future Land Use Map
Zoning Map
Notification Map
Site Plan - Existing
Site Plan - Proposed Additions
Application



Variance Case File

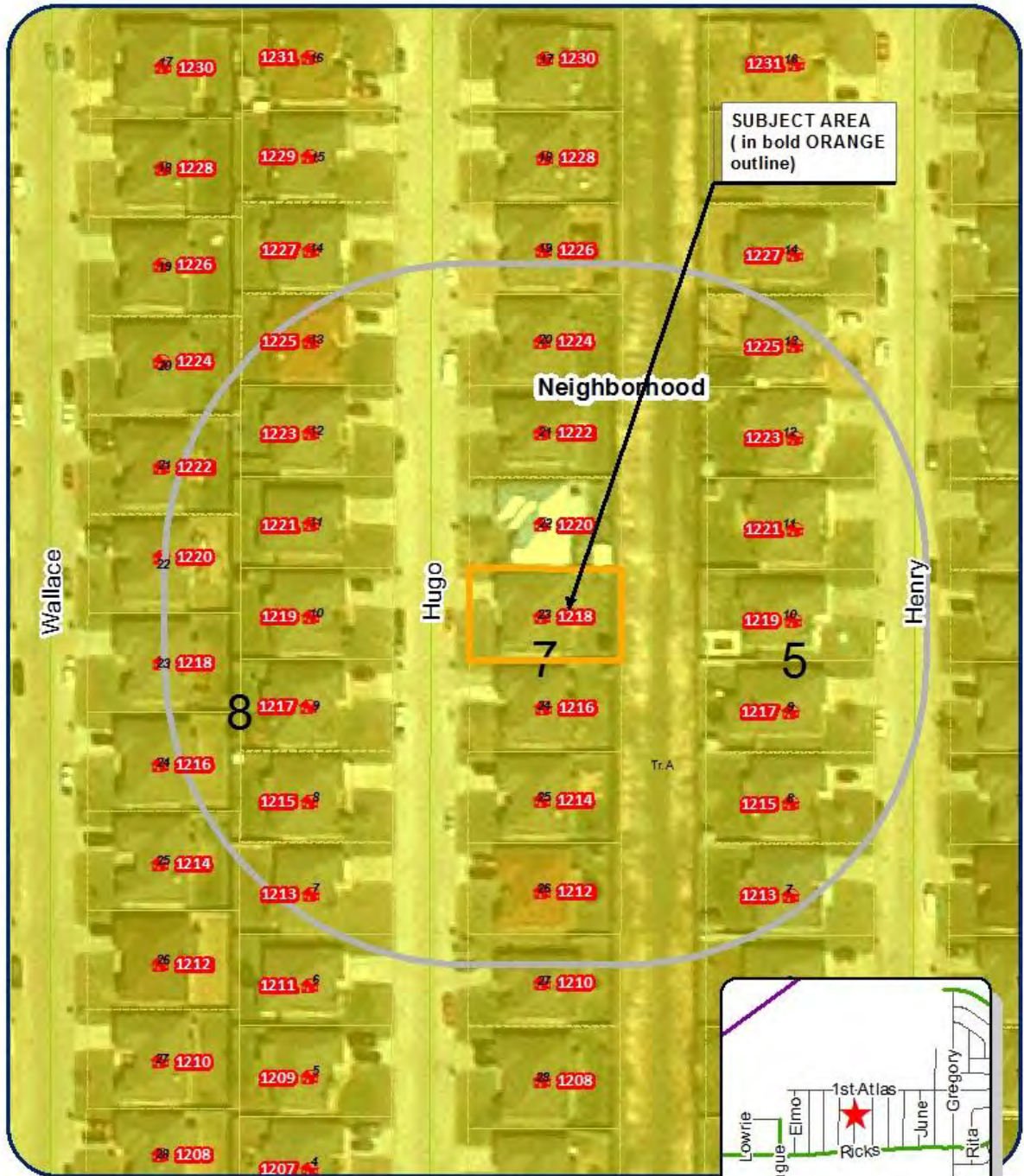
Case ZBA16_09, De La Rosa

Council District: Lucy Gonzales
 Neighborhood: Paulann
 Scale: 1 inch :: 100 feet
 Legal Description: Lot 22, Block 7, Paulann West Add'n - S7

Legend

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

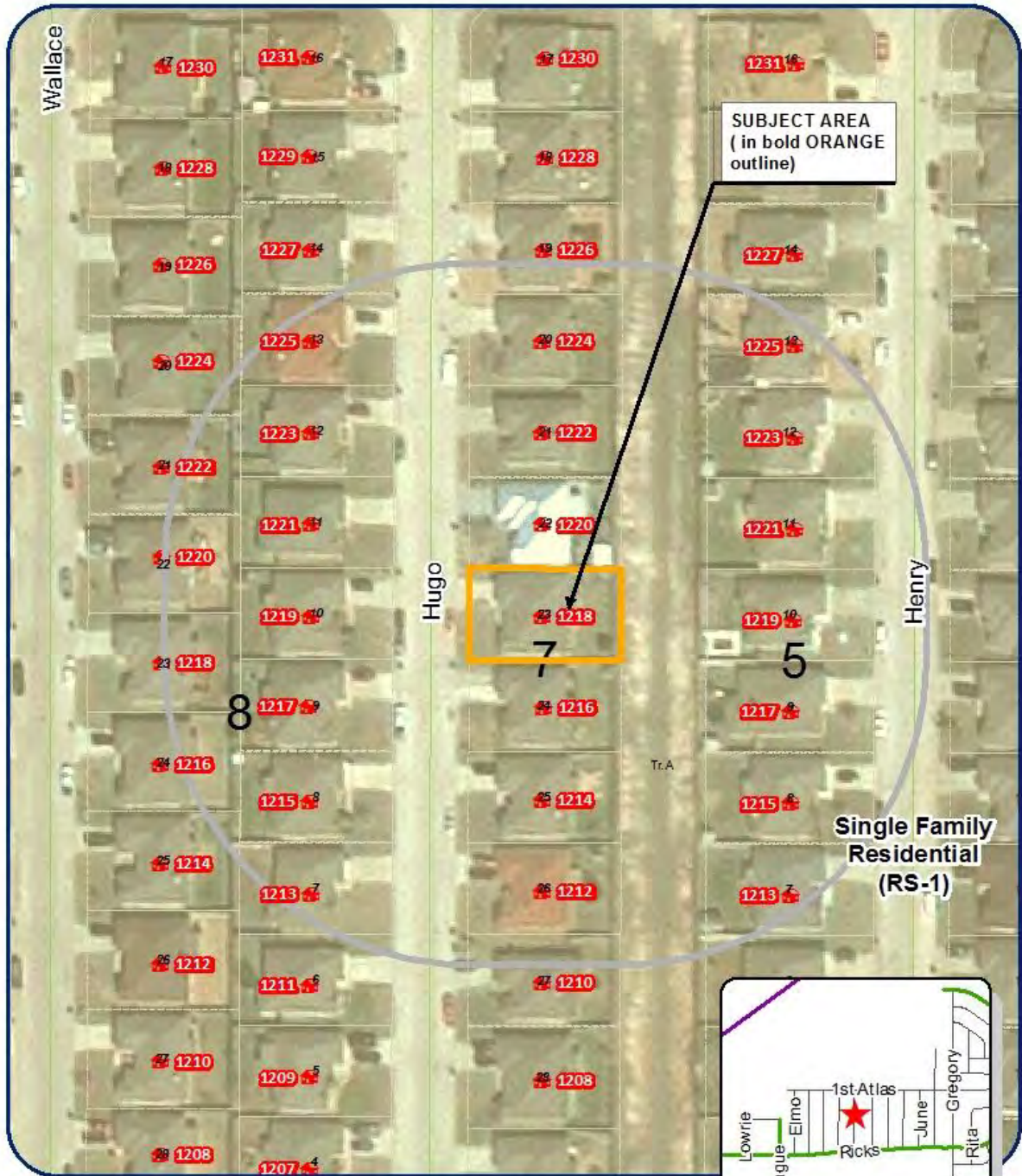


Variance Case File
Case ZBA16_09, De La Rosa
 Council District: Lucy Gonzales
 Neighborhood: Paulann
 Scale: 1 inch :: 100 feet
 Legal Description: Lot 22, Block 7, Paulann West Add'n - S7

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

N

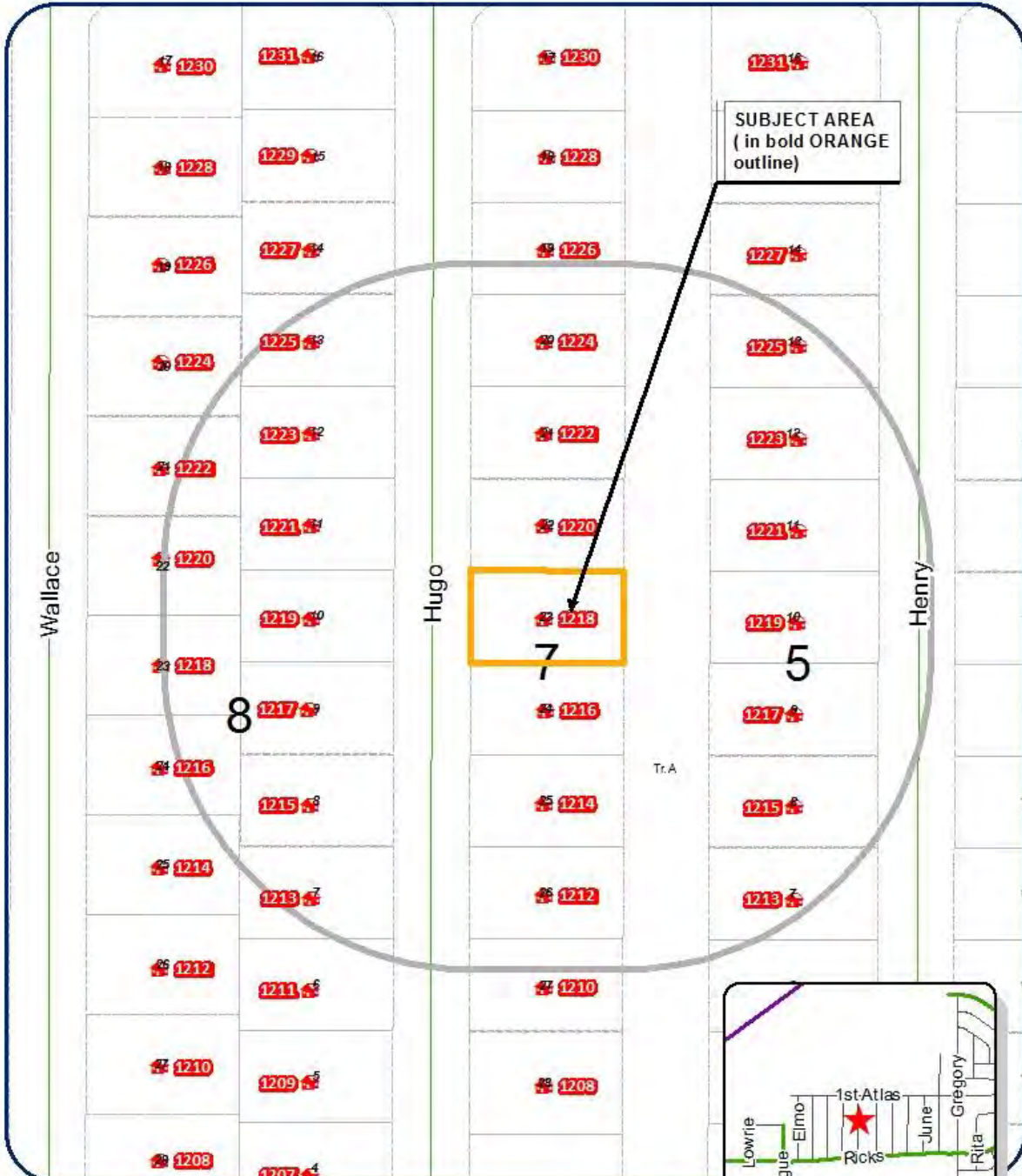


Variance Case File
Case ZBA16_09, De La Rosa
 Council District: Lucy Gonzales
 Neighborhood: Paulann
 Scale: 1 inch :: 100 feet
 Legal Description: Lot 22, Block 7, Paulann West Add'n - S7

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

Single Family Residential (RS-1)

N



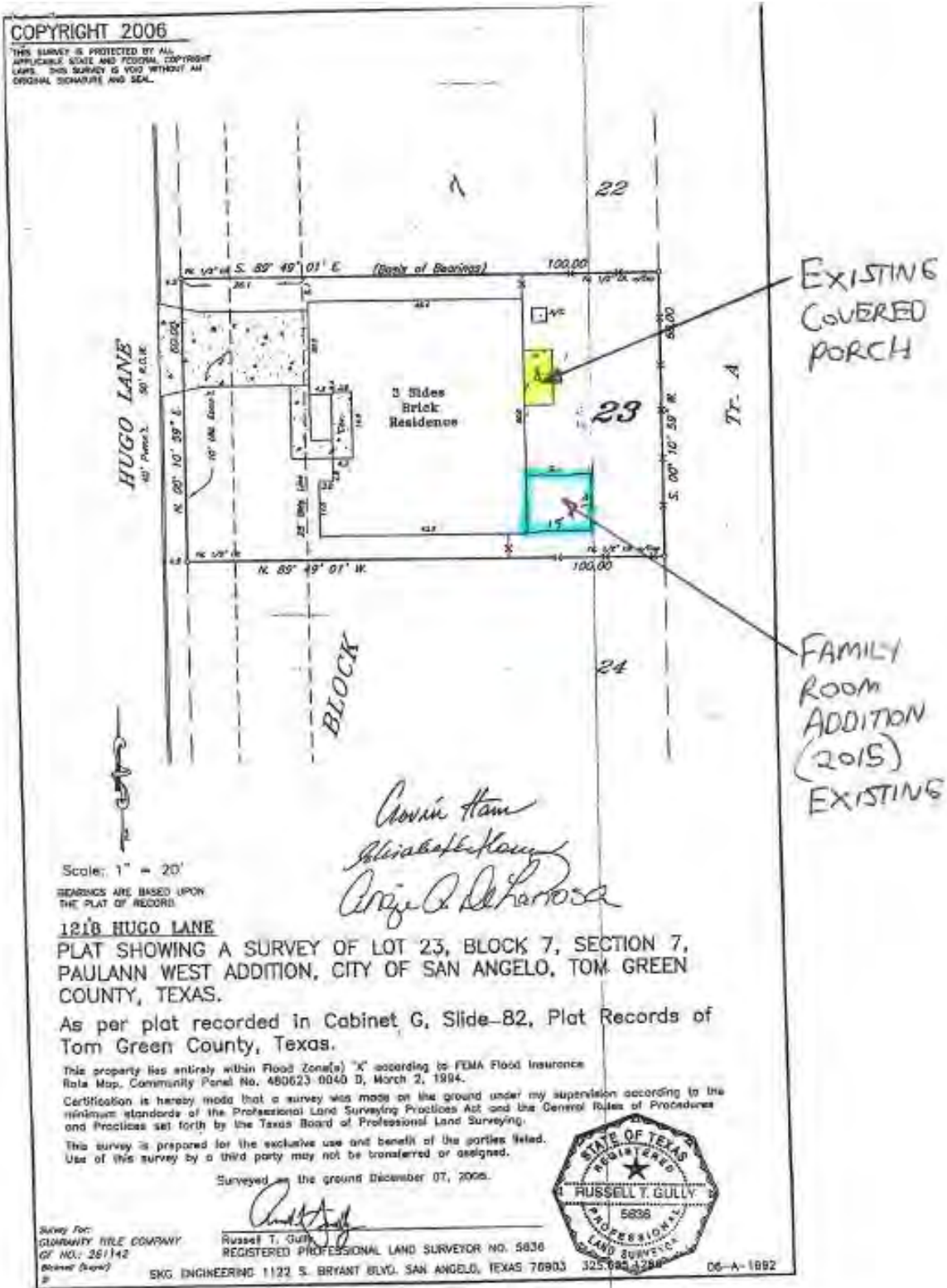
Variance Case File
Case ZBA16_09, De La Rosa
 Council District: Lucy Gonzales
 Neighborhood: Paulann
 Scale: 1 inch :: 100 feet
 Legal Description: Lot 22, Block 7, Paulann West Add'n - S7

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

N



Site Plan – Existing



Site Plan – Proposed Additions



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

Name of Applicant(s): Raul and Angie DeLaRosa

Owner Tenant Representative (Affidavit required)

Mailing Address: 1218 Hugo Ln Telephone: 325-617-2814

City/State/Zip: San Angelo, Tx 76905 Fax/other: _____

Email Address: Angieca71467@yahoo.com or Angie.a.peterosa@wellsfargo.com

Subject Property Address and/or Location*:
1218 Hugo Ln San Angelo, Tx 76905

Legal Description*:
Lot 23, Block 7, Section 7 Paul Ann West Addition

Zoning: RS-1

Specific Description of Request*:
1. To legalize the existing rear yard set back of the main dwelling of 13 ft
2. To allow a rear yard setback for the now covered porch of 18 feet although 13 feet is desired so that it is flush with the main dwelling

* use attachment, if necessary

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

Angie DeLaRosa 6/7/16
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: City of San Angelo issued a permit to allow for the set back at 13 ft. There is an existing 56 ft wide gully between us and the next backyard neighbor

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

Explanation: extension of the room (main dwelling) was permitted under permit #5112. The city of san angelo has created the circumstance.

- 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: permit was issued and we would like to provide an area for entertaining that provides cover and shelter from rain, etc.

- 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: We are taking minimum action at the 18 ft set back (although 13 ft is desired) and also bringing the legalization of the main dwelling at 13 ft.

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

Explanation: No adverse impact

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

Explanation: There is only a 2 ft encroachment.

OFFICE USE ONLY			
Case no.:	ZBA <u>16-09</u>	Date of application:	<u>6/7/2016</u>
Fully-dimensioned site plan:	<input checked="" type="checkbox"/>	Nonrefundable fee:	<u>\$ N/A</u> Date paid: <u>N/A</u>
Date to be heard by ZBA:	<u>7/11/2016</u>	Received by:	<u>Jeff Fisher</u> Receipt Number: _____
Ordinance section(s) from which variance(s) is/are requested:			
<u>501.A</u>			

STAFF REPORT



Meeting: July 11, 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 16-10

Request: A request for approval of a Variance from Section 501.A of the Zoning Ordinance to allow for a 2-foot side yard setback along the north property line in lieu of five (5) feet for a property located within the Single-family Residential (RS-1) Zoning District

Location: 1516 Shafter Street; generally located along the east side of Shafter Street, between Avenues K and L

Legal Description: Lot 4, Block 18, Beverly Hills Addition

Size: 0.18 acres

General Information

Future Land Use: Neighborhood

Zoning: Single-family Residential (RS-1)

Existing Land Use: Single-family Residence

Surrounding Zoning / Land Use:

North:	Single-family Residential (RS-1)	Single-family residence
West:	Single-family Residential (RS-1)	Single-family residence
South:	Single-family Residential (RS-1)	Single-family residence
East:	Single-family Residential (RS-1)	Service alley; Single-family residence

District: SMD #5 – Elizabeth Grindstaff

Neighborhood: Santa Rita

History and Background:

The 0.18-acre subject property was platted in March of 1926 as part of the Beverly Hills Addition and is zoned Single-family Residential (RS-1). The subject property contains an approximate 1,400-square-foot residence that was originally built in 1927, as well as a 256-square-foot accessory building that was built in 2011. An approximate 6-foot-high opaque, solid fence surrounds most of the subject property from the residence's front façade inward. No other development applications are associated with the subject property.

The subject property is rectangular in configuration with an east-to-west orientation and is fundamentally similar to most properties within the surrounding neighborhood. The terrain is relatively flat and contains no known unusual topographic issues or site peculiarities. The property is subject to the following setbacks: Front – 25 feet, and Side – 5 feet. The rear setbacks for primary buildings in the RS-1 Zoning District is 20 feet, while rear setbacks for accessory structures are governed by Section 402.A of the Zoning Ordinance. The applicant seeks Variance relief to construct a new attached carport no more than two (2) feet from the side (north) property line. A driveway exists along the north side property line; the proposed carport will be located over this driveway. Other than Open Structure Overlay requirements, there are no locational restrictions for residential driveways in the Zoning Ordinance. The property is located outside of the Open Structure Overlay Zone.

Analysis:

Carports, in General: Section 513 prohibits any supporting structure of a carport to be “located within the minimum front and/or side yards as required by (the) Zoning Ordinance, except...as authorized by Variance duly approved by the Zoning Board of Adjustment....”

Accessory Structures: Section 402.A.1.b states: “For all accessory structures (attached or detached) in RS-1 or RS-2 Districts and which are substantially open, the minimum required rear setback shall be measured from the centerline of any alley adjoining the rear lot line, rather than from the rear lot line itself. To be considered substantially open and eligible for this reduced rear setback requirement, an accessory structure shall have a minimum of 7-1/2 feet above its finished floor level which is open and unencumbered by any walls, screening or glazing except as may be necessary for vertical structural supports which shall be no greater than 12 inches in width or diameter. No additional story (or half story) shall be allowed above any such substantially open accessory structure eligible for the reduced rear setback allowed by this paragraph.”

Section 402.A.1.d.ii allows for the placement of a carport within two feet from a side property line, provided that the carport is detached from the primary building. A minimum separation of 10 feet between both carport and primary building is required for a detached carport, however. The primary building is approximately ten feet (10') from the north (side) property line, at its closest point.

Findings: 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 or observed extreme topographical issues or site peculiarities associated with this Variance request. The subject property is rectangular in configuration with an east-to-west orientation and is fundamentally similar to most properties within the surrounding neighborhood. The property’s terrain is relatively flat. The applicant maintains that the location of the existing residence precludes any reasonable placement of a carport within the required building envelope for an RS-1 property, thereby establishing a special circumstance. The applicant further asserts that the proposed location of the carport utilizes an existing driveway and is therefore logical and appropriate. This rationale has little merit, however.

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

The construction of the house, as well as the location of the driveway, were not due to any actions of the current property owner/applicant. Their prior existence, however, does not constitute a special circumstance upon which to approve the Variance.

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 single-family detached residence already exists on the property, therefore no private property or personal rights area being abridged due to the minimum development standards of the RS-1 Zoning District. The applicant, however, has not satisfactorily demonstrated that the currently-proposed location for the carport is the only available option, particularly when considering the options afforded under Section 402.A.1.b of the Zoning Ordinance. The property abuts a 20-foot-wide public alley along the east (rear) property 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.

Current development standards have not precluded the applicant from utilizing the property in accordance with the RS-1 Zoning District development standards. RS-1 building setbacks are intended to ensure that a minimum amount of open space be provided within a single-family residential setting. The side yard and building separations outlined in the Zoning Ordinance are intended to provide reasonable defensible space between differing uses and properties. It is arguable, however, that certain building encroachments may be satisfactorily addressed through the City's adopted Fire and Building Codes, therefore health, safety and welfare might not be compromised should the Variance be granted. The inverse, however, could be that such granting could lay the foundation for a future habitable floor area expansion, which carries far different impacts as opposed to covered, open areas.

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

In observing nearby residential properties along Shafter Street, there are several instances of notable development up to, or at the side property line. Whether or not these encroachments are legitimate have not been ascertained,

but they do exist, nevertheless. The proposed carport will also be screened by an existing opaque, six-foot-high fence. While granting the Variance may not appear to adversely impact nearby properties in a material fashion, the Variance could have the potential for adverse safety impact. As previously noted, residential side yard and building separations outlined in the Zoning Ordinance are intended to provide reasonable defensible space between differing uses and properties. These safety parameters could be compromised if the Variance is granted. Additionally, granting the Variance could lay the foundation for a future habitable floor area expansion, which carries far different impacts as opposed to covered, open areas.

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

Granting the request appears to be inconsistent with the criteria for the granting of a Variance found in Section 207(F) of the Zoning Ordinance. The applicant has failed to satisfactorily demonstrate that there are no other available options to facilitate the installation of a new carport on the premises, particularly when there are options offered under Section 402.A.1.b of the Zoning Code. As previously noted, the property is adjacent to an existing 20-foot-wide service alley along the rear (east) property line.

Notification:

On June 24, 2016, twenty-one (21) notifications were mailed out within a 200-foot radius of the property. As of July 5, 2016, there have been zero (0) responses in favor of, and zero (0) in opposition to, the request.

Staff Recommendation:

Staff's recommendation is for the Zoning Board of Adjustment to **DENY** Case ZBA 16-10 for a Variance from Section 501.A of the Zoning Ordinance to allow for a 2-foot side yard setback along the north property line in lieu of five (5) feet for property located within the Single-family Residential (RS-1) Zoning District.

Should the Board wish to approve the request, however, then the Board must provide alternative Findings to support their decision and enter those Findings into the record. Staff further requests that any approvals by the Board be subject to the following one (1) Condition of Approval:

1. The applicant shall obtain an approved building permit prior to the commencement of construction.

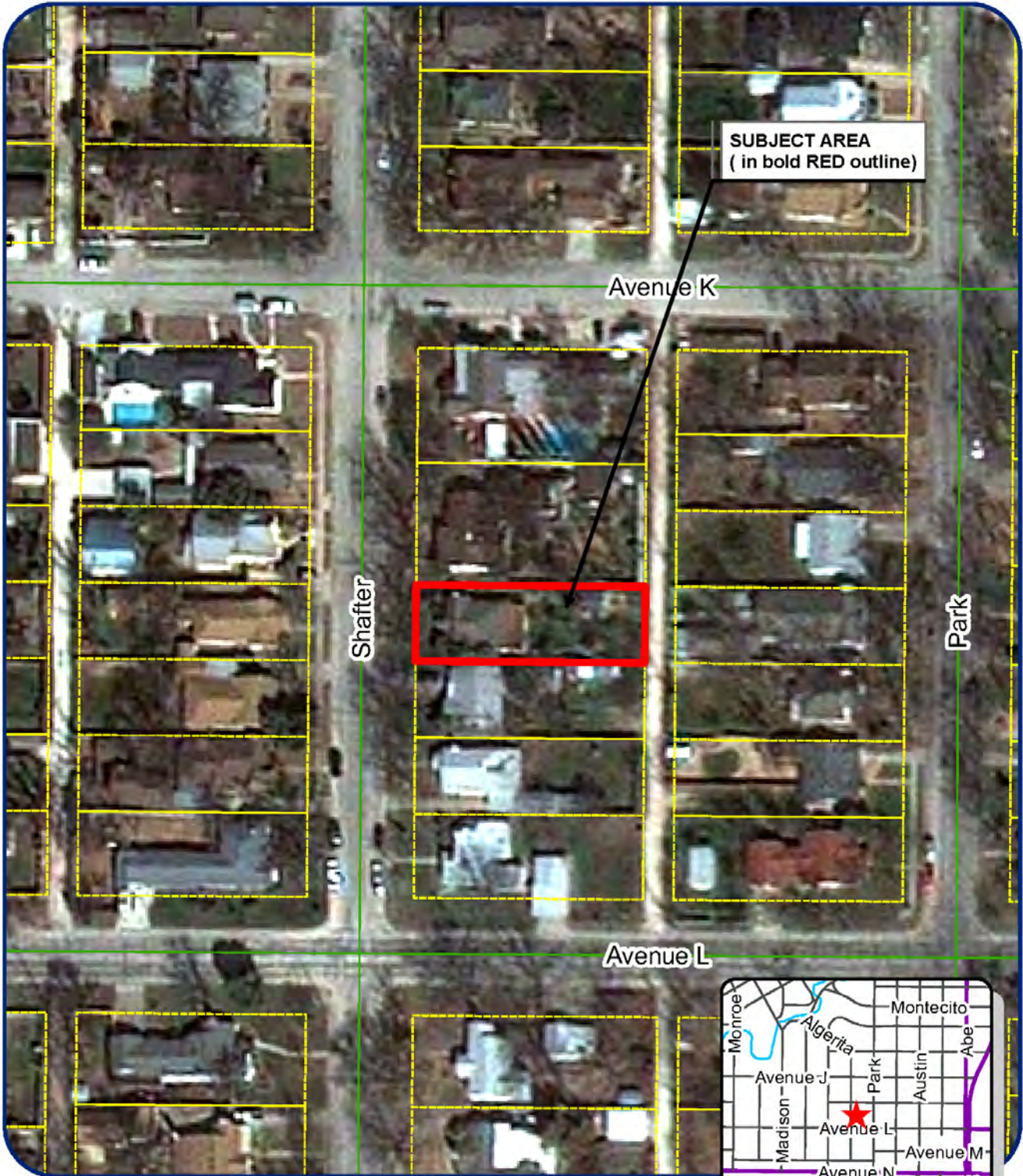
Effect of Variance:

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
Thoroughfare Map
Notification Package
Application and Survey
Proposed Carport
Site Photographs



SUBJECT AREA
(in bold RED outline)

Avenue K

Shafter

Park

Avenue L



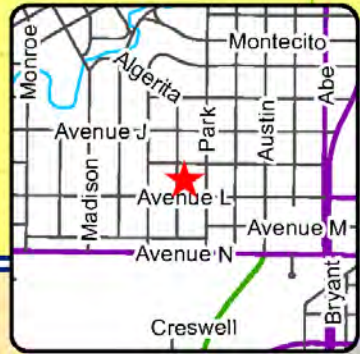
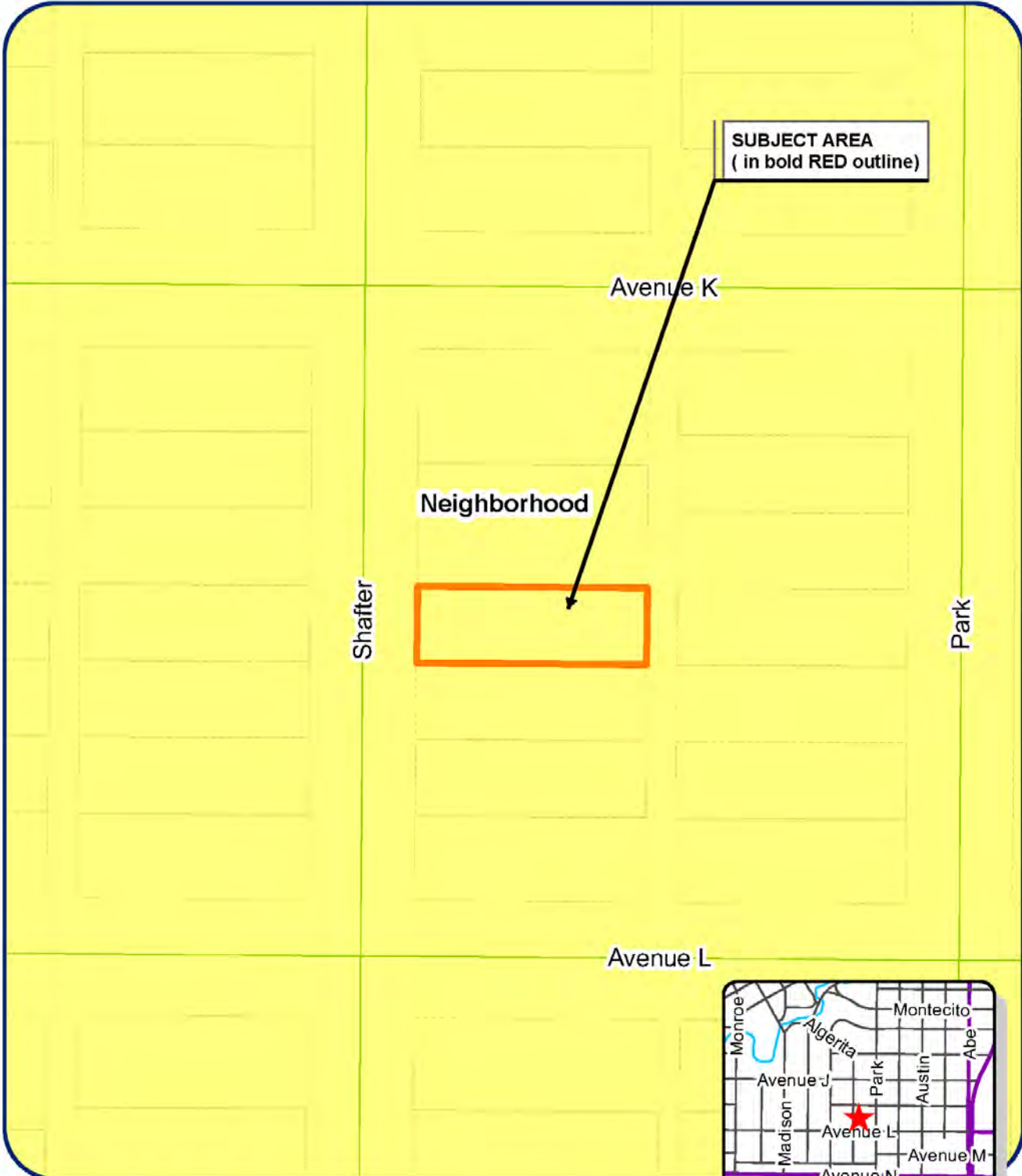
Variance Case File
Case ZBA16_10, Backus

Council District: Elizabeth Grindstaff
 Neighborhood: Santa Rita
 Scale: 1 inch :: 100 feet
 Legal Description: Lot 4, Block 18, Beverly Hills Add'n

Legend

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





Variance Case File

Case ZBA16_10, Backus

Council District: Elizabeth Grindstaff

Neighborhood: Santa Rita

Scale: 1 inch :: 100 feet

Legal Description: Lot 4, Block 18, Beverly Hills Add'n

Legend

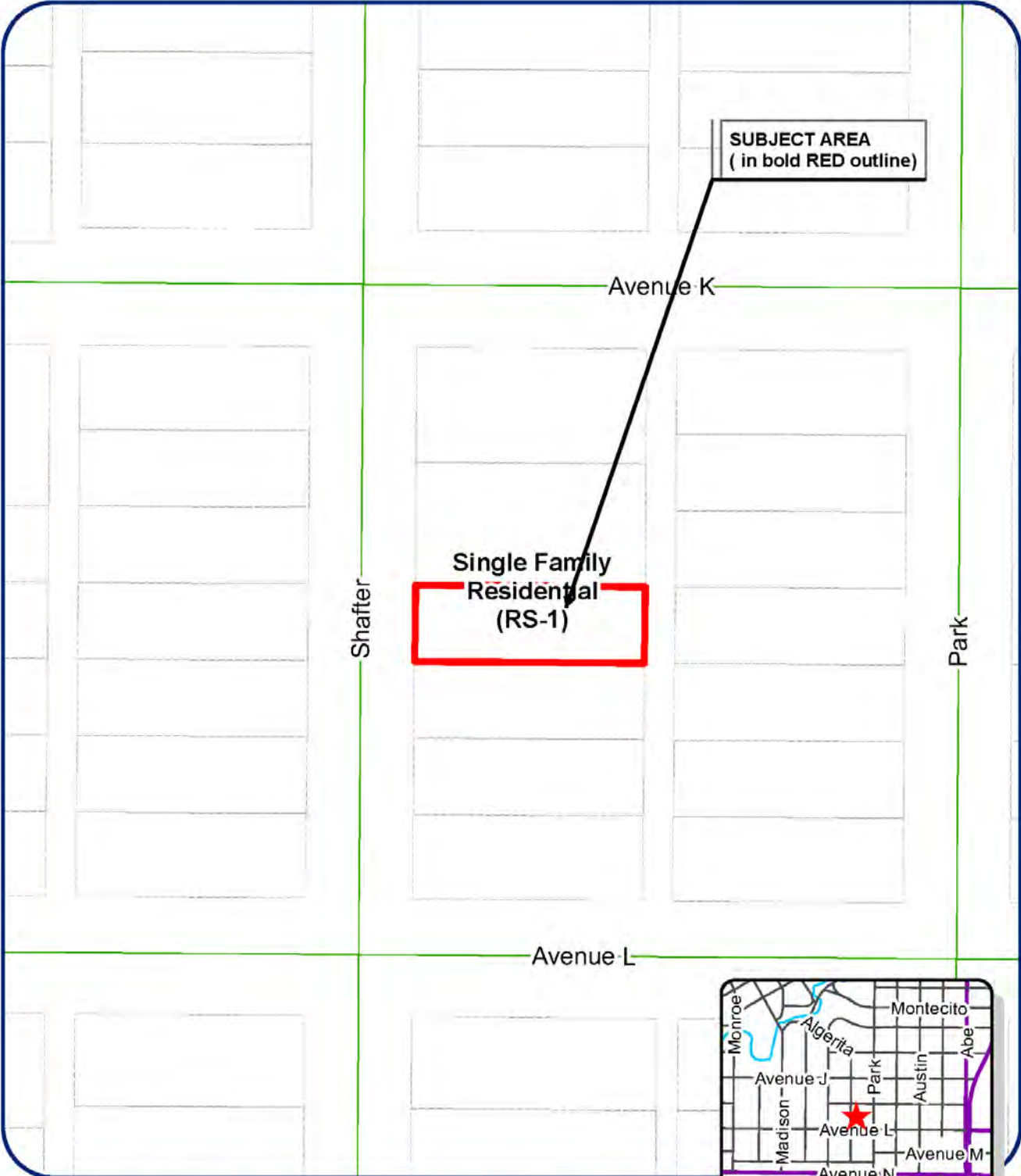
Subject Properties: **RS-1**

Current Zoning: **N/A**

Requested Zoning Change: **N/A**

Vision: **Neighborhood**





Variance Case File

Case ZBA16_10, Backus

Council District: Elizabeth Grindstaff

Neighborhood: Santa Rita

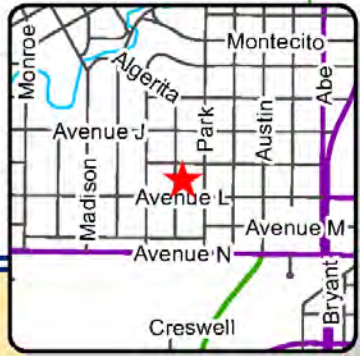
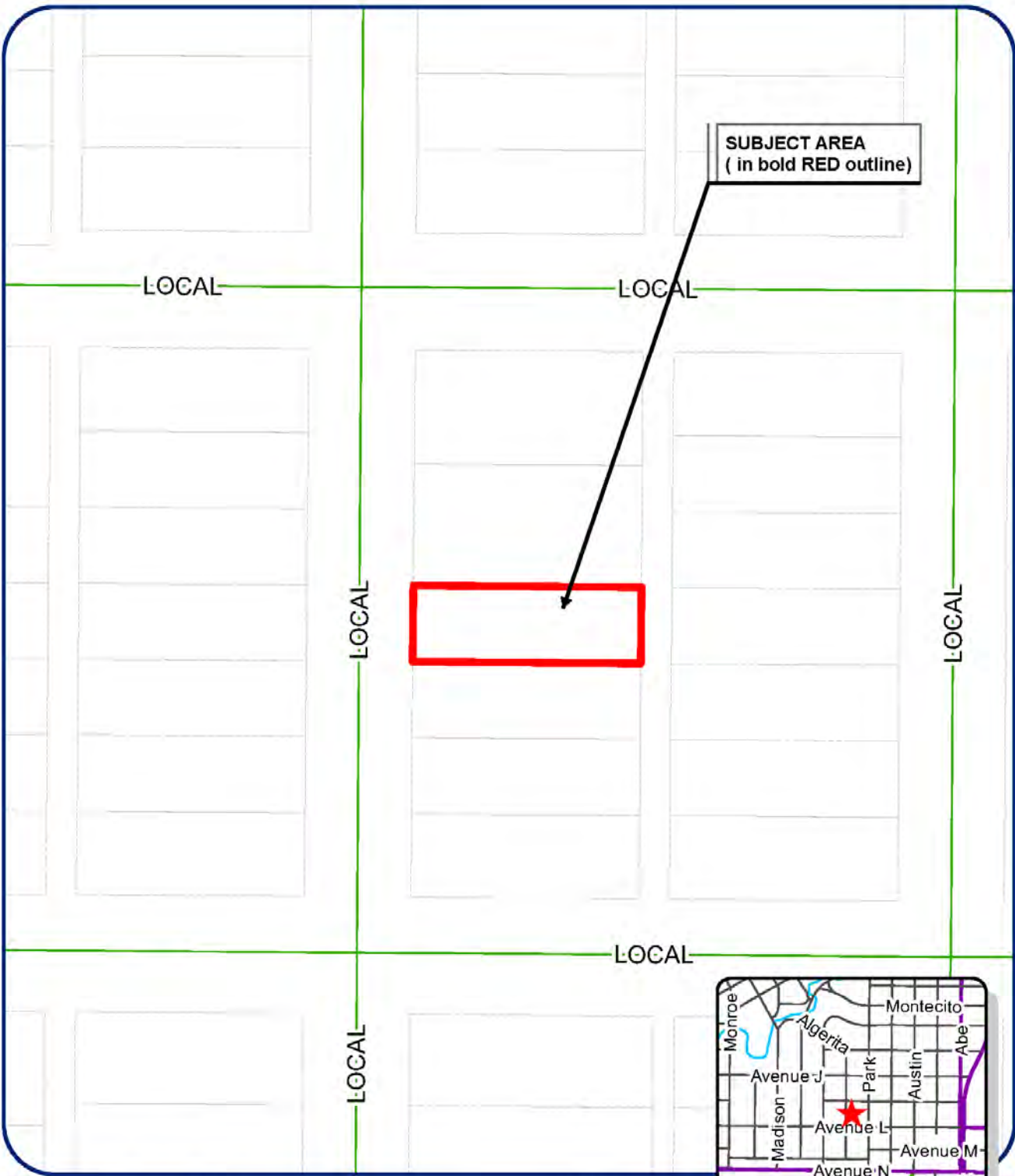
Scale: 1 inch :: 100 feet

Legal Description: Lot 4, Block 18, Beverly Hills Add'n

Legend

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





Variance Case File

Case ZBA16_10, Backus

Council District: Elizabeth Grindstaff

Neighborhood: Santa Rita

Scale: 1 inch :: 100 feet

Legal Description: Lot 4, Block 18, Beverly Hills Add'n

Legend

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



City of San Angelo, Texas - Planning Division

Application for Variance from Zoning Regulations

Name of Applicant(s): Joel Backus

Owner Tenant Representative (Affidavit required)

Mailing Address: 224 Dellwood Ct Telephone: 325-716-6564

City/State/Zip: San Angelo Tx 76903 Fax/other: _____

Email Address: joelbackus@yahoo.com

Subject Property Address and/or Location*:
1516 Shafter st.

Legal Description*:
Beverly Hills Addition Lot 4, Block 18

Zoning: RS-1

Specific Description of Request*:
To allow a side yard set back of 2' in lieu of 5' for a new carport

* use attachment, if necessary

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

Joel Backus
Signature

6-6-16
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: Existing location of home leaves insufficient space to meet the sideyard set back. Accessory structures behind house ~~may~~ restrict this location.

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

Explanation: Built in 1927 before zoning and before applicant moved in.

- 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 proposed location is the ~~only~~ ²⁰ ~~ideal~~ ^{option} given there is an existing drive way here.

- 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 proposed variance will maintain the 2' side yard set back if it was detached,

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

Explanation: This has no adverse affects due to this being a residential neighborhood with many other side yard carports.

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

Explanation: The carport will comply with all other parts of the Zoning ordinance.

OFFICE USE ONLY

Case no.: ZBA 16 - 10

Date of application: 6/6/2016

Fully-dimensioned site plan: Nonrefundable fee: \$ 250.00

Date paid: 6/6/2016

Date to be heard by ZBA: 7/11/2016

Received by: Jeff Fisher

Receipt Number: 247339

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

S.O.C.A.

AFFIDAVIT

STATE OF TEXAS)
COUNTY OF TOM GREEN)

I, Kimberly A Hatem Sheets, make this affidavit and hereby on oath state the following:

I, being the sole partial owner of the following property:

PROPERTY ADDRESS: 1516 Shafter Street San Angelo TX 76901

LEGAL DESCRIPTION*: Beverly Hills Addition Lot 4, Block 18

give my permission to below named representative, to apply for approval of a Zone Change, Special Use or Conditional Use on the above-described property.

REPRESENTATIVE'S NAME: Joel G. Backus

Signed this the 6 day of June, 2016

[Handwritten Signature]
Signature of property owner

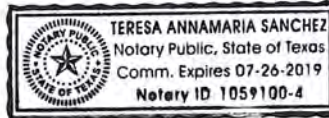
Telephone #: 325-716-6066

BEFORE ME, the undersigned authority, this day personally appeared Kimberly A. Hatem - Sheets and on oath stated that the facts hereinabove stated are true to the best of her knowledge or belief.

SWORN TO AND SUBSCRIBED before me on this the 6th day of June, 2016.

[Handwritten Signature]
Notary Public, State of Texas

* use attachment, if necessary

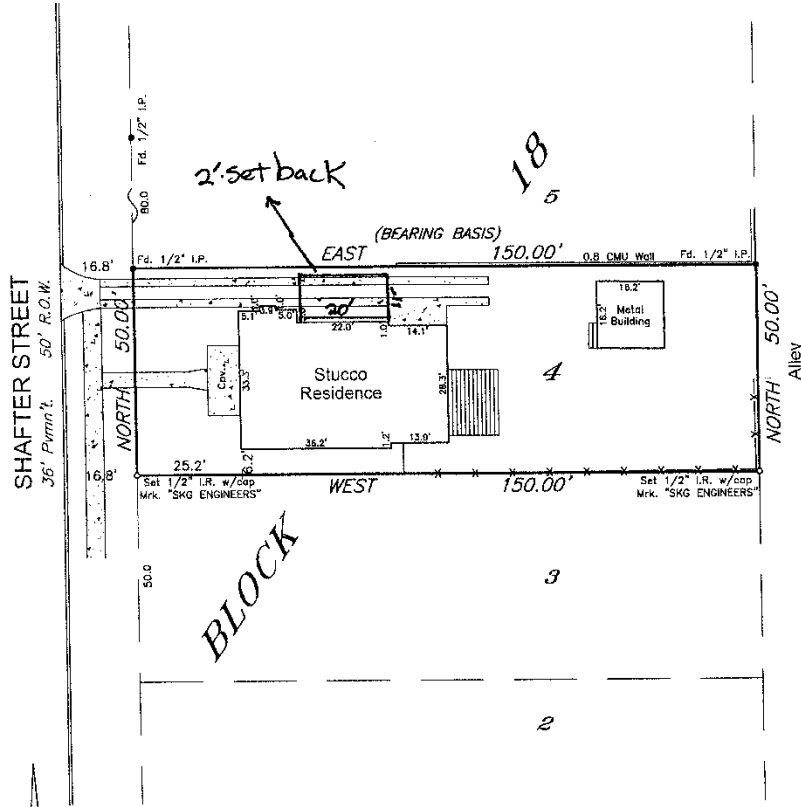


COPYRIGHT 2016

0 15 30 FEET 60 120 GRAPHIC SCALE

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

SKG
ENGINEERING, LLC
SURVEYING • ENVIRONMENTAL • LAB/ICMT
706 SOUTH ABE STREET
SAN ANGELO, TEXAS 76903
PHONE: 325.655.1288
FAX: 325.657.8148
FIRM NO. 10102400
www.skg.com



SCALE: 1"= 30'

BEARINGS ARE BASED UPON THE PLAT OF RECORD.

1516 SHAFTER STREET

PLAT SHOWING A SURVEY OF LOT 4, BLOCK 18, BEVERLY HILLS ADDITION, CITY OF SAN ANGELO, TOM GREEN COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT OF RECORD IN VOLUME 1, PAGE 77, PLAT RECORDS, 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.

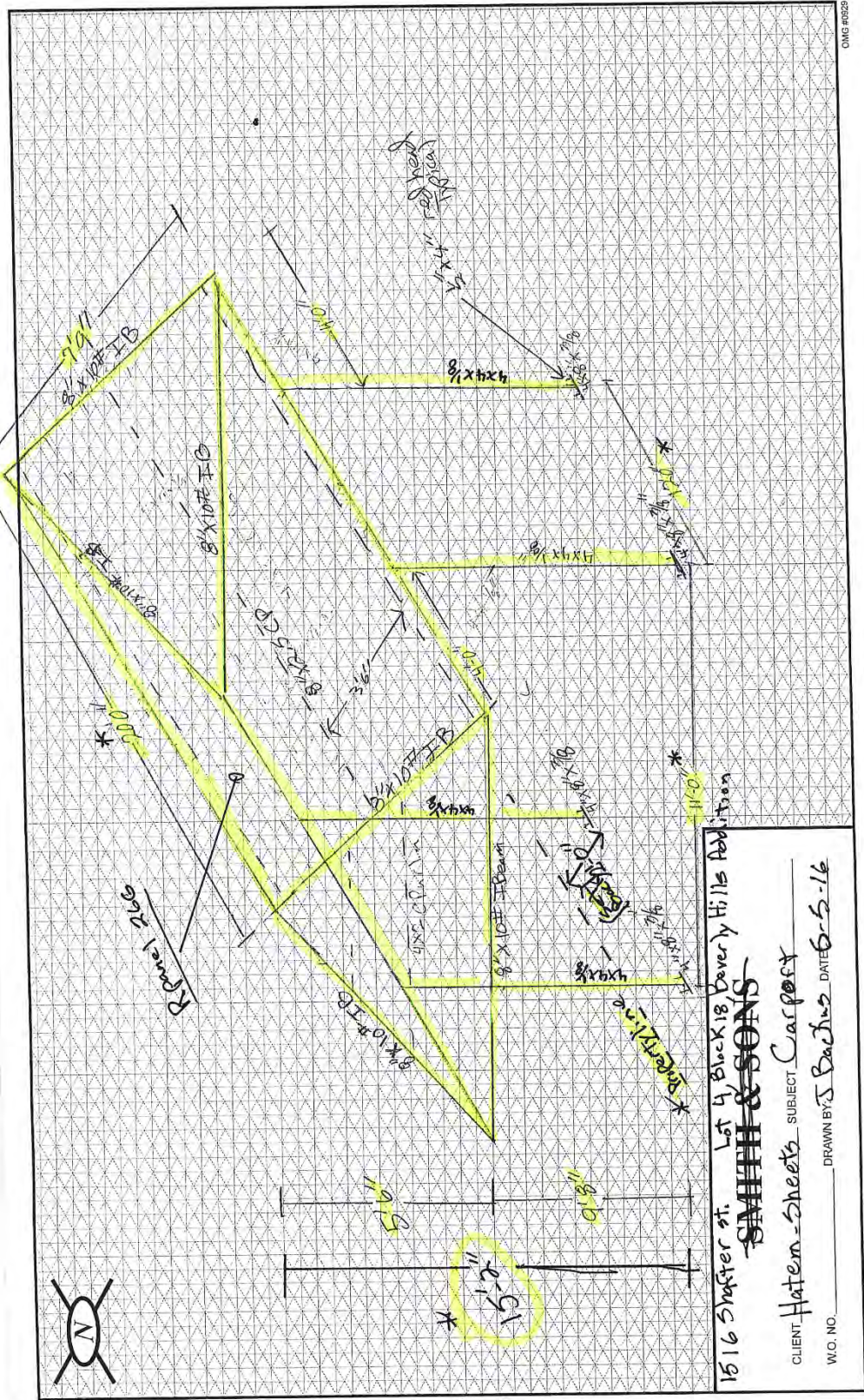
Surveyed on the ground February 10, 2016.

Russell T. Gully
RUSSELL T. GULLY
REGISTERED PROFESSIONAL LAND SURVEYOR NO. 5636



FIRST TITLE COMPANY
dt

SKG ENGINEERING, LLC 706 SOUTH ABE STREET, SAN ANGELO, TEXAS 76903 325.655.1288 16-S-0142



1516 Shafter st. Lot 4, Block 18, Beverly Hills Addition

SMITH & SONS

CLIENT: Hatem-Sheets SUBJECT: Carpet

W.O. NO. _____ DRAWN BY: J. Bachus DATE: 6-5-16

DMG 80828



SUBJECT PROPERTY



E/S OF SHAFTER STREET, LOOKING NORTH



E/S OF SHAFTER STREET, LOOKING SOUTH



W/S OF SHAFTER STREET, ACROSS FROM SUBJECT PROPERTY



REAR OF PROPERTY, ALONG ABUTTING ALLEY

STAFF REPORT



Meeting: July 11, 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: ZBA16-11

Request: A request for approval of a Variance from Section 501.A of the Zoning Ordinance to allow for a 5-foot Side Yard Setback in lieu of the 15 feet to build a carport to the rear of a house located in the Ranch & Estate (R&E) Zoning District

Location: 423 West 49th Street; generally located approximately .20 miles west of the intersection of West 49th Street and Grape Creek Road

Legal Description: East 74.3 feet of the West 171.05 feet of Block 8 less 5 Foot Strip to the City, Fair Ground Gardens Addition

Size: .87 acres

General Information

Future Land Use: Rural
Zoning: Ranch & Estate (R&E)
Existing Land Use: Existing single-family detached residence

Surrounding Zoning/Land Use:

North:	Ranch and Estate (R&E)	Single-family detached residences
West:	Ranch and Estate (R&E)	Single-family detached residences
South:	Ranch and Estate (R&E)	Single-family detached residences
East:	Ranch and Estate (R&E)	Single-family detached residences

District: SMD # 2 - Marty Self

Neighborhood: Riverside Neighborhood

History and Background:

On June 4, 2012, the Zoning Board of Adjustment (ZBA) approved the applicant's Variance request (ZBA12-10 Charles Netz) for a 5-foot side yard setback, in lieu of 15 feet, and a front yard setback of 20 feet, in lieu of 40 feet, to allow for the construction of a carport in the required front yard.

On June 6, 2016, the applicants' submitted an application for a Variance from the 15-foot required side yard setback under Section 501.A of the Zoning Ordinance for their property. The Variance would allow a side yard setback of 5 feet for the construction of a carport to the rear of the house. The existing house and rear attached storage building were both constructed in 1956. The property remains unplatted and the home was built with a 5-foot side setback instead of the required 20-foot required side yard setback under the 1954 Zoning Ordinance. The applicant bought the property in 1991 and the front carport was built in 2012. The applicant now seeks to maintain a building line along the 5 foot side yard setback which was granted for the front carport, but does not extend to the rear yard. Behind the house there is a small

attached storage building. All of the existing structures on the property are attached to one another and the proposed rear carport will be attached as well.

The applicant proposes to build a new 21 feet - 9 inch by 20 feet - 4 inch, or 442.25 square feet, carport addition standing 12 feet - 8 inches high. The building will be built of wood frame construction with north and south walls covered by Smartside 38 Series Treated Wood Siding Panels painted Behr Arabian Sands (beige) with Kelly Moore Blanco (white) trim. It will have a dirt floor, but will have a gabled roof that will be covered with Owen's Coring Shasta White Traditional 3-Tab Shingles. The applicant intends to store his classic 1964 Chevy pickup, lawn mower, and garden equipment inside the carport.

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 exist here as the lot is particularly narrow at 74.3 feet by 302 feet in depth compared to the sixteen other properties which have frontage on 49th Street. Only the neighboring property to the east has similarly narrow dimensions as the property had been split and sold as two separate tracts. The minimum lot dimensions in the R&E Zoning District are 150 feet by 150 feet leaving the applicant with what would be half a lot width by today's Zoning Ordinance.

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

The narrow lot with the home built 5 feet set back in lieu of 15 feet (or 20 feet, by previous Zoning Ordinances), existed in 1956 - decades before the applicant bought the property in 1991.

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

A literal interpretation of the Zoning Ordinance, would in this case, deprive the applicant of rights enjoyed by his neighbors because the lots are long and narrow along 49th Street making meeting the requirement 15 foot side yard setback more

difficult when construction any structure. There is only one similar Variance request which affect two homes among the 16 homes along 49th Street but it is across the street at 404 and 406 West 49 Street. ZBA16-11, approved on August 19, 1986, granted a request to allow for a 9.1-foot Variance from the required 20-foot side yard setback and a request to allow for a 107.6-foot lot width in lieu of 150 feet, for both tracts. In addition, the previous subject property Variance, ZBA12-10 Charles Netz, also approved a 5-foot side setback in lieu of the required 15-foot side yard setback setting a precedent for a what is, in effect, an established building line, but still subject to ZBA approval for any future construction along the west side of the property.

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;

Allowing the Variance is the minimal action necessary to allow for the carport addition to be built in its proposed location. The applicant has indicated that the proposed carport needs to be built to the rear of the home near the side yard setback as his vehicle requires adequate maneuvering area. It appears to be in the public interest to have vehicles and lawn equipment moved to the rear of properties, as a cluttered a front carport could be unsightly. Also, personal effects in the front carport are more visible and therefore less secure.

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

The proposed carport is to the rear of the home and will not be readily visible from the right-of-way. The nearest property immediately to the west, 431 West 49th Street, is an estimated 28 feet and not directly across from the carport. The ingress and egress to the carport would be from a second, or east gate, off 49th Street on unimproved ground passing through a second gate to keep the owner's dogs in the back yard. The 1964 Chevy pickup will not be driven often to keep the mileage down and the gates will reduce speeding on an unpaved route so the neighbor to the east should not be greatly disturbed. No comments from the public in opposition to the proposed carport have been received.

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

The proposed carport addition is anticipated to comply with all other provisions of the Zoning Ordinance and meets the overall intent of the Ordinance. Granting the Variance will uphold the stated purpose to "protect the character and the established pattern of desirable development in each area," consistent with Zoning Ordinance, Chapter 12, Article 1, Section 104.2.

Notification:

On June 28, 2016, thirteen (13) notifications were mailed out within a 200-foot radius of the subject site. As of July 5, 2016, there were zero (0) responses in favor and zero (0) responses in opposition of the request.

Staff Recommendation:

The Planning Division recommends **APPROVAL** of a Variance from Section 501.A of the Zoning Ordinance to allow for a 5-foot Side Yard Setback in lieu of the 15 feet to build a carport to the rear of a house located in the Ranch & Estate (R&E) Zoning District, **subject to the following one (1) Condition of Approval:**

1. The applicant shall obtain an approved building permit prior to the commencement of construction.

Effect of Variance:

Per Section 207(H) of the Zoning Ordinance:

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

Attachments:

Aerial Map
Future Land Use Map
Zoning Map
Notification Map
Site Plan
Application
Site Photos
Building Materials



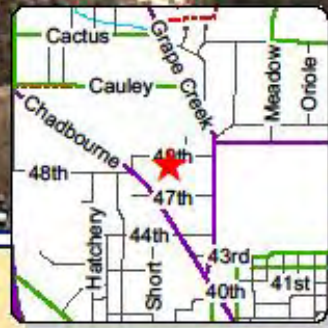
Variance Case File

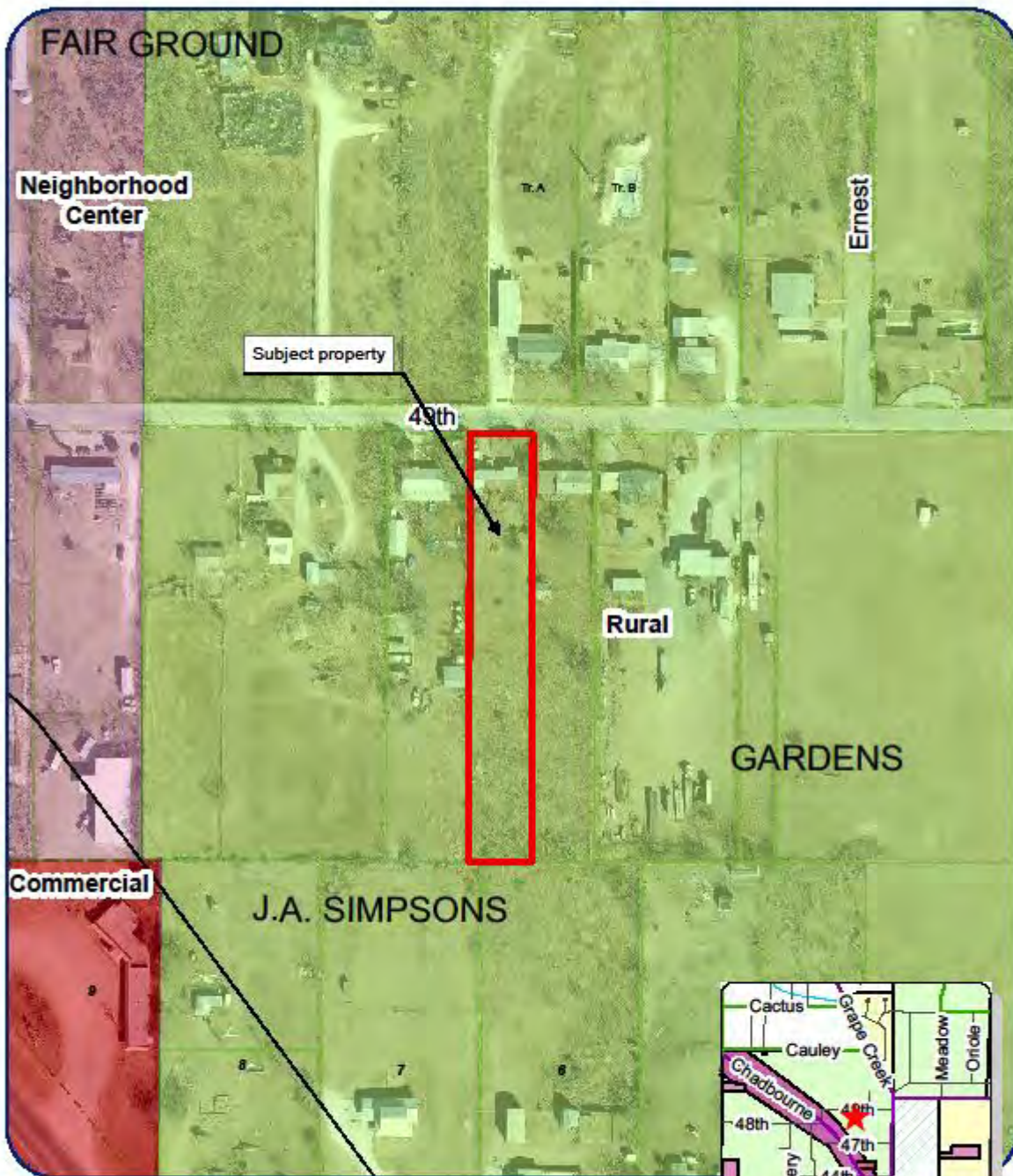
Z16-11 Netz

Council District: Marty Self (SMD #2)
 Neighborhood: Riverside
 Scale: 1" approx. = 150 ft
 Subject Property: 423 West 49th St.

Legend

Subject Property: █
 Current Zoning: R&E
 Requested Zoning Change: N/A
 Vision: Rural

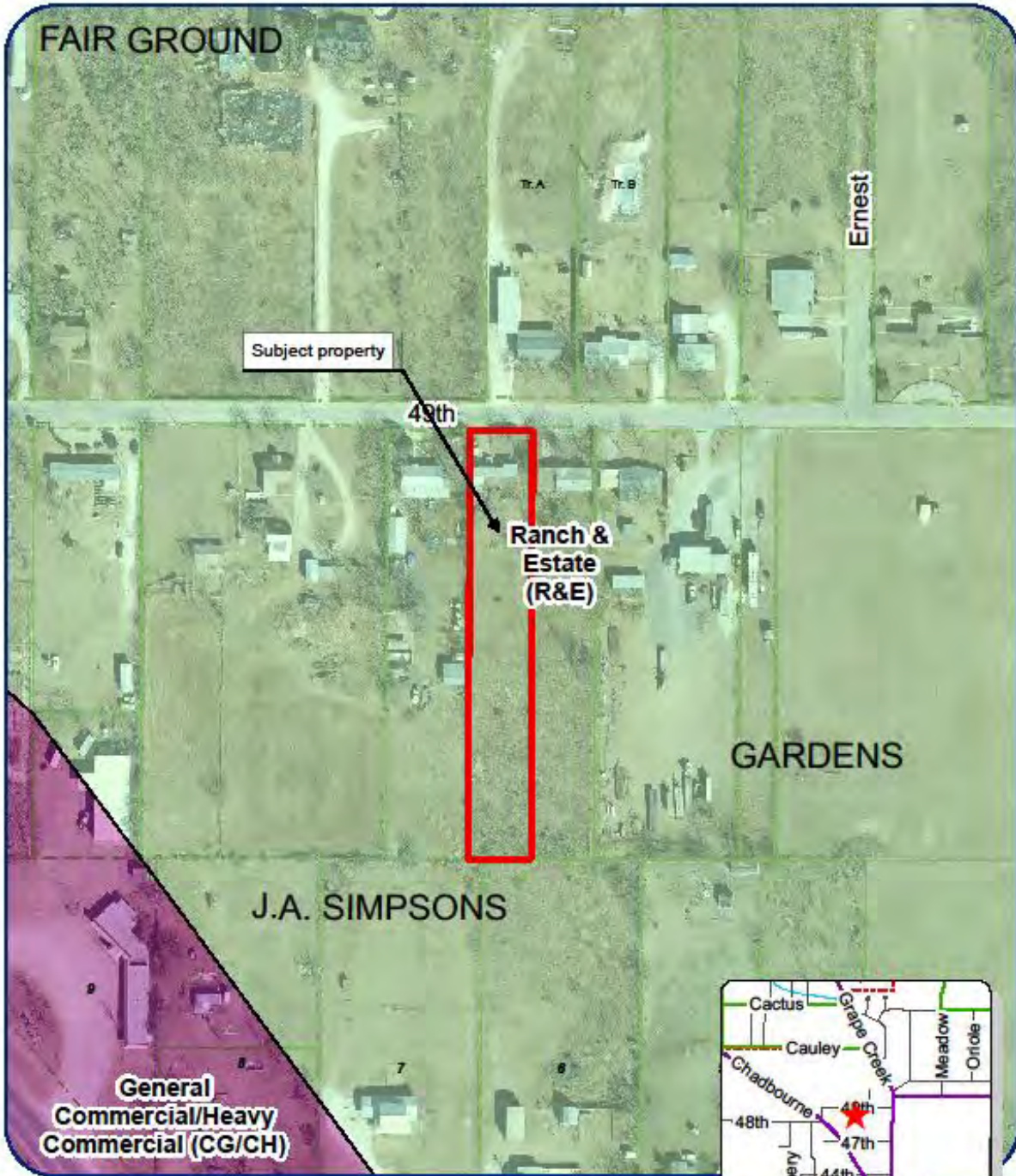




Variance Case File
Case ZBA16-11 Netz
 Council District: Marty Self (SMD#2)
 Neighborhood: Riverside
 Scale: 1" approx. = 150 ft
 Subject Property: 423 West 49th St.

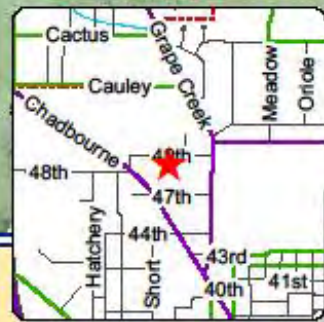
Legend
 Subject Properties: █
 Current Zoning: R&E
 Requested Zoning Change: N/A
 Vision: Rural

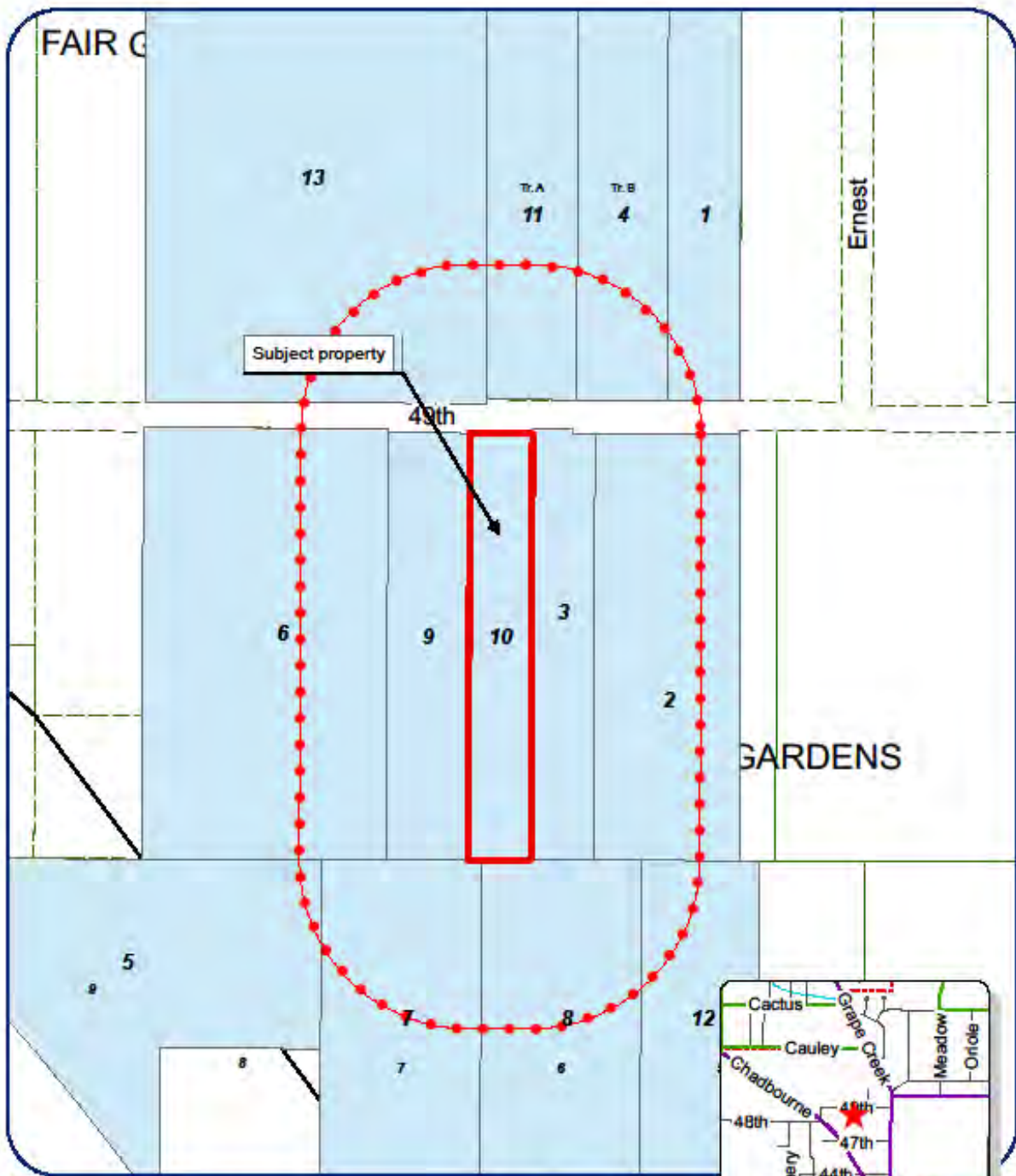




Variance Case File
Case ZBA16-11 Netz
 Council District: Marty Self (SMD#2)
 Neighborhood: Riverside
 Scale: 1" approx. = 150 ft
 Subject Property: 423 West 49th St.

Legend
 Subject Properties: █
 Current Zoning: █ R&E
 Requested Zoning Change: █ N/A
 Vision: █ Rural





Variance Case File
Case ZBA16-11 Netz
 Council District: Marty Self (SMD#2)
 Neighborhood: Riverside
 Scale: 1" approx. = 150 ft
 Subject Property: 423 West 49th St.

Legend
 Subject Properties: █
 Current Zoning: █ R&E
 Requested Zoning Change: █ N/A
 Vision: █ Rural



SITE PLAN

ADDRESS 423 W. 49th St, San Angelo, TX 76903 PERMIT NO. _____

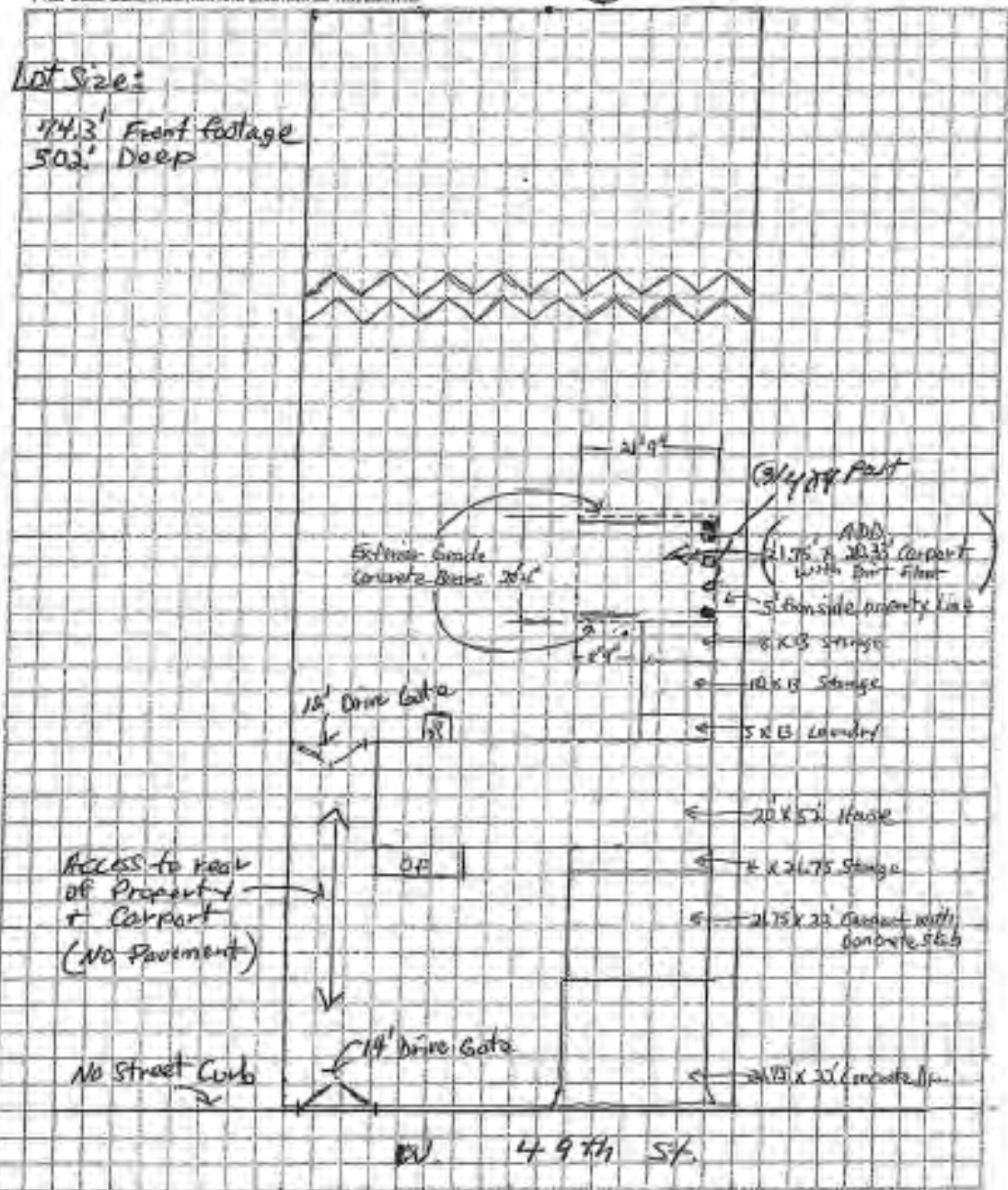
LEGAL DESC.: LOT 274.3' E W 171.05' N 8' ADDITION FRONTGARD GARDELS

SITE AREA 442.18 TOTAL AREA OF BUILDINGS _____

INSTRUCTIONS TO APPLICANT: FOR ALL BUILDING PERMITS PROVIDE THE FOLLOWING INFORMATION IN THE SPACE BELOW: LOCATION OF PROPOSED CONSTRUCTION AND EXISTING IMPROVEMENTS.



SOUNDING 5



We certify that the proposed construction will conform to the dimensions and uses shown above and that no changes will be made without first obtaining approval from the City of San Angelo, Permits and Inspections Dept.

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

Name of Applicant(s): Charles E. Netz

Owner Tenant Representative (Affidavit required)

Mailing Address: 423 W 49th St. Telephone: (325) 658-7504

City/State/Zip: San Angelo, TX 76903 Fax/other: charnetz@verizon.net

Email Address: charnetz@verizon.net

Subject Property Address and/or Location*:
423 W. 49th St., San Angelo, TX 76903

Legal Description*:
Fair Ground Gardens, E 74.3' of W 171.05' of B1K 8

Zoning: Ranch & Estate (R+E) District

Specific Description of Request:

A request for a 10' variance from the side yard setback of 15' to allow for a side yard setback of 5', for the placement of a rear carport in the required side property.

* use attachment, if necessary

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

Charles E Netz
Signature

6/6/16
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.

423 W. 49th St.

I assert that my request for variance meets a) 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;

Nei

Explanation: Lot size is narrow, only 74.3' wide. Without this variance, the proposed attached carport would not be possible as existing rear structure is only 13' wide.
These special circumstances are not the result of the actions of the applicant;

Ma

Explanation: When I purchased this property in 1991, existing structures, built in 1956, are already 5' from W. side property line.

Git

Liberal 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;

Em

Explanation: Rear carport is needed for extra car protection, plus a place to store lawn mowers/garden

Sul

equip. Lawn/garden equip. can't be stored beneath front carport due to room limitations, security issues, and environmental codes.
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;

Leg

Explanation: Granting the variance would allow for the building of the proposed rear carport for reasons and purposes previously noted.

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

Explanation: Rear carport will not encroach on the adjacent house to the west as that structure is 22' from property line

Zon

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

Spe

Explanation: Carport addition will not create any additional encroachment for adjacent property which is the intent of the zoning Ordinance.

* us

IAW

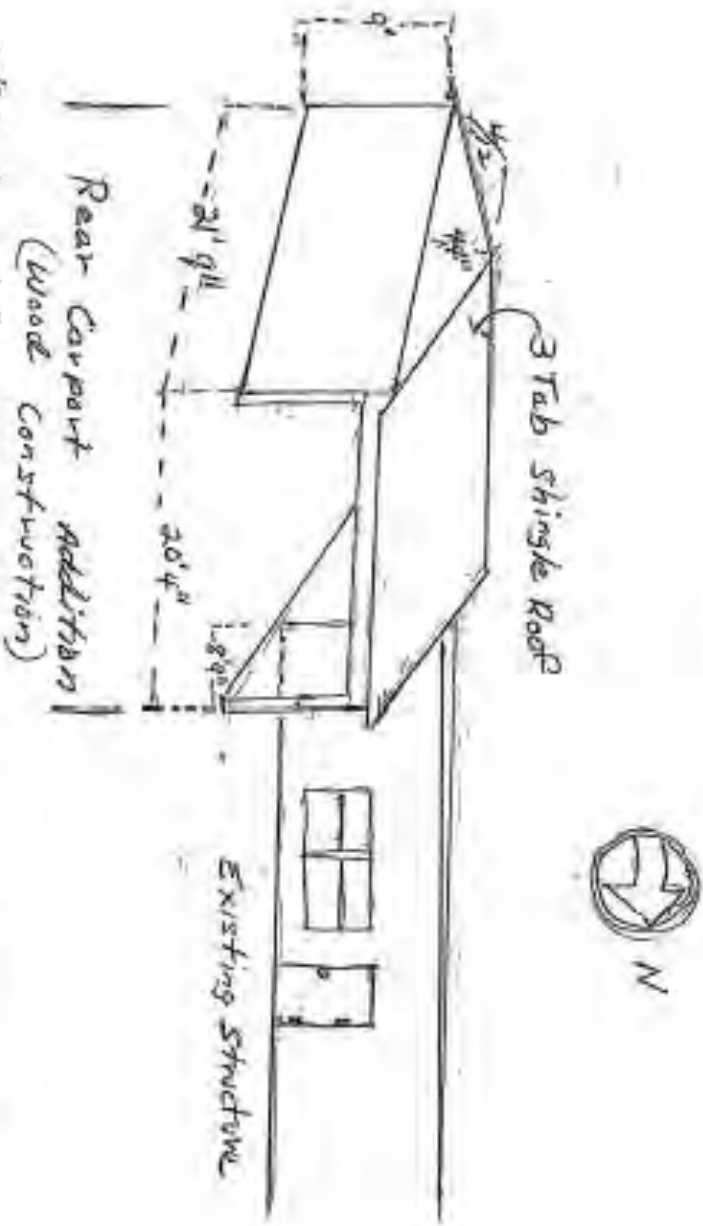
belc

Sign

OFFICE USE ONLY	
Case no.: ZBA <u>16-11</u>	Date of application: <u>6/2/16</u>
Fully-dimensioned site plan: <input checked="" type="checkbox"/>	Nonrefundable fee: <u>\$250.00</u> Date paid: <u>6/8/16</u>
Date to be heard by ZBA: <u>7/11/16</u>	
Received by: <u>David Fee</u>	Receipt Number: <u>247340</u>
Ordinance section(s) from which variance(s) is/are requested:	
<u>Request to allow for a 5 foot side setback in lieu of the 15 foot side yard setback in the R3E District.</u>	

- 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.

Construction & Elevation Detail
 423 W. 49th St.



- Notes:
- 1) 21'9" wall will be built and sided on south wall
 - 2) 8'9" wall will be built and sided on north wall, starting at corner of existing structure, extending to NE corner of carport.
 - 3) 1/2 Pitched gable roof will be sticked framed, decked with OSB, and finished with 2-TnR main siding.

Site Photos

North



South looking at subject property



East



West



5 foot east side yard setback



1964 Chevy Pickup



Vehicle Access Point to Backyard



1957 Chevy in Front Carport



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SmartSide 38 Series Primed Engineered Treated Wood Siding Panel (Common: 0.375-in x 48-in x 96-in; Actual: 0.315-in x 48.563-in x 95.875-in)

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8 oz. #280E-2 Arabian Sands Interior/Exterior Paint Sample

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- Flat Sheen: Samples are available in BEHR PREMIUM PLUS Flat Sheen and can be tested on almost any interior or exterior surface
- Covers up to 10 Square Feet
- BEHR PREMIUM PLUS has the highest quality pigments and thickeners to provide rich and color quality
- Note: On screen and printer color representations may vary from actual colors.
- Paint samples are not returnable but are an invaluable resource to help you select the right paint color
- Actual paint colors may vary from on-screen and printer representations
- [Click here](#) to see our paint calculator and estimate how much paint you need to complete your project

SPECIFICATIONS



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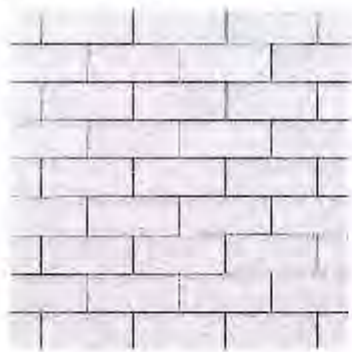
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STAFF REPORT



Meeting: July 11, 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: ZBA16-12

Request: A request to delete Condition of Approval #1 from the Zoning Board of Adjustment's January 4, 2016, meeting for Case ZBA15-26, in the name of Chad Meeks, which reads: "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."

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

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

Size: .239 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 – Bill Richardson

Neighborhood: Country Club Neighborhood

History and Background:

On January 4, 2016, the Zoning Board of Adjustment voted to approve ZBA15-26 Chad Meeks, a Variance request for approval of 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. The Variance was subject to one (1) Condition:

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.

On June 8, 2016, the applicant formally sought to have the Condition of Approval deleted. He contends that due to the condition attached to the property, potential buyers would not qualify for insurance coverage. The applicant further notes that the Zoning Board of Adjustments (ZBA) decided on June 6, 2016, to modify the same rebuild Condition of Approval which was in question in ZBA16-07 Sierra Vista Construction case.

The property is zoned Single-Family Residence (RS-1) Zoning District and is located within the Baker Ranch Subdivision. The existing house was constructed in 2015 with a front setback of 19 feet. Section 501(A) of the Zoning Ordinance requires a minimum front setback of 25 feet. During the final survey, the builder discovered the attached garage encroached 5.6 feet into the front yard setback. During construction, the contractor pulled his setback measurement from the curb to the right front corner of the house and not from the property pins. This change led to an error in the angle of the home's construction resulting in a 6-foot encroachment into the 25-foot front yard setback which went unnoticed during construction of the home.

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 original variance request in ZBA15-26 had no special circumstances 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. In this latest entreaty, the applicant's request rests on the fact that the subject property is the only home in the subdivision that has the rebuild Condition of Approval. Staff notes that the subject Condition of Approval has been applied in multiple cases outside the Baker Ranch Addition and all homes within the subdivision are subject to the same setbacks.

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

The nature of the circumstance was the direct result of the applicant's actions as they contracted to have the house built in its current location. The applicant now seeks to delete or modify the rebuild Condition of Approval that was not considered by the ZBA in original January 4, 2016, case. He wants to receive the same outcome as the ZBA16-07 Sierra Vista Construction case because both original

cases were variance requests for front yard setbacks on newly constructed homes decided on the same day and both had the same rebuild Condition of Approval imposed. Each case before the Board must be weighed on its own merits no matter how similar they are to previous cases. The Board may choose to approve, deny, or approve with conditions all cases but those conditions are not mandated by the Zoning Ordinance. This allows for some flexibility in the application of the Ordinance to different circumstances.

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 appear to deprive the applicant of rights commonly enjoyed by other land owners. The cases of ZBA15-26 Meeks and ZBA15-24 Sierra Vista Construction are similar as both are in the Single-Family Residence (RS-1) Zoning District and within 0.2 miles of each other. It is difficult to find enough significant differences between the two cases to justify two different outcomes by placing an undue hardship on one property while without imposing the same rebuild Condition of Approval on the other property. Modifying the Condition of Approval wording, "If the nonconforming structure (single family residence) is deemed as a total loss, the nonconforming structure shall be rebuilt with the required 25-foot front yard setback as dictated by the Zoning Ordinance, Chapter 12, Section 501" is more consistent with the outcome of ZBA15-24 as applicant is required to maintain the 25-foot front yard setback but the threshold for the requirement to rebuild within the front yard setback is higher and more definitive than under the previous Condition of Approval. Deleting the prior Conditional of Approval means that the home could be rebuilt within the 25-foot front yard setback.

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;

Granting the deletion of the Condition is not the minimum action that would make possible the use of this land. The house continues to encroach into the 25-foot front yard setback. However, it is in the public interest to maintain similar standards in similar cases to insure the Zoning Ordinance is applied uniformly as a basic tenant of justice for all who seek redress before the Board. The spirit of the Zoning Ordinance would be upheld if the same amended Condition of Approval were granted in as in the ZBA16-07 Sierra Vista Construction case because the home would be rebuilt within the 25-foot front yard setback if the home is deemed a total loss.

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

There is no tangible way to know if granting a deletion of the condition to allow the structure to maintain 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. Granting such a deletion of the Condition could set a precedent for allowing other properties on the same side of the street to be given reduced setbacks in perpetuity as well. Modifying the Condition of Approval from “destroyed or damaged by 50% or more” to “deemed as a total loss” addresses those concerns because the front yard setback requirement will be maintained and is more consistent with the ZBA’s recent prior decision in ZBA16-07 Sierra Vista Construction.

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

The proposed deletion of the Condition to allow for rebuilding in the 19-foot front yard setback in lieu of 25 feet for a detached, single family residence is not consistent on its face 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. Citing an amended Condition of Approval from a previous ZBA approval is a legitimate use of the Ordinance process and is stated as to “establish a process that effectively and fairly applies the regulations and standards of this Zoning Ordinance and respects the rights of property owners and the interests of citizens,” per Zoning Ordinance, Chapter 12, Article 1, Section 104.5. Modifying the Condition of Approval means the 25-foot front yard setback will be maintained but only if the home is deemed as a total loss. The modification best reflects the Board’s previous decision on this issue.

Notification:

On June 28, 2016, thirteen (13) notifications were mailed out within a 200-foot radius of the subject site. As of July 5, 2016, there were zero (0) responses in favor and one (1) response in opposition of the request.

Staff Recommendation:

Staff’s recommendation is for the Zoning Board of Adjustment to **DENY** an amendment to Case ZBA16-12 to delete Condition of Approval #1 from the Zoning Board of Adjustment’s January 4, 2016, decision, and instead **MODIFY** the Condition so that it reads:

1. If the nonconforming structure (single family residence) is deemed as a total loss, the nonconforming structure shall be rebuilt within 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

Z16-12 Meeks

Council District: Bill Ricardson (SMD #1)
 Neighborhood: Country Club
 Scale: 1" approx. = 100 ft
 Subject Property: 3968 Caroline Ln.

Legend

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





Variance Case File

Z16-12: Meeks

Council District: Bill Richardson (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**





Single Family Residential (RS-1)

Subject Property

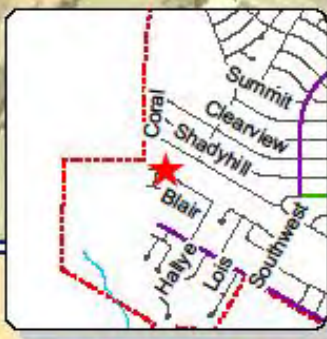
Variance Case File

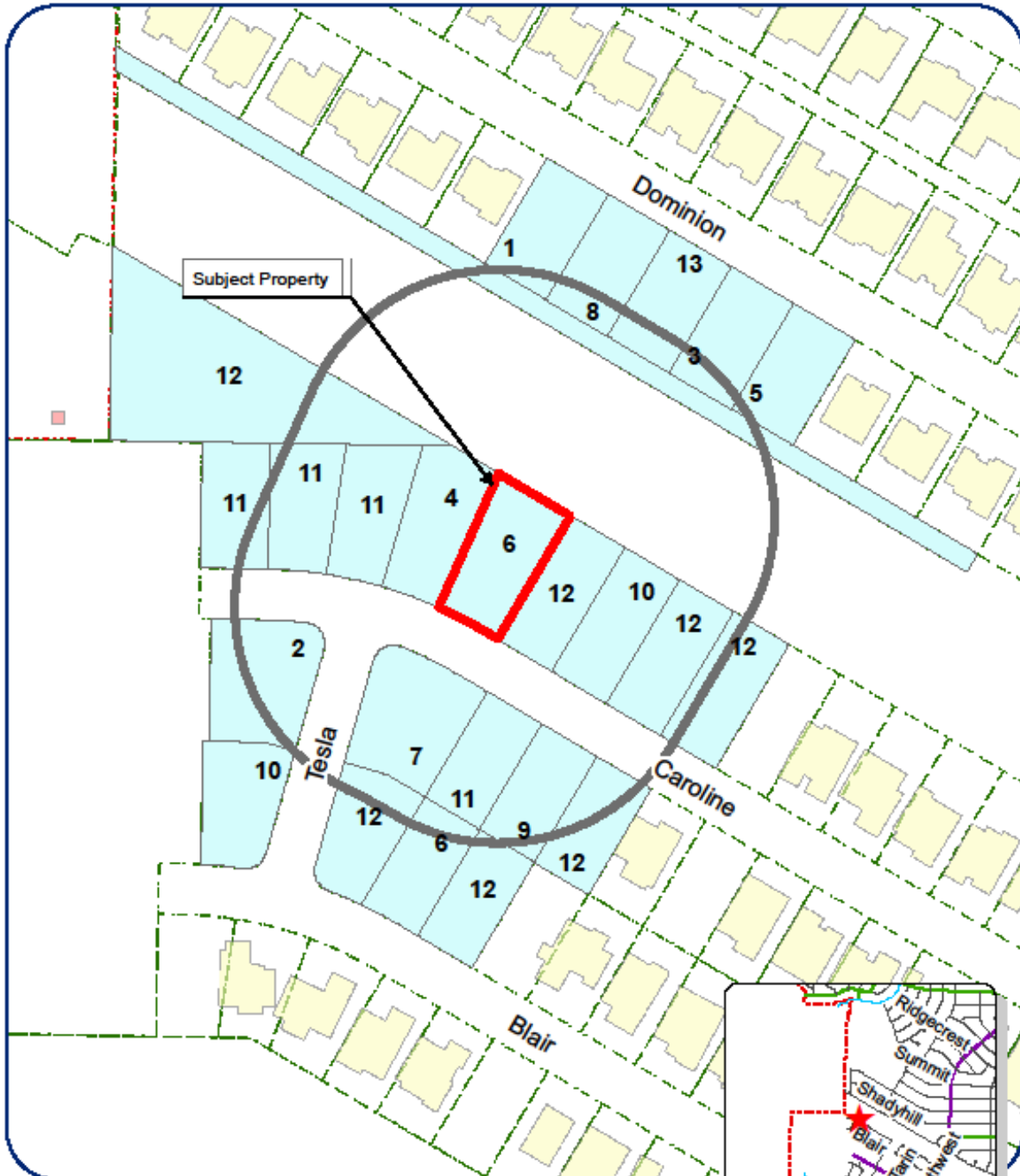
Z16-12: Meeks

Council District: Bill Ricardson (SMD #1)
 Neighborhood: Country Club
 Scale: 1" approx. = 100 ft
 Subject Property: 3986 Caroline Ln.

Legend

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





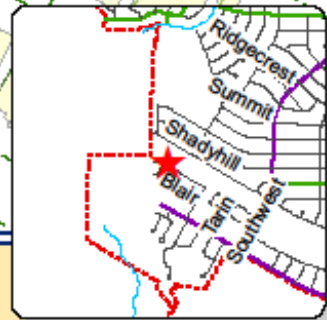
Variance Case File

Z16-12: Meeks

Council District: Bill Richardson (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**



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

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

Owner Tenant Representative (Affidavit required)

Mailing Address: 3524 Kiskadee Pl Ste C# 317 Telephone: 325-939-3465

City/State/Zip: San Angelo, TX 76904 Fax/other: _____

Email Address: chad@h3dfw.com

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

Legal Description*:
Lot 29 Sec 2 B1E 1 Subd Baker Ranch

Zoning: RS 1

Specific Description of Request*: SEE ATTACHED
To delete Condition of Approval # 1 from the Zoning Board of Adjustments January 4, 2016
meeting for Case ZBA 16-26 in the name of Chad Meeks, H Cubed Homes SA, LLC

* use attachment, if necessary

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

 6-8-16
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: The contractor pulled his setback measurement from the curb to the front right corner of the house and not from the property pins.

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

Explanation: My intentions were to build within compliance of the required setback. Confirmation was made between myself + the contractor that the house was set at the 25' setback.

- 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 had already been built + the problem was not seen until it was too late to make a change.

- 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: Granting the variance is in the best interest of the home buyer. It would not be contrary to public interest + would not affect adjacent properties.

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

Explanation: If the variance is not granted, it will cause an adverse affect on adjacent properties because the house will either go into foreclosure or be sold at a cash discount to compensate for the current condition in place. Both options negatively affect adjacent property values.

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

Explanation: This home is complying in all other ~~applicable~~ provisions of the Zoning Ordinance.

OFFICE USE ONLY	
Case no.: ZBA <u>16</u> - <u>12</u>	Date of application: <u>6/8/16</u>
Fully-dimensioned site plan: <input checked="" type="checkbox"/> Nonrefundable fee: \$ <u>250.00</u>	Date paid: <u>6/8/16</u>
Date to be heard by ZBA: <u>7/11/16</u>	
Received by: <u>David Kee</u>	Receipt Number: <u>247341</u>
Ordinance section(s) from which variance(s) is/are requested: <u>Delete or amend Conditional Approval - If the nonconforming structure is destroyed or damaged by 50% or more the nonconforming structure shall be rebuilt with the required 25 foot front yard setback - Zoning Ordinance, Chap 12, Section 50</u>	

Specific Description of Request*

To delete Condition of Approval #1 from the Zoning Board of Adjustments January 4, 2016 meeting for Case ZBA 15-26 in the name of Chad Meeks, H Cubed Homes SA, LLC.

Formal request from the builder/property owner regarding the property found here within for a variance from the original 25' building line established by the plat recorded for Baker Ranch Section 2 San Angelo, Texas.

The Property in question possesses a current structure (single family residence) that surpasses the front yard boundary by 5.6 feet at its furthest point. Thus, we request that the boundary line be modified for the lot in question to a 19' front yard building line in lieu of the existing 25' front yard building line.

The current variance on the Property allows for a 19' front yard setback in lieu of a 25' front yard setback with the following condition:

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.

But, the above condition is specific to nonconforming structures and if granted the request of a 19' front yard setback in lieu of a 25' front yard setback, the structure shall become a conforming structure and therefore will not require the above condition.

As seen on June 6, 2016 in previously approved case no. ZBA 16-07 Sierra Vista Construction, the property will not qualify for insurance coverage and therefore becomes a liability for any lender considering the property. Therefore, the only way the property may be sold is under a revised approval of variance that removes the above condition from the approval by merely granting the 19' front yard setback in lieu of a 25' front yard setback.

The property in its present condition is not of any consequence to the adjacent properties or any within the community. The cosmetic appeal of a front yard setback does nothing to reduce the local property values nor does it reduce the value of the community as a whole. If sold with the current condition in place, the price will have to be reduced to allow for compensation due to the condition. If sold at a reduced cost, the adjacent property values will then be affected due to a low comparable value within the community. An alternate possibility is that the property goes unsold and into foreclosure. Thus negatively affecting adjacent property values as well.



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

January 5, 2016

Mr. Chad Meeks
H-Cubed Homes – SA, LLC
PO Box 61846
San Angelo, TX 76906

SUBJECT: ZBA 15-026: A request for approval of 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.

PROPERTY: Baker Ranch Addition – Section 2, Lot 29, Block 1, located at 3966 Caroline Lane; generally located along the northeast side of Caroline Lane, between April Street and Tesla Lane

Dear Mr. Meeks:

At its meeting on **January 4, 2016**, the Zoning Board of Adjustment for the City of San Angelo **approved** your Variance request, subject to the following Condition(s):

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.

A building permit may still be necessary, however. Permits may be obtained at the City's Permits and Inspections Division, located at 52 West College Avenue next to the City Hall building. You may contact this Division at (325) 657-4420 for further details. A copy of this approval letter will be forwarded to this Division for their reference and permitting purposes.

Lastly, per Section 207 of San Angelo's City Ordinance, a Variance becomes null and void if the improvement for which the Variance was sought is not completed within 12 months of the date of approval. This variance will therefore expire on **January 4, 2017** if not used by that date.

If you have further questions or concerns about this matter, feel free to contact the Planning Division at telephone number (325) 657-4210. Thank you.

Sincerely,

David Stallworth, AICP
Principal Planner

CC: Rebeca Guerra, Planning Manager
Alfonso Torres, Chief Building Official

STAFF REPORT



Meeting: July 11, 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: ZBA16-13

Request: A request for approval of the following: 1) to amend Condition #2 of Case ZBA04-43 to read as follows: "That any portion of the proposed carport situated closer than 25 feet from the front property line, except for where said carport may be attached to the porch, shall have a minimum of 7-1/2 feet from the finished floor level which is open or unencumbered by any walls, screening or glazing of any kind," and 2) a Variance from Section 501.A of the Zoning Ordinance to allow for a 14-foot front yard setback in lieu of 25 feet for an existing porch on property located within the Single-family Residential (RS-1) Zoning District

Location: 2310 Fishermans Road; generally located between Joy Road and Rock Slough Drive

Size: 0.26 acres

Legal

Description: Specifically identified as Lot 3, Block 1, Lake Nasworthy Addition – Group 15.

General Information

Zoning: Single-Family Residence (RS-1)

Existing Land Use: Single-Family Residence; built 1967.

Future Land Use: Neighborhood

Surrounding Zoning/Land Use:

North:	N/A	Lake Nasworthy
West:	Single-Family Residence (RS-1)	Single-Family Residences
South:	Single-Family Residence (RS-1)	Vacant Residential Land
East:	Single-Family Residence (RS-1)	Single-Family Residences

District: SMD#1 – Bill Richardson

Neighborhood: Nasworthy Neighborhood

History and Background:

On June 10, 2016, the applicant submitted this Variance application to extend an existing bedroom by 5 feet into the front yard by enclosing an existing porch and to amend a previous Variance Approval (ZBA04-43) to allow the existing front carport to now be encumbered (by the existing porch / proposed bedroom extension). The September 2004 approval by the Zoning Board of Adjustment (ZBA04-43) approved a front carport within the 25-foot front yard setback subject to various conditions of approval. Condition #2 required that any portion of the carport within the required front yard shall have a minimum of 7½ feet unencumbered by any walls, screening, or glazing of any kind. Now that the applicant intends to extend the front bedroom further into the front yard, the carport will technically be encumbered, and therefore, Condition #2 needs to be amended

to allow the carport to be encumbered by the proposed bedroom wall (enclosing of the existing porch). The Variance requested would allow the bedroom to be extended by 5 feet into the front yard to allow for a 14-foot front yard setback in lieu of the required 25 feet in the RS-1 Zoning District. The existing house measured from the existing porch is 14 feet from the property line and appears to be legally non-complying in this respect as it was built in 1967 before the property was annexed into the City in November 1989. However, the bedroom expansion, under the current Zoning Ordinance, requires a Variance to further encroach into the required front yard setback. The applicant has submitted a Building Permit Application for the bedroom expansion which is pending approval of this Variance request.

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 circumstance in this case is that there is already a covered porch in front of the bedroom which can be enclosed, facilitating expansion of the bedroom. This porch was referenced as existing in the associated ZBA04-43 case which approved the adjacent front carport at 0 feet in front of this porch. There is also a carport immediately to the east of this porch approved by ZBA12-07. The Permits and Inspections Division did not find any record a permit for this porch. Staff believes enclosing this existing porch between the carport and the existing bedroom for the bedroom addition is the most optimal use of space given the logistical constraints on the property.

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

The existing porch appears to have been built with the house in 1967 before the applicant purchased the property. In addition, the applicant appears to have followed all legal requirements by applying for and receiving the 2004 Variance (ZBA04-43) from the Zoning Board of Adjustment for the front carport. Utilizing the area under the existing porch between the bedroom and this carport seems to be the best location for their bedroom expansion given they are surrounded by structures to the south and east. Further, the existing porch are has a foundation, roof, and support system which would preclude further impervious area on the site.

- 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.**

If approved, the expanded bedroom will still be setback 14 feet more than the carport which was granted permission by ZBA12-07 to be built with a front yard setback of 0-feet. In addition, there is a 50-foot wide City-owned access easement between the front property line and Fisherman's Road, creating an even larger front buffer to the street. The Planning Division believes that given these circumstances, and that the bedroom expansion would be located within an existing porch, a literal interpretation of the front yard setback provision would deprive the applicant the ability to build within an area that already encroaches within the required setback, much less so than the carport which previously received a Variance to do so.

- 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 Planning Division believes that the proposed Variance and Condition rewording are the minimum actions necessary to allow the applicants to build their bedroom expansion. With the existing carport in front of the bedroom, and the 50-foot access easement in front of the property, the bedroom expansion would not be significantly visible from the street.

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

There do not appear to be any adverse impacts for allowing the bedroom expansion in this location. The bedroom, after expansion, would be 64 feet from Fisherman's Road and behind the existing carport. Moreover, at the time of this report, no adjacent property owner has indicated any objection to the application.

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

The proposed bedroom expansion will comply with all other development standards, except for the front yard setback. As indicated previously, the Planning Division believes the applicant is making the most optimal use of space.

Notification:

On June 28, 2016, 7 notifications were mailed out within a 200-foot radius of the subject site. As of July 5, 2016, there was one (1) response in favor from the Lake Nasworthy Homeowners Association, and zero (0) in opposition of the request.

Staff Recommendation:

Staff's recommendation is for the Zoning Board of Adjustment to **APPROVE** Case ZBA16-13 for the following: 1) to amend Condition #2 of Case ZBA04-43 to read as follows: "That any portion of the proposed carport situated closer than 25 feet from the front property line, except for where said carport may be attached to the porch, shall have a minimum of 7-1/2 feet from the finished floor level which is open or unencumbered by any walls, screening or glazing of any kind," and 2) a Variance from Section 501.A of the Zoning Ordinance to allow for a 14-foot front yard setback in lieu of 25 feet for an existing porch on a property located within the Single-family Residential (RS-1) Zoning District, **subject to the following six (6) Conditions of Approval (Note: Conditions 4, 5, and 6 below are Conditions from Case ZBA04-43 which continue to apply for the front carport):**

1. The applicant is required to obtain a permit from the Permits and Inspections Division for the covered porch addition.
2. This approval for a reduced front yard setback shall only apply to the proposed bedroom addition at the proposed square footage of 60 square feet. Any future structures or additions within a required setback shall require a new Variance Application.
3. This approval shall not further amend Condition #2 of ZBA 04-43, and the front carport shall remain unencumbered on the other three sides.
4. That the roof edge and vertical supports for the front carport not be located closer than 15 feet from the west side lot line and no closer than 20 feet from the east lot line of this subject property, in alignment with the existing residence.
5. That vertical structural supports for any such carport shall be no greater than 12 inches in width or diameter.
6. That the area underneath any such carport shall continually remain clear of junk, household trash, yard trash, debris or any and all other objectionable unsightly matter.

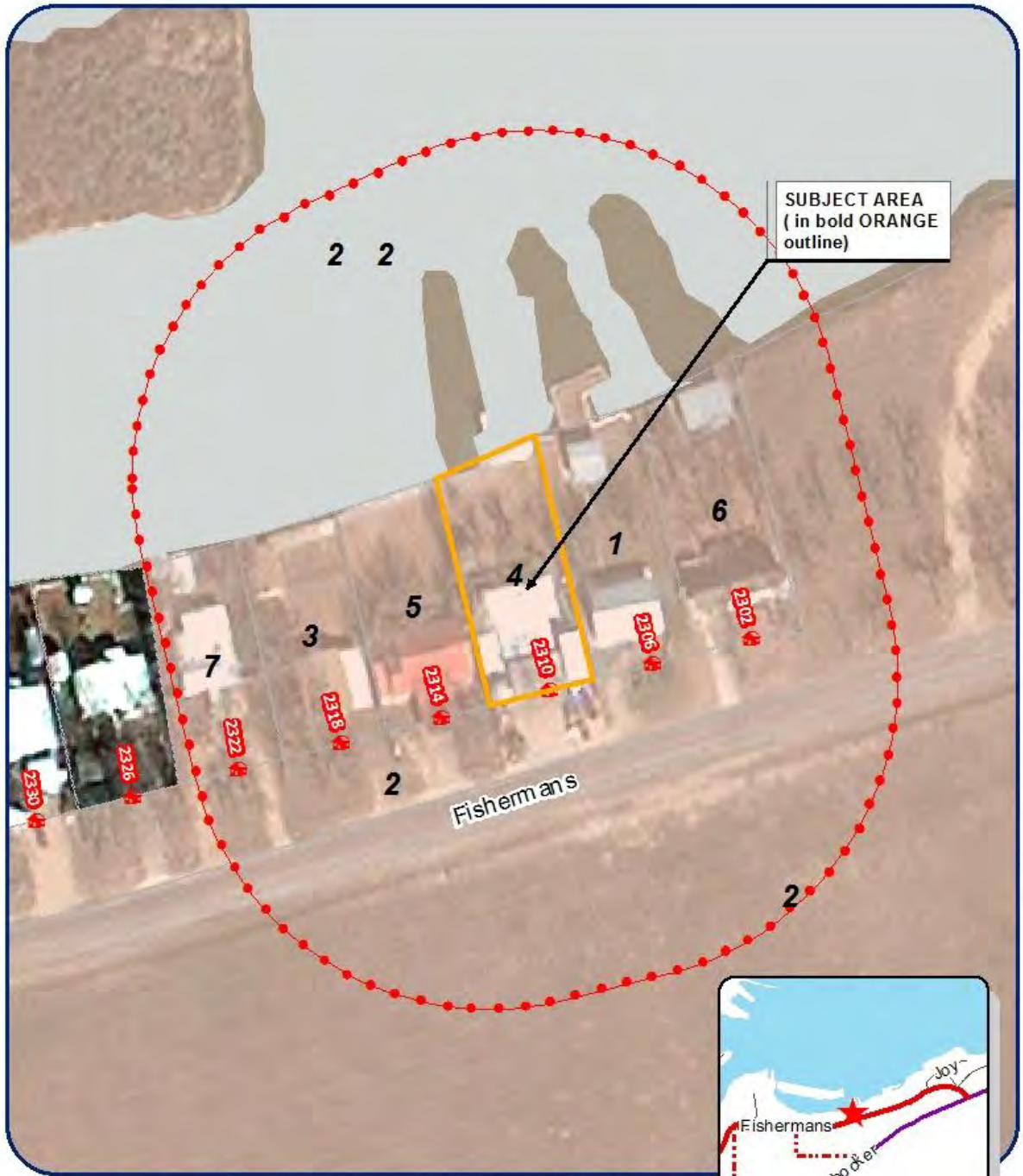
Effect of Variance:

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
Support Letter
Site Plan
Floor Plan of Bedroom Addition
Application



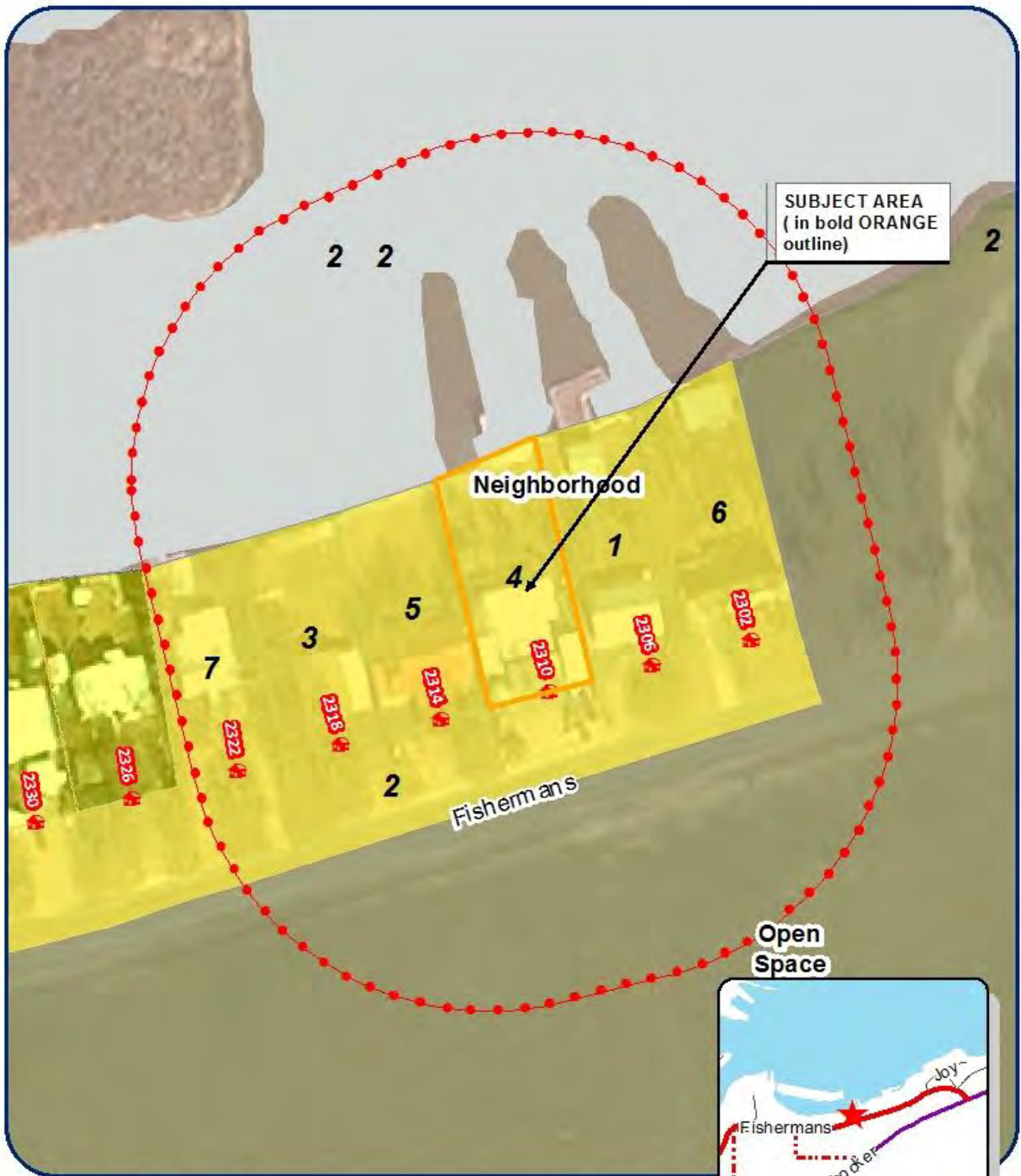
SUBJECT AREA
(in bold ORANGE
outline)



Variance Case File
Case ZBA16_13, Elkins
 Council District: Bill Richardson
 Neighborhood: Nasworthy
 Scale: 1 inch = 100 feet
 Legal Description: Lot 3, Block 1, Lake Nasworthy Add'n - Group 15

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






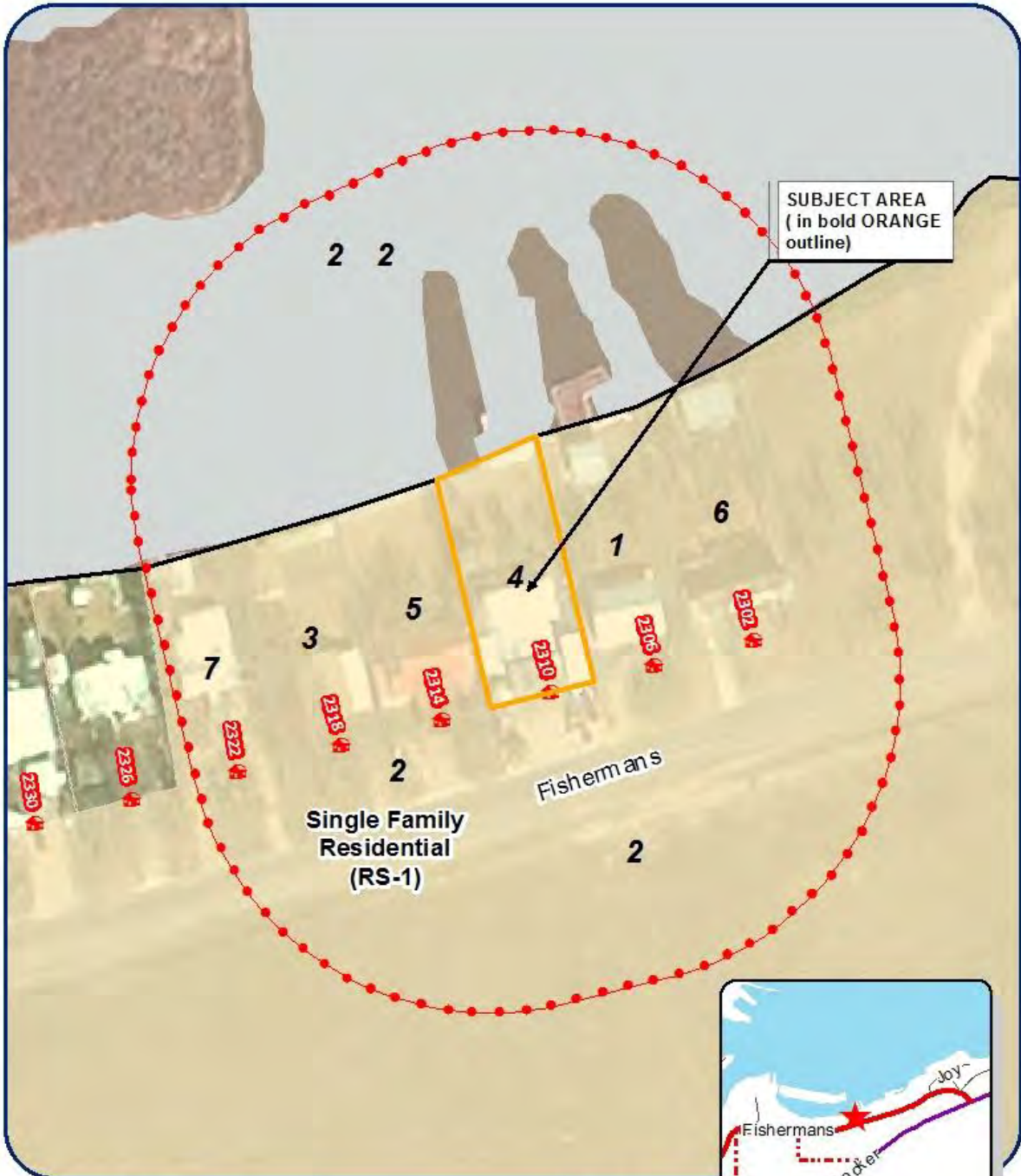
Variance Case File
Case ZBA16_13, Elkins

Council District: Bill Richardson
 Neighborhood: Nasworthy
 Scale: 1 inch :: 100 feet
 Legal Description: Lot 3, Block 1, Lake Nasworthy Add'n - Group 15

Legend

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



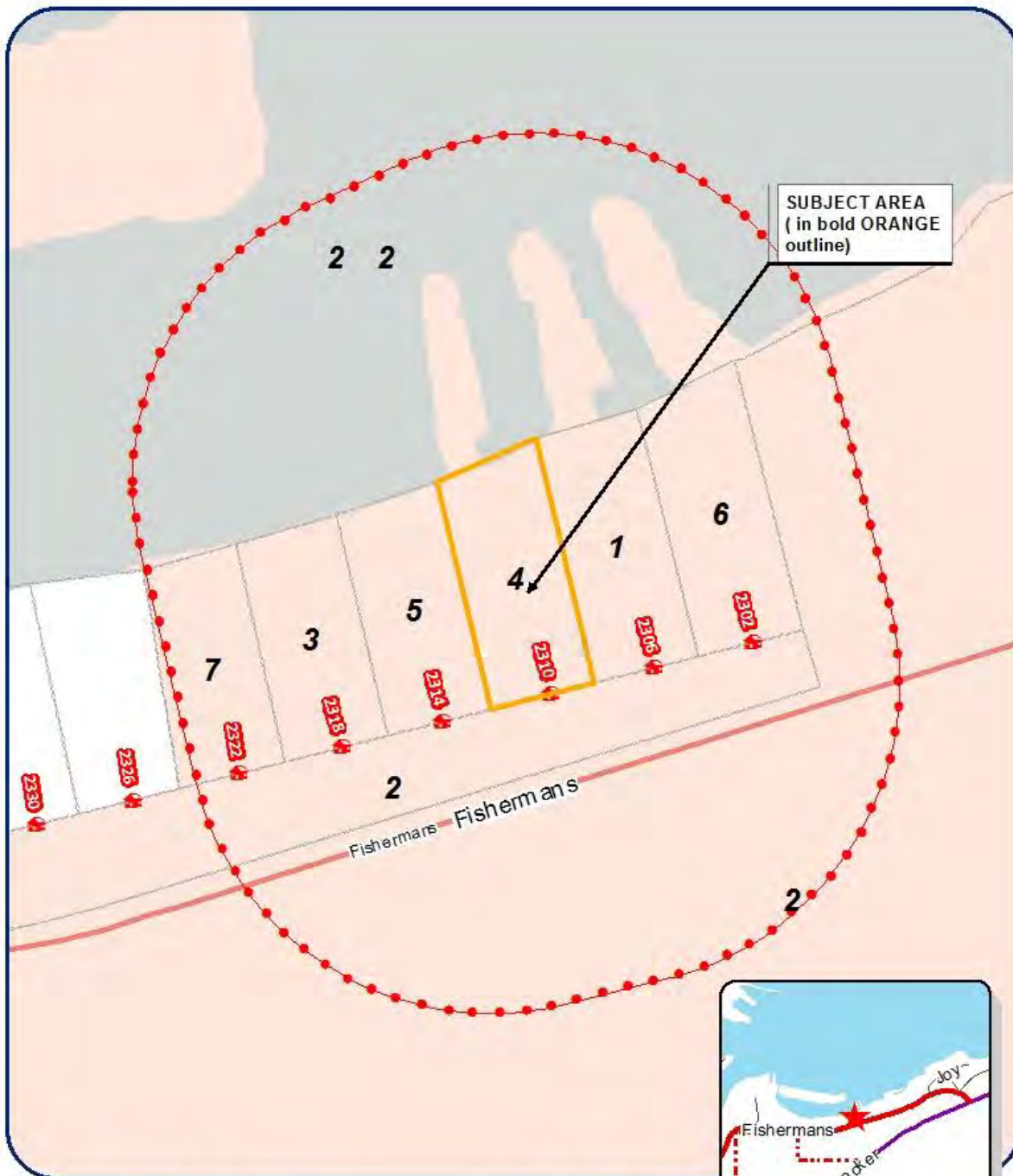


Variance Case File
Case ZBA16_13, Elkins

Council District: Bill Richardson
 Neighborhood: Nasworthy
 Scale: 1 inch :: 100 feet
 Legal Description: Lot 3, Block 1, Lake Nasworthy Add'n - Group 15

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





SUBJECT AREA
(in bold ORANGE
outline)

Variance Case File
Case ZBA16_13, Elkins

Council District: Bill Richardson
 Neighborhood: Nasworthy
 Scale: 1 inch :: 100 feet
 Legal Description: Lot 3, Block 1, Lake Nasworthy Add'n - Group 15

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



City

LAKE NASWORTHY HOMEOWNERS ASSOC., INC.

5973 Kniekerbocker Rd.
San Angelo, TX. 76904

Architectural Control Committee

5-3-16

To: Mr. & Mrs. Steve Hammer
2310 Fishermans Rd.
San Angelo, TX. 76904

Reference: Construction at 2310 Fishermans Rd.

**Scope of work: (Extend bedroom enclosing 5'x12'/Change roof lie to 4/112/
Add a 6'x21' patio cover over outdoor kitchen')**

Dear Steve & Pam,

The LNHA would like to take this opportunity to thank you for making improvements to your property.

Enclosing the 5'x12' area under porch to extend the bedroom should be a wonderful addition to the bedroom, the changing of the pitch of the roof will definitely add to the front view of the house, and the roof over the outdoor kitchen will be a great addition on the northwest side. All looks great, and should have no restrictions other than permitting with the city for standard construction inspections verifying that all construction codes are met.

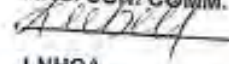
Please place reflectors on the corners of your dock for visibility at night, and install the numerals 2310 in at least 4" letters for emergency measures.

Hope all goes well with your construction, if you have any questions don't hesitate to call.

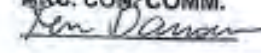
Have a safe great summer!

Thanks for your anticipated cooperation.

LNHOA
ARC. CON. COMM.



LNHOA
ARC. CON. COMM.



Sincerely,



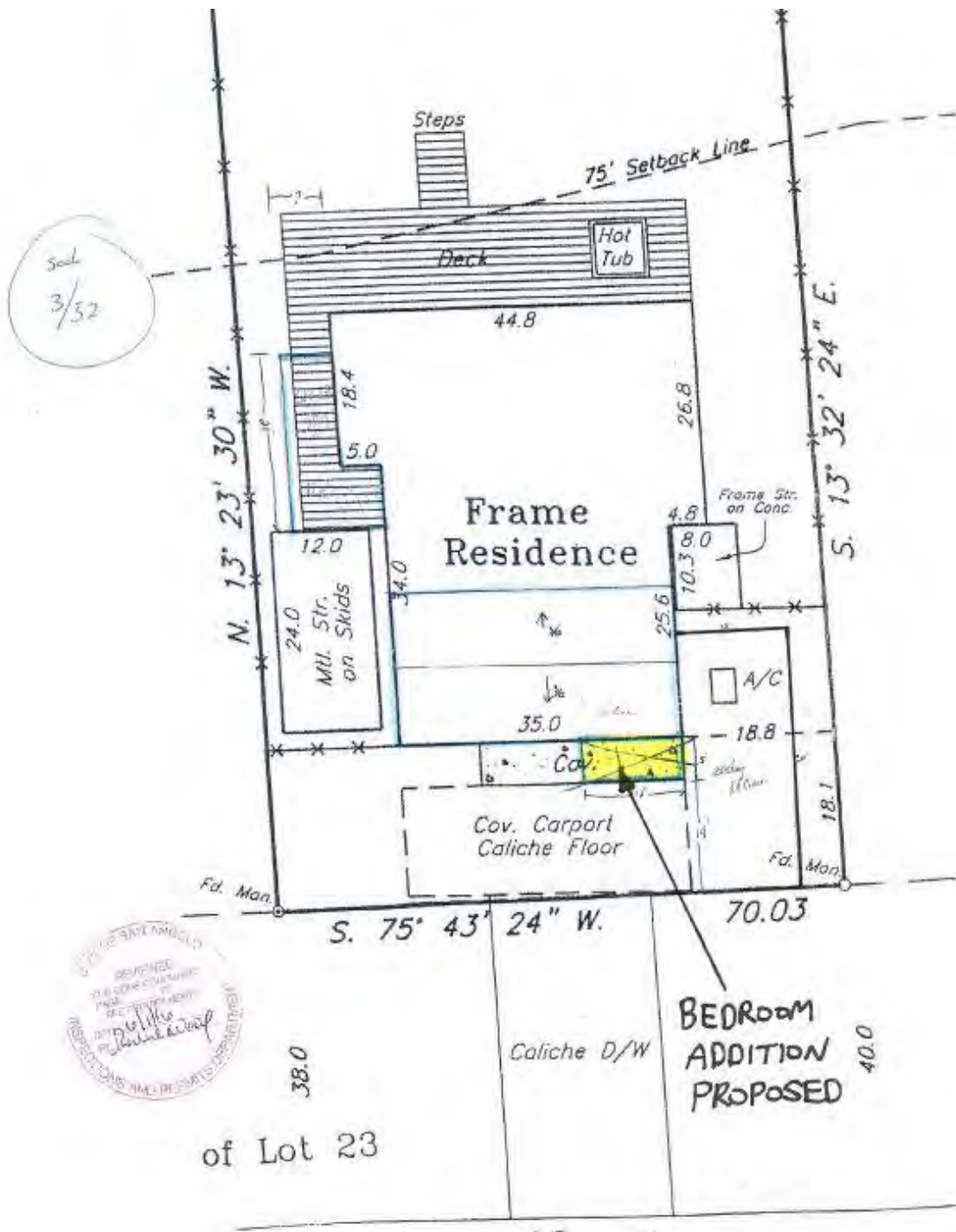
TR Logan (Architectural Control Committee)

ARCHITECTURAL
COMMITTEE
PH # 325/949-8501
Email
www.barrowsproperties.com

LNHOA
ARC. CON. COMM.

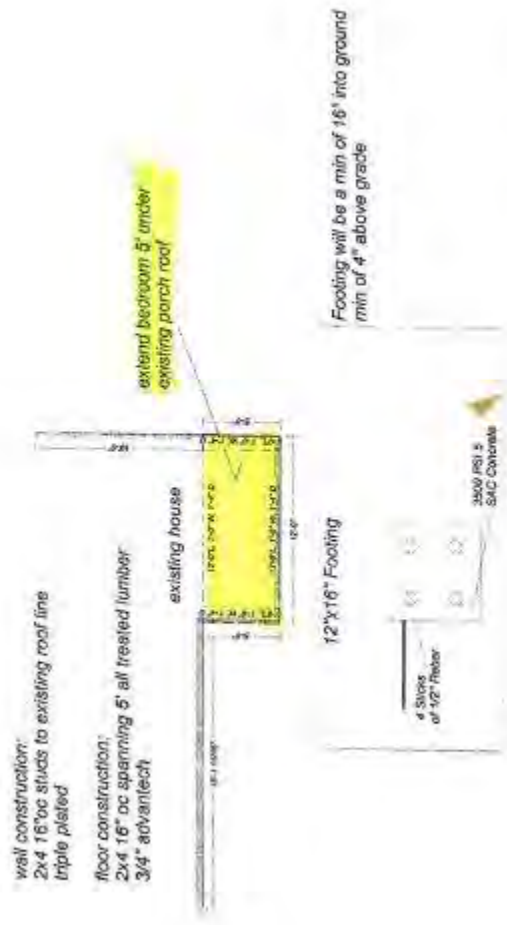


Site Plan



Floor Plan of Bedroom Addition

5x12 add on



LNHOA
ARC. COM. COMM.
[Signature]

LNHOA
ARC. COM. COMM.
[Signature]

LNHOA
ARC. COM. COMM.
[Signature]

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

Name of Applicant(s): ~~Stephen Hammer~~ SHAY ELKINS

Owner Tenant Representative (Affidavit required)

Mailing Address: 6941 S. US Hwy 277 Telephone: 325-655-2600

City/State/Zip: San Angelo TX 76904 Fax/other: 325-655-2910

Email Address: TAC@WCC.net

Subject Property Address and/or Location*:
2310 Fishermans Rd San Angelo Texas 76904

Legal Description*:
Lot 3, Blk 1, Subd Lone Mesquity, Group 15

Zoning: Residential RE: ZBA12-07
ZBA 04-43

Specific Description of Request*:
Extend front Balcony 5' onto front porch - add built under Existing porch for Balcony Extension total add-on 5' x 12'

- ① To allow a 14' front yard setback for a new porch addition. ② To Allow the existing front yard setback to have 1 of its sides to be encumbered.

* 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 Shay Elkins

Date 5-19-16

- 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: 48' easement in front of property line
This would be the only way to expand the bed room given current foot + out

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

Explanation: This will in no way block view from any angle. This is the original location of the existing house when built in 1967. The limited space in front is not the result of the applicant.

- 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: This would be the only way to expand the bedroom in the limited space that we have.

- 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: We are just trying to use the existing space we have

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

Explanation: Will not affect any neighbors in any way.

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

Explanation: The proposed location will comply with all other zoning standards

OFFICE USE ONLY	
Case no. ZBA <u>16-13</u>	Date of application: <u>6/10/2016</u>
Fully-dimensioned site plan: <input checked="" type="checkbox"/> Nonrefundable fee: \$ <u>250.00</u>	Date paid: <u>6/10/2016</u>
Date to be heard by ZBA: <u>7/11/2016</u>	
Received by: <u>Jeff Fisher</u>	Receipt Number: <u>242343</u>
Ordinance section(s) from which variance(s) is/are requested:	
<u>① SOLA</u>	
<u>② Condition #2 of ZBA04-43</u>	