

STAFF REPORT



Meeting: August 1, 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: ZBA16-14

Request: A request for a Variance from Section 501.A of the Zoning Ordinance to allow for a 3-foot side yard setback along the west property line in lieu of 15 feet for property located within the Ranch and Estate (R&E) Zoning District

Location: 322 West 49th Street, generally located along the northeast corner of the intersection of Ernest (or Earnest Street) Street and 49th Street

Size: 1.57 acres

Legal Description: Specifically being 1.57 acres of Block: 2, Fair Ground Gardens Addition, West 136' of East 261.2' of Block 2 136 X 505

General Information

Zoning: Ranch and Estate (R&E)

Existing Land Use: Single-Family Residence

Future Land Use: Rural

Surrounding Zoning/Land Use:

North:	Ranch and Estate (R&E)	Single-Family Residences
West:	Ranch and Estate (R&E)	Single-Family Residences
South:	Ranch and Estate (R&E)	Lake View Bible Church
East:	Ranch and Estate (R&E)	Single-Family Residences

District: SMD#2 – Marty Self

Neighborhood: Riverside

History and Background:

The applicants applied for a Variance on July 1, 2016, for the expressed purpose of enclosing an existing carport. The 2,134-square foot home and the 528-square foot carport itself were both built in 1957. The applicants bought the property in June 2016. The current Zoning Ordinance mandates a 15-foot side yard setback in the Ranch and Estate (R&E) Zoning District and the 1954 Zoning Ordinance at that time called for a 20-foot side yard setback. The 1954 Zoning map does not show Ernest Street so it appears it was built after 1954 and it is probable it was built after 1957 when the home was built in its current location. The land acquired for the 50 foot right-of-way of Ernest Street cut into the 20 foot side setback leaving just a 3 foot side setback. The carport is within the existing building footprint under the same roofline as the rest of the home and shares to two walls on the southwest side of the home. The south side of the carport has a low brick wall which serves as planter. The carport opens west onto Ernest Street, a public local road, that runs the entire length of the lot. The street leads to an unpaved surface path with vegetation providing secondary access to the land behind the subject property, the neighboring property to the west across Ernest Street, and rear access to the property abutting to the north at 5015 Grape Creek Road. The enclosed carport will be converted into a bathroom, pantry, and utility area. The proposed enclosure

walls are proposed to be made of Acme brick made to match the existing brickwork. The brick will then be painted "Champaign Bubble" by Kelly Moore Elastomeric in a flat sheen. The south elevation will have a 4 foot by 4 foot window. The plantation shutter color will be Natural Pumice. The west elevation will have a 5 foot by 6 feet 8 inch door.

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 current house, with attached carport, was built in 1957 with a western side yard setback of 20 feet. When Ernest Street was constructed, it appears that additional land was needed. Some of this land was acquired from the subject property. As a result, the property was left with western side setback of 3 feet. This also left the property with a lot width of 130 feet, less than the required 150 feet mandated in the R&E Zoning District. The carport was also constructed in 1957 and is an integral part of the house. Only one other home was constructed abutting Ernest Street, and none with a side setback requirement adjacent to Ernest Street, making this situation particularly unique.

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

The home was built in its present location in 1957 and the applicants bought the property in June of 2016. Again, the property has been within the City limits since at least 1928. The house appears have been built within the then 20-foot side setback at the time, but much of the land on west property line was acquired as right-of-way for Ernest Street. As a result of the construction of Ernest Street, the property was left with a 3-foot side setback.

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

The house was built in 1957 in its current location and configuration. As a result of the construction of Ernest Street, the house, including the attached carport, was left encroaching within the 15-foot side setback. If Ernest Street would not have

been built, the applicant would have been able to enclose the carport without seeking a Variance. Literal interpretation of the Zoning Ordinance and the enforcement of the 15-foot side setback would appear to deprive the homeowners from being able to improve, and utilize, their property in a manner consistent with other homeowners in the area who would wish to do the same. The proposed improvement would use the existing roofline and impervious base constructed in 1957. No increase in the overall footprint of the home is being projected.

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 is the minimum action necessary to allow the applicants to enjoy the use of their house. The applicants are not asking for any expansion to the carport footprint. With exception of the Variance being sought, the property complies with the Zoning Ordinance in all of aspects for the R&E Zoning District. The enclosed carport will use an existing impervious surface and roofline. The finished enclosure will not appear to be an addition to the house jutting outside the house's building footprint. The matching brickwork and painting will also help the enclosure to blend in with the rest of the house.

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 Variance was approved. A reduced setback would not impede the line-of-sight along Ernest Street because the house forms the north wall of the carport and the street does not have through traffic as it dead ends into dirt driveways or a public-of-way overgrown with vegetation. Moreover, there are no underground utility lines that run along Ernest Street. Only two homes abut Ernest Street so the impact to other adjacent properties will be minimal. Lastly, staff has received no responses to the public notification distributed within 200 feet of the subject property.

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

The proposed enclosed carport appears to be generally consistent with the Zoning Ordinance with the exception of west side yard setback. The carport is not being expanded any further beyond the present roofline. The proposed home improvement would appear to further the stated purpose to "promote the beneficial and appropriate development of all land and the most desirable use of land in accordance with a well-considered plan," per Zoning Ordinance, Section 104.1.

Notification:

On July 20, 2016, 9 notifications were mailed out within a 200-foot radius of the subject site. As of July 27, 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 ZBA16-14 for a Variance from Section 501.A of the Zoning Ordinance: to allow for a 3-foot side yard setback along the west property line in lieu of fifteen feet (15’) for a property located within the Ranch and Estate (R&E) Zoning District for the purpose of enclosing an existing carport, **subject to the following two (2) Conditions of Approval:**

1. The applicant is required to obtain a permit from the Permits and Inspections Division for the enclosed carport.
2. The extent of the Variance is limited to the expansion, as proposed, and limited to the footprint of the existing carport.

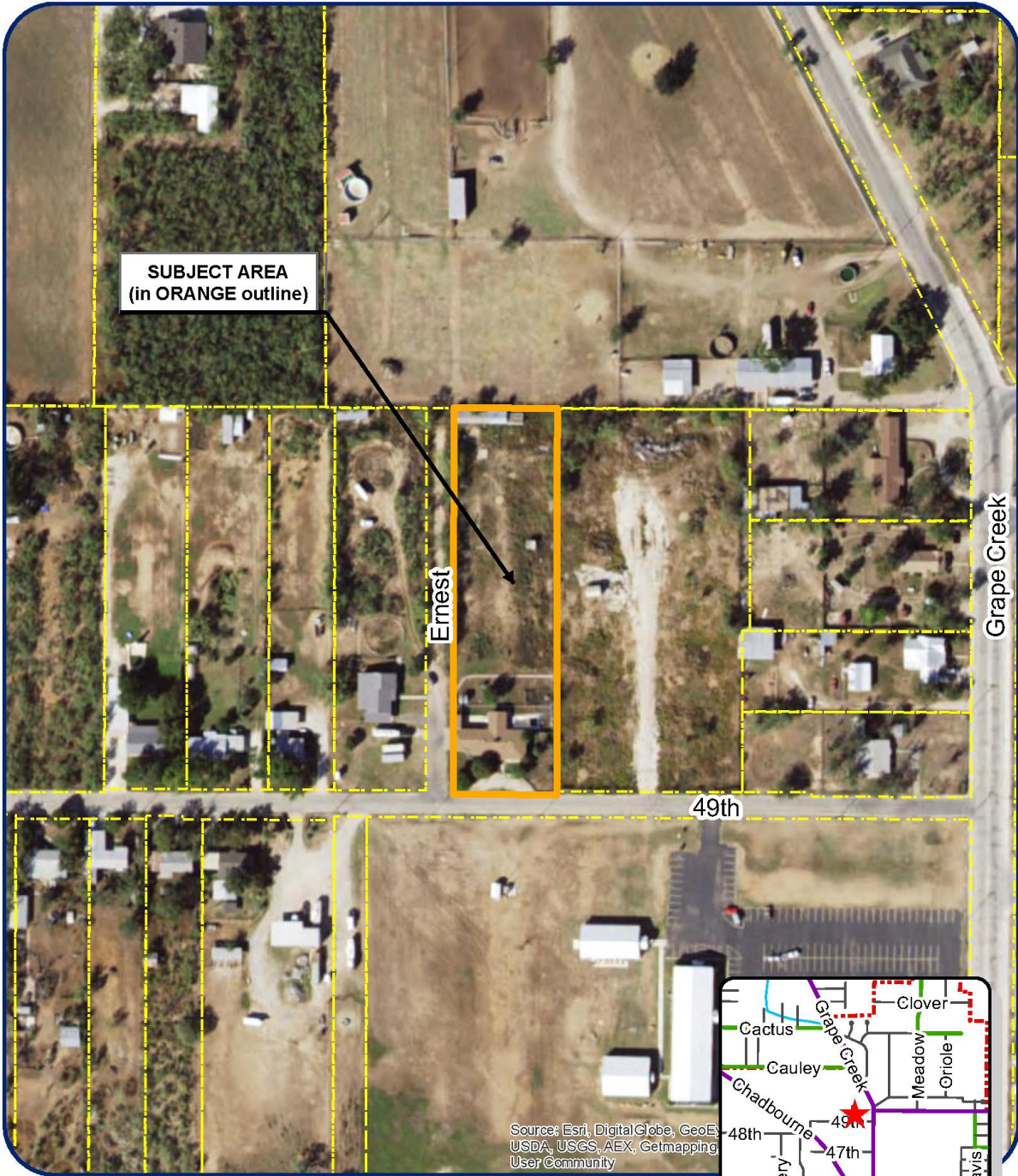
Effect of Variance:

Per Section 207(H) of the Zoning Ordinance:

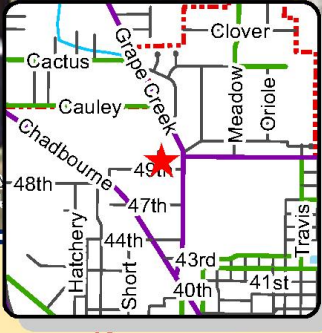
1. Issuance of a Variance shall authorize only the particular variation which is approved in the Variance. A Variance shall run with the land.
2. Unless otherwise specified in the Variance, an application to commence construction of the improvements that were the subject of the Variance request must 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 Carport Enclosure



Source: Esri, DigitalGlobe, GeoEye, USDA, USGS, AEX, Getmapping, User Community



Variance Case File

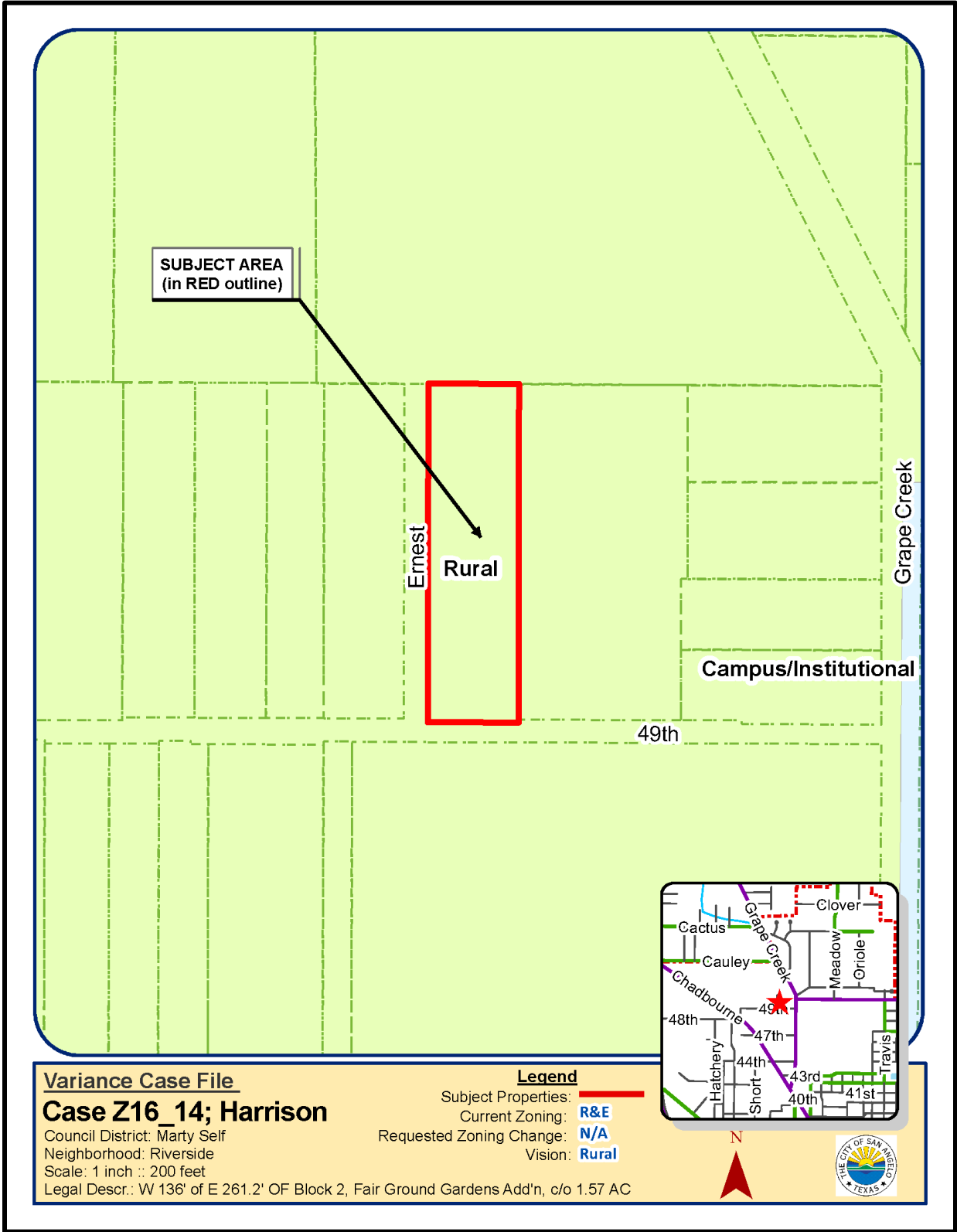
Case Z16_14; Harrison

Council District: Marty Self
 Neighborhood: Riverside
 Scale: 1 inch :: 200 feet
 Legal Descr.: W 136' of E 261.2' OF Block 2, Fair Ground Gardens Add'n, c/o 1.57 AC

Legend

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





Variance Case File

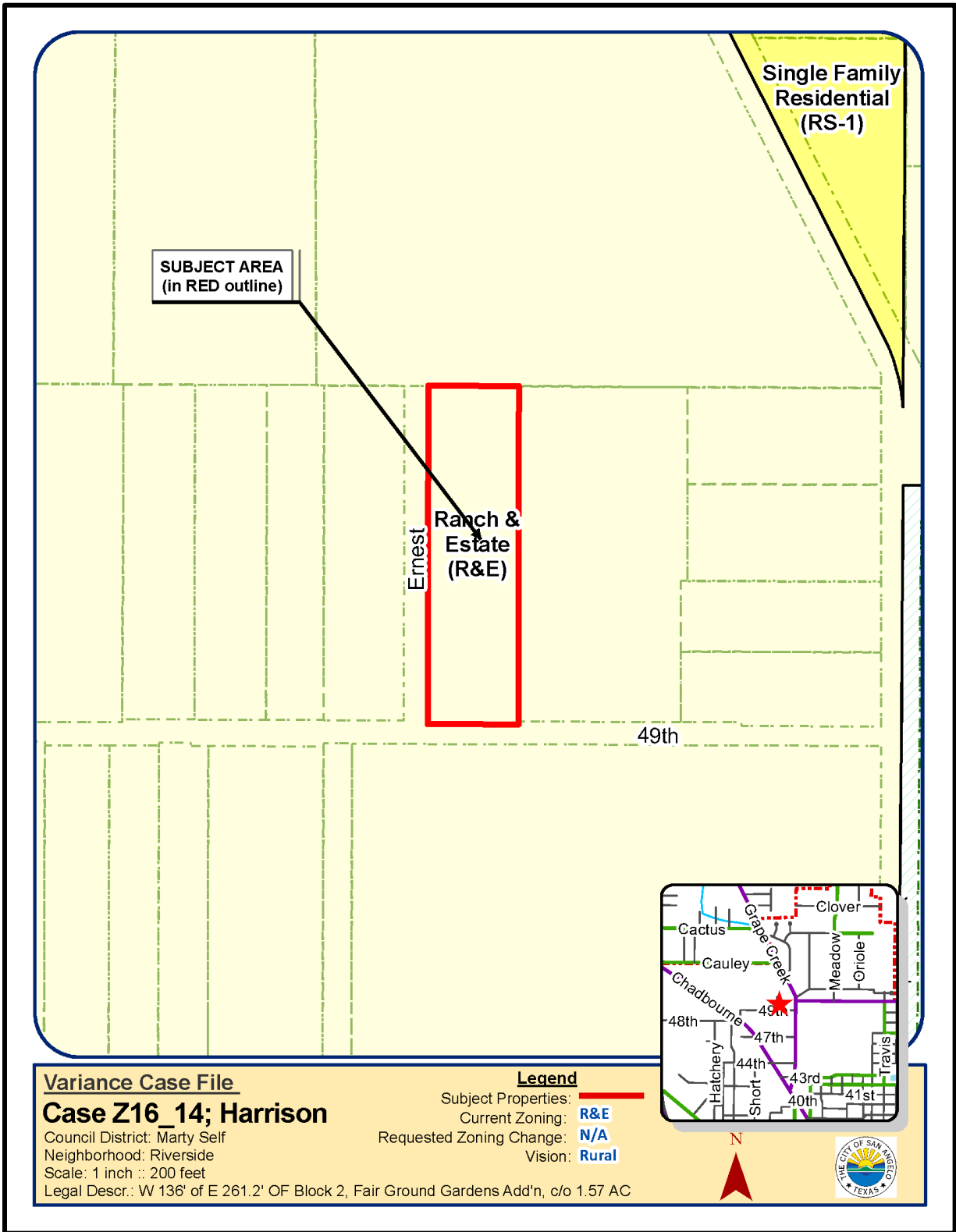
Case Z16_14; Harrison

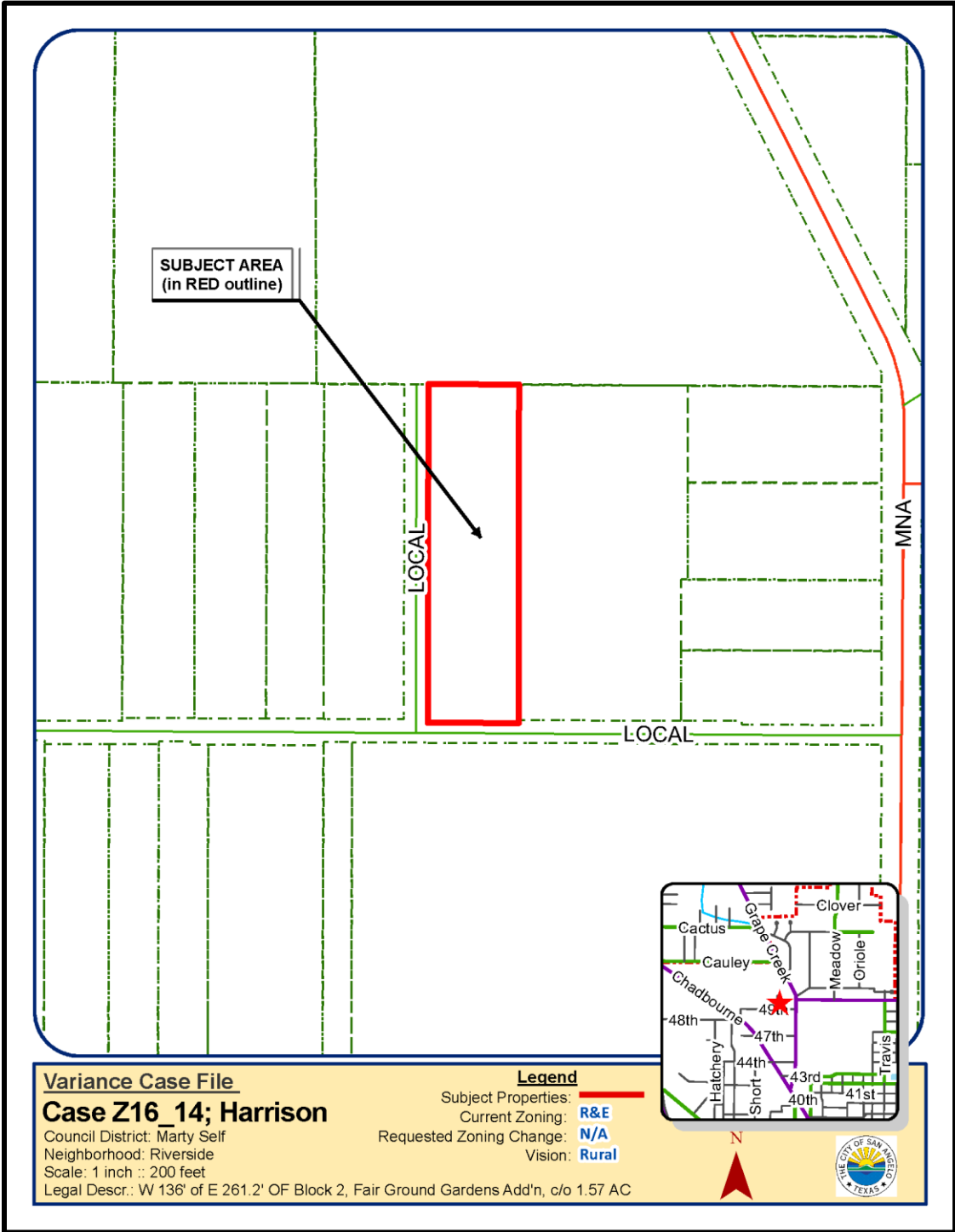
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Legend

Subject Properties: —
 Current Zoning: **R&E**
 Requested Zoning Change: **N/A**
 Vision: **Rural**







SUBJECT AREA
(in RED outline)

LOCAL

MNA

LOCAL

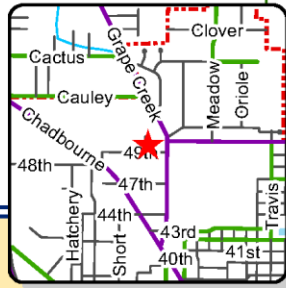
Variance Case File

Case Z16_14; Harrison

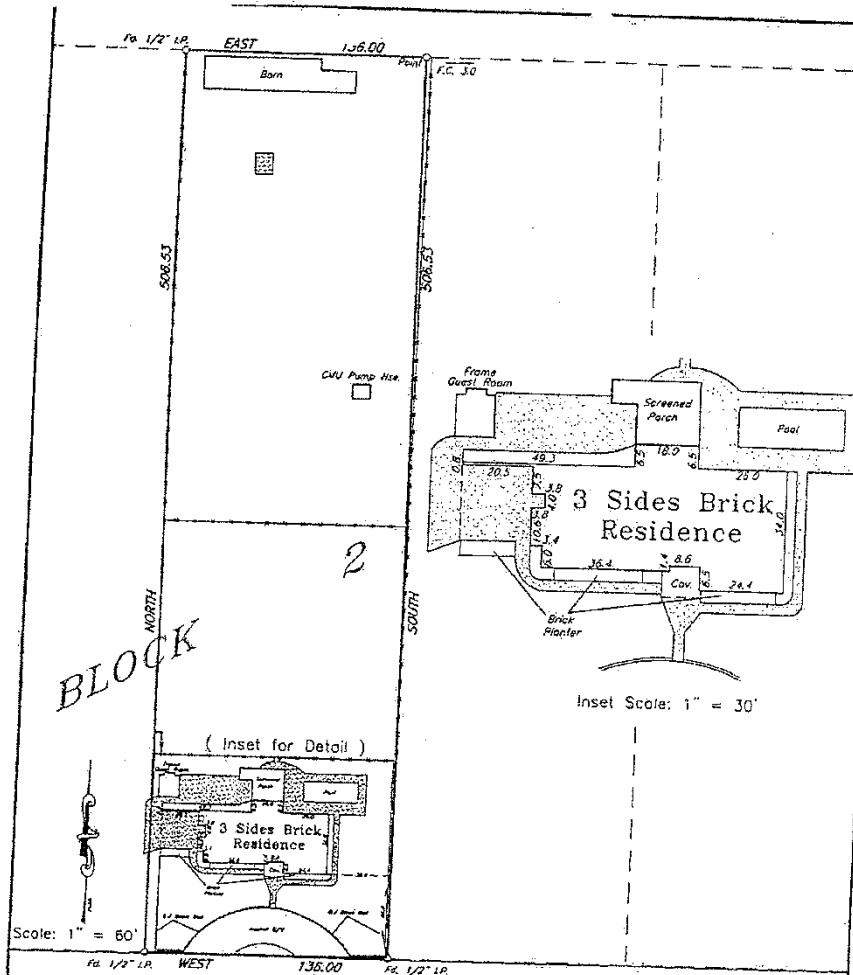
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Legend

Subject Properties: —
 Current Zoning: **R&E**
 Requested Zoning Change: **N/A**
 Vision: **Rural**



Site Plan - Existing



322 WEST 49th STREET

PLAT SHOWING A SURVEY OF THE WEST 136 FEET OF THE EAST 261.20 FEET OF BLOCK 2, FAIR GROUNDS GARDENS ADDITION, ACCORDING TO THE MAP OR PLAT RECORDED IN VOLUME 87, PAGE 55, DEED RECORDS, TOM GREEN COUNTY, TEXAS, BEING THE SAME TRACT CONVEYED TO HENRY T. HARP AND WIFE BY DEED DATED JANUARY 20, 1955; RECORDED IN VOLUME 355, PAGE 403, DEED RECORDS, TOM GREEN COUNTY, TEXAS, SAVE AND EXCEPT A 36 FOOT STRIP CONVEYED TO THE CITY OF SAN ANGELO IN DEED RECORDED IN VOLUME 382, PAGE 402, DEED RECORDS, TOM GREEN COUNTY, TEXAS.

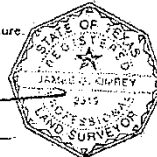
This is to certify that this map or plat and the survey that on which it is based were made in accordance with "Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys," jointly established and adopted by ALTA and ACSM in 1997, and includes items 1,3,5,7,8, & 10 of Table A thereof, and pursuant to the Accuracy Standards (as adopted by ALTA and ACSM and in effect on the date of this certification) of a(n) Urban Survey.

This property is located in Census Tract No. 2.00 and lies entirely within Flood Zone(s) 'X' according to FEMA Community Panel No. 480623 0020 D, March 2, 1994.

This plat should be assumed to be invalid unless it bears an original seal and signature. The certificate hereon does not apply to any copies.

Surveyed on the ground under my supervision, July 14, 2001.

REGISTERED PROFESSIONAL LAND SURVEYOR NO. 2319

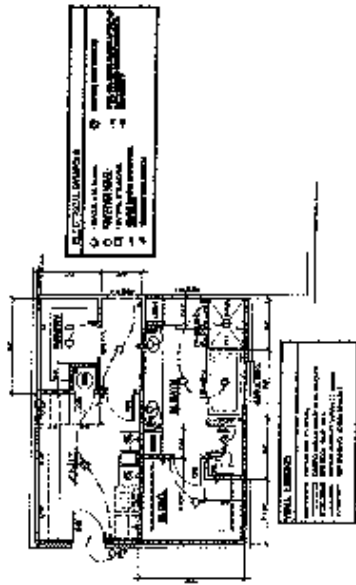


File: 0107017

2

SK ENGINEERING 1122 S. BRYANT BLVD. SAN ANGELO, TEXAS 76901

Site Plan – Proposed Carport Enclosure

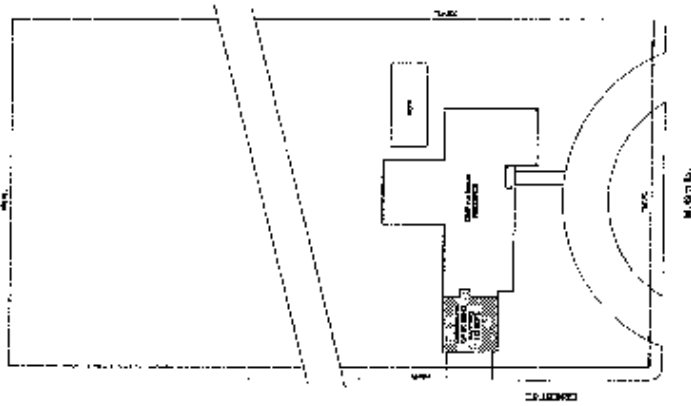


SCALE
0 5 10 15 20
FEET



JAMES J. ANDERSON
ARCHITECT
REGISTERED PROFESSIONAL ARCHITECT

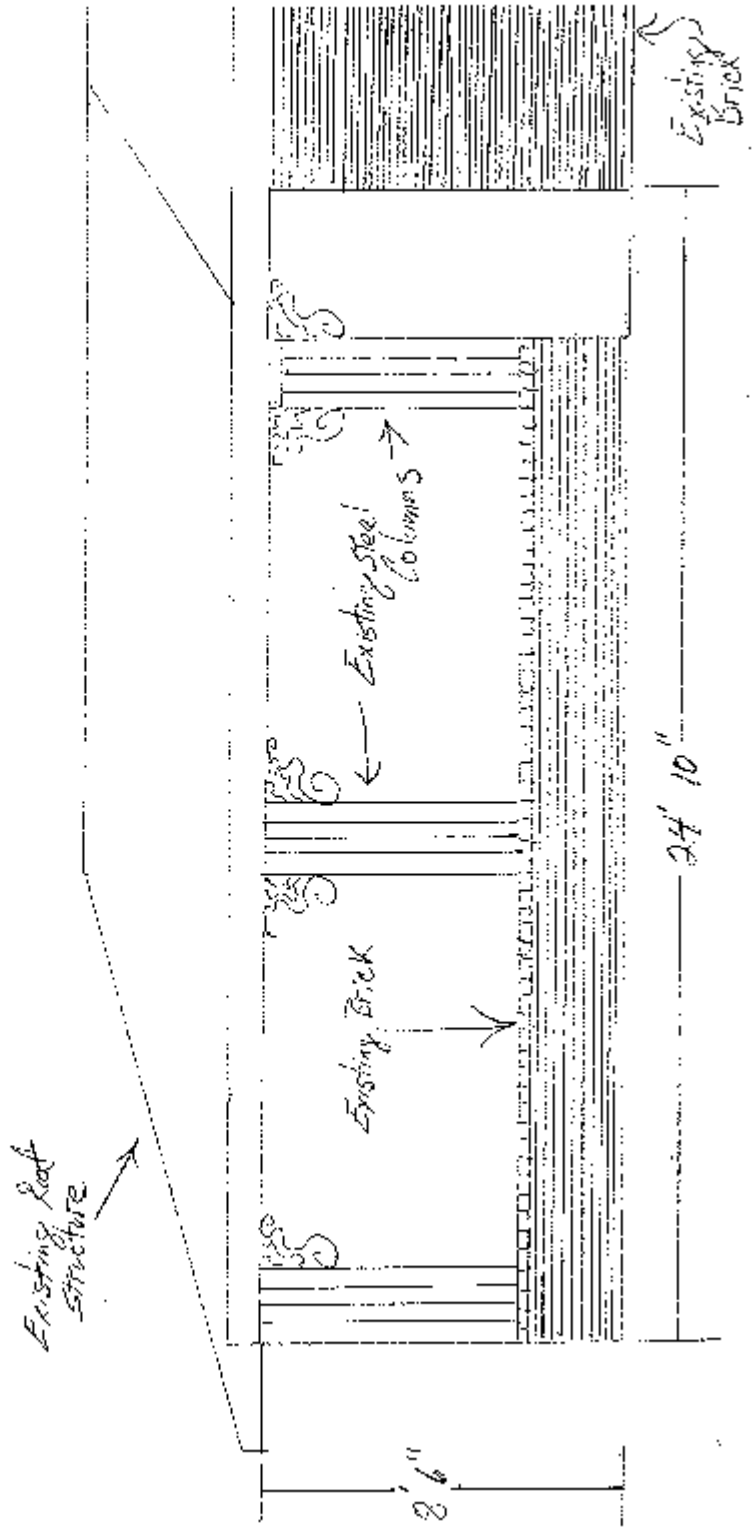
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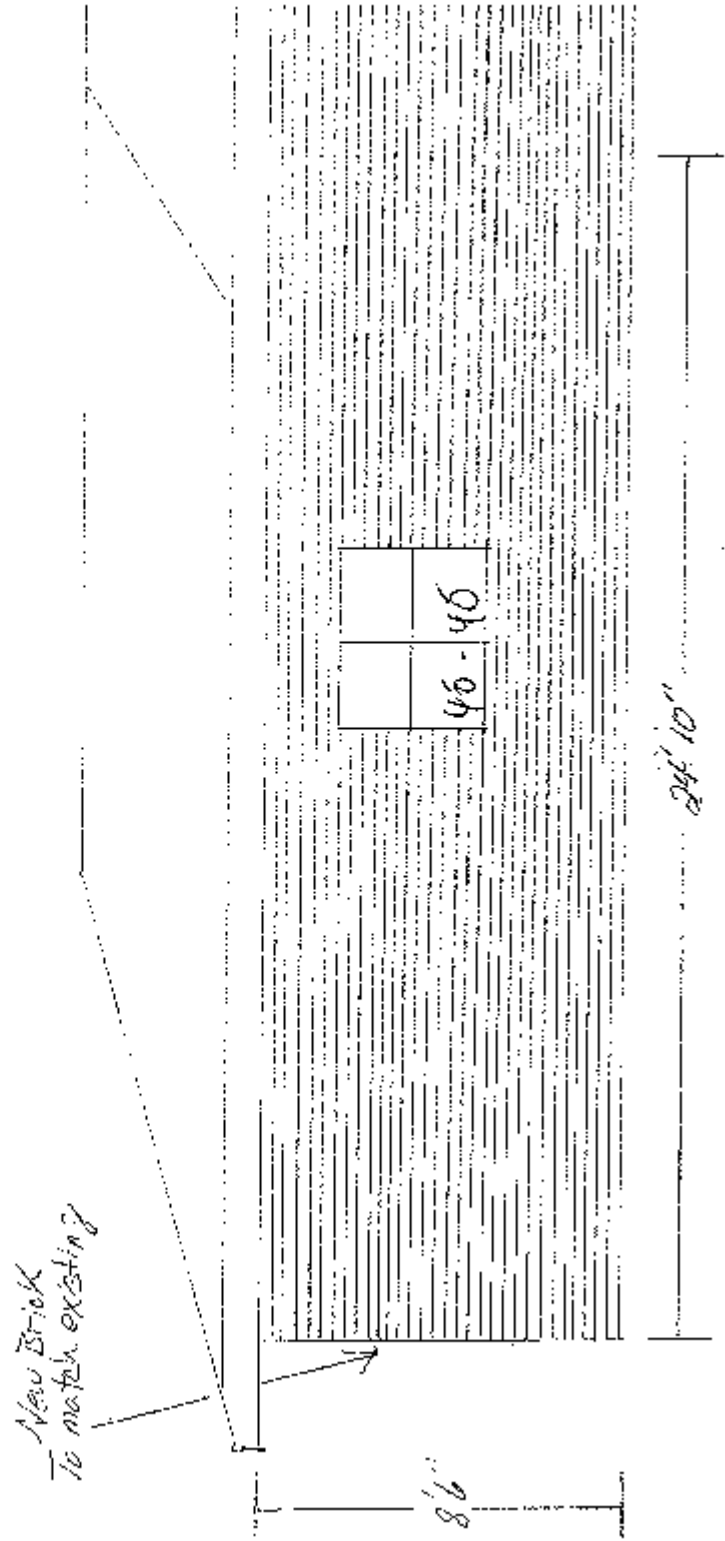
Existing South Elevation

Existing Carpet
South Elevation



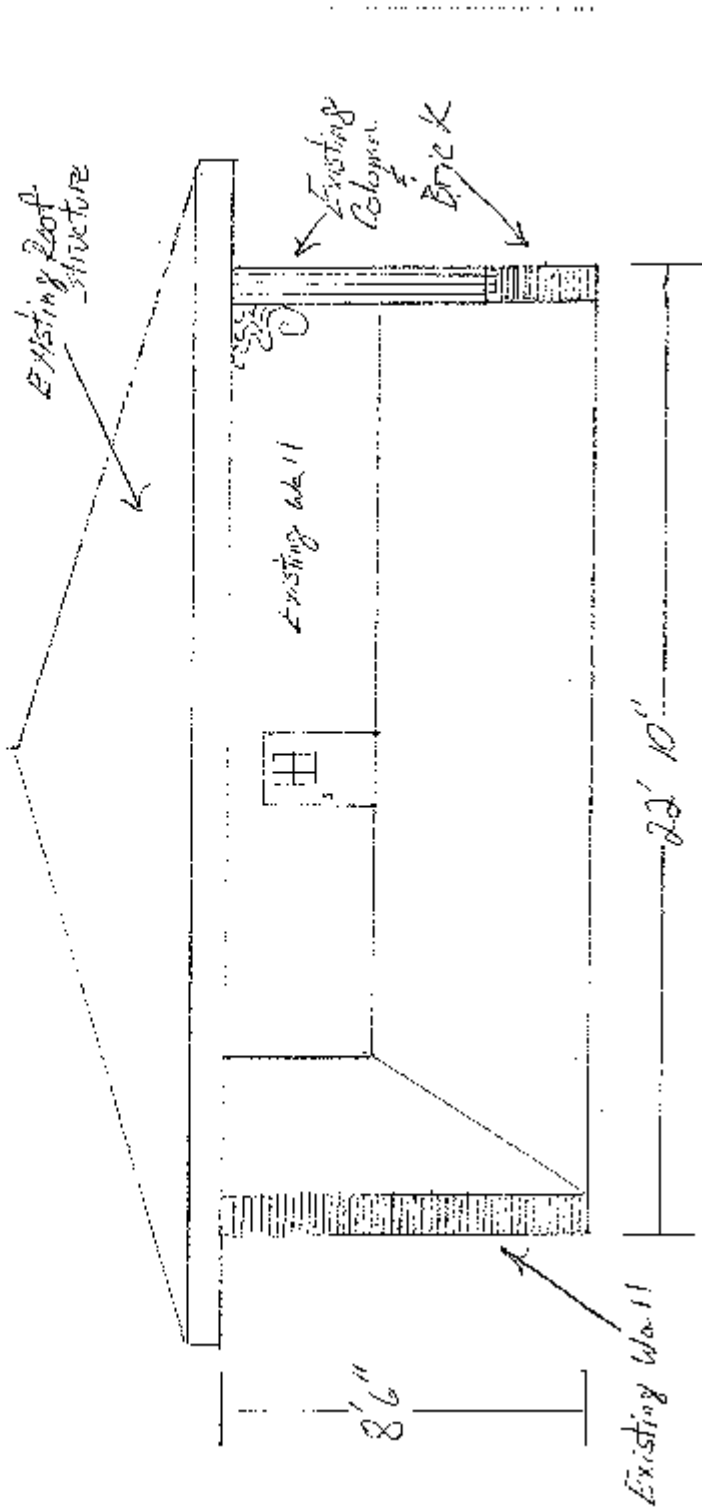
Proposed South Elevation

*Enclosed Casework
South Elevation*



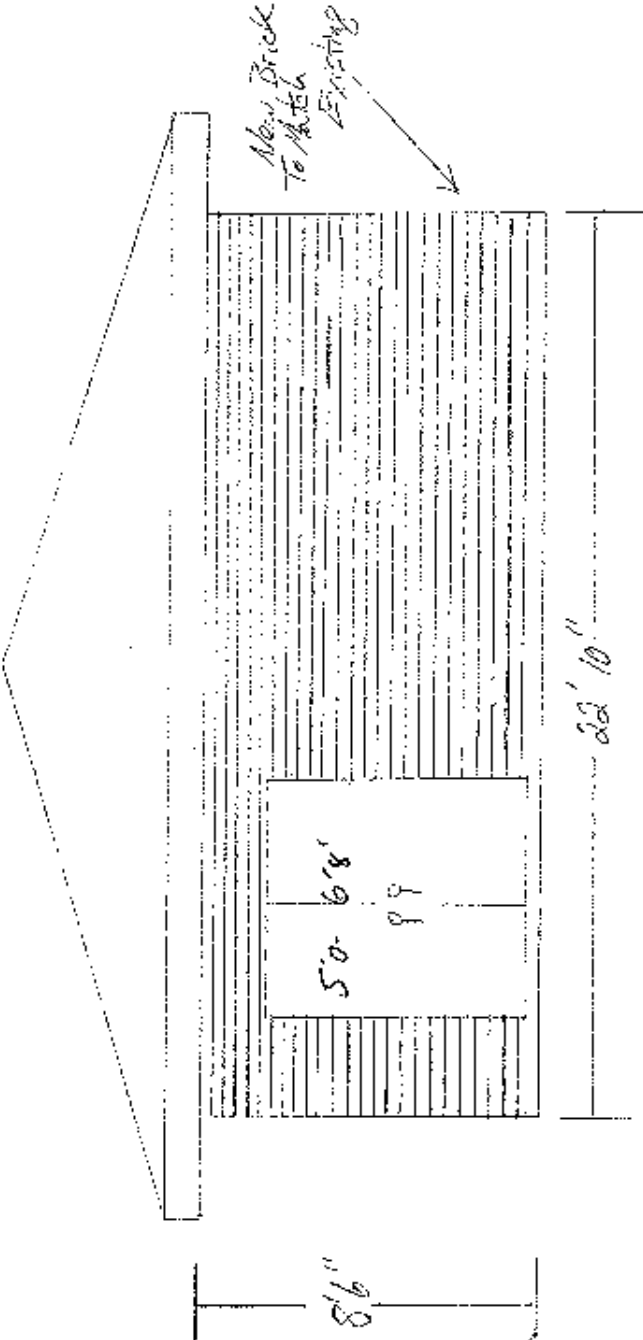
Existing West Elevation

Existing Carport
West Elevation



Proposed West Elevation

Enclosed Caspary
West Elevation



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

Name of Applicant(s): Clint + Lindsey Harrison

Owner Tenant Representative (Affidavit required)

Mailing Address: 322 W. 49th Telephone: 325 656-6272

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

Email Address: Clint@harrisonroofing.com

Subject Property Address and/or Location*:
322 W. 49th St

Legal Description*:
Blk 2 subdivision: Fair Grand Gardens Addition, W 136' of
E 261.2' of Blk 2 136x505 being 157 ac

Zoning: R+E

Specific Description of Request*:
Enclose on two sides the existing ^{RF} rampart. To allow for a
3 foot side back in lieu of the required 15 ft. side yard setback
in the Ranch & Estate (R+E) Zoning District to

* 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

6/30/16
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:

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

Explanation: see attached

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

Explanation: see attached

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

Explanation: see attached

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

Explanation: see attached

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

Explanation: see attached

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

Explanation: see attached

OFFICE USE ONLY

Case no.: ZBA 16 - 14

Date of application: 7/1/16

Fully-dimensioned site plan: Nonrefundable fee: \$ 250.00 Date paid: 7/1/16

Date to be heard by ZBA: 8/1/16

Received by: David Fee Receipt Number: 247356

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

Sec. 501.A

1---- The special circumstance in this case is that the lot is smaller standard lots in the COSA and that being 150 Feet. This lot is 130 feet across.

2----These special circumstances are not the result of the owner rather the house was built in its present position and the owner is not expanding it.

3---- Because the current and original position of the house is within a few feet of the current property line, the home owner would not be able to make the modifications to the existing if the property line were to remain in its current location. this would adversely effect the plans of enclosing the carport and cause the goals of project to be out of reach leaving the homeowner with an unusable property for their needs causing an undue hardship.

4---- The variance is the minimum action possible that will enable the owner to carry out the intended use for the home all the while keeping in harmony with the zoning ordinance because there is no addition to the existing footprint of the home and not effect the adjacent homeowners in any way. The carport is part of the original structure which was built in 1957.

5----- There is no effect on adjacent land because there are no utilities in Ernest street that could impede any service to near by homeowners. The proposed work do be done on the home is all within the current original footprint. The enclosure of the carport would not effect or impede and adjacent property owners in any way.

3---- The house currently conforms to all zoning regulations beside the front yard or property line setback rules. The house conforms to all set back was done above board.

Site Photos

North



South



East



West



Site Photos

South elevation



West elevation



Ernest Street heading north



KM Kelly Moore
ACRY Shield
Shutter color

KM4953-5 Natural Pumice R-5-12 KM4953-5 Natural Pumice

KM Kelly Moore
Elastomeric . flat
Brick color

KM5731-1 Champagne Bubble LW 7 KM5731-1 Champagne Bubble