

**ZONING BOARD OF ADJUSTMENT – January 08, 2018  
STAFF REPORT**



<b>APPLICATION TYPE:</b>		<b>CASE:</b>	
Variance		Amendment to ZBA17-26: Weiershausen	
<b>SYNOPSIS:</b>			
A request for approval of a Variance from Section 501.A of the Zoning Ordinance to allow for an 11-foot rear yard setback in lieu of 20 feet for a house within the Single Family Residential (RS-1) Zoning District.			
<b>LOCATION:</b>		<b>LEGAL DESCRIPTION:</b>	
2702 Coleman Street		Lot 16, Block 37, Hatcher Addition, City Of San Angelo, Tom Green County, Texas	
<b>SM DISTRICT / NEIGHBORHOOD:</b>	<b>ZONING:</b>	<b>FUTURE LAND USE:</b>	<b>SIZE:</b>
SMD #2 – Tom Thompson Bluffs Neighborhood	RS-1 – Single-Family Residential	Neighborhood Center	0.106 acre
<b>THOROUGHFARE PLAN:</b>			
<p><u>Hatcher Street</u> – Urban Local Street – ROW 50’ Required (60’ Existing) – Pavement Width 40’ or 36’ with 4’ Sidewalk Required (30’ Existing)</p> <p><u>Coleman Street</u> – Urban Local Street – ROW 50’ Required (60’ Existing) – Pavement Width 40’ or 36’ with 4’ Sidewalk Required (30’ Existing)</p>			
<b>NOTIFICATIONS:</b>			
25 notifications were mailed within a 200-foot radius on December 27, 2017. Zero responses have been received in support or in opposition.			
<b>STAFF RECOMMENDATION:</b>			
Staff recommends <b>APPROVAL</b> of a variance from Section 501.A of the Zoning Ordinance to allow for an 11-foot rear yard setback in lieu of 20 feet for a house within the Single Family Residential (RS-1) Zoning District.			
<b>PETITIONER:</b>			
Galen Weiershausen			
<b>STAFF CONTACT:</b>			
Hillary Bueker, RLA Senior Planner (325) 657-4210, Extension 1547 <a href="mailto:hillary.bueker@cosatx.us">hillary.bueker@cosatx.us</a>			

**Variance:** Section 207(F) of the Zoning Ordinance requires that the Zoning Board of Adjustments consider six (6) factors in determining the appropriateness of any Variance request.

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 existing lot was platted prior to current zoning regulations which limit the buildable area to a very small home footprint, but an 11 foot setback would allow the home to maintain an average size on the smaller lot. To this end, this section of land which was platted in the 1920's has remained vacant, unlike much of the surrounding properties, and as such, has special circumstances uniquely peculiar to it.
2. **These special circumstances are not the result of the actions of the applicant.** Since the lot was platted in 1927, the owner today is left with a limited building area due to the 20-foot setback requirement in the Zoning Ordinance which was first approved by City Council in the 1950's.
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.** With the current setbacks in the zoning ordinance, the buildable area of the lot would be 20 foot wide by 47 foot deep, thus only allowing for a maximum 940-square foot home. This would be inconsistent with the surrounding area where homes range from approximately 1,200 square feet to 2,000 square feet in size.
4. **Granting the variance is the minimum action that will make possible the use of the land or structure which is not contrary to the public interest, and would carry out the spirit of this Zoning Ordinance and substantial justice.** Staff believes that this would be the minimum action needed in order to develop the property in manner consistent with the submitted plans. The applicant has asked for a variance to allow for an 11-foot rear yard setback in lieu of 20 feet. Staff believes that the reduced setback would still accommodate for the substandard lot depth, allow a reasonable use of the property consistent with nearby properties, while maintaining the spirit of the ordinance requirement in this situation.
5. **Granting the variance will not adversely affect adjacent land in a material way.** The variance will not adversely affect the adjacent land since the reduced rear yard setback will leave a smaller back yard not immediately visible to the public.
6. **Granting the variance will be generally consistent with the purposes and intent of this Zoning Ordinance.** The purpose of the ordinance setbacks is to provide sufficient open space and separation between structures. This variance would maintain open space while accommodating reasonable use of the property consistent with surrounding properties. The substandard lot depth creates a situation that warrants a balancing of these needs.

**Allowed Variances:**

In exercising its authority to grant a variance, per Section 207.D of the Zoning Ordinance, the Zoning Board of Adjustment must affirmatively find that one or more of the following circumstances applies:

1. **SPECIAL CIRCUMSTANCES RESULTING IN UNNECESSARY HARDSHIP.** *Where special circumstances exist on the property related to the size, shape, area, topography, surrounding conditions or location that do not generally apply to other property in the same zoning district, and that the circumstances are such that strict application of this zoning ordinance would create an unnecessary hardship or deprive the applicant of reasonable use of the land or building.*

**The applicant believes there is a special circumstance because the original lot was platted in 1927 and since a Zoning Ordinance had not yet been adopted by City Council, no development standards were in place which would restrict the placement of a structure consistent with specific setback requirements.**

2. **OVERRIDING PUBLIC INTEREST.** *If the variance further an overriding public interest or concern, including, but not limited to: (a) Preserving the natural environment, (b) Promoting maintenance or reuse of older urban or historic buildings, or (c) Helping to eliminate a nonconforming use at another location.*
3. **LITERAL ENFORCEMENT.** *If it is found that the literal enforcement and strict application of this Zoning Ordinance will result in extraordinary circumstances inconsistent with the general provisions and intent of this ordinance, and that, in granting the variance, the spirit of the ordinance will be preserved and substantial justice done.*

**Recommendation:**

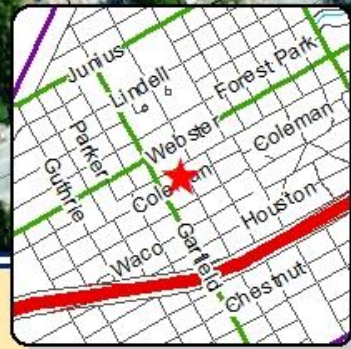
Staff recommends that the Zoning Board of Adjustments **APPROVE** of a variance from Section 501.A of the Zoning Ordinance **to allow for an 11-foot rear yard setback in lieu of 20 feet** for a house within the Single Family Residential (RS-1) Zoning, subject to the following **Condition of Approval:**

1. The applicant shall obtain necessary permits from the Permits and Inspections Division.

**Attachments:**

Aerial Map  
Future Land Use Map  
Zoning Map  
Application  
Amendment Letter  
Site Plan  
Photos of the Site  
Notification Map





**ZBA17-26: Weiershausen**  
**2702 Coleman Street**

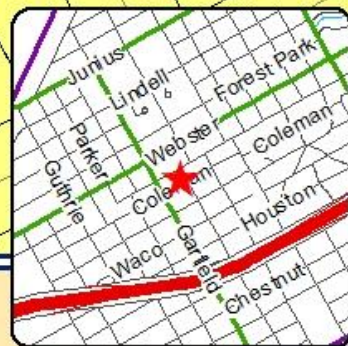
Council District: SMD #2 - Tom Thompson  
Neighborhood: Bluffs  
Scale: 1" approx. = 100 ft

**Legend**


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







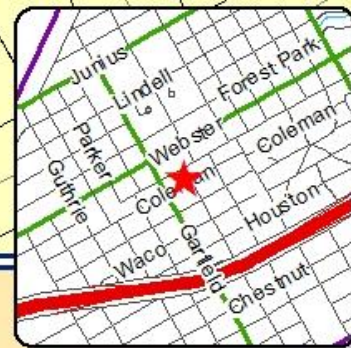
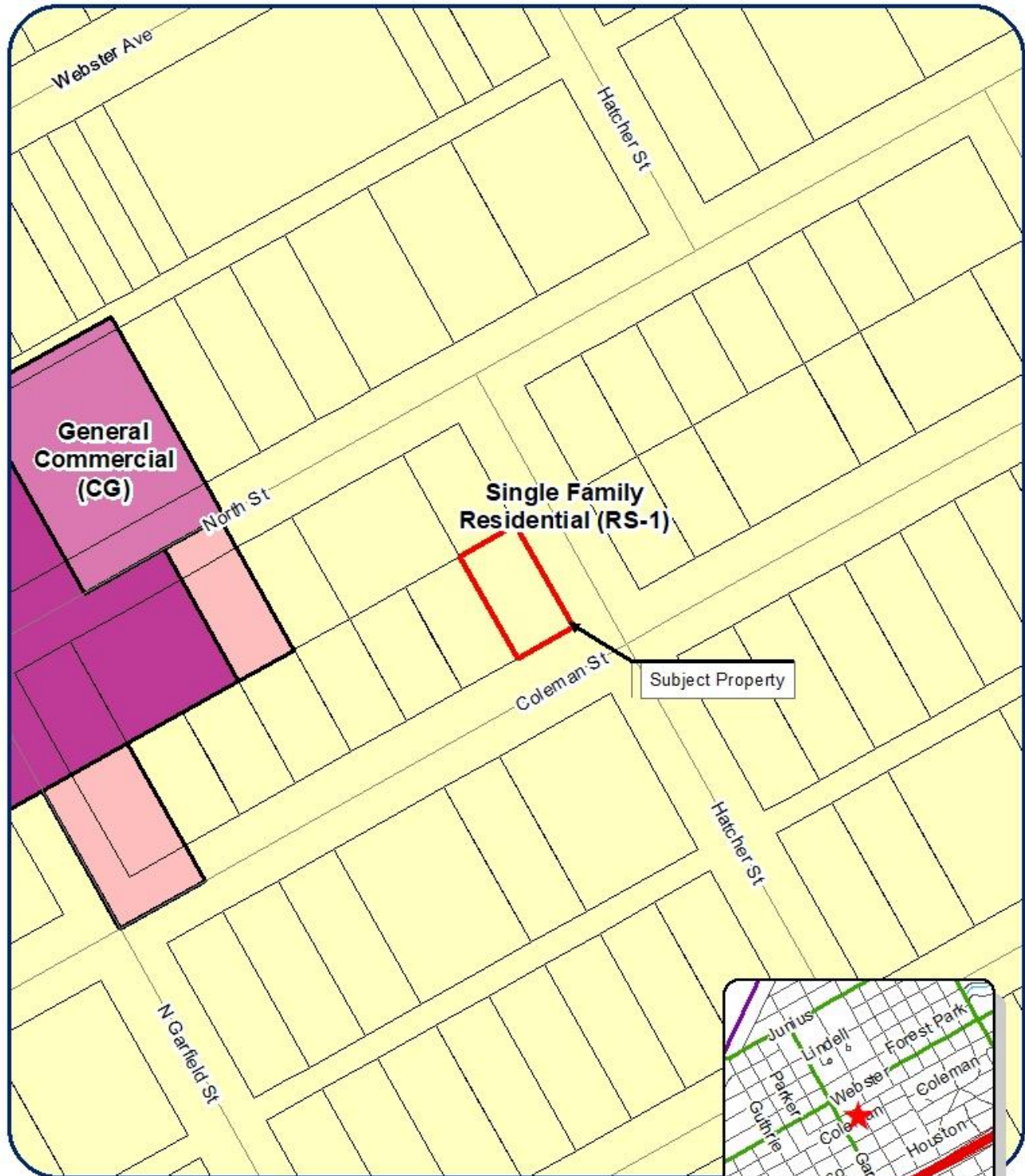


**ZBA 17-26: Weiershausen**  
**2702 Coleman Street**  
Council District: SMD #2 - Tom Thompson  
Neighborhood: Bluffs  
Scale: 1" approx. = 100 ft

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

N 





**ZBA 17-26: Weiershausen**  
**2702 Coleman Street**

Council District: SMD #2 - Tom Thompson  
Neighborhood: Bluffs  
Scale: 1" approx. = 100 ft


**Legend**

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






Effective January 3, 2017



City of San Angelo, Texas – Planning Division  
 52 West College Ave



**Application for Variance from Zoning Regulations**

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**Section 1: Basic Information**

Name of Applicant(s): Galew Weiershausen  
 Owner       Representative (Notarized Affidavit Required)

Mailing Address: P.O. Box 368      San Angelo TX      76902  
City      State      Zip Code

Contact Phone Number: 325-234-0617      Contact E-mail Address: XMRVISIT@AOL.COM

Subject Property Address and/Location: 2702 Coleman St.      San Angelo TX      76901  
City      State      Zip Code

Legal Description (can be found on property tax statement or at [www.tomgreencad.com](http://www.tomgreencad.com)):  
Block 37 Lot 16 Hatcher Addition

Zoning District:  
 CN    CO    CG    CH    CG/CH    CBD    OW    ML    MHS    MHP    PD  
 RS-1    RS-2    RS-3    RM-1    RM-2    R&E

(Zoning Map available on [City Maps](#))

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**Section 2: Variance Request(s)**

List each variance request separately:

- Zoning Ordinance section: 501.A, Front Yard Setback  
 Describe variance: 6 ft. instead of 25 ft.
- Zoning Ordinance section: 501.A Maximum lot depth 92' instead of 100'  
 Describe variance: \_\_\_\_\_
- Zoning Ordinance section: \_\_\_\_\_  
 Describe variance: \_\_\_\_\_
- Zoning Ordinance section: \_\_\_\_\_  
 Describe variance: \_\_\_\_\_

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**Section 3: Variance Request Criteria**

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: Built A Home adjacent that had same lot size and is 20 ft to slab from curb. Home would look like all others in that area. Other home built was 2029 Coleman St. Home would face Coleman St. as all others are.

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**Section 3 continued: Variance Request Criteria**

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

Explanation: Property was Platted in 1920's and HAS  
not been altered.

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: Keeps anyone from building a home like all the  
existing ones around this neighborhood because of a  
double front 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 the Zoning Ordinance and substantial justice;

Explanation: Granting this would not affect any public  
interest at all.

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

Explanation: Granting this would make this home the  
same as all the other adjacent homes.

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

Explanation: yes



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**Section 4: Applicant(s) Acknowledgement**

Please initial the following:

- W* I/we understand that the Zoning Board of Adjustment (ZBA) 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;
- W* I/we understand that any variation(s) authorized by the ZBA will require me/us to obtain a building permit for that stated variation within twelve (12) months of the approval date by the ZBA, unless the ZBA has specifically granted a longer period;
- W* I/we understand that all drawings, pictures, documents or other information used during your testimony to the ZBA must be kept in the permanent files of the Planning Division; and
- W* I/we understand that any appeal of a decision made by the ZBA must be presented to a court of record with a verified petition stating that the decision of the ZBA 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/We the undersigned acknowledge that the information provided above is true and correct.

*Galen Weiershausen*  
\_\_\_\_\_  
Signature of licensee or authorized representative

*11/9/17*  
\_\_\_\_\_  
Date

*Galen Weiershausen*  
\_\_\_\_\_  
Printed name of licensee or authorized representative

\_\_\_\_\_  
Name of business/Entity of representative

**FOR OFFICE USE ONLY:**

Reviewed/Accepted by: *H. Bueker* \_\_\_\_\_

Date: *11 / 9 / 17* \_\_\_\_\_

Case No.: ZBA: *17 -- 26* \_\_\_\_\_

ZBA Hearing Date: *12 / 4 / 17* \_\_\_\_\_

Fully-Dimensioned and scaled Site Plan:  Yes  No

Date of Application: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

Non-Refundable Fee: \$ *250* Receipt #: *269572*

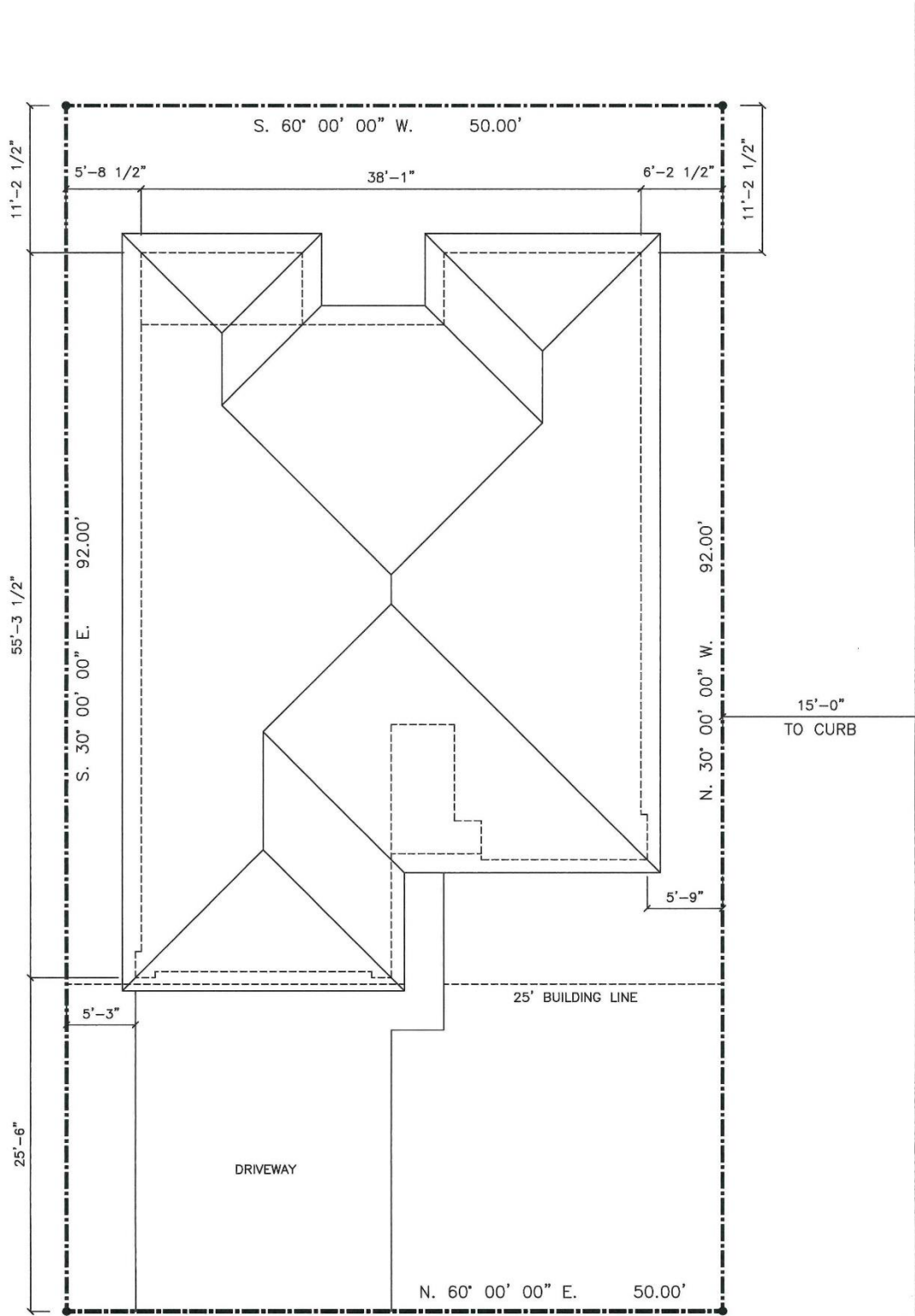
Date paid: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

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

I, GALEN WEIERSHAUSEN, PER THE CITY OF SAN ANGELO PLANNING DIVISION NEED TO AMEND THE FORMER VARIANCE REQUEST FOR A 11.75 FOOT BACKYARD (ALLEY SETBACK) INSTEAD OF A 20 FOOT DUE TO THE LOT BEING ONLY 92 FEET DEEP IN THE ORIGINAL 1927 PLAT INSTEAD OF 100 FEET.

A handwritten signature in cursive script, appearing to read "Galen Weiershausen". The signature is written in black ink and is positioned below the typed text.





COLEMAN STREET  
LOT 16, BLOCK 37  
HATCHER ADDITION  
SAN ANGELO, TOM GREEN CO., TEXAS

PLOT PLAN  
SCALE: 1/8" = 1'-0"

2702 COLEMAN STREET

**Photos of the Site**



Looking Northwest at the Property from Hatcher Street

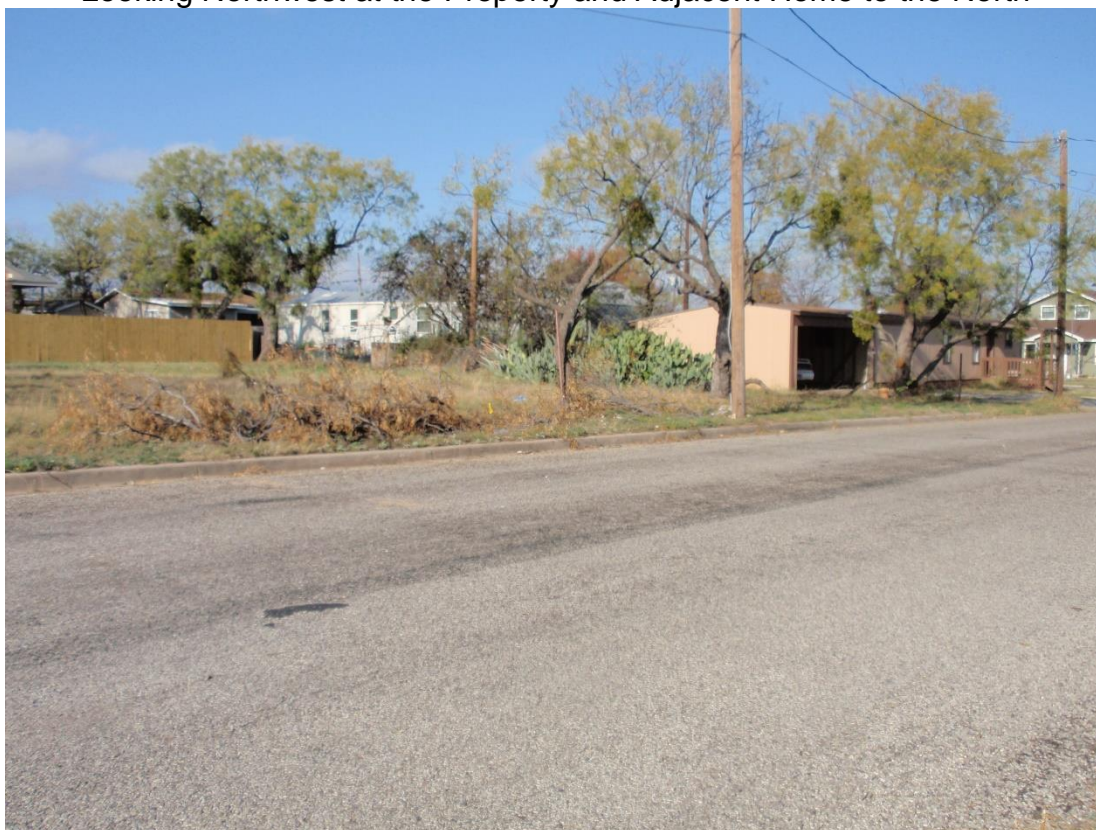




Looking Southwest down Coleman Street



Looking Northwest at the Property and Adjacent Home to the North





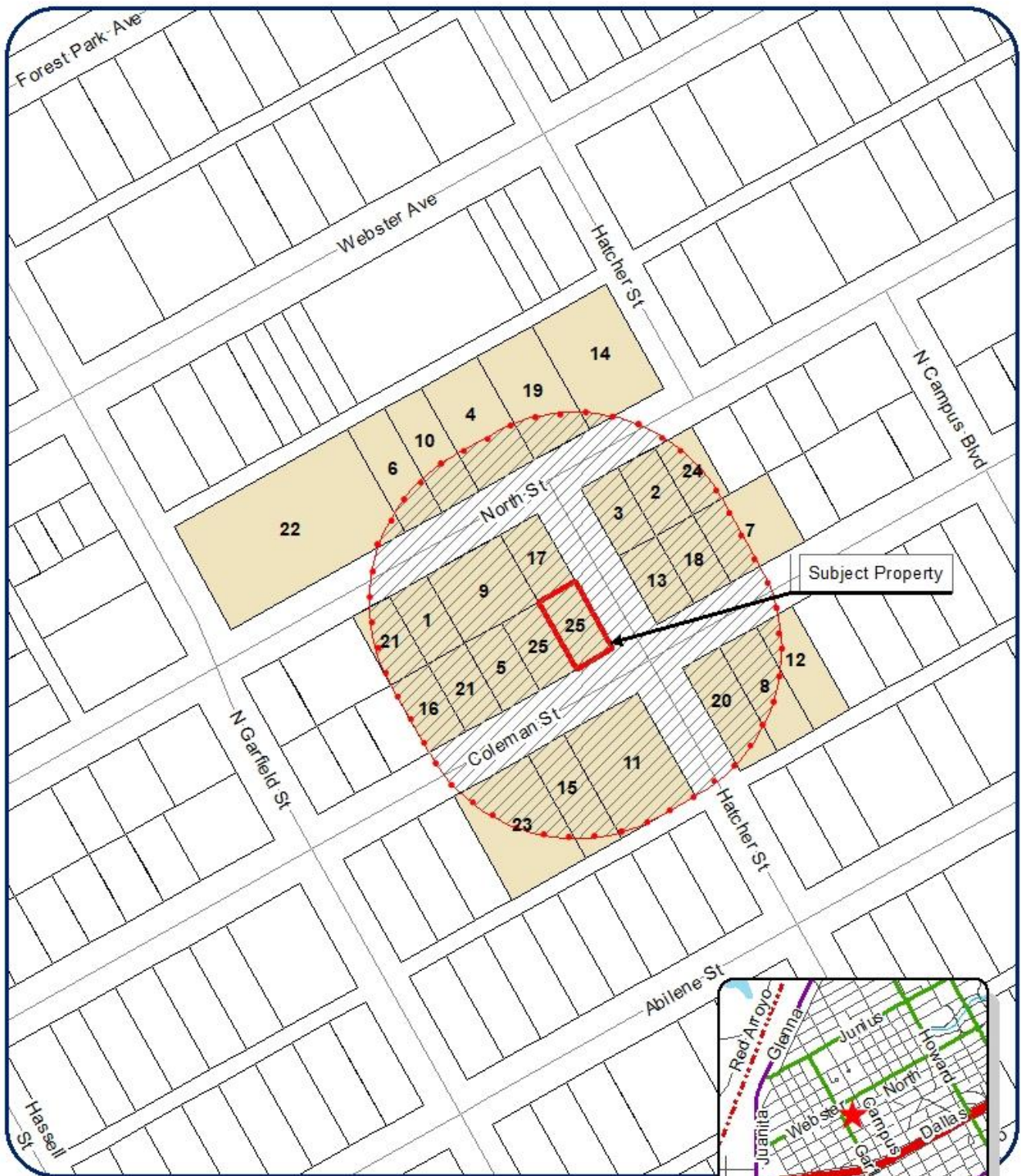
Home to the South of the Property Fronting Hatcher Street



Home on Southeast corner of Hatcher Street and Coleman Street







<p><b>ZBA17-26: Weiershausen</b>  <b>2702 Coleman Street</b></p>	<p><b>Legend</b></p>	
<p>Council District: SMD #2 - Tom Thompson          Neighborhood: Bluffs          Scale: 1" approx. = 150 ft</p>	<p>Subject Properties: <span style="color: red;">—</span>          Current Zoning: <b>RS-1</b>          Requested Zoning Change: <b>N/A</b>          Vision: <b>Neighborhood Center</b></p>	

**ZONING BOARD OF ADJUSTMENT – January 8, 2018**  
**STAFF REPORT**



<b>APPLICATION TYPE:</b>	<b>CASE:</b>
Variance	ZBA17-27: Elk's Lodge #1880

**SYNOPSIS:**  
 On December 7, 2017, the applicant submitted this variance application to allow placement of an intermodal container on the north side of the subject property facing West Avenue Q. As proposed, this request requires two variances from the Zoning Ordinance: A variance from Section 416.A.3.c. to allow the container to be located along the north side of the property facing a street (West Avenue Q), and a variance from Section 509.A.1. to exempt the requirement of a privacy fence adjacent to the west property line adjacent to a residential Zoning District (RS-1).

<b>LOCATION:</b>	<b>LEGAL DESCRIPTION:</b>
2121 South Chadbourne Street; generally located west of South Chadbourne Street, between West Avenue Q and West Avenue R.	Being Lot 6A in the First Replat of Lots 6, 7, 10 and 11, Block 138 of the Fort Concho Addition, comprising a total of 0.735 acres.

<b>SM DISTRICT / NEIGHBORHOOD:</b>	<b>ZONING:</b>	<b>FLU:</b>	<b>SIZE:</b>
SMD District #3 – Harry Thomas Rio Vista Neighborhood	CG/CH – General Commercial/ Heavy Commercial	C - Commercial	0.735 acres

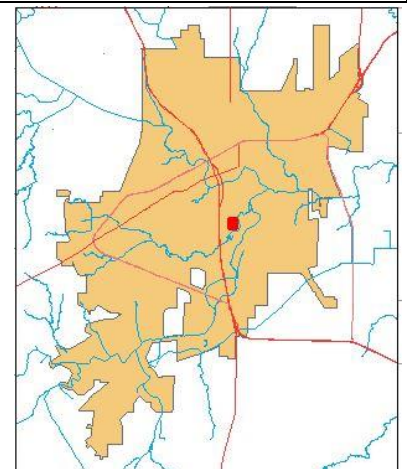
**THOROUGHFARE PLAN:**  
**West Avenue Q** – Urban Arterial Street  
 Required: 80' right-of-way, 64' pavement; Provided: 65' right-of-way, 36-foot pavement (variances approved by Planning Commission June 15, 2015).  
**South Chadbourne Street** – Urban Arterial Street  
 Required: 80' right-of-way, 64' pavement; Provided: 100' right-of-way, 64-foot pavement (TXDOT road).  
**West Avenue R** – Urban Local Street  
 Required: 50' right-of-way, 40' pavement, or 36' pavement with a 4' sidewalk; Provided: 70' right-of-way, 34-foot pavement and no sidewalk (variance approved by Planning Commission June 15, 2015).

**NOTIFICATIONS:**  
 16 notifications mailed within 200-foot radius on December 21, 2017. A total of 39 letters were received in support, and none in opposition. Of the 39 support letters, 1 was from the property owner, 22 from the applicant's members (Elks Lodge), and 16 from non-members, 15 of whom reside in San Angelo. With the exception of the property owner, the remaining letters were from outside the 200-foot radius.

**STAFF RECOMMENDATION:**  
 Staff's recommendation is for the Zoning Board of Adjustment (ZBA) to **APPROVE** a Variance from Section 509.A.1. of the Zoning Ordinance exempting the requirement for a privacy fence facing the west property line adjacent to a Single-Family Residential (RS-1) zoning district boundary. Staff recommends that the ZBA **DENY** a Variance from Section 416.A.3.c. of the Zoning Ordinance for the placement of a permanent intermodal container on a street side of the principal building facing West Avenue Q and instead **APPROVE** a variance from Section 416.A.3.c of the Zoning Ordinance to allow for the placement of a permanent intermodal container to the south of the principal building.

**PROPERTY OWNER/PETITIONER:**  
*Property Owner:*  
 San Angelo Elks Lodge #1880  
*Applicant:*  
 Council Member Harry Thomas (SMD #3)

**STAFF CONTACT:**  
 Jeff Fisher, AICP  
 Senior Planner  
 (325) 657-4210, Extension 1550  
[jeff.fisher@cosatx.us](mailto:jeff.fisher@cosatx.us)





**Additional Information:**

The intermodal container will be used to store tables, chairs, decorations, and other accessory items for the Elks Lodge. It will be painted an off-white color to match the side shingles on the principal building as required in a General Commercial/Heavy Commercial (CG/CH) Zoning District. The placement of the container in this location will require the elimination of one parking space and a reorientation of two space to now face South Chadbourne Street instead of West Avenue Q.

**Variations:** 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.**

**Variance #1 (Fence):** Under the Zoning Ordinance, a privacy fence is required when a nonresidential use is located adjacent to a residential use or zoning district, in this case being the property immediately to the west zoned residential. The existing building is located close to the west property line, and therefore, the west wall of the building serves as a portion of the required privacy fence. The applicant is seeking relief from the requirement to construct a privacy fence between this building and the 25-foot front yard setback from the property line facing West Avenue Q, a distance of 32.25 feet. The Planning Division believes the applicant has a special circumstance as the two adjacent properties to the west, owned by the City, are used as a drainage canal and are not intended for development. This would provide an additional 100 feet from the nearest residential property at 9 West Avenue Q. The Planning Division does not concur with the applicant that the existing retaining wall along the west property line acts as a privacy fence due to the lower grade of the canal property. However, the Division believes the drainage canal itself acts as a special circumstance and is sufficient to support the variance request.

**Variance #2 (Location):** Section 416.A.3. of the Zoning Ordinance requires that intermodal containers are located to the rear or side of the main building, but not on a street side, in CN, CG, and CG/CH Zoning Districts. The existing Elks Lodge building is placed along the west property line, making all three other sides face a street and therefore, requiring a variance. The intent of this provision was to protect the streetscape comprising of principal buildings which generally have a higher standard of design, and relegating intermodal containers and other such accessory structures to the side or rear of the main structure away from the street. Planning Division staff had suggested relocating the intermodal container to the south behind the main building which would leave approximately 150 feet to the south property line. Staff believes this would be less intrusive and less visible from this street side, West Avenue R. The applicant advised Planning Staff this would not be desirable given that many of the storage items such as tables and chairs are intended for the north dining/meeting room and that a portion of the caliche parking area would have to be removed. They also indicated there was an 8-foot drop in elevation to the south of the property. While Staff empathizes that a relocation to the south would be an inconvenience, Staff does not believe this would create a special circumstance or undue hardship. Despite a slightly reduced drop in grade immediately south of the building, there is an additional 150 feet of property which appears relatively flat. The existing 3,990-square foot Elks Lodge, a “private club” under the Zoning

Ordinance, requires one parking space for every 400 square feet of gross floor area, or 10 parking spaces, and the current proposal would leave at least 28 parking spaces when the caliche area is added. At most, 4-5 spaces would be lost if the container was located behind the building to the south, maintaining parking in excess of the Zoning Ordinance requirement. The Planning Division does not believe this in itself generates a special circumstance to satisfy the criteria.

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

**Variance #1 (Fence):** The drainage canal to the west is pre-existing, owned and maintained by the City of San Angelo and not the result of the applicant. As indicated previously, the canal runs through two contiguous properties, providing an additional 100 feet from the nearest residential property. Therefore, the Planning Division has no objections to supporting this variance request.

**Variance #2 (Location):** By choosing to place the intermodal container on the north side of the property facing West Avenue Q, the applicant is creating the circumstance. As stated earlier, the Planning Division understands the logistical inconvenience of not wanting to move items around or across the entirety of the building to access the dining/meeting room. Nevertheless, to satisfy this criteria, the applicant has to prove there a special circumstance peculiar to the land or structure that the applicant did not create themselves. The Planning Division however empathetic to the applicant's needs, finds no such circumstance in this case, and therefore, recommends denial of this 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.**

**Variance #1 (Fence):** The drainage canal immediately to the west, the large retaining wall along the west property line, and the fact that this front side is being used primarily for parking, are all factors that create a unique situation mitigating the need for a privacy fence. The Planning Division does not believe a privacy fence would be necessary in this case given these unique site characteristics.

**Variance #2 (Location):** The Planning Division believes there is ample space south of the building to place the intermodal container – an area that would appear less intrusive given the substantial length of this portion of the property that remains vacant of buildings. The Planning Division recognizes it would not be aesthetically pleasing to locate the container immediately next to the south of the building given this portion contains an outdoor patio. However, the property on this side of the building extends over 150 feet – ample space to relocate the structure while satisfying the intent of the ordinance as closely as possible. The applicant ideally could locate the structure halfway between the patio and LoctNorth the south property line, maintaining an adequate view from the patio, while ensuring a substantial setback from any future development to the south of West Avenue R.

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.**



**Variance #1 (Fence):** The Planning Division believes that exempting a privacy fence is the minimum action necessary and would not be contrary to the public interest. There is an existing privacy fence along the east side of the nearest residential lot at 6 West Avenue R past the drainage canal, and the Elks building along the west property line also acts as a privacy fence. This essentially leaves only 32.25 feet between the building's north face and the 25-foot front setback facing West Avenue Q that would require a privacy fence adjacent to the proposed intermodal container. Given the adjacent drainage canal and substantial setback from the nearest residential dwelling on West Avenue Q of over 100 feet, the Planning Division believes a privacy fence in this area would be unnecessary.

**Variance #2 (Location):** The Planning Division believes that it would be contrary to the intent of Section 416 of the Zoning Ordinance to allow for the container to be placed in its proposed location. The intent of the setback provision was to have intermodal containers – which are usually large metal storage structures - located behind or to the side a main building so they are not visible from a public street. While the applicant had no choice but to seek a variance given the container will face a street side in all cases, they do have the choice to locate the container on the least intrusive side – in this case, the south portion of the property. By requesting to place the container close to the north property line, the container would be very close to West Avenue Q and substantially be highly visible from vehicles driving southbound on South Chadbourne Avenue, in clear violation of the specific intent of Section 416.

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

**Variance #1 (Fence):** Exempting the requirement for a privacy fence would not appear to negatively affect adjacent land, as the adjacent properties are being used as a drainage canal. As indicated, the combination of the west building wall and an existing privacy fence along the east side of 6 West Avenue R serves as existing screening from residential uses to the west. Combined with the drainage canal properties providing an additional 100 foot buffer, the Planning Division is confident that adjacent land would not be negatively affected.

**Variance #2 (Location):** The Planning Division believes that locating the intermodal container to the north of the building would create a negative visual impact on properties to the north and east. The container in this location would be easily visible from vehicles travelling southbound on Chadbourne Street, which is contrary to the Zoning Ordinance which intended intermodal containers to not be visible from a street in commercial zoning districts.

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

**Variance #1 (Fence):** The Planning Division believes that the fence variance will be generally consistent with the Zoning Ordinance. As indicated above, the adjacent property is being used as a drainage canal and not intended for development. The existing west building wall already serves as a portion of the required privacy fence and adding new fencing at this location would be unnecessary at this time as there would be no adjacent structures that would require screening.

**Variance #2 (Location):** As stated previously, the intent of the pertinent section of the Zoning Ordinance was to ensure that new intermodal containers in commercial zoning districts – which are usually located along major commercial arterial and collector road corridors – are adequately screened from public view. The Planning Division believes that allowing an intermodal container so close to a public street would set a negative precedent for other properties to do the same. Intermodal containers are accessory buildings used for storage – they are not intended to be used as primary buildings. While they serve a necessary purpose as storage facilities for commercial businesses, allowing them on street sides would eventually deteriorate the streetscape of principal buildings which generally comprise of higher quality building materials and design. This is especially true given that the rationale for such a request is based primarily on convenience, rather than necessity.

**Allowed Variances:**

In exercising its authority to grant a variance, per Section 207.D of the Zoning Ordinance, the Zoning Board of Adjustment must affirmatively find that one or more of the following circumstances applies:

1. **SPECIAL CIRCUMSTANCES RESULTING IN UNNECESSARY HARDSHIP.** *Where special circumstances exist on the property related to the size, shape, area, topography, surrounding conditions or location that do not generally apply to other property in the same zoning district, and that the circumstances are such that strict application of this zoning ordinance would create an unnecessary hardship or deprive the applicant of reasonable use of the land or building.*

**The applicant believes there is a special circumstance respecting the fence given a drainage canal immediately west and a special circumstance respecting the location of the container given a drop in grade south of the building and the inconvenience of having to move the storage items around or through the building to their intended location to the north dining/meeting room.**

2. **OVERRIDING PUBLIC INTEREST.** *If the variance further an overriding public interest or concern, including, but not limited to: (a) Preserving the natural environment, (b) Promoting maintenance or reuse of older urban or historic buildings, or (c) Helping to eliminate a nonconforming use at another location.*
3. **LITERAL ENFORCEMENT.** *If it is found that the literal enforcement and strict application of this Zoning Ordinance will result in extraordinary circumstances inconsistent with the general provisions and intent of this ordinance, and that, in granting the variance, the spirit of the ordinance will be preserved and substantial justice done.*

**Recommendation:**

Staff's recommendation is for the Zoning Board of Adjustment (ZBA) to **APPROVE** a Variance from Section 509.A.1 of the Zoning Ordinance exempting the requirement for a privacy fence facing the west property line adjacent to a Single-Family Residential (RS-1) zoning district boundary. Staff recommends that the ZBA **DENY** a Variance from Section 416.A.3.c. of the Zoning Ordinance for the placement of a permanent intermodal container on a street side of the principal building facing West Avenue Q and instead **APPROVE** a variance from Section 416.A.3.c. of the Zoning Ordinance to allow for the placement of a permanent intermodal container to the south of the principal building, subject to the following **four Conditions of Approval:**



1. The applicant shall obtain a permit from the Permits and Inspections Division for the intermodal container.
2. The applicants shall submit a revised site plan to the Permits and Inspections Division relocating the intermodal container to the south of the principal building, showing all maneuvering area dimensions. The intermodal container shall be located behind the principal building's front building wall facing South Chadbourne Street, and at least at least 80 feet north of the south property line, ensuring a substantial setback from all streets. It shall also be located at least 10 feet from the west property line adjacent to a residential zoning district as required by Section 502.B of the Zoning Ordinance.
3. Any existing signs, logos, or other markings except for small incidental labelling shall be removed from the intermodal container prior to its placement on the property, and the container shall be painted an earth tone, neutral color, or match the principal building color(s) on the site, in accordance with Section 416 of the Zoning Ordinance.
4. There shall be no storage of combustible or flammable liquids in the intermodal container.

**Attachments:**

Aerial Map  
Future Land Use Map  
Zoning Map  
Photographs  
Site Plan  
Intermodal Container Elevations  
Application



Source: Esri, DigitalGlobe, GeoEye, USA, USGS, Aero, Mapping, User Community

**Variance Case File**

**ZBA17-27: Elks Lodge #1880**

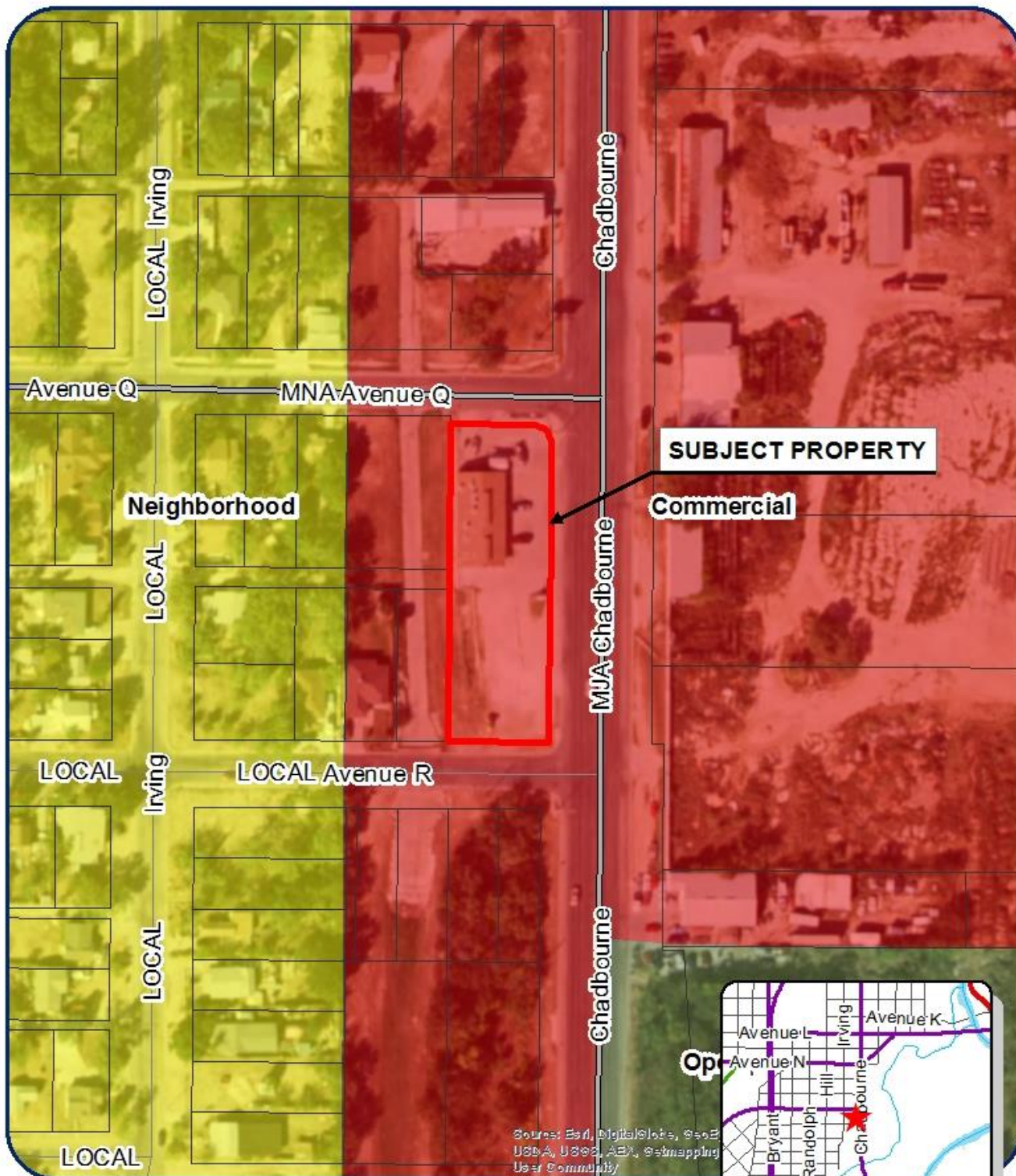
Council District: Harry Thomas (SMD#3)  
 Neighborhood: Rio Vista  
 Scale: 1" approx. = 125 ft  
 Subject Property: 2121 N. Chadbourne St.

**Legend**

- Subject Properties: █
- Current Zoning: CG/CH
- Requested Zoning Change: N/A
- Vision: Commercial







**Variance Case File**

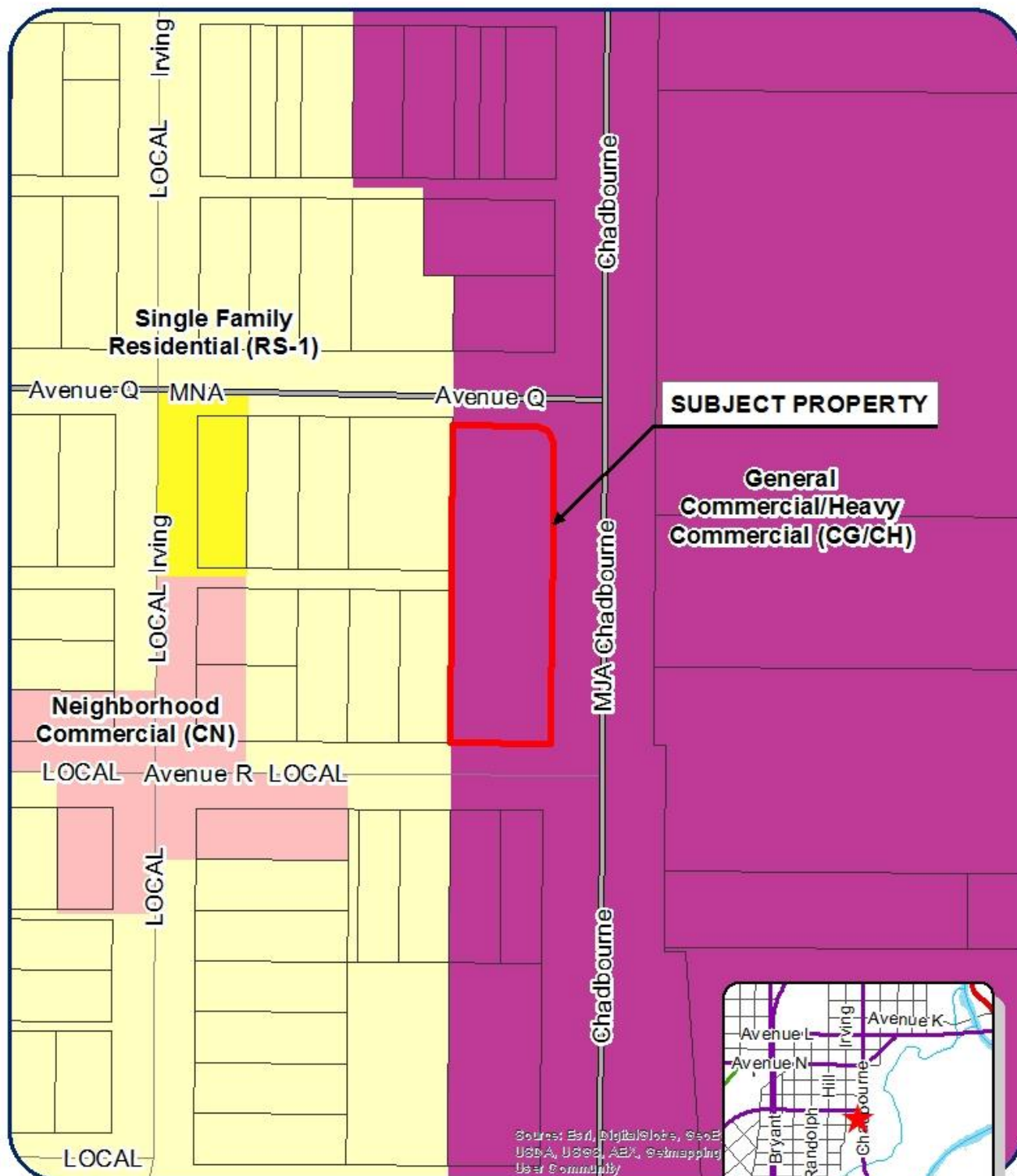
**ZBA17-27: Elks Lodge #1880**

Council District: Harry Thomas (SMD#3)  
 Neighborhood: Rio Vista  
 Scale: 1" approx. = 125 ft  
 Subject Property: 2121. N. Chadbourne St.

**Legend**

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





**Variance Case File**  
**ZBA17-27: Elks Lodge #1880**  
 Council District: Harry Thomas (SMD#3)  
 Neighborhood: Rio Vista  
 Scale: 1" approx. = 125 ft  
 Subject Property: 2121. N. Chadbourne St.

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





**Photos of Site and Surrounding Area**

**NORTH**



**SOUTH**



**EAST**



**WEST AT PROPERTY (MAIN BUILDING)**



**WEST (CALICHE PARKING LOT)**



**SOUTH SIDE OF PROPERTY (CALICHE PARKING LOT)**





**Photos of Site and Surrounding Area**

**NORTH OF BUILDING (PROPOSED LOCATION OF INTERMODAL CONTAINER)**



**VIEW LOOKING WEST (NO PRIVACY FENCE)**



**VIEW LOOKING EAST (NO PRIVACY FENCE)**



**NORTH DINING/MEETING ROOM**



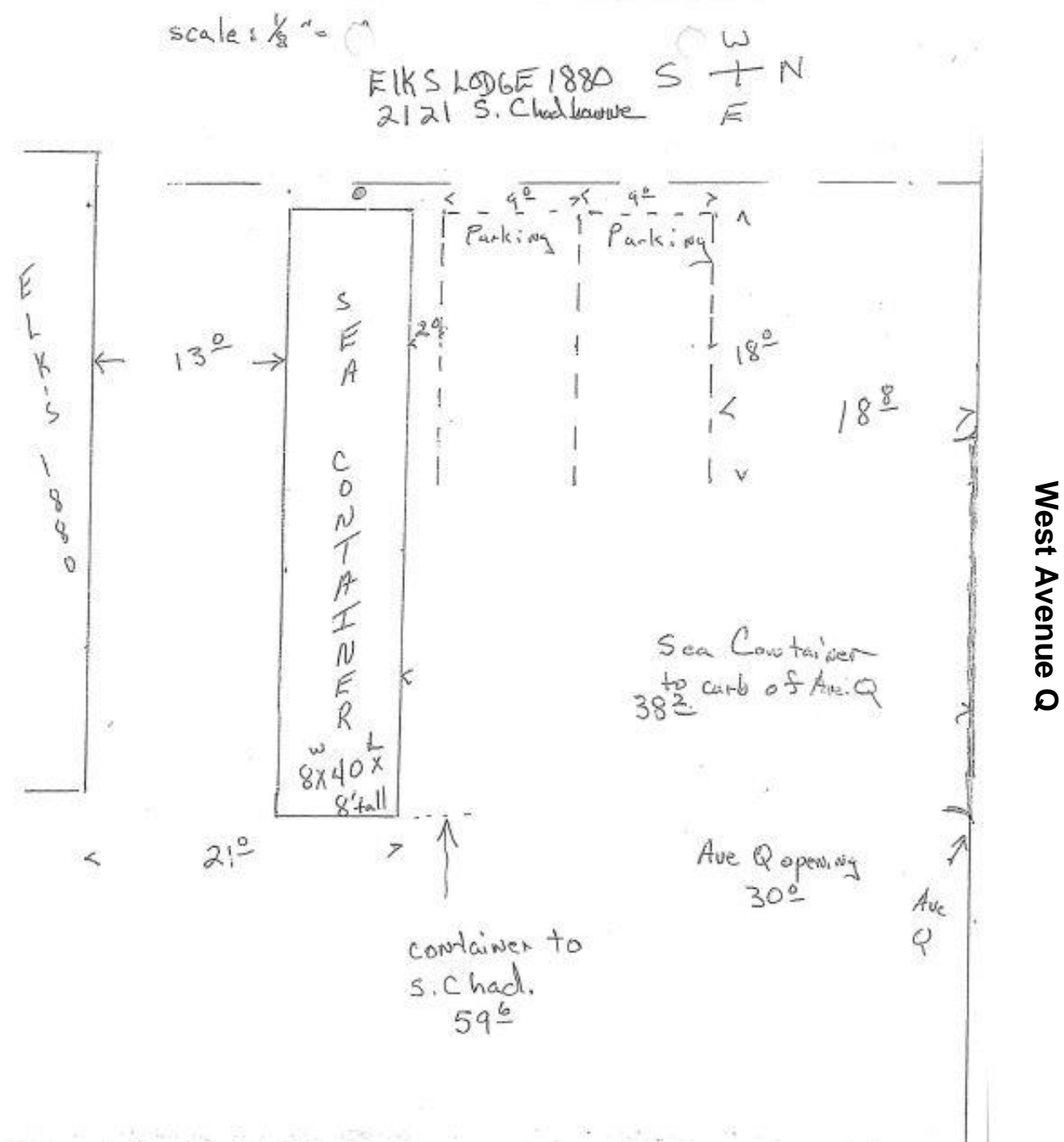
**SOUTH ROOM AND ENTRANCE**



**NORTH DINING/MEETING ROOM EXIT**



### Site Plan

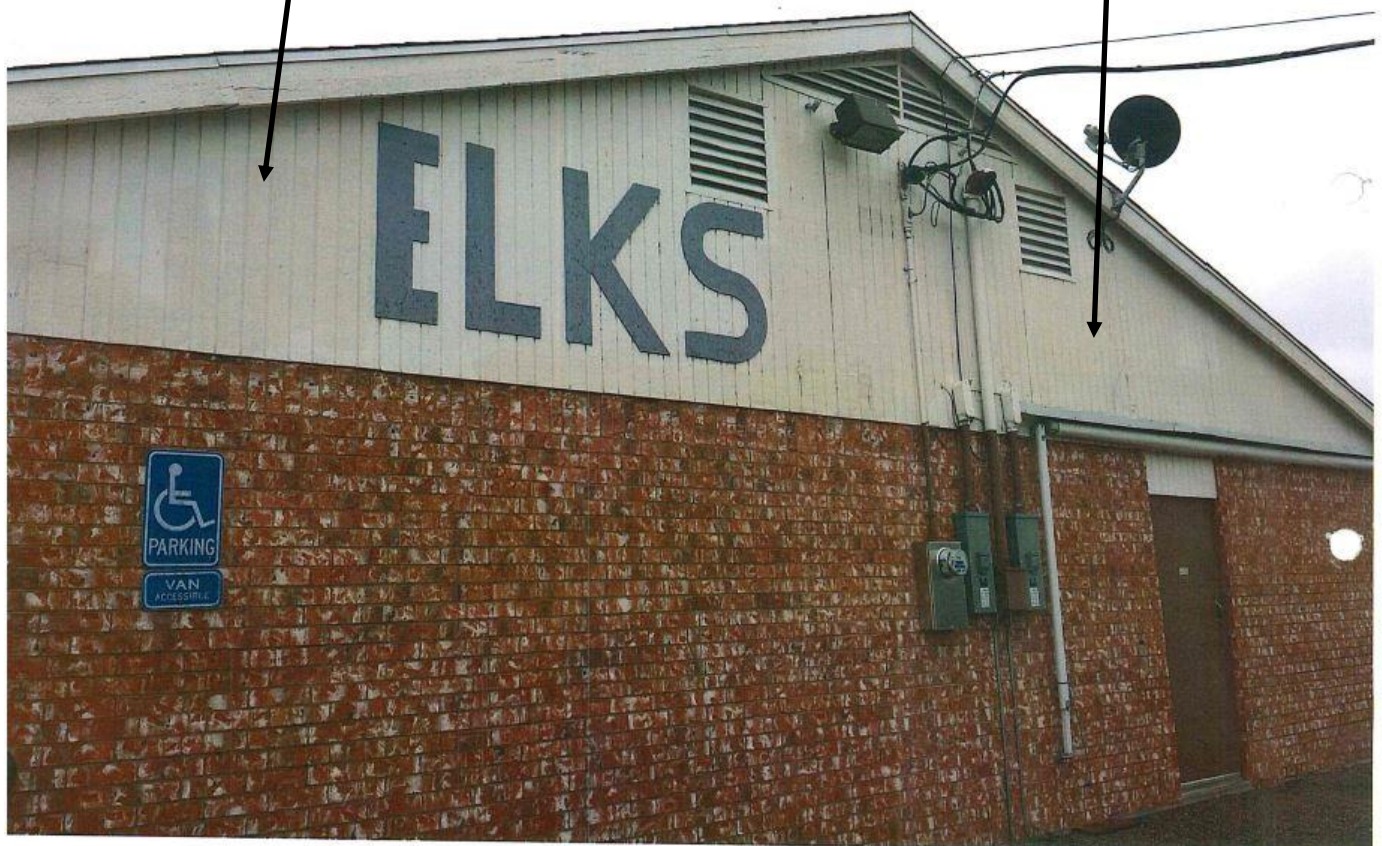
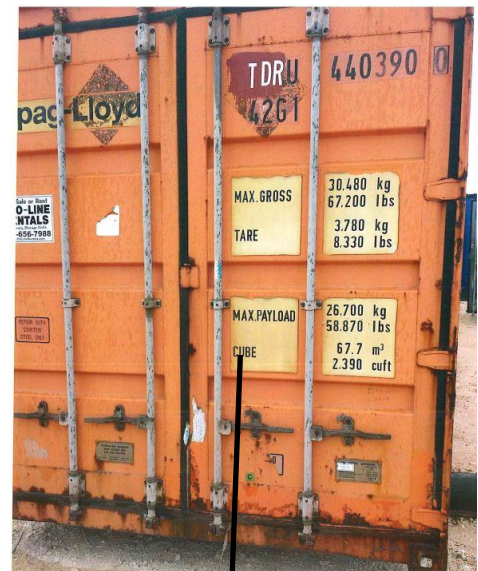
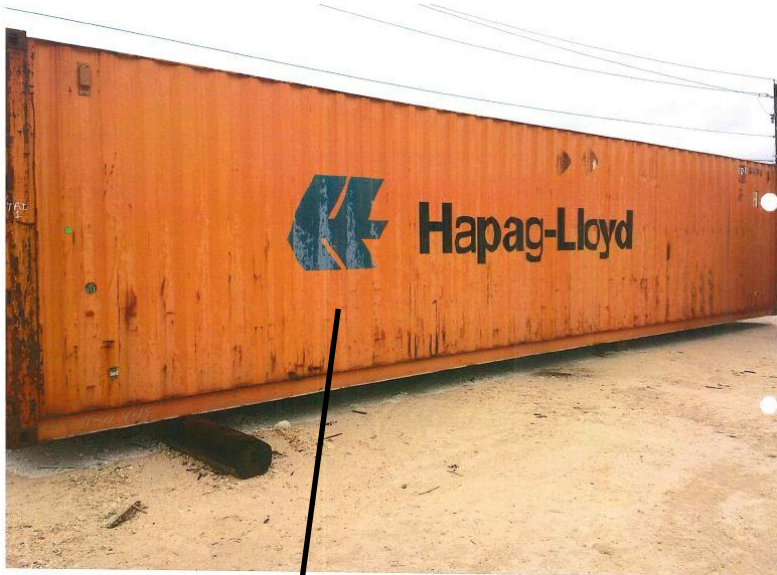


South Chadbourne Street





**Intermodal Container (to be painted off-white to match main building)**







City of San Angelo, Texas – Planning Division  
 52 West College Ave



Application for Variance from Zoning Regulations

Section 1: Basic Information

Name of Applicant(s): Harry Thomas San Angelo Elks Lodge #1880  
 Owner  Representative (Notarized Affidavit Required)

Mailing Address: 2121 S. Chadbourne San Angelo Texas 76905  
City State Zip Code

Contact Phone Number: 325-374-5129 Contact E-mail Address: txblu byrd@gmail.com

Subject Property Address and Location: 2121 S. Chadbourne San Angelo, Texas 76905  
City State Zip Code

Legal Description (can be found on property tax statement or at [www.fomgranted.com](http://www.fomgranted.com)):  
LOT 6A, BIK: 138 Subd: Fort Concho Addition

1st R/P of Lots 6, 7, 10 & 11

Zoning District:  
 CN  CO  CG  CH  CG/CH  CBD  OW  ML  MHS  MHP  PD  
 RS-1  RS-2  RS-3  RM-1  RM-2  R&E

(Zoning Map available on [City Maps](#))

Section 2: Variance Request(s)

- List each variance request separately:
- Zoning Ordinance section: 207 Sec. 416.A.3 Location of Container  
 Describe variance: land adjacent to our Bldg is City - There is an 8' drop in Elevation  
Continued  
 Zoning Ordinance section: Container can not be placed behind our Bldg due  
 Describe variance: to the elevation difference.
  - Zoning Ordinance section: 509 A.1 Sec. 509 B.3 Fence  
 Describe variance: Nearest RS 1 Property is more than 100' from Container  
Continued  
 Zoning Ordinance section: Property owner will have to look up in order see the  
 Describe variance: Container. Direct line of site is a 8' retaining wall

Section 3: Variance Request Criteria

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

-1. Special circumstances exist that are peculiar to the land or structure that are not applicable to other land or structures in the same zoning district and are not merely financial:  
 Explanation: The land directly behind (west) of 2121 S. Chadbourne is  
City owned & used as a drainage canal between wave Q &  
the wave R bridge. The Elevation change (8' height change in  
10 ft of property) will not allow the Container to be placed in the  
rear of the property.

Effective January 3, 2017

Section 3 continued: Variance Request Criteria

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

Explanation: Fence - Existing Retaining Wall provides screening & lower Elevation

Container - Bldg is at the Back Portion of Property & There is a 8-10' Slope directly Behind (West) of Bldg. No other Place is to Place Container except in Front Yard.

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: Sec #2

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: NOT requesting other variances or exceptions

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

Explanation: City owned drainage Canal Between Ave Q & WAVE R  
lets

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

Explanation: Except for the 2 requested variances, meets all other Regulations and Standards

\*Paint of Container will match Trim of Bldg.

Fencing Variance: The Nearest RS1 Property is more than 100'. The Fence at 6 or 7' will still completely shield the Container, because it is 8' high. Line of site from RS1 Property to ELKS Property is at the 8' Retaining Wall that is part of the structure to keep flood waters off the property along the drainage canal between WAVE Q & WAVE R Bridge



Effective January 3, 2017

**Section 4: Applicant(s) Acknowledgement**

Please initial the following:

- I/we understand that the Zoning Board of Adjustment (ZBA) 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 understand that any variation(s) authorized by the ZBA will require me/us to obtain a building permit for that stated variation within twelve (12) months of the approval date by the ZBA, unless the ZBA has specifically granted a longer period;
- I/we understand that all drawings, pictures, documents or other information used during your testimony to the ZBA must be kept in the permanent files of the Planning Division; and
- I/we understand that any appeal of a decision made by the ZBA must be presented to a court of record with a verified petition stating that the decision of the ZBA 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/we the undersigned acknowledge that the information provided above is true and correct.

Harry Thomas  
Signature of licensee or authorized representative

12-4-17  
Date

Harry Thomas  
Printed name of licensee or authorized representative

San Angelo Elks #1880  
Name of business/Entity of representative

**FOR OFFICE USE ONLY:**

Reviewed/Accepted by: J. Fisher

Date: 12, 7, 2017

Case No.: ZBA: 17-27

ZBA Hearing Date: 1, 8, 2018

Fully-Dimensioned and scaled Site Plan:  Yes  No

Date of Application: 12, 7, 2017

Non-Refundable Fee: \$ 250.00 Receipt #: 269586

Date paid: 12, 7, 2017

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

① 416.A.3

② 509.A.1