

**ZONING BOARD OF ADJUSTMENT – September 10, 2018
STAFF REPORT**



| | | | |
|---|--|---------------------------------------|-------------------------|
| APPLICATION TYPE: | | CASE: | |
| Variances | | ZBA18-01: Gonzalez | |
| SYNOPSIS: | | | |
| <p>The applicant has applied for variances from the side yard setbacks to allow an existing metal garage and accessory structure with in the side yards, a variance for an existing carport and front patio to encroach in the front yard setback, and a variance from the setback distance from a principal building to an accessory structure to allow for a coved patio extension within the required 10 foot setback of a property zoned Two-Family Residential (RS-2). These issues were realized when the applicant made an application for the covered patio to the building department. The Planning Division further determined that the existing garage was converted from an approved carport and the accessory structure, patio extension, and carport were erected without permits and both require a variance to allow a reduced setback in lieu of the required setback distances.</p> | | | |
| LOCATION: | | LEGAL DESCRIPTION: | |
| 322 East 13 th Street | | Lot 15, Block 1, Pecan Place Addition | |
| SM DISTRICT / NEIGHBORHOOD: | | ZONING: | FUTURE LAND USE: |
| SMD District #3 – Harry Thomas Reagan Neighborhood | | RS-2 – Two-Family Residential | N - Neighborhood |
| SIZE: | | | |
| 0.12 acres | | | |
| THOROUGHFARE PLAN: | | | |
| <i>East 13th Street</i> – Urban Local Street, 50’ right-of-way required (40’ provided), 40’ pavement, or 36’ pavement with 4’ sidewalk required (30’ Provided) | | | |
| NOTIFICATIONS: | | | |
| 29 notifications were mailed within a 200-foot radius on July 23, 2018. Four letters received in support and one in opposition. | | | |
| STAFF RECOMMENDATION: | | | |
| <p>Staff’s recommendation is to DENY the following:</p> <ul style="list-style-type: none"> • A Variance from Section 501.A of the Zoning Ordinance to allow for both side yards to have a zero (0) foot setback in lieu of the required five (5) feet; • A Variance from Section 501.A of the Zoning Ordinance to allow for a five (5) foot front yard setback in lieu of twenty five (25) feet; and • A variance from Section 402.A.1.a of the Zoning Ordinance to allow for an accessory building to be located within five (5) feet of the principal building in lieu of a minimum ten (10) feet in order to be considered “not integral” to the principal building, within the Two-Family Residential (RS-2) Zoning District. | | | |
| PROPERTY OWNER/PETITIONER: | | | |
| Juan M Gonzalez | | | |
| STAFF CONTACT: | | | |
| Hillary Bueker, AICP Senior Planner (325) 657-4210, Extension 1547 hillary.bueker@cosatx.us | | | |



Additional Information:

The applicant came in to the building department seeking a permit for a covered patio in his rear yard. The proposed plans showed the new attached patio structure to be located within 5 feet of an existing accessory building that utilized reduced setback since it was not considered integral to the principal building. Under section 402.A.1.d of the Zoning Ordinance, “An accessory building that is detached from the principal building, or attached with only a breezeway, shall be allowed to extend into the required side or rear yard as follows: i. Where the wall or edge of the roof will adjoin a street or alley right-of-way, no setback shall be required; and ii. Where the wall or edge of the roof will adjoin any other side or rear lot line, a minimum setback of two feet from that side or rear lot line shall be maintained.” The existing accessory structure appears to be on the rear property line adjacent to the alley which would not be allowed if it became integral to the principal building, 10 feet or less separation.

When planning staff starting researching the proposed improvements, other issues were brought to light. In 1998, the current owner/applicant was granted a variance to allow a carport to extend two feet of the east side lot line. At that time the commission stated they believed the special exception to be in keeping with the zoning ordinance as long as the carport did not extend past the front face of the home. The carport was built and is show in the attached street view photos from 2007. At some point between 2012 and present day, the property owner/applicant has enclosed the previously approved carport as well as the two foot setback that was allowed in ZB99-02, which would bring the structure out of compliance with the current zoning ordinances. The west side yard structure doesn’t seem to appear in the 2007 street view photos but it is shown in 2008 aerial photos. Both of these enclosures limit the accessibility of firefighting personnel which could also need hoses and other equipment in the event of an emergency. The Fire Marshall has several concerns with each of these variance requests.

The final issue was the front yard encroachments. As shown in the 2012 street view photos, the previously approved carport was extended into the front yard as well as the front porch was extended approximately 3-4 feet. There extension would only be allow under the open structure overlay with certain conditions being met such as substantially open in character and be generally consistent with the materials, character and appearance of the roof covering the residence. The front porch extension matches the roof but is not substantially open in character with the attached railings and the carport roof extension does not match the roof of the residence.

Allowed Variances:

In exercising its authority to grant a variance, per Section 207.D of the Zoning Ordinance, the Zoning Board of Adjustment (ZBA) must affirmatively find that one or more circumstances applies (see below). If determined that one or more of the circumstances do not apply, the variance request will be automatically denied. If one or more of these circumstances do apply, the ZBA must then determine if various criteria have been met. The Planning Division has reviewed the three circumstances below and believe that the proposed request does **not** meet any of the circumstances and the variance should therefore be **DENIED**.

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.*
2. **OVERRIDING PUBLIC INTEREST.** *If the variance will 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.*

Variances:

For the reasons above, the Planning Division does not believe that the proposed request meets any of the circumstances outlined in Section 207(D) of the Zoning Ordinance, and the variance should therefore be **DENIED**. However, should the ZBA believe that one or more of the circumstances does justify a variance, they must also rule that all of the below criteria have been met. 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 applicant has stated the concrete slab is existing and he is trying to utilize the whole slab for a covered patio. The side yard and front yard structures are currently existing and the applicant would like to keep them. Planning staff believe that no special circumstances exist on the current property. Most of the improvements were built without a permit and therefore were not in compliance with the Zoning Ordinance.

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

The applicant stated that the slab in the rear yard was installed 25 years ago and he wants to use the full slab to improve his property. The side yard and front yard structures are currently existing and the applicant would like to keep them. Planning staff believes that the current owners/applicant have owned the property since August 1992, approximately 26 years ago. This would indicate that the current owners installed the concrete slab that is currently being improved. The side yard structure as well seems to have been constructed sometime from 2007 to 2012 based

on information from street view photos, and the front patio extension and garage enclosure appear to have been constructed after 2012. For these reasons, staff believes all the circumstances to be the result of the applicant.

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 applicant stated that he wanted to use an existing slab and retain use of existing improvements to the property. The proposed and existing improvement exceed the rights commonly enjoyed by other land in the same zoning district. Other property owners are not allowed to build in the setbacks for the RS-2 Zoning District.

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 applicant has stated the concrete slab is existing and he is trying to utilize the whole slab for a covered patio. The side yard and front yard structures are currently existing and the applicant would like to keep them. Planning staff believes that allowing these structure to remain would be contrary to public interest and would be inconsistent with the spirit of the Zoning Ordinance.

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

Although the applicant does not believe this will affect adjacent land, City Staff believe it does adversely affect adjacent land. The Fire Marshal has concerns with the Fire Department's ability to stop the spread of fire to adjacent properties without proper access to the entire property.

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

The applicant believes granting the variance will not affect the intent of the Zoning Ordinance. City Staff does not agree and believes that grant the variance will be inconsistent with the purpose and intent of the Zoning Ordinance in that it was intended to create a safe and consistently built environment with adequate setbacks from property lines for all structures.

Recommendation:

Staff's recommendation is for the Zoning Board of Adjustment (ZBA) to **DENY:**

- A variance from Section 501.A of the Zoning Ordinance to allow for both side yards to have a zero (0) foot setback in lieu of five (5) feet;
- A variance from Section 501.A of the Zoning Ordinance to allow for a five (5) foot front yard

setback in lieu of twenty five (25) feet; and

- A variance from Section 402.A.1.a of the Zoning Ordinance to allow for an accessory building to be located within five (5) feet of the principal building in lieu of a minimum ten (10) feet in order to be considered “not integral” to the principal building, within the Two-Family Residential (RS-2) Zoning District.

Attachments:

Aerial Map
Future Land Use Map
Zoning Map
Photographs
Site Plan
Elevation
Application
Notification Map
Resident Letter



Subject Property

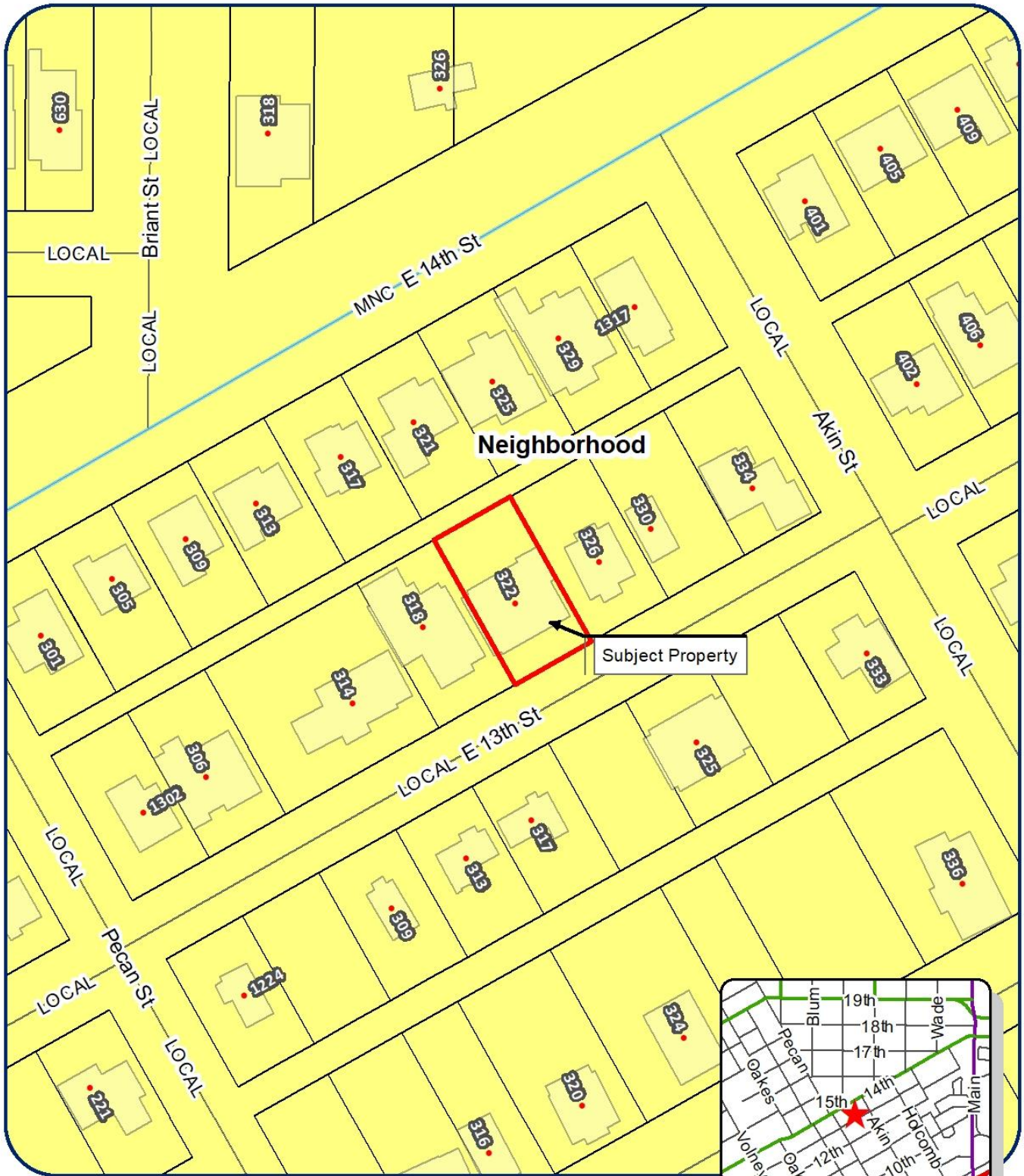


ZBA18-01: Gonzalez
322 East 13th Street

Council District: SMD #3 - Harry Thomas
 Neighborhood: Reagan
 Scale: 1" approx. = 75 ft


Legend
 Subject Properties: —
 Current Zoning: **RS-2**
 Requested Zoning Change: **N/A**
 Vision: **Neighborhood**



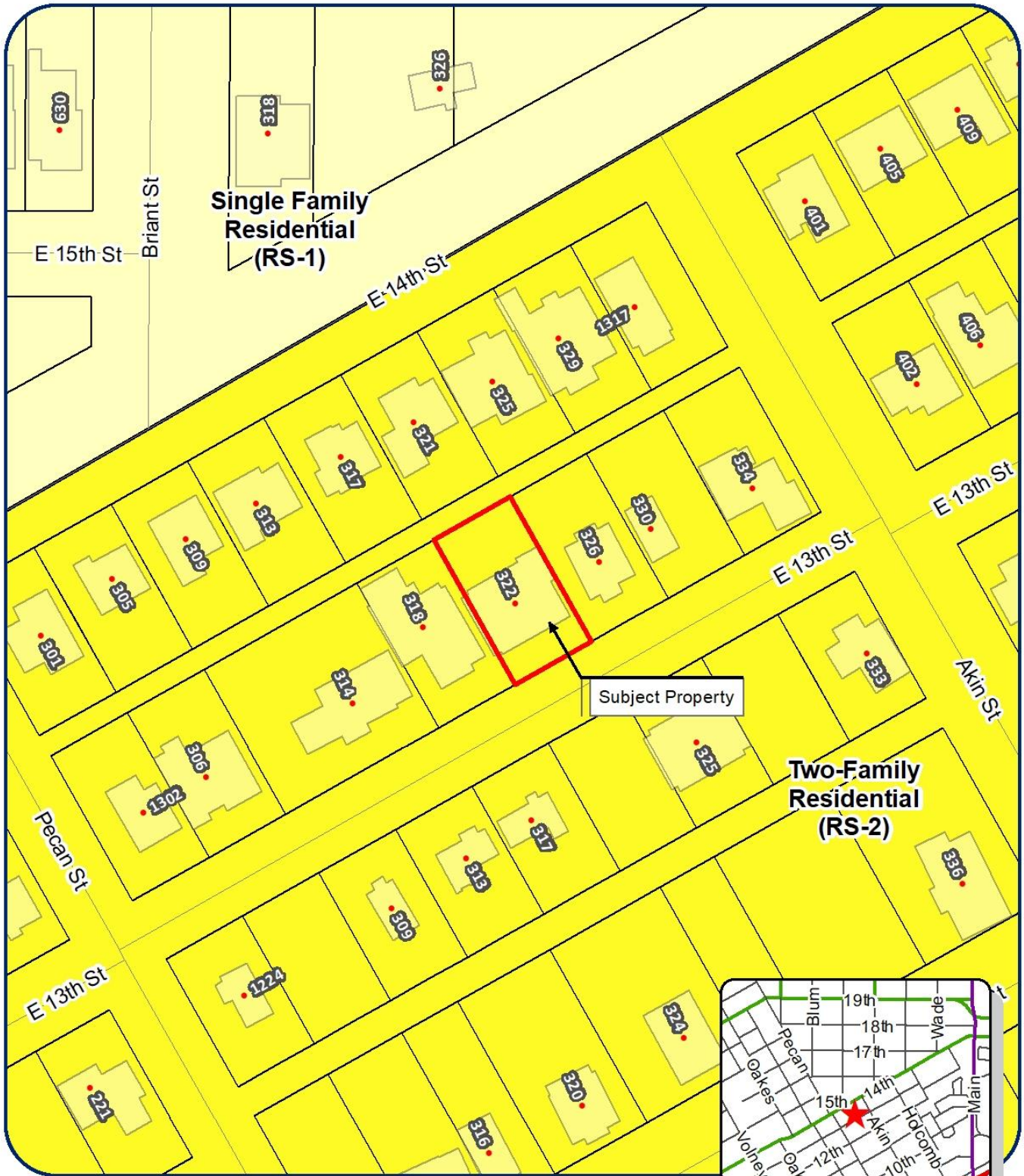


ZBA18-01: Gonzalez
322 East 13th Street

Council District: SMD #3 - Harry Thomas
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Subject Properties: 
Current Zoning: **RS-2**
Requested Zoning Change: **N/A**
Vision: **Neighborhood**

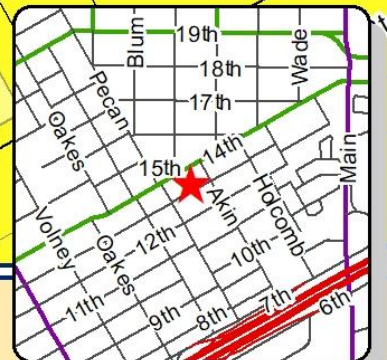




ZBA18-01: Gonzalez
322 East 13th Street

Council District: SMD #3 - Harry Thomas
Neighborhood: Reagan
Scale: 1" approx. = 75 ft

Legend
Subject Properties: 
Current Zoning: **RS-2**
Requested Zoning Change: **N/A**
Vision: **Neighborhood**



Photos of Site and Surrounding Area

East Side Yard Enclosed



West Side Yard Enclosed



Proposed Covered Patio





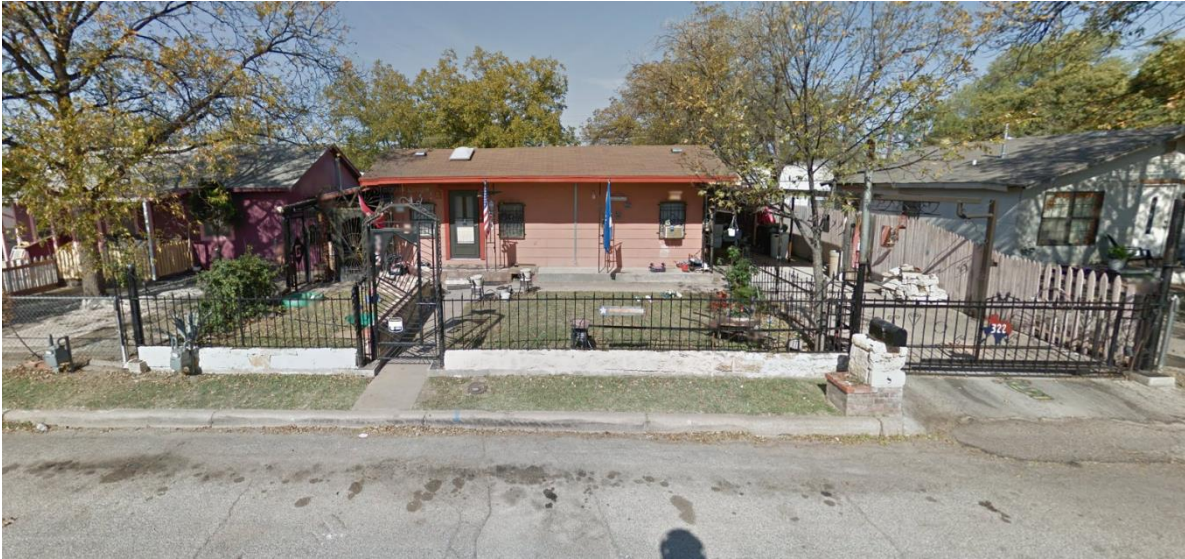
Site Aerial Photo



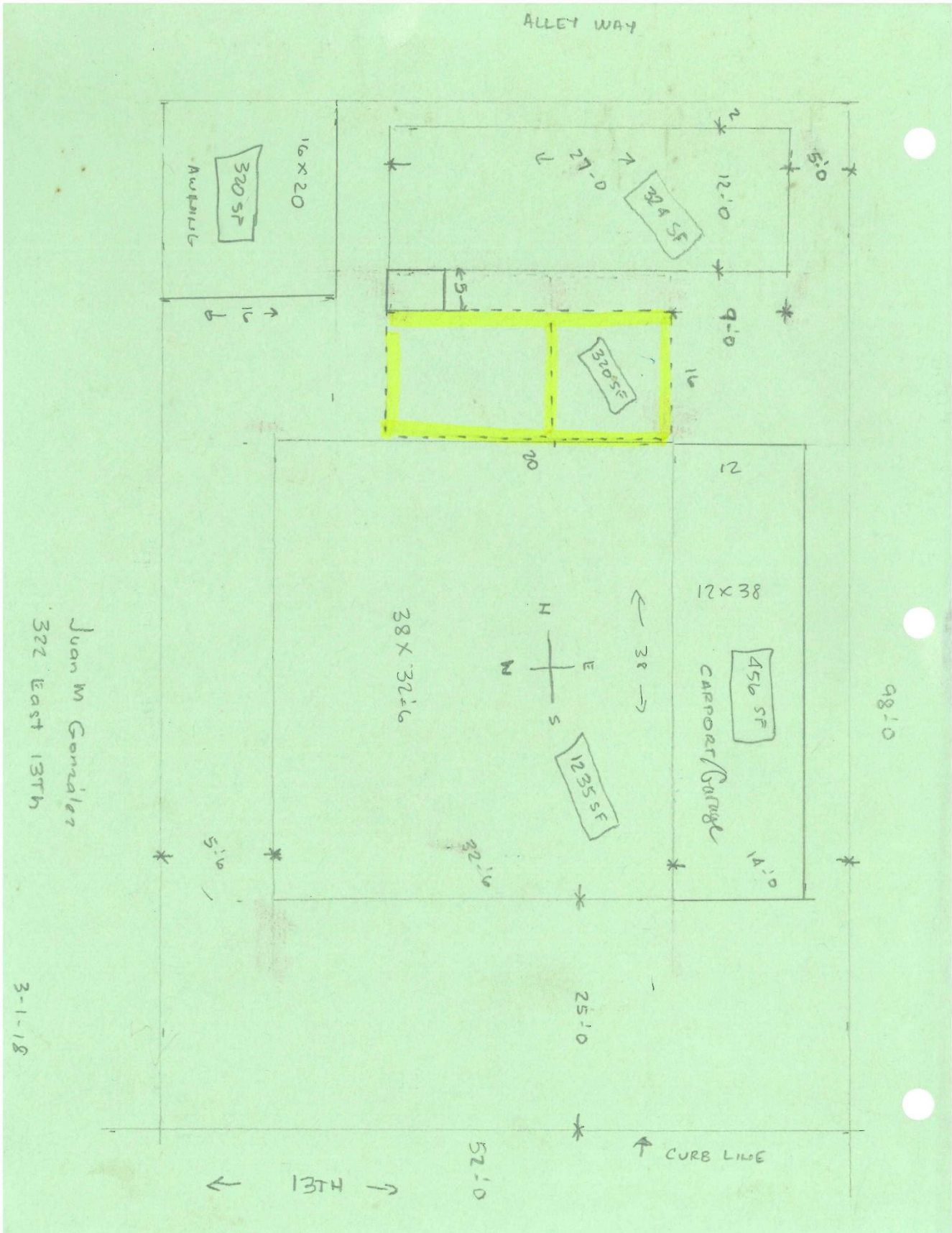
2007 Google Street View Photos



2012 Google Street View Photos



Site Plan



Juan M Gonzalez
322 East 13TH

3-1-18

Effective January 3, 2017



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): Juan M Gonzalez *use Gregory Street*

Owner Representative (Notarized Affidavit Required)

Mailing Address: 322 East 13th San Angelo TX 76903

Contact Phone Number: 325 227 3317 Contact E-mail Address: Thomasglz2007@gmail.com

Subject Property Address and/Location: Same as above City: _____ State: _____ Zip Code: _____

City: Same

Legal Description (can be found on property tax statement or at www.tomgreencad.com):
Lot is block 1 pecan place 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](#))

Section 2: Variance Request(s)

List each variance request separately:

- Zoning Ordinance section: 402 A1.a
 Describe variance: 5 ft in lieu of 10'-0" from the principal bldg to the exosory building
- Zoning Ordinance section: _____
 Describe variance: _____
- Zoning Ordinance section: 501.A
 Describe variance: Zero feet ^{5' side} set back for both side instead of _____ and 5'-0" front yard set back instead of 25'-0"
- Zoning Ordinance section: _____
 Describe variance: _____

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: it just happen that the slab is there already and in trying to utilize the whole slab for the purpose of the cover patio

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: The only thing I ask that you review and
please consider that the slab was done 25 years ago
and I want to use the full slab to make things
better for us.

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: Same as above

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: I will appreciate if you allow me to use the
full size of the slab in favor of the patio cover
that I intend to install.

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

Explanation: Same as above

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

Explanation: Same as above

Effective January 3, 2017

Section 4: Applicant(s) Acknowledgement

Please initial the following:

JMG 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;

JMG 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;

JMG 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

JMG 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.

JMG
Signature of licensee or authorized representative

3-6-18
Date

Juan M Gonzalez
Printed name of licensee or authorized representative

Name of business/Entity of representative

FOR OFFICE USE ONLY:

Reviewed/Accepted by: H. Buckner

Date: 3 / 6 / 18

Case No.: ZBA: 18 - 01

ZBA Hearing Date: 4 / 2 / 18

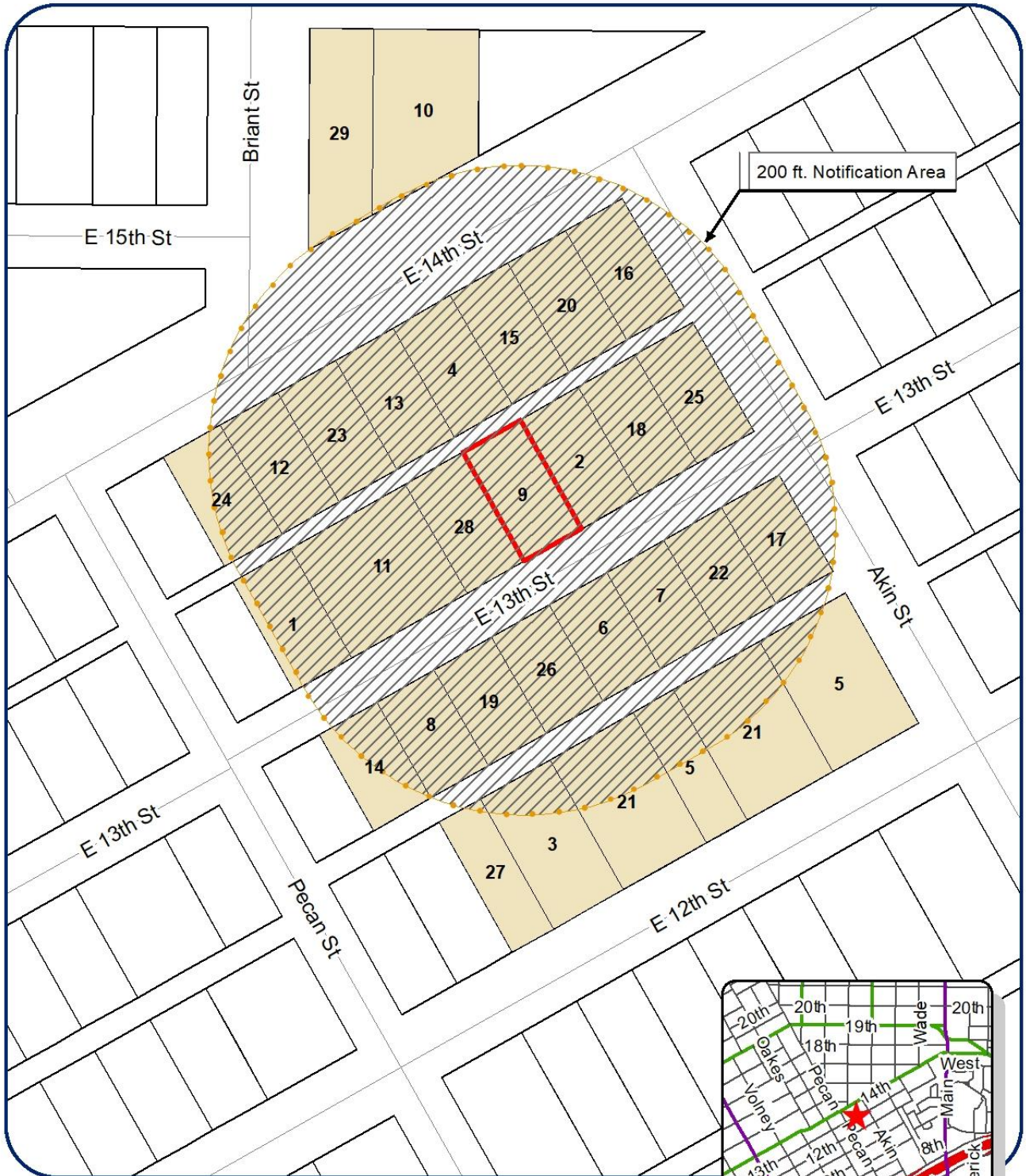
Fully-Dimensioned and scaled Site Plan: Yes No

Date of Application: 3 / 6 / 18

Non-Refundable Fee: \$ 250 Receipt #: _____

Date paid: _____ / _____ / _____

Ordinance section(s) from which variance(s) is/are requested: Sec 402. A.1.a



ZBA18-01: Gonzalez
322 East 13th Street

Council District: SMD #3 - Harry Thomas
 Neighborhood: Reagan
 Scale: 1" approx. = 100 ft

Legend
 Subject Properties:
 Current Zoning: **RS-2**
 Requested Zoning Change: **N/A**
 Vision: **Neighborhood**



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

() IN FAVOR

(✓) IN OPPOSITION

REASON(S) Unless there is something special about Mr. Gonzalez's property that will allow him to break this rule, that we should take into consideration we are against this approval. As property owners we should all have the same regulations Mr. Gonzalez has 95% of his property well covered with structure. If he can't meet the set backs any more he has created it him self, Also making it a safety issue our drive ways are side by side Mr Gonzalez as attached his garage wall using his fence that separates our property's, in case of a fire it would ignite the fence along with a tree and vehicles that are parked in our drive way. Mr. Gonzalez has multiple storage rooms that also sit less than 5 feet from property line that if we build structure on side of our home

NAME: Pablo Barrientos

ADDRESS: 3266 East 13th

San Angelo, TX 76903

SIGNATURE: 

ZBA18-01: Gonzalez

Property owner number: 2

If you have any questions about these proceedings, please call Hillary Bueker, Senior Planner, with the City of San Angelo's Planning Division at (325) 657-4210 or by email at hillary.bueker@cosatx.us.

being with city and state regulations it would still be a safety issue.

Looking from our back yard over the top of Mr. Gonzalez's fence towards his house you can clearly see everything built out his house is all to close together. A fire would destroy it all including his house.

Looking at his fence from front to back and where it sits we will be having our property line lined out to us soon.

We do not see any reason as to why Mr. Gonzalez should be allowed to break rules.

Zoning codes, building and planning ordinances exist for the good of the community. We all have to follow regulations that includes Mr. Gonzalez.

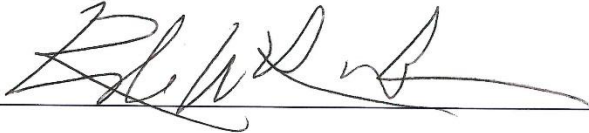
TO BE FORMALLY ON RECORD IN FAVOR OR AGAINST THIS REQUEST, YOU MAY ALSO FILL OUT THIS FORM, SIGN IT AND MAIL IT BACK TO THE PLANNING DIVISION AT 72 W COLLEGE STREET IN SAN ANGELO, TEXAS 76903.

IN FAVOR () IN OPPOSITION

REASON(S) _____

NAME: Richard Burdine

ADDRESS: 1717 Woodridge Dr.
Abilene TX 79605

SIGNATURE: 

ZBA18-01: Gonzalez

Property owner number: 3

If you have any questions about these proceedings, please call Hillary Bueker, Senior Planner, with the City of San Angelo's Planning Division at (325) 657-4210 or by email at hillary.bueker@cosatx.us.

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() IN FAVOR () IN OPPOSITION

REASON(S) _____

The proposal appears to be in order. No objections.

Thank you

(j)

NAME: Louis A. Perez

ADDRESS: _____

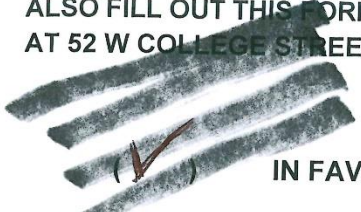
SIGNATURE: _____

ZBA18-01: Gonzalez

Property owner number: 22

If you have any questions about these proceedings, please call Hillary Bueker, Senior Planner, with the City of San Angelo's Planning Division at (325) 657-4210 or by email at hillary.bueker@cosatx.us.

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IN FAVOR

IN OPPOSITION

REASON(S) _____

NAME: Mary Sylvia Pierce

ADDRESS: 313 EAST 14 ST

SAN ANGELO TX 76903

SIGNATURE: Mary Sylvia Pierce

ZBA18-01: Gonzalez

Property owner number: 23

If you have any questions about these proceedings, please call Hillary Bueker, Senior Planner, with the City of San Angelo's Planning Division at telephone number (325) 657-4210. The Planning Division staff may also be reached by email at hillary.bueker@cosatx.us.

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() IN FAVOR () IN OPPOSITION

REASON(S) _____

NAME: Isabel and Tony Salazar

ADDRESS: 317 East 13th Street
San Angelo, TX 76903

SIGNATURE: Isabel & Tony Salazar

ZBA18-01: Gonzalez

Property owner number: 26

If you have any questions about these proceedings, please call Hillary Bueker, Senior Planner, with the City of San Angelo's Planning Division at telephone number (325) 657-4210. The Planning Division staff may also be reached by email at hillary.bueker@cosatx.us.

**ZONING BOARD OF ADJUSTMENT – September 10, 2018
STAFF REPORT**



| | |
|--------------------------|-------------------------|
| APPLICATION TYPE: | CASE: |
| Variance | ZBA18-08: Favre, Mickey |

SYNOPSIS:

This request is for variance from Section 501.A. of the Zoning Ordinance, to allow for a 5’ foot rear-yard setback along the east property line in lieu of 20 feet and to allow for a 5’ foot side-yard setback along the south property line in lieu of 10 feet within the General Commercial/Heavy Commercial (CG/CH) Zoning District. The subject property is an existing apartment complex that was originally built in 1977. In 1998, a second building with storage was added. Currently the storage building built in 1977, the storage building built in 1998, and the pump shed for the pool are all encroaching into the setbacks. The applicant is proposing to build two new structures, which will serve as bedrooms for guests, on the property’s southeast corner. One of those structures will encroach into the required rear and side yards of the property. Staff believes this is not an appropriate placement of the structure and if the applicant were to make the building smaller, he would not need to apply for a variance. If the variance is approved, the applicant will also need to receive approval on a Conditional Use for Household Living in the CG/CH Zoning District. As such, the applicant is scheduled on the Planning Commission’s Agenda for August 20, 2018.

| | |
|--|--|
| LOCATION: | LEGAL DESCRIPTION: |
| 4122 Forest Trail; generally located at the intersection of Forest Trail and Willow Brook Drive Street | Being 0.64 acres in the in the College Hills South Addition, N110 ft. of W225’, being .056 acres & 0.0773 out of NW Part Section 30, City of San Angelo, Texas |

| | | | |
|---|---|-------------------------|--------------|
| SM DISTRICT / NEIGHBORHOOD: | ZONING: | FUTURE LAND USE: | SIZE: |
| SMD District #6 – Billie DeWitt Sunset Neighborhood | CG/CH General Commercial/Heavy Commercial | N – Neighborhood | 0.64 acres |

THOROUGHFARE PLAN:

Forest Trail – Urban Local Street
 Required: 50’ right-of-way, 40’ pavement or 36’ pavement with a 4-foot-wide sidewalk
 Provided: 55’ right-of-way, 36’ pavement with no sidewalk

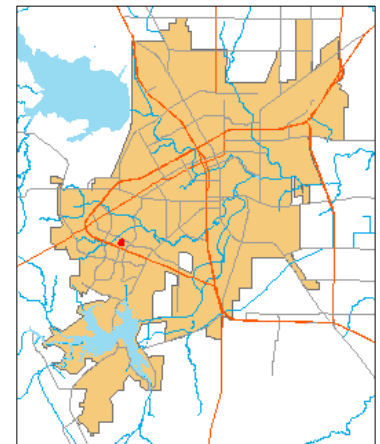
NOTIFICATIONS:

23 notifications were mailed out within a 200-foot radius on July 20, 2018. Staff has received two letters in support and zero in opposition.

STAFF RECOMMENDATION:

Staff recommends that the Zoning Board of Adjustment **DENY** a Variance from Section 501.A. of the Zoning Ordinance to allow for a 5’ foot rear-yard setback along the east property line in lieu of 20 feet and to allow for a 5’ foot side-yard setback along the south property line in lieu of 10 feet.

| |
|--|
| PROPERTY OWNER/PETITIONER: |
| <i>Property Owners:</i> Michael Favre |
| STAFF CONTACT: |
| Kristina Heredia, Planner (325) 657-4210, Extension 1546 Kristina.Heredia@cosatx.us |



VariANCES: 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 applicant's apartment building is considered legal non-conforming today due to the zoning of CG/CH and the setback encroachments. This means that the current buildings are allowed to continue to exist in their current location. However, staff does not believe that this constitutes a special circumstance to allow the applicant to continue to build within his required setbacks, thus further extending the line of encroachment. If the applicant were to move his proposed buildings, or make them smaller, then there would be no need to apply for a variance.

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

While the applicant may not have built the original construction of the non-conforming buildings, he is responsible for the proposed structures and their encroachment into the required setback will directly be a result of his actions.

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.**

Since the property's status of legal non-conforming allows the apartment complex to continue to exist under the Zoning Ordinance, there are no rights of the applicant that are being deprived. Rather, the applicant's request to continue to develop within the rear and side-yard setbacks exacerbates the encroachment on the property, and if the variance is granted, will require the apartment complex receive approval of a Conditional Use in order to continue functioning as the additions would trigger authorizations from the City beyond what the property is grandfathered for.

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.**

While it would appear that granting this variance would be the minimum action needed to allow the property owner to construct the new bedrooms, there is the potential that if a variance was approved, additional construction would be allowed to encroach under the guise of this approved variance. The intent of the legal nonconforming status in the Zoning Ordinance is to identify and protect uses that do not conform to today's regulatory standards, but that lawfully occupied the land prior to 2000. It was never intended to allow legal nonconforming uses to further perpetuate nonconformities in an arbitrarily manner, without special circumstance.

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

While the applicant wishes to construct the bedrooms to the rear of his property, and feels that this would not affect the surrounding property, staff has concerns that the new buildings could propose a safety concern by being too close to the existing buildings on the adjacent property. Moreover, there is no way to be certain of its effect on the environment, particularly drainage.

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

The purpose of the Zoning Ordinance is to ensure development occurs in a manner that is compatible with the surrounding land uses, while still maintaining the appropriate setbacks. The applicant's property is fully developed and the intent of the legal non-conforming status within the Zoning Ordinance is to protect property owners in this situation. The applicant wishes to expand the number of nonconforming buildings by continuing to develop within the required setbacks. This violates the purpose and intent of the ZO, which clearly states in Section 602.B that "no nonconforming structure may be enlarged, expanded or extended in such a manner that it shall be made more nonconforming."

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 has indicated that he believes he has a special circumstance in that the apartment complex is pre-existing and already encroaches into the setbacks. Furthermore since the new development is towards the rear of the property, the applicant does not feel there is a material change that could negatively affect his land or the surrounding properties.

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 Adjustment **DENY** a Variance from Section 501.A. of the Zoning Ordinance to allow for a 5' foot rear-yard setback along the east property line in lieu of 20 feet and to allow for a 5' foot side-yard setback along the south property line in lieu of 10 feet.

Attachments:

Aerial Map
Future Land Use Map
Zoning Map
Notification Map
Site Plan
Photographs



Aerial Map

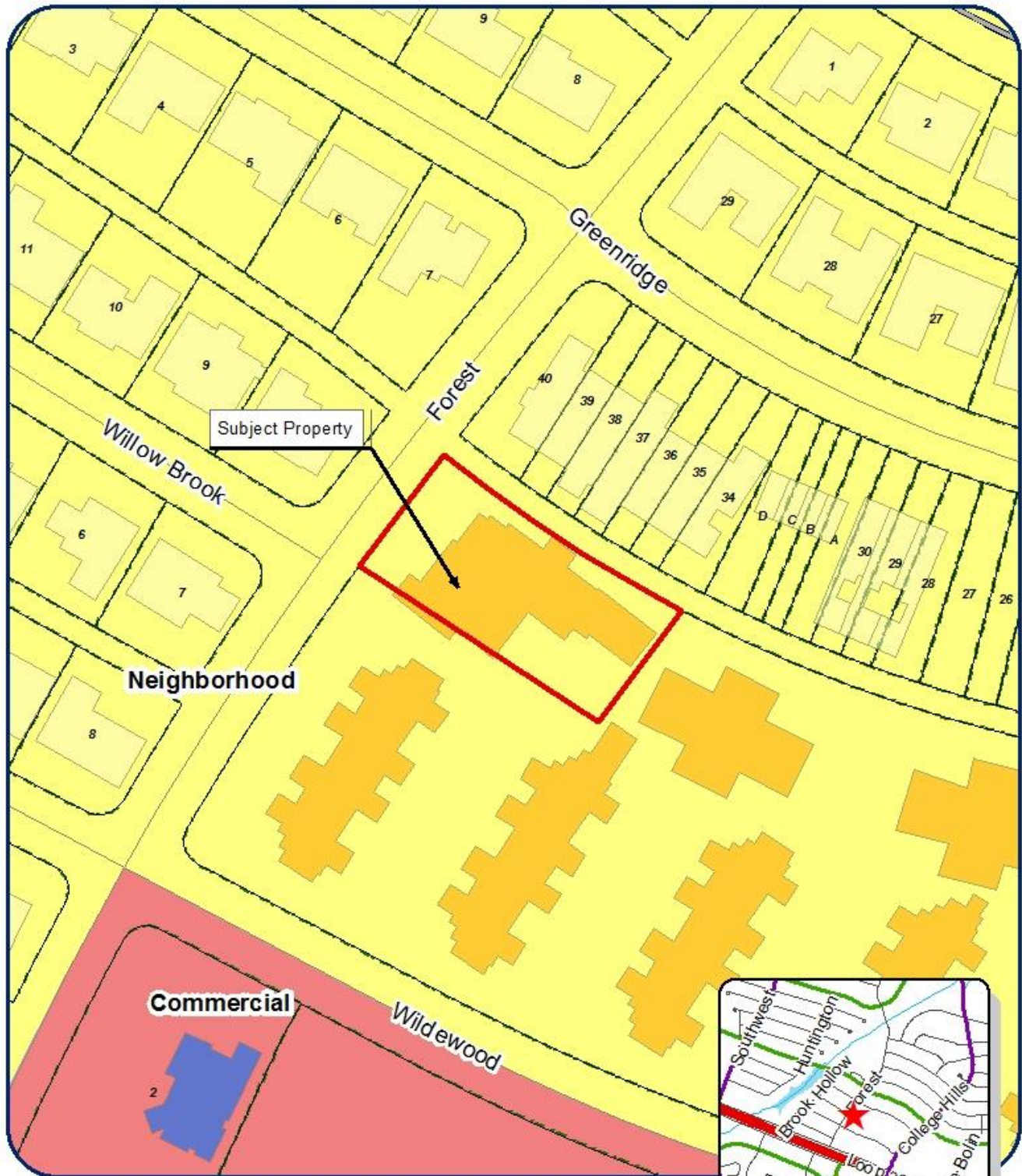
Case ZBA18-08

Council District: Billie DeWitt SMD # 6
Neighborhood: Sunset
Scale: 1" approx. = 100 ft

Legend

- Subject Properties: —
- Current Zoning: CG/CH
- Requested Zoning Change: N/A
- Vision: Neighborhood






Future Land Use Map

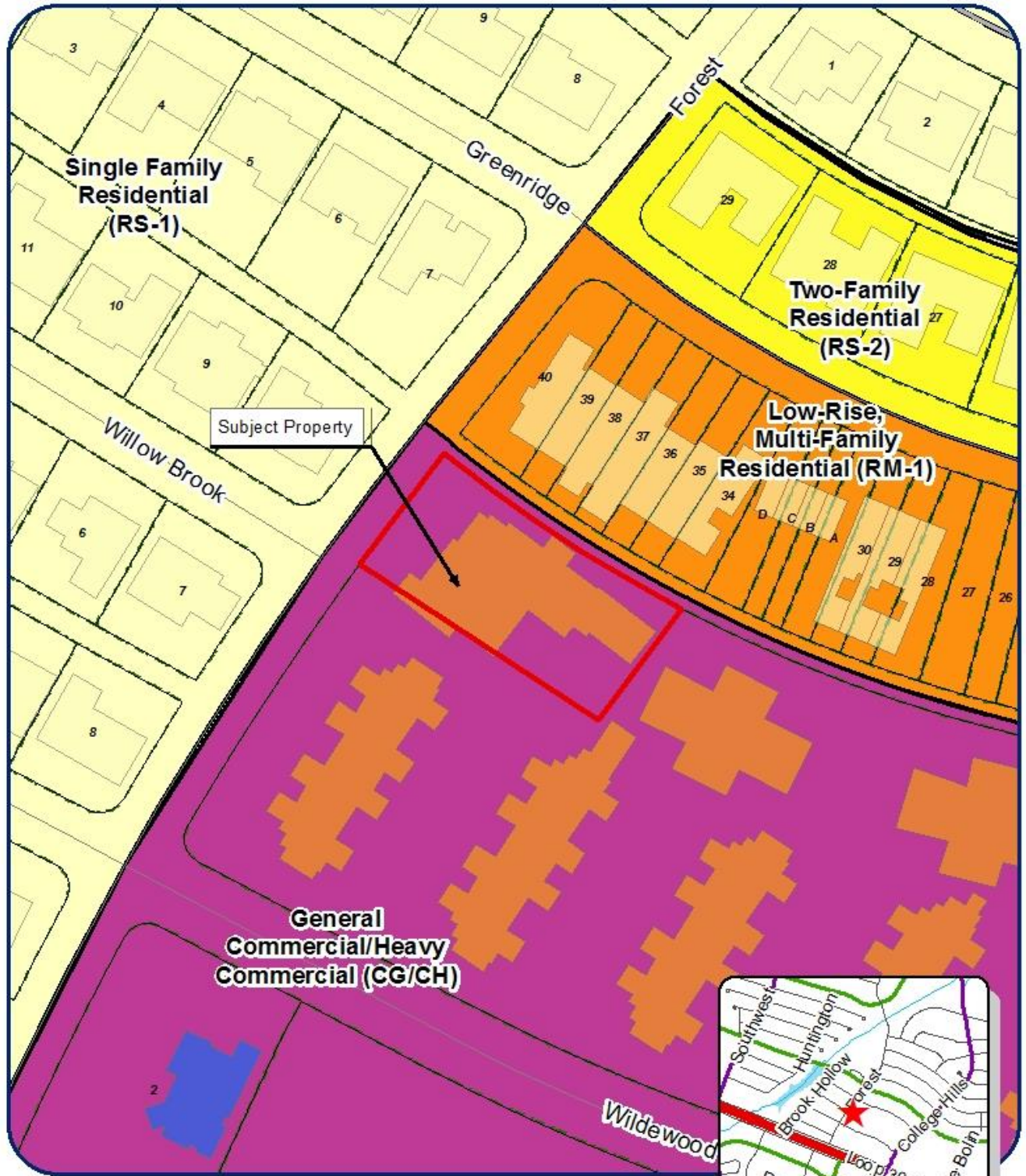
Case ZBA18-08

Council District: Billie DeWitt SMD # 6
Neighborhood: Sunset
Scale: 1" approx. = 100 ft

Legend

- Subject Properties: 
- Current Zoning: **CG/CH**
- Requested Zoning Change: **N/A**
- Vision: **Neighborhood**





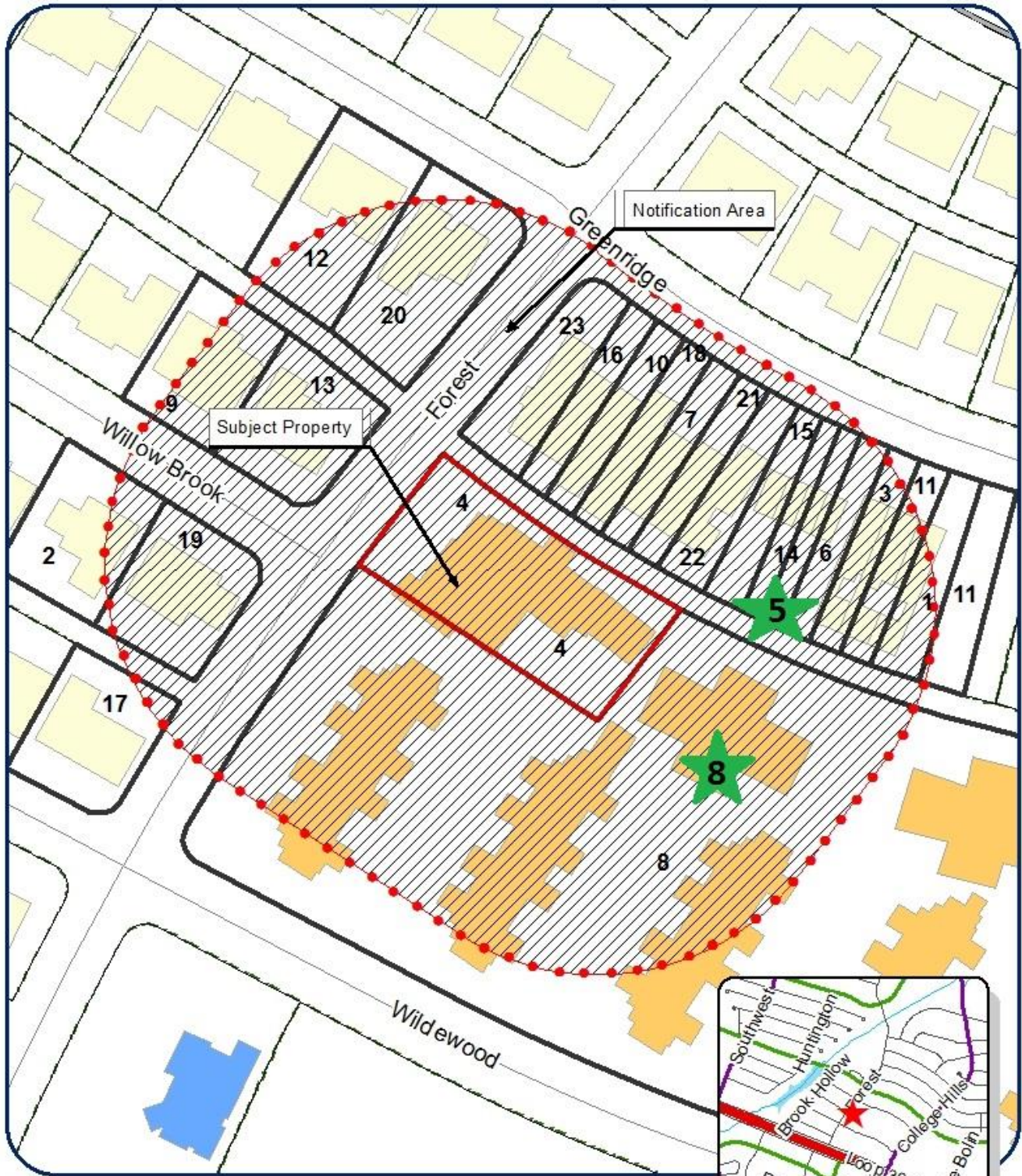
Zoning Map
Case ZBA18-08

Council District: Billie DeWitt SMD # 6
 Neighborhood: Sunset
 Scale: 1" approx. = 100 ft

Legend

- Subject Properties: ▬
- Current Zoning: CG/CH
- Requested Zoning Change: N/A
- Vision: Neighborhood





Notification Map
Case ZBA18-08

Council District: Billie DeWitt SMD # 6
Neighborhood: Sunset
Scale: 1" approx. = 100 ft

Legend

- Subject Properties: —
- Current Zoning: CG/CH
- Requested Zoning Change: N/A
- Vision: Neighborhood

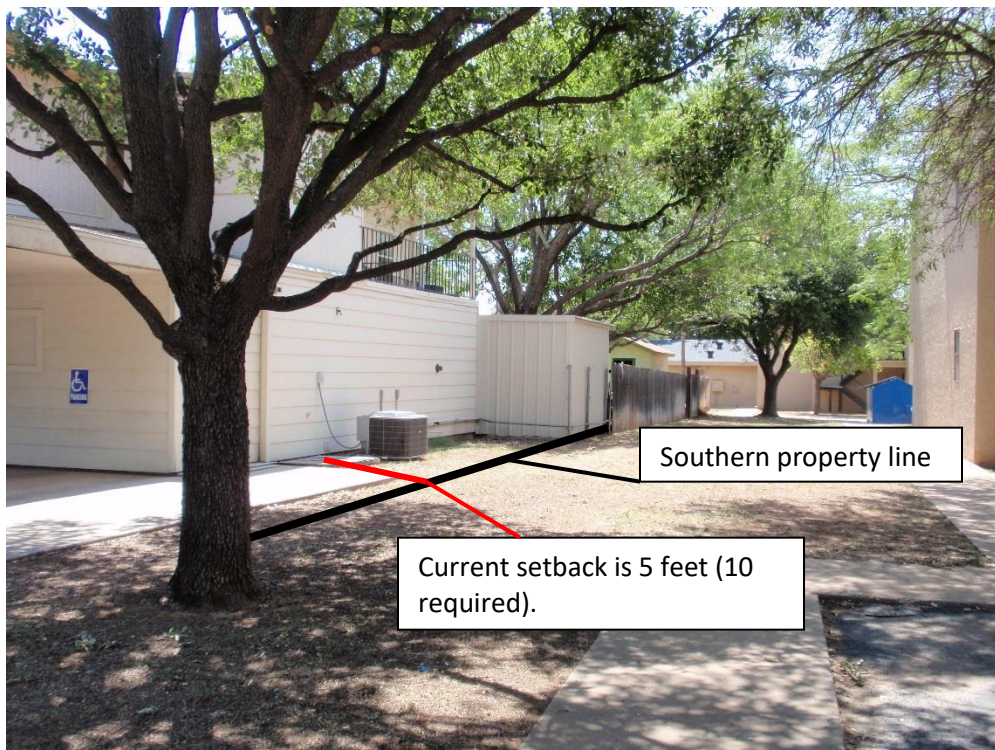


SITE PHOTOS

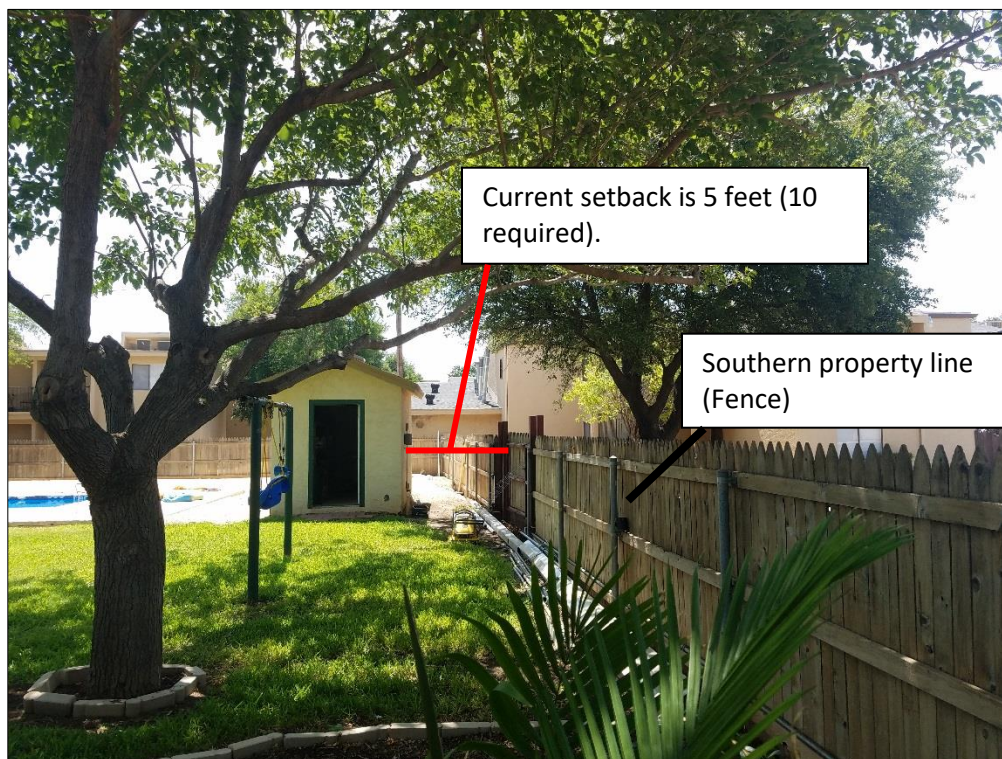
Front of Property (West Side)



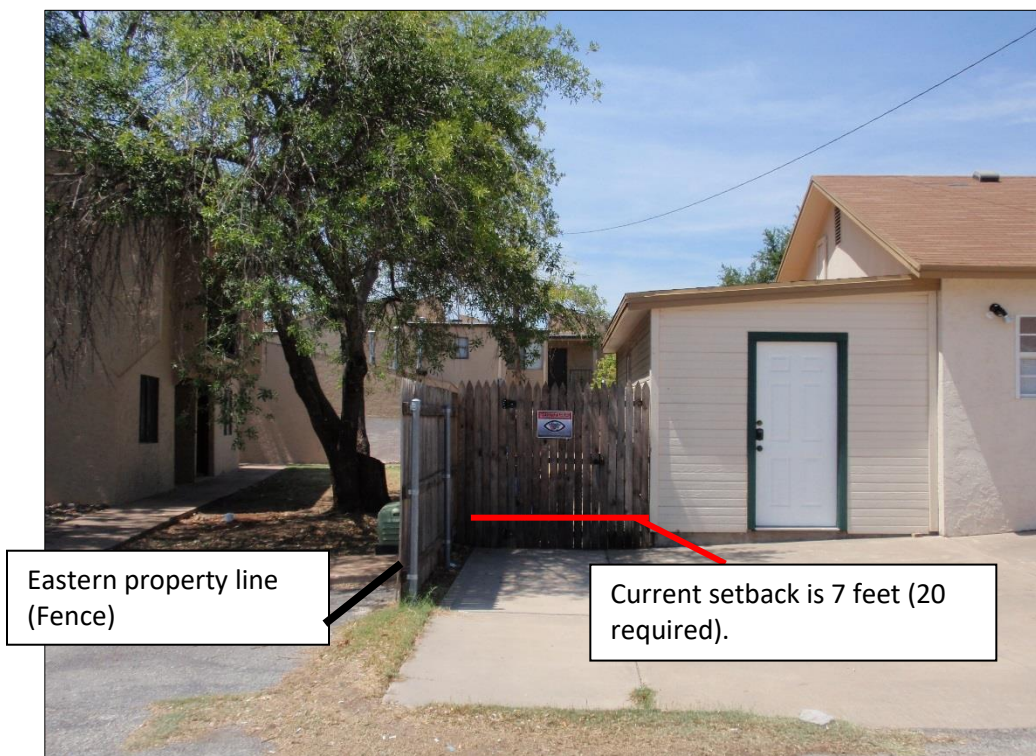
South Side-Current Encroachment of Storage (1977)



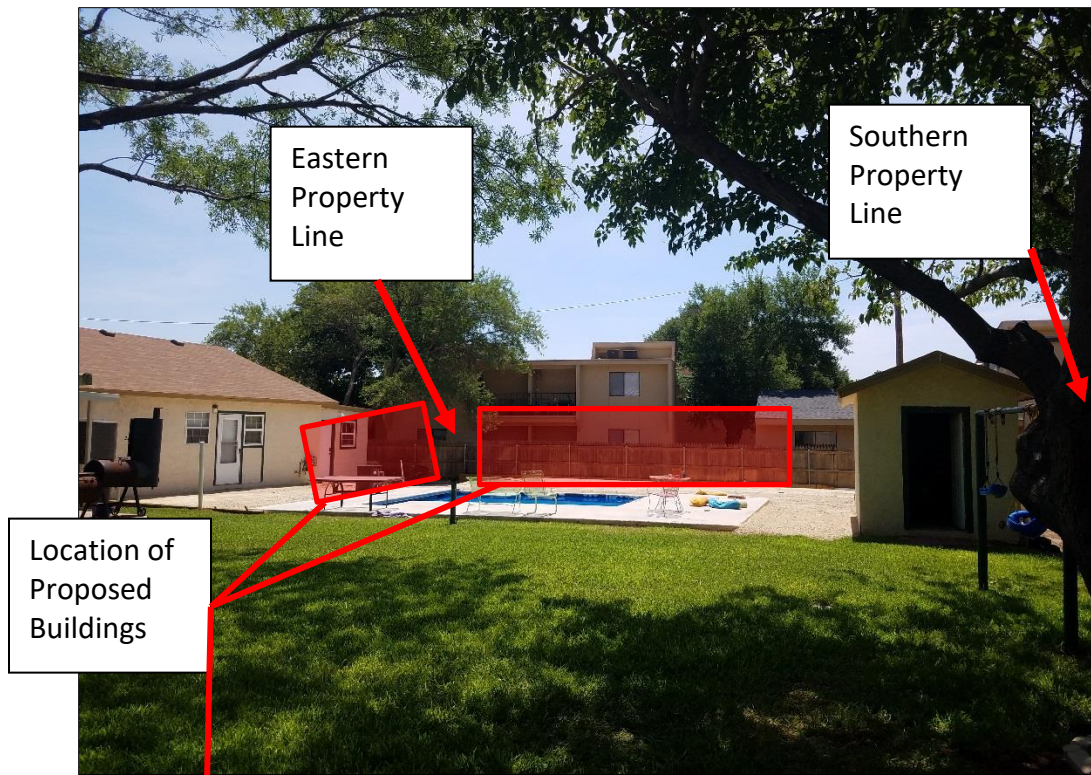
South Side-Current Encroachment of Pool Pump Shed



East Side-Current Encroachment of Storage (1998)



Proposed Location of New Buildings in the Rear-Yard Setback (East)



View from Adjacent Property to the East, behind Proposed Buildings



ZONING BOARD OF ADJUSTMENT – September 10, 2018

STAFF REPORT



| | |
|--------------------------|--------------------|
| APPLICATION TYPE: | CASE: |
| Variance | ZBA18-11: Longoria |

SYNOPSIS:

The applicant has applied for variances from the rear and side yard setbacks to allow an existing 840-square foot metal carport and 215-square foot accessory structure located in the rear yard of the property zoned Single-Family Residential (RS-1). The applicant received a Notice of Violation (18-2157) from the Permits and Inspections Division on May 3, 2018 for the metal carport erected without a permit. The carport is only 17 feet from the center of the 15-foot wide rear alley and one foot from the west side property line in lieu of the required 20-foot rear yard and 5-foot side yard setbacks respectively, requiring variances. The Planning Division further determined that the existing accessory structure in the rear yard was also erected without a permit and requires a variance to allow a 0-foot east side yard setback in lieu of the required 5 feet. The applicant has subsequently applied for a building permit for the carport which is pending the result of this variance request (see Additional Information).

| | |
|---|---|
| LOCATION: | LEGAL DESCRIPTION: |
| 507 Stephen Street; generally located southwest of Stephen Street and Linda Lee Drive | Lot 4 in Block 3 of the Neal C. Clayton Subdivision, comprising a total of 0.15 acres |

| | | | |
|---|----------------------------------|-------------------------|--------------|
| SM DISTRICT / NEIGHBORHOOD: | ZONING: | FUTURE LAND USE: | SIZE: |
| SMD District #4 – Lucy Gonzales Belaire Neighborhood | RS-1 – Single-Family Residential | N - Neighborhood | 0.15 acres |

THOROUGHFARE PLAN:

Stephen Street – Urban Local Street
 Required: 50’ right-of-way, 40’ pavement, or 36’ pavement with 4’ sidewalk; Provided: 50’ right-of-way, 32’ pavement and a 4-foot sidewalk (complied with standards at time of platting)

NOTIFICATIONS:

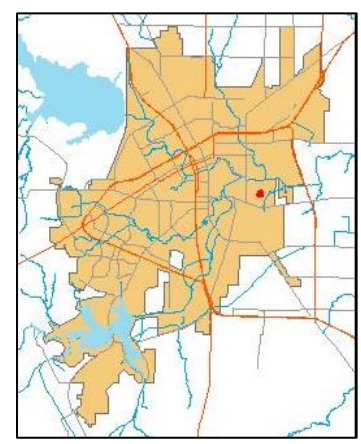
24 notifications were mailed within a 200-foot radius on July 24, 2018 with re-notifications on August 8 and 28, 2018. Six letters have been received in support and none in opposition to date.

STAFF RECOMMENDATION:

Staff’s recommendation is for the Zoning Board of Adjustment (ZBA) to **DENY** the following: (1) a Variance from Section 402.A.1.b of the Zoning Ordinance to allow an attached carport that is substantially open with a minimum 17-foot rear yard setback measured from the adjoining alley’s centerline in lieu of the required 20 feet; (2) a Variance from Section 501.A of the Zoning Ordinance to allow an attached carport with a minimum setback of one foot from the west side yard in lieu of the required 5 feet; and (3) a Variance from Section 501.A of the Zoning Ordinance to allow an attached accessory structure with a zero foot setback from the east side yard in lieu of the required 5 feet, within the Single-Family Residential (RS-1) Zoning District.

| |
|---|
| PROPERTY OWNER/PETITIONER: |
| <i>Property Owner and Applicant:</i> Mr. Jerry G. Longoria |

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



Additional Information: The applicant indicates that the purpose of the carport is to provide shade and storage of his two vehicles and outdoor patio, and includes a flat portion to the west of the house for an outdoor patio. The accessory structure is used for storage of the applicant's boat. The carport is 17 feet tall and substantially open with a vertical clearance of 7 ½ feet at its lowest point, allowing the rear setback to be measured to the centerline of the alley and not the rear property line. The property is located within the Open Structure Overlay Zone but does not qualify for reduced side yard setbacks of 2 feet because both structures are made of metal inconsistent with the main building asphalt shingled roof. There is no garage or carport at the front of the home, and there is an existing driveway that can parking one vehicle. The original house was built in 1951, according to the Tom Green County Appraisal District, and subsequent permits were obtained for the existing 140-square foot rear shed (August 1, 1985, Permit #879); house addition (March 16, 1988, #880163P), and 6-foot high privacy fence (June 20, 1988, Permit #881149). The applicant indicates that the small accessory structure was constructed in the late 1980s. The Planning Division was unable to find any permit for this structure, and the Permits Division has confirmed that this structure would have required a permit in the late 1980s. Therefore, this structure in addition to requiring a variance for its east side yard setback, also requires a permit if the variance is approved.

Research: In order for the Zoning Board of Adjustment (ZBA) to approve a variance, the applicant must satisfy all of the criteria below, and demonstrate a special circumstance resulting in an unnecessary hardship. This circumstance must be related to the "size, shape, area, topography, surrounding conditions or location that do not generally apply to other property in the same zoning district" (see below). To best determine whether this property has a unique circumstance resulting in a hardship, the Planning Division researched previous variance cases within a 500-foot radius of the property, and conducted a site assessment of the subject property and the nine other properties within the same development block beside and behind the property, all zoned RS-1.

Zoning Compliance within the same development block:

The Planning Division found that the nine other properties within the development block appear to comply with the required rear and side yard zoning setbacks in the RS-1 district. Two properties, 505 Stephen Street and 508 Medina Street, have carports located in the required front yard and no permit records can be found. Section 402.A of the Zoning Ordinance requires that where an accessory structure is located within 10 feet of a principal building, it shall have the same rear and side setbacks as the principal building, in this case, a 20-foot rear yard setback and 5-foot side yard setback. If the structure, such as a carport, is substantially open (at least 7 ½ feet of clearance excluding support posts), the rear yard setback may be measured to the centerline of the alley. If the accessory structure is at least 10 feet away from the home, it may have a reduced setback of 0 feet to the rear property line abutting an alley, and 2 feet to the side lot lines. Properties on this block including 506 and 510 Medina Street with accessory structures within 10 feet of the house appear to be at least 20 feet from the centerline of the alley in compliance. Properties with accessory structures at least 10 feet away from the house such as 504 and 508 Medina Street, and 505 Stephen Street, appear to be at least 0 feet from the rear and 2 feet from the side property lines as required. Regardless, any non-complying structures would be subject to the same zoning standards as the subject property, and require variances for any deficiencies.

Variance case history within 500 feet of property:

The Planning Division found four previous variance cases related to accessory structure setbacks. Two were approved and two were denied:

- **ZBA17-22**, 1522 Linda Lee Drive (December 11, 2017): The ZBA **approved** a metal carport with a 5-foot front yard setback but required the carport's roofline to be modified to be generally consistent with the roof pitch, colors and texture of the main residence. This reduced front setback to 5 feet (normally 25 feet) is allowed in the Open Structure Overlay Zone if the structure's materials, character and appearance are consistent with those of the main dwelling. The Planning Division recommended denial of this request believing a hardship was not demonstrated. The ZBA decision allowed the applicants to maintain a metal roof but modify the structure to match all other elements consistent with the main dwelling.
- **ZBA03-28**, 1153 Linda Lee Drive (July 7, 2003): The ZBA **approved** an 18-foot front yard setback for an open carport and porch in lieu of the required 25 feet provided the structure match the materials and roof pitch of the main dwelling. The Planning Division recommended denial, arguing that the reduced setback was incompatible with surrounding properties, most of which maintained 25-foot front yard setbacks. The Planning Director did approve a 2-foot side yard setback for this structure as the Zoning Ordinance at the time allowed the Director to administratively approve reduced front or side yard setbacks if certain criteria was met. In this case, the Planning Director believed there was a unique circumstance given the side yard faced a 20-foot wide alley facing the rear yard of the nearest property.
- **ZBA1659**, 1511 Wynne Avenue (November 17, 1987): The ZBA **denied** a request to allow an existing carport built without a permit with a 5-foot front yard setback in lieu of the required 25-foot front yard setback. The ZBA denied the request stating concerns about depreciating property values of surrounding homes.
- **ZBA1634**, 1511 Wynne Avenue (June 16, 1987): The ZBA **denied** a request to allow an existing carport built without a permit with a 5-foot front yard setback in lieu of the required 25-foot front yard setback. The ZBA denied the request stating concerns about depreciating property values of surrounding homes.

In the cases above, the Planning Division was consistent in recommending denial where the Division believed there was not a special circumstance or hardship. The administrative adjustment granted by the Planning Director for case ZBA03-28 was believed to be a special circumstance given that it was for a side yard facing an alley and another property's rear yard further behind the alley. This lot configuration is atypical. The Planning Division does not believe the subject request below has demonstrated a hardship or similar circumstance and is recommending **denial (see below)**.

Allowed Variances:

In exercising its authority to grant a variance, per Section 207.D of the Zoning Ordinance, the Zoning Board of Adjustment (ZBA) must affirmatively find that one or more circumstances applies (see below). If determined that one or more of the circumstances do not apply, the variance request will be automatically denied. If one or more of these circumstances do apply, the ZBA must then determine if various criteria have been met. The Planning Division has reviewed the three circumstances below and believe that the proposed request does **not** meet any of the circumstances and the variance should therefore be **DENIED**.

A brief synopsis of each of the circumstances are provided below:

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 given that the front driveway is too narrow to park additional vehicles, and a carport cannot be built here due to inadequate space. The Planning Division understands that lack of front yard space is inconvenient for the applicant, but that an inconvenience does not reach the level of a hardship or special circumstance. All of the homes within this development block were also built within the 1950s close to the 25-foot front yard setback. None of these homes were granted variances, and as indicated above, three of the four variance cases within 500 feet of the property were denied setback variances, and the one approved required substantial changes to the carport to be more in character with the home (ZBA17-22). In addition, this carport covers 45% of the rear yard space behind the dwelling, a substantial amount of coverage for a rear yard structure. Even though it is substantially open and does not constitute floor area as defined in the Zoning Ordinance, this carport itself covers almost half of the rear yard, and matches the height of the home's roof line on one side. Two parking spaces in the Zoning Ordinance would require only 18 feet in width and the carport is over 40 feet wide. The Planning Division believes that the applicant could reduce the size of the carport and still have his parking needs addressed. The Division does not believe there is a special circumstance in this case. The applicant has not provided reasons to demonstrate a hardship for the small accessory structure either. This structure was also erected without a permit and could be moved back 5 feet to comply with the required side yard setback.

2. **OVERRIDING PUBLIC INTEREST.** *If the variance will 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.*

The Planning Division has not found an overriding public interest for either structure in their current locations on the property. The applicant erected both structures without permits and is now in attempting to memorialize the structures through this variance request. As indicated previously, the other surrounding properties appear to comply with their required rear and side yard setbacks and the Planning Division has been consistent at recommending denial of similar variance requests.

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.*

If the variance was denied, the Planning Division does not believe there would be an extraordinary

circumstance for the applicant. While additional expenses may be required for the applicant to reduce or relocate the structures to comply with the Zoning Ordinance, financial considerations cannot be used in variance decisions under the Zoning Ordinance. Denying the request as submitted would be consistent with the intent statements of the Zoning Ordinance under Section 104 which include “to protect the character and the established pattern of desirable development in each area” and to “maintain property values by stabilizing expectations and ensuring predictability in development.” Allowing a large structure that does not meet the required zoning setbacks would be creating a precedent for further undesirable development.

Variances:

For the reasons above, the Planning Division does not believe that the proposed request meets any of the circumstances outlined in Section 207(D) of the Zoning Ordinance, and the variance should therefore be **DENIED**. However, should the ZBA believe that one or more of the circumstances does justify a variance, they must also rule that all of the below criteria have been met. 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 previously, the Planning Division does not believe there are circumstances peculiar to the land or structures not applicable to other land or structures in the surrounding area zoned RS-1. All of the other homes in the area were also built to the 25-foot front yard setback, requiring carports to be located in the rear or be consistent with the materials and appearance of the main dwelling in the Open Structure Overlay Zone. Research confirms that the surrounding properties were also denied variances for similar requests unless they could demonstrate a special circumstance or modifications were made.

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

The applicant erected both structures without the required permits from the City, creating the current situation. The Planning Division has indicated to the applicant he can choose to reduce the size of the carport and relocate the accessory structure to comply. The applicant, however, has decided to retain the current request and is hopeful for a favorable decision.

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 Planning Division has not found any unique attribute pertaining to the property that would warrant any of the proposed variances. The Division does not believe that denial of the variance would deprive the applicant of the same rights enjoyed by surrounding property owners. The applicant has a choice to reduce the size of the carport and shift the location of the smaller structure.

The applicant would have sufficient space to store at least two vehicles underneath the carport (18 feet wide) and still have an additional 18 feet for a patio area if 4 feet were removed from the carport on the west side yard to bring the structure into compliance.

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 does not believe the current configuration and size of the structures is the minimum action required. As indicated above, the applicant would still have sufficient space for two vehicles and storage under the carport if portions were removed to bring the carport into compliance. There is also adequate space in the rear yard to relocate the accessory structure to comply with the 5-foot side yard setback.

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

Case history on the surrounding properties confirm that the ZBA and Planning Division have been consistent in recommending denials of variances where a special circumstance or hardship could not be proven. Reasons included concerns over depreciating property values, reduced rear yard views, and contravention of the intent and purpose of the Zoning Ordinance. The Planning Division believes that approval of these structures as proposed would contravene the intent of the Zoning Ordinance to preserve and maintain consistency of setbacks and ensure that rear yard views are maintained, preventing one owner from erecting large accessory carports that would exceed lot coverage requirements if enclosed.

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

The Planning Division does believe that the existing structures in their current locations and dimensions are consistent with the intent of the Zoning Ordinance as stated above. At the very minimum, the applicant should be responsible for removing the westerly 4 feet of the carport that is located one foot from the side yard. This portion is very close to the shared property fence and could pose a fire hazard, as well as blocks portion of sunlight and the view of the adjacent neighbor.

Recommendation:

Staff's recommendation is for the Zoning Board of Adjustment (ZBA) to **DENY** the following: (1) a Variance from Section 402.A.1.b of the Zoning Ordinance to allow an attached carport that is substantially open with a minimum 17-foot rear yard setback measured from the adjoining alley's centerline in lieu of the required 20 feet; (2) a Variance from Section 501.A of the Zoning Ordinance to allow an attached carport with a minimum setback of one foot from the west side yard in lieu of the required 5 feet; and (3) a Variance from Section 501.A of the Zoning Ordinance to allow an attached accessory structure with a zero foot setback from the east side yard in lieu of the required 5 feet, on the subject property.

Attachments:

Aerial Map
Future Land Use Map
Zoning Map
Photographs
Resident Letters
Site Plan
Application



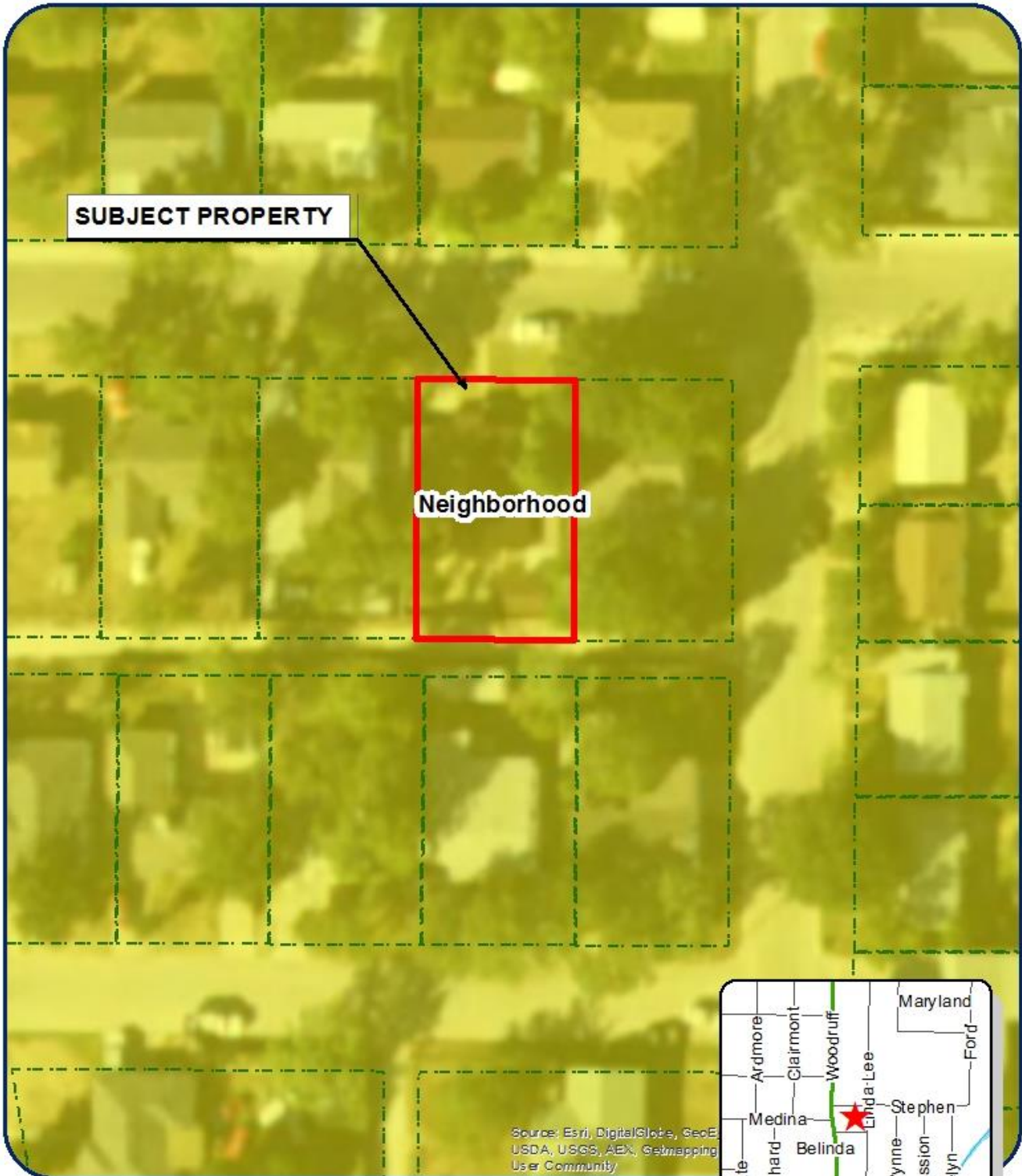
Source: Esri, DigitalGlobe, GeoEye, USDA, USGS, Aero, GeoMapping, User Community



Variance Case File
ZBA18-11: Longoria
Council District: Lucy Gonzales
Neighborhood: Belaire
Scale: 1" approx. = 50 ft
Subject Property: 507 Stephen Street

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





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



Variance Case File
ZBA18-11: Longoria
Council District: Lucy Gonzales
Neighborhood: Belaire
Scale: 1" approx. = 50 ft
Subject Property: 507 Stephen Street

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





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

Variance Case File
ZBA18-11: Longoria

Council District: Lucy Gonzales
Neighborhood: Belaire
Scale: 1" approx. = 50 ft
Subject Property: 507 Stephen Street

Legend

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



Photos of Site and Surrounding Area

WEST



EAST



NORTH



SOUTH AT SUBJECT PROPERTY (FRONT)



**SOUTH AT SUBJECT PROPERTY (FRONT)
CLOSE-UP VIEW**



**CARPORT - LARGE SECTION VIEW
(VARIANCE REQUIRED)**



Photos of Site and Surrounding Area

CARPORT – SMALL SECTION VIEW



CARPORT VIEW UNDERNEATH



CARPORT VIEW UNDERNEATH



CARPORT VIEW UNDERNEATH



**ACCESSORY COVER STRUCTURE
(VARIANCE REQUIRED)**



VIEW FROM REAR ALLEY



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

() IN FAVOR () IN OPPOSITION

REASON(S)

to present

NAME:

Alberto De Hoyas

ADDRESS:

1214 Linda Lee Dr

SIGNATURE:

Alberto De Hoyas

ZBA18-11: Longoria

property owner number:

5

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

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

IN FAVOR () IN OPPOSITION

REASON(S) _____

of an trying to grasp the City's reasoning.


1. It is His yard - none of our business what he does as long as it causes no harm to others

2. Since it is not causing harm to any one around, why waste our tax money on a hearing

Give him his variance and move on to something important like stopping speeders

NAME: *Melissa L. Frizell* *On our Streets*

ADDRESS: *504 Medina St.*

SIGNATURE: 

ZBA18-11: Longoria
property owner number: 8

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

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(X) IN FAVOR () IN OPPOSITION

REASON(S) _____

NAME: GLORIA and Julio GARZA

ADDRESS: 1206 Linda Lee
San Angelo, TX. 76905

SIGNATURE: Gloria Garza Julio Garza

ZBA18-11: Longoria
property owner number: 10

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

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() IN FAVOR () IN OPPOSITION

REASON(S) _____

NAME: Blanca Jiménez

ADDRESS: 501 Stephen

SIGNATURE: Blanca Jimenez

ZBA18-11: Longoria
property owner number: 13

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

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() IN FAVOR () IN OPPOSITION

REASON(S) Mr. Longoria whatever he does
in his house it doesn't bother me
or he can do whatever he wants
to his house that's my opinion

NAME: Santos Moreno

ADDRESS: 508 Stephen

San Angelo TX 76905

SIGNATURE: Santos Moreno

ZBA18-11: Longoria

property owner number: 16

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

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IN FAVOR

IN OPPOSITION

REASON(S) _____

NAME: Mr + Mrs Robert T. Surin Sr.

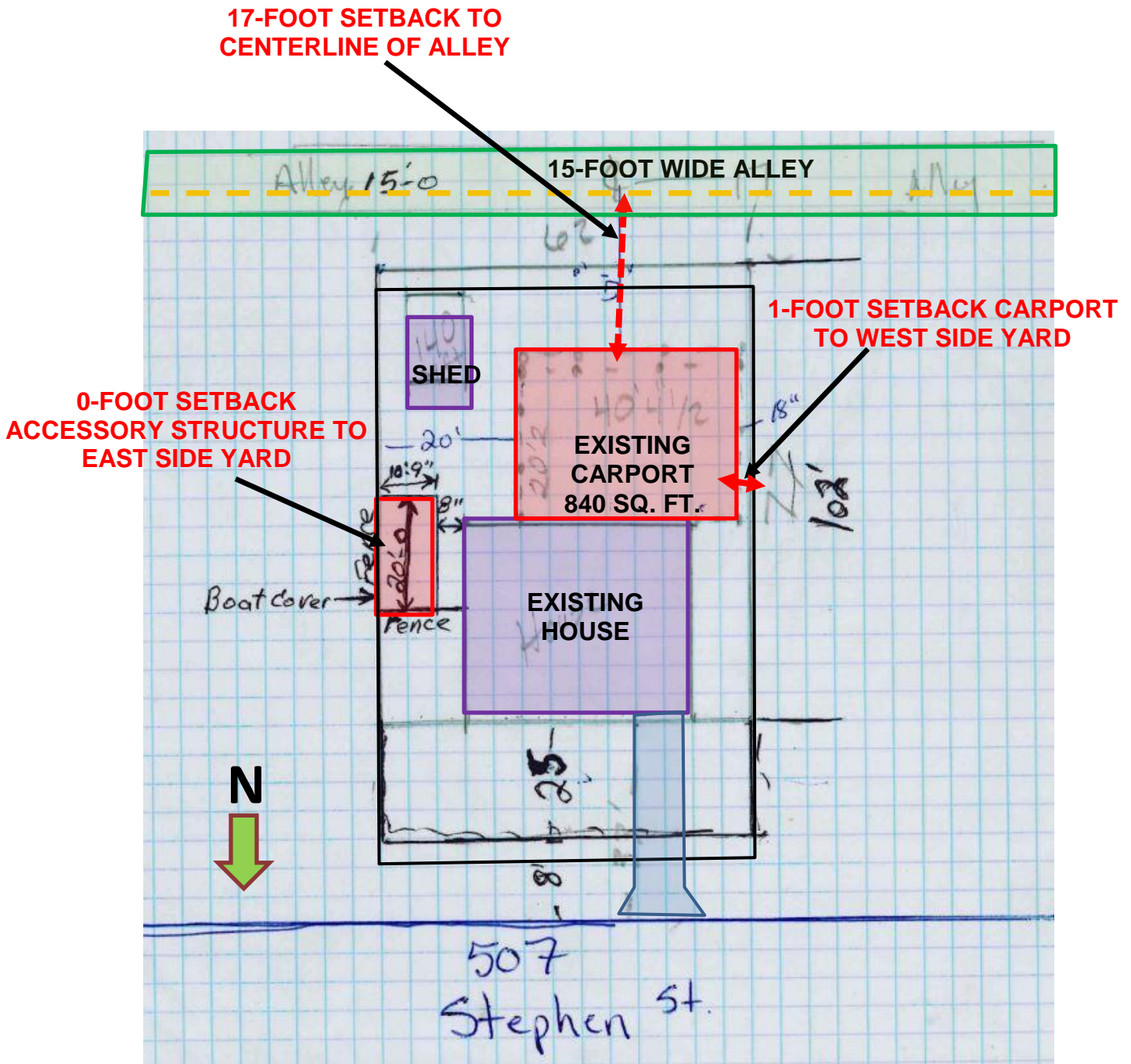
ADDRESS: 509 Stephen

SIGNATURE: Robert T. Surin 9-26-2018

ZBA18-11: Longoria
property owner number: 22

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

Site Plan (**Variances Requested**)



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: House was ^{built} 1951 at current ^{set back} insufficient room in front to erect
carport Boat structure has been there since late 1980's

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: our nearby neighbors understand and feel the same
about the recessions and obstacle on this street
So far I have seen two carports build that run up to the property
fence

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: It would free up space in what now is a congestion
in front yard or street 507 Stephen St. No other Variances
Needed

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

Explanation: we have added rain gutters to keep rain off of
neighbors lawn

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

Explanation: We understand the zoning purpose but we ask for the
sole purpose to keep our vehicles safe off the street.

Effective January 3, 2017

Section 4: Applicant(s) Acknowledgement

Please initial the following:

JL 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;

JL 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;

JL 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

JL 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.

Jerry G. Longoria
Signature of licensee or authorized representative

6-5-18
Date

Jerry G. Longoria
Printed name of licensee or authorized representative

R & R Welding
Name of business/Entity of representative

FOR OFFICE USE ONLY:

Reviewed/Accepted by: J. Fisher

Date: 6, 13, 2018

Case No.: ZBA: 18 - 11

ZBA Hearing Date: 8, 6, 2018

Fully-Dimensioned and scaled Site Plan: Yes No

Date of Application: 6, 13, 2018

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

Date paid: 6, 13, 2018

Ordinance section(s) from which variance(s) is/are requested: SO1.A, 40a.A.L6

**ZONING BOARD OF ADJUSTMENT – September 10, 2018
STAFF REPORT**



| | | | |
|---|--|---|--------------------------------------|
| APPLICATION TYPE: | | CASE: | |
| Variances | | ZBA18-17: Bell | |
| SYNOPSIS: | | | |
| <p>The applicant has applied for variances from the side yard setbacks to allow for construction of a new home on a property zoned Zero Lot Line, Twinhome and Townhome Residential (RS-3). The lot was originally planned to be a zero lot line home with the 0-1' maximum side yard along the west side of the property. The neighboring Single-Family (RS-1) property constructed an accessory structure approximately 4 feet from the above referenced shared lot line which would result in the new home and the existing accessory structure only being separated by 5 feet. This separation is not optimal from a public safety prospective.</p> | | | |
| LOCATION: | | LEGAL DESCRIPTION: | |
| 5920 Southampton Place | | Lot 22, Block 32, Section 14, The Bluffs Addition | |
| SM DISTRICT / NEIGHBORHOOD: | | ZONING: | FUTURE LAND USE: SIZE: |
| SMD District #6 – Billie DeWitt Bluffs Neighborhood | | RS-3 – Zero Lot Line, Twinhome and Townhome Residence | N - Neighborhood 0.28 acres |
| THOROUGHFARE PLAN: | | | |
| <p><i>Southampton Place</i> – Urban Local Street, 50' right-of-way required (50' provided), 40' pavement, or 36' pavement with 4' sidewalk required (40' Provided)</p> | | | |
| NOTIFICATIONS: | | | |
| <p>19 notifications were mailed within a 200-foot radius on August 28, 2018. Zero letters have been received in support or opposition.</p> | | | |
| STAFF RECOMMENDATION: | | | |
| <p>Staff's recommendation is to Approve the following:</p> <ul style="list-style-type: none"> • A Variance from Section 501.A of the Zoning Ordinance to allow for one side yard to have a six (6) foot setback in lieu of the required maximum 0-1 foot; and • A Variance from Section 501.A of the Zoning Ordinance to allow for the other side yard to have a six and a half (6.5) foot setback in lieu of the required Ten (10) foot. <p>Subject to one Condition of Approval</p> | | | |
| PROPERTY OWNER/PETITIONER: | | | |
| Randy Bell & Gerrit Dragt | | | |
| STAFF CONTACT: | | | |
| <p>Hillary Bueker, AICP Senior Planner (325) 657-4210, Extension 1547 hillary.bueker@cosatx.us</p> | | | |

Allowed Variances:

In exercising its authority to grant a variance, per Section 207.D of the Zoning Ordinance, the Zoning Board of Adjustment (ZBA) must affirmatively find that one or more of the circumstances below applies. If determined that one or more of the circumstances do not apply, the variance request will be automatically denied. If one or more of these circumstances do apply, the ZBA must then determine if various criteria have been met.

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 and Planning Staff believe that special circumstances exist on the property related to the shape and surrounding conditions that do not generally apply to other property in the RS-3 zoning district. With the existing accessory structure for the neighboring RS-1 lot being 4' from the zero lot line, this creates a unique condition for this lot. If the zero lot line is maintained the structures could only be 5 foot apart maximum when generally the zoning ordinance maintains a 10 foot separation.

2. **OVERRIDING PUBLIC INTEREST.** *If the variance will 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.*

Variances:

Should the ZBA agree that one or more of the circumstances above does justify a variance, they must also rule that all of the below criteria have been met. 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 stated above the applicant and planning staff believe a special circumstance exists because of the accessory structure be located 4 foot from the zero lot line of the property zoned RS-3. If the

proposed home were to be built with the 0-1 foot maximum building setback, the existing accessory structure and the new home would only be 5 foot separated maximum.

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

The neighbor at 5925 Lyndhurst Drive permitted and built an accessory structure in an RS-1 lot with a 4 foot side yard setback. In RS-1 and RS-2 lots accessory structure that are detached more than 10 feet away from a primary residence can reduce the side yard setback to 2 feet per Section 402.A.1 of the zoning ordinance. This rule did not account for these lots being adjacent the RS-3 lots with already reduced setbacks so this result in the new home only being a maximum of 5 feet from the existing accessory building which is less than the preferred separation in 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.**

If the applicant was to maintain the 0-1 foot maximum side yard setback on the west side of the property, the new home would be separated from another structure by 5 feet. Since the construction of the accessory structure may not have required a fire wall, the home could be at unnecessary risk of fire spread. Moving the new home closer to the adjacent zero lot line home that is already required to have a fire wall this would help reduced fire spread risk.

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.**

With the approval of the requested variances, the property becomes more easily buildable and ensures public safety is optimized for this situation. Planning staff believes that allowing this variance would not be contrary to public interest and would be consistent with the spirit of the Zoning Ordinance.

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

Planning staff believes this will not adversely affect adjacent land and in fact improves the current development by minimizing the possibility of fire spread. Staff believes that locating the reduced separation between structures that both have fire rated construction is better than between a home and accessory structure that already exists with unknown construction.

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

The applicant and planning staff believe granting the variance will not affect the intent of the

Zoning Ordinance. The Zoning Ordinance was intended to create a safe and consistently built environment with adequate setbacks from property lines for all structures. This variance will make the best of an existing situation where building separation of 10 feet cannot be maintained for both side yards.

Recommendation:

Staff's recommendation is for the Zoning Board of Adjustment (ZBA) to **APPROVE:**

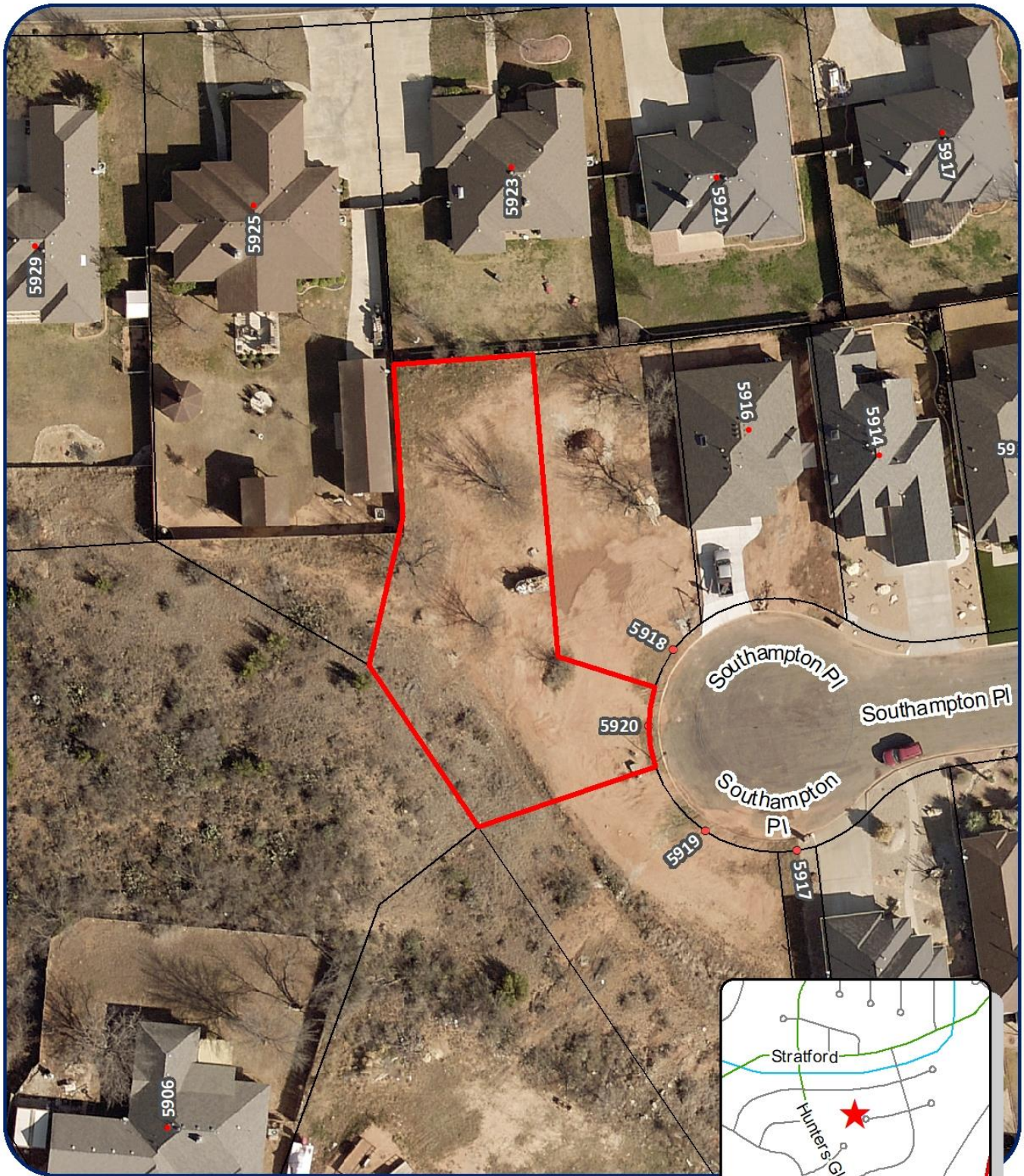
- A Variance from Section 501.A of the Zoning Ordinance to allow for one side yard to have a six (6) foot setback in lieu of the required maximum 0-1 foot; and
- A Variance from Section 501.A of the Zoning Ordinance to allow for the other side yard to have a six and a half (6.5) foot setback in lieu of the required Ten (10) foot,

Subject to **One Condition of Approval:**

1. Applicant shall construct east side wall of new home with 1 hour rated construction with no opening.

Attachments:


Aerial Map
Future Land Use Map
Zoning Map
Photographs
Site Plan
Application
Notification Map



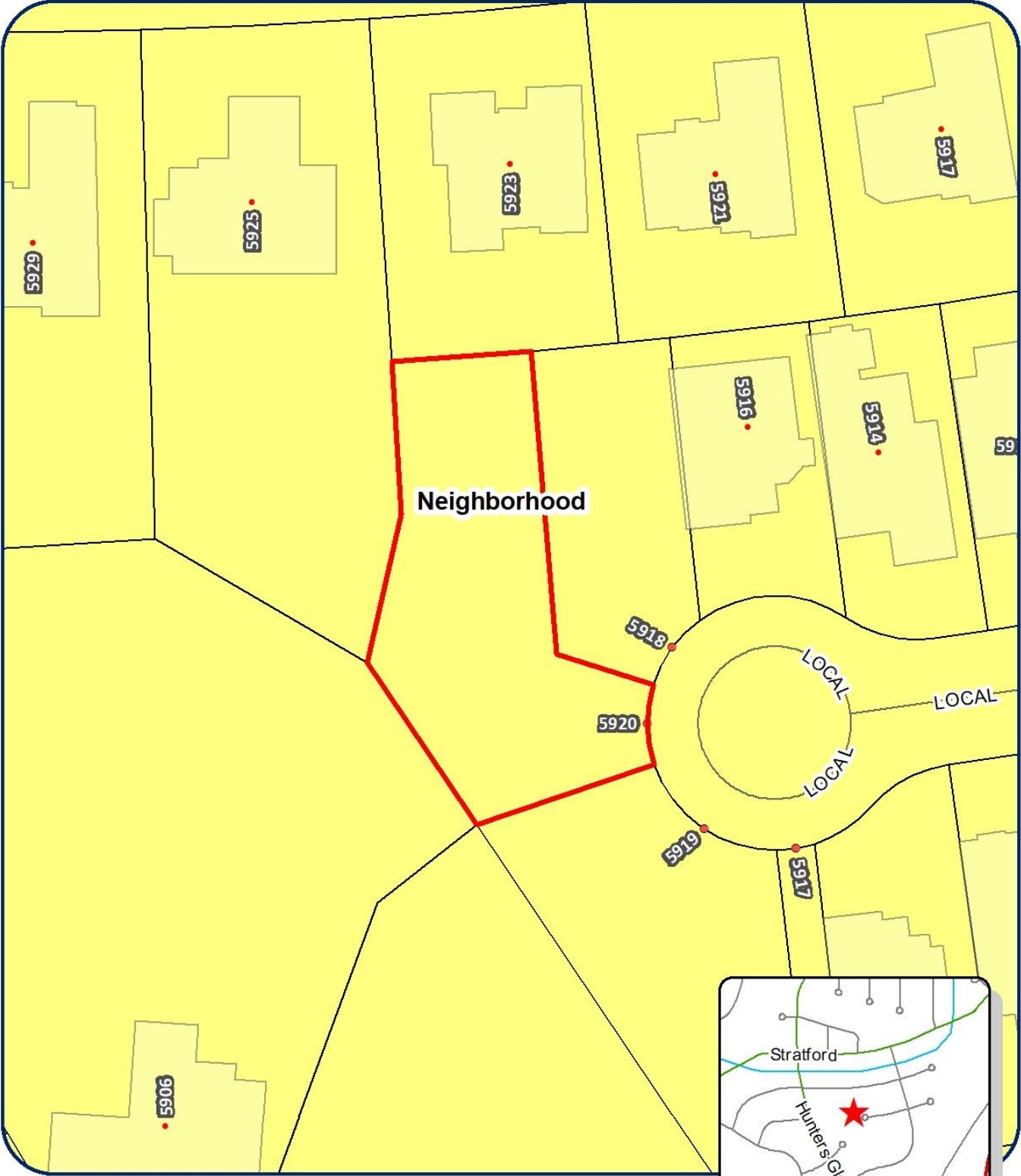
ZBA18-17: Bell
5920 Southampton Place

Council District: SMD #6 - Billie DeWitt
Neighborhood: Bluffs
Scale: 1" approx. = 50 ft

Legend


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



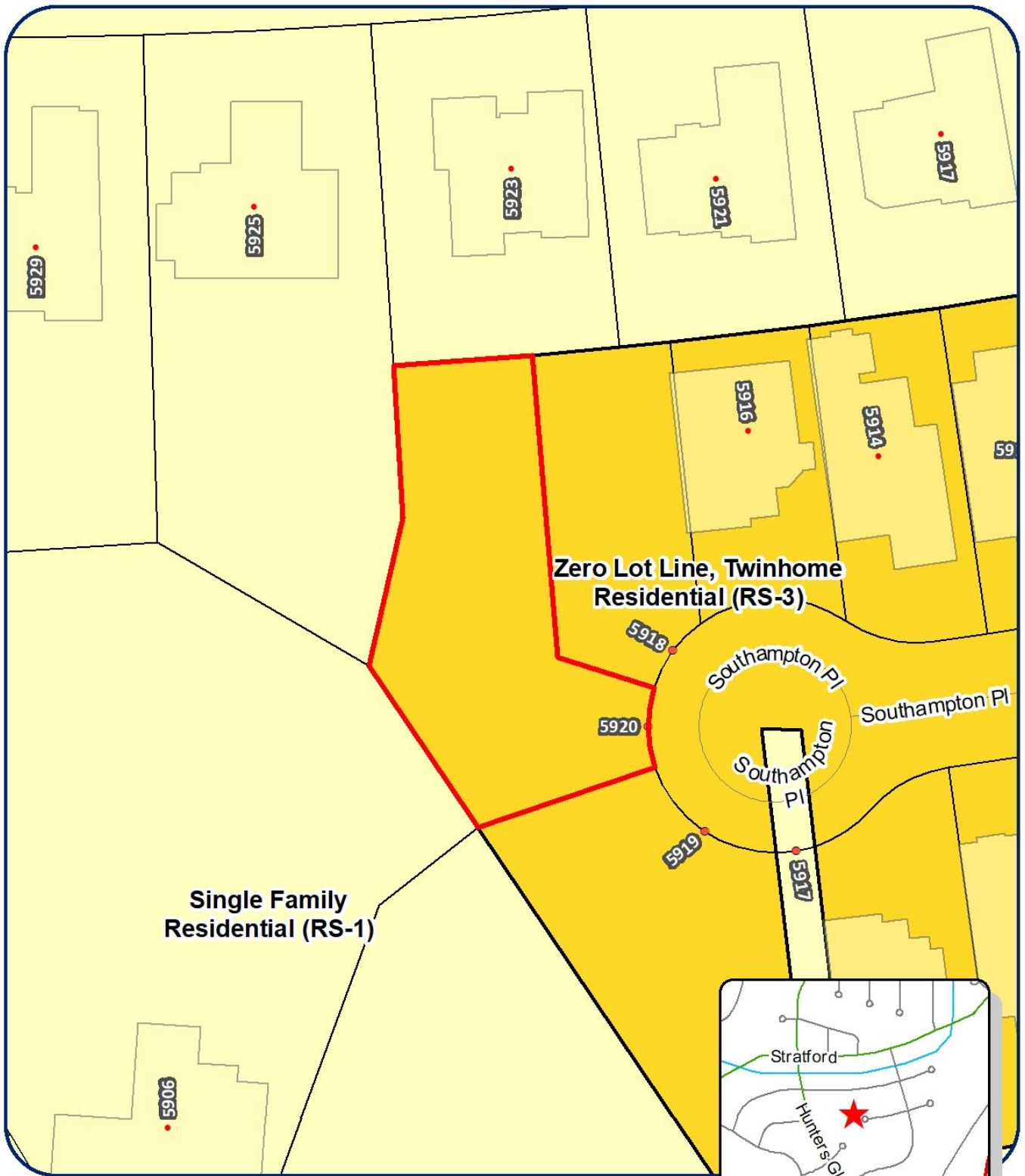


ZBA18-17: Bell
5920 Southampton Place

Council District: SMD #6 - Billie DeWitt
Neighborhood: Bluffs
Scale: 1" approx. = 50 ft

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






ZBA18-17: Bell
5920 Southampton Place

Council District: SMD #6 - Billie DeWitt
Neighborhood: Bluffs
Scale: 1" approx. = 50 ft

Legend

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

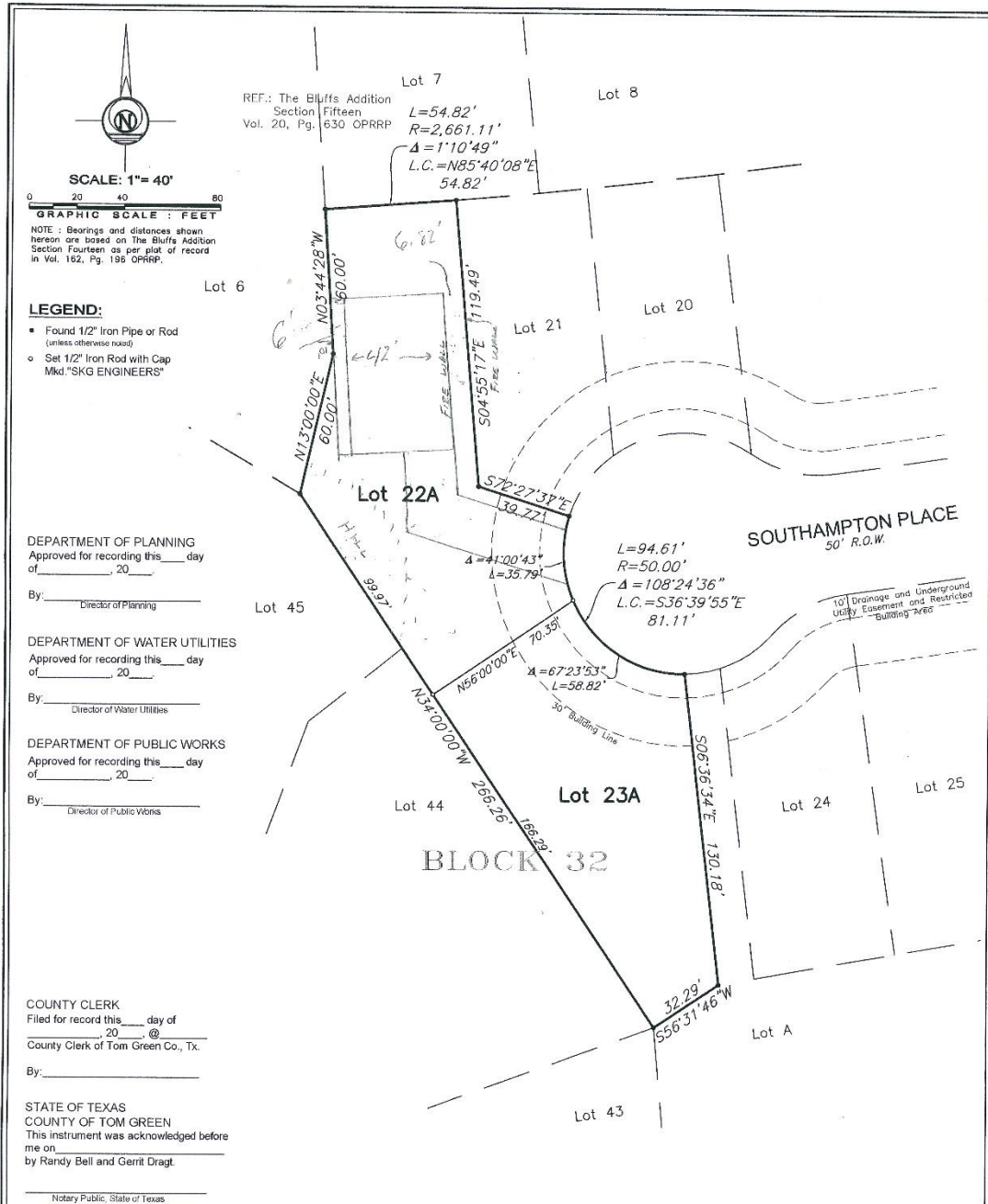


Photos of Site and Surrounding Area





Site Plan



**AMENDED PLAT OF LOTS 22 AND 23,
 BLOCK 32, SECTION FOURTEEN,
 THE BLUFFS ADDITION**

City of San Angelo, Tom Green County, Texas.

OWNERS: RANDY BELL AND GERRIT DRAGT

DESCRIPTION: Being 0.553 acres of land and being all of
 Lots 22 and 23, Block 32, Section Fourteen, The Bluffs
 Addition as per plat of record in Volume 162, Page 196 Official
 Public Records of Real Property Tom Green County, Texas.

ACKNOWLEDGEMENT/DEDICATION

We, Randy Bell and Gerrit Dragt, do hereby adopt this
 amended plat as the subdivision of our property.

 Randy Bell

 Gerrit Dragt

Preliminary, this document
 shall not be recorded for any
 purpose and shall not be used
 or viewed or relied upon as a
 final survey document.

SURVEYOR'S CERTIFICATE

Know all men by these presents:
 that I, Russell T. Gully RPLS, do
 hereby certify that I prepared this
 plat from an actual and accurate
 survey of the land and that corner
 monuments shown hereon were
 properly placed, under my
 supervision, in accordance with the
 rules for land subdivision by the
 City Council of the City of San
 Angelo; and I further certify that the
 tract of land herein platted lies
 within the city limits of the City of
 San Angelo, Texas.

This Amended Plat is Filed in Cabinet _____ Slide _____
 Plat Records of Tom Green County, Texas.

SKG
ENGINEERING, LLC
 SURVEYING • ENVIRONMENTAL • LAB/CMT

706 SOUTH ABE STREET PHONE: 325.656.1286
 SAN ANGELO, TEXAS 76903 FAX: 325.657.6189
 Firm No. 10102400 www.skge.com

Effective January 3, 2017



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): Randy Bell & Gerrit Dragt

Owner Representative (Notarized Affidavit Required)

1539 Butler Dr. San Angelo TX 76904
 Mailing Address City State Zip Code

325.227.8985 rbell1539@yahoo.com
 Contact Phone Number Contact E-mail Address

5920 Southampton Pl. San Angelo TX 76904
 Subject Property Address and/Location City State Zip Code

Lot 22, Block 32, Section 14, The Bluffs Addition

Legal Description (can be found on property tax statement or at www.tomgreencad.com)
R32398

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:

1. Zoning Ordinance section: Art.5.Sec.501.B.2
 Describe variance: Request for sideyard to be 6.8' instead of 10'
2. Zoning Ordinance section: Art.5.Sec.501.B.2
 Describe variance: Request for other sideyard to be 6' instead of required 1' (max.)
3. Zoning Ordinance section: _____
 Describe variance: _____
4. Zoning Ordinance section: _____
 Describe variance: _____

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: This is the westernmost and last lot in a row of zero lot line residences. The required zero lot line adjoins a RS-1 zoned lot that has an existing structure built within 4' of the lot line.

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: The adjoining lot has an existing structure within 4' of the lot line.

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: A 10' side setback would cause the residence to be closer than 10' to the existing structure on the adjoining lot (other side).

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;

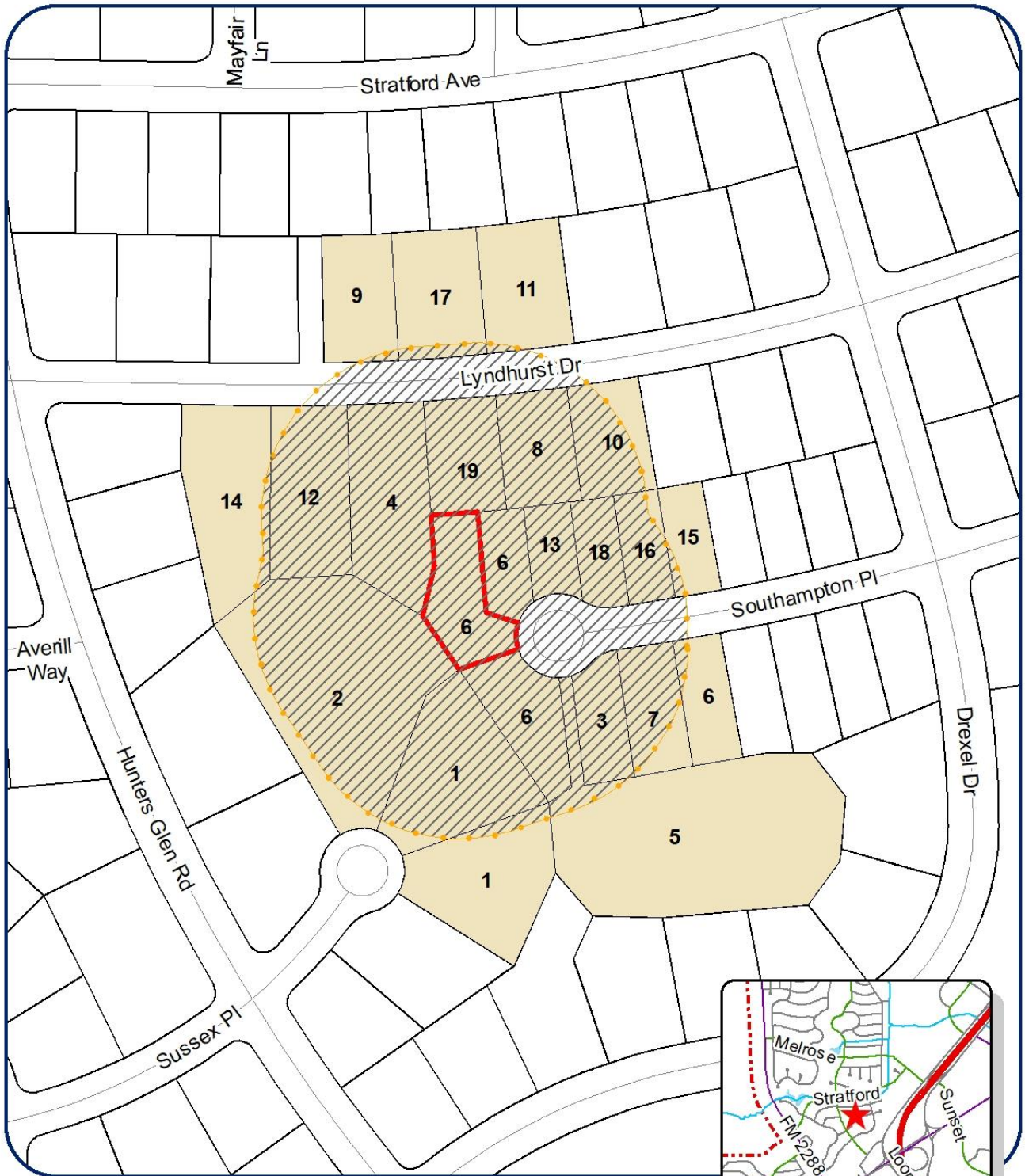
Explanation: The variance would allow for construction similar to the area and the proposed dual firewalls separated by 7'+ would carry out the spirit of the Zoning Ordinance with respect to the fire protection considerations of the standard 10' separation between residences.

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

Explanation: The variance will make construction on the lot possible without any detrimental effect on the adjoining lot. The variance is actually allowing a construction modification due to the existing structure on the adjoining lot not caused by this owner.

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

Explanation: The variance will allow very consistent construction in this area, which is the intent of the Zoning Ordinance.



ZBA18-17: Bell
5920 Southampton Place
 Council District: SMD #6 - Billie DeWitt
 Neighborhood: Bluffs
 Scale: 1" approx. = 150 ft

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

