


ZONING BOARD OF ADJUSTMENT – December 2, 2019

STAFF REPORT



| | | | | |
|--|--|---|-------------------------|--|
| APPLICATION TYPE: | | CASE: | | |
| Variance | | Amendment ZBA19-18/ZBA19-24: Jones | | |
| SYNOPSIS: | | | | |
| <p>A request to amend approved variance ZBA19-18 to construct a carport with a 0-1 foot side yard setback to include a deck on top of the carport, and</p> <p>A request for approval of a Variance from Section 501.A of the Zoning Ordinance to allow for a front yard setback of 7.5 feet to 15.5 feet in lieu of the required minimum front yard setback of 25 feet, for an existing storage building accessory to a single-family dwelling within the Single Family Residential (RS-1) Zoning District located at 1901 Beaty Road.</p> | | | | |
| LOCATION: | | LEGAL DESCRIPTION: | | |
| 1901 Beaty Road | | Lot 30, Boathouse Lot Section 2 Blk. 1; Lake Nasworthy, Group 1 | | |
| SM DISTRICT / NEIGHBORHOOD: | | ZONING: | FUTURE LAND USE: | |
| SMD #1 – Tommy Hiebert Nasworthy Neighborhood | | Single Family Residential (RS-1) | Neighborhood | |
| THOROUGHFARE PLAN: | | | | |
| <p><u>Beaty Road</u> – Local Street – Required ROW 50’ (Existing varies); Required Pavement Width 40’ or 36’ with 4’ Sidewalk Required (Existing 20’ – 24’)</p> | | | | |
| NOTIFICATIONS: | | | | |
| 7 notifications were mailed within a 200-foot radius on November 15, 2019. No responses have been received in support, none in opposition. | | | | |
| STAFF RECOMMENDATION: | | | | |
| <p>Staff is recommending DENIAL of the amendment to the approved variance ZBA19-18. A deck on top of the carport would be allowed by right except in the side yard variance area, and</p> <p>DENIAL of the variance request from Section 501.A of the Zoning Ordinance to allow for a front yard setback of 7.5 to 15.5 in lieu of the required 25’ for an existing storage building to a single-family dwelling within the RS-1 Zoning District.</p> | | | | |
| PETITIONER: | |  | | |
| Benjamin F. Jones, Const. | | | | |
| STAFF CONTACT: | | | | |
| Sherry L. Bailey Principal Planner (325) 657-4210, Extension 1546 sherry.bailey@cosatx.us | | | | |

Additional Information: The property owner has just purchased this property and is in the process of setting it up for his family. This structure is next to (on the east) the city property at the Dam. The storage unit in the front yard was there when the property owner purchased the home. The owner would like to maintain the existing storage unit even though it is located only 15.5 feet to 7.5 feet from the front property line. The proposed amendment to the approved carport variance would allow a deck on the roof of the carport.

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.** This property is located next to the City of San Angelo property at the dam. Allowing a variance on the east will affect only the City property which currently has no structures. The amendment of the approved variance for the carport would not increase the carport size, just allow the use of the roof for entertainment purposes. The storage building in its current configuration would probably not fit on the site but other accommodations could be made of storage on the site that could meet the ordinance requirement.
- 2. These special circumstances are not the result of the actions of the applicant.** The owner has just purchased the property, and is trying to develop the property to meet his family's needs. The expansion of the deck could be placed on the roof of the carport while still observing setbacks. The storage building is existing because the previous owner did not apply for a building permit for placement of the storage building. Once placed on the site the previous owner had a stone foundation placed under the unit and siding that matched the home in order to make the storage unit blend into its surroundings.
- 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.** Many of the homes in this area either have decks above their boathouses or garages in order to provide an elevated space to view the lake, provide gathering or entertaining space. With the size of the carport approved by the ZBA previously, a deck would double the entertainment space now being taken up by parking while still observing the setbacks. Most of the existing homes have some form of exterior storage space for landscaping equipment or water sports storage but this location is does not meet the ordinance requirements for such storage buildings, being in the front yard facing the street.
- 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 could construct a deck over that portion of the carport that meets the setback requirements. The deck portion would be 18 ft. down to 15 ft. by 40 ft. if the deck maintained the side yard setback, however, the property owner believes it would not meet his family's needs. Likewise the existing storage shed is necessary for exterior items storage but it does not meet the intent of the ordinance by placing the structure in the front yard.

5. **Granting the variance will not adversely affect adjacent land in a material way.** With no single-family homes to the east, only city land, the impacts could be minimal in nature for the deck over the carport. The storage unit is located next to existing residential homes which will have the visual impacts as well as the front yard obstruction that is not allowed in the RS-1 zoning district.
6. **Granting the variance will be generally consistent with the purposes and intent of this Zoning Ordinance.** If the side yard setbacks were observed for the deck planning staff believes the purpose and intent of the zoning ordinance would be maintained but the applicant wishes to utilities the entire roof of the carport that was previously approved by the ZBA. The front yard setback is there to provide visual consistency throughout neighborhood as well as serve as space for parking on residential properties. This storage unit will not be consistent with the purpose or intent of the zoning ordinance. Allowing the storage unit to stay would not protect the visual character and established pattern of development along the lake.

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.*
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.*

The applicant believes that literal enforcement of the zoning ordinance side set back would deny the owner the ability to achieve the best use of the property for his family's needs and to utilize the deck surface for family gatherings and allowing the storage unit to remain where it is will have no impact on the adjacent property to the west because it is concealed by the heavy vegetation along the property line.

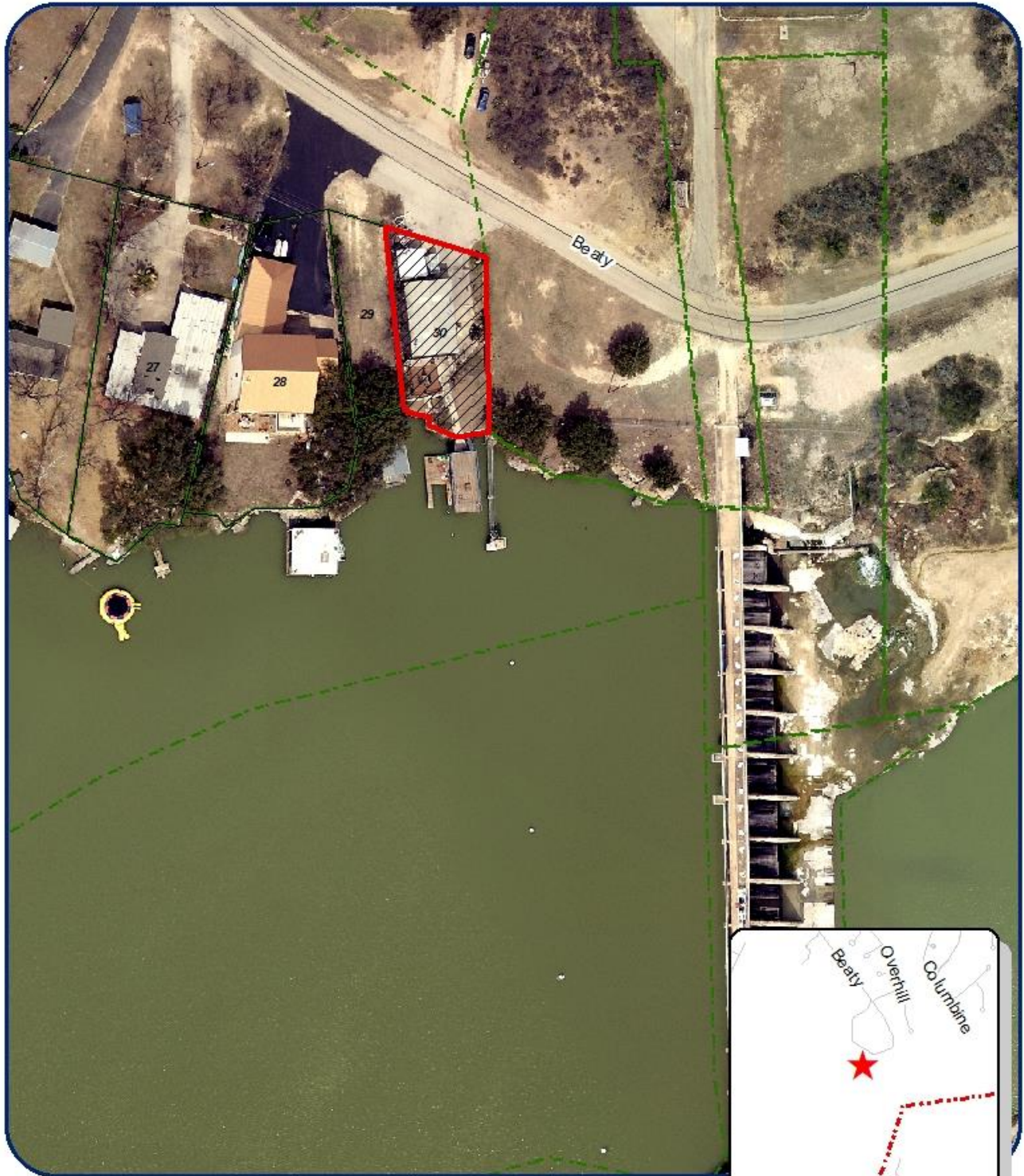
Recommendation:

Staff recommends that the Zoning Board of Adjustments **DENY** the amendment to ZBA19-18 to allow a second story deck to cover the entire deck surface, and

DENY the variance request from Section 501.A of the Zoning Ordinance to allow for a front yard setback of 15.5 ft. to 7.5 ft' in lieu of the required 25' for the existing accessory storage building to remain on a single-family dwelling within the RS-1 Zoning District.

Attachments:

Aerial Map
Future Land Use
Zoning Map
Notification Map
Application
Proposed Improvements
Site Photos



Location Map Side Yard Variance

1901 Beaty Rd.

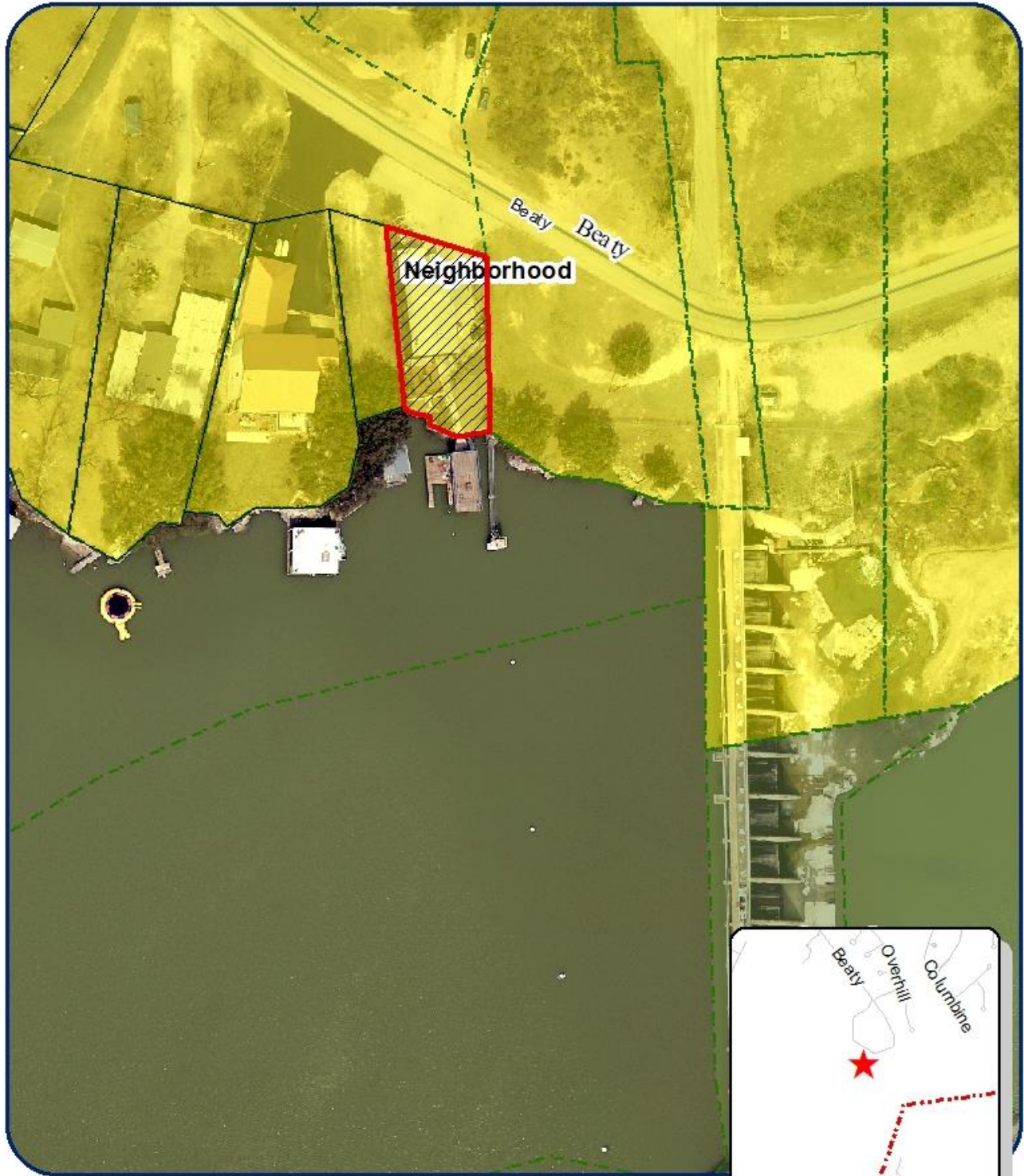
Council District 1 -Tommy Hiebert
Neighborhood: County Club
Scale: 1" approx. = 85 ft

Legend

Subject Properties: 
Current Zoning: **Single Family (RS-1)**
Requested Zoning Change: **NA**
Vision: **Neighborhood**

Lot 30 Boathouse e Lot Section 2, Blk. 1 Lake Nasworthy, Group 1; being 0.173 acres.





Location Map Future Land Use

1901 Beaty Rd.

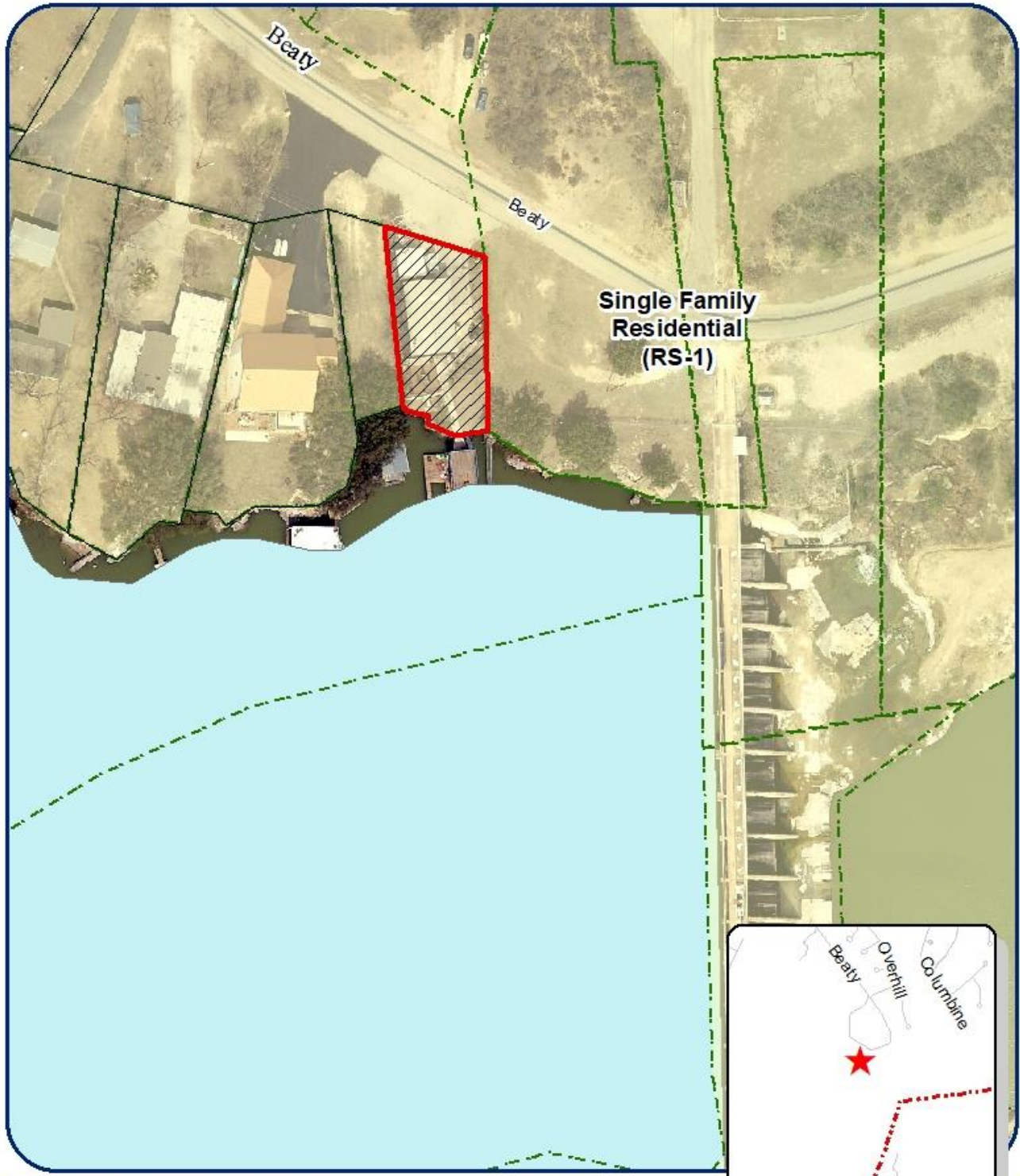
Council District 1 -Tommy Hiebert
Neighborhood: County Club
Scale: 1" approx. = 85 ft

Legend

Subject Properties: 
Current Zoning: **Single Family (RS-1)**
Requested Zoning Change: **NA**
Vision: **Neighborhood**



Lot 30 Boathouse e Lot Section 2, Blk. 1 Lake Nasworthy, Group 1; being 0.173 acres.



Location Map Existing Zoning

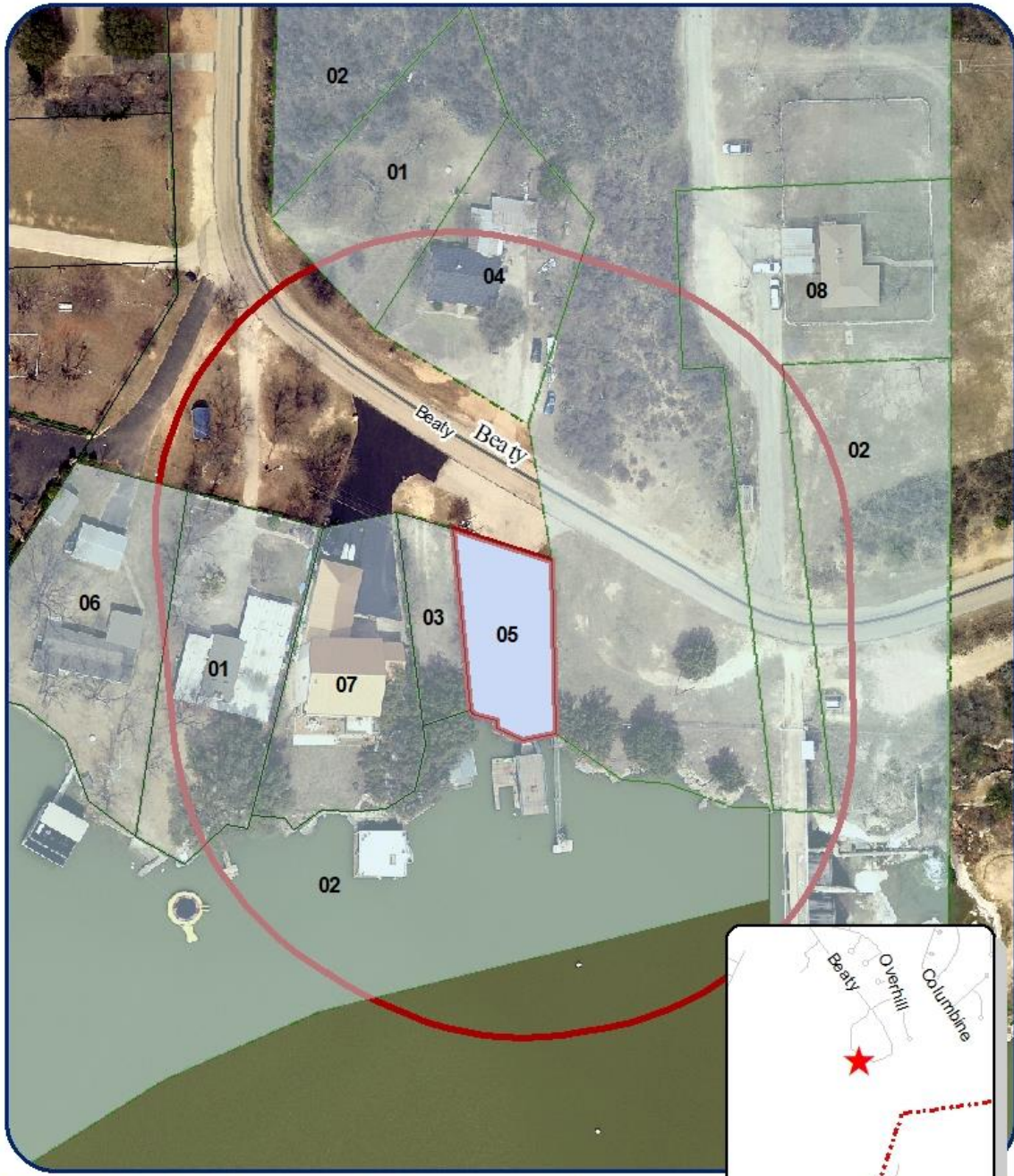
1901 Beaty Rd.
Council District 1 -Tommy Hiebert
Neighborhood: County Club
Scale: 1" approx. = 85 ft

Legend

Subject Properties: 
Current Zoning: **Single Family (RS-1)**
Requested Zoning Change: **NA**
Vision: **Neighborhood**



Lot 30 Boathouse e Lot Section 2, Blk. 1 Lake Nas worthy, Group 1; being 0.173 acres.



Location Map 200 Ft. Notification Map

1901 Beaty Rd.
Council District 1 - Tommy Hiebert
Neighborhood: County Club
Scale: 1" approx. = 85 ft

Legend

Subject Properties: 
Current Zoning: **Single Family (RS-1)**
Requested Zoning Change: **NA**
Vision: **Neighborhood**



Lot 30 Boathouse Lot Section 2, Blk. 1 Lake Nasworthy, Group 1; being 0.173 acres.

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): BENTANIO JONES B JONES Contractor
 Owner Representative (Notarized Affidavit Required)

Mailing Address: 6626 Knickerbocker Road San Angelo Texas 76904
 City State Zip Code

Contact Phone Number: 325-812-6436
 Contact E-mail Address: BIFF JONES III @ gmail .com

Subject Property Address and/Location: 1901 Beatty Road San Angelo TX 76904
 City State Zip Code

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

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: _____
Describe variance: _____
- Zoning Ordinance section: _____
Describe variance: _____
- Zoning Ordinance section: _____
Describe variance: _____
- 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: The structure is ^{deck and storage building} immediately adjacent to City owned property so that the neighboring property will never be built on. The storage building is located such that it can only be seen from the street and the lot is at the end of the street. The west side of storage building is bordered by vegetation which obscures the building.

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 storage building was present on the property at the time that owner purchased it. Plus the owner has just acquired the property and was not aware that it was in the setback areas.

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: Most landowners have a storage building separate from the living area of their home to store lawn equipment, lawn maintenance chemicals, tools, etc. The location of the storage shed is the only place on the property suitable for a storage shed. Many homes that have two stories, have a 2nd story deck.

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 owner's use of the property require a storage shed that safely store gasoline and chemicals. This storage shed location is the best and location. It provides easy access to fire trucks and environmental inspectors. It is the furthest point on property from Lake, thereby providing protection from surface water runoff.

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

Explanation: The adjacent land is owned by the city and will never be built on. The storage shed and deck cannot be seen by adjacent occupied land owners.

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

Explanation: The deck will be built in a manner matching the existing deck and materials of construction with the existing house. The storage shed is a permanent permanent structure on a rock foundation.

Effective January 3, 2017

Section 4: Applicant(s) Acknowledgement

Please initial the following:

BJ 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;

BJ 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;

BJ 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

BJ 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.

Benjamin F Jones
Signature of licensee or authorized representative

Nov 5 2019
Date

BENJAMIN F JONES
Printed name of licensee or authorized representative

B Jones County
Name of business/Entity of representative

FOR OFFICE USE ONLY:

Reviewed/Accepted by: _____

Date: ____/____/____

Case No.: ZBA: 19 - 24

ZBA Hearing Date: 12, 02, 19

Fully-Dimensioned and scaled Site Plan: Yes No

Date of Application: 11, 05, 19

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

Date paid: 11, 05, 19

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



B Jones Contracting

P.O.Box 60472
San Angelo, Texas 76906-0472
Sales 325-812-6436
Operations 325-213-4302

November 4, 2019

Sherry Bailey
Principal Planner
Planning Dept
City of San Angelo
San Angelo, Texas 76901

Re: 1901 Beaty Road


Dear Ms Bailey,

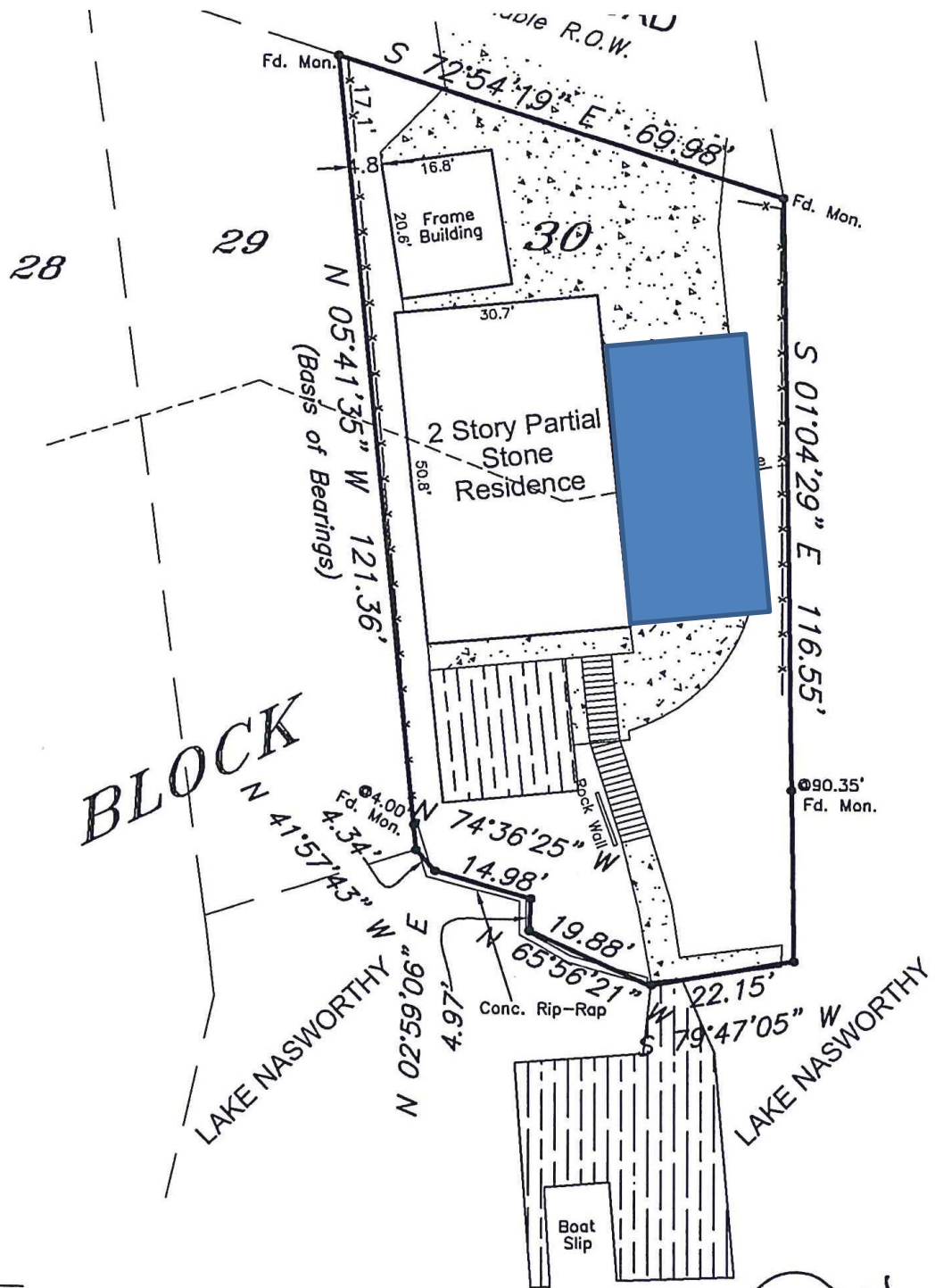
We are seeking to amend the variance that we received on October 7 2019 for the setback on the east side of the property. We received a variance for building a 24 foot wide by 40 foot long open carport. We would like to amend that approval to include a cedar deck with 42" railing on top of the carport to include a cedar wooden stairs on the west side next to the house and projecting toward the street. Drawings are attached for your review. It will match the existing wooden siding in color. It will have as a backdrop the existing tree lines between the house and the lake.

We are also asking at this time permission to allow the outside storage building that was built by a previous landowner and has been there for a number of years without any complaint. We have requested approval from the Nasworthy Homeowners Association for the Storage Shed and for the deck with railing and staircase. A storage shed is needed for safety purposes to store lawnmower, weed eaters and other equipment that is gasoline powered and to store other landscaping equipment and supplies. There is no other suitable storage or space available on the lot that would not interfere with the Owner's use of their property.

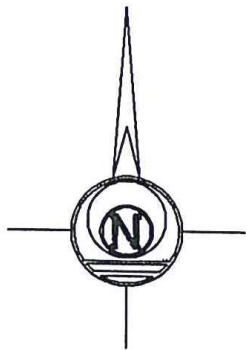
If you have any questions or need additional info, please call me.

Sincerely,

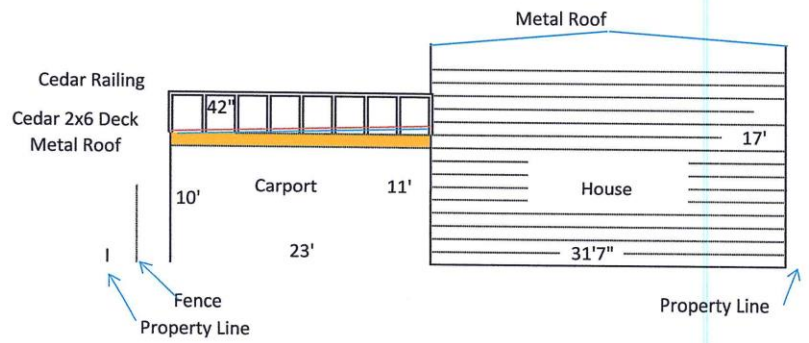
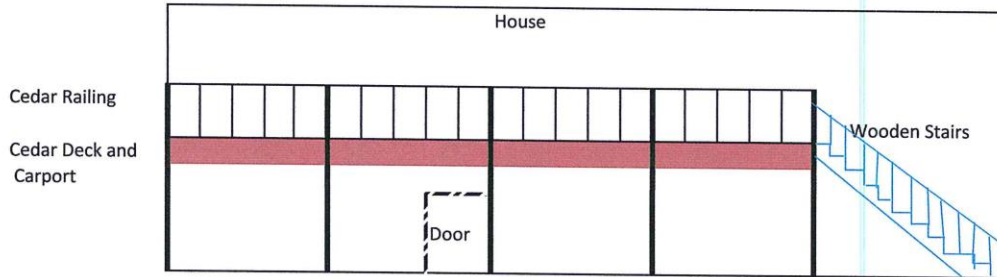

Benjamin (Biff) Jones
B Jones Contracting
Licensed Contractor for Owner

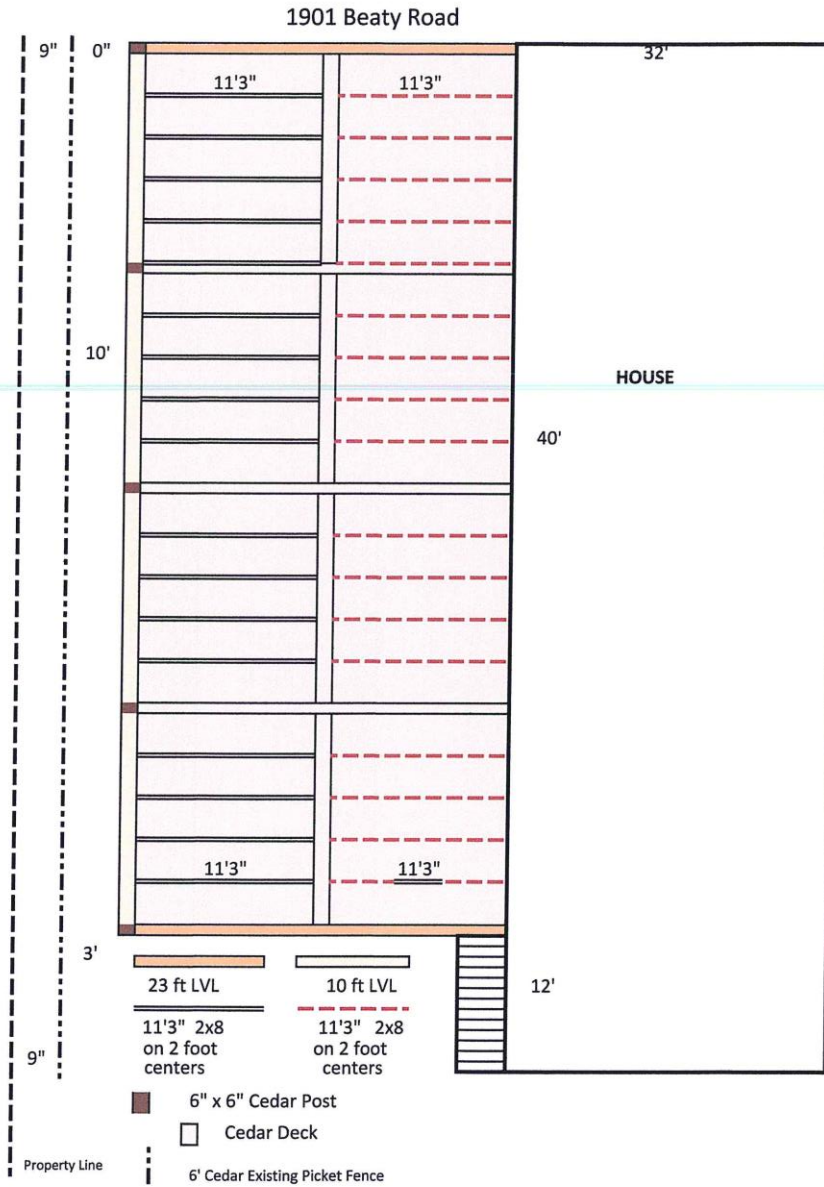


OHJL



SCALE: 1"= 30'





Site Photos



Carport placement will be here with direct visual to the lake.



Property owned by the city adjacent to the dam.



Showing the entrance door, area to be covered by the carport.



Side property line on the west.

**ZONING BOARD OF ADJUSTMENT – December 2, 2019
STAFF REPORT**



| | | | |
|---|--------------------------|--|--------------|
| APPLICATION TYPE: | | CASE: | |
| Variance | | ZBA19-25: Graves | |
| SYNOPSIS: | | | |
| <p>The applicant has applied for two variances, a variance from Section 509.A.1 of the Zoning Ordinance to exempt the requirement for a privacy fence adjacent to a residential use, and a variance from Section 511.H.1 of the Zoning Ordinance from the requirement for a paved connection to the street. The fence and paved connection are zoning requirements triggered by a permit for a new 2,400-square foot smokehouse building (See Additional Information). The applicant obtained a zone change from City Council on September 4, 2019 from the Heavy Commercial (CH) Zoning District to the Light Manufacturing (ML) Zoning District (Z19-12) to allow the new smokehouse, and existing taxidermy and animal meat processing facility.</p> | | | |
| LOCATION: | | LEGAL DESCRIPTION: | |
| 6993 and 7005 South U.S. Highway 277; generally located approximately 770 feet south of the intersection of South U.S. Highway 277 and Templin Road | | 5.95 acres in the L.P. Moore Addition, Survey No. 169.5, Abstract A-1637 | |
| SM DISTRICT / NEIGHBORHOOD: | ZONING: | FUTURE LAND USE: | SIZE: |
| SMD District #1 – Tommy Hiebert Country Club Neighborhood | Light Manufacturing (ML) | I- Industrial | 5.95 acres |
| THOROUGHFARE PLAN: | | | |
| <p>South U.S. Highway 277 – Urban Arterial Street (TXDOT) Required: N/A (TXDOT jurisdiction); Provided: 120’ right-of-way, 50’ pavement</p> | | | |
| NOTIFICATIONS: | | | |
| 11 notifications mailed within 200-foot radius on November 15, 2019. None received in support or opposition. | | | |
| STAFF RECOMMENDATION: | | | |
| <p>Staff’s recommendation is for the Zoning Board of Adjustment (ZBA) to DENY a variance from 509.A.1 of the Zoning Ordinance to exempt the requirement for a privacy fence where a side or rear lot line is adjacent to an existing residential use; and to DENY a variance from Section 511.H.1 of the Zoning Ordinance to exempt the requirement for a paved connection to a public street within the Light Manufacturing (ML) Zoning District located at 6993 and 7005 South U.S. Highway 277.</p> | | | |
| PROPERTY OWNER/PETITIONER: | | | |
| Owner: JKBG Investments LLC, Mr. Jack Graves | | | |
| Petitioner: Ms. Erica Carter P.E. Carter-Fentress Engineering | | | |
| STAFF CONTACT: | | | |
| Jeff Fisher, AICP Principal Planner (325) 657-4210, Extension 1550 jeff.fisher@cosatx.us | | | |

Additional Information: The requested variance, if approved, would leave 185 feet of unpaved caliche surface between the proposed new parking lot and the front property line, plus an additional 35 feet of unpaved apron in the public right-of-way, for a total of 210 feet. The zoning ordinance requires a screening fence between a non-residential use and a residential use, in this case a 482-foot privacy fence between the subject property and the residential use to the north. The applicant's immediate plan is to construct the new 4,960-square foot smokehouse behind the existing buildings and has provided a site plan (see attached). The property is currently un-platted.

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.**

The applicant believes that there are special circumstances for both variance requests. He indicates that the Fire Marshal has approved a caliche surface for their fire trucks to travel through the property. He also indicates that the 6-foot high privacy fence should not be required because the person housed on the property to the north is at fault (in other words, the adjacent property is zoned "Heavy Commercial" but is used residentially, thus triggering the screening requirement). Planning Staff do not believe these circumstances are peculiar to the land or structures and therefore, do not meet criterion #1 above. There is nothing peculiar about the shape, topography, or area of the property that would prevent erection of the privacy fence or the paved connection to the street. The Zoning Ordinance requires a paved connection to ensure a passable and drivable surface for automobiles, trucks, commercial vehicles and emergency vehicles. There are no impediments that would prevent paving this surface with one of the allowable paved surfaces in the City, including hot mix asphalt, concrete, two-course treatment, or brick pavers. The Tom Green County Appraisal District indicates that the house on the adjacent property to the north has existed since 1978. Zoning was not established on the property until 1997 when it was annexed into the City. While the CH zoning does not allow new residential construction, the house pre-existed this zoning and is therefore, a lawful conditional use. The Zoning Ordinance under 509.A.1 makes no distinction whether the commercial use is adjacent to a residential use, a residential zoning district, or both. In all cases, a privacy fence is required. The privacy fence in this case provides privacy for the existing residential home and rear yard from incompatible uses allowed in a Light Manufacturing (ML) District.

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

Consistent with the above, the applicant indicates that the City Fire Marshal has deemed the unpaved surface to be sufficient and that the adjacent property owner is at fault. Planning Staff does not believe that the adjacent property is "at fault" simply because they are zoned Heavy Commercial (CH). The San Angelo Zoning Ordinance under Section 104.3 is adopted to "prevent or minimize land use incompatibilities and conflicts among different land uses." The requirement for a privacy fence is not only to protect residentially zoned properties, but also to protect pre-existing residential land uses on commercially-zoned properties. As indicated, the

house to the north has existed since 1978 in this location. The smokehouse business has only been operating since 2005 and therefore was added after the house to the north. This business has the right to expand given its ML zoning approved by Council in September 2019 (Z19-12), but is also required to install a privacy fence adjacent to the residential use to minimize visual impacts from this business. The Zoning Ordinance, as indicated, requires a paved connection from the parking lot to the street to ensure minimum safety and accessibility standards. The substantial length of this required paved connection, 210 feet to the street, is a result of the location of the new parking area.

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 indicates that a caliche surface is a sufficient connection to the street and being required to pave would create an extra hardship. The applicant also indicates that the privacy fence should not be required unless or until the homeowner changes the zone. Section 207.F.1 of the Zoning Ordinance indicates that financial considerations cannot be considered as hardship for the purpose of granting a variance. Staff understands that 210 feet is a substantial length of paved connection, however, the Zoning Ordinance is clear on this requirement and the same requirements would apply to other similarly situated properties. With respect to fencing, a privacy fence is required whenever a nonresidential use is adjacent to a residential use or district, so the zoning of the adjacent residential property would not (and should not) make a difference.

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 indicates the public would not be affected if the access was to be caliche instead of pavement, and that the privacy fencing would not be required if the adjacent homeowner changed the zoning. Staff disagrees with the rationale for the paved connection variance. The public would be affected in that they would be driving on a lower standard than required for all other businesses. New and expanded commercial projects are developed in the City on a frequent basis and those businesses are all required to create a paved connection from their parking to the street. Staff has already addressed the applicant's position in #3 above as to why a privacy fence is needed.

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

The applicant indicates that a caliche driveway would have no effect on adjacent land, and that there is already a chain link fence between the two properties that does not affect either party. Planning Staff addressed the driveway variance rationale in #1 and #4 above and why the driveway should be paved. Previous building additions and structures did not obtain permits which would have triggered the privacy fence requirement. The privacy fence requirement can now be implemented with the new smokehouse building. The homeowner to the north has not provided a written response as of completion of this report, but regardless, choosing to not screen a nonresidential use of this nature from a residential home could have an adverse

impact, including visual impact of incompatible land uses. The fence ensures the privacy of the residential homeowner, while allowing the proposed expansion of the non-residential use of the subject property.

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

The applicant reiterates that fire trucks can still access the property with a caliche surface, and that the owner should not have to install a privacy fence because the lot with the residential use is zoned commercial. Section 511 of the Zoning Ordinance, as amended states under A.2 “To provide minimum spacing, maneuvering, and paving standards to ensure longevity and adequacy of parking lots throughout the City.” The required paved parking and paved connection to streets is to implement this objective, which is more than simply allowing for emergency vehicle access. Lack of paved connections as mentioned earlier created more difficulty in carrying vehicles through a property. They also clearly identify driveway routes through a property, ensuring safer vehicular and pedestrian traffic circulation. As indicated, the privacy fence requirement ensures visual screening between incompatible land uses.

Allowed Variances:

In addition to the above criteria, 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.*

Planning Staff do not believe that there is a special circumstance that justifies either variance. As indicated, there are no known topographical constraints that would hinder placement of a privacy fence or the required paved connection from the parking lot to the street. Financial considerations cannot be considered and these standards apply to any other property in the same zoning district.

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:

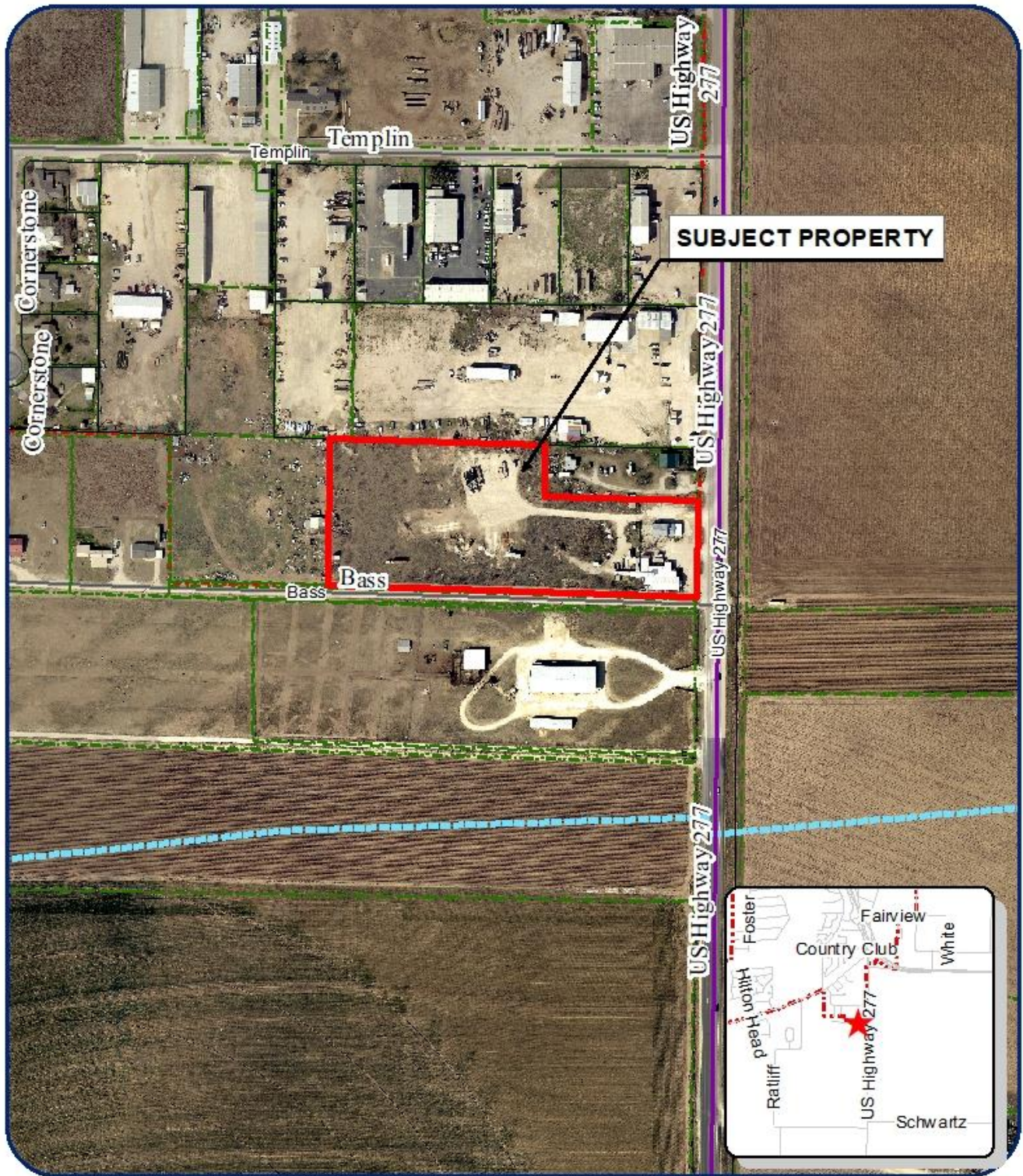
Staff's recommendation is for the Zoning Board of Adjustment (ZBA) to **DENY** a variance from 509.A.1 of the Zoning Ordinance to exempt the requirement for a privacy fence where a side or rear lot line is adjacent to an existing residential use; and to **DENY** a variance from Section 511.H.1 of the Zoning Ordinance to exempt the requirement for a paved connection to a public street within the Light Manufacturing (ML) Zoning District located at 6993 and 7005 South U.S. Highway 277.

If however, the ZBA decides to approve these variances, the following **two** conditions of approval are recommended:

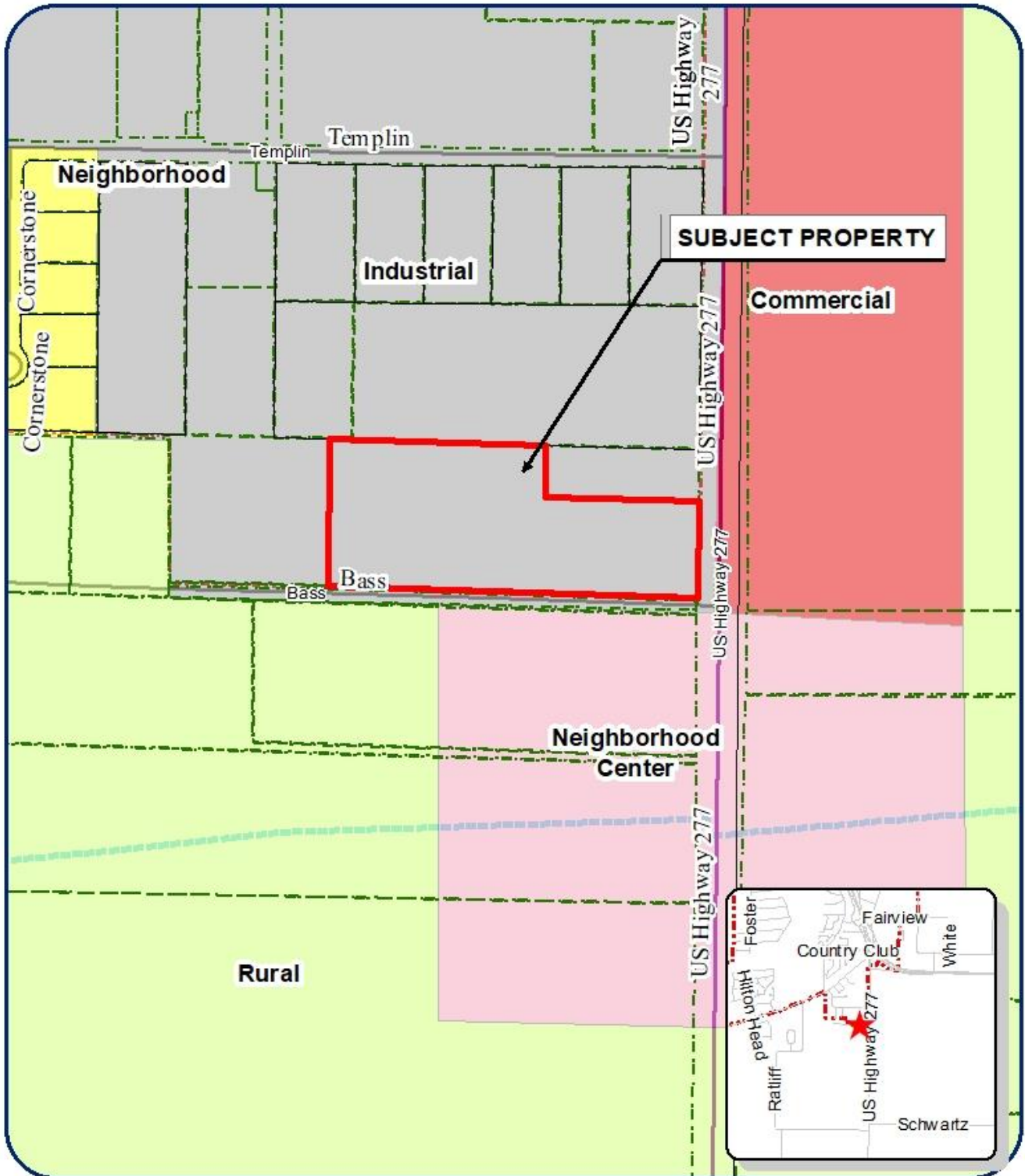
1. The applicant shall obtain a building permit from the Permits and Inspections Division for the new smokehouse consistent with the footprint provided on the site plan.
2. The variance shall be limited to the proposed smokehouse building as delineated on the site plan provided by the applicant. Future buildings or additions would require a new variance request.

Attachments:

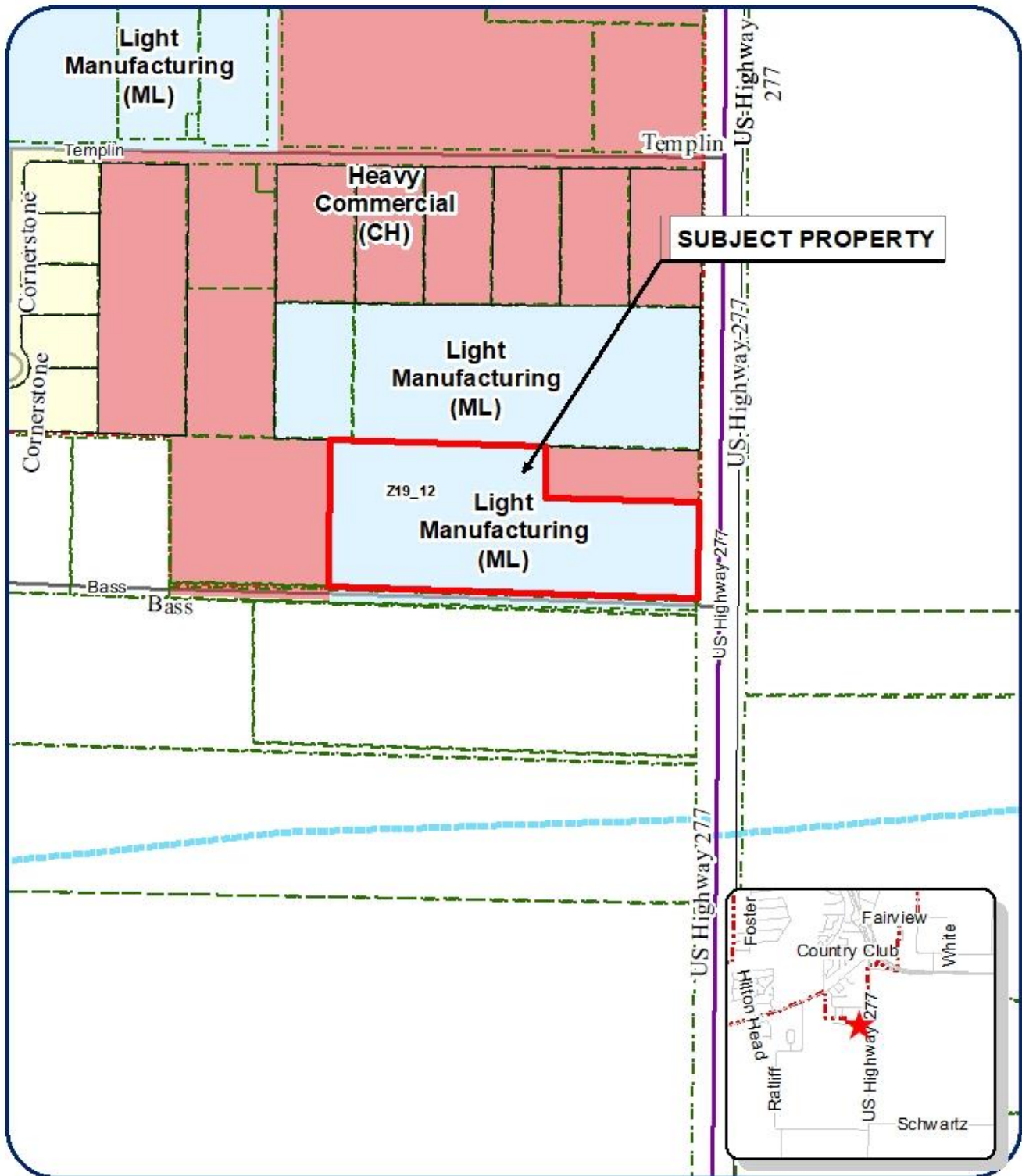
Aerial Map
Future Land Use Map
Zoning Map
Photographs
Site Plan
Application



| | | | | |
|---|--|--|---------------------------|--|
| Variance | | Legend | |   |
| ZBA19-25: Graves | | Subject Properties:  | Current Zoning: ML | |
| Council District: Tommy Hiebert -District 1 | | Requested Zoning Change: N/A | Vision: Industrial | |
| Neighborhood: Country Club | | | | |
| Scale: 1" approx. = 300 ft | | | | |
| 6993 and 7005 S. U.S. Highway 277 | | | | |



| | | | | | |
|--|--|--|---------------------------|---|---|
| Variance | | Legend | |  |  |
| Z19-25: Graves Council District: Tommy Hiebert -District 1 Neighborhood: Country Club Scale: 1" approx. = 300 ft 6993 and 7005 S. U.S. Highway 277 | | Subject Properties:  | Current Zoning: CH | | |
| | | Requested Zoning Change: ML | Vision: Industrial | | |



Variance

Z19-25: Graves

Council District: Tommy Hiebert - District 1
 Neighborhood: Country Club
 Scale: 1" approx. = 300 ft

6993 and 7005 S. U.S. Highway 277

Legend

- Subject Properties: —
- Current Zoning: CH
- Requested Zoning Change: ML
- Vision: Industrial



Photos of Site and Surrounding Area

NORTH



SOUTH



SOUTHWEST AT PROPERTY (7005)



NORTHWEST AT SUBJECT PROPERTY (6993)



NORTHWEST AT SUBJECT PROPERTY (6993)



LOOKING WEST AT FUTURE SMOKEHOUSE



Photos of Site and Surrounding Area

LOOKING NORTH AT ADJACENT HOUSE



LOOKING NORTH AT ADJACENT HOUSE



LOOKING NORTHWEST AT HOUSE PROPERTY

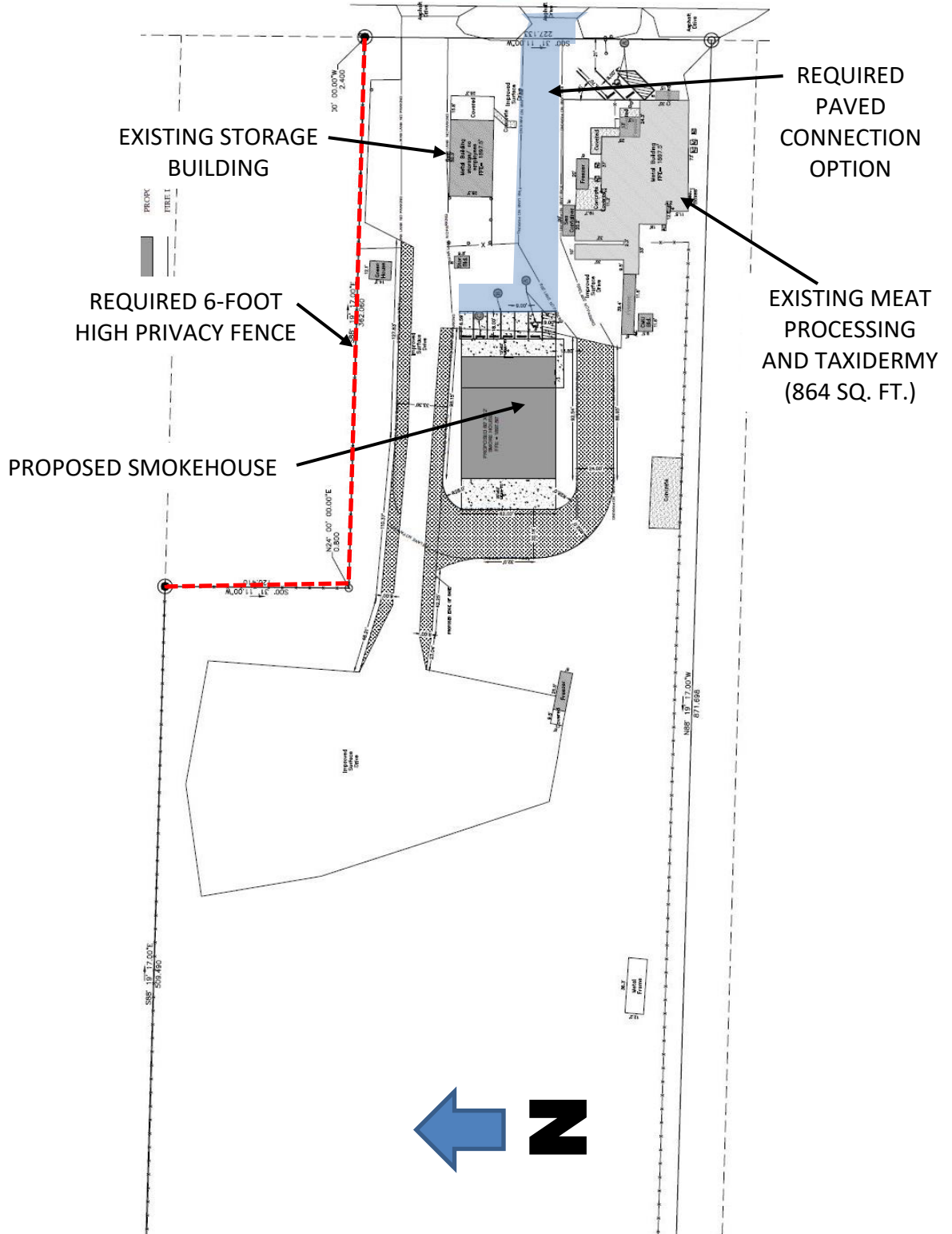


LOOKING NORTHWEST AT HOUSE PROPERTY




Site Plan


SOUTH U.S. HIGHWAY 277



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): Jack Graves
 Owner Representative (Notarized Affidavit Required)

7005 S. Hwy 277 San Angelo Texas 76904
 Mailing Address City State Zip Code

325-895-1490 westtxdeer@gmail.com
 Contact Phone Number Contact E-mail Address

7005 S. Hwy 277 San Angelo Texas 76904
 Subject Property Address and/Location City State Zip Code

Acres: 5.95, Abst: A-1637 S-0169, Survey: L P Moore, 5.95 acres
 Legal Description (can be found on property tax statement or at www.tamgreencad.com)

Light Manufacturing

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: 511.H.1
 Describe variance: ZBA to remove the pavement connection in a parking lot requirement

2. Zoning Ordinance section: 509.A.1
 Describe variance: removal of fencing requirement

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: 1st Variance: We are requesting the connection between the entrance & parking be caliche, not asphalt. The Fire Marshall already approved caliche to be sufficient for their fire trucks to travel through the property without any problem.

2nd Variance: The adjacent property is zoned heavy commercial, but has a house existing on the property. The person housed on the heavy commercial plot of land is at fault, and thus the owner should not have to have a 6' opaque fence.

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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: 1st Variance: No, the applicant is trying to avoid extra cost, when he has already been told that the road was going to be sufficient by the city Fire Marshall.

2nd Variance: No, the applicant has realized the other property owner is at fault, and trying to avoid extra cost because they are at fault. No actions were made by the applicant.

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: 1st Variance: The main reason this section of the zoning ordinance has this statement in it is to account for heavy load vehicle to be able to drive onto the property with no problems in the case of an emergency. A coliche surface can serve this purpose as stated by the Fire Marshall, and therefore would be an extra hardship of the owner to have to pay for pavement

2nd Variance: Most of the zones surrounding the subject property are some type of commercial or manufacturing, which would not require a metal opaque fence to be put between. The home owner is in a commercial zone so they shouldn't have to apply the metal fence until the home owner changes the zone.

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: 1st Variance: The public would not be affected by this.

2nd Variance: The home owner next door would be the only public affected by this scenario, and they are out of zone. If they were zoned correctly, then this would not be a problem and the owner would have to put up the metal fence.

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

Explanation: 1st Variance: This will have no affect on adjacent land.

2nd Variance: There is already a chain-link fence on the property line between these two properties, leaving it the same would not affect either party. It would affect the adjacent land if a fence had to be put in.

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

Explanation: 1st Variance: Yes, the owner is still wanting to be fully respectful of the zoning ordinance. Granting this will still allow the fire trucks onto the land without problem, which is the main reason this pavement is in the zoning ordinance.

2nd Variance: The owner should not be required to put up an opaque metal fence because a residence is in a commercial zone. The residence in the commercial zone is not consistent with the intent of the zoning ordinance.

Effective January 3, 2017

Section 4: Applicant(s) Acknowledgement

Please initial the following:

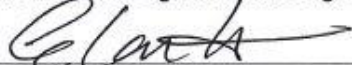
EC I/we understand that the Zoning Board of Adjustment (ZBA) is bound by criteria established by state law; I further understand that my request is not guaranteed to be approved and that it constitutes an exception from regulations of the City of San Angelo;

EC 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;

EC 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

EC 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.



Signature of licensee or authorized representative

11/8/2019

Date

Erica Carter

Printed name of licensee or authorized representative

Carter-Fentress Engineering

Name of business/Entity of representative

FOR OFFICE USE ONLY:

Reviewed/Accepted by: _____

Date: 11 / 8 / 19

Case No.: ZBA: 19 - 25

ZBA Hearing Date: ____/____/____

Fully-Dimensioned and scaled Site Plan: Yes No

Date of Application: ____/____/____

Non-Refundable Fee: \$ 500.00 Receipt #: _____

Date paid: ____/____/____

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

