

**ZONING BOARD OF ADJUSTMENT – February 3, 2020
STAFF REPORT**



APPLICATION TYPE:		CASE:	
Variance		ZBA20-01: Duran	
SYNOPSIS:			
<p>The applicant has applied for a variance to allow an 11-foot front yard setback facing Freeland Avenue in lieu of the required 25-foot front yard in the Single-Family Residential (RS-1) Zoning District. The lot is a defined as a through lot in the Zoning Ordinance with frontage onto streets, West Houston Harte Expressway to the north and Freeland Avenue to the south. The applicant intends to construct a new one-story single-family dwelling with attached garage on the lot. The proposed house will be 1,166 square feet and the attached garage will be 267 square feet for a total floor area of 1,433 square feet (See Additional Information).</p>			
LOCATION:		LEGAL DESCRIPTION:	
2822 Freeland Avenue; located 100 feet east of the intersection of Hassell Street and Freeland Avenue		Being the south part of Lot 11 in Block 21 of the Mountain View Addition, comprising 0.087 acres.	
SM DISTRICT / NEIGHBORHOOD:	ZONING:	FUTURE LAND USE:	SIZE:
SMD District #4 – Lucy Gonzales Bluffs Neighborhood	Single-Family Residential (RS-1)	NC – Neighborhood Center	0.087 acres
THOROUGHFARE PLAN:			
<p>West Houston Harte Expressway Frontage Road – Urban Arterial Street (TXDOT) Required: N/A (TXDOT jurisdiction); Provided: 450’ right-of-way, 36’ pavement</p> <p>Freeland Avenue – Urban Local Street Required: 50’ right-of-way, 40’ pavement or 36’ with a 4’ wide sidewalk Provided: 60’ right-of-way, 36’ pavement and no sidewalk (complied at time of platting)</p>			
NOTIFICATIONS:			
31 notifications mailed within 200-foot radius on December 18, 2019. Two letters received in support and one in opposition within the 200-foot circulation area.			
STAFF RECOMMENDATION:			
Staff’s recommendation is for the Zoning Board of Adjustment (ZBA) to APPROVE a variance from 501.A of the Zoning Ordinance to allow for a front yard setback of 11 feet facing Freeland Avenue in lieu of the required minimum 25 feet, for a home within the Single Family Residential (RS-1) Zoning District located at 2822 Freeland Avenue.			
PROPERTY OWNER/PETITIONER:			
Owner and Applicant: Mr. Miguel Duran			
STAFF CONTACT:			
Jeff Fisher, AICP Principal Planner (325) 657-4210, Extension 1550 jeff.fisher@cosatx.us			



Additional Information: The original lot was 50' by 140' created as part of the Mountain View Addition subdivision filed for record with Tom Green County on April 22, 1910. In February 1980, TXDOT condemned the northerly portion creating a substandard lot with a lot area of 3,800 square feet. Even though this lot has two frontages, Section 801.F.2 of the Zoning Ordinance considers one of the frontages to be a rear yard if an adjacent lot also has the same frontage as its rear yard. In this case, the adjacent house at 2830 Freeland Avenue has its rear yard facing Houston Harte Expressway thereby making Houston Harte a rear yard for the subject lot as well. The lot complies with all RS-1 Zoning District standards except for the front yard setback facing Freeland Avenue. The house will have a floor area ratio of 0.38 (38% of the lot area) and the maximum allowed in the RS-1 district is 40% in compliance.

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 is a special circumstance that warrants a front yard variance because of a large portion of the original lot condemned for construction of the Houston Harte Expressway. Planning Division agrees with the applicant. The original lot had a lot area 7,000 square feet, the RS-1 Zoning District requires a lot area of 5,000 square feet, and the current lot is only 3,800 square feet in size, 54% of the original lot size, and 76% of the minimum allowable lot size in the RS-1 district. The substandard lot size makes a reasonable sized house difficult as additional square footage is needed for vehicle storage, utilities, and general living space. Staff researched the setbacks for the two homes within the existing substandard Block 21 of Freeland Avenue to determine whether the proposed 11-foot front yard setback was appropriate. 2830 Freeland Avenue immediately adjacent had a front yard setback of 12.9 feet and 2814 Freeland Avenue had a setback of 7.5 feet. Given that the subject lot's side yard depths are between the depths of these two lots, 81.6 feet on the west side and 67.5 feet on the east side, Staff believes that an 11-foot front yard setback is reasonable and consistent with the other front setbacks on the street.

In addition, Staff researched the square footages of the 36 homes in closest proximity to the property between Millspaugh Street; Houston Harte Expressway, North Garfield Street and Chestnut Street, before 2000 and after 2000 to determine whether the new home would be consistent with these averages. All of the lots except for the two on the same block and 2902 Freeland Avenue were 7,000 square feet, exceeding the 5,000 square foot lot area minimum in the RS-1 district. Staff determined that the average floor area for the 23 homes built before 2000 was 1,123 square feet, and the 13 built after 2000 was 1,716 square feet. As indicated, the proposed home will be 1,433 square feet, smaller than all of the homes built after 2000. Staff believes the applicant's proposed square footage and setbacks are reasonable given the substandard lot size and other homes in the area.

2. **These special circumstances are not the result of the actions of the applicant.**
The applicant did not create the circumstance as the State condemned almost half of the subject lot for construction of the Houston Harte Expressway. The original lot had a depth of 140 feet, the longest side (west) is only 81 feet long, and the proposed front yard setback is 11 feet, 14 feet less than required. Had the lot remained in its original configuration, the house would easily comply with the front yard setback, as there would be an additional 59 feet of depth and only 14 additional feet are needed to comply with the front yard setback.
3. **Literal interpretation and enforcement of the terms and provisions of this Zoning Ordinance would deprive the applicant of rights commonly enjoyed by other land in the same zoning district, and would cause an unnecessary and undue hardship.** Staff believes that requiring the front yard setback would deprive the applicant of the ability to place a reasonable sized home, consistent with other homes in the same zoning district in the area, and substantially smaller than the newer homes built after 2000. The original proposal had the home closer to Houston Harte Expressway which would have required rear and front yard variances, and Staff supported the applicant's revision to move the home closer to Freeland Avenue consistent with the other front setbacks on this block, providing a larger back yard and further setback from the freeway.
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.** As indicated, the proposed home will comply with all RS-1 zoning requirements except for the front yard setback. The home is consistent with the setback line of the homes within the same subdivision block. Staff is satisfied that the home will be consistent with the surrounding development pattern and will not be contrary to the public interest.
5. **Granting the variance will not adversely affect adjacent land in a material way.** Staff does not believe that there will be any adverse impacts on adjacent properties if the variance was granted. As indicated, placement of the home will maintain the average sight and setback line of homes facing Freeland Avenue within the same subdivision block. The home will be consistent with the home sizes within the surrounding area, and smaller than those built after 2000 despite being on a substantially smaller lot.
6. **Granting the variance will be generally consistent with the purposes and intent of this Zoning Ordinance.** Section 104.2 of the Zoning Ordinance states that the purpose of the Ordinance is to "Protect the character and the established pattern of development in each area." Staff believes the proposed home is in keeping with this purpose statement. The home maintains the existing setback line within the subdivision block, and it will provide an additional home consistent with the single-family homes in the subject neighborhood.

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 believe that the substandard lot created through condemnation by TXDOT in 1980 is sufficient grounds for a variance. As indicated, the lot is only 3,800 square feet in area, 54% of the original lot size, and 76% of the minimum allowable lot size in the RS-1 district. Moving the house closer to Freeland Avenue maintains the required 20-foot setback from Houston Harte Expressway and a larger rear yard and distance from a highly travelled freeway.

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

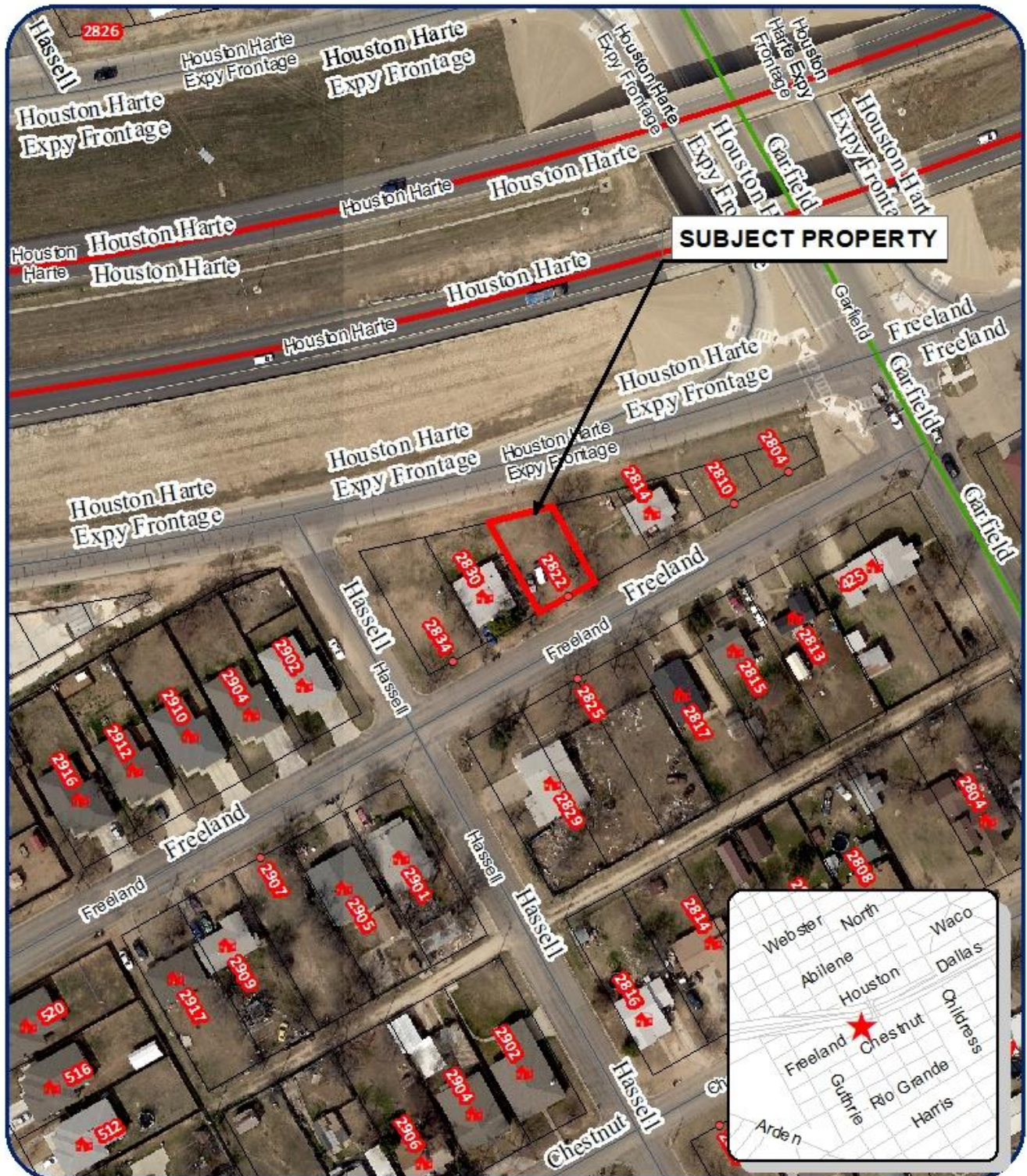
Recommendation:

Staff's recommendation is for the Zoning Board of Adjustment (ZBA) to **APPROVE** a variance from 501.A of the Zoning Ordinance to allow for a front yard setback of 11 feet facing Freeland Avenue in lieu of the required minimum 25 feet, for a home within the Single Family Residential (RS-1) Zoning District located at 2822 Freeland Avenue, subject to the following **one** condition of approval:

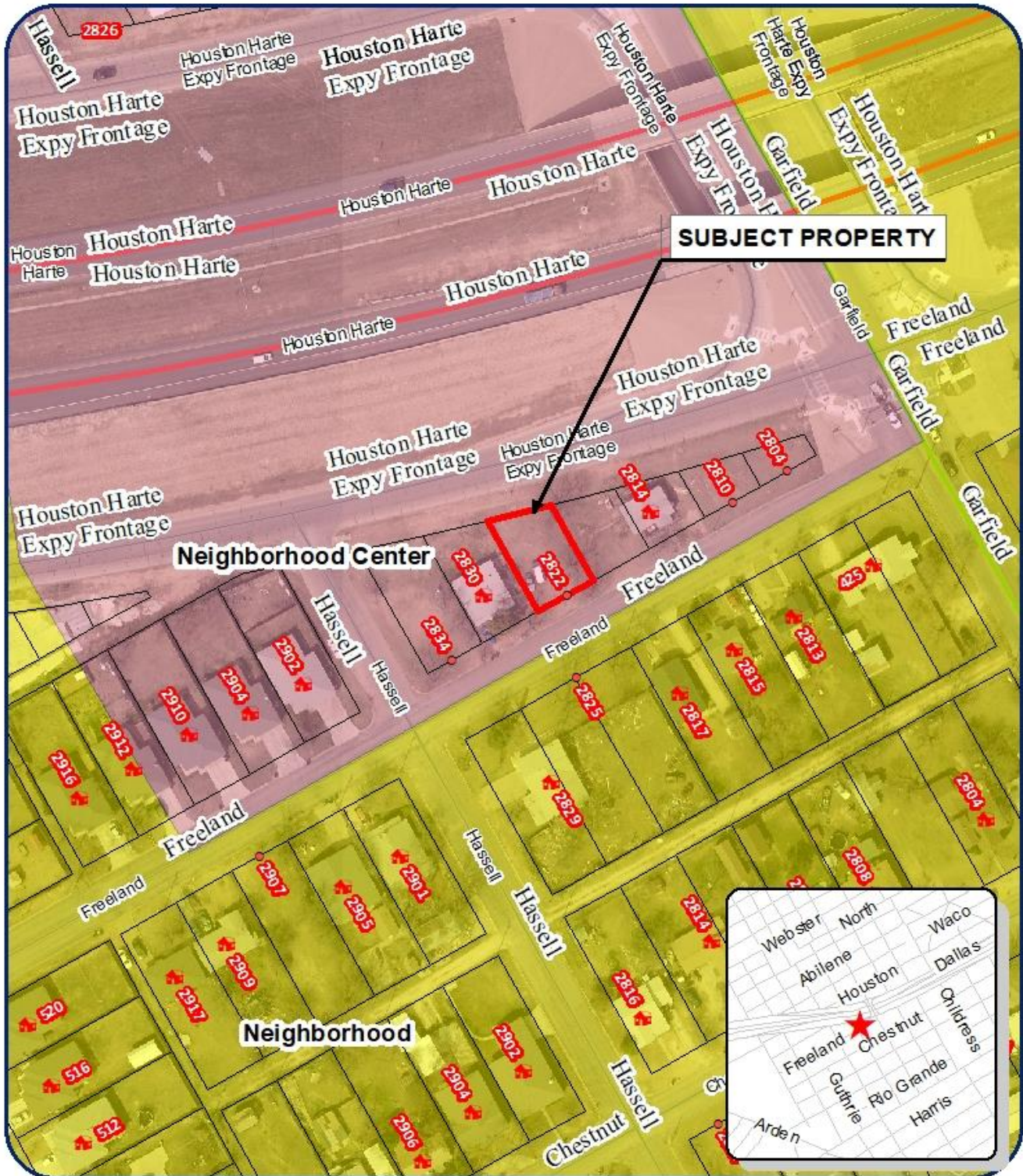
1. The applicant shall obtain a building permit from the Permits and Inspections Division for the new single-family home consistent with the footprint provided on the site plan.

Attachments:

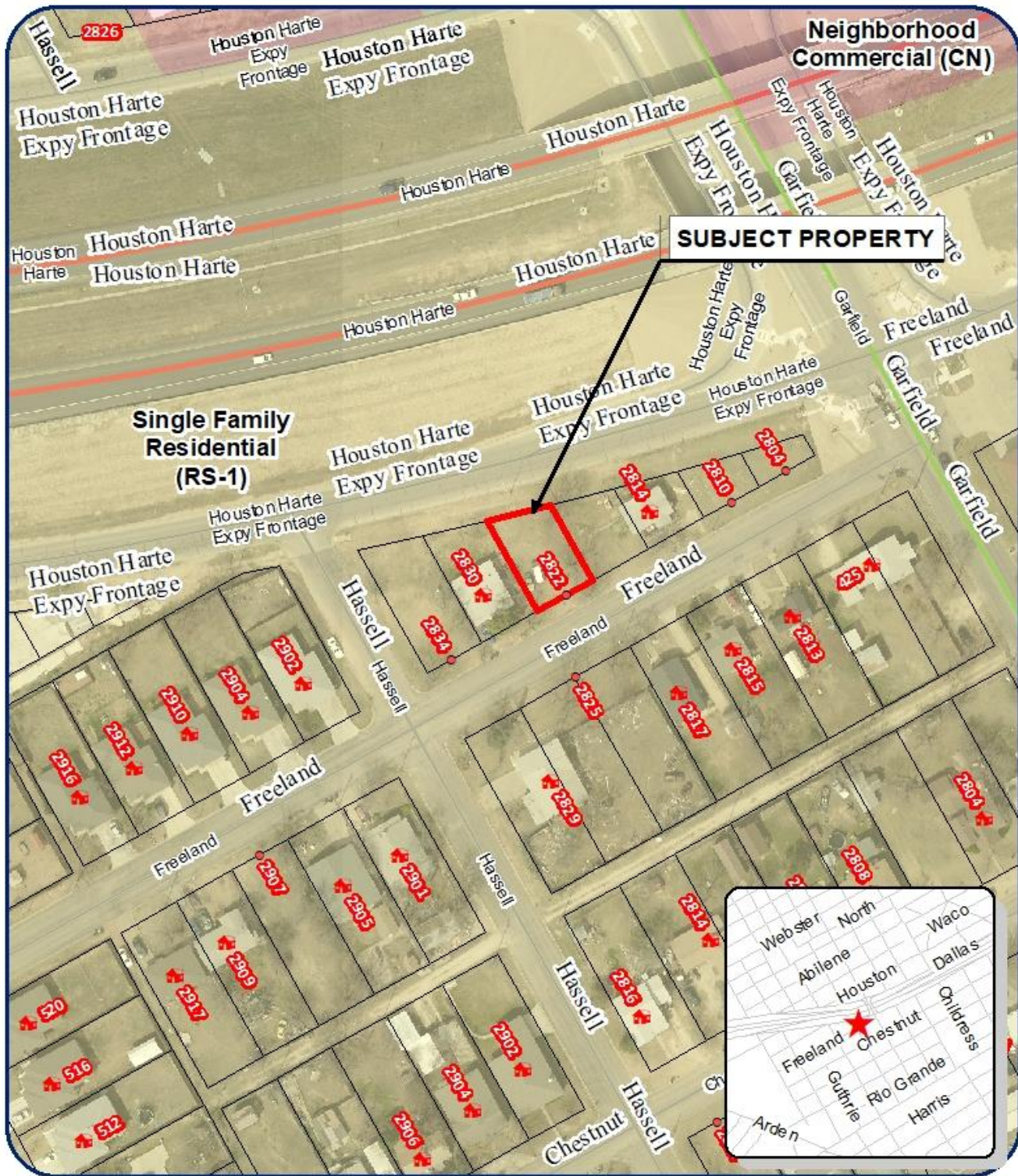
Aerial Map
Future Land Use Map
Zoning Map
Photographs
Response Letters
Site Plan
Proposed Elevations and Floor Plan
Application





<p>Variance ZBA20-01: Duran Council District: Lucy Gonzales -District 4 Neighborhood: Bluffs Scale: 1" approx. = 100 ft 2822 Freeland Avenue</p>	<p>Legend Subject Properties:  Current Zoning: RS-1 Requested Zoning Change: N/A Vision: Neighborhood Center</p>	<p>N </p> 
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Variance		Legend			
ZBA20-01: Duran Council District: Lucy Gonzales -District 4 Neighborhood: Bluffs Scale: 1" approx. = 100 ft 2822 Freeland Avenue		Subject Properties: 	Current Zoning: RS-1 Requested Zoning Change: N/A Vision: Neighborhood Center		



<p>Variance ZBA20-01: Duran Council District: Lucy Gonzales - District 4 Neighborhood: Bluffs Scale: 1" approx. = 100 ft 2822 Freeland Avenue</p>	<p>Legend Subject Properties: Current Zoning: RS-1 Requested Zoning Change: N/A Vision: Neighborhood Center</p>	<p style="text-align: center;">N </p> 
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Photos of Site and Surrounding Area

EAST



WEST



NORTH AT PROPERTY



SOUTH



VIEW FROM FREELAND AVENUE



VIEW FROM HOUSTON HARTE FRONTAGE ROAD



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) _____

*To make use of a piece of property
other wise useless*

NAME: *David Dusek*

ADDRESS: *2904 Freeland Ave*
SA

SIGNATURE: 

ZBA20-01: Duran
Property owner number: *5*

If you have any questions about these proceedings, please call Jeff Fisher, Principal Planner, with the City of San Angelo's Planning Division at (325) 657-4210 or by email at jeff.fisher@cosatx.us.

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) IN FAVOR () IN OPPOSITION

REASON(S) _____

NAME: Stefanie Nelson

ADDRESS: 2802 Chestnut
San Angelo TX 76902

SIGNATURE: Stefanie Nelson

ZBA20-01: Duran
Property owner number: 116

If you have any questions about these proceedings, please call Jeff Fisher, Principal Planner, with the City of San Angelo's Planning Division at (325) 657-4210 or 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 72 W COLLEGE STREET IN SAN ANGELO, TEXAS 76903.

() IN FAVOR

(X) IN OPPOSITION

REASON(S)

I like the area the way it is and see no reason to change things.

NAME: Arnold Castro

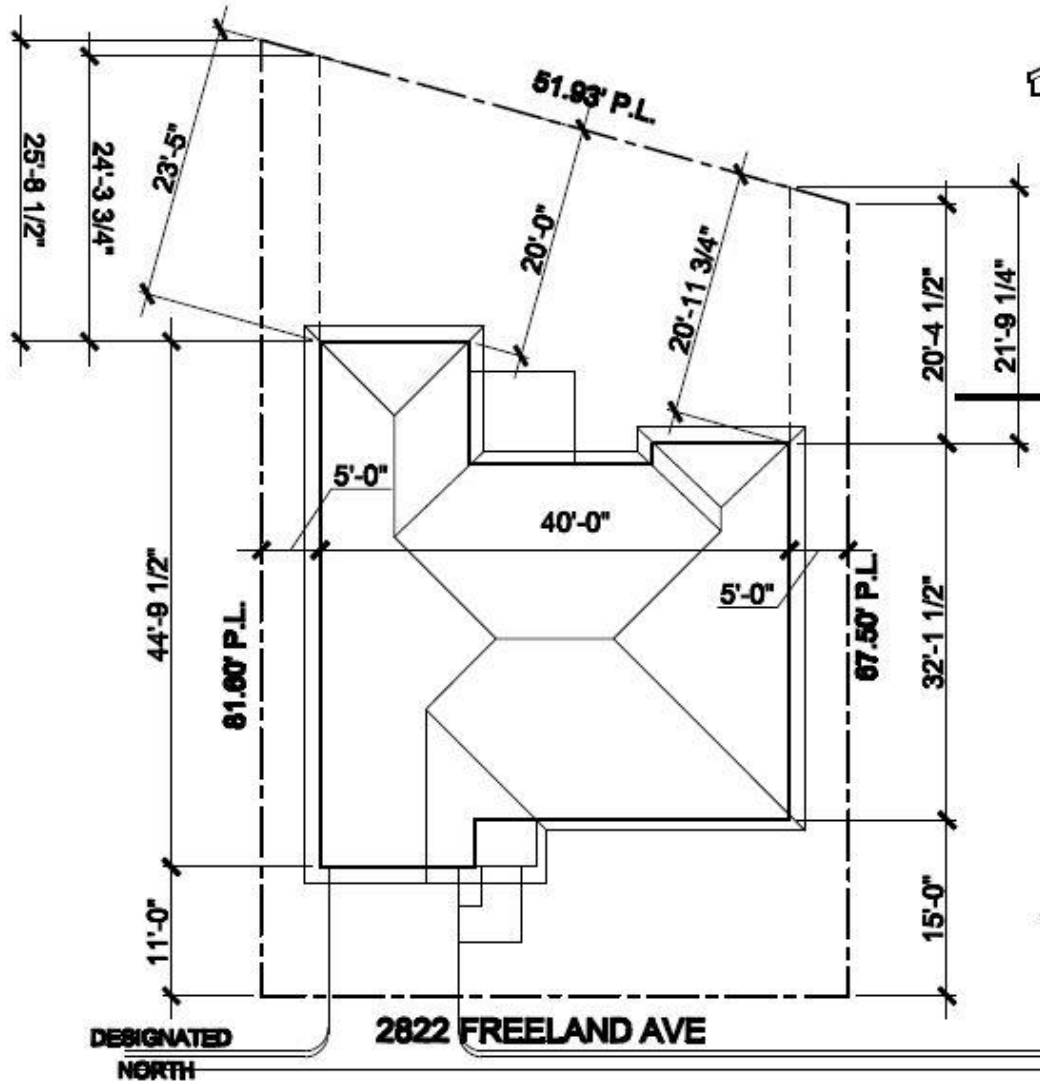
ADDRESS: 1100 Chandler Dr
Clinton OK 73601

SIGNATURE: 

ZBA20-01: Duran
Property owner number: 3

If you have any questions about these proceedings, please call Jeff Fisher, Principal Planner, with the City of San Angelo's Planning Division at (325) 657-4210 or by email at jeff.fisher@cosatx.us.

Site Plan

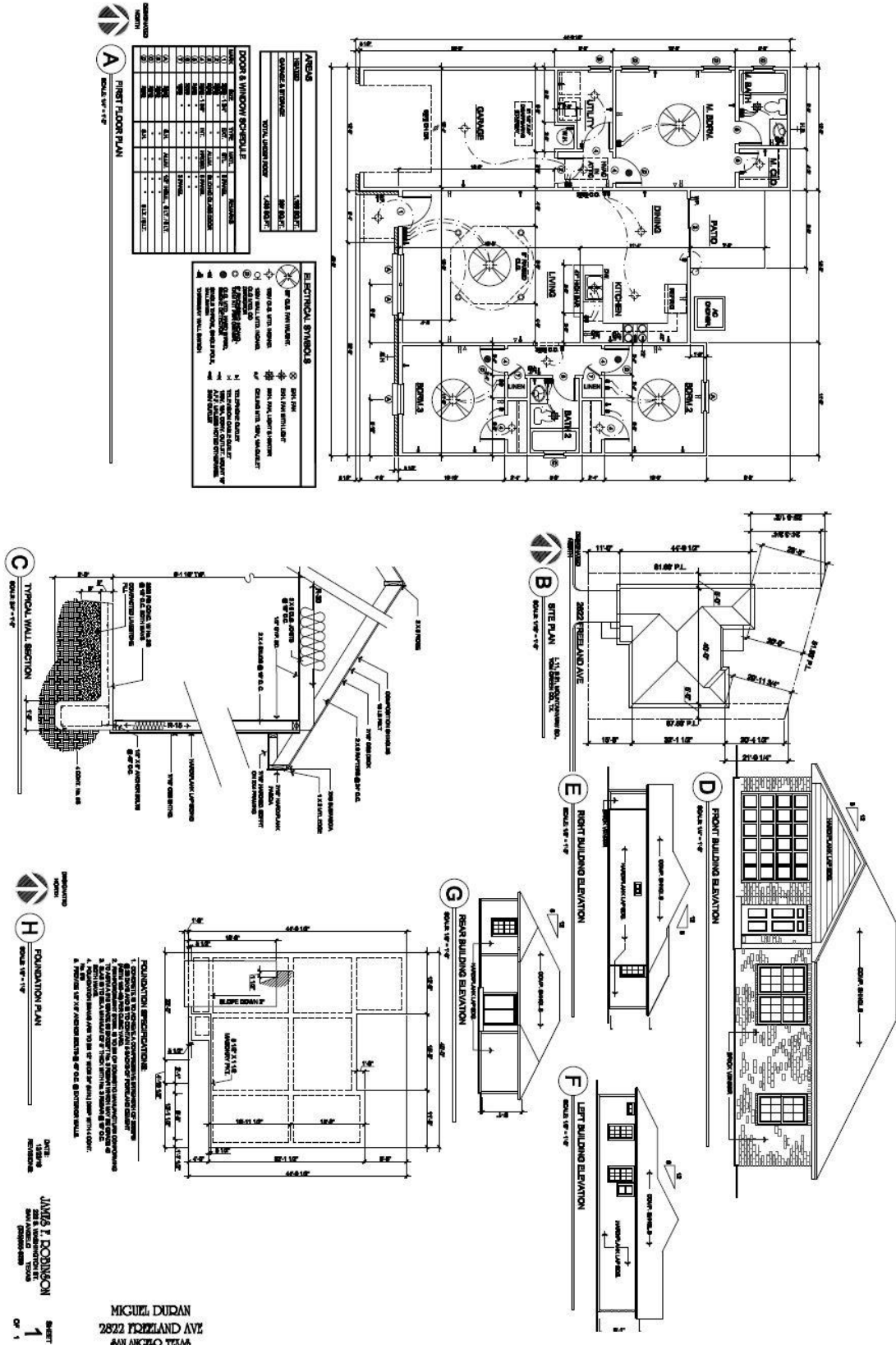


B

SITE PLAN


L 11, B 21, MOUNTAINVIEW RD.,
TOM GREEN CO., TX

SCALE: 1/16" = 1'-0"




Proposed Elevations and Floor Plan

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): Miguel Duran
 Owner Representative (Notarized Affidavit Required)

Mailing Address: 1110 Ashford Dr. San Angelo TX 76901
City State Zip Code

Contact Phone Number: 951-741-9987 Contact E-mail Address: Duran999@hotmail.com

Subject Property Address and/Location: 2822 Freeland San Angelo TX 76901
City State Zip Code

Legal Description (can be found on property tax statement or at www.tamcreencad.com): BK21, L11, Mountain View 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: 5017
 Describe variance: MD 110 ft Rear front SET Back From H. RTH H
- 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:

- 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: When Houston Harke Expressway was built the off ramp took a large portion off this lot.

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 taking of the property was done long before this owner purchased the lot.

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: _____

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: _____

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

Explanation: _____

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

Explanation: _____

Effective January 3, 2017

Section 4: Applicant(s) Acknowledgement

Please initial the following:

MP 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;

MP 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;

MP 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

MP 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.

Margal D
Signature of licensee or authorized representative

11-21-19
Date

Printed name of licensee or authorized representative

Name of business/Entity of representative

FOR OFFICE USE ONLY:

Reviewed/Accepted by: _____

Date: 11, 25, 19

Case No.: ZBA: ~~20~~ - ~~01~~
20 - 01

ZBA Hearing Date: 11/6/2020

Fully-Dimensioned and scaled Site Plan: Yes No

Date of Application: 11, 25, 19


Non-Refundable Fee: \$ 250.00 Receipt #: 57943

Date paid: 11, 25, 19

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

ZONING BOARD OF ADJUSTMENT – February 3, 2020 STAFF REPORT



APPLICATION TYPE:		CASE:	
Variance		ZBA20-02: Brumley	
SYNOPSIS:			
A request for approval of a variance from Section 509.B.3 of the Zoning Ordinance to allow an 8 foot high fence within the required 25 foot front yard in lieu of the maximum 4 feet for a business within the General Commercial/Heavy Commercial zoning district located at 15 East Highland Boulevard.			
LOCATION:		LEGAL DESCRIPTION:	
15 East Highland Boulevard.		Lot 17 & E 40 Feet of Lot 18, Blk. 2, Millspaugh Addition	
SM DISTRICT / NEIGHBORHOOD:	ZONING:	FUTURE LAND USE:	SIZE:
SMD #3 – Harry Thomas Ft. Concho Neighborhood	CG/CH	Commercial/ Neighborhood	0.262 acres
THOROUGHFARE PLAN:			
<u>East Highland Blvd.</u> – Urban Local Street – Required ROW 50’ (Existing 80’); Required Pavement Width 40’ or 36’ with 4’ Sidewalk Required (Existing 36’)			
NOTIFICATIONS:			
26 notifications were mailed within a 200-foot radius on December 18, 2019. No responses have been received in support, none in opposition.			
STAFF RECOMMENDATION:			
Staff is recommending APPROVAL of the variance request from Section 509.B.3 of the Zoning Ordinance to allow an 8 foot high fence within the required 25 foot front yard in lieu of the maximum 4 feet in fence height for a business within the General Commercial/Heavy Commercial zoning district at 15 East Highland Boulevard.			
PETITIONER:			
Justin Brumley, applicant			
STAFF CONTACT:			
Sherry L. Bailey Principal Planner (325) 657-4210, Extension 1546 sherry.bailey@cosatx.us			

Additional Information: The property owner is requesting to place an 8 foot metal fence in line with his existing building front in order to help prevent theft that has been occurring out of his storage yard. The owner has experienced multiple occurrences where thieves have cut his existing 6 ft. chain link fence and removed what they could carry. When he has the police come to take a report they say there isn't much they can do without catching the thieves in the act even though the owner has them on tape. It is his belief that having a solid metal 8 ft. fence along the alley and in line with his store front will discourage the thieves both because of the height and the solid metal material of the metal. His neighbor to the west, Weatherbee Electric's store is in line with Mr. Brumley's store and would not be affected by his constructing a solid 8 ft. fence along the alley and in line with his store. The easement along Highland Blvd. is about 20 feet deep east of the alley and 12 feet deep west of the alley.

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

1. **Special circumstances exist that are peculiar to the land or structure that are not applicable to other land or structures in the same zoning district and are not merely financial.** The businesses adjacent to the west and along Highland are built to the front lot line as is his business. He is just asking to continue the build line that is existing.
2. **These special circumstances are not the result of the actions of the applicant.** The owner states that this building and fence have been in this configuration since he purchased the business. The problem has worsened recently.
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 believes that without this variance the property is vulnerable to continued thief and vandalism. Staff compared the crime reports list and can confirm there has been an increase in these acts over the past couple of years.
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 already placed additional security at his property which has not resulted in curtailing the problem. Cutting his chain link fence is a quick act that allows the thief to enter, grab and leave quickly. The thieves are able to look into his yard, see what is available and act. The solid metal fence, built to the 8 ft. height is be a deterrent both because of the height and the solidness of the material.
5. **Granting the variance will not adversely affect adjacent land in a material way.** The existing businesses to the west mainly built at the property line with wide right of way easements. Building the fence in line with his building should not affect the neighboring property to the west.

6. **Granting the variance will be generally consistent with the purposes and intent of this Zoning Ordinance.** Staff believes that the variance request is a reasonable request that is in keeping with the intent of the Zoning Ordinance and one of its main purposes to protect property and preserve the integrity of the neighborhood.

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 front yard setback would deny the owner the ability to protect his property and use his property in a manner others in the area already enjoy.

Recommendation:

Staff recommends that the Zoning Board of Adjustments **APPROVE** the variance request from Section 509.B.3 of the Zoning Ordinance to allow an 8 foot solid fence within the required 25 ft. front yard setback in lieu of the required 4 ft. maximum fence height for a business located at 15 East Highland Boulevard.

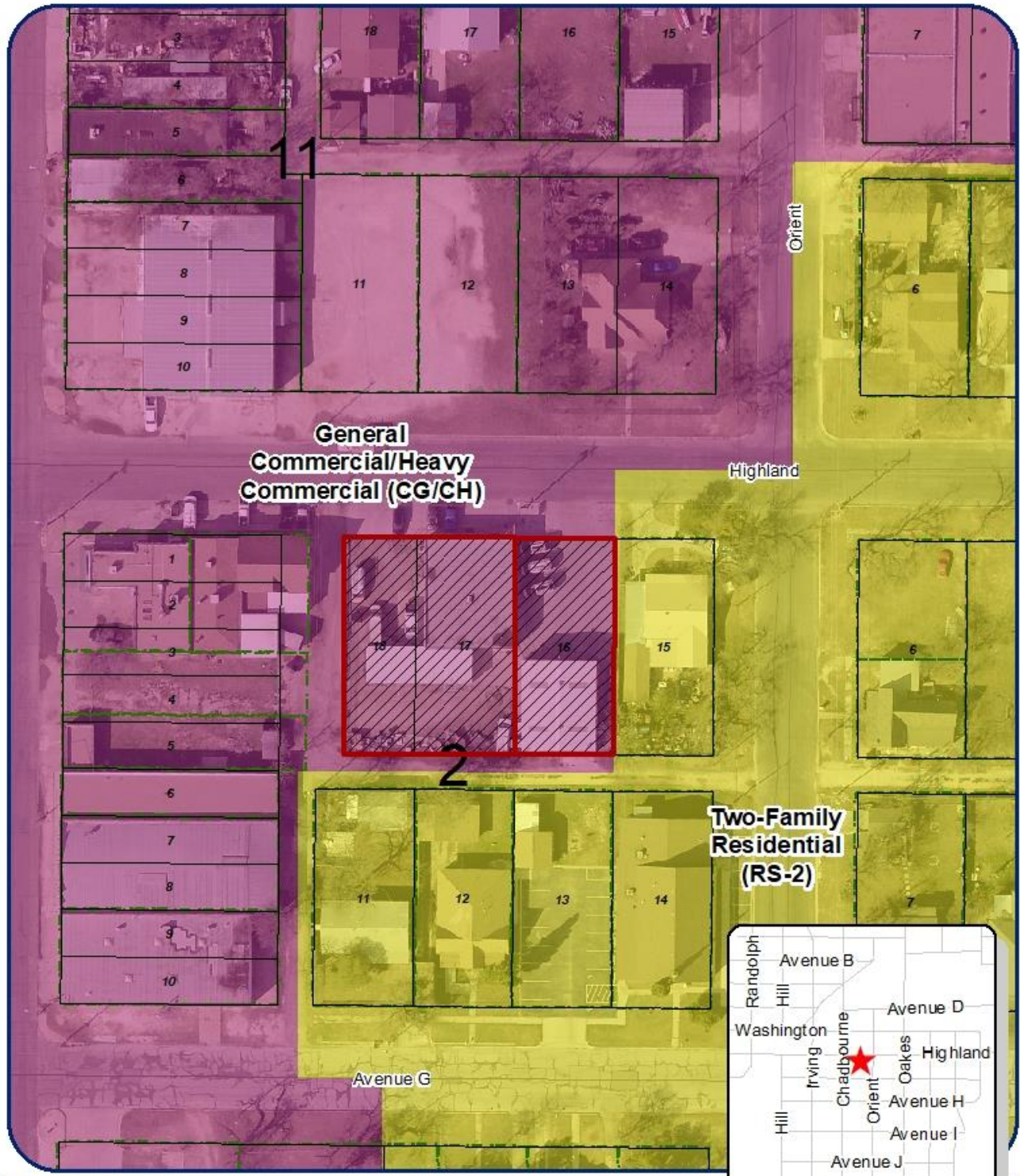
Attachments:

Aerial Map
Zoning Map
Notification Map
Application
Site Photos



Location Map Existing zoning	Legend
<p>ZBA20-02: Brumley Council District 3 - Harry Thomas Neighborhood: Ft. Concho Scale: 1" approx. = 70 ft Lots 16, 17 & E40 ft. of 18. Block 2; Mills paugh Addition</p>	<p>Subject Properties:  Current Zoning: CG/CH Requested Zoning Change: Front yard setback variance Vision: Commercial</p> <p style="text-align: right;">15 & 23 E. Highland</p>





<p>Location Map Existing zoning</p> <p>ZBA20-02: Brumley Council District 3 - Harry Thomas Neighborhood: Ft. Concho Scale: 1" approx. = 70 ft</p> <p>Lots 16, 17 & E40 ft. of 18. Block 2; Mills paugh Addition</p>	<p>Legend</p> <p>Subject Properties: Current Zoning: CG/CH Requested Zoning Change: Front yard setback variance Vision: Commercial</p> <p style="text-align: right;">15 & 23 E. Highland</p>	<p>Location Map</p>	<p>N</p>
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NOTIFICATION MAP

ZBA20-02: Brumley

Council District 3 - Harry Thomas
 Neighborhood: Ft. Concho
 Scale: 1" approx. = 83 ft

Lots 16, 17 & E40 ft. of 18. Block 2; Mills paugh Addition

Legend

Subject Properties:
 Current Zoning: CG/CH
 Requested Zoning Change: Front yard setback variance
 Vision: Commercial



15 & 23 E. Highland

Effective January 3, 2017



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



Application for Variance from Zoning Regulations

Sherry

Section 1: Basic Information

Name of Applicant(s): Justin Brumley
 Owner Representative (Notarized Affidavit Required)

Mailing Address: 1912 N. Van Butler San Angelo TX 76901
City State Zip Code

Contact Phone Number: 325-227-2216 Contact E-mail Address: Justin@actx.us

Subject Property Address and/Location: 15423 E Highland San Angelo TX 76903
City State Zip Code

Legal Description (can be found on property tax statement or at www.tamgreencad.com): Mills Pennington Addition Block 2 Lot 16, 17 & E 40' x 100' 0" of 18

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: 509 B 3a
 Describe variance: To allow an 8 foot fence within the required front yard.
- 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 Existing Building & Surrounding Buildings are set back 0 feet on Highland Blvd & There is a 20 foot Right of way to the street that acts as a Buffer There is an existing 2 foot tall Chain Link fence at the front of this location I would like to replace it with a metal fence

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 existing Building & Fence Have Been
in This Location Since I bought The Location.
in This Configuration

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:

Without This Variance The Property is
Open To Qllow UD Security. This Location & fence
have Been Vandalized & Robbed on 6 occasions
They cut the fence & create high risk situations for
my self & my staff

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 Request Complies with all other zoning requirements
The additional height will allow me to secure my
property

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

Explanation:

The current fence is in the same location
as the new one, The existing and the new
fence is not adjacent to any homes.

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

Explanation:

The fence in this location will not block
visibility to any homes or street front due to
the location of the buildings on the property line &
the 20 foot right of way before the street (highland)

Site Photos



Mr. Brumley's building



Fence to be replaced with solid 8 ft. metal fence



Close up of fencing to be replaced – from existing metal fence in alley to corner, then in front



Building west across alley in line with Brumley building



Existing fence in alley to the 25 ft. setback line



House next to Brumley property where fencing will not be replaced

ZONING BOARD OF ADJUSTMENT – February 3, 2020
STAFF REPORT



APPLICATION TYPE:		CASE:	
Variance		ZBA20-03 & ZBA20-04: Weiershausen	
SYNOPSIS:			
A request for approval of a variance from Section 501.A of the Zoning Ordinance to allow for a 11.5-foot rear yard setback in lieu of 20-foot for a home within the Single Family Residential (RS-1) Zoning District, located at 2830 Coleman Street & a request for approval of a variance from Section 501.A of the Zoning Ordinance to allow for a 14.5-foot rear yard setback in lieu of 20-foot for a home within the Single Family Residential (RS-1) Zoning District located at 2827 North Street.			
LOCATION:		LEGAL DESCRIPTION:	
2830 Coleman Street 2827 North Street		Lot 8 & 9, Block 36, Hatcher Addition	
SM DISTRICT / NEIGHBORHOOD:	ZONING:	FUTURE LAND USE:	SIZE:
SMD #2 – Tom Thompson Angelo Heights Neighborhood	RS-1 – Single-Family Residential	Neighborhood	0.1 acre each
THOROUGHFARE PLAN:			
<p><u>Coleman Street</u> – Urban Local Street – ROW 50’ Required (60’ Existing) – Pavement Width 40’ or 36’ with 4’ Sidewalk Required (30’ Existing)</p> <p><u>Hassell Street</u> – Urban Local Street – ROW 50’ Required (60’ Existing) – Pavement Width 40’ or 36’ with 4’ Sidewalk Required (30’ Existing)</p> <p><u>North Street</u> – Urban Local Street – ROW 50’ Required (60’ Existing) – Pavement Width 40’ or 36’ with 4’ Sidewalk Required (30’ Existing)</p>			
NOTIFICATIONS:			
21 notifications were mailed within a 200-foot radius on January 10, 2020.			
STAFF RECOMMENDATION:			
<p>Staff recommends APPROVAL of a variance from Section 501.A of the Zoning Ordinance to allow for a 11.5-foot rear yard setback in lieu of 20 feet for a house within the Single Family Residential (RS-1) Zoning District; and</p> <p>Staff recommends APPROVAL of a variance from Section 501.A of the Zoning Ordinance to allow for a 14.5-foot rear yard setback in lieu of 20 feet for a house within the Single Family Residential (RS-1) Zoning District.</p>			
PETITIONER:			
Galen Weiershausen			
STAFF CONTACT:			
Shelly Paschal Planner (325) 657-4210, Extension 1533 shelly.paschal@cosatx.us			

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

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

Allowed Variances:

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

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

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

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

Recommendation:

Staff recommends **APPROVAL** of a variance from Section 501.A of the Zoning Ordinance to allow for a 11.5-foot rear yard setback in lieu of 20 feet for a house within the Single Family Residential (RS-1) Zoning District for a property located at 2830 Coleman Street, subject to the following **Condition of Approval**; and

Staff recommends **APPROVAL** of a variance from Section 501.A of the Zoning Ordinance to allow for a 14.5-foot rear yard setback in lieu of 20 feet for a house within the Single Family Residential (RS-1) Zoning District for a property located at 2827 North Street, subject to the following **Condition of Approval**:

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

Attachments:


Aerial Map
Future Land Use Map
Zoning Map
Applications
Photos of the Sites
Proposed Site Plans
Notification Map



ZBA20-03 & ZBA20-04

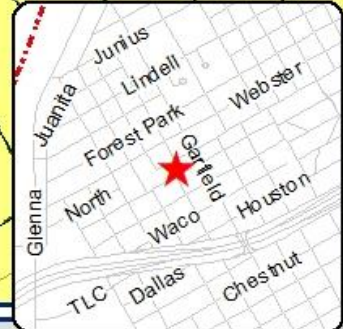
Galen Weiershausen
Council District 2 - Tom Thompson
Neighborhood: Angelo Heights
Scale: 1" approx. = 100 ft

Legend

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





2830 Coleman Street & 2827 North Street - being Lot 8 & 9, Block 36, Hatcher Subdivision

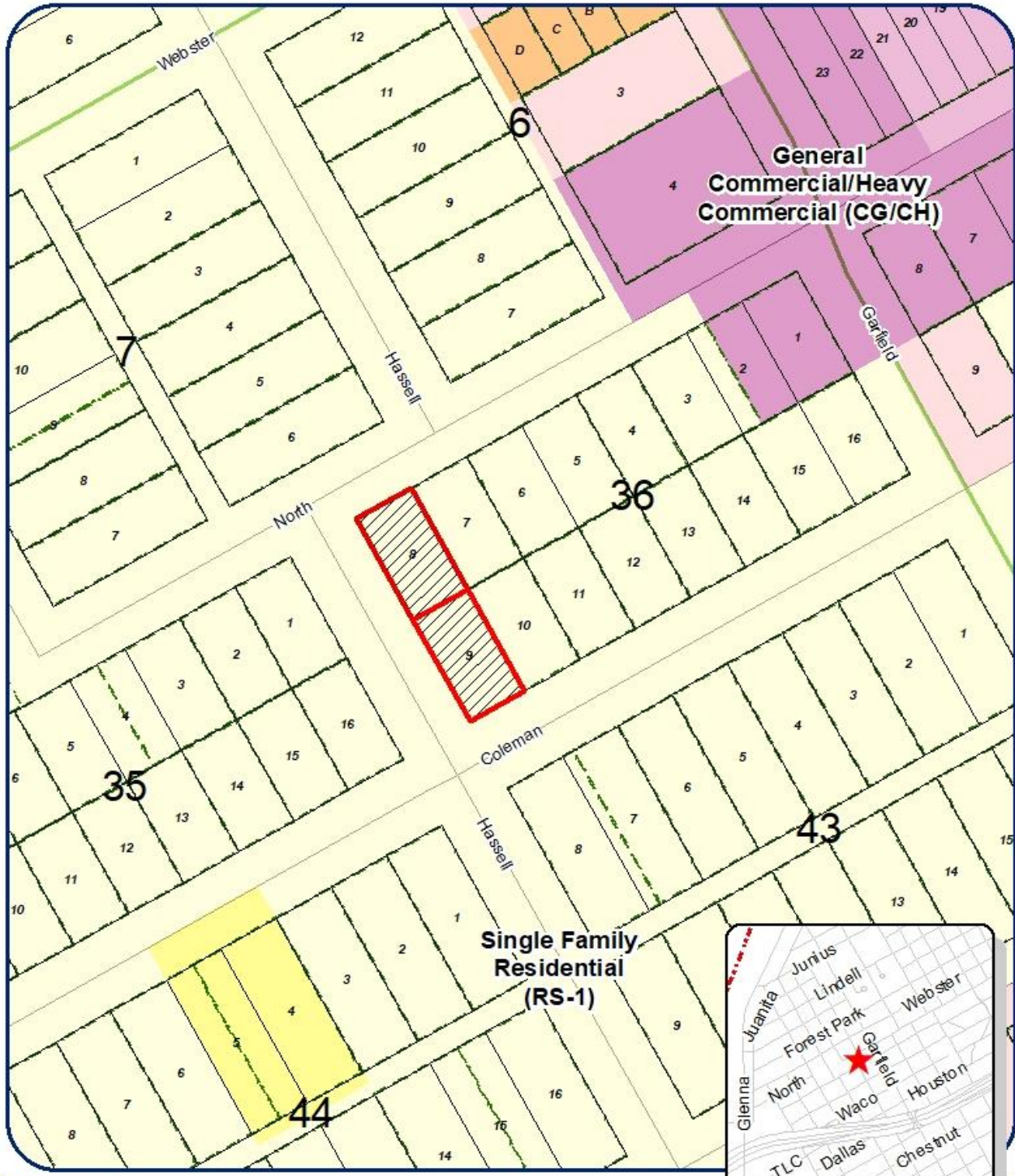


ZBA20-03 & ZBA20-04
Galen Weiershausen
 Council District 2 - Tom Thompson
 Neighborhood: Angelo Heights
 Scale: 1" approx. = 100 ft

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

2830 Coleman Street & 2827 North Street - being Lot 8 & 9, Block 36, Hatcher Subdivision



ZBA20-03 & ZBA20-04

Galen Weiershausen
 Council District 2 - Tom Thompson
 Neighborhood: Angelo Heights
 Scale: 1" approx. = 100 ft

Legend

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



2830 Coleman Street & 2827 North Street - being Lot 8 & 9, Block 36, Hatcher Subdivision

Effective January 3, 2017



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



Application for Variance from Zoning Regulations

Shelly

Section 1: Basic Information

Name of Applicant(s): Galen Weiershausen

Owner Representative (Notarized Affidavit Required)

Mailing Address: P.O. Box 368 San Angelo TX 76902

Contact Phone Number: 325-234-0607 Contact E-mail Address: XMRFBHE AOL.COM

Subject Property Address and/Location: 2830 Coleman San Angelo TX 76901

Legal Description (can be found on property tax statement or at www.tomgreencad.com): Lot 9 BIK 36 Hatcher Subdivision

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: Sec. 501
 Describe variance: 11'-6" BACKYARD
- 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: lots are only 92' compared to larger lots with alleys

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: Platted in 1920'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: As all setbacks were met, normal size home couldn't be built

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: - Allowing this variance would allow for a 1200-1300 sq ft home.

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

Explanation: Granting this doesn't affect any adjacent properties

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

Explanation: Granting this variance would still allow for a background

Effective January 3, 2017

Section 4: Applicant(s) Acknowledgement

Please initial the following:

- I/we understand that the Zoning Board of Adjustment (ZBA) is bound by criteria established by state law; I further understand that my request is not guaranteed to be approved and that it constitutes an exception from regulations of the City of San Angelo;
- I/we understand that any variation(s) authorized by the ZBA will require me/us to obtain a building permit for that stated variation within twelve (12) months of the approval date by the ZBA, unless the ZBA has specifically granted a longer period;
- I/we understand that all drawings, pictures, documents or other information used during your testimony to the ZBA must be kept in the permanent files of the Planning Division; and
- I/we understand that any appeal of a decision made by the ZBA must be presented to a court of record with a verified petition stating that the decision of the ZBA is illegal in whole or in part and specifying the grounds of the illegality. This petition for appeal must be presented within ten (10) days after the date the decision is filed in the board's office.

I/We the undersigned acknowledge that the information provided above is true and correct.

[Signature]
Signature of licensee or authorized representative

12/6/19
Date

Galen Weiershausen
Printed name of licensee or authorized representative

Name of business/Entity of representative

FOR OFFICE USE ONLY:

Reviewed/Accepted by: _____

Date: 12, 6, 19

Case No.: ZBA: 20 -- 03

ZBA Hearing Date: ____/____/____

Fully-Dimensioned and scaled Site Plan: Yes No

Date of Application: ____/____/____

Non-Refundable Fee: \$ 250.00 Receipt #: 75040

Date paid: 12, 6, 19

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

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): Galew Weiershausen
 Owner Representative (Notarized Affidavit Required)

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

Contact Phone Number: 325-234-0607 Contact E-mail Address: XMRPISH@AOL.COM

Subject Property Address and/Location: 2827 North St. San Angelo TX 76901
 City State Zip Code

Legal Description (can be found on property tax statement or at www.tomgreencad.com): Lot 8 BIK 36 Hatcher Subdivision

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: Sec. 501
 Describe variance: 14'-6" Backyard
- 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: lots are only 92' compared to larger lots with alleys

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: Platted in 1920'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: If all setbacks were met, normal size home couldn't be built

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: As allowing this variance would allow for a 1200-1300 sq ft home

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

Explanation: Allowing this variance wouldn't affect any adjacent properties

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

Explanation: Granting this variance would still allow for a backyard

Effective January 3, 2017

Section 4: Applicant(s) Acknowledgement

Please initial the following:

[Initials] 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;

[Initials] 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;

[Initials] 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

[Initials] 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]

Signature of licensee or authorized representative

12/6/19

Date

Calen Weiershausen

Printed name of licensee or authorized representative

Name of business/Entity of representative

FOR OFFICE USE ONLY:

Reviewed/Accepted by: _____

Date: *12, 6, 19*

Case No.: ZBA: *20* -- *04*

ZBA Hearing Date: *1, 6, 2020*

Fully-Dimensioned and scaled Site Plan: Yes No

Date of Application: *12, 6, 19*

Non-Refundable Fee: \$ *250.00* Receipt #: *175040*

Date paid: *12, 6, 19*

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

Photos of the Site looking north

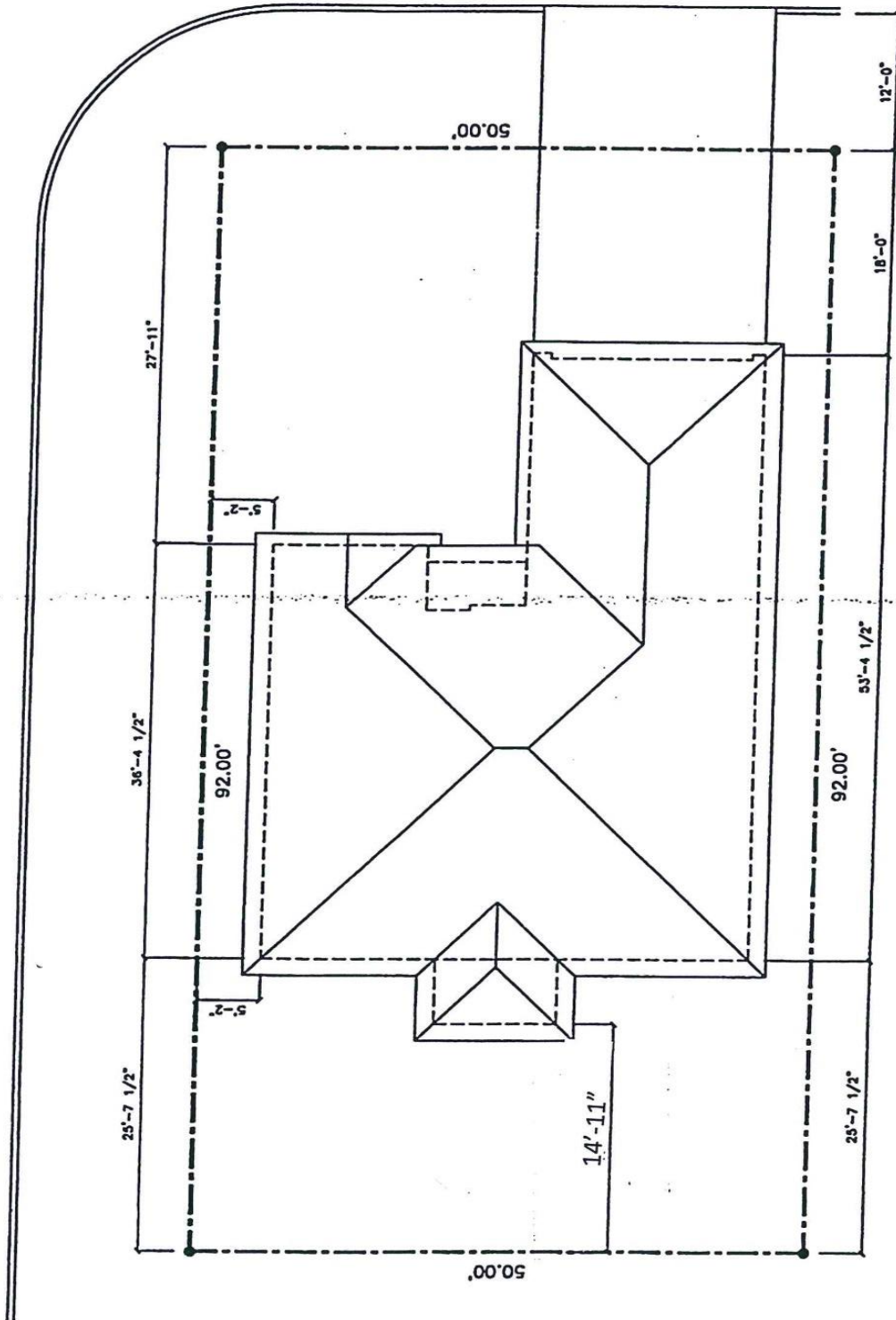


Photos of the Site looking south

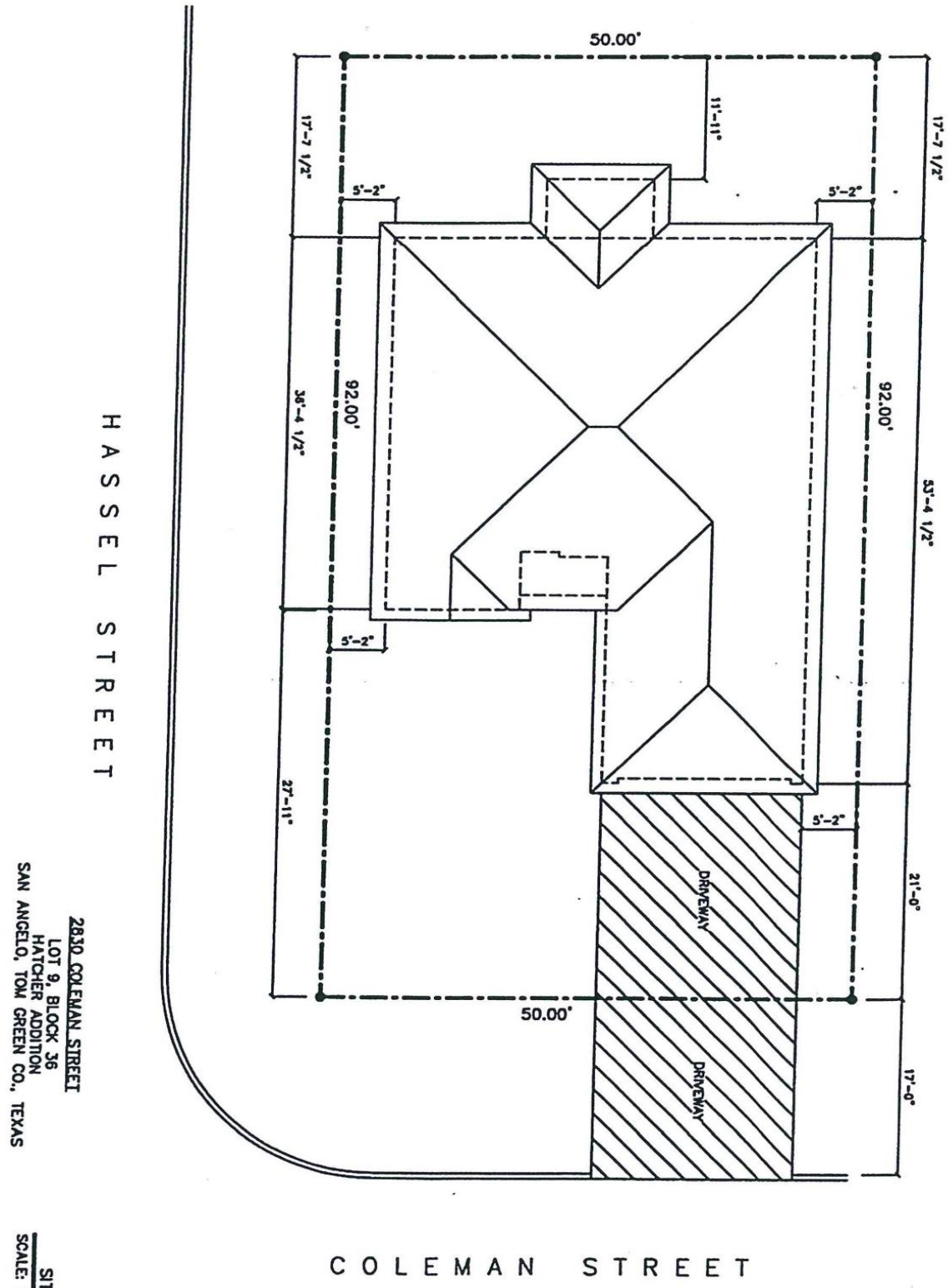


HASSEL STREET

NORTH STREET



2827 NORTH STREET
LOT 8, BLOCK 36
HATCHER ADDITION
SAN ANGELO, TOM GREEN CO., TEXAS
SITE PLAN
SCALE: 1/8" = 1'-0"





2830 COLEMAN STREET
LOT 9, BLOCK 36
HATCHER ADDITION
SAN ANGELO, TOM GREEN CO., TEXAS

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



ZBA20-03 & ZBA20-04		Legend	
Galen Weiershausen		Subject Properties:	—
Council District 2 - Tom Thompson		Current Zoning:	RS-1
Neighborhood: Angelo Heights		Requested Zoning Change:	N/A
Scale: 1" approx. = 100 ft		Vision:	Neighborhood
2830 Coleman Street & 2827 North Street - being Lot 8 & 9, Block 36, Hatcher Subdivision			

ZONING BOARD OF ADJUSTMENT – February 3, 2020
STAFF REPORT



APPLICATION TYPE:	CASE:
Variance	ZBA20-05: Hargraves

SYNOPSIS:
 The applicant has applied for a Variance from Section 509.B.3.a of the Zoning Ordinance to allow an opaque metal privacy fence with a maximum height of 6 feet in lieu of the maximum 4 feet in the front yard adjacent to West 17th Street within the Neighborhood Commercial (CN) Zoning District on the property (See Additional Information).

LOCATION:	LEGAL DESCRIPTION:
508 and 510 West 17 th Street; located at the northwest corner of West 17 th Street and North Bryant Boulevard	Lot 17A in a Replat of Lots 16 and 17, Block 1, Mineola Addition

SM DISTRICT / NEIGHBORHOOD:	ZONING:	FUTURE LAND USE:	SIZE:
SMD District #4 – Lucy Gonzales Blackshear Neighborhood	Neighborhood Commercial (CN)	T- Transitional	0.344 acres

THOROUGHFARE PLAN:
North Bryant Boulevard – Urban Arterial Street (TXDOT)
 Required: N/A
 Provided: 200’ right-of-way, 110’ pavement
West 17th Street – Urban Local Street
 Required: 50’ right-of-way, 40’ pavement or 36’ pavement with a 4’ sidewalk
 Provided: 80’ right-of-way, 36’ pavement with a 4’ sidewalk

NOTIFICATIONS:
 9 notifications mailed within 200-foot radius on January 22, 2020. None received in support or opposition.

STAFF RECOMMENDATION:
 Staff’s recommendation is for the Zoning Board of Adjustment (ZBA) to **APPROVE** a variance from Section 509.B.3.a of the Zoning Ordinance to allow an opaque privacy fence with a maximum height of 6 feet in the front yard adjacent to West 17th Street in lieu of the maximum 4 feet within the Neighborhood Commercial (CN) Zoning District; located at 508-510 West 17th Street.

PROPERTY OWNER/PETITIONER:
R. W. Hargraves
STAFF CONTACT:
Jeff Fisher, AICP Principal Planner (325) 657-4210, Extension 1550 jeff.fisher@cosatx.us



Additional Information: On May 2, 2017, the applicant received approval from City Council for a Rezoning from RS-1 to CN (Z17-02) and a Special Use (SU17-01) for an Automobile and Boat Dealer (automobiles, light and medium trucks, and motorcycle sales only). Condition #12 of the Special Use required solid screening or a suitable vegetative alternative along the north and west property lines to screen this commercial development from adjacent residential uses. Section 509 of the Zoning Ordinance requires that this solid screen be at least 6 feet in height, but limits this screen within the 25-foot front yard facing West 17th Street to 4 feet. As part of the building permit review for the new sales office, Planning Staff discovered that the screen, a 6-foot high opaque metal privacy fence, was erected within this front yard and the applicant is seeking a variance to allow it to remain at this height. This fence did not require a permit because it was under 7 feet in height. In addition to the fence extending into the front along the property's west side, there is also an additional 15 feet that wraps around and runs parallel to West 17th Street (see site plan attached).

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 believes that a special circumstance exists because the front property line facing West 17th Street has an additional 15 feet of public right-of-way which serves as an additional setback. Although no survey was provided, Staff estimates using GIS mapping that this right-of-way varies from 13 feet along the east side of this property line to 18 feet along the west adjacent to a residential home. Therefore, the right-of-way is even greater along the side where the fence is located. Staff believes that this additional buffer serves as a special circumstance, as well as the nature of the business itself, which is an auto and light truck sales business adjacent to a single-family home. The Special Use (SU17-01), as amended, limited primary ingress/egress from West 17th Street or the abutting alley right-of-way, which will generate more activity from the West 17th Street side. Staff believes that the additional 2 feet of fence height in the front yard adjacent to West 17th Street will provide additional screening for the adjacent residence. In addition, Staff notes that Auto Wrangler to the north also received a front yard variance to allow a 6-foot high privacy fence within the front yard facing West 19th Street (ZBA15-17). This fence provided additional screening from nearby residences from the same business type, automotive sales. Section 509.B.3.a of the Zoning Ordinance generally does not allow fences higher than 4 feet in a required front yard, but each situation is different. In this case, the close proximity of the main access to the residence and substantial right-of-way, taken together, warrant a variance.
2. **These special circumstances are not the result of the actions of the applicant.** The applicant argues that the house was already on the adjacent property when he purchased the subject property. Staff does not support this argument given that the applicant chose to rezone the property in 2017 from RS-1 to CN, thereby creating the situation under Section 509.A of the Zoning Ordinance that requires a privacy fence between the side lot line of a non-residential use and a residential use or zoning district. However, the special circumstance of the 18-foot wide right-of-way, and a TXDOT imposed requirement that access cannot be granted from North

Bryant Boulevard, warrants the variance to provide screening for the adjacent residential use.

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 he built the 6-foot high fence in the front yard because he thought he was complying with the terms of the Ordinance. While this does not itself warrant a variance, as indicated, Auto Wrangler also received a variance to allow a front yard fence to screen from residential uses. In addition, Inn on the Conchos located north of West 19th Street and also commercially zoned also received a variance to allow a 6-foot fence to the rear of the property which served as a front yard to screen from homes across the street (ZBA18-03). Staff sees parallels between this case and the other cases referenced. While West 17th Street is identified as a front yard in the Zoning Ordinance, it also acts as a side fence in terms of screening from nearby residential uses. In this case, this portion of the fence serves as screening from the adjacent residence and the 15-foot wrap-around portion will screen a portion of this area for future parking and vehicle display from the homes south of West 17th 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.** Staff believes that the opaque fence in the proposed location is the minimum action necessary and conforms with the spirit of the Zoning Ordinance. Section 104.3 of the Zoning Ordinance states that one of its objectives is to “prevent or minimize land use incompatibilities and conflicts among different land uses.” While the maximum height in a front yard in a CN zone is 4-feet, this particular property received a Special Use for a use not permitted in a CN zone and which is directly adjacent and near residential uses. While not a case on its own for a variance, when combined with the substantial public right-of-way along West 17th Street which would mitigate concerns of site visibility for oncoming traffic of pedestrians, Staff is confident that a variance in this case is justified. Staff only supports the variance for the front yard fence built along the west side of the property separating the residence at 512 West 17th Street, and the 15-foot wrap-around portion parallel to 17th Street.
5. **Granting the variance will not adversely affect adjacent land in a material way.** Staff does not believe that adjacent land would be affected negatively with approval of this variance. The fence serves as screening and privacy from adjacent residential uses. The substantial right-of-way allows visibility for ongoing traffic, and for ingress/egress from the property.
6. **Granting the variance will be generally consistent with the purposes and intent of this Zoning Ordinance.** As indicated, Section 104.3 of the Zoning Ordinance discusses one of the objectives is to prevent or minimize land use incompatibilities. Section 509 of the Ordinance only allows privacy fences higher than 4 feet in a front yard in the Heavy Commercial (CH), Central Business District (CBD), Light Manufacturing (ML) or Heavy Manufacturing (MH) Zoning Districts. This would allow additional security for these businesses, and to screen from lower intensity uses, including those in the CBD, which allows warehousing, wholesale trade, and limited craft manufacturing. However, in cases where there are special circumstances such as additional right-

of-way and where a special use has been granted that allows more intense uses immediately adjacent to residential uses, allowing an additional two feet in height for a privacy fence would be justified and meet the purpose and intent of the Zoning Ordinance. In this case, Staff believes the subject case meets this test, and therefore, the variance should be granted.

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 believe there is a special circumstance to allow a 6-foot high metal opaque privacy fence within the front yard adjacent to West 17th Street only for the first 25-feet along the west side of the front yard, and the 15-foot wrap-around portion running parallel to West 17th Street. The 18-foot wide right-of-way along West 17th Street, and the Special Use to allow a more intense commercial use adjacent to residential uses provides a special circumstance in this case for the additional two feet of fencing.

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

Recommendation:

Staff's recommendation is for the Zoning Board of Adjustment (ZBA) to **APPROVE** a variance from Section 509.B.3.a of the Zoning Ordinance to allow an opaque privacy fence with a maximum height of 6 feet in the front yard adjacent to West 17th Street in lieu of the maximum 4 feet within the Neighborhood Commercial (CN) Zoning District; located at 508-510 West 17th Street, subject to the following **one** condition of approval:

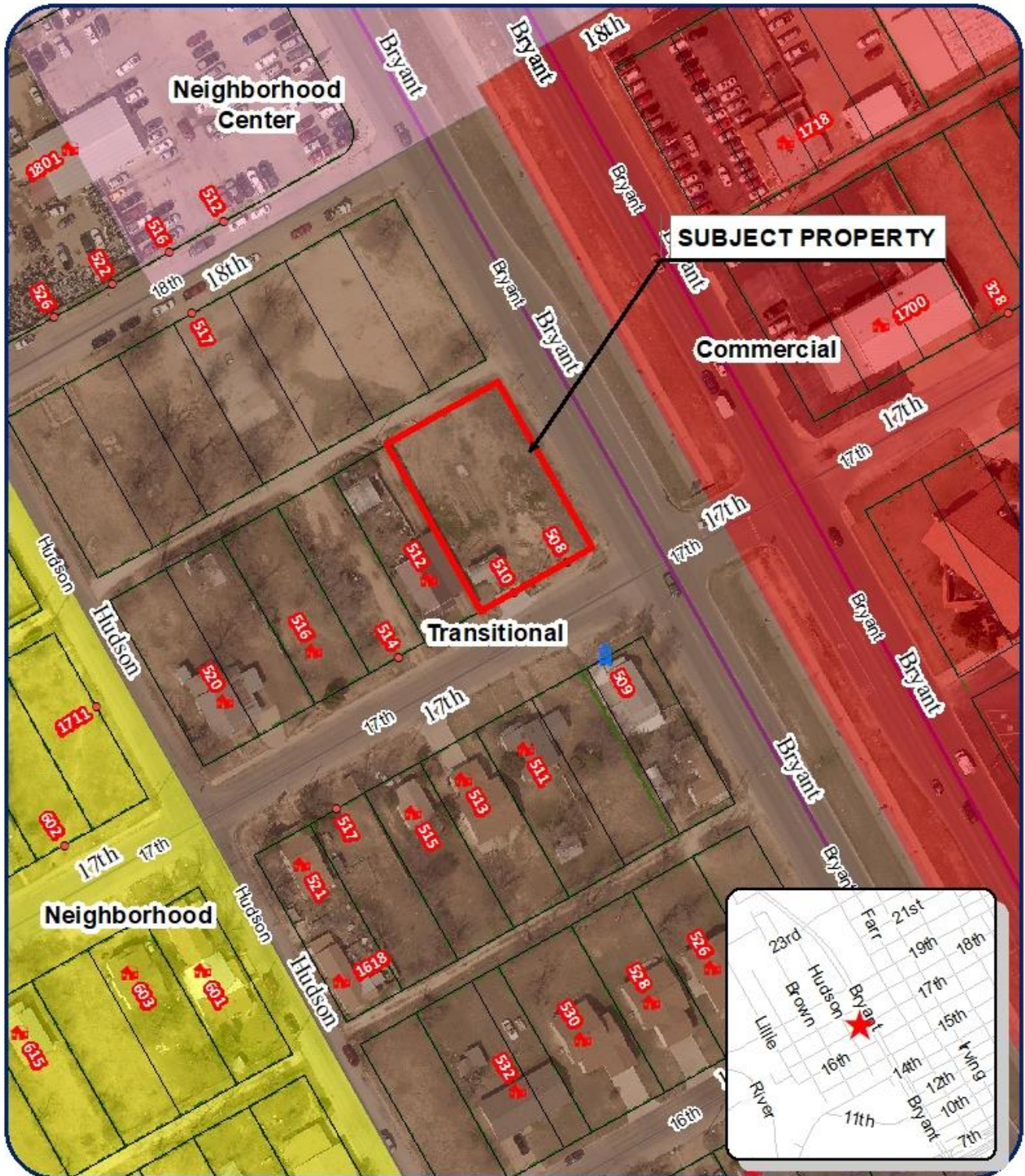
1. A 6-foot high fence located within the front yard shall be limited to the front 25 feet along the west property line, and extending 15 feet along the front property line facing West 17th Street as shown on the attached site plan.

Attachments:

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



<p>Variance ZBA20-05: Hargraves Council District: Lucy Gonzales -District 4 Neighborhood: Blackshear Scale: 1" approx. = 100 ft 510 W. 17th St.</p>	<p>Legend Subject Properties:  Current Zoning: CN Requested Zoning Change: N/A Vision: Transitional</p>	<p>N  </p>
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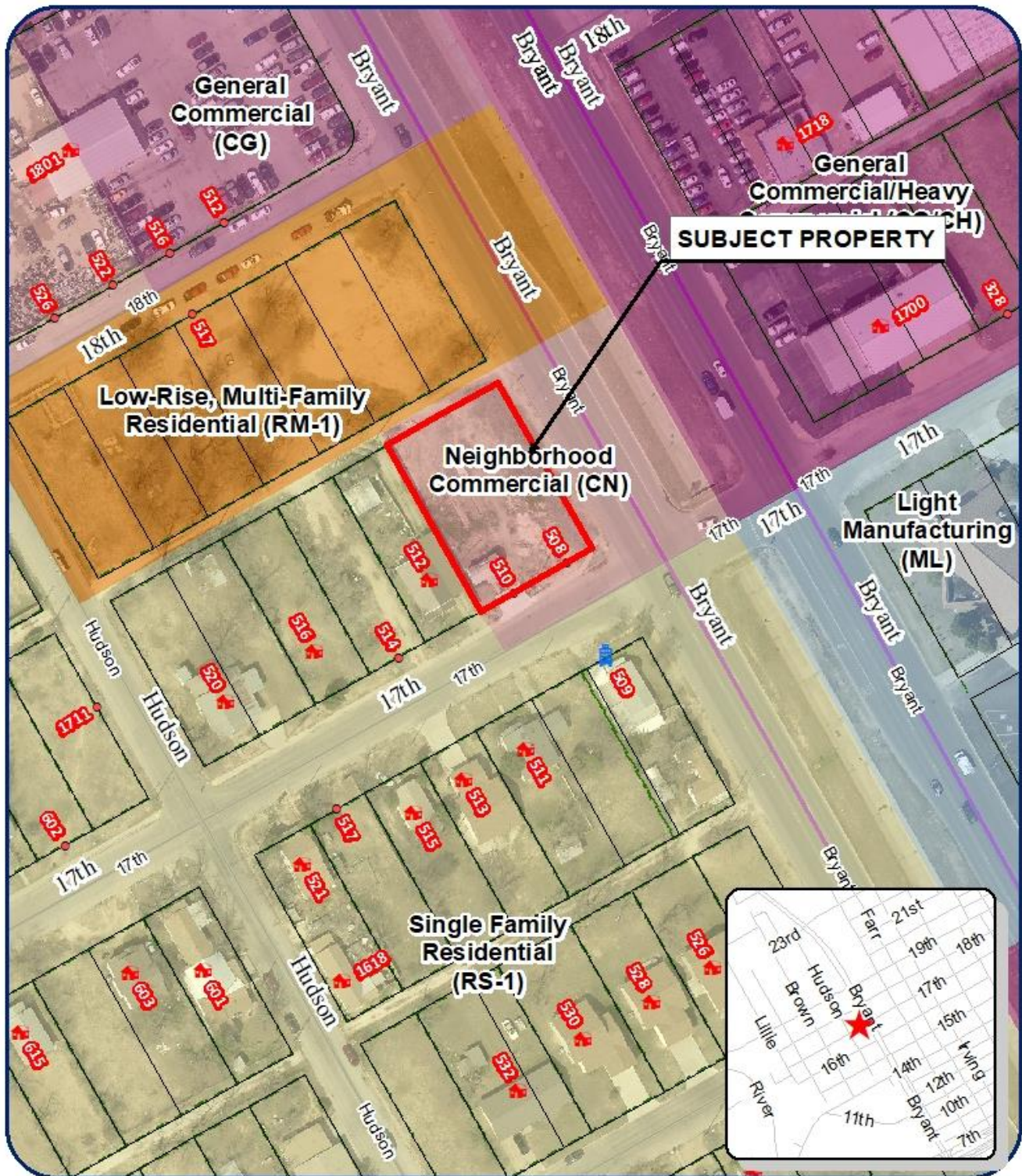


Variance
ZBA20-05: Hargraves
 Council District: Lucy Gonzales -District 4
 Neighborhood: Blackshear
 Scale: 1" approx. = 100 ft
510 W. 17th St.

Legend
 Subject Properties: —
 Current Zoning: **CN**
 Requested Zoning Change: **N/A**
 Vision: **Transitional**

N



Variance

ZBA20-05: Hargraves

Council District: Lucy Gonzales - District 4
 Neighborhood: Blackshear
 Scale: 1" approx. = 100 ft
 510 W. 17th St.

Legend

Subject Properties:
 Current Zoning: CN
 Requested Zoning Change: N/A
 Vision: Transitional



Photos of Site and Surrounding Area

NORTH



SOUTH



WEST



EAST



SOUTH AT PROPERTY - FRONT PORTION OF FENCE



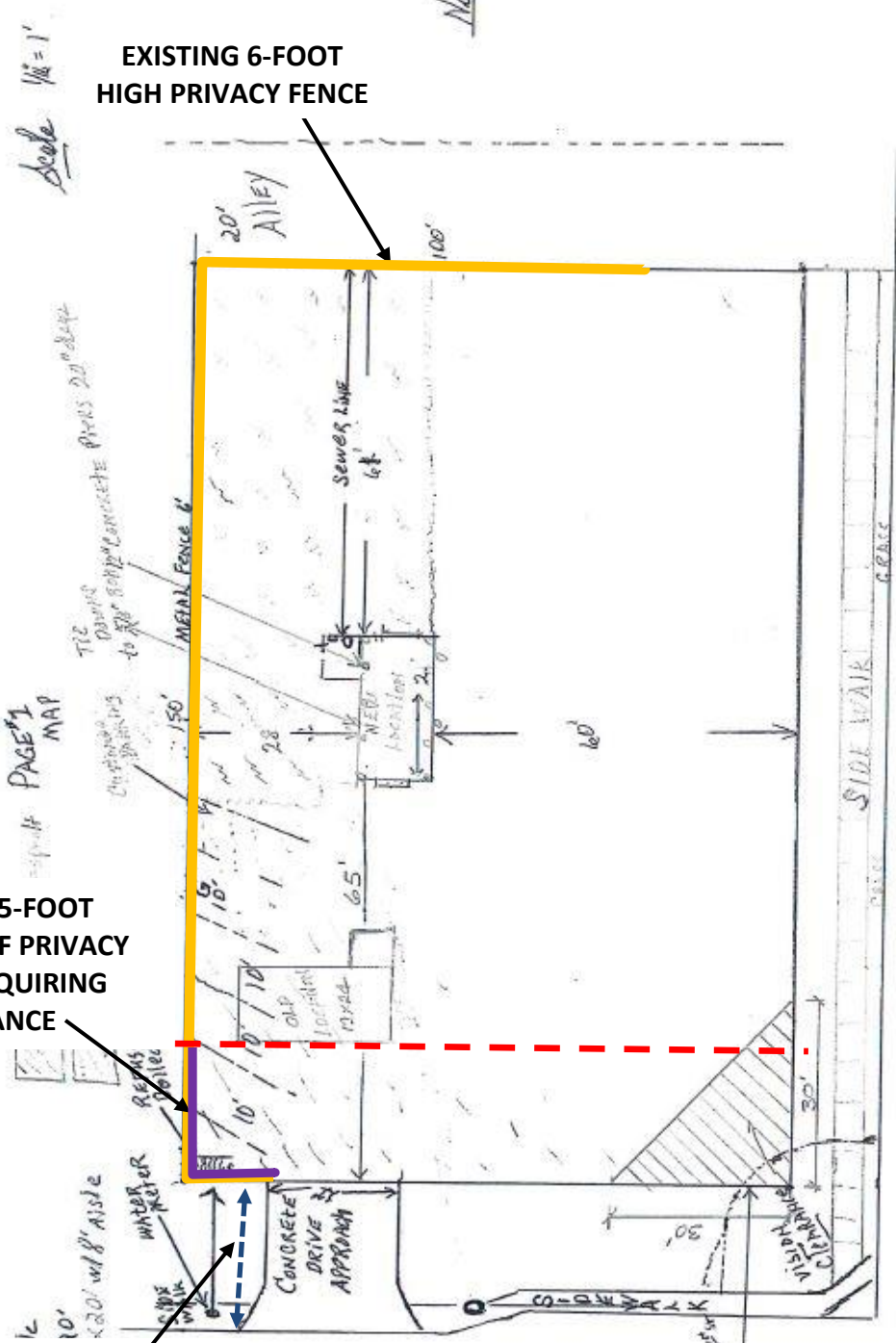
WEST AT PROPERTY – SIDE PORTION OF FENCE



SITE PLAN



**EXISTING 6-FOOT
HIGH PRIVACY FENCE**



**FRONT 25-FOOT
PORTION OF PRIVACY
FENCE REQUIRING
VARIANCE**

**RIGHT-OF-WAY (18 FEET
WIDTH)**

WEST 17TH STREET

NORTH BRYANT BOULEVARD



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): R. W. HARGRAVES
 Owner Representative (Notarized Affidavit Required)

Mailing Address: 1001 NORTH BELL ST SAN ANGELO, TX 76903
 City State Zip Code

Contact Phone Number: 325 9636 02 OFFICE 325 486 9994
 Contact E-mail Address: rwhargraves@msn.com

Subject Property Address and/Location: 510 West 17th St SAN ANGELO TX 76903
 City State Zip Code

Legal Description (can be found on property tax statement or at www.tomorrecad.com):
Lot 17A BIKI SUBD MINEOLA ADDITION R/P OF LOTS 16 & 17 BIKI

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: SD9 B. 3 a
 Describe variance: to allow 6' tall Privacy Fence facing W. 17th St in a front yd
- 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 15' right-of-way provides additional space for fiscal visible and the 6' privacy fence provide for a buffer for privacy for the house

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 house was already there & the right away when I bought the property*

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: *I built a 6' fence because I thought I was complying with the terms of the ordinance*

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: *yes*

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

Explanation: *No*

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

Explanation: *yes*

Effective January 3, 2017

Section 4: Applicant(s) Acknowledgement

Please initial the following:

RWH 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;

RWH 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;

RWH 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

RWH 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.

R.W. Hargraves
Signature of licensee or authorized representative

12-12-19
Date

R.W. HARGRAVES
Printed name of licensee or authorized representative

Name of business/Entity of representative

FOR OFFICE USE ONLY:

Reviewed/Accepted by: J. Fisher

Date: 12, 12, 2019

Case No.: ZBA: 20-05

ZBA Hearing Date: 2, 3, 2020

Fully-Dimensioned and scaled Site Plan: Yes No

Date of Application: 12, 12, 2019

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


Date paid: 12, 12, 2019

Ordinance section(s) from which variance(s) is/are requested: 509.B.3.a

ZONING BOARD OF ADJUSTMENT – FEBRUARY 3, 2020

STAFF REPORT



APPLICATION TYPE:		CASE:	
Variance		ZBA20-06 (Blocks 1 & 2)/ZBA20-07(Blocks 3 & 4): Benson	
SYNOPSIS:			
A request for approval of two variances from Section 501.A of the Zoning Ordinance to allow for a 10 foot front yard setback in lieu of the required 15 feet for a Townhouse development within the Low Rise Multifamily Residence Zoning District (RM-1), generally located on Holiday St.			
LOCATION:		LEGAL DESCRIPTION:	
Holiday Street, west of the Holiday St. and Bell St intersection		Lots 5 – 8, Block 1, Lots 1 – 8, Block 2, Lots 1 – 13, Block 3 and Lots 1 – 4, Block 4, Holiday Terrace Subdivision	
SM DISTRICT / NEIGHBORHOOD:	ZONING:	FUTURE LAND USE:	SIZE:
SMD #3 – Harry Thomas Glenmore Neighborhood	Low Rise Multifamily Residential District	Neighborhood	1.24 acre
THOROUGHFARE PLAN:			
<u>Holiday Street</u> – Urban Local Street – ROW 50’ Required (50’ Existing) – Pavement Width 40’ or 36’ with 4’ Sidewalk Required (40’ Existing)			
NOTIFICATIONS:			
23 total notifications were mailed within a 200-foot radius on January 10, 2020. None at this time have been received either in favor or against.			
STAFF RECOMMENDATION:			
Staff recommends APPROVAL of two variances from Section 501.A of the Zoning Ordinance to allow for a 10-foot front yard setback in lieu of 15 feet on Holiday St. within the Low Rise Multifamily Residential Zoning District (RM-1)			
PETITIONER:			
Bryan Benson Clearview Custom Homes			
STAFF CONTACT:			
Sherry L. Bailey Principal Planner (325) 657-4210, Extension 1546 sherry.bailey@cosatx.us			

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 portion of Holiday Terrace Subdivision was platted in 1984. The zoning regulations at that time under Townhouse development allowed a 10 ft. front yard setback. The first four townhouses are built at that 10 ft. setback line. The lots are 30 ft. wide by 61 ft. deep with a 10 ft. back yard. The existing four units built in 1986 are all built with 10 ft. rear yard setbacks and 10 ft. front yard setbacks. That extra 5 ft. equates to an additional 300 sq. ft. on a two story Townhouse.
2. **These special circumstances are not the result of the actions of the applicant.** This configuration on the Holiday Terrace Subdivision Townhouse lots was platted in 1984. The plat itself shows a 5 ft. front yard building line which the existing ordinance in 1984 allowed with Planning Commission approval. However, the existing set of townhomes were built to the required 10 ft. front yard setback in 1986. The present owner would like to continue the original platted plan.
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.** Holding the applicant to a 15 ft. front yard setback when the original four units and the overall had anticipated only 10 ft. reduces the overall size the new units can achieve.
4. **Granting the variance is the minimum action that will make possible the use of the land or structure which is not contrary to the public interest, and would carry out the spirit of this Zoning Ordinance and substantial justice.** Staff believes this is a simple request. The variance is either approved or denied. There is no other action that can achieve parity with the existing units.
5. **Granting the variance will not adversely affect adjacent land in a material way.** The existing units on Holiday within this Townhome development already have the requested setback so the approval of the request will not have an adverse effect on the existing area.
6. **Granting the variance will be generally consistent with the purposes and intent of this Zoning Ordinance.** The purpose of the ordinance setbacks is to provide sufficient open space and separation between structures. This variance would maintain provide the same open space as the existing townhomes. Therefore, it is consistent with the surrounding intent.

Allowed Variances:

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

1. **SPECIAL CIRCUMSTANCES RESULTING IN UNNECESSARY HARDSHIP.** *Where special circumstances exist on the property related to the size, shape, area, topography, surrounding conditions or location that do not generally apply to other property in the same zoning district,*

and that the circumstances are such that strict application of this zoning ordinance would create an unnecessary hardship or deprive the applicant of reasonable use of the land or building.

The applicant believes there is a special circumstance since the lots were platted in 1984 and development occurred almost immediately that met the then current standards for this specific housing type. The existing grouping has been built to the original and he want to build to match the existing development.

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

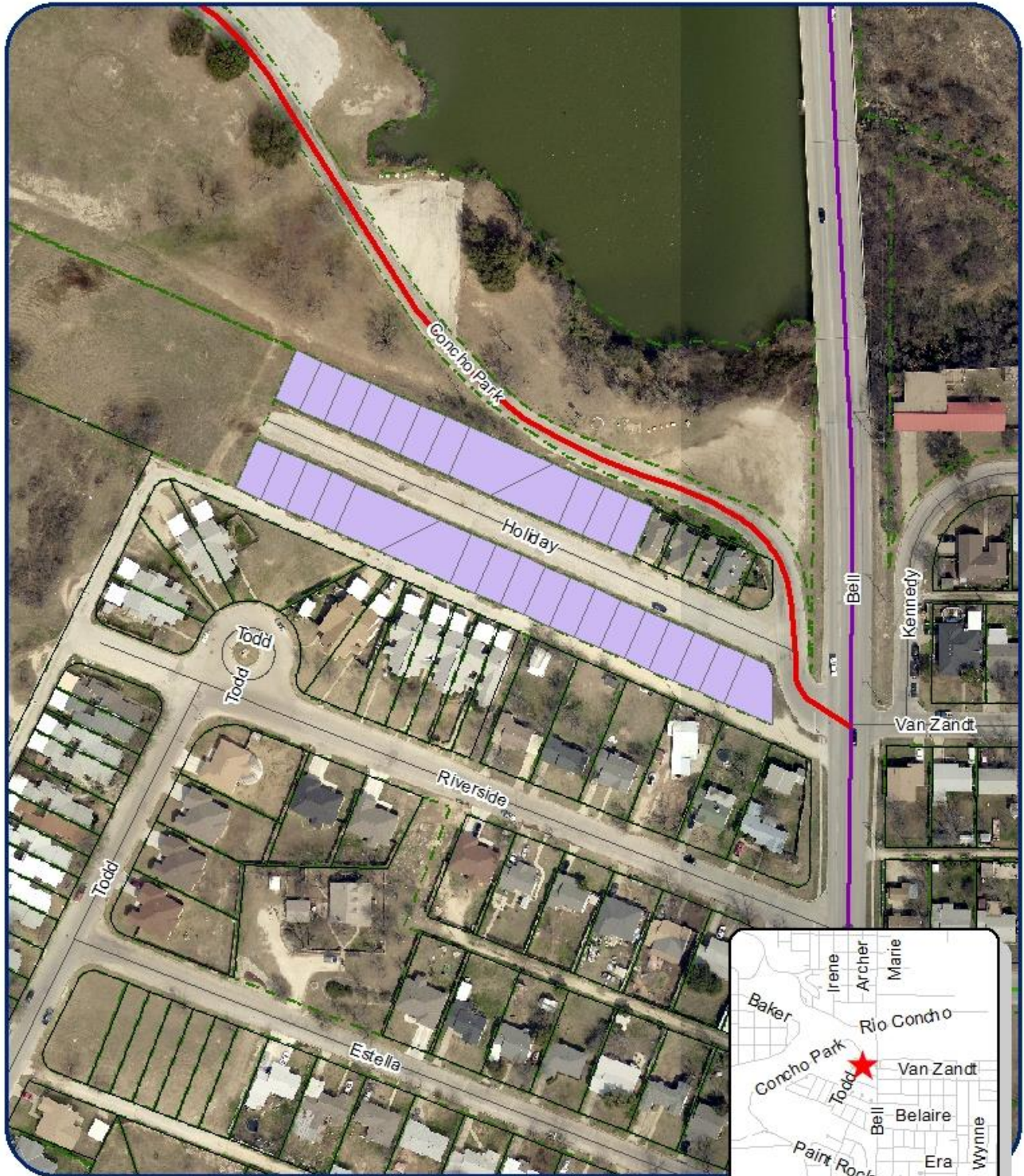
Recommendation:

Staff recommends that the Zoning Board of Adjustments **APPROVE** of two variances from Section 501.A of the Zoning Ordinance **to allow for a 10-foot front yard setback in lieu of 15 feet on Holiday Street required in the Low Rise Multifamily Residence (RM-1) Zoning District, subject to the following Condition of Approval:**

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

Attachments:

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



Location Map Aerial map

Legend

ZBA20--06 & ZBA20-07: Benson

Council District 3 - Harry Thomas
Neighborhood: Glenmore
Scale: 1" approx. = 145 ft

Subject Properties:  RM-1
 Current Zoning: **Front yard setback of 10 ft.**
 Front yard variance: **Neighborhood**
 Vision: **Neighborhood**

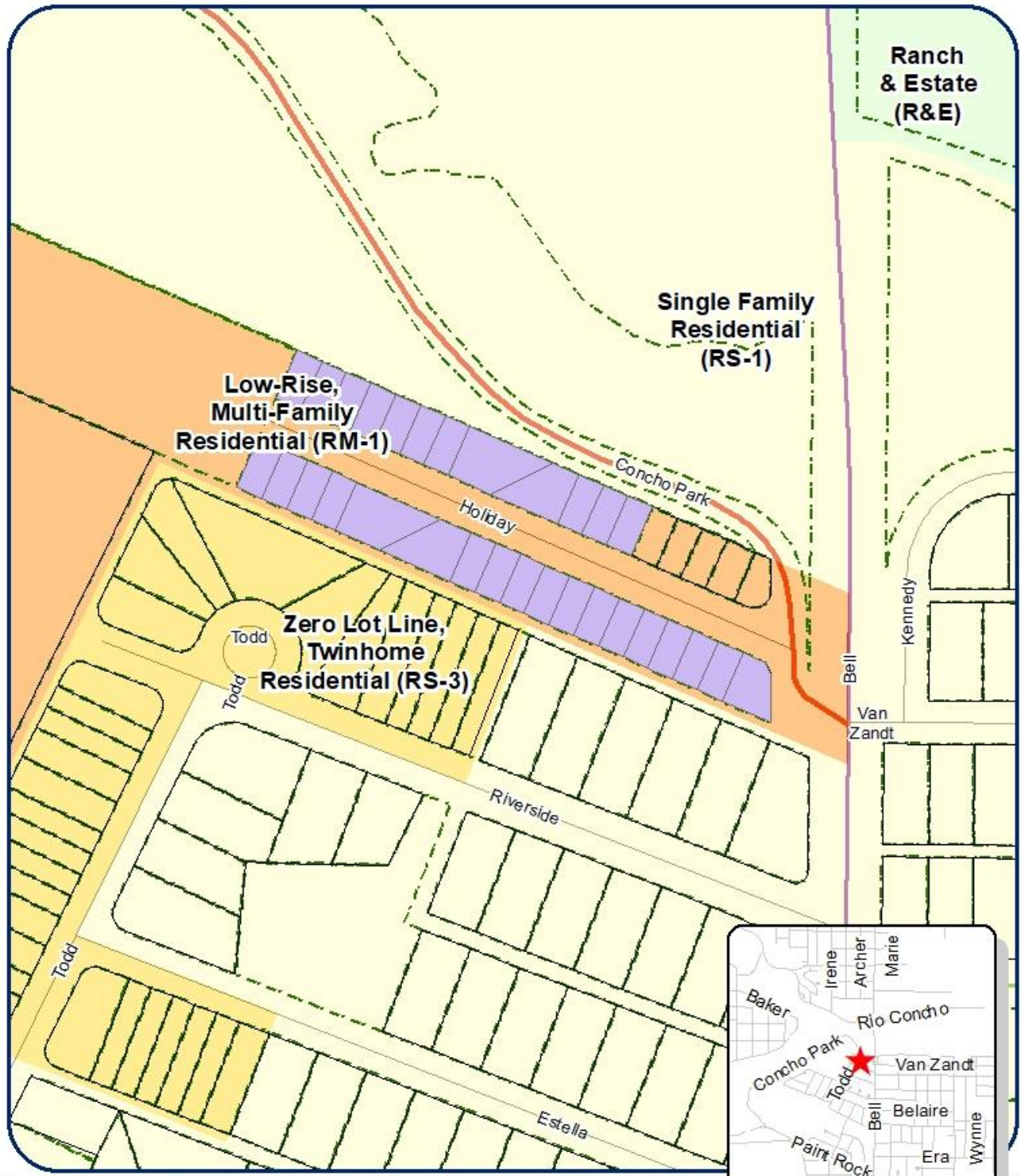


Lots 8 - 5, Blk. 1; Lots 1 - 8, Blk 2: Lots 1 - 13, Blk. 3; Lots 1 - 5, Blk. 4 Holiday Terrece Subdivision



Location Map Future Land Use	Legend
<p>ZBA20--06 & ZBA20-07: Benson Council District 3 - Harry Thomas Neighborhood: Glenmore Scale: 1" approx. = 145 ft</p>	<p>Subject Properties: █ Current Zoning: █ RM-1 Front yard variance: █ Front yard setback of 10 ft. Vision: █ Neighborhood</p>
<p>Lots 8 - 5, Blk. 1; Lots 1 - 8, Blk 2: Lots 1 - 13, Blk. 3; Lots 1 - 5, Blk. 4 Holiday Terrece Subdivision</p>	





Location Map Existing Zoning

ZBA20--06 & ZBA20-07: Benson
 Council District 3 - Harry Thomas
 Neighborhood: Glenmore
 Scale: 1" approx. = 145 ft

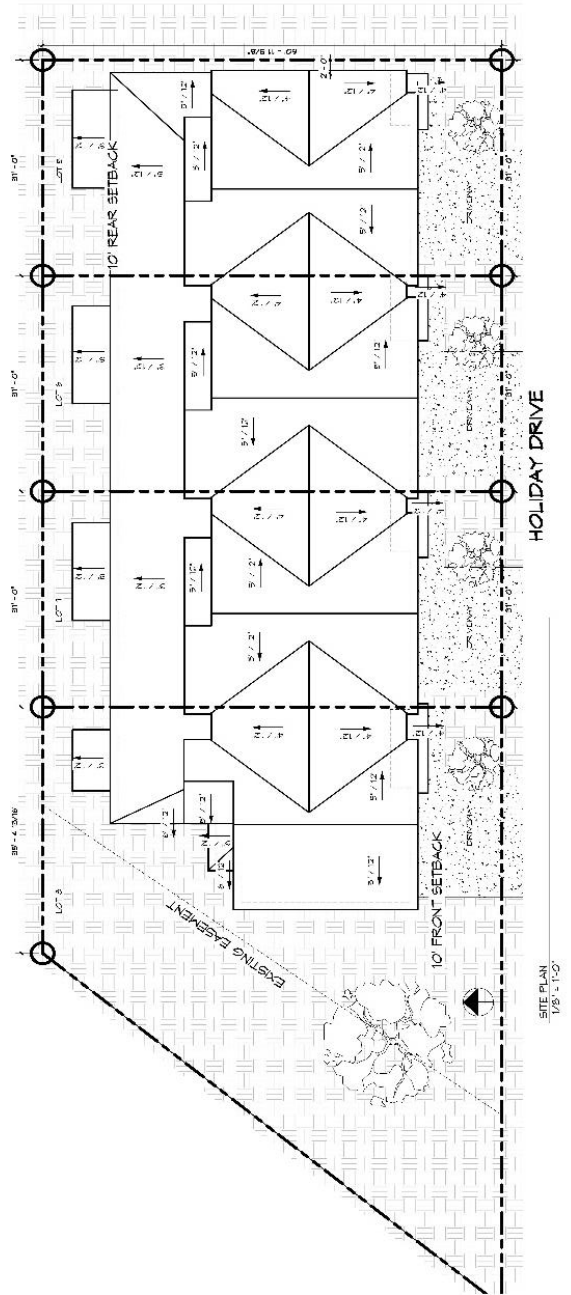
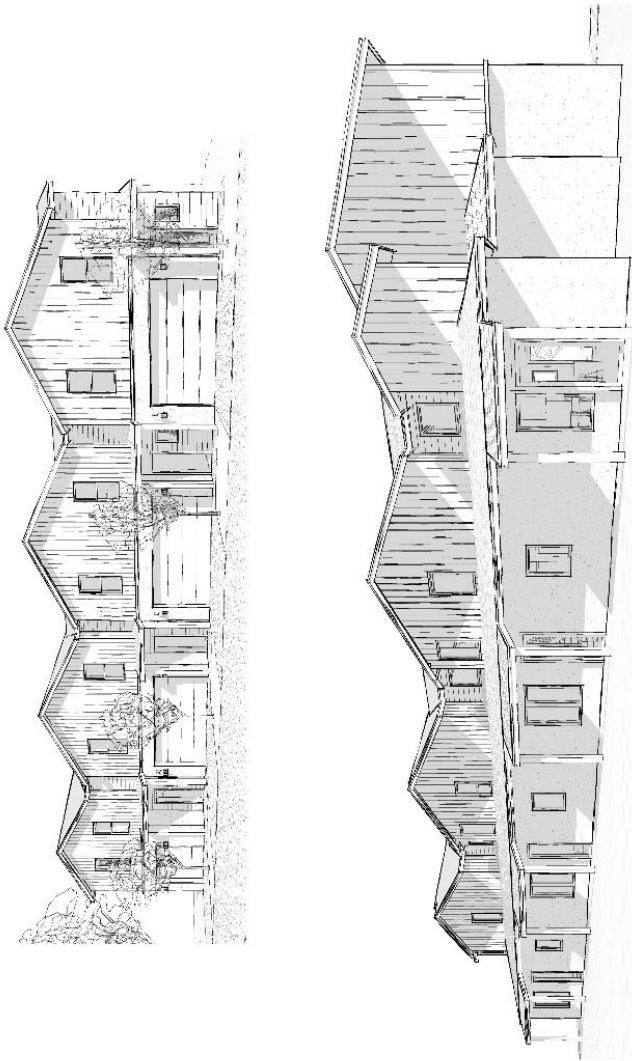
Legend

Subject Properties: —
 Current Zoning: — **RM-1**
 Front yard variance: — **Front yard setback of 10 ft.**
 Vision: — **Neighborhood**


Lots 8 - 5, Blk. 1; Lots 1 - 8, Blk 2: Lots 1 - 13, Blk. 3; Lots 1 - 5, Blk. 4 Holiday Terrece Subdivision




SITE PLAN



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): B-Reed Capital DBA Clearview Custom Homes
 Owner Representative (Notarized Affidavit Required)

Mailing Address: 1121 S Abe San Angelo Tx 76903
City State Zip Code

Contact Phone Number: 325 234 0085 Contact E-mail Address: bryan@clearviewcustomhomes.com

Subject Property Address and Location: Holiday Terrace BIK1 Lots 5-8 BIK2 Lots 1-8 San Angelo Tx 76903
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: move front set back from 15' to 10'
 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: for floor plan to conform on a small lot

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: _____

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: 4 plex is currently built on the street and has a 10' setback

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

Explanation: would conform to existing buildings

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

Explanation: no would be the same

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

Explanation: the street is a deadend low traffic street

Effective January 3, 2017

Section 4: Applicant(s) Acknowledgement

Please initial the following:

AWB 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;

BWB 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;

BWB 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

BWB 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]
 Signature of licensee or authorized representative

1-6-19
 Date

Bryan Benson
 Printed name of licensee or authorized representative

Clearview Custom Homes
 Name of business/Entity of representative

FOR OFFICE USE ONLY:

Reviewed/Accepted by: _____

Date: 1, 6, 2020

Case No.: ZBA: 20 -- 06

ZBA Hearing Date: 2, 03, 2020

Fully-Dimensioned and scaled Site Plan: Yes No

Date of Application: 1, 6, 2020

Non-Refundable Fee: \$ 250.00 Receipt #: 100472

Date paid: 1, 6, 2020

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

Photos



Existing four units on Holiday St.



10 Ft. front yards of existing



Rear yard of existing townhomes



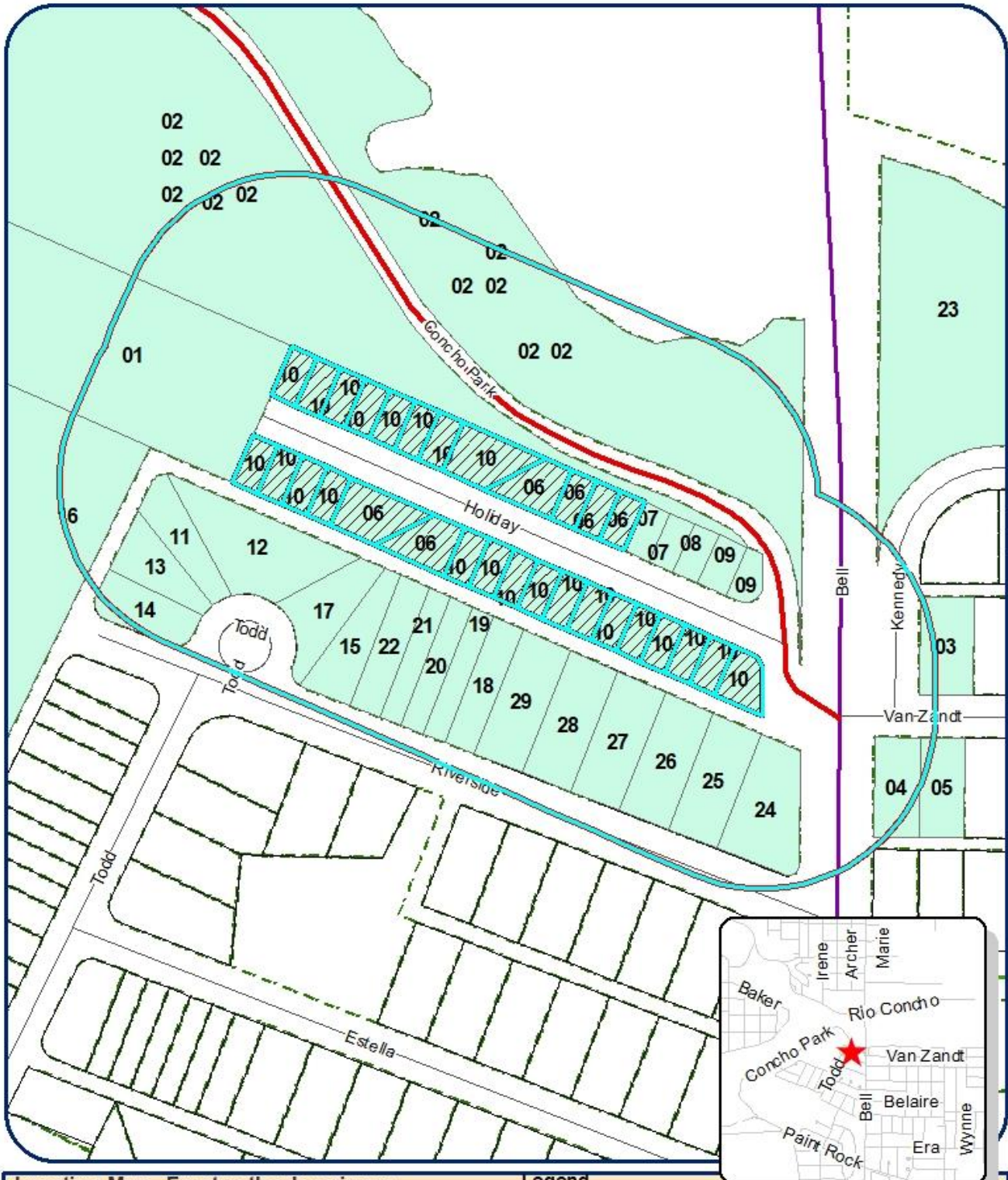
Park land across Rio Concho to the north



Block 3 & 4 to be developed



Block 3 & 4 to the south and Holiday Street to the end to be developed



Location Map	Front setback variance	Legend
ZBA20--06 & ZBA20-07: Benson		Subject Properties: █
Council District 3 - Harry Thomas		Current Zoning: RM-1
Neighborhood: Glenmore		Front yard variance: Front yard setback of 10 ft.
Scale: 1" approx. = 145 ft		Vision: Neighborhood
Lots 8 - 5, Blk. 1; Lots 1 - 8, Blk 2: Lots 1 - 13, Blk. 3; Lots 1 - 5, Blk. 4 Holiday Terrece Subdivision		

