

**ZONING BOARD OF ADJUSTMENT – March 2, 2020
STAFF REPORT**



APPLICATION TYPE:		CASE:	
Variance		ZBA20-09: McClain	
SYNOPSIS:			
<p>The applicants have applied for a variance to allow an addition onto their existing single-family home with a 5-foot rear yard setback in lieu of the required 20 feet in the Single-Family Residential (RS-1) Zoning District. The property has an unusual triangle shape, and despite its substantial lot size, building onto the house is limited due to the narrowing front and rear lot lines. The existing house built in 1961 is 1,191-square feet according to the Tom Green County Appraisal District and the new additions would total 552-square feet (See Additional Information).</p>			
LOCATION:		LEGAL DESCRIPTION:	
2301 Field Street; located southwest of Field Street and Chapman Street		Being Lot 1 less 8 feet in Block 24 of the Jefferson Heights Addition, Section 11 of Blocks 23-25.	
SM DISTRICT / NEIGHBORHOOD:	ZONING:	FUTURE LAND USE:	SIZE:
SMD District #2 – Tom Thompson Angelo Heights Neighborhood	Single-Family Residential (RS-1)	N – Neighborhood	0.211 acres
THOROUGHFARE PLAN:			
<p>Field Street – Urban Local Street Required: 50’ right-of-way, 40’ pavement or 36’ with a 4’ wide sidewalk Provided: 50’ right-of-way, 30’ pavement and no sidewalk</p>			
NOTIFICATIONS:			
32 notifications mailed within 200-foot radius on February 18, 2020. One received in support; one received in opposition.			
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 rear yard setback of 5 feet in lieu of the required minimum 20 feet, for a home within the Single Family Residential (RS-1) Zoning District located at 2301 Field Street, subject to four conditions of approval.			
PROPERTY OWNER/PETITIONER:			
John and Johnna McClain			
STAFF CONTACT:			
Jeff Fisher, AICP Principal Planner (325) 657-4210, Extension 1550 jeff.fisher@cosatx.us			

Additional Information: The original lot was platted within Block 24 of the Jefferson Heights Subdivision, filed for record with the Tom Green County Clerk in October 1959. The house was built in 1961 according to the Appraisal District, and per the survey provided delineates a rear yard setback of only 13 feet, less than the required 20 feet. Staff reviewed historical case records and could not find a variance for this property. The applicant received a permit for a 601-square foot front carport in October 2018 which has now been built. This carport is 5 feet from the front property line but is allowed to be this close because of the carport exemption in the Open Structure Overlay Zone. The applicant plans to remove an existing 280-square foot storage garage next to the home in order to accommodate the additions. As conditions of approval, the applicant will be required to obtain permits if necessary (if over 200 square feet) for the existing lean-to structure and storage building at the southwest portion of the property, and relocate these buildings, or remove them from the property. In addition, the applicant shall remove all portions of the existing fence from the public right-of-way, and reduce any portion in the front yard to no taller than 4 feet and within the 30' by 30' sight triangle at the corner of Field Street and Chapman Street to no taller than three feet.

Previous Cases and Surrounding Area Research: Planning Staff researched properties within the one-mile area adjacent to Field Street between Howard Street to the north and Junius Street to the south for other variances and peculiarities. Staff discovered 18 properties along Field Street also with unique triangular shapes that were platted in this configuration. None of them received variances for front or rear yards. Six of these have houses that encroach into either the required front or rear yards, which includes 2601, 2805, and 2907 Field Street; 2220 Chapman Street; 2326 Wilson Street; and 2510 Stanton Street. The Appraisal District shows all of these homes built between 1958 and 1962 and cannot confirm the historical accuracy of this information; therefore, it is possible these structures are legal, non-conforming. All of the interior lots in the Jefferson Heights subdivisions are rectangular with average lot frontages of 60 feet, lot depths of 120 feet; and lot areas of 7,200 square feet. While these lots are smaller than the subject lot at 9,191 square feet, when the 25-foot front setback and 20-foot rear setbacks are deducted, the subject lot only has a buildable area of 23.5% whereas the interior lots have buildable areas of 37.5%. This is because the triangular-shaped lot narrows thereby reducing the buildable area when the front and rear setbacks are deducted.

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 applicants believe that there is a special circumstance because the property lines come to a point. While this is not a special circumstance in all cases, Planning Staff believes that in the particular case, it serves as one. As indicated, the remaining buildable area after setback lines are reduced is only 23.5% of the lot area, 14% less than interior lots within the same block who have additional space given the property lines remain at right angles. This is the only location on the property where the applicant can place an addition and meet all other setbacks. Given there is a 20-foot rear alley behind home which provides an additional setback from the homes to the south, Planning Staff is confident that the proposed addition is reasonable and meets the test for

a special circumstance.

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

The applicants indicate that the existing lot configuration and structures were there when they purchased the home. While this may be true, determination of a variance must be examined in the context of the new additions, which have led to the need for a variance. Based on the lot configurations and the existing house location, Staff believes that a variance for a reduced rear yard setback is justified. As mentioned, an irregular shaped lot on its own is not a criteria for a reduced setback, but when taken as part of the overall context (existing house location, narrowing lot lines, alley serving as additional rear setback), Staff believes that a variance is appropriate.

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 interior lots within this block comply with the front and rear yard setbacks because they have a larger buildable area given their straight lot lines. While the subject lot is slightly larger than these interior lots, the owners cannot build to the same amount as a percentage of their lot size given the narrowing lot lines. This would create an undue hardship, and therefore, Staff believes that a variance for the reduced rear yard setback should be granted.

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 proposed 5-foot rear yard setback is the minimum action needed to allow the owners an addition onto their house. The house will comply with all other required setbacks. The total building floor area ratio after expansion will be 21.1%, less than the maximum 40% allowed in the RS-1 Zoning District. The carport does not count towards this ratio in the Zoning Ordinance. A building permit will still be required from the Permits Division for the new addition.

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

As indicated, the 20-foot rear alley provides an additional setback between the subject property and the lots to the south. This essentially makes the rear yard setback 25 feet instead of the actual 5 feet applied for, providing an adequate setback from the southerly lots. While not a reason itself to grant a variance, given the narrowing lot lines, Staff believes that the variance request is appropriate.

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 house addition is in keeping with this purpose statement. With the 20-foot rear alley, the addition will be 25 feet from the nearest shared residential lot line. The addition will be making the best use of space, not further encroaching into any required setbacks nor requiring additional variances.

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 narrowing lot lines creating a lack of buildable area; along with the additional 20-foot rear alley provide a special circumstance in this case to warrant the reduced rear yard setback.

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 rear yard setback of 5 feet in lieu of the required minimum 20 feet, for a home within the Single Family Residential (RS-1) Zoning District located at 2301 Field Street, subject to the following **four** conditions of approval:

1. The applicants shall obtain a building permit from the Permits and Inspections Division for the new single-family home addition consistent with the footprint provided on the site plan;
2. The applicants shall obtain a building permit if necessary for the existing lean-to building at the rear of the property, and relocate it at least 25 feet from the front property line, or, remove this structure;
3. The applicants shall obtain a building permit if necessary for the existing storage building at the southwest corner of the property, and relocate it at least 25 feet from the front property line, or, remove this structure;

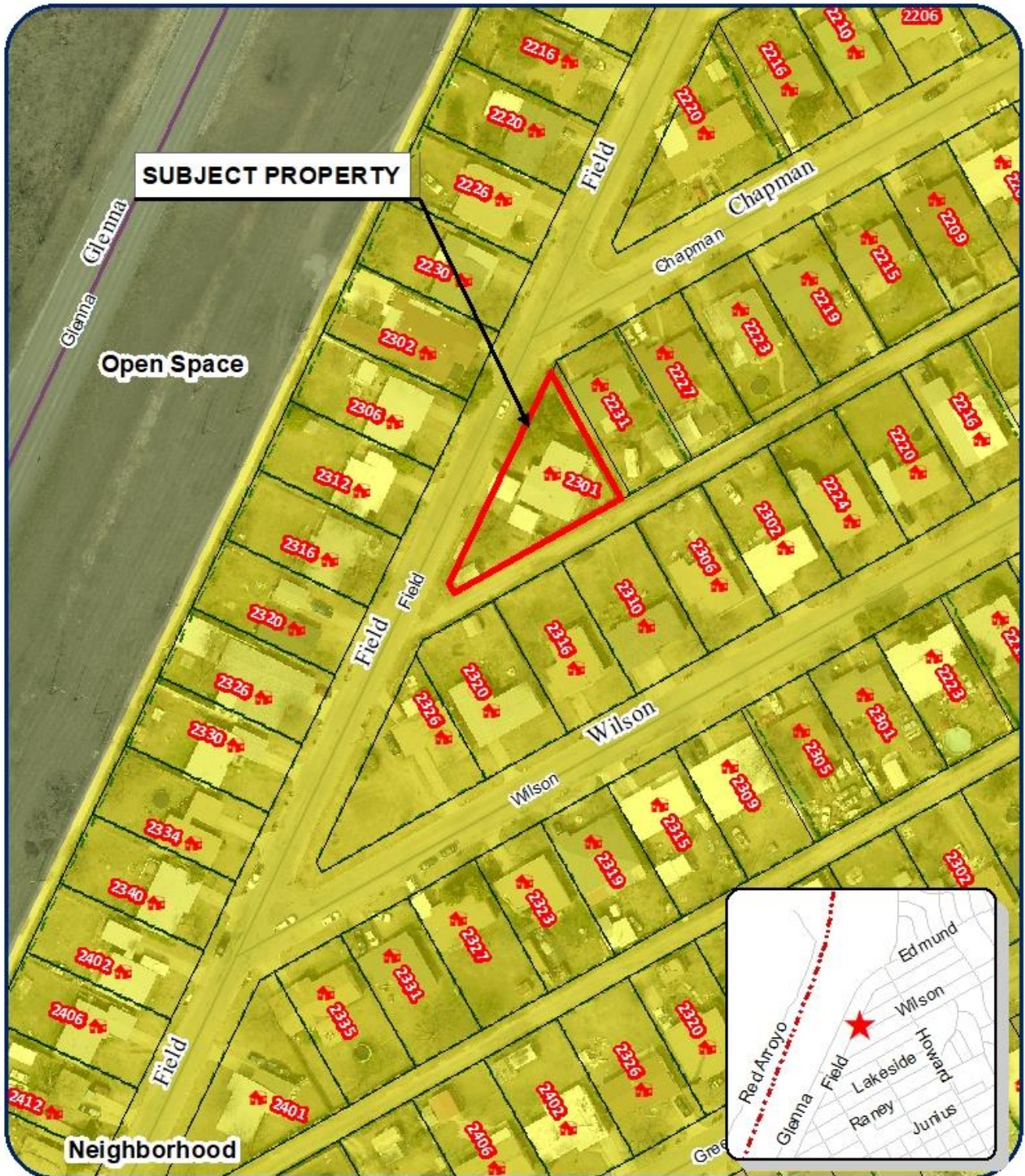
4. The applicants shall remove all portions of the existing fence located within the public right-of-way, and reduce any portion in the front yard to no taller than 4 feet and in the sight triangle to no taller than three feet.

Attachments:

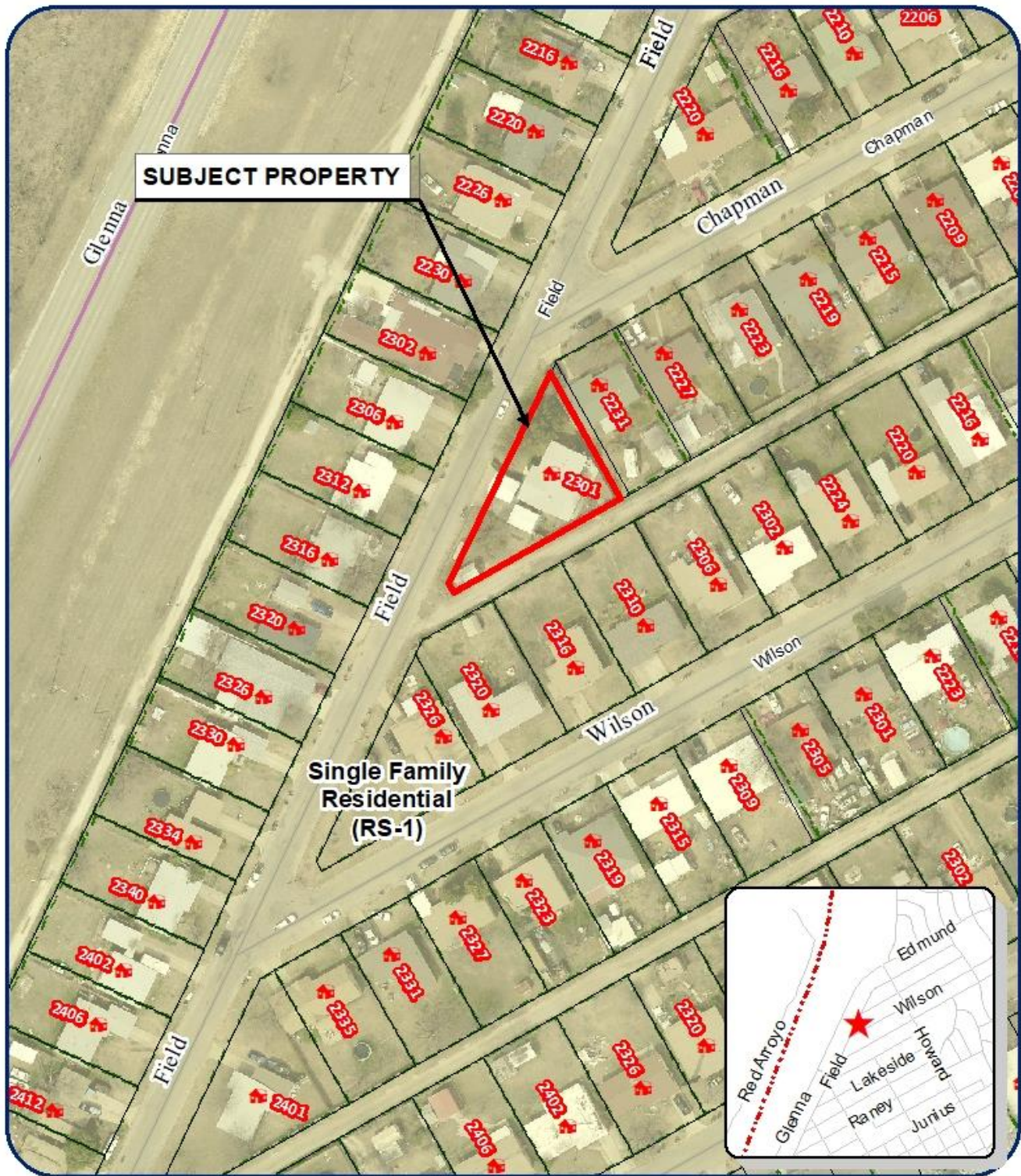
Aerial Map
Future Land Use Map
Zoning Map
Response Letters
Photographs
Concept Plan
Application



<p>Variance ZBA20-09: McClain Council District: Tom Thompson -District 2 Neighborhood: Angelo Heights Scale: 1" approx. = 100 ft 2301 Field St</p>	<p>Legend Subject Properties:  Current Zoning: RS-1 Requested Zoning Change: N/A Vision: Neighborhood</p>	<p>N </p>	
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Variance		Legend		N 	
ZBA20-09: McClain		Subject Properties: 	Current Zoning: RS-1		
Council District: Tom Thompson -District 2		Requested Zoning Change: N/A	Vision: Neighborhood		
Neighborhood: Angelo Heights					
Scale: 1" approx. = 100 ft					
2301 Field St					



Variance
ZBA20-09: McClain
 Council District: Tom Thompson -District 2
 Neighborhood: Angelo Heights
 Scale: 1" approx. = 100 ft
2301 Field St

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



Support Letter (Property owner of #29 in 200'-foot circulation)

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.

(X) IN FAVOR () IN OPPOSITION

REASON(S) I also want my property
set back to change my property
is 2326 Wilson St

NAME: _____

ADDRESS: _____

SIGNATURE: *Robert Salas*

ZBA20-09: McClain
Property owner number: 29

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.

Opposition Letter (Property owner of #30 in 200'-foot circulation)



Fri 2/21/2020 4:39 PM

catusflower36@suddenlink.net

zonining for 2301 field st.

To Fisher, Jeff

You replied to this message on 2/21/2020 5:09 PM.

CAUTION: This email was received from an EXTERNAL source, use caution when clicking links or opening attachments.

we own the property at 2231 chapman the people who are buying the property have said hard to see to turn on to field from ally because of all buildings and we live at 2302 field and we say no

Photos of Site and Surrounding Area

WEST



EAST



NORTH



SOUTHEAST AT PROPERTY



SOUTHWEST AT PROPERTY



EXISTING ACCESSORY STRUCTURE (MOVE OUT OF FRONT YARD)



Photos of Site and Surrounding Area

EXISTING ACCESSORY STRUCTURE



EXISTING 4-FOOT TALL FENCE (MOVE OUT OF RIGHT-OF-WAY)



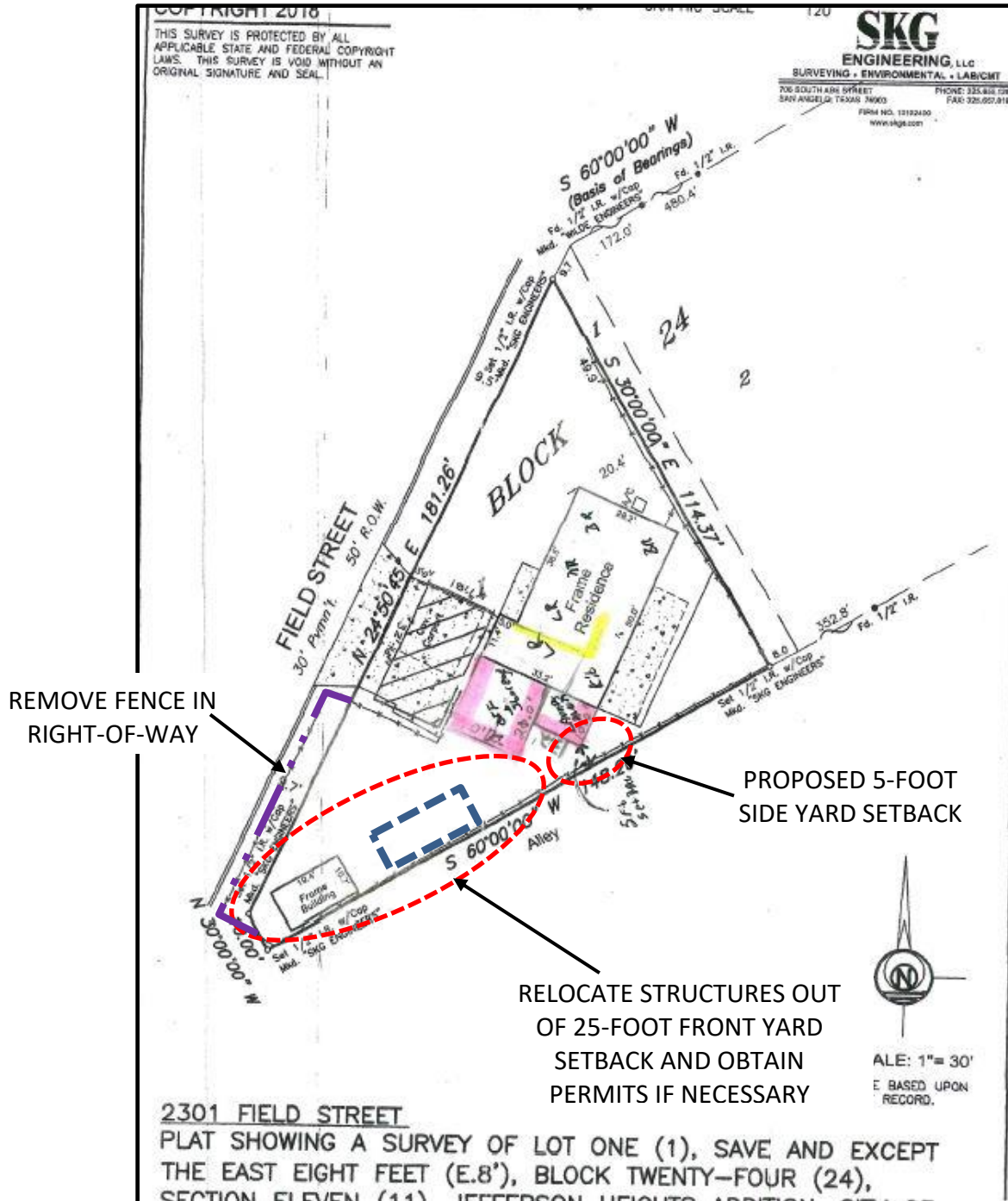
NORTHWEST CORNER OF PROPERTY




EAST OF PROPERTY




Concept 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): John + Johnna McClain
 Owner Representative (Notarized Affidavit Required)

Mailing Address: 2301 field st San Angelo Tx 76901
City State Zip Code

Contact Phone Number: 325-277-4239 Contact E-mail Address: _____

Subject Property Address and/Location: 2301 field st.
City State Zip Code

Legal Description (can be found on property tax statement or at www.tomgreencad.com):
Jefferson Hights addition Block 24 Lot 1 Less east 8ft

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: 501.A
 Describe variance: To Allow a 5 ft rear yard set back

2. Zoning Ordinance section: _____
 Describe variance: _____

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: Irregular Shaped lot
Property lines come to a point

Hours of Operation: 8 AM -12 PM & 1PM – 5 PM 325-657-4210, #2 www.cosatx.us/planning

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: existing Lot + Structures were there when we bought the House.

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: Narrowing Lot Lines don't allow a large enough addition with out a variance.

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: This is the minimum action required

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

Explanation: The 20 foot allie allows for a buffer to neighbors

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

Explanation: Generally Consistant with ordances Meets all other requirments.

Effective January 3, 2017

Section 4: Applicant(s) Acknowledgement

Please initial the following:

- JM* 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;
- JM* 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;
- JM* 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
- JM* 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.

JM

Signature of licensee or authorized representative

1-22-20

Date

John McClain

Printed name of licensee or authorized representative

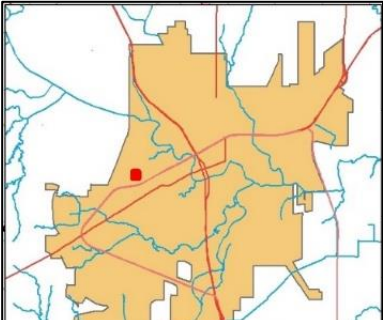
Name of business/Entity of representative

FOR OFFICE USE ONLY:

Reviewed/Accepted by: J. Fisher Date: 1, 22, 2020
Case No.: ZBA: 20 - 09 ZBA Hearing Date: 3, 2, 2020
Fully-Dimensioned and scaled Site Plan: Yes No Date of Application: 1, 22, 2020
Non-Refundable Fee: \$270.00 Receipt #: 118788 Date paid: 1, 24, 2020
Ordinance section(s) from which variance(s) is/are requested: 501-A

ZONING BOARD OF ADJUSTMENT – March 2, 2020
STAFF REPORT



APPLICATION TYPE:		CASE:	
Variance		ZBA20-10: Weiershausen	
SYNOPSIS:			
A request for approval of a variance from Section 501.A of the Zoning Ordinance to allow a 11.5-foot rear yard setback in lieu of 20-foot for a home within the Single Family Residential (RS-1) Zoning District.			
LOCATION:		LEGAL DESCRIPTION:	
2706 Coleman Street		Lot 15, Block 37, Hatcher Addition	
SM DISTRICT / NEIGHBORHOOD:	ZONING:	FUTURE LAND USE:	SIZE:
SMD #2 – Tom Thompson Bluffs Neighborhood	RS-1 – Single-Family Residential	Neighborhood Center	0.1 acre
THOROUGHFARE PLAN:			
<u>Coleman Street</u> – Urban Local Street – ROW 50’ Required (60’ Existing) – Pavement Width 40’ or 36’ with 4’ Sidewalk Required (30’ Existing)			
NOTIFICATIONS:			
24 notifications were mailed within a 200-foot radius on February 17, 2020.			
STAFF RECOMMENDATION:			
Staff recommends APPROVAL of a variance from Section 501.A of the Zoning Ordinance to allow a 11.5-foot rear yard setback in lieu of 20 feet for a house within the Single Family Residential (RS-1) Zoning District, located at 2706 Coleman Street.			
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 lot was 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 lot was platted in 1927, the owner today is left with a limited building area due to the 20-foot setback requirement in the Zoning Ordinance which was first approved by City Council in the 1950's.
3. **Literal interpretation and enforcement of the terms and provisions of this Zoning Ordinance would deprive the applicant of rights commonly enjoyed by other land in the same zoning district, and would cause an unnecessary and undue hardship.** With the current setbacks in the zoning ordinance, the buildable area of the lot would be 20 foot wide by 47 foot deep, thus only allowing for a maximum 940-square foot home. This would be inconsistent with the surrounding area where homes range from approximately 1,200 square feet to 2,000 square feet in size.
4. **Granting the variance is the minimum action that will make possible the use of the land or structure which is not contrary to the public interest, and would carry out the spirit of this Zoning Ordinance and substantial justice.** Staff believes that this would be the minimum action needed in order to develop the property in manner consistent with the submitted plans. The applicant has asked for a variance to allow for 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 2706 Coleman 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
Application
Photo of the Site
Proposed Site Plan
Notification Map



ZBA20-10

Galen Weiershausen

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

Legend

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



2706 Coleman Street - being Lot 15, Block 37, Hatcher Addition



ZBA20-10

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

Legend

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

2706 Coleman Street - being Lot 15, Block 37, Hatcher Addition





ZBA20-10

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

Legend

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

2706 Coleman Street - being Lot 15, Block 37, Hatcher Addition



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

Contact Phone Number: 325-234-0617 Contact E-mail Address: EMRF151@AOL.COM

Subject Property Address and Location: 2706 Coleman SAN Angelo TX 76901

Legal Description (can be found on property tax statement or at www.tomgreencad.com): Lot 15 Blk 37 Hatcher Addition

Zoning District:

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

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

Section 2: Variance Request(s)

List each variance request separately:

- Zoning Ordinance section: Sec. 501
 Describe variance: 11.5 ft. 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' deep compared to larger lots that are 100' deep

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 1920s

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: Allowing this variance would allow for 1200-1300 Sq Ft. home

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

Explanation: Granting this does not affect any adjacent property

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

Explanation: Granting this variance would allow for a backyard.

Effective January 3, 2017

Section 4: Applicant(s) Acknowledgement

Please initial the following:

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

W I/we understand that any variation(s) authorized by the ZBA will require me/us to obtain a building permit for that stated variation within twelve (12) months of the approval date by the ZBA, unless the ZBA has specifically granted a longer period;

W I/we understand that all drawings, pictures, documents or other information used during your testimony to the ZBA must be kept in the permanent files of the Planning Division; and

W I/we understand that any appeal of a decision made by the ZBA must be presented to a court of record with a verified petition stating that the decision of the ZBA is illegal in whole or in part and specifying the grounds of the illegality. This petition for appeal must be presented within ten (10) days after the date the decision is filed in the board's office.

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

[Signature]
Signature of licensee or authorized representative

2-3-20
Date

Caleb Weiershausen
Printed name of licensee or authorized representative

Name of business/Entity of representative

FOR OFFICE USE ONLY:

Reviewed/Accepted by: H. Becker

Date: 2 / 3 / 2020

Case No.: ZBA: 20 -- 10

ZBA Hearing Date: 3 / 2 / 2020

Fully-Dimensioned and scaled Site Plan: Yes No

Date of Application: 2 / 3 / 2020

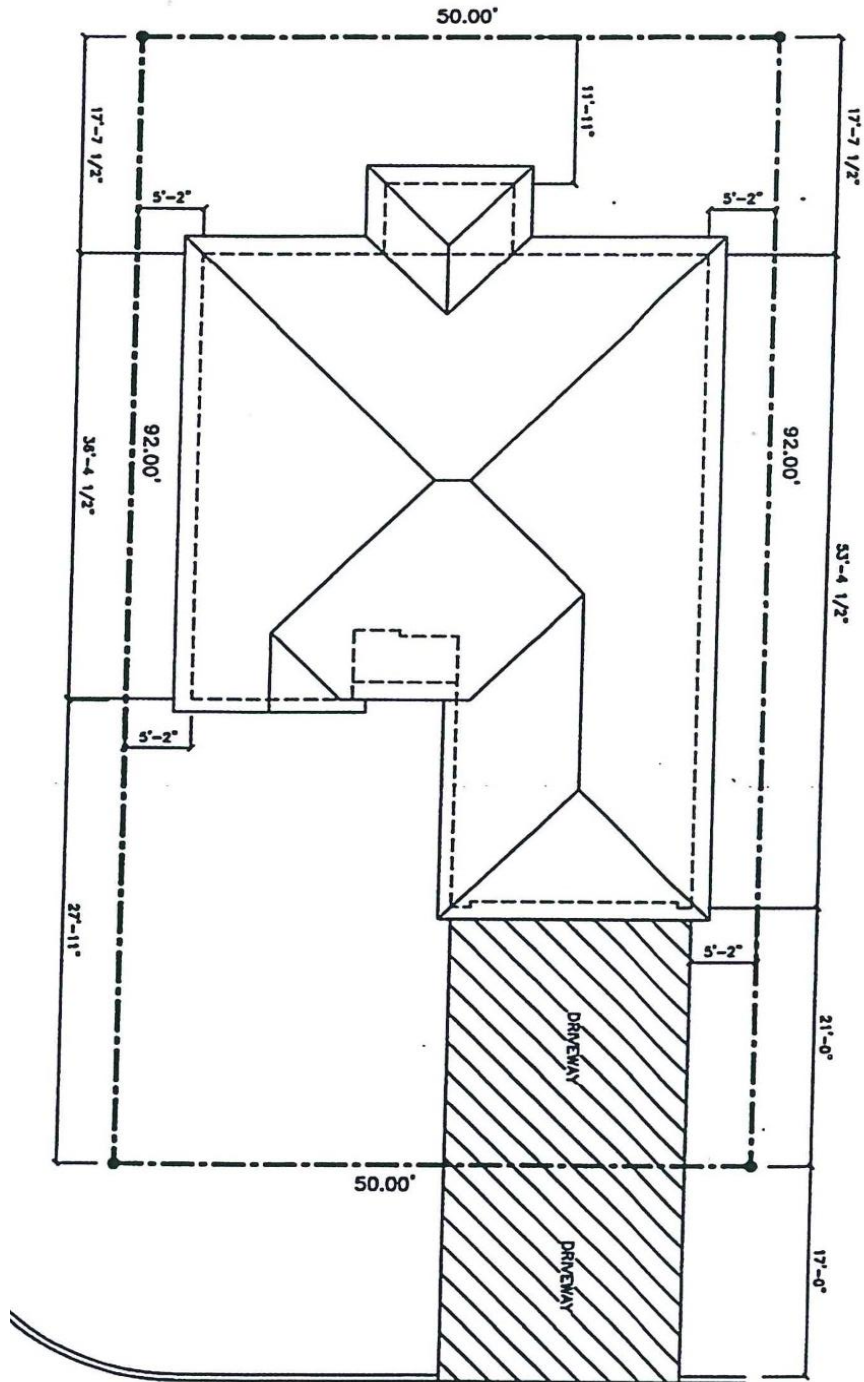
Non-Refundable Fee: \$ 250 Receipt #: 131557

Date paid: 2 / 3 / 2020

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

Photo of the Site looking north





COLEMAN STREET



ZBA20-10

Galen Weiershausen

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

2706 Coleman Street - being Lot 15, Block 37, Hatcher Addition


Legend

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



ZONING BOARD OF ADJUSTMENT – March 2, 2020 STAFF REPORT



APPLICATION TYPE:		CASE:	
Variance		ZBA20-13: Benson (Blocks 1, 2, 3 & 4)	
SYNOPSIS:			
A request for approval of three variances from Section 501.A and Section 511 of the Zoning Ordinance; 1) to allow a 5 foot rear yard setback in lieu of the required 10 feet for a townhouse development; 2) to allow a Floor Area Ratio (FAR) of 1.15 per lot in lieu of 0.75; and 3) to allow one parking space per lot in lieu of the required two spaces per lot within the Low Rise Multifamily Residence Zoning District (RM-1).			
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 (RM-1)	Neighborhood	2.265 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 February 13, 2020. There have been no responses received in favor or in opposition at this time.			
STAFF RECOMMENDATION:			
Staff recommends APPROVAL of all three variances from Section 501.A and Section 511 of the Zoning Ordinance 1) to allow a 5 foot front rear yard setback in lieu of the required 10 feet for the Townhouse development; 2) to allow a Floor Area Ratio of 1.15 per lot; and 3) to allow one parking space per lot within the Low Rise Multifamily Residence 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. This subdivision was platted with a 10 foot back yard, which does meet today's requirements. However, in keeping with the existing townhomes the applicant is purposing a small covered back porch that will encroach into the 10 ft. rear yard setback. He is asking for a 5 ft. variance to allow this porch in the rear. Second, he is also asking for a Floor Area Ratio (FAR) of 1.15 percent for these two story townhomes rather than the .75 percent that is required by the ordinance in RM-1. This would also be in keeping with the existing townhomes which did not have a FAR regulation at the time. Thirdly, he is asking for a variance on the parking space requirement from two spaces to one space for the units with a one car garage. Those units are intended to be smaller in nature for one or two people such as empty nesters. The existing street is wide with curb and gutter so a second car could park at the curb. This would be only for the one car garage units.
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. 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 construction even though it now results in the need for additional variances from today's requirements.
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 10 ft. rear yard setback when the original four units and the applicant's overall plan had anticipated only 5 ft. reduces the overall size the new units can achieve. The FAR request of 1.15 coverage for a two story unit allows him to meet the existing built units and provide for today's space needs. The one car garage unit which is intended to meet the needs of an individual or retired couple (a downsizing intent) provides affordable housing and is a reasonable compromise.
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 variances are reasonable and meet the needs. 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 Townhouse development already have the requested setbacks and FAR 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, FAR and parking space requirement is to provide

sufficient open space and separation between structures and on individual lots. These variances would provide the same open space as the existing townhomes. Therefore it is consistent with the surrounding area.

Allowed Variances:

In exercising its authority to grant a variance, Section 207.D of the Zoning Ordinance states, 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 existing 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 a variances form Section 501.A and 511 of the Zoning Ordinance, 1) to allow a 5 foot front rear yard setback in lieu of the required 10 feet for the Townhouse development; 2) to allow a Floor Area Ratio of 1.15 per lot; and 3) to allow one parking space per lot for each of the single car garage lots for the smaller units within the Low Rise Multifamily Residence Zoning District (RM-1) **subject** to the following **Condition of Approval:**

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

Attachments:

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



Location Map	Aerial map	Legend
ZBA20--13: Benson		
Council District 3 - Harry Thomas		
Neighborhood: Glenmore		
Scale: 1" approx. = 145 ft		
Subject Properties:		
Current Zoning:	RM-1	
Three variances:	REar yard setback, parking space, FAR	
Vision:	Neighborhood	
Lots 8 - 5, Blk. 1; Lots 1 - 8, Blk 2: Lots 1 - 13, Blk. 3; Lots 1 - 5, Blk. 4 Holiday Terrece Subdivison		





Location Map: FLU

ZBA20--13: Benson

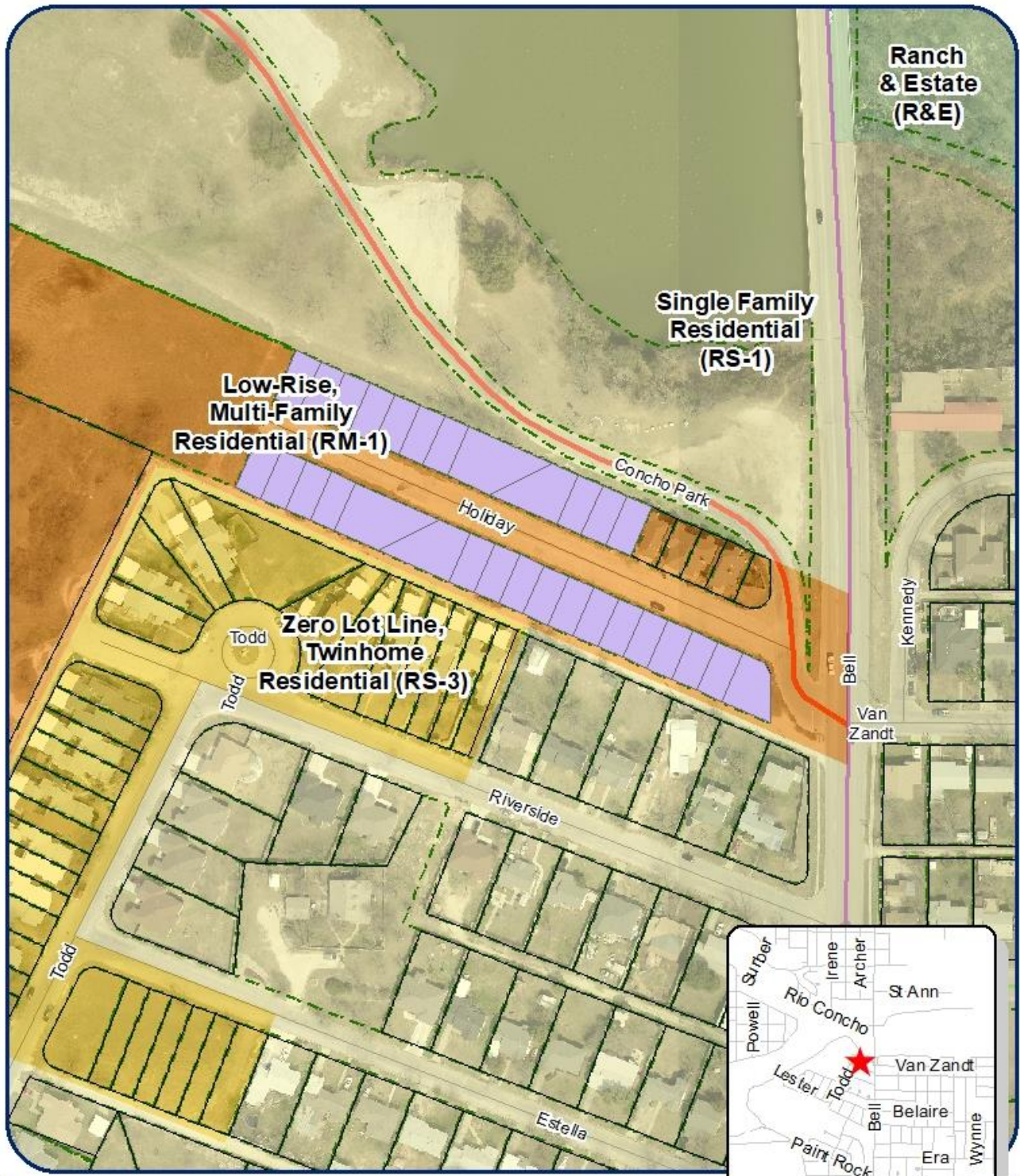
Council District 3 - Harry Thomas
 Neighborhood: Glenmore
 Scale: 1" approx. = 145 ft

Legend

Subject Properties:
 Current Zoning: **RM-1**
 Three variances: **REar yard setback, parking space, FAR**
 Vision: **Neighborhood**



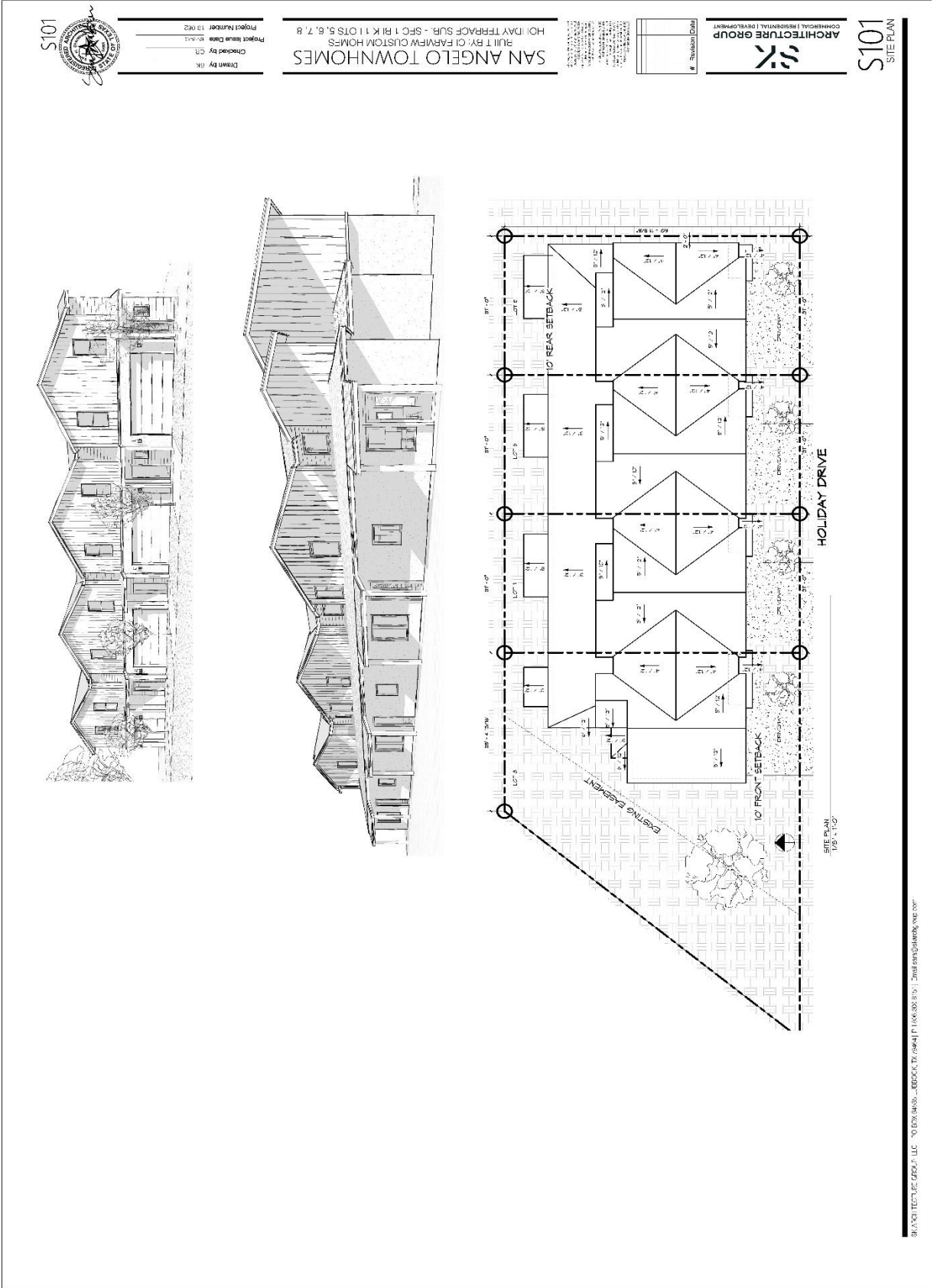
Lots 8 - 5, Blk. 1; Lots 1 - 8, Blk 2; Lots 1 - 13, Blk. 3; Lots 1 - 5, Blk. 4 Holiday Terrece Subdivision



Location Map	Existing Zoning	Legend
ZBA20--13: Benson		
Council District 3 - Harry Thomas		
Neighborhood: Glenmore		
Scale: 1" approx. = 145 ft		
		Subject Properties:
		Current Zoning: RM-1
		Three variances: REar yard setback, parking space, FAR
		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



Drawn By: GR
 Checked By: GR
 Project Issue Date: 03/02/20
 Project Number: 13 002

SAN ANGELO TOWNHOMES
 PHASE 1 BY: CI FARMHW CUSTOM HOMES
 HOLDING TRUSTEE SUB - SFC 1 R1 K 1 LOTS 5, 6, 7, 8

REVISIONS

NO.	DESCRIPTION
1	ISSUED FOR PERMITS



S101
 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 OPA Clearview Custom Homes
 Owner Representative (Notarized Affidavit Required)

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

Contact Phone Number: 325 234 0055 Contact E-mail Address: bryan@clearviewcustomhomes.com

Subject Property Address and/Location: Holiday Street City: San Angelo State: Tx Zip Code: 76903

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: Floor Area Ratio
 Describe variance: Floor Plan is over the city ordinance ratio
- Zoning Ordinance section: Rear Setback
 Describe variance: Rear porch is inside the 10' setback
- Zoning Ordinance section: Parking
 Describe variance: One unit only has one parking space
- 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: Floor Area - Old ordinance that my architect was unaware of and trying to build enough space for housing that is needed in Angelo.
Rear Setback - Only a porch that is 2-3' encroached on the setback
Parking - Only one spot but street is 40' wide.

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. 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:

BWB 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

2-13-20
Date

Bryan Benson
Printed name of licensee or authorized representative

Cherwin Custom Homes
Name of business/Entity of representative

FOR OFFICE USE ONLY:

Reviewed/Accepted by: _____

Date: 2, 13, 20

Case No.: ZBA: 20 - 13

ZBA Hearing Date: 3, 2, 20

Fully-Dimensioned and scaled Site Plan: Yes No

Date of Application: 2, 13, 20

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

Date paid: 2, 13, 20

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



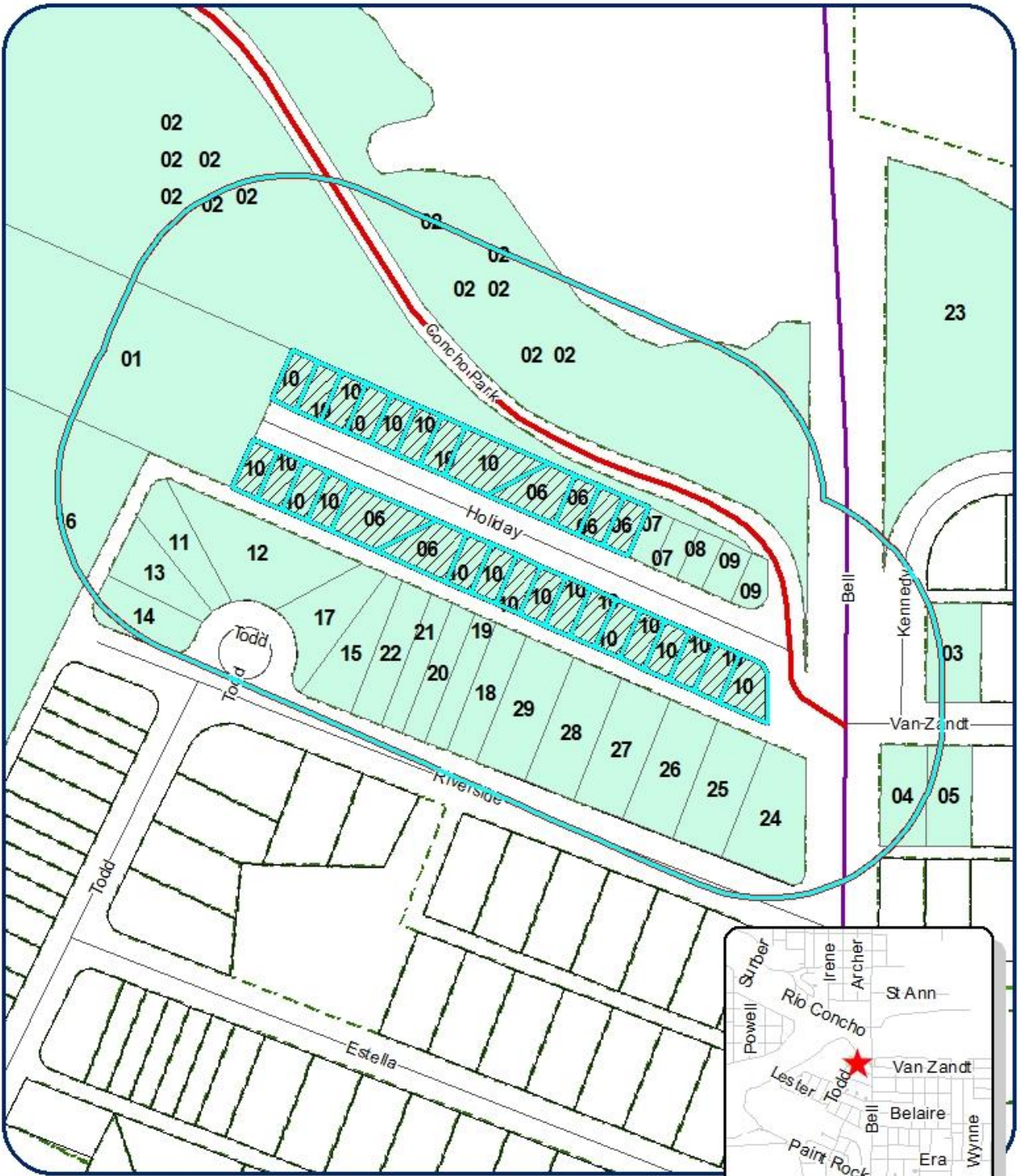
Park land across Rio Concho to the north



Block 3 & 4 to be developed



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



Location Map	Variance requests	Legend
ZBA20--13: Benson Council District 3 - Harry Thomas Neighborhood: Glenmore Scale: 1" approx. = 145 ft		
Subject Properties: Current Zoning: RM-1 Variance: Rear yard setback, FAR, parking space Vision: Neighborhood		N
Lots 8 - 5, Blk. 1; Lots 1 - 8, Blk 2: Lots 1 - 13, Blk. 3; Lots 1 - 5, Blk. 4 Holiday Terrece Subdivison		