

**ZONING BOARD OF ADJUSTMENT – JULY 12, 2021
STAFF REPORT**



APPLICATION TYPE:		CASE:	
Variance		ZBA21-15: 106 and 110 E. Highland Boulevard	
SYNOPSIS:			
The applicant has submitted a Variance application to allow the replat of two existing properties from a horizontal configuration into a vertical configuration with both lots fronting onto East Highland Boulevard. The variance would allow each lot to have reduced lot areas, lot frontages and lot frontages. Each of the new lots have existing single-family homes on them, so the variance would allow each house lot to be sold separately.			
LOCATION:		LEGAL DESCRIPTION:	
106 and 110 E. Highland Ave		Being the east 94 feet of the south 95 feet of the southwest ¼ of Block 52, Fort Concho Addition	
SM DISTRICT / NEIGHBORHOOD:		ZONING:	FUTURE LAND USE:
SMD District #3 – Harry Thomas Fort Concho Neighborhood		General Commercial/Heavy Commercial (CG/CH)	CN – Neighborhood Center
			SIZE:
			0.205 acres
THOROUGHFARE PLAN:			
<i>East Highland Boulevard</i> – Urban Local Street, Required: 50’ right-of-way, 40’ pavement or 36’ with a 4’ wide sidewalk, Provided: 100’ right-of-way, 38’ pavement (complied at time of platting)			
NOTIFICATIONS:			
16 notifications mailed within 200-foot radius on June 28, 2021. No letters received in favor or against to date.			
STAFF RECOMMENDATION:			
Staff’s recommendation is for the Zoning Board of Adjustment (ZBA) to APPROVE variances from 501.A of the Zoning Ordinance to allow for minimum lot areas of 4,560 sq. ft. for Lot 1A and 4,370 sq. ft. for Lot 1B; minimum lot widths of 48’ for Lot 1A and 46’ for Lot 1B; and minimum lot depths for both of 95 feet, subject to three conditions of approval .			
PROPERTY OWNER/PETITIONER:			
Mr. Jared Matlock			
STAFF CONTACT:			
Jeff Fisher, AICP Principal Planner (325) 657-4210, Extension 1550 jeff.fisher@cosatx.us			



Additional Information: Staff research has determined that the two homes have existed since at least 1954 per historic aerials, and the Tom Green County Appraisal District indicates at least one home and an accessory apartment were built in 1940, the latter which has since been removed. Both homes are considered “lawful conditional uses” per Section 601 of the Zoning Ordinance since they have existed since 2000. Therefore, even though the property is commercially zoned, the existing homes, or replacement with new homes would be allowed uses on the properties. Staff found several other properties in the same block with deficient lot sizes with existing buildings, and some of them smaller than the proposed lots. A site visit by Staff found the two homes were boarded up, and as a condition of approval, the applicant shall obtain any necessary approvals from the Fire Marshal’s Office should the buildings be deemed dangerous. ***Section 502.A of the Zoning Ordinance allows residential uses in non-residential zoning districts to conform to the residential regulations most closely associated with the proposed residential use. In this case, the single-family homes would have to comply with the RS-1 zoning regulations of Section 501.A of the Zoning Ordinance.***

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.** Staff believes that there is a special circumstance given that two homes were already built on one lot, have existed this way since as early as 1940, and that the proposed lots while deficient, are close to the minimum zoning requirements. 916 and 922 S. Oakes Street are only 2,200 and 2,800 sq. ft., 44% and 56% of the minimum 6,000 sq. ft. lot area in the CG/CH zone, whereas the proposed lots will be 4,560 sq. ft. and 4,370 sq. ft., 91% and 87% of the minimum 5,000 sq. ft. lot area respectively. Also, the lot frontages of 48 feet and 46 feet, and lot depths of 95 feet respectively are close to the minimum 50 feet of lot frontage and 100 feet of lot depth, and the existing homes meet the required 5-foot side setbacks.
2. **These special circumstances are not the result of the actions of the applicant.**
The applicant did not create the lot configurations and only purchased the properties in May 2021. Allowing the variances would allow the homes to be sold separately on two separate lots.
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 a literal interpretation would deprive the applicant the right to sell the homes separately onto two separate lots. Given that these homes are pre-existing and that there are several other lots in the area even smaller than what the applicant is proposing, Staff supports the variance requests.
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 request is the minimum action necessary.

5. **Granting the variance will not adversely affect adjacent land in a material way.** As indicated, the homes have existed as early as the 1940s and allowing the subdivision into two lots should not adversely affect adjacent properties.
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 that allowing the variances are consistent with this purpose as no additional homes would be built and the variance would simply allowing the homes to be split into two separate lots.

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 believes that the existing development pattern in the area of substandard lot sizes and that the homes are pre-existing on the lots warrant a special circumstance.
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:

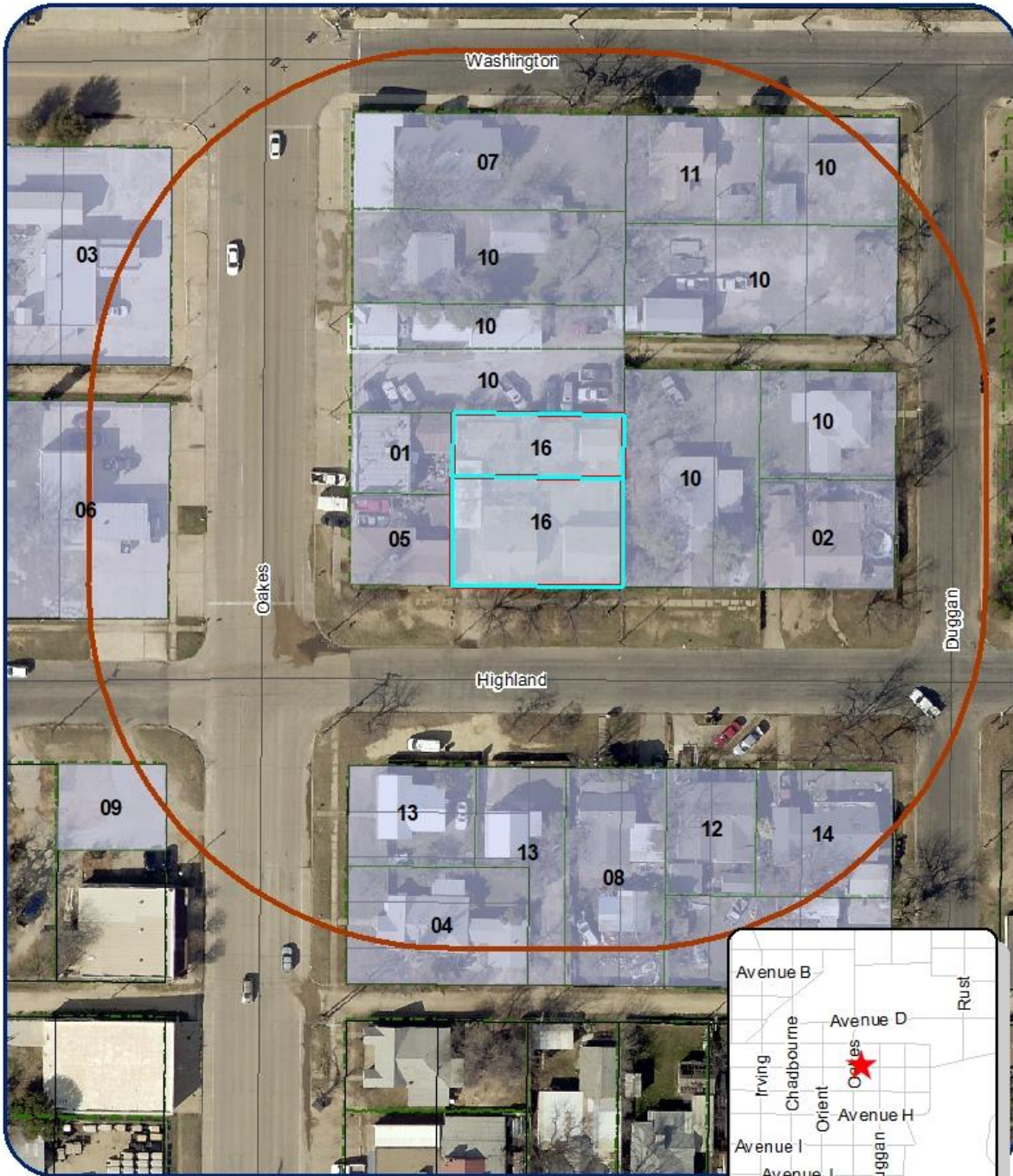
Staff’s recommendation is for the Zoning Board of Adjustment (ZBA) to **APPROVE** variances from 501.A of the Zoning Ordinance to allow for minimum lot areas of 4,560 sq. ft. for Lot 1A and 4,370 sq. ft. for Lot 1B; minimum lot widths of 48’ for Lot 1A and 46’ for Lot 1B; and minimum lot depths for both of 95 feet, subject to **three conditions of approval:**

1. The applicant shall obtain all required permits from the Permits and Inspections Division.
2. The applicant shall obtain any approvals from the Fire Marshal’s Office for any dangerous buildings on the property.

3. The applicant shall submit and obtain approval of a subdivision replat with the new lot configurations within 12 months.

Attachments:

Location Map
Photographs
Proposed Replat Plan
Application



Location Map ZBA21-15		Legend		N ▲	
106/110 East Highland Boulevard		Subject Properties: 	Current Zoning: CG/CH		
Council District 3 - Harry Thomas		Requested Zoning Change: Variances from 501.A	Vision: Commercial	Notification map	
Neighborhood: Ft. Concho					
Scale: 1" approx. = 70 ft					
Block 52 of Ft. Concho Addition: E94 ft. of S60 ft. of SW 1/4 of B 52 and N35 ft. of S95 ft. of SW 1/4 of B52; being 0.206 acres					

Photos of Site and Surrounding Area

FRONT OF PROPERTIES



FRONT OF PROPERTIES



LOT 1A HOUSE



LOT 1B HOUSE



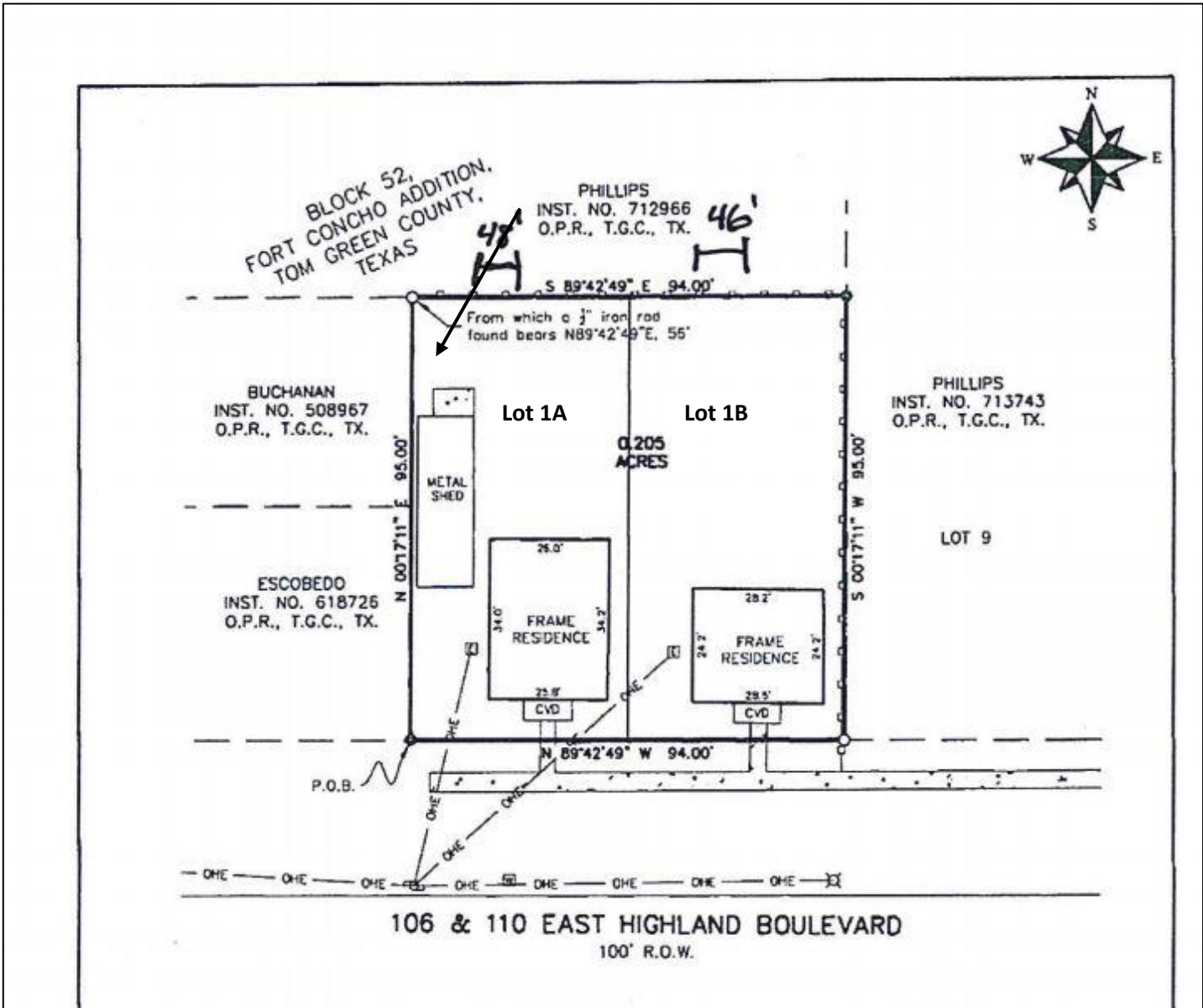
SOUTH SIDE OF STREET




REAR YARD




Replat 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): Jared Matlock
 Owner Representative (Notarized Affidavit Required)

Mailing Address: P.O. Box 5684 San Angelo TX 76902
City State Zip Code

Contact Phone Number: 325-242-2283 Contact E-mail Address: squirrelcontracting@gmail.com

Subject Property Address and/Location: 106 + 110 E Highland St. San Angelo TX 76903
City State Zip Code

Legal Description (can be found on property tax statement or at www.tamgreenca.com):
Forest Concho Addition, B1K 52, N35 ft. of S 95 ft. of E 94 ft. of SW 1/4 of B1K 5

Zoning District:
 CN CO CG CH CG1CH 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: 501.A - Lot Area
 Describe variance: Lot 106 - 4560, Lot 110 - 4370
- Zoning Ordinance section: 501.A - Lot Width
 Describe variance: Lot 106 - 48', Lot 110 - 46'
- Zoning Ordinance section: 501.A - Lot Length (depth)
 Describe variance: Lot 106 - 95', Lot 110 - 95'
- 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: There are 2 houses on one lot and have deficiencies in lot size if separated.

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: With 2 deficiencies in property, I am just trying to correct lot setup.

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: Property can not be used as single family homes separately at this moment. Variances would allow there to be 2 lots with single family homes per lot.

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, not asking to do anything more than correct lots to be usable with already housing that exists

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

Explanation: 2 houses have been there since I know of

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:

SM 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;

SM 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;

SM 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

SM 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

5/27/2021
Date

Sared Matlock
Printed name of licensee or authorized representative

Matlock Brothers, LLC
Name of business/Entity of representative

FOR OFFICE USE ONLY:

Reviewed/Accepted by: _____

Date: 6, 1, 2021

Case No.: ZBA: 21 - 15

ZBA Hearing Date: 7, 12, 21

Fully-Dimensioned and scaled Site Plan: ___ Yes ___ No

Date of Application: 6, 1, 21

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

Date paid: 6, 1, 21

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

