

**ZONING BOARD OF ADJUSTMENT – AUGUST 2, 2021
STAFF REPORT**



APPLICATION TYPE:		CASE:	
Variance		ZBA21-17: 3049 Red Bluff Circle	
SYNOPSIS:			
The applicants have applied for a variance from Section 509.B.3.a. of the Zoning Ordinance to allow up to an 8-foot tall fence within their 25-foot front yard, whereas a maximum of 4 feet in allowed. The applicants are requesting a taller fence to provide privacy from their neighbors. The new fence will be located along the west property line. It will be an extension of their existing cedar fence to the side and rear of the house, and will extend to the front property line (see additional information).			
LOCATION:		LEGAL DESCRIPTION:	
3049 Red Bluff Circle		Lot 67 in Block 3, Lake Nasworthy Red Bluff, Section 3	
SM DISTRICT / NEIGHBORHOOD:		ZONING:	FUTURE LAND USE:
SMD District #3 – Harry Thomas Fort Concho Neighborhood		Single-Family Residential (RS-1)	N – Neighborhood
			SIZE: 0.52 acres
THOROUGHFARE PLAN:			
<i>Red Bluff Circle</i> – Urban Local Street, Required: 50’ right-of-way, 40’ pavement or 36’ with a 4’ wide sidewalk, Provided: Variable right-of-way, 20’ pavement (complied at time of platting)			
NOTIFICATIONS:			
9 notifications mailed within 200-foot radius on July 22, 2021. No letters received in favor and two against .			
STAFF RECOMMENDATION:			
Staff’s recommendation is for the Zoning Board of Adjustment (ZBA) to APPROVE a variance from Section 509.B.3.a the Zoning Ordinance to allow an 8’ tall fence along the west property line adjacent to the existing carport; subject to two conditions of approval .			
PROPERTY OWNER/PETITIONER:			
David and Leann Forbes			
STAFF CONTACT:			
Jeff Fisher, AICP Principal Planner (325) 657-4210, Extension 1550 jeff.fisher@cosatx.us			

Additional Information: The adjacent neighbor at 3053 Red Bluff Circle has an existing rock wall fence that is 8 feet at its tallest point next to the applicants' home, then tapering to 5 feet next to their carport with iron bar openings three feet in height. The applicants' indicate that the neighbors can see into their property through these openings, and believe an 8-foot privacy would ensure privacy along the portion of their property in front of their house (approximately 60 feet).

Staff researched the subject area to determine if other variances were granted for similar requests. Staff found two other variances to the east on Red Bluff Circle, one for a garage for a 6' front setback, and one for a carport with a 13-foot front setback. In both cases, and similar to this case, there is a substantial city right-of-way access easement (50 feet in front of the subject property) before the actual street begins. The closest front structure on this property is a carport which is 7 feet from the front property line, or 57 feet back from the actual street.

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 the 50-foot access easement in front of the property provides a special circumstance to allow a closer front yard setback. However, consistent with other variances in the area, Staff only recommends approval of the fence to the end of the carport, maintaining approximately 6 feet to the front property line. The carport tapers between 8 feet down to 7'2" underneath the roof, and therefore, Staff is comfortable allowing an 8-foot tall fence but only extending to the end of the carport.
2. **These special circumstances are not the result of the actions of the applicant.**
The existing non-conforming structures on the properties, the applicants' carport (7 feet from the front property line) and the neighbors' rock wall (extending into the public right-of-way) appear to be pre-existing structures since at least 1996 according to historic aerials. Non-conforming carports built before March 8, 1995, are considered legal non-conforming per the Zoning Ordinance. Therefore, Staff would support extending the fence along the west wall of the carport which already exists, but not past this point as there is no justification to extend to the front property line.
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 substantial access easement provides justification for a closer fence setback, as other owners have been granted the same rights.
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.** Allowing an 8' fence along the west wall of the carport would not adversely affect the neighbor since they already built their own fence in this location.
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 a fence within a portion of the front yard is consistent with this objective given the large access easement and similar variances being granted nearby.

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 large 50-foot access easement in front of the home provides a justification for a variance, however, only alongside the existing carport which appears to be legal non-conforming.
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 the Zoning Ordinance to allow an 8' tall fence along the west property line adjacent to the existing carport; subject to **two conditions of approval:**

1. The applicant shall obtain all required permits from the Permits and Inspections Division, including a fence permit for the new fence.
2. The fence shall be extended no closer than the front posts of the existing carport.

Attachments:

Location Map

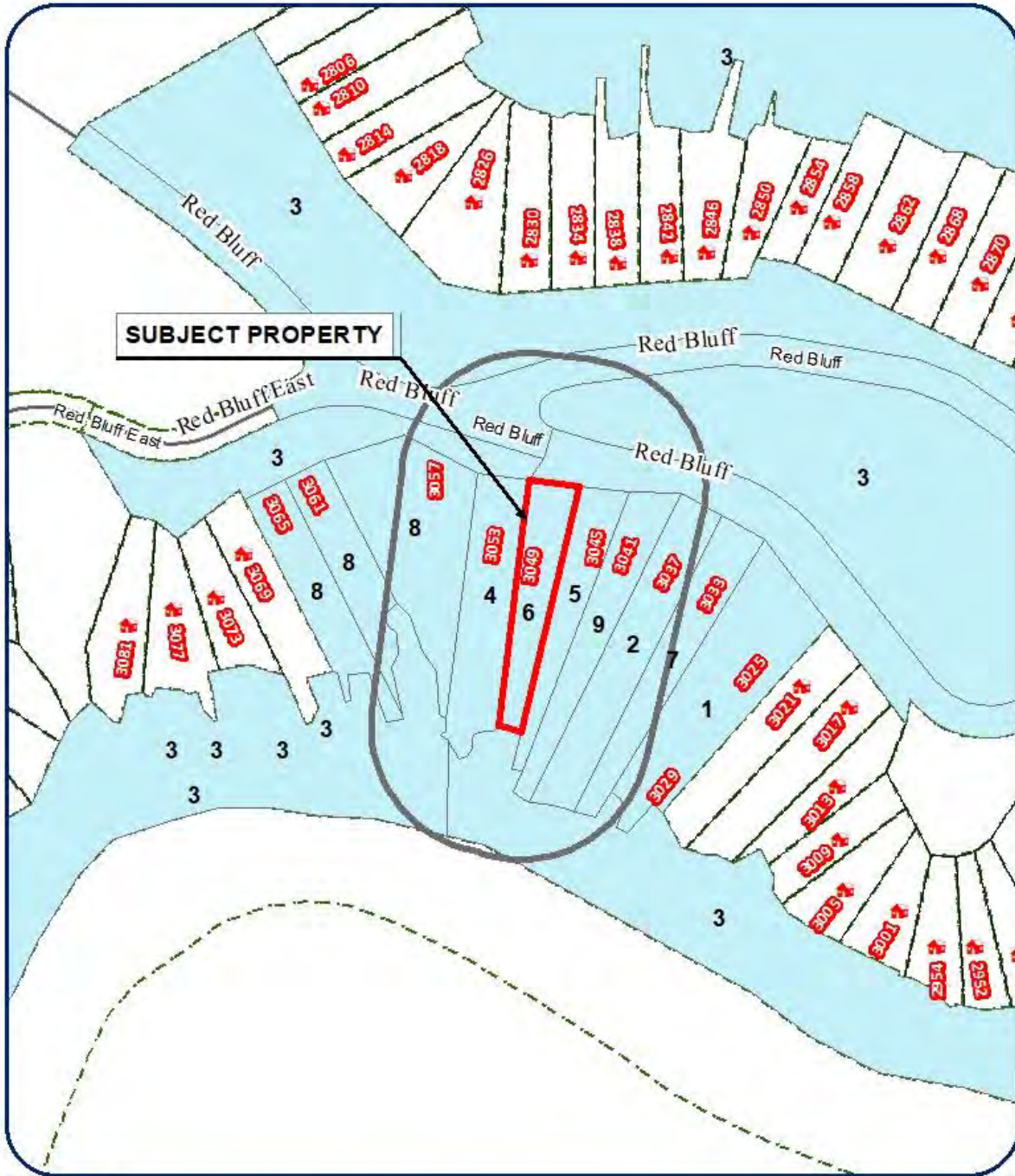
Photographs

Response Letters

Concept Plan showing proposed fence

Fence Details

Application



Variance
ZBA21-17: 3049 Red Bluff Circle
 Council District: Tommy Hiebert - District 1
 Neighborhood: Naswothy
 Scale: 1" approx. = 200 ft
East of Red Bluff East and Red Bluff Rd (0.523 ac.)

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

N




Photos of Site and Surrounding Area

FRONT OF PROPERTY



EXISTING ROCK FENCE – ADJACENT NEIGHBOR



WEST SIDE YARD (PROPOSED 8' FENCE)



WEST SIDE YARD (PROPOSED 8' FENCE)



LOOKING AT WEST SIDE YARD



NEW FENCE TO MATCH EXISTING CEDAR FENCE AT REAR



From: [Jennifer Covey](#)
To: [Fisher, Jeff](#)
Subject: Opposition to ZBA21-17: 3049 Red Bluff Circle
Date: Wednesday, July 28, 2021 3:37:11 PM

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

To Whom It May Concern:

As a resident within 200 feet of 3049 Red Bluff Circle, I oppose the building of a one-sided 8 foot privacy fence which would extend past the property line.

Reasons:

According to City policy, a fence should only be 4 foot tall from the property line to 20 feet along the property line. From 20 feet to 70 feet from the water line, a property owner may petition to have a fence taller than 7 feet. I believe this policy is not only for safety but also for aesthetics. Permitting this fence to be built passed the property line at height double which is permitted by policy sets a precedent for all fences in San Angelo. Specifically, for Red Bluff Circle, it causes a potential for unsafe driving as the property is close to the Red Bluff Circle entrance and causes blindspots.

Jennifer Covey
3041 Red Bluff Circle San Angelo, Tx 76904
808-754-8126

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From: [Chris Covey](#)
To: [Fisher, Jeff](#)
Subject: ZBA21-17: 3049 Red Bluff Circle
Date: Tuesday, July 27, 2021 10:25:29 AM
Attachments: [Front Yard View 3053.jpg](#)
[3053 Front yard across to 3049 Carport.jpg](#)
[3049 is set back from front of 3053.jpg](#)
[Distance from city property to edge of 3049 carport.jpg](#)
[Sunrise over proposed 8" Fence.jpg](#)
[Overall view from 3053 RBC.jpg](#)
[View from 3053 carport to 3049.jpg](#)
[Wider View from 3053 to 3049.MOV](#)
[Google Earth Photos.pdf](#)

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

Mr. Fisher,

We are in OPPOSITION to allow an extended 8' privacy fence that blocks our view of sunrise and circle traffic.

We have not spoken or interacted with Leanne in over a year after she told us to stay on our side and she will stay on her side, after she called my wife a bitch. We have put up no trespassing signs after she climbed our fence to get her cat. They knew we were on the way home to release the cat.

She has called police, animal control, and city compliance, which we have never been fined for any complaint.

David Forbes is my wife's uncle, so legally Leanne is Colleen's Aunt, but she refuses to be part of the family.

Leanne's dislike for my wife started soon after she moved in with David and I bought her Hubert Promotions Advertising in 2013 for my wife to run. Leanne was upset that Colleen would not share the computer program needed to run the business.

There have been several incidents over cats because she feeds all stray cats.

There is no need for an eight foot fence in the front yard, We believe for her privacy, David Forbes should enclose the carport into a full garage. Their home at 3049 set well back from the front porch of our house at 3053 RBC.

Aesthetically the fence in front yard would not look true to the neighborhood.

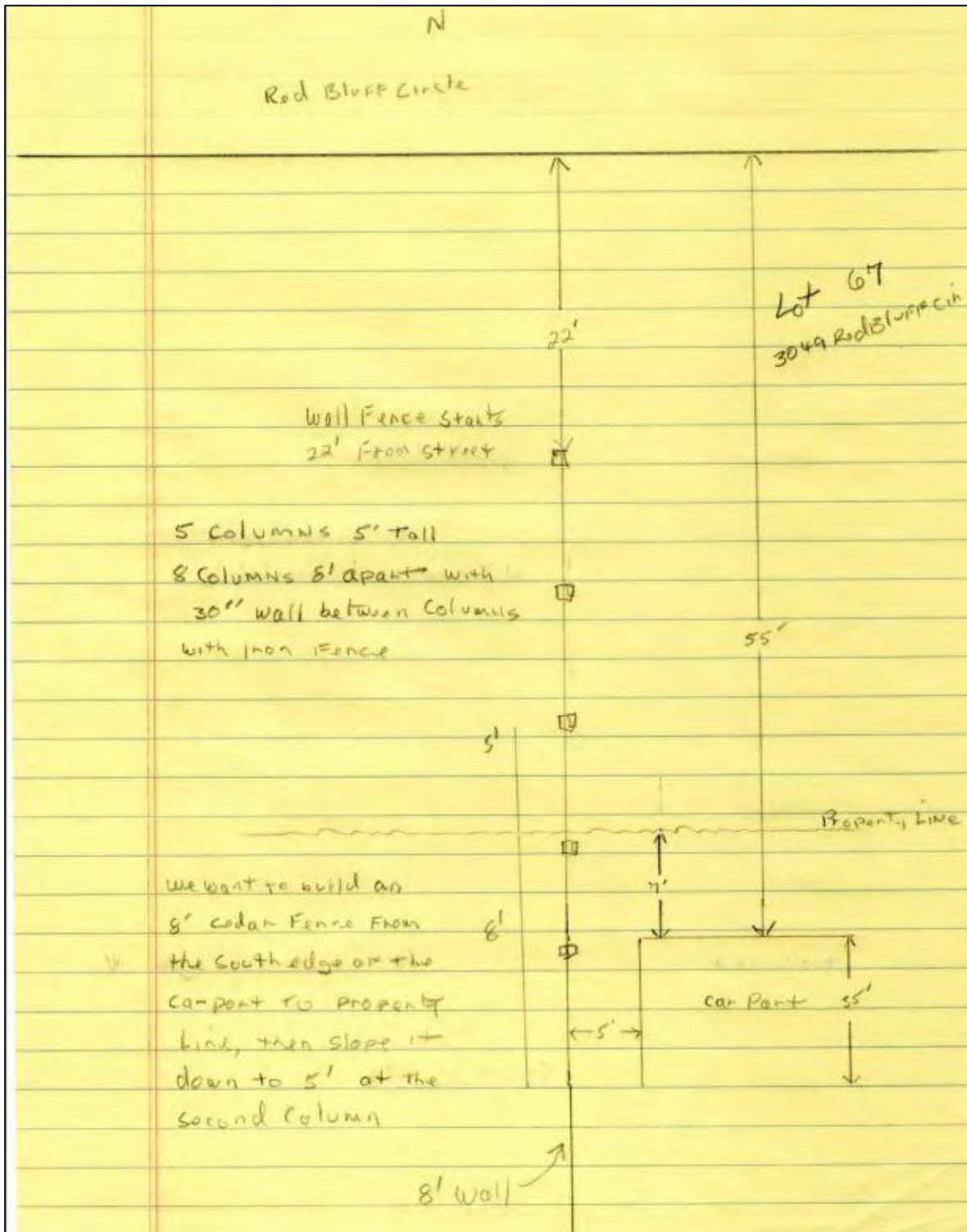
Please feel free to come look and take photos yourself.

Thank you
Chris & Colleen Covey
3053 Red Bluff Circle
832-409-9106
325-500-5292


Concept Plan



Fence Details




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): David & Leann Forbes

Owner Representative (Notarized Affidavit Required)

Mailing Address: 3049 Red Bluff Circle San Angelo, TX 76904
City State Zip Code

Contact Phone Number: 325-212-4434 or 271-8935 Contact E-mail Address: leannhubert@suddenlink.net

Subject Property Address and Location: 3049 Red Bluff Cir. San Angelo TX 76904
City State Zip Code

Legal Description (can be found on property tax statement or at www.tcomarencad.com):
Lake Nasworthy Red Bluff Blk 3 Lot 64

Zoning District:

CN CO CG CH CG/CH CBD OW ML MHS MHP PD
 VRS-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: Attached
 Describe variance: _____

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: See attached

Application for Variance - Addendum

David & Leann Forbes

Section 3: Variance Request Criteria:

1. We are asking for a variance due to the on-going and problematic issues we have with our neighbors. The neighbors are interfering with our right to enjoy our property.

The variance we are requesting is in the front of the house. There is an existing fence on their property that we are assuming, has been grandfathered in and runs well past their property line. (I've attached a picture of their rock and iron fence). The fence is 5-1/2 tall with columns and metal bars in between. We are requesting an 8' or 7' fence up to our property line. The privacy from the fence will protect us when we are outside and as we get into our vehicles.

Over the past few years, issues with our neighbors have escalated. Particularly with the female owner of the property and her adult son that lives on the property also. Here's a list of what has occurred and is ongoing.

- A) They yell insulting remarks and cuss words to us across the fence when we get in our vehicles or outside.
 - B) Try to bully with stares and intimidation tactics anytime we are outside.
 - C) The adult son tailgated behind me all the way down Red Bluff to Knickerbocker and proceeded to inch up to me as close as possible at the stop sign. He will do anything to bully or intimidate me and my husband.
 - D) They take photos and videos of us when we are outside.
2. No, the special circumstances are not the result of the actions of the applicants.
 3. Currently, we are deprived of enjoying the beautiful home we own on Lake Nasworthy. Asking for the variance will allow us to enjoy our own property in peace. The adult son mentioned above has a criminal record of violence. Without the additional privacy from the fence, I am very concerned for our safety. The female of the property and the son are volatile with explosive behaviors and seem to have little impulse control. We are afraid quite frankly, of what they may say or do.
 4. We endure a hardship living next door to our neighbors on a daily basis. Due to the close proximity of the two homes, we put up an 8' privacy fence on the back of our property to stop the insults from across the existing rock fence on their property. The privacy in the back has given us some peace.

The burden of living next door to hateful neighbors is a burden for both of us mentally and financially. Your home is your castle and a place of peace. It should be a place of joy and refuge. We've endured frustration, anguish, and sleepless nights for almost ten years.

So yes, it is a huge hardship on us to live next door to the neighbors without a fence to separate us. With the approval of the fence variance in the front of our home, we can once again feel comfortable getting in our vehicles and enjoy spending time in our yard.

5. Granting the variance will allow us to once again enjoy our property. Currently, we spend little time out front.
6. Granting the variance will not affect the adjacent property at all. They have an existing fence in place and our fence will lend privacy to both properties.
7. The purpose of the Zoning is to protect the health, safety and welfare of the people as it relates to the land. We respectfully ask that you grant this variance. We feel our safety and well-being is in jeopardy. Additionally, the weight of the issues from the neighbors continues to increase and we are ready to find peace.

The 8' or 7' fence will give us much needed privacy and safety from our neighbors.

ZONING BOARD OF ADJUSTMENT – August 2, 2021

STAFF REPORT



APPLICATION TYPE:		CASE:	
Variance		ZBA21-18: 1902 Austin St.	
SYNOPSIS:			
A request for approval of a variance from Section 502.B the Zoning Ordinance to allow for a front yard setback of 10 feet in lieu of the required minimum 25 feet in order to construct carport/canopy covers to cover vehicle inventory for a car dealership, within the Manufacturing-Light (ML) Zoning District.			
LOCATION:		LEGAL DESCRIPTION:	
1902 Austin St.		Randall Motors Subdivision, Section One	
SM DISTRICT /	ZONING:	FUTURE LAND USE:	SIZE:
SMD #5 –Lane Carter ASU-College Hills Neighborhood	Manufacturing-Light (ML)	Commercial	0.599 acres
THOROUGHFARE PLAN:			
<u>Austin St</u> – Minor Collector – ROW 60’ Required (90’ Existing) – Pavement Width 50’ Required (50’ Existing)			
NOTIFICATIONS:			
6 notifications were mailed within a 200-foot radius on July 23, 2021 Zero responses have been received in support or in opposition.			
STAFF RECOMMENDATION:			
Staff recommends DENY of a variance from Section 502.B of the Zoning Ordinance to allow for a front yard setback of 10 feet in lieu of the required minimum 25 feet in order to construct carport/canopy covers to cover vehicle inventory for a car dealership, within the Manufacturing-Light (ML) Zoning District at 1902 Austin Street.			
PETITIONER:			
Applicant – George Randall, Randall Motors			
STAFF CONTACT:			
Zack Rainbow Planning Manager (325) 657-4210, Extension 1547 zachary.rainbow@cosatx.us			

Background: The subject property is located near the northwest corner of Austin Street and W. Avenue N. The subject property is currently used as a secondary lot for parking of vehicle inventory for the auto dealership located across the street and is surrounded by commercial and industrial uses and zoning districts on all four sides.

The proponent desires to install several roof-covered structures intended to protect vehicles from inclement weather, along the subject property's front boundaries facing Austin Street. San Angelo's Zoning Ordinance generally requires a minimum 25-foot building setback from front boundaries on each lot in ML zoning districts. The proposed structures are thereby considered buildings which are subject to minimum building setbacks required by San Angelo's Zoning Ordinance.

The applicant is requesting the subject variance which, if approved, will allow installation of proposed buildings within 10 feet from the subject properties front boundaries facing Austin St., as shown on the site plan accompanying.

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 subject property shows no substantially special conditions by which minimum enforcement of front building setbacks will create unnecessary hardship, particularly since there are no building setbacks required from the subject properties northern and a 10' setback along the western boundary.
- 2. These special circumstances are not the result of the actions of the applicant.** This is a vacant piece of property, and the proposed location of the structures proposed by the applicant is the reason for the requested variance.
- 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 the size of the lot area and lack of any other structures provides for adequate buildable area on the lot without the need for 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 this Zoning Ordinance and substantial justice.** The applicant believes that this variance would not impact traffic safety or other neighbor's general use of their land.
- 5. Granting the variance will not adversely affect adjacent land in a material way.** The applicant believes that granting this variance will not affect the adjacent property. Their lot will still be separate and will not require any additional structures for the business operation. All building codes and drainage requirements of the city will be met. Staff concurs and believes that this will not have a negative effect on adjacent land.
- 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 and establish consistent building lines and consistent

development along the street. Some of the purpose statements of the Zoning Ordinance state, “Protect the character and the established pattern of desirable development in each area,” and “Maintain property values by stabilizing expectations and ensuring predictability in development.” Granting this variance could potentially impact the character or established development pattern in the area.

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 states that only the roof edge will encroach over the 25’ setback line, the columns will not be over the 25’ setback line. This orientation was also required in order to not encroach into the existing 20’ sewer utility easement and the existing 20’ drainage easement. Staff believes that there is adequate area on the lot to accommodate the desired amount coverage for the vehicle inventory.

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:

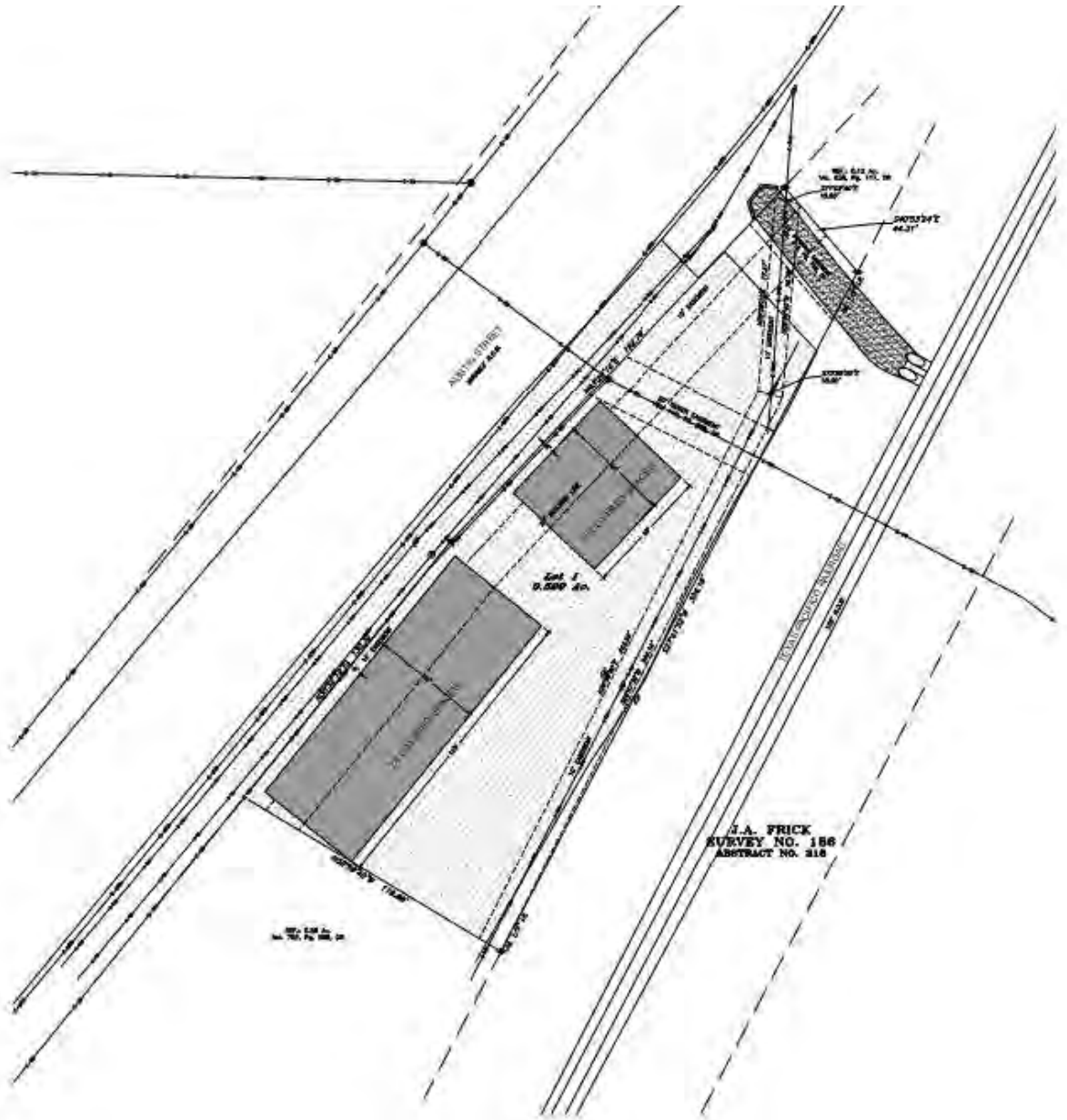
Based on a strict interpretation, staff recommends that the Zoning Board of Adjustments **DENY** the variance from Section 502 of the Zoning Ordinance to allow for a 10’ front yard setback in lieu of the required 25’ along Austin Street in a Manufacturing-Light (ML) Zoning District. If the Board is inclined to recommend approval, Staff recommends that the approval be subject to two conditions:

1. The applicant shall obtain a building permit from the Permits and Inspections Division for the carport and patio structure.
2. The variance shall be limited to the footprint provided on the concept plan.

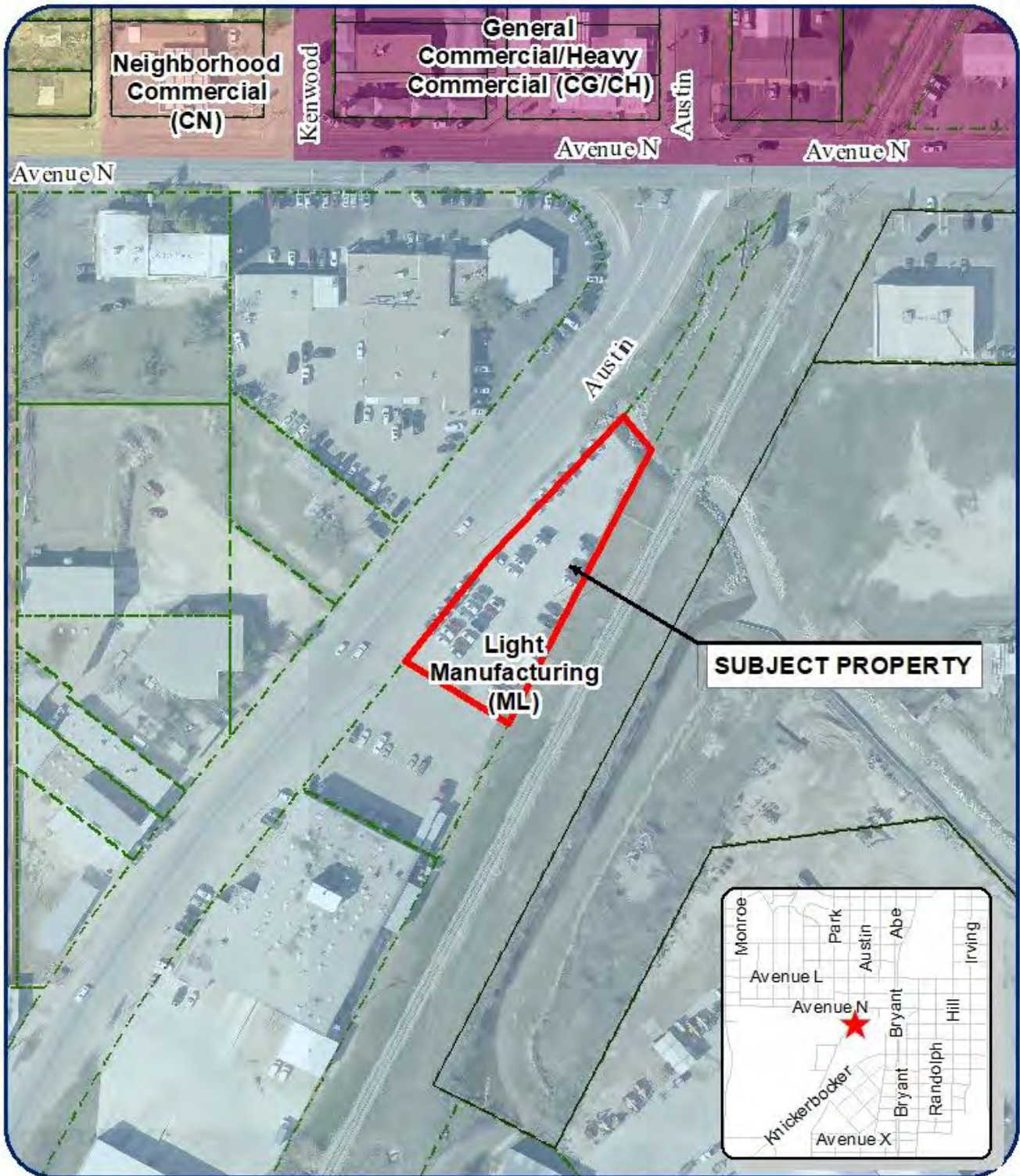
Attachments:

Aerial Map

- Zoning Map
- Notification Map
- Site Plan
- Photos of the Site
- Application



Site Exhibit



Variance

ZBA21-18: 1902 Austin St.

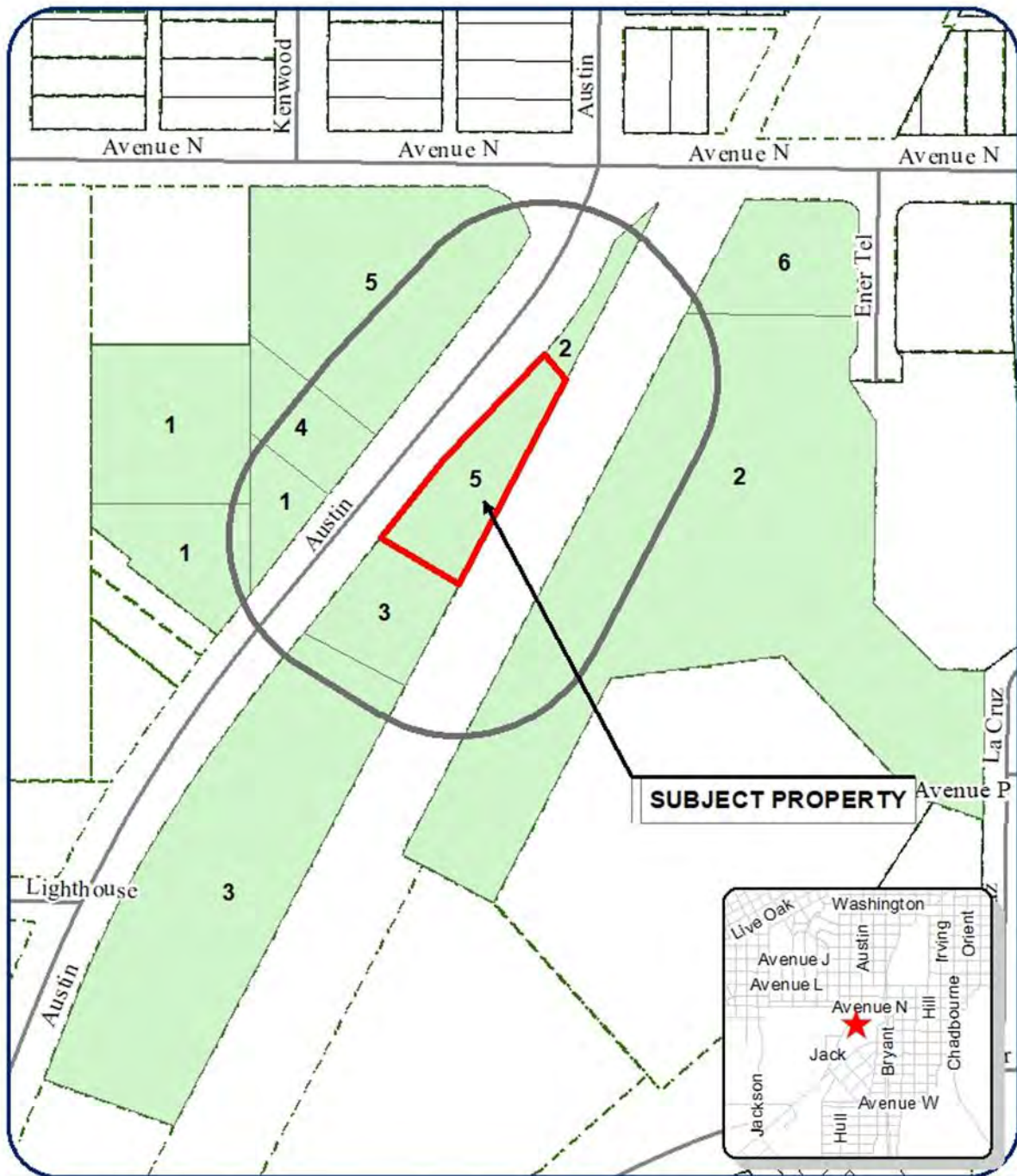
Council District: Lane Carter - District 5
 Neighborhood: ASU - College Hills
 Scale: 1" approx. = 125 ft

Southeast of W. Ave. N & Austin St. 0.559 ac.

Legend

Subject Properties: █
 Current Zoning: **ML**
 Requested Zoning Change: **N/A**
 Vision: **Commercial**





Variance	Legend		
ZBA21-18: 1902 Austin St.	Subject Properties:		
Council District: Lane Carter - District 5	Current Zoning: ML		
Neighborhood: ASU - College Hills	Requested Zoning Change: N/A		
Scale: 1" approx. = 167 ft	Vision: Commercial		
Southeast of W. Ave. N & Austin St. 0.559 ac.			

Photos of the Site








**ZONING BOARD OF ADJUSTMENT – AUGUST 2, 2021
STAFF REPORT**



APPLICATION TYPE:		CASE:	
Variance		ZBA21-19: 203 N. Abe Street	
SYNOPSIS:			
The applicant has applied for variances from Section 502.B of the Zoning Ordinance to allow up to 0-foot from the adjacent front property lines facing N. Abe Street and W. 1 st Street to allow construction of new canopy structures (no front yard setbacks). The canopies will provide cover for vehicles from inclement weather for the applicant's existing auto dealership. Canopies will be supported by 6 ½" end posts but otherwise unencumbered underneath with a typical vertical clearance of 7'4" (see additional information).			
LOCATION:		LEGAL DESCRIPTION:	
203 N. Abe Street		Block 2 in Michael T. Halbouty Addition, Section Two, and an unplatted tract referenced in Special Warranty Deed 291404755.	
SM DISTRICT / NEIGHBORHOOD:	ZONING:	FUTURE LAND USE:	SIZE:
SMD District #3 – Harry Thomas Downtown Neighborhood	General Commercial/Heavy Commercial (CG/CH)	Downtown	8.59 acres
THOROUGHFARE PLAN:			
<i>N. Abe Street</i> – Urban Local Street, Required: N/A (TXDOT), Provided: 80' right-of-way, 60' pavement			
<i>W. 1st Street</i> – Urban Local Street, Required: 50' right-of-way, 40' pavement or 36' with a 4' wide sidewalk, Provided: 80' right-of-way, 36' pavement (complied at time of platting)			
NOTIFICATIONS:			
9 notifications mailed within 200-foot radius on July 22, 2021. No letters received in favor or against to date.			
STAFF RECOMMENDATION:			
Staff's recommendation is for the Zoning Board of Adjustment (ZBA) to DENY a variance from Section 502.B of the Zoning Ordinance to allow a 0' front yard setback for canopy structures facing N. Abe Street; and, APPROVE a PARTIAL VARIANCE from Section 502.B of the Zoning Ordinance to allow a 20' front yard setback in lieu of 25 feet for canopy structures facing W. 1 st Street, subject to two conditions of approval .			
PROPERTY OWNER/PETITIONER:			
Owner: Lithia Real Estate Inc. (All American Chevrolet) Petitioner: Cassandra Huggins (Dynamic Engineering Consultants, PC)			
STAFF CONTACT:			
Jeff Fisher, AICP Principal Planner (325) 657-4210, Extension 1550 jeff.fisher@cosatx.us			

Additional Information: Staff reviewed the subject request for conformity with the variance criteria below, as well as researched other properties with similar variance requests. Staff found a previous case, ZBA04-07 that approved a front yard setback of 5 feet to allow similar canopy structures provided they are open and unencumbered underneath their 7 ½ vertical clearance, except for vertical supports no greater than 24 inches wide. Planning Staff at that time opposed the variance as they did not find a special circumstance for allowing structures closer than the required 25 feet.

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 approved subdivision for this property includes 20-foot wide underground utility easements facing both frontages. Engineering Services for safety reasons opposes any variance to allow the canopies physically or aurally to encroach into these easements. **These easements encompass existing 12" sewer mains and if a sewer line was to break, the City's equipment would not be able to access the line for repairs.** Therefore, Staff cannot support any variance within that utility easement. **There is also a 20" water main that runs through the property with no easement, and canopies cannot encroach aurally or physically within 15' on either side of this main.** Staff measured the existing parkway – the distance between the front property lines and the street curbs – and found N. Abe St. has only 7 feet of parkway, and W. 1st Street has 30 feet. Given the substantial right-of-way for W. 1st St., and that Engineering has also indicated a water line running through the property limiting the amount of usable space, Staff supports a variance to allow a 20-foot front yard setback facing W. 1st Street. Staff however, sees no justification to allow the same on N. Abe St. Most of the buildings along the Abe/Koenigheim corridor have their buildings setback at least 25 feet in compliance. With a narrow right-of-way, Staff does not support a variance which could potentially reduce visibility for vehicles entering and exiting from Abe St.
2. **These special circumstances are not the result of the actions of the applicant.** Staff believes that there are no special circumstances in this case. The applicant is creating the circumstance by choosing to install canopies over the vehicles within the required setbacks. As mentioned, Staff is comfortable granting a 5-foot reduction (20-foot setback) from W. 1st Street for the reasons above.
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 the dealership was constructed prior to current regulations, this however is not a justification for a variance. Encroaching further, in particular on the Abe Street side, creates visibility issues and contravenes the intent of the front yard setback to protect visibility and sight lines from streets.

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 beyond the minimum necessary for the reasons above.
5. **Granting the variance will not adversely affect adjacent land in a material way.** Granting a variance to 0-feet could lead to safety issues for oncoming motorists entering/exiting the site; and for Water Utilities in the event a sewer line needs repair.
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 0-foot variances would set a negative precedent for more encroachments into required setbacks, breaking with the established pattern.

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 30-foot right-of-way between the W. 1st Street property line is justification to encroach 5 feet into the required 25-foot front yard setback while still being free and clear of the utility easement. Staff sees no special circumstance however, for the N. Abe. Street variance request.
 2. **OVERRIDING PUBLIC INTEREST.** *If the variance further an overriding public interest or concern, including, but not limited to: (a) Preserving the natural environment, (b) Promoting maintenance or reuse of older urban or historic buildings, or (c) Helping to eliminate a nonconforming use at another location.*
 3. **LITERAL ENFORCEMENT.** *If it is found that the literal enforcement and strict application of this Zoning Ordinance will result in extraordinary circumstances inconsistent with the general provisions and intent of this ordinance, and that, in granting the variance, the spirit of the ordinance will be preserved and substantial justice done.*
-

Recommendation:

Staff's recommendation is for the Zoning Board of Adjustment (ZBA) to **DENY** a variance from Section 502.B of the Zoning Ordinance to allow a 0' front yard setback for canopy structures facing N. Abe Street; and, **APPROVE a PARTIAL VARIANCE** from Section 502.B of the Zoning Ordinance to allow a 20' front yard setback in lieu of 25 feet for canopy structures facing W. 1st Street, subject to **two conditions of approval**:

1. The applicant shall obtain all required permits from the Permits and Inspections Division.
2. No portion of any canopy aurally or physically shall be located within 15' on either side of the water main on the property.

Notes:


1. The applicant requires a River Corridor District Overlay approval prior to issuance of any building permits on this property.
2. The unplatted tract referenced in Special Warranty Deed 291404755 must be replatted with the subject property prior to any issuance of any permits on this tract.
3. No canopy or other structure may be erected within the 30' by 30' sight triangle at the corner of the property lines facing N. Abe St. and W. 1st St. per the Zoning Ordinance.
4. All off-street parking of vehicles shall comply with the minimum maneuvering standards in the Zoning Ordinance.
5. The Building Code requires a minimum 10-foot setback for all structures from the west and north property lines.


Attachments:


Location Map
Photographs
Concept Plan
Canopy Details
Application



Variance
ZBA21-01: 3237 Red Bluff West
 Council District: Tommy Hiebert - District 1
 Neighborhood: Naswothy
 Scale: 1" approx. = 200 ft
Red Bluff West, west of Red Bluff East (0.294 ac.)

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

N




Photos of Site and Surrounding Area

N. ABE ST FRONTAGE



N. ABE ST FRONTAGE



W. 1ST ST. FRONTAGE



W. 1ST ST. FRONTAGE



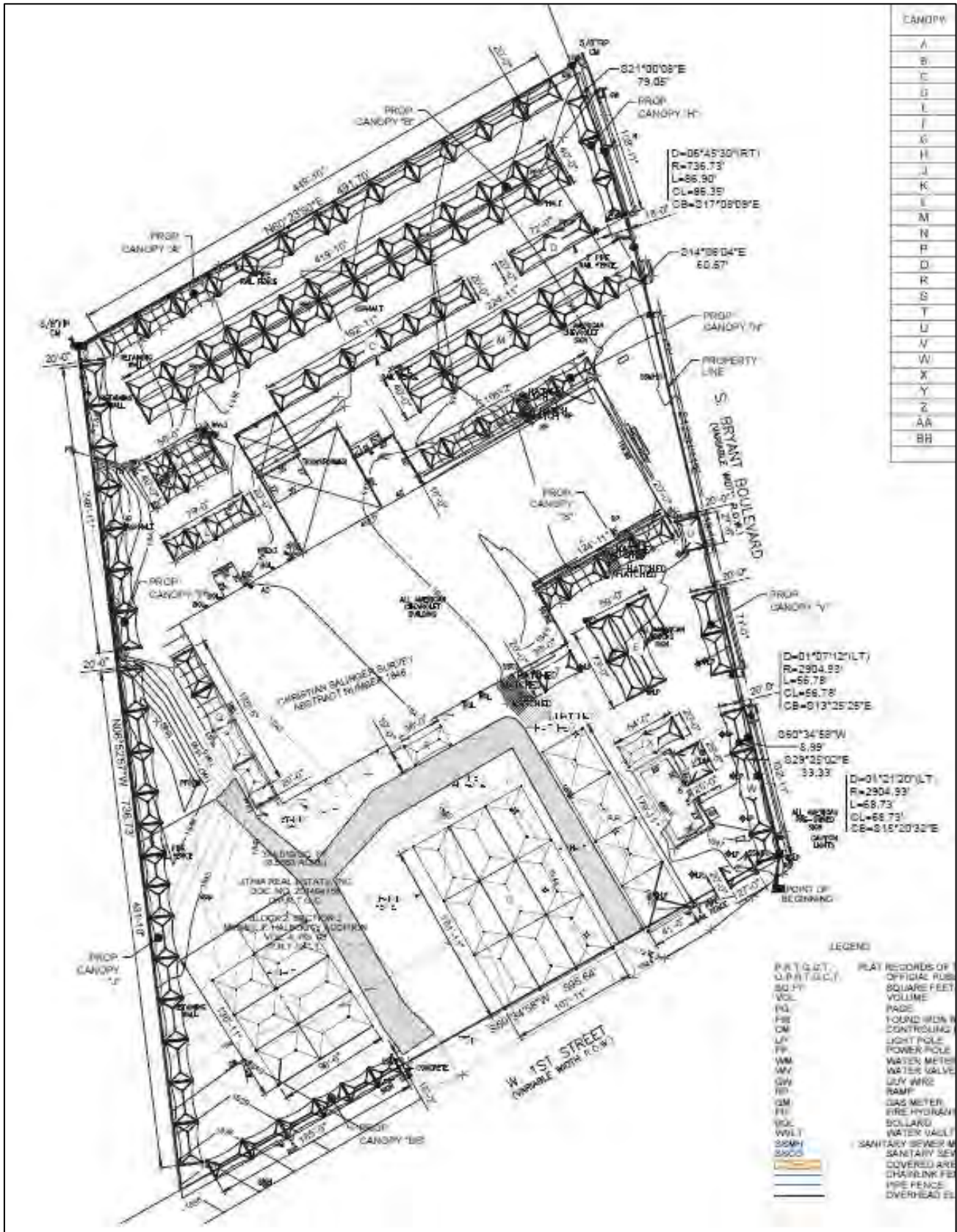
CORNER OF INTERSECTION



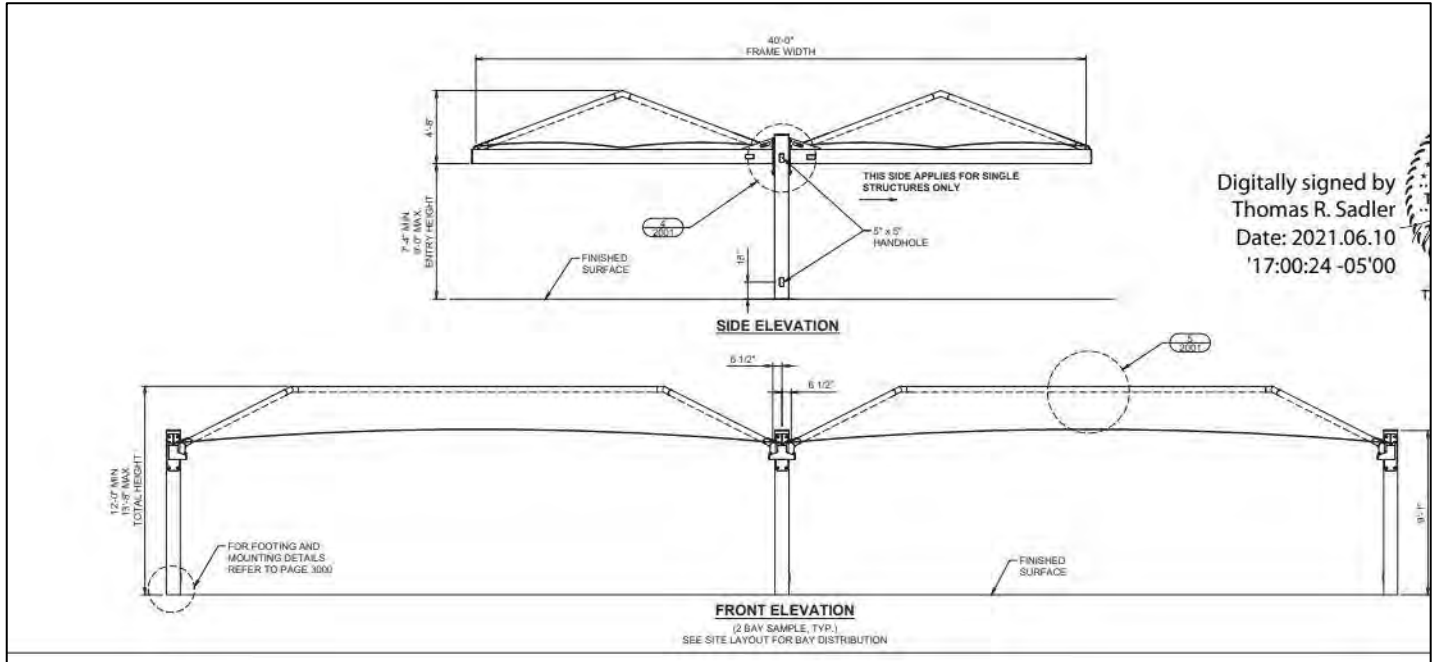
EXISTING AUTO DEALERSHIP



Concept Plan



Canopy Details



Canopy Details



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): Cassandra Huggins - Dynamic Engineering Consultants, PC

Owner Representative (Notarized Affidavit Required)

6925 Portwest Drive Suite 100 Houston Texas 77024
 Mailing Address City State Zip Code

(281)789-6400 chuggins@dynamicec.com
 Contact Phone Number Contact E-mail Address

203 Bryant Blvd N San Angelo Texas 76903
 Subject Property Address and/Location City State Zip Code

Relay a 43843 once back and relay a 43843-2; Routes 2, Mailbox 7, Highway Address, an address to the City of San Angelo, Tom Green County, as recorded in Volume 4, Page 35, Plat (Records of Tom Green County, Texas)

Legal Description (can be found on property tax statement or at www.onwarsncad.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:

1. Zoning Ordinance section: City of San Angelo Code of Ordinance Exhibit A - Zoning Ordinance Section 552 - Non-Residential District Standards (am. D Nonresidential District Bulk Regulations, Min Front Yard)
 Describe variance: Allow for canopies to be placed in the 25-foot setback of S. Bryant and W. 1st Street with the objective to protect vehicles in events of inclement weather.

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: The subject property is a dual frontage lot requiring a 25-foot setback from S. Bryant and W. 1st Street. The proposed structures are to encroach on the 25-foot easement along S. Bryant and W. 1st Street to increase vehicular coverage within existing pavement limits.

Inclusive 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 proposed shade structures are to encroach on the 25-foot setback along S. Bryant and W. 1st Street due to existing pavement limits. Per Google Earth, the dealership was constructed prior to 1996, which was prior to current zoning regulations.

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: The existing dealership was constructed prior to the current regulations. Existing pavement limits are not being modified. The intent of the canopies is to protect the cars parked within the existing pavement line from inclement weather.

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 existing structures on the property comply with all required setbacks and standards. The proposed structures are located within private property and are to not disturb visibility in or out of the dealership for the public user.

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

Explanation: The structures are designed by a registered professional engineer. Also, the structures are permeable in nature, therefore the installation of the structures will not impact drainage patterns. Therefore, the structural integrity of the structures has been certified and there is no anticipated increase in runoff due to structure installation.

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

Explanation: Motor vehicles in existing conditions are parking within the front setback due to existing pavement limits. The proposed variance will allow for these automotive vehicles to be protected from the inclement weather.

Effective January 3, 2017

Section 4: Applicant(s) Acknowledgement

Please initial the following:

CH 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;

CH 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;

CH 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

CH 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.

Cassandra Huggins
Signature of licensee or authorized representative

06/25/2021
Date

Cassandra Huggins
Printed name of licensee or authorized representative

Dynamic Engineering Consultants, PC
Name of business/Entity of representative

FOR OFFICE USE ONLY:

Reviewed/Accepted by: _____

Date: ____/____/____

Case No.: ZBA: 21-19

ZBA Hearing Date: 8/2/21

Fully-Dimensioned and scaled Site Plan: Yes No

Date of Application: ____/____/____

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

Date paid: ____/____/____

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

