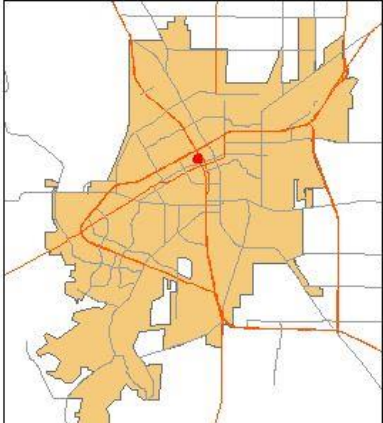


**ZONING BOARD OF ADJUSTMENT – SEPTEMBER 13, 2021
STAFF REPORT**



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 (no front yard setback) from the front property lines facing N. Abe Street and W. 1 st Street to allow construction of new canopy structures. The canopies will provide cover for vehicles from inclement weather for the applicant's existing auto dealership. This item was tabled from the August 2, 2021 ZBA Meeting to obtain further information from the applicant (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:
SMD District #3 – Harry Thomas Downtown Neighborhood		General Commercial/Heavy Commercial (CG/CH)	Downtown
			SIZE: 8.59 acres
THOROUGHFARE PLAN:			
N. Abe Street – Urban Local Street, Required: N/A (TXDOT), Provided: 80' right-of-way, 60' pavement W. 1st Street – 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 15' front yard setback , in lieu of 25 feet, for canopy structures facing W. 1 st Street, subject to three 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: This item was tabled at the previous ZBA meeting in order for the applicant and City to a) identify existing water and sewer lines within the property, and b) determine if Staff would support closer canopy setbacks on both street frontages, provided there is sufficient offsets between the canopy locations and existing lines. The applicant has provided an updated site plan showing the existing lines which includes a sewer line that is within the existing 20' underground utility easement parallel to W. 1st Street (see attached). Engineering and Water Utilities require a minimum 10' offset from this line, which would allow a 15-foot front setback from W, 1st Street (Staff initially supported a 20' setback which was outside the utility easement). Engineering, Water Utilities, and Planning are comfortable supporting this 15-foot setback provided the applicant obtains a partial easement release from City Council (removing the north 5' of this easement). A revised site plan will be required at time of permitting showing that no canopies encroach within 15 feet of the 1st Street property line.

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 supports a 15-foot front yard variance from W. 1st Street given there is an additional 30' of public right-of-way adjacent to the street, provided the applicant obtain a partial easement release from City Council. Staff does not support any variance on the N. Abe St. side due to a narrow right-of-way of only 7 feet and high traffic volumes here.
2. **These special circumstances are not the result of the actions of the applicant.** There are no special circumstances in this case for the N. Abe. St. 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.** 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 on the N. Abe St. side 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 along N. Abe St. could lead to safety issues for oncoming motorists entering/exiting the site.
6. **Granting the variance will be generally consistent with the purposes and intent of this Zoning**

Ordinance. Staff believes that allowing a 0-foot variance on the N. Abe St. side would set a negative precedent.

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 10 feet into the required 25-foot front yard setback provide a partial easement release is obtained. 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 **15' front yard setback** in lieu of 25 feet for canopy structures facing W. 1st Street, subject to **three conditions of approval:**

1. The applicant shall obtain all required permits from the Permits and Inspections Division including removal of any canopy within the 15-foot setback on W. 1st St.
2. The applicant obtains approval for a partial easement release from City Council to release up to the north 5 feet of the W. 1st Street utility easement.

Notes:

1. Colors, dimensions, and materials shall be consistent with the renderings approved by the Design and Historic Review Commission (DHRC) [Case DD21-10].
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
Updated Site Plan
Canopy Details
Application



Variance

ZBA21-19: 203 N. Abe St.
 Council District: Harry Thomas - District 3
 Neighborhood: Downtown
 Scale: 1" approx. = 200 ft
203 N Abe St.

Legend

- Subject Properties: **CG/CH**
- Current Zoning: **N/A**
- Requested Zoning Change: **N/A**
- Vision: **Downtown and Open Space**

N



Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNR/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

Photos of Site and Surrounding Area

N. ABE ST FRONTAGE



N. ABE ST FRONTAGE



W. 1ST ST. FRONTAGE



W. 1ST ST. FRONTAGE



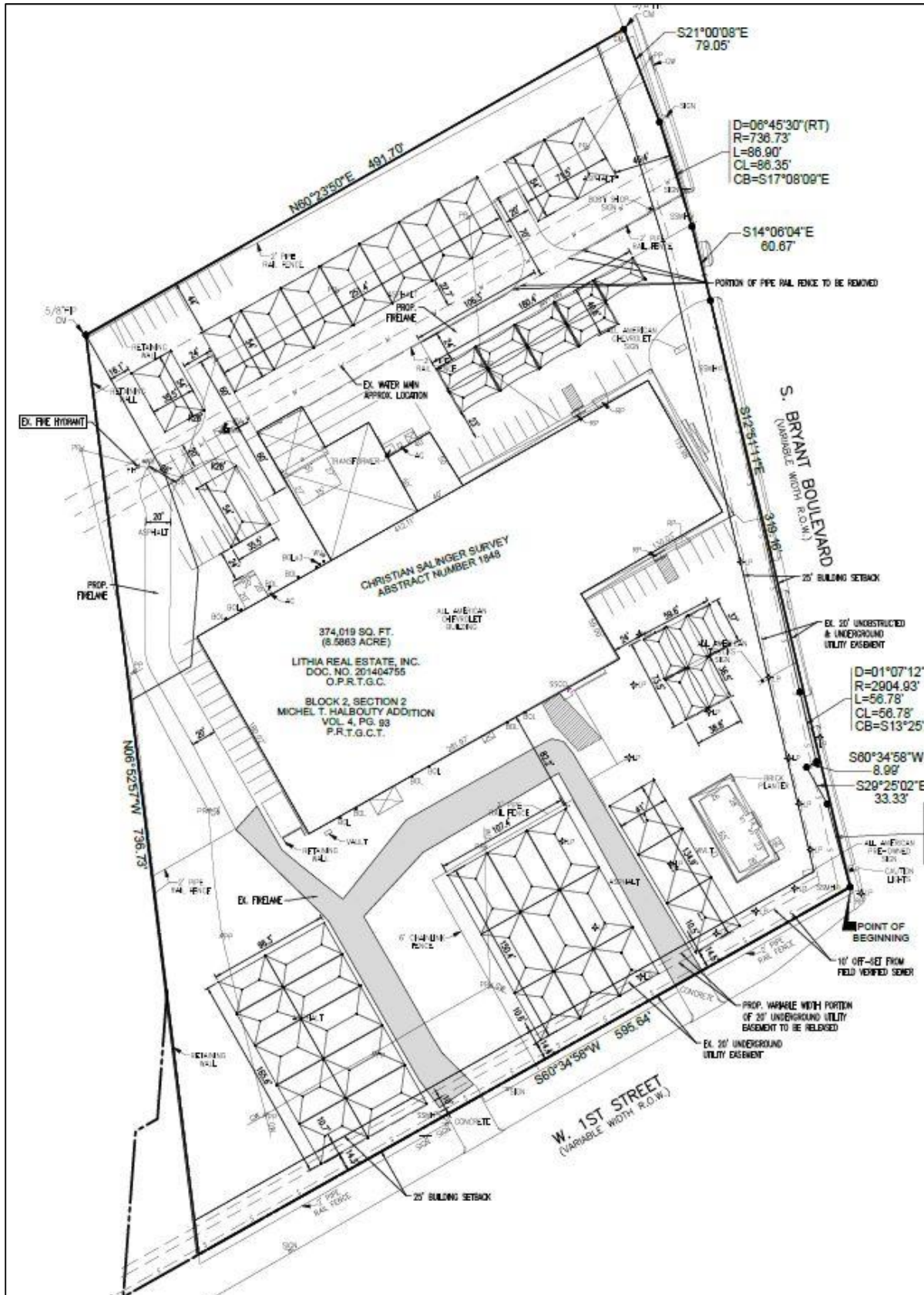
CORNER OF INTERSECTION



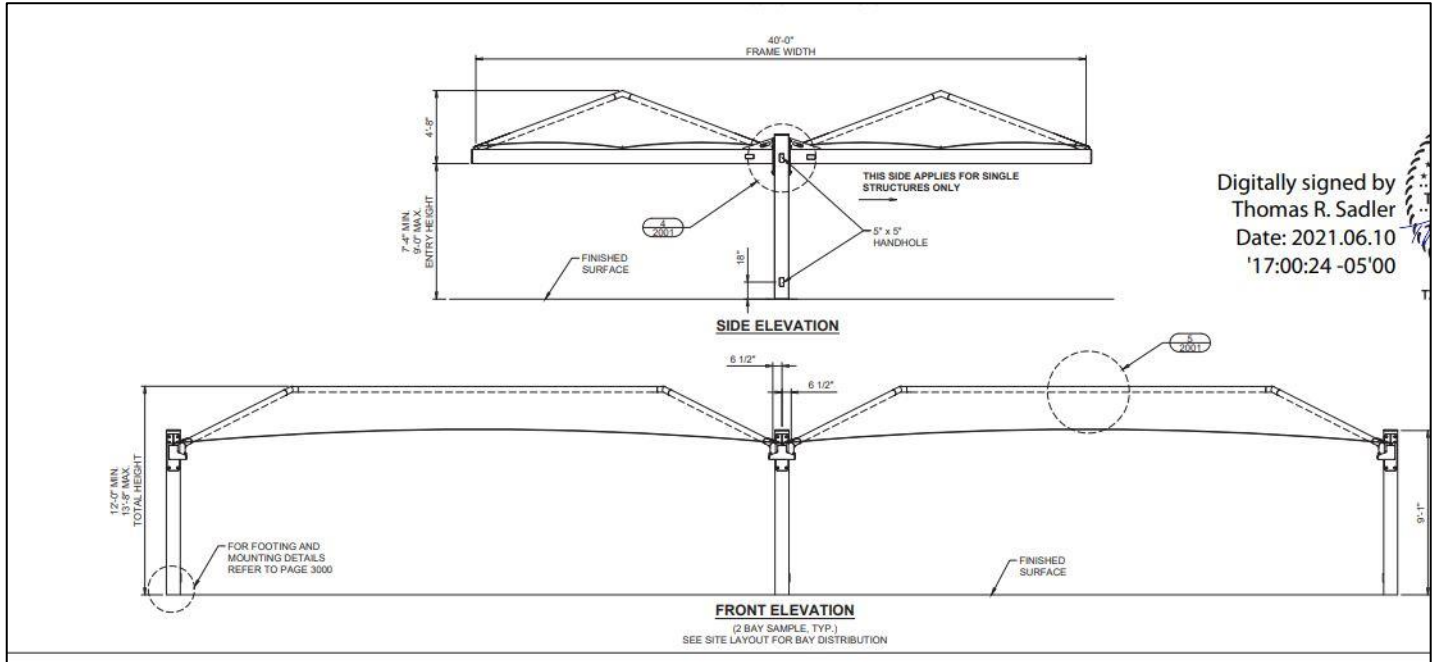
EXISTING AUTO DEALERSHIP



Site Plan



Canopy Details




Digitally signed by
Thomas R. Sadler
Date: 2021.06.10
'17:00:24 -05'00


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@dynamiccec.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

Being a 8.5863 acre tract and being all of Block 2, Section 2, Michel T. Halbouty Addition, an addition to the City of San Angelo, Tom Green County, as recorded in Volume 4, Page 93, Plat Records of Tom Green County, Texas

Legal Description (can be found on property tax statement or at www.tonigreencad.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 502 - Non-Residential District Standards Item B 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.

Effective January 3, 2017

Section 3 continued: Variance Request Criteria

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

Explanation: The 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: \$ 250.00 Receipt #: _____

Date paid: ____/____/____

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

