


**ZONING BOARD OF ADJUSTMENT – NOVEMBER 1, 2021
STAFF REPORT**



APPLICATION TYPE:		CASE:	
Variance		ZBA21-28: 2354 Fishermans Road	
SYNOPSIS:			
<p>The applicants are requesting a variance to allow a 7-foot front yard setback in lieu of the required 25 feet for a new attached carport onto their home. The carport as shown on the applicant’s preliminary plans will be 20’11” wide by 30’ long, for a total area of 628 square feet. The carport will have the same asphalt shingled roof and pitch as the house and will be unencumbered on its sides (no screening or glazing) except for support posts.</p>			
LOCATION:		LEGAL DESCRIPTION:	
2354 Fishermans Road		Being Lot 15 in Block 1, Lake Nasworthy Addition, Group 15	
SM DISTRICT / NEIGHBORHOOD:	ZONING:	FUTURE LAND USE:	SIZE:
SMD District #1 – Tommy Hiebert Nasworthy Neighborhood	Single-Family Residential (RS-1)	N – Neighborhood	0.298 acres
THOROUGHFARE PLAN:			
<p><i>Fishermans Road</i> – Urban Local Street, Required: 50’ right-of-way, 40’ pavement or 36’ with a 4’ wide sidewalk, Provided: 60’ right-of-way, 26’ pavement (existed at time of platting)</p>			
NOTIFICATIONS:			
<p>9 notifications mailed within 200-foot radius on October 21, 2021. No letters received to date in support or opposition.</p>			
STAFF RECOMMENDATION:			
<p>Staff’s recommendation is for the Zoning Board of Adjustment (ZBA) to APPROVE a variance from 501.A of the Zoning Ordinance to allow for a front yard setback of 7 feet in lieu of the required minimum 25 feet to construct a carport within the Single Family Residential (RS-1) Zoning District located at 2354 Fishermans Road, subject to four conditions of approval.</p>			
PROPERTY OWNER/PETITIONER:			
Grant and Laura Odom			
STAFF CONTACT:			
<p>Jeff Fisher, AICP Principal Planner (325) 657-4210, Extension 1550 jeff.fisher@cosatx.us</p>			

Additional Information: As part of review of this variance request, staff reviewed other front yard setback variance requests in the surrounding area on Fishermans Road:

- 2310 Fishermans Road: ZBA04-43 (2004) - ZBA approved a 0-foot front yard setback for a carport; ZBA12-07 (2007) approved a 0-foot front yard setback for a second carport; ZBA16-13 (2016) - ZBA approved a 14-foot front yard setback to convert an existing porch into a bedroom;
- 2330 Fishermans Road: ZBA02-08 (2002) (1997) – ZBA approved a 10-foot front yard setback for a carport;
- 2334 Fishermans Road: ZBA09-27 (2009) – ZBA approved a 0-foot front yard setback for a new single-family home (not built);
- 2378 Fishermans Road: ZBA99-14 (1999) – ZBA approved a 6-foot front yard setback for a carport;
- 2382 Fishermans Road: ZBA11-30 (2011) – ZBA approved a 0-foot front yard setback for a garage; ZBA99-32 (2011) – ZBA approved a 0-foot front yard setback for a garage;

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. **On September 1, 2021, the State of Texas has amended the Texas Local Government Code, Section 211.009 to include the following five criteria as grounds for a hardship:***
 - (1) **the financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under Section 26.01, Tax Code;**
 - (2) **compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development may physically occur;**
 - (3) **compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement;**
 - (4) **compliance would result in the unreasonable encroachment on an adjacent property or easement; or**
 - (5) **the municipality considers the structure to be a nonconforming structure.**

Planning Staff believe that the presence of a city access easement in front of the property and surrounding properties on Fishermans Road, which provides an additional 30-33 feet of setback (right-of-way) from Fishermans Road, demonstrates a special circumstance and supports the variance request. However, consistent with past decisions and Staff recommendations, the Planning Division is recommending several conditions (see below).

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.*

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.** Planning Staff supports the variance to allow a new carport to extend to 7 feet from the front property line. As indicated, the 30-33' of city access easement right-of-way provides an additional front yard space, creating an actual setback of at least 37 feet to the pavement edge. Lake Nasworthy has a proliferation of buildings and structures located in the front yards. Some of these are non-conforming structures built before the lots were annexed into the City, while others in the above list and elsewhere received variances for front setbacks due to the access easements in front of the properties.
2. **These special circumstances are not the result of the actions of the applicant.** The applicant did not create the special circumstance. The access easement was dedicated as part of the plat filed with the County in 2002. The existing home was built in 1969 prior to zoning and unlike other homes on the street is substantially wider, restricting the option for access to a rear carport. While this by itself is not a reason for a variance, this along with the substantial access easement, provide a special circumstance for one.
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.** Other properties on the street were granted variances for similar requested, and either have more front or side space to add a new garage or carport for additional vehicle storage. Requiring a 25-foot front yard setback would provide no options for the applicants to cover any additional parking. That said, Staff is recommending that any future variance(s) shall not allow more than 30% of the required front

yard to be covered with buildings or structures. This is consistent with the standards in the Open Structure Overlay Zone, which although do not apply to the property, ensure some minimum open space in the front yard and avoid over-cluttering of buildings and structures in this area. This is also consistent with previous recommendations on 2310 Fishermans Road for a carport ZBA04-43 (2004) and ZBA12-07 (2007) which required the carport be no closer than 15 feet to the west side yard and 20 feet to the east side yard.

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 variance is the minimum action being requested. The existing home complies with all RS-1 setbacks.
5. **Granting the variance will not adversely affect adjacent land in a material way.** Staff does not believe that there will be any adverse impacts on adjacent properties if the variance was granted. The carport will project in front of the home but will still be behind the front fence line which is still between 30-33' back from Fishermans Road. The carport will not be visible from the street until a driver is almost at the property given the large trees in front of the property and 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 the proposed variance is in keeping with this purpose statement given a proliferation of front yard setbacks in the area with similar access easements and given the large number of other non-conforming front yards pre-dating zoning requirements but which show a pattern of reduced front setbacks in the area.

Recommendation:

Staff's recommendation is for the Zoning Board of Adjustment (ZBA) to **APPROVE** a variance from 501.A of the Zoning Ordinance to allow for a front yard setback of 7 feet in lieu of the required minimum 25 feet, in order to construct a carport within the Single Family Residential (RS-1) Zoning District located at 2354 Fishermans Road, subject to **four conditions of approval**.

1. The applicant shall obtain a building permit from the Permits and Inspections Division, consistent with the footprint provided on the concept plan.
2. The carport shall have a minimum of 7 feet from the finished floor level which is open or unencumbered by any walls, screening or glazing of any kind, except for necessary vertical supports no greater than 12 inches in width or diameter.
3. That the area underneath the carport shall continually remain clear of junk, household trash, yard trash, debris or any and all other objectionable unsightly matter.

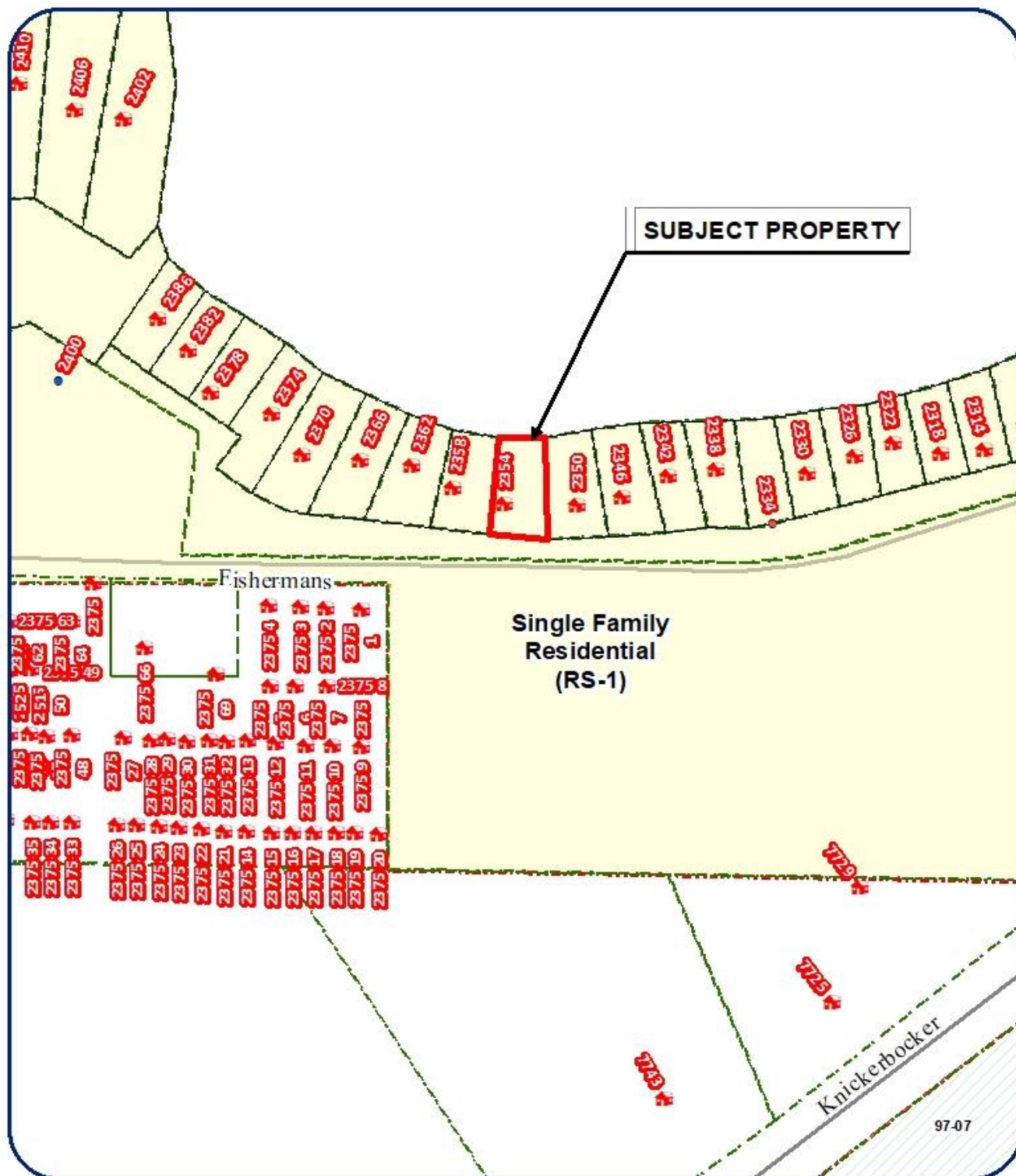
4. That any future variance(s) shall not allow more than 30% of the required front yard to be covered with buildings or structures.

Attachments:

Aerial Map
Future Land Use Map
Zoning Map
Photographs
Concept Plan
Construction Details
Proposed Floor Plan
Application



Variance		Legend			
ZBA21-28: 2354 Fishermans Road Council District: Tommy Hiebert - District 1 Neighborhood: Nasworthy Scale: 1" approx. = 200 ft NW of Knickerbocker Rd/Fishermans Rd		Subject Properties:  Current Zoning: RS-1 Requested Zoning Change: N/A Vision: Neighborhood			



Variance

ZBA21-28: 2354 Fishermans Road

Council District: Tommy Hiebert - District 1

Neighborhood: Nasworthy

Scale: 1" approx. = 200 ft

NW of Knickerbocker Rd/Fishermans Rd

Legend

Subject Properties:

Current Zoning: **RS-1**

Requested Zoning Change: **N/A**

Vision: **Neighborhood**



Photos of Site and Surrounding Area

NORTH AT PROPERTY



WEST ON FISHERMANS ROAD



EAST AT PROPERTY



SOUTH



Photos of Site and Surrounding Area

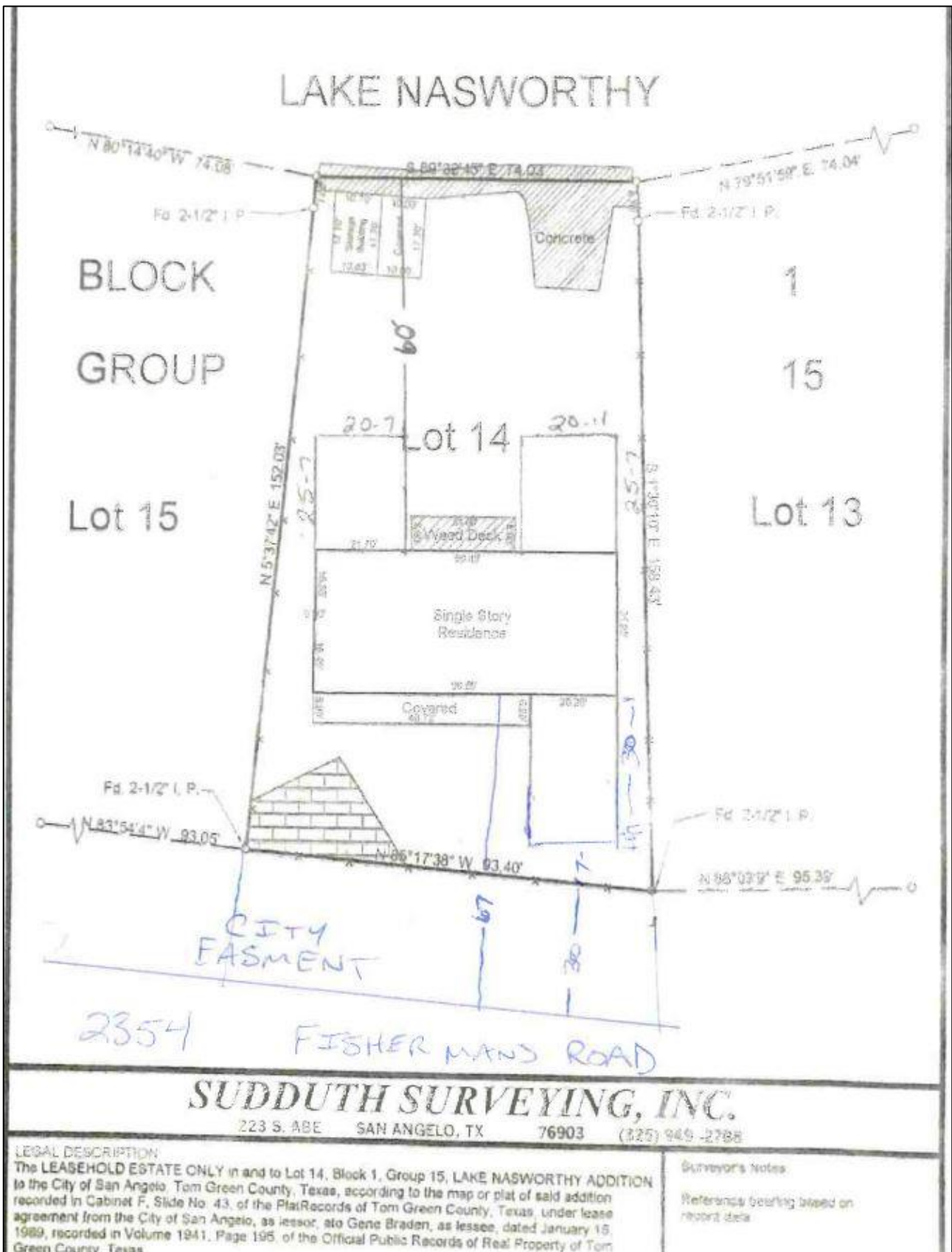
2310 FISHERMANS RD (VARIANCES GRANTED)



2314 FISHERMANS RD (NO VARIANCES)

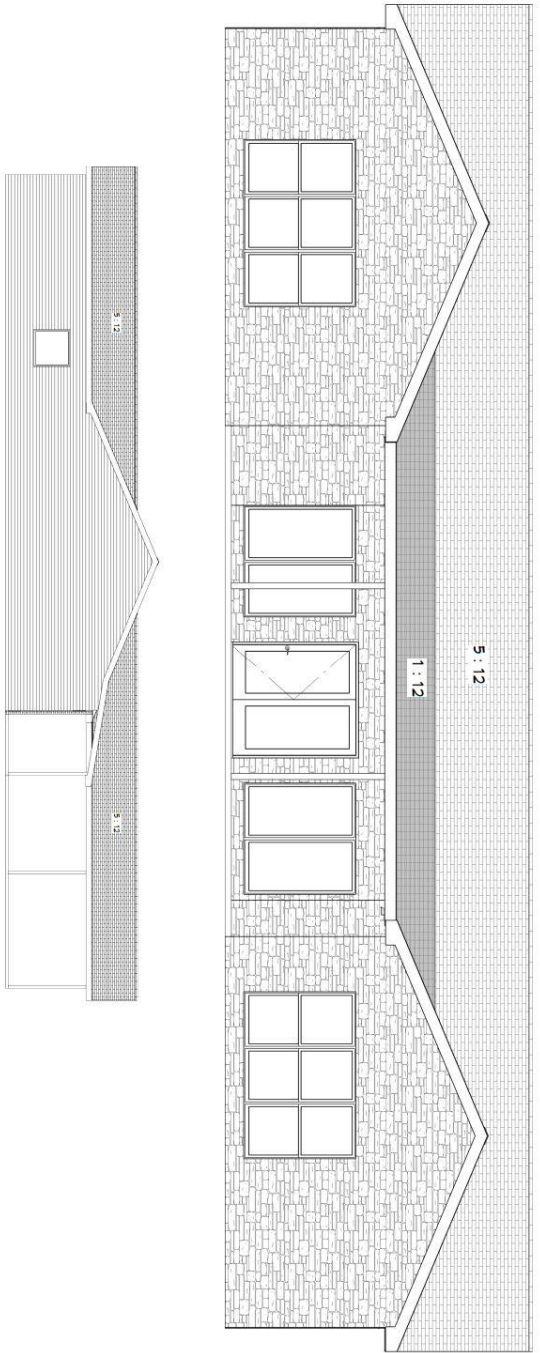


Concept Plan




Elevations showing house addition and attached carport


1	SHEET:	SCALE:	DATE:	DRAWINGS PROVIDED BY: YVONNE EZELL DESIGNS 325-212-6260 SAN ANGELO, TX	HOME ADDITION GRANT ODUM 2354 FISHERMAN'S ROAD	<p>To the best of my knowledge these plans are drawn to comply with owner's and/or builder's specifications and any changes made on the job are the responsibility of the contractor. The contractor shall verify all dimensions and conditions on the job. Yvonne Ezell Designs is not liable for any errors or omissions on these drawings. The contractor shall be responsible for the preparation of this plan to local ordinance. The maker can check all dimensions and other details prior to construction and be safety responsible therefor.</p>	NO.	DESCRIPTION	BY	DATE	JOB #



Effective July 1, 2020



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): GRANT ODOM

Owner Representative (Notarized Affidavit Required)

Mailing Address: 2354 FISHERMANS ROAD City: SAN ANGELO TX State: TX Zip Code: 76904

Contact Phone Number: 325-716-6222 Contact E-mail Address: grant.odom@a@gmail.com

Subject Property Address and/Location: SAME AS ABOVE City: _____ State: _____ Zip Code: _____

Legal Description (can be found on property tax statement or at www.tamgreencad.com):
LOT 14 BLK 1 LAKE NASWORTHY, GROUP 15

Lot width (in feet): 93 Lot depth (in feet): 158 Lot area (in acreage or square feet): 13,500 SF

Existing Zoning: RS-1 (Zoning Map available on [City Maps](#))

Note: A variance shall not be granted to allow a use that is not allowed in the specific district in question by the use regulations in Article 3 of the Zoning Ordinance.

Section 2: Variance Request(s)

List each variance request separately (use attachment if necessary):

- Zoning Ordinance section: 312
 Describe variance: CONSTRUCT 21' X 30' CARPORT OUTSIDE ^{OS} ZONE
- Zoning Ordinance section: 501
 Describe variance: CONSTRUCT 21 X 30 CARRAT BEYOND SETBACK
- Zoning Ordinance section: _____
 Describe variance: _____

Section 3: Variance Request Criteria

I understand that the Zoning Board of Adjustment is required by law to make decisions based on the following criteria, and I assert that my request meets all of the required criteria based on my explanations below:

- Special circumstances exist that are peculiar to the land or structure that are not applicable to other land or structures in the same zoning district and are not merely financial.
 Explanation: LOT GRADE DOES ALLOW FOR GARAGE SPACE TO BE ADDED SO REQUESTING CARPORT TO LOT IS ACTUALLY LARGER BUT CITY OWNS EASEMENT 36.43'
- These special circumstances are not the result of the actions of the applicant.
 Explanation: THEY ARE NOT RESULT OF GRADE ^{EXISTING} & CITY EASEMENT WHICH WAS NOT OFFERED FOR PURCHASE WITH LOT.
- Literal interpretation and enforcement of the Zoning Ordinance would deprive the applicant of rights commonly enjoyed by other land in the same

Effective July 1, 2020

zoning district, and would cause an unnecessary and undue hardship.

Explanation: NUMEROUS OTHERS HAVE BEEN GRANTED EASEMENT ON FISHERMANS ROAD.

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: IT WILL NOT

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

Explanation: IT WILL NOT

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

Explanation: CONSISTANT W/ OTHERS

Section 4: Applicant(s) Acknowledgement

(By checking the boxes you indicate that you understand below regulations for the Planning Commissions case.)

- An application for a variance on a property may only be made by the owner of that property or an authorized representative of the property owner. An authorized representative shall present a notarized affidavit from the property owner.
- No application will be processed if a zoning violation exists on the property, unless such processing is authorized by City Council.
- If approved, a sign variance is applied to the property, not the property owner.
- A public hearing and final decision will be made by the Planning Commission. The Planning Commission shall approve, approve with conditions, or deny the proposed sign variance.
- Appeal to City Council of the Planning Commission decision shall be made within 30 days in writing to the Planning Director. The City Council may approve, approve with conditions, or deny the proposed sign variance.
- All permits required for a sign variance shall be acquired and approved within 12 months from date of approval or shall be revoked. The Planning Director may grant a one-time extension of up to 12 months if determined that conditions of the site and immediate surrounding area are substantially unchanged.

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

Signature of licensee or authorized representative [Signature]

Date 9-29-21

Printed name of licensee or authorized representative _____

Name of business/Entity of representative _____

FOR OFFICE USE ONLY:

Verified Complete Verified Incomplete

Date of Application: ____/____/____

Case No.: ZBA21-_____

Fully-dimensioned and scaled site plan: Yes No

Nonrefundable fee: \$ _____

Receipt #: _____

Date paid: ____/____/____

Date to be heard by PC: _____

Reviewed/Accepted by: _____

Date: ____/____/____