


**ZONING BOARD OF ADJUSTMENT – JUNE 6, 2022
STAFF REPORT**



APPLICATION TYPE:		CASE:	
Variance		ZBA22-08: 1613 Canal Road	
SYNOPSIS:			
<p>The applicants requested an administrative adjustment to maintain an existing caliche-based driveway in lieu of the required paved driveway. Section 203.B.4 of the Zoning Ordinance allows an all-weather surface such as caliche to be used where the Planning Department makes a finding that the character of the surrounding area is principally recreational or rustic in nature, with relatively narrow roadways not bordered by curbs and generally uncharacteristic of urban streets. On May 23, 2022, the Planning Director denied the request based for the reasons outlined below and the applicants subsequently appealed the decision to the Zoning Board of Adjustment (ZBA).</p>			
LOCATION:		LEGAL DESCRIPTION:	
1613 Canal Road		Being Lot 1528 in Block 6, Lake Nasworthy Addition, Group Shady Point, Section One	
SM DISTRICT / NEIGHBORHOOD:	ZONING:	FUTURE LAND USE:	SIZE:
SMD District #1 – Tommy Hiebert Nasworthy Neighborhood	Single-Family Residential (RS-1)	N – Neighborhood	0.27 acres
THOROUGHFARE PLAN:			
<p>Canal Road – Urban Local Street, Required: 50’ right-of-way, 40’ pavement or 36’ with a 4’ wide sidewalk, Provided: 50’ right-of-way, 16’ pavement (existed at time of platting)</p>			
NOTIFICATIONS:			
25 notifications mailed within 200-foot radius on May 24, 2022. One letter was received in opposition attached.			
STAFF RECOMMENDATION:			
<p>Staff’s recommendation is for the Zoning Board of Adjustment (ZBA) to DENY an appeal of the Planning Director’s decision that denied an administrative adjustment from Section 203.B.4 of the Zoning Ordinance for an all-weather surface driveway in lieu of a paved driveway, in order to construct a carport within the Single Family Residential (RS-1) Zoning District located at 1613 Canal Road.</p>			
PROPERTY OWNER/PETITIONER:			
Steven Beach			
STAFF CONTACT:			
Jeff Fisher, AICP Chief Planner (325) 657-4210, Extension 1550 jeff.fisher@cosatx.us			

Additional Information: The request to maintain the existing caliche driveway is associated with a building permit request for a covered porch/carport structure. *The structure was built without a permit and a notice of violation was sent to the applicant in April 2022.* Staff conducted a site visit on Monday, May 23, 2022 and discovered the structure was only 2 feet from the south side property line, whereas 5 feet is required per the Zoning Ordinance. The applicant has been advised to remove or relocate the portion of the structure within this setback (3 feet).

Other variances: As part of review of this variance request, staff reviewed other variance requests for caliche driveways and unpaved parking in the two Lake Nasworthy Addition, Group Shady Point subdivisions, both of which were filed for record with Tom Green County on February 26, 2001:

- 1924 Shady Point Circle: ZBA96-24 (1996) - ZBA approved a limestone base parking and driveway 125' long;
- 1804 Shady Point Circle: ZBA96-74 (1996) – ZBA approved all-weather surface parking and driveway 158' long;
- 1908 Shady Point Circle: ZBA97-72 (1997) – ZBA approved all-weather surface parking and driveway 350' long;
- 1902 Shady Point Circle: ZBA07-25 (2007) – Planning Director approved all-weather surface parking and driveway 140' long.

All four of these variances were approved on large lots within the Shady Point Subdivisions and range from 350-500 feet in length. Many of these homes were built closer to Lake Nasworthy than the street, thereby requiring much longer driveways. This has been used as a special circumstance to justify pavement variances in past.

Comparable lots – paving standards:

- Staff examined the smaller lots located within the interior of the subdivisions that were within the same size range as the subject property. This included Blocks 5 and 6 in Shady Point 1 and Blocks 8 and 9 in Shady Point 2 (properties west of Shady Point Circle fronting Knickerbocker Road, Canal Road, and Turtle Drive). ***None of these properties were granted variances.***
- Of the 56 properties, 19 of them were paved (parking plus driveway), and an additional 6 had parking paved but not the driveway. Counting properties with any form of paving (driveway plus parking spaces), ***45% (almost half) 25 of 56 had some form of paving.*** Since no variances were granted, Staff believes the unpaved properties were likely pre-existing this way since they were annexed into the City in 1984 and historic aerials and the Appraisal District information confirms most of the homes and driveways were already built.

Allowed Variances:

In addition to the above criteria, in exercising its authority to grant approval from an appeal of the Planning Director's denial of an administrative adjustment Section 203.E of the Zoning Ordinance, the Zoning Board of Adjustment must affirmatively find that all of the following criteria are met:

1. **That granting the Administrative Adjustment will ensure the same general level of land use compatibility as the otherwise applicable standards.** Many of the properties of similar size in the Lake Nasworthy Addition, Shady Point area have installed paved driveways. As indicated above, almost half the properties of similar size have paved driveways, paved parking, or both.

The subject driveway is only 27 feet long to the front property line whereas the four variances above were between 125' and 350' long. Staff believes supporting the adjustment would not be ensuring the same level of land use compatibility as it could set a precedent for other variances on smaller lots.

2. **That granting the Administrative Adjustment will not materially and adversely affect adjacent land uses and the physical character of uses in the immediate vicinity of the proposed development because of inadequate buffering, screening, setbacks and other environmental considerations.** Allowing caliche driveways on smaller lots could adversely affect neighboring properties as lower grade materials such as caliche and limestone tend to wash over during inclement weather onto adjacent properties.
3. **That granting the Administrative Adjustment will not adversely affect value of nearby property in any material way.** Paved driveways provide enhanced aesthetic appeal as well serving functional aspects of less deterioration and runoff onto adjacent properties. Therefore, Planning Staff is in not in support of a caliche driveway.
4. **That granting the Administrative Adjustment will be generally consistent with the purposes and intent of this Zoning Ordinance.** Section 104.2 of the Zoning Ordinance purpose statement is to “protect the character and established pattern of desirable development in each area.” Staff believes that approving caliche driveways over time will reduce the desired development in this area, for the reasons mentioned above.

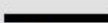

Recommendation:

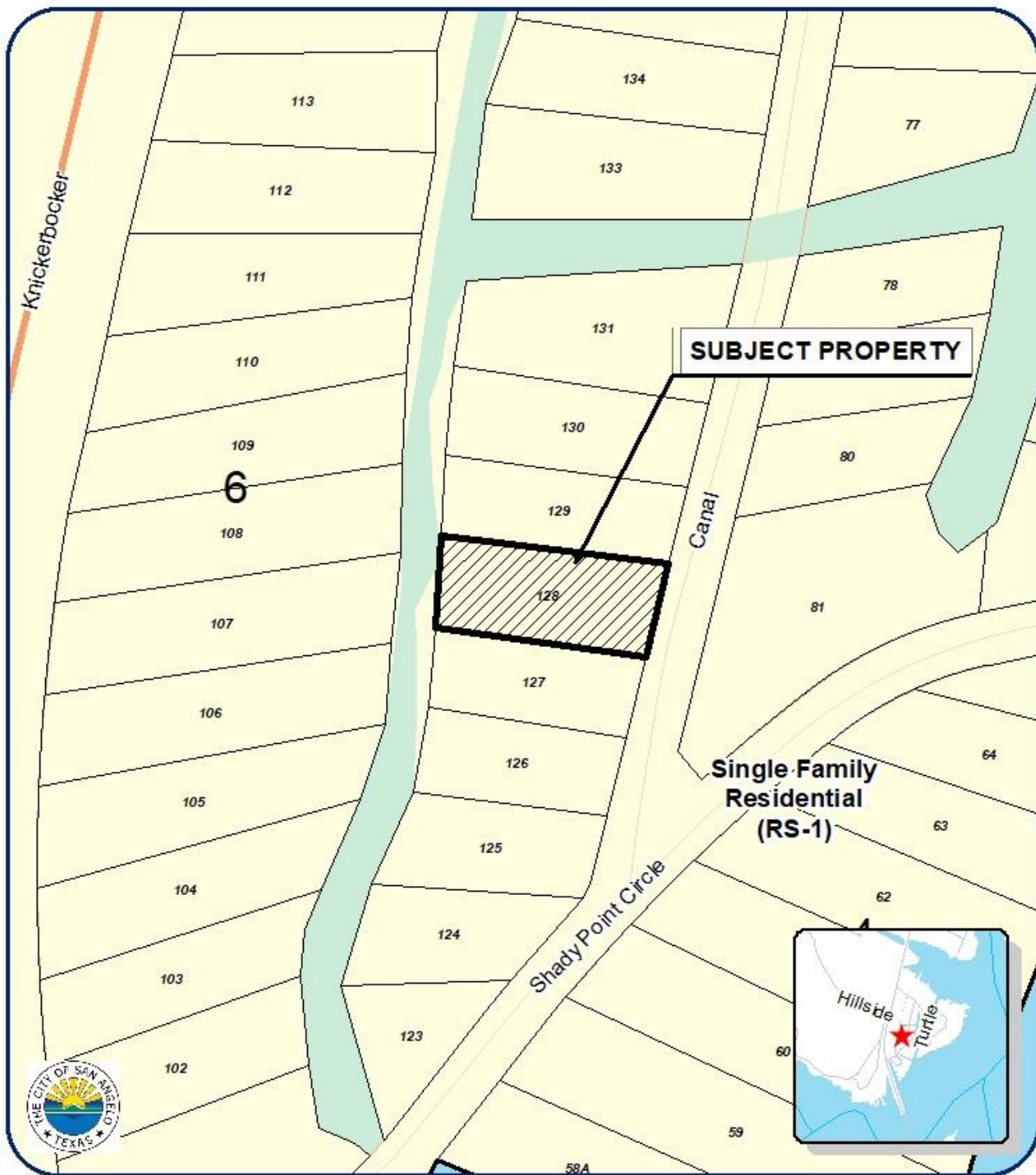
Staff's recommendation is for the Zoning Board of Adjustment (ZBA) to **DENY** an appeal of the Planning Director's decision that denied an administrative adjustment from Section 203.B.4 of the Zoning Ordinance for an all-weather surface driveway in lieu of a paved driveway, in order to construct a carport within the Single Family Residential (RS-1) Zoning District located at 1613 Canal Road.

Attachments:

Aerial Map
Zoning Map
Photographs
Concept Plan
Construction Details
Proposed Floor Plan
Response Letter (opposition)
Application



<p>Administrative Adjustment Appeal ZBA22-08: 1613 Canal Rd. Council District 1 - Tommy Hiebert Neighborhood: Nasworthy Scale: 1" approx. = 100 ft</p>	<p>Legend Subject Properties:  Current Zoning: RS-1 Requested Zoning Change: N/A Vision: Neighborhood</p>	<p>N </p>
<p>SE of Knickerbocker Rd/Shady Point Circle</p>		

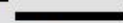


Administrative Adjustment Appeal

ZBA22-08: 1613 Canal Rd.

Council District 1 - Tommy Hiebert
Neighborhood: Nasworthy
Scale: 1" approx. = 100 ft

Legend

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



SE of Knickerbocker Rd/Shady Point Circle

Photos of Site and Surrounding Area

WEST AT PROPERTY



WEST AT PROPERTY (CLOSE-UP)



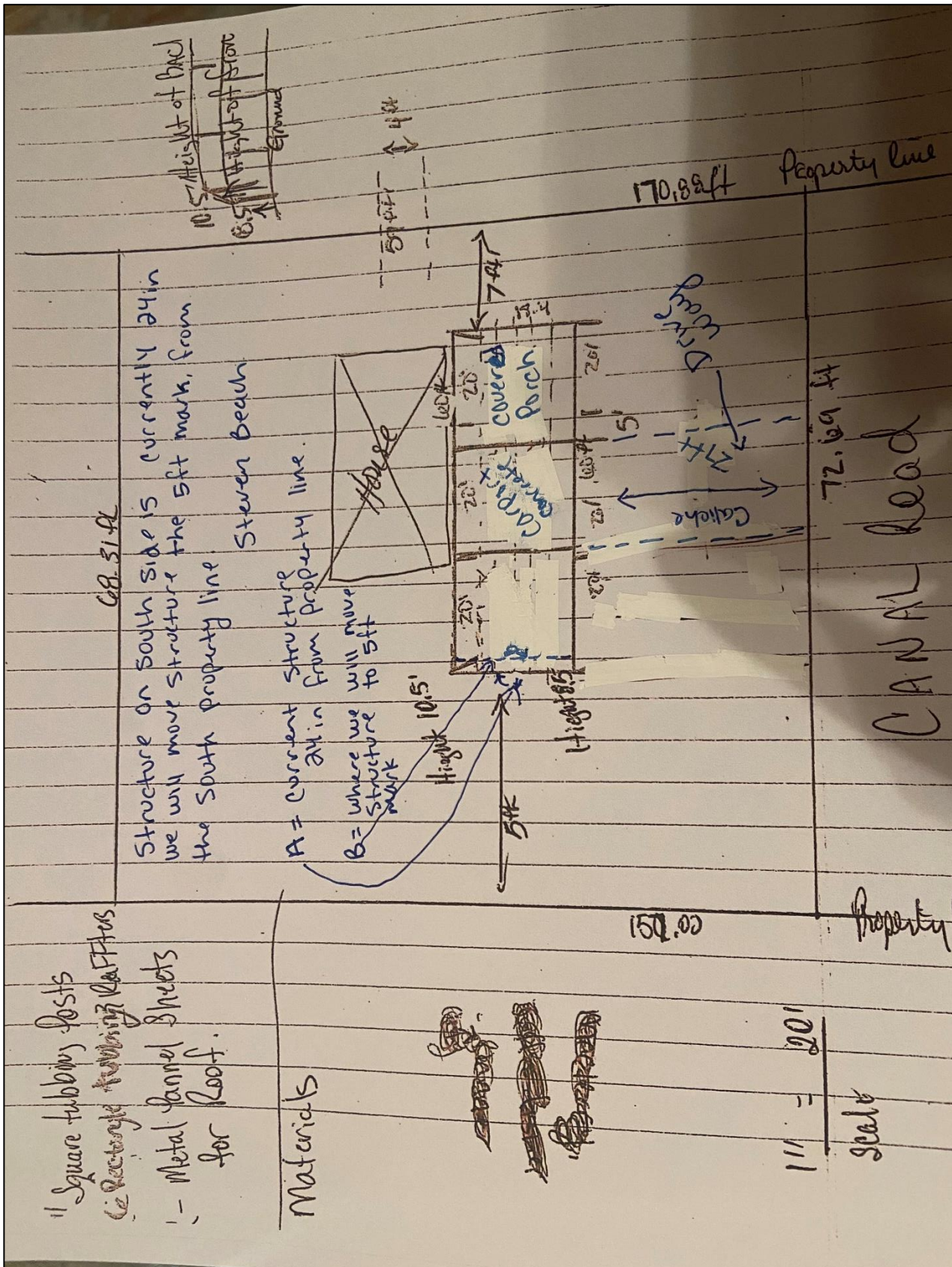
NORTH ON CANAL ROAD



PAVED DRIVEWAY EXAMPLE 1626 CANAL RD



Concept Plan



Fisher, Jeff

From: Charlene Schmidt <ck_schmidt@outlook.com>
Sent: Wednesday, May 25, 2022 4:34 PM
To: Fisher, Jeff
Subject: RE: Clarification

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

Thank you.

From: Fisher, Jeff [mailto:jeff.fisher@cosatx.us]
Sent: Wednesday, May 25, 2022 4:32 PM
To: 'Charlene Schmidt' <ck_schmidt@outlook.com>
Subject: RE: Clarification

Thank you. I'll count this as an opposition to the variance and let the Zoning Board know when we meet June 6th.

From: Charlene Schmidt [mailto:ck_schmidt@outlook.com]
Sent: Wednesday, May 25, 2022 3:57 PM
To: Fisher, Jeff <jeff.fisher@cosatx.us>
Subject: RE: Clarification
Importance: High

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

Jeff,

So sorry to be a pest. We will be opposed to the caliche driveway. I talked to my grandkids and they said the neighbors have been parking along that area and it throws gravel onto their property.

Let me know if you feel this is an unrealistic viewpoint.

Regards,
Charlene Schmidt
234-3075

Effective January 3, 2017

City of San Angelo, Texas – Planning Division
 52 West College Ave
Application for Administrative Adjustment

ZBA-08

Discuss - Defer to ZBA to make decision
Staff

Section 1: Basic Information

Name of Applicant(s): Steven Beach
 Owner Representative (Affidavit Required)

Mailing Address: 1613 Canal Rd San Angelo Tx 76904
City State Zip Code

Contact Phone Number: (325) 315-5916 Contact E-mail Address: sbeach.targa@gmail

Subject Property Address: 1613 Canal Rd San Angelo Tx 76904
City State Zip Code

Legal Description (can be found on property tax statement or at www.tamgreencaad.com):
Acres: 0.266, Lot: 178 SEC 1, Blk: 6, Subd; LAKE NASWORTHY, SHADY POINT I

Zoning District:
 CN CO CG CG/CH CBD OW ML MH PD RS-1 RS-2 RS-3 RM-1 RM-3 R&E

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

Section 2: Administrative Adjustment Request

List each variance request separately:

1. Zoning Ordinance section: 203.B.4
 Describe variance: allow caliche driveway

2. Zoning Ordinance section: _____
 Describe variance: _____

3. Zoning Ordinance section: _____
 Describe variance: _____

4. Zoning Ordinance section: _____
 Describe variance: _____

Section 3: Applicant(s) Acknowledgement

If my request is administratively denied, then I wish to appeal this decision to the Zoning Board of Adjustments (ZBA). I understand that the ZBA is required by law to make decisions based on the following criteria:

(Please Initial)

SB Special circumstances exist that are peculiar to the land or structure that are not applicable to the other land or structures in the same zoning district and are not merely financial;

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: Applicant(s) Acknowledgement

(Please Initial)

- These special circumstances are not the result of the actions of the applicant;
- 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;
- Granting the variance is the minimum action that will make possible the use of the land or the structure which is not contrary to the public interest, and would carry out the spirit of the Zoning Ordinance and substantial justice;
- Granting the variance will not adversely affect adjacent land in a material way; and
- Granting the variance will be generally consistent with the purposes and the intent of the Zoning Ordinance

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

S. Beach
Signature of licensee or authorized representative

4.28.2022
Date

Steven Beach
Printed name of licensee or authorized representative

Name of business/Entity of representative

FOR OFFICE USE ONLY:

Case No.: ZBA: _____ -- _____

Fee: \$ _____ Receipt #: _____ Date paid: ____/____/____

Reviewed/Accepted by: _____ Date: ____/____/____

Administrative Adjustment is: ___ Approved ___ Denied Date: ____/____/____