

**ZONING BOARD OF ADJUSTMENT – AUGUST 1, 2022
STAFF REPORT**



APPLICATION TYPE:	CASE:
Variance	ZBA22-14: 4325 Bowie Street

SYNOPSIS:

The applicant has applied for a variance to allow a 7.5-foot front yard setback for a new single-family home. The two existing lots are portions of platted lots facing E. 44th Street. There was a previous home which crossed over both lots that has been demolished. The applicant plans to replat the two lots into three new lots, two which will face Bowie Street and one which will face E. 44th Street. The new lot at the corner of Bowie Street and E. 44th Street will be a double frontage lot requiring two 25-foot front yard setbacks which is not possible to achieve unless the house was only 20 feet wide which is very narrow. Therefore, a variance is required. Staff is in support of the variance given this unique situation.

LOCATION:	LEGAL DESCRIPTION:
4325 Bowie Street	Being the north 100 feet of Lots 1 and 2, Block 39, Lakeview Addition

SM DISTRICT / NEIGHBORHOOD:	ZONING:	FUTURE LAND USE:	SIZE:
SMD District #2 – Tom Thompson Lake View Neighborhood	Single-Family Residential (RS-1)	N – Neighborhood	0.345 acres

THOROUGHFARE PLAN:

Bowie Street and E. 44th Street – Urban Local Streets, Required: 50’ right-of-way, 40’ pavement or 36’ with a 4’ wide sidewalk, Provided: Both 60’ right-of-ways; 38’ pavement on Bowie and 34’ on E. 44th Street (both meet minimum width in Subdivision Ordinance which is 26 feet wide).

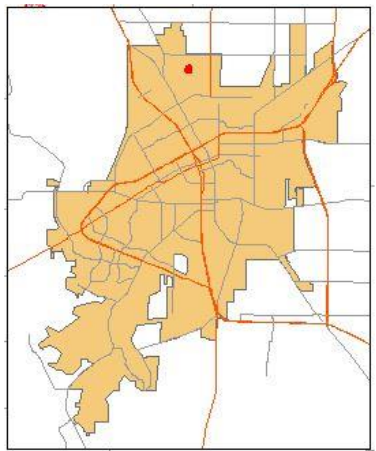
NOTIFICATIONS:

16 notifications mailed within 200-foot radius on July 20, 2022. No responses were received to date.

STAFF RECOMMENDATION:

Staff’s recommendation is for the Zoning Board of Adjustment (ZBA) to **APPROVE** a variance from Section 501.A of the Zoning Ordinance to allow a front yard setback of 7.5 feet facing E. 44th Street in lieu of the required 25 feet, in order to construct a single-family home on the property within the Single Family Residential (RS-1) Zoning District located at 4325 Bowie Street.

PROPERTY OWNER/PETITIONER:
Owner: Galilee Community Development Corp., Stephanie Hamby Petitioner: Erica Carter, P.E., Carter-Fentress Engineering
STAFF CONTACT:
Jeff Fisher, AICP Chief Planner (325) 657-4210, Extension 1550 jeff.fisher@cosatx.us



Additional Information: The project is located in the Lakeview neighborhood, one of the recognized infill neighborhoods in the city. These areas encourage more housing. The owner and applicant creates affordable housing for low and moderate families and plans to build one of these homes on this corner lot.

Allowed Variances:

In addition to the six criteria in the City’s Zoning Ordinance, 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 believes that #3 is applicable to this request. The new lot complies with the minimum lot area, width, and depth of the RS-1 zoning but because there is no alley or side yard adjacent to the property, both property lines facing Bowie Street and E. 44th Street are classified as “front yards” in the Zoning Ordinance. This would allow only an extremely narrow house in terms of its size and shape, making this 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.

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.** See rationale above.
2. **These special circumstances are not the result of the actions of the applicant.**
The owner could have chosen to have all created three or four lots all facing E. 44th Street. However, the same problem would have occurred as the corner lot cannot meet both 25-foot front setbacks. Without an alley or an adjacent lot having a side yard (the other lots front Bowie or E. 44th St. respectively), this makes both sides of the corner lot front yards.
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.** As indicated, requiring two, 25-foot front yards would not leave room for an adequate sized home.
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. The new home will comply with all other zoning provisions. The new house in addition to the 7.5-foot side yard setback has an additional 10 feet of right-of-way from the street, leaving 17.5 feet to the paved edge of E. 44th Street. The land immediately west is vacant and being used as retention pond for the City of San Angelo. With the substantial right-of-way and no housing to the west, the reduced front setback will not be a concern. The house will maintain a 25-foot front yard facing Bowie Street, maintaining the sight line down the street, flush with all the other homes which also are 25 feet back facing Bowie Street.
5. **Granting the variance will not adversely affect adjacent land in a material way.** The new house in addition to the 7.5-foot side yard setback has an additional 10 feet of right-of-way from the street, leaving 17.5 feet to the paved edge of E. 44th Street. The land immediately west is vacant and being used as retention pond for the City of San Angelo. With the substantial right-of-way and no housing to the west, the reduced front setback will not be a concern. The house will maintain a 25-foot front yard facing Bowie Street, maintaining the sight line down the street, flush with all the other homes which also are 25 feet back facing Bowie Street. Staff conducted a site visit on July 22, 2022 confirmed this sight line.

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”. The adjacent home for the reasons above will maintain the established development pattern of the area.

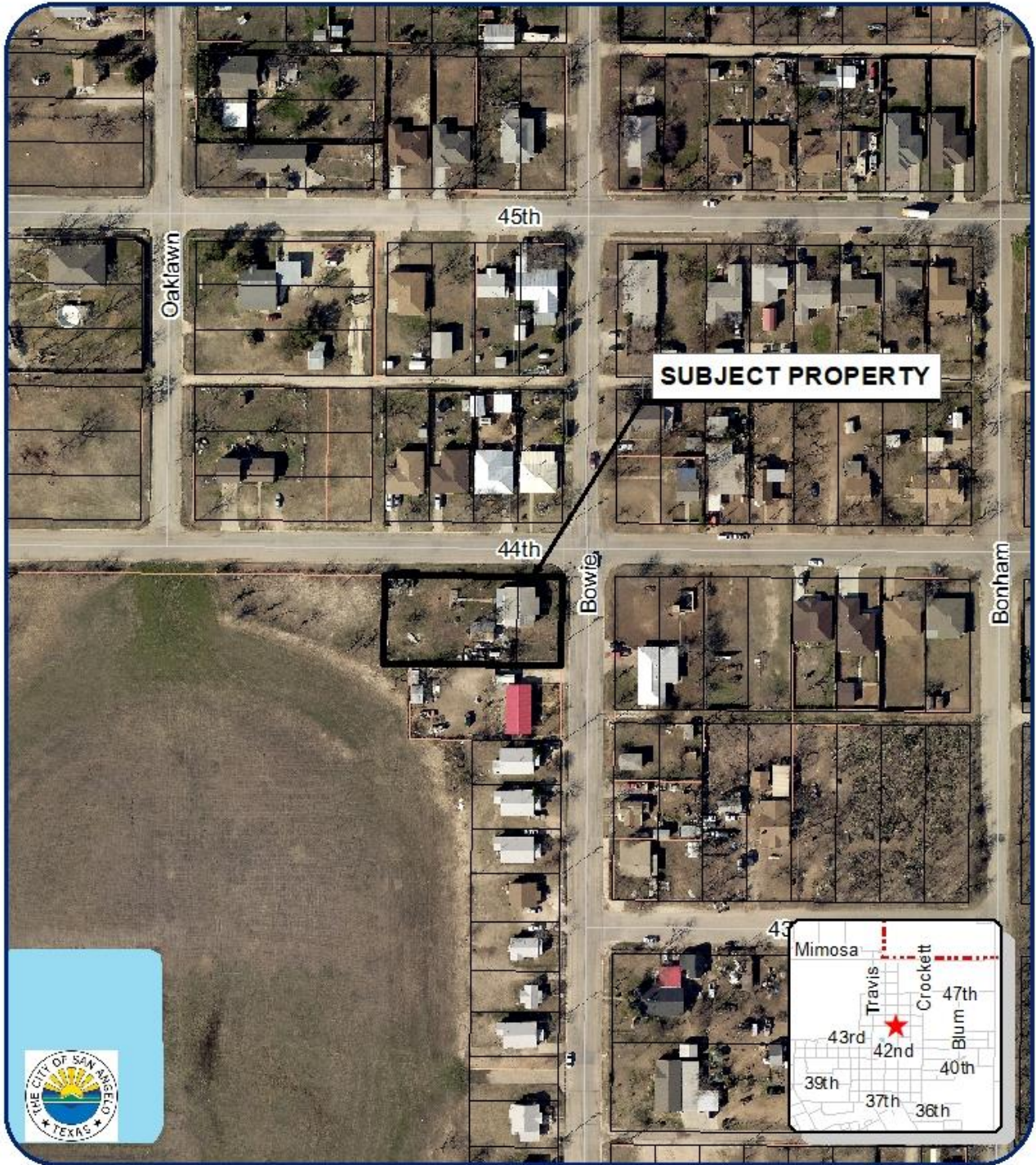
Recommendation:

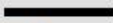

Staff’s recommendation is for the Zoning Board of Adjustment (ZBA) to **APPROVE** a variance from Section 501.A of the Zoning Ordinance to allow a front yard setback of 7.5 feet facing E. 44th Street in lieu of the required 25 feet, in order to construct a single-family home on the property within the Single Family Residential (RS-1) Zoning District located at 4325 Bowie Street, subject to **two conditions** of approval:

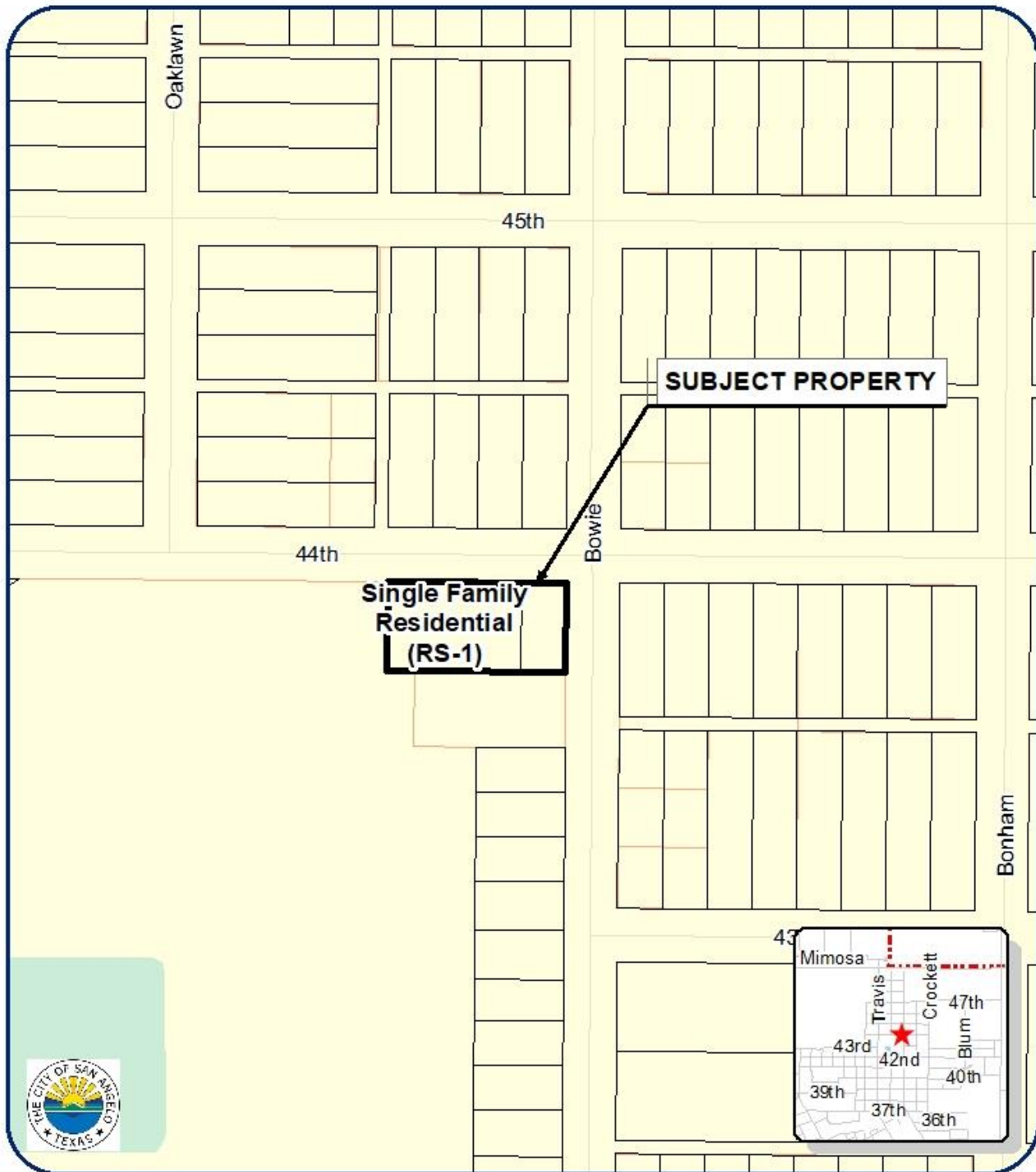
1. The applicant obtains approval and recordation of a residential replat before permitting of the new home.
2. The applicant obtains all appropriate permits for the new home.

Attachments:


Aerial Map
Zoning Map
Photographs
Concept Plan
Application



<p>Variance ZBA22-14: 4325 Bowie Street Council District 2 - Tom Thompson Neighborhood: Lake View Scale: 1 " approx. = 150 ft</p>	<p>Legend Subject Properties:  Current Zoning: RS-1 Requested Zoning Change: N/A Vision: Neighborhood</p>	<p>N </p>
<p>SW of Bowie St. / E. 44th St.</p>		



Variance
ZBA22-14: 4325 Bowie Street
 Council District 2 - Tom Thompson
 Neighborhood: Lake View
 Scale: 1" approx. = 150 ft
 SW of Bowie St. / E. 44th St.

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



Photos of Site and Surrounding Area

SUBJECT PROPERTY



NORTH ON BOWIE ST.



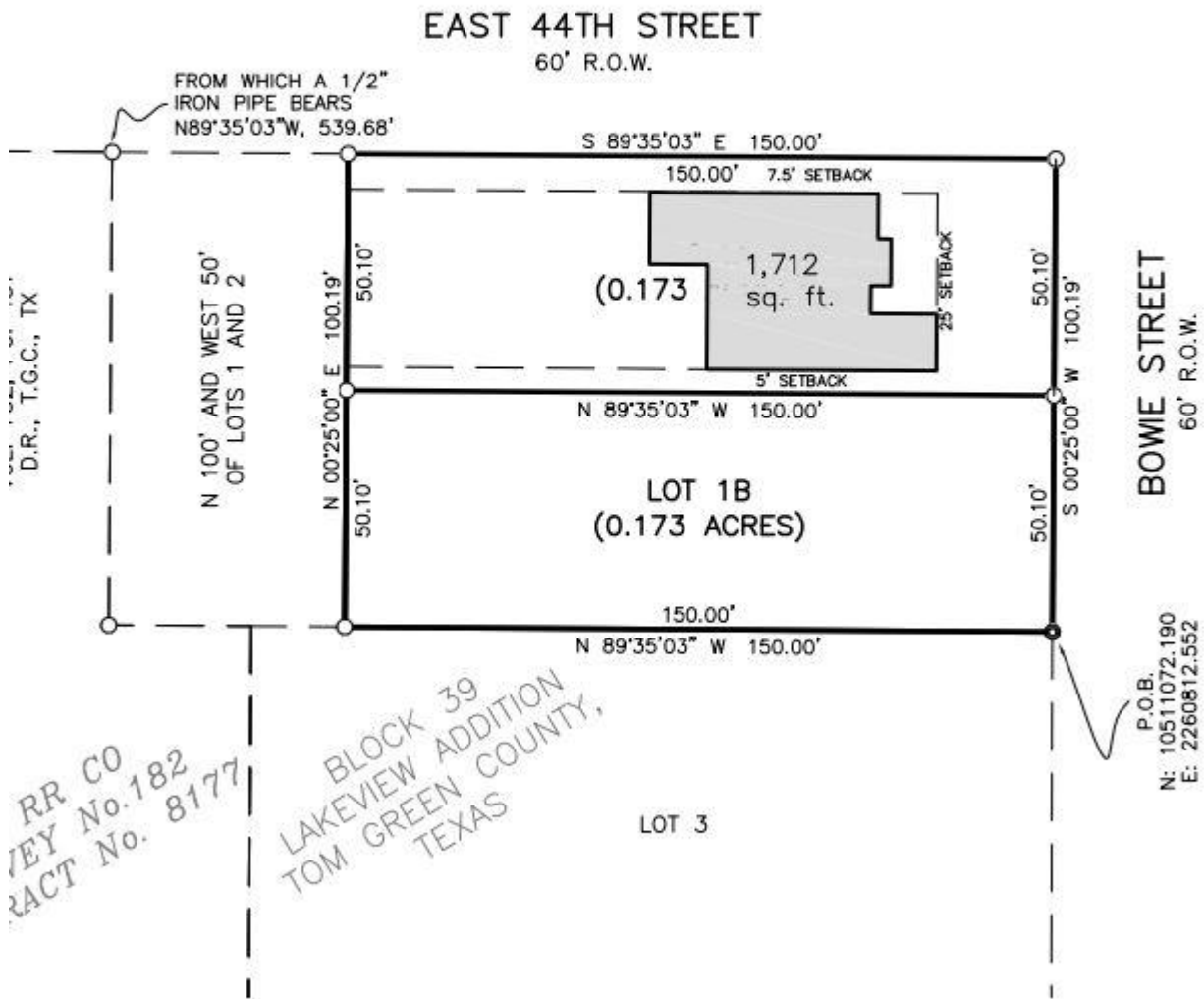
SOUTH ON BOWIE ST.



WEST ON E. 44TH ST.



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): Galilee Community Development Corporation
 Owner Representative (Notarized Affidavit Required)

39 Buick Street San Angelo Texas 76901
 Mailing Address City State Zip Code

325-716-3013 ecarter@fentresseng.com
 Contact Phone Number Contact E-mail Address

4325 Bowie Street San Angelo Texas 76903
 Subject Property Address and/Location City State Zip Code

Blk: 39, Subd: LAKEVIEW ADDITION, NE 100 FT OF LOTS 1 & 2 & STRIP ADJ
 Legal Description (can be found on property tax statement or at www.tomgreencad.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: 12.501.A Residential District Standards

Describe variance: Applicant requesting to have a 25' building setback on Bowie Street and a 10' Setback on 44th Street in lieu of the 25'.

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: This property is a 0.459 acre lot that currently fronts Bowie Street. Galilee Community Development Corporation bought it to subdivide it into 3 smaller lots. The only reasonable lot configuration is to divide the portion of the lot facing Bowie into 2 lots fronting Bowie as that is how the lot is fronting currently. There will be a lot to the west of those 2 lots fronting 44th street. The lot fronting both Bowie Street and 44th Street won't be buildable with a 25' setback on both streets.

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: This property was laid out on the original plat as 2 lots facing Bowie Street with a curved ROW adjacent to west.

The ROW was abandoned and the portions of it adjacent to the 2 original lots were added to those lots.

Making these properties larger. The lots were at some time purchased by one person and used as 1 lot for a home facing Bowie Street. The configuration of the large lot was not due to actions of the applicant.

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: Galilee CDC creates affordable housing for low and moderate income families, which is needed in this community.

This property was purchased for the creation of 3 lots. This type of variance has been approved many times in the past, especially in the infill areas so that vacant lots within the infill areas can be built out for homes.

Denying this variance would cause an undue hardship to a company who is dedicated to building affordable homes to this community.

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: Granting this variance would create 3 new lots for 3 new affordable homes as the land was purchased for.

This is not contrary to the public interest, in fact it is accommodating the public interest by allowing 3 new affordable homes to be built which this community needs.

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

Explanation: Granting this variance will in no way adversely affect the adjacent land in a material way.

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

Explanation: Granting of this variance will be consistent with past variances of this type having already been approved.

Effective January 3, 2017

Section 4: Applicant(s) Acknowledgement

Please initial the following:

EW 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;

ew 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;

ew 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

ew 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.

Erica Wilde
 Signature of licensee or authorized representative

07/07/2022
 Date

Erica Wilde
 Printed name of licensee or authorized representative

Carter-Fentress Engineering, LLC.
 Name of business/Entity of representative

FOR OFFICE USE ONLY:

Reviewed/Accepted by: _____ Date: ____/____/____
 Case No.: ZBA: _____ ZBA Hearing Date: ____/____/____
 Fully-Dimensioned and scaled Site Plan: ___Yes ___No Date of Application: ____/____/____
 Non-Refundable Fee: \$ _____ Receipt #: _____ Date paid: ____/____/____

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

