

**ZONING BOARD OF ADJUSTMENT – September 12th, 2022
STAFF REPORT**



APPLICATION TYPE:		CASE:	
Variance		ZBA22-16: 3215 Millbrook Drive	
SYNOPSIS:			
<p>The applicant has applied for a variance from Sec 501 to allow a 16-foot front yard setback facing Millbrook Drive in order to construct a gazebo for the dog park. The property is encompassed within a Single Family Residential (RS-1) Zoning District.</p>			
LOCATION:		LEGAL DESCRIPTION:	
3215 Millbrook Drive		Acres: 24.2950, Abst: A-1755 S-0002, Survey: WM NEVELS	
SM DISTRICT / NEIGHBORHOOD:	ZONING:	FUTURE LAND USE:	SIZE:
SMD District #6 – Larry Miller Sunset Neighborhood	Single Family Residential (RS-1)	Open Space	24.2950 acres
NOTIFICATIONS:			
<p>12 notifications mailed within 200-foot radius on August 29, 2022. 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 Section 501.A of the Zoning Ordinance, to allow for a 16-foot setback, in lieu of the required 25-foot minimum required.</p>			
PROPERTY OWNER/PETITIONER:			
Applicant: Alfonso Torres - COSA			
STAFF CONTACT:			
Rae Lineberry Planner (325) 657-4210, Extension 1533 rae.lineberry@cosatx.us			

Additional Information: The project is located at the dog park located off Millbrook and College Hills. The gazebo will also be along the walking path that circles around the area.

Variations: 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 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 variance is being requested because to meet the required setbacks would put the gazebo in the flood plain.
2. **These special circumstances are not the result of the actions of the applicant.**
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.** In order for the applicant to meet the required setbacks, they would be forced to move the gazebo into the floodplain.
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.** A gazebo would be a good fit in a park setting. It gives people a place to sit down or rest in the shade.
5. **Granting the variance will not adversely affect adjacent land in a material way.** Granting this variance will not adversely affect any of the adjacent homes or the park.
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.” Adding a gazebo will add to and help maintain the development pattern of the area.

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.*

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.*
While this property is within the RS-1 zoning district, it is a large park property, rather than a developable property for homes. Allowing a park building within the park to encroach closer to the property line makes sense in this case and helps preserve the natural environment by ensuring the structure is outside the floodplain.

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.*

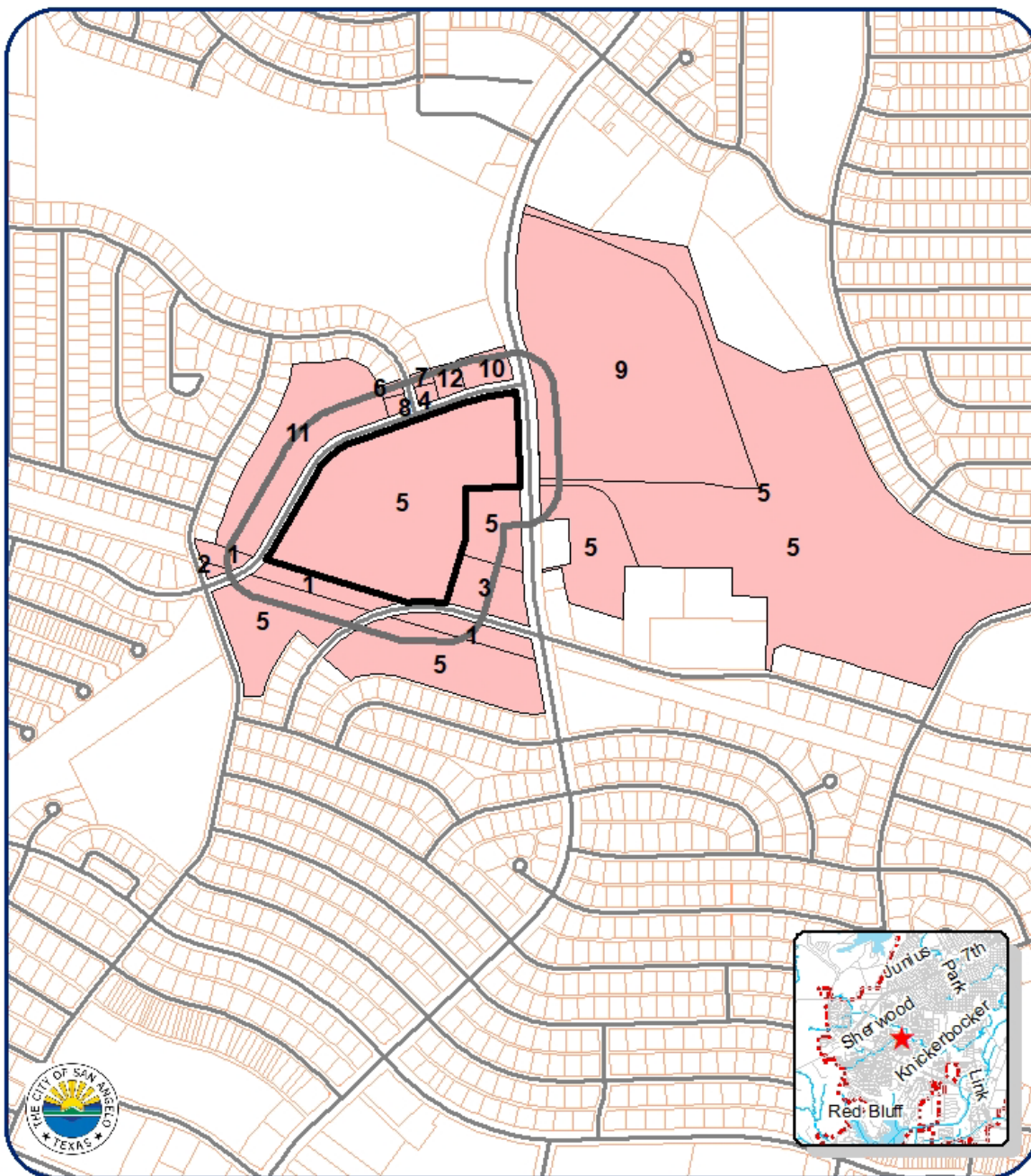
Recommendation:

Staff's recommendation is for the Zoning Board of Adjustment (ZBA) to **approve** a variance from Section 501.A of the Zoning Ordinance to allow for a 16-foot setback, in lieu of the required 25-feet per the Zoning Ordinance.




Attachments:


Notification Map
Aerial Map
Photographs

Notification Map



200' Notification Map
ZBA22-16: 3215 Millbrook Dr.
Council District: 6 Miller
Neighborhood: Sunset
Scale: 0.03 0.065 0.13 0.195 0.26 Miles

Subject Property: 
200' Buffer: 
Notified Properties: 

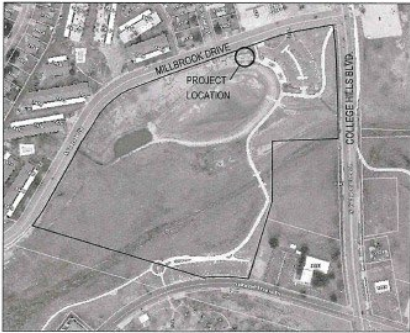
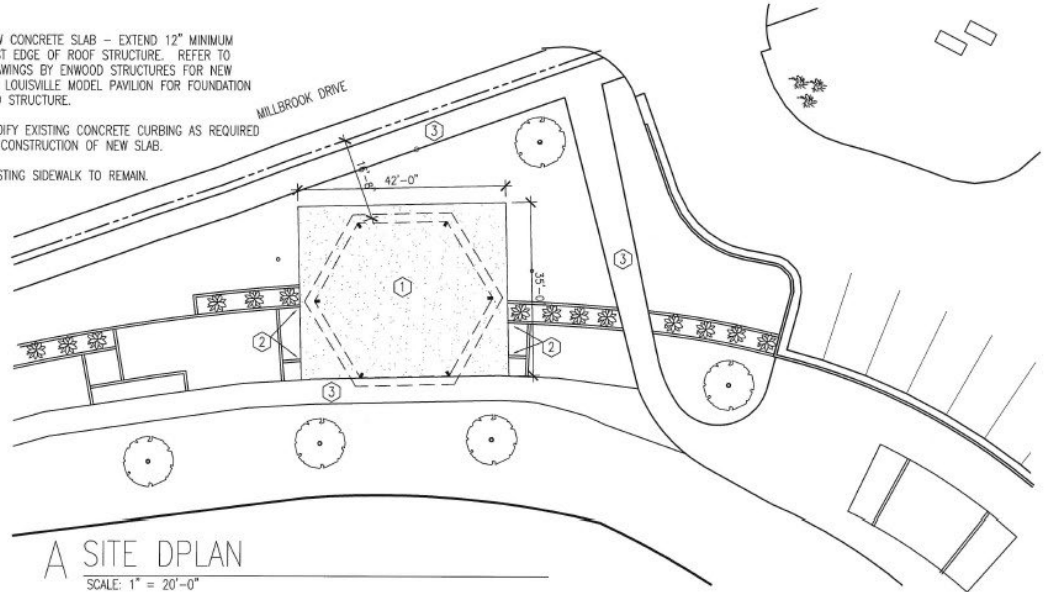
N


Aerial Map



Site Plan

- ① NEW CONCRETE SLAB – EXTEND 12" MINIMUM PAST EDGE OF ROOF STRUCTURE. REFER TO DRAWINGS BY ENWOOD STRUCTURES FOR NEW 40' LOUISVILLE MODEL PAVILION FOR FOUNDATION AND STRUCTURE.
- ② MODIFY EXISTING CONCRETE CURBING AS REQUIRED BY CONSTRUCTION OF NEW SLAB.
- ③ EXISTING SIDEWALK TO REMAIN.



C AREA PLAN
 SCALE: 1" = 20'-0"

