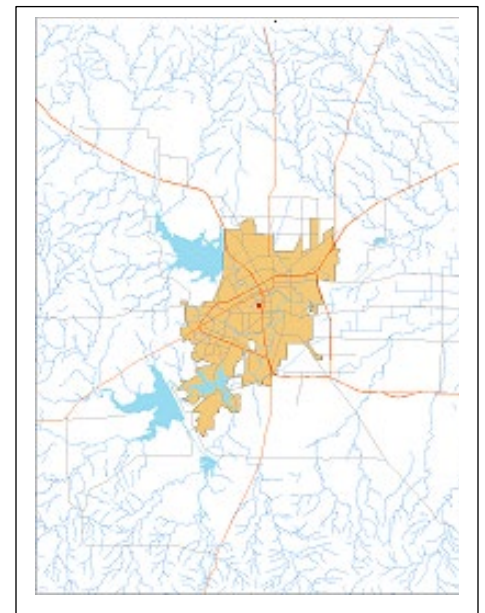


**ZONING BOARD OF ADJUSTMENT – March 6, 2023
STAFF REPORT**



APPLICATION TYPE:		CASE:	
Variance		ZBA23-03: W. Ave H & Kenwood Dr. & Montecito Dr.	
SYNOPSIS:			
<p>The applicant has submitted a request for approval of a variance from Section 502.B of the Zoning Ordinance to allow for a 10-foot, 2nd front yard, street side setback in lieu of the required 25-foot for a corner property.</p>			
LOCATION:		LEGAL DESCRIPTION:	
726 W. Ave H		Acres: 0.463; Lots 1D, 2D and the W. ½ of Lot 2E. Second Replat in Blk. 31, Park Heights Add.	
SM DISTRICT / NEIGHBORHOOD:	ZONING:	FUTURE LAND USE:	SIZE:
SMD District #5 – Karen Hesse Smith Santa Rita Neighborhood	Single Family Residential (RS-1)	Neighborhood	0.463 acres
NOTIFICATIONS:			
<p>32 notifications mailed within 200-foot radius on February 18, 2023. 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 502.B of the Zoning Ordinance to allow for a 10-foot, 2nd front yard, street side setback in lieu of the required 25-foot for a corner property.</p>			
PROPERTY OWNER/PETITIONER:			
Applicant: Deborah Grissen Representative: SKG – Jack Downey			
STAFF CONTACT:			
Sherry Bailey Senior Planner (325) 657-4210, Extension 1533 sherry.bailey@cosatx.us			



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.** The applicant is combining two and a half lots (2 ½) into one (1). Two of those have two, street frontages. This is an older area of town and the standard setback for this area at the time was to set a normal 5-foot setback on the 2nd, street frontage. The ZBA has approved numerous requests in this area for a variance on those that have 2nd, front yards. A variance on this property will not affect cars turning on or off Kenwood Dr. There is an 8-foot right-of-way (ROW), and then an additional required setback of 10-feet, will put the proposed house back 10-feet from the property line, and would be 18-feet total, from back of the curb. The applicant's front yard will be off of W. Ave. H, even though the house will face Kenwood.
2. **These special circumstances are not the result of the actions of the applicant.** The front yard setback is off of W. Ave. H, and it will have the normal 25-foot setback, as does the home to the east.
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 wants to build a larger home on these two-and-a-half lots, similar to the home to the east. If approved, the less restrictive building line depth will allow the best placement of a new home on the lot.
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.** If the variance were granted the use of land would not be contrary to public interest, as the large ROW dedication would still act as a buffer for both safety and aesthetics between the proposed house and Kenwood Dr.
5. **Granting the variance will not adversely affect adjacent land in a material way.** Granting the variance would not have an adverse effect on adjacent land. As stated above the smaller building line setback would act as a sufficient buffer between the house and Kenwood Dr.
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 granting this variance will not disrupt the pattern of development in this 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.*
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.*

The applicant believes their request represents an unnecessary hardship and the proposed variance is in keeping with the development of homes in this older area of town.

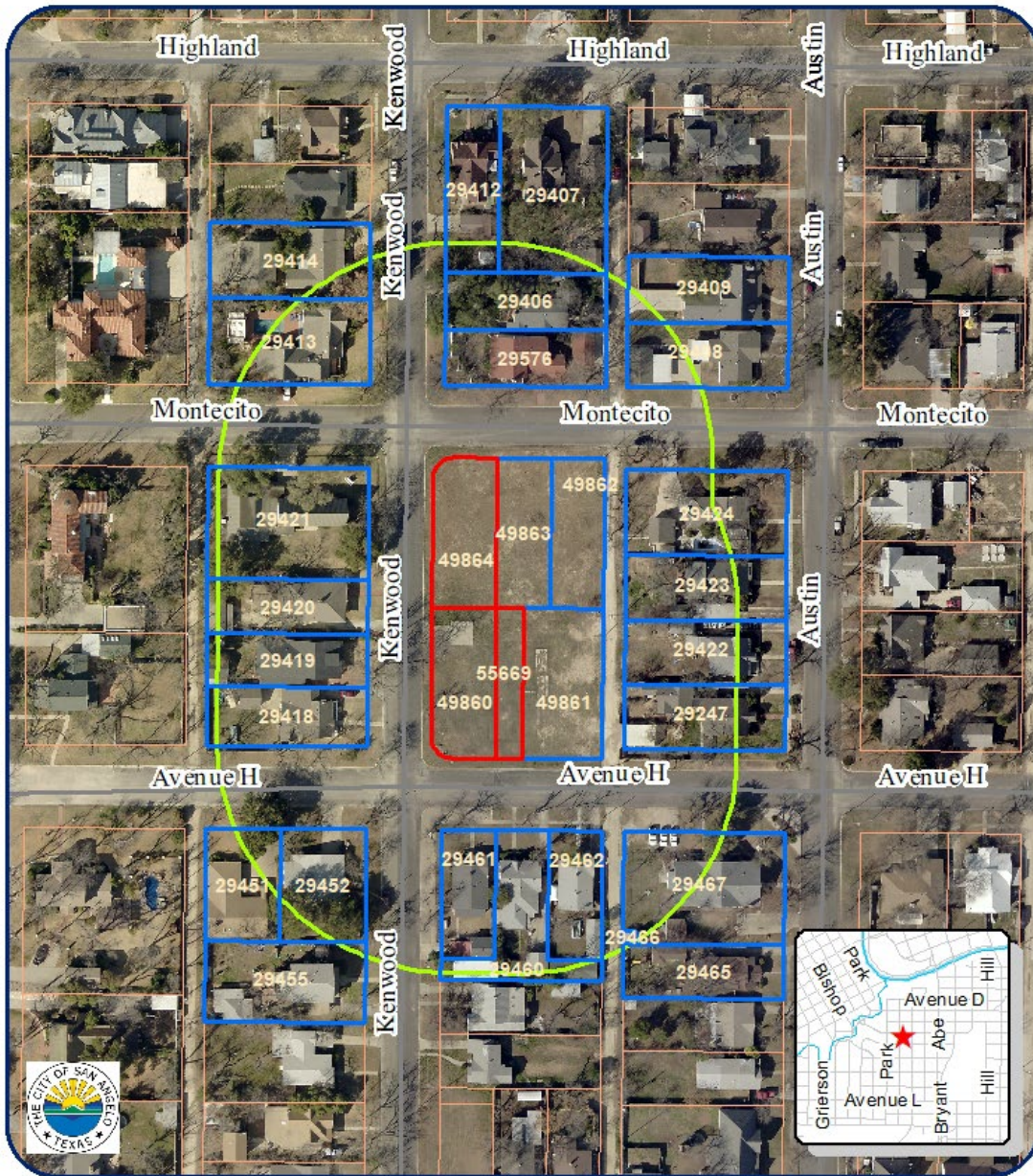
Recommendation:

Staff's recommendation is for the Zoning Board of Adjustment (ZBA) to **APPROVE** a variance from 502.B of the Zoning Ordinance to allow for a street side setback of 10-feet, in lieu of the required 25-foot setback, and allows the applicant(s) to build a home on the lots.

Attachments:

Aerial Map
Photographs
Site Plan

Aerial Map



200' Notification Map
Park Heights Addition Blk 31
 Council District: #5 Karen Hesse Smith
 Neighborhood: Santa Rita
 Scale: 00.000501 0.02 0.03 0.04 Miles

Subject Properties: —
 200' Buffer: —
 Notified Properties: —

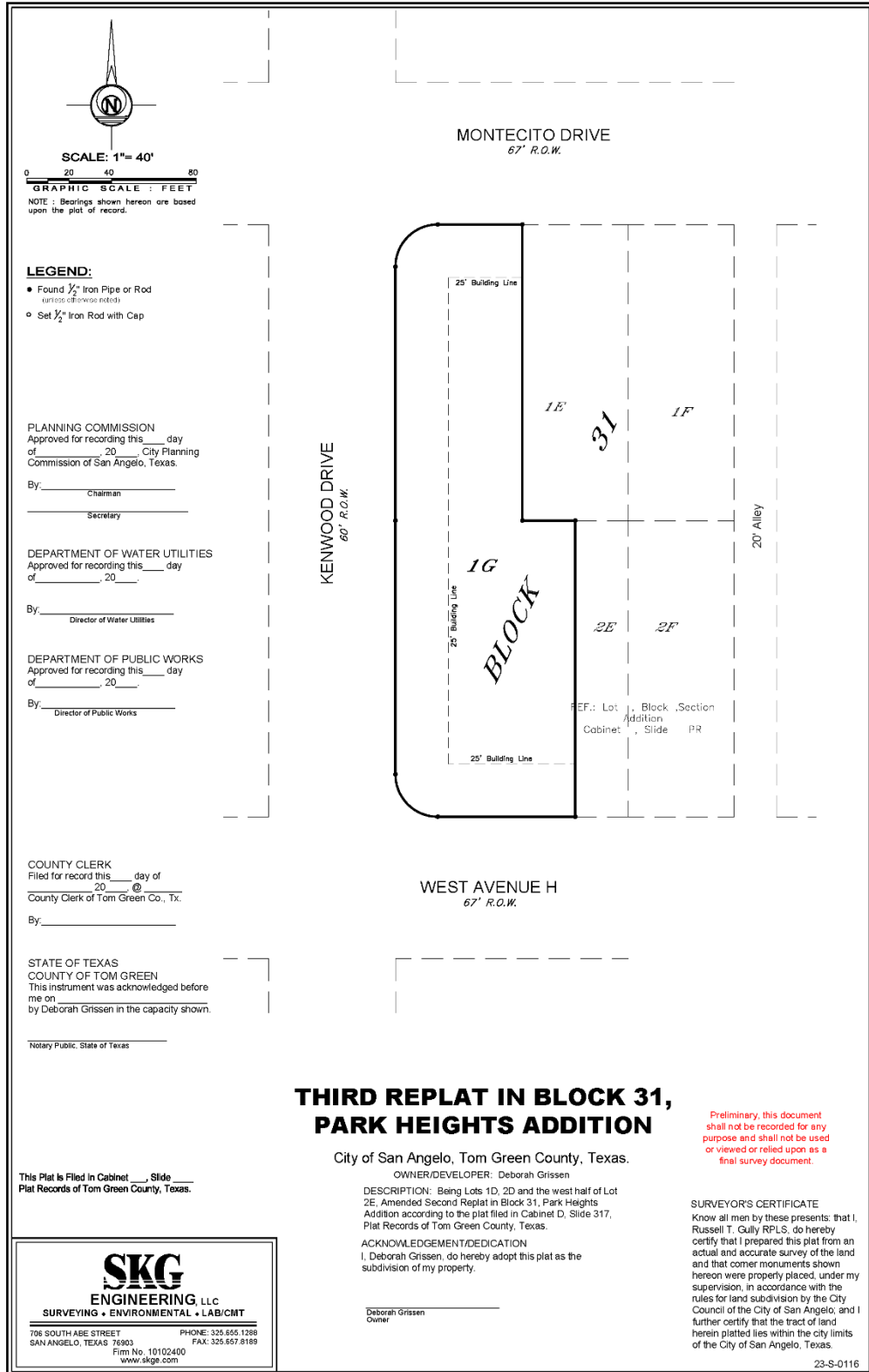
N

Photos of Site and Surrounding Area





Plat Map



**ZONING BOARD OF ADJUSTMENT – March 6, 2023
STAFF REPORT**



APPLICATION TYPE:		CASE:	
Variance		ZBA23-04: Lots 11 & 12, Blk 1, Eckert’s Addition (Preusser St. & N. Marie St.)	
SYNOPSIS:			
<p>The applicant has submitted a request seeking approval of a variance on double frontage lots from Section 501.A of the Zoning Ordinance, to allow for a 10-foot front yard building setback in lieu of the required 25-foot, on the 2nd frontage on a corner property. If granted by the Board, the applicant intends to proceed with the replatting of the properties and comply with the Subdivision Ordinance requirement that the front building setback is labeled on a subdivision plat.</p>			
LOCATION:		LEGAL DESCRIPTION:	
Corner of Preusser Street & N Marie Street		Lots 11 & 12, Blk 1, Eckert’s Addition	
SM DISTRICT / NEIGHBORHOOD:	ZONING:	FUTURE LAND USE:	SIZE:
SMD District #3 – Harry Thomas Ft Concho East Neighborhood	Single-Family Residential (RS-1)	Neighborhood	110’ (w) x 190’ (d)
NOTIFICATIONS:			
<p>23 notifications mailed within 200-foot radius on March 22, 2021. No letters received to date in support or opposition.</p>			
STAFF RECOMMENDATION:			
<p>Staff’s recommendation is to <i>not approve</i> the variance <i>as requested</i>. However, Staff’s recommendation is for a variance from 501.A of the Zoning Ordinance to allow for a reduced front yard, street-side, building setback of 15-feet in lieu of the required 25-feet minimum.</p>			
PROPERTY OWNER/PETITIONER:			
Applicant: Stephanie Hamby			
Representative: Jack Downey SKG Engineering			
STAFF CONTACT:			
Rae Lineberry Planner (325) 657-4210, Extension 1533 rae.lineberry@cosatx.us			

Additional Information: Staff met with the applicant and a representative regarding the replatting and development of these lots.

Variations: 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.** The way the lots are proposed to be separated creates a double frontage, and staff believes there may be site issues when backing out of the driveway on lot 12. Staff recommends a 15-foot setback in lieu of the 25-foot required, but NOT a reduction to the 10-foot setback as requested.
2. **These special circumstances are not the result of the actions of the applicant.** The applicant is reconfiguring two (2) previously platted lots, and creating three (3), new lots for development of single-family homes. The reduced setback is similar to other homes in the area.
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 within this district in the general vicinity have such reduced setbacks.
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.** If the variance were granted as requested, Staff believes that structures allowed to encroach into the front yard setback could potentially cause distraction or hindrance to motor vehicle operators at any street intersection, crossing, ingress or egress point. Based on this, staff is recommending maintaining a 15' minimum setback.
5. **Granting the variance will not adversely affect adjacent land in a material way.** Granting the entirety of the requested variance could potentially have an adverse effect on adjacent properties (see comment above). However, Staff feels that the aesthetics and pattern of development in the surrounding neighborhood is such that, Staff feels that a reduced front-yard building setback is in character.
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." (see comments above)

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.*

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.*

Staff believes that the overriding public interest of encouraging infill development on vacant properties in a manner consistent with the surrounding area warrants this variance.

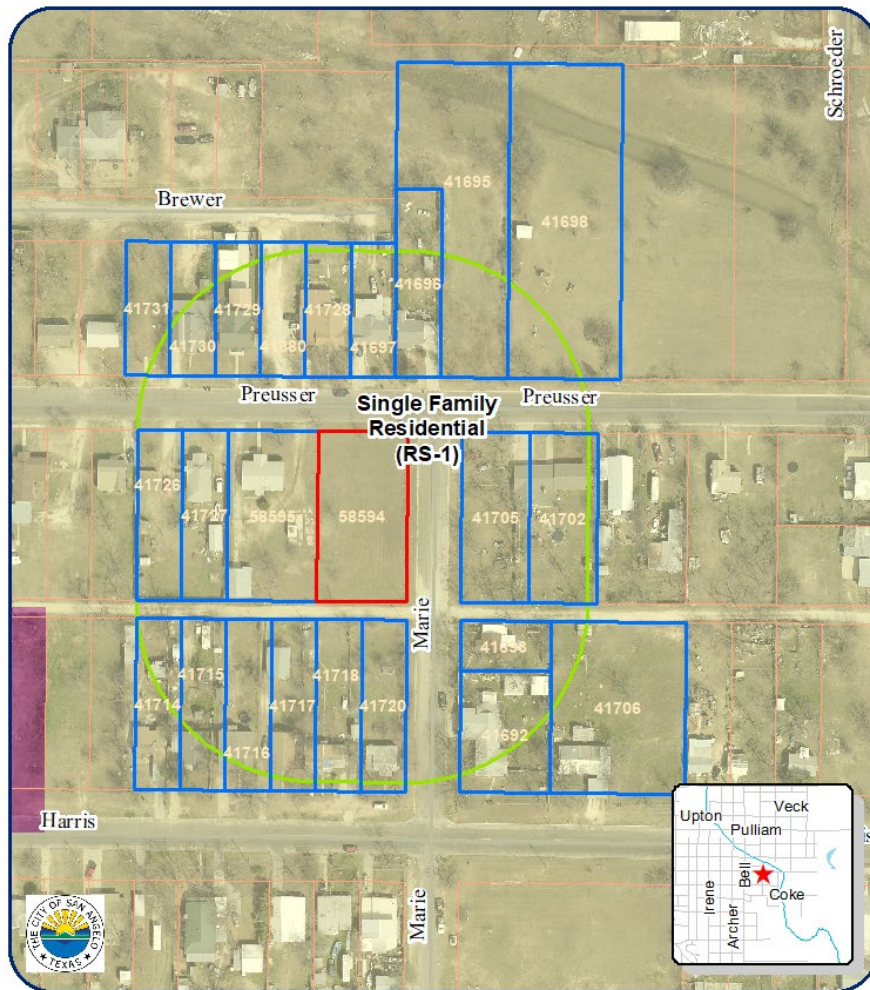
Recommendation:

Staff’s recommendation is for APPROVAL of a variance from 501.A of the Zoning Ordinance to allow for a street front setback of 15 feet in lieu of the required minimum 25 feet.

Attachments:

Aerial Map
Photographs

Aerial Map



Zoning Map
H. Eckerts Addition
 Council District: #3 Harry Thomas
 Neighborhood: Ft. Concho East
 Scale: 0.00501 0.02 0.03 0.04 Miles

Subject Properties: ——— (Red line)
 200' Buffer: ——— (Green line)
 Notified Properties: ——— (Blue line)

N

Photos of Site and Surrounding Area

