

**ZONING BOARD OF ADJUSTMENT – July 10, 2023  
STAFF REPORT**

<b>APPLICATION TYPE:</b>	<b>CASE:</b>
Variance	ZBA23-09b: 6610 Clarice Court

**SYNOPSIS:**  
The applicant presented a request for a variance from Section 402 A.2 of the Zoning Ordinance to allow for an accessory structure **6 feet from the rear property line, 14 feet closer than the required 20 feet rear yard setback within the Single-Family Residence (RS-1) Zoning District.** The lot is 0.7 acres in size. The applicant is requesting a 14 feet variance to allow him to build a structure of around 3,000 square feet in size. The proposed structure will be 14 feet closer to the rear lot line than that allowed by ordinance. The building will be in the southeast corner of his lot. The applicant has already received approval from the ZBA for the size of his accessory structure that exceeds the ordinance limit for accessory structures. This request should complete his project.

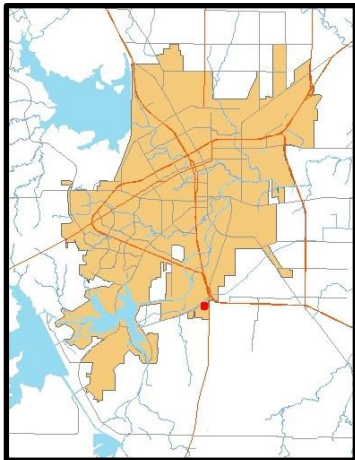
<b>LOCATION:</b>	<b>LEGAL DESCRIPTION:</b>		
6610 Clarice Court	Being Lot 16 N, Block 2, SUNSET RANCH ESTATES, 1 <sup>st</sup> R/P in B Blk 2		
<b>SM DISTRICT / NEIGHBORHOOD:</b>	<b>ZONING:</b>	<b>FUTURE LAND USE:</b>	<b>SIZE:</b>
SMD District #1 – Tommy Hiebert Country Club Neighborhood	Single-Family Residential (RS-1)	N – Neighborhood	0.7 acres

**THOROUGHFARE PLAN:**  
*Clarice Court* – Urban Local Streets, Required: 50’ right-of-way, 40’ pavement or 36’ with a 4’ wide sidewalk, Provided:

**NOTIFICATIONS:**  
16 notifications mailed within 200-foot radius on June 22, 2023. No responses have been received to date.

**STAFF RECOMMENDATION:**  
Staff’s recommendation is for the Zoning Board of Adjustment (ZBA) to **APPROVE** a variance from Section 402.A.2 of the Zoning Ordinance to allow a variance from the rear yard setback requirement.

<b>PROPERTY OWNER/PETITIONER:</b>
Owner: Michael & Cara Kratzer
<b>STAFF CONTACT:</b>
Sherry Bailey, Senior Planner (325) 657-4210, Extension 1546 <a href="mailto:sherry.bailey@cosatx.us">sherry.bailey@cosatx.us</a>



**Additional Information:**



**Recent pool addition.**



**Space from the center landscape area to the left and pool. This is where the decking will go.**



From the landscape area to 5 ft from the side fence will be where the accessory structure will go.

**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 properties 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 the 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 complying with a requirement of a municipal ordinance, building code, or other requirement; **In this case, that non-compliance would be the rear setback which is adjacent to an office warehouse area and industrial use.**
- (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 #1 is applicable to this request. The construction of the new accessory structure that meets his needs will not be detrimental to the neighbor and strict application of the Zoning Ordinance will result in extraordinary impact on the owners.

**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 is asking for a use that is in keeping with the size and use of his lot. The fact that behind this property is warehousing and industrial uses and zoning is not a result of the applicant's actions.
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, strict adherence to the accessory building size restriction in this case would not be taking into account the lot size and the existing commercial zones that are adjacent to this property and that impact the owner's property in a negative way.
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 spirit of the ordinance is to ensure that accessory structures are not located too close to neighboring residential properties. In this case, the properties to the rear are not zoned residential. Therefore, allowing this request will not be contrary to the public interest or the intent of this regulation.
5. **Granting the variance will not adversely affect adjacent land in a material way.** The accessory use will not disturb adjacent property owners on either side of the owner's home because he is placing the accessory building far enough to the rear to not affect the adjacent residential neighbors. The adjacent commercial uses will not be affected by the residential use of the property.

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 use, for the reasons noted above, will be generally consistent with the purposes and intent of the zoning ordinance.

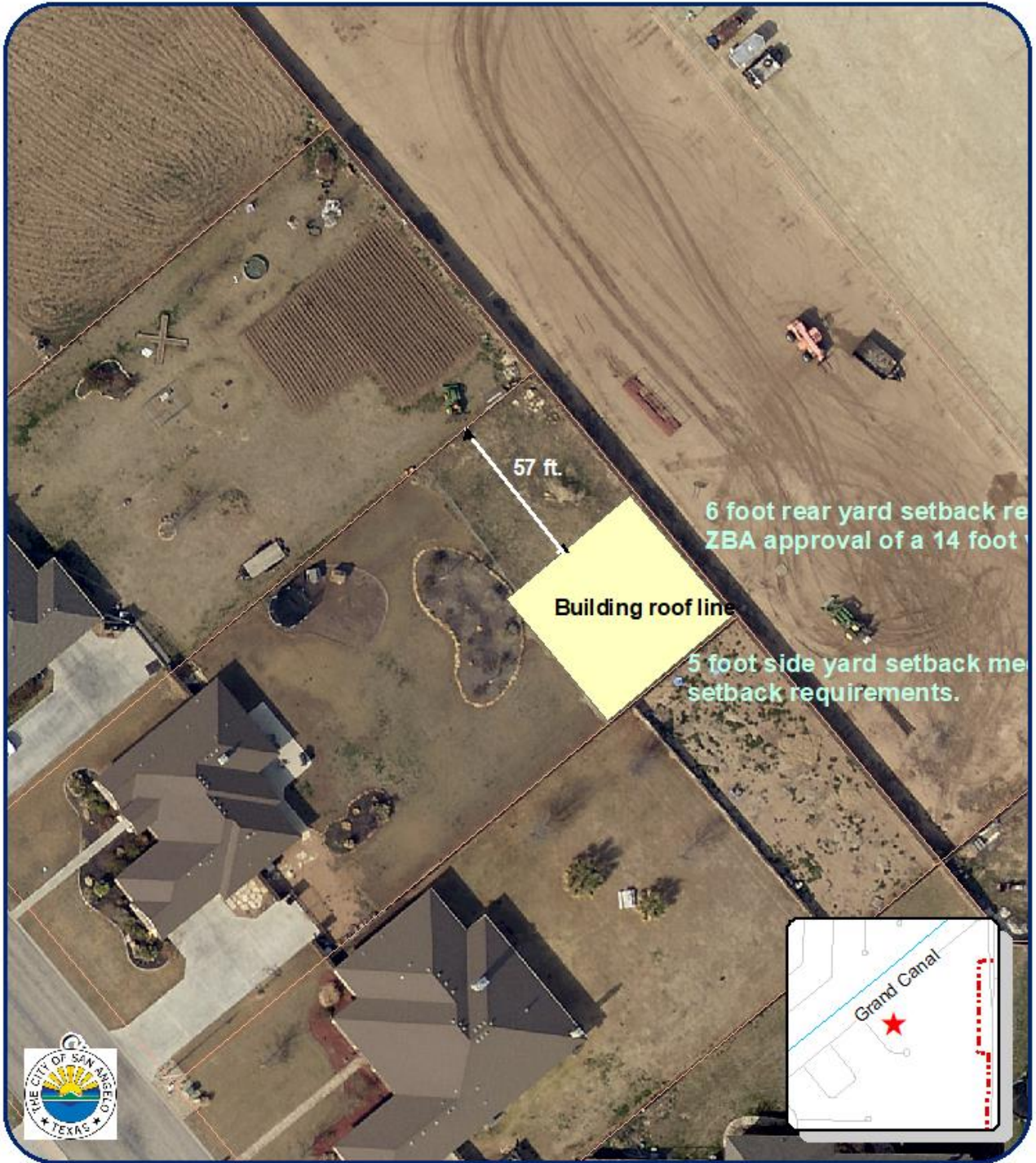
**Recommendation:**

Staff recommends that the Zoning Board of Adjustment (ZBA) **APPROVE** a variance from Section 402. A.2, to allow for a 14-foot variance from the rear yard setback requirement of 20 feet, subject to the following condition:

1. The applicant obtains all appropriate permits for the new accessory use structure.

**Attachments:**

Aerial Map & proposed building location  
Photographs



**Rear Yard setback variance of 14 ft.  
6610 Clarice Ct. ZBA23-09b**

Council District: #1 Tommy Hiebert

Neighborhood: Country Club

Scale: 0.0025 0.005 0.009 0.0135 0.018  
Miles

Subject Properties:

200' Buffer:

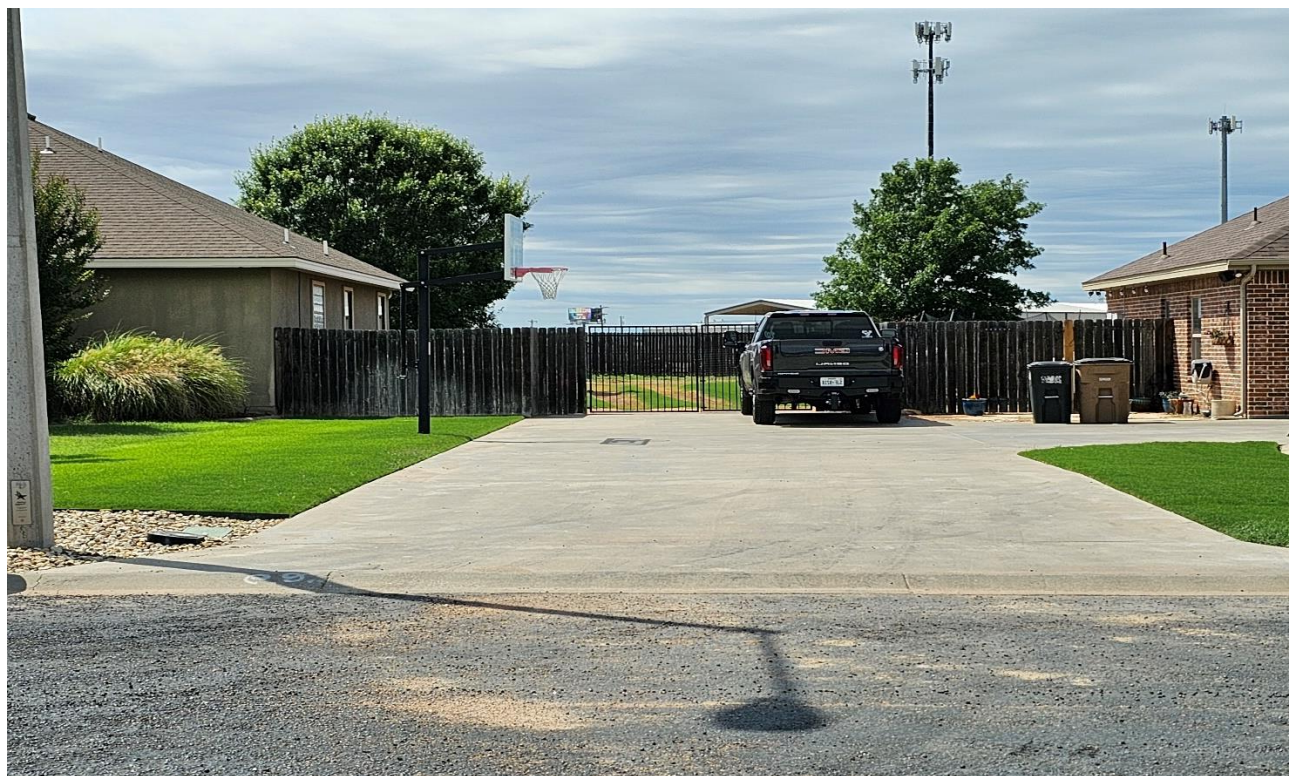
Notified Properties:



**SUBJECT PROPERTY**

**Photos of Site and Surrounding Area**





**Drive the entrance for access to the new building**



**ZONING BOARD OF ADJUSTMENT – July 10, 2023**  
**STAFF REPORT**



APPLICATION TYPE:	CASE:
Variance	ZBA23-12: 2386 Fishermans Road

**SYNOPSIS:**

The applicant has submitted a request for approval of a variance from Section 502.B of the Zoning Ordinance to allow for an **11-foot front yard setback instead of the required 25 feet in the Single Family (RS-1) Zoning District** in order to erect a garage attached to the home.

LOCATION:	LEGAL DESCRIPTION:
2386 Fishermans Road	Acres 0.283 acres: Lot 22, Blk. 1 Lake Nasworthy, Group 15

SM DISTRICT / NEIGHBORHOOD:	ZONING:	FUTURE LAND USE:	SIZE:
SMD District #1 – Tommy Heibert Nasworthy Neighborhood	Single Family (RS-1)	Neighborhood	0.283 acres

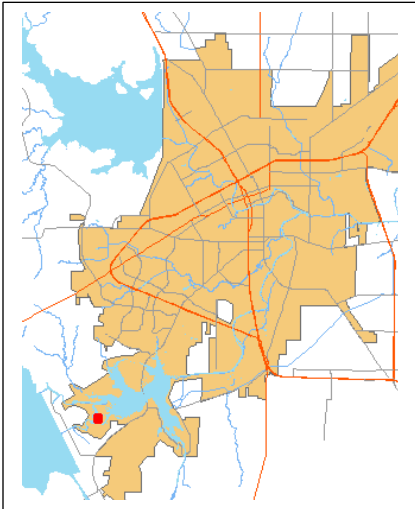
**NOTIFICATIONS:**

7 notifications were mailed within a 200-foot radius on June 22, 2023.  
 No letters have been received to date in support or opposition.

**STAFF RECOMMENDATION:**

Staff’ recommends **APPROVAL** of a variance from 502.B of the Zoning Ordinance to allow for an 11 foot front setback in lieu of the required 25 feet located at 2386 Fishermans Road.

PROPERTY OWNER/PETITIONER:
Applicant: Jodie Cribbs
STAFF CONTACT:
Sherry Bailey Senior Planner (325) 657-4210, Extension 1546 <a href="mailto:sherry.bailey@cosatx.us">sherry.bailey@cosatx.us</a>



**Additional Information:** Staff met with the applicant when I went out to post the meeting sign. In talking with the applicant, I soon realized that this property is a unique situation. His property is addressed from Fishermans Road. However, his access to his property is off Rock Slough road and then a dirt side drive. Between the applicant's home and Fishermans Road, there is a 35 ft. access easement. Then there is a 283' by 388' City-owned parcel, before Fishermans Road. You cannot see Mr. Cribbs's home from Fishermans Road. The 35 ft. access easement has been built into by the owners of the two lots to the north of Mr. Cribbs. The structure next to the applicant (2382 Fishermans) that is in the easement was approved by ZBA in 2011. The structure built into the easement on the lot next to this (2378 Fishermans) was approved in 1999. The easement is the access for only two properties, the third property has made his own access across the City of San Angelo property. The request by the applicant will not impede his neighbor in any way, and it will be only on his property. As such, the staff is recommending approval.

**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 entire area at Lake Nasworthy has grown up without having to meet City standards. In this case, the applicant is following procedure and his request is very similar to others the Board has approved across the City.
2. **These special circumstances are not the result of the actions of the applicant.** The access for this property and his neighbors is off a dirt road connection to Rock Slough Road, then an access easement. There is no direct access from Fishermans Road. The front yard incursion will not impact any sight angle, or access issue.
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's neighbors have already received ZBA approval for greater incursions than what he is proposing.
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.** To add to the house an attached garage this is the only procedure. There is no other option open to the applicant.
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 neighbors have already received approval for construction that normally would have had a greater impact than anything this applicant has proposed.
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 is in keeping with the development of homes in this area of town. Staff believes that there are special circumstances as noted above.**

**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 front yard setback of 11 feet in lieu of the required 25 feet in order to build an attached garage.

**Attachments:**

Aerial Map  
Photographs  
Site Plan

### Aerial Map



**200' Notification Map**  
**ZBA23-12 2386 Fisherman**  
Council District: #1 Tommy Heibert  
Neighborhood: Nasworthy  
Scale: 0.000501 0.02 0.03 0.04 Miles

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

N

**Photos of Site and Surrounding Area**



**Adjacent home accessory structure and carport built in the easement.**



The applicant's property shows the concrete slab on which he intends to build the attached garage. From the slab to the concrete property marker is 11 feet.

**ZONING BOARD OF ADJUSTMENT – July 10, 2023**  
**STAFF REPORT**



<b>APPLICATION TYPE:</b>	<b>CASE:</b>
Variance	ZBA23-13: 2702, 2706, 2710, 2714 Lindell Ave.

**SYNOPSIS:**  
 The applicant has submitted a request for approval of a variance from Section 501.A of the Zoning Ordinance to allow for a 10-foot rear yard setback for four existing lots on Lindell Avenue. When these lots were platted, they received a variance in lot width because they were intended to be small lots of 48’ by 100’. The four homes to be built have a matching footprint: 10 feet for the rear yard, 50 feet for the house, 25 feet front yard, and a 10-foot garage extension in front of the house itself. That covers the lot. Losing 10 feet in the rear should not affect the house to the rear of these homes. There is ample distance between these four lots and the lot to the rear.

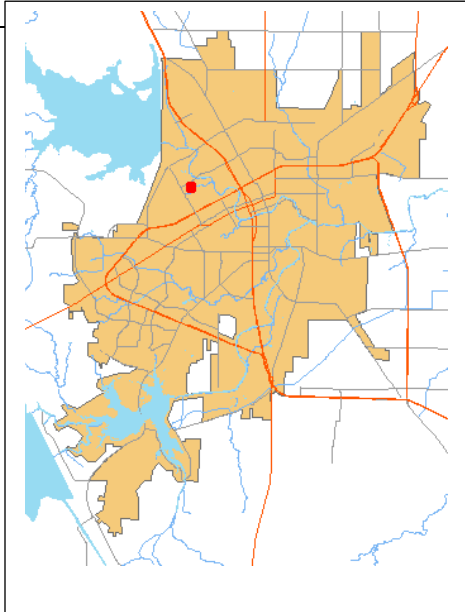
<b>LOCATION:</b>	<b>LEGAL DESCRIPTION:</b>
2702 – 2714 Lindell Ave.	Acres: 0.4407 lots 19A-19E Forrest Park Acreage Addition

<b>SM DISTRICT / NEIGHBORHOOD:</b>	<b>ZONING:</b>	<b>FUTURE LAND USE:</b>	<b>SIZE:</b>
SMD District #2 – Tom Thompson Angelo Heights Neighborhood	Two-Family Residential (RS-2)	Neighborhood	0.4407 acres

**NOTIFICATIONS:**  
 22 notifications were mailed within a 200-foot radius on June 22, 2023.  
 No letters have been received to date in support or opposition.

**STAFF 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 10-foot rear yard setback in lieu of the required 20-foot setback on a lot for the four lots, 2702, 2706, 2710, 2714 Lindell Ave. property subject to one condition.

<b>PROPERTY OWNER/PETITIONER:</b>
Applicant: Collin McCrory – McCrory Homes Representative: Erica Wilde Carter-Fentress Eng.
<b>STAFF CONTACT:</b>
Sherry Bailey Senior Planner (325) 657-4210, Extension 1533 <a href="mailto:sherry.bailey@cosatx.us">sherry.bailey@cosatx.us</a>



**Additional Information:** The lot to the rear of these four lots was the home on the original large lot. That home split off the four small lots and retained a flag lot with a 20' wide access drive that allows them access to Lindell Ave. The lot is 0.567 acre.

**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 four lots that were allowed to be platted are smaller. The home to be put on the lots is not an overly large home and all of the other requirements are being met.
2. **These special circumstances are not the result of the actions of the applicant.**  
The front yard setback is off Lindell and it will have the normal 25-foot setback.
3. **Literal interpretation and enforcement of the terms and provisions of this Zoning Ordinance would deprive the applicant of rights commonly enjoyed by another land in the same zoning district and would cause unnecessary and undue hardship.** The applicant wants to build a medium 2,000 sq. ft. home on each of these four lots, each of them a variation on the same design.
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 is granted the use of land would not be contrary to public interest and would be in keeping with the Zoning Ordinance.
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.
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 is in keeping with the development of homes in this older area of town.**

**Recommendation:**

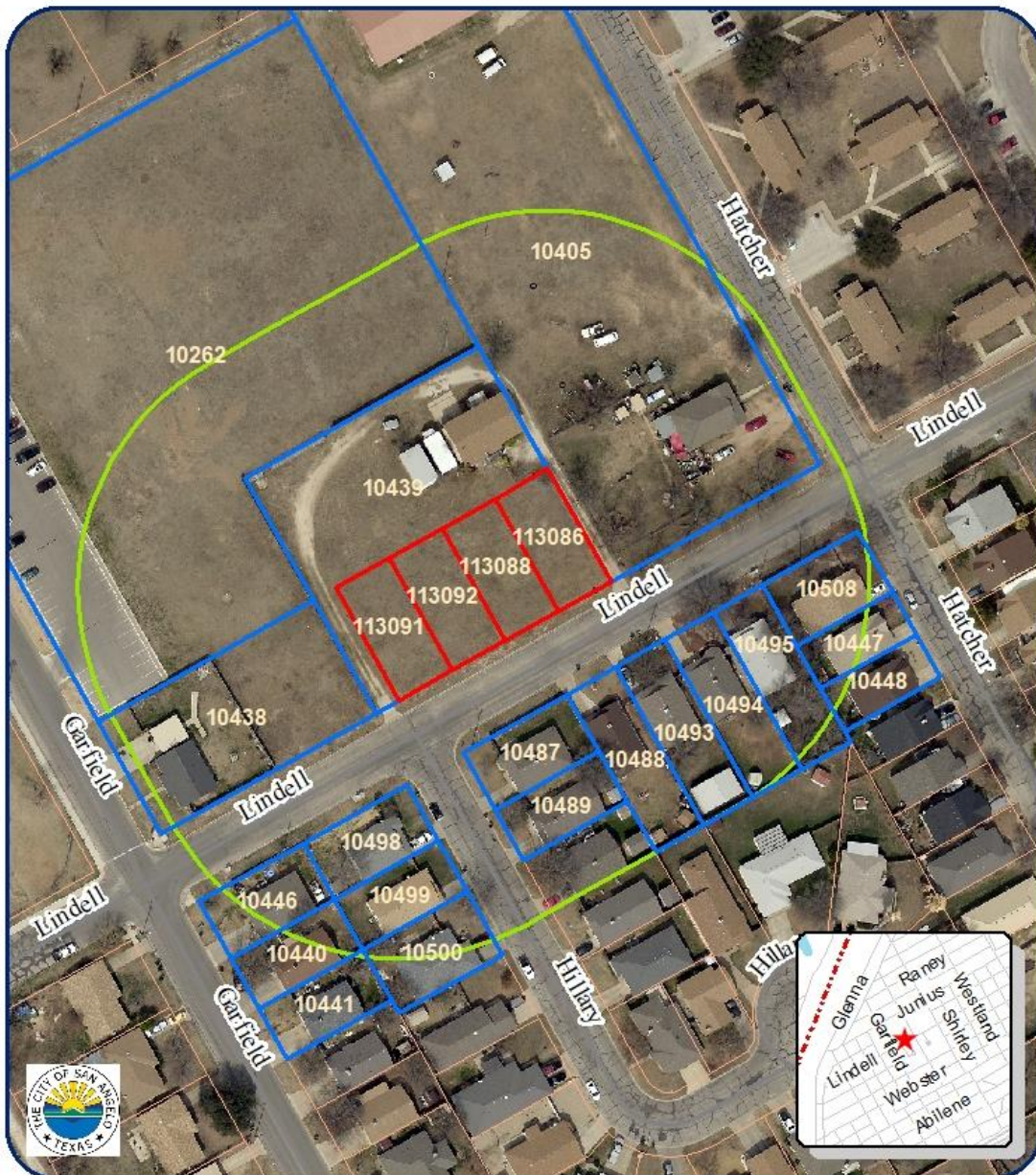
Staff's recommendation is for the Zoning Board of Adjustment (ZBA) to **APPROVE** a variance from 501.A of the Zoning Ordinance to allow for a rear yard setback of 10 feet in lieu of the required 20 feet in order to build a home on each of the four lots subject to the following condition:

1. The building site plan for these four lots must be dimensioned to show that half of the rear yard area must meet the required 20 feet setback area.

**Attachments:**

Aerial Map  
Photographs  
Site Plan

**Aerial Map**

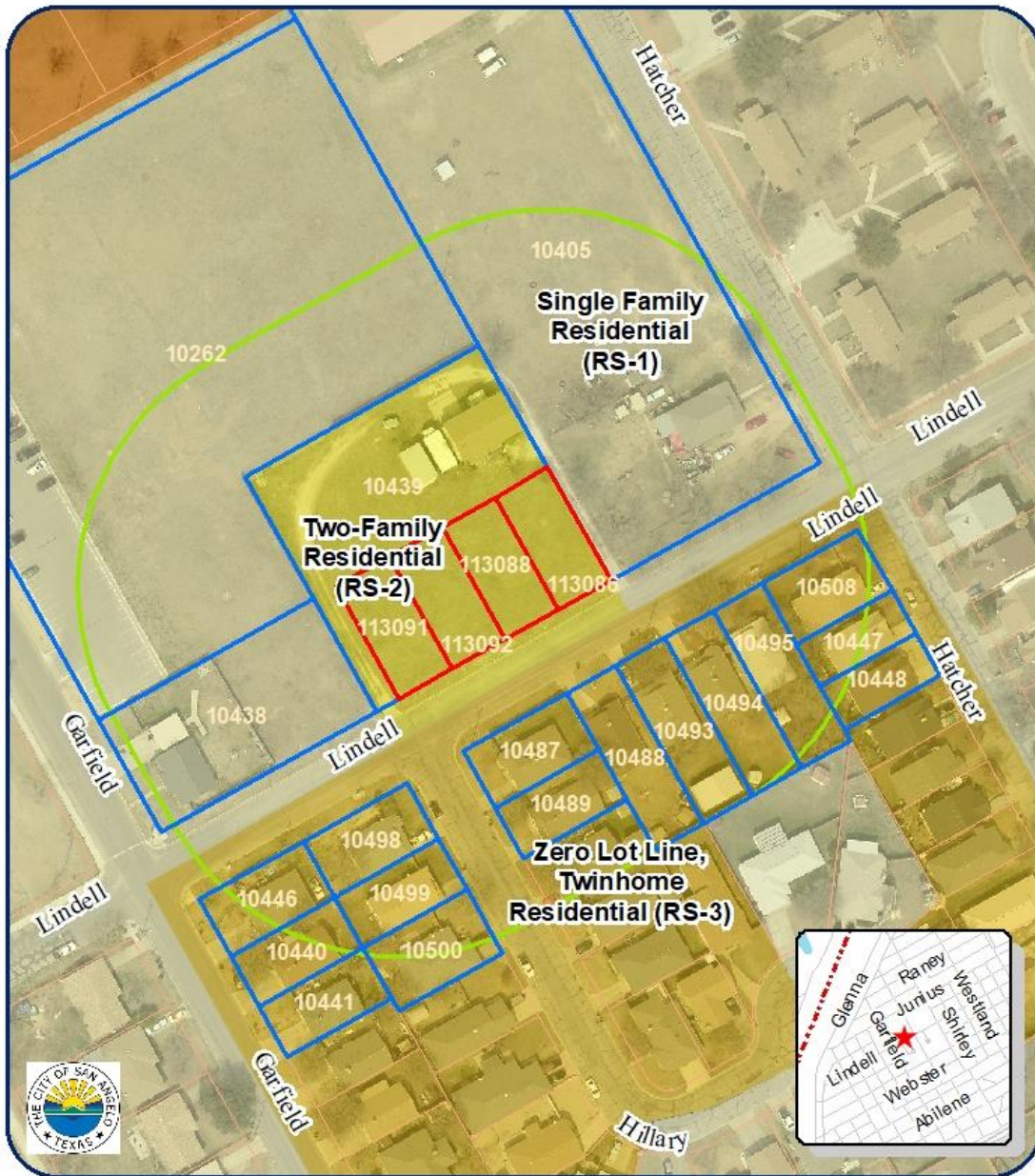


**200' Notification Map**  
**ZBA23-13 Lindell Ave**  
 Council District: #2 Tom Thompson  
 Neighborhood: Angelo Heights  
 Scale: 0.0008 0.01 0.02 0.03 0.04 Miles

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

N

**Zoning Map of Surrounding Area**



**Zoning Map  
 ZBA23-13 Lindell Ave**

Council District: #2 Tom Thompson  
 Neighborhood: Angelo Heights

Scale: 0.000001 0.02 0.03 0.04  
 Miles

Subject Properties: ———

200' Buffer: ———

Notified Properties: ———



**Plat Map**

Bearing Basis hereon is Texas State Plane Coordinate System, Reference Frame North American Datum 1983 (2011) (EPOCH 2010.0000), as determined from Global Navigation Satellite System (GNSS) survey equipment by Static, Virtual Reference System (VRS) network and or Real Time Kinematic (RTK).  
 Distances shown hereon are shown as grid Texas State Plane Coordinate System distances.

This plat is filed in Cabinet H Slide 25  
 Plot Records of Tom Green County, Texas.

**LEGEND**

- FOUND 1/2" IRON PIPE
- SET 1/2" IRON ROD WITH CAP
- PIPE FENCE CORNER POST
- SUBJECT PROPERTY BOUNDARY
- - - ADJACENT PROPERTY LINE
- - - EASEMENT

**CITY PLANNING COMMISSION**  
 Approved for recording this 16 day of November, 2022.  
 City Planning Commission of San Angelo, Texas  
 By: \_\_\_\_\_  
 Planning Commission Chair

**DEPARTMENT OF PUBLIC WORKS**  
 Approved for recording this 3 day of May, 2021.  
 By: \_\_\_\_\_  
 Director of Public Works

**DEPARTMENT OF WATER UTILITIES**  
 Approved for recording this 3 day of May, 2021.  
 By: \_\_\_\_\_  
 Director of Water Utilities

**COUNTY CLERK**  
 Approved for recording this 4th day of May, 2021.  
 County Clerk of Tom Green County, Texas  
 By: Heidi Willison  
 Deputy

**SURVEYOR'S CERTIFICATE**  
 Know all men by these presents: that I, Wesley Ray Quinn, do hereby certify that I prepared this plat from an actual and accurate survey of the land and the corner monuments shown thereon will be or were properly placed under my supervision, in accordance with the rules for land subdivision by the City Council of the City of San Angelo; and I further certify that the tract of land herein platted lies within the City Limits, or within the extraterritorial jurisdiction are of the City of San Angelo, Texas, as established by law.

**REPLAT OF LOT 19  
 FOREST PARK ACREAGE ADDITION  
 CITY OF SAN ANGELO  
 TOM GREEN COUNTY, TEXAS**  
 OWNER: COLE McCORRY FAMILY LP  
 Being 1.00 Square Acre out of the southeast corner of Tract 19, Forest Park Addition, City of San Angelo, Tom Green County, Texas, according to the plat recorded in Volume 1, Page 233, Deed Records of Tom Green County, Texas.

**DEDICATION / ACKNOWLEDGEMENT**  
 I, Collin McCrory, do hereby adopt this plat as the subdivision of my property and dedicate for the use to the public the streets, alleys and easements as shown.  
 Collin McCrory

**STATE OF TEXAS  
 COUNTY OF TOM GREEN**  
 This instrument was acknowledged before me on the 4th day of May, 2021.  
 By: Sadie F Woner  
 Notary Public in and for the State of Texas

**STATE OF TEXAS REGISTERED**  
 WESLEY RAY QUINN  
 6625  
 PROFESSIONAL LAND SURVEYOR

Field: HB  
 Office: Q  
 Job # 20080046

Registered Prof. Land Surveyor  
 Texas Registration No. 6625

**SADIE F WONER**  
 Notary Public, State of Texas  
 Comm. Expires 09-25-2022  
 Notary ID 12838787-8

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