#### **ZONING BOARD OF ADJUSTMENT – September 11** STAFF REPORT



APPLICATION TYPE:	CASE:
Variance	ZBA23-19: 1716 W Harris

#### **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 variance for both front yard setbacks on a corner lot. The applicant wants to divide the property into two lots, both fronting Harris. The existing home will remain on the interior lot and the second lot will be created on the corner. This will create a corner lot with two required front yards. The property is in an older section of the city with established neighborhoods. The setbacks in this area often allowed closer building on the side yards and front yards. The existing home has a closer front yard setback than the 25 feet required. (Additional information page 2)

LOCATION:	LEGAL DESCRIPTION:			
1716 W Harris	Lots 7, 8, & S/2 of Lot 9, Block 178, Angelo Heights Addition			
SM DISTRICT / NEIGHBORHOOD:	ZONING: FUTURE LAND USE: SIZE:			
SMD District #5 – Karen Hesse				
Smith	Two-Family Residential (RS-2)	Neighborhood	0.373 acres	
Central Neighborhood				
NOTIFICATIONS:				

31 notifications mailed within a 200-foot radius on August 22, 2023 No letters received to date in support or opposition.

#### STAFF RECOMMENDATION:

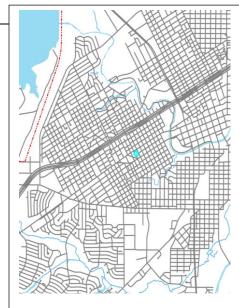
Staff's recommendation is for the Board to APPROVE a variance from 501.A of the Zoning Ordinance to allow for a 10' variance for both front yard setbacks on a corner lot in lieu of the required 25-foot setback on each frontage.

#### PROPERTY OWNER/PETITIONER:

Applicant: Epizooti Investments, LLC Representative: SKG Eng. Jack Downy

#### **STAFF CONTACT:**

**Sherry Bailey Principal Planner** (325) 657-4210, Extension 1546 sherry.bailey@cosatx.us



ZONING BOARD OF ADJUSTMENT Staff Report – 1716 W Harris Ave. September 11, 2023

<u>Additional Information</u>: When looking at this lot in conjunction with the surrounding areas on the west side of Harris in this block the house adjacent is 7 ft. from the front property line. The 10 ft. variance requested means that at a 15 feet setback, the new home will still be set behind the existing home. On the south side of Harris the homes are setback from 15 to 20 feet, which is in keeping with the request. The homes along S Van Buren generally meet the 25 foot setback. In most cases where the corner lots face the north/south side streets, the 25 feet is observed. Where there is a home that fronts on the east/west street there is a shorter front yard setback. But in all cases, the side yard setback is much narrower. The right of way on W. Harris is 12 feet and it is 9 feet on S. Van Buren. The 15 foot setback will have 24 feet to the curb on S. Van Buren which ensures there is no visibility issue with the required site triangle.

<u>Variances</u>: Section 207(F) of the Zoning Ordinance requires that an applicant for a variance must show that a hardship exists <u>and</u> that the Zoning Board of Adjustment make an affirmative finding that each and every one of the following six (6) criteria are met:

1. <u>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.</u>

This is an infill lot that is being developed much later than the existing lots and will be facing an uncommon direction because of the existing home and its construction.

- 2. These special circumstances are not the result of the actions of the applicant.
  The front yard setback is off Harris and that is normally the side yard for other existing homes.
- 3. <u>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.</u> The applicant wants to divide a large lot into two lots and build a home. The lot size will meet the requirements but the front facing by necessity will be impacted by the existing 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. 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.
- **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:**

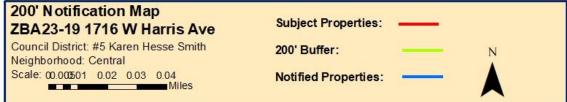
Staff's recommendation is for the Zoning Board of Adjustment (ZBA) to **APPROVE** a variance from 501.A of the Zoning Ordinance to allow for a front yard setback of 15 feet on both S. Van Buren and W Harris.

#### <u>Attachments:</u>

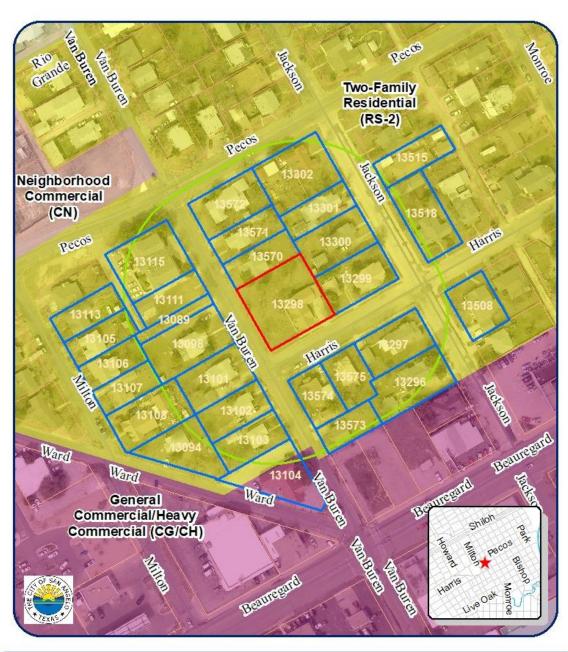
Aerial Map Photographs Site Plan

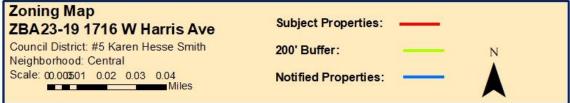
## **Aerial Map**

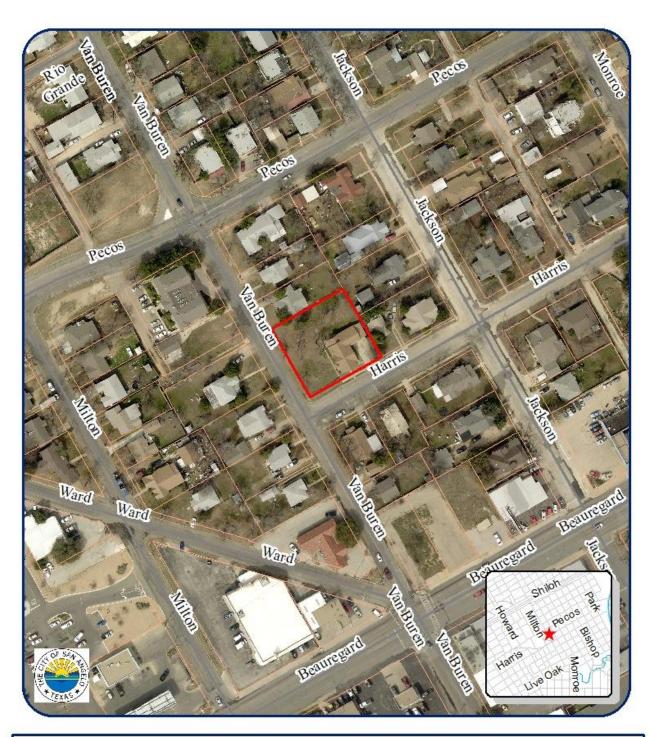




## **Zoning Map of Surrounding Area**

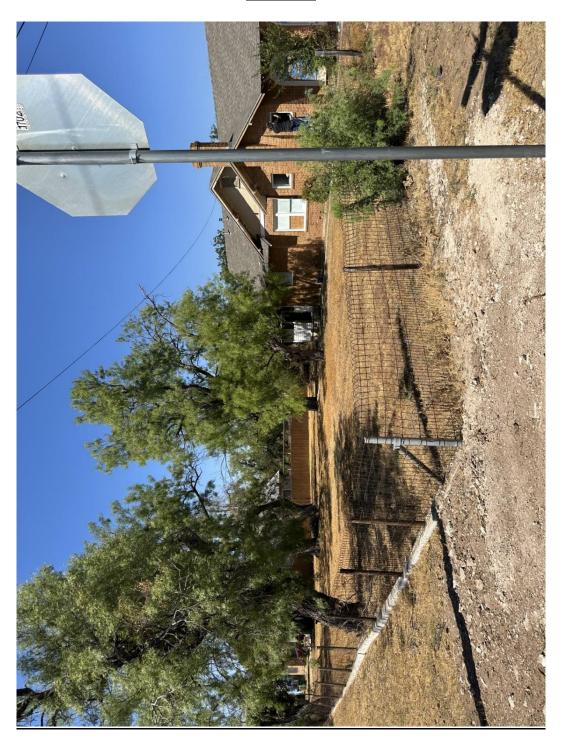






# Aerial Map ZBA23-19 1716 W Harris Ave Council District: #5 Karen Hesse Smith Neighborhood: Central Scale: 00.00501 0.02 0.03 0.04 Miles Subject Properties: N Notified Properties:

## Plat Map



# ZONING BOARD OF ADJUSTMENT – September 11th, 2023 STAFF REPORT



APPLICATION TYPE:	CASE:
Variance	ZBA23-20: 5622 Woodbine Lane
SYNOPSIS:	

The applicant has applied for a variance from Sec 501 to allow a 6.5' rear yard setback in lieu of the 20' setback requirement within the Single-Family Residential (RS-1) Zoning District located at 5622 Woodbine Lane.

LOCATION:	LEGAL DESCRIPTION:		
5622 Woodbine Lane	Lot: 10, Blk: 16, Subd: BENTWOOD COUNTRY CLUB EST, SECTION 18		
SM DISTRICT / NEIGHBORHOOD:	ZONING: FUTURE LAND USE: SIZE:		
SMD District #1 – Tommy Hiebert Country Club Neighborhood	Single-Family Residential (RS-1)	Neighborhood	0.396 acres

#### **NOTIFICATIONS:**

16 notifications mailed within 200-foot radius on August 23, 2023. Received 0 in support or opposition.

#### **STAFF RECOMMENDATION:**

Staff's recommendation is for the Zoning Board of Adjustment (ZBA) to **deny** the requested variance from Section 501.A of the Zoning Ordinance to allow a 6.5' rear yard setback in lieu of the 20' setback requirement. Staff could support a reduced setback of 10', since this yard borders the side yard and driveway of the adjacent house, but does not support the requested variance of 6.5'.

PROPERTY OWNER/PETITIONER:		
Applicant:	Michael Hamilton	

## Rae Lineberry Planner

**STAFF CONTACT:** 

(325) 657-4210, Extension 1533

rae.lineberry@cosatx.us

ZONING BOARD OF ADJUSTMENT Staff Report – ZBA23-20: 5622 Woodbine Lane

**September 11, 2023** 

<u>Additional Information</u>: The owner is requesting this variance so there is not a gap between the house and this patio. The backyard fence abuts the driveway of the house behind it. There are other areas for this patio to be placed that would either not require a variance or would require a 10' setback rather than 6.5' they are requesting.

<u>Variances</u>: 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 shape of the lot makes the back yard a little smaller and does not abut an alley. Picking another area than right up against the house will leave them exposed to outdoor elements when using the patio. Another area may require the homeowner to remove a tree.
- 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. The shape of the lot gives them a smaller backyard but a larger side yard. This means they will have to walk through whatever weather is happening to use the patio if it was built in a different area of the back yard.
- 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 purpose of rear setback requirements is to keep property from affecting surrounding homeowners. Staff believes this is more than the minimum action required.
- 5. <u>Granting the variance will not adversely affect adjacent land in a material way.</u> Granting this variance will not adversely affect the area.
- 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."

#### **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 literal enforcement of the ordinance results in an unnecessary restriction and that granting of the variance will preserve the spirit of the ordinance.

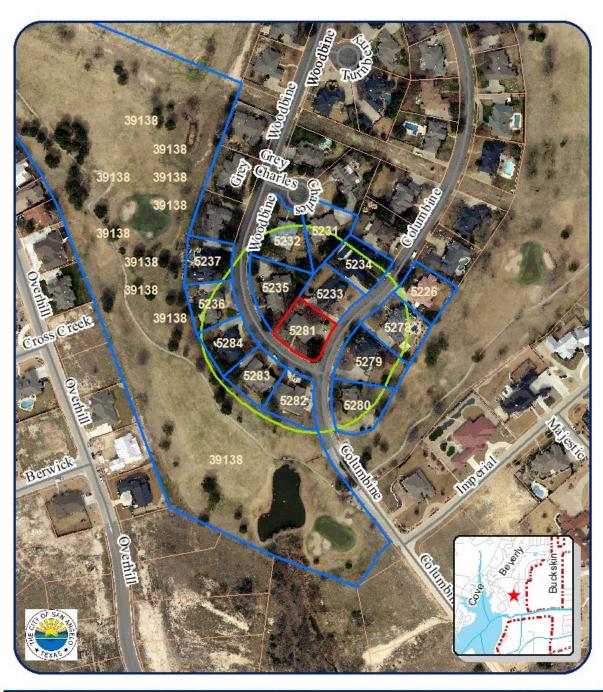
#### **Recommendation:**

Staff's recommendation is for the Zoning Board of Adjustment (ZBA) to **deny** the requested variance from Section 501.A of the Zoning Ordinance to allow a 6.5' rear yard setback in lieu of the 20' setback requirement. Staff could support a reduced setback of 10', since this yard borders the side yard and driveway of the adjacent house, but does not support the requested variance of 6.5'. Another option would be to move the proposed structure to the side yard, connected to the house with a breezeway.

#### **Attachments:**

Notification Map
Aerial Map
Site Photo
Computerized version of patio

## **Notification Map**





## Aerial Map



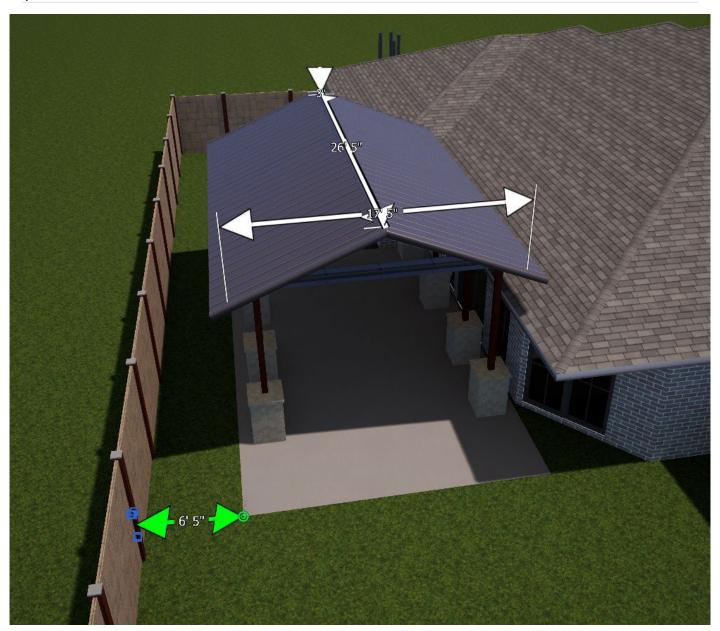
Site Photo



## **Computerized version of patio**







## ZONING BOARD OF ADJUSTMENT – September 11 STAFF REPORT



APPLICATION TYPE:	CASE:
Variance	ZBA23-21: 2512 Princeton

#### **SYNOPSIS:**

The applicant has submitted a request for approval of a variance from Section 406 A. 4. of the Zoning Ordinance to allow for a variance for a Short-Term Rental to be within 500' of another Short-Term Rental. In this case the distance via public roadway is 557'; however, the standard measurement required by ordinance is lot line to lot line in this case 327'.

LOCATION:	LEGAL DESCRIPTION:			
2512 Princeton	Lot: 10, Blk: 14, Subd: COLLEGE HILLS ADDITION, SEC 1			
SM DISTRICT / NEIGHBORHOOD:	ZONING: FUTURE LAND USE: SIZE:			
SMD District #5 – Karen Hesse				
Smith	Single-Family Residential (RS-1)	Neighborhood	0.172 acres	
ASU-College Hills				

#### **NOTIFICATIONS:**

27 notifications mailed within a 200-foot radius.

No letters received to date in support or opposition. One caller in support who received a letter

#### STAFF RECOMMENDATION:

Staff's recommendation is for the Board to **APPROVE** a variance from of the Zoning Ordinance to allow for a variance for a Short-Term Rental to be within 500' of another Short-Term Rental. In this case the distance via public roadway is 557'; however, the standard measurement required by ordinance is lot line to lot line in this case 327'.

#### PROPERTY OWNER/PETITIONER:

Applicant: Doug Robinson, property owner

#### STAFF CONTACT:

Aaron Vannoy Assistant Director Planning and Development Services (325) 657-4210

Aaron.Vannoy@cosatx.us

#### **Case Evaluation**

<u>Variances</u>: Section 207(F) of the Zoning Ordinance requires that an applicant for a variance must show that a hardship exists <u>and</u> 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.

This is an existing lot and home. The neighborhood is in transition to partial ownership and long-term rentals. A short-term rental has more control than long term rentals as the local owner or operator must reside within Tom Green County. This property is less than ¼ mile from the San Angelo Stadium and multiple sports fields with night time lights and reoccurring noise.

- 2. These special circumstances are not the result of the actions of the applicant.
  - The special circumstances are another short-term rental is within 500' of a linear distance via lot lines; however, the properties are on separate streets.
- 3. <u>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.</u> The literal enforcement of the 500' between Short-term rentals via lot lines is prohibiting this applicant from seeking a conditional use through the Planning Commission as the first step to become a short-term rental.
- 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 where the applicant could seek a Conditional Use through the Planning Commission.
- **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 in the immediate future. The applicant must still obtain a Conditional Use through Planning Commission as well as meet the remaining standards of Sec 406 of the zoning ordinances for Short-term rentals.
- 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 which is transitioning to owners and long-term rentals. Literal enforcement prevents the request to obtain a Conditional Use.

#### **Recommendation:**

Staff's recommendation is for the Board to **APPROVE** a variance from of the Zoning Ordinance to allow for a variance for a Short-Term Rental to be within 500' of another Short-Term Rental. In this case the distance via public roadway is 557'; however, the standard measurement required by ordinance is lot line to lot line in this case 327'.

#### **Attachments:**

Aerial Map Photographs Site Plan

## **Aerial Map**



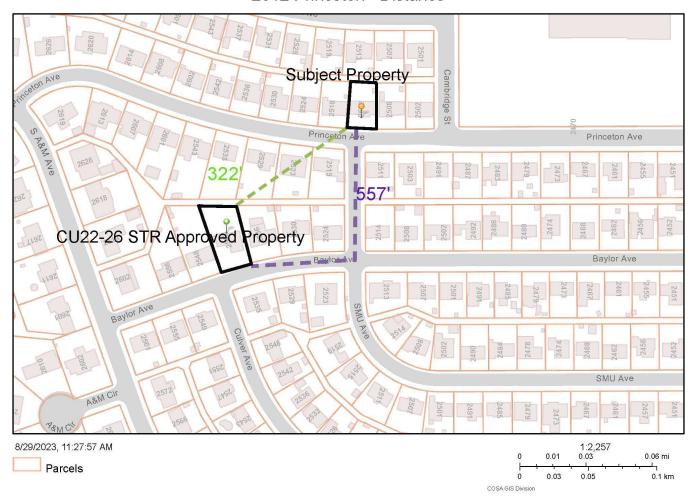
200' Notification Map CU23-31 2512 Princeton	Subject Properties:			
Council District: #5 Karen Hesse Smith Neighborhood: ASU - College Hills	200' Buffer:	_	N	
Scale: 0 0.00 <b>b</b> .01 0.02 0.03 0.04 Miles	Notified Properties:	_		

## **Image of Home**



### **Distance Map**

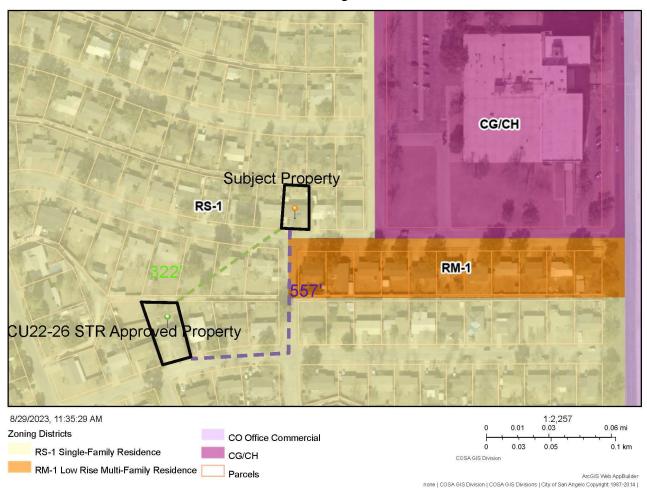
#### 2512 Princeton - Distance



ArcGIS Web AppBuilder none | COSA GIS Division | COSA GIS Divisions | City of San Angelo Copyright 1987-2014 |

## **Area Zoning Map**

## Zoning



# ZONING BOARD OF ADJUSTMENT – September 11th, 2023 STAFF REPORT



APPLICATION TYPE:	CASE:
Variance	ZBA23-18 Amendment: 708 S Randolph Street

#### **SYNOPSIS:**

The applicant has applied for an amendment to the variance previously approved from Sec 501 to allow a 13' front yard setback in lieu of the 14' setback requirement approved at the August 7<sup>th</sup>, 2023 meeting. This is within the Two-Family Residential (RS-2) Zoning District located at 708 S Randolph, San Angelo, Tom Green County, Texas.

LOCATION:	LEGAL DESCRIPTION:		
708 S Randolph Street	Millspaugh Addition, W120' of Lot 7, Blk: 20		
SM DISTRICT / NEIGHBORHOOD:	ZONING: FUTURE LAND USE: SIZE:		SIZE:
SMD District #3 – Harry Thomas Ft Concho Neighborhood	Two-Family Residential (RS-2)	Neighborhood	0.141 acres

#### **NOTIFICATIONS:**

20 notifications mailed within 200-foot radius on August 23, 2023. Received 0 in support or opposition.

#### **STAFF RECOMMENDATION:**

Staff's recommendation is for the Zoning Board of Adjustment (ZBA) to **deny** a 13' setback and uphold the 14' setback that was approved to keep in line with the houses next door.

#### PROPERTY OWNER/PETITIONER:

Applicant: Paloma Custom Homes, LLC

#### **STAFF CONTACT:**

Rae Lineberry
Planner
(325) 657-4210, Extension 1533
rae.lineberry@cosatx.us

<u>Additional Information</u>: There was a house previously on this lot that burned down and the property is currently vacant. The applicant would like to build the house in the same location as the original. The applicant measured from the curb back 25' which puts them about 5' from the property line. However, looking at the floorplan it looks like that is the carport that will be setback 5' but the house will be setback 14'.

After the meeting last month, the applicant went and poured the concrete for the foundation. They did not measure to verify that it was 14', as approved. When the inspector went out to inspect, he found it to be less than 14' and issued a stop work order. The building official and inspector returned and measured a second time and the measurement showed that the foundation was 13' from the property line, instead of the approved 14'.

<u>Variances</u>: 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 original house was built outside of the minimum setbacks as it predates them. The residence next door and across the alley are also 14' from the property line.
- 2. <u>These special circumstances are not the result of the actions of the applicant.</u> The older neighborhood and other houses having similar issues is not the result of any action by the applicant.
- 3. <u>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.</u> There are other houses on the street that have similar issues and other properties have received similar variances.
- 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 this variance will not adversely affect the area.
- 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."

#### **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.

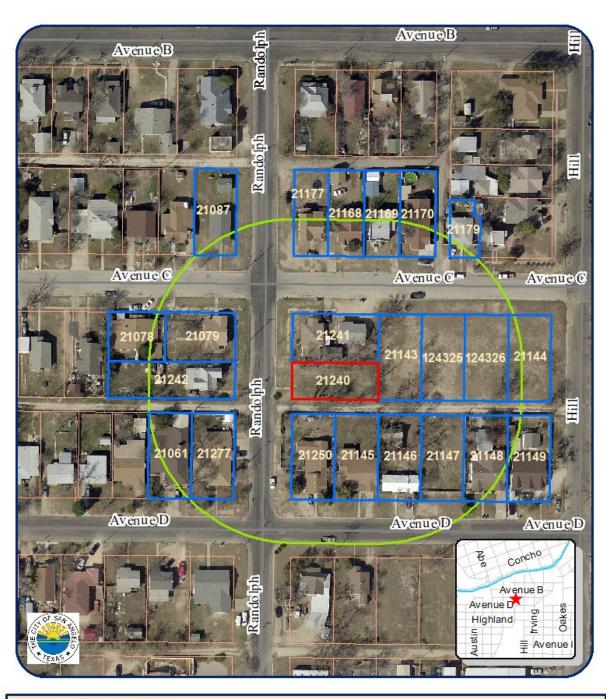
#### **Recommendation:**

Staff's recommendation is for the Zoning Board of Adjustment (ZBA) to **deny** a 13' setback and uphold the 14' setback that was approved to keep in line with the houses next door.

#### **Attachments:**

Notification Map
Aerial Map
Site Photo
Site Plan
Site Plan (zoomed in)
Floor Plan (zoomed in)

## **Notification Map**





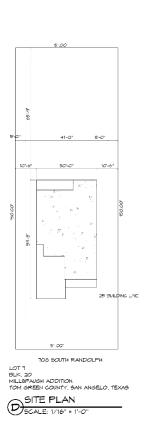
## Aerial Map

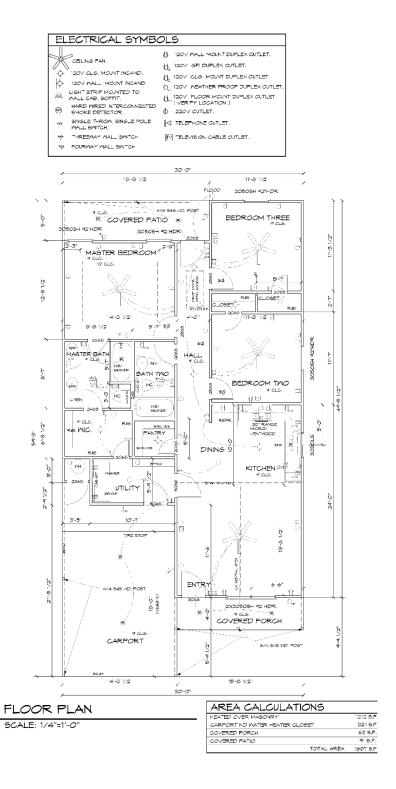


Site Photo

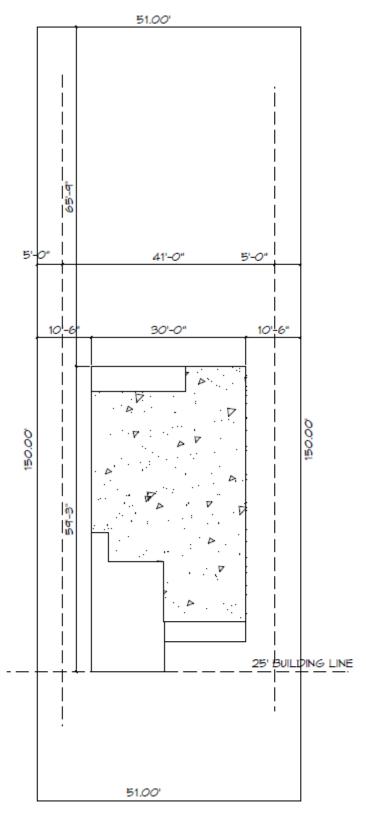


## Site Plan





## Site Plan (zoomed in)



108 SOUTH RANDOLPH

## Floor Plan (zoomed in)

