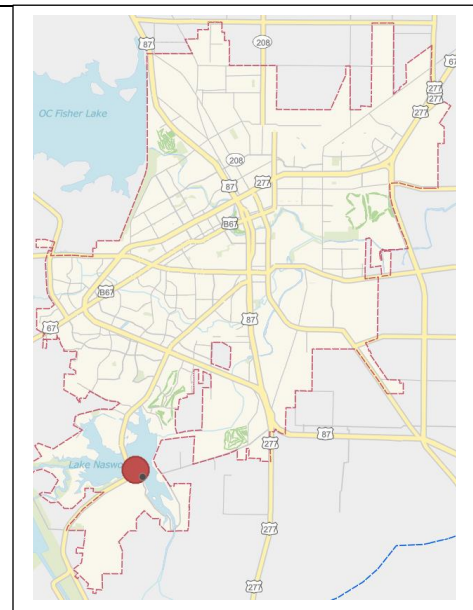


**ZONING BOARD OF ADJUSTMENT – November 6, 2023
STAFF REPORT**



APPLICATION TYPE:		CASE:	
Variance		ZBA23-29: 1910 S Concho Drive	
SYNOPSIS:			
<p>The applicant has submitted a request for approval of a variance from Section 501.A of the Zoning Ordinance to allow for a 5 to 7 foot front yard setback from the property line setback for 1910 S Concho Drive. The property line is 27 feet from the existing garage. The measurement from property line to property line shows a 92 foot width right of way, with 40 feet of pavement for S. Concho Drive. This area is not in the Open Structures Overlay zone, so the front yard setback, even for the existing carport, is 25 feet.</p>			
LOCATION:		LEGAL DESCRIPTION:	
1,900 ft. from the South Concho Dr. & Knickerbocker Rd. intersection.		Lot 18, Blk. 1 LAKE NASWORTHY Subd., Group 9	
SM DISTRICT / NEIGHBORHOOD:	ZONING:	FUTURE LAND USE:	SIZE:
SMD Dist. #1 – Tommy Hiebert Nasworthy Neighborhood	Single-Family Residential (RS-1)	Neighborhood	0.496 acres
NOTIFICATIONS:			
<p>10 notifications mailed within a 200-foot radius on October 11, 2023. No letters received to date in support or opposition.</p>			
STAFF RECOMMENDATION:			
<p>Staff believes this application has not meet the criteria for a variance and therefore the request for a variance from 501.A of the Zoning Ordinance to allow for a 5 foot front yard setback in lieu of the required 25-foot setback at 1910 S Concho Drive should to be DENIED.</p>			

PROPERTY OWNER/PETITIONER:
Applicant: Beth Lee
STAFF CONTACT:
Sherry Bailey Principal Planner (325) 657-4210, Extension 1546 sherry.bailey@cosatx.us



Additional Information: The applicant believes that adding an open carport to the front of the garage, which will have the same pitch and roof of the existing garage and be attached to the home will not impact the area. Several neighbors along the same road have similar structures. No obstruction of visibility for the neighbors or road traffic.

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 believes that adding a carport is the best solution for protecting the owner's cars without impacting the neighborhood. However, this does not meet the criteria for a special circumstance that is peculiar to the land or structure.
2. **These special circumstances are not the result of the actions of the applicant.** The front yard setback is from the property line, which is 23 feet to the pavement for S Concho Drive. The carport will then be another 7 feet back from the property line. The overall appearance will be one of a significant setback from the actual road pavement.
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's home does sit closer to the right of way line than other homes in the area. Making it necessary for a variance in order to build the carport into the front setback requirement. However, this is not an undue hardship warranting a variance to the rules that all other similar properties must follow.
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, it would be subverting the spirit of the zoning ordinance by allowing something specifically prohibited by the ordinance and, therefore, is contrary to the public interest absent a special circumstance or hardship.
5. **Granting the variance will not adversely affect adjacent land in a material way.** Granting the variance could potentially block views from adjacent properties. However, others in the neighborhood have carports that are similar and are close to the front property 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." Staff believes that granting this variance is not consistent with the intent of the zoning ordinance.

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 and literal enforcement will deprive her of a necessary addition to her home. However, staff could not find a hardship or other overriding public interest that would warrant not applying the adopted ordinance standards to this property.

Recommendation:

Staff's recommendation is for the Zoning Board of Adjustment (ZBA) to **DENY** a variance from 501.A of the Zoning Ordinance to allow for a front yard setback of 5'feet in lieu of the required 25 feet in order to build a carport to protect her vehicles. However, if the Board makes an affirmative finding to Sec 207 F of the Zoning Ordinance, then staff would recommend adding the following conditions:

1. The driveway access needs to be paved to the right of way property line to city specifications.
2. No parking in the right of way will be allowed.
3. Obtain a building permit from the city for the carport and driveway access.
4. Carport should match the characteristics of the primary structure in design and materials.

Attachments:

Aerial Map
Zoning Map
Notification Map
Photos



Aerial Map

ZBA23-29: 1910 S Concho

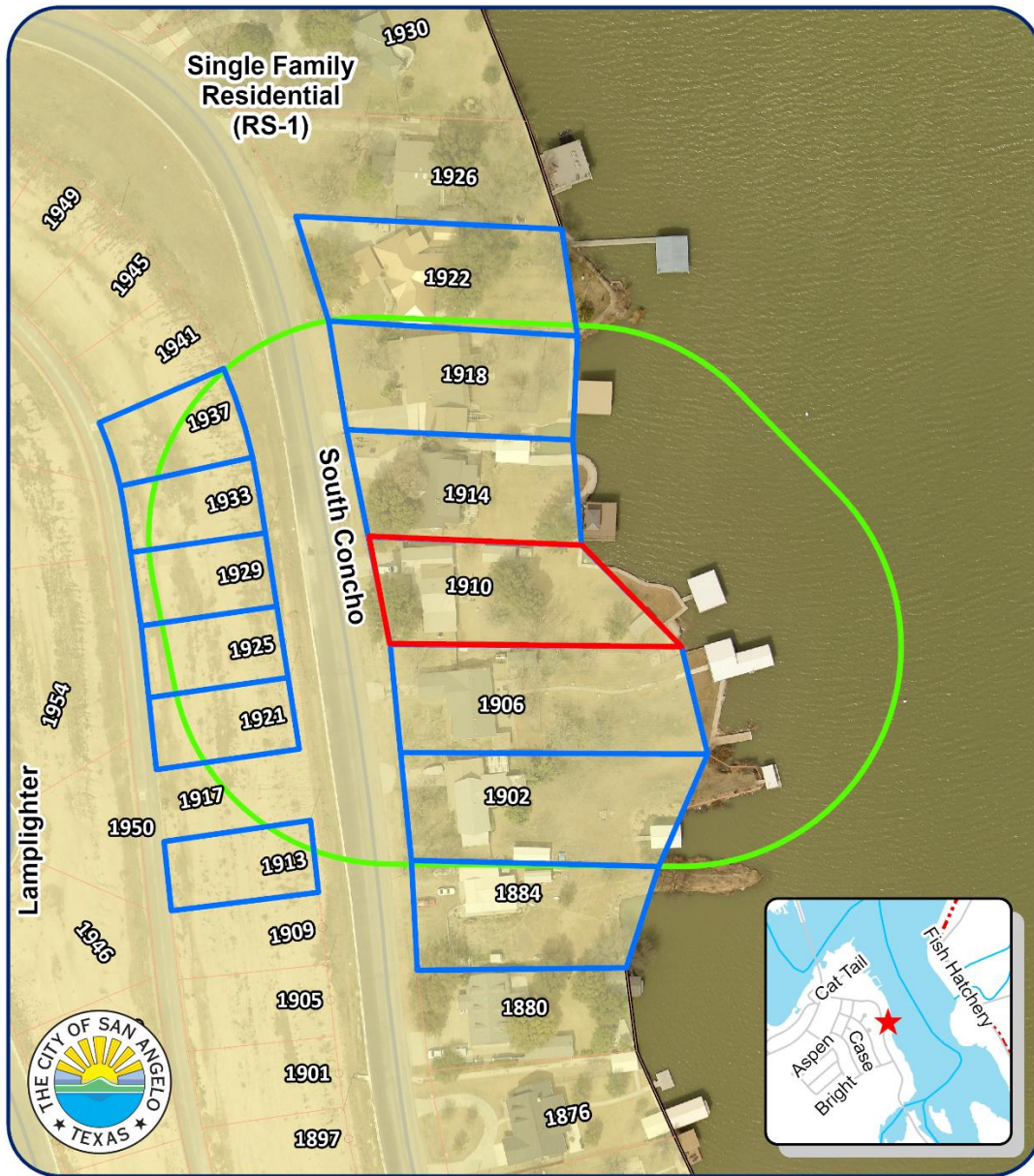
Council District: #1 Tommy Hiebert

Neighborhood: Nasworthy

Subject Properties: ———

Scale: 0 0.01 0.01 0.02 0.03 0.04 Miles



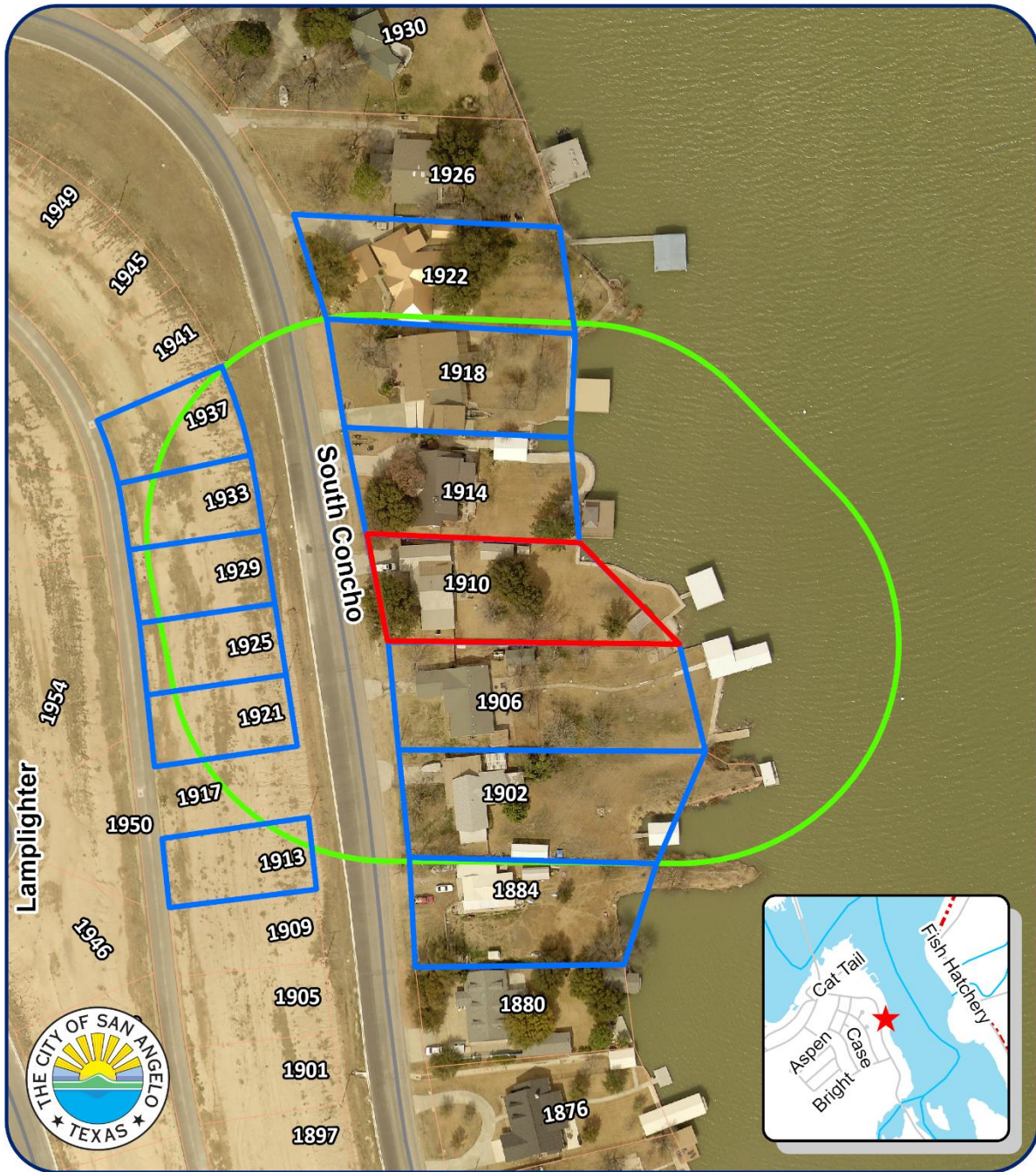


Zoning Map
ZBA23-29: 1910 S Concho
 Council District: #1 Tommy Hiebert
 Neighborhood: Nasworthy

Scale: 0.00 0.01 0.02 0.03 0.04 Miles

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

N



200' Notification Map
ZBA23-29: 1910 S Concho
 Council District: #1 Tommy Hiebert
 Neighborhood: Nasworthy

Scale: 0.00 0.01 0.02 0.03 0.04 Miles

Subject Properties: —

200' Buffer: —

Notified Properties: —







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



APPLICATION TYPE:		CASE:	
Variance		ZBA23-30: 2609 A & M Circle	
SYNOPSIS:			
The applicant has submitted a request for a variance from Section 406.A.4. of the Zoning Ordinance for a Short-Term Rental to be within 500' of another Short-Term Rental. Measuring from lot line to lot line, per the ordinance, this property is 493 feet from the nearest lot with an STR. However, measuring along the street frontage, this lot is 606 feet from the nearest lot with an STR.			
LOCATION:		LEGAL DESCRIPTION:	
2609 A & M Circle		Lot: 10 LESS NORTH 10 FEET SEC 2, Blk: 11, Subd: COLLEGE HILLS ADDITION	
SM DISTRICT / NEIGHBORHOOD:	ZONING:	FUTURE LAND USE:	SIZE:
SMD District #5 – Karen Hesse Smith ASU-College Hills Neighborhood	Single-Family Residential (RS-1)	Neighborhood	0.411 acres
NOTIFICATIONS:			
14 notifications mailed within a 200-foot radius. No letters received to date in support or opposition.			
STAFF RECOMMENDATION:			
Staff does not have a recommendation for the board.			
PROPERTY OWNER/PETITIONER:			
Applicant: Thorne Campbell, property owner			
STAFF CONTACT:			
Rae Lineberry Planner (325) 657-4210 rae.lineberry@cosatx.us			

Case Evaluation

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.**
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. A special circumstance is that this lot and the nearby STR lot are not on the same street and measured along the roadway they are greater than 500' apart.
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. **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 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.
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 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 does not have a recommendation for the Board. This request is 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 606'; however, the standard measurement required by ordinance is lot line to lot line in this case 493'.


Attachments:

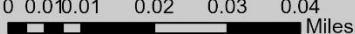
Aerial Map
Image of Home
Distance Map

Aerial Map



Aerial Map
ZBA23-30: 2609 A&M Circle
Council District: #5 Karen Hesse Smith
Neighborhood: ASU - College Hills

Subject Properties: 

Scale:  0 0.01 0.01 0.02 0.03 0.04 Miles




Image of Home



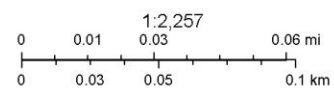
Distance Map

ArcGIS Web Map



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COSA GIS Division