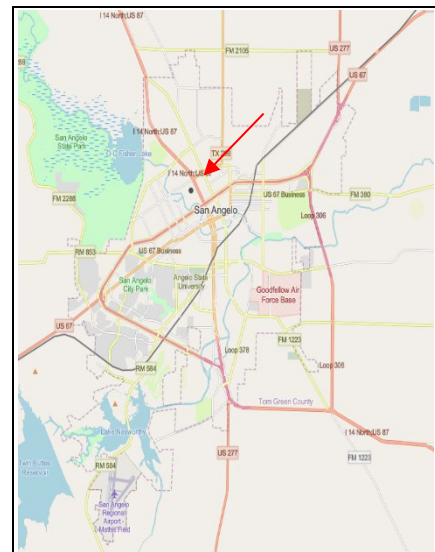


**ZONING BOARD OF ADJUSTMENT – December 4, 2023
STAFF REPORT**



APPLICATION TYPE:		CASE:	
Variance		ZBA23-33: 701 W 16 th Street	
SYNOPSIS:			
The applicant has submitted a request for approval of three variances from Section 501 A. Residential Development Standards of the Zoning Ordinance to allow for a variance of a 99 ft. lot depth in lieu of the 100 ft. depth requirement, and to allow 4950 sq. ft. in lieu of the required 5000 sq ft. per lot, and to allow a 15 ft. front yard setback in lieu of the required 25 ft. on N. Brown Street.			
LOCATION:		LEGAL DESCRIPTION:	
701 W 16 th Street		Mineola Addition; N 99 ft. of Lot 1, Blk. 11	
SM DISTRICT / NEIGHBORHOOD:	ZONING:	FUTURE LAND USE:	SIZE:
SMD District #4 – Lucy Gonzales Blackshear Neighborhood	RS-1 zoning district	Neighborhood	0.114 acres
NOTIFICATIONS:			
22 notifications mailed within a 200-foot radius. No responses either for or against the request.			
STAFF RECOMMENDATION:			
Staff’s recommendation is for the Board to approve all three variance requests including: 99 ft. lot depth in lieu of the 100 ft. depth requirement, and to allow 4950 sq. ft. in lieu of the required 5000 sq ft. per lot, and to allow a 15 ft. front yard setback in lieu of the required 25 ft. on N. Brown Street.			
PROPERTY OWNER/PETITIONER:			
Applicant’s representative: SKG Eng. Jack Downey			
STAFF CONTACT:			
Sherry Bailey Principal Planner (325) 657-4210 Ext. 1546 sherry.bailey@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 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 lot was originally divided many years ago. The present owner wants to build a single-family home on the lot and needs to make a usable lot out of the remainder.
2. **These special circumstances are not the result of the actions of the applicant.** This lot was divided over time. The original plat was done in March of 1928. At that time Lots 1 & 2 of Blk. 11 were 149 ft. by 50 ft.. On 1/18/2012 a plat was approved that separated the S 50 ft. of Lots 1 & 2 into a 50 ft. by 100 ft. Lot 1A. There was a house on the remainder of Lot 2 but the remainder of Lot 1 was vacant. Lot 1 is now being separated off as a stand-alone lot, hence the request for a variance. Lot 2 and Lot 1 have different owners.
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.** Literal enforcement would mean that nothing could be built on the lot. The 99 ft. instead of the minimum 100 ft. would keep anyone from building on the Single Family Residential zoned Lot 1 (RS-1) without a variance. Lots 1 & 2 do not have the same owners.
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.** Granting the variances would allow the owner to build a home at least 30 ft. wide and 45 ft in length. That would allow a minimum of 1350 sq. ft.
5. **Granting the variance will not adversely affect adjacent land in a material way.** This variance will adversely affect adjacent areas. Properties to the North would have potentially more noise as the back of these homes would only be 10' from the 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 if granted this variance will disrupt the pattern of development in this area. The pattern of development has been 20' rear yard setbacks in the neighborhood. The action that resulted in the undersized lots (the replatting of Lot 1A) was approved by the City in 2012. There is not a way to undue that action and failing to correct it in the beginning would unduly penalized the present owners.

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 does not apply:

Variances Not Allowed. (Zoning Code Section 207 D.) In exercising its authority, the Zoning Board of Adjustment shall not grant a variance that would create any of the following effects.

The effect of the variance on the specific property would adversely affect the land use pattern as outlined by any City land use plan or policy.

The variance would be a material detriment to the public welfare or create injury to the use, enjoyment or value of property in the vicinity.

The variance is not the minimum variance that will relieve the proven hardship.

The variance would allow a use not allowed in the use table for the district in which the parcel is located.

The variance will relieve the applicant of conditions or circumstances that are caused by the illegal subdivision of land, which subdivision of land caused the property to be unusable for any reasonable development under the existing regulations.

The variance will relieve the applicant of conditions or circumstances that are self-imposed.

The variance is grounded solely upon the opportunity to make the property more profitable or to reduce expense to the owner.

The variance will modify any condition imposed by the Planning Commission or City Council as part of a conditional use, special use, Planned Development District or Planned Industrial Park.

The variance would not only affect a specific parcel but would be of such general nature as to constitute, in effect, a change in zoning of the parcel or a larger area or would merit an amendment to this Zoning Ordinance.

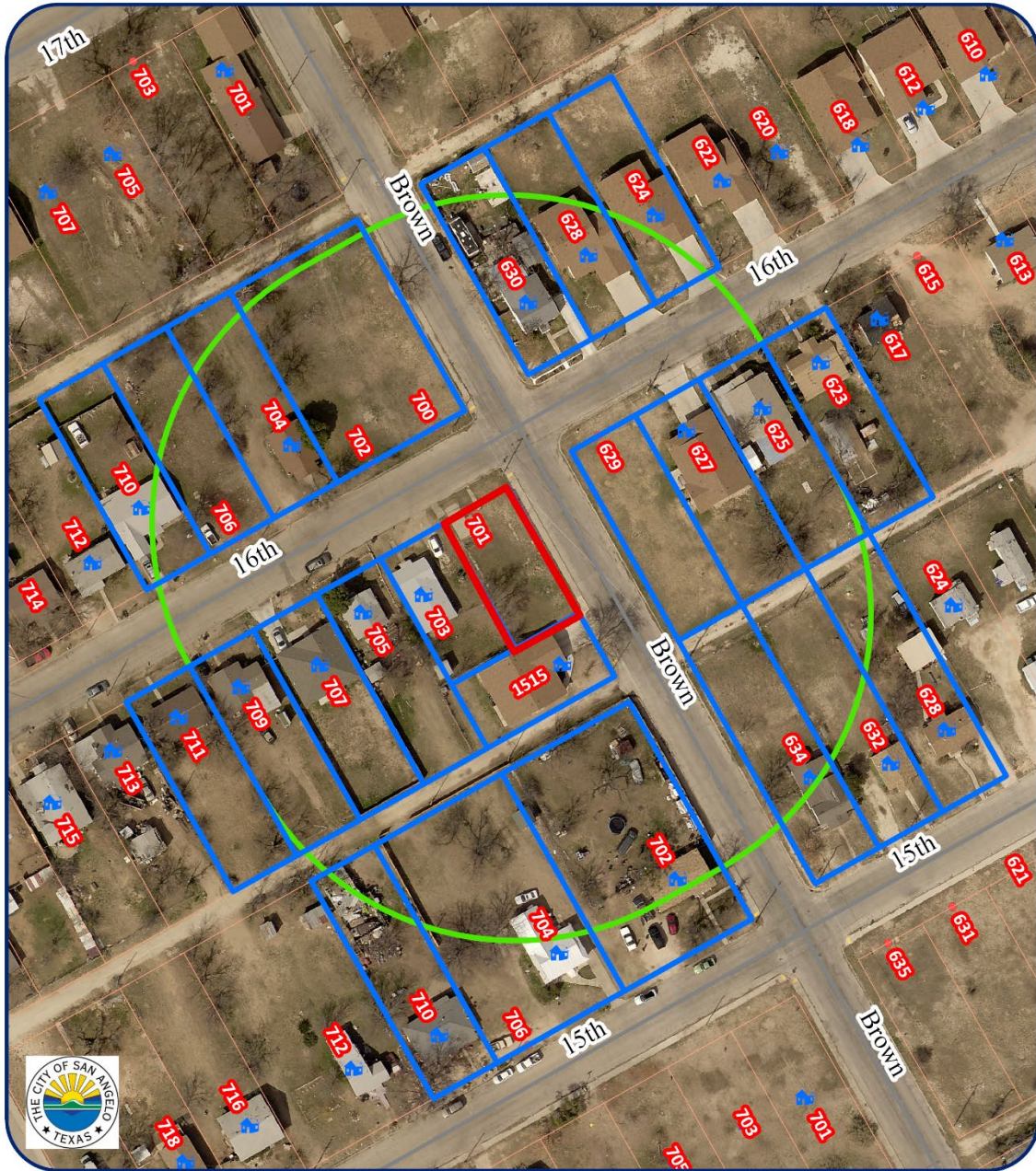
Recommendation:

Staff's recommends that the Board **APPROVE** the request for a variance for each of the following three items: a variance for a 99 ft. lot depth in lieu of the 100 ft. depth requirement, and to allow 4950 sq. ft. in lieu of the required 5000 sq ft. per lot, and to allow a 15 ft. front yard setback in lieu of the required 25 ft. on N. Brown Street.

Attachments:

Aerial Map
Photographs
Site Plan

Notification Map



200' Notification Map
ZBA23-33 701 W 16th St.
Council District: #4 Lucy Gonzales
Neighborhood: Blackshear
Scale: 0 0.01 0.02 0.03 0.03 Miles

Subject Properties: ——— (red line)
200' Buffer: ——— (green line)
Notified Properties: ——— (blue line)




N
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Aerial Map



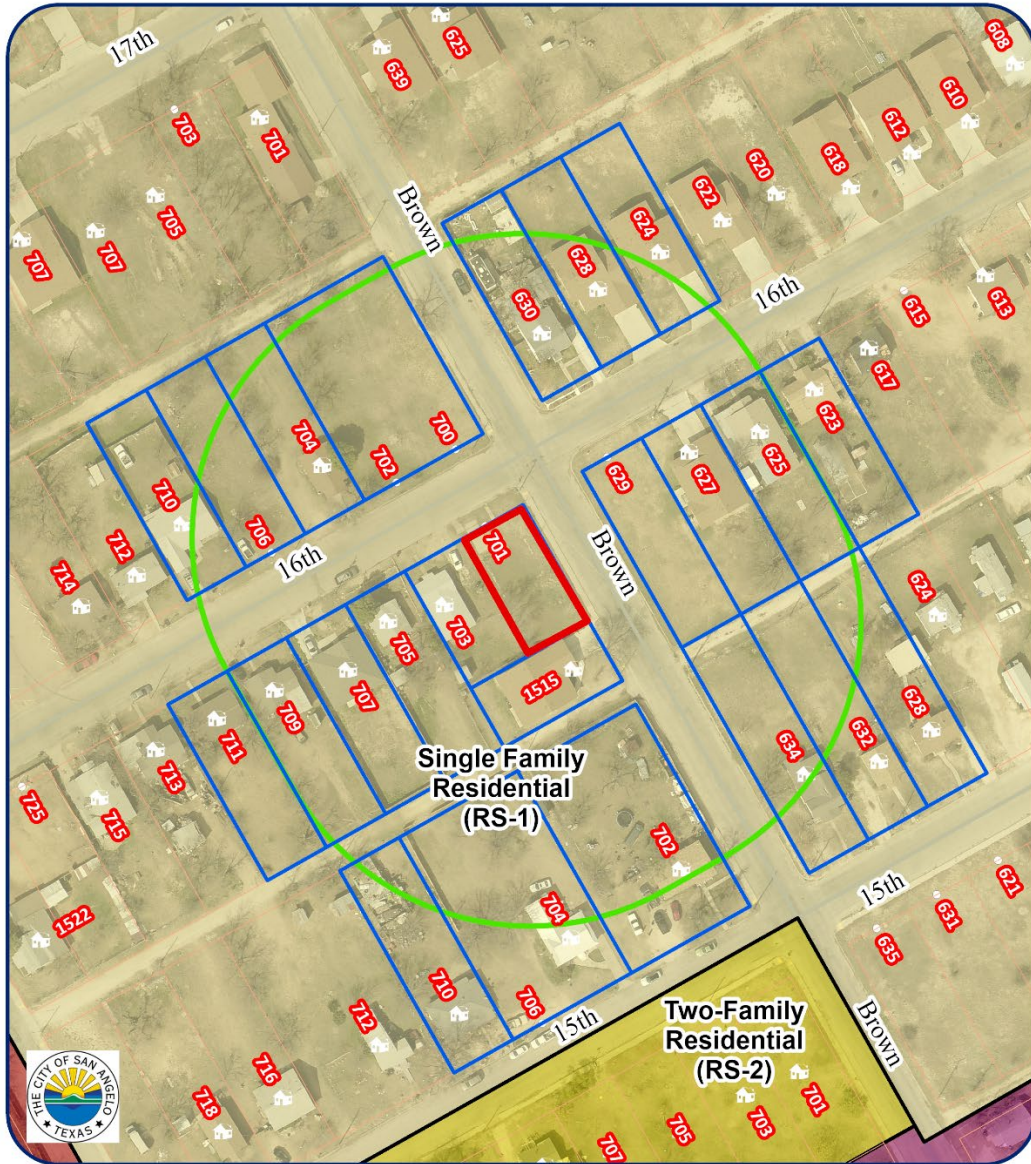
200' Notification Map
ZBA23-33 701 W 16th St.
Council District: #4 Lucy Gonzales
Neighbourhood: Blackshear

Scale: 0 0.01 0.02 0.03 0.04 Miles

Subject Properties: 
200' Buffer: 
Notified Properties: 

N


Zoning Map



200' Notification Map
ZBA23-33 701 W 16th St.
Council District: #4 Lucy Gonzales
Neighbourhood: Blackshear
Scale: 0 0.01 0.02 0.03 0.04 Miles

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

N
▲

**ZONING BOARD OF ADJUSTMENT – December 4th, 2023
STAFF REPORT**



APPLICATION TYPE:		CASE:	
Variance		ZBA23-34: 1525 Paseo de Vaca	
SYNOPSIS:			
<p>The applicant has applied for a variance from Sec 501 to allow a 10' rear yard setback in lieu of the 20' setback requirement within the Single-Family Residential (RS-1) Zoning District located at 1525 Paseo de Vaca. The applicant would like to build an attached second garage.</p>			
LOCATION:		LEGAL DESCRIPTION:	
1525 Paseo de Vaca		Lot: 11, Blk: 8, Subd: SANTA RITA ADDITION	
SM DISTRICT / NEIGHBORHOOD:	ZONING:	FUTURE LAND USE:	SIZE:
SMD #5 – Karen Hesse Smith Santa Rita Neighborhood	Single-Family Residential (RS-1)	Neighborhood	0.371 acres
NOTIFICATIONS:			
<p>15 notifications mailed within 200-foot radius on November 20, 2023. Received 0 in support or opposition.</p>			
STAFF RECOMMENDATION:			
<p>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 10' rear yard setback in lieu of the 20' setback requirement for a second garage.</p>			
PROPERTY OWNER/PETITIONER:			
Applicant: David Mazur Construction			
STAFF CONTACT:			
Rae Lineberry Planner (325) 657-4210, Extension 1533 rae.lineberry@cosatx.us			

Additional information: The applicant has two driveways. One off Avenue L and the other off Paseo de Vaca. They are requesting for the garage to be off Avenue L back behind their fence and in their rear yard. The setback for a rear yard is 20'. The garage will be attached to the house and will be about 21' 5 ½" from house leaving 10' from property line. There are two others in the area that requested a variance for a rear setback; one for a garage and one for a pool house. Staff recommended against but the board voted to approve both. This particular lot has other options and Staff has failed to identify a qualifying hardship so is recommending denial.

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 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. Staff has failed to identify a qualifying hardship.
2. **These special circumstances are not the result of the actions of the applicant.** As Staff has not identified a hardship, there is not a special circumstance.
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. There is another driveway off Paseo de Vaca with adequate space for the dimensions of the garage on the site plan.
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 requirement is to keep property from affecting surrounding homeowners. Staff believes this is the minimum action required.
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.*

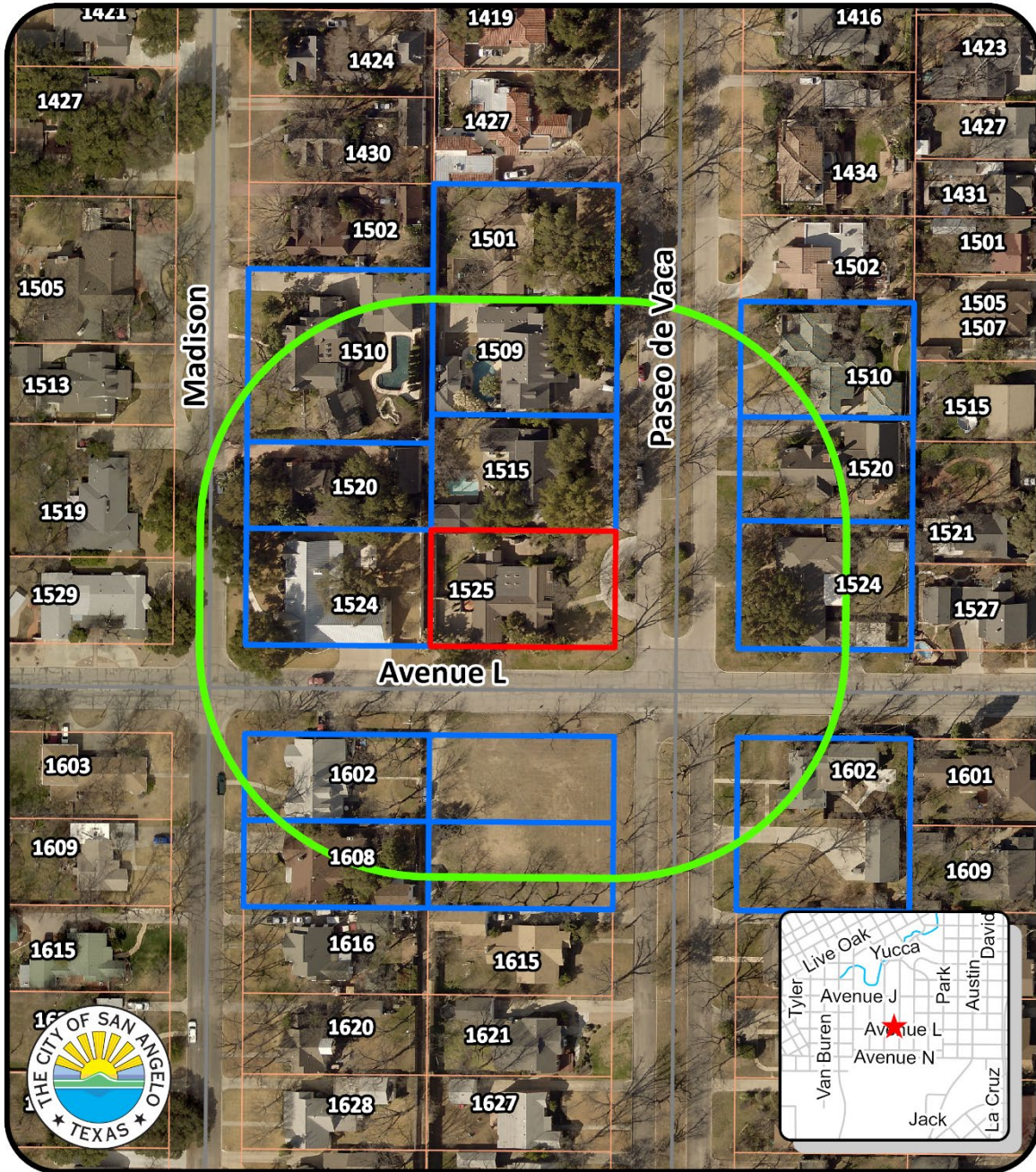
Recommendation:


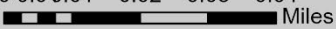
Staff's recommendation is for the Zoning Board of Adjustment (ZBA) to **deny** the requested variance from Section 501.A of the Zoning Ordinance to allow a 10' rear yard setback in lieu of the 20' setback requirement for a second garage.

Attachments:

Notification Map
Aerial Map
Site Plan/Survey
Site Photos

Notification Map

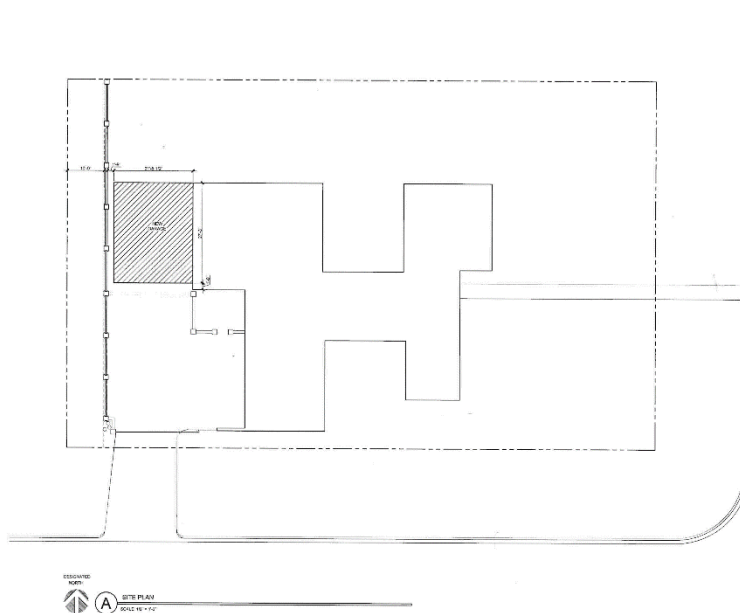


200' Notification Map ZBA23-34: 1525 Paseo de Vaca Council District: #5 Karen Hesse Smith Neighborhood: Santa Rita		Subject Properties: — 200' Buffer: — Notified Properties: —	N 
Scale: 0 0.01 0.02 0.03 0.04 Miles 			

Aerial Map



Site Plan



Site Photo



**ZONING BOARD OF ADJUSTMENT – December 4, 2023
STAFF REPORT**



APPLICATION TYPE:		CASE:	
Variance – Distance between Short Term		ZBA23-35: 3013 Red Bluff Circle	
SYNOPSIS:			
The applicant has applied for a variance from Sec 426 to allow a distance less than 500' between Short-Term Rentals is RS-1 zoning.			
LOCATION:		LEGAL DESCRIPTION:	
3013 Red Bluff Circle		Lot: 58 SECTION 3, Blk: 3, Subd: LAKE NASWORTHY, RED BLUFF	
SM DISTRICT / NEIGHBORHOOD:	ZONING:	FUTURE LAND USE:	SIZE:
SMD District #1 – Tommy Hiebert Nasworthy neighborhood	Single-Family Residential (RS-1)	Neighborhood	0.40 acres
NOTIFICATIONS:			
13 notifications mailed within 200-foot radius – November 2023. Received 0 in support, 0 opposition.			
STAFF RECOMMENDATION:			
City staff has no recommendation currently. Processing issue in October 2022; applicant email application to City of San Angelo. Application did not get processed. Applicant thought everything was ok and began operating. Since that time, a property at 2950 Red Bluff Circle has been issued a Conditional Use for a Short-Term Rental. Applicant reached out in November 2023 asking what it takes to renew their application. The properties are 195' apart.			
PROPERTY OWNER/PETITIONER:			
Applicant: Tim Brannan – Property Owner Kelly Nelson - Operator			
STAFF CONTACT:			
Aaron Vannoy Assistant Director Planning and Development Services (325) 657-4210, Extension 1542 Aaron.vannoy@cosatx.us			

Additional Information:

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 orientation of the lots has the rear yards in different directions. Both lots are long being over 240’ deep. These lots both have adequate parking and a large City owned property as access to the roadway.
2. **These special circumstances are not the result of the actions of the applicant.** In this case, the applicant did apply in 2022 and followed up in Nov. Of 2023. The applicant believes they have done their part.
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.** By literal interpretation of the ordinance the distance is less than 500’. this distance is applied equitably across all RS zoning districts by property line to property line.
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.** This is the beginning of the process, the applicant would still be required to obtain a conditional use for a short-term rental by planning commission.
5. **Granting the variance will not adversely affect adjacent land in a material way.** Granting the less than 500’ distance variance is not known to have impacted adjacent properties in a material way at this time.
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.” Short-term rentals around the lake properties is an established pattern of development and those such properties with an STR designation are considered residential.

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:

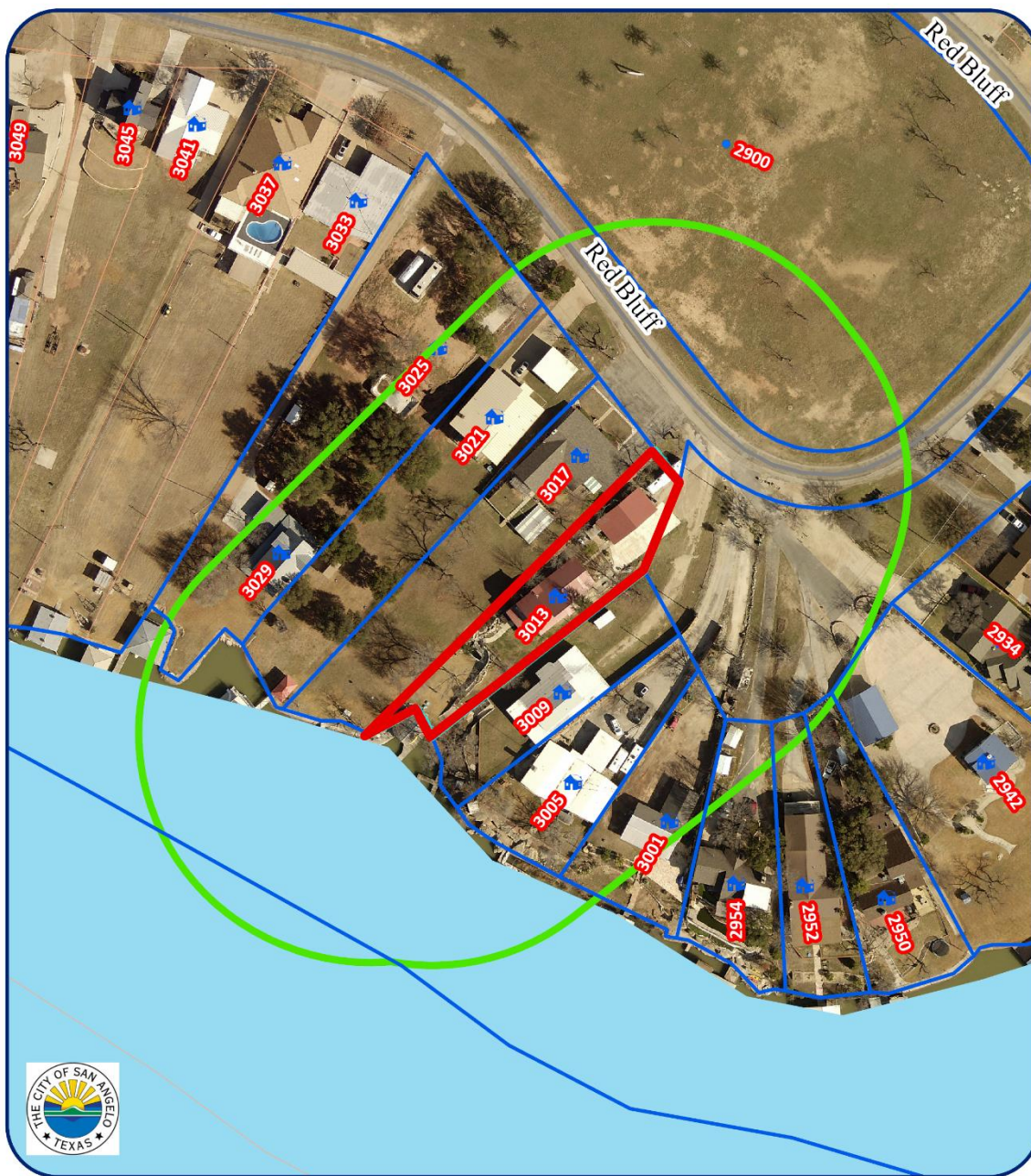
1. **SPECIAL CIRCUMSTANCES RESULTING IN UNNECESSARY HARDSHIP.** *Where special circumstances exist on the property related to the size, shape, area, topography, surrounding conditions or location that do not generally apply to other property in the same zoning district, and that the circumstances are 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.* Currently we do not believe the lot or location presents an unnecessary hardship.
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.* There is not existing structure on this lot. As this is a new build the enforcement at the site plan review confirmed there are no extraordinary circumstances to vary the ordinance.

Recommendation: City staff has no recommendation currently.

Attachments:

Notification Map
Aerial Map

Notification Map



200' Notification Map
ZBA23-35 3013 Red Bluff Cir

Council District: #1 Tommy Hiebert
Neighbourhood: Nathworthy

Scale: 0 0.00.01 0.02 0.03 0.04
Miles

Subject Properties: —

200' Buffer: —

Notified Properties: —

