

**ZONING BOARD OF ADJUSTMENT – August 5, 2024
STAFF REPORT**

APPLICATION TYPE:		CASE:	
Variance		ZBA24-24: 2646 Colorado Avenue	
SYNOPSIS:			
<p>A request for approval of a variance from Section 402.A.2 of the Zoning Ordinance for an accessory building size of 912 sq. ft. in lieu of the maximum 764 sq. ft. located at 2646 Colorado Ave.</p>			
LOCATION:		LEGAL DESCRIPTION:	
2646 Colorado Ave		Blk: 29, Subd: WEST HEIGHTS ADDITION, EAST 35 FT OF LOT 8 & WEST 25 FT OF LOT 9	
SM DISTRICT / NEIGHBORHOOD:		ZONING:	FUTURE LAND USE:
District #5 – Karen Hesse Smith Neighborhood – Santa Rita		Single-Family Residential (RS-1)	Neighborhood
SIZE:			
0.207			
NOTIFICATIONS:			
<p>23 notifications were mailed within a 200-foot radius on July 19th, 2024. At time of writing, 1 has been returned in support and 1 has been returned in opposition.</p>			
STAFF RECOMMENDATION:			
<p>Staff recommend DENIAL of a variance from Section 402.A.2 for an accessory building size of 912 sq. ft. in lieu of the maximum 764 sq. ft.</p>			
PROPERTY OWNER/PETITIONER:			
Applicant: Innova4 LLC			
STAFF CONTACT:			
<p>Austin Reed Planner (325) 657-4210, extension 1550 austin.reed@cosatx.us</p>			

Additional Information:

There is an existing single-family home located on this lot. The variance request is for a structure that has been built in the back yard. It is staff's understanding that this structure was built by the previous owners without a permit some time in the last year and a half. Upon learning this it has also been determined the structure was out of compliance, the City informed the owners that they would need to seek a variance or modify the structure. The use of this structure is to be a guest quarters/office for a short-term rental if the applicant receives approval of a Conditional Use permit.

Variations: In addition to the six criteria in the City's Zoning Ordinance, in exercising its authority to grant a variance, per Section 207.F of the Zoning Ordinance, the Zoning Board of Adjustment must affirmatively find that each 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.**
There do not appear to be any special circumstances, not merely financial, that are peculiar to the land in justifying a variance.
2. **These special circumstances are not the result of the actions of the applicant.**
There are no special circumstances outside of the current owner having not built the structure themselves. Unfortunately, this cannot be construed as a hardship. While this was not a result of the current owner's actions, they did purchase the property as-is.
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.**
Every neighbor in the immediate area appears to comply with zoning regulations in regards to accessory building size. Therefore, literal interpretation would not deprive the applicant of commonly enjoyed rights.
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 land is being used appropriately without a variance and granting a variance may be contrary to the spirit of the Zoning Ordinance.
5. **Granting the variance will not adversely affect adjacent land in a material way.**
While granting this variance is unlikely to affect adjacent land in a material way, a point of concern may be the structure's visibility or if it emits noise.
6. **Granting the variance will be generally consistent with the purposes and intent of this Zoning Ordinance.**
Granting a variance in this scenario may be contrary to 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.*

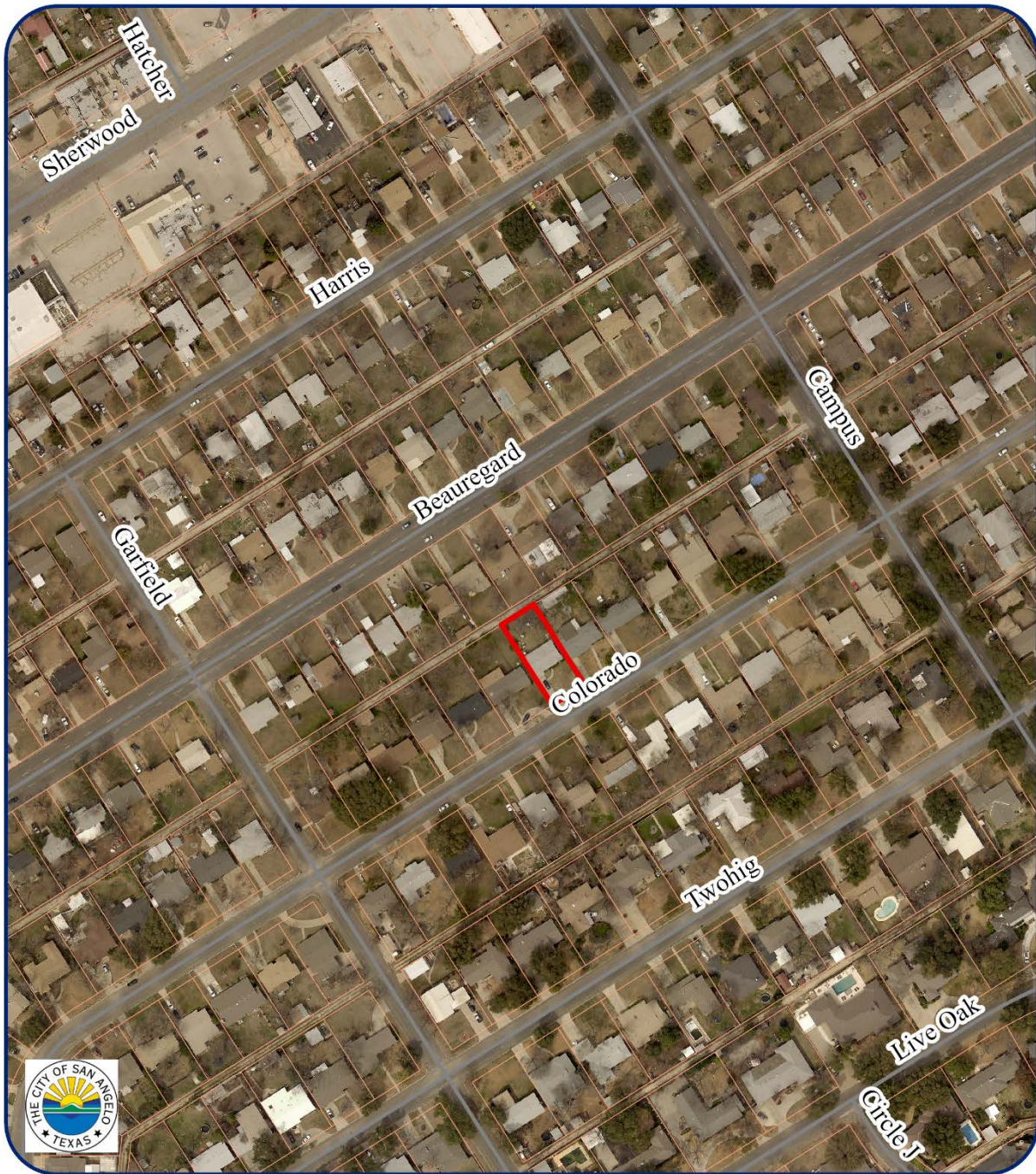
Recommendation:

Staff recommend DENIAL of a variance from Section 402.A.2 for an accessory building size of 912 sq. ft. in lieu of the maximum 764 sq. ft.

Attachments:

Notification Map
Aerial Map
Site Photo
Concept Plan
Survey

Aerial Map



Aerial Map
ZBA24-24 2646 Colorado Ave.

Council District: #5 Karen Hesse Smith
Neighborhood: Santa Rita

Scale: 0 0.01 0.02 0.04 0.06 0.08
Miles

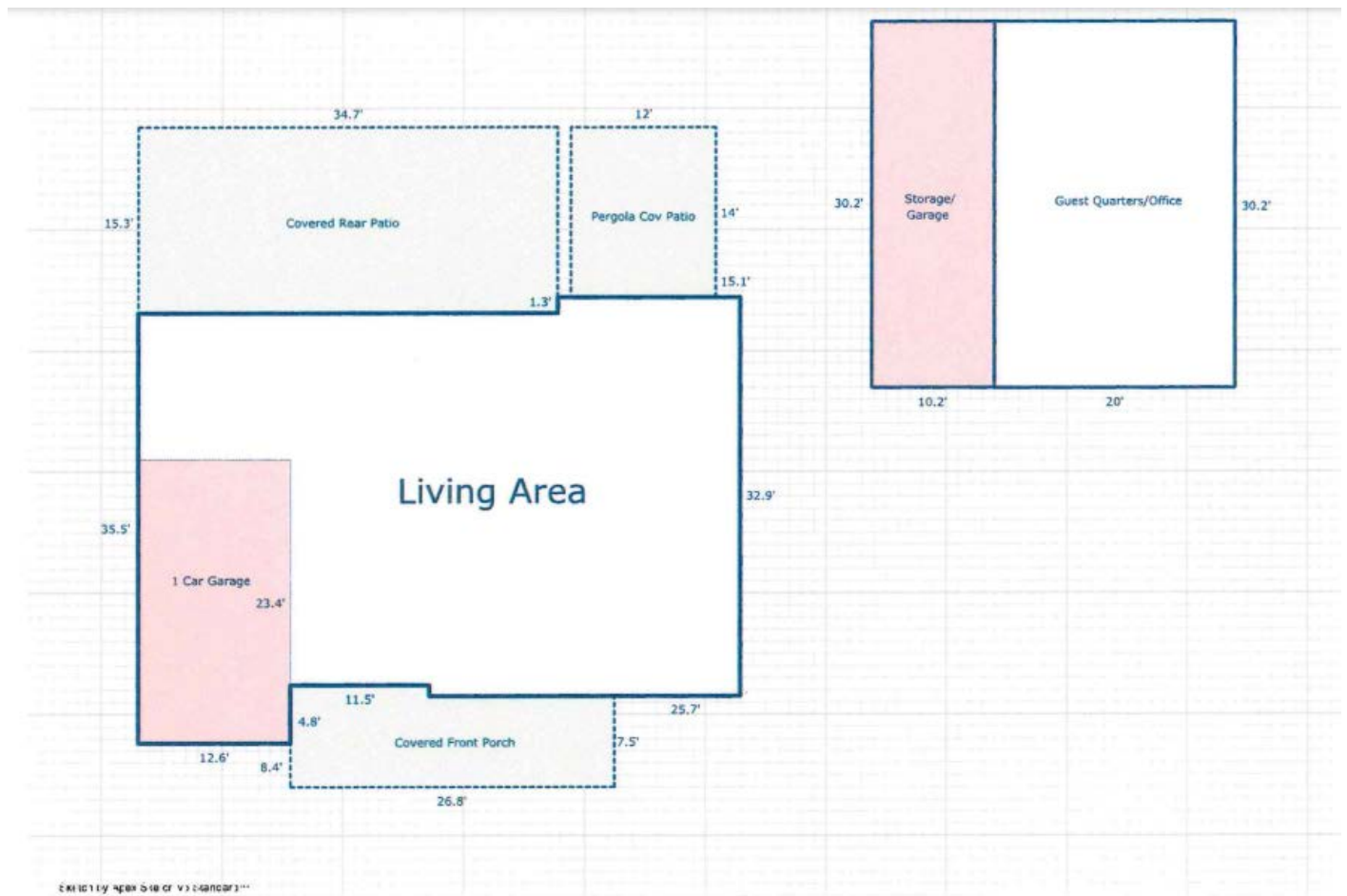
Subject Properties:



Site Photo



Concept Plan

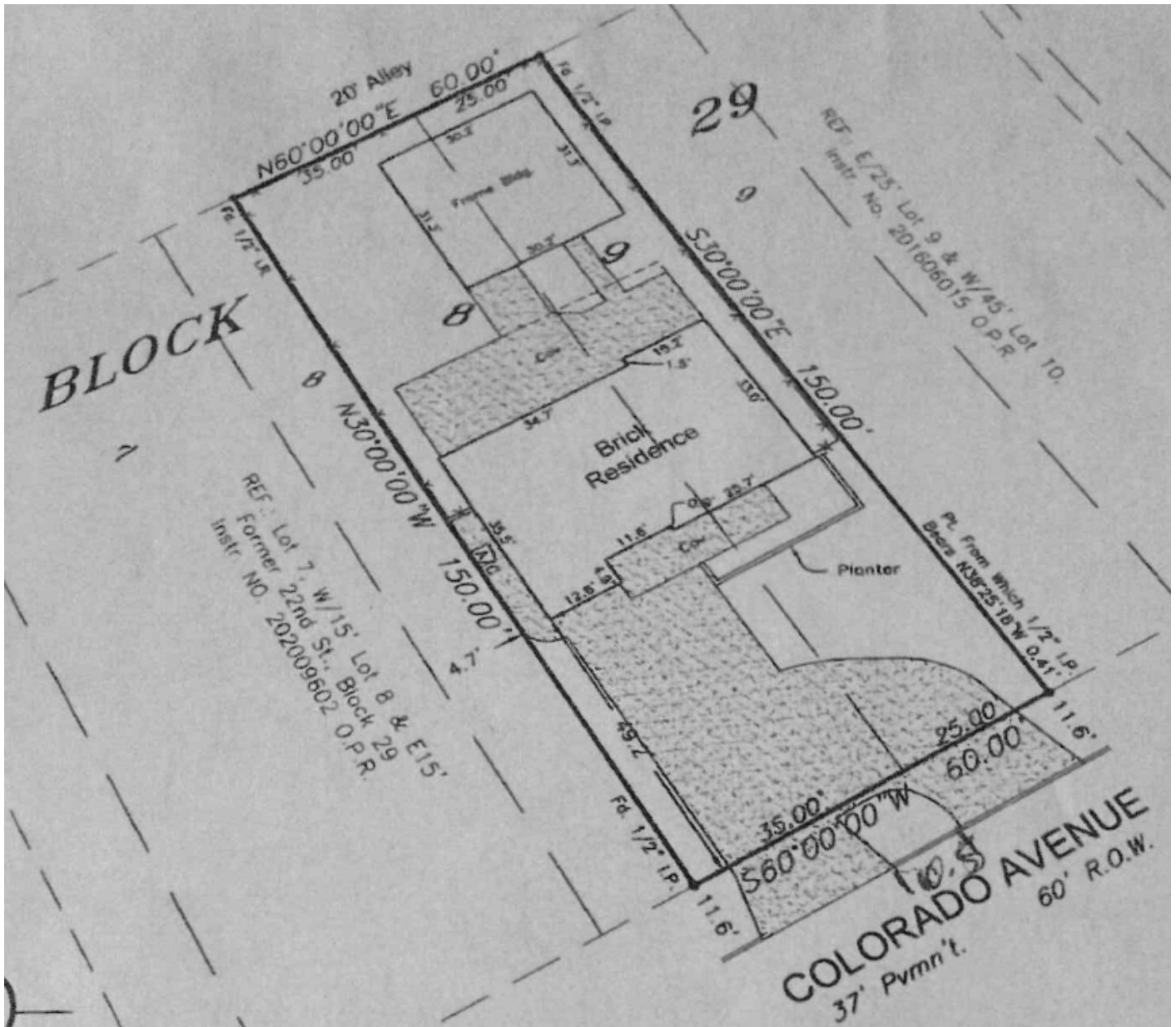


Comments:

AREA CALCULATIONS SUMMARY			
Code	Description	Net Size	Net Totals
GLA1	First Floor	1337.26	1337.26
GAR	1 Car Garage	294.84	294.84
P/P	Covered Front Porch	211.35	
	Covered Rear Patio	530.91	
	Pergola Cov Patio	168.00	910.26
OTH	Det. Gst Qtrs/Office	604.00	
	Det. Storage/Garage	308.04	912.04

LIVING AREA BREAKDOWN			
Breakdown			Subtotals
First Floor			
30.7	x	49.8	1528.86
4.8	x	12.6	60.48
0.9	x	25.7	23.13
1.3	x	15.1	19.63
1 Car Garage			-294.84

Survey



**ZONING BOARD OF ADJUSTMENT – August 5, 2024
STAFF REPORT**



APPLICATION TYPE:		CASE:	
Variance		ZBA24-27: Harris & Beauregard	
SYNOPSIS:			
<p>The applicant has applied for a variance on double frontage lots for a front yard setback of 5’ instead of required 25’ along Beauregard Avenue for Lots 7A & 8A on 1st Replat in Block 4 Frary’s Addition with preliminary addresses of 419 & 423 Harris Avenue.</p>			
LOCATION:		LEGAL DESCRIPTION:	
419 & 423 Harris Avenue		Acres: 0.374, Blk: 4, Subd: FRARY ADDITION, NORTH PART OF LOTS 7 THRU 10 EXC W10 FT OF LOT 7	
SM DISTRICT / NEIGHBORHOOD:	ZONING:	FUTURE LAND USE:	SIZE:
SMD #3 – Harry Thomas Ft Concho East Neighborhood	Multi-Family Residential (RM-1)	Neighborhood	0.374 acres
NOTIFICATIONS:			
<p>16 notifications mailed within 200-foot radius on July 19, 2024. Received 0 in support or opposition.</p>			
STAFF RECOMMENDATION:			
<p>Staff’s recommendation is for the Zoning Board of Adjustment (ZBA) to approve the requested variance from Section 501.A of the Zoning Ordinance to allow on double frontage lots a front yard setback of 5’ instead of required 25’ along Beauregard Avenue for Lots 7A & 8A on 1st Replat in Block 4 Frary’s Addition with preliminary addresses of 419 & 423 Harris Avenue.</p>			
PROPERTY OWNER/PETITIONER:			
<p>Applicant: Wilde Engineering and Surveying, LLC Owner: Bill Feist</p>			
STAFF CONTACT:			
<p>Rae Lineberry Planner (325) 657-4210, Extension 1533 rae.lineberry@cosatx.us</p>			

Additional information: The lots are vacant and are considered a double frontage. The lots will not be able to fit a standard size house with a 25' setback along both Harris and Beauregard.

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 shape of the lots and location defines them as double frontage. A double frontage requires 25' setback on both sides of the lot along Harris & Beauregard.
2. **These special circumstances are not the result of the actions of the applicant.** These lots have been vacant and were recently replatted into 2 lots instead of 4 to increase the buildable 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.** Requiring a 25' setback along both sides would cause an undue hardship as the build area would not accommodate a typical home footprint.
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 variance is the minimum action that would allow this lot to be buildable.
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.*

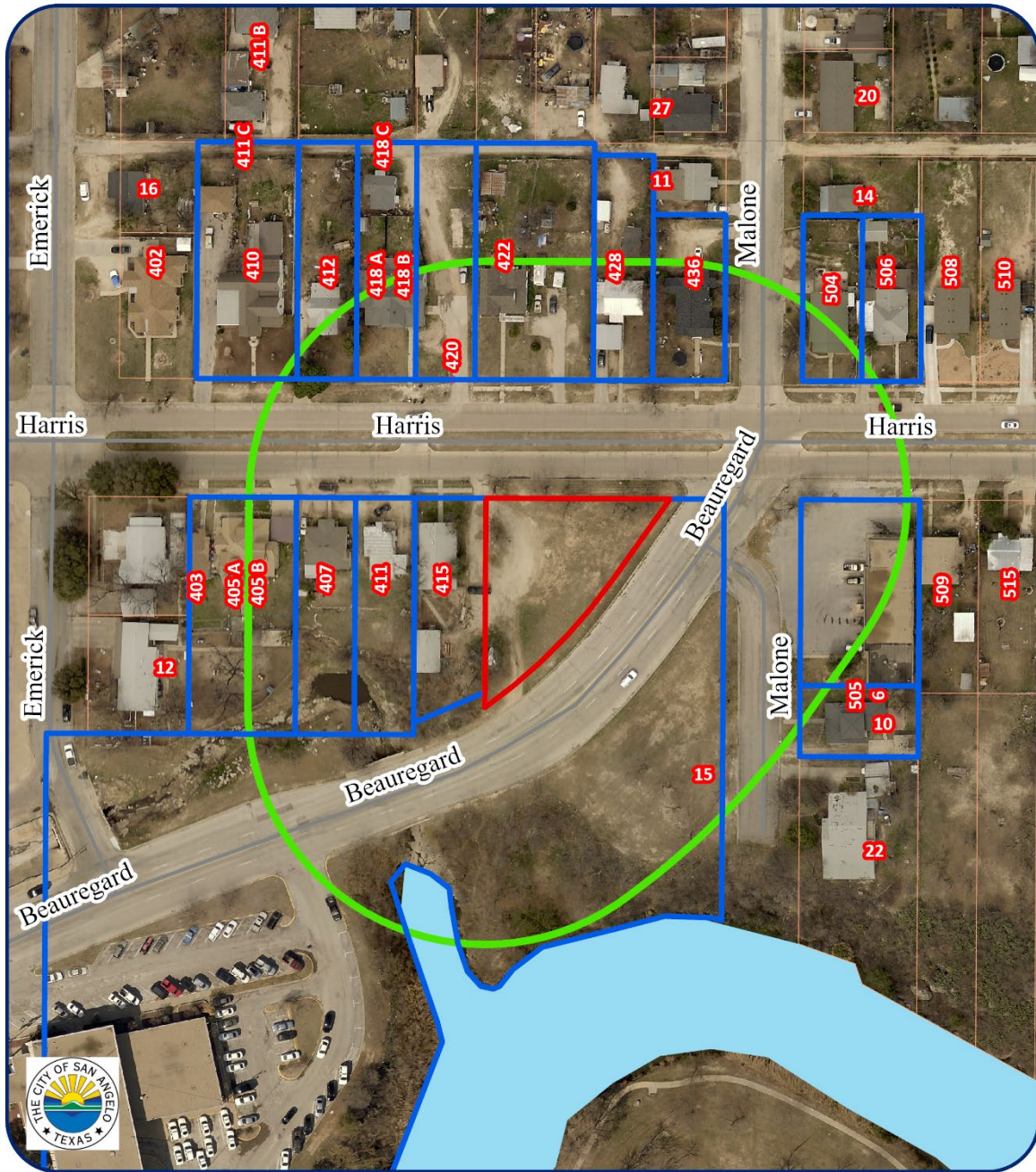
Recommendation:

Staff's recommendation is for the Zoning Board of Adjustment (ZBA) to **approve** the requested variance from Section 501.A of the Zoning Ordinance to allow on double frontage lots a front yard setback of 5' instead of required 25' along Beauregard Avenue for Lots 7A & 8A on 1st Replat in Block 4 Frary's Addition with preliminary addresses of 419 & 423 Harris Avenue.

Attachments:

Notification Map
Aerial Map
Site Photos

Notification Map



<p>200' Notification Map ZBA24-27 Fray Council District: #3 Harry Thomas Neighborhood: East Ft. Concho Scale: 0 0.01 0.02 0.03 0.04 </p>	<p>Subject Properties: </p>	<p>N</p>
	<p>200' Buffer: </p>	
	<p>Notified Properties: </p>	

Aerial Map



Aerial Map ZBA24-27 Frary

Council District: #3 Harry Thomas

Neighborhood: East Ft. Concho

Scale: 0 0.01 0.03 0.05 0.08 0.1
Miles

Subject Properties: 



Site Photo

