

City of San Antonio Board of Adjustment

Work Session and Regular Public Hearing Agenda

Monday, July 1, 2013

1:00 P.M.

Board Room, Cliff Morton Development and Business Services Center

Anytime during the public hearing, the Board of Adjustment may meet in Executive Session to consult on attorney-client matters (real estate, litigation, personnel and security matters), as well as to discuss any of the agenda items. This notice was posted on the Development Services Department website (www.sanantonio.gov/dsd), and the City Hall kiosk, at least seventy-two (72) hours prior to this public hearing, in compliance with the Texas Open Meetings Act.

1. **1:00 PM** - Public Hearing – Call to Order
2. Roll Call
3. Pledges of Allegiance
4. **A-13-052:** The request of Dominica A. Castillo for **1)** a 23.5-foot variance from the 30-foot side yard setback requirement to allow a structure 6.5 feet from the property line; **2)** an 18.5 foot variance from the 25-foot bufferyard requirement to allow a structure within 6.5 feet of the property line; **3)** a 0.96-foot variance from the 30 foot side yard setback requirement to allow a structure 29.04 feet from the property line, located at 721 West Cypress Street. (Council District 1)
5. **A-13-053:** The request of Mark P. McAshan for **1)** a 5-foot variance from the 3-foot front yard fence height restriction to allow a fence 8 feet in height in the front yard; and **2)** a 2-foot variance from the 6-foot side and rear yard fence height restriction in order to allow a fence 8 feet in height in the rear and side yard, located at 9002 Rock Cliff Road. (Council District 1)
6. Approval of the minutes – June 17, 2013
7. Adjournment

ACCESSIBILITY STATEMENT - *This meeting site is accessible to persons with disabilities. Parking is available. Auxiliary aids and services, including Deaf interpreters, must be requested forty-eight [48] hours prior to the meeting. For assistance, call (210) 207-7245 or 711 (Texas Relay Service for the Deaf).*

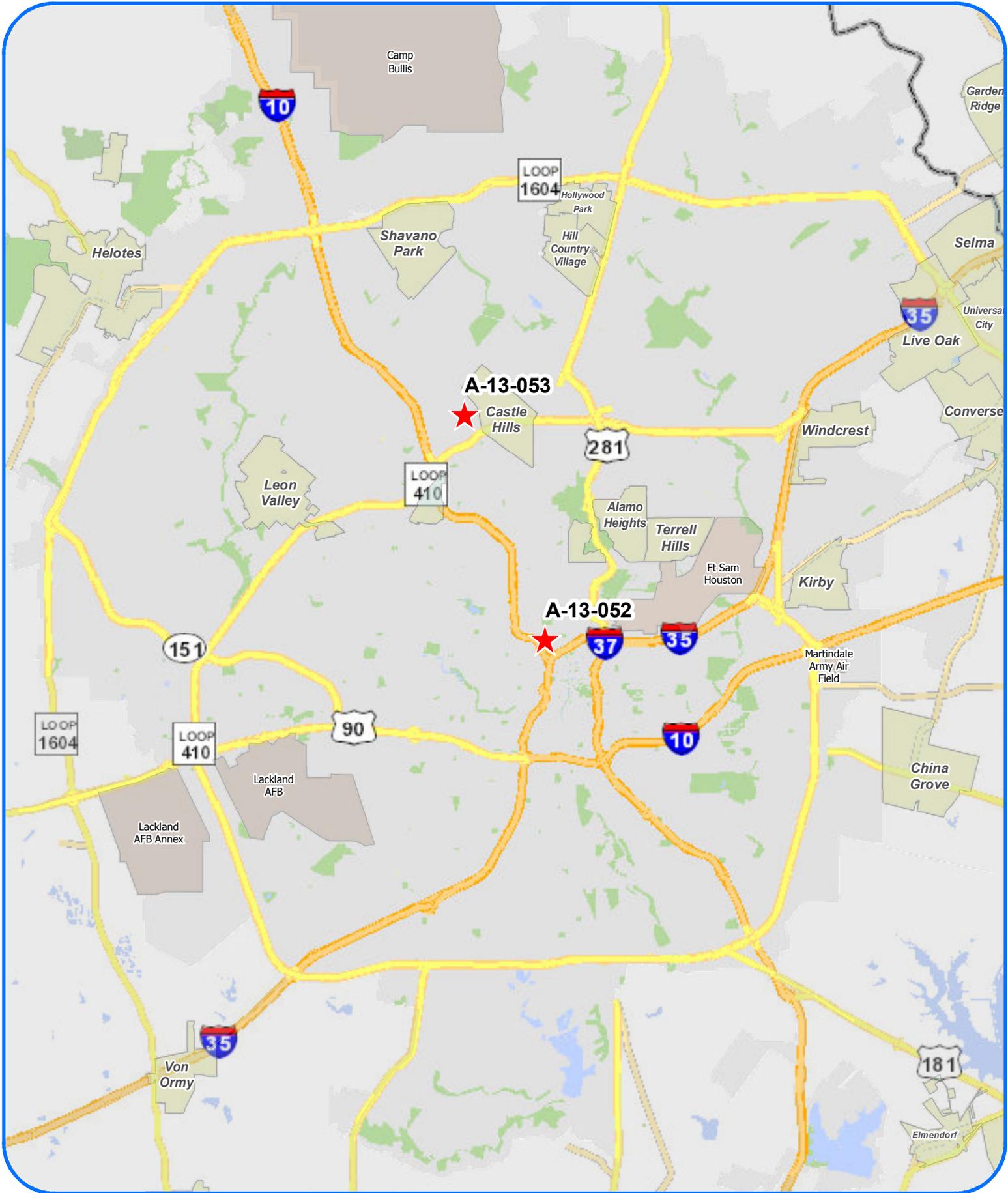
DECLARACIÓN DE ACCESIBILIDAD – *Este lugar de la reunión es accesible a personas incapacitadas. Se hará disponible el estacionamiento. Ayudas auxiliares y servicios y interpretes para los sordos se deben pedir con cuarenta y ocho [48] horas de anticipación al la reunión. Para asistencia llamar a (210) 207-7245 o al 711 (servicio de transmitir para sordos).*

Board of Adjustment Membership

Michael Gallagher, District 10, Chair Andrew Ozuna, District 8, Vice Chair
Frank Quijano, District 1 • Edward Hardemon, District 2 • Helen Dutmer, District 3 • George Britton, District 4
Brian Smith, District 5 • Jesse Zuniga, District 6 • Mary Rogers, District 7 • John Kuderer, District 9 • Gene Camargo, Mayor

Alternate Members

Harold O. Atkinson • Maria D. Cruz • Paul E. Klein • Henry Rodriguez • Steve G. Walkup



Board of Adjustment

**Subject Property Locations
Cases for 1st July 2013**





City of San Antonio Development Services Department Staff Report

To: Board of Adjustment
Case No.: A-13-052
Date: July 1, 2013
Applicant: Dominica A. Castillo
Owner: Juan Jose and Dominica A. Castillo
Location: 721 West Cypress Street
Legal Description: Lot 1, NCB 751
Zoning: "I-1 AHOD" General Industrial Airport Hazard Overlay District
Prepared By: Tony Felts, Planner

Request

A request for 1) a 23.5-foot variance from the 30-foot side yard setback requirement to allow a structure 6.5 feet from the property line; 2) an 18.5 foot variance from the 25-foot bufferyard requirement to allow a structure within 6.5 feet of the property line; and 3) a 0.96-foot variance from the 30 foot side yard setback requirement to allow a structure 29.04 feet from the property line.

Procedural Requirements

A variance from the requirements of the zoning ordinance is a decision vested with the Board of Adjustment. State law prescribes specific factors that must be satisfied when deciding to grant a variance. The request was publicly noticed in accordance with Section 35-403 of the Unified Development Code ("UDC"). Notices were sent to property owners and registered neighborhood associations within two hundred (200) feet of the subject property on or before June 13, 2013. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation, on June 14, 2013. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on or before June 28, 2013, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The subject property is located on the north side of West Cypress Street, approximately 265 feet east of North Flores Street. The subject property is currently vacant, and the applicant is proposing to construct an open carport on the lot for automobile storage.

The lot, as it is currently configured, is 49.75 feet in width. On the east and west side of the lot are properties with a base zoning district of "R-4". Table 310-1 of the UDC requires a side yard

setback of 30 feet where an “I-1” zoned lot abuts a residentially zoned or residentially utilized lot. With a setback requirement of 30 feet on both the east and west side of the lot, the lot would be rendered unbuildable. Further, Table 510-1 of the UDC requires a bufferyard of 25 feet between “I-1” zoned lots and “R-4” zoned lots. Again, given the width of the lot, this requirement would render the lot unbuildable.

The applicant is requesting to construct an open carport structure for vehicle and equipment storage, an allowed use in the “I-1” base zoning district.

It should be noted that, while the applicant is requesting a variance for a reduction in the width of the required bufferyard along the eastern side property line, the required planting materials for the “Type D” bufferyard would still be required to be placed in the reduced bufferyard area, should the variance be approved. The “Type D” bufferyard (with fence option) requires a fence or wall at least six feet in height, and a minimum of the following plant materials: two canopy trees, four understory trees, nine large shrubs, and eight medium shrubs. Additionally, a variance request for the bufferyard requirement along the western side property line was not required due to the adjacent lot being under common ownership with the subject property.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
I-1 AHOD (Industrial)	Vacant

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	I-1 AHOD (Industrial)	Office/Warehouse
South	R-4 AHOD (Residential)	Single-Family Residences
East	R-4 AHOD (Residential)	Single-Family Residences
West	R-4 AHOD (Residential)	Single-Family Residences

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the Five Points Neighborhood Plan (designated as Low Density Residential). The subject property is also located within the boundaries of Five Points Owners Neighborhood Association; as such, the neighborhood association was notified and asked to comment.

Criteria for Review

According to Section 35-482(e) of the UDC, in order for a variance to be granted, the applicant must demonstrate all of the following:

1. *The variance is not contrary to the public interest:*

Building setbacks are designed to maintain orderly and safe development, and ensure access to air and light. Additionally, setbacks, in combination with required bufferyards, are also used, to separate different intensity land uses. In this case, imposition of a 30-foot side setback and a 25-foot bufferyard from both the east and west sides of the lot would cause the lot to be unbuildable. As such, a reduction in the required setbacks and bufferyards is necessary and not contrary to the public interest.

2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*

Imposition of the building setbacks and bufferyards as required by the UDC would render the lot unbuildable and could be considered an unnecessary hardship.

3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*

The ordinance is designed to protect separate incompatible land uses with setbacks and bufferyards. The ordinance is not designed to deny a property owner the right to construct a building or have a conforming use on their property. As the setbacks and bufferyards would render the lot unbuildable, granting the variance will observe the spirit of the ordinance and substantial justice will be done.

4. *Such variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located.*

The requested variance will not authorize the operation of a use on the subject property other than those specifically permitted in the “I-1” zoning district.

5. *Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located.*

The variance, as presented, would not substantially injure the appropriate use of adjacent conforming properties as the applicant’s proposed structure is light in intensity, and essentially will function as a carport.

6. *The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located.*

The circumstances existing on the property are unique and were not created by the owner as the circumstances are a function of the lot’s size and configuration.

Alternatives to Applicant’s Request

The alternative to the applicant’s request is to construct the building with the required setbacks, which is not possible due to the size and configuration of the lot.

Staff Recommendation

Staff recommends **approval of A-13-052** because of the following reasons:

- The lot's size and configuration render the lot unbuildable with the current required setbacks and bufferyards.
- The proposed use of the lot is light in intensity.

Attachments

Attachment 1 – Notification Plan (Location Map)

Attachment 2 – Plot Plan

Attachment 3 – Applicant's Site Plan and Elevations

Attachment 1 Notification Plan

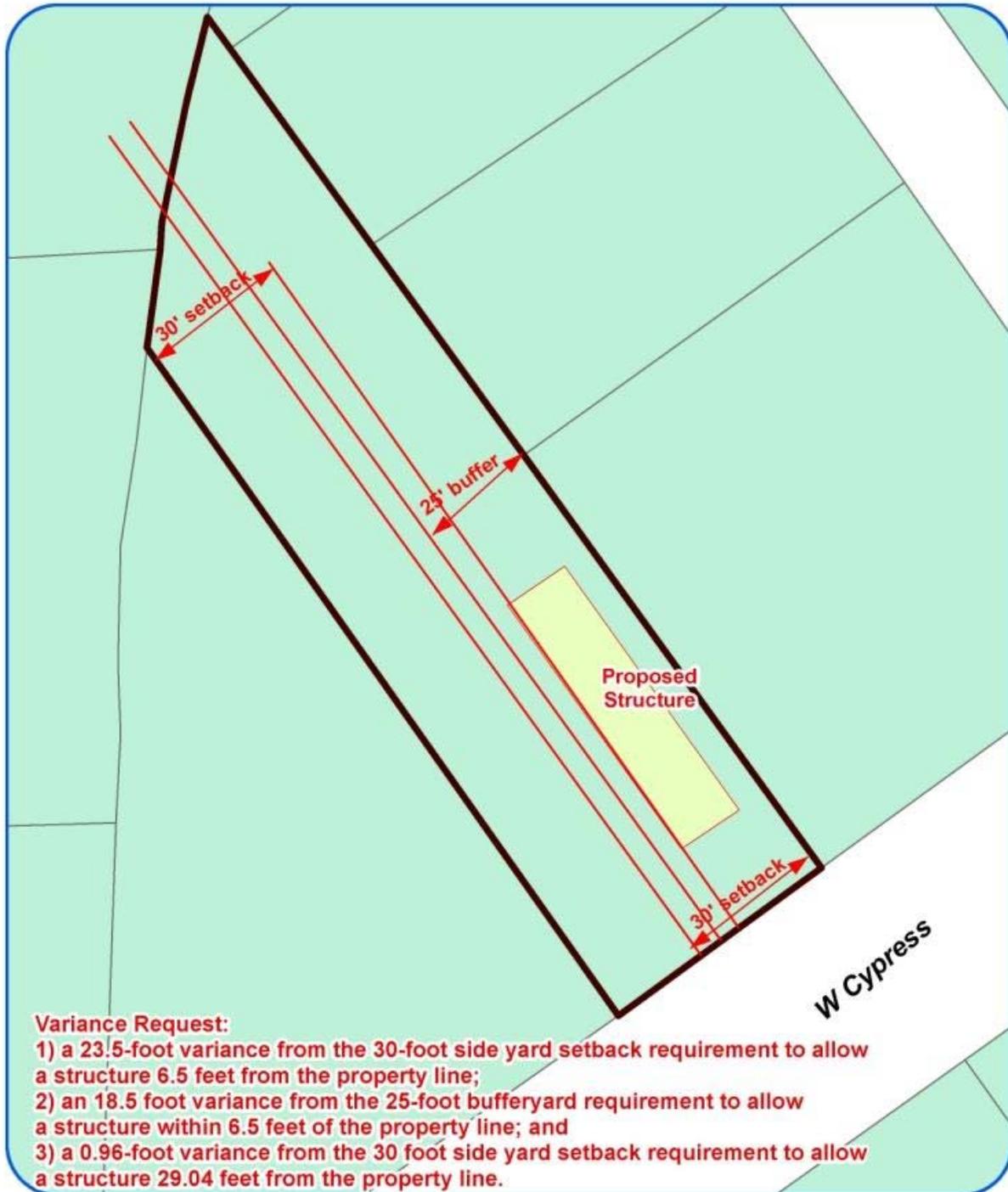


**Attachment 1 (Continued)
Notification Plan**



<p>Board of Adjustment Notification Plan for Case No A-13-052</p>		<p>San Antonio City Limits </p> <p>Subject Property </p> <p>200' Notification Boundary </p> <p>Council District 1 </p>	<p>Development Services Department City of San Antonio (07/01/2013)</p>
		<p>1" = 100 Feet</p>	

Attachment 2
Plot Plan



Board of Adjustment
Plot Plan for
Case No A-13-052



NOT TO SCALE
FOR ILLUSTRATIVE PURPOSES ONLY
Council District 1

721 W Cypress

Development Services Department
City of San Antonio
(06/17/2013)

Attachment 2 (Continued)
Plot Plan



Variance Request:
1) a 23.5-foot variance from the 30-foot side yard setback requirement to allow a structure 6.5 feet from the property line;
2) an 18.5 foot variance from the 25-foot bufferyard requirement to allow a structure within 6.5 feet of the property line; and
3) a 0.96-foot variance from the 30 foot side yard setback requirement to allow a structure 29.04 feet from the property line.

Board of Adjustment
Plot Plan for
Case No A-13-052

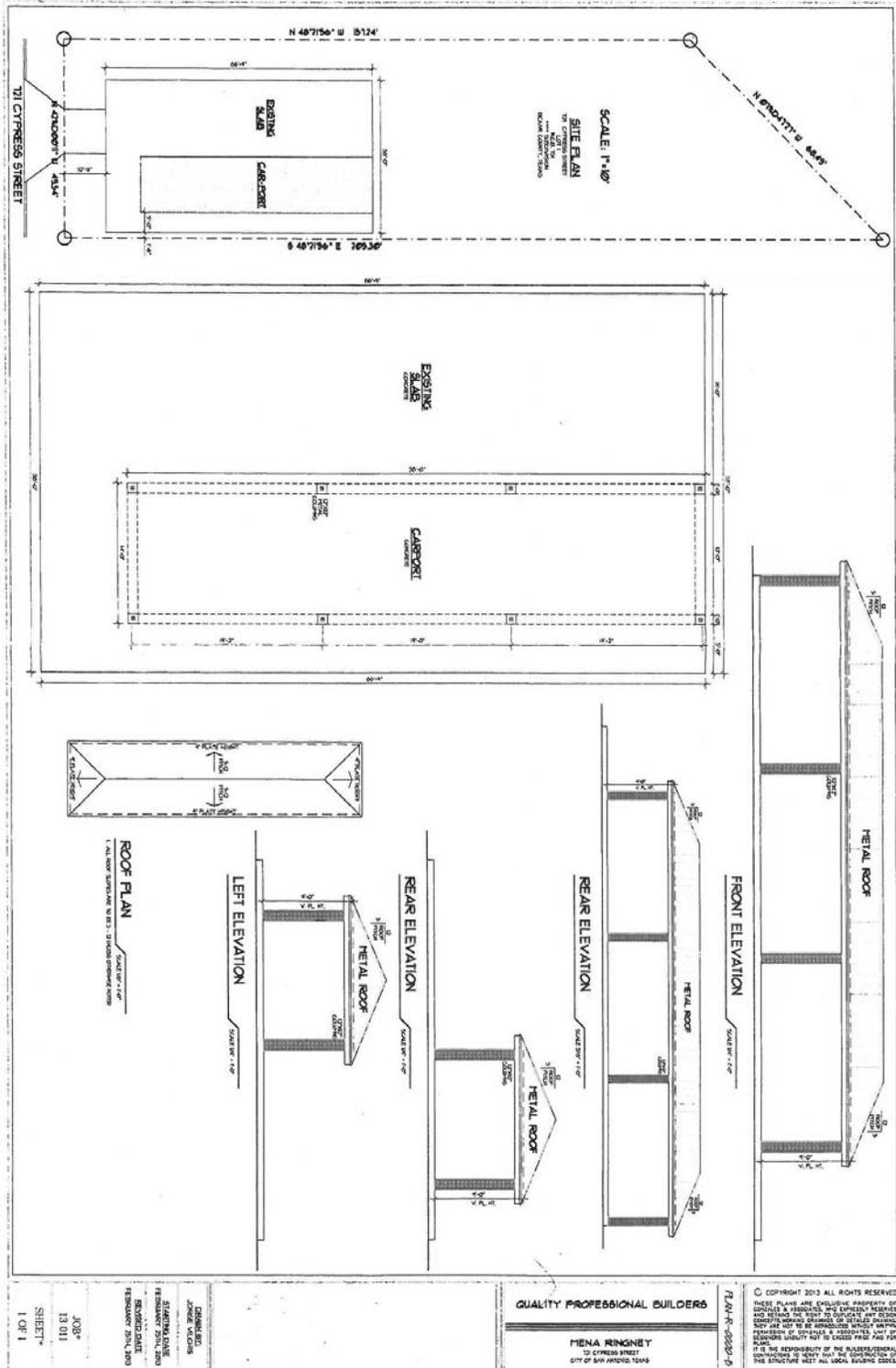


NOT TO SCALE
FOR ILLUSTRATIVE PURPOSES ONLY
Council District 1

721 W Cypress

Development Services Department
City of San Antonio
(06/17/2013)

Attachment 3 Applicant's Site Plan and Elevations



JOB# 13 011
 SHEET# 1 OF 1

QUALITY PROFESSIONAL BUILDERS
 MENA RINGKNEY
 12 CYPRESS STREET
 CITY OF SAN ANTONIO, TEXAS

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**City of San Antonio
Development Services Department
Staff Report**

To: Board of Adjustment
Case No.: A-13-053
Date: July 1, 2013
Applicant: Mark P. McAshan
Owner: Mark P. McAshan
Location: 9002 Rock Cliff Road
Legal Description: Lot 1, Block 2, NCB 13521
Zoning: "R-5" Residential Single-Family District
Prepared By: Tony Felts, Planner

Request

A request for 1) a 5-foot variance from the 3-foot front yard fence height restriction to allow a fence 8 feet in height in the front yard; and 2) a 2-foot variance from the 6-foot side and rear yard fence height restriction in order to allow a fence 8 feet in height in the rear and side yard.

Procedural Requirements

A variance from the requirements of the zoning ordinance is a decision vested with the Board of Adjustment. State law prescribes specific factors that must be satisfied when deciding to grant a variance. The request was publicly noticed in accordance with Section 35-403 of the Unified Development Code ("UDC"). Notices were sent to property owners and registered neighborhood associations within two hundred (200) feet of the subject property on or before June 13, 2013. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation, on June 14, 2013. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on or before June 28, 2013, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The subject property is located at the southeast corner of Vance Jackson Road and Rock Cliff Road. The property is currently developed as a single-family residence.

The applicant is requesting a variance to construct a fence 8 feet in height along the side of the property where it abuts Vance Jackson Road. Because the proposed fence will go past the front façade of the house, part of the fence is considered to be in the front yard. Additionally, the applicant is requesting a variance to allow a fence 8 feet in height on the opposite side yard (east

side property line) of the home surrounding a deck, and extending past the front façade of the house into the front yard.

Vance Jackson is classified as a Secondary Arterial Type A, and is heavily traveled. The applicant is requesting the higher fencing along Vance Jackson Road in order to minimize negative impact from the heavily traveled roadway and for privacy. Additionally, the applicant has stated that they have had a problem with deer jumping over their fence from the adjacent vacant property into their yard and subsequently into Vance Jackson and being hit. The fence is also an attempt to mitigate this problem.

Regarding the fence on the eastern property line, the applicant is requesting this portion of the fence for additional privacy from the adjacent property.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
R-5 (Residential)	Single Family Residential

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	R-5 (Residential)	Single Family Residential
South	R-5 (Residential)	Vacant
East	R-5 (Residential)	Single Family Residential
West	R-5 (Residential)	Single Family Residential

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the North Sector Plan (designated as Suburban Tier). The subject property is also located within the boundaries of the Vance Jackson Neighborhood Inc. Neighborhood Association; as such, the neighborhood association was notified and asked to comment.

Criteria for Review

According to Section 35-482(e) of the UDC, in order for a variance to be granted, the applicant must demonstrate all of the following:

1. *The variance is not contrary to the public interest:*

Fence and wall height restrictions are put into place in order to provide orderly development and encourage a sense of community. The UDC does contemplate that sometimes higher fences than that which are normally allowed are sometimes necessary in order to provide for

security or reduce negative impacts from visual distractions or noise. In this case, the taller fence height would be allowed along Vance Jackson Road if the fence were being constructed on all lots in the subdivision bordering Vance Jackson.

Vance Jackson is heavily traveled, and is designated as a Secondary Arterial street in the Major Thoroughfare Plan. Given this, and the property owner's desire to block noise from the road, as well as to increase safety due to the deer strikes, an 8-foot fence would not be contrary to the public interest.

Regarding the request on the east side of the property, the portion of the fence in the side yard which blocks the view of the applicant's deck could be considered appropriate in order to allow additional privacy. However, the portion of the fence on the east side beyond the front façade of the house, considered by the UDC to be the front yard, could be considered inappropriate, as there are no privacy or safety concerns readily apparent in that area of the yard.

2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*

The applicant is requesting the additional height on the west side of the property in order to mitigate the negative aspects of the heavily traveled roadway adjacent to their property. A literal enforcement of the ordinance may not adequately protect the applicant's right of full enjoyment of their property. As such, a literal enforcement of the ordinance in this area would result in an unnecessary hardship.

Similarly, privacy concerns due to the slope of the property in the side and rear yard on the east side of the property are such that a literal enforcement of the ordinance may not adequately protect the applicants.

Regarding the portion of the fence in the front yard on the east side of the property, no special conditions exist that would result in an unnecessary hardship.

3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*

Because the UDC would allow an 8-foot fence if the fence were across all properties in the subdivision along Vance Jackson, the spirit of the ordinance will be observed and substantial justice done along the entire west side of the property.

As previously stated, privacy concerns in the side and rear yard on the east side of the property as such that by granting the variance, the spirit of the ordinance will be observed and substantial justice done.

Similarly, because of the reasons stated in section 2, the spirit of the ordinance will not be observed by granting the request for variance in the front yard on the east side of the property.

4. *Such variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located.*

The requested variance will not authorize the operation of a use on the subject property other than those specifically permitted in the "R-5" Residential Single-Family district.

5. *Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located.*

The requested variances on the west side of the property and in the rear and side yards on the east side of the property will not injure the appropriate use of adjacent conforming properties but rather the variance would likely have the effect of enhancing the quality of life for the applicant by reducing noise and negative aspects of the adjacent roadway, and providing privacy for the applicant.

The requested variance in the front yard on the east side of the property may negatively affect the adjacent property by reducing that property's view shed and access to air and light.

6. *The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located.*

The unique circumstances existing on the property are due to the site's proximity to Vance Jackson Road and the slope of the property and adjacent properties, as well as the land use to the rear of the property and were not created by the applicant.

Alternatives to Applicant's Request

The alternative to the applicant's request would be to reduce the fence height to 6 feet in all side and rear yard areas which would be inadequate to accomplish the goals of increasing privacy and reducing noise and pollution coming into their back yard. Additionally, reducing the height to 3 feet along in the front yard along Vance Jackson Road would have no mitigating effect at all for the property owners.

Staff Recommendation

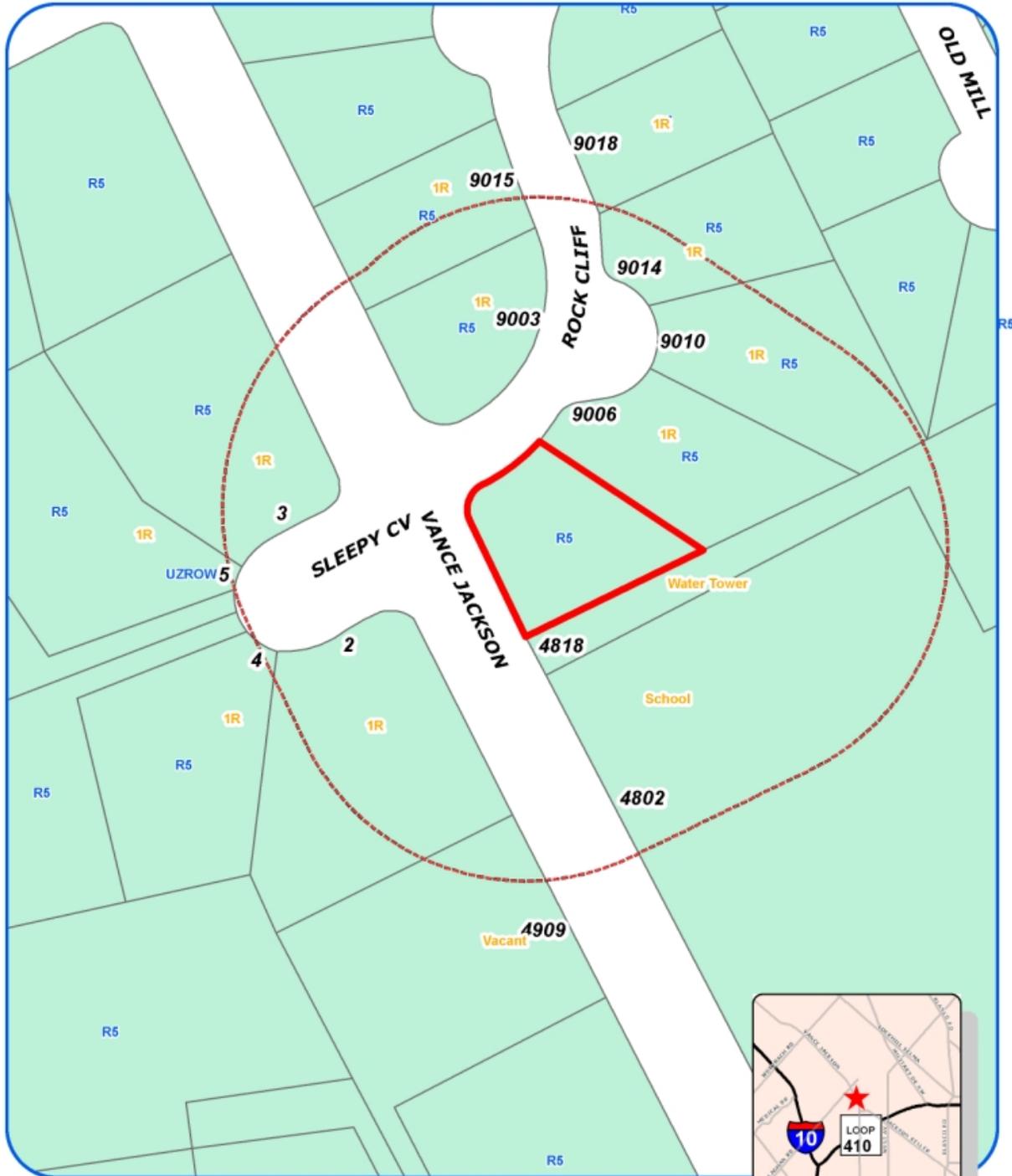
Staff recommends **partial approval of A-13-053**. Staff recommends approval of the variance requests in the rear and side yards, and approval of the variance request in the front yard on the west side along Vance Jackson Road only because of the following reasons:

- The proposed fence will mitigate the negative impact of Vance Jackson Road.
- The UDC already allows fences up to 8 feet in height for multiple lot subdivisions along roadways with the same classification as Vance Jackson Road.
- The additional height will preserve privacy for the applicant.
- The additional height will increase safety by deterring deer from jumping over the fence and into Vance Jackson Road.

Attachments

- Attachment 1 – Notification Plan
- Attachment 2 – Plot Plan
- Attachment 3 – Variance 1 Detail
- Attachment 4 – Variance 2 Detail
- Attachment 5 – Applicant's Site Plan

Notification Plan Attachment 1



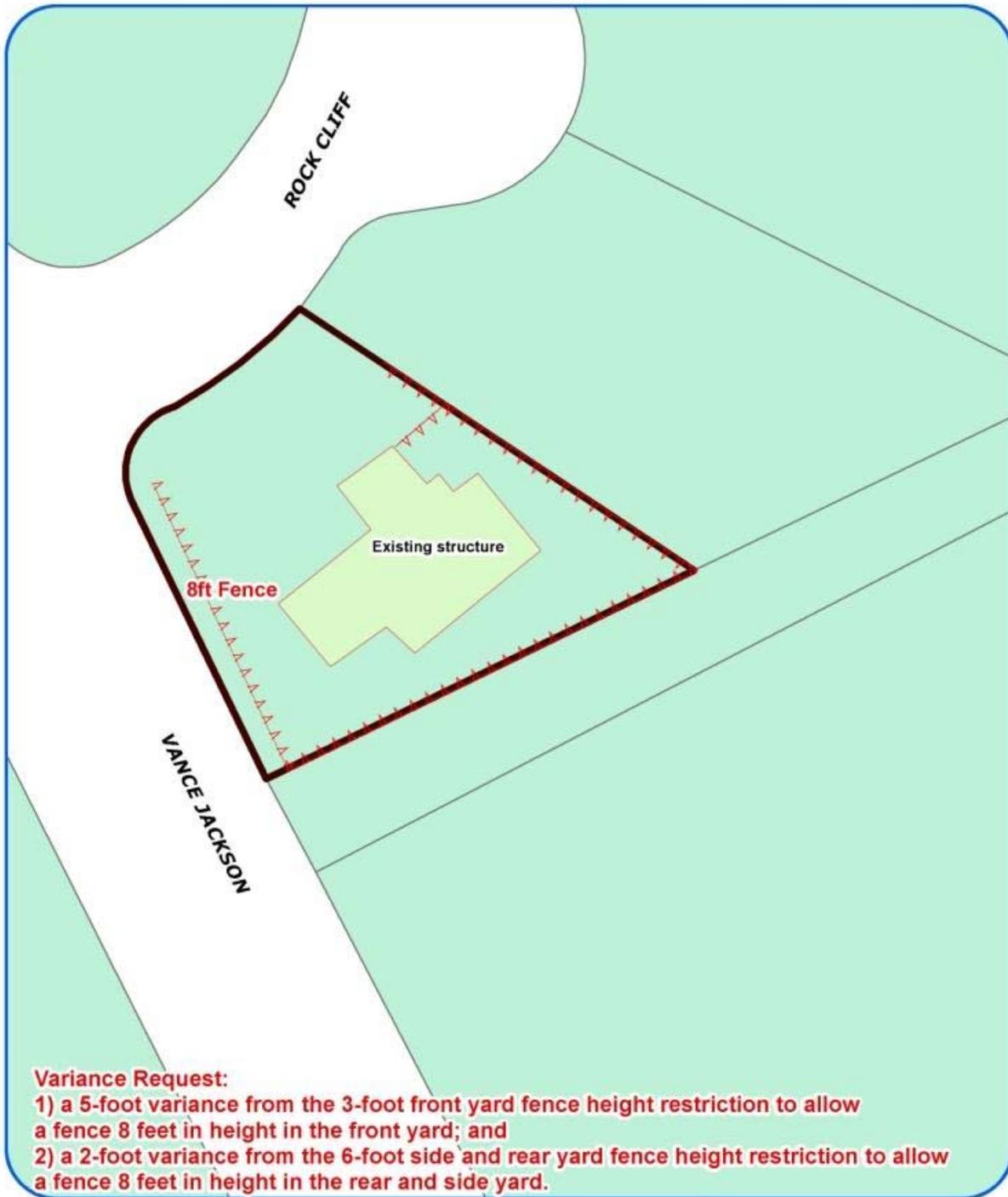
<p>Board of Adjustment Notification Plan for Case No A-13-053</p>		<p>San Antonio City Limits </p> <p>Subject Property </p> <p>200' Notification Boundary </p> <p>Council District 1 </p>	<p>Development Services Department City of San Antonio (07/01/2013)</p>
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**Attachment 1 (Continued)
Notification Plan**



<p>Board of Adjustment Notification Plan for Case No A-13-053</p>		<p>San Antonio City Limits </p>
		<p>Subject Property </p>
		<p>200' Notification Boundary </p>
		<p>Council District 1 </p>
		<p>Development Services Department City of San Antonio (07/01/2013)</p>

**Attachment 2
Plot Plan**



Variance Request:
1) a 5-foot variance from the 3-foot front yard fence height restriction to allow a fence 8 feet in height in the front yard; and
2) a 2-foot variance from the 6-foot side and rear yard fence height restriction to allow a fence 8 feet in height in the rear and side yard.

Board of Adjustment
Plot Plan for
Case No A-13-053



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FOR ILLUSTRATIVE PURPOSES ONLY
Council District 1

9002 Rock Cliff
Development Services Department
City of San Antonio
(07/01/2013)

Attachment 2 (Continued)
Plot Plan



Variance Request:
1) a 5-foot variance from the 3-foot front yard fence height restriction to allow a fence 8 feet in height in the front yard; and
2) a 2-foot variance from the 6-foot side and rear yard fence height restriction to allow a fence 8 feet in height in the rear and side yard.

Board of Adjustment
Plot Plan for
Case No A-13-053

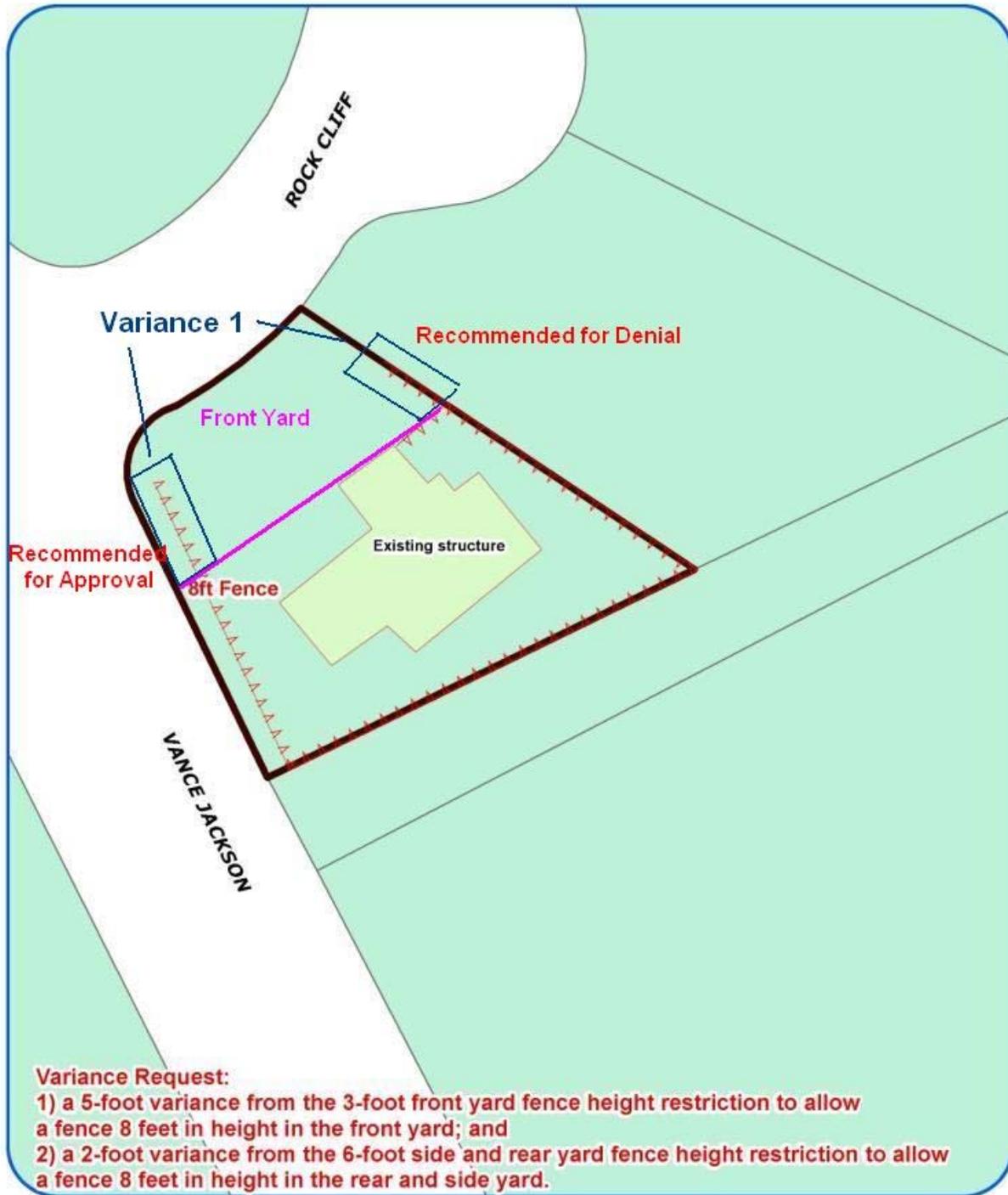


NOT TO SCALE
FOR ILLUSTRATIVE PURPOSES ONLY
Council District 1

9002 Rock Cliff

Development Services Department
City of San Antonio
(07/01/2013)

Attachment 3
Variance 1 Detail



Variance Request:
1) a 5-foot variance from the 3-foot front yard fence height restriction to allow a fence 8 feet in height in the front yard; and
2) a 2-foot variance from the 6-foot side and rear yard fence height restriction to allow a fence 8 feet in height in the rear and side yard.

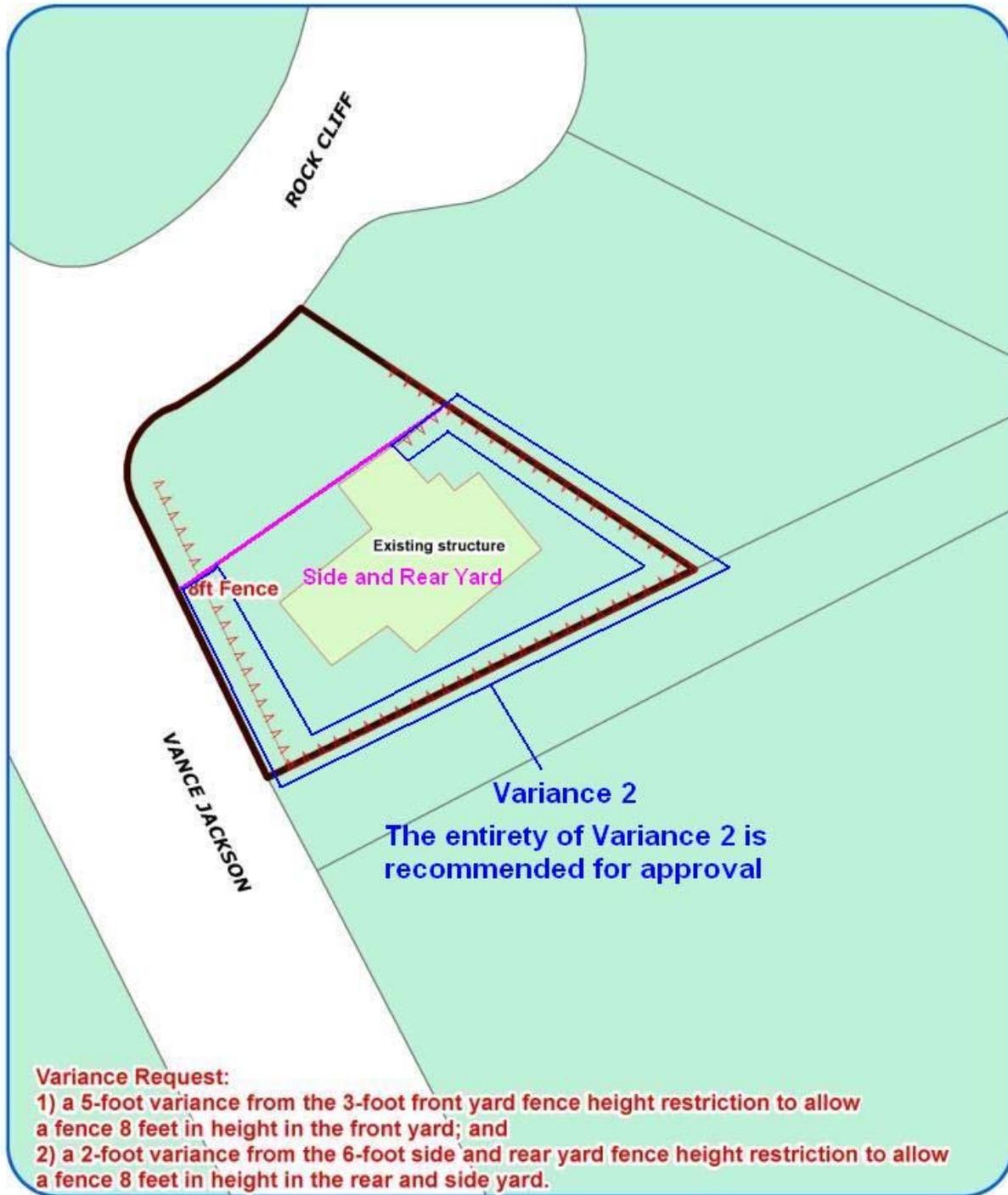
Board of Adjustment
Plot Plan for
Case No A-13-053



NOT TO SCALE
FOR ILLUSTRATIVE PURPOSES ONLY
Council District 1

9002 Rock Cliff
Development Services Department
City of San Antonio
(07/01/2013)

**Attachment 4
Variance 2 Detail**



Variance Request:

- 1) a 5-foot variance from the 3-foot front yard fence height restriction to allow a fence 8 feet in height in the front yard; and
- 2) a 2-foot variance from the 6-foot side and rear yard fence height restriction to allow a fence 8 feet in height in the rear and side yard.

Board of Adjustment
Plot Plan for
Case No A-13-053

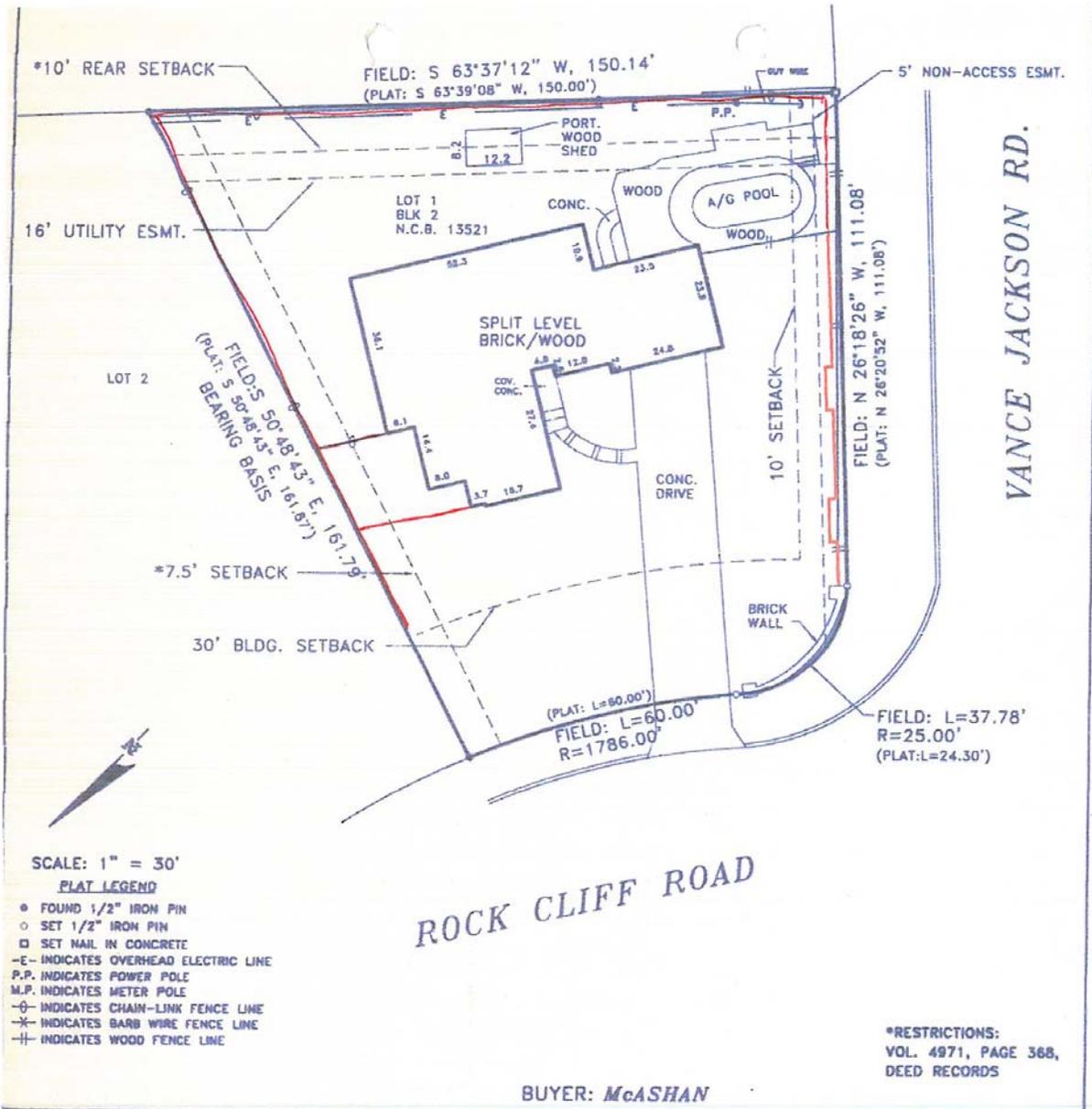


NOT TO SCALE
FOR ILLUSTRATIVE PURPOSES ONLY
Council District 1

9002 Rock Cliff

Development Services Department
City of San Antonio
(07/01/2013)

Attachment 5 Applicant's Site Plan



LOT 1 BLOCK 2 SUB'D: COLONIAL OAKS (DRAWN BY: RRE)

UNIT 1 N.C.B. 13521 VOLUME 4900 PAGE 160

ADDRESS: 9002 ROCK CLIFF ROAD CITY OF SAN ANTONIO, BEXAR COUNTY, TEXAS.

SURVEY FOR TICOR TITLE REFERENCE: 01010098BDC

I hereby certify that the above plat is true and correct according to an actual survey made on the ground under my supervision and that no investigation or independent search of documents of record, encumbrances, restrictive covenants, ownership title evidence or any other facts shown on this commitment has been made. The location and/or existence of utility service lines are unknown and not shown. Survey not for architectural, landscaping or other engineering purposes.

This 28th day of MARCH, 20 01 A.D.

The Surveyor has not abstracted the subject property.
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SURVEY ASSOCIATES
2544 BOARDWALK
SAN ANTONIO, TEXAS 78217
(210) 828-1102

STATE OF TEXAS
COUNTY OF BEXAR

T. CAFFALL
REGISTERED
LAND SURVEYOR
NO. 4667

JOB No. 01-5-31D