

City of San Antonio Board of Adjustment

Regular Public Hearing Agenda

Monday, July 15, 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-13-054:** The request of Frances Cisneros for a special exception to allow a one-operator beauty or barber shop in a residential zoning district, located at 507 Creath Place. (Council District 3)
5. **A-13-055:** The request of Christopher Ortiz for a special exception to allow relocation of two residential structures from 135 Carter to 919 SW 39th Street. The buildings will be combined into one single-family dwelling. (Council District 6)
6. **A-13-056:** The request of Gerald & Lady Ellen Clark for 1) a 2-foot variance from the required 5-foot minimum side yard setback to allow a building addition 3-feet from the property line; 2) a 2-foot variance from the maximum allowed projection of an architectural feature to allow an eave within 1-foot from the side property line; and 3) a 5-foot variance from the required 5-foot minimum side yard to allow an atrium on the property line, located at 310 Clubhill. (Council District 7)
7. **A-13-057:** The request of Araceli Sanchez for a 1.6-foot side setback variance from the required 5-foot minimum side yard setback to allow an accessory dwelling unit 3.4-feet from the side property line, located at 1702 La Manda Boulevard. (Council District 1)
8. Approval of the minutes – July 1, 2013
9. 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).*

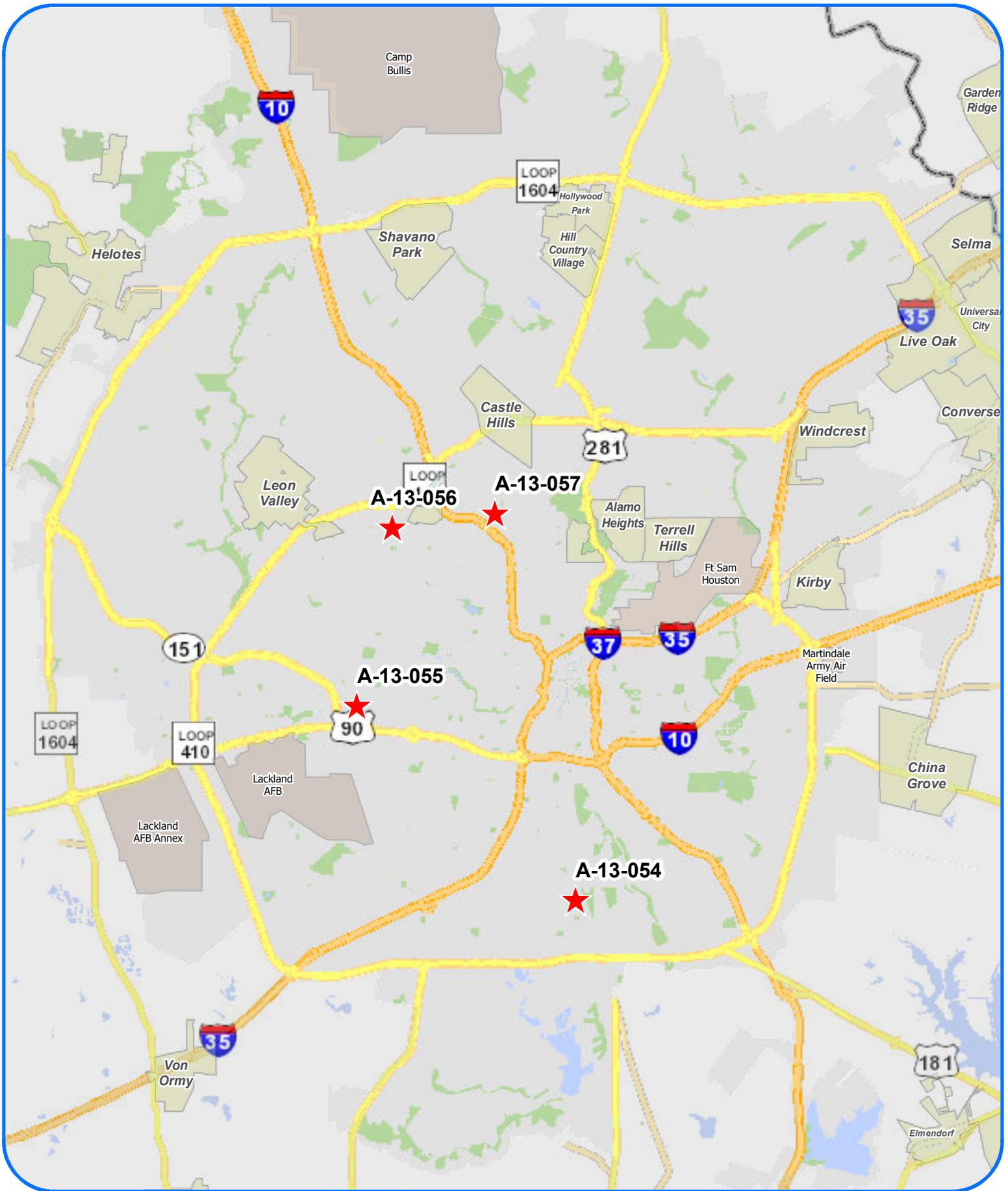
DECLARACIÓN DE ACCESIBILIDAD – *Este lugar de la reunión es accesible a personas incapacitadas. Se hará disponible el estacionamiento. Ayudas auxiliares y servicios y interpretes para los sordos se deben pedir con cuarenta y ocho [48] horas de anticipación al la reunión. Para asistencia llamar a (210) 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 15th July 2013**





City of San Antonio Development Services Department Staff Report

To: Board of Adjustment
Case No.: A-13-054
Date: July 15, 2013
Applicant: Frances Cisneros
Owner: Frances Cisneros
Location: 507 Creath Place
Legal Description: Lot 14, Block 31, NCB 11757
Zoning: "R-4 AHOD" Residential Single-Family Airport Hazard Overlay District
Prepared By: Tony Felts, Planner

Request

A request for a special exception to allow a renewal of a special exception granted July 20, 2009, for a one-operator beauty or barber shop.

Procedural Requirements

A special exception is a decision vested with the Board of Adjustment, and includes uses which may be authorized under certain circumstances. 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 27, 2013. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation, on June 28, 2013. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on July 12, 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 Creath Place, approximately 65 feet east of Chaucer Avenue. The site is currently developed with an existing single-family residence which includes the one-operator beauty shop within the residence.

The Board of Adjustment has granted approvals for special exceptions to operate this one operator beauty shop on the following dates: July 2, 2007, and July 20, 2009. The approval in July 20, 2009, was for a period of four years, as allowed by Section 35-399.01(i) of the UDC which allows the Board to approve the requested special exception for a period not to exceed four years.

The applicant has proposed hours of operation as Tuesdays, Wednesdays, Thursdays, Fridays, and Saturdays, 9:00am until 4:00pm. The proposed hours of operation total 35 per week, and these hours of operation are the same as were previously approved. The applicant will be the only cosmetologist at the location.

It has been the Board’s policy that when considering renewals to a granted special exception application for one operator beauty salons to time limit any approval to four years after an initial two-year period. As such, if approval is contemplated by the Board, it should be for a time limit of four years (48 months). If approved for four years, the current special exception request would expire July 15, 2017.

It should be noted that the applicant will be required to obtain a Certificate of Occupancy for the one operator beauty shop, if the request is approved by the Board.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
R-4 AHOD (Residential)	Single-Family Dwelling with a one-operator beauty salon

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	R-4 AHOD (Residential)	Single-Family Dwelling
South	R-4 AHOD (Residential)	Single-Family Dwelling
East	R-4 AHOD (Residential)	Single-Family Dwelling
West	R-4 AHOD (Residential)	Single-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the Stinson Airport Vicinity Land Use Plan (designated as Low Density Residential). The subject property is not located within the boundaries of a registered neighborhood association.

Criteria for Review

According to Section 35-482(h) of the Unified Development Code, in order for a special exception to be granted, the Board of Adjustment must find that the request meets each of the following conditions (in addition to the requirements of Section 35-399.01):

1. *The special exception will be in harmony with the spirit and purpose of the chapter.*

The requested special exception will be in harmony with the spirit and purpose of the chapter in that the proposed one-operator beauty salon will follow the specified criteria established in Section 35-399.01 of the Unified Development Code.

2. *The public welfare and convenience will be substantially served.*

Public welfare and convenience will be served with the granting of this request as it will provide a valuable and needed public service to the residents of the neighborhood and it will not negatively impact surrounding properties.

3. *The neighboring properties will not be substantially injured by such proposed use.*

The subject property will be primarily used as a single-family residence. The beauty shop will occupy only a small part of the structure, and the fact that a beauty shop is being operated from the home will likely be indiscernible to passersby. As such, neighboring properties will not be substantially injured.

4. *The special exception will not alter the essential character of the district and location in which the property for which the special exception is sought.*

The requested special exception will not alter the essential character of the district as the use will likely be indiscernible to passersby.

5. *The special exception will not weaken the general purpose of the district or the regulations herein established for the specified district.*

The purpose of the zoning district is to promote the public health, safety, morals, and general welfare of the city. The granting of this special exception will not weaken these purposes, nor will it weaken the regulations established for this district.

Staff Recommendation

Staff recommends **approval of A-13-054 for a period of 48 months (4 years) with hours of operation not to exceed 35 hours per week (Tuesdays, Wednesdays, Thursdays, Fridays, and Saturdays, 9:00am until 4:00pm)**, due to the following reasons:

1. The request meets all of the criteria for granting a special exception request

Attachments

Attachment 1 – Notification Plan

Attachment 2 – Plot Plan

Attachment 3 – Applicant’s Site Plan

Attachment 4 – Site Photo

Attachment 1 Notification Plan



**Attachment 1 (Continued)
Notification Plan**



**Attachment 2
Plot Plan**



Variance Request:
A special exception to allow
a one operator beauty or barber shop in a residential zoning district.

Board of Adjustment
Plot Plan for
Case No A-13-054



"NOT TO SCALE,
FOR ILLUSTRATIVE PURPOSES ONLY"
Council District 3

507 Creath

Development Services Department
City of San Antonio
(07/15/2013)

Attachment 2 (Continued)
Plot Plan



Variance Request:
A special exception to allow
a one operator beauty or barber shop in a residential zoning district.

Board of Adjustment
Plot Plan for
Case No A-13-054



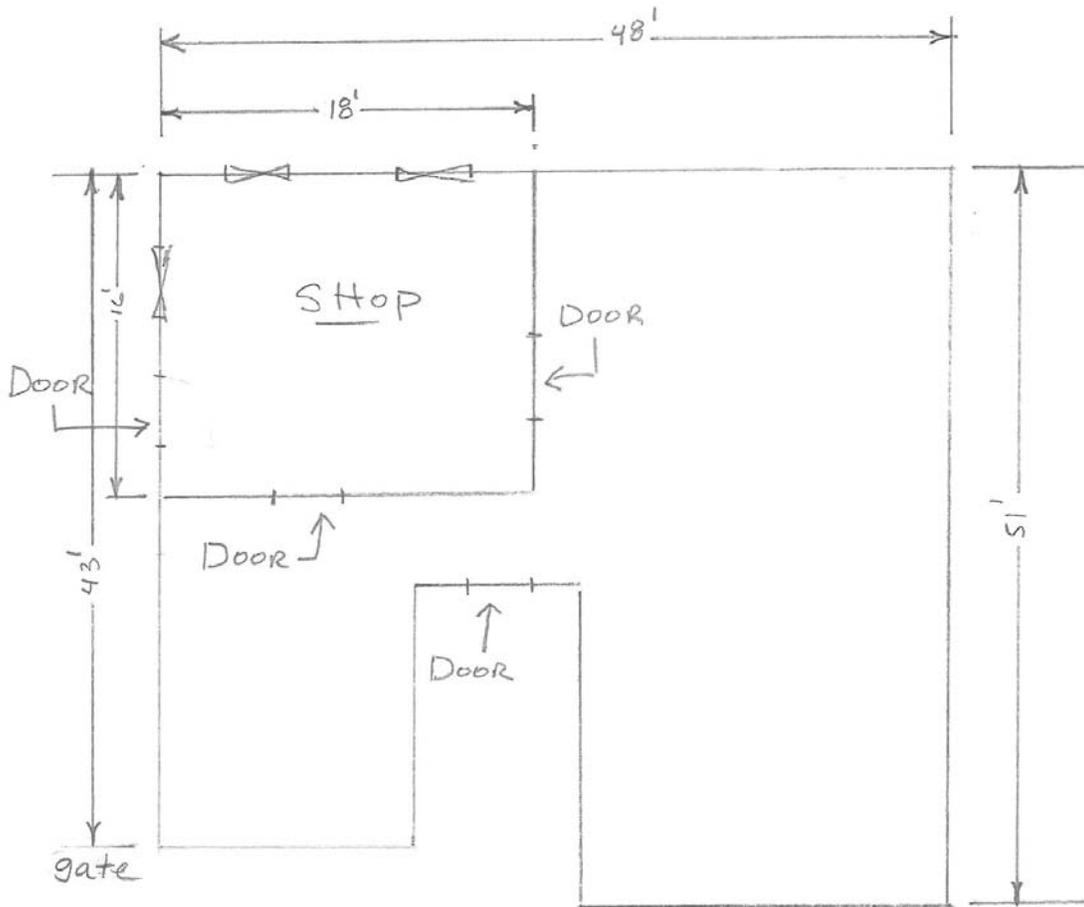
"NOT TO SCALE,
FOR ILLUSTRATIVE PURPOSES ONLY"
Council District 3

507 Creath

Development Services Department
City of San Antonio
(07/15/2013)

1:300

**Attachment 3
Applicant's Site Plan**



567 Creath Pl

**Attachment 4
Site Photo**





City of San Antonio Development Services Department Staff Report

To: Board of Adjustment
Case No.: A-13-055
Date: July 15, 2013
Applicant: Christopher Ortiz
Owner: Stella Campos
Location: 919 SW. 39th Street
Legal Description: Lot 32, Block 17, NCB 8991
Zoning: "R-6 AHOD" Residential Airport Hazard Overlay Districts
Prepared By: Margaret Pahl, AICP Senior Planner

Request

The applicant is requesting a special exception to allow the relocation of two residential buildings to a lot zoned for single family use, located at 919 SW 39th Street. The buildings will be combined into one single family structure.

Procedural Requirements

A special exception is a decision vested with the Board of Adjustment, subject to compliance with a specific set of performance criteria. The request was publicly noticed in accordance with Section 35-403 of the Unified Development Code ("UDC"). Notices were sent to property owners within two hundred (200) feet of the subject property on June 27, 2013. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on June 28, 2013. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on or before July 12, 2013, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The subject property is a one acre lot within the Lady of the Lake Gardens Subdivision, recorded in December of 1914. Each of the lots within the approximately 500-lot subdivision was platted with an acre of land. There are no records indicating that this lot has ever had a house but rather it appears to have been farmed. The vacant lot is on the west side of 39th Street, and is surrounded by other single-family residential homes. The submitted site plan shows a proposed front setback of 100-feet. The side setbacks are at least 25-feet. Mature trees have grown along the south side fence line. The improvement plans also include installation of a gravel driveway. Gravel driveways are allowed in residential districts, but a concrete curb cut and drive-approach

are required in the public right-of-way. An integral sidewalk and curb is already installed throughout the neighborhood, leaving no other frontage improvements to the applicant.

The applicant is combining two “portable-type” buildings into one “L” shaped structure. After completion, the square footage will total 2,950 square feet. According to a City Architectural Historian, the buildings date between 1930 and 1950 and may have been military housing. The applicant will preserve the wood siding, but plans to install a new front door between the two large windows on what is now the rear elevation. The interior has been gutted and will include all new wiring, plumbing, insulation and sheetrock. The applicant intends to replace the original wooden windows with insulated vinyl windows.

The other single-family residential structures on the block face range in size. On this block-face, the square footage of the single-family residential structures varies from approximately 720 square-feet to 2,520 square-feet. With this large range in size, the proposed single-family residential structure with its large setback will seem similar in scale to the other existing residential structures on the same block face and in the surrounding vicinity.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
R-4 AHOD (Residential–Airport Hazard)	Vacant

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	R-6 AHOD (Residential-Airport Hazard)	Single-Family Home
South	R-6 AHOD (Residential-Airport Hazard)	Single-Family Home
East	R-6 CD AHOD (Residential-Airport Hazard with conditional use approval for 2 nd house on lot)	Two single-family homes
West	R-6 CD AHOD (Residential-Airport Hazard, with conditional use approval for 2 nd house on lot)	Two single-family homes

Relocation Compatibility Table

Compatibility Standard	Existing Condition on Blockface	Applicant's Proposed Condition
Lot Size	Mean Lot Size: 23,661sf	43,623
Structure Age	Min: 36 years	63 years

	Max: 87 years	
	Mean Age: 63 years	
Structure Size	Min: 720 sf	2950sf
	Max: 2520 sf	
	Mean Size: 1248 sf	
Structure Height	1 Story	1 Story
Front Entry, Porch, Walkway	Front of House	New entry
Building Materials	Exterior siding: Various	Wood
	Roofing: Shingles	Shingles
	Window: Aluminum, vinyl & wood	Vinyl
Foundation Type	Various	Post & beam
Roof Line/Pitch	Gabled	Gabled
Fencing	Chain Link & ornamental iron	None

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the West/Southwest Sector Plan, adopted on April 21, 2011. A goal of re-investing in existing residential neighborhoods was highlighted in the plan and would be furthered by the proposed relocation. The subject property is within the boundaries of the Community Worker’s Council Neighborhood Association and as such, they were notified and asked to comment.

Criteria for Review

According to Section 35-482(h) of the Unified Development Code, in order for a special exception to be granted the Board of Adjustment must find that the request meets each of the five (5) following conditions:

- A. *The special exception will be in harmony with the spirit and purpose of the chapter.*

The applicant is proposing to relocate a structure to a vacant lot and intends to renovate the structure to meet current buildings codes. New electrical service and new plumbing are planned.

A residential use on this vacant lot is preferred, given that the original property owner recorded a residential subdivision plat nearly 100 years ago. Therefore, granting the special exception will be in harmony with the spirit and purpose of the chapter.

B. The public welfare and convenience will be substantially served.

The structure will be used as a single family dwelling, making use of an undeveloped parcel within a neighborhood that could benefit from incremental revitalization. The public welfare and convenience will be substantially served by the relocation.

C. The neighboring property will not be substantially injured by such proposed use.

The applicant is proposing a large side-yard setback of 25-feet from the neighboring property. In addition, mature trees line this shared boundary, providing privacy screening. Along the opposite side property line, rear yards of homes facing Marbauch Avenue abut. With these accommodations in place, the proposed home will not negatively impact the neighboring property.

D. The special exception will not alter the essential character of the district and location in which the property for which the special exception is sought.

The houses in this area have developed over time, and are each unique in design. Therefore, the character is eclectic, showing a broad diversity of residential styles. The character is more reinforced by the large lots with wide setbacks. Therefore, the special exception authorizing the relocation will not alter the essential character of the district.

E. The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district.

The special exception will not weaken the general purpose of “R-6 AHOD” zoning district, a district designed to support residential land uses. The site plan submitted by the applicant and the size of the parcel show the proposed placement of the home will exceed the minimum front, side and rear yard setbacks of the district.

Staff Recommendation

Staff recommends **approval of A-13-055**. The requested special exception complies with all of the review criteria for granting a special exception as presented above. The relocation of the structure in question will allow the reasonable use of a property that has been vacant for a significant time, and will fit with the character of the existing area.

Attachments

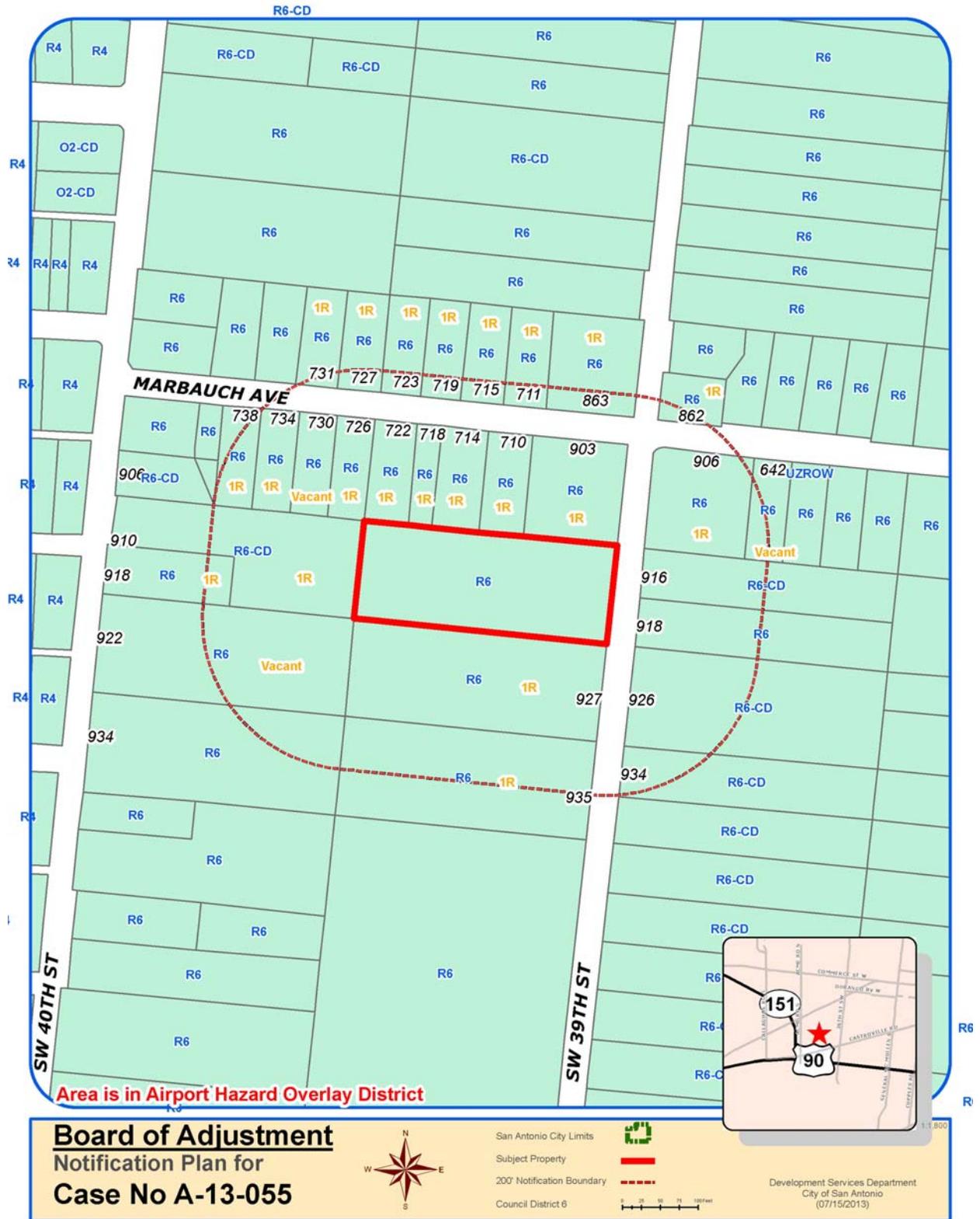
Attachment 1 – Notification Plan (Location Map)

Attachment 2 – Plot Plan

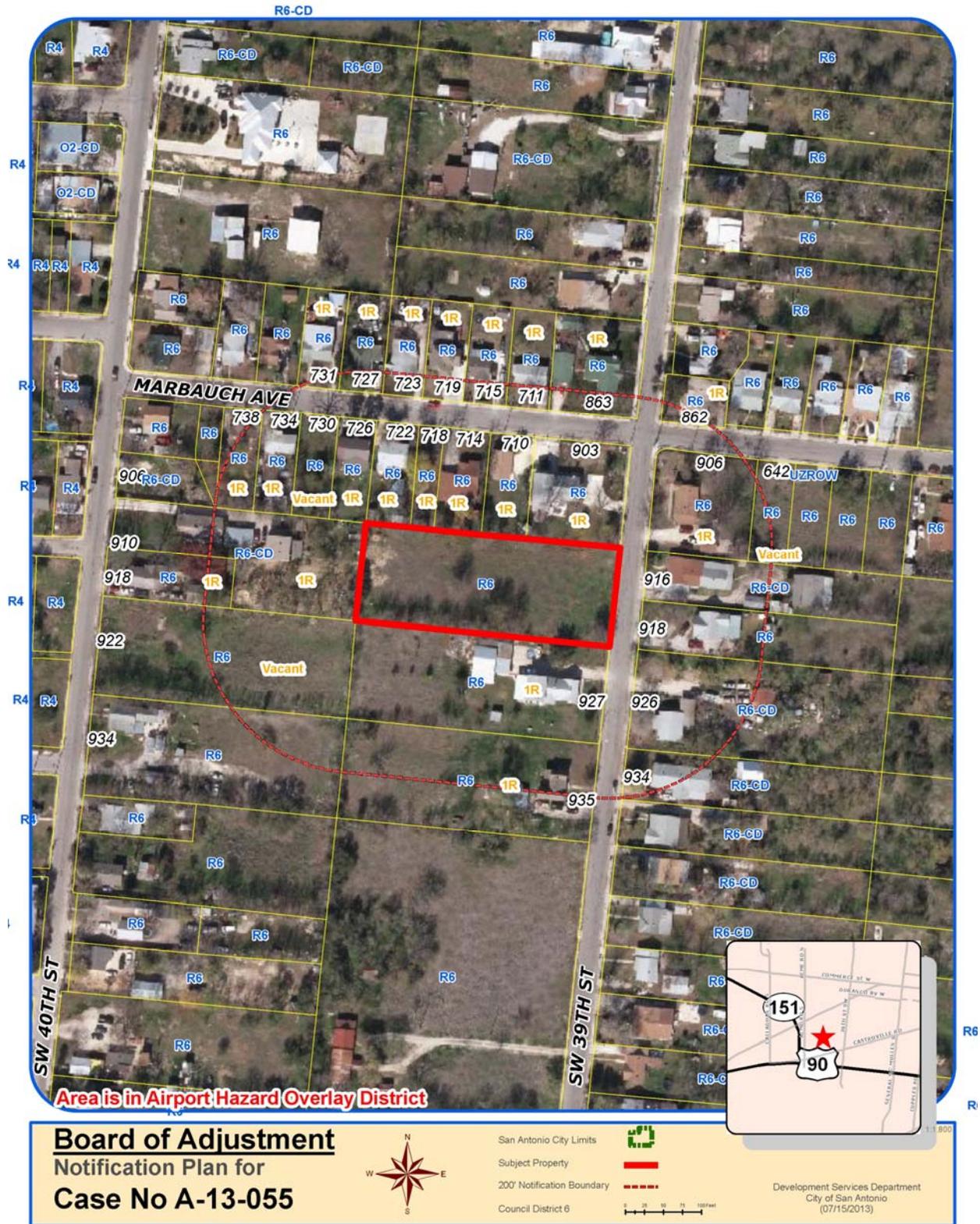
Attachment 3 – Applicant’s Site Plan

Attachment 4 – Site Photos

Attachment 1 Notification Plan



Attachment 1 Notification Plan (cont)



**Attachment 2
Plot Plan**



Board of Adjustment
Plot Plan for
Case No A-13-055



"NOT TO SCALE,
FOR ILLUSTRATIVE PURPOSES ONLY"
Council District 6

919 SW 39th

Development Services Department
City of San Antonio
(07/15/2013)

Attachment 2
Plot Plan (cont)



Board of Adjustment
Plot Plan for
Case No A-13-055

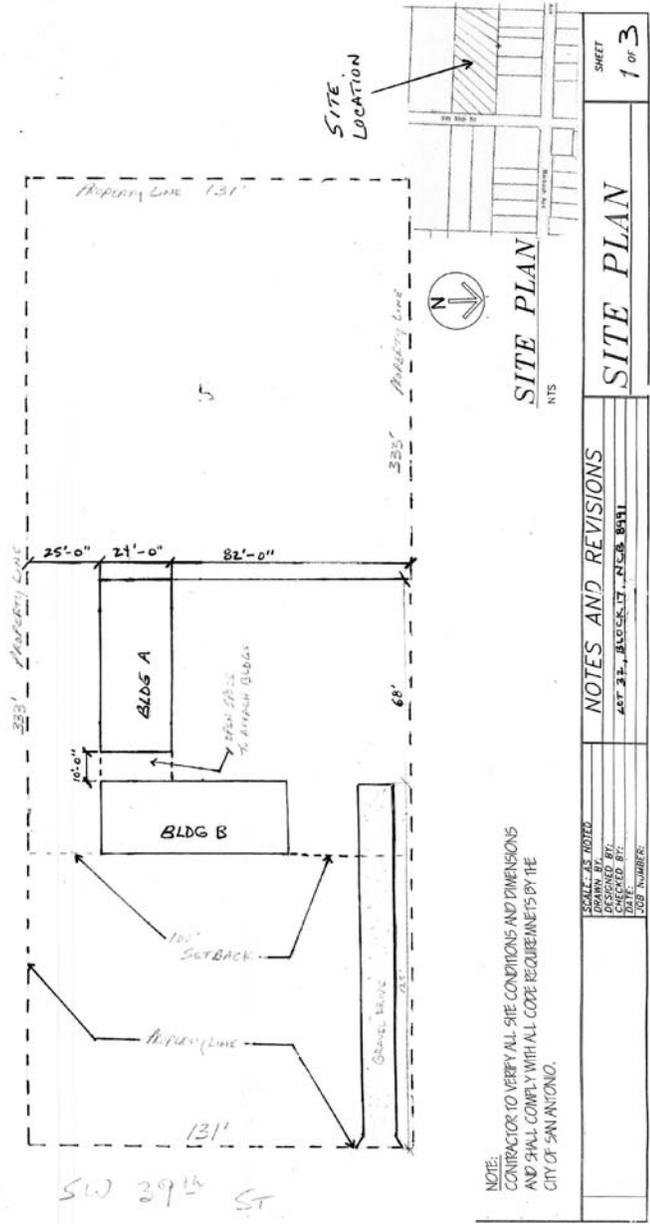


"NOT TO SCALE,
FOR ILLUSTRATIVE PURPOSES ONLY"
Council District 6

919 SW 39th

Development Services Department
City of San Antonio
(07/15/2013)

Attachment 3 Applicant's Site Plan



919 SW 39th Street

**Attachment 4
Site Photos**



Proposed Buildings



City of San Antonio Development Services Department Staff Report

To: Board of Adjustment
Case No.: A-13-056
Date: July 15, 2013
Applicant: Gerald & Lady Ellen Clark
Owner: Gerald & Lady Ellen Clark
Location: 310 Clubhill
Legal Description: Lot 16, NCB 12351
Zoning: "R-5 AHOD" Residential Airport Hazard Overlay District
Prepared By: Margaret Pahl, AICP Senior Planner

Request

The applicant requests 1) a 2-foot variance from the required 5-foot minimum side yard setback to allow a building addition 3-feet from the property line; 2) a 2-foot variance from the maximum allowed projection of an architectural feature to allow an eave within 1-foot from the side property line; and 3) a 5-foot variance from the required 5-foot minimum side yard to allow an atrium on 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 within two hundred (200) feet of the subject property on June 27, 2013. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on June 28, 2013. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on or before July 12, 2013, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The subject property is 50-feet wide, contains 6,800 square feet and is one of 36 lots created in the 1968 recording of the High Sierra Subdivision. The subdivision is near the crest of Inspiration Hill. The plat included a 30-foot front setback and a rear 16-foot utility easement. Many of the homes were built in 1970, but a few were built later, including the subject house constructed in 1982. Some of the lots remain vacant, and others have been combined to make larger home sites, including the recently built estate across the street which incorporated 3 lots.

The applicant’s house originally included two projections into the minimum setback, the second-story balcony and the original deck. The proposed addition can be characterized as enclosing an existing deck. The deck was partially enclosed prior to the applicant purchasing the home, with fencing on the exterior edge and a screen roof. The previous owners had a hot tub on the deck. More recently, the applicant decided to remodel the deck into a building addition. He was cited for construction without a building permit and given a stop work order. While conducting the site inspection, staff noted the eave projection and recommended the applicant seek a variance for that zoning violation.

Staff also noted the building on the opposite side, seemingly up to the property line. Apparently, the original builder built an atrium of sorts around a large picture window in the restroom. The last variance is requested to allow this project to remain.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“R-5 AHOD” Residential Airport Hazard Overlay Districts	Single Family Dwelling

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-5 AHOD” Residential Airport Hazard Overlay Districts	Single Family Dwelling
South	“R-5 AHOD” Residential Airport Hazard Overlay Districts	Single Family Dwelling
East	“R-5 AHOD” Residential Airport Hazard Overlay Districts	Single Family Dwelling
West	“R-5 AHOD” Residential Airport Hazard Overlay Districts	Single Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the Near Northwest Plan area. The property is within the boundaries of the Inspiration Hills Neighborhood Association and as such, they were 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.*

The public interest is defined as the general health, safety and welfare of the public at large. The public interest is protected by minimum setbacks established to ensure adequate air, light and fire separation. There are construction methods that can be used to enhance the fire

protection when these minimum setbacks have been compromised. These methods will be enforced if the Board decides these variances would not be contrary to the public interest.

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

A literal enforcement of the ordinance would require that the applicant remove enough of the proposed addition to provide the 5-foot setback. The existing exterior wall of the main home is located at the minimum 5-foot setback, so the addition would then be “in-line” with the main structure. The interior space would be reduced to about 6.5 feet wide without the variance. The applicant is attempting to use the same foundational supports of the original deck, so a new foundation would also be required. The Board of Adjustment will have to determine if compliance represents an unnecessary hardship.

The applicant asserts that a less substantial version of this outdoor room has been there since 1984, when a screened roof covered the deck and fencing surrounded the edge. They have enjoyed having the space since their purchase in 1992 and added patchwork improvements such as corrugated plastic roofing but now hope to invest in a more permanent addition. They estimate the added value to be substantial.

Neighboring property owners who have lived there since the 1980’s confirm that the original improvements were there since the original house was built. For this reason, they are supportive of the improvements. Reducing what the owners have enjoyed for 20 years may result in an unnecessary hardship.

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

Various zoning court cases have provided guidance as to the “spirit” of the ordinance as contrasted with the “strict letter” of the law. In observing the spirit, the Board is directed to weigh the competing interests of the property owner and the community. The community has a right to the prescribed setback, but reduction in the required setback is one of the most frequently requested variances. In this neighborhood, many homes were constructed very close to the property line, a fairly common occurrence with narrow lots. Even though the 5-foot setback has been the minimum setback since the initial zoning ordinance was adopted in 1938, the code has always referenced a 3-foot side yard setback as the absolute minimum. *The building line for an existing residence having a side yard of three feet or more may be maintained on any addition to the residence, but in no instance shall the side yard be less than three feet.* The spirit of the ordinance seems to be observed at 3-feet.

The Code has a provision which allows eave projections inside the setback, but normally only up to a distance of 3-feet. In this case, with the wall needing a 2-foot variance, the eave projection needs the same allowance. Fire-rating will be required to mitigate any additional potential risk from the reduced setback, and observing the health and safety of the public.

- 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 AHOD” 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 property in question had an existing deck in the same location. The deck had a roof and fencing attached around its edge to provide privacy. Eventually, the owner decided to make this space more permanent with the plan as proposed. It would seem that allowing the building addition to match the historic deck would not alter the character of the district. Though the requested variance to allow the roofline within a foot of the property has the potential to injure the adjacent property in the event of a fire, residential plans examiners have stated that mitigation methods are available to protect the neighboring property. In addition, this property owner has responded in favor of the requested variance and has no concerns should the requested variance or a reduced variance be granted.

Regarding the last variance to allow the atrium on the property line, the construction is very similar to a wooden fence, which is allowed on the property line. It is also somewhat temporary in nature and could remain without injuring the neighbor to this side. This neighbor has called and submitted a written response to the Notice of Public Hearing in support of the requested variances.

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 this property are similar to all lots with 50-feet of lot width, but not necessarily self-imposed. The house was not built by the applicant; they purchased it in 1992 with the existing deck and the atrium as well. A clear-glass picture window in the restroom is a very unique circumstance that warrants some remedy. The deck had been enclosed by the previous owner, but with shoddy workmanship and inadequate materials. The applicant had repeated problems with leaking and decided to invest in resolving the issues permanently. The applicant asserts that the proposed work is replacing exactly what had been there.

Alternatives to Applicant's Request

The alternative to the applicant's request is to demolish the supporting wall and reduce the size to provide the 5-foot setback.

Staff Recommendation

Staff recommends **approval of A-13-056**, based on the following findings:

1. The applicant is using an existing foundation installed since at least 1984, and replacing an existing wall and roofing with more permanent, long-lasting improvements.
2. The atrium, also in place since 1984, provides needed privacy and is similar to a fence.
3. The eave overhang can be "fire-rated" to protect the adjacent property and is a similar architectural design feature to other homes nearby.

Attachments

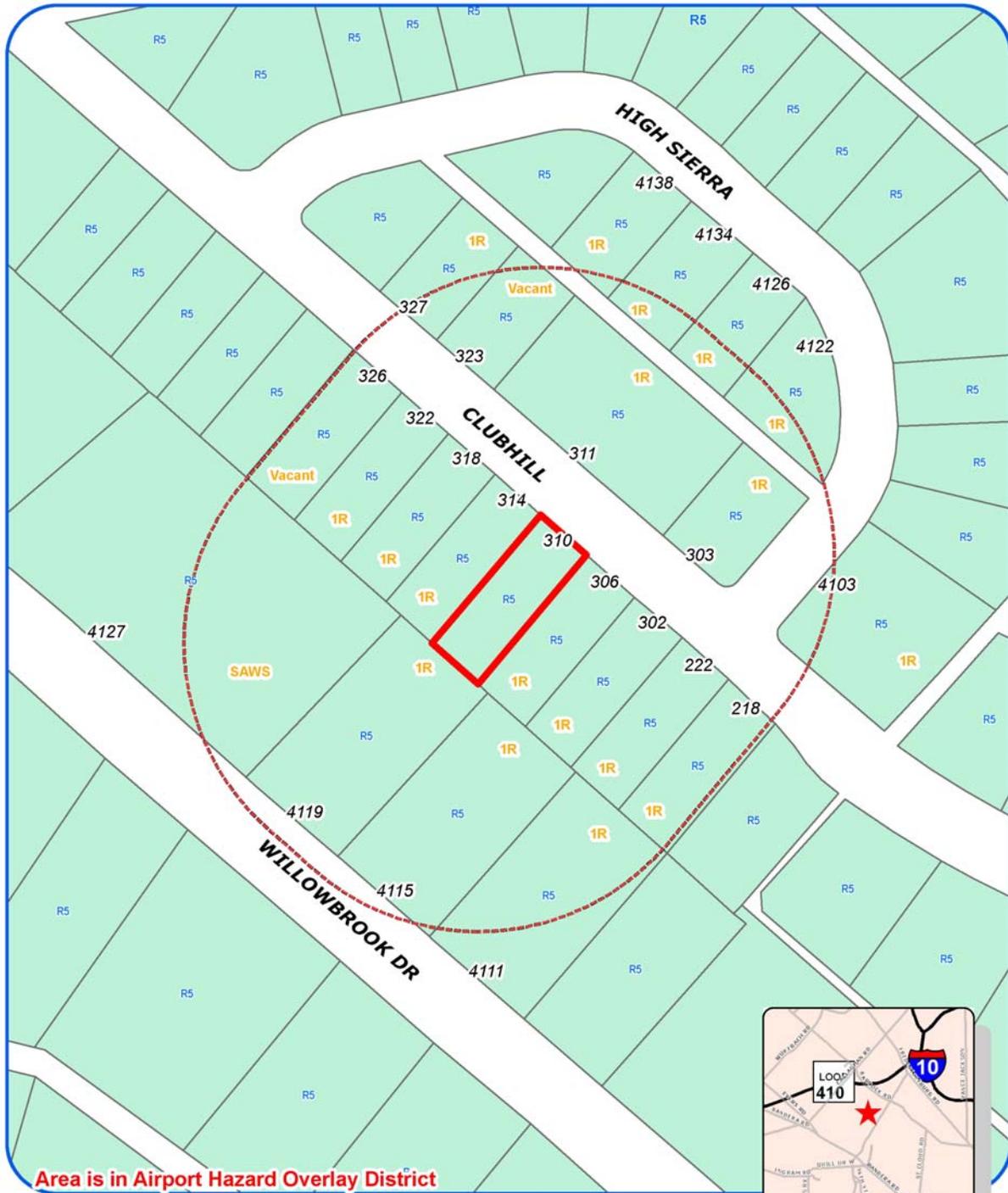
Attachment 1 – Notification Plan (Location Map)

Attachment 2 – Plot Plan

Attachment 3 – Applicant Site Plan

Attachment 4 – Site Photos

Attachment 1 Notification Plan



Area is in Airport Hazard Overlay District



<p>Board of Adjustment Notification Plan for Case No A-13-056</p>		<p>San Antonio City Limits </p> <p>Subject Property </p> <p>200' Notification Boundary </p> <p>Council District 7 </p>	<p style="text-align: right;">Development Services Department City of San Antonio (07/15/2013)</p>
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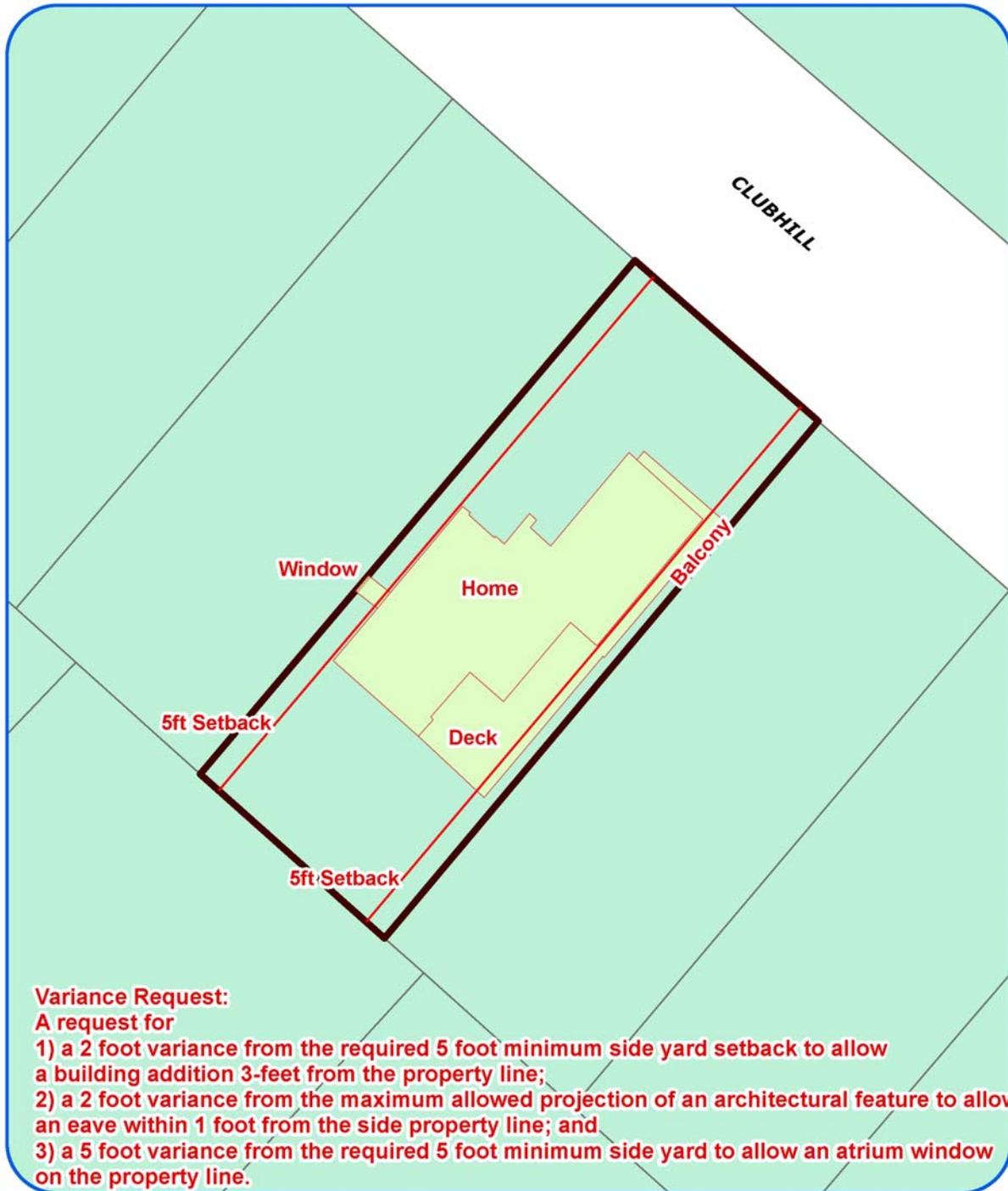
Attachment 1 Notification Plan (cont)



Area is in Airport Hazard Overlay District

<p>Board of Adjustment Notification Plan for Case No A-13-056</p>		<p>San Antonio City Limits </p> <p>Subject Property </p> <p>200' Notification Boundary </p> <p>Council District 7 </p>	<p style="text-align: center;">Development Services Department City of San Antonio (07/15/2013)</p>
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**Attachment 2
Plot Plan**



Board of Adjustment
Plot Plan for
Case No A-13-056



"NOT TO SCALE,
FOR ILLUSTRATIVE PURPOSES ONLY"
Council District 7

310 Clubhill

Development Services Department
City of San Antonio
(07/15/2013)

**Attachment 2
Plot Plan (cont)**



Board of Adjustment
Plot Plan for
Case No A-13-056



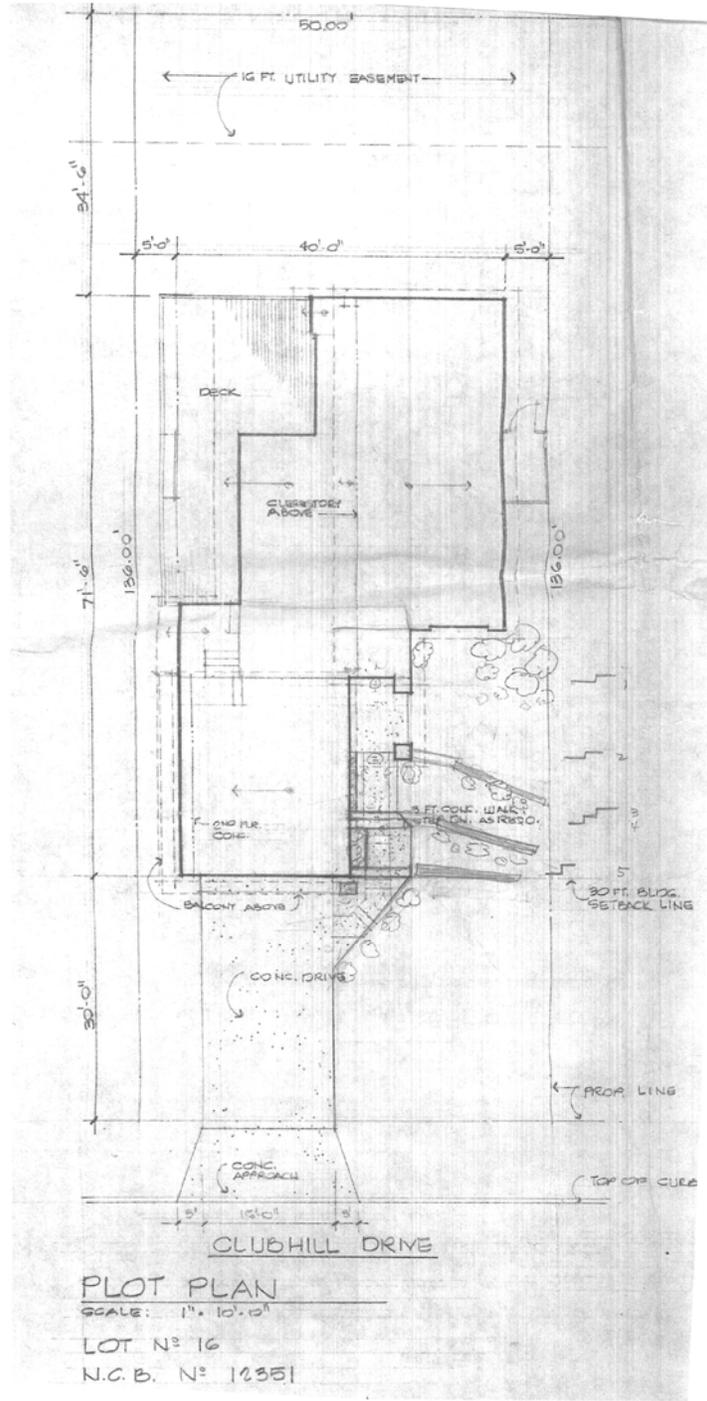
"NOT TO SCALE,
FOR ILLUSTRATIVE PURPOSES ONLY"
Council District 7

310 Clubhill

1:300

Development Services Department
City of San Antonio
(07/15/2013)

Attachment 3 Applicant's Site Plan



**Attachment 4
Site Photos**



310 Clubhill



Variance # 1 and #2

Attachment 4 (cont)

Site Photos



Variance #3 Atrium



City of San Antonio Development Services Department Staff Report

To: Board of Adjustment
Case No.: A-13-057
Date: July 15, 2013
Applicant: Araceli Sanchez
Owner: Moises Lopez Sanchez
Location: 1702 La Manda Blvd
Legal Description: Lot 10, Block 197, NCB 9655
Zoning: "R-4 AHOD" Residential Single-Family Airport Hazard Overlay District
Prepared By: Osniel Leon, Planner

Request

A request for 1.6 foot side setback variance from the required 5 foot minimum side yard setback to allow an accessory dwelling unit 3.4 feet from the side 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 within two hundred (200) feet of the subject property on July 27, 2013. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on July 28, 2013. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on July 12, 2013, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The subject property is located on the southwest corner of La Manda Boulevard and Buckeye Avenue. According to Bexar County Appraisal, this property is developed as a single-family residence built in 1948 measuring 720 square feet with an accessory dwelling unit measuring 400 square feet. The site, and the surrounding area, was annexed into the City of San Antonio in May, 1949. As the residence was constructed prior to annexation, the City's zoning regulations of the time would not have been in effect on this property. When the annexation occurred, the structure, along with the rest of the neighborhood, became non-conforming. The subject property contains 6,000 square feet, measuring 50 feet by 120 feet. The subdivision plat establishing the development pattern was recorded in 1910.

A survey indicates that the accessory dwelling unit encroaches into the side setback by 1.6 feet. The applicant is requesting a variance to extend and enlarge the accessory dwelling in the opposite direction.

The structure was originally not constructed as an accessory detached dwelling unit, but rather was built as an accessory structure. A variance is required because the structure’s use has changed from an accessory structure to an accessory detached dwelling unit. According to Section 35-371(b) (7) requires accessory detached dwelling units to meet a five-foot setback. The structure meets all of the other requirements set out in Section 35-371(b) for an accessory detached unit.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“R-4 AHOD” Residential Airport Hazard Overlay Districts	Single Family Dwelling

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-4 AHOD” Residential Airport Hazard Overlay Districts	Single Family Dwelling
South	“R-4 AHOD” Residential Airport Hazard Overlay Districts	Single Family Dwelling
East	“R-4 AHOD” Residential Airport Hazard Overlay Districts	Single Family Dwelling
West	“R-4 AHOD” Residential Airport Hazard Overlay Districts	Single Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the Greater Dellview Area Community Plan. The subject property is not located within the boundaries of a registered neighborhood association.

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.*

The public interest is defined as the general health, safety and welfare of the public at large. The public interest is protected by minimum setbacks established to ensure adequate air, light and fire separation. There are construction methods that can be used to enhance the fire protection when these minimum setbacks have been compromised. With these mitigation methods, the variance would not be contrary to the public interest.

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

Accessory structures have historically been allowed to be constructed on or very close to the property line, but these liberal setbacks were for storage type buildings, not structures with living space. This building will be a living space with a total of 400 square feet. The building was constructed to provide a place of residence for a family member. Because of the age of the subdivision and the timing of the annexation, a special condition exists that would cause a literal enforcement of the ordinance to result in an unnecessary hardship.

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

Various zoning court cases have provided guidance as to the “spirit” of the ordinance as contrasted with the “strict letter” of the law. In observing the spirit, the Board is directed to weigh the competing interests of the property owner and the community. The community has a right to the prescribed setback and everyone is required to comply. The volume of citizens who make assumptions about their property lines rather than commissioning a survey is substantial. It is the City’s policy to accept a hand-drawn site plan representing the owner’s assumed property boundaries as accurate. Given that policy direction, small errors can be expected and therefore the variance in this case would observe the spirit of the ordinance.

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-4 (Residential) 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.*

Accessory structures are very common in the surrounding neighborhood. Many appear to be built on the property lines, but only detailed surveys can establish that fact. It would seem that allowing the existing building to remain by granting the variance would not alter the character of the district.

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 subject property were not caused by the applicant, but rather the development of the neighborhood when the area was not inside the San Antonio City Limits.

Alternatives to Applicant’s Request

The alternative to the applicant’s request is to construct a new dwelling to current code.

Staff Recommendation

Staff recommends **approval of A-13-057** based on the following findings:

1. The requested setback is characteristic of the other accessory structures in the neighborhood;
2. The accessory dwelling unit is a non-conforming structure;
3. The applicant used an existing building which previously supported a similar accessory use; and
4. The enlargement of the structure meets all required setbacks; the setback non-conformity was not increased by this enlargement.

Attachments

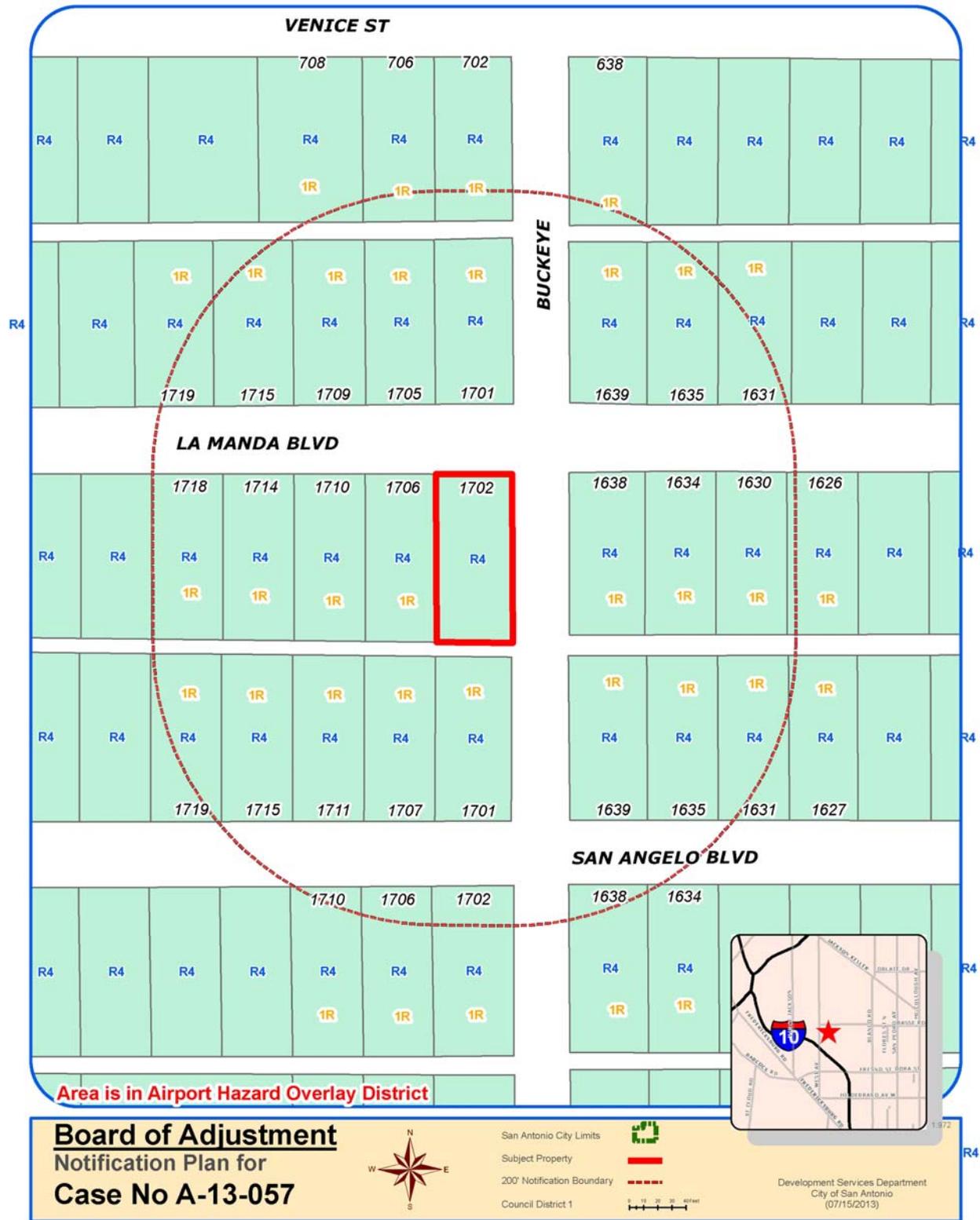
Attachment 1 – Notification Plan (Location Map)

Attachment 2 – Plot Plan

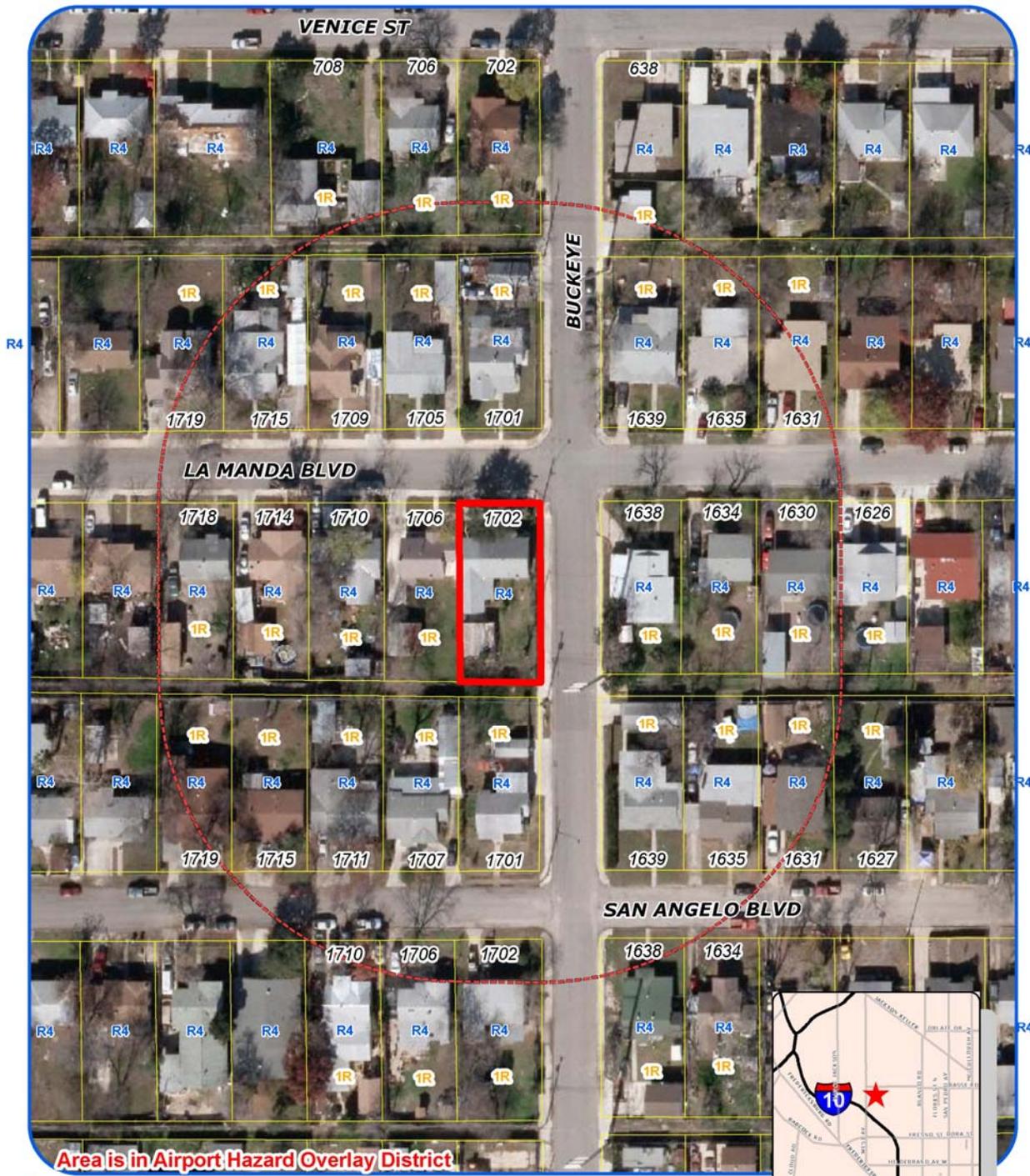
Attachment 3 – Applicant’s Survey

Attachment 4 – Site Photos

Attachment 1 Notification Plan



**Attachment 1
Notification Plan (continued)**



Area is in Airport Hazard Overlay District

<p>Board of Adjustment Notification Plan for Case No A-13-057</p>		<p>San Antonio City Limits </p> <p>Subject Property </p> <p>200' Notification Boundary </p> <p>Council District 1 </p>	<p></p>
	<p>Development Services Department City of San Antonio (07/15/2013)</p>		
	<p></p>		
	<p>Area is in Airport Hazard Overlay District</p>		

**Attachment 2
Plot Plan**



Board of Adjustment
Plot Plan for
Case No A-13-057



"NOT TO SCALE,
FOR ILLUSTRATIVE PURPOSES ONLY"
Council District 1

1702 LaManda Blvd ¹⁻²⁷⁴

Development Services Department
City of San Antonio
(07/15/2013)

Attachment 2
Plot Plan (continued)



Variance Request:
A 1.6 foot side setback variance from the required 5 foot minimum side yard setback to allow an accessory dwelling unit 3.4 feet from the side property line.

Board of Adjustment
Plot Plan for
Case No A-13-057

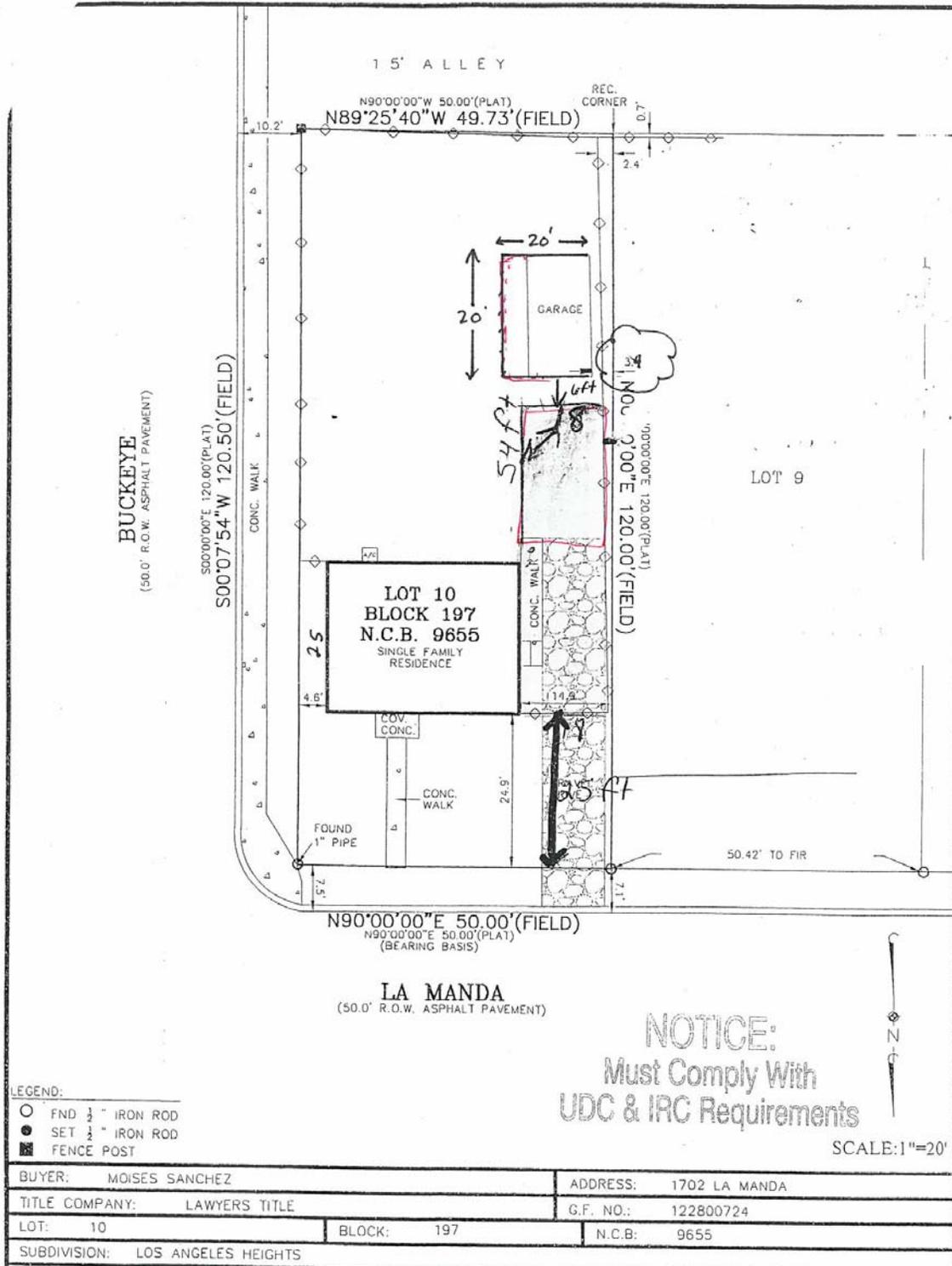


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Attachment 3 Applicant's Survey



**Attachment 4
Site Photos**

