

City of San Antonio Board of Adjustment

Regular Public Hearing Agenda

Monday, March 18, 2013

1:00 P.M.

Cliff Morton Development and Business Services Center, Board Room

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-13-025:** The request of Maria Sramek for 1) a 3-foot rear yard setback variance to allow a structure 2 feet from the rear property line, and 2) a 3-foot side yard setback variance to allow a structure 2 feet from the side property line located at 9146 Wild Trails Street. (Council District 6)
5. **A-13-026:** The request of Rosaura Carrizales for a 10-inch side yard setback variance to allow a structure 4 feet, 2 inches from the side property line located at 2135 Beechaven Drive. (Council District 5)
6. **A-13-027:** The request of Paul Covey for a special exception for a non-commercial parking lot with 74 parking spaces located at approximately 8320 Gault Lane. (Council District 9)
7. **A-13-028:** The request of Maria Castillo for 1-foot 4-inch variance from the 3-foot minimum side yard setback, to allow an accessory structure without eaves 1-foot 8-inches from the side property line located at 907 W. Kings Hwy.(Council District 1)
8. Approval of the minutes – March 4, 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).*

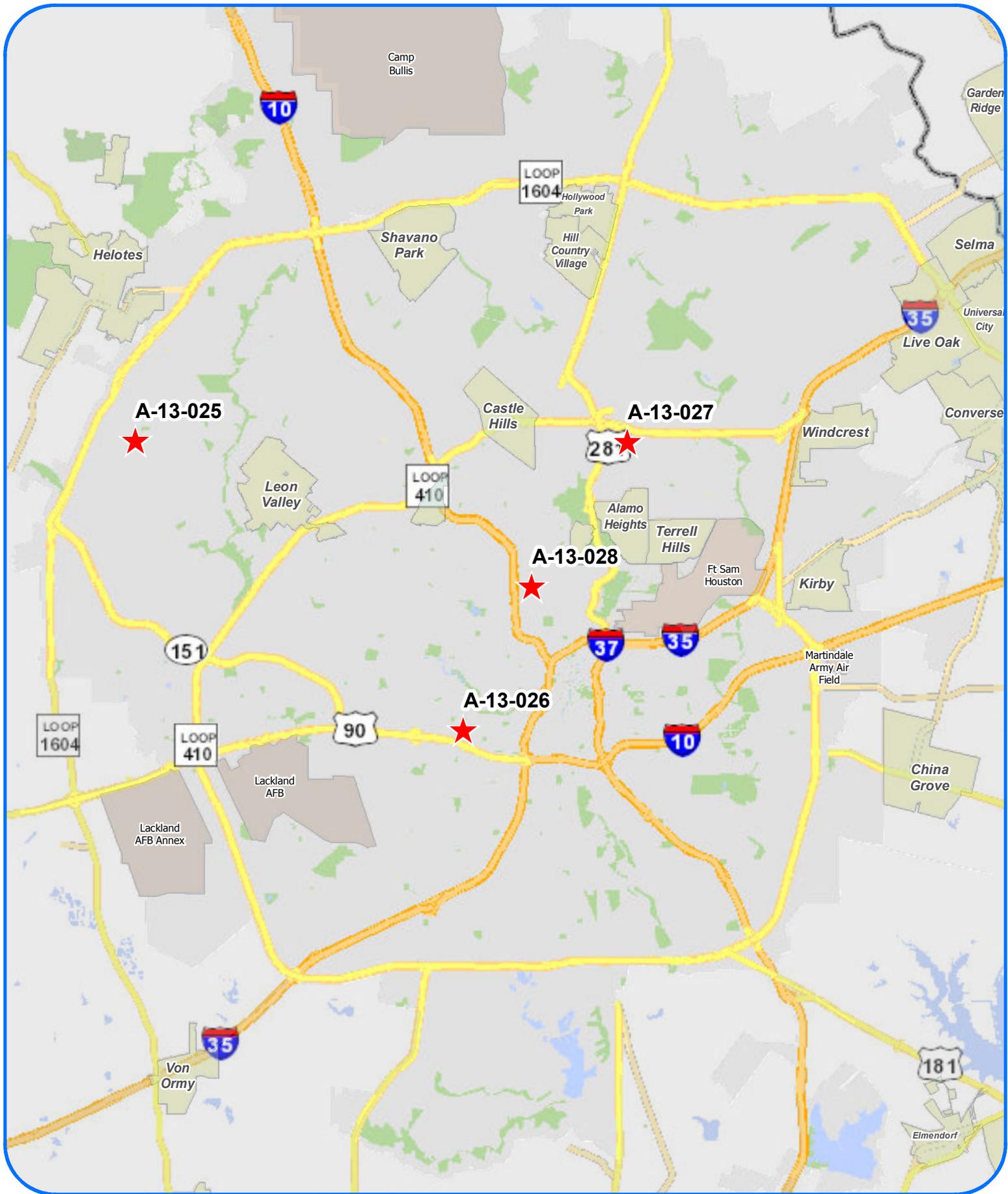
DECLARACIÓN DE ACCESIBILIDAD – *Este lugar de la reunión es accesible a personas incapacitadas. Se hará disponible el estacionamiento. Ayudas auxiliares y servicios y interpretes para los sordos se deben pedir con cuarenta y ocho [48] horas de anticipación al la reunión. Para asistencia llamar a (210) 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 • Vacant, 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 18th March 2013**





City of San Antonio Development Services Department Staff Report

To: Board of Adjustment
Case No.: A-13-025
Date: March 18, 2013
Applicant: Mary Sramek
Owner: Scott and Mary Sramek
Location: 9146 Wild Trails Street
Legal Description: Lot 12, Block 8, NCB 19026
Zoning: "R-6" Residential Single-Family District
Prepared By: Tony Felts, Planner

Request

A request for 1) a 3-foot rear yard setback variance to allow a structure 2 feet from the rear property line, and 2) a 3-foot side yard setback variance to allow a structure 2 feet from the side property line.

Procedural Requirements

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 February 28, 2013. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation, on March 1, 2013. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on March 15, 2013, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The subject property is located on the south side of Wild Trails Street, approximately 70 feet east of Hill Trails Street.

The applicant has constructed a gazebo in the rear yard that is within both the side and rear yard setbacks. The gazebo was constructed without permits or approvals, and the applicant has been cited by Code Compliance. Additionally, the gazebo is located over a recorded easement that contains buried utility lines including electrical, gas, cable, and telephone. The applicant is now seeking a variance to resolve the zoning issues; however, it should be noted that the variance will not resolve any of the issues resulting from the structure being placed within a recorded easement.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
R-6 (Residential)	Single-Family Dwelling

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	R-6 (Residential)	Single-Family Dwelling
South	R-6 (Residential)	Single-Family Dwelling
East	R-6 (Residential)	Single-Family Dwelling
West	R-6 (Residential)	Single-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the North Sector Plan and the Northwest 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:

Building setbacks are designed to maintain orderly and safe development, and ensure access to air and light. In this case, the gazebo is within 2 feet of both the side and rear property lines. The gazebo is a substantial structure, nearly as tall as the primary dwelling, and creates a visual distraction to surrounding property owners. Additionally, the fact that the structure has been built over a recorded easement which contains active utilities presents challenges both to the applicant and others served by those utility lines. It should be noted that the terms of the easement require that if access is needed to the utility lines, the easement holders will demolish any structures in the easement at the owner's expense to access the lines.

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

There are no special conditions readily apparent to warrant the granting of the variance.

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

The spirit of the ordinance will not be observed by granting this variance as there is no hardship readily apparent.

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-6 (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.*

The requested variance, if approved, may injure adjacent conforming properties due to the proximity of the structure to the property line and because of the structures location over an easement with active utility lines. Additionally, granting the variance may set a precedent in the community.

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.*

There are no special or unique circumstances apparent on the property to warrant the granting of the requested variance, it is simply an after-the-fact request for approval.

Alternatives to Applicant's Request

The alternative to the applicant's request is to remove the gazebo structure which was constructed without permits and approvals.

Staff Recommendation

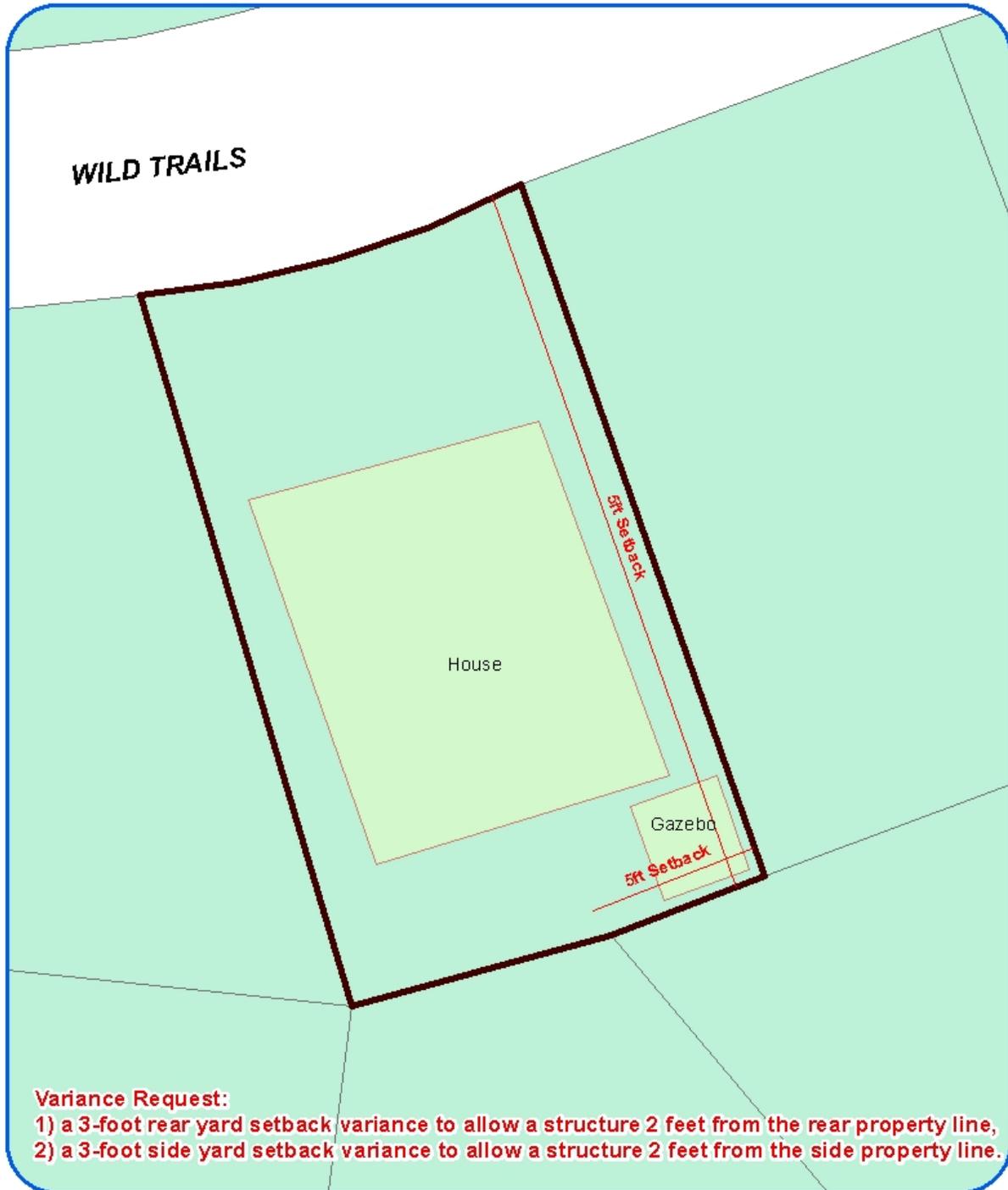
Staff recommends **denial of A-13-025** because of the following reasons:

- There are no special conditions or circumstances on the property that warrant the granting of the requested variance.
- The gazebo is constructed over a recorded easement with active utility lines present.

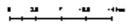
Attachments

Attachment 1 – Notification Plan (Location Map)
Attachment 2 – Plot Plan

**Attachment 2
Plot Plan**



Board of Adjustment
Plot Plan for
Case No A-13-025



Council District 6

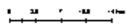
9146 Wild Trails

Development Services Department
City of San Antonio
(371)62013

Attachment 2 (Continued)
Plot Plan



Board of Adjustment
Plot Plan for
Case No A-13-025



Council District 6

9146 Wild Trails 1248

Development Services Department
City of San Antonio
(210) 375-2013



City of San Antonio Development Services Department Staff Report

To: Board of Adjustment
Case No.: A-13-026
Date: March 18, 2013
Applicant: Rosaura Carrizales
Owner: Rosaura Carrizales
Location: 2135 Beechaven Drive
Legal Description: Lot 36, Block 1, NCB 8601
Zoning: "MF-33 AHOD" Multi-Family Airport Hazard Overlay District
Prepared By: Tony Felts, Planner

Request

A request for a 10-inch side yard setback variance to allow a structure 4 feet, 2 inches from the side property line.

Procedural Requirements

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 February 28, 2013. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation, on March 1, 2013. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on March 15, 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 Beechaven Drive, approximately 580 feet east of SW 19th Street.

This property had been developed as a single-family residence prior to 2012. In 2012, the property suffered a fire, which led to the demolition of the structure's remains in December, 2012. The applicant states that foundation of the dwelling is intact, and they are requesting to utilize the existing foundation to rebuild the dwelling.

A survey indicates that the foundation encroaches into the setback by 10 inches. Non-conforming structures, as per Section 35-707(d)(1) cannot be rebuilt if damage to the structure

exceeds fifty percent of the replacement cost. As previously stated, the entire structure has been demolished, thus any non-conforming structure rights have terminated. Non-conforming structures are, by definition, designed to terminate and replaced with compliant structures.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
MF-33 (Residential)	Single-Family Dwelling

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	MF-33 (Residential)	Single-Family Dwelling
South	MF-33 (Residential)	Single-Family Dwelling
East	MF-33 (Residential)	Single-Family Dwelling
West	MF-33 (Residential)	Single-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the Guadalupe Westside 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:*

Building setbacks are designed to maintain orderly and safe development, and ensure access to air and light. In this case, a new dwelling constructed on the existing non-conforming building foundation would not meet the requirements of the code, and would also not comply with minimum fire separations, although building code would require the construction of a fire separation wall. As such, granting of a variance would be contrary to the public interest.

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

There are no special conditions readily apparent to warrant the granting of the variance.

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

The spirit of the ordinance will not be observed by granting this variance as there is no hardship readily apparent. Additionally, non-conforming structures, by design, are intended to terminate and be replaced with conforming structures. By prolonging a non-conformity, the spirit of the ordinance is not observed.

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 MF-33 (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.*

The requested variance, if approved, may injure adjacent conforming properties due to the proximity of the structure to the property line and because the structure will not maintain fire separation distances.

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.*

There are no special or unique circumstances apparent on the property to warrant the granting of the requested variance.

Alternatives to Applicant's Request

The alternative to the applicant's request is to construct a compliant dwelling.

Staff Recommendation

Staff recommends **denial of A-13-026** because of the following reasons:

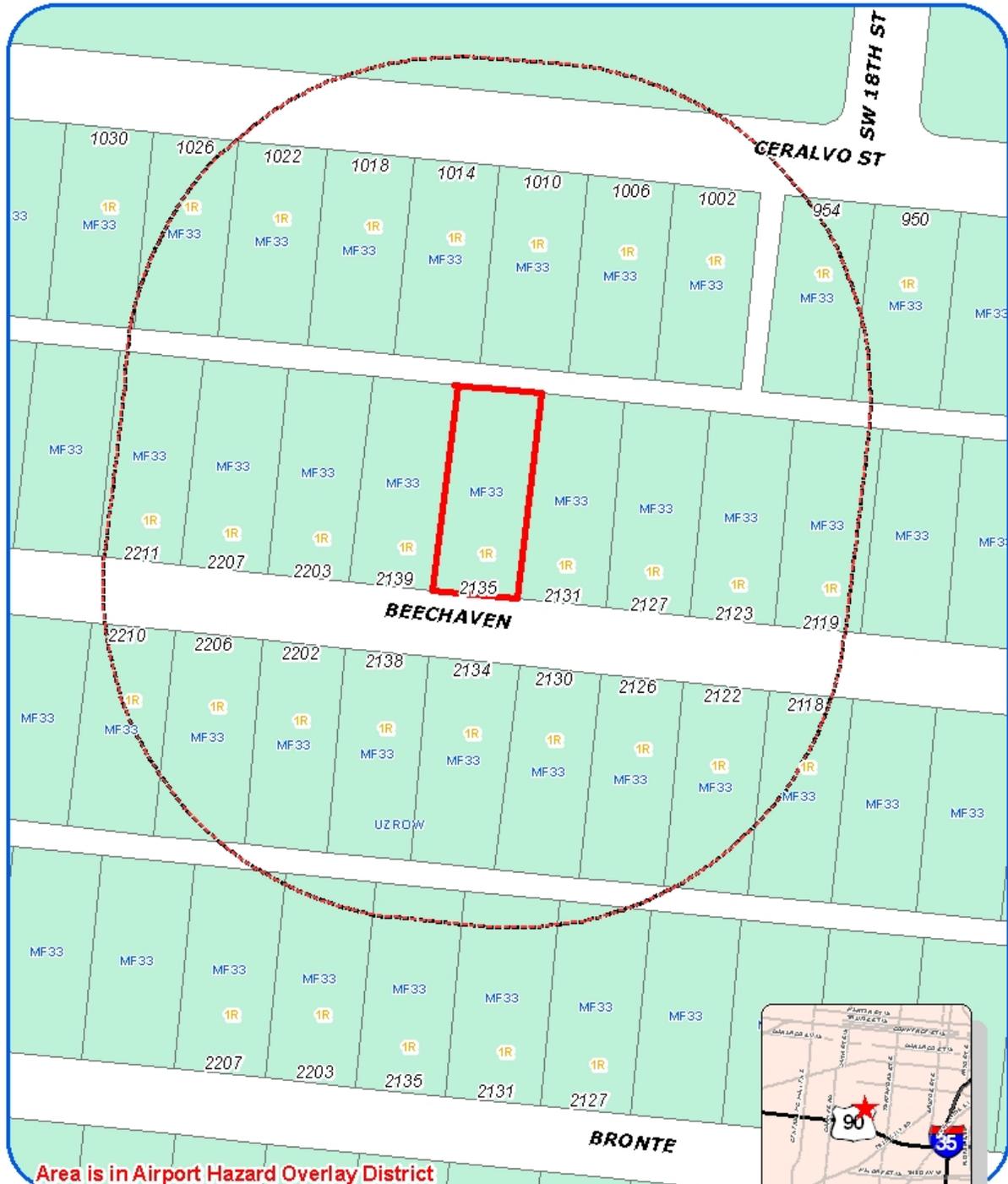
- There are no special conditions or circumstances on the property that warrant the granting of the requested variance.
- Non-conforming structures are intended to be replaced by conforming structures.
- The proposed structure does not maintain minimum fire separation distance.

Attachments

Attachment 1 – Notification Plan (Location Map)

Attachment 2 – Plot Plan

Attachment 1 Notification Plan



**Board of Adjustment
Notification Plan for
Case No A-13-026**



- San Antonio City Limits
- Subject Property
- 200' Notification Boundary
- City of Districts



Development Services Department
City of San Antonio
(3/18/2013)

**Attachment 1 (Continued)
Notification Plan**



**Board of Adjustment
Notification Plan for
Case No A-13-026**



- San Antonio City Limits 
- Subject Property 
- 200' Notification Boundary 
- City of Districts 

Development Services Department
City of San Antonio
(331)622113

**Attachment 2
Plot Plan**



Variance Request:
A 10-inch side yard setback variance
to allow a structure 4 feet 2 inches from the side property line.

Board of Adjustment
Plot Plan for
Case No A-13-026



0 20 40 Feet
Council District 5

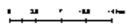
2135 Beechaven

Development Services Department
City of San Antonio
(3182013)

Attachment 2 (Continued)
Plot Plan



Board of Adjustment
Plot Plan for
Case No A-13-026



Council District 5

2135 Beechaven 1240

Development Services Department
City of San Antonio
(311) 620-1313



City of San Antonio Development Services Department Staff Report

To: Board of Adjustment
Case No.: A-13-027
Date: March 18, 2013
Applicant: Paul Covey
Owner: Ithaca Investments, LTD
Location: 8320 Gault Lane
Legal Description: The northeast 99.93 feet of Lot 7, NCB 11961
Zoning: "MF-33 AHOD" Multi-Family Residential Airport Hazard Overlay District
Prepared By: Margaret Pahl, AICP Senior Planner

Request

The applicant is requesting a special exception to allow a non-commercial parking lot in a residential zoning district.

Procedural Requirements

A special exception is a decision vested with the Board of Adjustment and includes performance standards specific to each type of exception. 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 February 28, 2013. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on March 1, 2013. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on March 14, 2013, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The subject property is a long narrow vacant lot, measuring approximately 100 feet wide by 850 feet deep. It is currently zoned MF-33 and the applicant hopes to build multi-family housing at some point in the future. In the meantime, the owner has been approached by the neighbor whose medical research facility could benefit from additional parking. Parking that is off-site from the primary use and not available to the overall public but reserved for clients of the particular business is known as a non-commercial parking lot. A non-commercial parking lot can be permitted in a residential zone by special exception for a specific length of time not to exceed four years. A non-commercial parking lot may also be authorized by a specific use permit granted by the City Council. The applicant has in fact applied for both the special exception and

the specific use authorization. The specific use application will soon be presented to the Zoning Commission and City Council for their consideration.

The Unified Development Code (UDC) section 35-399.02 includes the following detailed performance standards for non-commercial parking lots in residential zones:

1. The parking lot shall only be used by customers or employees.
2. The property must be platted.
3. The parking lot shall be properly graded for drainage, hard-surfaced and maintained in good condition.
4. Each parking stall shall meet the minimum size requirements for parking.
5. No advertising signs are permitted, other than those providing directions. Lettering must be less than 6 inches in height.
6. No parking allowed in the front setback.
7. Access shall be located to minimize interference with residential traffic.
8. The parking lot shall not be used between the hours of 7:00 pm and 7:00 am. The parking lot shall be gated to prevent entry when closed.
9. The parking lot must be generously landscaped.
10. Granting the special exception shall be for a definite period of time, not to exceed 4 years.
11. Prior to its use, the parking lot must be issued a certificate of occupancy to verify compliance with these performance standards.

The applicant has submitted a proposed plan showing compliance with the above specifications, signifying its eligibility for the special exception.

The proposed parking lot will be used by a neighboring medical research firm, ICON plc. The company is a diverse global bio-analytical facility that provides clinical trial services to pharmaceutical companies. Monthly gatherings to report research results or to orient visiting scientists generate temporary spikes in parking demands. As such, they have a fluctuating need for additional parking and a desire to serve the medical community in a dignified fashion.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“MF-33 AHOD” Multi-Family Residential Airport Hazard Overlay District	Vacant lot

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“C 3 NA AHOD” Commercial Non-	Self-Storage Facility

	Alcohol Airport Hazard Overlay District	
South	“C 1 AHOD” Commercial Airport Hazard Overlay District	Convalescent Care Facility
East	“C 2 S AHOD” Commercial Airport Hazard Overlay District	Fitness Center
West	“MF-33 AHOD” Multi-Family Residential Airport Hazard Overlay District	Multi-Family Residential

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the San Antonio International Airport planning area, and is designated for high-density mixed use land uses. It is also within 200 feet of the boundaries of the Oak Park/Northwood Neighborhood Association and as such they were notified of the request and asked to comment.

Criteria for Review

According to Section 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 35-399.02):

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

The UDC has established design requirements that when satisfied provide the process for review and approval of a special exception. The design requirements require a landscape buffer around the entire lot, limited hours, and a limited duration. The applicant has agreed to these provisions and as such, the special exception will be in harmony with the spirit and purpose of the regulations.

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

The owner of the medical research facility has identified a critical need for additional parking and a convenient adjacent location which could satisfy this need. Rather than sell the parcel, the lot owner is electing to enter into a short term lease option, which will serve the public welfare and convenience.

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

The property is currently vacant, but could be improved with 62 dwelling units. The impact potential from the use allowed by right is far more intense than the impact of 74 parking stalls, presumably needed by the existing traffic to the research facility. Therefore, the neighboring properties will not be injured by the proposed use.

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

The character of the district and the location is a mix of apartment buildings, office buildings and a convalescent care facility. Among these uses, the proposed parking will not alter the character, but instead solve an overflow parking problem that has negatively impacted the surrounding neighborhood.

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

This proposal is ideal for consideration for the requested special exception; it is not located in a single family residential zoning district as previous requests have been. Instead the property is located among a mixture of office, retail, and other high-density housing. According to the parcel's zoning, 62 dwelling units could be constructed here, creating approximately 350 vehicle trips each day. Comparing impacts between the potential use and the proposed use, the special exception will not weaken the purpose of the district or the regulations.

Alternatives to Applicant's Request

The alternative to the applicant's request is to allow the legislative process to continue and await the City Council's decision about the proposed specific use for a non-commercial parking lot. In the alternative, without convenient parking available, the medical research establishment, and their associated well paying jobs, may be motivated to leave the location and/or the City.

Staff Recommendation

Staff recommends **approval of A-13-027**, based on the following findings:

1. The parcel is adjacent to the business which needs the additional parking stalls;
2. The performance standards required for non-commercial parking lots will be satisfied;
3. The UDC envisions the need for this type of parking arrangement and provides a process for review and approval.

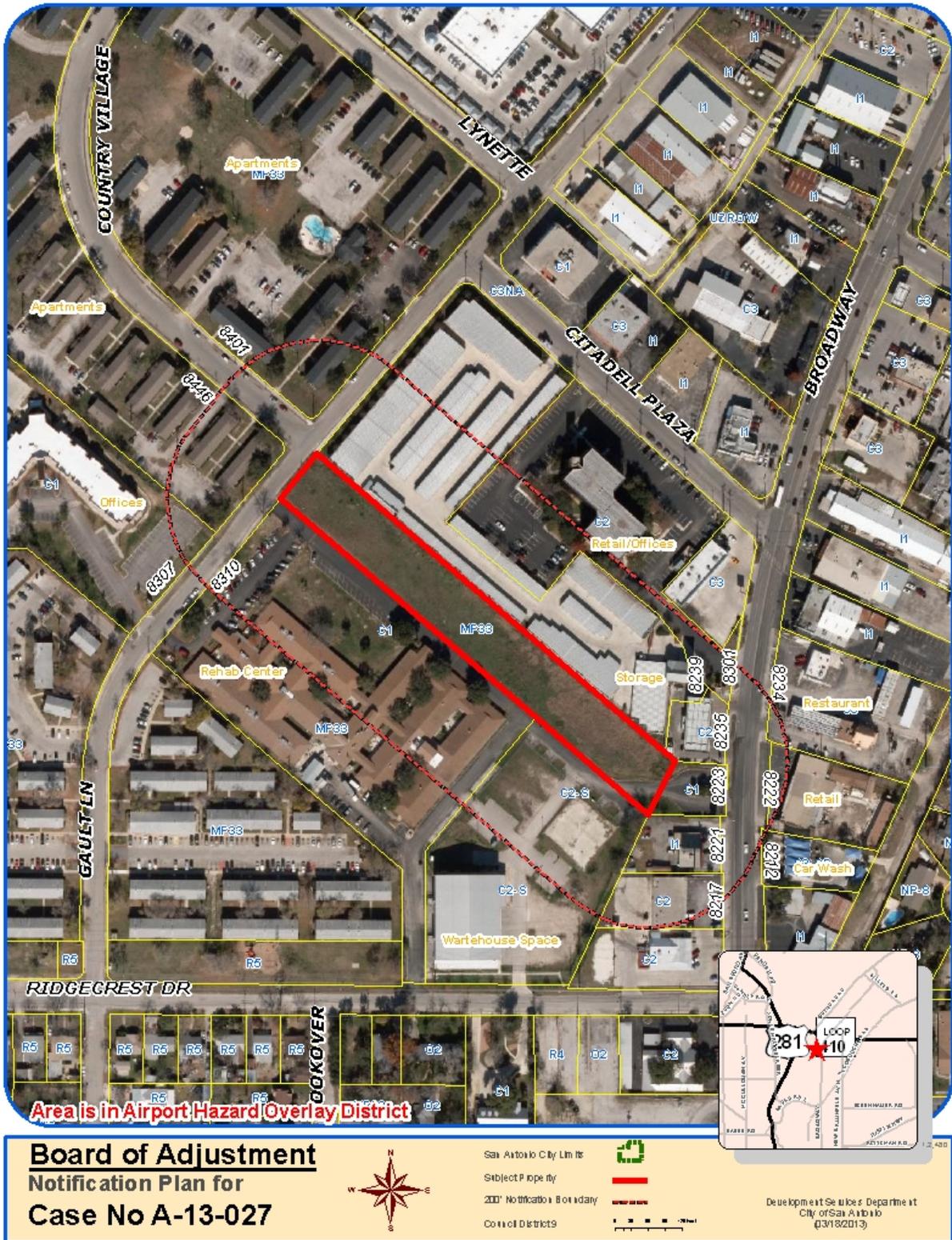
Attachments

Attachment 1 – Notification Plan (Location Map)

Attachment 2 – Plot Plan

Attachment 3 – Landscape Plan

Attachment 1 Notification Plan



Attachment 2
Plot Plan



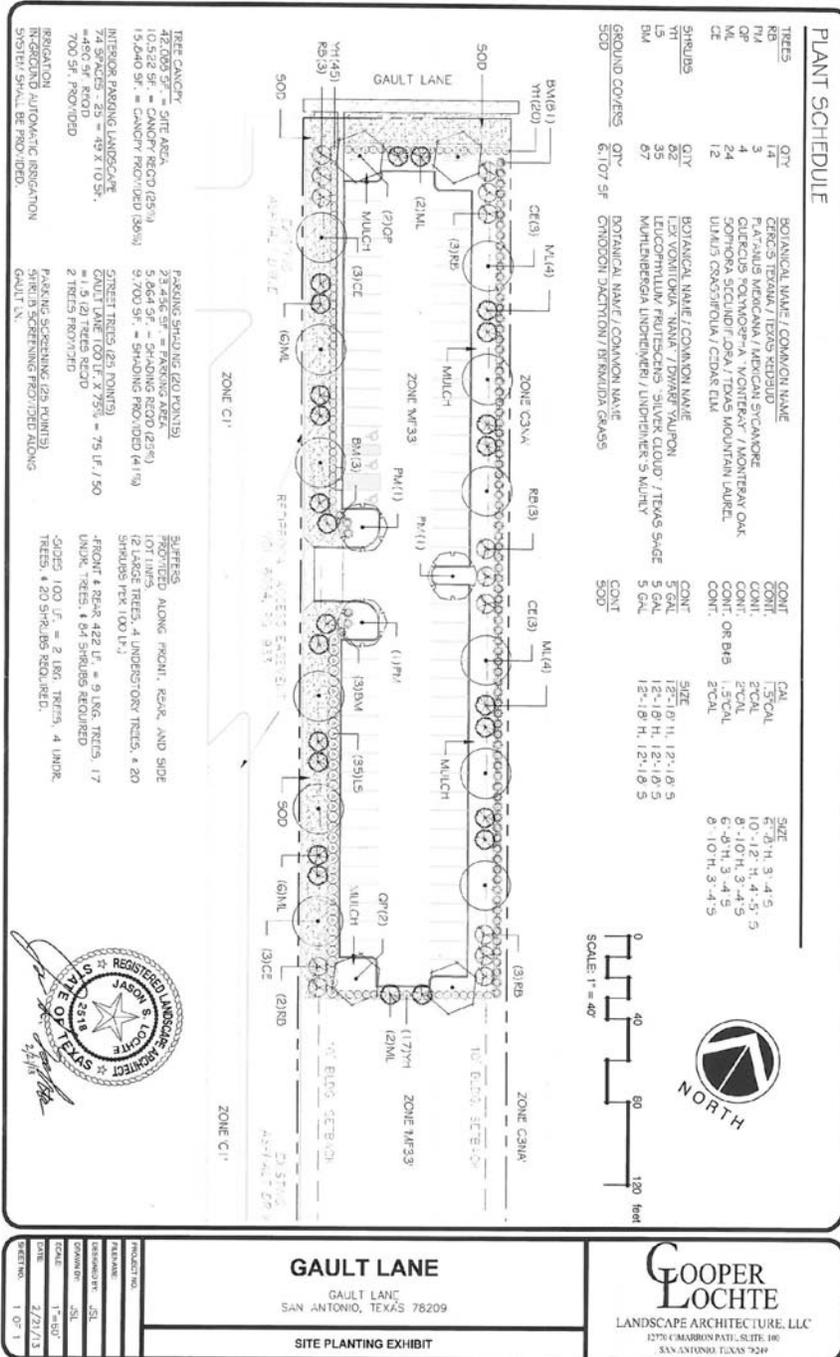
Board of Adjustment
Plot Plan for
Case No A-13-027



0 10 20 Feet
Council District 9

Gault Lane
Development Services Department
City of San Antonio
(3/18/2013)

Attachment 3 Landscape Plan





City of San Antonio Development Services Department Staff Report

To: Board of Adjustment
Case No.: A-13-028
Date: March 18, 2013
Applicant: Maria Castillo
Owner: Maria Castillo
Location: 907 W. Kings Hwy
Legal Description: Lots 45 & 46, Block 12, NCB 1787
Zoning: "R-6 NCD-5 AHOD" Residential Beacon Hill Neighborhood Conservation
Airport Hazard Overlay District
Prepared By: Margaret Pahl, AICP Senior Planner

Request

The applicant requests a 1-foot 4-inch variance from the minimum 3-foot side yard setback to allow an accessory structure without eaves within 1-foot 8-inches 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 February 28, 2013. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on March 1, 2013. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on March 14, 2013, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The subject property contains 6,250 square feet, measuring 50 feet by 125 feet. The subdivision plat establishing the development pattern was recorded in 1908, and created small 25 foot wide lots that could be combined to make 50 or 75-foot wide home sites. The area, known as Beacon Hill, is also served by rear alleys. A review of aerial photography shows many of the homes in area have over time added accessory structures in the rear yard.

The applicant acquired a building permit from the City to construct an accessory structure on an existing foundation in the rear yard. A structural engineer had been commissioned to evaluate the foundation and certify that it could support the proposed building. The foundation was only 13 feet wide, so the owner designed a building with that width. The permit was issued in

January of 2012 and at some point an inspector identified the proximity of the structure to the property line as a potential problem. The applicant commissioned a survey to determine the actual distance from the property line, believing that the minimum 3-foot setback had been met. The survey found only 1’8” distance between the wall and the side property line. A minimum setback of 5-feet is required, however if the accessory structure has no eave overhang, it can be as close as 3-feet. This structure has no eave overhang. The rear setback is not as critical because one-half of the alley property can be counted as satisfying the 5-foot rear setback.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“R-6 NCD-5 AHOD” Residential Neighborhood Conservation Airport Hazard Overlay Districts	Single Family Dwelling

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-6 NCD-5 AHOD” Residential Neighborhood Conservation Airport Hazard Overlay Districts	Single Family Dwelling
South	“R-6 NCD-5 AHOD” Residential Neighborhood Conservation Airport Hazard Overlay Districts	Single Family Dwelling
East	“R-6 NCD-5 AHOD” Residential Neighborhood Conservation Airport Hazard Overlay Districts	Single Family Dwelling
West	“R-6 NCD-5 AHOD” Residential Neighborhood Conservation Airport Hazard Overlay Districts	Single Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the Midtown. The Beacon Hill Neighborhood Association was notified of the request 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. The contractor has installed

the required *fire-rated* construction and will correct the window assembly if the requested variance is granted. Openings (windows) are allowed with less than a 3-foot separation but have to be “fire-rated”. 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.*

A literal enforcement of the ordinance would require that the applicant demolish the structure or at least remove enough of the exterior wall to provide the 3-foot setback. Unfortunately, the orientation of the structure includes this wall supporting the roof trusses, so the corrective construction would be challenging. The Board of Adjustment will have to determine if this effort is necessary. 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 has no kitchen, only living space, a bedroom and a bath for a total of 390 square feet. The building was constructed to provide a refuge for an ailing family member.

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-6 NCD-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.*

Accessory structures are very common in the surrounding neighborhood. Of the houses sharing this alley on this block, 22 of the 23 have accessory structures, many have two. Many appear to be built on the property lines, but only detailed surveys can establish that fact. It would seem that allowing the 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 property in question had an existing foundation built in this location. Property owners prefer using existing foundations because if not, the foundation must be destroyed, removed and

disposed of and replaced with a similar foundation. The process is seen as an unnecessary waste of resource, but cannot be considered unique to this parcel. A building permit was secured prior to construction, with review and approval by both the Zoning Division and the Planning Department. Though no site plan was scanned into the record, one can assume that the site plan showed adequate setback for these approvals to have been granted. Since the foundation had been there for some time, a large tree has grown immediately to the west further restricting the room available on the lot for the narrow building. Therefore, the circumstances on the property are unique.

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 3-foot setback.

Staff Recommendation

Staff recommends **approval of A-13-028** based on the following findings:

1. The requested setback is characteristic of the other accessory structures in the neighborhood;
2. The applicant used an existing foundation which previously supported a similar accessory structure; and
3. An existing mature tree blocked the potential of relocating the structure a few feet west.

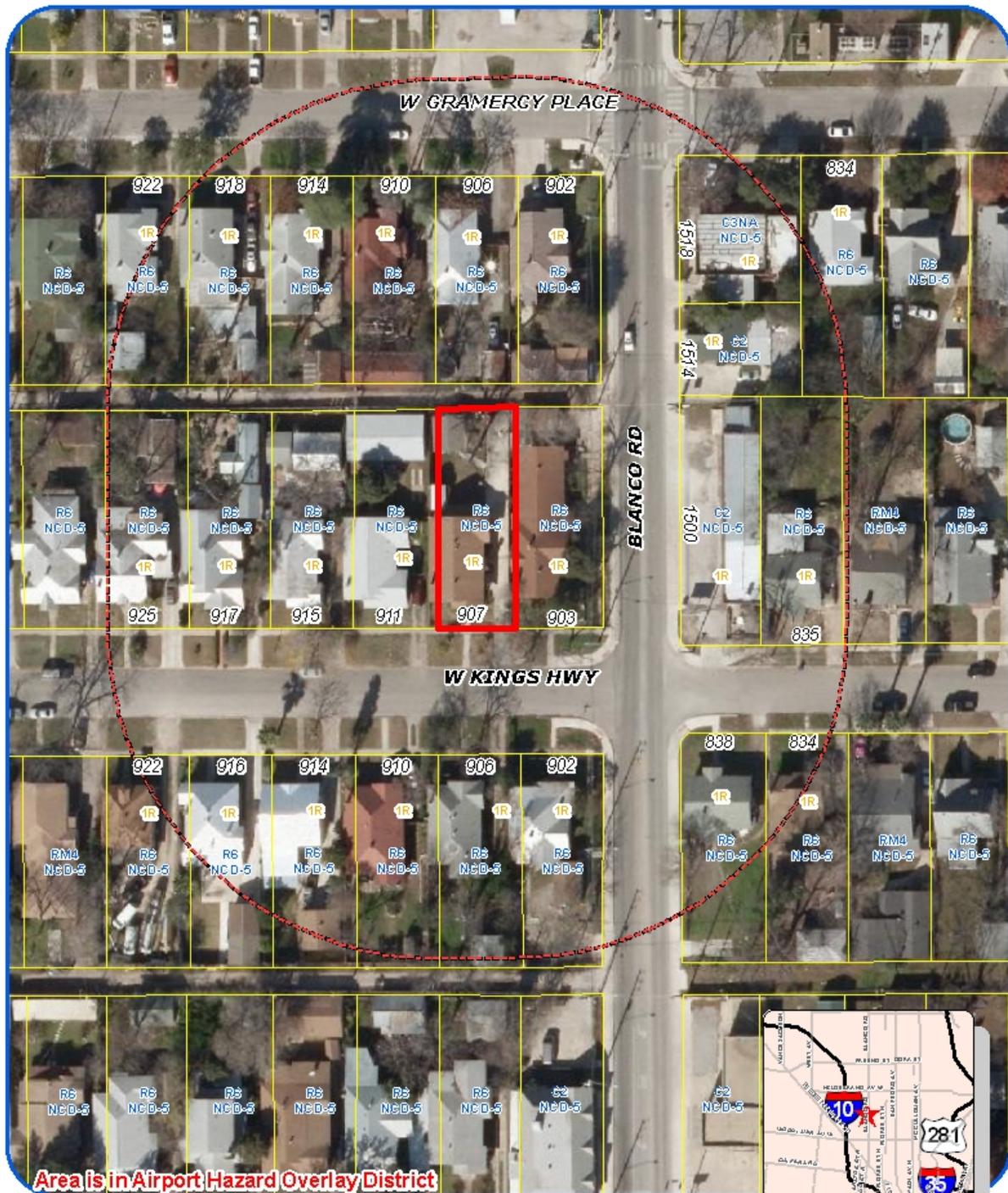
Attachments

Attachment 1 – Notification Plan (Location Map)

Attachment 2 – Plot Plan

Attachment 3 – Site Photos

Attachment 1 Notification Plan



Areas in Airport Hazard Overlay District



<p>Board of Adjustment Notification Plan for Case No A-13-028</p>		<p>San Antonio City Limits </p> <p>Subject Property </p> <p>Notification Boundary </p> <p>City of District 1 </p>		<p>Development Services Department City of San Antonio (311)2013</p>
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**Attachment 2
Plot Plan**



Variance Request:
A 3-foot 4-inch variance from the minimum 5 foot side yard setback
to allow an accessory dwelling unit 1-foot 8-inches from the side property line.

Board of Adjustment
Plot Plan for
Case No A-13-028



0 10 20 Feet
Council District 1

907 W. Kings Hwy

Development Services Department
City of San Antonio
(3/18/2013)

**Attachment 3
Site Photos**

