

City of San Antonio Board of Adjustment

Regular Public Hearing Agenda

Monday, April 15, 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-13-029 CONTINUED:** The request of Scott Ruch for 1) a 6-foot variance to allow an ornamental iron fence 10 feet in height in the front yard; 2) a 4-foot variance to allow an ornamental iron fence 10 feet in height in each side yard; and 3) a 4-foot variance to allow an ornamental iron fence 10 feet in height in the rear yard, located at 5200 Rogers Road. (Council District 6) **(WITHDRAWN BY APPLICANT)**
5. **A-13-031:** The request of Charles Huizar for **1)** a 3-foot variance from the minimum 5-foot side yard setback; **2)** a 2-foot variance from the minimum 3-foot eave overhang setback and **3)** a 1-foot variance from the 3-foot minimum rear yard setback to allow an accessory structure 2-feet from the side and rear property lines with a 1-foot eave overhang on the side, located at 2415 Greencrest Drive. (Council District 1)
6. **A-13-032:** The request of Jason Ramirez for a 5-foot side yard setback variance to allow a zero lot line dwelling, located at 9238 Points Edge. (Council District 6)
7. **A-13-033:** The request of Jason R. Hardy for a 6-foot, 3.75-inch lot width variance to allow a single-family residence to be constructed on an irregularly shaped lot where the lot is 38 feet, 8.25-inches in width, located at 2603 Obera Way. (Council District 7)
8. Approval of the minutes – April 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).

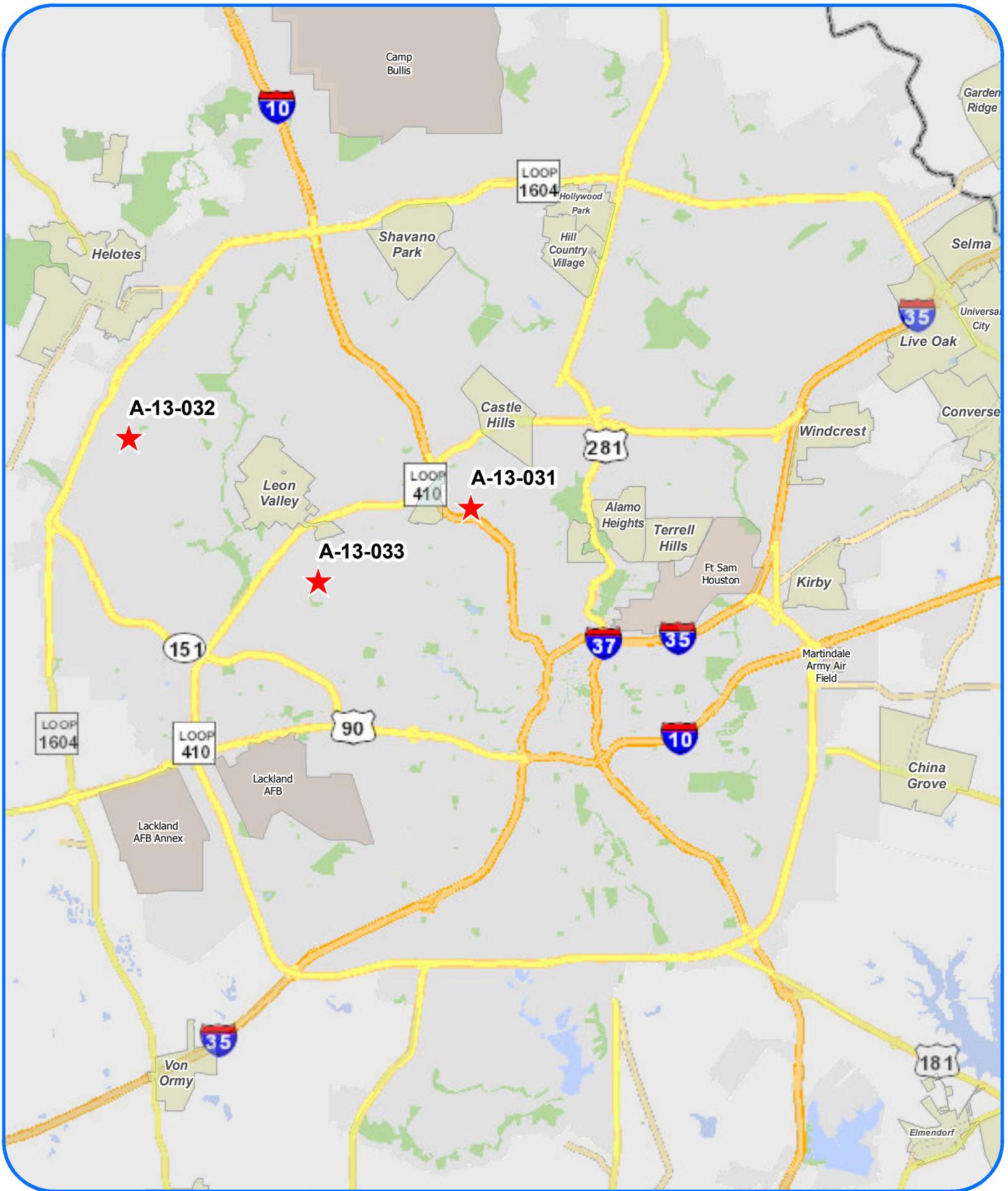
DECLARACIÓN DE ACCESIBILIDAD – Este lugar de la reunión es accesible a personas incapacitadas. Se hará disponible el estacionamiento. Ayudas auxiliares y servicios y interpretes para los sordos se deben pedir con cuarenta y ocho [48] horas de anticipación al la reunión. Para asistencia llamar a (210)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





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

To: Board of Adjustment
Case No.: A-13-031
Date: April 15, 2013
Applicant: Charles Huizar
Owner: Charles Huizar
Location: 2415 Greencrest Drive
Legal Description: Lot 30, Block 2, NCB 12260
Zoning: "R-5 AHOD" Single-Family Residential Airport Hazard Overlay District
Prepared By: Margaret Pahl, AICP Senior Planner

Request

The applicant requests **1)** a 3-foot variance from the minimum 5-foot side yard setback; **2)** a 2-foot variance from the minimum 3-foot eave overhang setback and **3)** a 1-foot variance from the 3-foot minimum rear yard setback to allow an accessory structure 2-feet from the side and rear property lines with a 1-foot eave overhang on the side.

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 March 28, 2013. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on March 28, 2013. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on April 11, 2013, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The subject property was platted into an 8,000 square foot lot in 1959 and improved with a 1,700 square foot house the following year. According to Bexar County Appraisal District, a shed was added shortly afterward. Historic aerial photography confirms that a shed previously existed in the same approximate location as the recently constructed one. The applicant purchased the home in the summer of 2011 and removed the dilapidated sheds, with the intention to replace them with a single larger one. The applicant states that the old sheds were built directly on the property line. Though the applicant did not secure a building permit, he did relocate the shed walls two feet from the side and rear property lines. The applicant is retired and uses the shed

for storage and hobbies. In addition, the applicant has installed new 6-foot privacy fencing around entire rear and side yards.

It has been just a few years since building permits were even required to construct an accessory structure; this may explain why so many are found on the property line. An accessory building with up to 200 square feet was exempt from permitting. The exempt size was reduced to 120 square feet in a recent building code change, shifting many sheds into the permit category. Nevertheless, regardless of a permit requirement, owners are still charged with understanding and adhering to basic zoning setbacks.

Minimum setbacks were among the very first zoning regulations; fire separation is a more recent code initiative. In review of structures for fire separation however, the International Building Code treats all structures with less than 5 feet of separation from the property line the same. Each and every structure with less than 5-foot distance from the property line must provide a one hour fire rated assembly. Though the applicant asserts that this standard has been satisfied, a building permit will still be required to verify construction safety.

Existing Zoning	Existing Use
"R-5 AHOD" Single-Family Residential Airport Hazard Overlay Districts	Single-Family Residential

Surrounding Zoning/Land Use

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

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the Greater Dellview Area Community Plan, adopted by the City Council in September of 2005. The area is designated for low density residential uses. The Dellview Area Neighborhood Association is active in the area. As such, it 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. In this case, the public's interest is based on the air flow, light and fire safety protected by the minimum setbacks. The applicant states that the previous sheds were built on the property line, so the current setbacks are an improvement. According to the applicant, fire separation requirements have also been satisfied. The Board could determine that the variance would not conflict with the public's interest.

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

A literal enforcement of the ordinance would force the applicant to dismantle the shed and reconstruct it inside the two required setbacks approximately one foot over in each direction. The Board of Adjustment must evaluate if that hardship is unnecessary; the applicant has space available to provide the minimum setback distance. The applicant states that he is a disabled veteran on a fixed income and it would be very difficult for him to relocate the shed.

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

The "spirit" of the ordinance is understood by reviewing the impact of the "strict letter" of the law. In observing the spirit, the Board is directed to evaluate the intent of the ordinance and determine if the requested variance is honoring the intent. This is sometimes determined by the percentage of change requested. For example if an applicant is requesting a variance to eliminate all setbacks, thereby allowing a building on the property line, one could conclude that the spirit of the ordinance would not be observed. In this case, with two feet of separation and the fire-rated construction, the spirit of the ordinance would be 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 "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 applicant states that the property is not located in a historic district, nor influenced by an HOA. It was this additional measure of freedom that helped in his decision to purchase this particular home. According to the applicant, the existing setbacks allow the necessary space needed for his property maintenance. In addition, many accessory structures throughout the neighborhood remain built near the property lines.

- 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 circumstance on the subject parcel was the existence of a previous shed in the same proximate location. As a new home-owner, reconstruction of the dilapidated shed was an important priority to the applicant. He provided what he thought were adequate setbacks to allow routine maintenance. Other than the existing concrete slab, the parcel has no unique characteristics that differentiate it from others in the neighborhood.

Alternatives to Applicant's Request

The alternative to the applicant's request is to reconstruct the shed in a location that is consistent with required setbacks.

Staff Recommendation

Staff recommends **approval of A-13-031** based on the following findings:

1. The requested variance does not have a negative impact on the public interest.
2. The applicant has adequate setbacks to allow routine maintenance
3. The applicant used an existing concrete slab to reconstruct an accessory structure.

Attachments

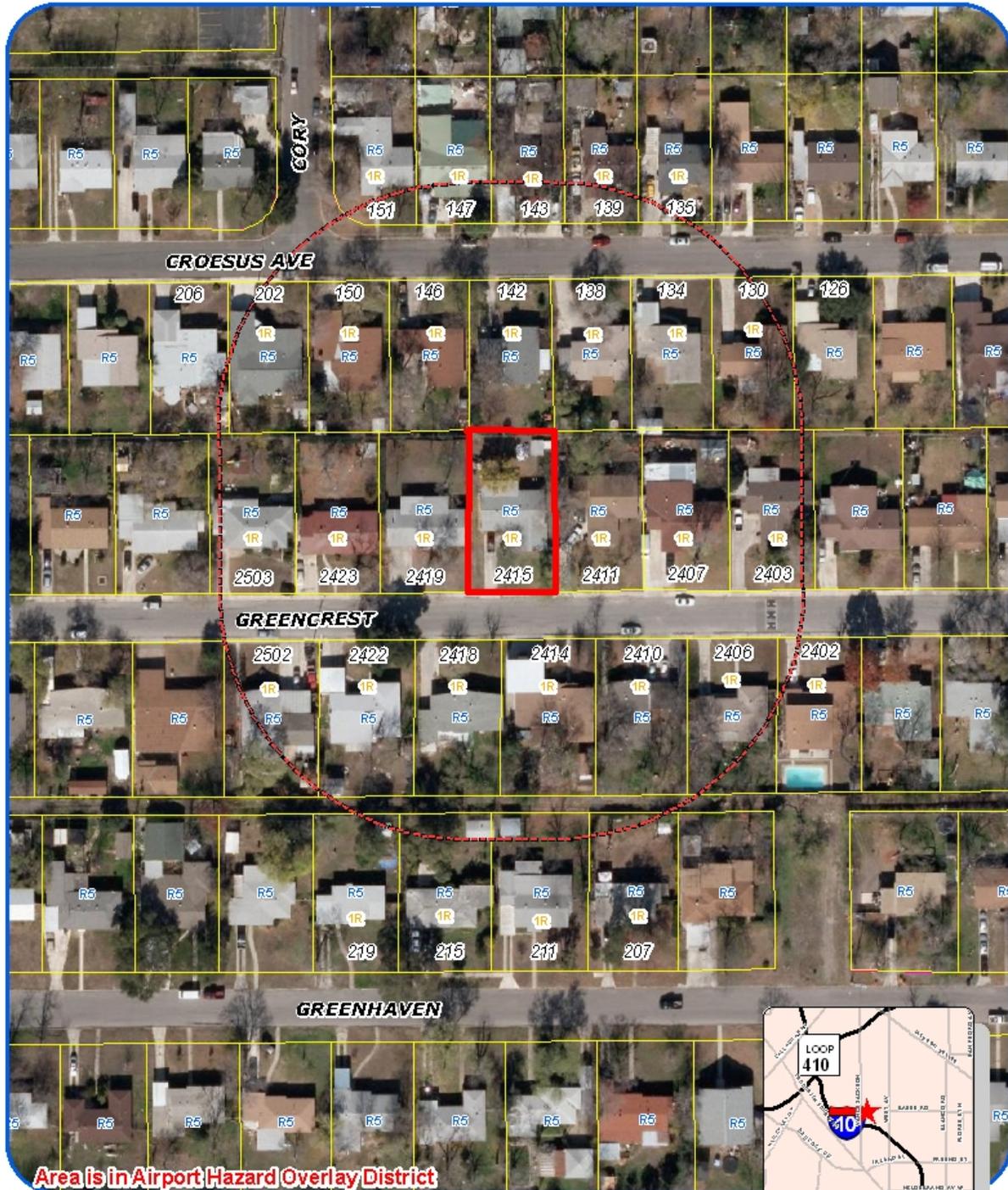
Attachment 1 – Notification Plan (Location Map)

Attachment 2 – Plot Plan

Attachment 3 – Applicant's Site Plan

Attachment 4 – Site Photos

Attachment 1 Notification Plan



Area is in Airport Hazard Overlay District



Board of Adjustment Notification Plan for Case No A-13-031



- San Antonio City Limits 
- Subject Property 
- 200' Notification Boundary 
- Council District 1 

Development Services Department
City of San Antonio
(04/15/2013)

**Attachment 2
Plot Plan**



Variance Request:
1) a 3-foot variance from the minimum 5-foot side yard setback;
2) a 2-foot variance from the minimum 3-foot eave overhang setback and
3) a 1-foot variance from the 3-foot minimum rear yard setback to allow an accessory structure 2-feet from the side and rear property lines with a 1-foot eave overhang on the side.

Board of Adjustment
Plot Plan for
Case No A-13-031

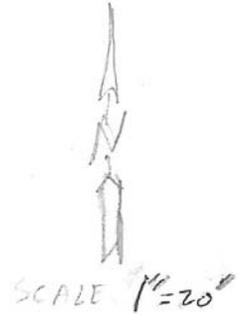
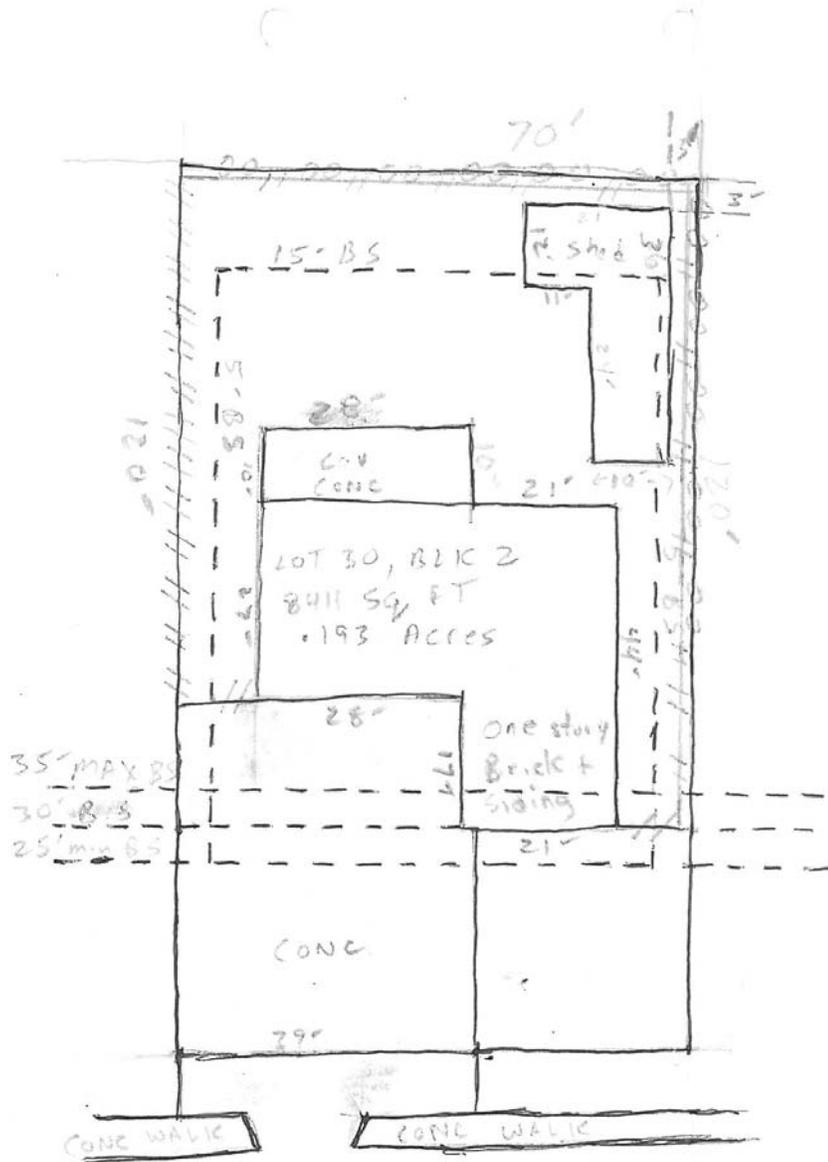


Council District 1

2415 Greencrest

Development Services Department
City of San Antonio
(94152013)

Attachment 3
Applicant Site Plan



wanting to keep overhang
overhang is 11"



**Attachment 4
Site Photos**





City of San Antonio Development Services Department Staff Report

To: Board of Adjustment
Case No.: A-13-032
Date: April 15, 2013
Applicant: Jason Ramirez
Owner: Marcial D. Ramirez
Location: 9238 Points Edge
Legal Description: Lot 42, Block 10, NCB 19015
Zoning: "R-6" Residential Single-Family District
Prepared By: Tony Felts, Planner

Request

A request for a 5-foot side yard setback variance to allow a zero lot line dwelling.

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 March 27, 2013. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation, on March 28, 2013. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on April 12, 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 Points Edge, approximately 175 feet west of Lazy Trails. The property is currently vacant; previously, a residence occupied the side. The residence was destroyed by fire, and subsequently demolished in 2012.

The aforementioned residence, according to BCAD records, was constructed in 1980. The residence was constructed as a zero-lot line dwelling, although the recorded plat does not indicate platting as a zero-lot line subdivision. The site, and the surrounding area, was annexed into the City of San Antonio in December, 1993. 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 applicant is now requesting a variance to allow a zero lot line dwelling to be reconstructed on the site. Although the UDC does allow zero-lot line dwellings, there are certain platting and easement conditions that must be met prior to approval of such a structure. As the plat does not meet the standards required in the UDC, a setback variance is necessary.

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 Dwellings
South	R-6 (Residential)	Single-Family Dwellings
East	R-6 (Residential)	Single-Family Dwellings
West	R-6 (Residential)	Single-Family Dwellings

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the North Sector Plan and 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. The UDC provides for zero lot line dwellings so long as certain conditions are met. In this case, the demolished structure, as well as the other structures in the neighborhood, was constructed while the site was not inside the city limits of San Antonio, and therefore not under the purview of the UDC, and the neighborhood was developed with zero lot line dwellings. As such, the requested variance is not contrary to the public interest.

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

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.*

As the UDC does allow zero lot line dwellings (if certain platting conditions are met), the spirit of the ordinance will be 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 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, will not injure the appropriate use of adjacent conforming properties in that the other properties in this neighborhood are already constructed as zero lot line dwellings.

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 were not caused by the applicant, but rather the developed 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 which would be out of character for the neighborhood.

Staff Recommendation

Staff recommends **approval of A-13-032** because of the following reasons:

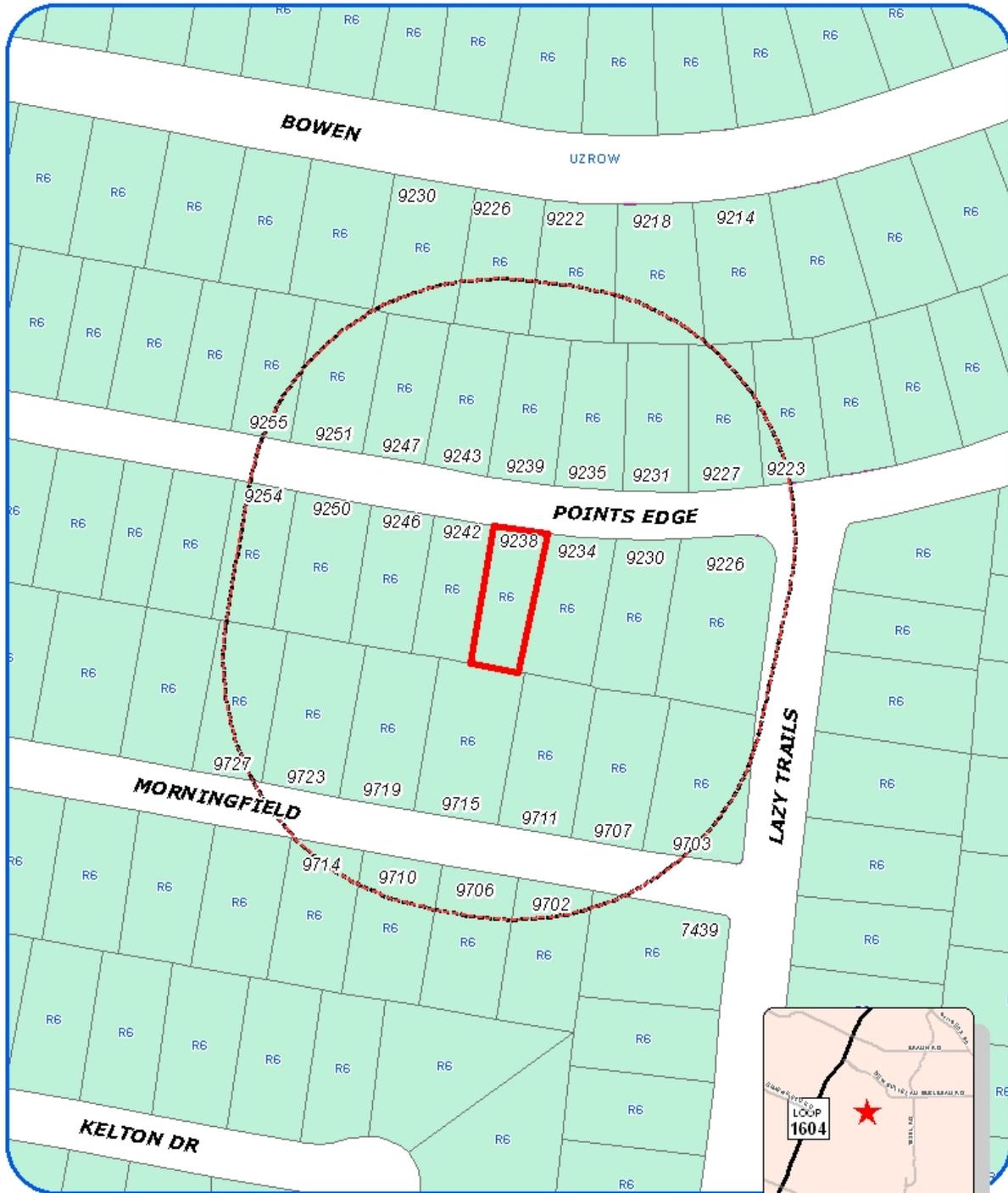
- The neighborhood was developed as a zero-lot line subdivision at a time when the area was not inside the San Antonio City Limits.

Attachments

Attachment 1 – Notification Plan (Location Map)

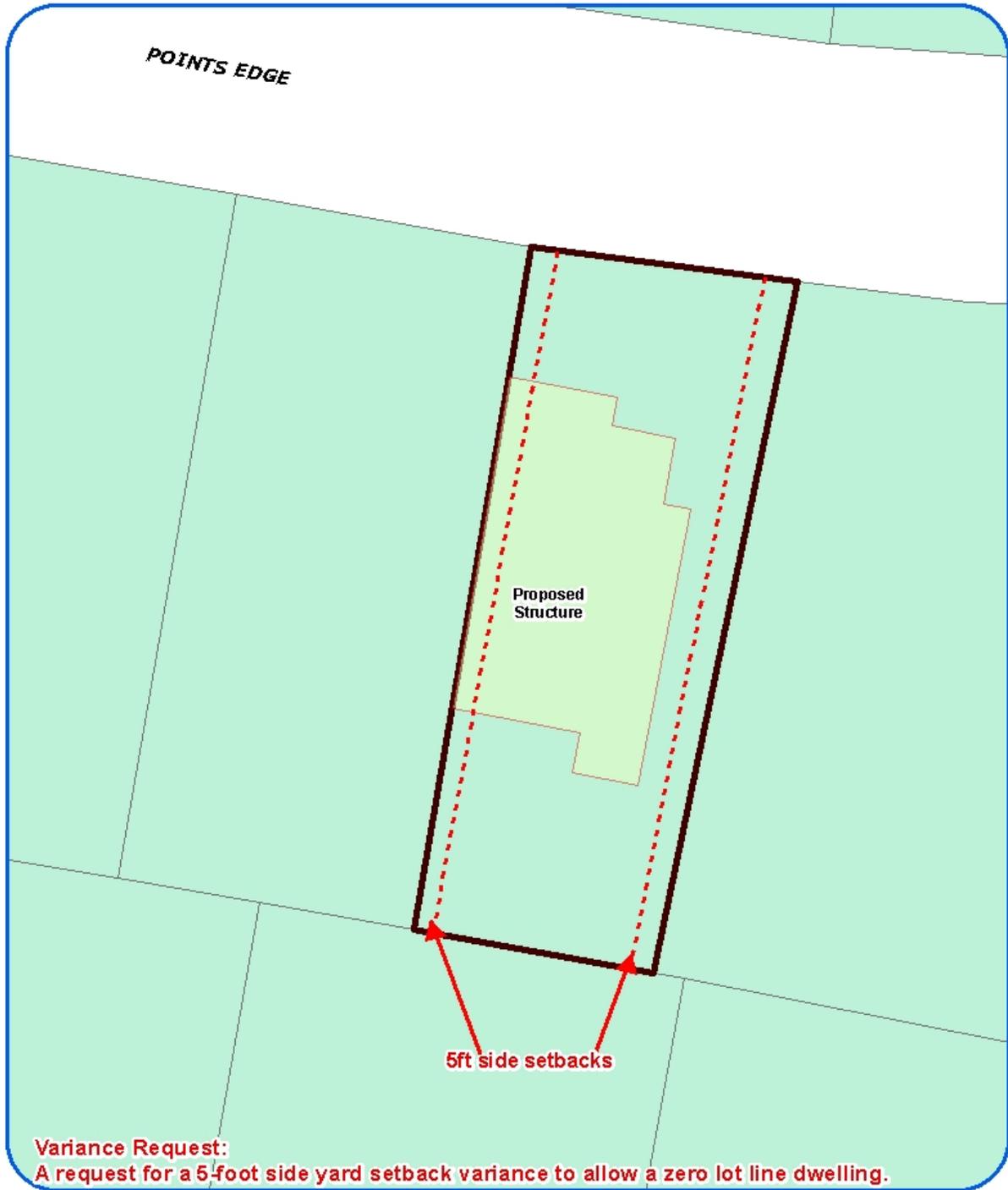
Attachment 2 – Plot Plan

Attachment 1 Notification Plan



<p>Board of Adjustment Notification Plan for Case No A-13-032</p>		<p>San Antonio City Limits </p> <p>Subject Property </p> <p>200' Notification Boundary </p> <p>City of District 6 </p>	<p>Development Services Department City of San Antonio (214)522-1133</p>
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**Attachment 2
Plot Plan**



Board of Adjustment
Plot Plan for
Case No A-13-032



Council District 6

9238 Points Edge

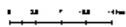
Development Services Department
City of San Antonio
(4/15/2013)

Attachment 2 (Continued)
Plot Plan



Variance Request:
A request for a 5-foot side yard setback variance to allow a zero lot line dwelling.

Board of Adjustment
Plot Plan for
Case No A-13-032



Council District 6

9238 Points Edge

Development Services Department
City of San Antonio
(94152013)



City of San Antonio Development Services Department Staff Report

To: Board of Adjustment
Case No.: A-13-033
Date: April 15, 2013
Applicant: Jason R. Hardy, Meritage Homes
Owner: Meritage Homes of Texas, LLC
Location: 2603 Obera Way
Legal Description: Lot 46, Block 31, NCB 14894
Zoning: "R-5 AHOD" Residential Single-Family Airport Hazard Overlay District
Prepared By: Tony Felts, Planner

Request

A request for a 6-foot, 3.75-inch lot width variance to allow a single-family residence to be constructed on an irregularly shaped lot where the lot is 38 feet, 8.25-inches in width.

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 March 27, 2013. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation, on March 28, 2013. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on April 12, 2013, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The subject property is located on the southwest side of Obera Way, a small street similar to a cul-de-sac in a new housing development. The development was platted in 2007, and the subject property (Lot 46) is an irregularly shaped lot as specified by Section 35-515(c)(4) of the UDC.

The lot width is 34.47 feet, which is less than the required 45-foot minimum lot width for lot within the "R-5" base zoning district as specified in Table 310-1 of the UDC; however, the Rules of Interpretation for the Lot Width states that for irregular shaped lots, lot width is measured at the front building line (façade) rather than the front setback line.

Using the rules of interpretation as stated in the UDC, a building on this lot would have to be set back 56.99 feet from the front property line, as that is where the lot reached 45 feet in width. The applicant is requesting to construct a dwelling where the façade would begin where the lot is

38 feet, 8.25 inches in width, requiring a variance of 6 feet, 3.75 inches. It is important to note that the proposed dwelling meets all setback requirements.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
R-5 AHOD (Residential)	Vacant – Proposed Single Family Dwelling

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	R-5 AHOD (Residential)	Single-Family Dwelling (under construction)
South	R-5 AHOD (Residential)	Single-Family Dwelling (under construction)
East	R-5 AHOD (Residential)	Single-Family Dwellings
West	R-5 AHOD (Residential)	Drainage Structure

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the West/Southwest Sector Plan. The subject property is located within the boundaries of the registered Thunderbird Hills Neighborhood Association as well as the registered Loma Bella Home Owners Association. Additionally, the subject property is within 200 feet of the registered Culebra Park 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 required minimum lot dimensions (size, depth, width and frontage requirements) for lots are designed, in part, to ensure that development will, in most cases, be able to comply with all site development standards such as setbacks. The standards also prevent the creation of very small lots that are difficult to develop at their full density potential. In this case, the proposed dwelling will meet all zoning setback requirements, and will 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, along with recorded easements, reduce to buildable lot width to 74 feet in depth, and would also create a situation where the uniformity of development in the neighborhood would be compromised. Given this, and the fact that all setbacks would be met, a literal enforcement of the ordinance 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.*

As previously stated, the purpose of minimum lot width is to ensure that development standards can be met. As all development standards can be met, the spirit of the ordinance will be 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 R-5 (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, will not injure the appropriate use of adjacent conforming properties; the variance will allow uniformity of development throughout this neighborhood.

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 were not caused by the applicant, but rather as a result of the platting of the subdivision in 2007.

Alternatives to Applicant's Request

The alternative to the applicant's request is to construct the proposed dwelling where the lot becomes 45 feet in width, approximately 56.99 feet from the front property line.

Staff Recommendation

Staff recommends **approval of A-13-033** because of the following reasons:

- The proposed dwelling will still meet all development standards.
- The proposed dwelling will ensure uniformity of development.

Attachments

Attachment 1 – Notification Plan (Location Map)

Attachment 2 – Plot Plan

Attachment 1 Notification Plan



**Attachment 1 (Continued)
Notification Plan**



**Board of Adjustment
Notification Plan for
Case No A-13-033**



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

Development Services Department
City of San Antonio
(214)522-1313

**Attachment 2
Plot Plan**



Board of Adjustment
Plot Plan for
Case No A-13-033



Council District 7

2603 Obera Way

Development Services Department
City of San Antonio
(94152013)

**Attachment 2 (Continued)
Plot Plan**



Variance Request:
A request for a 6-foot, 3.75-inch lot width variance to allow a single-family residence to be constructed on an irregularly shaped lot where the lot is 38 feet, 8.25-inches in width.

Board of Adjustment
Plot Plan for
Case No A-13-033



Council District 7

2603 Obera Way

Development Services Department
City of San Antonio
(94152013)