

City of San Antonio Board of Adjustment

Regular Public Hearing Agenda

Monday, August 4, 2014

1:00 P.M.

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-14-082:** The request of Aetna Sign Group for 1) a 90-foot variance from the 100-foot setback for an expressway sign without direct frontage along an expressway to allow an expressway sign 10 feet from the front property line; 2) a 73-foot variance from the 200-foot setback from residentially zoned properties to allow an expressway sign 127 feet from a residential district; and 3) a 10-foot variance from the 50-foot maximum height limitation for a single-tenant expressway sign to allow an expressway sign 60 feet in height, located at 2961 Mossrock Drive. (Council District 1)
5. **A-14-079 (CONTINUED):** The request of Eduardo Pelayo for a 5-foot variance from the minimum 5-foot sideyard setback to allow an elevated deck on the property line, located at 4503 Mascota. (Council District 5)
6. **A-14-081:** The request of Juan R. Cervantes for a 15-foot variance from the 20-foot rear yard setback to allow a structure 5 feet from the rear property line, located at 427 Guanajuato Street. (Council District 5)
7. **A-14-083:** The request of Ralph Coronado for 1) a 12.5-foot variance from the minimum 20-foot rear yard setback to allow a covered patio on the property line; and 2) a 5-foot variance from the minimum 5-foot side yard setback to allow a carport on the side property line, located at 111 One Oak Drive. (Council District 7)
8. **A-14-084:** The request of Sue Ann Pemberton for 1) a 5-foot variance from the 5-foot side yard setback; and 2) a 3-foot variance from the Manhcke Park Neighborhood Conservation District requirement that accessory structures match the size and proportion of the main structure to allow an accessory structure located on the side and rear property lines that is 3 feet taller than the main structure, located at 306 Carnahan Street. (Council District 2)
9. Approval of July 21, 2014 Board Meeting Minutes

Board of Adjustment Membership

Andrew Ozuna, District 8, Chair *Mary Rogers, District 7, Vice Chair*
Frank Quijano, District 1 • Alan Neff, District 2 • Gabriel Velasquez, District 3 • George Britton, District 4
Maria Cruz, District 5 • Jesse Zuniga, District 6 • John Kuderer, District 9 • Roger Martinez, District 10
Gene Camargo, Mayor

Alternate Members

Harold Atkinson • Paul E. Klein • Henry Rodriguez • Lydia Fehr • Jeffrey Finley • Christopher Garcia

10. Announcements and 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) 207-7268 or 711 (Texas Relay Service for the Deaf).*

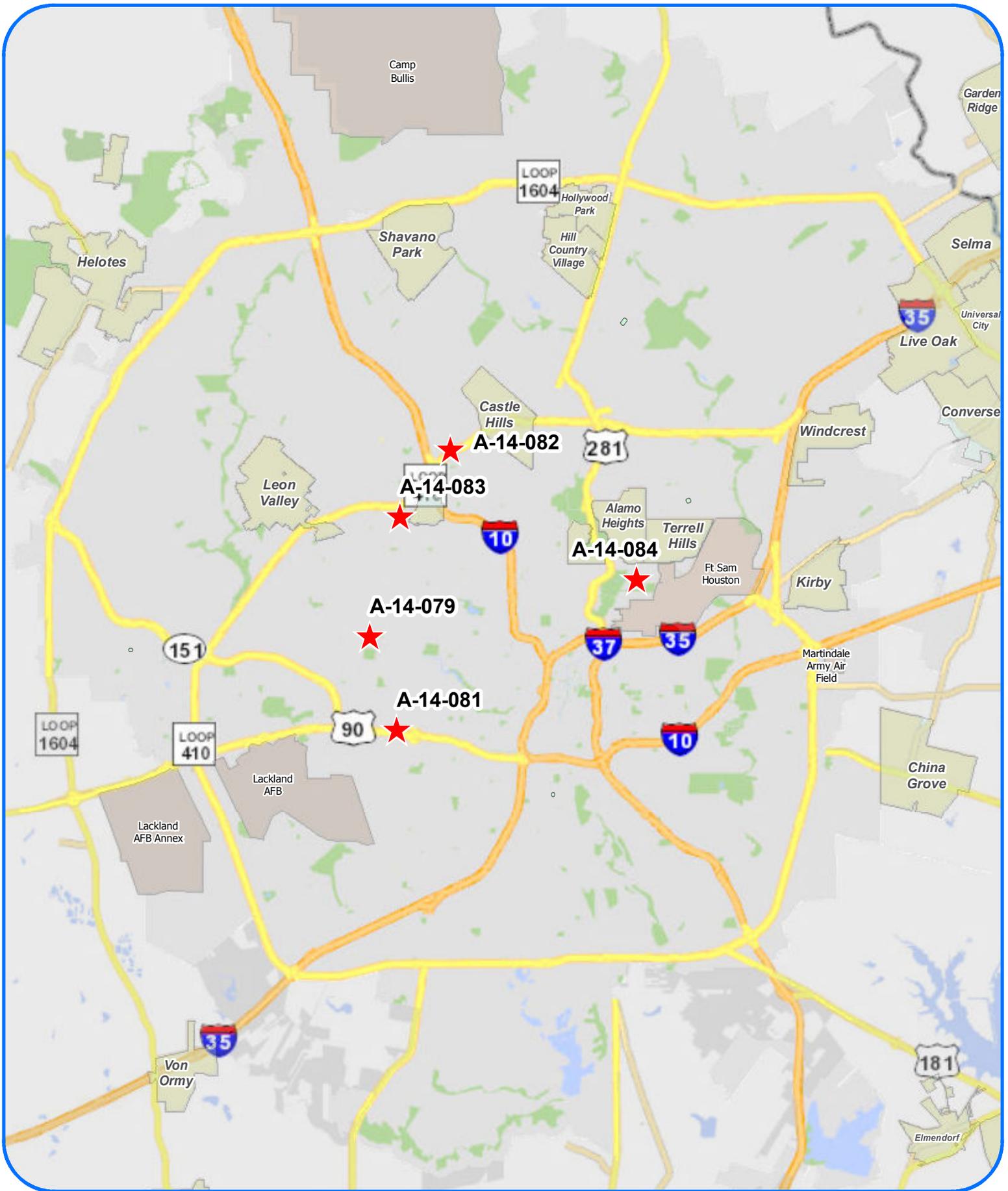
DECLARACIÓN DE ACCESIBILIDAD – *Este lugar de la reunión es accesible a personas incapacitadas. Se hará disponible el estacionamiento. Ayudas auxiliares y servicios y interpretes para los sordos se deben pedir con cuarenta y ocho [48] horas de anticipación al la reunión. Para asistencia llamar a (210) 207-7268 o al 711 (servicio de transmitir para sordos).*

Board of Adjustment Membership

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Maria Cruz, District 5 • Jesse Zuniga, District 6 • John Kuderer, District 9 • Roger Martinez, District 10
Gene Camargo, Mayor

Alternate Members

Harold Atkinson • Paul E. Klein • Henry Rodriguez • Lydia Fehr • Jeffrey Finley • Christopher Garcia



Board of Adjustment

Subject Property Locations
Cases for 4th August 2014





City of San Antonio Development Services Department Staff Report

To: Board of Adjustment
Case No.: A-14-082
Date: August 4, 2014
Applicant: Aetna Sign Group
Owner: Mossrock Real Estate Company LLC
Location: 2961 Mossrock Drive
Legal Description: Lot 34, Block 6, NCB 13266
Zoning: "O-2 AHOD" High-Rise Office Airport Hazard Overlay District
Prepared By: Tony Felts, Senior Planner

Request

A request from Sections 28-239(c)(1) and 28-239(e) for 1) A 90-foot variance from the 100-foot setback for an expressway sign without direct frontage along an expressway to allow an expressway sign 10 feet from the front property line; 2) a 73-foot variance from the 200-foot setback from residentially zoned properties to allow an expressway sign 127 feet from a residential district; and 3) a 10-foot variance from the 50-foot maximum height limitation for a single-tenant expressway sign to allow an expressway sign 60 feet in height.

Procedural Requirements

A variance from the requirements of the zoning ordinance is a decision vested with the Board of Adjustment. State law prescribes specific factors that must be satisfied when deciding to grant a variance. The request was publicly noticed in accordance with Section 35-403 of the Unified Development Code ("UDC"). Notices were sent to property owners and registered neighborhood associations within two hundred (200) feet of the subject property on or before July 17, 2014. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation, on July 18, 2014. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on or before August 1, 2014, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The subject property is located on the north side of Mossrock Drive between Panda Drive and Wind Lake Drive. Mossrock Drive is classified as commercial collector street. The south side of Mossrock Drive is the right-of-way of Loop 410, an expressway.

Pursuant to Section 28-239(e) of the Sign Code, expressway sign standards can apply to any lot within 500 feet of expressway, but without direct frontage on the expressway, with certain setback conditions. The conditions include a 100-foot setback from any street and a 200-foot setback from the nearest residential zone.

Currently, the site includes a non-conforming single-tenant expressway sign. The applicant proposes to replace the current expressway sign and with a new single-tenant expressway sign, 60 feet in height. The applicant is requesting setback and height variances for the proposed sign.

Because of the configuration of the subject property and due to the setbacks imposed by Section 28-239(e) for freeway signs, staff has determined that there are no portions of the property to which an expressway sign could be erected and still meet the required setbacks. As such, the site would be limited to the standards for a single-tenant commercial collector-type sign (24 feet in height and 150 square feet in area). In this area, Mossrock Drive essentially functions as a service road for Loop 410, and the difference in the designation of the expressway and Mossrock Drive is indistinguishable to a passerby.

While staff has found evidence to support the granting of the requested setback variances, staff has not identified any hardships (such as grade separations, etc.) that would warrant the granting of the requested height variance. It should be noted, however, that should the applicant choose to add two additional sign cabinets to the proposed sign, it could be classified as a multi-tenant sign, and would be allowed a height of 60 feet.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“O-2 AHOD” High-Rise Office Airport Hazard Overlay District	Vacant (Proposed Medical Office)

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“O-2 AHOD” High-Rise Office Airport Hazard Overlay District	Professional Office
South	Right-of-way	Mossrock Drive and Loop 410
East	“C-3 AHOD” General Commercial Airport Hazard Overlay District	Bar/Tavern
West	“R-5 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Residences

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the North Sector Plan (designated as Suburban Tier). The subject property is not located within the boundaries of a registered neighborhood association.

Criteria for Review

According to Section 28-247 of Chapter 28: Signs and Billboards, in order for a variance to be granted, the applicant must demonstrate:

1. *The variance is necessary because strict enforcement of this article prohibits any reasonable opportunity to provide adequate signs on the site, considering the unique features of a site such as its dimensions, landscaping, or topography; or*
2. *A denial of the variance would probably cause a cessation of legitimate, longstanding active commercial use of the property; and*

Because of the unique design and orientation of the site, being narrow and also abutting a residential single-family zoning district to the west, the requirements for setbacks would eliminate any possibility for having an expressway-grade sign on the property. As such, special conditions exist to warrant the granting of the requested setback variances.

There is no grade separation or other unique factor between the subject property, Mossrock Drive, and Loop 410 that would warrant the granting of the requested height variance.

3. *After seeking one or more of the findings set forth in subparagraphs (1) and (2), the board finds that:*
 - A. *Granting the variance does not provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated.*

The requested setback variances would not grant a special privilege not enjoyed by other businesses similarly situated as not granting the variance would result in the property owner not being able to erect an expressway-grade sign.

Regarding the requested height variance, granting the height variance may provide a special privilege as there are no unique factors present on the property that would warrant the granting of the requested height variance.

- B. *Granting the variance will not have a substantially adverse impact on neighboring properties.*

Granting the requested setback variances will not have a substantially adverse impact on neighboring properties because the proposed sign is a replacement of an existing sign which is similarly situated, and the right-of-way of Mossrock Drive in the area of the subject property is virtually indistinguishable from the right-of-way of Loop 410. Additionally, the applicant will be replacing an existing expressway grade sign with another expressway sign.

Regarding the requested height variance, the additional height may have an adverse impact on the single-family residential neighborhood to the west of the subject property.

Additionally, there are no grade separations or other unique features to warrant the granting of the requested height variance.

- C. *Granting the variance will not substantially conflict with the stated purposes of this article.*

The requested setback variances do not appear to conflict with any of the stated purposes of Chapter 28.

Alternatives to Applicant's Request

The alternative to the applicant's request is to reduce the size and height of the sign to meet the commercial collector requirements of Chapter 28, which may be insufficient for sign visibility from Loop 410.

Staff Recommendation

Staff recommends **approval of the requested setback variances**, due to the following reasons:

1. The unique orientation of the site does not allow for an expressway-grade single-tenant sign on the subject property due to the required setbacks of Section 28-239.

Staff recommends **denial of the requested height variance**, due to the following reasons:

1. There are no special circumstances readily apparent to warrant the granting of the requested height variance.

Attachments

Attachment 1 – Notification Plan (Location Map)

Attachment 2 – Plot Plan

Attachment 3 – Applicant's Site Plan

Attachment 4 – Proposed Sign

Attachment 5 – Site Photos

Attachment 1 Notification Plan



Area is in Airport Hazard Overlay District

<p>Board of Adjustment Notification Plan for Case No A-14-082</p>		<p>San Antonio City Limits </p> <p>Subject Property </p> <p>200' Notification Boundary </p> <p>Council District 1 </p>	<p> "NOT TO SCALE, FOR ILLUSTRATIVE PURPOSES ONLY"</p> <p style="font-size: small;">Development Services Department City of San Antonio</p>
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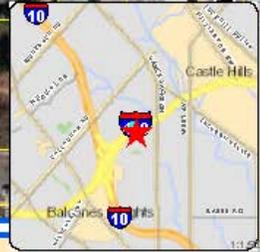
**Attachment 1 (Continued)
Notification Plan**



**Board of Adjustment
Notification Plan for
Case No A-14-082**



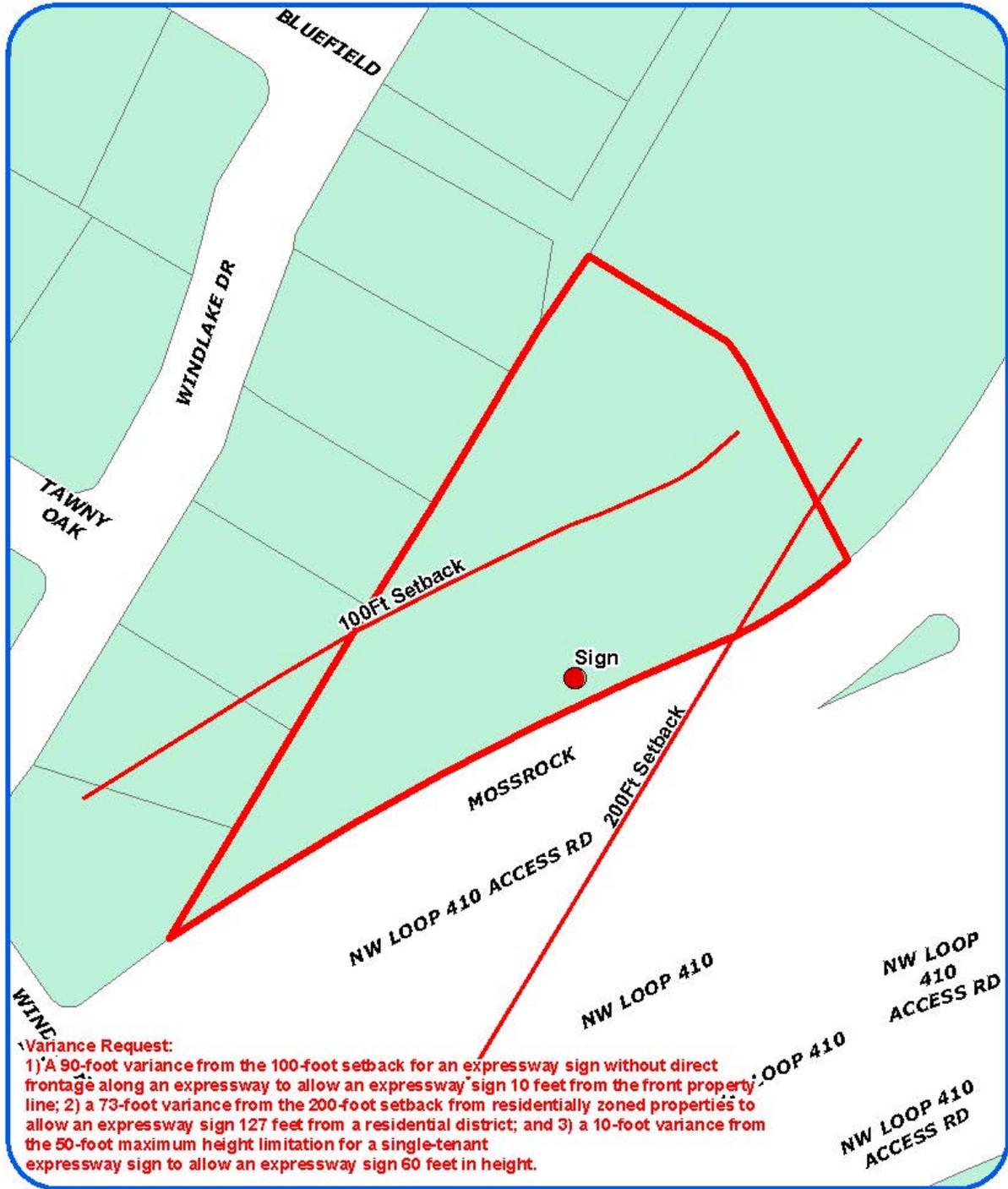
- San Antonio City Limits 
- Subject Property 
- 200' Notification Boundary 
- Council District 1



"NOT TO SCALE,
FOR ILLUSTRATIVE PURPOSES ONLY"

Development Services Department
City of San Antonio

**Attachment 2
Plot Plan**



Board of Adjustment
 Plot Plan for
 Case No A-14-082

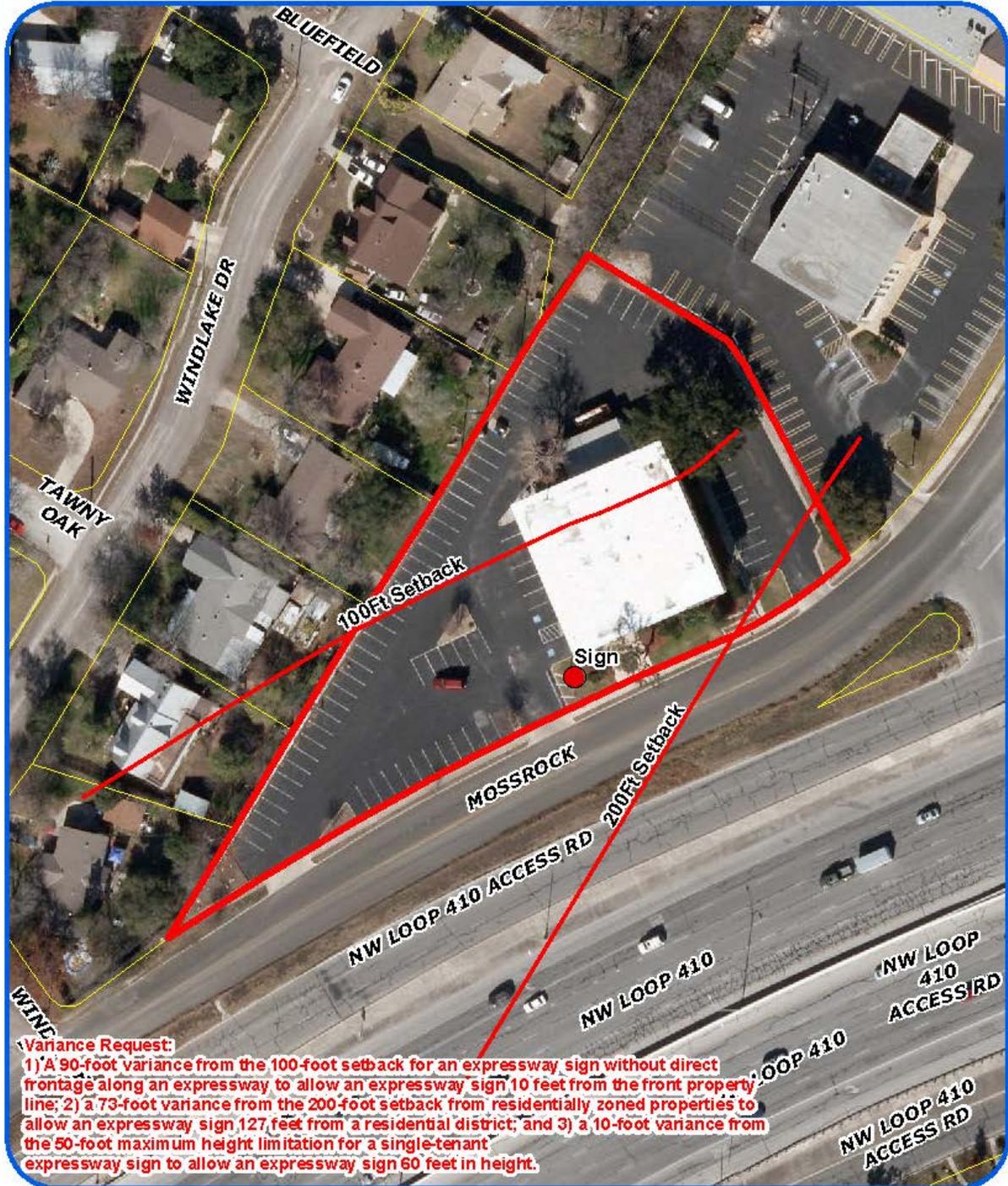


"NOT TO SCALE,
 FOR ILLUSTRATIVE PURPOSES ONLY"
 Council District 1

2961 Mossrock

Development & Setback Department
 City of San Antonio

**Attachment 2 (Continued)
Plot Plan**



Variance Request:

1) A 90-foot variance from the 100-foot setback for an expressway sign without direct frontage along an expressway to allow an expressway sign 10 feet from the front property line; 2) a 73-foot variance from the 200-foot setback from residentially zoned properties to allow an expressway sign 127 feet from a residential district; and 3) a 10-foot variance from the 50-foot maximum height limitation for a single-tenant expressway sign to allow an expressway sign 60 feet in height.

Board of Adjustment
Plot Plan for
Case No A-14-082

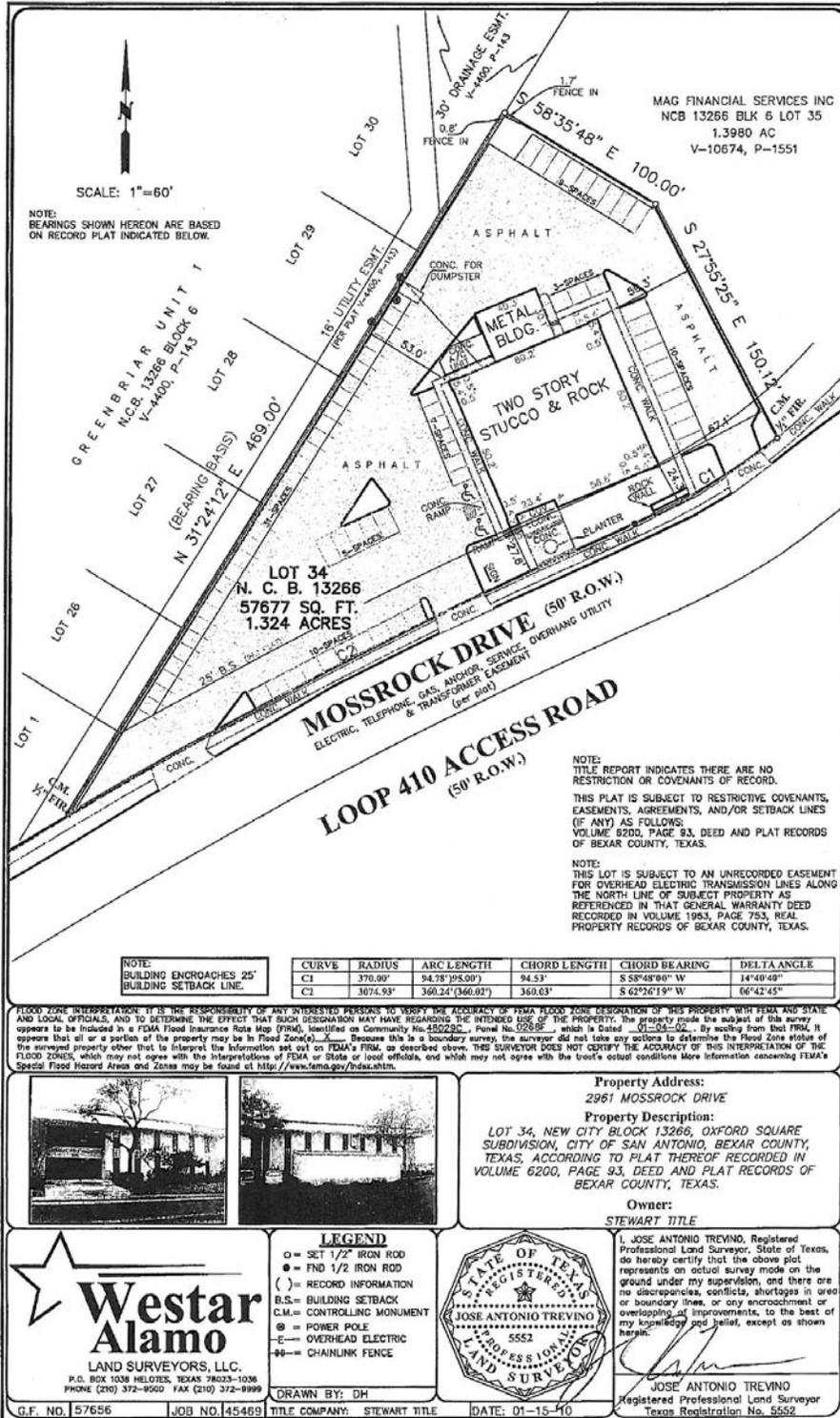


"NOT TO SCALE,
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Council District 1

2961 Mossrock

Development & Setback Department
City of San Antonio

Attachment 3 Applicant's Site Plan



**Attachment 5
Site Photos**





City of San Antonio Development Services Department Staff Report

To: Board of Adjustment
Case No.: A-14-079
Date: July 21, 2014
Applicant: Eduardo Pelayo
Owner: Eduardo Pelayo
Location: 4503 Mascota
Legal Description: Lots 1 & 2, Block 7, NCB 8317
Zoning: "R-5 AHOD", Residential Single-Family Airport Hazard Overlay District
Prepared By: Margaret Pahl, AICP Senior Planner

Request

A request for a 5-foot variance from the minimum 5-foot side yard setback, as detailed in Table 35-310-1 to allow an elevated deck structure 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 July 3, 2014. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on July 3, 2014. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on or before July 18, 2014, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The subject property is located on the corner of SW 38th Street and Mascota and is approximately 7,200 square feet in area. To the rear, the property abuts a 60-foot wide power corridor. The home was originally constructed in 2005 and the current owner purchased the home in 2010.

Earlier this spring, the applicant installed an above ground pool and constructed an elevated deck structure surrounding it. The walls of the pool are approximately 4 feet tall so the deck was constructed directly above that. Lattice panels, 4 feet in width, were added around the base and around the top of the deck, along with an added shade structure above the decking. Unfortunately, the work was done without a building permit and within the side yard setback. The applicant is requesting a variance to allow the decking to remain on the property line. The

Plan review section has indicated that it will be very difficult to fire rate the construction in accordance with the International Fire Code.

Subject Property Zoning/Land Use

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

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Residential
South	"R-5 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Residential
East	"R-5 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Residential
West	"R-5 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Residential

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the area of the West/Southwest Sector Plan, adopted by the City Council in April of 2011. The property was designated for General Urban Tier land uses. The subject property is not located within the boundary 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 described as the general health, safety and welfare of the community at large. Building setback lines are adopted by building codes and zoning ordinances as a way to ensure space for fire separation and on-going maintenance without trespass. Therefore in this situation without any space to provide maintenance, the variance would be contrary to the public interest.

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

Literal enforcement of the ordinance would result in the owner having to dismantle the decking and potentially relocate it to the center of the lot. The Board will have to determine if denying this request results in an unnecessary hardship.

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

For each requested variance, the Board must determine the “spirit” of the ordinance as contrasted with the “strict letter” of the requirement. In this case, the applicant is requesting approval to allow the pool and deck to remain on the shared property line with their neighbor. This does not observe or respect 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-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 variance would allow an elevated deck constructed around a pool to remain. The floor of the deck is located higher than 4 feet above the ground, providing unfettered views into the neighbor’s rear yard and ground floor windows. It would seem that this would negatively impact the adjacent property.

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 applicant describes his property as having unique physical characteristics, however it is a rectangular lot with over 7,000 square feet. Had the applicant installed the pool in the center of the rear yard with the decking located 5 feet from the property line, a variance would not be necessary.

Alternatives to Applicant’s Request

The applicant can dismantle the deck and the pool and relocate it to the center of the yard, consistent with the minimum 5 foot side yard setback.

Staff Recommendation

Staff recommends **denial** based on the following findings:

1. The proposed variance would allow a wooden structure on the property line, creating a potential fire hazard.
2. The elevated deck on the property line has eliminated the quiet enjoyment and privacy of the neighbor’s rear yard.

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

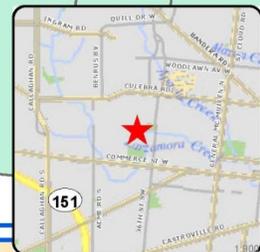


Area is in Airport Hazard Overlay District

Board of Adjustment Notification Plan for Case No A-14-079



- San Antonio City Limits
- Subject Property
- 200' Notification Boundary
- Council District 5



"NOT TO SCALE,
FOR ILLUSTRATIVE PURPOSES ONLY"

Development Services Department
City of San Antonio

**Attachment 1
Notification Plan (continued)**



<p>Board of Adjustment Notification Plan for Case No A-14-079</p>		<p>San Antonio City Limits </p>	<p align="right">"NOT TO SCALE, FOR ILLUSTRATIVE PURPOSES ONLY"</p> <p align="right">Development Services Department City of San Antonio</p>
		<p>Subject Property </p>	
		<p>200' Notification Boundary </p>	
		<p>Council District 5 </p>	

**Attachment 2
Plot Plan**



Board of Adjustment
Plot Plan for
Case No A-14-079



"NOT TO SCALE,
FOR ILLUSTRATIVE PURPOSES ONLY"
Council District 5

4503 Mascota

Development Services Department
City of San Antonio

**Attachment 2
Plot Plan (continued)**



Variance Request:
A request for a 5-foot variance from the minimum 5-foot side yard setback to allow a deck structure on the property line.

Board of Adjustment
Plot Plan for
Case No A-14-079



"NOT TO SCALE,
FOR ILLUSTRATIVE PURPOSES ONLY"
Council District 5

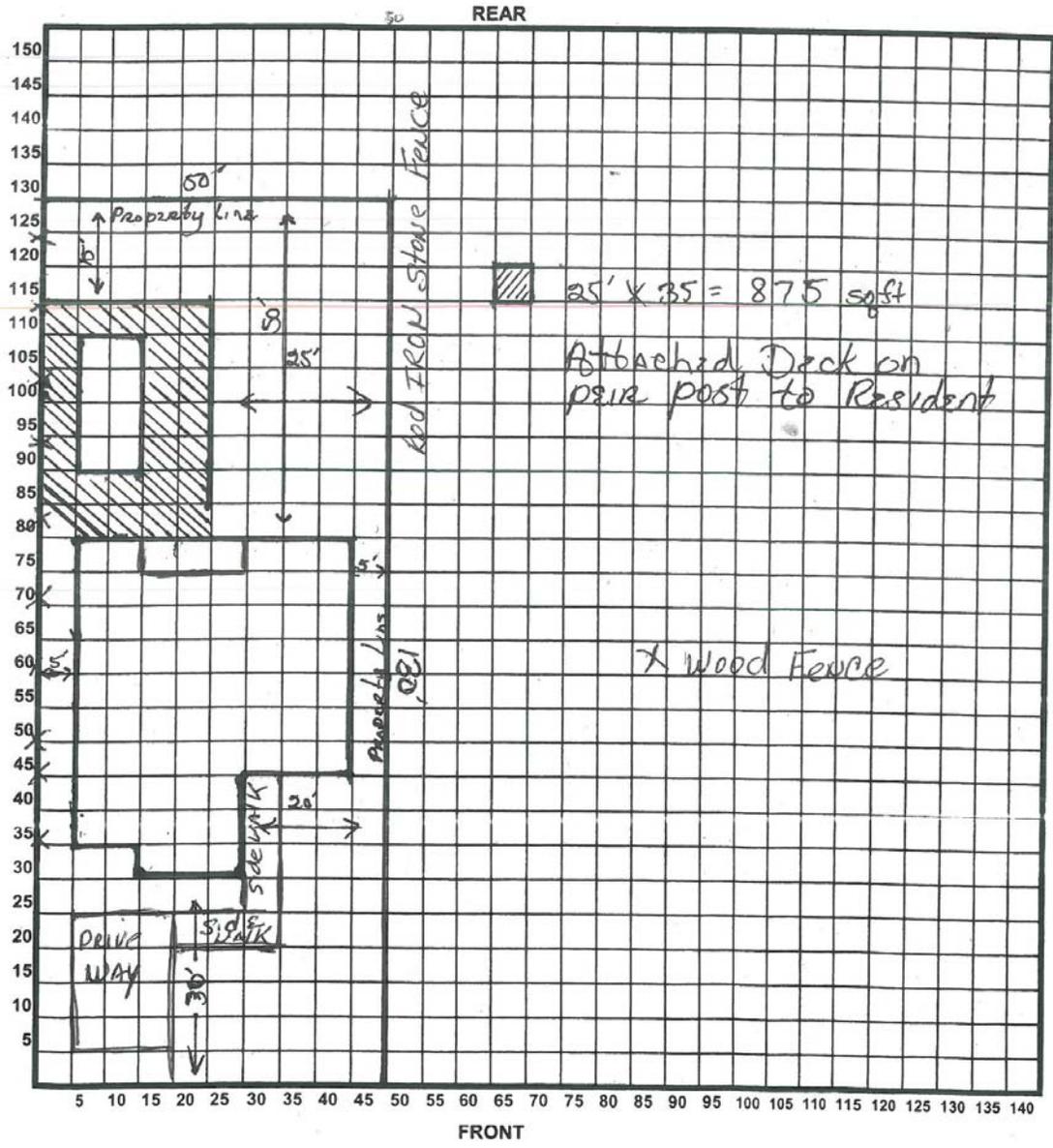
4503 Mascota

Development Services Department
City of San Antonio

Attachment 3 Applicant's Site Plan

NORTH
↑
PLOT PLAN
FOR
BLDG PERMITS

Address 4503 MASCOFA Lot _____ Block _____ NCB _____



Attachment 4
Site Photos





City of San Antonio Development Services Department Staff Report

To: Board of Adjustment
Case No.: A-14-081
Date: August 4, 2014
Applicant: Juan R. Cervantes
Owner: Juan R. Cervantes
Location: 427 Guanajuato Street
Legal Description: Lots 45 & 46, Block 11, NCB 11331
Zoning: "R-4 AHOD" Residential Single-Family Airport Hazard Overlay District
Prepared By: Tony Felts, Senior Planner

Request

A request from Table 310-1 for a 15-foot variance from the 20-foot rear yard setback to allow a structure 5 feet from the rear property line.

Procedural Requirements

A variance from the requirements of the zoning ordinance is a decision vested with the Board of Adjustment. State law prescribes specific factors that must be satisfied when deciding to grant a variance. The request was publicly noticed in accordance with Section 35-403 of the Unified Development Code ("UDC"). Notices were sent to property owners and registered neighborhood associations within two hundred (200) feet of the subject property on or before July 17, 2014. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation, on July 18, 2014. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on or before August 1, 2014, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The subject property is located on the north side of Guanajuato Street, approximately midblock between Wescott Street and Allende Street.

The applicant constructed a single-family residence on the subject property without any permits or approvals being obtained. When the applicant attempted to get a power meter from CPS Energy, it was discovered that the structure had been constructed without permits, and consequently, the applicant was unable to obtain CPS service.

The residence was additionally constructed within the required rear yard setback of 20 feet. The structure only has a setback of 5 feet from the rear property line. Though the UDC allows a rear setback of 5 feet for accessory structures (such as detached sheds or carports), it requires a rear

yard of 20 feet for the primary structure on the property. This setback is designed to maintain a rear yard and to not adversely affect access to air and light to adjacent properties.

It should be noted that if the requested variance is approved, the applicant would still need to obtain all of the required building permits and land development permits that would be required for any new construction, as well as inspections. Because the structure was built without inspections, the plan review section has indicated that the applicant would need letters signed and sealed by a licensed professional engineer indicating that the structure is constructed to meet the current building codes required of any other new construction.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Residence

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Residence
South	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Residence
East	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Residence
West	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District	Single Family Residence

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the West/Southwest Sector Plan (designated as General Urban Tier). 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 preserve adequate access, access to light and air, and preserve public safety by ensuring proper separation of buildings. Though a smaller 5-foot setback is allowed for accessory structures, the larger setback for a primary structure is designed to preserve the function of building setbacks because of the more intense massing of primary buildings. The single-family residence on the subject property presents a large,

two-story wall with very little open space in the rear; as such, the 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 on the requested variance. The subject property is sufficiently deep enough to more than adequately accommodate both the required front and rear setbacks.

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 the variance as there is adequate room to provide the required rear setback, had the applicant undergone the required permit process.

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 Single-Family base 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 structure, as constructed, is out of character for the area because of the large front setback. Additionally, the proximity of the primary structure to the property line will have the effect of blocking access to access to light and air and may also impact accessibility.

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 unique circumstances readily apparent to warrant the granting of the requested variance, and was created by the improper construction of the structure without permits or inspections.

Alternatives to Applicant’s Request

The alternative to the applicant’s request is to modify the structure to meet the required rear yard setback.

Staff Recommendation

Staff recommends **denial of A-14-081** because of the following reasons:

- The requested variance will adversely impact adjacent properties to the rear by disrupting access to air and light.
- There are no special conditions readily apparent on the subject property to warrant the granting of the variance.

Attachments

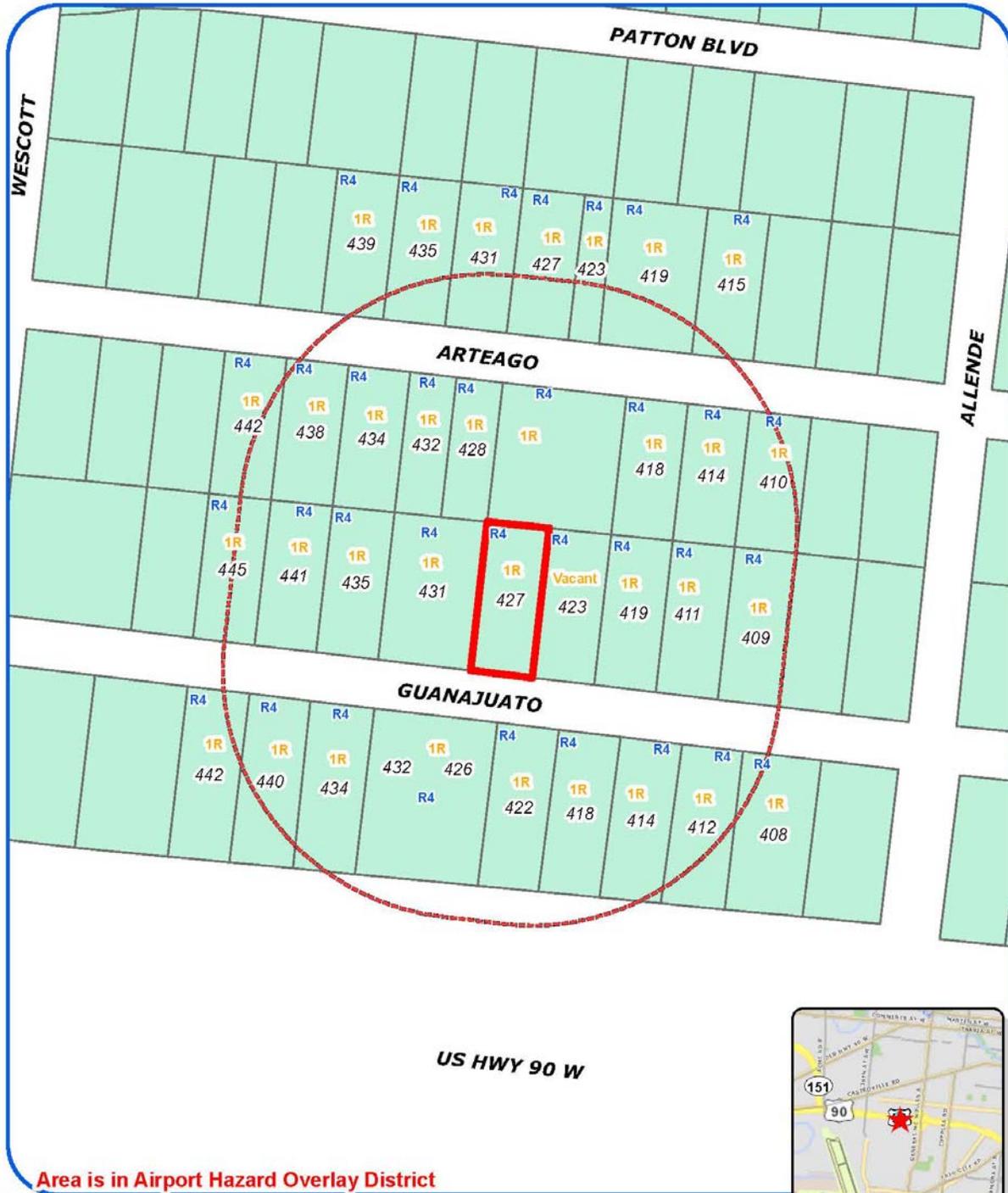
Attachment 1 – Notification Plan (Location Map)

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-14-081



- San Antonio City Limits
- Subject Property
- 200' Notification Boundary
- Council District 5

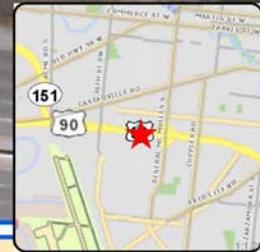
"NOT TO SCALE,
FOR ILLUSTRATIVE PURPOSES ONLY"

Development Services Department
City of San Antonio

**Attachment 1 (Continued)
Notification Plan**



Area is in Airport Hazard Overlay District



**Board of Adjustment
Notification Plan for
Case No A-14-081**



- San Antonio City Limits
- Subject Property
- 200' Notification Boundary
- Council District 5

"NOT TO SCALE,
FOR ILLUSTRATIVE PURPOSES ONLY"

Development Services Department
City of San Antonio

**Attachment 2
Plot Plan**



Board of Adjustment
Plot Plan for
Case No A-14-081

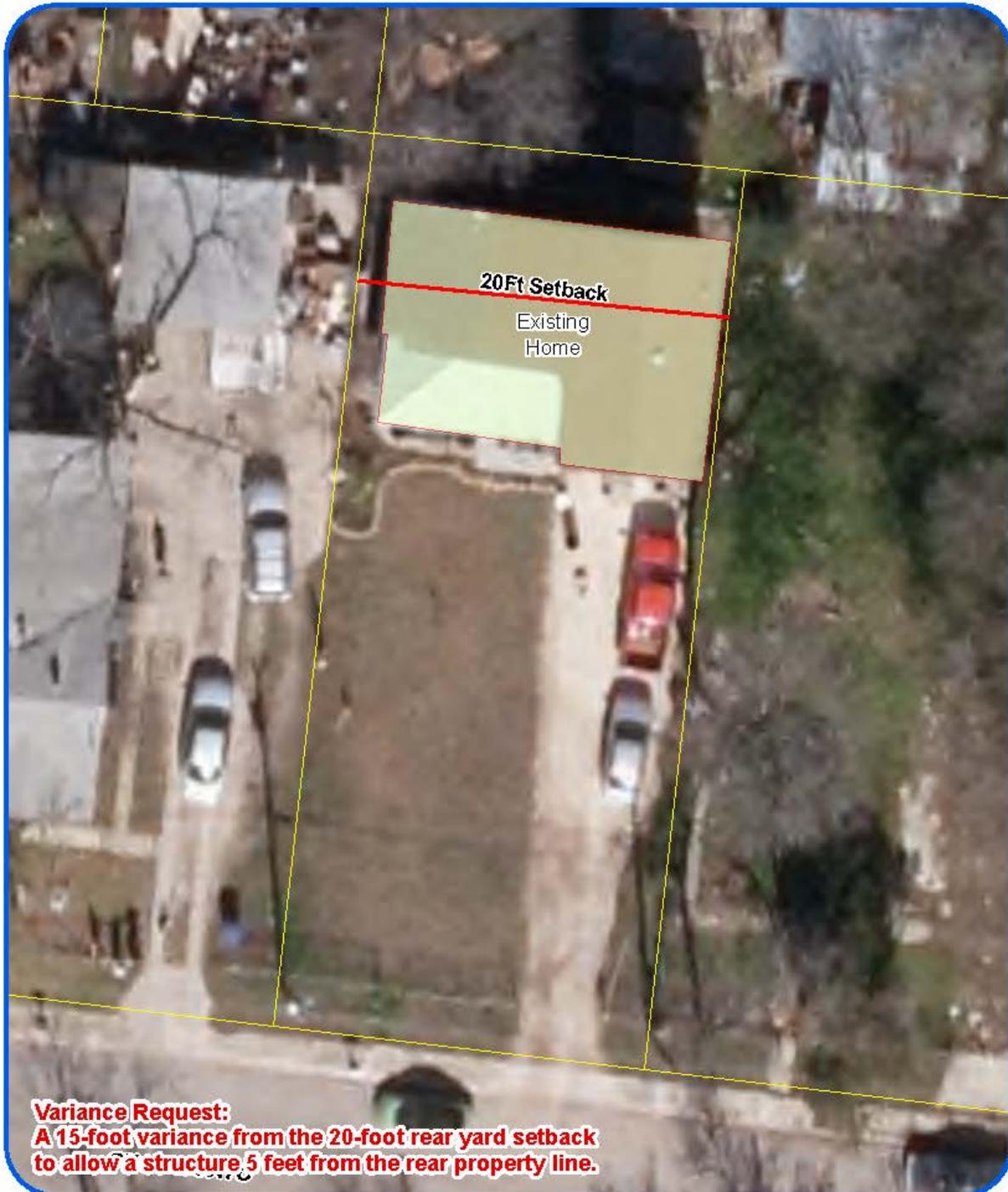


"NOT TO SCALE,
FOR ILLUSTRATIVE PURPOSES ONLY"
Council District 5

427 Guanajuato ^{1/200}

Development Services Department
City of San Antonio

**Attachment 2 (Continued)
Plot Plan**



Board of Adjustment
Plot Plan for
Case No A-14-081

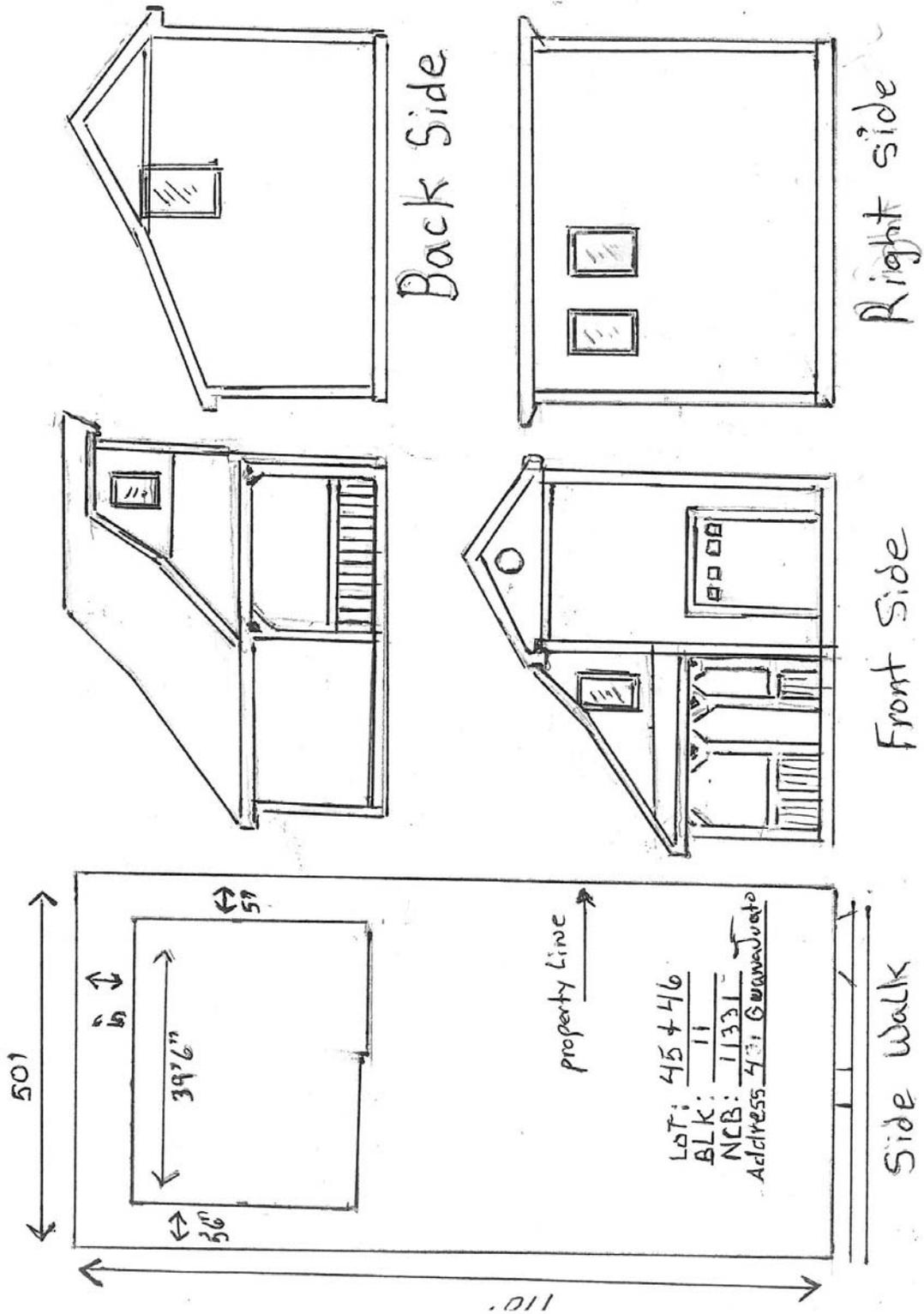


"NOT TO SCALE,
FOR ILLUSTRATIVE PURPOSES ONLY"
Council District 5

427 Guanajuato

Development Services Department
City of San Antonio

**Attachment 3
Applicant's Site Plan**



**Attachment 4
Site Photos**





City of San Antonio Development Services Department Staff Report

To: Board of Adjustment
Case No.: A-14-083
Date: August 4, 2014
Applicant: Ralph Coronado
Owner: Ralph Coronado
Location: 111 One Oak
Legal Description: Lot 4, Block 7, NCB 12357
Zoning: "R-5 AHOD" Residential Single-Family Airport Hazard Overlay District
Prepared By: Margaret Pahl, AICP Senior Planner

Request

A request for 1) a 12.5-foot variance from the minimum 20-foot rear yard setback to allow a covered patio on the property line; and 2) a 5-foot variance from the minimum 5-foot side yard setback to allow a carport on 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 21, 2014. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on July 18, 2014. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on or before August 1, 2014, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The subject property is located on the corner of One Oak and Midcrest, one block south of Babcock Road. Midcrest is a divided collector street with a 20-foot grass median/drainage easement. No residential building lots were platted to front on Midcrest Drive. The subdivision design also includes alley access. The property owner recently expanded the patio and the carport roofing to the side and rear property lines. This work, which included metal posts and flat metal roofing, was completed without permits and cited by Code Compliance. When the applicant sought to correct the violation by seeking a building permit, he was informed of the setback requirements.

Pursuant to Table 310-1 of the UDC, buildings in the “R-5” Residential Single-Family zoning district shall be set back a minimum of 20 feet from the rear property line, and 5 feet from the side property line. The rear setback can be reduced when the rear yard abuts an alley, as in this case. One-half of the alley, or 7.5 feet, can be considered as part of the minimum setback. Therefore, only a 12.5 foot setback is required in this rear yard.

Both structures are made of steel and iron and therefore are inherently fire resistant. If the variance requests are approved, plans examiners have indicated that no fire prevention mitigation measures will be required because of the abutting alley and side street.

Subject Property Zoning/Land Use

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

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-5 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Residential
South	“R-5 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Residential
East	“RM-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Parking Lot for State Offices
West	“R-5 AHOD” Residential Single-Family Airport	Single-Family Residential

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the Near Northwest Neighborhood Plan area and designated for low-density residential land use. The 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 in this case is represented by minimum setbacks established to ensure that activities on individual properties do not impact the rights of a neighboring property owner and allow for property maintenance. **In this case, with rights of way abutting each encroachment, 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.*

The applicant's setback encroachments do not abut private property, nor impact the rights of neighboring owners. The Board will have to determine if requiring the two alterations creates an unnecessary hardship for the applicant.

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

The variance request may be considered consistent with the spirit of the ordinance because the purpose of setbacks is to allow air, light and access, none of which these two structures are interrupting.

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 requested variances will likely not alter the characteristics of the district since no homes are adjacent to either of the encroachments.

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 condition that exists on the property is that the house is located on a corner lot with an alley behind it. The alley provides separation from the patio and the residential divided collector street beside the carport has no homes fronting it.

Alternatives to Applicant's Request

The alternative to the applicant's request is to comply with the UDC setback requirements, & reduce the size of the carport and patio cover.

Staff Recommendation

Staff recommends approval, based on the following findings:

1. The encroachments do not impact neighboring properties.

Attachments

Attachment 1 – Notification Plan (Location Map)

Attachment 2 – Plot Plan

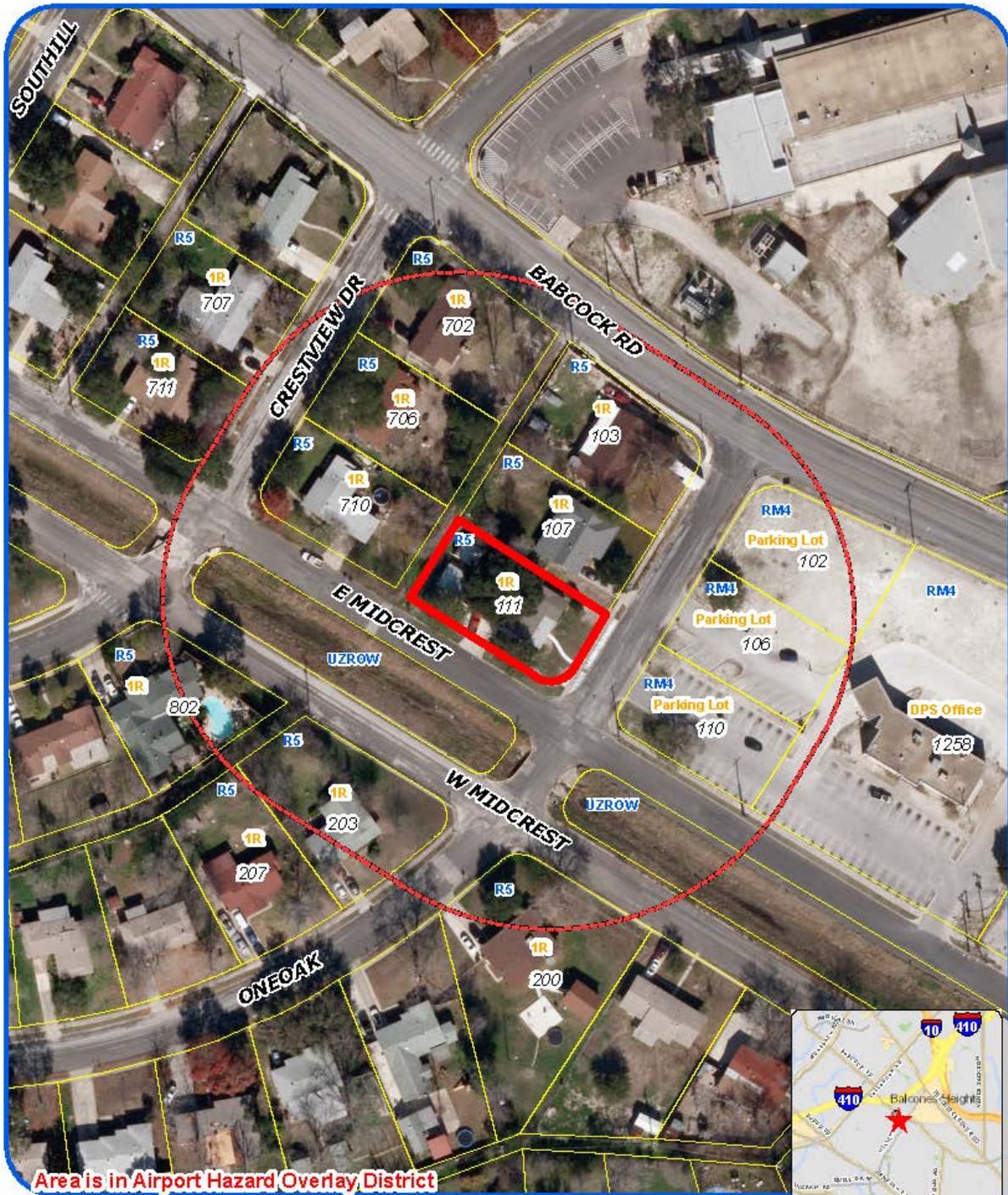
Attachment 3 – Applicant's Site Plan

Attachment 4 – Photos

Attachment 1 Notification Plan



**Attachment 1 (cont)
Notification Plan**



Area is in Airport Hazard Overlay District

**Board of Adjustment
Notification Plan for
Case No A-14-083**



- San Antonio City Limits
- Stable Property
- 200' Notification Boundary
- City of District 7



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Development Services Department
City of San Antonio

**Attachment 2
Plot Plan**



Variance Request:

A request for 1) a 12.5-foot variance from the minimum 20-foot rear yard setback to allow a covered patio on the property line; and 2) a 5-foot variance from the minimum 5-foot side yard setback to allow a carport on the side property line.

Board of Adjustment
Plot Plan for
Case No A-14-083



"NOT TO SCALE,
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Council District 7

111 Oneoak

Development Services Department
City of San Antonio

1:300

Attachment 2 (cont)
Plot Plan



Variance Request:
A request for 1) a 12.5-foot variance from the minimum 20-foot rear yard setback to allow a covered patio on the property line; and 2) a 5-foot variance from the minimum 5-foot side yard setback to allow a carport on the side property line.

Board of Adjustment
Plot Plan for
Case No A-14-083

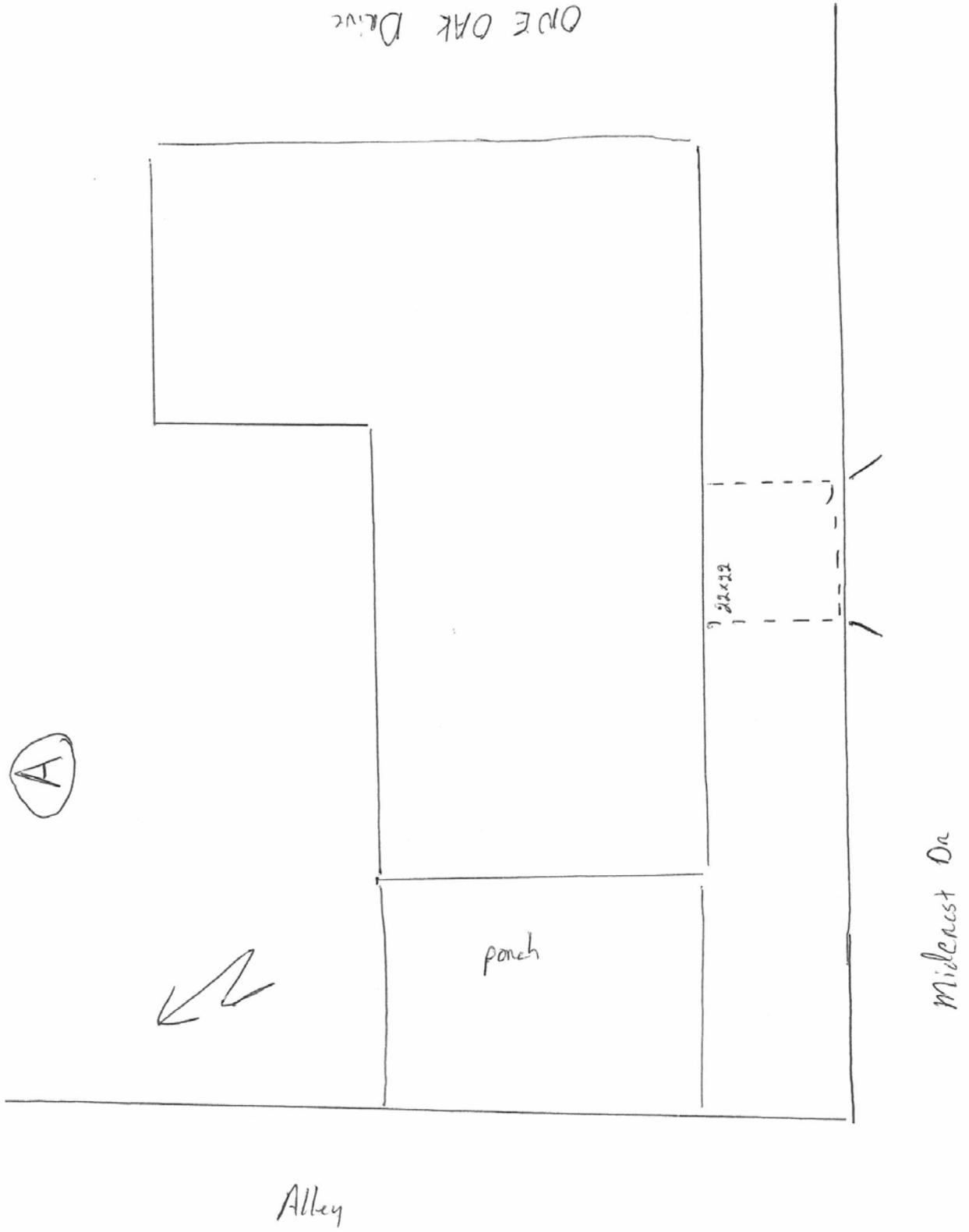


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Council District 7

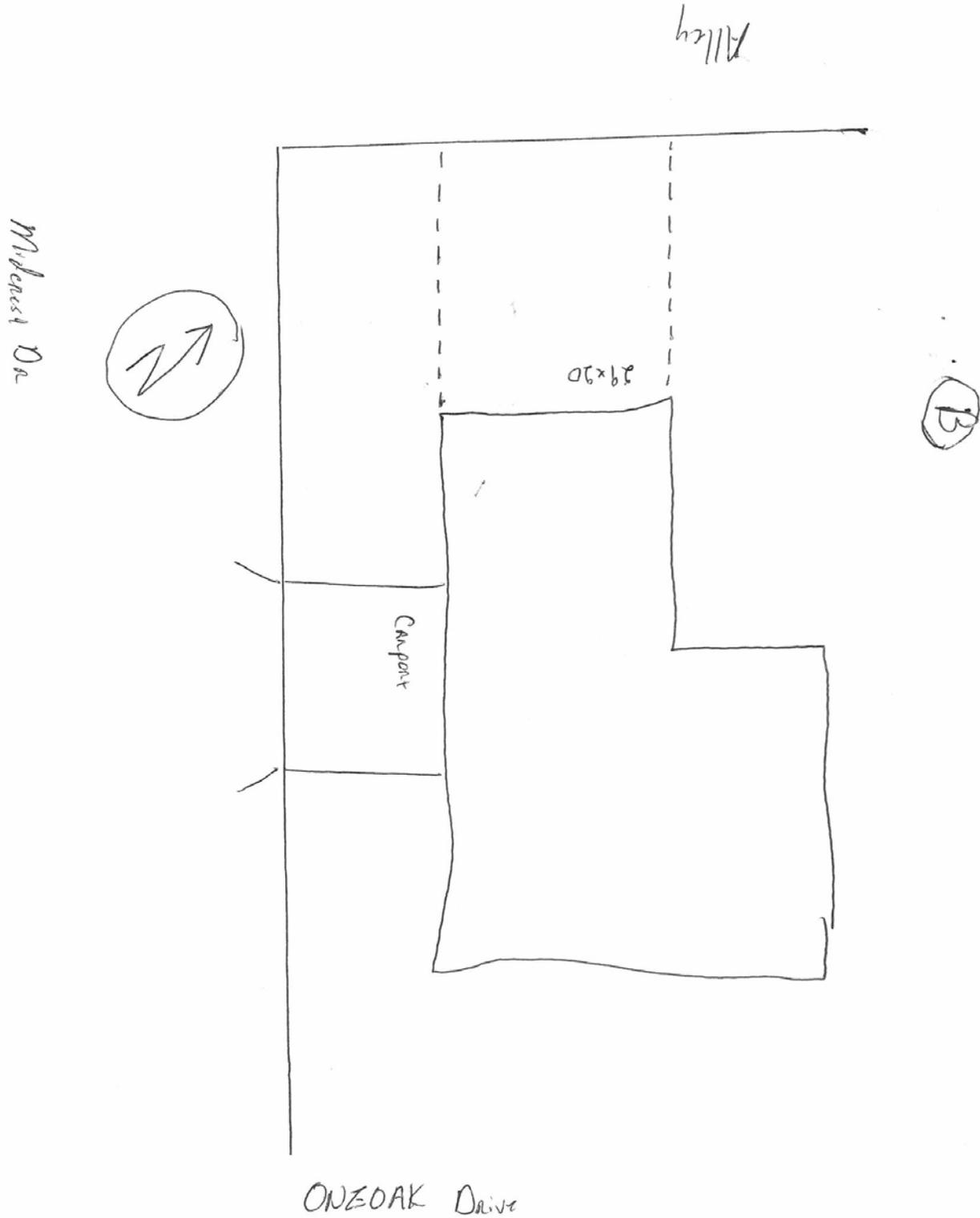
111 Oneoak

Development Services Department
City of San Antonio

**Attachment 3
Applicant's Site Plan**



Attachment 3
Applicant's Site Plan



**Attachment 4
Site Photos**



Carport



Covered Patio



City of San Antonio Development Services Department Staff Report

To: Board of Adjustment
Case No.: A-14-084
Date: August 4, 2014
Applicant: Sue Ann Pemberton
Owner: Sam & Lori Houston
Location: 306 Carnahan Street
Legal Description: W 46.45 ft of Lot 13 & E 3.55 ft of Lot 14, Block 14, NCB 6560
Zoning: "R-4 NCD-6 AHOD" Residential Single-Family Mahncke Park
Neighborhood Conservation District Airport Hazard Overlay District
Prepared By: Margaret Pahl, AICP Senior Planner

Request

A request for **1)** a 5-foot variance from the 5-foot side yard setback; and **2)** a 3-foot variance from the Mahncke Park Neighborhood Conservation District requirement that accessory structures match the size and proportion of the main structure to allow an accessory structure located on the side and rear property lines that is 3 feet taller than the main structure.

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 21, 2014. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on July 18, 2014. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on or before August 1, 2014, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

Pursuant to Section 35-370 (b) of the UDC, accessory structures are required to provide a minimum setback of 5 feet from any side or rear property line. This distance may be reduced for accessory structures which abut an alley, where half of the alley's width can be used to satisfy the required rear setback. This allowance eliminated the need for a rear setback variance. Therefore, the applicant is only requesting a 5-foot variance from the side setback to allow the new building on the side property line.

The applicant is in the process of acquiring a perpetual maintenance easement from the abutting property owner adjacent to the proposed zero lot line construction. This easement when recorded would eliminate any future concerns for necessary anticipated maintenance needs. The perpetual easement and the alley combine to eliminate the need for fire-rated construction.

The subject property is located within the Mahncke Park Neighborhood Conservation District, a design overlay which requires attention to details regarding compatibility. Accessory structures over 400 square feet are required to match the primary structure in scale, building materials, and window type. The applicant is proposing to construct a new garage with guest quarters above. The footprint of the proposed building has been designed to replace a previous accessory structure that was deteriorated beyond repair. The old building was originally constructed on the property line, as was the tradition back then. This saved the length of fencing that the owners had to install and while there was no room for maintenance, the neighbor whose property it faced would actually maintain that elevation of the building as if it were theirs. Zoning regulations and building codes have since established the need for and benefits of providing a setback for air, light and access for maintenance. In addition, the International Fire Code has reinforced the need for fire separation or alternative construction methods which delay the potential spread of fire across property lines.

Due to the proposed second story, a small height variance of 3 feet is also requested to allow the accessory structure taller than the primary structure. The Mahncke Park Neighborhood Conservation District includes a requirement that:

Accessory structures larger than 400 square feet shall match the primary structure in terms of exterior building materials, window material, size and proportion, and roof pitch.

The height of the main structure is approximately 3 feet less than the proposed accessory structure. Staff has interpreted the requirement to match size as the two structures having the same height. All other aspects of the design requirements regarding building materials and window proportion are being satisfied.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"R-4 NCD-6 AHOD" Residential Single-Family Mahncke Park Neighborhood Conservation Airport Hazard Overlay District	Single-Family Residential

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"R-4 NCD-6 AHOD" Residential Single-Family Mahncke Park Neighborhood Conservation Airport Hazard Overlay District	Single-Family Residential
South	"R-4 NCD-6 AHOD" Residential Single-Family Mahncke Park Neighborhood Conservation Airport Hazard Overlay	Single-Family Residential

	District	
East	“R-4 NCD-6 AHOD” Residential Single-Family Mahncke Park Neighborhood Conservation Airport Hazard Overlay District	Single-Family Residential
West	“R-4 NCD-6 AHOD” Residential Single-Family Mahncke Park Neighborhood Conservation Airport Hazard Overlay District	Single-Family Residential

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the Mahncke Park Neighborhood Plan, adopted in September of 2001 and designated for urban single-family residential land use. The property is located within the boundaries of the Mahncke Park Neighborhood Association, a registered neighborhood association. As such, they were 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 in this case is represented by minimum setbacks established to ensure that activities on individual properties do not impact the rights of a neighboring property owner and allow for property maintenance. **The property owner is seeking approval from the neighboring property owner for a recordable maintenance easement. If the easement cannot be obtained, then the structure should provide a 3-foot side setback for long term maintenance. The other requested variance will not negatively impact the public interest.**

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

Indeed, the tradition in older neighborhoods is accessory structures on the property line, but literal enforcement of a minimal setback allows for perpetual maintenance. The Board will have to determine if this requirement creates an unnecessary hardship for the applicant. **If a maintenance easement can be acquired, then the proposed setback variance could be granted without concern. Additionally, the requested variance for 3 feet in height is located 120 feet from the public right of way, likely indiscernible and may be considered an unnecessary hardship.**

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

The variance request may be considered consistent with the spirit of the ordinance by providing a 5-foot maintenance easement, similar to what is required in a zero lot line subdivision. A second variance however is requested for height. Accessory structures are

generally regulated by the allowed height of the base zoning district, but in the NCD zones, are required to be compatible with the scale of the main structure.

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 NCD-6 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 requested variances will likely not alter the characteristics of the district since there are several other accessory structures constructed on or near property lines within the immediate neighborhood and the design will be compatible with the materials of the main structure.

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 applicant states that the variances are requested to re-establish the historic condition and that enforcing the setbacks would result in alteration of the essential character of the neighborhood pattern.

Alternatives to Applicant’s Request

The alternative to the applicant’s request is to comply with the UDC setback requirements, & reduce the size of the accessory structure.

Staff Recommendation

Staff recommends approval noting the need for a recordable maintenance easement, based on the following findings:

1. The variances are consistent with established neighborhood patterns.

Attachments

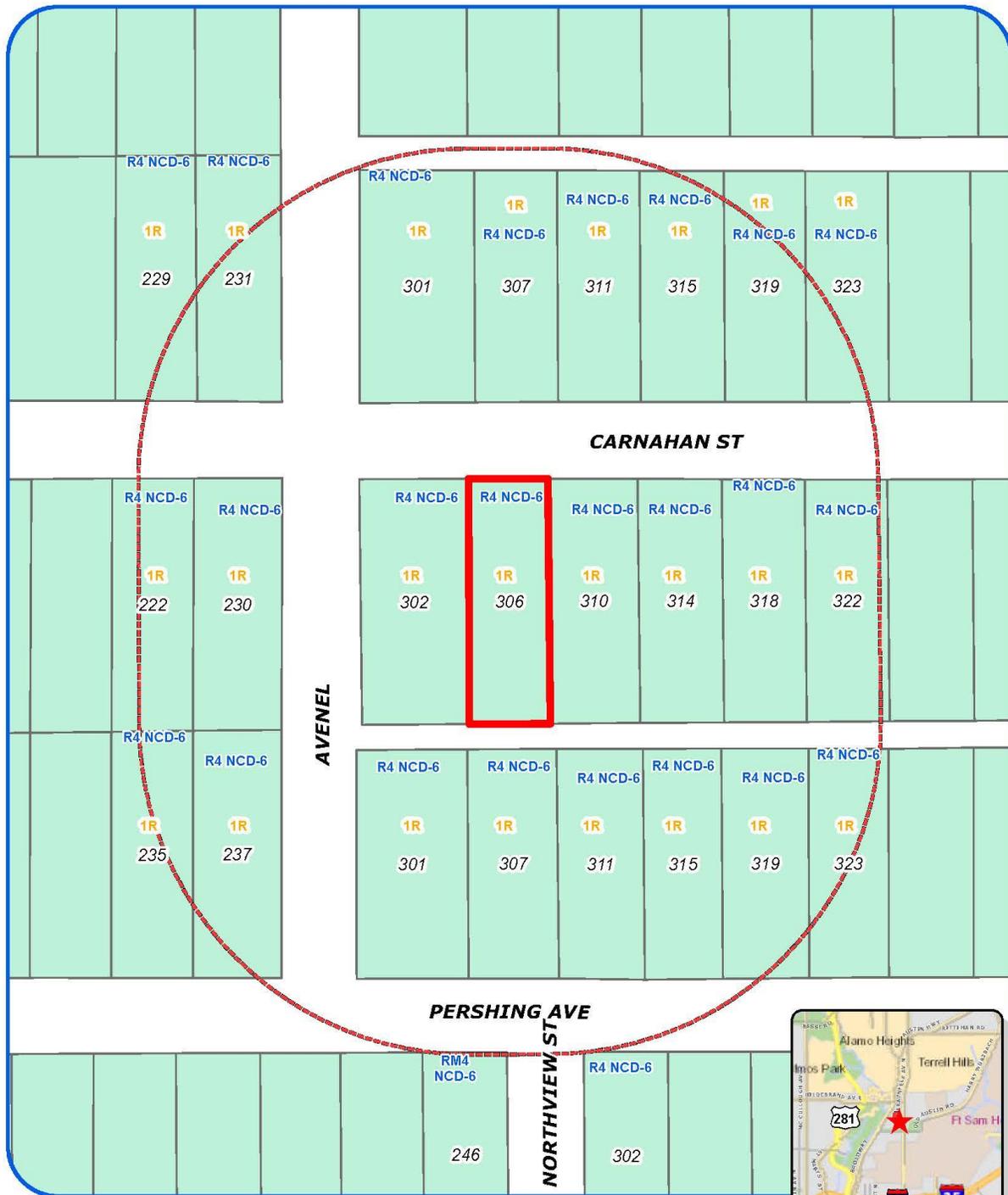
Attachment 1 – Notification Plan (Location Map)

Attachment 2 – Plot Plan

Attachment 3 –Applicant’s Site Plan

Attachment 4 – Photos

Attachment 1 Notification Plan



Board of Adjustment
Notification Plan for
Case No A-14-084



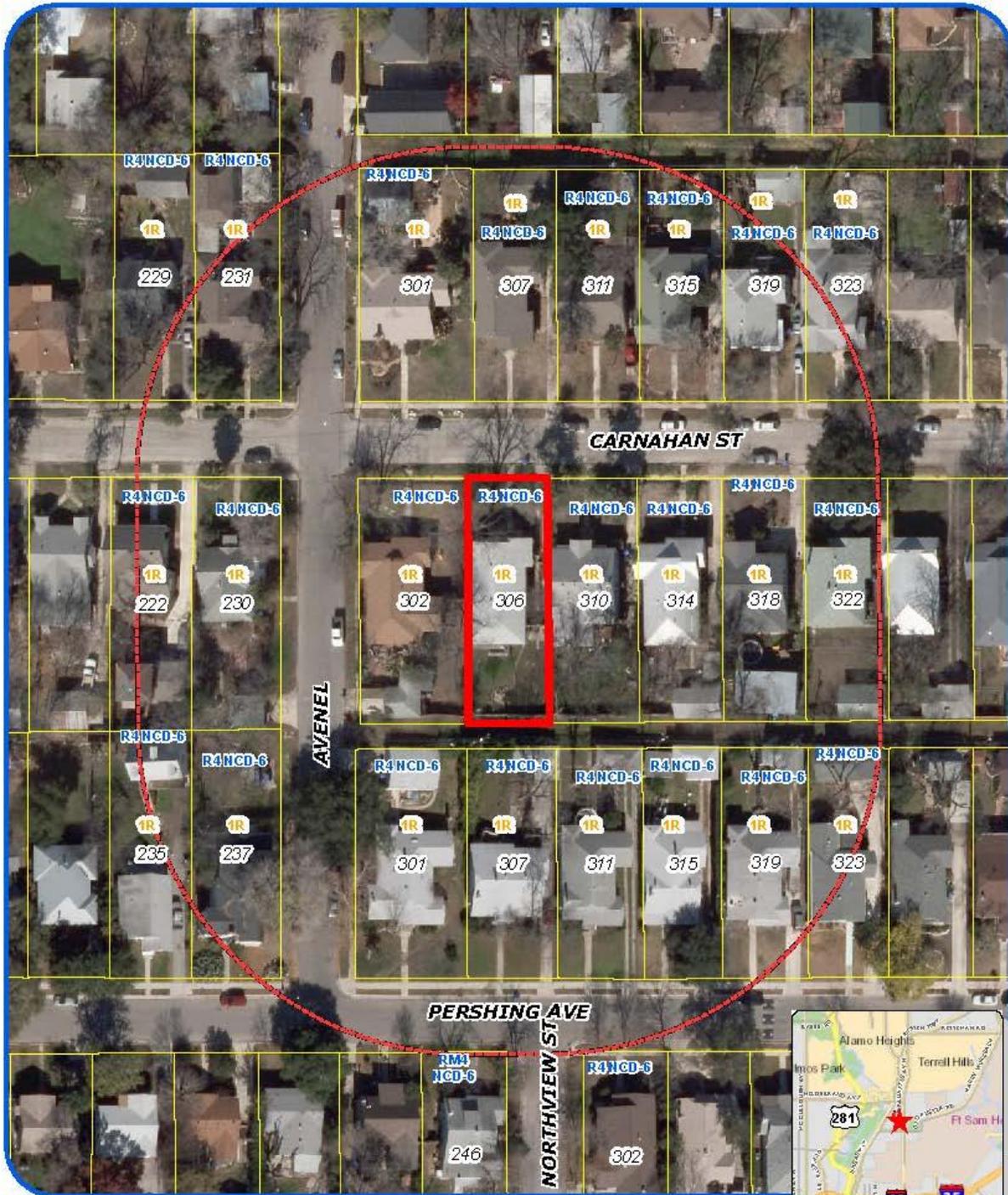
San Antonio City Limits
Subject Property
200' Notification Boundary
Council District 2



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Development Services Department
City of San Antonio

**Attachment 1 (cont)
Notification Plan**



<p>Board of Adjustment Notification Plan for Case No A-14-084</p>		<p>San Antonio City Limits </p>
		<p>Subject Property </p>
		<p>200' Notification Boundary </p>
		<p>Council District 2 </p>
		<p>"NOT TO SCALE, FOR ILLUSTRATIVE PURPOSES ONLY"</p> <p>Development Services Department City of San Antonio</p>

**Attachment 2
Plot Plan**



Board of Adjustment
Plot Plan for
Case No A-14-084



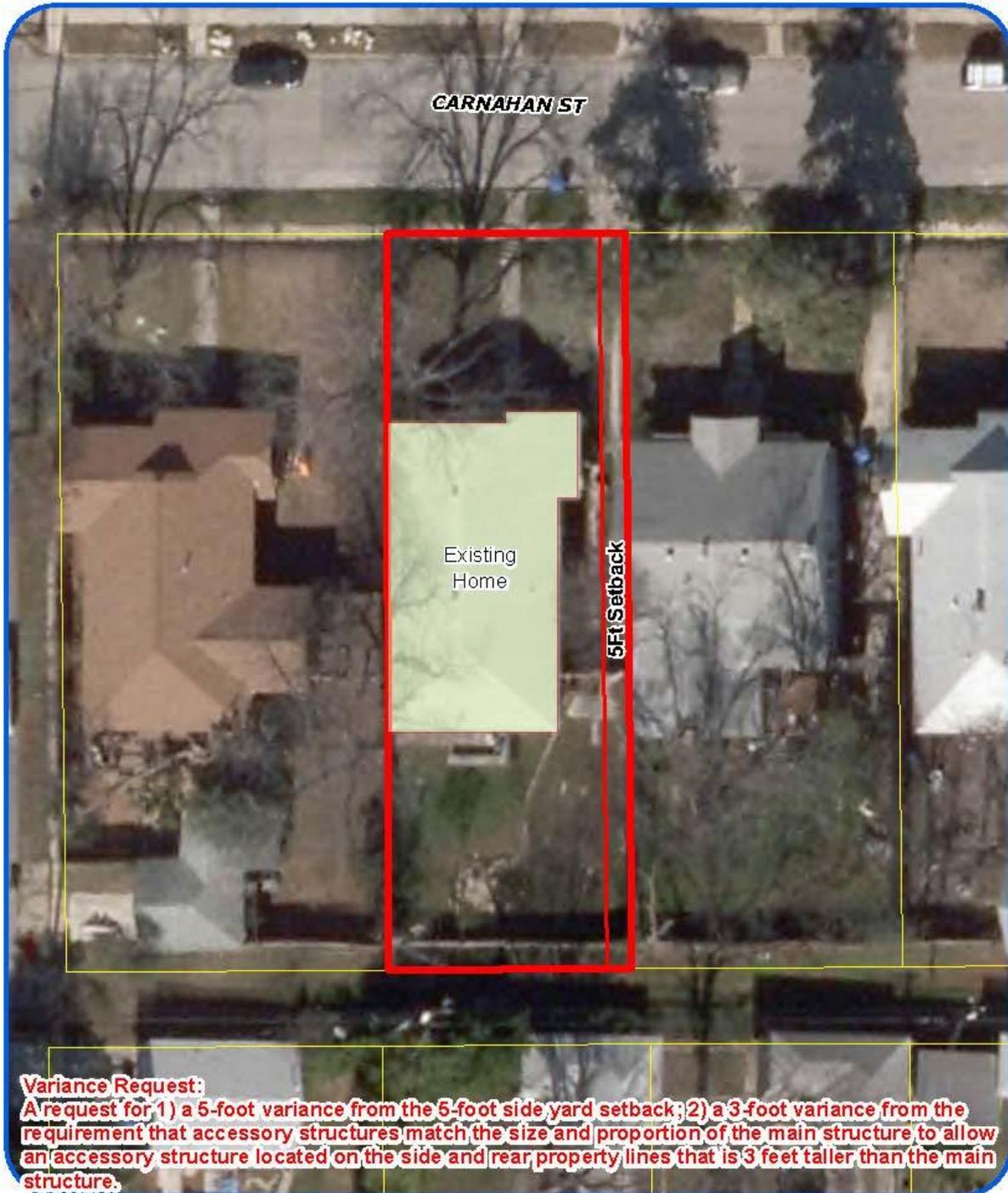
"NOT TO SCALE,
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Council District 2

306 Carnahan

Development Services Department
City of San Antonio

1:300

Attachment 2 (cont)
Plot Plan



Board of Adjustment
Plot Plan for
Case No A-14-084

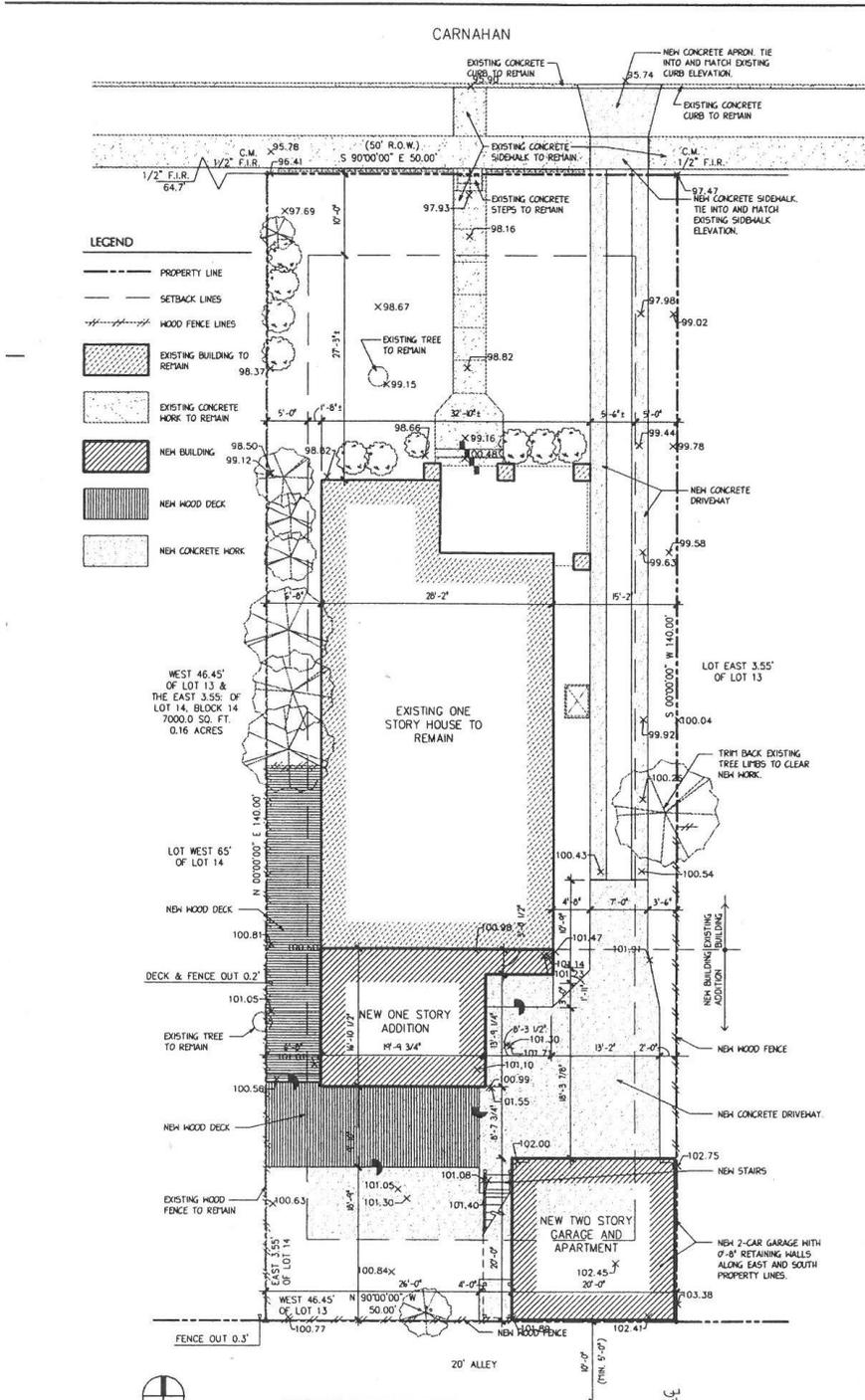


"NOT TO SCALE,
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Council District 2

306 Carnahan

Development Services Department
City of San Antonio

Attachment 3 Applicant's Site Plan



- LEGEND**
- PROPERTY LINE
 - SETBACK LINES
 - - - WOOD FENCE LINES
 - [Hatched Box] EXISTING BUILDING TO REMAIN
 - [Dotted Box] EXISTING CONCRETE WORK TO REMAIN
 - [Diagonal Lines] NEW BUILDING
 - [Horizontal Lines] NEW WOOD DECK
 - [Stippled Box] NEW CONCRETE WORK

PRELIMINARY NOT FOR REGULATORY APPROVAL, PERMIT, OR CONSTRUCTION MAIN STREET ARCHITECTS P.C. SUE ANN PEMBERTON 3/27/2014 #6330	
MAIN STREET ARCHITECTS INC.	133 W. ASTORITE SAN ANTONIO, TEXAS 78202-280 7352968
REVISIONS	BY
Empty space for revisions	
306 CARNAHAN SAN ANTONIO, TX 78209 COVER SHEET AND SITE PLAN	
Date: 3/27/2014	
Scale:	
Drawn by:	

**Attachment 4
Site Photos**

