

# City of San Antonio Board of Adjustment

## Regular Public Hearing Agenda

Monday, January 12, 2015

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](http://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-15-030:** The request of Maria Gonzalez for a special exception to allow a one-operator beauty/barber shop in a home, located at 431 Mc Laughlin Avenue. (Council District 4)
5. **A-15-037:** The request of Shavano Rogers Ranch North No. 3 LTD for 1) a 3 foot variance from the maximum 8 foot monument sign height to allow a 11 foot tall monument sign at the entrance to a residential subdivision; 2) a 15 foot variance from the minimum 15 foot setback from a public street to allow the monument sign on the property line; and 3) a 5 foot variance from the maximum 8 foot perimeter wall height to allow a decorative wall element no taller than 13 feet tall for a length of 22 feet, located at 18029 Shavano Ranch Road. (Council District 9)
6. **A-15-024: CONTINUED** The request of Daniel Alvarado for a two foot variance from the four foot maximum predominately open fence height to allow a six foot tall wrought iron fence in the front yard located at 1803 W Mally Boulevard. (Council District 4)
7. **A-15-036:** The request of Slay Engineering Company for a four foot variance from the six foot maximum to allow a fence ten feet tall between a shopping plaza and a single-family neighborhood, located at 18603 Blanco Road. (Council District 9)
8. **A-15-027:** The request of Jose Torres for a five foot variance from the required five foot side and rear setbacks to allow an arbor and deck on the side and rear property lines, located at 9222 Rustlers Creek. (Council District 9)
9. **A-15-034:** The request of Juan Castillo for the elimination of the required side setback to allow an accessory structure to remain on the side property line, located at 1612 McKinley Avenue. (Council District 3)
10. **A-15-035:** The request of Cleofas David Cristan for the elimination of the side yard setback to allow an addition to a home along the side property line, located at 543 W. Gramercy Place. (Council District 1)

---

### 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*

11. Approval of the December 15, 2014 Board Meeting Minutes

12. 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).***

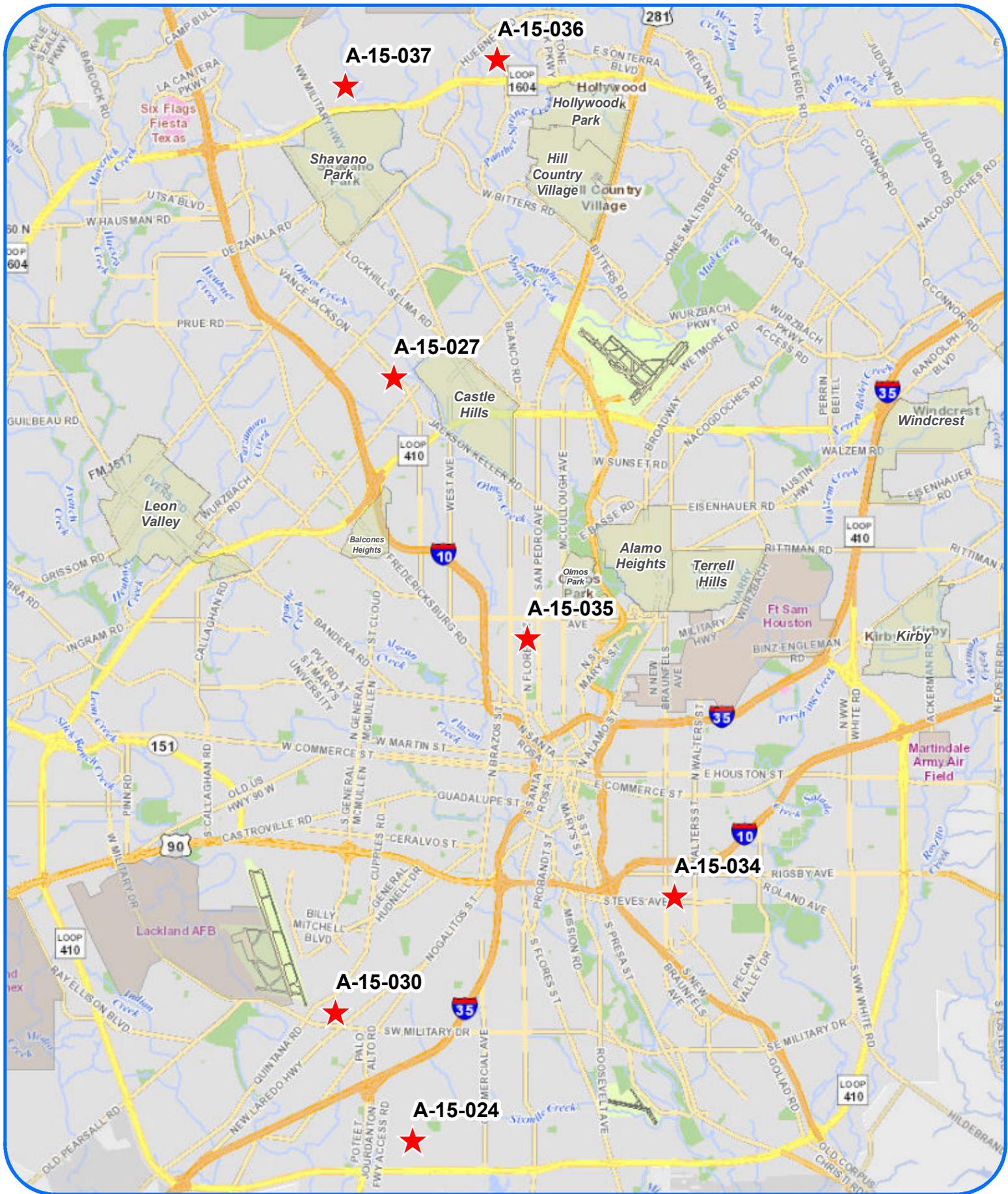
---

**Board of Adjustment Membership**

*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, Distict 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 12th January 2015





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

To: Board of Adjustment  
Case No.: A-15-030  
Date: January 12, 2015  
Applicant: Maria Gonzalez  
Owner: Maria Gonzalez  
Council District: 4  
Location: 431 McLaughlin Avenue  
Legal Description: Lot 13, Block 50, NCB 8940  
Zoning: "RM-4 AHOD" Residential Mixed Airport Hazard Overlay District  
Prepared By: Logan Sparrow, Planner

---

### **Request**

A request for a special exception to allow a one operator beauty/barber shop within a single-family home as described in Section 35-399.01.

### **Procedural Requirements**

A special exception is a decision vested with the Board of Adjustment. The UDC prescribes specific factors that must be satisfied when deciding to grant a special 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 December 19, 2014. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on December 23, 2014. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on or before January 9, 2015, in accordance with Section 551.043(a) of the Texas Government Code.

### **Executive Summary**

The subject property is located at 431 McLaughlin Avenue approximately 77 feet east of Bynum Avenue. The applicant is seeking a special exception to allow the operation of a one operator beauty/barber shop within her home. This is the first time that the applicant has applied for a special exception. The applicant has already constructed the shop within her home and has complied with all requirements established by the Unified Development Code. The Board of Adjustment can approve the special exception request for up to four years. The applicant has proposed operating hours of Tuesday through Saturday from 9am to 8pm, with a one hour break

between 3pm and 4pm. Approval of this request would result in a total of 50 hours per week of potential operating time. The granting of a two year special exception would result in a renewal date of January 12, 2017 and a granting of the maximum four year special exception would result in a renewal date of January 12, 2019.

**Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District	Single-Family Dwelling

**Surrounding Zoning/Land Use**

Orientation	Existing Zoning District(s)	Existing Use
North	“C-1 AHOD” Light Commercial Airport Hazard Overlay District	Retail Shop
South	“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District	Single-Family Dwelling
East	“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District	Single-Family Dwelling
West	“C-1 AHOD” Light Commercial Airport Hazard Overlay District	Retail Shop

**Comprehensive Plan Consistency/Neighborhood Association**

The property is within the boundaries of the Kelly/South San Pueblo neighborhood plan and is designated as low-density residential land use. The subject property is within the boundaries of the Quintana Community registered neighborhood association. As such, the neighborhood association was notified and asked to comment.

**Criteria for Review**

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

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

**The spirit of the chapter, in this case, is represented by minimum requirements to ensure that the operation of a one-operator beauty/barber shop does not negatively impact the character of the community or the quality of life of neighbors. Staff noted that nothing about the home distinguishes it from others in the community. The applicant has fulfilled all requirements for a one-operator shop as established in the Unified Development Code. Staff would recommend a reduction in the hours requested to allow the operation from 9am through 6pm. Approving this modification would still allow the shop to operate 40 hours per week and not at times when it may negatively affect neighboring residences. Staff is recommending an approval not to exceed two years as this is the first time that the**

**applicant has applied for a special exception. As such, staff finds that the special exception is in harmony to the spirit of the chapter.**

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

**The applicant has already constructed the beauty/barber shop within her home and this is her first request for a special exception. Approving the request for the special exception, with limited hours, will allow the applicant to serve customers in her community and therefore the public welfare will be served.**

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

**The requested special exception is not likely to negatively impact adjacent property owners because the home is in character with those around it. During field visits staff noted nothing visible from the street that would indicate the presence of a beauty/barber shop. Also, during field visits staff noted a driveway capable of providing any necessary parking for the proposed use.**

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

**The requested special exception is not likely to alter the essential character of the district as the property is still used, primarily, as a single-family residence. From the street, the home is not unlike other homes in the community.**

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

**The primary use of the dwelling remains a single-family home. The one-operator barber/beauty shop will have restricted hours, which are established by the Board of Adjustment. The applicant has met all other requirements established by the Unified Development Code.**

### **Alternative to Applicant's Request**

The alternative to the applicants request would be to reduce the hours of operation to no more than 40 hours per week so that neighboring properties are not adversely affected.

### **Staff Recommendation**

Staff recommends **approval of A-15-030** based on the following findings of fact:

1. The applicant has complied with all requirements established by the Unified Development Code. Staff is recommending a reduction in the hours of operation to no more than 40 hours per week and an approval of not more than a two year period.

## **Attachments**

Attachment 1 – Notification Plan (Aerial Map)

Attachment 2 – Plot Plan (Aerial Map)

Attachment 3 – Elevation of Sign

Attachment 4 – Site Photos

# Attachment 1 Notification Plan



**Board of Adjustment  
Notification Plan for  
Case No A-15-030**

San Antonio City Limits 

Subject Property 

200' Notification Boundary 

Council District: 4

W  N E S

"NOT TO SCALE,  
FOR ILLUSTRATIVE PURPOSES ONLY"

Development Services Department  
City of San Antonio

**Attachment 1  
Notification Plan (continued)**



<p><b>Board of Adjustment</b> Notification Plan for Case No A-15-030</p>		<p>San Antonio City Limits </p>	<p align="right">*NOT TO SCALE, FOR ILLUSTRATIVE PURPOSES ONLY*</p> <p align="right">Debra Kpeme at Services Department City of San Antonio</p>
		<p>Subject Property </p>	
		<p>200' Notification Boundary </p>	
		<p>Council District 4 </p>	

**Attachment 2  
Plot Plan**



**Variance Request: 1) A request for a special exception to allow a one operator beauty/barber shop within a single-family home.**

**Board of Adjustment**  
Plot Plan for  
**Case No A-15-030**



"NOT TO SCALE,  
FOR ILLUSTRATIVE PURPOSES ONLY"  
Council District: 4

**431 McLaughlin Ave**

Development Services Department  
City of San Antonio

**Attachment 2  
Plot Plan (continued)**



**Board of Adjustment**  
Plot Plan for  
Case No A-15-030



"NOT TO SCALE,  
FOR ILLUSTRATIVE PURPOSES ONLY"  
Council District: 4

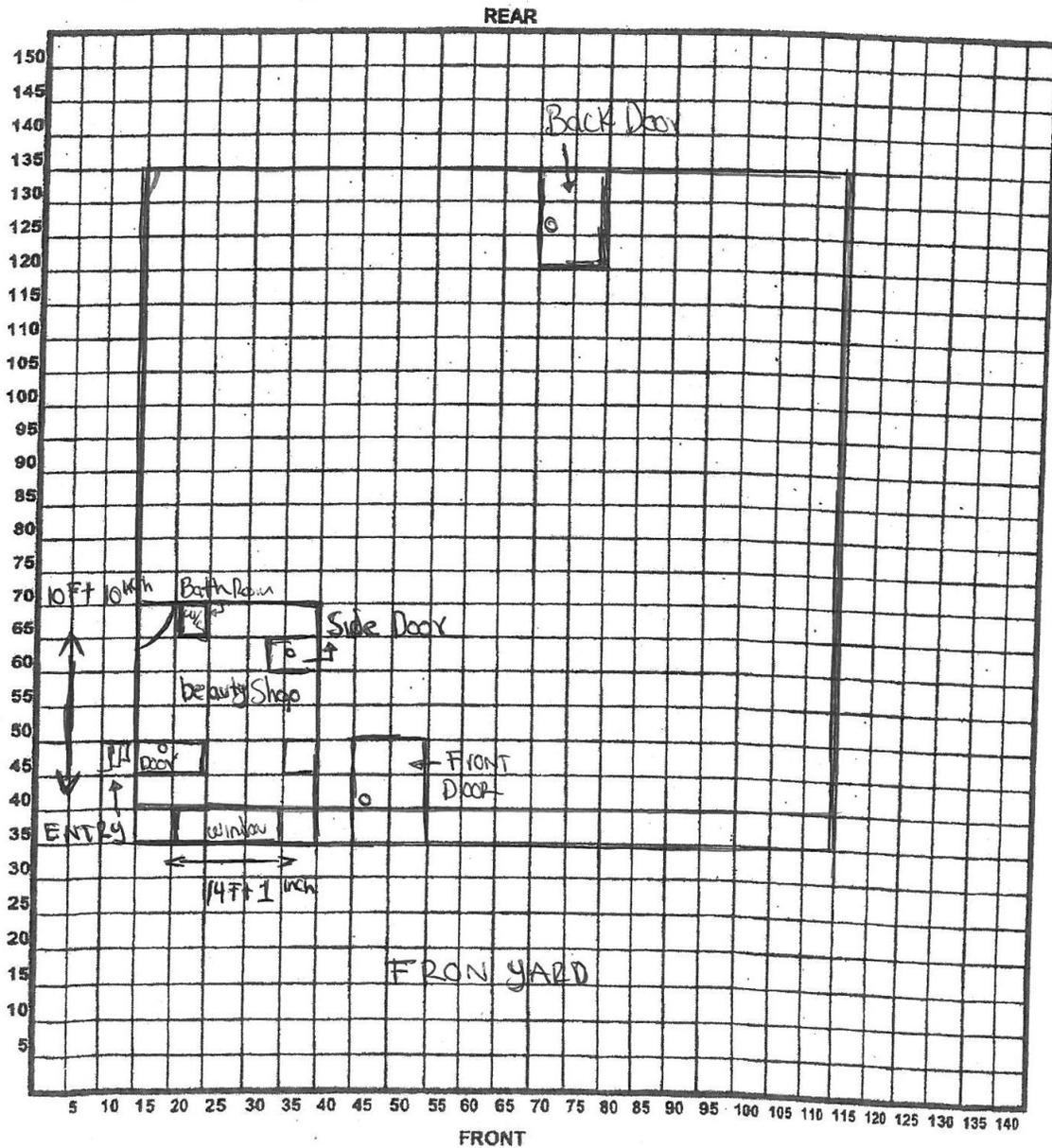
**431 McLaughlin Ave**

1240  
Development Services Department  
City of San Antonio

**Attachment 3  
Applicant's Site Plan**

**PLOT PLAN  
FOR  
BLDG PERMITS**

Address 431 McLaughlin Ave Lot \_\_\_\_\_ Block \_\_\_\_\_ NCB \_\_\_\_\_



I certify that the above plot plan shows all improvements on this property and that there will be no construction over easements. I also certify that I will build in compliance with the UDC and the 2012 IRC

**Attachment 4 - Photos**







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

To: Board of Adjustment  
Case No.: A-15-037  
Date: January 12, 2015  
Applicant: Shavano Rogers Ranch North No. 3, LTD  
Owner: Shavano Rogers Ranch North No. 3, LTD  
Council District: 9  
Location: 18029 Shavano Ranch Road  
Legal Description: Lot 999, Block 17, NCB 17701  
Zoning: “R-6 PUD ERZD MLOD AHOD” Residential Single-Family Planned Unit  
Development Edwards Aquifer Recharge Zone Military Lighting Overlay  
Airport Hazard Overlay District  
Prepared By: Margaret Pahl, AICP Senior Planner

---

### **Request**

A request for 1) a 3 foot variance from the maximum 8 foot monument sign height, as described in Section 28-240, to allow an 11 foot tall monument sign at the entrance to a residential subdivision; 2) a 15 foot variance from the minimum 15 foot setback from a public street to allow the monument sign on the property line; and 3) a 5 foot variance from the maximum 8 foot perimeter wall height, as described in Section 35-514 (d) to allow a decorative wall element no taller than 13 feet tall for a length of 22 feet.

### **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 December 19, 2014. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on December 23, 2014. Additionally, notice of this meeting was posted at City Hall and on the City’s internet website on or before January 9, 2015, in accordance with Section 551.043(a) of the Texas Government Code. This variance application must be reviewed under two different sections of City Code; one for the sign height and setback and one for the wall height. The proposed sign is regulated by Chapter 28, Section 28-240 and a variance must be evaluated under the required

factors for a sign variance. The fence height is evaluated under the required findings for a zoning variance.

**Executive Summary**

The subject property is located at the entrance into a gated subdivision. The applicant is requesting variances to allow a combination of entry features which exceed the maximum heights. The first two variances address a monument sign. The sign is approximately 11 feet in height, 3 feet taller than the 8 feet allowed for residential subdivision monument signs. In addition, the monument sign is normally required to provide a 15 foot setback from the property line. In this case, the proposed sign is located within a landscaped median on the private street right of way, less than 15 feet from the public/private boundary line. The last variance is proposed to allow a 13 foot tall section of wall, 12 feet in length, also within the landscaped median of the private right of way. This section of wall will connect to the gates on the entrance and exit lanes of the private street. A 5 foot variance is required for this proposal, since walls around the perimeter of subdivisions are limited to 8 feet in height.

It should be noted that an 8 foot masonry wall is permitted and will be installed along the perimeter of the subdivision on Shavano Ranch Road. This wall will provide the desired privacy and separation between the residential neighborhood and the potentially busy thoroughfare. The variances instead are requested for signage and entry features located within a private street right of way and provide no additional protection to homes. The variances are requested to allow emphasis and distinction of the entry elements from the adjoining 8 foot masonry wall.

**Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
“R-6 PUD ERZD MLOD AHOD” Residential Single-Family Planned Unit Development Edwards Aquifer Recharge Zone Military Lighting Overlay Airport Hazard Overlay District	Future landscaped median

**Surrounding Zoning/Land Use**

Orientation	Existing Zoning District(s)	Existing Use
North	“R-6 PUD ERZD MLOD AHOD” Residential Single-Family Planned Unit Development Edwards Aquifer Recharge Zone Military Lighting Overlay Airport Hazard Overlay District	Vacant
South	“R-6 PUD ERZD MLOD AHOD” Residential Single-Family Planned Unit Development Edwards Aquifer Recharge Zone Military Lighting Overlay Airport Hazard Overlay District	Vacant

East	“R-6 PUD ERZD MLOD AHOD” Residential Single-Family Planned Unit Development Edwards Aquifer Recharge Zone Military Lighting Overlay Airport Hazard Overlay District	Vacant
West	“R-6 PUD ERZD MLOD AHOD” Residential Single-Family Planned Unit Development Edwards Aquifer Recharge Zone Military Lighting Overlay Airport Hazard Overlay District	Single-Family Dwelling

**Comprehensive Plan Consistency/Neighborhood Association**

The property is located within the boundaries of the North Sector Plan area and designated as Suburban Tier land use. It is not within the boundaries of any registered neighborhood association.

**Criteria for Review for the sign**

According to Section 28-246 of the City Code, in order for a variance to be granted, the applicant must demonstrate all of the following:

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*

The applicant is seeking the height variance to allow the sign panel to be distinct from the wall. It is a proposed artistic design solution to add a center piece element. The topography at the entrance has no impact on the sign height. Strict enforcement of the 8-foot limitation does not prohibit adequate signage. The sign could also meet the setback requirements. The site plan is not specific about the location of the public street right of way and the private street, but this will have to be determined prior to installation.

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.*

Granting the height variance in fact does provide the applicant with a special privilege not enjoyed by the other gated community up the street. The requested setback variance to reduce the 15 foot setback was perhaps related to a landscaping plan designed without knowledge of the setback or property line.

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

Granting the variance to allow the sign to be 3 feet taller than other residential subdivision monument signs could generate similar requests from other residential communities seeking to compete for the most desirable gated community. The monument sign structure is substantial, 45 linear feet before the angular sections. The 11 foot tall section is 12 feet in width, before reducing in height to 8 feet on either side.

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

The stated purpose is to provide minimum standards to protect the safety of the City's transportation network by reducing confusion or distractions to motorists. In addition, the purpose is to contribute to the development of an attractive visual environment. The height and setback variances are changes which modify the adopted standards specified in the Code. The proposed height was never allowed and to staff's knowledge, there are no other residential monument signs of this size. Therefore, the variances conflict with the stated purpose.

### **Criteria for Review for the wall**

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. In this case the public interest is represented by height limitations for walls to encourage a sense of community. The proposed variance seems to 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 code would require that the applicant limit the height of the wall entry element to 8 feet, the same height allowed for the perimeter wall. To allow distinction from the perimeter wall, a smaller variance could achieve a similar dramatic result.

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

The spirit of the ordinance would not be observed by allowing a section of wall 13 feet in height. Another gated community nearby has constructed a similar wall 8 feet in height, observing the ordinance standards. The allowed height of 8 feet is adequate for security and privacy.

4. *The 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 variances will not authorize the operation of a use on the subject property other than those specifically permitted in the "R-6 PUD ERZD MLOD AHOD" Residential Single-Family Planned Unit Development Edwards Aquifer Recharge Zone Military Lighting Overlay Airport Hazard Overlay 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 is excessive and would create a wall element taller than some single story structures. The tallest section of the wall element, nearly 13 feet in height, is 12 feet in width before reducing in height to two 9 foot columns and eventually the 8 foot wall sections.

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.*

Staff finds that there are no unique circumstances present in this case. The applicant is requesting a variance to allow an entry feature in the landscaped median, stating that the change in elevation between the main road and the lower residential lots reduce the visual impact of the wall element from the main road.

### **Alternative to Applicant's Request**

The applicant would need to design signage and entry features under the 8 foot height limitation established by the Unified Development Code.

### **Staff Recommendation**

Staff recommends **denial of all of the requested variances described in A-15-037** based on the following findings of fact:

1. The proposed entry feature is allowed to be 8 feet in height, a reasonable height for identification of the subdivision; and
2. There are no unique property-related circumstances warranting additional height.

### **Attachments**

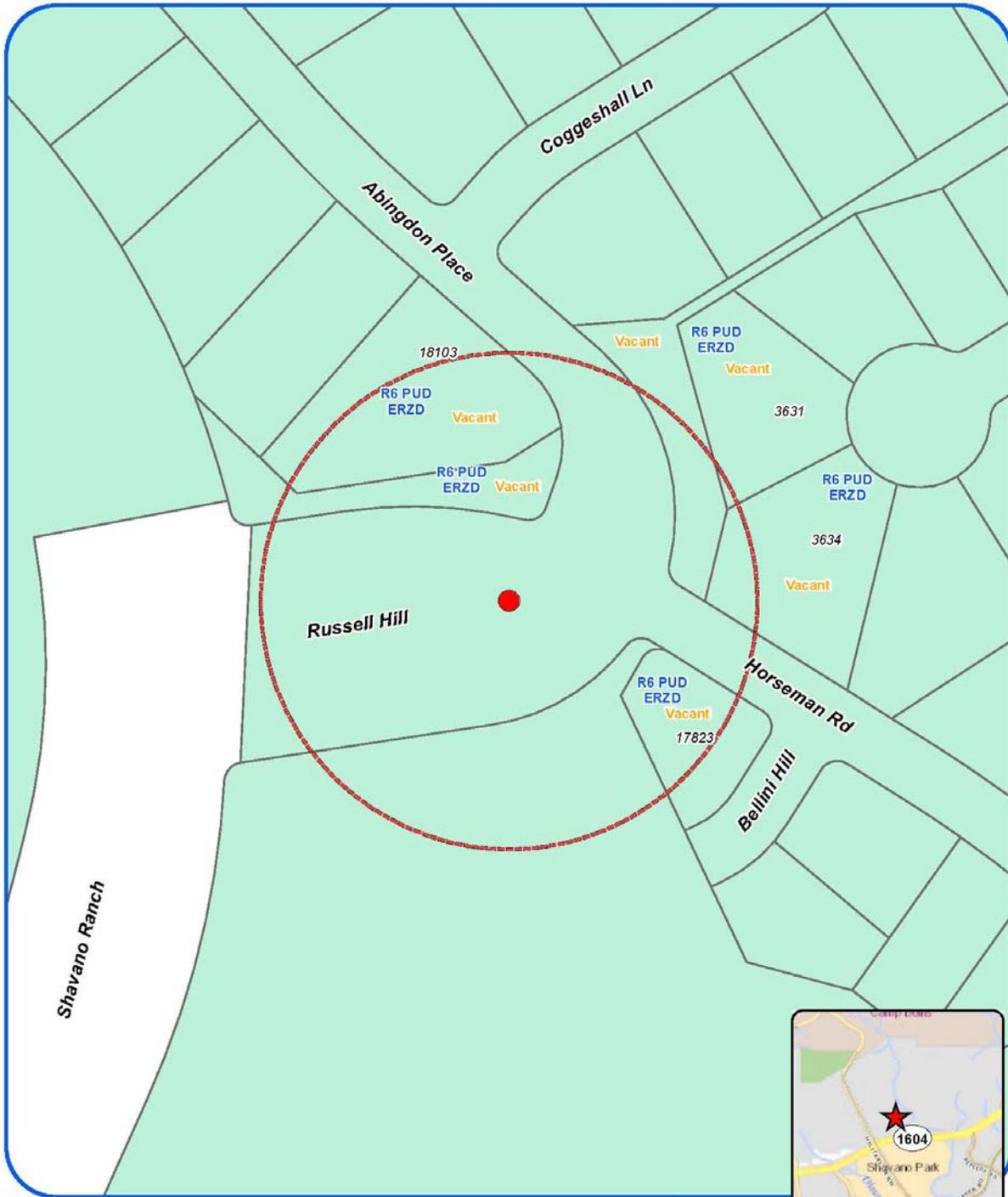
Attachment 1 – Notification Plan (Aerial Map)

Attachment 2 – Plot Plan (Aerial Map)

Attachment 3 – Elevation of Sign

Attachment 4 – Site Photos

# Attachment 1 Notification Plan



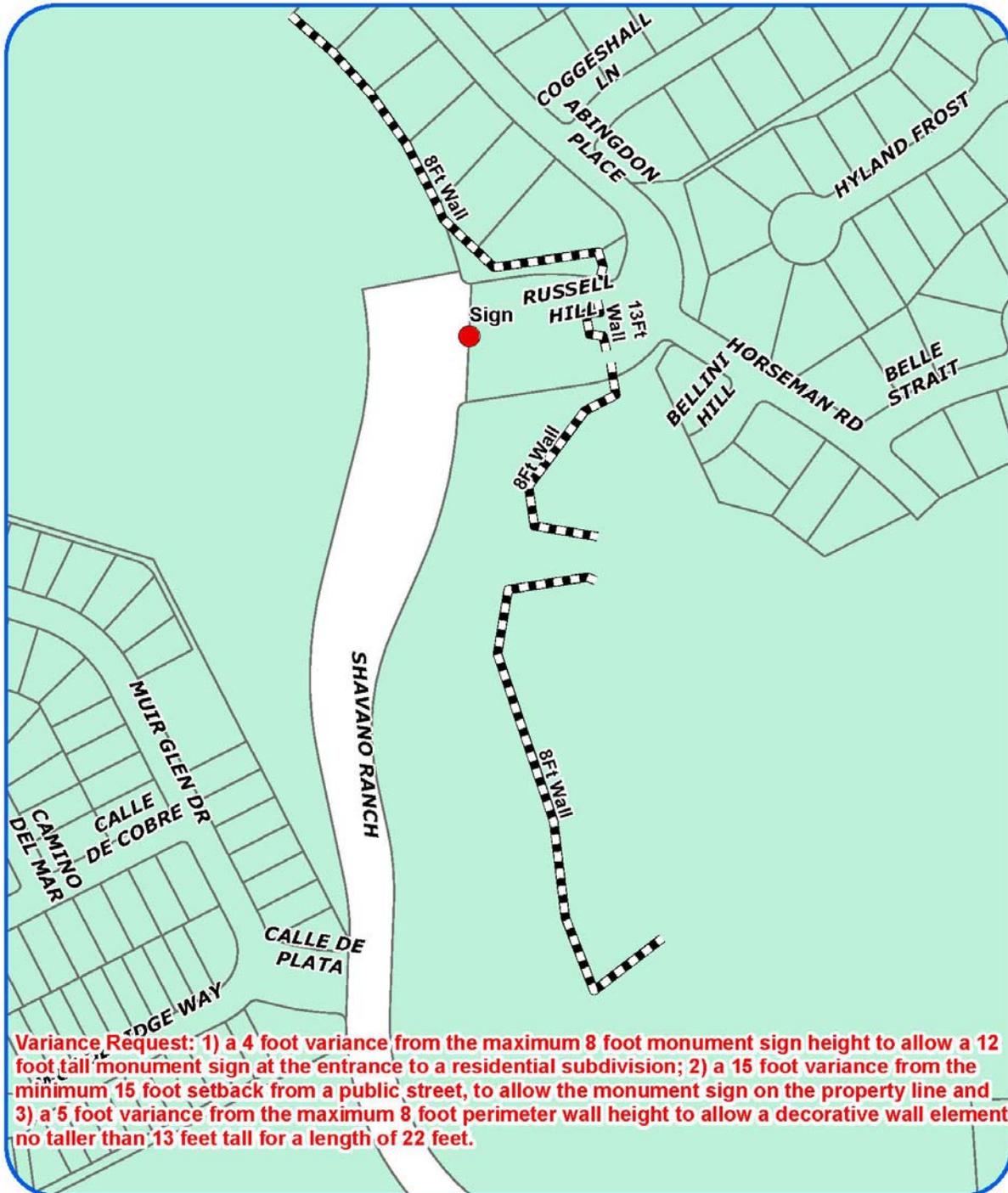
<p><b>Board of Adjustment</b> Notification Plan for <b>Case No A-15-037</b></p>		<p>San Antonio City Limits </p> <p>Subject Property </p> <p>200' Notification Boundary </p> <p>Council District: 9</p>	<p style="text-align: center;">*NOT TO SCALE, FOR ILLUSTRATIVE PURPOSES ONLY*</p> <p style="text-align: right; font-size: small;">Development Services Department City of San Antonio</p>
---	--	--	---

**Attachment 1  
Notification Plan (continued)**



<p><b>Board of Adjustment</b> Notification Plan for Case No A-15-037</p>		<p>San Antonio City Limits </p>	<p align="right">"NOT TO SCALE, FOR ILLUSTRATIVE PURPOSES ONLY"</p> <p align="right">Deane Kpme at Services Department City of San Antonio</p>
		<p>Subject Property </p>	
		<p>200' Notification Boundary </p>	
		<p>Council District 9 </p>	

Attachment 2  
Plot Plan



**Variance Request:** 1) a 4 foot variance from the maximum 8 foot monument sign height to allow a 12 foot tall monument sign at the entrance to a residential subdivision; 2) a 15 foot variance from the minimum 15 foot setback from a public street, to allow the monument sign on the property line and 3) a 5 foot variance from the maximum 8 foot perimeter wall height to allow a decorative wall element no taller than 13 feet tall for a length of 22 feet.

**Board of Adjustment**  
Plot Plan for  
**Case No A-15-037**

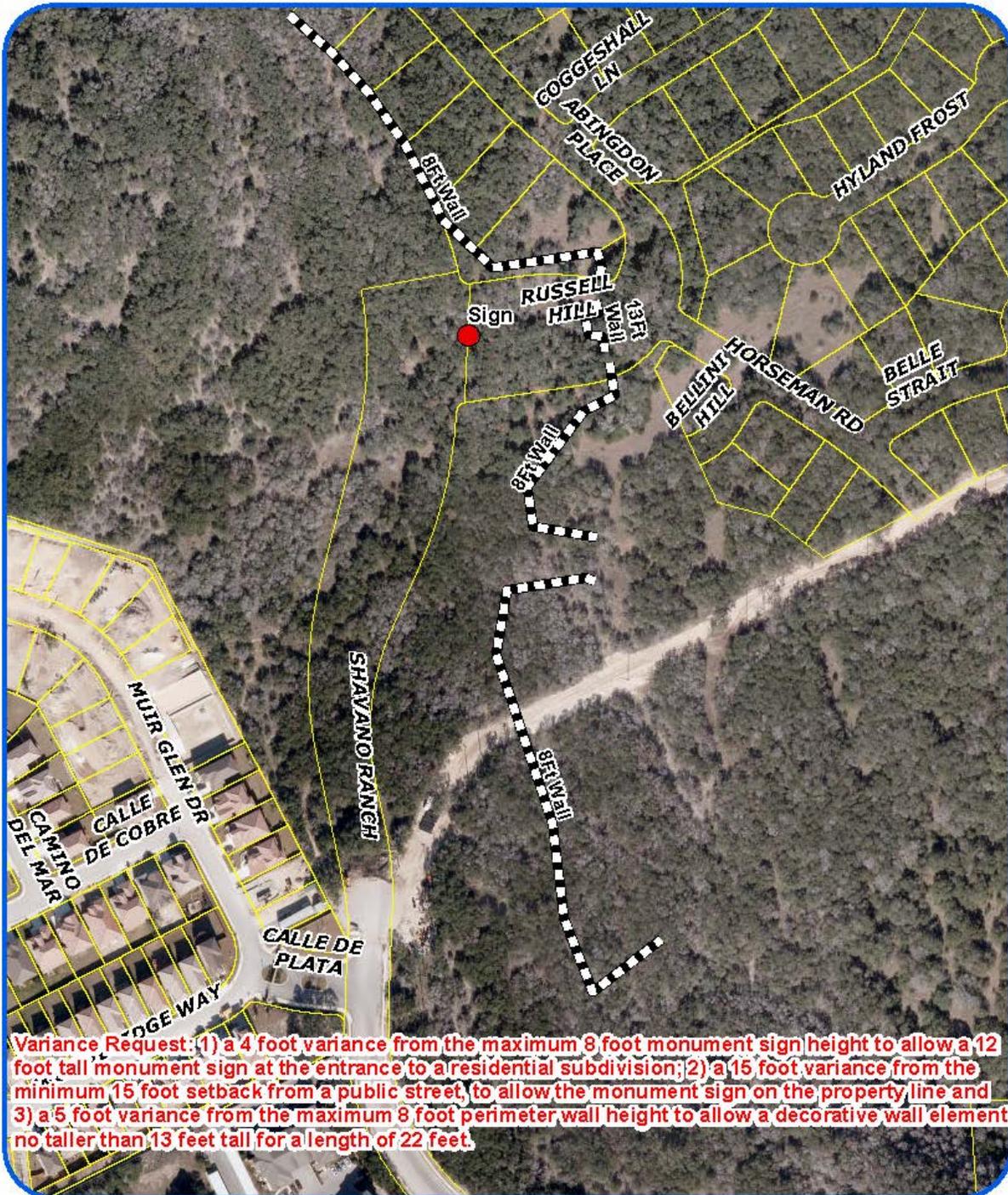


"NOT TO SCALE,  
FOR ILLUSTRATIVE PURPOSES ONLY"  
Council District: 9

18029 Shavano Ranch <sup>1/2 400</sup>

Development Services Department  
City of San Antonio

**Attachment 2  
Plot Plan (continued)**



**Board of Adjustment**  
Plot Plan for  
**Case No A-15-037**

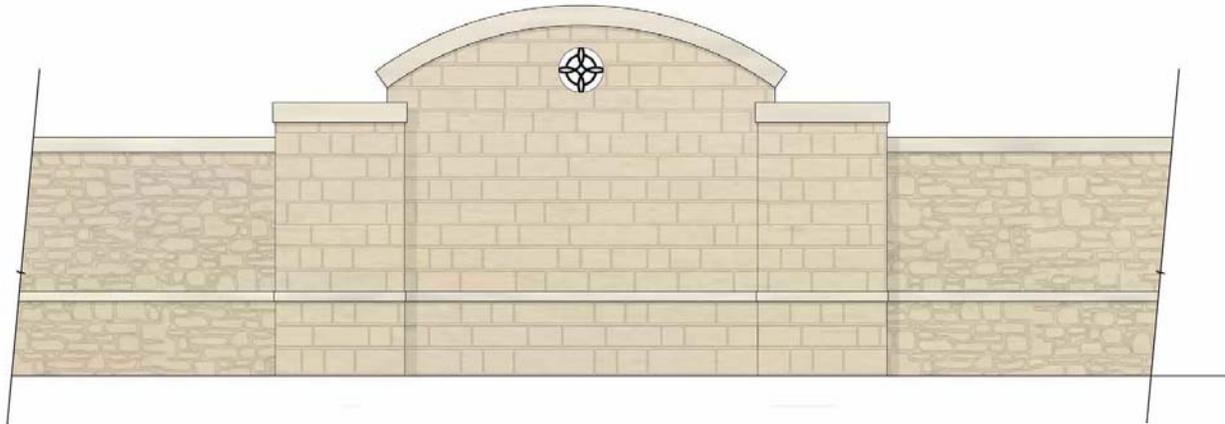


"NOT TO SCALE,  
FOR ILLUSTRATIVE PURPOSES ONLY"  
Council District: 9

**18029 Shavano Ranch**

Design Services Department  
City of San Antonio

# Attachment 3 Applicant's Site Plan



**Attachment 4 - Photos**



**Proposed monument sign height 11 ft. and location**





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

To: Board of Adjustment  
Case No.: A-15-024  
Date: December 15, 2014  
Applicant: Daniel Alvarado  
Owner: Daniel Alvarado  
Council District: 4  
Location: 1803 W Mally Boulevard  
Legal Description: Lot 28, Block 2, NCB 14459  
Zoning: "R-4 AHOD" Residential Single-Family Airport Hazard Overlay District  
Prepared By: Logan Sparrow, Planner

---

### **Request**

A request for a two foot variance to the four foot maximum fence height as described in Section 35-514 to allow a six foot tall predominately open fence in the front yard.

### **Procedural Requirements**

A variance from the requirements of the zoning ordinance is a decision vested with the Board of Adjustment. State law prescribes specific factors that must be satisfied when deciding to grant a variance. The request was publicly noticed in accordance with Section 35-403 of the Unified Development Code ("UDC"). Notices were sent to property owners within two hundred (200) feet of the subject property on November 25, 2014. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on November 26, 2014. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on or before December 12, 2014, in accordance with Section 551.043(a) of the Texas Government Code.

### **Executive Summary**

The subject property is located at 1803 W Mally Boulevard at the intersection of Rhoda Avenue. The applicant is seeking a variance to allow construction of a six foot tall wrought iron fence in the front yard of the property. Because the spacing of the fence is less than five and a half inches the request must be processed as a variance, not a special exception. The home owners have started the project but ceased to pursue a variance. The applicant states that they would like the fence because they are on a corner lot and suspect that, as a result of this, they may one day be subject to criminal activity.

**Subject Property Zoning/Land Use**

<b>Existing Zoning</b>	<b>Existing Use</b>
“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling

**Surrounding Zoning/Land Use**

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

**Comprehensive Plan Consistency/Neighborhood Association**

The property is not within the boundaries of any neighborhood plan. The subject property is not within the boundaries of any registered neighborhood association.

**Criteria for Review**

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

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

The public interest is defined as the general health, safety, and welfare of the public. In this case the public interest is represented by fence height limitations to protect the character of the community, while still providing protection for residents. The applicant states that the fence is needed because they are located on a corner lot and feel that one day they may be burglarized as a result. Because the applicant has not been the victim of any substantial crime, evidenced by a lack of police reports provided to staff, we find that the variance is contrary to the public interest as there are no legitimate reasons to allow a deviation from the Unified Development Code.

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

Staff was unable to find any special condition present on the property that would warrant the granting of a variance. The applicant states that the hardship is that they are situated on a corner lot and, as a result, feel that they may one day be burglarized. Staff finds that this does not qualify as a legitimate special condition. As such, staff finds that a literal enforcement of the code would not result in an unnecessary hardship to the applicant.

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 as there are no conditions present on the property to warrant the granting of the requested variance. The applicant would enjoy a privilege not enjoyed by others, which would not result in substantial justice.

4. *The 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 AHOD” Residential Single-Family Airport Hazard Overlay 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.*

Staff was unable to identify other homes in the area with similar fencing. Other homes on the street have four foot tall chain link and wrought iron fencing, as permitted by the Unified Development Code. On the opposite side of Rhoda Street staff did note the presence of some lots with six foot tall wrought iron, front yard fencing. The Board should consider that some of these lots qualify as residential estate lots that are larger than 20,000 square feet in area and have at least 100 feet in street frontage. Staff further finds that Rhoda Street acts as a divider between two different communities, even though they are located on the same street, being W Mally Boulevard. On the east side of Rhoda are new, larger homes, many of which exceed 3,500 square feet in size. On the west side of Rhoda are older homes that are not as large. That in mind, staff finds that there are two different communities that share the same street and that a six foot tall wrought iron fence, located on the west side of Rhoda Street, would be inconsistent with the character and scale of 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 unique circumstances present on the property that warrant the granting of the requested variance, nor are they the result of general conditions in the area in which the subject property is located.

### **Alternative to Applicant’s Request**

The applicant could remove one foot of the proposed design to have a five foot tall wrought iron fence in the front yard. This would be more consistent with the character and scale of the community. The Board should consider that at least one other home within the direct vicinity of the subject property was found to have a five foot tall wrought iron fence, though staff was unable to identify a variance having ever been granted to that property.

## **Staff Recommendation**

Staff recommends **denial of A-15-024** based on the following findings of fact:

1. The proposed fencing is out of character and scale within the community;
2. The proposed fencing would grant the applicant a privilege not enjoyed by others, which would not result in substantial justice;
3. There are no special conditions present on the subject property to warrant the granting of the variance.

## **Attachments**

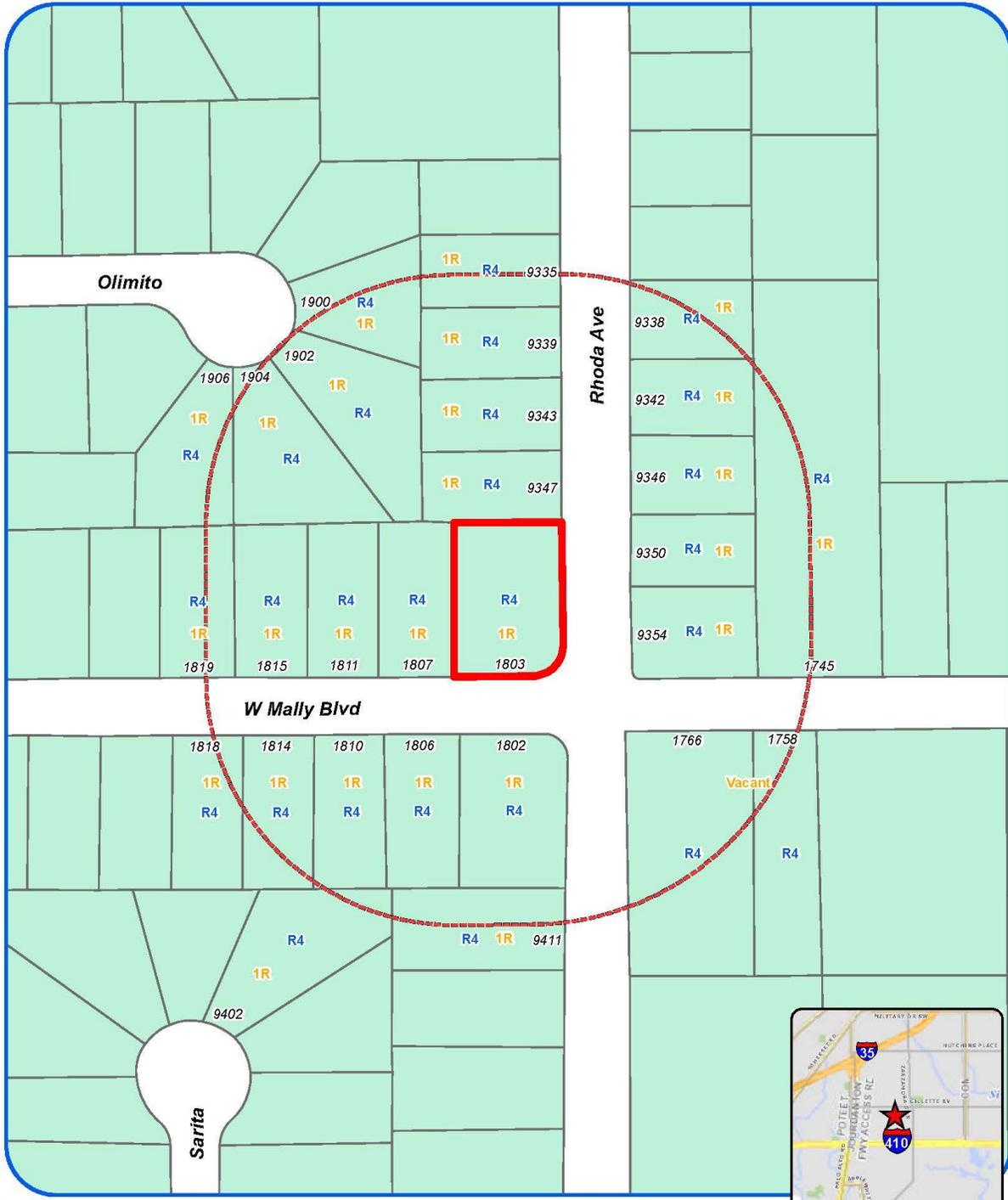
Attachment 1 – Notification Plan (Aerial Map)

Attachment 2 – Plot Plan (Aerial Map)

Attachment 3 – Elevation of Sign

Attachment 4 – Site Photos

# Attachment 1 Notification Plan



**Board of Adjustment  
Notification Plan for  
Case No A-15-024**

San Antonio City Limits

Subject Property

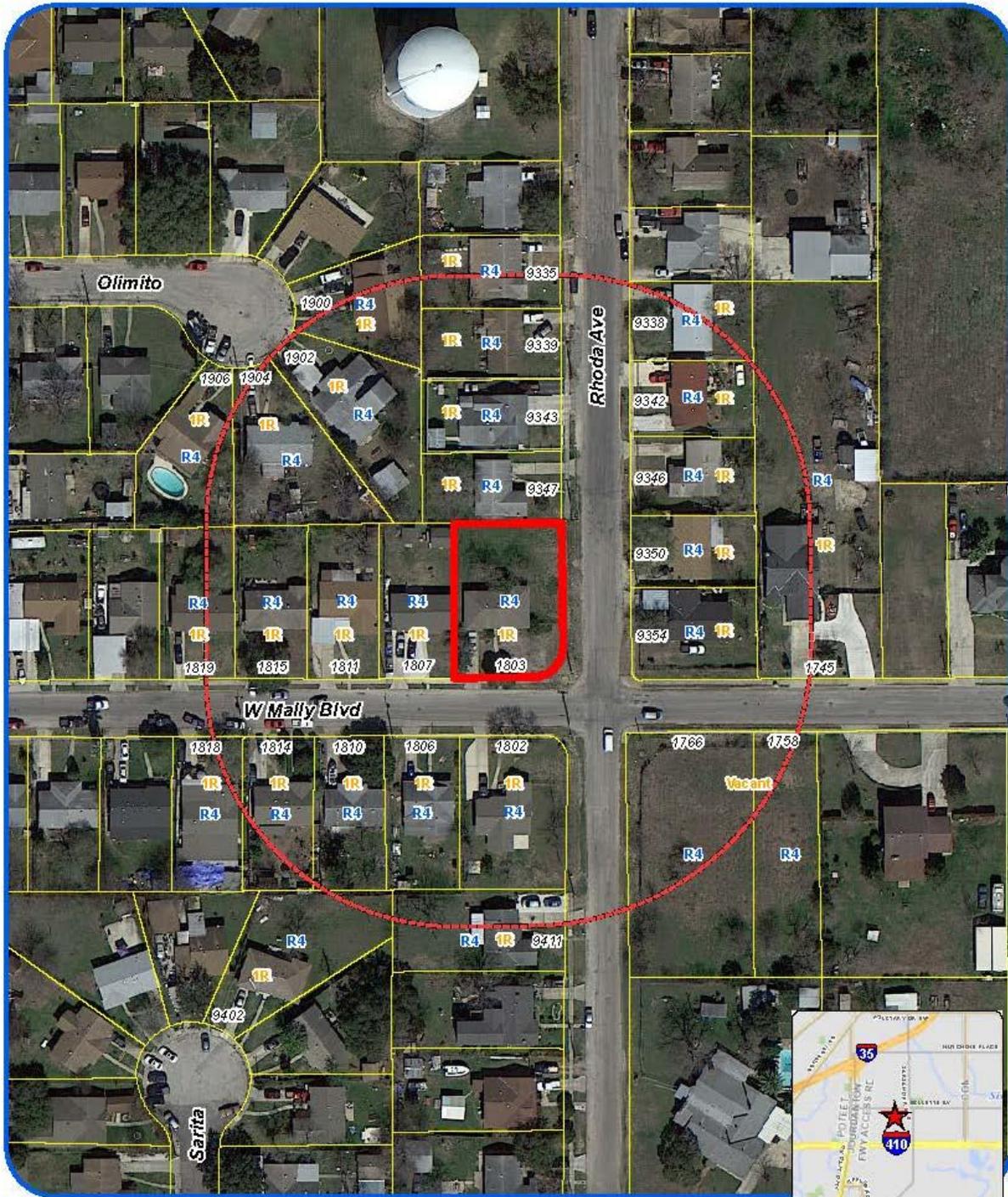
200' Notification Boundary

Council District: 4

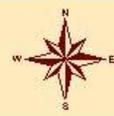
Development Services Department  
City of San Antonio

“NOT TO SCALE,  
FOR ILLUSTRATIVE PURPOSES ONLY”

**Attachment 1  
Notification Plan (continued)**



**Board of Adjustment  
Notification Plan for  
Case No A-15-024**



-  San Antonio City Limits
-  Subject Property
-  200' Notification Boundary
-  Council District 4

"NOT TO SCALE,  
FOR ILLUSTRATIVE PURPOSES ONLY"

Deane Kpeme at Services Department  
City of San Antonio

**Attachment 2  
Plot Plan**



**Board of Adjustment**  
Plot Plan for  
**Case No A-15-024**



"NOT TO SCALE,  
FOR ILLUSTRATIVE PURPOSES ONLY"  
Council District: 4

1803 W Mally Blvd

Development Services Department  
City of San Antonio

**Attachment 2  
Plot Plan (continued)**



**Board of Adjustment**  
Plot Plan for  
**Case No A-15-024**



"NOT TO SCALE,  
FOR ILLUSTRATIVE PURPOSES ONLY"  
Council District: 4

**1803 W Mally Blvd**

Deane Koppert Services Department  
City of San Antonio

# Attachment 3 Applicant's Site Plan

SITE PLAN	
SCALE: EACH SQUARE IS EQUAL TO 5 FT	PROPERTY ID: 551576
85'	N ↑
120'	
<p>PROPERTY OWNER: DANIEL ALVARADO</p> <p>ADDRESS: 1803 W MALLY BLVD, SAN ANTONIO, TX 78224</p> <p>LEGAL DESCRIPTION: NCB 14459 BLK 2 LOT 28</p> <p>THIS PLAN IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE:</p> <p>SIGNATURE OF APPLICANT: <i>[Signature]</i>      DATE: 11.14.14</p>	

10,200  
SQ FT

REQUESTING  
VARIANCE FOR  
FRONT YARD  
FENCE.



**Attachment 4 - Photos**

**1803 W Mally Boulevard (Subject Property)**



**Fencing started, ceased to pursue a variance**



## Streetscape



**Many homes in the community have four foot tall fences, as shown here**





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

To: Board of Adjustment  
Case No.: A-15-036  
Date: January 12, 2015  
Applicant: Slay Engineering Co, Inc  
Owner: Loop 1604 Group  
Council District: 9  
Location: 18603 Blanco Road  
Legal Description: Lots 13 and 22, Block 70, NCB 16334  
Zoning: "C-2 ERZD MLOD" Commercial Edwards Aquifer Recharge Zone Military Lighting Overlay District  
Prepared By: Logan Sparrow, Planner

---

### **Request**

A request for a four foot variance from the six foot maximum as described in Section 35-514 to allow a fence ten feet tall between a shopping plaza and a single-family neighborhood.

### **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 December 19, 2014. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on December 23, 2014. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on or before January 9, 2015, in accordance with Section 551.043(a) of the Texas Government Code.

### **Executive Summary**

The subject property is located at 18603 Blanco Road approximately 1,488 feet north of Loop 1604. The applicant is seeking a variance to allow a ten foot tall wall to be constructed at the rear of the property. The wall is designed to provide added separation between the commercial structures and the single-family neighborhood located behind the shopping center. The applicant states that the ten foot wall is proposed as a means to mitigate fugitive noise so that the

residences near the shopping center aren't adversely affected by truck deliveries or by the day-to-day operations of a retail center.

**Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
“C-2 ERZD MLOD” Commercial Edwards Aquifer Recharge Zone Military Lighting Overlay District	Retail Center

**Surrounding Zoning/Land Use**

Orientation	Existing Zoning District(s)	Existing Use
North	“R-6 PUD ERZD MLOD” Residential Single-Family Planned Unit Development Edwards Aquifer Recharge Zone Military Lighting Overlay District	Single-Family Dwelling
South	“C-2 ERZD MLOD” Commercial Edwards Aquifer Recharge Zone Military Lighting Overlay District	Retail Center
East	“R-6 PUD ERZD MLOD” Residential Single-Family Planned Unit Development Edwards Aquifer Recharge Zone Military Lighting Overlay District t	Single-Family Dwelling
West	“R-6 PUD ERZD MLOD” Residential Single-Family Planned Unit Development Edwards Aquifer Recharge Zone Military Lighting Overlay District	Single-Family Dwelling

**Comprehensive Plan Consistency/Neighborhood Association**

The property is not within the boundaries of any neighborhood plan. The subject property is not within the boundaries of the any registered neighborhood association.

**Criteria for Review**

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

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

**The public interest is defined as the general health, safety, and welfare of the public. In this case the public interest is represented by height limitations for fencing and walls to encourage a sense of community. This is a unique scenario in that there are two land uses of drastically different intensities abutting one another. On one side of the proposed wall are single-family homes and on the other a large retail shopping center. Staff finds that the proposed wall in not contrary to the public interest, especially considering that its height is**

**the result of a collaborative effort between the retail center owners and the neighboring properties behind them.**

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

**A literal enforcement of the code would require that the applicant construct the wall not to exceed six feet in height. A six foot tall fence would not adequately separate the two uses and would likely lead to a compromised enjoyment of the single-family properties to the rear of the shopping center.**

- 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 respected as the fence serves to provide the added separation necessary for enjoyment of the homes that abut the shopping center. The fugitive noise, which is the result of truck deliveries, as well as day-to-day retail activities, like trash compacting, can adversely affect neighboring properties and this wall will mitigate those affects.**

- 4. The 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 “C-2 ERZD MLOD” Commercial Edwards Aquifer Recharge Zone Military Lighting Overlay 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 is unlikely to harm adjacent, conforming properties. The proposed wall serves to protect adjacent residential properties. Additionally, the wall is the result of a collaborative effort between the retail center owners and residential property owners to find a solution to the noise problem.**

- 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.*

**Staff finds that the unique circumstances present in this case are the two land uses of very different intensities abutting one another. The wall is proposed as a means to mitigate the negative effects of having the rear of a shopping center so close to single-family homes. This problem is not a result of general conditions in the area nor is the problem merely financial in nature.**

### **Alternative to Applicant’s Request**

The applicant would need to build a six foot tall wall to come into compliance with the standards established by the Unified Development Code.

## **Staff Recommendation**

Staff recommends **approval of A-15-036** based on the following findings of fact:

1. The ten foot tall wall serves to protect the single-family homes to the rear of the shopping center;
2. The proposed ten foot tall wall is the result of the property owners meeting with the neighbors to discuss what type and height of fencing the residences would approve of.

## **Attachments**

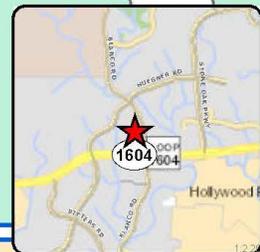
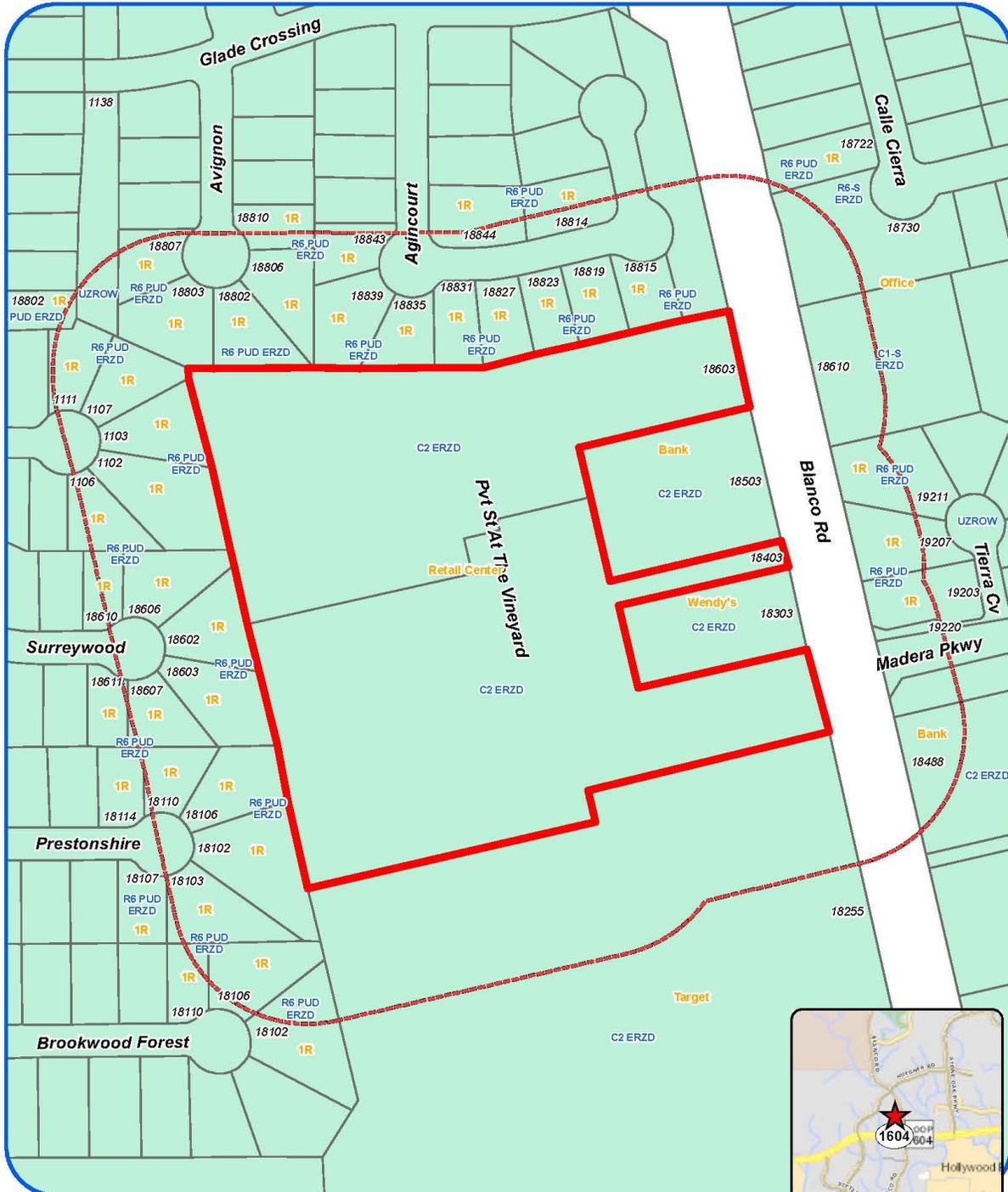
Attachment 1 – Notification Plan (Aerial Map)

Attachment 2 – Plot Plan (Aerial Map)

Attachment 3 – Elevation of Sign

Attachment 4 – Site Photos

# Attachment 1 Notification Plan



**Board of Adjustment  
Notification Plan for  
Case No A-15-036**

San Antonio City Limits 

Subject Property 

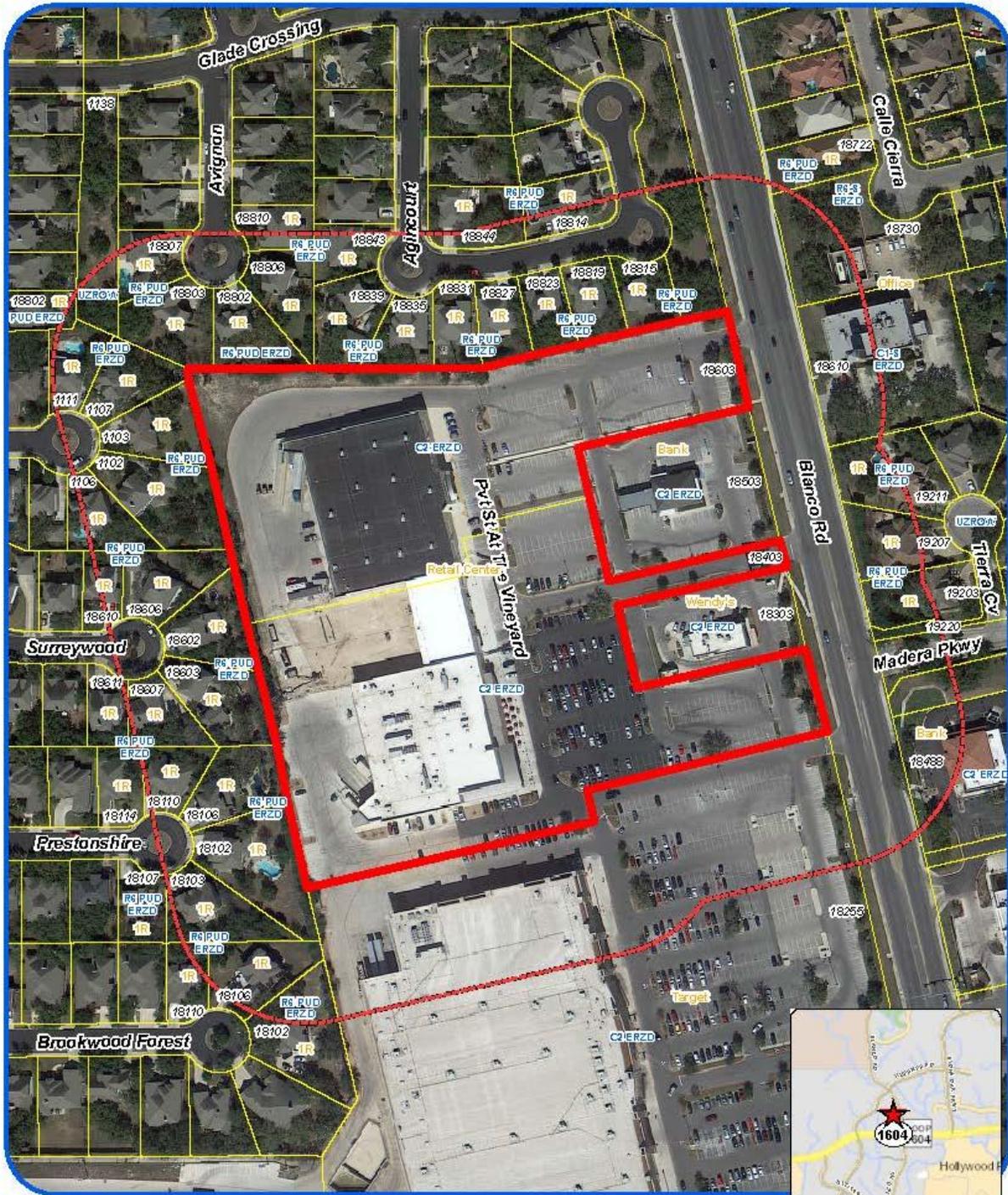
200' Notification Boundary 

Council District: 9

Development Services Department  
City of San Antonio

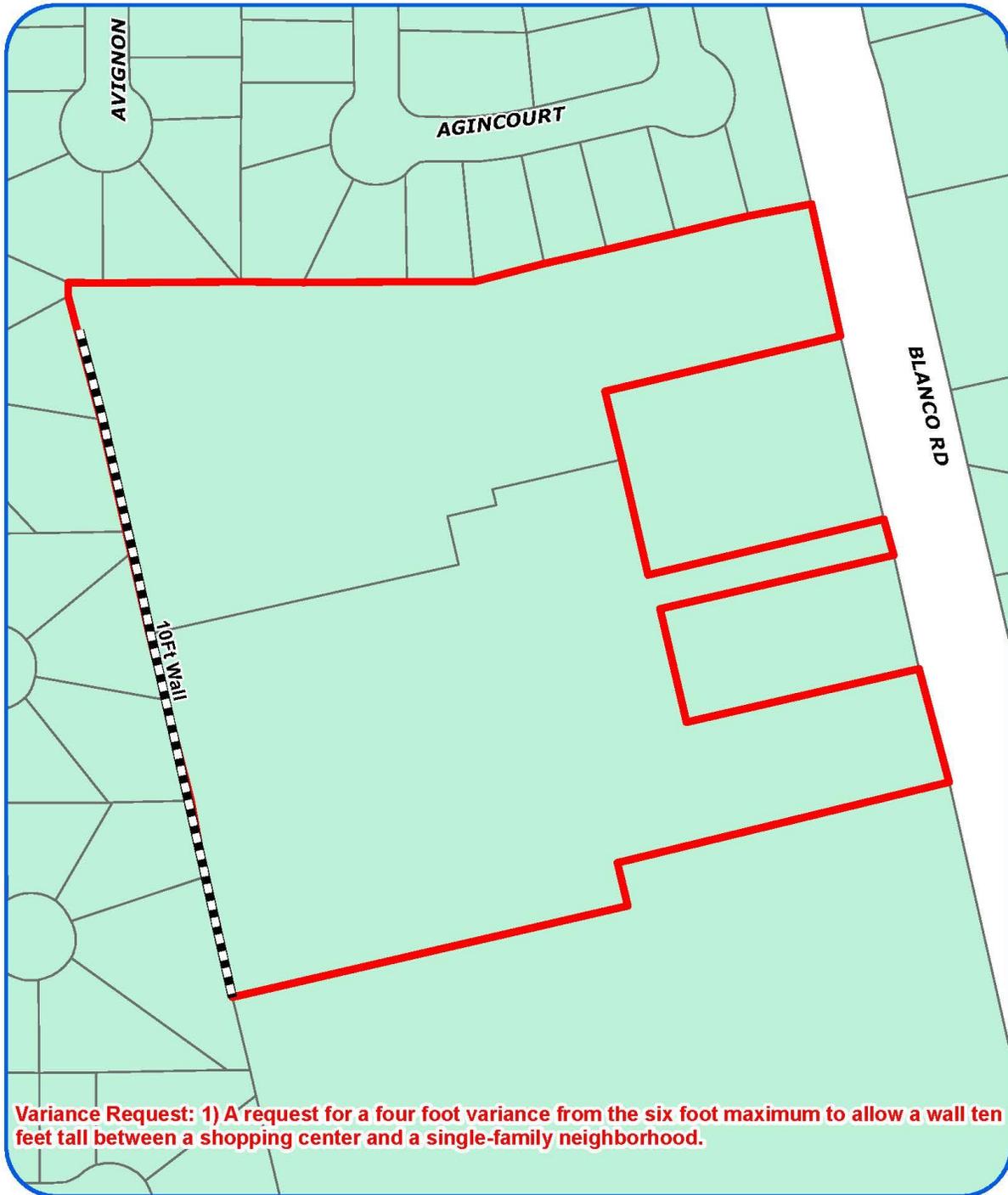
"NOT TO SCALE,  
FOR ILLUSTRATIVE PURPOSES ONLY"

# Attachment 1 Notification Plan (continued)



<p><b>Board of Adjustment</b> Notification Plan for Case No A-15-036</p>		<p>San Antonio City Limits </p> <p>Subject Property </p> <p>200' Notification Boundary </p> <p>Council District 9</p>	<p style="text-align: center;">*NOT TO SCALE, FOR ILLUSTRATIVE PURPOSES ONLY*</p> <p style="text-align: center;">Deane Kpeme at Services Department City of San Antonio</p>
--	--	---	---

**Attachment 2  
Plot Plan**



**Variance Request: 1) A request for a four foot variance from the six foot maximum to allow a wall ten feet tall between a shopping center and a single-family neighborhood.**

**Board of Adjustment**  
Plot Plan for  
**Case No A-15-036**



"NOT TO SCALE,  
FOR ILLUSTRATIVE PURPOSES ONLY"  
Council District: 9

**18603 Blanco Rd**

Development Services Department  
City of San Antonio

Attachment 2  
Plot Plan (continued)



**Board of Adjustment**  
Plot Plan for  
Case No A-15-036



"NOT TO SCALE,  
FOR ILLUSTRATIVE PURPOSES ONLY"  
Council District: 9

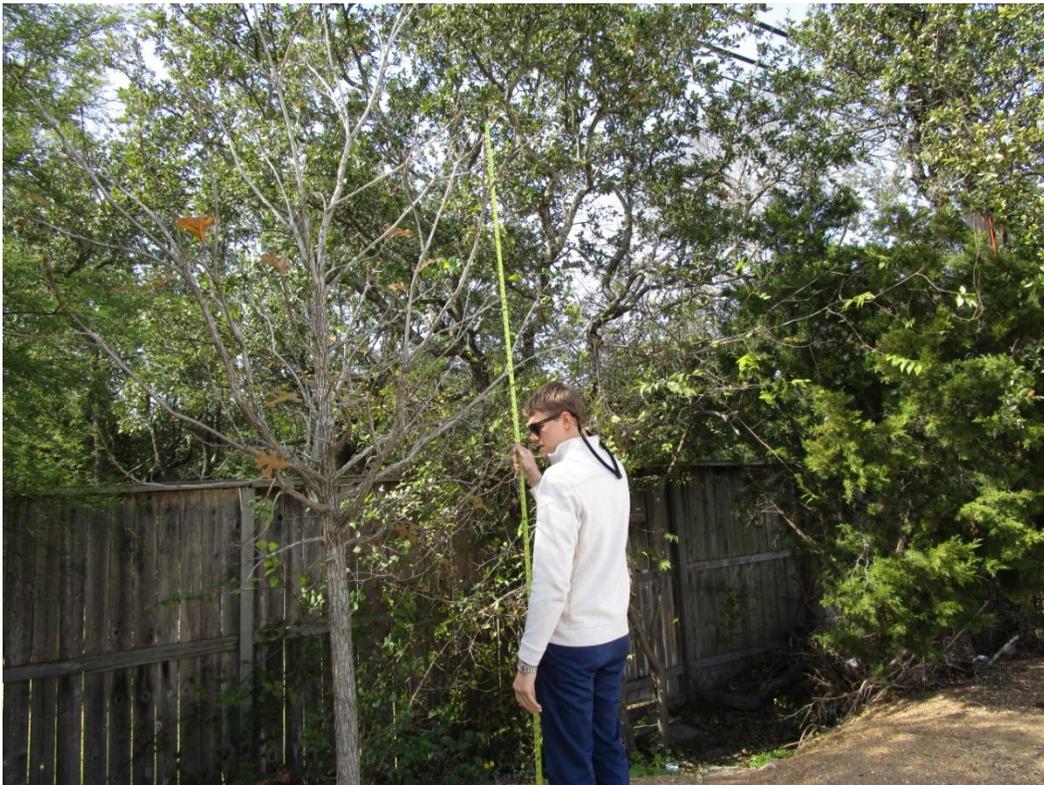
18603 Blanco Rd

Development Services Department  
City of San Antonio



**Attachment 4 - Photos**







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

To: Board of Adjustment  
Case No.: A-15-027  
Date: January 12, 2015  
Applicant: Jose Torres  
Owner: Jose Torres  
Council District: 9  
Location: 9222 Rustlers Creek  
Legal Description: Lot 49, Block 3, NCB 16662  
Zoning: "R-5" Residential Single-Family District  
Prepared By: Margaret Pahl, AICP Senior Planner

---

### **Request**

A request for a five foot variance from the required five foot side and rear yard setbacks, as described in Section 35-370, to allow an arbor and deck on the side and rear yard 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 December 19, 2014. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on December 23, 2014. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on or before January 9, 2015, in accordance with Section 551.043(a) of the Texas Government Code.

### **Executive Summary**

The subject property is located at 9222 Rustlers Creek approximately 166 feet southeast of Sinsonte Street. The lot is considered a "double-frontage" lot, with the rear lot line abutting Vance Jackson, while the front of the lot faces Rustlers Creek. The applicant is seeking a variance to allow an existing covered arbor and deck to remain on the side and rear property lines. The applicant states that the arbor and deck were constructed in that location because of the small size of the rear yard at the subject property which also accommodates a pool.

Additionally, the applicant did not pull any permits for the structure. Had the applicant applied for a permit, the setback violations could have been corrected prior to construction of the arbor.

**Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
“R-5” Residential Single-Family District	Single-Family Dwelling

**Surrounding Zoning/Land Use**

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

**Comprehensive Plan Consistency/Neighborhood Association**

The property is not within the boundaries of any neighborhood plan. The subject property is located within the boundaries of the Vance Jackson registered neighborhood association. As such, the neighborhood association was notified and asked to comment.

**Criteria for Review**

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

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

The public interest is defined as the general health, safety, and welfare of the public. In this case the public interest is represented by required setbacks to ensure equal access to air, light, and distance for fire separation. In this case the structure is built on the property line. Zero-lot-line construction results in a number of adverse impacts for adjacent properties including trespass for maintenance and an increased risk of fire spread. Staff finds that the requested variance is 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 code would require that the applicant construct the arbor in a location that meets the required setbacks. While the applicant may have less space than other properties, they could build a smaller arbor that respects the required setbacks. Had the applicant applied for a permit, the setback violations could have been identified before construction. Staff finds that there are no special conditions present 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 calls for setbacks to ensure access to air, light, and to provide for fire separation. Zero-lot-line construction compromises the integrity of each of the aforementioned criteria. As such, allowing the structure to remain on the property line does not observe the spirit of the ordinance.

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

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

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

The requested variance is likely to harm adjacent, conforming properties. The existing accessory structure is built on the property line and would require trespass in the event of needed maintenance. Additionally, the structure is constructed of wood and poses an increased threat of fire.

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.*

Staff finds that there are no unique circumstances present in this case to warrant the granting of the requested variance. The applicant should have applied for a permit to construct the arbor and deck, then the setback violation could have been identified prior to construction.

### **Alternative to Applicant’s Request**

The applicant needs to reduce the size of the arbor and deck to come into compliance with the setback standards established by the Unified Development Code.

### **Staff Recommendation**

Staff recommends **denial of A-15-027** based on the following findings of fact:

1. The zero-lot-line construction triggers the need for trespass for adequate maintenance of the structure;
2. The existing structure compromises equal access to air, light, and distance for fire separation.

### **Attachments**

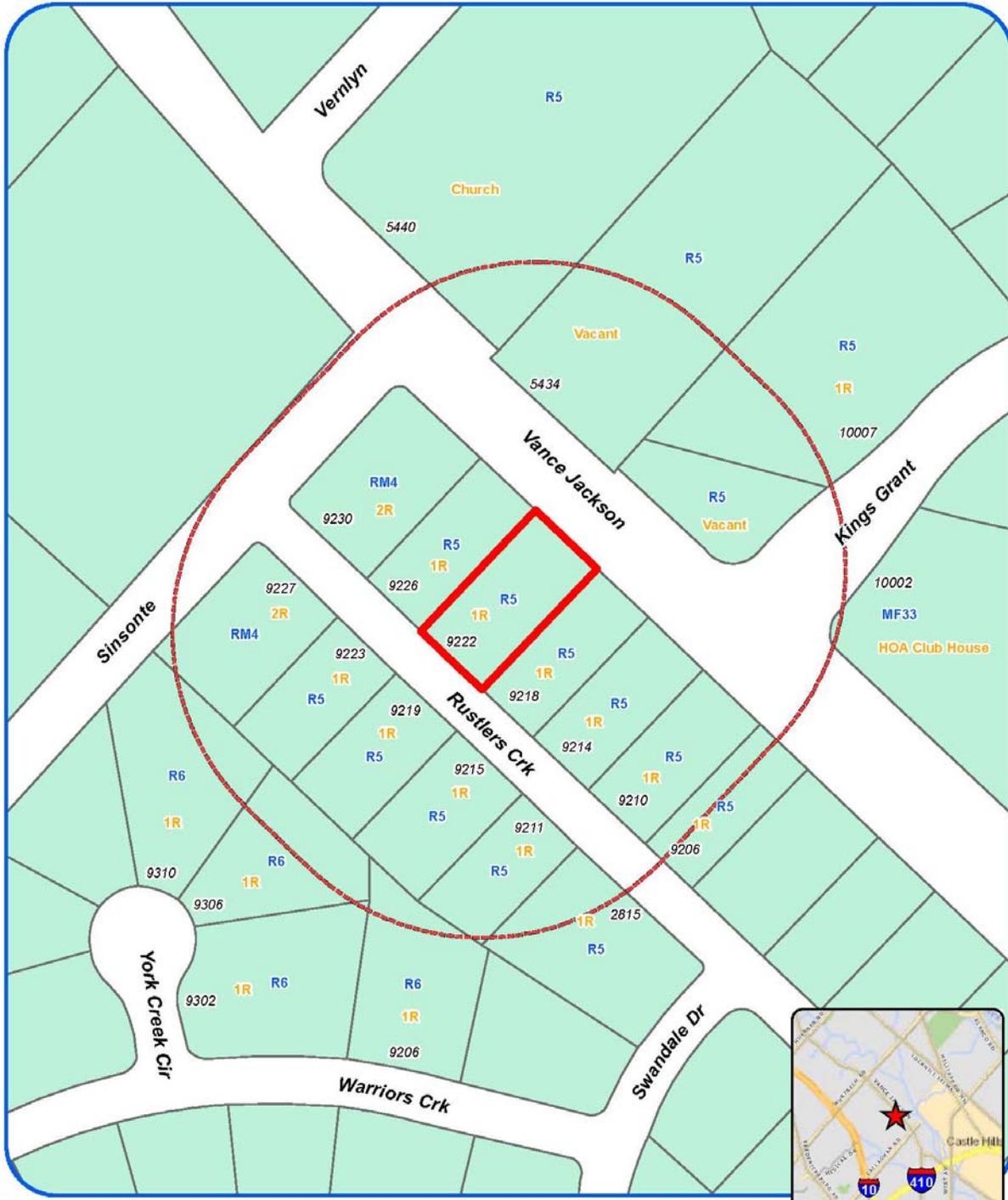
Attachment 1 – Notification Plan (Aerial Map)

Attachment 2 – Plot Plan (Aerial Map)

Attachment 3 – Elevation of Sign

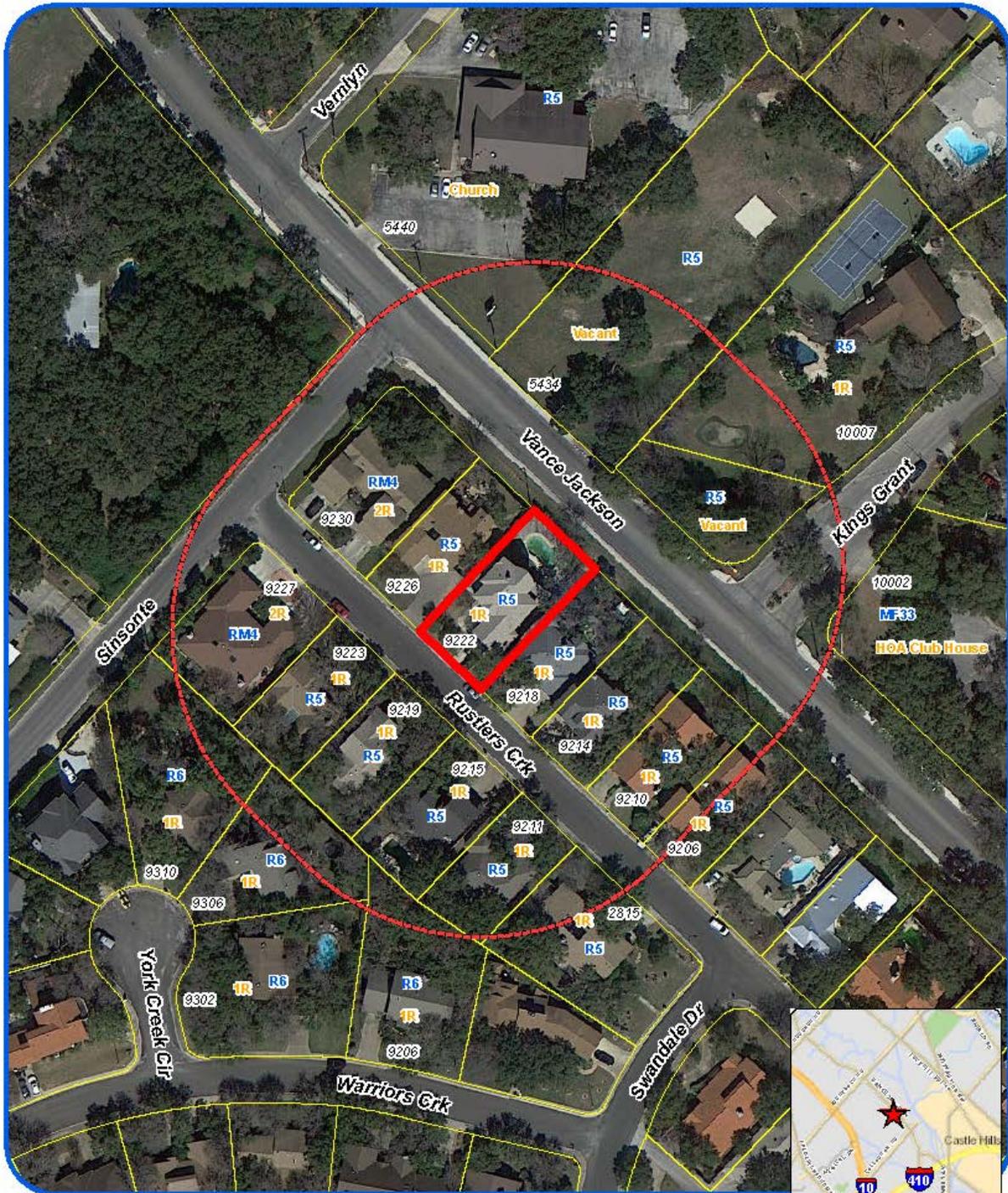
Attachment 4 – Site Photos

# Attachment 1 Notification Plan



<p><b>Board of Adjustment</b> Notification Plan for <b>Case No A-15-027</b></p>		<p>San Antonio City Limits </p> <p>Subject Property </p> <p>200' Notification Boundary </p> <p>Council District: 9</p>	<p style="text-align: center;">"NOT TO SCALE, FOR ILLUSTRATIVE PURPOSES ONLY"</p> <p style="text-align: center;">Development Services Department City of San Antonio</p>
---	--	--	--

**Attachment 1  
Notification Plan (continued)**



<p><b>Board of Adjustment</b> Notification Plan for Case No A-15-027</p>		<p>San Antonio City Limits </p> <p>Subject Property </p> <p>200' Notification Boundary </p> <p>Council District 9 </p>	<p align="center"> <small>*NOT TO SCALE, FOR ILLUSTRATIVE PURPOSES ONLY*</small>  <small>Deeds &amp; Plat Services Department City of San Antonio</small> </p>
--	--	--	--

Attachment 2  
Plot Plan



**Board of Adjustment**  
Plot Plan for  
**Case No A-15-027**

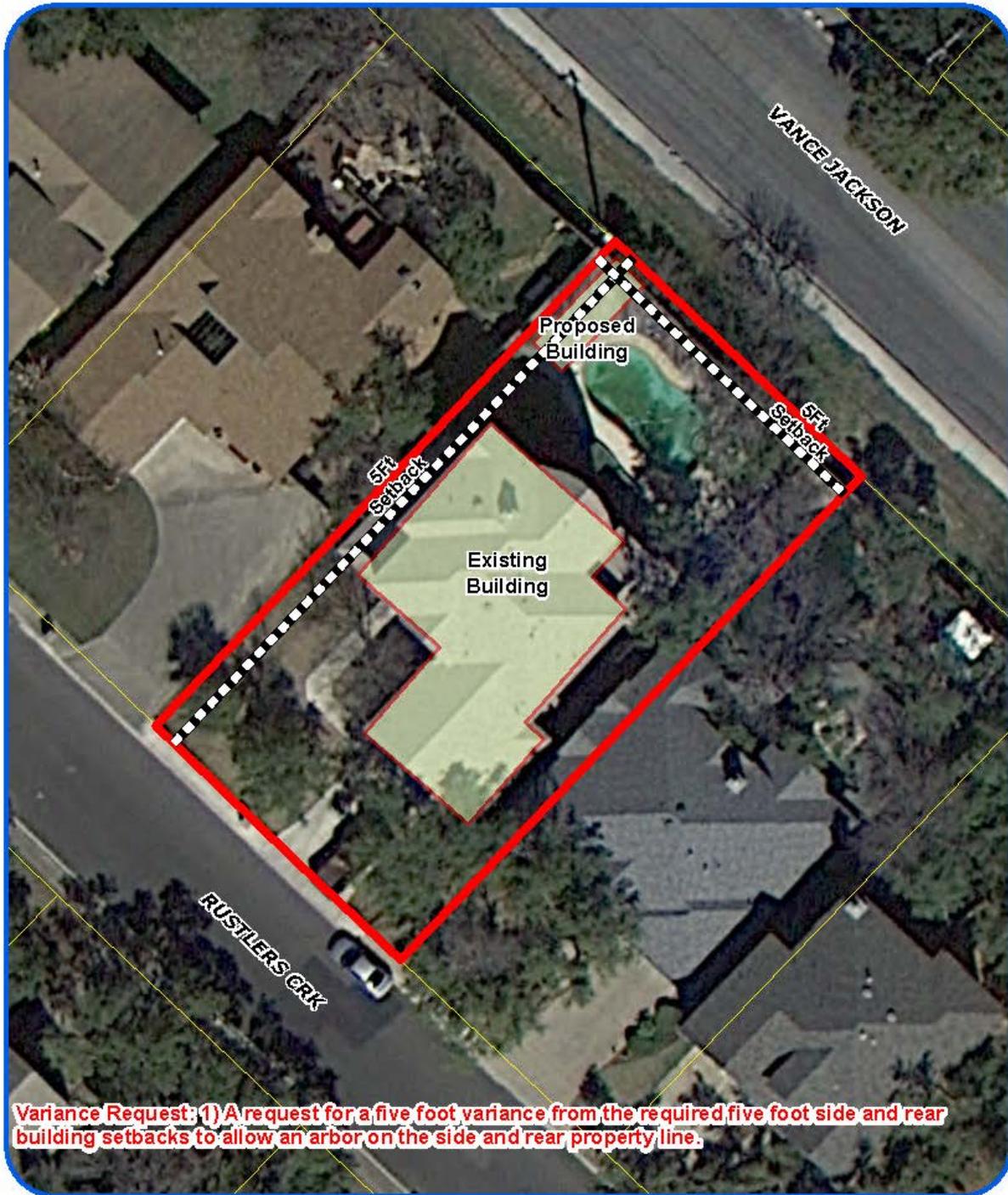


"NOT TO SCALE,  
FOR ILLUSTRATIVE PURPOSES ONLY"  
Council District: 9

9222 Rustlers Creek <sup>1.303</sup>

Development Services Department  
City of San Antonio

Attachment 2  
Plot Plan (continued)



Variance Request: 1) A request for a five foot variance from the required five foot side and rear building setbacks to allow an arbor on the side and rear property line.

**Board of Adjustment**  
Plot Plan for  
Case No A-15-027



"NOT TO SCALE,  
FOR ILLUSTRATIVE PURPOSES ONLY"  
Council District: 9

9222 Rustlers Creek

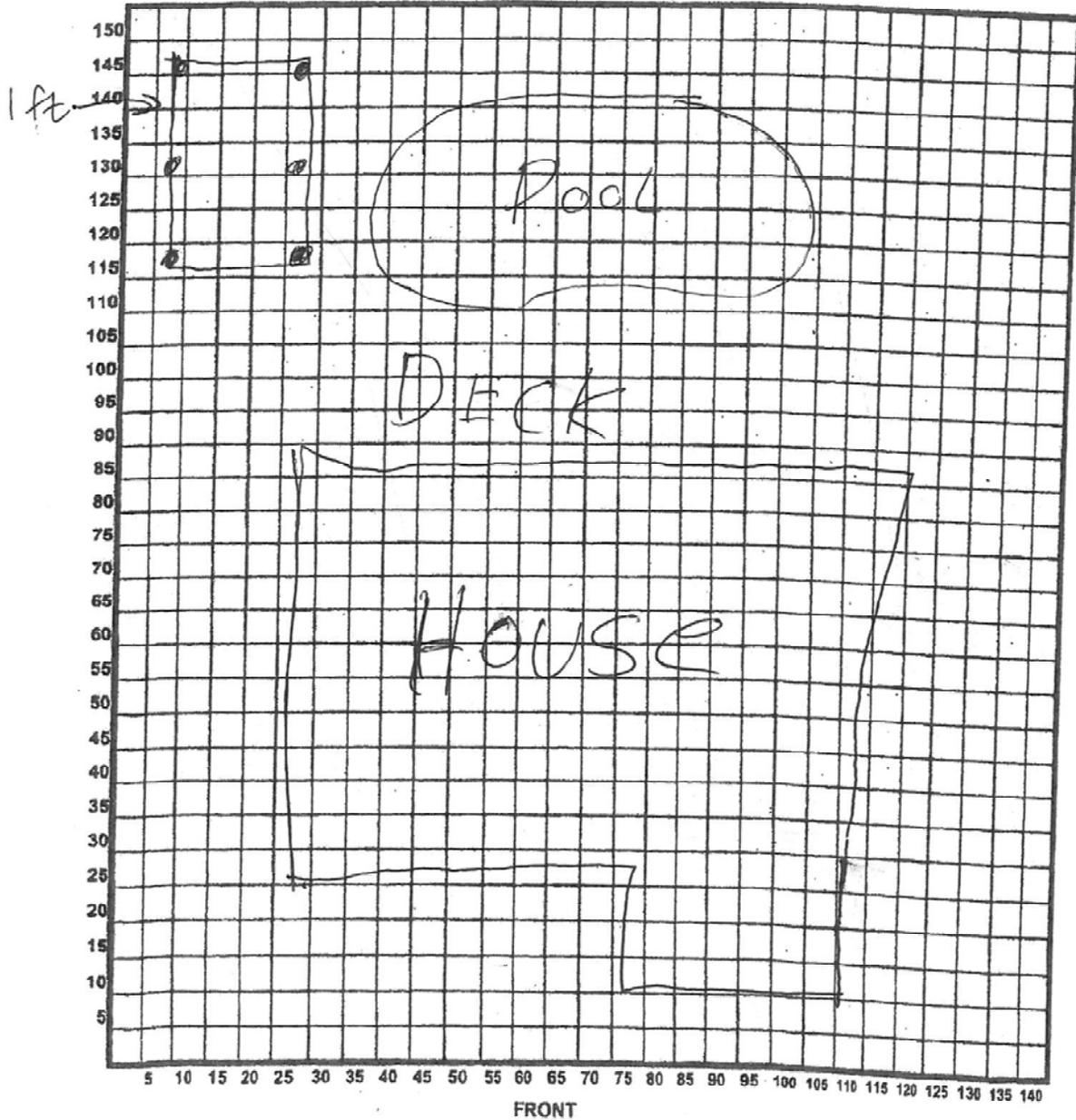
1300  
Data Systems Department  
City of San Antonio

Attachment 3  
Applicant's Site Plan

PLOT PLAN  
FOR  
BLDG PERMITS

Address \_\_\_\_\_ Lot \_\_\_\_\_ Block \_\_\_\_\_ NCB \_\_\_\_\_

REAR



I certify that the above plot plan shows all improvements on this property and that there will be no construction over easements. I also certify that I will build in compliance with the UDC and the 2012 IRC

**Attachment 4 – Photos**





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

To: Board of Adjustment  
Case No.: A-15-034  
Date: January 12, 2015  
Applicant: Juan Castillo  
Owner: Juan Castillo  
Council District: 3  
Location: 1612 McKinley Avenue  
Legal Description: Lot 3, Block 32, NCB 6664  
Zoning: "R-4 AHOD" Residential Single-Family Airport Hazard Overlay District  
Prepared By: Logan Sparrow, Planner

---

### **Request**

A request for the elimination of the required side setback as described in Section 35-370 to allow an accessory structure to remain on the side and rear property lines.

### **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 December 19, 2014. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on December 23, 2014. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on or before January 9, 2015, in accordance with Section 551.043(a) of the Texas Government Code.

### **Executive Summary**

The subject property is located at 1612 McKinley Avenue approximately 84 feet east of Nopal Street. The applicant is seeking a variance to allow a shed to remain on the side property line. Accessory structures must be located five feet from the side property line unless they have no eave overhang. In the absence of an eave overhang, the structure would then be permitted three feet from the side or rear property lines. In this case the structure is built on the property line.

**Subject Property Zoning/Land Use**

<b>Existing Zoning</b>	<b>Existing Use</b>
“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling

**Surrounding Zoning/Land Use**

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

**Comprehensive Plan Consistency/Neighborhood Association**

The property is within the boundaries of Highlands Neighborhood Plan and designated as low-density residential land use. The subject property is within the boundaries of the Highland Park Neighborhood Association. The neighborhood association was notified and asked to comment.

**Criteria for Review**

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

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

The public interest is defined as the general health, safety, and welfare of the public. In this case the public interest is represented by required setbacks to ensure equal access to air, light, and distance for fire separation. In this case the structure is built on the property line. Zero-lot-line construction results in a number of adverse impacts for adjacent properties including trespass for maintenance and an increased risk of fire spread. Staff finds that the requested variance is 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 code would require that the applicant construct the shed in a fashion that meets the required setbacks. The applicant has the space on the subject property to construct a legal, conforming structure. Had the applicant’s applied for a permit the setback violations could have been identified before construction. Staff finds that there are no special conditions present 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 calls for setbacks to ensure access to air, light, and to provide distance for fire separation. Zero-lot-line construction compromises the integrity of each of the aforementioned criteria. As such, allowing the structure to remain on the property line does not observe the spirit of the ordinance.

4. *The 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 AHOD” Residential Single-Family Airport Hazard Overlay 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 is likely to harm adjacent, conforming properties. The existing accessory structure is built on the property line and would require trespass in the event of maintenance. Additionally, the structure poses an increased threat of fire.

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.*

Staff finds that there are no unique circumstances present in this case to warrant the granting of the requested variance. Had the applicant applied for a permit to construct the shed then the setback violation could have been identified prior to construction of the non-conforming structure.

### **Alternative to Applicant’s Request**

The applicant needs to remove the shed and re-build it in a fashion that respects the required setbacks to come into compliance with the standards established by the Unified Development Code.

### **Staff Recommendation**

Staff recommends **denial of A-15-034** based on the following findings of fact:

1. The zero-lot-line construction triggers the need for trespass for adequate maintenance of the structure;
2. The existing structure compromises equal access to air, light, and distance for fire separation;
3. The property is large enough to allow the construction of a legal, conforming shed and, as such, staff finds that there are no unique circumstances present to warrant the granting of the variance.

## **Attachments**

Attachment 1 – Notification Plan (Aerial Map)

Attachment 2 – Plot Plan (Aerial Map)

Attachment 3 – Elevation of Sign

Attachment 4 – Site Photos

# Attachment 1 Notification Plan



**Board of Adjustment  
Notification Plan for  
Case No A-15-034**



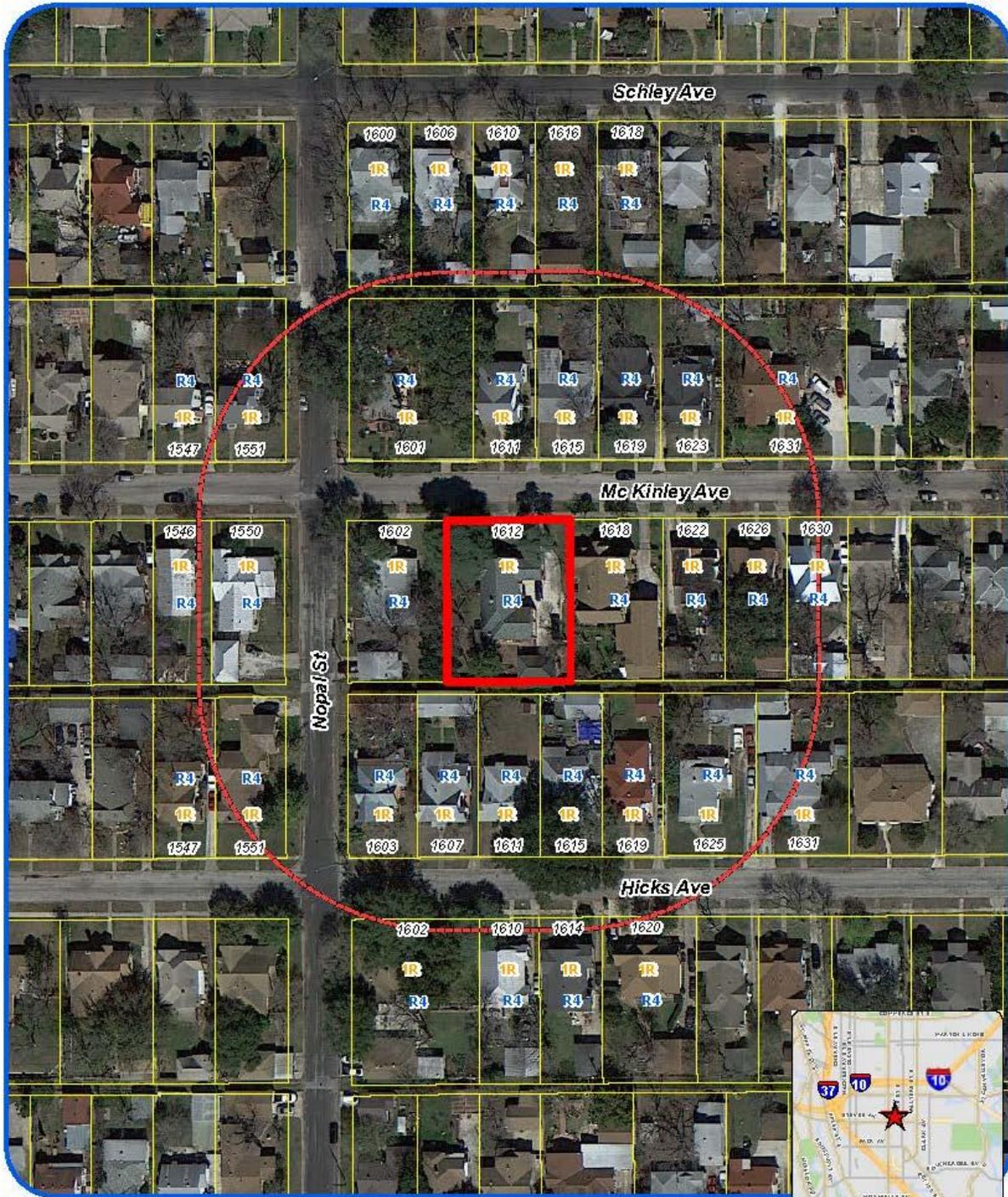
- San Antonio City Limits
- Subject Property
- 200' Notification Boundary
- Council District: 3



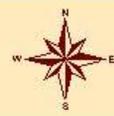
"NOT TO SCALE,  
FOR ILLUSTRATIVE PURPOSES ONLY"

Development Services Department  
City of San Antonio

**Attachment 1  
Notification Plan (continued)**



**Board of Adjustment**  
**Notification Plan for**  
**Case No A-15-034**



-  San Antonio City Limits
-  Subject Property
-  200' Notification Boundary
-  Council District 3

"NOT TO SCALE,  
FOR ILLUSTRATIVE PURPOSES ONLY"

Deane Kpeme at Services Department  
City of San Antonio

**Attachment 2  
Plot Plan**



**Board of Adjustment**  
Plot Plan for  
**Case No A-15-034**



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

1612 McKinley Ave <sup>1/300</sup>

Development Services Department  
City of San Antonio

Attachment 2  
Plot Plan (continued)



**Board of Adjustment**  
Plot Plan for  
Case No A-15-034

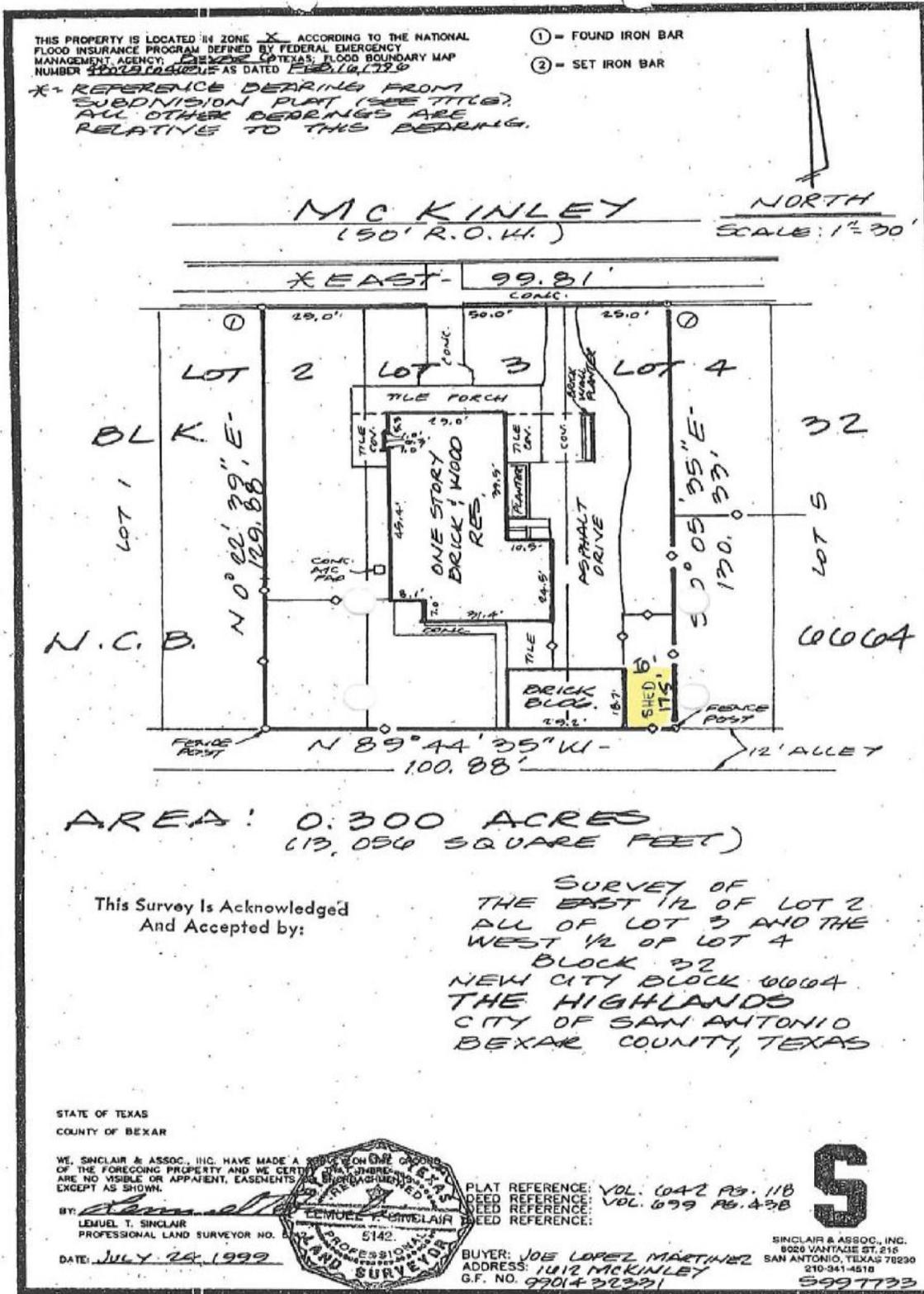


"NOT TO SCALE,  
FOR ILLUSTRATIVE PURPOSES ONLY"  
Council District: 3

1:300  
**1612 McKinley Ave**

Design & Services Department  
City of San Antonio

**Attachment 3  
Applicant's Site Plan**



03/07/2003 FRI 10:57 [TX/RX NO 96761] 002

**Attachment 4 - Photos**







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

To: Board of Adjustment  
Case No.: A-15-035  
Date: January 12, 2015  
Applicant: Cleofas David Cristan  
Owner: Cleofas David Cristan  
Council District: 1  
Location: 543 Gramercy Place  
Legal Description: Lots 21 and 22, Block 9, NCB 6431  
Zoning: "R-6 NCD-2 AHOD" Residential Single-Family Alta Vista Neighborhood Conservation Airport Hazard Overlay District  
Prepared By: Margaret Pahl, AICP Senior Planner

---

### **Request**

A request for the elimination of the side yard setback as described in Section 35-310.01 to allow an addition to a home along 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 December 19, 2014. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on December 23, 2014. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on or before January 9, 2015, in accordance with Section 551.043(a) of the Texas Government Code.

### **Executive Summary**

The subject property is located at 543 Gramercy Place at the intersection of Gramercy Place and N. Flores Street. The applicant is seeking a variance to allow an addition to an existing single-family dwelling along the side property line. In this case, the addition will run along the property line that adjoins the public right-of-way, being N. Flores Street, not any other single-family lot. A review of the Alta Vista Neighborhood Conservation District design standards identified no other standards from which a variance would be necessary.

The right of way here is 50 feet in width, with 30 feet in asphalt and 10 feet on either side for sidewalk and park strip. Even though the house is currently built on the property line, there is approximately 3 feet of grass between the house and the sidewalk, providing the appearance of a setback.

**Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
“R-6 NCD-2 AHOD” Residential Single-Family Alta Vista Neighborhood Conservation Airport Hazard Overlay District	Single-Family Dwelling

**Surrounding Zoning/Land Use**

Orientation	Existing Zoning District(s)	Existing Use
North	“R-6 NCD-2 AHOD” Residential Single-Family Alta Vista Neighborhood Conservation Airport Hazard Overlay District	Single-Family Dwelling
South	“R-6 NCD-2 AHOD” Residential Single-Family Alta Vista Neighborhood Conservation Airport Hazard Overlay District	Single-Family Dwelling
East	“R-6 NCD-2 AHOD” Residential Single-Family Alta Vista Neighborhood Conservation Airport Hazard Overlay District	Single-Family Dwelling
West	UZROW	N Flores Street

**Comprehensive Plan Consistency/Neighborhood Association**

The property is within the boundaries of Midtown Neighborhood Plan and designated as low-density residential land use. The subject property is within the boundaries of the Alta Vista Neighborhood Association. As such, the neighborhood association was notified and asked to comment.

**Criteria for Review**

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

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

**The public interest is defined as the general health, safety, and welfare of the public. In this case the public interest is represented by required setbacks to ensure equal access to air, light, and distance for fire separation. The proposed addition abuts an un-zoned right-**

of-way. It is unlikely that the requested variance will be contrary to the public interest as it does not encroach upon other single-family lots.

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

**A literal enforcement of the code would require that the applicant construct the addition in a fashion that meets the required setbacks. The applicant has designed the addition to expand the kitchen in a straight line, an “in-line” addition. The existing kitchen wall is constructed on the property line, as identified by a recent survey. Because the addition will abut only a public right-of-way a literal enforcement of the ordinance may result in unnecessary hardship.**

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

**The spirit of the ordinance calls for setbacks to ensure access to air, light, and to provide for fire separation. Ordinarily staff would recommend denial of a zero-lot line construction as it often leads to less enjoyment of adjacent private property. In this case, however, the addition is along a public right-of-way and, therefore, it is suggested that the spirit of the ordinance will be respected.**

4. *The 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-2 AHOD” Residential Single-Family Alta Vista Neighborhood Conservation Airport Hazard Overlay 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 is unlikely to harm adjacent, conforming properties. The proposed addition abuts a public right-of-way and, therefore, will not pose a fire threat, nor will the requested variance lead to a decreased enjoyment of adjacent, conforming properties.**

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.*

**Staff finds that the unique circumstance present in this case is that the proposed addition will run along a public right-of-way, not along adjacent private property. This condition is not created by the owner, nor merely financial in nature.**

### **Alternative to Applicant’s Request**

The applicant needs to construct the addition while respecting the required five foot side yard setbacks to come into compliance with the standards established by the Unified Development Code.

## **Staff Recommendation**

Staff recommends **approval of A-15-035** based on the following findings of fact:

1. The proposed addition will abut a public right-of-way, not private property;
2. The proposed addition is unlikely to harm adjacent, conforming properties;

## **Attachments**

Attachment 1 – Notification Plan (Aerial Map)

Attachment 2 – Plot Plan (Aerial Map)

Attachment 3 – Elevation of Sign

Attachment 4 – Site Photos

# Attachment 1 Notification Plan



**Board of Adjustment  
Notification Plan for  
Case No A-15-035**

San Antonio City Limits

Subject Property

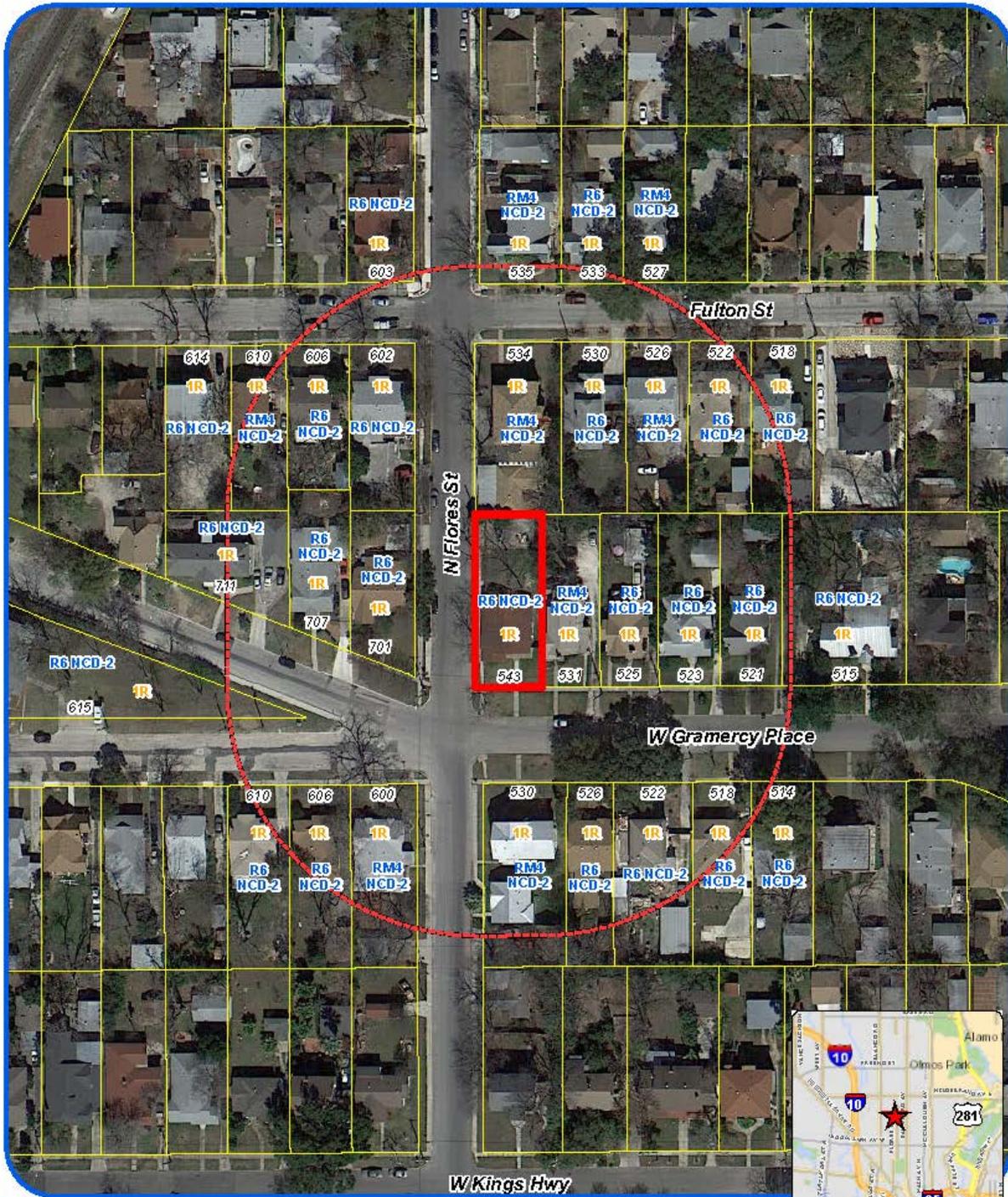
200' Notification Boundary

Council District: 1

NOT TO SCALE,  
FOR ILLUSTRATIVE PURPOSES ONLY

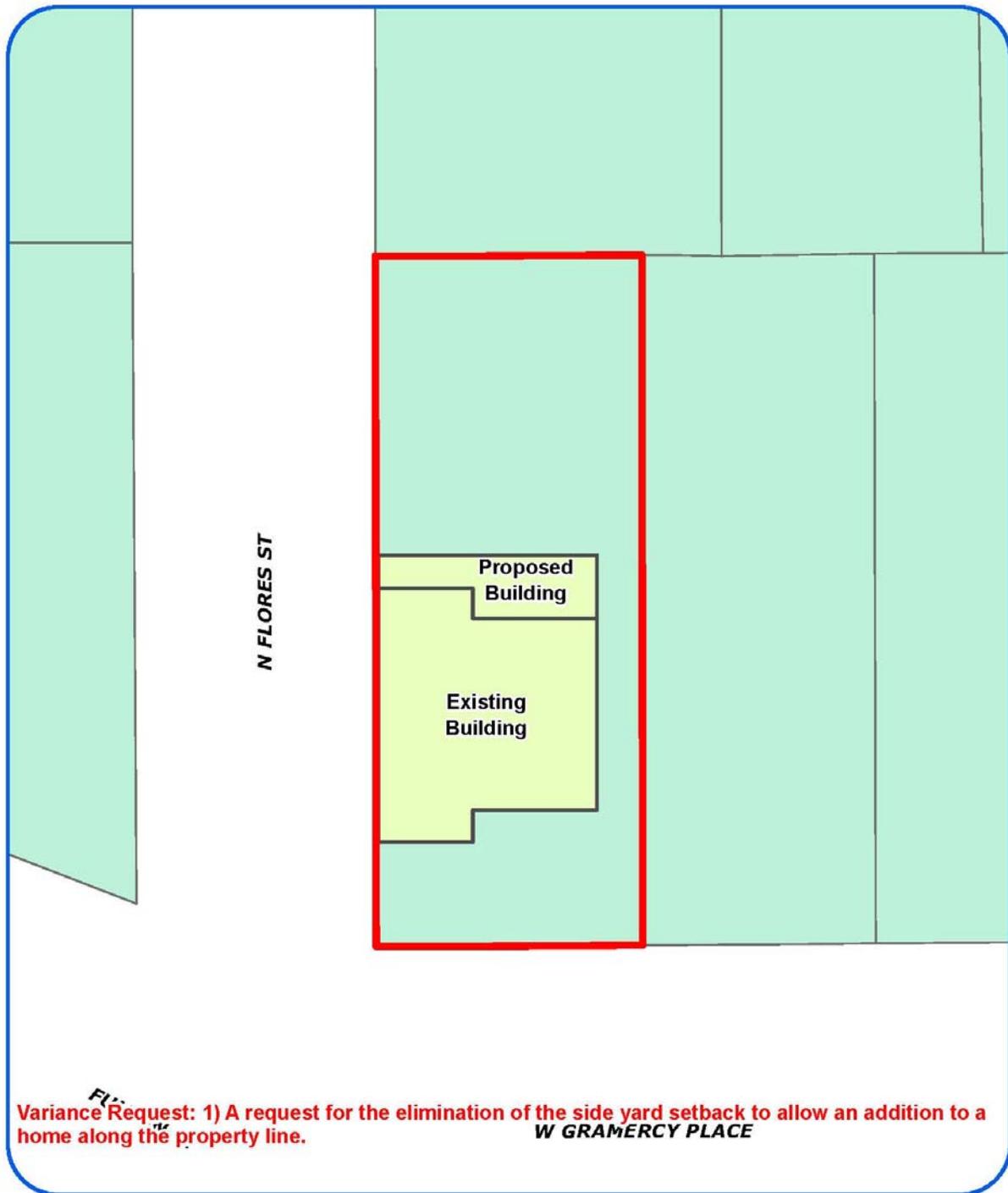
Development Services Department  
City of San Antonio

# Attachment 1 Notification Plan (continued)



<p><b>Board of Adjustment</b> Notification Plan for <b>Case No A-15-035</b></p>		<p>San Antonio City Limits </p> <p>Subject Property </p> <p>200' Notification Boundary </p> <p>Council District 1</p>	<p style="text-align: right;">Alamo Olmos Park 281 35 37</p> <p style="text-align: center;">* NO TO SCALE, FOR ILLUSTRATIVE PURPOSES ONLY</p> <p style="text-align: right;">Debra Kpeme at Services Department City of San Antonio</p>
---	--	---	--

**Attachment 2  
Plot Plan**



**Variance Request: 1) A request for the elimination of the side yard setback to allow an addition to a home along the property line.**

**Board of Adjustment**  
Plot Plan for  
**Case No A-15-035**

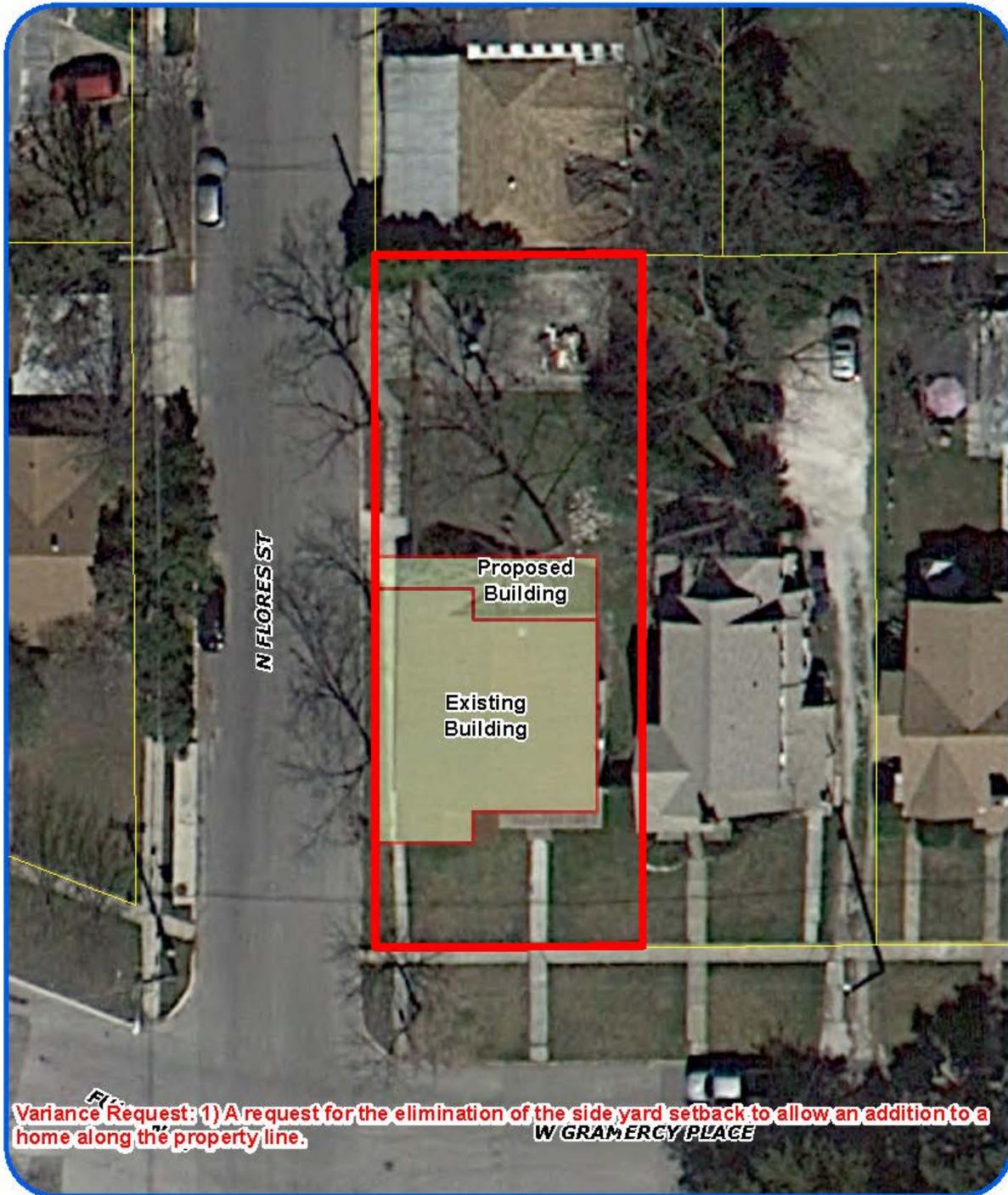


"NOT TO SCALE,  
FOR ILLUSTRATIVE PURPOSES ONLY"  
Council District: 1

**543 Gramercy**

Development Services Department  
City of San Antonio

Attachment 2  
Plot Plan (continued)



**Board of Adjustment**  
Plot Plan for  
Case No A-15-035



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

543 Gramercy

Development Services Department  
City of San Antonio

# Attachment 3 Applicant's Site Plan

SUBJECT TO RECORDED RESTRICTIVE COVENANTS AND/OR EASEMENTS AS FOLLOWS:			
VOL. <u>    </u> PAGE <u>    </u>	RECORDS VOL. <u>    </u> PAGE <u>    </u>	RECORDS VOL. <u>    </u> PAGE <u>    </u>	RECORDS
VOL. <u>    </u> PAGE <u>    </u>	RECORDS VOL. <u>    </u> PAGE <u>    </u>	RECORDS VOL. <u>    </u> PAGE <u>    </u>	RECORDS
VOL. <u>    </u> PAGE <u>    </u>	RECORDS VOL. <u>    </u> PAGE <u>    </u>	RECORDS VOL. <u>    </u> PAGE <u>    </u>	RECORDS
N45°00'00"E 100.00'	RECORD INFORMATION	S45°00'00"W 100.00'	AS MEASURED IN FIELD
		X BARBED WIRE	△ SMOOTH WIRE
		○ IRON FENCE	◇ CHAIN LINK FENCE
		- / WOOD FENCE	- WATER FLOW
<p>NOTE: THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE COMMITMENT AND MAY NOT SHOW ALL SETBACKS / EASEMENTS OR OTHER MATTERS AFFECTING THIS PROPERTY.</p> <p>NOTE: NO FENCES AT THE TIME OF THIS SURVEY.</p>			
<p style="text-align: center;">FULTON ST. 50.6' ROW</p> <p style="text-align: center;">GRAMERCY 90' ROW</p>	<p>LOT 23</p> <p style="font-size: small;">* - LOTS 21, 22, &amp; THE W 6' OF 23</p>		
<p>LOT(S)* <u>    </u> BLOCK <u>9</u> N.C.B. <u>6431</u> SUBDIVISION <u>NORTHAVEN</u></p> <p>VOLUME <u>642</u> PAGE <u>2</u> OF THE <u>DEED &amp; PLAT</u> RECORDS OF <u>BEXAR</u> COUNTY, TEXAS</p> <p>WITNESS MY HAND AND SEAL THIS <u>26</u> DAY OF <u>NOVEMBER</u>, 20 <u>14</u></p> <p>BUYER <u>    </u></p> <p>ADDRESS <u>543 GRAMERCY</u> GF# <u>    </u></p>			
<p>I, A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF TEXAS, DO HEREBY CERTIFY THAT THE ABOVE PLAT IS TRUE AND CORRECT ACCORDING TO AN ACTUAL SURVEY MADE ON THE GROUND UNDER MY SUPERVISION, OF THE PROPERTY DESCRIBED HEREON. I FURTHER CERTIFY THAT ENCROACHMENTS, EASEMENTS AND RIGHT-OF-WAYS VISIBLE ON SITE ARE SHOWN HEREON. SETBACKS AND EASEMENTS SHOWN ARE FROM RECORDED COUNTY DOCUMENT RECORDS. MUNICIPAL RESTRICTIONS ARE NOT SHOWN.</p> <p style="font-size: x-small;">COPYRIGHT © 2014 STEPHEN G. COOK ENGINEERING, INC. ALL RIGHTS RESERVED</p> <p style="text-align: center;"><i>Stephen G. Cook</i> STEPHEN G. COOK, R.P.L.S.</p>			
565-001-001 SGCE JOB NO#	C.O. <u>B.S.</u>		
DRAWN BY <u>SURV. BY</u>	DISK <u>CADD/W</u>	12000 STARCREST, SUITE 107 SAN ANTONIO, TEXAS 78247-4117	STEPHEN G. COOK ENGINEERING, INC. REGISTERED LAND SURVEYORS 709C FPM # 1-104
		210/481-2533 • FAX: 210/481-2150	WWW.SGCE.NET

**Attachment 4 – Photos**

