



College Station, TX

Meeting Agenda
Zoning Board of Adjustment
1101 Texas Avenue, College Station, TX 77840
Internet: www.microsoft.com/microsoft-teams/join-a-meeting
Meeting ID: 211 986 147 546 | Passcode: 7HZbsq
Phone: 833-240-7855 | Phone Conference: 537 843 234#

The City Council may or may not attend this meeting.

April 2, 2024

6:00 PM

Council Chambers

1. Call meeting to order.

2. Agenda Items

2.1. Consideration, discussion, and possible action to approve meeting minutes:

Attachments: 1. March 4, 2025

2.2. Public Hearing, presentation, discussion, and possible action regarding a side setback variance to the Unified Development Ordinance Section 5.2.A. 'Dimensional Standards for Non-Clustered and Clustered Developments', for property located at McCulloch's Subdivision, Block 5, Lot 21 generally located at 1110 Detroit Street. The subject property is zoned GS General Suburban and NCO Neighborhood Conservation Overlay. Case #AWV2023-000023

Sponsors: Jeff Howell

Attachments:

1. Staff Report
2. Vicinity, Aerial, and Small Area Map
3. Applicant's Supporting Information
4. Applicant's Exhibit
5. NCO Ordinance 2015-3689

2.3. Presentation, discussion, and possible action regarding an update to the Zoning Board of Adjustment Rules and Procedures.

Sponsors: Molly Hitchcock

Attachments: 1. ZBA Rules & Procedures redline

3. Discussion and possible action on future agenda items.

A member may inquire about a subject for which notice has not been given. A statement of specific factual information or the recitation of existing policy may be given. Any deliberation shall be limited to a proposal to place the subject on an agenda for a subsequent meeting.

4. Adjourn.

Adjournment into Executive Session may occur in order to consider any item listed on the agenda if a matter is raised that is appropriate for Executive Session discussion.

I certify that the above Notice of Meeting was posted on the website and at College Station City Hall, 1101 Texas Avenue, College Station, Texas, on March 26, 2024, at 5:00 p.m.

City Secretary

This building is wheelchair accessible. Persons with disabilities who plan to attend this meeting and who may need accommodations, auxiliary aids, or services such as interpreters, readers, or large print are asked to contact the City Secretary's Office at (979) 764-3541, TDD at 1-800-735-2989, or email adaassistance@cstx.gov at least two business days prior to the meeting so that appropriate arrangements can be made. If the City does not receive notification at least two business days prior to the meeting, the City will make a reasonable attempt to provide the necessary accommodations.

Penal Code § 30.07. Trespass by License Holder with an Openly Carried Handgun.

"Pursuant to Section 30.07, Penal Code (Trespass by License Holder with an Openly Carried Handgun) A Person Licensed under Subchapter H, Chapter 411, Government Code (Handgun Licensing Law), may not enter this Property with a Handgun that is Carried Openly."

Codigo Penal § 30.07. Traspasar Portando Armas de Mano al Aire Libre con Licencia.

"Conforme a la Seccion 30.07 del codigo penal (traspasar portando armas de mano al aire libre con licencia), personas con licencia bajo del Sub-Capitulo H, Capitulo 411, Codigo de Gobierno (Ley de licencias de arma de mano), no deben entrar a esta propiedad portando arma de mano al aire libre."



**Minutes
Zoning Board of Adjustment
Regular Meeting
March 4, 2024**

MEMBERS PRESENT: Chairperson Bill Lartigue, Board Members Michael Martinez, James Hutchins, Justin Collins, and George Sassano

CITY STAFF PRESENT: Assistant Director of Planning and Development Services Molly Hitchcock, Assistant City Attorney Gavin Midgley, Staff Planners Jeff Howell, Lead Technology Service Specialist Lillian Wells, and Staff Assistant II Crystal Fails

1. Call meeting to order.

Chairperson Lartigue called the meeting to order at 6:00 p.m.

2. **Agenda Items**

- 2.1. Consideration, discussion, and possible action to approve meeting minutes:

Board Member Martinez motioned to approve the meeting minutes from December 5, 2023, Board Member Hutchins seconded the motion, the motion passed 5-0.

- 2.2. Public Hearing, Public Hearing, presentation, discussion, and possible action regarding a sign variance to the Unified Development Ordinance Section 7.5.I.6.d. 'Attached Signs', for property located at Tower Point Phase 3, Block 3, Lot 12 generally located at 949 William D. Fitch Parkway. The subject property is zoned GC General Commercial and OV Greens Prairie Overlay. Case #AWV2024-000001

Staff Planner Howell presented the item to the Board and stated that the applicant is requesting an attached sign variance of 3 feet to allow for two signs attached to canopies to extend 4 feet from the exterior face of the wall.

Staff recommended approval of the request due to the fact that it meets the specified criteria. Specifically:

1. There are extraordinary conditions affecting the land depriving the owner of its use.
2. The variance is necessary for the preservation and enjoyment of a substantial property right.
3. The variance will not be detrimental to the public health, safety, or welfare, or injurious to other property in the area, or to the City in administering this Unified Development Ordinance.
4. The variance will not have the effect of preventing the orderly subdivision of land in the area in accordance with the provisions of this UDO.

5. The property is unique compared to other property in the area; and
6. A hardship has not occurred due to the applicant's own actions.

Chairperson Lartigue opened the public hearing.

No one spoke during the public hearing.

Chairperson Lartigue closed the public hearing.

Board Member Martinez motioned to approve the variance, Board Member Hutchins seconded the motion, the motion to approve the variance passed 4-1 with Board member Collins voting in the negative.

- 2.3. Discussion and possible action regarding the selection of a vice-chairperson of the Zoning Board of Adjustment from among its members.

Board Member Martinez motioned to appoint himself as the vice-chairperson, Board Member Collins seconded the motion, the motion to appoint Board Member Martinez as the vice-chairperson passed 5-0.

3. Discussion and possible action on future agenda items - A member may inquire about a subject for which notice has not been given. A statement of specific factual information or the recitation of existing policy may be given. Any deliberation shall be limited to a proposal to place the subject on an agenda for a subsequent meeting.

There was no discussion on future agenda items.

4. Adjourn.

The meeting adjourned at 6:10 p.m.

Approved:

Attest:

Bill Lartigue, Chairperson

Crystal Fails, Board Secretary



**VARIANCE REQUEST
FOR
1110 Detroit Street
AWV2023-000023**

REQUEST: A 3.5-foot reduction to the minimum 7.5-foot side setback as set forth in Section 5.2.A. 'Dimensional Standards for Non-Clustered and Clustered Developments'

LOCATION: 1110 Detroit Street
McCulloch's Subdivision, Block 5, Lot 21

ZONING: GS General Suburban and NCO Neighborhood Conservation Overlay

PROPERTY OWNER: Sterling Whitley

APPLICANT: R. A. I. Designs, Inc.

PROJECT MANAGER: Jeff Howell, Senior Planner
jhowell@cstx.gov

BACKGROUND: The existing 723 sq.ft. single-family dwelling encroaches into the side setback by 3.5 ft., for a total of 63 sq.ft. of structure in the side yard. The applicant is seeking to construct additional foundation and walls in order to expand the structure to 1,072 sq.ft. with new porches as well. The improvements proposed within the side setback increases the area of encroachment to 154 sq.ft., as the proposed setback varies from 4 ft. to 4 ft. 3 in. for the length of the new structure. The proposed improvements require a variance to Section 5.2.A. 'Dimensional Standards for Non-Clustered and Clustered Developments' and would be a reduction of approximately 3.5 ft. into the required 7.5-ft. side setback.

It appears the proposed development would be within the maximum 41% of impervious cover allowed by the NCO Ordinance, but additional information would be required to confirm this during the building permit process. If the impervious cover requirement is not met, modifications or an additional variance would be required at that time.

APPLICABLE

ORDINANCE SECTION: UDO Section 5.2.A. ‘Dimensional Standards for Non-Clustered and Clustered Developments’

ORDINANCE INTENT: UDO Section 5.2.A. ‘Dimensional Standards for Non-Clustered and Clustered Developments’ sets minimum setback standards that allow for some degree of control over population density, access to light and air, and fire protection. These standards are typically justified on the basis of the protection of property values.

RECOMMENDATION: Staff recommends denial of the variance request.

NOTIFICATIONS

Advertised Board Hearing Date: April 2, 2024

The following neighborhood organizations that are registered with the City of College Station’s Neighborhood Services have received a courtesy letter of notification of this public hearing:

McCulloch HOA

Property owner notices mailed: 45
Contacts in support: None at the time of this report
Contacts in opposition: None at the time of this report
Inquiry contacts: 4 at the time of this report

ADJACENT ZONING AND LAND USES

Direction	Zoning	Land Use
Subject Property	GS General Suburban and NCO Neighborhood Conservation Overlay	Single-Family Dwelling
North	GS General Suburban and NCO Neighborhood Conservation Overlay	Single-Family Dwelling
South	GS General Suburban and NCO Neighborhood Conservation Overlay	Single-Family Dwelling
East	GS General Suburban and NCO Neighborhood Conservation Overlay	Single-Family Dwelling and Detroit Street ROW
West	GS General Suburban and NCO Neighborhood Conservation Overlay	Single-Family Dwelling

PHYSICAL CHARACTERISTICS

1. **Frontage:** The subject property has approximately 50 feet of frontage on Detroit Street.
2. **Access:** The subject property takes access from Detroit Street.
3. **Topography and vegetation:** The subject property is relatively flat with a several existing trees.
4. **Floodplain:** The subject property is not located within FEMA regulated floodplain.

REVIEW CRITERIA

According to Unified Development Ordinance Section 3.16.E. 'Criteria for Approval of Variance', no variance shall be granted unless the Board makes affirmative findings in regard to all nine of the following criteria:

1. **Extraordinary conditions:** *That there are extraordinary or special conditions affecting the land involved such that strict application of the provisions of the UDO will deprive the applicant of the reasonable use of his land.*

Staff has found no extraordinary or special condition exists that would deprive the applicant a reasonable use of the land. The applicant has stated that "Due to the existing lot conditions, the applicant's ties to the existing structure via their grandfather re-locating the structure from the A & M campus years ago, its specific history for the family, and location of historic homes in the area, this variance would allow the addition to remain in accordance with the existing harmony of the neighborhood".

The lots within this subdivision were platted in 1946. All of the lots were platted at an angle, however they do meet the minimum lot size standard for GS General Suburban (5,000 sq. ft.). According to BCAD, many of the structures within this neighborhood were built over 20 years ago with some dating back to the 1950's. The existing structure at 1110 Detroit was built in 1955 according to BCAD. The improvements proposed within the side setback increases the area of encroachment 144% as the proposed setback varies from 4 ft. to 4 ft. 3 in. for the length of the new structure. While the lot is oriented at an angle, there is additional developable area remaining on the other side of the property outside of required setbacks. As there is buildable land to the other side of the structure, no special conditions of the land have been identified that would deprive the applicant of the reasonable use of the land.

2. **Other property:** *That these conditions do not generally apply to other property in the vicinity.*

There are no special conditions identified that would deprive the applicant of a reasonable use of the land. With the size of the existing structure, the subject lot has more buildable area outside of setbacks in which to expand.

3. **Enjoyment of a substantial property right:** *That the variance is necessary for the preservation and enjoyment of a substantial property right of the applicant.*

The variance is not necessary for the preservation and enjoyment of the substantial property right of the applicant. While the existing dwelling's foundation encroaches into the side setback, if the proposed variance is not granted, the applicant can still build a single-family dwelling outside of the 7.5-ft. side setback and be in compliance with Section 5.2.A 'Dimensional Standards for Non-Clustered and Clustered Developments' of the UDO. If the existing structure were to remain and be expanded, the existing setback nonconformity could remain while all new construction met existing setback requirements. However with the extent of improvements proposed, such as removing several walls, roof, and substantially modifying the

structure, the non-conforming status would be lost and would have to be built meeting the setback requirements of the UDO.

4. Hardships: *That the hardship is not the result of the applicant's own actions.*

The Zoning Board of Adjustment may consider the following as grounds to determine whether compliance with this ordinance as applied to a structure that is the subject of the variance would result in unnecessary hardship:

- 1) The financial cost of compliance is greater than fifty (50) percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the city under Chapter 26 of the Texas Tax Code;*
- 2) Compliance would result in a loss to the lot on which the structure is located of at least twenty-five (25) percent of the area on which development may physically occur;*
- 3) Compliance would result in the structure not being in compliance with a requirement of a City of College Station ordinance, building code, or other requirement;*
- 4) Compliance would result in the unreasonable encroachment on an adjacent property or easement; or*
- 5) The City considers the structure to be a nonconforming structure.*

A hardship has occurred based upon the applicant's own actions and does not occur due to an extraordinary condition of the land. The applicant has stated that the "When the existing residence was constructed the current lot restrictions, Subdivision lot lines, UDO requirements were not even in existence yet. The residence was placed based off the surrounding original properties.". The applicant has also stated that "The existing location of public utilities and driveway location restricts the options for the lot" and "the owner desires to keep as much of the existing foundation and framing as possible".

According to BCAD, the existing structure was built in 1955, which is after the property was subdivided and after the City had zoning regulations (1940). The existing utilities on the property are not public infrastructure, but are private lines serving the existing residential structure. Public services are located within the center of the street and along the rear of the properties in this area. The existing structure is currently a non-conforming structure as it is encroaching into the side setback. The nonconformity may continue to exist, but is not allowed to be expanded. However with the extent of improvements proposed, such as removing several walls, roof, and substantially modifying the structure, the non-conforming status would be lost and would have to be built meeting the setback requirements of the UDO.

The applicant is seeking to have a single-family dwelling encroach 3.5 ft. into the 7.5-ft. side setback of the property. While the existing dwelling's foundation and walls encroach into the side setback, the overall area of encroachment is proposed to increase from 63 sq.ft. to 154 sq.ft. and the foundation is proposed to be increased elsewhere on the property as well. Based on the proposal, there is remaining developable property outside of setbacks and the improvements for the single-family dwelling may be able to be redesigned in order to meet the setback requirements of the UDO.

5. Subdivision: *That the granting of the variance will not have the effect of preventing the orderly subdivision of land in the area in accordance with the provisions of this UDO.*

The granting of the variance will not have the effect of preventing the orderly subdivision of land in the area in accordance with the provisions of the UDO. The surrounding properties are platted lots within the McCulloch's Subdivision.

- 6. Flood hazard protection:** *That the granting of the variance will not have the effect of preventing flood hazard protection in accordance with Article 8, Subdivision Design and Improvements.*

The granting of this variance will not have the effect of preventing flood hazard protection in accordance with Article 8, Subdivision Design and Improvements as the site is already developed and due to no portion of this property being located within floodplain.

- 7. Comprehensive Plan:** *That the granting of the variance would not substantially conflict with the Comprehensive Plan and the purposes of this UDO.*

The granting of this variance does not substantially conflict with the Comprehensive Plan and with the purposes of the UDO.

- 8. Utilization:** *That because of these conditions, the application of the UDO to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.*

The application of the UDO standards to this particular property does not restrict the applicant in the utilization of their property. The applicant is still able to utilize their property as a residential lot and build a single-family dwelling while still meeting the setback requirements of the UDO.

- 9. Substantial detriment:** *That the granting of the variance will not be detrimental to the public health, safety, or welfare, or injurious to other property in the area, or to the City in administering this UDO.*

Granting the variance may be injurious to the adjacent property to the south as the variance would allow the structure to be constructed closer to the neighboring house, decreasing its access to light and air.

Granting the variance would not be detrimental to the public health, safety, or welfare, or injurious to other property in the area, or to the City in administering the UDO.

ALTERNATIVES

The applicant is proposing to construct improvements for a 1,072-sq.ft. single-family dwelling, of which approximately 154 sq.ft. would encroach into the side setback. The applicant has stated that “Due to the applicants’ intentions to keep the existing foundation and as much of the structure’s existing walls and footprint as possible no other options are available”. With the substantial modifications to the structure proposed, additional foundation and walls are being constructed on the other side of the property. The applicant could redesign the single-family dwelling so that it could fall outside of the 7.5-ft. side setback and meet the requirements set forth in Section 5.2.A. ‘Dimensional Standards for Non-Clustered and Clustered Developments’ of the UDO.

STAFF RECOMMENDATION

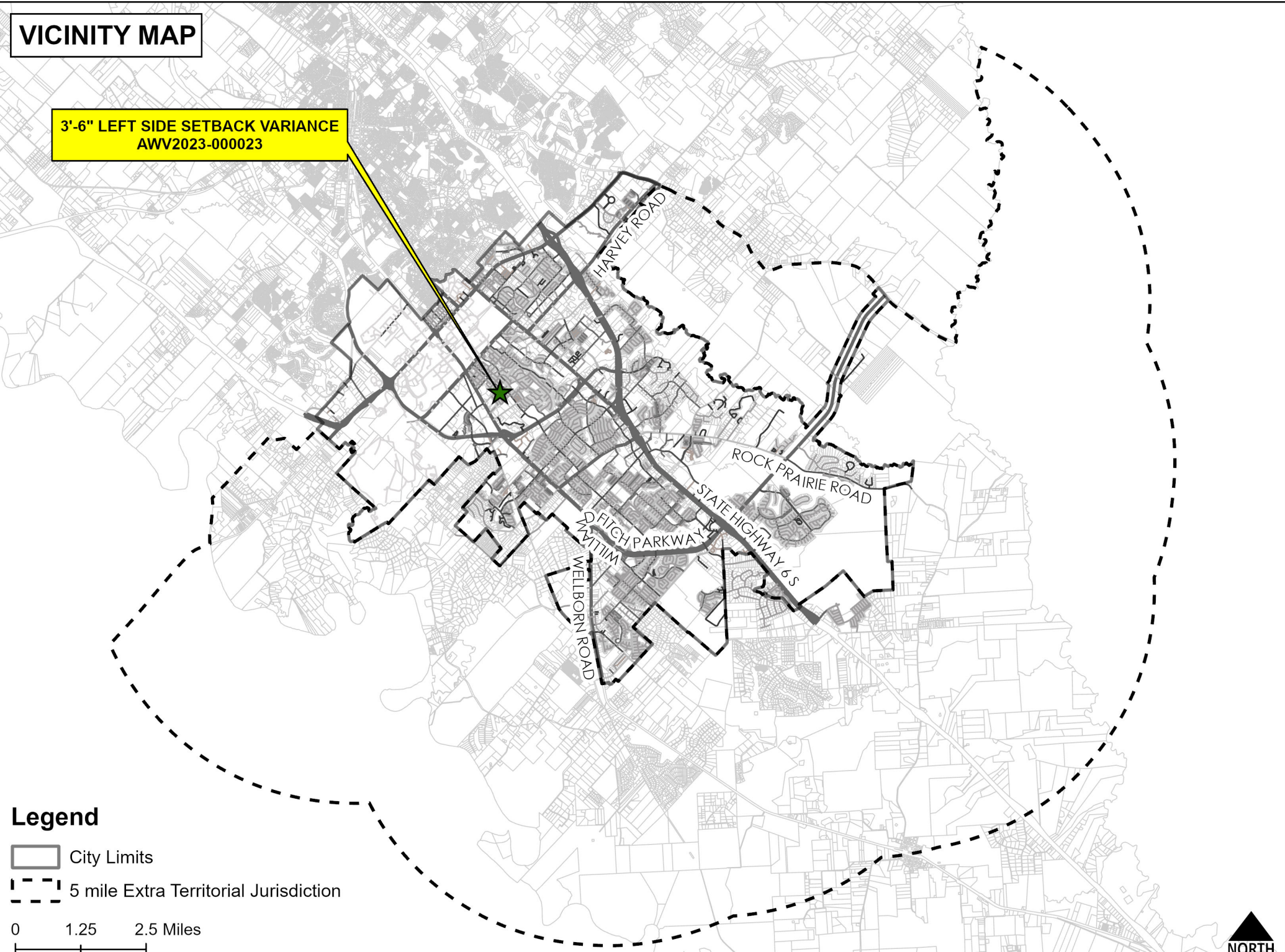
The applicant is seeking a 3.5-ft. variance to the minimum 7.5-ft. side setback as set forth in Section 5.2.A. ‘Dimensional Standards for Non-Clustered and Clustered Developments’. Due to the lack of meeting all of the required criteria, including having a special condition that has resulted in a hardship on the property, Staff recommends denial of the variance request.

ATTACHMENTS

1. Vicinity Map, Aerial, and Small Area Map
2. Applicant's Supporting Information
3. Applicant's Exhibit
4. NCO Ordinance 2015-3689

VICINITY MAP

3'-6" LEFT SIDE SETBACK VARIANCE
AWV2023-000023

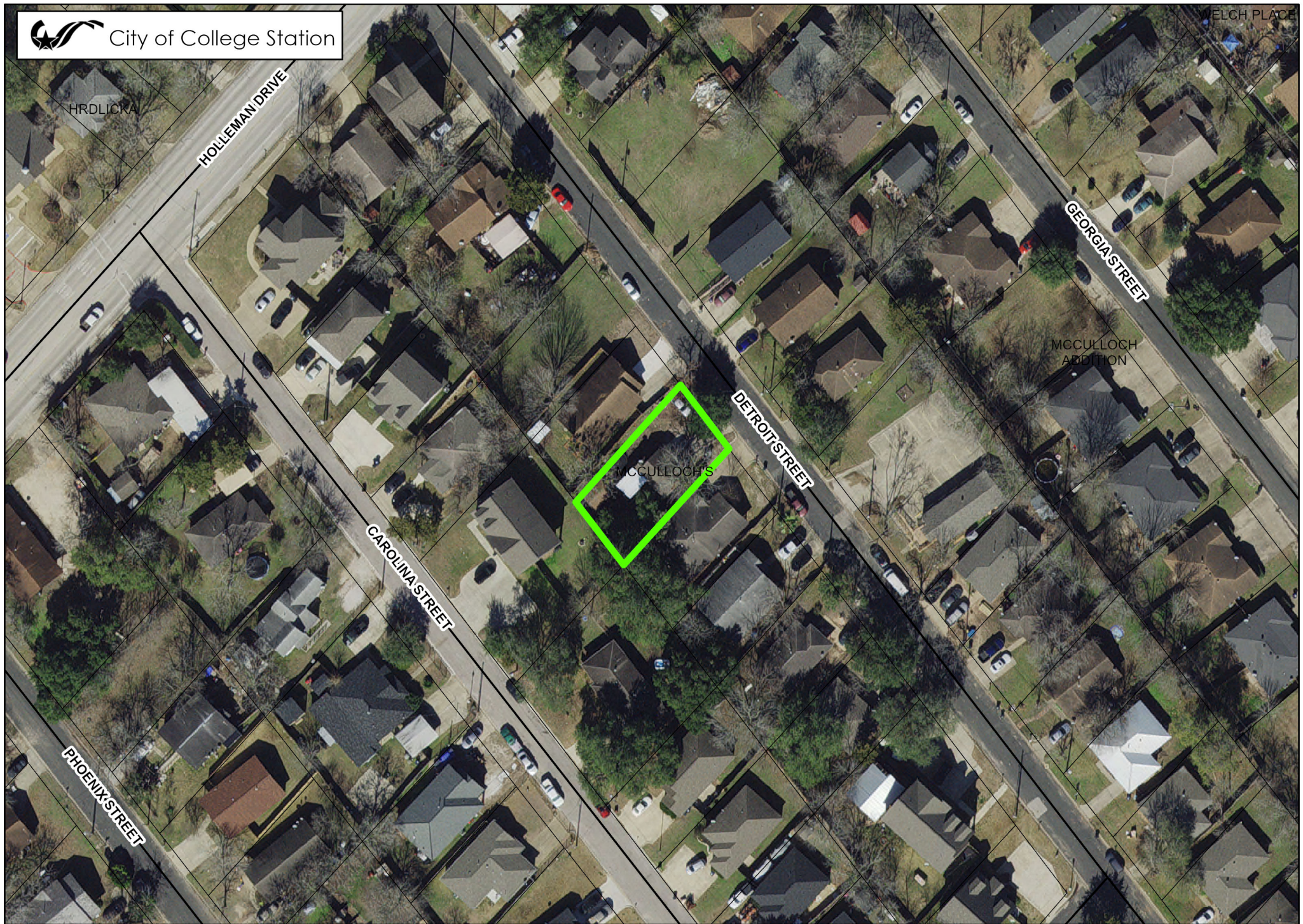


Legend

- City Limits
- 5 mile Extra Territorial Jurisdiction

0 1.25 2.5 Miles





0 75 150 Feet

3'-6" LEFT SIDE SETBACK VARIANCE

Case: APPEALS WAIVERS VARIANCES
AWV2023-000023



ZONING DISTRICTS (In Grayscale)

Residential		MH	Middle Housing
R	Rural	MF	Multi-Family
WE	Wellborn Estate	MU	Mixed-Use
E	Estate	MHP	Manufactured Home Pk.
WRS	Wellborn Restricted Suburban		
RS	Restricted Suburban		
GS	General Suburban		
D	Duplex		
T	Townhome		

Non-Residential	
NAP	Natural Area Protected
O	Office
SC	Suburban Commercial
WC	Wellborn Commercial
GC	General Commercial
CI	Commercial Industrial
BP	Business Park
BPI	Business Park Industrial
C-U	College and University

Planned Districts	
P-MUD	Planned Mixed-Use Dist.
PDD	Planned Develop. Dist.

Design Districts	
WPC	Wolf Pen Creek Dev. Cor.
NG-1	Core Northgate
NG-2	Transitional Northgate
NG-3	Residential Northgate

Overlay Districts	
OV	Corridor Ovr.
RDD	Redevelopment District
HOO	High Occupancy Ovr.
ROO	Restricted Occupancy Ovr.
NPO	Nbrhd. Prevailing Ovr.
NCO	Nbrhd. Conservation Ovr.
HP	Historic Preservation Ovr.

Retired Districts	
R-1B	Single Family Residential
R-4	Multi-Family
R-6	High Density Multi-Family
C-3	Light Commercial
RD	Research and Dev.
M-1	Light Industrial
M-2	Heavy Industrial



0 120 240 Feet

3'-6" LEFT SIDE SETBACK VARIANCE

Case: APPEALS WAIVERS VARIANCES
AWV2023-000023



APPEAL/WAIVER APPLICATION SUPPORTING INFORMATION

Name of Project: 3'-6" LEFT SIDE SETBACK VARIANCE (AWV2023-000023)

Address: 1110 DETROIT ST

Legal Description: MCCULLOCH'S (CS), BLOCK 5, LOT 21

Applicant: R A I DESIGNS INC

Property Owner: WHITLEY STERLING SR

Applicable ordinance section being appealed/seeking waiver from:

General Suburban

The following specific variation to the ordinance is requested:

Allow a 3'-6" left side variance

The following special condition exists:

Due to the existing lot conditions, the applicants ties to the existing structure via their grandfather re-locating the structure from the A & M campus years ago, its specific history for the family, and location of historic homes in the area, this variance would allow the addition to remain in accordance with the existing harmony of the neighborhood.

The unnecessary hardship(s) involved by meeting the provisions of the ordinance other than financial hardship is/are:

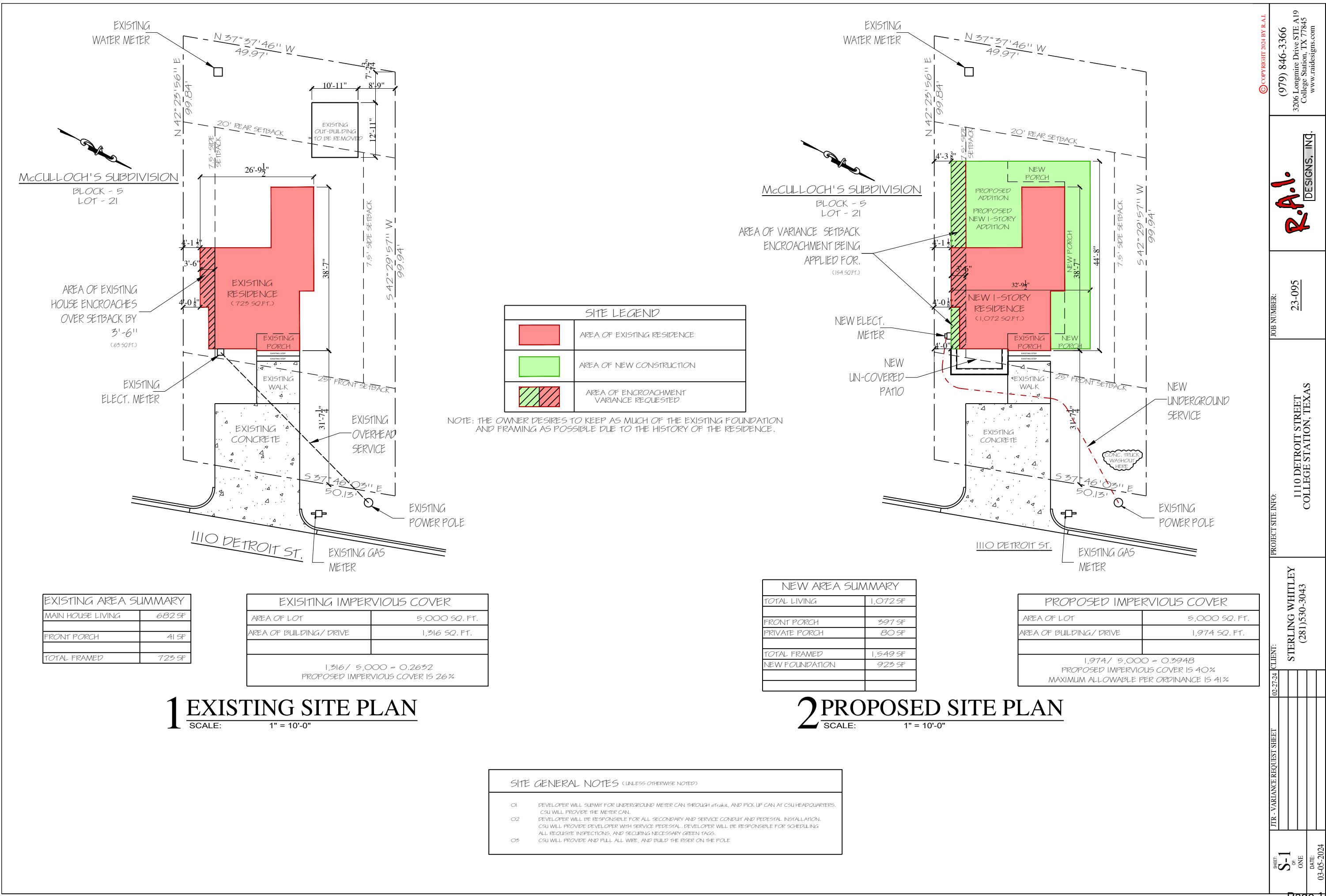
1. This variance is necessary to allow the applicant to substantially enjoy their property rights.
2. The hardship is not the result of the current applicants' actions. During the time when the existing residence was constructed the current lot restrictions, Subdivision lot lines, UDO requirements were not even in existence yet. The residence was placed based off the surrounding original properties.
3. The existing location of public utilities and driveway location restricts the options for the lot.

The following alternatives to the requested variance are possible:

1. Due to the applicants' intentions to keep the existing foundation and as much of the structures existing walls and footprint as possible no other options are available.

The variance will not be contrary to public interest due to:

1. The granting of the variance WILL NOT have any effect on preventing the orderly subdivision of land in the area in accordance with the provisions of the UDO.
2. The granting of this variance WILL NOT substantially conflict with the Comprehensive Plans and purposes of the UDO or the Homeowners Association Guidelines.
3. The current UDO conditions would effectively prohibit the utilization of this property.
4. The granting of this variance WILL NOT be detrimental to the Public Health, Safety, & Welfare to citizens.
5. The granting of this variance WILL NOT cause any injury to any other property in the area or the City of College Station.



ORDINANCE NO. 2015-3689

AN ORDINANCE AMENDING CHAPTER 12, "UNIFIED DEVELOPMENT ORDINANCE," SECTION 12-4.2, "OFFICIAL ZONING MAP," OF THE CODE OF ORDINANCES OF THE CITY OF COLLEGE STATION, TEXAS BY ADDING A NCO NEIGHBORHOOD CONSERVATION OVERLAY ZONING DISTRICT FOR APPROXIMATELY 32 ACRES, BEING LOCATED IN THE SINGLE-FAMILY PORTION OF THE MCCULLOCH SUBDIVISION, AN AREA GENERALLY BORDERED TO THE NORTH BY HOLLEMAN DRIVE, TO THE SOUTH BY NEVADA STREET, TO THE WEST BY PECAN TREE ESTATES SUBDIVISION, PHASES 1 AND 2, AND TO THE EAST BY LOTS FRONTING THE SOUTHWEST SIDE OF GEORGIA STREET (1112 THROUGH 1228 GEORGIA), AND INCLUDING A PORTION OF THE LOTS FRONTING THE NORTH END OF GEORGIA STREET (1100 THROUGH 1113 GEORGIA) IN COLLEGE STATION, BRAZOS COUNTY, TEXAS, PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS:

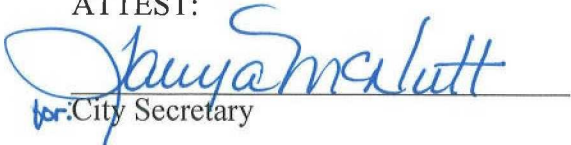
- PART 1: That Chapter 12, "Unified Development Ordinance," Section 12-4.2, "Official Zoning Map," of the Code of Ordinances of the City of College Station, Texas, be amended as set out in Exhibit "A" and as shown graphically in Exhibit "B", attached hereto and made a part of this ordinance for all purposes.
- PART 2: That if any provisions of any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way effect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.
- PART 3: That any person, firm, or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not less than Twenty-five Dollars (\$25.00) nor more than Two Thousand Dollars (\$2,000.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense. Said Ordinance, being a penal ordinance, becomes effective ten (10) days after its date of passage by the City Council, as provided by Section 35 of the Charter of the City of College Station.

PASSED, ADOPTED and APPROVED this 27th day of August, 2015

APPROVED:

MAYOR

ATTEST:


for: City Secretary

APPROVED:


City Attorney

EXHIBIT "A"

That Chapter 12, "Unified Development Ordinance," Section 12-4.2, "Official Zoning Map," of the Code of Ordinances of the City of College Station, Texas, is hereby amended as follows:

The following property is rezoned to add the NCO Neighborhood Conservation Overlay, shown graphically in EXHIBIT "B," with Overlay restrictions described in EXHIBIT "C."

Approximately 32 acres, being located in the single-family portion of the McCulloch Subdivision, an area generally bordered to the north by Holleman Drive, to the south by Nevada Street, to the west by Pecan Tree Estates Subdivision, Phases 1 and 2, and to the east by lots fronting the southwest side of Georgia Street (1112 through 1228 Georgia), and including a portion of the lots fronting the north end of Georgia Street (1100 through 1113 Georgia) in College Station, Brazos County, Texas.

EXHIBIT "B"

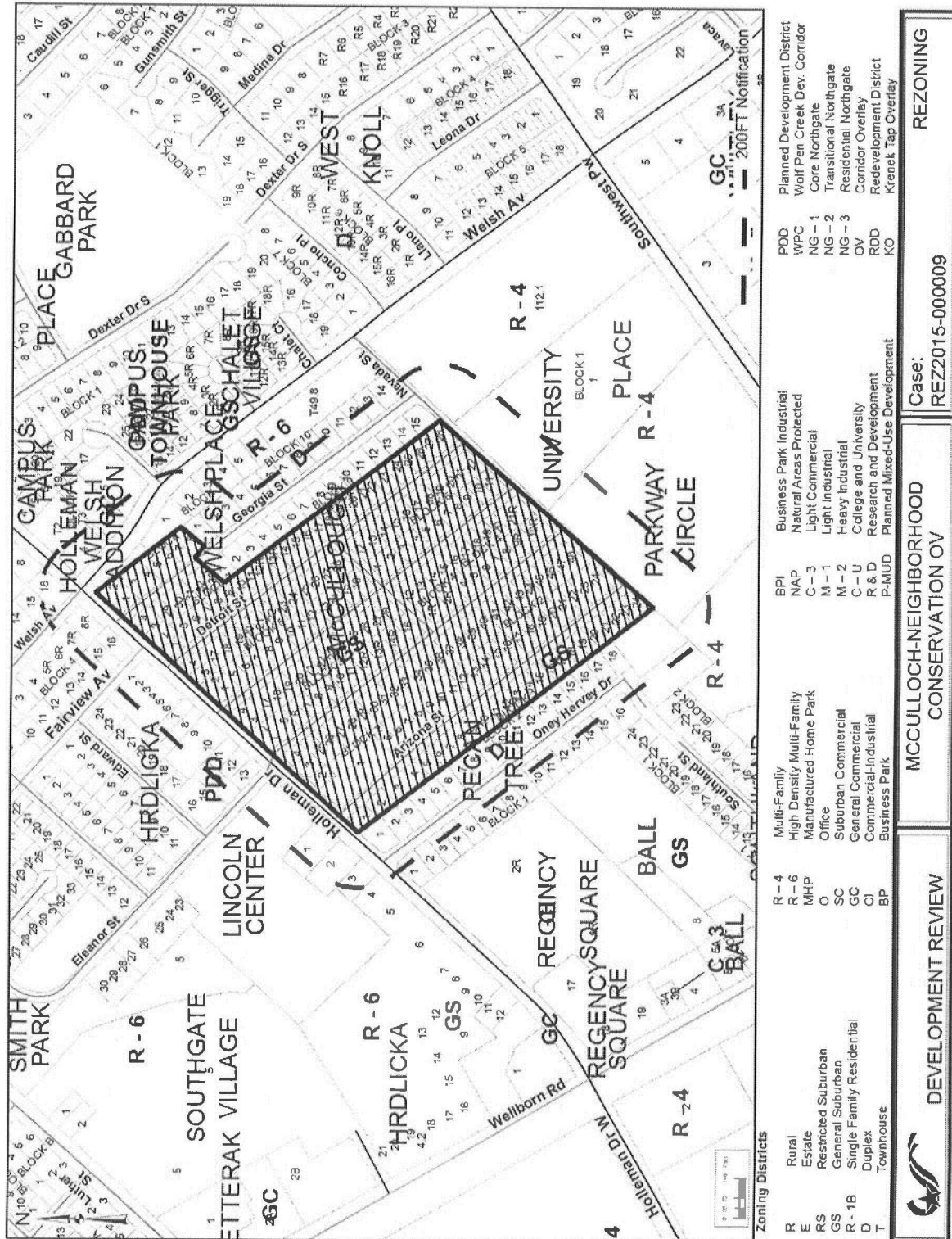


EXHIBIT "C"

The following additional standards are required to be met for any development or redevelopment of single-family property, including expansion of existing structures.

1. Maximum one-story structures;
2. Minimum 25-foot front setback regardless of parking location; and
3. Maximum 41% lot coverage (including impervious surfaces such as structures and driveways/parking).

April 2, 2024
Item No. 2.3.
ZBA Rules and Procedures Update

Sponsor: Molly Hitchcock, Assistant Director of Planning and Development

Reviewed By CBC: Zoning Board of Adjustments

Agenda Caption: Presentation, discussion, and possible action regarding an update to the Zoning Board of Adjustment Rules and Procedures.

Relationship to Strategic Goals:

- Good Governance

Recommendation(s): Approval

Summary: The Zoning Board of Adjustment Rules and Procedures is a document intended to provide general information regarding:

- how a person may request to have an item considered by the Board,
- how the public is notified,
- how the Board may receive information regarding the request,
- how meetings are managed, and
- how a decision made by the ZBA may be reheard or appealed.

The purpose and summary statement of the Rules and Procedures currently states that decisions of the Board become final the Thursday after the meeting. This statement is being removed to come into compliance with state statute that indicates the decision is effective immediately.

Budget & Financial Summary: N/A

Attachments:

1. ZBA Rules & Procedures redline



ZONING BOARD OF ADJUSTMENT RULES AND PROCEDURES

The Zoning Board of Adjustment (ZBA) hears requests for variances from the standards of the Unified Development, Flood Hazard Protection, and Easterwood Field Airport Zoning ordinances; appeals of the Administrator's decisions; interpretations of the Official Zoning Map; expansions of buildings with nonconforming uses; special exceptions for parking in residential yards; and deviations from the distance requirements for the keeping of domestic livestock. The ZBA is a fact-finding body, quasi-judicial, and required to make findings of certain criteria to grant requests. Positive action requires an affirmative vote by at least four (4) of the five (5) members. Recourse from ZBA decisions is to a Court of Law and appeals must be made within ten (10) days of the decision. ~~_, which become final at Thursday noon after the meeting.~~

The ZBA shall develop and adopt rules in accordance with State law and City ordinance to govern the ZBA and its meetings.

I. APPLICATION

- ❖ A complete application and payment of the associated application fee are required for a request to be considered by the Zoning Board of Adjustment.
- ❖ Applications are to be made online through the City of College Station's project processing system
- ❖ The Administrator can assist the applicant in determining the zoning of the tract and in identifying the applicable ordinance section for the application.
- ❖ Additional materials may be required of the applicant such as site plans, elevation drawings, and floor plans. The Administrator shall inform the applicant of any extra materials required.

II. NOTICE

- ❖ The Secretary to the Board shall notify the applicant of the ZBA meeting by certified mail not less than 15 days prior to the meeting.

- ❖ The Secretary to the Board shall notify property owners within 200 feet of the property for which a request is pending of the ZBA meeting by certified mail not less than 15 days prior to the meeting.
 - ≈ Such owners shall be determined by the Secretary to the Board. When deciding which property is within 200 feet, measurements shall be made in a straight line, without regard to intervening structures of objects, from the nearest portion of the property for which a request is pending to the nearest portion of other properties.
 - ≈ Notice by certified mail to such owners shall correspond to the owner's names and address as shown on certified tax roles even if the tax rolls are incorrect or outdated.
- ❖ The Secretary to the Board shall place a notice of the ZBA meeting in THE EAGLE not less than 15 days prior to the meeting.

III. PROHIBITION ON *EX PARTE* COMMUNICATIONS

- ❖ The Board is a quasi-judicial body with authority to decide the rights of individual parties, subject to the requirements of state law and the City of College Station Code of Ordinances. In deference to its decision-making role, no one other than City staff may contact a board member outside of a public hearing regarding a matter that is pending, or may in the future be pending, before the Board. All communications to the Board outside of a public hearing should be directed to the staff liaison.
- ❖ Board members shall not individually investigate cases before the Board, other than routine site visits or reviewing publicly available information.
- ❖ A Board member that receives material information regarding a case that is not made available to other Board members may not participate in the case unless the member publicly discloses the information and its source as the earliest reasonable opportunity. A Board member may disqualify themselves if an applicant, interested party, or agent has sought to influence the member's vote other than in a public hearing or through documents made available at the public hearing.

IV. MEETINGS

- ❖ Robert's Rule of Order, newly revised, shall be followed.
- ❖ Meetings shall be held the first Tuesday of each month at 6:00 PM.
- ❖ Packets for ZBA Members shall be emailed by the Secretary of the Board at least one week before the meeting.

- ❖ Each item before the ZBA must be heard by at least four (4) members.
- ❖ The ZBA may act on any request with or without the applicant's presence at the meeting.
- ❖ When hearing requests, this procedural format shall be followed:
 - ≈ Staff Report
 - ≈ ZBA Members ask questions
 - ≈ Public Hearing
 - ≈ ZBA discussion and action

V. MINUTES

- ❖ Minutes of the meeting shall be typed by the Secretary to the Board in paraphrased form to reflect pertinent points of discussion (in the Secretary's judgement). No transcription will be made.
- ❖ Minutes shall be signed by the Chairman after they are approved by the ZBA.

VI. PUBLIC HEARING

- ❖ Witnesses shall be placed under oath by the Chairman using this statement: "Do you swear or affirm to tell the truth in this proceeding under penalties of perjury?"
- ❖ Witnesses include the applicant and interested persons.

VII. MOTIONS

- ❖ Motions shall be made on the Motion Format Form and be positive or negative.
- ❖ Negative motions (motions to deny a request) should be made when the ZBA finds that the request has not met all of the criteria required to grant the request.
- ❖ Negative motions which fail do not imply the request is granted. Requests are only granted when a positive motion is passed by at least four (4) ZBA Members. Requests are denied when a negative motion is passed by a majority of members present.
- ❖ If a negative motion does not receive a majority of votes, or a positive motion does not receive at least four (4) votes, the request is not granted. Once the vote result is announced by the Chairperson, a member of the prevailing party may request that the motion be reconsidered. A motion to

reconsider must receive a second, must occur during the same meeting, and must receive a majority to pass. If the motion to reconsider passes, the original motion is back on the floor and may be amended in accordance with Robert's Rule of Order, discussed further, and considered. If the motion to reconsider fails, the result of the original motion prevails.

VIII. REHEARING

- ❖ Applicants must have the ZBA's approval to present the same or a similar request regarding the same property after denial of such request by the ZBA.
- ❖ When a request is denied, within ten (10) days of the denial, the applicant may request that the ZBA rehear the request at a future date. To make this request, the applicant must submit to the Administrator new information that was previously not available to the Board.
- ❖ Within the ten days, the Administrator will put the request to rehear on the next available ZBA meeting agenda.
- ❖ To decide to rehear a request, the ZBA must determine the information provided by the applicant is new and relevant to their decision point of a hardship(s) as a result of a property's special condition(s). ZBA approval to rehear a request requires a motion to rehear, a second to that motion, and passage by a majority of members present.
- ❖ The determination that information previously not available is relevant to a request's hardship and special condition does not necessarily indicate the eventual approval of a request.
- ❖ If the ZBA approves a request to rehear, the applicant must pay a new fee within ten (10) days to be scheduled for a future meeting.

IX. APPEAL DECISION

- ❖ If an applicant wishes to appeal a ZBA decision, he/she must file a petition with a court of record within ten (10) days after the date the decision is filed in the Planning and Development Services Department.