



## City of La Porte Zoning Board of Adjustment Agenda

Notice is hereby given of a **Special Called Meeting** of the La Porte Zoning Board of Adjustment to be held on **Thursday, February 26, 2015, at 6:00 p.m.** at City Hall Council Chambers, 604 West Fairmont Parkway, La Porte, Texas, regarding the items of business according to the agenda listed below:

1. Call to order.
2. Roll call of members.
3. Consider approval of meeting minutes: January 22, 2015.
4. A public hearing will be held to consider Variance Request 15-93000001, a request by Gerry and Tammy Lehew, owner of the property located at 10813 Houston Drive, further described as Lots 347-352, Block 8, Battleground Estates Section 2. The applicant is seeking approval of a variance to allow construction of a 1,800 square foot accessory building contrary to the provisions of Section 106-741 of the Code of Ordinances.
  - a. Staff Presentation
  - b. Applicant Presentation
  - c. Public Comments
  - d. Question and Answer
5. A public hearing will be held to consider Variance Request 15-93000002, a request by DR Horton, owner of the property located at 89 Birdie Lane, further described as Lot 45, Block 2, Lakes at Fairmont Greens Section 1. The applicant is seeking approval of a variance to allow construction of a new single family residential house that encroaches 0.5 feet into the required 15-foot rear setback contrary to the provisions of Section 106-333 of the Code of Ordinances.
  - a. Staff Presentation
  - b. Applicant Presentation
  - c. Public Comments
  - d. Question and Answer
6. Administrative reports.
7. Board comments on matter appearing on the agenda or inquiry of staff regarding specific factual information or existing policy.
8. Adjourn.

A quorum of City Council members may be present and participate in discussions during this meeting. However, no action will be taken by the Council.

In compliance with the Americans with Disabilities Act, The City of La Porte will provide for reasonable accommodations for persons attending public meetings. To better serve attendees, requests should be received 24 hours prior to the meetings. Please contact Patrice Fogarty, City Secretary, at 281-470-5019.

**CERTIFICATION**

I certify that a copy of the Thursday, February 26, 2015 agenda of items to be considered by the Zoning Board of Adjustment was posted on the City Hall bulletin board on the \_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_

Title: \_\_\_\_\_

**Zoning Board of Adjustment  
Minutes of January 22, 2015**

**Board Members Present:** Rod Rothermel, Charles Schoppe, Chester Pool, T.J. Walker, and Nettie Warren (Alt 1)

**Board Members Absent:** Lawrence McNeal and Doug Martin (Alt 2)

**City Staff Present:** City Planner Eric Ensey, Assistant City Attorney Clark Askins, and Office Coordinator Peggy Lee

**1. Call to Order.**

Chairman Rod Rothermel called the meeting to order at 6:02 p.m.

**2. Roll call of members.**

Board Members Rod Rothermel, Charles Schoppe, Chester Pool, T.J. Walker, and Nettie Warren (Alt 1) were present.

**3. Consider approval of meeting minutes: December 11, 2014.**

With no objection presented, the December 11, 2014, minutes were approved as written.

**4. A public hearing will be held to consider Variance Request #14-93000012, a request by Ghandi Sailesh & Paresh, owner of the property located at 1251 S. 13<sup>th</sup> Street, further described as Reserve A, Home Porte. The applicant is seeking approval of a variance to allow construction of a new Home2Suites by Hilton hotel that encroaches 5 feet into the required 10-foot side (south) setback contrary to the provisions of Section 106-240 of the Code of Ordinances.**

Chairman Rothermel opened the public hearing at 6:03 p.m.

**A. Staff Presentation**

City Planner Eric Ensey presented staff's report on a variance request by Ghandi Sailesh & Paresh to allow construction of a Home2Suites by Hilton hotel that encroaches five feet into the required 10-foot side setback of the property located at 1251 S. 13<sup>th</sup> Street.

**B. Applicant Presentation**

Michael Gartner, 2200 Market St., Galveston, Texas, project architect, was sworn in by Chairman Rothermel. Mr. Gartner began by complimenting City Planner Eric Ensey on his great work. Mr. Gartner introduced Darren Ghandi, son of Sam Ghandi, owner of Candlewood Suites in La Porte. Candlewood Suites has been successful as the largest generator of revenue of all the hotels in La Porte. Mr. Ghandi has recently completed development of a Home2Suites in Katy, Texas. For the proper design of the hotel at this location, an additional five feet is needed along the side (south) setback.

**C. Public Comments**

There were no public comments.

**D. Question and Answer**

The applicant and staff responded to questions from the Board.

**Motion by Charles Schoppe to approve Variance Request #14-93000012, allowing construction of a Home2Suites by Hilton hotel that encroaches five feet into the required 10-foot side (south) setback of the property located at 1251 S. 13<sup>th</sup> Street.**

**Second by Chester Pool. Motion Carried.**

**Ayes: Rothermel, Schoppe, Pool, Walker, and Warren (Alt 1)**

**Nays: None**

Assistant City Attorney Clark Askins read from Section 106-196 of the Code of Ordinances: *Appeals from the Board of Adjustment.*

- 5. A public hearing will be held to consider Variance Request 14-93000013, a request by David Turner, owner of the property located at 11025 Houston Drive, further described as Lots 19 & 20, Block 2, Battleground Estates. The applicant is seeking approval of a variance to retain a 4-foot high 3-rail wood fence located in the front yard contrary to the provisions of Section 106-791 of the Code of Ordinances.**

**A. Staff Presentation**

City Planner Eric Ensey presented staff's report on a variance request by David Turner to retain a 4-foot high 3-rail wood fence located in the front yard at 11025 Houston Drive. The applicant leases 269 acres adjacent to the subject property.

**B. Applicant Presentation**

The applicant, David Turner, was sworn in by Chairman Rothermel. Mr. Turner explained he was unaware he needed permission to rebuild the old fence, which had been constructed with hog wire and was no longer usable.

**C. Public Comments**

There were no comments from the public.

**D. Question and Answer**

Staff responded to questions from the Board.

**Motion by Chester Pool to approve Variance Request #14-93000013 allowing the applicant to retain a 4-foot high 3-rail wood fence located in the front yard at 11025 Houston Drive.**

**Second by Charles Schoppe. Motion Carried.**

**Ayes: Rothermel, Schoppe, Pool, Walker, and Warren (Alt 1)**  
**Nays: None**

Assistant City Attorney Clark Askins read from Section 106-196 of the Code of Ordinances: *Appeals from the Board of Adjustment.*

**6. Administrative Reports**

There were no Administrative Reports.

**7. Board comments on matters appearing on agenda or inquiry of staff regarding specific factual information or existing policy.**

There were no comments from the Board.

**8. Adjourn**

**Motion by Charles Schoppe to adjourn.**

**Second by Nettie Warren. Chairman Rothermel adjourned the meeting at 6:33 p.m.**

Respectfully submitted,

\_\_\_\_\_  
Peggy Lee  
Secretary, Zoning Board of Adjustment

Passed and Approved on \_\_\_\_\_, 2015.

\_\_\_\_\_  
Rod Rothermel  
Chairman, Zoning Board of Adjustment

**City of La Porte, Texas  
Zoning Board of Adjustment**



**February 26, 2015**

## **AGENDA ITEM 4**

Consider approval of a Variance request to allow construction of a 1,800 square foot accessory building that exceeds the area allowed for accessory structures for the property located at 10813 Houston Drive (Applicant: Gerry and Tammy Lehew).

*Eric J. Ensey, City Planner  
Planning and Development Department  
City of La Porte, Texas*

## Planning and Development Department Staff Report

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### ISSUE

Should the Board of Adjustment approve the requested variance by Gerry and Tammy Lehew, owner of the property at 10813 Houston Drive, to allow construction of a 1,800 square foot accessory building when the code allows a maximum area of 1,000 square feet for accessory buildings?

### DISCUSSION

Applicant:

Gerry and Tammy Lehew.

Applicant's Request:

The attached Exhibit A is a copy of the application and site plan for the proposed improvements. The applicant is seeking approval of variance request #15-93000001. The applicant is proposing construction of a 30' x 50' metal accessory building to be used as a personal indoor training facility for their daughter.

Subject Site:

The requested variance is for the property located at 10813 Houston Drive, further described as Lots 347-352, Block 8, Battleground Estates Section 2. The attached Exhibit B is an area map that shows the existing conditions of the site as well as the surrounding area.

Notice of Public Hearing:

Section 106-194 of the Zoning Ordinance stipulates the various requirements for public notice of the public hearing. This variance included all of the necessary code requirements for a public hearing including the following:

- Notice of public hearing was posted in the newspaper of general circulation ten days prior to the date of the hearing.
- Mailed notices were sent to all owners of property lying within 200 feet of the site ten days prior to the date of the hearing.
- A sign was posted on the site ten days prior to the hearing date.

Additionally, state law requires notice of the public hearing posted at City Hall and on the City's website at least ten days prior to the date of the public hearing.

Background Information:

The subject site is approximately 39,030 square feet in area and is located on Houston Drive; which is north on Robinson from N. P Street in the Battleground Estates Subdivision.

The site is currently zoned R-1 and contains a single family residential house. The following table summarizes the surrounding zoning and land uses:

	Zoning	Land Use
<b>North</b>	LI, Light Industrial	Vacant land owned by the railroad
<b>South</b>	R-1, Low Density Residential	Existing single family residential (10810 Monument Road, across right-of-way)
<b>West</b>	R-1, Low Density Residential	Existing single family residential (817, 811, 823, 825 Mossey Dr.)
<b>East</b>	R-1, Low Density Residential	Existing single family residential (10807 Houston Drive; across unimproved right-of-way)

Applicable Code Provisions:

Section 106-741 outlines the general provisions for accessory structures. Subsection (e.1) states that no accessory building can exceed 1,000 square feet of floor area. The following is an excerpt of Section 106-741, with the applicable section impacting this variance highlighted in yellow.

**Sec. 106-741. General provisions.**

- (a) No accessory buildings, uses or structures shall be erected or located in any required yard other than the rear yard except:
  - (1) A detached private garage as defined, may be permitted in side yards, provided:
    - a. It complies with all the requirements of this section;
    - b. It shall be five feet or more from side lot lines; and
    - c. The side yard does not abut a street right-of-way.
  - (2) Accessory buildings built on a skid foundation, no larger than 120 square feet and no more than one story in height may be located in utility easements in required rear yards, except that they may not be located closer than three feet from a side or rear property line or closer than six feet from any other structure.
- (b) Accessory buildings, uses and structures shall not exceed 15 feet in height, shall be three feet or more from all lot lines, shall be six feet or more from any other building or structure on the same lot, and shall not be located upon any utility easement.
- (c) Private garage structures with vehicular access doors facing public alleys, as defined in the public improvement construction policy and standards, shall be 20 feet or more from the alley right-of-way. Detached garages located in rear yards of corner lots shall be set back a minimum ten feet from the property line abutting the side street right-of-way.
- (d) Detached private garages, as defined, may be 20 feet in height, or the height of the principal structure, whichever is less.
- (e) Floor area.

- (1) *Generally.* No accessory building, or carport garage for single-family dwellings shall occupy more than 25 percent of a rear yard, nor exceed 1,000 square feet of floor area.
- (2) *Large lot residential only.* Accessory buildings in single-family residential large lots may not exceed 5,000 square feet of floor area. Accessory buildings with a floor area in excess of 1,000 square feet must be located at least 30 feet from any property line and 30 feet behind the rear of the primary structure.
- (f) No permit shall be issued for the construction of more than one detached private garage or carport structure for each dwelling.
- (g) Wind generators, for producing electricity or other forms of energy shall not be located in any yards other than the rear yard and must be set back 150 feet from all property lines or the height of the structure, whichever is greater.
- (h) Reserved.
- (i) No accessory uses or equipment except for air conditioning structures or condensers may be located in a required side yard except for side yards abutting streets where equipment is fully screened from view.
- (j) Large lot district. The property owner of a toolhouse, barn, shed, storage building and/or livestock in the large lot district on a tract one acre in size or larger authorized without a principal structure on the property, shall be responsible for ensuring no one lives in the toolhouse, barn, shed, or storage building without properly permitting the structure for residential habitation, the property is kept in a sanitary condition and the property complies with all applicable city regulations.

Analysis:

In this case, the proposed accessory building will exceed the maximum allowed square footage by 800 square feet. The minimum lot area for a property within the R-1, Low Density Residential, District is 6,000 square feet. The applicants' property is 39,030 square feet in area, which is significantly larger than the minimum required in the R-1 District and nearly an acre. However the code does not differentiate for lot size until the lot size exceeds 43, 560 square feet in area; where 5,000 square feet in area is permitted for accessory buildings.

The plat for this site requires a 25-foot building line along the unimproved Lucky Lane right-of-way. Should this variance request be approved by the Board, based on the location proposed by the applicant, a replat application would need to be submitted to the city modifying the platted building line. However, the applicant could also agree to relocate the building to comply with the platted building line and not need a replat application.

Section 106-192 of the Zoning Ordinance states that the term "variance" represents a deviation from the literal interpretation of the code approved by the Board subject to the fact that enforcement of the provisions of the code would cause an unnecessary hardship because of circumstances unique to the subject property. The Board is authorized to grant a variance when the Board finds that a number of criteria are met. The following table outlines those criteria and staff's analysis of those criteria.

Board of Adjustment Regular Meeting  
February 26, 2015  
Lehew Variance

Criterion:	Staff Finding:
a. That the granting of the variance will not be contrary to the public interest.	<i>The proposed variance would allow a reasonable improvement for construction of an accessory building, as the applicant's lot is larger than the standard lot in an R-1 District. The proposed location of the accessory building will be in the rear yard 8 feet from the east property line, which is adjacent to an unimproved right-of-way. Notice was sent to all property owners within a 200-foot radius from the subject site in accordance with code requirements. At the time this staff report was drafted, no responses for or against the variance were received by staff.</i>
b. That literal enforcement of this chapter will result in unnecessary hardship because of exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional physical situation unique to the specific piece of property in question. "Unnecessary hardship" shall mean physical hardship relating to the property itself as distinguished from a hardship relating to convenience, financial considerations or caprice, and the hardship must not result from the applicant or property owner's own actions.	<i>Staff is unable to identify an unnecessary hardship that would warrant the granting of the variance in this instance. Approval of this variance would allow construction of a larger accessory building than what the code permits for a property under an acre in area. However the size of the applicants' property is approximately 5-times the size of a standard lot in an R-1 District. As a result, there will still be significant open space in the yard not covered by the building footprint.</i>
c. That by granting the variance, the spirit of this chapter will be observed.	<i>The variance could be in the spirit of the chapter as the subject property is significantly larger than a standard single family residential lot.</i>

Appeal Procedure:

**Sec. 106-196. - Appeals from the board of adjustment.**

Any person or persons, jointly or severally, aggrieved by any decision of the board of adjustment, or any taxpayer, or any officer, department, board, or bureau of the city may present to a court of record a petition for a writ of certiorari, as provided by V.T.C.A., Local Government Code § 211.011, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within ten days after the filing of the decision in the office of the board of adjustment.

**ATTACHMENTS**

- Exhibit A: Application and site plan for the proposed improvements
- Exhibit B: Area map

City of La Porte  
604 W. Fairmont Pkwy.  
La Porte, TX 77571

Planning & Development Department  
**VARIANCE APPLICATION**

Phone: 281.470.5058  
Fax: 281.470.5005  
www.laportetx.gov

**3. PROPERTY DESCRIPTION** (for which Variance is requested):

HCAD PARCEL NO(s) 13-digit Tax ID(s): 0800240000347  
PROPERTY ADDRESS (if existing): 10813 HOUSTON DR.  
PROPERTY LEGAL DESCRIPTION: LTS 347 THRU 352 BLK 8 BATTLEGROUND ESTATES SEC 2

**1. PROPERTY OWNER INFORMATION:**

OWNER NAME: GERRY + TAMMY LEHEW PHONE: 281-471-0422  
FAX #: \_\_\_\_\_ E-MAIL: \_\_\_\_\_  
MAILING ADDRESS: 10813 HOUSTON DR. LA PORTE TX 77571

**2. \*AGENT REPRESENTING PROPERTY OWNER** (if Applicable):

AGENT / CONTRACTOR: SAME AS #2 PHONE: \_\_\_\_\_  
E-MAIL: \_\_\_\_\_ FAX: \_\_\_\_\_  
MAILING ADDRESS: \_\_\_\_\_

**4. BASIS FOR VARIANCE REQUEST:**

A "Variance" constitutes a deviation from the literal provisions of the Zoning Ordinance and is granted by the board when strict conformity to the Zoning Ordinance would cause an unnecessary hardship because of the circumstances unique to the property on which the variance is granted.

Check applicable box for Variance request based on exceptional:

- Narrowness
- Shallowness
- Shape
- Topography
- Other extraordinary or exceptional physical situation unique to property: LESS THAN LARGE LOT RESTRICTIONS AND BUILD LINE RESTRICTIONS

**5. APPLICATION CHECKLIST & SUPPORTING DOCUMENTATION** (check boxes indicating items submitted with your application):

- COMPLETE ITEMS 1-5 OF APPLICATION
- SUBMIT \$150 APPLICATION FEE (Non-Refundable)
- ATTACH SEPARATE SHEET WITH INFORMATION HELPFUL IN CONSIDERING YOUR REQUEST: (Specify the facts involved, relief desired, and the grounds for the request.)
- WRITTEN AUTHORIZATION FROM PROPERTY OWNER AUTHORIZING AGENT TO ACT ON HIS/HER BEHALF (if applicable)

NOTE: It is the responsibility of the applicant to prove that his/her request meets conditions established for a Variance from the ZBOA.

NAME: GERRY LEHEW (Print) SIGNATURE: [Signature] (Sign) SUBMITTED: 2/2/2015 (Date)

**(STAFF USE ONLY):**

DATE APPLICATION REC'D.: \_\_\_\_\_ BY: \_\_\_\_\_ REC'D BY: [Signature]

- \$150 APPLICATION FEE
- SUPPORTING DOCUMENTATION
- OWNER AUTHORIZATION

ZBOA MEETING DATE: \_\_\_\_\_ VARIANCE GRANTED?  YES  NO

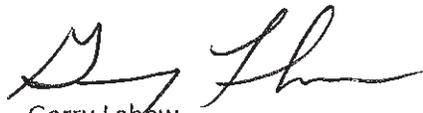
APPLICATION NO: 15-93000001

Gerry Lehew  
Tammy Lehew  
10813 Houston Dr.  
La Porte, Tx. 77571  
(281) 471-0422

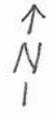
**Property Description:** 10813 Houston Dr., Lots 347, 348, 349, 350, 351, 352 in Block 8, BATTLEGROUND ESTATES, SECTION 2.

Committee Members,

This "Variance" request is for the purpose of being able to build a personal "indoor" training facility (30' X 60" Metal Building) for our daughter. Our daughter is a pitcher and plays competitive softball out of La Porte. She has aspirations of pitching in college and even the Olympics if the sport is reinstated as expected. For such reasons, she must practice every day. When the weather does not permit this outdoor activity, we currently must pay rental for facilities in order to practice. As you may guess this can and often does become quite expensive. While our property located at 10813 Houston Dr. does not fit the description of a "Large" lot, it does have plenty of room to build the desired size building needed. Our property measures 39,030 square feet. 40% maximum lot coverage is 15,612 square feet. Current lot coverage is 4,933 square feet. Leaving a balance of 10,879 square feet of usable space. However based on current restrictions we cannot build the size building needed. The 30' X 60' metal building that we are requesting to build (See proposed plot plan) is necessary for the type of usage we need. In order to build indoor 55'X14'X12' pitching and hitting tunnels, we need a minimum of a 30' X 60' building. With a coverage area of 1,800 square feet, this would still leave 9,079 square feet of the unused 40% maximum lot coverage. Thanks in advance for your consideration concerning this requested variance.

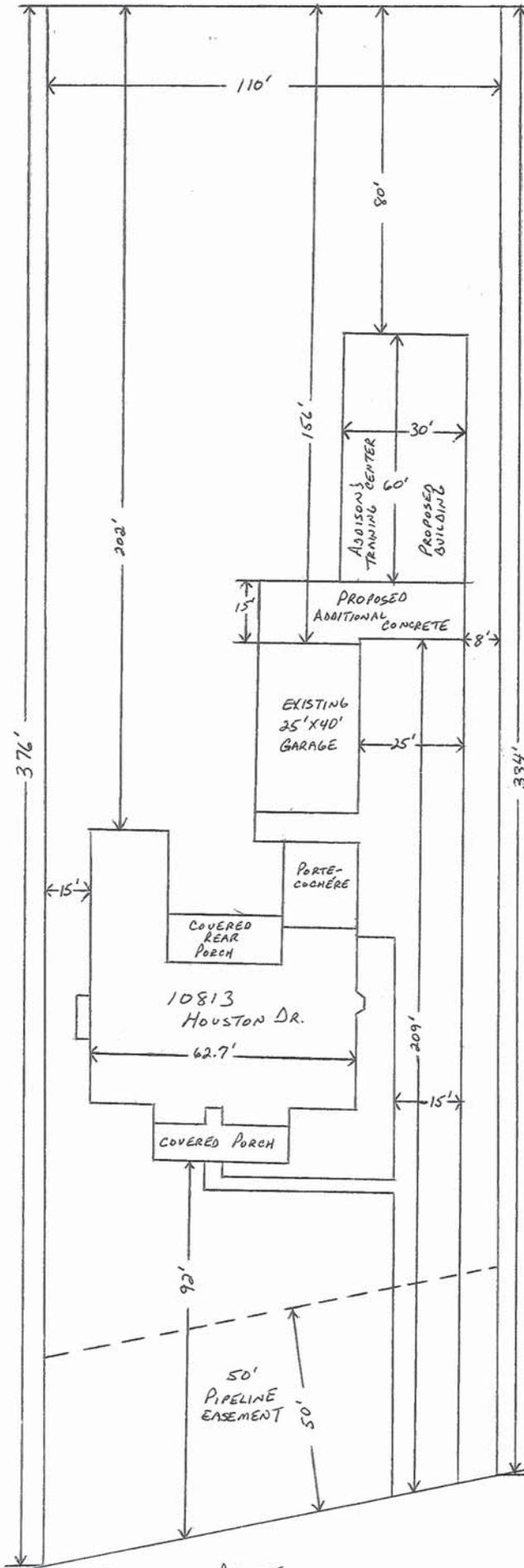


Gerry Lehew



SCALE: 1" = APPROX 25'

PROPOSED PLOT PLAN  
1/31/15



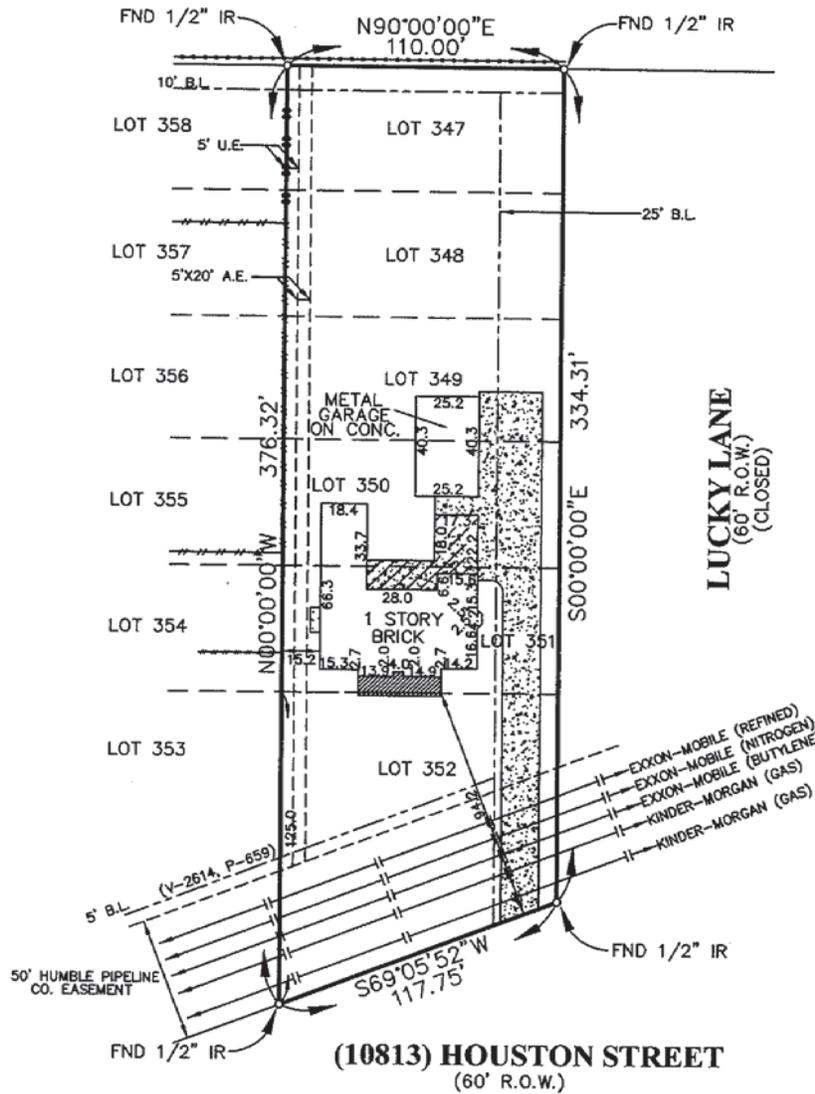
DRAWN BY:  
G. LEHEW

HOUSTON DRIVE

FENCE LEGEND	
	6" WOOD
	4" CHAIN LINK
	WIRE FENCE

UNION PACIFIC R.R.

SCALE  
1"=60'



Note: Restrictive covenants as recorded in V-42, P-23 HCMR; V-2614, P-659 and V-6108, P-607 HCDR.  
 Note: This survey was completed without benefit of a current title report per owners request

BUYER: Gerry D. Lehew and Tammy L. Lehew 10813 Houston Street

DESCRIBED PROPERTY:  
 Lot 347, 348, 349, 350, 351, 352 in Block 8, of BATTLEGROUND ESTATES, SECTION 2, a subdivision in Harris County, Texas, according to the map or plat thereof recorded in Volume 42, Page 23 of the Map Records of Harris County, Texas.



P.O. Box 669 • Alvin, Texas 77512-0669  
 (281) 388-1159 • Fax: (281) 388-0317

G.F. 00000  
 Date: 03/30/04-REV-04/07/04  
 Job: 23648



Registered Professional Land Surveyor  
 Texas Registration No. 4901

I, Steven H. Stafford, Registered Professional Land Surveyor, State of Texas, do hereby certify that the above Plat represents an actual survey made on the ground on this day under my supervision, and there are no discrepancies, conflicts, shortages in area or boundary lines, or any encroachments, or overlapping of improvements, to the best of my knowledge and belief, except as shown herein.

Note: There are no natural drainage courses on this property. Note: This property does not lie in a flood hazard zone according to H.U.D./F.I.A.

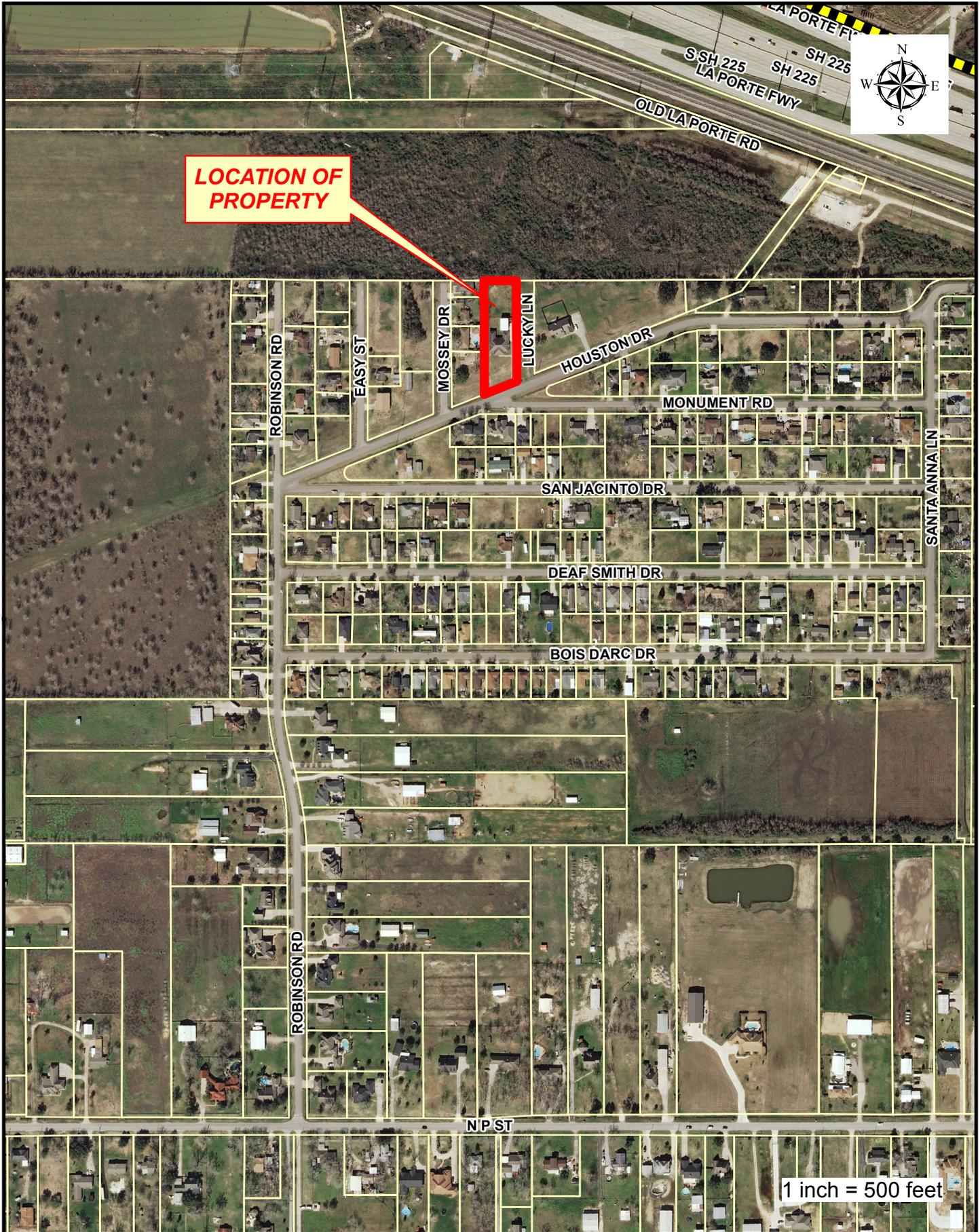
485487 0930 J 11/6/96 Zone "X"



# AREA MAP

# EXHIBIT B

(15-9300001 - VARIANCE TO SQUARE FOOTAGE FOR ACCESSORY BUILDING)



**City of La Porte, Texas  
Zoning Board of Adjustment**



**February 26, 2015**

## **AGENDA ITEM 5**

Consider approval of a Variance request to allow a new single family residence that encroaches 0.5 feet into the required 15-foot rear setback for the property located at 89 Birdie Circle (Applicant: DR Horton).

*Eric J. Ensey, City Planner  
Planning and Development Department  
City of La Porte, Texas*

## Planning and Development Department Staff Report

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### ISSUE

Should the Board of Adjustment approve the requested variance by DR Horton to allow construction of a single family residence that encroaches 0.5 feet into the required 15-foot rear setback?

### DISCUSSION

Applicant:

DR Horton; home builder.

Applicant's Request:

The attached Exhibit A is a copy of the application and site plan for the proposed new single family house. The applicant is seeking approval of variance request #15-93000002, a requested variance to allow construction of a new house, of which a small portion of a covered patio encroaches 0.5 feet from the rear (south) property line.

Subject Site:

The requested variance is for the property located at 89 Birdie Circle in Lakes at Fairmont Greens Subdivision. The legal description for the site is described as Lot 45, Block 2 of Lakes at Fairmont Greens Section 1. The attached Exhibit B is an area map that shows the location of the site. Because of the age of the aerial photography utilized in the area map, the entire subdivision is shown as undeveloped. However, much of Lakes at Fairmont Greens subdivision has been built out.

Notice of Public Hearing:

Section 106-194 of the Zoning Ordinance stipulates the various requirements for public notice of the public hearing. This variance included all of the necessary code requirements for a public hearing including the following:

- Notice of public hearing was posted in the newspaper of general circulation ten days prior to the date of the hearing.
- Mailed notices were sent to all owners of property lying within 200 feet of the site ten days prior to the date of the hearing.
- A sign was posted on the site ten days prior to the hearing date.

Additionally, state law requires notice of the public hearing posted at City Hall and on the City's website at least ten days prior to the date of the public hearing.

Board of Adjustment Regular Meeting  
February 26, 2015  
DR Horton Variance

**Background Information:**

The subject site is 6,970 square feet in area and is located in the Lakes at Fairmont Green Subdivision at the southeast corner of Highway 146 and Wharton Weems. The site is currently zoned R-1 and is vacant. The following table summarizes the surrounding zoning and land uses:

	Zoning	Land Use
<b>North</b>	PUD, Planned Unit Development	Existing single family residential (Lakes at Fairmont Greens)
<b>South</b>	PUD, Planned Unit Development	Taylor Bayou
<b>West</b>	PUD, Planned Unit Development	Vacant single family residential (Lakes at Fairmont Greens)
<b>East</b>	PUD, Planned Unit Development	Existing single family residential (Lakes at Fairmont Greens)

**Applicable Code Provisions:**

Setbacks for the Lakes at Fairmont Greens Subdivision as established through the approved Special Conditional Use Permit are based on those for single family detached as established in Section 106-333. The following is an excerpt from that section as applicable to this variance request (see highlighted):

**Sec. 106-333. Table B, residential area requirements.**

Uses <sup>8</sup>	Minimum Lot Area/D.U. S.F.	Minimum Lot Width L.F.	Minimum Yard Setbacks L.F. F.R.S. 2, 3, 4, 5, 6, 10, 11, 12, 13, 14, 15	Maximum Height <sup>16</sup>	Minimum Site Area/Unit S.F. <sup>17</sup>	Minimum Development Open Space/ Unit S.F. <sup>18</sup>	Maximum Lot Coverage/ Minimum Landscaping Required <sup>9, 19</sup>
Single-family detached	6000	50	25-15-5	35 Ft.	9100 4.8 DU/A	—	40%/N/A

**Analysis:**

The subject property is triangular in shape, which leads to an irregular lot configuration. As a result, the building envelope can limit the amount of space with which a house could be constructed. The applicant is proposing construction of a 2,669 square foot house on the lot. The applicant is proposing to situate the house on the lot in a manner to minimize the amount of encroachment into the required setbacks. As a result, only a small portion of the corner of covered patio encroaches into the required setback. The rear property line is adjacent to Taylor Bayou, so the encroachment would not impact adjacent properties.

Section 106-192 of the Zoning Ordinance states that the term “variance” represents a deviation from the literal interpretation of the code approved by the Board subject to the fact that enforcement of the provisions of the code would cause an unnecessary hardship because of

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February 26, 2015  
DR Horton Variance

circumstances unique to the subject property. The Board is authorized to grant a variance when the Board finds that a number of criteria are met. The following table outlines those criteria and staff’s analysis of those criteria.

Criterion:	Staff Finding:
a. That the granting of the variance will not be contrary to the public interest.	<i>The proposed variance is a reasonable improvement for construction of a new single family residence on a vacant lot in the Lakes at Fairmont Greens Subdivision. Notice was sent to all property owners within a 200-foot radius from the subject site in accordance with code requirements. At the time this staff report was drafted, no responses for or against the variance were received by staff.</i>
b. That literal enforcement of this chapter will result in unnecessary hardship because of exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional physical situation unique to the specific piece of property in question. "Unnecessary hardship" shall mean physical hardship relating to the property itself as distinguished from a hardship relating to convenience, financial considerations or caprice, and the hardship must not result from the applicant or property owner's own actions.	<i>The exceptional physical situation that is unique in this case is the irregular shape of the lot. This triangular shape makes it more difficult to locate a house on the lot, as the building envelope is constrained by the shape of the lot. As a result, this irregular shape of the lot represents an unnecessary hardship.</i>
c. That by granting the variance, the spirit of this chapter will be observed.	<i>In this case, the authorization of the variance would be in the spirit of the chapter as the proposed house has been located on the site in a manner that is intended to minimize its impact on adjacent properties</i>

Appeal Procedure:

**Sec. 106-196. - Appeals from the board of adjustment.**

Any person or persons, jointly or severally, aggrieved by any decision of the board of adjustment, or any taxpayer, or any officer, department, board, or bureau of the city may present to a court of record a petition for a writ of certiorari, as provided by V.T.C.A., Local Government Code § 211.011, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within ten days after the filing of the decision in the office of the board of adjustment.

**ATTACHMENTS**

- Exhibit A: Application and site plan for the proposed improvements
- Exhibit B: Area map

City of La Porte  
604 W. Fairmont Pkwy.  
La Porte, TX 77571

Planning & Development Department  
**VARIANCE APPLICATION**

Phone: 281.470.5058  
Fax: 281.470.5005  
www.laportetx.gov

**3. PROPERTY DESCRIPTION** (for which Variance is requested):

HCAD PARCEL NO(s) 13-digit Tax ID(s): 1305780020045  
PROPERTY ADDRESS (If existing): 89 Birdie Ln.  
PROPERTY LEGAL DESCRIPTION: Lot 48 BIK 2 Sec 1

**1. PROPERTY OWNER INFORMATION:**

OWNER NAME: Dr. Horton PHONE: 281-615-1445  
FAX #: 18666440505 E-MAIL: Levans@drhorton.com  
MAILING ADDRESS: 14100 Southwest Freeway Sugar Land TX

**2. \*AGENT REPRESENTING PROPERTY OWNER** (If Applicable):

AGENT / CONTRACTOR: Same PHONE: Suite 500 774-78  
E-MAIL: \_\_\_\_\_ FAX: \_\_\_\_\_  
MAILING ADDRESS: \_\_\_\_\_

**4. BASIS FOR VARIANCE REQUEST:**

A "Variance" constitutes a deviation from the literal provisions of the Zoning Ordinance and is granted by the board when strict conformity to the Zoning Ordinance would cause an unnecessary hardship because of the circumstances unique to the property on which the variance is granted.

Check applicable box for Variance request based on exceptional:

- Narrowness
- Shallowness
- Shape
- Topography
- Other extraordinary or exceptional physical situation unique to property: \_\_\_\_\_

**5. APPLICATION CHECKLIST & SUPPORTING DOCUMENTATION** (check boxes indicating items submitted with your application):

- COMPLETE ITEMS 1-5 OF APPLICATION
- SUBMIT \$150 APPLICATION FEE (Non-Refundable)
- ATTACH SEPARATE SHEET WITH INFORMATION HELPFUL IN CONSIDERING YOUR REQUEST:  
(Specify the facts involved, relief desired, and the grounds for the request.)
- WRITTEN AUTHORIZATION FROM PROPERTY OWNER AUTHORIZING AGENT TO ACT ON HIS/HER BEHALF (If applicable)

NOTE: It is the responsibility of the applicant to prove that his/her request meets conditions established for a Variance from the ZBOA.

NAME: LORI EVANS (Print) SIGNATURE: Lori Evans (Sign) SUBMITTED: 2/2/15 (Date)

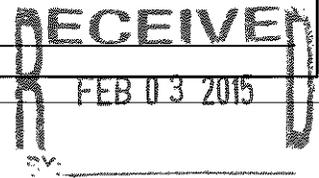
**(STAFF USE ONLY):**

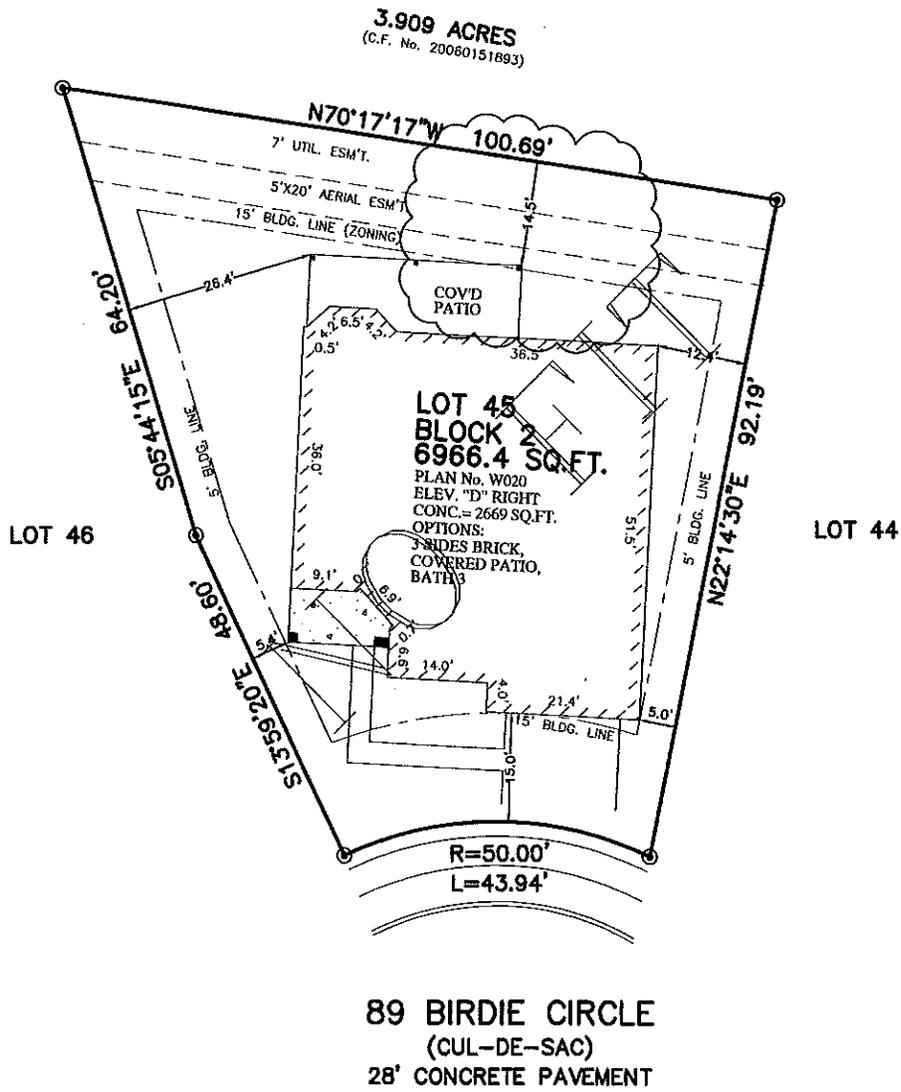
DATE APPLICATION REC'D.: \_\_\_\_\_ REC'D BY: \_\_\_\_\_

- \$150 APPLICATION FEE
- SUPPORTING DOCUMENTATION
- OWNER AUTHORIZATION

ZBOA MEETING DATE: \_\_\_\_\_ VARIANCE GRANTED?  YES  NO

APPLICATION NO: \_\_\_\_\_





NOTES:  
1. ALL BEARINGS SHOWN HEREON ARE BASED ON THE RECORDED PLAT.  
2. THIS LOT FIT WAS PREPARED WITHOUT BENEFIT OF A TITLE REPORT. THERE MAY BE EASEMENTS, BUILDING LINES & OTHER MATTERS OF RECORD NOT SHOWN HEREON. SURVEYOR OR ALLPOINTS SERVICES CORP. IS NOT LIABLE FOR ANY DAMAGES THAT MAY INCUR IN ANY EVENT THE BUILDER BUILDS ANY IMPROVEMENTS CLOSER THAN 5.0' OR WITHIN AN EASEMENT.

LOT FIT  
SCALE: 1 = 20'

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FOR: DRHORTON  
ADDRESS:  
89 BIRDIE CIRCLE  
ALLPOINTS JOB #: DR49582 GID  
G.F.: GM  
SS  
ARM  
JG  
SS  
SS

**ALLPOINTS SERVICES CORP.**  
PHONE: 713-468-7707  
FAX: 713-827-1861

LOT 45, BLOCK 2,  
LAKES AT FAIRMONT GREENS, SECTION 1,  
FILM CODE No. 620028, MAP RECORDS,  
HARRIS COUNTY, TEXAS

ISSUE DATE: 1/2/2015  
ISSUE DATE: 12/29/2014  
ISSUE DATE: 9/23/2014  
ISSUE DATE: 7/30/2014  
ISSUE DATE: 3/11/2014  
ISSUE DATE: 2/14/2013  
ISSUE DATE: 10/10/2012  
ISSUE DATE: 9/12/2012

ISSUE DATE: 1/21/2015

**D·R·HORTON**  
*America's Builder*

RECEIVED  
FEB 03 2015

# AREA MAP

EXHIBIT B

(15-9300002 - VARIANCE FOR REAR SETBACK ENCROACHMENT)

