



City of La Porte Zoning Board of Adjustment Meeting Agenda

Notice is hereby given of a **Regular Meeting** of the La Porte Zoning Board of Adjustment to be held on **May 23, 2013**, 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. Consider approval of March 28, 2013, meeting minutes.
3. A Public Hearing will be held to consider Variance Request #13-93000001 for the property located at 307 South Iowa Street, further described as Lots 10, 11, south ½ of Lot 9, and north ½ of Lot 12, Block 216, Town of La Porte, Johnson Hunter Survey, Abstract No. 35, La Porte, Harris County, Texas. The applicant seeks a variance to allow construction of a carport encroaching two feet (2') into the required side yard setback. This request is being sought under the terms of Section 106-192 (b) (2) of the City's Code of Ordinances.
 - A. Staff Presentation
 - B. Proponents
 - C. Opponents
 - D. Proponents Rebuttal
4. Administrative Reports
5. Board Comments on matters appearing on agenda or inquiry of staff regarding specific factual information or existing policy
6. Adjourn

A quorum of City Council members may be present and participate in discussions during this meeting; however, no action will be taken by 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 May 23, 2013, agenda of item to be considered by the Zoning Board of Adjustment was posted on the City Hall bulletin board on the ____ day of _____ 2013.

_____ Title: _____

Out of consideration for all attendees of the meeting, please turn off all cell phones and pagers, or place on inaudible signal. Thank you for your consideration.

**Zoning Board of Adjustment
Minutes of March 28, 2013**

Board Members Present: George Maltsberger, Chester Pool, Charles Schoppe, Rod Rothermel, and Sherman Moore (Alt 2)

Board Members Absent: T.J. Walker, Lawrence McNeal (Alt 1)

City Staff Present: Planning Director Tim Tietjens, City Planner Masood Malik, Deputy Building Official Mark Huber, Assistant City Attorney Clark Askins, and Office Coordinator Peggy Lee

1. Call to Order.

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

2. Consider approval of the January 10, 2013, meeting minutes.

Motion by Rod Rothermel to approve the January 10, 2013, meeting minutes. Second by Charles Schoppe. Motion carried.

Ayes: George Maltsberger, Chester Pool, Charles Schoppe, Rod Rothermel, and Sherman Moore (Alt 2)

Nays: None

3. Consider Appeal of the Enforcement Officer's Decision #13-95000001 for the property located at 500 West Main, further described as Lots 21-23, Block 56, Town of La Porte, Johnson Hunter Survey, Abstract No. 35, La Porte, Harris County, Texas. The applicant appeals the enforcement officer's decision to deny a permit for Obsolescence of Structure, the repair costs of which exceed 50% of replacement cost of the structure. This appeal is being sought under the terms of Section 106-89 (3) of the City's Code of Ordinances.

A. Staff Presentation

City Planner Masood Malik presented the staff report for Appeal of the Enforcement Officer's Decision #13-95000001. The applicant, Gilbert Diaz, is appealing the enforcement officer's decision to deny a permit for remodeling the primary structure located at 500 West Main. The City has determined that the primary structure is substandard and the cost of bringing it into lawful compliance will exceed 50% of the replacement cost of such structure. Mr. Malik showed photos of the interior and exterior of the building, which were taken several years ago. A City Council public hearing for possible action to declare the subject structure a dangerous building has been continued to a later date to allow the Zoning Board of Adjustment an opportunity to rule on the Appeal request.

The Board questioned the use of appraisal value when dealing with replacement cost.

B. Proponents

J.B. Williamson, attorney for the applicant, was sworn in by Chairman Maltzberger. Mr. Williamson stated the City does not have the authority to declare a building obsolete by using HCAD value; rather replacement value should be used. Bill Manning, with Manning Engineering, was hired by Mr. Diaz to perform an evaluation of the building. Mr. Manning has prepared an estimate of repair to bring the building up to code and the cost to repair the building is determined to be less than 50% of the replacement cost.

Mr. Williamson deferred questions from the Board relating to replacement cost to Bill Manning of Manning Engineering.

William T. Manning, Jr., Manning Engineering, 108 S. 2nd St., was sworn in by Chairman Maltzberger. The Board discussed with Mr. Manning, the plans for renovation and associated costs. Mr. Manning stated the replacement value would be close to \$90-\$100 SF. The building could be renovated for around \$50,000. The front part of the building only can be renovated and brought up to code for \$20,000-\$25,000.

C. Opponents

There were no opponents.

D. Proponents Rebuttal

There were no rebuttals.

Motion by Sherman Moore to overturn the Enforcement Officer's decision to deny a permit for Obsolescence of Structure located at 500 West Main, with the agreement that the building, when completed, will comply with current code requirements, and the encroaching outbuilding (accessory structure) will be demolished. Second by Rod Rothermel. Motion carried.

Ayes: George Maltzberger, Chester Pool, Charles Schoppe, Rod Rothermel, and Sherman Moore (Alt 2)

Nays: None

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

4. Administrative Reports

There were no administrative reports.

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

There were no Board comments.

6. Adjourn

Chairman Maltsberger adjourned the meeting at 7:03 p.m.

Respectfully submitted,

Peggy Lee
Secretary, Zoning Board of Adjustment

Passed and Approved on _____, 2013.

George Maltsberger
Chairman, Zoning Board of Adjustment

**VARIANCE REQUEST
13-93000001**

FOR

307 SOUTH IOWA STREET

EXHIBITS:

STAFF REPORT

APPLICATION FOR VARIANCE

EXHIBIT A – AREA MAP

EXHIBIT B – SURVEY MAP

EXHIBIT C – SITE PLAN

EXHIBIT D - SECTION 106-771(4), CODE OF ORDINANCES

EXHIBIT E – PUBLIC NOTICE RESPONSE

Variance Request #13-93000001

- Requested by:** James F. Beck (Property Owner)
- Requested for:** Reduction of side building line from 5' to 3' for the construction of a carport.
- Legal Description:** Lots 10 & 11, and south ½ of lot 9 & north ½ of lot 12, Block 216, Town of La Porte, Johnson Hunter Survey, Abstract No. 35, La Porte, Harris County, Texas.
- Location:** 307 S. Iowa Street
- Zoning:** Low Density Residential (R-1)
- Background:** Per the Harris County Appraisal District (HCAD) record, this single-family dwelling was built in 1942 with land area of 9,375 S. F. The primary residence with one story wood frame equals 944 S. F. A one story wood garage in the back was built with the house. Applicant intends to build a 15.5'x41' (636 s.f.) carport to the west side of the primary residence along with a 20'x55' concrete driveway.
- Per Section 106-771(4) of the City's Code of Ordinances, the front and side yard carports are permitted for single-family detached houses subject to the following requirements:
- a. Carports in a required front or side yard shall not be located closer than **five feet** from any front or **side property line**.
 - b. Carports located on corner lots shall not be located closer than twenty-five feet an intersection.
 - c. The maximum width of a carport located in a required front or side yard shall be twenty-five feet.
- Per this request, a carport be constructed three feet off the side property line in violation of the above referenced section of the ordinance. The applicant requests to allow the carport to be built 3' off the west side property line in lieu of 5' as permitted by the ordinance.
- Analysis:** Section 106-192(b)(1), in the Code of Ordinances, defines a *variance as a deviation from the literal provisions of the chapter, which is granted by the Board when strict conformity to the chapter would cause an unnecessary hardship because of the circumstances unique to the property on which the variance is granted.*
- Section 106-1 defines carport as "...a roofed structure, freestanding or attached to another structure designed to provide covered parking for vehicles, with no enclosing walls, and must be located directly over a driveway."

Except as otherwise prohibited, the board is empowered to authorize a variance from a requirement when the board finds that **all of the following conditions have been met.**

- ❖ That the granting of the variance will not be contrary to the best public interest.
- ❖ That literal enforcement of the 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; and
- ❖ That by granting the variance, the spirit of the chapter will be observed.

In determining if granting the applicant’s request would be contrary to the public interest, Staff recognizes that the development of the carport may create a visual obstruction issue with the adjoining properties.

In viewing the specific grounds for granting a variance, Staff points out that the condition, as it exists, was the “...result of the applicant or property owner’s own actions...” contrary to the provisions of Section 106-192. We also find no grounds to justify “...unnecessary hardship because of exceptional narrowness, shallowness, shape topography, or other **extraordinary** or exceptional physical situation **unique** to the property in question.” This lot represents a typical example of property within subdivisions throughout the City.

The average dimension for the width of a car or pickup truck is approximately 6’. A 10’to12’ wide driveway is common in the area and easily accommodates parking for a car or pickup truck. If the applicant maintains the required side yard setback of 5 feet, the proposed carport will be 13.5’ wide and will adequately accommodate the vehicle’s width.

Based on the facts noted in this report, the applicant’s request to encroach 2’ into the required side yard setback would appear to be contrary with the spirit of the ordinance, by allowing carport within 3’ setback from the side property line is not justified.

Conclusion:

Variance Request #13-9300001 is to allow for 3’ side setback in lieu of 5’ side building line of a standard lot is contrary to the provisions established by Section 106-771(4) of the Code of Ordinances. In addition, the parameters for the requested variance do not appear to meet the provisions established by Section 106-192 (variances).

While recognizing the circumstances associated with the property, the Board could consider:

- Allowing the carport to be built with 3' side setback line - (**variance granted**).
- Allowing the owner to redesign the carport to be in compliance with the City ordinances (**variance denied**).

Appeals:

As per Section 106-196 of the Code of Ordinances of the City of La Porte:
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 Section 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.

CITY OF LA PORTE
ZONING BOARD OF ADJUSTMENT
VARIANCE REQUEST

OFFICE USE ONLY: Fee: \$150.00
Application No.: 13-93000001
Date Received: 4-22-13
Receipt No.: 89818

Note: This Fee is Non-Refundable Regardless of the Board's Decision

Applicant: JAMES F. BECK
Name
307 So. IOWA LA PORTE TX. 281-413-8278
Address Phone

I am the owner of the herein described property. I have authorized _____
to act on my behalf in this matter.

Owner*: JAMES F. BECK
Name

Address Phone

I am requesting a variance to Sect. _____ of the City Zoning regulations Chapter 106 of the
Code of Ordinance.

I am requesting this variance for property located at 307 South IOWA
Street Address

South 1/2 Lot 9, All Lots 10 and 11, North 1/2 Lot 12
Legal Description

Block 216 TOWN OF LA PORTE

- Site Plan Minor Development Site Plan
 Major Development Site Plan General Plan

A Site Plan of the property is attached. Also, I have listed the information requested below on the
following pages of this form.

- a) All facts concerning the matter that has led up to this request.
- b) The type of relief I am seeking (setbacks, lot coverage, etc.).
- c) The grounds upon which I am making this request.

* If applicant is NOT the owner, he must provide Authorization to act on the Owner's behalf.

4-19-2013
Date Applicant's Signature

Office Use Only

Site Plan and Authorization (if applicable) attached? Yes () No ()

Date transmitted to the Board of Adjustments: _____

Meeting Date: _____ Applicant Notified of Date: _____

Notice to surrounding property owners- Date: _____

Board's Decision: Approved () Denied ()

Notice of Boards Decision mailed to Applicant/Owner: _____

TYPE OF RELIEF BEING SOUGHT:

VARIANCE FROM 5 FEET Side Building
Line TO 3 FEET Building Line. For
Construction OF A CARPORT.

THE GROUNDS FOR THE REQUESTS:

Adequate Room + space TO OPEN doors
on Truck so AS TO NOT HIT Proposed
Poles and TO HAVE space TO GET IN AND
OUT OF Vehicle in Bad weather.

AREA MAP - 307 S. IOWA ST.



**LOCATION OF
PROPERTY**



IOWA

EB ST

S KANSAS AVE

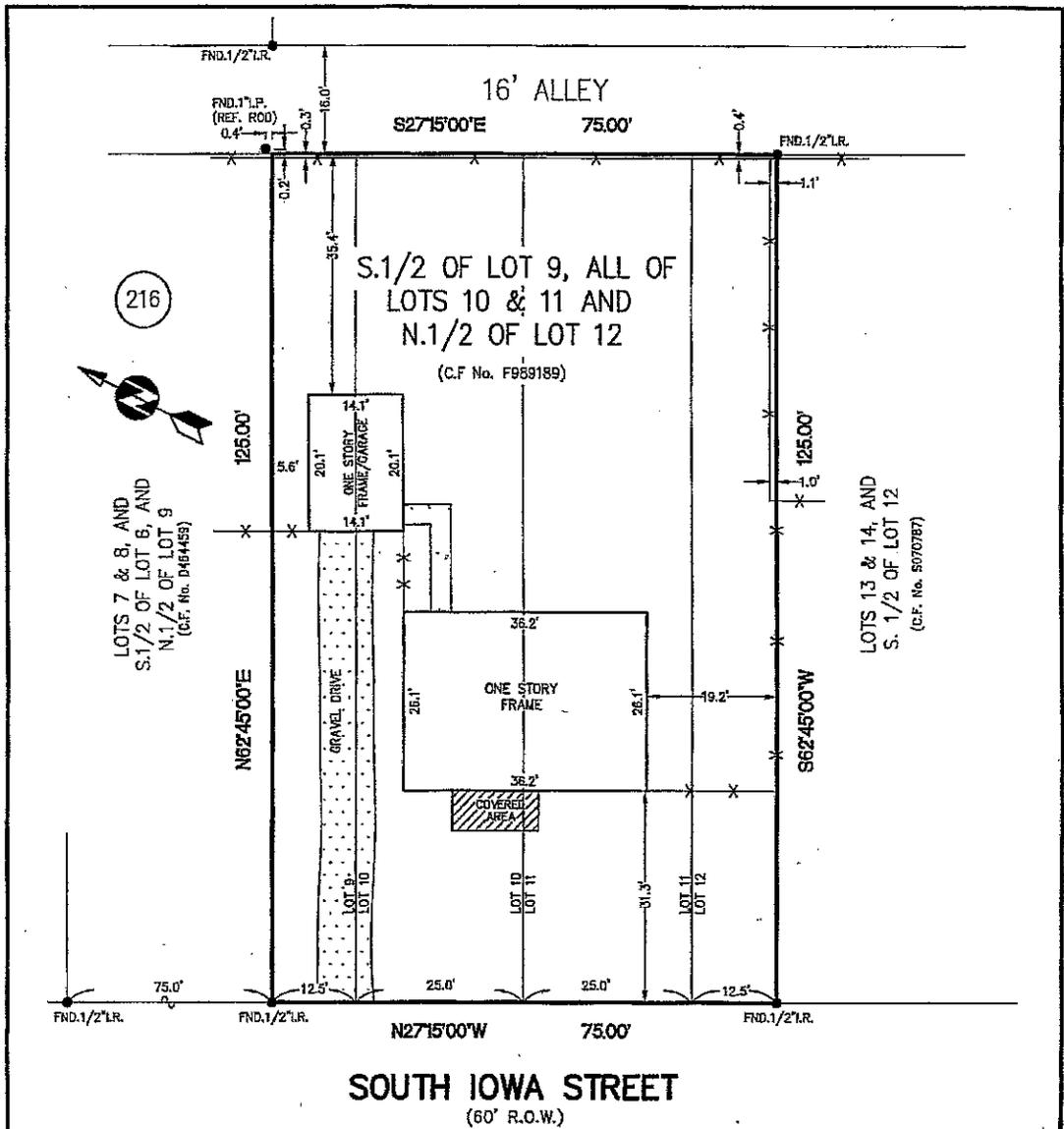
EC ST

S VIRGINIA ST

S IOWA AVE

ED ST

1 inch = 100 feet



NOTES:
1.) SUBJECT TO CITY OF LA PORTE, ZONING ORDINANCES.

ABSTRACTING BY TITLE COMPANY.
ALL BEARINGS SHOWN ARE REFERENCED PER RECORDED PLAT OF SAID SUBDIVISION.

S. 1/2 OF LOT 9, ALL OF LOTS 10 AND 11, AND N. 1/2 OF LOT 12		BLOCK: 216	SUBDIVISION: TOWN OF LA PORTE		SECTION: -
COUNTY: HARRIS	STATE: TEXAS	RECORDATION: VOL. 8, PG. 16, H.C.M.R.	SURVEY: FIELD WORK: 01-21-00/LG FINAL CHECK: 01-24-00/JB		SCALE: 1"=20'
PURCHASER: JAMES F. BECK			DRAFTING: 01-24-00/CP	KEY MAP: 540 Y	

ADDRESS: 307 SOUTH IOWA STREET, LA PORTE, TEXAS



ALLTEX
REALTY SERVICES
REAL ESTATE SURVEY DIVISION
9610 LONGPOINT, SUITE 150
HOUSTON, TEXAS 77055
TEL: (713) 468-7707
FAX: (713) 468-8815

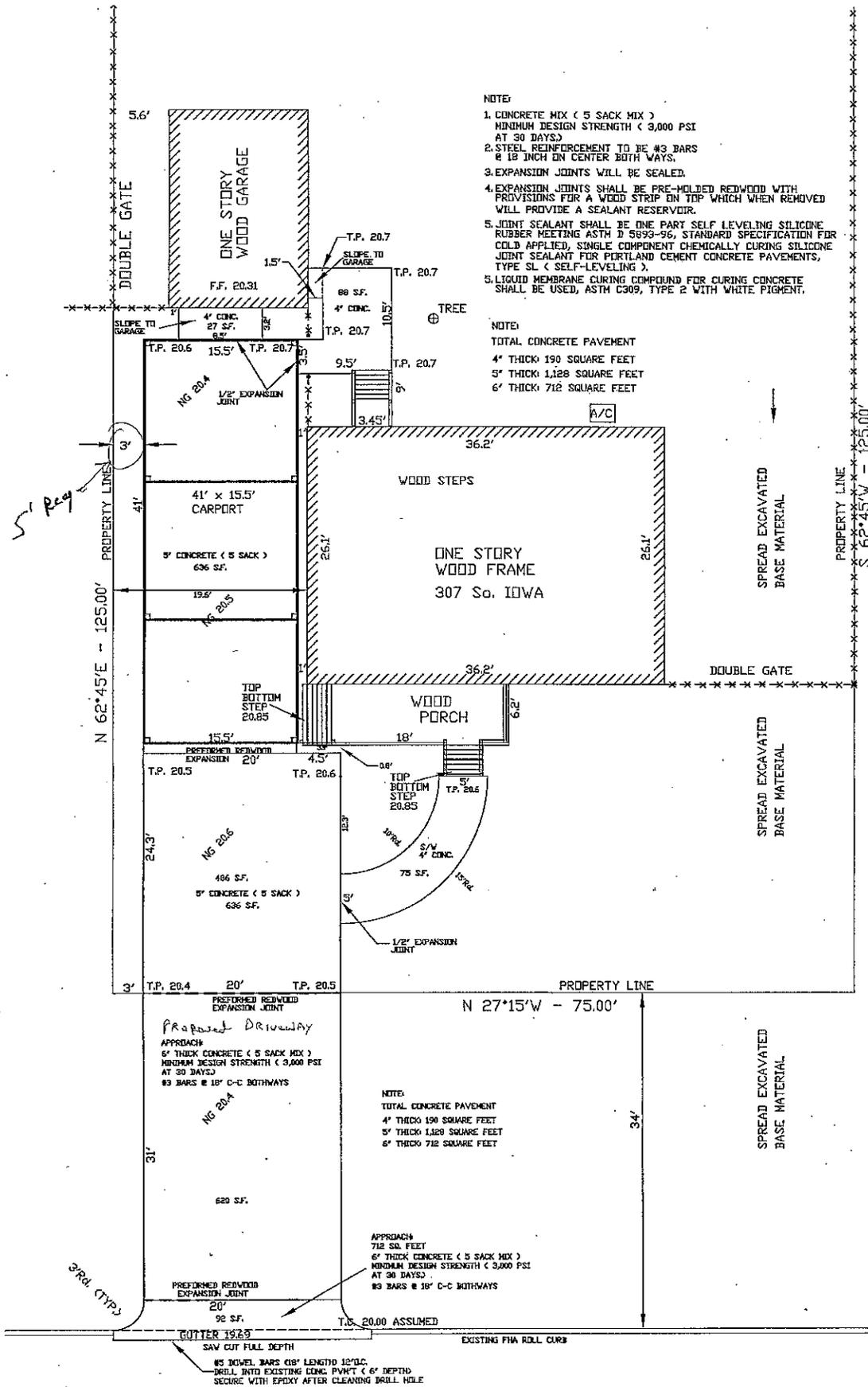


I DO HEREBY CERTIFY THAT THIS SURVEY WAS THIS DAY MADE ON THE GROUND OF THE PROPERTY LEGALLY DESCRIBED HEREON IS CORRECT AND THERE ARE NO ENCROACHMENTS EXCEPT AS SHOWN.

* SUBJECT PROPERTY IS NOT LOCATED IN A FEDERAL INSURANCE ADMINISTRATION DESIGNATED FLOOD HAZARD AREA ZONE "X" AS PER MAP 485487 PANEL 0945 J DATED: 11-05-96

* This information is based on graphic platting only. We do not assume responsibility for exact determination.

MORT. CO.	FOREMOST MTG.
TITLE CO.	AMERICAN TITLE CO.
G.F. No.	1999 CS 414100-X
JOB No.	00-24246
REV. DATE	-



SOUTH IOWA

EXHIBIT C

(f) No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street.

(g) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal sense off the lot, if the occupation is conducted in a single-family residence. In the case of noise, the level shall not exceed 50 percent of the values established in section 106-521(b), footnote G. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in the line voltage off the premises.

Sec. 106-750. Office trailers.

Office trailers as defined are only allowed subject to the following conditions:

- (1) Office trailers may be used as construction offices or temporary storage buildings only on construction sites.
- (2) No office trailer shall be moved on to a construction site until the required building permit has been issued.
- (3) All office trailers shall be removed from a construction site once work is completed or abandoned.
- (4) In no case shall an office trailer be used for overnight sleeping purposes.

Sec. 106-751. Shipping containers.

Shipping containers may be used as temporary material storage facilities on construction sites in all zoning districts except residential (R-1, R-2, and R-3). In addition, commercial construction allowed in residential zoning districts may use shipping containers as temporary material storage facilities. (Note: Certificate of occupancy shall not be issued until shipping container is removed from the site.)

(Ord. No. 1501-II, § 7, 3-27-00; Ord. No. 1501-NNNN, § 6(Exh. F), 4-25-05)

Secs. 106-752—106-770. Reserved.

DIVISION 3. AREA REQUIREMENTS

Sec. 106-771. Yard requirements.

The following shall not be considered as encroachments on yard setback requirements:

- (1) *Chimneys, flues, belt courses, etc.* Chimneys, flues, belt courses, leaders, sills, pilasters, lintels, ornamental features, cornices, eaves, gutters, steps, stoops, and the like, provided they do not project more than four feet into any front or rear yard, and two feet into any side yard.

- (2) *Terraces, decks, patios, etc.* Terraces, decks, patios, or similar features, provided they do not extend more than one foot above the height of the exterior finish grade elevation, or to a distance less than two feet from any lot line, or encroach upon any utility easement. Further, pools shall not be considered as an encroachment on a front yard setback, provided that such pools are located in a front yard adjacent to Galveston Bay, and provided further that such pool does not extend more than one foot above the exterior finish grade elevation, or to a distance less than two feet from any lot line or encroach upon any utility easement.
 - (3) *Rear yards only.* An unenclosed, attached patio cover, awning, or canopy, provided that no portion of such patio covers, awnings, or canopies shall encroach into any utility easements, or any vertical projection thereof, and provided further that no portion of such patio covers, awnings, or canopies shall be located at a distance less than five feet from the side property line or three feet from the rear property line, or any vertical projection thereof.
 - (4) *Front and side yard carports.* Front and side yard carports shall be permitted for single-family detached homes subject to the following requirements:
 - a. Carports in a required front or side yard shall not be located closer than five feet from any front or side property line.
 - b. Carports located on corner lots shall not be located closer than 25 feet from an intersection. This distance shall be measured from the intersection of property lines common with street right-of-way lines.
 - c. The maximum width of a carport located in a required front or side yard shall be 25 feet.
 - (5) *Recreational areas, facilities and open space.* Trails, playgrounds, and detention areas located within multi-family residential developments are permitted provided they do not encroach into any utility easement.
- (Ord. No. 1501-JJ, § 8, 10-14-02)

Sec. 106-772. Height requirements.

The building height limits established in this chapter for distances shall not apply to the following except if they are located within an airport height restriction area:

- (1) Belfries;
- (2) Chimneys or flues;
- (3) Church spires, not exceeding 20 feet above roof;
- (4) Cooling towers;
- (5) Cupolas and domes which do not contain usable space;
- (6) Elevator penthouses;
- (7) Flagpoles;

A Meeting of the La Porte

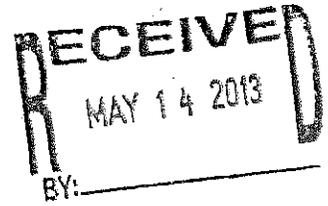
Zoning Board of Adjustment
(Type of Meeting)

Scheduled for

May 23, 2013
(Date of Meeting)

to Consider

Variance Request #13-93000001
(Type of Request)



I have received notice of the above referenced public hearing.

I am in FAVOR of granting this request for the following reasons:

Because it's His Property

I am OPPOSED to granting this request for the following reasons:

A. B. CRATE JR

Name (please print)

Andrew B. Crate, Jr.

Signature

305 So. IOWA

Address

LA PORTE TEXAS 77571

City, State, Zip

EXHIBIT E

A Meeting of the La Porte

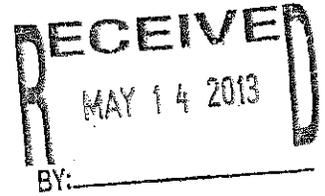
Zoning Board of Adjustment
(Type of Meeting)

Scheduled for

May 23, 2013
(Date of Meeting)

to Consider

Variance Request #13-9300001
(Type of Request)



I have received notice of the above referenced public hearing.

I am in FAVOR of granting this request for the following reasons:

THE CARPORT COULD ALWAYS BE REMOVED IF A PROBLEM
EVER PRESENTED ITSELF.

2 FOOT WILL NEVER AFFECT THE RESIDING NEIGHBOR!

I am OPPOSED to granting this request for the following reasons:

RONNIE WHITE

Name (please print)

Ronnie White

Signature

312 S. IOWA

Address

LA PORTE TX. 77571

City, State, Zip

A Meeting of the La Porte

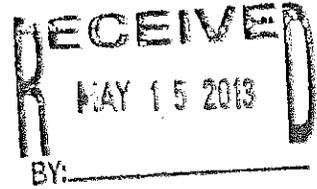
Zoning Board of Adjustment
(Type of Meeting)

Scheduled for

May 23, 2013
(Date of Meeting)

to Consider

Variance Request #13-9300001
(Type of Request)



I have received notice of the above referenced public hearing.

I am in FAVOR of granting this request for the following reasons:

THE CARPORT HAS NO NEGATIVE BEARING ON THE
SURROUNDING AREA NEIGHBORHOOD.

I am OPPOSED to granting this request for the following reasons:

RANDAU W. CERNOSEK

Name (please print)

Randall W. Cernosek

Signature

303 S. IOWA

Address

LAPORTE, TX 77571

City, State, Zip