



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, December 11, 2014, 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: November 13, 2014.
4. A public hearing will be held to consider Variance Request 14-93000009, a request by Robert T. Britt, owner of the property located at 730 S. Carroll Street, further described as Lots 43-52, Block 22, Bay Front to La Porte. The applicant is seeking approval of a variance to allow construction of a 2,000 square foot garage/storage 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 14-93000010, a request by Juan Cantu, owner of the property located at 9413 Carlow Lane, further described as Lots 267-270, Block 15, Spenwick Place Sec 2. The applicant is seeking approval of a variance to allow construction of a 6-foot high fence located in the front yard on the property line contrary to the provisions of Section 106-791 of the Code of Ordinances.
 - a. Staff Presentation
 - b. Applicant Presentation
 - c. Public Comments
 - d. Question and Answer
6. A public hearing will be held to consider Variance Request 14-93000011, a request by Timothy Mouton, owner of the property located at 815 S. 5th Street, further described as north 14 feet of Lot 10, Lots 9 and 8, and the south 14 feet of Lot 7, Block 152, Town of La Porte. The applicant is seeking approval of a variance to allow construction of a canopy structure that will house a recreational vehicle that encroaches 2.2 feet into the required 5-foot setback contrary to the provisions of Section 106-771 of the Code of Ordinances.
 - a. Staff Presentation

- b. Applicant Presentation
- c. Public Comments
- d. Question and Answer

- 7. Administrative reports.
- 8. Board comments on matter appearing on the agenda or inquiry of staff regarding specific factual information or existing policy.
- 9. 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, December 11, 2014 agenda of items to be considered by the Zoning Board of Adjustment was posted on the City Hall bulletin board on the ____ day of _____, 2014.

_____ Title: _____

**Zoning Board of Adjustment
Minutes of November 13, 2014**

Board Members Present: Charles Schoppe, T.J. Walker, Chester Pool, Nettie Warren (Alt 1), and Doug Martin (Alt 2)

Board Members Absent: Lawrence McNeal and Rod Rothermel

City Staff Present: Planning Director Tim Tietjens, City Planner Eric Ensey, Assistant City Attorney Clark Askins, and Office Coordinator Peggy Lee

1. Call to Order.

Vice-Chairman Charles Schoppe called the meeting to order at 6:00 p.m.

2. Roll call of members.

Board Members Charles Schoppe, T.J. Walker, Chester Pool, Nettie Warren (Alt 1), and Doug Martin (Alt 2) were present for roll call.

3. Consider approval of meeting minutes: October 23, 2014.

Motion by Doug Martin to approve the meeting minutes of October 23, 2014.

Second by Chester Pool. Motion carried.

Ayes: T.J. Walker, Chester Pool, Charles Schoppe, Nettie Warren, and Doug Martin

Nays: None

4. A public hearing will be held to consider Variance Request #14-93000007, a request by Electric Guard Dog, on behalf of Apple Towing, owner of the property located at 400 E. Main Street, further described as Lots 1-26, and the abandoned alley, Block 195, Town of La Porte. The applicant is seeking approval of a variance to retain a 10-foot high, 12 volt battery operated, solar powered, electric security fence that produces 7,000 volts of shock contrary to the provisions of Section 106-799 of the Code of Ordinances.

Vice-Chairman Schoppe 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 Electric Guard Dog to retain a 10-foot high, 12 volt battery operated, solar powered, electric security fence producing 7,000 volts of shock, which is prohibited by Section 106-799 of the Code of Ordinances. The fence was installed without a permit for Apple Towing located at 400 E. Main Street. Electric fences are only allowed on the premises of single family dwellings and

only for the purpose of restraining dogs and/or livestock. Although the fence is still in place, it has been de-activated pending a decision by the Board.

Public hearing notices were mailed to 12 property owners located within 200' of the subject tract. The City received one response in favor of the request.

B. Applicant Presentation

Vice-Chairman Schoppe swore in Electric Guard Dog representative Michael Pate, 7608 Fairfield Rd., Columbia, South Carolina. Mr. Pate stated the apparatus was installed approximately 12 inches behind the existing permitted 8-foot fence. The system was installed for security purposes.

Vice-Chairman Charles Schoppe swore in Mike Scully, 1959 Emerald Point Lane, League City, TX, Owner/President of Apple Towing. Mr. Scully apologized for violation of the code by constructing the fence prior to obtaining approval from the City. Apple Towing is under contract to manage seized vehicular assets for the United States Treasury. A 10-foot fence is required.

C. Public Comments

There were no comments from the public.

D. Question and Answer

There were no questions.

Motion by T.J. Walker to deny Variance Request #14-93000007.

Second by Nettie Warren. Motion Carried.

Ayes: T.J. Walker, Chester Pool, Charles Schoppe, Nettie Warren, and Doug Martin

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 14-93000008, a request by Ronnie and Bonnie Hedrick, owner of the property located at 1602 Willow View, further described as Lot 14, Willow View. The applicant is seeking approval of a variance to allow construction of a 1,500 square foot garage/storage building contrary to the provisions of Section 106-741 of the Code of Ordinances.**

Vice-Chairman Schoppe opened the public hearing at 6:30 p.m.

A. Staff Presentation

City Planner Eric Ensey presented staff's report on a variance request by Ronnie and Bonnie Hedrick to allow construction of a 1,500 square foot garage/storage building on their property located at 1602 Willow View.

Public hearing notices were mailed to 11 property owners located within 200' of the subject tract. The City received one response in favor of the request.

B. Applicant Presentation

Vice Chairman Schoppe swore in the applicant, Ronnie Hedrick, Jr., 1602 Willow View. Mr. Hedrick stated he is a car collector and needs additional storage for his cars and boat. Mr. Hedrick noted there are other existing storage buildings in the area.

C. Public Comments

Susie McDonald, 1010 N. P Street, homeowner to the rear of the subject property, expressed concerns over the variance request. Mrs. McDonald and her husband previously built a storage building and had to abide by the regulations. Mrs. McDonald expressed concern about property devaluation and additional noise, since the proposed building would be located in close proximity to her master bedroom.

Steve Rocky, 1505 Willow View, spoke in favor of the variance request. Mr. Rocky has a 1,500 sq. ft. storage building and believes the Hedricks should be allowed to build the storage building.

D. Question and Answer

There were no questions.

Motion by Chester Pool to approve Variance Request #14-93000008 to allow construction of a 1,500 square foot garage/storage building at the property located at 1602 Willow View.

Second by Nettie Warren. Motion Carried.

Ayes: T.J. Walker, Chester Pool, Nettie Warren, and Doug Martin
Nays: Charles Schoppe

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 T.J. Walker to adjourn.

Second by Chester Pool. Vice-Chairman Schoppe adjourned the meeting at 6:48 p.m.

Respectfully submitted,

Peggy Lee
Secretary, Zoning Board of Adjustment

Passed and Approved on _____, 2014.

Rod Rothermel
Chairman, Zoning Board of Adjustment

**City of La Porte, Texas
Planning and Zoning Commission**



December 11, 2014

AGENDA ITEM 4

Consider approval of a Variance request
to allow construction of a 2,000 square foot garage building
that exceeds the area allowed for accessory structures
for the property located at 730 S. Carroll Street
(Applicant: Robert T. Britt).

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

Planning and Development Department Staff Report

ISSUE

Should the Board of Adjustment approve the requested variance by Robert T. Britt, owner of the property at 730 S. Carroll Street, to allow construction of a 2,000 square foot garage building when the code allows a maximum area of 1,000 square feet for accessory buildings?

DISCUSSION

Applicant:

Robert T. Britt.

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 #14-93000009. Although the plans indicate a 45'x50' building, the applicant has indicated in the project description and justification letter that the actual size of the detached garage will be 40'x50'. As a result, the proposed variance would allow for the construction a 2,000 square foot (40' x 50') detached garage building on the property located at 730 S. Willow Street.

Subject Site:

The requested variance is for the property located at 730 S. Carroll Street, further described as Lots 43-52, Block 22, Bay Front to La Porte. The attached Exhibit A 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 (see the attached Exhibit C) 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, notice of the public hearing was 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 applicants own the subject property at 730 S. Carroll Street. The subject site is approximately 31,250 square feet in area and is located on S. Carroll Street just southeast of Park Drive.

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
North	R-1, Low Density Residential	Vacant single family residential
South	R-1, Low Density Residential	Existing single family residential (740 S. Carroll)
West	R-1, Low Density Residential	Vacant and Existing single family residential (707 & 721 S. Holmes)
East	R-1, Low Density Residential	Existing single family residential (715, 725, 727 S. Carroll)

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 1,000 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 31,250 square feet in area, which is significantly larger than the minimum required in the R-1 District. 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.

Section 106-192 of the Zoning Ordinance (see the attached Exhibit C) 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
December 11, 2014
Britt 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. Additionally, the proposed building will be constructed to complement the architecture of the existing house on the lot. 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
- Exhibit C: Sections 106-192 through 106-195 of the Zoning Ordinance regarding variances

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): 0071120000043
PROPERTY ADDRESS (if existing): 730 S. CARROLL St. LA PORTE, TX. 77571
PROPERTY LEGAL DESCRIPTION: Lots 43-52, Block 22, Bay Front to La Porte

1. PROPERTY OWNER INFORMATION:

OWNER NAME: Robert T. Britt, JR. PHONE: 281-842-1612
FAX #: _____ E-MAIL: _____
MAILING ADDRESS: 230 S. CARROLL St. LA PORTE, TX. 77571

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

AGENT / CONTRACTOR: _____ PHONE: _____
E-MAIL: _____ FAX: _____
MAILING ADDRESS: _____

4. BASIS FOR VARIANCE REQUEST:

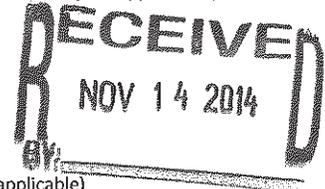
A "Variance" constitutes a deviation from the literal provisions of the Zoning Ordinance and is granted by the board when strict conformity to the Zoning Ordinance would cause an unnecessary hardship because of the circumstances unique to the property on which the variance is granted.

Check applicable box for Variance request based on exceptional:

- Narrowness
- Shallowness
- Shape
- Topography
- Other extraordinary or exceptional physical situation unique to property: The VARIANCE will allow the construction of a 2200 SF GARAGE to enhance my Collector Car Collection. The present limit is 1000 SF.

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: Robert T. Britt Jr. (Print) SIGNATURE: [Signature] (Sign) SUBMITTED: _____ (Date)

(STAFF USE ONLY):

DATE APPLICATION REC'D.: _____ REC'D BY: E. Ensey

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

ZBOA MEETING DATE: _____ VARIANCE GRANTED? YES NO
APPLICATION NO: 14-93000009

Zoning Board of Adjustment

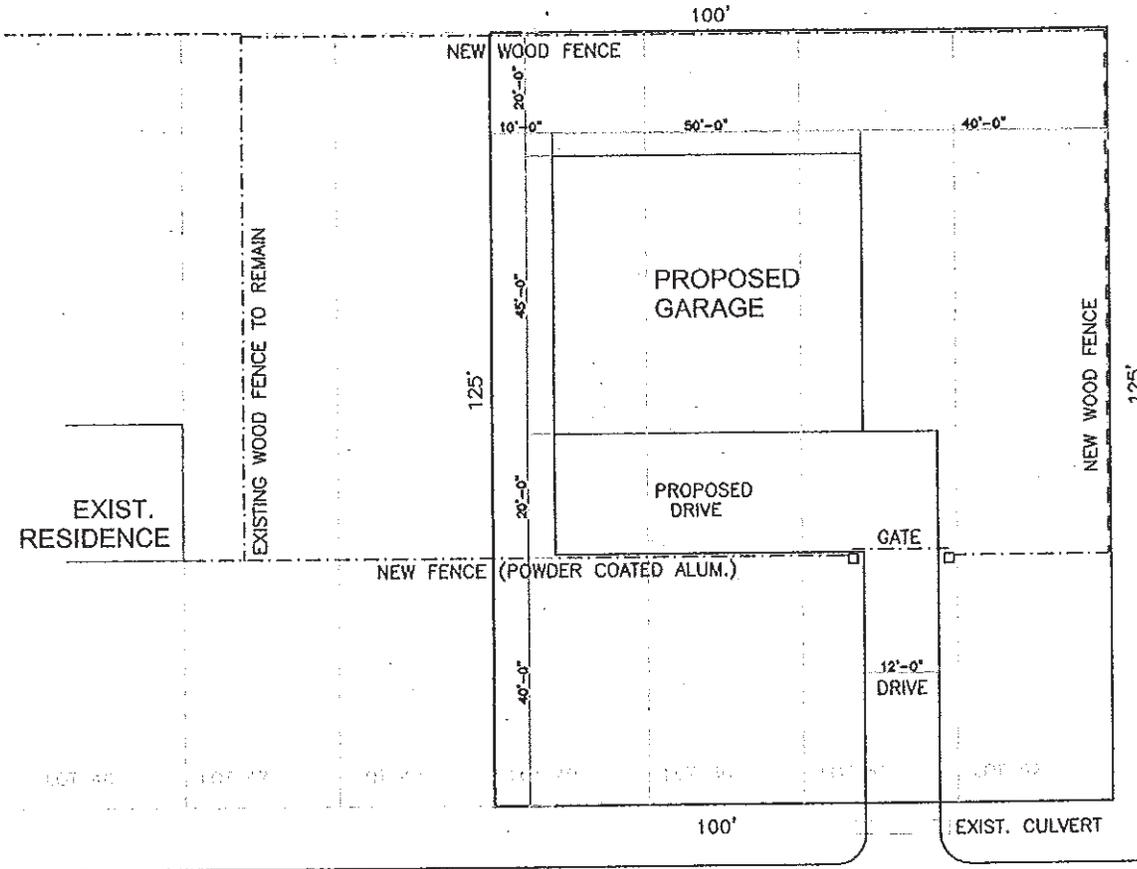
My name is Robert T. Britt Jr.
I reside at 730 S. Carroll St.
I have acquired 2 (two) houses
and a total of 14 (fourteen) lots
since about 2002. During the period
leading to this date I have
demolished one (1) house, added on
to my residence of 730 S. Carroll St.
and sold the last four lots
(#53, 54, 55 & 56) to an individual
who built a house in 2013.

I am requesting a code variance
to allow the building of up to
2200 sq. ft. garage on the vacant
lots adjoining my homesite. The
new addition will be of wood
construction with Hardie siding
on 3 (three) sides and cedar
siding on the front to match my
house. As you can see from the
preliminary drawings the garage/
workshop is aesthetically pleasing
and designed to coordinate with
my present house. Although the
drawings show the building to be
2200 sq. ft. I am planning on
reducing ~~my~~ the building to
2000 sq. ft. (40x50'). The new
structure will be used to increase and
enhance my collection of cars. The
building will also be used for
minor repairs and rehab work.

The second floor area will be used for storage. I am requesting the necessary adjustments to build this structure and turn vacant lots into taxable property. In my area there are other residents who have ~~erected~~^{erected} multiple buildings ~~or~~ covers and garages that exceed the 1000 sq. ft. maximum when added together. Thank for your approval at the earliest date.

Thanking You in Advance,
Robert L. [Signature]

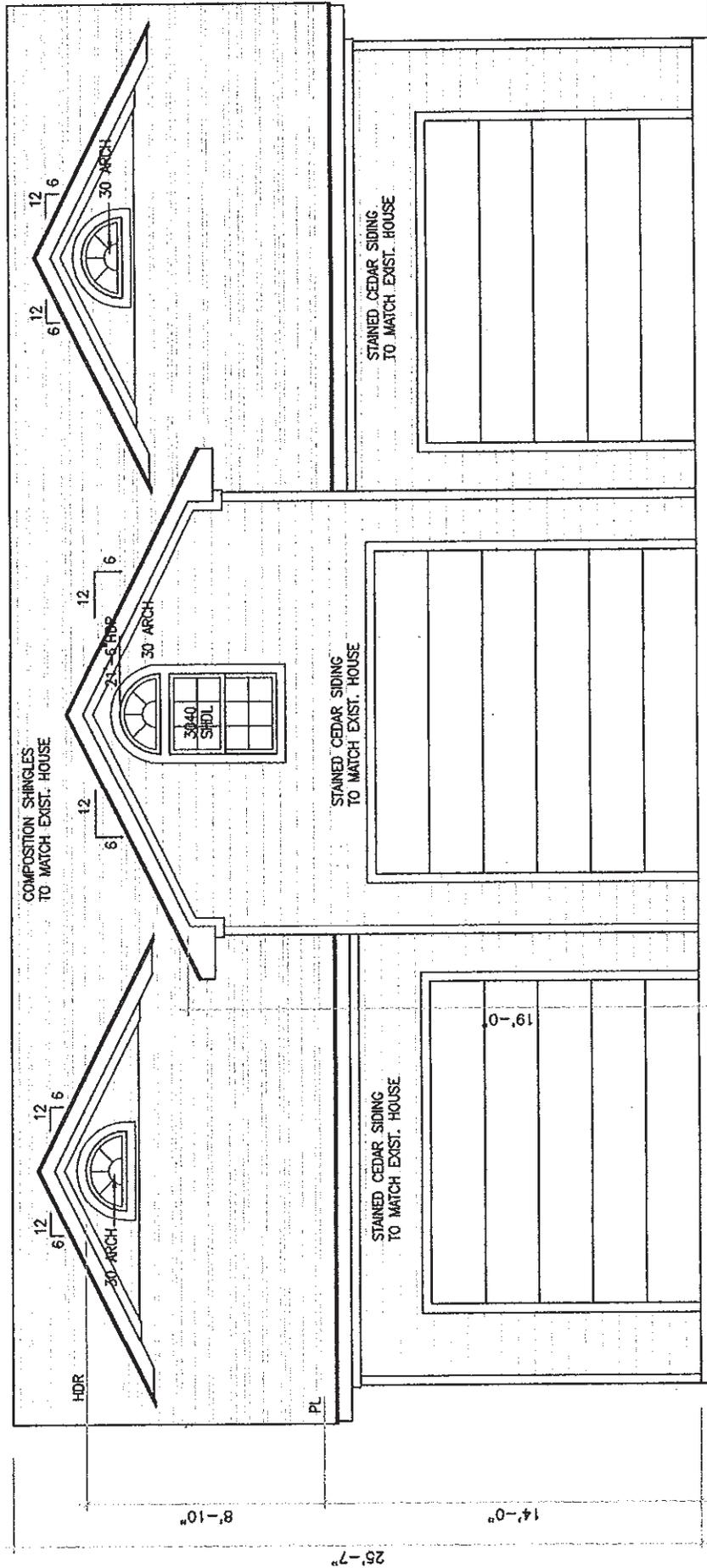
MARCUS D. RIVES, DESIGNER
1108 W. EDGEWOOD
FRIENDSWOOD, TEXAS 77546
281.596.5232



730 S. CARROLL AVE.
BAY FRONT ADDITION, LA PORTE
HARRIS COUNTY, TEXAS



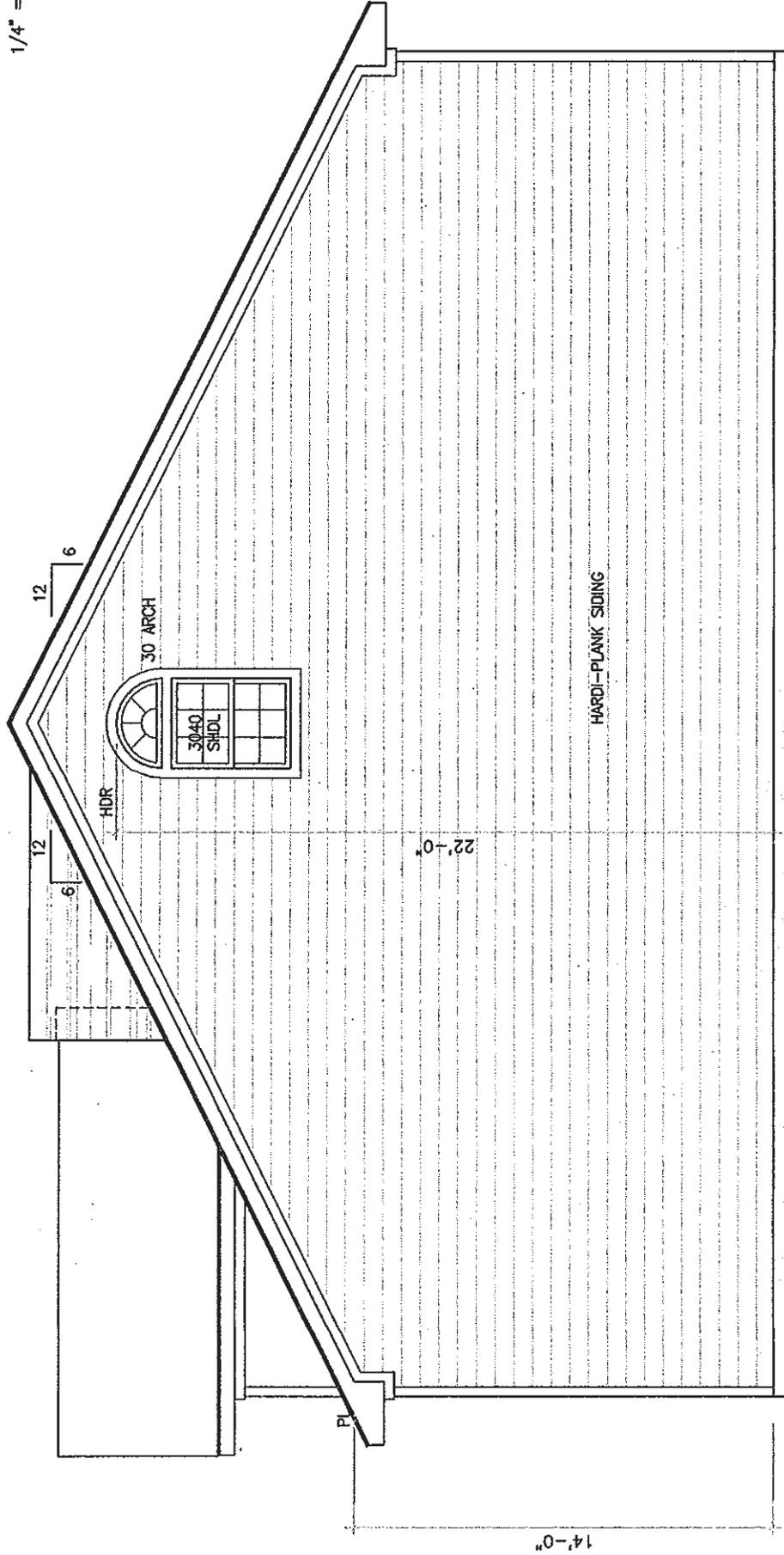
A PROPOSED GARAGE FOR
ROBERT BRITT
730 S. CARROLL AVE.
LA PORTE, TEXAS



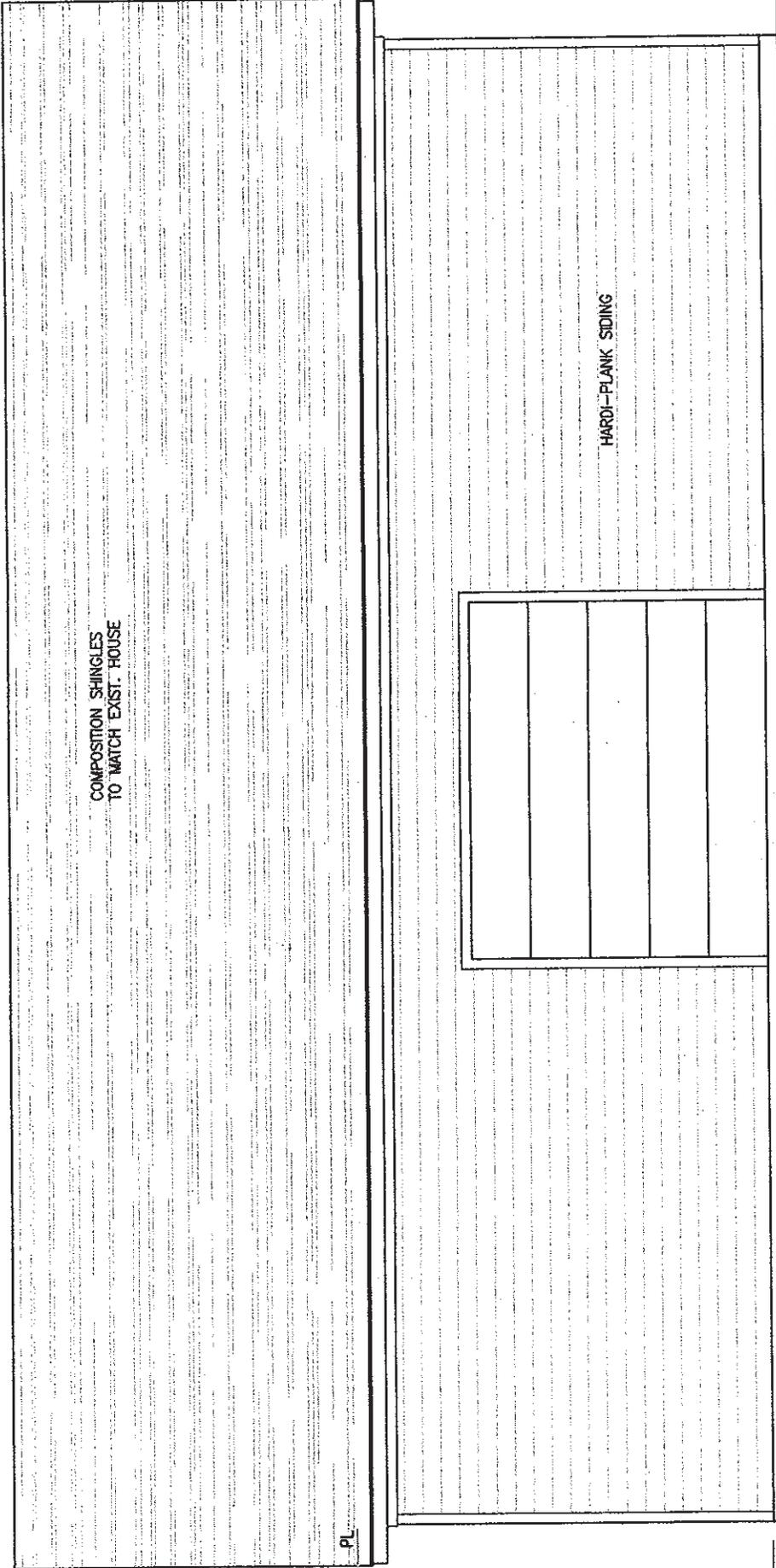
FRONT ELEVATION

1/4" = 1'-0"

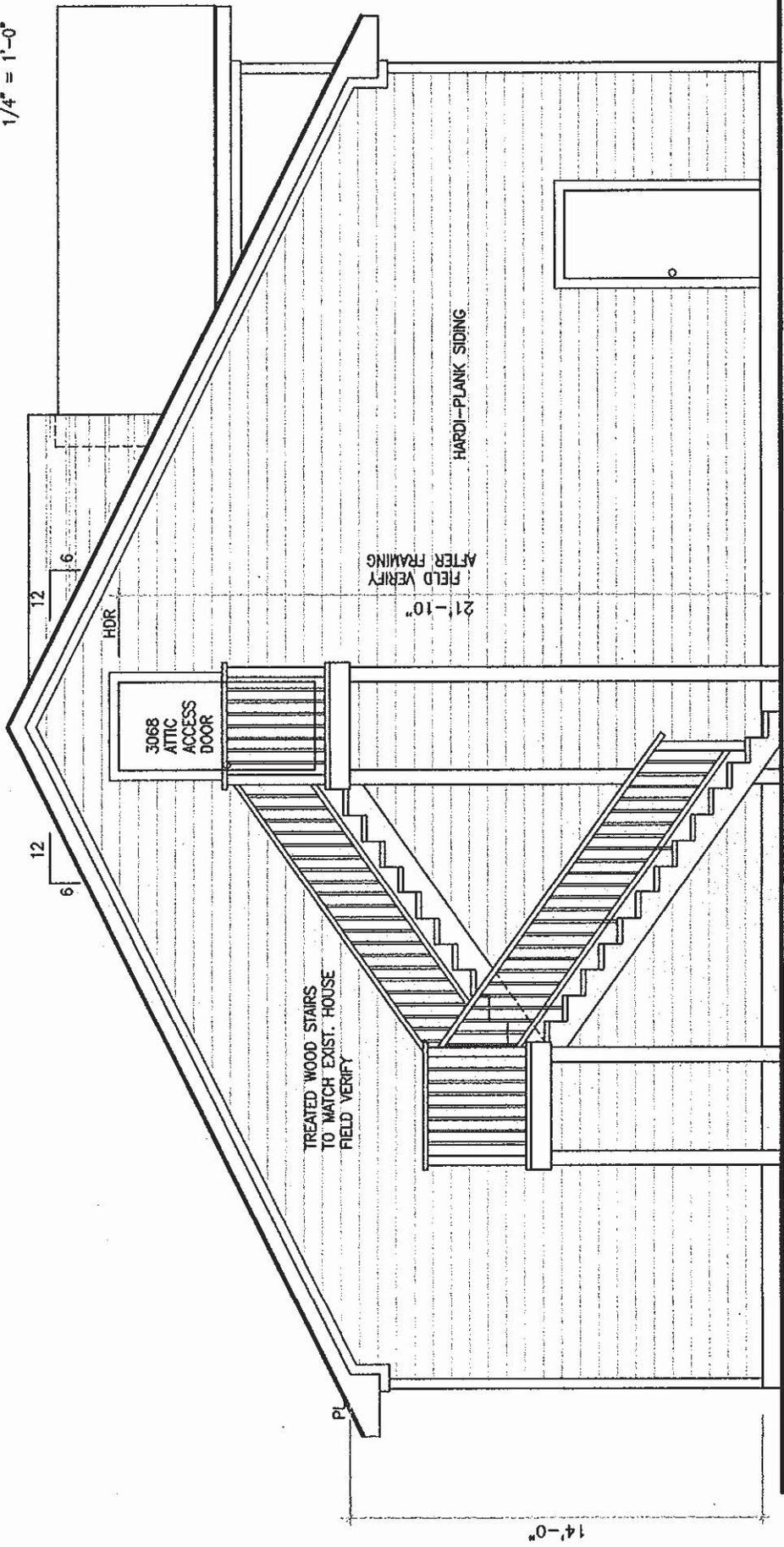
1/4" = 1'-0"



RIGHT SIDE ELEVATION



1/4" = 1'-0"



LEFT SIDE ELEVATION

1/4" = 1'-0"

14'-0"

AREA MAP

(CLP #14-93000009)



**PROPERTY
LOCATION**

PARK

SLOBIT AVE

SCARROL AVE

S HOLMES AVE

S NUGENT AVE

ROSCOE

Sec. 106-192. Variance.

- (a) *Application for variances.* All applications for a variance from the terms of this chapter shall be in writing and shall specify the facts involved, the relief desired, and the grounds thereof. Each such application shall be filed with the enforcement officer who after investigation shall transmit such application together with his report to the board of adjustment within ten days after the filing of the application with the enforcement officer.
- (b) *Findings of fact/definition of hardship.*
- (1) The term "variance" shall mean a deviation from the literal provisions of this chapter which is granted by the board when strict conformity to this chapter would cause an unnecessary hardship because of the circumstances unique to the property on which the variance is granted.
 - (2) Except as otherwise prohibited, the board is empowered to authorize a variance from a requirement of this chapter when the board finds that all of the following conditions have been met:
 - a. That the granting of the variance will not be contrary to the public interest;
 - 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; and
 - c. That by granting the variance, the spirit of this chapter will be observed.
 - (3) The applicant shall have the burden of proving to the board that the foregoing conditions have been met.
- (c) *Use variance prohibited.* No variance shall be granted to permit a use in a zoning district in which that use is prohibited.
- (d) *Hearings on applications for variances.* The board of adjustment shall fix a reasonable time for the hearing of all applications for variances, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time, as specified in section 106-194. Upon the hearing any party may appear in person or by agent or by attorney.

Sec. 106-193. Additional conditions.

The board is empowered to impose upon any variance or special exception any condition reasonably necessary to protect the public interest and community welfare.

Sec. 106-194. Notice of public hearings before the board of adjustment.

- (a) The notice of public hearings provided for in this section shall be given by publication once in a newspaper of general circulation in the city stating the time and place of such hearings, which shall not be earlier than ten days from the date of such publication, and in addition thereto, the board of adjustment shall mail notices of such hearing to the petitioner and to all owners of property lying within 200 feet of any point of the lot or portion thereof, on which a

special exception or variance is desired, and to all other persons deemed by the board of adjustment to be affected thereby; such owners and persons shall be determined according to the last approved tax roll of the city. Such notice may be served by depositing addressed and postage paid, in the city post office.

- (b) Requirements for public notice by sign posting:
- (1) Public notice for procedures requiring public notice by sign posting shall be provided by the city at least ten days before the public hearing.
 - (2) The applicant shall place public notice sign on the property within 20 feet of the abutting street.
 - (3) The sign shall be clearly visible, readable, and not to create hazard to traffic on the public right-of-way abutting the property.
 - (4) Public notice sign shall include the date, time, place, and purpose of public hearing.
 - (5) The applicant must return the sign to the city within ten days after the appeal period for the public hearing has ended.
 - (6) The erection of this sign shall not require a permit from the city.

(Ord. No. 1501-05, § 6(Exh. F), 3-19-07)

Sec. 106-195. Vote necessary for decision of board of adjustment.

The concurring vote of four members of the board of adjustment shall be necessary to reverse any order, requirement, decision, or determination of the enforcement officer or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter, or to effect any variance in this chapter.

**City of La Porte, Texas
Planning and Zoning Commission**



December 11, 2014

AGENDA ITEM 5

Consider approval of a Variance request to allow a 6-foot high fence in the front yard for the property located at 9413 Carlow Lane (Applicant: Juan Cantu).

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

Planning and Development Department Staff Report

ISSUE

Should the Board of Adjustment approve the requested variance by Juan Cantu to allow construction of a 6-foot high fence located in the front yard at the subject property located at 9413 Carlow Lane?

DISCUSSION

Applicant:
Juan Cantu.

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 #14-93000010, a requested variance to allow construction of a new 6-foot high chain link fence with a portion of wood fence parallel to the side (east) property line within the front yard. There is an existing 4-foot high chain link fence on the applicant's property line. The existing fence does not cover the entire length of the front property line. The applicant is proposing to replace the 4-foot high fence with a 6-foot high fence and gate-off the driveway.

Subject Site:
The requested variance is for the property located at 9413 Carlow Lane, further described as the Lots 267-270, Block 15, Spenwick Place Sec 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 (see the attached Exhibit C) 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, notice of the public hearing was 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
December 11, 2014
Cantu Variance

Background Information:

The subject site is 39,088 square feet in area and is located between Underwood Road and Canada Road on Carlow Lane. The site is currently zoned R-1 and contains an existing single family residential house. The following table summarizes the surrounding zoning and land uses:

	Zoning	Land Use
North	R-1, Low Density Residential	Existing single family residential (9410 Belfast)
South	R-1, Low Density Residential	Existing single family residential (9410, 9414 & 9422 Carlow)
West	R-1, Low Density Residential	Existing single family residential (3313 & 3315 Andricks)
East	R-1, Low Density Residential	Existing single family residential (9425 Carlow)

Applicable Code Provisions:

Section 106-333, stipulates residential area requirements, including setbacks in the R-1 District. The following is an excerpt from that section as applicable to this variance request (see highlighted):

Sec. 106-791. – Front yard areas.

No fences, structures, grading, or barrier hedges shall be permitted within any front yard areas except in the case of large lot residential lots, or in the case of lots with a front yard directly adjacent to the shoreline of Galveston Bay, as provided in [section 106-792](#).

Analysis:

Section 106-791 of the Zoning Ordinance does not allow for fencing to be located in the front yard. The front yard is the area between the front of the principal building and the front lot line, which in a R-1 zone district is typically a 25'foot setback. The applicant is requesting approval of a variance to allow construction of a fence along the front south property line and both the east and west side property lines in the front yard (that area between the building and front lot line).

In analyzing existing conditions within the surrounding Spenwick Subdivision, there are other fences that are located within the front yard. The vast majority of those fences are constructed of chain link material, which is the material proposed by the applicant. There are also front yard fences in the subdivision that are 6 feet in height. The Board has approved variances in the past to allow front yard fencing in the Spenwick Subdivision.

Section 106-192 of the Zoning Ordinance (see the attached Exhibit C) 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
December 11, 2014
Cantu Variance

Criterion:	Staff Finding:
a. That the granting of the variance will not be contrary to the public interest.	<i>The proposed variance is consistent with other fencing in the vicinity, as there are other 6' chain link fences within the front yard throughout the Spenwick 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>Staff is unable to identify an unnecessary hardship that would warrant the granting of the variance in this instance. There are no circumstances unique to this property that would be unique to the property in question. However the applicant argues that the hardship in this case is related to a recent theft on his property and to provide security to his property.</i>
c. That by granting the variance, the spirit of this chapter will be observed.	<i>Although the request to allow fencing within the front yard is contrary to the spirit of the fence regulations as currently implemented, the approval of the variance may promote the safety of the applicant and his property.</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
- Exhibit C: Sections 106-192 through 106-195 of the Zoning Ordinance regarding variances

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): 0842490000269
PROPERTY ADDRESS (if existing): 9413 Carlow Lane
PROPERTY LEGAL DESCRIPTION: Lots 267-270, Block 15, Spenwick Place Sec 2

1. PROPERTY OWNER INFORMATION:

OWNER NAME: Juan Carro PHONE: 832-9786088
FAX #: _____ E-MAIL: _____
MAILING ADDRESS: P.O. Box 7246 Pasadena, TX 77508

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

AGENT / CONTRACTOR: SELF PHONE: 832 9786088
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: fence

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: Juan Carro (Print) SIGNATURE: [Signature] (Sign) SUBMITTED: 11- (Date)

(STAFF USE ONLY):

DATE APPLICATION REC'D.: 11/21/2014 REC'D BY: E. Ensey
 \$150 APPLICATION FEE SUPPORTING DOCUMENTATION OWNER AUTHORIZATION
ZBOA MEETING DATE: _____ VARIANCE GRANTED? YES NO
APPLICATION NO: 14-93000010

To Whom It may concern; H 11-17-14

EXHIBIT A

I Juan Canto have been a resident of La Porte since 2004 buying house at 9413 Calow
never have had problems, it was a nice quite home
but lately having problems with thiefs, someone
RS coming into my property stealing batteries
for my tractors & use for my bussiness, but
they really got bold and broke into our van
stealing purse, collese books & even babies back
pack, Because of this problem I see the need
to repair existing fence in front & back of my
house I need to fence driveway for they have
easy access to enter my property I dont see
on think they will quit, I did speak to my neighbors
about my situation their response was they have
seen more & more people that dont look like
they belong in our neighbor hood they seem to
be up to no good.

So please help me in this situation
they used daughters credit card at Krogers &
Wall Mart La Porte Police said they would
try to view cameras at stores to get picture
copies of what they stole I really need a fence
all around my house Calow home is getting more
and more busy with people that are not on our
drive in our neighborhood.

Yours in Security
Juan Canto

La Porte
Houston TX

AREA MAP

(CLP #14-93000010)



**PROPERTY
LOCATION**



HILLSDALE

ANDRICKS RD

CAT

BELFAST LN

CREEL CT

CARLOW LN

DRY SAND DR

PAWNEE DR

DESERT RUN DR

E DESERT DR

WICHITA DR

Sec. 106-192. Variance.

- (a) *Application for variances.* All applications for a variance from the terms of this chapter shall be in writing and shall specify the facts involved, the relief desired, and the grounds thereof. Each such application shall be filed with the enforcement officer who after investigation shall transmit such application together with his report to the board of adjustment within ten days after the filing of the application with the enforcement officer.
- (b) *Findings of fact/definition of hardship.*
- (1) The term "variance" shall mean a deviation from the literal provisions of this chapter which is granted by the board when strict conformity to this chapter would cause an unnecessary hardship because of the circumstances unique to the property on which the variance is granted.
 - (2) Except as otherwise prohibited, the board is empowered to authorize a variance from a requirement of this chapter when the board finds that all of the following conditions have been met:
 - a. That the granting of the variance will not be contrary to the public interest;
 - 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; and
 - c. That by granting the variance, the spirit of this chapter will be observed.
 - (3) The applicant shall have the burden of proving to the board that the foregoing conditions have been met.
- (c) *Use variance prohibited.* No variance shall be granted to permit a use in a zoning district in which that use is prohibited.
- (d) *Hearings on applications for variances.* The board of adjustment shall fix a reasonable time for the hearing of all applications for variances, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time, as specified in section 106-194. Upon the hearing any party may appear in person or by agent or by attorney.

Sec. 106-193. Additional conditions.

The board is empowered to impose upon any variance or special exception any condition reasonably necessary to protect the public interest and community welfare.

Sec. 106-194. Notice of public hearings before the board of adjustment.

- (a) The notice of public hearings provided for in this section shall be given by publication once in a newspaper of general circulation in the city stating the time and place of such hearings, which shall not be earlier than ten days from the date of such publication, and in addition thereto, the board of adjustment shall mail notices of such hearing to the petitioner and to all owners of property lying within 200 feet of any point of the lot or portion thereof, on which a

special exception or variance is desired, and to all other persons deemed by the board of adjustment to be affected thereby; such owners and persons shall be determined according to the last approved tax roll of the city. Such notice may be served by depositing addressed and postage paid, in the city post office.

- (b) Requirements for public notice by sign posting:
- (1) Public notice for procedures requiring public notice by sign posting shall be provided by the city at least ten days before the public hearing.
 - (2) The applicant shall place public notice sign on the property within 20 feet of the abutting street.
 - (3) The sign shall be clearly visible, readable, and not to create hazard to traffic on the public right-of-way abutting the property.
 - (4) Public notice sign shall include the date, time, place, and purpose of public hearing.
 - (5) The applicant must return the sign to the city within ten days after the appeal period for the public hearing has ended.
 - (6) The erection of this sign shall not require a permit from the city.

(Ord. No. 1501-05, § 6(Exh. F), 3-19-07)

Sec. 106-195. Vote necessary for decision of board of adjustment.

The concurring vote of four members of the board of adjustment shall be necessary to reverse any order, requirement, decision, or determination of the enforcement officer or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter, or to effect any variance in this chapter.

**City of La Porte, Texas
Planning and Zoning Commission**



December 11, 2014

AGENDA ITEM 6

Consider approval of a Variance request to allow a canopy for an RV that encroaches 2.2 feet into the required 5-foot side setback for the property located at 815 S. 5th Avenue (Applicant: Timothy Mouton).

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

Planning and Development Department Staff Report

ISSUE

Should the Board of Adjustment approve the requested variance by Timothy Mouton to allow construction of a canopy structure that will house a recreational vehicle that encroaches 2.2 feet into the required 5-foot setback?

DISCUSSION

Applicant:

Timothy Mouton.

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 #14-93000011, a requested variance to allow construction of a new canopy to cover a RV that is located 2.8 feet from the side (north) property line.

Subject Site:

The requested variance is for the property located at 815 S. 5th Street, further described as the north 14 feet of Lot 10, Lots 9 and 8, and the south 14 feet of Lot 7, Block 152, Town of La Porte. 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 (see the attached Exhibit C) 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, notice of the public hearing was 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 9,750 square feet in area and is located between W. G Street and W. H Street on S. 5th Street. The site is currently zoned R-1 and contains an existing single family residential house. The following table summarizes the surrounding zoning and land uses:

Board of Adjustment Regular Meeting
December 11, 2014
Mouton Variance

	Zoning	Land Use
North	R-1, Low Density Residential	Existing single family residential (807 S. 5 th St.)
South	R-1, Low Density Residential	Existing single family residential (821 S. 5 th St.)
West	R-1, Low Density Residential	Existing single family residential (808 & 816 S. 5 th St.)
East	R-1, Low Density Residential	Existing single family residential (814 & 820 S. 4 th St.)

Applicable Code Provisions:

Section 106-333, stipulates residential area requirements, including setbacks in the R-1 District. The following is an excerpt from that section as applicable to this variance request (see highlighted):

Sec. 106-771. - Yard requirements.
(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.

Analysis:

The applicant is requesting consideration of a variance to allow for construction of a patio with canopy cover that would allow him to store an RV in the rear yard of his property. The proposed cover is approximately 12' wide by 47' in length and would be located 2.8 feet from the north side property line.

The photographs included by the applicant in Exhibit A show the existing driveway configuration on the north side of his property. There is a driveway along the side yard that leads to a gate in the rear yard. The proposed RV storage cover would be located behind that gate.

Section 106-192 of the Zoning Ordinance (see the attached Exhibit C) 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.

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 to allow for reasonable screening for a RV. 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>

Board of Adjustment Regular Meeting
December 11, 2014
Mouton Variance

<p>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.</p>	<p><i>Staff is unable to identify an unnecessary hardship that would warrant the granting of the variance in this instance. There are no circumstances unique to this property that would be unique to the property in question. However there is an existing driveway that leads to the area where the proposed RV cover will be located.</i></p>
<p>c. That by granting the variance, the spirit of this chapter will be observed.</p>	<p><i>In this case, the authorization of the variance would be in the spirit of the chapter as the proposed improvement is located behind an existing solid wood fence that would help minimize the impact on the adjacent property.</i></p>

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
- Exhibit C: Sections 106-192 through 106-195 of the Zoning Ordinance regarding variances

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): 0232430520005
PROPERTY ADDRESS (if existing): 815 S. 5th ST LAPORTE, TEXAS 77571
PROPERTY LEGAL DESCRIPTION: N. 14' OF LOT 10, LOTS 9+8 S. 14' OF LOT 7

1. PROPERTY OWNER INFORMATION:

OWNER NAME: Timothy W. Mouton PHONE: 913-582-7480
FAX #: _____ E-MAIL: _____
MAILING ADDRESS: 815 S. 5th ST LAPORTE, TEXAS 77571

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

AGENT / CONTRACTOR: SOTO CONSTRUCTION PHONE: 832-475-9653
E-MAIL: _____ FAX: _____
MAILING ADDRESS: HOUSTON, TEXAS

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):

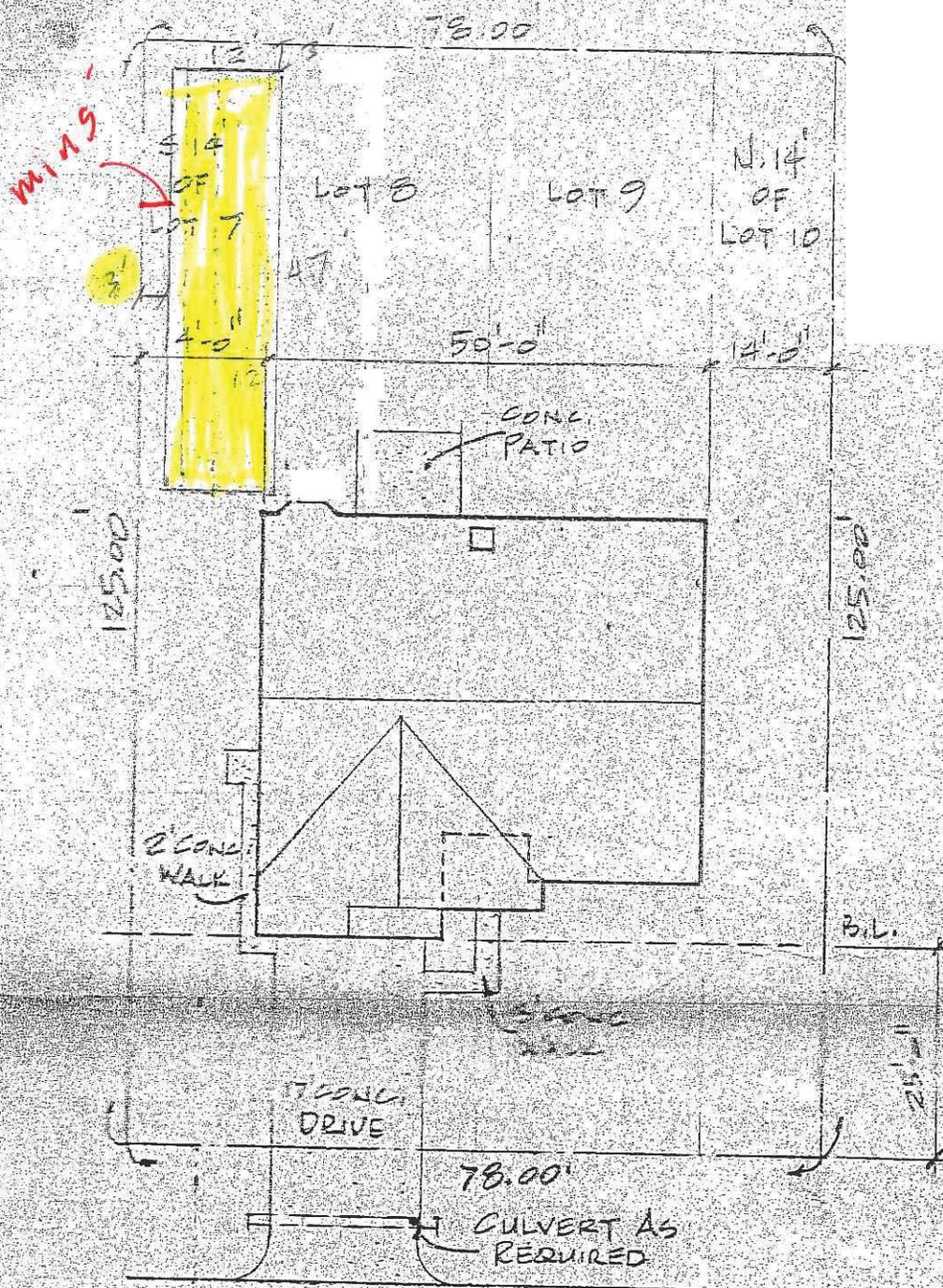
- COMPLETE ITEMS 1-5 OF APPLICATION SUBMIT \$150 APPLICATION FEE (Non-Refundable)
 ATTACH SEPARATE SHEET WITH INFORMATION HELPFUL IN CONSIDERING YOUR REQUEST:
(Specify the facts involved, relief desired, and the grounds for the request.)
 WRITTEN AUTHORIZATION FROM PROPERTY OWNER AUTHORIZING AGENT TO 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: Timothy W. Mouton (Print) SIGNATURE: [Signature] (Sign) SUBMITTED: 11-24-14 (Date)

(STAFF USE ONLY):

DATE APPLICATION REC'D.: 11/24/2014 REC'D BY: [Signature]
 \$150 APPLICATION FEE SUPPORTING DOCUMENTATION OWNER AUTHORIZATION
ZBOA MEETING DATE: _____ VARIANCE GRANTED? YES NO
APPLICATION NO: 14-930000 11



N. 14' OF LOT 10, LOTS 9 & 8, S. 14' OF LOT 7
BLOCK 152

Ensey, Eric

From: Sheila Parker [REDACTED]
Sent: Sunday, November 23, 2014 7:04 PM
To: Ensey, Eric
Subject: Pictures of property

Mr. Ensey,

The existing driveway alongside of the house is 34 inches from property line and is nine feet wide. In order to build the RV cover it has to be 12 feet wide to allow for the beams for the RV cover to be built and wide enough to support an RV. I can easily stay 5 feet off of the easement at the rear of the property but not able to for the side.

The existing concrete that we have when property was purchased is less than 34 inches from the property line. At the minimum I would like to keep that width. In order for the beams for the cover support, I am asking for 12 feet wide on the concrete slab.

Thank you,

Timothy Mouton

[Sent from Yahoo Mail for iPad](#)











AREA MAP

(CLP #14-93000011)

EXHIBIT B



Sec. 106-192. Variance.

- (a) *Application for variances.* All applications for a variance from the terms of this chapter shall be in writing and shall specify the facts involved, the relief desired, and the grounds thereof. Each such application shall be filed with the enforcement officer who after investigation shall transmit such application together with his report to the board of adjustment within ten days after the filing of the application with the enforcement officer.
- (b) *Findings of fact/definition of hardship.*
- (1) The term "variance" shall mean a deviation from the literal provisions of this chapter which is granted by the board when strict conformity to this chapter would cause an unnecessary hardship because of the circumstances unique to the property on which the variance is granted.
 - (2) Except as otherwise prohibited, the board is empowered to authorize a variance from a requirement of this chapter when the board finds that all of the following conditions have been met:
 - a. That the granting of the variance will not be contrary to the public interest;
 - 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; and
 - c. That by granting the variance, the spirit of this chapter will be observed.
 - (3) The applicant shall have the burden of proving to the board that the foregoing conditions have been met.
- (c) *Use variance prohibited.* No variance shall be granted to permit a use in a zoning district in which that use is prohibited.
- (d) *Hearings on applications for variances.* The board of adjustment shall fix a reasonable time for the hearing of all applications for variances, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time, as specified in section 106-194. Upon the hearing any party may appear in person or by agent or by attorney.

Sec. 106-193. Additional conditions.

The board is empowered to impose upon any variance or special exception any condition reasonably necessary to protect the public interest and community welfare.

Sec. 106-194. Notice of public hearings before the board of adjustment.

- (a) The notice of public hearings provided for in this section shall be given by publication once in a newspaper of general circulation in the city stating the time and place of such hearings, which shall not be earlier than ten days from the date of such publication, and in addition thereto, the board of adjustment shall mail notices of such hearing to the petitioner and to all owners of property lying within 200 feet of any point of the lot or portion thereof, on which a

special exception or variance is desired, and to all other persons deemed by the board of adjustment to be affected thereby; such owners and persons shall be determined according to the last approved tax roll of the city. Such notice may be served by depositing addressed and postage paid, in the city post office.

- (b) Requirements for public notice by sign posting:
- (1) Public notice for procedures requiring public notice by sign posting shall be provided by the city at least ten days before the public hearing.
 - (2) The applicant shall place public notice sign on the property within 20 feet of the abutting street.
 - (3) The sign shall be clearly visible, readable, and not to create hazard to traffic on the public right-of-way abutting the property.
 - (4) Public notice sign shall include the date, time, place, and purpose of public hearing.
 - (5) The applicant must return the sign to the city within ten days after the appeal period for the public hearing has ended.
 - (6) The erection of this sign shall not require a permit from the city.

(Ord. No. 1501-05, § 6(Exh. F), 3-19-07)

Sec. 106-195. Vote necessary for decision of board of adjustment.

The concurring vote of four members of the board of adjustment shall be necessary to reverse any order, requirement, decision, or determination of the enforcement officer or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter, or to effect any variance in this chapter.