

PUBLIC NOTICE

City of Lockhart
Zoning Board of Adjustment
6:30 PM, Monday, March 1, 2021
Municipal Building — Glosserman Room
308 W. San Antonio St.

BOARD MEMBER AUDIO CONFERENCE PARTICIPATION

One or more members of the Lockhart Zoning Board of Adjustment may participate in a meeting remotely. The member of the Board presiding over the meeting will be physically present at the above public location. Audio conference equipment providing two-way audio communication with each member participating remotely will be made available, and each portion of the meeting held by audio conference that is required to be open to the public can be heard by the public at the location specified.

CITIZEN AUDIO CONFERENCE PARTICIPATION

- *Call-in number: 1-408-418-9388. Attendee Access Code: 626-304-323#.*
- *Citizens wishing to listen or participate must call in prior to the start of the meeting, and should identify themselves. Attendees may call in to listen only, if desired.*
- *Those wishing to speak will be called upon to address the Board.*
- *Zoning Board of Adjustment agenda packets can be viewed online at www.lockhart-tx.org starting two days prior to the meeting. Navigate from the Departments tab at the top of the page to Development Services – Meeting Minutes/Schedules (on left side) – Agendas & Minutes – Zoning Board of Adjustment Agendas & Minutes – Agenda Packets.*

AGENDA

1. Call meeting to order.
2. Election of Officers for 2021.
3. Citizen comments not related to a public hearing item.
4. Consider the minutes of the October 5, 2020 meeting.
5. **ZV-21-01.** Hold a PUBLIC HEARING and consider a request by David Francis for a Variance to Appendix I of Chapter 64 “Zoning”, Lockhart Code of Ordinances, to allow a reduction in the minimum required rear-yard building setback from 10 feet to 2.5 feet, for a replacement shed on Lot 4 and parts of Lots 2, 3, and 5, Block 3, Polks Subdivision, zoned RMD (Residential Medium Density District) and located at 401 South Guadalupe Street.
6. Discuss the date and agenda of the next meeting.
7. Adjourn.

Posted on the bulletin board in the Municipal Building, 308 West San Antonio Street, Lockhart, Texas at 12:30 p.m. on the 23rd day of February, 2021.

**CITY OF LOCKHART
ZONING BOARD OF ADJUSTMENT
OCTOBER 05, 2020**

MINUTES

Members Present: Wayne Reeder, Mike Annas, Laura Cline, John Juarez, Kirk Smith, Anne Clark (By Phone), Severo Castillo (By Phone)

Member Absent: Lori Rangel

Staff Present: Christine Banda, Kevin Waller

Others Present: Joe Roland (applicant, Agenda Item (6)), Worlanda Neal (property owner, Agenda Item (6)), Roberta Arispe (applicant, Agenda Item (4)), Christian Martinez, Matthew Martinez, Brenda Hernandez (applicant, Agenda Item (5)), Javier Hernandez, Lydia Salcedo, Janet McIntosh

1. Call meeting to order. Chair Cline called the meeting to order at 6:30 p.m.
2. Citizen comments not related to a public hearing item. None
3. Consider the minutes of the July 6, 2020 meeting.

Member Clark moved to approve the July 6, 2020 minutes. Member Reeder seconded, and the motion passed by a vote of 6-0.

4. SE-20-02. Hold a PUBLIC HEARING and consider a request by Roberta Arispe for a Special Exception as provided in Section 64-130(c)(5), Chapter 64 "Zoning", Lockhart Code of Ordinances, to preclude an essentially inadvertent taking of property due to an existing nonconforming unplatted lot width and lot area on 0.10 acre in the Byrd Lockhart Survey, Abstract No. 17, zoned RMD (Residential Medium Density District) and located at 1003 Proctor Street.

Planning Staff Kevin Waller presented the staff report to the Board via PowerPoint presentation. He stated that the property is nonconforming with regard to width and size area. Waller explained that the special exception approval is necessary in order to develop the property, and stated that Staff recommends approval.

Chair Cline opened the public hearing and asked for the applicant to come forward.

Applicant Roberta Arispe stated that she seeks approval of the Special Exception in order to have the ability construct a home on the property in the future. Arispe explained that she has attempted to obtain information on the adjacent property to the east in pursuit of making her property conforming to the dimensional and area requirements, but has had little success.

Joe Roland of 207 Windridge Drive North said he is in favor of the variance request, which would allow a new home to be built and add value to the community.

Matthew and Christian Martinez of 916 Monte Vista Drive said they are in favor of the variance. The Martinez' explained that the subject property is their mother's, and she has taken good care of the property.

Chair Cline asked for any other speakers, either in person or on the phone. Seeing and hearing none, she closed the public hearing.

Member Clark moved to approve SE-20-02. Member Annas seconded, and the motion passed by a vote of 6-0.

5. SE-20-03. Hold a PUBLIC HEARING and consider a request by Brenda Hernandez, on behalf of Somsy Vejsiri, for a Special Exception as provided in Section 64-130(c)(5), Chapter 64 "Zoning", Lockhart Code of Ordinances, to preclude an essentially inadvertent taking of property due to an existing nonconforming unplatted lot depth and lot area on 0.127 acre in the Byrd Lockhart Survey, Abstract No. 17, zoned RLD (Residential Low Density District) and located at 1214 Farmer Street.

Mr. Waller presented the staff report to the Board and explained that this agenda item is a similar proposal to the previous item. However, with this proposal, the lot depth and lot area are nonconforming. Waller presented photos and maps of the subject property via PowerPoint. He stated that Staff recommends approval.

Chair Cline opened the public hearing and asked for the applicant to come forward.

Applicant Brenda Hernandez of 231 Sunrise Street, Dale, stated that they would like to build a home for her mother-in-law from Houston so that she could live closer to the family and in a safer environment.

Javier Hernandez stated that he is Brenda's husband and the home is for his mother. Mr. Hernandez echoed that they would like to have his mother living closer to the family, and that they visit a ballpark frequently which is near the subject property. The new home would be an improvement to the property. Mr. Hernandez would appreciate the Board's approval of the special exception.

Chair Cline asked for any other speakers. Seeing and hearing none, she closed the public hearing.

Member Annas moved to approve SE-20-03. Member Smith seconded, and the motion passed by a vote of 6-0.

6. FV-20-01. Hold a PUBLIC HEARING and consider a request by Joe Roland on behalf of Worlanda Neal for a Variance to the Lockhart Code of Ordinances, Chapter 12, Section 12-490 "Residential Districts", to allow a six foot tall privacy fence to encroach approximately 12 feet into the minimum required 20 foot front yard setback on 0.511 acre in the Byrd Lockhart League, Abstract -17, zoned RMD (Residential Medium Density District) and located at 1210, 1212, and 1308 Green Street.

Mr. Waller presented the staff report to the Board and explained that the new fence encroaches into the front-yard setback on the northwest side of the subject property. A chain-link fence was previously placed in the same location, and therefore considered nonconforming, or "grandfathered". However, once that fence was removed, the grandfathered status was lost. The applicant erected the new fence in the same location as the previous fence without a Building Permit. Mr. Waller presented photos and maps of the property via PowerPoint. He also presented and explained each of the Variance review criteria, and stated that Staff recommends denial of the variance.

Chair Cline opened the public hearing and asked for the applicant to come forward.

Applicant Joe Roland of 207 Windridge Drive North stated that he was the contractor for the fence. Mr. Roland explained that he began the project at the start of the COVID-19 pandemic, and had been told by City Staff that he did not need a permit if the holes for the previous fence were used for the new fence. Roland explained that he had misunderstood, and in actuality, the fence could only be replaced in the same location if it utilized the same type of fencing material. He stated that the City relocated the paved portion of Green Street eastward, causing it to encroach onto the subject property. The new fence is attractive, and it would be unfortunate if it had to be demolished and/or relocated. Roland stated that he had spoken with Public Works Director Sean Kelley, who said that he didn't have a problem with the fence in its current location.

Property owner Worlanda Neal echoed that the problem arose when the City moved the street some time ago and a new sewer line was installed along the street. Her house has been there for a long time. Ms. Neal then circulated a letter from previous City Manager Vance Rodgers explaining what happened with the street and its effect on the subject property.

Janet McIntosh of 1201 Green Street stated that the street has gone through a lot of changes and that there have been flooding issues since its relocation. She sees the issue as being with the street and not the fence, and is in favor of the variance.

Lydia Salcedo of 1208 Green Street explained that she is a neighbor of the applicant, and that the fence provides a buffer for the applicant's dogs from the traffic on the street. Ms. Salcedo is in favor of the variance.

Chair Cline asked for any other speakers. Seeing and hearing none, she closed the public hearing and moved to Board discussion.

Discussion ensued amongst Board members, especially about whether a precedent would be set by granting the variance.

Member Clark moved to approve FV-20-01, explaining that the fence issue was largely created by the City when the street was relocated, resulting in a portion of the applicant's property being taken by the City. Due to the taking, Clark explained, no precedent is being set. Member Reeder seconded, and the motion passed by a vote of 6-0.

7. Discuss the date and agenda of the next meeting.

Mr. Waller stated that the next regularly scheduled meeting would be held Monday, November 2, 2020, if applications are received by the October 12 deadline.

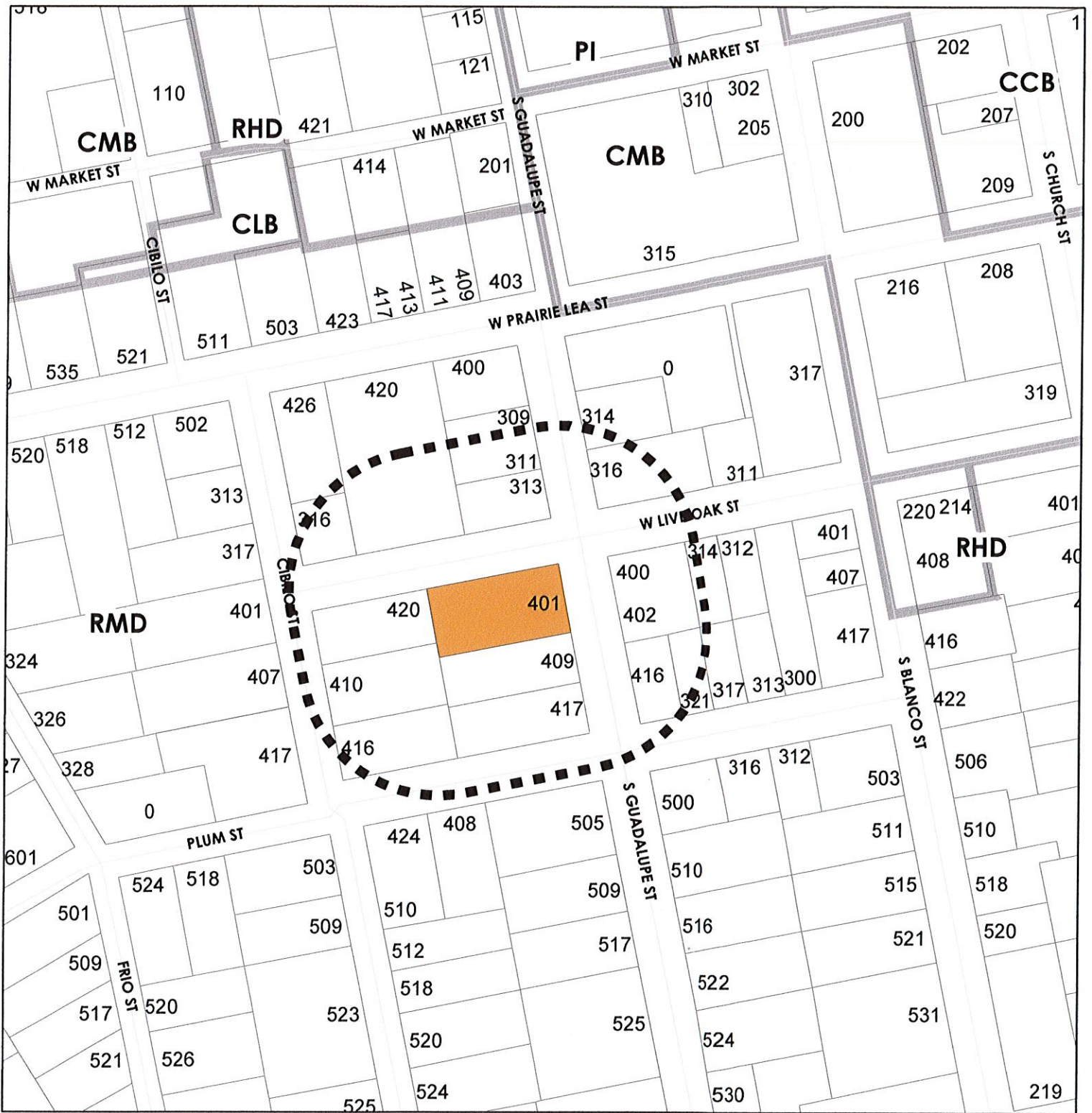
8. Adjourn.

Member Annas moved to adjourn the meeting, and Member Smith seconded. The motion passed by a vote of 6-0, and the meeting adjourned at 7:48 p.m.

Approved: _____
(Date)

Christine Banda, Recording Secretary

Laura Cline, Chair



ZV-21-01

401 S GUADALUPE ST

TO ALLOW REDUTION IN THE MINIMUM
 REAR YARD SETBACK FROM
 10 FT TO 2.5 FT FOR A NEW SHED



- Subject Property
- Zoning Boundary

scale 1" = 200'

CASE SUMMARY

STAFF CONTACT: Kevin Waller, Assistant City Planner *KW* CASE NUMBER: ZV-21-01
REPORT DATE: February 24, 2021
PUBLIC HEARING DATE: March 1, 2021
APPLICANT'S REQUEST: Variance to Appendix I to allow a reduction in the minimum rear-yard building setback from 10 feet to 2.5 feet for a replacement shed
STAFF RECOMMENDATION: ***Approval, if the Board determines that all six variance criteria are met.***
CONDITIONS: None

BACKGROUND DATA

APPLICANT AND OWNER: David Francis
SITE LOCATION: 401 South Guadalupe Street
LEGAL DESCRIPTION: Lot 4 and parts of Lots 2, 3, and 5, Block 3, Polks Subdivision
SIZE OF PROPERTY: 0.454 acre
EXISTING USE OF PROPERTY: Single-Family Residential
ZONING CLASSIFICATION: RMD (Residential Medium Density District)

ANALYSIS OF ISSUES

REASON FOR REQUESTED VARIANCE: The applicant wishes to rebuild and enlarge a storage shed on the property. The shed's existing foundation will be retained and widened to the north and south with the expansion. Both the existing and proposed shed are located two and one-half feet from the rear property line, which does not meet the rear setback requirement of 10 feet from the property line set forth in Appendix I of the Zoning Ordinance. Since the shed is to be rebuilt in its entirety, its grandfathered status, including the nonconforming setback, will be lost. According to the site plan, the replacement shed will encroach 7.5 feet into the required 10-foot setback from the rear, or west, property line.

AREA CHARACTERISTICS: The subject property is surrounded by properties developed with single-family dwellings. According to the submitted site plan and responses to the variance criteria, another existing accessory structure on the property, to the north of the shed to be replaced, is not only located within the required 10-foot rear setback, but encroaches one and one-half feet into the adjacent property to the west. In addition, the site plan identifies a detached garage to the south of the shed to be replaced that is located on the opposite side of the property line to which the variance is requested on the adjoining property to the west. This garage is shown as either abutting, or very close to, that property line. Finally, an existing garage and carport structure is located along the north property line of the subject property along the side street, West Live Oak Street, which appears to directly abut that property line.

UNIQUE CONDITIONS OF PROPERTY: The existing shed's nonconforming rear-yard setback was not caused by an action of the current property owner, which, in addition to other accessory structures on the property that both abut and cross property lines, could be considered unique conditions of the property. The application cites two well-established trees in proximity to the shed that provide significant shade to the structure. The applicant explains that this creates a unique situation such that requiring compliance with the setback requirements would result in the elimination of one of the trees, and moving the replacement shed away from the other, thus requiring an air-conditioned structure. Staff does not believe that this creates a condition unique to the property, as the tree to the east of the shed is identified by the applicant as a Chinaberry Tree, which is not classified by the City as a "Protected Tree". In addition, the financial considerations associated with the installation of air conditioning, if it is actually needed, are not considered a hardship.

NATURE OF HARDSHIP: Although there would be reduced financial hardship associated with reconstructing the shed in the same location due to the applicant choosing not to install air conditioning at that location, the request for the variance is not based exclusively upon the applicant's desire to avoid the installation of air conditioning. The applicant also seeks the variance to be able to utilize the existing foundation within the required rear-yard setback.

EFFECT ON SURROUNDING PROPERTY AND PUBLIC SAFETY: Since the replacement shed will be constructed on the same foundation as the previous structure, with a minimal expansion of footprint that does not come closer to the rear property line than the current shed, there will be no increased impacts to surrounding properties and public safety.

ALTERNATIVE SOLUTIONS: A shed meeting all setback requirements is an alternative solution to the proposed variance.

RESPONSE TO NOTIFICATION: None as of the date of this report.

CITY OF LOCKHART - SITE PLAN

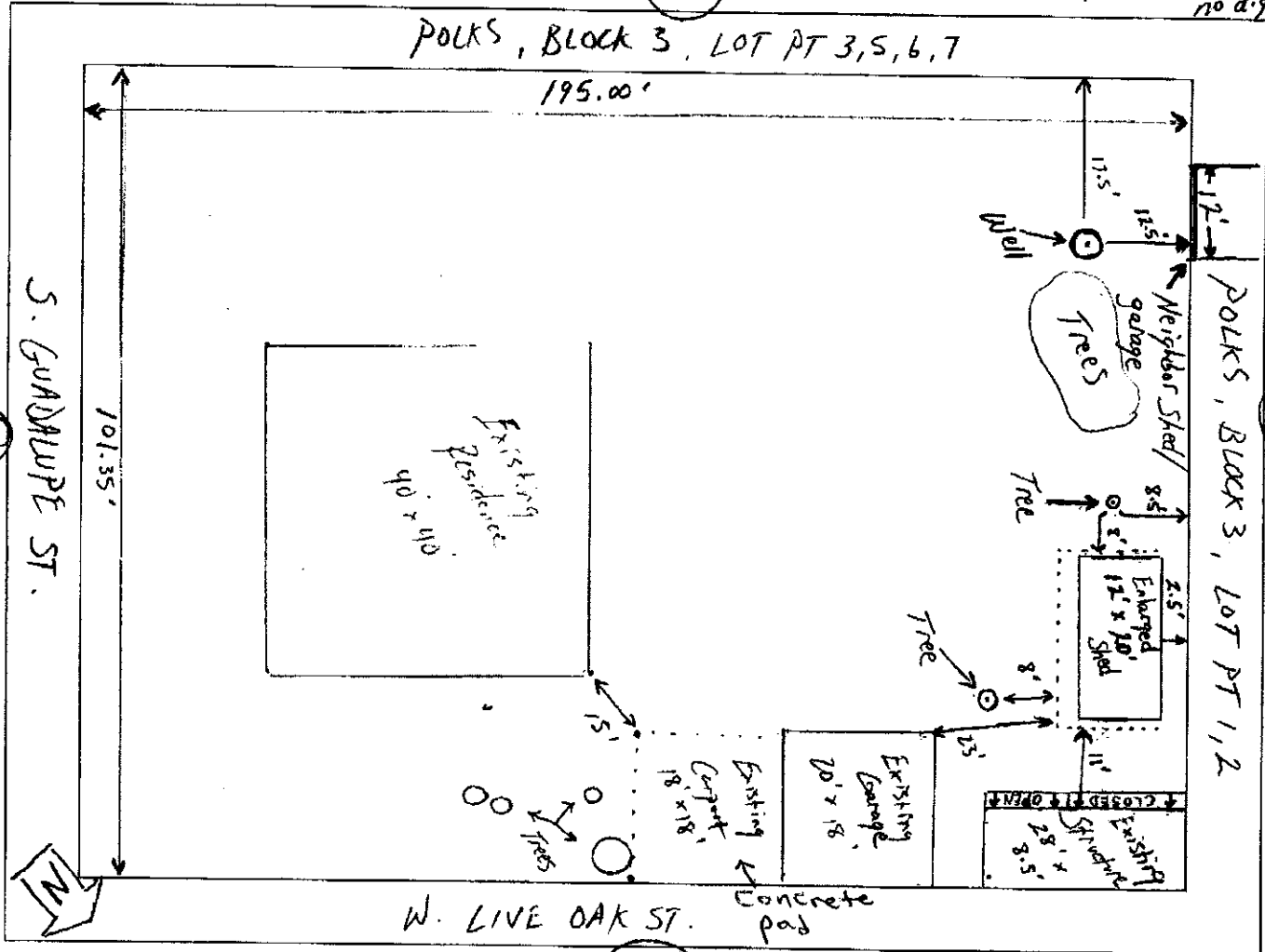
Revised 1/17/21

APPLICANT NAME: David Francis PHONE: 619-793-7318

SITE ADDRESS: 401 S. Guadalupe St., Lockhart

PERMIT NUMBER: _____ DATE: 1/4/21 / Revision 1/17/21

PROPOSED WORK: Enlarge 10'x12' shed to 12'x20', concrete block foundation, existing & new (blocks on soil - no digging)



SCALE = 1/8" = 20'

Please indicate the following:

1. North arrow, scale of the drawing (e.g., 1" = 50 feet), property lines with dimensions, and abutting streets and alleys;
2. Outline the location, size, and type of all structures with labels indicating whether existing or proposed; show roof overhangs as dotted lines;
3. Distances between all existing and/or proposed structures (measuring from roof overhang, if any) as well as from all existing and/or proposed structures to all property lines;
4. Location, type, and width of all known easements; and
5. Location, dimensions, and surface material of existing or proposed driveways and off-street parking areas; specify the number of provided and required parking spaces. Planning staff can assist with this requirement.

Revised 1/17/21

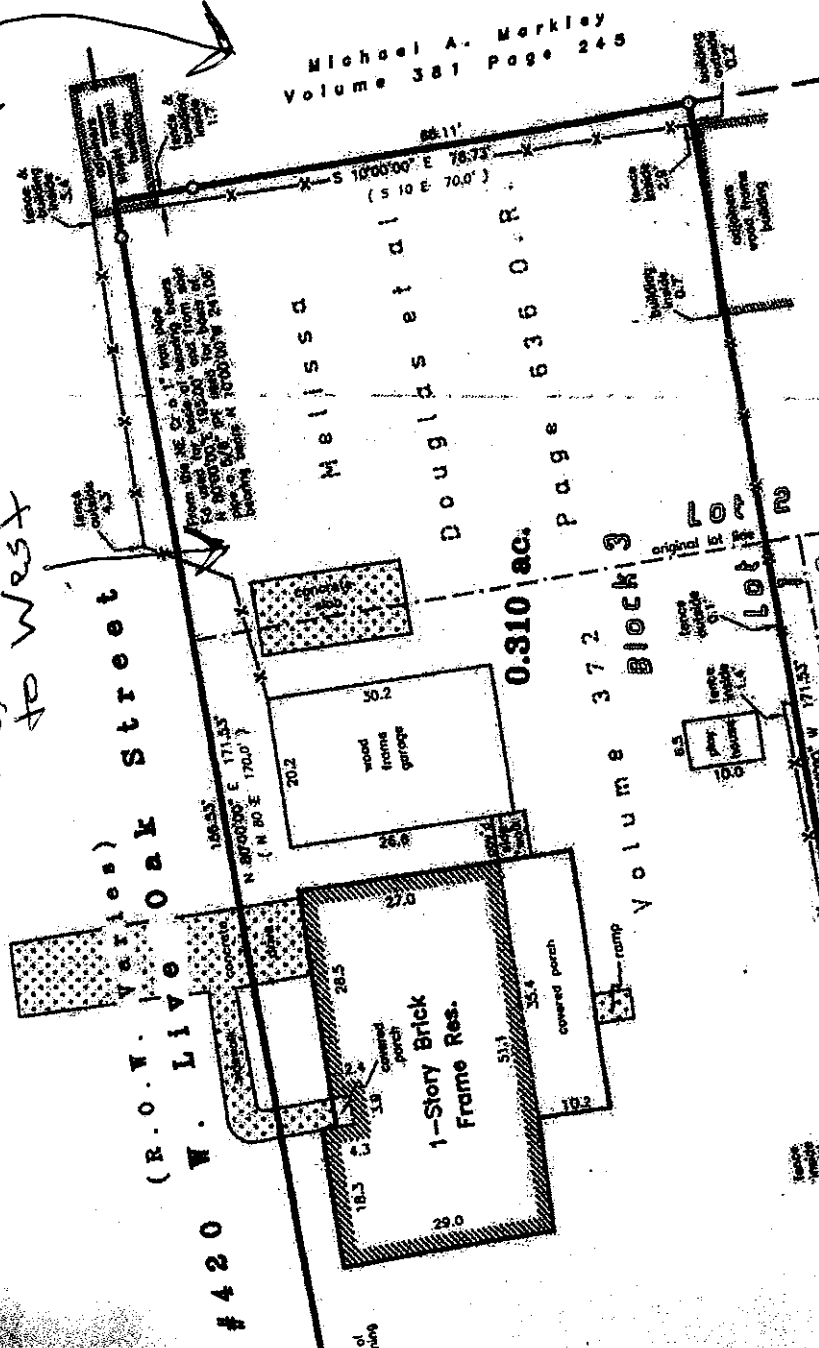
City of Lockhart Caldwell County, Texas Polks Subdivision Part of Lots 1 and 2 in Block 3 Part of Block 44 of the Original Town of Lockhart

Signature

SURVEY PLAT

Subject Property
Adjacent Property to West

Showing a 0.310 acre tract of land out of Lots 1 and 2 in Block 3 of POLKS SUBDIVISION, in the City of Lockhart, Caldwell County, Texas, according to the map or plat thereof recorded in Volume 15 Page 476, Deed Records of Caldwell County, Texas and a part of Block 44 of the Original Town of Lockhart, according to the map or plat thereof recorded in Volume Q Page 507 of the said Deed Records and the improvements as found situated thereon. I do hereby certify to WILLIAM H. PETERSEN and PATRICIA BABCOCK PETERSEN, that (1) the foregoing plat is a true and correct representation of a survey made on the ground under my direct supervision on December 23, 2006, (2) I have shown or noted all recorded easements or right of ways listed in the title report, G.F. #086874C, and shown all observable evidence of easements on the ground. There are no encroachments, protrusions, conflicts nor any shortages in area nor boundary other than shown hereon. **THIS SURVEY IS CERTIFIED AND ITS CONTENTS GUARANTEED FOR USE WITH THIS ONE TRANSACTIONS ONLY DATED THIS DATE.** Only those prints containing the raised Surveyor's seal and an original "LIVE" signature should be considered official and relied upon by the user.



- LEGEND**
- CAPPED 1/2" IRON PIN SET
 - 1/2" IRON PIN FOUND
 - (---) ORIGINAL LOT LINE
 - X- ORIGINAL DEEDED CALLS
 - FENCES MEASURER
 - ☐ CONCRETE
- UNLESS OTHERWISE NOTED.

G.F. #086874C
BORROWER: William H. Petersen and Patricia Babcock Petersen
911 ADDRESS 430 W. Live Oak Street
Lockhart, Texas 78644

Claude Hinkle Surveyors
P. O. Box 1027
Lockhart, Texas 78644

State: Texas, Co: Caldwell
Map No: 083072
Date: December 23, 2006
Surveyed By: W.H.P.

David Francis
401 S. Guadalupe St.
Lockhart, TX 78644

January 17, 2021

Subj: Zoning Variance Statement, 401 S. Guadalupe St.

Dear Sir / Madam,

The following is submitted for zoning variance on above subject property. This statement revises the prior January 4, 2021 statement.

A request for variance at west property line is being made for the foregoing reasons:

1. An already existing shed, two and one half feet from west property line and adjacent to a one hundred plus year old existing structure (herein further referred to as "tack house") will be widened / enlarged north to south. The existing foundation will be expanded north / south. This north / south expansion does not encroach on current zoning requirements, is not in question, and no variance is requested.

2. The shed, being adjacent to the already existing tack house (NW corner and sized 28' x 8.5' on site map), will be constructed in such a way so as to approximately match the concrete slab and partial enclosure of the tack house. This creates somewhat of an "L" shape for the two structures and when used in combination, creates best use / best functionality.

** It must be noted that the tack house extends one and one half feet into the neighboring lot (Polks, Block 3., Lot Pt 1, 2) – not only is there no setback, but it is 1.5 feet into adjacent parcel. As the newly enlarged shed will be used in tandem with the tack house, a ten feet minimum setback for proposed enlarged shed significantly reduces functionality of tandem use for the two structures.

** Also of particular note, there is a tree eight feet to the south of proposed enlarged shed. There is another tree eight feet to the east of proposed enlarged shed. There are numerous trees and an old hand-dug well to the south. All of these are now included on the revised site map.

3. Of further importance that detracts from the necessity of a ten foot setback for proposed enlarged shed: in addition to the tack house, there is another already existing structure to the south along west property line – another very old structure with virtually nonexistent setback. To the north and south of proposed enlarged shed, there are two existing structures with no setback. As such already exists, enforcing a ten foot minimum setback for proposed enlarged shed would appear not only an arbitrary decision, but a decision that does not allow the property owner to decide what constitutes best use of already existing structures (combined use of proposed enlarged shed and the tack house).

Practical use, obviously important to user, cannot be overlooked. The site of proposed enlarged shed is situated under a very large oak tree and next to a Chinaberry tree that provides excellent shade to shed and tack house. Incorporating a ten foot setback would be a loss of oak tree shade cover and necessitate the removal of Chinaberry tree. The majority sun situation created would likely necessitate the use of

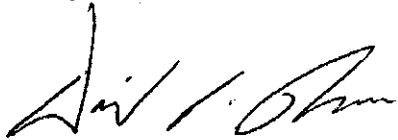
air conditioning from May to October for practical inside use of more than several minutes. Between 2010 and 2020, seven out of ten years have been recorded as the hottest on record. Placement of a non-air conditioned structure in majority sun when there is not prudent reason to do so would seem to demonstrate lack of common sense and perhaps disregard for environment.

I believe items 1 and 2 above do adequately explain 1 through 3 of criteria for variance "Submittal Requirements."

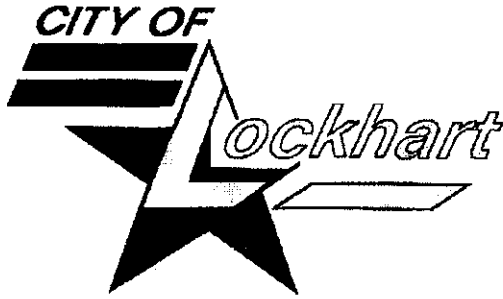
As for items 4 through 6 of variance Submittal Requirements:

- There is no reason for financial gain or reduced financial hardship.
- There is no apparent reason the variance would adversely affect public health or safety nor interfere in any manner with the use of adjacent property. This variance request asks only that current, decades old setbacks of existing structures be maintained for above stated reasons.
- The variance does not alter the essential character of the zoning district within which the subject property is located and is in harmony with the intent and purposes of the zoning ordinance.

When the aforementioned is carefully considered and taken into account, there appears to be little reason, little logic, no utilitarian need, and no safety need that would necessitate enforcing a ten foot setback. With twenty one feet of the west property line occupied by old, existing structures without setback and much of the remainder occupied by trees and a well, the most suitable option for placement to co-exist for best use possible with structures already in place, is the same place that a shed has already existed for decades.



David Francis



ZONING VARIANCE APPLICATION

(512) 398-3461 • FAX (512) 398-3833
P.O. Box 239 • Lockhart, Texas 78644
308 West San Antonio Street

APPLICANT/OWNER

APPLICANT NAME DAVID FRANCIS
DAY-TIME TELEPHONE 619-793-7318
E-MAIL David.francis3004@gmail.com
OWNER NAME _____
DAY-TIME TELEPHONE ↑
E-MAIL _____

ADDRESS 401 S. GUADALUPE
Lockhart 78644
ADDRESS _____
↑

PROPERTY

ADDRESS OR GENERAL LOCATION 401 S. GUADALUPE ST.
LEGAL DESCRIPTION (IF PLATTED) POLKS, BLOCK 3, LOT 4 PT 2, 3, 5
SIZE .454 ACRE(S) ZONING CLASSIFICATION RMD
EXISTING USE OF LAND AND/OR BUILDING(S) ~~ST-1~~ Single-Family Residential

REQUESTED ZONING VARIANCE

VARIANCE TO SECTION(S) Appendix 1 OF THE ZONING ORDINANCE
CURRENT ORDINANCE REQUIREMENT(S) 10' Rear Setback minimum.

REQUESTED VARIANCE(S) 2.5' Rear Setback (See additional statement)

401 S. GUADALUPE
Statement included

SUBMITTAL REQUIREMENTS

IF THE APPLICANT IS NOT THE OWNER, A LETTER SIGNED AND DATED BY THE OWNER CERTIFYING THEIR OWNERSHIP OF THE PROPERTY AND AUTHORIZING THE APPLICANT TO REPRESENT THE PERSON, ORGANIZATION, OR BUSINESS THAT OWNS THE PROPERTY.

IF NOT PLATTED, A METES AND BOUNDS LEGAL DESCRIPTION OF THE PROPERTY.

A WRITTEN STATEMENT DOCUMENTING THE REASON FOR THE VARIANCE(S), INCLUDING EVIDENCE THAT THE REQUEST COMPLIES WITH THE FOLLOWING CRITERIA AS REQUIRED FOR APPROVAL OF A VARIANCE.

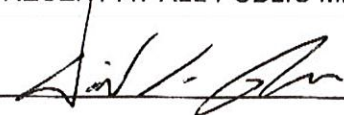
1. A unique physical condition exists within or adjacent to the subject tract or structure(s) located thereon which distinguishes it from other similarly situated, and which creates an exceptional hardship, difficulty, or inequity that would result from literal enforcement of the ordinance;
2. The condition or characteristic noted above is not caused by an action of the property owner, occupant, or applicant;
3. The variance is the minimum amount necessary to allow a reasonable use of the property;
4. The sole reason for the variance is not a desire of the owner, occupant, or applicant for increased financial gain or reduced financial hardship;
5. The variance will not adversely affect public health or safety, and will not substantially or permanently interfere with the appropriate use of adjacent conforming property in the same district; and,
6. The variance will not alter the essential character of the zoning district within which the subject property is located, and is in harmony with the intent and purposes of the zoning ordinance.

SITE PLAN, SUBMITTED ON PAPER NO LARGER THAN 11" X 17", SHOWING: 1) Scale and north arrow; 2) Location of site with respect to streets and adjacent properties; 3) Property lines and dimensions; 4) Location and dimensions of buildings; 5) Building setback distances from property lines; 6) Location, dimensions, and surface type of off-street parking spaces and loading areas; and, 7) any other proposed features of the site which are applicable to the requested variance.

APPLICATION FEE OF \$ 150 PAYABLE TO THE CITY OF LOCKHART AS FOLLOWS:

1/4 acre or less	\$125
Between 1/4 acre and one acre	\$150
One acre or greater	\$170 plus \$20.00 per each acre over one acre

TO THE BEST OF MY KNOWLEDGE, THIS APPLICATION AND ASSOCIATED DOCUMENTS ARE COMPLETE AND CORRECT, AND IT IS UNDERSTOOD THAT I OR ANOTHER REPRESENTATIVE SHOULD BE PRESENT AT ALL PUBLIC MEETINGS CONCERNING THIS APPLICATION.

SIGNATURE 

DATE 1/4/21

OFFICE USE ONLY

ACCEPTED BY Kevin Waller

RECEIPT NUMBER 981195

DATE SUBMITTED 1/7/21

CASE NUMBER ZV - 21 - 01

DATE NOTICES MAILED 2-18-2021

DATE NOTICE PUBLISHED 2-18-2021

BOARD OF ADJUSTMENT MEETING DATE 3/1/21

DECISION _____

CONDITIONS _____
