#### **PUBLIC NOTICE**

City of Lockhart
Zoning Board of Adjustment
6:30 PM, Monday, November 4, 2024
Municipal Building — Glosserman Room
308 W. San Antonio St.

#### AMENDED AGENDA

- 1. Call meeting to order.
- 2. Elect Chairman and Vice-Chair for 2024.
- 3. Citizen comments not related to a public hearing item.
- 4. Consider the minutes of the April 1, 2024 meeting.
- ZV-24-07. Hold a PUBLIC HEARING and consider a request by Alan Balser for a Variance to Appendix II of Chapter 64 "Zoning", Lockhart Code of Ordinances, to allow a reduction in the minimum required lot width, depth, and area standards, on 3.648 acres in the Byrd Lockhart Survey, Abstract No. 17, zoned AO (Agricultural-Open Space), and located at 1109, 1111, and 1117 Silent Valley Road (F.M. 2001).
- 6. Discuss the date and agenda of the next meeting.
- 7. Adjournment.

Posted on the bulletin board in the Municipal Building, 308 West San Antonio Street, Lockhart, Texas at 4:00 p.m. on the 25<sup>th</sup> day of October, 2024.

# CITY OF LOCKHART ZONING BOARD OF ADJUSTMENT APRIL 1, 2024

#### **MINUTES**

Members Present: Wayne Reeder, Mike Annas, Lori Rangel, Shawn Martinez, Lucy Knight, Arnold

Proctor, Patrick Stroka

Member Absent: Lori Rangel

**Staff Present:** Kevin Waller, David Fowler, Evan Olszewski

Others Present: Hillary and Hal Purka (applicants, Agenda Item 4), Severo Castillo (public

comment, Agenda Item 4), Paul Ginsberg (applicant, Agenda Item 5), Linda Hinkle (public comment, Agenda Item 5 and Agenda Item 6), Nathan Zapien (applicant's representative, Agenda Item 6), Monte Guidry (applicant and owner, Agenda

Item 6).

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 February 5, 2024 meeting.

Member Lucy Knight noted that Tom Bonn's name was misspelled on the first and second pages of the minutes.

Member Knight moved to approve the minutes as amended. Member Annas seconded, and the motion passed with a vote of 7 to 0.

4. **ZV-24-04.** Hold a PUBLIC HEARING and consider a request by Hal and Hillary Purka for a Variance to Appendix I of Chapter 64 "Zoning", Lockhart Code of Ordinances, to allow a reduction in the minimum required side-yard building setback from 5 feet to 4 feet, on 0.1976 acre in the Byrd Lockhart Survey, Abstract No. 17, zoned RMD (Residential Medium Density) and located at 705 Sycamore Street.

Planning Staff Kevin Waller presented the staff report using a PowerPoint presentation. The proposed variance would allow for the applicant to place a manufactured home or other structure within a thin part of the subject property. The request is motivated by the topography of the rear, wider part of the subject property. Mr. Waller noted that Staff recommends denial of the variance, with the alternatives of designing a smaller home that will fit within the setbacks or using the rear of the property for a smaller construction.

Member Proctor asked staff if a manufactured home was allowed on the site. Staff clarified that it would require a Specific Use Permit after the variance was approved. Member Proctor noted that neighboring properties built in tough topographic conditions similar to the rear of the property.

Member Annas asked which criteria for the variance request were not met. Staff reported that the conditions requiring a unique circumstance, public safety regarding additional driveway access on the street (although the property does have physical street frontage and must be allowed a right-of-access), and circumstances not prohibiting any reasonable use of the property were all not satisfied.

Chair Cline opened the public hearing for those wanting to speak in favor of the variance.

Applicants Hillary and Hal Purka, P.O Box 38 in Lockhart, stated that they needed more information about building on the challenging topography at the rear and received an answer that if they built within the setbacks no variance would be required. The applicants explained that the property was inherited and while they had attempted to sell the lot, the property was most useful to them as a residence for their extended family. Based on this fact, they stated that the path of least resistance to building was desirable to them.

Chair Cline asked about their conversations with neighbors regarding the construction to which the applicants responded that they contacted everyone they could, but no acquisition of neighboring property or sale to neighbors was possible.

The applicants noted that the property's shape was created by the City and that the problem they had could be resolved by the City.

Member Annas and Member Proctor asked about the position of the proposed structure relative to the neighboring house, and the applicants and Chair Cline discussed the dimensions of the property.

Chair Cline asked if there was anyone in opposition to the variance.

Severo Castillo, 1001 West Prairie Lea Street, came forward and stated he was not in opposition, but that he purchased a lot nearby and didn't know what was going on with the property boundaries in the area because someone had built a driveway on his property. He noted that permits and compliance are lacking in the neighborhood.

Chair Cline closed the public hearing and requested Board discussion.

Member Reeder asked how a manufactured home would fit on the site.

Member Stroka asked Staff to repeat which variance review criteria were not met.

Mr. Waller replied that Criterion One (condition unique to the property), Criterion Two (physical surroundings), Criterion Five (public health and safety), and Criterion Six (minimum amount necessary to allow a reasonable use of the property) were all not met.

Member Annas stated that the applicant would be more comfortable on the lot if they built in the back.

Member Knight asked if the owner would consider a stick-built building in the wider area of the property.

Member Stroka stated that it was difficult to make a decision without knowing the details of how far back a building could be built on the wider part of the property, and recommended more analysis before a decision is made.

Member Knight suggested that the Board table the item until the data is collected and the applicant knows what they want to do.

Member Knight moved to table ZV-24-04 to allow the applicant time to analyze the northern, 45-foot-wide half of the property as to its depth and developability south of the steep incline. Member Stroka seconded, and the motion passed with a vote of 7-0.

 ZV-24-05. Hold a PUBLIC HEARING and consider a request by Paul Ginsberg for a Variance to Appendix I of Chapter 64 "Zoning", Lockhart Code of Ordinances, to allow a reduction in the minimum required side-yard building setback from 15 feet to 11 feet, on Lot 1, Block 1, Elizabeth Homestead Addition, consisting of 0.202 acre, zoned RMD and located at 1009 North Commerce Street.

Planning Staff Evan Olszewski presented the staff report to the Board. He emphasized that the existing structure cannot be moved and that the right-of-way on China Street is very wide. The variance to the side-street setback requirement would have minimal impact on the surrounding properties and traffic safety, and would enable the property owner to subdivide the property legally.

Chair Cline opened the public hearing for those wanting to speak in favor of the variance.

Applicant Paul Ginsberg, 851 Peach Street/1101 Thorpe Lane, came forward and stated he was not sure why a variance is required.

Chair Cline clarified that a proposed subdivision cannot create illegal lots, so the setbacks must be resolved prior to processing his subdivision.

Chair Cline asked if there was anyone to speak in opposition. Seeing none, she closed the public hearing and requested Board discussion.

Member Knight stated she had no problem with the variance.

Chair Cline stated that setback problems with older, nonconforming homes are common and variances are appropriate in such cases.

Member Martinez moved to approve ZV-24-05. Member Knight seconded, and the motion passed with a vote of 7-0.

6. **ZV-24-06.** Hold a PUBLIC HEARING and consider a request by Monte J. Guidry for a Variance to Appendix I of Chapter 64 "Zoning", Lockhart Code of Ordinances, to allow a reduction in the minimum required front-yard building setback from 20 feet to 17 feet, and a reduction in the minimum required side-yard building setback from 5 feet to 1 foot, on 0.216 acre in the Byrd Lockhart Survey, Abstract No. 17, zoned RMD and located at 1014 Kate Street.

Mr. Waller presented the staff report. He noted that the setback variance request is the latest in several steps required to lawfully recognize the existing accessory structure as an accessory dwelling unit.

Member Knight asked about the nonconforming south-side setback of the primary residence on the property.

Mr. Waller replied that the primary residence is not part of the variance request, and that its nonconforming side setback is grandfathered.

Member Knight inquired as to whether the neighbors were in support of the variance request.

Mr. Waller noted that the letter received from a neighbor in opposition seemed to have stemmed from an assumption that a new building was being proposed on the property. In addition, a different neighbor, to the north, contacted Staff via phone and is in favor of the variance, having worked with the applicant on obtaining the survey to relocate their common boundary line so that it did not encroach through the accessory building.

Chair Cline opened the public hearing for those wishing to speak in favor of the variance.

Linda Hinkle, 1109 South Main, described the situation on the property, specifically that it was originally owned together with the neighboring parcel by one family, which later experienced some internal conflict and subdivided the property. The family worked with the new owner of the property to adjust the property line to not run through the accessory building. The variance is required because the accessory building is very close to that new line. Mrs. Hinkle also noted that a portion of Kate Street had been abandoned to provide parking for the building.

Nathan Zapien, 1420 Pendergrass, stated that the property belongs to his parents, who bought it without knowing the full situation. They discovered the problems when the electric meter was turned on and the City looked into the property.

Chair Cline asked if anyone was present to speak in opposition to the variance. Seeing none, she closed the public hearing and requested Board discussion.

Chair Cline stated that it seems like the process to lawfully recognize the building as an accessory dwelling unit was working, and appreciated the work that the applicant had done.

Member Proctor stated that it is clear that Staff is in favor of the variance request.

Member Stroka moved to approve ZV-24-06. Member Annas seconded, and the motion passed with a vote of 7-0.

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

Mr. Waller stated that the next regularly scheduled meeting would be held on the first Monday in May, with the deadline for agenda items in about a week.

Member Knight noted that ZV-24-04 might be back on that agenda.

With regard to the updated Board membership roster distributed at the meeting, Chair Cline noted that the individual area codes should be identified, and not use 512 as the default area code.

Chair Cline noted that Member Annas is not the Vice-Chair, but Member Lori Rangel is. Additionally, Chair Cline's work numbers should be removed, as they are not the best means of contact for her.

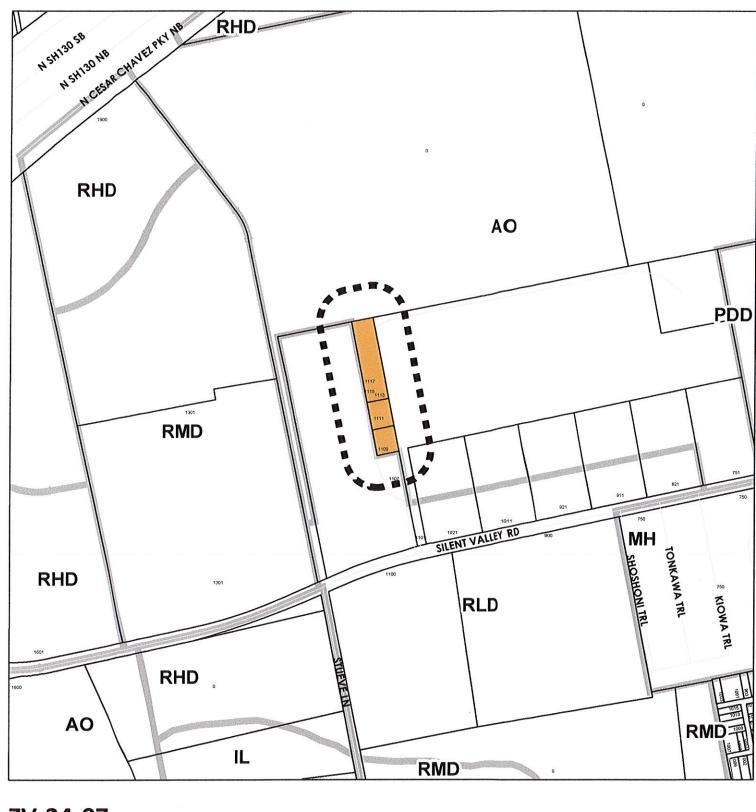
Member Martinez noted that his work number should also be removed, for the same reason.

Member Knight corrected her phone number.

#### 8. Adjournment.

Member Proctor moved to adjourn the meeting, and Member Stroka seconded. The motion passed with a vote of 7-0, and the meeting adjourned at 7:48 p.m.

Approve	ed:
	(Date)
Evan Olszewski, Acting Recording Secretary	Laura Cline, Chair



**ZV-24-07**1109, 1111, 1117 SILENT VALLEY RD

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SUBJECT PROPERTY

ZONING BOUNDARY

WAIVE THE MINIMUM REQUIRED LOT WIDTH, DEPTH AND AREA STANDARDS

scale 1" = 600'



#### **ZONING VARIANCE**

CASE NUMBER: ZV-24-07

#### PLANNING DEPARTMENT REPORT

#### CASE SUMMARY

STAFF CONTACT: Kevin Waller, Senior Planner

REPORT DATE: October 28, 2024

PUBLIC HEARING DATE: November 4, 2024

APPLICANT'S REQUEST: Variance to Appendix II of Chapter 64 to allow a reduction in the minimum

required lot width, depth, and area standards.

STAFF RECOMMENDATION: Approval

CONDITIONS: None

#### BACKGROUND DATA

APPLICANT: Alan Balser

OWNERS: Anna Kieler (1109 Silent Valley Rd.), Joel and Natalie Douga (1111 Silent Valley Rd.), and

Nicholas Hudgins (1117 Silent Valley Rd.)

SITE LOCATIONS: 1109, 1111, and 1117 Silent Valley Rd.

LEGAL DESCRIPTION: Byrd Lockhart Survey, Abstract No. 17 (metes and bounds)

SIZE OF PROPERTY: 3.648 acres

EXISTING USE OF PROPERTY: Residential

ZONING CLASSIFICATION: AO (Agricultural-Open Space)

#### ANALYSIS OF ISSUES

REASON FOR REQUESTED VARIANCE: A subdivision plat was recently submitted for review for a 5.306-acre property (Case File # FP-24-07), which includes a portion of a 17.228-acre property owned by Alan Balser, as well as three parcels accessed by Meadow Lake Drive, a private road described on the plat as a 60-foot-wide access easement, along the road's east frontage. This subdivision will also widen the three parcels to include the road within their boundaries, and will also allow the proposed Lot 1, being a portion of the 17.228-acre property, to contain its own portion of the road. Inclusion of the road within the subdivision boundaries will prevent the use of the road from traffic generated by future development of the 17.228-acre parcel owned by Mr. Balser. That parcel will utilize separate, future roadways for circulation, once developed. The current zoning variance request applies to the three existing parcels along the east side of Meadow Lake Drive. The variance is necessary since these parcels are currently nonconforming with respect to the width, depth, and area standards set forth in Zoning Ordinance Appendix II, and will continue to be nonconforming after the subdivision plat is recorded. The three parcels are zoned AO (Agricultural-Open Space), which requires minimum depth and width dimensions of 200 feet by 200 feet, and a minimum lot area of one acre. Although these parcels will be widened to include Meadow Lake Drive within their boundaries, the desire of their respective owners is to keep the parcels in largely the same configuration as what currently exists. As such, the parcels will still fall short of the area and dimensional standards of Appendix II. Specifically, the proposed Lot 2 will have an average width of 198.25 feet, average depth of 174.85 feet, and lot area of 0.796 acre. Lot 3 will have an average width of 198.04 feet, a depth of 174.92 feet, and lot area of 0.795 acre. Lot 4 will have an average width of 167.61 feet. While the lots will remain nonconforming, their widening and resulting increase in area will make the lots more conforming to the AO standards upon approval of the subdivision plat. Please refer to the applicant's attached written responses to the zoning variance review criteria, as well as the attached portion of the proposed subdivision plat showing the three subject parcels.

AREA CHARACTERISTICS: The subject properties are located within an area transitioning to rural residential uses and vacant land, situated on the north side of Silent Valley Road and east of its intersection with Stueve Lane. The adjacent properties to the north and east are primarily zoned AO and are vacant, with the property to the east in seasonal agricultural use. The property to the south and west includes the 17.228 acres owned by Mr. Balser discussed above, also including Lot 1 of the proposed subdivision plat, zoned Residential Low Density (RLD) and in single-family residential use at the proposed Lot 1 location.

UNIQUE CONDITIONS OF PROPERTIES: According to the applicant's attached letter, the three parcels have been in their current configurations and residentially developed for many years. Information from the Caldwell County Appraisal District reveals that the homes on these parcels range in age from 42 to 51 years, far predating the ownership of each respective owner. In addition, the applicant states that the private Meadow Lake Drive has been in existence since 1962. Staff believes that these factors present conditions unique to the properties.

NATURE OF HARDSHIP: Neither increased financial gain nor reduced financial hardship will occur with approval of the variance to allow the three parcels to remain in their current nonconforming state.

EFFECT ON SURROUNDING PROPERTY AND PUBLIC SAFETY: The variance request to allow the parcels to remain in their nonconforming state will not have adverse impacts on surrounding properties, as the residential use of the subject properties will not change. It should be noted that approval of the zoning variance and subdivision plat could have a positive impact on Meadow Lake Drive, as the road could then only be used by the residents of the four subdivision lots, and not also by residents of the future development of Mr. Balser's 17.228-acre property, thereby enhancing traffic safety along Meadow Lake Drive.

COMPLIANCE WITH VARIANCE CRITERIA: In order to approve a variance, the Board must find that the request meets all 6 of the criteria outlined in Section 64-129(a) of the Zoning Ordinance. The applicant submitted the enclosed written explanation as evidence in support of the variance. Staff believes that the variance request warrants approval.

ALTERNATIVE SOLUTIONS: An alternative solution would be to adjust the parcel dimensions and sizes with the plat such that they conform with the standards of the AO zoning district, thereby negating the need for a zoning variance. However, such boundary line adjustments would encroach further westward into Mr. Balser's 17.228-acre property that is planned for a future subdivision, and would also likely overlap existing residential buildings on the subject properties.

PRECEDENT: Although there are no examples of similar variances approved in the past, a precedent is not likely to be set by approval of this request, as the request is based upon a condition unique to the property, being existing parcel configurations that do not comply with the area and dimensional standards of the AO zoning district.

RESPONSES TO NOTIFICATION: None, as of the date of this report.

## **VARIANCE REQUEST**

- 1) A unique physical condition exist within or adjacent to the subject tract or structures located heron 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: Mr. Balser purchased 17.228 (PID NO: 13831) acres which included a house that is separated by Meadow Lake Drive from the other portion of the 17.228 acre tract, this is a private 60' easement called Meadow Lake Dr., dated 1962, that services 3 other residences. Meadow Lake Drive is a part of the 17.228 acres Mr Balser purchased and Meadow Lake Drive is a 60' easement created 1962 to service the following: (PID NO: 33482) a duplex, which was a one acre tract and is currently a total of 1.622 acre tract, this tract will become 2.057 acres after a portion of Meadow Lake Drive is conveyed to what will be Lot 4. Lot 4 is currently zoned as AO and does not want to change the Zoning, (PID NO: 33658) currently is described as 0.554 acre tract, after conveying a portion of Meadow Lake Drive this tract will become Lot 3 containing 0.795 acres of land, this parcel is zoned AO and does not want to change the zoning. (PID NO: 33638) currently is currently 0.554 acre and after conveying Meadow Lake Drive the tract will be called Lot a containing 0.796 acres of land, and is zoned AO and does not want to change the zoning. (PID NO 13831) called 17.228 acres is separated by Meadow Lake Drive and that portion of Meadow Lake Drive will convey and will become Lot 1 containing 1.656 acres of land and is zoned RLD, and will remain that Zoning.
- 2) The condition or characteristic notes above is not caused by an action of the current property owner:
  The current property owner has agreed after many meetings with City Staff and current owners of the parcels that this is the best way to fix a problem created many years ago.
- 3) This variance is necessary to allow a reasonable use of the properties. This will solve a lot of issues that currently exist.

- 4) The sole reason for this variance is not a desire of the owners, occupant, or applicant for increased financial gain or reduced financial hardship: This is to assure that the residents in this future subdivision that anything that may happen in Phase II of this 17.228 acres not will be allowed to use any portion of Meadow Lake Drive as a Street, they will own their portions of Meadow Lake Drive and it will no longer be a path for others than the ones in Phase One Subdivision to use.
- 5) The variance will not adversely affect the public health or safety, and will not substantially or permanently interfere with the appropriate use of adjacent conforming property in the same district:

This will actually solve a lot of concerns and current issues.

6) The variance will not alter the essential charter of the Zoning district within which the subject property is located and is in harmony with the intent and purposes of the zoning ordinance:

What will be called lots 1,2,3 have existed in this configuration as far back at 1962 over 60 years. Lot 4 can become its own lot and also own a portion of Meadow Lake Drive .I am asking that the variance to zoning request as listed be granted as requested and as they stand today.

Let it be noted that Meadow Lake Drive will remain a 60' easement with each owner owning a portion of the easement and a road maintenance agreement will be created to take care of the easement in the future.

Mr. Balser has no control over any lot except for what will become Lot ( and has made great stride with the other owners listed to get a solution to the problem and with the help and advice of City of Lockhart Planning and Zoning Staff and may others as to a direction in which may be a solution to being able to move forward. I pray you will grant relief in this matter as requested.

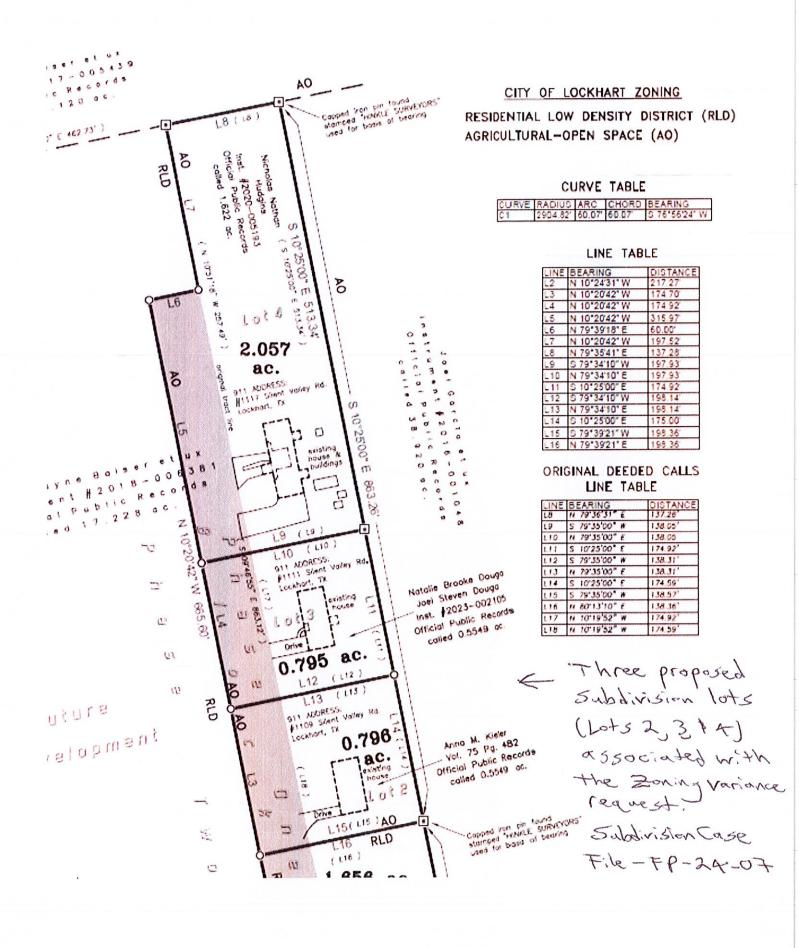
**ALAN BALSER** 

<u>ClauBilse</u>

PAM BALSER

Pam Balser

9/27/2024



# **ZONING VARIANCE APPLICATION**



**APPLICANT/OWNER** 

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

ADDRESS 12740 Hillcrest Dr
Suite 220
Dallas TX 75230
ADDRESS
Lake Dr & FM 2001 Silent Valley R
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SIFICATIONAO
Residential
OF THE ZONING ORDINANCE
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and lot area of 0.796 acre.
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### 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.

- 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;
- 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 \$250.00 PLUS \$150.00 PER ACRE, FOR A MAXIMUM OF \$2,500.00, APPLICATION FEE OF \$250.00 PAYABLE TO THE CITY OF LOCKHART.

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 alon Balson DATE 9/27/2024

OFFICE USE ONLY	
DATE SUBMITTED	RECEIPT NUMBER R01327962  CASE NUMBER ZV - 24 - 07  DATE NOTICE PUBLISHED 10-24-2024
DECISION	
CONDITIONS	

I, Anna M. Kieler, owner of Lot 2 in Block 1 of the Meadow Lake Addition Phase One hereby authorizes Alan Balser to submit on my behalf a Zoning Variance Application which allows me to remain in the present non-conforming configuration.

Regards.

Arma M. Kieler

We, Joel Steven Douga and Natalie Brooke Douga, owners of Lot 3 in Block 1 of the Meadow Lake Addition Phase One hereby authorizes Alan Balser to submit on our behalf a Zoning Variance Application which allows us to remain in the present non-conforming configuration.

Regards,

Joel Steven Douga

Natalie Brooke Douga

I, Nicholas Nathan Hudgins, owner of Lot 4 in Block 1 of the Meadow Lake Addition Phase One hereby authorizes Alan Balser to submit on my behalf a Zoning Variance Application which allows me to remain in the present non-conforming configuration.

5 is ned 10/12/24

Regards,

Nicholas Nathan Hudgins