



**CITY OF KERRVILLE ZONING BOARD OF ADJUSTMENT AGENDA**

**REGULAR MEETING, THURSDAY, MAY 25, 2017 3:00 P.M.**

**CITY HALL COUNCIL CHAMBERS**

**701 MAIN STREET, KERRVILLE, TEXAS**

**CALL TO ORDER**

**1. VISITORS/CITIZENS FORUM:**

Any person with business not scheduled on the agenda is encouraged to briefly speak their ideas to the Commission. Please fill out the SPEAKER REQUEST FORM and give it to the Commission's Secretary prior to the meeting. The number of speakers will be limited to the first ten speakers and each speaker is limited to three minutes. (No formal action can be taken on these items as the Open Meetings Act requires formal action items be posted on an agenda no later than 72 hours before the meeting. If formal action is required, the items will be placed on an agenda for a future meeting.)

**2. CONSENT AGENDA:**

All items listed below in the consent agenda are considered routine or ministerial in nature and will be enacted with one motion. There will be no separate discussion of items unless a Commissioner or citizen so requests; in which case the item(s) will be removed from the consent agenda and considered separately.

2A. Approval of the minutes from the April 20, 2017 meeting. **Pg. 2**

**3. PUBLIC HEARINGS AND ACTION**

3A. **Public Hearing & Action, Variance Request** – Public hearing, consideration, and action concerning a variance request to allow an attached carport to encroach six (6) feet into the required six (6) foot side yard setback, as established by Article 11-I-17 of the City of Kerrville Zoning Code. The subject tract being Lot 14, Block 12, Westland Addition, Kerrville, Texas, located at 405 Lucille Street. (File No. 2017-022) **Pg. 4**

3B. **Public Hearing & Action, Variance Request** – Public hearing, consideration, and action concerning a variance request to allow a proposed residence to encroach ten (10) feet into the required fifteen (15) rear yard setback, as established by Article 11-I-17 of the City of Kerrville Zoning Code. The subject being Lots 6 and 7, Harper Village, Kerrville, Texas, located at 252 Old Oaks Path. (File No. 2017-025) **Pg. 11**

**4. STAFF REPORTS**

**5. ADJOURNMENT**

---

The facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this event. Please contact the City Secretary's Office at 830-258-1117 for further information.

I do hereby certify that this notice of meeting was posted on the bulletin board at the city hall of the city of Kerrville, Texas, and said notice was posted on the following date and time: May 19, 2017 at 3:00 p.m. and remained posted continuously for at least 72 hours preceding the scheduled time of the meeting.

Cheryl Brown  
Deputy City Secretary, City of Kerrville, Texas

---



# City of Kerrville Planning Department Report

To: Zoning Board of Adjustment  
Agenda Item: 2A  
Hearing Date: May 25, 2017  
Representative: Staff

---

## **Proposal**

Approval of the minutes from the April 20, 2017 Zoning Board of Adjustment meeting.

## **MEMBERS PRESENT:**

Linda Stilwell, Chair  
Danny Almond, Member  
Judy Eychner, Member  
Sam Ligon, Member  
Robert Parks, Alternate

## **MEMBERS ABSENT:**

Peter Lewis, Vice-Chair

## **STAFF PRESENT:**

Gordon Browning, Interim City Planner  
Dorothy Miller, Recording Secretary

## **CALL TO ORDER**

On April 20, 2017 the Zoning Board of Adjustment meeting was called to order at 3:01 p.m. in the City Hall Council Chambers, 701 Main Street.

### **1. VISITORS/CITIZENS FORUM:**

Any person with business not scheduled on the agenda is encouraged to briefly speak their ideas to the Commission. Please fill out the SPEAKER REQUEST FORM and give it to the Commission's Secretary prior to the meeting. The number of speakers will be limited to the first ten speakers and each speaker is limited to three minutes. (No formal action can be taken on these items as the Open Meetings Act requires formal action items be posted on an agenda no later than 72 hours before the meeting. If formal action is required, the items will be placed on an agenda for a future meeting.)

No visitors were present; no one spoke.

### **2. Consent Agenda**

2A. Approval of the minutes from the March 16, 2017 meeting.

Ms. Eyechner moved to approve the minutes as presented; motion seconded by Mr. Parks passed 5-0.

### **3. PUBLIC HEARINGS AND ACTION**

3A. Public Hearing & Action, Variance Request – Public hearing, consideration, and action concerning a variance request to Allow a proposed accessory building to exceed the maximum allowed square footage of 528 square feet by 1472 square feet for a total building size of 2000 square feet, in accordance with Article 11-I-17 of the City of Kerrville Zoning Code. The subject tract being an approximate 4.24 acre tract out of Abstract 247, Martinez Survey 124, Kerrville, Texas, located at 2222 Arcadia Loop. (File No. 2017-018)

Mr. Browning presented the findings of fact.

Ms. Stilwell opened the public hearing at 3:06 p.m.

Mr. James Partain, 2227 Arcadia Loop, spoke. Mr. Partain stated the size of the building does not matter to him, but questioned what materials are being used and if it is a one or two-story building.

Mr. Dennis Keller, applicant, 2222 Arcadia Loop,, responded and stated his need for the building, which is to store his boat, other storage purposes, and a workshop.

Robert Rees, 2197 Arcadia loop, stated he had no objection to this request.

Hearing no one else speak, Ms. Stilwell closed the public hearing at 3:15 p.m.

Mr. Parks moved to approve the variance based on the findings of fact; motion was seconded by Mr. Almond and passed 5-0.

### **4. STAFF REPORTS**

Mr. Browning reported the next meeting will be Thursday, May25, 2017.

### **5. ADJOURNMENT**

The meeting adjourned at 3:16 p.m.



# City of Kerrville Planning Department Report

To: Zoning Board of Adjustment  
Agenda Item: 3A  
Planning File #: 2017-022  
Hearing Date: May 25, 2017  
Representative: Rolando Tejeda  
Location: 405 Lucille Street  
Zoning: R1-A, Residential District  
Legal Description: Lot 14, Block 12, Westland Addition  
Total Acreage:

---

## Proposal

A request for a variance to allow an attached carport to encroach six (6) feet into the required six (6) foot side yard setback, as established by Article 11-I-17 of the City of Kerrville Zoning Code.

## Procedural Requirements

The application was published in The Hill Country Community Journal, an official newspaper of general circulation on May 17, 2017. Notices were sent to property owners within two hundred (200) feet of the subject property on May 12, 2017. Additionally, notice of this meeting was posted at city hall and on the city's internet website on May 19, 2017, in accordance with Section 551.043(a) of the Texas Local Government Code.

## Recommended Action

Staff recommends that the Board hold the required public hearing to receive public comments and make a decision.

## Notices Mailed

**Owners of Property within 200 feet:** 26

## Adjacent Zoning and Land Uses

**Direction:** North and west

**Current Base Zoning:** RC

**Current Land Uses:** Single-Family Residential

**Direction:** South and East

**Current Base Zoning:** RC

**Current Land Uses:** Single-Family Residential

## **Transportation**

**Thoroughfare:** Lucille Street

**Existing Character:** One lane in each direction

**Proposed Changes:** None Known

## **Criteria for Review**

According to Article 11-I-23(b)(3) of Chapter I, "The City of Kerrville Zoning Code", in order for a variance to be granted, the applicant must demonstrate all of the following:

**(1) That there are exceptional circumstances or conditions applicable to the property on which the application is made related to size, shape, area, topography, surrounding condition or location that do not apply generally to other property in the same area and the same zoning district;**

There are no exceptional circumstances that exist on the property. The property's size, shape and topography are similar to the surrounding areas with the same zoning. Drawings submitted by the applicant depict the proposed carport being located on the side property line (see attached).

**(2) That the exceptional circumstances or conditions are such that literal enforcement of the provisions of this Chapter would result in an unnecessary hardship inconsistent with the general purpose and intent of this Chapter;**

The enforcement of the provisions of this Chapter would not result in an unnecessary hardship inconsistent with the general purpose and intent of this Chapter. All other properties within this zoning district are required to meet the same setback regulations for carports, attached or detached. There are not special circumstances that exist requiring the need for a variance to be granted.

**(3) That the granting of such variance will not be contrary to the public interest, materially detrimental to the public welfare, or injurious to the property or improvements in the zoning district or area in which the property is located;**

The requested variance will allow the replacement of a carport previously constructed on the side property line. By granting this request, the result would be contrary to the zoning district and what is permitted by any other property within the same district.

**(4) That the granting of such variance will not be contrary to the objectives and principles contained in the comprehensive plan, as amended;**

The variance would allow not be contrary to the objectives and principles contained in the comprehensive plan.

**(5) That the variance to be granted is the minimum variance that will relieve the proven hardship;**

The potential hardship that exists on the property is self-induced. The variance requested is the maximum variance needed in order for the proposed structure to be constructed.

**(6) That the variance is not being granted to relieve the applicant of conditions or circumstances:**

**(a) Which are not inherent in the property itself, but are the result of the use or development of the property, or**

Staff believes the hardship that exists is self-induced and not inherent to the property, layout of the subdivision and development regulations.

**(b) Which are caused by a division of land on or after June 16, 1997, other than a division of land resulting from the sale of a property interest to a governmental entity, which division of land caused the property to be unusable for any reasonable development under the existing regulations, or**

Not applicable.

**(c) Which were otherwise self-imposed by the present or a previous owner;**

Staff believes the "hardship" is self-imposed.

**(7) That the variance is not grounded solely upon the opportunity to make the property more profitable or to reduce expense to the current or any future owner;**

The variance will not intentionally make the property more profitable, and/or reduce expenses to the current or any future owner.

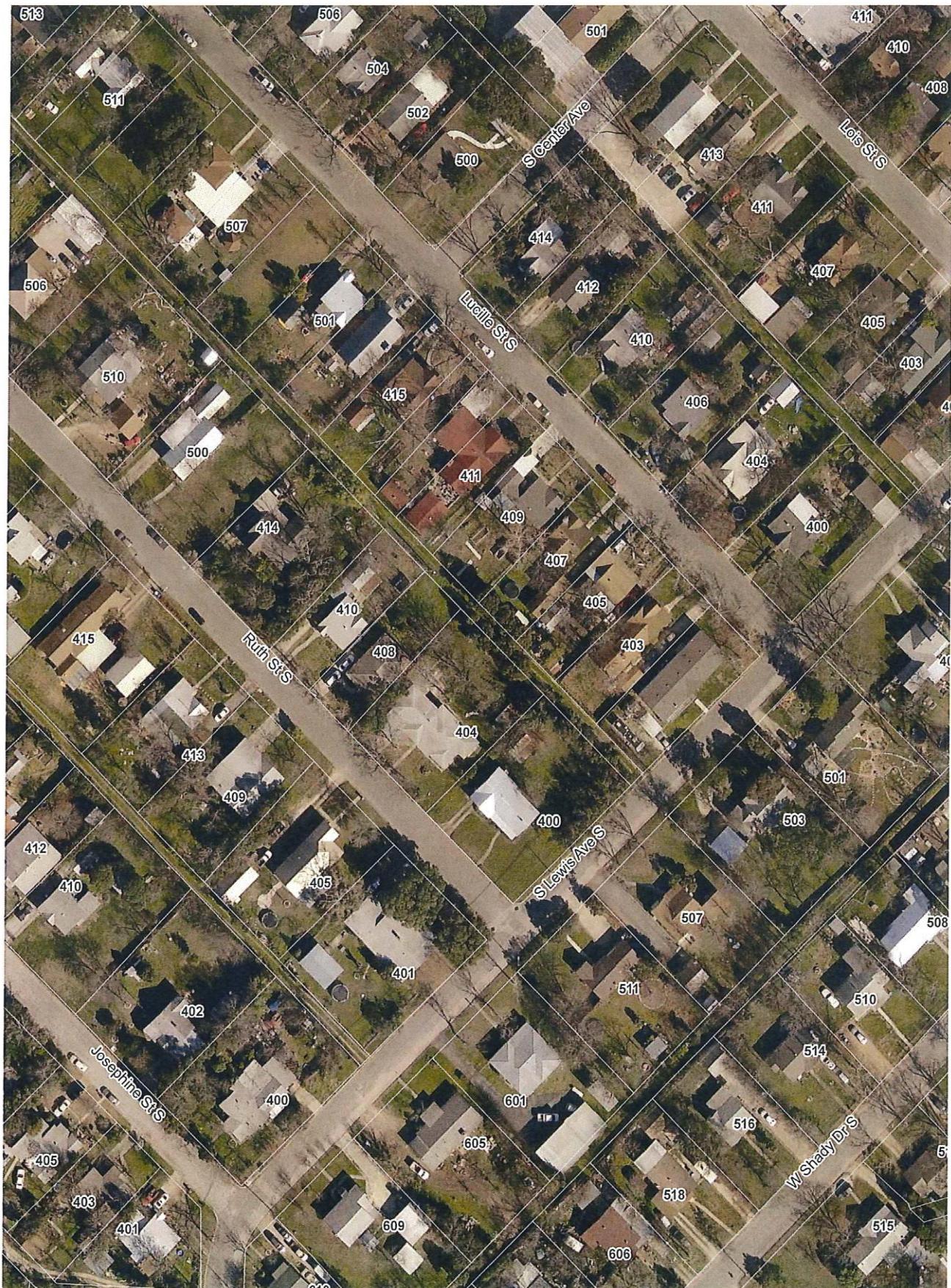
**(8) That the variance would not modify or effectively repeal any development or use regulations set forth in a Conditional Use Permit or an ordinance or resolution adopting a Development Site Plan or establishing a Special Use District or Planned Development District which are in addition to the generally applicable use and development regulations set forth in this Chapter;**

The variance will not appeal any other development regulations besides the side yard setback requirement.

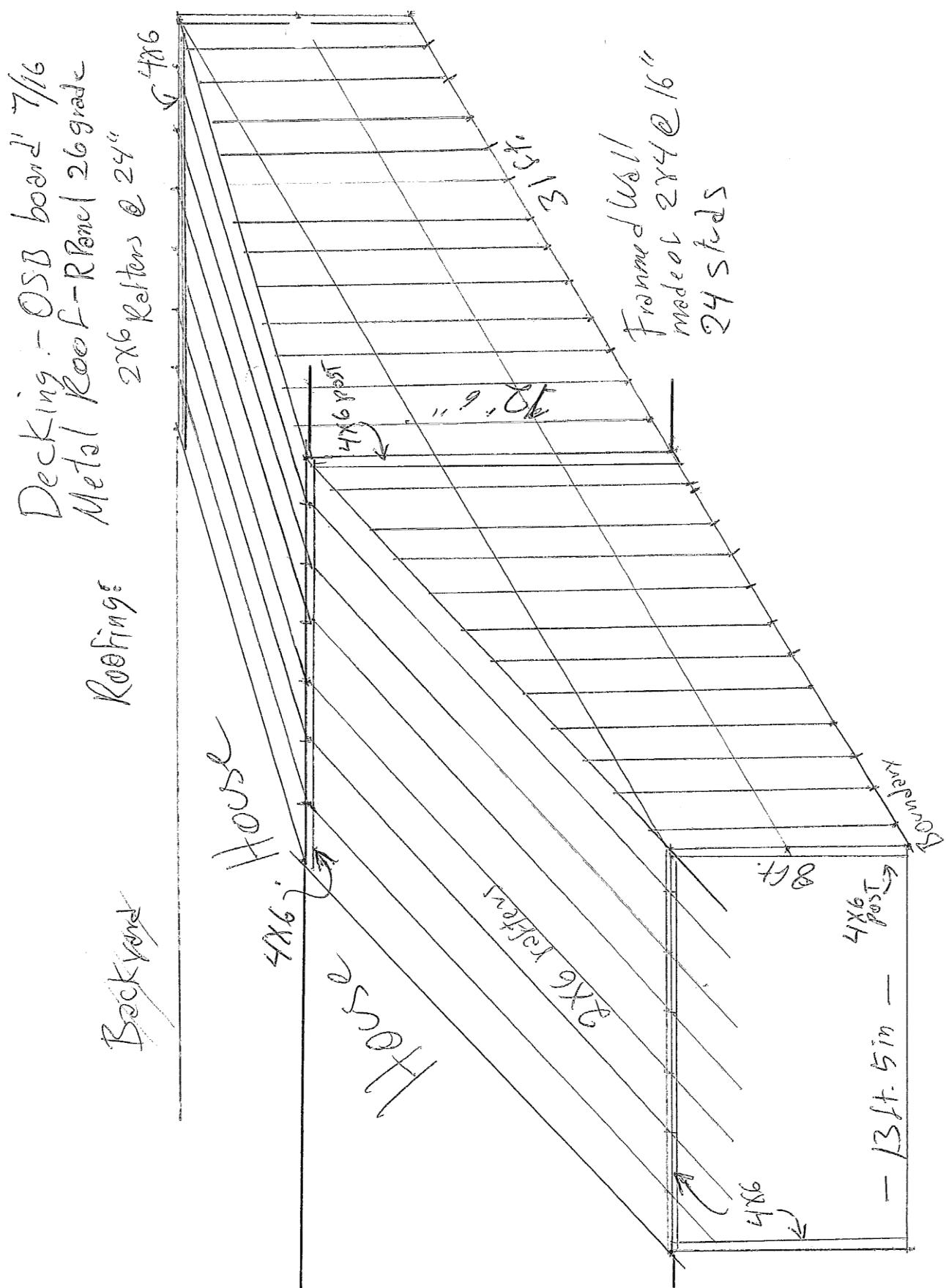
**(9) That the variance would only affect a specific parcel of property and is not of such a general nature as to effectively constitute a change in zoning of said parcel or a larger area without following the procedures set forth in Article 11-1-21.**

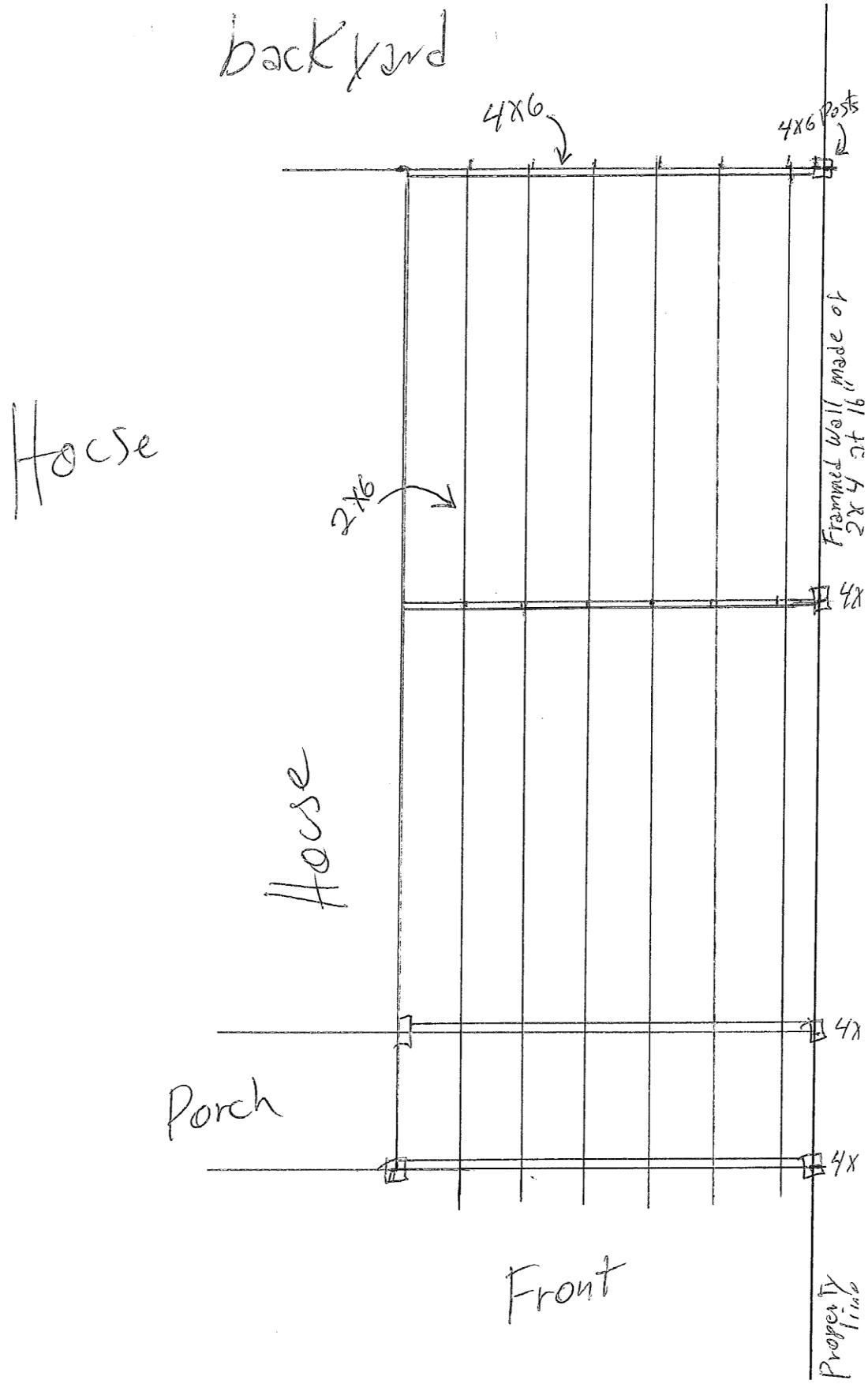
A change in zoning would not change the need for a variance.

**Staff Recommendation: Deny the request.**











# City of Kerrville Planning Department Report

To: Zoning Board of Adjustment  
Agenda Item: 3B  
Planning File #: 2017-025  
Hearing Date: May 25, 2017  
Representative: Robert D. Rue  
Location: 252 Old Oaks Path  
Zoning: RC, Residential Cluster District  
Legal Description: Lots 6 & 7, Harper Village  
Total Acreage: 0.115 Acres

---

## Proposal

A request for a variance to allow a proposed residence to encroach ten (10) feet into the required fifteen (15) foot rear yard setback, as established by Article 11-I-17 of the City of Kerrville Zoning Code.

## Procedural Requirements

The application was published in The Hill Country Community Journal, an official newspaper of general circulation on May 17, 2017. Notices were sent to property owners within two hundred (200) feet of the subject property on May 12, 2017. Additionally, notice of this meeting was posted at city hall and on the city's internet website on May 19, 2017, in accordance with Section 551.043(a) of the Texas Local Government Code.

## Recommended Action

Staff recommends that the Board hold the required public hearing to receive public comments and make a decision.

## Notices Mailed

**Owners of Property within 200 feet: 21**

## Adjacent Zoning and Land Uses

**Direction:** North and West

**Current Base Zoning:** RC

**Current Land Uses:** Single-Family Residential

**Direction:** South and East

**Current Base Zoning:** RC

**Current Land Uses:** Single-Family Residential

## **Transportation**

**Thoroughfare:** Old Oak Path

**Existing Character:** Private Access Drive

**Proposed Changes:** None Known

## **Criteria for Review**

According to Article 11-I-23(b)(3) of Chapter I, "The City of Kerrville Zoning Code", in order for a variance to be granted, the applicant must demonstrate all of the following:

**(1) That there are exceptional circumstances or conditions applicable to the property on which the application is made related to size, shape, area, topography, surrounding condition or location that do not apply generally to other property in the same area and the same zoning district;**

Harper Village is an unusual development within the City of Kerrville, platted in 1975, lots are accessed primarily from dedicated easements and common areas, the lots themselves are irregular in shape and smaller in area and frontage than would be allowed under the current zoning code. The development was also created and administered under a set of restrictions and covenants that allow for home construction requiring "no setbacks", see attached. Because the lot(s) are being replatted, staff is requiring the setbacks normally required in the RC District. Imposing those requirements on this lot(s) resulted in the hardship.

**(2) That the exceptional circumstances or conditions are such that literal enforcement of the provisions of this Chapter would result in an unnecessary hardship inconsistent with the general purpose and intent of this chapter;**

The enforcement of the provisions of this Chapter would result in a hardship inconsistent with the general purpose and intent of this chapter due to the layout of the lots and access provided to this development.

**(3) That the granting of such a variance will not be contrary to the public interest, materially detrimental to the public welfare, or injurious to the property or improvements in the zoning district or area in which the property is located;**

The requested variance will not be detrimental to the health, safety and welfare of the public or surrounding properties.

**(4) That the granting of such variance will not be contrary to the objectives and principles contained in the comprehensive plan, as amended;**

The variance will allow full use of the proposed lot(s), without being detrimental to the health, safety and welfare of the public or surrounding properties.

**(5) That the variance to be granted is the minimum variance that will relieve the proven hardship;**

The variance requested will allow relieve to the hardship inherent to the property.

**(6) That the variance is not being granted to relieve the applicant of conditions or circumstances:**

**(a) Which are not inherent in the property itself, but are the result of the use or development of the property, or**

Staff believes the hardship that exists is not self-induced, but inherent to the property and layout of the subdivision.

**(b) Which are caused by a division of land on or after June 16, 1997, other than a division of land resulting from the sale of a property interest to a governmental entity, which division of land caused the property to be unusable for any reasonable development under the existing regulations, or**

Not Applicable.

**(c) Which were otherwise self-imposed by the present or a previous owner;**

Staff believes the hardship is not self-induced.

**(7) That the variance is not grounded solely upon the opportunity to make the property more profitable or to reduce expense to the current or any future owner;**

The variance will not intentionally make the property more profitable and/or reduce expenses to the current or any future owner.

**(8) That the variance would not modify or effectively repeal any development or use regulations set forth in a Conditional Use Permit or an ordinance or resolution adopting a Development Site Plan or establishing a Special Use District or Planned Development District which are in addition to the generally applicable use and development regulations set forth in this Chapter;**

The variance will not appeal any other development regulations besides the rear yard setback requirement as shown on the attached site plan.

**(9) That the variance would only affect a specific parcel of property and is not of such a general nature as to effectively constitute a change in zoning of said parcel or a larger area without following the procedures set forth in Article 11-I-21.**

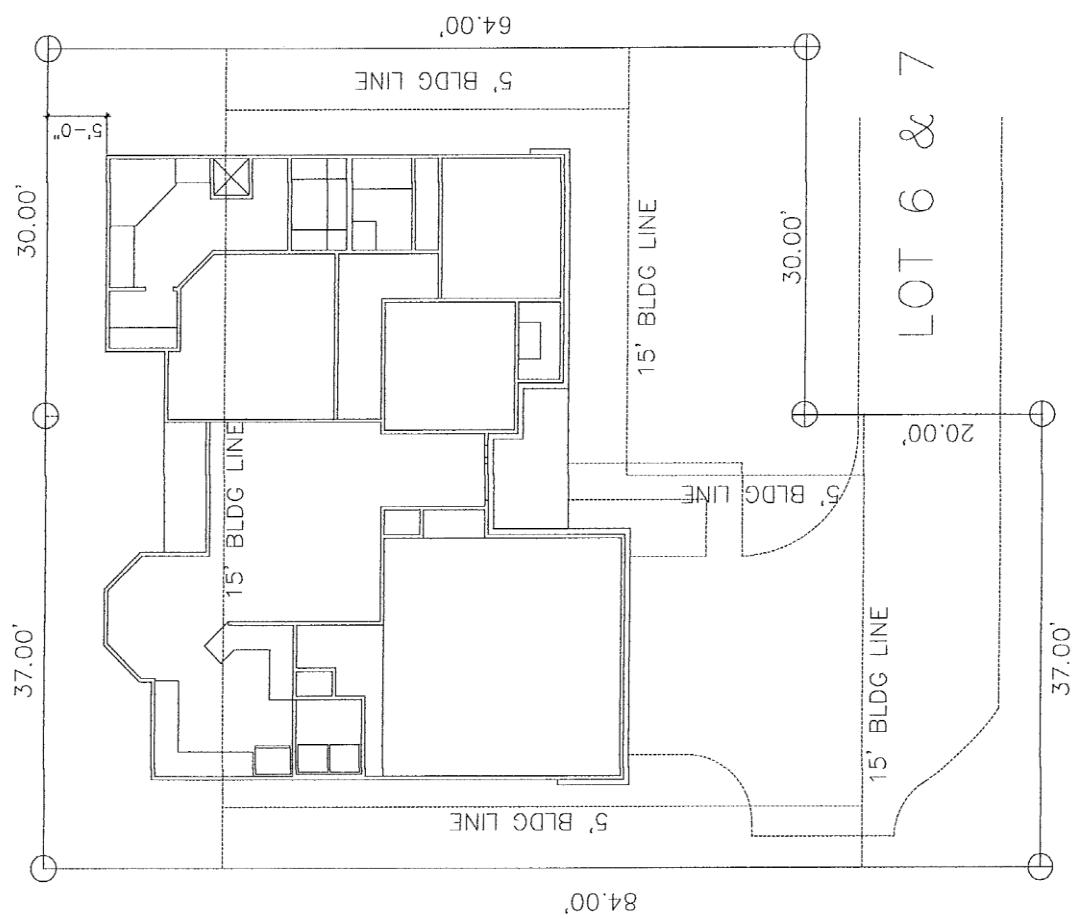
A change in zoning would not change the need for a variance.

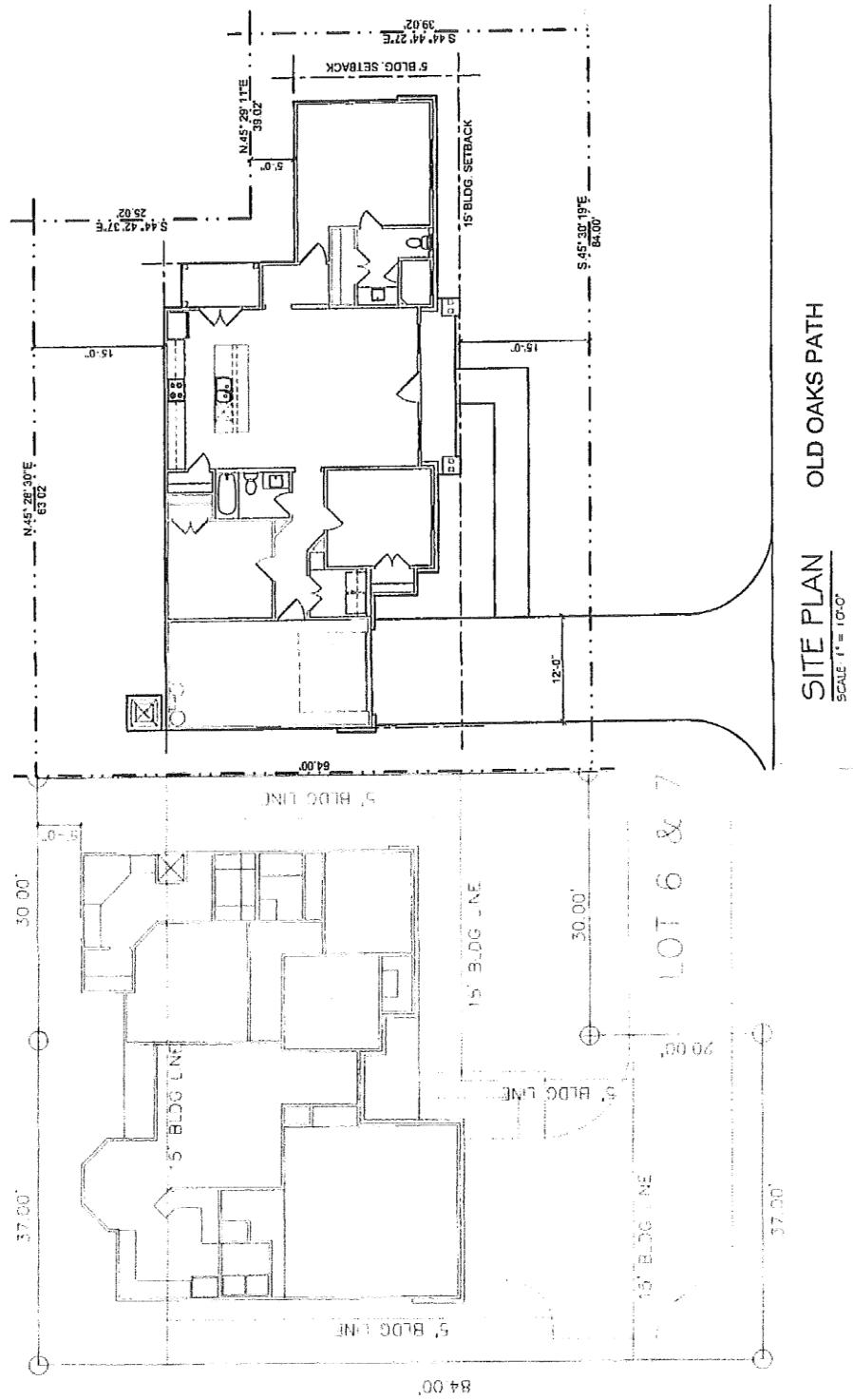
**Staff Recommendation: Approval**

Note: The replat of this property is scheduled for review by the Planning and Zoning Commission at their June 1<sup>st</sup> meeting.









VOL 191 PAGE 485

alteration or improvement shall commence or be permitted until:

- (a) Drawings, plans, and specifications have been submitted to the chief executive officer of Declarant or such other person as he may have designated in such detail as Declarant or Declarant's designee may require; and
- (b) Declarant or Declarant's designee shall have approved same in writing.

8.2 - Delegation of Control - Declarant may delegate such power of approval in its sole discretion to such person or persons as it may desire and any such persons shall serve and be replaced at the pleasure of Declarant.

8.3 - Failure to Act - If Declarant or Declarant's designee shall wholly fail to act either to approve or to disapprove any such plans or specifications within thirty (30) days after the date of submission thereof, then in such event no further action shall be required and the alteration or improvement may be commenced.

8.4 - Masonry - Any residence constructed on any lot shall consist of a minimum of fifty percent (50%) masonry exterior on all exterior walls (of the ground floor only of any multi-level residence).

8.5 - Living Area - The principle residential structure on any one lot shall contain a minimum of 1300 square feet (or 1500 square feet for multi-level structures) of interior living area measured to the outside of exterior walls excluding garages, porches, patios, and storerooms or other detached structures.

8.6 - Lot Lines - Any structure may be constructed on the lot lines of the lot concerned without any set back requirement subject to approval of location of such structure for architectural control purposes.

8.7 - Re-subdivision - No lot shall be re-subdivided after title to same has passed from Declarant to the initial purchaser thereof. Declarant however reserves the express right to re-subdivide lots owned by Declarant.

8.8 - Completion of Construction - All construction commenced on any lot shall be completed within one year from the time such construction was initiated.

8.9 - Termination - Declarant's power hereunder as to architectural control shall terminate as to Declarant whenever Declarant shall no longer own any lots, at which time such power shall automatically pass to the Homeowners Association.

8.10 - No Review - Declarant's actions in exercising the power of architectural control shall not be subject to review and in no event shall Declarant or Declarant's designee be subject to suit for damages in regard to such power.

8.11 - Oil, Water, Sewage, Operations - No oil drilling or development or mining of any type nor any individual water system or individual sewage disposal system be permitted on any portion of any lot, the common area, or the property in general.

8.12 - Fences - No fence, wall, or hedge shall be constructed, placed, or maintained forward of the front exterior wall line of the residence on any respective lot without the prior written approval of Declarant.

- 9 -

Article Eight – Architectural Control  
Declaration of Covenants, Conditions and Restrictions of  
Harper Village