



# CITY OF KERRVILLE

## ZONING BOARD OF ADJUSTMENT

### AGENDA

REGULAR MEETING, MAY 9, 2019, 3:00 PM  
CITY HALL, COUNCIL CHAMBERS  
701 MAIN STREET, KERRVILLE, TEXAS

**Regular Members:**

Danny Almond, Chair

Pablo Brinkman

Robert Irvin

Sam Ligon

Robert Parks

**Alternate Members:**

Dennis Ferguson

Paul Zohlen

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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.

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### **CALL TO ORDER**

#### **1. CONSENT AGENDA**

**1A.** Approval of the minutes from the March 28, 2019 meeting.

#### **2. PUBLIC HEARINGS AND ACTION**

**2A.** Public hearing, consideration, and action concerning a request for a setback variance in accordance with Chapter I, "The City of Kerrville Zoning Code" Article 11-1-17 (Regulations regarding Building Height, Lot Width and Area, and Setbacks) to allow a 5.5-foot reduction in the side setback that will result in a 0.5-foot side setback for 1.76 acre tract out of the William C. Francis Survey No. 146, Abstract No. 137, in the City of Kerrville, located at 296 Overlook Dr. (File No. 2019-025)

**2B.** Public hearing, consideration, and action concerning a request for a setback variance in accordance with Chapter I, "The City of Kerrville Zoning Code" Article 11-1-17 (Regulations regarding Building Height, Lot Width and Area, and Setbacks) to allow a 30-foot reduction in the front setback that will result in a 0-foot side setback for Lot 52-R, Block 14, in the G. R. Parsons Addition subdivision, located at 215 W. Barnett St. (File No. 2019-030)

#### **3. STAFF REPORT**

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I hereby certify that this agenda was posted as notice of the meeting on the bulletin board at the City Hall of the City of Kerrville, Texas, and on the City's website on the following date and time: May 03, 2019 at 2:45 p.m. and remained posted continuously for at least 72 hours preceding the scheduled time of the meeting.

Shelley McElhannon

Shelley McElhannon, City Secretary, City of Kerrville, Texas

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#### **4. EXECUTIVE SESSION**

At any time during the meeting, the Zoning Board of Adjustment may meet in executive session regarding any of the matters posted above for attorney-client consultation in compliance with the Texas Open Meetings Act.

#### **ADJOURNMENT**



# City of Kerrville Planning Division Report

To: Zoning Board of Adjustment  
Agenda Item: 1A  
Action: Approval, approval with specific changes  
Representative: Staff

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## **MEMBERS PRESENT:**

Danny Almond, Chair  
Pablo Brinkman, Member  
Sam Ligon, Member  
Robert Irvin, Member  
Robert Parks, Member  
Dennis Ferguson, Alternate

## **STAFF PRESENT:**

Drew Paxton, Executive Director of Development Services  
Rebecca Pacini, Chief Planning Officer  
Dorothy Miller, Recording Secretary

## **CALL TO ORDER**

On March 28, 2019 the Zoning Board of Adjustment meeting was called to order at 3:00 p.m. in the City Hall Council Chambers, 701 Main Street.

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

No one spoke.

### **2. CONSENT AGENDA**

#### **2A. Approval of the minutes from the January 10, 2019 meeting.**

Mr. Brinkman moved to approve the minutes as amended; motion was seconded by Mr. Irvin and passed 5-0.

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

#### **3A. Public hearing, consideration, and action concerning a request for a setback variance in accordance with Chapter I, "The City of Kerrville Zoning Code" Article 11-1-17 (Regulations regarding Building Height, Lot Width and Area, and Setbacks) to allow a 1-foot reduction in the side setback that will result in a 5-foot side setback for Lot 7, Block 2, in the Virgil Merrell Third Addition Subdivision, located at 1213 Donna Kay Drive. (File No. 2019-003)**

Mr. Paxton presented the findings of fact.

Mr. Almond opened the public hearing at 3:08 p.m.

Mr. and Mrs. Paul and Sandra Bortree, owners, stated their purpose for the variance and that they needed it for their underwriters.

Hearing no one else speak, Mr. Almond closed the public hearing at 3:10 p.m.

Mr. Irvin moved to approve the variance as presented; motion was seconded by Mr. Ligon and passed 5-0.

**3B.** Public hearing, consideration, and action concerning a request for a setback variance in accordance with Chapter I, "The City of Kerrville Zoning Code" Article 11-1-17 (Regulations regarding Building Height, Lot Width and Area, and Setbacks) to allow a 9-foot reduction in the setback for the yard adjacent to a side street that will result in a 6-foot side setback for Lot 8, Block 70, in the J. A. Tivy Addition Subdivision, located at 1228 5th Street. (File No. 2019-018)

Mr. Almond opened the public hearing at 3:12 p.m.

Mr. Paxton presented the findings of fact.

Hearing no one else speak, Mr. Almond closed the public hearing at 3:12 p.m.

Mr. Irvin moved to approve the variance as presented; motion was seconded by Mr. Parks and passed 5-0.

#### **4. STAFF REPORTS**

Mr. Paxton reported the next code review committee meeting is May 9<sup>th</sup> to look at the zoning code. We have gone from 48 or 49 zoning districts down to a proposed 17 zoning districts, removing the geographical locations, north, south, east, west, and central districts, simplifying those to three commercial districts, C-1, C-2, C-3, industrial, and retain special districts, downtown, mixed used, planned development, and airport district. That committee has looked at the draft zoning, made their comments, and after the May 9<sup>th</sup> meeting we will have open house in May for public input and then go back to the code review committee. The code review committee will also begin looking at the sign ordinance on May 9<sup>th</sup> with the consultant, look at some recommendations and get some feedback. Carrying through the process they will be looking at some overlay districts particularly looking at Guadalupe River and Gateway rather than having separate zoning districts and have a separate set of requirements that fit those areas. They may be looking at some airport overlays and possibly downtown overlays but are pending at this point. They will be moving forward throughout the summer looking at subdivision regulations, park dedication, sidewalks, and other related ordinances. The goal is to complete the process in September.

#### **5. ADJOURNMENT**

The meeting adjourned at 3:20 p.m.



# City of Kerrville Planning Division Report

To: Zoning Board of Adjustment  
Agenda Item: 2A  
Action: Public hearing, consideration, and action concerning a request for a setback variance in accordance with Chapter I, "The City of Kerrville Zoning Code" Article 11-1-17 (Regulations regarding Building Height, Lot Width and Area, and Setbacks) to allow a 5.5-foot reduction in the side setback that will result in a 0.5-foot side setback  
Planning File #: 2019-025  
Property Owner: Amos & Christian Courtney Barton  
Representative: Amos Barton  
Location: 296 Overlook Dr

## Proposal

Public hearing, consideration, and action concerning a request for a setback variance in accordance with Chapter I, "The City of Kerrville Zoning Code" Article 11-1-17 (Regulations regarding Building Height, Lot Width and Area, and Setbacks) to allow a 5.5-foot reduction in the side setback that will result in a 0.5-foot side setback for 1.76 acre tract out of the William C. Francis Survey No. 146, Abstract No. 137, in the City of Kerrville, located at 296 Overlook Dr. (File No. 2019-025)

SETBACK TYPE	REQUIRED	PROPOSED	VARIANCE REQUEST
Side	6 feet	0.5 foot	5.5 feet

## Procedural Requirements

18 Notices were mailed April 24<sup>th</sup> to adjacent property owners. The public notice was published in the Kerrville Daily Times on April 22<sup>nd</sup>.

## Zoning and Land Uses

**Site Zoning:** Single Family Residential District "R-1"

**Current Land Uses:** Single Family Residential

**Surrounding Zoning:** Single Family Residential District "R-1"

**Surrounding Area Land Uses:** Single Family Residential & Vacant

## 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;**

Kerr County Appraisal District shows that the original home was built in 1915. The construction date for the carport is not provided. The surrounding neighborhood of Highridge at Riverhill and Highpointe at Riverhill was developed in the 1990s. The home predates the City of Kerrville current Zoning Code.

**(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 literal enforcement of the setback will result in an unnecessary hardship as the property was developed over 100 years ago. There are heritage trees on both sides of the current structure that the property owner would like to preserve. Other conditions that apply are the existing pool and pool house will make it difficult to relocate the garage. The property owner has also voiced concerns for redirecting the storm water flow that currently is directed around the garage.

**(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;**

It does not appear that the requested variance would be detrimental to the health, safety, and welfare of the public or surrounding properties. The property was developed prior to the surrounding area being developed.

**(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 request is not contrary to the objectives and principles contained in the comprehensive plan, Kerrville 2050. The future land use for the subject property is Neighborhood Residential (NR).

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

The variance will be granting the minimum variance to relieve the proven hardship.

**(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**

The variance to being granted is inherent to the property itself and is not the result of the development or use of the property but is rather the result of the development of the property around it.

**(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;**

The conditions or circumstances do not appear to be self-imposed. The house was built in 1915 prior to adoption of the current Zoning Code.

**(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;**

Not applicable

**(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 repeal any development regulations.

**(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.**

The variance would not effectively constitute a change in zoning.

**Attachments:**

Location Map  
Survey  
Photos



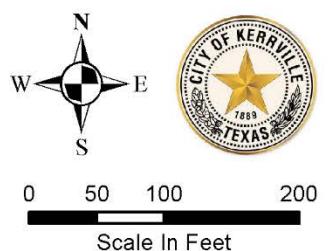
## Location Map

Case # 2019-025

Location:  
296 Overlook

### Legend

200' Notification Area  
Subject Property  
Variance Area



This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only approximate relative locations.

hereby certify that this lot is an accurate representation of a property shown and described herein as determined by a survey made on the ground under my direction and supervision, that all property corners marked as shown, that this plot correctly shows the location of easements, building set-backs and other matters of record contained in this Title Commitment referenced below, that there are no written easements, encroachments, conflicts, or protrusions, other than fences, enclosures, conflicts, or protrusions.

An octagonal library stamp from the State of Florida. The outer border contains the text "STATE OF FLORIDA" at the top and "LIBRARY" at the bottom. The inner border contains "DEPARTMENT OF" at the top and "EDUCATION" at the bottom. The center of the stamp features a five-pointed star.

Date Surveyed: June 30, 2008  
Dated this 2nd day of July, 2008  
  
Don W. Voeckler  
Registered Professional Land Surveyor No. 3990

Date Surveyed: June 30, 2008  
Dated this 2nd day of July, 2008  
  
Don W. Voeckler  
Registered Professional Land Surveyor No. 3990

SURVEY PLAT FOR 1.76 ACRES OF LAND, ABSTRACT NO. OUT OF WM. C. FRANCIS SURVEY NO. 146, ABSTRACT NO. 137, IN THE CITY OF KERRVILLE, KERR COUNTY, TEXAS, BEING ALL OR 1.018 ACRE CONVEYED TO LYNN DE JUAN ABEL FROM FIRST NATIONAL BANK OF KERRVILLE BY A DEED WITHOUT WARRANTY EXECUTED THE 29TH DAY OF JUNE, 1980 AND RECORDED IN VOLUME 564 AT PAGE 382 OF THE REAL PROPERTY RECORDS OF KERR COUNTY, TEXAS, AND 2) 1.75 ACRES CONVEYED TO ANDREW CRAIG ABEL, ET AL, FROM THE CASTLECOMB TRUST, BY A GENERAL WARRANTY DEED EXECUTED THE 10TH DAY OF APRIL, 2006 AND RECORDED IN VOLUME 1672 AT PAGE 671 OF THE OFFICIAL PUBLIC RECORDS OF KERR COUNTY, TEXAS  
JULY 2008

175' From Garage Front to Front Boundary  
80' from Rear of Pool House to Rear Boundary  
Existing Pool House .6' from Side Boundary  
Proposed Shop 5' from Side Boundary  
Existing Garage 5' from Side Boundary  
Proposed Garage/Carport 5' from Side Boundary  
Proposed Garage/Carport 154' from Front Boundary

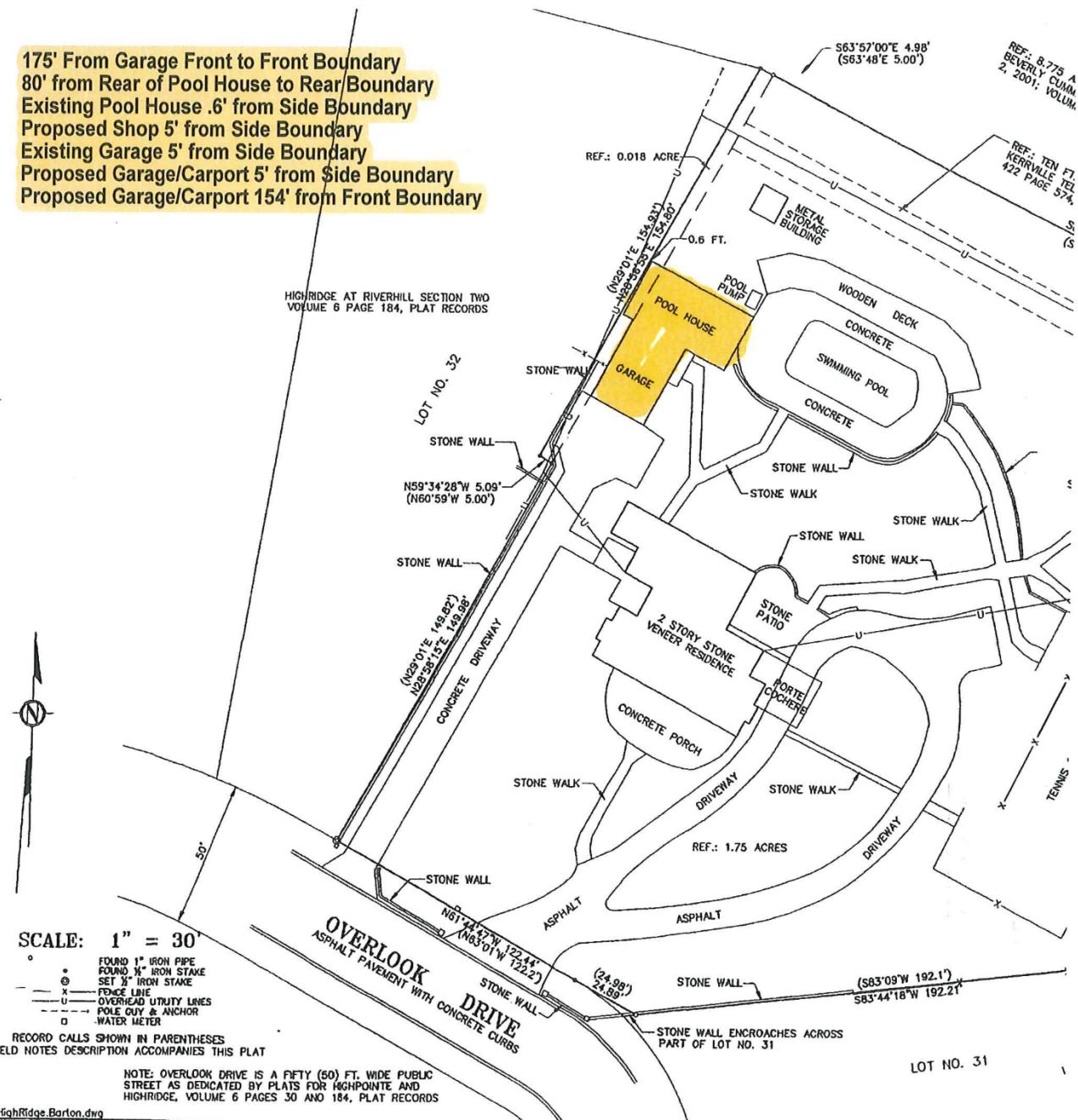




Figure 1: 304 Overlook on the left and 296 Overlook on the right, 5/2/2019



Figure 2 & 3: Existing garage and trees at 296 Overlook, 5/2/2019



# City of Kerrville Planning Division Report

To: Zoning Board of Adjustment  
Agenda Item: 2B  
Action: Public hearing, consideration, and action concerning a request for a setback variance in accordance with Chapter I, "The City of Kerrville Zoning Code" Article 11-1-17 (Regulations regarding Building Height, Lot Width and Area, and Setbacks) to allow a 30-foot reduction in the front setback that will result in a 0-foot side setback  
Planning File #: 2019-030  
Property Owner: Johnny Borrayo, Rio Ranch Properties, LLC  
Representative: Bruce Stracke  
Location: 215 W. Barnett

## Proposal

Public hearing, consideration, and action concerning a request for a setback variance in accordance with Chapter I, "The City of Kerrville Zoning Code" Article 11-1-17 (Regulations regarding Building Height, Lot Width and Area, and Setbacks) to allow a 30-foot reduction in the front setback that will result in a 0-foot side setback for Lot 52-R, Block 14, in the G. R. Parsons Addition subdivision, located at 215 W. Barnett St. (File No. 2019-030)

SETBACK TYPE	REQUIRED	PROPOSED	VARIANCE REQUEST
Front Side	30 feet	0 foot	30 feet

## Procedural Requirements

31 Notices were mailed April 24<sup>th</sup> to adjacent property owners. The public notice was published in the Kerrville Daily Times on April 22<sup>nd</sup>.

## Zoning and Land Uses

**Site Zoning:** Central City District 11 "C-11"

**Current Land Uses:** Vacant commercial

**Surrounding Zoning:** Single Family Residential with Apartment District "R-1A"

**Surrounding Area Land Uses:** Single Family Residential & Vacant

## 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:

**(2) 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;**

The actual date of construction of the commercial building is unknown but the history of the site as a commercial use is well known to be more than 90 years old. The existing building does not currently meet the building setback required by the current Zoning Code.

**(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 literal enforcement of the front setback will result in an unnecessary hardship due to other development requirements and constraints of the site. The variance will allow for a new addition on the building that is flush with the existing front façade of the structure. The addition is necessary in order to install a new kitchen for the proposed restaurant while also allowing for the site to meet the parking requirements.

**(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;**

It does not appear that the requested variance would 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 request is not contrary to the objectives and principles contained in the comprehensive plan, Kerrville 2050. The future land use for the subject property is Transitional Residential (TR). Limited amounts of neighborhood serving retail and office uses may be appropriate in carefully chosen locations. Kerrville 2050 Guiding Principle C6, encourages projects to “Celebrate and honor the character of each neighborhood and its culture; revitalize neighborhoods and create gathering places within them while avoiding the displacement of citizens and their cultures.”

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

The variance requested is the minimum variance that will relieve the proven hardship. The setback requested will continue the setback for the existing structure.

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

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

The variance request is inherent to the property itself and is not the result of the use or development of the property. The property as it was developed over 90 years ago prior to the current Zoning Code could not have anticipated the current front setback and parking requirements as well as other requirements to operate a

commercial kitchen. The property is constrained by its size and its current location interior to a developed neighborhood.

**(e) 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

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

The conditions or circumstances do not appear to be 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 is not grounded solely upon the opportunity to make the property more profitable or to 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 repeal any development regulations.

**(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.**

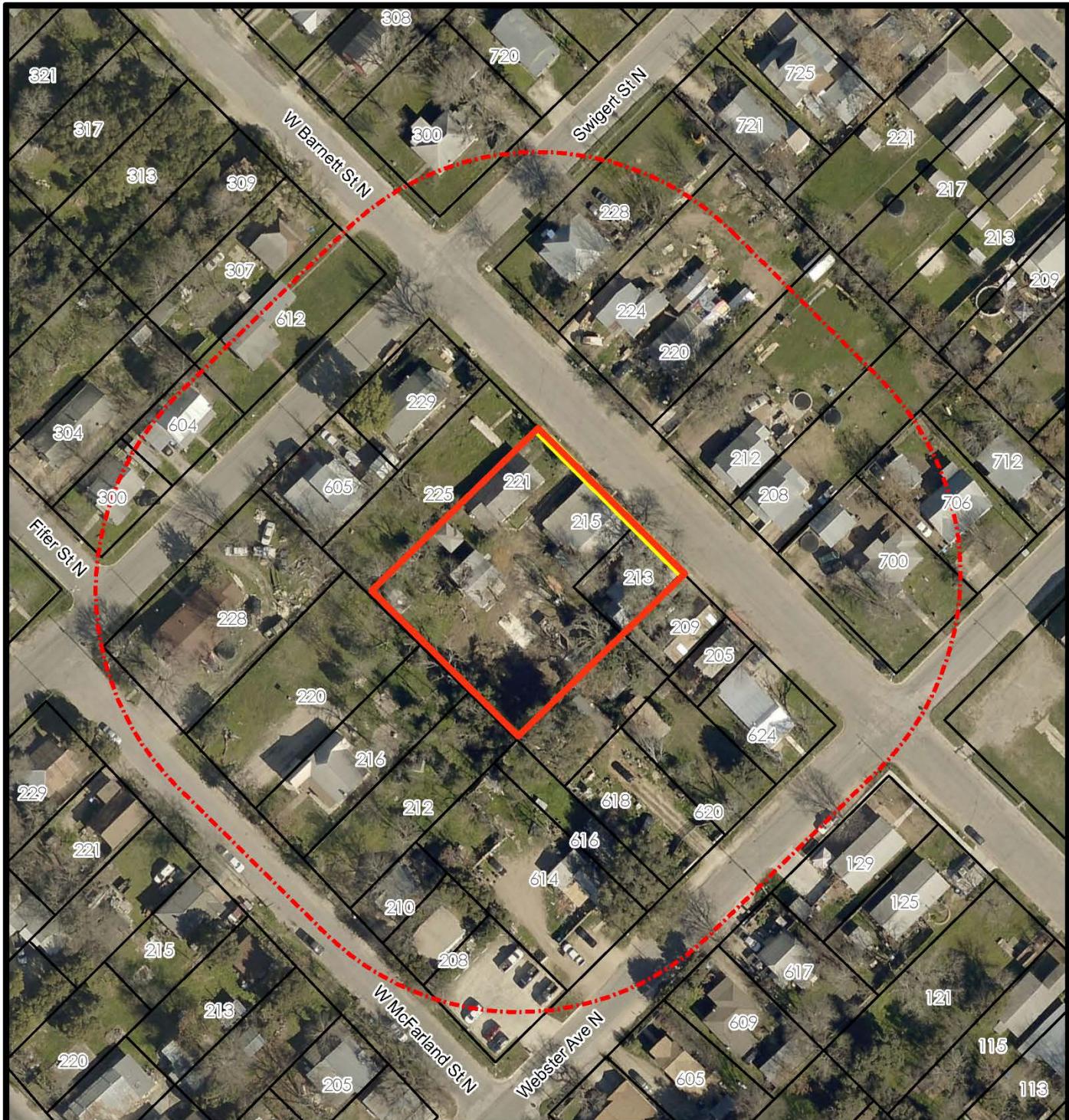
The variance would not effectively constitute a change in zoning.

**Attachments:**

Location Map

Survey

Photos



## Location Map

Case # 2019-030

**Location:**  
**215 W Barnett**

### Legend

## 200' Notification Area Subject Properties Variance Area

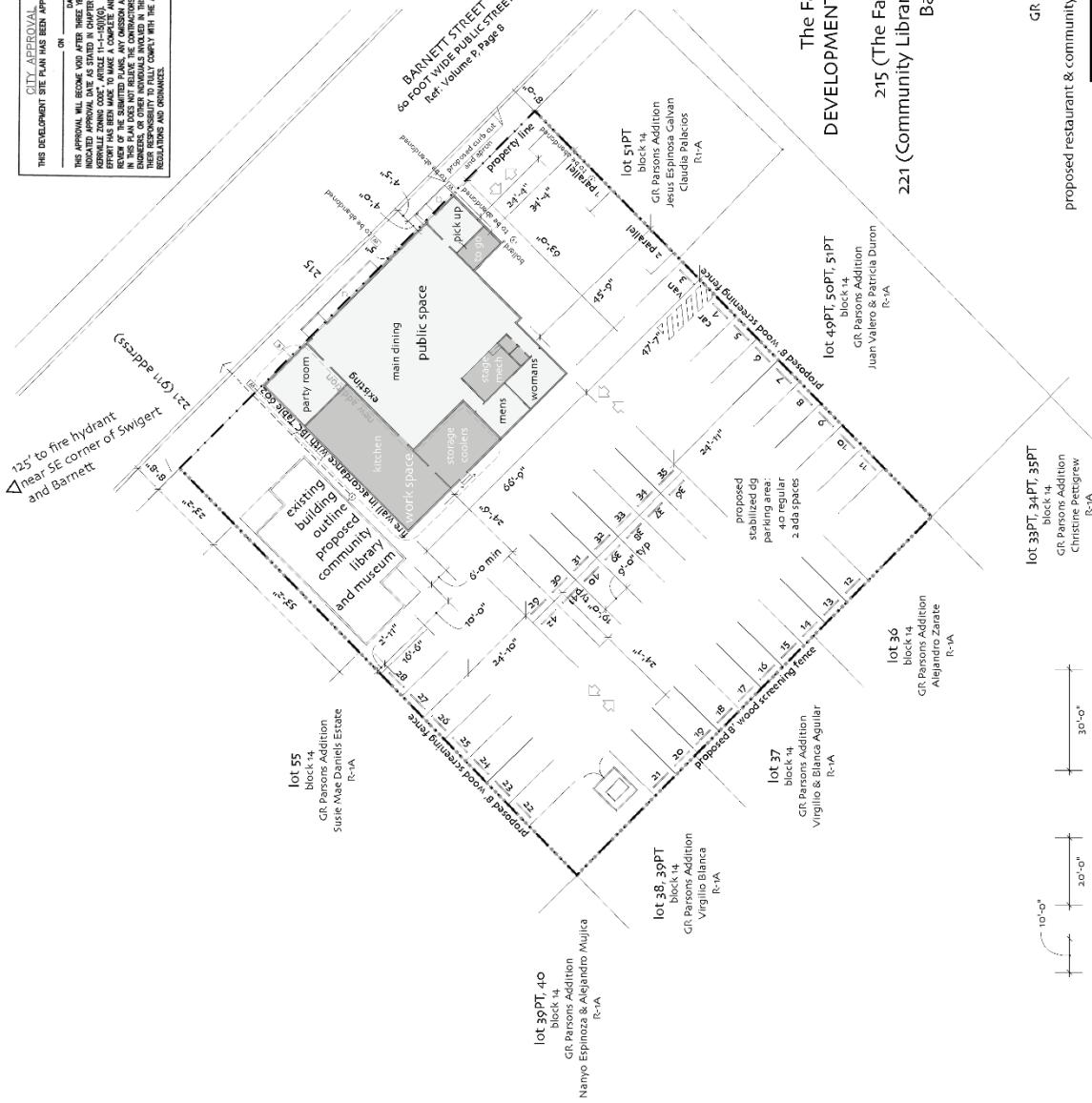


0 37.5 75 150

Scale In Feet

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only approximate relative locations.

<b>CITY APPROVAL</b>	
ON _____	DATE _____
<p>THIS APPROVAL, WILL BECOME VALID AFTER THE INDICATED TIME PERIOD AS STATED IN CHAPTER L, THE CITY OF KELLOGG ZONING CODE, ARTICLE 11-101(G), WHILE EARTHY EFFORT HAS BEEN MADE TO MAKE A COMPLETE AND COMPENSERATE REVIEW OF THE SUBMITTED PLANS, ANY OMISSION AND/OR ELISIONS IN THE SUBMITTED PLANS, SHALL BE THE RESPONSIBILITY OF THE ENGINEERS AND ARCHITECTS AND IN NO WAY SHALL THE CITY OF KELLOGG BE HELD LIABLE FOR ANY DEFECTS IN THESE PLANS. THIS APPROVAL IS NOT A CONSTRUCTION PERMIT. IT IS THE RESPONSIBILITY OF THE APPLICANT TO MAKE FURTHER ARRANGEMENTS WITH THE APPLICABLE CODES, REGULATIONS AND ORDINANCES.</p>	



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Project Summary

## Existing Conditioned Space Community library and museum

Working Area (42 Spaces)	
Community library and museum restaurant - combined space	14.2 14.2 14.2
PDIC Space	2.9
Work Space	1.2
	14.2
	Stabilized DG
	Concrete Apron

community library and museum	1,235 sq	14-234
restaurant - combined space	4,400	516-541
public space	2,877 sq	1,242 sq
work space	1,242 sq	

## Building Information Community

Construction	1 story Wood Frame
Height	~15'
Classification	Business
Uses	Library/Museum
Occupancy	12
Fire Sprinklers	No
Fire Detection	No

## Building Information Restaurant

Construction	1 Story Wood Frame
Height	~22'
Classification	Business
Uses	Restaurant
Occupancy	60
Fire Sprinklers	No
Kitchen	as required
Fire Detection	No

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Figure 4: 215 W. Barnett, 5/2/2019



Figure 5: 215 W. Barnett, 5/2/2019