



# CITY OF KERRVILLE ZONING BOARD OF ADJUSTMENT

## AGENDA

REGULAR MEETING, JULY 25, 2019, 3:00 PM  
CITY HALL, COUNCIL CHAMBERS  
701 MAIN STREET, KERRVILLE, TEXAS

### Regular Members:

Danny Almond

Pablo Brinkman

Sam Ligon

Robert Irvin

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 May 9, 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 7.5-foot reduction in the side setback that will result in a 0-foot side setback for Lot 1, Block 1, of the Kerrville Church of Christ Subdivision, located at 1900 Loop 534. (File No. 2019-043)

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 4.2-foot reduction in the side setback that will result in a 1.8-foot side setback for Lot 22, Block 7, of the Hill Crest Addition, located at 941 Golf Avenue N. (File No. 2019-047)

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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 830-257-8000 for further information.

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: July 19, 2019 at 2:00 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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### **3. OTHER BUSINESS**

**3A.** Elect a Zoning Board of Adjustment Chair and Vice Chair

### **4. STAFF REPORT**

### **5. 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  
Paul Zohlen, Alternate

## **STAFF PRESENT:**

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

## **CALL TO ORDER**

On May 9, 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. CONSENT AGENDA**

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

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

## **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)

Mr. Almond opened the public hearing at 3:02 p.m.

Mr. Paxton presented the findings of fact.

Mr. Amos Barton spoke, stating his neighbor (David Williams) approves of this variance request.

Hearing no one else speak, Mr. Almond closed the public hearing at 3:06 p.m.

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

**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)

Mr. Almond opened the public hearing at 3:07 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. Brinkman moved to approve the variance as presented; motion was seconded by Mr. Ligon and passed **5-0**.

### **3. STAFF REPORTS**

Mr. Paxton reported the Code Review Committee (CRC) is working on an update to the zoning code. CRC meets today at 4:00 p.m. to review the second draft of the zoning code. They will then kick off an introduction to the sign code.

### **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.

### **5. ADJOURNMENT**

The meeting adjourned at 3:15 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 7.5-foot reduction in the side setback that will result in a 0-foot side setback

Planning File #: 2019-043

Property Owner: Kerrville Church of Christ

Representative: Don Barnett

Location: 1900 Loop 534

## **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 7.5-foot reduction in the side setback that will result in a 0-foot side setback for Lot 1, Block 1, of the Kerrville Church of Christ Subdivision, located at 1900 Loop 534. (File No. 2019-043)

| SETBACK TYPE | REQUIRED | PROPOSED | VARIANCE REQUEST |
|--------------|----------|----------|------------------|
| Left Side    | 7.5 feet | 0 foot   | 7.5 feet         |

## **Procedural Requirements**

8 Notices were mailed July 11<sup>th</sup> to adjacent property owners. The public notice was published in the Kerrville Daily Times on July 4<sup>th</sup>.

## **Zoning and Land Uses**

**Site Zoning:** Residential Cluster District (RC)

**Current Land Uses:** Public Assembly – Church

**Surrounding Zoning:** Residential Cluster District (RC)

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

## **Criteria for Review**

According to Article 11-1-23(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;**

The subject property and surrounding area has some challenging topography. The unusual shape of the platted lot highlights some of the challenges of the area to establish the buildable area for the church.

**(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 due to the constraints of the site topography. The church owns both the subject property and the surrounding adjacent property. The most accessible and relatively flat location for the pavilion to be constructed is where it is proposed abutting the property line.

**(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 adjacent property is currently vacant and owned by the church.

**(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).

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

The variance will be granting the maximum 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 the result of the development or use of the property. The property could be re-subdivided to provide enough setback for the proposed pavilion.

**(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**

The property was subdivided and platted in 2003. The subdivision of land did not cause the property to be unusable. The subdivision though did cause the restraint

of the side setback for a suitable location for the pavilion. The property could be replatted to meet the required setback.

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

The conditions or circumstances appear to be self-imposed on the part of the property subdivision.

**(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 or use regulations set forth in the Zoning Code.

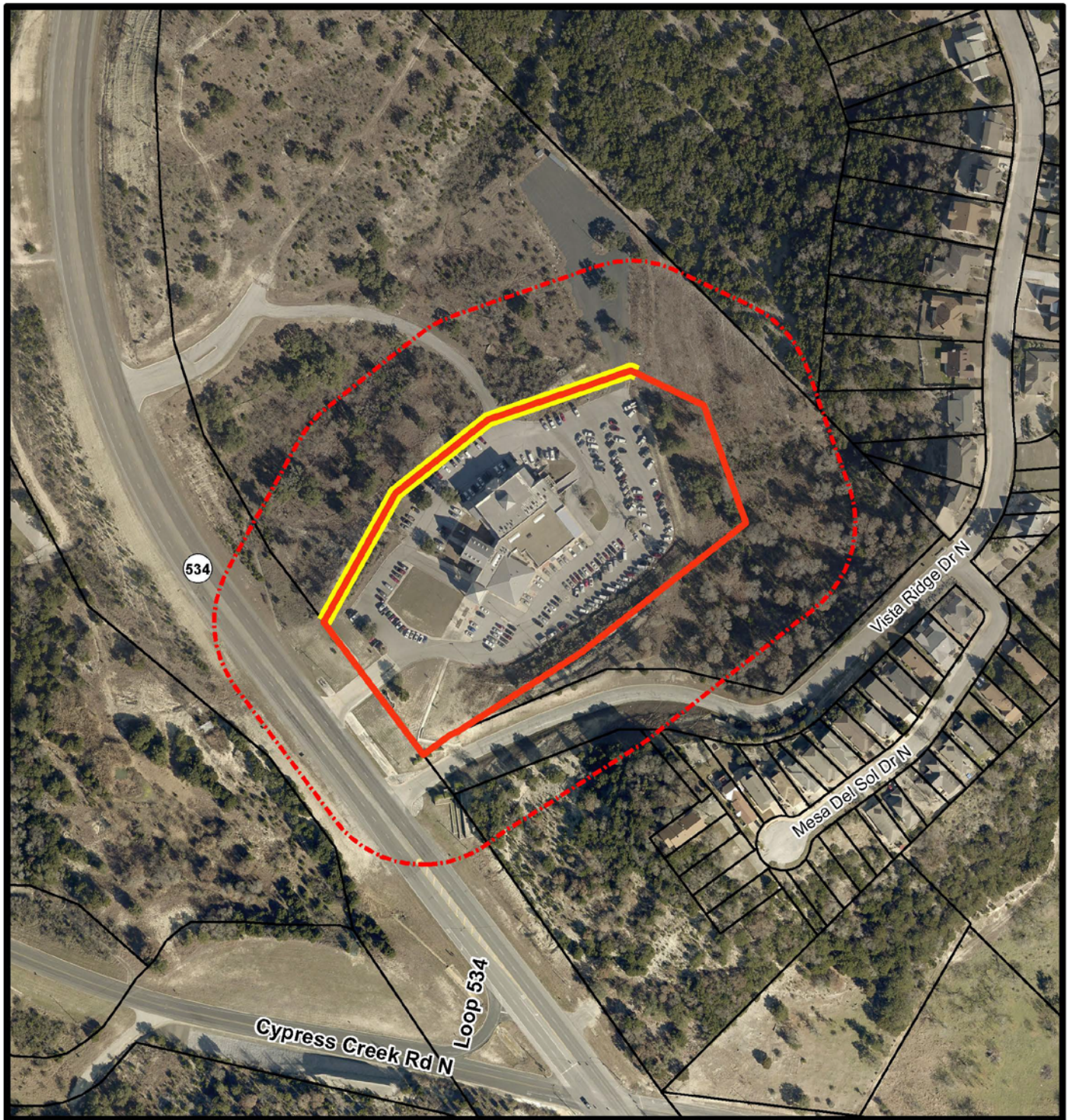
**(9) That the variance would only affect a specific parcel of property and is not of such a general nature as to effectively constitute a change in zoning of said parcel or a larger area without following the procedures set forth in Article 11-1-21.**

The variance would not effectively constitute a change in zoning.

**Attachments:**

Location Map  
Site Plan





## Location Map

Case # 2019-043

Location:  
1900 Loop 534

### Legend

200' Notification Area ---  
 Subject Properties —  
 Variance Area —

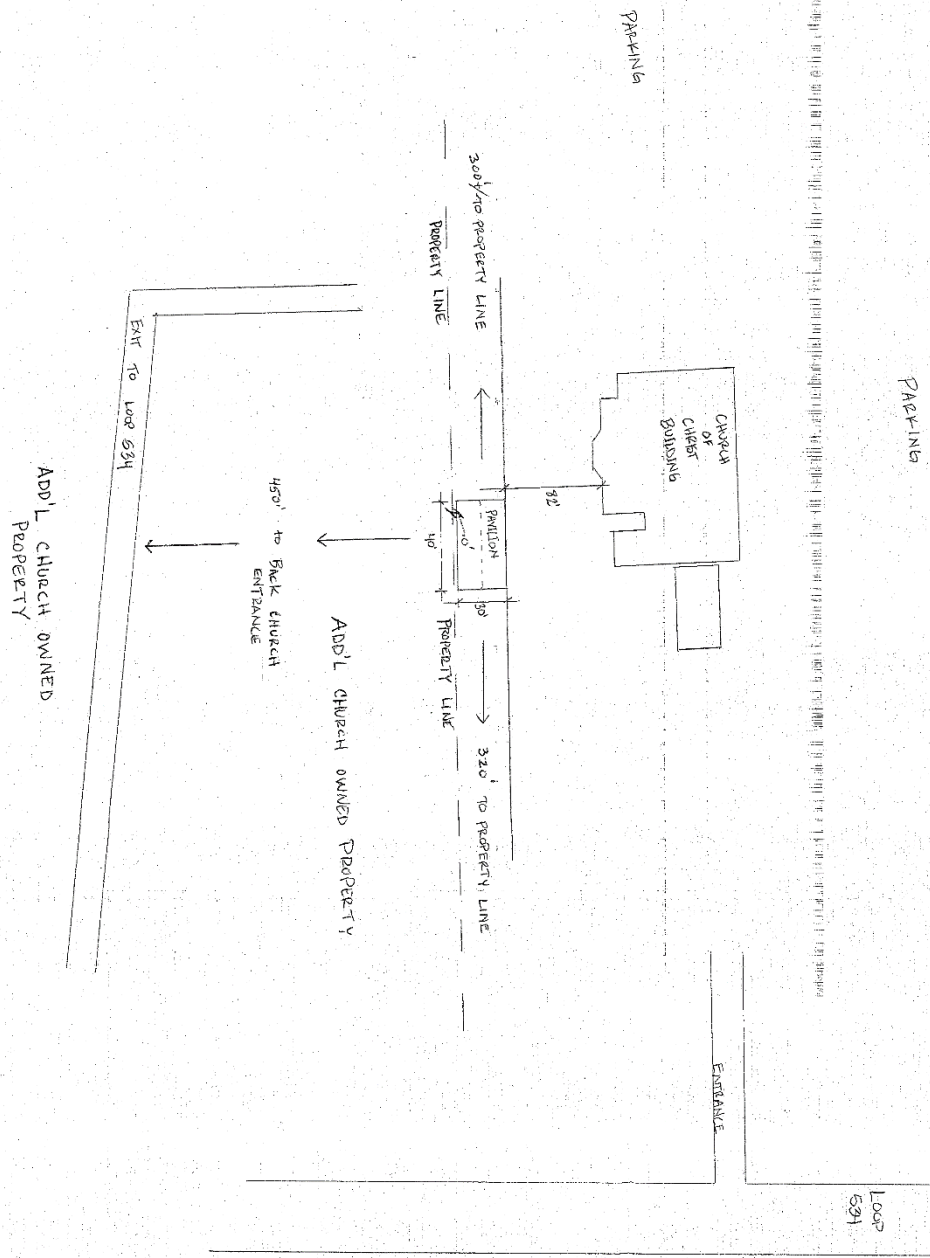


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This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only approximate relative locations.



KERNVILLE CHURCH OF CHRIST PAVILION ADDITION SITE PLAN  
 MARCH 28, 2019  
 REVISED APRIL 22, 2019



\*PLAN NOT DRAWN TO SCALE

REVISED  
 4/22/19



# 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 4.2-foot reduction in the side setback that will result in a 1.8-foot side setback

Planning File #: 2019-047

Property Owner: Arnulfo Galindo

Representative: Chad Huber, Casa Keepers, LLC

Location: 941 Golf Avenue N

## **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 4.2-foot reduction in the side setback that will result in a 1.8-foot side setback for Lot 22, Block 7, of the Hill Crest Addition, located at 941 Golf Avenue N. (File No. 2019-047)

| SETBACK TYPE | REQUIRED | PROPOSED | VARIANCE REQUEST |
|--------------|----------|----------|------------------|
| Left Side    | 6 feet   | 1.8 foot | 4.2 feet         |

## **Procedural Requirements**

27 Notices were mailed July 11<sup>th</sup> to adjacent property owners. The public notice was published in the Kerrville Daily Times on July 4<sup>th</sup>.

## **Zoning and Land Uses**

**Site Zoning:** Single-Family Residential (R-1)

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

**Surrounding Zoning:** Single-Family Residential (R-1) and Public & Institutional (PI)

**Surrounding Area Land Uses:** Single Family Residential and golf course

## **Criteria for Review**

According to Article 11-1-23(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;**

Several of the properties including the subject property have buildings encroaching into the required building setbacks. The subdivision was platted in 1924, and Kerr County Appraisal District lists that the house was built in 1943. It unknown at what time the original carport was constructed. Much of the development of the neighborhood predates the adoption of our current Zoning Ordinance.

**(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 side setback will result in an unnecessary hardship since the carport would be put back in place on the original footing of the pre-existing carport that was removed in order to pour a new driveway. The size of the lot and placement of the house do not allow for another location on the property for the carport to be constructed that would meet the required setback.

**(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 applicant has agreed to use non-combustible materials in order to meet Fire Code requirements for the reduced setback. The setback will be in line with an existing accessory structure.

**(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 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 but is rather the result of new codes that have been adopted after the neighborhood was developed. The property as it was developed over 76 years ago prior to the current Zoning Code could not have anticipated the current side setback.

**(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. The house and original carport were built in 1943 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;**

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 or use regulations set forth in the Zoning Code.

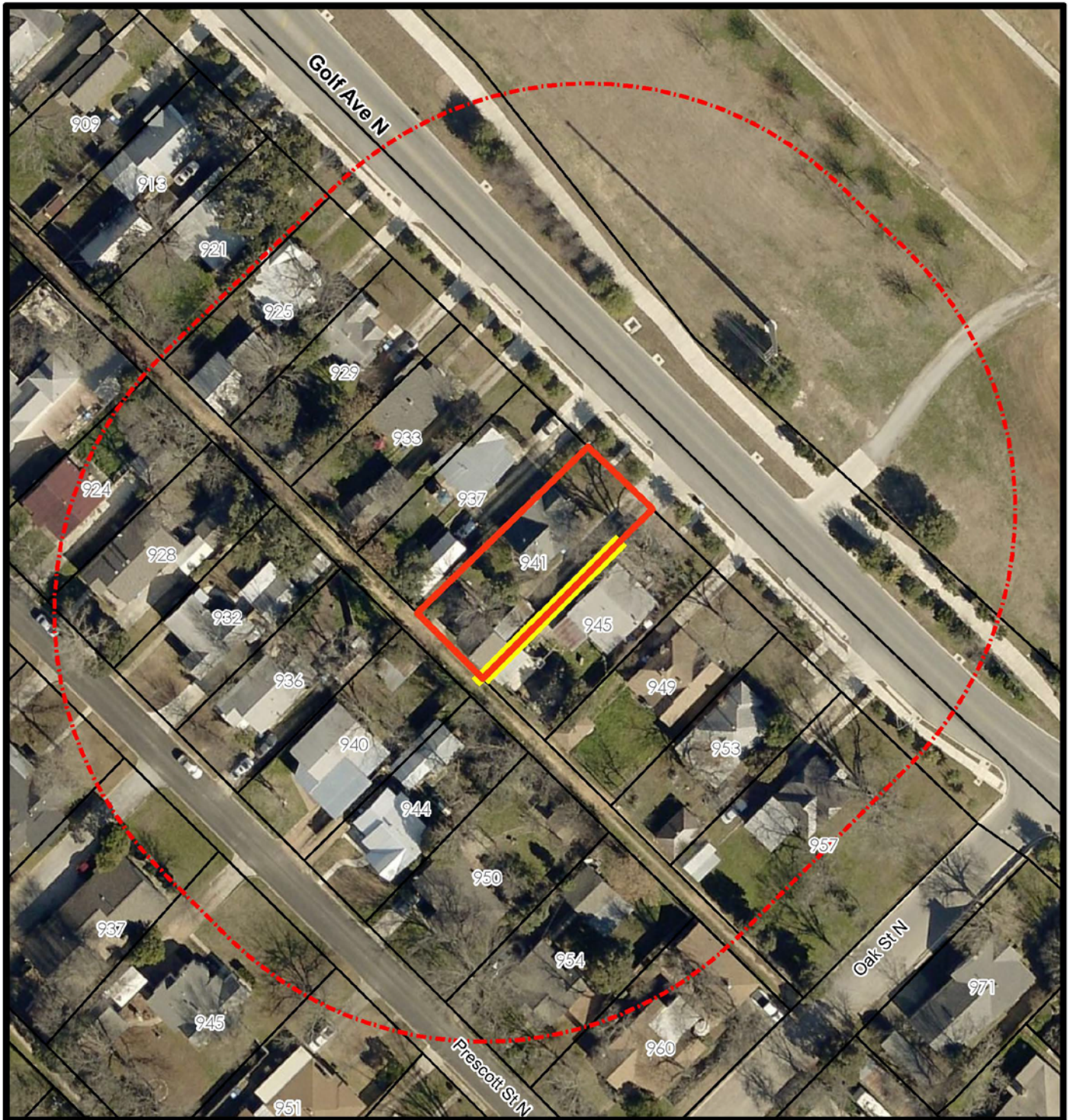
**(9) That the variance would only affect a specific parcel of property and is not of such a general nature as to effectively constitute a change in zoning of said parcel or a larger area without following the procedures set forth in Article 11-1-21.**

The variance would not effectively constitute a change in zoning.

**Attachments:**

Location Map  
Building Permit Plan Drawings  
Written Letter of Support





## Location Map

Case # 2019-047

Location:  
941 Golf Ave N

### Legend

200' Notification Area ---  
 Subject Properties —  
 Variance Area —

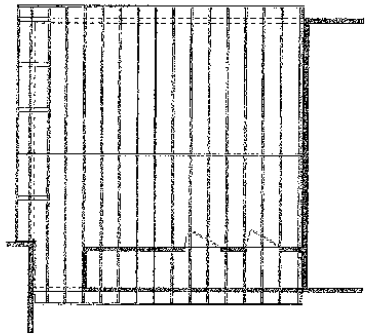
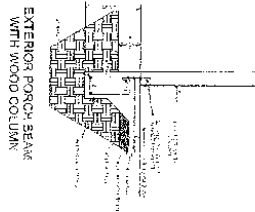
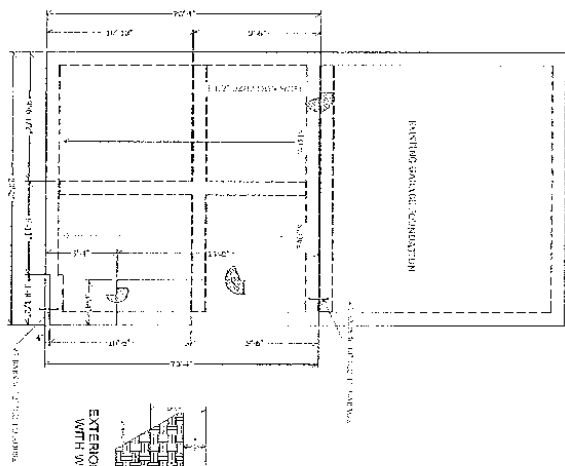


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This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only approximate relative locations.





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WINEGARD, JOHN ALBERT, JR.  
born 1878, 1706 E. 10th St., Seattle, Wash.  
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- 4016 - 1706 E. 10th St. - SEATTLE, WASH.

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| DATE:  | 6/28/2019    |
| SCALE: | 1/4" = 1'-0" |
| SHEET: | A-2          |

**DRAWINGS PROVIDED BY:**  
**ATHENS DESIGN**  
2305 1/2 Goat Creek Rd.  
Kerrville, Texas 78628 (830)  
896-0892

PROJECT DESCRIPTION:

GALINDO CARPORT

**SHEET TITLE:**  
FLOOR PLAN,  
ROOF PLAN &  
FOUNDATION

| NO. | DESCRIPTION | BY | DATE |
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**From:** Jana Speck  
**Sent:** Wednesday, July 17, 2019 2:35 PM  
**To:** Rebecca Pacini  
**Subject:** Re: Set back variance case #2019-047

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**EXTERNAL EMAIL:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Ms. Pacini,

This email is in regards to case #2019-047 and the new carport being built on 941 Golf Ave. As the owner of 940 Prescott Ave, and being located directly behind the property, I am ok with the carport being built back as long as it does not block the alley behind our property from allowing trucks to be able to drive through. If I understand correctly, it is being built back the way it was originally and should not impact anything other than Kerrville's setback variance. If the carport hangs over into the alley, and blocks the alley from being used like it has been in the past, then I am against the carport being built back.

Thanks,

Jana Speck  
Owner 940 Prescott Ave