



CITY OF KERRVILLE ZONING BOARD OF ADJUSTMENT AGENDA

SPECIAL MEETING, THURSDAY, NOVEMBER 10, 2016 3:00 P.M.

CITY HALL COUNCIL CHAMBERS
701 MAIN STREET, KERRVILLE, TEXAS

CALL TO ORDER

1. ELECTION OF OFFICERS

1A. **Election of New Officers** – In accordance with Article 11-1-22(b)(13) of the City of Kerrville's Zoning Code, "Officers of the Board of Adjustment shall be a **chairperson, vice-chairperson, and secretary** who shall be appointed by the members of the Board from among its members. The officers for the Board of Adjustment shall be appointed at the first meeting of the board, and thereafter such appointments shall be made at the first meeting held after October 1 of each year. Officers of the Board of Adjustment shall serve a term of one year, said term ending on September 30 after the date of election. An officer of the Board may not serve in the office elected for more than two consecutive terms. "

2. 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.)

3. 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.

3A. Approval of the minutes from the June 6, 2016 meeting. **Pg. 2**

4. PUBLIC HEARINGS AND ACTION

4A. **Public Hearing & Action, Variance Request** – Public hearing, consideration, and action concerning a request for a 15-feet variance from the 25-feet minimum front yard required setback in accordance to Chapter I, "The City of Kerrville Zoning Code" Article 11-1-17 for an approximate 1.24 acre tract. Legal Description JA Tivy Addition Lot 3-R Block 27; located at 1001 Jefferson Street North. (File No. 2016-053) **Pg. 4**

4B. **Public Hearing & Action, Variance Request** – Public hearing, consideration, and action concerning two variance requests: 1) for a 5-feet variance from the 6-feet minimum side yard (non-corner side) required setback; and 2) request for a 23-feet variance from the 25-feet minimum rear yard required setback in accordance to Chapter I, "The City of Kerrville Zoning Code" Article 11-1-17 for an approximate .43 acre tract. Legal Description Cage Addition Block O, portion of Lot 1; located at 504 Tivy Street North. (File No. 2016-062) **Pg. 9**

5. STAFF REPORTS

6. 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: November 7, 2016 at 2:30 p.m. and remained posted continuously for at least 72 hours preceding the scheduled time of the meeting.



City of Kerrville Planning Department Report

To: Zoning Board of Adjustment
Agenda Item: 2A
Hearing Date: November 10, 2016
Representative: Staff

Proposal

Approval of the amended minutes from the June 16, 2016 Zoning Board of Adjustment meeting.

MEMBERS PRESENT:

Peter Lewis, Vice-Chair
Judy Eychner, Member
Sam Ligon, Member
Mark Bosma, Alternate
Robert Parks, Alternate

MEMBERS ABSENT:

Linda Stilwell, Chair
Justin MacDonald, Secretary

STAFF PRESENT:

Trent Robertson, City Planner
Dorothy Miller, Recording Secretary

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.)

On April 21, 2016 the Zoning Board of Adjustment meeting was called to order at 3:00 p.m. in the City Hall Council Chambers, 701 Main Street.

No visitors were present; no one spoke.

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 January 7, 2016 meeting.

Ms. Eychner moved to approve the minutes as presented; motion seconded by Mr. Bosma and passed 4-0.

3. PUBLIC HEARINGS AND ACTION

3A. **Public Hearing & Action, Variance Request** – Public hearing, consideration, and action concerning a request for a variance from all of the required off-street parking spaces in accordance with Chapter I, “The City of Kerrville Zoning Code” Article 11-1-20 (Off-Street Parking and Loading Requirements) for an approximate .44 acre tract. Legal Description J.A. Tivy Subdivision, Lot 2-A, Block 39, located at 1019 and 1023 North Street North; on the northwest side of A Street North, between North Street North and Aransas Street North. (File No. 2016-017).

Mr. Robertson presented the findings of fact.

Mr. Lewis opened the public hearing at 3:08 p.m. Hearing no one speak, Mr. Lewis closed the public hearing at 3:09 p.m.

Mr. Bosma moved to approve the variance based on the findings of fact; motion was seconded by Mr. Parks and passed 4-0.

4. Adjournment

The meeting adjourned at 3:10 p.m.

ATTEST:

Linda Stilwell, Chair

Dorothy Miller, Recording Secretary

Date Minutes Approved



City of Kerrville Planning Department Report

To: Zoning Board of Adjustment
Agenda Item: 4A
Planning File #: 2016-053
Hearing Date: November 10, 2016
Representative: Garrett Harmon
Location: 1001 Jefferson Street
Zoning: "RT" Residential
Legal Description: J.A. Tivy Subdivision, Lot 3-R, Block 27
Total Acreage: 1.24

Proposal

A request for a 15-feet variance from the 25-feet minimum front yard required setback in accordance to Chapter I, "The City of Kerrville Zoning Code" Article 11-1-17.

Procedural Requirements

The application was published in The Hill Country Community Journal, an official newspaper of general circulation on October 26, 2016. Notices were sent to property owners within two hundred (200) feet of the subject property on October 28, 2016. Additionally, notice of this meeting was posted at city hall and on the city's internet website on November 2, 2016, in accordance with Section 551.043(a) of the Texas 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, South and East

Current Base Zoning: "RT"

Current Land Uses: Single-Family Residential, Church, and Retail

Direction: West

Current Base Zoning: CBD

Current Land Uses: Single-Family Residential

Transportation

Thoroughfare: Jefferson Street North; Tivy Street North
Existing Character: One lane in each direction with partial sidewalks
Proposed Changes: None known

Thoroughfare: A Street North
Existing Character: One lane in each direction with no sidewalks
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 exceptional circumstances that exist on the property. The existing structure was built in 1890 and encroaches into the current 25-feet front yard minimum required setback. Due to the age of the structure, it is assumed the building predates any development regulations such as setbacks. The owner is trying to restore the historic structure and increase the square footage to make the structure livable. In trying to maintain the historical significance and practicality of the structure, the proposed addition will not encroach any further into the setback than what the existing structure already is doing. Generally, due to the size of the lot meeting the required setbacks for new construction would not be an issue. However, due to the restoration of the historical structure and being sensitive to the design, the current setback regulations cause an undue hardship. Additionally, there are various other residential structures in the immediate vicinity that are not meeting the current setback regulations. This is due to various factors such as the subdivision of the lots, development regulations, and age of the structures, etc.

(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 an unnecessary hardship inconsistent with the general purpose and intent of this Chapter due to the age and historical significance of the existing structure and lot. The variance would allow for the property to be in compliance with the regulations in the zoning code, and for the property to enjoy the same privileges as other similar properties in the same zoning district.

(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 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 would allow for the existing structure to be in compliance with the current zoning code and for the proposed addition to be developed similarly to the surrounding neighborhood. The requested variance will not be 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 is the minimum distance needed in order for the single-family residential structure to be in compliance with all city codes.

(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 was not self-induced, but 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 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 setback requirements.

(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: Approval



Variance Application

Location:
1001 Jefferson Street North

Legend

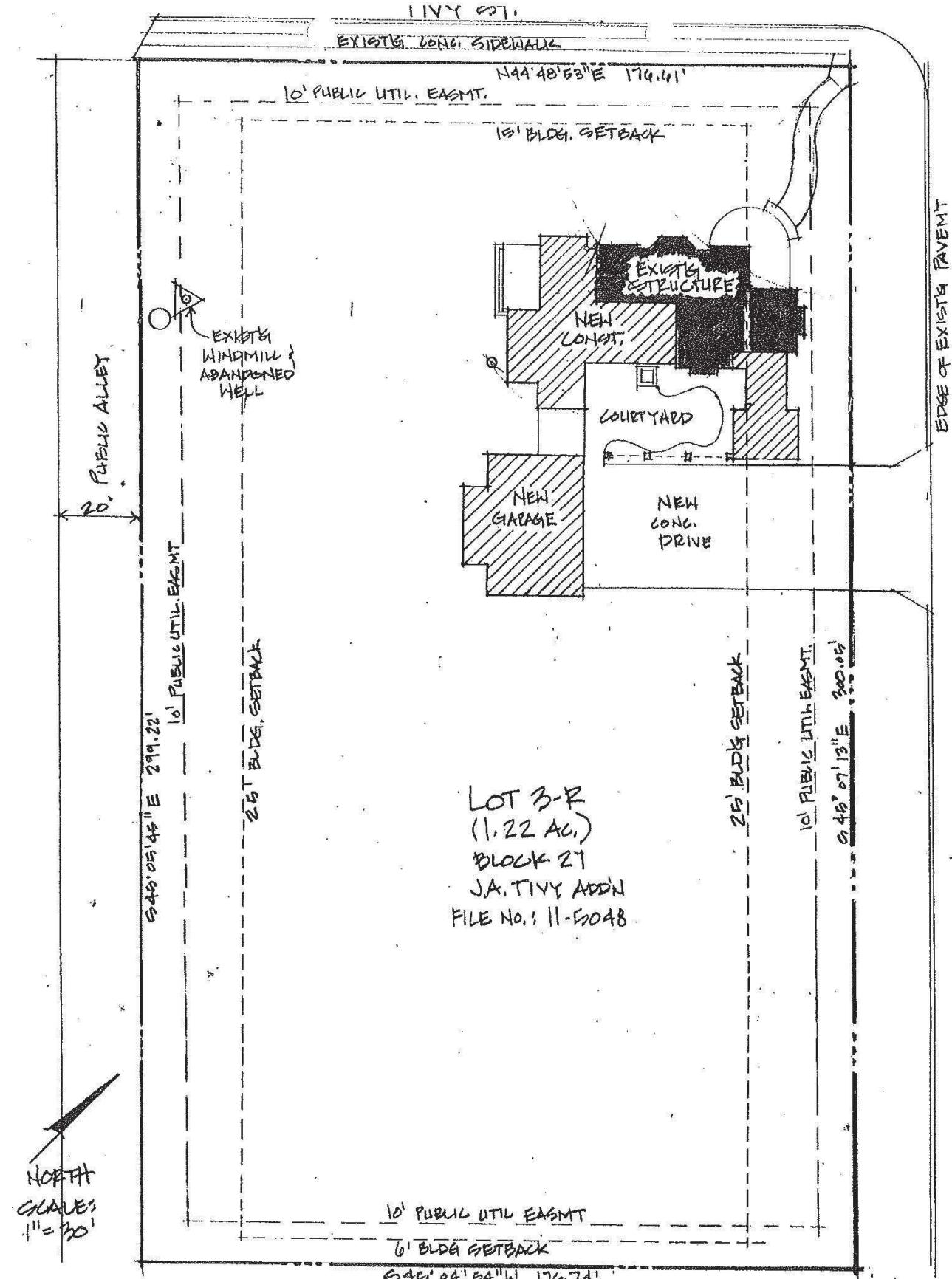
Subject Properties
200-ft Notification Area
Variance Area



0 50 100 200

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.





City of Kerrville Planning Department Report

To: Zoning Board of Adjustment
Agenda Item: 4B
Planning File #: 2016-062
Hearing Date: November 10, 2016
Representative: Ken and Clair Booth
Location: 504 Tivy Street North
Zoning: "RT" Residential
Legal Description: J.A. Tivy Subdivision, Lot 3-R, Block 27
Total Acreage: 1.24

Proposal

A request for two variances 1) for a 5-feet variance from the 6-feet minimum side yard (non-corner side) required setback; and 2) request for a 23-feet variance from the 25-feet minimum rear yard required setback in accordance to Chapter I, "The City of Kerrville Zoning Code" Article 11-1-17.

Procedural Requirements

The application was published in The Hill Country Community Journal, an official newspaper of general circulation on October 26, 2016. Notices were sent to property owners within two hundred (200) feet of the subject property on October 28, 2016. Additionally, notice of this meeting was posted at city hall and on the city's internet website on November 2, 2016, in accordance with Section 551.043(a) of the Texas 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: 29

Adjacent Zoning and Land Uses

Direction: North, and West

Current Base Zoning: "RT"

Current Land Uses: Single-Family Residential

Direction: South and East

Current Base Zoning: "RT" and "PI"

Current Land Uses: Single-Family Residential, School, and Professional Office

Transportation

Thoroughfare: Tivy Street North; Aransas Street North; North Street North

Existing Character: One lane in each direction with partial sidewalks

Proposed Changes: None known

Thoroughfare: Robinson Avenue north; and Garden Street North

Existing Character: One lane in each direction with no sidewalks

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 exceptional circumstances that exist on the property. The existing structures were built in approximately in 1927-1954 according to Kerr County Appraisal District (structure listed being built in 1927) and the Sanborn Historical Maps (structures shown on lot, where maps were created in 1930 and amendments were made to the map up until 1954). The existing structures predate both the 1946, 1973 zoning code and the 1964 subdivision ordinance. The lot was later subdivided causing structures on the site to encroach into the existing setback requirements. The date the property was subdivided from the 1930 configuration is undetermined (prior to 1981). Due to the age of the structures and the subdivision of the lot the buildings are considered legal non-conforming structures and may be rebuilt to the original footprint if initiated within a certain amount of time from when the building is destroyed through natural causes. If the variances are approved 1) It will allow for the structures to become legally conforming, and 2) the site will still be required to meet all other development and building code regulations. There are various structures in the vicinity not meeting setback requirements. It was a common practice for lots to be subdivided prior to 1990 without the lots being platted, replatted, or an amending plat.

(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 an unnecessary hardship inconsistent with the general purpose and intent of this Chapter due to the structure existing prior to the 1973 zoning ordinance being adopted. The side and rear setback variances would allow for the property to be in compliance with the regulations in the zoning code, and for the property to enjoy the same privileges as other similar properties in the same zoning district.

(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 variances 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 would allow for the existing structures to be in compliance with the current zoning code. The requested variances will not be 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 variances requested is the minimum distance needed in order for the structures to be in compliance with Chapter I, "The City of Kerrville Zoning Code" Article 11-1-17.

(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 was not self-induced, but 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 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.

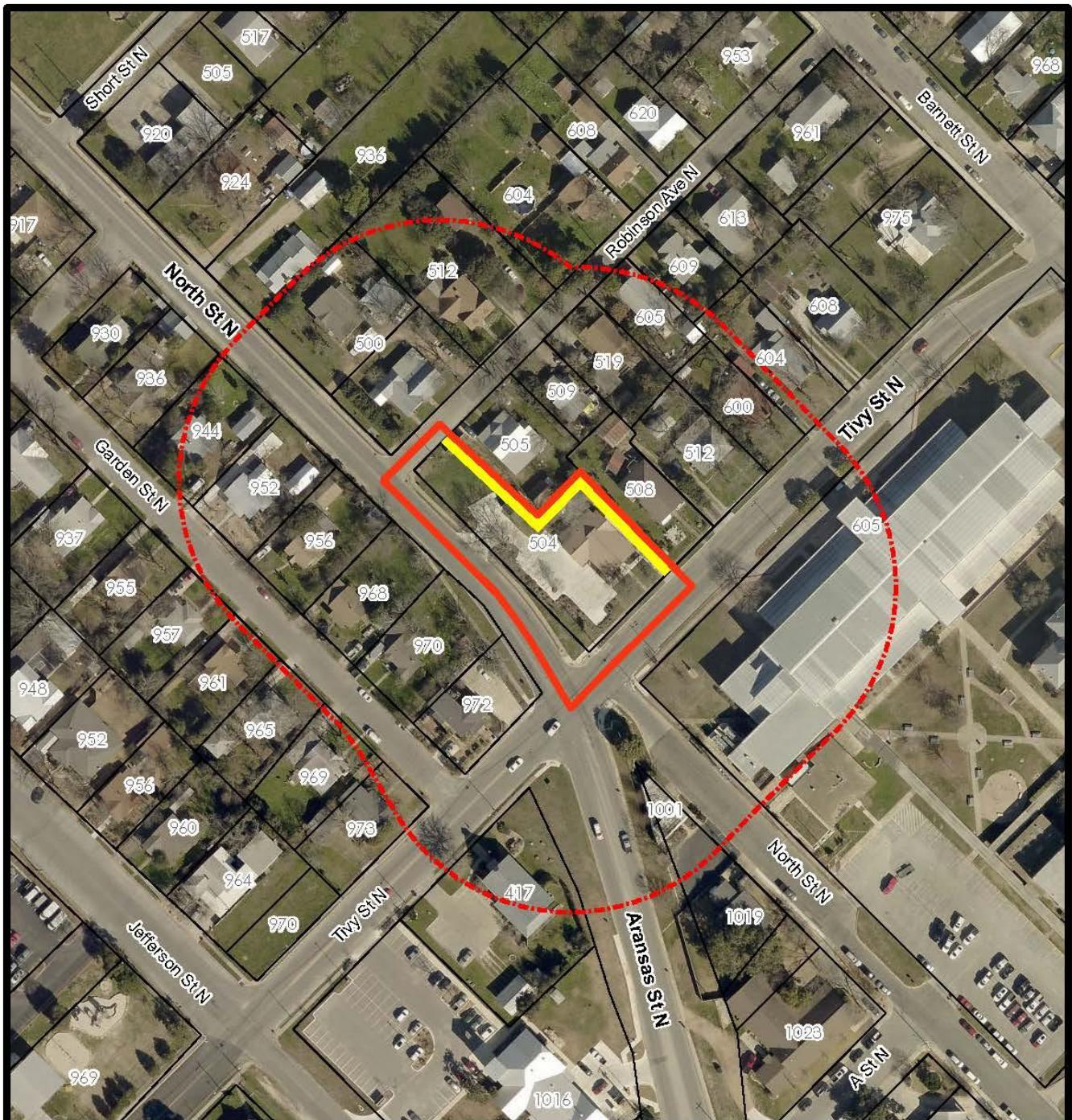
(8) That the variance would not modify or effectively repeal any development or use regulations set forth in a Conditional Use Permit or an ordinance or resolution adopting a Development Site Plan or establishing a Special Use District or Planned Development District which are in addition to the generally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

The variance will not appeal any other development regulations besides the setback requirements.

(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: Approval

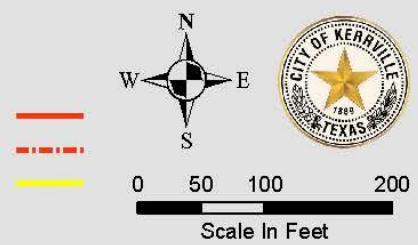


Variance Application

Location:
504 Tivy Street North

Legend

Subject Properties
200-ft Notification Area
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.

FORM-BOARD SURVEY PLAT OF A 0.43 ACRE PORTION OF LOT 1, BLOCK "O" OF B. F. CAGE ADDITION TO THE CITY OF KERRVILLE, A SUBDIVISION OF KERR COUNTY, TEXAS, OF RECORD IN VOLUME 1, PAGE 1, PLAT RECORDS OF KERR COUNTY, TEXAS.

NOTES:

RECORD PLAT/DEED CALLS SHOWN IN SMALLER
ITALIC TYPE NEAR MEASURED CALLS.

ALL IRON RODS SET CAPPED: "rpls 5164"

SCALE: 1" = 40 FEET

