



CITY OF KERRVILLE ZONING BOARD OF ADJUSTMENT

AGENDA

REGULAR MEETING, MARCH 28, 2019, 3:00 PM
CITY HALL, COUNCIL CHAMBERS
701 MAIN STREET, KERRVILLE, TEXAS

Regular Members:

Danny Almond, Chair

Pablo Brinkman

Sam Ligon

Robert Irvin

Robert Parks

Alternate Members:

Dennis Ferguson

Paul Zohlen

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.

CALL TO ORDER

1. VISITORS/CITIZENS FORUM

Any person with business not scheduled on the agenda is encouraged to briefly speak 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 on 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.

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: March 22, 2019 at 12:30 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

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

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)

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)

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: 2A
Hearing Date: March 28, 2019
Representative: Staff

MEMBERS PRESENT:

Peter Lewis, Vice-Chair
Sam Ligon, Member
Robert Irvin, Member
Robert Parks, Member
Pablo Brinkman, Alternate

MEMBERS ABSENT:

Danny Almond, Chair

STAFF PRESENT:

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

CALL TO ORDER

On January 10, 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 February 1, 2018 meeting.

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

2B. Approval of the minutes from the September 20, 2018 meeting.

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

3. PUBLIC HEARINGS AND ACTION

3A. Public Hearing & Action, Variance Request – Public hearing, consideration, and action concerning a request for setback variances 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 an approximately 0.63 acre property that consists of portions of Lots 3 and 4, Block 5, in the Starkey Manor Subdivision, located at 1106 W. Main Street. (File No. 2018-090)

Mr. Paxton presented the findings of fact.

Mr. Lewis opened the public hearing at 3:04 p.m.

Mr. Joel Dully, contractor, spoke, stating the reason for the request is to accommodate 18 foot wide door for a two-car garage.

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

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

3B. Public Hearing & Action, Variance Request – Public hearing, consideration, and action concerning a request for setback variances 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 front setback for an approximately 0.32 acre property that consists of Lots 1 and 2, Block 32, in the JA Tivy Addition, located at 1616 Broadway. (File No. 2018-091)

Mr. Paxton presented the findings of fact.

Mr. Lewis opened the public hearing at 3:15 p.m.

Mr. Villanueva spoke, giving a history of the pergola and the reason for the variance request.

Hearing no one else speak, Mr. Lewis closed the public hearing at 3:24 p.m.

Mr. Ligon moved to approve the variance as presented; motion was seconded by Mr. Brinkman and passed 4-1.

4. STAFF REPORTS

Mr. Paxton gave an update on the zoning code review committee. They are scheduled to meet the second week of February to go through the draft of the new zoning code. The general goal from the committee to the consultants was to simplify the code. The current draft does expand the residential districts to six districts and then three commercial districts, two special districts, one industrial district, the airport district that will remain with some minor modifications, and the addition of an agricultural district. The review will then go to an open house in February and a joint City Council/Planning and Zoning meeting in March. They will then look at design standards, subdivision code, sign code, sidewalk ordinance and other ancillary ordinances moving through the spring and summer time.

5. ADJOURNMENT

The meeting adjourned at 3:29 p.m.

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City of Kerrville Planning Division Report

To: Zoning Board of Adjustment

Agenda Item: 3A

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 1-foot reduction in the side setback that will result in a 5-foot side setback

Planning File #: 2019-003

Property Owner: Sandra & Paul Bortree

Representative: Sandra Bortree

Location: 1213 Donna Kay 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 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)

SETBACK TYPE	REQUIRED	PROPOSED	VARIANCE REQUEST
Side	6 feet	5 foot	1 foot

Procedural Requirements

17 Notices were mailed March 14th to adjacent property owners. The public notice was published in the Kerrville Daily Times on March 12th.

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" and Residential Cluster "RC"

Surrounding Area Land Uses: Single Family Residential & Vacant

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;

No exceptional circumstance or condition is applicable to the property.

(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;

No unnecessary hardship will result from the literal enforcement of the zoning provisions.

(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 Neighborhood Residential (NR).

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

A proven hardship has not been identified.

(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 request is the result of the use or development of the property and is not inherent to the property itself.

(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 1977 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 # 2019-003

Location:
1213 Donna Kay

Legend

200' Notification Area
Subject Properties
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.

LEGEND OF ABBREVIATIONS

D.R.K.C. - Deed Records of Kerr County, E.R.K.C. - Easement Records of Kerr County
 R.P.R.K.C. - Real Property Records of Kerr County, U.E. - Utility Easement
 P.R.K.C. - Plat Records of Kerr County, P.O.B. - Point of Beginning, R.O.W. - Right of Way
 U.S.B.L. - Building Set Back Line, U.P. - Utility Pole, O.W. - Guy Wire, U.L. - Water Loop
 W.M. - Water Meter, F.H. - Fire Hydrant, A/C - Air Conditioner, W. - Water Line
 -E- - Electric Line, -T- - Telephone Line, -C- - IV Cable, -W- - Field Fence
 -a- - Chain Link Fence, -f- - Good Fence, U.G.E. - Underground Electric Trans.
 U.G.C. - Underground Cable Pedestal U.G.T. - Underground Tele. Pedestal
 U.H. - Manhole B.M. - Elevation Benchmark, -SS- - Sanitary Sewer
 F.I.R. - Found Iron Rod, S.I.R. - Set Iron Rod, F.C.P. - Fence corner post
 F.I.P. - Found Iron Pipe, F.P. - Fence Post, G.M. - Gas Meter, C & O - Curb and Outlet

Record bearings and distances are shown in parentheses.

NOTE:

Easements and restrictions of record have been provided by Fidelity Abstract & Title per Schedule B, O.F. No. 060880F dated August 1, 2008.

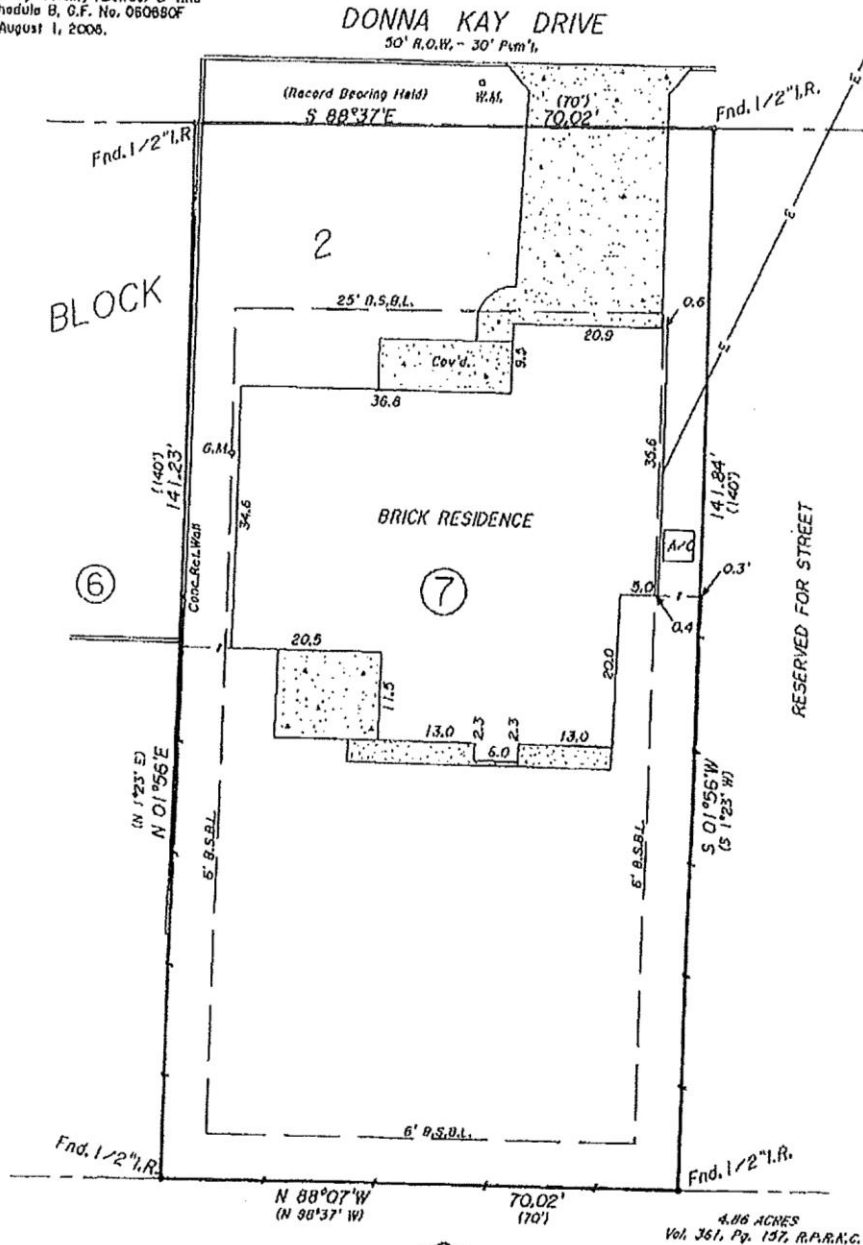
PROPERTY ADDRESS:
 1213 Donna Kay Drive
 Kerrville Texas, 78028

BORROWERS:
 Jay D. Norris and
 Anna C. Norris

SUBJECT TO:
 Building setbacks and easements per
 Vol. 115, Pg. 04, D.R.K.C. and per
 plat Vol. 3, Pg. 16, P.R.K.C.

SCALE:
 1" = 20'

B. Plat
 06101701
 9404-04
 FH05022301
 UF090402F



I, Charles Digges, a Registered Professional Land Surveyor, state that an on the ground survey has been performed under my supervision on October 20, 2006. Improvements and easements visibly apparent on the site are shown hereon. Discrepancies in boundary lines, if any, are shown hereon. Only plots containing my seal in black ink and my signature in blue ink are to be considered original and authorized for use. This tract does not lie within the 100 year flood plain as designated by the Flood Insurance Rate Map No. 48265CD170E.



PLAT OF SURVEY OF LOT 7, BLOCK 2,
 VIRGIL MERRELL 3RD ADDITION AS PER
 PLAT IN VOL. 3, PG. 16 OF THE PLAT
 RECORDS OF KERR COUNTY, TEXAS.

Charles Digges, Registered Professional Land Surveyor
 Texas Registration No. 4001

GUADALUPE SURVEY COMPANY

217-A West Water Kerrville, Texas 78028 Ph# (830)895-1808 Fax# (830)896-3534



Figure 1: 1213 Donna Kay, left side 3/21/2019



Figure 2: 1213 Donna Kay, right side 3/21/2019



City of Kerrville Planning Division Report

To: Zoning Board of Adjustment

Agenda Item: 3B

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 9-foot reduction in the setback for the yard adjacent to a side street that will result in a 6-foot side setback

Planning File #: 2019-018

Property Owner: Hector Rojas

Representative: Hector Rojas

Location: 1228 5th Street

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 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)

SETBACK TYPE	REQUIRED	PROPOSED	VARIANCE REQUEST
Street Side	15 feet	6 foot	9 foot

Procedural Requirements

25 Notices were mailed March 14th to adjacent property owners. The public notice was published in the Kerrville Daily Times on March 12th.

Zoning and Land Uses

Site Zoning: Residential Cluster "RC"

Current Land Uses: Vacant

Surrounding Zoning: Residential Cluster "RC" and Single Family Residential District "R-1"

Surrounding Area Land Uses: Single Family Residential & Vacant

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;

The lot is fifty (50) feet wide. The required setback of six (6) feet on one side and fifteen (15) feet on the other side will allow a maximum home width of twenty-nine (29) feet. The dedicated right-of-way for Ross Street is not improved. Any future extension of Ross Street is likely not to occur since it dead-ends to the back of residential homes as part of the Virgil Merrell First Addition Subdivision. The subdivision layout does not provide for the continuation of Ross Street.

(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 street side setback results in an unnecessary hardship due to the size limitation on a potential home that may be constructed on the site.

(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 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 and allow a maximum home width of thirty-eight (38) feet. The setback requested is consistent with the standard side setback for interior single family residential lots.

(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. This variance request is due to lot layout and the unimproved right-of-way of Ross Street.

(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;

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

[illegible]



Figure 3: 1228 5th Street, 3/21/2019



Figure 4: Ross Street right-of-way, 3/21/2019