



# 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

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. 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.

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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: 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

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**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

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**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 14<sup>th</sup> to adjacent property owners. The public notice was published in the Kerrville Daily Times on March 12<sup>th</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" and Residential Cluster "RC"

**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;**

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.R.C. - Deed Records of Kerr County, P.R.K.C. - Plat Records of Kerr County  
 P.R.K.C. - Plat Records of Kerr County, U.E. - Utility Easement  
 P.U.B. - Plat of Beginning, R.O.W. - Right of Way  
 B.U.L. - Building Set Back Line, U.P. - Utility Pole, O.W. - Out Way, U.L. - Water Loop  
 W.M. - Water Meter, F.M. - Fire Hydrant, A/C - Air Conditioner, -W - Water Line  
 -E - Electric Line, -T - Telephone Line, -C - TV Cable, -W - Field Fence,  
 -O - Chain Link Fence, -// - Board Fence, U.E. - Underground Elec. Trunks,  
 U.C.C. - Underground Cable Pedestal, U.C.T. - Underground Tele. Pedestal  
 U.H. - Utility Hole, B.M. - Baseline 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, G & G - Club and Cutter  
 Record bearings and distances are shown in parentheses.

NOTE:

Easements and restrictions of record have been  
 provided by Fidelity Abstract & Title  
 per Schedule B, C.F. No. 050680F  
 dated August 1, 2006.

DONNA KAY DRIVE

50' R.O.W. - 30' P.m't.

PROPERTY ADDRESS:  
 1213 Donna Kay Drive  
 Kerrville, Texas, 78020

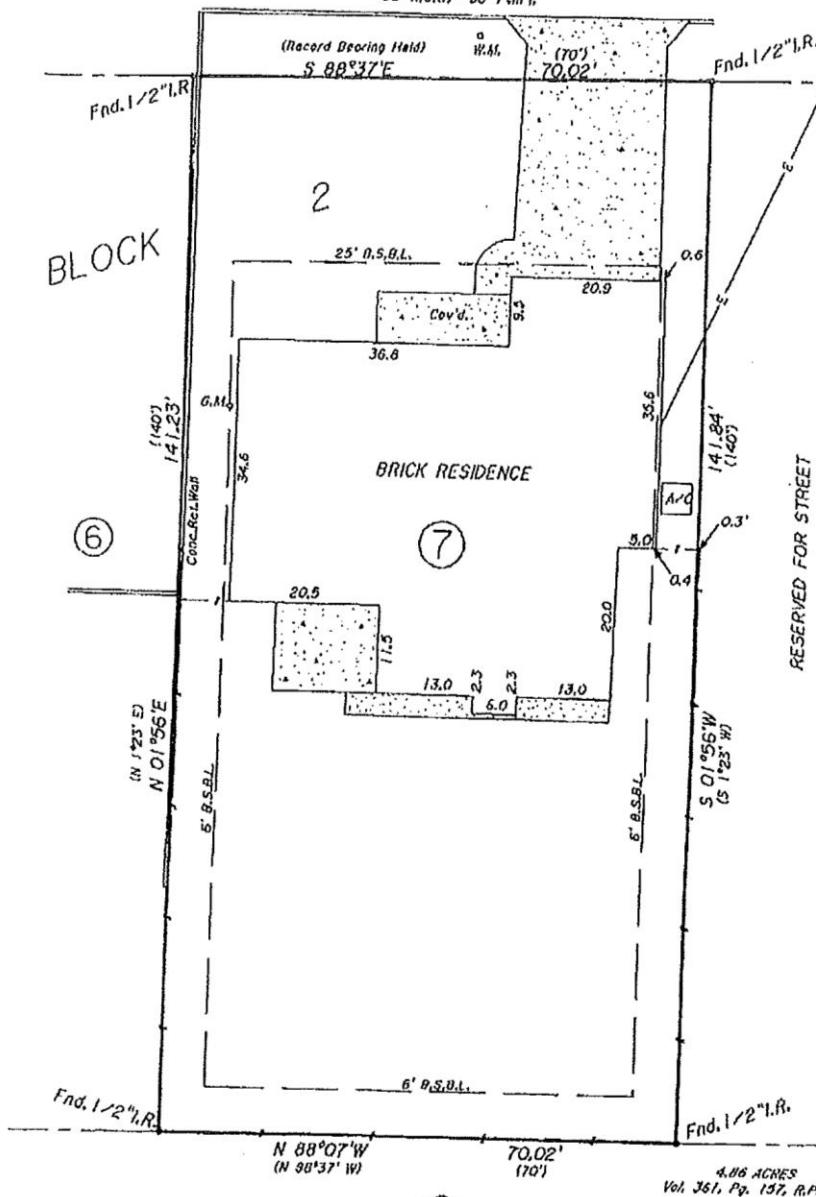
SCALE:  
 1" = 20'

BORROWERS:  
 Joy D. Norris and  
 Anna C. Norris

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

B. P. 444  
 06101701  
 9404-54  
 F105022301  
 0F000402F

BLOCK



4.86 ACRES  
 Vol. 361, Pg. 157, P.R.K.C.

I, Charles Digges, a Registered Professional Land Surveyor,  
 state that on the ground survey has been performed under  
 my supervision on October 20, 2006. Improvements and  
 easements visibly apparent on the site are shown herein.  
 Discrepancies in boundary lines, if any, are shown herein. 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. 4826CC0170E.



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. 4061

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 5<sup>th</sup> 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 14<sup>th</sup> to adjacent property owners. The public notice was published in the Kerrville Daily Times on March 12<sup>th</sup>.

## 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-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 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.**

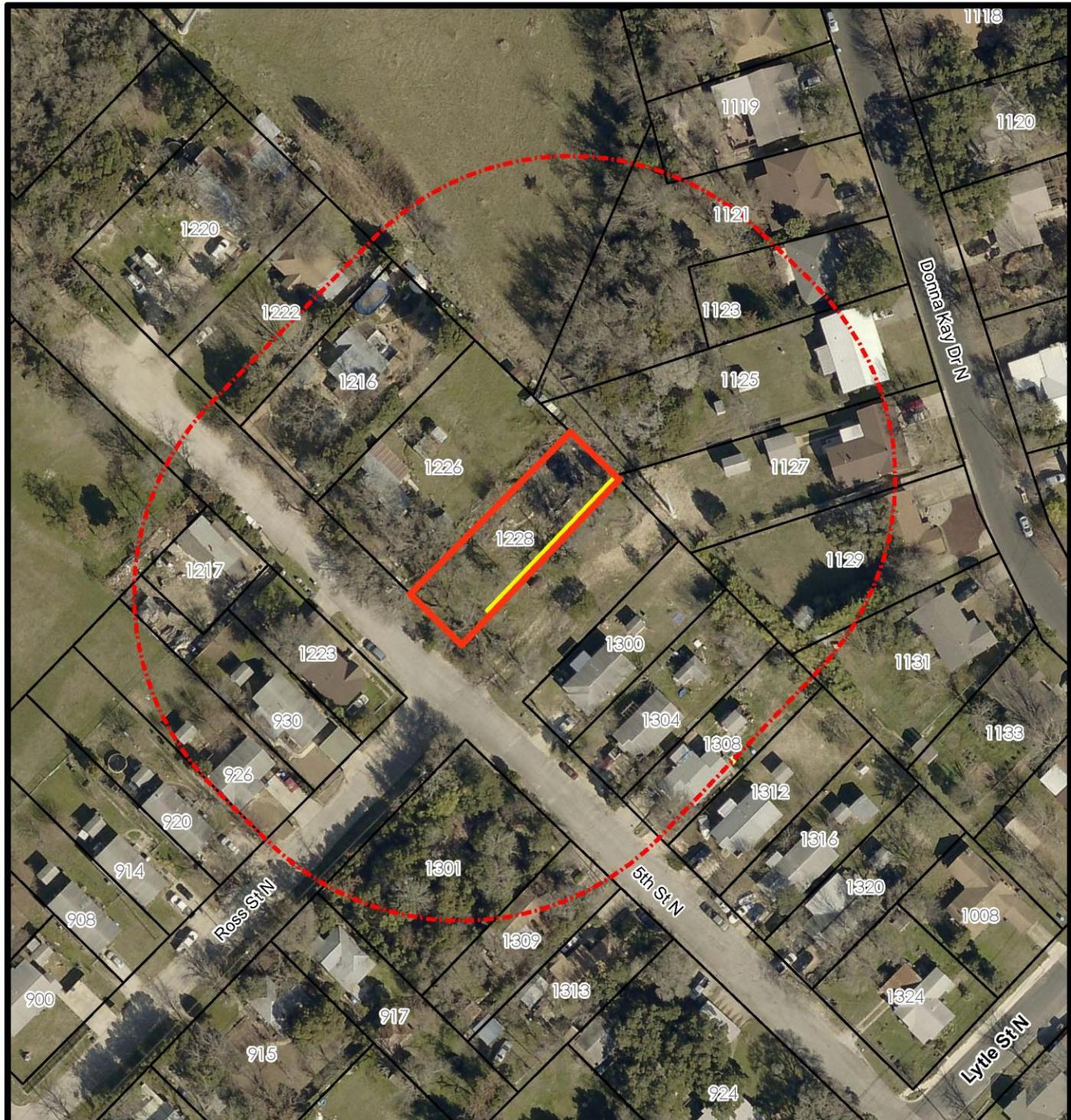
The variance would not effectively constitute a change in zoning.

**Attachments:**

Location Map

Survey

Photos



## Location Map

Case # 2019-018

Location:  
1228 5th Street

### 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.

House would be roughly 1200 sq ft living



It is hereby certify that this plan is a accurate representation of the property shown and described herein as determined by a survey made on the ground, under my direction and supervision, except so survey was made to establish the property lines or corners of a property together as are shown.

Date: September 21, 2019

Done this 11th day of February, 2001  
*W.C. Vail*  
W.C. Vail  
Registered Professional Land Surveyor  
Crestay Surveyor for KCC County

V-49999 Hector Rejas 5th Street and Ross Street, May



Figure 3: 1228 5<sup>th</sup> Street, 3/21/2019



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