



CITY OF KERRVILLE ZONING BOARD OF ADJUSTMENT AGENDA
MEETING, THURSDAY, November 5, 2015 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. 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 December 11, 2014 meeting. **Pg. 2**

2B. Approval of the minutes from the August 6, 2015 meeting. **Pg. 5**

3. PUBLIC HEARINGS AND ACTION

3A. **Public Hearing & Action, Variance Request** - Public hearing, consideration, and action concerning a request for a 3-foot variance from the 6-foot side required setback for a guest quarters on a lot zoned residential in accordance with Chapter I, "The City of Kerrville Zoning Code" Article 11-1-17 for an approximate 2.35 acres tract. Legal Description ABS A0247 Martinez, SUR 124, located at 2031 Arcadia Loop South; east of Bear Creek Road South, between Arcadia Loop South and the Guadalupe River. (File No. 2015-048). **Pg. 7**

4. 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: October 30, 2015 at 4:30 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



City of Kerrville Planning Department Report

To: Planning & Zoning Commission
Agenda Item: 2A
Hearing Date: November 5, 2015
Representative: Staff

Proposal

Approval of the minutes from the December 11, 2014 Zoning Board of Adjustment meeting.

MEMBERS PRESENT:

Robert Irvin, Chair
Linda Stilwell, Vice-Chair
Judy Eychner, Member
Peter Lewis, Member
Sam Ligon, Member
Justin MacDonald, Alternate

MEMBERS ABSENT:

Robert Parks, Alternate

STAFF PRESENT:

Chris Stewart, Interim Senior Planner
Dieter Werner, Director of Engineering
Kristine Day, Deputy City Manager
Mike Hayes, City Attorney
Dorothy Miller, Recording Secretary

1. CALL TO ORDER

On December 11, 2014 the Zoning Board of Adjustment meeting was called to order at 4:30 p.m. in the City Hall Council Chambers, 701 Main Street.

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 meeting of July 2, 2014

Ms. Eychner moved to approve the minutes as presented; motion was seconded by Ms. Stilwell and passed 5-0.

3. PUBLIC HEARINGS AND ACTION:

3A. Variance Requests: Public hearing, consideration, and action concerning a variance to allow a reduction of the required off-street parking spaces for property located at 332 Clay St.

Planning File: 2014-049

Mr. Stewart presented the findings of fact.

Mr. Irvin opened the public hearing at 4:47 p.m.

Jeremy Walthers, applicant, spoke. Mr. Walthers began by giving some background on his proposed project and offered counterpoints and arguments regarding contradictions he found in staff findings of fact. Mr. Walthers presented his reasons for finding the facts to be true.

Mr. Chris Avery spoke on behalf of Mr. Walthers and his family. Mr. Avery stated he is in favor of the variance and encourages the Zoning Board of Adjustment to approve the variance.

Mr. John Fleckenstein, II spoke on behalf of Austin Young Chamber of Commerce and the Hill Country Young Professionals. Mr. Fleckenstein spoke in favor of the variance.

Mr. Chris Barker spoke. Mr. Barker stated he heard of the project from Patrick Wilt, the owner of Grape Juice. Mr. Barker stated he and Mr. Wilt are very much in favor of the variance.

Mr. Josh Hare spoke. Mr. Hare stated he is an investor in the proposed project and spoke of similarities between this project and a brewery he owns in Austin. Mr. Hare's brewery is also located in a residential area. The brewery is family friendly and has had great success. Mr. Barker is in favor of the variance.

Mr. Irvin closed the public hearing at 5:20 p.m.

Mr. Walthers discussed the many parking possibilities offered by surrounding businesses, who are all in favor of this project.

Mr. Lewis asked staff if there is structured on-street parking (striped) and/or is the right-of-way wide enough to allow that or could striped on-street parking be creating along Jefferson or Clay streets. Mr. Stewart replied there is none currently there. Mrs. Day confirmed there are no striped on-street parking spaces. Mrs. Day stated Jefferson is a collector street and on-street parking is generally not striped on collector streets. Mrs. Day stated staff would have to evaluate Clay Street if that were something staff went back and did, but there would be minimal parking spaces at best.

Additional discussion was held regarding parking issues. Mrs. Day stated staff could look at policy change through planning and zoning and present the changes to city council.

Although the Zoning Board of Adjustment is in favor of the variance, Board members were not able to find all findings of fact to be true, thus had to deny the variance.

Ms. Stilwell moved to regretfully deny the variance as presented; motion was seconded by Mr. Ligon and failed 5-0.

4. Adjournment

The meeting adjourned at 6:25 p.m.

ATTEST:

Robert Irvin, Chair

Dorothy Miller, Recording Secretary

Date Minutes Approved



City of Kerrville Planning Department Report

To: Planning & Zoning Commission
Agenda Item: 2B
Hearing Date: November 5, 2015
Representative: Staff

Proposal

Approval of the minutes from the August 6, 2015 Zoning Board of Adjustment meeting.

MEMBERS PRESENT:

Robert Irvin, Chair
Linda Stilwell, Vice-Chair
Judy Eychner, Member
Peter Lewis, Member
Sam Ligon, Member

MEMBERS ABSENT:

Justin MacDonald, Alternate
Robert Parks, Alternate

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 August 6, 2015 the Zoning Board of Adjustment meeting was called to order at 3:00 p.m. in the City Hall Council Chambers, 701 Main Street.

Mr. Mike Abernathy spoke. Mr. Abernathy stated he owns the property adjacent to the garage which joins where the applicant is asking for the variance. Mr. Abernathy stated we would not be here today had proper permits been applied for and it would have been turned down during that process and none of these issues would be coming up right now. Mr. Abernathy stated foundation for the garage and 40' driveway were poured in 2014 and a building permit was issued this year on January 30th for the last 40' of driveway, which goes out to the street. The garage and first 40' of driveway were poured and the driveway constructed without permits or inspections. Mr. Abernathy stated his

primary concerns are possible damage when he is weed eating or mowing on his property that he will throw rocks, etc., from the equipment and damage the garage because it's sitting right on the property line. His other concern is possible lowered property values due to the structure being located on the property line. His third concern is regarding the drainage of the roof as all of the run off is going onto his property. Mr. Abernathy's last comment was that no other structures that he knows of has received a variance so this one should not set the precedent.

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.

2. PUBLIC HEARINGS AND ACTION:

2A. **Public Hearing & Action, Variance Request** - Public hearing, consideration, and action concerning a request for a 6-foot variance from the 6-foot side required setback for an accessory structure on a lot zoned residential in accordance with Chapter I, "The City of Kerrville Zoning Code" Article 11-1-17 for an approximate .16 acres tract. Legal Description Part of Lot 3, Block 15 of the J.A. Tivy Addition, located at 1516 Water Street East. (File No. 2015-035). **Pg. 2**

Mr. Robertson presented the findings of fact.

Mr. Irvin opened the public hearing at 3:11 p.m.

Mr. Freddie Watson, applicant, spoke. Mr. Watson admitted his contractor did make a mistake. Mr. Watson purchased the home in August of 2014. There was an old building on the property that had been removed prior to the purchase of the home and there was cement there already as well. The contractor removed the old concrete and laid new concrete. Mr. Watson said he did come to city hall and was told he would need a permit. That's when he decided to build it all the way to the road and also the sidewalk. As far as the building, Mr. Watson doesn't see why that's an issue. The drainage does not run off into his yard. The home was built in the 1930's and Mr. Abernathy doesn't have a 6' setback either, but he is willing to comply with the city's rules. Mr. Watson did state if he has to have a 6' setback, he'd have to move his entire house over. There's approximately a 3' setback, as that was how the homes were built originally.

Mr. Irvin closed the public hearing at 3:18 p.m.

Mr. Lewis moved to deny the variance based on the findings of fact; motion was seconded by Ms. Stilwell and failed 5-0.

3. Adjournment

The meeting adjourned at 3:22 p.m.

ATTEST:

Robert Irvin, Chair

Dorothy Miller, Recording Secretary

Date Minutes Approved



City of Kerrville Planning Department Report

To: Zoning Board of Adjustment
Agenda Item: 3A
Planning File #: 2015-048
Hearing Date: November 5, 2015
Representative: Howell Ridout
Location: 2031 Arcadia Loop South; east of Bear Creek Road South, between Arcadia Loop South and the Guadalupe River
Zoning: "RC" Residential Cluster District
Legal Description: ABS A0247 Martinez, SUR 124
Total Acreage: 2.35

Proposal

Requesting a 3-foot variance from the 6-foot side required setback for a guest quarters on a lot zoned residential in accordance with 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 21, 2015. Notices were sent to property owners within two hundred (200) feet of the subject property on October 26, 2015. Additionally, notice of this meeting was posted at city hall and on the city's internet website on October 30, 2015, 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: 9

Adjacent Zoning and Land Uses

Direction: North, South, East and West

Current Base Zoning: "RC"

Current Land Uses: Single-Family Residences, and Vacant Land

Summary

The property has both a main structure and a guest house. These structures were believed to be built prior to 1980. The existing guest house measures approximately 850 square feet, the proposed addition to the guest house measures approximately 222 square feet. The applicant submitted a permit to add onto the guest house and was notified by staff of the encroachment into the side setback requirement (west property line). The permit was placed on hold and the applicant submitted an application for a variance from the side setback requirement. Since the original construction additions and improvements have been made to the existing structures (in accordance with Kerr County Appraisal District public records). In 2010 a 3-foot variance from the 6-foot side required setback was granted to 2001 Arcadia Loop (located to two properties to the east of the subject property) for an accessory structure.

Criteria for Review (Staff recommends approval)

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 or conditions that exist on the property. The existing guest house was built prior to the subject property being annexed into the City of Kerrville in 1984, making it a legal non-conforming structure. There are various properties within the immediate vicinity with accessory structures located within the side setback requirements. A similar variance was granted in 2010 for a property within 300-feet of the subject 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;

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 guest house being constructed prior to annexation. 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. The proposed expansion will be consistent with the existing development in the surrounding neighborhood.

(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 variance would allow for the proposed addition to the guest house to be constructed and to bring the remainder of the guest house into compliance. The proposed addition is flush with the existing portion of the guest house and will not additionally encroach into the side setback. 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 not be contrary to the objectives and principles contained in the comprehensive plan.

(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 addition and the remainder of the guest house to be in compliance.

(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 guest house was constructed prior to the subject property being annexed in the City of Kerrville in 1984.

(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 existing guest house is a legal non-conforming structure that was constructed prior to being annexed into the City of Kerrville in 1984, and that 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;

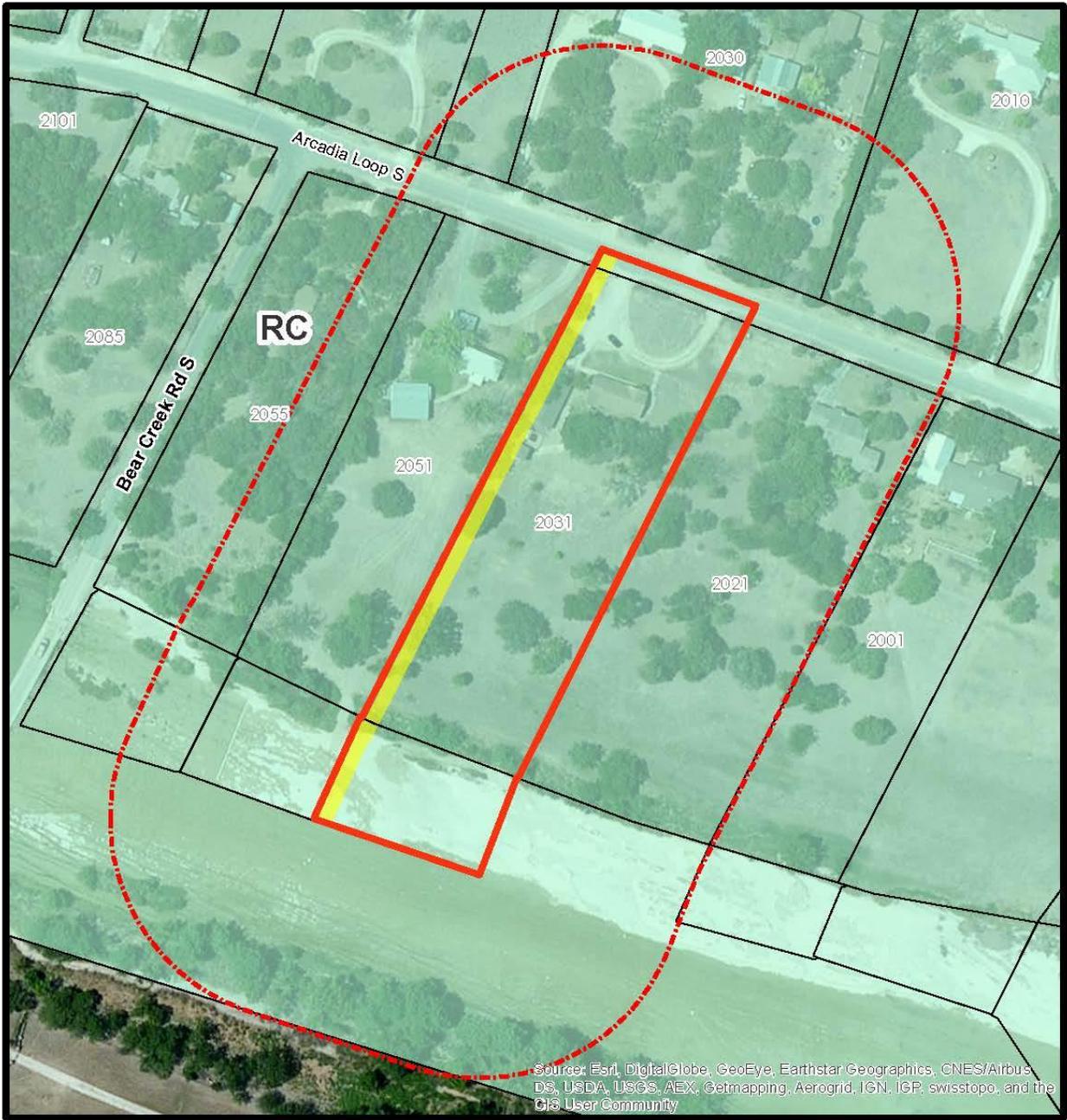
The variance will not intentionally make the property more profitable, and/or reduce expenses to the current or any future owner.

(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. There is no additional land the owner could acquire to address the setback requirements.



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community

Variance Case Location Map

Case 2015-048

Location:
2031 Arcadia Loop

Legend

- 200' Notification Area
- Subject Properties
- Current Zoning
- Variance

TEXT

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.