



City of Abilene

Board of Adjustment Agenda

Notice is hereby given of a meeting of the Board of Adjustment of City of Abilene to be held on May 9, 2023 at 8:30 a.m. at City Hall, 555 Walnut Street, Council Chambers, Abilene, Texas, for the purpose of considering the following agenda items.

CALL TO ORDER

MINUTES

1. **Minutes:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Minutes from the Regular Meeting Held on April 11, 2023.

AGENDA ITEMS

2. **BA-2023-02:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a Request for Special Exception to Allow a 3,450 Square Foot Expansion of a Nonconforming Building, a Variance of 6.0 Feet From The Required Front Yard Setback Requirement, And Variance Of Two Parking Spaces. **(Clarissa Ivey)**

EXECUTIVE SESSION

The Board of Adjustments of the City of Abilene reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed below, as authorized by the noted Texas Government Code Sections:
551.071 (Consultation with Attorney)

ADJOURNMENT

Notice

In compliance with the Americans with Disabilities Act, the City of Abilene will provide for reasonable accommodations for persons attending meetings. To better serve you, requests should be received forty-eight (48) hours prior to scheduled meetings. Please contact the City Secretary's Office at 325-676-6208. Telecommunication device for the deaf is 325-676-6360.

CERTIFICATION

I hereby certify the above meeting notice was posted on the bulletin board at the City Hall of the City of Abilene, Texas, on the 5th day of May, 2023, at 2:30 p.m.

Kaitlin Richardson, Deputy City
Secretary, TRMC



BOARD OF ADJUSTMENT REGULAR MEETING MINUTES

April 11, 2023

8:30 a.m.

BOARD OF ADJUSTMENT OF THE CITY OF ABILENE, TEXAS CITY HALL COUNCIL CHAMBERS, 555 WALNUT STREET, ABILENE

Members Present: Mr. Scott Hay
Col. Morton Langholtz, Vice-Chairman
Mr. Robert Beermann
Ms. Shawnda Rixey
Mr. Jon Loudermilk
Mr. Bob Thomas, Alternate

Staff Present: Mr. Michael Rice, Assistant City Manager
Ms. Kelley Messer, First Assistant City Attorney
Mr. Randy Anderson, Assistant Director
Ms. Clarissa Ivey, Planner I
Ms. Melissa Farr, Executive Assistant

Others Present: Mr. Bobby Gilbreth

CALL TO ORDER

Mr. Hay called the meeting to order at 8:31 a.m. and Ms. Melissa Farr recorded the minutes. A quorum of members was present, and the meeting proceeded.

MINUTES

Colonel Langholtz made the motion to approve the minutes from the regular meeting held on March 14, 2023. Mr. Loudermilk seconded the motion. The motion to **approve** the minutes prevailed by the following vote:

AYES: Loudermilk, Langholtz, Rixey, Beermann, Hay

NAYS: None

AGENDA ITEMS

BA-2023-01: (Tabled) Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from N2 Development represented by Michael Everett for a 50' variance from the maximum 50' requirement for sign height and a 555.21 square foot variance from the maximum 300 square foot requirement for sign area located at 2824 E. Overland Trail.

Colonel Langholtz made the motion to remove this item from the table. Mr. Beermann seconded the motion. All board members were in favor.

Mr. Randy Anderson presented this request. On March 14, 2023, action on this item was tabled to allow the applicant potential design options to reduce the height and/or area of the proposed sign, particularly with respect to the QT gas station on I-20.

The QT gasoline station is located at the corner of I-20 and Old Anson Road. The issue of site signage was handled by the City Council during the rezoning of that property to a Planned Development District (PDD). Conditions of that PDD limit the freestanding sign height 75-feet and an area of 450 square feet along I-20. A secondary sign is limited to a height of 6-feet and an area of 60 square feet. Staff provided these details to the applicant and informed them that the outcome of QT signs constituted a precedent and would likely have a bearing on how CEFCO request would be considered.

In response, the applicant amended the application and now proposes:

1. A primary sign height of 90-feet and a sign face area of 522.92 square feet.
 2. A secondary sign 20-feet and a sign face area of approximately 133 square feet.
- Additionally, this sign would be designed to match the color and external materials of the proposed building.

Mr. Hay opened the public hearing. Seeing no one present and desiring to be heard, the public hearing was closed.

Property owners within a 200-foot radius of the property address were notified. There were no (0) responses received in favor, nor in opposition.

Mr. Hay made the motion to **approve** a 40' variance from the maximum 50' requirement for sign height, and a 225 square foot variance from the maximum 300 square foot requirement for the sign at this location, with special conditions that any secondary sign be limited in accordance with the dimensions and depiction of the proposed secondary sign introduced at this meeting. The secondary sign as depicted, is limited to 20' maximum height and 133 square foot sign size, and shall be constructed with a masonry design upgrade.

The motion is based upon such findings as: 1) There are special circumstances or conditions arising from the physical surroundings, shape, topography or other features affecting the land. The secondary street at this location will be the state highway instead of a city street, and the relative elevation of the site at this location to the I-20 road base is -20.9 feet; therefore, the location of the sign at the loop interchange is a special circumstance. 2) That the granting of the variance will not be contrary to the public interest and will not be injurious to neighboring properties or otherwise detrimental to the public welfare, as variances relate to the I-20 road grade would not be contrary to the interest of the public and would be reasonable. 3) Granting the variance is consistent with the intent of Abilene's Land Development Code. Linking the sign height variance to the road grade of I-20 is consistent with the spirit and intent of the LDC. The motion prevailed by the following vote:

AYES: Loudermilk, Langholtz, Rixey, Beermann, Hay

NAYS: None

BA-2023-02: (Tabled) Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from Bobby Gilbreth for a special exception to expand a nonconforming building by 3,450 sq. ft. located at 2400 S. 14th Street.

Colonel Langholtz made the motion to remove this request from the table. Mr. Beermann seconded the motion. All board members were in favor.

Ms. Clarissa Ivey presented this request. On March 14, 2023, action on this item was tabled to allow the applicant to provide more information on the parking lot design. Staff requested the applicant submit a more detailed site plan to be present to the Board, however that request was unfulfilled. She stated that Staff would be supportive of an expansion of the building if the new construction complies with setbacks and parking requirements of the Land Development Code.

The applicant hopes to add over 3,000 square feet to the building. This would enlarge the nonconformity and create less availability for parking. The addition would require seven (7) additional parking spaces.

Mr. Hay opened the public hearing. Mr. Bobby Gilbreth, the applicant, spoke in favor and was available to answer questions. He confirmed that a 6' variance is needed to extend along the frontage. Discussion was had among the Board and the applicant to determine the action he would find most advantageous. If they approved the request to expand, he would have to return with a request for variances.

Ms. Kelley Messer reminded that the request specified on the agenda for this meeting is for a special exception allowing the expansion of a nonconforming building. Seeing no one else present and desiring to be heard, the public hearing was closed.

Property owners within a 200-foot radius of the property address were notified. One (1) response was received in favor, with one (1) received in opposition.

Colonel Langholtz made the motion to **table** this request until the next meeting. The Board agreed upon this motion to allow the applicant more time to determine his course of action, and Planning Staff to mail notifications for requested variances. The motion prevailed by the following vote:

AYES: Loudermilk, Langholtz, Rixey, Beermann, Hay

NAYS: None

ADJOURNMENT

There being no further business, Colonel Langholtz moved to adjourn the meeting. Mr. Beermann seconded the motion. The Board of Adjustment meeting was adjourned at 10:03 a.m.

Approved: _____, Chairman
Scott Hay



2023 Development Application

Zoning Application Page 1 of 3

Planning

- ☐ Conditional Use ☒ Special Exceptions ☐ Rezoning ☒ Variance
☐ PDD Amendment ☐ Street Name Change ☐ Thoroughfare Abandonment
☐ Easement Release

Relief Procedures

- ☐ Petition for Relief ☐ Proportionality Appeal ☐ Vested Rights Petition ☐ Appeal
Other: _____

Project Name: WEST TEXAS POOLS & SPAS INC.
Address: 2400 SO 14TH ST. Number of Lots: _____ Acreage: _____
Legal Description: HIGHLAND PARK
Subdivision Name: _____ Block: 4 Lot: 10 & 11
Current Zoning: G.C. Proposed Zoning (if applicable): _____

OWNER AND AUTHORIZATION

Owner Name: BOBBY GUARETH
Address: 2400 SO 14TH ST
City, State, Zip: ABILENE, TEXAS 79605 Fax: 325-698-2429
Phone: 325-698-2420 Email: bobby.guareth@qob.com
Agent Name: _____
Address: _____
City, State, Zip: _____ Fax: _____
Phone: _____ Email: _____

I hereby certify that I am the owner of the property and further certify that the information provided on this development application is true and correct. I hereby designate the aforementioned agent to act on my behalf for submittal, processing, representation, and/or presentation of this development application. The designated agent shall be the principal contact person for responding to all requests for information and for resolving all issues of concern relative to this application.

Signature of Owner: Bobby N Guareth Date: _____

FOR OFFICE USE ONLY

Received: _____ Fee: \$ _____ Receipt No.: _____
Case No.: _____ Reviewed By: _____

2023 Development Application

Disclosure of Interest

Disclosure Questions

Every question must be answered. If the question is not applicable, answer with "N/A".

NOTE: If the Project Representative is not the Property Owner, this form must be filled out by both the Property Owner and the Project Representative.

- A. Do you believe that a City official* or City employee** may have a conflict of interest in the property or application referenced on the reverse side? ☐ Yes ☒ No
- B. If so, state the name of each City official or employee of the City of Abilene known by you that may have a conflict of interest in the property or application referenced on reverse side.
- C. State all information upon which you base the belief (use additional paper, if necessary).

I certify that all information provided is true and correct as of the date of this statement, that I have not knowingly withheld disclosure of any information requested; and that supplemental statements will be promptly submitted to the City of Abilene, Texas, as changes occur.

Name of Certifying Person (print): BOBAY GILBRETH

Property Owner ☒ Project Representative ☐

Signature of Certifying Person: Bobby Gilbreth

*Mayor, City Council members, Planning and Zoning Commission members, and Zoning Board of Adjustment members

**City Manager, City Secretary, City Attorney, and all department heads



2023 Development Application

Special Exception & Variance

Please answer these questions in order to assist Staff with the processing of your Special Exception or Variance request. Please use additional sheet(s), if necessary.

1. Fully describe the unique circumstances or peculiarities of the land or improvements in question that do not allow the desired use to conform to the provisions in the Ordinance and the intent.

2. Are there other locations on the property that could accommodate the use while still complying with the Ordinance and, if so, why have you chosen the proposed location?

No



1-12-2023

Our existing building was built in the early sixties. Our existing store front is thirty-four feet from the curb on South 14th street side. The current code at our location is forty feet.

West Texas Pools & Spas would like to enlarge our existing retail store fifty nine feet to the west along South 14th street.

The current code requiring forty feet back from the curb would make it impossible to extend our glass store front to the west.

We are requesting a six foot variance from the current forty foot setback.

The expansion would give us an additional 3450 square feet of showroom and additional office space.

Bobby Gilbreth
325-829-2887

2023 Development Application

Recommendations

The Planning & Zoning Commission (P&Z) and the City Council look to the Planning & Development Services staff to make a recommendation for the approval or disapproval of this application. We will make every effort to notify you of our recommendation at least one (1) week in advance of the scheduled meeting of the P&Z Commission. In the case of a rezoning, and when the public interest requires it, we may recommend a rezoning to a Planned Development District (PDD) or a classification other than the classification requested. We will notify you of our decision to propose a PDD as soon as possible after the application is filed to give you time to prepare a site plan.

PUBLIC NOTIFICATION

The public is entitled to examine this application and participate in the decision-making process. In most cases, we are required to notify all property owners within two hundred feet (200') of the boundaries of your property. To ensure the fullest possible consideration, we may also notify neighborhood groups, organizations or individuals that have a special interest in a particular issue. Except for matters that the Planning & Development Services staff have expressly agreed not to disclose (and provided the law allows us to hold the matter in confidence), then all information that we deem relevant to the review and processing of this application may become public knowledge.

PLEASE READ BEFORE SIGNING

The undersigned has read the above application and hereby certifies that the information contained therein is complete, true and correct; and does hereby request that said application be submitted to the Planning & Zoning Commission at the earliest available meeting.

I understand and acknowledge that it is my responsibility to furnish an accurate and precise legal description of the property, and only the property, that is subject of this application, and that failure to furnish such information prior to the application deadline date will delay the processing of this application. I also understand that the City must notify affected property owners of this application. In the event that I fail to submit in a timely manner any information that the City deems necessary to transmit this application to the Planning & Zoning Commission or City Council, then in lieu of dismissal I hereby request that this application be temporarily withdrawn from further consideration until such information is submitted, and I agree to pay a resubmission fee of \$120 to reimburse the City for the expense of re-notifying affected property owners. I have been informed of the tentative date and time that the Planning & Zoning Commission and City Council will hear this application, and I understand that hearings may be continued from time to time at the discretion of the Commission or Council to allow for full consideration or when the public interest requires a continuation.

SIGNED: _____

Bobby N. Silbrett

DATE: _____

1-12-23



2023 Development Application

Owner Authorization and Representative Designation

Property Description

Subdivision: _____ Total Number of Acres: _____
Zoning Classification(s): G.C. Total Number of Lots: 1
Location: 2400 SO 14TH ST

Property Owner Information & Authorization

Name/Company: WEST TEXAS POOLS & SPAS INC.
Address: 2400 SO 14TH
City: ABILENE State: TEXAS Zip Code: 79605
Phone: 325-698-2420 Email: bobbysgilbreth@aol.com

Project Representation (check one):

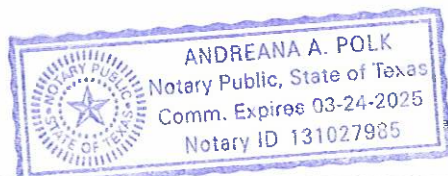
- ☒ I will represent the application myself; OR
☐ I hereby designate _____ (name of project representative) to act in the capacity as my agent for submittal, processing, representation, and/or presentation of this request. The designated agent shall be the principal contact person for responding to all requests for information and for resolving all issues of concern relative to this request.

I hereby certify that I am the property owner of the property and further certify that the information provided on this development application is true and correct. I have selected the above submittal type, representation, and landscape incentive of my own volition and not at the request of the City of Abilene.

Property Owner's Signature: Bobby Gilbreth Date: 1-12-23
STATE OF: TEXAS
COUNTY OF: TAYLOR

BEFORE ME, a Notary Public, on this day personally appeared Bobby Gilbreth
(printed property owner's name) the above signed, who, under oath, stated the following: "I hereby certify that I am the property owner for the purposes of this application; that all information submitted herein is true and correct."

SUBSCRIBED AND SWORN TO before me, this the 12 day of January, 2023



Andreana A. Polk
NOTARY PUBLIC in and for the State of Texas

Project Representative Information (complete if designated by owner)

☐ Engineer ☐ Purchaser ☐ Tenant ☐ Preparer ☐ Other(specify): _____

Name: _____ Company: _____
Address: _____ City: _____ State: _____
Zip Code: _____ Number: _____ Email: _____



EXISTING BUILDING

EXISTING BUILDING

PROPOSED ADDITION

GRAND STREET

ALLEY

SIGN
POLE

24'

59'

33'

WEST TEXAS POOLS & SPAS

11'

ALLEY

GRAND AVE.

WEST TEXAS POOL & SPA
EXISTING BUILDING

SOUTH 14TH ST

Ruby

PARKING

59'

WEST TEXAS POOLS & SPAS

PROPOSED ADDITION

59'

PARKING

SOUTH 14TH ST



BOARD OF ADJUSTMENT

BA-2023-02

STAFF REPORT



Scheduled Hearings

Board of Adjustment: May 9, 2023

Applicant

Owner: Bobby Gilbreth

Case Manager: Clarissa Ivey

Request

Special exception to allow a 3,450 square foot expansion of a nonconforming building, a variance of 6.0 feet from the required front yard setback requirement, and a variance of two parking spaces.

Location

2400 S. 14th Street

Background

The building has built in 1953 prior to Land Development Code being adopted. The building has been the home of West Texas Pools & Spas since 1984.

Zoning, Existing and Proposed Land Use

The subject property is located in a General Commercial (GC) zoning district with the same zoning to the East and West. Residential Single-Family (RS-6) to the North and College/University (CU) to the South. The property is currently being used for retail and is proposed to continue to be used for that purpose.

Land Development Code Provisions

The existing building currently doesn't not meet the street setback of 30' from an arterial and 25' from a local street. Additionally, the number of parking spaces is not sufficient and maneuvering area is not located entirely upon private property.

Per LDC Section 2.6.2.2 the existing building is considered to be a nonconforming (grandfathered) structure. The LDC does not allow for expansion of a conforming building, but does allow the Board of Adjustment to consider a Special Exception to allow the expansion of the nonconformity.

Site Constraints

1. The subject property, as developed, does not meet minimum parking requirement of 11 spaces.
2. If the request is granted, the proposed expansion would increase the degree of the nonconformity. Typically, it becomes necessary for a growing business to acknowledge that the business has outgrown the ability of a property to accommodate its needs to serve its clients.
3. If this request is approved, it will be difficult for a future owner to adapt this site to a new use if a nonconforming building occupies the majority of the site without inadequate for off-site parking and maneuvering.

Reasonable Alternatives

1. The building can be expanded in a manner that can comply with the setback requirement from S. 14th Street and the adjoining alley, thus providing more space to comply with the off-street parking and maneuvering space requirements.

Precedents/Findings

1. The approval of this request would increase the scope of the existing nonconformity and can be used by future applicants to be precedent for the expansion of other noncompliant buildings and structures.

Criteria Assessment

A Special Exception can be only when special circumstances are present to justify the expansion of a nonconforming building. In reaching a decision on a Special Exception request, the Board shall determine and make written findings that all of the following conditions are present:

- 1. Will be wholly compatible with the use and permitted development of adjacent property, either as filed or subject to such requirements as the Board finds to be necessary to protect and maintain the stability of adjacent properties.**

The proposed expansion is compatible with the current use, however the way the expansion is being proposed it would not be consistent with the adjacent properties.

- 2. Will place no undue burden on public facilities. Public facilities to be considered shall include, but are not limited to, streets and alleys, water and sewer utilities, schools and parks.**

The granting of the special exception could potentially be injurious as the site does not provide sufficient maneuvering space, thereby requiring customers to back out onto an arterial street.

- 3. That approval of the Special Exception is clearly in harmony with the general purposes and intent of this Ordinance and, furthermore, provides for substantial justice.**

The proposed expansion is not consistent with the intent of the LDC, as the LDC would only allow for a nonconforming structure to expand only if the expansion would not increase the scope of nonconformity and if no other nonconformities are created, such as the lack of adequate and safe parking.

A variance is used to modify the application of certain Zoning Regulations in the LDC. In reaching a decision on a variance request, the Board shall determine and make written findings that all of the following conditions are present:

- 1. There are special circumstances or conditions arising from the physical surroundings, shape, topography or other features affecting the land, such that strict application of the provisions of this Code will create an undue hardship or inequity (other than financial) upon or for the applicant in developing the land, or deprive the applicant of reasonable and beneficial use of the land.**

There is no special circumstance or topographical condition that would prohibit the expansion and parking spaces from conforming to the current regulations set forth within the ordinance.

2. **That the granting of the variance will not be contrary to the public interest and will not be injurious to neighboring properties or otherwise detrimental to the public welfare.**

Granting the variance will add to an already congested location. By allowing the nonconformity to expand and encroach on the zoning setback it will increase the amount of parking spaces required and minimize the area the parking spaces can be located at, thus creating even less space for vehicles to maneuver within the property.

3. **Granting the variance is consistent with the intent of Abilene's Land Development Code.**

The proposed expansion is not consistent with the intent of the LDC, as the LDC would only allow for a nonconforming structure to expand as long as the expansion does not increase the structure's nonconformity. The expansion of a nonconforming building within a required setback is not appropriate.

4. **The hardship or inequity suffered by the petitioner is not caused wholly or in substantial part by the petitioner.**

The hardship will be created by the petitioner as the size of the expansion can be reduced to satisfy all applicable setback and parking requirements.

Board of Adjustment Action

The LDC has specific criteria regarding the approval of variances and special exceptions. For that reason, staff would **recommend** the following motions, and the adoption of Findings of Fact that formed the basis for the decisions of the Board to approve/deny the special exception and variance requests:

1. Approve/Deny the special exception; or
2. Approve/Deny each requested variance individually or collectively.

Notification

OWNER	SITUS	PROP_ID	Response
HEFNER DARRON ALAN & MEGAN	2309 COLLEGE ST	52350	
RST HOMES LLC	2317 COLLEGE ST	52225	
JIMENEZ MONICA &	1349 ROSS AV	55807	
NICOLATO ALEX STEPHEN	1326 GRAND AV	56721	
ROBINSON DAVID DEAN SR & SHERE L	1341 ROSS AV	55667	
TCR REALTY INC	2318 S 14TH ST	51837	
HUGHES-BLOOM MARY	1334 GRAND AV	56585	
WTG FUELS INC	2450 S 14TH ST	55931	
BW GAS & CONVENIENCE RETAIL LLC	2334 S 14TH ST	51975	
LOPEZ JOEL & ANGELA	1333 ROSS AV	55546	
2442 S 14TH LLC	2442 S 14TH ST	56057	
LOPEZ JOEL & ANGELA	1325 ROSS AV	55427	
MC MURRY COLLEGE	2302 HUNT ST	59481	
MC MURRY COLLEGE	2258 HUNT ST	59481	
MC MURRY COLLEGE	1533 WARHAWK WY	59481	
MC MURRY COLLEGE	2150 MCMURRY CT	59481	
MC MURRY COLLEGE	2242 HUNT ST	59481	
MC MURRY COLLEGE	1650 WARHAWK WY	59481	
MC MURRY COLLEGE	2249 SENTINEL DR	59481	
MC MURRY COLLEGE	2349 SENTINEL DR	59481	
MC MURRY COLLEGE	2242 MCMURRY CT	59481	
MC MURRY COLLEGE	2449 SENTINEL DR	59481	
MC MURRY COLLEGE	1533 ROSS AV	59481	
MC MURRY COLLEGE	1601 WARHAWK WY	59481	
MC MURRY COLLEGE	1649 WARHAWK WY	59481	
MC MURRY COLLEGE	2350 SENTINEL DR	59481	
MC MURRY COLLEGE	2357 SENTINEL DR	59481	
MC MURRY COLLEGE	1550 WARHAWK WY	59481	
MC MURRY COLLEGE	2250 SENTINEL DR	59481	
MC MURRY COLLEGE	2149 MCMURRY CT	59481	
GILBRETH BOBBY	1350 GRAND AV	56186	
GILBRETH BOBBY	2400 S 14TH ST	56186	
GILBRETH BOBBY	2418 S 14TH ST	56186	
GILBRETH BOBBY	2402 S 14TH ST	56186	
PRESTRIDGE JONATHON &	1333 GRAND AV	59526	
DRAKE DUSTIN A & MICHELLE M	1342 GRAND AV	56457	
MOORE WILLIAM KEVIN	1317 ROSS AV	55292	
FRANKLIN LARRY & BECKY L	2325 COLLEGE ST	52104	

LOCATION MAP



ZONING MAP



Exhibit 1

ArcGIS Web Map



Exhibit 2



Case: BA-2023-02

Owner: Bobby Gilbreth

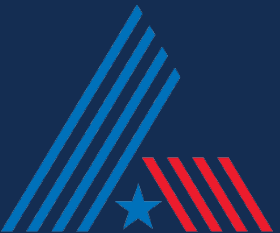
Requests:

- 1. Special exception to expand a non conforming building;*
- 2. Six-foot variance from the required front yard setback; and*
- 3. A two parking space variance.*

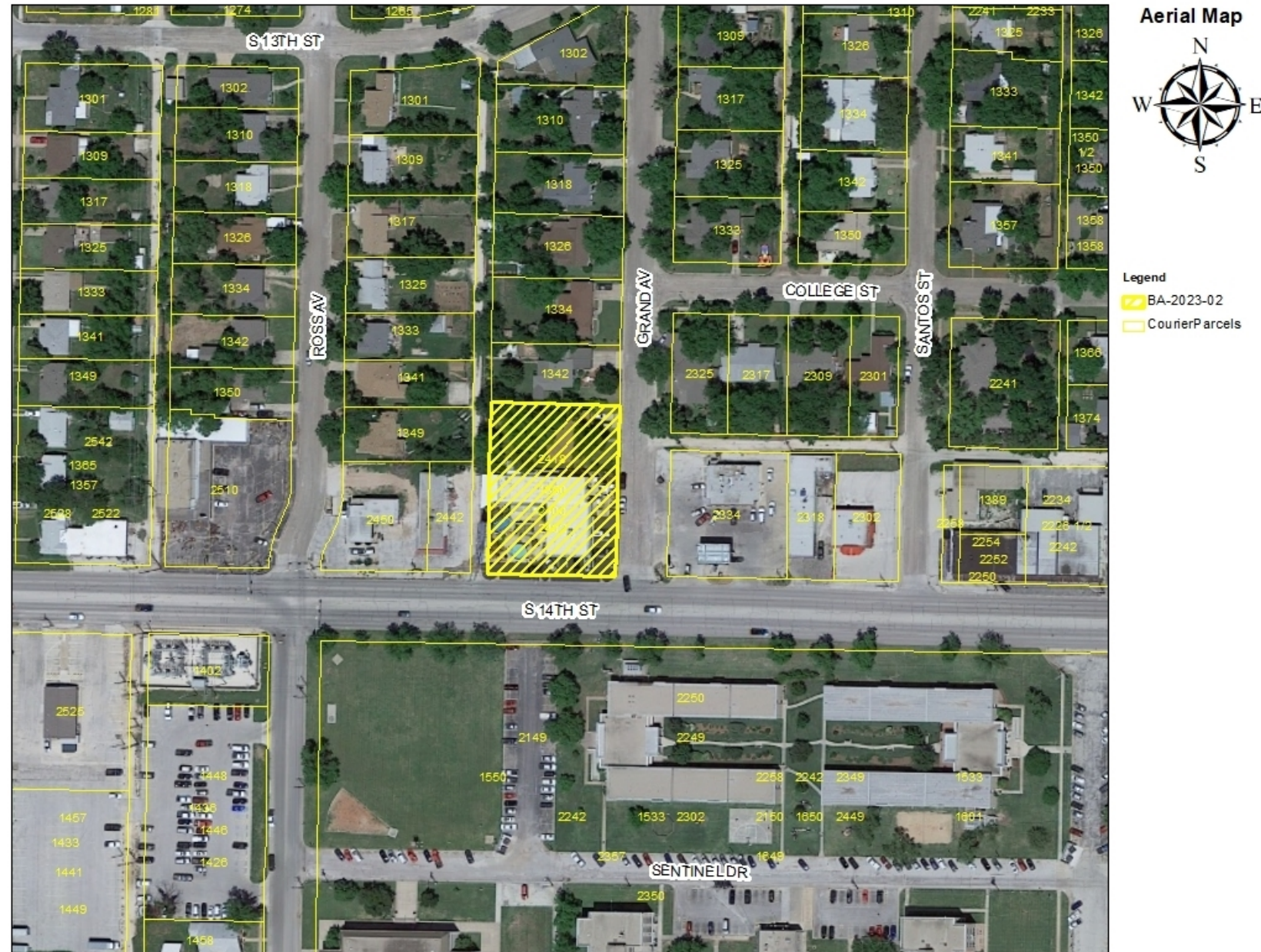
Location: 2400 S. 14th St.

Notification: 1 in Favor, 1 Opposed

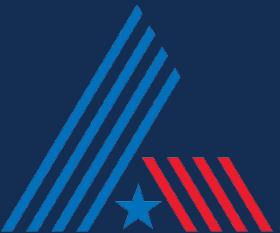
Board of Adjustment: May 9, 2023



BA-2023-02 AERIAL LOCATION MAP



BA-2023-02 ZONING MAP



BA-2023-02 VIEWS OF SUBJECT PROPERTY



East view of Subject Property



Area for Proposed Expansion



Area for Proposed Expansion



West Neighboring Property



RS-6

GC

2418

2442

1350

2402

2400

Proposed 59'x59' Addition

Street Right of Way: 60 Street Width: 40 Parkway Width: 10

GRAND AV

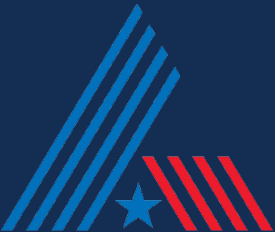
 Zoning Districts

 RS (Residential - Single Family)

City of Abilene, Taylor County, Texas Parks & Wildlife, Esri, HERE, Garmin,
INCREMPT, USGS, EPA, USDA

City of Abilene, Taylor County, Texas Parks & Wildlife, Esri, HERE, Garmin, INCREMENT P, USGS, EPA, USDA,

BA-2023-02 Proposed Site Plan



BA-2023-02 NOTIFICATION AREA MAP



Reviewed Pursuant to Section 1.4.4.1 (d) of Land Development Code (Criteria for Approval of Special Exception)

Will be wholly compatible with the use and permitted development of adjacent property, either as filed or subject to such requirements as the Board finds to be necessary to protect and maintain the stability of adjacent properties.

The proposed expansion is compatible with the current use, however the way the expansion is being proposed it would not be consistent with the adjacent properties.

Will place no undue burden on public facilities. Public facilities to be considered shall include, but are not limited to, streets and alleys, water and sewer utilities, schools and parks.

The granting of the special exception could potentially be injurious as the site does not provide sufficient maneuvering space, thereby requiring customers to back out onto an arterial street.

That approval of the Special Exception is clearly in harmony with the general purposes and intent of this Ordinance and, furthermore, provides for substantial justice.

The proposed expansion is not consistent with the intent of the LDC, as the LDC would only allow for a nonconforming structure to expand only if the expansion would not increase the scope of nonconformity and if no other nonconformities are created, such as the lack of adequate and safe parking.



Reviewed Pursuant to Section 1.4.4.2 (d) of Land Development Code (Criteria for Approval of Variances)

There are special circumstances or conditions arising from the physical surroundings, shape, topography or other features affecting the land, such that strict application of the provisions of this Code will create an undue hardship or inequity (other than financial) upon or for the applicant in developing the land, or deprive the applicant of reasonable and beneficial use of the land.

There is no special circumstance or topographical condition that would prohibit the expansion and parking spaces from conforming to the current regulations set forth within the ordinance.

That the granting of the variance will not be contrary to the public interest and will not be injurious to neighboring properties or otherwise detrimental to the public welfare.

Granting the variance will add to an already congested location. By allowing the nonconformity to expand and encroach on the zoning setback it will increase the amount of parking spaces required and minimize the area the parking spaces can be located at, thus creating even less space for vehicles to maneuver within the property.

Granting the variance is consistent with the intent of Abilene's Land Development Code.

The proposed expansion is not consistent with the intent of the LDC, as the LDC would only allow for a nonconforming structure to expand as long as the expansion does not increase the structure's nonconformity. The expansion of a nonconforming building within a required setback is not appropriate.

The hardship or inequity suffered by the petitioner is not caused wholly or in substantial part by the petitioner.

The hardship will be created by the petitioner as the size of the expansion can be reduced to satisfy all applicable setback and parking requirements.



Questions?

