



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 July 11, 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 May 9, 2023

AGENDA ITEMS

2. **BA-2023-05:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from Brian Hovey for a **Variance to allow for a 1.5-foot setback (5 feet required) for a carport** located at 1366 N Treadaway. **(Mason Teegardin)**
3. **BA-2023-06:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from Rick and Angela Willis for a **4-foot 10-inch variance from the minimum 7.5-foot side setback on a residential property** located at 17 Muirfield. **(Adam Holland)**

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 7th day of July, 2023, at 2:00 p.m.

Kaitlin Richardson, Deputy City
Secretary



BOARD OF ADJUSTMENT REGULAR MEETING MINUTES

May 9, 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. Tim Littlejohn, Director
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 April 11, 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-2023-02: (Tabled) 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.

Colonel Langholtz made the motion to remove this item from the table. Mr. Loudermilk seconded the motion. All members were in agreement.

Ms. Clarissa Ivey presented this request. The existing building currently does 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.

The public hearing was opened and the applicant spoke to the Board. Mr. Bobby Gilbreth stated he would like glass at the front of the building to cover the products. The issue at hand is the placement of doors. Mr. Gilbreth shared that the business has existed since 1984, and parking has never been an issue.

Seeing no one else present and desiring to be heard, the public hearing was closed. Motions were made separately to address each request.

Mr. Beermann moved to approve Request for Special Exception to allow a 3,450 sq. ft. expansion of a nonconforming building, stating it is compatible with the findings of the staff report and current land use. He also referred to more available parking as a result of the expansion. Mr. Loudermilk seconded the motion. The motion to **approve** prevailed by the following vote:

AYES: Loudermilk, Rixey, Beermann, Hay

NAYS: Langholtz

Mr. Loudermilk moved to approved the Request for a Variance of 6 ft. from the required front yard setback requirement based upon the discussions with the Board proving that improvements will increase the space for parking. He also noted it will not encroach upon the existing footprint. Ms. Rixey seconded the motion. The motion to **approve** prevailed by the following vote:

AYES: Loudermilk, Rixey, Beermann, Hay

NAYS: Langholtz

Mr. Beermann moved to approve the variance of two parking spaces, saying it is an unacceptable number of parking spots due the nature of the business. He also remarked that the location of the building is a special circumstance. Mr. Loudermilk seconded the motion. The motion to **approve** prevailed by the following vote:

AYES: Loudermilk, Rixey, Beermann, Hay

NAYS: Langholtz

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

BOARD OF ADJUSTMENT

BA-2023-05

STAFF REPORT



Scheduled Hearings

Board of Adjustment: July 11, 2023

Applicant

Owner: Totoe Medical Office Building

Agent: Brian Hovey

Case Manager: Mason Teegardin

Request

Variance to allow 1.5-foot setback (5.0 feet required) for a carport and a setback 13.5 feet from the curb (15-feet required).

Location

1366 North Treadaway Boulevard

Background

The lot has historically been undeveloped until recent construction of a medical office building. The owner is finishing out a building permit the new medical office.

Zoning, Existing and Proposed Land Use

The subject property is zoned Heavy Commercial (HC). The owner proposes a double car carport along the northern property line to cover the two parking spaces for the doctors.

Land Development Code Provisions

Per LDC Section 2.4.4.2, carports may extend no closer than 5 feet from any lot boundary adjacent to a public or private street as long as the leading edge is separated at least 15 feet from the street curb. There is a 12' parkway width along North 14th Street.

Site Constraints

There are apparent no site constraints.

Reasonable Alternatives

A carport can be placed over a pair of parking spaces at many locations on the property in accordance with the requirements of the LDC.

Precedents/Findings

The site plan for new medical building did not propose any carports. During an inspection of the site, the applicant indicated that the owners wanted to do add another parking space on the northern side of the building and to build a carport to cover both doctors' vehicles. The applicant proposed to do two separate carports when staff told them they would not meet the setbacks from the property line and from the curb.

Criteria Assessment

A variance can be approved only when special circumstances are present to justify the expansion of a nonconforming building. In reaching a decision on the variance requests, 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 appears to be no apparent hardships present.

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 requests would not be contrary to the public because the proposed carport will be located within private property and will not impede in the public right of way.

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

The proposed expansion is not consistent with the Land Development Code.

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

There are no apparent hardships, so the request is fully caused by the petitioner.

NOTIFICATIONS

Legend:
O- Opposed
F- In Favor

PROPERTY OWNER	PROPERTY ID	SITUS	RESPONSE
FLORES MICHELLE	59224	1350 N TREADAWAY BL	
STOKES JOHN F	35884	1401 ASH ST	
LIZALDE CENOBIO ESPINOZA	32042	1336 ASH ST	
ABILENE BAPTIST ASSN	31654	1366 ASH ST	
STOKES JOHN	36031	1410 N TREADAWAY BL	
LATOUR VINCENT	36391	1420 N TREADAWAY BL	
LATOUR VINCENT	36391	1434 N TREADAWAY BL	
ABILENE BAPTIST ASSN	31781	1350 ASH ST	
TOTOE MEDICAL OFFICE BUILDING	59054	1358 N TREADAWAY BL	
TOTOE MEDICAL OFFICE BUILDING	59054	1366 N TREADAWAY BL	
TRI COUNTY SOD & NURSERY CO INC	58764	1357 N TREADAWAY BL	
MENDEZ JESUS F &	33808	1418 ASH ST	
ABILENE CALLAHAN BAPTIST ASSOC	31918	1342 ASH ST	
JAMES ASHLEY DANIELLE	34258	602 N 14TH ST	
SMITH ALTON	58090	1325 N TREADAWAY BL	
SMITH ALTON	58090	410 N 13TH ST	
DE LEON OSCAR ET AL	58620	1342 COTTONWOOD ST	
ESPINOZA CENOBIO L	32170	1326 ASH ST	
PEQUENO HENRY SR	59630	1326 N TREADAWAY BL	
ZANDERBLAKE INVESTMENTS LLC	14604	1409 N TREADAWAY BL	
JAMES ASHLEY DANIELLE	34079	608 N 14TH ST	
ZANDERBLAKE INVESTMENTS LLC	14501	1417 N TREADAWAY BL	
STEPHENS O B JR DECD ET AL	58216	1341 N TREADAWAY BL	
PEQUENO ELISEO	57624	1302 N TREADAWAY BL	
MELLEN IOSAC LAMAR ET AL	33939	1410 ASH ST	
RAMON CHRISTOPHER	59360	1342 N TREADAWAY BL	

LOCATION MAP



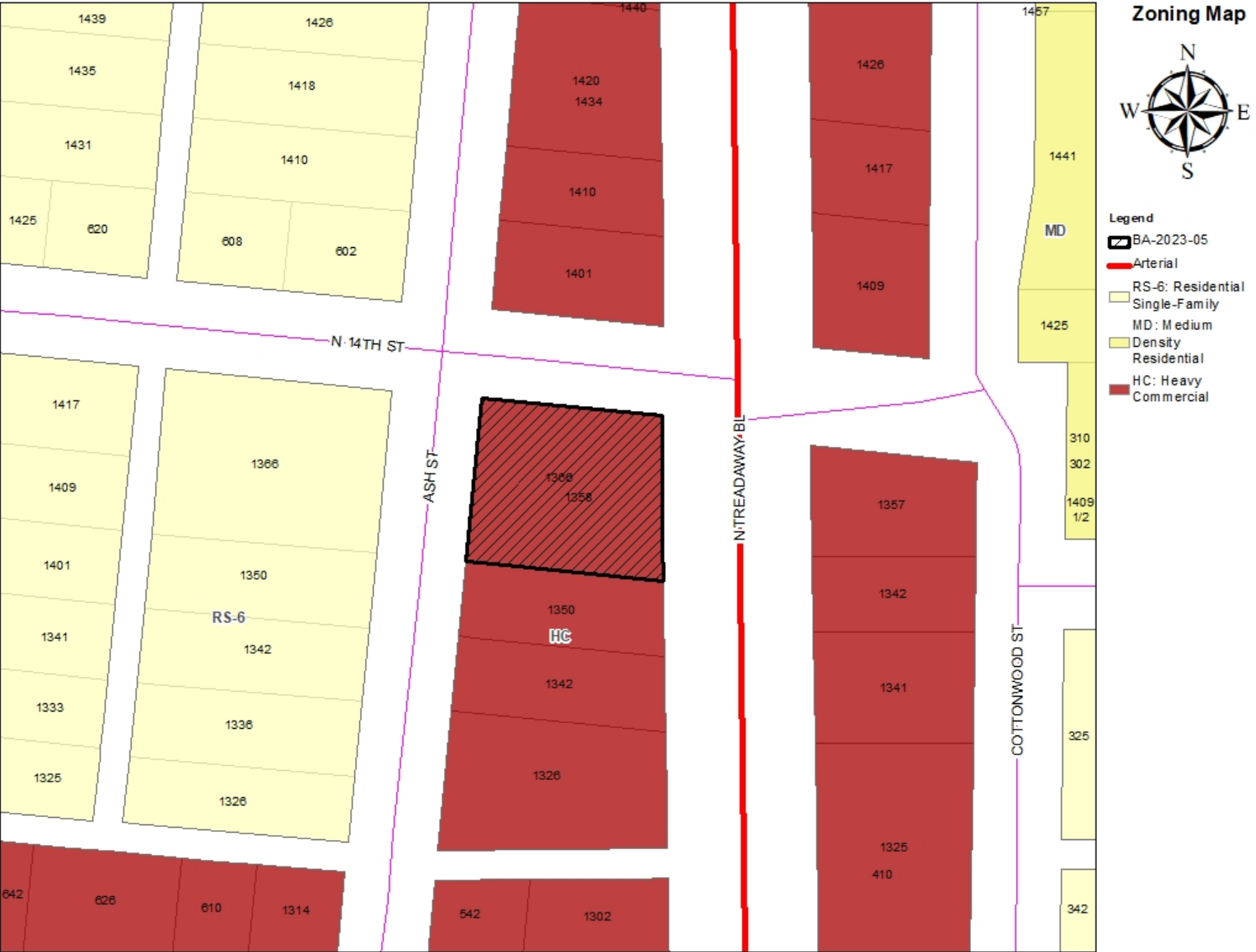
Aerial Map



Legend

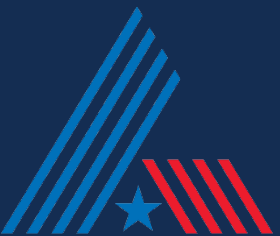
- BA-2023-05
- CourierParcels

ZONING MAP



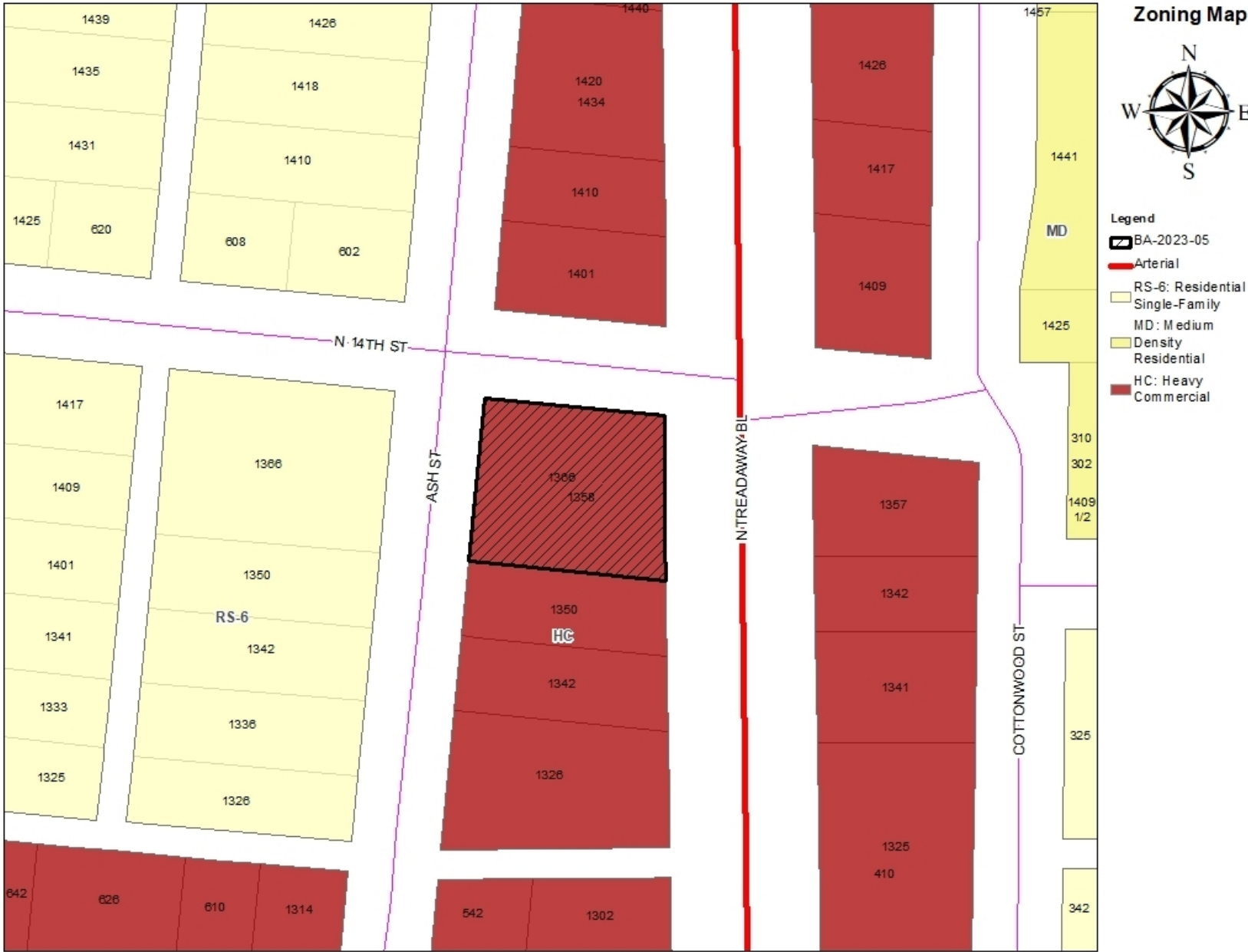
VARIANCE REQUEST

Case:	BA-2023-05
Owner:	Totoe Medical Office Building
Agent:	Brian Hovey
Requests:	Variance to allow a 1.5-foot setback (5-feet required) from the property line and 13.5 setback (15-feet required) from the curb.
Location:	1366 North Treadaway Boulevard
Notification:	0 in Favor, 0 Opposed
Board of Adjustment:	July 11, 2023

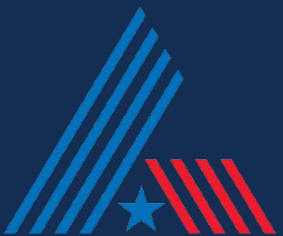


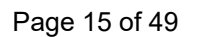


ZONING MAP



VIEWS OF SUBJECT PROPERTY



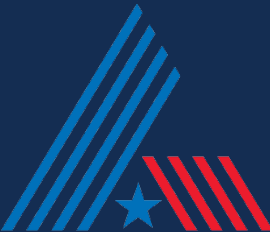


NOTIFICATION AREA MAP



0- In Favor- 

0- Opposed- 



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

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 appears to be no apparent hardships present.

That the granting of the Special Exception 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 requests would not be contrary to the public because the proposed carport will be located within private property and will not impede in the public right of way.

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

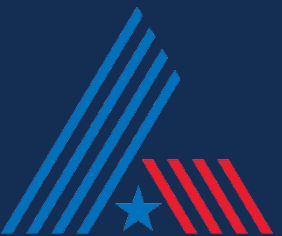
The proposed expansion is not consistent with the Land Development Code.

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

There are no apparent hardships, so the request is fully caused by the petitioner.



Questions?





Teegardin, Mason <mason.teegardin@abilenetx.gov>

Covered Parking 1366 N. Treadaway

10 messages

Brian Hovey <brian@southwindgrp.com>

Fri, May 12, 2023 at 2:47 PM

To: "Ivey, Clarissa" <clarissa.ivey@abilenetx.gov>

Cc: "Anderson, Randal" <randal.anderson@abilenetx.gov>, "Teegardin, Mason" <mason.teegardin@abilenetx.gov>, ROBERT TOTOE <totoemedicaldpc@gmail.com>, Dale Edwards <dedwards@southwindgrp.com>

Good afternoon, Clarissa, Dr. Totoe would like to have two adjacent parking spaces covered on the North side of the building @ 1366 N. Treadaway.

We have talked about this before, and I understand there is something that doesn't allow the Northernmost space to be covered.

Dr. Totoe would like to apply for a special exception in this case to get the two spaces covered together instead of having two separated covered parking spaces.

Attached is the existing site plan showing where the parking structure location is being requested.

Please advise,

Brian Hovey**Vice President Operations****1218 Energy Dr. | Abilene, TX 79602****Office: (325) 695-1111 | Direct: (325) 788-1114****Mobile: (325) 668-5348 Fax: (325) 695-1113****Kansas City, MO: (816) 521-6077**brian@southwindgrp.com | www.southwindgrp.com

 1366 N.Treadaway TOTOE-SITE-PLAN COVERED PARKING.pdf
311K**Brian Hovey** <brian@southwindgrp.com>

Wed, May 24, 2023 at 10:25 AM

To: "Ivey, Clarissa" <clarissa.ivey@abilenetx.gov>, "Anderson, Randal" <randal.anderson@abilenetx.gov>
Cc: "Teegardin, Mason" <mason.teegardin@abilenetx.gov>, ROBERT TOTOE <totoemedicaldpc@gmail.com>, Dale Edwards <dedwards@southwindgrp.com>

2nd request

From: Brian Hovey
Sent: Friday, May 12, 2023 2:47 PM
To: Ivey, Clarissa <clarissa.ivey@abilenetx.gov>
Cc: Anderson, Randal <randal.anderson@abilenetx.gov>; Teegardin, Mason <mason.teegardin@abilenetx.gov>; ROBERT TOTOE <totoemedicaldpc@gmail.com>; Dale Edwards <dedwards@southwindgrp.com>
Subject: Covered Parking 1366 N. Treadaway

Good afternoon, Clarissa.

Dr. Totoe would like to have two adjacent parking spaces covered on the North side of the building @ 1366 N. Treadaway.

We have talked about this before, and I understand setback requirements will not allow the Northernmost space to be covered.

Dr. Totoe would like to apply for a special exception in this case to get the two spaces covered together instead of having two separated covered parking spaces.

Attached is the existing site plan showing where the parking structure location is being requested.

Please advise as to the process Dr. Totoe must go through.

[Quoted text hidden]



1366 N.Treadaway TOTOE-SITE-PLAN COVERED PARKING.pdf
311K

Ivey, Clarissa <clarissa.ivey@abilenetx.gov>
To: Brian Hovey <brian@southwindgrp.com>
Cc: "Anderson, Randal" <randal.anderson@abilenetx.gov>, "Teegardin, Mason" <mason.teegardin@abilenetx.gov>, ROBERT TOTOE <totoemedicaldpc@gmail.com>, Dale Edwards <dedwards@southwindgrp.com>

Thu, May 25, 2023 at 4:32 PM

Good afternoon,

See the attached application for Board of Adjustments. Upcoming deadline is June 6, 2023. Please provide as much information as possible, along with a site plan of what you're requesting.

[Quoted text hidden]

**Clarissa Ivey**

Planner I

City of Abilene

555 Walnut Street

Office: 325.676.6382

clarissa.ivey@abilenetx.gov**2023 DevelopmentApplication .pdf**

498K

Brian Hovey <brian@southwindgrp.com>

Thu, May 25, 2023 at 4:39 PM

To: "Ivey, Clarissa" <clarissa.ivey@abilenetx.gov>

Cc: "Anderson, Randal" <randal.anderson@abilenetx.gov>, "Teegardin, Mason" <mason.teegardin@abilenetx.gov>,

ROBERT TOTOE <totoemedicaldpc@gmail.com>, Dale Edwards <dedwards@southwindgrp.com>

Thank you Clarissa.

[Quoted text hidden]

Brian Hovey <brian@southwindgrp.com>

Fri, Jun 2, 2023 at 1:49 PM

To: "Ivey, Clarissa" <clarissa.ivey@abilenetx.gov>

Cc: "Anderson, Randal" <randal.anderson@abilenetx.gov>, "Teegardin, Mason" <mason.teegardin@abilenetx.gov>

Hello , the online application has been submitted and supporting documentation has been uploaded. Please let me know when I can make payment online.

Thank you,

Brian Hovey**Vice President Operations****1218 Energy Dr. | Abilene, TX 79602****Office: (325) 695-1111 | Direct: (325) 788-1114****Mobile: (325) 668-5348 Fax: (325) 695-1113****Kansas City, MO: (816) 521-6077**brian@southwindgrp.com | www.southwindgrp.com

From: Ivey, Clarissa <clarissa.ivey@abilenetx.gov>

Sent: Thursday, May 25, 2023 4:33 PM

To: Brian Hovey <brian@southwindgrp.com>

[Quoted text hidden]

[Quoted text hidden]

Teegardin, Mason <mason.teegardin@abilenetx.gov>

Tue, Jun 6, 2023 at 1:10 PM

To: Brian Hovey <brian@southwindgrp.com>

Cc: "Ivey, Clarissa" <clarissa.ivey@abilenetx.gov>, "Anderson, Randal" <randal.anderson@abilenetx.gov>

Brian,

Upon review of your online submission, I do not see how much of a variance you are asking for from the 5' property line setback.

Could you please clarify how much you are requesting from the required setback?

[Quoted text hidden]

--



Mason Teegardin

Planner I

City of Abilene

555 Walnut Street

Office: 325.676.6490

mason.teegardin@abilenetx.gov

Brian Hovey <brian@southwindgrp.com>

Tue, Jun 6, 2023 at 4:32 PM

To: "Teegardin, Mason" <mason.teegardin@abilenetx.gov>

0. To 6" Is the setback requested

[Quoted text hidden]

Teegardin, Mason <mason.teegardin@abilenetx.gov>

Tue, Jun 6, 2023 at 4:37 PM

To: Brian Hovey <brian@southwindgrp.com>

Are you requesting to be 6" from the 5' setback? Or are you asking to be 6" from the property line?

[Quoted text hidden]

Brian Hovey <brian@southwindgrp.com>

Tue, Jun 6, 2023 at 4:43 PM

To: "Teegardin, Mason" <mason.teegardin@abilenetx.gov>

Cc: "Ivey, Clarissa" <clarissa.ivey@abilenetx.gov>, "Anderson, Randal" <randal.anderson@abilenetx.gov>

Mason, the variance we need looks closer to 18" from the property line

Brian Hovey

Vice President Operations

1218 Energy Dr. | Abilene, TX 79602

Office: (325) 695-1111 | Direct: (325) 788-1114

Mobile: (325) 668-5348**Fax: (325) 695-1113**

Kansas City, MO: (816) 521-6077

brian@southwindgrp.com | www.southwindgrp.com



From: Teegardin, Mason <mason.teegardin@abilenetx.gov>

Sent: Tuesday, June 6, 2023 1:10 PM

To: Brian Hovey <brian@southwindgrp.com>

Cc: Ivey, Clarissa <clarissa.ivey@abilenetx.gov>; Anderson, Randal <randal.anderson@abilenetx.gov>

[Quoted text hidden]

[Quoted text hidden]

Brian Hovey <brian@southwindgrp.com>

To: "Teegardin, Mason" <mason.teegardin@abilenetx.gov>

Tue, Jun 6, 2023 at 4:44 PM

18" from property line.

BH

[Quoted text hidden]

2023 Development Application

Owner Authorization and Representative Designation

Property Description

Subdivision: College Drive Total Number of Acres: .248
 Zoning Classification(s): HC Total Number of Lots: 1
 Location: 1366 N Treadaway Blvd Abilene TX

Property Owner Information & Authorization

Name/Company: Totoe Investment Properties LLC
 Address: 202 Prairie Creek Way
 City: Abilene State: Texas Zip Code: 79602-5580
 Phone: 325-704-2570 Email: totoe medical dpc@gmail.com

Project Representation (check one):

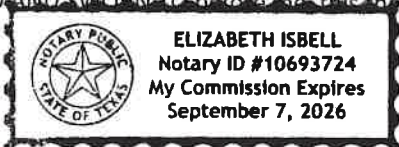
- ☐ I will represent the application myself; OR
☒ I hereby designate Brian Hovey (name of project representative) to act in the capacity as my agent for submittal, processing, representation, and/or presentation of this request. The designated agent shall be the principal contact person for responding 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: [Signature] Date: 06/02/2023
 STATE OF: Texas
 COUNTY OF: Taylor

BEFORE ME, a Notary Public, on this day personally appeared Robert Totoe
 (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 2nd day of June, 20 23



[Signature]

NOTARY PUBLIC in and for the State of Texas

Project Representative Information (complete if designated by owner)

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

Name: Brian Hovey Company: Southwind Group Inc
 Address: 1218 Energy Dr. City: Abilene State: TX
 Zip Code: 79602 Number: _____ Email: brian@southwindgrp.com

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.

N/A

- C. State all information upon which you base the belief (use additional paper, if necessary).

N/A

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): Brian Hovey

Property Owner ☐ Project Representative ☒

Signature of Certifying Person: [Signature]

*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

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

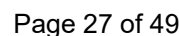
The undersigned has read the above application and hereby certifies that the information contained therein is complete, true and correct; and does hereby request that said application be submitted to the Planning & Zoning Commission at the earliest available meeting.

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: _____

DATE: _____

6/2/2023





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: CARPORT TO GARAGE CONVERSION

Address: 17 MUIRFIELD Number of Lots: 1 Acreage: .3168

Legal Description: FAIRWAYS, BLOCK C, LOT 17

Subdivision Name: FAIRWAYS Block: 0 Lot: 17

Current Zoning: PDD Proposed Zoning (if applicable): _____

OWNER AND AUTHORIZATION

Owner Name: RICK AND ANGELA WILLIS

Address: 17 MUIRFIELD

City, State, Zip: ABILENE, TX 79606 Fax: _____

Phone: 325-669-9240

Email: RICKWWILLIS@SBCGLOBAL.NET

Agent Name: DONMARK NICKSON

Address: 542 PLUM

City, State, Zip: ABILENE, TX 79601

Fax: _____

Phone: 325-676-8294

Email: DONMARK@JEFFLUTHERCONSTRUCTION.COM

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: [Signature]

Date: 6-7-2023

FOR OFFICE USE ONLY

Received: _____

Fee: \$ _____

Receipt No.: _____

Case No.: _____

Reviewed By: _____

2023 Development Application

Owner Authorization and Representative Designation

Property Description

Subdivision: FAIRWAYS Total Number of Acres: .3168
 Zoning Classification(s): PDD Total Number of Lots: 1
 Location: 17 MUIRFIELD

Property Owner Information & Authorization

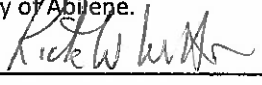
Name/Company: RICK AND ANGELA WILLIS
 Address: 17 MUIRFIELD
 City: ABILENE State: TX Zip Code: 79606
 Phone: 325-669-9240 Email: RICKWILLIS@SBCGLOBAL.NET

Project Representation (check one):

☐ I will represent the application myself; OR

☒ I hereby designate DON MARK NICKSON (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.

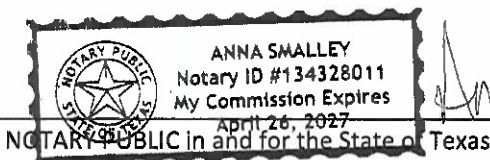
Property Owner's Signature:  Date: 12.6.2023

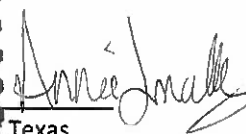
STATE OF: TEXAS

COUNTY OF: TAYLOR

BEFORE ME, a Notary Public, on this day personally appeared RICK WILLIS (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 07 day of June, 2023





Project Representative Information (complete if designated by owner)

☐ Engineer ☐ Purchaser ☐ Tenant ☐ Preparer ☒ Other(specify): CONTRACTOR

Name: DON MARK NICKSON Company: JEFF LUTHER CONSTRUCTION
 Address: 542 PLUM City: ABILENE State: TX
 Zip Code: 79601 Number: 325-1060-2119 Email: DONMARK@JEFFLUTHERCONSTRUCTION.COM

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): DONMARK NICKSON

Property Owner ☐ Project Representative ☒

Signature of Certifying Person: 

*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.

CLOSE IN EXISTING CARPORT TO GARAGE

(SEE DRAWINGS)

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?

2023 Development Application

BOARD OF ADJUSTMENT

The Board of Adjustment is organized to have all the powers and authority as set forth in the Charter of the City of Abilene, Texas, and as authorized by Chapter 211 of the Texas Local Government Code.

The Board of Adjustment has authority of applications to decide the following types of applications:

1. An application for a Special Exception pursuant to Section 1.4.4.1;
2. An application for a Variance pursuant to Section 1.4.4.2;
3. A sign permit or an interpretation of Sign Regulations related to development within the City limits (refer to Chapter 4, Article 1, Division 3, Section 4.1.3.6 or Chapter 4, Article 2, Division 8, respectively); and
4. An application for a change in the status of a non-conformity pursuant to Section 1.4.4.3.

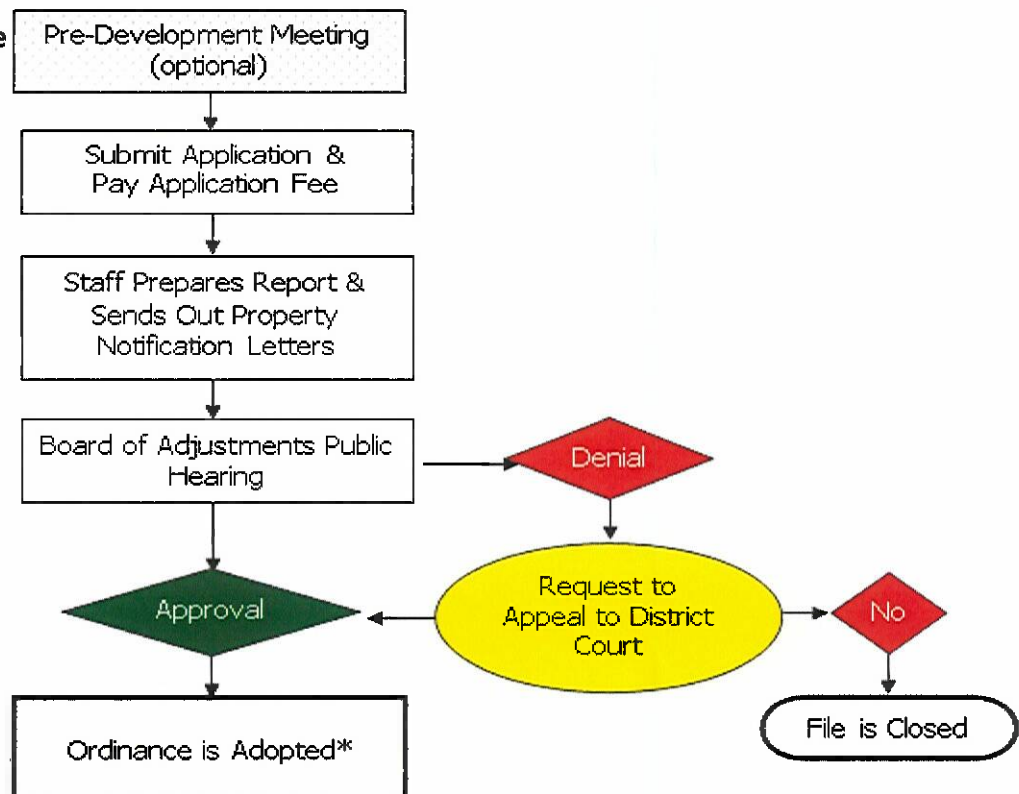
The Board of Adjustment shall finally decide appeals on the following matters of an appeal of any official's interpretation of the requirements of Chapters 2 or 4 of this LDC in which the requirement applies to development within the City limits of Abilene, unless a separate appeals process is otherwise defined within this LDC.

The authority delegated to the Board of Adjustment under this Land Development Code shall not be construed to affect any of the following:

1. Approval of a petition for a zoning map amendment;
2. Approval of a Conditional Use Permit; and
3. Authorization of a use not authorized in the zoning district in which the applicant's property is located, except to the extent necessary to decide a special exception or a petition for a change in status of a non-conformity.

Also, the Board of Adjustment shall not render any decision on an application, appeal or relief petition while a petition for a zoning amendment, application for a Conditional Use Permit, or plat application for the same land is pending and until such petition or application has been finally decided pursuant to procedures in Chapter 1 of the LDC.

Special Exception & Variance Flowchart



*If the request is approved, the owner or agent will have 180 days from the hearing date to obtain a building permit, if one is required.

2023 Development Application

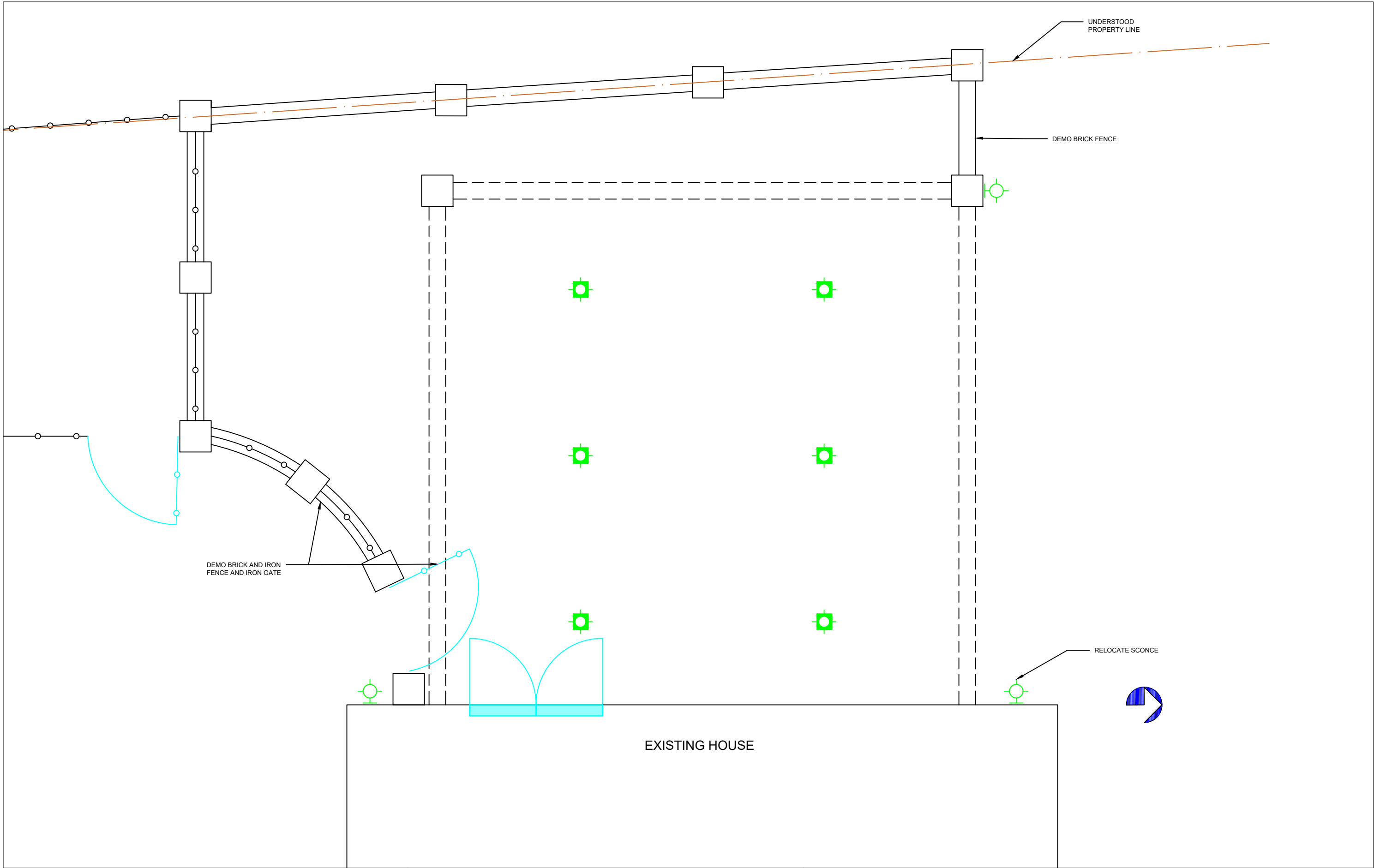
2023 PLANNING AND ZONING COMMISSION

PD APPLICATION DEADLINE	ZONING APPLICATION DEADLINE	PLANNING & ZONING MEETING ***	CITY COUNCIL 1 ST READING	CITY COUNCIL 2 ND READING ***
16-DEC-22	3-JAN-23	7-FEB-23	23-FEB-23	9-MAR-23
13-JAN-23	31-JAN-23	7-MAR-23	23-MAR-23	13-APR-23
10-FEB-23	28-FEB-23	4-APR-23	27-APR-23	11-MAY-23
10-MAR-23	28-MAR-23	2-MAY-23	25-MAY-23	8-JUN-23
14-APR-23	2-MAY-23	6-JUNE-23	22-JUN-23	13-JUL-23
12-MAY-23	31-MAY-23	5-JULY-23	27-JUL-23	10-AUG-23
11-JUN-23	28-JUN-23	1-AUG-23	24-AUG-23	14-SEP-23
14-JUL-23	1-AUG-23	5-SEP-23	28-SEP-23	12-OCT-23
14-AUG-23	31-AUG-23	3-OCT-23	26-OCT-23	2-NOV-23
17-SEP-23	4-OCT-23	7-NOV-23	16-NOV-23	7-DEC-23
13-OCT-23	31-OCT-23	5-DEC-23	21-DEC-23	11-JAN-24
3-NOV-23	28-NOV-23	2-JAN-24	25-JAN-24	8-FEB-24
15-DEC-23	2-JAN-24	6-FEB-24	22-FEB-24	14-MAR-24
15-JAN-24	1-FEB-24	7-MAR-24	28-MAR-24	11-APR-24

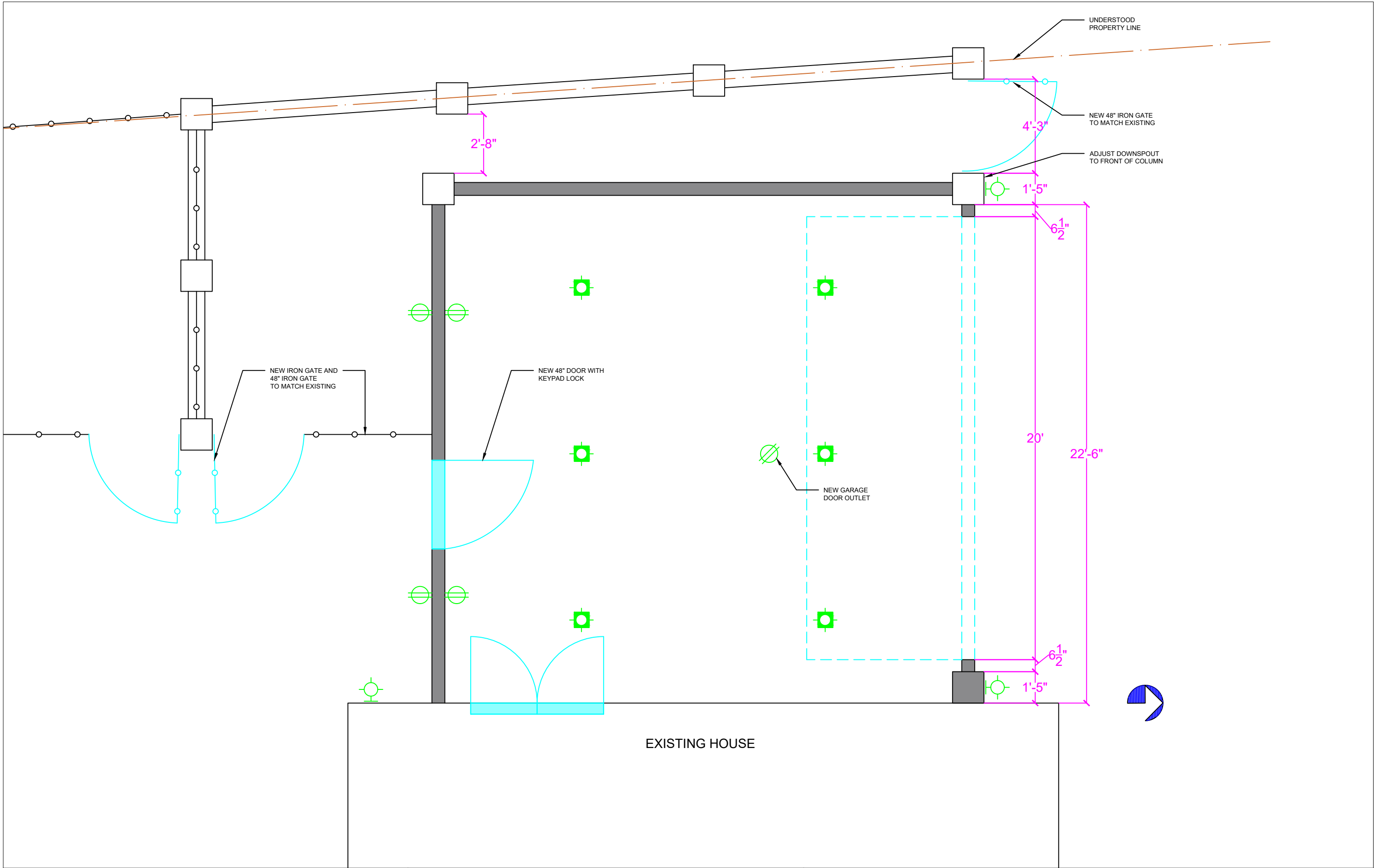
***These meetings require public hearings and the applicant or a representative must be present.

2023 BOARD OF ADJUSTMENT

APPLICATION DEADLINE	MEETING DATE ***
6-DEC-22	10-JAN-23
10-JAN-23	14-FEB-23
7-FEB-23	14-MAR-23
7-MAR-23	11-APR-23
4-APR-23	9-MAY-23
9-MAY-23	13-JUN-23
6-JUN-23	11-JUL-23
3-JUL-23	8-AUG-23
8-AUG-23	12-SEP-23
5-SEP-23	10-OCT-23
10-OCT-23	14-NOV-23
7-NOV-23	12-DEC-23
5-DEC-23	9-JAN-24
9-JAN-24	13-FEB-24

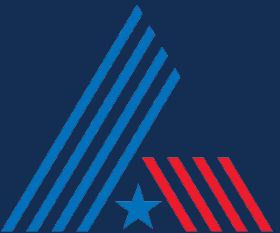


JEFF LUTHER CONSTRUCTION			PROJECT: WILLIS		SHEET: EXISTING CARPORT PLAN
DATE: 05/23/2023	DRAWN BY: MORGAN RODEN	DESIGN: J.L.C.	SCALE: 1/4"=1'-0"		



SPECIAL EXCEPTION REQUEST

Case:	BA-2023-06
Owner:	Rick and Angela Willis
Agent:	Donmark Nickson
Requests:	4-foot 10-inch variance from the minimum 7.5-foot required side setback within PD-4 (RS-8)
Location:	17 Muirfield
Notification:	0 in Favor, 0 Opposed
Board of Adjustment:	July 11, 2023



AERIAL LOCATION MAP

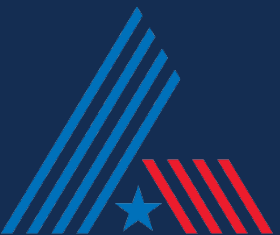


Aerial Map

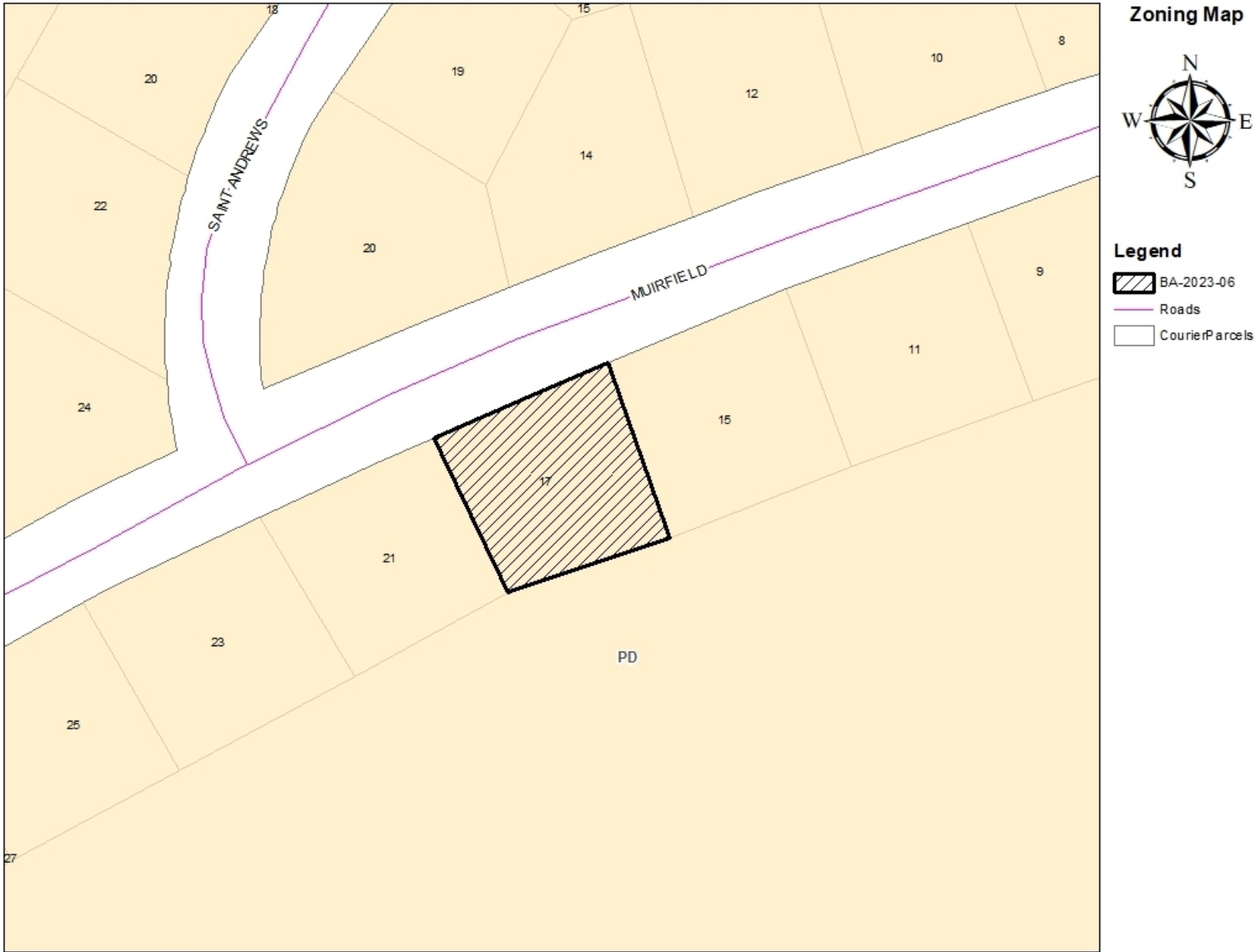


Legend

-  BA-2023-06
-  Roads



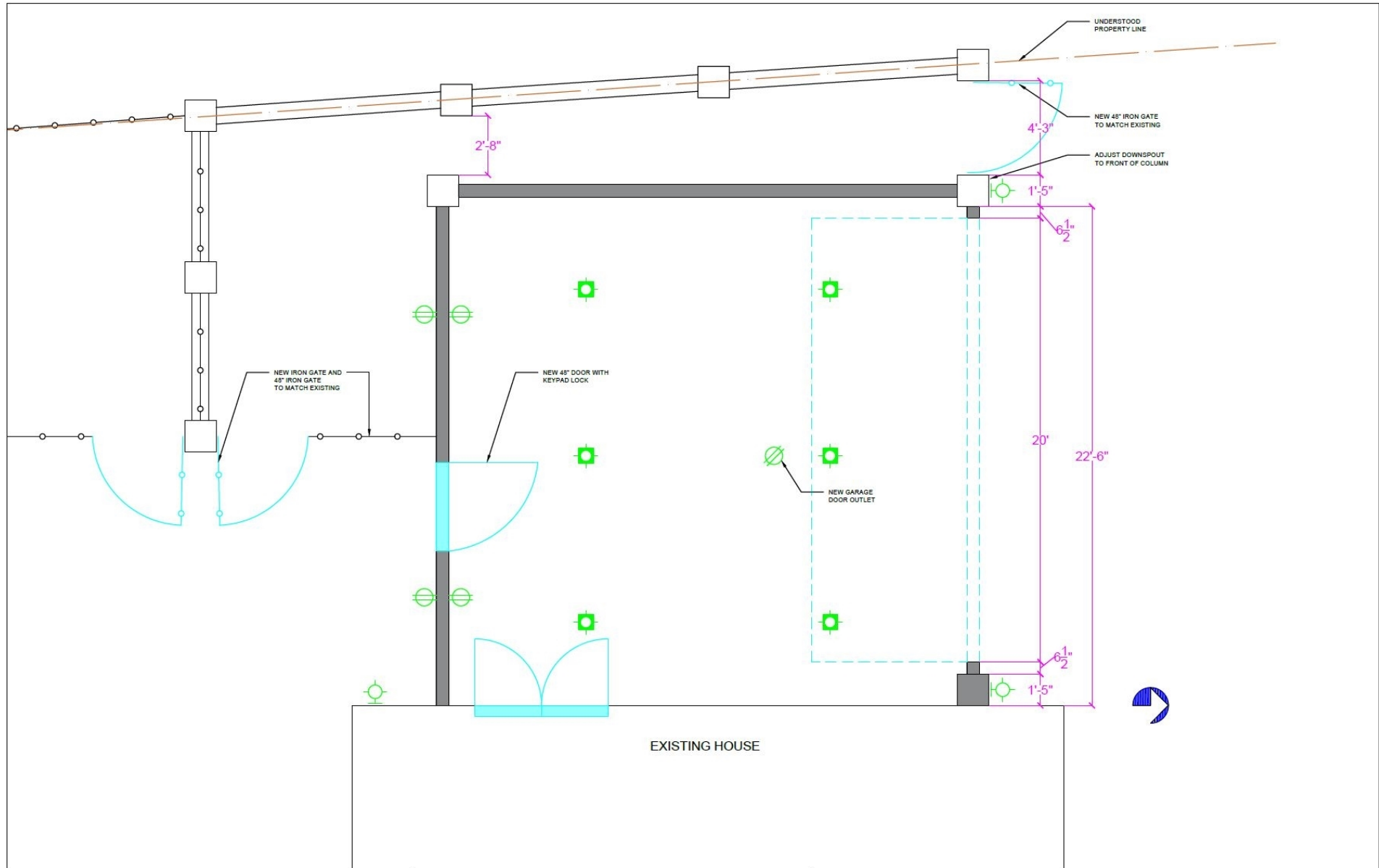
ZONING MAP



VIEWS OF SUBJECT PROPERTY



Proposed Expansion



JEFF LUTHER CONSTRUCTION

PROJECT: WILLIS

SHEET:

GARAGE PLAN

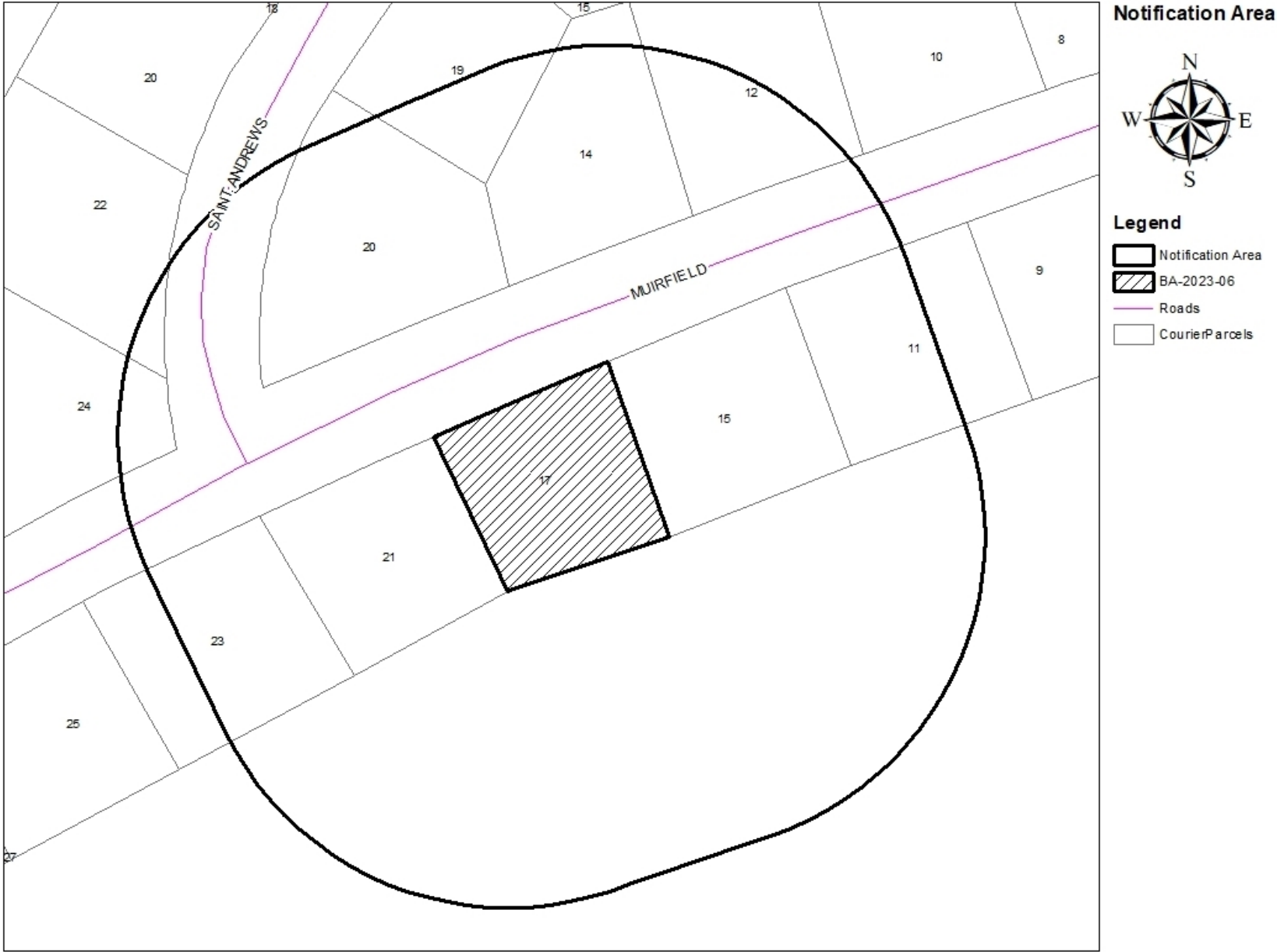
DATE:
05/23/2023

DRAWN BY:
MORGAN RODEN

DESIGN:
J.L.C.

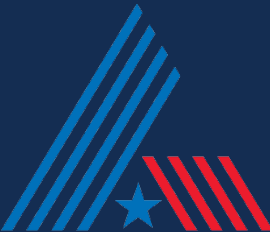
SCALE: 1/4"=1'-0"

NOTIFICATION AREA MAP



0- In Favor- 

0- Opposed- 



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

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.

The existing conforming structure can be expanded in a manner that would conform to the current development standards. Staff finds that there are no special conditions affecting the land that would create a hardship.

That the granting of the Special Exception 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 may be contrary to the public interest as it may set a precedent for enclosing carports in a manner that reduces width of side setbacks and decreasing green/open space between homes.

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

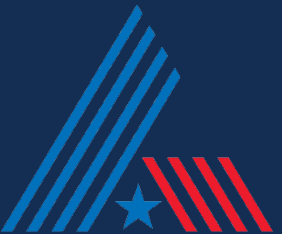
The proposed expansion is not consistent with the intent of the LDC because the LDC already has an allowance of 3-feet for traditional open sided carports. The enclosure of the carport creates a garage, which is treated as a primary building, which requires a setback of 7.5-feet presently and 5-feet under original requirements of PDD-4. The request does not conform to the original or present day standards that specifically requires a 15-foot separation between structures.

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

The hardship is caused by the petitioner because the current structure conforms to the LDC and because a conforming garage can be built on the property.



Questions?



BOARD OF ADJUSTMENT

BA-2023-06

STAFF REPORT



Scheduled Hearings

Board of Adjustment: July 11, 2023

Applicant

Owner: Rick and Angela Willis

Agent Donmark Nickson

Case Manager: Adam Holland

Request

4-foot 10-inch variance from the minimum 7.5-foot side setback on a residential property.

Location

17 Muirfield

Background

The building was built in 1978 as a part of the Fairways subdivision.

Zoning, Existing and Proposed Land Use

The subject property is currently zoned PDD-4 with a base zoning of RS-8. The owner intends to enclose the existing carport on the east side of the house to create a garage. By enclosing the existing open-sided carport, the carport becomes part of the principal building, and is subject to the 7.5-foot side yard setback requirement.

PDD-4 (Fairways) originally required a 5-foot side yard setback requirement. If that requirement was applied, the proposed carport enclosure would still require a variance, but the degree of the variance would be less.

Land Development Code Provisions

The existing carport satisfies the side setback of 3' from the east for a carport. That setback requirement is not applicable if the carport is enclosed.

Site Constraints

There are no site constraints. The variance is requested because the applicant wants to maintain the existing location and driveway alignment.

Reasonable Alternatives

A side entry or front entry garage can be built in front of the structure in compliance with the LDC.

Precedents/Findings

When the existing carport was constructed, it complied with all applicable development standards of that time. Carports are still currently allowed to be located 3-feet from side property lines.

When PDD-4 was amended in 1985, the standard setback for this property was 5 feet from the sides provided that the structures (homes) were 15 feet apart. The 15-foot separation requirement is still applicable. The enclosure of the carport at the proposed location would not meet that standard.

Criteria Assessment

A variance can be granted only when special circumstances are present to justify them. 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.**

The existing structure can be expanded in a manner that would conform to the current development standards. Staff finds that there are no special conditions affecting the land that would create a hardship.

- 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 may be contrary to the public interest as it may set a precedent for enclosing carports in a manner that reduces width of side setbacks and decreasing green/open space between homes.

- 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 because the LDC already has an allowance of 3-feet for traditional open sided carports. The enclosure of a carport creates a garage, which is treated as a primary building and requires a setback of 7.5-feet presently, and 5-feet under original requirements of PDD-4. The request does not conform to the original or present day standards or the standard that requires a 15-foot separation between structures.

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

The hardship is caused by the petitioner because the current structure conforms to the LDC requirements and because a conforming garage can be built on the property.

Notification

OWNER	SITUS	PROP_ID	Response
ABILENE COUNTRY CLUB INC		111372	
BROOKS JAMES H & MARY E	23 MUIRFIELD	34609	
CASEY JEFF SCOTT &	12 MUIRFIELD	53600	
HAMMETT ADAM J & JENNIFER K	14 MUIRFIELD	53465	
HICKOX ROBERT & MICHELLE	24 MUIRFIELD	47515	
HUTSON DANIEL T & ELSIE	19 SAINT ANDREWS	53195	
JACOB BILLY L	21 MUIRFIELD	34747	
LEE ROBEN BRYNN	20 MUIRFIELD	53325	
LEONARD JAMES R & CHERYL L	15 MUIRFIELD	35012	
MC DONALD DENNIS MICHAEL & SHARON	11 MUIRFIELD	35155	
PIERCE JOHN R & LORICE INCLAN	22 SAINT ANDREWS	47404	
WILLIS RICK & ANGELA HAMIL	17 MUIRFIELD	34881	

LOCATION MAP



ZONING MAP

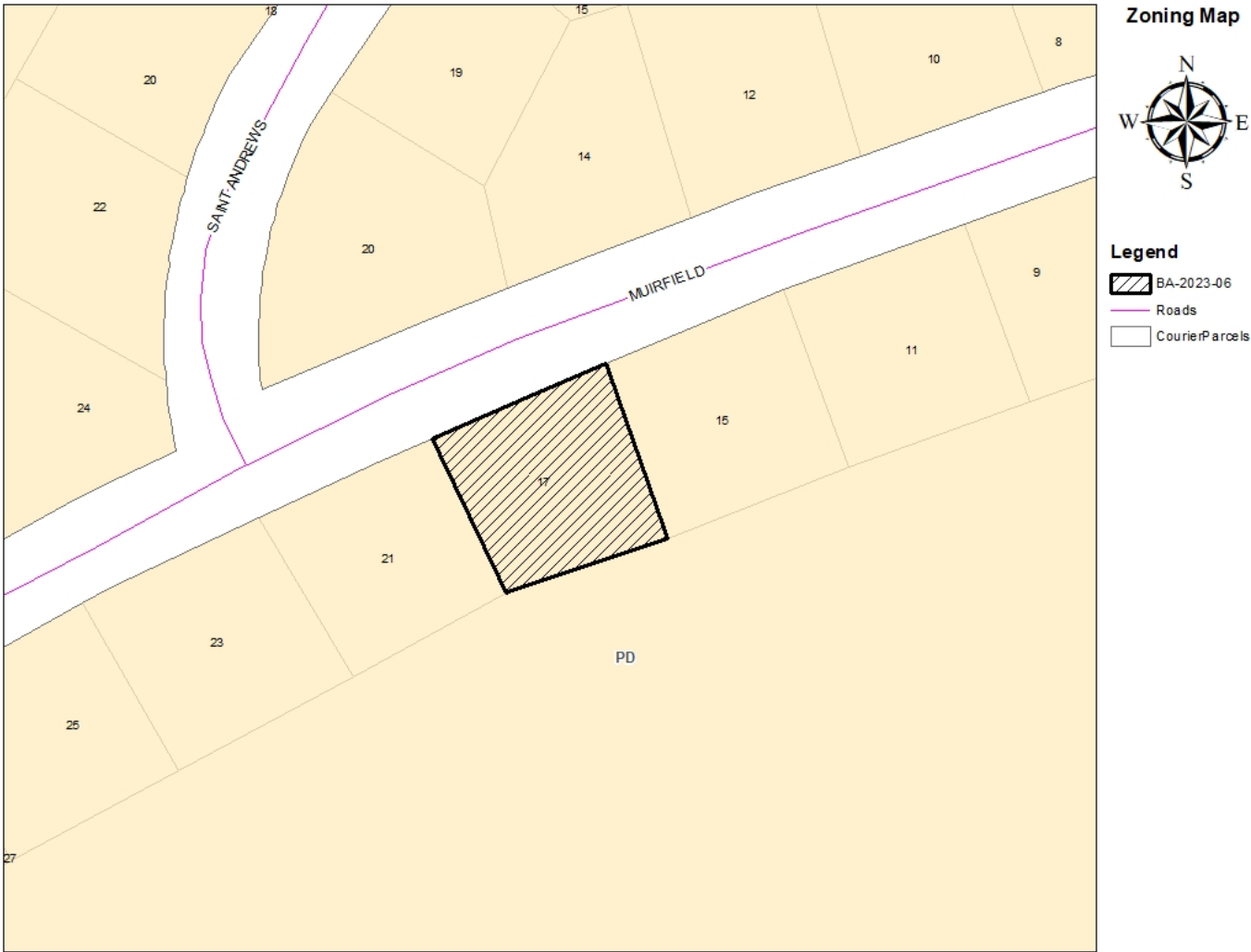


Exhibit 1

