



## 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 June 11, 2024 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 9, 2024

### AGENDA ITEMS

2. **BA-2024-10:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a Variance to Allow a 2.5-Foot Side Setback (3.0 Feet Required) for an Attached Carport Located at 2009 South 19th Street. (*Adam Holland*)

### EXECUTIVE SESSION

The Board of Adjustment 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 6th day of June, 2024, at 9:40 a.m.*

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*Kaitlin Richardson*, Deputy City  
Secretary, TRMC



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**BOARD OF ADJUSTMENT REGULAR MEETING MINUTES**  
**April 9, 2024**                      **8:30 a.m.**

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

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**Members Present:**            Ms. Shawnda Rixey, Chair Pro Tem  
   Ms. Joy Ellinger  
   Melissa Sparks, Sergeant at Arms  
   Mr. Bob Thomas, Alternate  
   Mr. Chip Whitlock, Alternate

**Members Absent:**            Mr. Jon Loudermilk, Chair            Mr. Louis Zientek, Secretary

**Staff Present:**                Mr. Michael Rice, Assistant City Manager  
   Ms. Kelley Messer, First Assistant City Attorney  
   Mr. Tim Littlejohn, Director  
   Mr. Randy Anderson, Assistant Director  
   Mr. Adam Holland, Planner II  
   Ms. Mason Teegardin, Planner I  
   Ms. Kiley Hannah, Planner I  
   Ms. Melissa Farr, Executive Assistant

**Others Present:**            Mr. Harley Hall                      Mr. Kirby Milliorn  
   Mr. Grant Abston                      Mr. Craig Young  
   Mr. Zach Sitzes                      Ms. Amy Sitzes  
   Mr. John Jenkins                      Mr. John Kritser  
   Mr. Wes Roberts                      Mr. Bryce Davis

**CALL TO ORDER**

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

**ELECTION OF OFFICERS**

Ms. Ellinger nominated Mr. Jon Loudermilk to serve as the Board Chair. Ms. Rixey seconded the motion.

**AYES: Thomas, Ellinger, Whitlock, Sparks, Rixey**  
**NAYS: None**

Mr. Whitlock nominated Ms. Shawnda Rixey to serve as the Board Chair Pro Tem. Ms. Ellinger seconded the motion.

**AYES: Thomas, Ellinger, Whitlock, Sparks, Rixey**

**NAYS: None**

Ms. Ellinger nominated Mr. Louis Zientek to serve as the Board Secretary. Ms. Sparks seconded the motion.

**AYES: Thomas, Ellinger, Whitlock, Sparks, Rixey**

**NAYS: None**

Ms. Ellinger nominated Ms. Melissa Sparks to serve as the Board Sergeant at Arms. Mr. Whitlock seconded the motion.

**AYES: Thomas, Ellinger, Whitlock, Sparks, Rixey**

**NAYS: None**

### **EXECUTIVE SESSION**

The Board went into executive session to receive legal advice regarding the authority of the Board and statutory requirements at 8:40 a.m. The Board reconvened the meeting at 9:14 a.m.

### **MINUTES**

The public hearing was opened. Seeing no one present and desiring to be heard, the public hearing was closed. Mr. Thomas made the motion to approve the minutes from the regular meeting held on February 13, 2024. Mr. Whitlock seconded the motion. The motion to **approve** the minutes prevailed by the following vote:

**AYES: Thomas, Ellinger, Whitlock, Sparks, Rixey**

**NAYS: None**

### **AGENDA ITEMS**

**BA-2024-04:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from Bryce Davis for a Variance to allow for a 0' front setback (25' required) and to allow for a 17' rear setback (25' required) located at 1326 Walnut Street

Ms. Mason Teegardin presented this request. The applicant is requesting a variance to allow a 0' front setback (25' required) to match the existing buildings on the lot to the south. The applicant is also proposing a 17' rear setback (25' required) to allow for maximum storage of lumber. The variances would maintain the general look and feel of the existing buildings.

Ms. Rixey opened the public hearing. Mr. Bryce Davis stepped forward to explain the request. He recently purchased City Lumber, and is proposing a building to store lumber. 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. There were no (0) responses received in favor, nor in opposition.

Ms. Ellinger moved to **approve** this request based upon the findings of the staff report; however, the hardship is that the applicant would not be able to maintain the character of the traditional commercial area if the request were not approved. Mr. Thomas seconded the motion. The motion to approve prevailed by the following vote:

**AYES: Thomas, Ellinger, Whitlock, Sparks, Rixey**  
**NAYS: None**

**BA-2024-05:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from JKK Properties, LP for a Variance to allow for a 10-foot setback (50 foot is required) along the rear property line for an accessory structure located at 2598 EN 10<sup>th</sup> Street. The applicant is also requesting a variance for an alternative plan for calculating the points required for the landscaping buffer along the east north and south west interior side property lines.

Ms. Kiley Hannah presented this request. The property is undeveloped that was recently rezoned from Agricultural Open (AO) to Heavy Commercial (HC). The Planning and Zoning Commission approved the plat of the subject property on April 2, 2024. The site plan to construct a facility for the sale, lease, servicing, and display of heavy equipment is pending the outcome of this request.

A Type B Buffer is required between Heavy Commercial (HC) and a residential zoning district. The buffer yard requires a score of at least 25 points based on the point system set out in Section 4.2.4.2 of the Land Development Code. The request is to allow an alternative buffer plan to satisfy the intent Land Development Code.

Ms. Rixey opened the public hearing. Mr. John Jenkins stepped forward to share drawings of the building and the site plan with landscaping.

Property owners within a 200-foot radius of the property address were notified. Five (5) responses were received in favor with none (0) in opposition.

***Buffer Requirement Variance:***

The irregularly long lot calls for a large amount of buffer yard due to the west property line abutting a potential residential use being an Agricultural Open (AO) zoning district, causing a potential hardship.

The irregular lot shape and depth of the subject property was expressly platted into this form by the applicant. As a result, the hardship was partially self-created. The applicant has provided an Alternate Plan to mitigate the effects of the proposed variances.

Ms. Ellinger moved to **approve** the landscape buffer based upon the findings of the staff report. Mr. Thomas seconded the motion. The motion to approve prevailed by the following vote:

**AYES: Thomas, Ellinger, Whitlock, Sparks, Rixey**  
**NAYS: None**

***Setback requirement Variance:***

The irregular lot shape and depth of the subject property was expressly platted into this form by the applicant. As a result, the hardship was self-created. The applicant has provided an Alternate Plan to mitigate the effects of the proposed variances.

Ms. Sparks moved to **approve** based upon the irregularity of the land in addition to the findings of the staff report. Mr. Whitlock seconded the motion. The motion to approve prevailed by the following vote:

**AYES: Thomas, Ellinger, Whitlock, Sparks, Rixey**  
**NAYS: None**

**BA-2024-06:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from Karon Bingaman and Harley Hall for a Variance to allow for an additional 5' 6" in height, for a carport that was built to 17' 6" (12' allowed) located at 3834 Kady Ridge. An additional Variance is required for a 5' street side setback (8' required).

Ms. Kiley Hannah presented this request. The applicant is requesting a carport height variance in order to cover a recreational vehicle. The subject carport would be located on an irregularly shaped corner lot and the existing fence limits the availability of locations to build a carport to cover the RV.

Ms. Rixey opened the public hearing. Mr. Cole Massey stepped forward to describe more detail about the request. Mr. Harley Hall also stepped forward to clarify his conversation with the homeowner's association president and vice-president for their review before building.

Property owners within a 200-foot radius of the property address were notified. Four (4) responses were received in favor with none (0) in opposition.

Mr. Whitlock made the motion to **approve** this variance request based upon the findings by staff in the report. Ms. Ellinger seconded the motion. The motion to approve prevailed by the following vote:

**AYES: Thomas, Ellinger, Whitlock, Sparks, Rixey**  
**NAYS: None**

**BA-2024-07:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from Zach Sitzes, represented by Grant Abston, for a Variance to allow for a rear setback of 16', where 30' is required located at 2334 Innisbrook Drive

Ms. Mason Teegardin presented this request. The homes on Innisbrook Drive were constructed at a time when the required rear setback was 25'. Using rear setback averaging, the average rear setback of the homes on the same side of Innisbrook Drive is 25', meaning the required rear setback can be reduced administratively to 25'. The applicant requests a 16' rear setback.

Ms. Rixey opened the public hearing. Those who stepped forward to speak were Mr. Grant Abston, Mr. Zach Sitzes, and Mr. Kirby Milliorn.

Property owners within a 200-foot radius of the property address were notified. There were no (0) responses received in favor with one (1) in opposition.

Ms. Ellinger made the motion to **approve** based upon the findings of the staff report with the exception of the hardship being the unusual lot size and HOA requirements for consistency within the neighborhood. Mr. Whitlock seconded the motion. The motion to approve prevailed by the following vote:

**AYES: Thomas, Ellinger, Whitlock, Sparks, Rixey**

**NAYS: None**

**BA-2024-08:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from SignTex for a Variance to allow a separation of 90-feet from an existing off-site advertising (billboard) sign on the same side of the street (a 250-foot separation required) and a 90-foot radial separation from an existing off-site advertising sign (a 750-foot radial separation is required) located at 2479 S. Treadaway Boulevard

Mr. Adam Holland presented this request. The property owner proposes to place a small (6' x 8') LED off-site advertising sign on the front of their building. The sign was previously placed on Barnard's Refinishing and has been proposed to be moved at the request of staff.

Ms. Rixey opened the public hearing. Mr. Wes Roberts stepped forward to speak. 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. There were no (0) responses received in favor with none (0) in opposition.

**STAFF RECOMMENDATION:** If the Board approves the variances, staff would recommend that the following condition of the approval be included:

The sign owners contact information shall be printed on the sign so they may be reached to address any problems with brightness or malfunctions.

Ms. Sparks made the motion to **approve** this request based upon the findings in the staff report, with the exception that the current LDC does not address signs of this nature being a hardship. Additionally, the shape of the property does not allow the necessary distance of a 250' setback. Mr. Thomas seconded the motion. The motion to approve prevailed by the following vote:

**AYES: Thomas, Whitlock, Sparks, Rixey**

**NAYS: None**

(Ms. Ellinger left the meeting at 10:44 a.m.)

#### **ADJOURNMENT**

There being no further business, the Board of Adjustment meeting was adjourned at 10:46 a.m.

Approved: \_\_\_\_\_, Chair Pro Tem

# BOARD OF ADJUSTMENT

## BA-2024-10

### STAFF REPORT

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#### Scheduled Hearings

Board of Adjustment: June 11, 2024

#### Applicant

Owner: Shirley Herring

**Case Manager:** Adam Holland

#### Request

Variance to allow a 2.5-foot side setback (3.0 feet required) for an attached carport.

#### Location

2009 South 19<sup>th</sup> Street

#### Background

The subject carport was constructed without a permit and does not comply with the 3-foot side setback requirement for an attached carport.

#### Zoning, Existing and Proposed Land Use

The subject property is zoned Medium Density Residential (MD). The owner is requesting a variance to allow the subject carport to have a 2.5-foot side yard setback (3' required).

#### Land Development Code Provisions

Per LDC Section 2.4.4.2, carports are required to be a minimum of 3 feet from interior side property lines unless a side property is adjacent to an alley, which would allow a 1-foot minimum setback.

#### Site Constraints

There are no apparent site constraints.

#### Precedents/Findings

The subject carport was constructed without a permit on an unimproved surface. Had the applicant requested a permit, the applicant would have been advised of the 3-foot setback requirement and the LDC requirement that the area covered by a carport be improved with durable and dustless materials, such as asphalt or concrete.

Since a permit was not obtained, there have not been any inspections on the structure or foundation by the City. Staff cannot confirm if the construction complies with the building code.

#### 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.**

No apparent hardship is present to have prevented the construction of a carport in accordance with the setback requirements of the LDC.

**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 request would not be contrary to the public interest because the building is located on private property and does not appear to adversely affect the adjoining property.

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

The carport is not consistent with the Land Development Code, which requires additional setback separation for attached carports.

**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 because the need for the variance was created by the applicant.

**Recommendation**

If the Board determines that the request satisfies the variance criteria, the following conditions should be required:

1. A durable dustless surface, as required by the LDC, shall be provided under the carport within 90-days of the granting of this variance.

**NOTIFICATIONS**

**Legend:**  
**O- Opposed**  
**F- In Favor**




OWNER	SITUS	PROP_ID	RESPONSE
ALDERSGATE UNITED METHODIST CHURCH	1842 AMARILLO ST	70770	
ALDERSGATE UNITED METHODIST CHURCH	1825 SAYLES BL	70280	
ALDERSGATE UNITED METHODIST CHURCH	2026 S 19TH ST	70900	
ALDERSGATE UNITED METHODIST CHURCH	1834 AMARILLO ST	71151	
BLAYLOCK CLINTON DEE &	1942 S 19TH ST	69797	
BROWN ARTHUR	2026 FULTON ST	73764	
CALDWELL RUTH ANN	1909 SAYLES BL	10228	
CANDELARIA GARCIA DELIA & RUDOLFO	1941 S 19TH ST	71652	
CARTER JOHN W & BELVA R	1926 AMARILLO ST	73629	
CORPIAN GARY LEE & MARILU LEE	2033 S 19TH ST	10344	
DARBY INVESTMENTS LP	1950 S 19TH ST	69267	
DEXELL PROPERTIES LLC	2030 S 19TH ST	70413	
DEXELL PROPERTIES LLC	2032 S 19TH ST	70413	
DEXELL PROPERTIES LLC	1841 SAYLES BL	70650	
DEXELL PROPERTIES LLC	2042 S 19TH ST	70650	
FORTUNE TRAVIS D & VIRGINIA	1925 SAYLES BL	30516	
GARCIA DELIA P	2001 S 19TH ST	10825	
GRAY MATTHEW	2018 S 19TH ST	71028	
HALL CHANC & THERESA	1950 AMARILLO ST	1016540	
HALL CHANC & THERESA	1952 AMARILLO ST	1016540	
HELM DAVID WINSTON	1942 AMARILLO ST	73497	
HERRING SHIRLEY	2009 S 19TH ST	10706	
NGUYEN HANH THI THUY	1901 SAYLES BL	10122	
P & K PROPERTIES LLC	2042 FULTON ST	30642	
PEDROZA PLACIDO & NORA H	1950 FULTON ST	72691	
PETROVA IRINA	2032 FULTON ST	30901	
POWERS EDWARD MARVIN	2025 S 19TH ST	10459	
SANCHEZ ALVINO R & ELVERA	2017 S 19TH ST	10581	
SEALE PATRICIA J	1958 FULTON ST	72963	
WHITE KAITLAN	2025 FULTON ST	74862	
WORTHINGTON MARK W	1934 AMARILLO ST	73900	



# ZONING MAP



## Legend

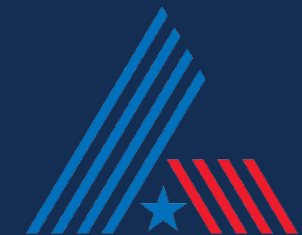
-  BA-2024-10
- Zoning District
- MD (Residential - Medium Density)
-  MD (Residential - Medium Density)
- RS (Residential - Single Family)
-  RS (Residential - Single Family)

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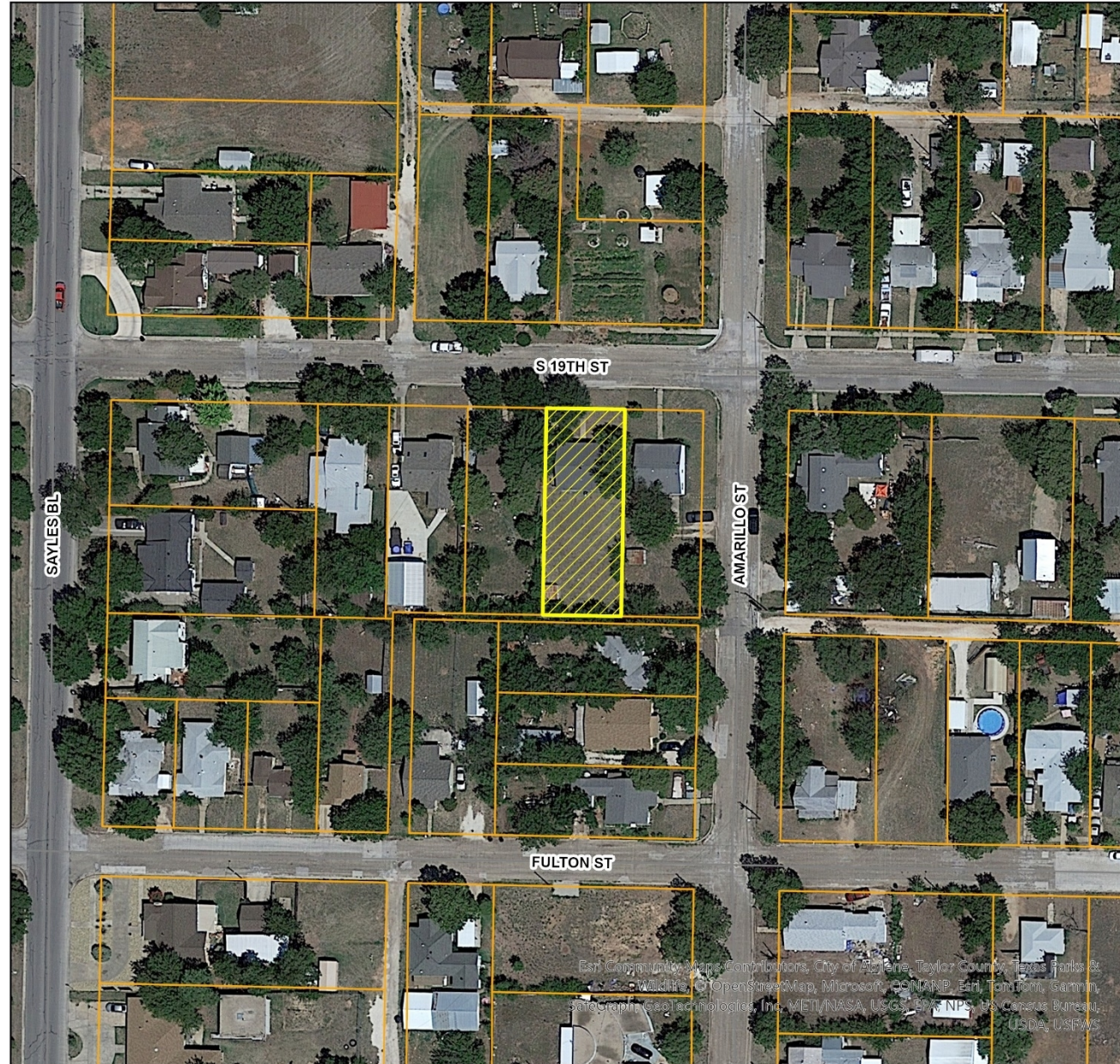
0.01  
Miles

## VARIANCE REQUEST


<b>Case:</b>	BA-2024-10
<b>Owner:</b>	Shirley Herring
<b>Requests:</b>	Variance to allow a 2.5-foot side setback (3-foot required) for an attached carport.
<b>Location:</b>	2009 South 19 <sup>th</sup> Street
<b>Notification:</b>	0 in Favor, 0 Opposed
<b>Board of Adjustment:</b>	June 11, 2024



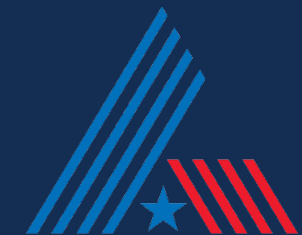
# AERIAL LOCATION MAP



## Legend

 BA-2024-10




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# ZONING MAP

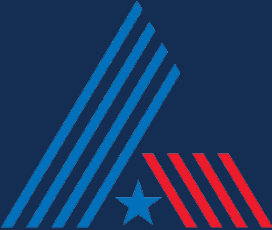


## Legend

-  BA-2024-10
- Zoning District
- MD (Residential - Medium Density)
-  MD (Residential - Medium Density)
- RS (Residential - Single Family)
-  RS (Residential - Single Family)

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0.01 Miles



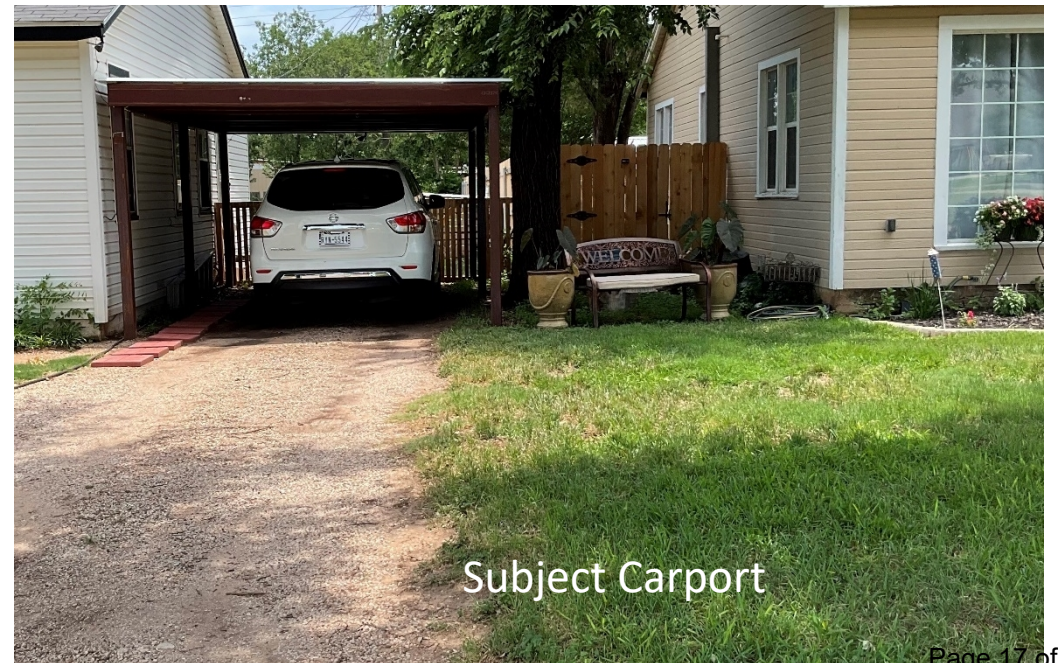
# VIEWS OF SUBJECT PROPERTY



Subject Property



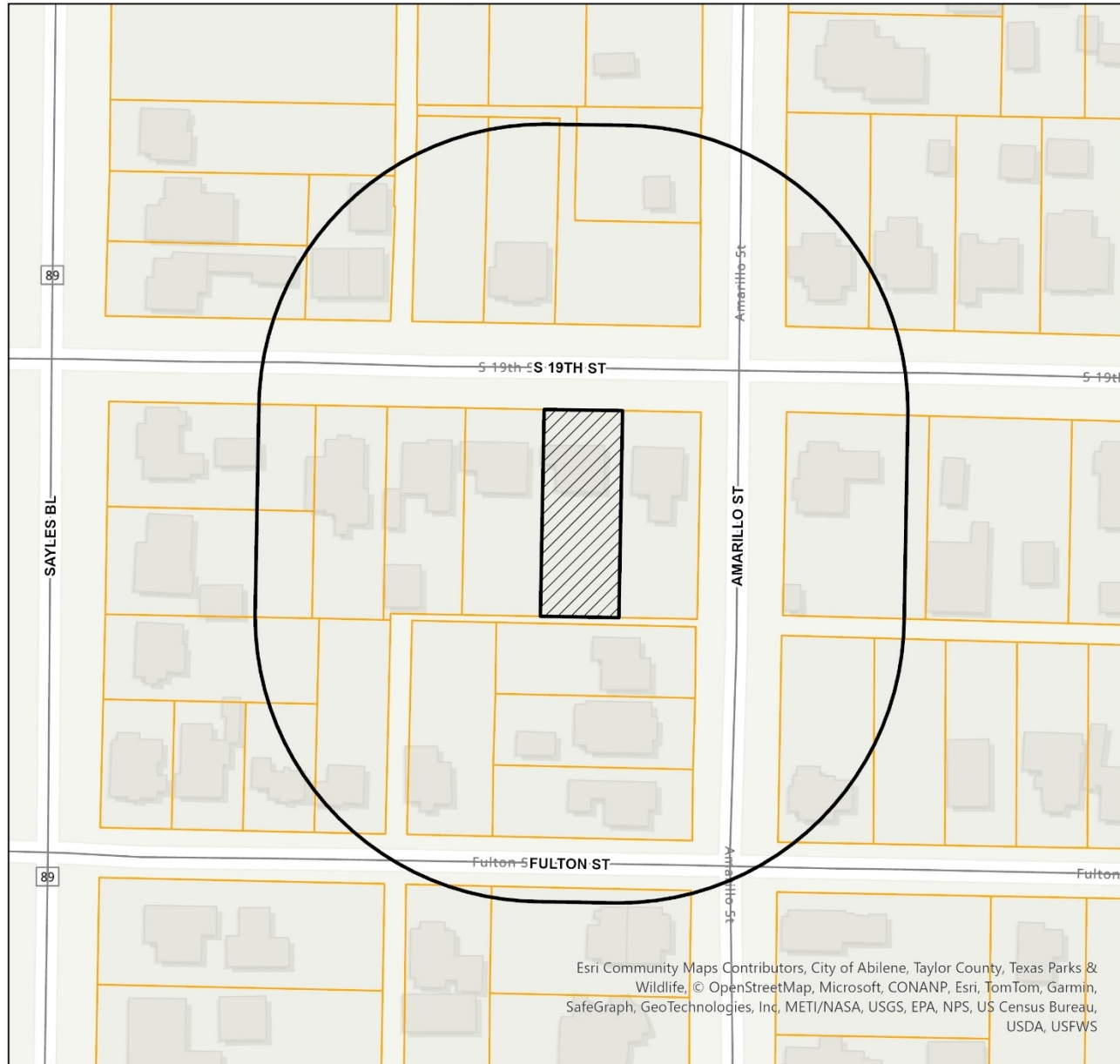
North Neighboring Property






Subject Carport





# NOTIFICATION AREA MAP



## Legend

-  BA-2024-10
-  BA-2024-10
-  Notification Area

- 0- In Favor- 
- 0- Opposed- 

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0.01 Miles



## 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.**

No apparent hardship is present to have prevented the construction of a carport in accordance with the setback requirements of the LDC.

**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 request would not be contrary to the public because the building is located on private property and does not appear to adversely affect the adjoining property.

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

The carport is not consistent with the Land Development Code, which requires additional setback separation for attached carports.

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

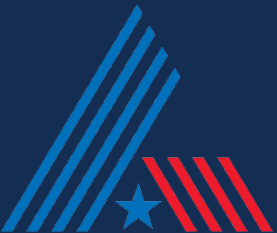
There are no apparent hardships because the need for the variance was created by the applicant.



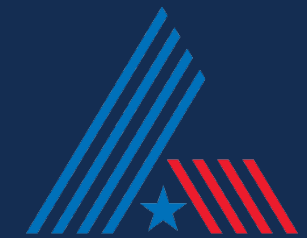
### Recommendation

If the Board determines that the request satisfies the variance criteria, the following conditions should be required:

1. A durable dustless surface, as required by the LDC, shall be provided under the carport within 90-days of the granting of this variance.



# Questions?





# Board of Adjustment Application

## Owner Information and Representative Designation

OWNER INFORMATION			
Name:	Shirley Herring		
Address:	2818 Woodlake		
City:	Abilene	State:	Texas
		Zip:	79606
Number:	325-692-0146	Email:	Shirleyherring2002@yahoo.com

AGENT INFORMATION (if applicable)			
Name:			
Address:	2009 South 19th		
City:	Abilene	State:	Tx
		Zip:	79602
Number:		Email:	

### Project Representation (check one):

- I will represent the application myself; OR
- I hereby designate Tiffany Card Robin Jones (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.

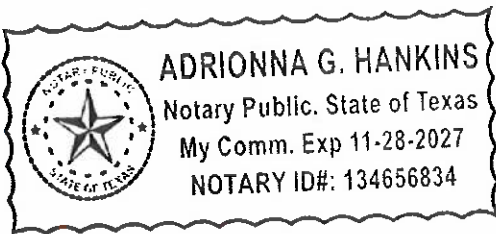
Property Owner's Signature: Shirley Herring

STATE OF: Texas

COUNTY OF: Taylor

BEFORE ME, a Notary Public, on this day personally appeared Shirley Herring (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 16<sup>th</sup> day of April, 2024



Adrionna G Hankins  
NOTARY PUBLIC in and for the State of Texas



# Board of Adjustment Application

## Project Information

### REQUEST TYPE

- Variance       Special Exception       Non-Conformity

### RELIEF PROCEDURES

- Petition for Relief       Proportionality Appeal       Vested Rights Petition       Appeal  
 Other: \_\_\_\_\_

Project Name: <u>Carport</u>		
Address: <u>2009 South 19th</u>	Total lots:	Acreage: <u>  </u>
Subdivision: <u>WE Beasley Hattie M. sayles</u>	Block(s): <u>4</u>	Lot(s): <u>7</u>
Current Zoning: <u>MO</u>		

The proponent (or agent) is responsible for answering the following questions. The following questions need to be answered to the best ability possible in order to assist staff in processing the request. The Board follows this line of questioning and will expect the proponent (or agent) to cover this material in the presentation of the case.

1. 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 its intent.

We replaced a dilapidated carport with a new carport to increase value and curb appeal of the house.

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

No other locations since the carport has been built in the driveway.



# Board of Adjustment Application

3. What affect would it have on the rest of the public if your request is granted? What effect on the neighborhood?

Added curb appeal and property value along with vehicle protection

4. What special conditions apply to your property that would show that the literal enforcement of ordinance Section \_\_\_\_\_ would be an unnecessary hardship on you? What hardship other than financial?

Paying variance and permit and the hardship the cost to build and the cost and loss to remove.

5. What use or activity will be made on the property if your request is granted?

Protection of Vehicles

6. Is your property zoned appropriately?

Yes



# Board of Adjustment Application

7. Does your property have sufficient flood protection according to elevation standards for that area?

*yes*

8. Are there any alternatives available that you could use without needing a variance? Would these alternatives allow you reasonable use of your property? Please explain:

*N/A*