

AGENDA
CITY OF FREDERICKSBURG
BOARD OF ADJUSTMENT
Thursday, December 17, 2015
5:30 P.M.
CITY HALL CONFERENCE ROOM, 126 W. MAIN ST.

- | | | |
|----|---|------------------|
| 1. | Call to Order | <i>PAGE REF.</i> |
| 2. | Approve Minutes of the March 2015 Meeting | <i>Pp 1 - 2</i> |

PUBLIC HEARINGS

- | | | |
|----|--|------------------|
| 3. | <u>PUBLIC HEARING:</u> (ZBA2015-2) by Jose Aguilar to consider a variance to section 3.110 of the Zoning Ordinance relating to street side setback in the R-2, Mixed Residential Zoning District on property located at 702 E. San Antonio | <i>Pp 3 - 15</i> |
| 4. | Consider taking action on ZBA2015-2 | |

ADJOURN

**STATE OF TEXAS
COUNTY OF GILLESPIE
CITY OF FREDERICKSBURG**

**BOARD OF ADJUSTMENT
May 12, 2015
5:30 P.M.**

On this the 12th day of May 2015, the BOARD OF ADJUSTMENT convened in regular session at the regular meeting place thereof with the following members present to constitute a quorum:

MIKE DOOLEY
ROBERT DEMING
CYNTHIA SCROGGINS
DONNIE FINN

ABSENT: BARBARA HEINEN
JIM MCAFEE
GESENA HOUY

ALSO PRESENT: BRIAN JORDAN – Director of Development Services
PAT MCGOWAN – City Attorney
TAMMIE LOTH - Development Coordinator

The meeting was called to order at 5:30 P.M. by Mike Dooley.

MINUTES

Robert Deming moved to approve the minutes of the August, 2014 meeting and Cindy Scroggins seconded the motion. All voted in favor and the motion carried.

PUBLIC HEARING - (ZBA 2015-1) by Heinrich and Brenda Boenig to consider a variance to section 29-7 (1) of the Code of Ordinances pertaining to replacement of a sign on property located at 215 W. San Antonio Street in an R-2, Mixed Residential District. Mike Dooley opened Public Hearing ZBA 2015-1 by Heinrich and Brenda Boenig to consider a variance to section 29-7 (1) of the Code of Ordinances pertaining to replacement of a sign on property located at 215 W. San Antonio Street in an R-2, Mixed Residential District. Brenda and Heinrich Boenig presented the application. Ms. Boenig noted they bought the property five years ago and have had two tenants running a full service flower shop in the building. Laura Sneider and David Leary, the current tenants, were also present at the meeting. Ms. Boenig noted the tenants would like to remove the tall pole sign that is currently on the property and replace it with a small wooden unlit sign in the grassy area of the property. Ms. Boenig noted she was under pressure from the previous tenant to remove the sign and if no sign is allowed because of the zoning district the property is located in, it causes a hardship for her tenants. Ms. Sneider stated they would like a ground sign with wooden poles. Ms. Heinrich noted the old sign is damaged and not working and it also has the wrong name of the business on the sign. Ms. Heinrich commented a new, current sign would help the business thrive.

STAFF COMMENTS

Brian Jordan, Director of Development Services, noted the property is located in a residential

zoning district and the current sign is grandfathered as a non-conforming use. Mr. Jordan noted since the property is located in a residential zoning district, the tenants are not entitled to a sign.

Mr. Jordan noted Staff recommendation of approval and noted two letters have been received in support of the request and none in opposition. Mr. Jordan also clarified the brief which notes the sign is 26 square feet is incorrect and the square footage of the sign will be less than five feet. Ms. Boenig noted the tenants would like to put the sign perpendicular to the street so the signage will be visible from both sides of San Antonio Street.

Mike Dooley closed Public Hearing ZBA 2015-2.

Robert Deming moved to approve Application ZBA 2015-2 and Donnie Finn seconded the motion. All voted in favor and the motion carried.

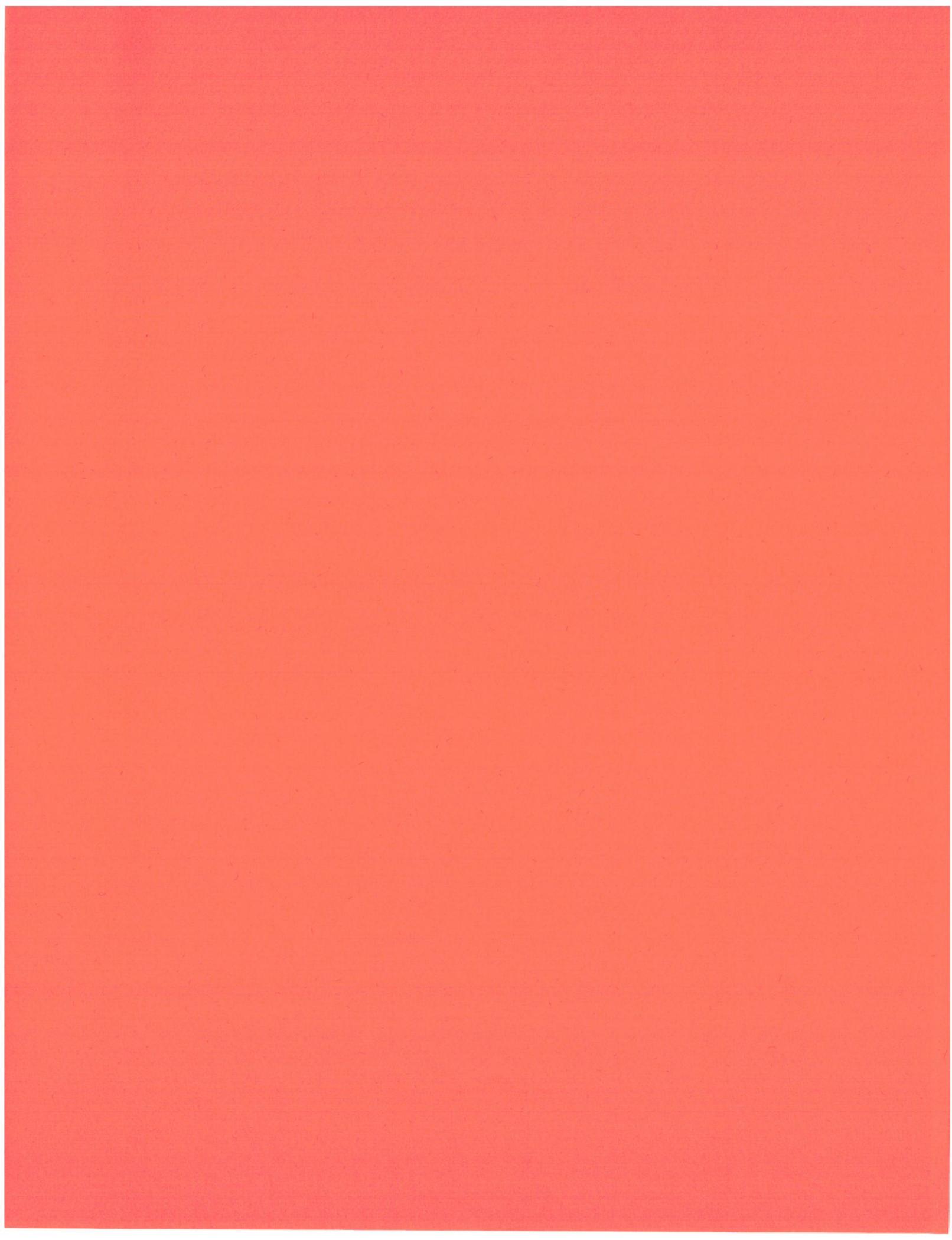
ADJOURN

With nothing further to come before the Board, Cindy Scroggins moved to adjourn the meeting and Donnie Finn seconded the motion. All voted in favor and the meeting was adjourned at 5:41 p.m.

PASSED AND APPROVED this the 17th day of December, 2015.

SHELLEY BRITTON, CITY SECRETARY

ROBERT DEMING, CHAIR



VARIANCE BRIEF

Request # 2015-2

APPLICANT: Jose G. Aguilar

ZONING: R-2, Mixed Residential

LOCATION: 702 E. San Antonio (northeast corner of San Antonio and Columbus Street).

REQUEST: Variance to Section 3.110 of the Zoning Ordinance, pertaining to the Street Side Setback.

FINDINGS:

- The property has frontage on E. San Antonio Street and Columbus Street
- The property contains a new residence constructed in 2015.
- The property consists of portions of two lots. A house was removed on the property to provide for the construction of the new home. Even though the address is listed as San Antonio Street, the lot fronts on Columbus Street.
- The building setbacks on the property are 15' Front Yard (Columbus), 15' Street Side Yard (San Antonio), 5' Side Yard (north side of lot) and 10 Rear Yard (east side). In addition, the Front Yard Setback for a garage is 20'.
- The home was built within 12.2' of the Street Side Setback on San Antonio Street. The Building Official inadvertently approved the setbacks during the foundation inspection.
- The applicant is requesting a reduction in the Street Side Setback from 15' to the actual 12.2' setback.

The Board of adjustment may grant a variance if it makes affirmative findings of fact on **each** of the criteria described below:

- a. The Zoning Regulations applicable to the property do not allow for reasonable use. **This situation is the result of an inadvertent review and approval of the Street Side Setback on the property and does not involve reasonable use.**
- b. The plight of the owner of the property is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial, and are not due to or the result of general conditions in the zoning district in which the property is located. **The circumstances in this case deal**

with the review of and acknowledgement of the setbacks proposed in the field and approved by the Building Official.

- c. The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purposes or regulations to the zoning district in which the property is located. **In reviewing other properties within the vicinity, this variance will not effect other properties within the area.**

OPPOSITION/SUPPORT OF REQUEST: No letters have been received.

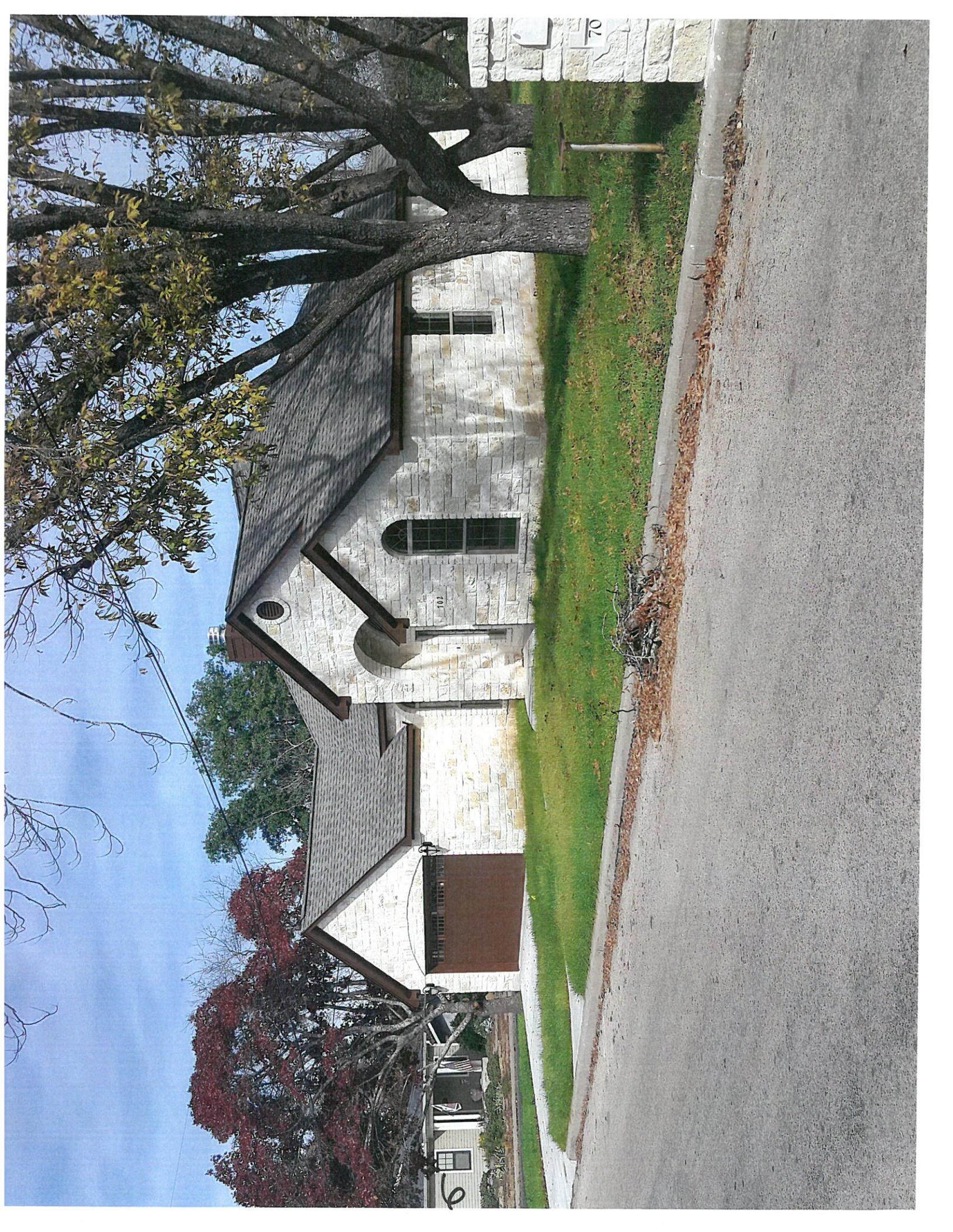
STAFF RECOMMENDATION:

The situation being considered as part of this request was no fault of the owner. This is the result of an error made by the Building Official in interpreting the setback and approving it in the field. The granting of this variance will allow the owner the necessary legal authorization required by the Title Company to insure title. Approval is recommended.



E. San Antonio

Cent
Century 21
833.997
W833748



VARIANCE REQUEST APPLICATION
TO
BOARD OF ADJUSTMENT

1. APPLICANT: Jose G Aguilar
2. ADDRESS: 3640 W. U.S. Hwy 290 78624
PHONE: 830.456-2054 FAX: _____

3. DESCRIPTION OF PROPERTY INVOLVED IN THIS REQUEST:
ADDRESS: 702 E San Antonio Street 78624
LEGAL DESCRIPTION: South Hgts Blk 21 Lot 11-PT & 12-PT
LOT SIZE: 75x100 ZONING DISTRICT: Mixed Residential (R-2)

4. REQUEST IS MADE HEREWITH TO THE BOARD OF ADJUSTMENT THAT A VARIANCE BE GRANTED TO THE FOLLOWING PROVISIONS OF THE ZONING ORDINANCE:
SECTION: 1-6 (3.110) PAGE: 6 & 7 (CDB: 25)
SUBSECTION: 1-10
ITEM: Severability of Parts of Code (R-2: Mixed Residential)
RELATING TO: Set backs
REQUIRING: Specific distances that haven't been met
See Attached Survey

5. INFORMATION TO BE SUBMITTED BY THE APPLICANT:
- A. Site plans, preliminary building elevations, preliminary improvement plans, or other maps or drawings, sufficiently dimensioned as required to illustrate the following, to the extent related to the Variance application:
 - a. Existing and proposed location and arrangement of uses on the site, and on abutting sides within 50-feet.
 - b. Existing and proposed site improvements, buildings, and other structures on the site, and any off-site improvements related to or necessitated by the proposed use. Building elevations shall be sufficient to indicate the general height, bulk, scale, and architectural character.
 - c. Existing and proposed topography, grading, landscaping, and screening, irrigation facilities, and erosion control measures.
 - d. Existing and proposed parking, loading, and traffic and pedestrian circulation features, both on the site and any off-site facilities or improvements related to or necessitated by the proposed use.

B. The Building Official and/ or Director of Development Services may request additional information necessary to enable a complete analysis and evaluation of the variance request, and a determination as to whether the circumstances prescribed for the granting of a Variance exists.

6. REASONS FOR THE REQUEST: Title Insurance needs this exception

A. The Board of Adjustment may grant a variance if it makes affirmative findings of FACT on EACH of the criteria. The applicant shall give a reason why the request complies with the following criteria:

1. The Zoning Regulations applicable to the property do not allow for a reasonable use.

Zoning requirement set-backs are short of
where they are required by R-2 requirements thru
no fault of the owner

2. The plight of the owner of the property is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial, and are not due to or the result of general conditions in the zoning district in which the property is located.

Inspector "permitted" foundation to be completed.
Had builder been given the opportunity, set-backs
would have been met.

3. The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purposes or regulations to the Zoning District in which the property is located.

This is a corner lot & no obstruction of
view was created by this miscalculation

B. PARKING: ADDITIONAL CRITERIA-The Board may grant a Variance to a regulation prescribed by this ordinance with respect to the number of off-street spaces required if it makes findings of fact that the following additional criteria are also satisfied:

1. Neither present nor anticipated future traffic volumes generated by the use of the site or the uses of sites in the vicinity reasonably require strict or literal interpretation and enforcement of the specified regulation.

Traffic volume will not be impeded. View
is not obstructed & home is single family
residence.

2. The granting of the Variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic of the streets.

No obstruction of view. No increase of traffic

3. The granting of the Variance will not create a safety hazard or any other condition inconsistent with the objectives of this ordinance.

No safety hazard as all properties
are currently residences

4. The Variance shall run with the use or uses to which it pertains, and shall not run with the site.

Residential Home even though zoning is R-2

C. SIGNS: ADDITIONAL CRITERIA-The Board may grant a Variance to a regulation prescribed by the Sign Ordinance with respect to the placement of signs, the height of signs or the area of signs if it affirmatively finds each of the following.

1. That a sign is being replaced. For the purposes of this Section, replacement shall include the erection of a new or different sign due to the removal of another sign for any reason, including the change of name of a business, whether from change of ownership, business being conducted, or otherwise, the change of a sign for a continuing business containing the same or different information as the sign being replaced, and the replacement of signs due to damage or vandalism.

No sign involved.

2. That all structures on the property for which the sign is proposed that would impede the replacement of a sign were constructed prior to February 17, 1986.

No sign involved.

3. That it is impractical to abide by existing placement, height or area regulations due to the placement, size of construction of existing structures in relationship to the physical characteristics of the site. For purposes of illustration, physical characteristics may include topography of the site or the surrounding sites, structures on surrounding sites, traffic conditions, street layouts and existing natural vegetation.

No conflict with visibility or with surrounding
property usage.

4. That the other types of signs which are permitted by this Ordinance cannot practically be used. In making this determination of practicality, the Board may consider
- a. The undesirability of altering a historic site to accommodate a sign which would be permitted with no variance under this Ordinance; or
 - b. That alternatives permitted by this Ordinance would involve extensive reconstruction of structures; or
 - c. That alternatives permitted by this Ordinance are prohibitively expensive; or
 - d. That alternatives permitted by this Ordinance will not effectively identify the subject of the sign.

Sign Not Applicable

5. That the proposed sign has been reviewed by the Historic Review Board if applicable.

Not Applicable

6. That the proposed variance is as close to the requirements of the sign ordinance as is feasible.

Not Applicable

7. **NOTICE TO APPLICANT: YOU, OR YOUR REPRESENTATIVE ARE STRONGLY URGED TO ATTEND THE BOARD OF ADJUSTMENT MEETING AT WHICH YOUR VARIANCE REQUEST WILL BE CONSIDERED-** The Board will consider whatever evidence is presented at that time, and may approve, deny, or postpone consideration of your request. Failure to attend may result in the presentation of inadequate or inaccurate information which may result in denial or postponement.

Signature of Owner:

Jose G Aguilar

Date:

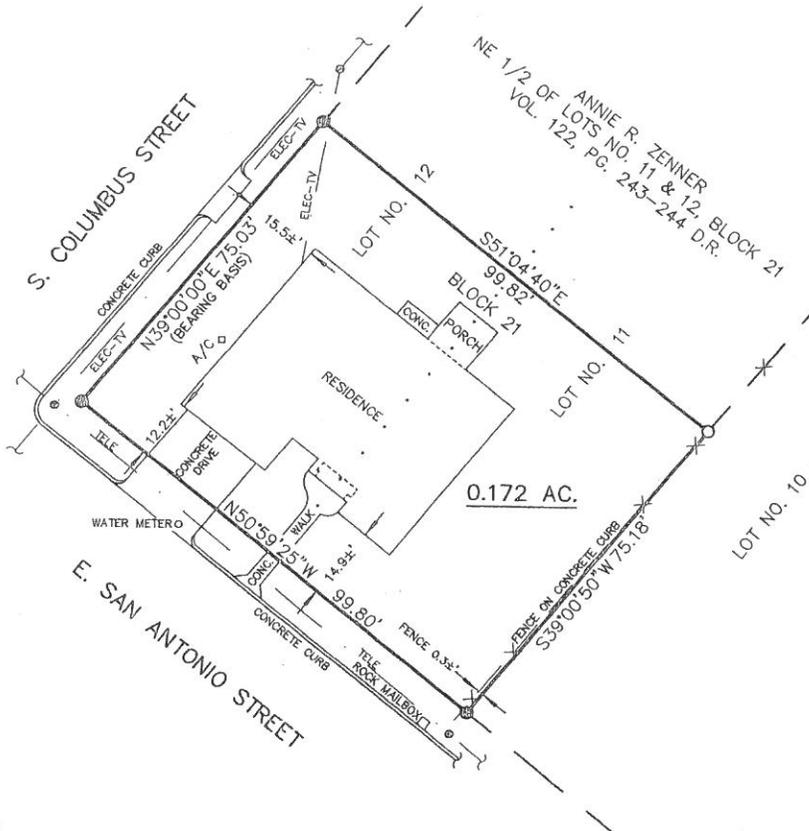
11-23-15

Fee Paid:

8. List of property owners within 200 ft. (Provided by City)

**SURVEY MAP SHOWING
A 0.172 ACRE TRACT OF LAND SITUATED IN
THE CITY OF FREDERICKSBURG, GILLESPIE COUNTY, TEXAS,
BEING PARTS OF LOTS NO. 11 & 12, BLOCK 21, SOUTH HEIGHTS
ADDITION, PLAT FOUND OF RECORD IN VOLUME 18, PAGE 301-302
OF THE DEED RECORDS OF GILLESPIE COUNTY, TEXAS.
SURVEY MADE AT THE REQUEST OF
JOSE AGUILAR.**

BEING THAT 0.172 ACRE TRACT OF LAND DESCRIBED IN A CONVEYANCE
TO JOSE G. AGUILAR, ET AL, BY DENIS O'LEARY, DATED MARCH 18, 2015
FOUND OF RECORD IN INSTRUMENT NO. 20151062 OF THE OFFICIAL
PUBLIC RECORDS OF GILLESPIE COUNTY, TEXAS.



SCALE 1" = 30'



LEGEND

- 1/2" DIA. REBAR FOUND
(CAPPED: C DIGGES RPLS #4061)
- ⊙ 1/2" DIA. REBAR SET
(CAPPED: BONN 4447)
- PIPE FENCE CORNER POST
- UTILITY POLE
- × FENCE



I HEREBY CERTIFY THAT THIS PLAT AND ACCOMPANYING
FIELD NOTES REPRESENT A SURVEY MADE ON THE
GROUND UNDER MY SUPERVISION.

SURVEYED NOVEMBER 4, 2015

CAREY BONN
REG. PROF. LAND SURVEYOR NO. 4447

BONN SURVEYING
503 LONGHORN ST.
FREDERICKSBURG, TX 78624
PHONE: 830-997-3884
FAX: 830-997-0972
EMAIL: bonnsurveying@verizon.net
FIRM REG. NO. 10055800

11

2015-2

Zoning

-  C1 - Neighborhood Commercial
-  C2 - Commercial
-  CBD - Central Business District
-  M1 - Light Manufacturing
-  M2 - Medium Manufacturing
-  M3 - Industrial Park
-  OS - Open Space
-  PF - Public Facilities
-  PUD - Planned Unit Development
-  R1 - Single Family Residential
-  R2 - Mixed Residential
-  R3 - Multi-Family Residential
-  R4 - Manufactured Home Residential
-  R5 - Patio Home Residential



Subject Property

2015-2



200' Notification Area

V V V

Subject Property





NOTICE OF PUBLIC HEARING ON VARIANCE REQUEST

HEARING DATE: December 17, 2015

TIME: 5:30 P.M.

APPEAL NO. 2015-2

The BOARD OF ADJUSTMENT of the City of Fredericksburg will hold a public hearing at the above stated time and date in the Conference Room of City Hall, 126 W. Main St. to consider a variance request as indicated below.

According to City Tax Record, you are the owner of real property listed below, or are the owner within 200' of the requested variance. You are not required to attend the hearing, but if you care to attend you will be given full opportunity to be heard. If you cannot attend the hearing, but wish to comment on the request, please detach the response form below and return it to the City of Fredericksburg, 126 W. Main St., Fredericksburg, Texas 78624. All protests must be submitted in writing.

The decision of the BOARD OF ADJUSTMENT on the requested variance is final. For additional information please do not hesitate to contact the Development Services Department at 830-997-7521.

APPLICANT: Jose G. Aguilar

ADDRESS OF THE SUBJECT PROPERTY: 702 E. San Antonio St.
(See accompanying map)

EXPLANATION OF REQUEST: Variance to section 3.110 of the Zoning Ordinance pertaining to street side setback on property located in the R-2, Mixed Residential Zoning District

(detach here)

Appeal No. 2015-2

As an interested property owner, I (PROTEST) (APPROVE) the requested variance represented by the above appeal number because:

Signed

Address