

AGENDA
CITY OF FREDERICKSBURG
BOARD OF ADJUSTMENT

Thursday, February 13, 2014

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 June 2013 Meeting | <i>Pp 1 - 2</i> |

PUBLIC HEARINGS

- | | | |
|----|---|------------------|
| 3. | <u>PUBLIC HEARING:</u> (ZBA2014-1) by The City of Fredericksburg to consider a variance to Section 3.110 of the Zoning Ordinance pertaining to front yard setback on properties located at 204, 208, 210, and 212 West Schubert | <i>Pp 3 - 20</i> |
| 4. | Consider taking action on ZBA2014-1 | |

ADJOURN

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

**BOARD OF ADJUSTMENT
June 20, 2013
5:30 P.M.**

On this the 20th day of June 2013, 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 - Chair
ROBERT DEMING
BARBARA HEINEN
CYNTHIA SCROGGINS
KAREN OESTREICH

ABSENT: JIM MCAFEE
BRYON SCHAETTER

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

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

MINUTES

Barbara Heinen moved to approve the minutes of the May, 2013 meeting and Cynthia Scroggins seconded the motion. All voted in favor and the motion carried.

PUBLIC HEARING - (ZBA 2013-3)- by Johnson Newman Antiques, LLC at 303 S. Lincoln to consider a variance to Section 29-7, Subsection 4, Item C of the Sign Ordinance pertaining to total sign area allowed in the Central Business District. Mike Dooley opened Public Hearing ZBA 2013-3. Kenneth Johnson and Bruce Woerner were present to discuss the application. Annette Loth, Code Enforcement Officer, noted there is currently 392 square feet of historical signage on the building and recommended the Board approve up to 80 square feet of signage for the business leasing the space. Ms. Loth explained the existing signage cannot be removed because it is considered historic, and the tenants should be able to have signage for their business. Robert Menking agreed the wool and mohair signs on the building are considered decoration, and not a sign, and the tenants need to be able to advertise their business. Brian Jordan, Director of Development Services, reminded the Board this has been allowed before on a different part of the building. Barbara Heinen asked if the Historic Review Board would have to approve the colors of the sign and Ms. Loth stated the colors are approved. Mike Dooley closed Public Hearing ZBA2013-3.

Karen Oestreich moved to approve Application ZBA2013-3. Cynthia Scroggins seconded the motion. All voted in favor and the motion carried.

With nothing further to come before the Board, Robert Deming moved to adjourn the meeting and Barbara Heinen seconded the motion. All voted in favor and the meeting was adjourned at 5:47 p.m.

PASSED AND APPROVED this the 13th day of February, 2014.

SHELLEY BRITTON, CITY SECRETARY

MIKE DOOLEY, CHAIR

VARIANCE BRIEF

Request # 2014-1

APPLICANT: City of Fredericksburg

ZONING: R-2, Mixed Residential

LOCATION: 204-212 W. Schubert St.

REQUEST: Variance to Section 3.110 of the Zoning Ordinance, pertaining to a reduction in the Front Yard Setback.

FINDINGS:

- There are 4 properties (204, 208, 210 and 212 W. Schubert Street) within this block that encroach into the 15' Front Yard Setback.
- The homes on the properties were constructed before the City changed the Front Yard Setback in R-2 Districts from 25' to 15' in 2008.
- Staff has been unable to determine the actual setbacks that were used when the permits for these structures were issued. As allowed in Section 7.320.F of the Zoning Ordinance, it may have been that an average setback was determined and utilized. However, we have done the measurements ourselves, and the buildings still encroach into the average setback we have determined.
- According to the surveys provided, the encroachment at 208 W. Schubert is 1.29', 210 W. Schubert is 0.68' and 212 W. Schubert is 0.8'. We do not have detailed information on 204 W. Schubert, but based on the sketch we have, it would appear to be similar to 208 W. Schubert.
- With the exception of the Dr. Office at 204 W. Schubert, surrounding land uses are residential.
- Setbacks required per the zoning are 15' along Schubert Street. The average setback we have determined within the block is 14.7'.
- The property at 208 W. Schubert was scheduled to close recently, and it did not because the survey reflected a building encroachment into the Front Yard. After reviewing the survey provided by the realtor, we determined that the encroachment was into the 15' setback as well as the average setback.

- In addition, during our review, it was determined that the other properties within the block at 204, 210 and 212 W. Schubert also encroach into the setback.
- The City has initiated this request because we believe the permits that were issued by the city along with the actual locating of the buildings were done in good faith, with no intent to circumvent the zoning requirements. Therefore, we are proposing that a variance be granted to each of these properties to make them compliant with zoning.

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. **Reasonable use of the property is available to the subject properties. The issue in this case is whether or not to recognize the established setbacks within this block.**
- 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. **We do not believe the circumstances were created by the owners of the property. We believe that the builders were operating properly under the permit they were issued.**
- 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. **Since the properties are developed, we would not expect the proposed variance to affect the character of the neighborhood.**

OPPOSITION/SUPPORT OF REQUEST: None.

STAFF RECOMMENDATION:

The granting of the variance to the front yard setback along W. Schubert Street would seem reasonable given the circumstances of how this block developed. We recommend that a variance be granted for all 4 properties to bring them into compliance. Since each property appears to have a slightly different setback, ranging from 0.68' to 1.29', we would suggest granting a 1.5' variance for all the properties.



2014-1

\$150.00 application fee

APPEAL NO. _____
DATE _____

**VARIANCE REQUEST APPLICATION
TO
BOARD OF ADJUSTMENT**

1. APPLICANT: City of Fredericksburg
2. ADDRESS: 126 W. Main St.
PHONE: 997-7521 FAX: _____

3. DESCRIPTION OF PROPERTY INVOLVED IN THIS REQUEST:
ADDRESS: 204, 208, 210, 212 W. Schubert St.
LEGAL DESCRIPTION: See attached surveys
LOT SIZE: _____ ZONING DISTRICT: 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: 3.110 PAGE: _____
SUBSECTION: _____
ITEM: _____
RELATING TO: Front yard setback
REQUIRING: 15'

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.

6

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: See attached Staff brief.

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.

See attached brief

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.

See attached brief

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.

See attached brief

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.

NA

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.

NA

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

NA

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

NA

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.

NA

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.

NA

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.

NA

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.

NA

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

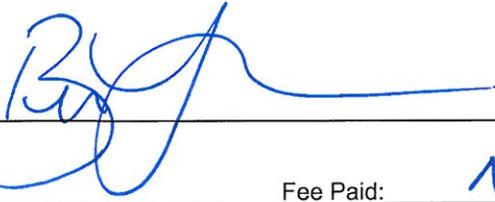
NA

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

NA

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: _____



Date: _____

1/24/14

Fee Paid: _____

NA

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

February 3, 2014

VIA HAND DELIVERY

**The City of Fredericksburg
Attn: Mr. Brian Jordan
Director of Development Services**

Re: 204 West Schubert Street, Fredericksburg, Texas

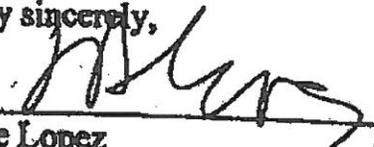
Dear Mr. Jordan:

We own the property located at the above address. It has come to our attention that the residence located on the property may be situated forward of the front building setback line as promulgated by city ordinance. It is my understanding that similar issues may exist with regard to 208, 210 and 212 West Schubert Street and that the city is initiating an effort to present these issues to the Board of Adjustment of the City of Fredericksburg, seeking the granting of a Variance.

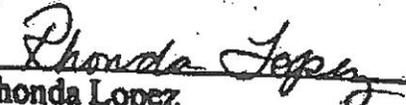
This letter will confirm our request that a Variance be granted with regard to our property and the other properties described above, to the extent that no violation of the city ordinance exists.

Thank you in advance for your efforts.

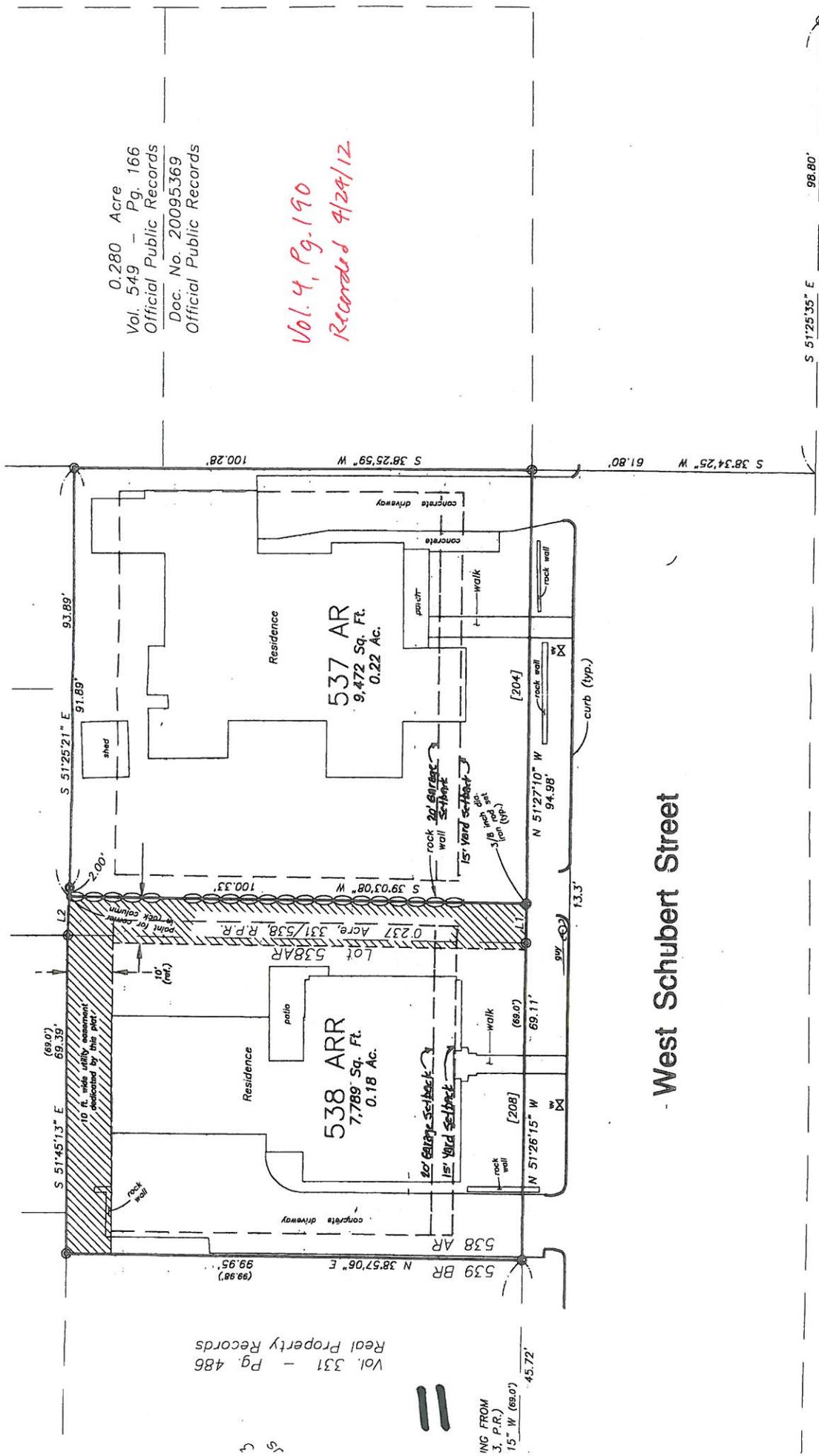
Very sincerely,



Jose Lopez



Rhonda Lopez



0.280 Acre
 Vol. 549 - Pg. 166
 Official Public Records
 Doc. No. 20095369
 Official Public Records

Vol. 4, Pg. 190
 Recorded 9/24/12

Vol. 331 - Pg. 486
 Real Property Records

ING FROM
 3, P.R.)
 15" W (68.0)

West Schubert Street

S 51'25'35" E 98.80'

38 ARR are zoned R-2, Mixed Residential.

February 5, 2014

VIA HAND DELIVERY
The City of Fredericksburg
Attn: Mr. Brian Jordan
Director of Development Services

Re: 208 West Schubert Street, Fredericksburg, Texas

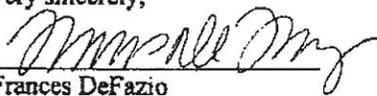
Dear Mr. Jordan:

I own the property located at the above address. It has come to my attention that the residence located on the property may be situated forward of the front building setback line as promulgated by city ordinance. It is my understanding that similar issues may exist with regard to 204, 210 and 212 West Schubert Street and that the city is initiating an effort to present these issues to the Board of Adjustment of the City of Fredericksburg, seeking the granting of a Variance.

This letter will confirm my request that a Variance be granted with regard to my property and the other properties described above, to the extent that no violation of the city ordinance exists.

Thank you in advance for your efforts.

Very sincerely,


Frances DeFazio

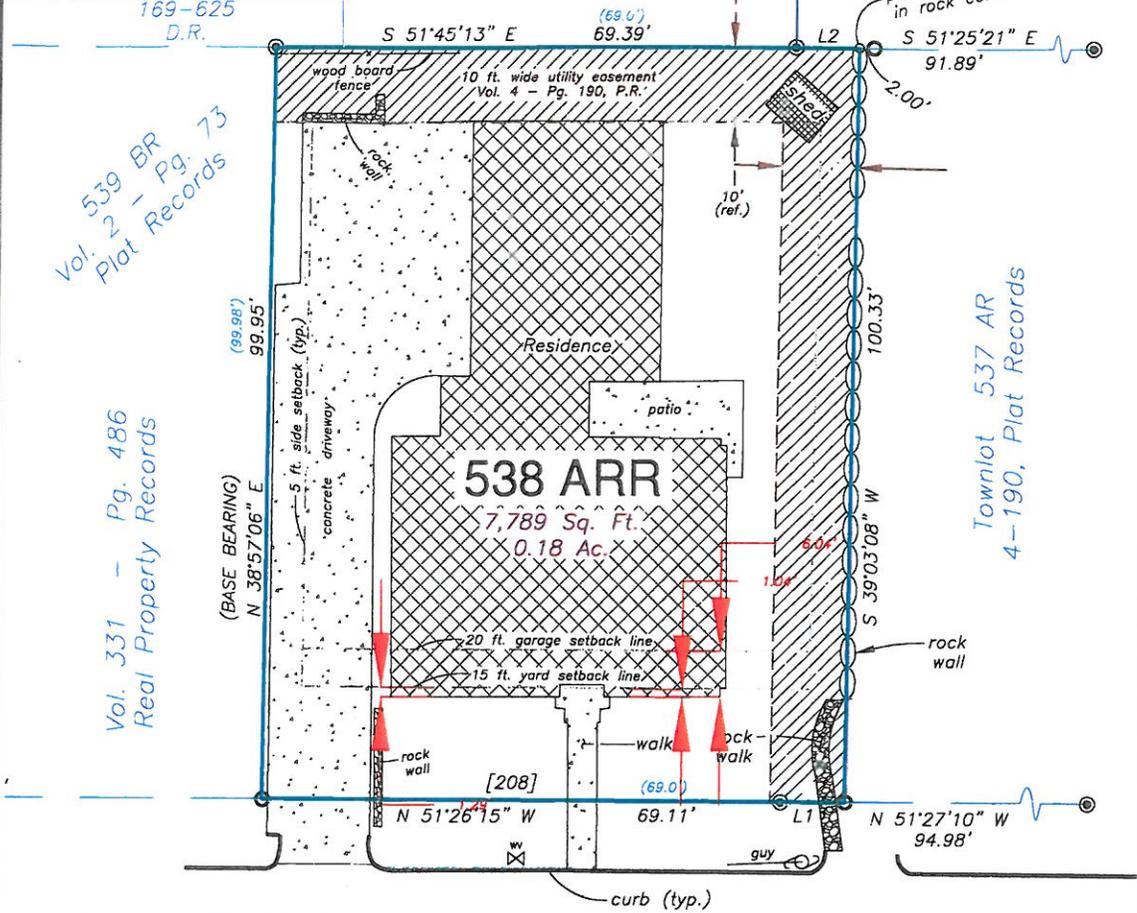
DRAWN BY: d.a.s. DATE: 13
 CHECKED BY: d.a.s. DRAWING NO.: 8-13-5883
 JOB NO.: 8-13-5883 SHEET 1 OF 1

Vol. 220 - Pg. 752
 Deed Records

169-625
 D.R.
 Vol. 539 BR
 Vol. 2 - Pg. 73
 Plat Records

Vol. 331 - Pg. 486
 Real Property Records

Townlot 537 AR
 4-190, Plat Records



LINE TABLE		
LINE	BEARING	LENGTH
L1	N 51°27'10" W	8.57'
L2	S 51°25'21" E	8.47'

W. Schubert Street

PREPARED FOR:
 Texas ReExploration, Ltd, 04
 208 West Schubert Street
 Fredericksburg, TX 78624

TITLE COMPANY:
 Hill Country Titles, Inc.
 114 East Austin Street
 Fredericksburg, TX 78624

NOTE: The plat for the Re-Subdivision of Townlot 538 AR and part of Townlot 537 was approved by the City of Fredericksburg on April 18, 2012 and recorded in the County records on April 24, 2012 (Vol. 4, Pg. 190).

This plat reflects the Front Yard Building Setback encroachments that existed at the time the plat was approved and recorded.

This tract is subject to the following easements listed in Hill Country Titles, Inc. Commitment for Title Insurance, G. F. No. 213-1124, issued January 7, 2014:
 - Setback lines and Utility Easement shown on plat recorded in Vol. 4, Pg. 190, Gillespie County Plat Records. SHOWN HEREON.

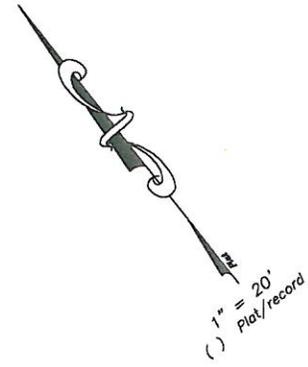
The undersigned does hereby certify that a survey was made on the ground of the property shown hereon, that it is correct and that there are no obvious boundary line conflicts, encroachments, overlapping of improvements or roads in place except as shown hereon and that said property has access to and from a dedicated roadway except as shown.

PRELIMINARY - NOT TO BE RECORDED FOR ANY PURPOSE.

Dec. 31, 2013

Dale Allen Sulteimer
 Registered Professional Land
 Surveyor
 No. 4542 - State of Texas

- LEGEND**
- ⊙ 1/2 inch dia. iron rod found
 - ⊖ 3/8 inch dia. iron rod found
 - electric meter pad
 - ▣ Verizon riser box
 - ▤ Time Warner riser box
 - ▥ gas meter
 - ▦ water meter
 - ▧ air conditioning unit
 - ⊕ utility pole
 - P.R. Plat Records
 - D.R. Deed Records



S
SULTEMEIER
SURVEYING & ENGINEERING
 Boundary-Title-Topographic-Construction Surveys
 Engineering - Land Development Services
 805 North Llano Street
 Fredericksburg, Texas 78624
 (830) 990-1221 Fax (830) 990-1222
 Copyright © 2014 All Rights Reserved
 sulteimersurveying.com
 LICENSED SURVEYING FIRM: 100930-00

13

Townlot 538 ARR
 Volume 4 - Page 190
 Gillespie County Plat Records
 Gillespie County, Texas

February 5, 2014

VIA HAND DELIVERY
The City of Fredericksburg
Attn: Mr. Brian Jordan
Director of Development Services

Re: 210 West Schubert Street, Fredericksburg, Texas

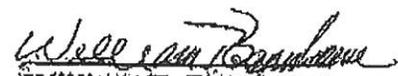
Dear Mr. Jordan:

I own the property located at the above address. It has come to the residence located on the property may be situated forward of the setback line as promulgated by city ordinance. It is my understanding may exist with regard to 204, 208 and 212 West Schubert Street an initiating an effort to present these issues to the Board of Adjustme Fredericksburg, seeking the granting of a Variance.

This letter will confirm my request that a Variance be granted property and the other properties described above, to the extent that a city ordinance exists.

Thank you in advance for your efforts.

Very sincerely,

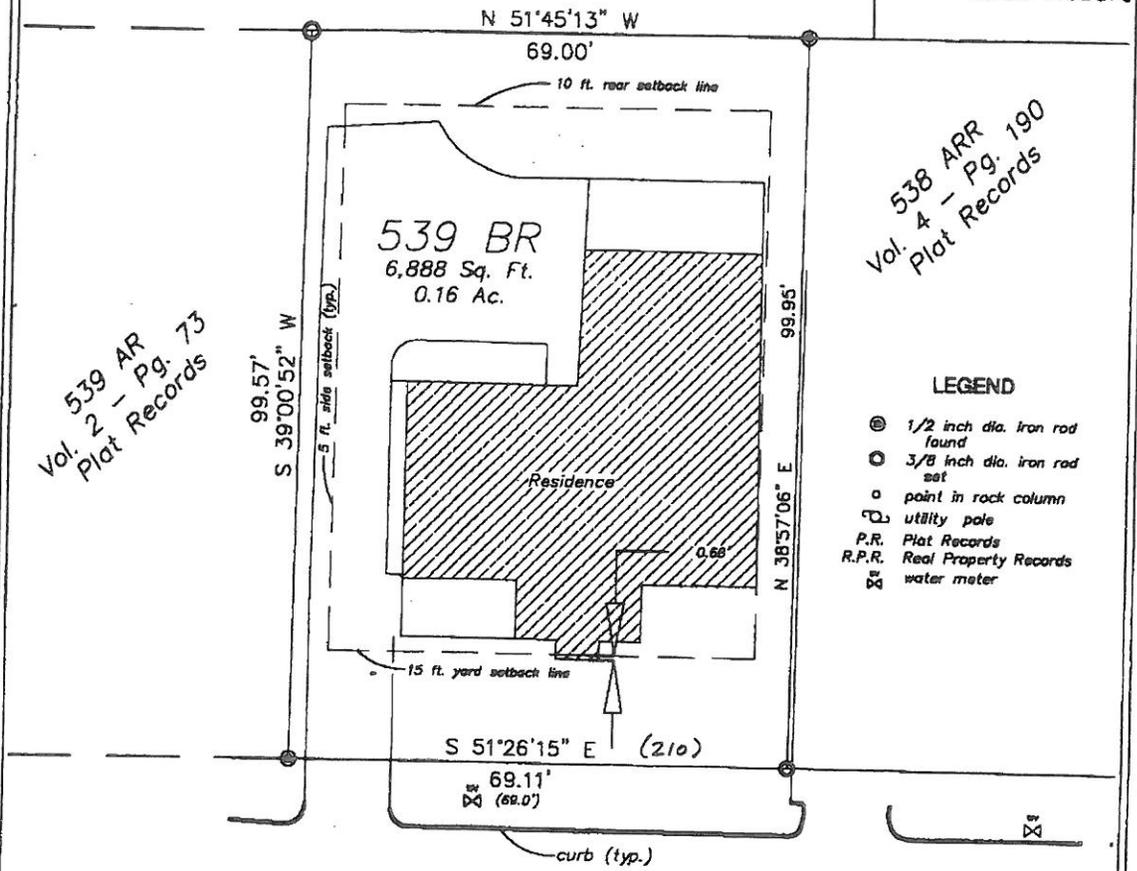

William T. Barnhouse

14

DRAWN BY: <i>d.a.</i>	DATE: 13
CHECKED BY: <i>d.a.</i>	APPROVED NO.: <i>15-5025</i>
JOB NO.: <i>15-5025</i>	SHEET 1 OF 1

Vol. 169 - Pg. 625
Deed Records

Vol. 220 - Pg. Deed Record



Vol. 2 - Pg. 73
Plat Records

538 ARR
Vol. 4 - Pg. 190
Plat Records

LEGEND

- ⊙ 1/2 inch dia. iron rod found
- ⊙ 3/8 inch dia. iron rod set
- point in rock column
- utility pole
- P.R. Plat Records
- R.P.R. Real Property Records
- ⊗ water meter

West Schubert Street

The undersigned does hereby certify that a survey was made on the ground of the property shown hereon, that it is correct and that there are no obvious boundary line conflicts, encroachments, overlapping of improvements or roads in place except as shown hereon and that said property has access to and from a dedicated roadway except as shown.

PRELIMINARY - NOT TO BE RECORDED FOR ANY PURPOSE.

January, 2014

Dale Allen Sulzemeier
Registered Professional Land
Surveyor
No. 4542 - State of Texas



1" = 20'
() Plat/record

SULZEMEIER
ENGINEERING

Surveying - Topographic - Construction Surveys
Engineering - Land Development Services
603 North Liano Street
Fredericksburg, Texas 78624
(830) 890-1221 Fax (830) 890-1222
Copyright © 2014 All Rights Reserved
sulzemeiersurveying.com
LICENSED SURVEYING FIRM: 100830-00

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Townlot 539 BR
Volume 2 - Page 73
Gillespie County Plat Records
Gillespie County, Texas

February 6, 2014

VIA HAND DELIVERY

The City of Fredericksburg
Attn: Mr. Brian Jordan
Director of Development Services

Re: 212 West Schubert Street, Fredericksburg, Texas

Dear Mr. Jordan:

Reference the property located at the above address. It has come to our attention that the residence located on the property may be situated forward of the front building setback line as promulgated by city ordinance. It is my understanding that similar issues may exist with regard to 204, 208 and 210 West Schubert Street and that the city is initiating an effort to present these issues to the Board of Adjustment of the City of Fredericksburg, seeking the granting of a Variance.

This letter will confirm our request that a Variance be granted with regard to the captioned property and the other properties described above, to the extent that no violation of the city ordinance exists.

Thank you in advance for your efforts.

Very sincerely,

DocuSigned by:
Josh Wooten
Josh Wooten

DocuSigned by:
Leanne Wooten
Leanne Wooten

Per Title Company,....
Please note this Survey Plat is not certified,
It would not be sufficient for a mortgage loan that
lender requires Survey Amendment and/or T-19 Endorsement.

According to Title Commitment No. 209-178, this tract is
subject to:
Building set back lines according to plat recorded in
Volume 2, on page 73, of the Plat Records of Gillespie
County, Texas.

This tract is Townlot Nos. 540AR & 539AR,
of Re-subdivision of Parts of Townlots No.
538, 539, & 540, according to plat
recorded in Volume 2, on page 73, of the
Plat Records of Gillespie County, Texas.



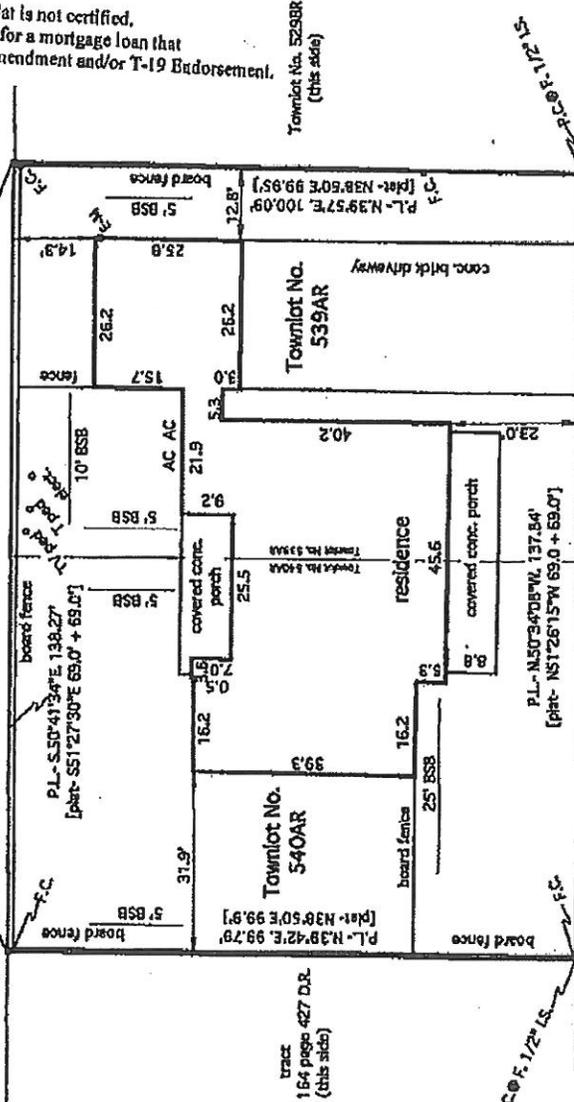
- LEGEND:**
- P.C. - property corner
 - S.L.S. - set iron stake
 - F.L.P. - found iron pipe
 - exp - Dominguez 1713
 - P.L. - property line
 - F.C.P. - fence corner post
 - EM - elevation
 - [] - dead information
 - / - Volume/page
 - BSB - building set back
 - D.R. - Dead Records
 - F.C. - fence corner
 - E - electric
 - T - telephone
 - TV - television
 - DL - distribution line
 - SL - service line
 - PP - power pole
 - FED - pedestal
 - UL - underground line
 - M - meter
 - W - water

tract
Volume 164 page 427 D.R.
(this side)

tract
Volume 191 page 501 D.R.
(this side)

tract
Volume 169 page 625 D.R.
(this side)

tract
Volume 169 page 625 D.R.
(this side)



curb

To: Fred Crooks, Shirley Crooks, Financial
Freedom Senior Funding Corporation, and First
American Title Insurance Company.

This is to certify that this map or plat represents
a survey made on the ground that conforms to "The
Texas Board of Professional Land Surveying General
Rules of Practice" of the facts found for the
premises specifically described in First American
Title Insurance Company, title insurance company
Title Commitment No. 209-178, on the date
indicated below.

Charles B. Dominguez
Registered Professional Land Surveyor No. 173
Only those prints containing the subject tract should be recognized
official and relied upon by the user.

All building improvements and
dimensions thereto are shown on the
plat.

There are no visible protrusions
across property lines, except as
may be shown on the plat.

All visible easements are located on
the plat.

There is no physical evidence of
possession of the property by any
party except as shown herein.

The property has ingress and
egress along a public roadway.

All instruments shown herein
actually exist.

GF No. 209-178
D&A Job No. 6062

W. Schubert Street

In The
State of Texas
County of Gillespie
City of Fredericksburg
212 W. Schubert St.
Scale 1" = 20 Feet
March 17, 2009

Dominguez & Assoc.
609 Sidney Baker St.
Kerrville, Texas 78028
Tel. 830/896 6900
Fax 830/896 6901

Townlot Nos. 540AR & 539AR

Re-subdivision of Parts of
Townlots No. 538, 539, & 540

2014-1



200' Notification Area



City of Fredericksburg
126 West Main Street
Fredericksburg, TX 78624

NOTICE OF PUBLIC HEARING ON VARIANCE REQUEST

HEARING DATE: February 13, 2014

TIME: 5:30 P.M.

APPEAL NO. 2014-1

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: The City of Fredericksburg

ADDRESS OF THE SUBJECT PROPERTY: 204, 208, 210 and 212 W. Schubert

EXPLANATION OF REQUEST: Variance to section 3.110 of the Zoning Ordinance pertaining to front yard setback

(detach here)

Appeal No. 2014-1

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

Signed

Address