

AGENDA
CITY OF FREDERICKSBURG
BOARD OF ADJUSTMENT

Thursday, June 20, 2013

5:30 P.M.

CITY HALL CONFERENCE ROOM, 126 W. MAIN ST.

1. Call to Order

PAGE REF.

2. Approve Minutes of the May 2013 Meeting

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PUBLIC HEARINGS

3. PUBLIC HEARING: (ZBA2013-3) 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

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4. Consider taking action on ZBA2013-3

ADJOURN

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

**BOARD OF ADJUSTMENT
May 16, 2013
5:30 P.M.**

On this the 16th day of May 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
JIM MCAFEE

ABSENT: KAREN OESTREICH
BRYON SCHAETTER

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

Jim McAfee noted a correction of the minutes regarding his attendance and Mike Dooley noted a correction of his comments. Barbara Heinen moved to approve the minutes as corrected and Cynthia Scroggins seconded the motion. All voted in favor and the motion carried.

PUBLIC HEARING - (ZBA 2013-2)- by Dan & Verna Fritz at 402 South Creek to consider an administrative appeal to Staff's interpretation of Section 6.110 of the Zoning Ordinance pertaining to "enlarging, expanding, extending, or changing a non-conforming use". Mike Dooley opened Public Hearing ZBA 2013-2. Gordon Sauer, attorney for the applicant, presented the application. Dr. and Mrs. Fritz were also present. Mr. Sauer gave a brief history of the property and noted when it was annexed into the city, it came in as residential/commercial zoning. Mr. Sauer noted the use is non conforming and was grandfathered when the property was annexed. Mr. Sauer stated the applicant is not expanding his foundation or the footprint of the building, only enclosing a concrete ramp and closing in the area that goes to the edge of the existing concrete. Mr. Sauer stated the purpose of the requested change is for cosmetic appearance with an enhanced front entrance and improved approach. Mr. Sauer noted the interior change will be more waiting room area, increased front service counter area and a handicapped accessible restroom facility. Mr. Sauer commented this will make it more accommodating and convenient for Dr. Fritz's customers. Mr. Sauer clarified Dr. Fritz is not planning on adding any extra work areas or exam rooms, the added area will only be for the convenience of his customers. Mr. Sauer added the basis for their appeal is that although a non-conforming use can continue indefinitely, there are limitations. Mr. Sauer noted the limitation

language is what is at the heart of the issue and explained the ordinance states the continuance of a non-conforming use can not be enlarged, expanded, extended or changed. Mr. Sauer stated the non-conforming use needs to be distinguished between space and actual use area and noted there will not be any increase or change to the work area.

PUBLIC COMMENT

James Massey from 209 S. Creek stated the change will enhance the appearance from Franklin Street and stated he has no problem with the request. Mr. Sauer added Dr. Fritz has approximately a dozen signatures from neighbors who are not opposed to his request.

STAFF COMMENTS

Brian Jordan, Director of Development Services, stated Staff has no objection to the proposal, but as a general rule, the change of use referred to in the ordinance is all inclusive. Mr. Jordan commented the basic fundamental use is not changing, but the building is changing physically, and the characteristics of the structure are taken into consideration when determining an expansion of a non-conforming use. Mike Dooley asked if all the improvement were in place before the property was annexed into the city and Dr. Fritz confirmed they were. Mr. Jordan added the idea of grandfathering is that eventually the non-conforming uses will go away but each time the property is improved, the length of time until that happens is extended. Mrs. Fritz asked what the master plan is for the area where the property is located. Mr. Jordan noted everything is zoned Mixed Residential except for the livestock auction property, which is zoned commercial. Dr. Fritz commented he wishes he would have been given the choice to be annexed into the city as a commercially zoned property instead of a residentially zoned property. Mr. Dooley stated he does not see much residential development happening in this area until the auction barns are gone. Dr. Fritz commented he doesn't want to become like the veterinarians in large cities where most of his care becomes an in out service and he can't care for the animals after their procedures. Mr. Dooley closed Public Hearing 2013-2.

Jim McAfee stated since the applicant is not increasing the footprint of his building, he is in favor of approving the application. Mr. Dooley added the applicant is not infringing on anyone else's property or use of their property because the way the building is being used will remain the same.

Robert Deming moved to approve Application 2013-2 on the basis the facility is used as a veterinarian clinic, expanding within their existing footprint, and does not constitute an enlargement, expansion or extension of the clinic, nor does it change the existing use. Barbara Heinen 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 Jim McAfee seconded the motion. All voted in favor and the meeting was adjourned at 6:02 p.m.

PASSED AND APPROVED this the 20th day of June, 2013.

SHELLEY BRITTON, CITY SECRETARY

MIKE DOOLEY, CHAIR

The first part of the paper discusses the importance of the study and the objectives of the research. It highlights the need for a comprehensive understanding of the subject matter and the role of the researcher in this process. The second part of the paper presents the methodology used in the study, including the data collection methods and the analysis techniques. The third part of the paper discusses the results of the study and the conclusions drawn from the findings. The final part of the paper provides a summary of the key points and offers suggestions for further research.

The study was conducted in a systematic and rigorous manner, following the principles of scientific research. The data was collected from a large sample of participants, and the results were analyzed using advanced statistical techniques. The findings of the study are presented in a clear and concise manner, allowing for a thorough understanding of the subject matter. The conclusions drawn from the findings are based on a careful analysis of the data and are supported by the results of the study.

The study has several limitations, which are discussed in the paper. These limitations include the sample size, the duration of the study, and the potential for bias. Despite these limitations, the study provides valuable insights into the subject matter and contributes to the existing body of knowledge. The findings of the study are discussed in the context of the current research and are compared with the results of other studies.

The study has several strengths, which are also discussed in the paper. These strengths include the use of a large sample size, the application of advanced statistical techniques, and the thoroughness of the analysis. The study also has several practical implications, which are discussed in the paper. These implications include the need for further research in this area and the potential for the findings to be applied in practice.

In conclusion, the study provides a comprehensive understanding of the subject matter and contributes to the existing body of knowledge. The findings of the study are presented in a clear and concise manner, allowing for a thorough understanding of the subject matter. The conclusions drawn from the findings are based on a careful analysis of the data and are supported by the results of the study. The study has several limitations, which are discussed in the paper, and several strengths, which are also discussed in the paper. The study also has several practical implications, which are discussed in the paper.

**Variance Brief
Request # 2013-3**

Applicant: Kenneth Johnson
Johnson Newman Antiques, LLC

Zoning: CBD- Central Business District

Location: 303 South Lincoln-Woerner Warehouse

Request: Variance to Section 29-7(Permanent Signs permitted by district), Subsection 4(c) of the Sign Regulations pertaining to total sign area.

Findings: The portion of the building being leased by the applicant has approximately 60' of street frontage. We measured the entire building to be approximately 183' in length.

The subject building sits back approximately 17' from the street.

Per the Sign Regulations, the site would qualify for the maximum of 80 square feet of signage.

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:

a. 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. **The combined area of the three signs painted on the west side of the wall, measured at a total of 392 square feet are, of historical value.**

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

c. That it is impractical to abide by the 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 surrounding sites, structures on surrounding sites, traffic conditions, street layouts and existing natural vegetation. **The three existing historic signs, are a combined total of 392 square feet in size. This leaves no allowable signage for the new business.**

d. 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:

(1)The undesirability of altering a historic site to accommodate a sign which would be permitted with no variance under this Ordinance; **The site location of 303 South Lincoln is in the Historical District. The building is a low rated historic site.**

(2)That alternatives permitted by this Ordinance would involve extensive reconstruction of structures; or

(3)That alternatives permitted by this ordinance are prohibitively expensive; or

(4)That alternatives permitted by this Ordinance will not effectively identify the subject of the sign. **A Wall sign and Canopy sign is allowed on this site. A Ground sign is not allowed or practical on the front of the property due to the property line beginning at the base of the front walls of the building.**

(5)That the proposed sign has been reviewed by the Historic Review Board if applicable. **Proposed signage has not been reviewed by the Historical Review Board.**

(6) That the proposed variance is as close to the requirements of the sign ordinance as is feasible. **In our opinion, the allowance of additional signage, due to the existing 392 square feet historical signs on the west side of the building represent a reasonable request.**

Opposition/Support of Request: To date, staff has received no comments in the support or opposition of this request.

Recommendations:

The existing historical wall signs, located on the west side of the building measure a combined total of 392 square feet. These signs are historical and are not being removed from the building. The new business will not be allowed any signage, due to these existing signs. The applicant is requesting to hang a canopy sign above the double doors, measuring 18" x 60" and a wall sign, measuring 12" x 60", thus utilizing 12 and ½ feet of the allowed 80 square feet.

The Variance Request involves the business to use the allowable 80 square feet, which reads, per Section 29-7 (4)c,- The maximum total sign area shall not exceed to two square feet of sign area per foot of business frontage, but in no case shall exceed 80 square feet.

In our opinion, the proposal for additional signage relating to this property meets the criteria for granting a variance.

**VARIANCE REQUEST APPLICATION
TO
BOARD OF ADJUSTMENT**

1. APPLICANT: Johnson Newmark Antiques, LLC
2. ADDRESS: 301 S. Lincoln 486, TX
PHONE: 512 4135900 FAX: _____
3. DESCRIPTION OF PROPERTY INVOLVED IN THIS REQUEST:
ADDRESS: 301 S. Lincoln
LEGAL DESCRIPTION: MOELLENGER Addition
LOT SIZE: 21 x 22 ZONING DISTRICT: CENTRAL BUSINESS
4. REQUEST IS MADE HERewith TO THE BOARD OF ADJUSTMENT THAT A VARIANCE BE GRANTED TO THE FOLLOWING PROVISIONS OF THE ZONING ORDINANCE:
SECTION: Spec 29-7 PAGE: 29: 9
SUBSECTION: 4
ITEM: C
RELATING TO: TOTAL SIGN AREA ALLOWED
REQUIRING: NO MORE THAN 80 % OF
SIGNAGE
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.

RECEIVED

MAY 24 2013

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: TO NAME TO IDENTIFY BUSINESS
LOCATION & ADDRESS

- 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.

HISTORICAL SIGNS OVERWHEM ALL OTHER
SIGNS

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.

HISTORICAL REQUIREMENTS TO
LEAVE EXISTING SIGNS

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.

OUR PROPOSAL WILL NOT

- 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.

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.

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

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

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.

SIGNS ARE NEW

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.

YES

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.

HISTORIC SIGNAGE
MUST REMAIN

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.
- _____
- _____

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

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

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.

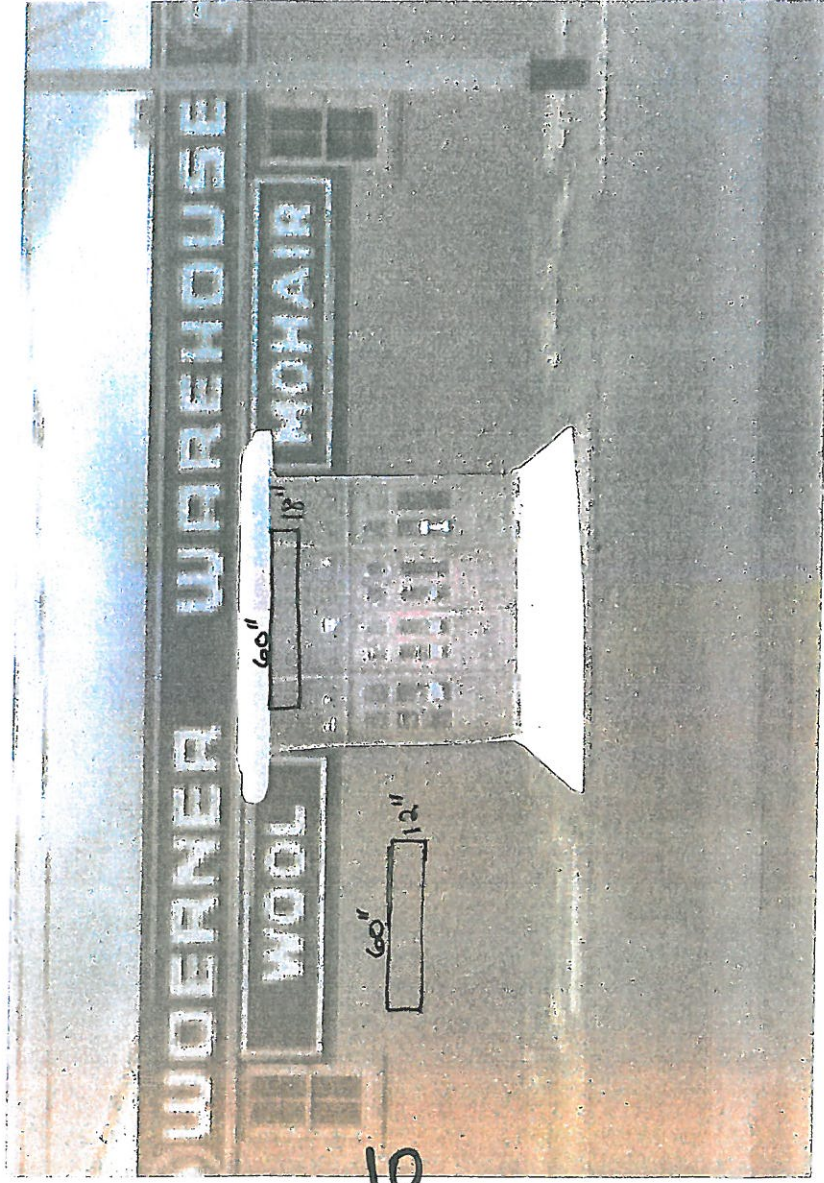
Signature of Owner: _____

Date: _____

Fee Paid: _____

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

Proposed front elevation - Colors to be determined



18x60

DL



7.5 sf

TAKE
OFF

S/S

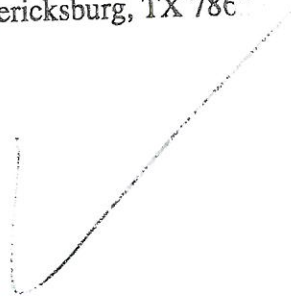


535 sf

12x60

12.5 sf

ENGRAVERS INC.
1579 E. Main
Fredericksburg, TX 78602

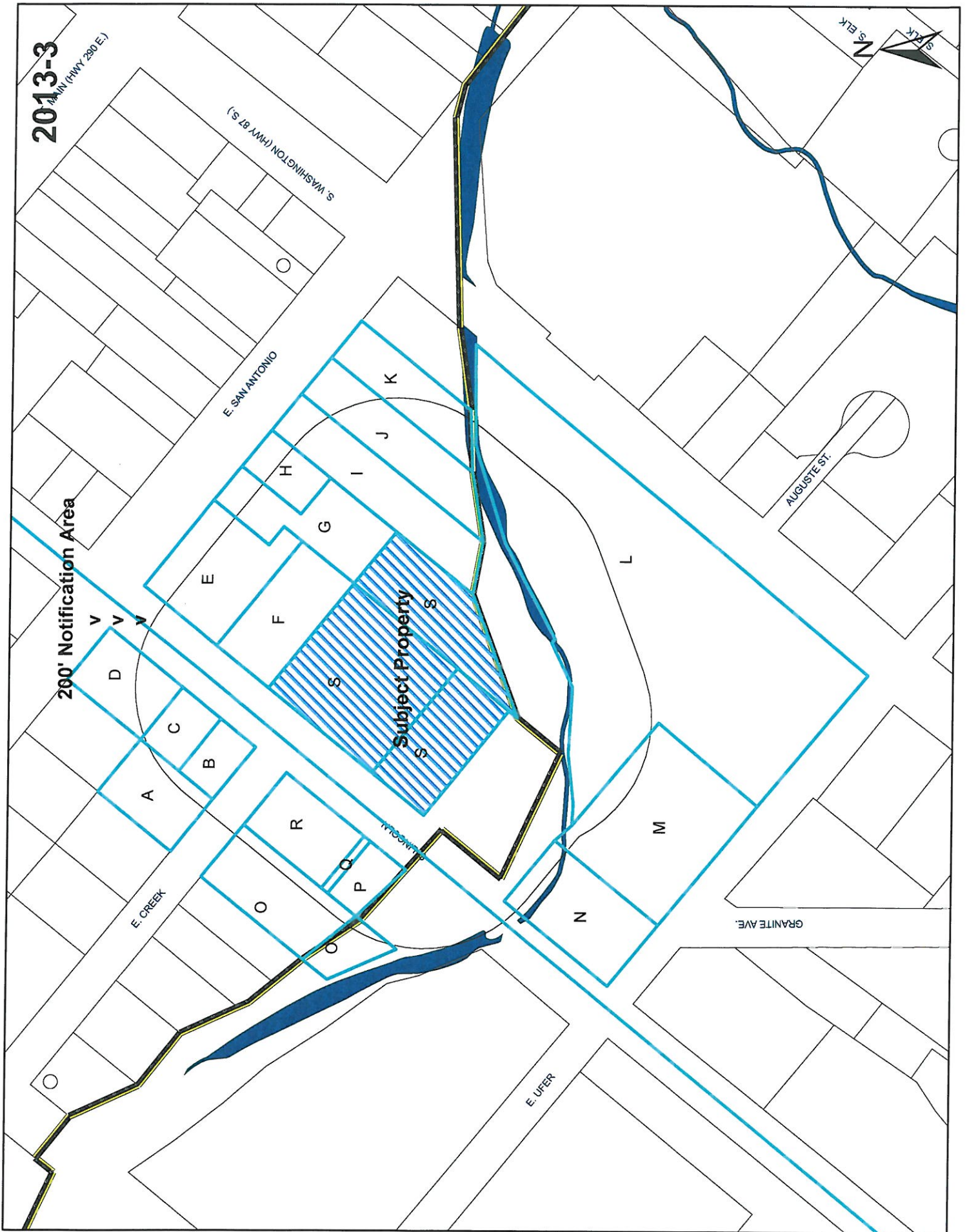


Debra Johnson

Johnson Newman Antiques
233 E. Main

990-9394

W/S
OK



Letter	Owner	
A	W. J. & Nelda H. Simonsen	
B	Rosa L. Caddel	
C	Friendly Neighbor, LLC	
D	Andrew P. & Melissa Rockwood	
E	Schaeffer Properties, LP	
F	Anthony, William & Edward Rode	
G	Oliver & Evelyn Schaeffer	
H	Bryon Schaeffer	
I	James A. Cothren	
J	William A. Tietz	
K	Andrew C. White	
L	Heritage Hotels Fredbg, LLC	
M	City of Fredericksburg	
N	City of Fredericksburg	
O	Cynthia Burnside Revocable Trust	
P	Herbert A. Oehler	
Q	Bruce E. Woerner	
R	Gregory L. & Donna T. Oehler	
S	Green Woerner Ltd	

2013-3



City of Fredericksburg
126 West Main Street
Fredericksburg, TX 78624

NOTICE OF PUBLIC HEARING ON VARIANCE REQUEST

HEARING DATE: June 20, 2013

TIME: 5:30 P.M.

APPEAL NO. 2013-3

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 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: Johnson Newman Antiques

ADDRESS OF THE SUBJECT PROPERTY: 303 S. Lincoln

EXPLANATION OF REQUEST: Variance to section 29-7 (Permanent signs permitted by district), Subsection 4 C of the Sign Regulations pertaining to total sign area.

(detach here)

Appeal No. 2013-3

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

Signed

Address