

AGENDA
CITY OF FREDERICKSBURG
ZONING BOARD OF ADJUSTMENT

Thursday, August 2, 2018

5:30 P.M.

CITY HALL CONFERENCE ROOM, 126 W. MAIN ST.

1. Call to Order
2. Approve minutes from the June 2018 Regular Meeting

PUBLIC HEARING

3. (ZBA2018-06) Appeal the Historic Review Board ruling pertaining to the issuance of a Certificate of Appropriateness per section 23-61, B of the Code of Ordinances.

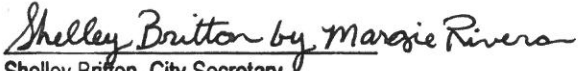
ACTION ITEM

4. Receive Recommendation and Consider ZBA2018-06

ADJOURN

I, Shelley Britton, the undersigned City Secretary for the City of Fredericksburg, do hereby certify that the attached is a true and correct copy as it appears on record

GIVEN UNDER MY HAND this the 27 day of July, 2018


Shelley Britton, City Secretary

City of _____

30

City Hall in _____ Texas on the
was posted on the public road at
I certify that the above notice of meeting

CEK.HK.VLE

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

**BOARD OF ADJUSTMENT
JUNE 14, 2018
5:30 P.M.**

On this the 14th day of JUNE 2018, the BOARD OF ADJUSTMENT convened in regular session at the regular meeting place thereof with the following members present to constitute a quorum

PRESENT
CYNTHIA SCROGGINS
JOHN SMILIJANIC
JIM MCAFEE
BARBARA HEINEN

ABSENT:
ROBERT DEMING
DONNIE FINN

ALSO PRESENT:
BRIAN JORDAN - Director of Development Services
SHELBY COLLIER - Development Coordinator

Chairman Robert Deming was absent, vice chair Jim McAfee acted as Chairman.

The meeting was called to order at 5:32 P.M. by Jim McAfee

MINUTES

John Smilijanac made a motion to approve the minutes from the May 2018 Meeting. Cynthia Scroggins seconded the motion. All voted in favor and the motion carried.

PUBLIC HEARING

Consider (ZBA2018-05) Variance to Section 7.860 of the Zoning Ordinance, pertaining to single family residential lots that are permitted two accesses provided the lot has a minimum of one hundred feet of street frontage. The applicant is requesting a variance to have two 12' wide driveways on a lot that has less than one hundred feet of frontage.

Barbara Heinen made a motion to open the public hearing. Cindy Scroggins seconded the motion. All voted in favor and the motion carried.

Rick Schaefer, the builder, presented the application. He began his presentation by telling the Board of the need to provide off-street parking on a property that is located on a cul-de-sac that has 89 ft. of frontage. It is his belief that two drive way approaches allow for a continuous driveway that is pleasing to the eye and more user friendly.

Cindy Scroggins made a motion to close the public hearing. Barbara Heinen seconded the motion. All voted in favor and the motion carried.

Brian Jordan, Director of Development, stated that staff recommends denial as it is not believed that this case meets the requirements for the issuance of a variance.

Barbara Heinen asked how wide the frontage is on the neighboring properties. Brian Jordan stated they were both over 100 ft.

Barbara stated that potentially there could be 6 drives. Brian stated that was correct.

Levi Ellebracht, the developer, stated that he had no issues with the proposed driveways.

Brian asked Levi if there were other lots in Stoneridge with a similar situation.

Levi stated he believed there was in Phase 3 or 4.

Plats for Stoneridge Phase 3 & 4 were viewed by the Board.

Brian stated he received 1 comment from the neighbors. The Board knows that there is a strict set of requirements for issuing a variance. The staff recommendation was made with these requirements in mind. Brian stated that ultimately the design is a request, a function of the layout of the lot. The applicant is trying to avoid backing out of the parking area.

John Smilijanic stated the lot is amply sized. There is nothing truly unique about the lot.

Cindy stated there would be a benefit to no cars in the cul-de-sac and if a precedent was set it would be for pie shaped lots such as this.

Motion made to approve Application ZBA2018-05 by John Smilijanic. Cynthia Scroggins seconded the motion. All voted in favor and the motion carried.

ADJOURN

With nothing further to come before the Board, Barbara Heinen moved to adjourn the meeting and Cynthia Scroggins seconded the motion. All voted in favor and the meeting was adjourned at 5:55 P.M.

PASSED AND APPROVED this the 12th of JULY

SHELBY COLLIER, DEVELOPMENT COORDINATOR

ROBERT DEMING, CHAIR

APPEAL BRIEF
Request # 2018-06

OWNER/APPLICANT: Melissa Estes for DLJ 475 LLC

ZONING: R2-H, Mixed Residential with Historic District Overlay

LOCATION: 509 W. Austin

REQUEST: Appeal Historic Review Board decision on application 18-54

FINDINGS:

- The property is located within the boundaries of the local historic district and the National Register Historic District.
- The applicant removed chimneys without approval soon after purchasing the property.
- The applicant went before the HRB in March of 2017 for approval to make alterations to the home including an addition. The HRB ordered the chimneys replaced at that time.
- The applicant has completed most of the rehabilitation of the house and went back to the HRB in June of 2018 to request that the chimneys not be required to be put back.
- City Staff's recommendation and the HRB's decision to require the replacement of the chimneys were based on the Secretary of the Interior's Standards for Rehabilitation along with the local Fredericksburg Historic Design Guidelines.

The Board of Adjustment may overturn the Board's decision or requirement if it makes affirmative findings of fact on each of the following criteria:

(A) The historic review regulations set forth herein, or findings of the Board do not allow for a reasonable use.

The applicant claims the chimneys had to be removed for interior space/functionality purposes. While many homes may not use the original fireplaces and associated chimneys, the chimneys are exterior architectural features. There are plenty of examples where fireplaces have been removed or altered without requiring the removal of the exterior portion of the chimney. The chimneys in question do not create a unique situation only found at this house. Replacing the chimneys does not impact the use of the property.

(B) The action of the Board was not based upon the preponderance of the evidence presented to the Board.

The Historic Review Board based their decision on the Secretary of the Interior's Standards and City of Fredericksburg Design Guidelines. The original chimneys were removed without a Certificate of Appropriateness.

(C) 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.

Most of the historically designated homes in the district have visible chimneys. The decision to remove the chimneys without approval does not create a unique situation.

(D) The reversal of the Board's decision or requirement 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 of this article or regulations to the Zoning District in which the property is located.

The reversal of the HRB decision will alter the character of the building in question. The D'Hanis brick used for the house and chimneys was not available in Fredericksburg until 1913. There are only a finite number of such "D'Hanis brick" houses with high integrity. If a property owner can simply remove architectural features without consequences, the intent and strength of the historic preservation ordinance is weakened.

(E) In addition, or alternately, other legal precedent or established law or is challenging or requesting a change to a rating.

(F) The Board of Adjustment may apply conditions to its decision or modification of the Board's decision or requirement.

STAFF RECOMMENDATION:

We do not believe this case meets the requirements to overturn the decision of the Historic Review Board. Denial of the appeal is recommended.

\$150.00 application fee

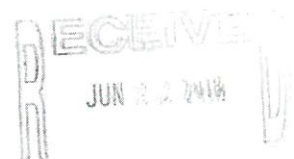
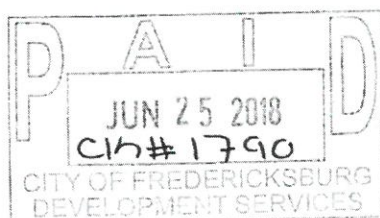
APPEAL NO. ZBA 2018-06
DATE June 22 2018

**VARIANCE REQUEST APPLICATION
TO
BOARD OF ADJUSTMENT**

1. APPLICANT: Melissa Estes
2. ADDRESS: 509 West Austin street
PHONE: 940 781-7970 FAX: _____
3. DESCRIPTION OF PROPERTY INVOLVED IN THIS REQUEST:
ADDRESS: 509 W. Austin St.
LEGAL DESCRIPTION: 509 West Austin St.
LOT SIZE: 100 x 200 ZONING DISTRICT: R2
4. REQUEST IS MADE HERewith TO THE BOARD OF ADJUSTMENT THAT A VARIANCE BE GRANTED TO THE FOLLOWING PROVISIONS OF THE ZONING ORDINANCE:
SECTION: 22-62 A-1 PAGE: _____
SUBSECTION: _____
ITEM: _____
RELATING TO: removal of architectural feature (non working chimney)
REQUIRING: burner to remodel chimney

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: _____

- 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.

Refer to HP Ordinance Appeal 23-66
a(2)(A-E)

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.

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.

- 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.

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.

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.

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.

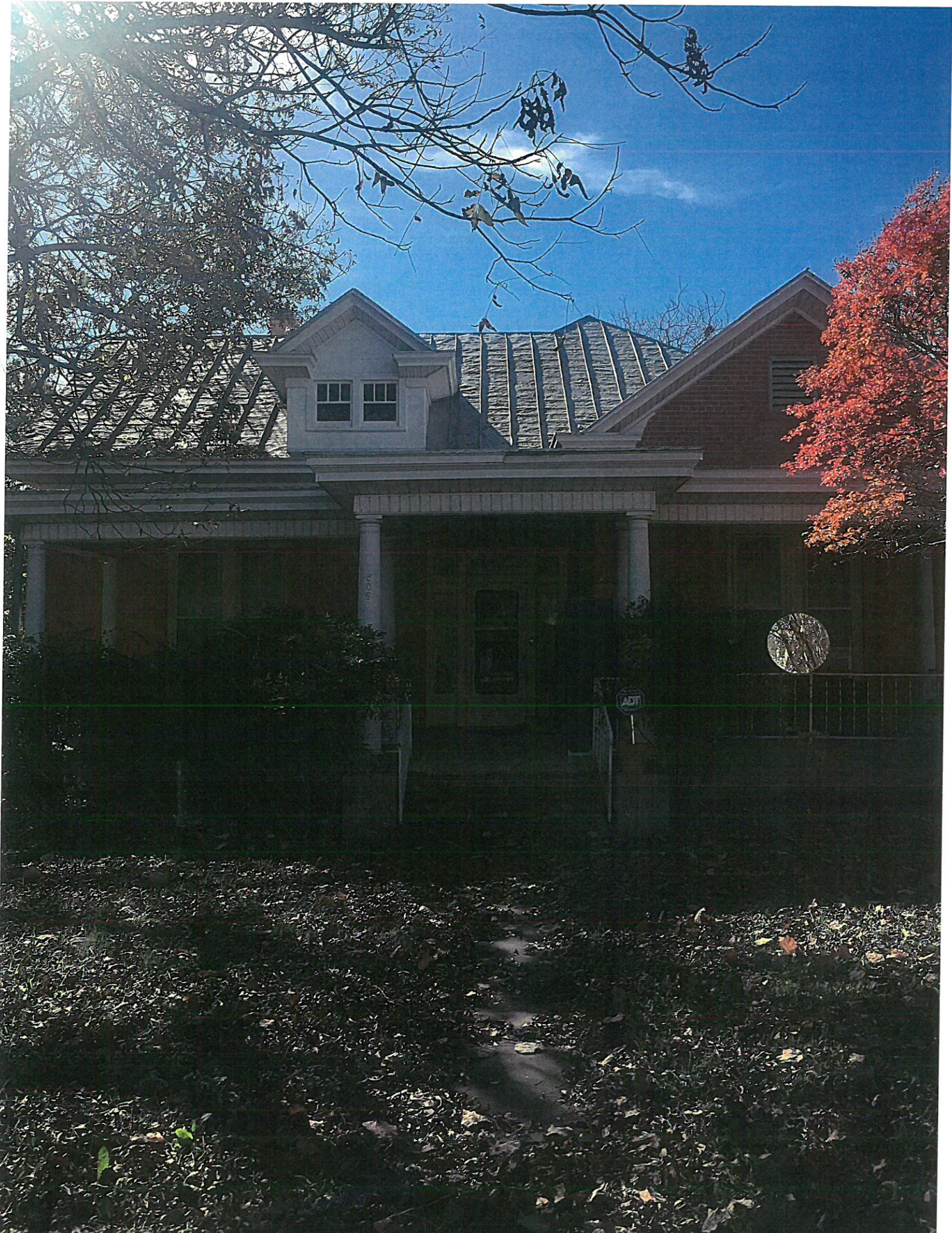
7. **NOTICE TO APPLICANT: YOU, OR YOUR REPRESENTATIVE ARE STRONGLY URGED TO ATTEND THE BOARD OF ADJUSTMENT MEETING AT WHICH YOUR VARIANCE REQUEST WILL BE CONSIDERED-** The Board will consider whatever evidence is presented at that time, and may approve, deny, or postpone consideration of your request.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

Signature of Owner: Melissa Estes

Date: June 22 2018

Fee Paid: \$150 by check

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











TO: THE BOARD OF ADJUSTMENT

DATE: June 22, 2018

Appeal of Denial of Request for Certificate of Appropriateness

Application Number: 18-54

Address: 509 W. Austin St, Fredericksburg, TX

Legal Description: FBG ADDN BLK 16 LOT 118-PT AND 119-PT

Owner: DLJ 475 LLC

Applicant: Melissa Estes

WHEREAS, On June 12th, 2018, the Historic Review Board of Fredericksburg, Texas did hear Application # 18-54 for a Certificate of Appropriateness for approval to: Remove brick chimneys that no longer connect to internal fireplaces; and

WHEREAS, after hearing evidence presented, the Historic Review Board did deny the request.

THEREFORE: this Appeal of Denial of Request for Certificate of Appropriateness is being filed with the Board of Adjustment of Fredericksburg, Texas; and Applicant requests that the Board of Adjustment grant her appeal based on the following criteria:

A. The historic review regulations or the findings of the Historic Review Board do not allow for a reasonable use.

The chimney stacks in question were non-functioning when the home owner acquired the property. Originally designed to exhaust gas stoves in the home, the gas stoves had been removed from the property prior to its purchase by the current owner, so the chimney stacks served no reasonable function. Whereas the removal of the chimney stacks allows for the following reasonable uses: a) installation of interior HVAC duct work; and b) creation of needed storage space. Prior to its purchase by current owner, the house was cooled by use of inefficient, unsightly and historically inappropriate window A/C units. The removal of the chimney stacks has allowed for, in part, the installation of an energy efficient modern heating and cooling system which allows for the reasonable use of the property, that of a private, family residence. The historical use of the property has been that of a private, family residence, so the reasonable use of the property is that of private, family residence.

B. The action of the Historic Review Board was not based upon a preponderance of the evidence presented.

The Board failed to consider written evidence presented from two roofing contractors that the existing roof will not support the weight of exterior chimney stacks and that the replacement of the chimney stacks would be of risk, liability and endangerment to persons and property. Further, ignoring the presented evidence, members of the Board improperly opined how they might go about replace the chimney stacks.

- C. The plight of the owner of the property is due 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 result of general conditions in the zoning district in which the property is located.

As previously stated, the chimney stacks in question were non-functioning when the home owner acquired the property. The chimney stacks were originally designed to provide exhaust for gas stoves which at one time provided heat to the home. At some point prior to the purchase the property by the current owner the gas stoves had been removed from the property, leaving the chimney stacks with no remaining reasonable purpose. The current owner did not remove the gas stoves and has no knowledge as to when the gas stoves were removed from the property.

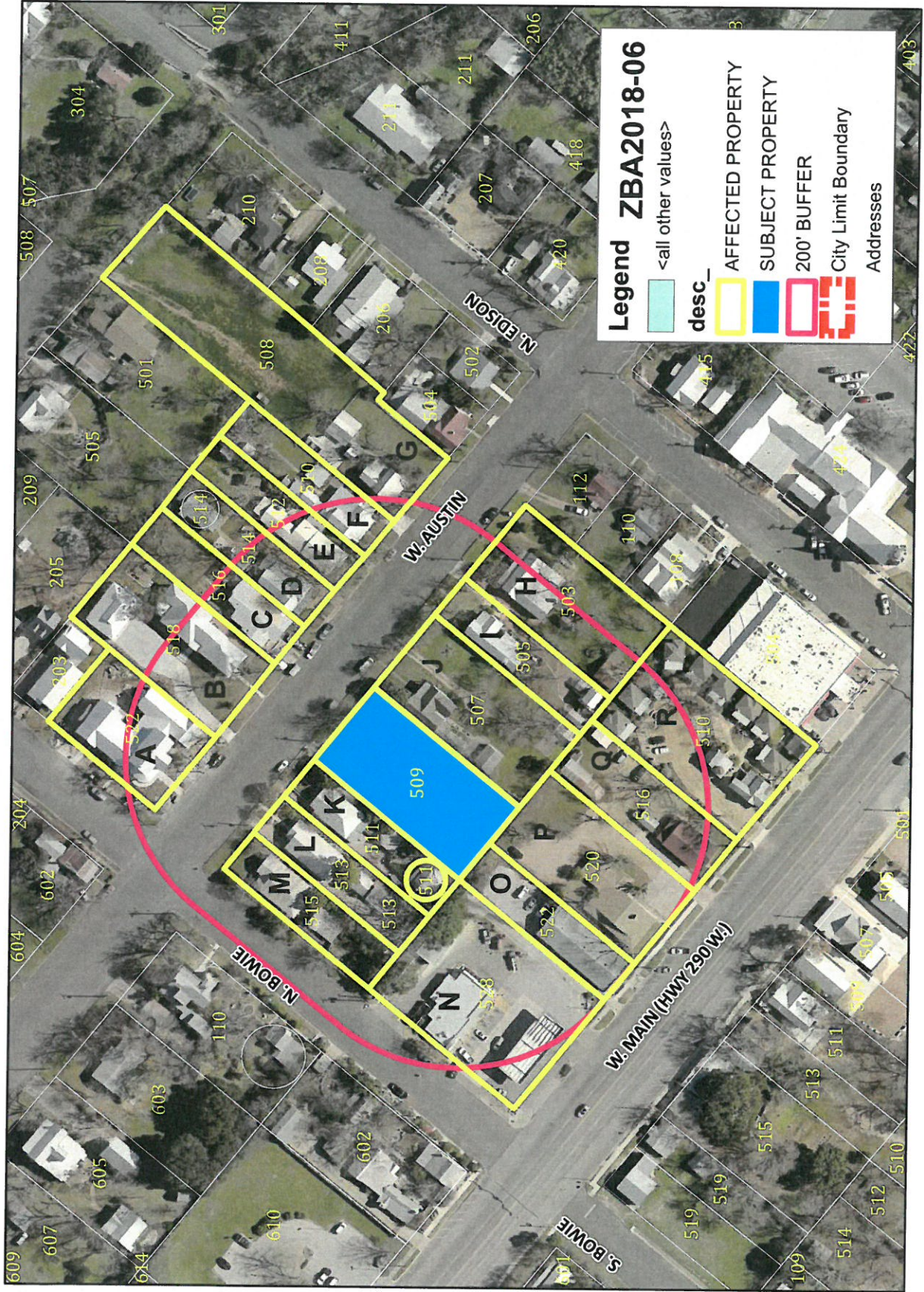
- D. The reversal of the Historic Review Board decision will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property and will not impair the purposes of the Historic Preservation Ordinance or regulations to the Zoning District in which the property is located.

The property in question has been thoroughly and lovingly renovated and restored by the current owner and applicant. These renovations and restorations have been consistent with the character of the adjacent area, the purposes of the Historic Preservation Ordinance and the Standards of Preservation of the U. S. Department of the Interior. The property is zoned as "R2" -- Mixed Residential and all renovations and restorations have been consistent with its zoning. Further, the renovations and restorations have included the limited and sensitive upgrading of mechanical, electrical and plumbing systems.

PRAYER: Applicant requests that the Board of Adjustment grant her appeal and reverse the decision of the Historic Review Board and cause to be issued a Certificate of Appropriateness as requested in Application # 18-54 and all other such remedies and relief to which she is entitled.

Submitted this the 22nd day of June 2018.

Melissa Estes
Melissa Estes, Application



Letter	Owner	Address
A	JOHN & SUZANNE SHORE	522 W. AUSTIN ST FREDERICKSBURG, TX 78624
B	JOHNNY & NELLA WRIGHT	518 W. AUSTIN ST FREDERICKSBURG, TX 78624
C	JOHN KENISKY	516 W. AUSTIN ST FREDERICKSBURG, TX 78624
D	JAMES KEETER SR.	514 W. AUSTIN ST FREDERICKSBURG, TX 78624
E	MICHAEL RYLANDER & LAURA RONSTADT	512 W. AUSTIN ST FREDERICKSBURG, TX 78624
F	DOUGLAS & LINDA SOLLOHUB	510 W. AUSTIN ST FREDERICKSBURG, TX 78624
G	JAMES METZGER	11410 CHATTEN WAY HOUSTON, TX 77024
H	RUDOLF KROCHMAN JR	503 W. AUSTIN ST FREDERICKSBURG, TX 78624
I	ALAN & CONCEPCION GRODECKI	505 W. AUSTIN ST FREDERICKSBURG, TX 78624
J	IDA CRENWELGE	211 GLENMOOR DR FREDERICKSBURG, TX 78624
K	CLARA HARRISON	11202 W US HWY 290 HARPER, TX 78631
L	SHEILA WRIGHT	513 W. AUSTIN ST FREDERICKSBURG, TX 78624
M	DONNA ATWOOD	3910 TOBIN TRL ROWLETT, TX 75088
N	STROEHER & OLFERS PROPERTIES	509 S. ADAMS FREDERICKSBURG, TX 78624
O	PATE REAL ESTATE LTD	P.O. BOX 749 CORPUS CHRISTI, TX 78403
P	RICHARD HOERSTER	520 W. MAIN ST FREDERICKSBURG, TX 78624
Q	RDM PROPERTIES LLC	116 RIDGEWOOD DR FREDERICKSBURG, TX 78624
R	WINE COUNTRY COTTAGES LLC	3411 B 82ND STE 310 LUBBOCK, TX 79423
ZBA2018-06		



April 26, 2018

Melissa Estes

509 West Austin Street

Fredericksburg, Texas 78624

To whom it may concern,

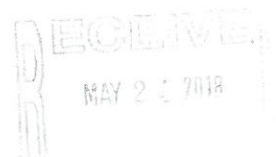
I, John Lemke, Custom Residential and Commercial Manager at Earnest Roofing, have inspected the Chimney Penetrations on the house at 509 West Austin Street, Fredericksburg, Texas 78624. The remodel and removal of the Interior chimneys have left no load bearing supports and will not allow the roof to support an exterior Chimney. The only solution is to seal the two exterior roof penetrations with similar standing seam metal panels.

Regards



John Lemke

Earnest Roofing, LLC.



NAS Custom Construction
261 Louise Lane
Mountain Home, Texas 78058

I, Nick Schu, of NAS Custom Construction will not build, nor can I advise in good faith the replacement of chimneys at the 509 West Austin Street residence in Fredericksburg, Texas. The risk, liability, and endangerment associated with replacing a chimney of any size is too great, as there is no inside load bearing structures to support the weight of the brick.

Sincerely,



Nick Schu

RECEIVED
MAY 24 2018

DRAFT to be approved July 10, 2018

STATE OF TEXAS
COUNTY OF GILLESPIE
CITY OF FREDERICKSBURG

HISTORIC REVIEW BOARD
JUNE 12, 2018
5:30 PM

On this 12th day of June 2018 the Historic Review Board convened in regular session at the regular meeting place thereof, with the following members present to constitute a quorum:

PRESENT SHARON JOSEPH
 STAN KLEIN
 ERIC PARKER
 JERRY SAMPLE
 MIKE PENICK
 JESSICA DAVIS
 RICHARD LAUGHLIN

ABSENT: DAVID BULLION
 KAREN OESTREICH
 LARRY JACKSON

ALSO PRESENT: ANNA HUDSON – Historic Preservation Officer
 DANIEL JONES – City Attorney

Sharon Joseph called the meeting to order at 5:31 PM.

MINUTES

Eric Parker moved to approve the minutes presented from the May 2018 Meeting. Jerry Sample seconded the motion. All voted in favor and the motion carried

STAFF ANNOUNCEMENTS

Anna Hudson, Historic Preservation Officer, recognized the presence and involvement with the Gillespie County Historical Society Dinner and awards ceremony. It was a success and hopefully will become an annual event.

APPLICATIONS

CONSENT AGENDA

Application #18-53 –by Cindy Spaeth at 608 N. Milam for alterations to barn/guest house.

Eric Parker moved to accept Application #18-53 as presented. Mike Penick seconded the motion. All voted in favor and the motion carried.

Application #18-54 – by Melissa Estes at 509 W. Austin for removal of chimneys.

Anna stated that the applicant is requesting a Certificate of Appropriateness for approval to remove brick chimneys that no longer connect to internal fire places.

This project was heard by the HRB in March of 2017. At that time the HRB gave approval to rebuild chimneys in original location with original bricks, construct addition as designed, paint windows and doors requested color, repair roof and front porch, expand driveway approach to 12' and widen driveway to 10'.

Staff does not recommend approval of the removal of the original chimneys based on the secretary of the interiors #2 and #6. The chimneys have already been removed.

Melissa Estes presented the application and provided documentation from 2 contractors stating that they would not replace the chimneys. The chimneys were removed due to the need of space for a pantry in the kitchen. She has put a lot of work in to the property to improve it.

Mike Penick stated a support system could be constructed in the attic. Melissa stated no contractor will touch it.

Jerry Sample asked if she had gone to an engineer. She said she had not.

Melissa stated the chimneys would not be visible from the street. Photos were viewed and Jerry Sample stated you could see the chimneys.

Sharon asked Anna what options were available. Anna stated the application is open for approval or denial. Those are the only options.

Sharon asked Daniel Jones, City Attorney, if the Board approved this would it set a precedent. Daniel stated this was at the discretion of the Board.

Jerry stated that it is possible to get an engineer on board and it's important to stay consistent. The Board had a similar project that they required the applicant to complete after work had been started prior to issuance of a CoA.

Melissa asked the Board what the stance for enforcement is from the City's point of view. What is she and her family liable for? Sharon responded that the chimneys need to go back or they would be in violation. Sharon stated it means the City of Fredericksburg would not release the Certificate of Occupancy for this property.

Eric Parker moved to deny Application #18-54 this decision is in keeping with Secretary of the Interior Standards #2 & #6. Mike Penick seconded the motion. All voted in favor and the motion carried.

Google Maps 511 W Austin St

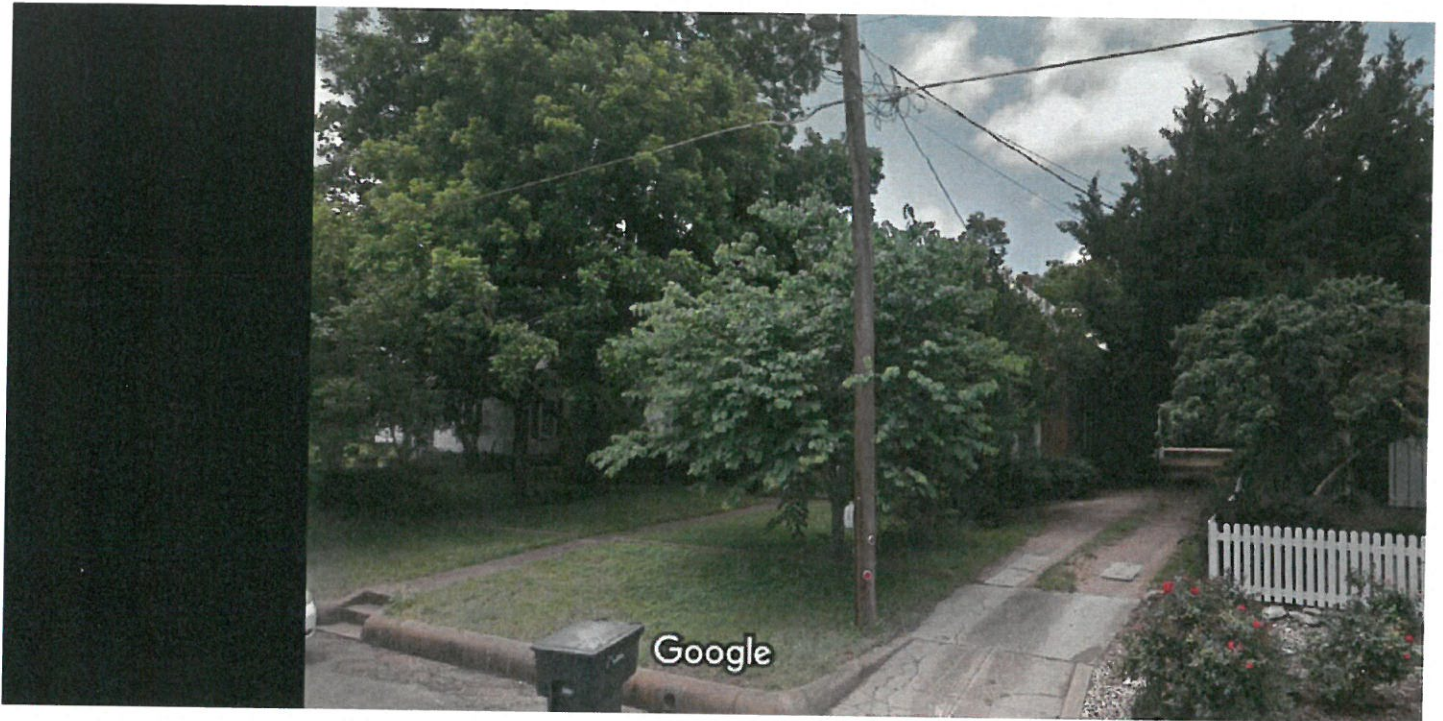
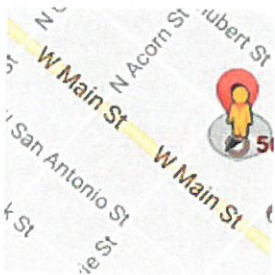


Image capture: May 2016 © 2018 Google

Fredericksburg, Texas

 Google, Inc.

Street View - May 2016





2005 Historic Resource Survey Photo



Current conditions





Interior photos of space created by
removal of fireplaces

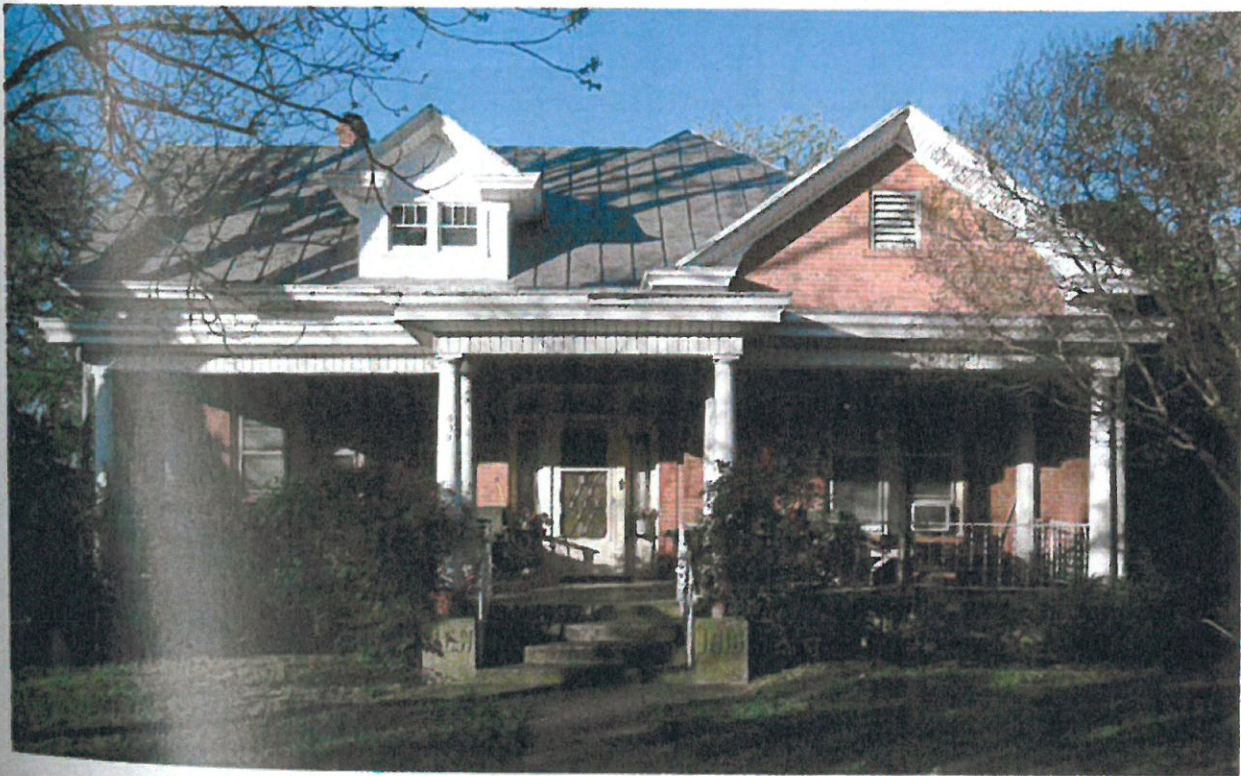


131 H. E. and Augusta Wahrmund House

509 West Austin Street

1916

Henry Emil Wahrmund, who had this house built in 1916, when he was a single man of just twenty-one, wanted to be modern but not too modern. He was the son of Henry and Meta Wahrmund, who lived in the rock house with Victorian ornamentation on West Main Street



North of Main Street

[38]. Henry E. was born in 1895. He was a stock farmer but chose to live in town. His wife, Augusta Reeh, had grown up on the farm of her parents, Adolph and Louise.

Henry and Augusta's house was designed by the San Antonio architect Leo M. J. Diehlmann, who had previously designed the new St. Mary's Catholic Church [85] and who would later design the new St. Mary's School [83]. It was one of the earliest to use red brick made available in Fredericksburg by the coming of the railroad in 1913. It stands in dramatic contrast to the creamy limestone of the house in which he grew up. Also notable was the use of concrete for the front porch, which allowed for the initials "HEW" and the date "1916" to be prominently displayed. Many of the other red brick houses in town are bungalows, reflecting the Arts and Crafts movement of the early years of the twentieth century; this house is a bit more conservative, in the later version of the Queen Anne style, which often incorporated classical columns on the porch. It closely relates to the William and Cora Habenicht house on North Llano Street [156]. Next door to the west at 511, 513, and 515 are a trio of well-kept bungalows, built of wood rather than brick. The house at 515 was designed and built by Edward Stein for Lawrence Knopp.

