



CITY OF FREDERICKSBURG

ZONING BOARD OF ADJUSTMENT TUESDAY, OCTOBER 16, 2018 ~ 5:30 P.M. CITY HALL CONFERENCE ROOM ~ 126 W. MAIN ST

Robert Deming, Chair
John Smiljanic, Member
Donnie Finn, Member

Cynthia Scroggins, Member
Jim McAfee, Member
Jeff Lawrence, Member

The City of Fredericksburg Zoning Board of Adjustment will meet in a regular session on October 16, 2018 at 5:30 p.m. in the **Conference Room, 126 West Main Street**, Fredericksburg, Texas. This is an open meeting, open to the public, subject to the Open Meetings Law of the State of Texas, and as required by law, notice is hereby posted on October 12, 2018 before 5:00 p.m., providing time, place, date and agenda thereof. The meeting facility is wheelchair accessible and accessible parking spaces are provided. Requests for accommodations or interpretative services must be made to the City Secretary 48 hours prior to this meeting.

(Please turn off all pagers and phones, except emergency on-call personnel.)

1. CALL TO ORDER

2. ROLL CALL

3. PUBLIC COMMENTS

This time is for citizens to address the HRB on issues and items of concern not on this agenda.
There will be no action at this time.

4. APPROVAL OF MEETING MINUTES

June 2018 regular meeting minutes

5. PUBLIC HEARING

- A. Request (ZBA2018-07) by Daniel Jenschke at 720 Emory for a Variance to Section 3.100 of the Zoning Ordinance, pertaining to Single Family Residential lots that require a 15' Street Side Set Back. The applicant is requesting a Variance to have a 5" encroachment into the 15' Street Side Set Back.
- B. Request (ZBA2018-08) by Milton Driver at 702 N. Orange for a Variance to Section 3.100 of the Zoning Ordinance, pertaining to Single Family Residential lots that require a 10' Rear Set Back. The applicant is requesting a Variance to have an encroachment into the 10' Rear Set Back

6. ACTION ITEM

- A. Receive Recommendation and Consider ZBA2018-07
- B. Receive Recommendation and Consider ZBA2018-08

7. ADJOURN

This is to certify that I, Shelby Collier, posted this Agenda at 11:00 a.m. on Friday, October 12, 2018, on the entrance door and bulletin board at the City of Fredericksburg City Hall, 126 W. Main St., Fredericksburg, Texas.

Shelby Collier
Development Coordinator

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 Smilijanic 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 16th of OCTOBER

SHELBY COLLIER, DEVELOPMENT COORDINATOR

ROBERT DEMING, CHAIR

VARIANCE BRIEF

Request # 2018-07

<u>APPLICANT:</u>	Daniel and Laurie Jenschke
<u>ZONING:</u>	R-1, Single Family Residential
<u>LOCATION:</u>	720 Emory Drive, within the Oaks Of Windcrest, Phase 4
<u>REQUEST:</u>	Variance to Section 3.100 of the Zoning Ordinance, pertaining to an encroachment into the 15' Street Side Building Setback.
<u>FINDINGS:</u>	• The subject property is currently occupied by a new single family residence. • The property is located on the corner of Emory Drive and Darlington Drive, in the Oaks of Windcrest, Phase 4. • The lot is approximately 7,590 square feet in size (see survey). • When the house was constructed, it was assumed that the western property line was a straight line between property corners. In fact, the Darlington Drive street right-of-way is curved with a large radius. As a result, the house was constructed approximately 5 inches into the building setback. • Section 3.100 of the Zoning Ordinance requires an Street Side Setback of 15'.

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. **Zoning regulations allow for reasonable use of the property. In this case, an error was made when the property line was located.**
- 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 were due to an error being made when the property lines were located. This error is not uncommon when a street appears to be straight and is not due to a large curvature.**
- 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. **We do not expect this minor variance to alter effect the adjacent property and will not be noticeable.**

OPPOSITION/SUPPORT OF REQUEST: One letter in support, none in opposition.

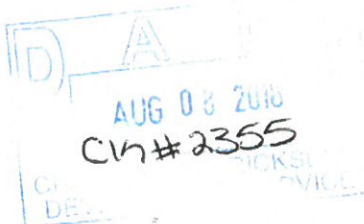
STAFF RECOMMENDATION: Approval.

\$150.00 application fee

APPEAL NO ZBA2018-07
DATE 08/08/18

VARIANCE REQUEST APPLICATION
TO
BOARD OF ADJUSTMENT

1. APPLICANT: Daniel Jenschke / Laurie Jenschke
2. ADDRESS: 903 Duvest - mauer Rd.
PHONE: 830-889-4071 FAX: NA
830-456-3086
3. DESCRIPTION OF PROPERTY INVOLVED IN THIS REQUEST:
ADDRESS: 720 Emory Drive
LEGAL DESCRIPTION: Lot no. 133 Oakleaf Windcrest Phase IV
LOT SIZE: 7590 sq ft ~~Approx~~ Volume 5, Page 141 of Plats of Gillespie.
ZONING DISTRICT: R-1
4. REQUEST IS MADE HERewith TO THE BOARD OF ADJUSTMENT THAT A VARIANCE BE GRANTED TO THE FOLLOWING PROVISIONS OF THE ZONING ORDINANCE:
SECTION: Sec. 3.101. - R-1-A PAGE: N/A
SUBSECTION: N/A
ITEM: Street side Setback
RELATING TO: Setbacks
REQUIRING: 15' Street side yard
Setback
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: The house extends 5 inches to 1 inch
from the setback in the far back left corner
of the house as shown on the survey.

- 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.

The site markers were straight,
however, there is a slight curve in
on the property line.

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.

Unlike other lots in the subdivision, the
curve caused a 19 ~~inch~~ inch long triangle
that crosses over the setback from 5" wide down to 0" inc

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 5 inch to 1 inch overage into
the side setback which covers a 19 inch
triangle on the far back left corner of the house
due to a slight curve of the property line.

- 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

LOT NO. 133
(7590± SQ. FT.)

5' DRAINAGE EASEMENT TYPICAL ALONG ALL SIDES, VOL. 5, PG. 141 P.R.

N89°47'20"E
66.57'

10' REAR BUILDING SETBACK, VOL. 5, PG. 141 P.R.

5' SIDE BUILDING SETBACK, VOL. 5, PG. 141 P.R.

RES. 5.1±'

(GPS-BEARING BASIS)
S0°09'15"E
99.93'

LOT NO. 132

RESIDENCE

PORCH

RES. 25.1±'

METER PED.

STORM DRAIN

CONC. WALK

10' UTILITY EASEMENT, VOL. 5, PG. 141 P.R.

S89°42'45"W
85.77'

CONCRETE CURB

EMORY DR.
(50' R.O.W.)

25' FRONT BUILDING SETBACK, VOL. 5, PG. 141 P.R.

CONCRETE DRIVEWAY

15' SIDE STREET BUILDING SETBACK, VOL. 5, PG. 141 P.R.

CONCRETE CURB

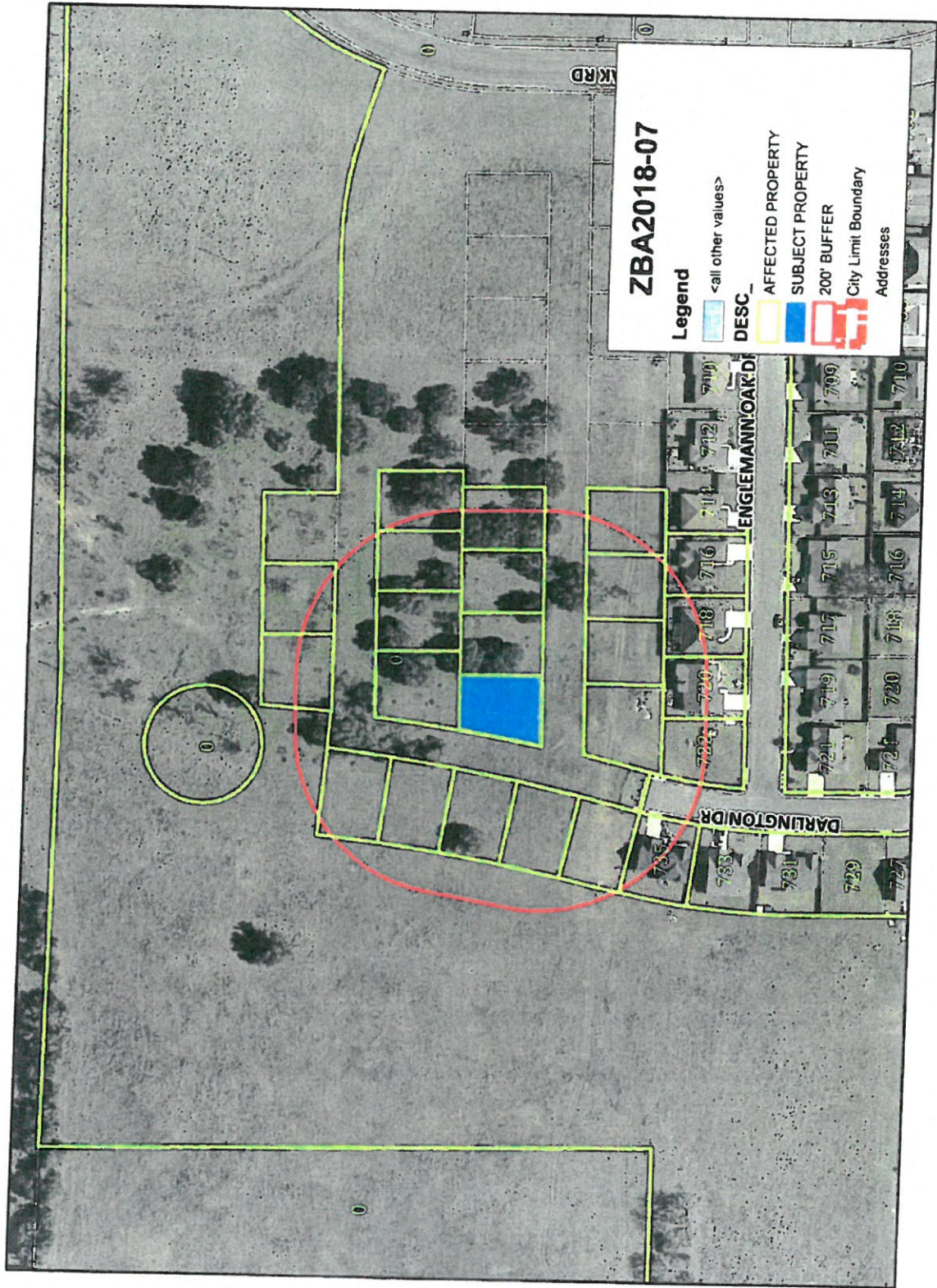
DARLINGTON DR.
(50' R.O.W.)

R = 2550.0'
L = 101.90'
LC N10°42'20"E
101.89'

RESIDENCE
14.6±'

LIGHT POLE

WATER METER



VARIANCE BRIEF

Request # 2018-08

APPLICANT:

J. Milton Driver and Kenni M. Driver

ZONING:

R-1, Single Family Residential

LOCATION:

702 N. Orange Street

REQUEST:

Variance to Section 3.100 of the Zoning Ordinance, pertaining to a reduction in the Rear Yard Setback of 10'.

FINDINGS:

- The subject property is currently occupied by a single family residence. Modifications to the home are planned as well as the construction of new garage (see the attached Site Plan).
- The property is located at 702 N. Centre Street, at the corner of Centre Street and Orange Street.
- The lot has a width of 95.7' and a depth of 128.5', for an overall size of approximately 12,297 square feet.
- An existing garage is located on the Centre Street side of the lot within the current setback (see attached photo). Said garage is intended to be replaced.
- The applicant intends to construct the new garage in the vicinity of the old garage and encroach into the rear yard setback. The purpose of this request is to move the building a minimum of 8' from the base of an existing Pecan Tree.
- Section 3.100 of the Zoning Ordinance requires a Rear Setback of 10'.

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. **The size of the lot is large (approximately 12,297 square feet) relative to the minimum required lot size of 7,500 square feet in the R-1 zoning district. In our opinion, the current zoning regulations allow for reasonable use of the property without the need for a variance.**
- 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. **While we certainly understand the**

desire to have a separation between a building and an existing tree, we do not think this is grounds for a variance.

- 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. **It is unlikely that the proposed building will alter the character of the adjoining properties. According to the applicant, the owner of the adjoining property has no problem with the proposed building.**

OPPOSITION/SUPPORT OF REQUEST: No comments received.

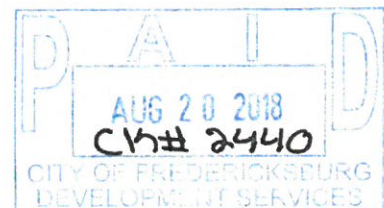
STAFF RECOMMENDATION: Denial

\$150.00 application fee

APPEAL NO. ZB/A2018-08
DATE 08/20/18

VARIANCE REQUEST APPLICATION
TO
BOARD OF ADJUSTMENT

1. APPLICANT: J. MILTON DRIVER + KENN. M. DRIVER
2. ADDRESS: 5240 STREAMWOOD LN. PLANO, TX 75093
PHONE: 972-244-5817 FAX: 469-229-0315
EMAIL: J.MILT.DRIVER@AMPF.COM
3. DESCRIPTION OF PROPERTY INVOLVED IN THIS REQUEST:
ADDRESS: 702 N. ORANGE FBG, TX 78624
LEGAL DESCRIPTION: BASE BLK 2 LOT 1-PT + 2-PT
LOT SIZE: .28 ACRES ZONING DISTRICT: R1
4. REQUEST IS MADE HERewith TO THE BOARD OF ADJUSTMENT THAT A VARIANCE BE GRANTED TO THE FOLLOWING PROVISIONS OF THE ZONING ORDINANCE:
SECTION: 3.100 PAGE: _____
SUBSECTION: _____
ITEM: Setback
RELATING TO: 10 FT. REAR SETBACK
REQUIRING: 10 FT. REAR SETBACK BETWEEN ABOVE PROPERTY AND 304 W. CENTRE ST FBG, TX. 78624
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: GOING WITH THE PROPOSED GARAGE PLAN (ATTACHED)
WILL PUT THE EAST WALL OF THE NEW GARAGE WITHIN
7 1/2 FEET OF THE DECADES OLD PECAN TREE SHOWN IN THE ATTACHED PICTURE. OUR ARCHITECT, MR. BARRY WACHNER, FEELS THAT WE NEED A MINIMUM OF 8 FT. BETWEEN THE
EAST WALL AND THE TREE TO SAFEGUARD AGAINST POSSIBLE DAMAGE TO THE
TREE'S ROOT SYSTEM.

- 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 ~~BLANK~~ SHEET ATTACHED

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 ~~BLANK~~ SHEET ATTACHED

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. WE HAVE TALKED TO THE OWNER, MR. MATT KUDZIK,
WHO RESIDES AT 304 W. CENTRE, AND HE HAS ^{TO} ABSOLUTELY NO PROBLEM
BEING
WITH THE PROPOSED GARAGE A MINIMUM OF 3 FT. AND A MAXIMUM OF 5 FT
TOWARDS HIS PROPERTY.

- 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 or 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:

J. M. Smith & Kenneth Driver

Date:

8/20/18

Fee Paid:

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

Driver, J Milt

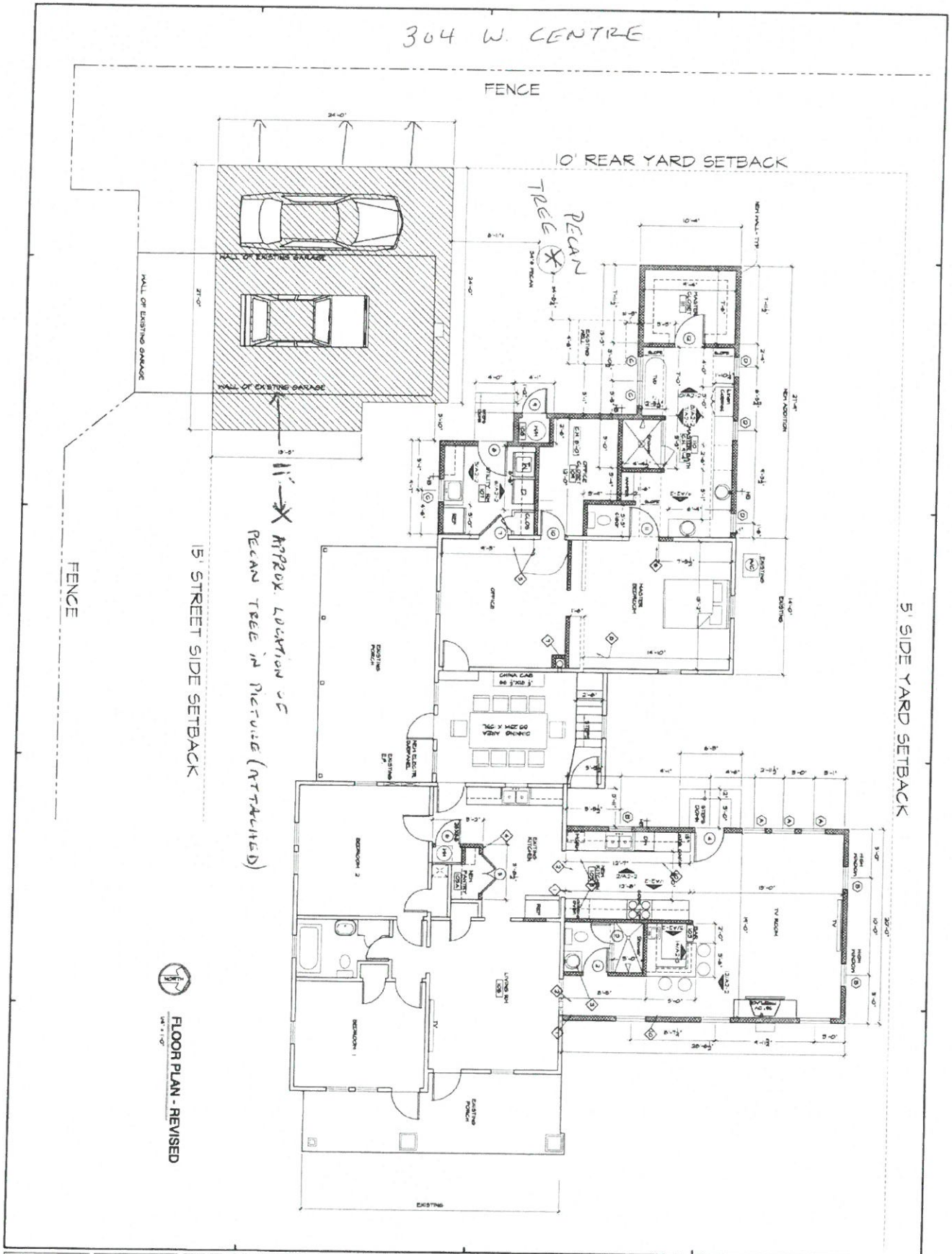
From: Kenni Driver <kennid@airmail.net>
Sent: Friday, June 22, 2018 7:51 PM
To: Driver, J Milt
Cc: Kenni Driver
Subject: Barry Info about Pecan Tree

From Barry

Milt, there is a pecan tree about 11 feet east of existing garage. Probably should stay about 8 feet from the tree.



Kenni Driver
Marketing Uplift
972-978-6455



HOUSE REMODEL- ADDITION 702 NORTH ORANGE ST.

FREDERICKSBURG

TEXAS



BARRY A. WAGNER AIA

ARCHITECT & PRESERVATION CONSULTANT
300 NORTH ORANGE STREET
FREDERICKSBURG, TEXAS 77834
PHONE: 409.336.8822 FAX: 409.336.8823

PRELIMINARY
FLOOR PLAN
THIS DOCUMENT IS A PRELIMINARY
DESIGN AND IS NOT TO BE USED FOR
CONSTRUCTION. ANY CHANGES
SHOULD BE MADE IN CONSULTATION
WITH THE ARCHITECT.

