



CITY OF FREDERICKSBURG

ZONING BOARD OF ADJUSTMENT TUESDAY, DECEMBER 1, 2020 ~ 5:30 P.M.

Travis Neal, Member
Marcus Vidrine, Member
Donnie Finn, Chair
Ashley Hunter, Member

Cynthia Scroggins, Vice
Jim McAfee, Member
Devin Mullen, Member

The City of Fredericksburg Zoning Board of Adjustment will meet in a regular session on Thursday, December 1, 2020 at 5:30 P.M. This meeting will be held remotely via Zoom Teleconferencing. Members of the public may attend the meeting in person or remotely by web or telephone via Zoom Teleconferencing (see details below). These actions are being taken to mitigate the spread of COVID-19 by avoiding meetings that bring people into a group setting and in accordance with Section 418.016 of the Texas Government Code.

Members of the public may join the Zoom Meeting by one of the following:

By web:

<https://us02web.zoom.us/j/87638570747?pwd=M1huWEFWMEltk9GaDUxcEJtcjJRdz09>

By phone:

(888)788-0099 (Toll Free)
(877)853-5247 (Toll Free)
Meeting ID: 836 4257 9598
Passcode: 444920

1. CALL TO ORDER

2. ROLL CALL

3. PUBLIC COMMENTS

During the COVID-19 pandemic, the City of Fredericksburg is allowing public comments to be submitted remotely, **by 2:00 p.m. on DECEMBER 1, 2020**, using any of the following methods:

Email your comments to scollier@fbgtx.org; or

Complete a Citizen Comment Form located inside the Public Access entrance at 126 W. Main Street Fredericksburg, Texas, and place in the box marked Citizen Comment Form.

The Zoning Board of Adjustment Commission (ZBA) welcomes public comments concerning items on this agenda. Each member of the public who desires to address the ZBA regarding an item on this agenda is required to sign up to speak, prior to the start of the meeting. All public comments shall be limited to discussion of items on this agenda and shall be limited to 3-minutes in duration. At the discretion of the ZBA Chair, or upon an affirmative vote of the ZBA, the public comment time limit applicable to all speakers may be lengthened or shortened as required to allow the ZBA to complete its legislative agenda. Persons addressing the ZBA are prohibited from trading time with other speakers or reserving of time.

4. ACTION ITEMS

A. Receive recommendation and consider (ZBA2020-05) Request by Glenn & Conya Wiseman For a Variance to Section 7.825 Subsection C of the Zoning Ordinance pertaining to Off Street Parking for Property located at 319B E. Main Street. Applicant requests a Variance to use existing Off-Street Parking as Outdoor Dining.

5. ADJOURN

This is to certify that I, Shelby Collier, posted this Agenda before 5:00 PM. on November 25, 2020 on the entrance door and bulletin board at the City of Fredericksburg City Hall, 126 W. Main St., Fredericksburg, Texas.

Shelby Collier,
Development Coordinator

VARIANCE BRIEF

Request # 2020-05

APPLICANT:

Glenn and Conya Wiseman

ZONING:

CBD – Central Business District – Historic Overlay

LOCATION:

319B E. Main Street

REQUEST:

Variance to Section 7.825 of the Zoning Ordinance, pertaining to required off-street parking requirements.

Application Update:

At the meeting held on November 12, 2020, the Board voted to postpone action on this item pending more information being considered prior to taking final action. Staff requested that the Board let us know what additional information they wanted. To date, we have heard from Mr. Devin Mullen and Marcus Vidrine. Mr. Mullen's email comments are attached to this follow-up brief. Mr. Vidrine questioned whether a variance had been granted for this property previously and wanted an explanation of the 50% parking allowance available for downtown properties. The email explanation is attached.

Because the Zoning Ordinance requires that a decision be made within 20 days following the closing of the public hearing, the Board will need to make a final decision on this application.

FINDINGS:

- The property contains a building fronting on Main Street and a building added in 2014 to the rear of the property.
- The front building is currently occupied by Wild Hare Bistro and the rear building is currently vacant and was formerly Jennies Burgers.
- The applicant wishes to convert the driveway and existing parking area to outdoor dining and seating.
- The lot is approximately 0.2663 acres (11,600 sf) in size (see survey).
- The driveway and parking area were built when the building in the rear (formerly Jennies Burger's) of the site was added in 2014.
- Section 7.825 of the Zoning Ordinance requires off-street parking spaces for new construction. Existing buildings are exempt from off-street parking requirements.

- The lot is surrounded by commercial buildings along Main Street and a mix of residences and businesses on San Antonio Street.

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 property is being utilized for the use intended by the CBD Zoning District. The driveway and parking area were constructed as a requirement of the Zoning ordinance when the building in the rear was added in 2014. Had the building not been added, all the area in question could have been used for outdoor dining and seating.**
- 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 not created by the applicant, but by a previous owner of the property when the rear building was added. We would agree with the applicant that the driveway and off-street parking layout and configuration, along with the narrow driveway, does create an undesirable situation for individuals who might wish to access the parking. In addition, crossing the public sidewalk can be unsafe during busy times.**
- 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 variance to alter the character of adjacent properties. As the applicant has noted in their application, utilizing the area for outdoor dining and seating would likely be more desirable than for vehicular access and parking.**

OPPOSITION/SUPPORT OF REQUEST: No letters received.

STAFF RECOMMENDATION: When the applicant's first approached the City about converting this driveway and parking area to outdoor dining and seating, staff met with them on-site to evaluate possible alternatives. Since we were under restrictions due to the Covid-19 Pandemic, staff mentioned that it might be possible to allow the area to be utilized for outdoor dining on a temporary basis. In other words, since the occupancy was limited, the need for parking would be reduced as well. The applicant was not interested in a temporary solution. Staff does not support a permanent elimination of the required parking, and a conversion of this area to outdoor dining. It was the previous owner's desire to add the building and create the need for parking, and the current owners should have been aware of this situation. We recommend denial of the request.

Brian Jordan

From: Shelby Collier
Sent: Wednesday, November 25, 2020 10:06 AM
To: Brian Jordan
Subject: FW: Follow-up to the Zoning Board Variance Meeting on 12 Nov 2020; Request # 2020-05



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Shelby Collier/ Development Coordinator/ City of Fredericksburg
O. 830-990-2013/ scollier@fbgtx.org

From: Devin Mullen <ulysses3002@gmail.com>
Sent: Friday, November 13, 2020 10:35 AM
To: Shelby Collier <scollier@fbgtx.org>
Cc: Brian Jordan <bjordan@fbgtx.org>
Subject: Follow-up to the Zoning Board Variance Meeting on 12 Nov 2020; Request # 2020-05

Shelby,

After the meeting on 12 Nov 2020, I wrote some additional questions requesting clarifying information which if answered, would assist me in making my decision on this case.

From the Variance Application, I pulled the following wording: "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. Reasonable Use Condition. This condition has not been met. The applicant has not made a valid case which proves the property prevents "reasonable use." He identified that the use is not ideal, but not unreasonable, i.e. he has a potential tenant identified. What efforts has the applicant made to secure additional tenants? Advertising? Posters? Mail invitations? Which proved unsuccessful.

2. Unique Circumstances Condition. All the criteria in this condition has not been met. (1) The applicant and other government officials referenced other properties in the downtown area which have a similar condition as this property; i.e. long driveways. (2) It is true the current owner did not create the alleged unique circumstances, i.e. a building built behind an historical building, which triggered the need for additional parking. (3) It is also true that the alleged unique circumstance is the result of general conditions in the zoning district in which the property is located; the zoning ordinance were created specifically for downtown Fredericksburg.

3. Character Condition. The applicant brought one neighbor, who can provide some reference to this situation. It is recommended that statements from the neighbors on both sides of the property be provided, with the condition that they are not tenants, or potential tenants, to the property owner. Also, has any other variance, like this one been issued by the City; is there precedence?

While a great deal of time was spent discussing safety, and it is a factor, but it is not relevant or necessary for the conditions of the variance. Therefore, it is unnecessary to ask for police or insurance reports for this particular property.

I hope these additional, and hopefully clarifying, questions can be answered in Mr. Wiseman's application.

Sincerely,

Devin Mullen

Brian Jordan

From: Brian Jordan
Sent: Tuesday, November 17, 2020 11:57 AM
To: Marcus Vidrine
Cc: Shelby Collier
Subject: RE: Zoning Board of Adjustment November 12, 2020 Meeting

Marcus,

Actually, when the building was proposed, they were planning for general retail. Since the building is approximately 1200 square feet, and our retail parking requirement is 1 space per 400 square feet, this would require 4 spaces (1 of which must be Handicap accessible). So, per the allowance of 50%, they would of only had to provide 2 spaces.

Because they chose to have a restaurant, the parking requirements are different, and are based on 1 space per 4 dining seats within the dining area. So, we determine the size of the dining area, and divide this by 15 square feet per person (based on the fire code occupancy limits) and determine a maximum occupancy. We then divide the maximum occupancy to get a maximum number of dining seats and further divide this number by 4 to determine a parking requirement. If you run all the numbers, they would have had a dining area of about 500 square feet which would have required 8 parking spaces. And, if you apply the 50% credit, 4 spaces would be required.

This seems confusing and ridiculous to have to go through this process every time, but it does seem to work.

Brian Jordan ASLA, RLA
Director of Development Services
City of Fredericksburg
126 W. Main Street
Fredericksburg, TX 78624
830-997-7521

From: Marcus Vidrine <MVIDrine@fcbtexas.com>
Sent: Tuesday, November 17, 2020 11:42 AM
To: Brian Jordan <bjordan@fbgtx.org>
Cc: Shelby Collier <scollier@fbgtx.org>
Subject: RE: Zoning Board of Adjustment November 12, 2020 Meeting

Hi Brian and Shelby,

Thank You. Can you explain the fifty percent parking requirement of Table 7.863? I must be missing something. Maybe Table 7.863 would explain. Is it 50% of the occupancy of the new building? It seems odd that 4 parking spaces would have been enough for that building.

For new buildings or expanded building space, the following uses shall provide fifty percent (50%) of the off-street parking requirements of Table 7.863.

Thanks
Marcus

Marcus Vidrine
SVP / City President



Office: 830-990-0790
Mobile: 830-998-1451
NMLS ID# 649517
FCBTexas.com
805 W. Main St.
Suite 500
Fredericksburg, TX 78624



Let's Connect!!



From: Brian Jordan <bjordan@fbgtx.org>
Sent: Tuesday, November 17, 2020 11:26 AM
To: Marcus Vidrine <MVidrine@fcbtexas.com>
Cc: Shelby Collier <scollier@fbgtx.org>
Subject: [EXTERNAL] RE: Zoning Board of Adjustment November 12, 2020 Meeting

This Message originated outside your organization.

Marcus,

In response to your question about 319 E. Main Street, a variance was not granted in 2014. The owners at the time (Gus and Jackie Rios) went through the normal Site Plan approval process to build the second building. As such, they were required to provide parking on site in accordance with Section 7.825 (below) of the Zoning Ordinance. The approved site plan was in your packet.

Brian

Sec. 7.825. - Special Provisions Applicable To Central Fredericksburg.

[SHARE LINK TO SECTIONPRINT SECTIONDOWNLOAD \(DOCX\) OF SECTIONEMAIL SECTIONCOMPARE VERSIONS](#)

A.

Special parking requirements shall apply within designated portions of Central Fredericksburg in order to further enhance the unique historical character and discourage inharmonious parking facilities in such historical districts or on sites occupied by historic structures and to reduce intrusion on pedestrian-oriented street frontages by parking facility access.

B.

The Special parking requirements and provisions in this Section shall apply to all areas of blocks 15, 16, 21, 22, 27, 28, 33, 34, 42, 43, 47, 48, 52, 53, 57, 58, 67 and 68 of the Fredericksburg Addition, and which is further described as those blocks bordered by Austin Street, San Antonio Street, Elk Street and Bowie Street.

C.

Special Provisions.

1.

For those businesses which construct their own off-street, off-premises parking, the distance to the parking lot may be extended fifty percent (50%) in addition to the provisions in Section 7.850.

2.

When any existing building is: (1) converted to another use; or (2) has the usable floor area within the existing building perimeter enlarged, rehabilitated or remodeled, without enlarging said building perimeter, then said building conversion or improvement shall not require additional off-street parking, other than the number of existing off-street parking spaces which are utilized by said building.

3.

For new buildings or expanded building space, the following uses shall provide fifty percent (50%) of the off-street parking requirements of Table 7.863.

4.

The provisions as provided herein shall not apply for sites where a historic structure is removed and a new building built.

5.

The Special Parking Provisions shall not apply to properties utilized as Bed and Breakfasts, hotels, motels, or other lodgings.

*Brian Jordan ASLA, RLA
Director of Development Services
City of Fredericksburg
126 W. Main Street
Fredericksburg, TX 78624
830-997-7521*

From: Shelby Collier <scollier@fbgtx.org>
Sent: Tuesday, November 17, 2020 9:00 AM
To: Brian Jordan <bjordan@fbgtx.org>
Cc: Marcus Vidrine (mvidrine@fcbtexas.com) <mvidrine@fcbtexas.com>
Subject: FW: Zoning Board of Adjustment November 12, 2020 Meeting

Brian,

My records do not reflect a Variance for this site.

Is that correct?



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Shelby Collier/ Development Coordinator/ City of Fredericksburg

O. 830-990-2013/ scollier@fbgtx.org

From: Marcus Vidrine <MVidrine@fcbtexas.com>

Sent: Friday, November 13, 2020 9:54 AM

To: Shelby Collier <scollier@fbgtx.org>

Subject: RE: Zoning Board of Adjustment November 12, 2020 Meeting

Hi Shelby,

In reference to ZBA2020-05 - Did 319B E. Main have any type of variance when the second building was added in 2014?

Thanks

Marcus



Marcus Vidrine
SVP / City President

Office: 830-990-0790
Mobile: 830-998-1451
NMLS ID# 649517
FCBTexas.com
805 W. Main St.
Suite 500
Fredericksburg, TX 78624



Let's Connect!!



From: Shelby Collier <scollier@fbgtx.org>

Sent: Thursday, November 12, 2020 10:30 AM

To: ashley@hmriskgroup.com; CYNTHIA SCROGGINS (cynthia.scroggins@gmail.com) <cynthia.scroggins@gmail.com>; Daniel Jones <djones@fbgtx.org>; Devin Mullen <ulysses3002@gmail.com>; Donnie Finn (donnief@fisd.org) <donnief@fisd.org>; james.mcafee@lpl.com; Marcus Vidrine <MVidrine@fcbtexas.com>; Travis Neal (travis@nealrealtor.com) <travis@nealrealtor.com>

Cc: Brian Jordan <bjordan@fbgtx.org>

Subject: [EXTERNAL] Zoning Board of Adjustment November 12, 2020 Meeting

This Message originated outside your organization.

Good morning,

Please allow this to serve as a reminder for tonight's Zoning Board of Adjustment Meeting.

This meeting will be held in person at the Gillespie County Law Enforcement Building, 1601 E. Main Street.

Who plans to attend?

I look forward to your response.

Thank you!



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Shelby Collier/ Development Coordinator/ City of Fredericksburg

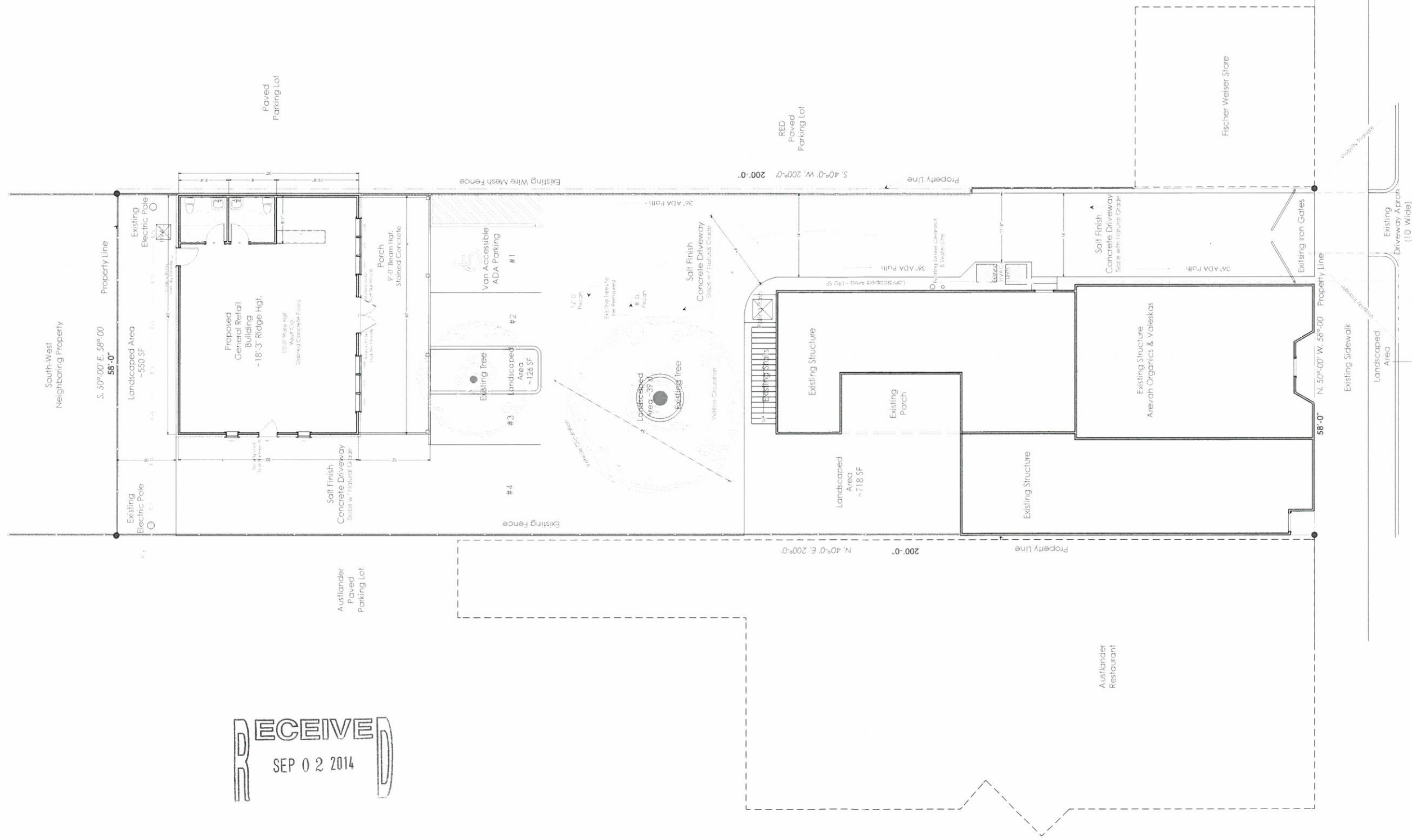
O. 830-990-2013/ scollier@fbgtx.org

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RECEIVED
SEP 02 2014



Plat showing a survey of 11,600 Square Feet of land, being a part of townlots 225 and 226, German Emigration Company, situated in the City of Fredericksburg, Gillespie County, Texas.
(FBG ADD BLK 52 LOT 225-PT & 226-PT)

Proposed Use: General Retail Store
Zoned Central Business District:
Minimum Lot Size: 5,000 SF (Lot is 11,600 SF)
Maximum Building Height: 38'-0" (Actual ~18'-3" Ridge Hgt.)
Setbacks: 0' All Sides
Impervious Coverage: 9,807 sf of 11,600 sf (85%) (CBD: 90% Max)
New Building Coverage: 1,718 SF
Parking: General Retail 3 Spaces Required (1:400 SF) (1 of which is Van ADA)
4 Spaces Provided (1 is Van ADA)
Fire Lane: No specific fire lane described - verify driveway width and access w/ Fire Marshal. Fire Hydrant located directly across Main Street.

ADMINISTRATIVE
APPROVAL

DATE: 10-6-2014
* add Fire Dept. Connection Dry Line

Gus & Jackie Rios 319 E Main St. Fredericksburg, Texas		Shayna Thompson 830.998.1673	
Site Plan For Review		Scale 1/8" = 1'-0"	1
		Date 9-1-14	

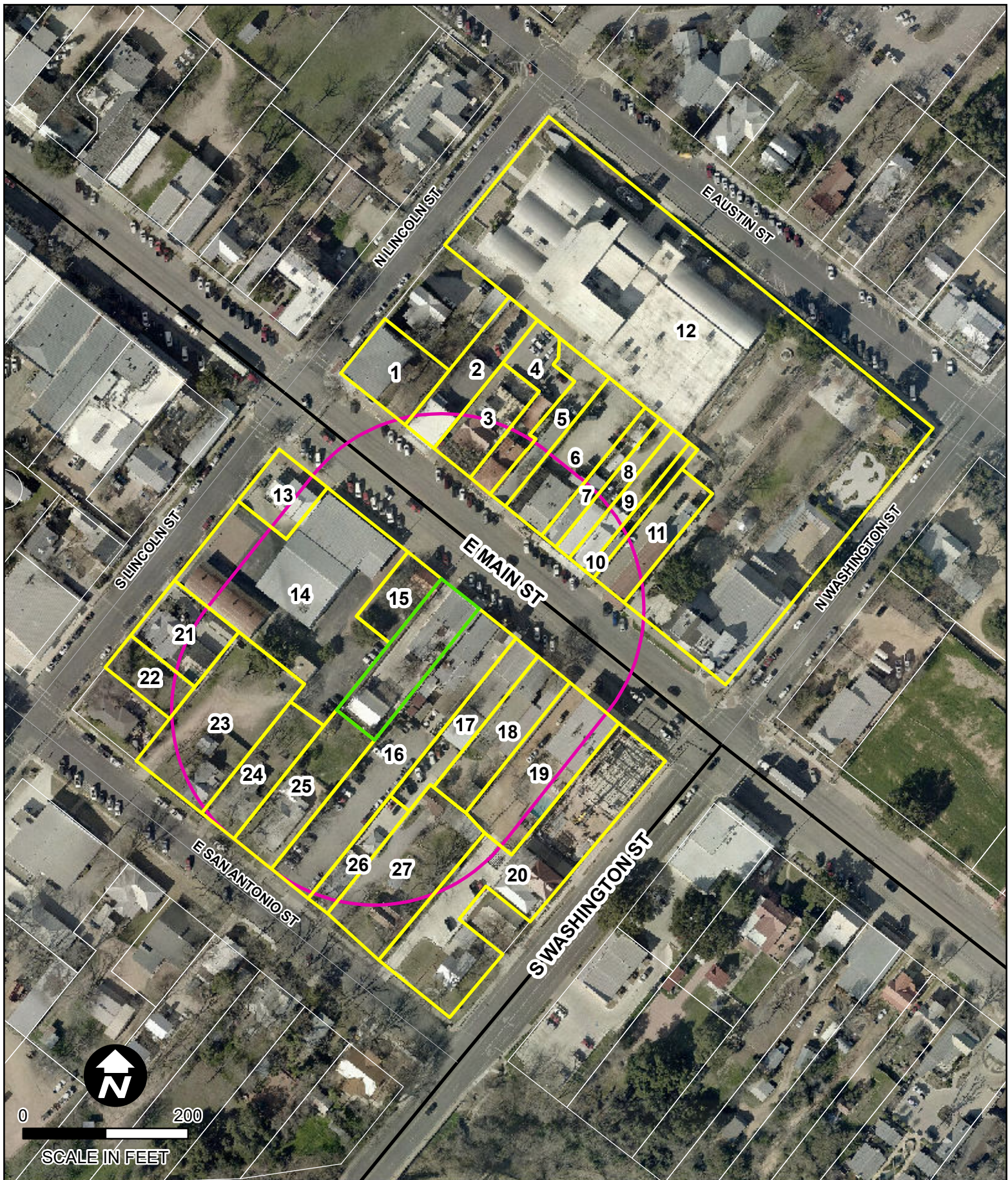


FIGURE 1
City of Fredericksburg
319 E. Main Street

LEGEND

- Subject Property
- 200 Foot Buffer
- Affected Property





VARIANCE APPLICATION TO BOARD OF ADJUSTMENT

City of Fredericksburg - Development Services Department
126 W. Main St., Fredericksburg, TX 78624 – (830)997-7521

-
1. Applicant: FMSP South LLC
 2. Owner: Glenn & Conya Wiseman
 3. Phone: 832-435-7842 Email: gwise1958@gmail.com
 4. Description of property involved in this request.
Address: 319 B East Main St
Legal Description: FBG ADDN BLK 52 LOT 225-PT & 226-PT
Lot Size: .2663 Acre Zoning District: CBD
 5. Request is made to the Board of Adjustment that a variance be granted to the following provisions of the Zoning Ordinance.
Section: 7.825 Subsection: C
Item: 3 Relating To: Off-Street Parking
Requiring: New or expanded buildings to provided off-street parking.

 6. 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:
 - i. Existing and proposed location and arrangement of uses on the site, and on abutting sides within 50-feet.
 - ii. 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.
 - iii. Existing and proposed topography, grading, landscaping, and screening, irrigation facilities, and erosion control measures.

- iv. 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.

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.

A reasonable use for this property is a restaurant with outdoor dining or seating.

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.

The existing off-street parking access, layout and basic geometry provide a logistical / safety issue that most patrons are not willing to risk. Due to the aforementioned the on-site parking is unused and if used, unsafe to property and public.

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 requested variance would enhance the character of the area by eliminating automobile traffic crossing the sidewalk in the area. Outdoor dining or gathering would be far more attractive than a drivable alley and a few awkward parking spots

- 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:

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.

No, the variance would improve traffic flow in the area due to no sidewalk crossing and reduce automobile congestion.

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

No, the current situation slows traffic as motorists try to navigate the narrow alley and pedestrians.

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

The current parking access requires an automobile sidewalk crossing and the access alley is used by pedestrians and automobiles. The current situation is very unsafe and has caused property damage, fender benders and numerous pedestrian near misses.

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

Yes only as dining, retail or outdoor gathering.

- 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.

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.

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.

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 byouts and existing natural vegetation.

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
- a. That alternatives permitted by this Ordinance would involve extensive reconstruction of structures; or
 - 1. That alternatives permitted by this Ordinance are prohibitively expensive; or
 - 2. That alternatives permitted by this Ordinance will not effectively identify the subject of the sign.

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

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

Staff Use Only

Application No: _____
Payment Type: _____

Date: _____