



**NOTICE OF A REGULAR MEETING
BOARD OF ADJUSTMENT
MONDAY, NOVEMBER 8, 2021 AT 5:15 P.M.
SECOND FLOOR CITY HALL
COUNCIL CHAMBERS
200 W. VULCAN
BRENHAM, TEXAS**

1. Call Meeting to Order

2. Public Comments and Receipt of Petitions

[At this time, anyone will be allowed to speak on any matter other than personnel matters or matters under litigation, for length of time not to exceed three minutes. No Board discussion or action may take place on a matter until such matter has been placed on an agenda and posted in accordance with law.]

3. Reports and Announcements

CONSENT AGENDA

4. Statutory Consent Agenda

The Statutory Consent Agenda includes non-controversial and routine items that the Commission may act on with one single vote. A Commissioner may pull any item from the Consent Agenda in order that the Commission discuss and act upon it individually as part of the Regular Agenda.

4-a. Minutes from the October 11, 2021 Board of Adjustment Meeting

REGULAR AGENDA

- 5. Public hearing, Discussion and Possible Action on Case Number B-21-005: A request by Kathie Boehnemann for a Variance from the City of Brenham Code of Ordinances, Appendix A –Zoning, Part II, Division 2, Section 2.05(3)(b)(ii) to allow a 0-foot south side setback, where a minimum 10-foot side setback required, for construction of a carport at 505 Hosea St., described as Lot 3 of the Millennium Subdivision, in Brenham, Washington County, Texas.**

6. **Public hearing, Discussion and Possible Action on Case Number B-21-006: A request by Nelson Sosa and Katherine Hawes for a Variance from the City of Brenham Code of Ordinances, Appendix A –Zoning, Part II, Division 2, Section 9.03(3)(b)(ii) to allow a 10-foot north side setback, where a minimum 15-foot side setback required; and a request for a Special Exception from the City of Brenham Code of Ordinances, Appendix A – Zoning, Part II, Division 2, Section 9.03(2)(e) to allow parking to be located to the front of the property, where parking is required to be located to the rear for a multifamily development in the Downtown Business/Residential Overlay District (DBROD) at 411 Church Street, described as Lot 4, Block 93 of the Original Town Addition, in Brenham, Washington County, Texas.**
7. **Adjourn**

CERTIFICATION

I certify that a copy of the November 8, 2021, agenda of items to be considered by the Board of Adjustment was posted to the City Hall bulletin board at 200 W. Vulcan, Brenham, Texas on November 5, 2021, at 9:00 a.m.

Kim Hodde

Kim Hodde, Planning Technician

Disability Access Statement: This meeting is wheelchair accessible. The accessible entrance is located at the Vulcan Street entrance to the City Administration Building. Accessible parking spaces are located adjoining the entrance. Auxiliary aids and services are available upon request (interpreters for the deaf must be requested twenty-four (24) hours before the meeting) by calling (979) 337-7200 for assistance.

I certify that the attached notice and agenda of items to be considered by the Board of Adjustment was removed by me from the City Hall bulletin board on the _____ day of _____, 2021 at _____ am/pm.

Signature

Title

**CITY OF BRENHAM
BOARD OF ADJUSTMENT MINUTES**

October 11, 2021

The meeting minutes herein are a summarization of meeting proceedings, not a verbatim transcription.

A regular meeting of the Board of Adjustment was held on October 11, 2021, at 5:15 pm in the Brenham Municipal Building, City Council Chambers, at 200 West Vulcan Street, Brenham, Texas.

Commissioners present:

Jon Hodde, Chairman
Thomas Painter, Vice Chairman
Danny Goss
Arlen Thielemann
Mary Lou Winkelmann

Commissioners absent:

None

Staff present:

Stephanie Doland, Director of Development Services
Shauna Laauwe, City Planner
Donald Reese, Assistant City Manager
Kim Hodde, Planning Technician

Citizens / Media present:

Alyssa Faykus, Banner Press	
Edwin Johnson	Kevin Kuklis
Sireta Cuerington	Keith and Shirley Jackson
Joyce McFarland	Mary Colvin
Bridget McFarland	Farris Colvin

1. Call Meeting to Order

Chairman Hodde called the meeting to order at 5:15 p.m. with a quorum of five (5) Commissioners present.

2. Public Comments and Receipt of Petitions

There were no public comments and/or receipt of petitions.

3. Reports and Announcements

Stephanie Doland informed the Board of Shauna Laauwe's promotion to City Planner. Congratulations were given.

CONSENT AGENDA

4. Statutory Consent Agenda

The Statutory Agenda includes non-controversial and routine items that the Commission may act on with one single vote. A Commissioner may pull any item from the Consent Agenda in order that the Commission discuss and act upon it individually as part of the Regular Agenda.

4-a. Minutes from the September 13, 2021, Board of Adjustment Meeting

Chairman Hodde called for any corrections or additions to the minutes as presented. A motion was made by Commissioner Winkelmann and seconded by Commissioner Painter to approve the minutes from the September 13, 2021, meeting, as presented. The motion carried unanimously.

REGULAR AGENDA

5. Public hearing, Discussion and Possible Action on Case Number B-21-004: A request by Titan Premier Investments, LLC / Kevin Kuklis for a Special Exception from the City of Brenham Code of Ordinances, Appendix A – Zoning, Part II, Division 1, Section 1.05(1)(a) to allow a 20-foot front yard setback where a minimum 25-foot front yard setback is required for a single-family residence at 904 W. Jefferson Street, described as Lot 21, West Block of J. Wilkins Addition, in Brenham, Washington County, Texas.

Shauna Laauwe presented the staff report for Case No. B-21-004 (on file in the Development Services Department). Ms. Laauwe stated that this is the same request that was considered at the September 13, 2021, meeting. The subject property is a vacant lot located at 904 W. Jefferson Street that is zoned R-1, Single Family Residential. The Future Land Use Map shows the property's use as single-family residential. The lot is a legally non-conforming lot that is approximately 6,650 square feet and is approximately 70-feet wide by 95-feet deep. Current minimum lot requirements are 7,000 square feet or approximately 60-feet side by 115-feet deep. The applicant proposes to construct a 1,440 square foot home on the lot. The applicant is requesting a 5-foot special exception to allow for the porch and overhangs.

Staff finds that:

- The property was platted before Subdivision and Zoning Regulations were adopted in 1967.
- Seven (7) neighboring structures on the block front encroach into the front yard setback with four (4) of them having a front yard setback of less than twenty feet.
- The requested front setback is in character with the surrounding properties.

Notifications were mailed to property owners within 200-feet of the subject property on September 2, 2021. Two written citizen comments were received in opposition to this request.

Staff has reviewed the request and recommends approval of the requested special exception to allow a 20-foot front setback where a 25-foot front setback is required for a single-family residence.

During the public hearing held by the Board of Adjustment at their September 13, 2021, meeting, concerns were voiced regarding compatibility and that the developer, Kevin Kuklis, was not able to attend to the meeting to answer any questions.

Chairman Hodde opened the Public Hearing at 5:20 p.m. and asked for any comments. Various comments and questions were presented by neighborhood residents, including:

- What type of home will be constructed? All other homes in this neighborhood are brick.
- Will it be a "Noah's Ark" style home?
- Will the person living in the home keep the lot clean? The neighbors have been keeping the lot clean for many years.
- The neighbors are very concerned about whether the home will be compatible and whether their property values will decrease.

Shauna Laauwe stated that a couple years ago the Texas Legislature removed the City's ability to regulate building materials as long as they are approved by the International Building Code. Planned Development Districts are one of the few avenues where additional restrictions can be imposed.

In response to the citizen comments, Kevin Kuklis stated:

- He has a floor plan but has not determined if the home will be on a slab or pier and beam due since soil testing and engineering has not yet been performed. The home will be engineered.
- The setback is needed due to the topography of the land.
- 95% of the homes he builds are brick.

Several citizens stated that they just want to know what is being built. Mr. Kuklis stated that he could not answer that question at this time.

Commissioner Goss stated and staff verified that the eave of a house can extend into the setback a maximum of 18-inches and that steps are allowed in the setback; however, a covered porch with steps is not allowed to encroach.

Chairman Hodde stated that the Board appreciates the citizen comments and fully understands; however, he reiterated that the City cannot regulate building materials such as brick, wood, steel, pier and beam, or a slab-built home. The Board's decision is only regarding the request for a 5-foot reduction in the front building setback. Chairman Hodde stated that the Board's decision will likely not affect whether or not the applicant builds or what type of building material is used. The decision may only affect whether the front setback will be twenty feet or twenty-five feet.

Chairman Hodde closed the Public Hearing at 5:56 p.m. and re-opened the Regular Session.

A motion was made by Commissioner Thielemann and seconded by Commissioner Painter to deny the request by Titan Premier Investments, LLC / Kevin Kuklis for a Special Exception to allow a 20-foot front yard setback where a minimum 25-foot front yard setback is required for a single-family residence at 904 W. Jefferson Street, as presented. The motion carried unanimously.

6. Adjourn

A motion was made by Commissioner Painter and seconded by Commissioner Winkelmann to adjourn the meeting at 5:58 p.m. The motion carried unanimously.

The City of Brenham appreciates the participation of our citizens, and the role of the Board of Adjustment in this decision-making process.

Certification of Meeting Minutes:

Jon E. Hodde, Chairman

November 8, 2021
Meeting Date

Attest, Staff Secretary

November 8, 2021
Meeting Date



CASE NUMBER: B-21-005
VARIANCE REQUEST: 505 HOSEA STREET

STAFF CONTACT: Shauna Laauwe, City Planner

OWNER/APPLICANT: Kathie Boehnemann

ADDRESS/LOCATION: 505 Hosea Street (Exhibit "A")

LEGAL DESCRIPTION: Millennium Subdivision, Lot 3

LOT AREA: 4589 square feet

**ZONING DISTRICT/
USE:** R-2 Mixed Residential Use District / Single-family residence
(Exhibit "B")

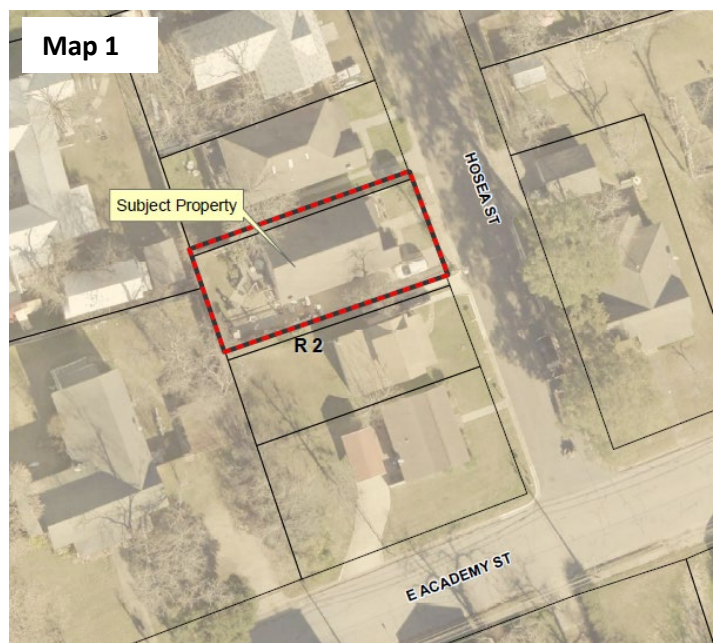
**COMP PLAN
FUTURE LAND USE:** Single-Family Residential

REQUEST: A request for a Variance from the City of Brenham Code of Ordinances, Appendix A – Zoning, Part II, Division 2, Section 2.05(3)(b)(ii) to allow a to allow a **0-foot south side setback**, where a minimum 10-foot side setback required, for construction of a carport (Exhibit "C").

BACKGROUND:

The subject property is located on the west side of Hosea Street, approximately 104 feet north of the East Academy Street and Hosea Street intersection and addressed as 505 Hosea Street. The property is currently owned by the applicant, Kathie Boehnemann. The subject property consists of an existing single family residence and an attached backyard deck. The property, as well as surrounding properties, are currently zoned as R-2 Mixed Residential Use District.

The subject property is part of the Millennium Subdivision, a subdivision of six (6) lots platted in December 2003, where five (5) of the lots were configured as zero lot line/patio home lots (See Figure 1 below). Zero-lot line homes are a permitted residential use within the R-2 District that are established by a plat with a minimum area for a patio home development of 12,000 square feet, with each lot having a minimum area of 4,000 square feet for a



minimum of three (3) contiguous lots for a said development. Patio home developments provide for the development of Single-Family Detached Dwellings in areas where reduced area and setback requirements may be accommodated. The district requires homes to be located on one side lot line to consolidate yard space and enhance privacy in exchange for an increase in lot coverage. Zero lot line neighborhoods contain one side yard, whereas traditional neighborhoods include two side yards – one on both sides of the house. In the City of Brenham Zoning Ordinance, patio home lots have a unique set of area regulations to include reduced minimum lot sizes of 4000 square feet, lot width of 40 feet, lot depth of 100 feet, reduced front yard setback of 20 feet and a reduced rear yard setback of 15 feet. The requirements for a the side yard setbacks are the most unique with Section 2.01(3)(b)(ii) stating: “Side yard. A side yard of ten (10) feet shall be maintained adjacent to one property line, except that a side yard where the side yard is adjacent to a plat boundary that is contiguous to a standard single-family subdivision, said side yard shall be ten feet. Adjacent to public streets, a side yard of not less than fifteen (15) feet is required. A portion of the Millenium Subdivision plat is shown below in Figure 1, with the subject property outlined and labeled as Lot 3. The plat indicates that the subject property has a lot size of 4589 square feet, a lot width of 44.20 feet, a lot depth of 103.32 feet, with the zero lot line of Lots 2-5 being indicated along the north property line and the required 10 foot side yard setback being along the south property line.

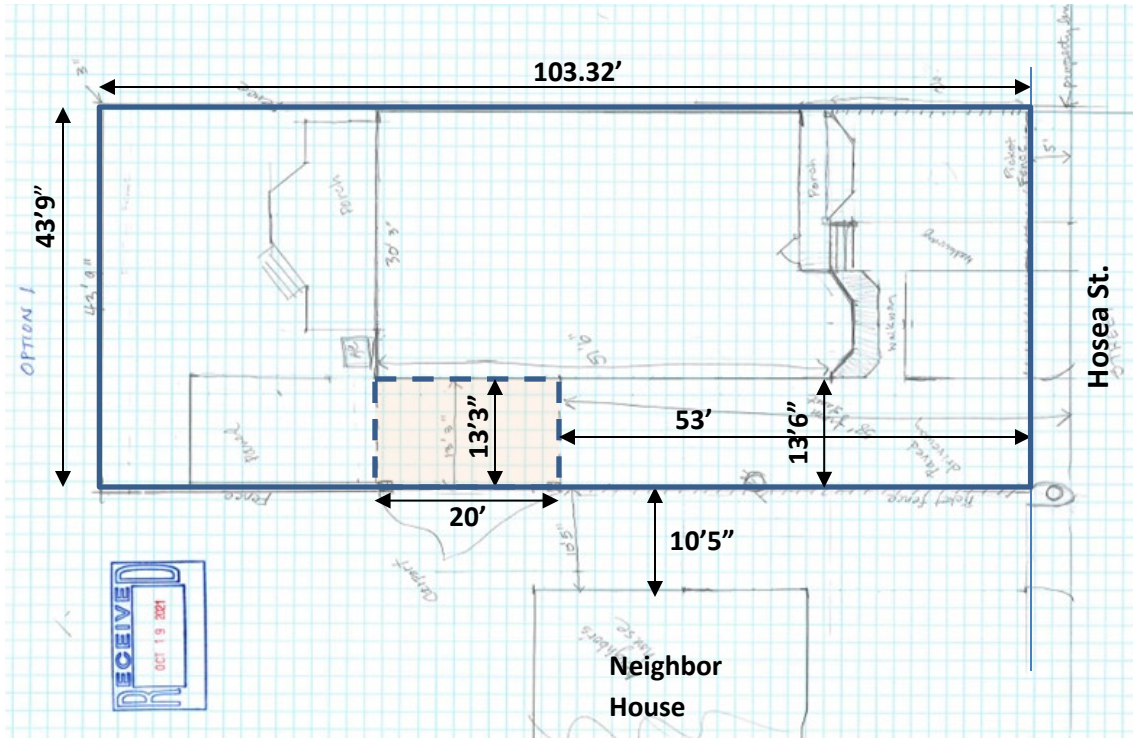
As shown in the site plan in Figure 2 below and attachment Exhibit D, the existing 1455 square foot home has a front yard setback of 20 feet, a north side yard setback of zero (0) feet as allowed by the plat, and a south side yard setback of 13 feet 6 inches (13’6”). In order to protect her vehicle from an existing pecan tree and weather elements, the applicant proposes to construct a 13’-3”x 20’ (265 sf) decorative metal carport that would be setback 53 feet from front property line along Hosea Street and within the required 10 foot south side yard setback.

Therefore, the applicant, is requesting a variance to allow a 10-foot reduction to the minimum required 10-foot south side yard setback for a setback of zero feet for construction of an attached carport.

Figure 1



Figure 2 – See Also Exhibit D



APPLICABLE SECTION OF ORDINANCE AND ANALYSIS:

(Sec.5.02)(132)Variance: A type of relief that may be granted by the Board of Adjustment in order to accommodate appropriate development of a particular parcel of land that cannot otherwise be appropriately developed. The granting of such relief is subject to the standards and procedures as established in Part IV, Variances, Special Exceptions, Nonconforming Uses and Appeals, Division 1. The Board may not grant variances to use requirements or procedural requirements related to the granting of a variance.

(DIVISION 2. VARIANCES Sec. 1. Limitations.) The Board of Adjustment shall have the authority to grant variances in accordance with the standards and procedures provided herein, from any and all technical requirements of the zoning ordinance, but may not grant variances to use requirements or procedural requirements or for procedural requirements for hearing or notice, provided that:

- (1) *Such modifications are necessary to accommodate appropriate development of a particular parcel of land that is restricted by attributes inherent in the land such as area, shape or slope to the extent that it cannot otherwise be appropriately developed.*

The subject property was platted as a zero-lot / patio home lot with the Millennium Subdivision replat in December 2003. Patio home lots are fundamentally smaller lots with less setbacks that allow for a greater density and lot coverage. With only one side yard and narrow lots, accessory structures such as garages and carports are typically not found on zero-lot line properties. To meet the zoning regulations, these types of structures would need to be detached and placed off-set behind principal structure. Staff acknowledges the smaller than usual size of the property, however the property was developed such that all requirements of the Zoning and Subdivision ordinance were met. Granting a variance would not be in accordance with the Subdivision Plat on file for the subject property. Staff finds that covered parking is the preference of the property owner, granting the variance is not necessary to allow for the reasonable use of the property as a single-family patio home.

- (2) *The granting of the variance will not be materially detrimental or injurious to other property or improvements in the neighborhood in which the subject property is located, nor impair an adequate supply of light or air to adjacent property, nor substantially increase the congestion in the public streets, nor increase the danger of fire, or in any way endanger the public health, safety and well-being of the neighborhood in which the subject property is located.*

Granting the variance to allow a zero (0') foot south side yard setback is materially detrimental or injurious to other properties and improvements in the general vicinity of the subject property and defeats the intent of the Zoning Ordinance. The granting of the requested variance would allow the subject property to have a zero-foot side yard setback along both the north and south property lines. While the applicant only wishes to construct a carport currently, a side yard variance does not pertain to only the proposed accessory structure, but to the lot and entire side yard as a whole. The Board of Adjustments can not put conditions on a variance to limit the requested adjustment to a particular structure, as any given variance or exception granted remains with the property itself. Thus, the granting of the requested variance would allow additional expansion into the minimum 10-foot south side yard setback. Furthermore, while the adjacent property owners to the south have not chosen to build to the north property line as permitted, they (or a future property owner) may by right wish to expand the existing principal structure or place an accessory structure to the north lot line at a zero-foot setback. Such potential future expansion would result in the loss of adequate light and air, and with two structures being less than five (5) feet in separation would trigger additional building and fire code requirements. Staff finds that granting the variance will impair the adequate supply of light or air to the adjacent property, will increase the risk of conflagration and will not contribute to the well-being of the adjacent property or the neighborhood in which the property is located.

- (3) *The literal enforcement of the ordinance would work on unnecessary hardship.*

Literal enforcement of this ordinance would prohibit the property owner from placing the proposed open-air carport within the minimum 10-foot south side yard setback and not efficiently provide protection of her vehicle from the elements.

- (4) *The piece of property is unique and contains properties or attributes not common to other similarly situated properties.*

The subject property is unique in that zero-lot line patio homes are not common in the City of Brenham, however the subject property and adjacent lots to the north and south are also part of the patio home development of five such lots laid out in the Millennium Subdivision (platted in 2003). Staff does acknowledge that the attributes of patio homes, such as the subject property, do make it difficult to provide a garage or carport to provide shelter for vehicles and other items that are common to most single-family residences. However, the attributes of the property including the required setbacks established per the subdivision plat and City of Brenham Zoning Ordinance were known to the applicant prior to their purchase of the property. Therefore, staff contends that while the property is unique in its development type, the property does not contain attributes that justify a variance for development of a carport structure.

- (5) *The need for the variance was not created by the applicant.*

The applicant states that the narrow width and depth of the lot creates no other option to construct a covering for a vehicle from severe weather such as hail and to provide shade from the afternoon sun and "drippings" from the pecan tree. The requested variance will allow the property owner to construct the proposed carport and as such the need for the variance was created by the applicant.

(6) *The hardship to be suffered through the literal enforcement of the ordinance would not be financial alone.*

The hardship suffered through the literal enforcement of the ordinance would not be financial alone.

(7) *The granting of the variance would not be injurious to the public health, safety and welfare or defeat the intent of the philosophy contained in the Zoning Ordinance.*

While the applicant is proposing to construct an open-air and decorative carport, granting a variance to the south side yard setback is an allowance for any future structure to be placed within the only side yard setback platted for the subject property. A variance is granted to a lot that is found to be unique and may not have conditions for a proposed structure only. Granting the variance would render the subject property without a side yard setback on either side, which would defeat the intent of the patio home regulations contained in the zoning ordinance.

STAFF RECOMMENDATION:

On the recorded Millennium Subdivision plat, note #4 states that “Openings are prohibited on zero-lot line side. There is hereby dedicated adjacent to the south line of said Lots 1, 2, 3, & 4 a perpetual five (5) foot wide wall-maintenance easement which, with the exception of walls and/or fences, shall be kept free of structures. Roof overhangs may penetrate this easement a maximum of two (2) feet provided the roof is so designed that runoff water is confined to the easement area.” Thus, if a variance is granted, the property owner would be required to replat the property to remove the “perpetual wall note” that is listed on the current recorded plat for the subject property.

Staff has reviewed the request and ***recommends denying the requested*** variance to allow a 0-foot lot south side setback for a carport to be constructed 505 Hosea Street.

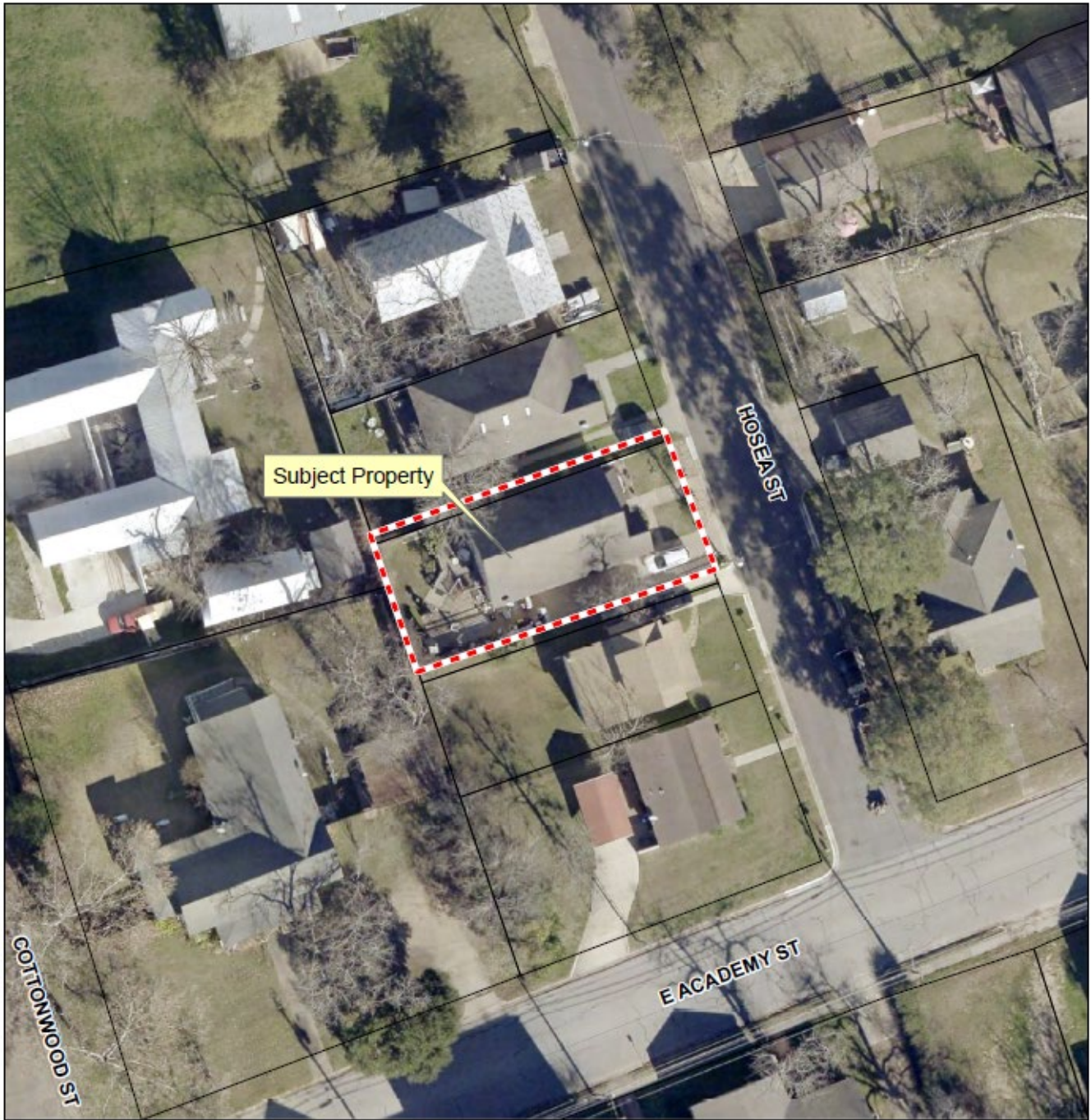
PUBLIC COMMENTS:

Property owners within 200 feet of the subject property were mailed notifications of this proposal on October 28, 2021. Two letters of support have been received, one from Roger Dresch of 12223 Ravenmoor Drive and by James and Charlene Kenjura of 503 E. Academy. Any additional public comments will be provided in the Board of Adjustment Packet or during the public hearing.

EXHIBITS:

- A. Aerial Map
- B. Zoning Map
- C. Cover letter
- D. Site Plan
- E. Elevation renderings
- F. Photos

EXHIBIT "A"
AERIAL MAP



Aerial Map
Variance - Side Yard Setback
505 Hosea Street



1 inch = 42 feet

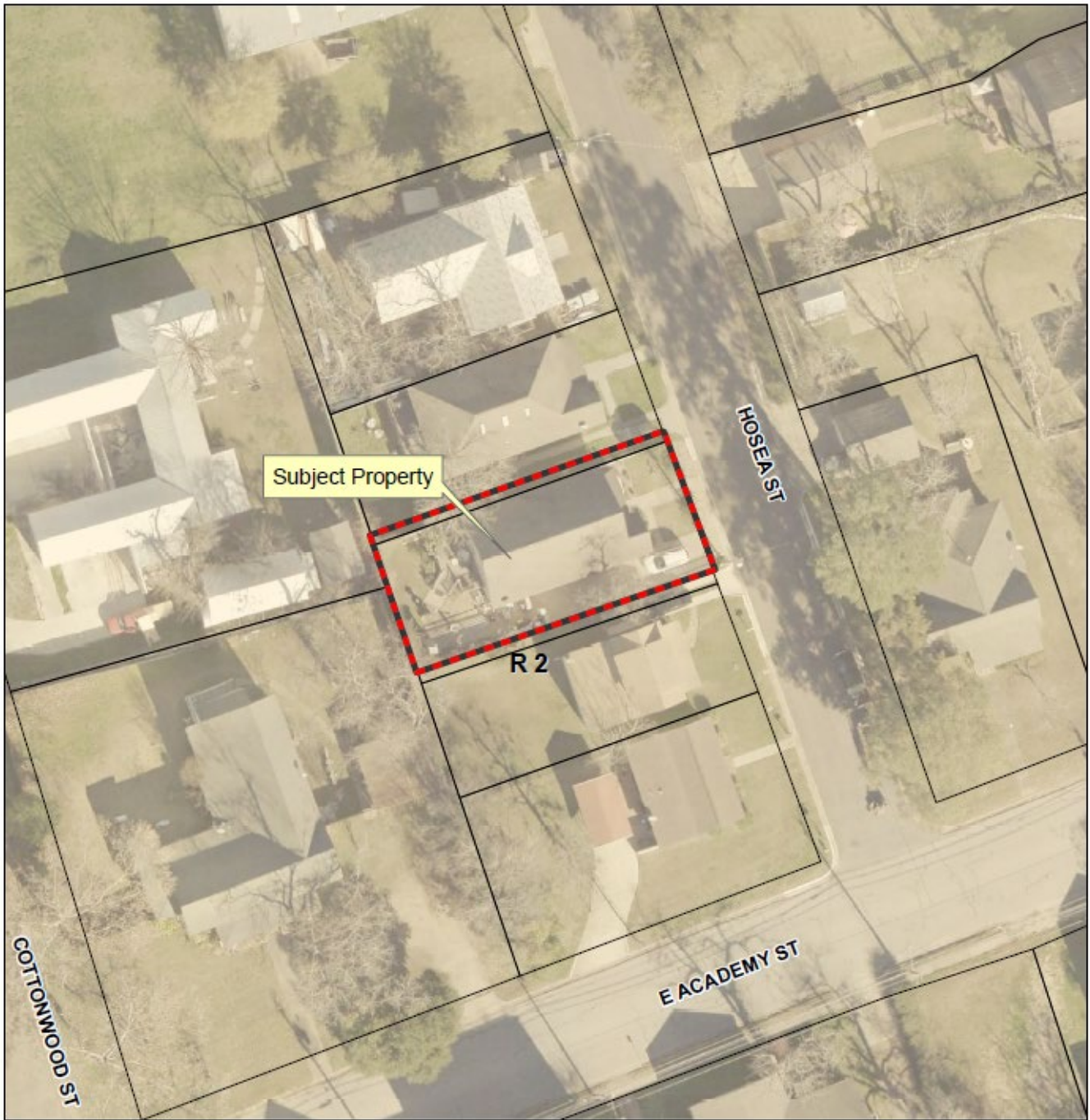


Legend

■ ■ ■ Property Boundary

Please note that the property lines are overlaid on aerial data and as such are not 100% accurate.

EXHIBIT "B"
ZONING MAP



Zoning Map
Variance - Side Yard Setback
505 Hosea Street

Legend

 R2 **Mixed** Residential

 Property Boundary

Please note that the property lines are overlaid on aerial data and as such are not 100% accurate.



1 inch = 42 feet



EXHIBIT "C"
COVER LETTER

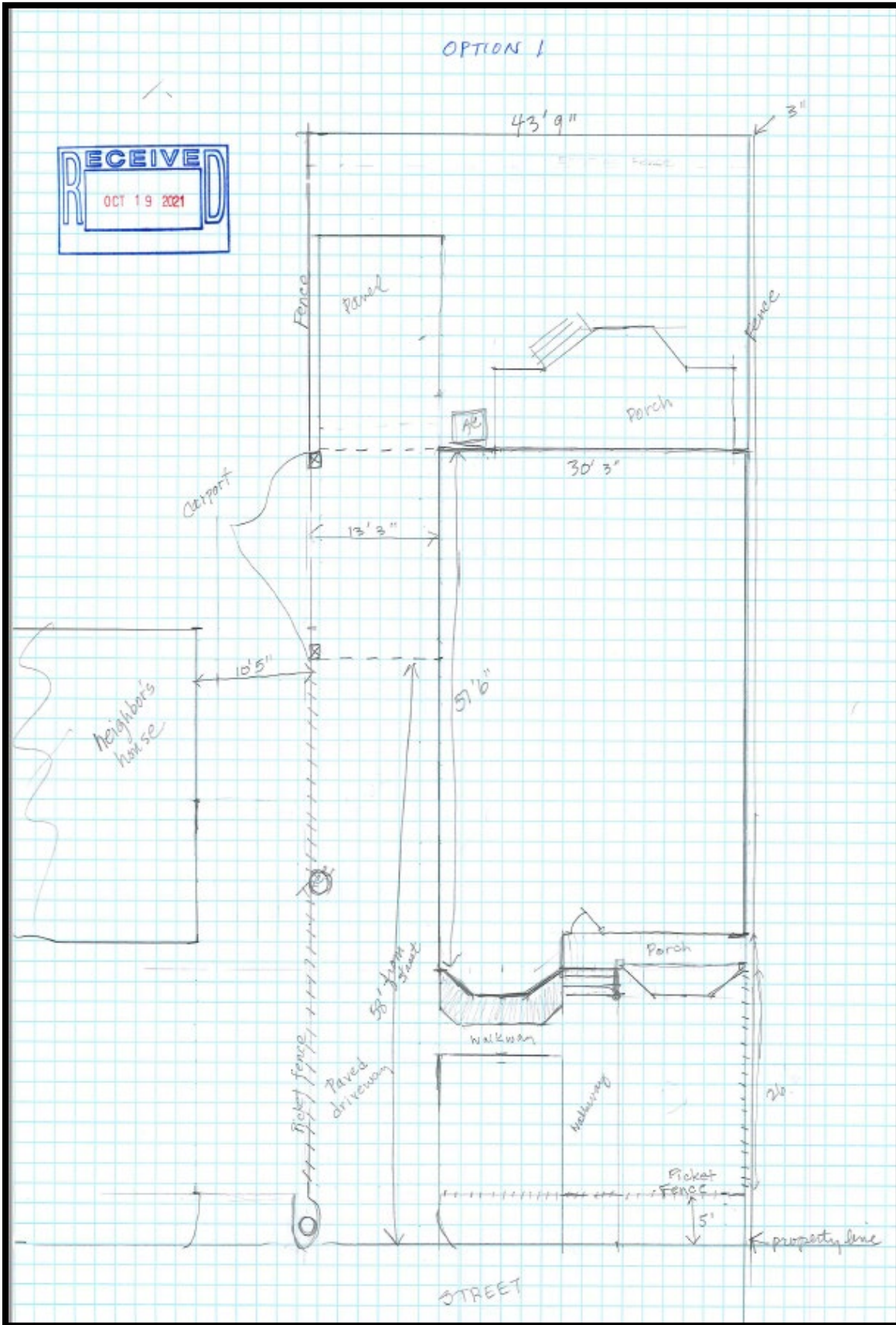
To the Board of Adjustment
Boehnemann 505 Hosea St

Kathie

Monday, October 18, 2021 10:35 PM

1. Because of the narrow quality & depth of the lot, there is no other option to create a covering for a car. I'd like to protect it from severe weather such as hail, shade from the afternoon sun, & "drippings" from the Pecan tree.
2. It would not be detrimental or injurious to other property. It would be an open air structure, set back from the street. It will have no bearing on parking. It may actually improve the look of the street, one less car parked in the front or on the street. Visitors would have plenty of room to get off the street.
3. Being retired, my car is home a lot & it would be in the sun or to get shade I would have to park it under the messy Pecan tree. My car would then also be parked in the front near the street. I understand that I will never be able to have a garage at this location, but this would be a good compromise without harming the integrity of the neighborhood or my next door neighbor.
4. These zero property line lots & homes on Hosea are interesting but do have some short comings as far as garages & other structures.
5. This house is about 15 years old. It's been used as a rent house. Car covering was not a priority for the previous owners.
6. Hardships - Weather damage to car- the west/afternoon sun, hail. Constant Pecan tree damage to paint. I won't have a cover from the back door & would still use an umbrella. But, it would make it easier to get in the car if I have to go out in the rain.
7. I want to build a carport that will go with the look of my "Victorian" house. It will not look like it's crowding the neighbor. I want it to be unobtrusive. It will look like a flat roof like carports on old houses. It will have a slight slant, which will be metal with a façade to give it the impression that it's a flat roof. I will add gutters to the house (which I will do regardless) & that will cut down on the water coming off the carport roof. I will also put a gutter on the carport on the fence side.

EXHIBIT "D"
Site Plans
Option 1



Site Plan
Option 2

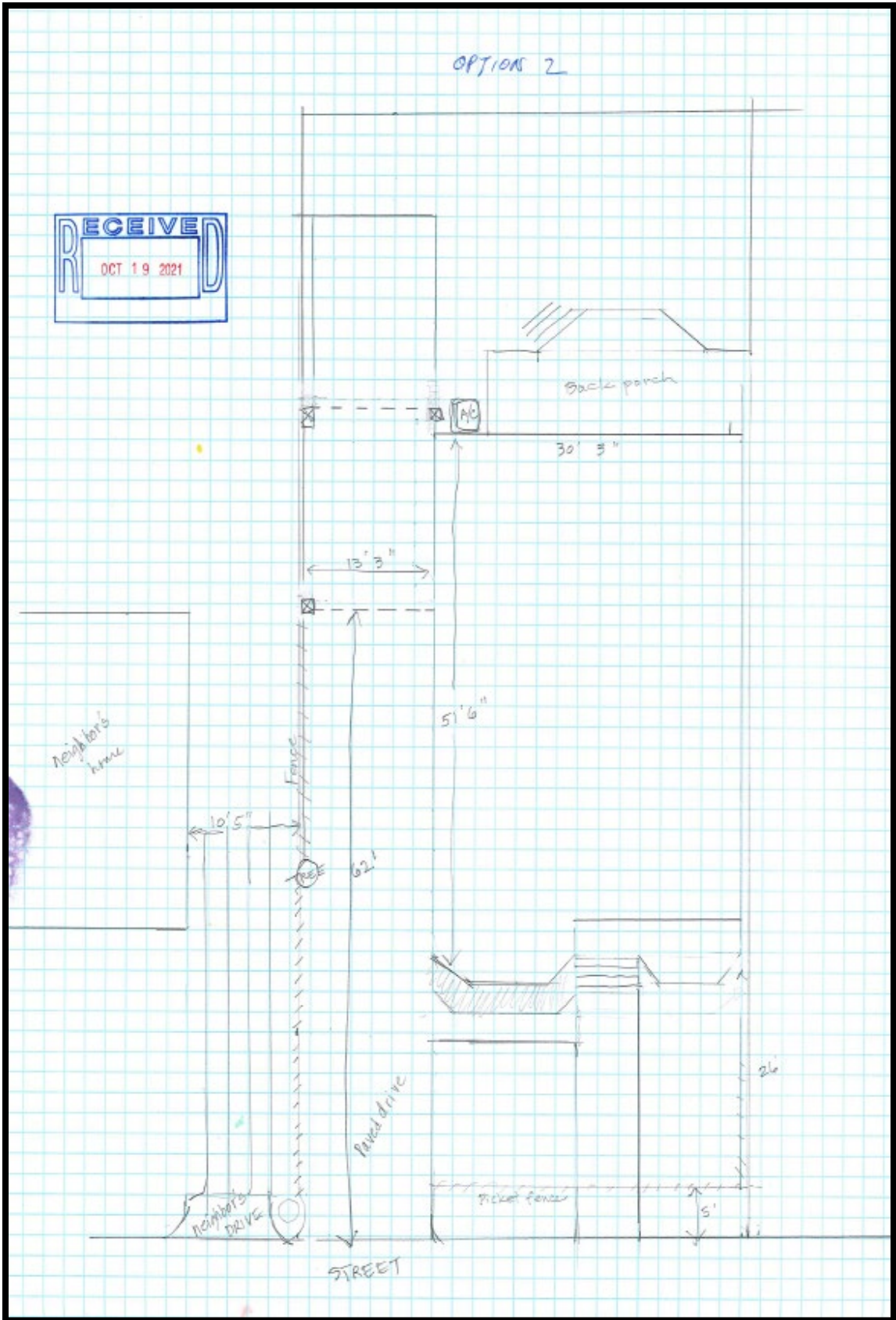
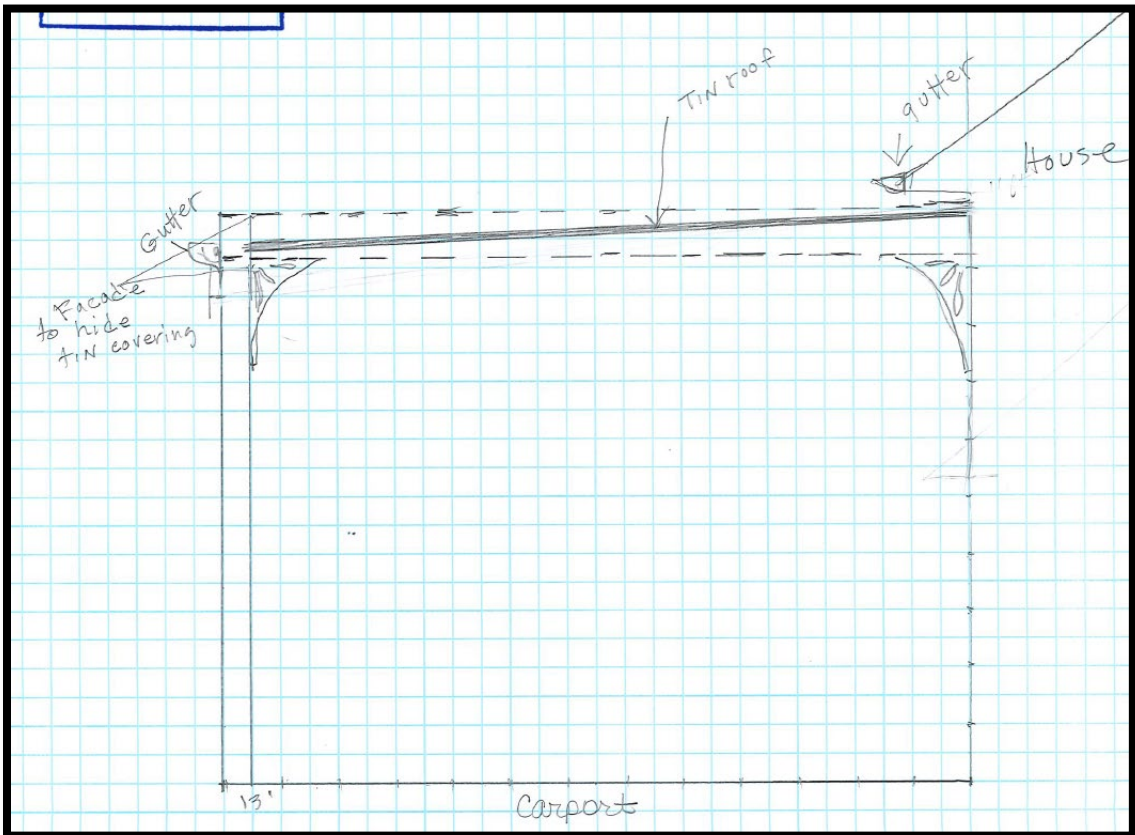
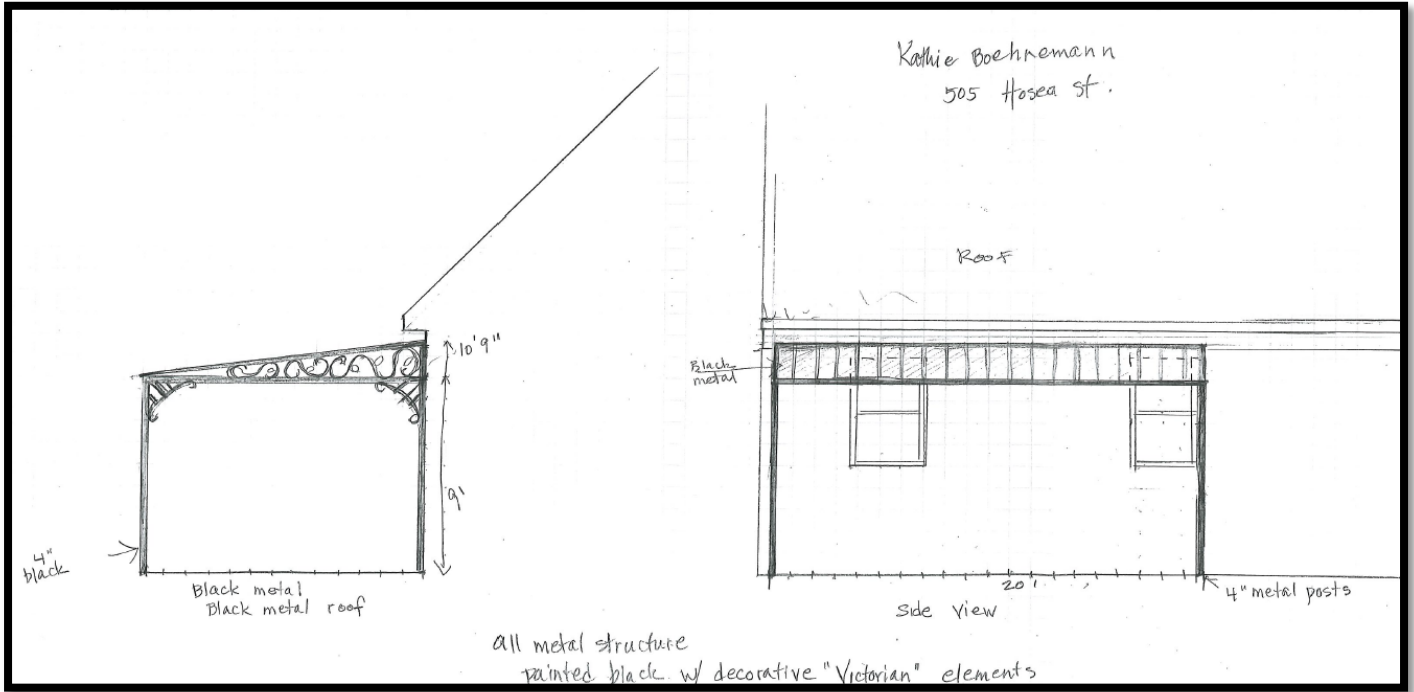


EXHIBIT "E"
Elevation Drawings





Proposed Front and Side Elevation

EXHIBIT "F"
Photos



505 Hosea (pinkish home)



**505 Hosea & Adjacent property to south-
South home built in center of the lot- has driveway in zero-lot line area**



**House on NW corner of E. Academy & Hosea placed at 0 lot line-
Adjacent house could put driveway between the homes**



**View from directly across subject property. Nonconforming Accessory
structure on the NE corner lot of Academy & Hosea Streets.**



CASE NUMBER: B-21-006
VARIANCE REQUEST: 411 CHURCH STREET

STAFF CONTACT: Shauna Laauwe, City Planner

OWNERS/APPLICANTS: Nelson Sosa and Katherine Hawes

ADDRESS/LOCATION: 411 Church Street (Exhibit “A”)

LEGAL DESCRIPTION: Original Town Addition, Lot 4, Block 93

LOT AREA: 0.217-acres / approximately 9,452 sq.ft.

**ZONING DISTRICT/
USE:** Downtown Business / Residential Overlay District / Multi-family residential
(Exhibit “B”)

COMP PLAN Downtown

FUTURE LAND USE:

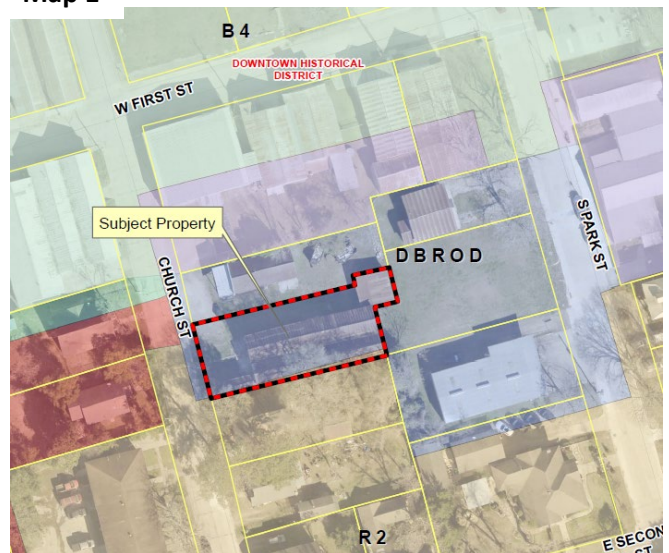
REQUEST: A request for a **Variance** from the City of Brenham Code of Ordinances, Appendix A – Zoning, Part II, Division 2, Section 9.03(3)(b)(ii) to allow a 10-foot north side setback, where a minimum 15-foot side setback required; and a request for a **Special Exception** from the City of Brenham Code of Ordinances, Appendix A – Zoning, Part II, Division 2, Section 9.03(2)(e) to allow parking to be located to the front of the property, where parking is required to be located to the rear for a multifamily development in the Downtown Business/Residential Overlay District (DBROD) for a multi-family development (Exhibit “C”).

BACKGROUND:

The subject property is an approximate 9,452 square foot lot located at 411 Church Street and owned by applicants Nelson Sosa and Katherine Hawes. The property is generally located on the east side of Church Street, south of West First Street and north of West Second Street and currently developed with an existing metal storage building and other accessory structures. The subject property, as well as properties to the east and north, are currently zoned as DBROD, Downtown Business / Residential Overlay District that serves as an overlay for the R-2, Mixed Residential District near the downtown area.

As shown on Map 1 on page 1 and in Exhibits A & B, the subject property is a rectangular lot with an additional

Map 1



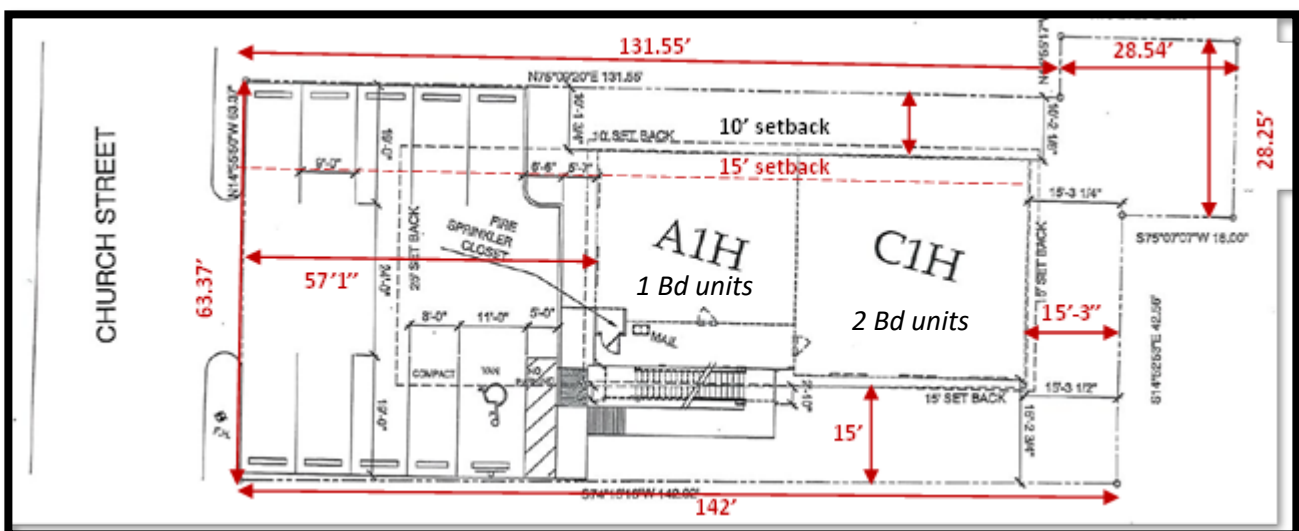
square shaped area in the northeast corner of the property. The subject tract is surrounded by a variety of zoning districts with areas to the north, east and southeast being located in the Downtown Business/Residential Overlay District, adjacent property to the south being R-2, Mixed Residential District, and the property to the west, across Church Street, located within a B-2, Commercial, Research and Technology District. As shown in Figure 1 below, the subject lot is approximately 63 feet in width and 160 feet long at its furthest point along the north property line and 142 feet in length along the south property line. The property owners/applicants wish to demolish the existing deteriorating structures and develop a five (5) unit, 7,554 square foot, 3-story multifamily apartment building. The proposed structure is to have an overall height of 39'8" and as shown below in Figure 1, will consist of two portions with the front area being labeled as A1H that will have a one bedroom/one bathroom unit on the first and second floor and the rear area being labeled as C1H that will have a two bedroom/2 bathroom unit on the first and second floor, the third floor will have a larger 1,993 square foot that will be reserved for the property owner or property manager to reside.

The Downtown Business/Residential Overlay District (DBROD) is a small and unique district that abuts the Downtown Historical District to the north and serves as a transition area between the Historic Downtown District and the R2, Mixed Residential District (See Exhibit B). For residential uses, the DBROD district has separate area regulations for single-family detached units, single-family attached units, and multifamily units. For multifamily units, these regulations include:

- Front yard setback of 25 feet
- Side yard setback of 15 feet
- Rear yard setback of 15 feet
- Lot area of minimum 1,000 square feet per dwelling unit,
- Furthermore, the DBROD district states in Section 9.03(2)(e) that "Parking for single family attached and multifamily units shall be located to the rear of the property."
- Lot width of 50 feet
- Lot depth of 100 feet
- Maximum lot coverage of 75%

As shown in Figure 1 and the attached site plan (Exhibit D), the subject property and proposed development meet the requirements for lot width and depth and minimum lot area, front yard setback (57'), rear yard setback (15'3") and south side yard setback (15'). The development configuration however, does not meet the minimum side yard setback on the north side with a side yard of 10 feet where 15 feet is required and the proposed ten (10) off-street parking spaces are situated to the front of the structure instead of to the rear of the property.

Figure 1



Section 1.01 of the Zoning Ordinance lists instances where the Zoning Board of Adjustment may consider a special exception for a property. Special exceptions for parking requirements are permitted, however side yard setback requests must adhere to the more stringent variance requirements. Therefore, the applicant is requesting a **variance** for a 5-foot reduction to the minimum required 15-foot side yard setback and for an **exception** to allow off-street parking to be located to the front of the property, where parking for multifamily units are required to be located to the rear of the property for the construction of a five (5) unit multi-family apartment building.

VARIANCE REQUEST:

(Sec.5.02)(132)**Variance:** A type of relief that may be granted by the Board of Adjustment in order to accommodate appropriate development of a particular parcel of land that cannot otherwise be appropriately developed. The granting of such relief is subject to the standards and procedures as established in part IV, Variances, Special Exceptions, Nonconforming Uses and Appeals, Division 1. The Board may not grant variances to use requirements or procedural requirements related to the granting of a variance.

(DIVISION 2. VARIANCES Sec. 1. Limitations.) The Board of Adjustment shall have the authority to grant **variances** in accordance with the standards and procedures provided herein, from any and all technical requirements of the zoning ordinance, but may not grant variances to use requirements or procedural requirements or for procedural requirements for hearing or notice, provided that:

- (1) *Such modifications are necessary to accommodate appropriate development of a particular parcel of land that is restricted by attributes inherent in the land such as area, shape or slope to the extent that it cannot otherwise be appropriately developed.*

The subject property has been in its current configuration since the lot was recorded as Replat of Lots IV, V, and a portion of Original Town Lot 93 in April 1997. While the Washington County Appraisal district records do not indicate when the existing structure was constructed, the 1997 replat does show that the existing metal structure was in place at that time. The existing structure has a zero-foot (0') setback along both the south side property line and the rear yard property line and an eleven (11') foot front yard setback. The City of Brenham adopted the text amendment to add the DBROD District, to include the current associated regulations, by City Ordinance on April 6, 2017, thus the existing structure is considered as legally nonconforming to the side and rear yard setbacks.

The applicant proposes to demolish the existing nonconforming structures and construct a 5-unit multifamily apartment building. While the long, narrow rectangular lot exceeds the minimum 50-foot lot width at approximately 63-feet, the minimum required 15-foot side yard setbacks limit the buildable width for a multifamily building to 33-feet. The narrow lot width also renders it difficult to build a multi-story structure with a stairwell within the side setback requirements. Furthermore, the proposed multifamily structure would have setbacks more favorable than the existing structure that has been in place for at least 25 years.

- (2) *The granting of the variance will not be materially detrimental or injurious to other property or improvements in the neighborhood in which the subject property is located, nor impair an adequate supply of light or air to adjacent property, nor substantially increase the congestion in the public streets, nor increase the danger of fire, or in any way endanger the public health, safety and well-being of the neighborhood in which the subject property is located.*

Granting the variance to allow a 5-foot reduction in the minimum 15-foot side yard setback along the north property line will not be materially detrimental or injurious to other properties and improvements in the general vicinity of the subject property. The proposed multifamily structure would have setbacks more

favorable than the existing structure that has been in place for at least 25 years. The existing structure has a nonconforming front yard setback of 11-feet and a has zero-foot (0') setbacks along the north property line and along the rear property line. The proposed multifamily structure has a conforming front yard setback of 25-feet, a south side yard setback of 15-feet, and rear yard setback of 15-feet; with the requested 10-foot north side yard setback being an improvement to the existing zero-foot setback. These proposed setbacks, in relation to the long existing structure, will allow additional light or air to the adjacent properties which is a primary purpose in establishing building setback requirements.

No increase in congestion on the public streets is expected as the proposed development is proposed to provide ten (10) off-street parking spaces that meet the parking requirements for multifamily developments based on number of bedrooms per unit. In addition, with multifamily located to the southwest, across Church Street and the proximity to the Downtown District to the north, the multifamily use appears to be an appropriate use for the subject site.

Staff finds that the proposed development site plan is closer in conformance to the city's adopted development standards in the new configuration with additional setbacks and suitable land use and will not impair the adequate supply of light or air or be detrimental to property in the general vicinity. When developed, the property would be subject to development standards to preserve the well-being of the neighborhood and adjacent properties.

(3) The literal enforcement of the ordinance would work on unnecessary hardship.

Literal enforcement of this ordinance would prohibit the property owner from adequately developing the uniquely shaped and narrow property for residential use, to include multifamily development. Staff finds that supporting a 5-foot reduction to the minimum required 15-foot setback along the north side is an improvement to the existing structure that is at a zero-foot setback.

(4) The piece of property is unique and contains properties or attributes not common to other similarly situated properties.

The subject property is unique in that it is a narrow lot, which makes it difficult to adequately meet the required setbacks of the DBROD district for multifamily uses. When the lot was replatted in 1997, the current zoning district was not yet adopted and foresight for possible multifamily use, and the subsequent setback regulations, were likely not considered when configuring the property.

(5) The need for the variance was not created by the applicant.

The need for the variance was created by the existing configuration of the subject property, not the applicant.

(6) The hardship to be suffered through the literal enforcement of the ordinance would not be financial alone.

The hardship suffered through the literal enforcement of the ordinance would not be financial alone.

(7) The granting of the variance would not be injurious to the public health, safety and welfare or defeat the intent of the philosophy contained in the Zoning Ordinance.

Granting a variance to the north side yard setback would not be injurious to the public health, safety, and welfare, nor would it defeat the intent of the philosophy contained in the zoning ordinance.

SPECIAL EXCEPTION REQUEST:

APPLICABLE SECTION OF ORDINANCE AND ANALYSIS:

(Sec 1.01) Authority. The Board of Adjustment shall have the authority to grant **special exceptions** in accordance with the procedures and standards herein provided to permit:

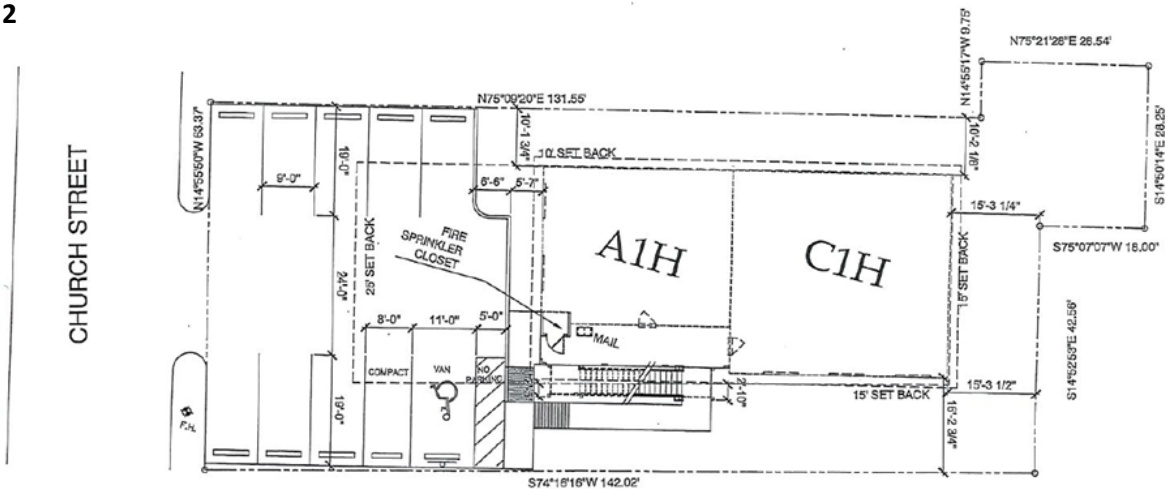
- (5) To waive or reduce off-street parking and loading requirements when the board finds that the same are unnecessary for the proposed use of the building or structure for which the special exception request applies.

Section 9.03(2)(e) of the City of Brenham Zoning Ordinance requires the following area regulations:

- (2) Single-family attached units (townhomes):
 - (e) Parking for single family attached and **multifamily** units shall be located to the rear of the property. Where double frontage exists, the street on which the property is addressed shall be considered the front property line.

The subject property, the proposed development, and unique circumstances have been discussed in the background portion and Variance request description. The Exception request is to allow the proposed ten (10) required off-street parking spaces for the five (5) units to be in the front of the building. The Downtown Business/Residential Overlay District (DBROD) is the City of Brenham’s newest zoning district (besides custom Planned Development Districts) that was established in April 2017. The DBROD is an overlay district to the underlying R-2, Mixed Residential District that serves as a transition from the Historical Downtown District and residential and commercial uses to the south. The DBROD is the only district that requires parking to be located to the rear of properties developed for single-family attached or multifamily units as stated in Section 9.03(2)(e) of the zoning ordinance.

Figure 2



A single-family home is required to provide two (2) off-street parking spaces that may be fulfilled within a driveway and/or a garage. Single-family attached and multifamily uses require more off-street parking than single-family uses, with single-family attached required to have two (2) parking spaces per dwelling unit and multifamily units parking being based on the number of bedrooms per unit. Per the parking regulations found in Section 16 of the Zoning Ordinance, the proposed development of three (3) two-bedroom units and two (2) one-bedroom requires

a total of ten (10) off-street parking spaces. The applicant has proposed to provide these ten (10) parking spaces, that include one compact car space and one ADA space, in the front portion of the subject property. Driving aisles for two-way traffic are required by city ordinance to be at least 24-feet in width. Due to the narrow constraints of the property outlined in the variance request, the only possible way to provide the required 24-foot aisle to the side of the property is to have the proposed 3-story structure be at a zero-foot (0') setback along the north side yard setback to allow adequate access to parking located to the rear of the property. A zero-foot setback for the proposed structure would likely have more adverse impacts on the adjacent property to the north by restricting light and air than the visual impact of the proposed parking area along Church Street. In addition, since the DBROD district was adopted, the City has adopted landscaping requirements for parking lots that require a visual buffer of shrubs or a berm of at least two (2) feet in height be located between the parking area and the street frontage.

The intent of the requirement to have parking located to the rear of the property for single-family attached and multifamily uses is to lessen the visual impact of what can amount, in some cases, a small parking lot along a local street within a residential neighborhood. Staff finds that the parking lot minimum landscaping requirements (Section 12.06) adopted in 2019, will help mitigate the visual impact of the proposed front parking area and be a better alternative than the possibility of granting an increased side yard setback variance than what is being currently requested.

STAFF RECOMMENDATION:

Due to the findings stated above, Staff ***recommends approving the requested variance*** to allow a 10-foot north side yard setback for a proposed multifamily development ***and recommends approval of an exception*** to allow off-street parking for the proposed multifamily units to be located in the front of the property/structure to be constructed at 411 Church Street.

PUBLIC COMMENTS:

Property owners within 200 feet of the subject property were mailed notifications of this proposal on October 28, 2021. Any public comments will be provided in the Board of Adjustment Packet or during the public hearing.

EXHIBITS:

- A. Aerial Map
- B. Zoning Map
- C. Cover letter
- D. Site Plan
- E. Front & Side Elevations
- F. Photos

EXHIBIT "A"
AERIAL MAP



**Aerial Map
Variance Request
411 Church Street**



1 inch = 75 feet





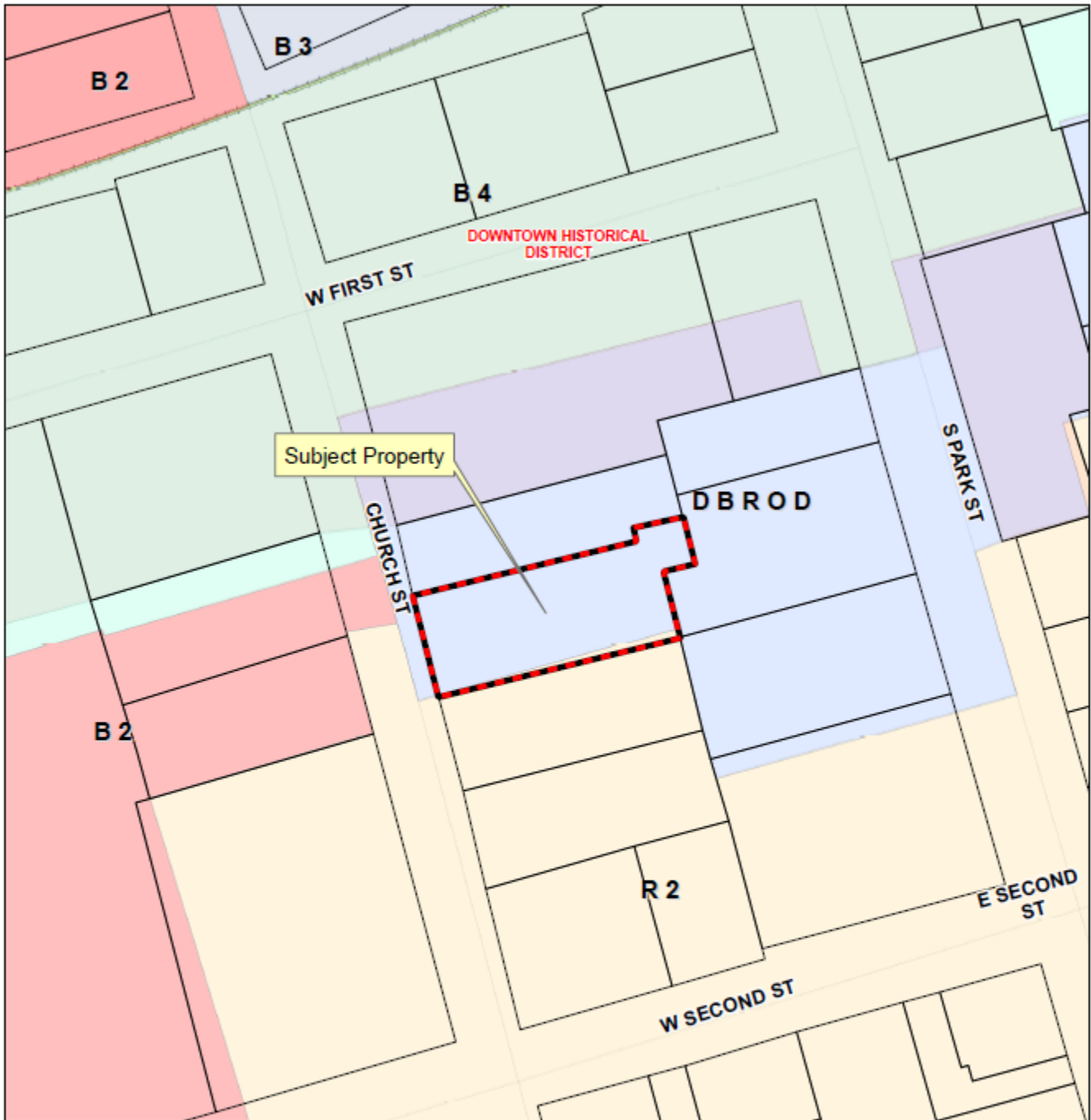



-  Downtown Historical District
-  Property Boundary

EXHIBIT "B"
ZONING MAP



Zoning Map
Variance Request
411 Church Street

-  B2 Commercial Research and Technology
-  B3 Historical and Central Business
-  B4 Neighborhood Business District
-  Downtown Business/Residential Overlay District
-  R2 Mixed Residential
-  Property Boundary



1 inch = 75 feet



EXHIBIT "C"
COVER LETTER

City of Brenham
Board of Adjustment
200 W. Vulcan St
Brenham, TX 77833

Attn: Kim Hodde

Reference: 411 Church St Variance Request

Date: October 19, 2021

Dear Members of the Board of Adjustment,

This is to request a variance for the set back line at the northern side yard at 411 Church Street, Brenham, TX. 77833. As you review the attached drawing, please know that all efforts have been made to meet set back requirements including the street side, south side and east side. Design Team has complied with parking requirements, landscaping requirements, handicap, etc. A variance for the north side from 15' set back to 10' set back is requested because it is necessary to accommodate the development of the property due to the area and shape to the extent it cannot otherwise be appropriately developed.

The existing building is very old; and the plan is to demolish the existing building. Thus improving the property rather than be a detriment to the property. A 10' set back is more than current set backs for the existing building, the building is slated to be fire sprinkled and the parking spaces will be more than existing; which is another improvement rather than detriment. The property development is for a three story building with apartments on first and second floor and a living quarter on floor three.

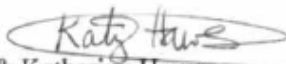
The literal enforcement would be an unnecessary hardship because the building has already been sized down to its current size in order to meet all other known requirements.

This property is very unique in shape as the enclosed survey will indicate, and has many challenges that have been worked out in compliance with existing codes.

The need for this requested variance was not created by the Applicant , and the hardship through the literal enforcement is not financial alone. We intend to develop the property in accordance with City code and we believe the granting of this variance will be in keeping with the intent of the Downtown Business/Residential Overlay District.

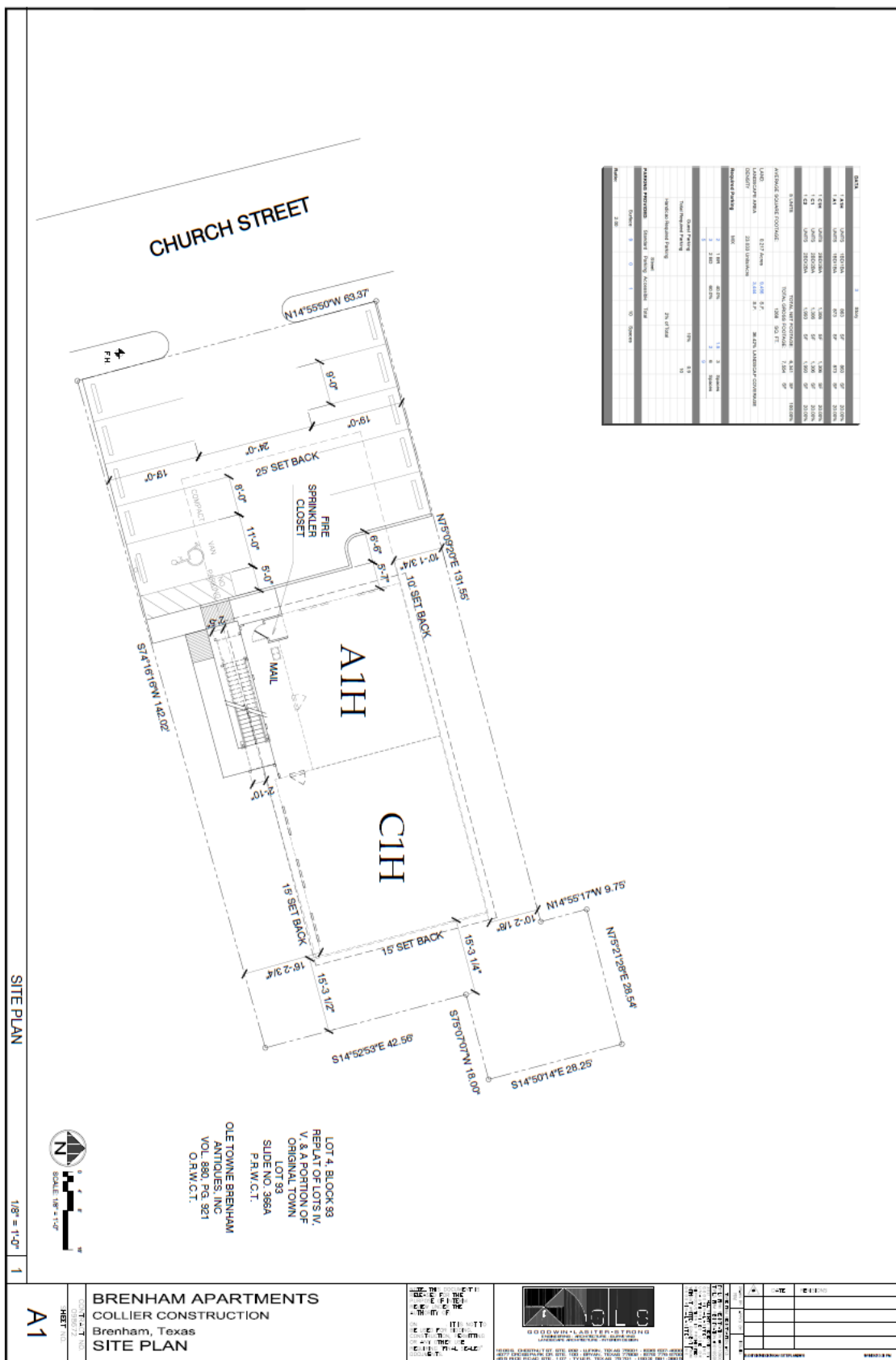
The Boards' consideration is greatly appreciated.

Sincerely,



Nelson Sosa & Katherine Hawes

EXHIBIT "D"
SITE PLAN



GENERAL INFORMATION		CONTRACT INFORMATION		DATE	
NO.	DATE	NO.	DATE	NO.	DATE
1	1/15/17				
2	1/16/17				
3	1/17/17				
4	1/18/17				
5	1/19/17				
6	1/20/17				
7	1/21/17				
8	1/22/17				
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99	4/21/17				
100	4/22/17				

LOT 4, BLOCK 88
REPLAT OF LOTS IV,
V, & A PORTION OF
ORIGINAL TOWN
LOT 89
SLIDE NO. 988A
P.A.W.C.T.
OLE TOWNIE BRENHAM
ANTQUES, INC.
VOL. 880, PG. 821
O.R.W.C.T.



BRENHAM APARTMENTS COLLIER CONSTRUCTION Brenham, Texas SITE PLAN		1/17/17
		1/18/17
		1/19/17
A1		1/17/17

EXHIBIT "E"
FRONT & SIDE ELEVATIONS

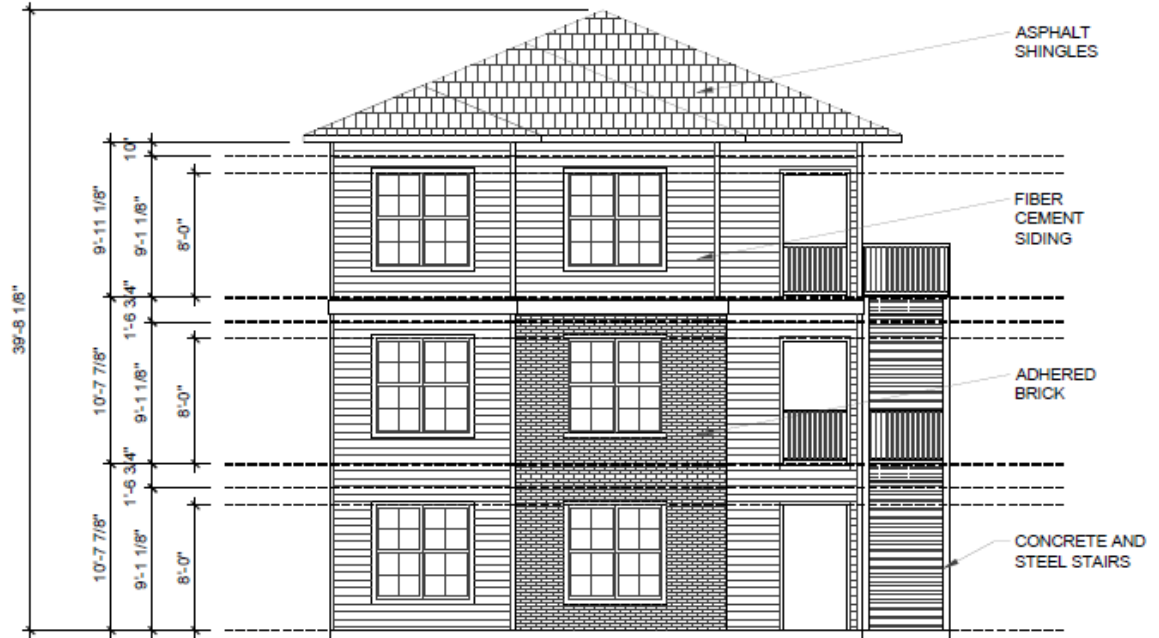


EXHIBIT "F"
SITE PHOTOS





Views from rear of property

