



**BOARD OF ADJUSTMENT PRE-MEETING
CITY COUNCIL BRIEFING ROOM**

757 North Galloway Avenue

Mesquite, Texas

January 23, 2025 – 6:15 P.M.

Discussion of Items on the Regular Agenda

**BOARD OF ADJUSTMENT REGULAR MEETING
CITY COUNCIL CHAMBERS**

757 North Galloway Avenue

Mesquite, Texas

January 23, 2025 – 6:30 P.M.

AGENDA

Pursuant to Section 551.071 of the *Texas Government Code*, the Board of Adjustment may meet in a closed executive session to consult with the City Attorney regarding matters authorized by Section 551.071, including matters posted on this Agenda.

CALL TO ORDER

1. ROLL CALL

BOARD PROCEDURES

2. Chair shall make a public announcement regarding the Board's procedures.

PUBLIC COMMENTS

3. Any individual desiring to address the Board of Adjustment regarding an item on the AGENDA (non-public hearing items) or any matter not listed on the Agenda shall do so on a first-come, first-served basis. Comments are limited to three (3) minutes, except for a speaker addressing the Board of Adjustment through a translator will be allowed six (6) minutes.

BOARD BUSINESS

4. ELECTION OF BOARD OFFICERS

In accordance with Mesquite City Code, Chapter 20, Article III, Division 1, [Sec. 20-326](#), the Board shall make nominations and vote to elect the following Board officer positions to serve until December 31, 2025:

- Chairperson
- Vice-Chairperson

NOTE: A regular member may serve again as Chair or Vice-Chair for consecutive terms.
[See Mesquite City Code, Chapter 20, Article III, Division 1, [Sec. 20-326](#).]

CONSENT AGENDA

All items on the Consent Agenda are routine items and may be approved with one motion; however, should any member of the Board of Adjustment or any individual wish to discuss any item, said item may be removed from the Consent Agenda by a motion of the Board of Adjustment.

5. APPROVAL OF MINUTES.

Discuss and consider approval of the minutes of the October 24, 2024, Board of Adjustment meeting.

PUBLIC HEARINGS- UNCONTESTED CASES

No uncontested cases.

PUBLIC HEARINGS- CONTESTED CASES

6. BOA1224-0456 – SPECIAL EXCEPTION & VARIANCE

Conduct a public hearing to consider an application submitted by Elizabeth Villegas for a Special Exception to allow an oversized rear accessory structure that exceeds the maximum size of 500 square feet by 100 square feet for a total of 600 square feet and a Variance to allow said oversized accessory structure to encroach 1.5 feet into the required 5 feet interior side yard setback, located at 1441 Monica Lane. (Jordan Gregory, Planner).

7. BOA1224-0457 – SPECIAL EXCEPTION & VARIANCE

Conduct a public hearing to consider an application submitted by David Van Bevers for a Special Exception to allow an oversized rear accessory structure that exceeds the maximum size of 500 square feet by 140 square feet for a total size of 640 square feet and a Variance to allow said accessory structure to encroach 2 feet into the required 8 feet separation from the rear alley, located at 1441 Monica Lane. (Ti'Ara Clark, Planner).

8. BOA1224-0458 – SPECIAL EXCEPTION

Conduct a public hearing to consider an application submitted by Rosa Martinez for a Special Exception to allow a garage conversion with no requirement to relocate the converted parking spaces, located at 1208 Rutherford Road. (John Cervantes, Senior Planner).

OTHER BOARD BUSINESS

9. Next Board of Adjustment Meeting: February 22, 2024

At the conclusion of business, the Chairman shall adjourn the meeting.

**** City Hall is wheelchair accessible. Any requests for sign interpretive services must be made 48 hours in advance of the meeting. ****

To make arrangements, call the City Secretary's office at (972) 216-6244 or 1-800-735-2989.

Pursuant to Section 30.06, Penal Code (trespass by license holder with a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a concealed handgun.

Conforme a la Sección 30.06 del Código Penal (entrada ilegal de persona titular de licencia con arma de fuego oculta), personas con licencia según el Sub-capítulo H, Capítulo 411, Código de Gobierno (ley de permiso para portar arma de fuego), no deben entrar a esta propiedad portando un arma de fuego oculta.

Pursuant to Section 30.07, Penal Code (trespass by license holder with an openly carried handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a handgun that is carried openly.

Conforme a la Sección 30.07 del Código Penal (entrada ilegal de persona titular de licencia con arma de fuego a la vista), personas con licencia según el Sub-capítulo H, Capítulo 411, Código de Gobierno (ley de permiso para portar arma de fuego), no deben entrar a esta propiedad portando una arma de fuego a la vista.

Pursuant to Section 551.007 (c) of the Texas Government Code, any member of the public wishing to address the Board through the use of a translator is granted at least twice the amount of time as a member of the public who does not require the assistance of a translator.

Conforme a la Sección 551.007 (c) del Código de Gobierno de Texas, cualquier miembro del público que desea dirigirse a la Junta a través del uso de un traductor se le otorga al menos el doble de tiempo como miembro del público que no requiere la asistencia de un traductor.

CERTIFICATE OF POSTING

I, Garrett Langford, Manager of Planning and Zoning for the City of Mesquite, Texas, hereby certify that the attached agenda for the Board of Adjustment meeting to be held **January 23, 2025**, was posted in compliance with Chapter 551 of the Texas Government Code ("Texas Open Meetings Act") on the bulletin boards at the Municipal Center and City Hall by **January 20, 2025, before 6:00 p.m.** (a minimum of 72-hours prior to the meeting) and remained so posted until after the meeting. This notice was likewise posted on the City's website at www.cityofmesquite.com for a minimum of 72 hours prior to the meeting.

A handwritten signature in dark ink, appearing to read "Garrett Langford", is positioned above a horizontal line.

Garrett Langford, AICP
Manager of Planning and Zoning

October 24, 2024

MINUTES

**BOARD OF ADJUSTMENT (BOA)
CITY OF MESQUITE, TEXAS**

**City Hall
City Council Chambers
757 North Galloway Avenue
Mesquite, Texas**

REGULAR MEETING

ATTENDANCE: BOARD MEMBERS (REGULAR MEMBERS AND ALTERNATES)

POSITION NO.	REGULAR MEMBER NAME	ATTENDANCE	
Position No. 1	Kournie Airheart	☒ Present In-Person	☐ Absent
Position No. 2	Mr. Aeneas Ford	☒ Present In-Person	☐ Absent
Position No. 3	David Burris	☒ Present In-Person	☐ Absent
Position No. 4	Jesse Barahona	☒ Present In-Person	☐ Absent
Position No. 5	Mr. Jack Akin	☐ Present In-Person	☒ Absent

ALTERNATE NO.	ALTERNATE NAME	ATTENDANCE	
Alternate No. 1	William Augustine	☒ Present In-Person	☐ * Absent (* Attendance Required: ☒ No ☐ Yes)
Alternate No. 2	Vacant	☐ Present In-Person	☐ * Absent (* Attendance Required: ☐ No ☐ Yes)

ATTENDANCE: STAFF

Garrett Langford	Manager of Planning & Zoning	☒ Present In-Person
John Cervantes	Planner	☒ Present In-Person
Jordan Gregory	Planner	☒ Present In-Person
Ti'Ara Clark	Planner	☒ Present In-Person
David Paschall	City Attorney	☒ Present In-Person
Millie Laird	Administrative Aide Planning & Development.	☒ Present In-Person

ATTENDANCE NOTES: The meeting was called to order at 6:37 PM

CALL TO ORDER

1. Administrative Aide of Planning & Development Services Millie Laird called roll call.

BOARD PROCEDURES

2. The Chair made a public announcement regarding the Board's procedures.

PUBLIC COMMENTS

3. No comments.

CONSENT AGENDA

APPROVAL OF MINUTES.

4. Discuss and consider approval of the September 26, 2024, Board of Adjustment meeting minutes.

ACTION

Boardmember Burriss made a motion to APPROVE the minutes; Boardmember Augustine seconded; the motion carried 5-0.

PUBLIC HEARINGS- CONTESTED CASES**5. BOA0824-0453 – SPECIAL EXCEPTION**

Conduct a public hearing to consider an application submitted by Lynn Benedetto for a Special Exception to allow a garage conversion with no requirement to relocate the converted parking spaces, located at 2324 Warm Springs Road. (Jordan Gregory, Planner).

ITEM WAS POSTPONED FROM THE SEPTEMBER 26, 2024, BOARD OF ADJUSTMENT MEETING.

PRESENTATION

Planner Jordan Gregory presented to the Board.

DISCUSSION

There was no discussion.

APPLICANT

Applicant was not present.

PUBLIC HEARING

Chairwoman Airheart opened the public hearing. No one came to speak. The public hearing was closed.

ACTION

Chairwoman Airheart made a motion to DENY; Boardmember Burriss seconded; the motion carried 5-0.

6. BOA0924-0454 – SPECIAL EXCEPTION

Conduct a public hearing to consider an application submitted by Yoga of Immortals Meditation Center for a Special Exception to renew a Special Exception (BOA0923-0418) to allow two temporary classrooms, located at 1535 N Belt Line Road. (John Cervantes, Senior Planner).

PRESENTATION

Senior Planner John Cervantes presented to the Board.

DISCUSSION

There was no discussion.

APPLICANT

Roshni Patel, applicant, explained to the Board the reason for special exception request.

PUBLIC HEARING

Chairwoman Airheart opened the public hearing. No one came to speak. The public hearing was closed.

ACTION

Boardmember Barahona made a motion to APPROVE; Boardmember Ford seconded; the motion carried 5-0.

OTHER BOARD BUSINESS**7. Next Board of Adjustment Meeting: December 5, 2024**

Chairwoman Airheart adjourned the meeting at 7:05 P.M.

Chairwoman Kourtnie Airheart



T E X A S
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PLANNING AND ZONING DIVISION

FILE NUMBER: BOA1224-0456
REQUEST: A request for a Special Exception to allow an oversized rear accessory structure that exceeds the maximum size of 500 square feet by 100 square feet for a total size of 600 square feet and a Variance for encroaching 1.5 feet into the interior side yard setback.
CASE MANAGER: Jordan Gregory, Planner

PUBLIC HEARING

Board of Adjustment: Thursday, January 23, 2025

GENERAL INFORMATION

Applicant: Elizabeth Villegas
Property Owner:
Location: 1441 Monica Lane

SITE BACKGROUND

Legal Description: Windsor Manor, Block C, Lot 48
Size: 9,062 square feet / 0.21 Acres
Zoning: R-3, Single Family Residential
Existing Land Use: Single Family Home
Zoning History: 1972 – Platted

Surrounding Zoning and Existing Land Uses:

	<u>ZONING</u>	<u>EXISTING LAND USE</u>
NORTH:	R-3, Single Family Residential	Single Family Residential
SOUTH:	R-3, Single Family Residential	Single Family Residential
EAST:	R-3, Single Family Residential	Single Family Residential
WEST:	R-3, Single Family Residential	Single Family Residential

CASE SUMMARY

The applicant submitted a residential building permit application in October 2024 for an accessory structure located at 1441 Monica Lane. Upon review, the Building Inspection team determined that the structure could not be permitted by right due to its size and location. Consequently, the applicant is requesting a Special Exception and a Variance to address these issues.

The Special Exception is to allow a 600-square-foot accessory structure in the rear yard, exceeding the maximum allowable size of 500 square feet as stipulated by the Mesquite Zoning Ordinance for Residential-zoned properties. The ordinance also limits the combined square footage of all accessory structures to no more than 35% of the yard area. The applicant's proposed structure **does not** exceed this percentage.

The Variance request is to permit the structure to remain 3.5 feet from the interior side lot line, encroaching by 1.5 feet into the required 5-foot side yard setback. The structure complies with the 3-foot rear yard setback requirement. If approved, the Variance would allow the structure to remain in its current location with dimensions of 20 feet in width, 30 feet in depth, and 15 feet in height.

The applicant explained that the structure was built primarily for storage and additional office space. It is not intended to serve as an accessory dwelling unit. While the structure is equipped with a bathroom and electricity, it does not include a living area or kitchen. Its purpose is solely to provide additional functional space for the applicant's needs. The applicant was unclear as to why the structure was larger than the code allows, as well as why the structure was placed in the interior side yard setback.

In summary, approval of both requests would enable the applicant to retain the oversized accessory structure as currently constructed, while ensuring compliance with the applicable zoning regulations.

MESQUITE ZONING ORDINANCE

SEC. 2-604.A: OVERSIZED ACCESSORY STRUCTURE

The Board of Adjustment may authorize an oversized accessory structure, which shall be any structure which exceeds the height, size or coverage limits as set out in Section 2-602. An existing accessory building shall not become an oversized structure due to the attachment of a minor building with separate entrances. Buildings exceeding 10% of the lot area are generally considered incompatible.

STAFF COMMENTS:

Pursuant to Section 2-602.A of the Mesquite Zoning Ordinance (MZO), the maximum permitted size for an accessory structure in the R-3 district is 500 square feet, and the maximum permitted lot coverage for all accessory structures is 35% of the yard area in which the structures are located unless otherwise approved through a Special Exception.

The current oversized accessory structure is 600 square feet, which exceeds the maximum size allowed for a rear carport by 100 square feet. Currently, the accessory structure covers approximately 18% of the rear yard and 8% of the entire lot.

SEC. 5-206.L: SPECIAL EXCEPTION APPROVAL STANDARDS

- 1) Special Exceptions.

Special Exceptions may be granted as set out in this Zoning Ordinance, when the Board finds that the special exception:

- a. will allow greater use and enjoyment of property; and
- b. without creating adverse impacts on adjacent properties; and
- c. that it will be compatible with the surrounding neighborhood; and

when applicable, the board shall also consider any additional criteria set out in this Zoning Ordinance for any specific special exception.

STAFF COMMENTS:

According to the applicant, the accessory structure will allow for greater enjoyment of the property, as it will provide additional space for storage and other needs. Staff also does not believe this request will adversely impact adjacent properties, as multiple nearby properties have rear accessory structures, and the home abuts an alley.

SEC. 5-207.K: VARIANCE APPROVAL STANDARDS

1. In order to grant a zoning variance from the terms of this Zoning Ordinance the Board must find that:
 - a. The Variance is not contrary to the public interest; and
 - b. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship; (See K.2. below) and
 - c. The spirit of the Zoning Ordinance is observed, and substantial justice is done.
2. If special conditions exist, then the Board may consider the following as grounds to make a determination whether compliance with the MZO, as applied to a structure that is the subject of the Variance, would result in unnecessary hardship:
 - a. if the financial cost of compliance with the MZO is greater than 50% of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the City under Section 26.01, Tax Code, or successor and as amended, then the Board may find that to be an unnecessary hardship; or
 - b. if compliance with the MZO would result in a loss to the lot on which the structure is located of at least 25% of the area on which development may physically occur, then the Board may find that to be an unnecessary hardship; or
 - c. if compliance with the MZO would result in the structure not being in compliance with a city ordinance, building code, or other requirement, then the Board may find that to be an unnecessary hardship; or
 - d. if compliance with the MZO would result in the unreasonable encroachment on an adjacent property or easement, then the Board may find that to be an unnecessary hardship; or
 - e. If compliance with the MZO would result in the city considering the structure to be a nonconforming structure, then the Board may find that to be an unnecessary hardship.

STAFF COMMENTS:

The geometry of the subject property is unusual, as there are no parallel sides. The irregular shape property is ~ 95 feet wide at the front property line, while the rear property line is 45 feet wide. Although the property has an unusual shape, it is staff's opinion that compliance with the MZO's 5-foot interior side yard setback is not a hardship based on the criteria in K.2, as shown above.

The requested Variance is contrary to the public interest. The subject variance is in direct conflict with the basic objectives of the MZO as it relates to the setback requirements. Further, staff does not believe a literal enforcement of the ordinance will result in unnecessary hardship for the applicant. While literal enforcement of the ordinance may create difficulty for the applicant, this request does not meet the hardship requirements laid out in the MZO. Finally, the spirit of the MZO is not observed in this instance. There is no injustice done by the City in requiring that structures meet certain requirements. Variances provide relief, where necessary. In this instance, the structure could be constructed that such a Variance would not be needed. Substantial justice raises issues of fairness for the community and will not be achieved through the granting of the requested Variance.

PERMITS

2024 – Building (Residential) – Accessory Structure

2023 – Franchise Utility Permit

STAFF RECOMMENDATION

Staff recommends approval of the Special Exception request for an oversized accessory structure due to it being compatible with the surrounding neighborhood.

Staff recommends denial of a Variance request to encroach 1.5 feet into the 5-foot interior side yard setback, as Staff does not believe the spirit of the MZO is observed through this request.

PUBLIC NOTICE

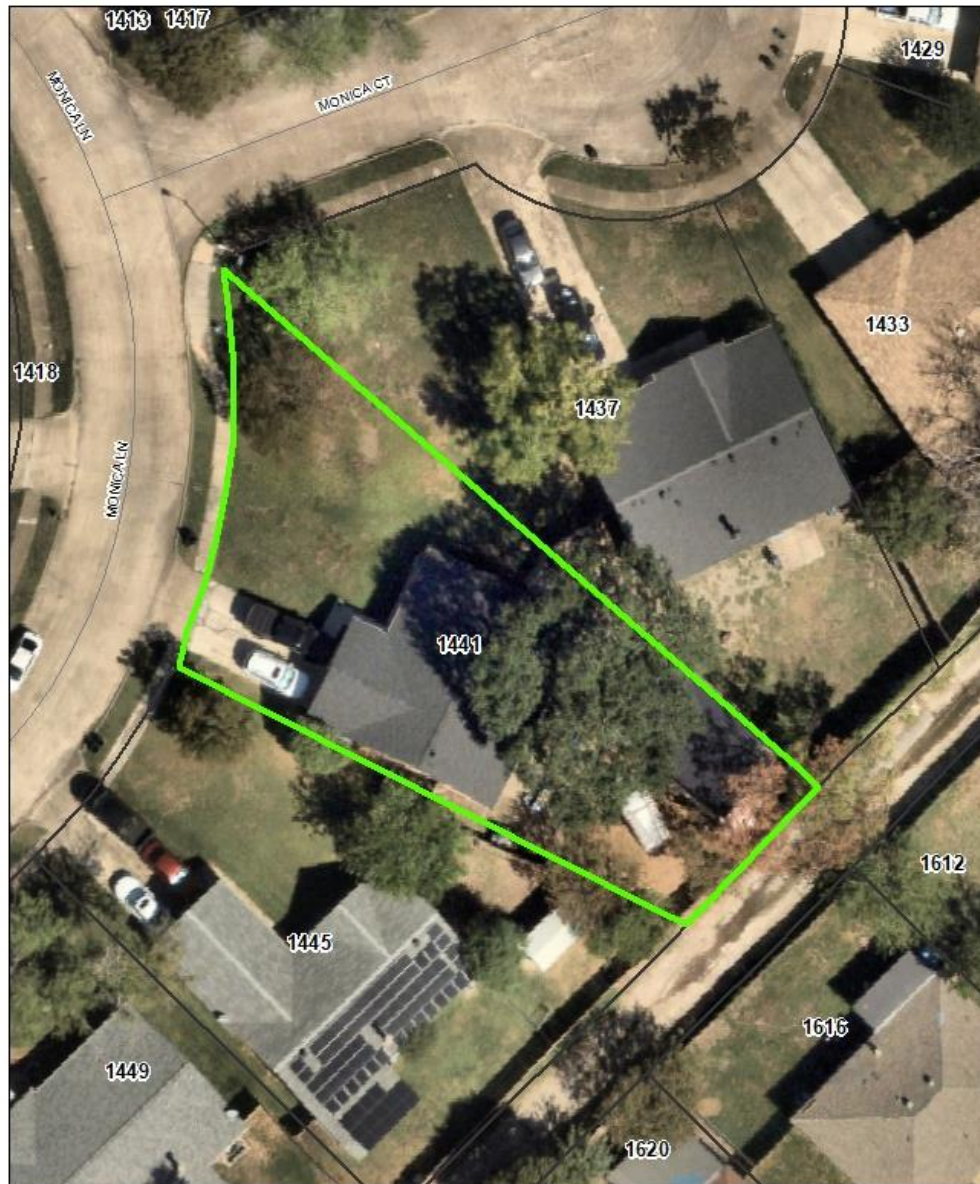
Staff mailed notices to all property owners within 200 feet of the subject property. As of January 16, 2025, there have been no returned notices.

ATTACHMENTS

1. Aerial Map
2. Public Notification Map
3. Site Photos
4. Application Materials

ATTACHMENT 1 – AERIAL MAP

Aerial Map



Applicant: Elizabeth Villegas
Location: 1441 Monica Lane
Request: Special Exception to allow
a rear oversized accessory structure
and a variance for encroaching on the
interior side yard setback

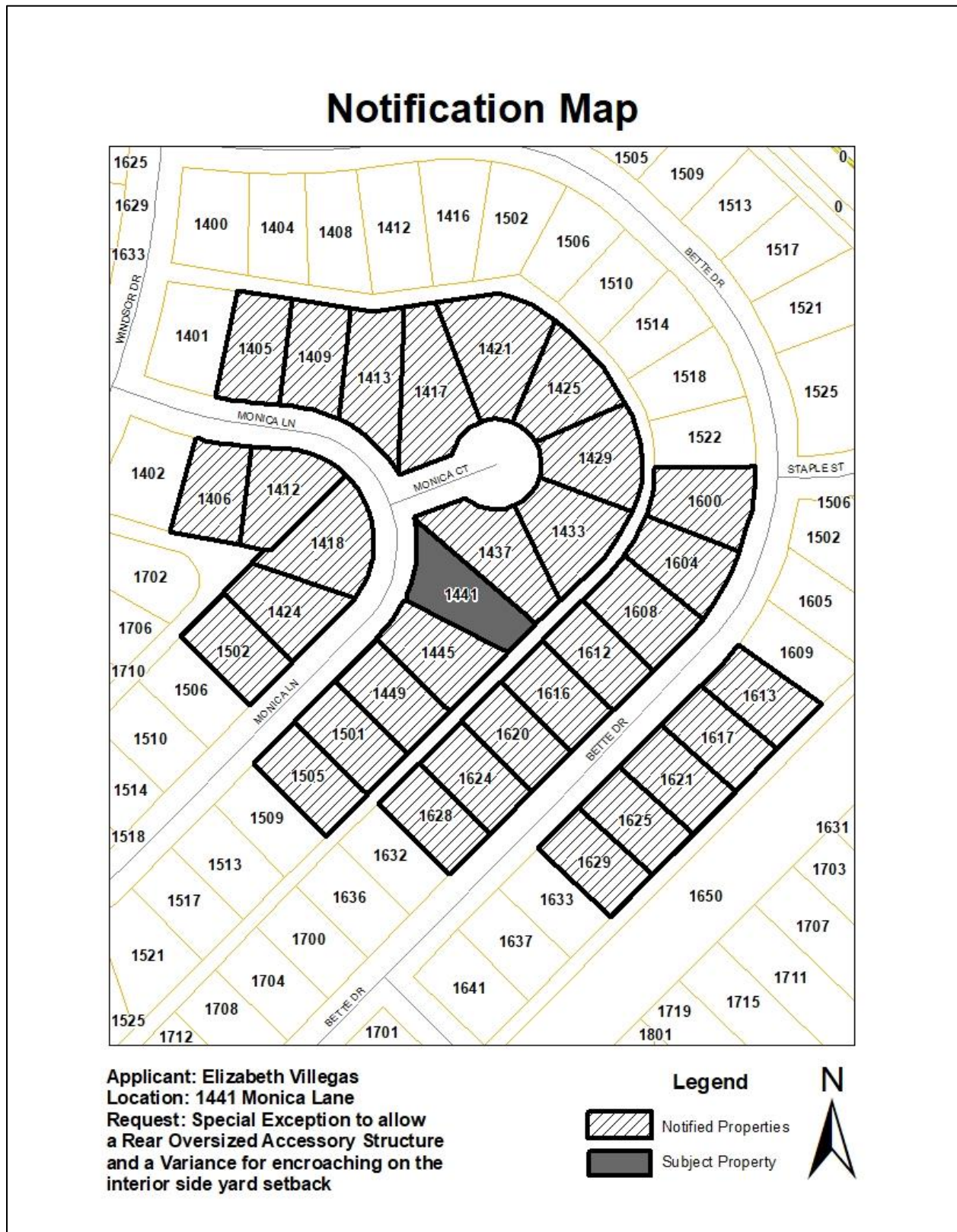
Legend

 Subject Property

0 5 10 20 30 40
Feet



ATTACHMENT 2 – PUBLIC NOTIFICATION MAP



ATTACHMENT 3 – SITE PHOTOS



Front view of the subject property, facing east



Front view of the subject property, facing southeast

ATTACHMENT 3 – SITE PHOTOS



Front view of the subject property, facing west



View of the subject accessory structure, facing north

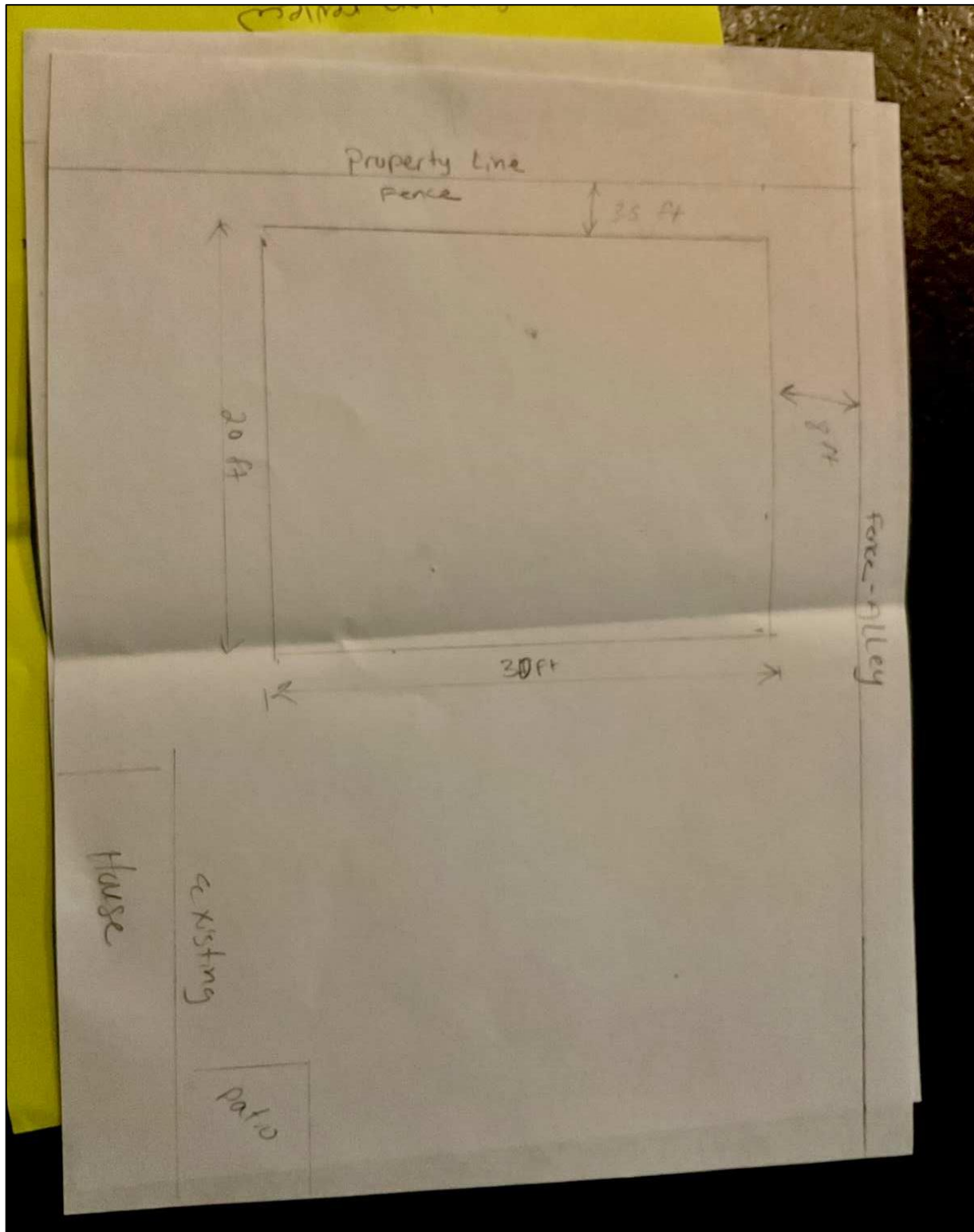
ATTACHMENT 4 – APPLICATION MATERIALS

OWNER AUTHORIZATION PAGE

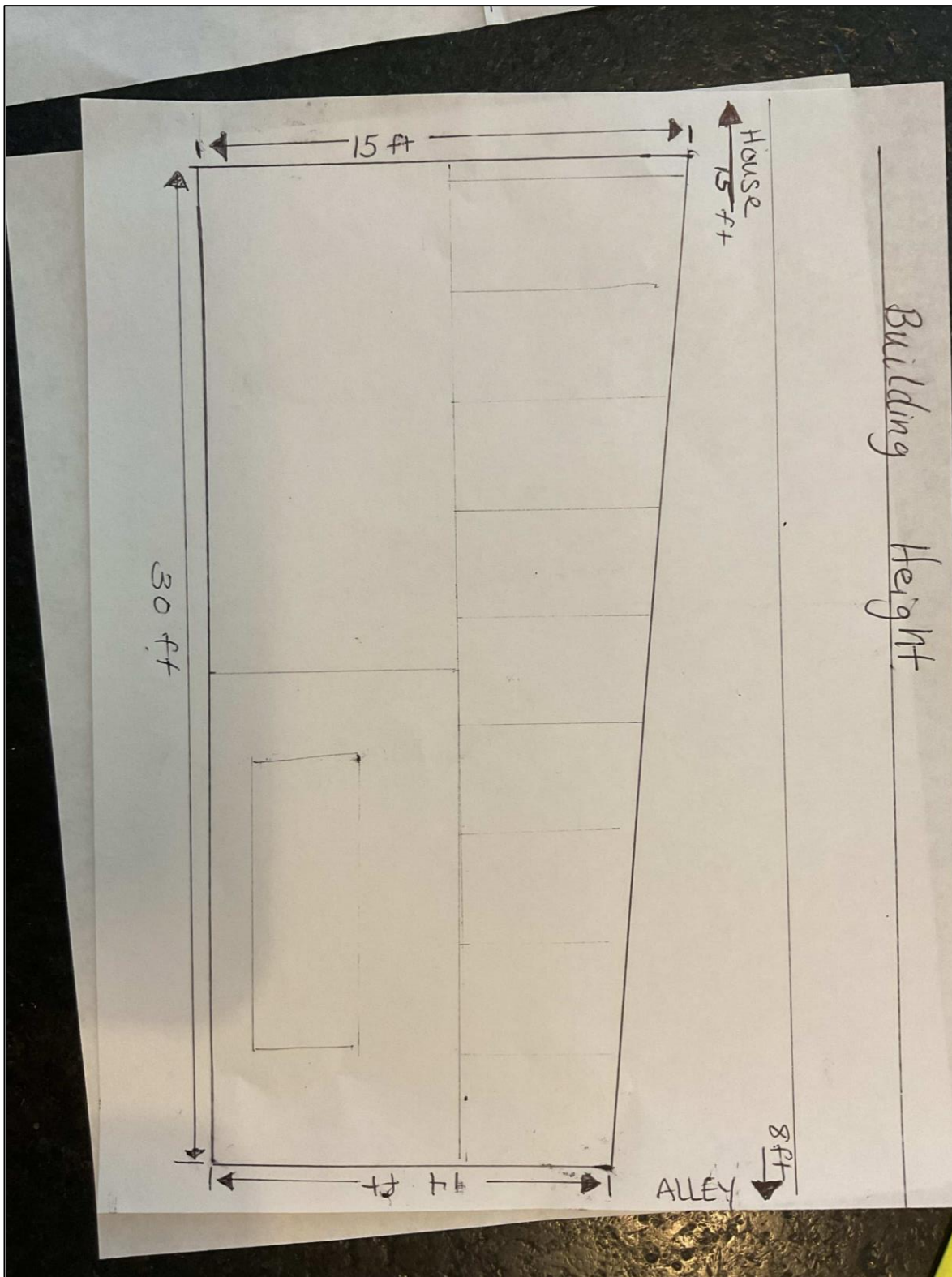
1. I hereby certify that I am the owner of the subject property or the duly authorized agent of the owner of the subject property for the purpose of this application.
2. I hereby designate the person named as the applicant on page 1 of this application, if other than myself, to file this application and to act as the principal contact person with the City of Mesquite.
3. I hereby authorize the City of Mesquite, its agents or employees, to enter the subject property at any reasonable time for the purpose of taking photographs, documenting current use and current conditions of the property; and further, I release the City of Mesquite, its agents or employees from liability for any damages which may be incurred to the subject property in taking of said photographs.
4. I have read and understand the information contained in the application for which I am applying.

Property Owner: Elizabeth villegas Phone Number: 2147721156
Address: 1441 monica ln
 Email Address: Noedelarosa2020@gmail.
Signature: 

ATTACHMENT 4 – APPLICATION MATERIALS



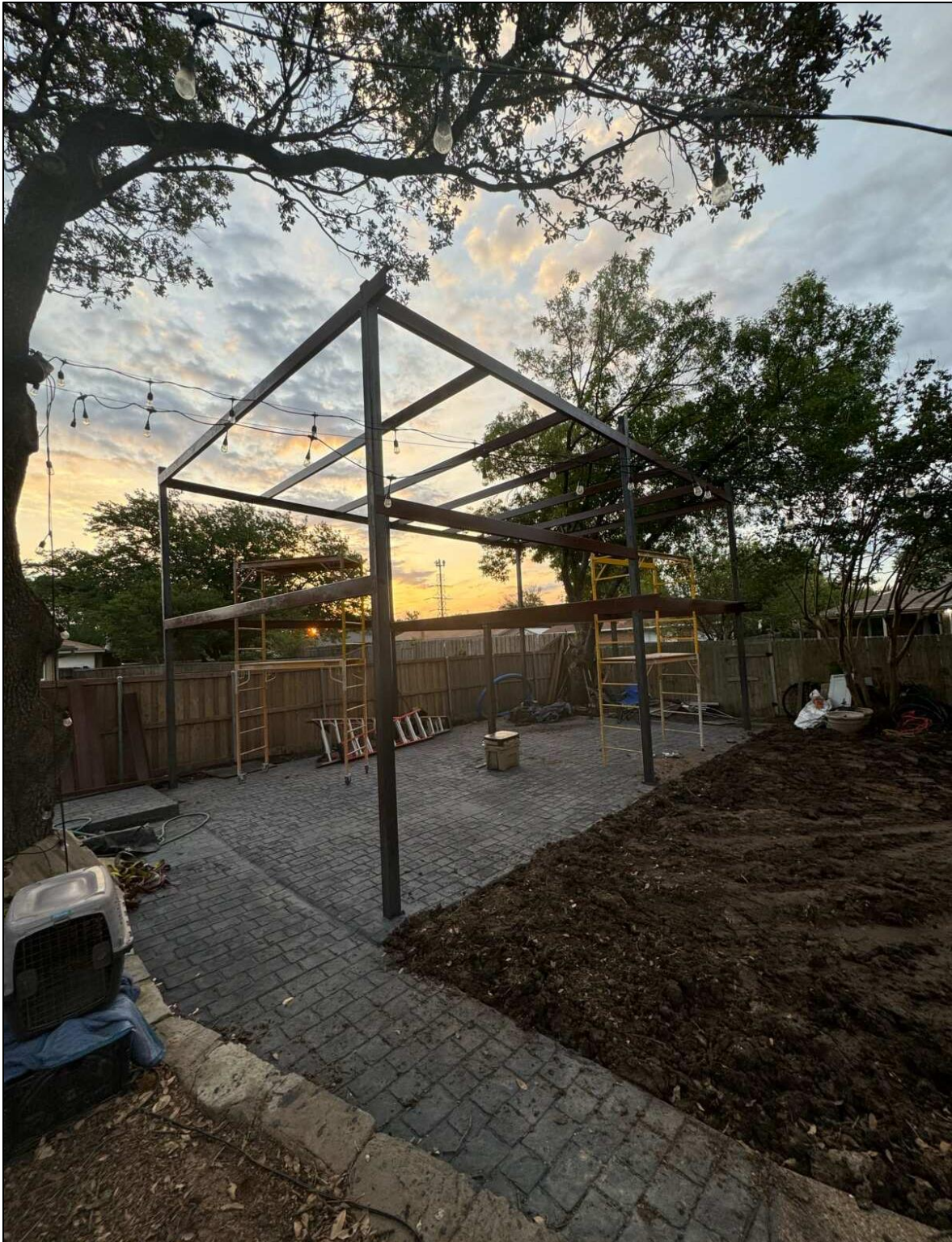
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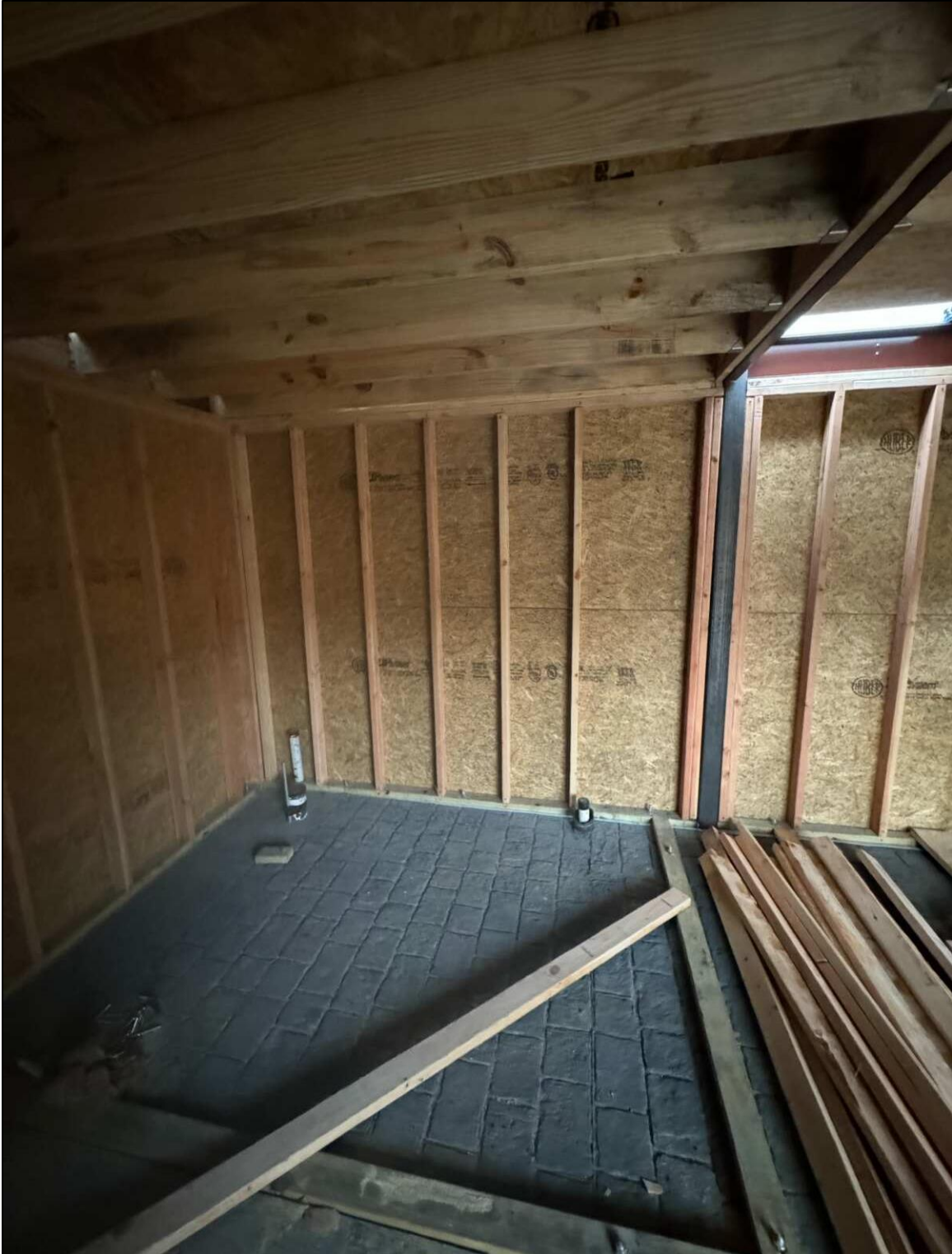
ATTACHMENT 4 – APPLICATION MATERIALS



ATTACHMENT 4 – APPLICATION MATERIALS



ATTACHMENT 4 – APPLICATION MATERIALS





T E X A S
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PLANNING AND ZONING DIVISION

FILE NUMBER: BOA1224-0457

REQUEST: A request for a Special Exception to allow a rear oversized accessory structure (rear carport) that exceeds the maximum allowable size of 500 square feet by 140 square feet, resulting in a total size of 640 square feet, and a Variance to reduce the required 8-foot separation by 2 feet, allowing the rear carport with a garage door to be located 6 feet from the rear alley pavement.

CASE MANAGER: Ti'Ara Clark, Planner

PUBLIC HEARING

Board of Adjustment: Thursday, January 23, 2025

GENERAL INFORMATION

Applicant: David Van Bevers
Property Owner: Frank See and Kristi See
Location: 2405 Shiloh Lane

SITE BACKGROUND

Legal Description: Creek Crossing Estates 4 Phase A, Block A, Lot 7
Size: 9,687 square feet / 0.22 Acres
Zoning: PD-R-3, Planned Development - Single Family Residential (Ord. 2871)
Existing Land Use: Single Family Home
Zoning History: 1995 – Platted

Surrounding Zoning and Existing Land Uses:

	<u>ZONING</u>	<u>EXISTING LAND USE</u>
NORTH:	AG, Agricultural	Single Family Residential
SOUTH:	R-3, Single Family Residential	Single Family Residential
EAST:	R-3, Single Family Residential	Single Family Residential
WEST:	R-3, Single Family Residential	Single Family Residential

CASE SUMMARY

The applicant is requesting a Special Exception to allow a 640-square-foot oversized accessory structure in the rear of the property. The Mesquite Zoning Ordinance (MZO) currently allows for the maximum square footage of accessory structures to be 500 square feet for properties zoned

Residential, and the total square footage of all accessory structures cannot take up more than 35% of the yard in which they are located. The applicant is requesting a Special Exception to allow a 640-square-foot oversized accessory structure to provide covered parking.

In addition to the Special Exception, the applicant also requests a Variance to reduce the required separation between the structure and the rear alley from 8 feet to 6 feet to accommodate the structure on the irregularly shaped lot due to the curved alley. If approved, the structure will remain 26 feet and four inches wide, 24 feet deep, and 14 feet and five inches tall. It does not take up more than 35% of the rear yard area. Per the ordinance, rear carports with a garage door must be setback at least eight (8) feet from the edge of (alley) right-of-way pavement and no less than five (5) feet from the rear property line. If approved, this Variance would allow the applicant to construct a rear carport with an attached garage door whereby a portion of the carport is six (6) feet from the edge of the alley pavement. The rear setback for the rear carport without a garage door is three (3) feet from the rear property line.

The applicant is requesting both the Special Exception and the Variance in hopes of helping enhance security and provide more convenience for parking and vehicle access. The property owner noted that other homes in the neighborhood have similar oversized accessory structures in the rear yard.

MESQUITE ZONING ORDINANCE

SEC. 2-604.A: OVERSIZED ACCESSORY STRUCTURE

The Board of Adjustment may authorize an oversized accessory structure, which shall be any structure which exceeds the height, size, or coverage limits as set out in Section 2-602. An existing accessory building shall not become an oversized structure due to the attachment of a minor building with separate entrances. Buildings exceeding 10% of the lot area are generally considered incompatible.

STAFF COMMENTS:

*Pursuant to Section 2-602.A of the MZO, the maximum permitted size for an accessory structure in the R-3 district is 500 square feet, and the maximum permitted lot coverage for all accessory structures is 35% of the yard area in which the structures are located unless otherwise approved through a Special Exception. The proposed oversized accessory structure is 640 square feet, which exceeds the maximum size allowed for a rear carport by 140 square feet. The proposed accessory structure will cover approximately 27% of the rear yard and 7% of the entire lot. The total lot coverage for the proposed oversized accessory structure is 7%, which **does not** exceed the 10% limit that is generally considered compatible.*

SEC. 5-206.L: SPECIAL EXCEPTION APPROVAL STANDARDS

1) Special Exceptions.

Special Exceptions may be granted as set out in this Zoning Ordinance, when the Board finds that the special exception:

- a. will allow greater use and enjoyment of property; and
- b. without creating adverse impacts on adjacent properties; and
- c. that it will be compatible with the surrounding neighborhood; and

when applicable, the board shall also consider any additional criteria set out in this Zoning Ordinance for any specific special exception.

STAFF COMMENTS:

According to the applicant, the accessory structure will allow for greater enjoyment of the property, as it will provide a sense of security when parking and accessing their vehicle. Staff also does not believe this request will adversely impact adjacent properties, as multiple nearby properties have rear oversized accessory structures.

SEC. 5-207.K: VARIANCE APPROVAL STANDARDS

1. In order to grant a zoning variance from the terms of this Zoning Ordinance the Board must find that:
 - a. The Variance is not contrary to the public interest; and
 - b. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship (See K.2. below); and
 - c. The spirit of the Zoning Ordinance is observed, and substantial justice is done.
2. If special conditions exist, then the Board may consider the following as grounds to make a determination whether compliance with the MZO, as applied to a structure that is the subject of the Variance, would result in unnecessary hardship:
 - a. If the financial cost of compliance with the MZO is greater than 50% of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the City under Section 26.01, Tax Code, or successor and as amended, then the Board may find that to be an unnecessary hardship; or
 - b. If compliance with the MZO would result in a loss to the lot on which the structure is located of at least 25% of the area on which development may physically occur, then the Board may find that to be an unnecessary hardship; or
 - c. If compliance with the MZO would result in the structure not being in compliance with a city ordinance, building code, or other requirement, then the Board may find that to be an unnecessary hardship; or
 - d. If compliance with the MZO would result in the unreasonable encroachment on an adjacent property or easement, then the Board may find that to be an unnecessary hardship; or
 - e. f compliance with the MZO would result in the city considering the structure to be a nonconforming structure, then the Board may find that to be an unnecessary hardship.

STAFF COMMENTS:

The rear property line and alley are not parallel with the front property line. The rear property line and the alley curves towards the house as it moves west to east. This results in the

proposed rear carport being approximately 11 feet from the alley pavement on one side while being approximately 6 feet on the other side, as shown on the site plan in Attachment 4. While the curve of the rear property line at the driveway is unique, it does not constitute a hardship, as none of the criteria outlined in Section 5-207.K.2 are met.

The requested Variance is contrary to the public interest. The subject Variance request is in direct conflict with the basic objectives of the MZO as it relates to the setback requirements. Further, Staff does not believe a literal enforcement of the ordinance will result in unnecessary hardship for the applicant. While literal enforcement of the ordinance may create difficulty for the applicant, this request does not meet the hardship requirements laid out in the MZO. Finally, the spirit of the MZO is not observed in this instance. There is no injustice done by the City in requiring that structures meet certain requirements. Substantial justice raises issues of fairness for the community and will not be achieved through the granting of the requested Variance. The regulations in question are shared by the community and while they can be varied under certain circumstances.

PERMITS

2019 – Building (Residential) – Accessory Structure (Storage Shed)
2024 – Building (Residential) – Accessory Structure (French Drain)
2024 – Building (Residential) – Concrete (Not Foundation)

STAFF RECOMMENDATION

Staff recommends approval of the Special Exception request to allow the rear oversized accessory structure to exceed the maximum size of 500 square feet by 140 square feet, for a total size of 640 square feet.

Staff recommends denial of the Variance requesting to reduce the required 8-foot separation by 2 feet, which would allow the rear carport with a garage door to be located 6 feet from the rear alley pavement. Based on the hardship criteria outlined in the MZO, Staff finds that this case does not meet any of the specified requirements. As an alternative, Staff suggests constructing the oversized carport with a reduced depth of 22 feet and 7/5 inches to comply with the public right-of-way setback requirements. If the Board approves the Special Exception, the applicant may proceed with constructing the rear carport at the proposed size, provided the garage door/gate is not attached.

PUBLIC NOTICE

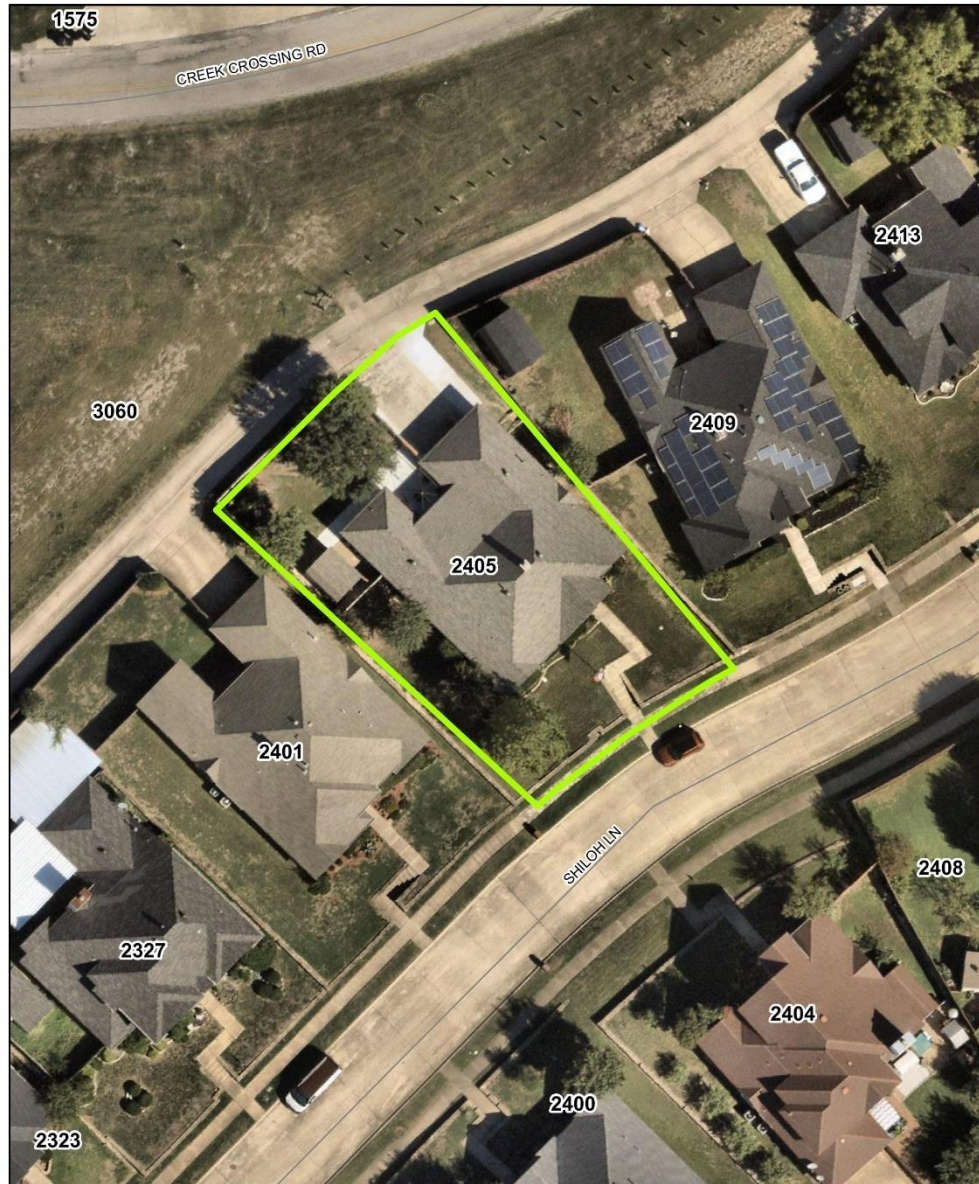
Staff mailed notices to all property owners within 200 feet of the subject property. As of January 16, 2025, there are no returned notices.

ATTACHMENTS

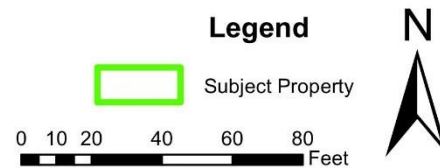
1. Aerial Map
2. Public Notification Map
3. Site Photos

4. Application Materials

Aerial Map

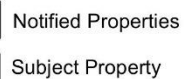


Applicant: David Van Bevers
Location: 2405 Shiloh Lane
Request: Special exception and variance
to allow a oversized accessory structure.



[illegible]

N



ATTACHMENT 3 – SITE PHOTOS

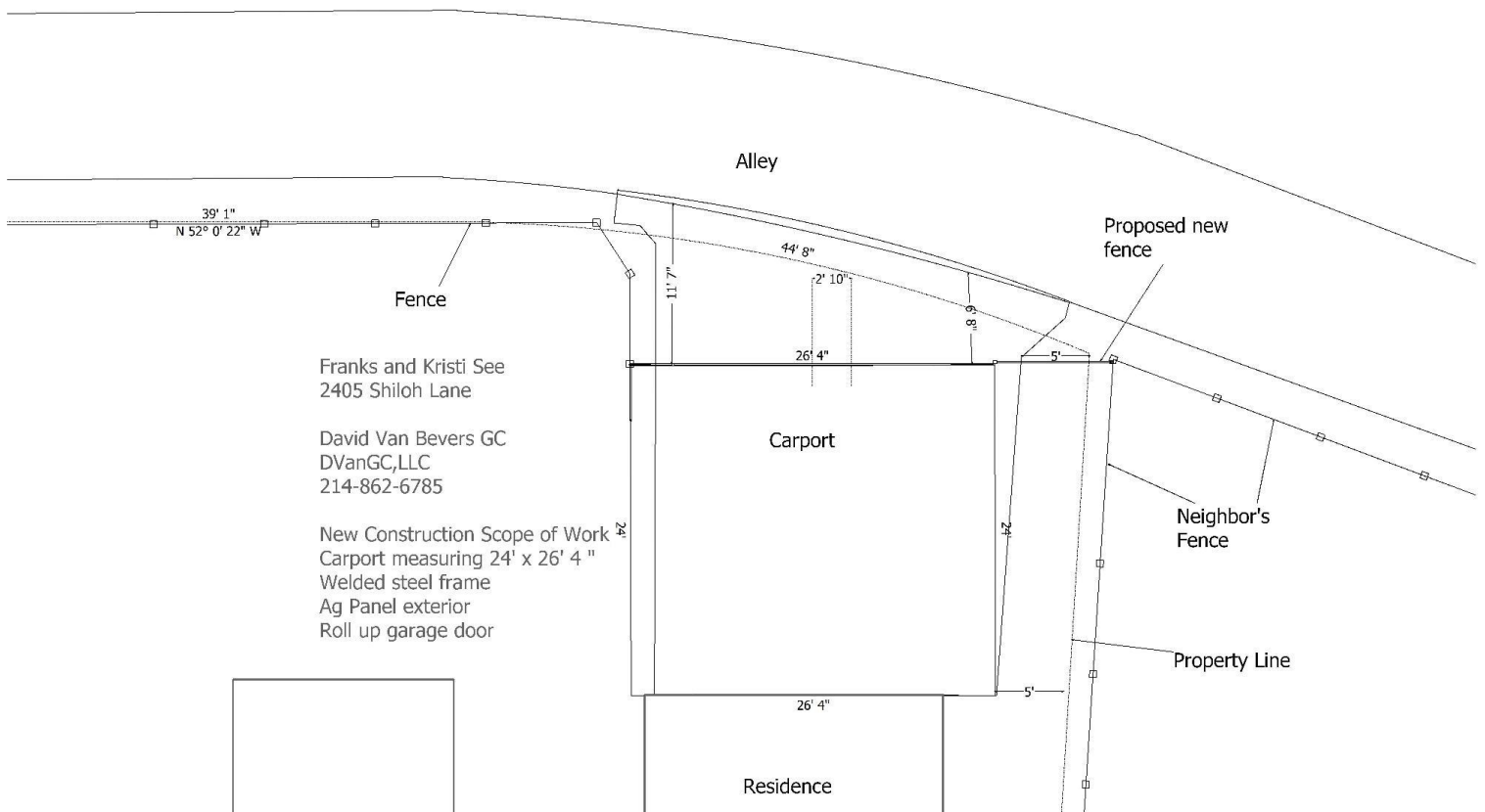


Front view of the subject property, facing north

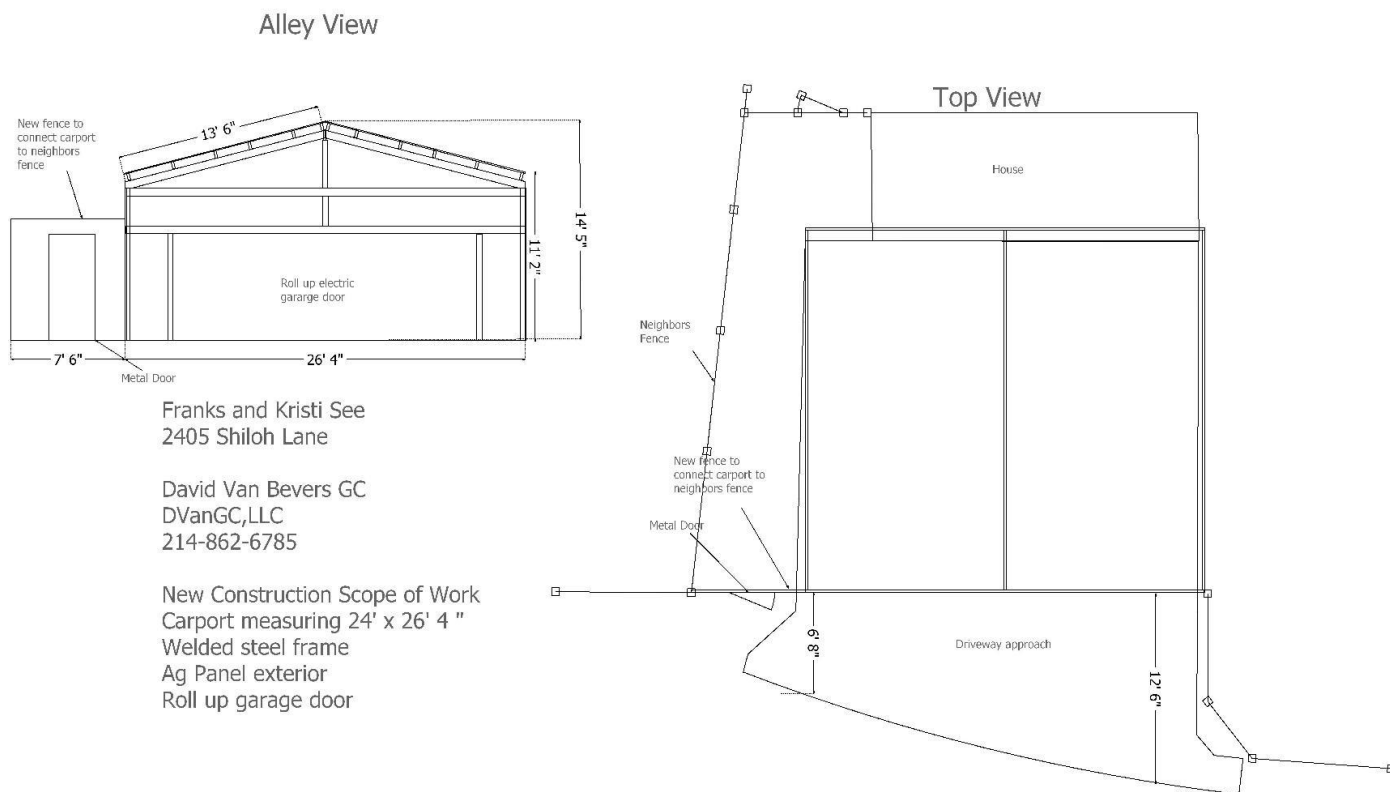


Rear view of the subject property, facing south

ATTACHMENT 4 – APPLICATION MATERIALS



ATTACHMENT 4 – APPLICATION MATERIALS



ATTACHMENT 4 – APPLICATION MATERIALS

OWNER AUTHORIZATION FORM

1. I hereby certify that I am the owner of the subject property or the duly authorized agent of the owner of the subject property for the purpose of this application.
2. I hereby designate the person named as the applicant on page 1 of this application, if other than myself, to file this application and to act as the principal contact person with the City of Mesquite.
3. I hereby authorize the City of Mesquite, its agents or employees, to enter the subject property at any reasonable time for the purpose of taking photographs, documenting current use and current conditions of the property; and further, I release the City of Mesquite, its agents or employees from liability for any damages which may be incurred to the subject property in taking of said photographs.
4. I have read and understand the information contained in the Board of Adjustment Application packet.

Property Owner: Frank + Kristi See Phone Number: 515-210-2516
Address: 2405 Shiloh Ln. Mesquite, TX 75181
david.vanbevers@yahoo.com Email Address: kcsee2001@gmail.com

Signature: Kristi C. See



FILE NUMBER: BOA1224-0458
REQUEST: Special Exception to allow a garage conversion with no requirement to relocate the converted parking spaces.
CASE MANAGER: John Cervantes, Senior Planner

PUBLIC HEARING

Board of Adjustment: Thursday, January 23, 2025

GENERAL INFORMATION

Applicant: Rosa Martinez
Property Owner: Rosa Martinez
Location: 1208 Rutherford Dr

SITE BACKGROUND

Legal Description: Rutherford Park Estates 3, Block 6, Lot 35
Size: 0.48 acres/ 20,940.92 square feet
Zoning: R-3, Single Family Residential
Zoning History: 1965 – Annexed and zoned R-3, Single Family Residential

Surrounding Zoning and Existing Land Uses:

	<u>ZONING</u>	<u>EXISTING LAND USE</u>
NORTH:	R-3, Single Family Residential	Elementary School
SOUTH:	R-3, Single Family Residential	Single-Family
EAST:	R-3, Single Family Residential	Single-Family
WEST:	R-3, Single Family Residential	Single Family

CASE SUMMARY

The applicant is seeking a Special Exception to permit the conversion of an existing front-entry two-car garage into living space, without the requirement to relocate the current parking spaces. The home, built in 1971, is situated on property that was annexed by the City of Mesquite in 1965. According to the applicant, the conversion will accommodate the creation of two additional bedrooms to support the needs of their expanding family.

Garage Conversion standards identified in Section 2-202 of the Mesquite Zoning Ordinance were amended via Ordinance No. 4990 on October 3, 2022, and now require relocation of converted parking spaces that once existed behind the building line on a lot in residential zoning districts, such that the total off-street parking spaces on the lot are not reduced from what existed prior to a garage conversion. The Board of Adjustment may, however, approve a Special Exception to authorize a garage conversion with no requirement to relocate the converted parking spaces.

MESQUITE ZONING ORDINANCE

SEC. 2-202.E.4: GARAGE CONVERSION – RELOCATION OF CONVERTED PARKING NOT REQUIRED

The Board of Adjustment may approve a Special Exception, in accordance with the approval standards in Section 5-206 (L), to authorize a garage conversion with no requirement to relocate the converted parking spaces, as required in Sub-Section 2-202 (E) (2), so long as two (2) City staff approved off-street non-tandem parking spaces remain on the lot, the property was platted before October 1, 1984, and it is not feasible to replace the converted garage parking spaces elsewhere within the lot.

STAFF COMMENTS:

The property was platted in September of 1970, making it eligible to request a Special Exception to convert the garage without replacing the converted garage parking spaces. The existing front-entry driveway is approximately 18 feet wide and 30 feet long, and is large enough to accommodate off-street parking spaces.. The property has access to a rear paved alley, which the property could utilize to provide additional off-street parking.

Staff could not identify any physical issue as to why the driveway could not be expanded to accommodate that lost space(s) from converting the. Additionally, the application material does not explain why additional off-street parking could not be added. The Special Exception is intended to provide relief when replacing the lost parking spaces is not feasible.

SEC. 5-206.L: SPECIAL EXCEPTION APPROVAL STANDARDS

Special Exceptions may be granted as set out in this Zoning Ordinance, when the Board finds that the special exception:

- a) Will allow greater use and enjoyment of property; and
- b) Without creating adverse impacts on adjacent properties; and
- c) That it will be compatible with the surrounding neighborhood; and

- d) When applicable, the board shall also consider any additional criteria set out in this Zoning Ordinance for any specific special exception.

STAFF COMMENTS:

The case does not meet the requirements for approval of a Special Exception for a garage conversion. As noted in the previous section, staff could not identify an issue with the property that would make parking relocation unfeasible. The property has paved rear alley access that the applicant could connect to by paving a portion of their rear yard to relocate the converted garage parking spaces

PERMITS

2001: Building Permit (Storage Building)
2005: Cement Permit
2012: Electrical Permit
2024: Building Permit (Patio Cover)
2024: Electrical Permit (Solar Panels)
2025: Electrical Permit

STAFF RECOMMENDATION

Staff recommends denial of the Special Exception to allow a garage conversion, with no requirement to relocate the converted parking spaces.

PUBLIC NOTICE

Staff mailed notices to all property owners within 200 feet of the subject property. As of January 17, 2025, there have been no returned notices.

ATTACHMENTS

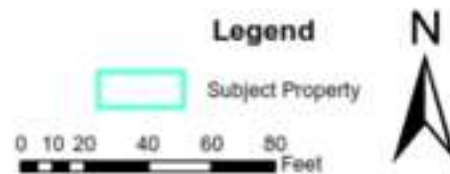
1. Aerial Map
2. Public Notification Map
3. Site Photos
4. Application Materials

ATTACHMENT 1 – AERIAL MAP

Aerial Map



Location: 1208 Rutherford Dr



ATTACHMENT 2 – PUBLIC NOTIFICATION MAP



ATTACHMENT 3 – SITE PHOTOS



Subject property from 1208 Rutherford Dr, facing east.

ATTACHMENT 4 – APPLICATION MATERIALS

OWNER AUTHORIZATION FORM

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2. I hereby designate the person named as the applicant on page 1 of this application, if other than myself, to file this application and to act as the principal contact person with the City of Mesquite.
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4. I have read and understand the information contained in the Board of Adjustment Application packet.

Property Owner: Rosa Martinez Phone Number: 2144541336

Address: 1208 Rutherford Dr

Mesquite, Tx 75149 Email Address: chicademichoacan@yahoo.com

Signature: Rosa Martinez

April 2022 P.O. Box 850137 • Mesquite, Texas 75185-0137 • www.cityofmesquite.com Page 6 of 13