

# AGENDA

## ZONING BOARD OF ADJUSTMENT

### COUNCIL CHAMBER

OCTOBER 16, 2019

8:30 A.M.

1. Invocation
2. Approve the minutes of the following Zoning Board of Adjustment meetings:
  - a. July 17, 2019
  - b. August 7, 2019
  - c. August 21, 2019
3. DOCKET NO. 2019-09-V  
Open a public hearing to consider approval of the request of Sherwood Church of Christ, owner, for a variance from Section 14-11-1 (2) of the City of Odessa Zoning Ordinance to allow a fence to be built 8 ft. in height instead of the 4 ft. maximum allowed height in a Single-Family-Three (SF-3) Zoning District, Lot 37, Block 45, Sherwood 01-72 (4900 N Dixie Blvd.).
4. Other business
5. Adjourn

Be it said and remembered that at 8:30 a.m. on the 17<sup>th</sup> day of July, 2019, there came on and was held a Zoning Board of Adjustment meeting in the Council Chamber, 5<sup>th</sup> Floor, 411 W. 8<sup>th</sup> St. Odessa, Texas.

MEMBERS PRESENT: Ludie Warner, Chairperson  
Geraldo Arzate  
Anthony Rios  
Mark Windham

MEMBERS ABSENT: Libby Campbell (Alternate)  
Brooke Harper  
Rosa Valdez (Alternate)

OTHERS PRESENT: Randy Brinlee, Director of Planning and Development; Maria Prieto, Planning Tech, Sammy Quiroz, Building Official; Sylvia Carrillo, Interim Development Manager; Natasha Brooks, Senior Assistant City Attorney; and Anne Roney, Secretary.

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Chairperson Warner called the meeting to order, with Member Windham giving the invocation.

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The minutes of the June 19, 2019 Zoning Board of Adjustment meeting were approved, motion for approval being made by Member Windham, seconded by Member Arzate, with the vote being a unanimous "aye".

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DOCKET NO. 2019-03-V (approved)

Open a public hearing to consider approval of the request of Dale Mayfield, owner, for a variance from Section 14-7-8 (4) of the City of Odessa Zoning Ordinance to allow a structure (accessory building) to be built with a seven feet (7') side yard setback instead of the platted fifteen feet (15') street side yard setback in a Special Dwelling (SPD) Zoning District, Lot 110, Block 119, Esmond Estates (5161 Kalenak Ct.)

Ms. Prieto gave the following presentation: There were 21 notices mailed to surrounding property owners, with no notices returned, 2 written approvals and no written protests.

The property involved in this request is located at 5161 Kalenak Ct. This site is currently zoned Special Dwelling (SPD) and is occupied by a single family residence. The property is surrounded by residential development.

The applicant is Dale Mayfield, owner, and the purpose of the request is for a variance to allow a structure (Accessory Building) to be built with a seven feet (7') setback from the side street property line instead of the platted fifteen feet (15') side yard setback. In order to allow the structure eight feet (8') forward on the fifteen feet (15') side yard setback, the applicant is requesting a variance from Section 14-7-8 (4) of the City of Odessa Zoning Ordinance, which states:

**14-7-8 (4) SPECIAL SIDE YARD REGULATIONS**

On a corner lot used for one-family, two-family or multiple-family dwellings a minimum side yard of ten (10) feet shall be observed. On lots which were official lots of record prior to December 28, 1971, the minimum side yard adjacent to a side street shall comply with the required side yard for the respective districts as specified in section 14-7-7 or with any side yard shown on plat of record.

The following criteria as outlined in the Zoning Ordinance are to be used by the Board of Adjustment in evaluating variance requests. The burden of proof in meeting each of these criteria is upon the applicant.

A. The variance request is not contrary to the public interest.

- B. Special conditions exist for the applicant that do not generally exist for others.
- C. A literal enforcement of the ordinance will result in unnecessary hardship.
- D. The spirit of the zoning ordinance is observed and substantial justice is done.

Staff analysis of this request is the applicant's request of seven feet (7') side yard street setback adjacent to the southwest property line is reasonable and will not create any hazards or any hardship to surrounding properties related to light, air, or open space. Requested side yard setbacks for current subdivision plats is 10 ft. instead of the 15 ft. shown for Esmond Estates plat. Also, the seven feet (7') setbacks along with the five feet (5') right-of-way will have the proposed structure twelve feet (12') back of curb. With this in mind, the planning staff has no objections to this request as presented.

There being no questions for City Staff, Chairperson Warner opened the public hearing. Mr. Dale Mayfield, owner at 5161 Kalenak Ct., approached the lectern. He stated he would like to place a portable building in the side yard. There being no further questions or comments, Chairperson Warner closed the public hearing.

Member Rios moved the variance be approved as presented. Member Windham seconded the motion, with the vote being a unanimous "aye".

#### FINDINGS OF FACT

The Zoning Board of Adjustment for the City of Odessa finds as a matter of fact that the applicant has sustained his burden of showing that: :

- 1. The variance request is not contrary to the public interest.
- 2. Special conditions exist for the applicant that do not generally exist for others.
- 3. A literal enforcement of the ordinance will result in unnecessary hardship.
- 4. The spirit of the zoning ordinance is observed and substantial justice is done.

#### ORDER OF THE BOARD

Therefore, the Zoning Board of Adjustment of the City of Odessa acting on the basis of the required concurring vote of four (4) members of the Board hereby orders the variance sought by the applicant in this case be, in all things granted subject to the following appropriate conditions and safeguards, to wit: Approved as requested.

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#### DOCKET NO. 2019-04-V (approved front yard setback)

Open a public hearing to consider approval of the request of Luis Zubiata Jr., owner, for a variance from Section 14-7-5 of the City of Odessa Zoning Ordinance to allow a structure (carport) to be located with a twenty-two feet (22') front yard setback instead of a twenty-five feet (25') front yard setback and from Section 14-7-7 of the City of Odessa Zoning Ordinance to allow a structure (carport) to be located with a two feet (2') side yard setback instead of the required five feet (5') side yard setback in a Single Family-Three (SF-3) Zoning District, Lot 7 Block 79, Sherwood 73-94 (322 E 50<sup>th</sup> St.)

Ms. Prieto gave the following presentation: There were 27 notices mailed to surrounding property owners, with no notices returned, 4 written approvals and 1 written protest.

The property involved in this request is located at 322 E 50<sup>th</sup> St. This site is currently zoned Single Family-Three (SF-3) and is occupied by a single family residence. The property is surrounded by residential development.

The applicant is Luis Zubiata Jr., owner, and the purpose of the request is for a variance to allow a structure (carport) to be built twenty-two feet (22') instead of the twenty-five feet (25') required front yard setback and two feet (2') instead of the five feet (5') required side

yard setback. In order to allow the structure three feet (3') forward on the twenty-five feet (25') front yard setback and three feet (3') forward on the five feet (5') side yard setback, the applicant is requesting a variance from Sections 14-7-5 and 14-7-7 of the City of Odessa Zoning Ordinance, which states:

#### 14-7-5 FRONT YARD

In the following zoning districts the minimum required front yard shall be in accordance with the following schedule and no building or structure shall hereinafter be located, erected or altered so as to have a smaller front yard than hereinafter required, and no front yard existing at the time of passage of this ordinance shall be reduced below the minimum set forth in the following schedule except as hereinafter provided:

Single Family Residence – 3	25'	SF-3
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#### 14-7-7 (5) SIDE YARD

In the Following Zoning Districts The Minimum Required Side Yard Shall Be In Accordance With The Following Schedule And No Building, Structure Or Use Shall Hereafter Be Located So As To Have A Smaller Side Yard On Each Side Of Such Building Than Herein Required, And No Side Yard Existing At The Time Of Passage Of This Ordinance Shall Be Reduced Below The Minimum Set Forth Herein:

Single Family Residence – 3	5'	SF-3
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The following criteria as outlined in the Zoning Ordinance are to be used by the Board of Adjustment in evaluating variance requests. The burden of proof in meeting each of these criteria is upon the applicant.

- A. The variance request is not contrary to the public interest.
- B. Special conditions exist for the applicant that do not generally exist for others.
- C. A literal enforcement of the ordinance will result in unnecessary hardship.
- D. The spirit of the zoning ordinance is observed and substantial justice is done.

Staff analysis of this request is the applicant's request of twenty-two feet (22') front yard setback adjacent to the north property line is reasonable and will not create any hazards or any hardship to surrounding properties related to light, air, or open space. However, the three feet (3') side yard setback requested adjacent to the west property line could create issues related to open space and safety issues. With this in mind, the planning staff has no objections to this request related to the front yard setback, however, staff opinion is that the five feet (5') side yard setback needs to be observed.

There being no questions for City Staff, Chairperson Warner opened the public hearing. Mr. Luis Zubiato, owner at 322 E. 50<sup>th</sup> St., approached the lectern to answer any questions. Ms. Warner stated Mr. Zubiato already has a 2-car garage. If he backs straight out he could observe the 5' yard setback. Mr. Zubiato stated he wanted to maximize the use of his property. Ms. Warner stated the city has no objection to the requested front yard setback, however they do have an objection to the proposed side yard setback. Mr. Zubiato stated he wanted to eventually remove the pine tree and place concrete in the front in order to make the driveway wider. Mr. Rios stated the proposed length of the driveway is not a problem. Mr. Zubiato could keep the proposed structure even with the roofline and not go into the side yard. There being no further questions or comments, Chairperson Warner closed the public hearing.

Member Rios moved to approve the twenty-two feet (22') front yard setback only and keep the side yard setback as required. Member Windham seconded the motion, with the vote being a unanimous "aye".

FINDINGS OF FACT

The Zoning Board of Adjustment for the City of Odessa finds as a matter of fact that the applicant has sustained his burden of showing that: :

1. The variance request is not contrary to the public interest.
2. Special conditions exist for the applicant that do not generally exist for others.
3. A literal enforcement of the ordinance will result in unnecessary hardship.
4. The spirit of the zoning ordinance is observed and substantial justice is done.

ORDER OF THE BOARD

Therefore, the Zoning Board of Adjustment of the City of Odessa acting on the basis of the required concurring vote of four (4) members of the Board hereby orders the variance sought by the applicant in this case be, in all things granted subject to the following appropriate conditions and safeguards, to wit: Approve the twenty-two feet (22') front yard setback only.

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There being no further business to come before the Board, the meeting was adjourned at 8:42 a.m.

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Anne Roney, Secretary, placed the minutes in the Minute Book on July 17, 2019.

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Ludie Warner, Chairperson

Be it said and remembered that at 8:30 a.m. on the 7<sup>th</sup> day of August, 2019, there came on and was held a Zoning Board of Adjustment meeting in the Council Chamber, 5<sup>th</sup> Floor, 411 W. 8<sup>th</sup> Str. Odessa, Texas.

MEMBERS PRESENT: Ludie Warner, Chairperson  
Brooke Harper  
Anthony Rios  
Mark Windham

MEMBERS ABSENT: Geraldo Arzate  
Libby Campbell (Alternate)  
Rosa Valdez (Alternate)

OTHERS PRESENT: Randy Brinlee, Director of Planning and Development; Tim McDaniel, Planner; and Anne Roney, Secretary.

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Chairperson Warner called the meeting to order, with Member Windham giving the invocation.

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DOCKET NO. 2019-05-V (approved with conditions)

Open a public hearing to consider approval of the request of Vernon Walker, owner, for a variance from Sections 14-7-5 of the City of Odessa Zoning Ordinance to allow a structure (carport) to be located with a five feet (5') front yard setback instead of a twenty-five feet (25') front yard setback in a Single Family-Three (SF-3) Zoning District, Lot 12 Block 13, Lawndale Addition (8826 Holiday Dr.)

Ms. Prieto gave the following presentation: There were 22 notices mailed to surrounding property owners, with no notices returned, 2 written approvals and no written protests.

The property involved in this request is located at 8826 Holiday Dr. This site is currently zoned Single Family-Three (SF-3) and is occupied by a single family residence. The property is surrounded by residential development.

The applicant is Vernon Walker, owner, and the purpose of the request is for a variance to allow a structure (carport) to be built five feet (5') instead of the twenty-five feet (25') required front setback. In order to allow the structure twenty one feet (20') forward on the twenty-five feet (25') front yard setback, the applicant is requesting a variance from Section 14-7-5 of the City of Odessa Zoning Ordinance, which states:

**14-7-5 FRONT YARD**

In the following zoning districts the minimum required front yard shall be in accordance with the following schedule and no building or structure shall hereinafter be located, erected or altered so as to have a smaller front yard than hereinafter required, and no front yard existing at the time of passage of this ordinance shall be reduced below the minimum set forth in the following schedule except as hereinafter provided:

Single Family Residence – 3	25'	SF-3
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The following criteria as outlined in the Zoning Ordinance are to be used by the Board of Adjustment in evaluating variance requests. The burden of proof in meeting each of these criteria is upon the applicant.

- A. The variance request is not contrary to the public interest.
- B. Special conditions exist for the applicant that do not generally exist for others.
- C. A literal enforcement of the ordinance will result in unnecessary hardship.
- D. The spirit of the zoning ordinance is observed and substantial justice is done.

Staff analysis of this request is the applicant's request of five feet (5') front yard setback could create issues related to open space and safety. Staff opinion is that a structure (carport) ten feet (10') forward with a four feet (4') overhang is more reasonable and will not create any hazards or any hardship to surrounding properties related to light, air, or open space. With this in mind, staff opinion is that a ten feet (10') front yard setback needs to be observed.

There being no questions for City Staff, Chairperson Warner opened the public hearing. Mr. Vernon Walker, applicant at 8826 Holiday Dr., approached the lectern. He indicated he was willing to answer any questions from the Board. Mr. Windham asked about the 5 setback instead of the required 25' setback. Mr. Walker stated he has bought a carport and it comes out to a 5' front yard setback. He presented pictures of the structure to the Board. Mr. Rios stated a 10' front yard setback is what the City is trying to maintain. The prefabricated carport sets the poles at the corners. Ms. Warner asked if Mr. Walker has paid for the carport. Mr. Walker stated he has placed a down-payment on the structure and can get his money back. Ms. Warner asked if he could build the structure with a 10' setback and a 4' overhang. Mr. Walker stated he has looked into what would need to be done. Mr. Rios stated he looked at the picture of the house. The gables can be extended and it would not affect the existing garage doors. The concrete would have to be extended. There being no further questions or comments, Chairperson Warner closed the public hearing.

Mr. Rios commented the prefabricated carports always have the pole in the front.

Member Rios moved the variance be approved with a 10' setback and a 4' overhang. Member Windham seconded the motion, with the vote being a unanimous "aye".

#### FINDINGS OF FACT

The Zoning Board of Adjustment for the City of Odessa finds as a matter of fact that the applicant has sustained his burden of showing that: :

1. The variance request is not contrary to the public interest.
2. Special conditions exist for the applicant that do not generally exist for others.
3. A literal enforcement of the ordinance will result in unnecessary hardship.
4. The spirit of the zoning ordinance is observed and substantial justice is done.

#### ORDER OF THE BOARD

Therefore, the Zoning Board of Adjustment of the City of Odessa acting on the basis of the required concurring vote of four (4) members of the Board hereby orders the variance sought by the applicant in this case be, in all things granted subject to the following appropriate conditions and safeguards, to wit: Carport to have a 10' setback with a 4' overhang.

Ms. Warner stated the City would work with Mr. Walker to get the carport with a 10' setback and 4' overhang. Mr. Windham pointed out the Board sees these types of cases all the time. Mr. Walker stated he could work with the 10' setback.

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#### DOCKET NO. 2019-06-V (approved)

Open a public hearing to consider approval of the request of Eugene Chavarria Jr., owner, for a variance from Section 14-7-5 of the City of Odessa Zoning Ordinance to allow a structure (carport) to be located with a ten feet (10') front yard setback instead of a twenty-five feet (25') front yard setback in a Single Family-Three (SF-3) Zoning District, Lot 9 Block 29, Fleetwood Addition (2219 Richmond St.)

Ms. Prieto gave the following presentation: There were 19 notices mailed to surrounding property owners, with no notices returned, 2 written approvals and no written protests.

The property involved in this request is located at 2219 Richmond St. This site is currently zoned Single Family-Three (SF-3) and is occupied by a single family residence. The property is surrounded by residential development.

The applicant is Eugene Chavarria Jr., owner, and the purpose of the request is for a variance to allow a structure (carport) to be built ten feet (10') instead of the twenty-five feet (25') required front setback. In order to allow the structure fifteen feet (15') forward on the twenty-five feet (25') front yard setback, the applicant is requesting a variance from Section 14-7-5 of the City of Odessa Zoning Ordinance, which states:

#### 14-7-5 FRONT YARD

In the following zoning districts the minimum required front yard shall be in accordance with the following schedule and no building or structure shall hereinafter be located, erected or altered so as to have a smaller front yard than hereinafter required, and no front yard existing at the time of passage of this ordinance shall be reduced below the minimum set forth in the following schedule except as hereinafter provided:

Single Family Residence – 3	25'	SF-3
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The following criteria as outlined in the Zoning Ordinance are to be used by the Board of Adjustment in evaluating variance requests. The burden of proof in meeting each of these criteria is upon the applicant.

- A. The variance request is not contrary to the public interest.
- B. Special conditions exist for the applicant that do not generally exist for others.
- C. A literal enforcement of the ordinance will result in unnecessary hardship.
- D. The spirit of the zoning ordinance is observed and substantial justice is done.

Staff analysis of this request is the applicant's request to reduce the front yard requirement to 10 feet is reasonable. Staff opinion is that a structure (carport) fifteen feet (15') forward with a four feet (4') overhang is more reasonable and will not create any hazards or any hardship to surrounding properties related to light, air, or open space. With this in mind, staff has no objections to this request as presented.

There being no questions for City Staff, Chairperson Warner opened the public hearing. Mr. Kenny Roman with Circle K Metal approached the lectern. He stated he would be building the structure for the applicant. Ms. Warner asked if it would be a wood structure, being told the structure will be metal. The closest pole to the street will be at 10'. Mr. Rios asked if there would be a 4' overhang, being told there would be an overhang. Ms. Warner asked if the sides would be closed or open, being told it would be open-sided. There being no further questions or comments, Chairperson Warner closed the public hearing.

Member Windham moved the variance be approved as requested. Member Rios seconded the motion, with the vote being a unanimous "aye".

#### FINDINGS OF FACT

The Zoning Board of Adjustment for the City of Odessa finds as a matter of fact that the applicant has sustained his burden of showing that: :

- 1. The variance request is not contrary to the public interest.
- 2. Special conditions exist for the applicant that do not generally exist for others.
- 3. A literal enforcement of the ordinance will result in unnecessary hardship.
- 4. The spirit of the zoning ordinance is observed and substantial justice is done.

**ORDER OF THE BOARD**

Therefore, the Zoning Board of Adjustment of the City of Odessa acting on the basis of the required concurring vote of four (4) members of the Board hereby orders the variance sought by the applicant in this case be, in all things granted subject to the following appropriate conditions and safeguards, to wit: Approved as requested.

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**DOCKET NO. 2019-07-V (approved)**

Open a public hearing to consider approval of the request of Yesenia Gonzalez, owner, for a variance from Section 14-7-9 (g) of the City of Odessa Zoning Ordinance to allow a structure (mobile home) to be located with three feet (3') rear yard setback instead of a five feet (5') rear yard setback in a General Residence (GR) Zoning District, Lot 10, Block 8, Davis Heights (708 Bunche Ave)

Ms. Prieto gave the following presentation: There were 20 notices mailed to surrounding property owners, with no notices returned, 1 written approval and no written protests.

The property involved in this request is located at 708 Bunche Ave. The site is zoned General Residence (GR) and is currently vacant. Land use in the general area consists of residential development.

The applicant is Yesenia Gonzalez, owner, and the request is for a variance in order to allow a structure (Mobile Home) to be located three feet (3') instead of the five feet (5') required rear yard setback. In order to allow the structure two feet (2') forward on the five feet (5') rear yard setback. The applicant is requesting a variance from Section 14-7-9 (g) of the City of Odessa Zoning Ordinance which states:

8-400

**REAR YARD**

No building or structure shall hereafter be located, erected or altered to have a rear yard smaller than herein required and no rear yard existing at the time of passage of this ordinance shall be reduced below the minimum set forth below.

- (g) A minimum rear yard of five (5) feet shall be provided for all mobile or hud-manufactured home dwellings located on lots and the minimum space to the rear of a mobile or hud-manufactured home in a mobile or hud-manufactured home park shall comply with the rear yard space shown on the approved Site Plan for a mobile/hud-manufactured home park.

The following criteria as outlined in the Zoning Ordinance are to be used by the Board of Adjustment in evaluating variance requests. The burden of proof in meeting each of these criteria is upon the applicant.

- A. The variance request is not contrary to the public interest.
- B. Special conditions exist for the applicant that do not generally exist for others.
- C. A literal enforcement of the ordinance will result in unnecessary hardship.
- D. The spirit of the zoning ordinance is observed and substantial justice is done.

Staff analysis of the request is that the 100 ft. depth of the property is smaller than the typical lot depth of 120 ft. The requested three feet (3') rear yard setback is reasonable and will not create any hazards of any hardship to surrounding properties related to light, air, or open space. With this in mind, the planning staff has no objections to this request as presented.

There being no questions for City Staff, Chairperson Warner opened the public hearing. Ms. Yesenia Gonzalez, applicant at 708 Bunche Ave., approached the lectern. Mr. Rios asked about the placement of the mobile home, being told the mobile home will be on the left side of the property with the parking pad on the right side of the property. There being

no further questions or comments, Chairperson Warner closed the public hearing. Mr. Rios asked if, in order to meet the parking requirements, the mobile home has to be set back. Mr. Brinlee stated the mobile home does have to be offset in order to meet the parking requirements. Ms. Warner stated the variance request is just for the setback.

Member Rios moved the variance be approved as requested. Member Windham seconded the motion, with the vote being a unanimous "aye".

FINDINGS OF FACT

The Zoning Board of Adjustment for the City of Odessa finds as a matter of fact that the applicant has sustained his burden of showing that: :

1. The variance request is not contrary to the public interest.
2. Special conditions exist for the applicant that do not generally exist for others.
3. A literal enforcement of the ordinance will result in unnecessary hardship.
4. The spirit of the zoning ordinance is observed and substantial justice is done.

ORDER OF THE BOARD

Therefore, the Zoning Board of Adjustment of the City of Odessa acting on the basis of the required concurring vote of four (4) members of the Board hereby orders the variance sought by the applicant in this case be, in all things granted subject to the following appropriate conditions and safeguards, to wit: Approved as requested.

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There being no further business to come before the Board, the meeting was adjourned at 8:50 a.m.

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Anne Roney, Secretary, placed the minutes in the Minute Book on August 7, 2019.

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Ludie Warner, Chairperson

Be it said and remembered that at 8:30 a.m. on the 21<sup>st</sup> day of August, 2019, there came on and was held a Zoning Board of Adjustment meeting in the Council Chamber, 5<sup>th</sup> Floor, 411 W. 8<sup>th</sup> St., Odessa, Texas.

MEMBERS PRESENT: Ludie Warner, Chairperson  
Geraldo Arzate  
Brooke Harper  
Anthony Rios  
Mark Windham

MEMBERS ABSENT: Libby Campbell (Alternate)  
Rosa Valdez (Alternate)

OTHERS PRESENT: Randy Brinlee, Director of Planning and Development; Tim McDaniel, Planner; Maria Prieto, Planning Tech; Robert Carroll, Assistant City Attorney; and Anne Roney, Secretary.

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Chairperson Warner called the meeting to order, with Member Windham giving the invocation.

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DOCKET NO. 2019-08-V (approved with conditions)

Open a public hearing to consider approval of the request of Debra Thompson, owner, for a variance from Section 14-7-5 of the City of Odessa Zoning Ordinance to allow a structure (carport) to be located with a eight feet (8') front yard setback instead of a twenty-five feet (25') front yard setback in a Single Family-Three (SF-3) Zoning District, Lot 7 Block 17, Burnett Heights (1513 S. Jackson Ave.)

Ms. Prieto gave the following presentation: There were 27 notices mailed to surrounding property owners, with no notices returned, 2 written approvals and no written protests.

The property involved in this request is located at 1513 S Jackson Ave. This site is currently zoned Single Family-Three (SF-3) and is occupied by a single-family residence. The property is surrounded by residential development.

The applicant is Debra Thompson, owner, and the purpose of the request is for a variance to allow a structure (carport) to be built eight feet (8') instead of the twenty-five feet (25') required front setback. In order to allow the structure seventeen feet (17') forward on the twenty-five feet (25') front yard setback, the applicant is requesting a variance from Section 14-7-5 of the City of Odessa Zoning Ordinance, which states:

**14-7-5FRONT YARD**

In the following zoning districts the minimum required front yard shall be in accordance with the following schedule and no building or structure shall hereinafter be located, erected or altered so as to have a smaller front yard than hereinafter required, and no front yard existing at the time of passage of this ordinance shall be reduced below the minimum set forth in the following schedule except as hereinafter provided:

Single Family Residence – 3	25'	SF-3
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The following criteria as outlined in the Zoning Ordinance are to be used by the Board of Adjustment in evaluating variance requests. The burden of proof in meeting each of these criteria is upon the applicant.

- A. The variance request is not contrary to the public interest.
- B. Special conditions exist for the applicant that do not generally exist for others.
- C. A literal enforcement of the ordinance will result in unnecessary hardship.

D. The spirit of the zoning ordinance is observed and substantial justice is done.

Staff analysis of this request is the applicant's request of eight feet (8') front yard setback is reasonable and will not create any issues, hazards or any hardship to this site or surrounding properties related to light, air or open space. With this in mind, the staff does not object to the request with the condition that the structure (carport) not be enlarged or enclosed at any time.

There being no questions for City Staff, Chairperson Warner opened the public hearing. Ms. Debra Thompson, applicant at 1513 S. Jackson Ave., approached the lectern. She stated she is trying to protect her cars from hailstorms. There being no questions or comments, Chairperson Warner closed the public hearing.

Member Windham moved the variance be approved with the following condition:

1. The structure (carport) not be enlarged or enclosed at any time.

Member Harper seconded the motion, with the vote being a unanimous "aye".

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**DOCKET NO. 2019-01-E (approved)**

Open a public hearing to consider approval of the request of 723 West First, LLC, owner, Morsbach General Contractors, contractor, for a special exception from Section 14-15-1(d)(2)(A) of the City of Odessa Zoning Ordinance to allow the extension of a structure (warehouse) which is legal nonconforming with regard to front yard setbacks for the Light Industrial (LI) zoning district on Lots 1-7, Block 3, Industrial Addition (723 W. 1<sup>st</sup>)

Mr. McDaniel gave the following presentation: There were 9 notices mailed to surrounding property owners, with no notices returned, no written approvals and no written protests.

The property involved in this request is located at 723 W 1<sup>st</sup> St. The site is zoned Light Industrial (LI) and is currently occupied by industrial development. The property is surrounded by industrial development.

The applicant is 723 West First, LLC, owner, Morsbach General Contractors, contractor, and the purpose of the request is to allow the extension of a structure which is legal nonconforming with regard to front yard setbacks for the zoning district. In order to allow the structure a 0' front yard, consistent with existing nonconforming buildings on the property, the applicant is requesting a Special Exception under Section 14-15-1(d)(2)(A) of the City of Odessa Zoning Ordinance, which states:

When in its judgment, the public convenience and welfare will be substantially served and the appropriate use of the neighboring property will not be substantially or permanently injured, the Zoning Board of Adjustment may, in specific cases, after public notice and public hearing... permit the reconstruction, extension or enlargement of a building occupied by a nonconforming use on the lot or tract occupied by such building or the reconstruction, extension or enlargement of a building which is nonconforming as to area provided the area nonconformity if not increased or the reconstruction of a structure destroyed by fire or the elements not to exceed sixty (60) percent of its reasonable value and the addition of off-street parking or off-street loading to a nonconforming use.

Staff analysis of this request is the applicant's request for a special exception to expand the nonconforming building is reasonable and will not create any hazards or any hardship to surrounding properties related to light, air, or open space. Staff analysis also finds that 1<sup>st</sup> Street in this area has very little traffic as it is not a through street in the area. This expansion will not cause any hardships related to parking or traffic in the area. With this in mind, the planning staff has no objections to this request as presented.

There being no questions for City Staff, Chairperson Warner opened the public hearing. Mr. Morsbach with Morsbach General Contractors representing the applicant approached the lectern. He stated he was available to answer any questions.

Mr. Rios asked if the proposed building was going to line up with what is existing, being told that was correct. There being no further questions or comments, Chairperson Warner closed the public hearing.

Member Windham moved the special exception be approved as requested. Members Rios and Arzate seconded the motion, with the vote being a unanimous "aye".

FINDING OF FACT

The Board of Adjustment hereby finds as a matter of fact that:

1. The applicant has sustained his burden of showing that his situation conforms with the terms of the special exception authorized by Section 14-15-1(d)(2)(A).
2. The public convenience and welfare will be substantially served and the appropriate use of the neighboring property will not be substantially or permanently injured by the allowance of this exception.

ORDER OF THE BOARD

Therefore, the Zoning Board of Adjustment of the City of Odessa acting on the basis of the required concurring vote of four (4) members of the Board hereby orders that the special exception sought by the applicant in this case be, in all things granted subject to the following appropriate conditions and safeguards, to wit: Approved as requested.

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There being no further business to come before the Board, the meeting was adjourned at 8:39 a.m.

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Anne Roney, Secretary, placed the minutes in the Minute Book on August 21, 2019.

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Ludie Warner, Chairperson

TO: ZONING BOARD OF ADJUSTMENT

FROM: RANDY BRINLEE, DIRECTOR OF PLANNING

SUBJECT: DOCKET NO. 2019-09-V

APPILCANT: Sherwood Church of Christ, owner

REQUEST: Variance from Section 14-11-1 (2) of the City of Odessa Zoning Ordinance

PROPERTY INVOLVED: Lot 37 Block 45, Sherwood 01-72 (4900 N Dixie Blvd.)

The property involved in this request is located at 4900 N Dixie Blvd. This site is currently zoned Single Family-Three (SF-3) and is occupied by a church. The property is surrounded by residential development.

The applicant is Sherwood Church of Christ, owner, and the purpose of the request is for a variance to allow a fence to be built eight feet (8') instead of the four feet (4') maximum allowed height in order to provide security for the children's playground and church equipment. The applicant is requesting a variance from Section 14-11-1 (2) of the City of Odessa Zoning Ordinance, which states:

**14-11-1 (2) HEIGHT OF FENCE OR WALL**

Any fence or wall in residential districts erected on the property line across the front of the lot shall not exceed four (4) feet in height above the adjacent grade except as provided in 7-1.13 and 7-1.14 and such fence may be increased in height one (1) foot for each six (6) feet it is setback from the property line to a maximum of eight (8) feet. The height of the fence shall be referenced to the highest adjacent grade.

The following criteria as outlined in the Zoning Ordinance are to be used by the Board of Adjustment in evaluating variance requests. The burden of proof in meeting each of these criteria is upon the applicant.

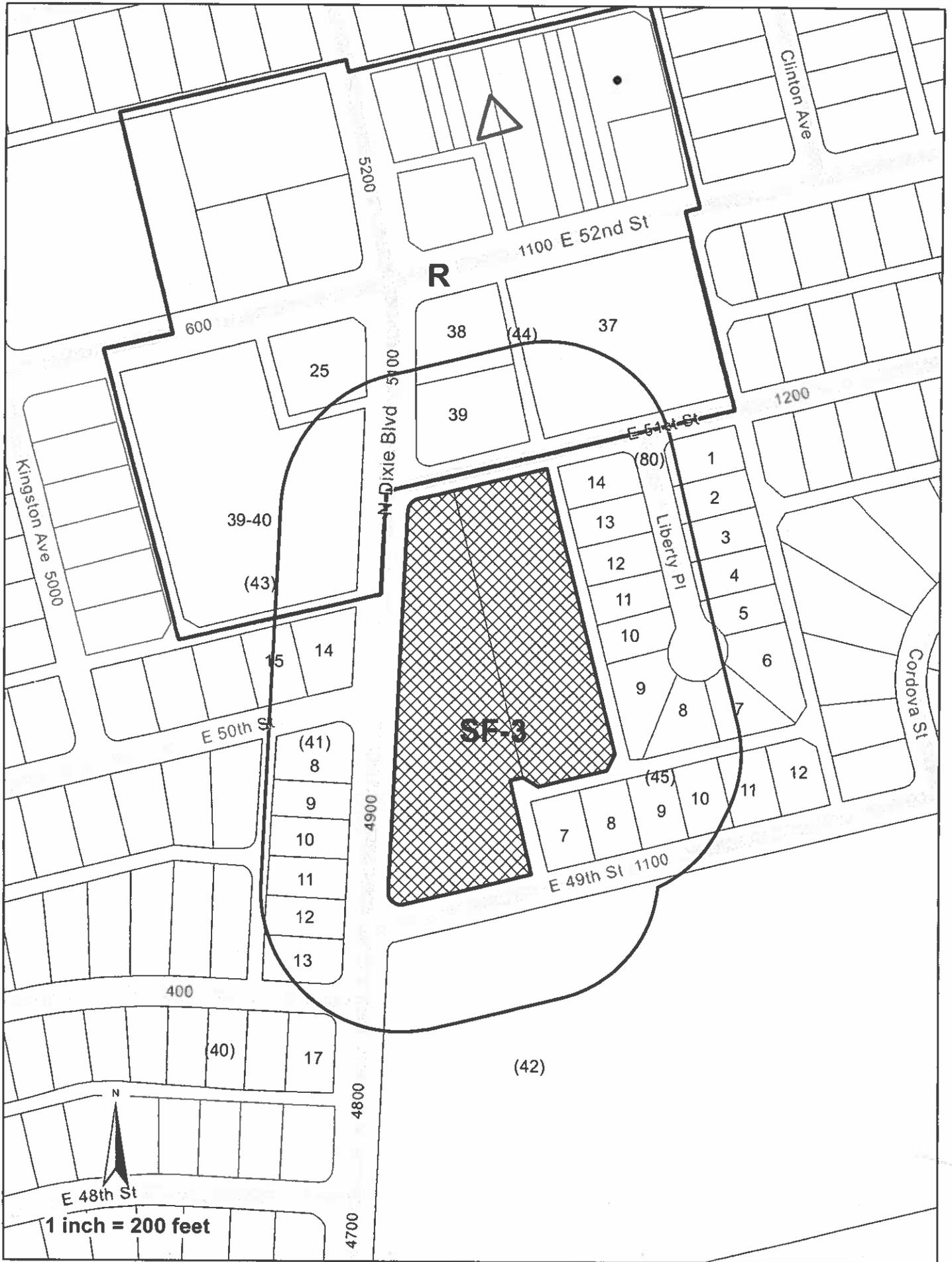
- A. The variance request is not contrary to the public interest.

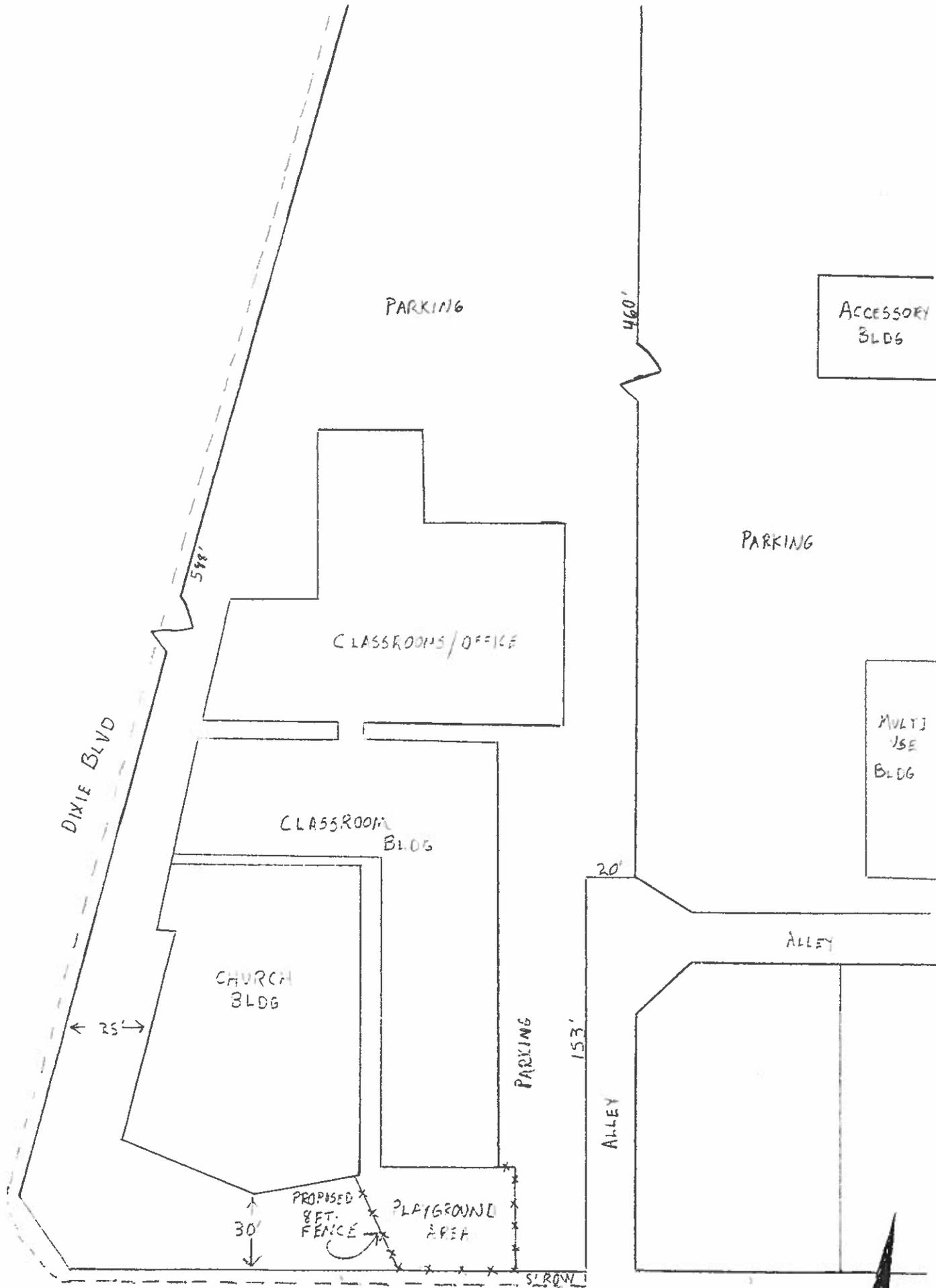
- B. Special conditions exist for the applicant that do not generally exist for others.
- C. A literal enforcement of the ordinance will result in unnecessary hardship.
- D. The spirit of the zoning ordinance is observed and substantial justice is done.

Staff analysis of this request is the applicant's request of eight feet (8') fence instead four (4') is reasonable and will not create any issues, hazards or any hardship to this site or surrounding properties related to light, air, open space or impede traffic flow and vision.

Information in order of inclusion:

- Area of notification map
- Copy of site plan





49TH ST

