

AGENDA

ZONING BOARD OF ADJUSTMENT

COUNCIL CHAMBER
(meeting held on-line)

JANUARY 20, 2021

8:30 A.M.

1. Invocation
2. Approve the minutes of the following Zoning Board of Adjustment meetings:
 - A. December 16, 2020
 - B. January 6, 2021
3. DOCKET NO. 2021-02-V
Open a public hearing to consider approval of the request of Derwin Shellenberger, owner, for a variance from Section 14-7-7 of the City of Odessa Zoning Ordinance to locate a patio with a one and a half foot (1.5') setback instead of the required 5' side yard setback in a Single Family-Three (SF-3) Zoning District, Lot 14, Block 18, Fleetwood Addition (4292 Bonham Ave.)
4. DOCKET NO. 2021-03-V
Open a public hearing to consider approval of the request of Wayne Squiers, owner, for a variance from Section 14-7-13(b) of the City of Odessa Zoning Ordinance to locate a storage building with a two feet (2') setback instead of the platted fifteen feet (15') side yard setback in a Single Family-Three (SF-3) Zoning District, Lot 1, Block 21, Fleetwood Addition (4252 Redbud Ave.)
5. Other business
6. Adjourn

Be it said and remembered that at 8:30 a.m. on the 16th day of December, 2020, there came on and was held a Zoning Board of Adjustment meeting in the Council Chamber, 5th Floor, 411 W. 8th St., Odessa, Texas.

Due to the COVID-19, the meeting was teleconferenced, as allowed by Governor Abbott's executive order. The Zoning Board of Adjustment was present through teleconference.

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

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

OTHERS PRESENT: Lorraine Quimiro, Planning Manger; Tim McDaniel, Planner; Maria Prieto, Planning Tech; Robert Carroll, Senior Assistant City Attorney; and Anne Roney, Secretary.

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

The minutes of the November 4, 2020 Zoning Board of Adjustment meeting were approved, motion for approval being made by Member Harper, seconded by Member Windham, with the vote being a unanimous "aye".

DOCKET NO. 2020-03-E (approved with conditions)

Open a public hearing to consider approval of the request of Bryan Barrett, owner, for a special exception under Section 14-15-1(d)(2)(A) of the City of Odessa Zoning Ordinance to allow the extension of a structure which is legal nonconforming with regard to side yard setbacks [five feet (5')] for the Single-Family Three (SF-3) zoning district on Lot 24, Block 20, Crescent Park Addition (1423 Crescent Dr.)

Mr. McDaniel gave the following presentation: There were 25 notices mailed to surrounding property owners, with 1 notice returned, no written protests and 1 written approval.

The property involved in this request is located at 1423 Crescent Dr. The site is zoned Single-Family Three (SF-3) and is currently occupied by residential development. The property is surrounded by single-family residential development.

The applicant is Bryan Barrett, owner, and the purpose of the request is to allow the extension of a structure which is legal nonconforming with regard to side yard setbacks for the zoning district.

In order to allow the expansion of the structure, 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 recommends approval of the request with the following condition:

1. All runoff from roof on existing and new structures must be directed back onto the property, rather than into City ROW.

There being no questions for City Staff, Chairperson Warner opened the public hearing.

Mr. Bryan Barrett, applicant at 1423 Crescent, approached the lectern. He stated his wife's mother has recently retired and they need the additional storage. Mr. McDaniel stated the applicant is enclosing an existing cinder block fence and the additional storage will connect to an existing structure. Access will be through the existing structure. There being no questions or comments, Chairperson Warner closed the public hearing.

Member Windham moved the special exception be approved with the following condition:

1. All runoff from roof on existing and new structures must be directed back onto the property, rather than into City ROW.

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

FINDING OF FACT

The Zoning Board of Adjustment for the City of Odessa 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 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:

1. All runoff from roof on existing and new structures must be directed back onto the property, rather than into City ROW.

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

Anne Roney, Secretary, placed the minutes in the Minute Book on December 16, 2020.

Ludie Warner, Chairperson

Be it said and remembered that at 8:30 a.m. on the 6th day of January, 2021, there came on and was held a Zoning Board of Adjustment meeting in the Council Chamber, 5th Floor, 411 W. 8th St., Odessa, Texas.

Due to the COVID-19, the meeting was teleconferenced, as allowed by Governor Abbott's executive order. The Zoning Board of Adjustment was present through teleconference.

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

MEMBERS ABSENT: Rosa Valdez (Alternate)

OTHERS PRESENT: Randy Brinlee, Director of Development; Lorraine Quimiro, Planning Manger; Tim McDaniel, Planner; Cory Maxwell, Planning Tech; Robert Carroll, Senior Assistant City Attorney; and Anne Roney, Secretary.

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

DOCKET NO. 2021-01-V (approved with conditions)

Open a public hearing to consider approval of the request of David Oates, owner, for a variance from Sections 14-7-5 and 14-7-7 of the City of Odessa Zoning Ordinance to locate a carport with a 10' front yard setback instead of the required 25' front yard setback, and a one foot (1') side yard setback instead of the required five feet (5') setback in a Two-Family-One (2F-1) Zoning District, Lot 25, Block 8, Beverly Heights Addition (803 E 13th St.)

Mr. McDaniel gave the following presentation: There were 17 notices mailed to surrounding property owners, with no notices returned, no written protests and 3 written approvals.

The property involved in this request is located at 803 E 13th St. The site is zoned Two-Family-One (2F-1) and is currently occupied by single family development. The property is surrounded by single family residential development.

The applicant is David Oates, owner, and the purpose of the request is to allow a carport to be located 15' forward of the required 25' front yard building setback, and four feet (4') forward of the five feet (5') side yard setback.

In order to allow the structure fifteen feet (15') forward of the 25 feet front yard setback, the applicant is requesting a variance from Section 14-7-5 of the City of Odessa Zoning Ordinance, which states:

"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:

2F-1: 25'"

In order to allow the structure four feet (4') forward of the five feet (5') required side yard setback, the applicant is requesting a variance from Section 14-7-7 of the City of Odessa Zoning Ordinance, which states:

"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:

2F-1: 5"

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.

The applicant is requesting the ability to place an approx. 14'x45' carport on an existing slab along the eastern side of the property. Staff feels that there is adequate distance between the proposed structure and neighboring structures.

Staff has no objections to the applicant's request to reduce the side yard requirement to one foot (1'). However, staff would suggest that a fifteen feet (15') front yard setback be observed instead of the requested ten feet (10'), as the applicant would be able to take advantage of the four feet (4') overhang that is allowed by ordinance.

Based on the preceding analysis, staff recommends approval of the request with the 15' front yard as suggested, and with the following conditions:

- 1. The carport shall not be enclosed in the future.
- 2. All other structures shall observe front and side yards as set forth in the zoning ordinance.

Ms. Warner asked if the applicant was removing a structure that was on the property, being told he is not. Mr. McDaniel stated there is an existing slab and the applicant wishes to place a carport over the slab. Ms. Warner then asked if there was a reason the City was requesting a 15' setback instead of the 10' being requested. Mr. McDaniel stated if the poles are set with a 15' setback, the applicant is allowed a 4' overhang which will serve his needs. There being no further questions for City Staff. Chairperson Warner opened the public hearing.

Mr. David Oates, applicant at 803 E. 13th, approached the lectern. Mr. Oates stated the reason he wants the long carport is to be able to cover two vehicles and protect the vehicle from the weather.

Ms. Warner asked if the 15' setback with the 4' overhang works for him. The City's recommendation will give him a 14' cover. She asked if this would be adequate. Mr. McDaniel stated the posts would have to be located at the 15' setback then he would be given the additional 4' overhang. Mr. Oates stated he thought it would be a tight fit. Ms. Warner asked how long the carport would be, being told 45'. Ms. Warner then asked how long vehicles are, being told about 20'. Mr. Brinlee explained the stack distance and the city requirements. What the city is recommending in this request will give the applicant enough cover for his vehicles. Mr. Oates stated what he is requesting would not obstruct the view. Mr. Brinlee stated a 15' setback would still give good vision clearance and the city is reluctant to support anything less. Mr. Oates asked if the city was recommending a 15' setback instead of 10'. Mr. Brinlee stated a 15' setback would give the applicant 44' of cover. Mr. Rios stated the 15' with the additional 4' overhand would give the applicant

the extra feet he required. There being no further questions or comments, Chairperson Warner closed the public hearing.

Member Rios moved the variance be approved with a 15' setback with the following conditions:

1. The carport shall not be enclosed in the future.
2. All other structures shall observe front and side yards as set forth in the zoning ordinance.

Member Arzate 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:

1. The carport shall not be enclosed in the future.
2. All other structures shall observe front and side yards as set forth in the zoning ordinance.

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

Anne Roney, Secretary, placed the minutes in the Minute Book on January 6, 2021.

Ludie Warner, Chairperson

TO: ZONING BOARD OF ADJUSTMENT
FROM: LORRINE QUIMIRO, PLANNING MANAGER
SUBJECT: DOCKET NO. 2021-02-V
APPLICANT: Derwin Shellenberger, owner
REQUEST: Variance from Section 14-7-7 of the City of Odessa Zoning Ordinance
PROPERTY INVOLVED: Lot 14, Block 18, Fleetwood Addition (4292 Bonham Ave.)

The property involved in this request is located at 4292 Bonham Ave. The site is zoned Single Family-Three (SF-3) and is currently occupied by single-family residential development. The property is surrounded by single family residential development.

The applicant is Derwin Shellenberger, owner, and the purpose of the request is to allow an accessory structure (patio) with a one and one half feet (1.5') side building setback instead of the five feet (5') as required by ordinance. In order to allow the structure three and one half (3.5') forward in the five feet (5') setback, the applicant is requesting a variance from Section 14-7-7 of the City of Odessa Zoning Ordinance, which states:

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:

SF-3: 5'

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.

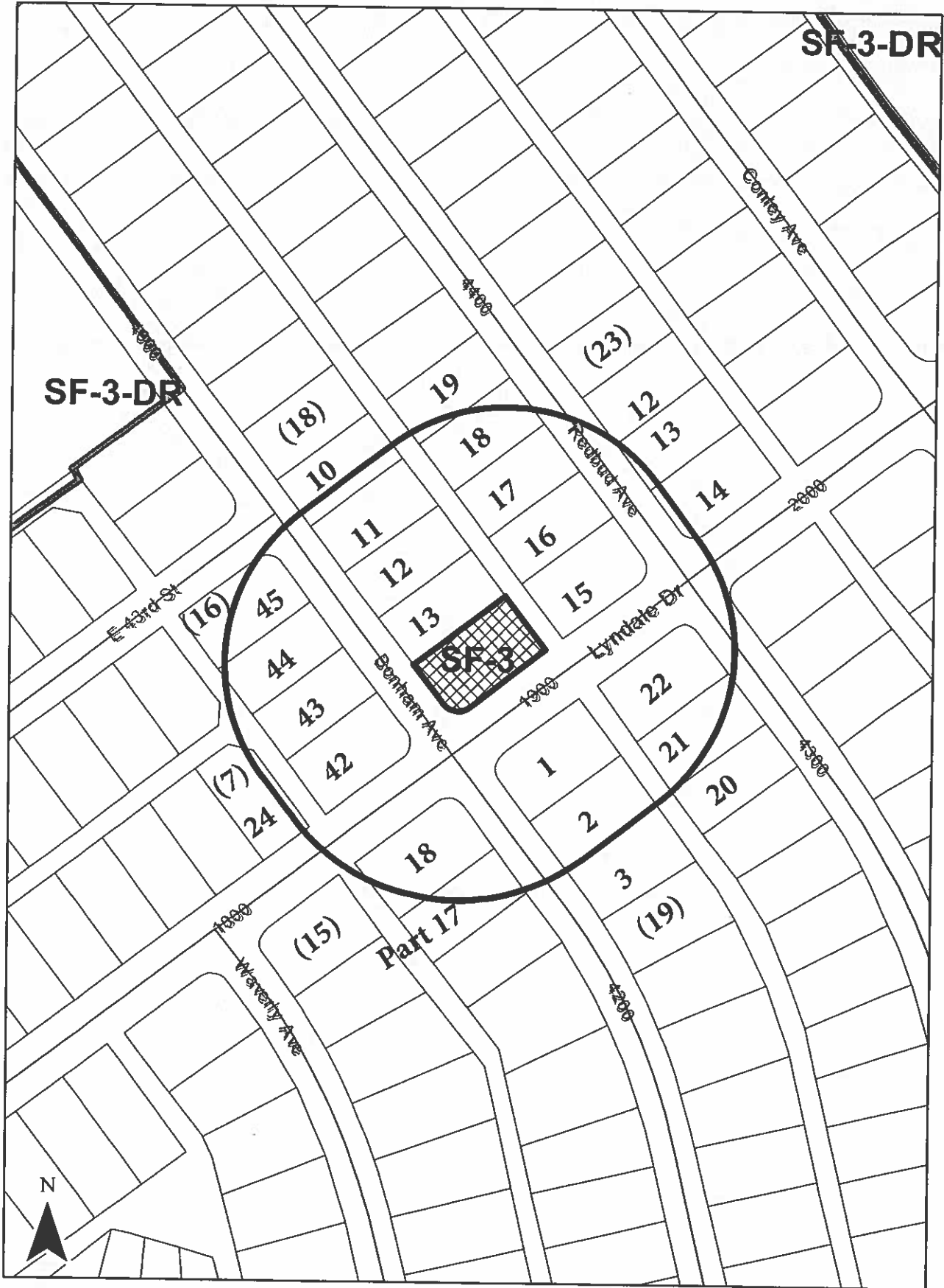
This structure has been in existence for several years and applicant was unaware that their contractor didn't acquire necessary permits for construction. Staff analysis of this request is that the applicant's request to reduce the side yard to one and one half feet (1.5') is reasonable and will not create any hazards or hardships to surrounding properties related to light, air, or open space. Staff also finds that the separation between the patio and the neighboring property is adequate for fire protection concerns.

Based on analysis of the site, staff recommends approval of the request as shown with the following conditions:

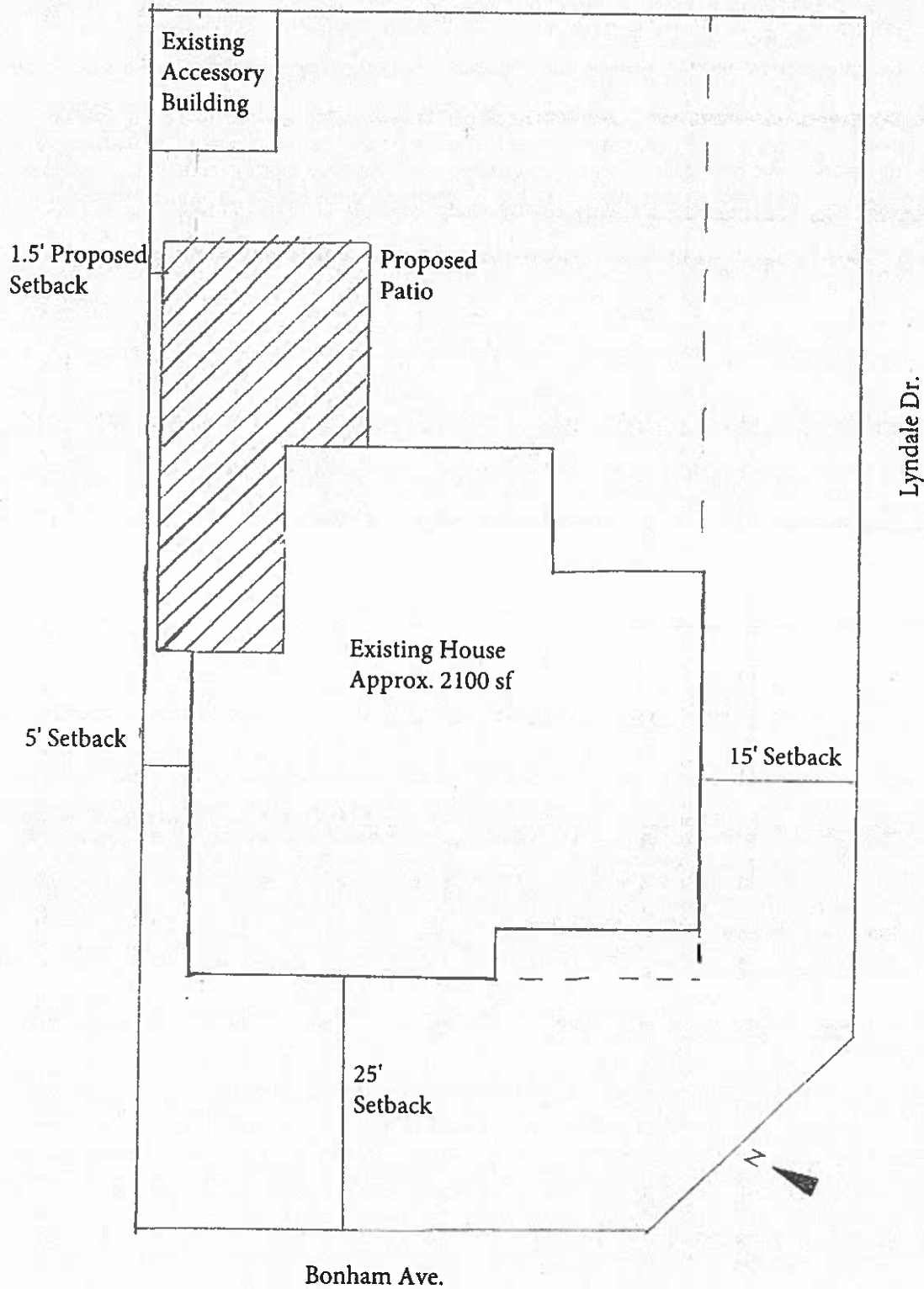
1. The structure may not be enclosed or expanded.
2. No other structures or additions may be placed within the 5' side yard setback.

Information in order of inclusion:

- Area of notification map
- Copy of site plan



1 inch = 150 feet



TO: ZONING BOARD OF ADJUSTMENT
FROM: LORRINE QUIMIRO, PLANNING MANAGER
SUBJECT: DOCKET NO. 2021-03-V
APPLICANT: Wayne Squiers, owner
REQUEST: Variance from Section 14-7-13(b) of the City of Odessa Zoning Ordinance
PROPERTY INVOLVED: Lot 1, Block 21, Fleetwood Addition (4252 Redbud Ave.)

The property involved in this request is located at 4252 Redbud Ave. The site is zoned Single Family-Three (SF-3) and is currently occupied by single-family residential development. The property is surrounded by single family residential development.

The applicant is Wayne Squiers, owner, and the purpose of the request is to locate an accessory building (shed) with a two feet (2') setback instead of the platted 15 ft. side building setback. In order to allow the structure three and thirteen feet (13') forward in the fifteen feet (15') setback, the applicant is requesting a variance from Section 14-7-13(b) of the City of Odessa Zoning Ordinance, which states:

Adjacent to a side street, the accessory building shall observe either the platted setback line, the setback line established by the main structure, or the setback lines established by ordinance, whichever is most restrictive.

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.

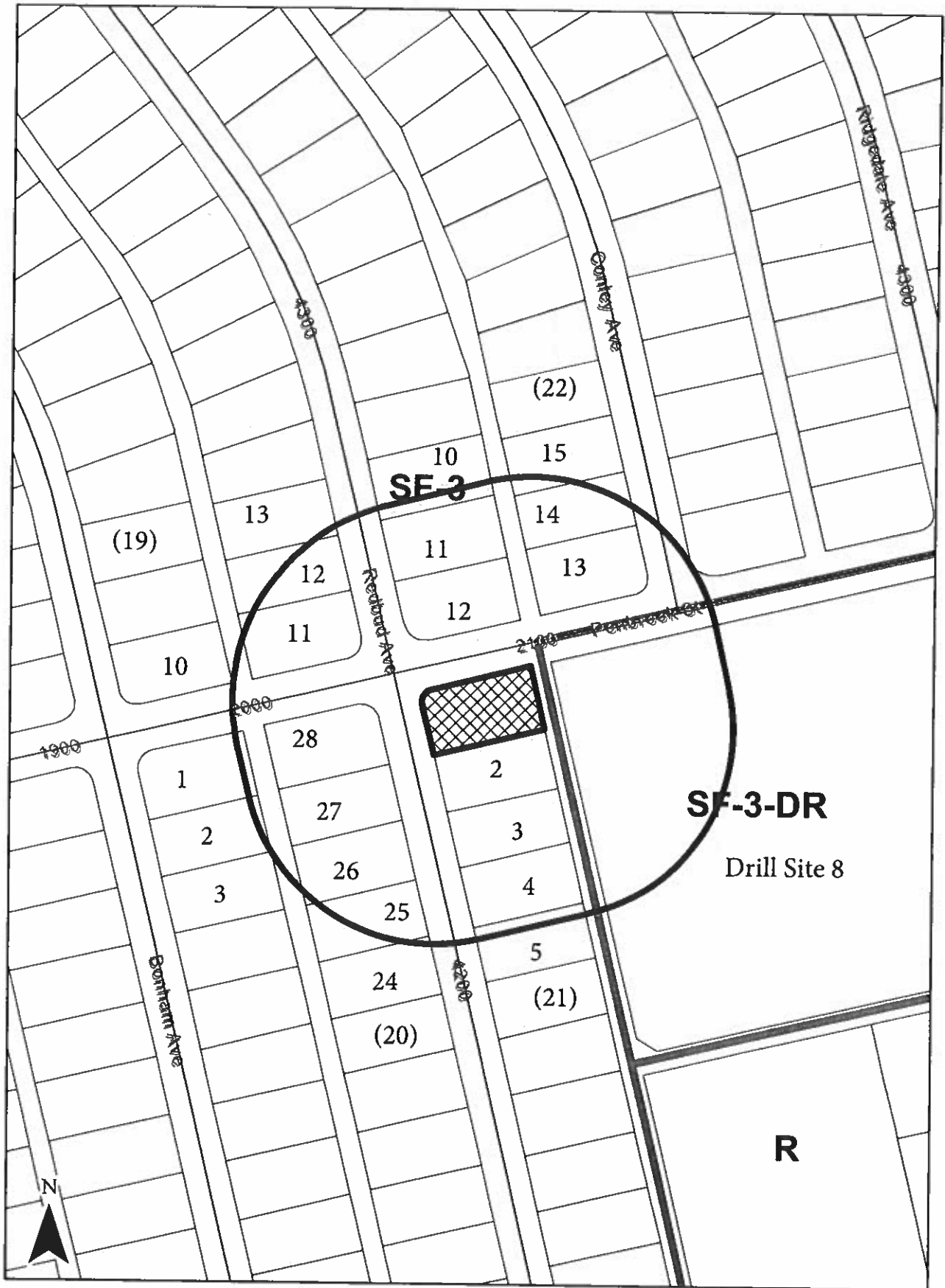
Location of this proposed building was chosen for minimal impact on utility lines from the house to the alley. Staff analysis of this request is that the applicant's request to reduce the side yard to two feet (2') is reasonable and will not create any hazards or hardships to surrounding properties related to light, air, or open space. Driver vision will not be impacted any more than existing conditions, as there is an existing fence along the property line in this location. There will also be adequate separation from neighboring properties, as the proposed location of the building is alongside the right-of-way for Penbrook St.

Based on analysis of the site, staff recommends approval of the request as shown with the following conditions:

1. No other structures or additions may be placed within the 15' side yard setback.

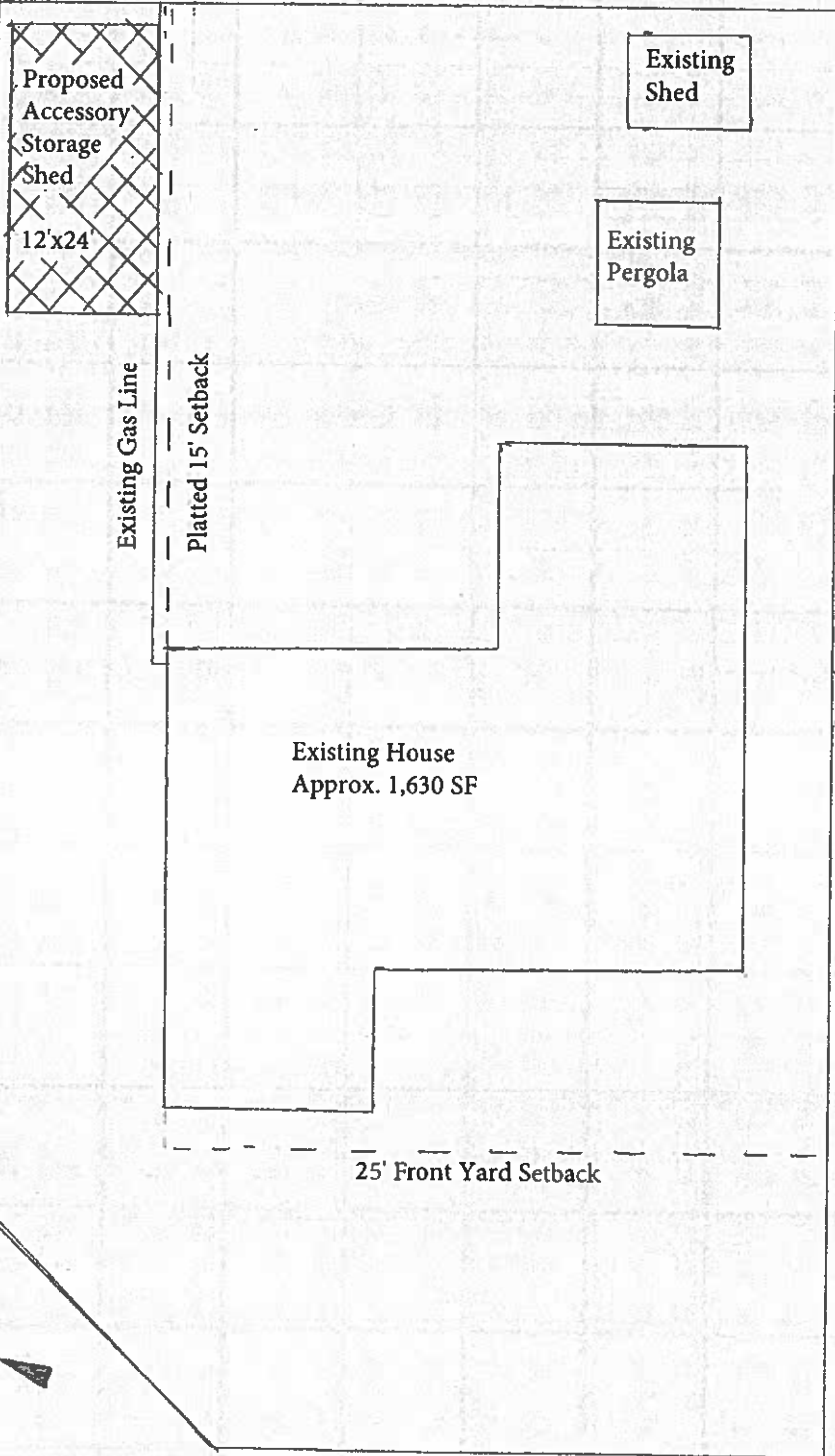
Information in order of inclusion:

- Area of notification map
- Copy of site plan



1 inch = 150 feet

Alley



Proposed
Accessory
Storage
Shed

12'x24'

Existing
Shed

Existing
Pergola

Existing Gas Line

Platted 15' Setback

Existing House
Approx. 1,630 SF

25' Front Yard Setback

Penbrook Ave

Redbud Ave.

