

CITY OF LAKE WORTH

BOARD OF ADJUSTMENT AGENDA

3805 ADAM GRUBB
LAKE WORTH, TEXAS 76135
TUESDAY, MARCH 05, 2019

REGULAR MEETING: 6:30 PM

Held in the City Council Chambers

A. CALL TO ORDER

A.1 ROLL CALL

A.2 INVOCATION AND PLEDGE OF ALLEGIANCE

A.3 SPECIAL PRESENTATION(S)

A.3.1 [Presentation – Administer Oaths of Office to appointed Board of Adjustment members, Place 4 and Alternate Place 6.](#)

B. MINUTES

B.1 [Approve minutes of the October 30, 2018 Board of Adjustment meeting.](#)

C. PUBLIC HEARINGS

C.1 [Public Hearing to consider Board of Adjustment Case #BOA-2019-01, a variance request of the Comprehensive Zoning Ordinance, Article 14.500, Sec. 14.501 \(1\) and \(2\) regarding the required front yard building setback of twenty-five foot \(25'\) and side yard building setback of five foot \(5'\) on a 0.4068-acre parcel of land known as Block 20, Lot\(s\) 21 and 22, Indian Oaks Subdivision of the records of Tarrant County, Texas; which is generally described as 7308 Navajo Trail, Lake Worth, Texas.](#)

D. EXECUTIVE SESSION

The Board of Adjustment may enter into closed Executive Session as authorized by Chapter 551, Texas Government Code. Executive Session may be held at the end of the Regular Session or at any time during the meeting that a need arises for the Board of Adjustment to seek advice from the city attorney (551.071) as to the posted subject matter of this Board of Adjustment meeting.

The Board of Adjustment may confer privately with its attorney to seek legal advice on any matter listed on the agenda or on any matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Chapter 551, Texas Government Code.

EXECUTIVE SESSION ITEMS – BOARD OF ADJUSTMENT MAY TAKE ACTION ON ANY ITEMS DISCUSSED IN EXECUTIVE SESSION LISTED ON THE AGENDA.

E. ADJOURNMENT

All items on the agenda are for discussion and/or action.

Certification

I do hereby certify that the above notice of meeting was posted on the bulletin board of City Hall, 3805 Adam Grubb, City of Lake Worth Texas in compliance with Chapter 551, Texas Government Code on **Friday, March 1, 2019 at 10:00 a.m.**

Planning & Zoning Administrator

This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please contact the City Secretary's Office at (817) 237-1211 ext. 105 for further information.

Lake Worth Board of Adjustment Meeting – March 5, 2019

Agenda Item No. A.3.1

FROM: Suzanne Meason, Planning & Zoning Administrator

ITEM: Presentation – Administer Oaths of Office to appointed Board of Adjustment members, Place 4 and Alternate Place 6.

SUMMARY:

At the November 13, 2018 City Council meeting, Council appointed the following individual(s) to serve on the Board of Adjustment.

- Bill Still Place 4 (new appointment)
- Yvonne “Bonnie” Amick Alternate Place 6 (new appointment)

The Oath of Office will be administered during the March 5, 2019 regular meeting. These terms will expire on October 1, 2020. The forms to be completed will be made available to these members at the meeting. Please bring a picture id with you as the forms are required to be notarized.

FISCAL IMPACT:

N/A

ATTACHMENTS:

N/A

RECOMMENDED MOTION OR ACTION:

Necessary members will take the Oath of Office.

Lake Worth Board of Adjustment Meeting – March 5, 2019

Agenda Item No. B.1

FROM: Suzanne Meason, Planning & Zoning Administrator

ITEM: Approve minutes of the October 30, 2018 Board of Adjustment meeting.

SUMMARY:

The minutes are approved by majority vote of the Board at the Board of Adjustment meeting.

The Planning and Development office prepares action minutes for each Board of Adjustment meeting. The minutes for the previous meeting are placed on the agenda for review and approval by the Board. Upon approval of the minutes, an electronic copy will be uploaded to the City's website.

FISCAL IMPACT:

N/A

ATTACHMENTS:

1. October 30, 2018 Board of Adjustment Meeting Minutes

RECOMMENDED MOTION OR ACTION:

Approve minutes of the October 30, 2018 Board of Adjustment Meeting Minutes.

**MINUTES OF THE REGULAR MEETING
OF THE BOARD OF ADJUSTMENT OF THE
CITY OF LAKE WORTH, TEXAS
HELD IN CITY HALL, COUNCIL CHAMBERS, 3805 ADAM GRUBB
TUESDAY, OCTOBER 30, 2018**

REGULAR MEETING: 6:30 PM

A. CALL TO ORDER.

Vice-Chair Patricia Davis called the Board of Adjustment meeting to order at 6:31 p.m.

A.1 ROLL CALL.

Present:	Wilson Daggs, Jr.	Place 1
	Tana Wharton	Place 2
	Robb Welch	Place 3
	Vacant	Place 4
	Patricia Davis	Pace 5
	Vacant	Alternate Place 6
	Vacant	Alternate Place 7
Staff:	Barry Barber	Director of Building Development
	Suzanne Meason	Planning & Zoning Coordinator

A.2 INVOCATION AND PLEDGE OF ALLEGIANCE.

No invocation was given, but attendees did recite the pledge of allegiance.

A.3 SPECIAL PRESENTATION(S)

**A.3.1 PRESENTATION – ADMINISTER OATHS OF OFFICE TO APPOINTED
BOARD OF ADJUSTMENT MEMBERS, PLACES 1, 2, 3 AND 5.**

Ms. Meason administered the oath of office for Wilson Daggs, Jr., Place 1; Tana Wharton, Place 2; Robb Welch, Place 3; and Patricia Davis, Place 5.

B. MINUTES

**B.1 APPROVE MINUTES OF THE NOVEMBER 1, 2016 BOARD OF ADJUSTMENT
MEETING.**

APPROVED

MEMBER ROBB WELCH MADE A MOTION, SECONDED BY MEMBER TANA WHARTON, TO APPROVE THE MINUTES OF THE NOVEMBER 1, 2016 BOARD OF ADJUSTMENT MEETING AS PRESENTED.

MOTION TO APPROVE CARRIED 4-0.

C. GENERAL ITEMS

C.1 DISCUSS AND CONSIDER APPOINTMENT OF BOARD OF ADJUSTMENT CHAIR.

MEMBER WILSON DAGGS, JR. MADE A MOTION, SECONDED BY MEMBER PATRICIA DAVIS, TO NOMINATE MEMBER ROBB WELCH AS BOARD OF ADJUSTMENT CHAIR. BEING NO OTHER NOMINATIONS A VOTE WAS TAKEN.

BY A VOTE OF 3-0-1, MEMBER ROBB WELCH WAS APPOINTED AS BOARD CHAIR.

C.2 DISCUSS AND CONSIDER APPOINTMENT OF BOARD OF ADJUSTMENT VICE CHAIR.

MEMBER TANA WHARTON MADE A MOTION, SECONDED BY MEMBER PATRICIA DAVIS, TO NOMINATE MEMBER WILSON DAGGS, JR. AS BOARD OF ADJUSTMENT VICE CHAIR. BEING NO OTHER NOMINATIONS A VOTE WAS TAKEN.

BY A VOTE OF 4-0, MEMBER WILSON DAGGS, JR. WAS APPOINTED AS BOARD OF ADJUSTMENT VICE CHAIR.

D. STAFF REPORTS(S)/ANNOUNCEMENT(S)

D.1 PLANNING & ZONING ADMINISTRATOR REPORTS:

1. ANNOUNCE DATE OF ANNUAL EMPLOYEE APPRECIATION BANQUET.

Ms. Meason announced that the banquet would be on Friday, December 14, 2018 and that formal invitations with location, time and additional details would be mailed out at a later date.

D. EXECUTIVE SESSION

The Board of Adjustment may enter into closed Executive Session as authorized by Chapter 551, Texas Government Code. Executive Session may be held at the end of the Regular Session or at any time during the meeting that a need arises for the Board of Adjustment to seek advice from the city attorney (551.071) as to the posted subject matter of this Board of Adjustment meeting.

The Board of Adjustment may confer privately with its attorney to seek legal advice on any matter listed on the agenda or on any matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Chapter 551, Texas Government Code.

There were no items listed in Executive Session.

E. EXECUTIVE SESSION ITEMS – BOARD OF ADJUSTMENT MAY TAKE ACTION ON ANY ITEMS DISCUSSED IN EXECUTIVE SESSION LISTED ON THE AGENDA.

There were no items listed in Executive Session.

F. ADJOURNMENT

Member Patricia Davis adjourned the meeting at 6:40 p.m.

APPROVED:

Chair
Board of Adjustment

ATTEST:

Suzanne Meason
Planning & Zoning Administrator

Lake Worth Board of Adjustment Meeting – March 5, 2019

Agenda Item No. C.1

From: Suzanne Meason, Planning & Zoning Administrator

Item: Public Hearing to consider Board of Adjustment Case #BOA-2019-01, a variance request of the Comprehensive Zoning Ordinance, Article 14.500, Sec. 14.501 (1) and (2) regarding the required front yard building setback of twenty-five foot (25') and side yard building setback of five foot (5') on a 0.4068-acre parcel of land known as Block 20, Lot(s) 21 and 22, Indian Oaks Subdivision of the records of Tarrant County, Texas; which is generally described as 7308 Navajo Trail, Lake Worth, Texas.

Property Description:

0.4068-acre parcel of land known as Block 20, Lot(s) 21 and 22, Indian Oaks Subdivision

Property Owner(s):

Gabriela Pozos & Fermin Cruz, 7308 Navajo Trail, Lake Worth, Texas 76135

Applicant:

Fermin Cruz, 7308 Navajo Trail, Lake Worth, Texas 76135

Engineer/Surveyor:

N/A

Current Zoning:

"SF1" – Single Family Residential

Current Use(s):

Single Family Residence

Existing Road(s):

Navajo Trail & Mohawk Trail

Surrounding Zoning:

North: The property to the north is currently zoned SF1-Single Family Residential.

South: The property to the south is currently zoned SF1-Single Family Residential.

East: The property to the east is currently zoned SF1-Single Family Residential.

West: The property to the west is currently zoned SF1-Single Family Residential.

Agenda Item No. C.1

Summary:

Mrs. Pozos and Mr. Cruz purchased the property at 7308 Navajo Trail in May of 2009 and reside at the property. They have done extensive work on the property over the years to improve the overall appearance of the primary structure; all with the proper permitting. Mr. Cruz recently came to the City about building an addition on to the back of the existing primary structure. It was discovered by a survey of the property that the property was actually two (2) separately platted lots, and while on the original plat it appears that the two (2) lots were intended to have structures built facing Mohawk Trail, there is actually a primary structure built facing Navajo Trail which lies on lot 21 and a portion of lot 22 as well.

Mr. Cruz was informed that he would have to replat the two lots before he could proceed with the permitting process for the addition. Upon further examination of the survey document staff noted that the current primary structure is not located at least five-foot (5') from the property line on the side and does not have at least a twenty-five-foot (25') setback in the front. The owner was then advised that if he wanted to move forward with the replat process, he would have to apply for a variance request to the required side yard setback and front yard setback.

Attached you will find a copy of the survey for Block 20, Lot 21 & 22, Indian Oaks Subdivision; a letter from Mr. Cruz explaining his intent and the request for the variance; a redlined copy of the survey showing proposed new property boundaries if variance is approved and replatting can move forward; and a picture of the exterior of the current primary structure.

Public Input:

On Friday, February 22, 2019 as required by State law, the City re-mailed out eighteen (18) letters of Notification for a Public Hearing to all property owners within two hundred (200') feet of the subject site. Notice was also republished in the City's paper of record, the Fort Worth Star Telegram on February 22, 2019. We have received the following in favor/opposition to the request:

1. FOR – no comment forms received.
2. AGAINST – no comment forms received.

Fiscal Impact:

N/A

Attachments:

1. Board of Adjustment Hearing Application
2. Property Survey
3. Property Owner Letter & Supporting Documentation
4. Public Hearing Notice
5. Public Hearing Notifications (within 200' of subject property)

Lake Worth Board of Adjustment Meeting – March 5, 2019

Agenda Item No. C.1

6. Vicinity Map
7. Code of Ordinance Excerpt for SF-1 Zoning
8. Board of Adjustment Code Excerpt

Recommended Motion or Action:

Desire of the Board of Adjustment.

City of Lake Worth
 Zoning Department
 3805 Adam Grubb
 Lake Worth, Texas 76135
 817-237-1211 X 111 Fax 817-237-1333
 Suzanne Meason



BOARD OF ADJUSTMENT HEARING APPLICATION

PROPERTY OWNER INFORMATION

Company Name: Fermin Cruz Sierra		Contact:	
Address: 7308 Navajo Trail		City: Lake Worth	State: Texas Zip: 76135
Phone: 817-500-2970	Fax:	Email:	

PROPERTY INFORMATION

Street Address of Property: 7308 Navajo Trail, Lake Worth, Texas 76135			
Legal Description:	Block/Abstract: 20	Lot/Tract: 21 and 22	Addition/Survey: Indian Oaks Volume 388, Page 63
Current Zoning: Residential		Type of Development being proposed? <input type="checkbox"/> SF <input type="checkbox"/> MF <input type="checkbox"/> C <input type="checkbox"/> I <input type="checkbox"/> Other: Replat property	
Survey Attached as required? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		Request? Redrawing of plat to change property as shown on attached survey.	
Reason for request: Request realignment of property lines as described in attached letter.			

I understand that I must provide a detailed letter of my request, a survey of the property (showing the requested setbacks and structures), any supporting documentation, the variance application, and the required fee (verify amount with the P & Z Coordinator). I hereby certify that the information provided in this application is true and factual to the best of my knowledge.

Property Owner Signature: Fermin Cruz	Date: December 14, 2018
Printed Name: Fermin Cruz Sierra	Title: Owner

OFFICE USE ONLY

Fee: \$ 100.00	Date Paid: 12.14.18	Receipt #: P18-1189
BOA #: 2019-01	Ownership Verified: <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	Taxes Paid: <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
BOA Meeting Date: 2.5.19	Variance Approved: <input type="checkbox"/> YES <input type="checkbox"/> NO	Liens Paid: <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
Date Approved: <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> / <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> / <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>		

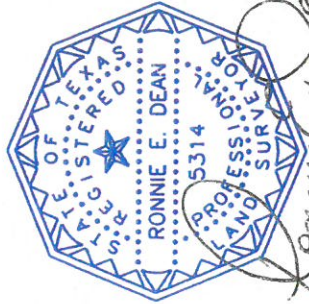
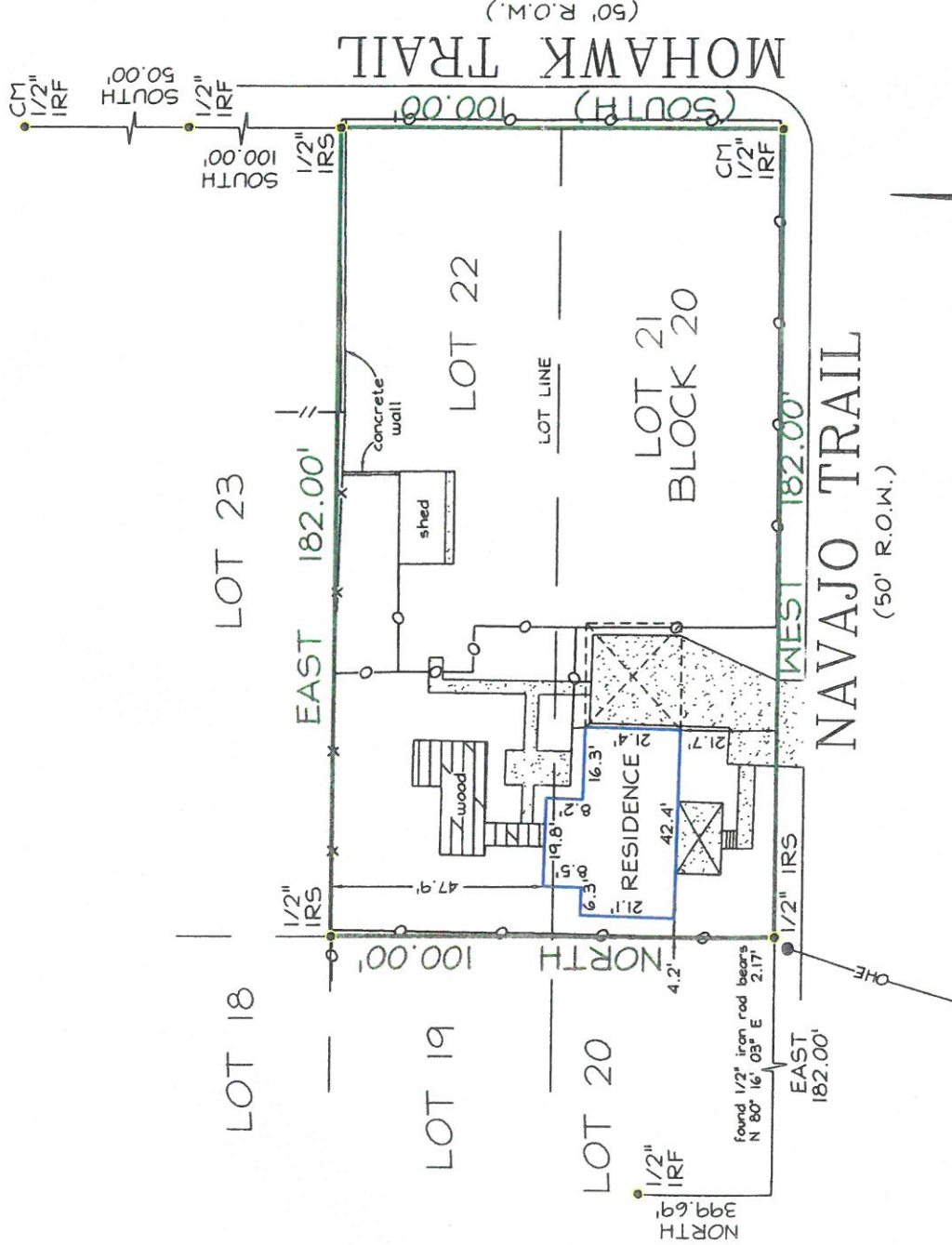
LEGEND OF ABBREVIATIONS AND SYMBOLS

- B.L.
C.M.
D.E.
D.U.E.
ET
F.P.
- = Building Line
 - = Control Monument
 - = Drainage Easement
 - = Drainage & Utility Easement
 - = Electric Transformer
 - = Fence Post

- I.P.F.
I.R.F.
I.R.S.
M.E.
()
- = Iron Pipe Found
 - = Iron Rod Found
 - = Iron Rod Set
 - = Maintenance Easement
 - = Record Data

- P.A.E.
P.O.S.E.
R.O.W.
R.W.
- = Public Access Easement
 - = Public Open Space Easement
 - = Right of Way
 - = Retaining Wall

- S.E.
U.E.
X.T.R.W.
O.H.E.
- = Sewer Easement
 - = Utility Easement
 - = Railroad Tie
 - = Retaining Wall
 - = Overhead Electric



Address: 7308 NAVAJO TRAIL
G.F. No.: 09R14936 #RS3

Date: 05/11/09
This survey is valid only with signature in black ink.

I, Ronnie E. Dean, Registered Professional Land Surveyor do hereby declare that the map shown hereon accurately represents the property as determined by an on-the-ground survey made under my direct supervision, and correctly shows the boundary lines and dimensions of the property indicated hereon. There are no visible conflicts, or protrusions, except as shown and said property has access to a public roadway. All easements and right-of-ways that the surveyor has knowledge of or has been advised of and those shown on the referenced plat of record are shown or noted hereon. This survey is for the exclusive use of title company, the mortgage company and the hereon named purchaser.

This Lot is shown as being located in Zone "X" by Flood Insurance Rate Map No. 48439C0265 H, dated August 2, 1995. It is not shown as being located in a Special Flood Hazard Area Inundated by 100-Year Flood.

LEGAL DESCRIPTION

Being Lots 21 and 22, in Block 20, of INDIAN OAKS, an Addition to the City of Lake Worth, Tarrant County, Texas, according to the Plat thereof recorded in Volume 388, Page 63, Map Records, Tarrant County, Texas.

DATE:
ACCEPTED BY:

Purchaser

Purchaser



REUNION TITLE

Scale: 1" = 40'
Tech: LDS
Field: AT
Job No: 905RT01

A.L.S. LAND SURVEYING
Professional Land Surveying Services

December 14, 2018

**City of Lake Worth Zoning Department
3805 Adam Grubb
Lake Worth, Florida 76135**

Re: 7308 Navajo Trail

To Whom It May Concern:

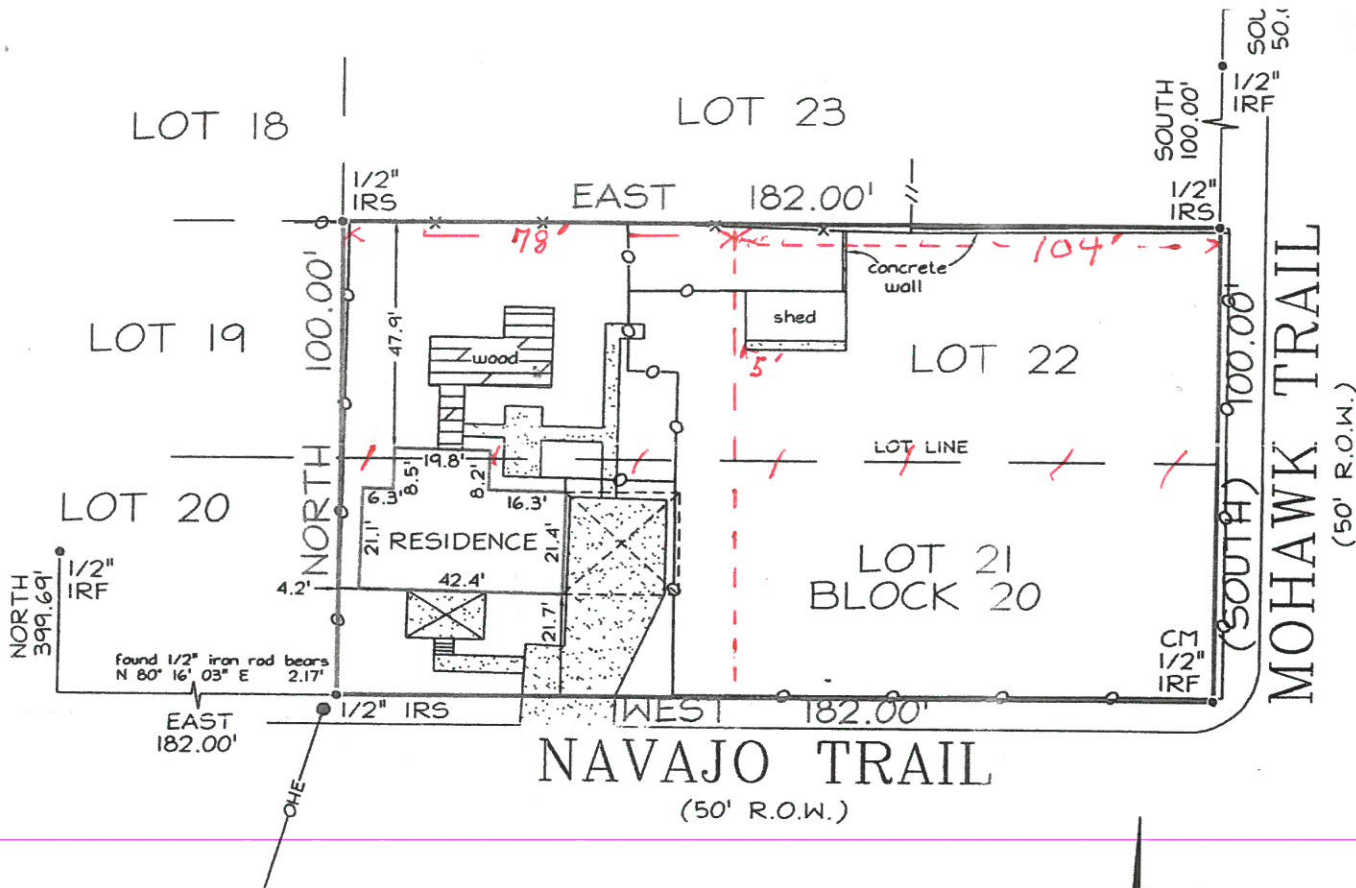
The reason for the request of redrawing property lines is a desire for expansion of house at rear of existing structure.

- **Postal address indicates frontage is on Navajo Trail. Current Plat indicates two lots fronting on Mohawk Trail.**
- **Current plat prohibits expansion of house which if allowed would increase taxable dollars for city.**
- **If plat were redrawn it would allow for a house to be built remaining lot and would increase taxable income for city.**

Thank you for considering this request.

Sincerely,

**Fermin Cruz Sierra
7308 Navajo Trail
Lake Worth, Texas 76135**



Address: 7308 NAVAJO TRAIL

G.F. No.: 09RI4936 #R53

Date: 05/11/09

This survey is valid only with signature in black ink.

I, Ronnie E. Dean, Registered Professional Land Surveyor do hereby declare that the map shown hereon accurately represents the property as determined by an on-the-ground survey made under my direct supervision, and correctly shows the boundary lines and dimensions of the property indicated hereon. There are no visible conflicts, or protrusions, except as shown and said property has access to a public roadway. All easements and right-of-ways that the surveyor has knowledge of or has been advised of and those shown on the referenced plat of record are shown or noted hereon. This survey is for the exclusive use of title company, the mortgage company and the hereon named purchaser.

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DATE:
ACCEPTED BY:

Purchaser

Purchaser



REUNION TITLE

Scale: 1" = 40'

Tech: LDS
Field: AT

Job No:
905RT01

A.L.S. LAND SURVEYING
Professional Land Surveying Services



7308 Navajo Tr.
LAKE WORTH, TX 76135

CITY OF LAKE WORTH
NOTICE OF PUBLIC HEARING
BOARD OF ADJUSTMENT

VARIANCE REQUEST
CASE #BOA-2019-01

The Board of Adjustment of the City of Lake Worth, Texas, will conduct a public hearing at 6:30 p.m. on Tuesday, March 5, 2019, at the Lake Worth City Council Chambers, 3805 Adam Grubb, Lake Worth, Texas 76135 to hear public comment and consider a variance of the Comprehensive Zoning Ordinance, Article 14.500, Sec. 14.501 (1) and (2) regarding the required front yard building setback of twenty-five foot (25') and side yard building setback of five foot (5') on a 0.4068-acre parcel of land known as Block 20, Lot(s) 21 and 22, Indian Oaks Subdivision of the records of Tarrant County, Texas; which is generally described as 7308 Navajo Trail, Lake Worth, Texas. All interested parties are encouraged to attend.

Gabriela Pozos/Fermin Cruz
7308 Navajo Trail
Lake Worth, Texas 76135

Lupe Vargas
2900 Mohawk Trail
Lake Worth, Texas 76135

Rina Hernandez
2916 Delaware Trail
Lake Worth, Texas 76135

Burt Real Estate Ltd
828 Hackamore Street
Fort Worth, Texas 76108

Sandra L Randle
2912 Delaware Trail
Lake Worth, Texas 76135

Juan Flores/Alma Garcia
2824 Delaware Trail
Lake Worth, Texas 76135

Deborah Frye
6365 Ferncreek Lane
Fort Worth, Texas 76179

Martha Ortiz
7317 Navajo Trail
Lake Worth, Texas 76135

Rodney O Caldwell
7316 Navajo Trail
Lake Worth, Texas 76135

Brenda K McMurtray
7189 Foster Stuart Road
Azle, Texas 76020

Randy L Massey
5817 Terrace Trail
Fort Worth, Texas 76114

Jarrett M Patman
2825 Mohawk Trail
Lake Worth, Texas 76135

Delores E Landis
2917 Mohawk Trail
Lake Worth, Texas 76135

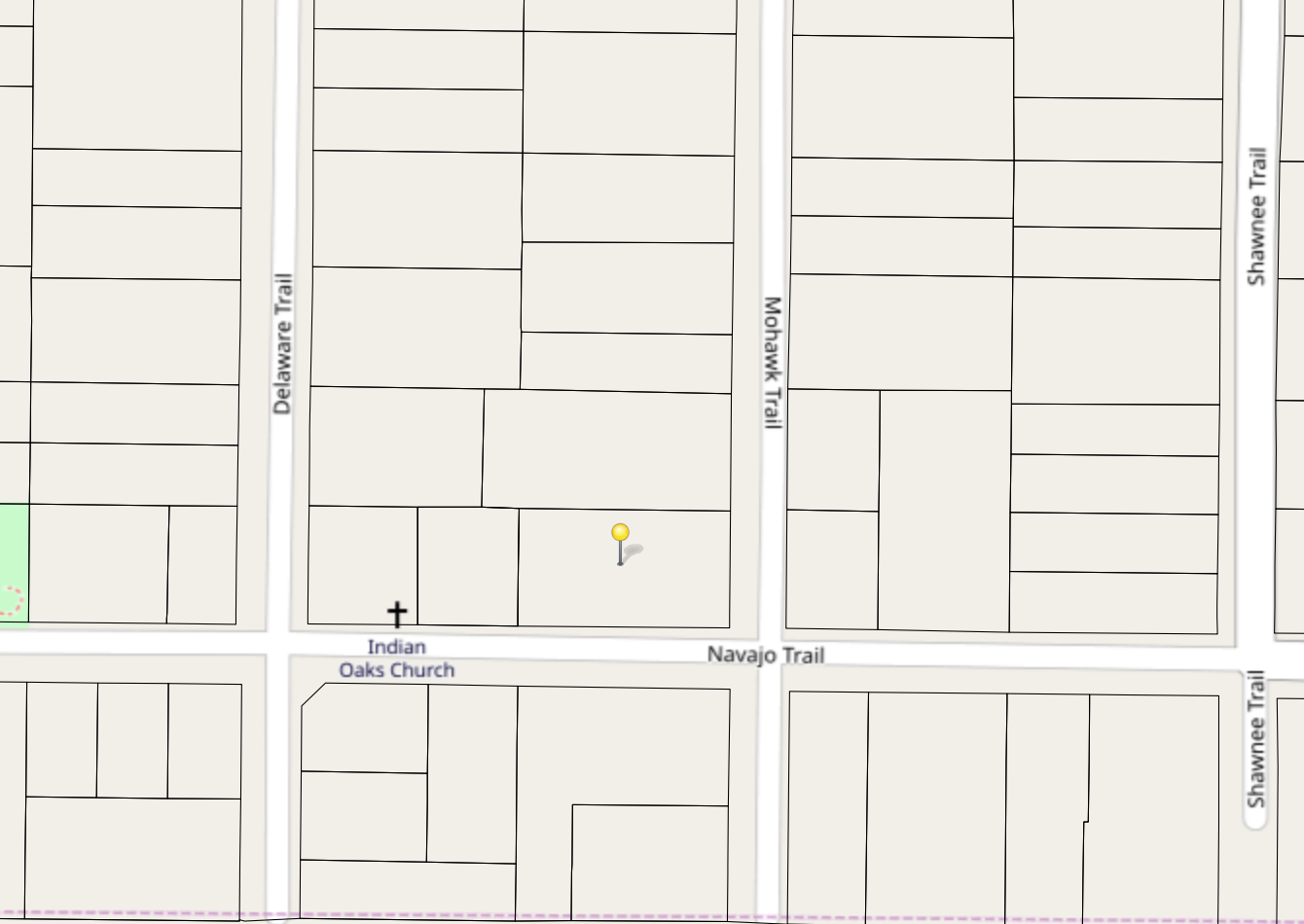
Benito & Mary D Diaz
2828 Mohawk Trail
Lake Worth, Texas 76135

Martin H Vidal/Blanca P Santiago
2921 Mohawk Trail
Lake Worth, Texas 76135

WM F Arterbury, Sr. & Susan Arterbury
7217 Navajo Trail
Lake Worth, Texas 76135

Gina L Hodges
2924 Mohawk Trail
Lake Worth, Texas 76135

Joe M Vargas
2904 Mohawk Trail
Lake Worth, Texas 76135



Delaware Trail

Mohawk Trail

Shawnee Trail

Shawnee Trail



Indian
Oaks Church

Navajo Trail

ARTICLE 14.500 DISTRICT REGULATIONS

Sec. 14.501 “SF-1” - Single-Family District

(a) Purpose. The purpose of the “SF-1” – Single-Family District is to allow single-family detached dwellings on lots of not less than five thousand (5,000) square feet, together with the allowed accessory uses, in order to promote low population densities within integral neighborhood units.

(b) Uses Generally. In the “SF-1,” no building or land shall be used and no building shall be hereafter erected, reconstructed, altered, enlarged, or maintained unless otherwise provided in these regulations, except for one (1) or more of the following uses:

- (1) Single-family dwellings.
- (2) Churches.
- (3) Public schools, elementary and high.
- (4) Museums, libraries, parks, playgrounds or community centers owned and operated by the city.
- (5) Farms, truck gardens, orchards or nurseries for the growing of plants, shrubs and trees, provided no retail or wholesale business sales offices are maintained on the premises, and provided that no obnoxious fertilizer is stored upon the premises, and no obnoxious soil or fertilizer processing is conducted thereon.
- (6) Uses customarily incident to any of the above uses when situated in the same dwelling, when not involving the conduct of a business or industry, but including home occupation. The furnishing of board or lodging for not more than four (4) persons in a dwelling occupied as a private residence shall be considered an accessory use, provided no window or other display or sign is used to advertise such use.
- (7) Hobby shops, as an accessory use.
- (8) An unilluminated nameplate for each family not exceeding one (1) square foot in area, containing the name and occupation of the occupant of the premises, provided the nameplate is attached flatwise to the building; and unilluminated signs not exceeding twelve (12) square feet in area pertaining to the sale or rental of property on which they are located, provided, however, that no advertising sign of any other character shall be permitted in any Single-Family District.

(c) Accessory Uses. Detached accessory buildings, not exceeding one (1) story in height, including private garage, private stable or servants' quarters, when located not less than sixty (60) feet from the front lot line, nor less than the distance required for the main building from any side lot line; provided that if the accessory building is located within the “required” rear yard, a five (5) foot setback from all lot lines is required. A garage shall provide space for not more than one (1) motor vehicle for each two thousand, five hundred (2,500) square feet of lot area. A stable shall provide for not more than one (1) horse or mule for each twenty thousand (20,000) square feet of lot area. A servants' quarters shall be occupied only by servants employed on the premises. The utility services to servants' quarters shall be metered through the same meters as those serving the main building on the premises. No detached accessory building shall exceed the height of the main building. The board of adjustment may approve as a special exception an accessory building which exceeds the height limitation herein for accessory buildings which inherently require a greater height, such as detached garages for motor homes; provided that no such accessory structure shall exceed the maximum height allowed in this zoning district. An accessory building may be constructed as a part of the main building, in which case the regulations controlling the main building shall apply.

(d) Height Regulations. No building shall exceed thirty-five (35) feet or two (2) stories in height.

(e) Area Regulations.

(1) Front Yard Not less than twenty-five (25) feet.

(1987 Code of Ordinances, Chapter 11, Section 5A)

(2) Side Yard:

Interior Lot Not less than five (5) feet.

Corner Lot Not less than five (5) feet.

Not less than twenty (20) feet on the side of the lot adjacent to a side street, measured from the nearest edge of the curb or pavement on the side street, or when there is no curb or pavement, the side lot line.

(Ordinance 762 adopted 10/19/04)

(3) Lot Area per Family At least five thousand (5,000) square feet per family.

(4) Width of Lot Not less than sixty (60) feet.

(f) Landscaping. No requirements.

(1987 Code of Ordinances, Chapter 11, Section 5A)

(g) Parking Regulations. The following parking regulations shall apply:

(1) A minimum of two off-street parking spaces per dwelling unit located behind the front building line; provided, however, that at least one parking space shall be located within a private garage.

(2) Parking spaces and any adjoining private driveways shall be constructed of an improved monolithic surface of concrete or asphalt or other paved surface approved by the building official. The paved surface shall be two inches (2") or more in thickness and shall not exceed one-half inch (1/2") in height above the adjacent unpaved surface. On nonconforming lots without paved parking spaces and driveways, the parking spaces and driveways shall only be located perpendicular to the curb cut or drive approach or in the rear yard as authorized by Subsection (g)(4), and may not encroach into any portion of the remaining front yard. (See Diagram 1-A)

Editor's note—Diagram 1—A has not been printed and is attached to Ordinance 776 on file in the office of the city secretary.

(3) All vehicles shall be driven and parked so as to completely rest upon a paved surface. On nonconforming lots without paved parking spaces and driveways, all vehicles shall be driven and parked so as to completely rest upon the unpaved parking spaces or driveway as provided in this section, or in the side yard adjacent thereto. (See Diagram 1—B)

Editor's note—Diagram 1—B has not been printed and is attached to Ordinance 776 on file in the office of the city secretary.

(4) All vehicles parked or stored in the required rear yard of a structure must be placed behind a screening partition of fencing materials or dense vegetation so as to obscure the vehicle from view from a public street or public right-of-way. In addition, the parking or storage area and driveway (from the curb cut or drive approach to the parking or storage area) must be constructed of paved monolithic concrete or asphalt or other paved surface approved by the building official.

(Ordinance 776, sec. 1, adopted 4/12/05)

ARTICLE 14.700 ADMINISTRATION AND ENFORCEMENT

Sec. 14.702 Board of Adjustment

(a) Appointment. There is hereby created a board of adjustment consisting of five (5) members who shall be appointed by the city council. In addition, the city council shall appoint two (2) alternate members who shall serve in the absence of one (1) or more regular members. It is the declared policy of the city council that it will consider and appoint only those persons who have demonstrated their civic interest, general knowledge of the community, independent judgment, understanding of zoning and planning and availability to prepare for and attend meetings. In addition, all appointees shall have resided in the city for at least two (2) years prior to appointment. A member of the board of adjustment shall not serve simultaneously as a member of the planning and zoning commission. Regular members shall be appointed to places numbered one (1) through five (5) and alternate members shall be appointed to places numbered six (6) and seven (7). The terms of office of said members shall be two (2) years beginning on October 1st of the year of appointment. The odd-numbered places shall expire in the odd-numbered years and the even-numbered places shall expire in the even-numbered years. Board members may be appointed to succeed themselves. (Ordinance 953, sec. 2, adopted 12/14/10)

(b) Removal and Vacancies. Members and alternates of the board of adjustment may be removed from office by the city council for cause upon written charges and after public hearing. After initial appointment of the regular members and alternates, all vacancies occurring on the board shall be filled by the city council for the unexpired term.

(c) Proceedings of the Board.

(1) The board of adjustment shall hold an organizational meeting in October of each year. The members of the board of adjustment, including alternative members, shall elect a chairperson and vice-chairperson from among its members. The board of adjustment shall adopt rules of procedure to govern its proceedings; provided, however, that such rules are not inconsistent with this article or state statute. Meetings of the board shall be held at the call of the chairperson and at such other times as the board may determine. The chairperson may administer oaths and compel the attendance of witnesses.

(2) All cases before the board of adjustment shall be heard by a minimum of four (4) members. All meetings of the board of adjustment shall be open to the public and shall be held in compliance with the Texas Open Meetings Act. The board of adjustment shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact and shall keep records of its decisions and other official actions, all of which shall be filed in the office of the city manager or his/her designee and kept as a public record.

(3) The concurring vote of four (4) members of the board shall be necessary to reverse any order, requirement, decision or determination of the zoning administrator, or to grant any variance or special exception to this article or to decide in favor of the applicant on any other matter upon which the board is required to pass under this article.

(d) Notice and Hearing.

(1) The board of adjustment shall fix a reasonable time for the hearing of any appeal, variance, special exception, or other matter which the board of adjustment is authorized to review hereunder, give public notice thereof, as well as due notice to the parties in interest, and shall decide the same within a reasonable time. At the hearing, any party may appear in person or by attorney or agent. The notice provided in this article shall be given by publication in the official city newspaper stating the time and place of such hearing, which shall not be earlier than ten (10) days from the day of the publication, and in addition thereto, the board of adjustment shall mail notices of the hearing to the petitioner and, the owners of the property lying within two hundred feet (200') of any point of the lot or portion thereof for which a variance, exception or other action relating only to a specific property is proposed, and to all other persons deemed by the board of adjustment to be affected by the appeal. Such owners and persons shall be determined according to the current tax rolls of the city and substantial compliance therewith shall be deemed sufficient; provided, however, that the deposition of such written notice in the mail by the board of adjustment shall be deemed sufficient compliance with this requirement.

(2) Any special exceptions approved by the board of adjustment, under the provisions of this section shall authorize the issuance of a building permit for a period of ninety (90) days from the date of the favorable action of the board, unless the board in its minutes shall at the time grant a longer period or unless an extension is granted by the board. If a building permit shall not have been issued within the ninety (90) days or any other period as the board of adjustment may specifically grant, the special exception shall be deemed waived and all rights thereunder terminated. Such termination and waiver shall be without prejudice to a subsequent appeal to the board of adjustment in accordance with the rules and regulations regarding appeals.

(3) The same appeal to the board of adjustment shall not be allowed on the same piece of property prior to the expiration of one (1) year from a denial by the board of adjustment of any appeal unless the denial was made without prejudice or unless other property in the same zoned areas shall have, within such one (1) year period, been altered or changed by ruling of the board of adjustment, in which case such change of circumstance shall permit the filing of a subsequent appeal, but such appeal shall be considered on its own merits as in all other cases.

(e) Powers. The board of adjustment shall have the following powers:

(1) Variances. The board of adjustment may authorize a variance from the height and area regulations and other development regulations in this article when, in its opinion, undue hardship or practical difficulty will result from requiring strict compliance. In granting a variance, the board shall prescribe only conditions that it deems necessary or desirable to protect the public interest and property in the vicinity. No variance shall be granted unless the board finds:

- (A) There are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this article deprive the applicant of reasonable use of his land;
- (B) The special circumstances or conditions do not result from the actions of the applicant;
- (C) The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant;
- (D) The granting of the variance will not be detrimental to the public health, safety, or injurious to other property in the vicinity; and
- (E) The granting of the variance will not have the effect of preventing the orderly development of other land in the vicinity in accordance with the provisions of this article.

Such findings of the board, together with the specific facts upon which they are based, shall be incorporated into the official minutes of the board of adjustment meeting at which such variance is granted. Variances may be granted only when in harmony with the general purpose and intent of this article so that the public health, safety and welfare may be secured and substantial justice done. Pecuniary hardship to the applicant, standing alone, shall not be deemed to constitute undue hardship. In making its findings, the board shall take into account the nature of the proposed use of the land involved, existing uses of land in the vicinity, and the probable effect such variance will have upon traffic conditions and upon the public health, safety, convenience and welfare in the vicinity.

(2) Special Exception. The board of adjustment may permit a special exception when such use or development is specifically authorized by this article in reaching its decision, the board of adjustment shall not approve a special exception unless it shall determine that the requested exception will establish only those uses permitted under this article; that the location of the proposed activities and improvements are clearly defined on a site plan filed by the applicant, and that the exception will be wholly compatible with the use and permitted development of adjacent properties either as filed or subject to such requirements and conditions as the board of adjustment finds to be necessary to protect and maintain the stability of adjacent properties.

(3) Appeals of Decisions of Zoning Administrator.

(A) All questions of interpretation, enforcement or applicability of this article shall first be presented to the zoning administrator and such questions shall be presented to the board of adjustment only on appeal from the decision of the zoning administrator. Appeals to the board of adjustment may be taken by any person aggrieved by any decision or action of the zoning administrator regarding the interpretation, enforcement or applicability of this article. Such appeal shall be taken within sixty (60) days after the decision has been rendered, by filing with the zoning administrator a notice of appeal specifying the grounds thereof. The zoning administrator shall forthwith transmit to the board of adjustment with the papers constituting the record upon which action appealed from was taken.

(B) An appeal shall stay all preceding of the action appealed from unless the zoning administrator certifies to the board of adjustment, after the notice of appeal shall have been filed, that by reason of facts stated in the certification, a stay would, in his opinion, cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by restraining order which may be granted by the board of adjustment or by a court of record on application, after notice to the zoning administrator, for due cause shown.

(C) In exercising its power under this provision, the board of adjustment may in conformity with the provisions of Chapter 211, Texas Local Government Code, revise or reform, wholly or partly, or may modify the order, requirement, decision or determination as sought to be made and shall have all the powers of the officer from whom the appeal is taken, and may require such conditions and safeguards as the board finds necessary to preserve the spirit and intent of this article.

(4) Nonconforming Uses. After a public hearing, the board of adjustment may require the discontinuance of nonconforming uses under any plan whereby the full value of the structure or use can be amortized within a definite period of time, taking into consideration the general character of the neighborhood and the necessity for all property to conform to the regulations of this article.

(f) Classification of New and Unlisted Uses.

(1) It is recognized that new types of land may develop and forms of land uses not anticipated herein or clearly covered herein may be the basis of a request for zoning in the city.

(2) In order to provide for such changes and contingencies, an interpretation of the article as to which zoning district such uses are permitted in and under what conditions shall first be made by the zoning administrator. In rendering his interpretation, the zoning administrator shall consider the nature and characteristics of the proposed use and its compatibility with the uses permitted in the various zoning districts, and determine in his opinion which zoning district or districts such use should be listed in.

- (3) The decision of the zoning administrator may be appealed to the board of adjustment under the provisions of subsection (e) (3) above.

(g) Waiver of Mandatory Yard and Setback Requirements. The board of adjustment may approve a waiver of up to fifteen (15) percent of any required yard area or setback without following the notice and hearing requirements of subsection (d) above. The board of adjustment may in its discretion delegate to the zoning administrator its authority under this provision for all or a portion of the fifteen (15) percent area or setback waiver when such a waiver is necessary due to a surveying or construction error in the placement of the original foundation or site improvement. The zoning administrator shall not be authorized to approve a waiver under this section until the board of adjustment shall have issued a written decision outlining the terms and conditions under which these waivers may be granted.

(h) Termination of Approval. Any variance or special exception shall terminate automatically when the specified period of the variance or special exception has expired or the use has been abandoned. In addition where any condition under which a variance or special exception has been granted appears to have been violated, the board of adjustment may hold a public hearing to determine whether or not the approval previously granted should be terminated.

(1987 Code of Ordinances, Chapter 11, Section 7B; Ordinance 707 adopted 6/10/03)

(i) [Reserved for Future Use.] (Ordinance 860, sec. 1, adopted 5/8/07)

(j) Limitations on Power. The listed conditions required to exist on any matter on which the board of adjustment is authorized to consider under this article shall be construed as limitations on the powers of the board to act. Nothing herein shall be construed to empower the board of adjustment to effect changes in the zoning districts established by this article or the uses permitted therein.

(k) Grievances. Any person or persons jointly or separately, aggrieved by any decision of the board of adjustment, or any taxpayer or any of officer, department or board of the city may present to a court of record, a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of such illegality. Such petition shall be presented to the court within ten (10) days of the questioned decision of the board of adjustment, and not thereafter, and shall comply in all respects with the requirements set forth in Section 211.011 of the Texas Local Government Code.

(1987 Code of Ordinances, Chapter 11, Section 7B; Ordinance 707 adopted 6/10/03)