

#### AGENDA CITY OF BELTON

## BOARD OF ZONING ADJUSTMENT PUBLIC HEARING AND MEETING

## WEDNESDAY, JANUARY 23, 2019 – 5:00 P.M. BELTON CITY HALL ANNEX, 520 MAIN STREET

- I. CALL MEETING TO ORDER
- II. ROLL CALL
- III. APPROVAL OF THE MINUTES OF DECEMBER 19, 2018 BOARD OF ZONING ADJUSTMENT MEETING
- IV. PUBLIC HEARING

#### A. CASE NO. VA19-01

To consider a variance of the provisions of Section 12-2 of the Unified Development Code to reduce the 20 foot rear setback requirement to 10 feet, and to reduce the 10 foot side yard setback to 5 feet to allow the construction of a new commercial building on the property located at 217 East North Avenue, in Belton, Mo.

- Summary-Staff Report
- Applicants Comments
- Open Public Hearing
- Close Public Hearing
- Board Discussion
- Motion
- V. OTHER BUSINESS
- VI. ADJOURNMENT

# III. DECEMBER 19, 2018 MEETING MINUTES

#### Minutes of Meeting Belton Board of Zoning Adjustment Belton City Hall Annex, 520 Main Street December 19, 2018

#### **CALL TO ORDER**

Chairman Connie Hubbard called the meeting to order at 5:00 p.m.

#### **ATTENDANCE**

Board: Chairman Hubbard, Keith Parks, Wilma Darlington, Roger Shirk, and Phil Trued.

Absent: None.

Staff: Dave Clements, Planning and Building Director; Jim Brown, Building Official; and Ashley Scherer, Development Technician.

Audience: Tiffany Hamilton, 507 Timbercreek Drive, Belton, MO 64012; Rebecca Hamilton, 507 Timbercreek Drive Belton, MO 64012; Milton Monroe, 513 Timbercreek Drive, Belton, MO 64012; Deb Downard, 509 Timbercreek Drive, Belton, MO 64012; Desmond and Michelle Theel, 512 Timbercreek Drive, Belton, MO 64012.

#### MINUTES

Ms. Darlington moved to approve the minutes of the April 18, 2018 Board of Zoning Adjustment meeting. Mr. Trued seconded the motion. All members present voted in favor and the motion carried.

**PUBLIC HEARING** – CASE #VA18-02 – Consideration of consider a variance to Chapter 4, Section 4-1 (b) (4) of the Unified Development Code (UDC), for property located at 512 Timbercreek Drive to reduce the 25 foot setback requirement for an attached garage to 11.5 feet to permit a garage addition.

Mr. Clements presented the case and gave an overview of the project along with the findings of fact. The staff report is attached as **Exhibit A**.

The public hearing was opened at 5:03 p.m.

The following residents were present to speak in favor of the variance:

- Tiffany Hamilton, 507 Timbercreek Drive, Belton, MO 64012
- Rebecca Hamilton, 507 Timbercreek Drive Belton, MO 64012
- Milton Monroe, 513 Timbercreek Drive, Belton, MO 64012
- Deb Downard, 509 Timbercreek Drive, Belton, MO 64012
- Desmond and Michelle Theel, 512 Timbercreek Drive, Belton, MO 64012

Ms. Theel provided a handout for the Board to review. The handout is attached as Exhibit B.

With no other public input, the public hearing was closed at 5:18 p.m.

Ms. Darlington moved to approve the variance request to Chapter 4, Section 4-1 (b) (4) of the Unified Development Code (UDC), for property located at 512 Timbercreek Drive to reduce the 25 foot setback requirement for an attached garage to 11.5 feet to permit a garage addition.

The motion was seconded by Mr. Parks. When a vote was taken, the following was recorded:

Ayes: 4 - Chairman Hubbard, Mr. Parks, Ms. Darlington, Mr. Shirk, and Mr. Trued.

Noes: 0. Absent: 0.

#### **OTHER BUSINESS**

• The next meeting scheduled for the Board of Zoning Adjustments is Wednesday, January 23, 2019.

#### **ADJOURNMENT**

Mr. Parks moved to adjourn the meeting. Mr. Trued seconded the motion. All members voted in favor and the meeting adjourned at 5:28 p.m.

Ashley Scherer Development Technician

#### **EXHIBIT A**



#### BELTON ZONING BOARD OF ADJUSTMENTS

### WEDNESDAY, DECEMBER 19, 2018 – 5:00 P.M. CITY HALL ANNEX- 520 MAIN STREET

#### **CASE NO. VA18-02**

Applicant: Desmond and Michelle Theel

Address: 512 Timbercreek Drive

Request: A variation of the 25 foot setback requirement of Section 4-1 (b) to allow an attached

private garage which faces a street to be located at an 11 ½ foot setback.

#### BACKGROUND

This application was filed in order to consider a setback variation for a proposed addition at 512 Timbercreek Drive. The applicant is proposing to construct a two-story garage and room addition at the property. The property is a corner lot, located at the northwest corner of Timbercreek Drive and Elm Court, just west of South Cleveland Avenue. The property is zoned an R-1 Single-Family Residence District.

The proposed addition would include a two-car garage and a second floor living area. The applicant points out that the additional garage space is necessary for storage and a recreational vehicle. The existing home was constructed with a partial basement due to sub-surface rock, and the garage addition is a reasonable way to provide additional storage. The applicant also believes that parking the recreational vehicle in the garage addition would be an improvement for the neighborhood.

The addition will be constructed with materials to match the existing house.

The proposal will result in a 25% lot coverage, the maximum allowed in the R-1 District. All other requirements of the R-1 zoning district are met with the addition.

#### FINDINGS OF FACT

Pursuant to Chapter 2, Section 2-118 (g), (3) of the Unified Development Code (UDC) states:

"A request for a variance may be granted upon a finding of the Board that all of the following conditions have been met. The Board will make a determination on each condition, and the finding will be entered into the record, provided that all of the following conditions are met in the specific case."

The variance application submitted by the applicant addresses the required conditions as follows:

1. <u>Uniqueness-</u>The need for a variance must be caused by a condition which is unique to property in question, and not ordinarily found in the same zoning district.

The applicant explains that the west property line along Elm Court curves in a manner that reduces the buildable area on that side of the house. Constructing an addition meeting the setback requirements would not provide sufficient depth for the garage.

The applicant also believes their property is unique in that the home was constructed with a partial basement due to sub-surface rock. This condition limits the amount of typical storage available in a home.

These two circumstances present unique situations for the property not generally applicable to other properties in the area.

2. <u>Impact on Surrounding Properties-</u>The granting of the variance will not adversely impact the rights of adjacent property owners.

The applicant notes that the addition would be constructed with materials matching the existing home, and consistent with the character of the surrounding area.

The garage would have a new driveway on Elm Court. There is no driveway across the street on Elm Court, so the garage addition and new driveway would not create traffic conditions that would impact the property across the street.

These two conditions would indicate that the proposed variation would not have any detrimental impact on surrounding properties.

3. <u>Unnecessary Hardship-</u>The Strict Application of the UDC standards will cause an Unnecessary Hardship or Practical Difficulty to the Property Owner:

The applicant believes that the addition cannot be reasonably accomplished with the strict application of the setback requirements. The garage would not be of sufficient depth for the parking of the recreational vehicle, and the area of the second floor would be reduced to where the addition would not meet their needs. The property owner believes these practical difficulties are not generally applicable to other properties in the neighborhood.

If a room addition is to be constructed at the property, a reasonable variance is necessary due to the shape of the property

4. <u>Impact on Public Health, Safety, and Welfare-</u> The variance should not have any adverse impact on the public health, safety, and general welfare of residents:

The applicant explains that the proposed addition is not located in a manner that it would block sight-lines at the intersection of Timbercreek Drive and Elm Court. The variance will not result in an addition that adds significant traffic or congestion to the public streets. Therefore, the public health, safety and welfare is not impacted with the proposal.

5. Conformity with the General Spirit and Intent of the Unified Development Code-

The variance must generally not be opposed to the intent of the UDC:

The property owner believes that the variance is consistent with the spirit and intent of the UDC. The proposed addition will be consistent with building design in the area, and the structure will not result in over-building of the lot or reduce light, air and open space on adjoining properties.

It is not uncommon to find development constraints on corner lots, due to setbacks and the location of buildings on a lot.

#### STAFF RECOMMENDATION

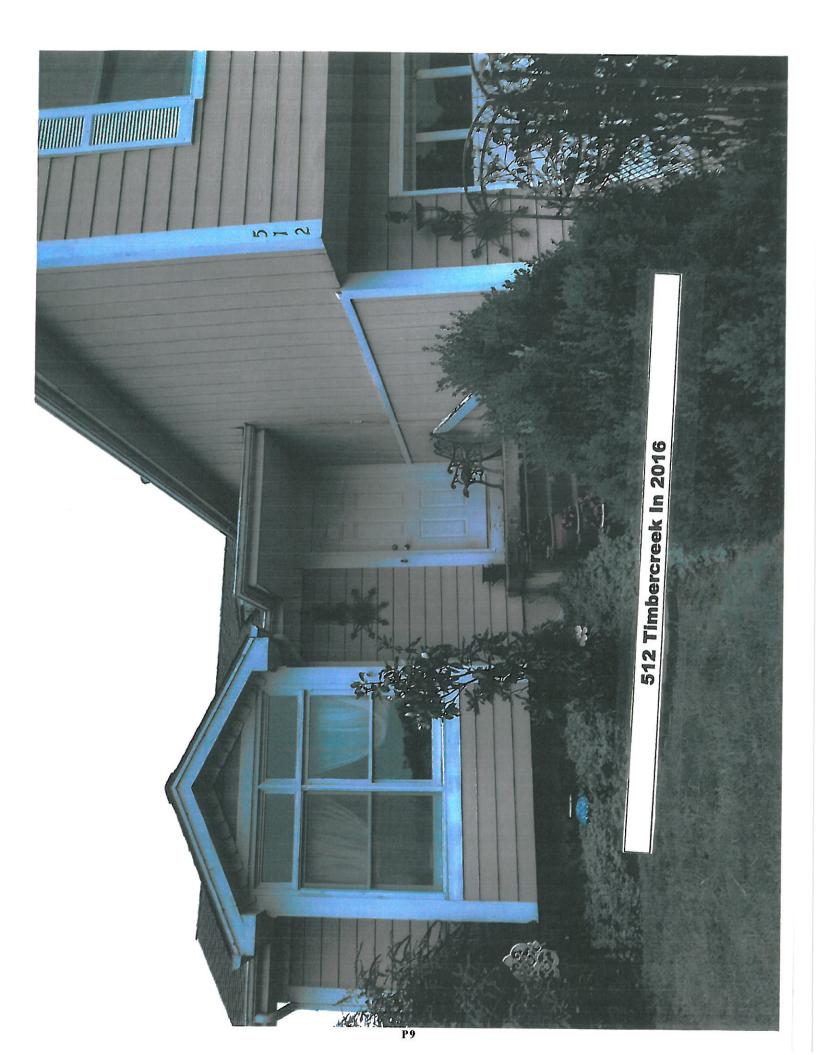
The staff believes that this is a reasonable request, considering the demonstrated hardship concerning shape of the lot and the need for additional storage. While reducing the required setback from 25 feet to 11 ½ feet is a significant variation, the proposed addition will not be out of character with the area, and will not have an adverse impact on surrounding property values, or present any negative impact on the neighborhood.

Staff recommends approval of the request, subject to there being no neighborhood objections that prove an adverse impact due to the proposed addition.

#### **BOARD ALTERNATIVES**

- 1. The Board could approve the variance as requested, with or without any conditions, if the required 'findings-of-fact' are determined.
- 2. The Board could approve a lesser variance than requested, with or without any conditions, if the required 'findings-of-fact' are determined.
- 3. The Board could postpone action on this application with the consent of the applicant, if additional information is required.
- 4. The Board could deny the applicant's request, if the required 'findings-of-fact' could not be determined.





## 512 Timbercreek Variance Request December 19, 2018 5:00 p.m.

Thank you for meeting with us regarding our variance request.

We began thinking about the possibility of an addition when some of our neighbors indicated "driveways were for driving through, not parking in".

Like many other Belton families, we own multiple vehicles. Two of which, a boat and truck, will not fit in our home's current garage.

Since 1995, we have had two car thefts, a motorcycle stolen from the bed of our truck parked in the drive, and five vandalisms of vehicles at our residence. Many other neighbors have had the same experiences when their vehicles are parked outside of their garage. One incident within the past 30 days.

Our home and lot are unique in the subdivision for several reasons.

The lot is full of bedrock. The bedrock precluded a full basement - our home only has a half basement.

Due to the bedrock, our home is the only home on the corner of a cul-desac not facing into the cul-de-sac (Elm Court), it faces Timbercreek Drive.

It is one of the largest lots in the subdivision at 9,600 square feet. Only one other is larger at 911 Elm Court at 13,244. The remaining lots range 7,500 to 8610, with the average being 7,987 square feet.

Due to the bedrock, the home is situated on the lot in such a way that we only have 9' from the home to the fence to the West, and 15' from the home to the neighbor's fence line to the North (our back yard).

The remainder of the 9,600 square foot corner lot is to the East of the home.

Aside from how the house was placed on the lot, we also have many neighborhood amenities on our lot precluding improvements in any other direction; Electrical box and cable box on the North West corner of the lot, a fire hydrant, storm drain, Stop sign and City Water hub on the South

perimeter of the property and a storm drain to the South/East on the property.

We originally wanted to do a 25' X 30' addition. When we began the process of planning the addition with the architect and had a build survey completed, it was determined we would be unable to do a 25' X 30' addition due to the placement of the build line.

The Surveyor and architect both indicated the addition, if done based upon the build line, would not serve the intended purpose, if it were not at least 27.6'. Which is the reason you are now presented with the request for this variance.

The variance requested is approximately 169 square feet over the build line (see included dimension graphic). The requested Twenty-seven (27) foot, six (6) inch addition encroaches on the build line by five (5) foot on the South side of the proposed location, and eight (8) foot four (4) inches on the North side of the proposed location.

The build line curves on the property, where Elm Court does not. The addition, as requested, would not block sight lines from Timbercreek Drive or Elm Court. Staked and pictured – See pictures 1 & 2

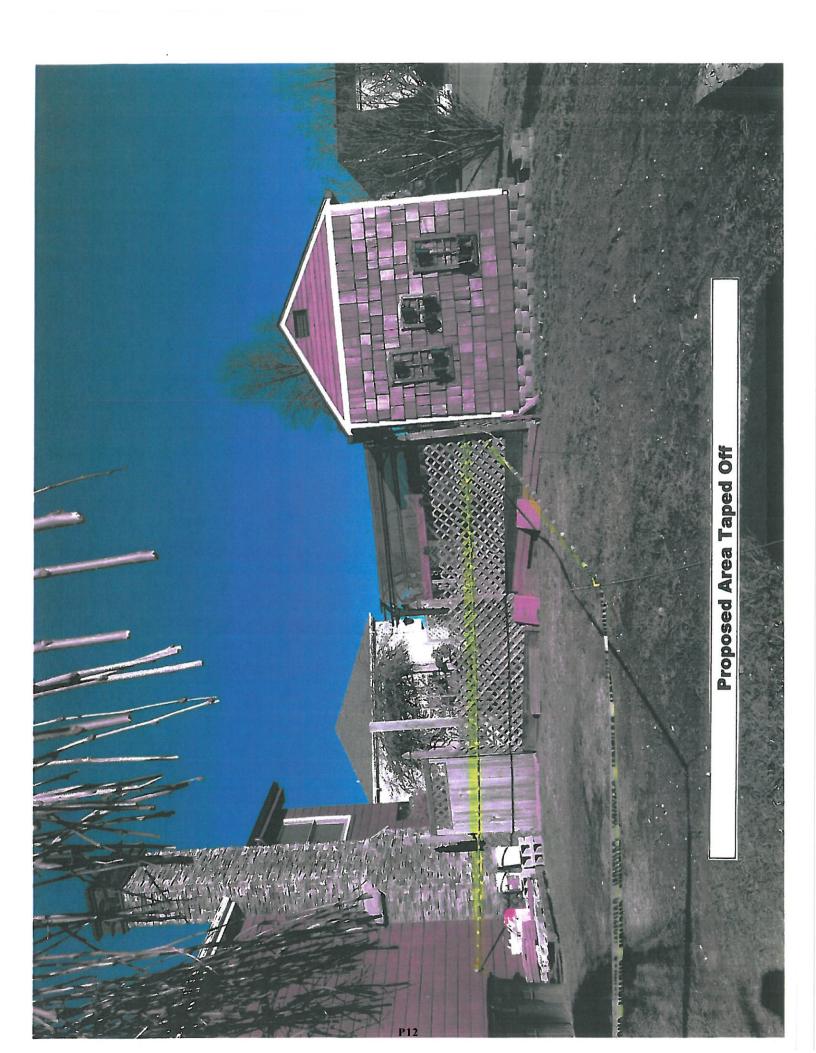
#### **Adjacent Property**

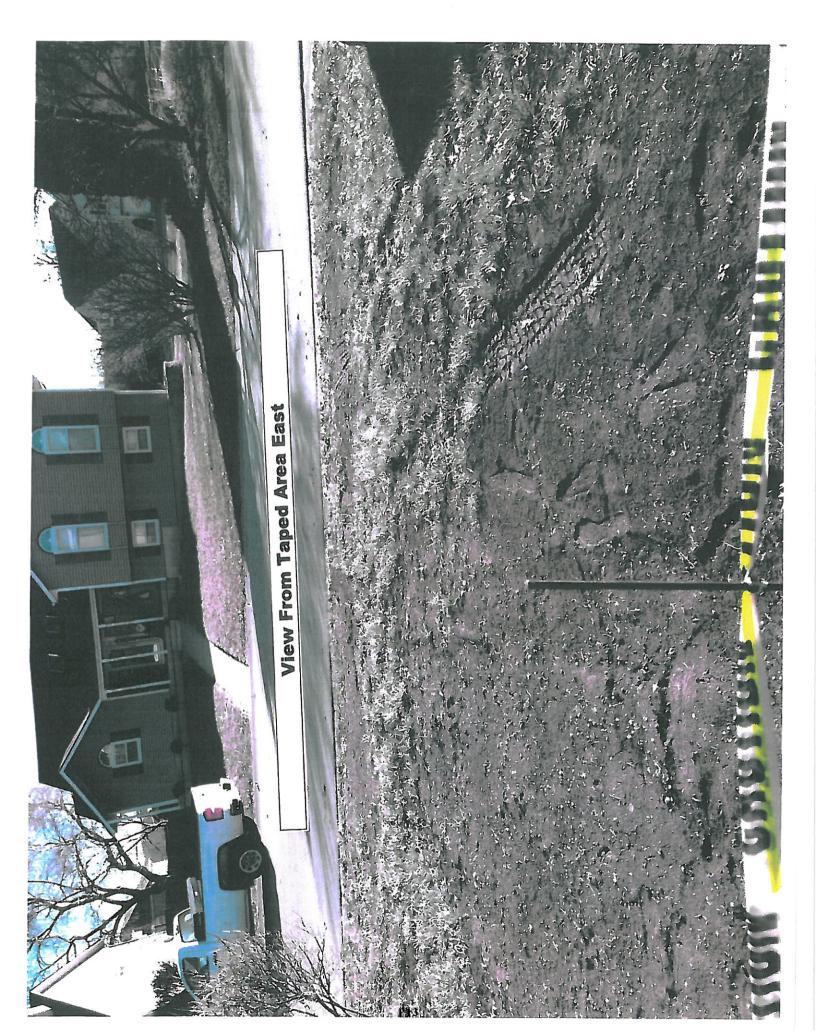
The home to the West, 917 Timbercreek Court, only has 25 feet to the street facing Timbercreek Court. Additionally, that home is not aligned with the front of our property, exceeding our front by 25 feet to the South facing Timbercreek Drive. If approved, this variance request will not affect any adjoining property in such a manner. See picture 3

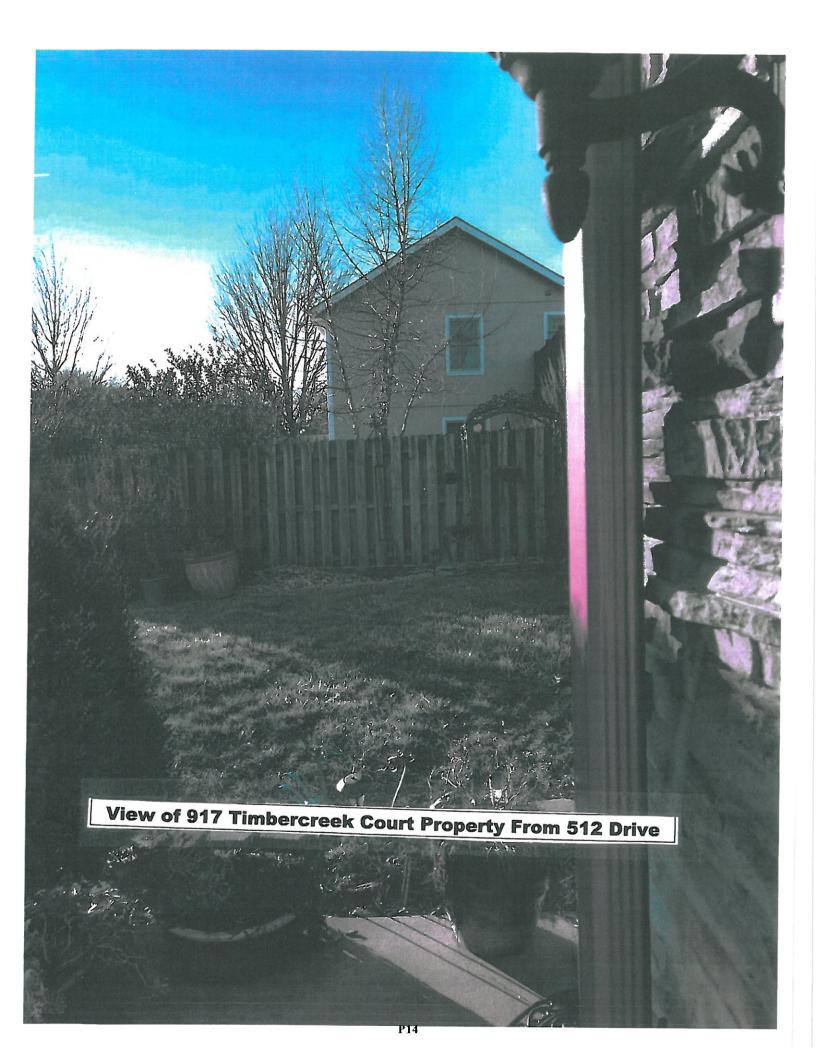
The variance **will not** have an adverse effect on neighboring properties. As a corner lot, the true adjacent property, 916 Elm Court, is set back in the cul-de-sac curve in Elm Court. The proposed addition would sit back as far as the adjoining property front of the home at 916 Elm Court. The addition will appear to be aligned with that home.

The proposed drive would be Twenty-eight (28) feet, four (4) inches. This would result in only a six (6) inch difference to all neighboring drives that range from thirty (30) to forty-two (42) feet in length.

#### **Hardship**







Strict adherence to the zoning code causes a hardship due to restrictive space of the proposed addition. Both the architect and surveyor indicated anything less than Twenty-seven (27) foot, six (6) inches would not provide sufficient space for the intended purpose of the two-car garage; fitting the truck and/or boat, with second story living space.

The addition, as proposed with the variance, will not appear out of place or to "not fit" within the neighborhood.

Approval of the variance would provide the functional relationship required by the zoning sprit, and intent.

#### **Public Interest**

The approved variance will not have an adverse effect on the public health, safety or welfare.

The variance will increase neighborhood property values.

The proposed addition will not block any safety features – the Stop sign located on the corner of our lot at Elm Court/Timbercreek Drive will not be affected.

The **fire hydrant** located in the front of our property facing Timbercreek Drive **will not** be affected.

There are **two storm drains**, one located to East, one to the South, which **will not** be affected.

There are no utilities in that area of the property.

There is no sidewalk.

There is no driveway conflict for Timbercreek Drive or Elm Court.

The aesthetics of the addition will appear as the rest of the improved residence.

#### Spirit and Intent of the Zoning Ordinance Regulation

According to the information provided for Belton Zoning - The spirit and intent of the Zoning ordinance is to ensure a balanced and attractive residential area. Internal stability, attractiveness, order and efficiency are encouraged by providing for adequate light, air and open space

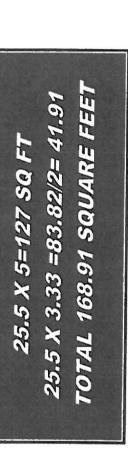
for dwellings and related facilities and through consideration of the proper functional relationship of each element.

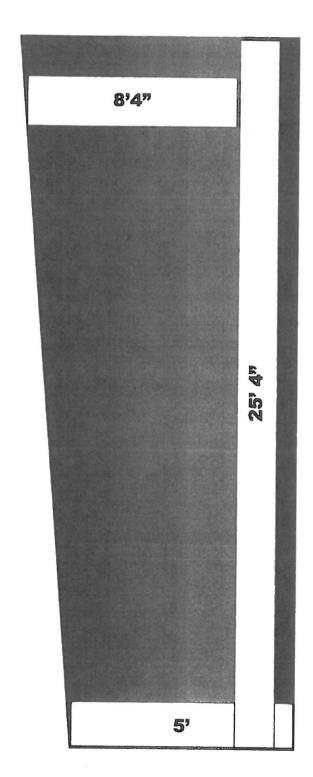
Even though R1 is the most restricted residential district, the requested variance will adhere to all these considerations within the current zoning ordinance, while also maintaining the spirit and intent of the zoning.

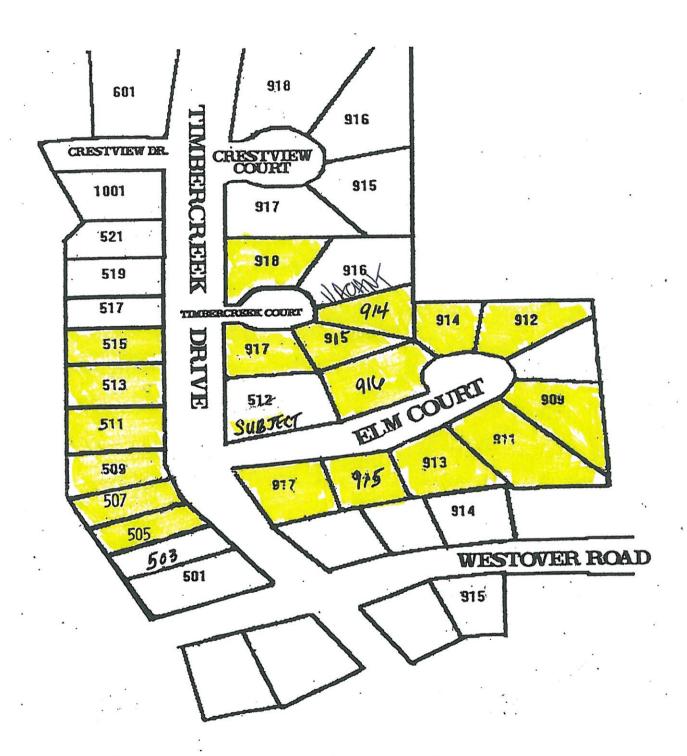
In consideration of prior zoning of the Timbercreek Subdivision, approving and allowing minimal zoning variance to the current zoning, will not negatively impact any neighboring properties in function or aesthetics, but remain consistent with the Timbercreek Subdivision as built.

We have discussed the variance request with all neighbors, see highlighted map of Timbercreek Subdivision, in addition to those who received notification from the City of Belton.

We are providing the board with signatures of our neighbors (those highlighted on the map), who have no objections to the City of Belton approving the variance we are requesting for our proposed addition at 512 Timbercreek Drive.







timbercreek

Drive. I understand the public hearing is scheduled for Wednesday, December 19 2018 at 5:00 p.m. at the City Hall I have received notification from the City of Belton regarding the proposed variance request at 512 Timbercreek Annex, Council Room, 520 Main Street to receive input concerning the variance.

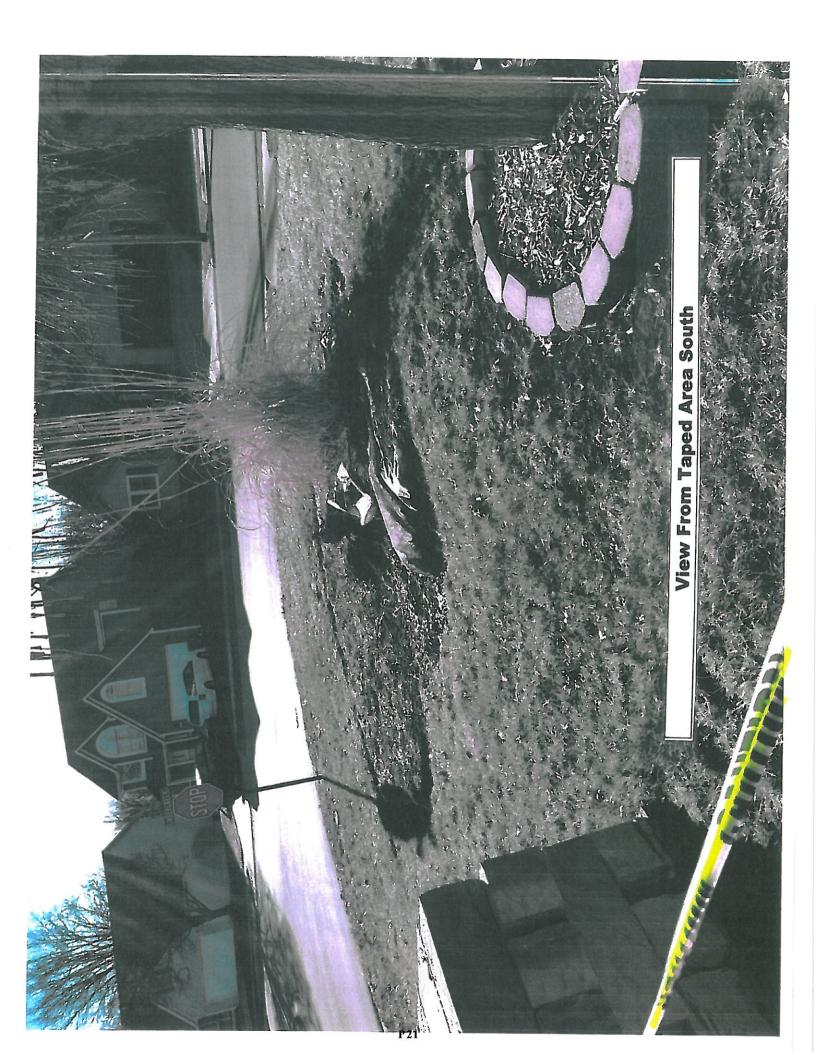
I have no concern surrounding the City of Belton approving my neighbor's, at 512 Timbercreek Drive, request for a variance for their proposed addition over the build line.

Name	Address	Signature	Date
Katie Corona	515 Timbergreek Nr	Cont. A. C.	12/15/19
Deb Downard	509 Timber Prest Dr	Mole Devisor of	01/21
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Laren Bornen	505 Timbergak Dr	Haran Bower	12/5/2015
Chae Waid	915 KIM CT.	appoint	100
Sichal Abisa	911 Elm (+	Map I D	
Debra Fleming	914 Timbercreek Ct.	Dela Floring	12/8/2018
Jayme Bell J	517 TIMBERERER Dr		12.8.El
Sicie Bullock	4) MB L16	Miles Bulled	8//3/6/
Richard Midal Has	916 G/2 CF	7.00	10/
Amy Monroe	513 Timber creek Dr.	and monoe	10-x/x
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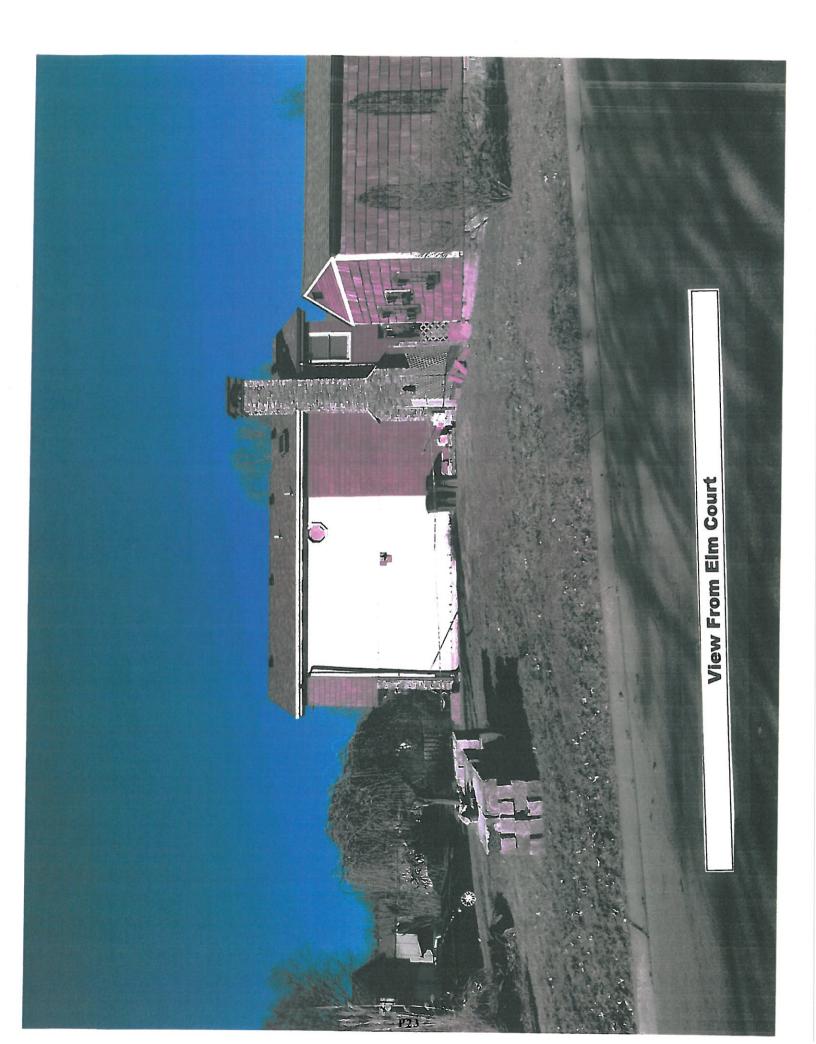
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I have no concern surrounding the City of Belton approving my neighbor's, at 512 Timbercreek Drive, request for a variance for their proposed addition over the build line.

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ITEM IV, A.



#### BELTON ZONING BOARD OF ADJUSTMENTS WEDNESDAY, JANUARY 23, 2018 – 5:00 P.M. CITY HALL ANNEX BUILDING – 520 MAIN STREET

#### CASE NO. VA19-01

Applicant: KC Rim Shop/Josh Burnett

Address: 217 East North Avenue

Request: A variation of the <u>20 foot rearyard setback</u> and the <u>10 foot sideyard setback</u> requirements of Section 12-2 to allow a new commercial building to be constructed with a <u>10 rearyard setback</u> and a <u>5 foot sideyard setback</u> in a C-2 General Commercial District.

#### **BACKGROUND**

This application was filed in order to consider a setback variations for a proposed commercial building at 217 East North Avenue. The site is the location of the former location of Benjamin Liquors, and is currently being used by KC Rim Shop as a secondary location for the main store at 100 North Chestnut. KC Rim Shop is a local business providing retail sales of wheels, tires, car audio/video, window tinting and automotive accessories. The owner of KC Rim Shop, Josh Burnett, is proposing to demolish the old liquor store building and an adjoining single-family home and construct a new commercial building at the location.

The existing C-2 General Commercial District requires a 20 rearyard setback, and a 10 sideyard setback. The applicant would like to reduce the 20 rearyard setback to 10 feet abutting the alley, and reduce the 10 foot sideyard setback to 5 feet. Please see the attached site plan for information on the request. The building would be approximately 8800 square feet, including a 3840 retail area and service bays.

The new building will be constructed to meet the design guidelines of the North Scott Corridor Overlay District + Guidelines.

#### **FINDINGS OF FACT**

Pursuant to Chapter 2, Section 2-118 (g), (3) of the Unified Development Code (UDC) states:

"A request for a variance may be granted upon a finding of the Board that all of the following conditions have been met. The Board will make a determination on each condition, and the finding will be entered into the record, provided that all of the following conditions are met in the specific case."

The variance application submitted by the applicant addresses the required conditions as follows:

1. <u>Uniqueness-</u>The need for a variance must be caused by a condition which is unique to the property in question, and not ordinarily found in the same zoning district.

The applicant explains that the property has an <u>irregular shape</u> due to the original platting of the land and the street configuration. While this condition can be found at other property in this area, it is not generally found in other commercial areas throughout the city.

The applicant notes that placement of a new building on the property that needs parking and open space requirements, and their business needs is difficult due to the shape of the lot

This circumstance is unique for the property not generally applicable to other properties in the same zoning district.

2. <u>Impact on Surrounding Properties-</u>The granting of the variance will not adversely impact the rights of adjacent property owners.

The rearyard and sideyard reductions would have no adverse impact on surrounding properties. In this commercial area, many structures are built at setbacks that do not meet the current ordinance requirements.

The rear of the subject property abuts a 20 foot public alley, and nearby structures are built at setbacks ranging from zero feet to 18 feet along the alley. There are nearby examples of structures built with no sideyard or open space.

This condition would indicate that the proposed variations would not have any detrimental impact on surrounding properties. It is reasonable to allow a variance abutting the public alley

3. <u>Unnecessary Hardship-</u>The Strict Application of the UDC standards will cause an Unnecessary Hardship or Practical Difficulty to the Property Owner:

The property is an irregular shape due to the configuration of streets in the area, and this condition makes placement of the building more difficult.

The applicant also believes that the proposed commercial building cannot be constructed with the strict application of the setback requirements. A site plan designed to meet the required setbacks would reduce square footage of the building by approximately 1300 square feet. This would impact the functionality of the building.

The applicant believes these conditions present a hardship for reasonable redevelopment of the property.

4. <u>Impact on Public Health, Safety, and Welfare-</u> The variance should not have any adverse impact on the public health, safety, and general welfare of residents.

It is believed that the proposed variances will not impact the public health, safety, and welfare of the general public. Redevelopment of the site would eliminate obsolete structures from this commercial area, and the general area would benefit from new construction and investment.

5. <u>Conformity with the General Spirit and Intent of the Unified Development Code</u>
The variance must generally not be opposed to the intent of the UDC:

The applicant believes that the variance is consistent with the spirit and intent of the UDC. The proposed commercial building will not result in over-building of the lot or reduce light, air and open space on adjoining properties. The variances would allow construction of a building consistent with existing buildings in the area.

It is not uncommon to find the need for variances in older commercial areas.

#### STAFF RECOMMENDATION

The staff believes that this is a reasonable request, considering the hardship due to the shape of the lot and the fact that there are many non-conforming setbacks in the area of the subject property.

While reducing the required setbacks by 50 percent, the proposed building will not be out of character with the area, and will not have an adverse impact on surrounding property values, or present any negative impact on the neighborhood.

Staff recommends approval of the request, subject to there being no neighborhood objections that prove an adverse impact due to the proposed variations.

#### **BOARD ALTERNATIVES**

- 1. The Board could approve the variance as requested, with or without any conditions, if the required 'findings-of-fact' are determined.
- 2. The Board could approve a lesser variance than requested, with or without any conditions, if the required 'findings-of-fact' are determined.
- 3. The Board could postpone action on this application with the consent of the applicant, if additional information is required.
- 4. The Board could deny the applicant's request, if the required 'findings-of-fact' could not be determined.

#### **ATTACHMENTS:**

- 1. Neighborhood area map
- 2. Survey/plot plan

