REGULAR MEETING OF THE SAN MARCOS ZONING BOARD OF ADJUSTMENTS
Thursday, June 20, 2019 5:45 P.M.  City Council Chambers

Michael Nolen, Chair
Rick Henderson, Member
Gary Pack, Member
Tom Rowe, Alternate

Gloria Fortin, Vice Chair
Wayman Jones, Member
Nicholas Costilla, Alternate
Floyd Akers, Alternate

AGENDA

1. Call to order.

2. Roll call.

3. Chairperson’s Opening Remarks.

4. Citizen Comment Period.

5. Consider approval of the minutes of the ZBOA Regular Meeting of February 21, 2019

6. Discussion Item Receive a presentation from staff and discuss the Zoning Board of Adjustments authorizing Codes and Ordinances. (A. Hernandez)

7. VR-19-03 Hold a public hearing and consider a request by Robert Walch, on behalf of Madeline De Long, for a variance to Section 4.4.1.3 of the San Marcos Development Code requiring a 15-foot secondary street setback, in order to construct a principle building with an eight-foot setback along Knox Street, located at the southeast corner of Marshall Street and Knox Street. (S. Caldwell)

8. Election of Officers
   a. Election of Chairperson
   b. Election of Vice Chairperson

9. Question and Answer Session with Press and Public. This is an opportunity for the Press and Public to ask questions related to items on this agenda.

10. Adjourn.

NOTE: The Zoning Board of Adjustments may adjourn into Executive Session to consider any item listed on this agenda if a matter is raised that is appropriate for Executive Session discussion. An announcement will be made of the basis for the Executive Session discussion. The Zoning Board of Adjustments may also publicly discuss an item listed on the agenda for Executive Session.
The City of San Marcos does not discriminate on the basis of disability in the admission or access to its services, programs, or activities. Individuals who require auxiliary aids and services for this meeting should contact the City of San Marcos ADA Coordinator at 512-393-8000 (voice) or call Texas Relay Service (TRS) by dialing 7-1-1. Requests can also be faxed to 512-393-8074 or sent by e-mail to ADArequest@sanmarcostx.gov
The Zoning Board of Adjustments convened in a regular meeting on Thursday, February 21, 2019 in the San Marcos City Council Chambers, 630 East Hopkins, San Marcos, Texas 78666.

Chair Nolen called the Board Meeting to order at 5:47 p.m.

Board Members in Attendance:  
Michael Nolen, Chair  
Nicholas Costilla  
Rick Henderson  
Gary Pack  
Tom Rowe

Board Members Absent:  
Gloria Fortin, Vice Chair  
Wayman Jones

Staff in Attendance:  
Sam Aguirre, Assistant City Attorney  
Amanda Hernandez, Development Services Manager  
Will Parrish, Planner

1. Call to order

2. Roll Call

3. Chairperson’s Opening Remarks

4. Citizen Comment Period  
   No one spoke during Citizen Comment Period

5. Consider approval of the minutes of the ZBOA Regular Meeting of January 17, 2019  
The minutes were approved on Board Member Pack’s motion, Board Member Henderson second, on a 5-0 vote.
6. **VR-19-02** Hold a public hearing and consider a request by Paul Ginsberg for a variance to Section 4.4.6.1 of the San Marcos Development Code in order to allow a parking space for an Accessory Dwelling Unit to be located within the first layer of the property at 323 W. Holland Street (W. Parrish)

Chair Nolen opened the public hearing.

Will Parrish, Planner presented the staff report.

Paul Ginsberg, 323 West Holland Street, spoke in favor of the request stating that the proposed accessory dwelling unit location is safer than the originally proposed location and does not interfere with the professionally landscaped lot.

Kenneth Dees, 1412 Alamo Street, spoke in opposition to the request stating concerns with current occupancy violations and the potential for the property to become a rental.

Leon Breeden, 322 W Holland, spoke in opposition to this request stating concerns with aesthetics and the current accessory dwelling unit that is existing on the property.

Greg Folster, 207 Hillcrest Drive, spoke in opposition to the request stating concerns with the number of rental units on the property.

Following discussion, a motion to deny VR-19-02 to allow a parking space for an Accessory Dwelling Unity to be located within the first layer of the property at 323 West Holland Street was approved on Board Member Nolen’s motion, Board Member Rowe second, on a 4-1 vote with Board Member Henderson dissenting.

7. **Question and Answer Session with Press and Public.**

There were no questions from the Press or Public.

8. **ADJOURN**

Chair Nolen adjourned the meeting at 6:13 p.m. without objection.
Zoning Board of Adjustments
Regular Meetings

• 5:45 pm
• 3rd Thursday of Each Month (as necessary)
• City Council Chambers
  630 E. Hopkins
  San Marcos, TX 78666
ESTABLISHMENT OF THE ZONING BOARD OF ADJUSTMENTS

Texas Local Government Code Section 211.008

(a) The governing body of a municipality may provide for the appointment of a board of adjustments...

(b) The board of adjustments must consist of at least five members to be appointed for terms of two years...

(c) The governing body...may provide for the appointment of alternate board members to serve in the absence of one or more regular members when requested to do so...

Terms are for two years with appointments by Council in February / March. After all appointments are made the election of officers is scheduled.

If a regular member resigns, the first alternate becomes a regular member and the second alternate becomes first alternate. New members are initially appointed as alternates.

Alternates are only seated at the dias in the absence of a regular member.
City Code of Ordinances, Chapter 2, Division 5

Membership; eligibility; training qualification requirements

(a) The zoning board of adjustments (ZBOA) shall consist of five regular members and two alternates appointed by City Council for terms of two years.

(b) All regular members and alternates shall reside within the city limits.

(c) A newly appointed member must attend an orientation meeting with the director of planning and development services.

Duties of the director

The director of planning and development services or designee shall be an ex officio member of the ZBOA without power of vote...shall act as secretary of the ZBOA.

Planning staff:
- Maintains a record of terms for all members
- Orients new members prior to their initial meeting
- Assists the Board with questions at meetings and
- Acts as secretary by reading agenda captions, taking meeting minutes, and acting as the Board liaison
City Code of Ordinances Section 2.069:

(a) The voluntary absence of a board or commission member from three consecutive regular meetings of the board or commission will result in automatic resignation of the member from the board or commission.

(b) …The voluntary absence of a member...from more than 25 percent of the board or commission's regular meetings during a calendar year will result in automatic resignation of the member from the board or commission.

(c) In this section:
   (1) Regular meeting includes only regularly scheduled meetings, and does not include special meetings, workshops, or committee meetings of a board or commission.

   (2) Excused absence means an absence by a board or commission member that results from a medical reason of the member or a relative of the member, child care for a newly born or newly adopted child during the first eight weeks of the child's life, family emergency, or jury duty.

   (3) Voluntary absence means an absence other than an excused absence, to also include failure to inform the staff liaison of an absence prior to a scheduled meeting.

(d) The staff liaison of a board or commission will inform the city clerk of the automatic resignation of a member...
Applies by ordinance to all City board and commission meetings – advisory boards are not excluded

Two Basic Requirements:

(1) Advance notice must be given of each meeting

Advance notice of meetings requires:
  • Agenda must be posted on City Hall bulletin board 72 hours before a meeting
  • Each subject to be discussed must be listed – “new business” and “old business” are not adequate
  • Subjects not listed on agenda may not be discussed.

(2) Meetings must be open to the public

  • Adequate, accessible facilities
  • Public can attend and observe; no right to participate
  • Ordinance requires “Citizen comment period” at regular meetings
  • Rules of decorum apply to the public
  • Closed meetings-limited to specific purposes
What is a “meeting”? 
- Any discussion of public business when a quorum is present 
- Discussion among board members 
- Presentation of information by third party even if board members do not discuss

Meetings can consist of:
- Email exchanges
  One board member emails a quorum of board members to explain his/her position on an item on upcoming agenda.  
  Is this a meeting? YES
  A staff member emails a quorum of members who were unable to attend a meeting and asks for their position on an agenda item. Is this a meeting? YES
- Phone calls
  One board member makes a series of calls to a quorum of board members to gauge positions on an item on upcoming agenda. Is this a meeting? YES
- Series of meetings of less than a quorum
Violations are criminal offenses

- Participating in meeting for which notice was not given
- Discussing a matter not posted on agenda
- Meeting in groups less than a quorum for purpose of avoiding Open Meetings Act
- Participating in a closed meeting that should have been held in open session

Additional requirement – view Attorney General training videos
https://texasattorneygeneral.gov/og/open-government-training
City Code of Ordinances Section 2.045:

Members of the public may address the Board at the following times during a meeting:
• During citizen comment period, if such a period is on the agenda for the meeting;
• During a public hearing on an agenda item; or
• At other times with the permission of the presiding officer.

Members of the public must:
• sign in prior to the meeting
• state their name, and
• limit their remarks to three minutes.

All comments and questions by members of the public at a meeting should be directed to the presiding officer.

If a speaker speaks during the citizen comment period on a topic listed on the agenda, including a public hearing topic, the person cannot speak again on the item, except in response to a question from a commission member.
City Code of Ordinances Section 2.045:

Members of the public prohibited from:

- Shouting, unruly behavior, distracting side conversations, or speaking out when another person is talking.
- Defamation, intimidation, personal affronts, profanity, or threats of violence.
- Audible use of phones, pagers, radios, computers or other electronic equipment.
- Booing, hissing, foot stomping, parading, singing or other similar behavior that impedes or disrupts the orderly conduct of the meeting.

The Presiding Officer is charged with Enforcement of Rules

Purpose of the rules:
- Ensure that meetings are conducted effectively.
- Ensure that members of the public can be heard in a fair, impartial and respectful manner.
- Ensure that meetings are conducted in a way that is open to all viewpoints, yet free from abusive, distracting or intimidating behavior.
- Ensure that the rules governing decorum are understood by persons attending the meeting.
San Marcos Development Code Section 2.2.5.3:

(a) Vote required for decisions. The concurring vote of four members of the ZBOA is necessary reverse an order, requirement, decision or determination of any administrative official, or to decide in favor of the applicant on a matter upon which the ZBOA is required to pass under this development code, or to authorize a variance from the terms of provision of this code.

(b) Quorum. A quorum shall consist of four members of the ZBOA.

(c) Limitation on Authority. The authority delegated to the ZBOA under this development code shall not be construed to effect any of the following:

1. Legislative Decision;
2. Approval of a conditional use permit;
3. Approval of a request for alternative compliance
4. Authorization of a use not authorized in the zoning district in which the applicant's property is located, except to the extent necessary to decide a special exception or a petition for a change in status of a nonconformity.
Different standards are used in hearing the different types of cases.

(1) **Variance**
- Criteria used in considering variance requests are detailed in the development code.
- An applicant must show that a unique condition exists, not of his own making that would cause an unnecessary hardship if the ordinance requirements were strictly applied.
- A finding that the request meets these criteria must be made before approval is granted.
- Otherwise, the request is denied.

(2) **Nonconforming Status**
- Criteria is provided in the development code. Varies based on the type of request.
- The applicant bears the burden of proof to demonstrate that the application should be granted.
- The Board may place appropriate conditions on an approval.

(3) **Appeal**
- An appeal must be considered using the same standards used by the official or board making the original decision.
- The Board may uphold or overturn the original decision.
- The Board may remand the matter back to the original decision making body when testimony or evidence is presented that was not presented previously.

**Motions / Voting**
- 4 members make a quorum. Cases are voted on by a maximum of 5 members. Alternates serve as needed due to absence.
- 4 affirmative votes are required to approve a request or to overturn a decision being appealed.
- A variance motion should include a reason e.g. 
  - I move to approve VR-01-01 because it meets the variance criteria [state the factual basis]
  - I move to deny the request because no unique condition exists [state the factual basis]
  - I move to deny/approve the request for the reasons stated in the staff report
Development Code Section 2.8.2.4:

(1) There are special circumstances or conditions arising from the physical surroundings, shape, topography or other feature affecting the land subject to the variance petition, such that the strict application of the provisions of this Land Development Code to the development application would create an unnecessary hardship or inequity upon or for the petitioner, as distinguished from a mere inconvenience, in developing the land or deprive the petitioner of the reasonable and beneficial use of the land;

(2) The circumstances causing the hardship do not similarly affect all or most properties in the vicinity of the petitioner's land;

(3) The variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner;

(4) Granting the variance petition will not be detrimental to the public health, safety or welfare, or injurious to other property within the area;

(5) Granting the variance petition will not have the effect of preventing the orderly use and enjoyment of other land within the area in accordance with the provisions of this Code, or adversely affect the rights of owners or residents of surrounding property;

(6) Granting the variance petition is consistent with any special criteria applicable to varying particular standards, as set forth in Chapters 4 through 7 of this Land Development Code;

(7) The hardship or inequity suffered by petitioner is not caused wholly or in substantial part by the petitioner;

(8) The request for a variance is not based exclusively on the petitioner's desire for increased financial gain from the property, or to reduce an existing financial hardship; and

(9) The degree of variance requested is the minimum amount necessary to meet the needs of petitioner and to satisfy the standards in this Section.
Nonconforming Status - Development Code Section 1.5.1.10:

(1) The proposed change in nonconforming status results in greater conformance with the Comprehensive Plan;

(2) The proposed change in nonconforming status results in greater conformance with this Development Code such that the nonconforming use or structure can eventually come into full compliance with this Development Code;

(3) The degree of the proposed request is the minimum amount necessary;

(4) Granting the application shall not result in greater harm to adjacent and neighboring land uses than the original nonconformity.

Appeal - Development Code Section 2.5.5.5:

(1) Apply the substantial evidence test;

(2) The applicant must establish that the record reflects the lack of substantial evidence in support of the original decision;

(3) The Board may not substitute its judgement for the judgement of the original decision maker.
Land Development Code Section 2.2.5.4:

(b) Appeals of Board Decisions. Appeals of any decision of the ZBOA may be taken to a state district court, county court, or county court-at-law by filing a verified petition stating that the decision of the ZBOA is illegal in whole or in part and specifying the grounds of the illegality. The petition must be filed within ten days after the date the decision is filed with the department of Planning and Development Services and shall proceed in accordance with the rules and procedures of the court to which the appeal is taken.
The undersigned member of the City of San Marcos Zoning Board of Adjustments states under oath as follows:

I have a substantial interest in a business entity that may be involved in a vote or decision of the governmental body described above, and the vote or decision may have a special economic effect on the business entity that is distinguishable from the effect on the public. The name of the business entity is ________________________________.

The nature and extent of my interest in the business entity is as follows: (check all that apply)

____ Ownership of 10 percent or more of the voting stock or shares of the business entity.

____ Ownership of 10 percent or more of the fair market value of the business entity.

____ Ownership of $15,000 or more of the fair market value of the business entity.

____ Funds received by me from the business entity exceed 10 percent of my gross income for the previous year.

_____ The interest described above belongs to a person related to me in the first degree by consanguinity (natural kinship) or affinity (marriage). Relative’s name and relation: ____________________________________________.

The vote or decision involving this interest is on the ____________(date) agenda of the governmental body, and is described as follows: ________________________________

SIGNED WHEN BOARD MEMBER HAS A CONFLICT OF INTEREST
*See Chapter 2 of the City’s Code of Ordinances for Details*
OATH OF OFFICE / STATEMENT OF APPOINTED OFFICER

I, ________________________, do solemnly swear (or affirm), that I will faithfully execute the duties of the office of Zoning Board of Adjustment and Appeals of the City of San Marcos, Texas, and will to the best of my ability preserve, protect, and defend the Constitution, laws, and ordinances of the United States, of this State, and of this City, so help me God.

I, ________________________, do solemnly swear (or affirm) that I have not directly or indirectly paid, offered, promised to pay, contributed, or promised to contribute any money or thing of value, or promised any public office or employment, as reward to secure my appointment or confirmation thereof, so help me God.

SIGNED WITH THE CITY CLERK PRIOR TO SERVICE ON THE BOARD
VR-19-03
Aerial
Secondary Street Setback — Knox & Marshall St.

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

Map Date: 6/5/2019
VR-19-03
400' Notification Buffer
Marshall St & Knox Street Setback Variance
Knox & Marshall St.

Site Location
- Subject Property
- 400' Buffer
- Parcel
- City Limit

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Map Date: 5/10/2019
This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

Map Date: 6/5/2019
VR-19-03
Variance
Intersection of Knox St. and Marshall St.

Applicant Information:
Applicant: Robert Walch
426 East Orchard
Fredericksburg, TX 78624

Property Owner: Madeline De Long
2004 Old Ranch Rd. 12
San Marcos, TX 78666

Applicant’s Request: A variance to Section 4.4.1.3 of the San Marcos Development Code requiring a 15-foot secondary street setback, in order to construct a principle building with an eight-foot setback along Knox Street.

Notification: Personal notification mailed on June 7th, 2019 to all property owners within 400 feet of subject property.

Citizen Response: None as of Staff Report date

Subject Property:
Location: Intersection of Knox St. and Marshall St. In the 1100 Block of Marshall St.
Legal Description: Lot 14, Block 33, Victory Gardens Subdivision
Frontage On: Marshall Street and Knox Street
Neighborhood: Victory Gardens
Existing Zoning: Single Family (SF-6)
Preferred Scenario Designation: Existing Neighborhood
Utilities: Adequate
Existing Use of Property: Vacant
Proposed Use of Property: Single Family Home

Surrounding Area:

<table>
<thead>
<tr>
<th>Proximity</th>
<th>Current Zoning</th>
<th>Existing Land Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>N of Property</td>
<td>SF-6</td>
<td>Single Family</td>
</tr>
<tr>
<td>E of Property</td>
<td>SF-6</td>
<td>Single Family</td>
</tr>
<tr>
<td>S of Property</td>
<td>SF-6</td>
<td>Single Family</td>
</tr>
<tr>
<td>W of Property</td>
<td>SF-6</td>
<td>Single Family</td>
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</tbody>
</table>
Case Summary
The property owner and their agent are requesting to encroach up to 8' into the secondary street setback due to the shape of the lot. According to Section 4.4.1.3. of the San Marcos Land Development Code, the required setback from the secondary street on SF-6 zoned lots is 15 feet. Please see Exhibit A for a visual of required setbacks in SF-6 districts. The petitioner is proposing to construct an approximate 975 square foot home on the lot. Please see Exhibit B for a visual representation of the lot’s required setbacks in relation to the petitioner’s proposed building footprint. This request is the only variance being requested by the petitioner; all other applicable requirements in the San Marcos Land Development Code will be met.

Comments from Other Departments
No concerns from other departments have been noted.

Relevant Code Requirements

Section 4.3.3.2.C. Building Setbacks, Setback Encroachments
All buildings and structures must be located at or behind required setbacks.

Section 4.4.1.3. Single Family-6
Setbacks-Principal Building
  Primary Street-25 ft. min.
  Secondary Street-15 ft. min.
  Side-5 ft. min.
  Rear-20 ft. min.

Planning Department Analysis

<table>
<thead>
<tr>
<th>San Marcos Development Code Standards</th>
<th>Applicant’s Request</th>
</tr>
</thead>
<tbody>
<tr>
<td>Buildings and structures set back a minimum of 15 feet from secondary street</td>
<td>Buildings and structures set back a minimum of 7 feet from secondary street</td>
</tr>
</tbody>
</table>

The Second Section of Victory Gardens was platted May 13, 1944. The subject property, Block 33 Lot 14 is in the original configuration from 1944. The Blocks in this area (between Knox St and Hines St) have been platted at right angles to Hines St. but follow the curvature of Knox Street resulting in tapered, irregularly shaped corner lots along Knox Street. The properties in this subdivision are zoned SF-6.

The purpose of setbacks required in the Land Development Code are wide-ranging. Setbacks provide a spacing distance between different, and at times, incompatible land uses, protect places and uses that are deemed to need protection, ensure access to and around structures, natural light, and ventilation, and provide space for landscaping and recreation. Required setbacks from public right-of-way are implemented with additional objectives such as separation from traffic, visibility, and safety.

The Land Development Code has established criteria for approval that should be considered in the decision of a variance petition. Section 2.8.2.4 Criteria for Approval states that in deciding the variance petition, the decision-maker shall apply the following criteria:

(1) There are special circumstances or conditions arising from the physical surroundings, shape, topography or other feature affecting the land subject to the variance petition, such that the strict application of the provisions of this Land Development Code to the development application would create an unnecessary hardship or inequity upon or for the petitioner, as distinguished from a mere inconvenience, in developing the land or deprive the petitioner of the reasonable and beneficial use of the land;
a. There is a special circumstance in that the lot is tapered, irregularly shaped, and does not meet the minimum lot width and area standards for SF-6 zoned lots. The nonconforming lot is approximately 37' wide in the front, 25' wide in the back, and approximately 110' long for a total of 3,386 square feet. The minimum lot width for SF-6 zoned lots is 50' and the minimum lot area is 6,000 square feet.

(2) The circumstances causing the hardship do not similarly affect all or most properties in the vicinity of the petitioner's land;
   a. The circumstances do similarly affect the adjacent lots in that they do not meet SF-6 minimum width and area standards. There are 6 similarly shaped corner lots along Knox Street in this subdivision. Four of the six similarly platted properties have structures that have been constructed across the adjacent interior lot line providing more buildable area. Only one of the similarly shaped properties along Knox Street has a structure that meets setback requirements and the lot is significantly larger than the subject property.

(3) The variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner;
   a. The variance is not necessary for the preservation and enjoyment of the property which is entitled for single family detached residential use. The property’s setback requirements allow, at maximum, for the construction of a home approximately 15’ wide in the front, 8’ wide in the rear, with 720 square feet of floor area, and up to 2 stories or 40 feet in height.

(4) Granting the variance petition will not be detrimental of the public health, safety or welfare, or injurious to other property within the area;
   a. Staff finds that granting the variance request will not be detrimental of the public health, safety or welfare, or injurious to other property within the area.

(5) Granting the variance petition will not have the effect of preventing the orderly use and enjoyment of other land within the area in accordance with the provisions of this Code, or adversely affect the rights of owners or residents of surrounding property;
   a. Staff finds that granting the variance request will not prevent the orderly use and enjoyment of other land or adversely affect the rights of owners or residents of surrounding property.

(6) Granting the variance petition is consistent with any special criteria applicable to varying particular standards, as set forth in Chapter 4 through 7 of the San Marcos Development Code;
   a. There are no special criteria. If granted, this request will meet all applicable requirements of the San Marcos Land Development Code.

(7) The hardship or inequity suffered by the petitioner is not caused wholly or in substantial part by the petitioner;
   a. The hardship or inequity was not caused by the petitioner but by the configuration of the lot and current setback requirements.

(8) The request for a variance is not based exclusively on the petitioner’s desire for increased financial gain from the property, or to reduce an existing financial hardship;
   a. The request is based on the petitioner’s desire to develop a single family detached residence on the property which is zoned SF-6.

(9) The degree of variance requested is the minimum amount necessary to meet the needs of the proponent and to meet the conditions of this Section;
   a. The degree is not the minimum amount necessary because the petitioner’s request to construct a home 7’ from the property line adjacent to Knox Street could be a lesser amount. However, this would result in an irregularly shaped and/or significantly smaller home.
If the Board chooses to approve this request, staff recommends a condition that the applicant work with staff to provide up to a 5' easement to accommodate sidewalks and streetscape improvements.

Prepared by:

<table>
<thead>
<tr>
<th>Name</th>
<th>Title</th>
<th>Date</th>
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<tbody>
<tr>
<td>Shavon Caldwell</td>
<td>Planner</td>
<td>June 13, 2019</td>
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</tbody>
</table>
SF-6

SECTION 4.4.1.3  SINGLE FAMILY - 6

GENERAL DESCRIPTION
The SF-6 district is intended to accommodate single family detached houses with a minimum lot size of 6,000 square feet. Characterized by smaller landscaped areas with moderate setbacks and more frequent pedestrian use. Uses that would substantially interfere with the residential nature of the district are not allowed.

DENSITY
- Units Per Gross Acre: 5.5 max.
- Impervious Cover: 50% max.
- Occupancy Restrictions: Section 5.1.4.1

TRANSPORTATION
- Block Perimeter: 3,000 ft. max. Section 3.6.2.1
- Streetscape Type: Residential Section 3.8.1.10
- Sidewalks are not required for lots greater than 1 acre

BUILDING TYPES ALLOWED
- Accessory Dwelling: Section 4.4.6.1
- House: Section 4.4.6.2
- Cottage: Section 4.4.6.3
- Civic: Section 4.4.6.15
### Building Standards

<table>
<thead>
<tr>
<th> </th>
<th>Building Height</th>
<th>Lot Height</th>
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</thead>
<tbody>
<tr>
<td>Principle Building Height</td>
<td>2 stories max.</td>
<td>35 ft. max.</td>
</tr>
<tr>
<td>Accessory Structure Height</td>
<td>N/A</td>
<td>24 ft. max.</td>
</tr>
</tbody>
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### Lot

<table>
<thead>
<tr>
<th>Building Type</th>
<th>Lot Area</th>
<th>Lot Width</th>
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</thead>
<tbody>
<tr>
<td>House</td>
<td>6,000 sq. ft. min.</td>
<td>50 ft min.</td>
</tr>
<tr>
<td>Cottage</td>
<td>6,000 sq. ft. min.</td>
<td>50 ft min.</td>
</tr>
<tr>
<td>Civic</td>
<td>6,000 sq. ft. min.</td>
<td>50 ft min.</td>
</tr>
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### Setbacks - Principal Building

<table>
<thead>
<tr>
<th>Setback</th>
<th>Minimum Setback</th>
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<tbody>
<tr>
<td>Primary Street</td>
<td>25 ft. min.</td>
</tr>
<tr>
<td>Secondary Street</td>
<td>15 ft. min.</td>
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<tr>
<td>Side</td>
<td>5 ft. min.</td>
</tr>
<tr>
<td>Rear</td>
<td>20 ft. min.</td>
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### Setbacks - Accessory Structure

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<tr>
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</tr>
<tr>
<td>Rear</td>
<td>5 ft. min.</td>
</tr>
</tbody>
</table>
Lot Area - 3,386 square feet
Setback Area - ~720 square feet
Proposed Ground Floor Area - 975 square feet
VR-19-03
Exhibit C-Victory Gardens Second Section, Knox Street Corner Lots

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

Map Date: 6/5/2019
VR-19-03
Exhibit D-Site Pictures

1) Looking Northeast from Marshall St.

2) Looking North from Marshall St.
VR-19-03
Exhibit D-Site Pictures

3) Looking East from intersection of Marshall and Knox St.

4) Looking Southwest from Knox St.
SUBDIVISION / ZONING VARIANCE APPLICATION

Updated: October, 2018

Case # VR---

CONTACT INFORMATION

<table>
<thead>
<tr>
<th>Applicant's Name</th>
<th>Robert Walch</th>
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<tbody>
<tr>
<td>Applicant's Mailing Address</td>
<td>426 E. Orchard</td>
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<tr>
<td>Applicant's Phone #</td>
<td>512-665-1506</td>
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<tr>
<td>Applicant's Email</td>
<td><a href="mailto:bwalch70@gmail.com">bwalch70@gmail.com</a></td>
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<td>Fredericksburg, TX 78624</td>
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PROPERTY INFORMATION

Subject Property Address: Marshall & Knox

Acres: ___________  Tax ID #: R 46543

Legal Description: Lot 14  Block 33  Subdivision Victory Gardens

Existing Use(s): Vacant

DESCRIPTION OF REQUEST

Variance to Section: Corner Side setback of the Land Development Code, which requires:

15 feet Side setbacks on corners.

Description of proposed variance (additional pages may be used): See drawings

Proposed building of 15' x 65' house, would

Require 1' variance at front and 8' variance at rear

AUTHORIZATION

I certify that the information on this application is complete and accurate. I understand the fees and the process for this application. I understand my responsibility, as the applicant, to be present at meetings regarding this request.

Filing Fee $721  Technology Fee $12  TOTAL COST $733

Submittal of this digital Application shall constitute as acknowledgement and authorization to process this request.

APPLY ONLINE – WWW.MYGOVERNMENTONLINE.ORG/

Planning & Development Services • 630 East Hopkins • San Marcos, Texas 78666 • 512-393-8230
## VARIANCE CONSIDERATIONS
*(Please include additional pages as necessary)*

1) What special circumstances or conditions affect the subject property such that strict application of the provisions of the Land Development Code would create an unnecessary hardship or inequity upon the applicant or would deprive the applicant of the reasonable and beneficial use of the property? **While the lot is larger than most neighboring lots, since it's on a corner, the side setback precludes development.**

2) Do the circumstances or conditions causing the hardship similarly affect all or most of the properties in the vicinity of the subject property? **I don't see other properties similarly affected.**

3) What substantial property right would not be preserved or enjoyed if the provisions of the Land Development Code were literally enforced? **Lot would not be developable without variance.**

4) What effect, if any, would the variance have on the rights of owners or occupants of surrounding property, or on the public health, safety or general welfare? **Minimal. There are trees in setback that have the same effect as the variance.**

5) What effect, if any, would the variance have on the orderly subdivision of other land in the area in accordance with the provisions of the Land Development Code? **If there are other lots with similar dimensions, they could ask for variance, I don't see any such lots.**

6) Is the hardship or inequity suffered by the applicant caused wholly or in substantial part by the property owner or applicant? **The hardship is caused by a desire to develop the property.**

7) To what extent is the request for variance based upon a desire of the owner, occupant or applicant for increase financial gain from the property, or to reduce an existing financial hardship? **I like to do projects, but they need to be financially feasible to undertake.**

8) Is the degree of variance requested the minimum amount necessary to meet the needs of the applicant or property owner? **Yes**

*Note for the Board / Commission:*
The following responses were provided by the applicant and may not be consistent with the Department staff report.
AGREEMENT TO THE PLACEMENT OF NOTIFICATION SIGNS
AND ACKNOWLEDGEMENT OF NOTIFICATION REQUIREMENTS

The City of San Marcos Development Code requires public notification in the form of notification signs on the subject property, published notice, and/or personal notice based on the type of application presented to the Planning Commission and/or City Council.

- Notification Signs: if required by code, staff shall place notification signs on each street adjacent to the subject property and must be placed in a visible, unobstructed location near the property line. It is unlawful for a person to alter any notification sign, or to remove it while the request is pending. However, any removal or alteration that is beyond the control of the applicant shall not constitute a failure to meet notification requirements. It shall be the responsibility of the applicant to periodically check sign locations to verify that the signs remain in place had not been vandalized or removed. The applicant shall immediately notify the responsible official of any missing or defective signs. It is unlawful for a person to alter any notification sign, or to remove it while the case is pending; however, any removal or alteration that is beyond the control of the applicant shall not constitute a failure to meet notification requirements.

- Published Notice: if required by code, staff shall publish a notice in a newspaper of general circulation in accordance with City Codes and the Texas Local Government Code. If, for any reason, more than one notice is required to be published it may be at the expense of the applicant. The renotification fee shall be $88 plus an $12 technology fee.

- Personal Notice: if required by code, staff shall mail personal notice in accordance with City Codes and the Texas Local Government Code. If, for any reason, more than one notice is required to be mailed it may be at the expense of the applicant. The renotification fee shall be $88 plus a $12 technology fee.

I have read the above statements and agree to the required public notification, as required, based on the attached application. The City’s Planning and Development Services Department staff has my permission to place signs, as required, on the property and I will notify City staff if the sign(s) is/are damaged, moved or removed. I understand the process of notification and public hearing and hereby submit the attached application for review by the City.

Signature: Robert J. Walsh
Date: 5/8/19
Print Name: Robert J. Walsh
Why I need the side setback variance. The lot is virtually not developable without the variance. I will have to back out of purchase without the variance.

Most of the lots in the neighborhood are smaller (roughly 25'x100'). My lot is roughly 38'x110 but narrows down to 25 in the back. Because of the narrow rear line, a variance is needed in order to use the lot.

I enjoy building houses and have built 4 houses on the back side of this block (1104, 1106, 1108+1110 Jones). The neighbors seem to appreciate the addition to the neighborhood and I would like to do the same 15'x65' house on Marshall street.

Sincerely,

Bob Walsh