



**CITY OF ROLLINGWOOD  
BOARD OF ADJUSTMENT MEETING  
AGENDA**

**Monday, April 15, 2024**

Notice is hereby given that the Board of Adjustment of the City of Rollingwood, Texas will hold a meeting, open to the public, in the Municipal Building at 403 Nixon Drive in Rollingwood, Texas on April 15, 2024 at 6:00 PM. Members of the public and the Board of Adjustment may participate in the meeting virtually, as long as a quorum of the Board of Adjustment and the presiding officer are physically present at the Municipal Building, in accordance with the Texas Open Meetings Act. The public may watch this meeting live and have the opportunity to comment via audio devices at the link below. The public may also participate in this meeting by dialing one of the toll-free numbers below and entering the meeting ID and Passcode.

**Link:** <https://us02web.zoom.us/j/5307372193?pwd=QmNUbmZBQ1lwUjNjNmM5RnJreIRFUT09>

**Toll-Free Numbers:** (833) 548-0276 or (833) 548-0282

**Meeting ID:** 530 737 2193

**Password:** 9fryms

The public will be permitted to offer public comments via their audio devices when logged in to the meeting or telephonically by calling in as provided by the agenda and as permitted by the presiding officer during the meeting. If a member of the public is having difficulties accessing the public meeting, they can contact the city at [dadair@rollingwoodtx.gov](mailto:dadair@rollingwoodtx.gov). Written questions or comments may be submitted up to two hours before the meeting. A video recording of the meeting will be made and will be posted to the City's website and available to the public in accordance with the Texas Public Information Act upon written request.

**CALL BOARD OF ADJUSTMENT MEETING TO ORDER**

1. Roll Call

**PUBLIC COMMENTS**

Citizens wishing to address the Board of Adjustment for items not on the agenda will be received at this time. Please limit comments to 3 minutes. In accordance with the Open Meetings Act, the Board of Adjustment is restricted from discussing or taking action on items not listed on the agenda.

Citizens who wish to address the Board of Adjustment with regard to matters on the agenda will be received at the time the item is considered.

**CONSENT AGENDA**

All Consent Agenda items listed are considered to be routine by the Board of Adjustment and may be enacted by one (1) motion. There will be no separate discussion of Consent Agenda items unless a Board Member has requested that the item be discussed, in which case the item will be removed from the Consent Agenda and considered in its normal sequence on the Regular Agenda.

- 2. Discussion and possible action on the minutes from the January 11, 2023 Board of Adjustment meeting

**REGULAR AGENDA**

- 3. Discussion and possible action to elect a Chair of the Board of Adjustment
- 4. Discussion and possible action on amendments to the Board of Adjustment Rules of Procedure

**PUBLIC HEARING**

- 5. Public hearing, discussion, and possible action on a request for a variance under Section 107-492 of the City's Code of Ordinances to reduce the depth of the rear yard from 20 feet to 10 feet at 2409 Vance Lane in order to construct an accessible bathroom and bedroom on the first floor of the main structure and construct a pool
- 6. Public hearing, discussion, and possible action on a request for a special exception under Section 107-491(a)(1) of the City's Code of Ordinances to permit the reconstruction of a non-conforming driveway at 3220 Park Hills Drive

**ADJOURNMENT OF MEETING**

**CERTIFICATION OF POSTING**

I hereby certify that the above Notice of Meeting was posted on the bulletin board at the Rollingwood Municipal Building, in Rollingwood, Texas and to the City website at [www.rollingwoodtx.gov](http://www.rollingwoodtx.gov) at **9:00 AM** on **April 9, 2024**.

*Desiree Adair*  
\_\_\_\_\_  
Desiree Adair, City Secretary

NOTICE -  
The City of Rollingwood is committed to compliance with the Americans with Disabilities Act. Reasonable modifications and equal access to communications will be provided upon request. Please contact the City Secretary, at (512) 327-1838 for information. Hearing-impaired or speech-disabled persons equipped with telecommunication devices for the deaf may call (512) 272-9116 or may utilize the stateside Relay Texas Program at 1-800-735-2988.

The Board of Adjustment will announce that it will go into executive session, if necessary, to deliberate any matter listed on this agenda for which an exception to open meetings requirements permits such closed deliberation, including but not limited to consultation with the city's attorney(s) pursuant to Texas Government Code section 551.071, as announced at the time of the closed session.

Consultation with legal counsel pursuant to section 551.071 of the Texas Government Code;  
discussion of personnel matters pursuant to section 551.074 of the Texas Government Code;  
real estate acquisition pursuant to section 551.072 of the Texas Government Code;  
prospective gifts pursuant to section 551.073 of the Texas Government Code;  
security personnel and device pursuant to section 551.076 of the Texas Government Code;

and/or economic development pursuant to section 551.087 of the Texas Government Code.  
Action, if any, will be taken in open session.



## **CITY OF ROLLINGWOOD BOARD OF ADJUSTMENT MEETING MINUTES**

**Wednesday, January 11, 2023**

The Board of Adjustment of the City of Rollingwood, Texas held a meeting, open to the public, in the Municipal Building at 403 Nixon Drive in Rollingwood, Texas on January 11, 2023. Members of the public and the Board of Adjustment were able to participate in the meeting virtually, as long as a quorum of the Board of Adjustment and the presiding officer were physically present at the Municipal Building, in accordance with the Texas Open Meetings Act. A video recording of the meeting was made and will be posted to the City's website and is available to the public in accordance with the Texas Public Information Act upon written request.

### **CALL BOARD OF ADJUSTMENT MEETING TO ORDER**

1. Roll call

**Chair Brad O'Donnell called the meeting to order at 6:00 p.m.**

**Present Members:** Robert Turner, Kevin Schell, Keith Martinson, Gerald Speitel, and Chair Brad O'Donnell.

**Also Present:** City Administrator Ashley Wayman, City Attorney Charles Zech, Mayor Pro Tem Sara Hutson, Council Member Brook Brown, Council Member Phil McDuffee, Development Services Manager Nikki Dykes, and City Secretary Desiree Adair.

### **PUBLIC COMMENTS**

There were no public comments.

### **CONSENT AGENDA**

All Consent Agenda items listed are considered to be routine by the Board of Adjustment and may be enacted by one (1) motion. There will be no separate discussion of Consent Agenda items unless a Board Member has requested that the item be discussed, in which case the item will be removed from the Consent Agenda and considered in its normal sequence on the Regular Agenda.

2. Discussion and possible action on the minutes from the October 26, 2022 Board of Adjustment meeting

**Chair Brad O'Donnell moved to approve the minutes. Keith Martinson seconded the motion. The motion carried with 5 in favor and 0 against.**

**REGULAR AGENDA**

- 3. Public hearing, discussion, and possible action on a request for special exception under the City's Code of Ordinances, Section 107-491(a)(2), to permit the enlargement and expansion of the nonconforming tennis courts at the Western Hills Athletic Club located at 4801 Rollingwood Drive

Robert Turner asked questions about the decision to have a Public Hearing. City Attorney Charles Zech answered the questions.

Chair Brad O'Donnell explained that this is a continuation of the previous Public Hearing and explained the topics, meeting rules, and the granting of a special exception.

**Chair Brad O'Donnell opened the Public Hearing at 6:12 p.m.**

Duncan Ashworth, 2910 Hatley Drive, made a presentation regarding the application for special exception and its implications.

Anne Turner, 301 Almarion Drive, spoke regarding the WHAC, pickleball, and the lack of enforcement of rules.

Sara Hutson, 2805 Rock Way, spoke regarding council members' ability to be present and speak at board and commission meetings. She discussed the proposed plans, the lack of benefit to the City, and the impacts to residents around the pool.

Kent Metschan, 3504 Peregrine Falcon Drive in Westlake Hills, spoke regarding pickleball noise reduction options.

**Chair Brad O'Donnell closed the Public Hearing at 6:28 p.m.**

Zach Elkins, 16 N Peak Road and member of the Western Hills Athletic Club (WHAC) board, presented for the applicant. He discussed the history of this application, pickleball noise tests and accommodations, member and community outreach, existing structures, original proposed design, an alternative design, a design with California corners, the revised proposed design, and design enhancements. He spoke regarding the percentage of Rollingwood residents that belong to the WHAC.

Brian Nash, 4 Chris Cove, spoke regarding setback concerns and Section 107-491 Special Exceptions defined in the Code.

Marie Timmerman, 501 Vale and member of the WHAC, spoke regarding the challenging process and the history of the WHAC's permit application.

Brook Brown requested that the record reflect that she would like to make a comment but was denied the opportunity to do so.

Chair Brad O'Donnell and the BOA asked the designer why the 2 new courts couldn't move further south and completely out of the setbacks. David Cazares, MWM Design Group, answered with reasons including overall construction cost, space issues, and tree removal.

The Board of Adjustment asked questions including setback encroachment of the new design and drainage issues with moving the courts further south. The Board discussed the presentation and the application and options regarding drainage including detention pond and release rate.

Zach Elkins spoke regarding water detention and release and how they would be happy to explore that option.

The Board of Adjustment discussed impervious cover and rainwater harvesting. They continued to discuss section 107-491 (c) Special Exceptions, the reduction of the existing encroachment, and conditions that could be imposed for approval.

City Attorney Charles Zech interjected that the motion needs to be very specific with respect to conditions.

Kevin Schell commented on the WHAC dues letter and survey of the members.

City Attorney Charles Zech interjected regarding the welfare of the community.

The Board of Adjustment discussed the relevant issues associated with the property.

Marie Timmerman spoke regarding the adjacent neighbors and a letter that they wrote.

Zach Elkins commented regarding neighbor letters and coordination with the WHAC on landscaping and drainage impact.

Brook Brown, 307 Nixon Drive, spoke regarding new evidence presented by the applicant – the claim of less encroachment and the consideration of doing specific things.

City Secretary Desiree Adair explained when the applicant’s presentation was placed in the packet.

City Attorney Charles Zech explained the details of a special exception and the nature of a quasi-judicial body.

Chair Brad O’Donnell proposed conditions for approval.

Mr. Elkins answered questions from Kevin Schell regarding decreasing the distance from the baseline to the fence.

Jenny Hill, of the WHAC board, spoke regarding the land and the trees in the setback.

The Board of Adjustment asked questions of designer David Cazares regarding the drawings provided to the Board. Chair Brad O’Donnell discussed the possibility of adding the condition that site discharge must be reduced by an additional 5% from current discharge rates.

City Attorney Charles Zech reviewed the three affirmative findings needed for a special exception.

Chair Brad O’Donnell moved to approve the special exception as presented under regular agenda item number 3 after having found that:

- 1) The Board of Adjustment is empowered under Chapter 107 of the City’s Code of Ordinances to grant the special exception, also that
- 2) The public convenience and welfare will not be substantially or permanently injured in the granting of the special exception, and
- 3) The granting of the special exception will not adversely affect the public health, convenience, safety or general welfare,

with the added stipulations that the final permitted court layout must follow the proposed courts with California corners as layed out on page 27 of this meeting’s agenda packet, also known as Impervious Cover Calculation Fence and Tree plan, drawn by MWM Design Group. Further, proposed site stormwater runoff must be reduced by 5% of its current existing as built conditions. Robert Turner seconded the motion.

The Board of Adjustment discussed future precedent and benefits to the City.

Robert Turner	Yes
Kevin Schell	No
Keith Martinson	Yes
Gerald Speitel	Yes
Brad O’Donnell	Yes

The motion carried with 4 in favor and 1 against.

**ADJOURNMENT OF MEETING**

Chair Brad O’Donnell adjourned the meeting at 8:20 p.m.

Minutes Adopted on the \_\_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Brad O’Donnell, Chair

ATTEST:

\_\_\_\_\_  
Desiree Adair, City Secretary

**AGENDA ITEM SUMMARY SHEET**  
**City of Rollingwood - Board of Adjustment Meeting**  
**Meeting Date: April 15, 2024**

**Submitted By:**

Staff

**Agenda Item:**

Discussion and possible action on amendments to the Board of Adjustment Rules of Procedure

**Description:**

At the June 21, 2023 City Council Meeting, the City Council made the motion to **amend the ordinance creating the board of adjustment to require that all persons presenting testimony at a BOA hearing be sworn, and ask that the BOA add that requirement to their rules of procedure.**

An ordinance was brought back to City Council in July and was approved. Below is the amended code section referring to the requirement that a person be sworn-in before giving testimony at a BOA meeting or hearing:

Sec. 107-489. - Rules and regulations.

- (a) The board shall adopt rules necessary to the conduct of its affairs and shall furnish a copy of such rules to the building official. Rules adopted by the board shall be consistent with the provisions of this division.
- (b) All orders and other enactments adopted by the board shall be in accordance with its rules and regulations.
- (c) The board 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 examinations and other official actions, all of which shall be promptly filed in the office of the board and shall be a public record. The office of the board shall be the office of the city administrator where such records shall repose.
- (d) The concurring vote of four members of the board shall be necessary to reverse any order, requirement, decision or determination of the building official or to decide in favor of the applicant on any matter upon which the board is required to pass under this chapter.
- (e) A person who gives evidence and/or testifies before the board of adjustment in any proceeding or meeting held by the board, shall be properly and duly sworn in and placed under oath by the presiding officer prior to presenting any testimony or evidence before the board in accordance with Texas Local Government Code Sec. 211.008(e).



The proposed version of the Board of Adjustment Rules of Procedure attached make the rules consistent with the city's Code of Ordinances.

**Action Requested:**

To approve the request from City Council to amend the Board of Adjustment Rules of Procedure as presented.

**Fiscal Impacts:**

No significant fiscal impacts anticipated at this time.

**Attachments:**

- Ordinance 2023-07-19-16 amending code to add swearing-in requirement
- BOA Rules of Procedure with Proposed Amendments

**ORDINANCE NO. 2023-07-19-16**

**AN ORDINANCE OF THE CITY OF ROLLINGWOOD, TEXAS, AMENDING PART II, CHAPTER 107, ARTICLE V, DIVISION III, SECTION 107-489 TO ADD SUBSECTION (e) OF THE CITY OF ROLLINGWOOD CODE OF ORDINANCES, AS AMENDED, BY ADDING LANGUAGE TO INCLUDE THAT ANY WITNESS BEFORE THE BOARD OF ADJUSTMENT MUST BE DULY SWORN IN AND PLACED UNDER OATH BY THE PRESIDING OFFICER, BEFORE PRESENTING ANY TESTIMONY OR EVIDENCE BEFORE THE BOARD, PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Rollingwood, Texas (“City”) observes under the current language provided in Article IV, Division I titled “Boards and Commissions” does not include language mandating witnesses before the Board of Adjustment be sworn in and placed under oath before presenting testimony or evidence; and

**WHEREAS**, the City has deemed it necessary for the purposes of record keeping, good order, and legal protection of the City, that any and all witness before the Board of Adjustment who may testify or present evidence in any matter before the Board be duly sworn in and placed under oath prior to presentation of testimony or evidence before the Board; and

**WHEREAS**, the City having determined that the weight of testimony of witnesses under oath before the Board may provide evidence, proper records, and legal protections for the City in future legal proceedings or review of Board of Adjustment actions or procedures;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROLLINGWOOD, TEXAS:**

**SECTION 1.** The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

**SECTION 2.** The City Council finds:

That it is in the best interest of the City to have any and all witnesses testifying before the Board of Adjustment to be duly sworn in and placed under oath by the presiding officer prior to any testimony or the presentation of any evidence to the Board for any purposes.

**SECTION 3:** The City Council hereby amends Part II, Chapter 107, Article V, Division III, Sec 107-489 of the City's Code of Ordinances to read as follows, with added language being underlined:

**Sec. 107-489. - Rules and regulations.**

(a) The board shall adopt rules necessary to the conduct of its affairs and shall furnish a copy of such rules to the building official. Rules adopted by the board shall be consistent with the provisions of this division.

(b) All orders and other enactments adopted by the board shall be in accordance with its rules and regulations.

(c) The board 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 examinations and other official actions, all of which shall be promptly filed in the office of the board and shall be a public record. The office of the board shall be the office of the city administrator where such records shall repose.

(d) The concurring vote of four members of the board shall be necessary to reverse any order, requirement, decision or determination of the building official or to decide in favor of the applicant on any matter upon which the board is required to pass under this chapter

(e) A person who gives evidence and/or testifies before the Board of Adjustment in any proceeding or meeting held by the Board, shall be properly and duly sworn in and placed under oath by the presiding officer prior to presenting any testimony or evidence before the board in accordance with Texas Local Government Code Sec. 211.008(e).

**SECTION 4.** Cumulative and Repealer Clause. This ordinance shall be cumulative of all other ordinances of the City and shall not operate to repeal or affect any other ordinances of the City except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this Ordinance, in which event such conflicting provisions, if any, are hereby repealed to the extent of such conflict.

**SECTION 5.** Severability Clause. The sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or

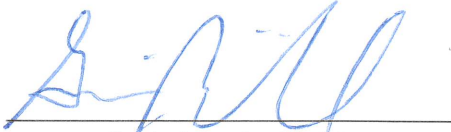
section of this Ordinance shall be declared unconstitutional or invalid, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional or invalid phrase, clause, sentence, paragraph or section.

**SECTION 6.** Effective Date. That this Ordinance will become effective on its adoption and passage by the City Council.

PASSED AND APPROVED this 19th day of July, 2023.

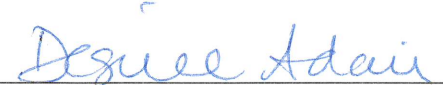
CITY OF ROLLINGWOOD,  
TEXAS

by:



Gavin Massingill, Mayor

ATTEST:



Desiree Adair, City Secretary

## Rollingwood Zoning Board of Adjustment

## Rules of Procedure.

- 1) Preface. The Rollingwood Board of Adjustment (the “Board”) is appointed by the Mayor and confirmed by the City Council to fulfill the duties prescribed in Texas Local Government Code Sections 211.008 through 221.011 and Part II Land Development Code, Article V. – Administration and Enforcement, Division 3. – Board of Adjustment of the City’s Code of Ordinances. In the event of a conflict between these rules and the applicable statutory authority or city code, the statute or code shall prevail.
- 2) Purpose and scope. These rules of procedure shall govern the operations of the Board in conducting the business authorized by state statute and the city code, which includes deciding appeals of administrative decisions and/or interpretations made in the enforcement of the City’s zoning regulations (“appeal”); authorizing variances from the City’s zoning regulations in particular cases (“zoning variance”), and deciding special exceptions to the terms of the City’s regulations (“special exception”).
- 3) Election of officers.
  - a. The Board shall consist of five regular members and four alternates.
  - b. Members of the City Council or Planning and Zoning Commission are not eligible for appointment to the Board.
  - c. The officer of the Board shall be a chairperson. There is no limit on the number of terms an officer may serve. The chairperson shall serve for a term of 1 year, commencing on January 1 and ending on December 31, except that upon expiration of the term the chairperson shall continue to serve until his or her successor is elected.
  - d. At the first meeting of the board following January 1 of each year, the chairperson shall ask for nominations for chairperson and close the nominations after all members have had an opportunity make a nomination. If there is only one nominee, the nominee shall be appointed unless an objection is raised, and the objection is supported by a majority of the members. If there are multiple nominees, the vote shall be by written ballot; and by runoff ballot in the case of a tie between two or more nominees or other means approved by the Board.
- 4) Presiding Officer and Secretary. The Chairperson shall preside over all meetings of the Board. If a question over meeting procedures shall arise, Robert’s Rules of Order, Newly Revised, shall apply. The City Secretary shall serve as Secretary to the Board.
- 5) Minutes and Records. The minutes of each proceeding shall indicate the vote of each member on each question or the fact that a member is absent or fails to vote. The Board shall keep records of its examinations and other official actions. These minutes and records shall be prepared as soon as practicable after each meeting and upon approval by the Board shall be filed immediately in the Office of the City Secretary, which shall serve as the office of the Board.

- 6) Meetings. Meetings shall be convened as necessary to hear appeals or consider variances and special exceptions as filed. All meetings shall be open to the public.
- 7) Voting. The concurring vote of at least 75% of the members of Board is required (i) on an appeal to reverse an order, requirement, decision or determination of an administrative officer; (ii) to decide in favor of an applicant on a matter on which the board is required to pass under a zoning ordinance; (iii) to authorize a zoning variance from the terms of the zoning ordinance; or (iv) to hear and decide on special exceptions to this chapter. The concurring vote of a majority of the members of the Board is required to approve any other matter. All votes shall be by roll call.

8) Application forms. An application for an appeal of an order, requirement, determination, or decision of an administrative official, special exception, or variance shall be submitted on a form approved by the City. An application shall include all evidence the applicant intends to submit in support of the requested action. The application shall include the appropriate fee as set out in the City's fee schedule.

8)9) Oaths and sworn testimony. A person who gives evidence and/or testifies before the board in any proceeding or meeting held by the board, shall be properly and duly sworn in and placed under oath by the presiding officer prior to presenting any testimony or evidence before the board in accordance with Texas Local Government Code Sec. 211.008(e).

9)10) Hearing required. The Board shall hold a hearing on an administrative appeal, special exception, or a variance. These hearings should generally adhere to the following format, but the Board may modify the format for particular cases as deemed appropriate:

- a. Standing to Submit an Application & Requests for Postponement.
  1. The chair should begin by stating: "Before we open the hearing, are there any requests for postponement or issues of standing that anyone would like to raise?"
  2. If objections to standing (which include issues of timeliness, jurisdiction, or ripeness) or requests for postponement are raised, the chair should resolve them before proceeding to the hearing. The chair should limit testimony and discussion to only those issues, not the merits of the case. If no objections are raised, the chair should open the hearing and follow the format below.
- b. Presentation by staff. Time limit 20 minutes.
- c. Presentation by applicant. Time limit 20 minutes
- d. Neighboring Party. Comments by any neighboring party which is located within 250 feet of the subject property in support of or in opposition to the application. Time limit of 10 minutes each.
- e. Interested Party. Comments by Interested Parties in support of or in opposition to the application (3 minutes each), subject to reasonable limits imposed by chair to save time and avoid redundant or irrelevant testimony.
- f. Rebuttal by applicant. Time limit 10 minutes.

- g. Rebuttal by staff. Time limit 10 minutes.
- h. After the close of the presentations, Members may ask questions of the applicant, staff, Neighboring parties, or Interested Parties. There shall be no time limit for members' questions.
- i. By majority vote of the Board additional time may be given for the hearing of testimony.

~~10~~11) Deliberation, Voting and Findings.

- a. Board Deliberation. At the close of the hearing the chairperson may call for deliberation of the Board on the question. During deliberation a board member may call upon any staff, the applicant, Interested Parties, or other individuals the board deems also have relevance to the case for further questioning.
- b. Disposition.
  - i. Administrative Appeal. Please refer to Part II Land Development Code, Article V. – Administration and Enforcement, Division 3. – Board of Adjustment of the City's Code of Ordinances for regulations regarding Administrative Appeals.
  - ii. Zoning Variance. Please refer to Part II Land Development Code, Article V. – Administration and Enforcement, Division 3. – Board of Adjustment of the City's Code of Ordinances for regulations regarding Zoning Variances.
  - iii. Special Exceptions. Please refer to Part II Land Development Code, Article V. – Administration and Enforcement, Division 3. – Board of Adjustment of the City's Code of Ordinances for regulations regarding Special Exceptions.
  - iv. The Board may defer action on an application, for not more than the time frame allowed by law, if it concludes additional evidence is needed, alternative solutions require further examination, or the evidence presented requires further review.
  - v. The Board may dismiss or postpone consideration of an application if it is found the matter was improperly filed.

~~11~~12) Board Decisions.

- a. The Board shall make a decision on each appeal, request for a variance or application for a special exception. The Board may make such order, requirement, decision or determination as, in its opinion, ought to be made under the circumstances on such appeal, request or application.
- b. The Boards decisions shall be recorded by order, signed by the Presiding Officer, on a form as approved by the Board.
- c. A Board decision is considered filed in its office upon execution of an order on the matter by the Presiding Officer. The order will be filed on a form as approved by the Board.

~~12~~13) Prohibition on Ex Parte Communications.

- a. Quasi-Judicial Body. The Board is a quasi-judicial body with authority to decide the rights of individual parties, subject to the requirements of state law and the City's code of ordinances. In deference to its decision-making role, no one other than City staff may contact a board member outside of a hearing regarding a matter that is pending, or may in the future be pending, before the Board. All communications directed to a Board member outside of a hearing should be directed to the City Secretary.
  - b. Limitations on Outside Investigations. Members shall not individually investigate cases before the Board, other than routine site visits or reviewing publicly available information.
  - c. Disqualification. A Board member that receives material information regarding a case other than the publicly filed documents and presentation at the hearing is disqualified from participating in the case unless the member publicly discloses the information and its source at the earliest reasonable opportunity. A Board member may disqualify him or herself if an applicant, interested party, or agent has sought to influence the member's vote other than in a hearing.
- 14) Limitations on Authority of Zoning Board of Adjustment:
- a. The Board may not grant a variance authorizing a use other than those permitted in the district for which the variance is sought.
  - b. The Board shall have no power to grant or modify Special Use Permits.
  - c. The Board shall have no power to grant a zoning amendment. If a written request for a zoning amendment is pending before the Planning and Zoning Commission or the City Council, the Board shall neither hear nor grant any variances with respect to the subject property until final disposition of the zoning amendment.
  - d. The Board shall not grant a variance for any parcel of property or portion thereof upon which a site plan, preliminary plat or final plat, where required, is pending on the agenda of the commission and, where applicable, by the City Council. All administrative and procedural remedies available to the applicant shall have been exhausted prior to hearing by the Board.





VARIANCE & SPECIAL EXCEPTION REQUEST APPLICATION

Request Type (please check one) [X] Variance [ ] Special Exception
2409 Vance Lane Austin, TX 78746 Residential

Property Address \_\_\_\_\_ Zoning \_\_\_\_\_

Legal Description: Lot 1 Block C Subdivision Rollingwood Section 1

Owner of Structure Erica & Kurt Lanzavecchia
2409 Vance Lane Austin TX 78746

Address \_\_\_\_\_ City/State/Zip \_\_\_\_\_
415-577-9209 ericalanza@gmail.com

Telephone \_\_\_\_\_ Cell \_\_\_\_\_ Email \_\_\_\_\_

Owner of Ground if different from above

Address \_\_\_\_\_ City/State/Zip \_\_\_\_\_

Telephone \_\_\_\_\_ Cell \_\_\_\_\_ Email \_\_\_\_\_

Authorized Agent if applicable Carina Coel, Restructure Studio
7500 Ladle Lane Austin, TX 78749

Address \_\_\_\_\_ City/State/Zip \_\_\_\_\_
512-689-6684 carina@restructurestudio.com

Telephone \_\_\_\_\_ Cell \_\_\_\_\_ Email \_\_\_\_\_

Explain request:

Request for a variance to reduce the rear yard setback on the property

from 20' to 10'.
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_



Cite ordinance applicable to request:

Citing Sec 107-492 Variance, seeking a variance to:

Sec 107-76 (d) Minimum required depth and width of yards

**\*\* A letter addressed to the Board of Adjustment Chair, signed by the property owner and explain the variance or special exception request and addressing all criteria contained in the City's ordinance (Sec.107-491 or Sec.107-492) is required (see Application Checklist)\*\***

**OWNER CERTIFICATION**

Application is hereby made to the City of Rollingwood Board of Adjustment to request a variance or special exception as outlined above, and as contained in attachments to this application, and to request public hearing on this variance request at 403 Nixon Drive in Rollingwood, TX, on the date as set by the Board.

I agree to attend such hearing to represent this variance or special exception request and respond to the Board's questions or requests for additional information and documentation. If I am not able to attend the hearing, I will appoint an agent to represent me at the hearing and will submit to the City prior to the hearing written authorization for that agent.

I certify that this requested variance or special exception is in full conformity with and not contrary to any deed restrictions associated with my property listed herein. I DO SOLEMNLY SWEAR that to the best of my knowledge the above statements concerning this application are true and correct, and the undersigned has reviewed, understands and approves the request as stated.

DocuSigned by:  
*Erica Lanzavecchia*  
A678284565814F3... (Signature)

Erica Lanzavecchia  
\_\_\_\_\_  
(Printed Name)

3/8/2024  
Date \_\_\_\_\_ Telephone 4155779209

ericalanza@gmail.com  
Email \_\_\_\_\_



ADDRESS \_\_\_\_\_ DATE RECEIVED \_\_\_\_\_

### APPLICATION CHECKLIST

- Variances: A letter addressed to the Board of Adjustment Chair, signed by the property owner and requesting the desired variance in the City's Ordinances and addressing all criteria contained in the attached ordinance, specifically 107-492 Variances.
- Special Exceptions: A letter addressed to the Board of Adjustment Chair, signed by the property owner and requesting the desired special exception in the City's Ordinances and addressing all criteria contained in the attached ordinance, specifically 107-491 Special Exceptions.
- Completed and signed Variance & Special Exception Request Application
- Survey with Metes & Bounds Description if property is not platted
- Deed and deed restrictions
- Agent authorization letter if applicable
- 11" by 17" Site Plan drawn to scale showing existing and proposed improvements
- Digital copy in .pdf format of entire application submission (application, checklist, exhibits, etc.) via email

#### 107-491 Special Exceptions

(a) The board may, in a specific case, where the board makes the findings required under subsection (c) herein, grant the following special exceptions from the requirements of this division:

- (1) Permit the reconstruction of a nonconforming building or structure that has been damaged by fire or other cause;
- (2) Permit the enlargement or extension of a nonconforming use or nonconforming building upon the lot occupied by such use or building at the time of the passage of this division;
- (3) In undeveloped sections of the city, grant temporary and conditional permits for not more than two years, provided that the grant of a temporary or conditional permit shall not be reason or cause for extension of such permit;
- (4) Permit such modifications of yard, open space, lot area, or lot width regulations as may be necessary to improve a parcel of land, if the parcel is of such restricted size that it cannot be appropriately improved without such modification; or



(5) Permit a public utility or public service building of a ground area or height at variance with those provided for the district in which such public utility or public service building is permitted to be located, when found reasonably necessary for the public health, convenience, safety or general welfare.

(b) The board may grant such other special exceptions as may be provided for elsewhere in this division, subject to the terms and conditions therein set out.

(c) Prior to granting a special exception, the board shall make a finding that it is empowered under this chapter to grant the special exception, that the public convenience and welfare will not be substantially or permanently injured in the granting of the special exception, and that the grant of the special exception will

not adversely affect the public health, convenience, safety or general welfare.

(d) In granting a special exception, the board may prescribe appropriate conditions and safeguards in conformity with this division.

(e) The board shall prescribe a time limit within which the action for which the special exception is required shall be begun or completed, or both. Failure to comply with the time limits set by the board shall void the special exception.

(Ord. No. [2022-01-19-03](#), § 2(Exh. A), 1-19-2022)

## 107-492 Variances

a) The board may authorize upon appeal, in specific cases, such variances from the terms of this chapter, where the board finds that the variance 1) will not be contrary to the public interest, 2) where, owing to special conditions, literal enforcement of the provisions of this chapter will result in unnecessary hardship, and 3) the spirit of this chapter will be observed and substantial justice done.

(b) Prior to granting a variance in a zoning district other than a residential district, the board must find, in concert with the findings required in subsection (a), that:

(1) The variance is the minimum variance necessary to alleviate the unnecessary hardship;

(2) Granting the variance will be in harmony with the general purpose and intent of this chapter and will not be injurious to adjoining properties or the neighborhood, or be otherwise detrimental to the public welfare;

(3) The special conditions with respect to which a variance is sought are not the result of an action of the applicant;

(4) If applicable, there is sufficient water and wastewater capacity and fire service available to serve the applicant's land as developed under the variance without detriment to the other property within the city; and

(5) Granting the variance will not merely serve as a convenience to the applicant but will alleviate some demonstrable and unnecessary hardship which is created by the literal enforcement of the provisions of this chapter.



(c) Prior to granting a variance in a residential district, in concert with the findings required in subsection (a), the board must find that:

- (1) A special individual reason makes the literal enforcement of this chapter result in an unnecessary hardship;
- (2) Granting the variance will be in harmony with the general purpose and intent of this chapter and will not be injurious to adjoining properties or the neighborhood, or be otherwise detrimental to the public welfare;
- (3) The granting of the variance will not be detrimental to the public health, safety, or welfare or injurious to the property in the area;
- (4) There are special circumstances or conditions such as topography, natural obstructions, aesthetic or environmental considerations affecting the land involved such that the strict application of the provisions of this chapter would impose an unnecessary hardship which is created by the literal enforcement of the provisions of this chapter;
- (5) The granting of the variance will not have the effect of preventing the orderly development of other land in the area in accordance with the provisions of this chapter;
- (6) If applicable, there is sufficient water and wastewater capacity and fire service available to serve the applicant's land as developed under the variance without detriment to the other property within the city; and
- (7) The circumstances or conditions from which relief is sought are not solely of an economic nature.

(d) In granting a variance, the board may prescribe appropriate conditions and safeguards in conformity with this chapter.

(e) In considering a variance as applied to a structure, the board may, in addition to other relevant considerations, consider the following as grounds to determine whether an unnecessary hardship would result from compliance with the ordinance:

- (1) The financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under V.T.C.A., Tax Code, § 26.01;
- (2) Compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development may physically occur;
- (3) Compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement;
- (4) Compliance would result in the unreasonable encroachment on an adjacent property or easement; or
- (5) The municipality considers the structure to be a nonconforming structure.

(Ord. No. [2022-01-19-03](#), § 2(Exh. A), 1-19-2022)



### APPLICATION FILING INSTRUCTIONS

Submit the application, supporting documents detailed in the checklist and filing fee. The City of Rollingwood will invoice the applicant upon receipt of the application. Filings are not considered administratively complete until payment has been received. The City shall accept checks or payments by credit card.

Application Fee - \$300.00

Date: \_\_\_\_\_

Check #: \_\_\_\_\_

Digital Inv #: \_\_\_\_\_

Deliver application packet to:

**THE CITY OF ROLLINGWOOD**  
**Development Services**  
 Phone +1 (512) 327-1838  
 403 Nixon Dr. Rollingwood, TX 78746-5512  
 www.rollingwoodtx.gov  
 Email: [developmentservices@rollingwoodtx.gov](mailto:developmentservices@rollingwoodtx.gov)

## AGENDA ITEM SUMMARY SHEET

### City of Rollingwood

### Board of Adjustment Meeting

April 15, 2024

**Submitted By:**

Staff

**Agenda Item:**

Public hearing, discussion, and possible action on a request for a variance under Section 107-492 of the City's Code of Ordinances to reduce the depth of the rear yard from 20 feet to 10 feet at 2409 Vance Lane in order to construct an accessible bathroom and bedroom on the first floor of the main structure and construct a pool

**Description:**

The applicant is the authorized agent for the property at 2409 Vance Lane and is seeking a variance from Section 107-76 (d) of the City's Code of Ordinances, which states:

Sec. 107-76. – Minimum required depth and width of yards.

(d) The rear yard of each lot shall have a minimum depth of 20 feet...

The applicant explains in their letter to the Board of Adjustment Chair that this Variance request arose from the need to provide an accessible bathroom and bedroom (Guest Suite) on the first floor for an aging parent who cannot climb stairs. They are also looking to add a pool to the property.

2409 Vance Lane abuts 2507 Stratford Drive, which is located in the City of Austin, to the rear.

**Analysis for Considering Approval of a Variance:**

The City's Zoning Code (Chapter 107 of the City's Code of Ordinances) has established criteria for the evaluation of variances to zoning regulations. Section 107-492 (a) of the Zoning Code states the following:

*(a) The board may authorize upon appeal, in specific cases, such variances from the terms of this chapter, where the board finds that the variance 1) will not be contrary to the public interest, 2) where, owing to special conditions, literal enforcement of the provisions of this*

*chapter will result in unnecessary hardship, and 3) the spirit of this chapter will be observed and substantial justice done.*

Section 107-492 (c) of the Zoning Code states the following:

*(c) Prior to granting a variance in a residential district, in concert with the findings required in subsection (a), the board must find that:*

- (1) A special individual reason makes the literal enforcement of this chapter result in an unnecessary hardship;*
- (2) Granting the variance will be in harmony with the general purpose and intent of this chapter and will not be injurious to adjoining properties or the neighborhood, or be otherwise detrimental to the public welfare;*
- (3) The granting of the variance will not be detrimental to the public health, safety, or welfare or injurious to the property in the area;*
- (4) There are special circumstances or conditions such as topography, natural obstructions, aesthetic or environmental considerations affecting the land involved such that the strict application of the provisions of this chapter would impose an unnecessary hardship which is created by the literal enforcement of the provisions of this chapter;*
- (5) The granting of the variance will not have the effect of preventing the orderly development of other land in the area in accordance with the provisions of this chapter;*
- (6) If applicable, there is sufficient water and wastewater capacity and fire service available to serve the applicant's land as developed under the variance without detriment to the other property within the city; and*
- (7) The circumstances or conditions from which relief is sought are not solely of an economic nature.*

The City's Zoning Code has also established the following additional criteria for the evaluation of variances to zoning regulations. Section 107-492(e) of the Zoning Code states the following:

*(e) In considering a variance as applied to a structure, the board may, in addition to other relevant considerations, consider the following as grounds to determine whether an unnecessary hardship would result from compliance with the ordinance:*

- (1) The financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under V.T.C.A., Tax Code, § 26.01;*
- (2) Compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development may physically occur;*



- (3) Compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement;*
- (4) Compliance would result in the unreasonable encroachment on an adjacent property or easement; or*
- (5) The municipality considers the structure to be a nonconforming structure.*

**Requested Action:**

Staff requests that the Board of Adjustment review the facts presented in this case and decide whether to grant the Variance Request.

**Fiscal Impacts:**

N/A

**Attachments:**

BOA Rules of Procedure

Variance Request Application from Applicant

Staff Report

Letter of Request for Variance from Applicant

Exhibits A-D relating to the Letter from Applicant

Existing Survey of 2409 Vance Lane

Proposed Site Plan for 2409 Vance Lane

Notice of BOA Hearing

BOA Finding of Fact Form for a Special Exception

March 1, 2024

Board of Adjustments Chair  
City of Rollingwood  
403 Nixon Drive  
Rollingwood, TX 78746

RE: Variance Request for 2409 Vance Lane

To the City of Rollingwood Board of Adjustment Chair,

We are writing to request a variance to Section 107-76 (d) of the Rollingwood Code of Ordinances, "Minimum required depth and width of yards". We are requesting a reduction of the minimum depth of the rear yard on the property from 20' to 10'. We are making this request under Section 107-492, "Variances".

This Variance request arose from the need to provide an accessible bathroom and bedroom (Guest Suite) for an aging parent who cannot climb stairs. All of the existing bedrooms and full bathrooms in the house are currently on the second floor and can only be accessed by a full straight flight of stairs with no intermediary landings (please see Exhibit A). Therefore, we have found it necessary to make an addition to the first floor of the home to accommodate this accessible Guest Suite.

We have engaged Carina Coel with Restructure Studio to help us determine the best location and layout for the Guest Suite. We are also looking to add a pool to the property. While considering potential locations for this addition, she has reviewed the layout of the existing house and its situation on the property, Rollingwood zoning setbacks, the natural slope of the lot, our desire to have easy access to our backyard and our desire for natural light.

Due to the lot being located on a street corner, we have 30' setbacks on the two street sides of the property which take up a significant portion of the lot. Per Carina's review, she has recommended that the only space available on the property for an addition large enough for a Guest Suite is the back yard. Our living room is located in the Eastern corner of the home, which is adjacent to the area of highest grade in the back yard and currently the only access point from the main level of the home to the back yard. The only other rooms along the back façade of the home, where an addition could be tied in, are the kitchen, pantry and garage. The garage is split level and can only be accessed by a flight of stairs from the Main level, and therefore would not be a suitable tie-in location for an accessible space (please see Exhibits B1 and B2). The best and only access point to tie in an accessible addition in the back yard would be from the Living Room.

Locating the Guest Suite addition immediately off of the living room would not only severely restrict the natural light for this part of the house, but it would also prevent direct access from the Living Room to the yard itself. Our house is also home to two young children who use the backyard frequently. Therefore it is imperative that we have easy access to the yard, as well as clear sightlines and views from


the kitchen and living room to the backyard (and potential pool), to be able to make sure that the children are safe.


The results of the feasibility study of the property with Restructure Studio indicate that an accessible Guest Suite can be successfully located at the Eastern corner of the lot, connected to the existing home via a Hallway/Gallery space, leaving a reasonable yard and pool area between the existing home and the Guest Suite (see Exhibit C). This will allow the Guest Suite to stay at the same level as the existing home (or provide access via an accessible ramp in the Gallery), while also maintaining access to and a clear view of the yard. However, in order to accommodate a reasonable yard area that will still provide natural light to the Living Room and enough room for a play area and pool, the Guest Suite addition would need to encroach 10' into the 20' rear yard setback of the lot. This due diligence has led us to the request for a Variance to reduce our Rear Yard setback from 20' to 10', in order to accommodate the addition we seek to make to be able to appropriately house our aging parent.

Our property is located at the corner of Vance Lane and Riley Road, and is at the very edge of the City of Rollingwood zoning area (see Exhibit D). The property located directly to the rear of our lot, 2507 Stratford Dr, is zoned for the City of Austin. This means that our neighbors to the rear of our lot already have a 10' rear yard setback per City of Austin zoning. Reducing our rear yard setback to 10' would not be injurious to the adjoining property, as it would match the conditions that they already have.

Thank you for your consideration of our Variance request. We look forward to answering any questions you may have.

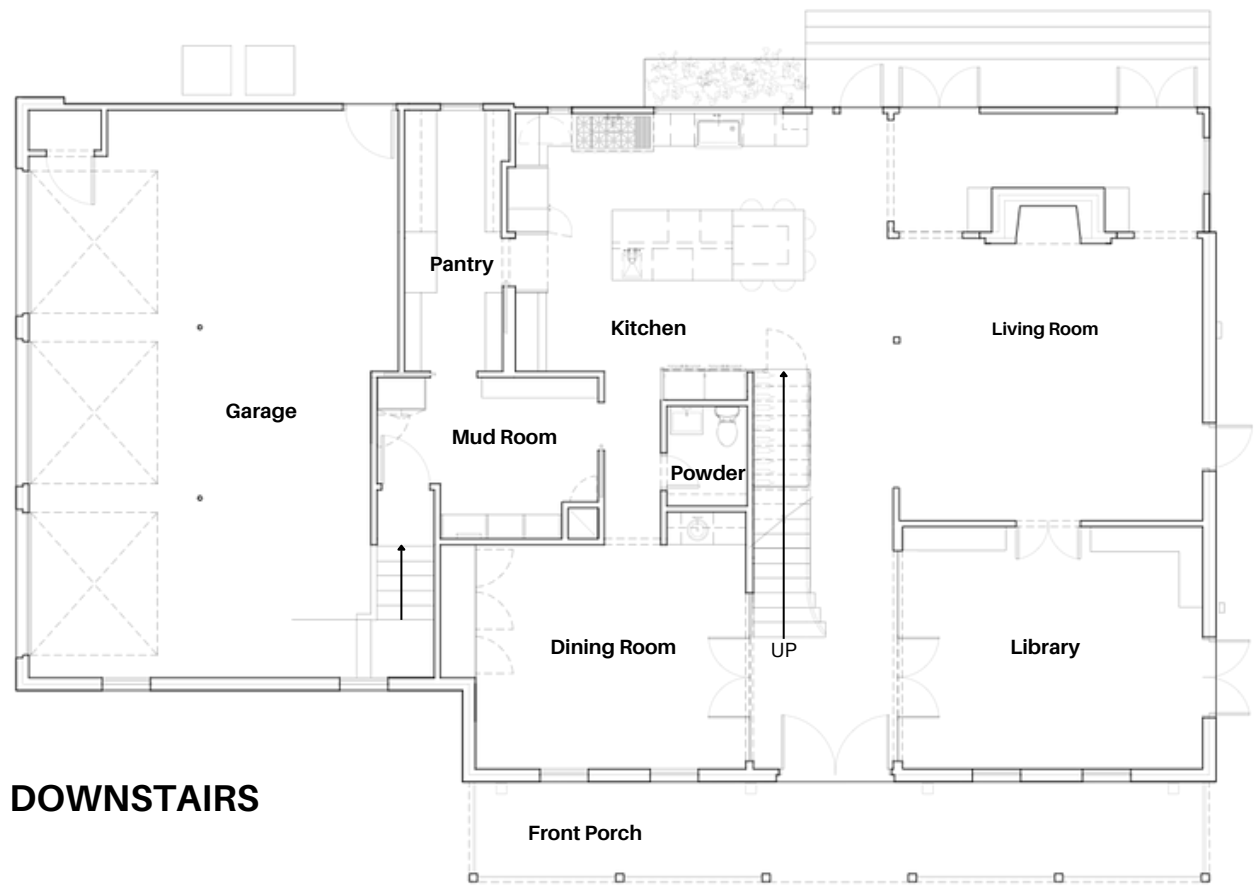
Sincerely,

DocuSigned by:  
  
99F6AE8017364FA...  
Kurt Lanzavecchia

DocuSigned by:  
  
A678284565814F3...  
Erica Lanzavecchia

# EXHIBIT A

2409 Vance Lane



**DOWNSTAIRS**



**UPSTAIRS**



## SITE PLAN: EXISTING



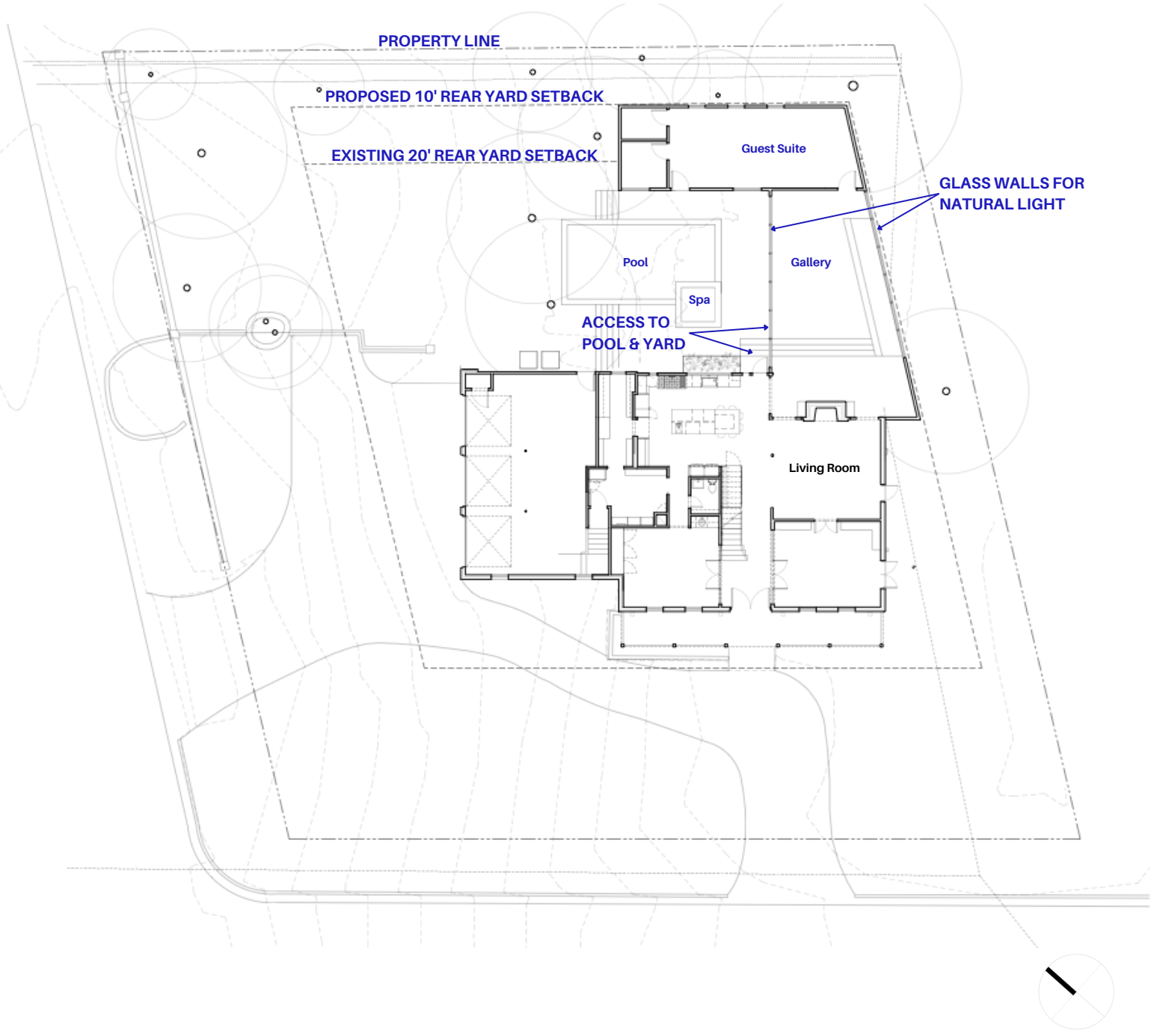
# EXHIBIT B2

2409 Vance Lane

## REAR ELEVATION



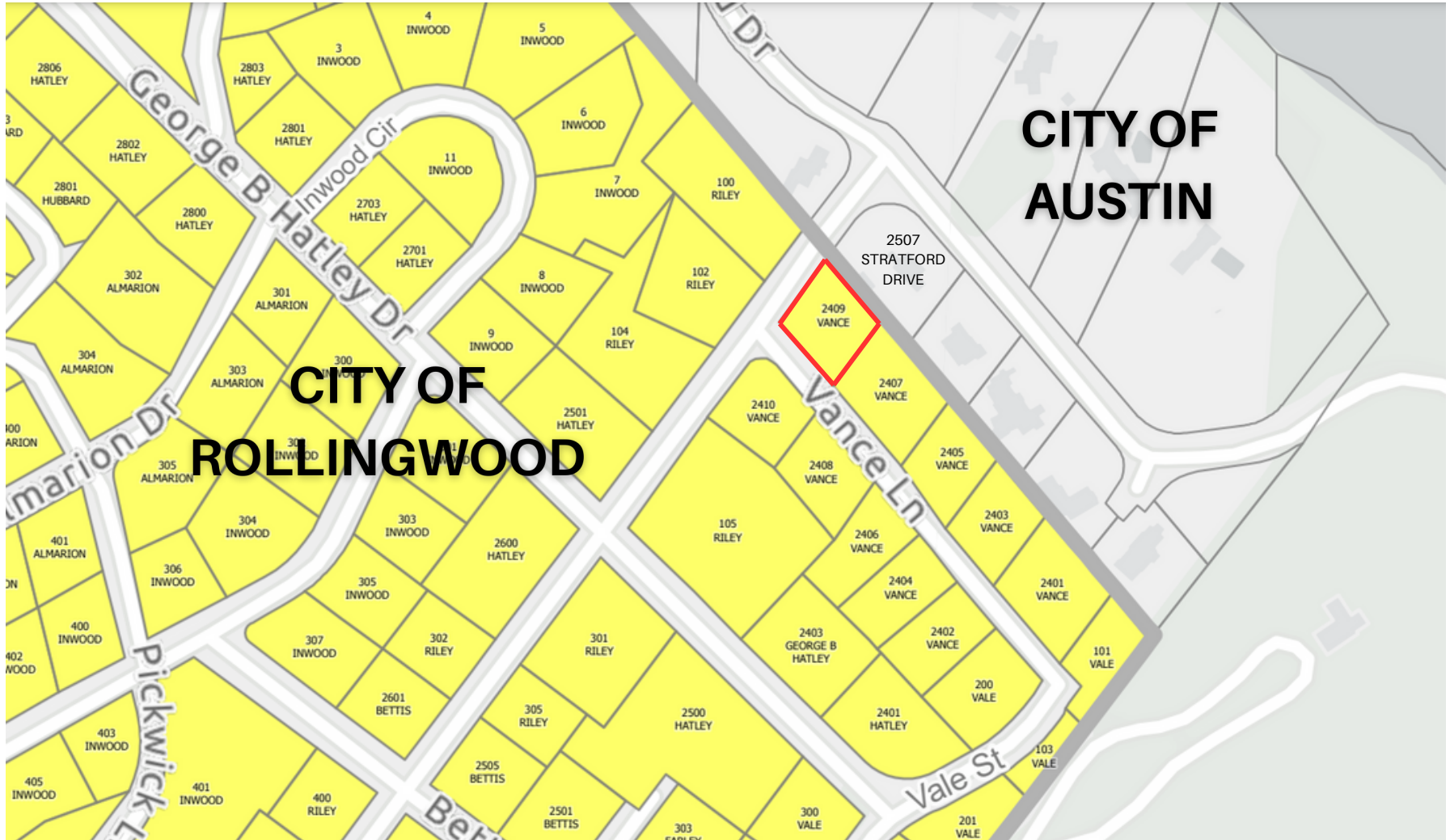
## SITE PLAN: PROPOSED



# EXHIBIT D

2409 Vance Lane

## ROLLINGWOOD ZONING MAP

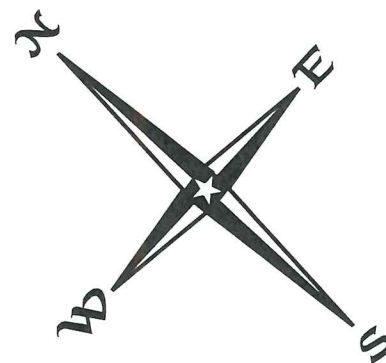




was completed without the benefit of a current title commitment. It may be subject to restrictions and easements not shown hereon.

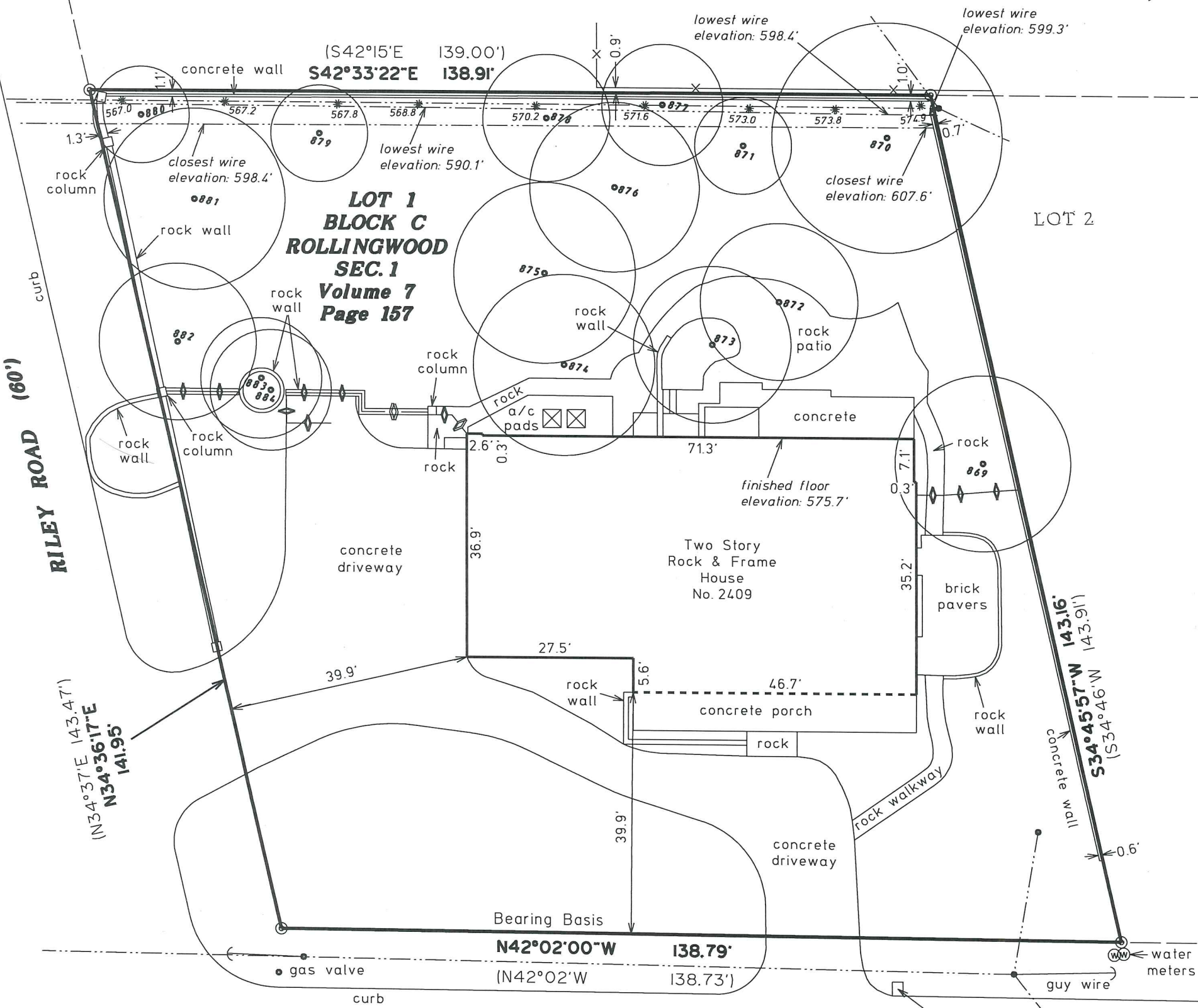
Elevations shown hereon are based on GPS observations over a Trimble RTK network. NAVD88 datum.

Tree "crowns" shown hereon are drawn as a function of trunk diameter. One inch of trunk diameter equals one foot of crown radius. Multi-trunk trees are drawn calculated on the full diameter of the largest stem plus one half of the diameter of each additional stem. Due to natural variations in tree growth, these generalized depictions may not correlate to actual tree crowns or root zones.



Lot 5  
Bluffington Sec. 1  
Volume 4 Page 302

**LOT 1  
BLOCK C  
ROLLINGWOOD  
SEC. 1  
Volume 7  
Page 157**



**TREE LIST**

Tag No.	Description
869	14.5" Live Oak
870	19" Cedar Elm
871	8" Live Oak
872	13" Cedar Elm
873	13" Live Oak
874	15" Live Oak
875	15" Cedar Elm
876	14" Cedar Elm
877	10" Cedar Elm
878	10.5" Cedar Elm
879	8" Cedar Elm
880	8" Cedar Elm
881	15" Hackberry
882	13" Hackberry
883	10" Live Oak
884	10" Live Oak

**VANCE LANE (50')**

**Legend**

- ⊙ 1/2" Iron Rod Found
- x— Wire Fence
- ♦♦— Wrought Iron Fence
- pole — Overhead Utility Line (Record Bearing and Distance)
- guy wire
- 570.2 \* Ground Elevation Shot

**AREA TABLE**  
land area: 19,284 sq. ft.

footprint of structure: 2,977 sq. ft.  
concrete driveway: 2,685 sq. ft.  
rock patio & walkways: 975 sq. ft.  
concrete porches & a/c pads: 535 sq. ft.  
brick pavers: 289 sq. ft.

The above improvements comprise 7,461 sq. ft. or 38.7% of the land area.

rock walls & columns: 190 sq. ft.  
concrete walls: 97 sq. ft.

Walls and columns comprise 287 sq. ft. or 1.5% of the land area.

PREPARED: October 9th, 2023

BY:

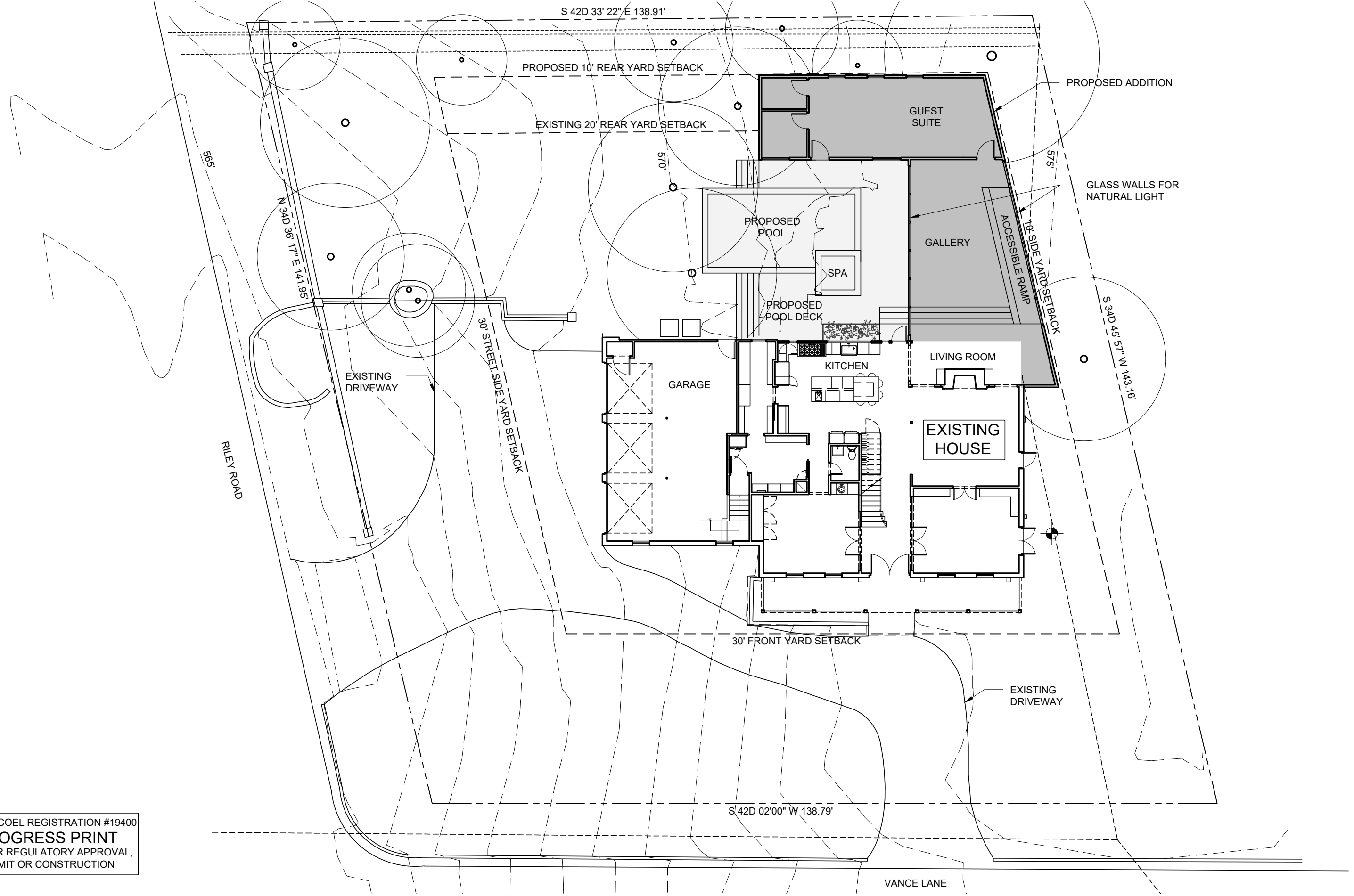
*Anne Thayer*



Anne Thayer  
Registered Professional Land Surveyor No. 5850  
Texas Licensed Surveying Firm No. 10050700

**SURVEY PLAT OF:**  
**LOT 1, BLOCK C, ROLLINGWOOD SEC. 1, A SUBDIVISION**  
**IN TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP OR**  
**PLAT THEREOF RECORDED IN VOLUME 7 PAGE 157 OF**  
**THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS.**  
**LOCATED AT 2409 VANCE LANE.**

**HOLT CARSON, INC.**  
**1904 FORTVIEW ROAD**  
**AUSTIN, TX 78704**  
**A 628082 (512) 442-0990**



CARINA COEL REGISTRATION #19400  
**PROGRESS PRINT**  
 NOT FOR REGULATORY APPROVAL,  
 PERMIT OR CONSTRUCTION

**RESTRUCTURESTUDIO**

P 512.689.6684 F 512.301.2811  
 7500 Ladle Lane Austin, TX 78749  
 www.restructurestudio.com

**VANCE LANE RESIDENCE**  
**PROPOSED SITE PLAN**



Project No: 2050  
 Scale: 1/16"=1'-0"  
 Date: 03/08/24

March 13, 2024

Dear Sir or Madam:

The City of Rollingwood Board of Adjustment will be considering a request for the following:

---

<b>Request:</b>	<b>Subject Property:</b>	<b>Listed Applicant Contact:</b>
Variance, as requested in Sec. 107-492, from Sec. 107- 76(d) -Minimum required width and depth of yards to reduce the rear yard setback from 20' to 10'	2409 Vance Lane Rollingwood, Texas 78746	Carina Coel, Restructure Studio Authorized Agent 7500 Ladle Lane Austin, Texas 78749

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You are receiving this letter because you have been identified as the owner of real property, which is located within the city limits subject to this request. According to Rollingwood Code of Ordinances, 107-494, notice of a public hearing on a request for a variance, special exception, or appeal to the Board of Adjustment shall be mailed at least 30- days before the public hearing to the petitioner and owners of property located within 250 feet of any point of the lot, or portion thereof which is the subject of the public hearing. Please consider this letter as your official notice of a public hearing to be held by the Board of Adjustment on a special exception request concerning property located within 250 feet of your property in the City of Rollingwood.

**The City of Rollingwood Board of Adjustment will hold a public hearing beginning at 6:00 p.m. on Monday, April 15, 2024 in the Council Chambers at Rollingwood City Hall 403 Nixon Drive, Rollingwood, Texas 78746. Members of the public may participate in the meeting in person or virtually.**

One of the principal functions of municipal government is to encourage citizen participation within the framework of local government operations and decision-making. During the public hearings, the applicant and people in favor of, neutral or opposed to the request may present their views. Any member of the public may appear at the hearings and present evidence for or against the request. Written comments should be submitted no later than 72 hours before the hearing to the City Secretary, Desiree Adair at City Hall or at [dadair@rollingwoodtx.gov](mailto:dadair@rollingwoodtx.gov). Agendas will be posted on the City’s website at [www.rollingwoodtx.gov/meetings](http://www.rollingwoodtx.gov/meetings) 72 hours prior to the meeting; please call or check the website for additional information.

For more information regarding this matter as well as any questions, please contact the City of Rollingwood City Hall at 512-327-1838 or by email at [developmentservices@rollingwoodtx.gov](mailto:developmentservices@rollingwoodtx.gov).

Respectfully,

Nikki Stautzenberger  
Development Services Manager

Cc: Board of Adjustment members

**07-492. Variances.**

- (a) The board may authorize upon appeal, in specific cases, such variances from the terms of this chapter, where the board finds that the variance 1) will not be contrary to the public interest, 2) where, owing to special conditions, literal enforcement of the provisions of this chapter will result in unnecessary hardship, and 3) the spirit of this chapter will be observed and substantial justice done.
- (b) Prior to granting a variance in a zoning district other than a residential district, the board must find, in concert with the findings required in subsection (a), that:
- (1) The variance is the minimum variance necessary to alleviate the unnecessary hardship;
  - (2) Granting the variance will be in harmony with the general purpose and intent of this chapter and will not be injurious to adjoining properties or the neighborhood, or be otherwise detrimental to the public welfare;
  - (3) The special conditions with respect to which a variance is sought are not the result of an action of the applicant;
  - (4) If applicable, there is sufficient water and wastewater capacity and fire service available to serve the applicant's land as developed under the variance without detriment to the other property within the city; and
  - (5) Granting the variance will not merely serve as a convenience to the applicant but will alleviate some demonstrable and unnecessary hardship which is created by the literal enforcement of the provisions of this chapter.
- (c) Prior to granting a variance in a residential district, in concert with the findings required in subsection (a), the board must find that:
- (1) A special individual reason makes the literal enforcement of this chapter result in an unnecessary hardship;
  - (2) Granting the variance will be in harmony with the general purpose and intent of this chapter and will not be injurious to adjoining properties or the neighborhood, or be otherwise detrimental to the public welfare;
  - (3) The granting of the variance will not be detrimental to the public health, safety, or welfare or injurious to the property in the area;
  - (4) There are special circumstances or conditions such as topography, natural obstructions, aesthetic or environmental considerations affecting the land involved such that the strict application of the provisions of this chapter would impose an unnecessary hardship which is created by the literal enforcement of the provisions of this chapter;
  - (5) The granting of the variance will not have the effect of preventing the orderly development of other land in the area in accordance with the provisions of this chapter;
  - (6) If applicable, there is sufficient water and wastewater capacity and fire service available to serve the applicant's land as developed under the variance without detriment to the other property within the city; and
  - (7) The circumstances or conditions from which relief is sought are not solely of an economic nature.
- (d) In granting a variance, the board may prescribe appropriate conditions and safeguards in conformity with this chapter.
- (e) In considering a variance as applied to a structure, the board may, in addition to other relevant considerations, consider the following as grounds to determine whether an unnecessary hardship would result from compliance with the ordinance:
- (1) The financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under V.T.C.A., Tax Code, § 26.01;
  - (2) Compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development may physically occur;
  - (3) Compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement;
  - (4) Compliance would result in the unreasonable encroachment on an adjacent property or easement; or
  - (5) The municipality considers the structure to be a nonconforming structure.



City of Rollingwood Board of Adjustment
Finding of Fact for Variance (Residential Zoning District)

Applicant: \_\_\_\_\_ Case Number: \_\_\_\_\_

Address/Lot/Tract: \_\_\_\_\_

Description of Variance or Appeal: \_\_\_\_\_

Date and method of public hearing notice: \_\_\_\_\_

Date of public hearing and BOA Meeting: \_\_\_\_\_

After giving notice and conducting a public hearing on this variance request in accordance with the City of Rollingwood Code of Ordinances, the Board of Adjustment adopts these specific, written findings as follows:

Table with 3 columns: Finding, Yes, No. Contains 7 numbered findings regarding zoning ordinance application, public welfare, and economic nature.

All findings must be determined in the affirmative for the variance to be granted.

Additional Comments including any conditions prescribed by the BOA (if any): \_\_\_\_\_

With \_\_\_\_\_ members present, and upon a vote of \_\_\_\_\_ for, \_\_\_\_\_ against, and \_\_\_\_\_ abstaining, the variance is hereby:

\_\_\_\_\_ granted \_\_\_\_\_ denied



\_\_\_\_\_  
Presiding Officer of BOA

\_\_\_\_\_  
Date



VARIANCE & SPECIAL EXCEPTION REQUEST APPLICATION

Request Type (please check one)  Variance  Special Exception

Property Address 3220 PARK HILLS DR Zoning \_\_\_\_\_

Legal Description: Lot 21 Block B Subdivision HATLEY PARK ESTATES

Owner of Structure

Address 3220 PARK HILLS DR City/State/Zip ROLLINGWOOD, TX 78746

Telephone \_\_\_\_\_ Cell [REDACTED] Email [REDACTED]

Owner of Ground if different from above

Address \_\_\_\_\_ City/State/Zip \_\_\_\_\_

Telephone \_\_\_\_\_ Cell \_\_\_\_\_ Email \_\_\_\_\_

Authorized Agent if applicable

Address \_\_\_\_\_ City/State/Zip \_\_\_\_\_

Telephone \_\_\_\_\_ Cell \_\_\_\_\_ Email \_\_\_\_\_

Explain request:

Granting of a special exception by the Rollingwood Board of Adjustment to permit replacement of a damaged nonconforming structure (driveway).

Four horizontal lines for additional explanation.



Cite ordinance applicable to request:

Section 107-36 (Driveways) of the city's code of ordinances.

**\*\* A letter addressed to the Board of Adjustment Chair, signed by the property owner and explain the variance or special exception request and addressing all criteria contained in the City's ordinance (Sec.107-491 or Sec.107-492) is required (see Application Checklist)\*\***

**OWNER CERTIFICATION**

Application is hereby made to the City of Rollingwood Board of Adjustment to request a variance or special exception as outlined above, and as contained in attachments to this application, and to request public hearing on this variance request at 403 Nixon Drive in Rollingwood, TX, on the date as set by the Board.

I agree to attend such hearing to represent this variance or special exception request and respond to the Board's questions or requests for additional information and documentation. If I am not able to attend the hearing, I will appoint an agent to represent me at the hearing and will submit to the City prior to the hearing written authorization for that agent.

I certify that this requested variance or special exception is in full conformity with and not contrary to any deed restrictions associated with my property listed herein. I DO SOLEMNLY SWEAR that to the best of my knowledge the above statements concerning this application are true and correct, and the undersigned has reviewed, understands and approves the request as stated.

**Steve Marcie**  
Digitally signed by Steve Marcie  
Date: 2023.12.08 10:36:31  
-06'00'  
\_\_\_\_\_  
(Signature)

**Steve Marcie**  
\_\_\_\_\_  
(Printed Name)

Date 12/8/23 Telephone [REDACTED] Email [REDACTED]



ADDRESS \_\_\_\_\_ DATE RECEIVED \_\_\_\_\_

**APPLICATION CHECKLIST**

- Variances: A letter addressed to the Board of Adjustment Chair, signed by the property owner and requesting the desired variance in the City's Ordinances and addressing all criteria contained in the attached ordinance, specifically 107-492 Variances.
- Special Exceptions: A letter addressed to the Board of Adjustment Chair, signed by the property owner and requesting the desired special exception in the City's Ordinances and addressing all criteria contained in the attached ordinance, specifically 107-491 Special Exceptions.
- Completed and signed Variance & Special Exception Request Application
- Survey with Metes & Bounds Description if property is not platted
- Deed and deed restrictions
- Agent authorization letter if applicable
- Site Plan drawn to scale showing existing and proposed improvements
- Digital copy in .pdf format of entire application submission (application, checklist, exhibits, etc.) via email

**107-491 Special Exceptions**

(a) The board may, in a specific case, where the board makes the findings required under subsection (c) herein, grant the following special exceptions from the requirements of this division:

- (1) Permit the reconstruction of a nonconforming building or structure that has been damaged by fire or other cause;
- (2) Permit the enlargement or extension of a nonconforming use or nonconforming building upon the lot occupied by such use or building at the time of the passage of this division;
- (3) In undeveloped sections of the city, grant temporary and conditional permits for not more than two years, provided that the grant of a temporary or conditional permit shall not be reason or cause for extension of such permit;
- (4) Permit such modifications of yard, open space, lot area, or lot width regulations as may be necessary to improve a parcel of land, if the parcel is of such restricted size that it cannot be appropriately improved without such modification; or





(5) Permit a public utility or public service building of a ground area or height at variance with those provided for the district in which such public utility or public service building is permitted to be located, when found reasonably necessary for the public health, convenience, safety or general welfare.

(b) The board may grant such other special exceptions as may be provided for elsewhere in this division, subject to the terms and conditions therein set out.

(c) Prior to granting a special exception, the board shall make a finding that it is empowered under this chapter to grant the special exception, that the public convenience and welfare will not be substantially or permanently injured in the granting of the special exception, and that the grant of the special exception will

not adversely affect the public health, convenience, safety or general welfare.

(d) In granting a special exception, the board may prescribe appropriate conditions and safeguards in conformity with this division.

(e) The board shall prescribe a time limit within which the action for which the special exception is required shall be begun or completed, or both. Failure to comply with the time limits set by the board shall void the special exception.

(Ord. No. 2022-01-19-03, § 2(Exh. A), 1-19-2022)

#### **107-492. Variances**

a) The board may authorize upon appeal, in specific cases, such variances from the terms of this chapter, where the board finds that the variance 1) will not be contrary to the public interest, 2) where, owing to special conditions, literal enforcement of the provisions of this chapter will result in unnecessary hardship, and 3) the spirit of this chapter will be observed and substantial justice done.

(b) Prior to granting a variance in a zoning district other than a residential district, the board must find, in concert with the findings required in subsection (a), that:

(1) The variance is the minimum variance necessary to alleviate the unnecessary hardship;

(2) Granting the variance will be in harmony with the general purpose and intent of this chapter and will not be injurious to adjoining properties or the neighborhood, or be otherwise detrimental to the public welfare;

(3) The special conditions with respect to which a variance is sought are not the result of an action of the applicant;

(4) If applicable, there is sufficient water and wastewater capacity and fire service available to serve the applicant's land as developed under the variance without detriment to the other property within the city; and

(5) Granting the variance will not merely serve as a convenience to the applicant but will alleviate some demonstrable and unnecessary hardship which is created by the literal enforcement of the provisions of this chapter.



(c) Prior to granting a variance in a residential district, in concert with the findings required in subsection (a), the board must find that:

- (1) A special individual reason makes the literal enforcement of this chapter result in an unnecessary hardship;
- (2) Granting the variance will be in harmony with the general purpose and intent of this chapter and will not be injurious to adjoining properties or the neighborhood, or be otherwise detrimental to the public welfare;
- (3) The granting of the variance will not be detrimental to the public health, safety, or welfare or injurious to the property in the area;
- (4) There are special circumstances or conditions such as topography, natural obstructions, aesthetic or environmental considerations affecting the land involved such that the strict application of the provisions of this chapter would impose an unnecessary hardship which is created by the literal enforcement of the provisions of this chapter;
- (5) The granting of the variance will not have the effect of preventing the orderly development of other land in the area in accordance with the provisions of this chapter;
- (6) If applicable, there is sufficient water and wastewater capacity and fire service available to serve the applicant's land as developed under the variance without detriment to the other property within the city; and
- (7) The circumstances or conditions from which relief is sought are not solely of an economic nature.

(d) In granting a variance, the board may prescribe appropriate conditions and safeguards in conformity with this chapter.

(e) In considering a variance as applied to a structure, the board may, in addition to other relevant considerations, consider the following as grounds to determine whether an unnecessary hardship would result from compliance with the ordinance:

- (1) The financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under V.T.C.A., Tax Code, § 26.01;
- (2) Compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development may physically occur;
- (3) Compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement;
- (4) Compliance would result in the unreasonable encroachment on an adjacent property or easement; or
- (5) The municipality considers the structure to be a nonconforming structure.

(Ord. No. 2022-01-19-03, § 2(Exh. A), 1-19-2022)



**APPLICATION FILING INSTRUCTIONS**

Submit the application, supporting documents detailed in the checklist and filing fee. The City of Rollingwood will invoice the applicant upon receipt of the application. Filings are not considered administratively complete until payment has been received. The City shall accept checks or payments by credit card.

Application Fee - \$300.00

Notification Fee - \$5.00 per notice (Invoiced at time of noticing)

Date: 12.11.23

Check #: —

Digital Inv #: 740

Deliver application packet to:

THE CITY OF ROLLINGWOOD  
**Development Services**  
 Phone +1 (512) 327-1838  
 403 Nixon Dr. Rollingwood, TX 78746-5512  
 www.rollingwoodtx.gov  
 Email: [developmentsservices@rollingwoodtx.gov](mailto:developmentsservices@rollingwoodtx.gov)

**AGENDA ITEM SUMMARY SHEET**  
**City of Rollingwood**  
**Board of Adjustment Meeting**  
**April 15, 2024**

**Submitted By:**

Staff

**Agenda Item:**

Public hearing, discussion, and possible action on a request for a special exception under Section 107-491(a)(1) of the City's Code of Ordinances to permit the reconstruction of a non-conforming driveway at 3220 Park Hills Drive

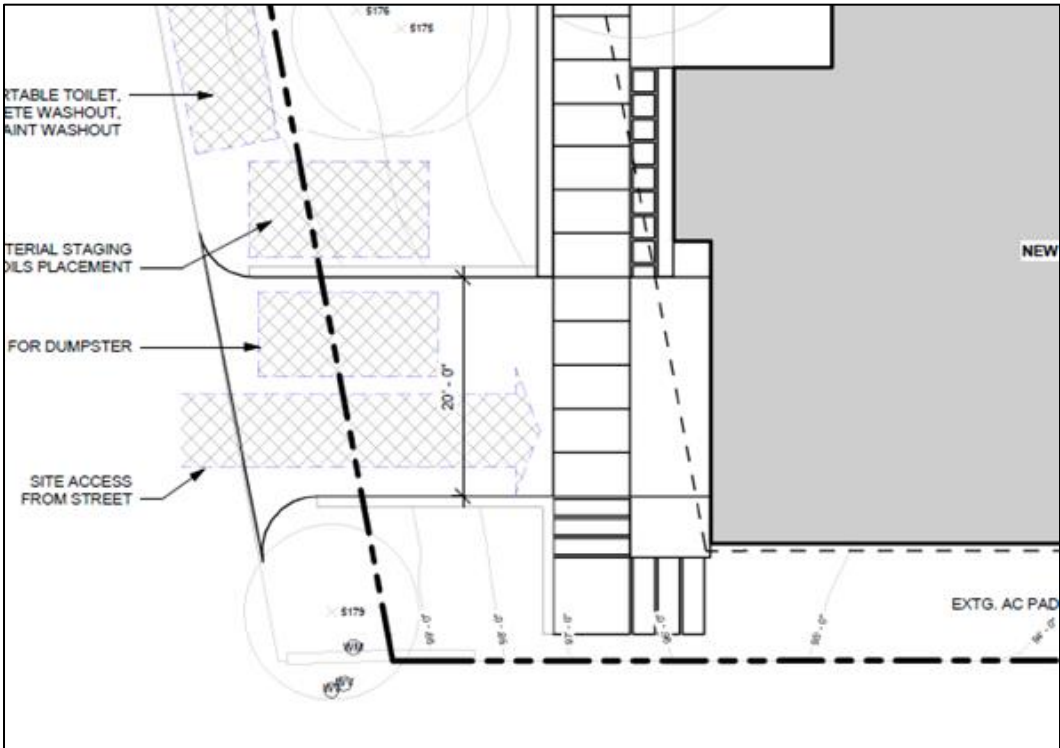
**Description:**

\*Note: Steve and Norma Marcie are the property owners of 3220 Park Hills Dr. and have indicated that they are both the applicants for this special exception. Throughout this report if the singular term "applicant" is used, it means one of the applicants for this special exception.

The applicants own the property at 3220 Park Hills Drive. They received a demolition permit for the existing, single-family structure in July 2021. The existing, non-conforming driveway was not demolished at the time the original home was demolished.

In July 2021, the applicant applied for a building permit for the construction of a new single-family residence and received the permit in October 2021. The approved plans for the new residence included the demolition of the original, non-conforming driveway and construction of a new driveway, shown on the plans to be in compliance with the code. According to documentation provided by the applicant, the existing, non-conforming driveway was demolished and the new driveway constructed the weeks of March 20 and March 27, 2023 respectively. Upon inspection by City staff in April 2023, it was determined that the new driveway was not constructed according to the approved plans because it did not comply with Section 107-36 of the City's Code of Ordinances, which states: *"Each driveway shall be located at least five feet from a side lot line..."*

The contractor, who is also the responsible party for this project, was notified on April 24, 2023, that the new driveway was not constructed in accordance with the approved plans and was not in compliance with the Code which states that driveways must be located at least 5 feet from the side lot line. The following picture and screenshot of the approved plans were included in the contractor notification.



During following discussions with the applicant, the applicant explained to staff that, though the original plans did show demolition of the existing, non-conforming driveway and a new, conforming driveway to be constructed, he later decided to keep the existing driveway. It was then decided at a later time that the existing, non-conforming driveway would be removed and the driveway reconstructed as it was observed by staff on April 24, 2023. The City was not notified of any plan changes when these changes were made.

In May 2023 the applicant submitted a request for a Reasonable Accommodation to keep the driveway constructed as it was, not in conformance with the City's Code. After review of the information submitted and additional discussions with the applicant, it was determined that the application did not establish the necessity for a Reasonable Accommodation, and the request was denied by the City Administrator in July 2023. During the review period of this Reasonable Accommodation request, the applicant was granted a Temporary Certificate of Occupancy in June 2023, with the Certificate of Occupancy pending plan revisions/approval or construction of the driveway in accordance with the approved plans and the City's Code.

Subsequent to the denial of the Reasonable Accommodation request, the applicant requested the building official's approval post-construction for the reconstruction of the driveway under Section 107-422 of the City's Code of Ordinances which states:

*Any nonconforming building or structure may, so long as it remains otherwise lawful, be continued subject to the following requirements and limitations:*

- (4) *If the nonconforming building or structure, other than a dwelling, is damaged or destroyed by fire or other accident or natural means, the building official shall, upon application by the owner thereof, issue a permit for repair or reconstruction of the building or structure, provided that the repair or reconstruction conforms with the construction materials standards set forth in section 107-107, the compatibility standards set forth in section 107-116, and will not increase the extent of the nonconformity of the building or structure.*

The building official determined that the City's Code does not provide for a post-construction request for continuation or reconstruction of a non-conforming structure, and denied the request in August 2023.

In November 2023 the applicant requested to make minor revisions to his construction permit reflecting the changes to the front hardscape. Because construction of the home and driveway had already been completed, the City responded that a post-construction revision to a filed building permit would not be authorized.

In December 2023 the applicant requested to proceed with a Special Exception Request to the Board of Adjustment.

Section 107-491 of the City’s Code of Ordinances states:

*(a) The board may, in a specific case, where the board makes the findings required under subsection (c) herein, grant the following special exceptions from the requirements of this division:*

*(1) Permit the reconstruction of a nonconforming building or structure that has been damaged by fire or other cause;*

**Analysis for Considering Approval of a Special Exception:**

The City’s Zoning Code, Chapter 107, has established guidelines for the evaluation of a special exception to zoning regulations. Section 107-491(c) of the Zoning Code states the following:

*(c) Prior to granting a special exception, the board shall make a finding that it is empowered under this chapter to grant the special exception, that the public convenience and welfare will not be substantially or permanently injured in the granting of the special exception, and that the grant of the special exception will not adversely affect the public health, convenience, safety or general welfare.*

Breaking down the statement above provides the following decision-making process:

1. Does the board find that it is empowered under this chapter to grant the special exception?
2. Does the board find that the public convenience and welfare will not be substantially or permanently injured in the granting of the special exception?
3. Does the board find that the granting of the special exception will not adversely affect the public health, convenience, safety or general welfare?

Additionally, Section 107-491(d) and (e) of the Zoning Code state the following:

*(d) In granting a special exception, the board may prescribe appropriate conditions and safeguards in conformity with this division.*

*(e) The board shall prescribe a time limit within which the action for which the special exception is required shall be begun or completed, or both. Failure to comply with the time limits set by the board shall void the special exception.*

If the Board desires to approve this request with conditions, they may do so. It is important to note that construction of the driveway in the configuration being requested has been completed at this time.

**Intent of the City’s Code Regarding Nonconforming Structures and Uses:**

Section 107-419 of the City’s Code of Ordinances communicates the intent of Part II, Chapter 107, Article IV Nonconforming Structures and Uses. This section states:

*It is the intent of this article to permit nonconforming premises and uses to continue until they are removed, but not to encourage their continuation indefinitely. Nonconforming premises and uses are declared by this article to be incompatible with permitted uses in the zoning districts created under this article. It is further the intent of this article that nonconformities shall not be enlarged upon, expanded or extended, nor used as grounds for adding other buildings, structures or uses prohibited elsewhere in the same district.*

**Requested Action:**

Staff requests that the Board of Adjustment review the facts presented in this case and decide whether to grant the Special Exception Request.

**Fiscal Impacts:**

N/A

**Attachments:**

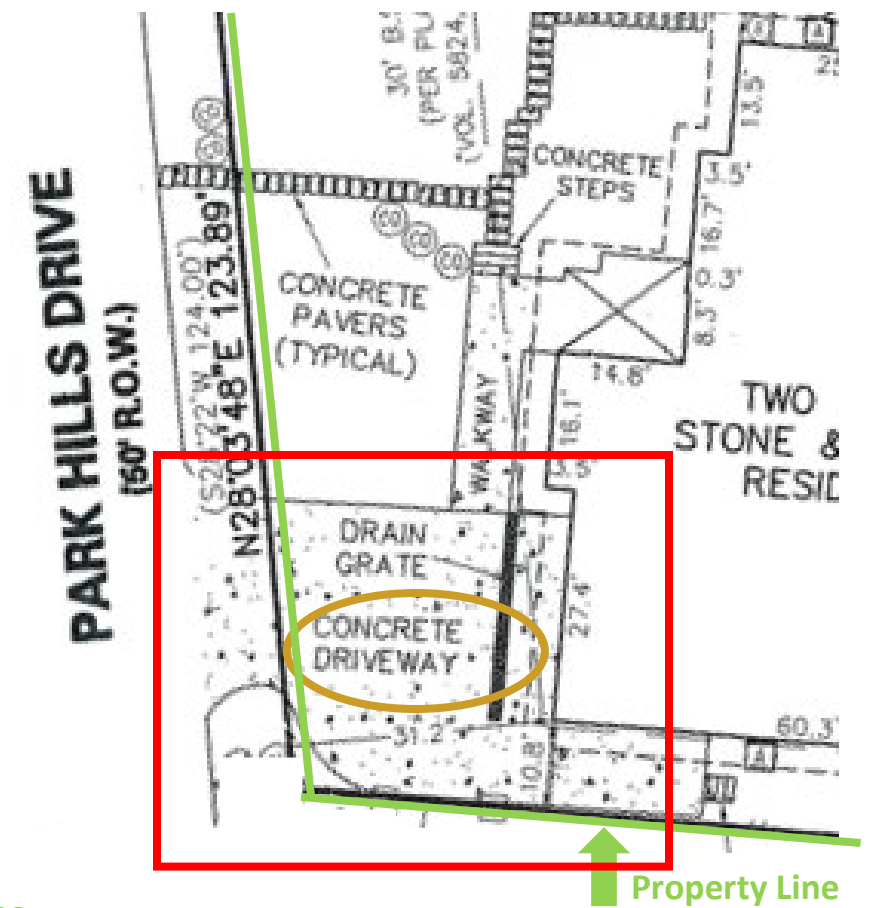
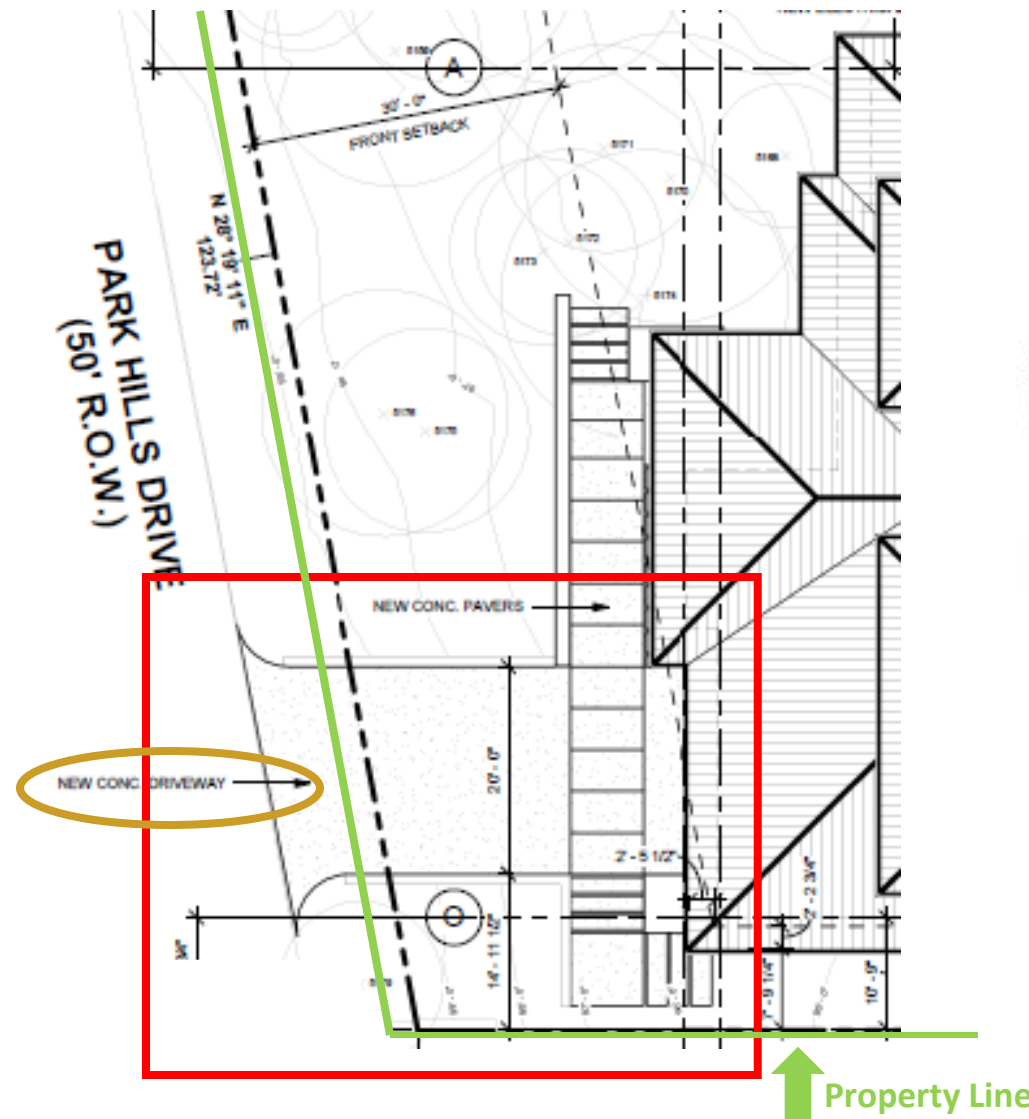
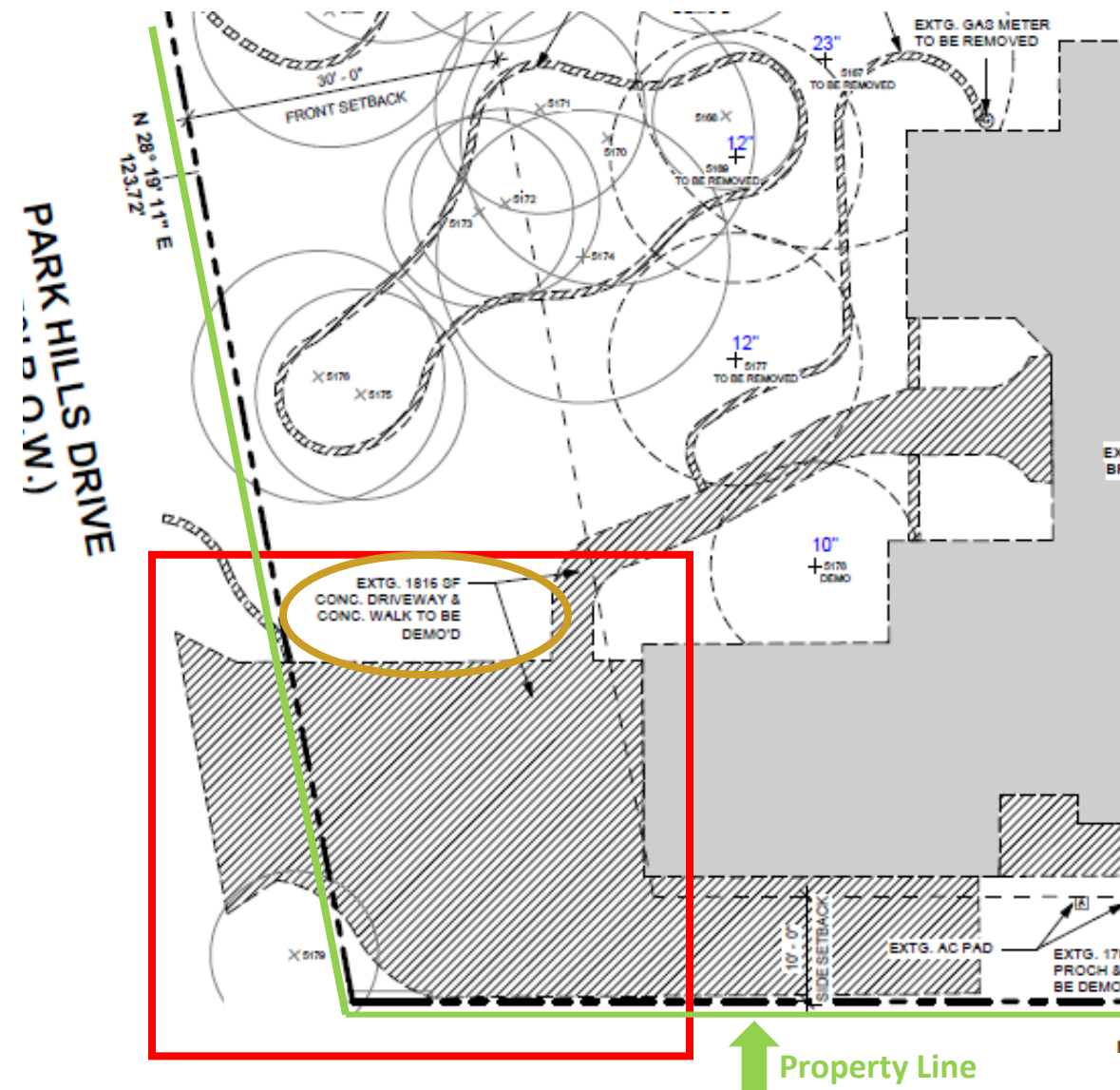
- BOA Rules of Procedure
- Special Exception Request Application from Applicant
- Staff Report – Special Exception Request for 3220 Park Hills Drive
- Original Survey, Permitted Site Plan and As-built Survey of 3220 Park Hills Drive
- Letter of Request for Special Exception from Applicant
- Exhibits to Letter of Request for Special Exception from Applicant
- As-Built Site Plan of 3220 Park Hills
- As-Built Survey of 3220 Park Hills
- Letters of Support
- Notice of BOA Hearing
- BOA Finding of Fact Form for a Special Exception



**Before Demolition  
Survey 2020**

**Permitted Site Plan  
Zoning Approved 2021**

**As-Built Survey  
2023**



**Steve Marcie & Norma Marcie**  
**3220 Park Hills Dr**  
**Rollingwood, TX 78746**

**December 26, 2023**

**Rollingwood Board of Adjustment**  
**403 Nixon Dr**  
**Rollingwood, TX 78746**

Dear Rollingwood Board of Adjustment Chair,

Paragraph 1 of section 107-491(a) in part II, chapter 107, article V, division 3, of the city's code of ordinances states that the Board of Adjustment may grant a special exception to permit the reconstruction of a nonconforming structure that has been damaged by fire or other causes. We are respectfully requesting a special exception from section 107-36 (Driveways) for our nonconforming driveway that is not 5' from the property line. This driveway replaced the previous damaged, larger nonconforming driveway that was not 5' from the property line.

Section 107-491(c) stipulates that prior to granting the special exception, the Board of Adjustment must make findings that:

1. *It is empowered to grant the special exception:* Paragraph 1 of section 107-491(a) in part II, chapter 107, article V, division 3, of the city's code of ordinances gives the Board of Adjustment the power to grant a special exception in a case where a nonconforming structure has been damaged through fire or other natural means. The nonconforming driveway had cracks caused by natural means (settling of the property, age of the material since it was originally poured in the 1980's, and continually having been subjected to alternating extreme heat and cold over its life) – please see exhibit 3 showing large cracks visible from the earliest images of the property available in Google street view, and exhibits 4, 5, & 6 of photos from our home inspection performed in February, 2020 showing some of the many cracks in the original driveway. Based on this, the Board of Adjustment is empowered under chapter 107 to grant this special exception.
2. *The public convenience and welfare will not be substantially or permanently injured in the granting of the special exception:* The previous nonconforming structure existed since the early 1980's at this location and had not caused any injury to the convenience or welfare of the public – and as such – rebuilding the structure in its location would not either. This is the finding that has been determined by staff in prior special exception requests by other residents (e.g., 3203 Pickwick Ln, Board of Adjustment hearing date 5/25/22). In addition, the public convenience and welfare will be enhanced through the granting of this special exception because while the replacement driveway goes to the same point at the property line as the previous driveway which had been in place since the early 1980's, it has several design improvements which afford positive effects from a drainage standpoint for our neighbors at 3218 Park Hills Dr and neighbors down the hill from us on Pleasant Dr. The neighbors at 3218 Park Hills Dr wrote a letter of support which you can find as exhibit 7.

3. *The grant of the special exception will not adversely affect the public health, convenience, safety or general welfare:* The previous nonconforming structure existed since the early 1980's at this location and had not adversely affected the public health, convenience, safety, or general welfare – and as such – rebuilding the structure in its current location would not either. This is the finding that has been determined by staff in prior special exception requests by other residents (e.g., 3203 Pickwick Ln, Board of Adjustment hearing date 5/25/22). In addition, the public health, convenience, safety or general welfare will be enhanced through the granting of this special exception because while the replacement driveway goes to the same point at the property line as the previous driveway which had been in place since the early 1980's, it has several design improvements which afford positive effects from a drainage standpoint for our neighbors at 3218 Park Hills Dr and neighbors down the hill from us on Pleasant Dr. The neighbors at 3218 Park Hills Dr wrote a letter of support which you can find as exhibit 7.

Plans for the reconstruction of our home were finalized and submitted to the City of Rollingwood on 7/15/21. Demolition of the home was done during the week of 9/20/21. The home was demolished but the driveway was not – please see exhibits 1 and 2 showing post-demolition photos from 11/10/21 of the framing for the foundation pour which show the original non-conforming driveway.

In February of 2023, the construction of the home was mostly complete and work on the hardscaping began. After a thorough review of all options, it became clear that the best design was the existing driveway that was never demolished. However, that existing driveway was damaged through natural means.

The contractor doing our hardscaping refused to pour over the existing driveway because of all the cracks in it. They said if they were to pour over the existing cracked driveway, it would only be a short time before cracks began to make their way to the surface. A decision was made at that point to remove the damaged existing driveway and reconstruct it to fix all the cracks.

When we reconstructed the driveway, we made decisions that, while costly, a) reduced the non-conformity of the structure, and b) significantly improved drainage. Specifically:

1. we shortened the length of the non-conforming driveway that extends back on the side of the house by approximately 7 ½ feet
2. we sloped the southernmost side of the driveway down toward our property instead of leaving it flat as it had been for the last several decades
3. we added a grate with a drain to carry the water from the bottom of the driveway over to the side and back toward our retention system instead of leaving it to flow onto the front yard of 3218 Park Hills as it had been for the last several decades
4. we added a curb at the southernmost edge of the driveway which further directs the water from the driveway back toward our retention system instead of leaving it to flow onto the front yard of 3218 Park Hills Dr as it had been for the last several decades

Our neighbors across the street at 3221 Park Hills Dr are Sandra and Thom Farrell who have been present for the entirety of our construction. Thom has graciously offered to serve as a reference who can verify the facts of this case.

Thank you for your consideration.

With regards,

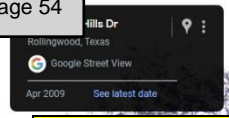
Steve Marcie /s/

**EXHIBIT 1**

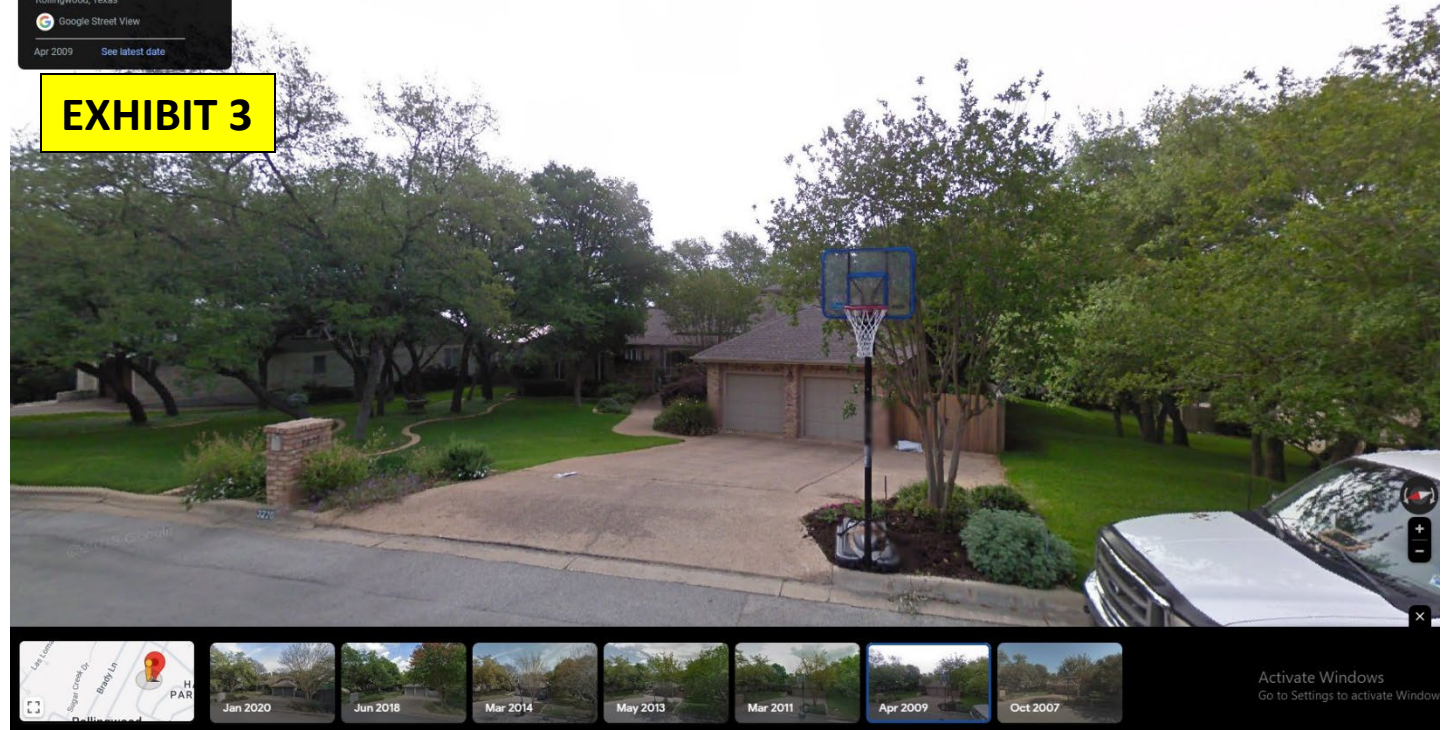


**EXHIBIT 2**





**EXHIBIT 3**



Activate Windows  
Go to Settings to activate Windows

**EXHIBIT 4**



**EXHIBIT 5**



**EXHIBIT 6**



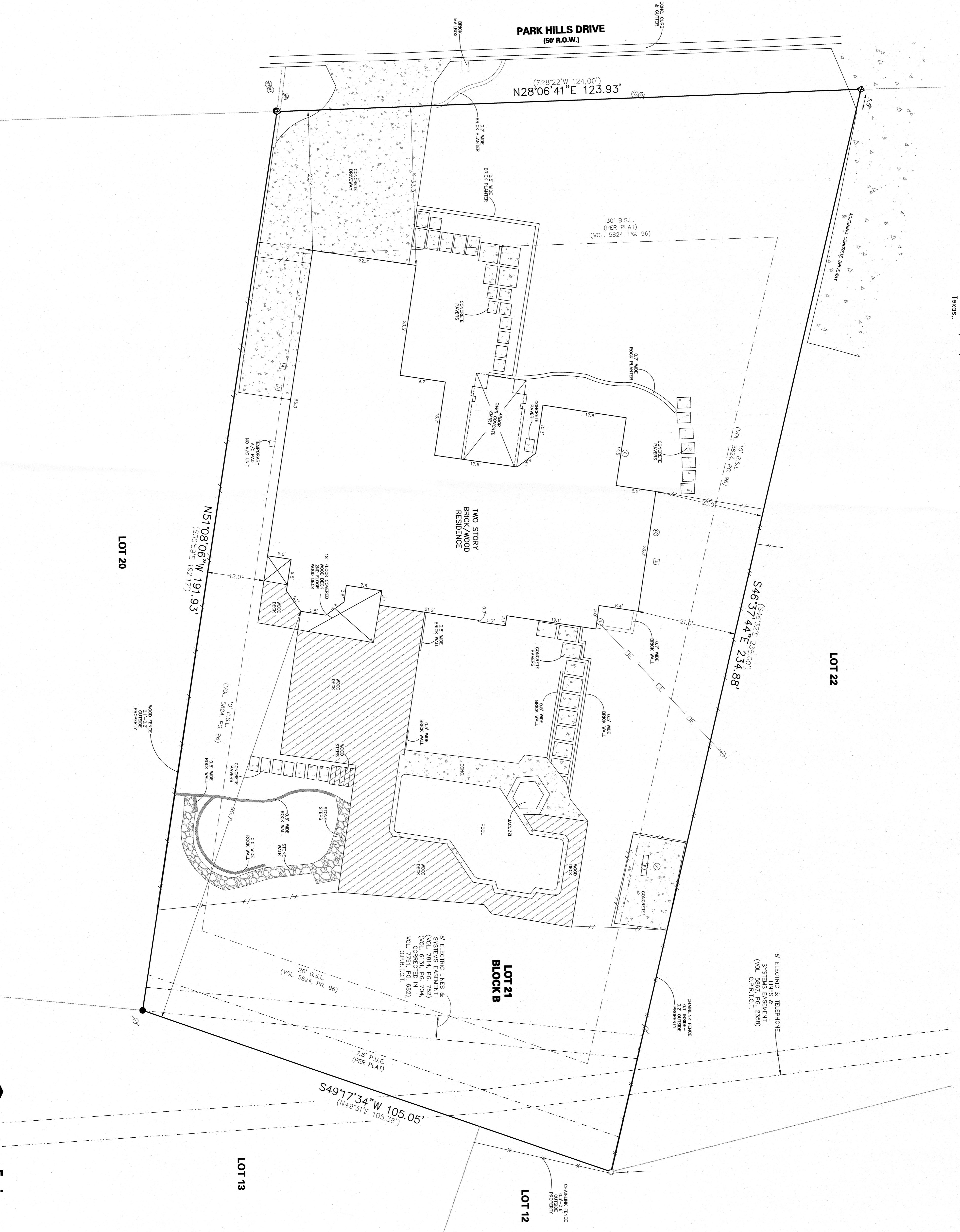
**AS-BUILT SURVEY**

Reference: Marcie Address: 3220 Park Hills Drive, Rollinwood, Texas  
 Lot 21, Block B, HALLET PARK ESTABLISHMENT, subdivision in Travis County, Texas, according  
 to the map or plat thereon recorded in Vol. 75, Pg. 257, Plat Records, Travis County,  
 Texas.



SCALE: 1"=10'

LEGEND	
	3" (Ø) 80# RIGID PIPING (Colors marked)
	2" (Ø) 80# RIGID PIPING (Colors marked)
	1" (Ø) 80# RIGID PIPING (Colors marked)
	7" (Ø) 80# RIGID PIPING IN CONCRETE
	1" RECORD INFORMATION
	1" PUBLIC UTILITY EXISTENT
	B.S.L. BUILDING SETBACK LINE
	WOOD FENCE
	CHAINLINK FENCE
	COVERED AREA
	WATER WALK
	WASTEWATER CLEANOUT
	AIR CONDITIONER ON TEMPORARY PAD
	POOL
	ELECTRIC METER
	UTILITY POLE
	POOL UTILITIES
	SPRINKLER PUBLIC RECORD TRAVIS COUNTY TEXAS



Paul Utterback, RPLS No. 5738  
 Client: Marcie, Steve  
 Date of Field Work: 6/18/20  
 Tech: Ecodren  
 Date Drawn: 10/07/2014 (Revision 10/12/2011 & Updated: 7/29/20)  
 Plot: Projects\GDA\W\05\Survey\5824\250\Production\As-Built\Title-200720.dwg

**DATS** Engineers  
 Inspectors & Surveyors  
 www.dats-engineers.com  
 4810 West Hwy 290  
 Austin, TX 78725  
 (512) 328-8685  
 FAX: (512) 328-8686

Notes:  
 1. This map and the survey on which it is based have been prepared without the benefit of a title report and are not intended to reflect all easements, encumbrances or other circumstances affecting the title to the property shown herein.  
 2. Building setbacks shown are taken from a title commitment received from Title Resources Surety Company, of No. 201272904, with an Effective Date of February 3, 2020.  
 3. Paul Utterback, HEREBY CERTIFY that a survey was made on the ground of the property shown herein, that there are no visible easements, encumbrances, or other circumstances affecting the title to the property shown herein, and that this plat is an accurate representation of the property to the best of my knowledge.



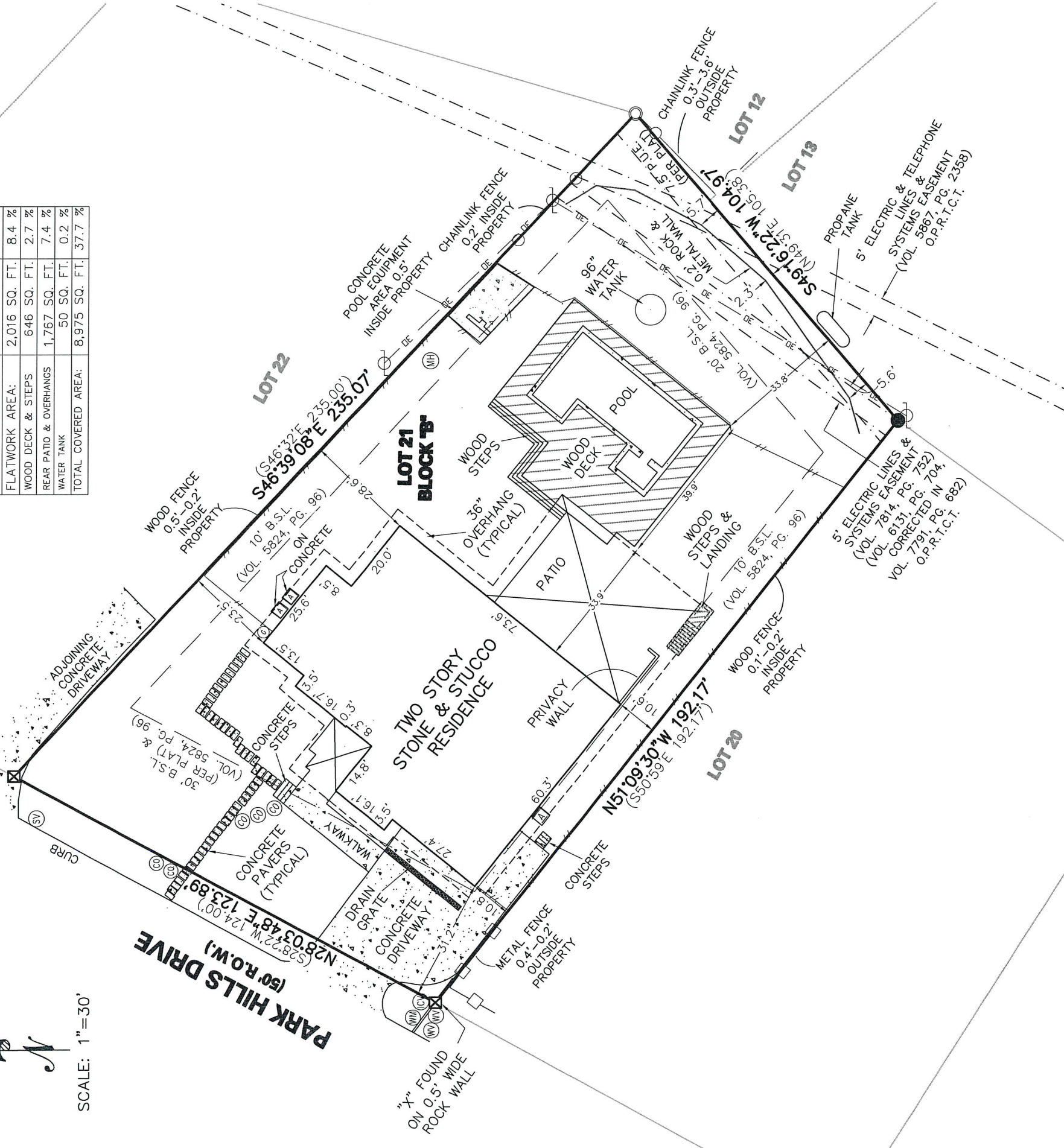
# AS-BUILT SURVEY

Reference: EEF Custom Homes Address: 3220 Park Hills Drive, Rollingwood, Texas  
 Lot 21, Block "B", HATLEY PARK ESTATES, a subdivision in Travis County, Texas, according to the map or plat as recorded in Bk. 75, Pg. 257, Plat Records, Travis County, Texas.



SCALE: 1" = 30'

IMPERVIOUS COVER TABLE	
LOT AREA:	23,967 SQ. FT.
FOUNDATION AREA:	4,546 SQ. FT. 19.0 %
FLATWORK AREA:	2,016 SQ. FT. 8.4 %
WOOD DECK & STEPS	646 SQ. FT. 2.7 %
REAR PATIO & OVERHANGS	1,767 SQ. FT. 7.4 %
WATER TANK	50 SQ. FT. 0.2 %
TOTAL COVERED AREA:	8,975 SQ. FT. 37.7 %



Surveyor's Note:  
 Bearings shown hereon are based on the plat of HATLEY PARK ESTATES, according to the map or plat as recorded in Bk. 75, Pg. 257, Plat Records, Travis County, Texas.

- Notes:
- 1) This map and the survey on which it is based have been prepared without the benefit of a title report and are not intended to reflect all easements, encumbrances or other circumstances affecting the title to the property shown hereon.
  - 2) Easements shown are per the recorded subdivision plat unless otherwise noted.

I, Paul Utterback, HEREBY CERTIFY that a survey was made on the ground of the property shown hereon; that there are no visible discrepancies, conflicts, shortages in area, boundary line conflicts, encroachments, overlapping of improvements, easements or right-of-way, except as shown; that said property has access to and from a public roadway; and that this plat is an accurate representation of the property to the best of my knowledge.



*Paul Utterback*  
 Paul Utterback, RPLS No. 5738  
 Client: EEF Custom Homes  
 Date of Field Work: 5/15/23 & 5/16/23  
 Field: MAifaro  
 Tech: CCarter  
 Date Drawn: 5/25/23 & 5/26/23  
 Path: Projects\BULK\MNOPQR\ParkHillsDr3220\Production\Dwgs\As-Built-ParkHillsDr3220-230518.dwg

LEGEND	
●	1/2" (IRF) IRON ROD FOUND
○	1/2" (I.D.) IRON PIPE FOUND
⊠	"X" FOUND INSCRIBED IN CONCRETE
—	B.S.L. BUILDING SETBACK LINE
—	P.U.E. PUBLIC UTILITY EASEMENT
( )	R.O.W. RIGHT OF WAY
( )	RECORD INFORMATION
▨	COVERED AREA
○	CHAINLINK FENCE
—	WOOD FENCE
□	METAL FENCE
▨	CONCRETE
A	AIR CONDITIONER
G	GAS METER
MH	MANHOLE (40" ELECTRIC MANHOLE)
SV	SEWER VALVE
CO	WASTEWATER CLEANOUT
WM	WATER METER
OV	WATER VALVE
OE	OVERHEAD ELECTRIC LINE
CP	POWER POLE
CV	IRRIGATION CONTROL VALVE
O.P.R.T.C.T. OFFICIAL PUBLIC RECORDS TRAVIS COUNTY TEXAS	

**ATS** Engineers Inspectors & Surveyors  
 www.ats-engineers.com  
 TBPLS FIRM REG. #10126000  
 4810 West Hwy 290  
 AUSTIN, TEXAS 78735  
 (512) 328-6995  
 FAX: (512) 328-6996



March 6, 2024

Dear Sir or Madam:

The City of Rollingwood Board of Adjustment will be considering a request for the following:

<b>Request:</b>	<b>Subject Property:</b>	<b>Listed Applicant Contact:</b>
Special Exception per Sec. 107-491(a)(1) on the property to permit the reconstruction of a nonconforming structure that has been damaged by fire or other causes.	3220 Park Hills Drive Rollingwood, Texas 78746	Steve Marcie & Norma Marcie 3220 Park Hills Drive Rollingwood, Texas 78746

**Notes:**

The property owner is requesting a special exception related to Section 107-36 (Driveways) for the nonconforming driveway that is not 5' from the property line (per Sec. 107-36).

You are receiving this letter because you have been identified as the owner of real property, which is located within the city limits subject to this request. According to Rollingwood Code of Ordinances, 107-494, notice of a public hearing on a request for a variance, special exception, or appeal to the Board of Adjustment shall be mailed at least 30- days before the public hearing to the petitioner and owners of property located within 250 feet of any point of the lot, or portion thereof which is the subject of the public hearing. Please consider this letter as your official notice of a public hearing to be held by the Board of Adjustment on a special exception request concerning property located within 250 feet of your property in the City of Rollingwood.

**The City of Rollingwood Board of Adjustment will hold a public hearing beginning at 6:00 p.m. on Monday, April 15, 2024 in the Council Chambers at Rollingwood City Hall 403 Nixon Drive, Rollingwood, Texas 78746, or you may join the meeting virtually.**

One of the principal functions of municipal government is to encourage citizen participation within the framework of local government operations and decision-making. During the public hearings, the applicant and people in favor of, neutral or opposed to the request may present their views. Any member of the public may appear at the hearings and present evidence for or against the request. Written comments should be submitted no later than 72 hours before the hearing to the City Secretary, Desiree Adair at City Hall or at [dadair@rollingwoodtx.gov](mailto:dadair@rollingwoodtx.gov). Agendas will be posted on the City's website at [www.rollingwoodtx.gov/meetings](http://www.rollingwoodtx.gov/meetings) 72 hours prior to the meeting; please call or check the website for additional information.

For more information regarding this matter as well as any questions, please contact the City of Rollingwood City Hall at 512-327-1838 or by email at [developmentsservices@rollingwoodtx.gov](mailto:developmentsservices@rollingwoodtx.gov).

Respectfully,

A handwritten signature in red ink that reads "Nikki Stautzenberger".

Nikki Stautzenberger  
Development Services Manager

Cc: Board of Adjustment members

Sec. 107-491 - Special exceptions.

- (a) The board may, in a specific case, where the board makes the findings required under subsection (c) herein, grant the following special exceptions from the requirements of this division:
- (1) Permit the reconstruction of a nonconforming building or structure that has been damaged by fire or other cause;
  - (2) Permit the enlargement or extension of a nonconforming use or nonconforming building upon the lot occupied by such use or building at the time of the passage of this division;
  - (3) In undeveloped sections of the city, grant temporary and conditional permits for not more than two years, provided that the grant of a temporary or conditional permit shall not be reason or cause for extension of such permit;
  - (4) Permit such modifications of yard, open space, lot area, or lot width regulations as may be necessary to improve a parcel of land, if the parcel is of such restricted size that it cannot be appropriately improved without such modification; or
  - (5) Permit a public utility or public service building of a ground area or height at variance with those provided for the district in which such public utility or public service building is permitted to be located, when found reasonably necessary for the public health, convenience, safety or general welfare.
- (b) The board may grant such other special exceptions as may be provided for elsewhere in this division, subject to the terms and conditions therein set out.
- (c) Prior to granting a special exception, the board shall make a finding that it is empowered under this chapter to grant the special exception, that the public convenience and welfare will not be substantially or permanently injured in the granting of the special exception, and that the grant of the special exception will not adversely affect the public health, convenience, safety or general welfare.
- (d) In granting a special exception, the board may prescribe appropriate conditions and safeguards in conformity with this division.
- (e) The board shall prescribe a time limit within which the action for which the special exception is required shall be begun or completed, or both. Failure to comply with the time limits set by the board shall void the special exception.

**From:** Ellis Winstanley [REDACTED]  
**Sent:** Saturday, March 23, 2024 10:00 AM  
**To:** Desiree Adair <[dadair@rollingwoodtx.gov](mailto:dadair@rollingwoodtx.gov)>  
**Subject:** Board of Adjustment -- Special Exception Request of Steve Marcie | 3220 Park Hills

Hi Desiree,

Please advise the Board of Adjustment that Ellis & Paige Winstanley support the application of Mr. Marcie for a special exception regarding his driveway and respectfully request the Board approve such request.

Sincerely,

Ellis & Paige Winstanley  
306 Pleasant Dr

--

Ellis Winstanley

**From:** Bruce Hurt [REDACTED]  
**Sent:** Friday, March 22, 2024 2:07 PM  
**To:** Desiree Adair <[dadair@rollingwoodtx.gov](mailto:dadair@rollingwoodtx.gov)>  
**Subject:** Letter in Support of Mr Steve Marcie

Good Afternoon Desiree,

This letter is in support of my neighbor Steve Marcie, who I have known for many years as the type of neighbors we love in our little city of Rollingwood. Would you please inform the Board of Adjustment that Bruce and Marty Hurt, 40 year residents of Rollingwood, are in full support of the application of Mr. Steve Marcie to receive a special exception regarding his driveway and we respectfully request that the Board approve such request.

Thank you.

Bruce and Marty Hurt  
2 Michele Circle  
[REDACTED]

**From:** [REDACTED]  
**Sent:** Thursday, February 8, 2024 2:00 PM  
**To:** Desiree Adair <[dadair@rollingwoodtx.gov](mailto:dadair@rollingwoodtx.gov)>  
**Subject:** Board of Adjustment--Special Exception Request of Steve Marcie---3220 Park Hills.

Hi Desiree:

Please advise the Board of Adjustment that Deets and Janet Justice support the application of Mr. Marcie for a special exception regarding his driveway and respectfully request the Board approve such request.

Thank you.

Deets and Janet Justice  
310 Pleasant Drive.

**From:** Mark Schuh [REDACTED]  
**Sent:** Thursday, March 28, 2024 12:55 PM  
**To:** Desiree Adair <[dadair@rollingwoodtx.gov](mailto:dadair@rollingwoodtx.gov)>  
**Subject:** Marcie residence

**Hi Desiree:**

**Please advise the Board of Adjustment that Mark Schuh (3207 Park Hills Dr) support the application of Mr. Marcie for a special exception regarding his driveway and respectfully request the Board approve such request.**

**Thank you.**

Mark Schuh

**From:** [REDACTED]  
**Sent:** Thursday, March 14, 2024 8:37 PM  
**To:** Desiree Adair <[dadair@rollingwoodtx.gov](mailto:dadair@rollingwoodtx.gov)>  
**Cc:** 'Troye Campbell' [REDACTED]  
**Subject:** Steve Marcie Special Exception Request to Board of Adjustment re 3220 Park Hills Dr.

Dear Desiree,

Good Afternoon!

Would you please pass on to the Board of Adjustment that Chris Bernard and Troye Campbell (3215 Park Hills Dr.) strongly support Steve Marcie's Request for a Special Exception regarding his driveway at 3220 Park Hills Drive. We have reviewed his plan and believe it makes perfect sense to us, and we note that his design was conscientious of his next door neighbors' drainage concerns. We respectfully request the Board approve Steve's Request.

Should the Board have any questions regarding our support of the Request, please contact Chris at [REDACTED].

Thank you, and God bless.

Chris Bernard & Troye Campbell



**From:** Maria Abernathy [REDACTED]  
**Sent:** Thursday, March 28, 2024 12:19 PM  
**To:** Desiree Adair <[dadair@rollingwoodtx.gov](mailto:dadair@rollingwoodtx.gov)>  
**Cc:** Steve Marcie [REDACTED]  
**Subject:** For Board of Adjustment request by Steve Marcie, 3220 Park Hills Dr.

Dear Desiree,

Please convey to the Board of Adjustment:

I understand that Mr. Marcie is applying for a special exception regarding the rebuilding of his nonconforming driveway. I have checked with his neighbors at 3218, adjacent to the driveway, and have learned that they have no objections to this exception. Accordingly, I have no objection, as long as no protected trees were removed for reconstruction of this driveway.

Thank you,

Maria Abernathy  
3216 Park Hills Drive

From: Alison & Ryan Atlas  
3218 Park Hills Dr  
Rollingwood, TX 78746

To: Nikki Stautzenberger  
Development Services Manager, City of Rollingwood

Date: 9/27/23

Dear Ms. Stautzenberger,

We are the residents of 3218 Park Hills Dr -- our property is adjacent to the Marcies' property at 3220 Park Hills Dr.

We strongly support the City of Rollingwood issuing a permit to Steve Marcie and Norma Marcie for the reconstruction of their damaged driveway pursuant to Sec. 107-422, paragraph (4) of the city's code of ordinances.

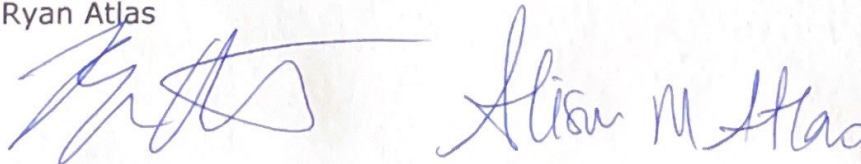
The Marcies have consistently acted as great neighbors throughout their entire ownership of the property. The previous driveway that had been on the property since 1986 posed a drainage issue for us and for the other downstream neighbors on Pleasant Dr because that driveway was sloped toward our property and did not possess any curbing to keep rainwater from coming over to our side.

When the Marcies' reconstructed their damaged driveway, they made numerous improvements from a drainage perspective that were of great benefit to us and to neighbors on Pleasant Dr, such as 1) sloping the side of the driveway away from our property and toward theirs; 2) shortening the length of the driveway; 3) adding a curb to channel water to their retention area; and 4) adding a grate to channel water to their retention area.

Considering the significant drainage issues that the city has faced over the years, we greatly appreciate the Marcies' thoughtful and considerate decisions which have helped us and many other neighbors in this regard. We hope the city will appreciate this as well and exercise its right under Sec. 107-422, paragraph (4) of the city's code of ordinances to grant them the permit to allow these important improvements to remain.

Sincerely,

Alison and Ryan Atlas

Handwritten signatures of Alison and Ryan Atlas in blue ink. The signature on the left is a stylized, cursive signature, likely for Ryan Atlas. The signature on the right is a more legible cursive signature, likely for Alison M. Atlas.

**From:** stephanie sloss [REDACTED]  
**Sent:** Wednesday, April 10, 2024 6:44 PM  
**To:** Desiree Adair <[dadair@rollingwoodtx.gov](mailto:dadair@rollingwoodtx.gov)>  
**Subject:** BOS-special exception request - Steve Marcie

Good evening. This letter is to advise that Tom and Stephanie Sloss of 3203 Pickwick Ln support the application of special exception for 3220 Park Hills Drive regarding the driveway of Steve Marcie. It is our hope that the Board will approve his request.

Regards,  
Stephanie & Tom Sloss

THOMAS W. FARRELL  
3223 PARK HILLS DRIVE  
ROLLINGWOOD, TEXAS 78746

512-633-6294

westbank@aol.com

April 9, 2024

City of Rollingwood  
Board of Adjustment  
403 Nixon Drive  
Rollingwood, Texas 78746

Re: Special Exception 3220 Park Hills Drive

Dear Sir or Madam:

Sandra and I are in favor of granting the Special Exception as requested by Steve Marcie & Norma Marcie related to Section 107-36 (Driveway) for the nonconforming driveway that is not 5' from the property line (per Sec. 107-36).

There are several reasons why I believe that the request should be granted;

1. We are long term residents and were living here when the house and driveway were first constructed at 3220 Park Hills Drive. The current driveway (area in question) is in the same location as the original driveway and has only been repaired. The time lines for this would be from the 1980's to present time;
2. Should the current concrete driveway apron be replaced; I then believe that it would increase the likelihood of drainage issues for neighboring properties.
3. Several other homes on Park Hills Drive have similar driveways that are not 5' from the property line;
4. Our neighborhood has had several years of construction noise, traffic and dust. We really don't need any more jackhammers for this issue;

We respectfully request that the requested special exception be granted.



Thom and Sandra Farrell



City of Rollingwood Board of Adjustment
Finding of Fact for Special Exception

Applicant: \_\_\_\_\_ Case Number: \_\_\_\_\_

Address/Lot/Tract: \_\_\_\_\_

Description of Special Exception: \_\_\_\_\_

Date and method of public hearing notice: \_\_\_\_\_

Date of public hearing and BOA Meeting: \_\_\_\_\_

After giving notice and conducting a public hearing on this special exception request in accordance with the City of Rollingwood Code of Ordinances, the Board of Adjustment adopts these specific, written findings as follows:

Table with 3 columns: Question, Yes, No. Contains 3 numbered questions regarding the Board of Adjustment's authority and the impact of the special exception.

All findings must be determined in the affirmative for the special exception to be granted.

Additional Comments including any conditions prescribed by the BOA (if any): \_\_\_\_\_

With \_\_\_ members present, and upon a vote of \_\_\_ for, \_\_\_ against, and \_\_\_ abstaining, the special exception is hereby:

\_\_\_\_\_ granted \_\_\_\_\_ denied

\_\_\_\_\_  
Presiding Officer of BOA

\_\_\_\_\_  
Date

