

Herbert Hawkins Law Offices

1720 Longhorn Ave
P. O. Box 1867.
Bay City, Texas 77414
hawkinslawoffices@gmail.com

Herbert L. Hawkins, Jr.
Attorney at Law
MAILING ADDRESS: P. O. Box 1867, Bay City, Texas 77414

(281) 701-6498 Phone
(866) 896-0737 (FAX)

June 2, 2023

City Secretary
City of Bay City
1901 Fifth Street
Bay City, TX 7741

Re: VARIANCE REQUEST
APPLICANT: MELANIE PATTERSON
PROPERTY ADDRESS: 2600 Sycamore, Bay City, Texas

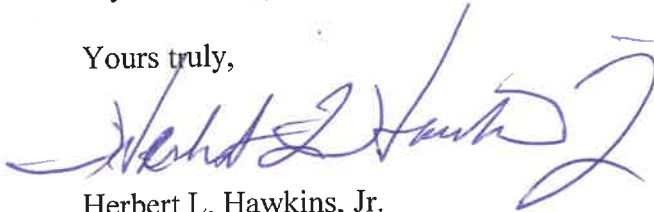
Dear Madam,

Enclosed herein you will find REQUEST FOR VARIANCE and supporting exhibits which I am submitting on behalf of my client, Melanie Patterson. Also enclosed is a check for \$75.00 for filing the Request. The exhibits include a DVD that is part of the Variance Request.

Please set this matter for a hearing before the VARIANCE COMMITTEE at the earliest possible date.

If you have any questions, please feel free to call me, text me or email my office.

Yours truly,



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Attorney at Law
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Enclosures: Variance Request & Exhibits
Hawkins Law Offices TRUST ACCOUNT CHECK \$75.00
DVD Exhibits to Variance Request

Cc: Melanie Patterson



**CITY OF BAY CITY
VARIANCE REQUEST**

1901 5th Street
Bay City, TX 77414
(979) 245-5311
(979) 323-1681 fax

All requests for a variance shall be filed with the City Secretary. Each request shall be accompanied by a \$75.00 filing fee, a drawing/illustration depicting the property affected by the request, and any additional supplemental documentation that you want the Variance Committee to consider. **Incomplete requests will not be accepted.**

Date: May 22, 2023

Name of Requestor (please print): MELANIE PATTERSON

Address of Requestor: 1720 Misty Lane Phone Number: 1-346-800-6555

Fresno, Texas 77545 Email Address: melanie_p1@outlook.com
hawkinslawoffices@gmail.com

Address of subject property: 2600 Scycamore, Bay City, Matagorda County, Texas 77414

Legal description of subject property: EAST HEIGHTS S/D, BLOCK 8, LOT 7 & 8, Bay City, Matagorda County, Texas

Section(s) of the City's Code of Ordinances from which the variance is being sought:

Sec. 54-29 thru 83 of the Code of Ordinances Chapter **54, Article II, Mobile Homes**

Sec. 54-110 thru 201 of the Code of Ordinances Chapter **54, Article III, Mobile Homes Parks**

Sec. 54-203,54-240-259 of the Code of Ordinances Chapter **54, Article III, Mobile Homes Parks**

In detail, please state the reason for the request: Applicant is owner of a "NON-CONFORMING TRAILER HOME PARK"

When Applicant purchased the Trailer Home Park there were or previously existed three trailers on site.. Applicant demolished the old trailers.

Within 180 days of demolition, Applicant placed one Trailer on the premises and continued to to make arrangements for more trailers in

compliance with City Codes, regulations and Ordinances. She submitted a Proposed PLAT which which was denied due to alleged violations of spacing requirements and other issues. Applicant contested the alleged violations and was willing to comply with all codes and regulations.

Applicant now seeks authorization to proceed and place at least Three (3) trailers on the premises in accordance with all city, state and federal laws.

Applicant will suffer undue hardship if this Variance is not granted. Applicant submits that a VARIANCE is not contrary to the public interest and, due to special circumstances.

The Variance Committee will consider variance requests from the following:

- (a) Ch. 22 (Buildings and Building Regulations)
- (b) Ch. 46 (Flood Damage Prevention)
- (c) Ch. 54 (Mobile Homes, etc.)
- (d) Ch. 78 (Off Street Parking (Angle Parking))
- (e) Ch. 94 (Streets, Sidewalks and Other Public Places)
- (f) Ch. 98, Sec. 98-122 – Subdivision Streets
- (g) Ch. 110, Sec. 110-178 (Traffic and Vehicles (Angle Parking)).

Otherwise, the Planning Commission will consider the variance request.

Decisions of the Variance and Planning Committees shall be filed with the City Secretary's Office and promptly reported to the requestor. All decisions may be appealed to the City Council.

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Attorney for Melanie Patterson
1720 Longhorn Ave., Bay City, Texas 77414
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email: hawkinslawoffices@gmail.com

Melanie Patterson
Requestor Signature

Memorandum in Support of Application for Variance

To: Variance Committee, City of Bay City

From: Herbert L. Hawkins, Jr, Attorney of Record for Melanie Patterson
Melanie Patterson

Re: SECOND VARIANCE Request for Property at 2600 Sycamore, Bay City, Texas

Date: June 3, 2022

Members of the Variance Committee:

This Memorandum is submitted in support of the attached Variance Request submitted by and on behalf of Melanie Patterson. Attached are Exhibits in support of this Variance Request.

Ms. Patterson has been diligently and continuously taking affirmative steps to complete the development of a "Non-Conforming Trailer Park", within the City of Bay City, at 2600 Sycamore, Bay City, Texas which replaced an abandoned "Non-Conforming Trailer Park.

Ms. Patterson submitted a formal Variance Request August 5, 2022. A hearing was held. After presentations Ms. Patterson's Attorney and City Officials, the parties were told to work on changing the modification in a manner that would be more feasible.

Ms. Patterson, through her representative met with City Officials and was advised that several mandatory changes were required.

1. The existing Trailer on the property and new trailers would have to be moved three (3) feet so that no trailer would be located in the Utility Easement.
2. Approved and paid Building permits for Plumbing, Electrical, Sewage and Water line must be issued before any work was started.
3. Licensed Plumbers, Electrical and other contractors requiring licenses must be retained and used for all work on the premises.
4. A moving permit must be approved for each new Trailer to be located on the premises.
5. All improvements to Plumbing, Electrical, Sewage and Water lines, etc must be accordance with City, State and Federal Codes and Regulations pertaining to and governing a "Non-Conforming Trailer Park".
6. A proposed Plat or Plats showing the location of new Trailers must be submitted and approved by the Variance Committee or the City Council of the City of Bay City.

After demolition, Ms. Patterson started the process of replacing three four previously existing Trailer homes with Four Trailers or Five Trailers. One trailer was placed on the property in May 2021 within six months of the demolition of the last of the old trailers. However, due to other city inspections requirements and other conditions beyond her control she was not able finish and to proceed with locating the other trailers on the property within six months of the original demolition.

Ms. Patterson is seeking this VARIANCE so that she can proceed and finish the development of the "Non-Conforming Trailer Park".

She is submitting drawings of two proposed plats labled Exhibit "1" and Exhibit "2" . In addition she is submitting exhibits which include a (1) a video of the old Trailer Home Park. (2) The new existing Trailer on the "Non Conforming Trailer". and (3) current relevant pictures of the Trailer Home Park.

"Under Texas state law this Variance Committee, may authorize this Variance "if the variance is not contrary to public interest and, due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship, and so that the spirit of the ordinance is observed and substantial justice is done. Tex. Local Gov't Code Ann. Sec 211.009(a)*3) Vernon 1999.)

All of these conditions apply to Ms. Patterson's situations.

Finally, denial of this Variance would cause Ms. Patterson as substantial financial hardship.

The Texas Municipal League (TML) published new legislative updates in August of 2021(see attached) stating the following:

Zoning Variances: Then and Now

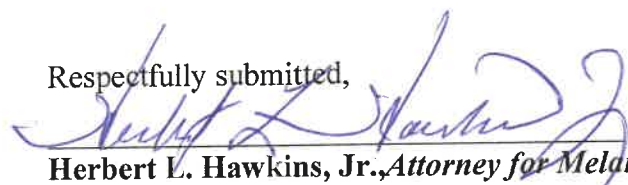
A BOA is authorized to grant a variance if, among other things, enforcing the ordinance as written would result in "unnecessary hardship." The term, hardship" is not defined in State law, so over time courts have grappled with the sorts of facts that can constitute an "unnecessary hardship" and justify granting a variance. Until the passage of H.B. 1475, an unnecessary hardship would be one that was not self-imposed, personal in nature, related to the property for which the variance is sought, and not a solely financial hardship. The hardship needed to be a condition unique, oppressive, and not common to other property.

**This changes the above analysis in a couple ways. It adds more objective criteria which a BOA can consider to determine whether compliance with a city's zoning ordinance as applied to a structure would result in an unnecessary hardship. For the first time, purely financial considerations can qualify an applicant for a variance. Additionally, if the proposed structure would be considered a nonconforming structure, that could be grounds to grant a variance. Those are two significant shifts in variance analysis, which allow an applicant to get over the "unnecessary hardship" hurdle a little more easily. Under the new law, there might be an unnecessary hardship if:
the cost of compliance with the zoning ordinance is greater than 50 percent Of the appraised value of the structure as shown on the most recent certified appraisal roll; or**

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; Or compliance would result in the structure not in compliance with a requirement of another city ordinance, building code, or other requirement; or compliance would result in the unreasonable encroachment on an adjacent property or easement; or the city considers the structure to be a nonconforming structure. Keep in mind that to grant a variance, the variance must not be contrary to the public interest, and the spirit of the zoning ordinance must be observed, So even if a proposed structure fits an "unnecessary hardship" category above, granting the variance is not automatic. The facts surrounding each variance request still have to be analyzed by the BOA, but starting September 1, 2021, H.B. 1475 changes part of the analysis. Cities and their BOAs should look at their zoning rules, policies, documentation, and electronic or printed materials to make sure they are updated to reflect this change in state law and be ready for new arguments from zoning applicants in the fall.

Ms. Patterson respectfully requests that her Variance Request be granted so that she can complete this project under the current provisions City, State and Federal law.

Respectfully submitted,

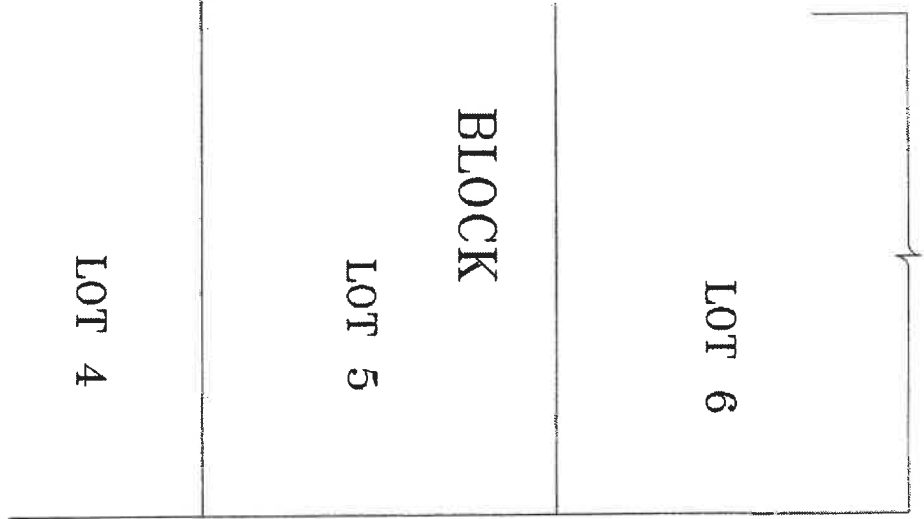


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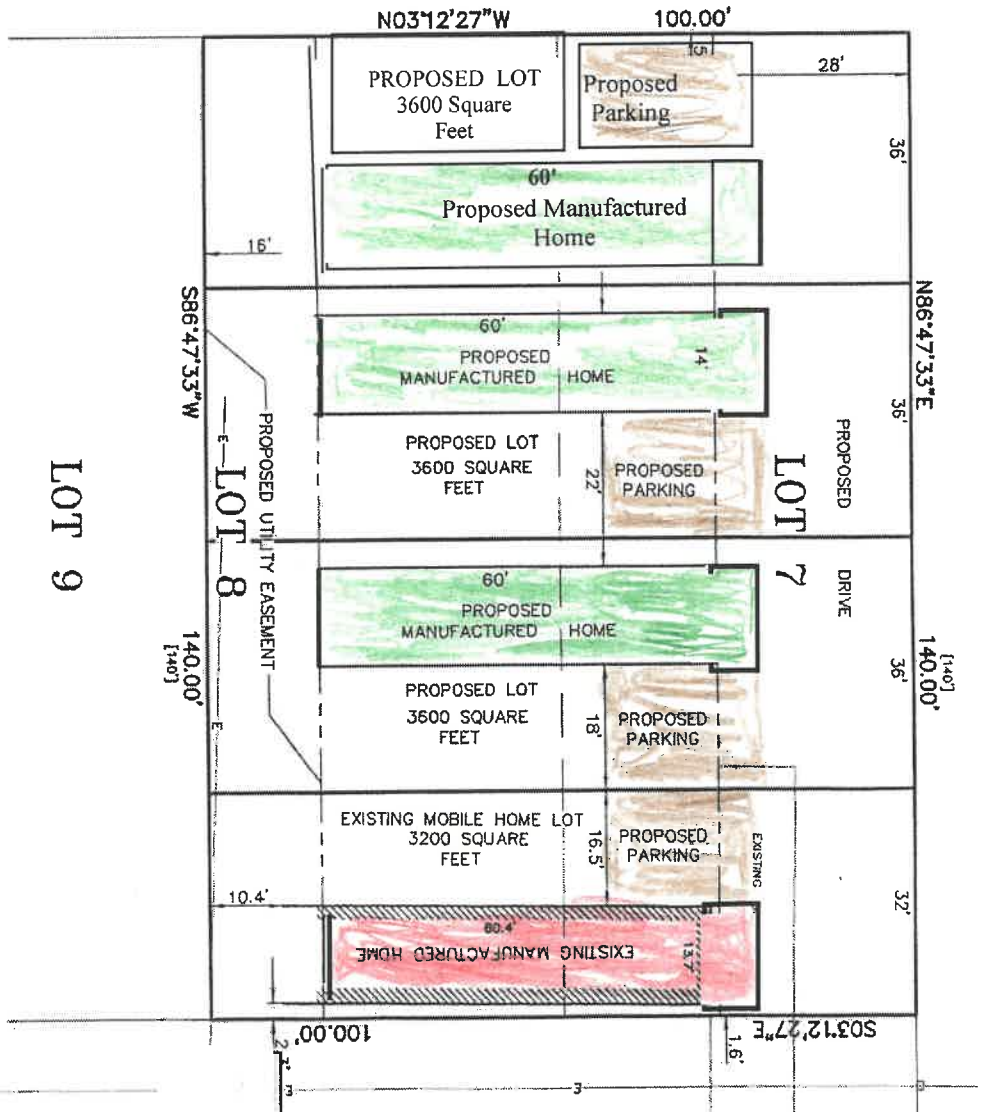
ITEM #1.

Exhibit "1"

PLAT SHOWING PROPOSED LAYOUT OF
MANUFACTURED HOMES AND ACCESS
LOTS 7 & 8 IN BLOCK 8 OF
THE EAST HEIGHTS ADDITION
TO THE CITY OF BAY CITY
VOLUME 43, PAGE 332 OF THE
MATAGORDA COUNTY DEED RECORDS
I. & G. N. R. R. CO. SURVEY
ABSTRACT NO. 269
MATAGORDA COUNTY, TEXAS



[20' ∞ ALLEY]



2600 SYCAMORE STREET

Sycamore Street

SECOND STREET
RAILROAD

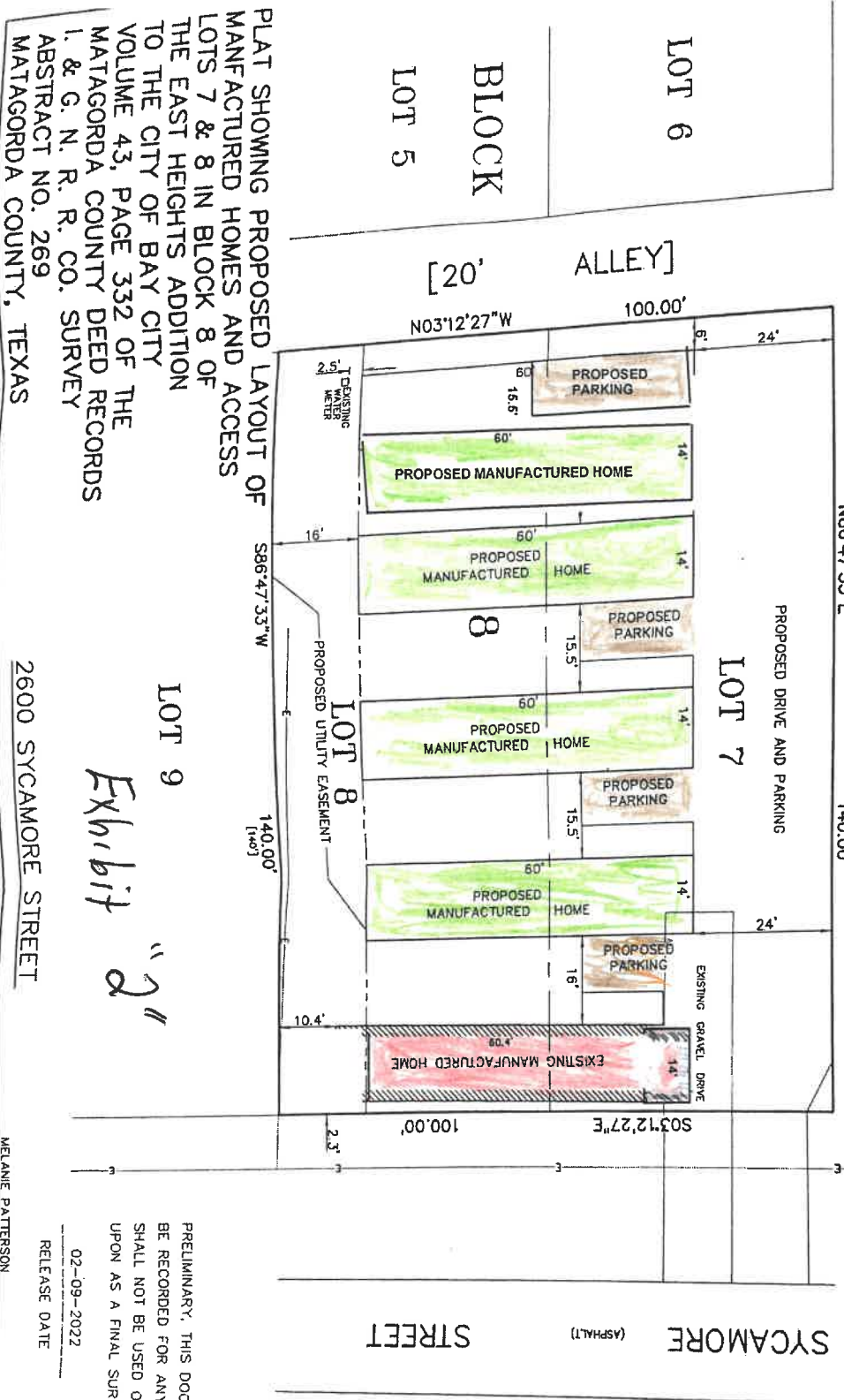


BOUNDARY AND CORNER POINTS SHOWN
EXCEPT WHERE NOTED OTHERWISE
SHOULD BE CONSIDERED AS APPROXIMATE

DRAWN BY	G.N.M.
CHECKED BY	W.E.G.
DATE:	FEB. 9, 2022
SCALE:	1" = 20'

LEGEND

- E — OVERHEAD POWERLINE
- () PLAT OR DEED CALL



PLAT SHOWING PROPOSED LAYOUT OF MANUFACTURED HOMES AND ACCESS LOTS 7 & 8 IN BLOCK 8 OF THE EAST HEIGHTS ADDITION TO THE CITY OF BAY CITY VOLUME 43, PAGE 332 OF THE MATAGORDA COUNTY DEED RECORDS I. & G. N. R. R. CO. SURVEY ABSTRACT NO. 269 MATAGORDA COUNTY, TEXAS

LOT 9
Exhibit "2"

2600 SYCAMORE STREET

MELANIE PATTERSON

PRELIMINARY. THIS DOCUMENT SHALL NOT BE RECORDED FOR ANY PURPOSE AND SHALL NOT BE USED OR VIEWED OR RELIED UPON AS A FINAL SURVEY DOCUMENT

02-09-2022
RELEASE DATE

G & W ENGINEERS, INC.
ENGINEERING SURVEYING PLANNING

205 W. LIVE OAK STREET, PORT LAVACA, TEXAS 77979
TBPELS FIRM NO.: 10022100
(361) 552-4509; PORT LAVACA (979) 323-7100; BAY CITY

FILE NO.:	10112-001A
JOB NO.:	10112-001
SHEET NO.:	1 OF 1

DRAWN BY
G.N.M.
CHECKED BY
W.E.G.
DATE:
FEB. 9, 2022
SCALE:
1" = 20'

LEGEND
-E- OVERHEAD POWERLINE
[] PLAT OR DEED CALL

REFERENCES AND COORDINATE SYSTEM
SECTION AND TOWNSHIP
SOUTH CENTRAL ZONE NAD83 CRD.

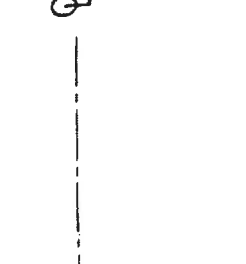


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02-09-2022
RELEASE DATE
MELANIE PATTERSON

SYCAMORE (ASPHALT) STREET



LOT 6
BLOCK
LOT 5
LOT 7
LOT 8
LOT 9

PLAT SHOWING PROPOSED LAYOUT OF
MANUFACTURED HOMES AND ACCESS
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VOLUME 43, PAGE 332 OF THE
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ABSTRACT NO. 269
MATAGORDA COUNTY, TEXAS

2600 SYCAMORE STREET

Exhibit 3

DRAWN BY
G.N.M.
CHECKED BY
W.E.G.
DATE:
FEB. 9, 2022
SCALE:
1" = 20'

LEGEND
 -E- OVERHEAD POWERLINE
 [] PLAT OR DEED CALL

BOUNDARY AND DIMENSIONS SHOWN HEREON ARE FOR INFORMATION ONLY. SOUTH CENTRAL SURVEYING HAS NO GUARANTEE.

SECOND STREET
RAILROAD

SYCAMORE STREET (ASPHALT)

LOT 6
LOT 7
LOT 8
LOT 9

PROPOSED DRIVE AND PARKING
 PROPOSED MANUFACTURED HOME
 PROPOSED PARKING
 EXISTING GRAVEL DRIVE
 EXISTING MANUFACTURED HOME
 PROPOSED UTILITY EASEMENT

20' ALLEY
 N03°12'27"W 100.00'
 N86°47'33"E 140.00'
 S03°12'27"E 100.00'
 S86°47'33"W 140.00'

G & W ENGINEERS, INC.
 ENGINEERING SURVEYING PLANNING
 205 W. LIVE OAK STREET, PORT LAVACA, TEXAS 77979
 TBP&S FIRM NO.: 10022100
 (361) 552-4509; PORT LAVACA (979) 323-7100; BAY CITY

FILE NO.: 10112-001A
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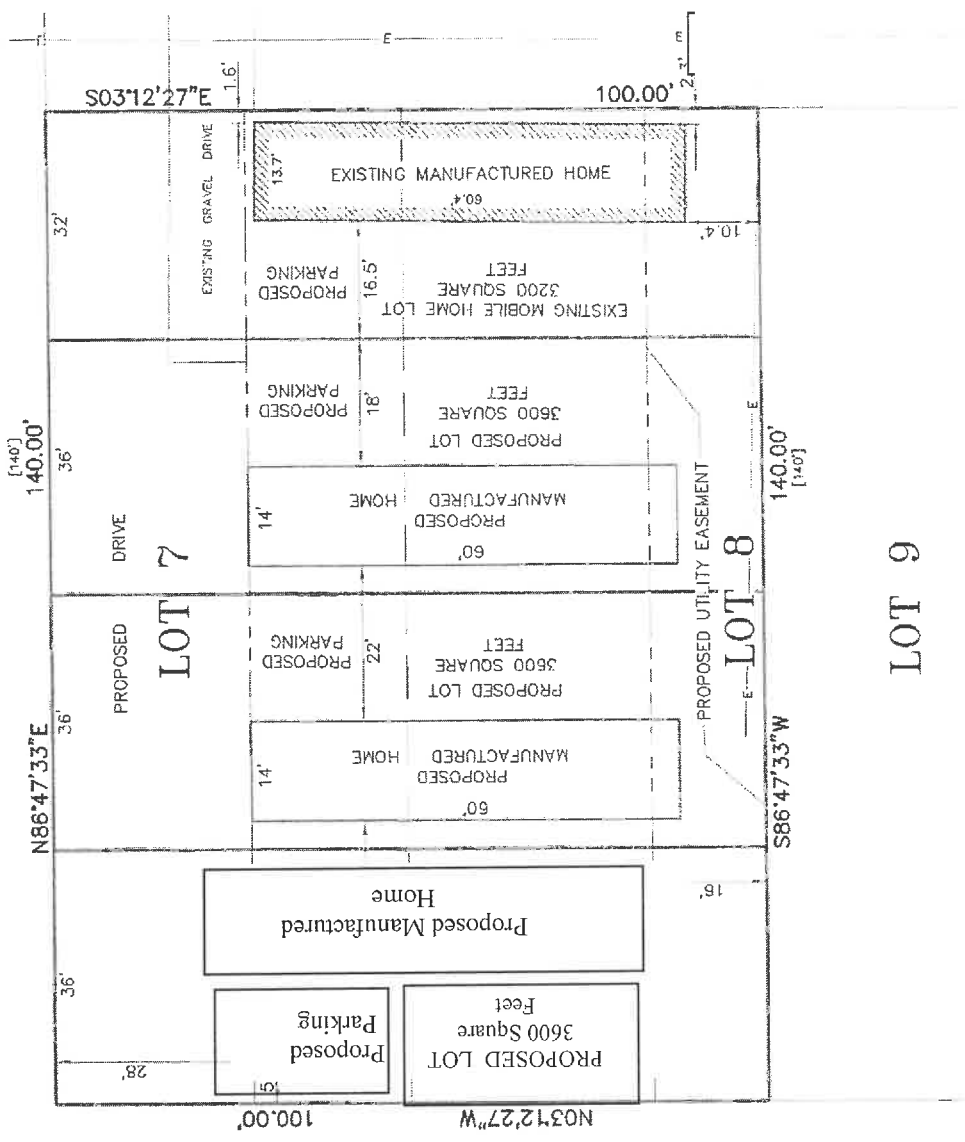
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 02-09-2022
 RELEASE DATE
 MELANIE PATTERSON

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Exhibit 4

ITEM #1

[20' ALLEY]



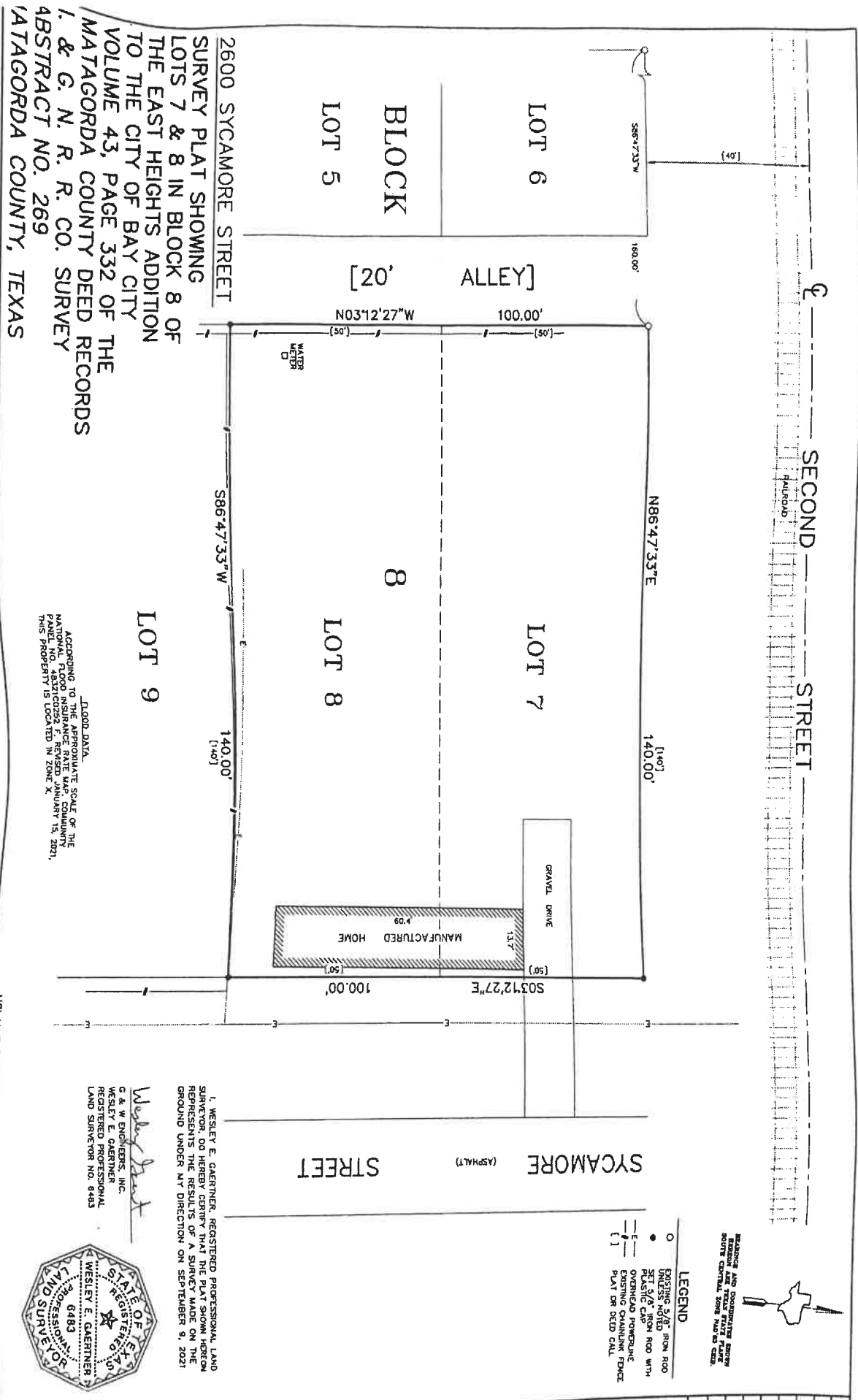
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 ABSTRACT NO. 269
 MATAGORDA COUNTY, TEXAS

2600 SYCAMORE STREET

Exhibit 1

MEL

A 9, 7, 14, 9, 13



2600 SYCAMORE STREET
SURVEY PLAT SHOWING
LOTS 7 & 8 IN BLOCK 8 OF
THE EAST HEIGHTS ADDITION
TO THE CITY OF BAY CITY
VOLUME 43, PAGE 332 OF THE
MATAGORDA COUNTY DEED RECORDS
I. & G. N. R. R. CO. SURVEY
MATAGORDA COUNTY, TEXAS

LOT 9

140.00' [140']
140.00' [140']
S86°47'33"E
S86°47'33"W

GRAVEL DRIVE
MANUFACTURED HOME
13.7'
4.09'

SYCAMORE STREET (ASPHALT)

LEGEND
 ○ BOTTLE CAP
 ○ UNLINED RIBBED IRON ROD
 ○ SET 3/8" IRON ROD WITH PLASTIC CAP
 ○ DIMENSIONED FROM SURVEY PLAT OR DEED CALL

1. WESLEY E. GAERTNER, REGISTERED PROFESSIONAL LAND SURVEYOR, HAS REVIEWED THIS PLAT SHOWN HEREON REPRESENTS THE RESULTS OF A SURVEY MADE ON THE GROUND UNDER MY DIRECTION ON SEPTEMBER 9, 2021

WESLEY E. GAERTNER
REGISTERED PROFESSIONAL LAND SURVEYOR NO. 8483

STATE OF TEXAS
REGISTERED PROFESSIONAL LAND SURVEYOR
WESLEY E. GAERTNER
6883

FILE NO. 10112-0
JOB NO. 10112-0
SHEET 1 OF 1

2600 SYCAMORE STREET
SURVEY PLAT SHOWING
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FILE NO. 10112-0
JOB NO. 10112-0
SHEET 1 OF 1

G & W ENGINEERS, INC.
ENGINEERING • SURVEYING • PLANNING
205 W. LIVE OAK STREET, PORT LAVACA, TEXAS 77979

DRAWN BY M.M.A.
CHECKED BY W.E.G.
DATE: SEPT 16, 2021
SCALE: 1" = 20'

Exhibit ~~2~~ "7"



Legislative **UPDATE**

August 20, 2021
Number 32

Exhibit "5A"

Post-Session Update: Grounds for Zoning Variances Expanded

In cities with zoning regulations, the Board of Adjustment ("BOA") serves as the appellate body for certain zoning-related decisions. BOAs are authorized by state law to hear appeals of administrative decisions, decide whether or not to grant special exceptions to terms of the zoning ordinance, authorize variances from the zoning ordinance, and hear and decide "other matters" authorized under the city's zoning ordinance. H.B. 1475 changes BOA authority related to variances and gives additional objective grounds for which a variance from a municipal zoning ordinance may be granted.

Exhibit "6"

127 S.W.3d 220
CITY OF DALLAS, Texas, Board of
Adjustment of the City of Dallas, Texas
and Raj Sharma, in his capacity as the
Building Official of the City of Dallas,
Appellants,
v.
Doug VANESKO and Grace Vanesko,
Appellees.
No. 05-03-00022-CV.
Court of Appeals of Texas, Dallas.
November 19, 2003.
Rehearing Overruled February 9,
2004.

[127 S.W.3d 222]

Christopher D. Bowers, Assistant City Attorney, Dallas, for Appellants.

Roger Albright, Law Offices of Roger Albright, Dallas, for Appellees.

Before Justices MOSELEY, MARTIN RICHTER and FRANCIS.

OPINION

Opinion by Justice MARTIN RICHTER.

This is a zoning case. The Vaneskos sought a variance from a local zoning ordinance, but the Board of Adjustment refused to grant a variance. The Vaneskos filed an application for writ of certiorari in the trial court in order to seek review of the Board of Adjustment decision. The cause was tried to the court below without a jury. The only evidence considered was the record of the Board of Adjustment proceedings submitted upon the return and supplemental return of the writ of certiorari. The trial court reversed the Board of Adjustment on the basis that its decision was an abuse of discretion and remanded for further proceedings consistent with the holdings of *Town of S. Padre*

[127 S.W.3d 223]

Island v. Cantu, 52 S.W.3d 287 (Tex.App.-Corpus Christi, 2001, no pet.) and *Board of Adjustment v. McBride*, 676 S.W.2d 705, 709 (Tex.App.-Corpus Christi, 1984, no writ). The City of Dallas, the Board of Adjustment for the City of Dallas, and Raj Sharma, in his capacity as the Building Official for the City of Dallas¹, bring three issues, claiming the trial court erred by abusing its discretion when it 1) remanded the case for the Board to consider *Cantu* and *McBride*, 2) concluded a city inspector's mistake in approving a building permit was a unique oppressive condition resulting in unnecessary hardship to the Vaneskos, and 3) made findings of fact and conclusions of law that ignored substantial evidence that supported the Board's decision. We affirm the decision of the trial court.

I. Factual Background

The Vaneskos purchased their property in Dallas in 1991 and lived in an existing single family residence until 1996, when they moved into an apartment located above their garage. The Vaneskos then had the existing home demolished in order to build a newer and larger home. The record indicates that this section of North Dallas was, at the time, a "hotbed" of redevelopment.

Doug Vanesko designed his own home and acted as his own general contractor. Realizing he was a novice contractor, Doug Vanesko paid the city building inspector an additional sum of money to approve his construction plans. The city not only approved those plans, but also made periodic inspections to monitor the construction.

As the home was nearing completion, and after the structure's steel truss roof was completely framed in, the building inspector stated that he thought that the roof appeared two feet too high. The Vaneskos were not advised or ordered to stop construction, but were told to seek a variance from the Board.



With the support of the building inspector's office, the Vaneskos filed for a variance.

After the building inspector first advised that the structure appeared to be too high, and the procedure for seeking a variance commenced, the parties discovered that the permit and the plans approved by the building inspector were in error. The Vaneskos' property is in an R-10 zoning area, which provides for a maximum structure height of thirty feet. Apparently, the plan reviewer in the city inspector's office believed the lot to be in an R-1 or R-2 zoning area, which would allow a maximum height of thirty-six feet.

The approved plans provided for a 38.25 foot height². The house is actually 38.11 feet high. Although the house is 8.11 feet too high as per the zoning ordinance in issue, it was substantially built in accordance with the plans approved by the city.

The evidence indicates that it would cost the Vaneskos between \$50,000—\$100,000 to remove and replace the roof. Further, 80% of the neighbors surrounding the property supported the granting of the variance, while the remaining 20% expressed no opinion other than to indicate that they were unhappy with the City that the situation had gotten to that point.

During the hearings before the Board on the request for a variance, the Board

[127 S.W.3d 224]

was specifically instructed by an assistant city attorney to not consider the fact that the permit had been issued in error or that the home was already completely built. Accordingly, the Board denied the request for a variance.

II. Standard of Review

A board of adjustment is a quasi-judicial body. *Bd. of Adjustment v. Flores*, 860 S.W.2d 622, 625 (Tex.App.-Corpus Christi 1993, writ denied). Section 211.011 of the local government code provides a means for challenging an action taken by a city's zoning board of adjustment. See Tex. Local Gov't Code Ann. § 211.011 (Vernon Supp.2003). This statute provides that a person aggrieved by a zoning board's action may petition the court for a writ of certiorari within ten days after the board's decision is filed. See *id.* at 211.011(a), (b). The district court sits only as a court of review, and the only question that may be raised by a petition for writ of certiorari is the legality of the board's order. See Tex. Local Gov't Code Ann. § 211.011(a) (Vernon Supp. 2003); *City of San Angelo v. Boehme Bakery*, 144 Tex. 281, 286-87, 190 S.W.2d 67, 70 (1945); *Southwest Paper Stock, Inc. v. Zoning Bd. of Adjustment of Fort Worth*, 980 S.W.2d 802, 805 (Tex.App.-Fort Worth 1998, pet. denied). The board's order is presumed to be legal, and the party attacking it has the burden of establishing its illegality. See *Board of Adjustment of Dallas v. Patel*, 882 S.W.2d 87, 88 (Tex. App.-Amarillo 1994, writ denied).

If the court determines that testimony is necessary for the proper disposition of the matter, it may take evidence. See Tex. Local Gov't Code Ann. § 211.011(e) (Vernon Supp.2003). However, review of the board's decision is not by trial de novo. See *Boehme Bakery*, 144 Tex. at 286-87, 190 S.W.2d at 70. The trial court must only answer a question of law, i.e., whether the board abused its discretion. See *Nu-Way Emulsions, Inc. v. City of Dalworthington Gardens*, 617 S.W.2d 188, 189 (Tex.1981) (per curiam); *Dengler v. City of Groves*, 997 S.W.2d 418, 420 (Tex.App.-Beaumont 1999, pet. denied).

It is an abuse of discretion for a zoning board to act arbitrarily and unreasonably without reference to any guiding rules or principles. See *Downer v. Aquamarine Operators, Inc.*, 701 S.W.2d 238, 241-42

(Tex.1985). A board of adjustment abuses its discretion if it clearly fails to analyze or apply the law correctly. *See Walker v. Packer*, 827 S.W.2d 833, 840 (Tex.1992) (original proceeding). The Board does not abuse its discretion as long as some evidence of substantive and probative character exists to support the board's decision. *See Southwest Paper Stock, Inc.*, 980 S.W.2d at 805-06.

The district court may reverse or affirm, in whole or in part, or modify the decision that is appealed. *See Tex. Local Gov't Code Ann. § 211.011(f)* (Vernon Supp.2003). However, the district court cannot put itself in the adjustment board's position or substitute its discretion for that of the board. *See Board of Adjustment of Corpus Christi v. Flores*, 860 S.W.2d 622, 625 (Tex.App.-Corpus Christi 1993, writ denied); *see also Downer*, 701 S.W.2d at 241-42.

III. Applicable Law

Under state law, a board of adjustment "may authorize in specific cases a variance from the terms of a zoning ordinance if the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship, and so that the spirit of the ordinance is observed and

[127 S.W.3d 225]

substantial justice is done." *Tex. Local Gov't Code Ann. § 211.009(a)(3)* (Vernon 1999).

In Dallas, which is a home rule city,³ the Board's decision-making authority in variance cases is further limited by city ordinance. The guiding principles which govern the Board's decision are found in the Dallas Development Code, which authorizes the Board to grant variances from zoning regulations if the variance is "necessary to permit development of the specific parcel of land which differs from other parcels of land by being of such a restrictive area, shape, or slope that it cannot

be developed in a manner commensurate with the development upon other parcels of land in districts with the same zoning classification." Dallas, Tex., Dallas City Code § 51A-3.102(d)(10) (2000). "A variance may not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor may a variance be granted to permit any person a privilege in developing a parcel of land not permitted by this chapter to other parcels of land in districts with the same zoning classification." *See id.*

The Corpus Christi court of appeals has encountered a case remarkably similar to the one before us. *See Town of S. Padre Island v. Cantu*, 52 S.W.3d 287 (Tex.App.-Corpus Christi 2001, no pet.). The Cantus prepared plans for the construction of their home and submitted them to the building department for approval. *Id.* at 288. The town issued a building permit for construction in accordance with the plans submitted. *Id.* When the home was nearly 80% complete, a building inspector informed the Cantus that a portion of their house protruded two feet over a setback line mandated by the zoning ordinance. *Id.* at 288-89.

The Cantus subsequently requested a variance from the board of adjustment. *Id.* at 289. Evidence was presented that the protrusion did not pose a health or safety risk, and at least some of the neighbors supported the granting of a variance. *Id.* The board denied the variance, and the Cantus appealed to the trial court by writ of certiorari. *Id.* The trial court and, ultimately, the *Cantu* court, determined that the board abused its discretion in failing to grant the variance. *Id.* at 289, 291.

In so holding, the *Cantu* court noted that enforcement of the ordinance would substantially change the house's appearance and would make the house and the area less aesthetically pleasing. *Id.* at 290. The *Cantu* court considered the rule that in order to justify a variance, a hardship must not be self-