

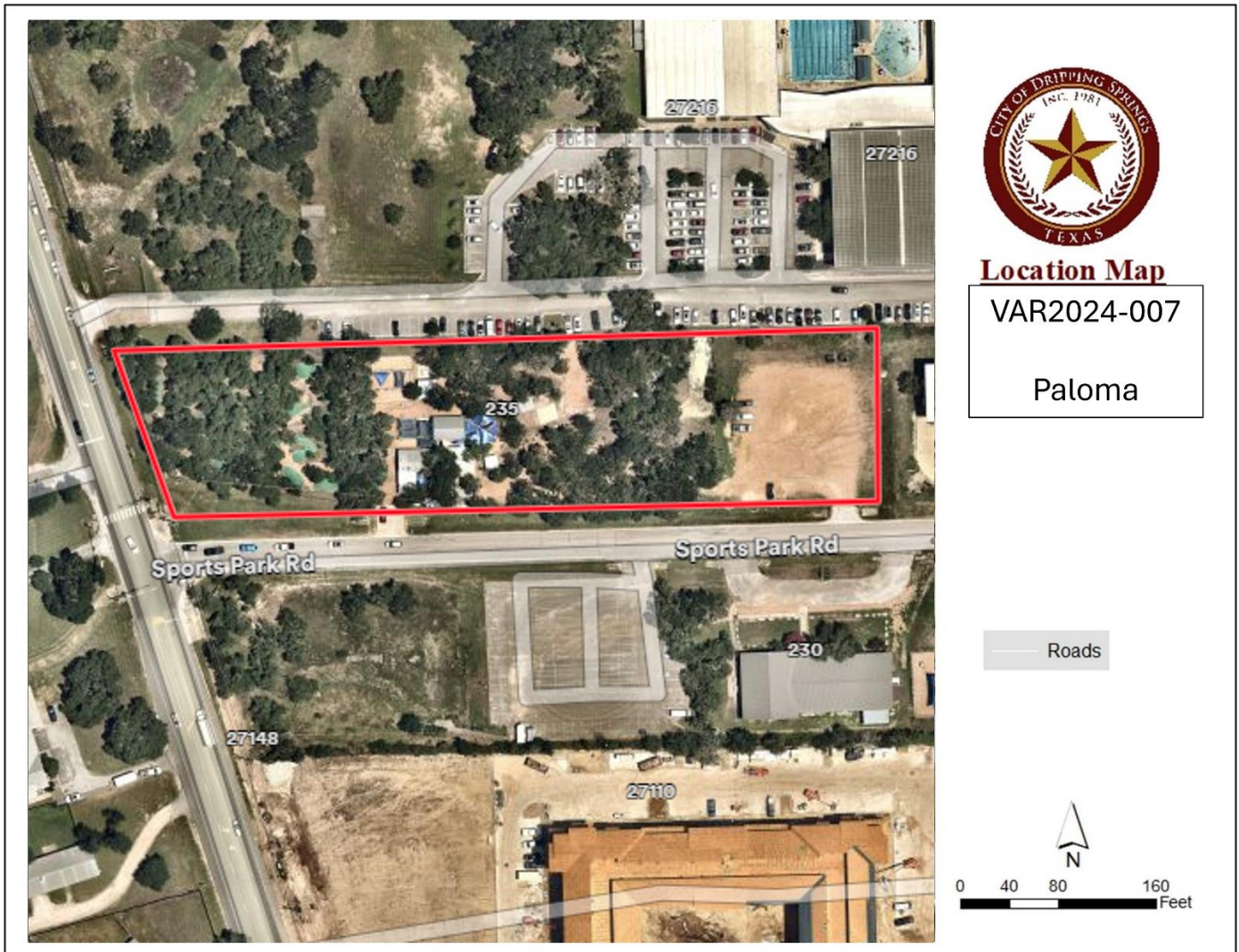


City Council Planning Department Staff Report

City Council Meeting: November 5, 2024
Project No: VAR2024-007
Project Planner: Tory Carpenter, AICP, Planning Director

Item Details

Project Name: Paloma Setback Variance
Property Location: 235 Sports Park Road
Legal Description: Magic Greens Subdivision, Lot 1
Applicant: Guadalupe Barragan
Property Owner: 2Down RR12 LLC
Request: Applicant is requesting a variance to allow a cold storage facility and shed within the building setback.



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Overview

The applicant performed unpermitted work on the property beginning in 2022, which included the installation of an exterior walk-in cooler (160 square feet) and a storage shed (130 square feet). These buildings were placed within the 30-foot building setback identified on the recorded plat and within a public utility easement.

The applicant has received authorization from the utility providers to maintain the buildings within the easement, making it possible for the City to consider approving a license to encroach. However, the current variance request pertains to the encroachment into the building setback.

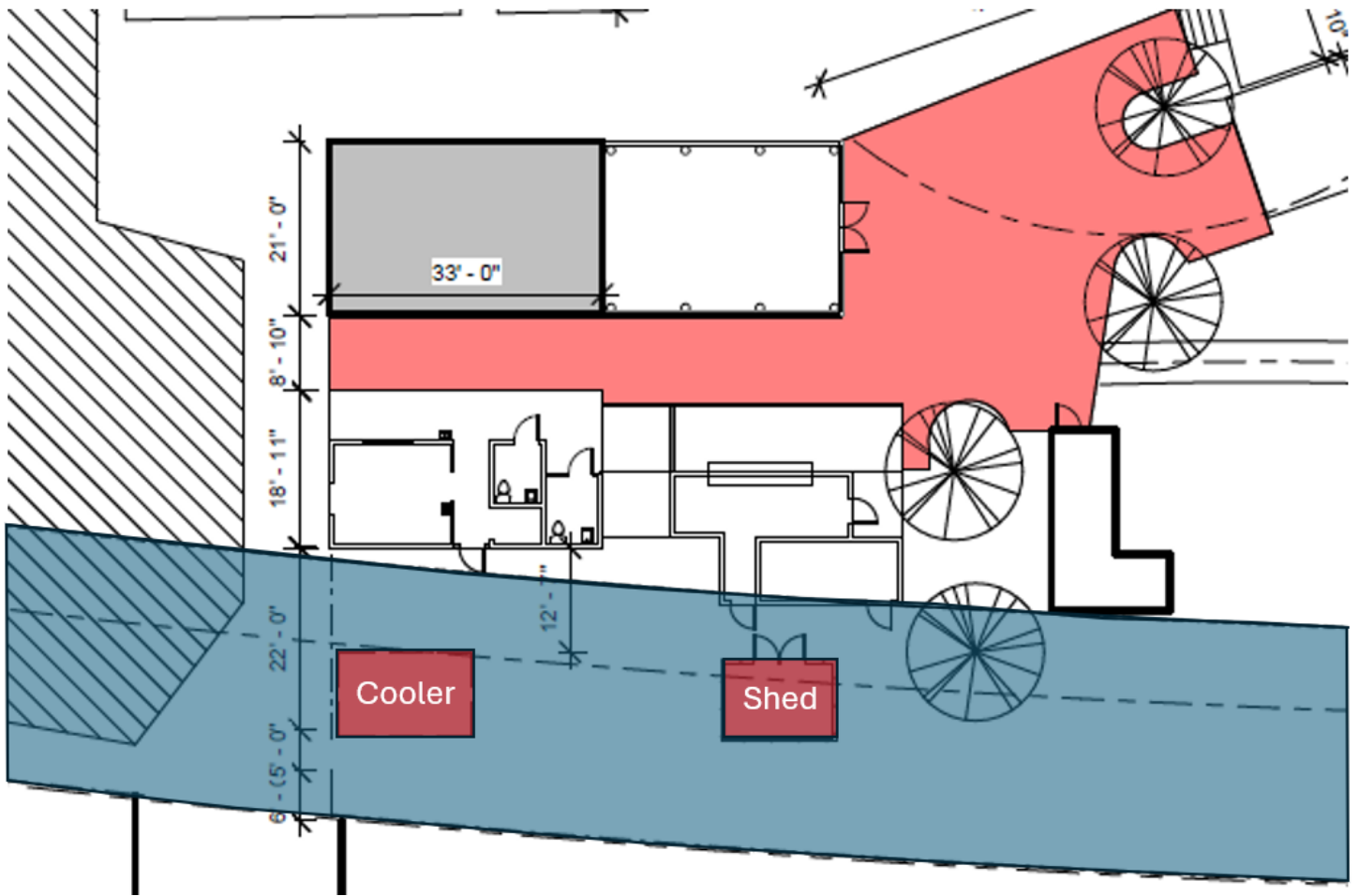
The walk-in cooler is situated approximately 10 feet from the property line, while the storage shed is about 13 feet from the property line. Despite the ongoing work, the applicant has been issued a temporary certificate of occupancy, allowing the business to operate while the unpermitted work is being addressed. The applicant now seeks a variance to keep the structures in their current locations within the setback.

The applicant provided the following statement for the justification of the request:

“The cooler is vital to the operations, and location of the cooler in another area of the property will compromise/interfere with service and fire department access to the existing facilities.”

Code Requirement	Applicant Request	Difference
Structures must be at least 30' from the property line.	Approximately 10' from the front property line	20' from the property line

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Surrounding Properties

Direction	Zoning District	Existing Use	Comprehensive Plan
North	CS	YMCA	The area is not shown on the city's comprehensive future land use plan.
East	CS	Caster Studios	
South	CS	Church	
West	CS	Residence	

Approval Criteria for Variance (2.22.2-Zoning Ordinance)

Approval Criteria	Staff Comments
1. there are special circumstances or conditions affecting the land involved such that the literal enforcement of the provisions of this Chapter would deprive the applicant of the reasonable use of the land; and	The applicant states that the current location of the cooler is vital to operations and relocating it would compromise fire department access. However, staff has identified alternative locations where the cooler could be placed without interfering with fire department access or violating the setback. These alternative locations would allow continued reasonable use of the land, even if not ideal for kitchen operations.
2. the variance is necessary for the preservation and enjoyment of a substantial property right of the applicant; and by preserving the natural features and topography of the land; and	The variance is not necessary for the preservation of a substantial property right. While the applicant asserts that moving the cooler would interfere with operations, reasonable alternatives exist that allow the applicant to enjoy substantial use of the property without violating the

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	setback. There are no natural features or topographical constraints justifying the need for a variance.
3. the granting of the variance will not be detrimental to the public health, safety or welfare, or injurious to other property within the area; and	Granting of the variance would not be detrimental to the public health, safety, or welfare of other property owners within the area.
4. the granting of the variance constitutes a minimal departure from this Chapter; and	The variance request is not a minimal departure from setback requirements, as the cooler is located approximately 20 feet within the 30-foot setback. While the applicant states that the current location is ideal for operations, alternative placements outside the setback have been identified that would still allow the business to operate.
5. the subject circumstances or conditions giving rise to the alleged hardship are not self-imposed, are not based solely on economic gain or loss, and do not generally affect most properties in the vicinity of the property; and	The circumstances are self-imposed, as the applicant installed the cooler without permits and without considering setback requirements. While the applicant claims operational challenges, these are not unique hardships affecting the property.
6. Granting the variance is in harmony with the spirit, general purpose, and intent of this Chapter so that: <ol style="list-style-type: none"> a. the public health, safety and welfare may be secured; and b. that substantial justice may be done. 	Granting this variance would not be in harmony with the spirit and intent of the zoning regulations. Setbacks are intended to protect public safety and ensure orderly development. The applicant's justification for keeping the cooler in its current location does not outweigh the public interest in maintaining adherence to setback regulations. Denying the variance upholds the general purpose of the Chapter and ensures justice for neighboring properties.

Summary and Recommendation

Staff recommends denial of the variance request.

At their meeting on October 22, 2024, the Planning & Zoning Commission voted to unanimously recommend denial this request with the direction to require the buildings be moved out of the setback within 6 months of the denial.

Supermajority Vote

Texas LCG 211.009(c) "The concurring vote of 75 percent of the members of the board is necessary to: (1) reverse an order, requirement, decision, or determination of an administrative official; (2) decide in favor of an applicant on a matter on which the board is required to pass under a zoning ordinance; or (3) authorize a variation from the terms of a zoning ordinance."

Public Notification

A legal notice advertising the public hearing was placed in the Dripping Springs Century-News, signs were posted on the-site, notice was placed on the City Website, and all property owners within a 300-foot radius of the site were notified of the Variance request.

Meetings Schedule

October 22, 2024 Planning & Zoning Commission

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November 5, 2024 Board of Adjustments

Attachments

Attachment 1 – Variance Application

Attachment 2 – Application Materials

Recommended Action	Recommend denial of the requested variance
Alternatives/Options	Recommend approval of the variance with or without conditions.
Budget/Financial impact	N/A
Public comments	None received at this time
Enforcement Issues	N/A
Comprehensive Plan Element	N/A