



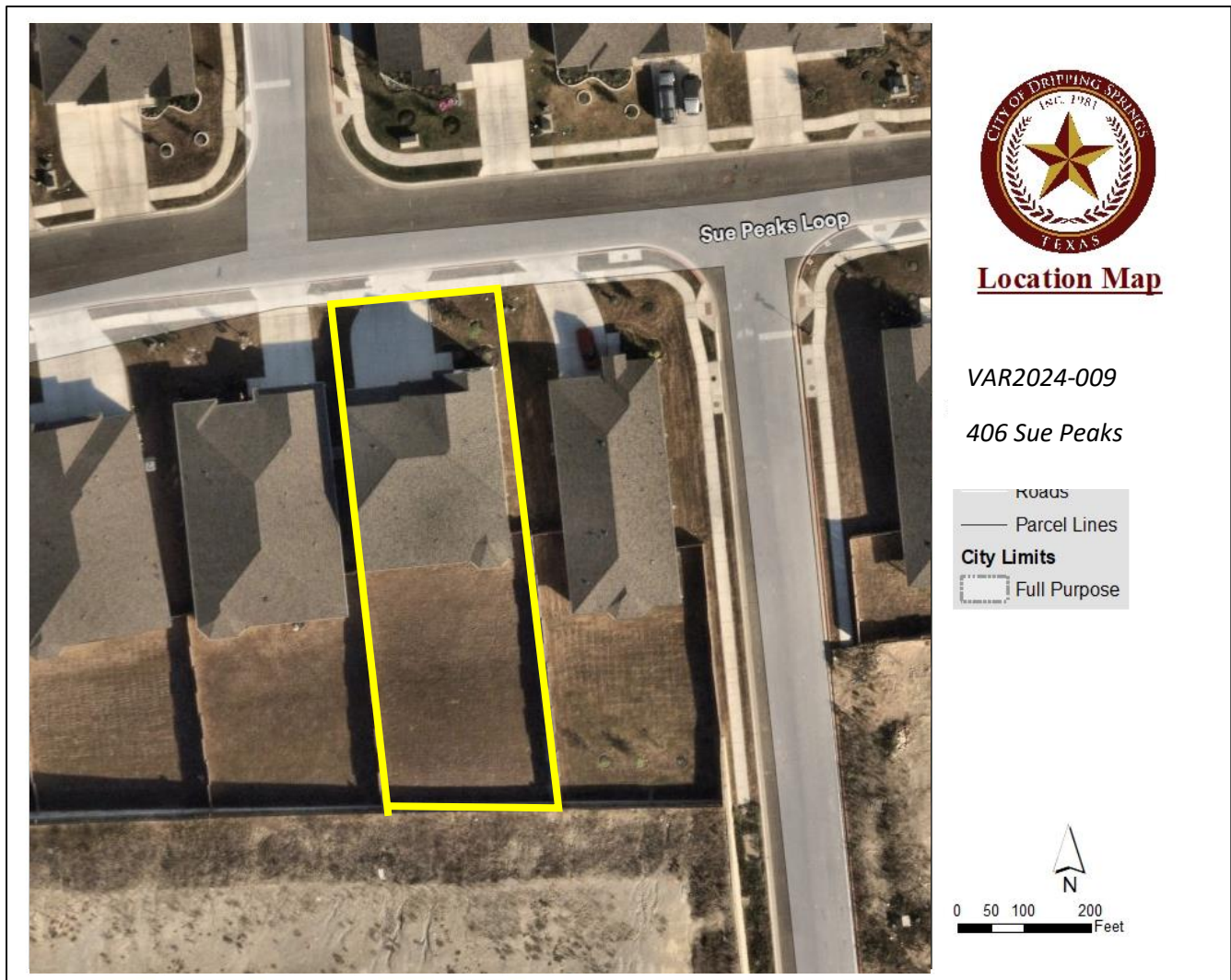
Board of Adjustments

Planning Department Staff Report

Planning and Zoning Commission Meeting: January 7, 2025
Project No: VAR2024-009
Project Planner: Tory Carpenter, AICP – Planning Director

Item Details

Project Name: 406 Sue Peaks
Property Location: 406 Sue Peaks
Legal Description: Lot 9, Block 37, Big Sky Phase 3
Applicant: Travis Schirpik, Meritage Homes, LP
Property Owner: Meritage Homes, LP
Request: Applicant is requesting a variance to Section 3.4.4(b)(2) requiring a 5-foot side setback for properties zoned SF-3 for an existing home.



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Overview

The applicant is requesting a side setback variance from the Planned Development District (PDD) No. 10 Big Sky standards to allow an as-built home to remain 3 feet from the adjacent property line, where a 5-foot side setback is required under Section 2.4.5(b) of the PDD Development Standards.

The variance is sought to address a construction error that occurred due to an oversight when an amending plat was filed. The updated property pins were not referenced when determining the foundation forms, resulting in the home being poured in its current location. The home has been completed but has not yet received a Certificate of Occupancy and the home is unoccupied.

The property owner provided the following description of the hardship and reason for this request:

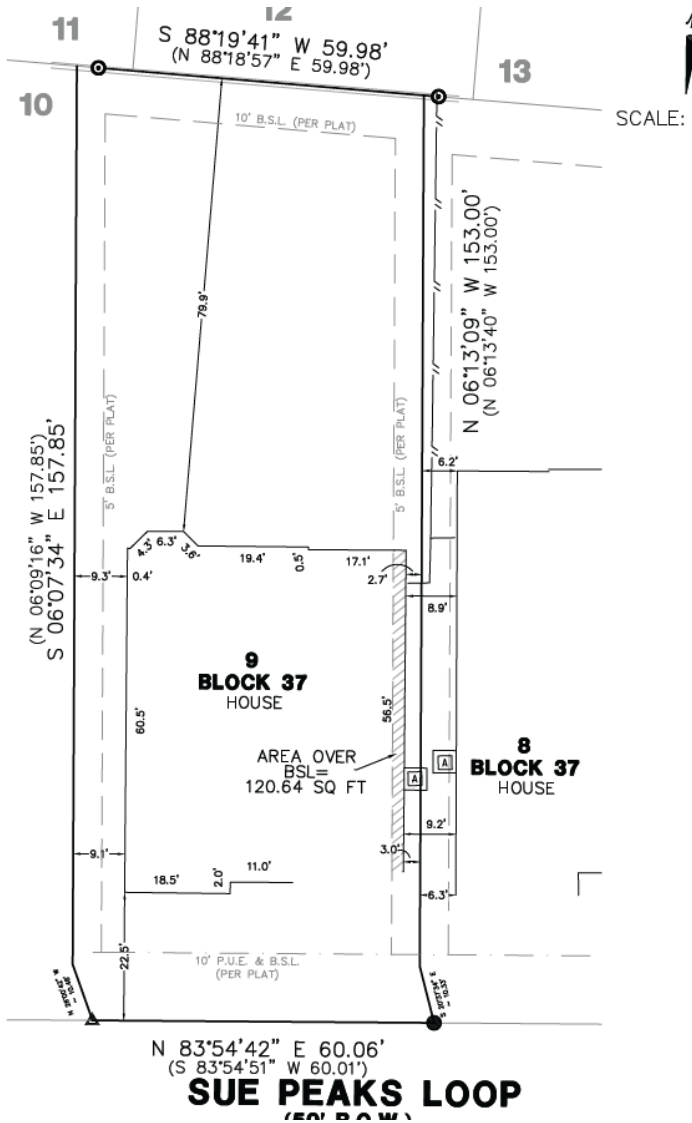
1. *Home was placed on the lot, surveyed and placed (poured) prior to lot lines being adjusted to the plat. Meritage Homes found the discrepancy once the home was completed, by receiving the final survey. We are asking for the variance in terms of allowing the home to remain in place, with alterations being made by Meritage Homes, to the standard of R302.1 (1) of the International Residential Code.*

Code Requirement	Applicant Request	Required Yard Deficit
5-foot side yard.	Allow the home 3-feet from the property line	2 feet (40% deviation)

Surrounding Properties

Direction	Zoning District	Existing Use	Comprehensive Plan
North	SF-3	Single Family	The area is not shown on the city's comprehensive future land use plan.
East	SF-3	Single Family	
South	SF-3	Single Family	
West	SF-3	Single Family	

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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 discrepancy arose due to an amending plat that adjusted lot lines after the foundation was poured. The only option to come into compliance would be to tear down and replace the home, which creates a significant burden not typically faced by other property owners in similar situations.
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	Granting the variance allows the applicant to retain the use of the completed home for its intended residential purpose. Without the variance, the applicant would be required to demolish and reconstruct the home, significantly impacting their ability to enjoy a substantial property right. The overall size of the home is consistent with what the Code allows.
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	The applicant has proposed fire safety modifications, including a 1-hour fire-resistance-rated wall assembly and roof projection adjustments per International Residential Code standards. These measures mitigate fire safety risks

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	and ensure the reduced setback will not harm neighboring properties.
4. the granting of the variance constitutes a minimal departure from this Chapter; and	The request represents a 2-foot reduction in the side setback from 5 feet to 3 feet. While this is a significant deviation, the size of the home complies with development standards, and fire safety measures are being implemented to mitigate potential impacts.
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	While the developer initiated the amending plat, which partly caused this issue, the misplacement of the home resulted from an error during construction. The applicant did not knowingly cause the setback encroachment, and the hardship is not based solely on economic considerations.
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. 	Allowing the home to remain while addressing fire safety ensures public health, safety, and welfare are protected. Granting the variance avoids unnecessary demolition and supports the intent of the development standards to balance reasonable property use with community safety.

Summary and Recommendation

Staff recommends approval of this request with the following condition:

1. All necessary improvements as determined by the Building Official must be made prior to issuance of a Certificate of Occupancy.

At their meeting on December 10, 2024, the Planning & Zoning Commission voted to recommend approval of the request.

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

December 10, 2024 Planning & Zoning Commission

January 7, 2024 Board of Adjustments

Attachments

Attachment 1 – Variance Application

Attachment 2 – Application Materials

Recommended Action	Approval with the condition referenced above.
Alternatives/Options	Recommend disapproval of the variance with no or alternate conditions.
Budget/Financial impact	N/A

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Public comments	None received at this time
Enforcement Issues	N/A
Comprehensive Plan Element	N/A