



Board of Adjustments (BOA) Staff Report

Board of Adjustments Hearing Date: March 10, 2022

BOA Case P22-047: Request by James Monzingo for a variance from Section 50-69 Single-Family Estate Residential District (SF-20-E) of the Tomball Code of Ordinances to allow for encroachment of 15 feet into the rear 25-foot building setback. The site is approximately 0.4558 acres (19,000 square feet), located at 31102 Lost Creek Court and is legally described as Lot 10, Block 1 Hunterwood, Section 1 within the City of Tomball, Harris County Texas.

Property Owner(s): James Monzingo
Applicant(s): James Monzingo
Location: 31102 Lost Creek Court (Exhibit “A”)
Lot Area: 19,000 square feet
Present Zoning & Use: Single-Family Estate Residential District (SF-20-E) (Exhibit “B”) / Single-family residence (Exhibit “C”)
Comp Plan Designation: Neighborhood Residential (Exhibit “D”)
Adjacent Zoning & Land Uses:
North: Single-Family Estate Residential District (SF-20-E) / Single-family residence
South: Single-Family Estate Residential District (SF-20-E) / Single-family residence
West: Single-Family Estate Residential District (SF-20-E) / Single-family residence
East: Single-Family Estate Residential District (SF-20-E) / Single-family residence

BACKGROUND

The Monzingos are looking to do some upgrades to their property; including interior remodeling, construction of a new accessory structure and dwelling unit (two-story garage), pool /hardscape, and a new wrap-around driveway off Lost Creek Road. This was the applicant’s family home and he is installing improvements for his growing and extended family. Orientation of the home places this improvement in the rear of the property along the common property line between Mr. Monzingo and his neighbor to the southwest 31106 Lost Creek Court. The zoning district of SF-20 states that any detached garage would need to meet a 25-foot rear-building setback.

ANALYSIS

According to Section 50-69 (*Single-Family Residential District – (SF-20)*), the minimum building setback for the front yard is 35 feet, side yard 10 feet and 20 feet for the rear unless constructing a detached garage which requires a 25-foot setback.

As shown in (Exhibit “E”), the homeowner would like to construct a new detached 2-story garage. Ordinance 50-69 states that any detached garage in this zoning district will need to have a min of a 25-foot rear setback. The confusion with this particular address is due to the orientation of the home on the property. Its current orientation faces out to Lost Creek Road citing the southwestern property line as the rear property line. However, the current address (Lost Creek Court) would dictate the same southwestern property line as a side property line. In this situation, staff wants to make sure to interpret consistently and fairly. Common sense says this property line is considered a rear setback due to the home’s orientation. However, the way that the property interacts with its neighbors really would be no different from any of the other properties in the subdivision. Please reference exhibits 7, 8, and 9 showing other homes in the area that have received permits in the recent past for similar projects and only followed the side setback for their projects.

Staff has only received one inquiry regarding the project which was a phone call inquiring about the project but did not seem to be in favor or against the project. The conversation discussed what potential impact it might have? The request by the homeowner is not unreasonable; many similar projects have been constructed in the neighborhood. However, the orientation of the home and this being a corner lot has caused staff to question setbacks and how the location of this structure interacts with the adjacent property owner. The homeowner has also been given approval from the Hunterwood Homeowners Association for these same plans.

RECOMMENDATION

City Staff has reviewed the request and recommends approval of **BOA Case P22-047** with conditions for the following reasons:

1. Staff feels that even though the owner’s orientation logically places the southwestern property line as the property’s rear yard, it still functions as a side yard. The way this structure would interact with the closest neighbor is no different than any other structure internal were built on any interior lot. The 10-foot setback is what the min setback that would be enforced.
2. If the Committee decides to approve the request staff would recommend that the additional conditions be considered:
 - a. *All windows on the second story of the detached garage structure are frosted/visibility obscured to limit visibility to the neighboring tract;*
 - b. *Plant additional shrubbery to create a vegetation buffer of not less than 10 feet for at least 100 feet adjacent to the construction limits of the project and to*

PUBLIC COMMENTS

Property owners within 200 feet of the project site were mailed notification of this proposal and a notice of public hearing was published in the Potpourri on February 23, 2022 Public responses will be provided in the Board packets or at the meeting.

EXHIBITS

- A. Aerial Photo
- B. Zoning Map
- C. Site Photo
- D. Comprehensive Plan
- E. Application

Exhibit "A"
Aerial Photo

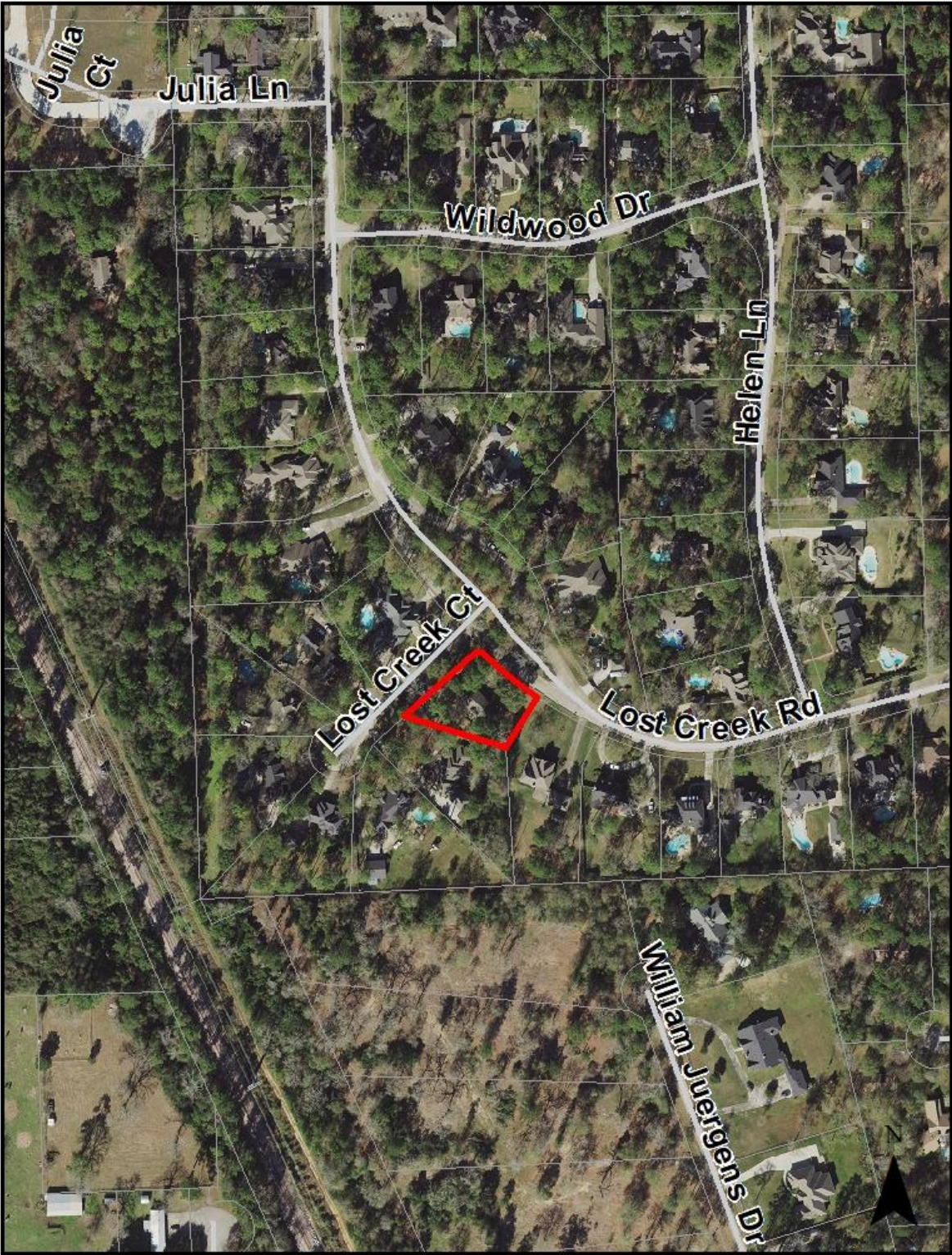




Exhibit "B"
Zoning Map



**Exhibit “C”
Site Photos**





















Exhibit "D"
Comprehensive Plan

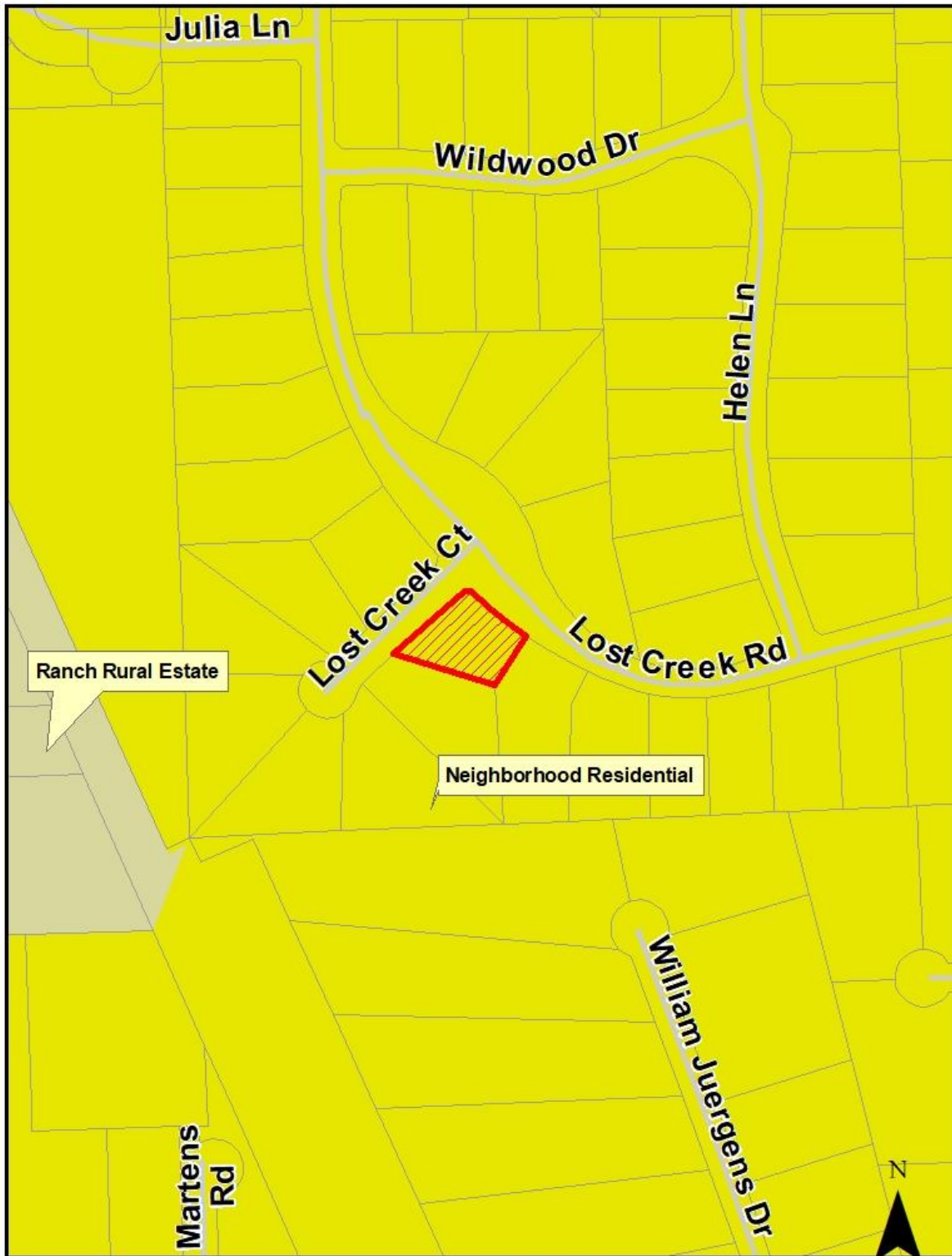
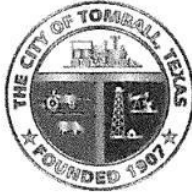


Exhibit "E"

Application

RECEIVED (KC)
03/07/2022

Revised 5/19/15
P&Z #22-047



ZONING BOARD OF ADJUSTMENTS (BOA) SPECIAL EXCEPTION APPLICATION

Community Development Department
Planning Division

Special Exception Defined: A special exception is a type of variance, but is differentiated from a variance in that a special exception does not require a finding of a hardship and applies only to nonconforming uses and structures, off-street parking requirements and landscaping requirements.

APPLICATION SUBMITTAL: Applications will be *conditionally* accepted on the presumption that the information, materials and signatures are complete and accurate. If the application is incomplete or inaccurate, your project may be delayed until corrections or additions are received.

Applicant

Name: James Monzingo Title: Property Owner
Mailing Address: 31102 Lost Creek Ct City: Tomball State: TX
Zip: 77375
Phone: (832) 585-9028 Fax: () Email: james.monzingo@gmail.com

Owner

Name: James Monzingo Title: Property Owner
Mailing Address: 31102 Lost Creek Ct City: Tomball State: TX
Zip: 77375
Phone: (832) 585-9028 Fax: () Email: james.monzingo@gmail.com

Description of Proposed Project: Attached Side Garage with living quarters to current home

Physical Location of Property: 31102 Lost Creek Ct, Tomball, TX, 77375
[General Location – approximate distance to nearest existing street corner]

Legal Description of Property: Lt10 BLK 1 HUNTERWOOD SEC 1
[Survey/Abstract No. and Tracts; or platted Subdivision Name with Lots/Block]

HCAD Identification Number: 1160120010010 Acreage: 22,075 SF

Current Use of Property: Residential Homestead

SPECIAL EXCEPTION(S) REQUESTED

Applicable Zoning Ordinance Requirements and Sections:

Sec. 50-69. - Single-Family Estate Residential District (SF-20-E)

Minimum side yard: 10 feet. The minimum side yard of a corner lot adjacent to a street shall not be less than 15 feet, except where a lot sides on a designated arterial street, such side yard shall not be less than 25 feet.

Special Exception(s) Requested:

We are requesting a special exception for the side yard on our lot with the request of a 10 ft side yard for our new attached garage. Currently the new zoning would require a 25 ft setback.

A letter describing the requested special exception(s) must be submitted in conjunction with this application. Please attach separate sheets(s) as necessary.

This is to certify that the information on this form is COMPLETE, TRUE, and CORRECT and the under signed is authorized to make this application. I understand that submitting this application does not constitute approval, and incomplete applications will result in delays and possible denial. I also understand that in granting a special exception, the Board of Adjustments may impose conditions as are necessary to protect adjacent property owners and to ensure the public health, safety and general welfare.

X

Signature of Applicant

2/16/22

Date

X

Signature of Owner

2/18/22

Date

City of Tomball
Community Development Department
501 James Street
Tomball, TX 77375

Letter of Intent for Zoning Variance For:

James and Julie Monzingo

31102 Lost Creek Ct.

Tomball, TX 77375

Lot Ten (10), in Block One (1), of Final Plat of Hunterwood Sections One & Two, a subdivision in Harris County, Texas, according to the map or plat thereof recorded in Volume 325, Page 36, of the Map Records of Harris County, Texas.

Dear Board Members,

We are requesting a variance for the above address to seek relief of the required side yard setback, for the reasons detailed below, the proposed reduction of the side yard setback would allow us to add an attached garage with living quarters that would be in character with the surrounding homes along 31102 Lost Creek.

1. Due to the shape of the lot and the fact that it currently sits on a corner combined with the required setback of 25 ft, the strict application of the requirements of this applicable zoning chapter would deprive us of rights and privileges currently enjoyed by other property owners in the same zoning district. We are requesting a reduction in the required side setback to 10 ft for the side garage.
2. Granting the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district in which the subject property is located.
3. The granting of the variance would have no effect on the adjoining properties. The zoning relief requested will not cause any detriment to the common good, as the literal interpretation and strict application of the applicable zoning requirements of this chapter would cause substantial undue and unnecessary hardship to us no just a casual discretionary inconvenience.
4. I helped build this house with my father and have basically lived here off and on since the age of 10. I purchased this house with plans to expand and update to allow my growing family the enjoyment of growing in an amazing subdivision in the best city in the state. I am only looking to enhance this property and make our subdivision even better. I hope we can move forward with this variance and complete this project as requested.

Thank you for your consideration,

Sincerely,

James Monzingo

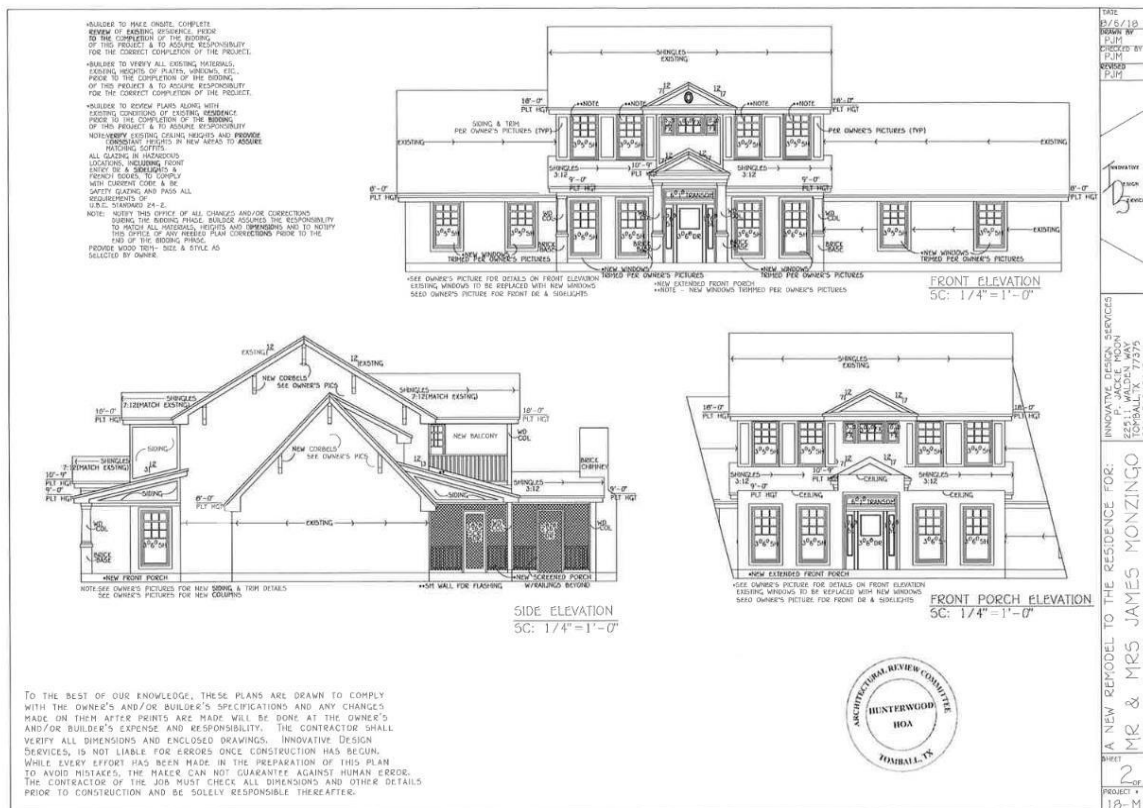


Exhibit “7”



Exhibit “8”



Exhibit “9”

