

Board of Adjustments (BOA) Staff Report

Board of Adjustments Hearing Date: November 14, 2024

Case: V24-02
Property Owner(s): Yahia Zarir
Applicant(s): Alvaro Navarro
Legal Description: Lot 36, Block 104 of Tomball
Location: 600th block of Texas Street (northeast corner of the Texas Street and North Willow Street intersection)
Lot Area: Approximately 0.0803 acres (3497.87 square feet)
Comp Plan Designation: Old Town (Exhibit “C”)
Present Zoning & Use: Single-Family Residential – 6 (SF-6) (Exhibit “B”) / Undeveloped (Exhibit “D”)

Adjacent Zoning & Land Uses:

North: Single Family Residential - 6 (SF-6) / Undeveloped
South: Single Family Residential - 6 (SF-6) / Undeveloped
West: Single Family Residential - 6 (SF-6) / Single-family residence
East: Single Family Residential - 6 (SF-6) / Undeveloped

BACKGROUND

The request is for a total of two variances. Section 50-71, subsection (2)(b) (*Size of yards*) establishes minimum side yard setbacks of five feet for interior lot lines and 15 feet from streets. The applicant is requesting that both side setbacks be reduced to three feet.

ANALYSIS

Section 50-33 (f.4) defines certain criteria for the Board of Adjustment to consider when making decisions to grant a variance request. City staff has reviewed the requests as well as the criteria for approval and have determined the following:

1. That literal enforcement of the controls will create an unnecessary hardship or practical difficulty in the development of the affected property:
 - a. **BUILDING SETBACK VARIANCES (Exhibit E):**
 - i. Yes, the literal enforcement of the required setbacks will result in a “buildable area” that would only accommodate a building width of five feet.
2. The situation causing the hardship or difficulty is neither self-imposed nor generally affecting all or most properties in the same zoning district:
 - a. The hardship is not self-imposed. The difficulty is caused by the narrow width of the lot. The literal enforcement of the standards would deprive the owner of any residential use of the land permitted in SF-6 zoning district.
3. The relief sought will not injure the permitted use of adjacent conforming properties:
 - a. City staff does not believe that the relief being sought will injure the permitted uses of the adjacent properties.
4. The granting of the variance(s) will be in harmony with the spirit and intent of this chapter (Chapter 50 – Zoning):
 - a. The subject property, as well as the neighboring properties being utilized for single-family residential purposes, are all located within the SF-6 zoning district. This zoning district is intended to foster residential developments. The relief sought by the applicant will allow for a new single-family home to be built.

RECOMMENDATION

City Staff has reviewed the request and recommends approval of **BOA Case V24-02** with the condition that there is no encroachment within site visibility triangles.

PUBLIC COMMENTS

A Notice of Public Hearing was published in the paper and property owners within 300 feet of the project site were mailed notification of this proposal on October 21, 2024. Any public comment forms will be provided in the Board packets or during the public hearing.

EXHIBITS

- A. Aerial Map
- B. Zoning Map
- C. Future Land Use Map
- D. Site Photo(s)
- E. Setback Exhibits
- F. Application

The Board of Adjustments has the authority to impose any conditions of approval on Variances as they deem necessary.

Exhibit "A"
Aerial Map



Location



Exhibit "B"
Zoning Map



Zoning

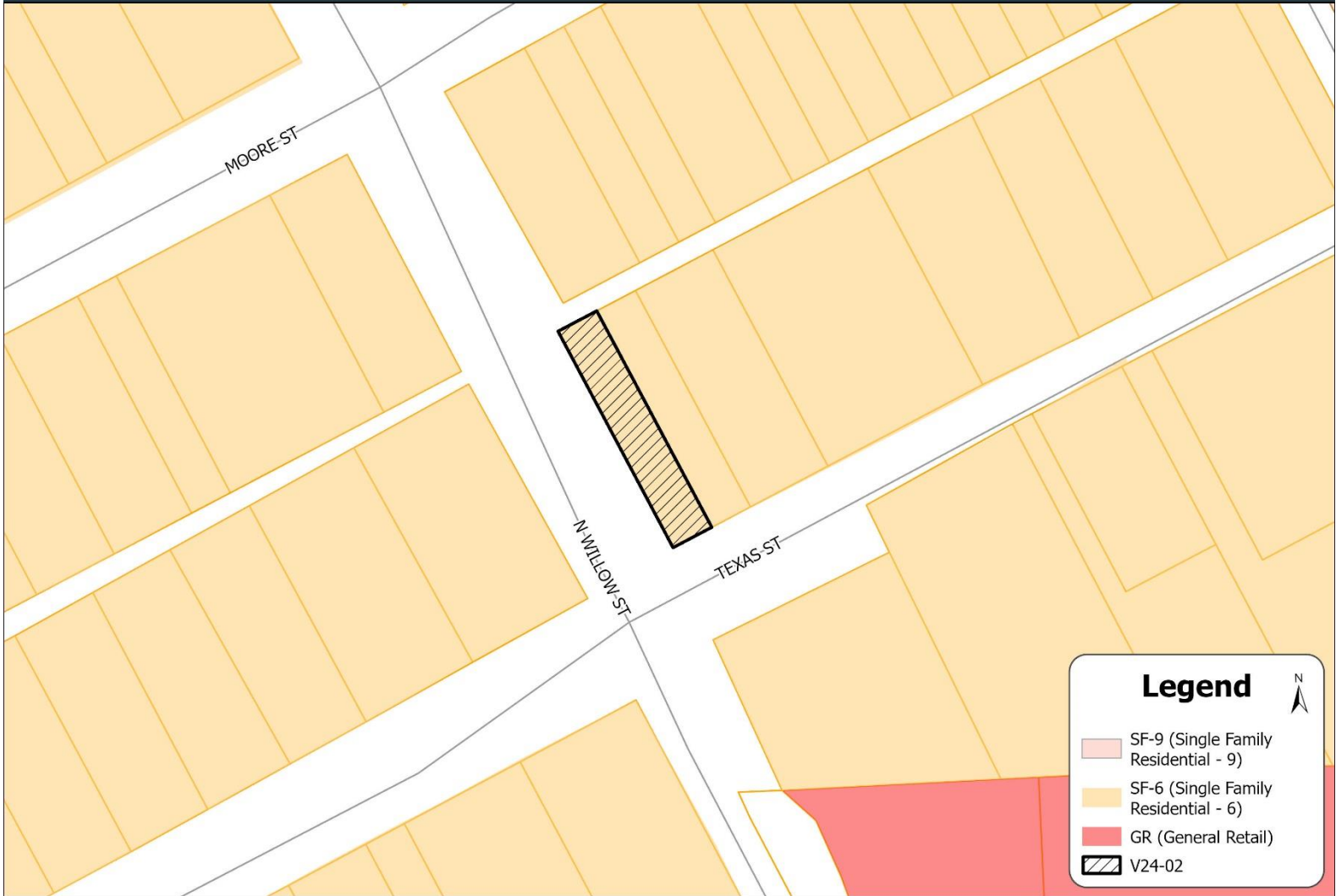


Exhibit "C"
Future Land Use Map



Future Land Use

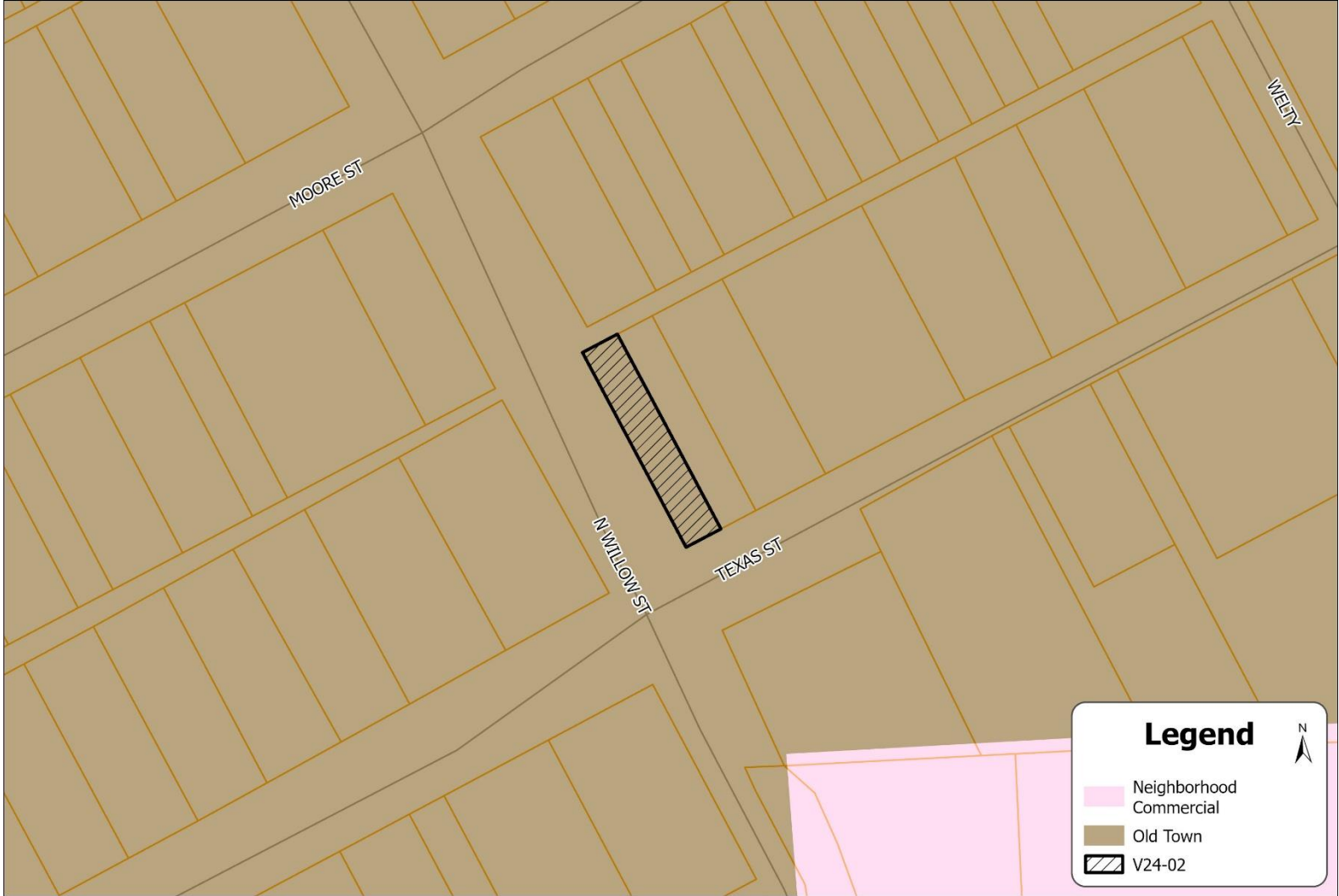
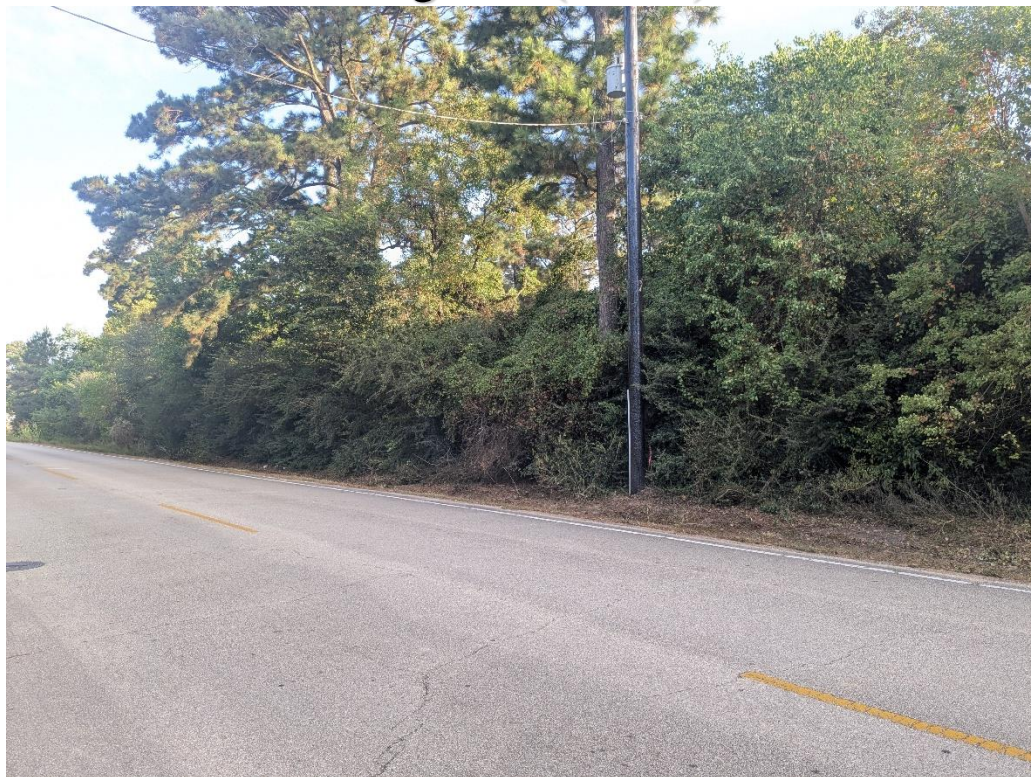


Exhibit "D"
Site Photo(s)

Subject Site



Neighbor (North)



Neighbor (South)



Neighbor (East)



Neighbor (West)



Exhibit "E" Setback Exhibits





Exhibit "F" Application

id:baup signature verification: dtp uc7mms-lqj C2w

Revised 5/19/15



ZONING BOARD OF ADJUSTMENTS (BOA) VARIANCE APPLICATION

Community Development Department
Planning Division

Variance(s) Defined: A variance is the authority to depart from the application of areas, side yards, setback, height, and similar regulations to prevent unnecessary hardships. Refer to Section 50-33(f) of the Code of Ordinances for additional information. No variance shall be granted for any requirement outside Chapter 50 of the Code of Ordinances.

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: Alvaro Navarro Title: Mr.
Mailing Address: 18903 Veterans Rd City: Magnolia State: Tx
Zip: 77355
Phone: (281) 414-6257 Fax: () Email: anthy.navarro@netbult.com

Owner

Name: Yahia Zarir Title: Owner
Mailing Address: 18015 Grand Vista Hills Lane City: Richmond State: TX
Zip: 77407
Phone: 832-878-3546 Fax: () Email: complete.limo@yahoo.com

Description of Proposed Project: New Residential Structure

Physical Location of Property: 0 Texas St. Tomball Tx, 77375
[General Location – approximate distance to nearest existing street corner]

Legal Description of Property: Lot 36 Block 104 of Tomball
[Survey/Abstract No. and Tracts, or platted Subdivision Name with Lots/Block]

HCAD Identification Number: Acct # 0352810050036 Acreage: 3,500 SF or roughly .08 acres

Current Use of Property: None, currently Heavily wooded



City of Tomball, Texas 501 James Street, Tomball, Texas 77375 Phone: 281-290-1405

www.tomballtx.gov

VARIANCE(S) REQUESTED

Applicable Zoning Ordinance Requirements and Sections:

Sec. 10-370. - Single-family residential—Building lines.

- (a) The front building line shall not be less than 25 feet, except that where a lot faces an arterial street, then build line shall be 35 ft.
- (b) The side building line to include eaves, and appurtenances, shall not be less than five feet from the side property.
- (c) Side, corner lots. The building line on the side of a corner lot adjacent to a street shall not be less than 15 feet.

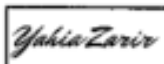
Variance Requested:

The lot frontage is only 25 feet wide and with the ordinance requirements for side and corner lots it would leave less than 5 ft of buildable area. 5 ft buildline from neighbor and 15 ft buildline from side facing street would leave me with the 5ft mentioned. We are requesting a 3 ft build line be applied to both sides to allow us atleast 19ft to work with when designing our home to fit on the lot.

A description of hardship letter must be submitted in conjunction with this application. The criteria for a hardship are outlined in the attached document titled "Description of Hardship." In the letter, state variance(s) requested specifically and in detail (identify section and requirement). 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.

X  10/02/2024
 Signature of Applicant Date

X  10/02/2024
 Signature of Owner Date

dotloop verification
10/02/24 10:37 PM CDT
HYM-APK6AT73-2C3X

Submittal Requirements

The following summary is provided for the applicant's benefit. However, fulfilling the requirements of this summary checklist does not relieve the applicant from the responsibility of meeting the regulations in the Zoning Ordinance, subdivision regulations, and other development related ordinances of the City of Tomball.

A complete application must include:

- **Application Fee: \$100 Residential (Except Multi-Family); \$250 Non-Residential & Multi-Family**
- **Letter explaining the variance in detail, including Description of Hardship**
- **Metes & Bounds of property**
- **Site Plan, Plot Plan, or Drawing showing the requested variance**
- **Other necessary information (maps, drawings, pictures, etc.) to explain the variance**

Payment of all indebtedness attributed to subject property must be paid with application or an arrangement in accordance with Section 50-36(a)(3) of the Code of Ordinances as cited below:

(No person who owes delinquent taxes, delinquent paving assessments, or any other fees, delinquent debts or obligations or is otherwise indebted to the City of Tomball, and which are directly attributed to a piece of property shall be allowed to submit any application for any type of rezoning, building permit, or plan review until the taxes, assessments, debts, or obligations directly attributable to said property and owed by the owner or previous owner thereof to the City of Tomball shall have been first fully discharged by payment, or until an arrangement satisfactory to the City has been made for the payment of such debts or obligations. It shall be the applicant's responsibility to provide evidence of proof that all taxes, fees, etc. have been paid, or that other arrangements satisfactory to the City have been made for payment of said taxes, fees, etc.)

In granting special exceptions, the Board may impose such conditions as are necessary to protect adjacent property owners and to ensure the public health, safety and general welfare, including but not limited to conditions specifying the period during which the nonconforming use may continue to operate or exist before being brought into conformance with the provisions of this Ordinance.

The City's staff may require other information and data for specific required plans. Approval of a required plan may establish conditions for construction based upon such information.

Description of Hardship

Please provide a letter explaining the hardship, demonstrating the following (address each variance requested):

1. That literal enforcement of the provisions of the Zoning Ordinance will create an unnecessary hardship or practical difficulty in the development of the affected property.
2. That there are special circumstances or conditions affecting the land involved such that the application of the provisions of the Zoning Ordinance would deprive the owner/applicant of the reasonable use of his/her land.
3. That the variance is necessary for the preservation and enjoyment of a substantial property right of the owner/applicant.
4. That the granting of the variance will not have the effect of preventing the orderly use of other land within the area in accordance with the provisions of the Zoning Ordinance.
5. That the situation causing the hardship or difficulty is neither self-imposed nor generally affecting all or most properties in the same zoning district.
6. That the granting of the variance will not be detrimental to the public health, safety or welfare, or injurious to other property within the area.
7. That the granting of a variance will be in harmony with the spirit and purpose of these regulations.
8. That the granting of an individual variance will not set a precedent.

*Financial hardship shall not be considered grounds for the issuance of a variance.

Description of Hardship

1. That literal enforcement of the provisions of the Zoning Ordinance will create an unnecessary hardship or practical difficulty in the development of the affected property.

1.A- The lot frontage is only 25 feet wide and with the ordinance requirements for side and corner lots it would leave less than 5 Ft of buildable area. 5 ft buildline from neighboring property and 15 ft buildline from side facing street would leave me with the 5ft mentioned. We are requesting a 3 ft build line be applied to both sides to allow us at least 19ft to work with when designing our home to fit on the lot.

2. That there are special circumstances or conditions affecting the land involved such that the application of the provisions of the Zoning Ordinance would deprive the owner/applicant of the reasonable use of his/her land.

2.A- As mentioned above 5 ft of buildable land is not enough to design a house to meet code requirements enforced by the city. Therefore if we were to attempt to follow all city ordinances without any variance it would deprive us of reasonable use of our land, due to the multitude of code and design shortcomings we would face.

3. That the variance is necessary for the preservation and enjoyment of a substantial property right of the owner/applicant.

3.A- See above issues listed, without a variance the land is unusable and will continue to be an overgrown eyesore to the surrounding community.

4. That the granting of the variance will not have the effect of preventing the orderly use of other land within the area in accordance with the provisions of the Zoning Ordinance.

4.A- We are wanting to build a single family residential home just like all the surrounding lots in the area. If granted the 3 ft side build lines the constructed residential structure would not impede anyone else's use of their land nor the cities ability to properly maintain any of the surrounding area.

5. That the situation causing the hardship or difficulty is neither self-imposed nor generally affecting all or most properties in the same zoning district.

5.A- The only reason for requesting a variance are the limits placed on me by city ordinances none of which are my own doing, therefore this is not a self inflicted hardship.

6. That the granting of the variance will not be detrimental to the public health, safety or welfare, or injurious to other property within the area.

Description of Hardship

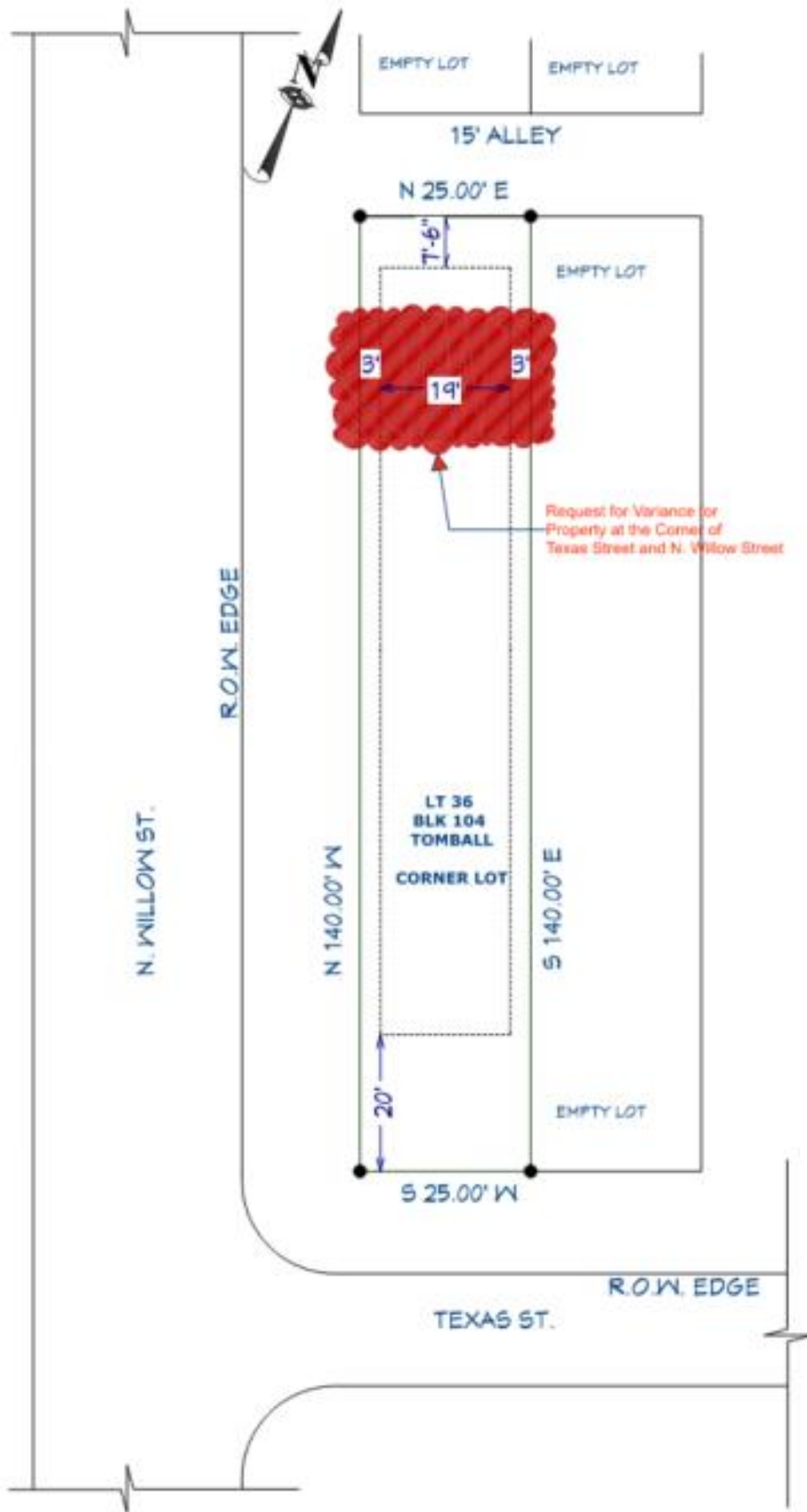
6.A- It will be a residential structure built to current code and city standards. The House will only improve property values and provide more tax income for the city. There is no detriment to the city or its population by approving the variance requested.

7. That the granting of a variance will be in harmony with the spirit and purpose of these regulations.

7.A- The spirit of the regulations is to keep the public safe and avoid any future friction. The variance requested will allow us to build a safer and more beautiful home while currently it is an overgrown mess and an eyesore to the community in allowing us to build on the lot it would add more harmony, safety, and appeal to the area.

8. That the granting of an individual variance will not set a precedent.

8.A- It is a very specific situation that most lots will not face. The only reason we are needing a variance is because the updated regulations impede the lot of reasonable use. The lot was plotted before many of the current regulations were implemented. Therefore we are more so asking to be grandfathered in when attempting to build on the lot. Most lots in the city do not meet this specific circumstance so no precedent will be set.



Deed under Order of Sale in Tax Suits **RP-2023-153520**
04/28/2023 RP2 \$23.75

Notice of Confidentiality Rights:

If you are a natural person, you may remove or strike any or all of the following information from this instrument before it is filed for record in the public records: Your social security number or your driver's license number.

Date of Sale: April 4, 2023

Grantor: Mark Herman, Constable, Precinct 4, Harris County, Texas on behalf of TOMBALL INDEPENDENT SCHOOL DISTRICT on behalf of itself, and all other taxing units that established tax liens in cause number 202035155.

Grantee(s): YAHIA ZARIR

ICE

Grantee(s) Mailing Address: 18015 Grand Vista Hills LN, Richmond, TX. 77407

Consideration/High Bid: \$22,750.00

Legal Description: TRACT 1: LOT 36, IN BLOCK 104, OF THE TOWN OF TOMBALL, TEXAS, AS PER MAP OR PLAT OF SAID TOWNSITE RECORDED IN VOLUME 4, PAGE 25, OF THE HARRIS COUNTY MAP RECORDS.

D

Account Number: TRACT 1: 035-281-005-0036

Constable: Mark Herman, Constable, Precinct No. 4, Harris County, Texas

Order of Sale in Tax Suit: That an Order of Sale issued on December 14, 2022, out of the 234th Judicial District Court of Harris County, Texas, pursuant to a judgment and decree of sale in Cause No. 202035155, in favor of TOMBALL INDEPENDENT SCHOOL DISTRICT, CITY OF TOMBALL, HARRIS COUNTY, HARRIS COUNTY FLOOD CONTROL DISTRICT, PORT OF HOUSTON AUTHORITY, HARRIS COUNTY HOSPITAL DISTRICT, HARRIS COUNTY DEPARTMENT OF EDUCATION, HARRIS COUNTY EMERGENCY-SERVICE DISTRICT # KEYSTONE OIL COMPANY, A DEFUNCT TEXAS CORPORATION, ET AL, and SIGNED on November 1, 2022.

(11)

90R

Levy Date: February 16, 2023

Newspaper: Daily Court Review

Defendant(s): KEYSTONE OIL COMPANY; ALLEGIANT LAND PARTNERS, LLC

10R

Date of Sale: April 4, 2023

By virtue of the certain **Order of Sale** described above and further directed and delivered to me as Constable, commanding me to seize and sell the land and premises described in the **Order of Sale**, on the above stated **Levy Date** I did publish for sale the said land and premises described in the **Order of Sale**, by having a notice of the sale published in the English language once a week for three consecutive weeks preceding the **Date of Sale** in Harris County, Texas, containing a statement of the authority by virtue of which the sale is to be made, the date of levy, time and place of sale; also a brief description of the property to be sold by stating the number of acres and the original survey; if the property was located in a platted subdivision or addition the name by which the land is generally known with reference to that subdivision or addition; or by adopting the description of the land as contained in the judgment. I also mailed a copy of the notice of sale to the last known address of the above named **Defendant(s)**.

On the **Date of Sale** stated above, between the hours of ten o'clock a.m. and four o'clock p.m., I sold the above described land and premises at public venue in the County of Harris, State of Texas, at the door of the Court House of said Harris County, Texas, and said land and premises were struck off to the highest bidder, for the sum stated above and the high bidder being the above named **Grantee(s)**.

RP-2023-153520

Handwritten marks and scribbles at the top left of the page.

Accordingly, and in consideration of the payment of the sum described above, the receipt of which is hereby acknowledged, I hereby convey to the **Grantee(s)** all of the right title and interest owned by the **Defendants** in the property described above.

This deed is given expressly subject to the right of Defendant's to redeem the land and premises within the time and in the manner provided by law.

IN TESTIMONY WHEREOF, I have hereunto set my hand, on April 18th, 2023.

[Handwritten Signature]

Printed Name: Mark Herman
Constable, Precinct No. 4

10R

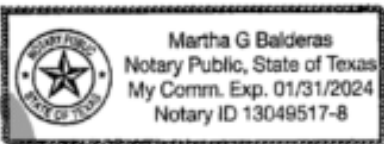
THE STATE OF TEXAS §

COUNTY OF HARRIS §

BEFORE ME, the undersigned Notary Public in and for the State of Texas, on this day personally appeared Mark Herman, Constable, Precinct No. 4, Harris County, Texas, known to me by the person whose name is described to the foregoing instrument, and acknowledged to me that he executed the same as Constable Mark Herman, Precinct No. 4, Harris County, Texas, for the purposes and consideration, and in the capacity therein expressed.

GIVEN under my hand and seal of office, on April 18th, 2023.

[Handwritten Signature]
NOTARY PUBLIC, State of Texas



RP-2023-153520

AFTER RECORDING, RETURN TO:
Perdue, Brandon, Fielder, Collins & Mott L.L.P.
Cause No. 202035155
1235 North Loop West, Suite 600
Houston, Texas 77008

GRANTEE:
YAHIA ZARIR
18015 Grand Vista Hills LN
Richmond, TX. 77407

✓

RP-2023-153520

FILED FOR RECORD

3:10:16 PM

Friday, April 28, 2023

Laneshia Hudspeth

COUNTY CLERK, HARRIS COUNTY, TEXAS

ANY PROVISION HEREIN WHICH RESTRICTS THE SALE RENTAL, OR USE OF THE DESCRIBED REAL PROPERTY BECAUSE OF COLOR OR RACE IS INVALID AND UNENFORCEABLE UNDER FEDERAL LAW.

THE STATE OF TEXAS
COUNTY OF HARRIS

I hereby certify that this instrument was FILED in File Number Sequence on the date and at the time stamped hereon by me; and was duly REGISTERED in the Official Public Records of Real Property of Harris County Texas

Friday, April 28, 2023



Laneshia Hudspeth

COUNTY CLERK
HARRIS COUNTY, TEXAS

COPY
UNOFFICIAL