

AGENDA



**ZONING BOARD OF ADJUSTMENTS AND APPEALS SPECIAL MEETING
WEDNESDAY, NOVEMBER 10, 2021, AT 5:30 P.M.
COUNCIL CHAMBERS, CITY HALL BUILDING
100 SOUTH MONROE STREET, EAGLE PASS, MAVERICK COUNTY, TEXAS**

ESTABLISHMENT OF QUORUM

CITIZENS COMMUNICATIONS

MINUTES

1. Approval of the minutes for October 6, 2021 meeting.

PUBLIC HEARING(S)

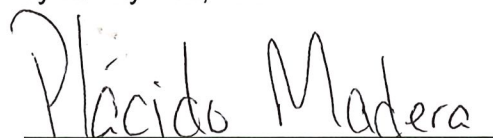
2. Public hearing on a variance request submitted by Luis M. Ainslie, (1) to reduce the required landscaping and (2) to allow the backing of vehicles into the street right-of-way on property located at 920 Eidson Road; closing of public hearing and possible action.
3. Public hearing on a variance request submitted by Bertha A. Cardenas, to reduce the required front yard building setback area from 25-feet to 12-feet, to allow for the construction of an attached carport, on property located at 2179 Ricks Drive; closing of public hearing and possible action.
4. Public hearing on a variance request submitted by William J. Ward, (1) to allow for the construction of an accessory building to be constructed upon a vacant lot containing no main use building and (2) to allow to solicit or conduct business not respecting the required 100-foot distance separation of any merchant who sells food for immediate consumption, on property located at 229 Monroe Street; closing of public hearing and possible action.
5. Closed session regarding the adoption of rules for the Board of Adjustment and discussion and possible action on same in open session.

ADJOURNMENT

Note: The Board reserves the right to consider business out of the posted agenda order and reserves the right to adjourn into executive session to discuss an item(s) not listed as an executive session on the posted agenda but which qualifies to be discussed in closed session pursuant to Texas Government Code Chapter 551.

CERTIFICATION

I, THE UNDERSIGNED PLANNING DIRECTOR, do hereby certify that the agenda mentioned above was posted on the Bulletin Board Located in the Lobby at City Hall, 100 S. Monroe Street, Eagle Pass, Texas, on November 05, 2021 at 4:00 p.m.


Plácido C. Madera
Planning Director

THE STATE OF TEXAS)
COUNTY OF MAVERICK)
CITY OF EAGLE PASS)

The Zoning Board of Adjustments and Appeals of the City of Eagle Pass held their Regular meeting on Wednesday, October 6, 2021, at 5:30 p.m. in the City Council Chambers of Eagle Pass City Hall, 100 S. Monroe Street. All legal notices were duly posted in accordance with the law.

ESTABLISHMENT OF QUORUM

Present: Chairperson, Matt Gary; Vice-Chairperson Antonio Elizondo; Board Members, Julie Mathiwos, Maria A. Chio, and Priscilla Puente-Chacon.

Absent: None

Staff present: Assistant Planning Director; Mariebelle Rodriguez; City Attorney Representative, Paul Fletcher and Assistant City Secretary, Erika Rodriguez.

A quorum being present, Chairperson Gary called the meeting to order, and the items were considered as follows:

EXECUTIVE SESSION

The Board retired into Executive Session pursuant to Section 551.071, Texas Government Code- Consultation with legal at 5:56 p.m. and reconvened, in open session, at 6:24 p.m.

Chairperson Gary stated that the Board reserves the right to consider business out of the posted agenda and reserves the right to adjourn into executive session to discuss an item not listed as an executive session on posted agenda but qualifies to be discussed in closed session pursuant to Texas Government Code Chapter 551.

No action was taken.

PUBLIC HEARING

1. Public hearing on a variance request submitted by variance request submitted by Luis M. Ainslie, (1) to reduce the required landscaping and (2) to allow the backing of vehicles into the street right-of-way on property located at 920 Eidson Road; closing of public hearing and possible action.

Chairperson Gary opened the public hearing at 5:56 p.m. and invited the public to express their comments.

Assistant Planning Director, Maribelle Rodriguez informed the Board that the parking lot measures approximately 2,197 square feet as shown in the enclosed proposed Site Layout. The proposed construction does not meet the requirements set forth in Section 12.1 (2) regulating Off-Street Parking. Planning staff is concerned with the backing of a vehicle into a street Right-of-Way as the visibility from El Indio Hwy to Eidson Road generates a safety concern, this may create pedestrian and motor vehicle accidents as this is a high traffic area.

The applicant also requested a variance to reduce the landscaping requirements as the proposed project does not meet the parking lot landscaping requirements set forth in Section 23-89 of Eagle Pass Code of Ordinances Chapter 23 Article VI Landscape and Tree Preservation. The intent of the ordinance serves many purposes such as: flood mitigation, adequate circulation, and drainage and to help moderate wind, noise, and temperature extremes. Waiving this requirement is a health and safety concern.

Assistant Planning Director Rodriguez stated the staff recommends denial of the variance request, based on regulations set forth with the following City Codes:

- Section 12.1 (2) of Eagle Pass Code of Ordinances Appendix A Zoning Ordinance, regulating Off-Street Parking.
- Section 23-89 of Eagle Pass Code of Ordinances Chapter 23 Article VI, regulating Landscape and Tree Preservation.

In response to a question posed by Chairperson Gary, Assistant Planning Director stated the code required 20% landscaping.

Applicant Luis M. Ainslie approached the Board and explained what his vision for the front parking would be, and how the cars will maneuver around safely.

In response to a question posed by Board Member Puente-Chacon, Assistant Planning Director stated they received an email memorandum from Lt. Gonzalez and Lt. Fuentes of the Eagle Pass Police Department with concerns on backing movement, that may possibly cause an accident and interrupt traffic flow.

Assistant Planning Director Rodriguez stated they mailed out 13 notices to abutting property owners and received two notices back in opposition. Ms. Rodriguez read the opposition concerns into record:

- | | |
|--------------------|---|
| First Opposition: | Landscaping rules should be followed. |
| Second Opposition: | They are against backing into traffic from Eidson St. and El Indio Hwy, this can cause accidents. They also wanted to request cars not parking on Eidson St because it blocks view. They must follow City's guidelines. |

Lastly, applicant Luis M. Ainslie, summarized that he cannot meet the 20% landscaping as required by ordinance, and make the front parking area for his clients to exit front first, this is why he is requesting the variance.

Board Member Puente-Chacon stated that the provided image doesn't properly show the dimensions for the parking spaces.

There were no more comments from the public. Therefore, Chairperson Gary closed the public at 6:27p.m.

Board Member Puente-Chacon moved to table item with 1) provide a proper site plan, with the dimensions for parking spaces, showing the amount of space cars must maneuver inside 2) the percentage amount of how much landscaping is covering with his proposal. Seconded by Elizondo. **MOTION PASSED-** Unanimously

AYES:	Gary, Mathiwas, Puente-Chacon, Chio, Elizondo.
NAYS:	None
ABSTAINED:	None
ABSENT:	None

2. Public hearing on a variance request submitted by Bertha A. Cardenas, to reduce the required front yard building setback area from 25-feet to 12-feet, to allow for the construction of an attached carport, on property located at 2179 Ricks Drive; closing of public hearing and possible action.

Chairperson Gary stated Board Member Elizondo and himself will be abstaining from the item. Therefore, no quorum present and item will be considered on the next meeting.

CITIZENS COMMUNICATIONS

At this moment, anyone wishing to address the Board on any item, was welcome to speak, keeping in mind that, although the Board would be unable to take formal action on such item, they would be glad to take it under consideration.

There were not any citizens communication forms submitted.

ADJOURNMENT

Board Member Puente-Chacon moved to adjourn meeting at 6:38 p.m. seconded by Board Member Elizondo. **MOTION PASSED-** Unanimously

Passed and approved on _____, 2021

Matt Gary
Chairperson

ATTEST:

Erika Rodriguez
Assistant City Secretary



Planning Department

Report to the Zoning Board of Adjustment and Appeals

I. APPLICANT & PROPERTY INFORMATION

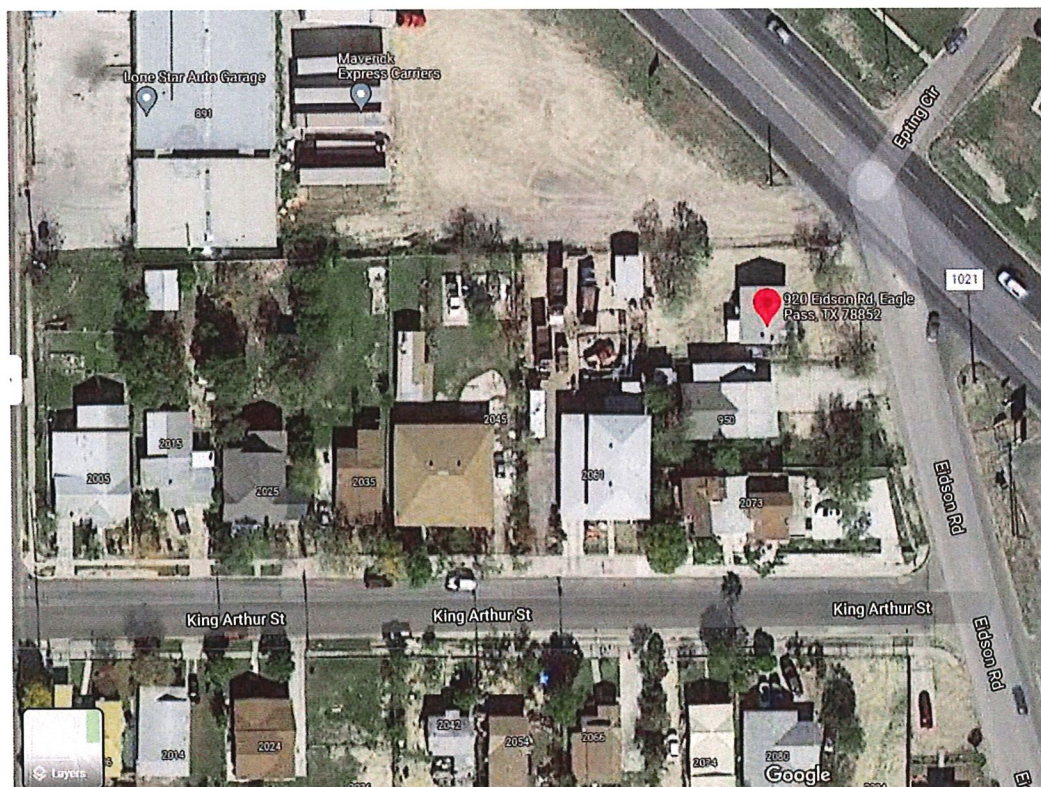
Applicant: Luis M. Ainslie Case #6863
Location: 920 Eidson Road
Legal Desc: Lot 1A in Benavides Heights
MCAD PIN: 16
Parcel Size: 8,800-square feet
Existing Use: Residential dwelling
Zoning: B-3 *General Business District*
Master Plan: Residential
Request: (1) to reduce the required landscaping and (2) to allow the backing of vehicles into the street right-of-way

II. CURRENT CONDITIONS

Infrastructure: Property is serviced by public utilities/franchises
Vicinity: Property is bordered by commercial and residential developments

III. STAFF ANALYSIS

Applicant is requesting (1) to reduce the required landscaping and (2) to allow the backing of vehicles into the street right-of-way on property located at 920 Eidson Road as shown in Figure 1.



The parking lot measures approximately 2,197 square feet as shown in the enclosed proposed Site Layout. The proposed construction does not meet the requirements set forth in *Section 12.1 (2)* regulating Off-Street Parking. Planning staff is concerned with the backing of a vehicle into a street right-of-way as the visibility from El Indio Hwy to Eidson Road generates a safety concern, this may create pedestrian and motor vehicle accidents as this is a high traffic area.

The applicant also requested a variance to reduce the landscaping requirements as the proposed project does not meet the parking lot landscaping requirements set forth in *Section 23-89 of Eagle Pass Code of Ordinances Chapter 23 Article VI Landscape and Tree Preservation*. The intent of the ordinance serves many purposes such as: flood mitigation, adequate circulation, and drainage and to help moderate wind, noise, and temperature extremes. Waiving this requirement is a health and safety concern.

13 notices were mailed to the abutting property owners within a 200 foot radius of the subject property and as of October 1, 2021 The Planning Department has not received any letters in return.

Staff Recommendation

Staff recommends the **DENIAL** of the applicant's variances for property located at 920 Eidson Road, as this does not conform with the regulations set forth with the following City Codes:

1. *Section 12.1(2) of Eagle Pass Code of Ordinances Appendix A – Zoning Ordinance*, regulating Off-Street Parking.
2. *Section 23-89 of Eagle Pass Code of Ordinances Chapter 23 Article VI*, regulating Landscape and Tree Preservation.



PLANNING DEPARTMENT

3295 Bob Rogers Drive, Eagle Pass, Texas 78852 • Telephone: (830) 773-7781 • Fax: (830) 773-7803
www.eaglepass.tx.us • planning@eaglepass.tx.us

VARIANCE APPLICATION (ZBAA)

Case No. 6863

Applicant Information	Name: <u>Luis Martin Ainslie</u>
	Mailing Address: <u>456 King David St</u>
	Phone: <u>830-352-1922</u> E-mail: <u>Luis.Ainslie.643@gmail.com</u>
	Note: If you are not the owner of the property, you must attach a letter from the owner authorizing you to submit this application.

Property Owner Information	Name: <u>Luis & Virginia Ainslie</u>
	Mailing Address: <u>Same As Above</u>
	Phone: <u>Same As Above</u> E-mail: <u>Same</u>

Property Information	Site Address: <u>920 EIDSON Rd.</u> MCAD Property ID # <u>5496</u>
	Legal Description: Lot(s) <u>1A</u> Block <u> </u> Subdivision <u>BENAVIDES HEIGHTS</u> (Property must be legally subdivided or be lot of record)
	Front Yard Width (feet) <u>69.74'</u> Rear Yard Width (feet) <u>65.2'</u> Side Yard Width (feet) <u>105.28'</u>
	<u>B3 Zoning</u>

Description of Project: <u>Full concrete front parking lot with 2 1/2 to 1 1/2 ft side landscaping with shrubs.</u>

Detailed Explanation of Variance Request

How does the strict application of the zoning code impose practical difficulties or particular hardship for your project? Due to the reduced front area, it would be difficult to safely exit the parking area without turning the vehicle all the way around.

How is your variance request consistent with the general purpose and intent of the zoning code?

How will the granting of the variance not merely serve as a convenience to you, but will alleviate some demonstrable hardship or difficulty so great as to warrant the variance?

Because of the HIGH traffic in front of the office, it is necessary for us to make a concent parking lot that takes up the front of the Building. This will enable our clients to safely turn around & exit.

Is your variance request necessary because of exceptional narrowness, shallowness, or shape of your property?

IN order to have at least 4-5 parking spaces in front of the office, it is necessary to pave the entire front area to allow parked vehicle to SAFELY turn around and exit the parking area.

Is your variance necessary because of exceptional topographical conditions or other extraordinary or exceptional situation or condition of your property?

The front property of the office is short & narrow.

Will the strict application of the zoning code result in peculiar and exceptional practical difficulties and particular hardship to you, and amount to a practical confiscation of the property and not a mere inconvenience?

It is very important to my customers to be able to entered the parking lot EASELY from a HIGH traffic intersection at the corner of El Indio Hwy and EIDSON RD.

Will the granting of the variance create substantial detriment to the public good?

yes it will, it will not only make it more convenient to park but to exit SAFELY.

Will your variance impair an adequate supply of light and air to adjacent property?

No, the property next door has a large front concrete front parking covering 80% of the front.

Will your variance materially increase the traffic congestion on public streets?

No, not in any way

How will the granting of the variance not merely serve as a convenience to you, but will alleviate some demonstrable hardship or difficulty so great as to warrant the variance?

Cover my vehicles from temperatures &

Is your variance request necessary because of exceptional narrowness, shallowness, or shape of your property?

Yes, to cover the complete vehicles

Is your variance necessary because of exceptional topographical conditions or other extraordinary or exceptional situation or condition of your property?

Will the strict application of the zoning code result in peculiar and exceptional practical difficulties and particular hardship to you, and amount to a practical confiscation of the property and not a mere inconvenience?

No.

Will the granting of the variance create substantial detriment to the public good?

Yes,

Will your variance impair an adequate supply of light and air to adjacent property?

No

Will your variance materially increase the traffic congestion on public streets?

No.

Will your variance increase the public danger of fires and safety?

Not in any way, it will provide a greater safety
core to exit the building.

Will your variance materially diminish or impair established property values within the surrounding area?

It will increase property in value

Will your variance impair the public health, safety, comfort, morals and welfare of the City of Eagle Pass?

Not in any way possibly, will be a safer and larger
area to exit the parking lot.

Applicant Authorization

I authorize the City of Eagle Pass to conduct any site visits necessary to evaluate this variance application.

I hereby state that I have prepared this application and that, to the best of my knowledge, the information contained herein is complete, accurate, and a true representation of the variance request. I further attest that I have the authority to submit this application and agree to comply with any and all conditions of variance approval. I agree to provide any additional information requested by the City as they deem necessary for the processing of this application.

Applicant Signature

Date

08-27-21

Office Use

Date Application Accepted for Review: _____ By: _____

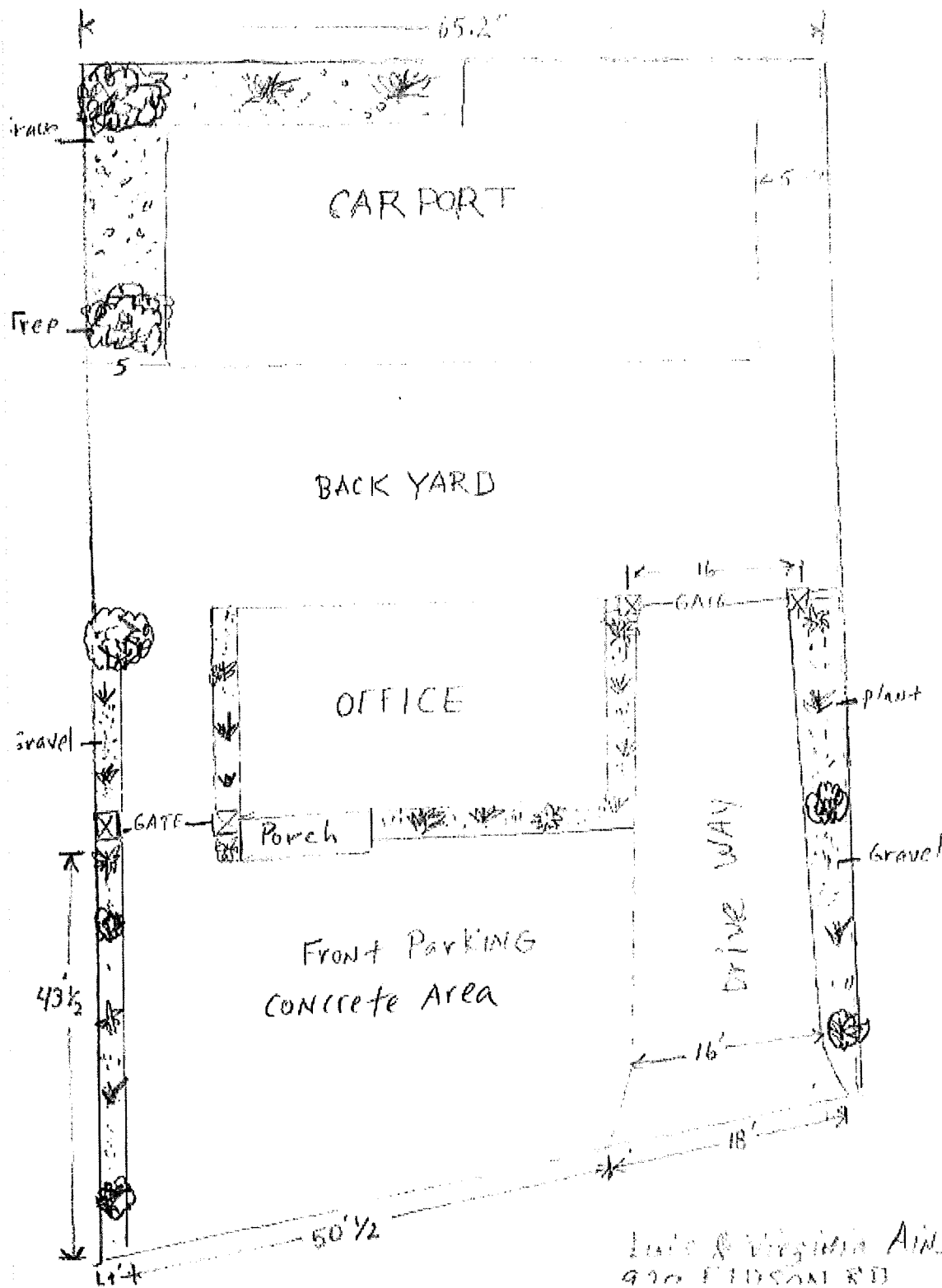
Contact Date for Supplemental Info: _____ Supplemental Info Received: _____

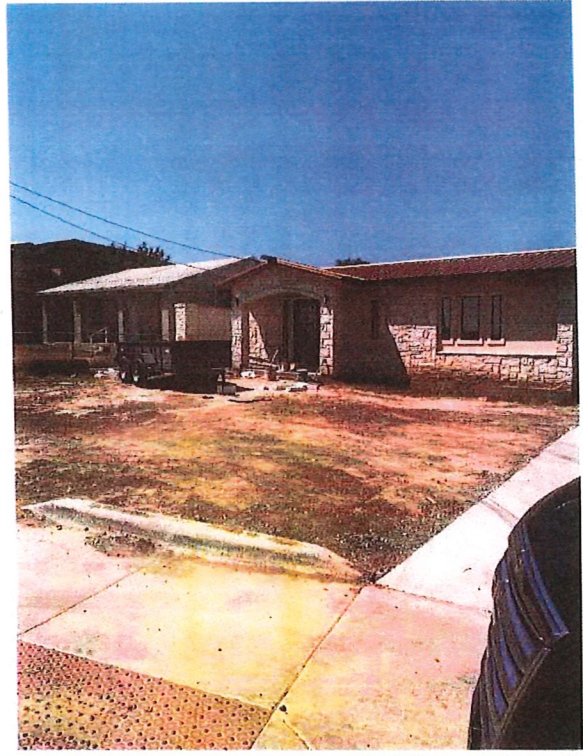
Completeness Review Date: _____ By: _____

Application Returned to Applicant: _____ (when applicable)

Note: Processing fee of \$100.00.

MR-5/2020





This image shows a detailed section of a cadastral map. The map is divided into numerous small rectangular parcels, each containing handwritten numbers. A prominent red arrow points to a parcel labeled '2000' and 'DRIVE'. Other visible labels include 'TR-I', 'TR-II', 'TR-III', and 'EIDSC'. The map also features various numerical data points, such as '1956', '1953', '1950', '1951', '1952', '1953', '1954', '1955', '1956', '1957', '1958', '1959', '1960', '1961', '1962', '1963', '1964', '1965', '1966', '1967', '1968', '1969', '1970', '1971', '1972', '1973', '1974', '1975', '1976', '1977', '1978', '1979', '1980', '1981', '1982', '1983', '1984', '1985', '1986', '1987', '1988', '1989', '1990', '1991', '1992', '1993', '1994', '1995', '1996', '1997', '1998', '1999', '2000'. The map is oriented with a north arrow pointing towards the top right.

Eagle Pass Code of Ordinances Appendix A – Zoning Ordinance Section 12.1 – Off-Street Parking Requirements.

Sec. 12.1. Off-street parking requirements.

- (A) *Authority.* The provisions of this section are adopted pursuant to the home rule powers of the city, granted under the Texas Constitution and the Statutes of the State of Texas, Texas Local Government Code Chapter 211 and the City Charter for the City of Eagle Pass.
- (B) *Purpose.* The regulations set forth in this section are adopted for the purpose of providing an adequate number of improved off-street parking spaces for all land uses in the city including, but not limited to, residential, commercial, institutional, and industrial land uses.
- (C) *Parking regulations and requirements.*
1. Definitions. The following words, terms, and phrases, when used in this section, shall have the meanings ascribed to them, except where the context clearly indicates a different meaning.
 - (a) *Aisle* shall mean that area within an off-street parking facility designed to accommodate the ingress and egress of vehicles within the facility, excluding parking spaces, landscaping, and pedestrian pathways.
 - (b) *Floor area* shall mean the gross floor area of the building as measured inward from the interior walls, including each floor or story of the structure.
 - (c) *Heavy industry* shall mean those manufacturing-related conducted either inside a structure or within the boundary of a property.
 - (d) *Historic Building Preservation District* shall mean that area delineated on the map identified as Exhibit A in this code.
 - (e) *Light industrial* shall mean those manufacturing-related activities conducted exclusively within a structure(s).
 - (f) *Loading space* shall mean one (1) loading space area, the width and length of which shall exceed the dimensions of the type of vehicle to normally be parked in the space by a minimum of two (2) feet, and no part of the area shall be closer than six (6) feet from the back edge of the curb of an adjacent public street or driveway.
 - (g) *Maneuvering space* shall mean the space required for maneuvering vehicles into and out of parking spaces in such a manner as to preclude the backing of any vehicle into any street right-of-way. Such maneuvering space shall be no closer than six (6) feet from the back edge of the right-of-way or easement of an adjacent public street or driveway.
 - (h) *Occupant load* shall mean the number of persons for which the means of egress for a building or structure or portion thereof is designed pursuant to the International Building Code.
 - (i) *Off-street parking space* shall mean one (1) off-street parking space is an area, the width and length of which shall exceed the dimensions of the type of vehicle to normally be parked in the space by a minimum of two (2) feet, and no part of the area shall be closer than six (6) feet from the back edge of the right-of-way of an adjacent public street or driveway.
 - (j) *Parking facility* shall mean a public or private property used, wholly or partly, for restricted or paid vehicle parking. The term includes:
 - i. A restricted space on a portion of an otherwise unrestricted parking facility; and
 - ii. A commercial parking lot, a parking garage, and a parking area serving or adjacent to a business, church, school, home that charges a fee for parking, apartment complex, property governed by a property owners' association, or government-owned property leased to a private person, including:
 - a. A portion of the right-of-way of a public roadway that is leased by a governmental entity to the parking facility owner; and
 - b. The area between the facility's property line abutting a county or municipal public roadway and the center line of the roadway's drainage way or the curb of the roadway, whichever is farther from the facility's property line.

- (k) *Parking space* shall mean an area enclosed or unenclosed, containing not less than one hundred eighty (180) square feet and not less than nine (9) feet wide, exclusive of the driveways connecting said space with a street or alley. Said parking space and connecting driveway shall be durably surfaced with asphalt or concrete, as set forth in the City of Eagle Pass Construction Specifications Manual, and so arranged to permit satisfactory ingress and egress of vehicles. Said parking space shall remain in satisfactory condition for the use of the premises.
 - (l) *Parking lot/parking area* shall mean an area that is used by anyone for parking. Said area must be durably surfaced with concrete or asphalt, as set forth in the City of Eagle Pass Construction Specifications Manual, and properly marked and lighted as required by section 12.1. Parking Requirements.
2. Parking required. Improved off-street parking and maneuvering spaces in accordance with the minimum requirements set out in this section shall be provided at the time any development, building or structure is erected or structurally altered or undergoes a change of use or occupancy. All parking and maneuvering space shall be provided on the private property it is designed to serve unless otherwise stated in this ordinance.
- (a) Timing of installation. Required parking spaces and drives shall be ready for use and approved by the planning department prior to the issuance of a certificate of occupancy for a building or use.
 - (b) Minimum requirements. Existing parking spaces shall not be reduced below the requirements established in this section.
 - (c) Certificate of occupancy. No certificate of occupancy shall be issued, no use shall be established or changed, and no structure shall be erected, enlarged or reconstructed unless the off-street parking spaces are provided in the minimum amount and maintained in the manner specified in the code.
 - (d) Improved off-street parking facilities are not required within the Historic Building Preservation District. In the event that a residence or business elects to construct improved off-street parking facilities within the district, the facilities shall comply with the provisions of this chapter, except as to the required number of parking spaces set forth herein.

Sec. 23-89. Landscape plan requirements.

- (a) *Submittal of plan.* The landowner or his/her agent shall submit and receive approval of a landscape plan demonstrating compliance with the landscape requirements contained herein. Plans shall show location and size of required landscaped areas, all dimensions, types of materials, size and spacing of vegetative materials, and plans for providing irrigation to plants. The plan(s) shall demonstrate that landscaping materials will:
- (1) Abate objectionable noise, light, glare, visual clutter, dust or loss of privacy.
 - (2) Adequately accomplish the purpose of which they were intended.
- (b) *Required site landscaping.*
- (1) Minimum percentage.
Non-corner sites: Shall be determined by site frontage along a street, multiplied by site depth (at its deepest point, up to a maximum of two hundred (200) feet) multiplied by 0.075 to determine the required landscape area along the primary street frontage.
Corner sites: Along the primary street, shall be determined by site frontage along a street, multiplied by site depth (at its deepest point, up to a maximum of two hundred (200) feet) multiplied by 0.075 to determine the required landscape area along the primary street frontage. Along the secondary street(s), shall be determined by site frontage along a street, multiplied by site depth (at its deepest point, up to a maximum of two hundred (200) feet) multiplied by 0.050 to determine the required landscape area along the secondary street frontage.
In no case shall the front landscape area be less than ten (10) feet in width.
 - (2) Undeveloped portions of a tract or lot shall not be considered landscaped, except as specifically approved by the BA.
 - (3) A minimum percentage of the total lot area of property on which development or new construction occurs after the effective date of this chapter shall be devoted to landscape development in accordance with Table 5.1. The landscaping shall be placed upon that portion of a tract or lot that is being developed. Fifty (50) percent of the required landscaped area and required plantings shall be installed between the front property lines and the building being constructed.
 - (4) For every six hundred (600) square feet of landscape area required by Table 5.1, two (2) trees and four (4) shrubs shall be planted.
 - (5) Should a tree die or be removed for which credit has been obtained pursuant to the terms of this chapter, landscape development sufficient to equal the area credited shall be required. A small tree that will have a mature crown similar to the tree removed may be substituted if the planting area or pervious cover provided for the larger tree is retained.
 - (6) Land use landscaping required (percent of constructed impervious coverage of the lot) shall be as shown in Table 1 below. Frontage landscape may be credited towards fulfilling the requirements of this section.

Table 1. Required Landscaping

Land Use	Landscaping Required (% of constructed impervious coverage of the lot)
Multifamily structures	20
Manufactured home park	20
Office and professional uses	20
Institutional	20
Commercial	15
Industrial or manufacturing	15



Planning Department **Report to the Zoning Board of Adjustment and Appeals**

I. APPLICANT & PROPERTY INFORMATION

Applicant: Bertha A. Cardenas Case #6868
Location: 2179 Ricks Drive
Legal Desc: Lot 8 and the South 4 feet of Lot 9 in Block 1 of the Ricks Addition Unit 3
MCAD PIN: 17086
Parcel Size: 8,800-square feet
Existing Use: Residential dwelling
Zoning: R-1 *First One-Family Dwelling District*
Master Plan: Residential
Request: Reduction of front yard building setback from 25 feet to 12 feet for the construction of an attached carport.

II. CURRENT CONDITIONS

Infrastructure: Property is serviced by public utilities/franchises
Vegetation: Residential vegetation
Vicinity: Property is bordered by residential and commercial developments immediately to the rear.

III. STAFF ANALYSIS

Applicant is requesting a front yard building setback reduction from 25 feet to 12 feet to accommodate the construction of an attached carport on property located 2179 Ricks Drive as shown in Figure 1.

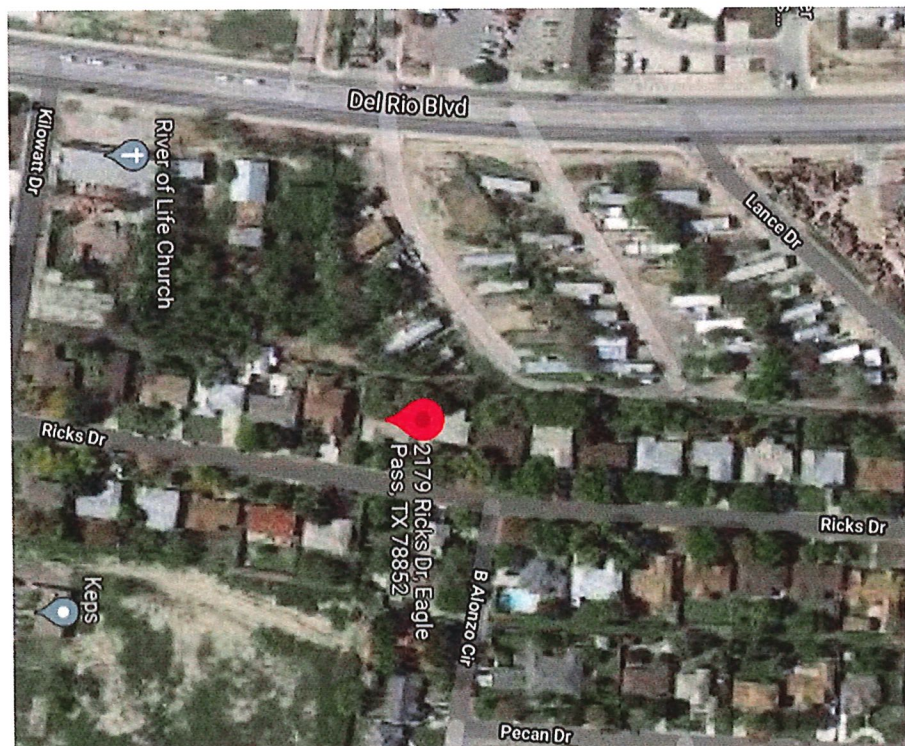


Figure 1. Area Map

The proposed construction measures approximately 450-square feet as shown in the enclosed proposed Site Layout. The proposed construction does not meet the requirements set forth in Appendix A of the Zoning Ordinance. Planning staff is concerned with the disruption of the neighborhood character that comes with this request and that no other property within the immediate vicinity has encroached or failed to observe a front yard.

13 notices were mailed to the abutting property owners within a 200 feet radius of the subject property and as of October 1, 2021 The Planning Department has not received any letters in return.

Staff Recommendation

Staff recommends the **DENIAL** of the applicant's variance request of a reduction to the front yard building setback from 25 feet to 12 feet, for property located at 2179 Ricks Drive, as it does not conform with the regulations set forth in *Section 5(c)(1) of Appendix A of the Zoning Ordinance*.



PLANNING DEPARTMENT

3295 Bob Rogers Drive, Eagle Pass, Texas 78852 • Telephone: (830) 773-7781 • Fax: (830) 773-7803
www.eaglepasstx.us • planning@eaglepasstx.us

VARIANCE APPLICATION (ZBAA)

Case No. 4868

Applicant Information	Name: <u>Beitha A. Cardenas</u>
	Mailing Address: <u>2179 Ricks Dr</u>
	Phone: <u>830 968 6450</u> E-mail: <u>cardenasbeitha@hotmail.com</u>
	Note: if you are not the owner of the property, you must attach a letter from the owner authorizing you to submit this application.

Property Owner Information	Name: <u>Beitha A. Cardenas</u>
	Mailing Address: <u>2179 Ricks Dr</u>
	Phone: <u>(830) 968 6450</u> E-mail: <u>cardenasbeitha@hotmail.com</u>

Property Information	Site Address: <u>2179 Ricks Dr.</u> MCAD Property ID # _____
	Legal Description: Lot(s) _____ Block _____ Subdivision _____ (Property must be legally subdivided or be lot of record)
	Front Yard Width (feet) _____ Rear Yard Width (feet) _____ Side Yard Width (feet) _____

Description of Project:	<u>Carport and 3' entrance.</u>

Detailed Explanation of Variance Request
How does the strict application of the zoning code impose practical difficulties or particular hardship for your project? <u>No hardship it is not a corner lot property and does not interfere with view or block any view</u>

How is your variance request consistent with the general purpose and intent of the zoning code? <u>Not against zoning residential code</u>

How will the granting of the variance not merely serve as a convenience to you, but will alleviate some demonstrable hardship or difficulty so great as to warrant the variance?

Cover my vehicles from temperatures

Is your variance request necessary because of exceptional narrowness, shallowness, or shape of your property?

Yes, to cover the complete vehicle

Is your variance necessary because of exceptional topographical conditions or other extraordinary or exceptional situation or condition of your property?

Will the strict application of the zoning code result in peculiar and exceptional practical difficulties and particular hardship to you, and amount to a practical confiscation of the property and not a mere inconvenience?

No.

Will the granting of the variance create substantial detriment to the public good?

Yes,

Will your variance impair an adequate supply of light and air to adjacent property?

No

Will your variance materially increase the traffic congestion on public streets?

No.

Will your variance increase the public danger of fires and safety?

No

Will your variance materially diminish or impair established property values within the surrounding area?

No

Will your variance impair the public health, safety, comfort, morals and welfare of the City of Eagle Pass?

No

Applicant Authorization

I authorize the City of Eagle Pass to conduct any site visits necessary to evaluate this variance application

I hereby state that I have prepared this application and that, to the best of my knowledge, the information contained herein is complete, accurate, and a true representation of the variance request. I further attest that I have the authority to submit this application and agree to comply with any and all conditions of variance approval. I agree to provide any additional information requested by the City as they deem necessary for the processing of this application.

Betha Cardenas
Applicant Signature

8/09/2021
Date

Office Use

Date Application Accepted for Review: _____ By: _____

Contact Date for Supplemental Info: _____ Supplemental Info Received: _____

Completeness Review Date: _____ By: _____

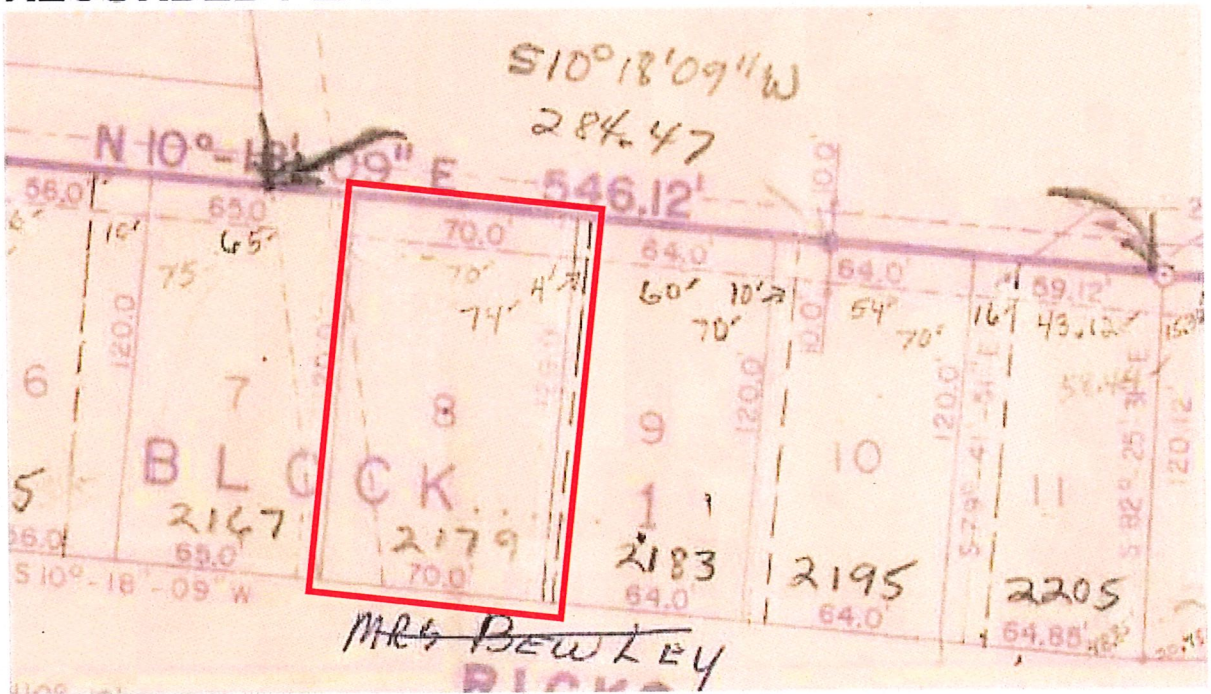
Application Returned to Applicant: _____ (when applicable)

Note: Processing fee of \$100.00

MR 602020



RECORDED PLAT





Sec. 5. "R-1" First one-family dwelling district.

The following regulations shall apply to the "R-1" First one-family dwelling district:

A. *Use regulations:* A building or premises shall be used only for the following purposes:

- (1) Single-family dwellings.
- (2) Boardinghouse with a conditional-use permit.
- (3) Church (except temporary revival), with conditional use permit.
- (4) School, public or private, having a curriculum equal to a public elementary, high school, or institution of higher learning, but shall require a conditional use permit
- (5) Public parks, playgrounds, golf courses (except miniature golf).
- (6) Police and fire stations only as required for safety requirements
- (7) Customary home occupations, as permitted by section 13 (Home Occupations) and with a conditional use permit.
- (8) Accessory buildings and accessory uses, customarily incident to the above uses (not involving the conduct of a business), when located on the same lot, including a private garage for one (1) or more cars. Accessory buildings shall not be used for rent or used for commercial purposes.
- (9) Temporary sales office.

B. *Height regulations:* No building shall exceed two and one-half (2½) stories or thirty-five (35) feet in height except as provided in section 12 hereof.

C. *Area regulations:*

- (1) *Front yard.* There shall be a front yard along the front line of the lot. The minimum depth of such front yard shall be twenty-five (25) feet.
- (2) *Side yards.* There shall be a side yard on each side of a building and shall not be less than five (5) feet in width. Where there is a corner lot, side yard shall not be less than ten (10) feet from the side of the building to the property line running adjacent to any street.
- (3) *Rear yard.* The depth of the rear yard shall be at least twenty (20) feet in depth.
- (4) *Depth of lot.* The lot shall have a minimum depth of one hundred ten (110) feet.

D. *Intensity of use:*

- (1) Every lot or tract of land shall have an area of not less than seven thousand seven hundred (7,700) square feet and an average width of not less than seventy (70) feet, except that if a lot or tract should have less area or width than is herein required and its boundary lines along their entire length should touch lands under other ownership on the effective date of the ordinance from which this section is derived and shall not have been changed since said date, such parcel of land may be used for a single-family dwelling.
- (2) Maximum impervious cover for a residential lot in R-1 district is fifty (50) percent. Impervious surfaces include any artificial structures that are covered by water-resistant materials such as: concrete, brick, stone, pavement and rooftops.

E. *Parking regulations:* Off-street parking shall be provided on a basis of two (2) concrete surfaced off-street parking spaces per dwelling. Other standards contained in Section 12.1, Parking Requirements shall also apply.

F. *Additional use, height, and area regulations:*

- (1) Additional use, height, and area regulations and exceptions are found in section 12 of this ordinance.
- (2) Signs:

- (a) One unlighted sign, which shall not exceed one (1) square foot in area, indicating the name of the occupant or occupation of a customary home occupation, provided the sign is attached flat-wise to the building.
- (b) One sign, which shall not exceed eighteen (18) square feet, for church or school.
- (c) One sign which shall not exceed four (4) square feet in area for temporary unlighted sign pertaining to the lease, hire, or sale of building or premises, provided the sign is immediately removed upon the lease, hire, or sale of such building or premises.

(Ord. No. 06-13, § 2, 7-11-2006; Ord. No. 2020-08 , § 1, 4-21-2020)



Planning Department

Report to the Zoning Board of Adjustment and Appeals

I. APPLICANT & PROPERTY INFORMATION

Applicant: William J. Ward
Legal Desc: Lot 6 in Block 2 of Range Unit 5
Parcel Size: 5,625-square feet
Zoning: B-2 *Central Business District*

Location: 239 Monroe Street
MCAD PIN: 16876
Existing Use: Vacant Commercial
Master Plan: Commercial

II. CURRENT CONDITIONS

Infrastructure: Property is serviced by public utilities/franchises

Vicinity: Property is bordered by commercial and residential developments

III. STAFF ANALYSIS

Applicant is requesting:

- a. a variance from *Eagle Pass Code of Ordinances Appendix A Zoning Ordinance Section 12(a)(1)* regulating Accessory buildings.
- b. a variance from *Eagle Pass Code of Ordinances Chapter 16 Health and Sanitation Article I Division 2 Section 16-11(l)* regulating and prohibiting conduct for mobile/temporary food vendors.

on property located at 239 Monroe Street as shown in Figure 1.

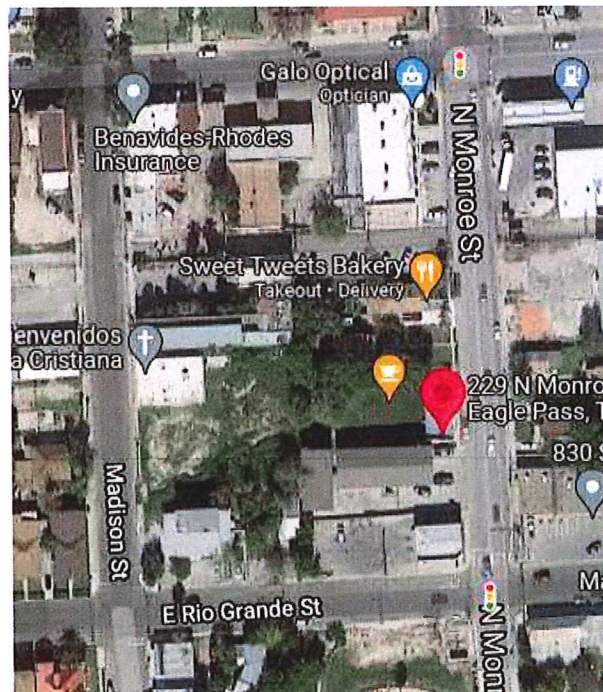
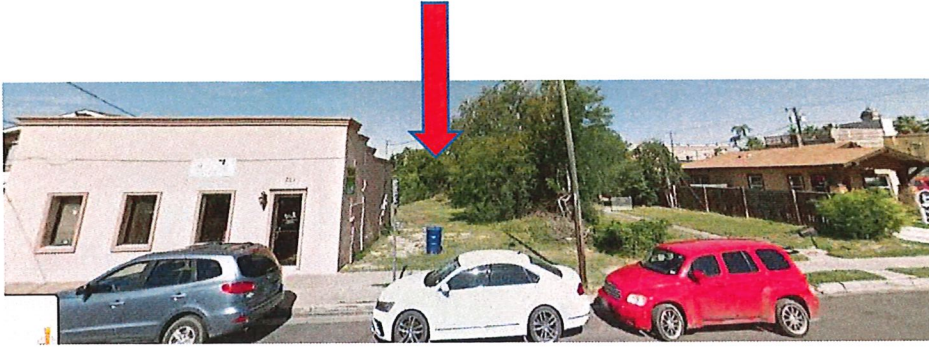


Figure 1. Area Map



The property does not meet the requirements set forth in the above-mentioned Section of the Code. Code restricts an accessory building from being built upon a lot until the construction of the main use building has been actually commenced. In addition no accessory building shall be used unless the main use building on the lot is also being used.

The applicant also requested a variance to deviate from the Health and Sanitation Code regulating the restriction to solicit or conduct business within one hundred (100) feet of the place of business of any merchant who sells food for immediate consumption. Immediately from the subject lot a bakery/coffee shop is in operation and within an approximate 77-feet distance.

20 notices were mailed to the abutting property owners within a 200 feet radius of the subject property and as of November 4, 2021 The Planning Department has not received any letters in return.

Staff Recommendation

Staff recommends the **DENIAL** of the applicant's variances for property located at 239 Monroe Street, as this does not conform with the regulations set forth with the following City Codes:

- (a) *Eagle Pass Code of Ordinances Appendix A Zoning Ordinance Section 12(a)(1)* regulating Accessory buildings.
- (b) *Eagle Pass Code of Ordinances Chapter 16 Health and Sanitation Article I Division 2 Section 16-11(l)* regulating and prohibiting conduct for mobile/temporary food vendors.



PLANNING DEPARTMENT

3295 Bob Rogers Drive, Eagle Pass, Texas 78852 • Telephone: (830) 773-7781 • Fax: (830) 773-7803
www.eaglepasstx.us • planning@eaglepasstx.us

VARIANCE APPLICATION (ZBAA)

Case No. _____

Applicant Information	Name: <u>William J Ward</u>
	Mailing Address: <u>1149 Spies Dr, Eagle Pass TX 78852</u>
	Phone: <u>(830)513-8757</u> E-mail: <u>william.j.ward@hotmail.com</u>
	Note: If you are not the owner of the property, you must attach a letter from the owner authorizing you to submit this application.

Property Owner Information	Name: <u>Ricardo E Munoz</u>
	Mailing Address: <u>P O BOX 1166 EAGLE PASS TX 78853-1166</u>
	Phone: <u>(830)968-8045</u> E-mail: _____

Property Information	Site Address: <u>229 MONROE ST.</u> MCAD Property ID # <u>16870 16876</u>
	Legal Description: Lot(s) <u>1/6</u> Block <u>2</u> Subdivision <u>RANGE UNIT # 5</u> (Property must be legally subdivided or be lot of record)
	Front Yard Width (feet) <u>630</u> Rear Yard Width (feet) <u>630</u> Side Yard Width (feet) <u>630</u>

Description of Project:

Pergola for outdoor seating

Detailed Explanation of Variance Request

How does the strict application of the zoning code impose practical difficulties or particular hardship for your project?

Due to the ongoing global pandemic, we fear that indoor dining increases the exposure for both staff and patrons.

Allowing us to have a pergola for patrons to sit outdoors reduces the risk of Covid 19 exposure.

How is your variance request consistent with the general purpose and intent of the zoning code?

The property is located on a commercial street next to a commercial building that is occupied by the same business.

How will the granting of the variance not merely serve as a convenience to you, but will alleviate some demonstrable hardship or difficulty so great as to warrant the variance? Outdoor dining is essential to provide our customers a safe dining experience and further reduces the spread of a deadly disease.

Is your variance request necessary because of exceptional narrowness, shallowness, or shape of your property? No

Is your variance necessary because of exceptional topographical conditions or other extraordinary or exceptional situation or condition of your property? No

Will the strict application of the zoning code result in peculiar and exceptional practical difficulties and particular hardship to you, and amount to a practical confiscation of the property and not a mere inconvenience? Yes

Will the granting of the variance create substantial detriment to the public good? No, on the contrary it will provide the public a safe and enjoyable outdoor space.

Will your variance impair an adequate supply of light and air to adjacent property? No

Will your variance materially increase the traffic congestion on public streets? No

Will your variance increase the public danger of fires and safety?
No

Will your variance materially diminish or impair established property values within the surrounding area?
No

Will your variance impair the public health, safety, comfort, morals and welfare of the City of Eagle Pass?
No, on the contrary it will add value and serve as a destination for the community of Eagle Pass.

Applicant Authorization	I authorize the City of Eagle Pass to conduct any site visits necessary to evaluate this variance application. I hereby state that I have prepared this application and that, to the best of my knowledge, the information contained herein is complete, accurate, and a true representation of the variance request. I further attest that I have the authority to submit this application and agree to comply with any and all conditions of variance approval. I agree to provide any additional information requested by the City as they deem necessary for the processing of this application.
	Applicant Signature _____ Date _____

Office Use	Date Application Accepted for Review: _____ By: _____
	Contact Date for Supplemental Info: _____ Supplemental Info Received: _____
	Completeness Review Date: _____ By: _____
	Application Returned to Applicant: _____ (when applicable)
	Note: Processing fee of \$100.00.

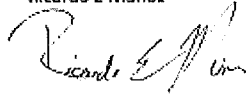
MP.6/2020

To whom it may concern,

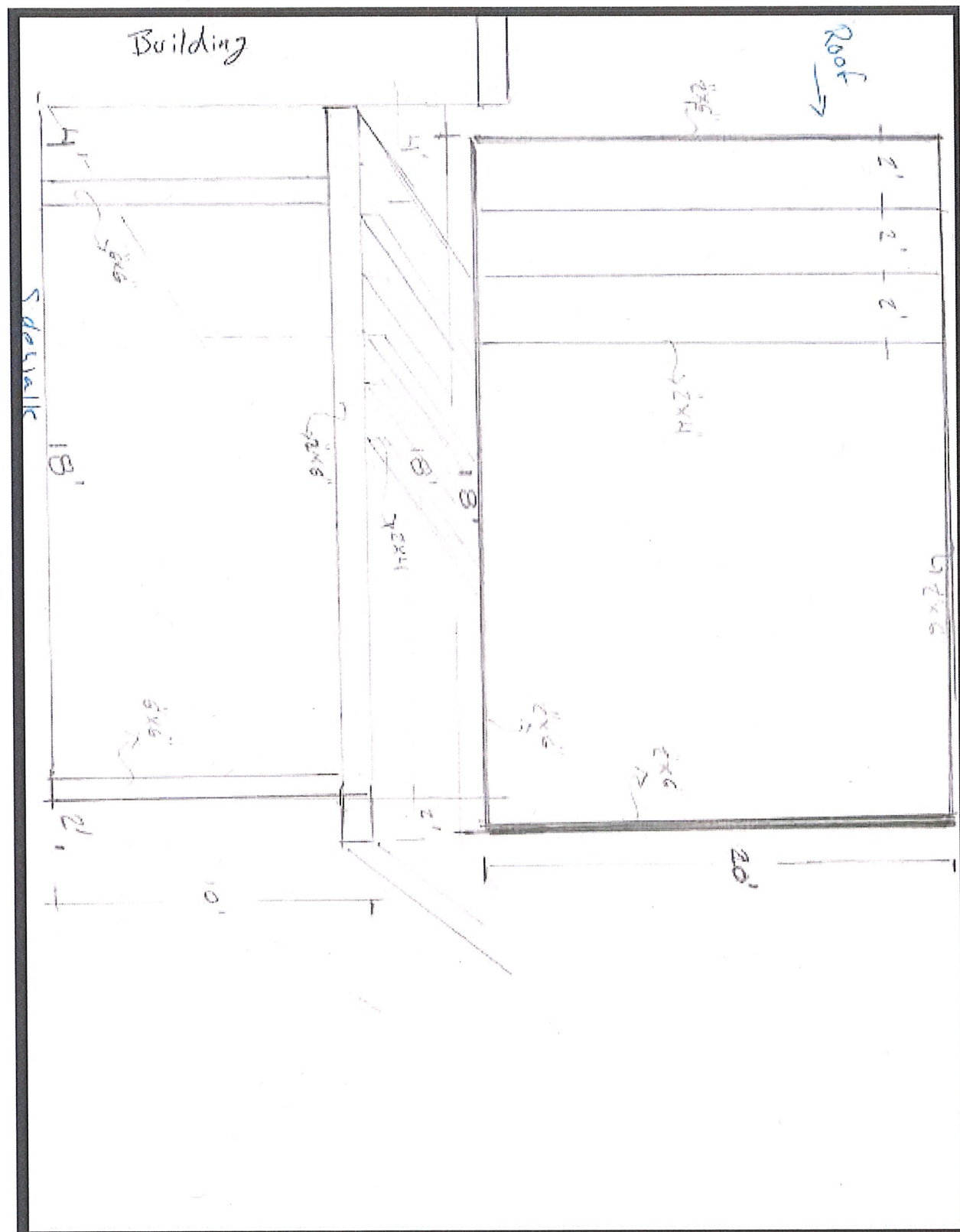
I Ricardo Munoz hereby authorize William J Ward to submit this application. If you have any questions or concerns, please feel free to contact me at 830 968 8045.

Respectfully,

Ricardo E Munoz

A handwritten signature in black ink, appearing to read "Ricardo E Munoz", written in a cursive style.

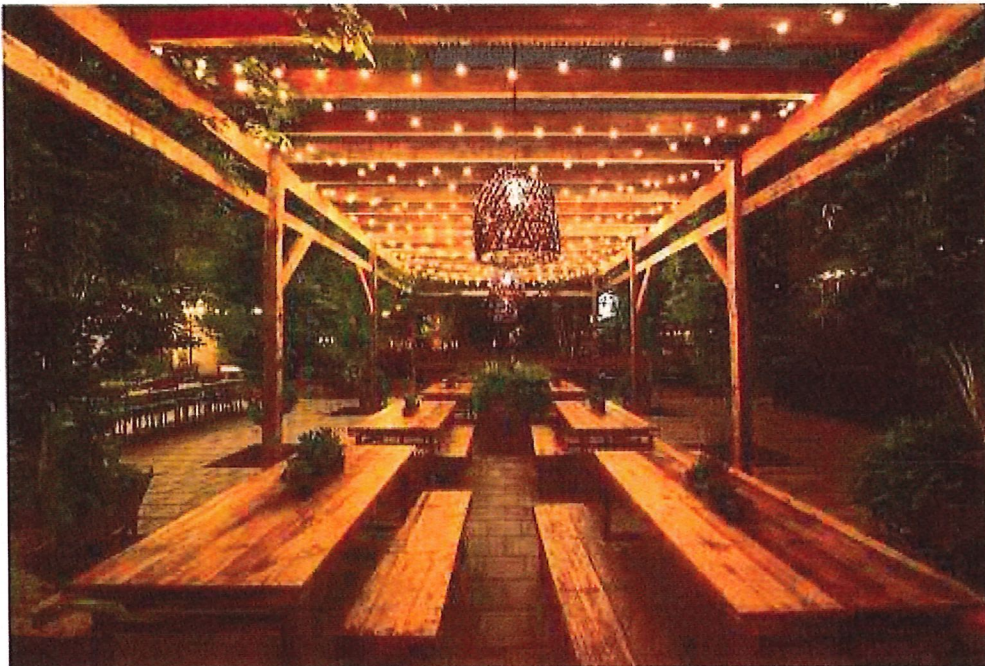
SITE PLAN



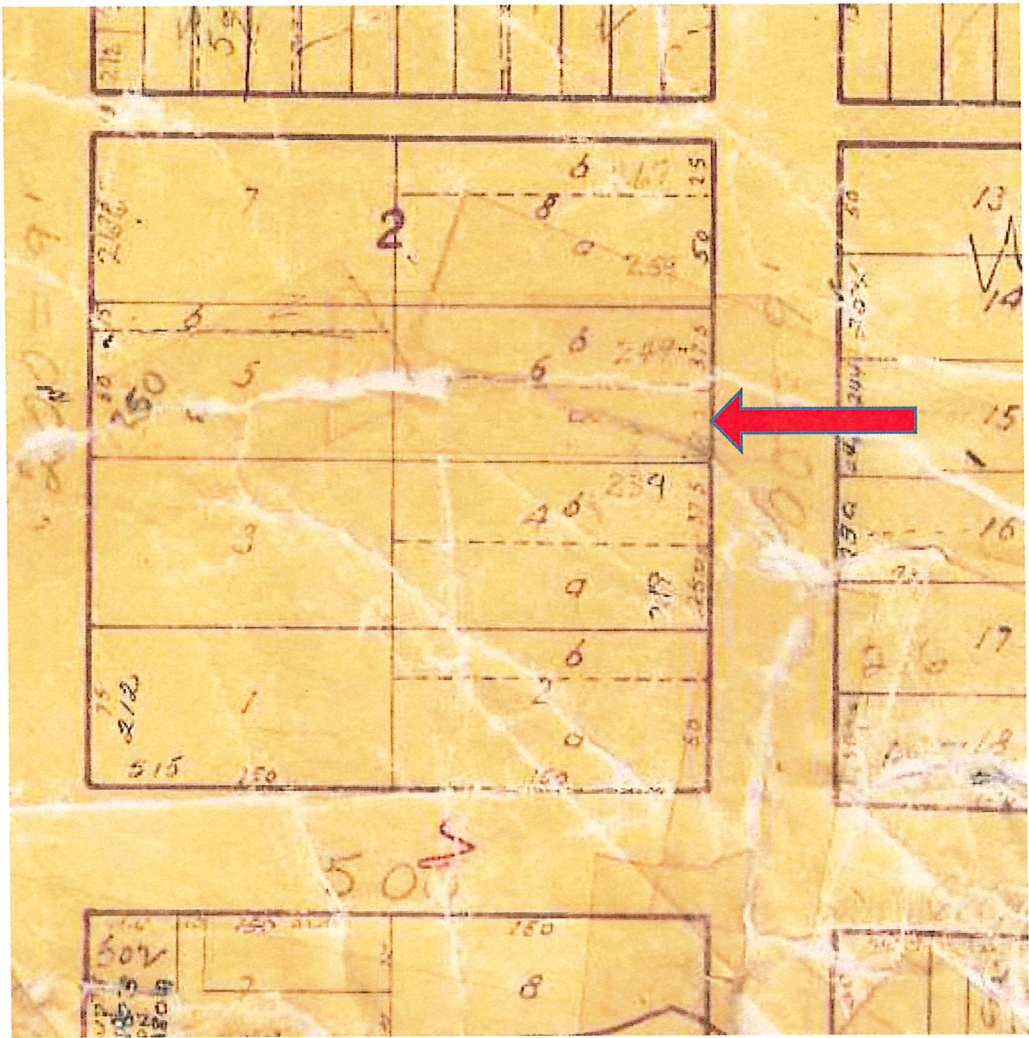
Current Site Photograph



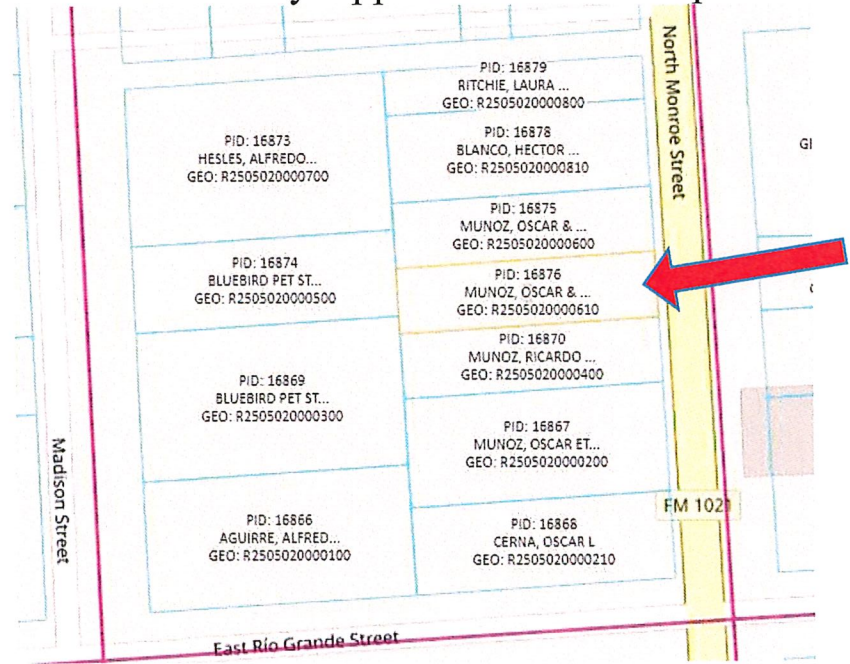
Proposed Structure



RECORDED PLAT – LEGACY MAP



Maverick County Appraisal District Map



Sec. 12. Additional use, height, and area regulations and exceptions.

A. Use regulations:

- (1) *Accessory buildings.* No accessory building shall be constructed upon a lot until the construction of the main use building has been actually commenced. No accessory building shall be used unless the main use building on the lot is also being used.
- (2) *Railroad rights-of-way.* On all existing rights-of-way of railroad companies, regardless of the zoning district in which such rights-of-way are located, railroad trackage and accessories to railroad movement may be constructed or maintained.

Sec. 16-11. Prohibited conduct for mobile/temporary food vendors.

No mobile/temporary food vendor shall:

- (a) Park a mobile/temporary food vending unit or sell any items within twenty-five (25) feet of the street corner.
- (b) Park a mobile/temporary food vending unit within ten (10) feet of a driveway or alley.
- (c) Operate a mobile food vending unit in such a manner as to obstruct or hinder the movement of pedestrian traffic. A food vendor shall maintain a clear path with a minimum width of four (4) feet at all times.
- (d) Leave any mobile/temporary food unit unattended.
- (e) Store, park or leave any mobile food vending unit overnight on any street or sidewalk or park any mobile/temporary food unit in any location other than in a lawful parking place in conformance with city and state parking regulations.
- (f) Sell food for immediate consumption unless he has available for public use his own trash receptacle which is available for his patrons' use.
- (g) Leave any location without first picking up, removing and disposing of all trash or refuse remaining from sales made by him.
- (h) Set up, maintain or permit the use of any table, carton, rack, or any other device or item to increase the selling or display capacity of his mobile food vending unit.
- (i) Solicit or conduct business with persons in motor vehicles, other than motor vehicles, which are legally parked.
- (j) Operate without a permit issued under this article.
- (k) Employ or permit the use of artificial lighting devices on the mobile food vending unit, which would create a hazard to motorists.
- (l) Solicit or conduct business within one hundred (100) feet of the place of business of any merchant who sells food for immediate consumption.

(Ord. No. 2016-09, § 1, 2-2-2016)