



July 18, 2024

AMENDED AGENDA: ZONING BOARD OF ADJUSTMENT

Notice is hereby given of a Regular Meeting of the Zoning Board of Adjustments to be held at 4:00 p.m., via videoconference, for the purpose of considering the following agenda items. All agenda items are subject to action.

Some Board Members may attend via videoconference but a quorum of the Board and the Presiding Officer will be present at the above-stated physical location. The meeting will be streamed live at <https://www.nactx.us/21>. There will be an opportunity for the public to comment on agenda items in person in Council Chambers.

**PLEASE LIMIT PRESENTATIONS TO THREE MINUTES
(UNLESS PRIOR APPROVAL IS OBTAINED)**

1. CALL TO ORDER.
2. PLEDGE OF ALLEGIANCE.
3. Administer Statement of Officer and Oath of Office for newly appointed Zoning Board of Adjustment members.
4. Appoint Chair and Vice Chair.
5. **CONSENT AGENDA**
 - A. Approval of Minutes: Consider approval of minutes from the June 20, 2024, Zoning Board of Adjustment meeting.
6. **REGULAR AGENDA**
 - A. **Public Hearing:** Consider a request for a variance to the Zoning Ordinance Section 118-427. (a), for a reduction in the minimum lot depth requirements in an R-2, Single-Family District for a proposed subdivision of Lot 12, City Block 41, located at 1102 Logansport Street. This request has been submitted by the owner, Rudy Bohac. Case File Number ZBA2024-04.
 - B. Discuss and determine whether to hear a proposed agenda item regarding lot width, previously addressed by the board under the zoning ordinance but now wanting to be heard based on an appeal from the subdivision ordinance for 720 Martinsville Road."

City of Nacogdoches Planning Department
202 E. Pilar – PO Box 635030 – Nacogdoches, TX 75963
936-559-2574 □ Fax 936-559-2912 □ www.nactx.us
Home of Stephen F. Austin State University □ www.sfasu.edu



7. ADJOURN.

Aimee Cloutier

Aimee Cloutier, Planning Coordinator

The City Council Chambers is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please contact the City Planning Department at (936) 559-2574 or FAX (936) 559-2910 for further information.

This agenda is posted as required under G. C. Section 551.041. For more information or a copy of the Open Meetings Act, please contact the Attorney General of Texas at 1-800-252-8011; the City Secretary at (936) 559-2506 or visit the City of Nacogdoches web site at www.nactx.us.

CERTIFICATION

I certify the notice of the meeting was posted in the directory outside of City Hall, 202 E. Pilar Street, Nacogdoches, Texas on July 15, 2024, by 12:00 p.m. and remained posted until the meeting convened.

Aimee Cloutier, Planning Coordinator

**MINUTES TO THE
ZONING BOARD OF ADJUSTMENT
June 20, 2024, 4:00 p.m. Hybrid Meeting**

All Present: Clay Jones; Charlie Wheeler; John Sloane; Larry King; Mary Ann Bentley;

Members Absent: Rhonda Ward; Olivia Kiritsy; David Shofner;

Staff Present: Planning Coordinator, Aimee Cloutier; Planning Consultant, Nathan Dietrich (virtual); Interim City Planner, Juan Pollette; City Attorney, Jerry Baker; Building Official, Don Shoemaker; Assistant City Engineer, Jason Vickery;

Guests: Phillip Blackburn; Mitzi Blackburn; Mario Perica; Alex Perica; Pat Castella; Dan LaClair; Heather Myatt; Ed Beuhangley; Mario Wesley; Adam Myatt; Felicia Cox; Councilman, Brad Maule;

Call to Order: Vice Chairwoman Mary Ann Bentley called the meeting to order at 4:00 p.m.

Pledge of Allegiance: Vice Chairwoman Bentley led the pledge of allegiance.

Consent Agenda: Approval of the Minutes: April 18, 2024, Regular Meeting.

Vice Chairwoman Bentley called for a motion to approve the minutes as written. Board Member King moved to approve the minutes as written with Board Member Jones seconding. The minutes were approved as presented unanimously (5-0).

Regular Agenda:

4. A Public Hearing: Consider a request for an appeal of the City Planner's decision in interpreting the Zoning Ordinance (Section 118.427(a). - District Development Chart) as it applies to the approval of a building permit and site plan for the construction of a duplex on Lot 2 of the Johnson's Martinsville Street Subdivision, as described in a plat filed April 10, 2023, recorded in Clerk's Document Number 2023-2530 of the Real Property Records of Nacogdoches County, Texas. The property is located on the south side of Martinsville Street approximately 220 feet from the intersection of Logansport Street and Martinsville Street. This request has been submitted by Phillip Blackburn. Case File ZBA2024-03.

Interim City Planner (ICP), Juan Pollette addressed the Board by giving a timeline of events that led to the appeal by the Applicant and gave the history of the pie-shaped lot in question. ICP Pollette gave a brief overview of the dimensions of the subject lot and the mandatory development standards. ICP Pollette read the definition of lot width in the ordinance and clarified that a lot is not required to maintain fifty feet in width throughout the length of the property. He explained the measurements of the property stating the approved, recorded lot has 85.5' of street frontage along Martinsville Street which is more than the minimum stated in the Ordinance. ICP Pollette informed the Board that fifteen (15) notices were sent to property owners within 200' of the subject property and seven (7) responses were received back in opposition. ICP Pollette expressed that staff recommends affirming the interpretation of lot width.

Vice Chairwoman Bentley opened the Public Hearing.

Applicant Phillip Blackburn presented his request for the appeal to the Board and gave his interpretation and lot measurements stating the subject lot was non-conforming. Mr. Blackburn presented the Board with types of lots

he believed would comply if the lot width is only measured by the building line. Mr. Blackburn stated the ordinance is missing terms that could provide clarity on lots like the one in question. Mr. Blackburn explained the measurements of the lot he calculated stating the lot width at the 100' depth point is only 45.013 feet wide and believes the city's interpretation isn't correct and the plat was not properly approved. Mr. Blackburn requested the Board grant his appeal.

Public Comment: In Support of the Appeal

Pat Castella- 1009 Logansport Street

Ms. Castella stated she doesn't agree with the City Planner's literal interpretation and questioned why a variance was not presented to the Board. She requested the appeal be granted.

Mario Perica- 708 Martinsville Street

Mr. Perica stated he supports the appeal and agreed with the Applicant's presentation. He explained he tried to purchase the subject lot and was unsuccessful but if he had the lot, the issue at hand would not be a problem resulting in an appeal.

Alex Perica- 708 Martinsville Street

Mrs. Perica stated she wants to preserve the neighborhood's history and supports the appeal.

Sammy Smith- 1801 York

Mr. Smith stated he was in favor of the appeal and the data was manipulated by the city with the approval of the plat, violating city ordinances. He went on to give statistics about homes being rented/owner-occupied.

Public Comment: In Opposition to the Appeal

Mario Wesley- 909 Pearl Street

Mr. Wesley stated he was the General Contractor for the property and the Board should go with the previous City Planner's interpretation and the appeal should not be granted. Mr. Wesley expressed that all lots are not perfectly square and that the Applicant's appeal was not filed on time when the subdivision was approved.

Vice Chairwoman closed the Public Hearing at 4:51 p.m.

Applicant Phillip Blackburn addressed the Board to make a rebuttal stating he filed the appeal when the building permit was issued. After reading the Planning Department's mission statement, he expressed that neighborhoods weren't being protected and the developers were favored. Mr. Blackburn stated the Future Land Use Plan designates the area as Single-Family residential and staff is allowing Multi-Family development on a lot that was not approved properly. Mr. Blackburn voiced he believes the interpretation was deliberate and staff is help the developer and asking that his appeal be granted.

There was discussion amongst the Board and Staff regarding the measurement of lot width, how the subject property was measured, and only being able to work within the confines of the ordinance.

Planning Consultant (PC), Nathan Dietrich addressed the board reminding them the meeting was to discuss the interpretation of lot width and they were not here to discuss previous cases and properties

Board Member Larry King motioned to approve and grant the appeal with Board Member John Sloane seconding it.

Vice Chairwoman Bentley opened for discussion from the Board.

There was a discussion regarding the definition of lot width and how it was confusing the way it is defined.

PC Dietrich addressed the Board to clarify how the measurements are taken.

Applicant Phillip Blackburn called out Point of Order stating it was improper for the Planning Consultant to be deliberating with the Board.

Vice Chairwoman Bentley called for a final vote. The appeal was denied (3-2) with the following votes:

Vice Chairwoman M. Bentley- Against

Board Member L. King- In Favor

Board Member- J. Sloane- In Favor

Board Member C. Wheeler- Against

Board Member C. Jones- Against

Adjourn: Vice Chairwoman Bentley adjourned the meeting at 5:15 p.m.

Vice Chairwoman, Mary Ann Bentley

Attest: Aimee Cloutier, Planning Coordinator

PRESENTER: Nathan Dietrich, Planning Consultant

ITEM/SUBJECT: Public Hearing: Consider a request for a variance to the Zoning Ordinance Section 118-427. (a), for a reduction in the minimum lot depth requirements in an R-2, Single-Family District for a proposed subdivision of Lot 12, City Block 41, located at 1102 Logansport Street. This request has been submitted by the owner, Rudy Bohac. Case File Number ZBA2024-04.

TYPE OF REQUEST: Variance from the literal enforcement of the zoning ordinance in order to achieve a reasonable development of the property.

The ZBA rules and procedures state this type of variance may be requested “whenever, owing, to exceptional and extraordinary conditions, the literal enforcement of the provisions of the zoning regulations will result in unnecessary hardship in the development of the property.”

The applicant is requesting a variance to the Zoning Ordinance **Sec. 118-427(a). –District development standards** to subdivide Lot 12, City Block 41, located at 1102 Logansport Street. This section of the ordinance outlines the property development standards for each zoning district, including lot width, depth, and lot area. The specific variance being requested is to reduce the minimum lot depth from 100 feet to 88 feet for a property with a zoning designation of R-2, Single Family (refer to Exhibit "A").

The purpose of property development standards is to create orderly, predictable, and efficient development; safeguard and enhance property values; protect public and private investment by preventing landowners from overcrowding the property of others; and allow for adequate spacing between buildings for emergency access. More specifically, minimum lot dimensions ensure that lots within each zoning district are consistent and large enough to accommodate development. Additionally, each lot within that subdivision will have direct access to a public right-of-way.

BACKGROUND INFORMATION:

This property was presented to you with the same zoning variance request on April 18, 2024, but the application was denied. After the meeting, the surrounding property owners and the applicant devised a plan to bring single-family detached development to the area, as desired by the homeowner and the surrounding owners. Part of this plan included rezoning the property back to R-2 from R-4 Zoning, which has already been completed. Now, the same variance request is before you again. The change to the application involved rezoning the property back to the R-2 zoning district, which only allows for detached single-family residences.

The lot is currently developed with a single-family home and is zoned R-2, Single Family which has a minimum lot width of 60 feet, a minimum lot depth of 100 feet and a minimum lot density of 6,000 square feet per lot. The purpose of the proposed subdivision is to create two additional lots where the owner plans to construct two additional single-family residences of similar size on either side of the existing home. The new lots created by the proposed subdivision do not meet the

minimum lot depth for the R-2 zoning district as shown in the table below.

Physical Characteristics

1. Frontage: The property has approximately 496 feet of street frontage on Logansport Street.
2. Access: The lot will take direct access from Logansport Street.
3. Topography and vegetation: The property has mature trees and the parcel elevation drops, moving south to north.
4. Floodplain: The subject property is not located within the FEMA-regulated floodplain.
5. Logansport Street: is considered a two-lane local street currently having an approx. 20 ft paving section and roadside ditches.

Lot Standard for R-2	Minimum Required	Proposed Lot 1R	Proposed Lot 2R	Proposed Lot 3R
Lot Width	60 ft.	165 ft.	165 ft.	165 ft.
Lot Depth	100 ft.	88 ft.	88 ft.	88 ft.
Lot Area	6,000 sq. ft.	14,520 sq. ft.	14,520 sq. ft.	14,520 sq. ft.

Any future development will still need to meet the required district development standards such as building setbacks, density, lot size, and parking.

Minimum Setbacks	Front	Rear	Side
R-2, Single Family	20 ft.	15 ft.	6 ft.

Adjacent Land Use & Zoning

The subject property is zoned R-2, Single Family, and is developed as a single-family residence. The surrounding zoning and land uses are as follows:

Direction	Comprehensive Plan	Zoning	Land Use
North	Parks & Recreation	R-2 Single Family	Pecan Acres Park
South	Single Family Residential	R-2 Single Family	Single-Family
East	Single Family Residential	R-2 Single Family	Undeveloped
West (Across Logansport Street)	Single Family Residential	R-3 Two Family & R-4 Multi-Family	Undeveloped& Single Family

REVIEW CRITERIA & REQUIRED FINDINGS (STAFF COMMENTS UNDERLINED):

Per Section 118.99 of the Nacogdoches Zoning Ordinance, the applicant must demonstrate to the satisfaction of the board that the decisions of the board will be in the best interest of the community

and would carry out the spirit and intent of the zoning regulations. The board of adjustment may grant variances and exceptions upon finding that the following conditions have been met:

1. Such variance is in harmony with the intent and purpose of the comprehensive plan and zoning ordinance.

The general purpose of the comprehensive plan and zoning ordinance is to promote the health, safety, and welfare of Nacogdoches through orderly and efficient development. More specifically, the purpose of minimum lot dimensioning is to: create orderly, predictable, and efficient development, safeguard and enhance property values; protect public and private investment by preventing landowners from overcrowding property by others; and, allow for adequate spacing between buildings for emergency access.

Staff believes that while the proposed subdivision does not meet full compliance with the depth of the minimum lot dimensions of the current zoning district, all future development will have to meet the required building setbacks, height, density, and building coverage for the R-2 zoning district to not adversely impact the adjacent properties that are already developed and to be in line with the rest of the area's character. In addition, variances do not create a precedent and should be reviewed on how this property will interact with its adjacent properties if the variance is approved. The reduction in the property depth will be the only thing not in conformance.

2. Such variance will not substantially or permanently injure the appropriate use of adjacent property in the same district. Surrounding land uses include single-family, undeveloped land and Pecan Acres Park to the north. There is R-3, Two Family, and R-4, Multi Family zoning districts located to the west and a mix of R-2 Single Family and R-4 Multi-Family zoning to the south. The development of the lot will not impact the adjacent land uses. Even if the large acreage to the rear were to be constructed, this dimensional variance of 12 ft would not even be noticed by those homeowners.

3. Such variance will not adversely affect the health, safety, or general welfare of the public. The purpose of minimum lot dimensions is to protect public and private investment by preventing landowners from overcrowding the property and allowing for adequate spacing between buildings for emergency access. The minimum building setbacks and density for the R-2 zoning district will be maintained.

4. Such variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance sought is located. The variance will not authorize a use other than those permitted under the current R-2, Single-Family zoning district.

5. The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, including but not limited to the area, shape, or slope; and that the unique circumstances were not created by the owner of the property, and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located. The unique circumstance is that the lot was in this configuration before the adoption of the zoning ordinance in 1970. The lot was originally subdivided and created under a different set of rules and regulations, placing a hardship on this current owner.

6. The variance itself is not a self-created hardship. A self-created hardship is one that is created by the owner or his or her predecessor in interest, rather than the nature of the property itself, and thus implies an intent to create a hardship. This lot was created in its current configuration before 1963, per the Nacogdoches Central Appraisal District; This also tells us that this parcel was in this

configuration prior to any adopted City zoning ordinances (Chapter 118 - ordinance dated 9/8/1970), therefore not a self-created hardship.

STAFF RECOMMENDATION:

Based on the above-referenced responses, staff is confident that the proposed lot dimensioning variance for the proposed subdivision will be in harmony and meet the spirit and intent of the zoning ordinance and staff recommends approval.

NOTICES:

Staff sent out 15 notices to property owners within the 200-foot notification area. At the time of this report, Staff has received one written response inquiring about the size of the proposed houses.

- ATTACHMENTS:**
1. Application
 2. Applicant's Statement
 3. Location Map
 4. Aerial Map
 5. Zoning Map
 6. Notification Map
 7. Site Photos
 8. Proposed Subdivision
 9. Exhibit A
 10. Response Form

APPLICATION FOR VARIANCE OR SPECIAL EXCEPTION

PROPERTY INFORMATION:

Address: 1102 Logansport
 Legal Description: Lot(s) 12 in Block 41 of the N/A Subdivision in City Block N/A

OWNER INFORMATION:

Owner Name Rudy Bohac Daytime Phone 936-205-5035 Signature [Signature]
 Mailing Address 800 North Street City Nacogdoches State TX Zip Code 75961

APPLICANT INFORMATION:

Applicant Name Rudy Bohac Daytime Phone 936-205-5035 Email Address rij@selletx.com Signature [Signature]
 Mailing Address 800 North St. City Nacogdoches State TX Zip Code 75961

PLEASE SELECT ONE TYPE OF APPEAL (Per Texas Local Government Code § 211):

- ☐ 1. Interpretation of the meaning or intent of the zoning ordinance
- ☐ 2. Special exception for use or development of property
- ☒ 3. Variance from the literal enforcement of the zoning ordinance in order to achieve a reasonable development of property

REQUIRED ATTACHMENTS (Per ZBA Rules & Procedures 602, 702 & 802)

1. For an appeal requesting **interpretation** of the meaning or intent of the zoning ordinance, attach:
- ☐ A statement by the applicant describing the way it is alleged the regulation should be interpreted,
 - ☐ Diagrams and charts illustrating the erroneous and the proper application of the map or text provisions.
2. For an appeal requesting a **special exception** for use or development of property, attach:
- ☐ A site plan, drawn to scale, showing all lot dimensions, and the location and dimensions of all existing and proposed lot improvements
 - ☐ A statement by the applicant describing the way in which all conditions prescribed by zoning regulations will be or have been met.
3. For an appeal requesting a **variance** from the literal enforcement of the zoning ordinance in order to achieve a reasonable development of property, attach:
- ☐ A site plan, drawn to scale, showing the location and dimension of the lot and all existing and proposed improvements;
 - ☐ Statement of facts and reasons why the zoning regulations should not be applied to the property in question and how standards governing the board's actions would be satisfied

NECESSARY FINDINGS (per City of Nacogdoches Code of Ordinances § 118-99):

The board of adjustment, pursuant to the powers conferred upon it by state law, the city ordinances, and this article, may grant variances and exceptions to the sections of this chapter upon the findings listed below. Please **explain** in your own words, how the request meets each of the findings listed below:

1. Such variance is in harmony with the intent and purpose of the comprehensive plan and this chapter

TRUE

2. Such variance will not substantially or permanently injure the appropriate use of adjacent property in the same district;

This will be in harmony with the properties that are in same general area

3. Such variance will not adversely affect the health, safety or general welfare of the public

This variance will not adversely affect the neighborhood in any way

4. Such variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located;

This is zoned R-2

5. The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, including but not limited to the area, shape or slope; and that the unique circumstances were not created by the owner of the property, and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located

The lot depth is not 100' deep

6. The variance is not a self-created hardship.

The original neighborhood did not have the requirement for 100ft lot depth

NOTE: This application **will not** be processed **unless** it is filled out in its entirety and accompanied by required attachments and filing fee of \$350.00.

- ☐ Completed Application Form
- ☐ Required Attachments
- ☐ Application Fee
- ☐ Copy of current deed

FOR OFFICE USE ONLY

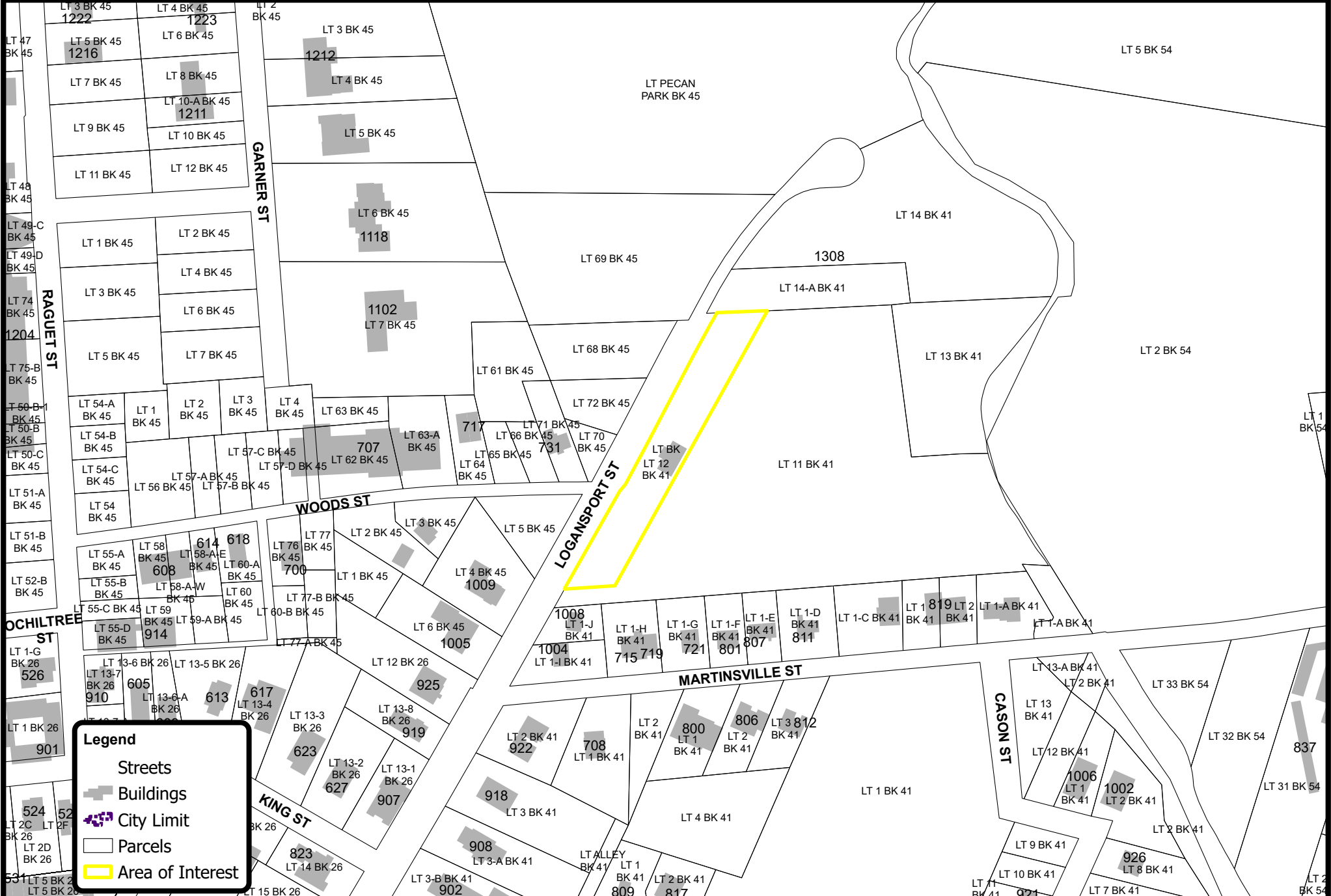
Date Filed: _____ Case Number: _____ Accepted By: _____ Tentative ZBA Date: _____

1102 Logansport

My name is R.J. Bohac and I am the owner of 1102 Logansport. I am writing this letter to give an idea of what my intentions are with the adjacent land to the home that is located there currently. Our intention is to have two homes of the approximate same size and construction to have cohesiveness of the neighborhood. This application is to get a variance of the lot depth, there is more than enough width and lot square footage.

A handwritten signature in black ink, appearing to read 'R.J. Bohac', with a long horizontal line extending to the right.

ZBA2024-04 Location Map



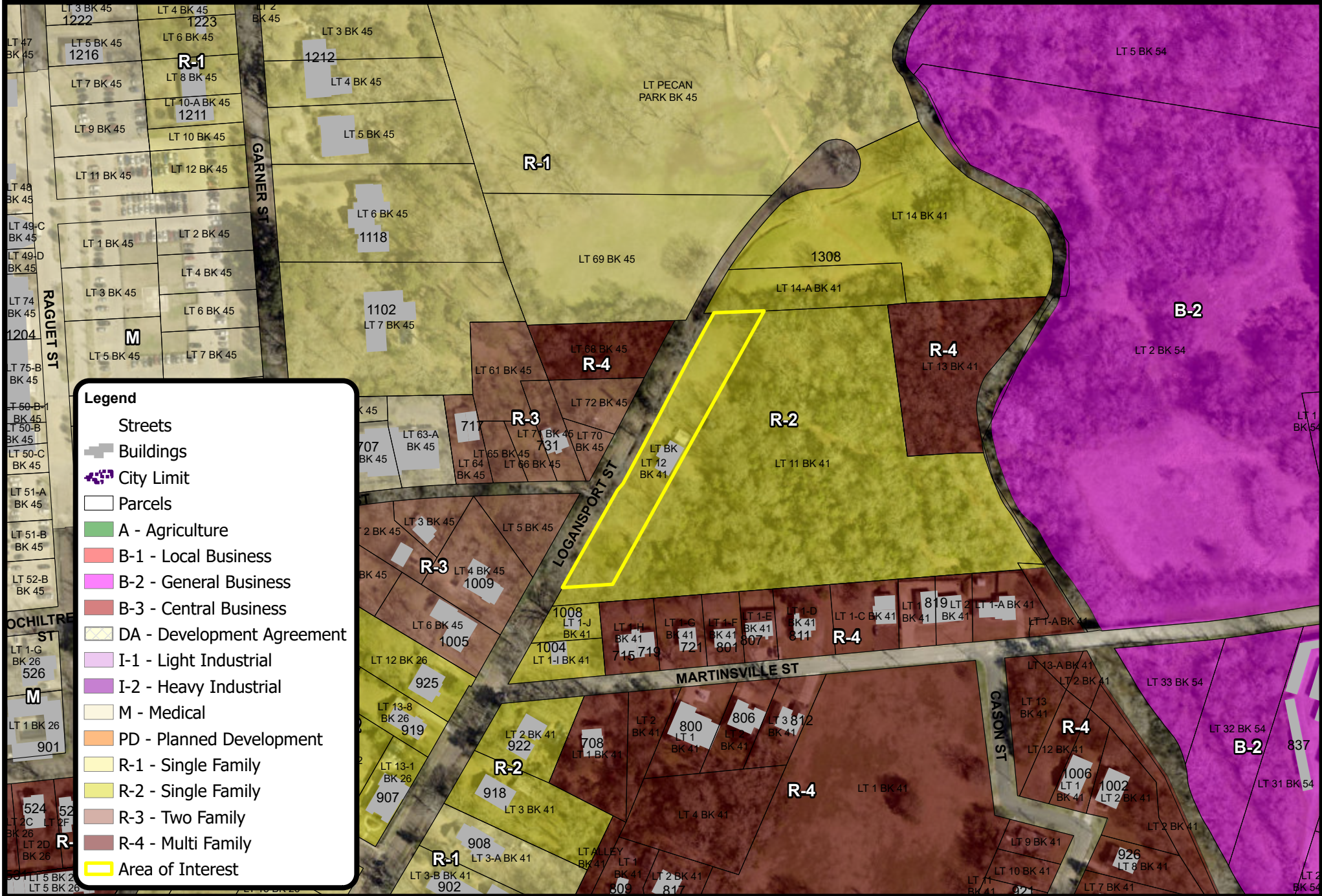
ZBA2024-04 Aerial Map



Date Created: 06/24/24 11:54 | Document Generated Automatically

Notice: This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

ZBA2024-04 Zoning Map



0 80 160 240 320 Feet

Date Created: 06/24/24 11:55 | Document Generated Automatically

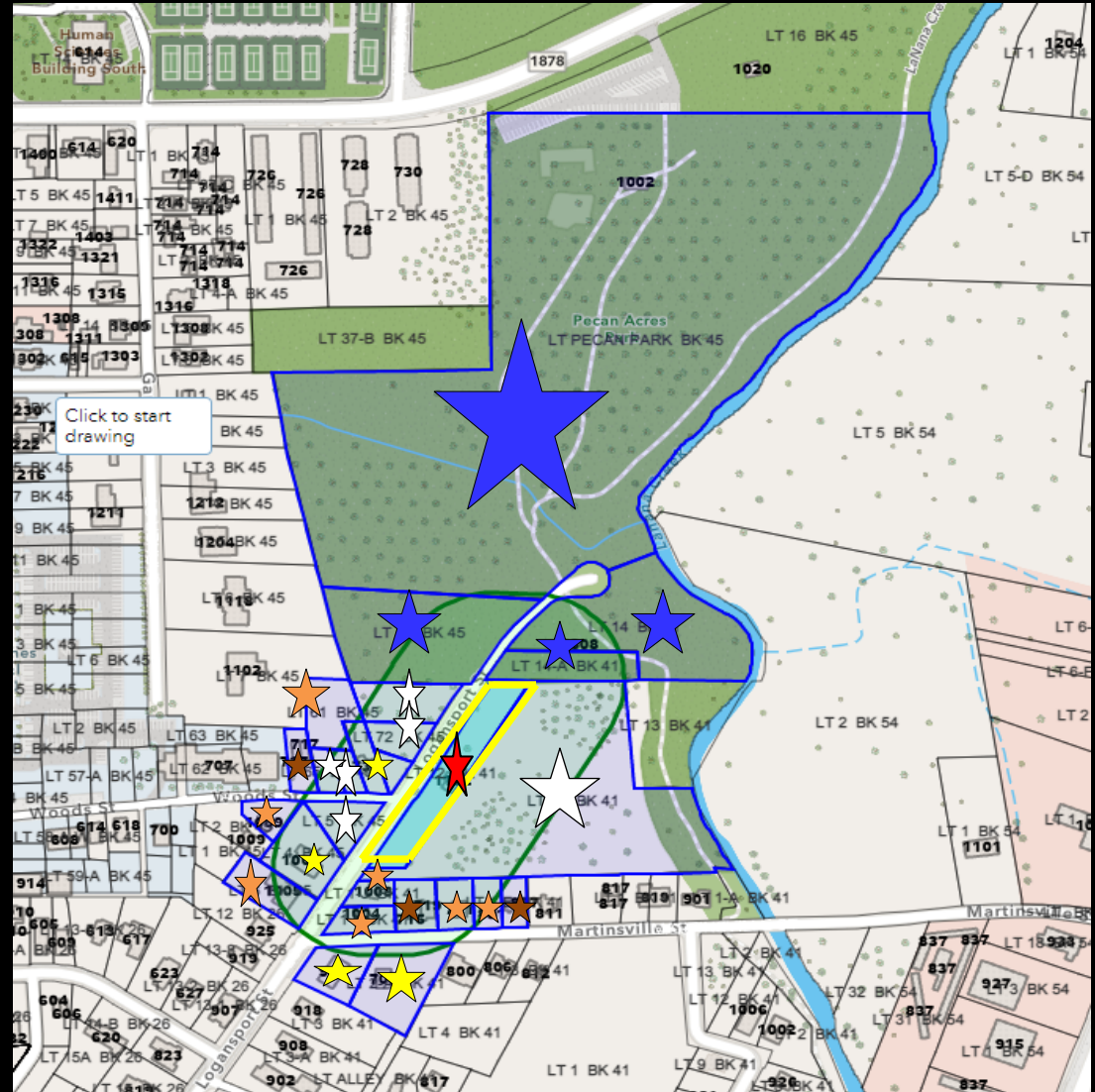
Notice: This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

200 Foot Notification Map

ZBA2024-04: 1102 Logansport

Legend

-  200 Foot Buffer
-  Proposed Interpretation
-  Single Family- Rental
-  Single Family- Owner Occupied
-  Undeveloped/ Vacant
-  Duplex Rental
-  Park- City Owned



Site Photos: ZBA2024-04

Street view looking north at
subject property.

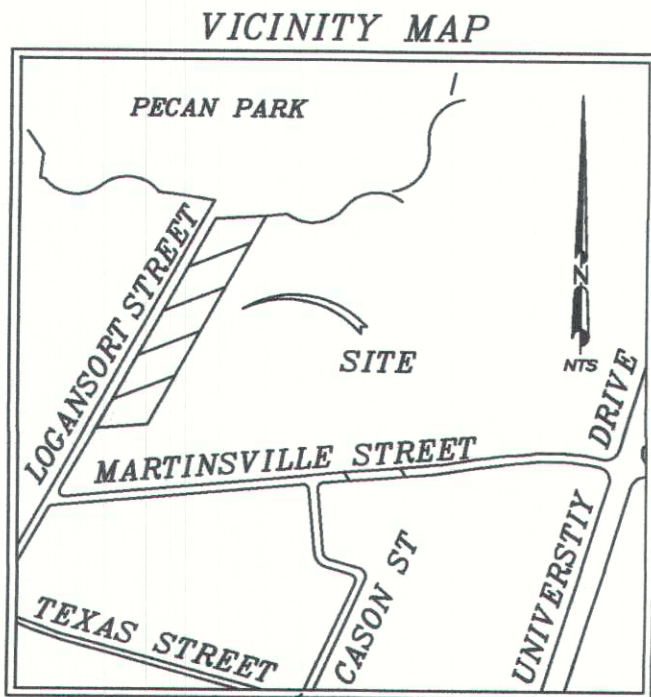
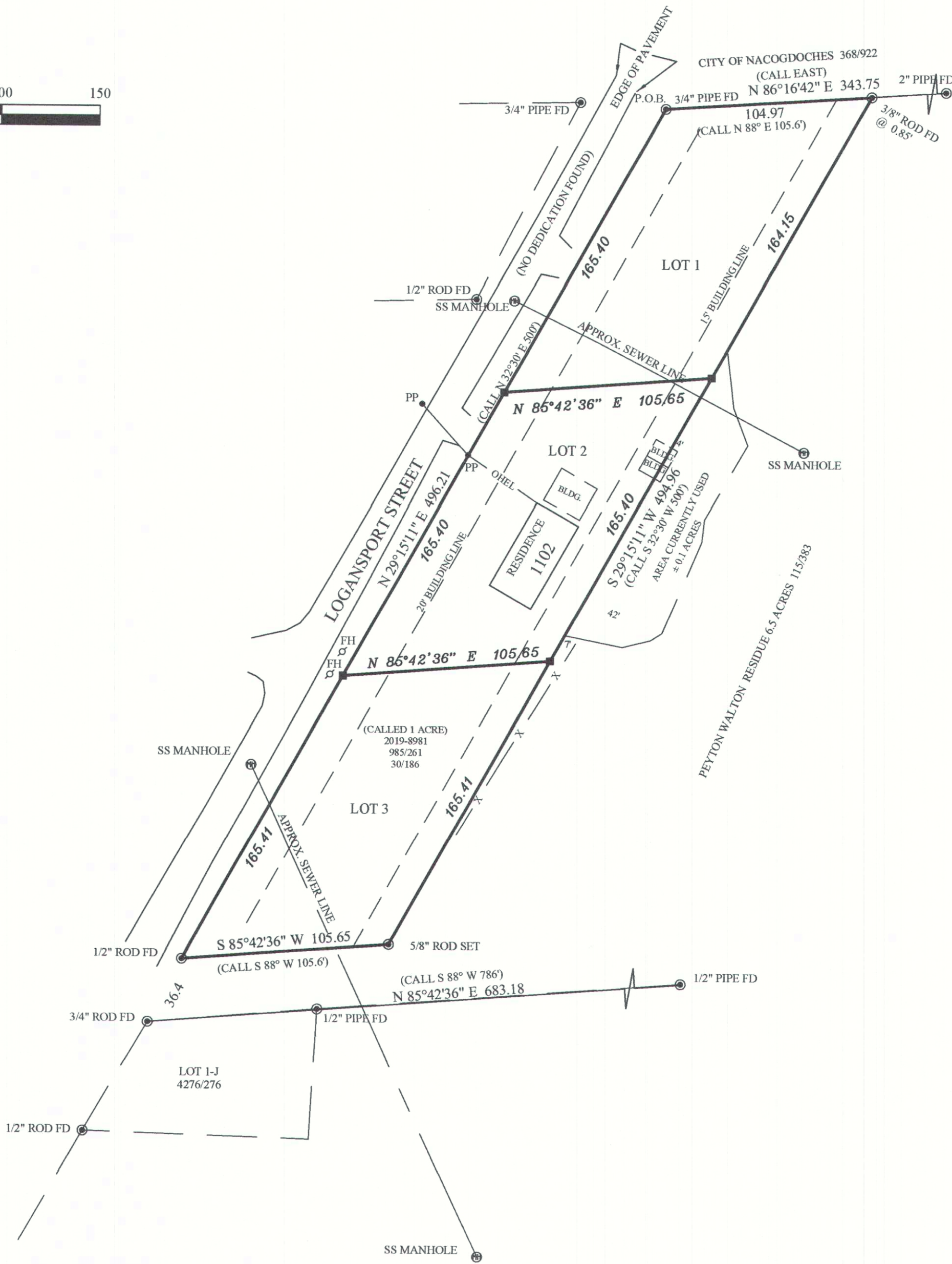


Street view looking south
(subject property on left)



SURVEYOR DID NOT ABSTRACT FOR EASEMENTS OR OWNERSHIP.
TITLE RESOURCES GUARANTY COMPANY COMMITMENT GF-19-1522 NAC, DATED 11/22/2019 USED TO
PREPARE THIS SURVEY.
BEARINGS ARE REFERRED TO THE TEXAS COORDINATE SYSTEM OF 1983, CENTRAL ZONE.
SUBJECT TO BLANKET SEWER EASEMENT RECORDED IN 241/332.
SEE FIELD NOTES OF THIS DATE.
5/8" ROD SET IS TOPPED WITH A 1" RED PLASTIC CAP STAMPED "SAMSON 1915".
■ = 1/2" ROD SET WITH 1" RED PLASTIC CAP STAMPED "SAMSON 1915".

R. J. BOHAC SUBDIVISION



FIELD NOTES

All that certain lot or parcel of land lying and being situate in the City of Nacogdoches, Nacogdoches County, Texas on the **J. H. STARR SURVEY, A-516**, and being the same land called a one acre tract, now called **LOT 12, BLOCK 41**, described in a deed from Joseph Richardson to Rudy J. Bohac, dated December 27, 2019, recorded as document number 2019-8981 of the Deed Records Nacogdoches County, Texas (DRNCT), and more particularly described as follows:

BEGINNING at a 3/4" iron pipe found for corner in the occupied east right-of-way (row) of Logansport Street at the NWC the one acre tract and the SWC of a lot described in a deed from Rose Couch to the City of Nacogdoches, dated August 6, 1971, recorded in Volume 368, Page 922 of the DRNCT;

THENCE N 86°16'42" E, 104.97 feet (called N 88° E 105.6') with the SBL of the City lot to a point for corner at the NEC of the one acre tract and the NWC of the residue of a 6.5 acre tract described in a deed from Lonzo Rolligan et ux to Peyton Walton, dated August 30, 1926, recorded in Volume 115, Page 383 of the DRNCT, from which a 2" iron pipe found bears N 86°16'42" E, 238.78 feet and a 3/8" iron rod found bears S 29°15'11" W, 0.85 feet;

THENCE S 29°15'11" W, 494.96 feet (called S 32°30' W 500') with the EBL of the one acre tract to its SEC, a 5/8" iron rod set for corner;

THENCE S 85°42'36" W, 105.65 feet (called S 88° W 105.6') with the SBL of the one acre tract to its SWC, a 1/2" iron rod found for corner in the occupied east row of Logansport Street, from which a 3/4" iron rod found at the NWC of Lot 1-J described in a deed from Tommy King to The Matthew King Trust, dated June 25, 2015, recorded in Volume 4276, Page 276 of the DRNCT bears S 29°15'11" W, 36.4 feet;

THENCE N 29°15'11" E, 496.21 feet (called N 32°30' E 500') with the occupied east row of Logansport Street and the WBL of the one acre tract to the place of **BEGINNING** containing within these calls 1.00 acre.

I, Tommy Findeisen, a duly Registered Professional Land Surveyor in the State of Texas, do hereby state that above plat was prepared from a survey made by me on the ground the 3rd day of June, 2024.

FOR REVIEW THIS DOCUMENT MAY NOT BE RECORDED
FOR ANY PURPOSE AND SHOULD NOT BE USED OR
VIEWED AS A FINAL SURVEY DOCUMENT

Tommy Findeisen
Registered Professional Land Surveyor No. 1915

CERTIFICATE OF REGISTRATION

STATE OF TEXAS
KNOW ALL MEN BY THESE PRESENTS
COUNTY OF NACOGDOCHES

I, Sandra Yates, County Clerk of Nacogdoches County, Texas, do hereby certify that the foregoing instrument with its certificate of authentication was filed for registration in my office on this _____, 2024, at _____ o'clock _____ M, in Clerk's Document Number 2024-_____ of the Real Property Records for said County.

WITNESS my hand and seal of office, at Nacogdoches, the day and date last above written.

Sandra Yates, County Clerk
Nacogdoches County, Texas

By _____ Deputy Clerk

DEDICATION

STATE OF TEXAS
COUNTY OF NACOGDOCHES

I, the undersigned, Rudy J. Bohac, owner of the property subdivided in the above **R. J. BOHAC SUBDIVISION**, being **LOT 12 of CITY BLOCK 41** and do hereby make subdivision of said property for and on behalf of Rudy J. Bohac according to the lines, lots and set back lines therein shown and designate said subdivision as the **R. J. BOHAC SUBDIVISION**, Nacogdoches County, Texas, and do hereby bind myself, my successors and assigns to warrant and forever defend the title to the land do dedicated.

Witness my hand in Nacogdoches, Nacogdoches County, Texas this _____ day of _____, 2024.

Rudy J. Bohac

NOTARY CERTIFICATE

STATE OF TEXAS
COUNTY OF NACOGDOCHES

Before me, the undersigned authority, on this day personally appeared Rudy J. Bohac, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purpose and consideration therein set forth.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____ day of _____, 2024.

Notary Public in and for Nacogdoches County, Texas

CERTIFICATE OF APPROVAL BY THE CITY PLANNER AND CITY ENGINEER

STATE OF TEXAS
COUNTY OF NACOGDOCHES

This is to certify that the City Planner and City Engineer of the City of Nacogdoches, Nacogdoches, Texas have approved this plat and subdivision of the **R. J. BOHAC SUBDIVISION** in the City of Nacogdoches as shown hereon.

IN TESTIMONY WHEREOF, witness the official signatures of the City Planner and the City Engineer of the City of Nacogdoches, Texas this _____ day of _____, 2024.

City Planner

City Engineer

GENERAL NOTES

The plat contains side lot lines for lots 1, 2, and 3 that are not perpendicular to the street, which is being noted per Sec. 90-217 of the subdivision ordinance. This property was originally subdivided by metes and bounds and not created using this current subdivision ordinance. This configuration still facilitates the purpose of the subdivision chapter--promoting the orderly, safe, and healthful development of the property and the health, safety and general welfare of the community.

SURVEYED FOR R. J. BOHAC SUBDIVISION	
N. T. SAMSON & ASSOCIATES FIRM NUMBER 1008 1200	
1001 PARK STREET NACOGDOCHES, TEXAS 75961 PHONE (936) 564-6402 FAX (936) 564-7992	
LOT 12, BLOCK 41 NACOGDOCHES, TEXAS	
REVISIONS	DATE: 6/03/2024
NO. DATE REMARKS	SCALE: 1" = 50'
	JOB NO: 509/118
	SHEET NO. 1 OF 1

EXHIBIT "A"

N. T. SAMSON & ASSOCIATES

FIRM # 1008 1200

1001 Park Street

Nacogdoches, Texas 75961

(936) 564-6402

FAX (936) 564-7992

Registered Professional Land Surveyor

December 1, 2023

R. J. Bohac
P.O. Box 630084
Nacogdoches, Texas 76963-0084

Re: Lot depth of Lot 12, City Block 41

Dear Mr. Bohac,

I reviewed my survey drawings dated January of 2020 and have determined the lot depth (at right angles to Logansport Street) to be 88 feet.

I hope this answers your questions. If you have additional questions, please do not hesitate to call.

Sincerely,



Tommy Findeisen
RPLS No. 1915



Cloutier, Aimee <cloutiera@nactx.us>

Zoning Board of Adjustment Meeting July18, 2024

2 messages

Pat Castella <lubechaypat@gmail.com>
To: pz@nactx.us

Tue, Jul 2, 2024 at 4:24 PM

Reference case file ZBA2024-04

Responding as a 200 ft abutter

I would like to have information about what is going to be built
We stated that we would not oppose if property was rezoned to R2

At that time we were told there would be two houses

No information was given as to size etc Please find this information
before approving variance

Thank you

Patricia Castella

[1009 Logansport st Nacogdoches Texas 75 961](#)

I have received two 200 ft abutter letters this speaks to both of them

--
You received this message because you are subscribed to the Google Groups "Planning & Zoning" group.
To unsubscribe from this group and stop receiving emails from it, send an email to pz+unsubscribe@nactx.us.
To view this discussion on the web visit <https://groups.google.com/a/nactx.us/d/msgid/pz/CA%2BMW9aX4%3D9jQ7zB1MbLF90Ksnq%3DQm-TXV3s3Y0v-Hs1eXkeZWQ%40mail.gmail.com>.

Cloutier, Aimee <cloutiera@nactx.us>
To: Pat Castella <lubechaypat@gmail.com>
Cc: pz@nactx.us, Juan Pollette <pollettej@nactx.us>

Wed, Jul 3, 2024 at 8:46 AM

Ms. Castella,

At this time, there have not been any building permits submitted for this property. The only allowed use for the property is a single-family home. If a variance is approved, the houses must be constructed within the minimum R-2, building setbacks and development standards. I will forward this response to the Zoning Board of Adjustment for their review. Please let me know if you have any questions.

Regards,

[Quoted text hidden]

--

Aimee Cloutier

Planning Coordinator

Planning and Zoning

City of Nacogdoches

(936) 559-2574

cloutiera@nactx.us





Cloutier, Aimee <cloutiera@nactx.us>

FW: August 15th Hearing

Larry King <lking@sfasu.edu>
To: "Cloutier, Aimee" <cloutiera@nactx.us>

Fri, Jul 12, 2024 at 3:53 PM

Aimee:

Can this be added for discussion to the July 18th meeting?

Larry J. King

From: Philip Blackburn <pblackburn@suddenlink.net>
Sent: Tuesday, July 9, 2024 12:58 PM
To: Larry King <lking@sfasu.edu>
Subject: August 15th Hearing

This Message Is From an External Sender

This message came from outside your organization.

Dear Zoning Board of Adjustment Board Member,

The Zoning Board of Adjustment should be aware of what the Planning Department is attempting to do behind the scenes. On June 27th, I filed an application for appeal of the City Planner's decisions regarding 720 Martinsville Road. This appeal concerns noncompliance with the subdivision standards regarding the side lot lines. See my attached application. The application was complete and was received by the Planning Department. The

hearing date was set for August 15th.

On July 3rd, I received an email from the Planning Department, with a letter attached, declaring that they were going to cancel the hearing. In this letter, the Planning Department misrepresented my application for appeal and claimed it was just another appeal about the lot width. See the attached letter from the Planning Department to me.

On July 5th, I responded to the Planning Department and restated the basis of my appeal which has absolutely nothing to do with lot width. To be clear, this new appeal has to do with the City Planner's approval of a site plan and a building permit for a lot whose side lot lines are not in compliance with the subdivision standards and this new appeal was made within the 90-day window. The application was duly submitted under our Code of Ordinances. See the attached letter from me to the Planning Department.

I reminded the Planning Department that the Zoning Board of Adjustment is an independent quasi-judicial body and that neither the City Planner nor the City Attorney have the authority to cancel the hearing. Furthermore, only the Zoning Board of Adjustment can make any decision about the merits of the appeal or whether it was filed properly. The City Planner and the City Attorney can only advise the Zoning Board of Adjustment.

I look forward to presenting my case to the Zoning Board of Adjustment at the hearing on August 15th.

Best regards,

Philip

Philip Blackburn

[819 Logansport Street](#)

[Nacogdoches, TX 75961](#)

936-560-3360

936-645-7743 (CELL)

pblackburn@suddenlink.net

3 attachments



Application for Appeal - ZBA Board.pdf
919K



ZBA2024-05_Response to Appeal (P.Blackburn).pdf
216K



Response to Juan's Letter.pdf
1863K

APPLICATION FOR INTERPRETATION, VARIANCE, OR SPECIAL EXCEPTION

PROPERTY INFORMATION:

Physical Address: 720 Martinsville Road (Parcel ID 1000016799)
Lot 2 Johnson's Martinsville Street Subdivision
Legal Description: Lot(s) _____ in Block _____ of the _____ Subdivision in City Block _____

OWNER INFORMATION:

Owner(s) Name: Shane Adam Myatt Daytime Phone: _____
Mailing Address: PO Box 632595, Nacogdoches, TX , 75963-2595
Street or PO BOX City State Zip
Email Address: _____ Signature(s): _____

APPLICANT INFORMATION:

Applicant Name: Philip Blackburn Daytime Phone: 936-645-7743 Email: pblackburn@suddenlink.net
Mailing Address: 819 Logansport St. Nacogdoches, TX 75961
Street or PO BOX City State Zip
Signature: Philip Blackburn Date 6-27-26

PLEASE SELECT **ONE** TYPE OF APPEAL (per Texas Local Government Code § 211):

- ☒ 1. Interpretation of the meaning or intent of the zoning ordinance
☐ 2. Special Exception for the use or development of the property
☐ 3. Variance from the literal enforcement of the zoning ordinance in order to achieve a reasonable development of property

REQUIRED ATTACHMENTS (Per ZBA Rules & Procedures Section 4.4)

1. For an appeal requesting an interpretation of the meaning or intent of the zoning ordinance, attach:

- ☒ a statement/letter by the applicant describing staff's interpretation of the meaning or intent of the code, and then the way you as the applicant believe the regulation should be interpreted.
☒ Site plan or other graphics, and illustrations explaining the applicant's interpretation (diagrams and charts illustrating the applicant's interpretation of the map or text provisions).

2. For an appeal requesting a special exception for the use or development of property, attach:

- ☐ A letter/statement of facts by the applicant as to why the special exception is being requested. This will be a summary of the request including the current requirement (Section of the Ordinance) and the context (reasoning) for the request. The request will include the required findings from the ordinance shown in the next page. **Each question shall be answered in sentence form or the application will be viewed as incomplete.**
☐ A site plan or other graphics and illustrations, drawn to scale (is preferred but not required), showing all lot dimensions, and the location and dimensions of all existing and proposed exceptions that are being requested.

3. For an appeal requesting a variance from the literal enforcement of the zoning ordinance in order to achieve a reasonable development of property, attach:

- ☐ A letter/ statement of facts by the applicant as to why the variance is being requested. This will be a summary of the request including the current requirement (Section of the Ordinance) and the context (reasoning) for the request. The request will include the required findings from the ordinance shown in the next page. **Each question shall be answered in sentence form or the application will be viewed as incomplete.**
☐ a site plan or other graphics and illustrations, drawn to scale (is preferred but not required), showing all lot dimensions, and the location and dimensions of all existing and proposed lot improvements.

City of Nacogdoches Planning Department
202 E. Pilar St. Room 239 – P.O. Box 635030, Nacogdoches, TX 75963
Office: (936)559-2574 Email: pz@nactx.us

REQUIRED FINDINGS (per City of Nacogdoches Code of Ordinances § 118-99):

The Zoning Board of Adjustment, pursuant to the powers conferred upon it by state law, the city ordinances, and this article, may grant variances and exceptions to the sections of this chapter upon the findings listed below. Please **explain** in your own words, how the request meets each of the findings listed below:

1. Such variance is in harmony with the intent and purpose of the comprehensive plan and this chapter

2. Such variance will not substantially or permanently injure the appropriate use of adjacent property in the same district;

3. Such variance will not adversely affect the health, safety, or general welfare of the public

4. Such variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variances is sought is located:

5. The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, including but not limited to the area, shape, and slope; and that the unique circumstances were not created by the owner of the property, and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located;

6. The variance is not a self-created hardship ***not needed for a special exception**;

NOTE: This application **WILL NOT** be processed **UNLESS** it is filled out in its entirety and accompanied by the required attachments and filing fee of \$350.00

☐ Completed Application Form

☐ Required Attachments

☐ Application Fee

☐ Copy of Current Deed

FOR OFFICE USE ONLY

Date Filed: 6/27/2024

Accepted By: Juan Pollette

Case Number: ZBA2024-04

Tentative ZBA Hearing Date: 8/15/2024

City of Nacogdoches Planning Department
202 E. Pilar St. Room 239 – P.O. Box 635030, Nacogdoches, TX 75963
Office: (936)559-2574 Email: pz@nactx.us

This is my notice of appeal from certain decisions of the City Planner regarding 720 Martinsville Road. The lot has insufficient width; moreover, the side lot lines are not perpendicular or radial to the street. A site plan and building permit was approved for the lot without the required variance from the Planning and Zoning Commission.

The lot is located in a subdivision, being Lot 2 of the Johnson's Martinsville Street Subdivision. Pursuant to Sec. 90-218(a): *No lot in a subdivision shall be less than 75 feet in width or less than 110 feet in depth, unless otherwise provided.*

The recent hearing before the Zoning Board of Adjustment on June 20th adjudicated the wrong ordinance. Furthermore, City Staff presented inapplicable evidence as to the required lot dimensions. The lot dimensions pursuant to Sec. 90-218 override the requirements of the R-4 Zoning District pursuant to Sec. 118-427(a).

The same term can have different definitions in the various chapters. A term defined in a given chapter defines the term for that chapter and has no implied application to a different chapter. Sec. 118-1(c): *Words and terms defined. The definitions in this subsection supplement, restrict, and define the meaning and intent of the use regulations as set forth in this chapter. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning.*

Sec. 118-1 defines the term "lot width" as: *Lot width means the width of a lot at the required front yard line or at the building line if such is established at a greater distance from the street than the required front yard line.* Sec. 90-1 does not define the term "lot width." Further research has revealed that the definition of "lot width" in Sec. 118-1 was added to accommodate cul-de-sac lots. Since cul-de-sac lots are accommodated with Sec. 90-218(b), it was unnecessary to add that definition to Sec. 90-1. The definition of "lot width" in Sec. 118-1 only applies to Chapter 118 and does not apply to Chapter 90. Also, the "lot width" definition in Sec. 118-1 is a unique definition and is not the customary usage of the term in municipal planning and engineering practices. Therefore, pursuant to Sec. 90-218(a), the 75' lot width is required for the whole lot, not just at one point on the lot.

The City Planner reported the lot width to be 52' at the 100' depth mark. The lot width is less than 52' at 110', since the lot narrows to the rear of the lot. Since the minimum lot width is 75', the lot does not comply with the subdivision standard.

Pursuant to Sec. 90-217(b): *Side lot lines shall be perpendicular or radial to street frontage and the following may be in lieu of bearings: All side lot lines are either perpendicular or radial to street frontage unless otherwise noted.* Instead of being perpendicular or radial to street frontage, the side lot lines converge to a point at the rear of the lot. The side lot lines are not in compliance with Sec. 90-217(b); furthermore, that has nothing to do with anyone's definition of lot width.

These are flagrant violations of Chapter 90. Not only did the City Planner and City Engineer use a "lot width" definition from Chapter 118 that is not applicable to Chapter 90 but also turned it on its head. Cul-de-sac lots are narrow at the street and widen towards the rear of the lot. This lot is wide at the street and narrows to a point at the rear of the lot, the exact opposite of cul-de-sac lots.

Please notify the City Planner's Office that this notice of appeal stays all proceedings in regards to 720 Martinsville Road until this appeal is resolved by the Zoning Board of Adjustment.

Also, pursuant to Sec. 90-64 please alert the City Council to begin the process of passing a resolution that will be filed with the deed records of this lot so that no building permits will be granted for this lot, until it is brought into compliance.



Phillip Blackburn
819 Logansport Street
Nacogdoches, Texas 75963-2595
pblackburn@suddenlink.net

July 3, 2024

Dear Mr. Blackburn,

Thank you for submitting your latest appeal regarding the decisions of the City Planner for 720 Martinsville Road.

This is the third appeal filed concerning interpretation of this parcel. As you will recall, the initial appeal was filed after expiration for an appeal to the decision to approve the subdivision plat. The second appeal concerned the decision of the city planner to approve the site plan and building permit asserting that the lot did not “maintain 50’ of lot width, as required by Sec. 118.427(a).” This appeal was heard by the Zoning Board of Adjustment (“ZBA”) on June 20, 2024. While the appeal was considered fairly, it did not receive enough votes to be approved due to the lack of a supermajority vote.

This third appeal again asserts that “the lot has insufficient width...” However, the assertion is now being made that the ZBA “adjudicated the wrong ordinance”, and that Sec. 90-218 supersedes Sec. 118-427(a) and should apply. In response to your comment that the ZBA adjudicated the wrong ordinance, please note the agenda item that was addressed for appeal was submitted by you and in turn was the only item being requested for interpretation at the hearing. City staff was not appealing the ordinance, but responding to your request for interpretation nothing more.

Your new appeal for subdivision interpretation is not timely. The decision to approve the Johnson’s Martinsville Steet Subdivision Plat was made on April 5, 2023. Therefore, any appeal of this decision must have been made “within a reasonable time, not to exceed 90 days (Sec. 118-100 of the Code of Ordinances). Your arguments related to Chapter 90, and specifically Sections 90-218(a) and 90-217(b), should have been raised within that time period. It has now been more than a year since that decision, and, as such, any appeal asserting “violations of Chapter 90” is untimely. This approval took place based off of the authority provided to the City

City of Nacogdoches Planning Department
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Home of Stephen F. Austin State University www.sfasu.edu

planner through ordinance 90-122(m), Planning and Zoning, and ultimately Council for approval of the ordinance.

Even so, Section 90-218(a) states that “no lot in a subdivision shall be less than 75 feet in width or 110 feet in depth, **unless otherwise provided.**” The “otherwise provided” clause is addressed in Chapter 118-3 – Effective Date and Applicability, which provides under subsection (b):

“The sections of this chapter **supersede all other development regulations** governing the development of land within the city. These regulations shall apply to all land, property and development in the city, except as expressly and specifically provided otherwise in this chapter. No development shall be undertaken without prior authorization pursuant to this chapter.”

Rather than the lot requirements of Sec. 90.218(a) overriding Sec. 118-427(a), the converse is actually true.

As stated, your appeal concerning the City Planner’s interpretation of lot width has been heard by the ZBA and was not successful. Pursuant to Sec. 118-101 and Tex. Local Gov’t Code §211.011, any appeal of the ZBA’s denial of your application should have been made to the district court or county court at law within ten (10) days of the filing of the decision.

As no judicial review was sought during the 10-day time period, all appeal proceedings for the plat and building permit regarding lot width have been exhausted, and this matter is concluded.

As such, the City will not be presenting this appeal to the ZBA. Enclosed, please find your application and a refund of any fees you may have paid for this process.

Respectfully,



Juan Pollette
Interim City Planner
(936)559-2559
pollettep@nactx.us

Juan Pollette
Interim City Planner
(936)559-2559
pollettep@nactx.us

July 4, 2024

Dear Mr. Pollette

This is in response to your letter.

POINT 1 : Pursuant to Sec. 90-61(b): *No permits shall be issued by the building/inspection department for any structure on a lot in a subdivision for which a final plat has not been approved and filed for record. Permits shall not be issued for any structure unless all required city utilities and streets are in place and operational, nor for any structure on a lot within a subdivision in which the standards contained in this chapter or referred to in this chapter have not been complied with in full.*

POINT 2: On April 1, 2024, the City Planner approved a site plan and building permit for Lot 2 of the Johnson's Martinsville Street Subdivision.

POINT 3: Pursuant to Sec. 90-217(b): *Side lot lines shall be perpendicular or radial to street frontage and the following may be in lieu of bearings: All side lot lines are either perpendicular or radial to street frontage unless otherwise noted.* On June 27, 2024, I filed a notice of appeal of the City Planner's decision to approve a site plan and a building permit for a lot whose side lot lines are not in compliance with the subdivision standards.

POINT 4: Pursuant to Sec. 118-100(a): *Appeal of city planner's decision. Appeals to the board of adjustment may be taken by any person aggrieved, or by any officer, department or board of the city affected by any decision of the city planner. Such appeal shall be taken within a reasonable time, not to exceed 90 days, by filing with the city planner and with the board of adjustment a notice of appeal, which shall specify the grounds thereof. The city planner shall forthwith transmit to the board all of the papers constituting the record upon which the action appealed was taken.* June 27, 2024 was within the 90-day window that started on April 1, 2024.

Therefore, I have fulfilled all the requirements in the ordinances to be granted a hearing with the Zoning Board of Adjustment.

Furthermore, this appeal has nothing to do with appealing the approval of the plat on April 5, 2023. That approval of the plat does not make Lot 2 comply with the subdivision standards. It simply means that the plat was approved, mistakenly, and contains a lot that does not comply with the subdivision standards. Sec. 90-61(b) recognizes that a lot in a subdivision may not comply with the standards in Chapter 90. This means that approval of a subdivision is not the last chance to appeal. Any non-compliance can be raised again when a building permit is applied for.

This is a new appeal that has nothing to do with lot width. I do not know how I could have been clearer to this point than the very statement in my appeal that this appeal “has nothing to do with anyone’s definition of lot width.” I made this point in writing and verbally to the City Planner when the application was submitted.

To be clear, this new appeal has to do with the City Planner’s approval of a site plan and a building permit for a lot whose side lot lines are not in compliance with the subdivision standards and this new appeal was made within the 90-day window, so it is timely.

The supporting information in the appeal about lot width is new evidence that was not presented at the last hearing and was included to show that the City has been relying on the wrong chapter of the zoning ordinance. The Zoning Board of Adjustment can use the information as they see fit but it is not the basis of this appeal for a hearing.

The talking points about lot width in your letter do not nullify this new appeal because this appeal has nothing to do with lot width. The fact that my statement about the actual basis of this appeal “moreover, the side lot lines are not perpendicular or radial to the street” and my statement that the appeal “has nothing to do with anyone’s definition of lot width” were omitted from your letter is unacceptable. Your letter appears to be a blatant attempt to quash a legitimate appeal while ignoring the facts.

But most disturbing of all is that the decision to cancel this hearing is being made unilaterally by the City Planner. Neither the City Planner nor the City Attorney have the authority to cancel this hearing. The Zoning Board of Adjustment is an independent quasi-judicial body and it decides what it will adjudicate. The application for this appeal was complete and was accepted by the Planning Department on June 27, 2024, several days within the 90-day window for appeal. It is now a matter for the Zoning Board of Adjustment. I will be forwarding copies of all correspondence relating to this appeal to the Zoning Board of Adjustment board members. I request that the August 15th hearing remain as scheduled, unless the Zoning Board of Adjustment decides otherwise.

The Zoning Board of Adjustment decides if this appeal has fulfilled the requirements in the ordinances and if they will adjudicate the appeal. The City Planner and City Attorney can only advise the Zoning Board of Adjustment.

Respectfully,

A handwritten signature in cursive script that reads "Philip Blackburn".

Philip Blackburn
819 Logansport Street
Nacogdoches, TX 75961
(936)560-3360
pblackburn@suddenlink.net