

BOARD OF ADJUSTMENT & BUILDING BOARD OF APPEALS

AGENDA

REGULAR MEETING

June 6, 2017

CITY HALL COUNCIL CHAMBERS, 405 MUNICIPAL DRIVE

REGULAR SESSION - 7:00 PM

I. CALL TO ORDER

II. ROLL CALL

III. SWEARING IN OF SPEAKERS

IV. MINUTES APPROVAL

A. Consider approval of minutes from the September 2016 Board of Adjustment regular meeting

V. VISITOR/CITIZENS FORUM

At this time, any person with business before the Board of Adjustment not scheduled on the Agenda may speak to the Board, provided that an official 'Speaker's Request Form' has been completed and submitted to the Board Secretary prior to the start of the meeting. All comments must be directed towards the Chair, rather than individual board members or staff. All speakers must limit their comments to the subject matter as listed on the 'Speaker's Request Form.' No formal action can be taken on these items.

VI. REGULAR ITEMS

A. **CASE # BOA 17-01** to hold a public hearing and consider a request by Miriam Llamas for a variance from the Unified Development Code Section 3.3, Spatial Requirements: Agricultural and Residential Districts, to reduce the required front yard setback by 10 feet and reduce the required side yard setback by 7 feet in an "R-1" single family residential zoning district at 905 Shady Oaks Dr, more particularly described as Hilldale Addition Block 2 Lot 18.

1. Staff presentation
2. Applicant presentation
3. Public hearing
4. Applicant response
5. Staff response and summary
6. Action by the Board of Adjustment

VII. REPORTS/ANNOUNCEMENTS In addition to any specific matters listed below, the Board of Adjustment may receive a report about items of community interest, including but not limited to recognition of individual officials, citizens or departments, information regarding holiday schedules, upcoming or attended events, etc.

A. Reports and updates from city staff

B. Reports and updates from Board of Adjustment members

VIII. ADJOURNMENT

In compliance with the Americans with Disabilities Act, the City of Kennedale will provide for reasonable accommodations for persons attending City Council meetings. This building is wheelchair accessible, and parking spaces for disabled citizens are available. Requests for sign interpreter services must be made forty-eight (48) hours prior to the meetings. Please contact the City Secretary at 817.985.2104 or (TDD) 1.800.735.2989

CERTIFICATION

I certify that a copy of the June 6, 2017, Board of Adjustment & Building Board of Appeals agenda was posted on the City Hall bulletin board next to the main entrance of the City Hall building, 405 Municipal Drive, of the City of Kennedale, Texas, in a place convenient and readily accessible to the general public at all times and said agenda was posted at least 72 hours preceding the schedule time of said meeting, in accordance with Chapter 551 of the Texas Government Code.

A handwritten signature in cursive script that reads "Rachel Roberts". The signature is written in dark ink and is positioned above the printed name.

Rachel Roberts, Board Secretary



STAFF REPORT TO THE BOARD OF DIRECTORS

Date: June 6, 2017

Agenda Item No: MINUTES APPROVAL - A.

I. Subject:

Consider approval of minutes from the September 2016 Board of Adjustment regular meeting

II. Originated by:

Rachel Roberts, City Planner

III. Summary:

The minutes from the September 2016 meeting are attached to this page for your consideration for approval.

IV. Recommendation:

Approve

V. Alternative Actions:

VI. Attachments:

1.	09.06.2016 BOA Minutes	09.06.2016 BOA minutes.pdf
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BOARD OF ADJUSTMENT & BUILDING BOARD OF APPEALS

MINUTES

REGULAR MEETING

September 6, 2016

CITY HALL COUNCIL CHAMBERS, 405 MUNICIPAL DRIVE

REGULAR SESSION - 7:00 PM

I. CALL TO ORDER

Chairman Clark called the meeting to order at 7:02 P.M.

II. ROLL CALL

Present?	Commissioner
x	John Clark
x	Brian Cassady
x	Jeff Madrid
x	Patrick Vader
x	Martin Young
	<i>Alternates</i>
x	Jeff Nevarez
x	Lana Sather
	<i>Vacant</i>

Mr. Clark noted that all regular members were present; a quorum was present. Mr. Clark explained the process for Board of Adjustment hearings.

IV. MINUTES APPROVAL

A. Consider approval of the minutes from the August 2, 2016 Board of Adjustment meeting

Mr. Vader made a motion to approve the minutes, seconded by Mr. Madrid. The motion passed with all in favor.

V. VISITOR/CITIZENS FORUM

No one registered to speak.

III. SWEARING IN OF SPEAKERS

Ms. Roberts swore in the speakers.

VI. REGULAR ITEMS

A. **CASE # BOA 15-05** to receive comments and consider action on a request by James Vick for a Special Exception as required by City Code Section 17-421, Schedule of Uses and Off-Street Parking Requirements, to allow a welding shop in Sub-District 4 of the Old Town zoning

district at 537 W Kennedale Pkwy, more particularly described as Woodlea Acres Addition Block 2 Lot 11R.

Ms. Roberts gave an overview of the case and recommended approval with the following conditions.

- 1) The parking lot shall be paved with asphalt or concrete and in accordance with city regulations, and parking spaces shall be striped, subject to city approval, within 90 days of the special exception being granted.
- 2) All welding operations must take place within the existing building, and the building footprint shall not be expanded except to allow additional office space or similar activities or storage of non-hazardous materials or equipment, rather than welding and its allied activities. If the building is expanded for those permitted purposes, it shall be done in compliance with the Old Town zoning district design regulations.
- 3) The special exception shall expire in three to five years from the date the special exception was granted. If the applicant does not re-apply for a special exception at expiration or if the board does not grant an additional special exception at that time, the use shall be deemed illegal, and the business shall be required to cease operations.

Roger Heath, attorney for the applicant, addressed the board. He said the building was built in 1964, and Mr. Vick began leasing it in 1990. He said just across Dick Price Rd is Industrial zoning, in which welding would be allowed by right. He said it's not as though the welding shop is going to be miles away from an Industrial zoning district and that it's not particularly obstructive to the area to have the welding shop.

Mr. Heath went through the various standards for special exceptions. In terms of lighting, Mr. Vick is 71 and is primarily wanting to operate for this one special exception period, they're asking for a special exception for five years, and Mr. Vick doesn't operate at night any more. He's had a recent fire inspection, and the only two chemicals he keeps are acetylene and oxygen, and neither of these is particularly combustible in a way to get out of hand. He says they're kept chained and separated as required. As for fumes, it is a small scale operation, and Mr. Vick is the only one who works there, so there's not any more welding being done there than what he does.

Addressing standard two, he says there is a salon across the street, but it's across a 5-lane, 40-mile an hour road, so there's a natural barrier, and the salon is next to North Texas Granite. He said that as welding shops go, it's a nice-looking one, he has proper screening and fencing, and he keeps all the metal on racks.

For the third special exception standard, he said based on his understanding of the city's vision and plans, he believes a five-year special exception wouldn't impede any development coming to Kennedale. Mr. Heath said that staff noted the building contributed to the area's character by being close to the street, but it has long been the plan of the land owner according Mr. Vick to demolish the building after Mr. Vick moves out, and everyone can recognize that's not the future.

For standard four, he said the city utility staff came out to check on the property and confirmed that the property is served by sewer.

As to parking and access conditions, Mr. Heath said they do understand, given all the changes and progress in town in recent years, why this would be required. He asked, since the business is going to be there no more than five years, and in all likelihood the building is going to be torn down, if it might not be better right now to leave it as road base with crushed asphalt. He said it

doesn't get muddy and serves its purpose. He knows financial burden isn't something the board can consider, but he thinks they can think of it in a substantial justice kind of way.

Ms. Roberts added that since the business generated little traffic, and the business owner is not the land owner, staff is comfortable allowing a road base for now and bringing the case back to the board if the business changes hands or has an increase in parking.

For standard five, Mr. Heath said he visited there dozens of times and has never had an issue getting in or out. On standard six, he said the building is not going to be expanded, and another welding business is not going to come in.

Mr. Clark asked if Mr. Heath had any witnesses he wanted to bring forward. Mr. Heath said he did not unless the board feels he hasn't presented enough information.

Mr. Vader asked about parking, asking if people drop off and pick off and don't spend a lot of time there. Mr. Heath said he's never seen more than three cars there at one time.

Mr. Clark asked if Mr. Vick keeps large projects behind the fence and said that he had seen barbeque equipment out front. Mr. Heath said that was part of a commercial operation going on, and that they would build something and put it out for display, but they don't generally sit out there. He added that Mr. Vick has adequate fencing and can keep everything behind the fence.

Mr. Clark asked if anyone had signed up to speak, and Ms. Roberts said no. Mr. Clark closed the public hearing.

Mr. Clark explained the board's process and said that the board has to have a vote in favor of four board members to approve. If there are not four members in agreement, the motion is denied.

Mr. Heath asked if he could ask Ms. Roberts a question. Mr. Clark said he could. Mr. Heath asked if Ms. Roberts would agree that it wouldn't be a big deal not to pave the parking area, and Ms. Roberts said she would agree.

Mr. Madrid said the board has no guarantee the building will be torn down, and if this business closed after two years, another welding shop could go in. Mr. Clark said that historically, the board has handled that through a timeline and that the board could set the special exception for a five-year timeline.

Mr. Vader said his biggest concern is not this set of circumstances set for Mr. Vick but the precedent; however, by limiting the time period, they would at least address that as far as an exception to the recommendation.

Mr. Clark said historically they've granted special exceptions for two or three years and then come back and looked at it. He said he doesn't have any reason to believe what has been represented isn't correct, and the use hasn't really been detrimental to the city. He said perhaps the way to address the major issue, which is parking, is to address it in two or three years.

Mr. Young said the board could approve it for three years and address it then. He said he didn't think parking is a big issue for now. Mr. Cassidy said if Mr. Vick came back in two years, it's not a huge process.

Mr. Madrid said that based on the evidence and testimony provided, the proposed use meets the standards for a special exception under certain conditions, and he made a motion to approve on the following conditions.

1) All welding operations must take place within the existing building, and the building footprint shall not be expanded except to allow for additional office space or similar activities or storage of non-hazardous materials or equipment, rather than welding and its allied activities. If the building is expanded for those permitted purposes, it shall be done in compliance with the Old Town zoning district design regulations.

2) The special exception shall expire in two years from the date the special exception was granted. If the applicant does not re-apply for a special exception at expiration or if the board does not grant an additional special exception at that time, the use shall be deemed illegal, and the business shall be required to cease operations.

Mr. Young seconded the motion, which passed with all in favor.

Mr. Clark asked Mr. Heath if he understood the motion that was passed, and Mr. Heath said he did.

B. CASE # BOA 16-04 to receive comments and consider action on a request by Ned Webster for a Variance to City Code Section 17-405, Zoning districts generally, to allow encroachment into side setback by 15 inches in an "R-2" Single Family district at 937 Little School Rd, more particularly described as Rocking H Ranch Addn Lot 1 Blk 1.

Ms. Roberts gave an overview of the case. Based on action taken by the board the previous time this case was heard, staff recommended postponement but added that the staff recommendation if the property owner was not able to obtain additional land would be to deny.

No one signed up to speak.

Mr. Cassady made a motion to deny, seconded by Mr. Vader. The motion passed with all in favor.

C. CASE # BOA 16-05 to receive comments and consider action on a request by Armando Gonzalez for a Variance to the City Code Section 17-405, "Zoning District Generally," to allow a reduction in side yard setback from 15 feet to 13 feet and in the front yard setback from 50 feet to 40 feet in an "R-1" single family residential zoning district at 911 Shady Oaks Dr, more particularly described as Hilldale Addition Block 2 Lot 17.

Ms. Roberts gave an overview of the case, saying this lot had been platted years ago with smaller lot size and minimum house size than currently required in R-1 zoning. She said the lot is much smaller than R-1 lots are now required to be, and most R-1 lots in Kennedale are much larger. She said most of the other houses on this street have smaller setbacks, and the property owner did not create this situation. She said the owner isn't able to build the same kind of home that could be built on other R-1 properties. She recommended approval.

Mirna Gonzalez told the board they bought the property and have been paying taxes on it and have been planning to build a house. They've been trying to find a house that would fit the 15 foot setback, but it would be too small, so that's why they requested the side setback to be reduced two feet. She said the house would still be in line with other houses in the area, and she thought that would be look better to be at the same setback. She said the street in front of it is R-3 zoning, so all the houses have the same requirements for an 8- to 10-foot side setback.

Mr. Clark clarified which street the property was on. He asked Ms. Roberts if she had received any comments about the case, and she said she had received some phone calls, but no one had said they were opposed to it.

Mr. Vader asked Ms. Gonzales if she was going to build a house to live in or to sell. Ms. Gonzalez said it would be either for her son to live in or to sell. Mr. Vader asked if the property to the west was all one big piece of property. Ms. Roberts said it was two properties; one is same size and used to be owned by same [prior] property owner and had a house, and this one had a shed. The other one on Little School Rd is a different lot.

Mr. Clark asked about the plan that had been submitted with the application—is the proposed 40-foot setback from the house or the garage? Ms. Gonzalez said it was from the garage. Mr. Vader asked if 1,500 square feet meet the minimum size for homes in R-1 zoning, and Ms. Roberts said yes.

The board discussed how much of the lot the house would take up. Mr. Clark said his only concern is the side setback. Mr. Madrid said if the house is shifted, it would sit oddly on the lot.

Mr. Clark said he was concerned the next lot there is going to have the same problem, and also if the board grants the variance, the house plan they were shown isn't necessarily the house that's going to be built on it.

As there was no one else present to speak, Mr. Clark closed the public hearing.

Mr. Cassady said they can change the house plans, so the board would have to set a side yard and front yard setback. Mr. Madrid said if the board sets the side yard setback at a minimum of 13 feet, that would give the property owners 9 inches of leeway.

Mr. Cassady made a motion to approve a variance for a side yard setback of a minimum of 13 feet on either side and a 40-foot front yard setback. Mr. Vader asked for clarification, was the front setback to the front-most part of the building? Mr. Cassady said yes. Mr. Vader seconded the motion. The motion passed unanimously.

VII. REPORTS/ANNOUNCEMENTS

Ms. Roberts said the public safety open house would be on October 22nd, beginners' bird workshop would be on October 15th, and the KKB bring-it recycling event would be on October 22nd as well. The police department drug take-back and the Trunk or Treat and Pumpkin Palooza, as well as a Senior Center craft fair would also be that day. She said the historical society is having a membership dinner that night. She said the Christmas tree lighting will be on December 6th.

VIII. ADJOURNMENT

Mr. Madrid made a motion to adjourn, seconded by Mr. Young. The motion passed unanimously.

The meeting adjourned at 8:03 P.M.

ATTEST:

John Clark, Chairman

Rachel Roberts, Planning Directors

Date

Date

Date: June 6, 2017

Agenda Item No: REGULAR ITEMS (A)

I. SUBJECT

CASE # BOA 17-01 to hold a public hearing and consider a request by Miriam Llamas for a variance from the Unified Development Code Section 3.3, Spatial Requirements: Agricultural and Residential Districts, to reduce the required front yard setback by 10 feet and reduce the required sideyard setback by 7 feet in an "R-1" single family residential zoning district at 905 Shady Oaks Dr, more particularly described as Hilldale Addition Block 2 Lot 18

II. SUMMARY

BACKGROUND AND OVERVIEW

Request	Variance from side yard and front yard setbacks
Applicant	Miriam Llamas (property owner)
Location	Shady Oaks Dr is located off Little School Road, south of Greenfield Ct and north of Harrison Dr, east of Woodland Ct
Surrounding Uses	Single family residential
Future Land Use Plan Designation	Neighborhood
Staff Recommendation	Approve

CURRENT STATUS OF PROPERTY

This property is zoned "R-1" single family residential. The required front yard setback for a house in this district is fifty (50) feet, and the required side yard setback is fifteen (15) feet on each side for interior lots (this can be reduced to 10 feet on one side as long as the total side yard setback is 30 feet).

The original Hilldale Addition was platted in the 1950s. The lot was platted at a lot width of 68 feet (see attached plat drawing from 1958). At that time, there were restrictive covenants in place requiring a minimum house size of 800 square feet. Properties zoned R-1 now are required to have a minimum house size of 1,500 square feet in livable area, nearly twice what was originally required. And in reality, most R-1 properties have much larger homes on lots at least half an acre in size. The average house size (living area) in R-1 properties is 3,525 square feet, according to the Tarrant Appraisal District, and 88% of R-1 lots are the required half acre or larger. Only four (4) properties with an R-1 zoning designation (including the property in question) are less than 1/3 of an acre in size. Looking at the

aerial map attached to this report, **you'll see that this lot is significantly smaller than the minimum now required by the R-1 zoning district.**

Most of the lots on this street and within the Hilldale Addition have been developed and have homes. The other houses on this part of the street were built at a front setback of approximately 35-40 feet, which is 10-15 feet less than what the R-1 zoning district now requires. Within this neighborhood, six lots are zoned R-1; three meet the minimum lot size of half an acre, and three are 1/5-1/4 of an acre.

In 2004, the board granted a setback variance to the several properties within this subdivision (see attached decision notice). Last year, the board granted a front yard and side yard setback variance for the adjacent lot to the east.

SURROUNDING PROPERTIES & NEIGHBORHOOD

The property is located in a primarily residential area. There are only six properties on this street also zoned R-1; as you'll see on the attached zoning map, the majority of the properties in this part of the neighborhood are zoned R-3, which allows for much smaller lots (minimum 8,750 square feet) and setbacks (30-foot front setback, 10-foot side setback).

REQUIREMENTS FOR A VARIANCE

Please see the attached document "Requirements for a Variance" for a description of the board's role and authority regarding granting of variance requests.

ANALYSIS

(1) Is the request owing to a special condition inherent in the property itself?

Yes. This property was developed before the R-1 zoning district was created, and the platted lot sizes are smaller than the R-1 district requirements. The attached aerial view of Shady Oaks Drive shows the size of this lot in comparison to nearby R-1 lots.

(2) Is the condition unique to the property for which a variance is created?

Essentially, yes. There are four lots in Kennedale zoned R-1 single family that are smaller than the half-acre minimum lot size; three of those lots are located in Hilldale (the lot in question and two adjacent lots). Thus while Ms. Llamas' lot is not the only property faced with this condition, it is unquestionably an unusual case.

(3) Is the condition self-created?

No. Ms. Llamas did not plat the property at the smaller lot size and did not request the R-1 zoning designation.

(4) Will a strict enforcement of the zoning ordinance create a hardship above that suffered by the general public?

Yes. In most cases, owners of property within R-1 zoning districts have a lot size of half an acre to work within and have lots that are at least 100 feet wide and 125 feet deep, which allows much more room for a larger house that can still meet setback regulations. Only Ms. Llamas and a few other property owners within Kennedale are not able to build homes comparable to those possible on standard R-1-sized lots.

(5) Will the hardship deprive the property owner of the right to use his property?

While the property owner is able to use her property, she is not able to build with the same flexibility and to the same larger standard as other owners of property within an R-1 zoning district. Instead, she would be limited to building a home more fitting for an R-3 zoning district.

(6) Would granting the variance be contrary to the public interest?

No. The majority of other properties in the area are zoned R-3 single family residential, which means the neighboring property owners will be accustomed to (and have homes built at) smaller front and side setbacks. And because the variance would be granted due to a condition inherent to the property rather than a financial or similar concern of the applicant, granting the variance still respects the purpose and intent of the zoning ordinance.

(7) Is the request within the spirit of the ordinance and further substantial justice?

Yes. Granting the variance will allow the property owner to build a house in line with what other owners of property within an R-1 zoning district are able to build. In addition, the front setback of this property would be in line with and in the character of other homes on the same street.

STAFF RECOMMENDATION

Will the literal enforcement of the provisions of this article result in an unnecessary hardship?

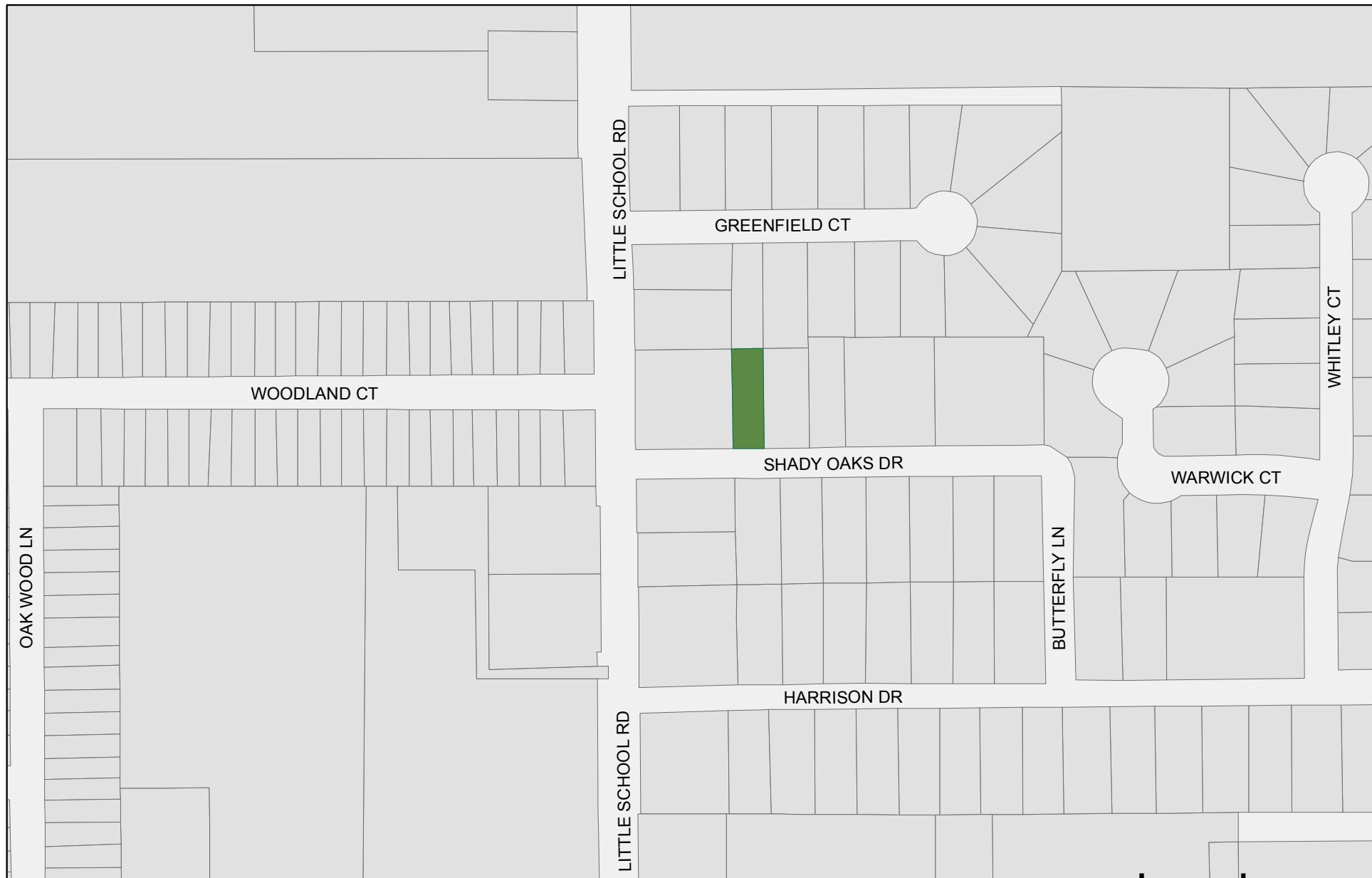
Yes. Based on the above analysis, staff recommends granting the request for a variance.

ACTION BY THE BOARD OF ADJUSTMENT

The board may grant or deny the request or postpone its vote until a later date. If you postpone your decision, you should state in your motion when the case will be heard by the board again. Sample motions are provided for your reference below. You are not required to use either of the motions provided, but your motion should state why you are granting or denying the request.

Approve: Based on the evidence and testimony provided, I find that the proposed request meets the standards for a variance and make a motion to approve the requested variance.

Deny: Based on the evidence and testimony provided, I find that the proposed use does not meet the standards for a variance and make a motion to deny the request.



0 200 400 Feet

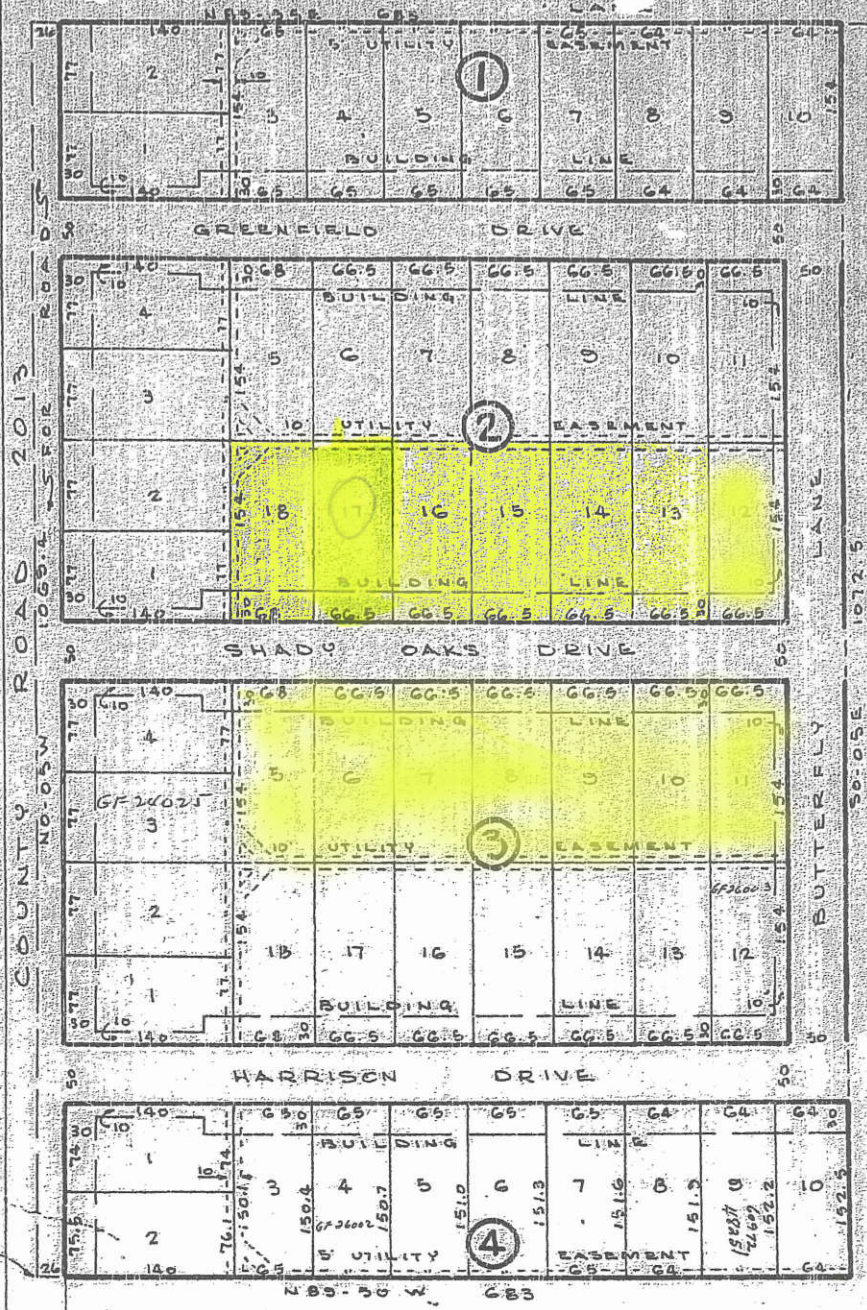
1 inch = 208 feet

BOA 17-01 site of request

Parcel boundary data courtesy TAD;
Road data courtesy NCTCOG

Legend

-  BOA 17-01 site
-  Parcel boundaries



86 VARAS EAST OF
SOUTHWEST CORNER
T. F. RODGERS SURVEY

Instructions

HILDALE ADDITION

TO THE CITY OF KENNEDALE
TARRANT COUNTY, TEXAS
OUT OF THE T. F. RODGERS SUR.

APPROVED: JUNE 7, 1957

CITY OF KENNEDALE

BY R. J. Gledhill
MAYOR

BY Lucy Wilkins Langston
CLERK

SURVEYED MAY 9, 1957
HAYES & DUNAWAY

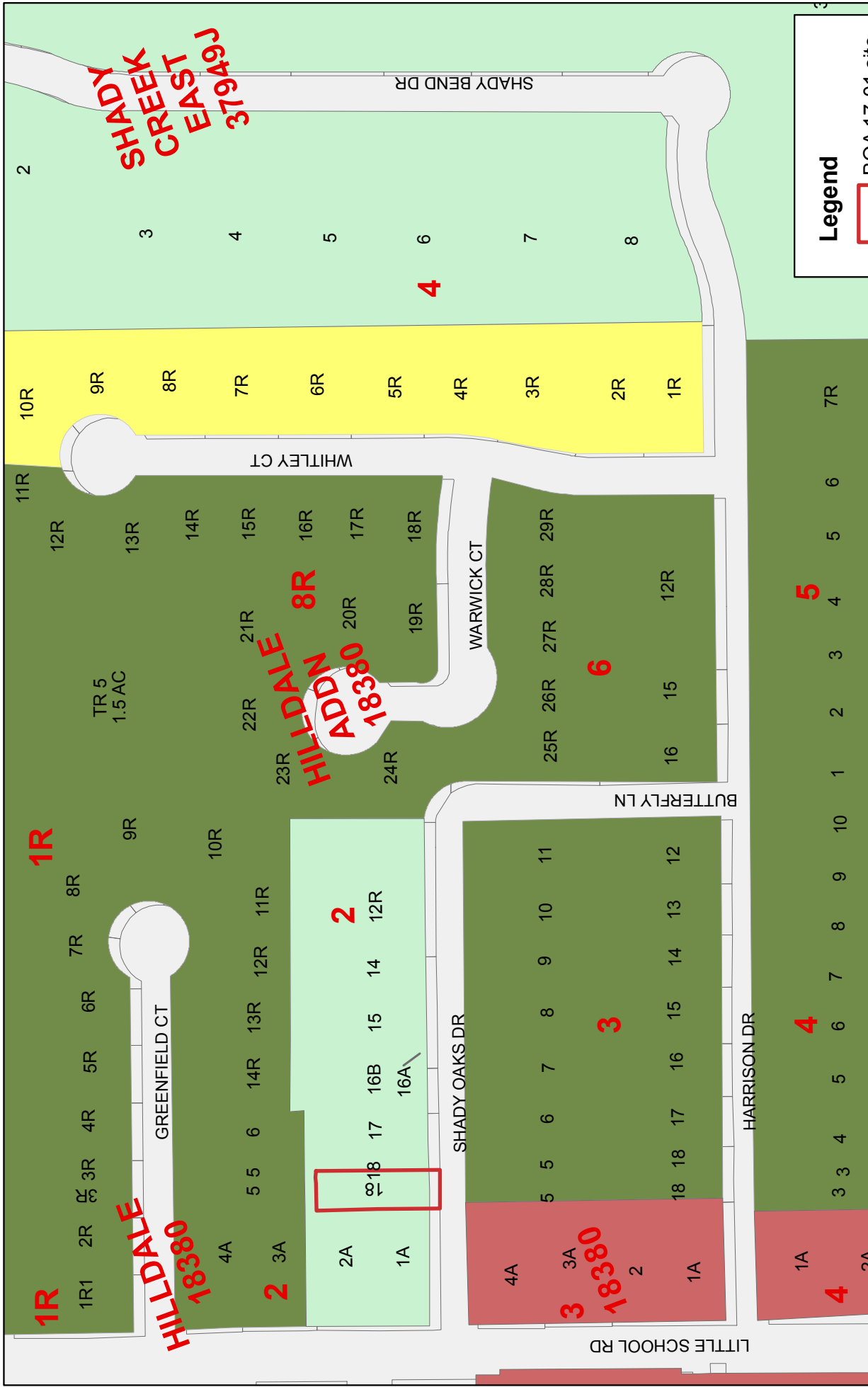
BY R. D. Hayes



SCALE
1" = 100'

CHECKED
COUNTY CLERK
R. D. Hayes
2-26-58

Submitted by title 200-60
388-11
22



Legend

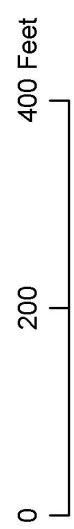
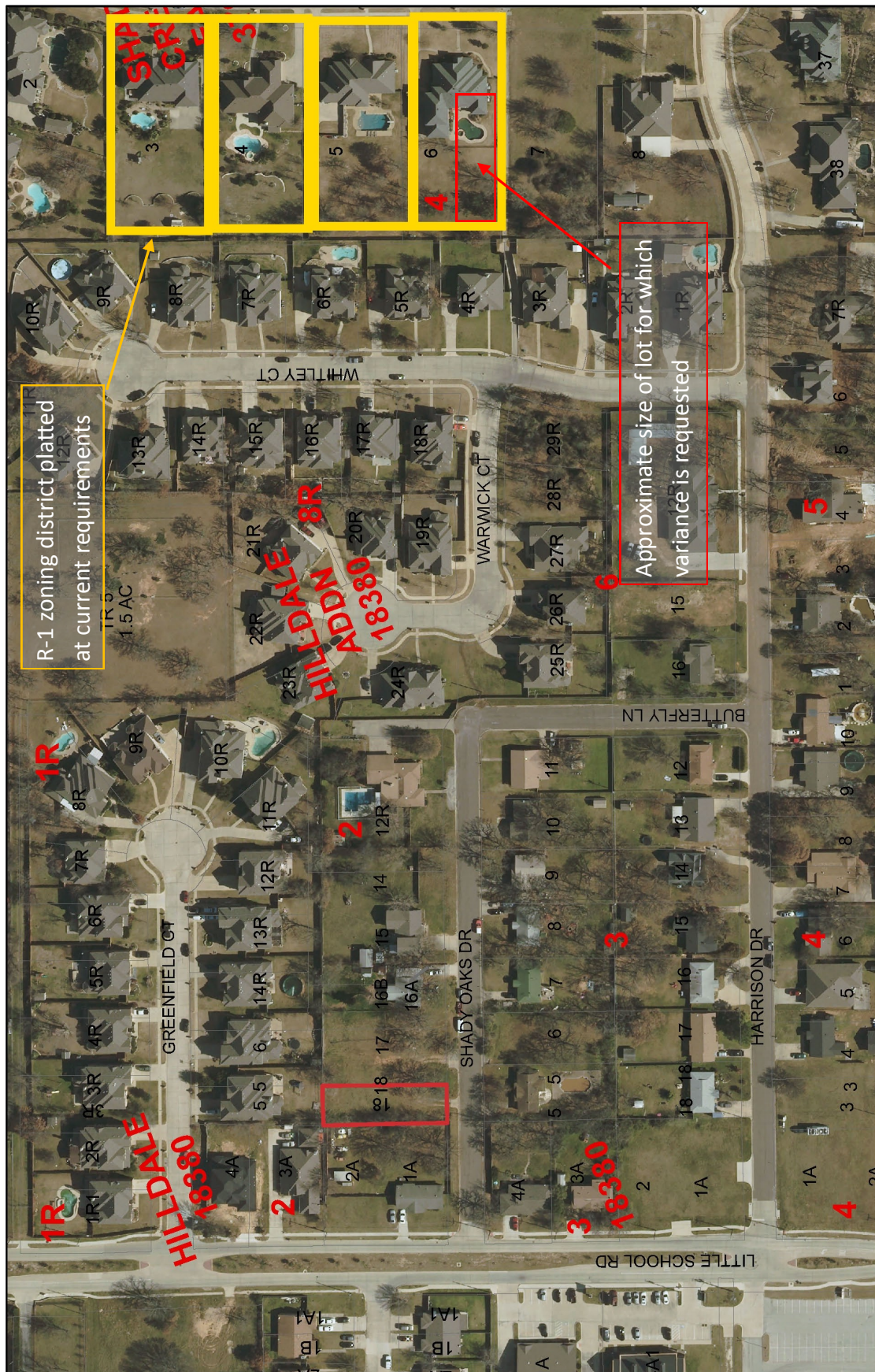
	BOA 17-01 site
	C1
	R1
	R2
	R3

BOA 17-01 showing zoning



1 inch = 167 feet

Parcel boundary data courtesy TAD;
Road data courtesy NCTCOG



1 inch = 167 feet

Legend

BOA 17-01 site

Parcel boundaries

BOA 17-01 site of request

Parcel boundary data courtesy TAD;
Road data courtesy NCTCOG

Decision Notice

Case # **BOA 16-05**

The Board of Adjustment of the City of Kennedale does hereby **GRANT** a Variance from City Code Section 17-405 as described below.

NAME: Armando Gonzalez

ADDRESS: 910 Greenfield Ct

PROPERTY ADDRESS: 911 Shady Oaks Drive

Hilldale Addition Block 2 Lot 17

PROPERTY OWNER: Armando Gonzalez

FOR THE PURPOSE OF: to allow a reduction in side yard setback from 15 feet to 13 feet and in the front yard setback from 50 feet to 40 feet

CONDITIONS:

- 1) **THE SIDE YARD SETBACK SHALL BE AT LEAST 13 FEET ON EACH SIDE**
- 2) **THE FRONT YARD SETBACK FOR THE FRONT-MOST PART OF THE BUILDING IS 40 FEET**

Approved in open session of the Board of Adjustment of the City of Kennedale, Texas on the 6th day of September 2016.

The Board's decision is officially filed this day of September 2016 in the Board of Adjustment Secretary's office. Any appeal to this decision must be made within 10 calendar days after the decision of the board and not thereafter.

APPROVED:

John Clark, BOA Chairman

ATTEST:

Rachel Roberts, Planning Director

CITY OF KENNEDALE
BOARD OF ADJUSTMENT
VARIANCE DECISION NOTICE

The Board of Adjustment of the City of Kennedale does hereby grant/~~deny~~ a Variance to front, side, and rear building lines as requested:

Case # BOA 03-12

NAME: Jeff Herron

ADDRESS: 5519 Manassas Drive
Arlington, Texas

PROPERTY ADDRESS:

Hilldale Addition for Lots 8R, 9R, 10R, 11R, 12R, 13R, and Lot 24R in Block 8R in the City of Kennedale.

FOR THE PURPOSE OF:

Reducing the front, side, and rear building lines.

CONDITIONS:

With understanding of minimum square foot requirements of an R-3 being 2000 and an R-2 being 2500.

Granted in open session of the Board of Adjustment of the City of Kennedale, Texas on the 3rd day of February 2004

The Board's decision is officially filed this 4th day of February 2004 in the Board of Adjustment Secretary's office. Any appeal to this decision must be made within 10 calendar days after the decision of the board and not thereafter.

APPROVED:

John Berry, BOA Chairman

ATTEST:

Lisa Dawn Cabrera, BOA Secretary



STAFF REPORT TO THE BOARD OF DIRECTORS

Date: June 6, 2017

Agenda Item No: REPORTS/ANNOUNCEMENTS - A.

I. Subject:

Reports and updates from city staff

II. Originated by:

III. Summary:

IV. Recommendation:

V. Alternative Actions:

VI. Attachments:



STAFF REPORT TO THE BOARD OF DIRECTORS

Date: June 6, 2017

Agenda Item No: REPORTS/ANNOUNCEMENTS - B.

I. Subject:

Reports and updates from Board of Adjustment members

II. Originated by:

III. Summary:

IV. Recommendation:

V. Alternative Actions:

VI. Attachments: