



ZONING BOARD OF ADJUSTMENT MEETING AGENDA

**Monday, March 10, 2025 at 6:00 PM
Bulverde City Hall Council Chamber
30360 Cougar Bend, Bulverde, Texas 78163**

Time is provided for public comments on any posted agenda item at the time the item is considered. Each person should fill out the speaker's register prior to the meeting. The presiding officer, during the agenda item, will call on those persons who have signed up to speak on each item, in the order they have registered. Presentations should be limited to no more than (3) three minutes.

All remarks shall be addressed to the Zoning Board of Adjustment as a body, and not to any individual member thereof. Any person making personal, impertinent, or slanderous remarks while addressing the Board may be requested to leave the meeting.

There will be time after the completion of the Regular Agenda Items for the public to make comments on topics and items not posted on this agenda. Discussion by the Board of any item not on the agenda shall be limited to statements of specific factual information given in response to any inquiry, a recitation of existing policy in response to an inquiry, and/or a proposal to place the item on a future agenda.

1. CALL THE MEETING TO ORDER

2. REGULAR AGENDA ITEMS

- 2.1. Hold a public hearing and consider a request by Ortiz McKnight, on behalf of Gary and Terri Shaner, for approval of a variance to Section 14.03.004(c) of the City of Bulverde Code of Ordinances, related to setback requirements, at 31880 Jay Bird Lane.

3. PUBLIC COMMENTS NOT RELATED TO POSTED AGENDA ITEMS

4. ADJOURNMENT

Sandra V. Ham
City Secretary

City Hall is wheelchair accessible and accessible parking spaces are available. Requests for accommodation must be made 48 hours prior to the meeting. Please contact the City Secretary at 830.438.3612 or FAX 830.438.4339 for information or assistance.

A quorum of the City Council, Planning & Zoning Commission, Parks & Recreation Advisory Board, and/or Zoning Board of Adjustment may be present at this meeting in order to discuss agenda items related to board business.

I, the undersigned authority, do hereby certify that the above Notice of Meeting of the Zoning Board of Adjustment of the City of Bulverde was posted on the bulletin board in front of Bulverde City Hall, which is readily accessible to the public at all times, and on the City's website, www.bulverdetx.gov, by 6:00 pm on March 6, 2025.

The Zoning Board of Adjustment reserves the right to adjourn into Executive session at any time regarding any issue for which it is legally permissible. The Zoning Board of Adjustment will announce it will go into Executive Session, if necessary, pursuant to Chapter 551 of the Texas Government Code, to receive advice from Legal Counsel, to discuss matters of land acquisition, litigation, Economic Development negotiations, or personnel matters as listed on this agenda. The Zoning Board of Adjustment may also announce it will go into Executive Session, if necessary, to receive advice from Legal Counsel regarding any other items on this agenda.



BOARD OF ADJUSTMENT ITEM:
VR 25-01

VARIANCE REQUEST

31880 Jay Bird Ln

MEETING DATE: March 10th, 2025
DEPARTMENT: Planning & Development
PRESENTED BY: Bailey Dorn, Planner I

REQUEST:

Hold a public hearing and consider a request by Ortiz McKnight, on behalf of Gary and Terri Shaner, for approval of a variance to Section 14.03.004(c) of the City of Bulverde Code of Ordinances, related to setback requirements, at 31880 Jay Bird Lane.

OWNER/APPLICANT:

Ortiz McKnight
SHANER GARY A & TERRI L
31880 Jay Bird Ln,
Bulverde, TX 78163

PROPERTY INFORMATION:

Address: 31880 Jay Bird Ln
Legal Description: BULVERDE ESTATES 1, LOT 31 PT & 32 PT
Owner: SHANER GARY A & TERRI L
Existing Land Use: Single-Family
Existing Zoning: R-2, Residential District

NOTICE:

Staff sent 8 Personal Notices to properties within a 200-foot buffer of the subject property. As of present, Staff received 0 letter of support and no letters of opposition out of those 8 properties that were individually notified regarding this variance request. Letters of support were received regarding the related SUP granted for this property, and are attached to this report.

SUMMARY:

The City Council amended the Zoning Ordinance in 2021 to allow guest houses/caretaker's quarters via SUP for the R-2 Zoning District. Staff identified the following issues related to the proposed guest house which is the subject of this request:

1. A former City staff member issued a permit in error for this proposed residence in 2023, after failing to perform a proper review of the application. After form boards were placed for the foundation, the City's building inspector noted the setback violation and the use violation, and the building permit was rescinded.
2. The construction of a guest house on the property requires an SUP prior to the issuance of a building permit. (This issue was resolved by the approval of an SUP for a guest house in January.)
3. The proposed guest house lies within the front setback of the lot. Even though an SUP has been granted, the applicant still needs to obtain a variance from the Board of Adjustment prior to being able to seek a building permit for the proposed guest house.

ANALYSIS:

City staff does not have the authority to authorize violations of City ordinances, either deliberately or by mistake. In this case, a former City staff member authorized the issuance of a building permit for this proposed guest house without verifying if an SUP had been issued, and without verifying if the structure had been placed within the building setback lines for the R-2 zoning district. Permits issued in violation of City ordinances are called permits "issued in error" and are void. After the City's building inspector discovered the violations associated with this proposed residence, the permit was formally revoked, all work on the project stopped, and the applicant submitted a request for an SUP and a variance to authorize continuation of the project.

The requested SUP was granted by the City Council on 01/14/2025. However, while the City Council has the authority to authorize general uses on a property, they do not have the authority to grant variances to the City's setback requirements. Such variances can only be granted by the Board of Adjustment under state law. Accordingly, after ensuring the Council would authorize the proposed use, the applicant is now seeking a variance to continue with building the guest house in the current proposed location.

If the variance is denied, the applicant will be required to remove the form boards and other construction materials from the site, and place the proposed guesthouse within the building setbacks established for the property.

The applicants submitted a site plan, which is attached herein.

CONSIDERATIONS FOR EVALUATION:

City ordinance and state law say the following related to the authority of the Board of Adjustment concerning zoning variances:

The board of adjustment may... authorize in specific cases a variance from the terms of a zoning ordinance if the variance is not contrary to the public interest and,

due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship, and so that the spirit of the ordinance is observed and substantial justice is done.

And:

The concurring vote of 75 percent of the members of the board is necessary to... authorize a variation from the terms of a zoning ordinance.

In order to approve a variance request, the board must find that all of the conditions laid out in statute have been met, namely that:

1. Granting the variance is not contrary to the public interest; and
2. That special conditions exist in this case that will cause unnecessary hardship for the applicant if the ordinance is enforced to its full extent; and
3. That granting the variance will uphold the spirit of the ordinance and result in substantial justice to both the applicant and the community.

Because of the 75% required majority, at least 4 members of the board must vote in favor of the request, otherwise the request is considered denied. Decisions of the board are final as far as the City is concerned, and can only be appealed to state district court.

ATTACHMENTS:

- A. Application
- B. Exhibits

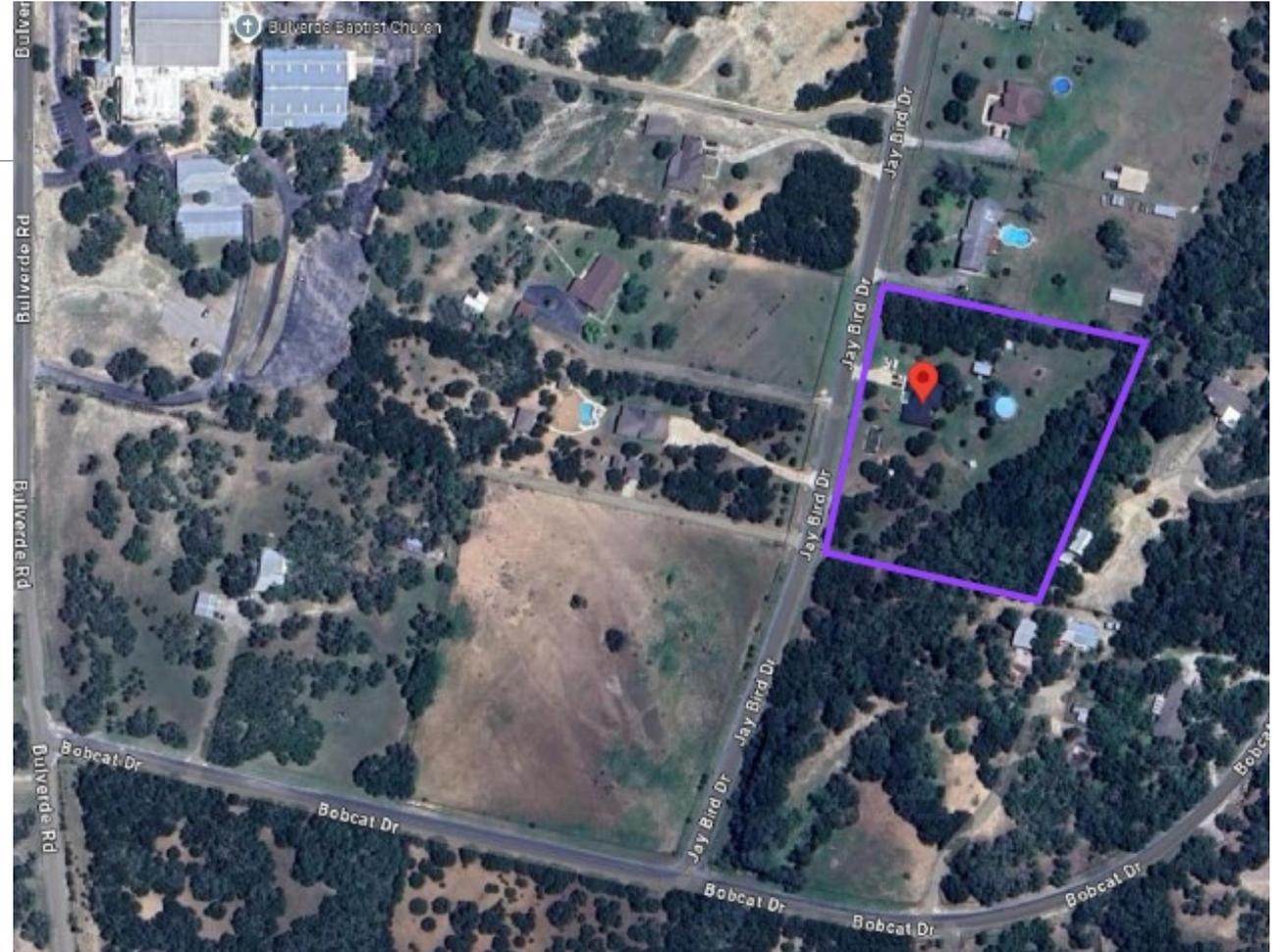
31880 Jay Bird Lane:

Setback Variance

Zoning Board of Adjustment: 03/10/25

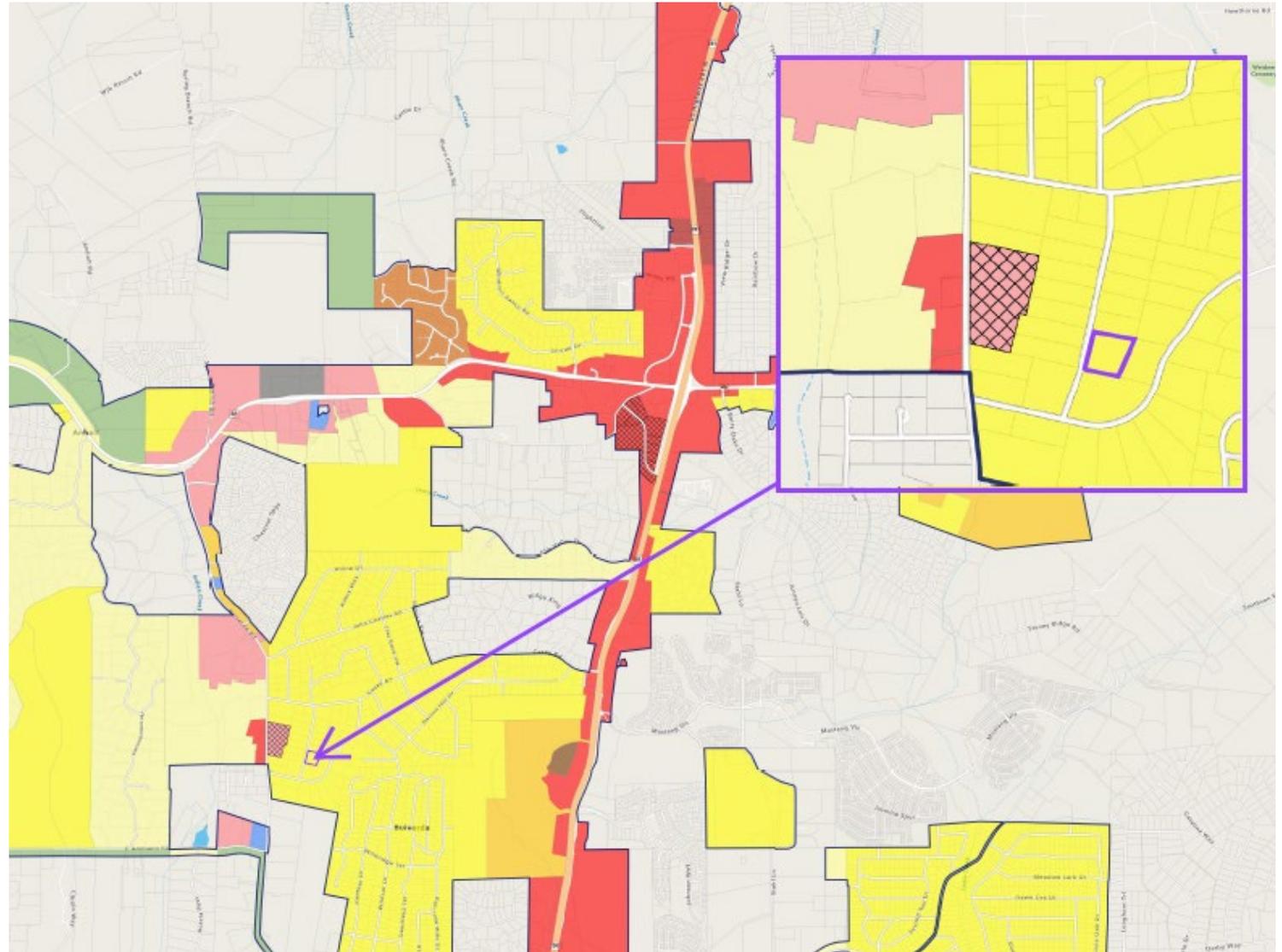
31880 Jay Bird Lane

- Approximately 2.97 acres located near Bobcat Drive and Jay Bird Lane
- Zoned “R2 S” Residential District (single family detached) with a Special Use Authorization for a Guest House
- Special Use Authorization approved January 14, 2025



Purpose:

- The purpose of this request is to request a 20-foot variance to the 50-foot front setback requirement to allow a Guest House to be built 30 feet from the front property line
- This will bring the Subject Property into compliance with the initiated construction of a guest house on the property which occurred subsequent to the City reviewing plans and issuing permits



Background & Timeline:

- May 2024: The Applicants sought and received approval from the City to build a “casita” on the Subject Property
- May 3 and May 10, 2024: Approved permits were issued to the Applicants for the construction of a driveway and foundations for a guest house per the plans submitted
- July 2024: The City revoked the permits because they had been issued in error and work was stopped. Staff realized the following errors
 - The Subject Property has the incorrect zoning (“R2”) for a Guest House
 - The Guest House was located 30 feet from the property line, within the required 50-foot front setback
- November 2024: Applied for Special Use Authorization to allow a Guest House
- January 14, 2025: Special Use Authorization for a Guest House was approved by City Council
- March 10, 2025: Requesting a variance for the front setback



CITY OF BULVERDE
Access/Driveway Permit (Residential) Permit

PERMIT# 2023-527

DATE ISSUED 5/9/2024

PROJECT ADDRESS: 31880 Jay Bird Lane Bulverde, TX 78163

LOCATION NAME: Driveway

SUBDIVISION: Bulverde Estates

OWNER: Eric & Jillian Watson

CONTRACTOR: Jay Rod's Construction - Juan Rodriguez

ADDRESS: 11003 West Avenue, Suite 6

CITY, STATE, ZIP: San Antonio, TX 78213

PHONE: (210) 801-0450

EMAIL ADDRESS: juan@jayrdsconstruction.com

CONTACT NAME: Juan Rodriguez

ALT PHONE: (210) 801-0450

SQ FT: 0.00

PROJECT VALUATION: 0.00

PLAN REVIEW BY:

NOTES: approved, but my question is related to run off associated with the impervious surface. What is the contractor/builder/owner going to do to capture runoff so as not to impact downstream neighbors.

Pre and post development should be equal regarding runoff. -TP

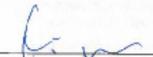
PERMIT TYPE	AMOUNT DUE
Driveway/Curb Cut Permit	\$0.00
TOTAL:	\$675.00

NOTES: Schedule by 2pm for next day inspections

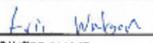
NOTICE

THIS PERMIT BECOMES NULL AND VOID IF WORK OR CONSTRUCTION AUTHORIZED IS NOT COMMENCED WITHIN 180 DAYS, OR IF CONSTRUCTION OR WORK IS SUSPENDED OR ABANDONED FOR A PERIOD OF 180 DAYS AT ANY TIME AFTER WORK IS STARTED. SEPARATE PERMITS FOR ELECTRICAL, PLUMBING, MECHANICAL, AND PAVING ARE REQUIRED. ALL PERMITS REQUIRE FINAL INSPECTION.

I HEREBY CERTIFY THAT I HAVE READ AND EXAMINED THIS DOCUMENT AND KNOW THE SAME TO BE TRUE AND CORRECT. ALL PROVISIONS OF LAWS AND ORDINANCES GOVERNING THIS TYPE OF WORK WILL BE COMPLIED WITH WHETHER SPECIFIED HEREIN OR NOT. GRANTING OF A PERMIT DOES NOT PRESUME TO GIVE AUTHORITY TO VIOLATE OR CANCEL THE PROVISION OF ANY OTHER STATE OR LOCAL LAW REGULATING CONSTRUCTION OR THE PERFORMANCE OF CONSTRUCTION.



(SIGNATURE OF CONTRACTOR OR AUTHORIZED AGENT)



PRINTED NAME

Jay Rod's Construction

PRINTED COMPANY NAME



ISSUED BY
CITY OF BULVERDE

30360 Cougar Bend, Bulverde Texas 78165
830.438.3612 / 830.980.8832 metro / 830.438.4339 fax
www.bulverdetx.gov



CITY OF BULVERDE
Remodels, Additions, Accessory Buildings (Residential) Permit

PERMIT# 2023-525

DATE ISSUED 5/10/2024

PROJECT ADDRESS: 31880 Jay Bird Lane Bulverde, TX 78163

LOCATION NAME: Accessory Building

SUBDIVISION: Bulverde Estates

OWNER: Eric & Jillian Watson

CONTRACTOR: Jay Rod's Construction - Juan Rodriguez

ADDRESS: 11003 West Avenue, Suite 6

CITY, STATE, ZIP: San Antonio, TX 78213

PHONE: (210) 801-0540

EMAIL ADDRESS: juan@jayrdsconstruction.com

CONTACT NAME: Juan Rodriguez

ALT PHONE: (210) 801-0450

SQ FT: 0.00

PROJECT VALUATION: 0.00

PLAN REVIEW BY:

NOTES: No work may be covered without an approved inspection report.

-BB 2708

PERMIT TYPE	AMOUNT DUE
Structural System Removal/Repair Fee (Foundations, walls & roofs)	\$0.00
TOTAL PAID:	\$1,850.00

NOTES: Schedule by 2pm for next day inspections

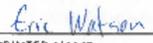
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(SIGNATURE OF CONTRACTOR OR AUTHORIZED AGENT)



PRINTED NAME

Jay Rod's Construction

PRINTED COMPANY NAME

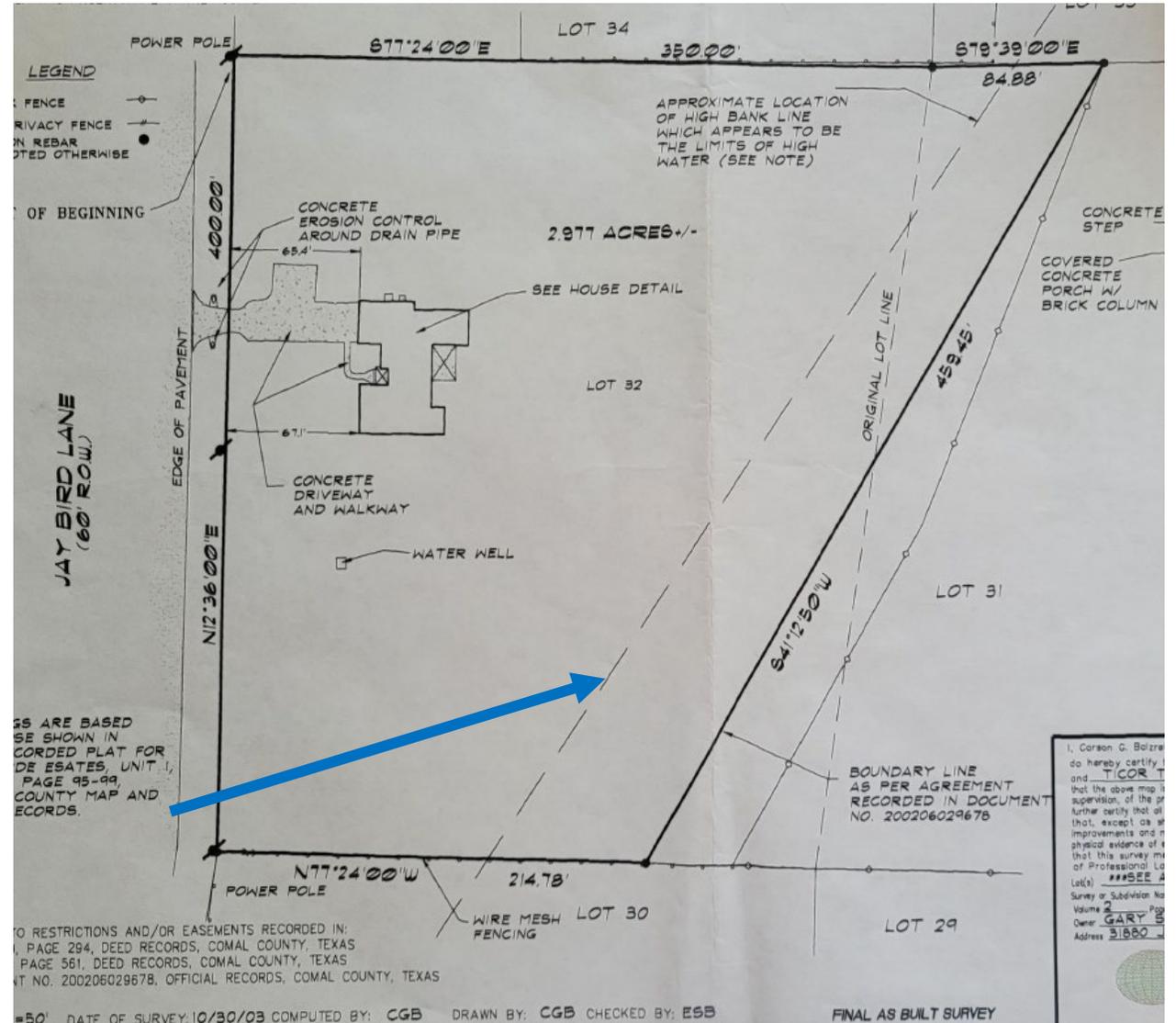


ISSUED BY
CITY OF BULVERDE

30360 Cougar Bend, Bulverde Texas 78165
830.438.3612 / 830.980.8832 metro / 830.438.4339 fax
www.bulverdetx.gov

Guest House Location:

- In May of last year, the Applicants sought City approval to build a Guest House on the subject property
- Due to the flood plain on the rear of the Subject Property, City staff recommended the Guest House be located at the front of the property
- The site plan showing the location of the Guest House was approved by the City and permits were issued



ARCHITECTURAL
DESIGN SERVICES LLC.
218.983.2225
LEARCHDESIGN@GMAIL.COM

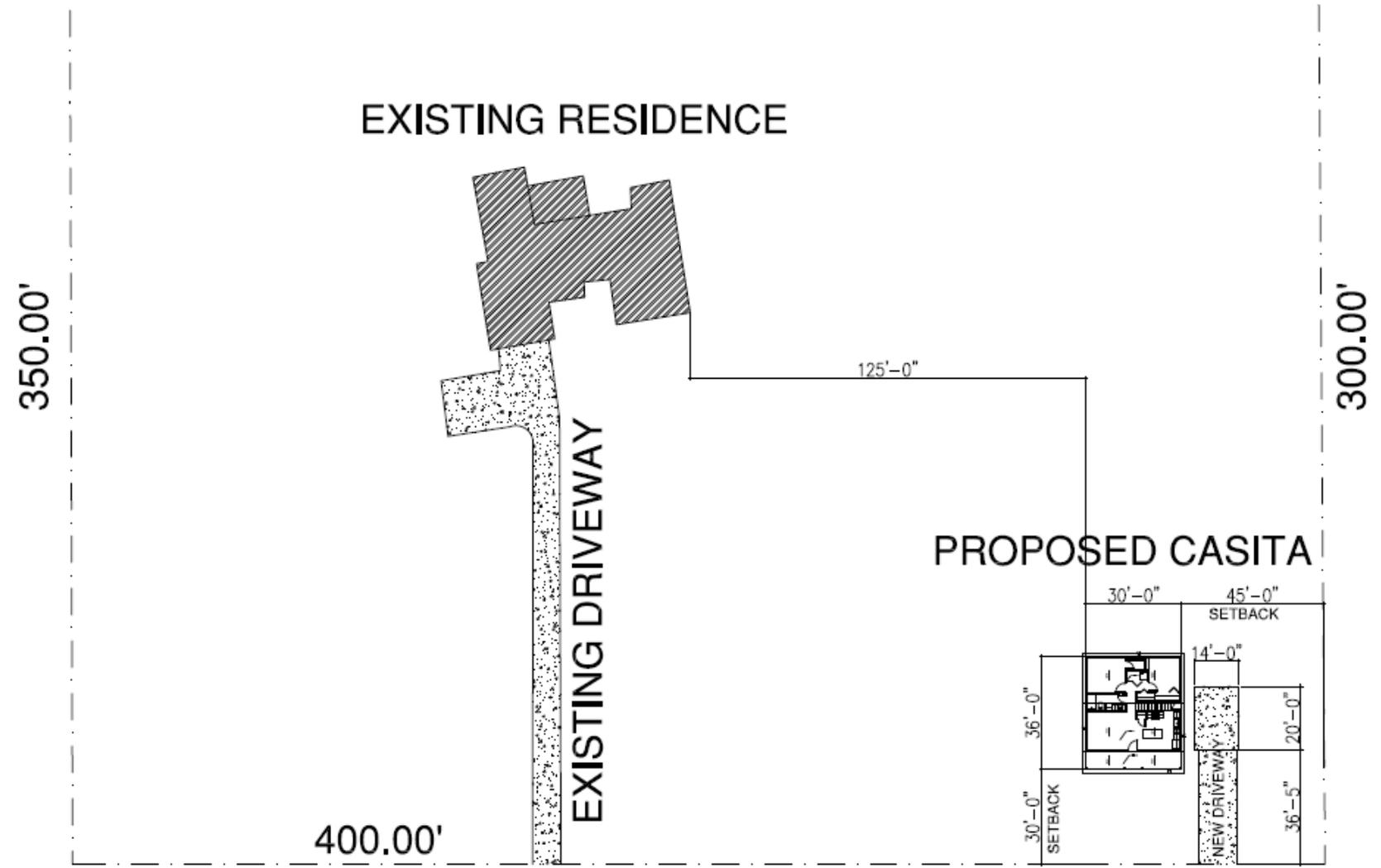
WATSON RESIDENCE
32 JAY BIRD LANE BULVERDE ESTATES
COMAL COUNTY, TEXAS



SITE

1/4" SCALE & 1/4" GRID UNLESS NOTED OTHERWISE
1/4" SCALE & 1/4" GRID UNLESS NOTED OTHERWISE

THIS DOCUMENT HAS BEEN PROVIDED FROM MATERIAL THAT WAS STORED AND/OR TRANSMITTED ELECTRONICALLY AND MAY HAVE BEEN INADEQUATELY ALTERED





31880 Jay Bird Ln.

- Relocating the guest house would cause an unnecessary hardship
- The Applicants made significant financial investment in the construction of the guest house, completing driveway and foundation work before the permits were revoked
- Granting the variance will correct the error and allow permits to be reissued for the completion of the guest house



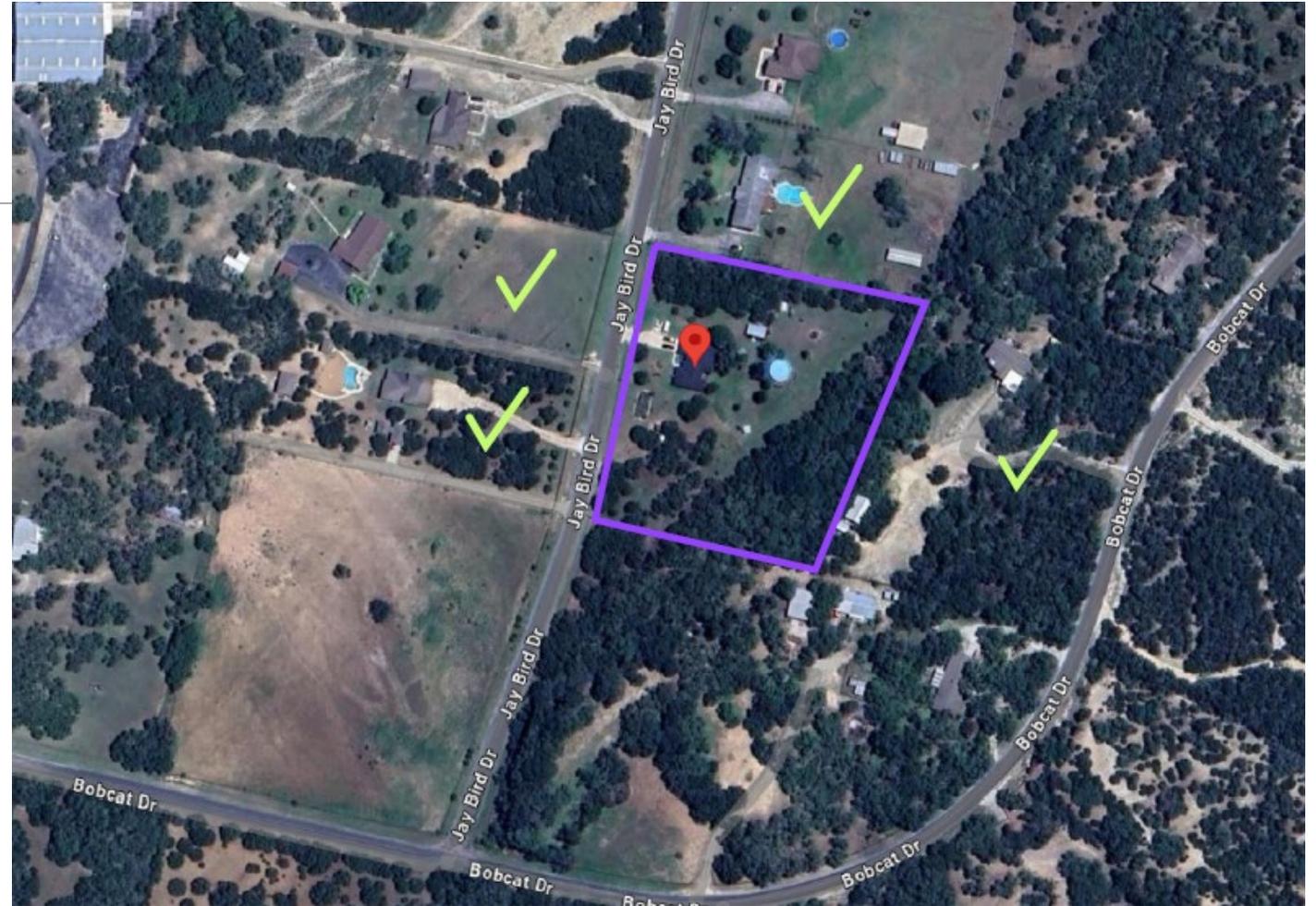
31880 Jay Bird Ln.

- This variance is in the spirit of the R2 district
 - Subject Property meets or exceeds all other development standards
 - Preserves the large lot intent
- The variance is not contrary to the public interest
 - Requested 30-foot setback provides a sufficient buffering between the casita and Jay Bird Ln.
 - Support from neighbors



Neighboring Support:

- ✓ Across the street:
 - 31875 Jay Bird Ln
 - 31919 Jay Bird Ln
- ✓ Next door:
 - 31946 Jay Bird Ln
- ✓ Behind:
 - 2315 Bobcat Drive



Summary

Request for a 20-foot variance to the required front setback to allow a guest house to be built 30 feet from the front property line.

- ✓ A literal enforcement of the setback would create an unnecessary hardship
- ✓ Is not contrary to the public interest
- ✓ Is in the spirit of the regulation
- ✓ Will allow the permitting and completion of initiated construction and substantial justice to be done

November 12, 2024

Honorable Planning and Zoning Commission
c/o Planning & Development
City of Bulverde
30360 Cougar Bend
Bulverde, TX 78163
By email: aschell@ortizmcknight.com

RE: Proposed Special Use Permit for a Guest House and Front
Setback Variance for 31880 Jay Bird Lane

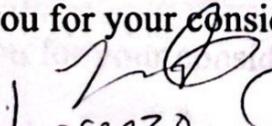
To the Honorable Planning and Zoning Commissioners:

As a neighbor to the property at 31880 Jay Bird Lane, I am pleased to support the request for a Special Use Permit (SUP) for a Guest House, and a variance to the front setback to allow the guest house to be built 30 feet from the front property line. I've talked to my neighbors at 31880 Jay Bird Ln., and feel their request is reasonable, and I support both the casita and its location.

Please accept this letter as notice of my **support** for SUP and variance at 31880 Jay Bird Lane.

Thank you for your consideration,

Name:


Lorenzo Castillo

Address:

31875 Jay Bird Ln

Email:

ortiz.sandra@hotmail.com



November 12, 2024

Honorable Planning and Zoning Commission
c/o Planning & Development
City of Bulverde
30360 Cougar Bend
Bulverde, TX 78163
By email: aschell@ortizmcknight.com

RE: Proposed Special Use Permit for a Guest House and Front
Setback Variance for 31880 Jay Bird Lane

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Please accept this letter as notice of my **support** for SUP and variance at 31880 Jay Bird Lane.

Thank you for your consideration,

Name: James Steindl

Address: 31919 Jay Bird Ln
Bulverde, TX 78163

Email: steindl@sbcglobal.net

November 12, 2024

Honorable Planning and Zoning Commission
c/o Planning & Development
City of Bulverde
30360 Cougar Bend
Bulverde, TX 78163
By email: aschell@ortizmcknight.com

RE: Proposed Special Use Permit for a Guest House and Front
Setback Variance for 31880 Jay Bird Lane

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Please accept this letter as notice of my **support** for SUP and variance at 31880 Jay Bird Lane.

Thank you for your consideration,

Name: *Karl McLeay*
Address: *3946 JAY BIRD LANE*
Email: *dentmagic.sa@yahoo.com*



November 12, 2024

Honorable Planning and Zoning Commission
c/o Planning & Development
City of Bulverde
30360 Cougar Bend
Bulverde, TX 78163
By email: aschell@ortizmcknight.com

RE: Proposed Special Use Permit for a Guest House and Front
Setback Variance for 31880 Jay Bird Lane

To the Honorable Planning and Zoning Commissioners:

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Please accept this letter as notice of my **support** for SUP and variance at 31880 Jay Bird Lane.

Thank you for your consideration,

Name: Candace McCoy

Address: 31946 Jay Bird
Bulverde TX

Email: CandaceMcCoy18@gmail.com



BOARD OF ADJUSTMENT DECISION
NO _____

A DECISION OF THE BOARD OF ADJUSTMENT OF THE CITY OF BULVERDE, TEXAS REGARDING A VARIANCE OF THE FRONT SETBACK UNDER SECTION 14.03.004(c), CODE OF ORDINANCES OF THE CITY OF BULVERDE, TEXAS, FOR THE PROPERTY LOCATED AT 31880 JAY BIRD LN, BULVERDE, TEXAS 78163.

WHEREAS, Michael and Martha Vickers have filed an Application for Variance, attached hereto as Exhibit A and incorporated herein for all purposes (the "**Application**"), related to the property located at 31880 JAY BIRD LN, BULVERDE, TEXAS 78163, seeking a variance from the required 50 foot front setback in Section 14.03.004(c) of the City of Bulverde Zoning Ordinance (the "**Ordinance**") to the extent and for the reasons set forth in the Application (the "**Variance**");

WHEREAS, pursuant to Texas Local Government Code §21.1.009(a)(3), the City of Bulverde Board of Adjustment (the "**Board**") has the authority to grant a variance from the terms of the Ordinance if the Board determines that the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of the Ordinance would result in unnecessary hardship, and so that the spirit of the Ordinance is observed and substantial justice is done;

WHEREAS, The concurring vote of 75 percent of the members of the Board is necessary to authorize a variance pursuant to Texas Local Government Code §21.1.009(c).

WHEREAS, The Board conducted a public hearing regarding the Application on the below date;

NOW, THEREFORE, THE BOARD DECIDES THE VARIANCE AS INDICATED BELOW BY THE INITIALS OF THE PRESIDING OFFICER:

_____ By a concurring vote of at least 75 percent of its members, based on the contents of the Application and testimony heard at the public hearing, the Board GRANTS the Variance and finds that the Variance is not contrary to the public interest and, due to special conditions, a literal enforcement of the Ordinance would result in unnecessary hardship, and that the spirit of the Ordinance is observed and substantial justice is done by granting the Variance.

_____ The Variance is DENIED based on the contents of the Application and testimony heard at the public hearing because:

- (A) _____ Less than 75 percent of the members of the Board voted in favor of the Variance; or
- (B) _____ The Board determined by majority vote that the Variance did not satisfy the requirements of Section 21.1.006(a)(3).

