

# City of Wimberley

221 Stillwater, P.O. Box 2027, Wimberley, Texas 78676

**CITY OF WIMBERLEY BOARD OF ADJUSTMENT MEETING**  
**WIMBERLEY CITY HALL-CITY COUNCIL CHAMBERS**  
**221 STILLWATER, WIMBERLEY, TEXAS**  
**NOVEMBER 7, 2016- 6:00 P.M.**

## **AGENDA**

**CALL TO ORDER:**            NOVEMBER 7, 2016 @ 6:00 P.M.

### **CALL OF ROLL**

#### **1.    CONSENT AGENDA**

APPROVAL OF MINUTES OF THE SEPTEMBER 6, 2016 MEETING OF THE BOARD OF ADJUSTMENT.

#### **2.    PUBLIC HEARINGS AND POSSIBLE ACTION**

*(Persons wishing to speak before the Board must register by signing in where indicated by Board Secretary. The Board will follow its adopted order of procedure for considering and acting on a variance request).*

(A)    PUBLIC HEARING AND CONSIDER POSSIBLE ACTION ON CASE NO. BA-16-006, A REQUEST FOR A VARIANCE TO THE SETBACK REQUIREMENTS OF THE CITY OF WIMBERLEY ZONING CODE TO ALLOW FOR AN ENCROACHMENT INTO THE REQUIRED SIDE YARD BUILDING SETBACK FOR A PROPERTY ZONED SINGLE FAMILY RESIDENTIAL 2 (R-2) LOCATED AT 806 RIVER ROAD, WIMBERLEY, HAYS COUNTY, TEXAS. *(TOMAS PALM, APPLICANT)*

(B)    PUBLIC HEARING AND CONSIDER POSSIBLE ACTION ON CASE NO. BA-16-007, A REQUEST FOR VARIANCES TO THE DOMINANT STREET FRONT YARD SETBACK AND MAXIMUM BUILDING HEIGHT REQUIREMENTS FOR A PROPERTY ZONED SINGLE FAMILY RESIDENTIAL 2 (R-2) LOCATED AT 2099 SPOKE HOLLOW ROAD, WIMBERLEY, HAYS COUNTY, TEXAS. *(CHARLES CHADWICK, APPLICANT)*

### 3. BOARD MEMBER REPORTS

- ANNOUNCEMENTS
- FUTURE AGENDA ITEMS

### ADJOURNMENT

*THE BOARD MAY RETIRE INTO EXECUTIVE SESSION AT ANY TIME BETWEEN THE MEETING'S OPENING AND ADJOURNMENT FOR THE PURPOSE OF DISCUSSING ANY MATTERS LISTED ON THE AGENDA AS AUTHORIZED BY THE TEXAS GOVERNMENT CODE INCLUDING, BUT NOT LIMITED TO, HOMELAND SECURITY PURSUANT TO CHAPTER 418.183 OF THE TEXAS LOCAL GOVERNMENT CODE; CONSULTATION WITH LEGAL COUNSEL PURSUANT TO CHAPTER 551.071 OF THE TEXAS GOVERNMENT CODE; DISCUSSION ABOUT REAL ESTATE ACQUISITION PURSUANT TO CHAPTER 551.072 OF THE TEXAS GOVERNMENT CODE; DISCUSSION OF PERSONNEL MATTERS PURSUANT TO CHAPTER 551.074 OF THE TEXAS GOVERNMENT CODE; DELIBERATIONS ABOUT GIFTS AND DONATIONS PURSUANT TO CHAPTER 551.076 OF THE TEXAS GOVERNMENT CODE; DISCUSSION OF ECONOMIC DEVELOPMENT PURSUANT TO CHAPTER 551.087 OF THE TEXAS GOVERNMENT CODE; ACTION, IF ANY, WILL BE TAKEN IN OPEN SESSION.*

### CERTIFICATION

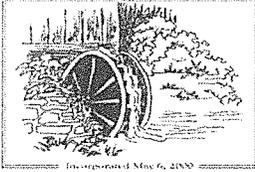
I hereby certify the above Notice of Meeting was posted on the Bulletin Board at the Wimberley City Hall on November 4, 2016 at 6:00 p.m.



\_\_\_\_\_  
Cara McPartland, Assistant City Administrator/City Secretary

The City of Wimberley is committed to compliance with the Americans with Disabilities Act. Reasonable modifications and equal access to communications will be provided upon request. Please contact Don Ferguson, City Administrator, at (512) 847-0025 for information. Hearing-impaired or speech-disabled persons equipped with telecommunication devices for the deaf may call (512) 272-9116 or may utilize the stateside Relay Texas Program at 1-800-735-2988.

# Board of Adjustment Agenda Item Form



Date Submitted: November 4, 2016

Agenda Date Requested: November 7, 2016

**Project/Proposal Title:** APPROVAL OF  
SEPTEMBER 6, 2016 MINUTES OF BOARD OF  
ADJUSTMENT MEETING

**Funds Required:**

**Funds Available:**

**Council Action Requested:**

- Ordinance
- Resolution
- Motion
- Discussion

**Project/Proposal Summary:**

Attached are the minutes for the September 6, 2016 Board of Adjustment meeting for review and consideration.

**City of Wimberley**  
City Hall, 221 Stillwater, Wimberley, Texas  
**Minutes of Board of Adjustment Meeting**  
Tuesday, September 6, 2016 at 6:00 p.m.

The meeting was called to order at 6:00 p.m. by Chair P. Jason Aldridge. Board members present were Dick Larson, Barry Tyler, Rebecca Minnick, and Bill Cline. Boardmember Darin Maroni was absent.

Staff members present: City Administrator Don Ferguson, City Secretary Cara McPartland and Deputy City Attorney Brad Young

**1. Consent Agenda**

Approval of minutes of the July 18, 2016 meeting of the Board of Adjustment.

Boardmember Tyler moved to approve the minutes, as presented. Boardmember Larson seconded. Motion carried on a vote of 5-0.

**2. Discussion and Action**

Discuss and consider possible action regarding an appeal of the city administrator's decision to eliminate the grandfather status for a short-term rental property located at 310 Summit Loop Road, Wimberley, Texas. (*City Administrator*)

City Administrator Ferguson reviewed the City's recent short-term rental compliance effort and advised that property owner Lisa Risoli submitted an application for a Conditional Use Permit (CUP) to operate a vacation rental at 310 Summit Loop. He noted that the application requested a maximum occupancy of ten (10) guests; however, City staff's review of septic records determined a maximum occupancy of five (5) people. He stated that the applicant received notification of the 5-person maximum occupancy limit. Subsequent to the submission of the CUP application and prior to the presentation of the CUP application to the Planning and Zoning Commission, City Council adopted modified provisions for pre-existing, non-conforming short-term rental properties to obtain grandfather status. Rather than proceed with the CUP application, Ms. Risoli sought and received grandfather status for the subject vacation rental facility under the modified provisions. City Administrator Ferguson referenced a letter dated April 14, 2016 to Ms. Risoli advising of the following:

- If the vacation rental facility is expanded, at any point in the future, a CUP will be required.
- The City has the authority to take action up to and including elimination of the grandfather status to address any concerns relating to the vacation rental facility deemed detrimental or hazardous to the health, safety or welfare of nearby residents.
- The maximum occupancy of the vacation rental facility shall not exceed the maximum occupancy for the subject residence, as established by the previously issued septic permit for the residence.

He stated that following the grandfather status determination, City staff received several complaints regarding the vacation rental facility. He noted that investigation of these complaints determined that the facility was expanded with the development of an unpermitted outdoor hot tub (installed on a pad), the maximum occupancy was exceeded on several occasions, and the subject property was being marketed for a maximum occupancy of up to ten (10) people. As a result of the aforementioned violations, the previously granted grandfather status was eliminated by the City and Ms. Risoli was advised of the need to obtain a CUP for her vacation rental facility to continue operations.

City Administrator Ferguson noted that the applicant has appealed the City's decision to eliminate her grandfather status and that such an appeal is subject to consideration and action by the Board and not a matter for City Council. He stated that the applicant is present, as well as Deputy City Attorney Brad Young.

Board discussion included septic permit requirements, notification to applicant Risoli regarding maximum occupancy/complaints/right to appeal, documentation of complaints, complaints from neighbors regarding noise, complaint/remedy procedures, building permit process, and the hot tub installation as an expanded use that would eliminate the subject property's grandfather status and trigger the need for a CUP.

Robbie Walker of Hills of Texas Lodging confirmed his management of Ms. Risoli's vacation rental for the last two years. He stated Ms. Risoli built the home in 2006 and records show it has been used as a vacation rental since 2008. He said no complaints have been received by the City, law enforcement, or any booking agency prior to the granting of grandfather status. He stated that some of the neighbors present at tonight's meeting rented the subject property and used it as a model home their business. He said there was harmony until the City's Code compliance issue came up. He stated State and City hotel occupancy taxes have been paid and everything is in compliance. Mr. Walker noted his phone conversation with City Administrator Ferguson confirming that a hot tub had been installed and that the subject property was being marketed and rented at times for more than five (5) people. Mr. Walker stated that City Council approved the withdrawal of Ms. Risoli's CUP application so that she could seek grandfather status. Mr. Walker cited a septic permit record from Hays County that did not list a maximum occupancy figure and he stated his definition of "grandfather" status. He felt that more than five (5) persons should be allowed under the "grandfather" status determination and that the hot tub is an appliance (such as a picnic table or grill) that is not an expansion of operations. He advised that electrical work was done in order to install the hot tub and pad. Mr. Walker said that his consultations with attorneys did not indicate any expansions of use. He said if the Board comes to the conclusion that the grandfather status has been violated, he felt the penalty is too severe and offered an option to remedy the violation by removing the hot tub and its pad.

Discussion addressed septic permit requirements; Mr. Walker's questions regarding other short-term rentals in violation of maximum occupancy limits; complaints from neighbors; Mr. Walker's handling of parking problems associated with a party given by one of Ms. Risoli's neighbors; and CUP procedures.

Subject property owner Lisa Risoli noted that some of her neighbors have rented her property and she has never received any complaints from them. She said her septic system was evaluated and it will handle more than ten (10) people, which she advised would only be there on weekends. She said she had tried her best to get along with her neighbors, did not understand

why the addition of a hot tub is an expansion, and would never jeopardize her livelihood. Ms. Risoli stressed she has never been contacted by the sheriff, her neighbors use her trash can and house for their businesses, and has tried her best to do the right thing and get along with her neighbors. Discussion addressed Ms. Risoli's re-evaluation of her septic system, hot tub permitting requirements, her willingness to remove the hot tub, her contractor's (Mason Bass) original septic system installation, and Ms. Risoli's statement regarding lack of complaints from neighbors. She said that all of her renters are screened, park on-site, and do not trespass on neighbors' properties. Ms. Risoli did not feel that the City's notification of the 5-person maximum occupancy limitation applied to her property, as her CUP application was withdrawn and she received grandfather status. She felt it unfair for the City to limit her maximum occupancy to five (5) people when there are other people in town doing the same thing.

Jim Wittliff presented a handout to the Board (*attached to these minutes*) and cited email correspondence from Hays County employee Bucky Smith and the subject property's septic permit. Mr. Wittliff provided statistics on the vacation rental's average number of guests per stay (7) and number of nights rented (51). He cited specific portions of City Administrator Ferguson's letter dated April 14, 2016 granting grandfather status and his subsequent letter eliminating grandfather status. Mr. Wittliff also cited sections of the City's Code relating to grandfathered uses and said a hot tub is an appliance legally allowed in a residential zoning district and compared the hot tub addition to adding a picnic table, chairs, or grill. Mr. Wittliff read from a Texas Local Government Code section relating to uniformity of requirements, said there are no maximum occupancy limits stated on the septic permit, and felt that the hot tub is not a non-conforming use for residential properties. He said "the worst you can get her for is putting in twenty (20) feet of underground electric without a permit."

Adjoining property owner William Zinkgraf said he always had a good relationship with Ms. Risoli, but as the commercial use ramped up, with renters every weekend, problems arose with noise and number of vehicles. He referenced a party with seventeen (17) people, who were very loud, and politely asked to be quiet. Mr. Zinkgraf said he was cursed at by renters and the sheriff was called. He also complained of the hot tub's location and activities by hot tub users that he had to shield from his daughters by constructing a building to obstruct the view of the hot tub. He did not like strangers next door, some of whom he said have tried to enter his front door because they were drunk and disoriented. He said the situation has become untenable and noted the negative impact of renters' vehicle traffic on a road that he pays to improve and maintain.

Jennifer Zinkgraf stated she has seen Mr. Walker's truck at the subject property, but would not know how to reach him. She expressed her main concern for her children's safety, as the hot tub has no fence around it and the cover was left off of it for a week. She said there has been no attempt to block off the hot tub and it is a health concern and danger. Mr. and Mrs. Zinkgraf referred to their own property's pool and hot tub, which are gated and alarmed, but said they cannot control their neighbor's hot tub that is nineteen (19) feet from their house.

Jim Wittliff referred to photos of the subject property and the hot tub's location relative to the Zinkgraf's property. He pointed to dense vegetation shielding the hot tub from viewing by the Zinkgrafs. He recognized the Zinkgraf's safety concerns regarding the hot tub and advised that Ms. Risoli is willing to install fencing with a child-proof latch. Ms. Risoli respected Ms. Zinkgraf's opinions and said Ms. Zinkgraf could have contacted her directly to convey her safety concerns, which would have been addressed immediately.

City Administrator Ferguson clarified that fencing is not a Code requirement, but noted that the hot tub needs to be covered when not in use. He also provided clarification on criteria that the City Sanitarian uses when determining maximum occupancy rates and noted that the language in the letter rescinding the grandfather status states that property owners are prohibited from exceeding maximum occupancy “as established by” the septic permit, and not “shown by” the septic permit. He advised that maximum occupancy determinations cannot be made based on the number of days rented. He noted that an expanded use is a zoning issue, with the hot tub marketed as an added amenity that is not comparable to adding chairs.

City Attorney Brad Young offered to answer any questions. Boardmember Minnick asked if there is a documented process for termination of CUPs or grandfather status. City Administrator Ferguson said determinations are made based on the severity of the violations. For nuisance violations, he noted there is a remedy process. Boardmember Minnick understood both sides, but said she had an issue with the notification process. City Administrator Ferguson stated that all grandfathered properties’ owners who received letters from the City have the ability to contact the City if they do not understand the letter and noted that Ms. Risoli continued to market the vacation rental for up to ten (10) people, after she was notified of the five (5) person maximum occupancy limit.

Chairman Aldridge adjourned Open Session and convened Executive Session at 7:02 p.m., pursuant to §551.071 of the Texas Government Code for consultation with legal counsel.

Chairman Aldridge adjourned Executive Session and reconvened Open Session at 7:12 p.m.

No action was taken in Executive Session.

Boardmember Tyler moved to uphold the determination to rescind grandfathered status made by City Administrator Ferguson. Boardmember Cline seconded. Boardmember Larson said that Ms. Risoli has the option to apply for a CUP in the future.

Chairman Aldridge called for a vote as follows: Boardmember Larson, aye; Boardmember Tyler, aye; Boardmember Minnick, aye; Boardmember Cline, aye; and Chairman Aldridge, aye. Motion carried on a vote of 5-0.

#### **4. Board Member Reports**

- Announcements
- Future Agenda Items

City Administrator Ferguson requested that Board members check their schedules for a possible meeting within the next three weeks.

Hearing no announcements or future agenda items, Chairman Aldridge called the meeting adjourned.

**Adjourned at 7:15 p.m.**

Recorded by:

Cara McPartland

These minutes approved on the \_\_\_\_ day of November, 2016.

**APPROVED:**

P. Jason Aldridge, Chair

DRAFT

**Board of Adjustment**  
**September 6, 2016**  
**310 Summit Loop**  
**Appeal of City Administrator's Decision**  
**to Rescind Grandfather Status**

**Septic Approval-**

- The Hays County Environmental Health Department approved this septic for this site on March 22, 2006.
- “This approval remains in effect until such time as there is evidence that this facility *is not operating properly* and may constitute a threat to the health of the people of Hays County.”
- Hays County septic administrator Bucky Smith, stated on August 26, 2016 that he would not be concerned with the site’s 10 person occupancy limit for use of the site 5-6 days per month, so long as the septic system has not showed signs of distress or failure.
- Nowhere on the septic permit is an occupancy limit stated.

**Use of the Site-**

The average number of guests per stay is 7, and the site has been used a total of 51 nights for the period from January 1 through August 26, 2016 (21% of the time) as follows:

January - 6 nights  
February - 2 nights  
March - 6 nights  
April - 5 nights  
May - 8 nights  
June - 6 nights  
July - 13 nights  
August - 5 nights

*\* repeated by  
called*

*\**

**Grandfather Status-**

- Issued April 14, 2016 by City Administrator Don Furgeson to property owner, Lisa Risoli.
- “The City has determined the requirements have been met for the subject short term rental facility to be deemed a pre-existing non-conforming use, also known as a grandfathered use.”
- The short term rental facility must not be expanded, and the facility must not be deemed detrimental or hazardous to the health, safety or welfare of nearby residents or citizens.
- “You are prohibited from exceeding the maximum occupancy for the subject residence, *as established by the previously issued septic permit* for the residence.”

### Letter Rescinding Grandfather Status-

- Rescinded on July 8, 2016 by City Administrator Don Furgeson,
- “The City has determined that you have expanded the facility with the addition of an outdoor hot tub.”
- “You have exceeded the maximum occupancy on several occasions.”
- “As a result of the above mentioned violations, the previously granted grandfather status for your short term rental facility has been eliminated.”

### Wimberley Code of Ordinances-

Section 155.106(A)(2)- “Grandfathered uses and structures shall not be enlarged upon, expanded, or extended and shall not be used as a basis for adding other structures or uses prohibited elsewhere in the same district.”

Section 155.106(E)(3)- “No non-conforming use of land or building shall be enlarged, increased, or extended to occupy a greater area of land than was occupied at the time the land became a non-conforming use, except to provide off-street loading or parking.”

### Texas Local Government Code Section 245.002 - UNIFORMITY OF REQUIREMENTS-

“Each regulatory agency shall consider the approval, disapproval, or conditional approval of an application for a permit solely on the basis of any orders, regulations, ordinances, rules, expiration dates, or other properly adopted requirements in effect at the time:”

# SEPTIC PERMIT



3/23/2006 08:46 AM

## Hays County Environmental Health NOTICE OF APPROVAL FOR ON-SITE SEWAGE FACILITY

THIS IS TO CERTIFY that the on site sewage facility located at:

OSSF #: 2005 - 2320

310 SUMMIT LOOP, WIMBERLEY TX 78676

Grid:

FLITE ACRES LITTLE RANCHES II

Block: Lot: 14  Routine Maintenance

meets or exceeds the basic requirements established by the County.

LICENSE TO OPERATE this facility is hereby granted to the owner. This license simply grants permission to operate this facility; it does not guarantee its successful operation. Routine maintenance and proper functioning are the sole responsibility of the owner.

KEEP THIS LICENSE with important papers. You may need it when selling your house or if a malfunction occurs

Tank Type: Concrete Box Valve: Max Flow: 300 gallons/day

Tank Size: 0 gallons Drainfield Size: 4753 sq. ft.

Installed By: INGRAM, LARRY

Engineered By: JETTON, STEPHEN

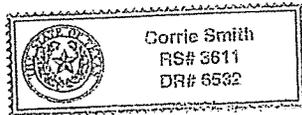
The above referenced private sewage facility has been inspected by the Hays County Health Department for compliance with the Rules of Hays County and, based on information provided in the application, has been found to comply with the requirements of those Rules.

NOTE: This certification does not extend to the materials, workmanship or fabrication of the private sewage facility so as to express or imply to the owner or installer of the facility any warranty by or rights against Hays County or any of its agencies, as to the quality or durability of the facility nor compliance with the owner's individual specifications and requirements, but solely relates to the facility meeting the requirements of Hays County in effect as of this date.

NOTE: This approval simply grants permission to operate this facility; it does not guarantee its successful operation. Routine maintenance and proper functioning are the sole responsibility of the owner.

NOTE: This approval remains in effect until such time as there is evidence that this facility is not operating properly and may constitute a threat to the health of the people of Hays County.

The specified backfill should not be altered or covered in any way except for sodded grass or grass seeded cover to promote evaporation. All plumbing in the house should be kept in good repair to minimize flooding of the drainfield.



COPY

Date of Final Inspection: 3/22/2006

Issued this date: 3-22-06

*Corrie Smith*

*Alan H. Washburn*

Sanitarian

Director, Environmental Health

## Land Answers

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**From:** Bucky Smith <[REDACTED]>  
**Sent:** Friday, August 26, 2016 11:14 AM  
**To:** 'Land Answers'  
**Subject:** RE: Follow-up Question

That is correct. You still are at risk when you over load the system even on a short term basis. It would be a good idea to monitor it after each use and make the occupants aware that they are on a septic system so that they limit water usage.

**From:** Land Answers [mailto:[REDACTED]]  
**Sent:** Friday, August 26, 2016 11:01 AM  
**To:** Bucky Smith  
**Cc:** 'Robbie Walker'  
**Subject:** Follow-up Question

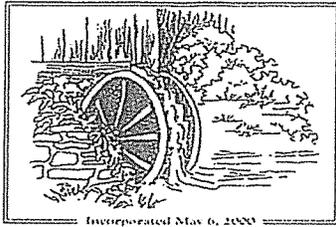
Bucky,

Thank you for your return telephone call this morning, regarding the property at 310 Summit Loop in Wimberley. I understand that this property, which has been used as a short term rental for the past ten years, is not under Hays County jurisdiction, because it is in the Wimberley City limits. However, you stated that if it were under Hays County jurisdiction, you would not be concerned with the site's ten person occupancy limit for use 5-6 days per month, if the septic system has not showed signs of distress or failure. Have I correctly summarized your opinion? Please let me know if you have anything further to add.

Thanks,

Jim Wittliff  
Land Answers, Inc.  
3606 Winfield Cove  
Austin, Texas 78704  
(512) 416-6611

# GRANDFATHER APPROVAL



## City of Wimberley

221 Stillwater, P.O. Box 2027, Wimberley, Texas 78676

Phone: (512) 847-0025 - Fax: (512) 847-0422

Steve Thurber, Mayor - Cindy Anderson, Mayor Pro-Tem

Council Members - Bob Dussler, Mac McCullough, Pam Showalter, John White

Don Ferguson, City Administrator

April 14, 2016

Lisa Risoli  
310 Summit Loop  
Wimberley, Texas 78676

Dear Ms. Risoli:

I am writing this letter in response to your request for grandfather status for an existing short-term rental facility located at 310 Summit Loop, Wimberley, Texas.

Within the City of Wimberley (the "City"), there are short-term rental facilities that have been in existence and in continuous operation for more than five (5) years. Modified provisions adopted by the Wimberley City Council on March 3, 2016, allow such facilities to be grandfathered and continue operations, if no complaint has been received by the City about the subject facility and the property owner has submitted a sworn affidavit to the City indicating the facility has been operated continuously for the five (5) years preceding the date of the affidavit.

It is your contention that the above-mentioned short-term rental facility has been in operation at the subject location for five (5) years prior to March 10, 2016. The following information was provided to the City to support your claim:

- A sworn affidavit from Lisa Risoli certifying that she owns the property located at 310 Summit Loop, Wimberley, Texas, and the subject property has been operated on a continuous basis for the five (5) years preceding March 10, 2016, as a short-term rental facility.

Upon review of the information provided, and with no documentation of a complaint having been previously received by the City regarding the subject short-term rental facility, the City has determined the requirements have been met for the subject short-term rental facility to be deemed a pre-existing non-conforming use, also known as a grandfathered use.

If the above-referenced short-term rental facility is expanded at any point in the future, a Conditional Use Permit (the "CUP") will be required.

Should the facility in the future be deemed detrimental or hazardous to the health, safety, or welfare of nearby residents or citizens, the City has the authority to take action to address such concerns or even eliminate the grandfather status altogether and require a CUP be obtained for the vacation rental facility to continue to operate.

Also, please be advised, in your operation of the subject short-term rental facility, you are prohibited from exceeding the maximum occupancy for the subject residence, as established by the previously issued septic permit for the residence.

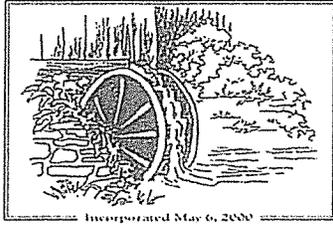
I hope this information helps resolve your concerns. If you have any questions or need further information, please feel free to contact me at 512. 847.0025.

Sincerely,

A handwritten signature in black ink, appearing to read 'Don Ferguson', written over the printed name.

Don Ferguson  
City Administrator

# GRANDFATHER STATUS RESCINDED



## City of Wimberley

221 Stillwater, P.O. Box 2027, Wimberley, Texas 78676

Phone: (512) 847-0025 - Fax: (512) 847-0422

Mac McCullough, Mayor - John White, Mayor Pro-Tem

Council Members - Bob Dussler, Craig Fore, Sally Trapp, Gary Barchfeld

Don Ferguson, City Administrator

July 8, 2016

Lisa Risoli  
310 Summit Loop  
Wimberley, Texas 78676

Dear Ms. Risoli:

I am writing this letter regarding your existing short-term rental facility located at 310 Summit Loop, Wimberley, Texas.

On April 14, 2016, you were advised in a letter from the City of Wimberley (the "City") that the above-mentioned short-term rental facility had been deemed a pre-existing non-confirming use, also known as known as a grandfathered use. That same letter informed you that expansion of the facility, at any point in the future, would eliminate the grandfather status and require you to secure a Conditional Use Permit (the "CUP") for the facility to continue to operate. In addition, the referenced letter advised that you are prohibited from exceeding the maximum occupancy for the subject residence, as established by the previously issued septic permit for the residence.

In the months following the grandfather status determination, the City received several complaints regarding your short-term rental facility. These complaints were investigated, and the City has determined that you have expanded the facility with the addition of an outdoor hot tub, and that you have exceeded the maximum occupancy on several occasions.

As a result of the above-mentioned violations, the previously granted grandfather status for your short-term rental facility has been eliminated. As such, you must apply for and be granted a CUP for short-term rental operations to continue on the property.

Please be advised that you have ten (10) days from the date of this letter to cease operation of your short-term rental facility. The short-term rental facility shall remain closed until such time as a CUP authorizing the short-term rental facility has been secured from the City. Failure to comply with this notice will result in the City's instituting legal action to enforce compliance.

In the event that you wish to appeal this decision to the Zoning Board of Adjustment, you must do so within 60 days from the date of this letter. In the event you have any questions regarding this matter, please feel contact me at 512.847.0025.

Sincerely,



Don Ferguson  
City Administrator

Lisa Risoli  
4303 Compton Circle  
Bellaire, TX 77401

August 12, 2016

Don Ferguson  
Wimberley City Administrator  
1211 Ranch Road 12  
Wimberley, TX 78676

CC: Law Offices of J. Patrick Sutton  
Law Offices of Terrance L. Irion

Re: Request Appeal to the Board of Adjustments regarding Removal of Grandfather Status,  
at 310 Summit Loop Dr., Wimberley, TX 78676

Mr. Ferguson,

We disagree with your findings and do protest your decision that there was an expansion of operations or excessive number of guests at 310 Summit Loop Dr., Wimberley, TX 78676 and request this matter be appealed to the Wimberley Board of Adjustments.

There has been no activity initiated on this property to create a situation whereby operations have been expanded. An amenity was added for the comfort and health of me, the homeowner, as I have bad knees and when I visit the property I need the hot water stimulation to help with the pain.

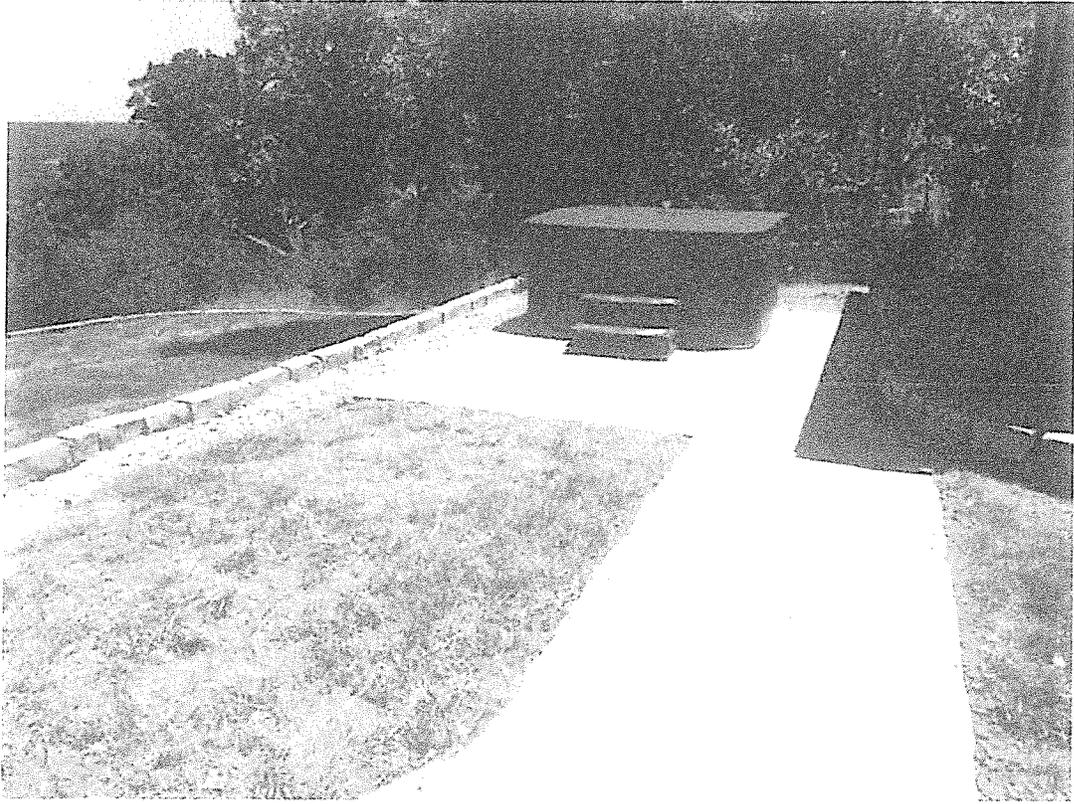
Secondly, we disagree with the loss of grandfathering due to an occasional excess of guest of 5 people. First, this would be an excessive and extreme penalty for a first offense, but furthermore there should be no limit of 5 people due to the nature of a "grandfather clause" in this case my property being unfairly treated vs. the other grandfathered properties granted by the City. The other grandfathered properties were not evaluated by the City for septic capabilities due to the nature of grandfathering they were allowed to operate as they have been. My property is being unfairly targeted because I originally applied for a CUP as instructed by the City, but later exercised my right for grandfather status after the City Council afforded that to me and others. Since we were half way through the CUP process when the City Council approved grandfather status for those properties that had been renting for 5+ years, the septic had been evaluated for my property before withdrawing my CUP application, which would not have occurred if we had been told about the grandfather option to begin with, and the septic would not have been evaluated like the others grandfathered, and we would have continued renting with a maximum of 10 people which has been done for more than 5 years and continues to be as my rights under the "grandfather status". You cannot impose new

regulations on one owner and not all of the others and the nature of grandfather status allows you to continue to operate as you have for the last 10 years which has been a capacity of 10 people.

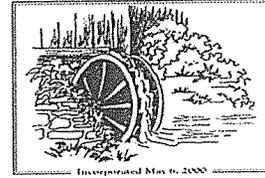
Sincerely,

Lisa Risoli  
Homeowner  
310 Summit Loop Dr.  
Wimberley, TX 78676

*email*



# Report for Board of Adjustment BA-16-006



**Summary:**

The applicant has requested a variance to allow for an encroachment of ten (10) feet into the required side yard building setback for a property located at 806 River Road

**Applicant Information:**

**Applicant:** Tomas Palm  
**Property Owner:** Equity Trust Co./FBO Tomas Palm, Roth IRA  
 P.O. Box 2767  
 Wimberley, TX

**Subject Property:**

**Legal Description:** River Road Terrace, Lot 1A (0.57 acres)  
**Location:** 806 River Road  
**Existing Use of Property:** Residential  
**Existing Zoning:** Single Family Residential 2 (R-2)  
**Proposed Use of Property:** Residential  
**Planning Area:** II  
**Overlay District:** Protected Waterway

**Surroundings:**

**Frontage On:** River Road, River Road Circle  
**Area Zoning and Land Use Pattern:**

	Current Zoning	Existing Land Use
N of Property	R-2	Residential
S of Property	R-2	Residential
E of Property	R-2	Residential
W of Property	R-2	Residential

**Legal Notice**

**200' Letters Published:** 10/10/16  
**Sign Placement:** 10/6/16  
**Responses:** 10/12/16  
 None

**Comments:**

The applicant, Tomas Palm, is seeking a variance from the City's building setback requirements to allow a planned carport for an existing single-family residence to encroach into the required side yard setback for a property located at 806 River Road. The property is located in Planning Area II and zoned Single Family Residential 2 (R-2).

The applicant is proposing to construct a carport that would encroach five (5) feet into the required ten (10) foot side yard setback. It should be noted that the applicant owns both the property for which the variance is being sought and the property adjacent to location of the proposed encroachment.

The applicant states the encroachment is necessary due to the location of the existing house on the property and to minimize tree removal.

To date, City staff has received no comments opposing the requested variance.

SEP 19 2016  
BY: \_\_\_\_\_

FOR OFFICIAL USE ONLY

APPLICATION DATE: \_\_\_\_\_ FILE NO. \_\_\_\_\_

HEARING DATE: \_\_\_\_\_ PLANNING AREA: \_\_\_\_\_ ZONING: \_\_\_\_\_

VARIANCE FEES: \$ \_\_\_\_\_ DATE PAID: \_\_\_\_\_ RECEIVED BY: \_\_\_\_\_

## City of Wimberley APPLICATION FOR VARIANCE

OWNER/AGENT INFORMATION

1. Owner's Name: Equity Trust Co. Home Phone: ( ) \_\_\_\_\_  
FBO Tomas Palm Business Phone: ( ) \_\_\_\_\_  
Roth IRA Cell Phone: (713) 725-2936  
 Fax: ( ) \_\_\_\_\_

Current Mailing  
 Address: P.O. Box 2767 City Wimberley State TX Zip 78676  
 Email: \_\_\_\_\_

2. Agent's Name: \_\_\_\_\_ Business Phone: ( ) \_\_\_\_\_  
 (Must be accompanied by letter of authorization from owner) Cell: ( ) \_\_\_\_\_

Current Mailing  
 Address: \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
 Email: \_\_\_\_\_

PROJECT DATA

1. Property ID#: R \_\_\_\_\_ (Appears on your Tax Statement) Present Zoning: R

Street Address of Project: 806 River Road Wimberley, Texas 78676  
 (Note: If you do not have an assigned street address, please call 512-393-2160 Directions to Project)

Subdivision: River Rd Terrace Lot: 1A Block: \_\_\_\_\_ Recorded in Vol. \_\_\_\_\_ Page \_\_\_\_\_

2. IS PROPERTY IN AN OVERLAY DISTRICT? YES \_\_\_\_\_ NO \_\_\_\_\_ UNKNOWN ✓  
 TYPE OF OVERLAY ZONE(S) (if applicable) \_\_\_\_\_

Project Data (Continued)

3. FLOOD PLAIN (What, if any, flood zone does your property Occupy?): \_\_\_\_\_

4. WASTEWATER SYSTEM: (✓) Septic; ( ) Aqua Utility; ( ) GBRA  
HAYS COUNTY SEPTIC PERMIT NUMBER (if applicable): \_\_\_\_\_

5. Directions to your Project: Corner of 800 block of River Road  
and River Road Circle

Please clearly mark your property so it is easily identifiable.

SPECIFIC SECTIONS OF ZONING ORDINANCE NO. 2001-010 FOR WHICH A VARIANCE IS REQUESTED:

- Building set back is 15 feet. Need a 10 feet deviation to build carport
- Same owner as the property next door

REASON FOR NEED OF VARIANCE (Attach separate sheet if necessary)

- Want to add a 2-car carport, with some storage
- This is the only realistic location,
- other side of the house is too close to River Road Circle
  - The backside of the house faces the river, no access
  - Front of the house
  - one side has 2 mature trees
  - other side is where house-entrance door is located

**ACKNOWLEDGMENT OF EXISTING  
Subdivision Plat Notes, Deed Restrictions Restrictive Covenants  
and/or Zoning Conditional Use Permits**

I, the Applicant herein, have checked the subdivision plat notes, deed restrictions, restrictive covenants and/or zoning conditional use permits prohibiting certain uses and/or requiring certain development restrictions (for example, height, access, screening) on the property for which a variance is now being considered on my behalf.

If a conflict should result with the request I am submitting to the City of Wimberley due to subdivision plat notes, deed restrictions, restrictive covenants and/or which do not conform with the City ordinances, it will be my responsibility to resolve it. I also acknowledge that I understand the implications of use and/or development restrictions that are a result of subdivision plat notes, deed restrictions, restrictive covenants and/or zoning ordinances.

I understand that if requested, I must provide copies of any and all subdivision plat notes, deed restrictions, restrictive covenants and/or zoning conditional use permit information, which may apply to this property.

Date: 9-19-18

APPLICANT Thomas Palm

SIGNATURE [Signature]

WHEN APPLICABLE:

Date: \_\_\_\_\_

AGENT \_\_\_\_\_

SIGNATURE \_\_\_\_\_

**SITE INSPECTION AUTHORIZATION**

Applicant/owner, or Applicant's authorized agent, hereby authorizes the City of Wimberley Board of Adjustment Members and City representatives to visit and inspect the property for which this application is being submitted.

Date: 9-19-18

APPLICANT Thomas Palm

SIGNATURE [Signature]

WHEN APPLICABLE:

Date: \_\_\_\_\_

AGENT \_\_\_\_\_

SIGNATURE \_\_\_\_\_

SUBMITTAL CHECKLIST

TO ENSURE THAT YOU HAVE COMPLIED WITH THE VARIANCE APPLICATION REQUIREMENTS, REVIEW THE FOLLOWING LIST. GRANTING OF A VARIANCE IS CONDITIONAL ON MEETING THE FOLLOWING REQUIREMENTS:

FAILURE TO COMPLY WITH THE REQUIREMENTS MAY CAUSE A DELAY IN PROCESSING YOUR APPLICATION.

- (✓) Complete "Application for Variance"
  - ( ) Provide plat map of property to which variance applies.
  - ( ) Provide names and addresses of property owners within 200 feet of any portion of Applicant's property.
  - (✓) Provide a legal description of the property to which variance applies.
  - (✓) Sign/date Submittal Verification form.
  - ( ) Sign/date Site Inspection Authorization form.
  - (✓) Sign/date Acknowledgement Form.
  - (✓) Pay Variance Fee (this fee is based on the cost of services incurred by the City of Wimberley in reviewing, processing and recording this variance request).
  - (✓) Applicant agrees to attend the Board of Adjustment Public Hearing.
  - ( ) **I have reviewed the Conditions Required and believe they are met:** (Wimberley Zoning Ordinance No. 2001-010, Section 10) No variance shall be granted without first giving public notice and conducting a public hearing on the variance request in accordance with Section 10.8, and unless the Board of Adjustment makes specific, written findings of fact as follows:
    1. That there are special circumstances or conditions affecting the property involved such that the strict application of the provisions of the Zoning Ordinance would (a) deprive the applicant of the reasonable use of the property; and (b) create an unnecessary hardship in the development of the property; and
    2. That such circumstances and conditions are (a) not self-imposed; (b) not based solely on economic gain or loss; and (c) do not generally affect most properties in the vicinity of the property.
    3. The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant;
    4. The variance if granted will not: (a) adversely affect the public health, safety or welfare; (b) be contrary to the public interest and (c) be injurious to or adversely affect the orderly use of other property within the area;
-

5. The property involved is otherwise in compliance with all other applicable City ordinances, rules and regulations; and

6. The granting of the variance will be in harmony with the spirit and purpose of this ordinance.

**Special Circumstances:**

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**SUBMITTAL VERIFICATION AND/OR WAIVER OF APPEARANCE**

My signature attests to the fact that the attached application package is complete and accurate to the best of my knowledge. I understand that City review of this Application is dependent upon the accuracy of the information provided and that any inaccurate or inadequate information provided by me, my firm, or agent, may delay the review of the Application.

Date: 9-19-18

APPLICANT James Palm

SIGNATURE [Signature]

**WHEN APPLICABLE:**

Date: \_\_\_\_\_

AGENT \_\_\_\_\_

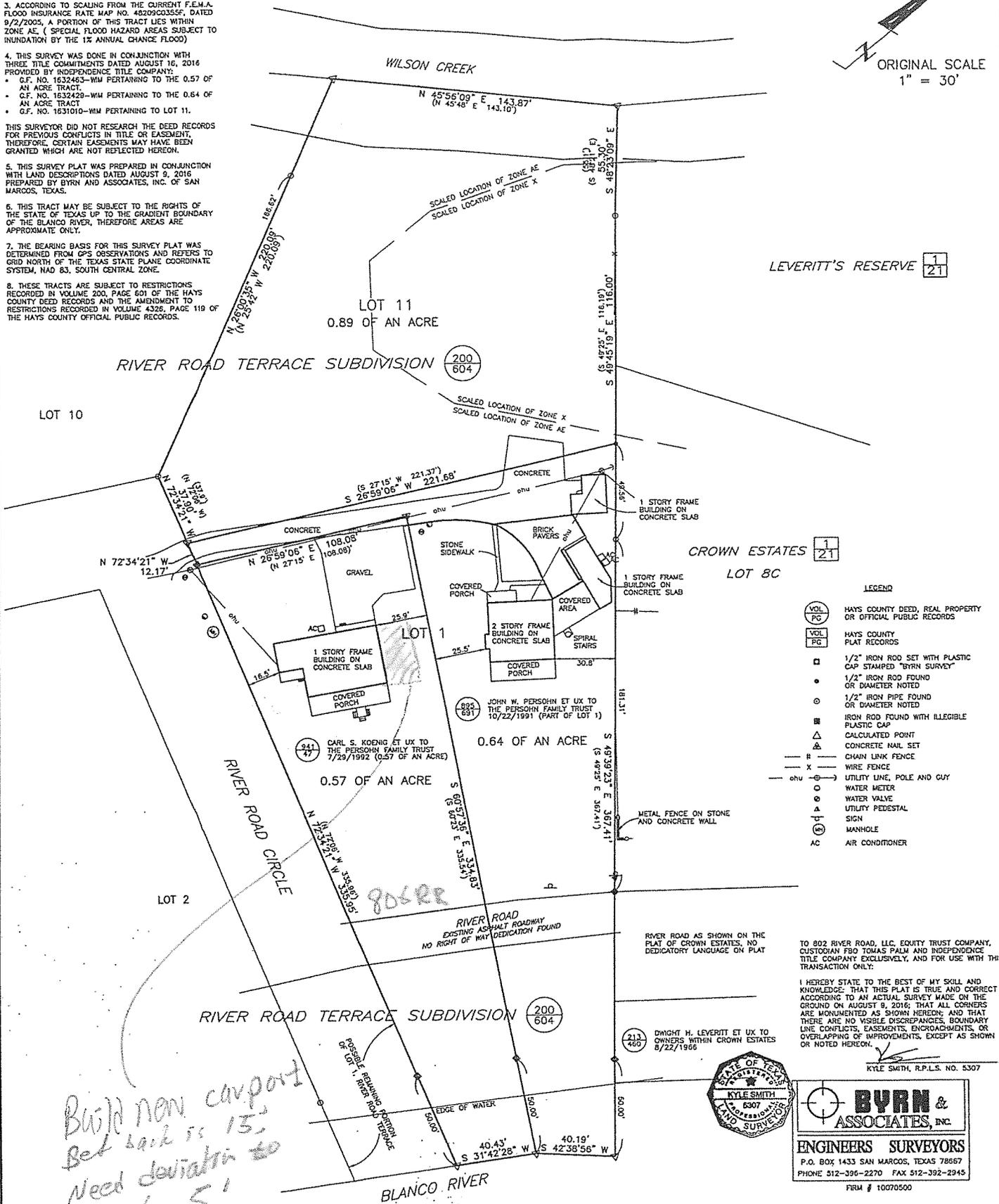
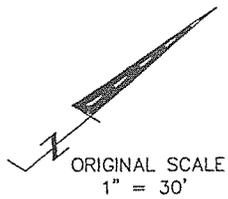
SIGNATURE \_\_\_\_\_

Don Ferguson

**SURVEYOR'S NOTES**

1. FENCES MEANDER.
2. BEARINGS, DISTANCES AND AREAS IN PARENTHESES ARE FROM RECORD INFORMATION.
3. ACCORDING TO SCALING FROM THE CURRENT F.E.M.A. FLOOD INSURANCE RATE MAP NO. 48209C0355F, DATED 9/2/2005, A PORTION OF THIS TRACT LIES WITHIN ZONE AE. (SPECIAL FLOOD HAZARD AREAS SUBJECT TO INUNDATION BY THE 1% ANNUAL CHANCE FLOOD)
4. THIS SURVEY WAS DONE IN CONJUNCTION WITH THREE TITLE COMMITMENTS DATED AUGUST 16, 2016 PROVIDED BY INDEPENDENCE TITLE COMPANY:
  - G.F. NO. 1632463-WM PERTAINING TO THE 0.57 OF AN ACRE TRACT.
  - G.F. NO. 1632429-WM PERTAINING TO THE 0.64 OF AN ACRE TRACT
  - G.F. NO. 1631010-WM PERTAINING TO LOT 11.
5. THIS SURVEYOR DID NOT RESEARCH THE DEED RECORDS FOR PREVIOUS CONFLICTS IN TITLE OR EASEMENT, THEREFORE, CERTAIN EASEMENTS MAY HAVE BEEN GRANTED WHICH ARE NOT REFLECTED HEREON.
6. THIS SURVEY PLAT WAS PREPARED IN CONJUNCTION WITH LAND DESCRIPTIONS DATED AUGUST 9, 2016 PREPARED BY BYRN AND ASSOCIATES, INC. OF SAN MARCOS, TEXAS.
7. THIS TRACT MAY BE SUBJECT TO THE RIGHTS OF THE STATE OF TEXAS UP TO THE GRADIENT BOUNDARY OF THE BLANCO RIVER, THEREFORE AREAS ARE APPROXIMATE ONLY.
8. THE BEARING BASIS FOR THIS SURVEY PLAT WAS DETERMINED FROM GPS OBSERVATIONS AND REFERS TO GRID NORTH OF THE TEXAS STATE PLANE COORDINATE SYSTEM, NAD 83, SOUTH CENTRAL ZONE.
9. THESE TRACTS ARE SUBJECT TO RESTRICTIONS RECORDED IN VOLUME 200, PAGE 601 OF THE HAYS COUNTY DEED RECORDS AND THE AMENDMENT TO RESTRICTIONS RECORDED IN VOLUME 4326, PAGE 119 OF THE HAYS COUNTY OFFICIAL PUBLIC RECORDS.

LOT 11, WILSON CREEK SUBDIVISION 1/47



LEVERITT'S RESERVE 1/21

CROWN ESTATES 1/21  
LOT 8C

- LEGEND**
- VOL HAYS COUNTY DEED, REAL PROPERTY OR OFFICIAL PUBLIC RECORDS
  - PG HAYS COUNTY PLAT RECORDS
  - 1/2" IRON ROD SET WITH PLASTIC CAP STAMPED "BYRN SURVEY"
  - 1/2" IRON ROD FOUND OR DIAMETER NOTED
  - 1/2" IRON PIPE FOUND OR DIAMETER NOTED
  - IRON ROD FOUND WITH ILLIBLEGIBLE PLASTIC CAP
  - △ CALCULATED POINT
  - ▲ CONCRETE NAIL SET
  - CHAIN LINK FENCE
  - WIRE FENCE
  - ohu ○ UTILITY LINE, POLE AND CUY
  - WATER METER
  - WATER VALVE
  - UTILITY PEDESTAL
  - SIGN
  - MANHOLE
  - AC AIR CONDITIONER

TO 802 RIVER ROAD, LLC, EQUITY TRUST COMPANY, CUSTODIAN FBO TOMAS PALM AND INDEPENDENCE TITLE COMPANY EXCLUSIVELY, AND FOR USE WITH THIS TRANSACTION ONLY.

I HEREBY STATE TO THE BEST OF MY SKILL AND KNOWLEDGE, THAT THIS PLAT IS TRUE AND CORRECT ACCORDING TO AN ACTUAL SURVEY MADE ON THE GROUND ON AUGUST 9, 2016; THAT ALL CORNERS ARE MONUMENTED AS SHOWN HEREON; AND THAT THERE ARE NO VISIBLE DISCREPANCIES, BOUNDARY LINE CONFLICTS, EASEMENTS, ENCROACHMENTS, OR OVERLAPPING OF IMPROVEMENTS, EXCEPT AS SHOWN OR NOTED HEREON.

KYLE SMITH, R.P.L.S. NO. 5307

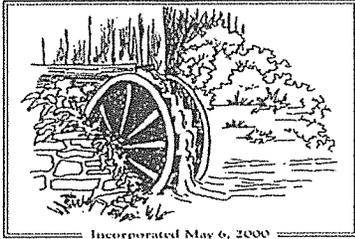


**BYRN & ASSOCIATES, INC.**  
ENGINEERS SURVEYORS  
P.O. BOX 1433 SAN MARCOS, TEXAS 78667  
PHONE 512-396-2270 FAX 512-392-2945  
FIRM # 10070500

*Build new carport  
Bet back is 15'  
Need deviation to  
60 S!*

CLIENT: AHLGREN, CAROL  
DATE: 8/9/2016  
OFFICE: KC-SMITH  
CREW: C. SMITH, LOZANO  
FB/PG: 741/71  
PLAT NO. 27302-16-c

PLAT OF LOTS 1 AND 11, RIVER ROAD TERRACE, CITY OF WIMBERLEY, HAYS COUNTY, TEXAS



# City of Wimberley

221 Stillwater, P.O. Box 2027, Wimberley, Texas, 78676

Phone: (512) 847-0025 - Fax: (512) 847-0422

Mac McCullough, Mayor - John White, Mayor Pro-Tem  
Council Members - Bob Dussler, Craig Fore, Sally Trapp, Gary Barchfeld  
Don Ferguson, City Administrator

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October 10, 2016

## NOTICE OF PUBLIC HEARING

Re: **File No. BA-16-006**  
**Side Yard Building Setback Variance**  
806 River Road

Dear Property Owner:

You are receiving this letter because you own property within 200 feet of the above-referenced location.

The applicant, Tomas Palm, has requested a variance from the City of Wimberley Code requirements to allow for an encroachment into the required side yard building setback on property located at 806 River Road, Wimberley, Texas. The City of Wimberley Zoning Board of Adjustments will consider this request at a public hearing on **Monday, October 17, 2016, at 6:00 p.m.** in the Wimberley City Hall, 221 Stillwater.

Because the granting of this request may affect your property, you are encouraged to participate in the zoning process. The public will be given an opportunity to speak during the hearing. If you wish to comment but are unable to attend, written comments may be submitted to the City Administrator prior to the meeting.

Additional information regarding the proposed zoning is available for public review at City Hall during normal business hours. Should you have questions, please contact the City Administrator at 512-847-0025.

**CITY OF WIMBERLEY**

MARTINEZ, BRIAN G & PAMELA K  
3600 SAN JACINTO ST  
HOUSTON, TX 77004-3920

RIVER ROAD TERRACE HOME  
OWNERS  
DAVID DORRANCE  
2027 VALLERIA COURT  
SUGAR LAND, TX 77479

FORBES, MARION G & FORBES  
ARONDA MAYOR, FORBES  
BETTIE  
3809 ELY CREEK DR #525  
HOUSTON, TX 77057

JUDD, COLLEEN M REV TRUST  
COLLEEN M JUDD TRUSTEE  
102 DEER CROSSING LN  
WIMBERLEY, TX 78676-5619

DIENTS, STACY D & JEANNINE E  
1620 S FRIENDSWOOD DR., #194  
FRIENDSWOOD, TX 77546-5408

CHONG, JERRY R  
2320 ROBINSON CT APT 1807  
HOUSTON, TX 77058

CAREY, R H  
6702 SAINT ANDREWS WAY  
AUSTIN, TX 78746

BRID, BRADLEY FIELDS  
1111 ELYS WAY  
175 SUNSET BLVD  
HOUSTON, TX 77058-1718

BARRINGTON, FRANCES FAMILY  
TRUST  
433 LEVERITTS LOOP  
WIMBERLEY, TX 78676-9470

DE LOACH, A SA  
315 A BERRY LN  
AUSTIN, TX 78704

BLAIR, BARBARA CARSON TRUST  
BLAIR BARBARA CARSON TRUSTEE  
429 LEVERITTS LP  
WIMBERLEY, TX 78676

SHIMON, BOMBER  
10800 EYE BROOK  
HOUSTON, TX 77058

PERSOHN FAMILY TRUST THE  
4201 MONTEREY OAKS BLVD  
APT. #1120  
AUSTIN, TX 78749-1030

CLARK, BEVERLY STANLEY  
818 W. BERRY DR  
WIMBERLEY, TX 78676

POLHEMUS, PAUL & CARMEN E  
PO BOX 483  
WIMBERLEY, TX 78676

MEDDEN, HORACE & CARMELINE  
1111 HICKORY RIDGE  
HOUSTON, TX 77058

FARMER, PAULA A & SUSAN M  
1018 HIGHLAND ST  
HOUSTON, TX 77009-6515

FEMIN, MICHAEL & SUSAN  
811 DEER CROSSING LN  
WIMBERLEY, TX 78676

HUTCHINSON, LINDY POOL  
TRUST/TRUSTEE  
904 RIVER RD  
WIMBERLEY, 78676

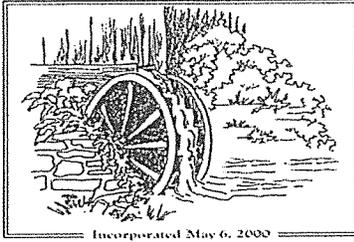
WILLIAMS, BOB  
801 DEER CROSSING LN  
WIMBERLEY, TX 78676



CLARK, DEBBIE  
1111 MICHAEL BROAD &  
WILLIAM CLARK  
100 GLENWAY AVE  
HOUSTON, TX 77058

**NOTICE OF  
PUBLIC HEARING  
(Request for Variance)**

Notice is hereby given that the City of Wimberley Board of Adjustment will hold a public hearing at the Wimberley City Hall on Monday, October 17, 2016, at 6:00 p.m. to consider the following: BA-16-006 – an application for a variance from the City of Wimberley Zoning Code to allow for an encroachment into to the required side yard setback for a property located at 806 River Road, Wimberley, Texas. Following the public hearing, the Board of Adjustment will consider action regarding the subject variance request. Comments on this request from any member of the public may be presented in person or by mail (PO Box 2027) at City Hall prior to the hearing. The public will be granted an opportunity to speak at the hearings. Additional information concerning the proposed action is available for review at the Wimberley City Hall, 221 Stillwater, Wimberley, Texas.



# City of Wimberley

221 Stillwater, P.O. Box 2027, Wimberley, Texas, 78676

Phone: (512) 847-0025 – Fax: (512) 847-0422

E-mail: [www.cityofwimberley.com](http://www.cityofwimberley.com); [www.cityofwimberley.com](http://www.cityofwimberley.com)

## NOTICE BY SIGN POSTING

Zoning No: BA-16-006

Owner \_\_\_\_\_

Date 10/12/16

To: Code Enforcement/Public Works

Please place a Proposed Zoning Sign on the following property

( ) Project Site Address 806 River Road

which is located River Road Circle & River Road

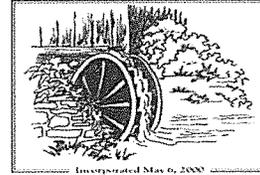
Bill Bowers  
Asst. Public Works

Note: The above-referenced sign was placed on the subject property on

10/12/16, 2016

  
\_\_\_\_\_  
Signature

# Report for Board of Adjustment BA-16-007



## Summary:

The applicant has requested variance relating to the maximum allowable building height and dominant street front yard setback for a property located at 2099 Spoke Hollow Road

## Applicant Information:

**Applicant:** Charles Chadwick  
**Property Owner:** Charles Chadwick  
 18758 E. Cool Breeze Lane  
 Montgomery, TX 77356-4978

## Subject Property:

**Legal Description:** ABS 368 HG Pannell Survey (1.16 acres)  
**Location:** 2099 Spoke Hollow Road  
**Existing Use of Property:** Vacant  
**Existing Zoning:** Single Family Residential 2 (R-2)  
**Proposed Use of Property:** Residential  
**Planning Area:** I  
**Overlay District:** Protected Waterway Overlay District

## Surroundings:

**Frontage On:** Spoke Hollow Road

**Area Zoning and Land Use Pattern:**

	Current Zoning	Existing Land Use
<b>N of Property</b>	R-2	Residential
<b>S of Property</b>	ETJ	Residential
<b>E of Property</b>	R-2	Residential
<b>W of Property</b>	R-1	Residential

## Legal Notice

**200' Letters Published:** 10/28//16  
**Sign Placement:** 10/27/16  
**Responses:** 10/31/16  
 One (1) inquiry

## Comments:

The applicant, Charles Chadwick, is seeking a variance from the City's requirements relating to the maximum allowable building height and dominant street front yard setback for a proposed new residence. The subject property is located at 2099 Spoke Hollow Road. The property is currently vacant. It is located in Planning Area I, zoned Single Family Residential 2 (R-2) and within the boundaries of the *Protected Waterway Overlay District*.

The applicant is proposing to construct a new one-story residence on the subject property to replace a residence that was destroyed by the 2015 Memorial Day Weekend Flood. To comply with the City's Flood Prevention Ordinance and the Advisory Base

Flood Elevation ("ABFE"), the applicant is proposing to elevate the lowest floor (including the basement) of the new residence to 823 feet, one foot above the ABFE of 822 feet. Elevating the lowest floor of the new residence is intended to further protect the structure from flooding. As a result of the planned elevation, the maximum building height of the new residence could reach forty (40) feet or five (5) feet above the maximum allowable building height of thirty-five (35).

The applicant indicated relocating the building site on the property to reduce the overall building height is not possible due to the varied topography of the lot and the location of the floodplain on the property.

In addition to the requested building height variance, the applicant is also seeking a variance to allow the new residence to encroach eight (8) feet into the required forty (40) foot dominant front yard setback. The varied topography of the lot and a desire to move the new residence away from the Blanco River for minimize the risk of flooding are the reasons cited for the setback variance.

To date, City staff has received one (1) inquiry regarding the requested variances.

Upon review of the application, City staff recommends approval of the requested variances relating to the maximum allowable building height and dominant street front yard setback.

AMENDED FOR HEIGHT VARIANCE

OCT 21 2016  
BY: \_\_\_\_\_

FOR OFFICIAL USE ONLY

APPLICATION DATE: \_\_\_\_\_ FILE NO. \_\_\_\_\_

HEARING DATE: \_\_\_\_\_ PLANNING AREA: \_\_\_\_\_ ZONING: \_\_\_\_\_

VARIANCE FEES: \$ \_\_\_\_\_ DATE PAID: \_\_\_\_\_ RECEIVED BY: \_\_\_\_\_

## City of Wimberley APPLICATION FOR VARIANCE

OWNER/AGENT INFORMATION

1. Owner's Name: CHARLES E. CHADWICK & CHARLOTTE CHADWICK Home Phone: (X) 936-582-4954  
 Business Phone: ( ) \_\_\_\_\_  
 Cell Phone: (X) 932-654-6156  
 Fax: (X) 936-582-4954

Current Mailing  
 Address: 18758 E. COOL BREEZE LN City MONTGOMERY State TX Zip 77356  
 Email: \_\_\_\_\_

2. Agent's Name: \_\_\_\_\_ Business Phone: ( ) \_\_\_\_\_  
 (Must be accompanied by letter of authorization from owner) Cell: ( ) \_\_\_\_\_

Current Mailing  
 Address: \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
 Email: \_\_\_\_\_

PROJECT DATA

1. Property ID#: R 17279 (Appears on your Tax Statement) Present Zoning: \_\_\_\_\_  
 Street Address of Project: 2099 SPOKE HOLLOW ROAD, Wimberley, Texas 78676  
 (Note: If you do not have an assigned street address, please call 512-393-2160 Directions to Project)  
 Subdivision: NONE Lot: — Block: — Recorded in Vol. \_\_\_\_\_ Page \_\_\_\_\_

2. IS PROPERTY IN AN OVERLAY DISTRICT? YES \_\_\_\_\_ NO \_\_\_\_\_ UNKNOWN \_\_\_\_\_  
 TYPE OF OVERLAY ZONE(S) (if applicable) \_\_\_\_\_

*Handwritten:*  
 CAC  
 10/19/16

**Project Data (Continued)**

3. FLOOD PLAIN (What, if any, flood zone does your property Occupy?): AE 100yr

4. WASTEWATER SYSTEM: () Septic; ( ) Aqua Utility; ( ) GBRA  
 HAYS COUNTY SEPTIC PERMIT NUMBER (if applicable): \_\_\_\_\_

5. Directions to your Project: \_\_\_\_\_

- Must take Spoke Hollow Road off RR 12 (on East side of RR 12 and South of Blanco River)
- Go about 2 miles on Spoke Hollow Rd to location. (GPS most likely won't accurately locate property).
- After crossing the 3rd cattle guard, go down hill across seasonal creek and up hill. Note sign on cedar rail fence with 2099  ← ARROW indicating entrance to left. Spoke Hollow road will swing to right and then a sharp left turn.

Please clearly mark your property so it is easily identifiable.

**SPECIFIC SECTIONS OF ZONING ORDINANCE NO. 2001-010 FOR WHICH A VARIANCE IS REQUESTED:**

TWO (2) VARIANCES Chapter 155: zoning #155.037 Single Family Residential 2: R-2

(D) Development Regulations

- |                            |     |   |
|----------------------------|-----|---|
| (3) Minimum Set Back       | and | (2) Maximum Building height as defined in 155.005       |
| (a) Dominate Street: 40 ft |     | (a) Primary Residential Bldg: Max 35' with pitched roof |

**REASON FOR NEED OF VARIANCE (Attach separate sheet if necessary)**

SEE ATTACHED (NEXT PAGE)

UPDATED PAGE 2A 10/19/16

*CR*  
CPC

**REASONS FOR NEED OF VARIANCES**

**(Chadwick property - 2099 Spoke Hollow Rd)**

**1) Reasons for variance to the 40 ft set back distance from a dominate street:** We want to comply with the CITY OF WIMBERLEY'S ORDINANCES AND maximize safety for my family when the next flood occurs. We are requesting a Variance to the required 40 ft set back distance from a Dominate street. Our house was built in 1972 before flood plains were established or minimum set backs established. The flood of May 2015 destroyed our house and it had to be removed. Everything has been removed except the concrete foundation that was under the front of house (street side). This is the highest elevation where house was located. The remainder of the house was supported 6"x6" cedar columns varying in length from 2' to 9' increasing in height as the hill sloped down towards river. All of these that weren't washed away have since been removed.

Our floor elevation was 810.3' (4 ft below the BFE of 814.2'). The May 2015 flood reached 819.3' at our location (9 ft above our old floor). The proposed ABFE is 822 ft and the City of Wimberley recommends building one foot above to 823 ft minimum. We plan to comply with this recommendation for safety reasons and build so that our new floor is above the 823' elevation. This will require concrete piers into bed rock with column lengths of 10'- 20' above grade. As we move closer to the river the column length increases. As height increases above grade, the stability strength decreases, so we want to stay as high (of elevation) as possible because of safety reasons.

Exhibit 'A' is a plat of our 1.16 acres showing the position of our planned new house (it is over the foot print of our old house) and the relative position to Spoke Hollow Rd (Our property goes to the middle of Spoke Hollow Rd). The old house was 35 ft from the road on the W end and 39 feet on the E end (measured from old foundation remaining). We want to put the columns that will support our replacement house just a little south of the old concrete foundation resulting in the street set back distance being 32 feet (vs 35') on the W end and 40 1/2 feet (vs 39') on E end. (This variance request is for 8 ft on west end of the house and no variance needed on east end). It's longer on the E end because the road turns sharply away increasing the distance. Safety is the main reason we want to move the house slightly closer to the road- this will increase ground elevation especially in the longer columns closest to the river thus improving stability and safety. See contour map Attachment 'B'. By moving slightly closer to the road, this in turn moves the other columns (piers) uphill slightly and further from the river. Our design moves the columns that are closet to the river away from the river by about 8 feet further than the original house columns (See Attachment 'C' Elevations and Attachment 'D' New house over old house foot print).

We would move closer to the river if we could, but elevation decreases quickly. Our main problem is that we have no way to move except closer to the road (see contour map Attachment 'B'). We have kept the size of the replacement house to almost identical to the old house (2 ft wider and 3.3 ft longer). A close set back distance from Spoke Hollow Rd is nothing unusual since our neighbor next to us has a set back distance from his garage to Spoke Hollow Rd of only 14 ft (See Attachment 'E').

**2) Reasons for variance to the 35 ft maximum height requirement:** For safety reasons, we have decided to build one foot above the ABFE as recommended by the City of Wimberley (this is 8 ft higher than one foot above the BFE and our planned build elevation is about 4 ft higher than the actual flood water height reached in the May 2015 flood at our location). This higher build elevation increases the distance from the eve of the roof on the river side to the ground and exceeds 35 ft by a little less than 4 feet. The distance from the eve of the roof on the street side to the ground is less than 35 ft, thus we are ok on that end of the house. So to comply with the City of Wimberley regulations we need a variance to the 35 ft max height on the river end and we are requesting a variance of 5 feet to be on the safe side because the final grade is not known (See attachment 'C').

*CSO  
CAC*

*CSO  
10/19/16*

**ACKNOWLEDGMENT OF EXISTING  
Subdivision Plat Notes, Deed Restrictions Restrictive Covenants  
and/or Zoning Conditional Use Permits**

*WE ARE NOT IN A SUBDIVISION*

I, the Applicant herein, have checked the subdivision plat notes, deed restrictions, restrictive covenants and/or zoning conditional use permits prohibiting certain uses and/or requiring certain development restrictions (for example, height, access, screening) on the property for which a variance is now being considered on my behalf.

If a conflict should result with the request I am submitting to the City of Wimberley due to subdivision plat notes, deed restrictions, restrictive covenants and/or which do not conform with the City ordinances, it will be my responsibility to resolve it. I also acknowledge that I understand the implications of use and/or development restrictions that are a result of subdivision plat notes, deed restrictions, restrictive covenants and/or zoning ordinances.

I understand that if requested, I must provide copies of any and all subdivision plat notes, deed restrictions, restrictive covenants and/or zoning conditional use permit information, which may apply to this property.

Date: \_\_\_\_\_ APPLICANT \_\_\_\_\_

SIGNATURE \_\_\_\_\_

**WHEN APPLICABLE:**

Date: \_\_\_\_\_ AGENT \_\_\_\_\_

SIGNATURE \_\_\_\_\_

**SITE INSPECTION AUTHORIZATION**

Applicant/owner, or Applicant's authorized agent, hereby authorizes the City of Wimberley Board of Adjustment Members and City representatives to visit and inspect the property for which this application is being submitted.

*CHARLES E. CHADWICK*

Date: OCT 12, 2016

APPLICANT CHARLOTTE CHADWICK

SIGNATURE *Charlotte Chadwick*

**WHEN APPLICABLE:**

Date: \_\_\_\_\_ AGENT \_\_\_\_\_

SIGNATURE \_\_\_\_\_

*CAF  
10/19/16*

SUBMITTAL CHECKLIST

TO ENSURE THAT YOU HAVE COMPLIED WITH THE VARIANCE APPLICATION REQUIREMENTS, REVIEW THE FOLLOWING LIST. GRANTING OF A VARIANCE IS CONDITIONAL ON MEETING THE FOLLOWING REQUIREMENTS:

FAILURE TO COMPLY WITH THE REQUIREMENTS MAY CAUSE A DELAY IN PROCESSING YOUR APPLICATION.

- Complete "Application for Variance"
- Provide plat map of property to which variance applies.
- Provide names and addresses of property owners within 200 feet of any portion of Applicant's property.
- Provide a legal description of the property to which variance applies. *R 17279*
- Sign/date Submittal Verification form. *ABS 368 HE PANNELL SURVEY 1.16 AC*
- Sign/date Site Inspection Authorization form. *GEO # 90603003*
- Sign/date Acknowledgement Form.
- Pay Variance Fee (this fee is based on the cost of services incurred by the City of Wimberley in reviewing, processing and recording this variance request).
- Applicant agrees to attend the Board of Adjustment Public Hearing.
- I have reviewed the Conditions Required and believe they are met: (Wimberley Zoning Ordinance No. 2001-010, Section 10) No variance shall be granted without first giving public notice and conducting a public hearing on the variance request in accordance with Section 10.8, and unless the Board of Adjustment makes specific, written findings of fact as follows:
  1. That there are special circumstances or conditions affecting the property involved such that the strict application of the provisions of the Zoning Ordinance would (a) deprive the applicant of the reasonable use of the property; and (b) create an unnecessary hardship in the development of the property; and
  2. That such circumstances and conditions are (a) not self-imposed; (b) not based solely on economic gain or loss; and (c) do not generally affect most properties in the vicinity of the property.
  3. The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant;
  4. The variance if granted will not: (a) adversely affect the public health, safety or welfare; (b) be contrary to the public interest and (c) be injurious to or adversely affect the orderly use of other property within the area;

*BOC*  
*CAC*

Application for Variance

5. The property involved is otherwise in compliance with all other applicable City ordinances, rules and regulations; and

6. The granting of the variance will be in harmony with the spirit and purpose of this ordinance.

Special Circumstances:

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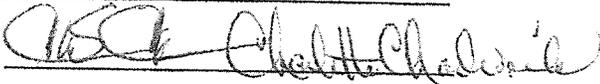
---

SUBMITTAL VERIFICATION AND/OR WAIVER OF APPEARANCE

My signature attests to the fact that the attached application package is complete and accurate to the best of my knowledge. I understand that City review of this Application is dependent upon the accuracy of the information provided and that any inaccurate or inadequate information provided by me, my firm, or agent, may delay the review of the Application.

Date: Oct 11, 2016  
updated Oct 19, 2016

APPLICANT CHARLES E. CHADWICK  
CHARLOTTE CHADWICK

SIGNATURE 

WHEN APPLICABLE:

Date: \_\_\_\_\_

AGENT \_\_\_\_\_

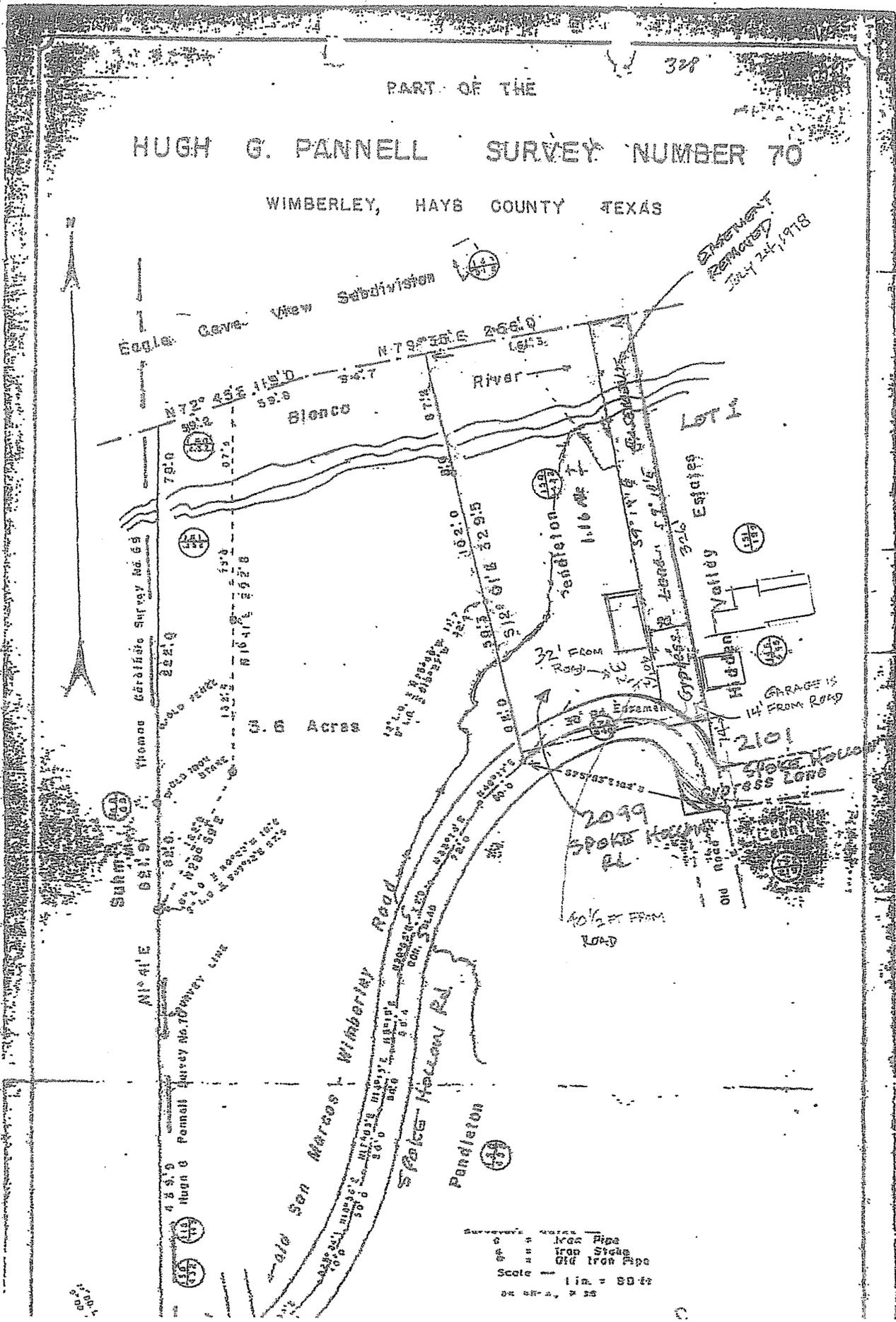
SIGNATURE \_\_\_\_\_



PART OF THE

HUGH G. PANNELL SURVEY NUMBER 70

WIMBERLEY, HAYS COUNTY TEXAS



EMENT  
REMOVED  
JULY 24, 1978

Scale 1 in. = 50 ft  
 0 = Iron Pipe  
 1/2" = Iron Stake  
 1" = Old Iron Pipe

CAC

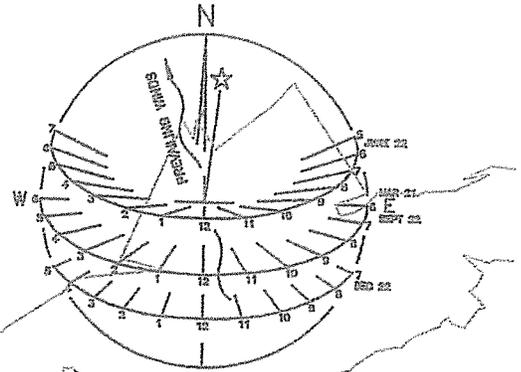
R2 ZONE

ATTACHMENT 'B'

N 79 35' E 161.3'

BLANCO RIVER

NOTE: UNABLE TO GET DIFFERENT  
MAPS TO OVERLAP EXACTLY -  
BOUNDARY LINES & ROADWAY  
NOT EXACT.

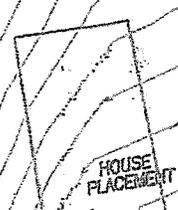


COMPASS HEADING  
WITH SUN-DIAL ANGLES  
CORRECT 1885 - 021

S 12.01' E 129.5'  
102.0'

80.3'

82.0'



810

NEIGHBOR'S GARAGE

ROAD PROPERTY LINE

N 47 53' 05" E	54.11'
N 72 28' 30" E	19.99'
N 74 48' 24" E	20.00'
N 82 08' 12" E	19.93'
S 63 48' 08" E	19.95'
S 57 39' 00" E	20.05'
S 10 52' 48" E	71.48'
S 10 52' 48" E	7.25'
N 80 54' 30" E	15.11'

S 75 53' E 162.8'

SITE PLAN

2099 (2107) SPOKE HOLLOW RD. WIMBERLEY, TX.  
R 17279

SPOKE HOLLOW RD.

*Handwritten signature/initials*  
CAE

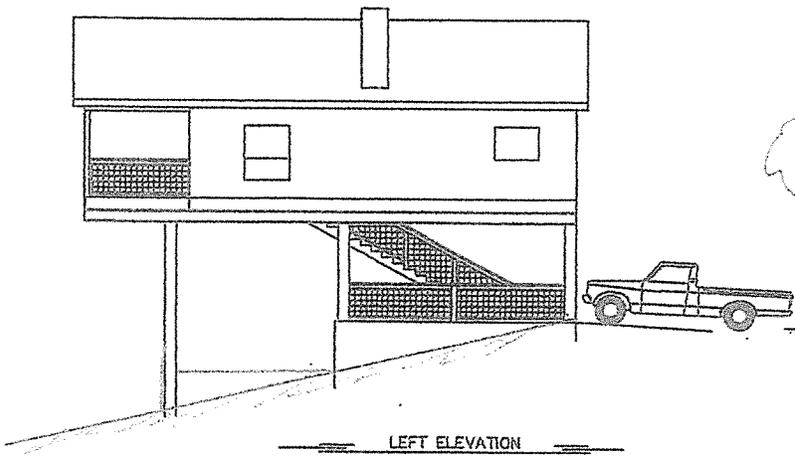
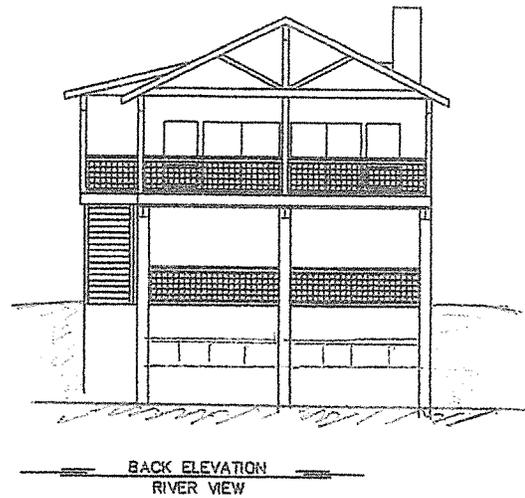
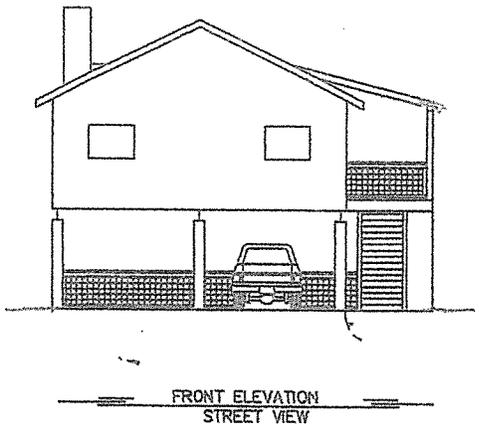
9/11

# ATTACHMENT 'C'

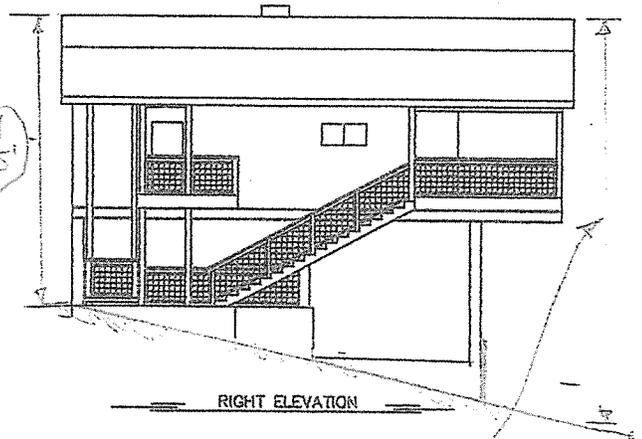
UPDATED 10/19/16

## ELEVATIONS - CHADNICK'S HOUSE

NOTE: NOT TO SCALE - COLUMN (PIER) HEIGHT  
WILL INCREASE BECAUSE WE PLAN TO BUILD  
TO 1 FT ABOVE ABFE



LESS THAN  
35'



MORE THAN  
35' BUT LESS  
THAN 40'

10-14-16  
10-19-16 UPDATED

CSA  
CME

BY..... DATE 10/11/16  
CHKD. BY..... DATE.....

SUBJECT 2099 Spoke Hollow Rd  
CHADWICK'S PROPOSED NEW HOUSE  
PLACED OVER FOOTPRINT OF ORIGINAL HOUSE  
NO. OF STEPS & LANDSCAPE NOT SHOWN

SHEET NO..... OF 10/11  
JOB NO..... ATTACHMENT 'D'

RIVER

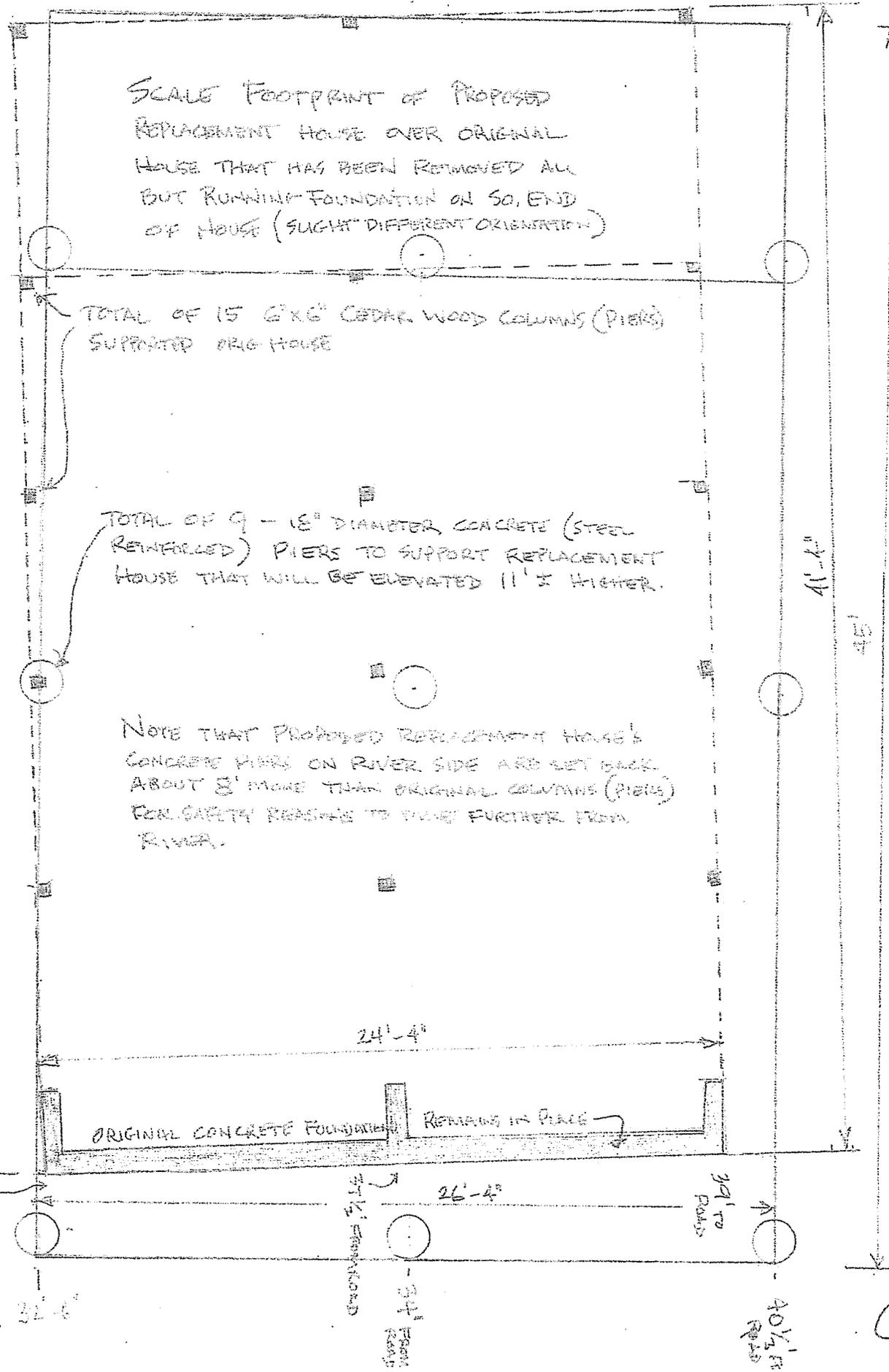
SCALE FOOTPRINT OF PROPOSED  
REPLACEMENT HOUSE OVER ORIGINAL  
HOUSE THAT HAS BEEN REMOVED ALL  
BUT RUNNING FOUNDATION ON SO. END  
OF HOUSE (SLIGHT DIFFERENT ORIENTATION)

TOTAL OF 15 6"x6" CEDAR WOOD COLUMNS (PIERS)  
SUPPORTED ORIG. HOUSE

TOTAL OF 9 - 18" DIAMETER CONCRETE (STEEL  
REINFORCED) PIERS TO SUPPORT REPLACEMENT  
HOUSE THAT WILL BE ELEVATED 11" HIGHER.

NOTE THAT PROPOSED REPLACEMENT HOUSE'S  
CONCRETE PIERS ON RIVER SIDE ARE SET BACK  
ABOUT 8' MORE THAN ORIGINAL COLUMNS (PIERS)  
FOR SAFETY REASONS TO PLACE FURTHER FROM  
RIVER.

Spoke Hollow Rd



CAC

A SUBDIVISION IN HAYS COUNTY, TEXAS  
 VOLUME 151, PAGES 199-200, HAYS COUNTY DEED RECORDS

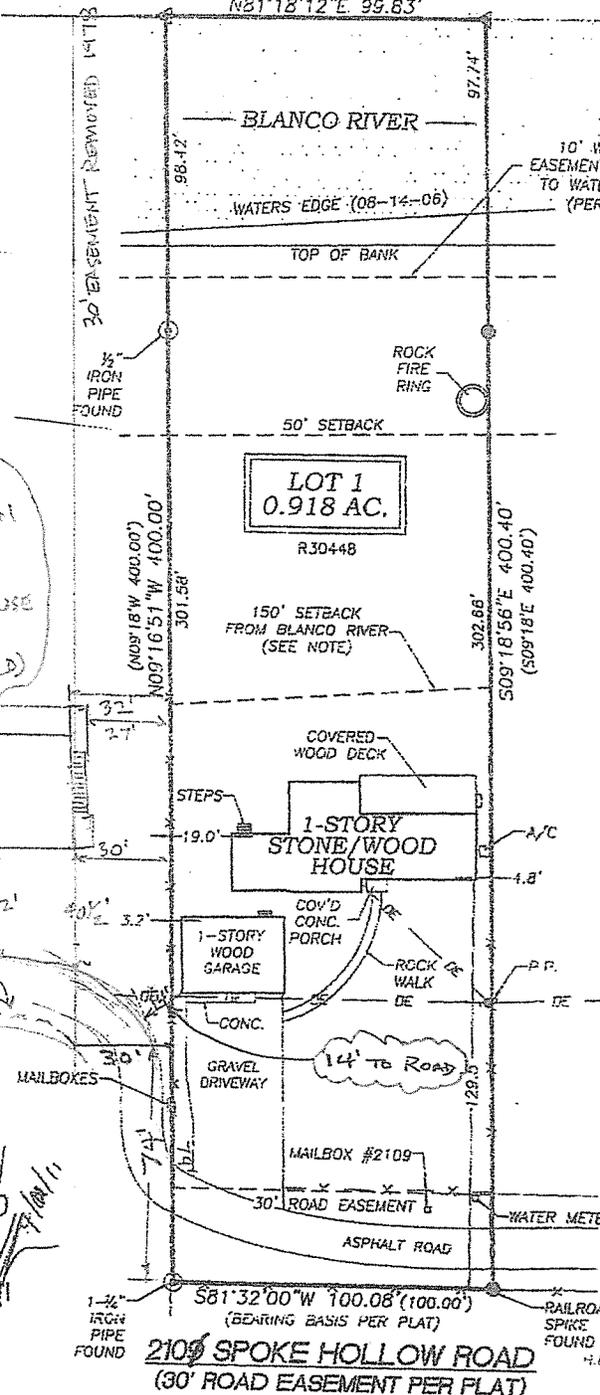
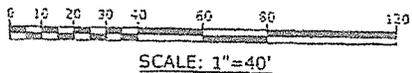
EAGLE CAVE VIEW  
 SUBDIVISION

ATTACHMENT 'E'

142  
 516

LOT 10 LOT 11

(N81°18'E 100.00')  
 N81°18'12"E 99.83'



CHADWICK  
 1.16 AC  
 PROPOSED  
 HOUSE LOCATION  
 (OVER SAME  
 LOCATION OF  
 ORIGINAL HOUSE  
 DESTROYED BY  
 MAY 2015 FLOOD)

CEL  
 ADDITIONS  
 10-12-16

LEGEND

- ⊙ -- 1/2" IRON ROD FOUND - "DRIFTWOOD SURVEYING"
- ⊙ -- IRON PIPE FOUND
- △ -- CALCULATED POINT
- ⊙ -- SERVICE OR UTILITY POLES
- DE — OVERHEAD UTILITIES
- EASEMENT
- x — x — FENCE

**VOL. PG.** HAYS COUNTY OFFICIAL PUBLIC RECORDS  
**Rxxxxx** HAYS COUNTY PROPERTY IDENTIFICATION NUMBER

SURVEYOR'S CERTIFICATION

This survey is certified to Independence Title Company, U.S. Bank Home Mortgage, and buyers: David C. Griffin & Susan E. Griffin. I hereby certify to the aforesaid parties, as of the date set forth below that a careful survey was made on the ground, under my supervision, of the tract of land described hereon, and that said survey substantially complies with the current Texas Society of Professional Surveyors Standards & Specifications for a Category 1a, Condition II Land Survey, and that said property abuts a public road easement.



3/12/11  
 RUDOLF J. PATA, JR. TX. RPLS 5398

Now 2101

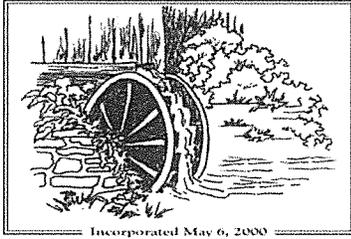
**Driftwood Surveying**  
 Professional Land Surveyors - Surveying the Hill Country  
 P.O. Box 379  
 Wimberley, TX 78576  
 TEL. (512) 347-7222 www.driftwoodsurveying.com

**LOT 1, HIDDEN VALLEY ESTATES,  
 A SUBDIVISION IN HAYS COUNTY, TEXAS  
 VOLUME 151, PAGES 199-200, H.C.D.R.**

CLIENT: **GRIFFIN**

DATE:	02-14-08
FIELD CREW:	TN, SS
DRAWN:	JAB
CHECKED:	RJP
PROJ. NO.:	HC29808
DWG. NAME/TITLE:	
REVISIONS:	DATE
UPDATE:	03-12-11
Page:	1 of 1

CAC



# City of Wimberley

221 Stillwater, P.O. Box 2027, Wimberley, Texas, 78676

Phone: (512) 847-0025 - Fax: (512) 847-0422

Mac McCullough, Mayor - John White, Mayor Pro-Tem  
Council Members - Bob Dussler, Craig Fore, Sally Trapp, Gary Barchfeld  
Don Ferguson, City Administrator

October 28, 2016

## NOTICE OF PUBLIC HEARING

Re: **File No. BA-16-007**  
**Front Yard Building Setback Variance (Dominant Street)**  
**Maximum Building Height Variance**  
2099 Spoke Hollow Road

Dear Property Owner:

You are receiving this letter because you own property within 200 feet of the above-referenced location.

The applicant, Charles Chadwick, has requested variances from the City of Wimberley Code relating to the required dominant street front yard setback and the maximum building height on property located at 2099 Spoke Hollow Road, Wimberley, Texas. The City of Wimberley Zoning Board of Adjustments will consider this request at a public hearing on **Monday, November 7, 2016, at 6:00 p.m.** in the Wimberley City Hall, 221 Stillwater.

Because the granting of this request may affect your property, you are encouraged to participate in the zoning process. The public will be given an opportunity to speak during the hearing. If you wish to comment but are unable to attend, written comments may be submitted to the City Administrator prior to the meeting.

Additional information regarding the proposed zoning is available for public review at City Hall during normal business hours. Should you have questions, please contact the City Administrator at 512-847-0025.

**CITY OF WIMBERLEY**

Matthew Carl Weinheimer  
3702 Caney Creek Rd.  
Austin, TX 78732

Steven L. & Mary Kathleen  
Stewart  
15902 Chiltren Cir.  
Spring, TX 77379-6647

Charles H. & Lynda M. King, Trustees  
Charles H. & Lynda M. King Living Trust  
610 Lakeway Dr.  
Austin, TX 78734

Christopher & Amy Lyles  
1650 Flite Acres Rd.  
Wimberley, TX 78676

Robert Tarver & Donna McDonald, Joint  
Tenants w/Rights of Survivorship  
P.O. Box 647  
Wimberley, TX 78676

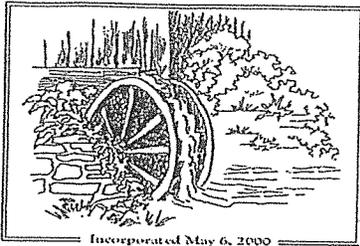
Mildred K. & Charles H. Lancaster  
1700 Flite Acres Rd.  
Wimberley, TX 78676-5407

Darren J. & Misty L. Toomey  
300 Secret Springs Rd.  
Wimberley, Tx 78676-4381

Robert W. Weber  
Attn: Cathy Biediger  
606 Hunters Creek Way  
Hockley, TX 77447

**NOTICE OF  
PUBLIC HEARING  
(Request for Variance)**

Notice is hereby given that the City of Wimberley Board of Adjustment will hold a public hearing at the Wimberley City Hall on **Monday, November 7, 2016, at 6:00 p.m.** to consider the following: BA-16-007 – an application for variances from the City of Wimberley Zoning Code relating to the required dominant street front yard setback and the required maximum building height for a property located at 2099 Spoke Hollow Road, Wimberley, Texas. Following the public hearing, the Board of Adjustment will consider action regarding the subject variance request. Comments on this request from any member of the public may be presented in person or by mail (PO Box 2027) at City Hall prior to the hearing. The public will be granted an opportunity to speak at the hearings. Additional information concerning the proposed action is available for review at the Wimberley City Hall, 221 Stillwater, Wimberley, Texas.



# City of Wimberley

221 Stillwater, P.O. Box 2027, Wimberley, Texas, 78676  
Phone: (512) 847-0025 - Fax: (512) 847-0422  
E-mail: [village@wimberley-tx.com](mailto:village@wimberley-tx.com) - Web: [www.cityofwimberley.com](http://www.cityofwimberley.com)

## NOTICE BY SIGN POSTING

Zoning No: BA-16-007

Owner \_\_\_\_\_

Date 10/31/16

To: Code Enforcement/Public Works

Please place a Proposed Zoning Sign on the following property

( ) Project Site Address 2099 Spoke Hollow

which is located Spoke Hollow

Bill Bowers

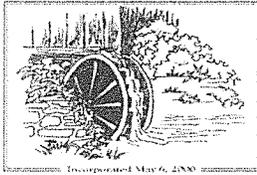
Asst: Public Works

Note: The above-referenced sign was placed on the subject property on

10/31/, 2016

Bill Bowers  
Signature

# Board of Adjustment Agenda Item Form



**Date Submitted:** November 4, 2016  
**Agenda Date Requested:** November 7, 2016

**Project/Proposal Title:** BOARD MEMBER REPORTS  
  
**Funds Required:**  
**Funds Available:**

**Council Action Requested:**  
 Ordinance  
 Resolution  
 Motion  
 Discussion

**Project/Proposal Summary:**  
  
This item was placed on the agenda to allow for reports to be presented by Board members and for future agenda item requests.