



# City of Lewisville, TX

## Zoning Board of Adjustment

### Agenda

151 W Church Street  
Lewisville, Texas 75057

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Wednesday, April 3, 2024

6:30 PM

Council Chambers

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## Regular Session - 6:30 P.M.

### A. Call to Order and Announce that a Quorum is Present.

### B. Approval of Minutes

1. [Consider Approval of the Minutes of the January 3, 2024 Regular Meeting.](#)
2. [Consider Approval of the Minutes of the January 16, 2024 Joint Meeting with the Planning and Zoning Commission.](#)

### C. Public Hearing

3. [Public Hearing: Consideration of a Variance Requests to Allow an Existing House Encroach 10 Feet into the Required 20-Foot Rear Yard Setback and to Allow a Reduced Lot Depth from 80 Feet to 67 Feet, Located at 106 Martin Street, Legally Described as Lot 9, Block B, Stuart Addition \(NE Corner\); Zoned Single Family Residential \(R5\) District, as Requested by Inez Aguirre, the Property Owner. \(Case No. 24-01-2-ZBOA\)](#)
4. [Public Hearing: Consideration of a Variance Request to Allow Townhomes to Encroach Approximately Three-Foot One-Inch Encroachment Into the Required Five-Foot Side Yard Setback on Leonard Street and a Zero-Foot Side Yard Setback Along the Access Drive, Located at 115 Leonard Street, Legally Described as Lots 7 and 8, Block 14, Kealy Addition; Zoned Old Town Mixed Use 2 \(OTMU2\), as Requested by FK +Architect, LLC, the Architect on Behalf of Old Town Villas LLC, the Property Owner. \(Case No. 24-02-3-ZBOA\)](#)

### D. Announcements

### E. Adjournment

**NOTICE OF ASSISTANCE AT THE PUBLIC MEETINGS**

The City will provide appropriate auxiliary aids and services, including sign language interpreters and assisted listening devices, whenever necessary to ensure effective communication with members of the public who have hearing, sight or speech impairments, unless doing so would result in a fundamental alteration of its programs or an undue financial burden. A person who requires an accommodation or auxiliary aid or service to participate in a City program, service or activity, should contact the sponsoring Department, or the Human Resource Department at 972-219-3450 or by Fax at 972-219-5005 as far in advance as possible but no later than 48 hours before the scheduled event.

I do hereby certify that the above notice of meeting of the City of Lewisville Zoning Board of Adjustment was posted at City Hall, City of Lewisville, Texas in compliance with Chapter 551, Texas Government Code on \_\_\_\_\_, 2024 at \_\_\_\_\_ AM.

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Planning

**MINUTES  
ZONING BOARD OF ADJUSTMENT  
JANUARY 3, 2024**

**Item A: Call to Order and Announce that a Quorum is Present**

With a quorum present, the Lewisville Zoning Board of Adjustment meeting was called to order by Chair Pamela Goodwin at 6:30 p.m., in the Council Chambers, 1<sup>st</sup> Floor, City Hall, 151 West Church Street, Lewisville, Texas 75057.

**Board Members Present:** Chair Pamela Goodwin, MaryCarmen Estes, John Deihl, Audra Smolinski, Vice-Chair Francisca Al-waely, Alternate Kimberly Turner, Alternate Kyle Bertsch

**Board Members Absent:** None

**Staff Members Present:** Michele Berry, Planning Manager; Grace Martin-Young, Planner I; Patty Dominguez, Planning Technician

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**Item B1: Approval of Minutes**

Consider the minutes of the September 6, 2023 meeting was the first item on the agenda. A motion was made by Audra Smolinski to approve the minutes, seconded by Francisca Al-waely. The motion passed unanimously (5-0).

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**Item C: Public Hearing**

There was one item for consideration:

2. Public Hearing: Consideration of a Variance Request to Allow Townhomes to Encroach Approximately 6 Inches into the Required 5-Foot Front Yard Setback Required Along Ukiah Street, Located at 316, 318, 320 and 322 Ukiah Street, Legally Described as Lots 29, 30, 31 and 32, Block E, Windhaven Crossing Addition, Phase B, Section 2; Zoned Planned Unit Development (PUD), as Requested by Al Tuten of Mattamy Texas LLC, the Property Owner. (Case No. 24-01-1-ZBOA)

Michele Berry, Planning Manager, gave a brief overview of the proposed variance request and recommended approval of the variance request to allow townhomes to encroach approximately 6 inches into the required 5-foot front yard setback required along Ukiah Street, located at 316, 318, 320 and 322 Ukiah Street. Chair Pamela Goodwin then opened the public hearing. Al Tuten with Mattamy Texas LLC, builder and developer, was present and available for questions. Board member Al-waely asked if homeowners were okay with the variance to which Mr. Tuten responded by stating they are. Chair Goodwin asked for pictures of elevations. Staff showed a street view of the townhomes from google maps. With no one indicating a desire to speak the public hearing was then closed. There was no discussion on this item. A motion was made by Francisca Al-

waely to approve the variance request as presented, seconded by Audra Smolinski. The motion passed unanimously (5-0). Staff further stated that for the record going forward the project number for this case will be 24-01-1-ZBOA.

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**Item D: Adjournment**

A motion was made by MaryCarmen Estes to adjourn the meeting, seconded by John Deihl. The motion passed unanimously (5-0). The meeting adjourned at 6:39 p.m.

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These minutes approved by the Lewisville Zoning Board of Adjustment on April 3, 2024.

Respectfully Submitted,

Approved,

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Michele Berry, Planning Manager

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Pamela Goodwin, Chair  
Zoning Board of Adjustment

**MINUTES**  
**JOINT MEETING OF THE PLANNING AND ZONING COMMISSION**  
**AND ZONING BOARD OF ADJUSTMENT**

**JANUARY 16, 2024**

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**Item A: Call to Order and Announce that a Quorum is Present**

With a quorum present, the Lewisville Planning and Zoning Commission meeting was called to order by Chair MaryEllen Miksa at 6:30 p.m. on Tuesday, January 16, 2024, in the Council Chambers, of the Lewisville City Hall, 151 West Church Street, Lewisville, Texas.

P&Z Members present: Chair - MaryEllen Miksa; Jack Tidwell; Rick Lewellen; Karen Locke, Ryan Conway, and Vice-Chair Erum Ali.

P&Z Members absent: Francisca Al-waely

ZBOA Members present: Chair Pamela Goodwin, MaryCarmen Estes, Alternate Kimberly Turner (voting member)

ZBOA Members absent: John Deihl, Audra Smolinski, Vice-Chair Francisca Al-waely, Alternate Kyle Bertsch

Staff members present: Richard Luedke, Planning Director; Michele Berry, Planning Manager; Patty Dominguez, Planning Technician; Grace Martin-Young, Planner I; David Erb, Director of Finance; Ashley Carlisle, Budget Manager

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**Item B: Approval of Minutes**

1. The first item on the agenda was to approve the minutes from the December 19, 2023, Joint Meeting with the Transportation Board. A motion was made by Karen Locke to approve the minutes as presented, seconded by Erum Ali. The motion passed unanimously (6-0).
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**Item C: Regular Hearing**

2. Final Plat of Palladium Round Grove Addition, Lot 1, Block A; on 2.844 Acres out of the Luc Bourgeois Survey, Abstract Number 52; Zoned Planned Development Multi-Family Three (PD-MF-3) District, Located at the Northeast Corner of East Round Grove Road (FM 3040) and South Uecker Lane. (23-12-7-FP)

Michele Berry, Planning Manager, gave a brief overview of the proposed final plat with a recommendation to disapprove the final plat due to deficiencies and delegate to staff the authority to accept and approve the plat once the listed deficiencies are corrected. The approved plat will be brought to the chair for signature. There was no discussion on this item. A motion was made by Rick Lewellen to disapprove the final plat due to deficiencies and delegate to staff the authority to accept and approve the plat once the listed deficiencies are corrected. The motion was seconded by Jack Tidwell. The motion passed unanimously (6-0).

3. Consideration of One Alternative Standard Associated with Screening Requirements for a Commercial Amusement Facility (Outdoor) on Approximately 3.175-Acres, out of the S.M. Hayden Survey, Abstract Number 537, Zoned Light Industrial (LI) District, Located on the East Side of Barfknecht Lane, Approximately 1,540 Feet South of Midway Road, as Requested by Ronald Wygal, Endurance Development, on Behalf of Pathfinder Sports LLC, the Property Owner. (23-07-9-ALTSTD)

Grace Martin-Young, Planner I, gave a brief overview of the subject property with a recommendation to recommend approval of the alternative standard as presented. There was discussion regarding the following: open style metal gate, fence posts being internal, steel fence posts, capped board on board fence. There was no further discussion on this item. A motion was made by Erum Ali to recommend approval of the alternative standard with the conditions that steel fence posts face the cricket property, capped board on board fence and open style gate. The motion was seconded by Rick Lewellen. The motion passed unanimously (6-0). Richard Luedke, Planning Director, announced that this item will be considered by the City Council for a final decision on Monday, February 5, 2024 at 7:00 p.m.

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**Item D: Call to Order and Announce that a Quorum is Present**

With a quorum present, the Lewisville Zoning Board of Adjustment joint meeting was called to order by Chair Pamela Goodwin at 6:45 p.m. on Tuesday, January 16, 2024, in the Council Chambers, of the Lewisville City Hall, 151 West Church Street, Lewisville, Texas.

4. 2024 Bond Program Presentation

David Erb, Director of Finance, and Ashley Carlisle, Budget Manager, gave a presentation on the 2024 Bond Program. There was no discussion on this item.

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**Item E: Announcements**

- There were no announcements.

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**Item F: Adjournment**

There being no other items to discuss, the Zoning Board of Adjustment meeting was adjourned at 7:24 p.m.

A motion was made by Karen Locke to adjourn the Planning and Zoning Commission meeting. The motion was seconded by Erum Ali. The motion passed unanimously (6-0). There being no other business to discuss, the Planning and Zoning Commission meeting was adjourned at 7:24 p.m.

**MINUTES**  
**JANUARY 16, 2024**

**Page 3**

These minutes will be approved by the Planning and Zoning Commission and Zoning Board of Adjustment at the next scheduled meeting.

Respectfully Submitted,

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Michele Berry, AICP  
Planning Manager

Approved,

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MaryEllen Miksa, Chair  
Planning and Zoning Commission

Approved,

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Pamela Goodwin, Chair  
Zoning Board of Adjustment

## **STAFF REPORT**

**Date:** April 3, 2024

**To:** Zoning Board of Adjustment

**From:** Jon Beckham, AICP, Senior Planner

**Subject:** **Public Hearing:** Consideration of a Variance Requests to Allow an Existing House Encroach 10 Feet into the Required 20-Foot Rear Yard Setback and to Allow a Reduced Lot Depth from 80 Feet to 67 Feet, Located at 106 Martin Street, Legally Described as Lot 9, Block B, Stuart Addition (NE Corner); Zoned Single Family Residential (R5) District, as Requested by Inez Aguirre, the Property Owner. (Case No. 24-01-2-ZBOA)

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### **BACKGROUND:**

The house located at 106 Martin Street was built in 1953, according to the Denton County Appraisal District. The first zoning ordinance in the City of Lewisville was adopted on February 9, 1953 and did not set minimum lot depth and had a rear yard setback of 10-feet or 10% of the lot depth. The house is considered a legal non-conforming structure. The property owner recently rezoned the property from General Business to Single Family Residential (R5) District and ultimately would like to subdivide the lot and build a new house on the western portion of the land.

### **ANALYSIS:**

The Board may approve a variance request for specific cases where granting a variance from the terms of the Zoning Ordinance will not be contrary to the public interest; where, owing to special conditions, a literal enforcement of the Ordinance will result in unnecessary hardship.

- a.) To allow the house to encroach 10 Feet into the Required 20-Foot Rear Yard Setback.

The existing house was developed prior to the adoption of Lewisville's current zoning ordinance and has been a legal nonconforming since this time. No changes to the building footprint are being made. The properties adjacent to the south are zoned Local Commercial (LC) and Single Family Residential (R-75) District and include both commercial and residential uses. The approval of this variance will not cause any disruption to these properties.

- b.) To allow a reduced lot depth from 80 feet to 67 feet

Stuart Addition is one of the original Lewisville plats. Development standards have greatly changed since this property was originally platted. The approval of the lot depth variance will allow the property to legally exist as it currently is and allow the property owner to replat the property into two separate lots. This variance will also allow the development of a new house on the proposed additional lot.

All other current zoning standards are met for this property.

Staff finds the request is consistent with the criteria for approval in Section IV.1.5 of the Unified Development Code:



- A. There are special conditions arising from the physical surroundings, shape, topography, or other physical feature affecting the land subject to the variance application, and a literal enforcement of this UDC would result in an unnecessary hardship, and a variance would observe the spirit of this UDC and achieve substantial justice.
- B. A literal application of the UDC requirements would result in an unnecessary hardship upon or for the applicant, as distinguished from a mere economic impact, an inconvenience, frustration of objectives in developing the land, not permitting the highest and best use for the land, or depriving the applicant of the reasonable and beneficial use of the land. In determining if there is an unnecessary hardship for a variance the Board may consider:
- C. The circumstances causing the unnecessary hardship do not similarly affect all or most properties in the vicinity of or similarly classified as the applicant's land;
- D. The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant;
- E. Granting the variance shall not be detrimental to the public health, safety or welfare, or injurious to other property within the vicinity;
- F. Granting the variance shall not have the effect of preventing the orderly use and enjoyment of other land within the area in accordance with the provisions of this UDC, or adversely affect the rights of owners or residents of surrounding property;
- G. The unnecessary hardship suffered by the applicant is not caused wholly or in substantial part by the applicant;
- H. The application for a variance is not based exclusively on the applicant's desire for increased financial gain from the property or to reduce an existing financial hardship;
- I. The degree of variance requested is the minimum amount necessary to alleviate the unnecessary hardship of the applicant; and
- J. The variance does not authorize a use other than those permitted in the zoning district for which the variance is sought.

**RECOMMENDATION:** That the Zoning Board of Adjustment approve the requested variances as presented.

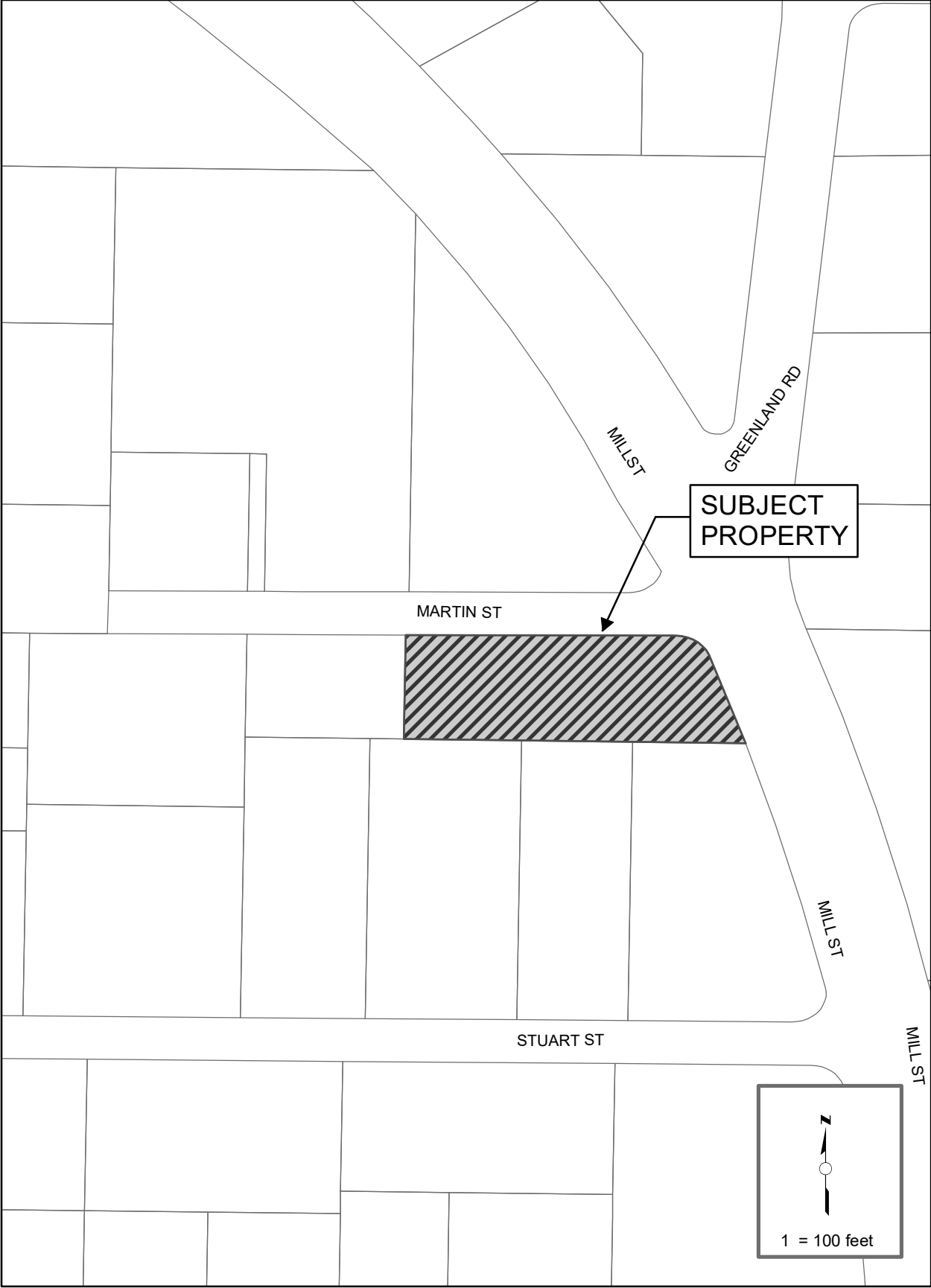


# Aerial Map - 106 Martin St

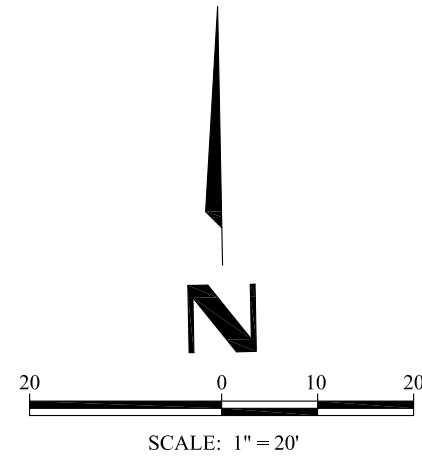




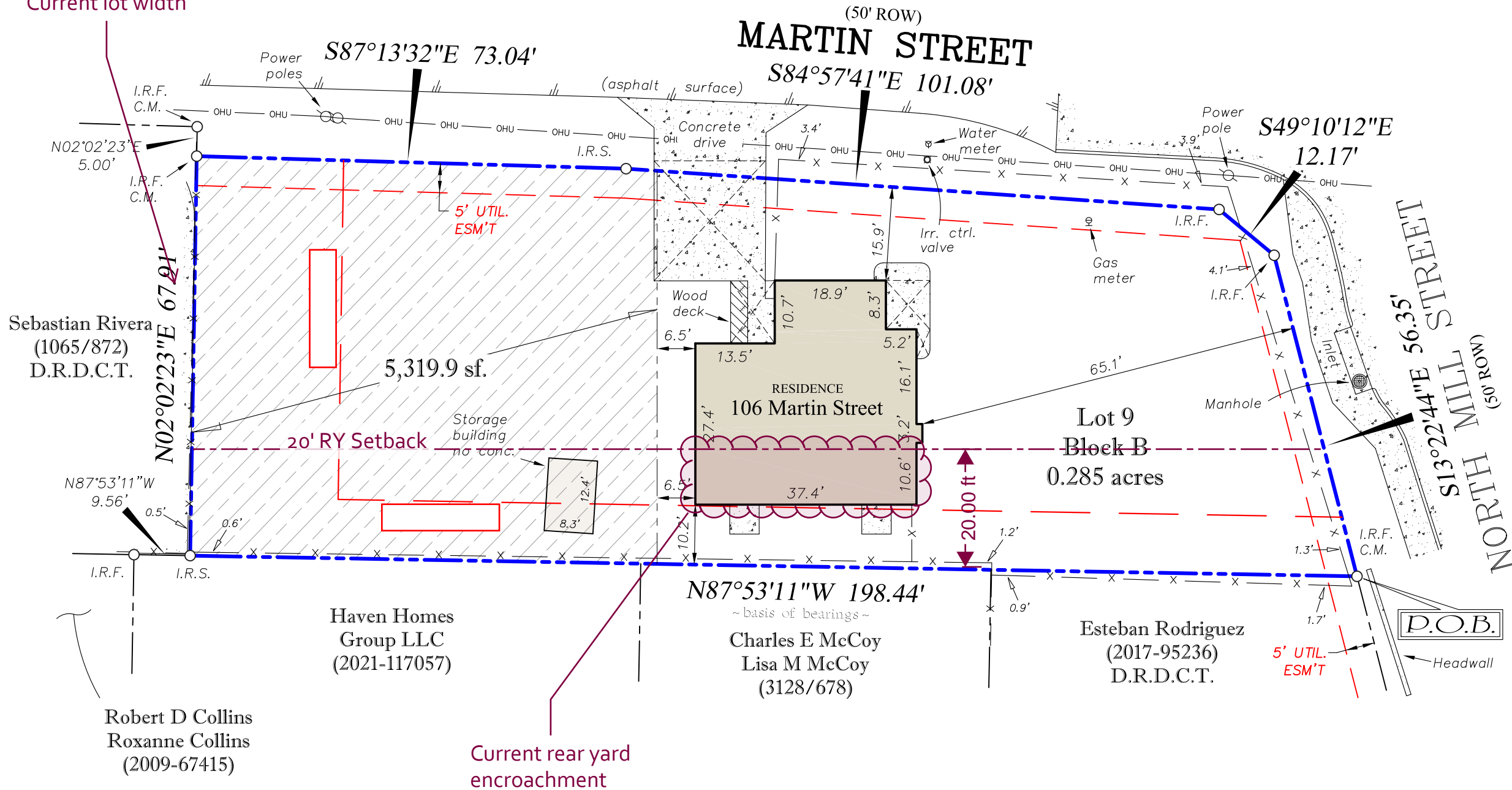
# Location Map - 106 Martin St



106 Martin Street  
Variance Exhibit



Current lot width



PROPERTY DESCRIPTION:

See sheet 2 of 2.

LEGEND:

- ~ Boundary Line
- OHE — Overhead Utility Line
- x — Fence Line
- C.M. Controlling Monument
- I.R.F. 1/2" Iron Rod Found (unless otherwise noted)
- I.P.F. 1/2" Iron Pipe Found
- I.R.S. 1/2" Iron Rod Set "Old Town Surveying" (blue cap)
- Basis of Bearings: Bearings shown hereon are based on the above mentioned record plat unless otherwise noted.



106 Martin Street  
Lewisville, Texas

Note: This survey was prepared without the benefit of a title search, therefore no search of recorded easements was performed on subject property.

**FLOOD NOTE:** It is my opinion that the property described hereon is not within the 100-year flood zone area according to the Federal Emergency Management Agency Flood Insurance Rate Map Community-Panel No. 480195 0565 G, present Effective Date of map April 18, 2011, herein property situated within Zone "X" (Unshaded).

Layne Stapp

Fieldwork Date: 03/03/2022

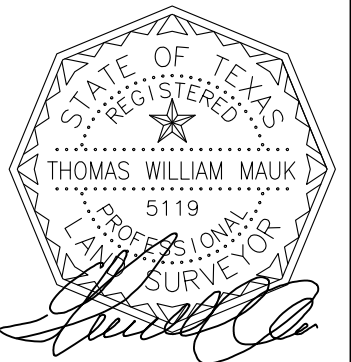
Party Chief: C.E.

Job No.: 202201167

Tech: T3

**SURVEYORS CERTIFICATION:**  
The undersigned does hereby certify that this survey was this day made on the ground of the property legally described hereon and is correct and to the best of my knowledge there are no visible discrepancies, conflicts, shortages in area, boundary line conflicts, encroachments, overlapping of improvements, easements or rights of way that I have been advised of except as shown hereon.

March 18, 2022  
Revised ~ December 21, 2023



**Old Town Surveying, LLC**  
Professional Land Surveyors  
810 Office Park Circle., Ste. 130, Lewisville, Texas, 75057  
Ph. 469-293-8079 info@oldtownsurveying.com  
TFRN Number: 10194611

## **STAFF REPORT**

**Date:** April 3, 2024

**To:** Zoning Board of Adjustment

**From:** Michele Berry, Planning Manager

**Subject:** **Public Hearing:** Consideration of a Variance Request to Allow Townhomes to Encroach Approximately Three-Foot One-Inch Encroachment Into the Required Five-Foot Side Yard Setback on Leonard Street and a Zero-Foot Side Yard Setback Along the Access Drive, Located at 115 Leonard Street, Legally Described as Lots 7 and 8, Block 14, Kealy Addition; Zoned Old Town Mixed Use 2 (OTMU2), as Requested by FK +Architect, LLC, the Architect on Behalf of Old Town Villas LLC, the Property Owner. (Case No. 24-02-3-ZBOA)

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### **BACKGROUND:**

The owner and developer desires to construct townhomes on the property. Three homes will face Leonard Street and five will face Main Street. The homes facing Main Street are narrow, 18-foot wide and can only accommodate a single car garage. Additional off-street parking is provided at the rear. The side yard setbacks meet the five-foot requirement adjacent to neighboring properties. It is the five-foot side yard setback adjacent to Leonard Street and along an internal drive-aisle that requires the variance. The side yard setback along Leonard Street was originally designed to be five-foot before the applicant understood right-of-way dedication was required along Leonard Street. The variance request is the minimum required to allow the Right-of-Way dedication. The setback along the internal drive aisle is reduced to zero feet. This is along an internal drive and the lot line could be moved to be five feet off the building, but this would make maintenance of the drive aisle complicated in the long-term. Street visibility easements are maintained, and adequate distance is provided per building and fire codes. If this variance is not approved, it will reduce the number of homes able to be constructed on the site as the homes were already designed to be as narrow as practicable.

### **ANALYSIS:**

The Board may approve a variance request for specific cases where granting a variance from the terms of the Zoning regulations of the Unified Development Code (UDC) will not be contrary to the public interest; where, owing to special conditions, a literal enforcement of the UDC will result in unnecessary hardship.

- a.) to Allow Townhomes to Encroach Approximately Three-Foot One-Inch Encroachment Into the Required Five-Foot Side Yard Setback on Leonard Street and a Zero-Foot Side Yard Setback Along the Access Drive.

Staff finds the request is consistent with the criteria for approval in Section IV.1.5 of the UDC:

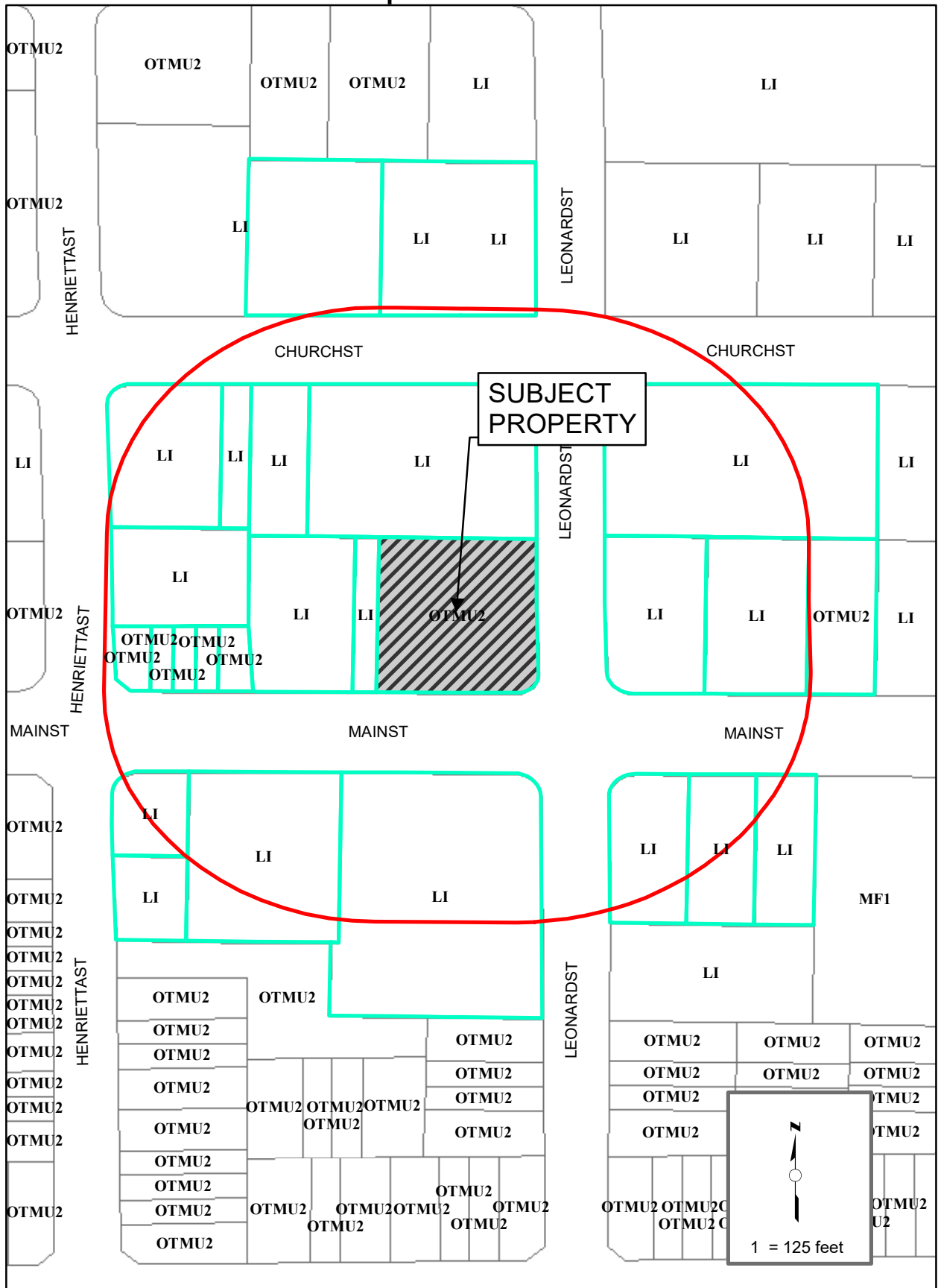
- A. There are special conditions arising from the physical surroundings, shape, topography, or other physical feature affecting the land subject to the variance application, and a literal enforcement of this UDC would result in an unnecessary hardship, and a variance would observe the spirit of this UDC and achieve substantial justice.

- B. A literal application of the UDC requirements would result in an unnecessary hardship upon or for the applicant, as distinguished from a mere economic impact, an inconvenience, frustration of objectives in developing the land, not permitting the highest and best use for the land, or depriving the applicant of the reasonable and beneficial use of the land. In determining if there is an unnecessary hardship for a variance the Board may consider:
- C. The circumstances causing the unnecessary hardship do not similarly affect all or most properties in the vicinity of or similarly classified as the applicant's land;
- D. The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant;
- E. Granting the variance shall not be detrimental to the public health, safety or welfare, or injurious to other property within the vicinity;
- F. Granting the variance shall not have the effect of preventing the orderly use and enjoyment of other land within the area in accordance with the provisions of this UDC, or adversely affect the rights of owners or residents of surrounding property;
- G. The unnecessary hardship suffered by the applicant is not caused wholly or in substantial part by the applicant;
- H. The application for a variance is not based exclusively on the applicant's desire for increased financial gain from the property or to reduce an existing financial hardship;
- I. The degree of variance requested is the minimum amount necessary to alleviate the unnecessary hardship of the applicant; and
- J. The variance does not authorize a use other than those permitted in the zoning district for which the variance is sought.

Staff did receive inquiries from the owner of the adjacent 20-foot-wide property to the west indicating they were not in support of the variances as they believe it will reduce their property value. However, the requested variance is not along that side of the lot and would not impact the development of that lot. Staff provided contact information to the two parties so they could discuss mutually beneficial development opportunities.

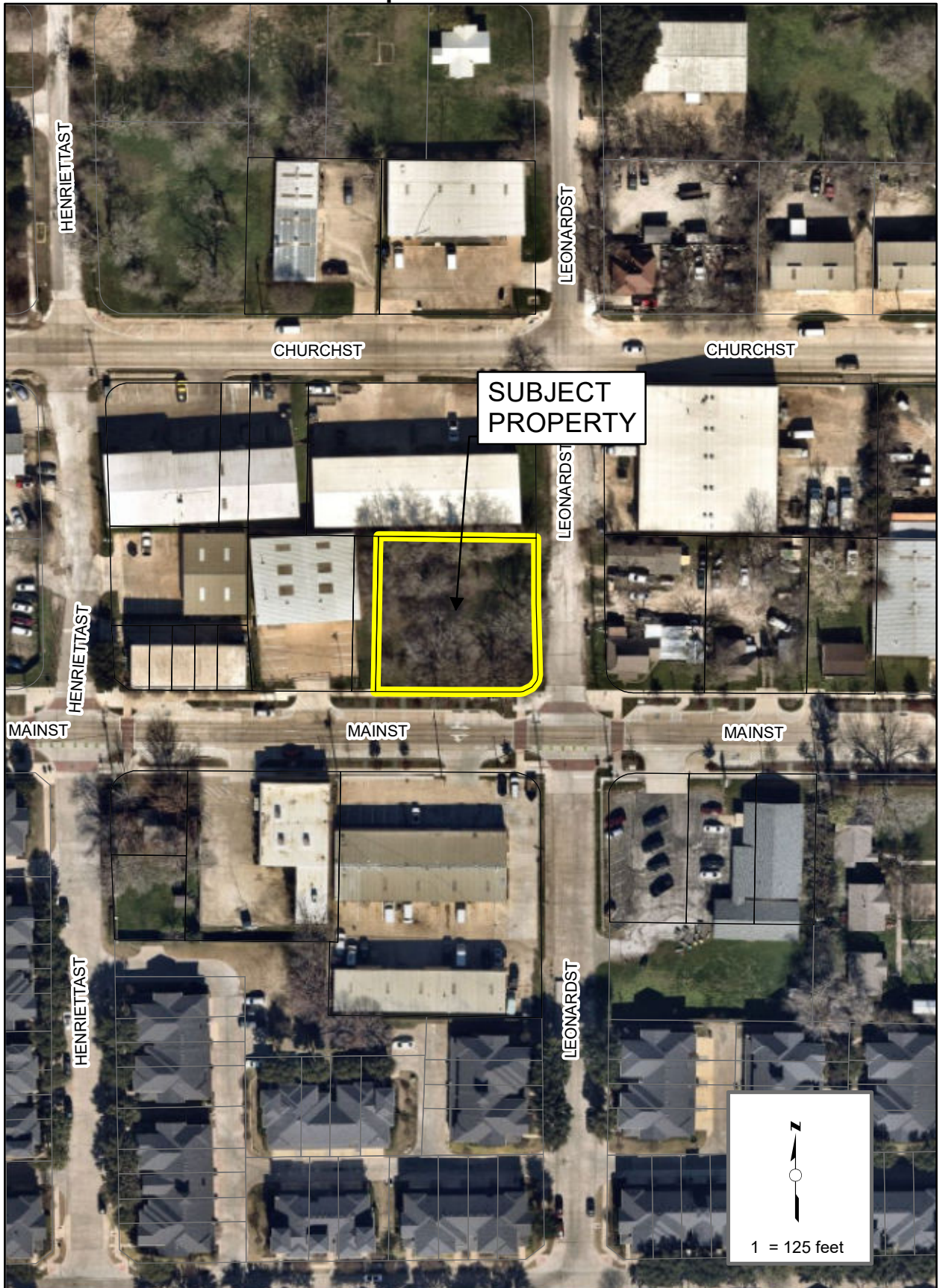
**RECOMMENDATION:** That the Zoning Board of Adjustment approve the requested variances as presented.

# Location Map - 115 Leonard St





## Location Map - 115 Leonard St







# fk + architect, llc

February 19, 2024

Michele Berry, AICP  
Planning Manager  
City of Lewisville, TX

RE: VARIANCE REQUEST: Side Yard Building Setback at Main Street.

PROJECT: Town Homes at 115 Leonard Street, Lewisville, TX

Dear Michele,

Please accept the following as a formal application to the City of Lewisville for variances from the requirements of the Planning and Zoning requires a minimum setback distance between sides of the building of 5 feet. The standards cannot be meet due to the new right of way requirements. It was previously 50' but current city requirements, it is requested to be 60'. So, the 5' setback requirements cannot be met.

So, we are able to provide 3'-0" due to extension of right of way. The side of the building is facing Leonard Street and there is no other building or structure next to this building. So there will be no issue of fire fighter to manage rear hose or equipment. So we are respectfully requesting consideration for approval of this variance request given our explanation. Please review and let us know if you have any questions or any additional information to process this request.

Respectfully,

Fk + architect, llc

Fahim Khan, Architect  
Fk + architect, llc

*The End*



