

**ZONING BOARD OF ADJUSTMENT
MEETING AGENDA
CITY HALL, 3200 DIANA DRIVE
SEPTEMBER 3, 2024 at 6:00 PM**

- 1. CALL TO ORDER**
- 2. OATH OF OFFICE**
- 3. EXECUTIVE SESSION**

Executive Session: Pursuant to the Open Meetings Act, Chapter 551, Texas Government Code, Section 551.071. **Executive Session may be held, under these exceptions, at any time during the meeting that a need arises for the Zoning Board of Adjustment to seek advice from the City Attorney as to the posted subject matter of this Zoning Board of Adjustment meeting.**

Reconvene into open session for possible action resulting from any items posted and legally discussed in Executive Session.

4. PUBLIC COMMENTS

This is the public's opportunity to address the Zoning Board of Adjustment on any matter not posted on the agenda. Citizen comments emailed to Lindsay Rawlinson (lrawlinson@richlandhills.com) on an item either listed on this agenda or not listed on this agenda will be heard at this time.

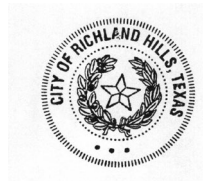
REGULAR AGENDA

5. Approve minutes from the August 6, 2024, Zoning Board of Adjustment meeting.
6. Consider **ZBA 2024-0653**, a special exception to decrease the side yard setback requirements for the property described as Lot 9, Block 6, Richland Park Addition, City of Richland Hills, Tarrant County, Texas otherwise known as 3012 Elm Park, Richland Hills, Texas 76118. **PUBLIC HEARING**
- 7. ADJOURNMENT**

CERTIFICATE

I hereby certify that the above agenda was posted on this the 29th day of August 2024, by 5:30 p.m., on the official bulletin board at the Richland Hills City Hall, 3200 Diana Drive, Richland Hills, Texas.

Lindsay Rawlinson
Lindsay Rawlinson
City Secretary



ACCESSIBILITY STATEMENT

The Facility is wheelchair accessible. If you plan to attend this meeting and you have a disability that requires special arrangements at the meeting, please notify the City Secretary 48 hours in advance of the meeting so that reasonable accommodations can be made. City of Richland Hills (817) 616-3810.

Memorandum

To: Richland Hills Zoning Board of Adjustment

From: Lindsay Rawlinson, City Secretary

Date: September 3, 2024

Subject: Administer Oath of Office

Agenda Item:

Administer Oath of Office

Background Information:

City Secretary Lindsay Rawlinson will administer the oath of office to Alternate Mike Witt following his appointment by the City Council to serve on the Zoning Board of Adjustment on June 10, 2024.

Financial Considerations:

N/A

Legal Review:

N/A

Board/Citizen Input:

N/A

Attachments:

None

Board Action Requested:

None

Memorandum

To: Richland Hills Zoning Board of Adjustment

From: Lindsay Rawlinson, City Secretary

Date: September 3, 2024

Subject: Minutes from the August 6, 2024 Zoning Board of Adjustment Meeting

Agenda Item:

Approval of August 6, 2024 Zoning Board of Adjustment Meeting Minutes

Background Information:

N/A

Financial Considerations:

N/A

Legal Review:

N/A

Board/Citizen Input:

N/A

Attachments:

August 6, 2024 Draft Minutes

Suggested Motion:

Motion to approve the minutes from the August 6, 2024 Zoning Board of Adjustment meeting

**ZONING BOARD OF ADJUSTMENT
AUGUST 6, 2024
MINUTES**

Roll Call:

Members present

Jorge Cisneros, Chair
Edward Lopez, Place 2
Athena Campbell, Place 4
Lisa Skier, Place 5
Joyce Fiaccone, Alternate 1 (arrived 6:09 p.m.)
Donald Acker, Alternate 2
Melissa Scheuttig, Alternate 3

Members absent

Ashly Schilling, Place 3
Mike Witt, Alternate 4

Staff present

JP Ducay, Director of Planning and Development Services
Lindsay Rawlinson, City Secretary
Elizabeth Yelverton, City Attorney

ZONING BOARD OF ADJUSTMENT WORK SESSION – 6:00 PM

1. Provide training regarding Zoning Board of Adjustment authority pursuant to the Code of Ordinances and Local Government Code 211.009.

City Attorney Elizabeth Yelverton provided legal training for the Zoning Board of Adjustment and covered topics including the Board's basis for authority, the authority granted under state law, the requirements for an appeal of an administrative decision, and the conditions for granting a variance.

Director of Planning and Development Services JP Ducay provided a brief overview of a zoning text amendment recently approved by the City Council. The amendment addresses legal nonconforming structures throughout the City and providing a process for these structures to pursue expansion via a special exception.

Chairman Cisneros adjourned the worksession at 7:02 p.m.

REGULAR SESSION – 7:00 PM

2. CALL TO ORDER

Chairman Cisneros called the meeting to order at 7:03 p.m.

3. EXECUTIVE SESSION

A. Executive Session: Pursuant to the Open Meetings Act, Chapter 551, Texas Government Code, Section 551.071. Executive Session may be held, under these exceptions, at any time during the meeting that a need arises for the Zoning Board of Adjustment to seek advice from the City Attorney as to the posted subject matter of this Zoning Board of Adjustment meeting.

Motion: Motion was made by Member Skier and seconded by Member Campbell to convene into Executive Session. Time: 7:03 p.m.

Motion carried by a vote of 4-0.

B. Reconvene: Action necessary on items discussed in Executive Session

Chairman Cisneros reconvened into open session. Time 7:18 p.m.

4. PUBLIC COMMENTS

None.

REGULAR AGENDA

5. Approved minutes from the April 2, 2024 Zoning Board of Adjustment meeting.

Motion: Motion was made by Member Skier and seconded by Member Campbell to approve the April 2, 2024 Zoning Board of Adjustment meeting minutes.

Motion carried by a vote of 4-0.

6. Approved ZBA 2024-0607, a special exception request to decrease the side yard and front yard setback requirements for the property described as Lot 5, Block 3, Richland Park Annex, City of Richland Hills, Tarrant County, Texas otherwise known as 2916 Gumwood Park, Richland Hills, Texas 76118. PUBLIC HEARING

Director of Planning and Development Services JP Ducay presented ZBA 2024-0607, a special exception request to decrease the side yard and front yard setback requirements for the property described as Lot 5, Block 3, Richland Park Annex, City of Richland Hills, Tarrant County, Texas otherwise known as 2916 Gumwood Park, Richland Hills, Texas 76118. The property is a 6,836 square-foot lot with a 1,457 square-foot single-family residence located in the SF-7 zoning district. The applicants for this property are John and Janet Hammons.

The applicant is proposing to demo a closet wall and expand the space into an additional bedroom. During preliminary building plan review, it was determined that the proposed construction would encroach into the front and side yard setback. However, the addition is proposing to lineup with the structures existing side yard and front yard setback

encroachments. The addition will encroach approximately two and a half inches into the front yard setback to align with the front façade. When the home was originally constructed in 1956, it was setback only five feet from the side yard property line. The structure inherently encroaches into the SF-7 side yard setback requirement of eight feet as it is setback five feet from the property line. The addition will align with the existing building footprint and side yard encroachment. The applicant is also proposing to install an awning over the front door. Eaves and roof extensions such as an awning may project into the front yard setback for a distance not to exceed three feet.

The applicant is requesting a special exception to decrease the front yard setback of 25 feet to 24 feet and 9.5 inches and the side yard setback of eight feet to five feet. The proposed expansion will align with existing building footprint and will not further encroach into any setbacks.

Chairman Cisneros opened the Public Hearing at 7:24 p.m. and asked to hear from any proponents followed by opponents of the case.

Applicant Janet Hammons, 2916 Gumwood Park, Richland Hills, advised that the property belongs to her parents and they are seeking to expand the property to be more livable for her aging parents.

Chairman Cisneros closed the Public Hearing at 7:26 p.m.

Discussion ensued regarding if the applicant had attempted to apply previously.

Mr. Ducay advised that they have no previously applied but the recently approved zoning text amendments approved by City Council allowed the applicants a path forward.

Motion: Motion was made by Member Skier and seconded by Member Lopez to approve ZBA 2024-0607, a special exception request to decrease the side yard and front yard setback requirements for the property described as Lot 5, Block 3, Richland Park Annex, City of Richland Hills, Tarrant County, Texas otherwise known as 2916 Gumwood Park, Richland Hills, Texas 76118.

Motion passed by a vote of 4-0.

7. Approved ZBA 2024-0594, a special exception request to decrease the side setback requirements for the property described as Lot 7, Block 20, Richland Park Addition, City of Richland Hills, Tarrant County, Texas otherwise known as 2816 Fir Park, Richland Hills, Texas 76118. PUBLIC HEARING

Director of Planning and Development Services JP Ducay presented ZBA 2024-0594, a special exception request to decrease the side yard setback requirements for the property described as Lot 7, Block 20, Richland Park Addition, City of Richland Hills, Tarrant County, Texas otherwise known as 2816 Fir Park, Richland Hills, Texas 76118. The property at 2816 Fir Park is a 7,500 square-foot lot with an 880 square-foot single-family

residence located in the SF-7 zoning district. The applicant for this property is Brian Mathis.

According to Section 2.03.03(D) SF-7 Single-Family Residential – Area regulations:

- The side yard interior setback shall be a minimum of 8 feet.

The applicant is proposing to enclose a pre-existing carport attached to the primary residence. The carport will be converted into an internal air-conditioned master bedroom. During preliminary building plan review, it was determined that the proposed construction would encroach into the side yard setback. However, the addition is proposing to lineup with the structures existing side yard encroachments. When the home was originally constructed in 1953, it was likely setback only five feet two inches from the side yard property line. The structure inherently encroaches into the SF-7 side yard setback requirement of eight feet as it is setback only five feet and two inches from the property line. The enclosure of the carport will align with the existing building/carport footprint and side yard encroachment.

The applicant is requesting a special exception to decrease the side yard setback of eight feet to five feet two inches. The proposed expansion will align with existing building footprint and will not further encroach

Chairman Cisneros opened the Public Hearing at 7:32 p.m. and asked to hear from any proponents followed by opponents of the case.

Hearing none, Chairman Cisneros closed the Public Hearing at 8:10 p.m.

Motion: Motion was made by Member Skier and seconded by Member Campbell to approve ZBA 2024-0594, a special exception request to decrease the side setback requirements for the property described as Lot 7, Block 20, Richland Park Addition, City of Richland Hills, Tarrant County, Texas otherwise known as 2816 Fir Park, Richland Hills, Texas 76118.

Motion passed by a vote of 4-0.

8. ADJOURNMENT

Motion: Motion was made by Member Skier and seconded by Member Campbell to adjourn.

Motion carried by a vote of 4-0.

There being no further business to come before the Zoning Board of Adjustment, Chairman Cisneros declared the meeting adjourned at 7:36 p.m.

ATTEST:

APPROVED:

Lindsay Rawlinson, City Secretary

Jorge Cisneros, Chairman

Memorandum

To: Richland Hills Zoning Board of Adjustment

From: JP Ducay, Director of Planning & Development Services

Date: September 3, 2024

Subject: Specials Exception Request for 3012 Elm Park

Agenda Item:

Consider ZBA 2024-0653, a special exception to decrease the side yard setback requirements for the property described as Lot 9, Block 6, Richland Park Addition, City of Richland Hills, Tarrant County, Texas otherwise known as 3012 Elm Park, Richland Hills, Texas 76118. **PUBLIC HEARING**

Background Information:

The property at 3012 Elm Park is a 7,380 square-foot lot with a 1,049 square-foot single-family residence located in the SF-7 zoning district. The applicant for this property is Ivan Hernandez Ramirez.

According to **Section 2.03.03(D) SF-7 Single-Family Residential – Area regulations:**

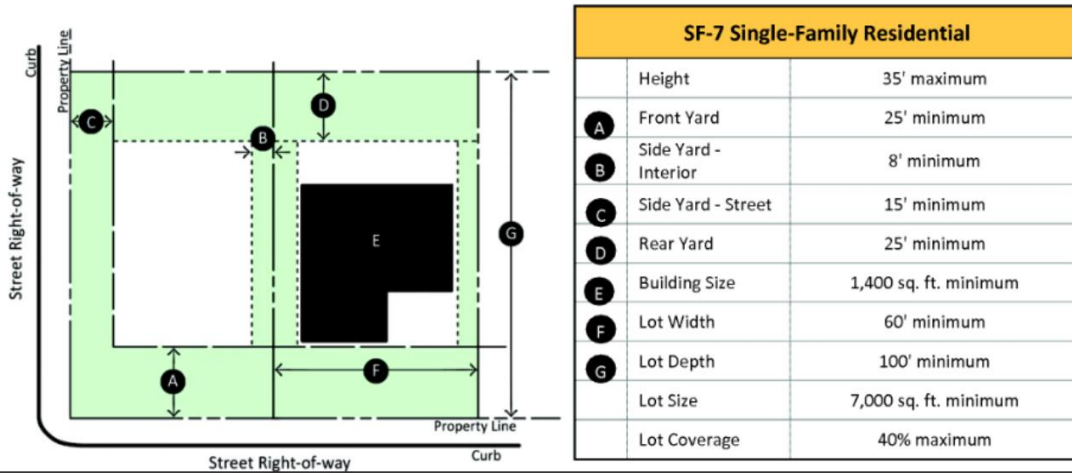
- The side yard interior setback shall be a minimum of 8 feet.

The applicant is proposing to expand the main living area. During preliminary building plan review, it was determined that the proposed construction would encroach into the side yard setback. However, the addition will align with the existing building footprint and side yard encroachment.

The applicant is requesting a special exception to decrease the side yard setback of 8' to 6'1". The proposed expansion will align with existing building footprint and will not further encroach into any setbacks.

Zoning Map:

(D) Area regulations.



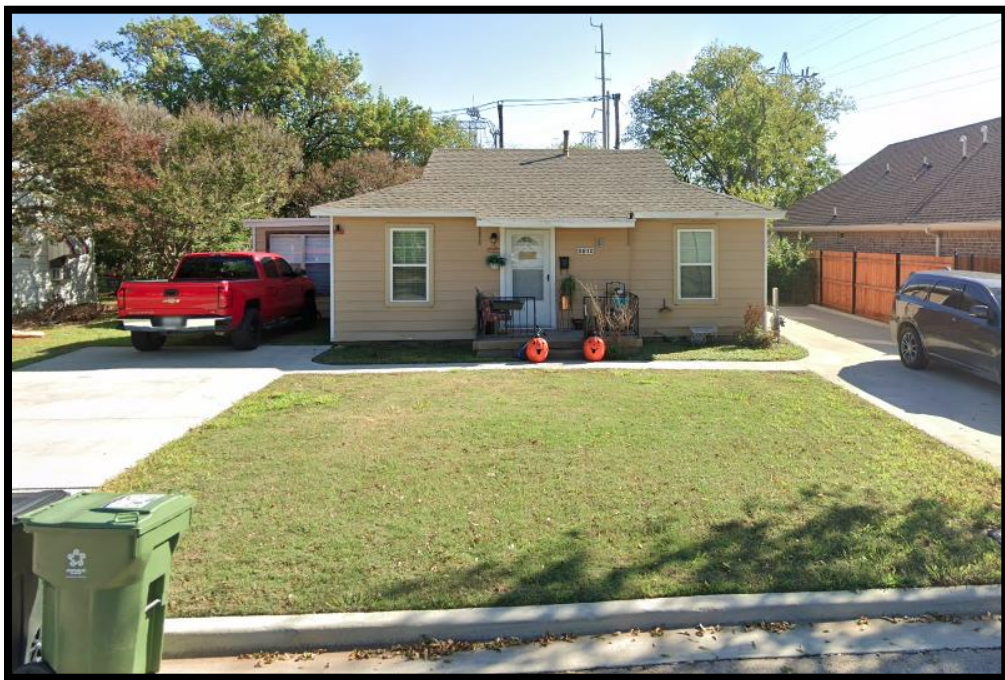
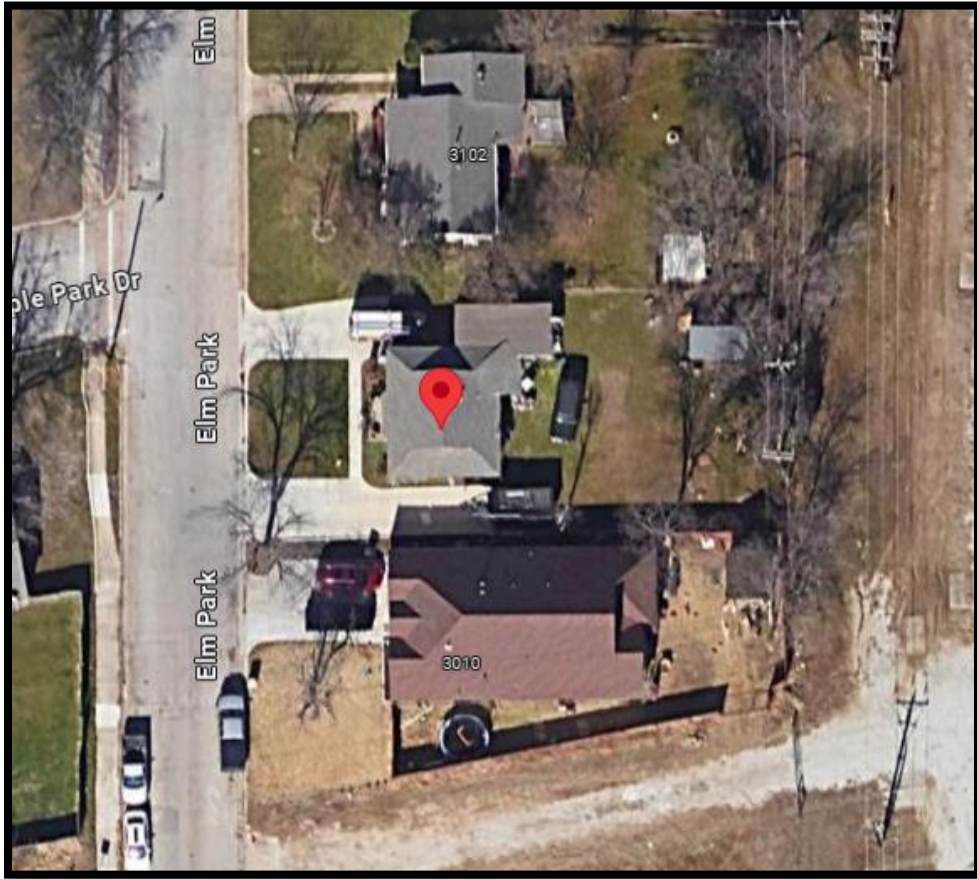
Attachments:

- Property Photos
- Proposed Plans
- Section 6.13 – Special Exception

Motion:

Motion to *(approve/deny)* ZBA 2024-0653, a special exception to decrease the side yard setback requirements for the property described as Lot 9, Block 6, Richland Park Addition, City of Richland Hills, Tarrant County, Texas otherwise known as 3012 Elm Park, Richland Hills, Texas 76118.

3012 Elm Park Property Photos





Richland Hills Development Services

3200 Diana Drive | Richland Hills, TX, 76118

817-616-3800 | richlandhills.com

Zoning Board of Adjustment Application

Application Type

Special Exception - Zoning

Special Exception - Sign

Variance

Property Owner Information

Name: Juan Hernandez

Address: 3012 Elm park richland Hills

Phone: 817 500 3259 Email Address: _____

I, the undersigned owner or authorized agent of the following described real property, located in the City of Richland Hills, Texas, hereby make application for a request for a special exception/variance from Section _____ of the Richland Hills Code of Ordinances.

Signature: Juan Hernandez Date: 7/24/24

Applicant/Tenant Information

Name: Juan Hernandez

Address: 3012 Elm park richland Hills

Phone: 817 500 3259 Email Address: ivanhrgeneral@icloud.com

Detailed description of request: encroachment for addition on side yard only

Acknowledgement

I have read this application form and understand that filing the application does not guarantee an affirmative action by the Zoning Board of Adjustment. I further understand that at least four (4) affirmative votes must be cast in order to receive a special exception or variance.

Signature: Juan Hernandez Date: 7/24/24

For Office Use Only

Received by: keangel Fee Paid: \$300.00 Case Number: 20240653

Approved by: _____ Date: _____

Comments: Receipt #413110 cc



Axiom Management & Engineering, Inc.

P.O. Box 6460
Fort Worth, Texas 76115

(817) 994-5420
Firm # F-3654

December 05, 2023

Mr. Ricardo Nava
Ricardo Consulting
2720 Marigold Ave
Fort Worth, TX 76111

RE: 3012 Elm Park
Richland Hills, TX 76118

Dear Mr. Nava:

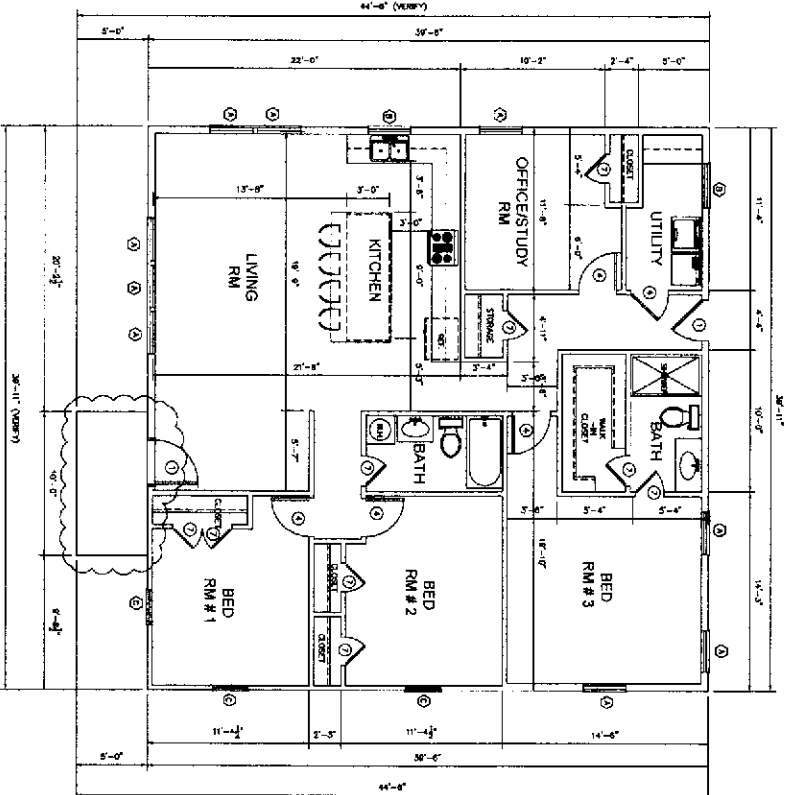
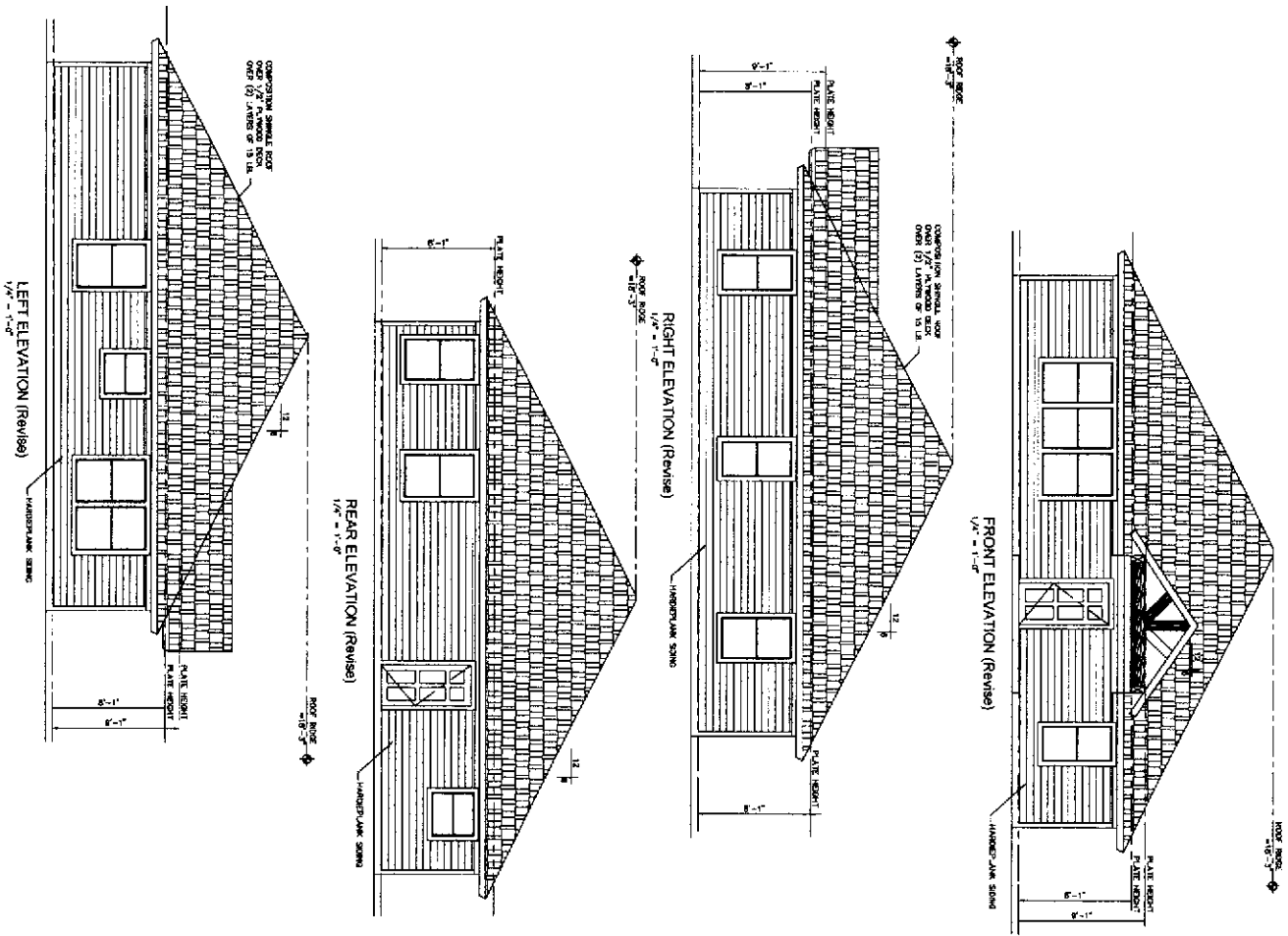
As requested, this letter is to certify that I signed and sealed the foundation plan along with details, dated 12-05-2023. The foundation plans complies with or exceeds the current International Residential Code, 2015,2018, 2021 Edition.

If you have any questions, please do not hesitate in contacting me at (817) 994-5420.

Sincerely,

Scott A. Atwood, P.E.
President





FLOOR PLAN (Revise)
1/8" = 1'-0"

MARKING	DESCRIPTION
①	3'-0" x 6'-0" SINGLE HANG
②	3'-0" x 7'-0" SINGLE HANG
③	3'-0" x 5'-0" SINGLE HANG
④	3'-0" x 5'-0" SINGLE HANG
⑤	3'-0" x 6'-0" SINGLE HANG
⑥	3'-0" x 6'-0" SINGLE HANG
⑦	3'-0" x 7'-0" SINGLE HANG
⑧	3'-0" x 7'-0" SINGLE HANG
⑨	3'-0" x 7'-0" SINGLE HANG
⑩	3'-0" x 7'-0" SINGLE HANG

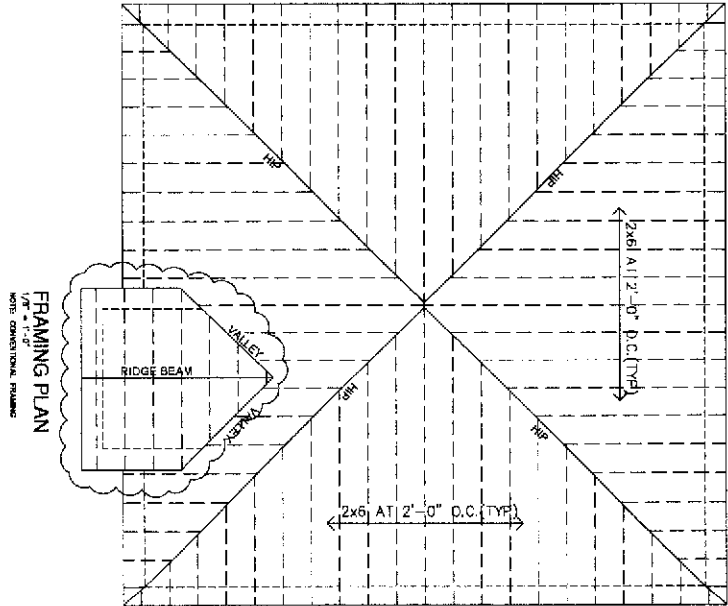
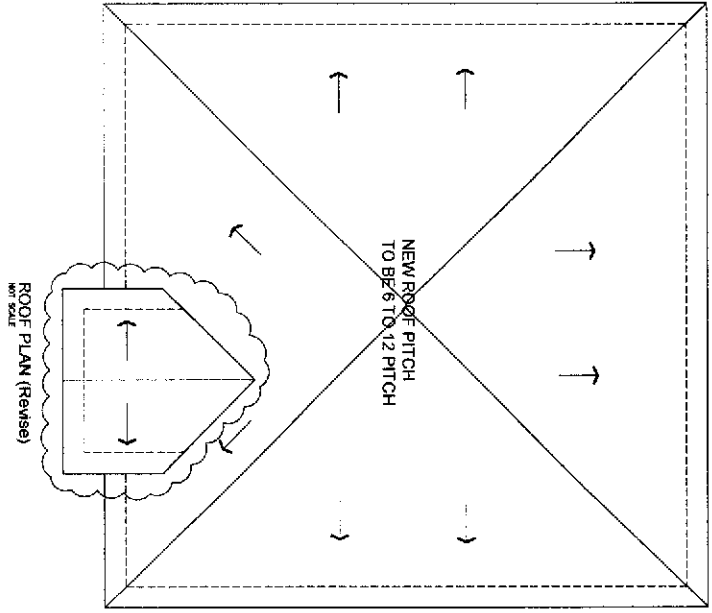
DOOR SCHEDULE	DETAILS
①	3'-0" x 6'-0" 3/4"
②	3'-0" x 6'-0" 3/4"
③	3'-0" x 6'-0" 3/4"
④	3'-0" x 6'-0" 3/4"
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⑥	3'-0" x 6'-0" 3/4"
⑦	3'-0" x 6'-0" 3/4"
⑧	3'-0" x 6'-0" 3/4"
⑨	3'-0" x 6'-0" 3/4"
⑩	3'-0" x 6'-0" 3/4"

ISERING	REVERSE EXISTING FLOOR PLAN AREA
LIVING AREA	1,577 SQ. FT.
DINING AREA	1,037 SQ. FT.
TOTAL AREA	2,614 SQ. FT.

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<p>NEW ADDITION AND REMODELING</p> <p>3012 Elm Park</p> <p>RICHLAND HILLS, TEXAS 76118</p>	<p>OWNER: [Name]</p> <p>DATE: [Date]</p> <p>PROJECT NO: [Number]</p> <p>SCALE: [Scale]</p>	<p>ARCHITECT: [Firm Name]</p> <p>REGISTERED ARCHITECT</p> <p>NO. [License Number]</p> <p>STATE OF TEXAS</p>	<p>DATE: [Date]</p> <p>BY: [Name]</p> <p>PROJECT NO: [Number]</p>
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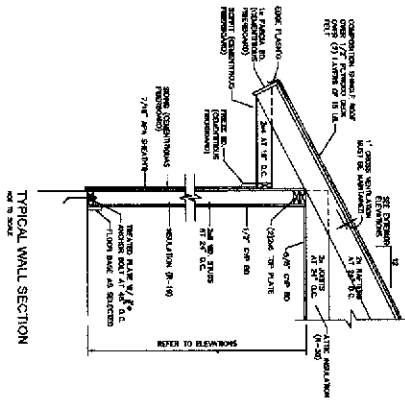


NOTE: Engineer Stamp on this page for Roof Diagram only. Changes to any other schematic drawing on this page shall be allowed without engineers consent or approval.

Scott Alford, PE
12-06-2023
Axiom Management & Engineering, Inc
PO Box 8460 Fort Worth, TX 76115
817-994-5420
EIR # 3054

SCOTT A. ALFORD
70851
12-06-2023

<p>PROFESSIONAL ENGINEER SCOTT A. ALFORD NO. 70851 EXPIRES 12-31-2024</p>	<p>ISSUING COMMISSION RICHLAND HILLS COUNTY CLERK SCOTT A. ALFORD 12-06-2023</p>	<p>NEW ADDITION AND REMODELING</p> <p>3012 Elm Park RICHLAND HILLS, TEXAS 76118</p>	<p>PROJECT NAME: ROOF FRAMING</p> <p>DATE: 12-06-2023</p> <p>SCALE: AS SHOWN</p>	<p>52.0</p>
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TYPICAL WALL SECTION

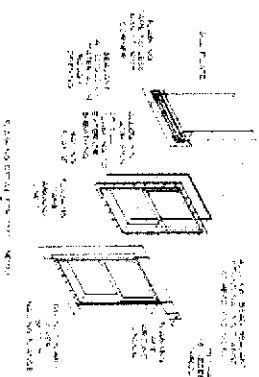
NAILING SCHEDULE

INC. TABLE (NOT TO SCALE)

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TO JOISTS	16 GA. GALV. STEEL NAIL	1 1/2\"/>	
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TO SHEATHING	16 GA. GALV. STEEL NAIL	1 1/2\"/>	
TO ROOFING	16 GA. GALV. STEEL NAIL	1 1/2\"/>	
TO FLOORING	16 GA. GALV. STEEL NAIL	1 1/2\"/>	
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TO WALL	16 GA. GALV. STEEL NAIL	1 1/2\"/>	
TO WINDOW	16 GA. GALV. STEEL NAIL	1 1/2\"/>	
TO DOOR	16 GA. GALV. STEEL NAIL	1 1/2\"/>	

LOOSE LITELS FOR MASONRY SUPPORT

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ROOF DETAIL

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CEILING JOIST SPAN SCHEDULE

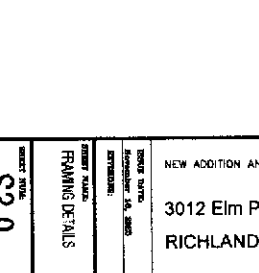
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§ 1.06 Nonconforming uses, structures and lots.

90-1.06.01 Intent of Provisions.

(A) Existence of nonconformities.

- (1) The purpose of this section is to establish provisions for the allowance and potential alteration of uses, lots, and/or structures that do not conform to currently applicable standards or regulations, but that were in conformance with standards in place at the time of their inception, and have been rendered nonconforming due to a change in the applicable standards and regulations.
 - (a) Nonconformities occur in three general categories, or combinations thereof:
 1. Nonconforming lots as described in subsection 1.06.02.(A)(1) below. For example, a nonconforming lot can be nonconforming as to lot area or dimension requirement.
 2. Nonconforming structures as described in subsection 1.06.02.(A)(1) below. For example, a nonconforming structure can be nonconforming as to a dimension requirement, masonry requirement, or landscaping requirement.
 3. Nonconforming uses are uses as described in subsection 1.06.02.(A)(1) below. For example, a nonconforming use can be the actual use, or the parking requirement associated with that particular use.
- (2) It is the declared intent of this section that nonconforming uses and structures eventually be eliminated and be required to comply with the regulations of the Zoning Ordinance, having due regard for the property rights of the person affected, the public welfare, and the character of the surrounding area.

90-1.06.02 Establishment of Legal Nonconforming Status.

- (A) Existence. For purposes of interpretation of this subsection, any uses, structures, or lots that in whole or part are not in conformance with current zoning standards shall be considered as follows:
 - (1) Legal nonconforming. Those uses, structures, or lots that in whole or part are not in conformance with current zoning standards, but were legally established at a prior date at which time they were in conformance with applicable standards. Such uses, structures or lots may be maintained or potentially altered subject to the provisions of this subsection.
 - (2) Illegal status. Those uses, structures, or lots that in whole or part are not in conformance with current zoning standards and were not in conformance with applicable standards at the time of their inception shall not be considered legal nonconforming, but shall be considered illegal uses, structures, or lots and shall not be approved for any alteration or expansion, and shall undertake necessary remedial measures to reach conformance with current standards, or be discontinued.
- (B) Time of adoption. Any use, platted lot, or structure that is a lawful use at the time of the adoption of any amendment to this Ordinance but by such amendment is placed in a district wherein such use, platted lot, or structure is not otherwise permitted shall be deemed legal nonconforming.

90-1.06.03 Burden of Demonstration. The burden of establishing that any nonconformity is a legal nonconformity as defined in this subsection shall be borne by the owner or proponent of such nonconformity.

90-1.06.04 Continuing Lawful Use of Property and Existence of Structures.

(A) Discontinuance of nonconforming use.

- (1) If a nonconforming use shall cease operations for a period of more than six months, then such nonconforming use shall be deemed to be permanently discontinued. Unless the board of adjustment reinstates the nonconforming rights pursuant to section 6.10 Reinstatement of Nonconforming Rights of this Ordinance, such a use shall not be instituted on that parcel or other parcel in any district that does not permit the discontinued use.
- (2) For the purpose of this paragraph, to "cease operations" shall mean to intentionally terminate operations of the nonconforming use. Any nonconforming use that does not involve a permanent type of structure or operation and that is moved from the premises shall be considered to have been discontinued, regardless of intent.

(B) Reinstatement of nonconforming use rights. An owner and/or operator of a nonconforming use that has been deemed permanently abandoned pursuant to subsection (A) above, may request that the nonconforming rights to the use be reinstated pursuant to section 6.10 Reinstatement of Nonconforming Rights of this Ordinance.

(C) Prohibited expansion or reoccupation. A nonconforming use or structure shall not be expanded, reoccupied with another nonconforming use, or increased as of the effective date of this Ordinance except as provided in section 1.06.06. below.

(D) Existing platted lots are conforming lots. Any existing lot platted prior to May 6, 2014, which was legally conforming, shall be deemed a conforming lot.

90-1.06.05 Changing Uses and Nonconforming Rights.

- (A) Nonconforming use to conforming use. Any nonconforming use may be changed to a conforming use, and once such change is made, the use shall not be changed back to a nonconforming use.
- (B) Nonconforming use to another nonconforming use. A nonconforming use may not be changed to another nonconforming use.
- (C) Conforming use in a nonconforming structure. Where a conforming use is located in a nonconforming structure, the use may be changed to another conforming use by the process outlined in section 1.06.06. below.

90-1.06.06 Expansion of Nonconforming Uses and Structures. An expansion of a nonconforming use or structure is allowed in accordance with the following:

(A) Nonconforming use expansion in existing building.

- (1) A nonconforming use located within a building may be extended throughout the existing building, provided:
 - (a) No structural alteration may be made on or in the building except those required by law to preserve such building in a structurally sound condition; and
 - (b) The number of dwelling units or rooms in a nonconforming residential use shall not be increased so as to exceed the number of dwelling units or rooms existing at the time said use became a nonconforming use.
- (2) Nonconforming use within a building shall not be extended to occupy any land outside the

building.

- (B) Off-street loading, parking, and landscaping requirements. Requirements for parking and landscaping for a nonconforming structure shall be as stated in the supplementary ordinances.
- (C) Residential lot exemption. The minimum residential lot areas for the various zoning districts shall be in accordance with their respective districts, except that a lot having less area than herein required that was an official "lot of record" prior to May 6, 2014 may be used for a single-family dwelling.
- (D) Nonconforming building expansion with conforming uses. Buildings or structures **that in whole or part are not in conformance with current zoning standards, but were legally established at a prior date at which they were in conformance with applicable standards may expand the structure in conformance with current area regulations or development standards in this ordinance by right. If the expansion request furthers the nonconformity, a special exception shall be requested in accordance with section 6.13.01.** ~~not increase the gross floor area greater than ten percent from the date when the building became nonconforming. The expansion must be conforming.~~
- (E) Reuse of abandoned or vacant buildings by conforming uses allowed. Buildings or structures that have been vacant or abandoned for more than six months and do not meet the current area regulations or development standards shall be allowed to be reoccupied only by a conforming use.

90-1.06.07 Restoration of Nonconforming Structures.

- (A) Total destruction. If a nonconforming structure is destroyed by fire, the elements, or other cause, it may not be rebuilt except to conform to the provisions of this Ordinance.
- (B) Partial destruction. In the case of partial destruction of a nonconforming structure up to 51 percent of its total appraised value as determined by the Appraisal District, reconstruction will be permitted, but the existing square footage or function of the nonconforming structure cannot be expanded.

90-1.06.08 Movement of Nonconforming Structures.

- (A) Relocation of a nonconforming structure within a platted lot. Nonconforming structures may be relocated within the same platted lot.
- (B) Compliance. Nonconforming structures shall comply with all setback and screening requirements once relocated.

90-1.06.09 Completion of Structures. Nothing herein contained shall require any change in the plans, construction, or designated use of the following:

- (A) Approved building. A building or structure for which a building permit has been issued or a site plan approved prior to May 6, 2014.
- (B) Building in the approval process. A building or structure for which a complete application for a building permit was accepted by the building official on or before the effective date of these regulations, provided however, that such building permit shall comply with all applicable ordinances in effect on the date such application was filed.

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§ 6.13 Zoning Special Exception.

90-6.13.01 Purpose and Applicability.

- (A) Purpose. The board of adjustment is authorized to hear and decide a special exception to the Zoning Ordinance that are not permitted by right in a particular district because of potential adverse effect, but which if controlled in the particular instance as to its relationship to the neighborhood and to the general welfare, may be permitted by the board of adjustment, where specifically authorized by subsection (D) below, and in accordance with the substantive and procedural standards of the Zoning Ordinance.
- (B) Zoning special exception defined. A special exception is an allowed variation from the Zoning Ordinance, but is differentiated from a variance as the term is used in this Zoning Ordinance by the following:
 - (1) No hardship required. A special exception does not require a finding of an undue hardship.
 - (2) Specifically allowed and pre-determined by the Zoning Ordinance. Approval of a special exception by the board of adjustment is specifically provided for and defined in this Zoning Ordinance.
- (C) Requests for a zoning special exception.
 - (1) The board of adjustment may grant a special exception in accordance to the provisions of subsection (D) below upon written request of the property owner.
 - (2) The zoning administrator shall process and review a special exception.
- (D) Zoning special exception authorized. When in the board of adjustment judgment, the public convenience and welfare will be substantially served and the appropriate use of the neighboring property will not be substantially injured, the board of adjustment may, in specific cases, after public notice and public hearing and subject to appropriate conditions and safeguards, authorize the following special exceptions to the regulations herein established:
 - (1) Parking.
 - (a) A reduction in the number of on-site parking spaces may be granted in the nonresidential districts and for all nonresidential uses located in residential districts. Documentation justifying the reduction must be presented.
 - (b) Parking spaces may be located off-site and counted toward the parking requirements if the following requirements are met:
 - 1. Parking spaces are within 300 feet, measured by a straight line from the nearest point of the land on which the use served is located to the nearest point of the separated off-site parking space;
 - 2. A safe and accessible pedestrian connection from the parking area to the use is available; and
 - 3. A written agreement shall be drawn to the satisfaction of the city attorney and executed by all parties concerned assuring the continued availability of the off-site parking facilities for the use they are intended to serve.
 - (2) The board may issue a special exception to grant nonconforming status for a structure that did not

conform to this Ordinance when it was constructed or established, if the board finds:

- (a) The nonconformity was clearly and specifically shown in plans and specifications duly submitted to obtain a city permit;
- (b) Before the work was done, neither the owner, the designer, the surveyor, the contractor nor any other person assisting with the work knew about the nonconformity;
- (c) The nonconformity was clearly covered by the city permit (the same permit for which the plans and specifications were submitted), and the permit was otherwise regularly issued;
- (d) After learning of the nonconformity, the owner promptly conferred with the administrative official and voluntarily halted any further nonconforming work;
- (e) The item will cause no health or safety hazard and no significant impact upon another person or property; and
- (f) The item can be brought into conformity with this Ordinance within the time period specified in the special exception, at a modest or reasonable cost.

1. Exception: Bringing the item into conformity need not be required if the board finds that the impact of the item on other persons or properties is either nil or extremely small.

(3) The board may issue a special exception to buildings or structures that in whole or part are not in conformance with the current zoning standards, but were legally established at a prior date at which they were in conformance with applicable standards that are now requesting to further the nonconformity by way of expansion.

1. Furthering the nonconformity may include but is not limited to encroaching into any existing setbacks or exceeding or further exceeding the minimum lot coverage requirement in attempt to expand a nonconforming structure.
2. At no time may the Board grant this special exception where the requested encroachment into existing setback exceeds the encroachment present at the time the nonconformity was established. Any setback not encroached upon may not be encroached by way of this special exception.
3. At no time may the Board grant this special exception where the requested building height exceeds the building height present at the time the nonconformity was established. A building height in conformance with current zoning standards may not be increased by way of this special exception.
4. A special exception may be issued for a building expansion where the current building size is below the required square footage and the requested expansion will not bring the building size into conformance.

(E) The board of adjustment may impose conditions. In granting special exceptions under this section, the board of adjustment may impose such conditions as are necessary to protect adjacent property owners and to ensure the public health, safety and general welfare, including but not limited to conditions specifying the period during which the nonconforming use may continue to operate or exist before being brought into conformance with the provisions of this Ordinance.

(F) Concurring vote of 75 percent required. Pursuant to V.T.C.A., Local Government Code § 211.009(c), the concurring vote of 75 percent of the members of the board of adjustment is necessary to grant a special exception.

[Ord. No. 1273-14, § 1(Exh. A), 5-6-2014; Ord. No. 1296-15, § 2(Exh. A), 8-18-2015]