

City of Bastrop



Agenda Information Sheet:

Zoning Board of Adjustment Meeting Date:
BOAV16:09

October 5, 2016
Agenda Item #6

Public Notice Description:

Consideration and possible action on Variances to the Bastrop Zoning Ordinance requested for 202 Martin Luther King Jr. Drive, within Building Block 60, East of Main St., +/-0.137 acres, approximately 6,000 square feet, defined by metes and bounds, February 1956 zoned SF-7 Single Family Residential within the city limits of Bastrop, Texas. Variances to sections requested:

- Section 17.4 Area Regulations B.1. Minimum Front Yard, setback requirements to allow a front setback of ten feet (10') on Mill Street, where 25' is required; and
- Section 17.4 Area Regulations B.4. Minimum Rear Yard, setback requirements to allow a rear setback of twelve feet (12') where 15' is required; and
- Section 40.7 A.3 to allow the carport/ garage to have an approximately eighteen-foot (18') setback on Mill Street where 25' is required.

This property is a corner lot with street frontage on both Mill and Martin Luther King Jr. Drive Jr. Streets.

Owner/Applicants: Jose M Morales and Miriam Salas
Location: 202 Martin Luther King Jr. Drive
Utilities: City water, sewer and BP&L electric
Zoning: SF-7, Single-Family Residential-7
Land Use Plan: Single Family Residential

Existing +/-0.137 acres lot location map

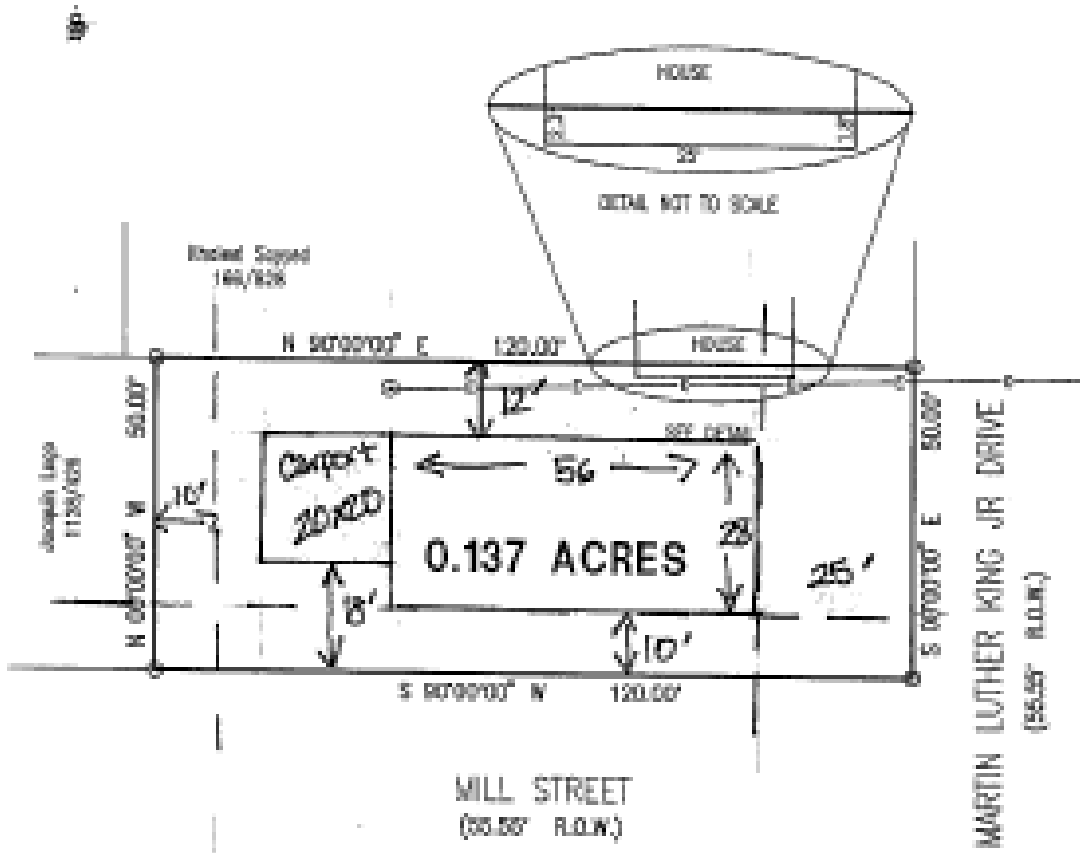


Background:

The property commonly known as 202 Martin Luther King Jr. Drive, within the City of Bastrop, Bastrop County, Texas and is zoned SF-7, Single Family Residential.

The current lot is vacant and the owner would like to place a new single family home on the property. The current lot is an existing legal lot under our subdivision ordinance, meaning it is the same size and shape since April 20, 1981. This lot has actually been in the same size and shape since February 25, 1956. The existing lot is currently 50 feet (50') wide and only 6,000 square feet, abiding by both front and rear setbacks would allow only a ten foot (10') wide dwelling to be constructed.

Site/Plot Plan showing proposed home and improvements



Request:

Variances to Zoning Ordinance, as requested by Jose M. Morales and Miriam Salas, for 202 Martin Luther King Jr. Drive, located on the west side of the street, at the corner of Martin Luther King Jr. Drive and Mill Street. This property is vacant and the applicant would like to place a manufactured home on the 50 foot (50') wide lot. If approved for the variances, the owner will have to receive a separate Conditional Use Permit (CUP) for the manufactured home. The proposed house is planned at 28 feet (28') wide with a reduced ten-foot (10') setback on the south (Mill Street) property line and a reduced twelve-foot (12') setback on the north/rear property line adjacent to the neighboring property. The proposed house will access the carport and parking area from Mill Street.

The applicant is requesting a variance to reduce the front setback to ten feet (10') from Mill Street for the front of the house and eighteen feet (18') for the carport/ garage where twenty-five feet (25') is required.

Variances requested is to allow a house to be placed on lot:

- Section 17.4 B.1: to allow a ten foot (10') front setback where twenty-five feet (25') is required.

- Section 17.4 B.4: to allow a twelve foot (12') rear setback where fifteen feet (15') is required
- Section 40.7 A.3 to allow the carport/ garage to have an approximately eighteen-foot (18') setback on Mill Street where 25' is required.

17.4 - AREA REGULATIONS: B. Size of Yards:

1. Minimum Front Yard - Twenty-five feet (25').

4. Minimum Rear Yard - Fifteen feet (15').

40.7 - AREA REGULATIONS FOR ACCESSORY BUILDINGS IN RESIDENTIAL AND MULTI-FAMILY DISTRICTS: A. Size of Yards:

3. Exterior Side Yard: Accessory buildings adjacent to a side street shall have the same required setback as the main structure. Carports or garages arranged to be entered from the side yard, facing a public street, shall have a minimum distance equal to the required front yard for the main building.

Total structures including the home and carport/ garage on the property will be approximately 1,968 square feet.

Variance Criteria:

The Board of Adjustment may authorize a variance from these regulations when, in its opinion, undue hardship will result from requiring strict compliance. In granting a variance, the Board shall prescribe only those conditions that it deems necessary to or desirable in the public interest. In making the findings hereinafter required, the Board shall take into account the nature of the proposed use of the land involved, existing uses of land in the vicinity, the number of persons who reside or work in the proposed use, and the probable effect of such variance upon traffic conditions and upon the public health, safety, convenience and welfare in the vicinity.

Criteria for Findings

A. In order to grant a variance from these zoning regulations, the Board of Adjustment must make written findings that undue hardship exists, using the following criteria:

1. Special circumstances or conditions exist which affect the land involved such that the strict application of the provisions of this ordinance would deprive the applicant of reasonable use of the land.
The subject property meets the City of Bastrop legal lot definition (same size and shape since April 20, 1981) and has been the same size since approximately February 25, 1956. The applicants are working within the unique size characteristics of the property and within the "buildable" area of the lot to build a home that meets the minimum dwelling unit area and is comfortable for a four-person family.
2. The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant.
Following the setback requirements for this particular lot is difficult, in that a majority of the block has already been subdivided leaving this lot with the width of only 50 feet with two street front setbacks. The applicants neighboring property has encroached onto the lot under discussion, adding to the limitations of the property.
3. Granting of the variance will not be detrimental to the public health, safety or welfare or Injurious to other property in the area, and the spirit of the ordinance will be observed. Variances may be granted only when in harmony with the general purpose and intent of this ordinance.
Many properties in the surrounding area already do not meet the current zoning ordinance setback requirements. The existing neighboring house to the north currently encroaches into this lot, and has about a 20' front yard setback from MLK and no side yard setback. The surrounding neighborhood is unique in that many lots are irregularly shaped and utilize a variety of setbacks.
4. Granting of a variance will not have the effect of preventing the orderly use of other land in the area in accordance with the provisions of this ordinance.

The proposed setback variance is against Mill Street and the neighboring property. Twelve feet (12') would meet the fire separation needed from the existing structure. Also, the carport would be setback enough to clear the Mill Street right-of-way (ROW) if parked within the driveway. The property will abide by the required ten foot (10') setback at their west property line and setback on MLK. Much of the surrounding property is currently developed with existing single family residences and individual setbacks vary greatly. This property is unique with the lot frontages on both Mill and MLK Streets.

- 5. The Applicant's practical difficulties and/or unnecessary hardship arise from unusual conditions or circumstances pertaining only to the Property, which difficulties and/or hardship are not shared generally by other parcels in the neighborhood of the Property.

- B. A variance is to be denied if conditions or circumstances relied on for a variance were created by a person having an interest in the property.

- C. Financial hardship to the applicant, standing alone, shall not be deemed to constitute a hardship.

- D. The applicant bears the burden of proof in establishing the facts justifying a variance.

Comments: Fifteen (15) adjacent property owner notifications were mailed 9/19/2016. As of this date, no comments have been received.

Basis of Support:

Staff recommends approval of the variances:

- Section 17.4 B.1: to allow a ten foot (10') front setback where twenty-five feet (25') is required.
- Section 17.4 B.4: to allow a twelve foot (12') rear setback where fifteen feet (15') is required
- Section 40.7 A.3 to allow the carport/ garage to have an approximately eighteen-foot (18') setback on Mill Street where 25' is required.

for 202 Martin Luther King Jr. Drive, a legal lot, within Building Block 60, East of Main St., +/-0.137 acres within the city limits of Bastrop, Texas, with the understanding that a CUP must be approved if using a manufactured home.

Recommended Action:

Adopt findings in the form that renders the Board's position to "grant" or "deny" the request.

City Contact:

Melissa M. McCollum, AICP, LEED AP, Director Planning and Development Department

Attachments:

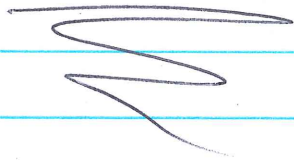
Letter from property owner, site plan, location map, and findings of fact

DEAR MEMBER OF THE BOARD OF ADJUSTMENT

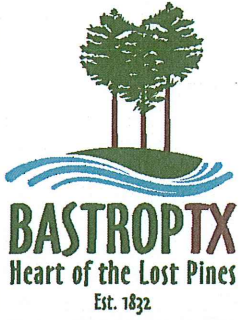
My name is Jose M. Morales and my wife Miriam Salas are first time property owners. We have purchased a small legal lot only 50 feet wide with 2 street frontages on Mill st and MLK. But with the lot being so small I am request setback 10 foot front setback on Mill street instead of 25 feet and rear setback of 12 feet instead of 15 feet.

We have purchased our manufactured home, I would greatly appreciate a variance on this property so that we can move into our home with our children's ages 4 and 7. We would loved for our children's to grown into this beautiful and quiet town, can't wait to meet our neighborhood thank you for your consideration and time

Jose Martinez



Miriam Salas




Property Location Map for 202 MLK



Legend

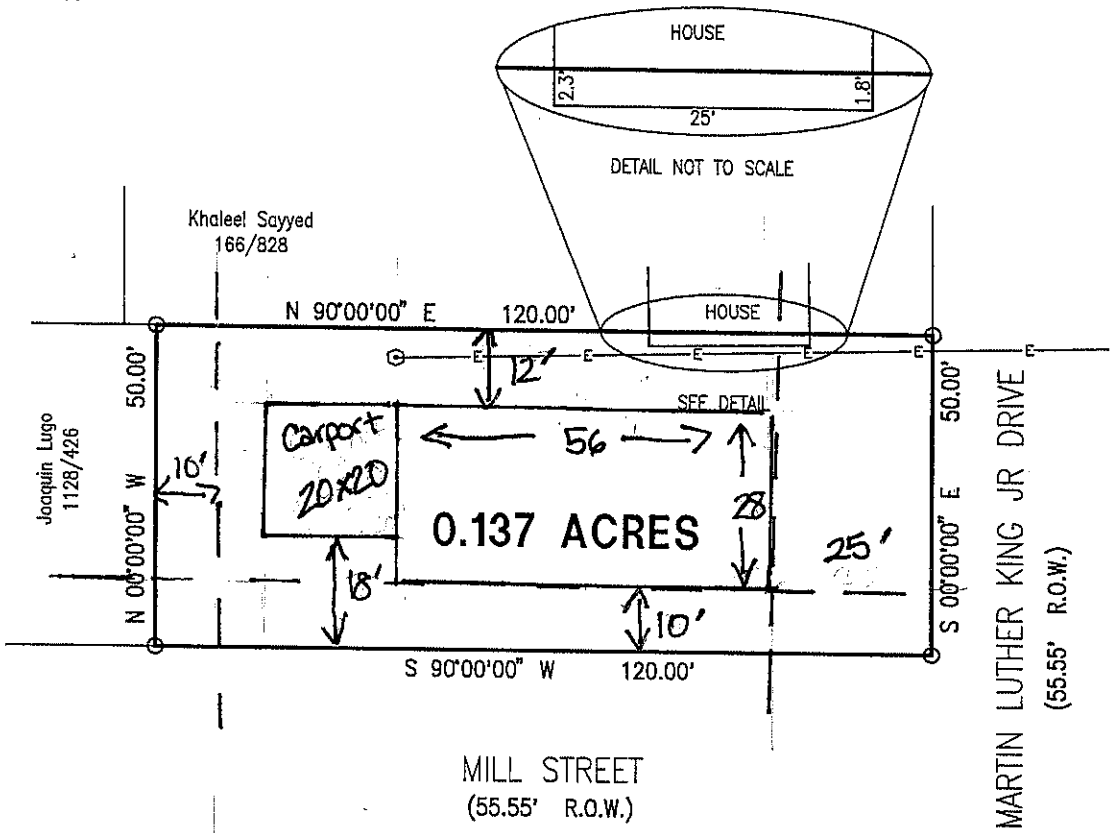


RECEIVED
AUG 29 2016
By 

BUILDING BLOCK 60 (EMS)




- SCALE: 1" = 30'**
- IRON ROD FOUND
 - IRON PIPE FOUND
 - 5/8 IRON ROD SET
 - ⊙ UTILITY POLE
 - ⊙ WATER METER
 - E- ELECTRIC LINE
 - BOUNDARY LINE



FENCES MAY NOT REFLECT PROPERTY LINES

The undersigned does hereby certify to; the Title Agency, Underwriter, Lender, Mortgage Co. and/or Purchaser, that this survey was, this day, made on the ground, on the property legally described hereon, and is correct, and there are no discrepancies, conflicts, shortages in area, boundary line conflicts, encroachments, overlapping of improvements, visible utility lines, or roads in place, except as shown hereon, and that said property has frontage on a dedicated road way, except as shown hereon.

CERTIFIED COPY ONLY
IF YELLOW SEAL IS PRESENT



DALE L. OLSON MICHAEL D. OLSON
REG. NO. 1753 REG. NO. 5386
DALE L. OLSON SURVEYING COMPANY
DATE: 25 JUL 16

DALE L. OLSON
REGISTERED PROFESSIONAL LAND SURVEYOR
711 WATER STREET (512) 321-5476 BASTROP, TEXAS

SURVEY PLAT

of a 0.137 ACRE TRACT being a portion of BUILDING BLOCK 60, EAST OF MAIN STREET, recorded in PLAT CABINET 1, PAGE 23A, PLAT RECORDS of BASTROP COUNTY, TEXAS.

SCALE:	1" = 30.00'	JOSE MORALES	
DRAFTSMAN:	D. BROOKS		
DATE:	25 JUL 16	DISK-FILE	109-30_4
		ORDER #	16-109-30_4
		PLAT FILE #	-0-

ACTION OF THE CITY OF BASTROP ZONING BOARD OF ADJUSTMENT

GRANTING VARIANCE

WHEREAS, Jose M. Morales and Miriam Salas (“Applicants”) of Bastrop, Texas, the owners of the property legally described as being approximately 0.137 acres, 202 Martin Luther King Jr. Drive, within Building Block 60, East of Main Street. The subject property is in the City of Bastrop, Bastrop County, Texas (“Property”); and

WHEREAS, said Property is located in an area zoned under the City’s Zoning Ordinance as SF-7- Single Family Residential-7 Zoning District; and

WHEREAS, the Applicants have applied for a variance to the City of Bastrop Zoning Ordinance, for the Property within the SF-7, Single Family Residential-7 Zoning District, in accordance with Section 17.4 Area Regulations B.1. Minimum Front Yard, setback requirements to allow a front setback of ten feet (10’) on Mill Street, where 25’ is required; and

WHEREAS, the Applicants have applied for a variance to the City of Bastrop Zoning Ordinance, for the Property within the SF-7, Single Family Residential-7 Zoning District, in accordance with Section 17.4 Area Regulations B.4. Minimum Rear Yard, setback requirements to allow a rear setback of twelve feet (12’) where 15’ is required; and

WHEREAS, the Applicants have applied for a variance to the City of Bastrop Zoning Ordinance, for the Property within the SF-7, Single Family Residential-7 Zoning District, in accordance with Section 40.7 A.3 to allow the carport/ garage to have an approximately eighteen-foot (18’) setback on Mill Street where 25’ is required; and

WHEREAS, Applicants have filed a proper request for such variance’s; and

WHEREAS, Applicants allege that strict compliance with the City’s Zoning Ordinance would result in undue hardship to Applicant, pursuant to Section 9.6 Variances of the City’s Zoning Ordinance; and

WHEREAS, public notice has been given and a public hearing was held on October 5, 2016 before the Bastrop Zoning Board of Adjustment, with at least the statutory required 75% of members being present.

NOW THEREFORE, THE BASTROP ZONING BOARD OF ADJUSTMENT FINDS THAT:

1. The circumstances required for granting approval of the above described variance, as set out in Section 9.6 Variances of the City’s Zoning Ordinance, do exist on the property legally described as being 202 Martin Luther King Jr.

Drive, within Building Block 60, East of Main St., +/-0.137 acres, approximately 6,000 square feet within the city limits of Bastrop, Texas (“Property”):

CRITERIA for Findings	
X	<p>1. Special circumstances or conditions exist which affect the land involved such that the strict application of the provisions of this ordinance would deprive the applicant of reasonable use of the land;</p> <p><i>The subject property meets the City of Bastrop legal lot definition (same size and shape since April 20, 1981) and has been the same size since approximately February 25, 1956. The applicants are working within the unique size characteristics of the property and within the “buildable” area of the lot to build a home that meets the minimum dwelling unit area and is comfortable for a four-person family.</i></p>
X	<p>2. The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant;</p> <p><i>Following the setback requirements for this particular lot is difficult, in that a majority of the block has already been subdivided leaving this lot with the width of only 50 feet with two street front setbacks. The applicants neighboring property has encroached onto the lot under discussion, adding to the limitations of the property.</i></p>
X	<p>3. Granting the variance will not be detrimental to the public health, safety or welfare or injurious to other property in the area, and the spirit of the ordinance will be observed. [Variances may be granted only when in harmony with the general purpose and intent of this ordinance];</p> <p><i>Many properties in the surrounding area already do not meet the current zoning ordinance setback requirements. The existing neighboring house to the north currently encroaches into this lot, and has about a 20’ front yard setback from MLK and no side yard setback. The surrounding neighborhood is unique in that many lots are irregularly shaped and utilize a variety of setbacks.</i></p>
X	<p>4. Granting of the variance will not have the effect of preventing the orderly use of other land in the area in accordance with the provisions of this ordinance;</p> <p><i>The proposed setback variance is against Mill Street and the neighboring property. Twelve feet (12’) would meet the fire separation needed from the existing structure. Also, the carport would be setback enough to clear the Mill Street right-of-way (ROW) if parked within the driveway. The property will abide by the required ten-foot (10’) setback at their west property line and setback on MLK. Much of the surrounding property is currently developed with existing single family residences and individual setbacks vary greatly. This property is unique with the lot frontages on both Mill and MLK Streets.</i></p>
X	<p>5. The applicant’s practical difficulties or unnecessary hardship arise from</p>

	unusual conditions or circumstances, which are not shared generally by other parcels in the neighborhood or district; and
X	6. The conditions or circumstances relied on for the variance were <u>NOT</u> created by a person having an interest in the property.
X	7. Financial hardship to the applicant, standing alone, has <u>NOT</u> been claimed.

STATE OF TEXAS

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COUNTY OF BASTROP

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**CERTIFICATE OF AUTHENTICITY OF
VARIANCE FROM CITY OF BASTROP ZONING REQUIREMENTS**

I, Ann Franklin, the City Secretary for the City of Bastrop, hereby certify that the attached "Action of the City of Bastrop Zoning Board of Adjustment Granting Variance" is a true and correct copy of the original document in the Planning and Development Department, and I further certify that such document accurately reflects the action granting a variance taken by the Board on October 5, 2016.

Ann Franklin
City Secretary
City of Bastrop

Subscribed and sworn to before me on this the _____ day of _____, 20__ to certify which witness my hand and official seal.

Notary Public in and for the State of Texas
My Commission Expires: _____, 20__

**ACTION OF THE CITY OF BASTROP
ZONING BOARD OF ADJUSTMENT**

DENYING VARIANCE

WHEREAS, Jose M. Morales and Miriam Salas (“Applicants”) of Bastrop, Texas, the owners of the property legally described as being approximately 0.137 acres, 202 Martin Luther King Jr. Drive, within Building Block 60, East of Main Street. The subject property is in the City of Bastrop, Bastrop County, Texas (“Property”); and

WHEREAS, said Property is located in an area zoned under the City’s Zoning Ordinance as SF-7- Single Family Residential-7 Zoning District; and

WHEREAS, the Applicants have applied for a variance to the City of Bastrop Zoning Ordinance, for the Property within the SF-7, Single Family Residential-7 Zoning District, in accordance with Section 17.4 Area Regulations B.1. Minimum Front Yard, setback requirements to allow a front setback of ten feet (10’) on Mill Street, where 25’ is required; and

WHEREAS, the Applicants have applied for a variance to the City of Bastrop Zoning Ordinance, for the Property within the SF-7, Single Family Residential-7 Zoning District, in accordance with Section 17.4 Area Regulations B.4. Minimum Rear Yard, setback requirements to allow a rear setback of twelve feet (12’) where 15’ is required; and

WHEREAS, the Applicants have applied for a variance to the City of Bastrop Zoning Ordinance, for the Property within the SF-7, Single Family Residential-7 Zoning District, in accordance with Section 40.7 A.3 to allow the carport/ garage to have an approximately eighteen-foot (18’) setback on Mill Street where 25’ is required; and

WHEREAS, Applicants have filed a proper request for such variance’s; and

WHEREAS, Applicants allege that strict compliance with the City’s Zoning Ordinance would result in undue hardship to Applicant, pursuant to Section 9.6 Variances of the City’s Zoning Ordinance; and

WHEREAS, public notice has been given and a public hearing was held on October 5, 2016 before the Bastrop Zoning Board of Adjustment, with at least the statutory required 75% of members being present.

NOW THEREFORE, THE BASTROP ZONING BOARD OF ADJUSTMENT FINDS THAT:

1. The circumstances required for granting approval of the above described variance, as set out in Section 9.6 Variances of the City’s Zoning Ordinance, do not exist on the property legally described as being 202 Martin Luther King

Jr. Drive, within Building Block 60, East of Main St., +/-0.137 acres, approximately 6,000 square feet within the city limits of Bastrop, Texas (“Property”):

CRITERIA for Findings	
	<p>1. There are no special circumstances or conditions that exist which affect the land involved such that the strict application of the provisions of this ordinance would deprive the applicant of reasonable use of the land;</p> <p>_____</p> <p>_____</p>
	<p>2. The variance is not necessary for the preservation and enjoyment of a substantial property right of the applicant;</p> <p>_____</p> <p>_____</p>
	<p>3. Granting the variance would be detrimental to the public health, safety or welfare or injurious to other property in the area, and the spirit of the ordinance will be observed. Variances may be granted only when in harmony with the general purpose and intent of this ordinance;</p> <p>_____</p> <p>_____</p>
	<p>4. Granting of the variance would have the effect of preventing the orderly use of other land in the area in accordance with the provisions of this ordinance;</p> <p>_____</p> <p>_____</p>
	<p>5. The applicant’s practical difficulties or unnecessary hardship do not arise from unusual conditions or circumstances, which are not shared generally by other parcels in the neighborhood or district;</p> <p>_____</p> <p>_____</p>
	<p>6. The conditions or circumstances relied on for the variance was created by a person having an interest in the property.</p> <p>_____</p> <p>_____</p>
	<p>7. Financial hardship to the applicant, standing alone, has been claimed.</p> <p>_____</p> <p>_____</p>

STATE OF TEXAS

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COUNTY OF BASTROP

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**CERTIFICATE OF AUTHENTICITY OF
VARIANCE FROM CITY OF BASTROP ZONING REQUIREMENTS**

I, Ann Franklin, the City Secretary for the City of Bastrop, hereby certify that the attached "Action of the City of Bastrop Zoning Board of Adjustment Granting Variance" is a true and correct copy of the original document in the Planning and Development Department, and I further certify that such document accurately reflects the action granting a variance taken by the Board on October 5, 2016.

Ann Franklin
City Secretary
City of Bastrop

Subscribed and sworn to before me on this the _____ day of _____, 20__ to certify which witness my hand and official seal.

Notary Public in and for the State of Texas

My Commission Expires: _____, 20__