

CITY OF HORSESHOE BAY
BOARD OF ADJUSTMENT
NOTICE OF PUBLIC MEETING

June 22, 2020

Notice is hereby given to all interested members of the public that the Horseshoe Bay Board of Adjustment will hold a Public Meeting beginning at 3:00 p.m., on Monday, June 22, 2020 in the City Council Chambers at City Hall, #1 Community Drive, Horseshoe Bay, Llano County, Texas. The agenda for the Public Meeting is to discuss and/or act on the following:

1. Call the Meeting to Order and Establish a Quorum
2. Pledges to the Flags
3. Election of a Vice-Chairman
4. Approval of the Minutes of the February 25, 2020 Regular Meeting
5. Public Hearing, discuss, consider and take action on BOA Variance No. 2020-02, a request by Michael and Katherine McLean for approval of a 3 foot 1 inch Variance for one corner of the proposed dwelling to encroach into the side yard setback of Lot No. A-8047 of Horseshoe Bay Applehead Plat No. 8.1, also known as being in the 300 block of Florentine, Horseshoe Bay, Texas
6. Adjournment



Eric W. Winter, Development Services Dir.

The Board of Adjustment may go into closed session, if necessary and appropriate, pursuant to the applicable section of the Texas Open Meetings Act, Texas Government Code, Chapter 551, Subchapter D, on any matter that may come before the Board that is listed on the Agenda and for which a closed session is authorized. No final action, decision, or vote will be taken by the Board on any subject or matter while in closed session. Any action, decision or vote will be taken by the Board only in open meeting.

I certify that the above notice of meeting was posted at City of Horseshoe Bay City Hall and website www.horseshoe-bay-tx.gov, at least 72 hours prior to the meeting date and time.



Sandra Nash, Assistant Planner

CITY OF HORSESHOE BAY
BOARD OF ADJUSTMENT
MINUTES OF REGULAR MEETING

February 25, 2020

The Board of Adjustment of the City of Horseshoe Bay held a Regular Meeting in the City Council Chambers at City Hall, #1 Community Drive, Horseshoe Bay, Llano County, Texas, on February 25, 2020, in accordance with the duly posted notice of said meeting.

The posted agenda for this meeting is made a part of these minutes by attachment and the minutes are herewith recorded in the order the agenda items were considered, with the agenda subject and item number shown preceding the applicable paragraph.

1. **Call the meeting to order and establish a quorum**

The meeting was called to order at 3:00 p.m. by Chairman Jim Babcock with a quorum of all Board members present as follows:

Present:

Chairman Jim Babcock

Board Member Bill Knox

Board Member Dale Amstutz

Board Member Frank Gracely

Board Member John Minyard

Alternate Board Member Carla Rowland

2. **Pledge to the Flags**

The pledge to the Flags was led by Frank Gracely.

3. **Approval of Meeting Minutes of the December 17, 2019 Regular Meeting**

A motion to approve the minutes as written was made by Dale Amstutz and seconded by Bill Knox. The motion was approved unanimously (5-0).

4. **Public hearing, discuss, consider and take action on BOA Case No. 2020-01, a request by John and Jennifer Insalata for a Variance to Sections 14.02.402(b)(15)(T) and 14.02.413(13) of the Zoning Ordinance for approval of a 7.8' x 11' above ground therapeutic spa in the front yard on Lot No. 1A of Trails End, Section One-B and Section Two-B, also known as 149 Christine Circle in The Trails of Horseshoe Bay**

Chairman Jim Babcock opened the Public Hearing at 3:03 PM. Mayor Clinesmith and 22 members from the community were in attendance as well as Jennifer and John Insalata and 3 contractors who the Insalata's hired to install their spa, fence, wall and landscaping.

John Insalata provided packets of information to the Board members and thanked the Board for hearing their request. Jennifer Insalata told the Board she is disabled and needs the therapeutic spa for health benefits. Jennifer gave a brief history of the process they have

gone through for this variance request. They followed the process with The Trails HOA. Sam Drago drew the plans for the wall and fence. They worked with Mike Walsh and came to an agreement on landscaping. They had the spa site plan approved by The Trails Development Review Committee on December 19, 2019. The City had originally determined the spa was in the front yard but later decided this was the side yard. She felt the only issue was the spa being above ground. The spa will be behind a 7-foot wall and no one will see or hear it. Jennifer said Darleen Cooper, a concerned homeowner, wrote a letter in opposition saying she felt that additional budgeting by the homeowner should preclude hardship. Jennifer felt this was ignorant and inconsiderate. It is expensive to be ill with a chronic illness.

John Insalata stated the POA appointed Mike Walsh and Sam Drago to the ACC. The ACC approved the plans. Recently Mike Walsh, Chairman of The Trails Development Review Committee withdrew his approval. Jennifer said there were neighbors in The Trails that support their plan. Jennifer stated that much of what is in letters written by the homeowners is incorrect or about the Covenants. She has been coordinating with an advocate regarding the Americans With Disabilities Act (ADA). She felt the ADA guidelines applied to this request. John Insalata stated they have roads on three sides of the lot and at first the City said the spa was proposed to be in the front yard then changed their mind and said the proposed location would not be considered the front yard and removed the front yard from the variance. The spa will be concealed behind a 7-foot stone wall. It is tastefully designed for low impact exercise. This is not a leisure pool and will only need to be drained every 2 years or so and will be drained with a garden hose into the sink.

Twenty-two (22) members from the community who were in opposition to the Variance request were in attendance and 4 signed up to speak prior to the meeting starting. Tom Koby lives on The Trails Parkway, three houses from the Insalata's house, and is also a limited partner in The Trails Partnership. He thinks the variance will have a negative impact on the community and their lives because it is against the Covenants. He feels this location meets the definition of a front yard. He feels this will have a negative impact on the property values. He stated that the applicant has a lack of landscaping at their home. He felt there is no undue hardship on the applicant.

Laura Nagle resides at 1046 Overlook Parkway and stated she and her husband live in The Trails and own another home in The Trails that they are trying to sell. She is concerned about draining the spa and the chemicals getting into her yard and into the lake.

Larry Snyder of 707 The Trails Parkway said the HOA did not approve the plan; it was approved by the developer and the approval has been retracted. He feels this spa will harm their property values and have a negative impact on their lives and asked that the applicant go back to the drawing board and comply with the guidelines and Covenants.

Patricia Pozza lives across from the Insalatas and was the first resident to move into The Trails. A Variance is presumed to not be a good thing. They have not met all the criteria for granting the Variance. A disability is not a hardship. There is a pool near the applicant's home they can use.

Chairman Babcock provided background information about The Trails and the City's incorporation.

Jennifer Insalata said other homeowners have violations to the Covenants in their yards and they don't know what this will do to property values. They are working on the landscaping. She feels this is not in her front yard. The plumbing can tap into the sewer line. There are no chemicals in the spa. It is cleaned by filters and lights. She does not have a physical hardship, she is disabled. She does not feel The Trails pool is clean enough to swim in. Other homeowners have complained about the pool not being clean.

Eric Winter clarified the front yard and side yard aspects of this property. The yard along The Trails Parkway is technically their front yard as shown on the plat, but because of the way they oriented their house on the lot they are using the part of the yard where the spa is proposed as their front yard. A Variance is necessary for the spa being in the front yard and above ground. Jennifer Insalata said Eric Winter wrote a letter saying this was not in the front yard and showed a copy of one of the Public Notices.

Chairman Babcock said he has been by the house and he understands what they are saying. Frank Gracely asked about the chronological order of the approval. There are separate documents for the Covenants and the City Ordinance. He asked if there were other pools in the front yards in The Trails. Eric Winter stated a building permit and this Variance is required for them to install the spa. The City can no longer enforce the ACC Covenants.

Bill Knox is concerned about establishing a precedent and if the 2 vacant lots across the street from the proposed wall will be impacted. John Insalata said there are at least 3 houses in The Trails that have pools in the front yards and did not have to get a Variance. Eric responded that these pools were built prior to the City reviewing pool permit site plans. Now the City reviews pool permit site plans.

Mike Walsh said the ACC had issues with the house design and an extensive landscape plan was required. They moved into the house without installing the landscaping. Mike told the Insalatas that they would have to install landscaping. He spoke with Eric Winter and was told that the City cannot enforce landscaping. Mike feels this is not an ADA compliance issue. John Insalata said they will install more landscaping at the same time they install the spa and build the wall and fence.

Rex Baker, City Attorney, provided information about the relationship between the City and the HOA. The relationship and issues between the applicant and the HOA have nothing to do with the City approval.

Chairman Babcock said the applicant has the right to go to District Court if the Variance is denied.

A motion to deny the Variance request was made by Bill Knox and seconded by John Minyard. The motion passed unanimously (5-0).

5. Adjournment

A motion to adjourn was made by Frank Gracely and seconded by Dale Amstutz. The motion was approved unanimously (5-0). Chairman Jim Babcock adjourned the meeting at 3:57 p.m.

Approved this 22nd day of June, 2020.

City of Horseshoe Bay, Texas

Jim Babcock, Chairman

ATTEST:

Eric W. Winter, Development Services Director



CITY OF HORSESHOE BAY

To: Board of Adjustment
Thru: Stan R. Farmer, City Manager
From: Sandra Nash, Assistant Planner
Re: Public Hearing, discuss, consider and take action on BOA Variance No. 2020-02, a request by Michael and Katherine McLean for approval of a 3 foot 1 inch Variance for one corner of the proposed dwelling to encroach into the side yard setback of Lot No. A-8047 of Horseshoe Bay Applehead Plat No. 8.1, in the 300 block of Florentine. The purpose of the request is to allow construction of a new residence.

The applicant is requesting a Variance to encroach 3 feet 1 inch into the side yard setback on the east side of Lot No. A-8047 on the west side of Florentine, two lots south of Close Call. This is to allow the construction of a new residence.

The Board of Adjustment can only grant a Variance after holding a public hearing on the request and finding that:

1. That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this article would deprive the applicant of the reasonable use of the land. The applicant states that: "Lot A-8047 is a pie shaped lot which narrows down from 101.71 feet on the rear lot line to 76 feet on the street lot line which makes it difficult to fit a decent size house on the lot and still honor the total of 15 feet side yard setbacks." Staff found this to be the case.
2. That the Variance is necessary for the preservation and enjoyment of a substantial property right of the applicant. The applicant states that: "The Variance is necessary because the current house footprint is on the front yard setback and very close to the rear yard setback. To narrow the house down to fit within the 15 foot side yard setbacks and maintain the desired square footage on the house would require the rear of the house to extend into the 15 foot rear yard setback." Staff agrees and also found that to move the house further back on the lot would require an existing tree to be cut down.
3. That the granting of the Variance will not be detrimental to the public health, safety or welfare, or injurious to other property within the area. The applicant states that: "The granting of the Variance would not endanger the health, safety or welfare of the

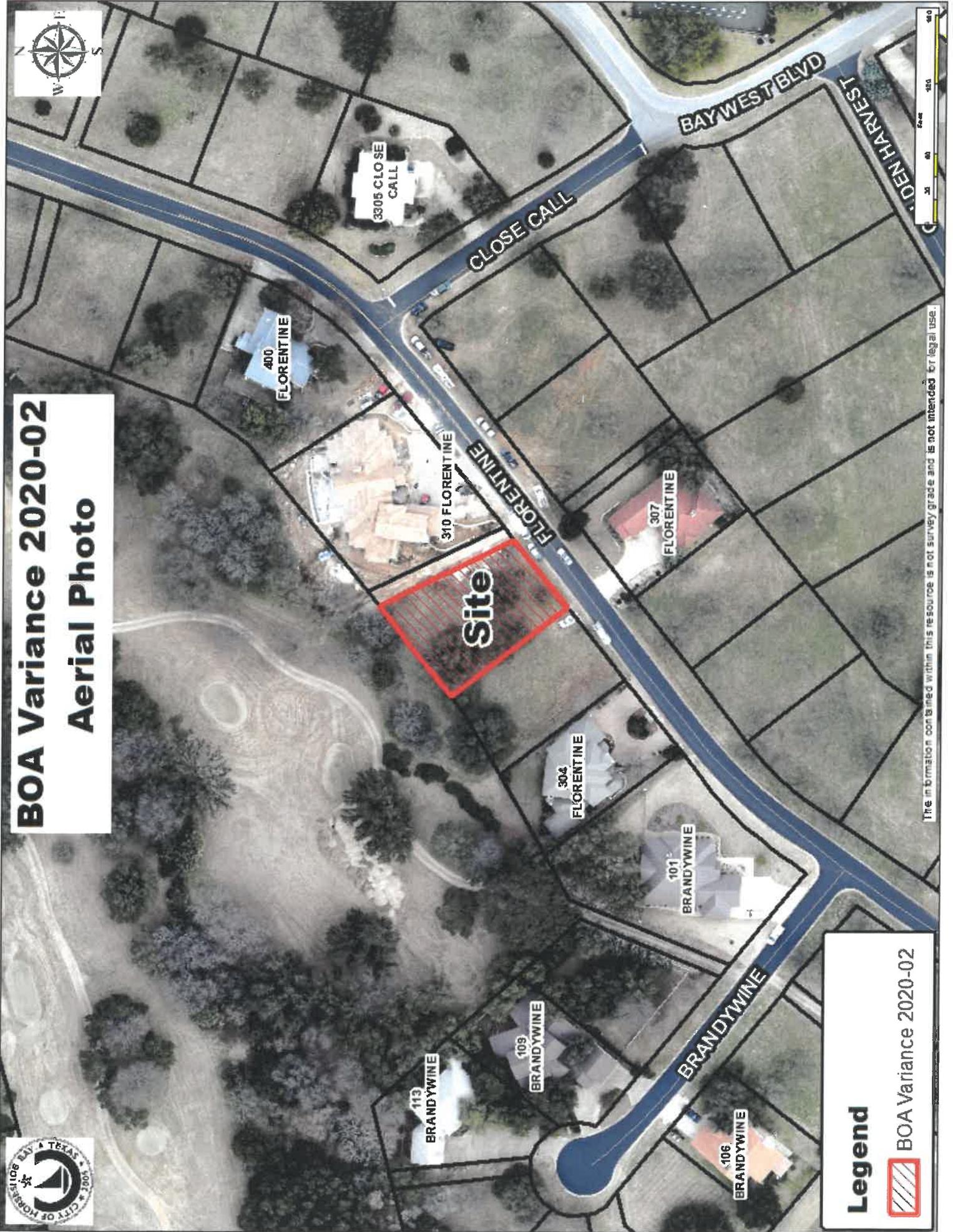
public nor would the Variance be injurious to the neighboring lot A-8048-A on the east side where the house would be 3 feet 1 inch into the side yard setback because there is a 15 foot greenbelt separating the two houses.” Staff found this to be the case and that this small encroachment into the side yard setback will not be noticeable from the street.

4. That the granting of the Variance will not have the effect of preventing the orderly use of other land within the area in accordance with the provisions of this article. The applicant states that: “The Variance would not prevent the orderly use of the neighboring lot A-8048-A with a house located on it and even though the proposed house on lot A-8047 would be 3 feet 1 inch into the side yard setback on that side, there would still be 35 feet 6 inches separation between the two houses.” Staff has been to the property and has reviewed the building plans for the home being constructed on the lot next door. The homes will be 32 feet 6 inches apart.
5. That the granting of the Variance constitutes a minimal departure from this article. The applicant states that: “A 3 foot 1 inch Variance of the side yard setback is minimal especially considering the existence of the 15 foot greenbelt on that side separating lots A-8047 and A-8048-A and considering that all over the City of Horseshoe Bay, there are houses 10 feet apart because of the minimum 5 foot side yard setbacks.” Staff agrees that the 15 foot greenbelt located on the same side as the encroachment will provide adequate separation of the homes.
6. That the subject circumstances or conditions are not self-imposed, are not based solely on economic gain or loss, and do not generally affect most properties in the vicinity of the property. The applicant states that: “There is no economic gain being sought by the lot owners, nor would the properties in the vicinity be adversely affected by the Variance.” Staff has no issue with this.

The Horseshoe Bay Applehead Architectural Control Committee has approved this Variance request. Based on the above information, staff recommends approval of this Variance.

Enclosures: Aerial Photo
Zoning Map
Site Plan
Variance Approval Form

BOA Variance 2020-02 Aerial Photo



The information contained within this resource is not survey grade and is not intended for legal use.

Legend

 BOA Variance 2020-02



BOA Variance 2020-02 Zoning Map



Legend

 BOA Variance 2020-02

Zoning

DS_ZONE

	A-1
	R-1

The information contained within this resource is not survey grade and is not intended for legal use.

Willis - Sherman Associates, Inc.



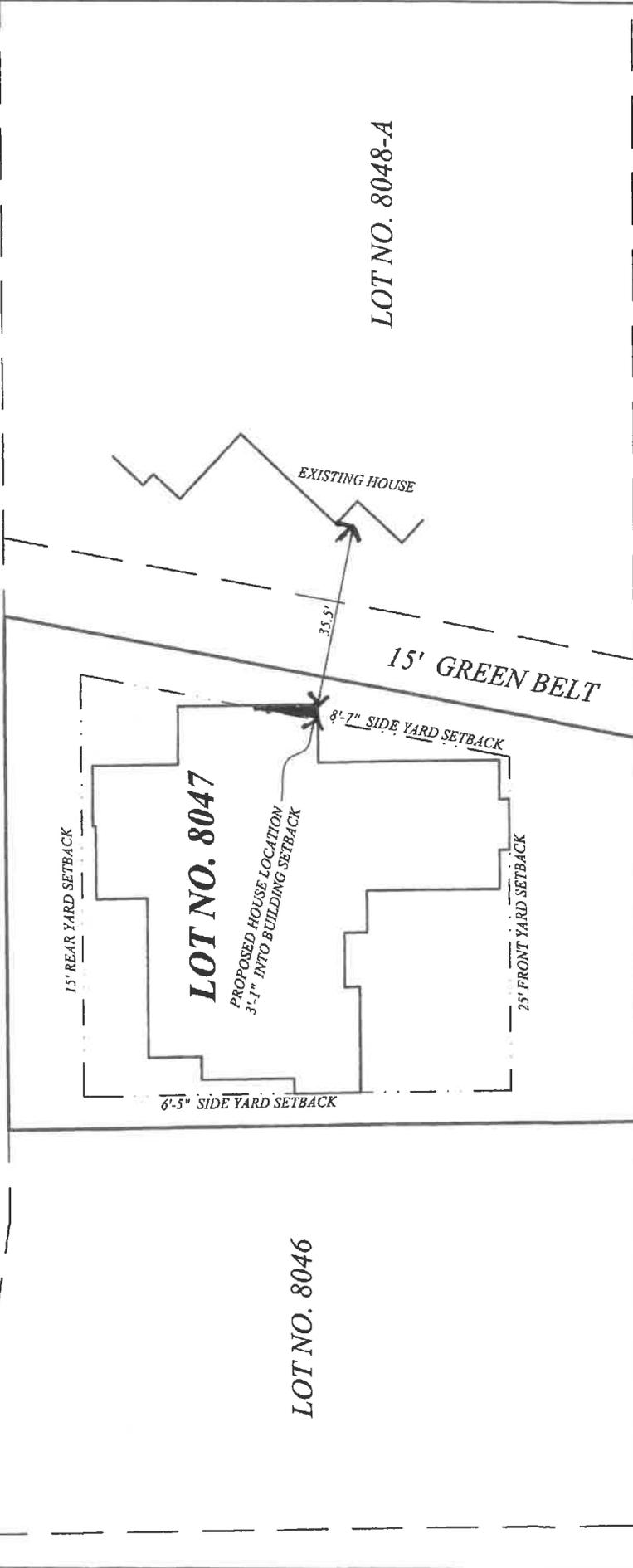
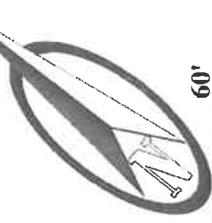
LAND SURVEYORS AND PLANNERS
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(830) 693-3566 FAX (830) 693-5362
FIRM NUMBER: 10027600

**3'-1" VARIANCE REQUEST ON
LOT 8047
HORSESHOE BAY APPLEHEAD
PLAT NO. 8.1
VOLUME 6, PAGE 32,
PLAT RECORDS
LLANO COUNTY, TEXAS**

**HORSESHOE BAY RESORT DESTINATION LLC.
1567/60 O.P.R.L.C.T.**



SCALE 1" = 30'



FLORENTINE (50' R.O.W.)



City of Horseshoe Bay Board of Adjustment
Zoning Variance No. 2020-02

On the 22nd day of June, 2020, the foregoing application of Michael and Katherine McLean for a Variance with regard to the property described in said application, known as Lot No. A-8047 of Applehead Plat No 8.1, also known as being in the 300 Block of Florentine, and the requested Variance to encroach 3 feet 1 inch into the side yard setback was heard and considered by the Board of Adjustment of Horseshoe Bay, Texas. Said application having been found to be in compliance with all other requirements of the City's Zoning Ordinance and a public hearing having been conducted, said application is hereby approved and the following findings are made and incorporated into the minutes of the meeting at which the 3 foot, 1 inch Variance in the side yard setback for Lot No. A-8047 of Applehead Plat No. 8.1 was granted:

1. There are special circumstances or conditions affecting the land involved such that the strict application of the provisions of the City's Zoning Ordinance would deprive the applicant of the reasonable use of the land;
2. The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant;
3. Granting of the variance will not be detrimental to the public health, safety or welfare, or injurious to other property within the area;
4. Granting of the variance will not have the effect of preventing the orderly use of other land within the area in accordance with the provisions of the Zoning Ordinance;
5. Granting of the variance constitutes a minimal departure from the Zoning Ordinance; and
6. The subject circumstances or conditions are not self-imposed, based solely on economic gain or loss, or generally affect most properties in the vicinity of the property.

APPROVED on this, the 22nd day of June, 2020 by a vote of the Board of Adjustment of the City of Horseshoe Bay, Texas.

CITY OF HORSESHOE BAY, TEXAS

Jim Babcock, Chairman

ATTEST:

Eric W. Winter, Development Services Director