

August 4, 2016

**Planning Variance case no. PV16-14: Nathan Winchester**

**CASE DESCRIPTION:** a variance to the minimum 7.5-foot side building setback generally required on properties zoned Residential District – 5000 (RD-5), specifically a 26-inch variance on both sides of Lot 4 and a 14-inch variance on both sides of Lot 5, to allow the proposed construction of two single-family residences proposed to extend within 5.3 feet and 6.3feet, respectively, from side property lines

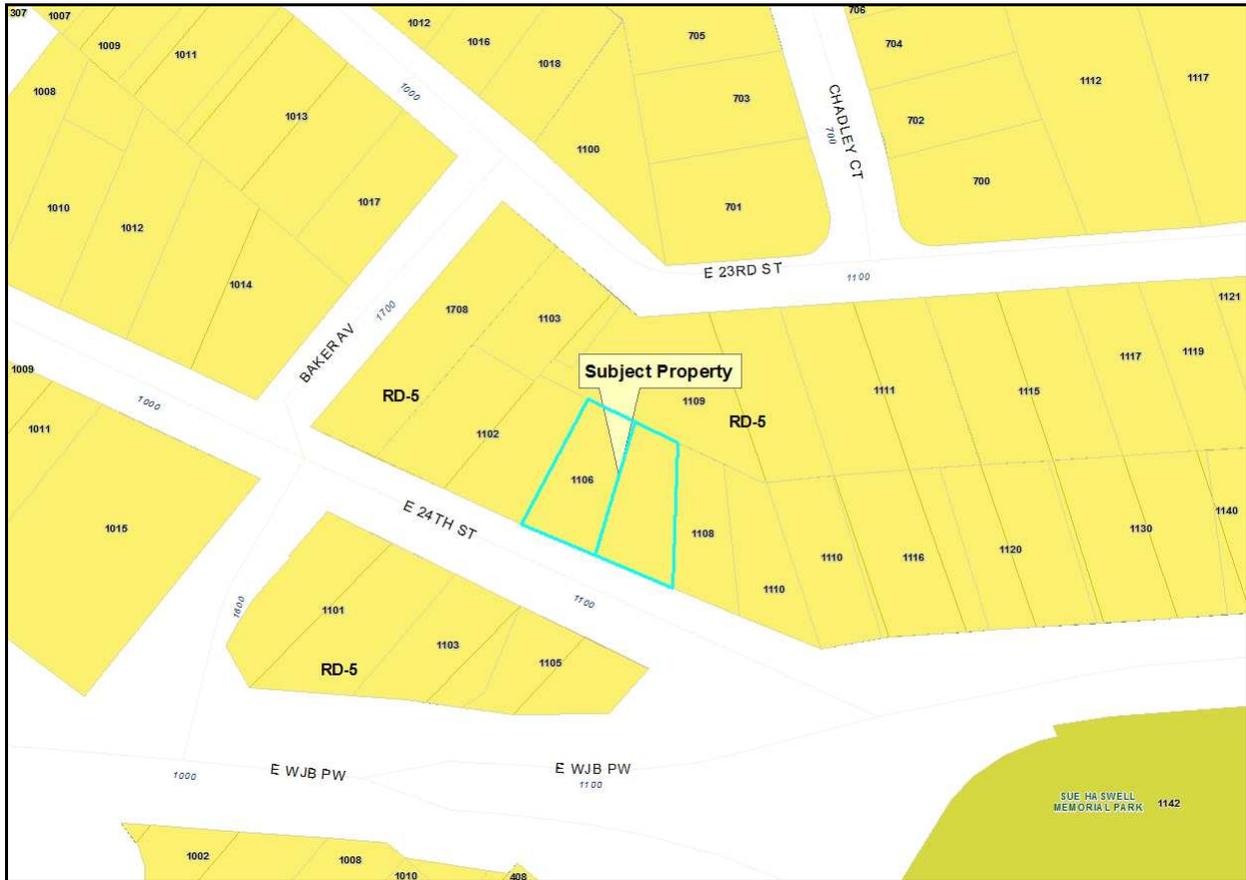
**LOCATION:** approximately 0.19 acres of land, being Lots 4 and 5 of the WT James Resubdivision and currently addressed as 1106 East 24<sup>th</sup> Street

**EXISTING LAND USE:** vacant lots

**PROPERTY OWNER:** Nathan Winchester

**STAFF CONTACT:** Stephanie Doland, Staff Planner

**SUMMARY RECOMMENDATION:** Staff recommends **approving** the requested variance.



**2015 AERIAL IMAGE:**



**BACKGROUND:**

The applicant, Nathan Winchester, is requesting a variance to the minimum 7.5-foot side setback requirement for proposed Lots 4 and 5 in the WT James Resubdivision. The applicant is seeking a 26-inch variance on both sides of Lot 4 and a 14-inch variance on both sides of Lot 5, to allow the proposed construction of two single-family residences to extend within 5.3-feet and 6.3-feet, respectively, from side property lines on each lot. The subject property is currently zoned Residential District-5000 (RD-5) and located northwest from the intersection of East 26<sup>th</sup> Street and East William Joel Bryan Parkway. The subject property currently is undeveloped land.

Properties zoned RD-5 District are required by the Bryan Code of Ordinances to maintain a 7.5-foot setback from each side property line, for example, to allow for adequate spacing for emergency access between homes. The applicant is seeking this variance request because the subject lots are 55 feet wide at the front and 35 feet wide at the rear. The requested variance is for a reduction to the minimum 7.5-foot side-building setback towards the rear of the property. If this request were approved, then the new home on Lot 4 would extend within 5.3 feet from both the east and west side property lines of that property. Similarly, if approved then the new home on Lot 5 would extend within 6.3 feet from both side property lines on that property. If the request were approved the minimum distance between the two new homes would be approximately 11.6 feet. Also refer to site plan images below.

EXCERPT FROM APPLICATION:

## Setback Variance Request

The following page should be completed ONLY for setback variance requests.

Please describe the type of variance being requested:

Residence encroaches building setbacks by  
fourteen (14) inches.

State how the granting of the variance will not be detrimental to the public health, safety or welfare or materially injurious to properties in the area:

This residence is located in a low traffic area  
and the encroachment occurs in the rear of the  
site, away from the public.

State how the granting of the variance will not be detrimental to the public health, safety or welfare or materially injurious to properties directly abutting the subject property:

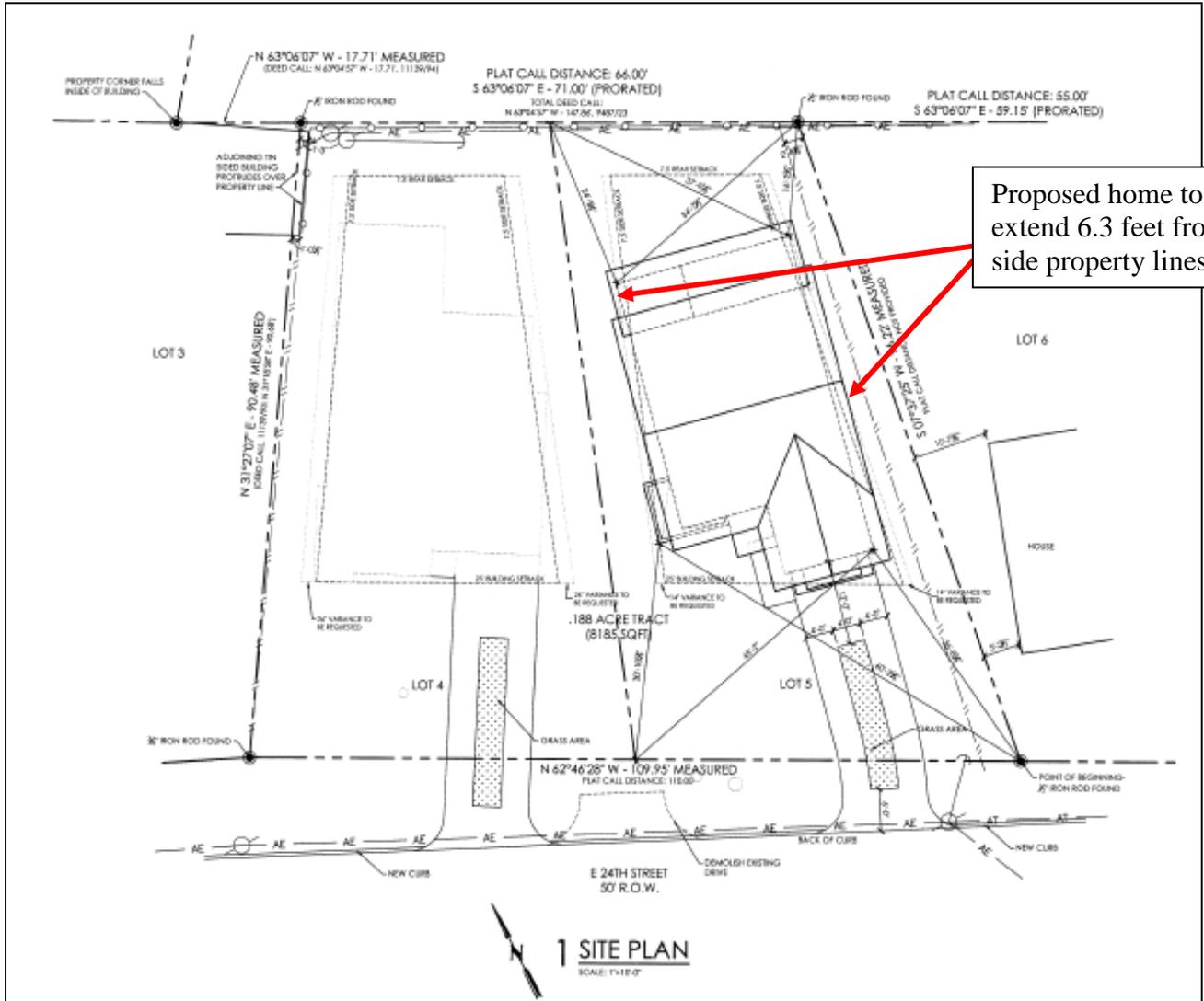
Encroachment is minor and occurs mainly on  
the side adjacent to a lot owned by me.

State how the hardships and difficulties imposed upon the owner are greater than the benefits to be derived by the general public through compliance with the requirements of the ordinance:

If the setbacks that are in place now are  
respected, this small residence would have to get  
smaller, making an uncomfortable living situation.



## PROPOSED SITE PLAN LOT 5



Proposed home to extend 6.3 feet from side property lines

### ANALYSIS:

The Planning and Zoning Commission may authorize a variance from minimum building setback standards stipulated in the Land and Site Development Ordinance. No variance shall be granted unless the Planning and Zoning Commission finds that all of the following criteria are met:

1. That the granting of the variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the area (an area encompassing approximately a 200-foot radius);

**Granting this variance request will allow the buildable areas of these two lots to be larger in size while minimally reducing the distance between homes on adjoining lots. Setback requirements were established to allow emergency personnel to access the back of properties in the event of emergencies. Additionally, building setbacks were established to allow access to**

light and air, maintain desirable open space around the periphery of a single-family home site and to prevent overcrowding of neighborhoods. The proposed new home construction would conform with minimum rear and front building setback requirements. Therefore the new home development would match that of other properties in the general vicinity by still providing open space around the margin of the properties. Additionally, if granted the space in between the proposed homes on Lots 4 and 5 would still be approximately 11.6-feet wide, while not ideal, it would still be enough space for emergency personnel to access the rear of the property. Staff believes granting this variance request will not be detrimental to the public health, safety or welfare of the general vicinity.

2. That the granting of the variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties abutting the subject property;

Given the same reasons stated above, staff contends that if granted, a 26-inch and 14-inch encroachment into the 7.5-foot side setback on one side of each of Lots 4 and 5, respectively, would not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements to properties abutting the subject property.

3. That the hardships and difficulties imposed upon the owner/applicant are greater than the benefits to be derived by the general public through compliance with the requirements of this chapter.

The lot configuration of both Lot 4 and 5 are unique and enforcing the standard setback requirements would impose greater hardships and difficulties for current and future property owners. Both Lots 4 and 5 are 55 feet wide at the property line adjacent to East 24<sup>th</sup> Street and narrow to 35 feet wide. Because the lots are long and narrow, enforcement of ordinary building setbacks would result in either an odd building layout, or may even prohibit development of new homes on these lots altogether.

Allowing the requested reduction to the side building setback, in this particular case, will allow the buildable area on two single-family residential lots to be slightly greater, and allow the development of the homes to be proportional to the uniquely shaped lots without compromising building safety or otherwise affecting the surrounding residential properties.

#### **RECOMMENDATION:**

Based on all of these considerations, staff recommends **approving** the requested variance.