



**NOTICE OF MEETING OF THE
ZONING BOARD OF ADJUSTMENT
THE CITY OF BURNET, TEXAS**

This notice is posted pursuant to the Texas Local Government Code, Chapter §551 – Open Meetings.

Notice is hereby given that the **Public Hearing and Regular Meeting of the Zoning Board of Adjustments** of the City of Burnet, Texas will be held on Wednesday, **November 15, 2021**, at **6:00 p.m.** at the City of Burnet's Council Chambers located at 2401 S Water St., Burnet, Texas 78611 at which time the following subjects will be discussed, to-wit:

1. CALL TO ORDER:

2. ROLL CALL:

3. CONSENT AGENDA ITEMS: All of the following items on the Consent Agenda are considered to be self-explanatory by the Board and will be enacted with one motion. There will be no separate discussion of these items unless a Board member, staff member or citizen requests removal of the item from the consent agenda for the purpose of discussion. For removal of an item, a request must be made to the Board when the Consent Agenda is opened for Board action.

3.1) Minutes of the regular meeting of the Board of Adjustment of the City of Burnet, Texas held on **May 19, 2021**.

4. ACTION ITEMS:

5.1) The Board of Adjustment of the City of Burnet, Texas shall discuss and consider action regarding a request for variance to the Zoning Code's rear yard setbacks as shown in City Code Chapter 118 chart one for property zoned "C-3". The property subject to the variance request is located at: 105 S Boundary St., Burnet, Texas: L Kimbler

- a) Staff presentation of the variance request
- b) Applicant's presentation to the board
- c) Allow members from the public to speak for or against the variance request
- d) Board deliberations and action

6. STAFF REPORTS:

6.1) None

7. REQUESTS FOR FUTURE AGENDA ITEMS

8. ADJOURN

I, the undersigned authority, do hereby certify that the above Notice of Meeting of the Zoning Board of Adjustment of the City of Burnet, is a true and correct copy of said notice and that I posted a true and correct copy of said notice on the bulletin board, in the City Hall of said City, Burnet, Texas, a place convenient and readily accessible to the general public at all times, and said notice was posted on November 12, 2021 at or before 5 o'clock p.m. and remained posted continuously for at least 72 hours preceding the scheduled time of said meeting.

Dated this the 12th day of November 2021

Kelly Dix, City Secretary

NOTICE OF ASSISTANCE AT THE PUBLIC MEETINGS:

This meeting site is wheelchair accessible. For disability access special needs call Leslie Kimbler, Assistant City Secretary, at 512-715-3215 at least forty-eight [48] hours prior to the meeting.



ZONING BOARD OF ADJUSTMENT MINUTES

Notice is hereby given that the **Public Hearing and Regular Meeting of the Zoning Board of Adjustments** of the City of Burnet, Texas will be held on Wednesday, **May 19, 2021**, at **6:00 p.m.** at the City of Burnet's Community Center located at 401 E Jackson Street, Burnet, Texas 78611 at which time the following subjects will be discussed, to-wit:

- 1) **CALL TO ORDER:** The meeting was called to order at 6:00PM by Chair, Joy Taylor

2) **ROLL CALL:**

Members Present: Joy Taylor, Paul Shell, Tommy Gaut, Kim Winkler, and Cesar Arreaza

Members Absent: Calib Williams

Guests: Alan Snider, Dan Case

Others Present: Habib Erkan, Jr., Assistant City Manager
Leslie Kimbler, Planner I

3) **CONSENT AGENDA:**

Minutes of the Regular Meeting held April 19, 2021.

Motion to Approve Consent Agenda:	Cesar Arreaza
Second:	Tommy Gaut
Motion Approved:	5 in Favor/ 0 opposition

4) **PUBLIC HEARINGS:**

- 4.1) The Board of Adjustment of the City of Burnet, Texas shall conduct a hearing to receive public testimony and comment regarding a request for variance to the Zoning Code's rear yard setbacks as shown in City Code Chapter 118 chart one for property zoned "C-1". The property subject to the variance request is located at: 608 Buchanan Dr., Burnet, Texas: L Kimbler

Planner I, Leslie Kimbler, gave staff's presentation on the request for variance. Guest, Alan Snider, spoke to the board in favor of the variance request.

5) ACTION ITEMS:

- 5.1)** The Board of Adjustment of the City of Burnet, Texas shall discuss and consider action regarding a request for variance to the Zoning Code's rear yard setbacks as shown in City Code Chapter 118 chart one for property zoned "C-1". The property subject to the variance request is located at: 608 Buchanan Dr., Burnet, Texas: L Kimbler

Motion to Approve request for variance: Paul Shell

Second: Kim Winkler

Motion Approved: 5 in favor/0 in opposition

6) STAFF REPORTS:

7) REQUESTS FOR FUTURE AGENDA ITEMS:

8) ADJOURN:

There being no further business, Chair, Joy Taylor adjourned the meeting at 6:08PM.

Joy Taylor, Chair
City of Burnet Zoning Board of Adjustment

Attest:

Kim Winkler, Secretary



Development Services

ITEM 4.1

Leslie Kimbler
Planner I
512-715-3215
lkimbler@cityofburnet.com

Agenda Item Brief

Meeting Date: November 15, 2021

Action Item: The Board of Adjustment of the City of Burnet, Texas shall discuss and consider action regarding a request for variance to the Zoning Code's rear yard setbacks as shown in City Code Chapter 118 chart one for property zoned "C-3". The property subject to the variance request is located at: 105 S Boundary St., Burnet, Texas: L Kimbler

Background: The subject property (Exhibit A) is zoned Heavy Commercial – District "C-3"; the site is currently developed and is actively in use as HEB grocery store.

The proposed project will be an expansion on the existing HEB at the southwest corner of the intersection of East Polk Street and South Silver Street. The proposed expansion will encroach into the 15' setback which is set by Code of Ordinances, Section 118-20, Chart 1. The expansion will encroach by approximately 1' to 3'.

Due to low fire pressure, the expansion will require the store to build an adequately sized fire pump room which will cause slight encroachment along the rear setback (Exhibit B). Additionally, the current HVAC equipment, that already encroaches into the rear setback, will require an upgrade which will not further the current encroachment (Exhibit C).

Information: As discussed under the staff analysis, the Zoning Board of Adjustment may authorize a variance to specified provisions of the zoning code if at least four members of the Board finds enforcement of the zoning code provision on the property would create an unnecessary hardship; authorization of the variance is not contrary to the public's interest; and by granting the variance substantial justice will be done.

Staff Analysis: Applying the statutory findings the board must make to authorize to a variance to the facts in this case staff finds as follows:

- Would the literal enforcement of the ordinance result in unnecessary hardship?

Yes. Currently, it is not economically feasible for the owners to develop a new store and due to the population growth. If the variance is not granted, it would impact the facilities ability to meet the demands of the growing population.

- Is the variance contrary to the public's interest?

No. The existing building predates the current zoning codes and has encroached into to the rear setback since the development of the property in 1997. Additionally, the proposed setback encroachment will not impair driver's visibility.

- By authorizing the variance will the spirit of the zoning ordinance be observed, and substantial justice be done?

Yes. Authorizing the variance will protect the current encroachments and allow for the a much needed expansion to the current HEB.

Recommendation: Staff recommends the board adopt the proposed order (Exhibit D) authorizing a variance to the rear yard setback as shown on Exhibit B and Exhibit C.

Exhibit "A"
Subject Property



Exhibit "B" Fire Pump Room Encroachment

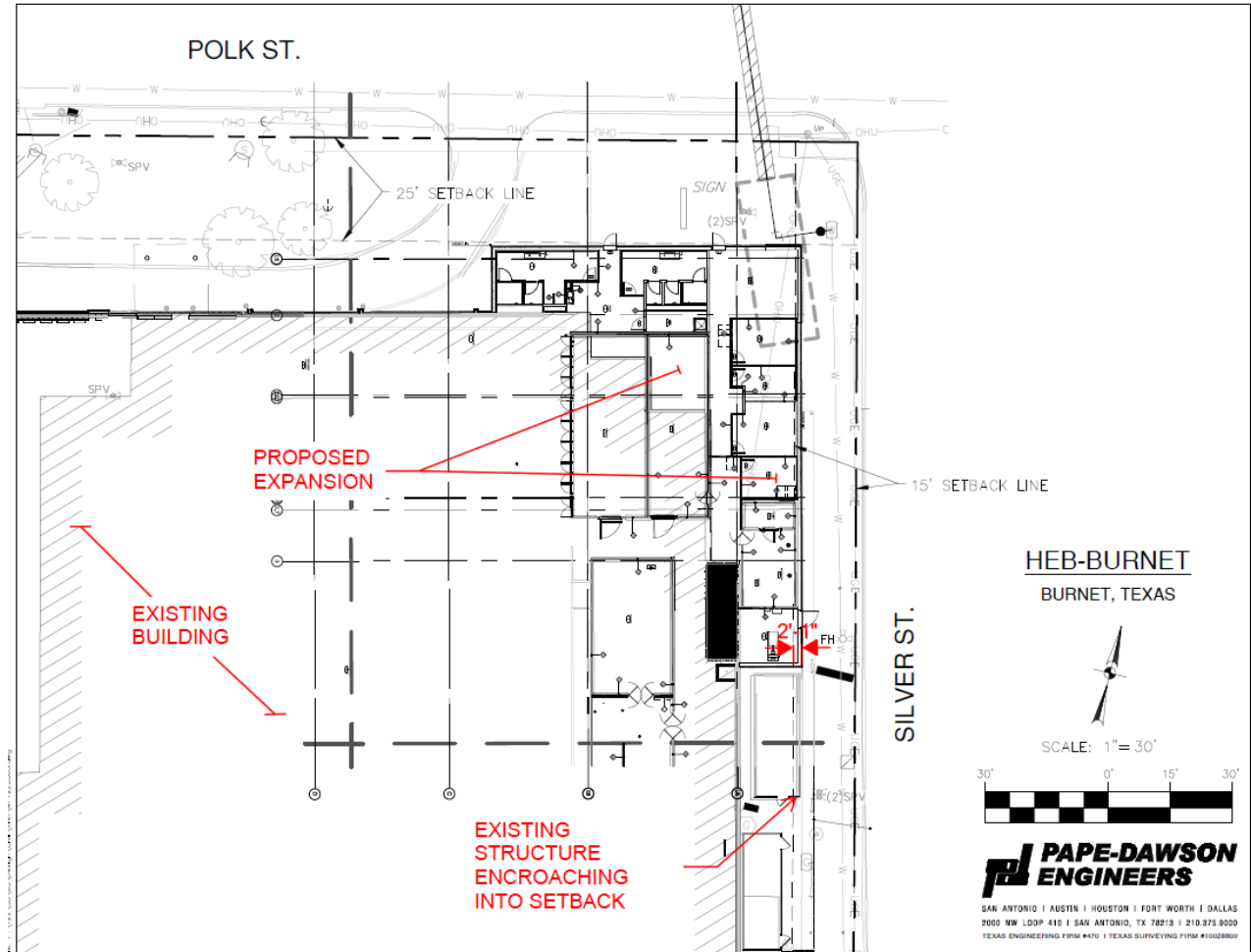
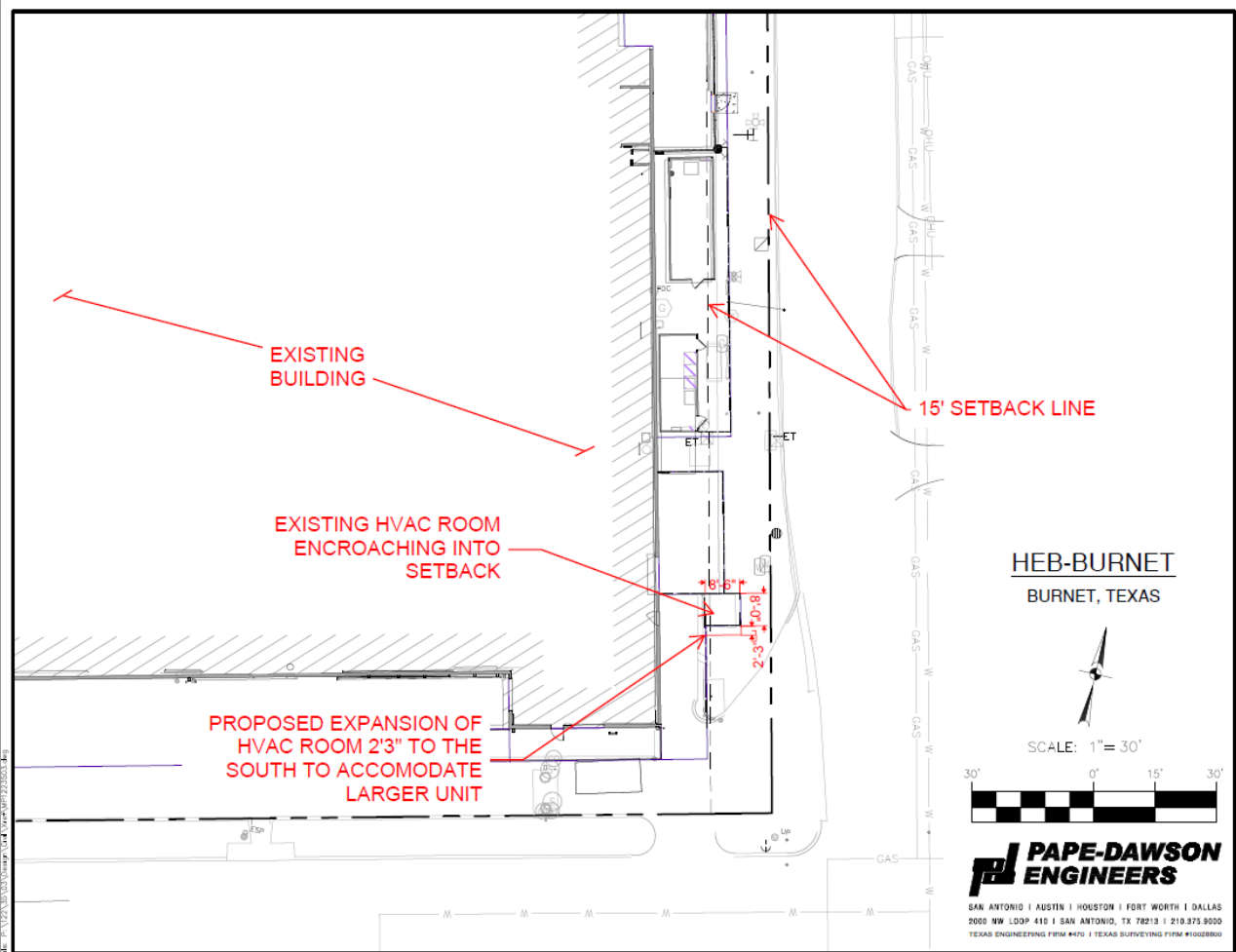


Exhibit "C" HVAC Encroachment



ORDER NO. 2021-11-15-01
CITY OF BURNET ZONING BOARD OF ADJUSTMENT

Date: November 15, 2021

Property legal description: S7100 Peter Kerr Donation Blk All of 3 & 4 & Abandoned Wood Street

Property physical address: 105 S Boundary Street

Owner: H-E-B, LP
646 South Main Avenue
San Antonio, TX 78204

Whereas, on this day, a quorum of the Zoning Board of Adjustment convened in a properly noticed public meeting; and

Whereas, at said meeting came to be heard the Property's Owner's representative requesting a variance be authorized to the rear yard setback for the Property; and

Whereas, after hearing the testimony of the Property's Owner's representative, the city's representative and members of the public, and the Zoning Board of Adjustment's own deliberations the Board by the affirmative vote of at least four of its members makes findings and conclusions as follows:

A. Findings of fact:

- 1) Due to low fire pressure, an adequately sized fire pump room is necessary to protect customers and staff.
- 2) The existing HVAC equipment on the property currently encroaches into the rear setback and is needed to be increased.

B. Conclusions of law:

- 1) Due to the growth of the population and the need for a larger grocery store, the literal enforcement of the zoning ordinance rear setback requirements in this case would result in an unnecessary hardship.
- 2) As the current equipment on the site has encroached on the setback since 1997 and the low impact to vehicular impact, the variance to the rear setback requirements is not contrary to the public interest.
- 3) By authorizing the variance, the spirit of the zoning ordinance is observed, and substantial justice is done.

It is thereby the **Order of the Zoning Board of Adjustment** that a variance to the backyard setback requirements, as shown on the map of the Property attached hereto.

Burnet Zoning Board of Adjustment

By: _____
Joy Taylor, Chairperson

Attest:

Leslie Kimbler, ZBOA secretary