

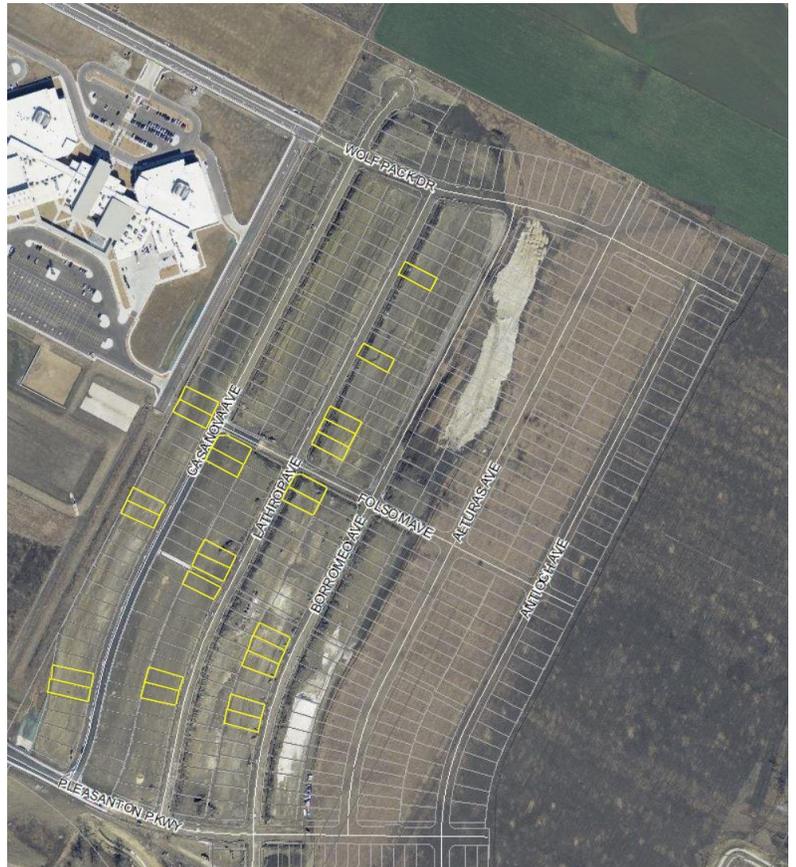
**Board of Adjustment:** 04/24/2019  
**Agenda Item:** 2019-7542

**Staff Contact:** Ian Beck  
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**Phone:** 512-990-6300

**SUBJECT:** To receive public comment and consider a Variance to Section 4.2.4 of the Unified Development Code for addresses; 16924 Borrromeo Ave, 17000 Borrromeo Ave, 17012 Borrromeo Ave, 17016 Borrromeo Ave, 17020 Borrromeo Ave, 16916 Casanova Ave, 16920 Casanova Ave, 17104 Casanova Ave, 17108 Casanova Ave, 17129 Casanova Ave, 17133 Casanova Ave, 17136 Casanova Ave, 17200 Casanova, 16928 Lathrop Ave, 17100 Lathrop Ave, 17028 Lathrop Ave, 17000 Lathrop Ave, 17104 Lathrop Ave, 17129 Lathrop Ave, 17133 Lathrop Ave, 17205 Lathrop Ave, 17209 Lathrop Ave, 17213 Lathrop Ave, 17233 Lathrop Ave, 17317 Lathrop Ave. To reduce each minimum front street setback from 25 feet to 20 feet within the Single Family Residential (SF-R) District; all to be known as the Carmel West Setback Variance. (BOA1902-01).

**LOCATION:**

Generally located to the east of Weiss Ln and south of Jesse Bohls Rd and directly east of Weiss High school. The affected addresses are located along Borrromeo, Casanova and Lathrop Avenues within Phase 1 Sections 1 and 2 of the Carmel West subdivision. The subdivision takes access through Wolf Pack Drive and Pleasanton Parkway, two collector streets that connect to Weiss Lane.



**HISTORY AND VARIANCE REQUEST:**

The affected addresses are a part of Carmel West Phase 1 Sections 1 and 2. On February 23, 2016, Ordinance No. 1246-16-02-23 was approved annexing 443.692 acres of land within the ETJ while also establishing the Carmel development agreement. At the time of annexation, the property was zoned to the Agriculture/Conservation (A) District. On June 14, 2016, the City Council approved the Carmel Phase 1 Rezoning (REZ1604-01) to the Single Family Residential (SF-R) District and Single Family Mixed Use (SF-MU) Districts in order to provide a variety of lot and housing options.

Within Carmel West Phase 1 Section, 1 all properties are zoned for Single Family Residential (SF-R) District. In Carmel West Phase 1 Section 2, the properties include a mix of zoning districts with the majority zoned as Single Family Residential (SF-R) and a minority of lots zoned Single Family Mixed Use (SF-MU). The Districts allow for a mix of lot types and have different development standards. In January 2019, the applicant identified 25 properties within Carmel West Phase 1 Sections 1 and 2 that had not been built accurately to the 25' minimum front street setback required in the Single Family Residential (SF-R) District. The affected properties were built with a 20' front street setback, which is not the required minimum front street setback for the Single Family Residential (SF-R) District.

The applicant has stated that the setback error occurred when the project was set up internally, and was not identified with the building review. The Single Family Mixed Use (SF-MU) District has a minimum front street setback of 20' while the Single Family Residential (SF-R) District has a minimum 25' front street setback. Twenty-four affected properties have been constructed, 1 building is finishing construction and 10 are occupied. The remaining 15 are currently vacant with 2 contracts awaiting the outcome of this Board of Adjustments Variance. The applicant is requesting a Variance to allow the Single Family Residential (SF-R) Districts minimum front street setback to be reduced from 25' to 20' for the 25 affected properties. The applicant has stated that the Variance is not contrary to the public interest because the variety of homes being constructed within the development have a multitude of different front garage and porch styles which makes it difficult to visually identify any difference between the houses constructed at the 25' setback vs. the houses constructed at 20'. The applicant states that in approving the Variance, the 5' difference between the Single Family Residential (SF-R) District and the Single Family Mixed Use (SF-MU) Districts would be too difficult to notice and the overall safety and appearance of the Carmel West development will not be adversely impacted.

**UNIFIED DEVELOPMENT CODE:**

The affected properties are constructed with homes zoned Single Family Residential (SF-R) District. According to Section 4.2.4 of the Unified Development Code (UDC) Table 4.2.4, A

identifies the minimum front street setback is 25' measured from the building to the property line.

General Regulations	SF-R		SF-MU		
Structure Type	SF Detach		SF Detach		
Minimum Front Street Setback	25'		15' (20' when front loaded garage is proposed)		

According to Table 4.2.4A - General Regulations, all single family detached dwellings zoned as Single Family Residential (SF-R) must conform to the 25' minimum front street setback. The Single Family Mixed Use (SF-MU) District, which is the other zoning district in the development, has a 20' minimum front street setback to which the affected 25 properties are built.

**STAFF RECOMMENDATION:**

The minimum front street setback for the Single Family Residential (SF-R) District is 25'. The applicant is requesting a reduction from the 25' minimum front setback to 20' to allow the 25 affected properties to remain unaltered. Ten of the 25 affected properties have been bought by private homeowners and are currently occupied. Staff recommends approval of the requested Variance to provide for reductions in the minimum front street setback from 25' to 20' for the affected 25 properties.

The Carmel West development contains two different zoning districts in order to implement the development pattern envisioned and approved by the Carmel development agreement. Rezoning the individual affected properties is not an option due to spot zoning. A Rezoning would also create a non-conforming site and structure situation as the Single Family Residential (SF-R) and Single Family Mixed Use (SF-MU) districts, have different general development regulations such as; permitted and non-permitted uses, minimum setbacks, and architectural design requirements.

Per section 3.13.3C of the Unified Development Code, the Board of Adjustments must enforce the following bullet points in order to approve the requested Variance. Staff has provided responses to each requirement, written in italics:

- **Extraordinary Conditions:** That there are extraordinary or special conditions affecting the land involved such that strict application of the provisions of this Unified Development Code will deprive the applicant of the reasonable use of their land. For example, a Variance might be justified because of topographic or other special conditions unique to the property and development involved, while it would not be justified due to inconvenience or financial disadvantage. *Staff has discovered through the history of the Carmel West development process the mislabeled minimum front setback, the error was applied and not identified during the initial surveying and not identified with the building permit review. Ten of the 25 affected addresses are currently occupied thus the new tenants have inherited the hardship created by the Applicant.*
- **No Substantial Detriment:** That the granting of the variance will not be detrimental to the public health, safety or welfare or injurious to other property in the area or to the City in administering this Code. *Staff has found within the Carmel West Phase 1 Sections 1 and 2 the affected addresses do not significantly impact the overall design and feel of the subdivision. The affected properties would not affect the total design of the subdivision. The affected lots do show a reduction for the minimum front street setback; the error does not compromise the overall development. The proposed Variance will not impact the public health, safety or welfare of the citizens of Pflugerville.*
- **Other Property:** That the conditions that create the need for the variance do not generally apply to other property in the vicinity. *Staff went through all approved filed applications for new residential building permits along Borromeo, Casanova and Lathrop Ave confirming no other properties were built to the 20' minimum front street setback. There are no other properties within Carmel West Phase 1 Sections 1 and 2 that have been affected by the minimum front street setback.*
- **Applicants Actions:** That the conditions that create the need for the variance are not the result of the applicant's own actions. *Staff has found that an error occurred which was missed through the development process. Homeowners did not create the error, but have incurred the issue.*
- **Comprehensive Plan:** That the granting of the variance would not substantially conflict with the Comprehensive Plan and the purposes of this Code. *Staff confirms granting the requested Variance would not impact the goals set forth in the 2030 Comprehensive Plan as the Variance does not alter the land use.*

- **Utilization:** That because of the conditions that create the need for the variance, the application of this Code to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property. *Staff confirms that the 20' applied setback does not prohibit the 25 affected addresses to be utilized to their intended uses as 10 of the properties have been sold and are occupied by private homeowners. The setback violation however does establish a non-conforming condition which may negatively impact the homeowner during land transactions in a Variance is not approved.*
- **Insufficient Findings:** The following types of possible findings do not constitute sufficient grounds for granting a variance:
  - **a. That the property cannot be used for its highest and best use.** *Staff confirms that the affected addresses are not restricted for the intended use of a single family dwelling.*
  - **b. That there is a financial or economic hardship.** *Staff can confirm that there is not a financial or economic hardship created with the construction of the 25 affected addresses.*
  - **c. That there is a self-created hardship by the property owner or their agent.** *Staff has found through an inadvertent error, the 20' minimum front street setback for the 25 affected addresses was not created by the owner and have now inherited the self-created hardship. Staff recommends approval of the requested Variance to reduce the minimum front street setback from 25' to 20' for the 25 affected addresses.*

***If the variance is approved:***

If the Variance is approved, then no alterations will be required for the structure to meet the minimum 25' minimum front street setback requirement. The applicant has stated that the overall aesthetic of the subdivision is not compromised by the 20' existing setback, as there is a multitude of different front garage and porch styles within the development, which creates a variation to the street, and design of the subdivision. The following images are examples depicting the staggering of homes throughout the subdivision and front façade comparisons of the non-affected homes vs. affected homes within Carmel Phase 1 Sections 1 and 2:



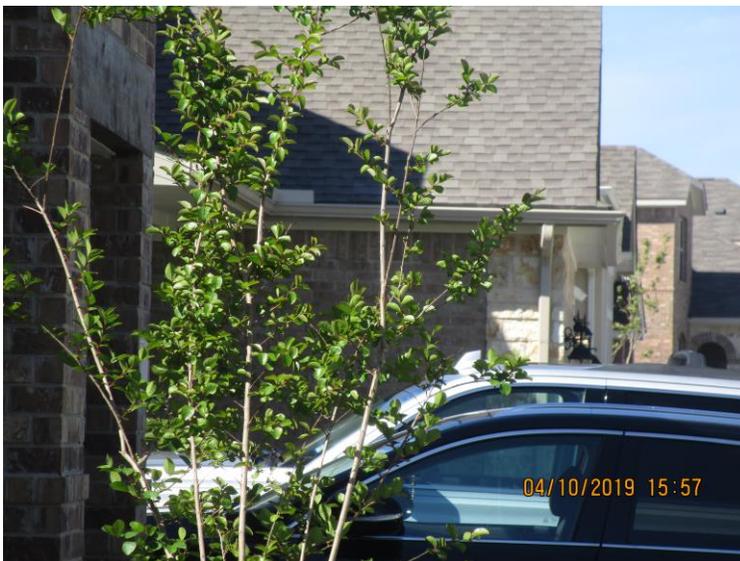
*Street view of front façade comparison of 25' and 20' minimum front street setback.*



*Front façade comparison of 25' and 20' minimum front street setback.*



*Second example of different front porch design of two single family dwelling units showing the front façade comparison of 25' and 20' minimum front street setback.*



*Third example of the front façades of two single family dwelling units comparing the 25' and 20' minimum front street setback.*



*Side street view of a row of affected and non-affected single family dwelling units comparing the 25' and 20' minimum front street setback.*

***If the variance is denied:***

If the request is denied, the applicant must take measures to correct the 20' minimum front streetscape setback error. Correction measures include removing front facades and redesigning structures and foundations to meet the required 25' setback.

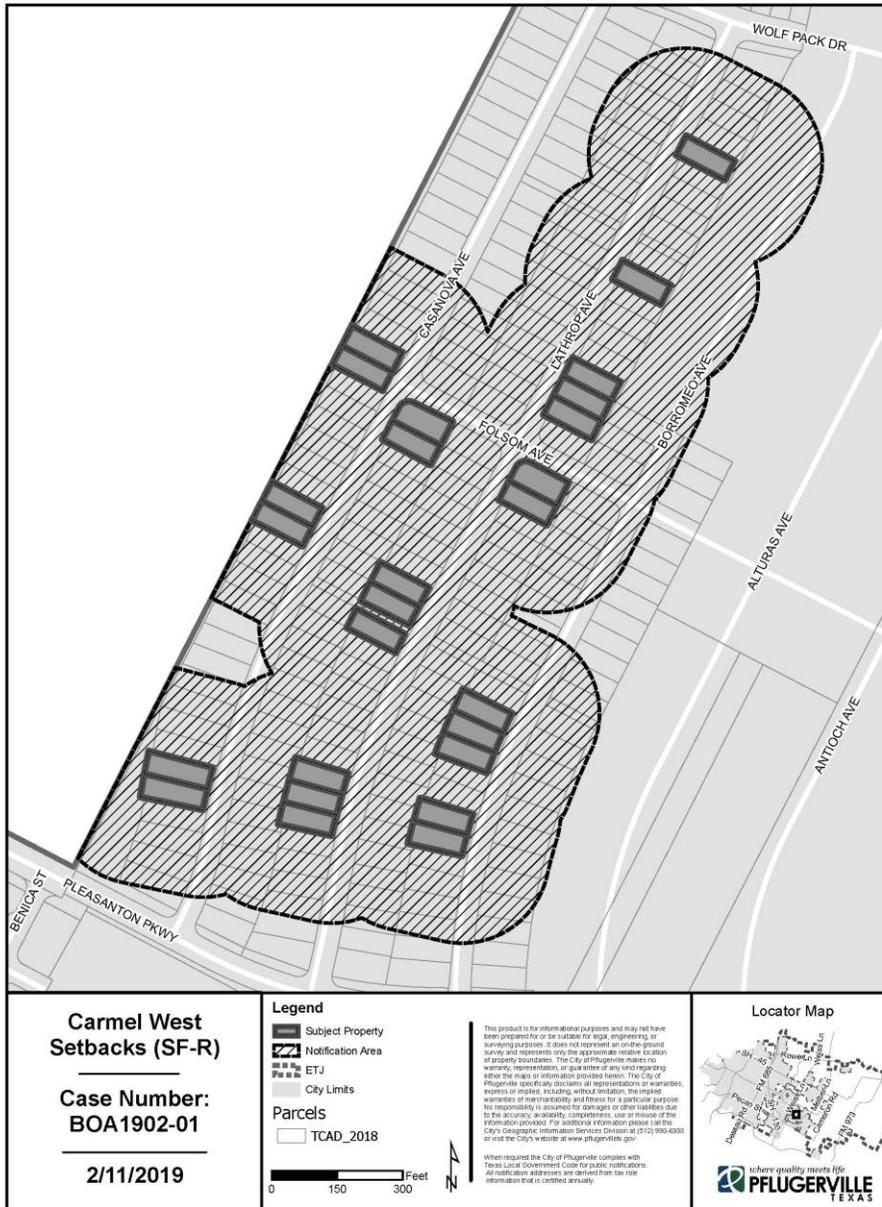
**NOTIFICATION:**

Notification was provided through publication, mail to property owners within 200-ft of the affected properties, and signage for all affected addresses.

**ATTACHMENTS:**

- Notification Map
- Images
- Applicant Letter of Request

**NOTIFICATION MAP:**



IMAGES:



1. 17200 Casanova Ave:



2. 17136 Casanova Ave:



**3. 17133 Casanova Ave:**



**4. 17129 Casanova Ave:**



5. 17108 Casanova Ave:



6. 17104 Casanova Ave:



7. 16920 Casanova Ave:



8. 16916 Casanova Ave:



9. 17317 Lathrop Ave:



10. 17233 Lathrop Ave:



**11. 17213 Lathrop Ave:**



12. 17209 Lathrop Ave:



13. 17205 Lathrop Ave:



14. 17133 Lathrop Ave:



15. 17129 Lathrop Ave:



16. 17104 Lathrop Ave:



17. 17100 Lathrop Ave:



18. 17028 Lathrop Ave:



**19. 17000 Lathrop Ave:**



**20. 16928 Lathrop Ave:**



21. 16924 Borromeo Ave:



**22. 17000 Borrromeo Ave:**



**23. 17012 Borrromeo Ave:**



**24. 17016 Borromeo Ave:**



25. 17020 Borrromeo Ave:



## APPLICANT LETTER OF REQUEST:



### VARIANCE, APPEAL, & SPECIAL EXCEPTION

#### Variance Criteria

A variance from provisions in the Unified Development Code (except permitted uses and procedural requirements) may be authorized when it will not be contrary to the public interest, when literal enforcement of the ordinance would result in unnecessary hardship due to special conditions, and that the spirit of the ordinance and substantial justice will be observed.

Answer the questions on the following pages, as evidence that the request complies with the conditions required for approval of a variance (extra pages and supplemental illustrations or photographs may be requested by staff)

#### Requested Zoning Variance:

1. Variance pertains to Section 4.2.4 of the Unified Development Code (UDC) which requires...

THAT THE MINIMUM FRONT SETBACK FOR RESIDENTIAL LOTS BE 25'

2. Describe in detail all efforts made to comply with the requirements of the regulation or ordinance reference in Item 1, above, including dates where applicable.

TRI-TECH WORKS IN MANY DIFFERENT SUBDIVISIONS WITHIN MANY DIFFERENT COMMUNITIES  
OUR GOAL IS TO ALWAYS ADHERE TO ALL ZONING SETBACK REQUIREMENTS AS DEFINED  
IN THE UDC. UNFORTUNATELY AN ERROR WAS MADE WHEN THIS PROJECT WAS SETUP AND  
WAS INCORRECTLY LABELED AS SF-MU, WHICH HAS A 20' SETBACK RATHER THAN 25'

3. Describe the action you would like the Board of Adjustment to take in reference to this application.

WE REQUEST THAT THE BOARD APPROVE A VARIANCE TO THE MINIMUM 25' FRONT  
SETBACK REQUIREMENT, THAT WOULD ALLOW FOR THE 26 HOMES THAT ARE ALREADY  
BUILT AT A 20' FRONT SETBACK.



**VARIANCE, APPEAL, & SPECIAL EXCEPTION**

4. The Variance is not contrary to the public interest, because:

WITH THE VARIETY OF HOMES BEING CONSTRUCTED IN THIS DEVELOPMENT THERE ARE  
A MULTITUDE OF DIFFERENT FRONT GARAGE, PORCH STYLES WHICH MAKES IT DIFFICULT  
TO SEE ANY DIFFERENCE BETWEEN THE HOUSES AT 25' AND THE ONES AT 20'  
THERE DOES NOT APPEAR TO BE ANY PUBLIC INTEREST ISSUES.

5. Literal enforcement of the ordinance would result in unnecessary hardship, due to special conditions,  
because:

OF THE HOMES THAT ARE AFFECTED SEVERAL HAVE FAMILIES THAT ARE LIVING IN  
THEM AND SEVERAL OTHERS ARE AWAITING THE OUTCOME OF THIS VARIANCE REQUEST  
BEFORE THEY CAN CLOSE.

6. The spirit of the ordinance and substantial justice will be observed if the Variance is granted, because:

THE 5' DIFFERENCE BETWEEN THE TWO SETBACK DISTANCES IS DIFFICULT TO NOTICE  
AND THE OVERALL SAFETY AND APPEARANCE OF THE DEVELOPMENT WILL NOT BE  
ADVERSELY IMPACTED.