

Variance Request: 225 Millbrook Lane

Piney Point Board of Adjustment

Don Pattie presenting on behalf of David James Custom Homes

for Mr. and Mrs. Brian Cushing

Jan. 10, 2019 7PM

Piney Point Board of Adjustment
Piney Point City Hall
7676 Woodway Drive, Suite 300
Houston, Tx. 77063

Re: 225 Millbrook

We are seeking a variance to the following portion of the City of Piney Point Village Code of Ordinances:

- **Sec. 74-244. - Regulations.**

(c) Area regulations; size of yards.

(3) Rear yard. There shall be a rear yard having a depth of not less than 20 feet. Corner lots on the turnaround portion of a cul-de-sac shall have two rear yards.

We are specifically requesting a variance that will allow the existing home to remain as is with a current portion projecting over the proscribed 20' Rear Yard setback by 8.37 feet.

See the highlighted portion of the survey provided that shows a corner of the existing attached garage and its relationship to the property line and proscribed setback.

The house was built prior to the current zoning ordinance being established and was behind the platted 10' building line at the time of construction.

It is a nice home and has a unique and interesting character so the owners would prefer to remodel than tear down the house and start over.

It is too nice a house to scrap but could use some work to modernize the floor plan for this young family. The remodel is mostly inside the home with one small addition on the other side of the house that is well behind the proscribed setbacks.

We have been made to understand the cost of the remodel requires the home be brought into compliance with current codes and that this includes setbacks.

The proposed remodel work was going to do this for all aspects of the home except this setback issue. The house will have a full sprinkler system installed and all smoke detectors, carbon monoxide detectors, GFI, and arc fault circuits will be brought into current code compliance so that the house is as safe as any newly constructed home. Windows, insulation, and air conditioning are all being upgraded as well to improve upon energy conservation performance.

We believe it is not the intent of the Zoning Ordinance or the valuation percent trigger to force compliance of pre-existing site conditions such as the one the home owners are now faced with.

We request that this would therefore be considered an undue hardship meriting a variance that will allow the remodel work to proceed as proposed.

At this time we would also like to disclose to the board some other aspects of the lot and its pre-existing improvements. The detached out building in back shown on the survey is existing, is behind the current out building setback and is in the rear 1/3 of the lot; no work at all is being done to this building. The existing driveway encroaches into the rear yard. This is a pre-existing condition and no work is proposed to this driveway.

We have attached the following supporting documents for review;

1. Map of Piney Point showing subject tract location for reference.
2. 225 Millbrook Survey showing encroachment of 8.37 feet
3. Proposed Site plan – note house addition is on opposite side of house from encroachment
4. Copy of Original 1954 Plat – the West line appears to scale off 10' on this drawing
5. Copy of 1953 Deed showing 10' setback at West Line
6. Copy of 1957 Deed showing 10' setback at West Line
7. Copy of 1997 Deed - Note actual wording for West line is missing – Tract 8 calls for two 10' rear setbacks as per earlier Deeds.
 - a. this is the latest Deed as accepted by the HOA
 - b. this is a 4 page document
8. Copy of emailed letter from Current head of Millbrook HOA stating that the HOA has no issue with leaving the existing house in its current location with current encroachment.
9. Photo of garage corner that is at encroachment
10. Copy of a letter sent to all neighbors regarding the variance request
11. List of all neighbors who have received the letter along with map off all properties within 200' of subject tract.

Thank you,



Sr. Project Manager

Robert Dame Designs

7322 Southwest Frwy, Ste. 1550

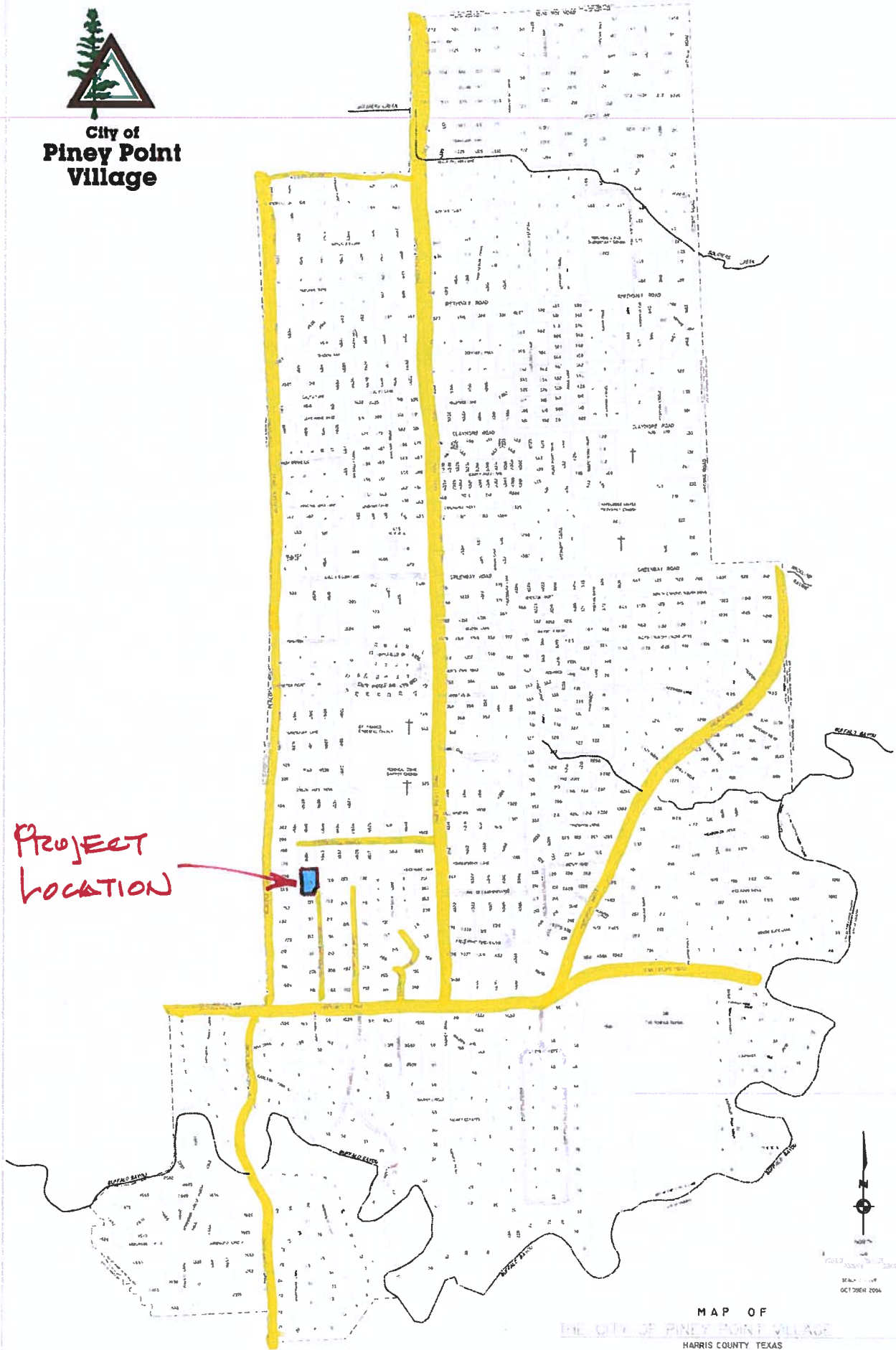
Houston, Tx. 77074

Phone (713) 270-8225, ext. 14

CELL: 281.798.0088



City of
**Piney Point
Village**

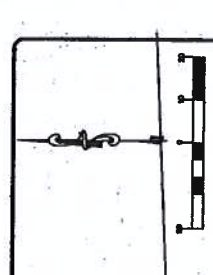
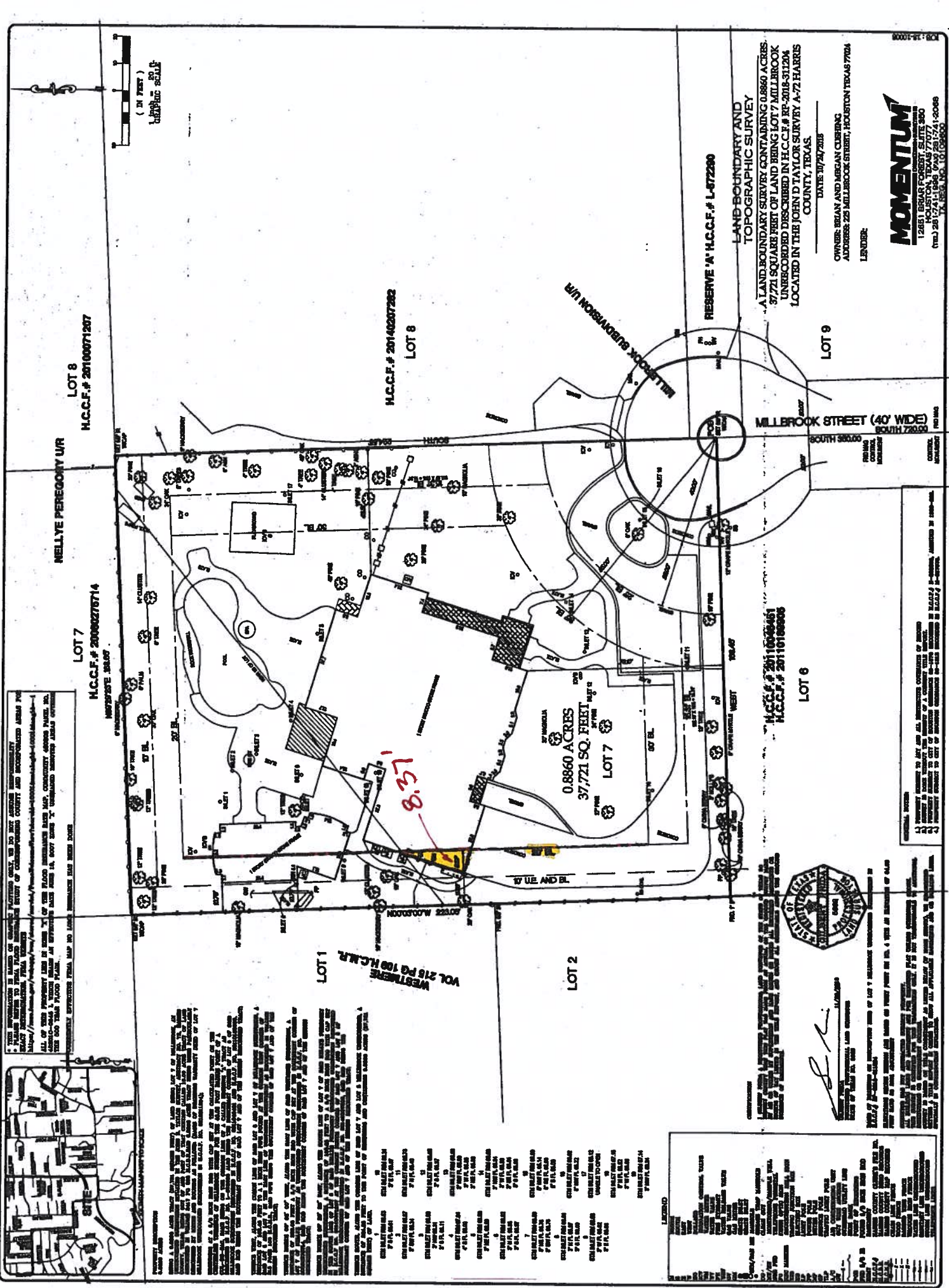
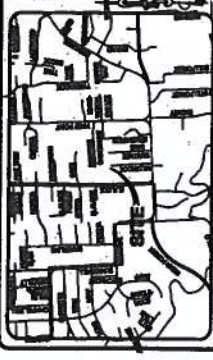


**PROJECT
LOCATION**

MAP OF
THE CITY OF PINEY POINT VILLAGE
HARRIS COUNTY, TEXAS

THIS INSTRUMENT IS MADE IN WITNESS WHEREOF, the undersigned has hereunto set his hand and seal of office on this 14th day of August, 2011, at Houston, Texas.

ALL OF THIS PROPERTY LIES IN BLOCK 17 OF THE PLACED SUBDIVISION MAP, CONCEPT SITE PLAN, NO. 100-100-0000-0000-0000, AS SHOWN ON THE PLACED SUBDIVISION MAP, CONCEPT SITE PLAN, NO. 100-100-0000-0000-0000, AND IS SUBJECT TO THE PLACED SUBDIVISION MAP, CONCEPT SITE PLAN, NO. 100-100-0000-0000-0000.



LOT 8
H.C.C.F.# 20100071207

LOT 7
H.C.C.F.# 20000276714

LOT 6
H.C.C.F.# 2010000461
H.C.C.F.# 20110180006

LOT 9

RESERVE 'A' H.C.C.F.# L-872280

LAND BOUNDARY AND TOPOGRAPHIC SURVEY

A LAND BOUNDARY SURVEY CONTAINING 0.8860 ACRES 37,721 SQUARE FEET OF LAND BEING LOT 7 MILLBROOK UNRECORDED DESCRIBED IN H.C.C.F.# RP-2010-371204 LOCATED IN THE JOHN D TAYLOR SURVEY A-72 HARRIS COUNTY, TEXAS.

DATE: 3/7/2010

OWNER: BEAN AND MEGAN CLERKING
ADDRESS: 220 MILLBROOK STREET, HOUSTON TEXAS 77004

LENDER:

80001-81-601

MOMENTUM
12801 BISHOP ROAD, SUITE 100
HOUSTON, TEXAS 77042-3500
(713) 281-7411 (toll free) (713) 281-7411-2000
TX REG. NO. 101098500

WESTERN EGRESS
VOL 218 PG 108 H.C.M.R.

LOT 1

LOT 2

LOT 3

LOT 4

LOT 5

LOT 6

LOT 7

LOT 8

LOT 9

RESERVE 'A'

MILLBROOK STREET (40' WIDE)

U.S. 291

W/IN HOUSTON SUBDIVISION MAP

0.8860 ACRES
37,721 SQ. FEET

LOT 7

8.37

LEGEND

1. LOT 1
2. LOT 2
3. LOT 3
4. LOT 4
5. LOT 5
6. LOT 6
7. LOT 7
8. LOT 8
9. LOT 9
10. RESERVE 'A'

STATE OF TEXAS
COUNTY OF HARRIS

BEAN AND MEGAN CLERKING
3/7/2010

WESTERN EGRESS
VOL 218 PG 108 H.C.M.R.

LEGEND

1. LOT 1
2. LOT 2
3. LOT 3
4. LOT 4
5. LOT 5
6. LOT 6
7. LOT 7
8. LOT 8
9. LOT 9
10. RESERVE 'A'

ASSESSOR'S BLOCK BOOK FOR HARRIS COUNTY, TEXAS

618

Block or Lots 1 to 14
Abstract No.

Survey or Addition MILLBROOK

Pat. No.

S. D. 58 25 D. D.

2716 J.D. TAYLOR SUR. 1914 PG. 2811

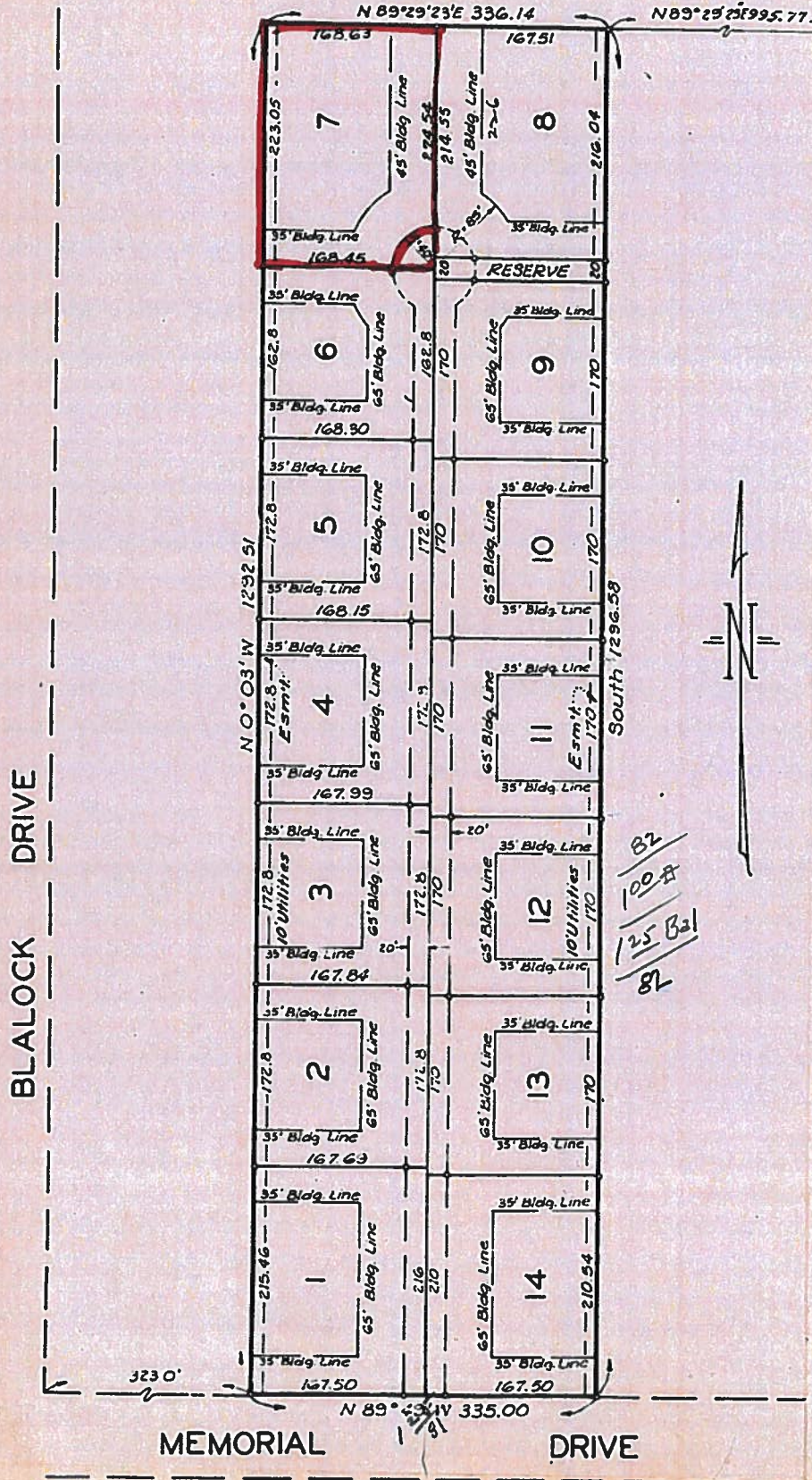
PATENT					CERTIFICATE			
No.	Vol.	TO WHOM ISSUED	DATE	ACREAGE	No.	CLASS	CHARACTER	TO WHOM ISSUED
			M D Y					

Scale 100' = one inch.

GRACE W. FLEMING 1924.

W.E. WHITE 2020.

3500
1981
4000
1971



1784631

119
119

1953

THE STATE OF TEXAS:

COUNTY OF HARRIS:

HERETOFORE, by instrument dated March 23, 1953, now of record in Volume 2578, Page 400, Harris County Deed Records, W. E. White created and established a subdivision consisting of fourteen (14) tracts in the John D. Taylor Survey, Harris County, Texas, known as "MILLBROOK", and in said instrument created certain easements and imposed upon the lots in said subdivision various and sundry restrictive covenants, among which was contained the following:

"6. All improvements shall be constructed on each tract of this subdivision, except tracts Seven (7) and Eight (8), to front on the street upon which such tract faces, and each corner tract shall face on the street on which it has the largest frontage. All improvements constructed on Tract Seven to front either East or Southeast and all improvements constructed on Tract Eight shall front either West or Southwest. No building shall be erected on any tract in this subdivision, except Tracts Seven and Eight, nearer to the center line of the private roadway hereinabove dedicated than sixty-five (65) feet, nor nearer than thirty-five (35) feet from either of the side lines of such tract. No building shall be erected on Tract Seven nearer than forty-five (45) feet to the East line of such tract, nearer than eighty-five (85) feet to the nearest boundary of the private roadway hereinabove created, nearer than thirty-five (35) feet to the South line of said tract, nearer than ten (10) feet to the West line of said tract nor nearer than ten (10) feet to the North line of such tract. No building shall be erected on Tract Eight nearer than forty-five (45) feet to the West line of such tract, nearer than eighty-five (85) feet to the nearest boundary of the private roadway hereinabove created, nearer than thirty-five (35) feet to the South line of said tract, nearer than ten (10) feet to the East line of said tract nor nearer than ten (10) feet to the North line of said tract. No detached building such as garages and servants' quarters shall be erected on any tract in this subdivision except Tracts Seven and Eight nearer than one hundred twenty-five (125) feet from the center line of the private roadway hereinabove dedicated. No detached building such as garages or servants' quarters shall be erected on Tracts Seven or Eight nearer than one hundred twenty-five (125) feet to the nearest boundary of the private roadway hereinabove dedicated."

Certain errors were contained in the above quoted covenant with regard to the location of improvements upon Tract Seven (7) and Tract Eight (8), and it is desired to correct said errors hereby.

NOW THEREFORE, KNOW ALL MEN BY THESE PRESENTS: That I, the said W. E. WHITE, joined herein by the undersigned parties all of whom now are the owners of various lots in said Millbrook, do hereby amend and correct the above quoted provision from said instrument of restrictive covenants so that same shall henceforth be and read in words and figures as follows:

170
1:2
120

1957

"6. All improvements shall be constructed on each tract of this subdivision, except Tracts Seven (7) and Eight (8), to front on the street upon which such tract faces, and each corner tract shall face on the street on which it has the largest frontage. All improvements constructed on Tract Seven to front either East or Southeast and all improvements constructed on Tract Eight shall front either West or Southwest. No building shall be erected on any tract in this subdivision, except Tracts Seven and Eight, nearer to the center line of the private roadway hereinabove dedicated than sixty-five (65) feet, nor nearer than thirty-five (35) feet from either of the side lines of such tract. No building shall be erected on Tract Seven nearer than forty (40) feet to the East line of such tract, nearer than sixty-six (66) feet to the nearest boundary of the private roadway hereinabove created, nearer than thirty-five (35) feet to the South line of said tract, nearer than ten (10) feet to the West line of said tract nor nearer than ten (10) feet to the North line of such tract. No building shall be erected on Tract Eight nearer than forty (40) feet to the West line of such tract, nearer than sixty-six (66) feet to the nearest boundary of the private roadway hereinabove created, nearer than thirty-five (35) feet to the South line of said tract, nearer than ten (10) feet to the East line of said tract nor nearer than ten (10) feet to the North line of said tract. No detached building such as garages and servants' quarters shall be erected on any tract in this subdivision except Tracts Seven and Eight nearer than one hundred twenty-five (125) feet from the center line of the private roadway hereinabove dedicated. No detached building such as garages or servants' quarters shall be erected on Tracts Seven or Eight nearer than one hundred twenty-five (125) feet to the nearest boundary of the private roadway hereinabove dedicated."

No other provision contained in said Instrument of Restrictive Covenants shall be affected, altered, impaired or modified by this amendment to the above quoted paragraph.

EXECUTED this the 26th day of June, A. D. 1957.



W. E. White
W. E. White

W. E. WHITE, INC.
By W. E. White
President

J. White
Secretary

Emily G. Merritt
Emily G. Merritt, Individually and as Community Survivor of William Merritt, Deceased

Bryant P. Arterbury
Bryant P. Arterbury

Jacquelyn Arterbury
Jacquelyn Arterbury

R. F. Snelling
R. F. Snelling

Gertrude Snelling
Gertrude Snelling

G. T. Frutiger
G. T. Frutiger

Marian Frutiger
Marian Frutiger

and

1997-1

Amend

S369145

512-27-2776

**SECOND AMENDMENT TO RESTRICTIONS
FOR MILLBROOK SUBDIVISION**

u

THIS SECOND AMENDMENT TO RESTRICTIONS FOR MILLBROOK SUBDIVISION ("Second Amendment") is made and entered into by and among the respective owners who have executed this Second Amendment as hereinafter provided and is effective as of the date upon which the last of such owners has executed this Second Amendment.

03/29/97 300103025 8369145 915.00

RECITALS

Reference is here made to that certain instrument dated March 23, 1953 executed by W. E. White, Inc., a Texas corporation, and filed for record in Volume 2578, Page 400 of the Deed Records of Harris County, Texas, which instrument was amended by instrument dated on or about April 12, 1971 filed for record in the Official Real Property Records of Harris County, Texas under Harris County Clerk's File No. L865151 (said March 23, 1953 instrument as amended is herein called the "Existing Restrictions").

The Existing Restrictions cover and affect that certain 10.9 acre tract of land (herein sometimes called the "Property") described in the Existing Restrictions. The undersigned owners are the current owners of a majority of the sites within the Property and, in accordance with paragraph 1 of the Existing Restrictions, desire to amend and modify the Existing Restrictions as hereinafter set forth.

15
N

AGREEMENTS

NOW, THEREFORE, the undersigned owners of a majority of the sites within the Property do hereby amend the Existing Restrictions as follows:

1. Numbered paragraph 2 of the Existing Restrictions is hereby amended by deleting the text thereof in its entirety and substituting therefor the following:

"[Intentionally Left Blank]"

2. Numbered paragraph 6 of the Existing Restrictions is hereby amended by deleting the text thereof in its entirety and substituting therefor the following:

"6. All improvements shall be constructed on each tract of this subdivision, except tracts seven (7) and eight (8), to front on the street upon which such tract faces. Each corner tract shall face on the street on which it has the longest frontage. All



512-27-2777

improvements constructed on Tract Seven shall face either East or Southeast and all improvements constructed on Tract Eight shall face either West or Southwest. No building shall be erected on any tract, except Tract Seven and Eight, nearer to the center line of the private roadway (hereinabove dedicated) than sixty-five (65) feet, nor nearer than thirty (30) feet from either of the side lines of such tract. No building shall be erected on Tract Seven nearer than thirty (30) feet to the East line of such tract, nearer than eighty-five (85) to the nearest boundary of the private roadway (hereinabove created), nearer than thirty (30) to the South line of said tract, nor nearer than ten (10) feet to the North line of such tract. No building shall be erected on Tract Eight nearer than thirty (30) feet to the West line of such tract, nearer than eighty-five (85) to the nearest boundary of the private roadway (hereinabove created), nearer than thirty (30) to the South line of said tract nor nearer than ten (10) feet to the East line of such tract nor nearer than ten (10) feet to the North line of such tract.

No MENTION OF WEST LINE

10' & 10' @ TRACT 8 SAME AS BEFORE

3. Numbered paragraph 7 of the Existing Restrictions is hereby amended by deleting the sentence contained therein which reads "No buildings other than one story structure may be erected on any site" and substituting therefor the following:

"No buildings of more than two stories may be erected on any site."

4. Numbered paragraph 17 of the Existing Restrictions is hereby amended by deleting the text thereof in its entirety and substituting therefor the following:

"17. No radio aerial wires or satellite dishes shall be maintained on any portion of any site in a manner or location which makes the same visible from the street on which such site fronts."

5. Numbered paragraph 22 of the Existing Restrictions is hereby amended by deleting the text thereof in its entirety and substituting therefor the following:

"[Intentionally Left Blank]"

6. Except as expressly amended hereby, the Existing Restrictions shall remain in full force and effect. The Existing Restrictions, as hereby amended, are hereby ratified and confirmed. This Second Amendment may be executed in one or more counterparts, each such counterpart being an original hereof and all such counterparts taken together constituting but one and the same instrument and agreement.

[See following pages for signatures of owners]

1997-3

512-27-2778

SIGNATURE AND ACKNOWLEDGMENT PAGES FOR SECOND AMENDMENT TO
RESTRICTIONS
FOR MILLBROOK SUBDIVISION

Name(s) of owner: CARL A EVANS
KATHERINE J. EVANS

(4)
200

Address of owner(s): 218 MILLBROOK
HOUSTON, TEXAS 77034

Signature of owner(s):

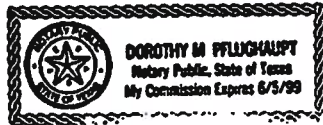
[Signature]
Carl A. Evans
[Signature]
Katherine J. Evans

Date signed by owner(s): 3/17/ 1997

STATE OF TEXAS

COUNTY OF HARRIS

This instrument was acknowledged before me on this 17 day of March
1997 by Carl A. Evans and Katherine J. Evans.



Dorothy M. Pflughaupt
Notary Public in and for the
State of Texas

My commission Expires: 6/3/99
Printed Name: Dorothy M. Pflughaupt

1997-4

512-27-2779

SIGNATURE AND ACKNOWLEDGMENT PAGES FOR SECOND AMENDMENT TO RESTRICTIONS FOR MILLBROOK SUBDIVISION

Name(s) of owner: Yu-Taik Chen
Young Ja Chon

Jou

Address of owner(s): 222 Millbrook
Houston, TX 77024

Return to:
Seanne Klingensmith
Millbrook Assoc.
225 Millbrook
Houston, TX 77024

Signature of owner(s):
Yu-Taik Chen
Yu-Taik Chen
Young Ja Chon
Young Ja Chon

Date signed by owner(s): March 17, 1997

NO FURTHER ACTION REQUIRED BY THE GRANTEE OR ANY OF THE GRANTEE'S HEIRS OR PROPERTY INTERESTS OF COLOR OR FACE IS HELD AND IRREVOCABLE UNDER FEDERAL LAW THE STATE OF TEXAS COUNTY OF HARRIS
Notary Public
Seanne on the date and at the place stamped hereon by me and was duly RECORDED in the Official Public Records of Real Property of Harris County, Texas on:

MAR 20 1997

STATE OF TEXAS
COUNTY OF HARRIS



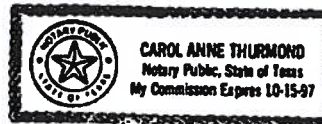
Beverly R. Kaufman
COUNTY CLERK
HARRIS COUNTY TEXAS

This instrument was acknowledged before me on this 17th day of March 1997 by Yu-Taik Chen and Young Ja Chon

Carol Anne Thurmond
Notary Public in and for the
State of Texas

My commission Expires: _____
Printed Name: _____

FILED
97 MAR 20 PM 1:11
Beverly R. Kaufman
COUNTY CLERK
HARRIS COUNTY TEXAS



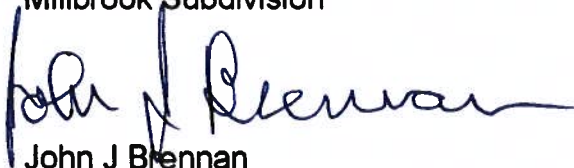
Millbrook Subdivision

October 29, 2018

To Whom it may concern,

The purpose of this letter is to confirm that the plans presented to the subdivision on October 29, 2018 for the remodeling to be done at 225 Millbrook meet all the requirements and restrictions of the Millbrook Subdivision Deed Restrictions. Therefore, the Millbrook Subdivision has no objection to the remodeling of the home.

Millbrook Subdivision

A handwritten signature in blue ink, appearing to read "John J. Brennan". The signature is written in a cursive style with a long horizontal stroke at the end.

John J Brennan
President
(281) 352-4499



Dec. 18, 2018

Neighbor
Street Address
Houston, Tx. 77024

Re: 225 Millbrook

Dear Neighbor,

On behalf of Brian and Megan Cushing; I wish to inform you that we will be seeking a variance from the Piney Point Board of Adjustments for their property at 225 Millbrook.

The existing home has a small portion of the existing attached garage over the proscribed setback by zoning.

The non-compliance was discovered during a review of remodel application we have recently submitted.

We are requesting a variance to allow the existing home to remain in its current location.

The proposed remodel work is on the other side of the house and the small addition proposed there is behind the setback. The Rear yard depth is required to be 20'. The existing garage is 11.63' off the rear property line.

We are therefore requesting a variance for the 8.37' encroachment. Please see attached survey.

We are seeking a variance to the following portion of the City of Piney Point Village Code of Ordinances:

Sec. 74-244. - Regulations.

(c) Area regulations; size of yards.

(3) Rear yard. There shall be a rear yard having a depth of not less than 20 feet. Corner lots on the turnaround portion of a cul-de-sac shall have two rear yards.

The hearing before the Board of Adjustment is to take place on Thursday, January 10, 2019 at 7pm at the following address:

Piney Point City Hall
7676 Woodway Drive, Suite 300
Houston, Tx. 77063

A more detailed packet of information regarding this request will be made available on the City website from January 8th to January 10th. www.cityofpineypoint.com

If you have any questions or concerns regarding this matter please contact myself or our builder by phone, text, or email:

Sincerely,

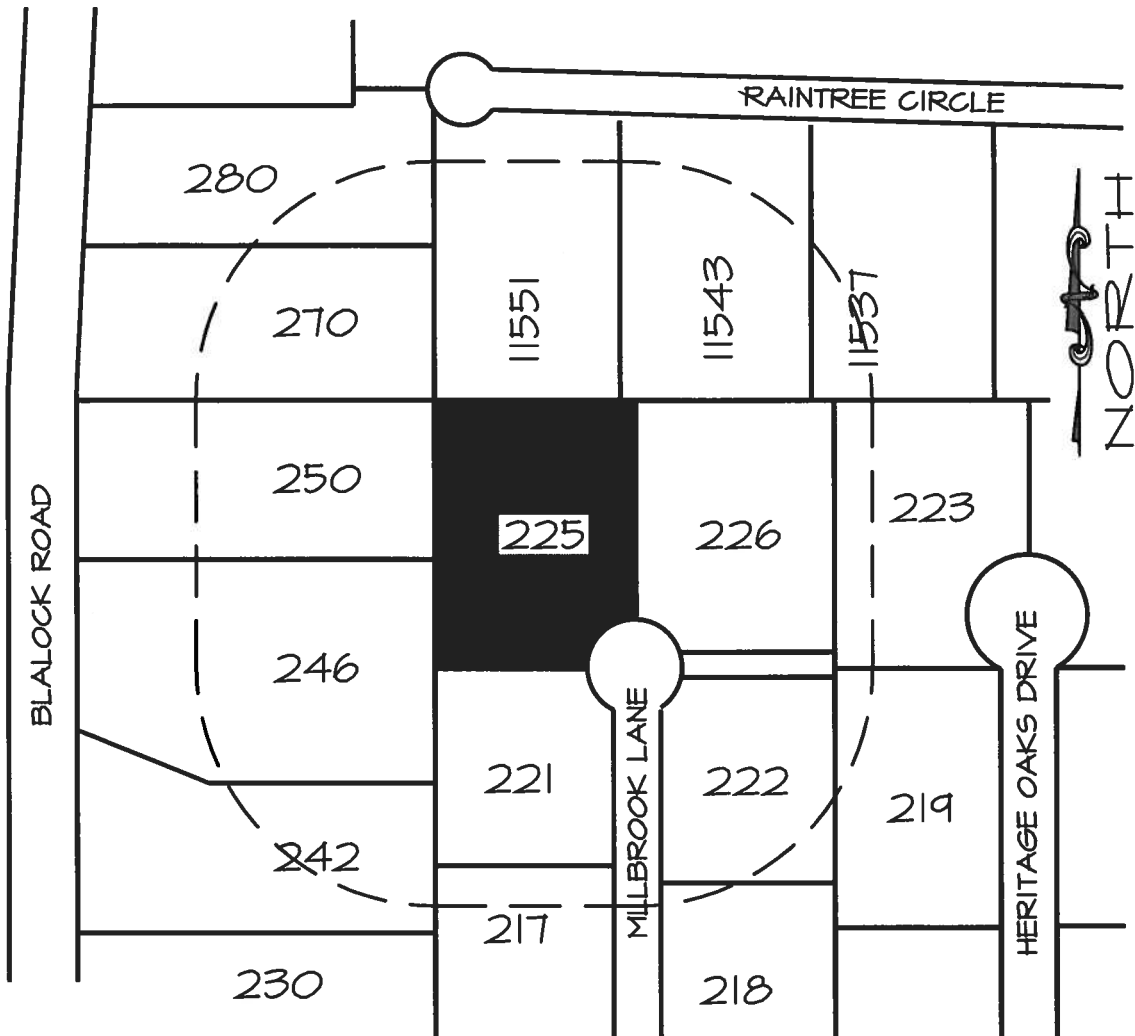


Sr. Project Manager

Robert Dame Designs

7322 Southwest Frwy, Ste. 1550
Houston, Tx. 77074
Phone (713) 270-8225, ext. 14
CELL: 281.798.0088

Builder: DJ Palmore
David James Custom Builder
www.davidjamescustombuilder.com
6117 Kirby Dr.
Houston, TX 77005
713.376.3488



NEIGHBORS WITHIN 200' OF PROPERTY

**280 Blalock Rd.
Ashok & Pragma Garg
P.O. Box 79748
Houston, Tx. 77279-9748**

**Scott & Susan Bender
270 Blalock Rd.
Houston, Texas 77024**

**Syed & Fatima Jafri
250 Blalock Rd.
Houston, Tx. 77024**

**Saad & Robin Bargach
246 Blalock Rd.
Houston, Tx. 77024**

**Stephen & Ann Brennan
242 Blalock Rd.
Houston, Tx. 77024**

**221 Millbrook
Millbrook Realty LLC
217 Millbrook
Houston, Tx. 7702407314**

**John J. & Holly O. Brennan
217 Millbrook
Houston, Tx. 77024**

**218 Millbrook
Yuehua Zhao
14 Ivy Bend Ln.
Sugar Land, Tx. 77479-4568**

**Yu Talk & Young Ja Chon
222 Millbrook
Houston, Tx. 77024**

**Current Owner
226 Millbrook
Houston, Tx. 77024**

**Brighan Q. & Alexandra Ca
219 Heritage Oaks Ln.
Houston, Tx. 77024**

**Gilles & Micheline M. Labb
223 Heritage Oaks Ln.
Houston, Tx. 77024**

**David C. Bretches
11551 Raintree Cir.
Houston, Tx. 77024**

**James D. & Francel Gray
11543 Raintree Cir.
Houston, Tx. 77024**

**Robert F. Jenkins
11537 Raintree Cir.
Houston, Tx. 77024**