

March 21, 2024

Piney Point Village Board of Adjustment Meeting Proposed Single Family Home 589 W Dana, Piney Point Village, Texas 77024







4141 Southwest Freeway, Suite 265 Houston, Texas 77027

T: (713) 859-9397

E: will@blackacrebuilders.com

March 6, 2024

Via Mail: Board of Adjustment 325 Piney Point Road Houston, Texas 77024

RE: Board of Adjustment Meeting - 589 W Dana Lane, Piney Point Village, Texas 77024

Greetings Board,

Blackacre Builders, LLC (hereinafter "Blackacre") submitted plans to Piney Point Village Planning, Development and Permits Department (hereinafter the "Village") on January 24, 2024 for a new single-family home located at 589 W Dana Lane. The Village denied the plans on February 8, 2024 citing a violation of Village Zoning Ordinance Chapter 74-244-Regulations (1) Front Yard, due to the orientation of the proposed home and recommended Blackacre seek a variance from the Board of Adjustment. It is our firm belief that Blackacre's plans comply with the Village zoning ordinance and therefore do not require a variance.

The Village turned down the submittal in regards of the orientation of the proposed structure because the front door faces Smithdale, not Dana Lane, thus requiring a 50 foot setback from Smithdale. However, the zoning ordinance does not regulate the home's orientation. It is thus Blackacre's position that the proposed structure is within the setbacks of the lot which are codified in the Village zoning ordinance, Memorial Terrace Plat and Harris County Map Records. Enclosed are the following documents for your review:

- I. Memorial Terrace Subdivision Plat (1953)
- II. Piney Point Village Zoning Ordinance (2022)
 - a. Example City of Houston Historic Preservation Ordinance
- III. Original Home Survey
 - a. Example Homes with Similar Orientations
- IV. Proposed Site Plan
- V. Photos of the Original Home
- VI. Proposed Architectural Renderings
- VII. List of Neighbors Who Received Notice of the Meeting

It is our intention to keep the same orientation of the original home. The original home's front door faced Smithdale Road and its garage faced W Dana Lane. It must be stated that before the purchase of the property, Blackacre did its due diligence and had a meeting with the Village on August 25, 2021 regarding keeping the orientation of the original home. The Village stated that there would be no issue to proceed with keeping the same orientation. The accumulation of these plans took over two years and tens of thousands of dollars to complete.

ANALYSIS

The applicable provision of the ordinance [Section 74-244(g)] provides that:

Front yards for Surrey Oaks Lane, <u>Dana Lane</u> and 501, 502, 505, 510, 517, 518, 525, 526, 533, 534, 541 and 542 Lanecrest Lane shall have a depth of not less than 25 feet.

Blackacre proposed plans show that the front door for the proposed home would face Smithdale and that the front yard would have a depth of 25 feet. The zoning ordinance does not define "front facing" or provide architectural design guidelines for orientation of homes or placement of doors, nor does the ordinance state that the front door should face Dana Lane. It is our understanding that home orientation does not change building setback lines. However, the ordinance does define "Yard, front" and "Lot." The definitions is a follows:

[Sec. 74-1. – Definitions]

Yard. (1) Yard, front, means a yard extending across the front of a lot between the side lot lines and being the horizontal distance between the street line **providing access to such lot and the main building** other than the usual uncovered steps, sidewalks and driveways.

Lat means a parcel of land occupied or intended for occupancy by a use permitted in this chapter, including one main building together with its accessory buildings, the open spaces and parking spaces required by this chapter, and having its principal frontage upon a public street or upon a lawfully existing private street.

Objectively reading the definitions, it clearly states that the front yard is the one providing access to the lot and main building. Our proposed plans show access to the lot and building to Dana Lane. Additionally, the ordinance clearly states our building setbacks lines on Dana Lane.

[Sec. 74-244. Regulations]

- (c)(1) Front yard. Front yards for Dana Lane shall have a depth of not less than 25 feet. (*The proposed front yard is 25.7 feet*)
- (c)(2) Side yards.... Dana Lane shall have a side yard setback of 10 feet. (The proposed side yard on Smithdale Road is 19.2 feet from the porch and 25.2 feet from the living area of the home)
- (c)(3) Rear yard. There shall be a rear yard having a depth of not less than 20 feet. (*The proposed rear yard is 25.5 feet*)

Also, the ordinance does not allow driveway access to Smithdale Road. The proposed driveway access is to Dana Lane.

[Sec. 74-244. Regulations]

(k)(1) Driveway curbcuts. c.no side yard curbcut shall be permitted on or adjacent to Smithdale Road...

Objectively reading the ordinance, our proposed plans are within the applicable setbacks and are in compliance with the zoning ordinance. The 50 foot setback on Smithdale does not apply to this property. Therefore, we are not in violation of any ordinance requiring a variance.

CASE LAW

In reviewing case law regarding frontage/home orientation and setback lines, a recent case in 2010 addressed this issue in the Sandalwood neighborhood of Houston. In *Uptegraph vs. Sandalwood Civic Club*, the builder mistakenly thought that by changing the orientation of the home, the setbacks of the lot changed with them. Therefore, applying this rule to our case, the Village cannot change the plat which includes building lines and setbacks of this lot regardless of home orientation.

"The Uptegraphs' builder subsequently sent a letter to the ACC explaining that he mistakenly thought that, based on the frontage change, the setback line originally applicable to Beechmont Road would become applicable to Sandalwood Drive. In other words, the builder assumed that the setback lines reflected on the plat were relative to the orientation of the house, rather than to a particular street, and so subject to change if the orientation of the house changed." Sandalwood, 2010

UNNECESSARY HARDSHIP

As required by the Village zoning ordinance, a variance may be granted if the applicant can prove an unnecessary hardship. Even though its our firm belief that the proposed plans are in compliance with the Village zoning ordinance, please see below why adding a 50 foot setback from Smithdale Road to 589 W Dana is an unnecessary hardship.

- The proposed plans are within the setbacks of the original plat of the subdivision, codified by the Memorial Terrace Subdivision Plat and Harris County May Records.
- The Village zoning ordinance codified the same setbacks of the original plat, as well set minimum setbacks to the rear and the other side yard.
- The ordinance does not have an architectural design guideline, specify frontage or door location which creates a vague and subjective criterion for applicants.
- The 50 foot setback is for lots 40,000 square feet and larger. Applying a 50 foot setback to this lot of 15,300 square feet decreases its property value.

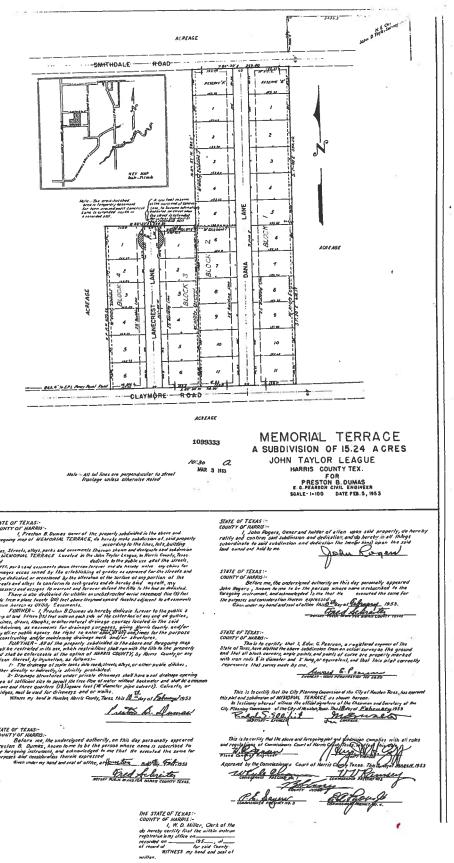
- Applying a 50 foot setback to this property could be considered a taking of private property requiring just compensation from the Village.
- The property address is on Dana Lane and therefore the front yard is on Dana Lane.

CONCLUSION

It is our intent to keep the same orientation of the original home. The proposed structure is in compliance with the Village zoning ordinance, Memorial Terrace Plat and Harris County Map Records therefore not requiring a variance. The 50 foot setback on Smithdale Road does not apply to this property. We respectfully request that proposed plans be submitted for permitting at the Village.

Sincerely,

Will Seyer Managing Partner Blackacre Builders, LLC



booodo

This map/plat is being furnished as an aid in locating the herein described Land in relation to adjoining streets, natural boundaries and other land, and is not a survey of the land depicted. Except to the extent a policy of title insurance is expressly modified by endorsement, if any, the Company does not insure dimensions, distances, location of easements, acreage or other matters shown thereon.

Chapter 74 - ZONING

Cross reference—Buildings and building regulations, ch. 10; subdivisions, ch. 50.

State Law reference — Zoning and land use regulation, V.T.C.A., Local Government Code § 211.001 et seq.

Sec. 74-1. - Definitions.

Yard means an open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, other than as specifically permitted by this chapter.

(1)Yard, front, means a yard extending across the front of a lot between the side lot lines and being the horizontal distance between the street line providing access to such lot and the main building other than the usual uncovered steps, sidewalks and driveways.

(2) Yard, rear, means a yard extending across the rear of a lot between the side lot lines and being the horizontal distance between the rear lot line and the main building other than the usual uncovered balconies or uncovered patios. On all lots the rear yard shall be in the rear of the front yard.

(3) Yard, side, means a yard between the main building and the adjacent side line of the lot and extending from the required front yard to the required rear yard, and being the horizontal distance between an adjacent side lot line and the side of the main building.

(4) Yard, required, means the minimum yard area of the lot necessary to comply with the terms of this chapter.

Sec. 74-244. - Regulations.

(c)Area regulations; size of yards.

(1)Front yard. There shall be a front yard having a depth of not less than 50 feet; provided, however, front yards for Gingham Drive and Jan Kelly Lane shall have a depth of not less than 40 feet. Front yards for Surrey Oaks Lane, Dana Lane and 501, 502, 505, 510, 517, 518, 525, 526, 533, 534, 541 and 542 Lanecrest Lane shall have a depth of not less than 25 feet. Where all or part of a lot abuts on the turnaround portion of a cul-de-sac street, that portion of such lot fronting upon the turnaround portion of a cul-de-sac shall have a front yard depth of not less than 25 feet.

(2)Side yards. There shall be two side yards on each lot, neither of which shall be less than 15 percent of the lot width at the building line; provided, however, in no event shall a side yard be less than 15 feet or be required to be more than 30 feet. Notwithstanding, Surrey Oaks Lane, Dana Lane and 501, 502, 505, 510, 517, 518, 525, 526, 533, 534, 541 and 542 Lanecrest Lane shall have a side yard setback of 10 feet.

(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.

Sec. 74-245. - Supplementary district regulations.

(k)Driveway curbcuts. Except as provided below, it shall be unlawful for any person to cause or permit the construction of any driveway curbcut which constitutes a driveway with any street other than the street adjacent to the front yard of the lot upon which the driveway is situated.(1)On a corner lot, one curbcut shall be allowed in a side yard adjacent to a side street. The curbcut shall be allowed as long as: a.No accessory building or structure (except a conforming fence) is located within the side yard containing the curbcut; b.No garage door opening faces the street adjacent to such side yard, and such openings are at angles of not less than 90 degrees to such side street; c.No driveway located within the front yard of the same lot is connected with the driveway utilizing such side yard curbcut. Notwithstanding the foregoing, no side yard curbcut shall be permitted on or adjacent to the following streets: Memorial Drive, San Felipe Drive, Greenbay Road, Claymore Road, Smithdale Road, Taylorcrest Road, Beinhorn Road, Hedwig Road, Piney Point Road, Blalock Road and/or South Piney Point Road.

GUIDELINES RELATED TO MEASURABLE STANDARDS

The following guidelines are intended to supplement the measurable standards that follow.

Lot Size and Orientation

Although lot sizes vary, most lots in the Houston Heights Historic Districts are 50 feet wide by 132 feet deep, or 6,600 square feet.

Building Orientation

The way in which buildings address the street is an important characteristic of the streetscape. Most buildings in the Houston Heights Historic Districts face the street, with very few exceptions. In most cases, front doors also face the street, although some houses have inset porches with side-facing doors that open onto the front-facing porch. Some commercial buildings, which are located on corner lots, have cutaway doors at the corner of the building.

EXAMPLE OF HOUSTON HEIGHTS ORDINANCE

For Existing Buildings with Additions

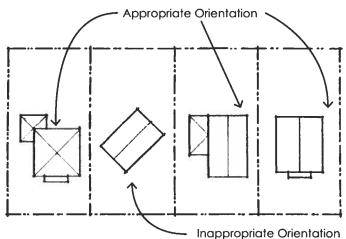
- 5.1 Maintain front-facing primary facades, porches, and entry doors.
 - Do not remove a front porch.
 - Maintain primary entry doors that were originally side-facing and open to the porch.
 - Preserve corner doors on commercial buildings where these exist.

For New Construction

- 5.2 Design the building with a primary entry door that faces the street, rather than a side property line.
 - Site a building with its front wall parallel to the street.
 - A residential or commercial building on a corner lot should have a clearly identifiable primary entrance.



Orient the face of a building to the street.



A new building should be oriented to be compatible with contributing buildings in the context area.





713-973-9700

G.F. #:

21-24010128

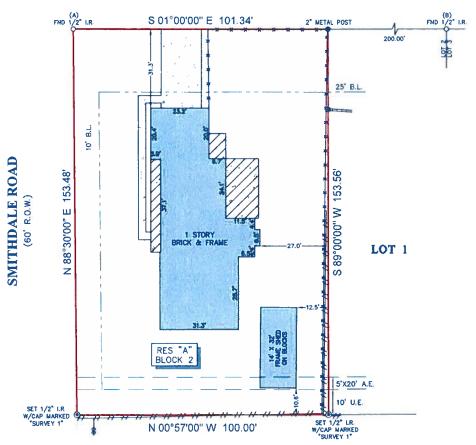
ISSUE DATE: AUGUST 4, 2021





WEST DANA LANE

(60' R.O.W.)



LOT 1 LAMECREST VOL. 259 PG. 108 M.R.H.C.

NOTES:

- ALL BEARINGS SHOWN HEREON ARE REFERENCED TO THE SUBDIVISION PLAT NAMED BELOW, POINTS (A) AND (B) WERE HELD FOR HORIZONTAL CONTROL.

 ABSTRACT INFORMATION FOR THE SUBJECT TRACT WAS PROVIDED BY THE TITLE INSURANCE COMPANY LISTED ABOVE, ASSTRACT IN AS NOT INDEPENDENTLY. ABSTRACTED SUBJECT PROPERTY.

 THIS SURVEY IS CERTIFIED TO THE TITLE INSURANCE COMPANY LISTED ABOVE FOR THIS TRANSACTION ONLY, IT IS NOT TRANSFERABLE TO ADDITIONAL INSTITUTIONS OR SUBSEQUENT OWNERS.

 ALL EASEMENTS AND BUILDING LINES SHOWN ARE PER THE RECORDED PLAT UNLESS OTHERWISE NOTED.

 THERE ARE NO NATURAL DRAINAGE COURSES ON SUBJECT PROPERTY.

 SUBJECT TO THE RESTRICTIVE COVENANTS AS LISTED IN SCHEDULE B OF THE TITLE COMMITMENT ISSUED ON AUGUST 4, 2021, UNDER G.F. NO JET-24010128.

 THERE ARE NO ARTHAL EASEMENT ENCROACHMENTS.

LEGAL DESCRIPTION: RESERVE "A" IN BLOCK 2 OF MEMORIAL TERRACE, A SUBDIVISION IN HARRIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF, RECORDED IN VOLUME 41, PAGE 42 OF THE MAP RECORDS OF HARRIS COUNTY, TEXAS.

CLIENT:

ADDRESS:

GRANT BOONE



www.survey1Inc.com survey1@survey1Inc.com Vey 1, Inc. Your and Survey Company
Firm Registration No. 100758-00
P.O. Box 2543 | Alvin, TX 77512 | (281)393-1382 Your

589 WEST DANA LANE

FIELD CREW: ET ВМ TINAL CHECK MC(V) AUG. 11, 2021 JOB# 8-100669-21

BRICK WALL

BRICK COLUMN -FENCE-

00 00 00 METAL X- X X CHAIN // // // WOOD

LEGEND

CONCRETE

COVERED AREA

Jug SIKEET

STICK STORY 38.45 S 09'38'55" W PAVED DRIVEWAY 20 SETEACK る。常市内女人

60

CUSTOM RESIDENCE

LOT 84

PO SETBACK LINE

PATIO

BAT BOO

95'1∂ N 01.30,31" E

108.65 N 80'21'05" W

EXAMPLE

FREEDOM AVENUE

N 85.46'08"

86.66

0-0

CORNER LOT SITE PLAN

NORTH

EXAMPLE

(GO ROLL)

(G

This survey conforms to the Texas Surveyors Association standards and specifications for a Category 1A, Condition 2 Survey.

An agreement for a CATV system granted to Ares, Inc., as set out in Volume 1107, Page 869 and in Volume 1903, Page 1722.

An easement 12 ft. wide adjacent to adjoining the 16 ft. wide utility easement to H. L. & P. as per mickelson & Klein, Inc. survey.

St ANDREW SINE

Agreement for underground/overhead electrical service with H. L. & P. as set out in Volume 1098, Page 762.

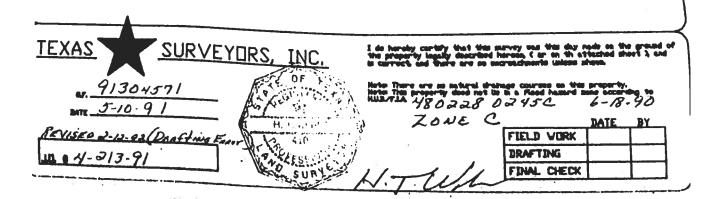
BUYER

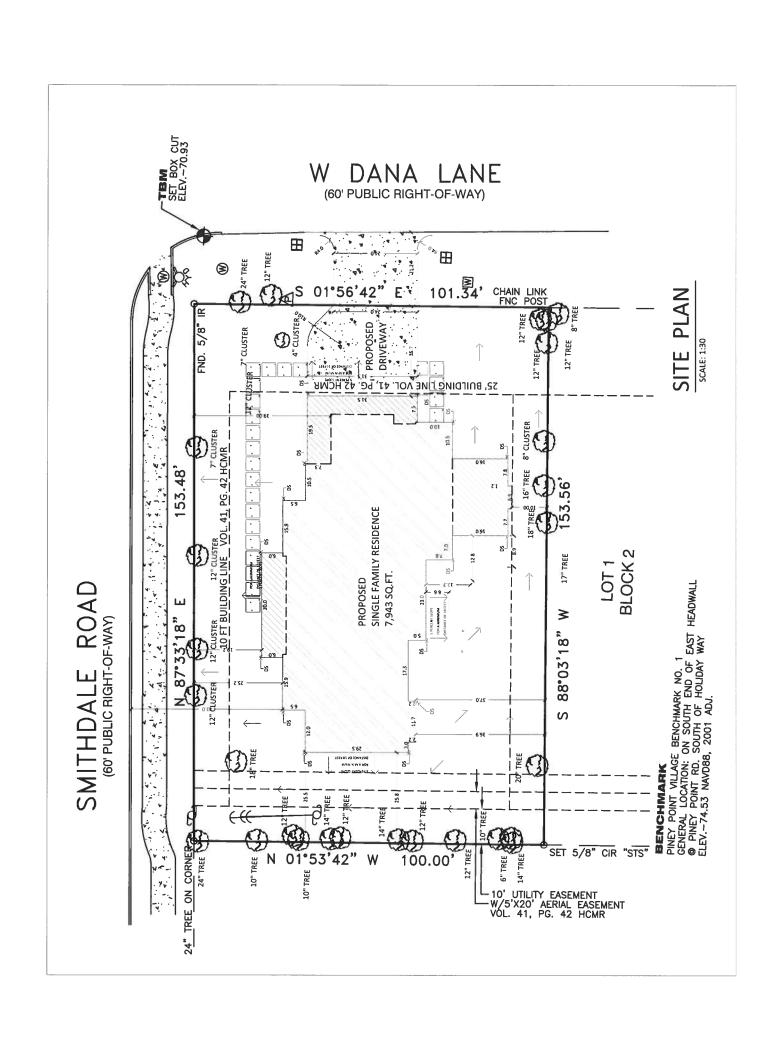
Billy G. Anderson

12 Glen Loch Court

DESCRIBED PROPERTY

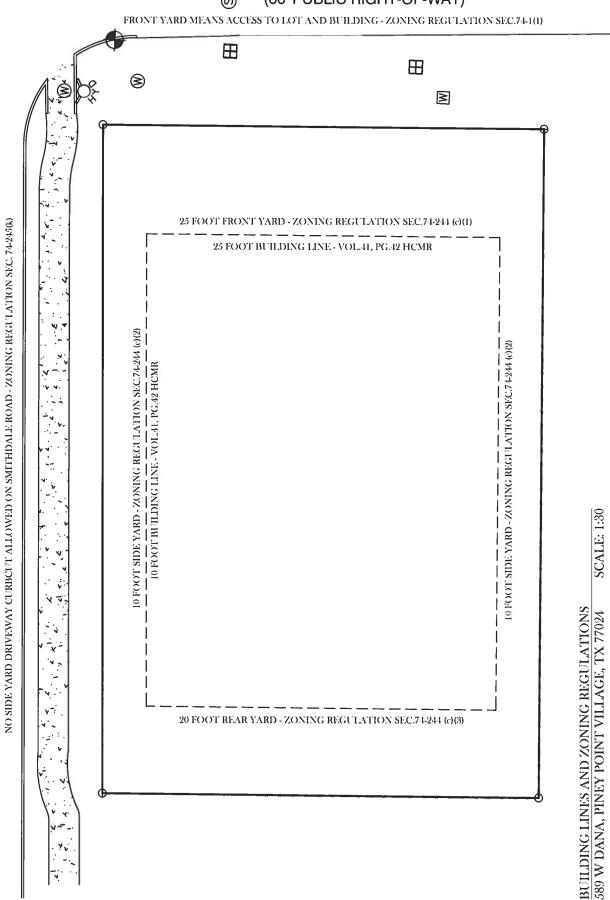
Lot 42, Block 11, of SWEETWATER, Section 1, an addition in Fort Bend County, Texas, according to the map or plat thereof recorded in Volume 28, Page 15 of the Plat Records of Fort Bend County, Texas.





W DANA LANE

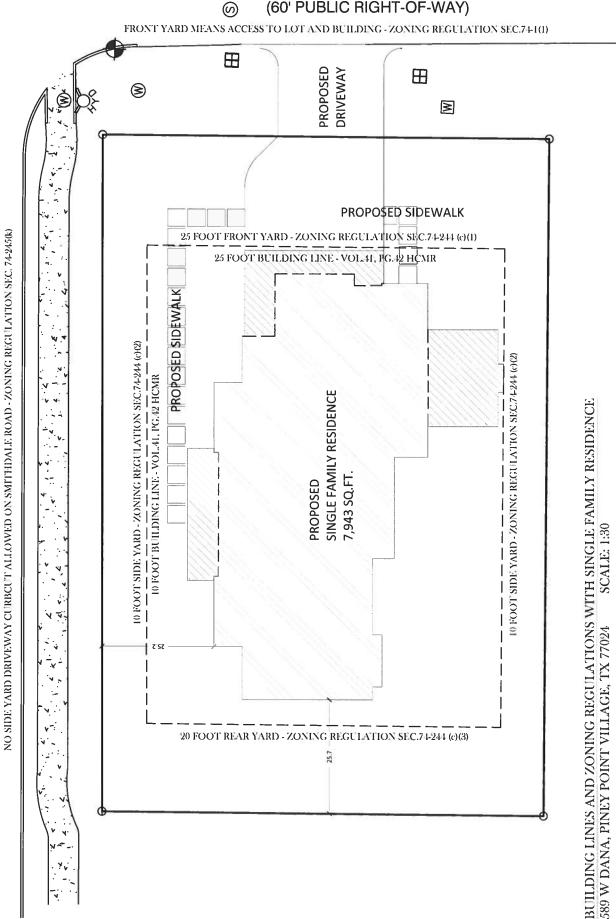
(60' PUBLIC RIGHT-OF-WAY)



SMITHDALE ROAD (60' PUBLIC RIGHT-OF-WAY)

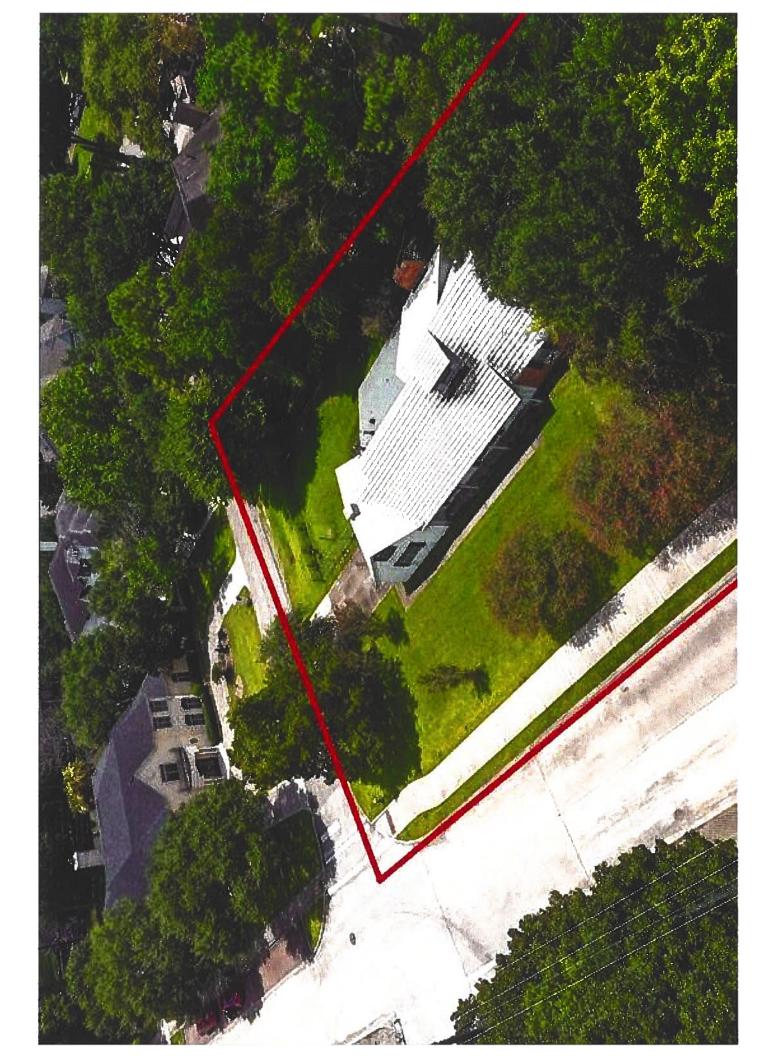
DANA LANE

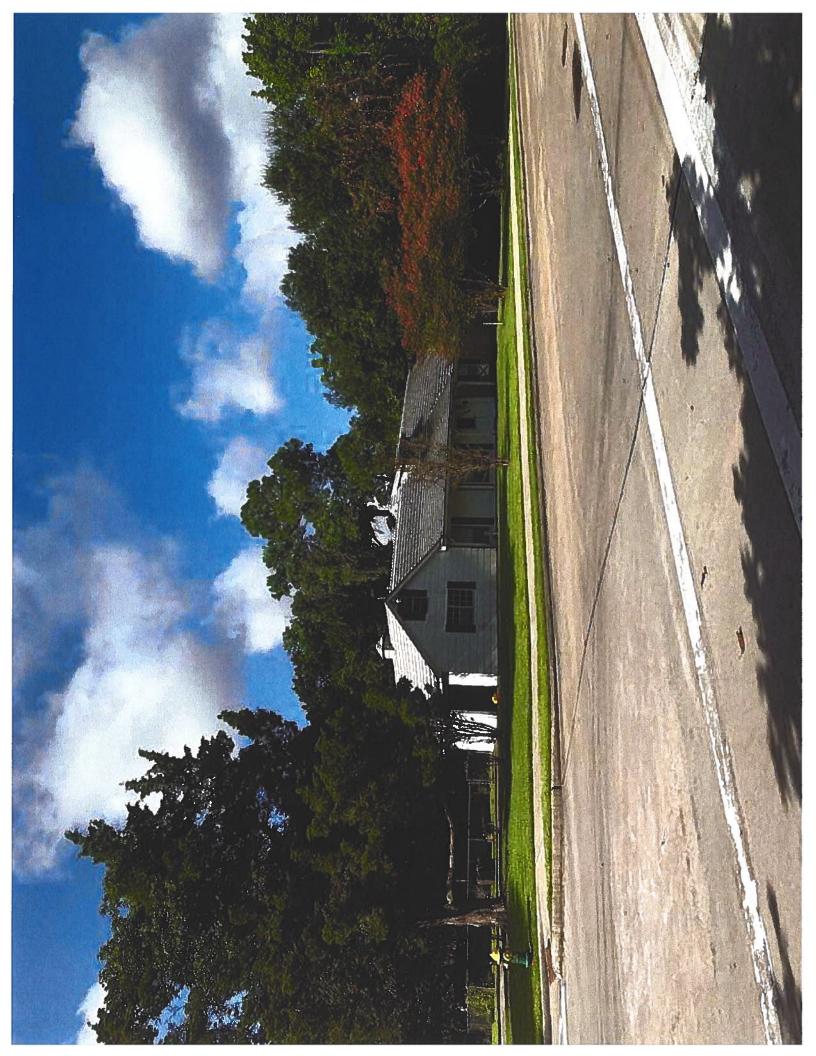
(60' PUBLIC RIGHT-OF-WAY)

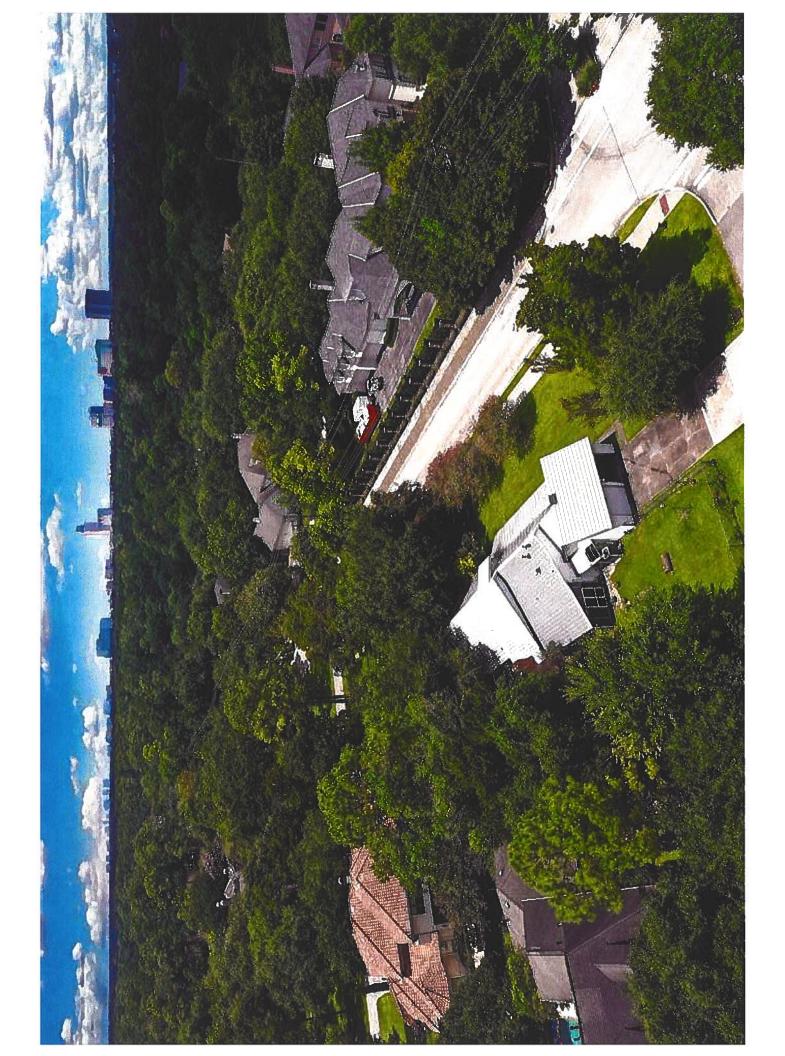


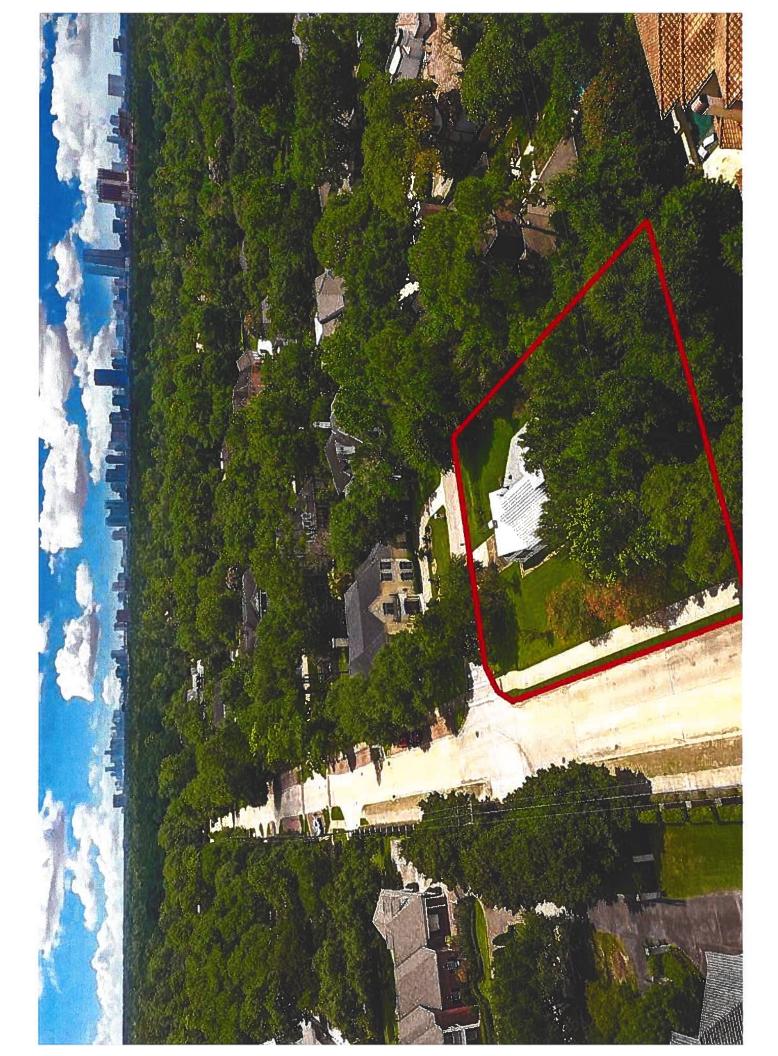
SMITHDALE ROAD (60' PUBLIC RIGHT-OF-WAY)

















Original Home

View from Smithdale Road

Proposed Home





Original Home

View from Dana Lane

Proposed Home





March 21, 2024

Board of Adjustment Meeting

List of Neighbors Who Received Meeting Notice:

Mr. Thomas Hix & Ms. Leslie Hix, 1 Wexford Court, Piney Point Village, Texas 77024

Mr. Akemi Saitoh & Ms. Yasuhiko Saitoh, 9 Wexford Court, Piney Point Village, Texas 77024

Current Owner, 570 Lanecrest Lane, Piney Point Village, Texas 77024

Mr. Jonathan Plumhoff & Ms. Alison Whitworth, 581 W Dana Lane, Piney Point Village Texas 77024

Current Owner, 582 W Dana Lane, Piney Point Village, Texas 77024

Shawhin Karimi & Yasman Karimi, 590 W Dana Lane, Piney Point Village, Texas 77024