



**MEETING AGENDA
SCHERTZ BOARD OF ADJUSTMENT
November 29, 2022**

**HAL BALDWIN MUNICIPAL COMPLEX COUNCIL CHAMBERS
1400 SCHERTZ PARKWAY BUILDING #4
SCHERTZ, TEXAS 78154**

CITY OF SCHERTZ CORE VALUES

Do the right thing

Do the best you can

Treat others the way you want to be treated

Work cooperatively as a team

AGENDA

TUESDAY, NOVEMBER 29, 2022 at 6:00 p.m.

The Board of Adjustment will hold this meeting at 6:00p.m., Tuesday, November 29, 2022, at the City Council Chambers. In lieu of attending the meeting in person, residents will have the opportunity to watch the meeting via live stream on the City's YouTube Channel.

1. CALL TO ORDER / ROLL CALL

2. SEAT ALTERNATE TO ACT IF REQUIRED

3. HEARING OF RESIDENTS

Residents who choose to watch the meeting via live stream, but who would like to participate in Hearing of Residents, should email their comments to the Planning Division, at planning@schertz.com by 5:00p.m. on Tuesday, November 29, 2022, so that the Planning Division may read the public comments into the record under the hearing of residents. In the body of the email please include your name, your address, phone number, agenda item number if applicable or subject of discussion, and your comments.

This time is set aside for any person who wishes to address the Board of Adjustment. Each person should fill out the Speaker's register prior to the meeting. Presentations should be limited to no more than three (3) minutes. Discussion by the Board of any item not on the agenda shall be limited to statements of specific factual information given in response to any inquiry, a recitation of existing policy in response to an inquiry, and/or a proposal to place the item on a future agenda. The presiding officer, during the Hearing of Residents portion of the agenda, will call on those persons who have signed up to speak in the order they have registered.

4. CONSENT AGENDA:

A. Minutes for the November 7, 2022, BOA Meeting.

5. PUBLIC HEARING:

The Board of Adjustment will hold a public hearing related to variance requests within this agenda. The public hearing will be opened to receive a report from staff, the applicant, the adjoining property owners affected by the applicant's request, and any other interested persons. Upon completion, the public hearing will be closed. The Board will discuss and consider the application, and may request additional information from staff or the applicant, if required. After deliberation, the Board will act on the applicant's request.

- A. PLVAR20220141 - The property owner of 2937 Mistywood Lane has requested a variance to Unified Development Code Article 5 Section 21.5.7 Dimensional and Developmental Standards in order to permit a building expansion (enclosed covered patio) into the required twenty-foot (20') rear setback.

6. **ANNOUNCEMENTS:**

A. Announcements by Members

- City and community events attended and to be attended
- Continuing education events attended and to be attended

B. Announcements by City Staff

- City and community events attended and to be attended
- Continuing education events attended and to be attended
- Committee of Committees Advisory Board Meeting Summaries

7. **ADJOURNMENT OF THE REGULAR MEETING**

CERTIFICATION

I, Samuel Haas, Planner, of the City of Schertz, Texas, do hereby certify that the above agenda was posted on the official bulletin boards on this the 23rd day of November, 2022 at 12:00 p.m., which is a place readily accessible to the public at all times and that said notice was posted in accordance with chapter 551, Texas Government Code.

Samuel Haas

Samuel Haas, Planner

I certify that the attached notice and agenda of items to be considered by the Schertz Board of Adjustment was removed from the official bulletin board on ____ day of _____, 2022. _____ title: _____

This facility is accessible in accordance with the Americans with Disabilities Act. Handicapped parking spaces are available. If you require special assistance or have a request for sign interpretative services or other services please call 619-1030 at least 24 hours in advance of meeting.

The Board of Adjustment for the City of Schertz reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed above, as authorized by the Texas Open Meetings Act.

Executive Sessions Authorized: This agenda has been reviewed and approved by the City's legal counsel and presence of any subject in any Executive Session portion of the agenda constitutes a written interpretation of Texas Government Code Chapter 551 by legal counsel for the governmental body and constitutes an opinion by the attorney that the items discussed therein may be legally discussed in the closed portion of the meeting considering available opinions of a court of record and opinions of the Texas Attorney General known to the attorney. This provision has been added to this agenda with the intent to meet all elements necessary to satisfy Texas Government Code Chapter 551.144(c) and the meeting is conducted by all participants in reliance on this opinion.

BOARD OF ADJUSTMENT MEETING: 11/29/2022
Agenda Item 4 A

TO: Board of Adjustment
PREPARED BY: Tiffany Danhof, Administrative Assistant
SUBJECT: Minutes for the November 7, 2022, BOA Meeting.

Attachments

Draft Minutes for the November 7, 2022 BOA Meeting

DRAFT

BOARD OF ADJUSTMENT MINUTES

November 7, 2022

The Schertz Board of Adjustment convened on November 7, 2022 at 6:00 p.m. at the Municipal Complex, Council Chambers, 1400 Schertz Parkway Building #4, Schertz, Texas.

Present: Richard Dziewit, Chair
Reginna Agee, Board Member
Earl Hartzog, Board Member
Ferrando Heyward, Board Member

Absent: Frank McElroy, Board Member
Danielene Salas, Board Member
Yvonne Griffen, Board Member

City Staff: Emily Delgado, Senior Planner
Tiffany Danhof, Administrative Assistant
Samuel Haas, Planner
Mayor Ralph Gutierrez, Council Liaison

1. CALL TO ORDER / ROLL CALL

Mr. Dziewit called the meeting to order at 6:01 P.M.

2. SEAT ALTERNATE TO ACT IF REQUIRED

Mr. Heyward was seated as the alternate.

3. HEARING OF RESIDENTS

Residents who choose to watch the meeting via live stream, but who would like to participate in Hearing of Residents, should email their comments to the Planning Division, at planning@schertz.com by 5:00p.m. on Monday, November 7, 2022, so that the Planning Division may read the public comments into the record under the hearing of residents. In the body of the email please include your name, your address, phone number, agenda item number if applicable or subject of discussion, and your comments.

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No one spoke.

4. CONSENT AGENDA:

A. Minutes for the January 31, 2022 Regular Meeting.

Motioned by Board Member Earl Hartzog, seconded by Board Member Reginna Agee to approve the consent agenda

Vote: 4 - 0 Passed

5. PUBLIC HEARING:

The Board of Adjustment will hold a public hearing related to variance requests within this agenda. The public hearing will be opened to receive a report from staff, the applicant, the adjoining property owners affected by the applicant's request, and any other interested persons. Upon completion, the public hearing will be closed. The Board will discuss and consider the application, and may request additional information from staff or the applicant, if required. After deliberation, the Board will act on the applicant's request.

- A.** PLVAR20220141 Hold a public hearing, consider and act upon a request for a variance to Unified Development Code Article 5 Section 21.5.7 Dimensional and Developmental Standards, specifically for Single Family Residential (R-6) zoning district in order to permit a building expansion (enclosed covered patio) into the required twenty-foot (20') rear setback, located at 2397 Mistywood Lane, City of Schertz, Guadalupe County, Texas.*(Public Hearing to Occur / No Action will be taken due to notice error)*

Mrs. Delgado gave a presentation.

Mr. Dziewit opened the public hearing at 6:06 P.M.

No one spoke

Mr. Dziewit closed the public hearing at 6:07 P.M.

Public hearing occurred, and no action made, the public hearing is moved to November 29, 2022.

- B.** PLVAR20220155- Hold a public hearing, consider and act upon a request for a variance to Unified Development Code Article 9, Section 21.9.8 Screening and Fencing, specifically subsection 21.9.8.B.3 in order to not require an eight foot (8') masonry screening wall between nonresidential and single family zoned properties, located at 1065 Live Oak Road, City of Schertz, Guadalupe County, Texas.

Mrs. Delgado gave a presentation.

Mr. Dziewit opened the public hearing at 6:18 P.M.

Mr. Harry Bennett-applicant and chair of the Church of the Good Shepherd

Mayor Ralph Gutierrez- 1016 Silver Tree

Mr. Dziewit closed the public hearing at 6:23 P.M.

There was a discussion on:

- Masonry screening cost and how many meals per dollar

Motioned by Board Member Earl Hartzog, seconded by Board Member Ferrando Heyward to approve

Vote: 4 - 0 Passed

6. ANNOUNCEMENTS:

A. Announcements by Members

- City and community events attended and to be attended
- Continuing education events attended and to be attended

There were announcements by Mr. Dziewit.

B. Announcements by City Staff

- City and community events attended and to be attended
- Continuing education events attended and to be attended
- Committee of Committees Advisory Board Meeting Summaries

There were no announcements by City Staff.

7. ADJOURNMENT OF THE REGULAR MEETING

Mr. Dziewit adjourned the regular meeting at 6:27 P.M.

Chairman, Board of Adjustment

Recording Secretary, City of Schertz

BOARD OF ADJUSTMENT MEETING: 11/29/2022
Agenda Item 5 A

TO: Board of Adjustment
 PREPARED BY: Sam Haas, Planner
 CASE: PLVAR20220141
 SUBJECT: PLVAR20220141 - The property owner of 2937 Mistywood Lane has requested a variance to Unified Development Code Article 5 Section 21.5.7 Dimensional and Developmental Standards in order to permit a building expansion (enclosed covered patio) into the required twenty-foot (20') rear setback.

GENERAL INFORMATION:

Owner: Chile Silmer
 Applicant: Chile Silmer

REQUEST

The property owner of 2937 Mistywood Lane has requested a variance to Unified Development Code Article 5 Section 21.5.7 Dimensional and Developmental Standards in order to permit a building expansion (enclosed covered patio) into the required twenty-foot (20') rear setback.

PUBLIC NOTICE:

The public hearing notice was published in the "San Antonio Express" on, November 9th, 2022. There were 36 notices mailed to surrounding property owners on November 8th, 2022. At the time of this staff report, staff has received one (1) response neutral.

Also, this variance request was originally set to be heard during the November 7th, 2022, Board of Adjustment meeting. At that time the mailers were sent out with an addressing error which caused this particular agenda item to be rescheduled. There were three (3) responses that were received then, one (1) in favor and two (2) opposed.

ITEM SUMMARY:

The applicant would like to build an enclosed covered patio, described in the attachments as a "four-season room", in the backyard of the subject property. The applicant's property is zoned Single-Family Residential R-7 and has a 20-foot rear set-back design requirement. The structure on the property is built up to the set-back line. Current zoning requirements would prevent this structure from being built, thus a variance has been requested.

Unified Development Code (UDC) Article 5 Section 21.5.7.A Dimensional Requirements:

District	Minimum Lot Size and Dimensions			Minimum Yard Setback (Ft)			
	Area Sq. Ft.	Width Ft.	Depth Ft.	Front Ft.	Side Ft.	Rear Ft.	Impervious Coverage
R-7	6,600	60	110	25	10	20	50%

The "four-season" room will be a 10 ft. x 16 ft. attached enclosed structure extending from an already existing covered patio. The new structure will extend approximately 8 ft. into the setback line. The applicant claims this room will be for leisure purposes only.

SUBJECT PROPERTY GENERAL LOCATION, LAND USE AND ZONING:

The property is located at 2937 Mistywood Lane, in the Riata Unit 3B subdivision.

Existing Zoning	Land Use
Single-Family Residential (R-7)	Single-Family Residential

Adjacent Properties:

	Zoning	Land Use
North	Single-Family Residential (R-7)	Single-Family Residential
South	Single-Family Residential (R-7)	Single-Family Residential
East	Single-Family Residential (R-7)	Single-Family Residential
West	Single-Family Residential (R-7)	Single-Family Residential

CRITERIA FOR REVIEW

According to Unified Development Code (UDC), Article 3, Section 21.3.4.B, in order to make a finding of hardship and grant a variance from the zoning regulations of the UDC, the Board must determine the following:

1. The requested variance does violate the intent of the UDC or its amendments;

The purpose of UDC section 21.5.7 is to detail design requirements for the various zoning districts to lessen the congestion in the streets, to secure safety from fire, panic and other dangers, to ensure adequate light and air, to prevent the overcrowding of land and thus avoid undue concentration of population. Each lot has impervious coverage requirements to ensure adequate open space and prevent excessive stormwater runoff. Setbacks are used to help meet these requirements.

They are established with reasonable consideration for, among other things, the character of each zoning district and its peculiar suitability for the particular uses specified, conserving the value of buildings and environmentally sensitive features, and encouraging the most appropriate use of land throughout the City. This variance increases the building footprint by constructing a 10 ft. x 16 ft. enclosed structure which will encroach 8 ft, into the rear setback which will violate the intent of the UDC.

2. Special conditions of restricted area, topography or physical features do not exist that are peculiar to the subject parcel of land and are not applicable to other parcels of land in the same zoning district ;

There are no special conditions of restricted area, topography, or physical features that are peculiar to this parcel compared with the parcels in the proximity in the same zoning district.

3. The hardship is the result of the applicant's own actions;

The applicant is requesting a variance to build into his setback line. There is no hardship as a result of factors outside the control of the applicant. Therefore, if the applicant is considering not being allowed to build into his setback line a hardship, it is the result of his own actions.

4. The interpretation of the provisions in this UDC or any amendments thereto would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district that comply with the same provisions.

Every zoning district in the city has setback requirements that the city enforces. The R-7 single-family zoning district was deliberately considered and designed to have a 20 ft. rear setback. Allowing an encroachment into setbacks will violate the intent of the UDC.

STAFF ANALYSIS AND RECOMMENDATION:

Staff recommends denial of PLVAR20220141, a request for a variance to UDC Section 21.5.7 Dimensional and Developmental Standards to build into 20 foot rear setback line.

Attachments

Aerial Exhibit

Public Hearing Notice Map

Variance Application & Supporting Documents

11/7 PH Responses

New PH Responses



CITY OF SCHERTZ VARIANCE CHECKLIST

APPLICATION COMPLETENESS REQUIREMENTS:

- ☐ Fees including breakdown of calculations on a separate sheet
- ☐ Development Application signed by owner and notarized
- ☐ This checklist (signed by applicant/representative)
- ☐ One (1) set of plans (11" x 8 1/2") prepared in accordance with the checklist
- ☐ One (1) compact disc of all exhibits/applications electronically scanned (pdf and jpg)

****Do not leave any items unchecked****

Applicant	Staff	Not Applicable	TECHNICAL REQUIREMENTS		General Variance	Sign Variance
✓			1	A survey of the subject property showing property dimensions, building locations, setback dimensions, and other applicable information.	✓	
✓			2	Photos or additional information deemed appropriate for justification.	✓	
✓			3	If homeowner's association is in effect, provide an affidavit from an authorized representative of the association certifying that the association has approved the requested variance.	✓	
✓			4	Such other information as the City Planning Department or the Board of Adjustment Members may require to determine full compliance with the UDC and other applicable ordinances of the City.	✓	✓
✓			5	Description of the requested variance and hardship.	✓	✓
✓			6	Justification for the requested variance.	✓	✓
			7	Site Plan and elevation drawing of the proposed sign, dimensions, materials, colors, caption of the proposed sign, and such other data (such as lighting) as are pertinent to the application. Pictures and other back up documentation may be requested.		✓
			8	Provide the following information: type of proposed sign (monument, free-standing, building, directory, etc.), dimensions of building face elevation (height and length), square feet of each sign requested.		✓
			9	Show detail if illuminated, or add a statement indicating no illumination will be used.		✓
			10	Legend for abbreviations or symbols used.		✓

#4, our home association approved previously the construction of a pool and we instead choose for a 4 searson room.

Board of Adjustment may grant variances or modifications of height, yard, area, coverage, parking regulations, accessory building and non-conforming use subject to making a finding of hardship that the variance meets all four of the following criteria. State how your request meets these conditions.

Description of variance request:

This is an extension of our cover patio, which will become an enclosed room (4season room)
Requesting a variance from UDC section 21.5.7 Dimensional and Developmental
Standards for ~~R-6~~ Zoning Districts in which the rear setback requirements are 20ft.

R-7

1. Does the requested variance violate the intent of the Unified Development Code or deprive the applicant of right commonly enjoyed by other properties in the same zoning district that comply with the same provisions?

☒ Yes ☐ No

Explain: We have plenty of our neighbors that already installed pools or porch extensions in their back garden, the majority of the houses in our area are about the same size and more
likely they got approvals regarding the variant in order to build these structures. We would like to install these room which helps greatly during the heat and cold season,
this room will be not use as business at any time, it is just to help us take care of some our plants and enjoy our garden

2. Do special conditions or restricted area, shape, topography, or physical features exist that are irregular to the subject parcel of land and not applicable to other parcels of land in the same zoning districts? ☐ Yes ☒ No

Explain: No, our neighbors already have permanent structures already being builded in their
backyards.

3. Is the hardship the result of the applicant's own actions or intended for financial interest? ☐ Yes ☒ No

Explain: This addition to the house will not be use to promote any personal business. This addition
will only be use to keep tropical plants inside and for us to enjoy our garden.

4. Would granting this variance be detrimental to the public welfare or injurious to the value of property in the vicinity? ☐ Yes ☒ No

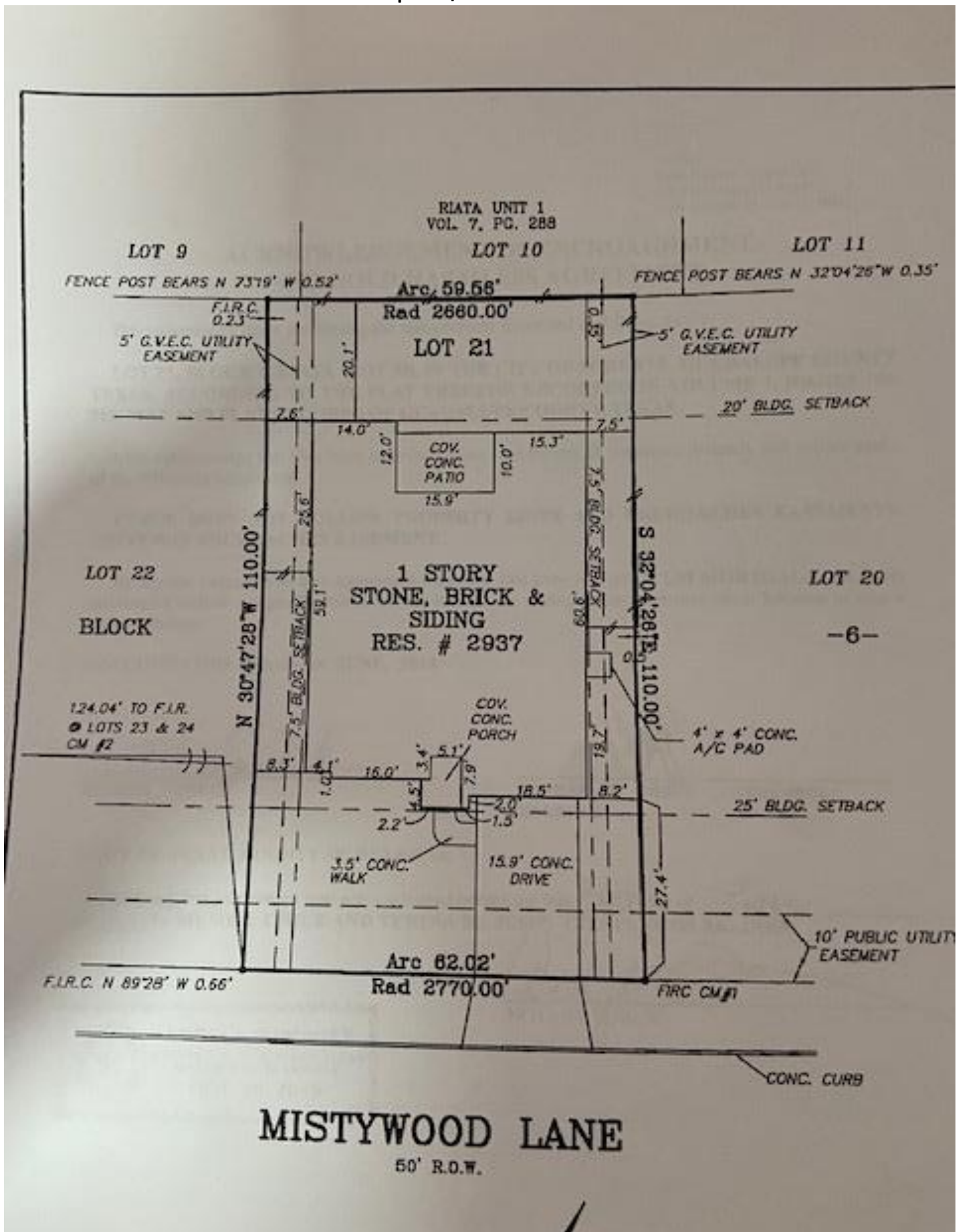
Explain: This addition will be a huge plus for the property and will not be a public welfare or affect
the vicinity.

Preparer's Signature: Silmer Chile

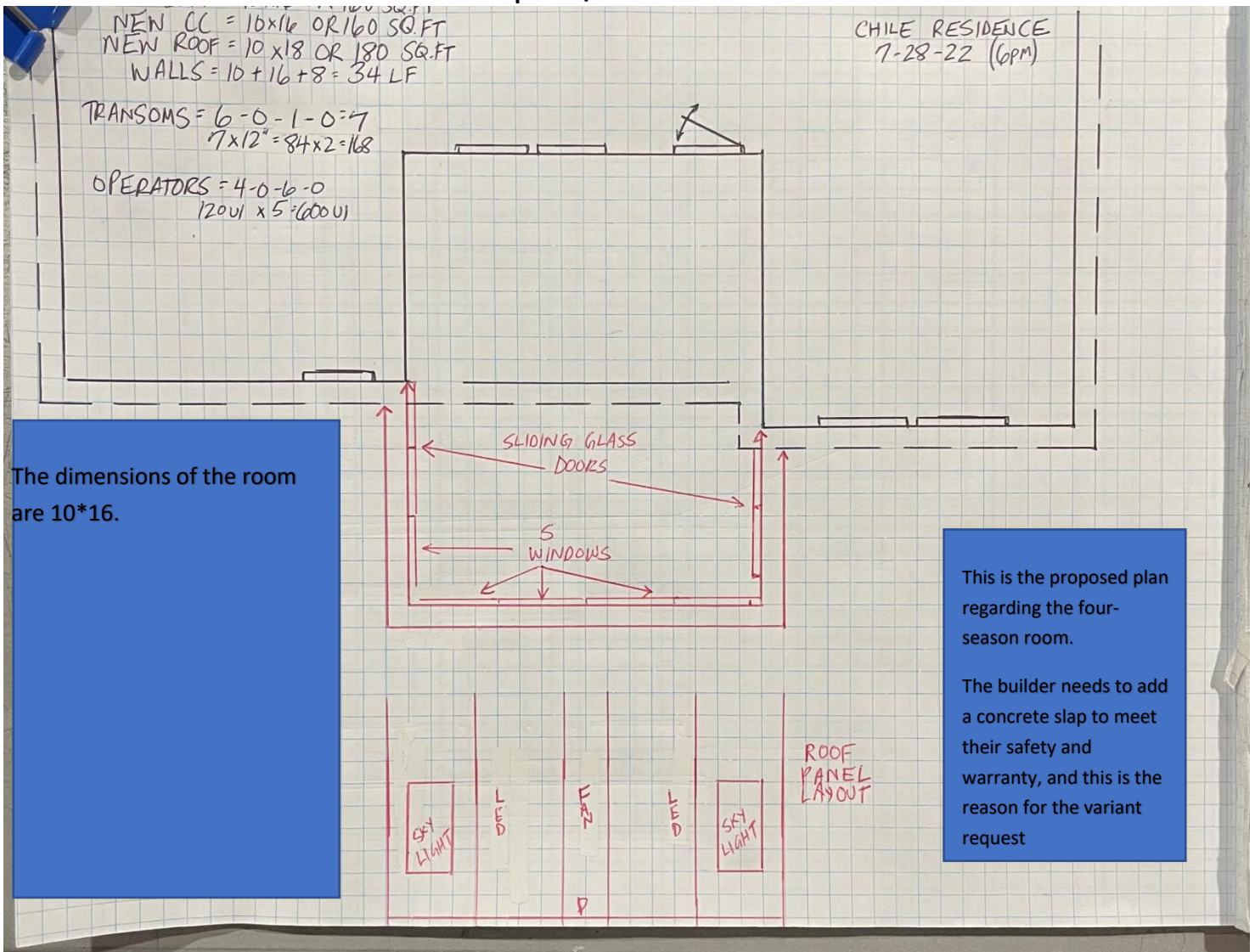
Printed Name: SILMER CHILE

Date prepared: 10/3/2022

LOT plan/dimensions



LOT plan/dimensions



Four season plan

NOTICE OF PUBLIC HEARING

October 18, 2022

To whom it may concern,

The City of Schertz Board of Adjustment will conduct a public hearing on **Monday, November 7, 2022 at 6:00 p.m.** located at the Municipal Complex Council Chambers, 1400 Schertz Parkway, Building #4, Schertz, Texas to consider and act upon the following item:

PLVAR20220141- A request for a variance to Unified Development Code Article 5 Section 21.5.7 Dimensional and Developmental Standards, specifically for Single Family Residential (R-6) zoning district in order to permit a building expansion (enclosed covered patio) into the required twenty-foot (20') rear setback, located at 2397 Mistywood Lane, City of Schertz, Guadalupe County, Texas.

Because you own property within 200 feet of the subject property, the Board of Adjustment would like to hear how you feel about this request and invites you to attend the public hearing. If you would like to express how you feel, please complete the bottom portion of this letter and return before the public hearing date by mail or personal delivery to Samuel Haas, Planner, 1400 Schertz Parkway, Schertz, Texas 78154, or by e-mail shaas@schertz.com. If you have any questions please feel free to call Samuel Haas, Planner directly at (210) 619-1783.

Sincerely,

Samuel Haas
Planner

Reply Form

I am: in favor of ☒ opposed to ☐ neutral to ☐ the request for **PLVAR20220141**COMMENTS: sounds like a cool addition to homeNAME: Joseph M. Broeckelmann SIGNATURE Joseph M. Broeckelmann
(PLEASE PRINT)STREET ADDRESS: 2940 Mistywood Lane, Schertz, TX 78108DATE: 10-23-22

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Sincerely,

Samuel Haas
Planner

Reply Form

I am: in favor of ☐ opposed to ☒ neutral to ☐ the request for **PLVAR20220141**COMMENTS: It's against the setback regulations.NAME: Adam & Lindsay Seaver SIGNATURE [Signature]
(PLEASE PRINT)STREET ADDRESS: 2940 Red Tip (rental) Home 2540 M. Leutz Park
NOTE 78132DATE: 10/23/2022

Reply Form

I am: in favor of ☐ opposed to ☒ neutral to ☐ the request for **PLVAR20220141**

COMMENTS: _____

NAME: Andrea Howard SIGNATURE A Howard
(PLEASE PRINT)

STREET ADDRESS: 2920 Mistywood Ln

DATE: 26 Oct 2022

NOTICE OF PUBLIC HEARING

November 8, 2022

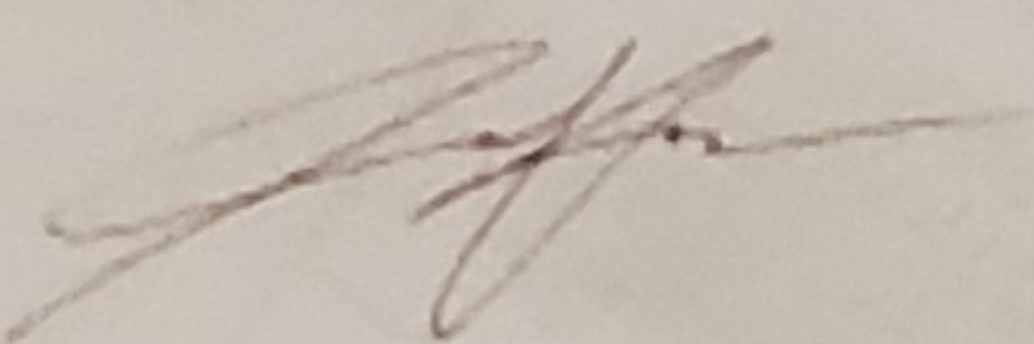
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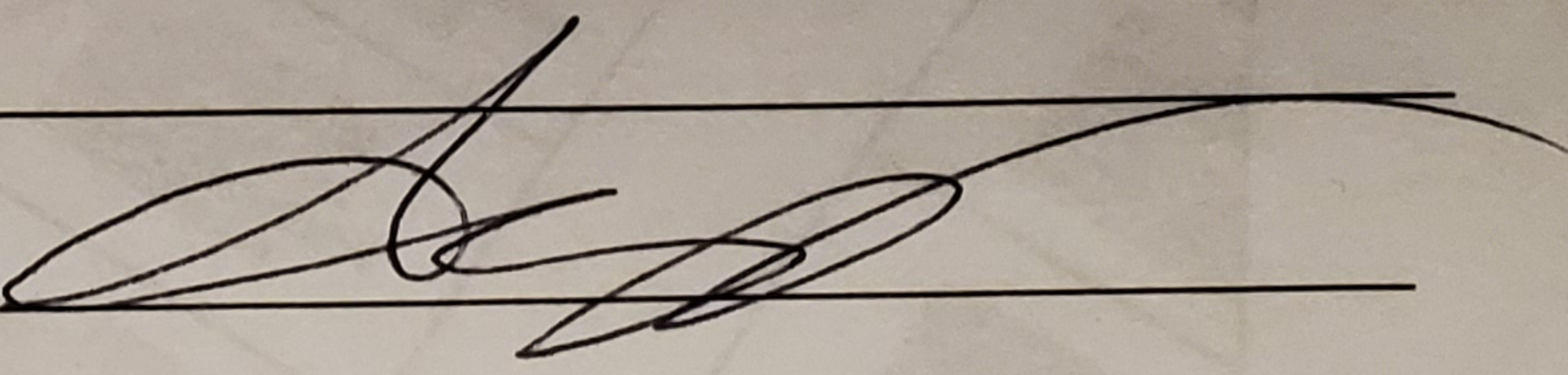


Samuel Haas
Planner

Reply Form

I am: in favor of ☐ opposed to ☐ neutral to ☒ the request for **PLVAR20220141**

COMMENTS: _____

NAME: ARMANDO DOMINGUEZ SIGNATURE 
(PLEASE PRINT)

STREET ADDRESS: 2949 Mistywood LN, Schertz TX

DATE: 22 NOV