



**AGENDA**  
**ZONING BOARD OF ADJUSTMENT**  
**REGULAR MEETING**  
**7105 WHITLEY ROAD, WATAUGA, TEXAS 76148**  
**WEDNESDAY, NOVEMBER 2, 2022**  
**6:30 PM**

**CALL TO ORDER**

**ROLL CALL**

**EXECUTIVE SESSION** The ZBA will recess its open meeting and reconvene in executive session to discuss the following items pursuant to the below section(s) of the Texas Government Code:

1. The ZBA members shall convene in executive session pursuant to Section 551.071, Texas Government Code (Legal Consultation), to conduct a private consultation with the City Attorney and to receive legal advice relating to legal standards for variances and Code of Ordinances Sec. 115-34, (b)(3) Variances.

**Randy Richards, CFM, Assistant Director of Public Works**  
**Paul Hackleman, Director of Public Works**

**RECONVENE**

**ACTION ITEMS**

1. Discussion and action on selection of Zoning Board of Adjustment Chairperson  
**Randy Richards, CFM, Assistant Director of Public Works**
2. Discussion and action on selection of Zoning Board of Adjustment Vice-chairperson  
**Randy Richards, CFM, Assistant Director of Public Works**
3. Discussion and action on selection of Zoning Board of Adjustment Secretary  
**Randy Richards, CFM, Assistant Director of Public Works**

**PUBLIC COMMENT** Individual citizens addressing the Board during Public Comment shall not exceed three (3) minutes in their comments; however, the Chair may extend or reduce the speaker's allotted time in order to conduct an efficient and effective public meeting. The time allotted shall not be donated to others desiring to speak. Public Comment is not established to engage in a conversation with the Board and no formal action will be taken.

**APPROVAL OF MINUTES**

1. Consider action to approve the meeting minutes of the May 4, 2022 regular meeting of the Zoning Board of Adjustment

## **PUBLIC HEARINGS/ACTION**

1. **ZBA- 22-02:** Public hearing to receive comments for or against a request for a Variance to Watauga City Code of Ordinances, Chapter 115 Zoning, Article V, Section 115-118 Subsection (3)(a) which regulates carports must be set back from the sidewalk a minimum of five feet; and consider action as the applicant is seeking a variance to allow for the carport to remain as constructed within the five foot set back. The subject property is in Greenfield Village Addition Block 12 Lot 9, commonly known as 6404 Tammy Court and is located north of Linda Street, south of Greenfield Drive and east of Denton Highway. Owner/Applicant is Steven Jones.

**Randy Richards, CFM, Assistant Director of Public Works**

**Paul Hackleman, Director of Public Works**

2. **ZBA- 22-03:** Public hearing to receive comments for or against a request for a Variance to Watauga City Code of Ordinances, Chapter 115 Zoning, Article V, Section 115-118 Subsection (3)(a) which regulates carports must be set back from the sidewalk a minimum of five feet; and consider action as the applicant is seeking a variance to allow for the carport to remain as constructed within the five foot set back. The subject property is in Quail Meadows Estates Block 3 Lot 12, commonly known as 7748 Pear Tree Lane and is located north of Starnes Road, south of North Park Drive and east of Whitley Road. Owner/Applicant is Richard Garza Sr.

**Randy Richards, CFM, Assistant Director of Public Works**

**Paul Hackleman, Director of Public Works**

## **ADJOURNMENT**

### **Meeting Notices and Reservation of Rights**

The Zoning Board of Adjustment may retire to executive session any time between the meeting's opening and adjournment for the purpose of consultation with legal counsel pursuant to Chapter 551.071 of the Texas Government Code; discussion of personnel matters pursuant to Chapter 551.074 of the Texas Government Code if the requisite information is otherwise posted; deliberation regarding real property pursuant to Chapter 551.072 of the Texas Government Code; deliberation regarding economic development negotiations pursuant to Chapter 551.087 of the Texas Government Code; and/or deliberation regarding the deployment, or specific occasions for implementation of security personnel or devices pursuant to Chapter 551.076 of the Texas Government Code (as applicable) when determined necessary by the to address a subject matter on the agenda. Action, if any, will be taken in open session.

This agenda has been reviewed and approved by the City's legal counsel and the 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.

Attendance by Other Elected or Appointed Officials: It is anticipated that members of other governmental bodies, and/or city council, boards, commissions and/or committees may attend the meeting in numbers that may constitute a quorum of the body, board, commission and/or committee. Notice is hereby given that the meeting, to the extent required by law, is also noticed as a possible meeting of the other body, board, commission and/or committee, whose members may be in attendance, if such numbers constitute a quorum. The members of the city council, boards, commissions and/or committees may be permitted to participate in discussions on the same items listed on the agenda, which occur at the meeting, but no action will be taken by such in attendance unless such item and action is specifically provided for on an agenda for that city council, body, board, commission or committee subject to the Texas Open Meetings Act.

**NOTICE**

THIS FACILITY IS WHEELCHAIR ACCESSIBLE AND ACCESSIBLE PARKING SPACES ARE AVAILABLE. REQUESTS FOR ACCOMMODATIONS OR INTERPRETIVE SERVICES MUST BE MADE 48 HOURS PRIOR TO THIS MEETING. PLEASE CONTACT THE CITY SECRETARY'S OFFICE AT (817) 514-5825, OR FAX (817) 281-1991 FOR FURTHER INFORMATION.

I, Linda Proskey, City Secretary for the City of Watauga, hereby certify that this agenda was posted on the bulletin boards at City Hall, 7105 Whitley Road, Watauga, Texas, on October 28, 2022, before 6:00 p.m., in accordance with Chapter 551 of the Texas Government Code.

  
Linda Proskey, City Secretary





## AGENDA MEMORANDUM

**DATE:** October 28, 2022

**TO:** Zoning Board of Adjustment Members

**FROM:** Randy Richards, CFM, Assistant Director of Public Works

**SUBJECT:** The ZBA members shall convene in executive session pursuant to Section 551.071, Texas Government Code (Legal Consultation), to conduct a private consultation with the City Attorney and to receive legal advice relating to legal standards for variances and Code of Ordinances Sec. 115-34, (b)(3) Variances.

**BACKGROUND/INFORMATION:**

NA

**FINANCIAL IMPLICATIONS:**

NA

**RECOMMENDATION/ACTION DESIRED:**

NA

**ATTACHMENTS/ SUPPORTING DOCUMENTATION:**

1. Watauga Board of Adjustment Handbook 2022

**REVIEWED BY:**

|   |                             |
|---|-----------------------------|
| David Berman, City Attorney                             | Approved - 10/28/2022       |
| Randy Richards, CFM, Assistant Director of Public Works | Approved - 10/28/2022       |
| Paul Hackleman, Director of Public Works                | Approved - 10/28/2022       |
| Joshua Jones, City Manager                              | Approved - 10/28/2022       |
| Linda Proskey, City Secretary                           | Final Approval - 10/28/2022 |

*Approved as to form for inclusion on Agenda*



**CITY OF WATAUGA**

**BOARD OF ADJUSTMENT**

**HANDBOOK 2022**

DAVID M. BERMAN

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## THE BOARD OF ADJUSTMENT

The Board of Adjustment is one of the two citizen-staffed bodies that are legally required for municipal zoning. The other body is the planning and zoning commission. These two zoning entities perform separate and distinctly different functions. The zoning commission performs an advisory function on zoning matters, making recommendations to the council, and has final authority to approve or deny plats and subdivision plans. The Board of Adjustment is an action agency which oversees the permitting process by hearing appeals from zoning decisions of administrative officials and authorizing variances when strict application of setback, yard, area, and height limits would cause individual property owners unnecessary hardship. Both bodies are authorized and required by the comprehensive zoning ordinance and Chapter 211 of the Texas Local Government Code.

Administrative Decisions. The Board reviews administrative decisions of the building official as to interpretations of the zoning ordinance. The Board may hear and decide appeals when error is alleged in any order, requirement, decision, or determination by an administrative official in enforcement of the Local Government Code or the zoning ordinance. The permit officer has no discretionary power and must issue or deny permits solely on the basis of compliance or non-compliance with the ordinance.

Without the Board, persons complaining about the denial or issuance of permits would have to appeal to the City Council or to the court. The City Council would be tempted to grant relief by ordinance and thereby amend the basic zoning in an ad hoc manner. On appeal, the only question for the Board is whether the permit officer (building official) correctly applied the ordinance.

Variances. A “variance” is defined as permission to depart from the literal requirements of a zoning ordinance by virtue of unique and unnecessary hardship due to special circumstances regarding a person's property. It is a “relaxation” of the strict requirements of the zoning ordinance. An administrative official of a City cannot approve a variance.

The theory behind variances is to relax the strict requirements of the zoning ordinance in situations in which, because of an unusual feature of the property not common to other properties in the area, strict application of zoning regulations will result in unnecessary hardship. Variances relate to technical zoning matters such as area, setback, and height regulations. Variances are restricted to relaxation of these technical regulations.

Current Texas zoning law holds that no matter how much hardship a use regulation creates, the Board of Adjustment has no power to relax it. Only the City Council can change or relax the uses that are allowed in the various zoning districts. An illegal use variance is void. Accordingly, a contestant can attack it collaterally and need not appeal by certiorari.

Variances are permissible only if strict application of the zoning ordinance would cause unnecessary hardship. When considering applications for variances, the Board should require some evidence of hardship. The applicant has the burden of proving a property hardship and that the granting of the variance will not be contrary to the public interest. A variance is not authorized merely to accommodate the highest and best use of the property. “Special conditions” means that the property is not suitable for development strictly according to the zoning regulations.

When determining whether or not a hardship exists, the Board should consider the following factors:

1. whether the hardship is self-imposed by the owner or a predecessor in title to the property;
2. whether the hardship is unique to the property (size, shape, topography of lot or tract);

3. whether the hardship is financial in nature; and
4. whether the hardship is nothing more than a claim that the property cannot be used for its highest and best use or is merely a frustrated development objective.

In addition to those factors, recent legislation amends Texas law to now allow for consideration of financial circumstances and nonconformity under the hardship standard. The Board has discretion to find that a hardship variance may be granted if:

- the cost to modify a structure in order to achieve compliance with zoning is more than 50% of the value of the structure;
- compliance with zoning would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development may physically occur;
- compliance with a zoning regulation would cause a structure to be violation of another city code;
- compliance would result in an unreasonable encroachment on an adjacent property or easement; or
- the City considers the structure as a nonconforming structure.

Determination of Nonconforming Use Status. Applicants may claim that a nonconforming use or structure existed before the regulations were adopted, and that the use or structure is entitled to continue, either by constitutional right or applicable ordinance exemptions. Municipalities can allow nonconforming uses simply to continue without formal action, or they can require that such uses be identified and registered for inventory and possible termination under an amortization program.

Nonconforming-use claimants must secure permits when they rebuild, expand, remodel or change use under circumstances that require permitting under customary ordinance provisions. The permit officer then determines entitlement. If the officer grants the permit, neighbors can contest entitlement and appeal to the Board. If the officer denies the permit, the applicant can appeal to the Board. In either case, the Board must determine nonconforming-use status to decide the appeal. The applicant has the burden of proving his nonconforming status.

The building inspector is entitled to make the initial determination of nonconforming use. The decision can be appealed to the Board, and the Board's decision is reviewed on writ of certiorari and affirmed unless an abuse of discretion is shown.

Board Membership and Voting Procedures. A Board of Adjustment consists of five members, each appointed for a term of two years. Alternate members may also be appointed to serve when one or more regular members are absent or disqualified or when there is a vacancy. Members may be removed for cause, on written charges, after hearing; vacancies will be filled for the unexpired term of the member who has vacated his office. A quorum is four members; all cases must be heard by a minimum of four members (75% of the members). The concurring vote of at least four members is required to reverse administrative decisions, grant special exceptions, authorize variances, or grant any other affirmative relief authorized by the ordinance.

The voting requirements are mandatory and jurisdictional. A variance authorized by a vote of only three members of the Board is invalid and subject to collateral attack after expiration of the time for regular appeal.

Required Formalities for Board Proceedings. Meetings are held at the call of the Chairperson or as the Board determines. At least four members must hear the case. The Chairperson can administer oaths and compel attendance of witnesses. All meetings must be open to the public, except for confidential and privileged communication with the Board's attorney. The Board must keep minutes of its proceedings, showing the vote of each member on official actions and maintain the minutes as a public record in the Board's office. When deciding appeals, the Board must fix a reasonable time for hearing, give notice to the public and the parties, and decide the appealed matter within a reasonable time. Parties can appear in person or by agent or attorney.

The concurring vote of at least four members (75%) is required to reverse any administrative action or to decide in favor of any applicant or grant a variance. The Board can reverse, affirm (wholly or partly) or modify the administrative determination. The Board has power to act in the stead of the officer from whose action the appeal was taken.

State law does not establish a formal procedure for the Board to follow. The Board, however, should give public notice of hearings on variances and appeals from the permit officer's ministerial denial of a permit, in a manner similar to that given in other zoning cases.

Standing Required. The Act allows appeal to the Board by any person aggrieved, or by any officer, department, Board, or bureau of the City affected, by any decision of the administrative officer. Nearby landowners are "persons aggrieved." Cities are proper parties to take appeals, even though their own official granted a contested permit.

Procedure for Appeals. An appeal is accomplished by filing a notice with the administrative officer from whose decision appeal is taken and with the Board of Adjustment. The notice must state the grounds for the appeal. When notice is filed, the administrative officer must immediately transmit to the Board all papers constituting the record on which the Action appealed from was taken.

The appeal stays all proceedings unless the administrative officer whose decision has been appealed certifies after notice of appeal that a stay would in his opinion cause imminent peril to life or property. If this written statement is filed, then the administrative proceedings can be stayed only by a restraining order granted by the Board or by a court.

If appeal is not taken to the Board of Adjustment, the permit officer's decision to issue or deny a permit becomes incontestable as to matter within the officer's jurisdiction.

The Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and make it as it ought to be made. The Board has all of the powers of the officer from whom the appeal is taken to accomplish that proper end.

Board's Lack of Authority to Reverse Planning Commission Actions. The planning and zoning commission does not overlap the Board of Adjustment's delegated authority. It is an agency that acts on zoning ordinance amendments and subdivision plats, not zoning variances and appeals.

Subdivision regulation differs from zoning, but the two can overlap. Zoning ordinances can set minimum lot sizes and impose setbacks. A landowner who proposes to build on a lot that does not meet the zoning requirements for size can appeal to the Board of Adjustment for a variance. The Board does not, however, have jurisdiction over subdivision regulations to grant variances, unless an ordinance clearly allows it. The Board of Adjustment has no authority to take appeals from planning commission decisions on subdivision plat approvals.

## Conducting Meetings and Hearings

### *Robert's Rules of Order*

Roberts Rules of Order establish an orderly protocol by which meetings can be conducted. The intent is to insure an orderly and dignified proceeding in which collective decisions can be made efficiently and fairly. Robert's Rules are not law; a deviation from the rules will not invalidate a decision. State law suggests that so long as a quorum is present, the meeting was properly posted and conducted as an open meeting, and the minutes clearly reflect that a majority voted in favor of or against a specific issue, then that vote will typically stand. However, virtually all councils, boards and commissions follow at least the rudiments described in the rules. The following is a summary of the basic precepts as well as general advice on the proper conduct of a meeting.

The Chair. The chairperson, as presiding officer, has the primary responsibility for maintaining the dignity of the meeting and seeing to it that the rules of procedure are followed. The chairperson calls the meeting to order and confines the discussion to the agreed order of business. He or she recognizes members for motions and discussions and allows audience participation at appropriate times. The chairperson sees to it that speakers limit their remarks to the item being considered and, as necessary, calls down people who are out of order.

Presiding effectively at a meeting is an art that no book or person can fully teach. The tactful presiding officer knows how to courteously discourage members who talk too much or too often, and how to encourage shy members who are hesitant to speak at all. He or she can also properly regulate the manner and duration in which citizens speak during citizens comment and public hearings. Time limits can be imposed or disregarded where appropriate and verbally aggressive speakers can be calmed.

Discussion, Motions, Seconds and Votes. The basic process for decision-making is straightforward and involves a motion, a second, and a vote, with discussion occurring either before a motion or after a motion has been seconded. The chair should only entertain or call for a motion and should not make a motion him/herself. The chair then calls for a second if one is not volunteered. If no second is made, the motion dies for lack of a second and the chair then calls for another motion. If none is made, then the chair should entertain additional discussion on the matter. If no further motion is made, then the chair simply moves on to the next agenda item. Once a motion and a second have been made, the chair then calls the question and the members then vote.

Discussion of a matter under Robert's Rules occurs only after a motion has been made and seconded. However, this is often impractical. Often a member will make a motion only to enable the board to advance to discussion. Members may not see the wisdom in making a motion until the issue has been thoroughly discussed and, thus, discussion often occurs before a motion is made. However, whether discussion should occur before or after the motion/second is a matter of procedure that the chairperson or the board as a whole determines. However, there should be no discussion of the topic after a motion has been made and before a second has been registered, except where necessary to seek clarification of the motion or to request an amendment of the motion.

Once a motion has been made and before a member seconds the motion, a member can request that the motion be amended. If the movant (the member who made the motion) accepts the requested amendment, then it is regarded as friendly amendment and if seconded, the chair should call the question or entertain further discussion. If the movant refuses to accept the amendment, the member requesting the amendment can request a vote by the entire board on whether the main motion should be so amended. A motion to amend a main motion is a privileged motion; there should be no discussion on the motion to amend. If the motion to amend is seconded, the chair calls the question and the board votes. If a majority is in favor, then the main motion is accordingly amended, the chair calls for a second on the main motion, and if seconded, the vote is then taken.

Calling the question means nothing more than asking for the members to vote. After a motion has been seconded and following any discussion, the chair calls the question by asking those in favor of the motion to vote, counting those votes, then asking those against to vote, and counting those votes. If a motion is lengthy or complicated, it is good practice for the chair to recite the specific motion (stating exactly what the board is voting on) before calling the question. The minutes of the meeting must accurately reflect the motion and must identify those members who voted in favor of and those who voted against.

The vote of each member must be obvious. Apart from Robert's Rules, state law requires that the minutes of the meeting accurately reflect the vote of each individual member. And the votes must be observable by those in attendance. Thus, voting can be accomplished by a show of hands, a voice vote, or an electronic display that identifies the vote of each member. Secret ballots are prohibited. Voting cannot be done, for example, by paper ballots that are turned in to the chair for tallying, unless the chair reads each member's name and vote out loud.

Tabling Items.<sup>1</sup> Tabling an item means nothing more than postponing deliberations to a later date. A motion to table is regarded as a privileged motion and the chair should not entertain discussion on a motion to table. There is no such thing as tabling an item "indefinitely;" the members should expect to see the item reappear on a future agenda. As a general rule, tabling should be avoided because it is a disservice to the applicant and the public to delay a final decision. Tabling is only appropriate when additional, vital information is needed or where an applicant has requested it. It is important to note that an applicant's request to table an item does not compel the board to do so, and the matter may be considered over an applicant's objection. Tabling should always be avoided when considering plat applications and site plans.

The board may adopt reasonable rules regarding the public's right to address the body under this law, including rules that limit the total amount of time that a member of the public may address the body on a given item. Typically, this means a three-minute time limit.

Consent Agendas. Agendas need not be cluttered with noncontroversial, recurring items that are included because they require formal approval. Examples include approval of the minutes of previous meetings or plats which do not require a public hearing. These items generate little discussion, but each requires time by requiring a separate motion to approve, a second and a vote. This problem can be overcome by establishing a "consent" agenda category which includes routine items, all of which are approved by a single motion and a vote, without debate.

If a member objects to a consent item -- or requests that it be pulled from the consent agenda -- it is removed from the list and added to the regular agenda at the appropriate spot. If a member questions a consent item, but not so strongly as to require that it be removed from the list, his or her "no" vote or abstention can be entered in the minutes when the consent vote is taken.

Work Sessions. Informal work sessions may be needed from time to time to study certain matters in detail. Regular meetings may not provide enough time. Work sessions are useful when policy questions must be decided, or when a complicated issue comes before the board. However, a "meeting" is defined by the Open Meetings Act as any deliberation among a quorum. Work sessions are in fact meetings, for which an agenda must be posted, even if no formal action will be taken.

Public Hearings. The purpose of a public hearing is to allow any interested person to appear and address the board. It is a means by which citizens can have a fair opportunity to express their opinions so that their views may be considered. The proper conduct of a public hearing is no less important than for a regular meeting. Each should begin promptly and be conducted in an orderly manner in conformance with established rules of procedure.

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<sup>1</sup> Technically, "tabling" an item means placing it on the table for discussion and vote. Common practice, however, uses the term as referring to the removal of an item from consideration.

The chair should always announce that a public hearing is open, and once all testimony is taken, should clearly state that the public hearing is closed. At the start of the hearing, the chairperson should clearly state the subject to be discussed.

Remember that numbers don't always count. There are some topics which naturally draw large, emotionally charged crowds. Vocal minorities often fill public hearings to show widespread support. The size of the crowd does not indicate that the cause is just. The board is appointed to serve all the citizens, and a member must look at the overall picture, not just the view presented by one partisan group.

When a decision is announced, the board need not give the reasons why the decision was reached, although a brief explanation will help prevent the feeling that the outcome of the hearing was decided in advance, and that they wasted their time.

## Open Meetings Act, Public Information Act

*“Under the fundamental philosophy of the American constitutional form of representative government that adheres to the principle that government is the servant and not the master of the people, it is the policy of this state that each person is entitled, unless otherwise expressly provided by law, at all times to complete information about the affairs of government and the official acts of public officials and employees. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created. The provisions of this chapter shall be liberally construed to implement this policy.” §552.001(a), Tex. Gov’t Code*

The foregoing statute recites the underlying purpose behind the laws relating to open government in Texas. The single most critical factor governing the decision-making process for public entities is the fact that, as units of government, they must be open. Decisions cannot be made informally; there is either formal consideration of a matter in compliance with the Open Meetings Act or there is an illegal meeting. See, *Acker v. Tex. Water Comm’n*, 790 S.W.2d 299 (Tex. 1990). With few exceptions, the process of decision-making is open and public. Typically, any member of the public can make inquiries into these processes; this includes competitors, newspapers and other members of the media, and those who are of a mind to file suit or assert some grievance. Because government in Texas is open, public entities must conduct their operations in broad daylight, subject to critical inspection and review by anyone, regardless of purpose or motive, who has even a basic familiarity with applicable law.

### ***The Texas Open Meetings Act***

The essence of the Texas Open Meetings Act<sup>2</sup> is to require governmental bodies to provide advance notice to the general public of the subject of and topics to be discussed at an impending meeting and to grant to the public the right to attend and observe. The fundamental concept behind the Act is to make government, as an instrument of the people, accessible and to make open the workings of government. Every regular, special or called meeting of the governmental body must be open to the public and a notice of the meeting (identifying the topics) must be conspicuously posted not less than 72 hours in advance of the meeting.

A “meeting” under the Act is defined broadly to include virtually any deliberation relating to public business or public policy over which a governmental body has supervision or control. A quorum of the membership of the governing body must be present throughout the duration of the meeting. A quorum is a majority of the membership, unless some rule of law establishes a different amount. In the event that members of a governmental body leave before the meeting is formally ended, leaving less than a quorum of the members present, then the meeting must immediately end.

A “deliberation” is defined as any verbal or written exchange between a quorum of a governmental body, or between a quorum of a governmental body and another person, concerning an issue within the jurisdiction of the governmental body. Rulings by the Attorney General indicate that a deliberation among a quorum of a council need not occur in one location or at one point in time. In instances where one member of a council discusses an item of city business with another member, who in turn, communicates the same information to a third, this practice may be regarded as an illegal meeting

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<sup>2</sup> Chapter 551, Tex. Gov’t Code.

if this daisy chain of communication occurs among a sufficient number of members so as to constitute a quorum. Members who knowingly conspire to gather in numbers that do not physically constitute a quorum at any one time but who, through successive gatherings, secretly discuss a public matter with a quorum can violate the Act. See, Tex.Op.Atty Gen. GA-326 (May 18, 2005)

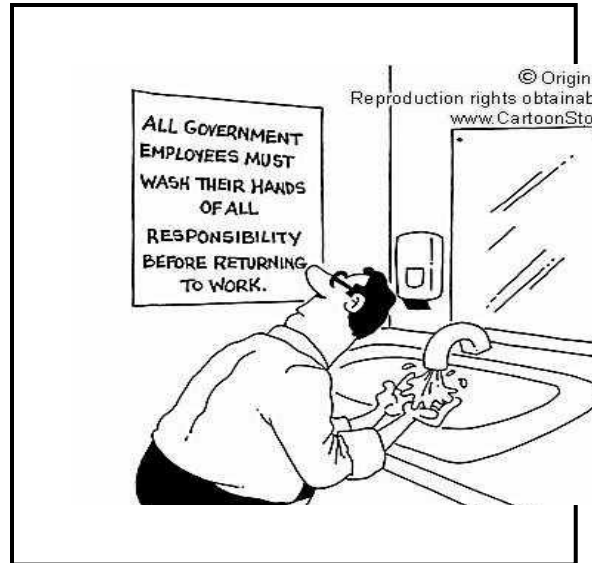
It is a criminal offense under the Act to engage in communications that occur outside of an open meeting in certain circumstances. A member commits an offense if he/she engages in at least one communication among a series of communications that each occur outside of an open meeting. If a member engages in a communication among less than a quorum of the board's members but knows that the communication is in a series that will involve a quorum, the offense is a class B misdemeanor.<sup>3</sup>

The agenda must be posted at least 72 hours in advance of the meeting in a conspicuous place that identifies the topics to be discussed at the meeting. With few exceptions, all meetings are open to the general public. One need not be a resident of the city nor meet any special criteria for attending. Any person present may record or videotape the conduct of the meeting so long as this activity does not unduly disrupt the progress of the meeting.

The Act does not simply confer a right on the general public to attend the meeting and observe the proceedings of government. It requires public input on any agenda item before or during consideration of the item. This requirement can be satisfied in one of two ways: 1) the board can include a citizens input agenda item at the beginning of each agenda and receive input on any agenda item at the commencement of the meeting; or 2) the board may allow public testimony on each agenda item as the board reaches that item on the agenda. It is proper to impose time limits on public input. The board, however, cannot restrict citizen criticism except where the speaker violates the law.

Discussions and deliberations between members of a governmental body must be limited to the items enumerated on the posted agenda. This rule does not apply to a statement of specific factual information given in response to an inquiry by a member of the public or of the governmental body, or a recitation of existing policy in response to the inquiry. In other words, a member of the public may make an inquiry during an open meeting about any subject which is not on the posted agenda. However, the response given, if any, must be limited to a statement of specific factual information or a statement of existing policy. Any discussion or deliberation regarding the subject of the inquiry must be limited to a proposal to place that subject on a future agenda for a future meeting. It must be noted that this provision is inherently vague; all too often, the "discussion" becomes more than merely a recitation of specific factual information. Because of the vague nature of this provision and the difficulty in literal compliance, the standard advice is simply to prohibit any discussion of matters not on a posted agenda, except to the extent that discussion relates to placing the matter on a future agenda.

Governmental bodies may conduct closed meetings (also termed "executive sessions") under certain limited circumstances. A governmental body may deliberate in private during a closed meeting to conduct a private consultation with its attorney but only when the governmental body is seeking the



<sup>3</sup> It is punishable by a fine of not less than \$100 or more than \$500; confinement in the county jail for not less than one month or more than six months; or both. Sec. 551.143, Tex. Gov't Code.

advice of counsel relating to pending or contemplated litigation, a settlement offer, or on a matter in which the attorney-client privileged may be invoked.

Executive sessions are also authorized when deliberating on the appointment, evaluation, duties or discipline of public officers or employees as well as to hear complaints or charges against an officer or employee of the political subdivision. Thus, for example, a city council may interview a job applicant in closed session and may discuss the terms and conditions of the appointment in closed session. However, any vote must be conducted in open session. The opportunity to conduct deliberations in closed session only applies to public officers and employees. The Act does not allow a political subdivision to discuss or deliberate in closed session on the hiring of independent contractors. Contract negotiations and deliberations between the governing body and the successful bidder must be conducted in open session where any member of the general public may attend and observe.

Governmental bodies may also deliberate in closed session to discuss the purchase, exchange, lease or value of real property if an open meeting may have a detrimental effect on a position of the governmental body in negotiations with a third person.

The Act also allows governmental bodies to conduct closed sessions to deliberate on commercial or financial information received from business prospects that the governmental body seeks to have locate, remain or expand in or near the jurisdiction of the political subdivision and with which the governmental body is conducting economic development negotiations. A political subdivision may also deliberate on the offer of a financial or other incentive to a business prospect when conducting economic development negotiations. Economic development corporations, non-profit corporations created by municipalities which are charged with the mission of promoting economic, industrial and commercial development within cities, are subject to the provisions of the Open Meetings Act.



If a closed meeting is permitted under the Act, a governmental body must first convene in open session, announce that a closed meeting will be held, and identify which section or provision of the Act under which the closed meeting is held. A tape recording or certified agenda must be made of the proceedings of the closed meeting. Governing bodies are required to preserve the agenda or recording for at least two years following the meeting. However, the content of the agenda or recording is not available for public inspection and must be held in confidence.

Compliance with the provisions of the Act is important for public officials for a variety of reasons. First and foremost, violations of certain provisions of the Act may give rise to criminal prosecution. Criminal penalties can be imposed if: 1) a member of a governmental body engages in a prohibited series of communications; 2) a member of a governmental body participates in a closed meeting where no certified agenda or tape recording is being kept of the meeting; or, 3) if any person discloses the certified agenda or tape recording of the closed meeting to any person other than a current member of the governing body. The Act also provides that any action taken by a governmental body in violation of the Open Meetings Act is voidable. The provisions of the Act may also be enforced by mandamus and injunctive relief.

The effect of the Open Meetings Act is that political subdivisions can rarely conduct negotiations or perform decision-making functions in private or in confidence. Briefing sessions and work sessions conducted between the governing body and the staff of the public entity must be open to the public. The Act only applies to the deliberations of the governing body and not the conduct of its staff.

## ***The Texas Public Information Act***

The Texas Public Information Act, originally referred to as the Open Records Act, was first adopted in 1973 and is now codified in chapter 552 of the Texas Government Code. With limited categories of exceptions, the Act requires the disclosure of virtually all information collected, assembled or maintained by or for governmental bodies.

The definition of governmental body under the Act includes county commissioner's courts, school district boards of trustees, city councils, governing boards of special districts, political subdivisions of counties and cities, as well as boards, commissions, agencies and departments of the state of Texas that are directed by one or more elected or appointed members. The Act also applies to entities that are supported in whole or in part by public funds or that spend public funds. This includes a chamber of commerce, volunteer fire departments, housing finance corporations, and economic development corporations. It should be noted that the Act does not apply to records or information kept or maintained by the judicial branch of government; records maintained by the judiciary are, however, subject to disclosure under Rule 12 of the Texas Rules of Judicial Administration.

The Public Information Act applies to recorded information in virtually any medium including paper; film; any magnetic, optical, or solid-state device that can store an electronic signal; tape; mylar; linen; silk; and vellum. It includes books, papers, letters, documents, photographs, computer printouts, film, tape, sound recordings, maps and drawings, microfilm and microfiche, and voice, data or video representations held in computer memory. Disclosure is not required for tangible items which do not constitute "information" and some limited exceptions to disclosure exist with regard to personal notes of public officials.

Electronic information maintained in a personal or privately-owned electronic device is not exempt from disclosure simply because it is kept in a personal device. All city officials and employees are designated as temporary records custodians under the Act and are required to either 1) transfer the information to the City's designated records custodian or 2) maintain the information - and disclose it when asked - throughout the duration of the city's records retention periods.

Section 552.022 of the Act enumerates by example eighteen different categories of information deemed to be public by statute. This enumeration includes completed reports, audits and investigations made by or for governmental bodies, broad categories of information contained within personnel files of public employees, information in accounts, vouchers and contracts relating to the receipt or expenditure of public funds, final voting records of members of a governmental body, or working papers, research material and information used to estimate the need for or expenditure of public funds or taxes by a governmental body, rules and statements of policy, administrative staff manuals, and settlement agreements.

The Act sets forth a series of exceptions and describes certain categories of documents or information which may be withheld from public disclosure. Generally, these exceptions include personnel information in which would violate an employee's right to privacy, information relating to settlement negotiations or litigation, information relating to the location or price of property, information determined to be subject to the attorney-client privilege, and certain law enforcement records.

The procedures for disclosure are fairly strict. Any person may request that records be made available for inspection and review or may compel the public entity to produce copies. Public entities are required to designate an officer for public information, and, in the absence of such designation, the chief administrative officer becomes by default the person responsible for ensuring disclosure. Typically, this would include city managers, mayors, and department heads. A request for public information need only be in writing and specifically identify the documents or categories of documents sought to be reviewed.

The officer for public information is required to “promptly produce public information for inspection, duplication, or both on application by any person to the officer.”

The person seeking the inspection or copies of public documents need not explain or give any reason why he/she seeks disclosure. An officer for public information may only make an inquiry of the requestor to establish proper identification or to clarify the request. As noted, the requested information must be made available for inspection and copying promptly unless the information is in active use or in storage. If the information cannot be produced promptly, then the public entity is required to provide written certification of its active use or storage and must identify a date and hour within a reasonable time when the information will be made available.

If the public entity believes that the requested information fits within an exempted category, it must forward a copy of the request, a statement of the reasons why the public entity believes the documents are exempt, and copies of the actual documents sought to be disclosed, to the Texas Attorney General’s Office for review. The Attorney General has statutory authority to review the information submitted and to rule on whether the information must be disclosed or may be withheld from production. If the public entity fails to forward this information to the Attorney General within 10 working days of the receipt of the request, then the information is deemed to be public and must be disclosed. If the Attorney General renders an opinion that certain records are public and must be disclosed, the only remedy available to public entities to contest this ruling is to file suit in Travis County within ten days of the opinion, seeking a judicial declaration that the records are not public. And even if the Attorney General renders an opinion that determines that certain records may be withheld, this determination does not prevent a requestor from filing suit in a local county seeking a writ of mandamus to compel the public entity to disclose the records. Although Attorney General opinions are persuasive, they are not controlling or binding on courts.

It is a criminal offense to withhold disclosure of public information. An officer for public information, or the officer’s agent, commits an offense if, with criminal negligence, the officer or the officer’s agent fails or refuses to give access to, or to permit or provide copying of, public information to a requestor as provided by the Act. The scope of this prohibition includes temporary records custodians (all city officials) who keep or maintain public information on personal electronic devices. The violation is a class B misdemeanor and constitutes official misconduct. There are several affirmative defenses that generally require acting in reliance on a judicial opinion, an attorney general’s opinion, or a written instruction of the city’s public information officer to withhold the records.

If a public entity fails to provide the disclosures required by the Public Information Act, the person making the request may sue for mandamus relief to compel the production of the information. Attorney’s fees may be awarded to the prevailing party in such a suit.

## **Conflicts of Interest**

Ethics is often defined as a principle of right or good conduct; a system of moral principles or values; the specific moral choices made by an individual in his relationship with others. Chapter 171 of the Texas Local Government Code establishes criminal prohibitions against participation in deliberations where a member has a conflict of interest and, therefore, compliance is critical. Even though a particular situation may not officially fit within the prohibition established by this law, there are other circumstances that may convey an appearance of impropriety and members should in those cases refrain from participation.

Chapter 171, TEXAS LOCAL GOVERNMENT CODE. The purpose of Chapter 171 is to prevent public officials of local government from using their positions for hidden personal financial gain. Whenever an official has a substantial interest in any matter pending before the body of which he is a member, the official must: (1) prior to any discussion or vote in the matter, file a sworn affidavit disclosing the nature of his interest, and (2) abstain from participating in the discussion and vote on the matter, if a special economic benefit will result.

A person has a substantial interest in a business entity if:

- (1) The person owns 10 percent or more of the voting stock or shares of the business entity or owns either 10 percent or more or \$15,000 or more of the fair market value of the business entity; or
- (2) Funds received by the person from the business entity exceed 10 percent of the person's gross income for the previous year.

A person has a substantial interest in real property if the interest is an equitable or legal ownership with a fair market value of \$2,500 or more.

A local public official is considered to have a substantial interest under this section if a person related to the official in the first degree by consanguinity or affinity has a substantial interest under this section.

1st Degree by  
Consanguinity:

Parents  
Children  
Brothers & Sisters

1st Degree by  
Affinity:

Spouse  
Spouse's Parents  
Spouse's Children  
Spouses' Brothers &  
Sisters  
Stepparents  
Stepchildren

### Examples

1. Plan Commissioner who is employed by or receives more than 10% of his or her gross income from a business entity has a statutory conflict if a contract with the business entity is considered by the Council.
2. Plan Commissioner who is employed by or receives more than 10% of his or her gross income

from a business entity or who owns 10% or more of the stock or \$15,000 more of the value of a business entity may not deliberate and/or participate in a vote affecting that entity.

3. A Plan Commissioner who received a campaign contribution from a developer who seeks a zoning change or plat approval does not have a conflict.

The Appearance of Impropriety. There are many circumstances that do not meet the definition of a conflict of interest under Chapter 171 but nevertheless may convey an appearance of impropriety. For example, participation in discussion and voting on a matter that involves a close friend, a business associate, a business competitor, or a neighbor will convey an appearance that the member is not being fair. Although all officials have a duty to participate and a duty to vote, there are times when common sense and respect for the City outweighs this obligation. If a member believes that his/her participation may convey an appearance of impropriety, the member should exercise good judgment and should abstain from participation and voting.

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## AGENDA MEMORANDUM

**DATE:** October 19, 2022

**TO:** Zoning Board of Adjustment Members

**FROM:** Randy Richards, CFM, Assistant Director of Public Works

**SUBJECT:** Discussion and action on selection of Zoning Board of Adjustment Chairperson

**BACKGROUND/INFORMATION:**

City of Watauga Code of Ordinances Chapter 115, Article II, Section 115-34 (a)(5)a. The board shall hold an organizational meeting in September of each year and shall elect a chairperson, vice-chairperson and a secretary from among its members before proceeding to any other matters of business. Duties of the office of Chairperson are as follows: The chairperson shall preside at all meetings, represent the board at public functions, appoint special committees, and provide an agenda for each meeting, which will include any item requested by another board member, or by the director of the department with whom this board directly interfaces. The agenda shall be provided to the city secretary in advance of any meeting to provide proper posting and notification notice in accordance with Texas Open Meeting Act (V.T.C.A., Government Code ch. 551). The chairperson shall schedule meetings of the board, if other than the pre-established time, day, and/or week of the month. The chairperson shall be a voting member of the board.

**FINANCIAL IMPLICATIONS:**

NA

**RECOMMENDATION/ACTION DESIRED:**

Respectfully recommend selection of Chairperson.

**ATTACHMENTS/ SUPPORTING DOCUMENTATION:**

1. Sec. 115-34 - Board of Adjustment - Supplement No. 14

**REVIEWED BY:**

|   |                             |
|---|-----------------------------|
| Randy Richards, CFM, Assistant Director of Public Works | Approved - 10/28/2022       |
| Paul Hackleman, Director of Public Works                | Approved - 10/28/2022       |
| Joshua Jones, City Manager                              | Approved - 10/28/2022       |
| Linda Proskey, City Secretary                           | Final Approval - 10/28/2022 |

*Approved as to form for inclusion on Agenda*

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## Sec. 115-34. Board of adjustment.

(a) *Organization of the board.*

- (1) *Creation.* There is hereby created a board of adjustment to be composed of five members who shall be qualified electors of the city. It is the declared policy of the city council that it will consider for appointment by the mayor and subject to approval and consent of the city council, only those persons who have demonstrated their civic interest, general knowledge of the community, independent judgment, and availability to prepare for and attend meetings. The city council may appoint up to four alternate members of the board of adjustment who shall serve in the absence of one or more regular members of the board when requested to do so by the mayor or city manager, as the case may be. Alternate members shall be qualified electors of the city and shall serve for a period of two years from September 1 of the year in which they are appointed.
- (2) *Term of office.* The board of adjustment shall consist of five regular members. Places on the board shall be numbered one through five with all members appointed for two-year terms to expire August 31. Members serving in odd-numbered places shall have their terms expire on each odd-numbered year, and members serving in even-numbered places shall have their terms expire on even-numbered years. The board may submit to the city council the names of those current members who are recommended for reappointment. The city council in an open meeting shall appoint members to the board.
- (3) *Vacancy.* Vacancies shall be filled for unexpired terms; no member shall be appointed for a term in excess of two years. A vacancy in a term of office shall occur whenever the city council finds that a member:
  - a. Has resigned or has not maintained the qualifications required for appointment;
  - b. Has repeatedly failed to attend properly called meetings of the board without just cause; or
  - c. Has been guilty of malfeasance or misconduct in office.
- (4) *Liaisons.* In addition to regular board members, each board shall have two members of the city council appointed by the mayor, subject to the approval and consent of the city council, to serve as liaisons to the board. The purpose of the liaisons is to provide guidance to the board in matters pertaining to city administration and home rule charter affairs, and to provide interface with city staff, the city attorney, and the full city council in any matter that may arise. City council liaisons shall not have the right to vote in any matter before the board, but shall have the right to fully participate in all discussions of matters that come before the board. The appointment of liaisons by the mayor shall be at the second meeting in June of each year.
- (5) *Annual meeting; adoption of rules; installation of members, duties of officers.* The board shall hold an organizational meeting in September of each year and shall elect a chairman, vice-chairman and a secretary from among its members before proceeding to any other matters of business. The board shall meet regularly and shall designate the time and place of its meetings. The board shall adopt its own rules of procedure and keep a record of its proceedings in accordance with the state statutes and this chapter. Newly appointed members shall be installed at the first regular meeting after their appointment. Duties of the officers shall be as follows:
  - a. *Chairperson.* The chairperson shall preside at all meetings, represent the board at public functions, appoint special committees, and provide an agenda for each meeting, which will include any item requested by another board member, or by the director of the department with whom this board directly interfaces. The agenda shall be provided to the city secretary in advance of any meeting to provide proper posting and notification notice in accordance with Texas Open Meeting Act (V.T.C.A., Government Code ch. 551). The chairperson shall schedule

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meetings of the board, if other than the pre-established time, day, and/or week of the month. The chairperson shall be a voting member of the board.

- b. *Vice-chairperson.* The vice-chairperson shall assist the chairperson in directing the affairs of the board and act in the chair's absence.
  - c. *Secretary.* The secretary is responsible for the accuracy of the minutes of the board meetings. A draft copy of those minutes will be provided to the city secretary within three working days following any meeting. In addition, the secretary shall sign the approved minutes.
- (6) *Quorum and attendance at meetings.* Four members of the board shall constitute a quorum for the conduct of business. The members of the board shall regularly attend meetings and public hearings of the board and shall serve without compensation, except for reimbursement for authorized expenses attendant to the performance of their duties.
- (7) *Removal.*
- a. The board shall recommend to the mayor and city council removal of any member who is absent from two consecutive meetings without first notifying the chair or the city secretary's office by 12:00 noon of the meeting date and/or fails to exhibit a general interest in the endeavors of the board. Two consecutive absences by a member, whether or not the member first notifies the chair or the city secretary's office by 12:00 noon of the meeting date, shall require a specific agenda item at the next regularly scheduled meeting to determine if the reasons for the absences are sufficient to be excused or constitutes a failure to exhibit a general interest in the endeavors of the board.
  - b. After a public hearing and upon a written charge, the council may remove a board member for cause pursuant to V.T.C.A., Local Government Code § 211.008(b).
- (b) *Duties and powers of the board.* The board of adjustment shall have the powers and exercise the duties of a board in accordance to V.T.C.A., Local Government Code § 211.008. Board members are representatives of the city and shall have the right to inspection of premises where required in the discharge of their responsibilities under the laws of the State of Texas and the ordinances of this city. The board's jurisdiction shall extend to and include the hearing and deciding of the following types of appeals and applications, and to that end shall have the necessary authority to insure continuing compliance with its decision.
- (1) *Interpretation.* To render an interpretation of the zoning regulations or the manner of their application where it is alleged that there is error in any order, requirement, or determination made by the zoning official in the administration of such provisions. In reaching its decisions the board shall establish firm guidelines for future administrative actions on like matters.
  - (2) *Special exception.* To decide upon those applications for a special exception use or development of property when the same is authorized under this chapter subject to board approval. In reaching its decision the board shall not grant the application if it finds:
    - a. That the use is not specifically permitted under this chapter;
    - b. That the locations of proposed activities and improvements are not clearly defined on the site plan filed by the applicant; or
    - c. That the exception will not be wholly compatible with the use and permitted development of adjacent properties.
  - (3) *Variance.* To authorize upon appeal in specific cases such variance from the development controls set forth in this chapter as will not be contrary to public interest. In reaching its decision, the board shall not grant the variance appeal if it finds:

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- a. That literal enforcement of the controls will not create an unnecessary hardship or practical difficulty in the development of the affected property;
  - b. That the situation causing the hardship or difficulty is not unique to the affected property or is self-imposed;
  - c. That the relief sought will injure the permitted use of adjacent conforming property; or
  - d. That the granting of the variance will not be in harmony with the spirit and purposes of this chapter.
- (c) *Appeal and allocation procedure.*
- (1) *Interpretation request; variance appeal.* A request for interpretation of regulations or an appeal for variance from development controls may be taken by any person aggrieved or by any officer, department, or board of the city affected by a decision of the zoning official. Such appeal shall be taken within a reasonable time as determined by rules of the board of adjustment, by filing with both the zoning official and the board of adjustment a notice of appeal, specifying the grounds thereof. The zoning official shall transmit to the board all papers constituting the record upon which the action appealed from was taken.
  - (2) *Stay of proceedings.* An appeal shall stay all proceedings of the action appealed from, unless the zoning official, after the notice of appeal has been filed with him, certifies to the board that by reason of facts stated in his certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed except by a restraining order which may be granted by the board or by a court of record on application and notice to the zoning official from whom the appeal is taken.
  - (3) *Special exception application.* An application for a special exception to use or develop property as specifically authorized in district use regulations or in this chapter may be filed by any person owning the affected property or by any tenant upon written authorization of the owner. Such application shall be filed with the board, and a copy thereof with the zoning official.
  - (4) *Form of appeal or application.* The appeal or application shall be in such form and contain such information as the board may require under its rules of procedure. It shall be accompanied by the required fee. An incomplete appeal or application shall be deemed only to give notice of intent to appeal or apply to the board, and shall not be reviewed or scheduled for hearing until brought to completion.
  - (5) *Notice of hearing.* Official written notice of public hearing on every application for a variance or special exception or for an interpretation of regulations applying solely to an individual property shall be sent to all owners of property, or to the person rendering the same for city taxes, affected by such application, located within 200 feet of any property affected thereby, within not less than ten days before such hearing is held. Such notice shall be served by using the last known address as listed on the city tax roll and depositing the notice, postage paid, in the United States mail. Notice of hearings on requests for interpretation of regulations applying to more than one property and ownership shall be given by means of a general notice as provided below. In addition, a list of items on the agenda to be heard by the board shall be posted at a public place in city hall at least 72 hours before the hearing on said items, and a list of agenda items shall be published in a newspaper of general circulation in the city at least 24 hours before the hearing at which action will be considered.
- (d) *Hearing and decision.*
- (1) *Generally.*
    - a. The board of adjustment shall fix a reasonable time for the hearing of an appeal, give public notice thereof, and decide the same within a reasonable time. Upon the hearing, any party may

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appear in person or by attorney or agent. Evidence supporting the grant or denial of an appeal shall be submitted only through the zoning official or to the board in public meeting.

- b. Any appeal or application may be withdrawn upon written notice to the zoning official, but no appeal shall be withdrawn after posting of hearing notice and prior to board action thereon without formal consent of the board.
- (2) *Decision and voting.*
- a. Every decision of the board shall be based upon findings of fact and every finding of fact shall be supported in the record of proceedings. The enumerated conditions required to exist on any matter upon which the board is authorized to pass under this chapter shall be construed as limitations on the power of the board to act.
  - b. Nothing herein contained shall be construed to empower the board to change the terms of this chapter, or to effect changes in the zoning districts. The powers of the board shall be so applied that the terms of this chapter will be strictly enforced.
  - c. In exercising its powers, the board of adjustment, in conformity with the provisions of V.T.C.A., Local Government Code §§ 211.008—211.013 may modify in whole or in part any order, requirement, decision, or determination as ought to be made and shall have all the powers of the officer from whom the appeal is taken.
  - d. The concurring vote of four members of the board shall be necessary to reverse on appeal, any order, requirement, decision, or determination of the zoning official, or to approve any application upon which it is required to pass under this chapter or to effect any variance in said chapter.
- (3) *Disqualification from voting.*
- a. A member shall disqualify himself from voting whenever he has a personal or monetary interest in the property under appeal, or will be directly affected by the decision of the board.
  - b. A member may disqualify himself from voting whenever any applicant, or his agent, has sought to influence the member's vote on the appeal, other than in the public hearing.
- (4) *Approval of request.*
- a. In approving any request, the board of adjustment may designate such conditions in connection therewith in order to secure substantially the objectives of the regulation or provision to which such variance is granted and to provide adequately for the maintenance of the integrity and character of the zone in which such permit is granted.
  - b. When necessary, the board of adjustment may require guarantees, in such form as it deems proper, to insure that conditions designated in connection therewith are being or will be complied with.
  - c. Unless a building permit or certificate of occupancy is obtained, appeal shall expire 60 days after the board's decision unless a greater time is requested in the application and is authorized by the board. Any approval may be granted one emergency extension of 60 days on written request filed with the board before expiration of the original approval.
- (5) *Denial of request.* No appeal or application that has been denied shall be further considered by the board under a subsequent request obtained by filing new plans and obtaining of a new decision from the zoning official unless:
- a. The new plans materially change the nature of the request; or

- b. The permitted development of other nearby property in the same zone has been substantially altered or changed by a ruling of the board, so as to support an allegation of changed conditions.
- (6) *Appeal of board action.* Any persons, jointly or separately, aggrieved by any decision of the board of adjustment, or any taxpayer, or any officer, department, or board of the city, may present to a court of record a petition duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of such illegality. Such petition shall be presented to the court within ten days after the filing of the decision complained of in the office of the board of adjustment, and not thereafter.
- (e) *Authorized special exceptions.* The following privately owned or privately operated uses may be permitted as special exceptions by the board in the districts indicated below, subject to full and complete compliance with any and all conditions listed, together with such other conditions as the board may impose for protection of public health or safety:

| Special Exception |  | District Where Permitted  |
|-------------------|--|---|
| (1)               | Aviation field, airport, or aircraft landing area  | I   |
| (2)               | Extension of cemetery, mausoleum, or crematory for the disposal of human dead  | All districts   |
| (3)               | Shared parking: Sharing of the same off-street parking space by two or more uses, as follows:  | CF, GU, LB, GB, C or I  |
|                   | (A) When two or more uses, according to such approved plan, share the same off-street parking space, each may be considered as having provided such sharing space individually.  |   |
|                   | (B) The land uses and common parking facility must be located in close proximity to one another.   |   |
|                   | (C) The land uses must be located not farther from the shared parking than a distance of 300 feet, measured by a straight line from the nearest point of the shared off-street parking space.  |   |
| (4)               | Off-site parking when the following applies:   |   |
|                   | (A) Must be located not farther from the use served than a distance of 300 feet, measured by a straight line from the nearest point of the land on which the use served is located to the nearest point of the separated off-street parking space.   |   |
|                   | (B) A written agreement shall be drawn to the satisfaction of the city attorney and executed by all parties concerned assuring the continued availability of the off-site parking facilities for the use they are intended to service.   |   |
| (5)               | Reduction of required parking between 11% and 50%.   | CF, GU, LB, GB, C or I  |
| (6)               | Antenna facilities which do not meet the requirements of section 115-116, Antenna facilities. See section 115-116, Antenna facilities.   |   |
| (7)               | Outside storage for department stores and hardware stores. Conditions: Must not be located in the designated front yard setback area.  | CF, GU, LB, GB, C or I  |
| (8)               | Carpports. Conditions: Must have minimum five foot front yard setback from the sidewalk (or ten-foot front yard setback in yards where there is no sidewalk), and minimum five-foot side yard setback. Carpports may be constructed of (1) all metal finished in a color or color scheme identical to, or compatible with, the trim of the existing residential structure, or (2) a combination of wood and masonry so designed that | SFA, SF6, D, and MF and residential uses; permitted in nonresidential districts by provisions |

|     |  |   |
|-----|--|---|
|     | <p>the masonry and roofing material used in the construction of the carport is compatible with the existing residential structure. However, residences constructed pursuant to 80% or greater masonry requirements (based on square footage measurements) must have carports constructed with vertical columns of brick or natural stone. Residences constructed pursuant to zoning buildings regulations with masonry requirements of less than 80% are exempt from the requirement of masonry or natural stone columns. The maximum height of any portion of the carport shall not be higher than the highest part of the residence. Flat roof designed carports shall not extend below the lowest point of the eaves of the house. Carports will not be built to accommodate vehicles more than eight feet in height.</p> | <p>otherwise contained within the zoning ordinance.</p> |
| (9) | <p>Seasonal merchants. Conditions: The special exception shall be limited to outdoor retail sales of items to include pumpkins, hay bales, Christmas trees, holiday yard art or holiday accessory items, shrubbery, outdoor plants, potted plants, hanging baskets and container plants as well as fruit and vegetable plants, shrubs and trees. These special exception sales may only occur March 1 through December 31. Seasonal permits must be obtained annually from the department of public works.</p>   | <p>GB, LB, C and I</p>                                  |

(Code 2001, § 14.604; Code 2010, § 14.06.004; Ord. No. 1439, § IV, 2-22-2010; Ord. No. 1543, § I, 1-27-2014; Ord. No. 1673, § I, 10-22-2018; Ord. No. 2019-005, § X, 7-8-2019)

State law reference(s)—Board of adjustment, V.T.C.A., Local Government Code § 211.008 et seq.



## AGENDA MEMORANDUM

**DATE:** October 19, 2022

**TO:** Zoning Board of Adjustment Members

**FROM:** Randy Richards, CFM, Assistant Director of Public Works

**SUBJECT:** Discussion and action on selection of Zoning Board of Adjustment Vice-chairperson

**BACKGROUND/INFORMATION:**

City of Watauga Code of Ordinances Chapter 115, Article II, Section 115-34 (a)(5)a. The board shall hold an organizational meeting in September of each year and shall elect a chairperson, vice-chairperson and a secretary from among its members before proceeding to any other matters of business. Duties of the office of Vice-chairperson are as follows: The vice-chairperson shall assist the chairperson in directing the affairs of the board and act in the chair's absence.

**FINANCIAL IMPLICATIONS:**

NA

**RECOMMENDATION/ACTION DESIRED:**

Respectfully recommend selection of a Vice-chairperson.

**ATTACHMENTS/ SUPPORTING DOCUMENTATION:**

None

**REVIEWED BY:**

|   |                             |
|---|-----------------------------|
| Randy Richards, CFM, Assistant Director of Public Works | Approved - 10/28/2022       |
| Paul Hackleman, Director of Public Works                | Approved - 10/28/2022       |
| Joshua Jones, City Manager                              | Approved - 10/28/2022       |
| Linda Proskey, City Secretary                           | Final Approval - 10/28/2022 |

*Approved as to form for inclusion on Agenda*



## AGENDA MEMORANDUM

**DATE:** October 19, 2022

**TO:** Zoning Board of Adjustment Members

**FROM:** Randy Richards, CFM, Assistant Director of Public Works

**SUBJECT:** Discussion and action on selection of Zoning Board of Adjustment Secretary

**BACKGROUND/INFORMATION:**

City of Watauga Code of Ordinances Chapter 115, Article II, Section 115-34 (a)(5)a. The board shall hold an organizational meeting in September of each year and shall elect a chairperson, vice-chairperson and a secretary from among its members before proceeding to any other matters of business. Duties of the office of Secretary are as follows: The secretary is responsible for the accuracy of the minutes of the board meetings. A draft copy of those minutes will be provided to the city secretary within three working days following any meeting. In addition, the secretary shall sign the approved minutes.

**FINANCIAL IMPLICATIONS:**

NA

**RECOMMENDATION/ACTION DESIRED:**

Respectfully recommend selection of Zoning Board of Adjustment Secretary

**ATTACHMENTS/ SUPPORTING DOCUMENTATION:**

None

**REVIEWED BY:**

|   |                             |
|---|-----------------------------|
| Randy Richards, CFM, Assistant Director of Public Works | Approved - 10/28/2022       |
| Paul Hackleman, Director of Public Works                | Approved - 10/28/2022       |
| Joshua Jones, City Manager                              | Approved - 10/28/2022       |
| Linda Proskey, City Secretary                           | Final Approval - 10/28/2022 |
| <i>Approved as to form for inclusion on Agenda</i>      |                             |



## AGENDA MEMORANDUM

**DATE:** October 19, 2022

**TO:** Zoning Board of Adjustment Members

**FROM:** Randy Richards, CFM, Assistant Director of Public Works

**SUBJECT:** Consider action to approve the meeting minutes of the May 4, 2022 regular meeting of the Zoning Board of Adjustment

**BACKGROUND/INFORMATION:**

This item contains meeting minutes drafted for the Zoning Board of Adjustment for review and approval.

**FINANCIAL IMPLICATIONS:**

NA

**RECOMMENDATION/ACTION DESIRED:**

Respectfully recommend the Zoning Board of Adjustment review and take action on the item presented.

**ATTACHMENTS/ SUPPORTING DOCUMENTATION:**

1. May 4, 2022 - DRAFT
2. ZBA.22-01 - DECISION - MAY 4, 2022

**REVIEWED BY:**

|   |                             |
|---|-----------------------------|
| Randy Richards, CFM, Assistant Director of Public Works | Approved - 10/28/2022       |
| Paul Hackleman, Director of Public Works                | Approved - 10/28/2022       |
| Joshua Jones, City Manager                              | Approved - 10/28/2022       |
| Linda Proskey, City Secretary                           | Final Approval - 10/28/2022 |

*Approved as to form for inclusion on Agenda*



**MINUTES  
ZONING BOARD OF ADJUSTMENT  
WEDNESDAY, MAY 4, 2022  
CITY HALL-COUNCIL CHAMBER, 7105 WHITLEY ROAD  
REGULAR MEETING  
6:30 P.M.**

**CALL TO ORDER:**

Chairperson David Villafuerte called the meeting to order at 6:39 PM.

**ROLL CALL:**

David Villafuerte, Place 1  
Lindsey Neal, Place 2  
Roy Stults, Place 3  
Macy Forrester, Place 4  
Charlie Mann, Place 5 – Absent with notice

And

Randy Richards, Building Official  
Jeannette Garcia, Planning and Zoning Coordinator

**PUBLIC COMMENT** Individual citizens addressing the Board during Public Comment shall not exceed three (3) minutes in their comments; however, the Chair may extend or reduce the speaker's allotted time in order to conduct an efficient and effective public meeting. The time allotted shall not be donated to others desiring to speak. Public Comment is not established to engage in a conversation with the Board and no formal action will be taken.

**APPROVAL OF MINUTES:**

1. Consider action to approve the meeting minutes of the September 28, 2021 regular meeting of the Zoning Board of Adjustment

Member Neal made a motion to approve the minutes of September 28, 2021 as presented. Member Stults seconded the motion, approving the minutes as presented. With there being no discussion, Chairperson Villafuerte called for a vote by show of hands, with members present voting as follows:

AYES: Villafuerte, Neal, Stults, Forrester  
NAYS: None  
ABSENT: Mann  
ABSTAIN: None

The motion carried as 4-0-1-0.

## **PUBLIC HEARING**

- 1. ZBA. 22-01:** Public hearing to receive comments for or against the request for a Variance to Watauga City Code of Ordinances, Chapter 115 Zoning, Article III, Section 115-62, Subsection (2)(b)(1)(ii) regulates minimum lot width is sixty (60) feet. The applicant is seeking a variance to construct a new residential home on a lot which is fifty (50) feet wide in a SF6 Single-Family district. The subject property is in Watauga Addition Block 5 Lot 6, commonly known as 5630 Lamar Street and is located north of Bowie Street, south of Main Street and east of Denton Highway. Owner/Applicant is Xochitl C. Alvarez.

Building Official Randy Richards introduced the case advising the owner, Xochitl C. Alvarez, who is requesting for the variance to construct a new residential home on a lot which is fifty (50) feet wide in a SF6 Single-Family district. Member Neal inquired if notices were sent to the surrounding property owners as required in the code of ordinance. Mr. Richards advised the notices were sent to owners of one or more parcels within two hundred (200) feet of the subject property.

Chairperson Villafuerte opened the public hearing at 6:43 p.m. asking if any individuals requested to speak. Staff advised there were none. With there being none, Chairperson then closed the public hearing at 6:45 p.m.

## **ACTION ITEM**

- 1. ZBA. 22-01:** Discuss and consider action for or against a Variance to Watauga City Code of Ordinances, Chapter 115 Zoning, Article III, Section 115-62, Subsection (2)(b)(1)(ii) regulates minimum lot width is sixty (60) feet. The applicant is seeking a variance to construct a new residential home on a lot which is fifty (50) feet wide in a SF6 Single-Family district. The subject property is in Watauga Addition Block 5 Lot 6, commonly known as 5630 Lamar Street and is located north of Bowie Street, south of Main Street and east of Denton Highway. Owner/ applicant is Xochitl C. Alvarez.

Member Neal request confirmation that owner would like to construct a single-family home. Mr. Richards reminded the board that all other required setbacks shall be adhered to. Chairperson Villafuerte sought confirmation that the surrounding lots were also fifty (50) feet wide. Mr. Richards reminded the board that a 2003 variance was also approved to allow for the construction of single-family homes on fifty (50) feet wide lots.

Member Neal made a motion to approve the variance as presented. Member Stults seconded the motion. With there being no discussion, Chairperson Villafuerte called for a vote, with members present voting by show of hands as follows:

**AYES:** Villafuerte, Neal, Stults, Forrester

NAYS: None  
ABSENT: Mann  
ABSTAIN: None

The motion carried as 4-0-1-0.

**ADJOURNMENT:**

With no further business to discuss, Chairperson Villafuerte adjourned the meeting at 6:51 p.m.

**APPROVED:** this the \_\_\_\_\_ day of \_\_\_\_\_, 2022.

**SIGNED:** this the \_\_\_\_\_ day of \_\_\_\_\_, 2022.

**APPROVED:** \_\_\_\_\_  
David Villafuerte, Chairperson

**ATTEST:** \_\_\_\_\_  
Roy Stults, Secretary

**NOTE:** Original Audio Recording of this meeting is preserved and maintained by the City Secretary's Office.



**ZONING BOARD OF ADJUSTMENT**

**DECISION**

**BOARD OF ADJUSTMENT MEETING: May 4, 2022**

**BOARD OF ADJUSTMENT CASE NO: Zoning Board of Adjustment Case ZBA. 22-01**

The City of Watauga Board of Adjustment, met to review and consider request for a Variance to Watauga City Code of Ordinances, Chapter 115 Zoning, Article III, Section 115-62, Subsection (2)(b)(1)(ii) regulates minimum lot width is sixty (60) feet. The applicant, Xochith C. Alvarez is seeking a variance to construct a new residential home on a lot which is fifty (50) feet wide in a SF6 Single-Family district. The subject property is in the Watauga Addition Block 5 Lot 6, commonly known as 5630 Lamar Street and is located north of Bowie Street south of Main Street and east of Denton Highway. The Board made motion to approve in favor of the applicant to allow for construction of a new residential home on a lot which is fifty (50) feet wide.

**DECISION OF APPROVAL OR DENIAL:**  
APPROVAL  DENIAL

**COMMENTS:**

\*(REQUIRED FOR DISAPPROVALS) \*

Member Neal made motion to approve the variance as presented. Member Stults seconded the motion.

AYES: Villafuerte, Neal, Stults, Forrester

NAYS: None

ABSENT: Mann

The motion carried: 4-0-1

Place 1 – David Villafuerte

Place 3 – Roy Stults

Place 5 – Charlie Mann – Absent with Notice

Place 2 – Lindsey Neal

Place 4 – Macy Forrester



## AGENDA MEMORANDUM

**DATE:** October 19, 2022

**TO:** Zoning Board of Adjustment Members

**FROM:** Randy Richards, CFM, Assistant Director of Public Works

**SUBJECT:** **ZBA- 22-02:** Public hearing to receive comments for or against a request for a Variance to Watauga City Code of Ordinances, Chapter 115 Zoning, Article V, Section 115-118 Subsection (3)(a) which regulates carports must be set back from the sidewalk a minimum of five feet; and consider action as the applicant is seeking a variance to allow for the carport to remain as constructed within the five foot set back. The subject property is in Greenfield Village Addition Block 12 Lot 9, commonly known as 6404 Tammy Court and is located north of Linda Street, south of Greenfield Drive and east of Denton Highway. Owner/Applicant is Steven Jones.

---

### **BACKGROUND/INFORMATION:**

The request submitted by homeowner/applicant Steven Jones is to consider action to allow for the carport without first obtaining a permit to remain as constructed within the five-foot set back. The applicant has not submitted a drawing showing the location of the carport. There are approximately 110 cul-de-sacs or ached elbow streets within the City of Watauga. The average number of houses touching a cul-de-sac is 4 which equates to 440 (5.5%) residents with this condition out of approximately 8,002 total residents.

Watauga City Code of Ordinances, Chapter 115 Zoning, Article V, Section 115-118 Subsection (3) (a) regulates carports must be set back from the sidewalk a minimum of five feet.

Building Inspector Pitman found the violation and mailed a notification letter requiring a permit to be applied for by the contractor who completed the work, as there was no permit application submitted nor was there any plan review for this project.

On November 10, 2021, owner, Steven Jones, submitted an application with payment for a carport permit. On November 17, 2021, the owner was notified that the review had failed and the Building Official was requesting a dimensioned site plan showing the carport location from the sidewalk and all property lines. The property is located at 6404 Tammy Court, Block 12, Lot 9 of the Greenfield Village Addition.

### **FINANCIAL IMPLICATIONS:**



## AGENDA MEMORANDUM

NA

**RECOMMENDATION/ACTION DESIRED:**

Discussion and approval or denial of ZBA Case No. 22-02 - Variance request

**ATTACHMENTS/ SUPPORTING DOCUMENTATION:**

1. Sec. 115-118 - Specifications for carports - Supplement No. 14
2. 6404 Tammy Ct - Photo1 - Side yard view
3. 6404 Tammy Ct - Photo 2 - Street view
4. 6404 Tammy Ct - Photo 3 - Street/Front yard view
5. 6404 Tammy Court - Code Enforcement - Bldg Insp. - Permit Required Notice 11082021
6. 6404 Tammy Ct - Carport Permit Project - My Gov - Proj. ID #21-01566
7. ZBA Case No. 22-02 - Resolution EXHIBITS A-D

**REVIEWED BY:**

|   |                             |
|---|-----------------------------|
| David Berman, City Attorney                             | Approved - 10/27/2022       |
| Randy Richards, CFM, Assistant Director of Public Works | Approved - 10/28/2022       |
| Paul Hackleman, Director of Public Works                | Approved - 10/28/2022       |
| Joshua Jones, City Manager                              | Approved - 10/28/2022       |
| Linda Proskey, City Secretary                           | Final Approval - 10/28/2022 |

*Approved as to form for inclusion on Agenda*

---

## Sec. 115-118. Specifications for carports.

As of the effective date of this chapter, any newly constructed carport in the city shall comply with the specifications as outlined in this section. It shall not be necessary for any homeowner to modify a carport that is in existence prior to the date of this section other than as to color as set forth below.

- (1) *Appearance.* All carports shall match or complement the appearance and color scheme of the adjacent residential structure. It is specifically prohibited to have a carport painted a color which is not compatible with the color of the adjacent residential structure. All carports in place at the time of the passage of this section that are not painted a color that is compatible with the adjacent residential structure must be brought into compliance with the above paragraph within 12 months of the passage and approval of this section.
- (2) *Attachment and height.* A carport may be attached to a residential structure, or it may be constructed as a detached structure. Carports located in the front or side yard of the residential structure may not exceed eight feet in height. Carports located in the rear yard of a residence may not exceed 14 feet in height. The maximum height of any portion of an attached carport shall also not be higher than the highest point of the residence. A carport which is attached to the residence may not be attached at a point below the height of the eaves.
- (3) *Setback.*
  - a. Carports must be set back from the sidewalk a minimum of five feet or ten feet from the street in yards where there is no sidewalk. Carports must be set back a minimum of five feet from the side yard boundary of the residential lot. Carports may not be constructed so as to obstruct the primary entrance of the residence and may not be located extending from the area of the primary front entrance to the residence.
  - b. On residential lots that are located at the intersection of two streets (i.e., corner lots), the rear yard shall consist of that area from the rear corner of the residential structure nearest to the rear property line extending to the rear property line.
- (4) *Materials.* Carports shall be constructed of metal, wood, and/or masonry materials. Any combinations of these materials must be compatible in both design and color of the existing residential structure. Any use of shingles or roofing material on the carport shall match the roofing material on the residence. If the residence was constructed pursuant to a requirement of 80 percent or greater masonry materials, then a carport constructed in the front of the residence must be constructed with vertical columns of metal, brick or natural stone the same color and tone of the residential structure. A carport constructed of 100 percent metal materials may be located in the front or rear yard of a residence without using masonry columns. All carports shall be constructed pursuant to city codes and ordinances so as to ensure structural integrity subject to approval by the director of public works or his designee.
- (5) *Enclosure.* Only one of the walls of an attached carport may be enclosed under the provisions of this section. Enclosure of any wall of a carport will require the property owner to comply with all codes and ordinances of the city relating to building and construction.

(Code 2001, § 14.505; Code 2010, § 14.05.005)









[Home](#) » [Code Enforcement](#) » [Active Cases](#) » **Active Case**

# PERM : Carport Permit Required



## STEPS

**Inspector:** Scott Pitman

**Overviews:** [Results](#) | [Documents](#) | [Step Notes](#) | [Inspections](#)

| ID#      | Start Date  | Work Days Elapsed |
|----------|-------------|-------------------|
| 21-04477 | Nov 8, 2021 | 243d 1h           |

**Case Description** [\(edit\)](#)

permit required to install a carport, please have contractor come to permit office to get permit, if contractor does not do it you will become responsible

**Address** [\(edit\)](#) [\(view\)](#) [\(show more\)](#)

6404 Tammy Ct.  
Watauga, TX 76148

**CE History** [\(display 5 records\)](#) [\(property history\)](#)

| Key Dates and Information <a href="#">(edit)</a> |            |
|--|------------|
| Initial Inspection Date                          | 11/08/2021 |
| Last Inspection Date                             | 01/18/2022 |
| Total # of Inspections                           | 3          |
| Initial Comply By Date                           | 11/18/2021 |
| Last Comply By Date                              | 11/18/2021 |
| Total # of Comply By                             | 1          |
| Total # of Publish                               | 0          |

Total uploaded files: 0 [\(view all\)](#)

### Case Notes

[Add Note](#) [Set up Standard Notes](#)

*There are no case notes.*

[Back](#)

### Initial Inspection

Warning Notice

### Mail Notice Letter

Public Works Mail Notice

Re-Inspection

Issue Citation

Public Works Issue Citation

Awaiting Court

Court Results

Archive Case

### Violation Found - Mail Notice Letter

### Notification Letter Mailed

**Ready**

| Modules  | Documents  |
|--|--|
| <ul style="list-style-type: none"> <li>▶ Enter Location Information</li> <li>▶ Set Correction Items</li> </ul> | <ul style="list-style-type: none"> <li>▶ <a href="#">Notice of Violation</a></li> <li>▶ <a href="#">Re-Inspection</a></li> <li>▶ <a href="#">Citation Notice</a></li> <li>▶ <a href="#">Notice of Violation - Public Works</a></li> <li>▶ <a href="#">Citation - Public Works</a></li> </ul> |



Home » Code Enforcement » Active Cases » Active Case » Inspections Overview

## Inspections Overview

| ID       | Start Date  | Case Type                       | Address                           |
|----------|-------------|---------------------------------|-----------------------------------|
| 21-04477 | Nov 8, 2021 | Permits:Carport Permit Required | 6404 Tammy Ct., Watauga, TX 76148 |

| Description  | Owner  | Legal  |
|--|--|--|
| permit required to install a carport, please have contractor come to permit office to get permit, if contractor does not do it you will become responsible | Steven Jones<br>6404 Tammy Ct<br>Watauga, TX 76148 | Greenfield Village Addition Blk 12 Lot Lot 9<br>Greenfield Village Addition Block 12 Lot 9 |



Show Case Notes

View 3 images across

| Date and Time  | Step               | Print this Page  | User         |
|--|--------------------|--|--------------|
| November 8, 2021<br>07:49 AM                               | Initial Inspection | Violation Found - Mail Notice Letter                   | Scott Pitman |
| January 18, 2022<br>10:33 AM                               | Re-Inspection      | Extension Granted<br>Next Step Delayed to Jan 19, 2022 | Scott Pitman |
| <b>Notes</b><br>▶ must file variance<br>must file variance |                    | Added by Scott Pitman on January 18, 2022 10:33 AM     |              |

Back



Home » Code Enforcement » Active Cases » Active Case » Notes Overview

### Notes Overview

| ID       | Start Date  | Case Type                       | Address                           |
|----------|-------------|---------------------------------|-----------------------------------|
| 21-04477 | Nov 8, 2021 | Permits:Carport Permit Required | 6404 Tammy Ct., Watauga, TX 76148 |

| Description  | Owner  | Legal  |
|--|--|--|
| permit required to install a carport, please have contractor come to permit office to get permit, if contractor does not do it you will become responsible | Steven Jones<br>6404 Tammy Ct<br>Watauga, TX 76148 | Greenfield Village Addition Blk 12 Lot Lot 9<br>Greenfield Village Addition Block 12 Lot 9 |



Show Case Notes

View 3 images across

Step Notes

Print this Page

Step Notes

Case Notes

#### Re-Inspection

#### Notes

- ▶ must file variance
- must file variance

Added by Scott Pitman on January 18, 2022 10:33 AM

Back



Home » Code Enforcement » Active Cases » Active Case » Printed Documents Overview

### Printed Documents Overview

|                       |                                  |   |   |
|-----------------------|----------------------------------|---|---|
| <b>ID</b><br>21-04477 | <b>Start Date</b><br>Nov 8, 2021 | <b>Case Type</b><br>Permits:Carport Permit Required | <b>Address</b><br>6404 Tammy Ct., Watauga, TX 76148 |
|-----------------------|----------------------------------|---|---|

|  |  |  |
|--|--|--|
| <b>Description</b><br>permit required to install a carport, please have contractor come to permit office to get permit, if contractor does not do it you will become responsible | <b>Owner</b><br>Steven Jones<br>6404 Tammy Ct<br>Watauga, TX 76148 | <b>Legal</b><br>Greenfield Village Addition Blk 12 Lot Lot 9<br>Greenfield Village Addition Block 12 Lot 9 |
|--|--|--|



| Title                      | Recipients           | Certified Mail # | Print this Page                                 | Saved      |
|----------------------------|----------------------|------------------|---|------------|
| <b>Notice of Violation</b> | Steven Jones (Owner) |                  | Scott Pitman<br>November 8, 2021<br>at 07:49:46 | Auto-Saved |

[Back](#)



Home » Code Enforcement » Active Cases » Active Case » Results Overview

### Results Overview

|                       |                                  |   |   |
|-----------------------|----------------------------------|---|---|
| <b>ID</b><br>21-04477 | <b>Start Date</b><br>Nov 8, 2021 | <b>Case Type</b><br>Permits:Carport Permit Required | <b>Address</b><br>6404 Tammy Ct., Watauga, TX 76148 |
|-----------------------|----------------------------------|---|---|

|  |  |  |
|--|--|--|
| <b>Description</b><br>permit required to install a carport, please have contractor come to permit office to get permit, if contractor does not do it you will become responsible | <b>Owner</b><br>Steven Jones<br>6404 Tammy Ct<br>Watauga, TX 76148 | <b>Legal</b><br>Greenfield Village Addition Blk 12 Lot Lot 9<br>Greenfield Village Addition Block 12 Lot 9 |
|--|--|--|



Show Case Notes

View 3 images across

| Date and Time  | Step                      | Print this Page   | User         |
|--|---------------------------|---|--------------|
| November 8, 2021<br>07:49 AM   | <b>Initial Inspection</b> | Violation Found - Mail Notice Letter                            | Scott Pitman |
| November 8, 2021<br>07:49 AM   | <b>Mail Notice Letter</b> | Notification Letter Mailed<br>Next Step Delayed to Nov 18, 2021 | Scott Pitman |
| January 18, 2022<br>10:33 AM   | <b>Re-Inspection</b>      | Extension Granted<br>Next Step Delayed to Jan 28, 2022          | Scott Pitman |
| <b>Notes</b>   |                           |   |              |
| <ul style="list-style-type: none"> <li>▶ must file variance</li> </ul> <p>Added by Scott Pitman on January 18, 2022 10:33 AM</p> <p>must file variance</p> |                           |   |              |

Back

[Home](#) » [Permits and Inspections](#) » [Projects](#) » **Active Project**

## Carpport Permit






► **Overviews:** [Project](#) | [Notes](#) | [Reviews](#) | [Inspections](#) | [Payments](#)

**ID#** 21-01566    **Started:** 11/10/21    **Time:** 345d 0h 

**Classification Code** [\(edit\)](#)  
 Additions and Alterations > 438 - Residential Garages / Carports

**Project Description** [\(edit\)](#)  
 carport emailed fail 11.17.21, While inspecting another carport on this street i noticed that a carport had ben constructed without a permit for this address, i sent a notice to the owner, he contacted me and ask about hoe to remedy situation, the carport was over the the building line, he stated he would like a variance,and he applied for it.

No CE Case associated. 

**Address** [\(edit\)](#) [\(view\)](#)      
 6404 Tammy Ct.  
 Watauga, TX 76148

**Tenant** [\(edit\)](#) [\(view\)](#)  
 Steven Jones

**Legal** [\(edit\)](#) [\(view\)](#)  
 Greenfield Village Addition Blk 12 Lot Lot 9  
 Greenfield Village Addition Block 12 Lot 9

**Owner** [\(edit\)](#) [\(view\)](#)  
 Steven Jones  
 6404 Tammy Ct  
 Watauga, TX 76148

**Contractor** [\(edit\)](#)  
[Home Owner](#)  
 Home Owner  
 00000 Home Owner  
 Watauga, TX 76148  
 (123) 456-7890 phone  
 HomeOwner@mygov.us


**Property Information** [\(edit\)](#) [\(view\)](#)  
 Parcel ID: 01118994

**Valuation Information** [\(edit\)](#)









**Subordinate Projects** [\(new\)](#) [\(edit\)](#)

**INFO FIELDS** 

Valuation 3000

Permit (issue date): **Nov 10, 2021 02:08 pm**   
 Expired on: **May 16, 2022 02:39 pm**

**STEPS**    [reset dates](#)

|   |  |   |                          |
|---|--|---|--------------------------|
| <b>1</b>  | <b>Carpport Application Review</b><br>▶ 11/10/21 (Started) ▶ 11/10/21 (Approved) |  <a href="#">(edit)</a>  | <b>0d</b><br><b>0h</b>   |
| <b>2</b>  | <b>Pier Inspection</b><br>▶ 11/10/21 (Started) ▶ Awaiting Request                |  <a href="#">(edit)</a>  | <b>345d</b><br><b>0h</b> |
| <b>3</b>  | <b>Payment Due</b><br>▶ 11/10/21 (Started) ▶ 11/10/21 (Completed)                |  <a href="#">(edit)</a>  | <b>0d</b><br><b>0h</b>   |
| <b>4</b>  | <b>Plan Review by Inspector</b><br>▶ Failed                                      |  (2)  |                          |
| <b>5</b>  | <b>Carpport Final</b><br>▶ Not Ready   |    |                          |
|  | <b>Archive Project</b><br>▶ Not Ready  |    |                          |

|   |                      |
|---|----------------------|
| <b>[+] FEES</b>  | <b>&gt; \$200.00</b> |
| <b>[+] PAYMENTS</b>   | <b>&gt; \$200.00</b> |
| <b>AMOUNT DUE</b>   | <b>\$0.00</b>        |


[Back](#)

[↑ Top of Page](#)



# City of Watauga

## Notes Overview

|   |                                  |   |   |
|---|----------------------------------|---|---|
| <b>ID#</b><br>21-01566  | <b>PROJECT</b><br>Carport Permit | <b>PROJECT DESCRIPTION</b><br>carport emailed fail 11.17.21, While inspecting another carport on this street i noticed that a carport had ben constructed without a permit for this address, i sent a notice to the owner, he contacted me and ask about hoe to remedy situation, the carport was over the the building line, he stated he would like a variance,and he applied for it. | <b>STEP</b><br>All  |
| <b>Address</b> <br>6404 Tammy Ct.<br>Watauga, TX 76148 |                                  | <b>Owner</b><br>Steven Jones<br>6404 Tammy Ct<br>Watauga, TX 76148  | <b>Contractor</b><br>Home Owner<br>Home Owner<br>00000 Home Owner Watauga, TX 76148<br>(123) 456-7890 phone<br>HomeOwner@mygov.us |

### Notes Overview for step [Plan Review by Inspector](#)

|                      |  |
|----------------------|--|
| <i>No Title</i>      |  |
| required             | Added by Helen Newpher on November 10th 2021 at 02:12 PM<br>No Content   |
| <b>Failed Review</b> |  |
| required             | Added by Randy Richards on November 17th 2021 at 02:40 PM<br>Need a dimensioned site plan showing carport location from sidewalk and all property lines. |

## Payments Overview

|                        |                                  |   |                        |
|------------------------|----------------------------------|---|------------------------|
| <b>ID#</b><br>21-01566 | <b>PROJECT</b><br>Carport Permit | <b>PROJECT DESCRIPTION</b><br>carport emailed fail 11.17.21, While inspecting another carport on this street i noticed that a carport had ben constructed without a permit for this address, i sent a notice to the owner, he contacted me and ask about hoe to remedy situation, the carport was over the the building line, he stated he would like a variance,and he applied for it. | <b>PAYMENTS</b><br>All |
|------------------------|----------------------------------|---|------------------------|

|  |  |   |
|--|--|---|
| <b>Address</b><br>6404 Tammy Ct.<br>Watauga, TX 76148<br><br><b>Tenant</b><br>Steven Jones<br><br><b>Legal</b><br>Greenfield Village Addition Blk 12 Lot Lot 9<br>Greenfield Village Addition Block 12 Lot 9 | <b>Owner</b><br>Steven Jones<br>6404 Tammy Ct<br>Watauga, TX 76148 | <b>Contractor</b><br>Home Owner<br>Home Owner<br>00000 Home Owner Watauga, TX 76148<br>(123) 456-7890 phone<br>HomeOwner@mygov.us |
|--|--|---|


|                                  |  |  |                          |
|----------------------------------|--|--|--------------------------|
| 1                                | <b>Home Owner</b> ( <a href="#">Home Owner</a> )<br>Credit Card on 11/10/2021 @ 01:56 PM | Received By: ( <a href="#">Helen Newpher</a> ) | <b>21-01128</b> \$200.00 |
| <b>FEES Paid</b>                 |  |  |                          |
| Carport Permit Fee - Residential | 01-000-31500   | \$200.00                                       |                          |


| TOTALS                  |          |
|-------------------------|----------|
| <b>PAYMENTS:</b>        | \$200.00 |
| <b>FEES:</b>            | \$200.00 |
| <b>VOIDS / REFUNDS:</b> | \$0.00   |
| <b>AMOUNT DUE:</b>      | \$0.00   |

[Back](#)



# Inspections Overview

Requested 1 Failed 1

 (Inspector:1d 6h Contractor:0d 0h)

|  |  |   |   |
|--|--|---|---|
| <b>ID#</b><br>21-01566   | <b>PROJECT</b><br>Carport Permit                                   | <b>PROJECT DESCRIPTION</b><br>carport emailed fail 11.17.21, While inspecting another carport on this street i noticed that a carport had ben constructed without a permit for this address, i sent a notice to the owner, he contacted me and ask about hoe to remedy situation, the carport was over the the building line, he stated he would like a variance,and he applied for it. | <b>INSPECTION</b><br>All  |
| <b>Address</b> <br>6404 Tammy Ct.<br>Watauga, TX 76148<br><br><b>Tenant</b><br>Steven Jones<br><br><b>Legal</b><br>Greenfield Village Addition Blk 12 Lot Lot 9<br>Greenfield Village Addition Block 12 Lot 9 | <b>Owner</b><br>Steven Jones<br>6404 Tammy Ct<br>Watauga, TX 76148 |   | <b>Contractor</b><br>Home Owner<br>Home Owner<br>00000 Home Owner Watauga, TX 76148<br>(123) 456-7890 phone<br>HomeOwner@mygov.us |

| Pier Inspection                             |      |      |        |
|---|------|------|--------|
| User  | Date | Time | Result |
| ▸ There are no results for this inspection. |      |      |        |

| Plan Review by Inspector (Inspector: 1d 6h Contractor:0d 0h)                                      |                           |  |                  |
|---|---------------------------|--|------------------|
| User  | Date                      | Time                                     | Result           |
| <u>Helen Newpher</u>  | 11/16/2021 @ 07:45 am CDT | 0d                                       | <b>Requested</b> |
|   | 11/16/2021 @ 07:45 am CDT | 0d 0h                                    | <b>Ready</b>     |
| <u>Randy Richards</u>   | 11/17/2021 @ 02:39 pm CDT | 1d 6h                                    | <b>Failed</b>    |
|  Required Item |                           | Helen Newpher on 2021-11-10 at 02:12 pm  |                  |
| <b>Documents</b>  |                           |  |                  |
| ▸ Xerox Scan_11102021140948.pdf   |                           |  |                  |
|  Required Item |                           | Randy Richards on 2021-11-17 at 02:40 pm |                  |
| <b>Failed Review</b>  |                           |  |                  |
| Need a dimensioned site plan showing carport location from sidewalk and all property lines.       |                           |  |                  |

| Carport Final                               |      |      |        |
|---|------|------|--------|
| User  | Date | Time | Result |
| ▸ There are no results for this inspection. |      |      |        |



Zoning Board of Adjustment Application

(PLEASE PRINT)

CASE NO. ZBA-22-02

DATE PAID: 9/29/2022

ZBA FEE: \$300.00

RECEIPT #: 22-01179

I, THE UNDERSIGNED APPLICANT, HEREBY MAKE APPLICATION FOR A [checked] VARIANCE OR SPECIAL EXCEPTION FROM THE ZONING ORDINANCE OF THE FOLLOWING DESCRIBED REAL PROPERTY LOCATED IN THE CITY OF WATAUGA, TEXAS:

LOT: 9 BLOCK: 12 IN THE: Greenfield Village ADDITION

I AM THE [checked] OWNER LESSEE OTHER OF SAID PROPERTY. (IF NOT THE OWNER PLEASE PROVIDE OWNER'S AUTHORIZATION)

NAME OF APPLICANT: Steven Joaer

APPLICANT ADDRESS: 6404 Tammy Court

PHONE: [redacted] E-MAIL ADDRESS: [redacted]

LIST PERTINENT SECTION (S) OF ZONING ORDINANCE AND INDICATE THE SPECIFIC VARIANCE OR SPECIAL EXCEPTION AMOUNTS BEING REQUESTED. (ATTACH A SEPARATE SHEET IF NECESSARY)

Lot is located in cul-de-sac & has short driveway. Carport was built to cover cars & is symmetrical to house.

STATE GROUNDS FOR THE REQUEST AND DETAIL ANY SPECIAL CONDITIONS WHICH CAUSE HARDSHIPS THAT IN YOUR OPINION JUSTIFY THE VARIANCE OR SPECIAL EXCEPTION (S) YOU ARE REQUESTING.

see above

(ATTACH A DETAILED DIAGRAM OF SITE DRAWN TO SCALE AND ANY OTHER DRAWINGS OR PICTURES NECESSARY TO HELP EXPLAIN THE CASE.)

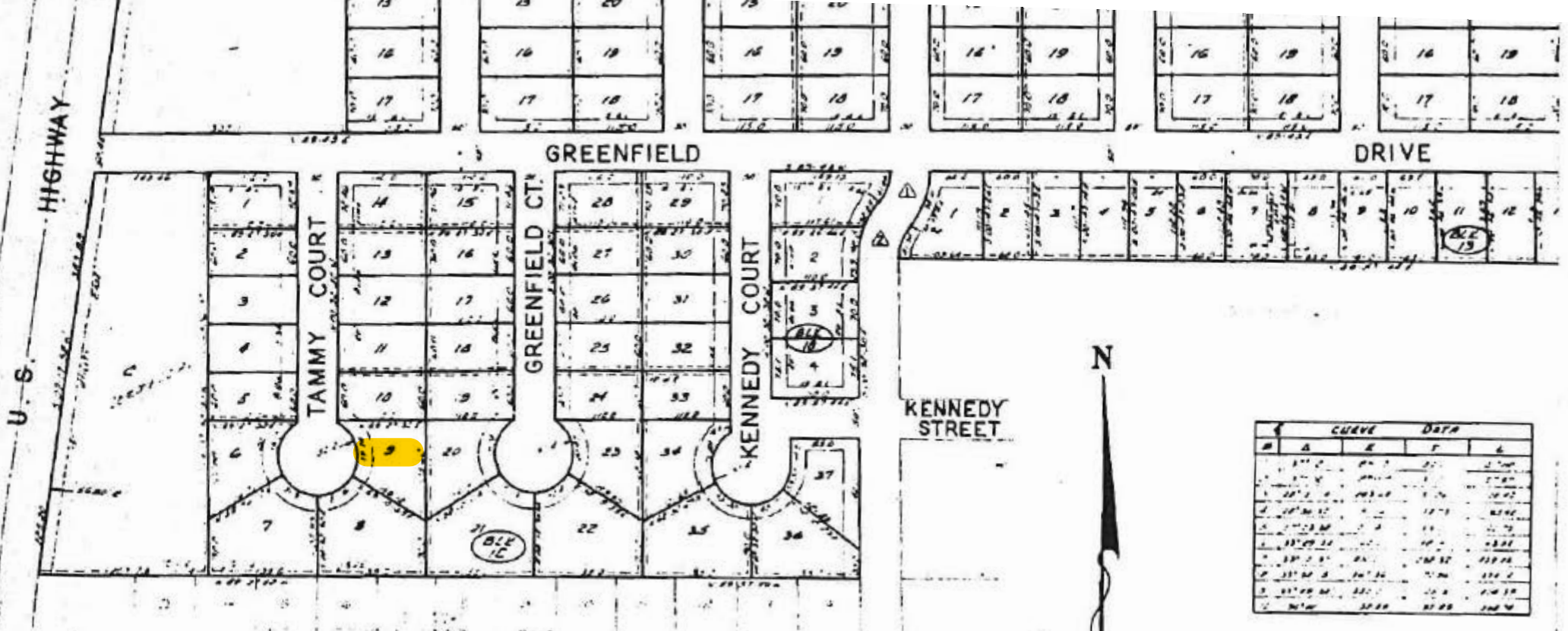
\*I have read the completed application and know the same is true and correct and hereby agree that if a permit is issued all provisions of the City Ordinances and State Laws will be complied with whether herein specified or not. I agree to comply with all property restrictions. I am the owner of the property or the duly authorized agent.

\*Submittal of false information or omission as required by this application may result in any permit, license, or approval being revoked.

\*Signatures certify that all information provided is true and correct

SIGNATURE: [Signature]

OFFICE USE ONLY: THIS APPEAL HAS BEEN APPROVED DISAPPROVED BY THE ZONING BOARD OF ADJUSTMENT ON THIS DAY OF, 20. CHAIRMAN, ZONING BOARD OF ADJUSTMENT



TARRANT COUNTY, TEXAS  
 80 APR 17 PM: 44  
 TARRANT COUNTY, TEXAS  
 BY: [Signature]

| NO. | ACRES | AREA | AREA | AREA | AREA | AREA | AREA | AREA | AREA |
|-----|-------|------|------|------|------|------|------|------|------|
| 1   | 0.12  | 18   | 0.12 | 18   | 0.12 | 18   | 0.12 | 18   | 0.12 |
| 2   | 0.12  | 18   | 0.12 | 18   | 0.12 | 18   | 0.12 | 18   | 0.12 |
| 3   | 0.12  | 18   | 0.12 | 18   | 0.12 | 18   | 0.12 | 18   | 0.12 |
| 4   | 0.12  | 18   | 0.12 | 18   | 0.12 | 18   | 0.12 | 18   | 0.12 |
| 5   | 0.12  | 18   | 0.12 | 18   | 0.12 | 18   | 0.12 | 18   | 0.12 |
| 6   | 0.12  | 18   | 0.12 | 18   | 0.12 | 18   | 0.12 | 18   | 0.12 |
| 7   | 0.12  | 18   | 0.12 | 18   | 0.12 | 18   | 0.12 | 18   | 0.12 |
| 8   | 0.12  | 18   | 0.12 | 18   | 0.12 | 18   | 0.12 | 18   | 0.12 |
| 9   | 0.12  | 18   | 0.12 | 18   | 0.12 | 18   | 0.12 | 18   | 0.12 |
| 10  | 0.12  | 18   | 0.12 | 18   | 0.12 | 18   | 0.12 | 18   | 0.12 |
| 11  | 0.12  | 18   | 0.12 | 18   | 0.12 | 18   | 0.12 | 18   | 0.12 |
| 12  | 0.12  | 18   | 0.12 | 18   | 0.12 | 18   | 0.12 | 18   | 0.12 |
| 13  | 0.12  | 18   | 0.12 | 18   | 0.12 | 18   | 0.12 | 18   | 0.12 |
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| 15  | 0.12  | 18   | 0.12 | 18   | 0.12 | 18   | 0.12 | 18   | 0.12 |
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| 19  | 0.12  | 18   | 0.12 | 18   | 0.12 | 18   | 0.12 | 18   | 0.12 |
| 20  | 0.12  | 18   | 0.12 | 18   | 0.12 | 18   | 0.12 | 18   | 0.12 |
| 21  | 0.12  | 18   | 0.12 | 18   | 0.12 | 18   | 0.12 | 18   | 0.12 |
| 22  | 0.12  | 18   | 0.12 | 18   | 0.12 | 18   | 0.12 | 18   | 0.12 |
| 23  | 0.12  | 18   | 0.12 | 18   | 0.12 | 18   | 0.12 | 18   | 0.12 |
| 24  | 0.12  | 18   | 0.12 | 18   | 0.12 | 18   | 0.12 | 18   | 0.12 |
| 25  | 0.12  | 18   | 0.12 | 18   | 0.12 | 18   | 0.12 | 18   | 0.12 |
| 26  | 0.12  | 18   | 0.12 | 18   | 0.12 | 18   | 0.12 | 18   | 0.12 |
| 27  | 0.12  | 18   | 0.12 | 18   | 0.12 | 18   | 0.12 | 18   | 0.12 |
| 28  | 0.12  | 18   | 0.12 | 18   | 0.12 | 18   | 0.12 | 18   | 0.12 |
| 29  | 0.12  | 18   | 0.12 | 18   | 0.12 | 18   | 0.12 | 18   | 0.12 |
| 30  | 0.12  | 18   | 0.12 | 18   | 0.12 | 18   | 0.12 | 18   | 0.12 |
| 31  | 0.12  | 18   | 0.12 | 18   | 0.12 | 18   | 0.12 | 18   | 0.12 |
| 32  | 0.12  | 18   | 0.12 | 18   | 0.12 | 18   | 0.12 | 18   | 0.12 |
| 33  | 0.12  | 18   | 0.12 | 18   | 0.12 | 18   | 0.12 | 18   | 0.12 |
| 34  | 0.12  | 18   | 0.12 | 18   | 0.12 | 18   | 0.12 | 18   | 0.12 |
| 35  | 0.12  | 18   | 0.12 | 18   | 0.12 | 18   | 0.12 | 18   | 0.12 |
| 36  | 0.12  | 18   | 0.12 | 18   | 0.12 | 18   | 0.12 | 18   | 0.12 |
| 37  | 0.12  | 18   | 0.12 | 18   | 0.12 | 18   | 0.12 | 18   | 0.12 |



| CURVE DATA |      |
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| 36         | ...  |
| 37         | ...  |

# GREENFIELD VILLAGE

AN ADDITION TO THE CITY OF WATAUGA, TARRANT COUNTY, TEXAS.  
 BEING A SUBDIVISION OF A PORTION OF THE SMITH DREW SURVEY AND THE WM. EVANS SURVEY IN TARRANT COUNTY.

STATE OF TEXAS  
 I hereby certify that this instrument was filed in the  
 office of the County Clerk of Tarrant County, Texas, on the  
 17th day of April, 1964, at 4:44 PM, and that the  
 same is a true and correct copy of the original  
 instrument as recorded in the  
 Public Records of Tarrant County, Texas.

APR 17 1964  
  
 Madeline H. Hoffman  
 COUNTY CLERK  
 TARRANT COUNTY, TEXAS



OWNER: W.G.C. INC., FT. WORTH, TEXAS.

WENDELL HANCOCK  
 REGISTERED PUBLIC SURVEYOR #1526  
 121 HAYFORD ROAD  
 FORT WORTH, TEXAS 76107  
 854-6243

DELBERT STEMBRIDGE  
 REGISTERED PROFESSIONAL ENGINEER #31486  
 5203 GUYTON COURT  
 FORT WORTH, TEXAS 76116  
 853-3334

CITY OF WATAUGA, TEXAS.  
 APPROVED:  
 MAYOR Billy L. Dyer  
 SECRETARY Barbara B. Dyer  
 DATE 12-18-71

PLANNING & ZONING COMMISSION  
 WATAUGA, TEXAS.  
 CHAIRMAN Madeline Hoffman  
 SECRETARY [Signature]  
 DATE \_\_\_\_\_

| Owner                          | Owner_Address           | Owner_City State    | Owner_Zip  | Situs_Address      |
|--------------------------------|-------------------------|---------------------|------------|--------------------|
| Steven & Veronica Jones        | 6404 Tammy Ct           | Watauga TX          | 76148      | 6404 Tammy Ct      |
| Phuc & Lanh Thi Hoang          | 6417 Tammy Ct           | Watauga TX          | 76148      | 6417 Tammy Ct      |
| Royce & Tracy L Leeper         | 6413 Tammy Ct           | Watauga TX          | 76148      | 6413 Tammy Ct      |
| Enrique & Rosanna Gonzalez     | 6409 Tammy Ct           | Watauga TX          | 76148      | 6409 Tammy Ct      |
| Ismael Aguilar Espinosa        | 6405 Tammy Ct           | Watauga TX          | 76148      | 6405 Tammy Ct      |
| Mai Salena Xayapan             | 6401 Tammy Ct           | Watauga TX          | 76148-2534 | 6401 Tammy Ct      |
| Ronald J Sr & Vonni Bantau     | 6400 Tammy Ct           | Watauga TX          | 76148-2534 | 6400 Tammy Ct      |
| Catherine T Bates              | 6408 Tammy Ct           | Watauga TX          | 76148-2534 | 6408 Tammy Ct      |
| Lakeland Properties LLC        | 7300 Continental Tr     | N Richland Hills TX | 76182-8718 | 6412 Tammy Ct      |
| James C & Delores M Jordan Est | 6416 Tammy Ct           | Watauga TX          | 76148-2534 | 6416 Tammy Ct      |
| Ronnie G Parker                | 6417 Greenfield Ct      | Watauga TX          | 76148-2513 | 6417 Greenfield Ct |
| Home SFR Borrower LLC c/o HBH  | 3505 Koger Blvd Ste 400 | Duluth GA           | 30096      | 6413 Greenfield Ct |
| Carmel Valerio                 | 6409 Greenfield Ct      | Fort Worth TX       | 76148-2513 | 6409 Greenfield Ct |
| Miranda Klement                | 6405 Greenfield Ct      | Watauga TX          | 76148      | 6405 Greenfield Ct |
| Amina M Lea Etal               | 6401 Greenfield Ct      | Watauga TX          | 76148-2513 | 6401 Greenfield Ct |
| Jimmy Rayburn                  | 6400 Greenfield Ct      | Fort Worth TX       | 76148-2513 | 6400 Greenfield Ct |
| Trudy K Davenport              | 2116 Prescott Downs Dr  | Denton Tx           | 76210      | 6404 Greenfield Ct |
| Kua Zi Dee Gwa                 | 6540 Brookside Dr       | Watauga TX          | 76148      | 6408 Greenfield Ct |
| Stacey A Bryant                | 5620 Linda Dr           | Fort Worth TX       | 76148      | 5617 Linda Dr      |
| Frankie J Cade                 | 5621 Linda Dr           | Watauga TX          | 76148-2533 | 5621 Linda Dr      |
| City of Watauga                | 7105 Whitley Rd         | Watauga TX          | 76148-2024 | 5633 Linda Dr      |

## THANK YOU for your legal submission!

Your legal has been submitted for publication. Below is a confirmation of your legal placement. You will also receive an email confirmation.

### ORDER DETAILS

**Order Number:**  
IPL0095264  
**External Order #:**  
337399  
**Order Status:**  
Submitted  
**Classification:**  
Legals & Public Notices  
**Package:**  
FTW - Legal Ads  
**Final Cost:**  
106.84  
**Payment Type:**  
Account Billed  
**User ID:**  
IPL0019627

### ACCOUNT INFORMATION

CITY OF WATAUGA IP  
7105 WHITLEY RD  
FORT WORTH, TX 76148-2024  
817-281-8047  
noemail@mcclatchy.com  
CITY OF WATAUGA

### TRANSACTION REPORT

**Date**  
October 20, 2022 2:41:47 PM EDT  
**Amount:**  
106.84

### SCHEDULE FOR AD NUMBER IPL00952640

October 26, 2022  
Fort Worth Star-Telegram

### PREVIEW FOR AD NUMBER IPL00952640

#### NOTICE OF PUBLIC HEARING

Notice is hereby given that there will be public hearings before the City of Watauga Zoning Board of Adjustment at its meeting on November 2, 2022, beginning at 6:30 p.m. in the City Council Chambers at 7105 Whitley Road, Watauga, TX to receive comments for or against the following items:

ZBA. 22-02: Public hearing to receive comments for or against a request for a Variance to Watauga City Code of Ordinances, Chapter 115 Zoning, Article V, Section 115-118 Subsection (3) (a) which regulates carports must be set back from the sidewalk a minimum of five feet; and consider action as the applicant is seeking a variance to allow for the carport to remain as constructed within the five-foot set back. The subject property is in Greenfield Village Addition Block 12 Lot 9, commonly known as 6404 Tammy Court and is located north of Linda Street, south of Greenfield Drive and east of Denton Highway. Owner/Applicant is Steven Jones.

ZBA. 22-03: Public hearing to receive comments for or against a request for a Variance to Watauga City Code of Ordinances, Chapter 115 Zoning, Article V, Section 115-118 Subsection (3) (a) which regulates carports must be set back from the sidewalk a minimum of five feet; and consider action as the applicant is seeking a variance to allow for the carport to remain as constructed within the five-foot set back

structed within the five-foot set back.  
The subject property is in Quail Meadows Estates Block 3 Lot 12, commonly known as 7748 Pear Tree Lane and is located north of Starnes Road, south of North Park Drive and east of Whitley Road. Owner/Applicant is Richard Garza Sr.

Published on October 26, 2022, in the Star Telegram, Legal Notices Section. I, Linda Proskey, City Secretary for the City of Watauga, Texas, hereby certify that this notice was posted on the official bulletin board at City Hall, 7105 Whitley Road, Watauga, Texas, on October 26, 2022, before 6:00 p.m., in accordance with Chapter 551 of the Texas Government Code.

/s/ Linda Proskey  
Linda Proskey, City Secretary  
IPL0095264  
Oct 26 2022

[<< Click here to print a printer friendly version >>](#)



## AGENDA MEMORANDUM

**DATE:** October 19, 2022

**TO:** Zoning Board of Adjustment Members

**FROM:** Randy Richards, CFM, Assistant Director of Public Works

**SUBJECT:** **ZBA- 22-03:** Public hearing to receive comments for or against a request for a Variance to Watauga City Code of Ordinances, Chapter 115 Zoning, Article V, Section 115-118 Subsection (3)(a) which regulates carports must be set back from the sidewalk a minimum of five feet; and consider action as the applicant is seeking a variance to allow for the carport to remain as constructed within the five foot set back. The subject property is in Quail Meadows Estates Block 3 Lot 12, commonly known as 7748 Pear Tree Lane and is located north of Starnes Road, south of North Park Drive and east of Whitley Road. Owner/Applicant is Richard Garza Sr.

---

### **BACKGROUND/INFORMATION:**

The request submitted by homeowner/applicant Richard Garza Sr. is to consider action to allow for the carport to remain as constructed within the five-foot set back. The applicant has not submitted a drawing showing an accurate location of the carport. There is an 8" watermain under the sidewalk area at this location. No structure should be built within 7.5 feet of the watermain.

Watauga City Code of Ordinances, Chapter 115 Zoning, Article V, Section 115-118 Subsection (3) a. regulates carports must be set back from the sidewalk a minimum of five feet.

Building Inspector Pitman found the violation and mailed a notification letter on October 18, 2021, requiring a permit to be applied for by the contractor who completed the work, as there was no permit application submitted nor was there any plan review for this project prior to the construction. A citation was issued on January 5, 2022 due to failure to obtain a required permit.

On February 25, 2022, owner, Richard Garza submitted an application with payment for a carport permit. The request for variance was submitted on August 9, 2022 to allow the constructed carport to remain as is for protection of vehicles from storms and hail, covering the length of the trucks. The property is located at 7748 Pear Tree Lane, Block 3, Lot 12 of the Quail Meadow Estates Addition.



## AGENDA MEMORANDUM

**FINANCIAL IMPLICATIONS:**

NA

**RECOMMENDATION/ACTION DESIRED:**

Discussion and approval or denial of ZBA Case No. 22-03 - Variance request

**ATTACHMENTS/ SUPPORTING DOCUMENTATION:**

1. Sec. 115-118 - Specifications for carports - Supplement No. 14
2. 7748 Pear Tree Ln - Photos1 - Front yard
3. 7748 Pear Tree Ln - Photos2 - Side yard
4. 7748 Pear Tree Ln - Code Enforcement-Bldg. Inspector Proj. ID #21-04214 - Bldg Permit Required - 10182021
5. 7748 Pear Tree Ln - Carport Permit Application - Project ID #22-00284 - 02252022
6. ZBA Case No. 22-03 - Resolution EXHIBITS A-D

**REVIEWED BY:**

|   |                             |
|---|-----------------------------|
| David Berman, City Attorney                             | Approved - 10/28/2022       |
| Randy Richards, CFM, Assistant Director of Public Works | Approved - 10/28/2022       |
| Paul Hackleman, Director of Public Works                | Approved - 10/28/2022       |
| Joshua Jones, City Manager                              | Approved - 10/28/2022       |
| Linda Proskey, City Secretary                           | Final Approval - 10/28/2022 |

*Approved as to form for inclusion on Agenda*

---

## Sec. 115-118. Specifications for carports.

As of the effective date of this chapter, any newly constructed carport in the city shall comply with the specifications as outlined in this section. It shall not be necessary for any homeowner to modify a carport that is in existence prior to the date of this section other than as to color as set forth below.

- (1) *Appearance.* All carports shall match or complement the appearance and color scheme of the adjacent residential structure. It is specifically prohibited to have a carport painted a color which is not compatible with the color of the adjacent residential structure. All carports in place at the time of the passage of this section that are not painted a color that is compatible with the adjacent residential structure must be brought into compliance with the above paragraph within 12 months of the passage and approval of this section.
- (2) *Attachment and height.* A carport may be attached to a residential structure, or it may be constructed as a detached structure. Carports located in the front or side yard of the residential structure may not exceed eight feet in height. Carports located in the rear yard of a residence may not exceed 14 feet in height. The maximum height of any portion of an attached carport shall also not be higher than the highest point of the residence. A carport which is attached to the residence may not be attached at a point below the height of the eaves.
- (3) *Setback.*
  - a. Carports must be set back from the sidewalk a minimum of five feet or ten feet from the street in yards where there is no sidewalk. Carports must be set back a minimum of five feet from the side yard boundary of the residential lot. Carports may not be constructed so as to obstruct the primary entrance of the residence and may not be located extending from the area of the primary front entrance to the residence.
  - b. On residential lots that are located at the intersection of two streets (i.e., corner lots), the rear yard shall consist of that area from the rear corner of the residential structure nearest to the rear property line extending to the rear property line.
- (4) *Materials.* Carports shall be constructed of metal, wood, and/or masonry materials. Any combinations of these materials must be compatible in both design and color of the existing residential structure. Any use of shingles or roofing material on the carport shall match the roofing material on the residence. If the residence was constructed pursuant to a requirement of 80 percent or greater masonry materials, then a carport constructed in the front of the residence must be constructed with vertical columns of metal, brick or natural stone the same color and tone of the residential structure. A carport constructed of 100 percent metal materials may be located in the front or rear yard of a residence without using masonry columns. All carports shall be constructed pursuant to city codes and ordinances so as to ensure structural integrity subject to approval by the director of public works or his designee.
- (5) *Enclosure.* Only one of the walls of an attached carport may be enclosed under the provisions of this section. Enclosure of any wall of a carport will require the property owner to comply with all codes and ordinances of the city relating to building and construction.

(Code 2001, § 14.505; Code 2010, § 14.05.005)







Zoning Board of Adjustment Application

(PLEASE PRINT)

CASE NO. ZBA 22-01

DATE PAID: Aug 9, 2022

ZBA FEE: \$300.00

RECEIPT #: 22-00934

I, THE UNDERSIGNED APPLICANT, HEREBY MAKE APPLICATION FOR A [checked] VARIANCE OR \_\_\_\_\_ SPECIAL EXCEPTION FROM THE ZONING ORDINANCE OF THE FOLLOWING DESCRIBED REAL PROPERTY LOCATED IN THE CITY OF WATAUGA, TEXAS:

LOT: 12 BLOCK: 3 IN THE: Quail meadow Estate ADDITION

I AM THE [checked] OWNER \_\_\_\_\_ LESSEE \_\_\_\_\_ OTHER OF SAID PROPERTY. (IF NOT THE OWNER PLEASE PROVIDE OWNER'S AUTHORIZATION)

NAME OF APPLICANT: Richard Coody Sr.

APPLICANT ADDRESS: 7748 Pear Tree Ln

PHONE: [redacted] E-MAIL ADDRESS: [redacted]

LIST PERTINENT SECTION (S) OF ZONING ORDINANCE AND INDICATE THE SPECIFIC VARIANCE OR SPECIAL EXCEPTION AMOUNTS BEING REQUESTED. (ATTACH A SEPARATE SHEET IF NECESSARY):

Sec 115-118 (3)a. Carport must be set back from the side walk a minimum of five feet

STATE GROUNDS FOR THE REQUEST AND DETAIL ANY SPECIAL CONDITIONS WHICH CAUSE HARDSHIPS THAT IN YOUR OPINION JUSTIFY THE VARIANCE OR SPECIAL EXCEPTION (S) YOU ARE REQUESTING.

use it to protect my vehicles from storms and hail, plus it cover only the length of the trucks

(ATTACH A DETAILED DIAGRAM OF SITE DRAWN TO SCALE AND ANY OTHER DRAWINGS OR PICTURES NECESSARY TO HELP EXPLAIN THE CASE.)

\*I have read the completed application and know the same is true and correct and hereby agree that if a permit is issued all provisions of the City Ordinances and State Laws will be complied with whether herein specified or not. I agree to comply with all property restrictions. I am the owner of the property or the duly authorized agent.

\*Submittal of false information or omission as required by this application may result in any permit, license, or approval being revoked.

\*Signatures certify that all information provided is true and correct

SIGNATURE: Richard Coody Sr.

OFFICE USE ONLY: THIS APPEAL HAS BEEN APPROVED \_\_\_\_\_ DISAPPROVED \_\_\_\_\_ BY THE ZONING BOARD OF ADJUSTMENT ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_. CHAIRMAN, ZONING BOARD OF ADJUSTMENT



# BUILDING PERMIT APPLICATION

Jurisdiction of Watauga, Texas

|            |              |
|------------|--------------|
| Permit No. | Cash Receipt |
|------------|--------------|

JOB ADDRESS: 7748 Pear Tree Ln

|             |        |     |       |   |
|-------------|--------|-----|-------|---|
| LEGAL DESCR | LOT NO | BLK | TRACT | <input type="checkbox"/> SEE ATTACHED SHEET |
|-------------|--------|-----|-------|---|

|                               |  |                     |                                      |                     |             |
|-------------------------------|--|---------------------|--------------------------------------|---------------------|-------------|
| OWNER<br><u>Richard GARZA</u> | MAIL ADDRESS<br><u>7748 Pear Tree Ln</u> | ZIP<br><u>76148</u> | EMAIL ADDRESS<br><u>RichardGarza</u> | PHONE<br>[REDACTED] |             |
| CONTRACTOR<br><u>Self</u>     | MAIL ADDRESS                             | ZIP                 | EMAIL ADDRESS                        | PHONE               | LICENSE NO. |
| ARCHITECT OR DESIGNER         | MAIL ADDRESS                             | ZIP                 | EMAIL ADDRESS                        | PHONE               | LICENSE NO. |
| ENGINEER                      | MAIL ADDRESS                             | ZIP                 | EMAIL ADDRESS                        | PHONE               | LICENSE NO. |

USE OF BUILDING

TOTAL SIZE (SF)

Class of work:  NEW     ADDITION     ALTERATION     REPAIR     MOVE     REMOVE

Describe work: Garport

Change of use from:

Change of use to:

Valuation of work: \$ 1,800      Permit Fee: \$ 200.00

SPECIAL CONDITIONS:

SEPARATE PERMITS ARE REQUIRED FOR ELECTRICAL, PLUMBING, HEATING, VENTILATING, OR AIR CONDITIONING.

THIS PERMIT BECOMES NULL AND VOID IF WORK OR CONSTRUCTION AUTHORIZED IS NOT COMMENCED WITHIN 180 DAYS, OR OF CONSTRUCTION OR WORK IS SUSPENDED OR ABANDONED FOR A PERIOD OF 180 DAYS AT ANY TIME AFTER WORK IS COMMENCED.

I HEREBY CERTIFY THAT I HAVE READ AND EXAMINED THIS APPLICATION AND KNOW THE SAME TO BE TRUE AND CORRECT. ALL PROVISIONS OF LAWS AND ORDINANCES GOVERNING THIS TYPE OF WORK WILL BE COMPLIED WITH WHETHER SPECIFIED HEREIN OR NOT. THE GRANTING OF A PERMIT DOES NOT PRESUME TO GIVE AUTHORITY TO VIOLATE OR CANCEL THE PROVISIONS OF ANY OTHER STATE OR LOCAL LAW REGULATING CONSTRUCTION OR THE PERFORMANCE OF CONSTRUCTION.

SIGNATURE OF CONTRACTOR OR AUTHORIZED AGENT: Richard Garza      DATE: Feb 23 2022

SIGNATURE OF OWNER (IF OWNER BUILDER): \_\_\_\_\_      DATE: \_\_\_\_\_

APPLICATION ACCEPTED BY: \_\_\_\_\_      DATE: \_\_\_\_\_

PLANS CHECKED BY: \_\_\_\_\_      DATE: \_\_\_\_\_

APPROVED & ISSUANCE BY: \_\_\_\_\_      DATE: \_\_\_\_\_

City of Watauga  
Public Works  
02/25/2022 | Receipt ID # 22-00211

|                                  |                  |
|----------------------------------|------------------|
| Carport Permit Fee - Residential | \$ 200.00        |
| <b>Total</b>                     | <b>\$ 200.00</b> |

Paid By: Home Owner, Home Owner

Method: Credit Card

Carport Permit

ID # 22-00284

7748 Pear Tree Ln.

Received By: Helen Newpher

Receipt Date / Time: 02/25/2022 / 8:32 AM

Hugh Moore, Trustee  
Vol. 6677, Pg. 561, DIST. CT.

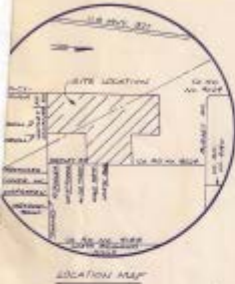
FUTURE R.O.W.

WHITLEY-WATAUGA RD

N01°03'39"W 877.37

WHITLEY

N01°05'24"W 736.13



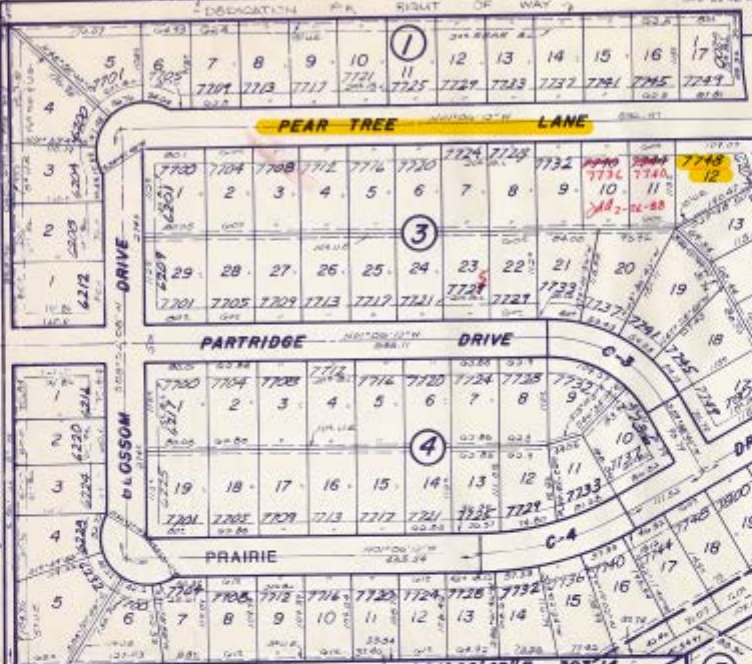
LOT 1  
814.33

ECHO HILLS ADDN.  
MAPLEHILL RD.

STARNES 589°01'49"W

CEDARHILL RD.

PLANNING COMMISSION  
BY: *Edwin Archie*  
DATE: 11-14-1993  
BY: *Walter R. Ambler, Jr.*  
DATE: 10/20/83



501°26'04"E 483.29

L.E. Cumming  
Vol. 3140 Pg. 389  
D.R.T.C.T.

501°20'43"E 393.14

E CURVE DATA

| CURVE # | Δ         | T      | R      | L      |
|---------|-----------|--------|--------|--------|
| 1       | 29°08'08" | 125.00 | 480.99 | 244.57 |
| 2       | 30°14'20" | 100.00 | 369.90 | 195.21 |
| 3       | 60°51'52" | 100.00 | 170.23 | 180.82 |
| 4       | 29°08'08" | 100.00 | 384.79 | 194.13 |
| 5       | 29°08'08" | 100.00 | 384.79 | 194.13 |
| 6       | 59°45'40" | 100.00 | 174.04 | 181.51 |
| 7       | 29°08'08" | 100.00 | 384.79 | 194.13 |
| 8       | 30°14'20" | 172.88 | 639.86 | 332.67 |
| 9       | 18°47'06" | 50.00  | 302.27 | 99.09  |

Edwin Archie  
Vol. 4711 Pg. 687  
D.R.T.C.T.

FINAL PLAT

# QUAIL MEADOWS ESTATES

## EXHIBIT "C"

ZBA Case No. 22-03  
200 ft. NOTICES MAILED

| Owner                         | Owner_Address        | Owner_City State | Owner_Zip  | Situs_Address      |
|-------------------------------|----------------------|------------------|------------|--------------------|
| Richard R Garza Sr            | 7748 Pear Tree Ln    | Watauga TX       | 76148-1336 | 7748 Pear Tree Ln  |
| Candace L Strange             | 7740 Pear Tree Ln    | Watauga TX       | 76148-1336 | 7740 Pear Tree Ln  |
| Thomas J & Kimberly Szalewski | 7736 Pear Tree Ln    | Watauga TX       | 76148-1336 | 7736 Pear Tree Ln  |
| Eleanor Van Strander Est      | 7732 Pear Tree Ln    | Watauga TX       | 76148-1336 | 7732 Pear Tree Ln  |
| Jose L Ramos                  | 7737 Pear Tree Ln    | Watauga TX       | 76148-1333 | 7737 Pear Tree Ln  |
| Sheir Kris Bickley            | 7741 Pear Tree Ln    | Watauga TX       | 76148-1333 | 7741 Pear Tree Ln  |
| AAR Realty LLC                | 2809 Darlinghurst Rd | Roanoke TX       | 76262      | 7745 Pear Tree Ln  |
| Yolanda Alonso                | 7749 Pear Tree Ln    | Watauga TX       | 76148-1333 | 7749 Pear Tree Ln  |
| Darrell G Shields Jr          | 6201 N Park Dr       | Fort Worth TX    | 76148      | 6201 North Park Dr |
| Barry & Glenda Lewis          | 6205 N Park Dr       | Watauga TX       | 76148-1323 | 6205 North Park Dr |
| Marilyn K Duncan              | 6209 N Park Dr       | Watauga TX       | 76148-1323 | 6209 North Park Dr |
| Shelley Lynette White         | 6213 N Park Dr       | Watauga TX       | 76148-1323 | 6213 North Park Dr |
| Leslie A Konkle               | 6217 N Park Dr       | Watauga TX       | 76148-1323 | 6217 North Park Dr |
| Yamasa Co Ltd                 | PO Box 4090          | Scottsdale AZ    | 85261      | 6216 North Park Dr |
| Jenny Tran                    | 601 Killarney        | Richardson TX    | 75081      | 6212 North Park Dr |
| Israel Vazquez                | 6208 N Park Dr       | Fort Worth TX    | 76148      | 6208 North Park Dr |

## THANK YOU for your legal submission!

Your legal has been submitted for publication. Below is a confirmation of your legal placement. You will also receive an email confirmation.

### ORDER DETAILS

**Order Number:**  
IPL0095264  
**External Order #:**  
337399  
**Order Status:**  
Submitted  
**Classification:**  
Legals & Public Notices  
**Package:**  
FTW - Legal Ads  
**Final Cost:**  
106.84  
**Payment Type:**  
Account Billed  
**User ID:**  
IPL0019627

### ACCOUNT INFORMATION

CITY OF WATAUGA IP  
7105 WHITLEY RD  
FORT WORTH, TX 76148-2024  
817-281-8047  
noemail@mcclatchy.com  
CITY OF WATAUGA

### TRANSACTION REPORT

**Date**  
October 20, 2022 2:41:47 PM EDT  
**Amount:**  
106.84

### SCHEDULE FOR AD NUMBER IPL00952640

October 26, 2022  
Fort Worth Star-Telegram

### PREVIEW FOR AD NUMBER IPL00952640

#### NOTICE OF PUBLIC HEARING

Notice is hereby given that there will be public hearings before the City of Watauga Zoning Board of Adjustment at its meeting on November 2, 2022, beginning at 6:30 p.m. in the City Council Chambers at 7105 Whitley Road, Watauga, TX to receive comments for or against the following items:

ZBA. 22-02: Public hearing to receive comments for or against a request for a Variance to Watauga City Code of Ordinances, Chapter 115 Zoning, Article V, Section 115-118 Subsection (3) (a) which regulates carports must be set back from the sidewalk a minimum of five feet; and consider action as the applicant is seeking a variance to allow for the carport to remain as constructed within the five-foot set back. The subject property is in Greenfield Village Addition Block 12 Lot 9, commonly known as 6404 Tammy Court and is located north of Linda Street, south of Greenfield Drive and east of Denton Highway. Owner/Applicant is Steven Jones.

ZBA. 22-03: Public hearing to receive comments for or against a request for a Variance to Watauga City Code of Ordinances, Chapter 115 Zoning, Article V, Section 115-118 Subsection (3) (a) which regulates carports must be set back from the sidewalk a minimum of five feet; and consider action as the applicant is seeking a variance to allow for the carport to remain as constructed within the five-foot set back

structed within the five-foot set back.  
The subject property is in Quail Meadows Estates Block 3 Lot 12, commonly known as 7748 Pear Tree Lane and is located north of Starnes Road, south of North Park Drive and east of Whitley Road. Owner/Applicant is Richard Garza Sr.

Published on October 26, 2022, in the Star Telegram, Legal Notices Section. I, Linda Proskey, City Secretary for the City of Watauga, Texas, hereby certify that this notice was posted on the official bulletin board at City Hall, 7105 Whitley Road, Watauga, Texas, on October 26, 2022, before 6:00 p.m., in accordance with Chapter 551 of the Texas Government Code.

/s/ Linda Proskey

Linda Proskey, City Secretary

IPL0095264

Oct 26 2022

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