

## Legislation Details (With Text)

<b>File #:</b>	24-218	<b>Name:</b>	
<b>Type:</b>	Report	<b>Status:</b>	Individual Item Ready
<b>File created:</b>	2/9/2024	<b>In control:</b>	Board of Adjustment
<b>On agenda:</b>	2/22/2024	<b>Final action:</b>	
<b>Title:</b>	ZB23-0023 Hold a public hearing and consider a request for a variance to Sec. 144-5.4 (e) Height. The height of the accessory building shall not exceed the height of the main building in the "B-1A" Conventional and Mobile Home District, currently addressed at 2523 Pahmeyer Road.		

**Sponsors:****Indexes:****Code sections:****Attachments:** 1. Aerial Map, 2. Notification Map, 3. Subject Property Photos, 4. Site Plan

Date	Ver.	Action By	Action	Result
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**PRESENTER:**

Applicant/Owner: Sandra Samayoa

**SUBJECT:**

ZB23-0023 Hold a public hearing and consider a request for a variance to Sec. 144-5.4 (e) Height. The height of the accessory building shall not exceed the height of the main building in the "B-1A" Conventional and Mobile Home District, currently addressed at 2523 Pahmeyer Road.

**BACKGROUND RATIONAL:****Case #:** ZB23-0023

**Applicant:** Sandra Samayoa  
2523 Pahmeyer Road  
New Braunfels, TX 78130  
(361) 944-0190 | ssamaipa@gmail.com

**Staff Contact:** Mary Lovell, Senior Planner  
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The subject property is located at the north side of Pahmeyer Road in Shepherds Glen Subdivision, Block 3, Lot 27. The subject property is approximately 11,326 square feet in area with a lot depth of approximately 200 feet, and a lot width of approximately 56 feet. The property is zoned "B-1A" Conventional and Mobile Home District.

Sec. 144-5.4 of the Zoning Code states that the height of an accessory building shall not exceed the height of the main building on a lot. The current draft of the proposed Land Development Ordinance does not have this restriction to the height of accessory buildings on a residential lot, but rather requires all buildings on a residential lot meet the building height maximum of 35 feet.

Due to the current code requirement, the applicant is requesting a variance of 2 feet to allow the height of an

accessory building to exceed the height of the primary building by 2 feet. The main building is 13 feet in height and the accessory building is 15 feet in height, for a difference of 2 feet.

Section 2.2-3(a) of the Zoning Ordinance states the Board of Adjustment may authorize a variance from the zoning regulations only upon finding all of the following facts:

- 1) That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this Chapter would deprive the applicant of the reasonable use of land;** (The applicant states: “The topography of the lot has a gradual slope being high on the left side and sloping to the right. The garage sits on approved slab on left side of the lot, creating a visual and physical differentiation between actual heights of the building peaks. The primary mobile home structure is shorter than the adjacent duplex residences.” Staff acknowledges that there exists a gradual slope to the property, however, the slope of the property has no bearing on the height difference between the accessory building and the primary dwelling as each is measured from grade.) **and**
- 2) That the variance is necessary for the preservation and enjoyment of a substantial property right of the applicant;** (The applicant states: “The right to use the land by property owner is in effect by means of enjoyment, development as well as storage of ones belongings not limited to but including tools, vehicles, home goods, RVs, trailers, materials and other items related to the improvement and wellbeing of the property owner. The variance will allow the owner to exercise their ability to pursue happiness and wellbeing as considered to adequate living space, relieved by storage in the metal building.” Staff acknowledges that while an accessory building does provide storage of one’s various tools, vehicles or other items, meeting the height requirement would not impede such storage.) **and**
- 3) That the granting of the variance will not be detrimental to the public health, safety or welfare, or injurious to other property within the area;** (The applicant states: “This variance does not pose a threat, danger, nuisance, annoyance or any other forms of negative detriment to the public in any way. The safety and welfare of the public will benefit by way of proper storage of items such as paints, solvents, tools, etc.” Staff acknowledges that the granting of a variance will not be detrimental to the public health, safety or welfare, or injurious to other property within the area.) **and**
- 4) Granting of the variance will not have the effect of preventing the orderly use of other land within the area in accordance with the provisions of this Chapter;** (The applicant states: “The variance will not impede or interfere with another property in any way. There are no easements or other forms of required access. The height of the building is not unusual or so tall as to block, inhibit or prevent another property’s function.” Staff acknowledges that the granting of the variance will not have the effect of preventing the orderly use of other land within the area in accordance with the provisions of this Chapter. Staff notes all neighboring properties are still required to comply with the height requirements for any new construction.) **and**
- 5) That an undue hardship exists;** (The applicant states: “The hardship that exists is due to the lot layout and size, including the topography. This lot is long and narrow, requiring the placement of the building in a way to provide access to the main driveway. This poses a challenge in layout and effective cost implementation. The topography is sloped from left to right giving the appearance of a taller installed height than the mobile home principal building height that sits on the lower side of the lot.” Staff acknowledges that the property is slightly more narrow than adjacent properties and that the primary buildings on adjacent and nearby lots are greater in height than the applicant’s mobile home unit which serves as the primary building on the subject property. Staff notes that the topography on the subject property is not a factor in measuring the height of the structures due to all height is measured from grade.) **and**

**6) That the granting of a variance will be in harmony with the spirit and purpose of these regulations.**

(The applicant states: “Granting this variance will be in synchronicity with the city and its developmental standards. The growth in the city is based on the development of structures in a cost effective manner, which this permit demonstrates as well as contributes to the city's orderly growth. Granting this variance will continue to secure the beneficial interests of public life, health, and welfare in regard to the local community and to the needs of the property owner by reflecting the needs and desires of residences in the community.”)

Per Section 2.2-3 of the Zoning Ordinance, a variance shall not be granted to relieve a self-created or personal hardship, nor based solely on economic gain or loss, nor shall it permit any person the privilege in developing a parcel of land not permitted by Chapter 144 to other parcels of land in the particular zoning district. No variance may be granted which results in undue hardship upon another parcel of land.

**GENERAL INFORMATION:**

**Size:**

Lot area: 11,326 square feet

Mobile home: 1,039 square feet

Lot depth: 200 feet

Lot width: 56 feet

**Variance Request Due to Notice of Violation:**

Yes

**Surrounding Zoning and Land Use:**

North - B-1A and R-1A-6.6, Single-family residences

South - B-1A, R-1A-6.6 Single-family residences

East -B-1A, Single-family residences

West - B-1A and R-1A-6.6, Elementary school

**Notification**

Public hearing notices were sent to 22 owners of property within 200 feet of the subject property.