



**AGENDA**  
**BOARD OF ADJUSTMENT**  
**MONDAY, NOVEMBER 30, 2015**  
**4000 MAIN STREET**

---

The Board of Adjustment will convene into a Regular Meeting at **6:30 p.m.** in the City Hall Chambers at the Municipal Center at which time the following items will be considered:

1. Call to Order
2. Consider approval of the minutes of the Board of Adjustment Meeting of October 7, 2015.
3. Conduct a public hearing and take action on a request for a variance from the setback and building orientation requirements in Chapter 77, Section 400 and Section 500 of the Rowlett Development Code. The subject property is located at 6500 Garner Road, further described as being a 0.4635 acre tract in Charles D Merrell Abstract, No. 957, Rowlett, Dallas County, Texas.
4. Adjournment

NOTE: THE BOARD OF ADJUSTMENT MAY RETIRE AND CONVENE INTO EXECUTIVE, CLOSED SESSION ON ANY MATTER RELATED TO ANY OF THE ABOVE AGENDA ITEMS FOR THE PURPOSES OF PRIVATE CONSULTATION WITH THE CITY ATTORNEY UNDER SECTION 551.071 OF THE TEXAS GOVERNMENT CODE.

NOTE: THE CITY OF ROWLETT MEETING ROOMS ARE ACCESSIBLE IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT AND PARKING SPACES ARE AVAILABLE. REQUESTS FOR ACCOMMODATIONS OR INTERPRETIVE SERVICES MUST BE MADE 48 HOURS PRIOR TO THIS MEETING. PLEASE CONTACT THE PLANNING DEPARTMENT AT 972-463-3949 FOR FURTHER INFORMATION.

A handwritten signature in black ink, appearing to read "Garrett Langford".

Garrett Langford, Principal Planner

**MINUTES OF THE BOARD OF ADJUSTMENT OF THE CITY OF ROWLETT, TEXAS  
HELD IN THE ROWLETT CITY HALL CHAMBERS,  
4000 MAIN STREET, ROWLETT, TEXAS  
October 7, 2015**

**PRESENT:** Chairman Raymond Moyer, Board Members Chris Kizziar, Robert Vickers, Kellie McKee, Alternates Frixmon Michael, Jerry Hayes, Mike Rasmussen

**ABSENT:** Board Member Tony Brown

**STAFF PRESENT:** Principal Planner Garrett Langford, Development Services Technician Lorie Strickland

**OTHERS PRESENT:** City Attorney David Berman

**WORK SESSION**

**i. Call to Order**

Chairman Raymond Moyer called the Work Session to order at 6:00 p.m.

**ii. Administer the Oath of Office and the Statement of Elected/Appointed Officer to the newly appointed and reappointed members**

Laura Hallmark administered the Oath of Office to the newly appointed and reappointed members. Documentation for the Statement of Elected Appointed Officer and Confidentiality Form were processed.

**iii. Board of Adjustment Orientation**

Garrett Langford, Principal Planner, gave a presentation on the duties and the requirements of the Board of Adjustments. David Berman, City Attorney, passed out the Board of Adjustment Handbook and summarized the guidelines on voting, open meetings, variances, and member conduct.

**iv. Discuss items on the regular agenda**

No items were discussed.

**v. Adjournment**

A motion was made to adjourn the Work Session by Ray Moyer. Member Kizziar seconded the motion. The motion carried and the Work Session was adjourned at 6:57 p.m.

**REGULAR MEETING**

**PRESENT:** Chairman Raymond Moyer, Board Members Chris Kizziar, Robert Vickers, Kellie McKee, Alternates Frixmon Michael, Jerry Hayes, Mike Rasmussen

**ABSENT:** Board Member Tony Brown

**MINUTES OF THE BOARD OF ADJUSTMENT OF THE CITY OF ROWLETT, TEXAS  
HELD IN THE ROWLETT CITY HALL CHAMBERS,  
4000 MAIN STREET, ROWLETT, TEXAS  
October 7, 2015**

**STAFF PRESENT:** Principal Planner Garrett Langford, Development Services Technician Lorie Strickland

**OTHERS PRESENT:** City Attorney David Berman

**1. Call to Order.**

Chairman Raymond Moyer called the Regular Meeting to order at 7:00 p.m.

**2. Elect a Chairman and Vice-Chairman**

Member Chris Kizziar made a motion to elect Raymond Moyer as Chairman, Member Robert Vickers seconded the motion. The motion passed 5-0.

Member Robert Vickers made a motion to elect Chris Kizziar as Vice-Chairman, Alternate Member Frixmon Michael seconded the motion. The motion passed 5-0.

**3. Consider approval of the minutes of the Board of Adjustment Meeting of July 27, 2015.**

Member Robert Vickers made a motion to approve the minutes. Alternative Member Frixmon Michael seconded the motion. Member Kelli McKee abstained from the vote. The item passed 4-0.

**4. Conduct a public hearing and consider a request for a Special Exception to allow a multi-tenant monument sign to exceed the maximum height and size. The subject property is located at 3001 Lakeview Parkway, further described as a 12.608-acre tract of land from the Reason Crist Survey, Abstract No. 225 and the U. Matthusen Survey, Abstract No. 1017, City of Rowlett, Dallas County, Texas.**

Garrett Langford, Principal Planner, came forward to present the case. He presented background information on the request including the location map, the code requirements, and the proposed monument sign. Mr. Langford briefly presented the staff analysis and stated that staff recommends approval of the request.

Mr. Langford stated that 40 public notices were mailed out and two were returned in favor of the request.

There was additional discussion amongst the Board regarding Oncor's easement, flood plan, sign visibility, the distance from the easement to the sign and the number of slots on the monument sign.

Chairman Raymond Moyer opened the public hearing.

**David Williams**

**MINUTES OF THE BOARD OF ADJUSTMENT OF THE CITY OF ROWLETT, TEXAS  
HELD IN THE ROWLETT CITY HALL CHAMBERS,  
4000 MAIN STREET, ROWLETT, TEXAS  
October 7, 2015**

**Starlite Sign  
7920 McKinney St  
Denton, TX 76028**

Mr. Williams came forward and answered the questions regarding the number of slots on the proposed monument sign and addressed the visibility of the sign.

Chairman Raymond Moyer closed the public hearing.

Vice-Chairman Chris Kizziar made a motion to approve. Member Kelli McKee seconded the motion and the item passed 5-0.

**5. Adjournment**

Member Robert Vickers made a motion to adjourn. Member Kellie McKee seconded the motion. The motion to adjourn passed 5-0. The meeting was adjourned at 7:24 p.m.

---

**Chairman- Raymond Moyer**

---

**Secretary**

---

**Date**



**AGENDA DATE:** 11/30/2015

**AGENDA ITEM:** 3

**AGENDA LOCATION:**

Individual Consideration

**TITLE**

Conduct a public hearing and take action on a request for a variance from the setback and building orientation requirements in Chapter 77, Section 400 and Section 500 of the Rowlett Development Code. The subject property is located at 6500 Garner Road, further described as being a 0.4635 acre tract in Charles D Merrell Abstract, No. 957, Rowlett, Dallas County, Texas.

**STAFF REPRESENTATIVE**

Garrett Langford, AICP, Principal Planner

**SUMMARY**

The applicants are requesting a variance from the setback and building orientation requirements outlined in Chapter 77, Section 400 and Section 500 of the Rowlett Development Code (RDC). The applicants are proposing to construct a new single family home at 6500 Garner Road (Attachment 1 – Location Map and Attachment 2 – Applicant’s Request). The proposed single family home will be situated on the property facing east instead of facing Windward View Drive. In Staff’s opinion, the request generally meets the criteria for a variance as prescribed by the RDC.

**BACKGROUND INFORMATION**

The applicants are proposing to construct a new single family home on a 19,047 square-foot tract of land that has frontage on Windward View Drive (Attachment 3 – Plot Plan). The applicants are requesting a variance to allow a new single family home to face the east property line instead of facing Windward View Drive and to allow a 35-foot by 35-foot front setback at the southeast corner of the property.

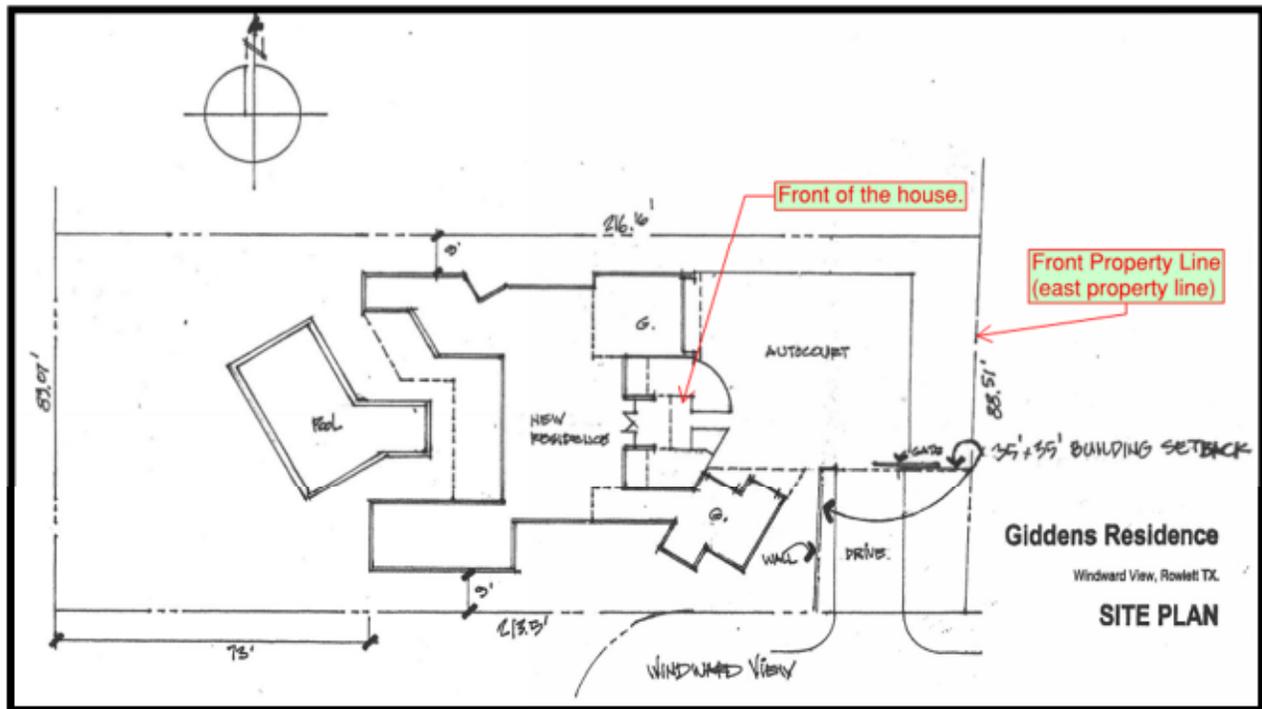
The property is currently addressed as 6500 Garner Road; however, should a new home be permitted it will be assigned a Windward View Drive address. The property is zoned Single Family Residential 20 (SF-20) which requires a minimum lot size of 20,000 square feet. The size and shape of the subject property was created before the property was zoned SF-20 in 2006 making the property legal nonconforming. The RDC allows legal nonconforming residential properties to be developed as long as it meets the setback and lot coverage requirements of the residential zoning district with the largest lot area requirement to which the property would be conforming. The subject property is 19,047 square feet in size; therefore, the property will follow the Single Family 15 setback and lot coverage requirements. SF-15 requires a front setback of 30 feet, side yard setback of 10% of the lot width and a rear setback of 30 feet or 30% of the lot

depth whichever is less. This legal nonconforming provision allows an undersized property to be developed without requiring the property owner to acquire additional land.

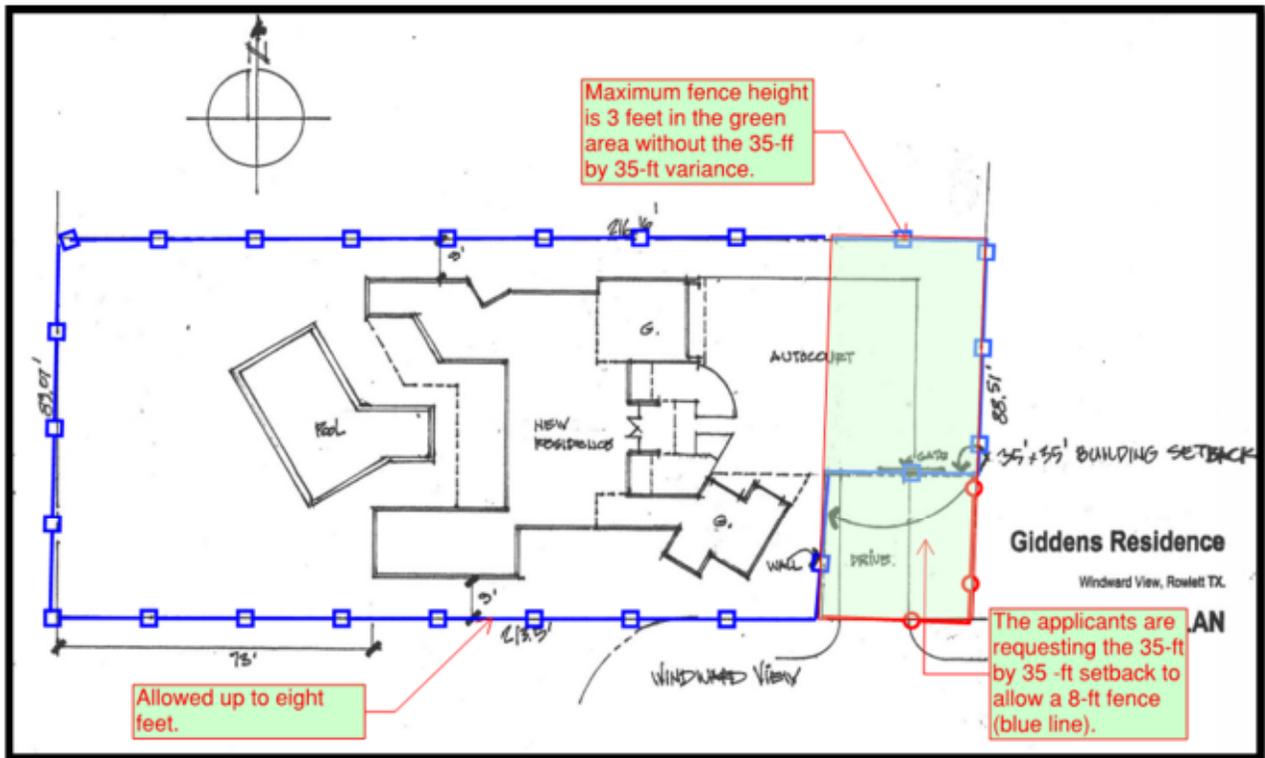
The rectangular shaped property is bounded by Windward View Drive to the southeast, a vacant residential lots to the east and to the north. To the southwest, the property is bounded by a residential lot occupied by a single family home and to the west is a small vacant parcel owned by the Vue De Lac Homeowners Association, which is the homeowner association for the residential subdivision located to the south of the subject the property.

While the property has 50.3 feet of frontage on Windward View Drive, its deepest dimension is not perpendicular to Windward View Drive. Normally, the longest dimension of a residential property is perpendicular to the street where its depth is larger than its width. In this case, the subject property's width is larger than its depth. The orientation of the property is parallel to Windward View Drive. As a result, this has created an unusual situation in determining the setbacks and how the home should be oriented on the subject property.

The RDC allows the property owner to establish the front property line subject to approval by City staff. The proposed layout will establish the east property line as the front property line. This results in a 30-foot front setback being measured from the east property line, nine-foot side yard setbacks measured from the north and south property lines and a 30-foot rear setback measured from the west property line. The proposed home can fit within these setbacks without a variance. However, the residential architectural requirements in the RDC, which are separate from the dimensional requirements, require that single family homes have their entrance face street. As a result, a variance is still needed to allow the home to be oriented towards the east property line instead of Windward View Drive.



The applicants are also requesting a 35-foot by 35-foot front setback at the southeast corner of the property in order to allow for an eight-foot tall fence to run towards the east property line as shown on the image in the blue line. Fences are allowed up to eight feet in height along the property lines except in the front yard where it is limited to three feet in height. Without this variance, a fence no taller than three feet will be permitted within 30 feet of the east property line. The fence height requirements are in Chapter 78 of the Rowlett Municipal Code which does not provide a variance option to the fence height requirements. The Board cannot grant a variance to the fence height requirements; however, the Board could grant a variance on where the front building line is located which in turn will dictate where an eight-foot tall fence may be placed.



## DISCUSSION

Section 77-812 of the *Rowlett Development Code* (RDC) states specific criteria that should be considered when granting a variance as seen below:

*The variance process is intended to provide limited relief from the requirements of this Code in those cases where strict application of a particular requirement will create an unnecessary hardship prohibiting the use of land in a manner otherwise allowed under this Code. It is not intended that variances be granted merely to remove inconveniences or financial burdens that the requirements of this Code may impose on property owners in general. Rather, it is intended to provide relief where the requirements of this Code render the land difficult or impossible to use because of some unique physical attribute of the property itself*

*or some other factor unique to the property for which the variance is requested. State and/or federal laws or requirements may not be varied by the city.*

Section 77-812 of the RDC defines a variance as seen below:

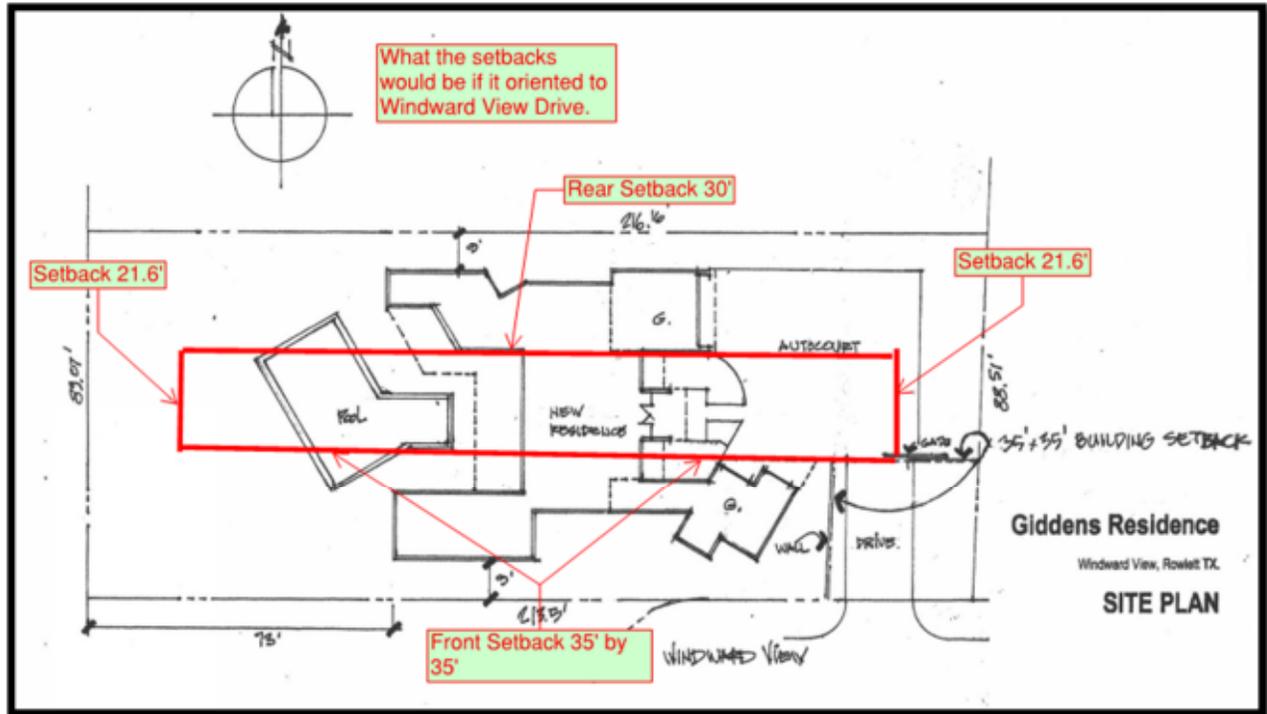
*A variance is an exemption from the literal terms of a zoning ordinance that avoids an unnecessary hardship caused by the special conditions associated with the property. The unnecessary hardship must be unique to the property, arising from topographical, geographical, physical, or dimensional features of the property, and not the owner or occupant. A variance is appropriate in unique circumstances to allow limited exemptions from setbacks, lot width, lot depth, coverage, floor area ratio, sidewalks, home size, lot size, signs and similar regulations and shall not be granted based on market conditions, economic factors, or profitability, marketability or feasibility of development on the property. A variance shall not be granted if contrary to the public interest, and if granted, the spirit of the regulations must be observed and substantial justice done.*

Section 77-812 further states that, “if a variance is authorized, the variance shall represent the least deviation from the regulations that will afford relief.”

Staff’s commentary is provided in bold, italics below:

***A variance is intended to grant relief from a zoning requirement where its enforcement would result in a hardship due to unique conditions on the property. To grant a variance, an applicant must be able to show that there is a physical condition unique to their property that would make it difficult to use and comply with the requirements. In review of this request, Staff found physical conditions unique to the subject property. The shape and orientation of the property in relation to Windward View Drive is a unique condition that requires relief in order develop the property.***

***The RDC requires single family homes to be oriented towards the street which in this case would require the home to face Windward View Drive. However, the depth of the property measured from Windward is only 89 feet, which does not allow enough depth to construct a home facing Windward View Drive. As previously indicated, the RDC allows the property owner to establish the east property line as the front property line. The variance to the orientation requirement would allow the home to be built in accordance with the setbacks established by using the east property line as the front building line. The variance request from the orientation requirement, in Staff’s opinion, meets the criteria for a variance. The image bellows what the setbacks would be if the property was oriented towards Windward Drive.***



*The applicants are also requesting a 35-foot by 35-foot front building line to accommodate an eight-foot tall fence up to the east property line. Given the unusual orientation of the subject property, an eight-foot tall fence would not be allowed along the eastern property line since it would be considered as the front property line and any fencing would be limited to 3 feet in height. It is not uncommon for larger estate properties to have a six to eight foot tall fence built at the front building line across the front of the property to provide gated access. The applicants would like to have the same opportunity to provide a gated entrance on their estate lot. Staff acknowledges the applicants' desire to have a gated entrance and agrees that the unusual orientation of the property creates an unusual circumstance. However, based on the criteria for a variance listed above, staff cannot fully support this portion of the applicants' variance request. Unlike the orientation variance, the setback variance does not, in staff's opinion, "create an unnecessary hardship prohibiting the use of land in a manner otherwise allowed under this Code". To prohibit the applicants from building a single family home on the subject property due to the orientation requirement would be "prohibiting the use of land in a manner otherwise allowed under this Code". However, having a front entry gate is not necessarily considered a use allowed by right. Fence height and placement is contingent on the front setback on any lot within the City. Should this part of the variance request be denied, the applicants still have the ability to construct a fence in accordance with the City's standards. For those reasons, staff cannot fully support this part of the variance request.*

**Public Notice**

Notices of this request were mailed to property owners within 200 feet. On November 13, 2015, a total of 24 notices were mailed. As of November 24, 2015, one response has been returned in favor of the request and two were received in favor of the variance for the orientation but were opposed to modifying the setback.

**FISCAL IMPACT/BUDGET IMPLICATIONS**

N/A

**RECOMMENDED ACTION**

Staff recommends approval of the request to allow the home to be oriented towards the east property line.

**ATTACHMENTS**

Attachment 1 – Location Map

Attachment 2 – Applicant's Request

Attachment 3 – Plot Plan

Attachment 4 – Site Pictures

Attachment 5 – Returned Public Notices



**6500 Garner, Rowlett Texas**  
**Variance Request Submission**

**Purpose of the Variance Request:**

The subject property was originally subdivided as part of a tract fronting on Garner Road, municipally known as 6500 Garner. It was the intent of the developer that this and adjacent properties were to have access to Garner by way of an access easement running along the easterly boundary of these lots. In reviewing the recent minor plat of this easement, there was no provision made to allow access to the subject property.

Accordingly, access to this lot will be required off of Windward View Drive which touches the SE corner of the lot.

Due to configuration issues, it is not possible to apply standard front yard setback requirements to this property.

**Hardship:**

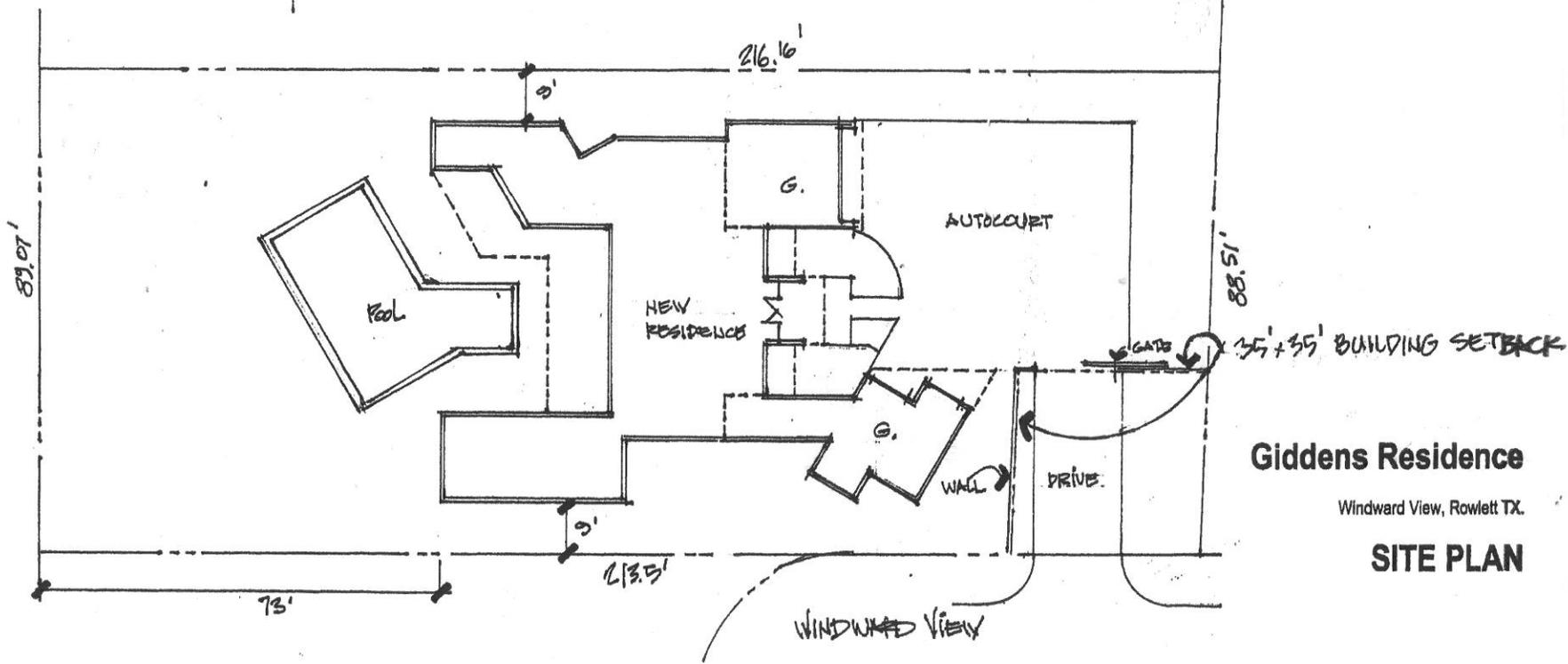
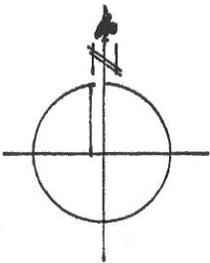
If the lot was situated perpendicular to Windward View, It would be possible to establish a standard front yard setback based on the standards of the Zoning Ordinance. Since it is oriented East-West and most of the lot parallels the southerly properties that face the Lake, it is impossible to apply these standards. A front setback easement configuration can be agreed upon which can be incorporated into the required residential plat.

**Zoning Ordinance, Public Interest and Substantial Justice:**

The Zoning Ordinance cannot contemplate all unusual setback issues such as those identified by this property. By applying the 35' setback standards in two directions at the corner of the lot satisfies the intent of the Ordinance and will be in the public interest by not creating unusual lot restrictions or building constraints. Any other delineation of a front yard setback will be both visually unacceptable and seriously impact the Owner's ability to design and construct a home with a reasonable footprint.

**Impact on Neighboring Properties:**

This proposal will have no impact on the adjacent properties. In both directions the contemplated setbacks respect existing conditions. The north property, which is currently unbuilt, will have a front setback which parallels its own. The home to the south is setback considerably due to the curvature of Windward View. The driveway access to 6500 will occur within the front setback easement and the balance of the southerly lot boundary will be landscaped.



**Giddens Residence**  
 Windward View, Rowlett TX.  
**SITE PLAN**

WAAL ARCHITECTURE

1"=20'

REV. 9.28.15

9.15.15

© 2015 A. Ross

6500 Garner Drive

---



Picture from Windward View Dr facing northwest



Picture from Windward View Dr facing northeast

6500 Garner Drive

---





Department of Development Services

**NOTICE OF PUBLIC HEARING FOR VARIANCE**

**TO:** Property Owner  
**RE:** Application for a Variance

**LOCATION:** The subject property is located at 6500 Garner Road, further described as being a 0.4635 acre tract in Charles D Merrell Abstract, No. 957, Rowlett, Dallas County, Texas. A location map depicting the 200 foot notification area is attached for reference. This notice and the notification area are required under Chapter 211.010 of the Texas Local Government Code.

**EXPLANATION OF REQUEST:** The applicant is requesting variances to the setback and building orientation requirements outlined in Chapter 77, Section 400 and Section 500 of the Rowlett Development Code. The applicant is proposing to construct a new single family home that will be oriented towards the east property line instead of Windward View.

- I AM IN FAVOR OF THE REQUEST FOR THE FOLLOWING REASONS:
- I AM OPPOSED TO THE REQUEST FOR THE FOLLOWING REASONS:

**COMMENTS:** HAVING LIVED HERE 20 YRS WE THINK THE REQUEST/ ORIENTATION IS THE BEST FOR THAT PROPERTY. LOOK FORWARD TO NEW NEIGHBORS

**ADDRESS:** 2409 WINDJAMMER WAY

Your written comments are being solicited in the above case. Additional information is available through the Department of Development Services located at 3901 Main Street. The Board of Adjustment will hold a public hearing and may take final action on the above case at **6:30 p.m. on Monday, November 30, 2015**. The meeting will be in the City Council Chambers, located at 4000 Main Street, Rowlett, Texas.

Please respond legibly in ink. If the signature and/or address is missing, your comments will not be recorded. Your response must be received in the Department of Development Services by **5:00 pm on Monday, November 23, 2015**, for your comments to be included in the Board Members packet. Responses received after that time will be forwarded to the Board at the respective public hearing.

If you have any questions concerning this request, please contact  
 Garrett Langford in the  
 Department of Development Services  
 Phone 972-412-6166  
[glangford@rowlett.com](mailto:glangford@rowlett.com)

**RETURN BY FAX OR MAIL**  
 City of Rowlett  
 Department of Development Services  
 PO Box 99  
 Rowlett, TX 75030-0099  
 FAX 972-412-6228



Department of Development Services

NOTICE OF PUBLIC HEARING FOR VARIANCE

TO: Property Owner
RE: Application for a Variance

LOCATION: The subject property is located at 6500 Garner Road, further described as being a 0.4635 acre tract in Charles D Merrell Abstract, No. 957, Rowlett, Dallas County, Texas. A location map depicting the 200 foot notification area is attached for reference. This notice and the notification area are required under Chapter 211.010 of the Texas Local Government Code.

EXPLANATION OF REQUEST: The applicant is requesting variances to the setback and building orientation requirements outlined in Chapter 77, Section 400 and Section 500 of the Rowlett Development Code. The applicant is proposing to construct a new single family home that will be oriented towards the east property line instead of Windward View.

Both [X] I AM IN FAVOR OF THE REQUEST FOR THE FOLLOWING REASONS: Orientation
[X] I AM OPPOSED TO THE REQUEST FOR THE FOLLOWING REASONS: Setback

COMMENTS: I am in favor of the building orientation variance towards the east property line with the understanding that a sidewalk will be built on the Winward View side. I am opposed to the setback variance as there is sufficient area to build the home on the lot using the 35' requirement once the orientation variance is approved.

ADDRESS: 6602 Garner RD, Rowlett TX 75088-6292

[Handwritten signature]

[Handwritten signature]

Your written comments are being solicited in the above case. Additional information is available through the Department of Development Services located at 3901 Main Street. The Board of Adjustment will hold a public hearing and may take final action on the above case at 6:30 p.m. on Monday, November 30, 2015. The meeting will be in the City Council Chambers, located at 4000 Main Street, Rowlett, Texas.

Please respond legibly in ink. If the signature and/or address is missing, your comments will not be recorded. Your response must be received in the Department of Development Services by 5:00 pm on Monday, November 23, 2015, for your comments to be included in the Board Members packet. Responses received after that time will be forwarded to the Board at the respective public hearing.

Table with 2 columns: Contact information for Garrett Langford and Return by Fax or Mail information for the Department of Development Services.



Department of Development Services

NOTICE OF PUBLIC HEARING FOR VARIANCE

TO: Property Owner
RE: Application for a Variance

LOCATION: The subject property is located at 6500 Garner Road, further described as being a 0.4635 acre tract in Charles D Merrell Abstract, No. 957, Rowlett, Dallas County, Texas. A location map depicting the 200 foot notification area is attached for reference. This notice and the notification area are required under Chapter 211.010 of the Texas Local Government Code.

EXPLANATION OF REQUEST: The applicant is requesting variances to the setback and building orientation requirements outlined in Chapter 77, Section 400 and Section 500 of the Rowlett Development Code. The applicant is proposing to construct a new single family home that will be oriented towards the east property line instead of Windward View.

Both [checked] I AM IN FAVOR OF THE REQUEST FOR THE FOLLOWING REASONS: Orientation
[checked] I AM OPPOSED TO THE REQUEST FOR THE FOLLOWING REASONS: Setback

COMMENTS: I am in favor of the building orientation variance towards the east property line with the understanding that a sidewalk will be built on the Winward View side. I am opposed to the setback variance as there is sufficient area to build the home on the lot using the 35' requirement once the orientation variance is approved. Property owner should have reviewed Chapter 98, Article II, Section 98-51 prior to clearing protected trees.

ADDRESS: 6500 Garner RD, Rowlett TX 75088 (TR 74.1)

Your written comments are being solicited in the above case. Additional information is available through the Department of Development Services located at 3901 Main Street. The Board of Adjustment will hold a public hearing and may take final action on the above case at 6:30 p.m. on Monday, November 30, 2015. The meeting will be in the City Council Chambers, located at 4000 Main Street, Rowlett, Texas.

Please respond legibly in ink. If the signature and/or address is missing, your comments will not be recorded. Your response must be received in the Department of Development Services by 5:00 pm on Monday, November 23, 2015, for your comments to be included in the Board Members packet. Responses received after that time will be forwarded to the Board at the respective public hearing.

If you have any questions concerning this request, please contact Garrett Langford in the Department of Development Services Phone 972-412-6166 glangford@rowlett.com

RETURN BY FAX OR MAIL City of Rowlett Department of Development Services PO Box 99 Rowlett, TX 75030-0099 FAX 972-412-6228