

AGENDA
Meeting of the Prosper
Board of Adjustment/Construction Board of Appeals
108 W. Broadway St., Prosper, Texas
Town of Prosper Municipal Chambers
Monday, June 6, 2016, 6:00 p.m.

1. Call to Order / Roll Call.

CONSENT AGENDA

(Items placed on the Consent Agenda are considered routine in nature and are considered non-controversial. The Consent Agenda can be acted upon in one motion. A Board of Adjustment/Construction Board of Appeals member may remove any item for discussion and separate action. The Board of Adjustment/Construction Board of Appeals may vote nay on any single item without comment and may submit written comments as part of the official record.)

2. Consider and act upon minutes from the February 1, 2016, Regular Board of Adjustment/Construction Board of Appeals meeting.

REGULAR AGENDA

(If you wish to address the Board of Adjustment/Construction Board of Appeals during the regular agenda portion of the meeting, please fill out a "Speaker Request Form" and present it to the Building Official prior to the meeting. Citizens wishing to address the Board of Adjustment/Construction Board of Appeals for items listed as Public Hearings will be recognized by the Chair. Those wishing to speak on a non-Public Hearing related item will be recognized on a case-by-case basis, at the discretion of the Board of Adjustment/Construction Board of Appeals.)

3. Conduct a Public Hearing, and consider and act upon a request for a Variance to allow for an existing setback encroachment of an accessory structure on a single family residential lot, located at 12C Grindstone Drive. (V16-0001).
4. Possibly direct Town staff to schedule topic(s) for discussion at a future meeting.
5. Adjourn

Note: The order in which items are heard on the agenda is subject to change.

CERTIFICATION

I, the undersigned authority, do hereby certify that this Notice of Meeting was posted on the inside window at the Town Hall of the Town of Prosper, Texas, a place convenient and readily accessible to the general public at all times, and said Notice was posted on Friday, June 3, 2016, at 5:00 p.m. and remained so posted at least 72 hours before said meeting was convened.

Carol Myers, Deputy Town Secretary

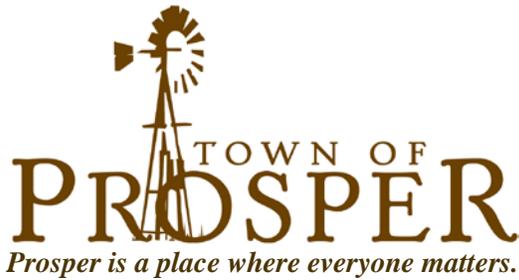
Date Noticed Removed

Pursuant to Section 551.071 of the Texas Government Code, the Board of Adjustment/Construction Board of Appeals reserves the right to consult in closed session with its attorney and to receive legal advice regarding any item listed on this agenda.

NOTICE

Pursuant to Town of Prosper Ordinance No. 13-63, all speakers other than Town of Prosper staff are limited to three (3) minutes per person, per item, which may be extended for an additional two (2) minutes with approval of a majority vote of the Board of Adjustment/Construction Board of Appeals.

NOTICE OF ASSISTANCE AT PUBLIC MEETINGS: The Prosper Board of Adjustment/Construction Board of Appeals Meetings are wheelchair accessible. For special services or assistance, please contact the Town Secretary's Office at (972) 569-1011 at least 48 hours prior to the meeting time.



MINUTES
Meeting of the Prosper
Board of Adjustment/Construction Board of Appeals
108 W. Broadway St., Prosper, Texas
Town of Prosper Municipal Chambers
Monday, February 1, 2016, 6:00 p.m.

1. Call to Order / Roll Call.

Board members present: Bob Wierschem, George Dupont, Tracy Kirl, Ane Casady, Phyllis Hoffschwelle, and Alternate Brent Wells

Staff present: Todd White, Building Official; Alex Glushko, Senior Planner; Jonathan Hubbard, Planner; and Pamela Clark, Planning Technician.

CONSENT AGENDA

2. Consider and act upon minutes from the June 8, 2015 Regular Board of Adjustment/Construction Board of Appeals meeting.

Motioned by Wierschem, seconded by Hoffschwelle, to approve the Consent Agenda. Motion approved 5-0.

REGULAR AGENDA

3. Consider and act upon the appointment of a Chair and Vice-Chair.

Motioned by Kirl, seconded by Dupont, to appoint Bob Wierschem as the Chair. Motion approved 5-0.

Motioned by Dupont, seconded by Kirl, to appoint Ane Casady as the Vice Chair. Motion approved 5-0.

4. Receive training on the duties and obligations of Board members and legal training by the Town Attorney.

Welch: Explained the duties, proceedings, and responsibilities of the Zoning Board of Adjustment according to Local Government Code, which includes the following: special exceptions to the Zoning Ordinance, what qualifies as a hardship or variance, reconstruction of non-conforming uses, and interpretation of Zoning Ordinance regulations. Offered definitions and examples of variances, hardships, and uses. Cited scenarios in which the Town or any citizen may appeal the Board's decision. Explained the duties, proceedings, and responsibilities of the Construction Board of Appeals, which includes reviewing determinations made by the Building Official regarding a technical issue or code and interpretations of any building related code.

5. Possibly direct Town staff to schedule topic(s) for discussion at a future meeting.

No items were discussed.

6. Adjourn

Motioned by Wierschem, seconded by Hoffschwelle, to adjourn. Motion approved 5-0 at 6:50 p.m.

Pamela Clark, Planning Technician

Chair, Vice-Chair



DEVELOPMENT SERVICES

To: Board of Adjustment

From: Alex Glushko, AICP, Senior Planner

Through: John Webb, AICP, Director of Development Services

Re: Board of Adjustment Meeting – June 6, 2016

Agenda Item:

Conduct a Public Hearing, and consider and act upon a request for a Variance to allow for an existing setback encroachment of an accessory structure on a single family residential lot, located at 12C Grindstone Drive. (V16-0001).

Description of Agenda Item:

The subject property has an existing single family residential home that was built in 1985, and an accessory building/pool house that was built in 2009. The property owner recently discovered that the pool house was built over the required 40-foot front building setback line, and therefore is seeking a Variance to allow for the encroachment to be legally allowed.

In 2009, the property owner submitted a permit to the Town for the construction of the pool house. The permit and associated plans showed the pool house setback behind the front building setback, and the field inspection for the location of the foundation was approved by the Town, and the pool house was ultimately finalized by the Town, without knowledge of the setback encroachment, resulting in an encroachment of 6.8 feet over the front 40 foot building line as shown on the property survey (Attachment 2).

According to the Zoning Ordinance, the Board of Adjustment may consider, in specific cases, a variance of height, yard, area, exterior structure, lot coverage, off-street parking and loading requirements from the terms of the Zoning Ordinance, if the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of the Ordinance would result in unnecessary hardship, and so that the spirit of the Ordinance is observed and substantial justice is done. In order to make a finding of hardship and to grant a variance, the Board of Adjustment must determine that the following four (4) criteria have been met:

1. The requested variance does not violate the intent of the Zoning Ordinance or its amendments; and
2. Special conditions of restricted area, shape, topography, or physical features exist that are peculiar to the subject parcel of land and are not applicable to other parcels of land in the same zoning district; and
3. The hardship is in no way the result of the applicant's own actions; and

4. The interpretation of the provisions in the Zoning Ordinance or its amendments would deprive the applicant of rights commonly enjoyed by other properties, in the same zoning district, that comply with the same provisions.

The applicant has provided a letter with responses to each of these criteria which has been included with this packet of information (Attachment 3).

The Town's interpretation is that the applicant has satisfied all the aforementioned criteria necessary for a Variance to be granted. The concurring vote of four (4) members of the Board of Adjustment is necessary to authorize a variation from the terms of the Zoning Ordinance.

Legal Obligations and Review:

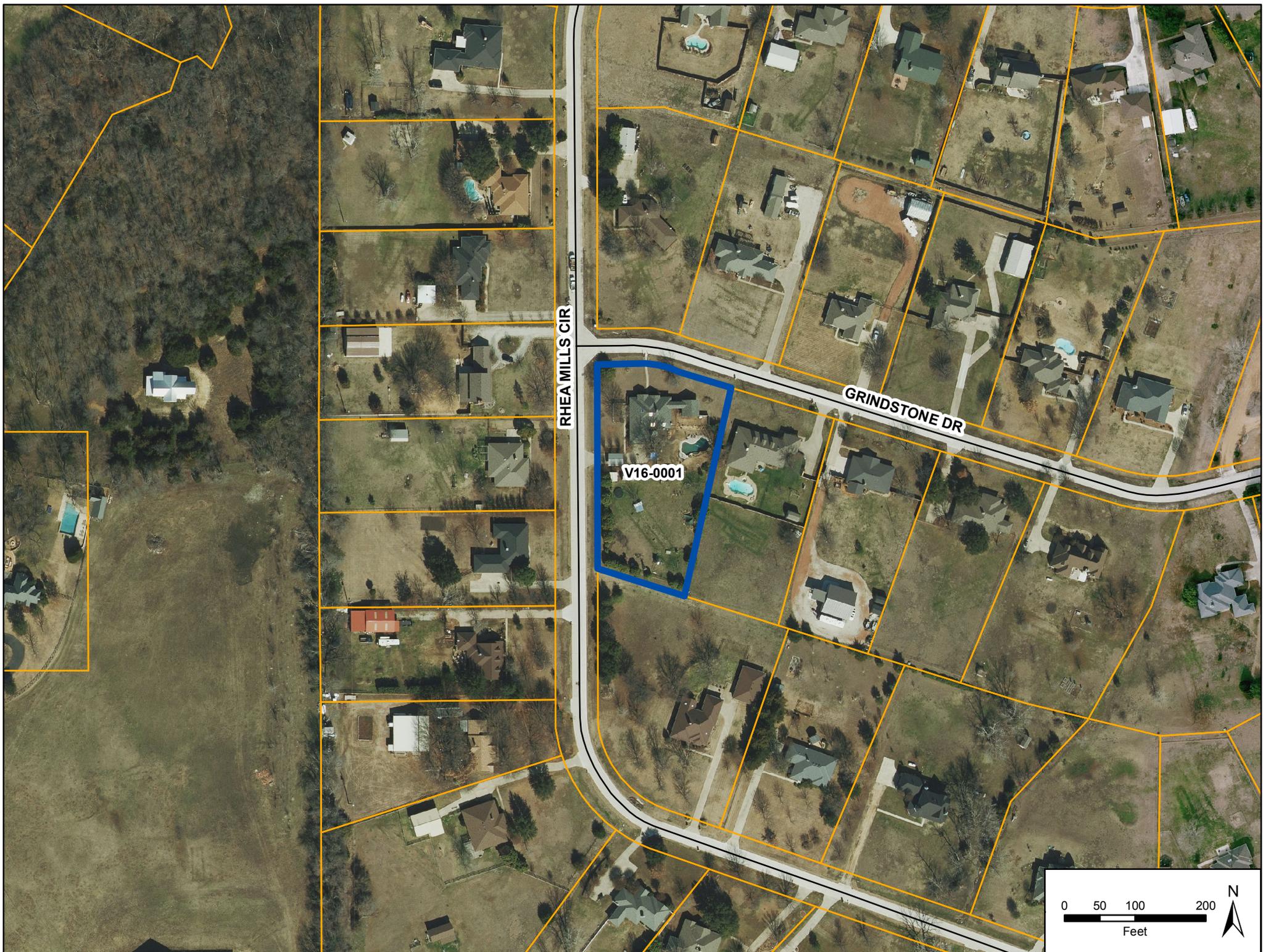
Notification was provided to neighboring property owners as required by the Zoning Ordinance. Town staff has received one (1) Public Hearing Notice Reply Form; not in opposition to the request.

Attached Documents:

1. Location Map
2. Property Survey
3. Applicant Letter
4. Public Hearing Notice Reply Form

Town Staff Recommendation:

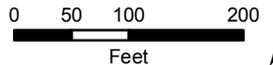
Town staff recommends the Board of Adjustment approve the request for a Variance to the Zoning Ordinance to allow for the existing setback encroachment of an accessory structure on a single family residential lot, located at 12C Grindstone Drive.

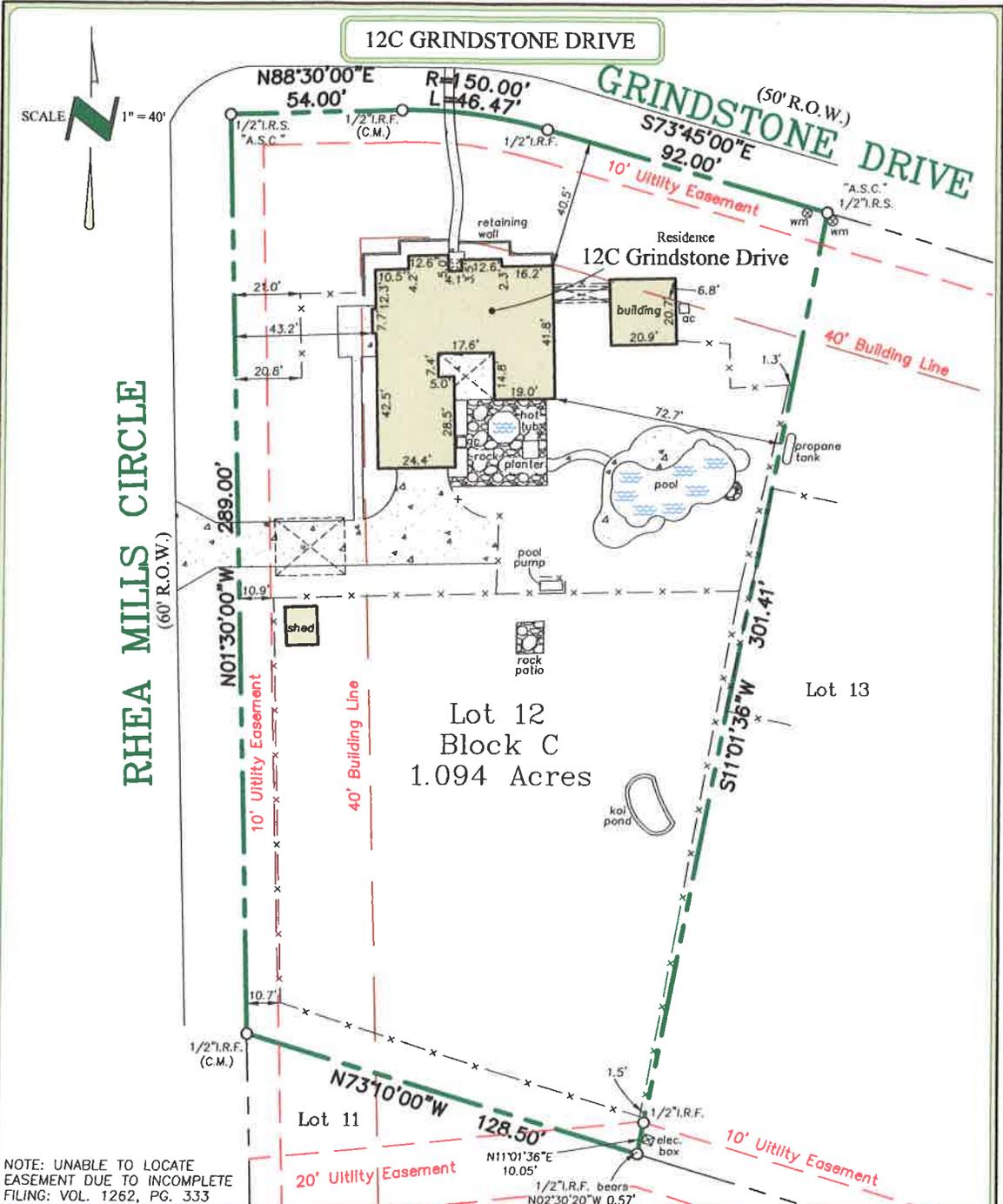


RHEA MILLS CIR

GRINDSTONE DR

V16-0001





NOTE: UNABLE TO LOCATE EASEMENT DUE TO INCOMPLETE FILING: VOL. 1262, PG. 333

PROPERTY DESCRIPTION: LOT 12, IN BLOCK C, OF RHEA MILLS ESTATES, AN ADDITION TO COLLIN COUNTY, TEXAS, ACCORDING TO THE MAP THEREOF RECORDED IN VOLUME F, PAGE 753, MAP RECORDS, COLLIN COUNTY, TEXAS.

The undersigned have/has received and reviewed a copy of this survey.

Date: _____

| | |
|-----------|---------------|
| Date: | May 03, 2012 |
| ASC No. | 120515 |
| Drawn/Chk | jvc |
| Client | Freedom Title |
| G.F. No. | 12015610FM |

LEGEND - C.M.= Controlling Monument; F.I.R.= Found Iron Rod; F.I.P.= Found Iron Pipe; F.C.P.= Fence Corner Post. O.H.E.=Overhead Electric. S.I.R.= Set Iron Rods 1/2" diameter with yellow cap stamped "Arthur Surveying Company". All found iron rods are 1/2" diameter unless otherwise noted. — x — (fence / $\frac{1}{4}$ " fence post) — O — (overhead power)

FLOOD NOTE: It is my opinion that the property described hereon is not within the 100-year flood zone area according to the Federal Emergency Management Agency Flood Insurance Rate Map Community-Panel No. 480141 0140 1, present effective date of map, June 2, 2009, herein property situated within Zone "X" (Unshaded).

SURVEYORS CERTIFICATION:
The undersigned does hereby certify that this survey was this day made on the ground of the property legally described hereon and is correct, and to the best of my knowledge, there are no visible discrepancies, conflicts, shortages in area, boundary line conflicts, encroachments, overlapping of improvements, easements or rights of way that I have been advised of except as shown hereon. The bearings shown hereon are based on the above referenced recorded map or plat unless otherwise noted.



Freedom Title
1624 Long Prairie Road #101
Flower Mound, TX. 75022
Ph. (972) 899-5950
Fax (972) 899-5952



12C Grindstone Drive
Collin County, TX 75078

Arthur Surveying Co., Inc.
Professional Land Surveyors
P.O. Box 64 - Lewisville, Texas 75067
Office: (972) 221-9439 Fax: (972) 221-4876
Established 1988

The Construction Board of Appeals, and/or Board of Adjustment may hear Variances to permit Variances or zoning Variances, including modifications of height, yard, area, coverage, and parking regulations, subject to finding the Variance meets all four of the following criteria:

- There are special circumstances existing on the property on which the application is made related to size, shape, area, topography, surrounding conditions and location that do not apply generally to other property in the same area and the same zoning district.

In 2009 prior to initiating construction on the additional building, we as prudent homeowners made application to the Town of Prosper and obtained what we reasonably believed all necessary approvals to commence construction through the final approval by the Town of Prosper of the improvements. Unbeknownst to the homeowners, the footprint of the additional building apparently partially encroached on the 40 foot building line through no fault of ours. If the proposed footprint was found to be in violation of the building line, it could have easily been moved at the time before the foundation was poured at the request of the Town of Prosper's inspector. The record should note that the inspector made several additional requirements of the contractor before passing the work during various stages of construction. Since no such request was made, our contractor proceeded with the improvements as laid out in good faith.

- That a Variance is necessary to permit the applicant the same rights in the use of this property that are presently enjoyed under the Ordinance, by other properties in the vicinity and zone, but which rights are denied to the property on which the application is made.

The homeowners respectfully request a Variance on the 40 foot building line to allow them continuing use of the property that they have enjoyed since 2009 when the improvements in question were constructed in good faith under the direct supervision and subject to the approval of the inspector of the Town of Prosper. To deny the homeowners this variance under the circumstances would be unjust under the circumstances and would prevent the quiet enjoyment of the property despite their continuing good faith use of the improvements.

- That the granting of the Variance on the specific property will not adversely affect the land use pattern as outlined by the Land Use Plan and will not adversely affect any other feature of the Community Structure Plan of the Town of Prosper.

The homeowner respectfully submits that the alleged violation of the 40 foot building line is minor in nature, and a formal grant of the Variance on the subject property will not adversely affect the land use pattern as outlined by the Land Use Plan. Further, such a Variance will not adversely affect any other feature of the Community Structure Plan of the Town of Prosper.

- That the Variance, if granted, will be no material detriment to the public welfare or injury to the use, enjoyment or value of property in the vicinity.

The homeowner respectfully submits that the Variance, if granted, will have no material detriment to the public welfare or injury to the use, enjoyment or value of the surrounding properties or properties in the vicinity of the homeowners' property. The improvements were well-constructed and will not adversely affect the neighborhood or the property values of the surrounding properties

*Thank you for your consideration,
Bruce & Carolyn Hamilton
Bruce Cell – 214-263-3945*



RECEIVED

JUN 2 2016

TOWN OF PROSPER
DEVELOPMENT SERVICES

DEVELOPMENT SERVICES
DEPARTMENT
409 E. First St.
P.O. Box 307
Prosper, TX 75078
Phone: 972-346-3502

REPLY FORM

SUBJECT:

Variance Case V16-0001: The Town of Prosper has received a request for a Variance to allow for an existing setback encroachment of an accessory structure on a single family residential lot.

LOCATION OF SUBJECT PROPERTY:

The property is located at 12C Grindstone Drive, Prosper, TX 75078.

I OPPOSE the request as described in the notice of public hearing. Please provide a reason for opposition.
 I DO NOT OPPOSE the request as described in the notice of public hearing.

COMMENTS (ATTACH ADDITIONAL SHEETS IF NECESSARY): _____

Patricia A. Spaeth
Name (please print)

Patricia A. Spaeth
Signature

23A Rhea Mills Cr.
Address

June 2, 2016
Date

Prosper Texas 75078
City, State, and Zip Code

pspaeth@swbell.net
E-mail Address

Phone Number (Optional)