

**PHILLIP HOOT**  
Board Member Position 1  
**THOMAS DEEN**  
Board Member Position 2  
**ROD ROTHERMEL**  
Board Member Position 3  
ZBOA Chairman



**DENNIS OIAN**  
Board Member Position 4  
**NETTIE WARREN**  
Board Member Position 5  
**PAT MCCABE**  
Board Member Alternate 1  
**JOHN BLAKEMORE**  
Board Member Alternate 2

**LA PORTE ZONING BOARD OF ADJUSTMENT AGENDA  
THURSDAY, SEPTEMBER 30, 2021  
REGULAR MEETING 6 P.M.**

**CITY COUNCIL CHAMBERS  
LA PORTE CITY HALL, 604 WEST FAIRMONT PARKWAY, LA PORTE, TEXAS, 77571**

To attend remotely, join the Zoom meeting online at:

<https://us02web.zoom.us/j/89829483837?pwd=d3hIMjVyUVhqcENFaEtiUGJpSHFkQT09>

To dial in, call 877-853-5257 or 888-475-4499 and use the meeting ID 898 2948 3837, passcode 127115.

- 
- 1. CALL TO ORDER**
  - 2. ROLL CALL OF MEMBERS**
  - 3. CONSIDER APPROVAL OF THE MEETING MINUTES:**
    - a. Approve the minutes of the meeting held on August 26, 2021.
  - 4. VARIANCE #21-93000004:** Open a public hearing to consider Variance Request #21-93000004, a request by Richard Aguilar, applicant and owner; for a variance to reduce the required setback for a proposed residential pool, on a tract of land located at 760 Corbin Crest Tr. and legally described as Lot 1, Block 1, Morgan's Landing Section 8, Harris County, TX.
    - a. Staff Presentation
    - b. Applicant Presentation
    - c. Public Comments (Limited to 5 minutes per person)
    - d. Question and Answer
  - 5. ADJOURN PUBLIC HEARING**
  - 6. CONSIDERATION:** Consider Variance Request #21-93000004
  - 7. ADMINISTRATIVE REPORTS**
  - 8. BOARD COMMENTS** on matters appearing on the agenda or inquiry of staff regarding specific factual information or existing policy.
  - 9. ADJOURN**

A quorum of City Council members may be present and participate in discussions during this meeting; however, no action will be taken by the Council.

Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services are requested to contact the City Secretary’s office (281-470-5021) three (3) business days prior to the meeting for appropriate arrangements.

**CERTIFICATION**

I do hereby certify that a copy of the **SEPTEMBER 30, 2021** Planning and Zoning Commission agenda was posted on the City Hall bulletin board, a place convenient and readily accessible to the general public at all times, and to the City's website, LaPorteTX.gov, in compliance with Chapter 551, Texas Government Code.

\_\_\_\_\_ Title: \_\_\_\_\_

DATE OF POSTING \_\_\_\_\_

TIME OF POSTING \_\_\_\_\_

TAKEN DOWN \_\_\_\_\_



## **Approval of Meeting Minutes**

---

- a. August 26, 2021

**PHILLIP HOOT**  
Board Member Position 1  
**THOMAS DEEN**  
Board Member Position 2  
**ROD ROTHERMEL**  
Board Member Position 3  
ZBOA Chairman



**DENNIS OIAN**  
Board Member Position 4  
**NETTIE WARREN**  
Board Member Position 5  
**PAT MCCABE**  
Board Member Alternate 1  
**JOHN BLAKEMORE**  
Board Member Alternate 2

## **MINUTES OF THE REGULAR MEETING OF THE LA PORTE ZONING BOARD OF ADJUSTMENT AUGUST 26, 2021**

**The Zoning Board of Adjustment of the City of La Porte met in a regular meeting on Thursday, August 26, 2021, at the City Hall Council Chambers, 604 West Fairmont Parkway, La Porte, Texas, at 6:00 p.m., with the following in attendance:**

**Board Members present:** Chairman, Rod Rothermel; Board Member, Dennis Oian and Board Member, Nettie Warren; Alternate Member, Pat McCabe.

**Board Members absent:** Board Member, Phillip Hoot; Board Member, Thomas Deen; and Alternate Board Member, John Blakemore.

**City Staff present:** Teresa Evans, Planning and Development Director; Ian Clowes, City Planner; Clark Askins, Assistant City Attorney; Chase Stewart, Planning Technician

1. **CALL TO ORDER:** – Chairman Rothermel called the meeting to order at 6:00 p.m.
2. **ROLL CALL OF MEMBERS:** – Chairman, Rod Rothermel; Board Member, Dennis Oian and Board Member, Nettie Warren; and Alternate Member, Pat McCabe were present.
3. **CITIZEN COMMENT** *(Generally limited to five minutes per person; in accordance with state law, the time may be reduced if there is a high number of speakers or other considerations).*

None.

4. **CONSIDER APPROVAL OF THE MEETING MINUTES:**
  - a. **Approve the minutes of the meeting held on May 27, 2021.**

Alternate Board Member McCabe moved to approve the meeting minutes; the motion was adopted, 4-0.

5. **Variance #21-93000003:** Open public hearing to Variance Request #21-93000003, a request by Oakland Land & Development, LLC, applicant and owner; for a variance to allow for a reduction in the side yard setback requirement for a commercial building, on a tract of land located at the 400 Block of N. 11th St. and legally described as Lots 19-28, Block 96, Town of La Porte.

Planning Technician, Chase Stewart, presented the proposed variance request.

Applicant Jeff Burkhalter presented their proposal.

6. **ADJOURN PUBLIC HEARING:** Public Hearing was adjourned at 6:23 PM.

7. **CONSIDERATION:**

Board members discussed the merits of the variance request.

Staff stated that the threshold of proving a hardship had not been met.

Board Member Oian made a motion to approve the requested variance; the motion was adopted, 4-0.

**8. ADMINISTRATIVE REPORTS:**

None.

**9. BOARD COMMENTS regarding matters appearing on the agenda; recognition of community members, city employees, and upcoming events; inquiry of staff regarding specific factual information or existing policies.**

None.

**ADJOURN –** Chairman Rothermel adjourned the meeting at 6:28 PM.

---

Chase Stewart, Zoning Board of Adjustment Secretary

---

Rod Rothermel, Zoning Board of Adjustment Chairman



## Planning and Development Department Staff Report Variance – #21-93000004

---

### DISCUSSION

#### Location:

The subject site is located at 760 Corbin Crest Trace in the Morgan's Landing subdivision in the City of La Porte.

#### Background Information:

The applicant seeks approval of variance request #21-93000004 to construct a residential pool that is setback three (3) feet from an adjacent structure. Per Section 106-748 (1), the minimum setback for a residential pool from an adjacent structure is six (6) feet. The attached Exhibit D is a copy of the application and a letter of explanation submitted by the applicant.

The site area is currently zoned Planned Unit Development (PUD), and is located within the Morgan's Landing subdivision. The applicant has submitted building plans that show the size and location of the proposed pool. Included in the application is a letter from a Professional Engineer (PE) that supports the request for a reduced setback.

The following table summarizes the surrounding zoning and land uses:

	<b>Zoning</b>	<b>Land Use</b>
<b>North</b>	PUD, Planned Unit Development	Single Family Residential
<b>South</b>	PUD, Planned Unit Development	Single Family Residential
<b>West</b>	PUD, Planned Unit Development	Single Family Residential
<b>East</b>	PUD, Planned Unit Development	Single Family Residential

#### Notification Requirements:

Staff finds that the public hearing notification requirements outlined in Section 106-194 were performed in accordance with code provisions, including the following: notice in a newspaper of general circulation at least fifteen (15) days prior to the hearing; written notice mailed to owners of real property within 200 feet of the site within ten (10) days of the hearing; and a sign was posted on site within ten (10) days of the hearing. In accordance with state law, a notice of the public hearing was also posted at City Hall and on the City's website.

#### Applicable Code Provisions:

Section 106-748 (1), stipulates that a residential pool must be located a minimum of six (6) feet from an adjacent structure.

#### Analysis:

The applicant seeks approval of a single variance that would allow for the construction of a residential pool that is three (3) feet from the adjacent residential home. This distance is three (3) feet closer to the home than what is permitted by the City of La Porte's Code of Ordinances.



The required setback is in place to ensure the foundation of the home structure is not compromised during or after the construction of the pool. The applicant has submitted a letter from a licensed PE outlining the safety measures that will be put in place in order to ensure the pool construction does not compromise the integrity of the home structure foundation.

Section 106-192 of the Zoning Ordinance states that the term “variance” represents a deviation from the literal interpretation of the code approved by the Board subject to the fact that enforcement of the provisions of the code would cause an unnecessary hardship because of circumstances unique to the subject property. The Board is authorized to grant a variance when the Board finds that a number of criteria are met. The following table outlines those criteria and staff’s analysis of those criteria:

Criterion:	Staff Finding:
a. That the granting of the variances will not be contrary to the public interest.	Granting this variance would not have a significant impact on the adjacent residential properties. The backyard is adjacent to an existing street and the pool will be setback at least fourteen (14) feet from the rear property line.
b. That literal enforcement of this chapter will result in unnecessary hardship because of exceptional narrowness, shallowness, shape, topography, or other extraordinary or exceptional physical situation unique to the specific piece of property in question. "Unnecessary hardship" shall mean physical hardship relating to the property itself as distinguished from a hardship relating to convenience, financial considerations, or caprice, and the hardship must not result from the applicant or property owner's actions.	The literal enforcement of this chapter has the potential to generate an unnecessary hardship as described in the zoning code, due to the presence of the fourteen (14) foot utility easement running along the rear of the property. Traditional easements are sixteen (16) feet and are shared between adjacent property owners (8 feet on each side).
c. That by granting the variance, the spirit of this chapter will be observed.	The spirit of this chapter will be upheld if the variance is granted.

#### Appeal Procedure:

#### **Sec. 106-196. - Appeals from the board of adjustment.**

Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment, or any taxpayer, or any officer, department, board, or bureau of the city may present to a court of record a petition for a writ of certiorari, as provided by V.T.C.A., Local Government Code § 211.011, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within ten (10) days after the filing of the decision in the office of the Board of Adjustment.

#### **ATTACHMENTS**

- Exhibit A: Area Map
- Exhibit B: Zoning Map
- Exhibit C: Land Use Map
- Exhibit D: Application



# Area Map

Variance  
#21-930000004

760 Corbin Crest

## Legend



Subject Parcel



This product is for informational purposes and may not have been prepared for or be suitable for legal purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries



1 inch = 75 feet

SEPTEMBER 2021  
PLANNING DEPARTMENT





# Zoning Map

Variance  
#21-930000004

760 Corbin Crest

## Legend



Subject Parcel

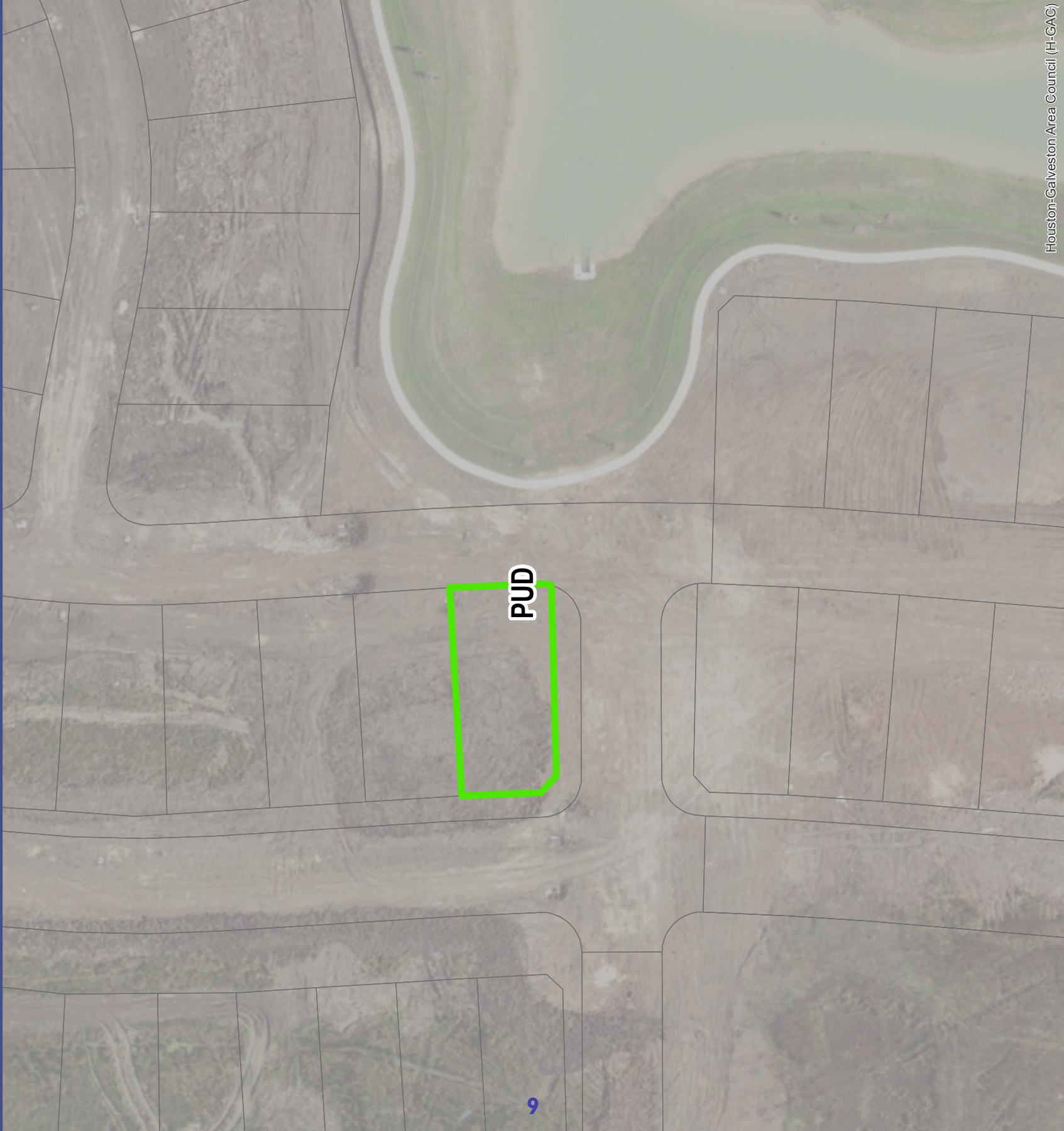


This product is for informational purposes and may not have been prepared for or be suitable for legal purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries



1 inch = 75 feet

SEPTEMBER 2021  
PLANNING DEPARTMENT





# FLUP Map

Variance  
#21-930000004

760 Corbin Crest

## Legend



Subject Parcel

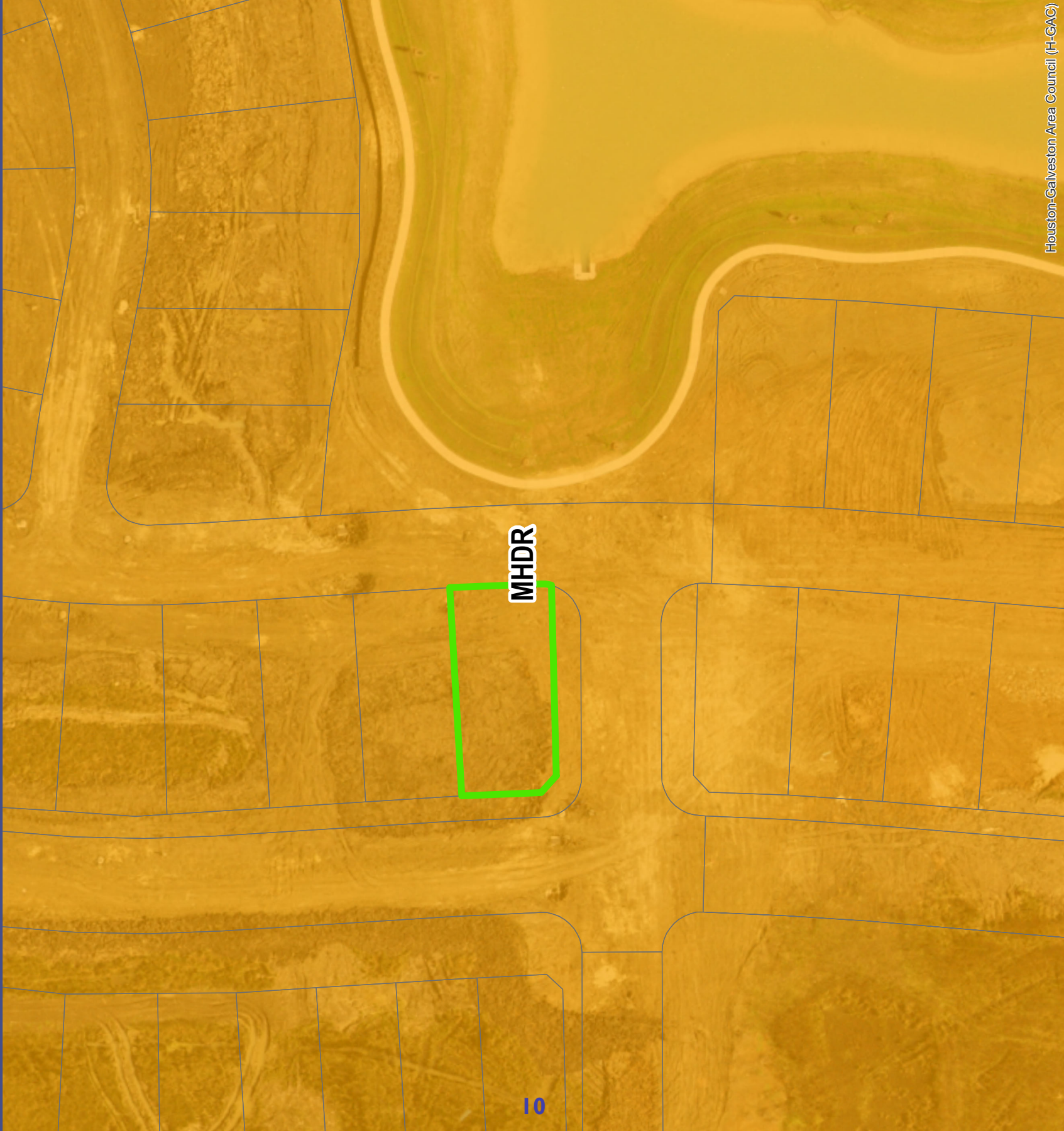


This product is for informational purposes and may not have been prepared for or be suitable for legal purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries



1 inch = 75 feet

SEPTEMBER 2021  
PLANNING DEPARTMENT





# Variance Application

Planning and Development Department

## PROJECT INFORMATION

Address where Variance is being requested: 760 Corbin Crest Tr.  
Legal description where Variance is being requested: Lot 1, Block 1, of Morgan's Landing Subdivision  
HCAD Parcel Number where Variance is being requested: 1410530010001  
Zoning District: \_\_\_\_\_ Lot area: \_\_\_\_\_  
A Variance request is hereby made to the Board of Adjustment of the City of La Porte.  
Description of Request: Permission to build swimming pool 3' waters edge to home foundation with approval and proximity letter provided by engineer.  
Attached hereto is a complete listing of the reason(s) why such Variance should be granted.

## PROPERTY OWNER(S) INFORMATION

Name: Richard Aguilar  
Company (if applicable): Team Aqua Pools (Contractor)  
Address: 760 Corbin Crest Tr.  
City: La Porte, State: Texas Zip: 77571  
Phone: (613) 906-7102 Email: RAguilar13@ATT.NET

## AUTHORIZED AGENT (If other than owner)

Name: \_\_\_\_\_  
Company (if applicable): \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Phone: \_\_\_\_\_ Email: \_\_\_\_\_

## OWNER(S) & AGENT CERTIFICATION

I hereby depose and state under the penalties of perjury that all statements, proposals and/or plans submitted with/or contained in this application are true and correct and the application is complete to the best of my knowledge and belief.

Agent's Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Owner(s)' Signature: Richard Aguilar Date: 8/23/21

### STAFF USE ONLY:

Case Number: 21-93000004

Date Application Received:

08-23-2021





## Variance Application

Planning and Development Department

### REASON(S) FOR VARIANCE REQUEST

1. I am requesting a variance which I feel will not be contrary to public interest.
2. The literal enforcement of setbacks pertaining to Sec. 106-748, -Swimming pools, spas, and hot tubs.; the 6' separation from adjacent structure to water's edge, is creating an unnecessary hardship due to the narrowness of our backyard and 14' utility easement. As it stands, the pool we were hoping to build is only 9' wide to water's edge. The 6' setback will reduce our pool to 6' of water, which will make the project unfeasible.
3. The recent purchase of our home was made under the assumption that an engineer's proximity letter (included in application) would satisfy the city requirements and relieve the city of any liability involved in placing the pool near my home. Our home builder and pool builder both had mentioned that proximity letters were accepted by all other municipalities in surrounding areas and were unaware of the strict adherence of ~~app~~ required setbacks in the City of La Porte.
4. Without the variance request being granted, the narrowness of the property will render our project impossible.
5. By granting this variance, I'm hoping the board will see that the spirit of this chapter will continue to be observed.



Date: July 19, 2021  
Attn: City of LaPorte  
Title: Pool excavation proximity verification to the existing house foundation.  
Project Location: 760 Corbin Crest Trail, LaPorte TX 77571

Scope of Work: Engineering review of the excavation and construction details of new swimming pool within the proximity of the house foundation.

Certification:

I, Navarathinarajah Sivaruban, a licensed professional engineer in the state of Texas (License No.:116051). Do hereby state that, it is my professional opinion that the construction of the proposed new pool excavation did not indicate any structural concerns to the adjacent foundation structure based on the inspection of information that was available at this time. Also, the construction of the pool shall comply as follows:

- Construction of the new pool will be at the above project location on the rear side of the existing house per site plan attached to this letter.
- No excavation permitted within the 30-inch proximity from the edge of the existing house foundation structure and within 24-inch proximity from patio cover post/columns.
- Unsupported excavation shall not exceed 4ft in depth within the 5ft proximity from edge of the house foundation.
- Pool structural walls within the 3 ft proximity of two-story house foundation with depth greater than 4 ft in deep shall have at least 60% increased reinforcement below 3-1/2 ft depth from finish ground elevation.
- Owner and/or the contractor shall meet all applicable local codes and amendment requirements as required and separately arrange for all required city inspections.

Respectively Submitted By  
Navarathinarajah Sivaruban, P.E.  
TBPE License No.:116051  
Civil/Structural Professional Engineer,  
The One P.E. Group, LLC, F-17898

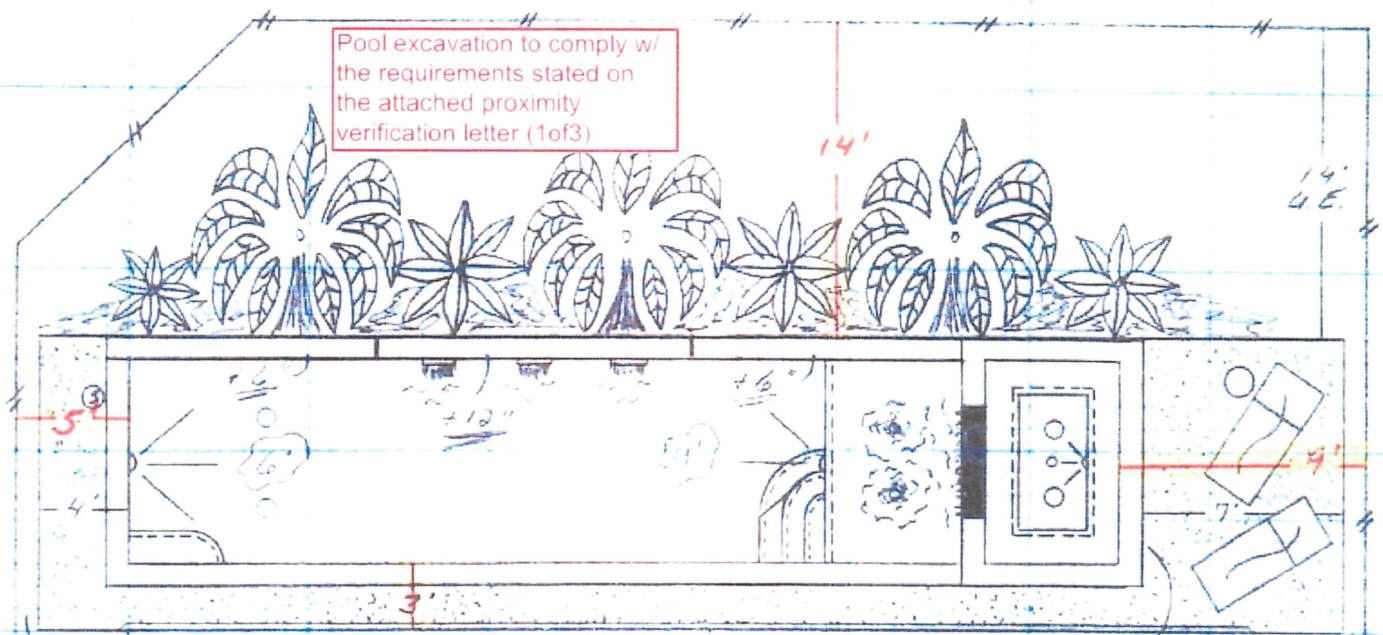


Aguilar Residence  
 460 Corbin Crest Tr.  
 Ln Porte TX 77571

\* Scale: 1/8" = 1'

1 in.

Pool excavation to comply w/  
 the requirements stated on  
 the attached proximity  
 verification letter (1 of 3)



\* Deck & Barrier

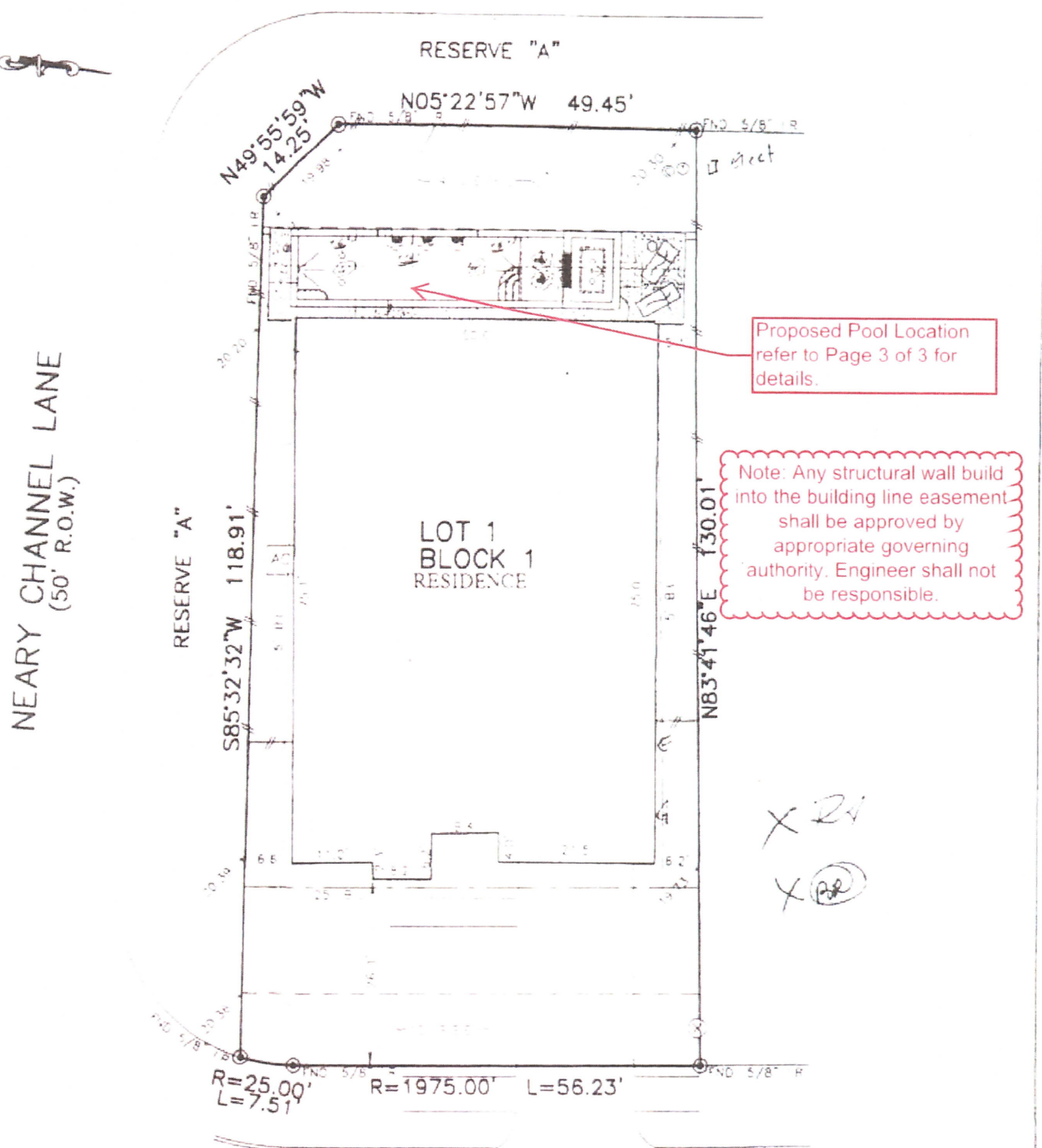
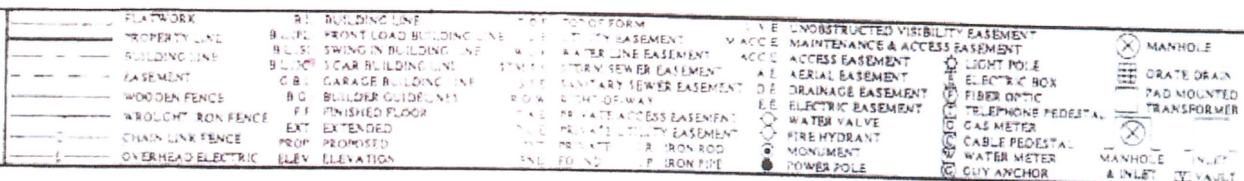
\* 12" Raised Spa

House

\* Heater

\* Dimensions: 44' x 9'  
 Area: 387 sq.  
 Perimeter: 106 LF  
 Decking: 242 sq'

E  
 8  
 4  
 1  
 A



760  
CORBIN CREST TRAIL  
(50' R.O.W.)

# PLAT OF SURVEY

SCALE : = 20



## **Adjournment**

---

- a. Adjourn the meeting.