

**City of Baytown  
Board of Adjustment  
Variance Staff Report**

**June 13, 2023**

**File number:** ZP23050024

**Request:** The applicant is requesting a variance from the Unified Land Development Code (ULDC), Article III. Division 1. Table 3-1 “Property Development Standards” to allow a “front porch enclosure” to encroach 4.4 feet into the minimum required front yard setback of 15 feet.

**Applicant:** Jonathan L Southall

**Owner:** Jonathan L & Deanna Southall

**Subject Property:** 406 E. Hunnicutt Avenue

**Parcel Information:**

Zoning: Mixed Residential at Low to Medium Densities (SF2)  
Use: Single family detached dwelling

**Surrounding Properties Information:**

North: Mixed Residential at Low to Medium Densities (SF2);  
West: Mixed Residential at Low to Medium Densities (SF2);  
East: Mixed Residential at Low to Medium Densities (SF2);  
South: Mixed Residential at Low to Medium Densities (SF2).

**Background:**

The applicant is requesting a variance to allow a front porch enclosure to encroach 4.4 feet into the required front yard setback on the subject property. The property has an existing one-story single-family dwelling, built in 1930, with a front yard setback of 17 feet and an open porch that is setback 10.6 feet from the front property line. According to ULDC, Article III, Division 1, Table 3-1. Property Development Standards, a minimum front yard setback of 15 feet is required in SF2 zoning district from the front wall of the dwelling to the front property line. However, Sec. 3.02 - Design and Compatibility Standards allows front porches to encroach a maximum of 5 feet into the required front yard setback *“open, unenclosed porches that do not project more than five feet into a required front or rear setback or more than two feet into a required side setback may be located within required setbacks so long as they are in conformance with the visibility triangle standards in section 122-3 of the Code of Ordinances.”*

The applicant erected a “front porch enclosure” without obtaining the necessary building permits. The newly-constructed porch enclosure has created a new front wall to the existing house, which encroaches the required front yard setback by 4.4 feet. As such, a code violation case was filed against the applicant in July 2021 and an active hold was placed on the property until corrective action is taken.

An engineering report was submitted in March 2022 in support of the newly-constructed structure and attested to the new structure's compliance to applicable building codes and wind speed design. However, a zoning variance is also required to vary from the encroachment to the front yard setback per ULDC development standards.

The subject property is located within the boundaries of Wright W. P. subdivision, and predominantly surrounded by single-family dwellings from each side. The existing house was built in 1930 with 908 square feet. The subject property is located within the mid-block bounded by 4<sup>th</sup> Street and 5<sup>th</sup> Street, north of Hunnicutt Avenue with a lot area of 0.11 acres.

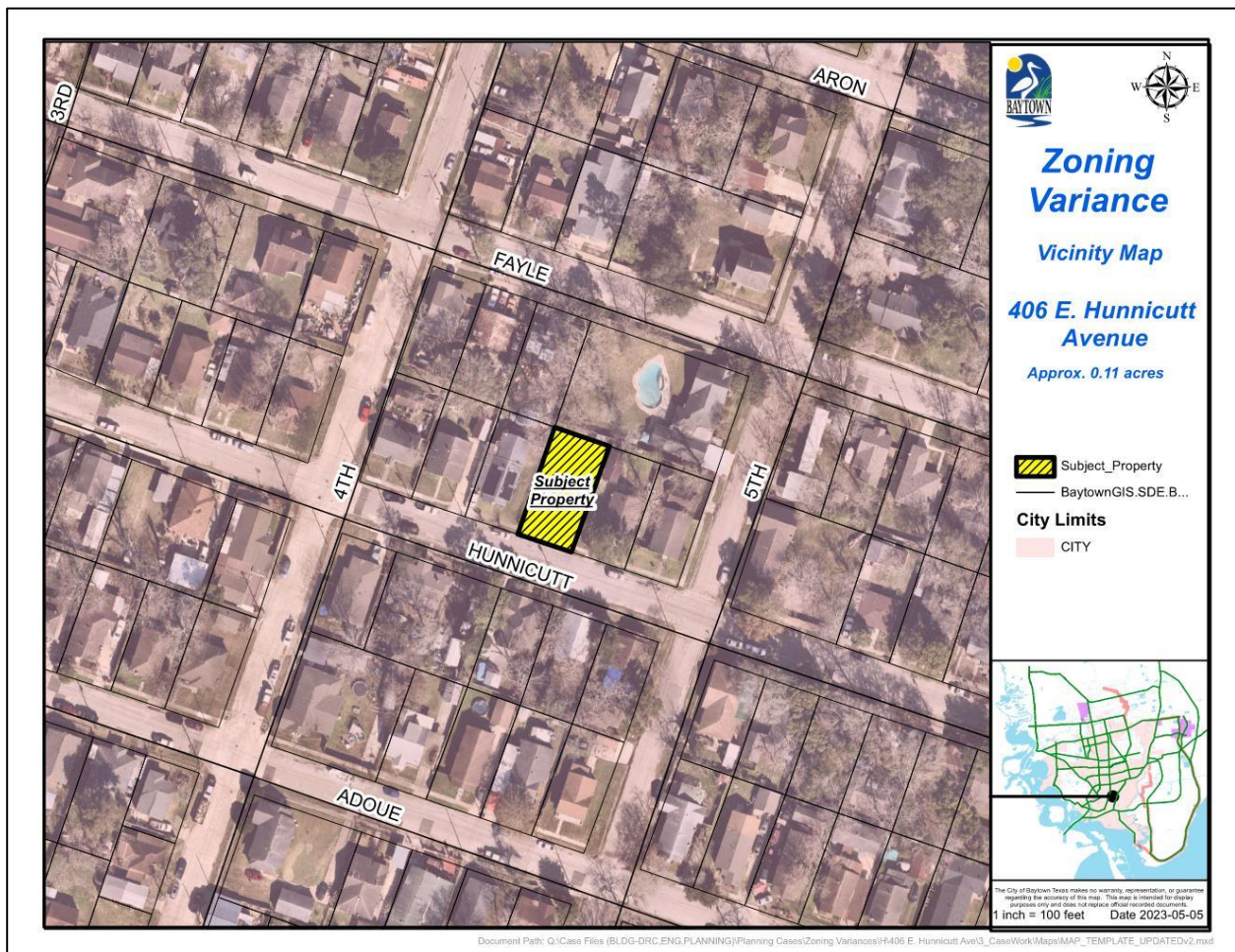


Figure 1. Vicinity Map

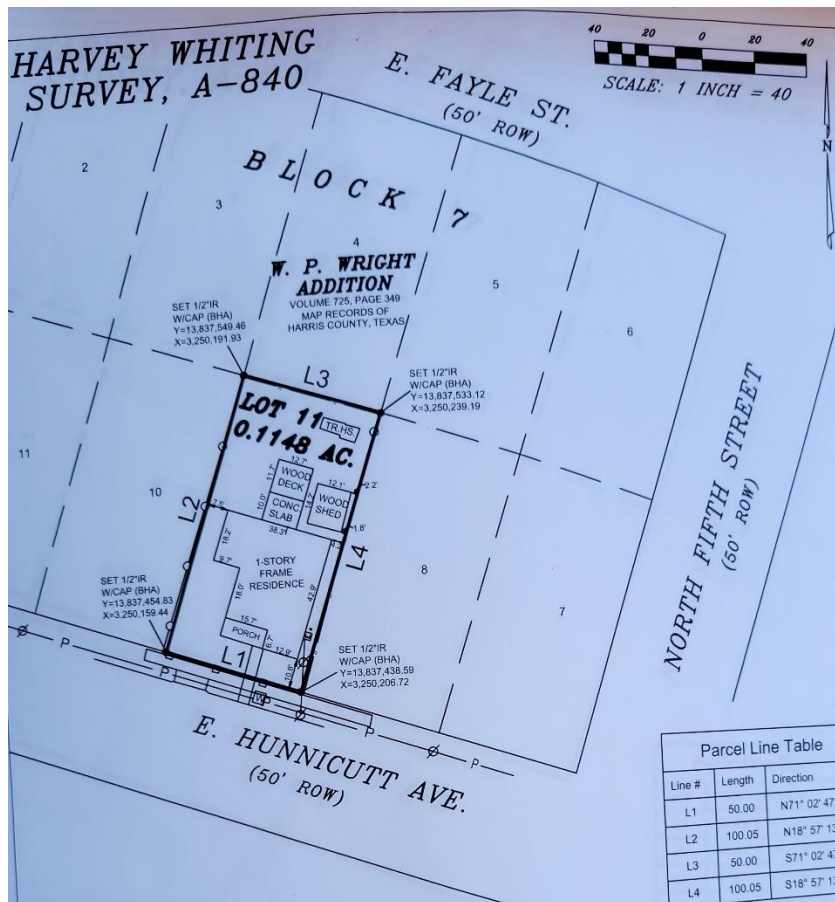


Figure 2. Survey of the subject property



Figure 3. Floor Plan



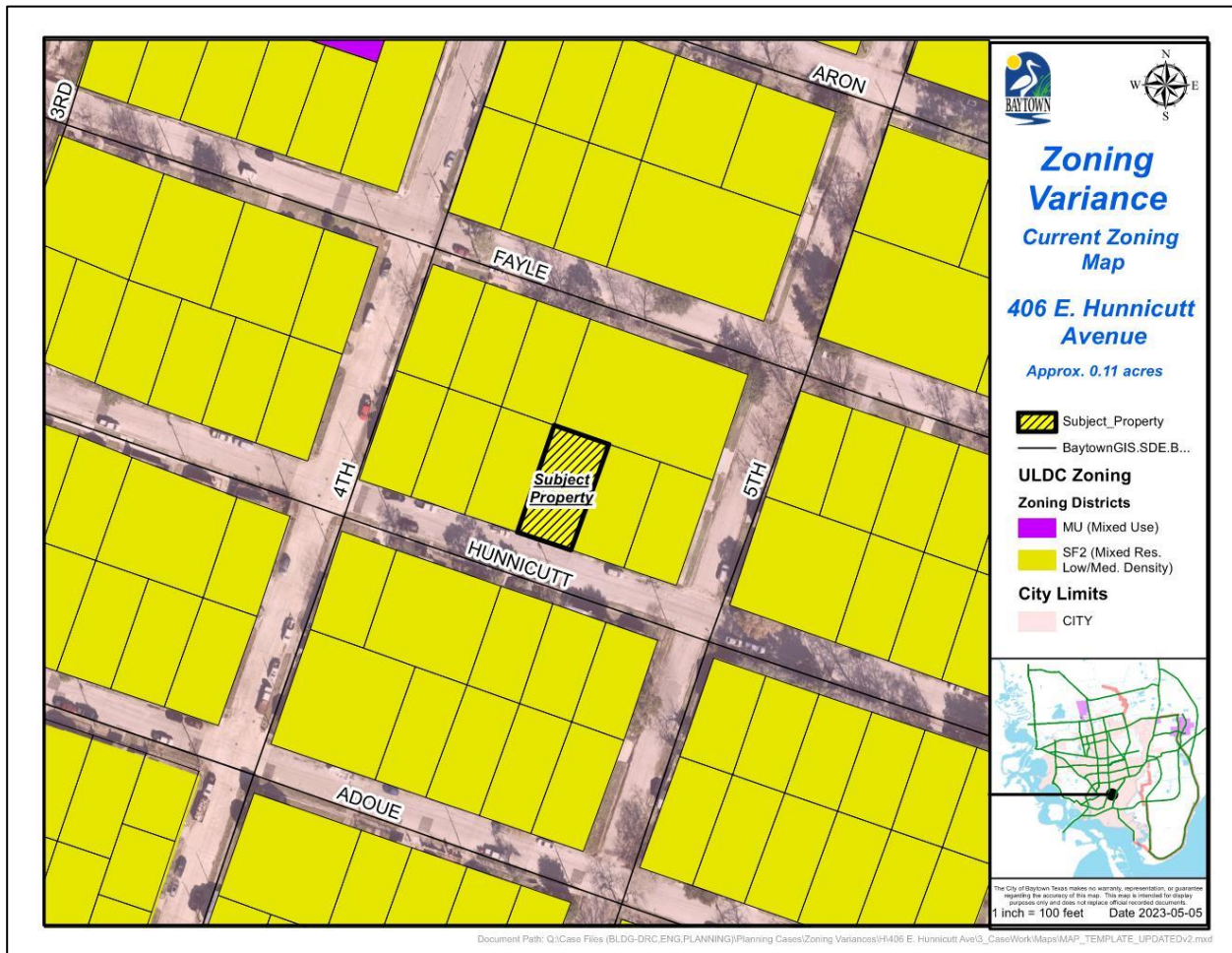


Figure 4. Current Zoning Map

### **Variance Criteria – Section 1.29(b), ULDC**

The board of adjustment may grant a variance when the applicant demonstrates that the variance request will meet all the criteria below:

**1. Ensures the same general level of land use compatibility as the otherwise applicable standards;**

The requested variance to reduce 4.4 feet from the minimum required front yard setback along Hunnicutt Avenue will not affect the general level of land use compatibility. The subject property is located in SF2 zoning district, and a residential dwelling is a permitted use.

**2. Is not a hardship of the applicant's own making;**

According to Harris County Appraisal District (HCAD), the existing house has 908 square feet of interior living space which includes two bedrooms on the east side of the house (see figure 3). Any additional space to any of those bedrooms would have to occur on either the east side of the house or the front of the house. However, the applicant created their own hardship by the construction of a 6-foot wide enclosed space in the front of the dwelling without the required building permit and without consulting with staff. The original front

wall of the dwelling is set back 17 feet from the front property line which gave the applicant a 2-foot wide additional space to the interior space of the room fronting Hunnicutt Avenue, and at the same time comply with the ULDC development standard. There is also space to expand the house towards the rear if needed.

3. **Does not adversely affect adjacent land uses and the physical character of uses in the neighborhood in which the exception is sought because of inadequate buffering, screening, setbacks and other land use considerations;**

A front porch is considered a feature of this neighborhood's character. It should be noted that the applicant kept more than 50% of the original porch unclosed in keeping with many dwellings in the neighborhood; did not increase the footprint of the dwelling; maintained the original roofline of the house unchanged; and added a window on the front wall of the closed portion of the porch. However, the erected enclosure of a 6 by 12 feet on the eastern portion of the house is considered the first encroachment on the required front yard setback in this neighborhood and has the potential to initiate a trend that may affect the physical character of uses in the neighborhood.

4. **Does not adversely affect property values of adjacent properties in any material way and will improve the property value of the property for which the exception is sought;**

It is not anticipated that property values of adjacent properties will be adversely affected by the requested variance. The proposed encroachment into the front yard setback would place the structure beyond what it allowed and normally seen throughout the neighborhood, but would not have any major material effect.

5. **Furtheres the goals and vision of the city as set forth in the comprehensive plan, the vision statement, and any applicable neighborhood plan or redevelopment plan adopted by the city council;**

The 2040 Comprehensive Plan's strategies allow, promote, and incentivize a variety of housing types for both infill development and new development. However, the housing and neighborhood goals in the Comprehensive Plan do not suggest or support this type of encroachment on setbacks for an existing house in an established neighborhood.

6. **Is generally consistent with the purposes and intent of this ULDC;**

The ULDC is adopted for the purpose of promoting the public health, safety and general welfare by promoting safe, orderly and economically sustainable development. A zoning variance request for residential dwellings in old subdivisions shall be considered on a case by case basis. Criteria such as character compatibility, economic viability of the requested variance, available subsidized programs that fit the scale of requested variance, and applicable alternate options, etc. shall be analyzed and considered.

While this may be just one variance request, if additional similar requests are made in this neighborhood, there is a potential to alter the character of the overall subdivision. However, the requested variance to the front yard setback, in and of itself, is not anticipated to be injurious to the surrounding neighborhood or otherwise detrimental to the public welfare or safety.

7. **Is needed as special circumstances exist that are peculiar to the land or structure that are not applicable to other land or structures in the same district and are not merely financial;**

The subject property, 50 by 100 feet, is a standard lot size property within the Wright W. P. subdivision and has a floor area of 908 square feet according to HCAD. The design of the house does impose challenges on what can be done on the property or structure, but does not create a circumstance that warrants a peculiar situation. It should be noted that most of the properties in this neighborhood have similar lot size, a standard front yard setback of minimum 15 feet, and a standard side yard setback of approximately 5 feet, which is the same as the subject property.

8. **Is necessary as literal interpretation and enforcement of the terms and provisions of the dimensional standards would deprive the applicant of rights commonly enjoyed by landowners in the same district and would cause an unnecessary and undue hardship;**

The literal interpretation of today's code would permit a minimum 15-foot front yard setback from the front wall of the structure to the front property line. The applicant extended a portion of the front wall of the dwelling into the front yard setback. Wright W. P. subdivision is a well-established neighborhood with standard 5000 square foot lots and a minimum of 15 foot front yard setback. As such, it is not anticipated that the literal development standards would deprive the applicant of rights commonly enjoyed by others nor would it cause an undue hardship to the applicant.

9. **Is the minimum action that will make possible the use of the land or structure which is not contrary to the public interest and which would carry out the spirit of this ULDC and would result in substantial justice;**

The minimum action to accomplish the property owner's goal of building additional closet or living space would have been to expand to the rear or the western side of the existing house. Although the applicant has expressed a desire to have a closet adjacent to a front located bedroom, there is ample space on the property to build that space and not encroach any setbacks. The requested addition is a portion of the front porch that is currently setback 10.6 feet from the right of way.

10. **Will bring the existing and proposed structure closer into compliance with the zoning regulations of this ULDC, or will otherwise improve or enhance public health, safety or welfare.**

The variance request will not bring the proposed dwelling closer into compliance with the ULDC's development standards. The requested variance will bring the front wall of the dwelling 4.4 feet closer to the right of way than any other dwelling on the street.

**Recommendation:**

The requested zoning variance did not meet the majority of the variance criteria; therefore, staff recommends denial.