

John Bradley Hafner  
Dr. Zac Leslie



Shelley Price  
Brick P. Parsons

Mike Davis, Chairman

**ZONING BOARD OF ADJUSTMENT AND APPEALS AGENDA**  
**NOTICE OF REGULAR MEETING**

Thursday, September 18, 2014 @ 1:30 p.m.  
City Council Chambers  
504 North Queen Street  
Palestine, Texas

**A. CALL TO ORDER**

**B. APPROVAL OF THE MINUTES**

1. Consider the minutes for the June 2, 2014 Special Meeting.

**C. PUBLIC HEARINGS AND ITEMS FOR DISCUSSION AND POSSIBLE ACTION**

1. CASE ZBA-14-02/Applicant Marjorie Braly/1502 N. Jackson Street  
Conduct a public hearing and consider a request to change a nonconforming use (hardware store) to another nonconforming use being a wrecker service at 1502 N. Jackson Street.

**D. ADJOURN**

**CERTIFICATION**

I, the undersigned authority, do hereby certify that this Notice of Meeting was posted on the outside bulletin board at the main entrance to City Hall, 504 North Queen Street, Palestine, Texas, on the following date and time:

September 15, 2014 at 9:15 a.m.

A handwritten signature in black ink, appearing to be "JL", written over a horizontal line.

Jeffrey Lyons  
Development Services Director

**In compliance with the Americans with Disabilities Act, the City of Palestine will provide for reasonable accommodations for persons attending this meeting. Requests for accommodations or interpretive services must be made 48 hours prior to the meetings. Please contact the Building Inspection Department for further information at (903) 731-8417.**



**Zoning Board of Adjustment and Appeals**  
**Special Meeting June 2, 2014 @ 1:30 pm**  
**City Hall Council Chambers**  
**504 N. Queen Street**  
**Palestine, Texas**

## MEETING MINUTES

<b>Members present:</b>	<b>Others in attendance:</b>
John Bradley Hafner, Mike Davis, Brick Parsons, and Shelly Price	Jeffrey Lyons, Development Services Director
<b>Members absent:</b>	Mark Miears, Building Official
Dr. Zak Leslie	

<b>CALL TO ORDER</b>
Meeting called to order at 1:35 pm by Mike Davis, Chairman. A quorum was present.

<b>APPROVAL OF THE MINUTES</b>		
Board action: Approved the meeting minutes for May 15, 2013 regular meeting as submitted.		
Motion: Hafner	Second: Parsons	Vote: Unanimous

<b>REGULAR AGENDA</b>		
<b>Case: ZBA-14-01</b>	<b>Applicant: Mr. Alex Nemer, II</b>	
<b>Agenda Item:</b>		
Discuss and consider a request for a variance to allow an accessory structure (new carport) to extend 25-feet into the required 25-foot street side yard adjacent to E. Brazos Street. The property is located at 800 S. Royall Street.		
<b>Discussion:</b>		
Commissioner Davis noted that the public hearing was conducted during the May 15, 2014 meeting and there was not enough members present to take action.		
Commissioner Davis requested a recommendation from Staff. Development Services Director, Jeffrey Lyons stated that Staff recommended approval subject to the carport remaining open on all sides and that the support posts closest to E. Brazos should be placed as far from the street right-of-way as possible so that oncoming traffic visibility is not obstructed.		
Commissioner Parsons asked Staff if there were any concerns about existing easements along the property line adjacent to E. Brazos Street. Mr. Lyons stated that there were no easements in that area.		
<b>Board Action:</b>		
Approved subject to the following stipulations:		
<ol style="list-style-type: none"> <li>1. All sides of the carport are to remain open.</li> <li>2. The support posts closest to E. Brazos Street are placed as far back as possible from the street right-of-way as to not obstruct the view of oncoming traffic.</li> </ol>		
Motion: Price	Second: Parsons	Vote: Unanimous

<b>Adjournment</b>
With no further business, the meeting was adjourned at pm.

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Mike Davis,  
Chairman

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Alene Leveston,  
Administrative Assistant



**CASE ZBA-14-02**  
**ZONING BOARD OF ADJUSTMENT AND APPEALS**  
**STAFF REPORT**

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**GENERAL INFORMATION**

Meeting Date: September 18, 2014  
Agenda Item: ZBA-14-02  
Attachments: Application for a change in non-conforming use, public notice map, site pictures  
Applicant/ Property Owner: Marjorie Braly  
Request: A change in non-conforming use to allow a wrecker service to operate at 1502 N. Jackson Street  
Location: 1502 North Jackson Street (previous location of Braly's Building Supply)  
Public Notice: Nineteen notices mailed to properties within 200-feet of the request. One returned in favor, none returned in opposition

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**SITE ASSESSMENT**

Property zoning: R-2, Single Family Detached, Medium Density District  
Current land use: Commercial building used for the storage of building materials  
Proposed use: Wrecker service  
Surrounding zones: R-2, Single Family on all sides of the property  
Overlay zones: None  
Street access: North Jackson Street and Brooklyn Avenue

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**CASE SUMMARY:**

Ms. Marjorie Braly has submitted an application requesting a change in non-conforming use to allow the property at 1502 N. Jackson Street to be used as a wrecker service. The past use of this property was for a hardware store (Braly Building Supply). The property is zoned R-2, single family. This district does not allow hardware stores or wrecker services which are generally permitted only in commercial and industrial zones.

Although the previous use of this property was for the retail sales of building materials, the zoning of the property is single family. The hardware store was considered legally non-conforming and could continue until the operation of the hardware store ceased for six consecutive months. Per the current request, changing the use of this property to accommodate a wrecker service will require approval from the Zoning Board of Adjustment and Appeals. The reason for this is that the zoning ordinance only allows a non-conforming use to be changed to another non-conforming use after the Zoning Board conducts a public hearing and considers the following criteria:

**CASE ZBA-14-02**  
**ZONING BOARD OF ADJUSTMENT AND APPEALS**  
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A nonconforming use may be changed to another similar nonconforming use where in the opinion of the board of adjustment such new use:

1. Will not extend the life of a nonconforming use;
2. Will reduce traffic, sound, odor, smoke, or number of employees;
3. Will not include structural alteration or expansion;
4. Will improve the character and value of surrounding property. Such change in use may be permitted only following formal application for change with the board of adjustment. Where proper findings are made, the board of adjustment may direct the building inspector to issue the necessary permits.

According to the applicant who is also the property owner, the wrecker service will only occupy a portion of the existing building and store automobiles that have been towed to this location behind a screening fence where they are not visible to the public or surrounding residences.

**RECOMMENDED ACTION:**

Prior to taking action on the request, Staff recommends that the Zoning Board hear a presentation from the individual who will be operating the wrecker service.

**Conditions of approving the request:**

Staff recommends that the Board determine that items 1 through 4 listed above have been satisfied prior to approval. If the items have not been satisfied, Staff recommends that the Board deny the request. In addition to meeting the criteria listed in items 1 through 4, the Board could consider adding additional stipulations such as:

1. The storage of impounded vehicles is prohibited on the premises, or,
2. All impounded vehicles must be parked behind a screening fence so that they are not visible at any time by the surrounding property owners or the public.
3. There shall be no storage of any impounded or any other vehicle that is dismantled for a certain period of time (the Board can discuss this with the operator of the wrecker service to establish a reasonable time to allow the vehicles to remain onsite).
4. Selling any part of an impounded vehicle is prohibited at this location.



ZONING BOARD OF ADJUSTMENT

Case # ZBB-14-02

OWNER AND APPLICANT INFORMATION: (Location where variance is being requested)

Property Address: **1502 N. Jackson**  
 (ADDRESS WHERE VARIANCE IS BEING REQUESTED) Palestine, Texas Zip: **75801**

Legal Description: Subdivision: **Greens Addition** Block: **63** Lot: **7,8,9**

Land Use and Zoning: Current Use of the Property: **Proposed Wrecker Service**  
 Zoning: **R-2** Acreage: **.5750**

Property Owner Info: Name: **Marjorie Braly**  
 Address: **910 Wright Dr.**  
 City: **Palestine** State: **Tx** Zip code: **75801**  
 Home Phone: **903-723-1233** Cell Phone: **903-724-0206** Email: **MBRALY@AOL.COM**

Applicant Info: Name: **Same**  
 Address:  
 City: State: Zip code:  
 Home Phone: Cell Phone: Email:

VARIANCE REQUEST INFORMATION:

Reason for Requesting a Variance: **Requesting a change in nonconforming use from a hardware store (previous location of Braly's) to a wrecker service.**

ZONING AND DEVELOPMENT CODE REQUIREMENTS:

Indicate which codes you are requesting to vary from: **Appendix A, Zoning, Article 16, Section 16.9, #4 Change of non-conforming use.**



ZONING BOARD OF ADJUSTMENT

PROPERTY OWNER OR AUTHORIZED APPLICANT SIGNATURE PAGE:

I acknowledge under penalty of perjury that I am the legal owner of the property described in the application or, alternatively, that I am authorized to represent all of the owners of the property described in this application.

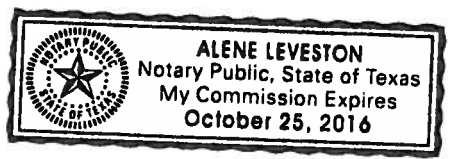
YOUR DRIVER'S LICENSE MUST SHOW YOUR CURRENT ADDRESS AND IT CANNOT BE EXPIRED.

*Marjorie Braly*  
Notarized Signature of Applicant  
(Signature must be witnessed by a Notary Public)

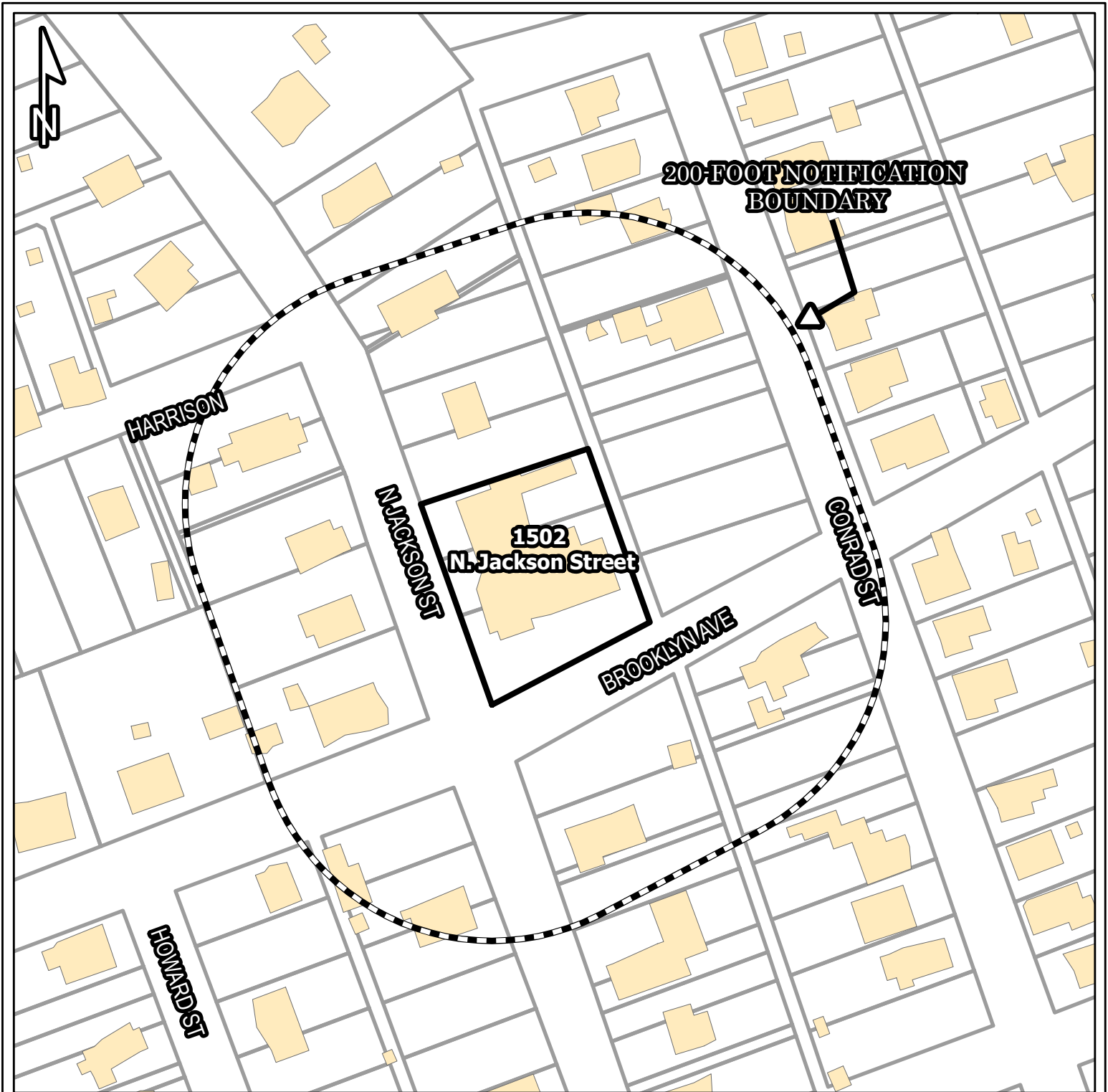
STATE OF TEXAS  
COUNTY OF ANDERSON

Before me, the undersigned, personally appeared *Marjorie Braly*,  
Who on his/her oath certifies that the above/attached statements are true and correct.

Given under my had and seal of office, this 13<sup>th</sup> day of August, 2014.



*Alene Leveston*  
Notary Public, State of Texas



**File No.** ZBA-14-02

**Request:** A change in nonconforming use to allow a wrecker service

**Location:** 1502 N. Jackson Street

**Zoning:** Single Family

**Applicant:** Marjorie Braly

Property at 1502 N. Jackson Street is zoned for residential uses. The previous use of this property as a hardware store was legally non-conforming in the residential zoning district.

Changing this use to another non-conforming use (wrecker service) must be approved by the Zoning Board of Adjustment and Appeals.