



City of Azle  
Regular Agenda  
Zoning Board of Adjustment

505 W. Main Street  
Azle, Texas 76020

January 6, 2025

6:00 PM

Council Chambers

**NOTICE IS HEREBY GIVEN THAT ONE OR MORE MEMBERS MAY PARTICIPATE IN THIS MEETING OF THE CITY OF AZLE ZONING BOARD OF ADJUSTMENT VIA VIDEOCONFERENCE. A QUORUM OF THE GOVERNING BODY AND THE PRESIDING OFFICER WILL BE PRESENT AT THE ABOVE-NAMED LOCATION.**

**REGULAR SESSION**

**CALL TO ORDER**

**INVOCATION**

**PLEDGE OF ALLEGIANCE**

**PUBLIC PARTICIPATION**

*This is an opportunity for the public to address the Zoning Board of Adjustment on posted agenda items or non-agenda items. In order to address the Board, please complete a Speaker's Request Form and submit to the Secretary prior to the start of the meeting. All comments must be directed to the Presiding Officer, rather than an individual board member or city staff. All speakers must refrain from personal attacks toward any individual. Comments are limited to three (3) minutes and must pertain to the subject matter listed on the Speaker's Request Form. Speakers requiring the assistance of a translator shall be provided four (4) minutes. The Board may not comment publicly on non-agenda items, but may direct the staff to resolve the matter or request the matter be placed on a future agenda. Public comments regarding non-agenda items shall not include any "deliberation" as defined by Chapter 551 of the Government Code, as now or hereafter amended. If you have a subject that may require Board action, you may obtain a form from the Secretary and request the item be placed on a future agenda.*

**CONSENT AGENDA**

1. Consider approval of the minutes of the Zoning Board of Adjustment meeting held on July 29, 2024.

**David Hawkins, Director of Planning and Development**

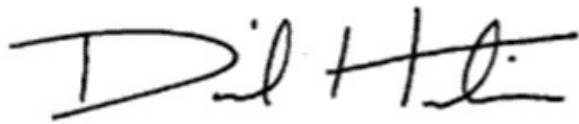
**PUBLIC HEARING**

2. Conduct a public hearing to consider a variance request to Section 22 (3) Setback Requirements of the City of Azle Zoning Ordinance for the property located at 317 Commerce Street and also known as a tract of land out of the T. & P. R. Co. Survey, Abstract No. 1431, and legally described as Lot 1, Clark's Industrial Addition, Parker County, Texas. The purpose of the variance is to allow for the construction of two (2) new awnings to encroach the minimum ten-foot (10') side yard setbacks. Case No. V2024-04

**David Hawkins, Director of Planning and Development**

**ADJOURNMENT**

I, the undersigned authority, do hereby certify the above Agenda was posted at City Hall on Thursday, January 2, 2025, at the City's official bulletin board and is readily accessible to the public at all times in accordance with

A handwritten signature in black ink, appearing to read "D. Hawkins". The signature is stylized with a large "D" and a long horizontal stroke.

**David Hawkins, AICP**  
**Director of Planning and Development**

*This facility is wheelchair accessible and handicapped parking spaces are available. Auxiliary aids and services are available to a person when necessary to afford an equal opportunity to participate in city functions and activities. Auxiliary aids and services or accommodations should be requested forty-eight hours prior to the scheduled starting time by calling the City Secretary's Office at 817-444-7101. Complete Zoning Board of Adjustment agenda packet is available for review at the City Secretary's Office and on our website [www.cityofazle.org](http://www.cityofazle.org).*



**MINUTES**  
**Regular**  
**Azle Zoning Board of Adjustment**

505 W. Main Street  
Azle, Texas 76020

**July 29, 2024**

**6:00 PM**

**Council Chambers**

**NOTICE IS HEREBY GIVEN THAT ONE OR MORE ZONING BOARD OF ADJUSTMENT MEMBERS MAY PARTICIPATE IN THE MONDAY, JULY 29, 2024 MEETING OF THE CITY OF AZLE ZONING BOARD OF ADJUSTMENT VIA VIDEOCONFERENCE. A QUORUM OF THE GOVERNING BODY AND THE PRESIDING OFFICER WILL BE PRESENT AT THE ABOVE-NAMED LOCATION.**

**REGULAR SESSION**

**CALL TO ORDER**

Chairman Pennie Nichols called the meeting to order at 6:01 p.m.

**Members Present:**

- Chairman Pennie Nichols
- Board Member Jared Arneson
- Board Member Jim Carlson
- Board Member Rob Schocke
- Board Member Alternate Rick Simmons

**Members Absent:**

Vice Chairman Leonard Wheeler

**Staff Present:**

- David Hawkins, AICP Director of Planning and Development
- Malinda Nowell Sr. Administrative Assistant
- Andrea Russell City Attorney

**INVOCATION**

Board Member Jared Arneson gave the invocation.

**PLEDGE OF ALLEGIANCE**

Board Member Jared Arneson led the pledge.

**PUBLIC PARTICIPATION**

None

**PRESENTATION**

1. Training regarding Legal Rules and Responsibilities of the Board.

City Attorney Andrea Russell presented this training which included: governing law in Chapter 211 of the Texas Local Government Code (LGC), Section 34 of the City's Zoning Ordinance, and the City's Rules of Procedure; the Board's authority to hear and decide appeals, special exceptions, variance requests, and matters authorized by the Zoning Ordinance; the conditions for granting a variance; and that HB 1475 which amended LGC 211.009 in 2021 expanded the criteria the board may consider when hearing a request for a variance.

Ms. Russell stated that HB 1475 amendments changed the "unnecessary hardship" analysis by adding more objective criteria for the board's consideration. Now, purely financial considerations can qualify an applicant for a variance. Additionally, if the proposed structure was considered a non-conforming structure, that would be grounds to grant a variance. These grounds make it easier for a situation to qualify as an "unnecessary hardship" than in the past. Ms. Russell noted that the board should keep in mind that to grant a variance, the variance must not be contrary to public interest, and the spirit of the zoning ordinance must be observed. Even if a structure fits an "unnecessary hardship" category, the granting of a variance is not automatic and facts surrounding each request still have to be analyzed by the board on a case-by-case basis.

Additional topics of discussion included: legal and illegal non-conforming situations; that no condition guarantees a variance; that each variance is at the board's discretion; that city ordinance states that any variance granted shall ensure that the spirit of the ordinance is observed and that substantial justice is done; that each request is case-by-case and must be considered separately and individually based on circumstances of each specific request; that each case is a two-step process which includes identifying the hardship and determining whether the hardship is "unnecessary"; that it is incumbent upon the applicant to provide proof of why they believe they meet a hardship; the importance of the Open Meetings Act and open discussion during the meeting as to why/how the board arrived at given decision; that hardship is only one small portion of the board's analysis; the difference between a special exception and a variance; that the board considers appeals regarding the meaning of an ordinance or a determination of a city official; that appeals of a decision of the board go to district court; that an abstention counts as a vote against; that the board can place reasonable conditions for granting a variance; that variances do not pertain to the manner in which a property may be used; that board members should make the city aware of any potential conflict of interest in advance of a hearing; the limitations on the board authority; that a ZBA decision must be unbiased; that the public hearing must be adequately noticed as required by law; that witnesses be sworn in and given equal opportunity to introduce evidence and rebut contrary evidence or testimony; that the ZBA's decision must be supported by a record with a factual basis for their decision; that board members not visit the property in question; that board members do not testify or offer factual information; that decisions must be based on testimony and evidence presented at the hearings; and that prior knowledge of the facts are not necessarily sufficient to prove bias.

## **CONSENT AGENDA**

### **2. Consider approval of the minutes of the Zoning Board of Adjustment meeting held January 29, 2024.**

Board member Rick Simmons moved to approve the minutes of the Zoning Board of Adjustment meeting held January 29, 2024 as presented. Commissioner Arneson seconded the motion. Motion carried.

Yes: (5) Jim Carlson, Rob Schocke, Jared Arneson, Pennie Nichols, Rick Simmons

No: (0)

Absent: (1) Leonard Wheeler

## **PUBLIC HEARING**

**3. Conduct a public hearing to consider a variance request to Section 19 (3) Setback Requirements of the City of Azle Zoning Ordinance for the property located at 1605 Southeast Parkway, and also known as Lot 1, Block 1, JA-JLP Addition, an addition to the City of Azle, Tarrant County, Texas. The purpose of the variance is to allow for the construction of a new building addition to encroach the minimum twenty-five foot (25') front yard setback.**

Director of Planning and Development David Hawkins presented this item. This request for variance to the setback requirements is for the applicant to add on to the west side of the existing building for expansion of the business. Mr. Hawkins stated that a previous site plan was approved, and a permit was issued even though the building currently encroaches the setback on all sides. Mr. Hawkins stated that he could find no record of previous variance when the building was built. There is a roadway on all sides of this property essentially making it an island and therefore has "front" setback of 25' on all sides. Additionally, the plat shows a 15-foot city sewer main easement splits the property and prevents the owner from adding onto the east. If granted, a variance to allow a change in the setback requirements would bring the existing building into compliance. Mr. Hawkins stated that there is a great deal more parking than what is required for the existing "warehouse", and they will still exceed the required number of parking spaces with their expansion. The only place the property can be accessed is on Wells-Burnett because TxDOT would not grant other access.

Chairman Nichols opened the public hearing at 6:59 p.m.

Sales and purchasing manager Jake Horsley, 229 Basalt Lane, Azle, and Vice President of Operations Chris Flores, 6805 White River Drive, Fort Worth, spoke on behalf of Lake Country Avionics. Mr. Horsley stated they were not aware of some of the complications with this property but that it works well for their operation. He stated they are an 8:00 a.m. to 5:00 p.m. Monday through Friday business with 15 employees and their parking lot is generally empty because most of their business is done over the phone or by email. Mr. Horsley stated they need the space to keep their business moving at its current pace. The business has increased from about 2,000 to 10,000 parts in three years and by the addition of five or six employees in just the last year and a half.

Jared Hopkins of Probuild Construction, 100 Maral Lane, Azle, spoke in favor. Mr. Hopkins stated that the applicant would not be able to build on the east side and that the business has grown a lot more than they expected in a short amount of time.

As there were no other speakers, Chairman Nichols closed the hearing at 7:03 p.m.

The Board inquired about various options for relocation or size to reduce or modify the encroachment. The parking on the west side is to be removed and will be landscaped. Access to the warehouse will be via one standard door or through the existing building; there will be no roll up doors or garage doors.

Mr. Hawkins stated that staff cannot locate any interpretation or variance having been granted in 2019 when this building was built.

Board member Rob Schocke moved to approve this variance request for 1605 Southeast Parkway, to allow for the construction of a new building addition to encroach the minimum twenty-five foot (25') front yard setback as presented. Board member Jared Arneson seconded the motion. Motion carried.

Yes: (4) Jim Carlson, Rob Schocke, Jared Arneson, Pennie Nichols

No: (1) Rick Simmons

Absent: (1) Leonard Wheeler

**4. Conduct a public hearing to consider a variance request to Section 22 (3) Setback Requirements of the City of Azle Zoning Ordinance for the property located at 128 Richardson Street, and also known as a tract of land out of the James Hardgrove Survey, Abstract No. 1768, Parker County, Texas. The purpose of the variance is to allow for the construction of a new building addition to encroach the minimum twenty-foot (20') rear yard setback.**

Director of Planning and Development David Hawkins presented this item. He stated that 128 Richardson is a private street, not owned or maintained by the city. It is zoned Industrial (IND) which requires a 20-foot rear building setback. No building permit has been located for the rear building because it was understood by the owner that the property was located outside the city limits; however, that is not the case. This property was rezoned in March 2017.

Chairman Nichols opened the public hearing at 7:22 p.m.

Owner and applicant Mr. Zamarripa stated they want to add onto the building. He stated he has been doing business here since 2017, near the industrial park, and that his property backs up to cattle pasture. He stated it has been a blessing to do business here, that more than half of his employees are from Azle, that students from the welding shop work for him during the summer and some of them end up working next door.

As there were no other speakers, Chairman Nichols closed the hearing at 7:25 p.m.

Mr. Zamarripa stated that the current building is 40' x 60', and that the proposed shaded area to be added is 40' x 40'. Mr. Zamarripa stated he could close the building but that would restrict airflow and it gets too hot. Mr. Zamarripa bought the property in 2016 and the building was finished December 31, 2016, which was when Mr. Greg Mitchell advised him that he was inside the city limits. He said the property was a church at one time and there was a lot of trash on the property but that he cleaned it up and got it approved then for zoning in March 2017. This property has actually been inside the city limits since the '90s. Mr. Zamarripa has tried to do everything right and get all the necessary permits since the zoning in 2017.

Adjacent property owner Ms. Richardson sent a letter in favor.

The business' work hours are 7:00 a.m. to 5:00 p.m. Monday through Friday. There is no smoke, no burning. They do have welding, but they have extractors. Outside storage is allowed in Industrial zoning. Mr. Hawkins stated that there are no inquiries for multi-family for the land area behind this subject property.

Mr. Zamarripa stated that his business is the only one that engineers parts for the TF300, a small trencher.

Board member Rick Simmons moved to approve this variance request for 128 Richardson Street to allow for the construction of a new building addition to encroach the minimum twenty-foot (20') rear yard setback as presented. Board member Rob Schocke seconded the motion. Motion carried.

Yes: (5) Jim Carlson, Rob Schocke, Jared Arneson, Pennie Nichols, Rick Simmons  
Absent: (1) Leonard Wheeler

**ADJOURNMENT**

Chairman Nichols adjourned the meeting at 7:42 p.m.

**Presented and approved on \_\_\_\_\_**

\_\_\_\_\_  
Pennie Nichols, Chairman

Attest:

\_\_\_\_\_

David Hawkins, AICP  
Director of Planning and Development




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<b>Presenter:</b>	<b>David Hawkins, Director of Planning and Development</b>
<b>Agenda Item:</b>	<b>Conduct a public hearing to consider a variance request to Section 22 (3) Setback Requirements of the City of Azle Zoning Ordinance for the property located at 317 Commerce Street and also known as a tract of land out of the T. &amp; P. R. Co. Survey, Abstract No. 1431, and legally described as Lot 1, Clark's Industrial Addition, Parker County, Texas. The purpose of the variance is to allow for the construction of two (2) new awnings to encroach the minimum ten-foot (10') side yard setbacks. Case No. V2024-04</b>

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### **Background and Explanation:**

The owner of 317 Commerce St. is requesting the variance to Section 22 (3) Setback Requirements of the City of Azle Zoning Ordinance. The request is to allow for the construction of two (2) new awnings on both sides of the existing building which would encroach the minimum ten-foot (10') side yard setback in the Industrial (IND) zoning district. The applicant has provided a site plan exhibit that shows the existing building and the proposed awning additions that would be within the setback line.

### **Existing Condition of Property:**

This property is currently zoned Industrial (IND) and was platted in August 1999. The 7,500 sq. ft. building was constructed and completed in 2003 and is currently occupied by the Community Caring Center which received a Certificate of Occupancy on September 5, 2003. The Community Caring Center is currently expanding their facility with the recent addition of the 3,800 sq. ft., 3-story freezer/cooler room for food storage which was completed in 2024. The next phase in this project is the renovation of the original 7,500 sq. ft. building which includes the additional two (2) awnings on the sides of the building.

### **History of Project:**

The property owner took ownership of the property and building after it was constructed and has occupied this building since September 2003. They are in the process of expanding and renovating their existing facility to add additional warehouse space and expand their current business operations. They recently added a 3,800 sq. ft. building addition in the rear of the property for freezer/cooler room for additional storage space. Currently, the building meets all requirements of the Industrial zoning district, but the next phase of expansion includes the addition of two (2) awnings on both sides of the existing building that would encroach within the min. required 10' side yard setbacks in the Industrial zoning district.

The Industrial Zoning District requirements:

- Minimum Lot Area: None
- Minimum Lot Width: 50'
- Minimum Front Yard: 25'
- Minimum Side Yard: 10'
- Minimum Rear Yard: 20'



Aerial of Property:



### **Criteria for Approving Variance:**

When in its judgment the public convenience and welfare will be substantially served and the appropriate use of the neighboring property will not be substantially or permanently injured, the Board may, in specific cases, after public notice and public hearing and subject to appropriate conditions and safeguards, take the following action:

1. The literal enforcement of the provisions of this ordinance would result in an unnecessary and/or unreasonable hardship.

***There is existing pavement where these 2 new awnings are planned to be installed. They will not impede any cross-access between properties or fire protection.***

2. The special conditions are not the result of the applicant's actions, but are peculiar to the land, structure or building involved.

***The proposed new awnings are part of the expansion plans for the Community Caring Center to improve their business operations.***

3. The variance requested is the minimum necessary.

***The applicant is requesting to allow the new awning on the north side of the building to be up to 1' from the property line. The applicant did provide a copy of a letter of support to this variance request which is immediately adjacent to this new awning on the north side of the building. The new awning on the south side of the building is proposed to be approximately 8' from the property line (2' encroachment into 10' setback line). This area is paved and is part of a shared driveway between this property and the Porch Resale Shoppe next door. This new awning would also not impede the fire lane located between these 2 properties.***

4. No special privilege is granted which is denied to other similarly situated uses.

***There does not appear to be any record of variances granted or applied pertaining to structures located on the side of industrial buildings in this area.***

### **New State Statute on ZBA Variance Criteria:**

The State Legislation passed a new bill, H.B. 1475 which went into effect on September 1, 2021 that changes the Zoning Board of Adjustment authority related to variances and gives additional objective grounds for which a variance may be granted. Prior to this new State law, a ZBA is authorized to grant a variance if, among other things, enforcing the ordinance as written would result in

“unnecessary hardship.” An “unnecessary hardship” would be one that was not self-imposed, personal in nature, related to the property for which the variance is sought, and not a solely financial hardship. The hardship would need to be a condition unique, oppressive, and not common to other property.

Under the new State law, it adds more objective criteria which a ZBA can consider to determine whether compliance with a city’s zoning ordinance as applied to a structure would result in an “unnecessary hardship”. For the first time, purely financial considerations can qualify an applicant for a variance. Additionally, if the proposed structure would be considered a nonconforming structure, that could be grounds to grant a variance. Under the new law, there might be an unnecessary hardship if:

1. the cost of compliance with the zoning ordinance is greater than 50 percent of the appraised value of the structure as shown on the most recent certified appraisal roll; or
2. compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development may physically occur; or
3. compliance would result in the structure not in compliance with a requirement of another city ordinance, building code, or other requirement; or
4. compliance would result in the unreasonable encroachment on an adjacent property or easement; or
5. the city considers the structure to be a nonconforming structure.

Twelve (12) notices were sent to surrounding owners within 200 feet of the variance request. As of January 2, 2025, staff has not received any responses from the public. The applicant did provide a copy of a letter of support from the adjacent property to the north, Azle National Bank of Texas which is included in this packet.

**Board/Commission/Committee Recommendation:**

1. Motion to approve Case #V2024-04
2. Motion to approve Case #V2024-04 with modifications
3. Motion to disapprove Case #V2024-04

**Staff Recommendation:**

City staff forwards this variance request to allow the setback encroachment for the new awnings.

**Attachments:**

1. Variance Letter
2. Variance Elevation Plan
3. Variance Site Plan
4. Letter from Azle National Bank of Texas - Community Caring Center Variance



December 6, 2024

Azle Zoning Board of Adjustment (ZAB)

JOB:  
Community Caring Center  
317 Commerce St.  
Azle, Texas, 76020

RE: PERMIT FOR DEVELOPMENT VARIANCE REQUEST – BUILDING SETBACKS

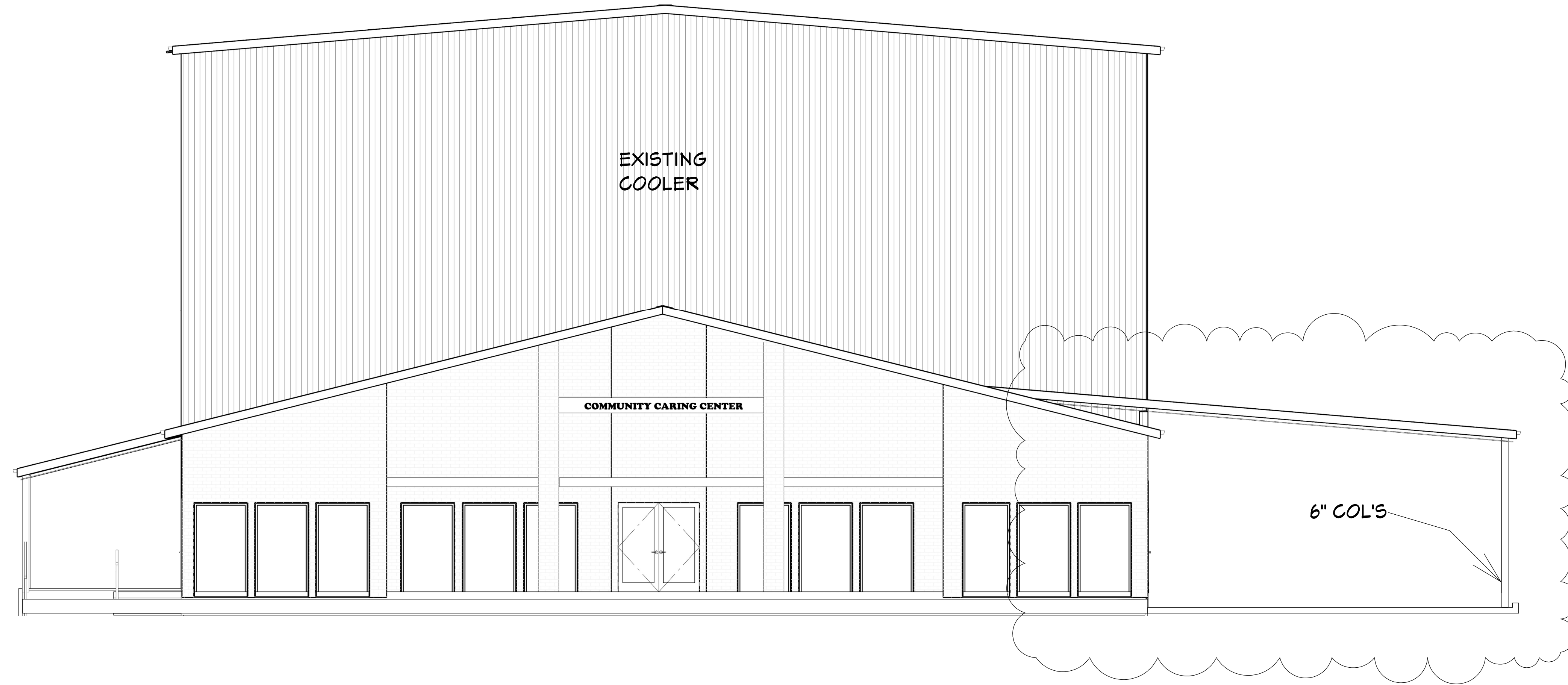
This variance is being requested to allow for the addition of two new Awnings, one at drive through loading area and one at loading dock location. The new Awnings will be part of a major remodel project that a permit package is being assembled with anticipation of submitting for permit January 2025.

The North and South property lines have a 10 foot building setback. The north property line variance request is to extend Awning 9 foot into setback. The awning will extend over the 2 drive through lines which will expedite the loading of the vehicles. The awning will allow for protection from the elements for volunteers while loading food and supplies into patron vehicles. The south property line variance request is to extend 2 foot into the building setback. This location is for a new covered loading dock to allow for more efficient unloading of food and supplies donated to the Community Caring Center.

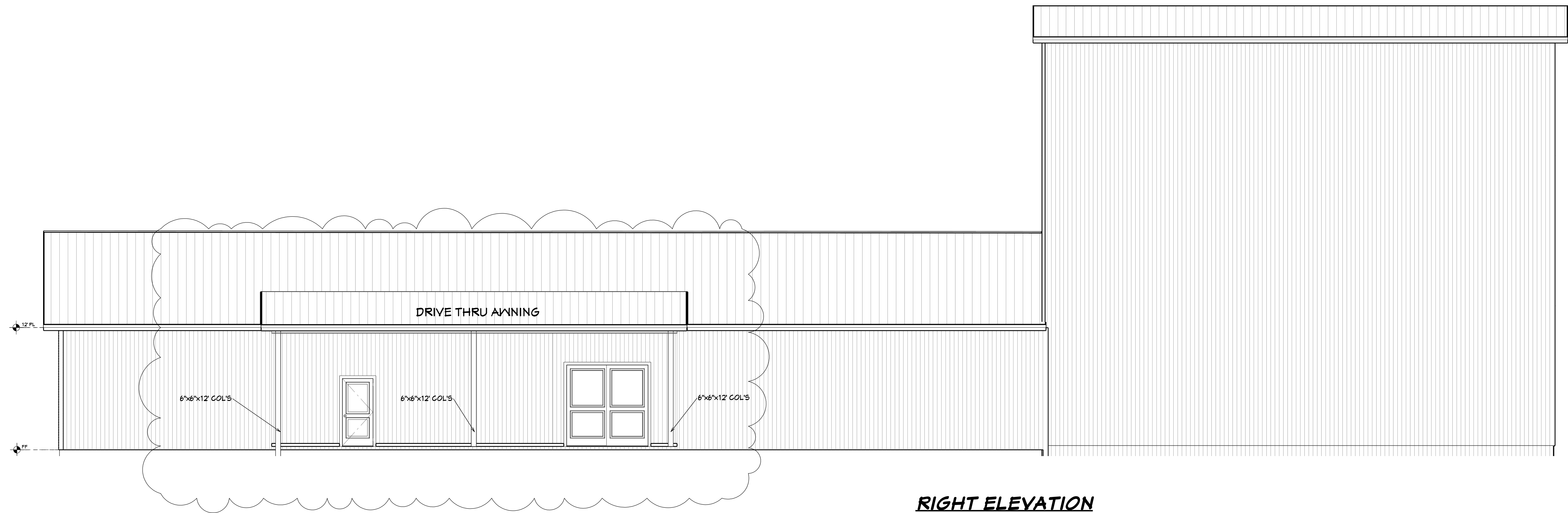
The Community Caring Center provides free food and supplies Monday through Friday to Azle residents in need of assistants. They serve approximately 75 vehicles each day that they are open. This requires 10-12 volunteers each day to provide this free service. One objective for this remodel is to provide a safe and pleasant environment for volunteers who give their time freely and protect them from the elements while loading vehicles.

Clint Beck

Beck Builders



**FRONT ELEVATION**  
3/16" = 1'



**RIGHT ELEVATION**  
3/16" = 1'

NUMBER	DATE	REVISION BY	DESCRIPTION

**COMMUNITY CARING CENTER**  
317 COMMERCE ST.  
AZLE, TX., 76020

DRAWINGS PROVIDED BY:

DATE:

11/25/2024

SCALE:

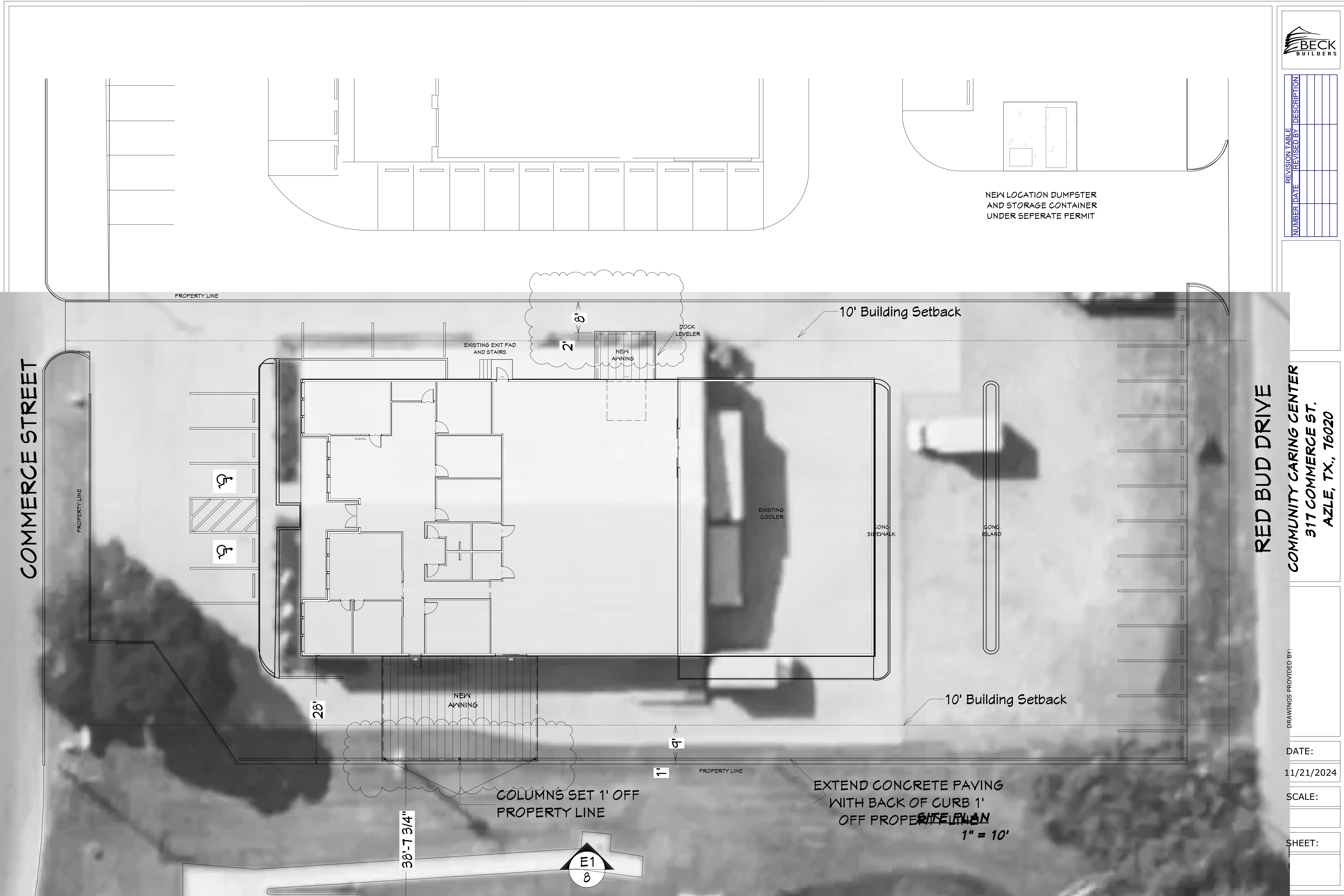
SHEET:

NUMBER	DATE	REVISED BY	DESCRIPTION

COMMERCE STREET

RED BUD DRIVE

COMMUNITY CARING CENTER  
317 COMMERCE ST.  
AZLE, TX., 76020



NEW LOCATION DUMPSTER AND STORAGE CONTAINER UNDER SEPERATE PERMIT

DRAWINGS PROVIDED BY:

DATE:

11/21/2024

SCALE:

SHEET:



5550 N. Riverside Drive, Fort Worth, Texas 76137  
Wade Donnell  
President & CEO  
Direct: 817-752-2339 / Main 817-759-9001  
wdonnell@nbt.bank

December 12, 2024

Azle Zoning Board of Adjustments

Ref: Community Caring Center  
317 Commerce  
Azle, Tx

Ladies and Gentlemen:

NBT Financial owns the property at 405 Commerce Street, Azle, TX that is adjacent to the north from the Community Caring Center facility located at 317 Commerce. The Community Caring Center has submitted a variance request to the Zoning Board of Adjustments related to the remodel of their facility to allow for the construction of an awning over their drive through lanes within the 10' setback adjacent to the NBT Financial property. NBT Financial has no objection to this awning being within the setback and is supportive of the Caring Center's variance request.

Thank you for your consideration.

Sincerely,

Wade Donnell  
President & CEO