

**CITY OF BRENHAM  
BOARD OF ADJUSTMENT MINUTES**

**December 13, 2021**

*The meeting minutes herein are a summarization of meeting proceedings, not a verbatim transcription.*

A regular meeting of the Board of Adjustment was held on December 13, 2021, at 5:15 pm in the Brenham Municipal Building, City Council Chambers, at 200 West Vulcan Street, Brenham, Texas.

Commissioners present:

Jon Hodde, Chairman  
Thomas Painter, Vice Chairman  
Danny Goss  
Arlen Thielemann  
Mary Lou Winkelmann

Commissioners absent:

None

Staff present:

Stephanie Doland, Director of Development Services  
Shauna Laauwe, City Planner

Citizens / Media present:

Donna Kellar  
Carl Franklin  
Linda Bessmer

**1. Call Meeting to Order**

Chairman Hodde called the meeting to order at 5:18 p.m. with a quorum of five (5) Commissioners present.

**2. Public Comments and Receipt of Petitions**

There were no public comments and/or receipt of petitions.

**3. Reports and Announcements**

There were no reports or announcements.

**CONSENT AGENDA**

**4. Statutory Consent Agenda**

The Statutory Agenda includes non-controversial and routine items that the Commission may act on with one single vote. A Commissioner may pull any item from the Consent Agenda in order that the Commission discuss and act upon it individually as part of the Regular Agenda.

**4-a. Minutes from the November 8, 2021, Board of Adjustment Meeting**

Chairman Hodde called for any corrections or additions to the minutes as presented. A motion was made by Commissioner Thielemann and seconded by Commissioner Painter to approve the minutes from the November 8, 2021, meeting, as presented. The motion carried unanimously.

## REGULAR AGENDA

**5. Public hearing, Discussion and Possible Action on Case Number B-21-007: A request by Carl Franklin and Linda Bessmer for a Variance from the City of Brenham Code of Ordinances, Appendix A – Zoning, Part II, Division 1, Section 10.02(4)(c) to allow a 6.5-foot east side setback, where a minimum 10-foot side setback is required, for a detached Accessory Dwelling Unit to be located within and R-2, Mixed Residential Use District at 405 Martin Luther King Jr. Parkway, described as Lot 7A of the Rippetoe Addition, in Brenham, Washington County, Texas.**

Shauna Laauwe, City Planner, presented the staff report for Case No. B-21-007 (on file in the Development Services Department). Ms. Laauwe stated that this request by Carl Franklin and Linda Bessmer is for a 3.5-foot variance to the required 10-foot side setback for construction of a detached accessory structure (garage) with and upstairs Accessory Dwelling Unit (ADU) at 405 Martin Luther King Jr. Parkway. The subject property is zoned R-2, Mixed Residential Use District and is developed with a single-family residence. The future land use designation for this property is single-family residential. Typically, accessory structure side setbacks are 5-feet; however, the minimum required setback for a detached ADU is not less than the required side yard for the principal structure (10-feet for R-2 Zoning). A Specific Use Permit (SUP) for an Accessory Dwelling Unit was considered by the Planning and Zoning Commission on November 15, 2021 and by City Council on December 2, 2021. The second and final reading of the Specific Use Permit Ordinance by City Council is scheduled for December 16, 2021 and is contingent upon approval of this variance by the Board of Adjustment.

The applicant's proposal is to convert a proposed 2<sup>nd</sup> floor garage space (576 square feet) into a detached ADU. The subject property is 12,561 square feet with an existing home that is 1,270 square feet and an accessory structure of 578 square feet. The existing and proposed lot coverage is 35.7%. The R-2 Zoning District allows ADU's with an approved Specific Use Permit and adherence to the following development standards:

- a) Shall be subordinate to and supportive of the principal use and structure.
- b) Should the primary use be a single-family dwelling, the property owner's primary residence shall be the single-family dwelling or ADU.
- c) An ADU must be designed and constructed keeping with the general architecture and building material of the principal structure.
- d) An attached ADU shall be subject to the regulations affecting the principal structure. A detached ADU shall have side yards of not less than the required side yard for the principal structure and rear yards of not less than ten (10) feet.
- e) One (1) on-site parking space, located to the side or rear of the primary structure, shall be provided for the ADU in addition to the required parking for the principal structure.
- f) The maximum habitable area of an ADU is limited to either one-half (1/2) of the habitable area of the principal structure, or one thousand (1000) square feet, whichever is smaller.

The proposed ADU meets the aforementioned development standards with the exception of the east side yard setback. The variance request to the side yard setback requirement stems from drainage problems on the property. There is a significant change in topography from the south to the north on the property that produces excessive run-off with the driveway aiding in increasing the speed of the water going to the street. The applicant is trying to align the garage with the driveway to divert some of the water to the grassy / landscaped areas. The 24' x 24' garage pad has already been constructed. A 14.5" stem wall has been added around that garage slab to help divert the water around the garage structure.

Notifications were mailed to property owners within 200-feet of the subject property on December 2, 2021. One comment against the request was received from Lorene Singleton who owns the property located at 403 Baber Street. Ms. Laauwe stated that she spoke with Ms. Singleton, who was unable to fully understand the case and

that it would not adversely affect her property; therefore, on the comment form she marked that she was against the request. Mr. Franklin clarified during the public hearing that he spoke with Ms. Singleton about some additional steps that he would like to take to help mitigate the water flow including putting up a fence with a rot-board at the bottom and stones between the garage and the fence to aid in slowing down the water flow. Ms. Singleton didn't fully understand and generally was opposed to changes on the adjacent property. Mr. Franklin has also spoken to the neighbor on the opposite side of the subject tract who was very receptive to the proposed drainage improvements.

Staff has reviewed the request and recommends approval of the requested variance to allow a 6.5-foot side setback for a detached Accessory Dwelling Unit to be located at 405 Martin Luther King Jr. Parkway.

Chairman Hodde opened the Public Hearing at 5:37 p.m. and asked for any comments. Carl Franklin, Applicant, 405 Martin Luther King Jr. Parkway stated that they are trying to improve the drainage issues on this property with the addition of the fence, rot board, rocks, etc. Mr. Franklin made the following comments / responses:

- He is unaware of any drainage easement on the property.
- During the "melting" from the February freeze, there was significant water flowing from back to front. The City of Brenham Water Department stopped by out of concern of a broken pipe.
- Water flows from the W. Jefferson properties down hill onto the subject property.
- Applicant proposes to add a privacy fence with a rot board on the bottom of the fence to slow down the water flow midway on the property.
- Applicant proposes to add rock and riprap for slowing down and diverting water running off from roof of ADU.
- The previous accessory structure that was demolished was closer to the property line – approximately 3-feet from the property line.

Stephanie Doland stated that the applicant is proposing significant steps to improve the drainage in the area which will likely be a benefit to all property owners within the same block.

Chairman Hodde closed the Public Hearing at 5:54 p.m. and re-opened the Regular Session.

A motion was made by Commissioner Painter and seconded by Commissioner Winkelmann to approve the request by Carl Franklin and Linda Bessmer for a Variance to allow a 6.5-foot east side setback, where a minimum 10-foot side setback is required, for an Accessory Dwelling Unit at 405 Martin Luther King Jr. Parkway, as presented. The motion carried unanimously.

**6. Public hearing, Discussion and Possible Action on Case Number B-21-008: A request Russell and Donna Kellar for a Special Exception from the City of Brenham Code of Ordinances, Appendix A – Zoning, Part II, Division 1, Section 10.02(1) to a 3-foot south side setback, where a minimum 5-foot side setback is required, for an accessory structure located at 2501 Valley Drive, described as Lot 21 of the South Park Subdivision, Section II, in Brenham, Washington County, Texas.**

Shauna Laauwe, City Planner, presented the staff report for Case No. B-21-008 (on file in the Development Services Department). Ms. Laauwe stated that this request is from Russell and Donna Kellar for a 2-foot reduction to the minimum required 5-foot side yard setback for a proposed wall extension to an existing legally nonconforming accessory structure. Ms. Laauwe stated that all detached accessory structures in any residential district shall be located to the rear of the primary residence and shall have a side and rear yard of not less than five (5) feet.

Division 4, Section 1.01 give the Board of Adjustment the authority to grant a Special Exception in accordance with the procedures and standards provided to permit:

- (2) The extension or enlargement of a nonconforming structure, provided that the structure or portion thereof being extended or enlarged is not for the purpose of a nonconforming use.

Ms. Laauwe provided the following staff findings:

- The existing accessory structure was constructed in 2010, when the side setback was a minimum of 3-feet. The setback requirement was increased to 5-feet in 2019.
- The porch addition has been covered since its construction in 2010 so enclosing the portion closest to the south property line just extends this nonconformity.
- The proposed addition will add 9-feet to the building along the south side but will not further encroach into the side yard setback.
- The existing side yard will not be reduced by the addition and would not be detrimental to the adjacent property owner or the public.
- The addition will not be visible from the right-of-way due the fence and vegetation.

Notifications were mailed to property owners within 200-feet of the subject property on December 2, 2021. Two written comments in support of the request were received from Mr. Marvin Lanier of 2503 Valley Drive and Ms. Allison Kocian of 2502 Valley Drive.

Staff has reviewed the request and recommends approval of the requested Special Exception to allow a 2-foot reduction to the minimum required 5-foot side yard setback for a proposed wall extension to an existing legally nonconforming accessory structure; thus, allowing a 3-foot south side back for the existing accessory structure.

Chairman Hodde opened the Public Hearing at 6:02 p.m. and asked for any comments. Donna Kellar, Applicant, 2501 Valley Drive stated that their plan is to enclose more area in the shed for additional enclosed storage to protect their personal property from the elements and theft.

Chairman Hodde closed the Public Hearing at 6:03 p.m. and re-opened the Regular Session.

A motion was made by Commissioner Painter and seconded by Commissioner Thielemann to approve the request for a special exception to allow a 3-foot south side yard setback for an accessory structure 2501 Valley Drive, as presented. The motion carried unanimously.

## **7. Adjourn**

A motion was made by Commissioner Painter and seconded by Commissioner Thielemann to adjourn the meeting at 6:03 p.m. The motion carried unanimously.

*The City of Brenham appreciates the participation of our citizens, and the role of the Board of Adjustment in this decision-making process.*

Certification of Meeting Minutes:

*Jon E. Hodde*  
Chairman

February 14, 2022  
Meeting Date

*Kim Hodde*  
Attest, Staff Secretary

February 14, 2022  
Meeting Date