



**NOTICE OF A REGULAR MEETING  
BOARD OF ADJUSTMENT  
MONDAY, NOVEMBER 14, 2022 AT 5:15 P.M.  
SECOND FLOOR CITY HALL  
COUNCIL CHAMBERS  
200 W. VULCAN  
BRENHAM, TEXAS**

**1. Call Meeting to Order**

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

*[At this time, anyone will be allowed to speak on any matter other than personnel matters or matters under litigation, for length of time not to exceed three minutes. No Board discussion or action may take place on a matter until such matter has been placed on an agenda and posted in accordance with law.]*

**3. Reports and Announcements**

**CONSENT AGENDA**

**4. Statutory Consent Agenda**

The Statutory Consent 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 September 12, 2022 Board of Adjustment Meeting**

**REGULAR AGENDA**

- 5. Public hearing, Discussion and Possible Action on Case Number B-22-005: A request by Stylecraft Builders for a variance from the City of Brenham Code of Ordinances, Appendix A – Zoning, Part II, Division 2, Section 2.05(2)(B)(ii) to allow a 15-foot side yard setback, where a minimum 20-foot side yard setback is required for a corner lot, for the future development of a townhome residence to be located at 2001 Vintage Farms Way, described as Lot 1, Block 4, Vintage Farms Townhomes, in Brenham, Washington County, Texas.**
- 6. Public hearing, Discussion and Possible Action on Case Number B-22-006: A request by Edin and Martha Inestroza for a variance from the City of Brenham Code of Ordinances, Appendix A – Zoning, Part II, Division 2, Section 2.05(2)(B)(ii) to allow a 10-foot side yard setback, where a minimum 20-foot side yard setback is required for a corner lot, for the future development of single-family attached (duplex) units to be located at the intersection of Sabine and Clay Streets, described as Proposed Lot 1, and Proposed Lot 16 of the Ebenezer Development, in Brenham, Washington County, Texas.**

7. Adjourn

**CERTIFICATION**

I certify that a copy of the November 14, 2022, agenda of items to be considered by the Board of Adjustment was posted to the City Hall bulletin board at 200 W. Vulcan, Brenham, Texas on November 9, 2022, at 2:00 p.m.

*Kim Hodde*

\_\_\_\_\_  
Kim Hodde, Planning Technician

**Disability Access Statement:** This meeting is wheelchair accessible. The accessible entrance is located at the Vulcan Street entrance to the City Administration Building. Accessible parking spaces are located adjoining the entrance. Auxiliary aids and services are available upon request (interpreters for the deaf must be requested twenty-four (24) hours before the meeting) by calling (979) 337-7200 for assistance.

I certify that the attached notice and agenda of items to be considered by the Board of Adjustment was removed by me from the City Hall bulletin board on the \_\_\_\_\_ day of \_\_\_\_\_, 2022 at \_\_\_\_\_ am/pm.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

**CITY OF BRENHAM  
BOARD OF ADJUSTMENT MINUTES**

**September 12, 2022**

*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 September 12, 2022, 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  
Walt Edmunds  
Danny Goss  
Arlen Thielemann  
Mary Lou Winkelmann

Commissioners absent:

None

Staff present:

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

Citizens / Media present:

Dara Childs	Maysoon Alhasso
Rachael Terry	Vernon (Butch) Neuenschwander
Katie Jean	Raina Arreola
Derrick Jernigan	Mimi Owen
Gloria Nix	

**1. Call Meeting to Order**

Vice Chairman Painter called the meeting to order at 5:15 p.m. with a quorum of six (6) Commissioners present.

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

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

**3. Reports and Announcements**

Stephanie Doland reminded the Board that reappointment applications are due by September 30, 2022. One member and one alternate member have decided not to seek reappointment. A celebration for their service will be held later this year or early 2023.

**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 May 9, 2022, 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 Consent Agenda, as presented. The motion carried unanimously.

**REGULAR AGENDA**

**5. Public hearing, Discussion and Possible Action on Case Number B-22-003: A request by Rachael Terry for a Special Exception from the City of Brenham Code of Ordinances, Appendix A – Zoning, Part II, Division 1, Section 16.06(23) and 16.06(33) for a reduction in the number of required off-street parking spaces for a currently vacant commercial building proposed to develop as an Antique/Home Goods Store (Retail) located at 304 W Main Street, described as Lot 57A of the West Main Subdivision, in Brenham, Washington County, Texas.**

Shauna Laauwe, City Planner, presented the staff report for Case No. B-22-003 (on file in the Development Services Department). Ms. Laauwe stated that this request by Rachael Terry (applicant) and Davis Stone / Jernigan Stone Interests, LLC (property owner) is for a Special Exception for a reduction in the number of required off-street parking spaces for a commercial retail building (former Brenham Office Supply store) located at 304 W. Main Street. The property is located within a B-2, Commercial Research and Technology Use District (adjacent to the Downtown District) and is currently a vacant commercial building. The Future Land Use Map shows the use as mixed-use, downtown adjacent. The proposed use for the building is an antique/home goods store (retail). The properties to the north, west, and south are zoned R-2, Mixed Residential Use, and the property to the east (across the railroad tracks) are zoned B-3, Historical Business District. This original building (7,232 square feet) was constructed in 1962, before the zoning ordinance was adopted in 1968. In 1981, the second floor and additional space to the main floor was constructed for an additional 7,448 square feet. In 1989, an addition of 3,750 square feet was added to the main floor on the west side. This addition has a garage door entry on both the north and south sides. Since this property was built prior to the adoption of the zoning ordinance, it is non-conforming in several areas:

- Front yard setback – 11-feet (25-feet required)
- Rear yard setback – 6-feet (15-feet required)
- West side yard setback – none (20-foot bufferyard required)
- Lot coverage – 100% (Maximum 85% allowed)
- Parking – 6 off-street parking spaces provided

This property has been vacant since 2017, when Brenham Office Supply closed their business. The applicant, Rachael Terry proposes to develop this property into an antique/home goods store with retail on the first floor and storage on the second floor. She stated that she has no desire to redevelop the site into a restaurant or other high-volume commercial use. The building has remained vacant for many years due in large part to the need to bring the building up to current fire and building codes, including a fire suppression system, accessibility ramp, and restrooms that meet the Americans with Disability Accessibility Act.

For this proposed development, the applicant will be required to bring the building up to current code and add handicapped parking. The applicant is prepared to utilize planters and other means necessary to provide the required 8% landscaping requirement for new uses in existing structures.

Section 16.06 of the Zoning Ordinance states the following parking requirements:

- (20) Offices, business or professional use: 1 space per 300 square feet of gross floor area.
- (23) Retail, general: Under 400,000 square feet. 1 space per 250 square feet of gross floor area.
- (33) Wholesaling, warehousing and distribution uses: 1 space per 1,000 square feet of gross floor area.

The proposed project would require the following parking spaces:

- Office space - .75-space
- Retail area – 14.48-spaces
- Storage area – 6.94-spaces
- Total required parking spaces – 22.17-spaces

The applicant proposes to convert the interior addition on the west side to interior parking. The entrance to this parking area will be off W. Main Street and will exit onto W. Vulcan Street. This proposal will add seven (7) additional parking spaces. The applicant also proposes to add a parallel parking space to the rear of the existing building on W. Vulcan Street. For this development, the applicant proposes a total of fourteen (14) parking spaces instead of the 22 required spaces, or a 37% reduction.

The Board of Adjustment has the authority to grant a special exception to waive or reduce off-street parking and loading requirements when the board finds that the same are unnecessary for the proposed use of the building or structure for which the special exception request applies.

Notifications were mailed to property owners within 200-feet of the subject property on September 2, 2022. No citizen comments were received in support of or against the request.

Staff has reviewed the request and recommends approval of the requested special exception to allow a reduction of 8-spaces (14-spaces to be provided) to the required parking for redevelopment of the existing building located at 304 W. Main Street as an antique/home goods store.

Chairman Hodde opened the Public Hearing at 5:30 p.m. and asked for any comments. Mimi Owen who lives at 401 W. Main Street voiced concerns about the fast traffic in this area and the fact that there is already a parking issue in this area since Manuel’s patrons park along Main Street, sometimes all the way back to down building since no parking is allowed on the south side of W. Main Street. Commissioner Winkelmann stated that she lives at the corner of W. Main Street and Seward Street and she is aware of the parking issues. She further stated that the Manuel’s building was built many, many years ago as a Dairy Queen and has evolved into a Mexican restaurant. She further stated that Manuel’s is a family-oriented business, and they close at 9:00 pm on the weeknights. Their busy times are early morning, lunch and in the evening. It was clarified for the Board that the subject property is zoned B-2 but is adjacent to the B-3 zoning, which does not have any parking requirements. The B-3 zoning stops at Austin Street. Staff will consult with the GIS department to see if the shading can be done differently to better differentiate the districts. Raina Arreola, who lives on W. Vulcan Street, stated that most of the homes on W. Vulcan Street are rental units and they all utilize the on-street parking up and down the street, so parking is a real problem in this area. The applicant stated that since most of the items for sale will be owned merchandise rather than consigned merchandise, this should reduce the number of workers/vendors at the location.

Chairman Hodde closed the Public Hearing at 5:40 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 Rachael Terry for a Special Exception for a reduction in the number of required off-street parking spaces for a currently vacant commercial building proposed to develop as an Antique/Home Goods Store (Retail) located at 304 W Main Street, as presented. The motion carried unanimously.

**6. Public hearing, Discussion and Possible Action on Case Number B-22-004: A request by MC Property Holdings, LLC for a variance from the City of Brenham Code of Ordinances, Appendix A – Zoning, Part II, Division 2, Section 2.05(1)(b)(iii) to allow an average 70.48-foot lot depth, where a minimum average lot depth of 115-feet lot is required, for the future development of a single-family residence to be located at 905 Sycamore Street, described as Lot 39 & 40 Becker’s Subdivision of Lot No. 22 of the Davidson Addition and Reserve #1 of the L.D. Brown Subdivision, in Brenham, Washington County, Texas.**

Shauna Laauwe, City Planner, presented the staff report for Case No. B-22-004 (on file in the Development Services Department). Ms. Laauwe stated that this request by MC Property Holdings, LLC / Dara Childs is for a variance to allow an average 70.48-foot lot depth where a minimum average lot depth of 115-foot lot is required, for the future development of a single-family residence to be located at 905 Sycamore Street. The approximately 0.1766-acre lot is located in the R-2 Zoning District (Mixed Residential Use) and is currently vacant land.

On August 4, 2022, City Council abandoned some undeveloped roadway and Mr. Childs received one-half of the abandoned right-of-way. Mr. Childs has requested a replat of the properties (lot 39, 40, and the abandoned right-of-way); however, the lot still does not meet the minimum lot depth requirement of an average of 115-feet. Therefore, the applicant is requesting a variance to allow the existing average lot depth of 70.48-feet in order to replat the properties into one lot for construction of a single-family residence.

Notifications were mailed to property owners within 200-feet of the subject property on September 2, 2022. No citizen comments were received in support of or against the request.

Staff has reviewed the request and recommends approval of the requested variance to allow a 70.48-foot average lot depth for construction of a single-family residence to be located at 905 Sycamore Street.

Chairman Hodde opened the Public Hearing at 5:48 p.m. and asked for any comments. There were no citizen comments.

Chairman Hodde closed the Public Hearing at 5:50 p.m. and re-opened the Regular Session.

A motion was made by Commissioner Thielemann and seconded by Commissioner Painter to approve the request by MC Property Holdings, LLC for a variance to allow an average 70.48-foot lot depth, where a minimum average lot depth of 115-foot lot is required, for the future development of a single-family residence to be located at 905 Sycamore Street, as presented. The motion carried unanimously.

**7. Adjourn**

A motion was made by Commissioner Painter and seconded by Commissioner Winkelmann to adjourn the meeting at 5:51 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 Hodde, Chairman

November 14, 2022  
Meeting Date

\_\_\_\_\_  
Attest, Staff Secretary

November 14, 2022  
Meeting Date



**CASE NUMBER: B-22-005**

**VARIANCE REQUEST: 2001 VINTAGE FARMS WAY**

**STAFF CONTACT:** Shauna Laauwe, City Planner

**OWNERS/APPLICANTS:** Stylecraft Builders

**ADDRESS/LOCATION:** 2001 Vintage Farms Way (Exhibit "A")

**LEGAL DESCRIPTION:** Lot 1, Block 4, of the Vintage Farms Townhomes

**LOT AREA:** Approximately 3,602 square feet (0.0827 acres)

**ZONING DISTRICT/  
USE:** P-1, Planned Development District / Townhome residences  
(Exhibit "B")

**COMP PLAN** Residential

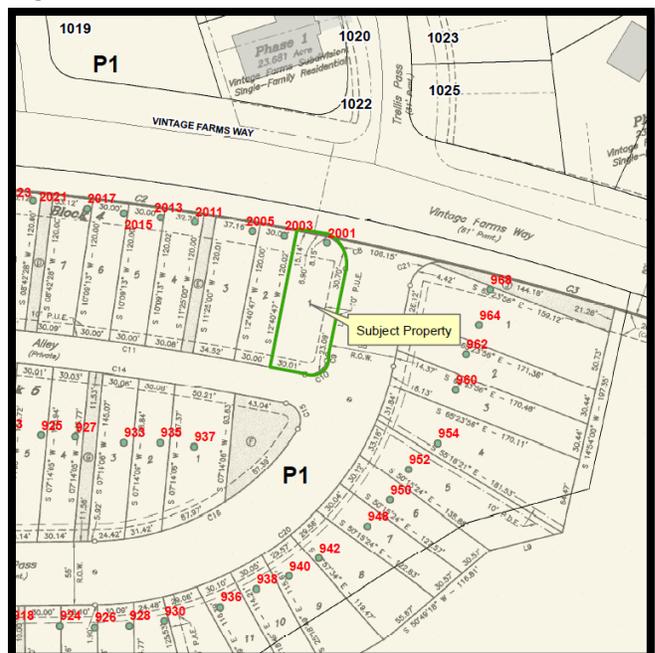
**FUTURE LAND USE:**

**REQUEST:** A request for a Variance from the City of Brenham Code of Ordinances, Appendix A – Zoning, Part II, Division 2, Section 2.05(2)(b)(ii) to allow a 15-foot side yard setback, where a minimum 20-foot side yard setback is required for a corner lot, for the future development of a townhome residence (Exhibit "C").

**BACKGROUND:**

The subject property is a vacant lot addressed as 2001 Vintage Farms Way and located on the southwest corner of Vintage Farms Way and Trellis Pass. The subject property is part of the Vintage Farms townhome development of 57 units that is currently under construction. The subject property, outlined in green in Figure 1, is bordered by three roadways, Vintage Farms Way to the north, Trellis Pass to the east and an alley to the south. The subject lot is part of a grouping of three lots (Lots 1-3) that consists of three townhome residential units. Townhomes are single-family attached units similar to duplexes in that they are residential units that share a common wall, however townhomes typically consists of a minimum of three attached units. The Vintage Farms Townhome development consists of three-unit and four-unit townhomes.

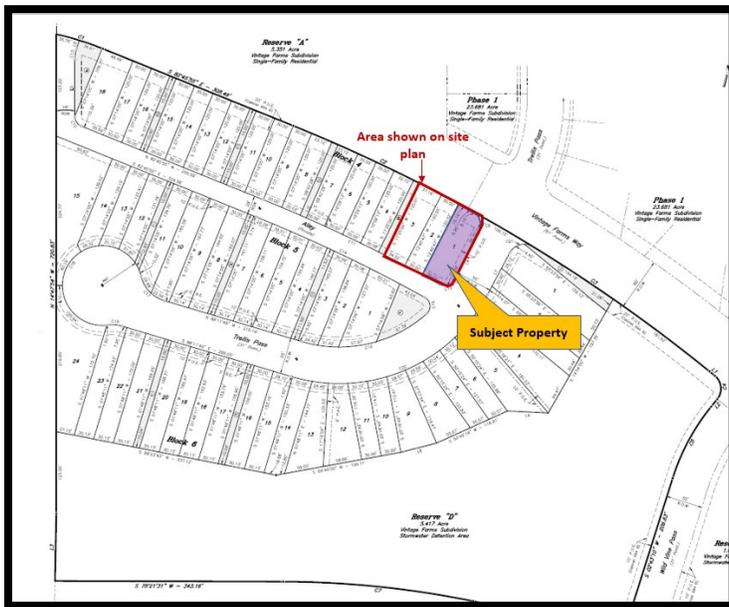
**Figure 1**



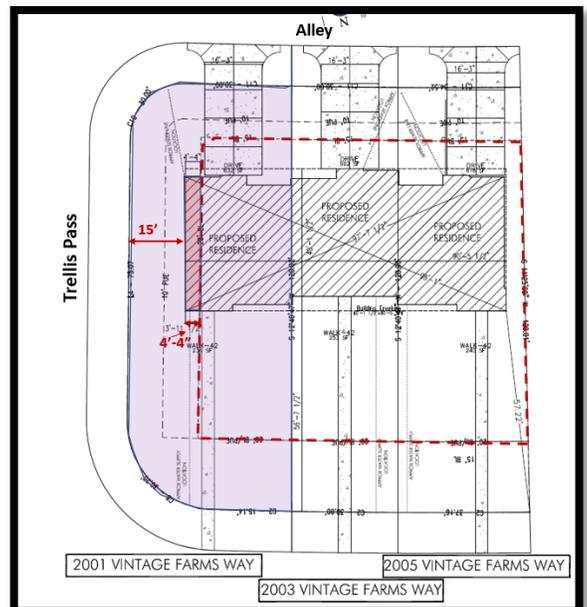
Single-family attached units have different lot and setback requirements than single-family detached homes. The minimum area for a townhome development is 9,000 square feet, with a lot area for each building/unit being a minimum of 3,000 square feet (3 units). The minimum required lot width is thirty (30) feet with a lot depth of 100 feet. The minimum required front yard setback is twenty (20) feet, rear yard of fifteen (15) feet and a minimum side yard of ten (10) feet where contiguous townhomes are separated and on corner lots a minimum of twenty (20) feet side yard setback. Single-family detached homes have a side-yard street setback of 15-feet, however due to townhome units being three or more attached units that are typically two-stories in height, the regulations require a greater side setback for corner lots at a distance of 20-feet. The subject property, and the entire 57-unit townhome development, however features single-story townhomes in groupings of three or four attached units.

During the building permit process, it was found that the proposed townhome unit on Lot 1, located on the corner of Vintage Farms Way and Trellis Pass, encroached into the required 20-foot corner side yard setback along the east property line abutting Trellis Pass by 4 feet 4 inches. This is due partially to the curvature of both Vintage Farms Way and Trellis Pass that reduces the buildable area of the end lot. Therefore, the applicant is requesting a variance for a 4-foot 4-inch reduction to the minimum required side street setback of 20-feet for a corner lot for the construction of a attached single-family residence (townhome).

Vintage Farms Townhomes Plat



Site Plan for Lots 1-3



**APPLICABLE SECTION OF ORDINANCE AND ANALYSIS:**

(Sec.5.02)(132)Variance: A type of relief that may be granted by the Board of Adjustment in order to accommodate appropriate development of a particular parcel of land that cannot otherwise be appropriately developed. The granting of such relief is subject to the standards and procedures as established in part IV, Variances, Special Exceptions, Nonconforming Uses and Appeals, Division 1. The Board may not grant variances to use requirements or procedural requirements related to the granting of a variance.

(DIVISION 2. VARIANCES Sec. 1. Limitations.) The Board of Adjustment shall have the authority to grant variances in accordance with the standards and procedures provided herein, from any and all technical requirements of the

zoning ordinance, but may not grant variances to use requirements or procedural requirements or for procedural requirements for hearing or notice, provided that:

- (1) *Such modifications are necessary to accommodate appropriate development of a particular parcel of land that is restricted by attributes inherent in the land such as area, shape or slope to the extent that it cannot otherwise be appropriately developed.*

**The subject property is the only corner lot within the subdivision plat that does not have a common area between the right-of-way and the lot. Being that the subject lot is located at the entrance to the subdivision and along two curving roadways, the amount of buildable area is smaller than the other lots within the subdivision. A variance to the side street setback will allow the subject property the needed area for the townhome without encroaching into the required 10-foot public utility easement. Staff finds that the proposed variance is necessary to accommodate development on the subject property which is in conformance with the City’s Comprehensive Plan and zoning map. (Exhibit “C”).**

- (2) *The granting of the variance will not be materially detrimental or injurious to other property or improvements in the neighborhood in which the subject property is located, nor impair an adequate supply of light or air to adjacent property, nor substantially increase the congestion in the public streets, nor increase the danger of fire, or in any way endanger the public health, safety and well-being of the neighborhood in which the subject property is located.*

**Granting the variance to the side yard setback for the corner lot will not be materially detrimental or injurious to other property or improvements in the neighborhood. Should the proposed variance be approved, staff finds that an adequate supply of light or air will be maintained as a 15-foot 8-inch setback from the property line will be applied which is the same setback required of single-family residential dwellings. The attached-single-family side-street setback regulations are greater for townhomes due to the units being typically multi-stories and being more imposing and hazardous close to a residential street corner. The proposed townhome unit will be a single-story structure and will be similar in scale to a single-family home that has a required side street setback of 15-feet. Furthermore, with this variance traffic will not be affected as directly to the south of the subject property, across the alley, is a common area that includes additional off-street parking. Staff is unable to identify any destabilizing negative effects of the proposed variance on neighboring properties.**

- (3) *The literal enforcement of the ordinance would work on unnecessary hardship.*

**Staff finds that literal enforcement of this ordinance would limit the buildable area of the subject lot which is platted as a 40-foot wide lot and zoned specifically for Townhome development within the existing Planned Development Agreement. Literal enforcement would result in a building footprint that would not be conducive to a single-story townhome. For this reason, staff finds that supporting the 4-foot 4-inch reduction to the side building setback will lessen the hardship of developing the uniquely shaped, restricted property.**

- (4) *The piece of property is unique and contains properties or attributes not common to other similarly situated properties.*

**The subject property is the only lot within the Townhome phase of the subdivision that does not feature a common area between the right-of-way and the adjacent lot. The subject property is also unique in that the curvature of the abutting roadways, Vintage Farms Way and Trellis Pass, rounds off the northeast and southeast corners of the property making them not 90-degree angles. The curvature results in a reduction of the typical area between the right-of-way and property line. The townhome side street setback**

regulations are greater for townhomes because they are usually multi-stories and would be more imposing and hazardous close to a residential street corner. The proposed townhome unit will be a single-story structure and will be similar in scale to a single-family home that has a required side street setback of 15-feet, whereas the applicant is requesting a 15-foot 8-inch setback.

(5) *The need for the variance was not created by the applicant.*

The need for the variance was not created by the applicant. The civil engineer when designing this phase of the subdivision included additional land on each corner lot of the Subdivision phase. As an example, the adjacent interior townhome lot is 30-feet wide while the subject tract of land is 40-feet wide. The curvature of the abutting rights-of-way, Trellis Pass and Vintage Farms Way, creates a curved corner property line that results in a narrower buildable area than a typical corner lot. Therefore, despite the efforts of the developer to increase the lot width to accommodate for the increased side building setback, a variance of 4-feet 4-inches is needed to allow for a reasonable developable area for the townhome.

(6) *The hardship to be suffered through the literal enforcement of the ordinance would not be financial alone.*

**The hardship suffered through the literal enforcement of the ordinance would not be financial alone.**

(7) *The granting of the variance would not be injurious to the public health, safety and welfare or defeat the intent of the philosophy contained in the Zoning Ordinance.*

Setbacks are established to provide adequate separation and size between developments and uses. Granting a 4-foot 4-inch variance to the side street setback requirement will allow for necessary open space, separation between structures and the adjacent roadway and would not be injurious to the public health, safety, and welfare, nor would it defeat the intent of the philosophy contained in the zoning ordinance.

**STAFF RECOMMENDATION:**

Staff has reviewed the request and ***recommends approving the requested*** variance to allow a 4-foot 4-inch reduction in the minimum required 20-foot corner side street setback for a setback of 15-feet 8 inches for a townhome residence to be located 2001 Vintage Farms Way.

**PUBLIC COMMENTS:**

Property owners within 200 feet of the subject property were mailed notifications of this proposal on November 3, 2022. Any public comments will be provided in the Board of Adjustment Packet or during the public hearing.

**EXHIBITS:**

- A. Aerial Map
- B. Zoning Map
- C. Vintage Farms Townhomes plat
- D. Site Plan
- E. Cover Letter
- F. Photos

EXHIBIT "A"  
AERIAL MAP



**Aerial Map  
2001 Vintage Farms Way  
Variance Request**



1 inch = 125 feet

EXHIBIT "B"  
ZONING MAP



Zoning Map  
2001 Vintage Farms Way  
Variance to Side Yard Street Setback

1 Inch = 100 Feet



P1 Planned Development







EXHIBIT "E"  
COVER LETTER

---



October 21, 2022

2001 Vintage Farms Way

City of Brenham Board of Adjustment  
200 W. Vulcan Street  
Brenham, TX 77834  
(979)337-7200

Dear Board of Adjustment:

This letter is intended to request a variance on the side yard setback for a townhome corner lot, as set by Section 2.05 (2)(b)(ii) of the city's zoning ordinance. The setback is currently required to be 20 feet, and we are requesting a variance of 5 feet to make the setback only 15 feet.

The reason for this request is due to the fact there is no common area between the right of way and the lot, as is the case with all of the other corner lots within this subdivisions plat.

Please see the attached plat and site plan depicting the distance the building is over the 20 feet setback, which is a maximum 4'-4". The 5-foot variance would provide the needed space for the townhome building, while also staying out of the other 10' PUE setback.

Thank you in advance for your consideration.

Sincerely,

Jeff Wright

Stylecraft Design and Operations Manager  
(979)690-1222, Ext. 152  
[jwright@stylecraft.com](mailto:jwright@stylecraft.com)

**EXHIBIT "F"**  
**SITE PHOTOS**



**CASE NUMBER: B-22-006**

**VARIANCE REQUEST:**

**STAFF CONTACT:** Shauna Laauwe, AICP, City Planner

**OWNERS/APPLICANTS:** Edin and Martha Inestroza

**ADDRESS/LOCATION:** Intersection of Sabine Street and Clay Street, currently addressed as 710 Sabine Street (Exhibit "A")

**LEGAL DESCRIPTION:** Proposed Lot 1 & Lot 16 of the Ebenezer Development

**LOT AREA:** Lot 1: 0.144-acres (6,296.31 sq.ft.)  
Lot 16: 0.143-acres (6,246.29 sq.ft.)

**ZONING DISTRICT/  
USE:** R-2 Mixed Residential Use District / vacant land (Exhibit "B")

**COMP PLAN  
FUTURE LAND USE:** Multi-Family Residential Use

**REQUEST:** A request for a Variance from the City of Brenham Code of Ordinances, Appendix A – Zoning, Part II, Division 2, Section 2.05(2)(b)(ii) to allow a 15-foot side yard setback, where a minimum 20-foot side yard setback is required for a corner lot, for the future development of a duplex unit on each lot (Exhibit "C").

**BACKGROUND:**

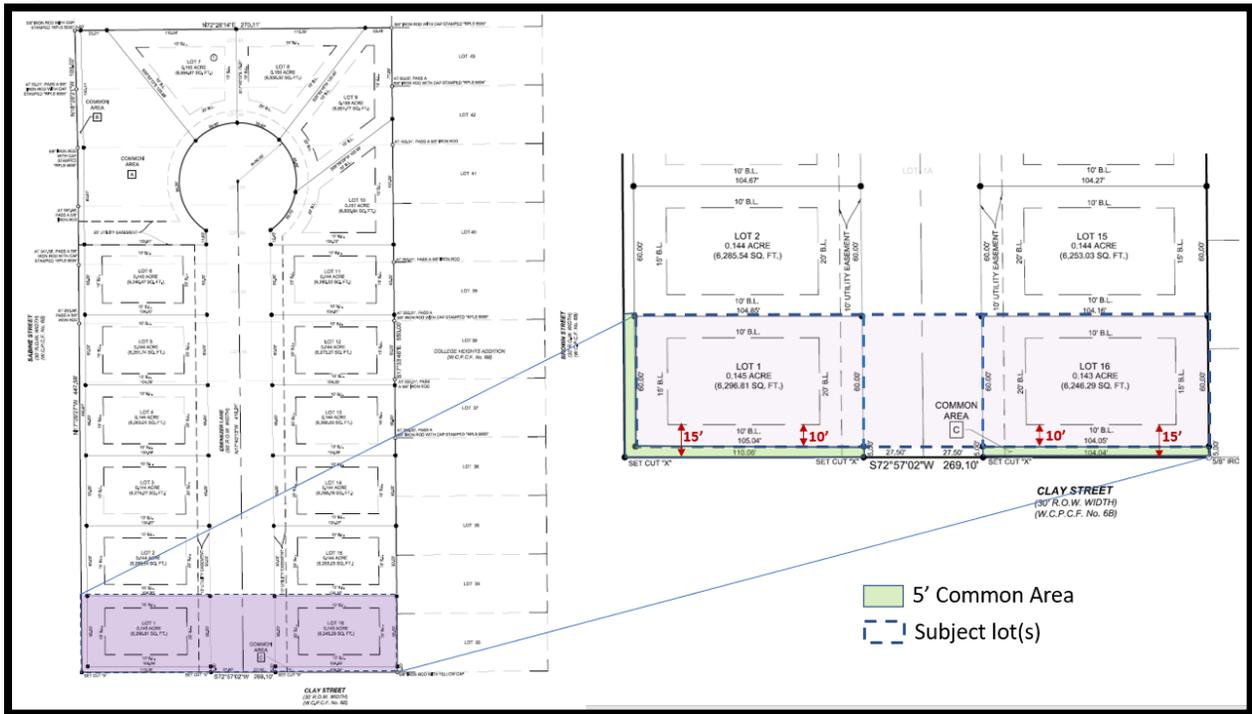
The subject properties are part of a 3.388-acre vacant tract of land located at the intersection of Sabine Street and Clay Street and currently addressed as 710 Sabine Street. The area within the black and white rectangular area in Figure 1 was replatted in 2016 as townhome lots that are 50-feet in width and approximately 268-feet in depth. These unusually shaped platted townhome lots are difficult to develop and do not meet minimum requirements of the subdivision and zoning ordinances. The property owners and applicants are Mr. & Mrs. Inestroza, who wish to develop the 3.388-acres into a 16 lot duplex development that will comprise of 32 duplex units, 3 common areas, and a detention area. As shown in Figure 2, the subject properties are proposed Lot 1 and Lot 16 of the cul-de-sac development and are proposed to be located at the northwest and northeast corner,

**Figure 1**



respectfully of the proposed intersection of Ebenezer Lane and Clay Street. The subject property, as well as all surrounding properties are currently zoned as R-2 Mixed Residential Use District. The R-2 District allows single-family attached units (duplexes) as a permitted use.

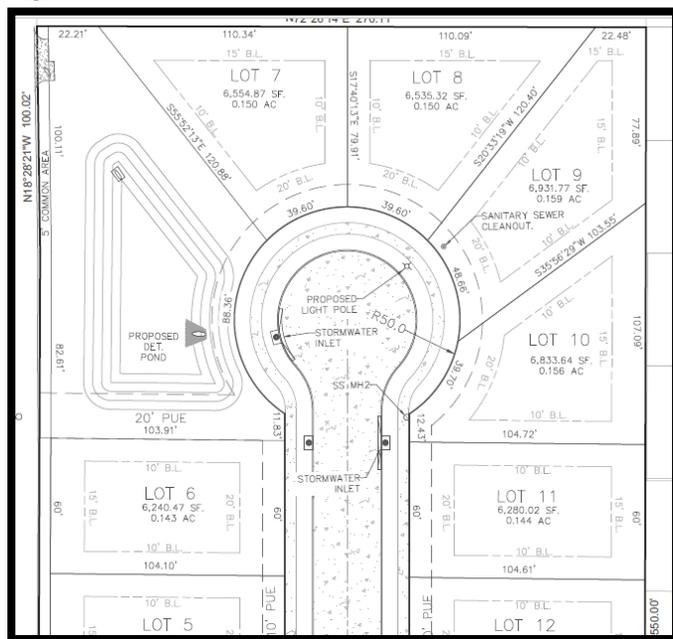
Figure 2



Within the R-2 District, single-family attached units (duplexes and townhomes) have different lot and setback requirements than single-family detached homes. The minimum required lot width is fifty (50) feet with a lot depth of 100 feet. The minimum required front yard setback is twenty (20) feet, rear yard of fifteen (15) feet and a minimum side yard of ten (10) feet, and on corner lots a minimum of twenty (20) feet side yard setback.

The topography of this vacant property is challenging and the significant slope of the land will require a large detention pond to accommodate adopted drainage requirements. Several different layouts and options were considered with city staff to best suit the property owners' goals and also meet the zoning, subdivision, fire code and building code requirements. The proposed subdivision layout results in proposed Lot 1 and Lot 16 to have a 10-foot side street setback along Clay Street, where a 20-foot side street setback for the corner lots are typically required. The proposed subdivision layout includes a 5-foot common area along the rear of the proposed lots adjacent to Sabine Street and for proposed Lots 1 and 16 along Clay Street. Thus, while the duplexes will be at a 10-foot setback

Figure 3



from the south property lines, they will essentially have a 15-foot setback from the Clay Street right-of-way. The proposed lot layout provides the minimum 100-foot average lot depth at Lots 7 and Lot 8. If proposed Lot 1 and Lot 16 were to have the required 20-foot side street setback, all lots would shift north and Lots 7 and 8 (shown in Figure 3) would fail to provide the required lot depth, and create a need for a variance. Additionally, the lots would encroach into the necessary location of the detention pond that is best suited in the northwest corner of the site to accommodate the natural flow of stormwater on the site.

Therefore, the applicant is requesting a variance for a 10-foot reduction to the minimum required side street setback of 20-feet for the corner lots to allow for the construction of a attached single-family residence (duplex) on each subject lot.

#### **APPLICABLE SECTION OF ORDINANCE AND ANALYSIS:**

(Sec.5.02)(132)Variance: A type of relief that may be granted by the Board of Adjustment in order to accommodate appropriate development of a particular parcel of land that cannot otherwise be appropriately developed. The granting of such relief is subject to the standards and procedures as established in part IV, Variances, Special Exceptions, Nonconforming Uses and Appeals, Division 1. The Board may not grant variances to use requirements or procedural requirements related to the granting of a variance.

(DIVISION 2. VARIANCES Sec. 1. Limitations.) The Board of Adjustment shall have the authority to grant variances in accordance with the standards and procedures provided herein, from any and all technical requirements of the zoning ordinance, but may not grant variances to use requirements or procedural requirements or for procedural requirements for hearing or notice, provided that:

- (1) Such modifications are necessary to accommodate appropriate development of a particular parcel of land that is restricted by attributes inherent in the land such as area, shape or slope to the extent that it cannot otherwise be appropriately developed.*

**The subject property was platted in 2016 as part of a townhome subdivision that does not meet existing development standards. Therefore, the applicant desires to replat the property, develop public infrastructure for a cul-de-sac, and proceed with a duplex development on a total of 16 properties. The applicant is requesting a reduction of a 20-foot side yard setback to a 10-yard setback. However, the proposed subdivision plat includes the dedication of a 5-foot common area located between the Clay Street right-of-way and side property line. The proposed common area will remain undeveloped and is proposed for the primary purpose of a perimeter subdivision fence. Therefore, if approved the proposed structure will be 15-feet from the right-of-way and literal enforcement of the zoning ordinance requires a 20-foot setback.**

**Staff finds that the modifications of a reduced street side yard setback are necessary to accommodate the development of the proposed duplex subdivision. The proposed subdivision lot layout shown in Exhibit "C" details that the proposed lots all meet the minimum lot depth and width requirements. If the subject properties were to have the required 20-foot side street setback, all Lots would shift north leaving Lots 7 and 8 to need a variance to the minimum average lot depth of 100-feet. Additionally, the proposed location of the detention pond is necessary due to the slope of the land. Stormwater naturally flows towards the northwest corner of the site and moving the location of the pond could jeopardize storage capacity and the elevation of the culvert outlet.**

**Staff finds that the proposed variance is necessary to accommodate duplex development on the subject property which is currently zoned for such development (Exhibit "B") and in conformance with the City's adopted Future Land Use Map as included in the Comprehensive Plan, Plan 2040.**

*(2) The granting of the variance will not be materially detrimental or injurious to other property or improvements in the neighborhood in which the subject property is located, nor impair an adequate supply of light or air to adjacent property, nor substantially increase the congestion in the public streets, nor increase the danger of fire, or in any way endanger the public health, safety and well-being of the neighborhood in which the subject property is located.*

**The granting of the variance will not be materially detrimental or injurious to other properties or improvements in the neighborhood as the additional 5-foot common area along Clay Street and Sabine Street will result in a visible side street setback of 15-feet that is common to single-family detached units. Any fences located within the front yard or side yard of the subject properties will be required to meet the sight-vision triangle guidelines to ensure that the line of sight of traffic exiting proposed Ebenezer Lane will not be impeded.**

*(3) The literal enforcement of the ordinance would work on unnecessary hardship.*

**Literal enforcement of this ordinance would result in an unnecessary hardship as the geometry of the north lots would be affected, and a new variance request would need to be submitted to allow a reduction in the average lot depth of proposed Lots 7 and Lot 8. If the lots were to shift north to accommodate a 20-foot side street setback, the property line of proposed Lot 6 that is adjacent to the detention pond, would be too close to the pond and would reduce the required access width along the perimeter of the pond. Due to the grade and slope of the land, there is not an alternative location for the detention pond that meets adopted standards for capacity.**

*(4) The piece of property is unique and contains properties or attributes not common to other similarly situated properties.*

**The subject site is unique in that the existing platted lot lines that are narrow and elongated and could not be reasonably developed and thus, the unique shape, slope, and overall dimensions of the property resulted in the proposed cul-de-sac and duplex development. The property owner originally proposed a single-family development, but the larger minimum lot sizes (7,000 sf) and depth (115 feet) would have required each lot to receive a variance.**

*(5) The need for the variance was not created by the applicant.*

**The existing plat with the elongated narrow townhome lots has not developed since it was recorded in 2016 and the applicant is proposing an alternative that staff feels meets the intent of the zoning ordinance. The proposed subdivision layout for the duplex development reduced the number of needed variances from sixteen (16) to two (2). The applicant, his civil engineering consultant, and city staff met several times to find the best viable and most code-compliant solution for the challenging parcel of land. Among the challenges were that the topography and slope of the land required a stormwater detention pond that is larger than most developments of this size.**

*(6) The hardship to be suffered through the literal enforcement of the ordinance would not be financial alone.*

**The hardship suffered through the literal enforcement of the ordinance would not be financial alone. The proposed location of the detention pond is necessary due to the slope of the land. If the lots were to move north to allow for the minimum required 20-foot side street setback, the property line of proposed Lot 6**

adjacent to the detention pond would be too close and would reduce the required access width along the perimeter of the pond.

(7) *The granting of the variance would not be injurious to the public health, safety and welfare or defeat the intent of the philosophy contained in the Zoning Ordinance.*

**Granting a variance to the minimum side street setback requirement would not be injurious to the public health, safety, and welfare, nor would it defeat the intent of the philosophy contained in the zoning ordinance. If approved, the development will continue such that the proposed duplex on the proposed corner lots will be located 15' away from the side property line. This will be accomplished by the 10' building setback combined with the 5' unimproved common area between the side property line and the Clay Street right-of-way.**

**STAFF RECOMMENDATION:**

Staff has reviewed the request and ***recommends approving the requested*** variances to allow a 10-foot reduction in the minimum required 20-foot street setback for single-family attached units on a corner lot for Lot 1 and Lot 16 on the proposed Ebenezer Development for the construction of duplexes.

**PUBLIC COMMENTS:**

Property owners within 200 feet of the subject property were mailed notifications of this proposal on November 3, 2022. Any public comments will be provided in the Board of Adjustment Packet or during the public hearing.

**EXHIBITS:**

- A. Aerial Map
- B. Zoning Map
- C. Proposed plat
- D. Application letter

EXHIBIT "A"  
AERIAL MAP

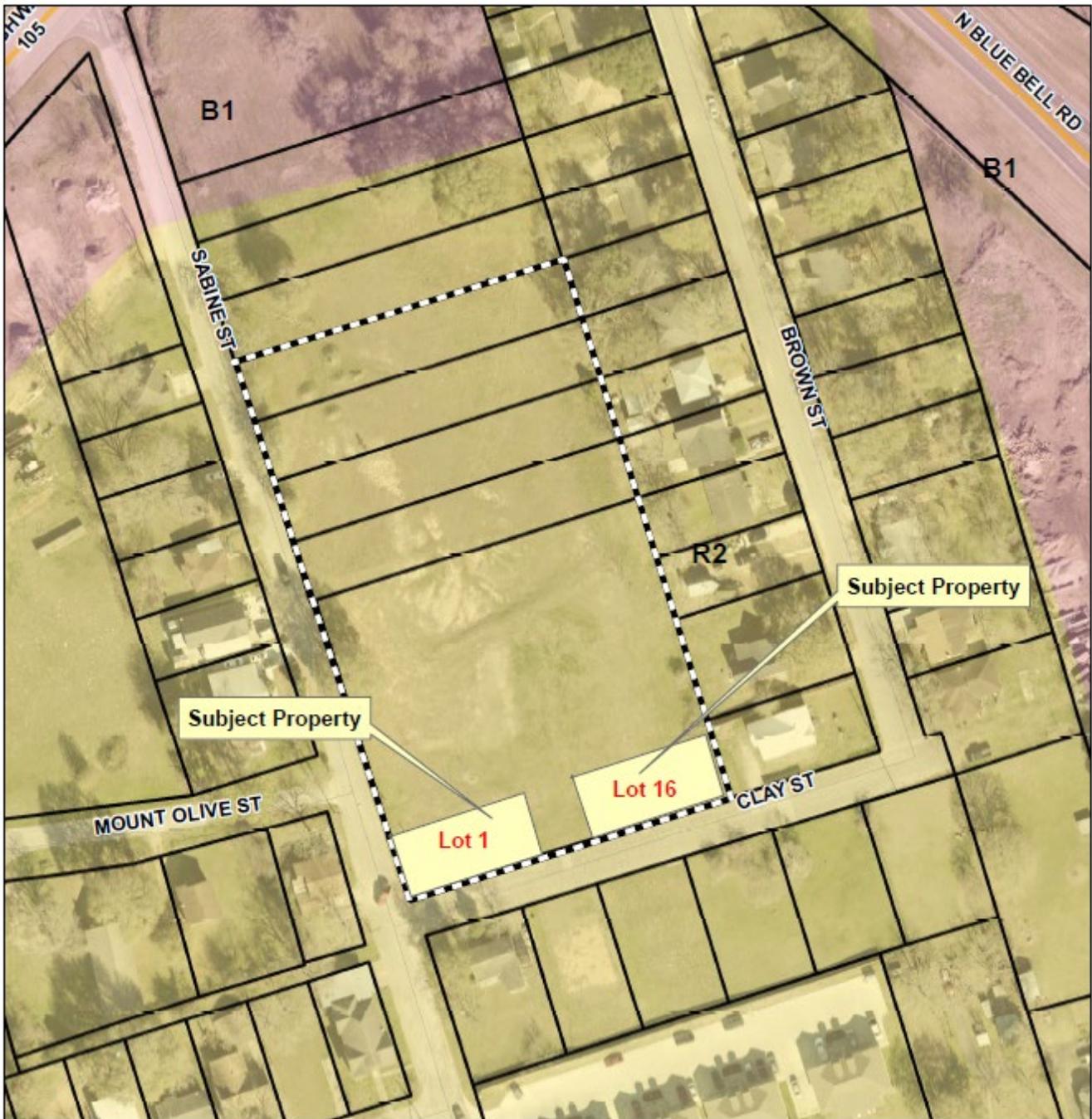


**Aerial Map**  
**Intersection of Sabine St & Clay St**  
**Currently 710 Sabine St**  
**Proposed Lot 1 & Lot 16**  
**Street Side Yard Setback Variance Request**



1 inch = 104 feet

EXHIBIT "B"  
ZONING MAP



- B1 Local Business Mixed
- R2 Mixed Residential

**Zoning Map**  
**Intersection of Sabine St & Clay St**  
**Currently 710 Sabine St**  
**Proposed Lot 1 & Lot 16**  
**Street Side Yard Setback Variance Request**



1 inch = 104 feet



**EXHIBIT "D"**  
**TOPOGRAPHY/CONTOURS**

