

**CITY OF BRENHAM
BOARD OF ADJUSTMENT MINUTES**

February 13, 2023

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 February 13, 2023, at 5:15 pm in the Brenham Municipal Building, City Council Chambers, at 200 West Vulcan Street, Brenham, Texas.

Commissioners present:

Jon Hodde, Chairman

Dax Flisowski

Danny Goss

Arlen Thielemann [arrived at 5:45 pm]

Mary Lou Winkelmann

Commissioners absent:

None

Staff present:

Stephanie Doland, Director of Development Services

Shauna Laauwe, City Planner

Kim Hodde, Planning Tech

Rosie McKee, Permit Tech

Citizens / Media present:

Donald W. Lampe, Lampe Surveying

Marco Aguilar

Patricia Hughes

Modesta Garcia

Christine Guajardo

Rev. Johnnie Williams

Sheryl Calton

1. Call Meeting to Order

Chairman Hodde called the meeting to order at 5:18 p.m. with a quorum of four (4) Commissioners present. Commissioner Thielemann arrived at 5:45 pm and was the fifth Commissioner 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 January 9, 2023 Board of Adjustment Meeting.

Chairman Hodde called for any corrections or additions to the minutes as presented. A motion was made by Commissioner Goss and seconded by Commissioner Flisowski to approve the Consent Agenda (minutes from the January 9, 2023 meeting), as presented. The motion carried unanimously (4-0).

REGULAR AGENDA

- 5. Public hearing, Discussion and Possible Action on Case Number B-23-001: A request by Marco and Beatriz Aguilar for a variance from the City of Brenham Code of Ordinances, Appendix A – Zoning, Part II, Division 2, Section 2.05(1)(b)(ii) to allow a lot width of 17.6-foot at the street for two contiguous lots, where a minimum lot width of 60-foot lot is required, for a single-family residence located at 1000 Burleson Street (0.977-acre tract/R14516) and the tract located to the south, identified by WCAD as Tract 266 of the A. Harrington Survey, A-55/R14588 (currently not addressed), containing 2.40-acres, described as Lots 197 and 266, respectively, of the Arrabella Harrington Survey, A-55, in Brenham, Washington County, Texas.**

Shauna Laauwe, City Planner, presented the staff report for Case No. B-23-001 (on file in the Development Services Department). Ms. Laauwe stated that this is a request by Marco and Beatriz Aguilar to allow a lot width of 17.6-foot at the street for two contiguous lots where a minimum 60-foot lot width is required. The subject property is zoned a mix of I-Industrial and R-2, Mixed Residential District. The current use is single-family residential / vacant land and the Comprehensive Plan shows the future land designation of the property as single-family residential. Ms. Laauwe stated that Brenham’s zoning ordinance requires the width of a residential lot to be not less than sixty (60) feet at the front street building line. There is currently a 35.2-foot access that is dedicated by metes and bounds. The request is to allow a lot width of 17.6-feet at the street for the lot addressed as 1000 Burleson Street and for the tract located to the south. The north lot is 0.997-acre and the south lot is 2.40-acres. The property is unplatted and was purchased in 2010. The existing single-family home was constructed in 1981. Most of this area is not platted and is part of the Original Town. The north lot is a flag lot with access provided by an existing 374.52-foot driveway. The south lot is landlocked. Currently, the only access is through the driveway on the north lot. The applicant desires to sell the south lot and this will require the property to be platted to establish direct and immediate access for the south lot. The current 35.2-foot access is proposed to be divided with each lot being platted with 17.6-foot lot width at the street. The south lot is undevelopable without this variance. The property has been in its existing configuration for at least 40-years. There will be no change as to how the property will look from Burleson Street other than the requirement for the first 25-feet of the driveway to be paved. Staff has reviewed the request and recommends approval of the variance request as presented.

Notifications were mailed to property owners within 200-feet of the subject property on February 2, 2023. Staff did not receive any citizen comments in support of or against the request.

Staff has reviewed the request and recommends approval of the requested variance to allow a lot width of 17.6-foot at the street for two contiguous lots located at 1000 Burleson Street and the tract adjacent to the south.

Danny Goss asked if the road would be built to City codes. Ms. Laauwe reiterated that it will not be a private road but only a driveway with an access easement; therefore, only the first 25-feet of the driveway is required to be paved.

Chairman Hodde opened the Public Hearing at 5:33 p.m. and asked for any comments. There were no citizen comments.

Chairman Hodde closed the Public Hearing at 5:34 p.m. and re-opened the Regular Session.

A motion was made by Commissioner Winkelmann and seconded by Commissioner Flisowski to approve the request by Marco & Beatriz Aguilar for a variance from the City of Brenham Code of Ordinances to allow a lot width of 17.6-foot at the street for two contiguous lots, where a minimum lot width of 60-foot lot is required, for a single-family residence located at 1000 Burleson Street (0.977-acre tract/R14516) and the tract located to the south, identified by WCAD as Tract 266 of the A. Harrington Survey, A-55/R14588 (currently not addressed), as presented. The motion carried unanimously (4-0).

6. Public hearing, Discussion and Possible Action on Case Number B-23-002: A request by Modesta Gonzales for a variance from the City of Brenham Code of Ordinances, Appendix A – Zoning, Part II, Division 2, Section 2.05 (1)(a)(ii) to allow an 8-foot, 9.6-inch south side yard setback, where a minimum 10-foot side yard setback is required for a single-family residence to be located at 713 Brown Street, described as PT Lot 36, College Heights Addition in Brenham, Washington County, Texas.

Shauna Laauwe, City Planner, presented the staff report for Case No. B-23-002 (on file in the Development Services Department). Ms. Laauwe stated that this is a request from Modesta Gonzales for a variance to allow an 8-foot, 9.6-inch south side yard setback, where a minimum 10-foot side yard setback is required for a single-family residence to be located at 713 Brown Street. The subject property is zoned R-2, Mixed Residential Use District. The current use is for a single-family residence and the Comprehensive Plan shows the future land designation of the property as single-family residential.

Ms. Laauwe stated that the College Heights Addition occurred before adoption of the subdivision and zoning regulations in 1968 and consisted of 64 lots that were 50-foot wide and 128-foot deep (6,400 square feet). Recently, a 929-square foot home was moved onto the subject property. Documents provided to obtain the moving/building permit stated that the home would fit within the minimum setbacks; however, the required form survey, after installation, showed that the structure was encroaching in the south side yard setback by 1-foot 2.5- inches. Ms. Laauwe stated that this is a legally non-conforming narrow lot and that the home far exceeds the front and rear setbacks. This home only encompasses approximately 15% of the lot. The neighboring adjacent home to the north was constructed in 1970 and is located approximately 5-feet from the side property line. Ms. Laauwe stated that there are four other properties on Brown Street that have received prior variances similar to this request.

Notifications were mailed to property owners within 200-feet of the subject property on February 2, 2023. Staff received one citizen comment in support of the request (A. Daves) and one citizen comment in opposition to the request (Sheryl Calton). Copies of both responses were provided to the Board members.

Staff has reviewed the request and recommends approval of the requested variance to allow an 8-foot, 9.6-inch south side yard setback, where a minimum 10-foot side yard setback is required for a single-family residence to be located at 713 Brown Street.

Chairman Hodde recused himself and left the room due to a potential conflict of interest, since his surveying firm performed the form survey for this property. Vice Chairman Goss acted as Chairman for the remainder of the meeting.

Ms. Laauwe stated that if the variance were to be approved, the structure would have to be brought into compliance with the 2018 Building Codes. In response to Commissioner's questions, Ms. Laauwe stated the following:

- If the variance were to be approved, the structure would have to be brought into compliance with the 2018 Building Codes.
- This is a common occurrence in this area.
- The applicant applied for a moving permit and the drawing showed the house met the setbacks; however, the form survey showed that it didn't meet the side setbacks.
- The Subdivision Ordinance has a provision for lots that are 49-feet or less to have a smaller setback (5-foot) but this lot is 50-foot wide so it is required to have a 10-foot side setback.
- Ms. Laauwe clarified that the home is not a manufactured home but is a wood-construction home on a pier and beam foundation.

Vice-Chairman Goss opened the Public Hearing at 5:50 p.m. and asked for any comments. Ms. Sheryl Calton, who owns the property at 717 Brown Street and resides at 12706 Tammarack Drive, Houston, Texas, 77013, spoke and reiterated her opposition to the request. Ms. Calton read the email previously submitted to the Commissioners and copied below for reference:

I am in opposition to Proposal B-23-002 for the reasons below:

- *unnecessary hardship would be created due to such change in conditions/circumstances created by this request*
- *alter the essential character of the neighborhood and impair the appropriate use of development of adjacent properties on Brown Street and the neighborhood*
- *change the unique physical circumstances or conditions for this request would alter the provisions of the current zoning ordinance*
- *to avoid relief for modification due to the permanent impairment of use and development and would be detrimental to the public welfare and unfair to landowners on Brown Street and neighborhood*
- *potential for higher population density*
- *potential of blocking the sun, blocking the view, and less privacy*
- *potential drainage/sewer issues impacting the neighborhood.*

Summary:

The opposition is based on these potential/probable adverse effects, including:

- *compliance with this project will cause undue hardship for the landowners on Brown Street and the neighborhood*
- *the proposed project is unnecessary for reasonable use of the property*
- *the proposed project would alter and create a loss of the essential characteristics of the neighborhood*
- *the proposed project would increase the potential for drainage/sewer issues in the future*
- *the proposed project does not represent the least possible solution.*

When I married in 1989 to Samuel O. Calton, Jr., deceased, I resided in a manufacturer's home for several years.

The property that I currently own at 717 Brown Street, Brenham, Texas 77833, was built and purchased by his father, Samuel O. Calton, Sr., father and after his death, purchased by Samuel O. Calton, Jr., son. Samuel O. Calton, Jr. attended schools in Brenham ISD and later went on to attend Blinn Jr. College and Stephen F. Austin State University to receive a B.S. and Master's Degree.

Based on my understanding, the fence adjacent to the project was installed by Samuel O. Calton, Sr., but the survey may show an encroachment on the fence line based on the survey flags.

There lies another movement of the land and soil on Brown Street.

I will exclude the survey issue until I can conduct a survey and secure signatures from neighbors that, in fact,

Samuel O. Calton, Sr. purchased and installed the fence adjacent to the property regarding this project and whatever evidence may be required.

In addition, I have concerns about having a manufactured home in a residential neighborhood that is not permitted by the current zoning ordinance. This is the exact property location requesting the variance.

I am requesting further clarification in writing regarding the manufactured home at 713 Brown Street, Brenham, Texas, 77833.

As a living spouse and landowner on Brown Street, I am responsible for opposition to this project for reasons listed in this email message.

Ms. Rosie McKee interpreted for Ms. Gonzales. Ms. Gonzales stated that she is just requesting the ability to make this property a home for her family. She further stated that she cannot argue with Ms. Calton's feelings but she thinks this home will be a benefit to the area. There were no other comments.

Vice Chairman Goss closed the Public Hearing at 6:00 p.m. and re-opened the Regular Session.

A motion was made by Commissioner Winkelmann and seconded by Commissioner Thielemann to approve the request by Modesto Gonzales for a variance from the City of Brenham Code of Ordinances to allow an 8-foot, 9.6-inch south side yard setback for a single-family residence to be located at 713 Brown Street, as presented. The motion carried unanimously.

7. Adjourn

A motion was made by Commissioner Winkelmann and seconded by Commissioner Thielemann to adjourn the meeting at 6:08 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:

Danny Goss

Danny Goss, Vice Chairman

March 13, 2023

Meeting Date

Kim Hodde

Attest, Staff Secretary

March 13, 2023

Meeting Date