



**NOTICE OF A REGULAR MEETING
BOARD OF ADJUSTMENT
MONDAY, AUGUST 12, 2024, 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 May 13, 2024, Board of Adjustment Meeting.

4-b. Minutes from May 13, 2024, Joint Training Session of the Board of Adjustment and the Planning & Zoning Commission.

REGULAR AGENDA

- 5. Public hearing, Discussion and Possible Action on Case Number B-24-006: A request by David Hermann/Home Town Properties, LP, 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 a 8-foot west side setback (500) and an 8-foot east side setback (502) and a variance from Section 2.05 (1)(b)(i, ii, and iii) to allow a lot size of 5,564 square feet, where a minimum lot size of 7,000 square feet is required; to allow a lot width of 52 feet, where a minimum lot width of 60 feet is required; and to allow an average lot depth of 107 feet, where a minimum average lot depth of 115 feet is required, in order to subdivide and plat the existing lot into two (2) lots for the two (2) existing single-family homes addressed as 500 and 502 W. Third Street, described as Block 9, Lot S/PT 1C, Key's 1st Addition, A. Harrington Survey, A-55, in Brenham, Washington County, Texas.**

6. **Public hearing, Discussion and Possible Action on Case Number B-24-007: A request by Robert Stults for a variance from the City of Brenham Code of Ordinances, Appendix A – Zoning, Part II, Division I, Section 10.02(4)(c) to allow a rear setback of 8-feet for a proposed Accessory Dwelling Unit (ADU) where a minimum 10-foot rear yard is required for an Accessory Dwelling to be located at 700 Pecan Street, described as Key’s 2nd Block B, Lot N PT 1.4, A. Harrington Survey A-55 in Brenham, in Brenham, Washington County, Texas.**

7. **Adjourn.**

CERTIFICATION

I certify that a copy of the August 12, 2024, 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 August 9, 2024, at 1:45 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 _____, 2024 at _____ am/pm.

Signature

Title

**CITY OF BRENHAM
BOARD OF ADJUSTMENT MINUTES**

May 13, 2024

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 May 13, 2024, at 5:15 pm in the Brenham Municipal Building, City Council Chambers, at 200 West Vulcan Street, Brenham, Texas.

Commissioners present:

Jon Hodde, Chairman
Danny Goss, Vice Chair
Dax Flisowski
Arlen Thielemann
Mary Lou Winkelmann

Commissioners absent:

None

Staff present:

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

Citizens / Media present:

Charles Keese
Craig & Theresa Norman
Dara Childs
Amado Perez

1. Call Meeting to Order

Chairman Hodde called the meeting to order at 5:15 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

Stephanie Doland thanked the Board members for taking the time to attend the training session earlier today. There were no other 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 February 12, 2024, Board of Adjustment Meeting.**
- 4-b. **Minutes from April 8, 2024, 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 Winkelmann to approve the Consent Agenda (minutes from the February 12, 2024, and the April 8, 2024, meetings), as presented. The motion carried unanimously (5-0).

REGULAR AGENDA

- 5. **Public hearing, Discussion and Possible Action on Case Number B-24-004: A request by Dara Childs/Scott Bailey for a variance from the City of Brenham Code of Ordinances, Appendix A – Zoning, Part II, Division 2, Section 1.05(1)(a)(ii) to allow a lot width of 27.5-feet at the property line (frontage), where a minimum lot width of 60 feet is required for two proposed lots, in order to subdivide and plat the existing property into two (2) lots for the construction of two single-family homes located at 1307 Hidden Creek Lane, described as Lot 3, Block 1 of the Sycamore Hill Subdivision, in Brenham, Washington County, Texas.**

Shauna Laauwe, City Planner, presented the staff report for Case No. B-24-004 (on file in the Development Services Department). Ms. Laauwe stated that this is a request from Scott Bailey through this agent, Dara Childs. The subject property is zoned as R-1, Single-Family Residential Use District and currently is developed with a single-family residence. The subject property is addressed as 1307 Hidden Creek Lane and is located west of S. Saeger Street, with Old Mill Creek to the south and Blinn College to the southeast. The future land use designation is single-family residential, and the proposed use is single-family residential. The subject property is surrounded by a variety of uses including R-2, B-1, and Institutional zoning uses.

Hidden Creek Lane was originally part of the Meadowbrook Subdivision (1985). The plat showed a future connecting street (Wyandotte Lane) connecting Meadowbrook Lane and Wyandotte Lane (Hidden Creek Lane). This connecting street was never developed. In 2019, three (3) lots were created from the vacant property. The lots are non-conforming to the lot width and do not have fire turnaround access. If this lot is subdivided and a new home is constructed, it will be required to be fire sprinklered in lieu of providing this fire turnaround access.

The subject 1.354-acre property at 1307 Hidden Creek Lane has been sold to Mr. Bailey, who wishes to subdivide the subject property into two lots so that the southern lot (Lot 3B) could be developed for a single-family home. The existing subject property is proposed to be split equally, with each lot (Lot 3A and Lot 3B) consisting of 0.6770-acres (29,490 SF). The west front property lines would measure approximately 115 feet in length, while the side property lines vary between 170-feet and 180-feet in depth and the rear property lines are approximately 150-feet in length. While the lots are large and exceed the minimum lot size of 7,000 square feet and depth, the subdividing of the original lot would cause the subject property to lose the grandfathered nonconforming status and each lot would only have a lot width of **27.5-feet** along at right-of-way of Hidden Creek Lane, where a minimum lot width of 60-feet is required for single-family residential lots. If the variance and subsequent platting is approved, the existing home would be located on Lot 3A, and a new single-family home could be constructed on Lot 3B. Each home would have access to Hidden Creek Lane via an elongated driveway. Per the International Fire Code (IFC), Section 503.1.1(1.1) Building and facilities, since an IFC approved fire truck turnaround would not be provided, the new single-family structure on proposed Lot 3B would be required to have an approved automatic sprinkler system installed (See Exhibit E). The property owner and his agent have been made aware of this provision.

For the subject property to be subdivided and platted into two separate lots, the Subdivision regulations require that proposed lots meet the zoning requirements or be granted variances by the Board of Adjustment. The applicant, therefore, is requesting variances for proposed Lot 3A and Lot 3B to allow a lot width at the property line (frontage) of 27.5-feet instead of the required 60-feet.

STAFF ANALYSIS

- The subject property is not eligible for platting unless a variance is granted to allow the lot width reduction.
- The existing home on the subject property was constructed before the Infrastructure Design Manual was adopted in 2022. The Infrastructure Design Manual does not allow dead-end streets.
- The request will not be materially detrimental or injurious to other properties. A fire turnaround would give both lots the required width. Without a turnaround, any new structures would be required to be fire sprinklered.
- The proposed lots would be out of character with the neighborhood in terms of access and block face.
- Literal enforcement would require construction of a fire turnaround that meets Appendix D of the 2018 International Fire Cod and provides a 60-foot lot width. This expense is a hardship if it would be more than 50% of the property value.
- The property is a large, underutilized infill property with floodplain and a dead-end access. The Applicant did not create the dead-end but elected to not extend the right-of-way and utilities.
- Reason for denial - Standard #1: The lot “as-is” is developable for a single-family home.
- Reason for denial - Standard #5: The need for the variance was created by the Applicant.
- The request is not injurious to the public health, safety, and welfare but would defeat the intent of the Zoning Ordinance. It does not promote connectivity or a good subdivision design.

Staff acknowledges that the proposed two lots would provide the possibility of an additional home for the community and meet the objectives of the Housing Task Force. However, due to the subject property being buildable for a single-family home in its current configuration and the requested variance being created by the applicant, Staff **recommends denial of the requested** variances to allow proposed Lot 1 and Lot 2 a 27.5-foot lot width at the property line (frontage) instead of the required 60-foot lot width.

Notifications were mailed to property owners within 200-feet of the subject property on May 2, 2024. Staff did not receive any written comments in favor or opposed to the request.

Chairman Hodde opened the Public Hearing at 5:39 p.m. and asked for any comments. The owner’s agent, Dara Childs, stated that lots in new subdivision lots are easier to get the “perfect” lot; however, infill lots are an opportunity for development of additional housing. Mr. Childs stated that the Board of Adjustment recently approved a similar variance request from Habitat for Humanity that will be good for the community, but he feels that this request is good for the community as well. In response to questions from Commissioners, Mr. Childs clarified that there is approximately 150 feet from the street to the existing creek and that the proposed house is outside the flood zone. There were no other comments.

Chairman Hodde closed the Public Hearing at 5:41 p.m. and re-opened the Regular Session.

A motion was made by Commissioner Flisowski and seconded by Commissioner Thielemann to approve the request by Dara Childs/Scott Bailey for a variance from the City of Brenham Code of Ordinances, Appendix A – Zoning, Part II, Division 2, Section 1.05(1)(a)(ii) to allow a lot width of 27.5-feet at the property line (frontage), where a minimum lot width of 60 feet is required for two proposed lots, in order to subdivide and plat the existing property into two (2) lots for the construction of two single-family homes located at 1307 Hidden Creek Lane, as presented. The motion carried unanimously (5-0).

6. **Public hearing, Discussion and Possible Action on Case Number B-24-005: A request by Charles Keese / Craig and Theresa Norman for a Special Exception from the City of Brenham Code of Ordinances, Appendix A – Zoning, Part II, Division 2, Section 2.05(1)(a)(ii) to allow the existing 5-foot west side yard setback where a 10-foot side setback is required for a proposed attached accessory structure (garage) located at 413 W Main Street, described as Lot 7A1 of the West Main Subdivision, in Brenham, Washington County, Texas.**

Shauna Laauwe, City Planner, presented the staff report for Case No. B-24-005 (on file in the Development Services Department). Ms. Laauwe stated that this is a request from Craig and Theresa Norman / Charles Keese. The subject property is zoned as R-2, Mixed Residential Use District and currently is developed with single-family residence. The subject property is addressed as 413 W Main Street and is generally located on the south side of W. Main Street and west of Seward Street and north of W. Alamo Street. The subject property and all adjacent properties are within an R-2 Zoning District and developed with a mix of commercial and single-family residential units. The adjacent property to the east is Manuel’s Mexican Restaurant that is a legally nonconforming use that has been in business since 1987. The future land use designation is Mixed-Use Downtown Adjacent, and the proposed use is single-family residential. The request is for a special exception to allow a reduction in the west side yard setback for the extension or enlargement of a non-conforming structure for construction of a two-story, attached accessory structure (garage).

The subject property measures approximately 60-feet by 92-feet (5,532-square feet/0.1270-acres) and currently consists of a 2,061-square foot, 2-story single-family home and a detached accessory garage that were constructed in 1924. The subject property is an original lot of the West Main Subdivision, which was established before the subdivision and zoning regulations were adopted in 1968. The 5,524-square foot lot is legally nonconforming to the minimum lot size of 7,000 square feet and the required lot depth of 115-feet as well as the 25-foot front and rear yard setbacks. The existing home has a front yard setback of approximately 22-feet, a rear yard setback of approximately 19-feet, 6-inches, and a west side yard setback of approximately 5-feet. On December 11, 2023, the Board of Adjustment unanimously approved a variance to allow a proposed attached accessory structure (garage) a 5-foot side yard setback and a 2-foot rear yard setback. The property owners proposed to demolish the then existing dilapidated garage what was at a 2-foot east side yard setback and 0-foot rear yard setback and replace it with a two-story, two-car garage that would be angled and attached by a walkway to the second floor of the principal structure. While only a corner of the proposed garage structure would be within the respected setbacks, variances do not have conditions and go with the land. Therefore, the granted 2-foot rear yard setback is valid for the entire south rear property line and the 5-foot east side setback along the entire east property line. After the December BOA decision, the property owners demolished the garage and began construction plans. They found that the proposed angled garage would not meet their space needs and would cause difficulty in backing up maneuvers, so they sought out other designs from the Architect (and applicant) Charles Keese. Mr. Keese re-designed the attached garage structure to be located on the west side of the property in line with the existing principal structure. Placing the garage near the west property line allows for a 3-point turn to exit the driveway forward and make a safer turn onto W. Main Street.

The proposed garage addition is 670-square feet on each floor, with the first floor consisting of the garage area, a workshop, storage space, and a utility room. The proposed second floor would consist of a game room above the garage/workshop/storage space, an upstairs utility room on the west side that connects to the house, and an east side walkway that connects to the master bedroom of the home.

An attached accessory structure has the same setbacks as a principle structure, thus the proposed attached garage would have a minimum required 10-foot west side yard setback. The proposed garage addition has a minimum west side yard setback of 5’-8” and a maximum side yard setback of 6’-3”. The proposed rear yard setback will vary between 3’-1” and 3’-2”. As the rear yard setack is within the previous variance setback of 2-feet granted in December 11, 2023, no action on the rear yard setback is required. As the garage addition is proposed to expand along the same setback as the nonconforming principal structure, a Special Exception is being requested to allow the proposed 4’-4” reduction in the minimum required 10-foot west side yard setback.

The proposed addition is substantial and as shown in Figure 6, will increase the lot coverage of the property from 52% to 54.7%, where a maximum of 55% lot coverage is allowed. To help meet the maximum 55% limit, the applicant is proposing to place permeable pavers on a 693 square foot portion of the driveway. The proposed 54.7% of lot coverage is out of character for the surrounding area. However,

LOT COVERAGE	SF	
	CURRENT	PROPOSED
AREAS		
EXISTING HOME	1148	1124
WALK	180	180
BACK PATIO	100	100
DRIVEWAY	1482	978
GARAGE	0	670
TOTAL ADDITION	2870	3030
PERCENT COVERAGE	52%	54.7%
TOTAL LOT SIZE	5532	
COVERAGE AT 55%	3042.6	

the addition will be attached to the rear of the existing principal structure and will not be noticeable to passers-by on West Main Street. The adjacent property to the south has a large wing of the principal structure that is approximately 5-feet from the property line near where the proposed addition will be placed. The principal structure has a first-floor utility room in the same location where the new one is proposed and had a shed near the west property line that has been recently removed. Thus, while a second story structure will create additional bulk and less light and air, the subject property has had structures within the proposed setback area for several years.

No adverse effects to the adjacent properties, or the surrounding neighborhood is expected with the proposed expansion of the nonconforming principal home. The neighborhood was developed before the zoning and subdivision regulations were enacted in 1968, thus many of the structures in the vicinity have nonconforming setbacks. The adjacent property to the south is a large 2-story structure, where the roofline of approximately 18-feet of the structure is approximately 4-feet from the shared property line and aligned to the approximate location of the proposed garage. The adjacent property to the east, developed as Manuel's Mexican Restaurant, will be less affected as the previous garage structure at the east property line has been removed. Lastly, the adjacent property to the west is also approximately 10-feet from the shared property line. The proposed renovations and addition will be required to meet all applicable building and fire code requirements.

The provision to request a special exception states: "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.*" Accessory structures (garages) are allowed in the R-2 zoning district. As stated above, the proposed expansion of the nonconforming structure will be required to meet the current R-2 standards, to include the adopted 2018 International Building Code and Fire Codes.

STAFF ANALYSIS

- The existing home was constructed in 1924, which was before the Zoning and Subdivision regulations were adopted.
- Adjacent structures to the east and south are near the property line. Several nonconforming structures in the surrounding area within the current required setbacks.
- The addition will not be seen from the right-of-way.
- The project will not exceed the maximum lot coverage.
- Backing out maneuvers would be safer for both the homeowner/guests and traffic along W. Main Street.

Staff has reviewed the request and recommends **approval** of the requested special exception to allow a 5-foot reduction in the minimum required 10-foot west side yard setback for a setback of approximately 5-feet, for a proposed two-story garage addition at 413 W. Main Street.

Notifications were mailed to property owners within 200-feet of the subject property on May 2, 2024. Staff received three (3) written comments in support of this request:

- Sean Phillips – 410 W. Alamo Street
- Cheryl Dutil – 501 W. Main Street
- Mischa Enos – 503 W. Alamo Street

Chairman Hodde opened the Public Hearing at 5:55 p.m. and asked for any comments. There were no citizen comments.

Chairman Hodde closed the Public Hearing at 5:56 p.m. and re-opened the Regular Session.

A motion was made by Commissioner Thielemann and seconded by Commissioner Winkelmann to approve the request by Charles Keese / Craig and Theresa Norman for a Special Exception from the City of Brenham Code of Ordinances, Appendix A – Zoning, Part II, Division 2, Section 2.05(1)(a)(ii) to allow the existing 5-foot west side yard setback where a 10-foot side setback is required for a proposed attached accessory structure (garage) located at 413 W Main Street, as presented. The motion carried unanimously (5-0).

7. Adjourn

A motion was made by Commissioner Flisowski and seconded by Commissioner Thielemann to adjourn the meeting at 5:57 p.m. The motion carried unanimously (5-0).

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

August 12, 2024
Meeting Date

Attest, Staff Secretary

August 12, 2024
Meeting Date

**CITY OF BRENHAM
BOARD OF ADJUSTMENT / PLANNING AND ZONING COMMISSION
JOINT MEETING (TRAINING) MINUTES**

May 13, 2024

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

A special joint meeting (Training) with the Board of Adjustment and Planning and Zoning Commission was held on May 13, 2024, in the Roberta C. Johnson Program Room of the Nancy Carol Roberts Memorial Library, located at 100 Martin Luther King, Jr. Parkway, Brenham, Texas.

BOA Commissioners present:

Jon Hodde, Chairman
Dax Flisowski
Arlen Thielemann
Mary Lout Winkelmann
Walt Edmunds (alternate)

P & Z Commissioner present:

Chris Cangelosi
Darren Heine
Calvin Kossie
Cyndee Smith

Commissioners absent:

Danny Goss (BOA)
M. Keith Behrens (PZ)
Dr. Deanna Alfred (PZ)
Cayte Neil (PZ)

City Councilmembers present:

Clint Kolby
Paul LaRoche

Staff present:

Stephanie Doland, Development Services Director
Carolyn Miller, City Manager
Shauna Laauwe, City Planner
Allen Jacobs, Building Official
Cody Sorensen, Building Inspector
Richard J. O'Malley, Director of Engineering
Kim Hodde, Planning Technician

Citizens present:

Kimberley Mickelson, JD, AICP (Speaker)

1. Call Meeting to Order

Stephanie Doland called the meeting to order at 11:00 a.m. with a quorum of five (5) Board of Adjustment members and four (4) Planning and Zoning Commissioners present.

2. Public Comments

There were no public comments.

WORKSHOP AGENDA

3. The Planning and Zoning Commission and Board of Adjustment will enter into a Training Session by Kimberley Mickelson, JD, AICP

Stephanie Doland introduced the speaker, Kim Mickelson, FAICP, JD, who is an Attorney, Planner, and Adjunct Professor of Practice. Ms. Mickelson presented the agenda of her presentation entitled “City of Brenham Planning and Zoning Basics” that included topics such as:

Legal Constraints and Major Statues

- Texas Open Meetings Act – Texas Government Code 551
- Texas Public Information Act – Texas Government Code 552
- Local ethic rules and behavior
- Conflict of interest

Texas Local Government Code – Planning Enabling Legislation

- Chapter 211 – Municipal Zoning Authority
- Chapter 212 – Municipal Regulation of Subdivisions
- Chapter 213 – Municipal Comprehensive Plan

Basic Land Use Planning Principles

- Participants in Land Development
- Land development processes
- Comprehensive Plan
- Zoning changes and the Future Land Use Plan
- Special Overlay Districts
- Subdivision plats and requirements
- Short term vs long term planning decisions
- Potential Problems (Spot zoning, “takings” issues, and exclusionary zoning).
- City Limits vs Extraterritorial Jurisdiction
- Gated Communities, Private Streets
- Impact Fees/Pro-Rata Charges
- Nonconforming Uses/Structures
- Park Dedication or Fees-in-lieu of dedication
- Vested rights/permit processing law
- State Legislature changes to local authority
- Next Layer of Implementation Tools (Overlay Districts, Planned Development Districts, Special Districts, Development Agreements).

Goals for Land Use Design

- To make reasoned decisions that will provide the best growth and development plans for the public and the overall community in the long term.
- To make those decisions in accordance with all applicable laws and due process.
- To make long-ranging decisions.
- To avoid headlines and the courthouse.

Zoning Standards and Application

- What IS Zoning?
- History of Zoning
- How can a City implement zoning/regulation of use?
- Zoning: A Tool to Enforce the Comprehensive Plan
- Components of Zoning (Zoning Text and Official Zoning Map)
- Elements of a Basic Zoning Ordinance.
- What to think about when you think about Zoning decisions.

Subdivision Regulations and Purpose

- Raw land into buildable lots
- Requirements for public infrastructure improvements

- Standards for land development (i.e. lot size)
- Procedures for submittal, review and approval
- Lasting impact on community design and character
- Relation to Comprehensive Plan
- Types of Plats

Duties and responsibilities of Board members and Commissioners

- Duties of the Board of Adjustment
- Duties of the Planning and Zoning Commission
- Duties of City Council
- Duties of the City Staff
- Suggestions for Effective Decision Making on Planning Issues

A copy of the presentation is on file in the Development Services Department and will be emailed to all participants.

4. Adjourn

Stephanie Doland adjourned the meeting at 1:04 pm.

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

Certification of Meeting Minutes:

_____	<u>Jon Hodde</u>	<u>August 12, 2024</u>
Board of Adjustment	Chairman	Meeting Date
_____	<u>Kim Hodde</u>	<u>August 12, 2024</u>
Attest	Staff Secretary	Meeting Date

CASE NUMBER: B-24-006

VARIANCE REQUEST: 500 & 502 W. THIRD STREET

STAFF CONTACT: Shauna Laauwe, City Planner

OWNERS/APPLICANTS: Home Town Properties, LP / David Hermann

ADDRESS/LOCATION: 500 & 502 W. Third Street (Exhibit "A")

LEGAL DESCRIPTION: Block 9, Lot S/PT 1C, Key's 1st Addition, A. Harrington Survey, A-55, in Brenham, Washington County, Texas.

LOT AREA: 0.26 acres (11,234 square feet)

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

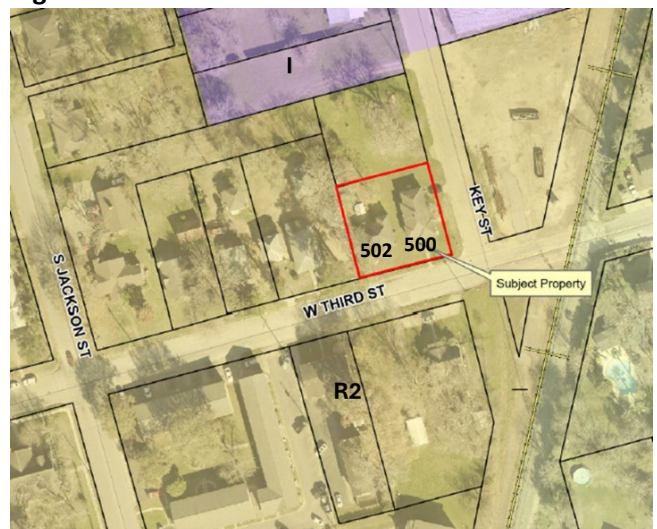
**COMP PLAN
FUTURE LAND USE:** Single-Family Residential

REQUEST: A request by David Hermann/Home Town Properties, LP, 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 a 8-foot west side setback (500) and an 8-foot east side setback (502) and a variance from Section 2.05 (1)(b)(i, ii, and iii) to allow a lot size of 5,564 square feet, where a minimum lot size of 7,000 square feet is required; to allow a lot width of 52 feet, where a minimum lot width of 60 feet is required; and to allow an average lot depth of 107 feet, where a minimum average lot depth of 115 feet is required, in order to subdivide and plat the existing lot into two (2) lots for the two (2) existing single-family homes addressed as 500 and 502 W. Third Street (Exhibit "C").

BACKGROUND:

The subject property is a 0.26-acre (11,234 SF) tract located on the northwest corner of W. Third Street and Key Street and within the Key's 1st Addition, one of Brenham's original subdivisions. The property is in a R-2, Mixed Residential District and developed with two single-family residential structures addressed as 500 and 502 W. Third Street. According to the Washington County Appraisal District records, the two single-family structures were both constructed in 1951, with the home addressed as 500 W. Third being 1,533 square feet and the 502 W. Third home being 1,251 square feet. The subject property and homes were configured and constructed before the current subdivision and zoning regulations

Figure 1

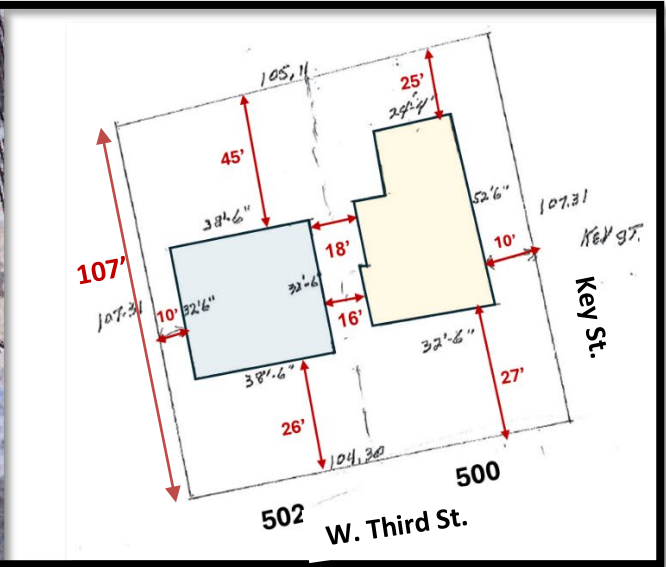


were adopted in 1968. As such, the subject property has three existing legal nonconformities that are grandfathered. These nonconformities include, more than one principle structure on one lot; the home addressed as 500 W. Third Street has an east side street setback along Key Street of approximately 10-feet, where 15-feet is required; and a lot depth of approximately 107-feet where a minimum lot depth of 115-feet is required (Figure 2B).

Figure 2A



Figure 2B



Even though they were built before the zoning ordinance took affect, the existing homes exceed the minimum required front and rear yard setbacks of 25-feet and 502 W. Third Street meets the west side yard setback of 10-feet. The property owner wishes to sell the two homes separately, thus the property is required to be replatted into two separate lots so that each principle structure (home) would be contained on its own individual lot. The 11,234 square foot subject property is approximately 105-feet in width and 107-feet in depth. The existing property meets the current minimum lot area requirement of 7,000 square feet and width of 60-feet for R-2 district property, but is legally nonconforming to the minimum lot width of 115-feet. However, replatting/subdividing the lot into two would cause the lot to lose it's legally nonconforming status and require several lot size and setback variances. As shown in Figure 2A, splitting the subject property into two lots would result in projected Lot 1 (500 W. Third Street) and Lot 2 (502 W. Third Street) to have a lot width of 52-feet, where the minimum lot width is 60 feet; a lot depth of 107 feet where an average lot depth of 115-feet is required; and a lot area of 5,564 square feet where a minimum lot size of 7,000 square feet is required. Lastly, as shown in Figure 2B, interior side yards would be created that result in a sideyard setback of 8-feet for each lot at the narrowest point. The existing nonconforming side street setback of 10-feet for Lot 1 is not affected by the propped replatting, thus it does not require a variance. In order for the subject property to be subdivided and platted into two separate lots, the Subdivision regulations require that proposed lots meet the zoning requirements or be granted variances by the Board of Adjustment. The applicant, therefore, is requesting variances for 500 W. Third Street and 502 W. Third Street for an 8-foot reduction in the minimum required lot width, a 8-foot reduction in the 115-foot minimum average lot depth, to allow a 8-foot west side setback (500) and an 8-foot east side setback (502) to allow a lot size of 5,564 square feet, where a minimum lot size of 7,000 square feet is required to allow for the subdividing of the existing property into two lots.

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 an 0.26-acre, 11,234 square foot lot that is within the Key's 1st Addition subdivision that was created before the Brenham Subdivision and Zoning Regulations were adopted in 1968. The subject property is a corner lot that has a nonconforming lot depth of 107-feet and a lot width of 104-feet. In 1951, two residential homes were constructed on the single lot subject property and addressed as 500 W. Third Street and 502 W. Third Street. The home addressed as 502 W. Third Street meets or exceeds the current zoning setbacks for the R-2 District, while the home addressed as 500 W. Third Street meets the current setbacks except for having a nonconforming east side street setback of 10-feet instead of the required 15-feet. The subject property and structures have remained in their current configuration for 73 years. The property owner wishes to subdivide the subject property into two lots so that each home may be sold separately and to clear the nonconformity of two principal structures on one residential lot. Subdividing the property equally into two lots would result in the lot width, lot area, and the newly created interior side yard setbacks to not meet the minimum requirements. In addition, the subject property would lose its nonconforming status for not meeting the minimum lot depth of 115-feet. A variance to the lot area, lot width, average minimum lot depth, and the interior side yard setbacks will allow the subject property to be replatted into two proposed lots for individual sale. Strict adherence to the adopted ordinance would not allow the separate sale of the principal structures. In addition, one or both homes could not be demolished and rebuilt as the nonconformity of the two homes on a single lot would be negated.

(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 variances to the minimum lot area, width and average depth, as well as the interior side yard setbacks, will not be materially detrimental or injurious to other properties and improvements in the general vicinity of the subject property. The subject property is zoned R-2 Mixed Residential District and as such, minimum lot standards include minimum area of 7,000 square feet, a lot width of 60-feet, a lot depth of 115-feet depth, and side yard setbacks of 10-feet. The existing lot has never met the minimum lot depth as it was previously platted in the Key's 1st Addition before the zoning and subdivision regulations were adopted. With a reduced lot area, lot width and depth, when developed, the property would be subject to existing setback and development standards to preserve the well-being of the neighborhood and adjacent properties. If after replatting, the applicant or a new property owner wishes to expand the existing home(s) or demolish and rebuild on the proposed lots, they would be subject to the minimum required 25-foot front and rear yard setbacks, but if granted, would be allowed to build to the 8-foot interior side yard setback. If the structure at 500 W. Third Street is expanded within the continuing nonconforming 15-foot side street setback, it would be required to seek a Special Exception to expand a nonconforming structure. The lots

would not be out of character with the surrounding neighborhood as the surrounding properties are not uniform in lot size or shape. In addition, most homes or lots in the area have at least one nonconformity to setbacks or lot dimensions.

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

Literal enforcement of this ordinance would prohibit the property owner from replatting the subject property into two legally conforming lots for sale.

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

The subject property is unique in that the property configuration and existing homes predate the subdivision and zoning regulations established in 1968. The existing subject property meets the minimum required 7,000 square area and lot width as a single lot, however without the requested variances it would be unable to be subdivided by replatting into two lots for the separate sale of the two existing residential dwellings. Two principal structures are not permitted on one residential lot, thus the requested variances to the lot width, depth and lot size would allow the replatting that result in correcting a nonconformity that has been in place since 1968.

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

While the applicant is proposing to subdivide the property into two lots that is resulting in the need of the requested variances, the condition was not created by the applicant as the two existing residential dwellings were constructed on the single subject property lot in 1951, before the adoption of the zoning and subdivision regulations. The choice of subdividing the lot into two lots would create two lots that do not meet the minimum lot size standards for area, width, and average depth. However, the subdividing of the property would separate each residential dwelling on their own lot to allow selling each dwelling separately and to meet applicable building, zoning, and fire codes. The requested variances will allow the property owner to formally replat the subject property into two lots in accordance with City standards.

(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.

The intent of regulations for lot sizes to include a minimum area, depth, and width is to protect the desired amount of density for a particular zoning district. Granting a variance to the lot area, lot width, lot depth, and interior side yard setback requirements 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. The subject property and structures have been in their existing configuration since 1951 and the subdividing of the property into two lots would bring the property into a conforming status. Homes on the subject property would be required to adhere to the setback regulations and the applicable zoning, building and fire codes.

STAFF RECOMMENDATION:

Staff *recommends approval of the requested* variances to allow an 8-foot west side setback (500 W Third St) and an 8-foot east side setback (502 W Third St) and a variance from Section 2.05 (1)(b)(i, ii, and iii) to allow a lot size of 5,564 square feet, where a minimum lot size of 7,000 square feet is required; to allow a lot width of 52 feet, where a minimum lot width of 60 feet is required; and to allow an average lot depth of 107 feet, where a minimum average lot depth of 115 feet is required, in order to subdivide and plat the existing lot into two (2) lots for the two (2) existing single-family homes addressed as 500 and 502 W. Third Street.

PUBLIC COMMENTS:

Property owners within 200 feet of the subject property were mailed notifications of this proposal on August 1, 2024. 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. Letter of Intent
- D. Proposed Lot Layout
- E. Site Photos

EXHIBIT "A"
AERIAL MAP



Location Map
Variance: Lot Size, Lot Depth, Lot Width, Side Yard
500 & 502 W. Third Street



1:1,200




EXHIBIT "B"
ZONING MAP



Zoning Map
Variance: Lot Size, Lot Depth, Lot Width, Side Yard
500 & 502 W. Third Street

Zoning

-  I Industrial
-  R1 Residential Single Family
-  R2 Mixed Residential



1:1,200



EXHIBIT "C"
LETTER OF INTENT

The description provided by the Applicant on the Accella online portal:

Statement of Purpose

Modifications necessary

Nonconforming property with two single-family homes on one parcel that were constructed in 1951 before zoning regulations were adopted. Need to replat into two lots to sell the homes separately. When split, lots will not conform to lot size, depth or width.

Materially detrimental or injurious

No change to the existing configuration or homes. Making the property more conforming by having each home on a single lot.

Unnecessary hardship

Would not be able to replat into lots and sell the properties individually.

Uniqueness

Property was developed before the subdivision and zoning regulations were adopted. Two homes on one lot is not permitted by current regulations.

Hardship

Would not be able to make the properties more conforming by separating the homes to two separate lots for future sale.

Variance request will not be injurious to Health, Safety or Public Welfare

Bring lot into conformance. No visual difference will be seen by the public.

EXHIBIT "D"
PROPOSED LOT LAYOUT

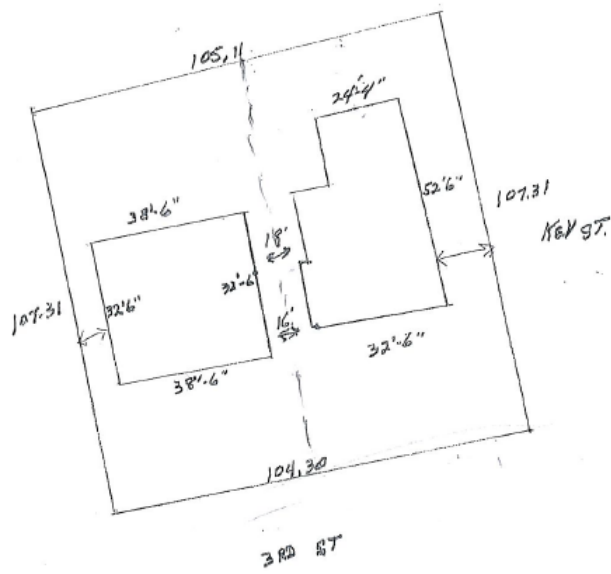


EXHIBIT "E"
APPLICANT PHOTOS



500 W Third St



502 W. Third St

EXHIBIT "E"
SITE PHOTOS



502 W. Third Street (Left) & 500 W. Third Street (Right)



Rear yards of both homes



500 W. Third Street & Key Street Side
Street Setback



502 W. Third Street side setback



CASE NUMBER: B-24-007
VARIANCE REQUEST: 700 PECAN STREET

STAFF CONTACT: Shauna Laauwe, City Planner

OWNERS/APPLICANTS: Robert Stults

ADDRESS/LOCATION: 700 Pecan Street (Exhibit "A")

LEGAL DESCRIPTION: Key's 2nd Block B, Lot N PT 1.4, A. Harrington Survey, A-55, in Brenham, Washington County, Texas.

LOT AREA: 0.33-acres, 14,263 square feet

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

**COMP PLAN
FUTURE LAND USE:** Single-Family Residential

REQUEST: A request 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 rear setback of 8-feet for a proposed Accessory Dwelling Unit (ADU), where a minimum 10-foot rear yard is required for an Accessory Dwelling to be located at 700 Pecan Street, described as Key's 2nd Block B, Lot N PT 1.4, A. Harrington Survey A-55 in Brenham, Washington County, Texas (Exhibit "C").

BACKGROUND:

The subject property is a 0.33-acre, 14,263 square foot lot that is generally located on the southeast corner of Pecan Street and Marie Street and addressed as 700 Pecan Street. The property owners/applicant is Robert Stults. The subject property, as well as all adjacent and surrounding properties are currently zoned as R-2 Mixed Residential Use District. Further to the southwest beginning on the west side of Huettig Street and to the west along S. Market Street is a B-1, Local Business Mixed Residential District. The surrounding R-2 properties are a mix of single and two-family residential, with the B-1 properties being predominately local commercial and institutional (BISD) uses. The subject property is an approximate 109-foot x 130-foot (14,263 SF) rectangular lot that is part of the Key's 2nd Addition. The subject property currently consists of a 2,073 square foot home with an attached 550 square feet

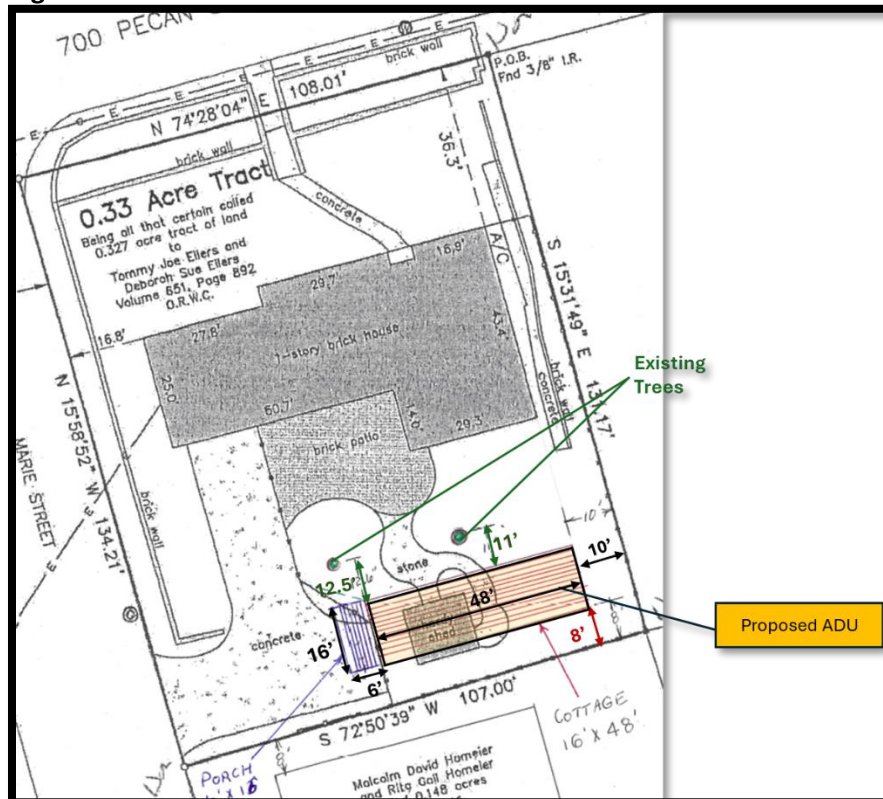
Figure 1



garage that were constructed in 1975 and a detached 172 square foot storage building that was constructed in 2004. The existing home meets or exceeds the setback requirements for a single-family home in the R-2 district with a 36.3-foot front yard setback, an approximate 50-foot rear yard setback, a 16.8-foot side street setback along Marie Street and a 10-foot east side yard setback.

The property owners have submitted a building permit to construct a 16' x 48' (768 SF) detached Accessory Dwelling Unit (ADU) within the existing rear yard that. As shown in Figure 2 below, the proposed ADU would meet the required 10-foot side yard setbacks with an east side yard setback of 10-feet and a west side yard setback of 41-feet. However, due to two existing large trees, the applicant is proposing to situate the ADU only 8-feet from the rear property line instead of the required 10-foot rear yard setback for detached ADUs.

Figure 2



Accessory Dwelling Units are permitted uses within the R-2 District, however Section 10.02(4) of the Zoning Regulations lists additional development standards that pertain to ADUs and the proposed structure meets all of the criteria except for **c)** below:

- a) Should the primary use be a single-family dwelling, the property owner’s primary residence shall be the single-family dwelling or ADU.
The property owners plan to continue to reside in the principal home and propose to utilize the ADU for their elderly parents.
- b) An ADU must be designed and constructed in keeping with the general architecture and building material of the principal structure.
The proposed addition will be in the same general architecture style and building material of the principal structure.

- c) 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.

The proposed ADU meets or exceeds the side yard setback requirements with a west side yard setback of 41-feet and an east side yard setback of approximately 10-feet; however, the proposed rear yard setback is 8-feet instead of the required 10-feet.

- d) 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.

The site plan shows that the existing driveway is able to accommodate 3 off-street parking spaces.

- e) 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 (1,000) square feet, whichever is smaller.

The principal structure has a habitable area of 2,073 square feet and the proposed ADU has a habitable square area of 856 square feet, which is less than ½ of the habitable area of the principal structure.

- f) ADUs shall not be HUD-code manufactured home or mobile home.

The proposed ADU will not be a HUD-code manufactured home or mobile home

Therefore, the applicant is requesting a variance to allow the proposed ADU to be located 8-feet from the rear (south) property line, where a 10-foot rear yard setback is required for a detached Accessory Dwelling Unit.

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 a rectangular lot that is 14,263 square feet and has approximately 134-feet of depth and 107-feet in width, much greater than the minimum requirements for a single-family lot in the R-2 District. While there is ample space for the ADU in the rear yard, the subject property has several mature trees in the rear yard that the property owner would like to preserve. Placing the proposed ADU at a 10-foot setback from the south property line would result in the removal of two large shade trees depicted in Figure 2.

Staff finds that the proposed variance would 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 a variance for an 8-foot rear yard setback instead of the minimum 10-foot will not be materially detrimental or injurious to other properties and improvements in the general vicinity of the subject property. The subject property is 14,263 square feet and exceeds the minimum lot area of 7,000 square feet for a single-family home in the R-2 District. The large lot allows for ample setbacks to provide adequate supply of light and air to adjacent properties, with a west side yard setback of 41-feet, an east side yard setback of 10-feet. An existing shed is 172 square feet shed and approximately 12-feet in height and is currently located at a 6-foot setback where the proposed ADU would be placed. The applicant proposes to move the shed to a different location on the property and make use of the concrete foundation. The proposed ADU would have a similar height and presence as the existing shed, but with two additional feet of setback. Furthermore, the property has several mature trees that limit the placement of the ADU at a 10-feet, but an 8-foot setback would allow them to remain. The principal structure on the adjacent lot to the south is approximately 9-feet from the common property line, thus there is more than the building and fire code requirement of 10-foot separation between habitable structures.

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

Literal enforcement of this ordinance would prohibit the property owner from partially using the concrete foundation of the existing 16'x 10.75' (172 SF) shed that is located at a 6-foot rear yard setback and cause the removal of two mature trees. The applicant originally wished to place the ADU at a 6-foot rear yard setback to fully utilize the existing foundation but altered the site plan to be closer to the required setback depth of 10-feet. The trees help provide shade and would help screen the ADU from adjacent properties and the public on Marie Street. Staff finds that not utilizing the existing shed foundation and the removal of mature trees could be seen as an unnecessary hardship.

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

The subject property was developed for single-family residential use in 1975 and in 2004 the existing 16'x 10.75' (172 SF) shed shown in Figure 2 and Exhibit "E", was constructed at a rear yard setback of 6-feet. Detached accessory structures such as sheds and garages have required rear yard setbacks of 5-feet. The proposed placement would allow for the partial utilization of the existing concrete foundation of the shed. While the proposed 856 SF ADU is larger than the existing shed, it is of similar height and would not be a substantial difference in bulk or density. A reduction in the 10-foot setback would also allow for the preservation of two mature trees that were likely planted or preserved near the time of construction. The mature trees may be removed to allow for the proposed ADU to be located at the required 10-foot setback, but that would likely result in the structure being more visible to adjacent properties.

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

The applicant can reduce the size of the proposed ADU by 2-feet in width or remove the two trees and have an accessory structure that meets all the zoning regulations and additional accessory dwelling standards. However, the mature trees on the subject property and a 7-foot fence along the south property line do help

visually screen the structure and potential noise from future residents of the structure. The requested variance will allow the property owners to construct the proposed ADU on the subject property in accordance with City standards.

(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.*

The intent of the 10-foot rear yard setback for accessory dwellings is to insure at least 10-feet of separation between a habitable structure and other structures (on site or adjacent) for building and fire code purposes, to allow for open space, and to minimize density from adjacent residential properties. The principal structure of the adjacent property to the south, has a side yard setback of approximately 9-feet, thus the proposed ADU and nearest habitable structure would have 17-feet of separation and exceed the minimum 10-foot separation building code requirement between structures. The subject property also has a 7-foot in height fence and mature trees that would help screen the ADU from adjacent properties. For the circumstances of the subject property, granting a variance for a 2-foot reduction 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 approval of the requested*** variance to allow a rear setback of 8-feet for a proposed Accessory Dwelling Unit to be located at 700 Pecan Street.

PUBLIC COMMENTS:

Property owners within 200 feet of the subject property were mailed notifications of this proposal on August 1, 2024. 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. Application Responses
- D. Site plan
- E. Photos

EXHIBIT "A"
LOCATION MAP



Location Map
Rear Yard Setback Variance for ADU
700 Pecan Street



EXHIBIT "B"
ZONING MAP



Zoning Map
Rear Yard Setback Variance for ADU
700 Pecan Street

-  City Parcels
- Zoning**
-  B1 Local Business Mixed
-  R2 Mixed Residential



EXHIBIT "C"
APPLICATION VARIANCE RESPONSES

Statement of Purpose

Modifications necessary

I want to leave as much room as possible between the cottage and two large trees in the back yard.

Materially detrimental or injurious

The cottage will not materially be detrimental or injurious to other property on the other side of the property line. The neighboring home on the south side of the property

Unnecessary hardship

Literal enforcement will crowd the magnolia and oak tree in the yard and reduce usable area in the back yard.

Uniqueness

The farther the cottage is away from the property line, it increases the offset regarding the parking area.

Not created by applicant

The variance is created by the applicant.

EXHIBIT "E"
SITE PHOTOS



700 Pecan Street



From Marie Street: Rear yard – Proposed ADU would be where existing yellow accessory building is located.



**Rear yard separation from adjacent property and home.
(Marie Street)**