



**NOTICE OF A REGULAR MEETING  
BOARD OF ADJUSTMENT  
MONDAY, JULY 8, 2019 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 May 13, 2019 Board of Adjustment Meeting**

**REGULAR AGENDA**

- 5. Public hearing, Discussion and Possible Action on Case Number B-19-004: A request by Carmen and Martha Cruz for a Variance from the City of Brenham Code of Ordinances, Appendix A – Zoning, Part II, Division 2, Section 2.1.05(1) to allow a 43-foot lot width, where a minimum 60-foot lot width is required, and to allow a lot area of 5,160 square feet, where a minimum 7,000 square foot lot area is required, for an existing single-family residence located at 1807 Harrell Road, described as Part of Lots 8 and 9, Block 1 of the Beacon Hill Subdivision, in Brenham, Washington County, Texas.**

**6. Adjourn**

***CERTIFICATION***

I certify that a copy of the July 8, 2019, 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 July 3, 2019, at 12:30 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 \_\_\_\_\_, 2019 at \_\_\_\_\_ am/pm.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

# CITY OF BRENHAM BOARD OF ADJUSTMENT MINUTES

May 13, 2019

*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, 2019 at 5:15 pm in the Brenham Municipal Building, City Council Chambers, at 200 West Vulcan Street, Brenham, Texas.

Commissioners present:

Arlen Thielemann, Chairman  
Jon Hodde, Vice Chairman  
MaLisa Hampton  
Thomas Painter  
Mary Lou Winkelmann

Commissioners absent:

None

Staff present:

Lori Sanguedolce, Development Services Director  
Stephanie Doland, Assistant Development Services Director  
Lowell Ogle, Assistant City Manager  
Kim Hodde, Planning Technician

Citizens present:

Pat Carrigan

**1. Call Meeting to Order**

Chairman Thielemann called the meeting to order at 5:17 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 informed the BOA that the update of the Comprehensive Plan is progressing at a rapid pace. Three committee meetings have been held with the next one scheduled for May 30<sup>th</sup>. Two joint BOA/P &Z/City Council workshop meetings have been held and the next one will be held next month. The final input meetings will also be held next month. Ms. Doland thanked the Board members for their support and input into this valuable resource.

**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 March 11, 2019 Board of Adjustments Meeting**

Chairman Thielemann called for any corrections or additions to the minutes as presented. A motion was made by Commissioner Hodde and seconded by Commissioner Painter to approve the minutes from the March 11, 2019 meeting, as presented. The motion carried unanimously.

## **REGULAR AGENDA**

Ms. Doland asked Chairman Thielemann to switch the order of the items and consider Item Number 6 first.

**6. Public hearing, Discussion and Possible Action on Case Number B-19-003: A request by MC Property Holdings/Dara Childs for a Special Exception from the City of Brenham Code of Ordinances, Appendix A – Zoning, Part II, Division 2, Section 2.05 (1)(a)(1) to allow a 20-foot front yard setback where a minimum 25-foot front yard setback is required for a single-family residence located at 1103 E. Main Street, described as Lot 16G of the Davidson Addition, in Brenham, Washington County, Texas.**

Stephanie Doland presented the staff report (on file in the Development Services Department). Ms. Doland stated that this vacant lot is approximately 90-feet deep and appears to have been platted prior to the lot size/setback requirements. Four other properties along the same block face do not meet the front setback requirements and two do not meet the rear setback requirements; thus, allowing this request to be eligible for a Special Exception rather than a variance. One citizen called and expressed support of this redevelopment. Staff recommends approval of the requested special exception as presented.

Chairman Thielemann opened the Public Hearing at 5:23 pm and asked for any comments. There were no public comments.

Chairman Thielemann closed the Public Hearing at 5:24 pm and re-opened the Regular Session.

A motion was made by Commissioner Painter and seconded by Commissioner Hodde to approve a special exception to reduce the front yard setback for the proposed single-family residence located at 1103 E. Main Street (Case No. P-19-003) to 20-feet, as presented. The motion carried unanimously.

**5. Public hearing, Discussion and Possible Action on Case Number B-19-002: A request by Circle K for a Variance from the City of Brenham Code of Ordinances, Appendix A – Zoning, Part II, Division 2, Section 3.05 (2)(a)(iii) to allow a 5-foot rear yard setback where a minimum 10-foot rear yard setback is required for a convenience store located at 1708 State Highway 105, described as Lot 1 of Post Oak Grove Replat SE Portion, in Brenham, Washington County, Texas.**

Stephanie Doland presented the staff report (on file in the Development Services Department). Ms. Doland stated that this property is currently developed with a convenience store, fuel sales, and a car wash. The applicant has requested a 5-foot rear setback instead of a 10-foot setback in order to completely re-develop the site for use as a convenience store with fuel sales. Ms. Doland stated that several factors make this property unique and constrict the developable area:

- Existing drainage easements
- Public Utility Easement/utilities at south of property
- Rear property line is unusual (zig-zag)

Staff recommends approval of the requested special exception as presented.

Questions were raised about why the drawing does not show a side-building setback on the east side and if the hatched area around the building is sidewalk. Ms. Doland responded that the B-1 Zoning District does not require side setbacks. Ms. Doland stated that the hatched areas appear to be sidewalks.

Chairman Thielemann opened the Public Hearing at 5:30 pm and asked for any comments. The applicant, Pat Carrigan, clarified that the hatched areas around the building are classified as building perimeter

sidewalks since they are actually attached to the slab so that the elevations do not change over time and cause someone to stumble or fall. There were no other public comments.

Chairman Thielemann closed the Public Hearing at 5:32 pm and re-opened the Regular Session.

A motion was made by Commissioner Painter and seconded by Commissioner Winkelmann to approve a variance to reduce the rear yard setback for the proposed convenience store located at 1708 State Highway 105 (Case No. P-19-002) to 5-feet, as presented. The motion carried unanimously.

**7. Adjourn**

A motion was made by Commissioner Hodde and seconded by Commissioner Painter to adjourn the meeting at 5:33 pm. 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:

\_\_\_\_\_  
Chairman, Board of Adjustment

\_\_\_\_\_  
Meeting Date

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

\_\_\_\_\_  
Meeting Date



**CASE NUMBER: B-19-004**

**VARIANCE REQUESTS: 1807 Harrell Road**

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**STAFF CONTACT:** Stephanie Doland, Director of Development Services

**OWNERS/APPLICANTS:** Carmen and Martha Cruz

**ADDRESS/LOCATION:** 1807 Harrell Road (Exhibit "A")

**LEGAL DESCRIPTION:** Beacon Hill Subdivision, Block 1, Part of Lots 8 and 9

**LOT AREA:** Approximately 5,160 square feet

**ZONING DISTRICT/  
USE:** R-3 Manufactured Home Residential Use District / Single-family residence  
(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 2, Section 2.1.05(1) to allow a **43-foot lot width** where a minimum 60-foot lot width is required and to allow a **5,160 square foot lot area** where a minimum 7,000 square foot lot area is required for a single family residence (Exhibit "C").

**BACKGROUND:**

The subject property is located at 1807 Harrell Road and is currently owned by Carmen and Martha Cruz. The subject property is developed with a single-family residence. The property, as well as surrounding properties, are currently zoned as R-3 Manufactured Home Residential Use District. Property to the north and west were recently purchased by Brenham Wholesale Grocery and are currently in the process of being rezoned to Industrial for the development of a convenience store.

The subject property was originally platted in 1913 as Lots 8 and 9 in Block 1 of the Beacon Hill Subdivision. At that time Lots within this subdivision were platted at 25-feet wide and 210-feet deep. Since the property was platted in its original configuration, the properties in the subdivision have been further subdivided by metes and bounds description, a practice not in accordance with the City of Brenham's Subdivision Ordinance.. Similarly, property within the Beacon Hill Subdivision has developed and re-developed since its formation in 1913 and in some cases, development occurred over the top of existing property lines.

Carmen and Martha Cruz, the applicants, are requesting a variance to the lot width and lot area to bring this property into compliance. Should the proposed variances be approved, the subject property will be required to be replatted. Brenham Wholesale Grocery is currently working to plat the adjacent tracts to the north and west with plans to include the Cruz tracts in the plat document.

**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 originally platted in 1913 as Lots 8 and 9 in Block 1 of the Beacon Hill Subdivision. At the time the subject property was not located within the City of Brenham city limits. The City of Brenham adopted zoning in 1968 and at that time established minimum lot standards. Therefore, at the time the Beacon Hill Subdivision was formed, neither the city nor the county had established minimum lot standards and as a result, when the Beacon Hill Subdivision was annexed into the City limits in 2006 it was determined to be a legally non-conforming subdivision.**

**The property owners, Carmen and Martha Cruz were made aware of this non-conformance when the owners of the neighboring properties to the west, Brenham Wholesale Grocery, requested to plat their properties into one lot for further development. Mr. & Mrs. Cruz are seeking variances to the minimum lot width and minimum lot size requirements in an effort to correct the existing non-conformance and re-plat closer in accordance with the City of Brenham Subdivision Ordinance. The original lot size of the Cruz property was only 25-feet wide. The Cruz family has acquired additional land (18-feet of Lot 9) and is attempting to increase the lot width to be more in conformance with the City’s adopted minimum standards.**

**Replating of the subject property will allow a plat for the subject tracts to be filed and will bring this property at 1807 Harrell Road into conformance. Staff finds that the proposed variance is necessary to accommodate development in the vicinity and in conformance with the City’s adopted 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 minimum lot width and minimum lot area 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-3 Manufactured Home Residential and as such, minimum lot standards include 60-foot width, 115-foot depth, and a minimum size of 7,000 square feet. The property exceeds the minimum lot depth (120 feet). However, the property has never met the minimum lot width nor the minimum lot area requirements as it was developed in 1913 prior to any established zoning or subdivision requirements. The property was once measured at 25 feet wide and with a land swap between the Cruz**

family and Brenham Wholesale Grocery, currently is measured as 43 feet in width and 120 feet in depth. Staff finds that the property is closer in conformance to the city's adopted development standards and in the new configuration will not impair the adequate supply of light or air or be detrimental to property in the general vicinity. Should the property re-develop, the property would be subject to existing setback and development standards to preserve the well-being of the neighborhood and adjacent properties.

*(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 a legally conforming lot and would result in the continuance of a non-conforming lot. For this reason, staff finds that supporting a 17-foot reduction to the average lot width and a reduction in the overall lot size to 5,160 square feet, will correct the property's current non-conforming status and lessen the hardship on current and future property owners.

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

The subject property and the adjacent properties are unique in that the properties were created prior to the City's adoption of development standards and through improper subdivisions of land.

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

The need for the variances was not created by the applicant but rather when the original subdivision was created with substandard lot sizes. The need for the variances was further evident when the property was divided by metes and bounds description rather than the city's required replat process. When made aware of the nonconformance the property owners began working with staff, the adjacent property owner and a professional surveyor to correct the nonconformance. The requested variance will allow the property owners to formally replat 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.*

Granting a variance to the lot width requirement and the lot area 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.

#### **STAFF RECOMMENDATION:**

Staff has reviewed the request and recommends approving the requested variances to allow a 43-foot lot width and a lot area of 5,160 square feet for the existing single-family residence located at 1807 Harrell Road.

#### **PUBLIC COMMENTS:**



Property owners within 200 feet of the subject property were mailed notifications of this proposal on June 27, 2019. Any public comments will be provided in the Board of Adjustment Packet or during the public hearing.

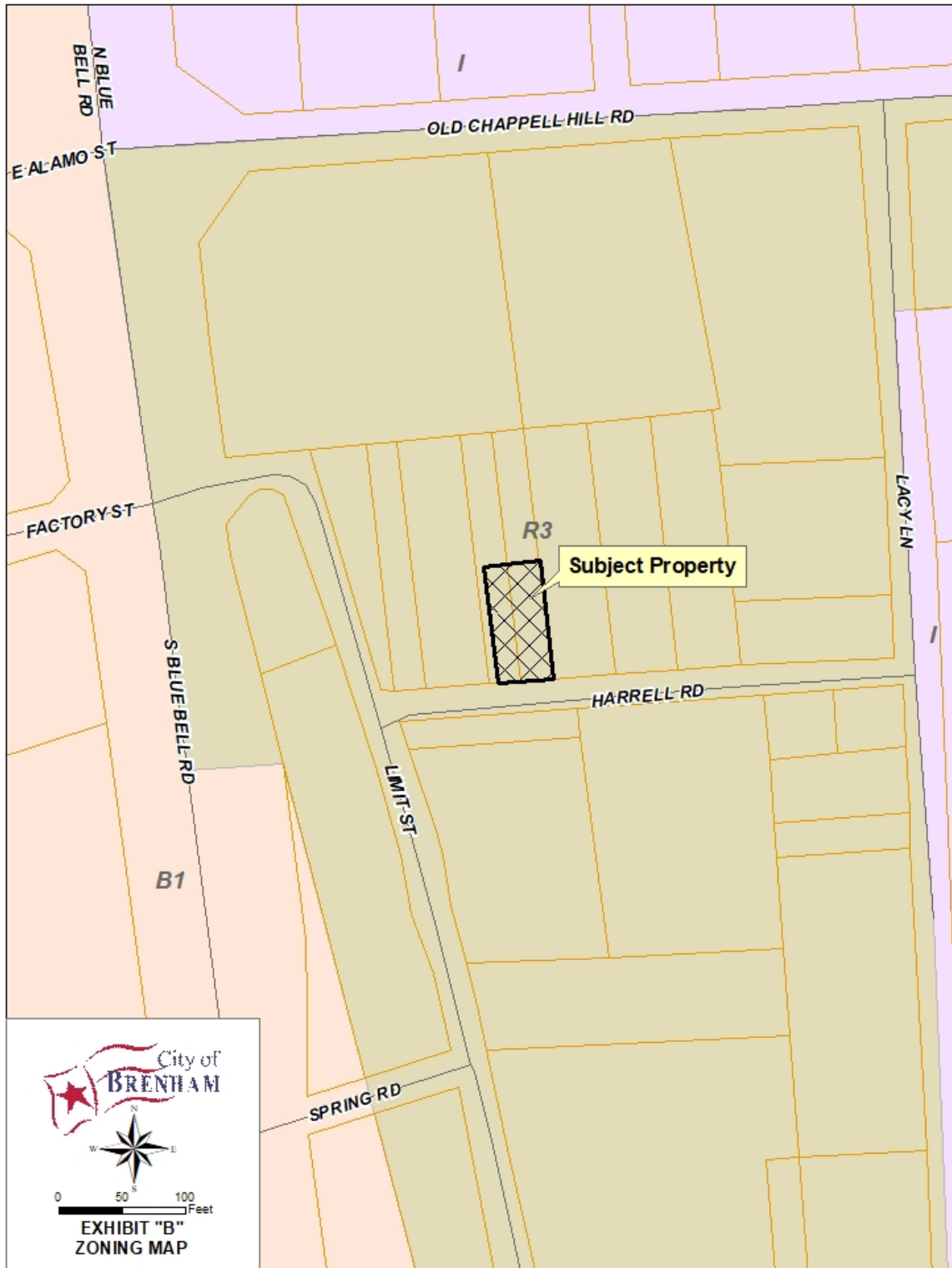
**EXHIBITS:**

- A. Aerial Map
- B. Zoning Map
- C. Cover letter and Site Plan
- D. Photos

EXHIBIT "A"  
AERIAL MAP



EXHIBIT "B"  
ZONING MAP



**EXHIBIT "C"**  
**COVER LETTER AND SITE PLAN**

To the Board of Adjustments the reason we are requesting variance is to meet the criteria of the city. Also we did not request this variance; it was addressed to us so that we can meet the criteria of the city of Brenham. Original property was sold and conveyed with the original dimensions on the residential structure. We are requesting variance for the lot area and the lot width to the appropriate dimensions it needs to be. Granting this variance will not in any way harm the public health or the safety of the public or welfare in the zoning ordinance.

X *Carman Berry*

6/17/19



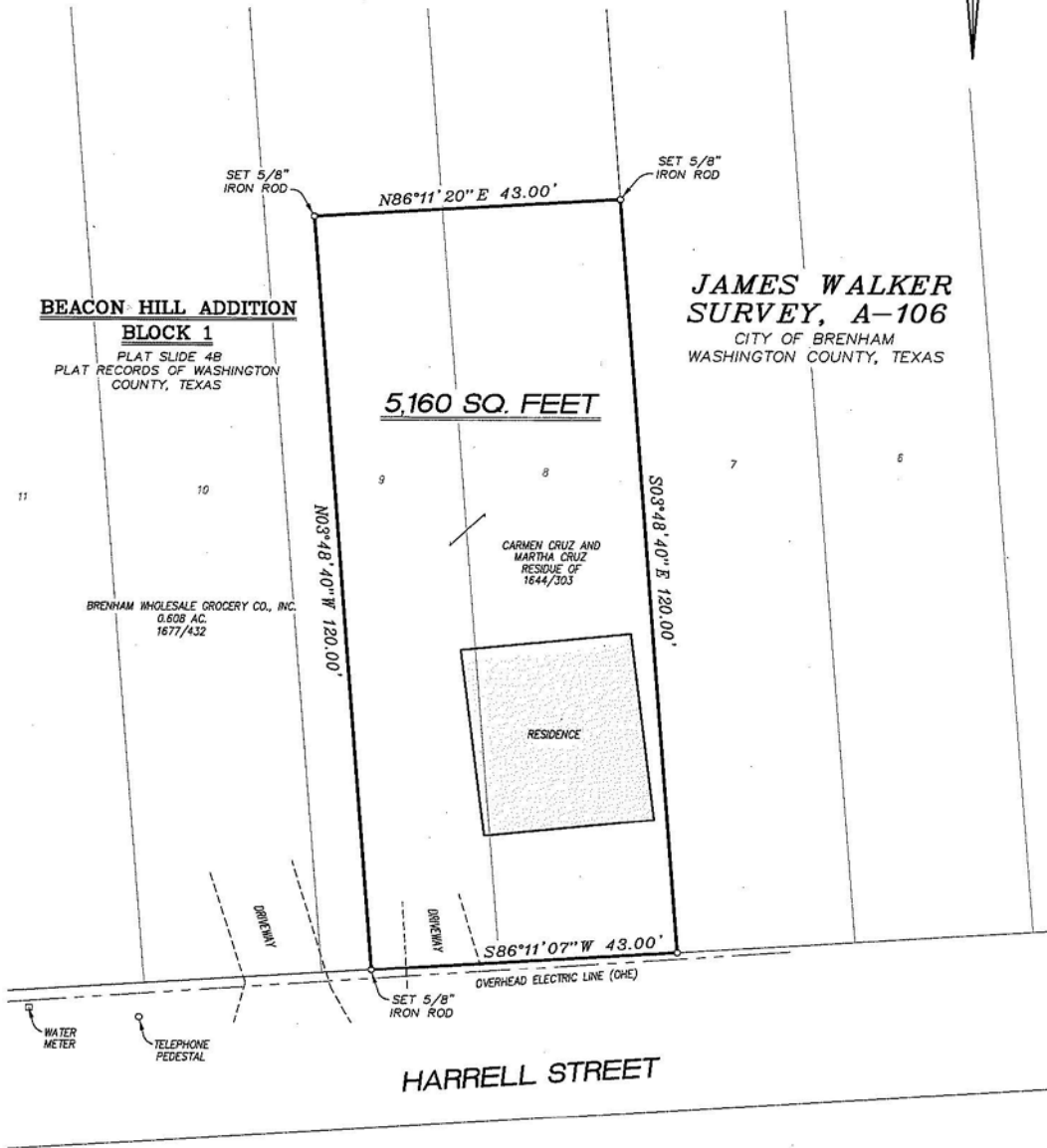
20 0 20 40 60

**GRAPHIC SCALE - FEET**

Bearings are based on the Texas Coordinate System of 1983-Central Zone as obtained by GPS observations.

**SKETCH OF**

5,160 SQUARE FEET OF LAND, LYING AND BEING SITUATED IN THE CITY OF BRENHAM, WASHINGTON COUNTY, TEXAS IN THE JAMES WALKER SURVEY, A-106, BEING PART OF THE SAME LAND DESCRIBED AS LOTS 8-13, BLOCK 1, BEACON HILL ADDITION IN A DEED FROM TOMMIE WELLMANN TO CARMEN CRUZ AND MARTHA CRUZ, DATED AUGUST 31, 2018, RECORDED IN VOLUME 1644, PAGE 303, OFFICIAL RECORDS OF WASHINGTON COUNTY, TEXAS.



**LAMPE SURVEYING, INC**  
**PROFESSIONAL LAND SURVEYORS**

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TEXAS LICENSED SURVEYING FIRM NO. 10040700  
W.O. 3402 CRUZ LOT.DWG 3402BW.CCG

**EXHIBIT "D"**  
**Site Photos**



View from Harrell Street



View of house and drive from Harrell St.