



**NOTICE OF A REGULAR MEETING  
BOARD OF ADJUSTMENT  
MONDAY, DECEMBER 13, 2021 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 November 8, 2021 Board of Adjustment Meeting**

**REGULAR AGENDA**

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

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

7. **Adjourn**

**CERTIFICATION**

I certify that a copy of the December 13, 2021, 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 December 9, 2021, at 4:00 p.m.

*Kim Hodde*

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

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

I certify that the attached notice and agenda of items to be considered by the Board of Adjustment was removed by me from the City Hall bulletin board on the \_\_\_\_\_ day of \_\_\_\_\_, 2021 at \_\_\_\_\_ am/pm.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

**CITY OF BRENHAM  
BOARD OF ADJUSTMENT MINUTES**

**November 8, 2021**

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

A regular meeting of the Board of Adjustment was held on November 8, 2021, at 5:15 pm in the Brenham Municipal Building, City Council Chambers, at 200 West Vulcan Street, Brenham, Texas.

Commissioners present:

Jon Hodde, Chairman  
Thomas Painter, Vice Chairman  
Walt Edmunds  
Danny Goss  
Arlen Thielemann

Commissioners absent:

Mary Lou Winkelmann (excused)

Staff present:

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

Citizens / Media present:

Alyssa Faykus, Banner Press  
Kathie Boehnemann  
Stephen Ellwood  
Nelson Sosa

**1. Call Meeting to Order**

Chairman Hodde called the meeting to order at 5:23 p.m. with a quorum of five (5) Commissioners present.

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

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

**3. Reports and Announcements**

There were no reports or announcements.

**CONSENT AGENDA**

**4. Statutory Consent Agenda**

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

#### **4-a. Minutes from the October 11, 2021, Board of Adjustment Meeting**

Chairman Hodde called for any corrections or additions to the minutes as presented. A motion was made by Commissioner Thielemann and seconded by Commissioner Painter to approve the minutes from the October 11, 2021, meeting, as presented. The motion carried unanimously.

#### **REGULAR AGENDA**

- 5. Public hearing, Discussion and Possible Action on Case Number B-21-005: A request by Kathie Boehnemann for a Variance from the City of Brenham Code of Ordinances, Appendix A – Zoning, Part II, Division 2, Section 2.05(3)(b)(ii) to allow a 0-foot south side setback, where a minimum 10-foot side setback is required, for construction of a carport at 505 Hosea Street, described as Lot 3 of the Millennium Subdivision, in Brenham, Washington County, Texas.**

Shauna Laauwe, City Planner, presented the staff report for Case No. B-21-005 (on file in the Development Services Department). Ms. Laauwe stated that this request by Kathy Boehnemann is for a zero south side setback for construction of a carport on the south side of the subject property to keep her vehicle out of the elements. The subject property located at 505 Hosea Street is a single-family residence that was platted and developed as a patio home. Patio home (zero lot line) lot minimum standards differ from single family residence lot requirements in that the minimum lot size is 4,000 square feet and one side setback is required to be at least ten foot and the other side can be built up to the property line (no setback). The subject property and the two lots to the north and south were platted as patio homes in the Millennium Subdivision Plat in December 2003. The plat states that the north side of the property is the zero-lot line side. Note #4 on the plat states that there is a perpetual five-foot-wide wall-maintenance easement on the south lines of Lots 1,2,3, and 4 dedicated per this plat. With the exception of walls and/or fences, these five feet shall be kept free of structures. If a variance is granted, the property would need to be re-platted to remove this perpetual wall note. The applicant proposes construction of a 20'x13.3' open-air carport with two options placement locations: Option 1- 53-feet from front property line or Option 2 – approximately 57-feet from front property line. The property to the south of the subject property is currently developed with a single-family residence that is placed 10.5-feet from the north property line; however, they have the right to build to the north property line.

A variance runs with the property not the structure and cannot be restricted to just the “carport area”; therefore, if a zero-side setback is approved for this property, future development would be allowed up to the south side property line. Additional fire and building standards would be applied to the subject property and the adjacent neighbor if a variance were granted. The lot currently meets all city standards. This request for a zero-side setback on both sides of this lot does not meet the intent of the ordinance nor does it meet the criteria required for granting a variance since variances are intended for lots whose size, shape or other attributes renders them undevelopable without a variance.

In response to the applicant’s question as to why the Board can’t grant a variance specific to the carport, Ms. Laauwe responded that the Texas Local Government Code doesn’t allow conditions to be placed on variances, therefore, if a variance is granted it would be for the entire south property line.

Notifications were mailed to property owners within 200-feet of the subject property on October 28, 2021. Three written citizen comments were received in support of this request.

Staff has reviewed the request and recommends denial of the requested variance to allow a ten-foot reduction in the required ten-foot south side yard setback requirement for a setback of zero (0) feet.

Chairman Hodde opened the Public Hearing at 5:51 p.m. and asked for any comments. There were no comments.

Chairman Hodde closed the Public Hearing at 5:51 p.m. and re-opened the Regular Session.

A motion was made by Commissioner Painter and seconded by Commissioner Thielemann to deny the request Kathie Boehnemann for a Variance to allow a 0-foot south side setback, where a minimum 10-foot side setback is required, for construction of a carport at 505 Hosea Street, as presented, since criteria required for granting a variance was not met. The motion carried unanimously.

**6. Public hearing, Discussion and Possible Action on Case Number B-21-006: A request by Nelson Sosa and Katherine Hawes for a Variance from the City of Brenham Code of Ordinances, Appendix A – Zoning, Part II, Division 2, Section 9.03(3)(b)(ii) to allow a 10-foot north side setback, where a minimum 15-foot side setback is required; and a request for a Special Exception from the City of Brenham Code of Ordinances, Appendix A – Zoning, Part II, Division 2, Section 9.03(2)(e) to allow parking to be located to the front of the property, where parking is required to be located to the rear for a multifamily development in the Downtown Business / Residential Overlay District (DBROD) at 411 Church Street, described as Lot 4, Block 93 of the Original Town Addition, in Brenham, Washington County, Texas.**

Shauna Laauwe, City Planner, presented the staff report for Case No. B-21-006 (on file in the Development Services Department). Ms. Laauwe stated that this request is from Nelson Sosa and Katherine Hawes for construction of a 5-unit multi-family development at 411 Church Street. The subject property is located on the east side of Church Street generally south W. First Street and north of W. 2<sup>nd</sup> Street and is zoned as Downtown Business / Residential Overlay District (DBROD) and the property is currently developed with a storage building and accessory structures built up to the property line. The lot is approximately 9,452 square feet and is surrounded by various zoning districts: B-3- Historical and Central Business District, B-3 Neighborhood Business District, B-2 Commercial Research and Technology District, and R-2 Mixed Residential District. The DBROD was established in 2017 and is the transitional area between the downtown and residential districts. There are no setback or parking requirements in the downtown zoning district. The applicant requests a variance to allow a 10-foot north side yard setback where a minimum 15-foot side yard is required for construction of the proposed 5-unit apartment complex. The applicant also requests a special exception to allow the parking to be located in front of the property where the parking is required to be located to the rear of the property for multi-family development in the Downtown Business / Residential Overlay District.

The applicant proposes to construct a 3-story (39'8" height), 7,554 square foot building with (2) one bedroom / one bath units and (2) two bedroom / two bath units. The third floor is proposed as one large two bedroom / two bath unit for the property owner or property manager. Ten parking spaces are required. The multifamily development requirements for this property are as follows:

- Front yard setback of 25-feet
- Side yard setback of 15-feet
- Rear yard setback of 15-feet
- Lot area minimum of 1,000 square feet per dwelling unit
- Minimum lot width of 50-feet
- Minimum lot depth of 100-feet
- Maximum lot coverage of 75%
- Parking for multifamily to be located at the rear of the property.

In order to put the parking to the rear of this development, a 24-foot drive aisle would be required. This would require an additional setback variance and would make a 1-foot setback on either the north side or the south side of the property. The developer is trying to meet the setback requirements as much as possible.

Notifications were mailed to property owners within 200-feet of the subject property on October 28, 2021. One written citizen comment and one verbal comment was received in support of this request.

Staff has reviewed the request and finds that the proposed development site plan is closer to conformance with the City's adopted standards than the existing structure and the 10-foot north side setback is a better option than a lesser setback to allow for the drive aisle. This development will be required to meet all other zoning, building and fire codes. Staff recommends approval of the requested variance to allow a 10-foot north side yard setback

and approval of a special exception to allow off-street parking for the proposed multi-family development to be located in the front of the structure at 411 Church Street. In response to Commissioners questions, Ms. Laauwe stated that the stairwell encroaches 2'10" into the setback but it is allowed to encroach up to five feet. Commissioner Edmunds urged the developer to put something (fencing or screening) on the sides in addition to the landscaping to keep headlights from shining into the neighboring homes. Stephanie Doland, Director of Development Services, stated that this area of town is challenging for development since the standards for this area were developed as a transition between Downtown zoning to the north and traditional single-family zoning to the south.

Chairman Hodde opened the Public Hearing at 6:19 p.m. and asked for any comments. Stephen Collier stated that this project is an improvement to what currently exists on the property thanked the Board for consideration of these requests.

Chairman Hodde closed the Public Hearing at 6:20 p.m. and re-opened the Regular Session.

A motion was made by Commissioner Painter and seconded by Commissioner Thielemann to approve the request for a variance to allow a 10-foot north side yard setback and approval of a special exception to allow off-street parking for the proposed multi-family development to be located in the front of the proposed structure at 411 Church Street, as presented. The motion carried unanimously.

**7. Adjourn**

A motion was made by Commissioner Painter and seconded by Commissioner Edmunds to adjourn the meeting at 6:22 p.m. The motion carried unanimously.

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

Certification of Meeting Minutes:

\_\_\_\_\_  
Jon E. Hodde, Chairman

December 13, 2021  
Meeting Date

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

December 13, 2021  
Meeting Date



**CASE NUMBER: B-21-007**

**VARIANCE REQUEST: 405 MARTIN LUTHER KING, JR. PARKWAY**

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

**OWNER/APPLICANT:** Carl Franklin and Linda Bessmer

**ADDRESS/LOCATION:** 405 Martin Luther King, Jr. Parkway (Exhibit "A")

**LEGAL DESCRIPTION:** Rippetoe Addition, Lot 7A

**LOT AREA:** 12,561 square feet, approximately 0.288-acres

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

**COMP PLAN** Single-Family Residential

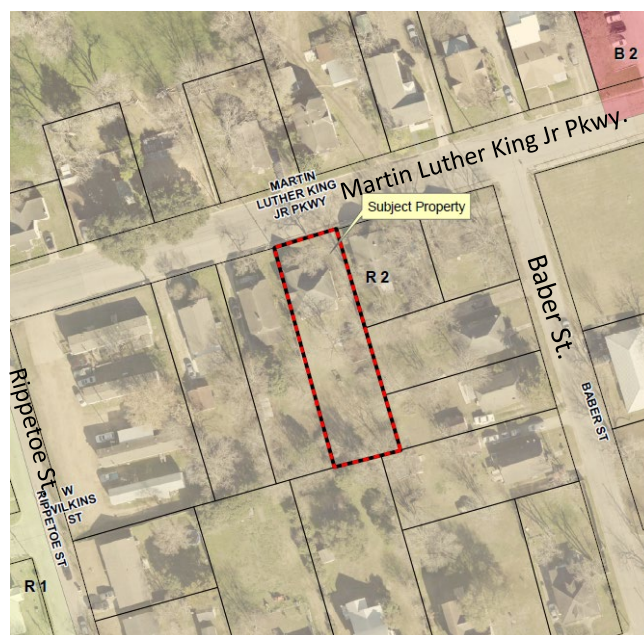
**FUTURE LAND USE:**

**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 **6.5-foot east side setback**, where a minimum 10-foot side setback required, for a detached Accessory Dwelling Unit (Exhibit "C") to be located within a R-2, Mixed Residential Use District.

**BACKGROUND:**

The subject property is a 12,561 square foot (0.288-acre) lot that is addressed as 405 Martin Luther King, Jr. Parkway, and generally located on the south side Martin Luther King, Jr. Parkway, two lots west of Baber Street and three lots east of Rippetoe Street. As shown in Figure 1, the property is a long rectangular shaped lot that is approximately 202 feet in length and 60 feet in width. The property is zoned R-2, Mixed Residential Use District and is developed with a 1,270 square foot single-family home, an accessory structure, and a dilapidated garage structure which was recently removed. The applicants propose to construct a new 24'x24', 2-story (1,152 square feet/576 sq.ft. per floor), 20-foot in height, garage with an upstairs accessory dwelling unit (ADU). The proposed ADU would encompass 576 square feet of the structure. As detailed in Figure 2 and Exhibit D, the proposed garage/ADU structure will be located to the

**Figure 1**



rear of the property, 77.62 feet from the principal house, and setback 141.82 feet from the front property line, 29 feet from the west side property line, 6 feet 6 inches from the east property line, and 36 feet from the rear property line. A 24'x24' concrete parking area to the northwest of the garage pad would serve the ADU.

The allowance and standards for ADUs were adopted within in the Zoning Regulations with Ordinance No. O-19-012 that was approved on March 7, 2019. The adopted regulations allow any homeowner living on a single-family zoned property to build an ADU with prior approval of a Specific Use Permit and a building permit. The Specific Use Permit process requires a recommendation from the Planning and Zoning Commission and approval by ordinance from the City Council. Any homeowner or business owner located in a B-1 zoning district may build an ADU as a permitted use with a building permit. Section 10.02(4) of the Zoning Regulations lists additional development standards that pertain to ADUs: (The Variance request pertains to standard c.)

- 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 applicants/property owners will utilize the existing single-family dwelling as their primary residence.***

- b) An ADU must be designed and constructed 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 has a rear yard setback of 36-feet, a west yard setback of 29 feet and an east side yard setback of approximately 6 feet 6 inches, less than the required minimum of ten (10) feet.***

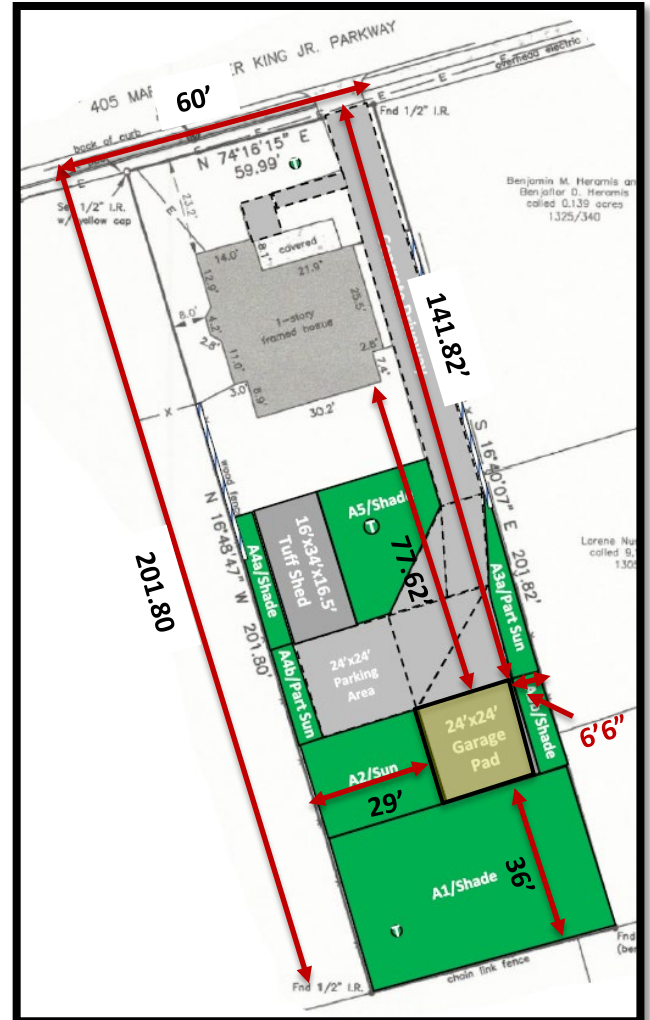
- d) One (1) on-site parking space, located to the side or rear of the primary structure, shall be provided for the ADU in addition to the required parking for the principal structure.

***The site has driveway access via Martin Luther King, Jr. Parkway. The applicant proposes to utilize an existing paved 24'x24' parking area adjacent and west of the proposed ADU. The proposed parking area would provide for two (2) 9'x19' 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 is 1,270 square feet in area and the proposed ADU is 576 square feet, less than 1/2 of the habitable area of the principal structure.***

Figure 2





- 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.***

The proposed detached garage meets the minimum 5-foot side yard setback for accessory structures, however the zoning standards for ADUs require that detached accessory dwelling units, such as the proposed detached garage with upstairs dwelling unit, have the same required side-yard setback as the principal structure. The required side yard setback for a single-family home in the R-2 District is ten (10) feet, thus the requirement for the proposed ADU. The subject property has a significant grade change from the south rear of the lot to the front property line along Martin Luther King, Jr. Parkway that has caused substantial drainage problems. Given the topography and the slope of the lot, the most efficient location of the proposed garage and accessory structure is approximately 6 feet 6 inches from the east side-yard property line, less than the minimum required ten (10) feet.

Therefore, the applicant, is requesting a variance to allow a 3-foot 6-inch reduction to the minimum required 10-foot east side yard setback for a setback of 6 feet 6 inches to meet the side yard setback criteria 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 has a significant slope that produces excessive runoff after a hard rain. In addition, adjacent lots located at 307 Baber Street to the southeast and 404 West Jefferson to the south also drain into the rear yard of the subject lot. The excessive runoff down the driveway makes the driveway hazardous to both drive and to walk on. The applicant has provided pictures in Exhibit E. To help mitigate the runoff, the applicant has constructed a 14.5-inch concrete stem wall around the garage pad to help block and direct runoff around the building and in a more orderly fashion down the sides of the driveway. Moving the garage pad an additional 3’6” to the west to meet the 10-foot minimum side yard setback would result in the garage being off-set and increasing the stormwater runoff to directly channel down the existing driveway.**

- (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 allow a 6-foot 6-inch (6'6") east side yard setback for a detached ADU would not be materially detrimental or injurious to other property or improvements in the neighborhood, nor to the public health, safety, and general welfare of the surrounding area. The proposed garage exceeds the minimum required 5-foot side yard setback for accessory structures and could still be constructed at the proposed location if the variance is denied. Accessory Dwelling Units are required to have the same side yard setback as the principal structure (10-feet) to allow more separation for habitable spaces to have additional light and air. The abutting properties along the east property line nearest the proposed garage placement, located at 401 and 403 Baber Street respectfully, are perpendicular to the subject property and front onto Baber Street. These abutting properties currently have no structures within 30 feet of the shared property line with the subject lot. The proposed ADU will not substantially increase the congestion of Martin Luther King, Jr. Parkway as the additional two (2) parking spaces provided by the applicant for the ADU, in addition to the two (2) for the principal single-family use, exceeds the parking requirement.

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

Literal enforcement of this ordinance would prohibit the property owner from utilizing the upstairs garage space as an ADU, that has been found, with the exception to the proposed reduced side yard setback, to exceed all the required accessory dwelling unit standards. The literal enforcement of the 10-foot side yard setback would result in the accessory structure being placed in an area that would increase the flow of runoff down the driveway that could result in undesirable conditions.

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

The subject property slopes from south to north resulting in significant stormwater runoff to drain through the subject property to Martin Luther King, Jr. Parkway. Runoff from the adjacent properties to the southeast and south, located at 307 Baber Street and 404 West Jefferson, respectfully, also drain into the rear yard of the subject lot. In addition, as shown in Exhibit F, the City of Brenham Public Works Department has also erected a retaining wall that begins along the front property line of the subject property to mitigate the drainage runoff into the stormwater system. The applicant states that the proposed location of the garage/ADU with the constructed bordering 14.5" stem wall will help divert the storm runoff from only the existing driveway.

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

The applicant states that the need for the variance is result of the subject property topography, existing driveway orientation that follows said slope, and the adjacent properties addressed as 307 Baber Street and 404 West Jefferson Street draining into the subject property. Placing the proposed garage/ADU at the required 10-foot setback for ADUs along the east property line would likely result in an increase of drainage runoff down the driveway as the garage would not be oriented to help divert a portion of the water.

*(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 Zoning Ordinance allows a minimum side yard setback of five (5) feet for accessory structures such as garages, however the additional standards for Accessory Dwelling Units (ADUs) requires that detached ADUs meet the side yard setback as required of the principal structure. Principal structures within the R-2 District are required to have a 10-foot side yard setback. The intent of the philosophy contained in the Zoning Ordinance to require a greater setback for ADUs is for the proposed second dwelling unit use to have additional separation for light, air, and separation from abutting properties. The granting of the variance, however, would not be injurious to the public health, safety, and general welfare. The abutting properties along the east property line front onto Baber Street with the rear of the adjacent properties being nearest to the proposed garage/ADU placement. Given this, the nearest neighboring structure to the shared east property line is approximately 30 feet. These adjacent properties may place an accessory structure 5-feet from their rear property line, but a primary dwelling unit would be required to have a 25-foot rear yard setback. Given the distance of neighboring principal structures, a reduced side yard setback of 6'6" from the required 10-foot setback will not have a meaningful impact on the abutting and surrounding neighbors. If the variance is not approved by the Board of Adjustments, or the ADU is denied by City Council, the accessory garage structure could be placed at the same location or at a shorter side-yard setback of 5-feet.

**STAFF RECOMMENDATION:**

Staff has reviewed the request and *recommends approving the requested* variance to allow a 6-foot 6-inch lot east side yard setback for a detached Accessory Dwelling Unit to be constructed 405 Martin Luther King, Jr Parkway.

The proposed Accessory Dwelling Unit had a first reading and public hearing before City Council on December 2, 2021. The ADU received unanimous approval on the condition that the structure receive a variance for a 3'6" reduction of the minimum 10-foot east side yard setback from the Board of Adjustment, or that the site comply with the minimum side yard setback. The proposed ADU is scheduled for a second reading and final vote before City Council on Thursday, December 16, 2021.

**PUBLIC COMMENTS:**

Property owners within 200 feet of the subject property were mailed notifications of this proposal on December 2, 2021. Ms. Singleton of 403 Baber Street called to inquire about how the garage would affect her drainage. At the time of this report, no written comments have been submitted. Any additional 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
- D. Site Plan
- E. Photos

EXHIBIT "A"  
AERIAL MAP



**Aerial Map  
Side Setback Variance  
405 Martin Luther King Pkwy**



1 inch = 71 feet



EXHIBIT "B"  
ZONING MAP






**Zoning Map**  
**Side Yard Setback Variance**  
**405 Martin Luther King Pkwy**



1 inch = 71 feet



**Legend**

-  B2 Commercial Research and Technology
-  R1 Residential Single Family
-  R2 Mixed Residential

**EXHIBIT "C"**  
**COVER LETTER**

November 16, 2021

Board of Adjustment  
City of Brenham  
P.O. Box 1059  
200 W. Vulcan Street  
Brenham, Texas 77834

To Whom It May Concern,

We, Carl Franklin and Linda Bessmer, are seeking a variance to the Brenham Zoning Ordinance, Section 10.02(4)(c), for our lot located at 405 Martin Luther King Jr. Parkway (Lot 7A of Rippetoe's Addition). The variance request is to reduce the side yard requirement for a garage ADU from 10' to 6.5' on the east side of the lot. See Exhibit 1 for the site plan. The justification is as follows.

1. The parcel has a significant slope that produces excessive runoff after a hard rain or snow melt. 307 Baber Street and 404 West Jefferson also drain into the rear yard of the parcel. See Exhibits 2 & 3. (After the February freeze, a neighbor across Martin Luther King Jr. Parkway and a passing Brenham Water Dept. worker thought we had a broken water pipe due to the large amount of water flowing down the driveway.) The runoff made the driveway hazardous. See an example from May 2021 shown in Exhibit 4.

To manage drainage and provide an option for a garage ADU, a 24' x 24' garage pad with 14.5" H x 5.5" W stem wall was poured in September 2021. (See Exhibits 1, 5, 6, & 7). The amount of runoff has decreased significantly since then as tested by several storms. Once built, a garage with or without an ADU will add half its roof's surface area to the amount of water landing between the building and the east property line. Shifting the pad 3.5' to the west would increase the load on the driveway and potentially create unsafe conditions.

2. Decreasing the side setback distance from 10' to 6.5' for the garage ADU would not adversely affect neighbors or the City of Brenham. There are no neighboring structures within 30' on the east side of the property line (the adjacent parcels are 403 and 401 Baber Street). See Exhibits 5 & 6. A garage with upstairs storage and a garage ADU would appear exactly the same to the neighbors as seen from their back yards because no windows or doors will face east. See Exhibit 9. Four off-street parking spaces are already onsite so there's no impact upon street parking.
3. Literal enforcement of the ordinance would increase the amount of water flowing down the driveway, which has been unsafe in the past. As we are only 2-3 years from retirement, this is more of a concern for us than younger homeowners. One of us already has broken a shoulder by slipping on wet pavement while walking along a Brenham city street.
4. The City of Brenham constructed a concrete retaining wall along part of Martin Luther King Jr. Parkway, and it begins at our property. See Exhibit 8. We interpret this to mean that the City recognizes that slope is a significant issue for our parcel and the street. The two adjacent lots along Baber Street (those on the east side of our property line--403 and 401 Baber Street) do not have the same issue because they're perpendicular to the slope. See Exhibit 3.

**EXHIBIT "C"**  
**COVER LETTER**

5. The need for the variance is the result of the lot slope, driveway orientation (going with the slope), and adjacent properties (307 Baber Street and 404 West Jefferson) draining into our parcel. See Exhibits 1 & 3.
6. The hardship would not be solely financial. We're concerned about safety and controlling drainage. Better control of drainage benefits the City of Brenham by having less water released from the property to Martin Luther King Jr. Parkway. There appears to be some damage to the street asphalt from the amount of water previously released by the driveway. See Exhibit 8.
7. The variance, if approved, would not negatively affect the health, safety, and welfare of neighbors or the City of Brenham. The proposed garage ADU location creates no known health and safety issues. A change from 10' to 6.5' side yard setback would not meaningfully impact the welfare of neighbors or the City of Brenham. The placement would still be further away from the eastern lot line than the minimum required for a garage with upstairs storage (5').

The requested variance would not undermine the intent of the zoning ordinance. The proposed garage ADU increases the tax value of the parcel, matches the architecture of the principal structure, and strengthens the neighborhood by adding a high-quality accessory building. Granting this variance would not create potential problems but would help mitigate an existing one (drainage). See Exhibit 9 for proposed ADU appearance.

We look forward to the Board's ruling.

Regards,

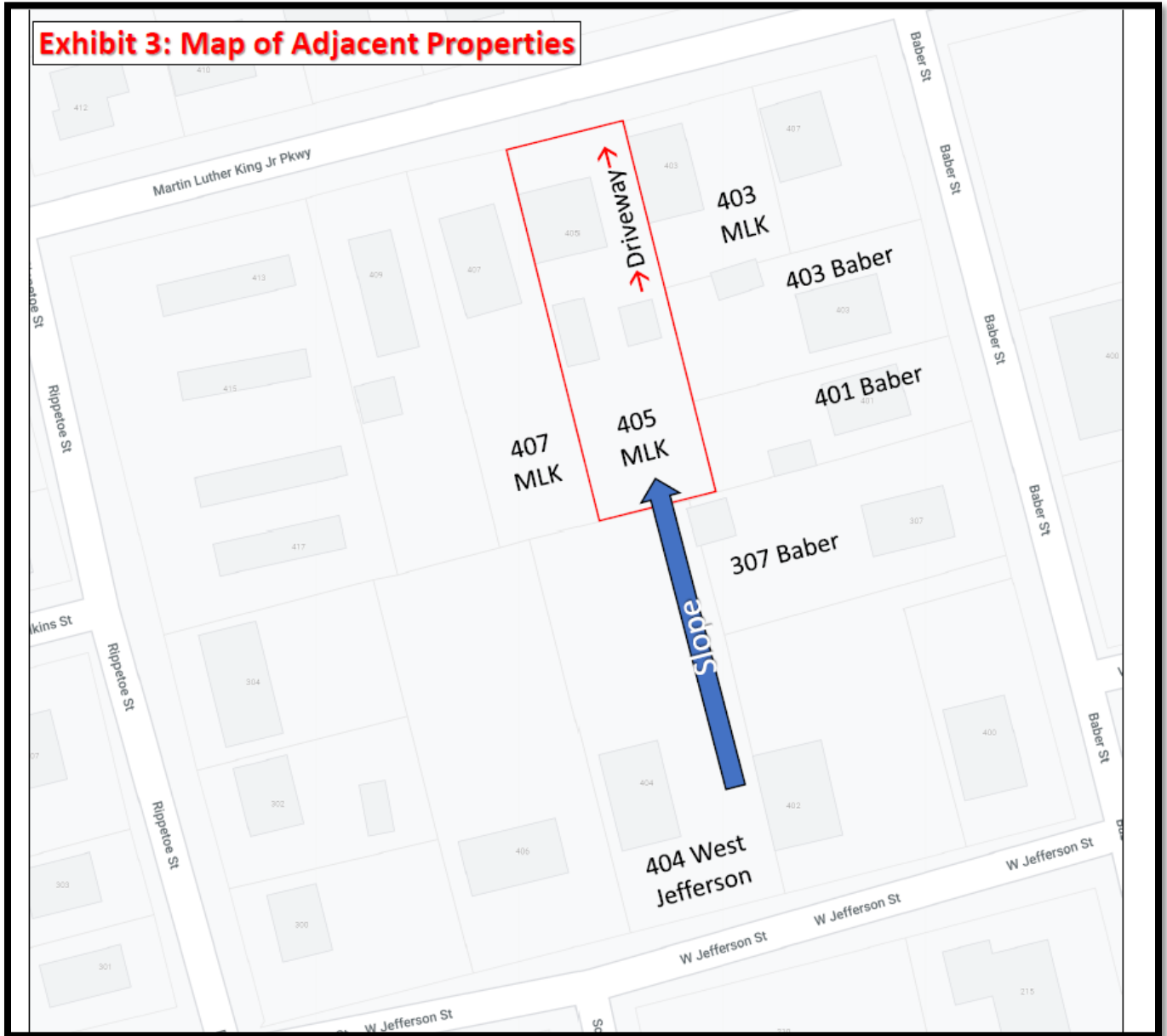


Carl Franklin & Linda Bessmer





EXHIBIT "E"  
SLOPE DEPICTION  
Provided by Applicant



**EXHIBIT "F"**  
**PHOTOS**  
Provided by Applicant (Exhibits 4-9)

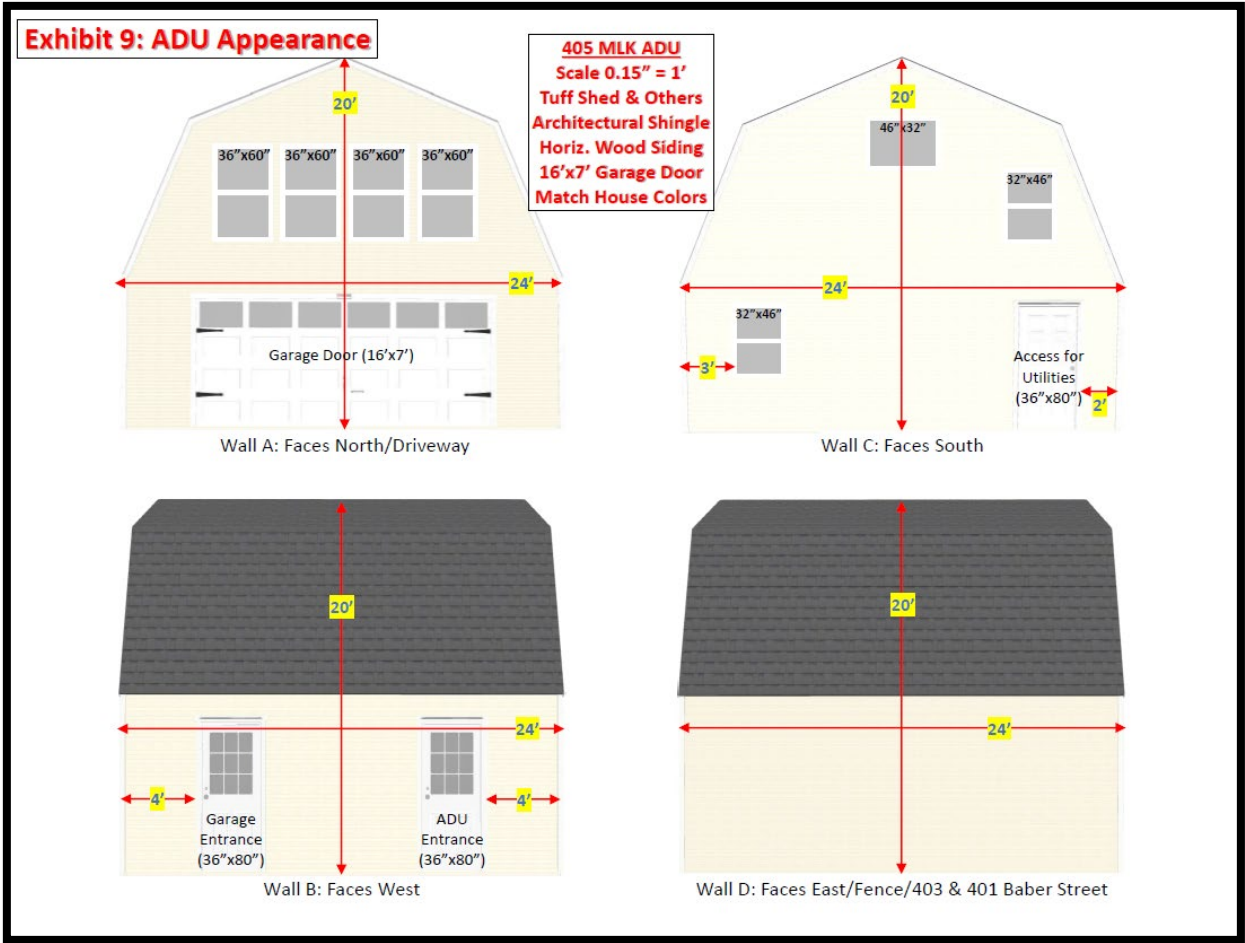


**Exhibit 6: Stem Wall/Rear of 401 Baber**



**Exhibit 8: Property Frontage**





**CASE NUMBER: B-21-008**  
**SPECIAL EXCEPTION REQUEST: 2501 Valley Drive**

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

**OWNERS/APPLICANTS:** Russell & Donna Kellar

**ADDRESS/LOCATION:** 2501 Valley Drive (Exhibit "A")

**LEGAL DESCRIPTION:** South Park Section II, Lot 21, in Brenham, Washington County, TX

**LOT AREA:** 12,150 square feet / Approximately 0.279 acres

**ZONING DISTRICT/  
USE:** R-1, Single-Family Residential / Single Family Home (Exhibit "B")

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

**REQUEST:** A special exception from the City of Brenham Code of Ordinances, Appendix A – Zoning, Part II, Division 1, Section 10.02(1) to allow, in accordance with Part IV, Division 4, Section 1.01(2) of the City of Brenham Zoning Ordinance, a 3-foot south side yard setback where a minimum 5-foot side yard setback is required for an accessory structure located at 2501 Valley Drive, described as Lot 21 of the South Park Subdivision, Section II, in Brenham, Washington County, Texas. (Exhibit "C" – Letter Submitted by Applicant)

**BACKGROUND:**

The subject property is an approximate 12,150 square foot (0.279 acres) tract of land located on the east side of Valley Drive, midblock being south of Trinity Street intersection and north of East Airline Drive. The subject property and adjacent properties to the north, south and west are zoned R-1, Single-Family Residential District, while adjacent to the east is a R-2, Mixed Residential District. The property is developed as single-family residential and consists of an 1,800 square foot single-family home, a swimming pool, and an existing accessory building with an attached porch that was constructed in 2010. As shown in Figure 2, the accessory structure includes a 16'x12' (192 sf) enclosed storage space and an attached 16'x11' (176 sf) covered porch area that has an approximate wall

**Figure 1**



height of 10 feet and overall top of the roof peak height of approximately 13 feet. The existing accessory structure is to the rear of the home and is setback approximately 89 feet from the front property line, 13 feet from the rear property line, a north side setback of approximately 70 feet, and 3 feet from the south side property line. The accessory structure is a legally nonconforming structure that is located at a 3-foot side yard setback to the south property line, which in 2010, was the minimum required setback for accessory structures. In 2019, a text amendment Ordinance (O-19-012) was passed that increased the minimum side yard setback for detached accessory structures and to establish definitions and criteria for Accessory Dwelling Units. To increase the amount of enclosed storage space, the property owners/applicants, Russell and Donna Kellar, desire to enclose a 9'x11' (99 sf) portion of the accessory structure that is closest to the property line (Figure 3). The southern portion of the covered area was chosen because it encompasses the existing door to the shed. Enclosing the proposed portion of the structure would result in the shed being a total of 291 square feet. The enclosed addition will be in line with the existing southern building line, resulting in the overall southern wall extending from 12 feet to a total of 23 feet within the minimum required 5-foot side yard setback. Thus, the applicant is seeking a Special Exception to allow a 2-foot reduction of the minimum required 5-foot side yard setback to allow for the expansion of a nonconforming structure.

Figure 2

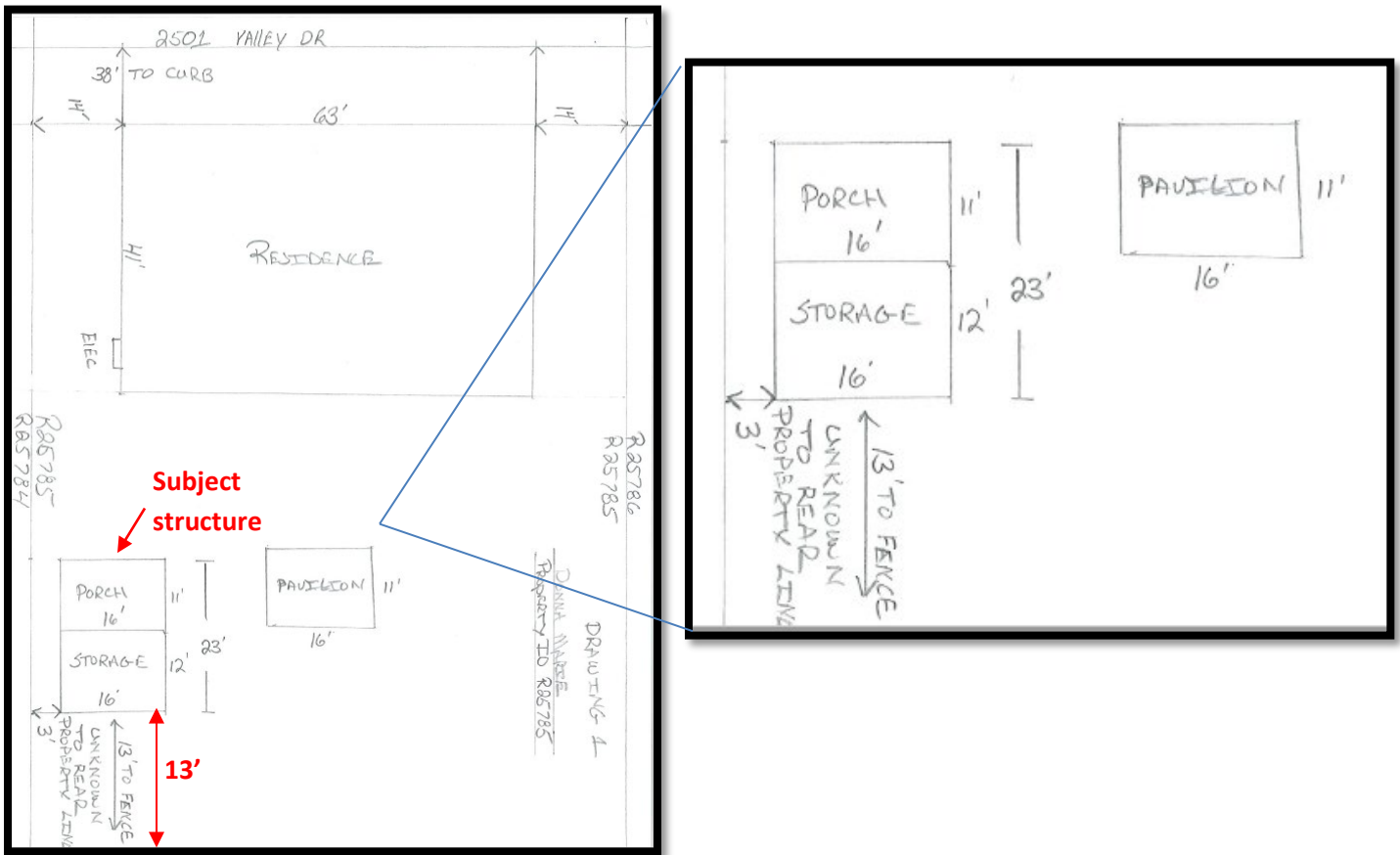
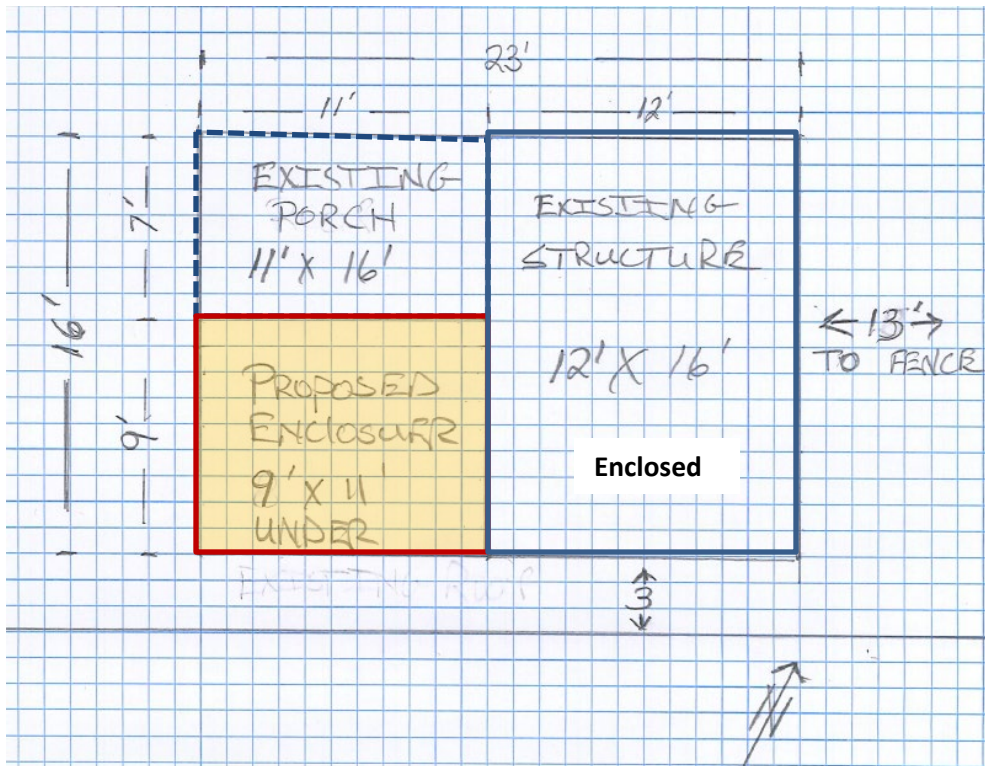


Figure 3



**APPLICABLE SECTION OF ORDINANCE AND ANALYSIS:**

(Sec. 1.01) Authority. The Board of Adjustment shall have the authority to grant special exceptions in accordance with the procedures and standards herein provided to permit:

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

Section 10.02(1) of the City of Brenham Zoning Ordinance requires the following area regulations:

Accessory structures, location, and regulation:

- (1) All detached accessory structures in any residential district shall be located behind the closest point of the primary structure to the front property line and shall have a side and rear yard of not less than five (5) feet.

**STAFF ANALYSIS & RECOMMENDATION:**

Staff has reviewed the request and **recommends approval**. When the existing accessory structure received a building permit in 2010, the minimum required side yard setback for accessory structures was 3-feet. In 2019, a text amendment to the Zoning Ordinance increased the minimum side yard setback for accessory structures to 5-feet. The 5-foot side yard setback is in line with the building and fire code requirement of a minimum 10-feet of separation between structures. A 5-foot minimum on each side satisfies this requirement. By fire code, structures that are less than 5 feet from the property line are required to provide additional protection. These measures include installing a fire-rated wall and a stipulation that said wall may not have any openings such as windows. If the exception is approved, the applicant understands that the new enclosure wall will be required to be fire-rated and meet all building and fire codes. Due to the existing improvements adjacent to the structure, it would be

prohibitive to move the entire structure two (2) feet to meet the minimum setback. The applicant states that they wish to enclose a portion of the existing porch to provide additional protected storage space. While enclosing the north portion of the porch would not require an exception, it is not a viable alternative due to the placement of the door into the shed.

No adverse effects to the adjacent properties or the surrounding neighborhood are expected with the proposed expansion of the nonconforming accessory structure. The adjacent property to the south (2503 Valley Drive) is also developed as a single-family use and appears to also have a nonconforming accessory structure regarding side-yard setback near the shared property line (See Figure 4). The abutting property to the east is zoned R-2 and developed as Brensha Heights apartments. The subject property and the Brensha Heights property each have a 10-foot utility easement. The proposed expansion will not affect the east portion of the building, nor encroach into the easement. In addition, the accessory structure is not visible from the street right-of-way due to a privacy fence, a tree (see Figure 4) and the approximate 79-foot setback from the front property line.

Figure 4



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 are permitted in any zoning district in connection with any principal use lawfully existing within such district, provided that all accessory structures meet the development regulations for the zoning district in which the structure is located. As stated above, the proposed expansion/partial enclosure of the nonconforming structure patio will require a building permit to include that the south wall is fire-rated.

Based on the finding that the expansion will not cause any adverse effects to the adjacent property owners, this request meets the criteria for Part IV, Division 4, Section 1.01(2), Special Exceptions of the Zoning Ordinance. Should the special exception be denied, the applicant would be required to adhere to the 5-foot side yard building setback.

Staff has reviewed the request and recommends the following:

- **Approval of a two (2) foot** reduction in the required south side setback from five (5) feet to three (3) feet (existing accessory structure setback).

The proposed extension or enlargement of this nonconforming structure is not encroaching any further than the existing structure; therefore, this request meets the criteria for Section 1.01(2), Special Exceptions of the Zoning Ordinance. Should the special exception not be granted, the reduction would be a violation and would not be permitted for the extension of the accessory structure enclosure. Should the special exception be granted the applicant would be permitted to construct the proposed enclosure of the existing accessory structure within 3 feet of the south property line.



**PUBLIC COMMENTS:**

Property owners within 200 feet of the project site were mailed notifications of this proposal on December 2, 2021. With the application, the applicant provided a letter from Ms. Carroll Lainer, who owns the adjacent property located at 2503 Valley Drive giving her consent and support of the project. At the time of this Staff Report, no additional comments have been received. 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. Site Plan (Drawing 1 & 2)
- D. Cover Letter
- E. Applicant Site Photos
- F. Staff Site Photos

**EXHIBIT "A"  
AERIAL MAP**



**Zoning Map  
Special Exception  
2501 Valley Drive**



1 inch = 63 feet





EXHIBIT "B"  
ZONING MAP



**Zoning Map  
Special Exception  
2501 Valley Drive**

**Legend**

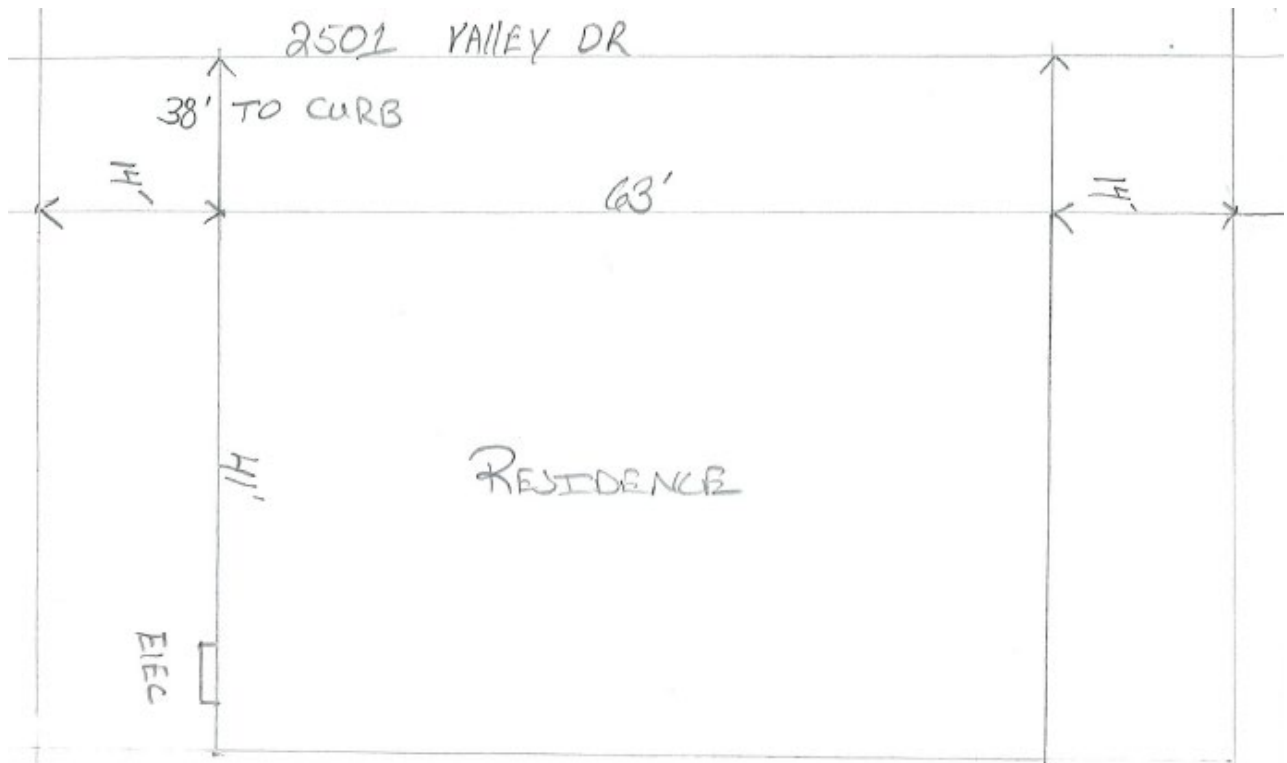
-  R1 Residential Single Family
-  R2 Mixed Residential



1 inch = 63 feet

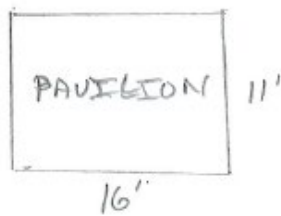
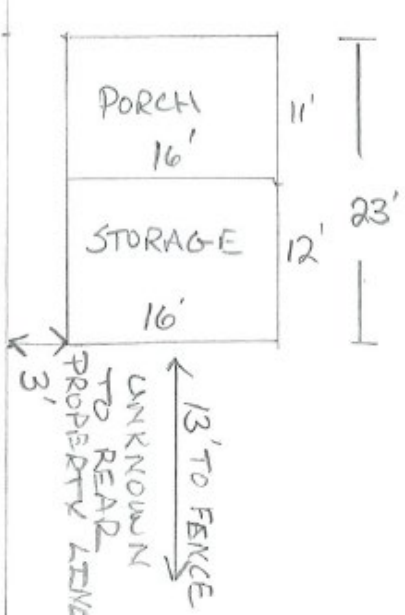


EXHIBIT "C"  
SITE PLAN



R25785  
R25784

R25786  
R25785



DONNA WARE  
PROPERTY ID R25785  
DRAWING 4

OWNER: DONNA MARIE KELLAR

DRAWING 2

PROPERTY ID: R25785

ADDRESS: 2501 VALLEY DR

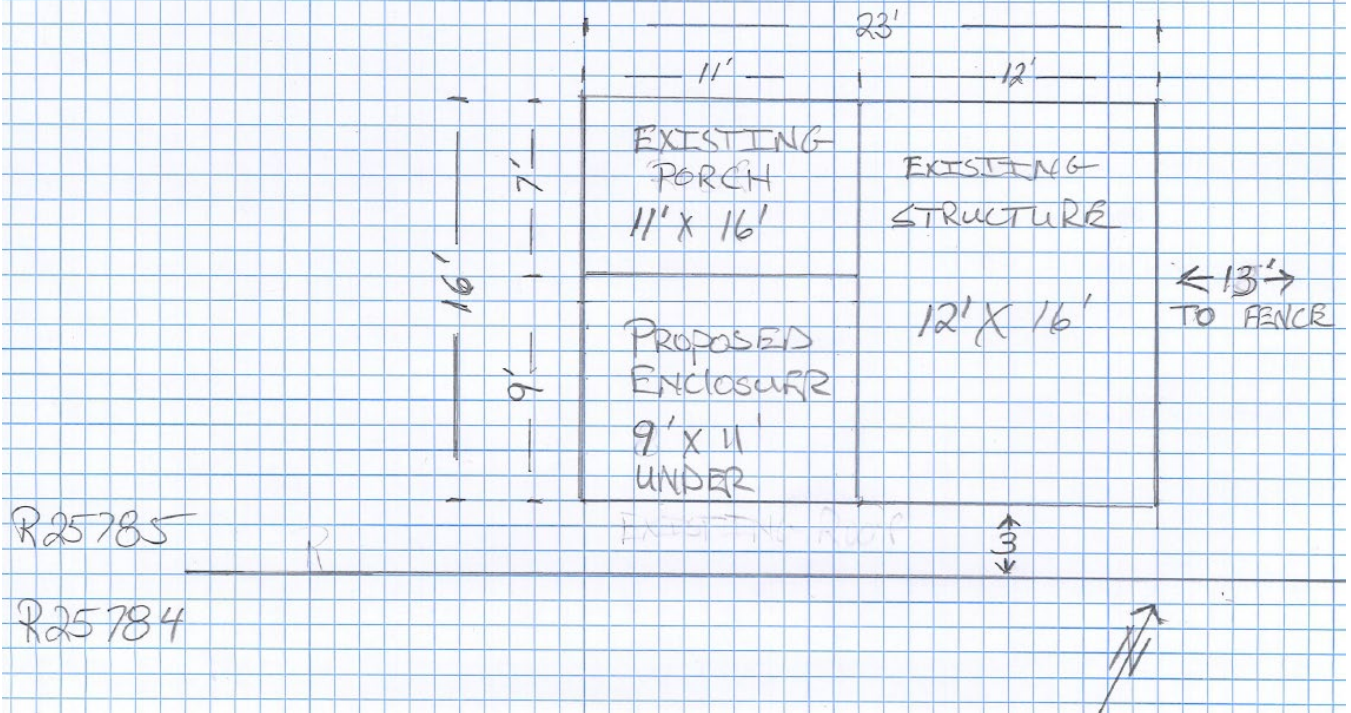


EXHIBIT "D"  
Cover Letter

To: Board of Adjustments  
From: Russell Kellar  
E [RLKellar1@gmail.com](mailto:RLKellar1@gmail.com)  
C 512-914-0915  
Subject: Special Exception  
Date: November 20, 2021

Board of Adjustments,

I am writing this letter to request a Special Exception for property owned by my wife, Mrs. Donna Marie Kellar. The property in question is ID: R27785 located at 2501 Valley Dr, Brenham TX 77833. We are requesting the Special Exception for a partial enclosure of an existing porch. The enclosure will be used for additional storage protecting our property from elements and theft.

**Proposed Project:** In the back yard, there is an existing 12'x16' storage building with an attached 11'x16' porch. The original structure was on the pad site before the purchase of the house in 2000. In 2010 the building was damaged by high winds and repaired on the original pad site. The City of Brenham issued a permit for this work numbered 18805 and dated March 10, 2010. We would like to enclose 9'x11' of the existing porch for an additional 99sq ft of storage area. The exterior construction would meet the required codes and match the existing structure to blend with the building. Please see pictures 1 and 2 and drawing 2 for clarification.

The structure is approximately 3' from R27784 and 13' from the rear fence. The rear property line is several feet behind the fence making the rear of the structure at least 15', or greater from the rear property line. Please see drawings 1 and 2 for clarification on boundaries.

Note: Drawings are not to scale, but the distances listed to the property lines are accurate as of the measuring tape.

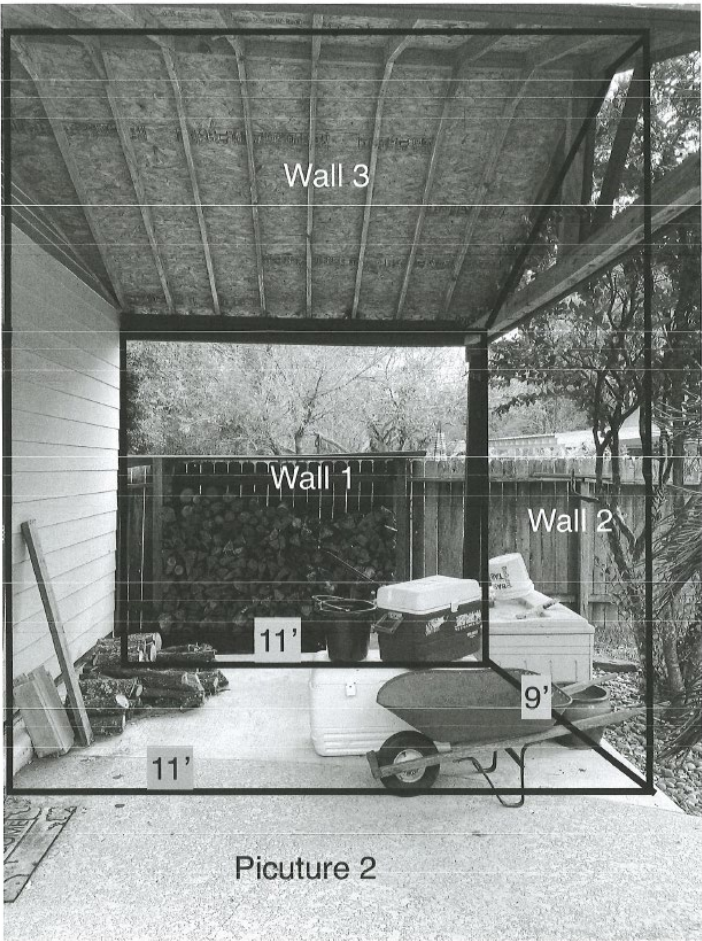
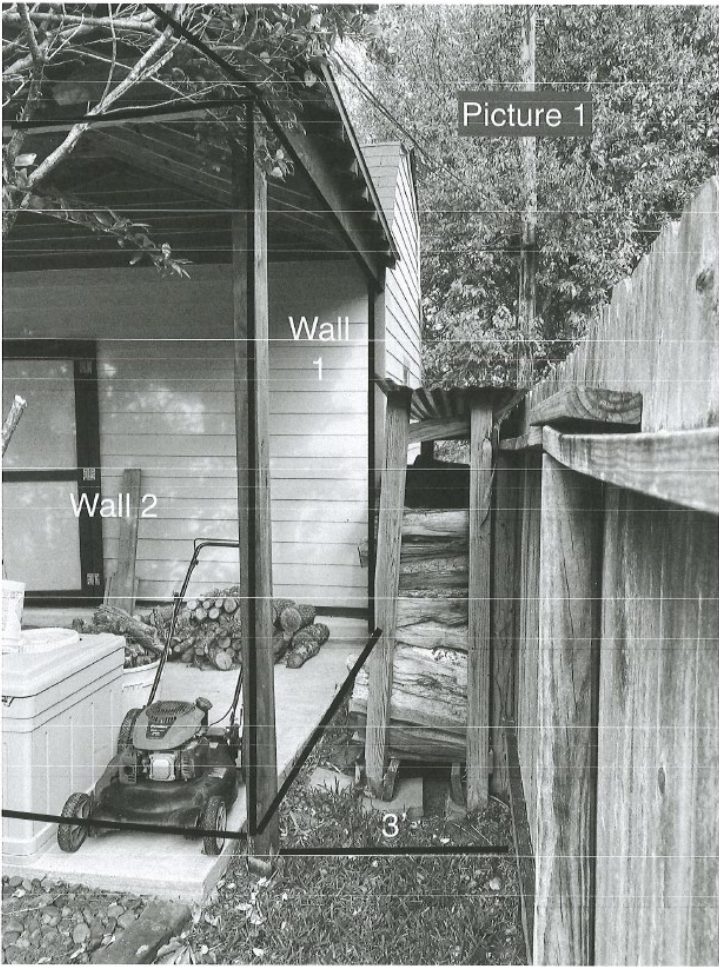
I have spoken with Mr. Carrol Lanier, owner of R27784 that borders the project. After speaking about the project, he had no qualms or concerns and has included a signed letter stating such.

My wife and I would appreciate your consideration for a Special Exception.

Sincerely,  
Russell Kellar



EXHIBIT "E"  
SITE PHOTOS (From Applicant)



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





