



**NOTICE OF A REGULAR MEETING  
BOARD OF ADJUSTMENT  
MONDAY, AUGUST 9, 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 May 10, 2021 Board of Adjustment Meeting**

**REGULAR AGENDA**

- 5. Public hearing, Discussion and Possible Action on Case Number B-21-003: A request by Michael and Lana Jo Branton for a Variance from the City of Brenham Code of Ordinances, Appendix A – Zoning, Part II, Division 2, Section 1.05(2)(b) to allow a 45-foot lot width, where a minimum 60-foot lot width is required, for a single-family residence to be at a property described as Reserve "A" of the Scenic Estates Subdivision, Section III, containing 8.256-acres of land, in Brenham, Washington County, Texas.**

**6. Adjourn**

**CERTIFICATION**

I certify that a copy of the August 9, 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 August 3, 2021, at 8:30 am.

*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**

**May 10, 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 May 10, 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  
Danny Goss  
Arlen Thielemann  
Mary Lou Winkelmann

Commissioners absent:

None

Staff present:

Stephanie Doland, Development Services Director  
Kim Hodde, Planning Technician

Citizens / Media present:

Damon Kallie	Cathy Kietlinski
Kevin Chapel	Dabney Kewis
Mary Thornhill	Elizabeth Price
William Witte	Keith Hankins
Ann Kazee	Josh Blaschke, KWHI
Joan Bleike	Alyssa Faykus, Banner Press
Pat Meyer	

**1. Call Meeting to Order**

Chairman Hodde called the meeting to order at 5:16 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 November 9, 2020 Board of Adjustment Meeting**

Chairman Hodde called for any corrections or additions to the minutes as presented. A motion was made by Commissioner Goss and seconded by Commissioner Winkelmann to approve the minutes from the November 9, 2020 meeting, as corrected. The motion carried unanimously.

## **REGULAR AGENDA**

### **5. Election of A Chair and Vice-Chair for the Board of Adjustment for 2021.**

A motion was made by Commissioner Thielemann and seconded by Commissioner Goss to re-elect Jon Hodde as Chair and Thomas Painter as Vice Chair of the Board of Adjustment for 2021. The motion carried unanimously.

### **6. Public hearing, Discussion and Possible Action on Case Number B-21-001: A request by Mary Thornhill for a Special Exception from the City of Brenham Code of Ordinances, Appendix A – Zoning, Part II, Division 1, Section 10.02(4)(c) to allow, in accordance with Part IV, Division 4, Section 1.01(2) of the City of Brenham Zoning Ordinance, a 3-foot west side yard setback where a minimum 10-foot side yard setback is required for an accessory dwelling unit to be located at 311 E. Main Street, described as Lot 50, East Main Subdivision, in Brenham, Washington County, Texas.**

Stephanie Doland presented the staff report for case No. B-21-001 (on file in the Development Services Department). The subject property owned by Mary Thornhill and located at 311 E. Main Street is zoned B-1, Local Business, / Residential Mixed Use, with the future land use designation being Mixed-Use Downtown Adjacent. The subject property is developed with a single family detached home and two existing accessory buildings that were constructed in 1884 and a carport structure constructed in 2015. Both accessory structures are legally non-conforming structures developed within the setback line and are located to the rear of the principal structure with one near the east property line and the other near the west property line.

Ms. Thornhill would like to utilize the west accessory structure as a short-term rental which will require renovations including expansion of the existing structure loped to the north by approximately eight feet for installation of a bathroom. In 2018, the Zoning Ordinance further refined Accessory Dwelling Units (ADU's) including the additional requirements. ADU's are a permitted use in the B-1 Zoning District. The proposed expansion will keep in line with the existing structure building lines, with a three-foot west line setback. Ms. Thornhill is requesting a special exception for a seven-foot reduction to the ten-foot setback requirement to allow expansion of this existing non-conforming accessory structure.

The subject property is very near to the downtown zoning where no setbacks are required. Development Services Staff has reviewed the request and recommends approval of the special exception for a seven-foot reduction in the west side setback to allow for expansion of the existing accessory structure. Staff noted that were the request approved the ADU would be required to adhere to all adopted building codes, including the addition of a fire-rate wall on the elevation nearest to the property line.

Notifications were mailed to property owners within 200-feet on April 29, 2021. One response was received in support of this request with none being received against the request.

Staff has reviewed the request and recommends approval of the requested special exception to allow a 3-foot west side yard setback where a 10-foot side yard is typically required for an accessory dwelling unit. If the variance is approved, the project will have to go through the building permitting process and staff will make sure that all applicable codes are met including ensuring that the nearest wall to the property line will be a fire-rated wall with no windows or openings.

Chairman Hodde opened the Public Hearing at 5:32 p.m. and asked for any comments. Elizabeth Price with Upchurch Architects stated that she would be happy to answer any questions about this project but personally she thinks this is an appropriate use for this property.

Mary Thornhill stated that the structure is original to the property. She further stated that Mr. William Witte, her neighbor to the west, has an identical structure on his property. She stated that her property is approximately 1/2-acre of land.

William Witte of 309 E. Main Street stated that this property and the adjacent property were originally owned by two sisters so the separation was not an issue at that time. Mr. Witte stated that he had concerns about the fire separation and visibility into his yard but it appears that those concerns have been taken care of since the wall nearest his property will be a fire-rated wall with no windows or openings. Mr. Witte asked if he could build three feet from his property line if he wanted to. Ms. Doland replied that he would need to request a special exception and come before the Board just as Ms. Thornhill is doing. Mr. William expressed concern that other development could occur three feet from his property line. Commissioner Thielemann and Ms. Doland clarified that this special exception is for this structure and site plan only. Any future developments would have to come back before the Board of Adjustment for consideration of either a special exception or a variance, depending on the development.

Elizabeth Price reiteration that the expansion will be the same height as the existing structure.

Commissioner Goss asked about the current use of the building. Ms. Thornhill stated that the building currently is vacant and has no use. She would like to add a bathroom and use the building as an accessory dwelling unit as a guest house or an Airbnb. Mr. Goss as if this project would have to comply with ADA requirements. Ms. Doland clarified that:

- The subject property would not need to be ADA accessible since it is considered a single-family residence.
- One additional parking space will be required for an ADU use.

There were no other comments.

Chairman Hodde closed the Public Hearing at 5:38 p.m. and re-opened the Regular Session.

A motion was made by Commissioner Goss and seconded by Commissioner Painter to approve the request by Mary Thornhill for a Special Exception to allow a 3-foot west side yard setback where a minimum 10-foot side yard setback is required for an accessory dwelling unit to be located at 311 E. Main Street (Case No. B-21-001), as presented. The motion carried unanimously.

**7. Public Hearing, Discussion and Possible Action on Case Number B-21-002: A request by Kevin Chapel for a Variance from the City of Brenham Code of Ordinances, Appendix A – Zoning, Part II, Division 2, Section 2.05(1)(b)(iii) to allow a 100-foot lot depth, where a minimum 115-foot lot depth is required, for a single-family residence to be located at 709 Campbell Street, described as Lots 3 and 4, Block 1 of the Jim Fields Addition (an unrecorded subdivision), in Brenham, Washington County, Texas.**

Stephanie Doland presented the staff report for case No. B-21-002 (on file in the Development Services Department). The subject properties located at 707 and 709 Campbell Street are owned by Kevin Chapel and are zoned R-2, Mixed Residential Use District, with the future land use designation being single family residential. A single-family residence is currently under construction at 709 Campbell Street. During the foundation inspection, the form survey showed the home to encroach into the side yard setback by 3.2-feet. Since Mr. Chapel owns both properties in order to correct the encroachment, the two lots need to be platted into one lot. During the research phase it was discovered that the Jim Fields Addition (done in the 1920's) is an unrecorded subdivision that was never formally approved or recorded in the plat records. Since the existing lots are 100-feet deep and do not meet the required 115-foot depth, the property cannot be platted without a variance to the lot depth. Therefore, Mr. Chapel is requesting a variance for a 15-foot reduction in the lot depth requirement to allow platting of these two lots into one lot for construction of a single-family residence.

Notifications were mailed to property owners within 200-feet on April 29, 2021. No comments have been received regarding the request.

Staff has reviewed the request and finds that replatting brings the property closer into compliance and recommends approval of the requested variance to allow a 100-foot lot depth where a 115-foot lot depth is required for a single-family residence.

Chairman Hodde opened the Public Hearing at 5:45 p.m. and asked for any comments. There were no comments.

Chairman Hodde closed the Public Hearing at 5:52 p.m. and re-opened the Regular Session.

A motion was made by Commissioner Thielemann and seconded by Commissioner Painter to approve the request by Kevin Chapel for a Variance to allow a 100-foot lot depth, where a minimum 115-foot lot depth is required, for a single-family residence to be located at 709 Campbell (Case No. B-21-002), as presented. The motion carried unanimously.

**8. Adjourn**

A motion was made by Commissioner Painter and seconded by Commissioner Winkelmann to adjourn the meeting at 5:53 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

August 9, 2021  
Meeting Date

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

August 9, 2021  
Meeting

**CASE NUMBER: B-19-003**  
**VARIANCE REQUEST: TWISTED OAK DRIVE**

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

**OWNERS/APPLICANTS:** Bill Nutt / Michael and Lana Jo Branton

**ADDRESS/LOCATION:** West of Twisted Oak Drive (Exhibit “A”)

**LEGAL DESCRIPTION:** Reserve “A” of the Scenic Estates Subdivision, Section III (WCAD R#14488)

**LOT AREA:** 8.256-acres of land

**ZONING DISTRICT/  
USE:** R-1 Single Family Residential Use District / Vacant Land  
(Exhibit “B”)

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

**CURRENT/  
PROPOSED USE:** Vacant land / Single-Family home with accessory structure

**REQUEST:** A request for a Variance from the City of Brenham Code of Ordinances, Appendix A – Zoning, Part II, Division 2, Section 1.05(2)(b) to allow a **44-foot lot width** where a minimum 60-foot lot width is required for a single-family residence (Exhibit “C”).

**BACKGROUND:**

The subject property is a vacant 8.25-acre tract of land generally located on the north end of the Scenic Estates subdivision and adjacent to lots located on the north terminus of Oakwood Drive, Shadow Oak Circle and west of the cul-de-sac bulb of Twisted Oak Drive. The property is landlocked except for an access point on Twisted Oak Drive and the north property line serves as part of the City limit line. The property owner is currently Bill Nutt with Scenic Development and the applicants are the prospective buyers, Michael and Lana Jo Branton. The property, as well as the adjacent properties to the south and east are currently zoned as R-1 Single-Family Residential Use District. Adjacent property to the west is currently zoned as

**Figure 1**

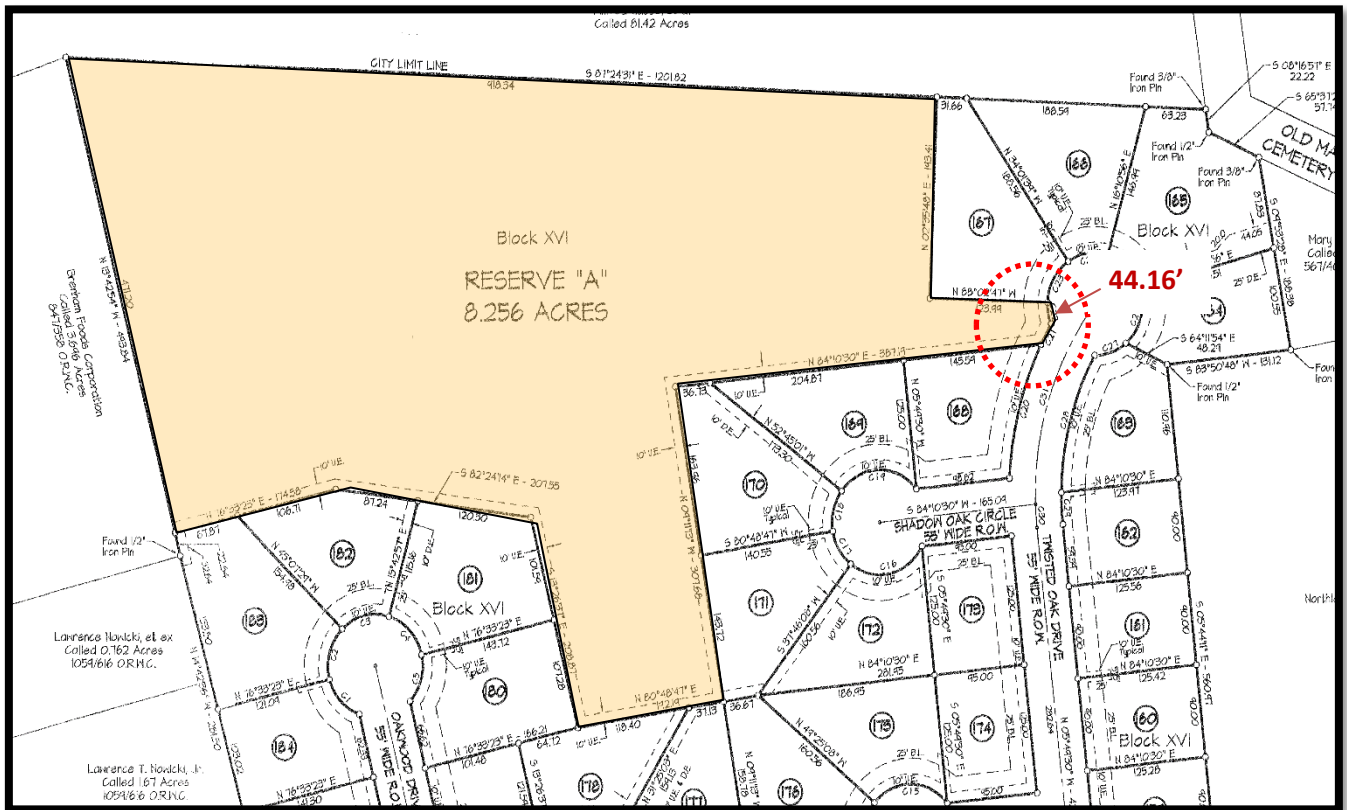


B-1, Local Business Mixed Residential District, while the adjacent properties to the north are outside of the City limits and out of zoning jurisdiction.

The subject property is currently part of the Scenic Estates Subdivision, Section III, as Reserve "A". While the property is a large 8.25-acre vacant tract, the subdivision plat depicts that the lot only has a 44.16-foot lot width at the frontage road and access point, Twisted Oak Drive (For reference, please refer to Figure 2). The zoning regulations require a minimum lot width of sixty (60) feet at the front street twenty-five (25) foot building line, approximately sixteen (16) feet more than what the subject property has at the front building line along Twisted Oak Drive. The applicant wishes to develop the property with a single-family home and accessory barn/shop structure. However, the subject property must first be replatted before any development may occur. A replat may not be approved without the subject property meeting all zoning regulations, thus a Variance to the lot width by the Board of Zoning Adjustments must first be obtained.

Therefore, the applicant, is requesting a variance for a 16-foot reduction to the minimum required 60 foot lot width to bring this property into compliance and allow for it to be replatted for the construction of a single family residence.

Figure 2



**APPLICABLE SECTION OF ORDINANCE AND ANALYSIS:**

**Part 1. Section 5.02(136) 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.



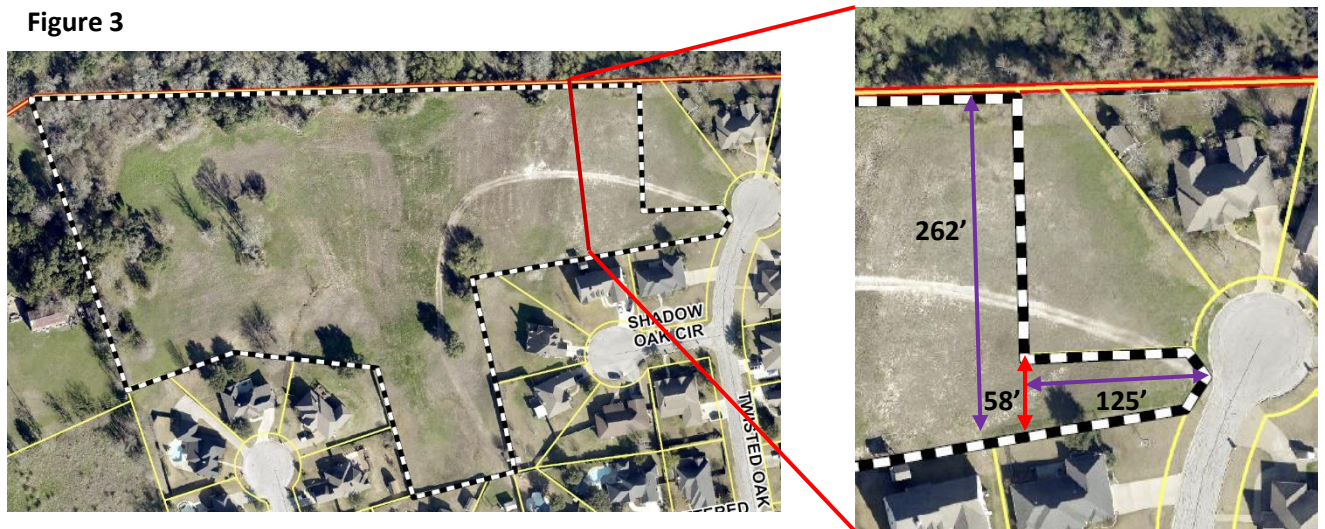
**DIVISION 2. VARIANCES Sec. 1. Limitations:** The Board of Adjustment shall have the authority to grant variances in accordance with the standards and procedures provided herein, from any and all technical requirements of the zoning ordinance, but may not grant variances to use requirements or procedural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

In July 2005, the subject property was platted as Section III, Block XVI, Reserve “A” of the Scenic Estates subdivision. The 8.256-acre reserve lot was platted in the current configuration that includes the nonconforming 44.16’ lot width at the front property line along Twisted Oak Drive (*Please refer to Figure 3 below*). From the property line along Twisted Oak Drive, the subject lot gradually increases in width to approximately 58 feet where it then opens to a width of 262 feet. In total, the lot is less than the minimum required 60-foot lot width for approximately 125 feet (to the end of the neck) before expanding to widths of 262 feet or greater for the remainder of the property. Any single-family residential development of the subject property within its existing configuration would require a variance for the minimum required sixty (60) foot lot width.

Replating of the subject property will allow a plat for the subject tract to be filed and will bring this property into conformance. Staff finds that the proposed variance is necessary to accommodate the proposed single-family development in conformance with the City’s adopted Comprehensive Plan and zoning map. (Exhibit “C”).

Figure 3



- (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 depth 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-1 Single-Family Residential District and as such, minimum lot standards include 60-foot width, 115-foot depth, and a minimum size of 7,000 square feet. The subject property exceeds the minimum lot depth and

lot area requirements, but was platted with a lot width that did not meet the requirement. The abutting Scenic Estates streets to include Shadow Oak Circle, Oakwood Drive, and Whispering Oak Circle do have drainage easements that flow into the subject property. The proposed construction of a single-family home and accessory structure should not negatively impact or impede the existing drainage flow in the area.

When developed, 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. The lot width of the subject property is 44.16' at the front property line along Twisted Oak Drive then gradually increases to approximately 58 feet where it then opens up to a width of 262 feet. A vast majority of the lot does meet the minimum lot width of sixty (60) feet. Approximately 845 feet of the length of the 970-foot lot having a lot width of between 262 feet and 620 feet. For this reason, staff finds that supporting a 16-foot reduction to the lot width at the building line is acceptable.

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

The subject property is unique regarding its size and the proposed low density of use for a single-family home in the R-1 District. The intent of the zoning regulations for lot width are to help reduce density and to keep a minimum separation distance between residential properties. Minimum lot widths also help ensure that structures will have adequate area to be built to the minimum side yard setbacks. Given that the subject property will not have suitable space for a single-family home until a depth of 125 feet into the property; the overall intent for separation between properties, less density, and meeting the minimum setbacks is found to exceed the original intent of the regulations.

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

The need for the variance was not created by the applicant but rather when the subdivision was created with a substandard lot width for the Reserve lot. The requested variance will allow the property owners to formally replat the subject property and develop the 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. Without a variance, the existing configuration of the subject property could not be platted or developed.

*(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 would not be injurious to the public health, safety, and welfare, nor would it defeat the intent of the philosophy contained in the zoning ordinance.

**STAFF RECOMMENDATION:**

Staff has reviewed the request and *recommends approving the requested* variance to allow a 44-foot lot width for a single-family residence to be located at the property west of Twisted Oak Drive, as described above.

**PUBLIC COMMENTS:**

Property owners within 200 feet of the subject property were mailed notifications of this proposal on July 29, 2021. Staff has received two written public comments and has had two nearby property owners speak to staff regarding concerns regarding the proposed development.

These concerns included:

- Whether livestock would be kept on the property as it was against the neighborhood covenants.
  - *Any covenants on the property would need to be adhered to, but are enforced by the homeowner’s association, not the City.*
- Additional lots would be platted.
  - *The applicant has stated his intent is to develop as only one lot. Residential replats are required to have a public hearing before the Planning and Zoning Commission and all property owners within 200 feet of the subject property will be notified.*
- Property would be used for multifamily development.
  - *The applicant has stated his intent to develop a single-family home. Any proposed multifamily development would require rezoning approval from the current R-1 Single-Family zoning designation by the Planning and Zoning Commission and City Council, which also include public hearings in which all property owners within 200 feet would be notified.*
- Drainage concerns.
  - *As only a single-family home and accessory structure are currently proposed, drainage should not be significant but will be evaluated by the City Engineer when any forthcoming development permits are 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 and Site Plan
- D. Photos





EXHIBIT "A"  
AERIAL MAP



Variance  
Minimum Lot Width  
Twisted Oak Drive WCAD R#14488



Legend

-  City Limits
-  Property Boundary

1 inch = 167 feet





EXHIBIT "B"  
ZONING MAP



Variance  
Minimum Lot Width  
Twisted Oak Drive WCAD R#14488



1 inch = 167 feet



Legend

-  B1 Local Business Mixed
-  R1 Residential Single Family
-  City Limits

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

City of Brenham Board of Adjustments

Variance Request

Property R14488

To Whom it Concerns:

The purpose of the attached requested variance is due to the property's road frontage access. Based on the current site, the access point only allows for 45ft of road frontage. The variance request is to allow the 45ft versus the stated required 60ft to put in a drive way. Unfortunately, this is the only entry point to gain access to the property. We are kindly requesting a variance for approval of an asphalt driveway on the 45ft wide entrance point off of Twisted Oak Drive. This piece of property is very unique and will only be used for Single Family use, not for development purposes.

We appreciate your careful consideration of the variance request and look forward to your response.

Best,


Michael and Lana Jo Branton

