



**NOTICE OF A REGULAR MEETING
BOARD OF ADJUSTMENT
MONDAY, NOVEMBER 13, 2023 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 October 9, 2023 Board of Adjustment Meeting.

REGULAR AGENDA

- 5. Public hearing, Discussion and Possible Action on Case Number B-23-011: A request by Sheryl Martinez for a variance from the City of Brenham Code of Ordinances, Appendix A – Zoning, Part II, Division 1, Section 2.05(1)(A)(iii) to allow an 18-foot rear yard setback, where a minimum 25-foot rear yard setback is required for an addition to the existing single-family residence located at 811 Harrington Street, described as N PT Lot 4 and S PT Lot 6, Block 5 of the Woods/Armbrister Addition in Brenham, Washington County, Texas.**

6. Adjourn

CERTIFICATION

I certify that a copy of the November 13, 2023, 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 November 7, 2023, at 10:00 a.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 _____, 2023 at _____ am/pm.

Signature

Title

**CITY OF BRENHAM
BOARD OF ADJUSTMENT MINUTES**

October 9, 2023

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

A regular meeting of the Board of Adjustment was held on October 9, 2023, at 5:15 pm in the Brenham Municipal Building, City Council Chambers, at 200 West Vulcan Street, Brenham, Texas.

Commissioners present:

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

Commissioners absent:

Jon Hodde, Chairman (potential conflict of interest)

Staff present:

Shauna Laauwe, City Planner
Kim Hodde, Planning Tech

Citizens / Media present:

Thomas M. Hamilton	Suzy Hankins
Robert Mott	Keith Hankins
Nathan Knutson	Charles Lott
Mackenzie Knutson	

1. Call Meeting to Order

Vice Chairman Goss called the meeting to order at 5:15 p.m. with a quorum of four (4) Commissioners present.

2. Public Comments and Receipt of Petitions

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

3. Reports and Announcements

Shauna Laauwe, City Planner, informed the Board that Stephanie Doland is out on maternity leave since she had a baby boy on October 3, 2023. Both mom and baby are doing well.

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 August 14, 2023, Board of Adjustment Meeting.

Vice Chairman Goss called for any corrections or additions to the minutes as presented. A motion was made by Commissioner Flisowski and seconded by Commissioner Thielemann to approve the Consent Agenda (minutes from the August 14, 2023, meeting), as presented. The motion carried unanimously.

REGULAR AGENDA

- 5. Public hearing, Discussion and Possible Action on Case Number B-23-009: A request by Nathan and Mackenzie Knutson for a variance from the City of Brenham Code of Ordinances, Appendix A – Zoning, Part II, Division 1, Section 10.02 (1) to allow a 1-foot, 6-inch north side yard setback and a 1-foot, 6-inch rear yard setback, where a minimum 5-foot side and rear yard setback is required for an accessory structure (garage) located at 1504 S. Market Street, described as Lot 2F, Block K of the Keys 2nd Addition in Brenham, Washington County, Texas.**

Shauna Laauwe, City Planner, presented the staff report for Case No. B-23-009 (on file in the Development Services Department). Ms. Laauwe stated that this is a request from Nathan and Mackenzie Knutson. The subject property is zoned as B-1, Local Business Mixed Residential District and is developed with a single-family residence. The future land use designation is Corridor Mixed use, and the proposed use is single-family residential. The subject property is located east of S. Market Street, south of E. Tom Green Street, and north of E. Mansfield Street. The request is to allow a north side setback and a rear setback of 1-foot, 6-inches. The property is surrounded by B-1 zoning with a variety of uses including single-family residential, multi-family (duplex) residential, and commercial. The subject property is approximately 70-feet wide by 124-feet deep. The existing 1,959 square foot home was built in 1929. The existing detached garage was built in 1995 with a side yard setback of 1-foot, 9-inches, and a rear yard setback of 1-foot 4-inches to 6-inches. In 1995, the setback requirement was 3-feet, but no record of a previous variance was found. The existing garage is in disrepair with termite and foundation damage. The applicant wishes to demolish the existing garage and replace it with a new metal garage in the same general location. No on-street parking is allowed on the portion of S. Market Street adjacent to the property. Commercial properties in the B-1 District do not have side yard setbacks. Multiple properties in the area were built right on the property line. The nearest structure is 15 feet away. All of the adjacent property owners submitted letters of support for this request.

Notifications were mailed to property owners within 200-feet of the subject property on September 28, 2023. Staff received the three (3) letters of support from Suzy and Keith Hankins, Marshall Harrel, and T.M. and Virginia Hamilton; however, no other written citizen responses were received.

Although the applicant's request is for a 1-foot 6-inch side and rear yard setback, Staff recommends approval of a variance to allow a 3-foot north side yard setback and a 1.6-foot rear yard setback for a proposed accessory structure (garage) to be located at 1504 S. Market Street.

Vice Chairman Goss opened the Public Hearing at 5:27 p.m. and asked for any comments. The applicant stated that the current garage is in very bad shape, and they are trying to be proactive. In response to Commissioners questions, Mr. Knutson stated that the building will have gutters so there will be no run-off to the neighboring properties and that they have no issue with Staff's recommendation of a 3-foot north side yard setback.

Ms. Laauwe further stated that there are many structures on surrounding properties that are nonconforming to the current setback regulations. In addition, the adjacent property to the west, has an existing garage that is about 8-foot from the property line and that there is no consistency with lot sizes and setbacks in this area.

Vice Chairman Goss closed the Public Hearing at 5:32 p.m. and re-opened the Regular Session.

A motion was made by Commissioner Thielemann and seconded by Commissioner Winkelmann to approve the request by Nathan and Mackenzie Knutson and the recommendation from City Staff for a variance to allow a 3-foot north side yard setback and a 1-foot, 6-inch rear yard setback for an accessory structure (garage) located at

1504 S. Market Street, in Brenham, Washington County, Texas, as presented. The motion carried unanimously (4-0).

6. Public hearing, Discussion and Possible Action on Case Number B-23-010: A request by Charles D. Lott for a Special Exception in accordance with the City of Brenham Code of Ordinances, Appendix A – Zoning, Part IV, Division 3, Section 4.01(3) to allow the replacement of a non-conforming structure due to the total or partial destruction by fire or other causes for the property at 416 Lott Lane, described as part of Lot 1 of the McIntyre-Walker Addition, in Brenham, Washington County, Texas.

Shauna Laauwe, City Planner, presented the staff report for Case No. B-23-010 (on file in the Development Services Department). Ms. Laauwe stated that this is a request from Charles D. Lott. The property owners of record are Calvin and Rosie Lott. The subject property is zoned R-3, Manufactured Home Residential District. The future land use map shows this property as single-family residential and the existing and proposed use is a manufactured home site for two homes. The Zoning Ordinance provides an Exception that allows the Board of Adjustment to grant a Special Exception for a permit to repair or replacement to the previous building parameters after a public hearing is held for a non-conforming single-family structure that has been accidentally damaged or destroyed in whole or in part. The request is to allow replacement of an 896-square foot manufactured home that was damaged by a fire on January 19, 2022. The home is non-conforming as a manufactured home already exists on the property (500 Lott Lane) and the Subdivision and Zoning regulations limit one principal residential structure per lot.

The subject property was part of a large annexation in 2008 of south of Old Chappell Hill Road that included properties along Lott Lane and Carrington Lane. At the time of the annexation, the properties had two manufactured homes on this one lot:

- 500 Lott Lane – 980 SF, circa 1983
- 416 Lott Lane – 896 SF, circa 2000

416 Lott Lane caught fire on January 19, 2022. A permit was issued for repairs; however, the repairs turned out to be too extensive. In August 2023, the applicant requested hookups for a new manufactured home. The request was denied since it had been more than 6-months since the fire.

Without obtaining a moving or building permit, the damaged manufactured home was replaced with a manufactured home that was built in 2017. Development Services learned of this when utilities were requested.

If the Special Exception is approved, there are multiple code improvements that have to be completed before a certificate of occupancy can be issued.

Staff Analysis:

- The damaged home was 22 years old. The replacement home will be an improvement to the property and the neighborhood.
- The property borders the city limit line and is set back in the far rear corner of the property.
- Several properties in the area have multiple manufactured homes on one lot.
- Given the shape and access to Lott Lane, the property would be very difficult to replat in accordance with the Subdivision regulations.

Notifications were mailed to property owners within 200-feet of the subject property on September 28, 2023. Staff did not receive any phone calls or written citizen comments in support of or against the requested variance.

Based on the findings, Staff recommends approval of a Special Exception to allow a building permit for a proposed 840 square foot manufactured home on the site of 416 Lott Lane to replace the previous non-conforming structure that was damaged by a fire on January 19, 2022, with the following conditions:

1. That the home meets the building requirements for a Certificate of Occupancy to include the list of twelve (12) outstanding criteria and internal inspection as noted by the Assistant Building Official.

Vice Chairman Goss opened the Public Hearing at 5:40 p.m. and asked for any comments. Robert Mott, who is the attorney representing the Lott family, stated that the damaged home was removed, and a newer manufactured home was placed in the same location. He stated that this land is family land and that the unadjudicated will of Mr. Lott's mother allows Mr. Lott to live there. Mr. Lott has been paying the taxes on the entire property for years and will occupy the manufactured home. Mr. Mott further stated that everything on the building official's list of items to be done has been completed except the skirting, which will not be done until after the inspections have been completed. There were no other citizen comments.

Vice Chairman Goss closed the Public Hearing at 5:47 p.m. and re-opened the Regular Session.

A motion was made by Commissioner Winkelmann and seconded by Commissioner Flisowski to approve the request by Charles D. Lott for a Special Exception to allow the replacement of a non-conforming structure due to the total or partial destruction by fire or other causes for the property at 416 Lott Lane, with the conditions as presented. The motion carried unanimously (4-0).

7. Adjourn

A motion was made by Commissioner Winkelmann and seconded by Commissioner Thielemann to adjourn the meeting at 5:49 p.m. The motion carried unanimously (4-0).

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

Certification of Meeting Minutes:

Jon E. Hodde, Chairman

November 13, 2023
Meeting Date

Attest, Staff Secretary

November 13, 2023
Meeting Date

CASE NUMBER: B-23-011

VARIANCE REQUEST: 811 HARRINGTON STREET

STAFF CONTACT: Shauna Laauwe, City Planner

OWNERS/APPLICANTS: Sheryl Martinez

ADDRESS/LOCATION: 811 Harrington Street (Exhibit "A")

LEGAL DESCRIPTION: N PT Lot 4 and S PT Lot 6, Block 5, Woods/Armbrister Addition

LOT AREA: Approximately 7,170 square feet (0.1646 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 2, Section 2.05 (1)(A)(iii) to allow an 18-foot rear yard setback, where a minimum 25-foot rear yard setback is required for an addition to the existing single-family residence, (Exhibit "C").

BACKGROUND:

The subject property is addressed as 811 Harrington Street and is generally located on the west side of Harrington Street and is the second lot north of Haynes Street. The subject property and all adjacent properties are within a R-2, Mixed Residential District and developed with single-family residential dwellings. The subject property measures approximately 82-feet by 88-feet (7,170 square feet/0.1646-acres) and currently consists of a 1,008 square foot single-family home and an attached 206 square foot carport that were constructed in 1985. The property is part of the Woods/Armbrister Addition that was originally laid out and established in 1893, before the subdivision and zoning regulations were adopted in 1968. While the subject property exceeds the current lot requirements of a minimum lot area of 7,000 square feet and minimum lot width of 60-feet, the lot depth of approximately 88-feet is nonconforming to the minimum lot depth of 115-feet. The minimum required setbacks for a single-family home in the

Figure 1

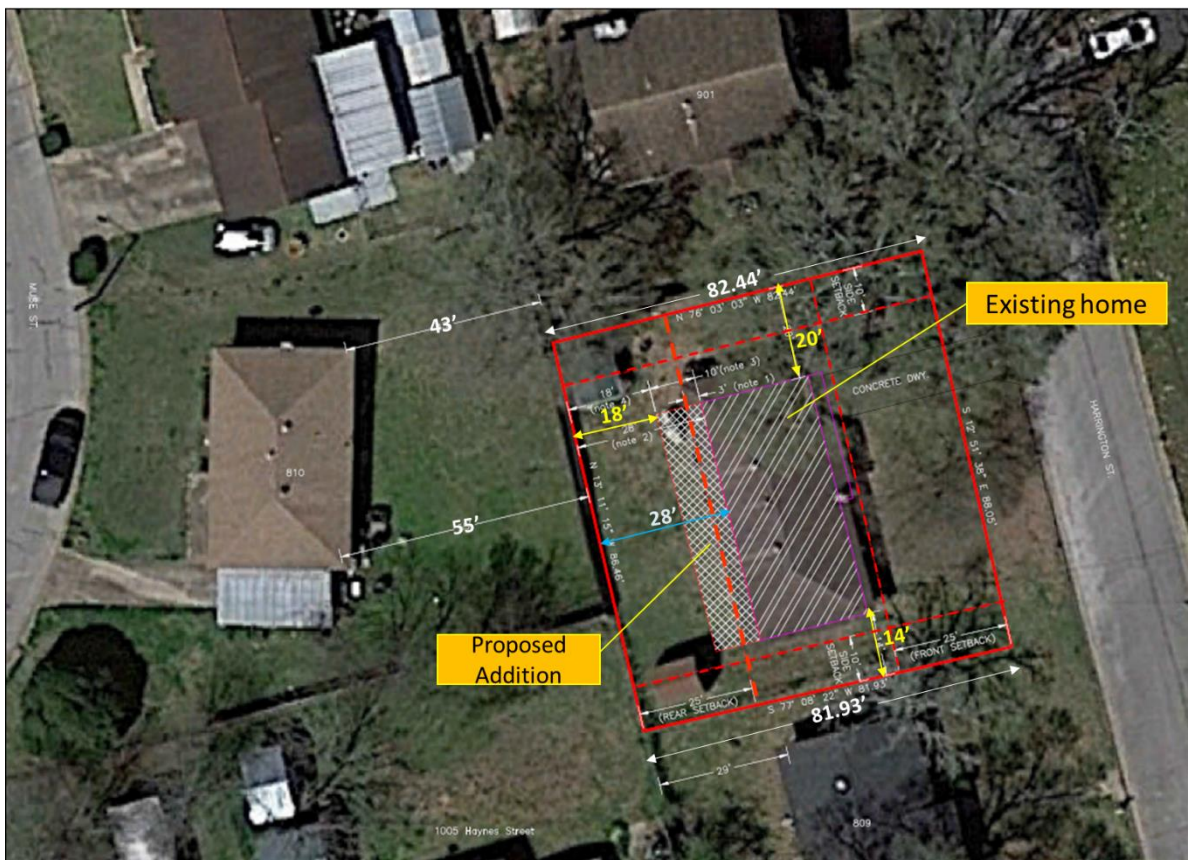


R-2 District is 25-feet for the front and rear yard setbacks and 10-feet for the side yard setbacks. The existing home does exceed current minimum setback requirements with a front yard setback of 26.6-feet, a north side yard setback of approximately 20-feet, a south side yard setback of approximately 14-feet and a rear yard setback of approximately 28-feet.

The applicant is proposing to remodel the home with a 53-foot by 10-foot (530 SF) addition along the west portion (rear) of the home that will increase the habitable square footage from 1,008 SF to 1,538 SF. The proposed addition would give additional space to the dining room, kitchen, primary bathroom and the primary bedroom. Adding 10-feet to the rear of the home would result in the rear yard setback to be reduced from 28.4-feet to 18.4-feet for an encroachment of approximately 7-feet. As shown in Figure 2, the abutting property to the west, that would be most affected by the proposed reduction to the rear setback, is located at 810 Muse Street. The existing principal structure at 810 Muse Street has a rear yard setback varying from 43-feet to 55-feet. Given this, the planned addition would be approximately 68.4-feet from the closest neighboring principal structure to the west.

Thus, in order to construct a proposed 530 SF addition to the existing home, the applicants are requesting a variance to allow a 7-foot reduction to the minimum required 25-foot rear yard setback.

Figure 2



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 property owners wish to construct a 53'x10' (530 SF) expansion to the back of their existing home to increase the amount of livable space from 1,008 square feet to 1,538 square feet. The addition would provide additional habitable space to the living and dining rooms, as well as to the kitchen, primary bedroom, and primary bathroom. The subject lot was created before the Zoning Ordinance was adopted in 1968 and has a nonconforming lot depth of 82-feet, with the current R-2 District regulations requiring a minimum lot depth of 115-feet. If the subject property met the required minimum lot depth, the proposed expansion would not encroach into the 25-foot rear yard setback. In addition, as shown in Figure 2, the nearest home to the west, addressed as 810 Muse Street, is located approximately 43-feet from the common property line. The proposed addition will also not expand to the sides of the existing home, retaining the existing 20-foot north and 14-foot south side yard setbacks that exceed the minimum side yard setback of 10-feet.

- (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 rear yard setback 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 the adjacent property. Rear yard setbacks are established to provide adequate separation and openness between developments and uses. There is adequate spacing between the proposed addition and the existing home on the adjacent property to the west. The principal home on the adjacent property to the west (810 Muse Street) is located approximately 43-feet to 55-feet from the shared property line. The proposed addition would only expand to the west into the rear yard and not affect the current side yard setbacks to the north and south. The current side yard setbacks exceed the minimum 10-foot setbacks, with the proposed addition to be approximately 20-feet from the north side property line and approximately 14-feet from the south side property line.

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

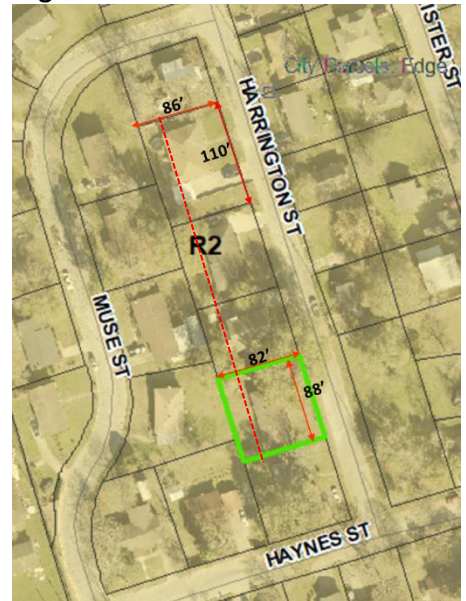
Staff finds that the literal enforcement of this ordinance would not allow a proposed addition as the existing home has a rear yard setback of 28-feet, allowing only 3-feet in width to expand. If the nonconforming lot met the minimum lot depth of 115-feet, the proposed expansion of the existing home would be setback approximately 51-feet from the rear property line. Meeting the current setback requirements would not provide adequate depth to make the improvements needed to update the circa 1985 home. Staff finds that

without a variance, the proposed expansion would not be viable, thus granting a variance for a reduction to the rear yard is reasonable and would work on an unnecessary hardship.

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

The subject property is within an original subdivision of Brenham and in an R-2, Mixed Residential District. As shown in Figure 3, the adjacent and surrounding properties were laid out with large lot widths of between 70-feet and 110-feet, but with lot depths of only 80 to 86-feet. As shown by the dashed red line in the location map, many of the structures along Harrington Street are right at or encroaching into the minimum required 25-foot rear yard setback. The subject property is unique in that the adjacent property to the west, at 810 Muse Street, is an irregular lot on a curve that affords a larger rear yard setback. Given the placement of the adjacent structure, the proposed addition will have a separation of between 43-feet and 55-feet from the nearest home. Thus, the separation would be almost equivalent to two minimum rear yard setbacks of 25-feet.

Figure 3



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

The need for the variance was not solely created by the applicant. The subject property is part of the Woods/Armbrister subdivision that was hand drawn in 1893, before the subdivision and zoning regulations were established in 1968. While the lots in the subdivision have greater lot widths, they are nonconforming in lot depth. The subject property has a nonconforming lot depth of 82-feet, which is 33-feet less than the current lot depth minimum of 115-feet. If the subject property was conforming to the minimum lot depth, a variance would not be necessary for the proposed addition.

- (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. The proposed addition will allow the applicants to update and expand their circa 1985 home. The reduced lot depth does not provide enough area for an adequate addition to the existing home.

- (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.*

Setbacks are established to provide separation between uses for light and air and reduced density. The proposed addition will exceed the minimum side yard setbacks of 10-feet and will be between 43-feet to 55-feet from the nearest adjacent home structures. Granting a 7-foot variance to the rear yard setback would allow for necessary open space, separation between structures and 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. If approved, the addition would be required to obtain a building permit and necessary reviews and approvals by the Building Official to ensure adherence to adopted Building Codes.

STAFF RECOMMENDATION:

Staff has reviewed the request and ***recommends approval*** of the requested variance to allow a 7-foot reduction in the minimum required 25-foot rear yard for a setback of 18-feet for a proposed addition to the existing single-family residence located at 811 Harrington Street.

PUBLIC COMMENTS:

Property owners within 200 feet of the subject property were mailed notifications of this proposal on November 2, 2023. 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
- D. Site Plan
- E. Site Photos

EXHIBIT "A"
AERIAL MAP



**Location Map
811 Harrington Street
Rear Yard Variance**



1 inch = 75 feet



EXHIBIT "B"
ZONING MAP



Zoning Map
811 Harrington Street
Rear Yard Variance



1 inch = 75 feet

Legend

 R2 Mixed Residential



EXHIBIT "C"
COVER LETTER

City of Brenham
Board of Adjustments

Variance Request-25-foot Rear Building Setback
Sheryl Martinez
811 Harrington Street
Brenham, Tx 77833
Property ID R26998

To whom it may concern.

Sheryl Martinez, current owner and resident of 811 Harrington Street is seeking a variance for the 25-foot rear building setback. Sheryl is seeking to remodel her home which includes adding on to the rear of her home. The reason for expanding the rear of the home is to obtain more space in her dining room, kitchen area, primary bathroom and primary bedroom. The home was built in 1985 and contains approximately 1,000 square feet of living area (heated and cooled space). That living space is comprised of three (3) bedrooms, one (1) bathroom, living area, dining area, kitchen area and closets.

The lot the home sits on is 7,170 square feet or .1646 acre. This lot is considered a non-conforming lot as well as other lots in this older, well-established neighborhood. This lot is shallow in depth at only 82.44 feet on the north property line and 81.93 feet along the south property line. Being of such a shallow depth makes it very difficult to enlarge the home without encroaching into the 25-foot rear setback. The rear of the home is approximately twenty-eight (28) feet from the rear property line. This would only allow for a four (4) foot extension to the rear of the home. Sheryl would like to extend her home to the rear by ten (10) feet in order to gain more living space in the dining, kitchen, primary bathroom and primary bedroom. The rear of the home slated for expansion is approximately fifty-three (53) feet in length. With the added ten (10) feet in depth would increase the living square footage from 1,000 to 1,530 square feet making for a more comfortable and spacious living space. She is seeking a variance for an additional seven (7) feet thus decreasing the twenty-five (25)-foot rear setback to eighteen (18) feet.

There are two residences adjacent to the rear of Sheryl's property that are split by her southern property line. The home with address 810 Muse Street as shown on the included site plan at its closest dimension is approximately forty-three (43) feet from the shared property line and at its greatest distance approximately fifty-five (55) feet from the shared property line. Due to the greater distance the Muse property is located from the shared property line with Sheryl's property helps maintain a large distance even if Sheryl were allowed the seven (7) foot variance. The home located at 1005 Hayne Street as shown on the site plan is turned ninety (90) degrees from that of Sheryl's residence and located at such a distance that Sheryl's addition should have no direct impact on that residence either.

It is our hope that the Board can look at the information provided in this letter and the site plan and conclude that allowing the variance will have no negative impacts to the adjacent neighbors or neighborhood. By granting the variance, Sheryl can increase the living square footage of her home making it a more enjoyable space to live, call home for many years to come and be able to gather with her family during those special occasions.

Thank you for your time and consideration.


Dwayne Gajewski

EXHIBIT "E"
SITE PHOTOS



811 Harrington



South Side Yard



Rear Yard