



**NOTICE OF A REGULAR MEETING
BOARD OF ADJUSTMENT
MONDAY, FEBRUARY 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 January 9, 2023 Board of Adjustment Meeting

REGULAR AGENDA

- 5. Public hearing, Discussion and Possible Action on Case Number B-23-001: A request by Marco and Beatriz Aguilar for a variance from the City of Brenham Code of Ordinances, Appendix A – Zoning, Part II, Division 2, Section 2.05(1)(b)(ii) to allow a lot width of 17.6-foot at the street for two contiguous lots, where a minimum lot width of 60-foot lot is required, for a single-family residence located at 1000 Burleson Street (0.977-acre tract/R14516) and the tract located to the south, identified by WCAD as Tract 266 of the A. Harrington Survey, A-55/R14588 (currently not addressed), containing 2.40-acres, described as Lots 197 and 266, respectively, of the Arrabella Harrington Survey, A-55, in Brenham, Washington County, Texas.**

6. **Public hearing, Discussion and Possible Action on Case Number B-23-002: A request by Modesta Gonzales for a variance from the City of Brenham Code of Ordinances, Appendix A – Zoning, Part II, Division 2, Section 2.05 (1)(a)(ii) to allow an 8-foot, 9.6-inch south side yard setback, where a minimum 10-foot side yard setback is required for a single-family residence to be located at 713 Brown Street, described as PT Lot 36, College Heights Addition in Brenham, Washington County, Texas.**

7. **Adjourn**

CERTIFICATION

I certify that a copy of the February 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 February 9, 2023, at 12:10 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 _____, 2023 at _____ am/pm.

Signature

Title

CITY OF BRENHAM
BOARD OF ADJUSTMENT MINUTES

January 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 January 9, 2023, at 5:15 pm in the Brenham Municipal Building, City Council Chambers, at 200 West Vulcan Street, Brenham, Texas.

Commissioners present:

Jon Hodde, Chairman
Walt Edmunds
Dax Flisowski
Danny Goss
Arlen Thielemann

Commissioners absent:

Mary Lou Winkelmann

Staff present:

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

Citizens / Media present:

David Wellmann
Kim Wellmann
Leah Cook

1. Call Meeting to Order

Chairman Hodde called the meeting to order at 5:18 p.m. with a quorum of five (5) Commissioners present.

2. Administer Oath of Office

- Dax Flisowski
- Danny Goss
- Arlen Thielemann

Kim Hodde, Notary Public in and for the State of Texas, administered the Oath of Office to the newly appointed and re-appointed Board Members - Dax Flisowski, Danny Goss, and Arlen Thielemann.

3. Public Comments and Receipt of Petitions

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

4. Reports and Announcements

- Dax Flisowski was welcomed as the newest member of the Board of Adjustment.
- The Board members were reminded of the Board Appreciation Dinner to be held at 6:00 pm on January 24th at the Barnhill Center.

CONSENT AGENDA

5. 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.

5-a. Minutes from the November 14, 2022, 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 Thielemann to approve the Consent Agenda (minutes from the November 14, 2022 meeting), as presented. The motion carried unanimously.

REGULAR AGENDA

6. Election of a Chair and Vice Chair for the Board of Adjustment for 2023.

Kim Hodde reminded the Board that the Chair presides at the meeting. The Vice Chair acts on behalf of the Chair in the event that the Chair cannot attend the meeting and the Secretary signs all approved plats prior to their recordation.

A motion was made by Arlen Thielemann and seconded by Dax Flisowski to elect Jon Hodde as Chair and Danny Goss as Vice Chair for the Board of Adjustment for 2023. The motion carried unanimously.

7. Public hearing, Discussion and Possible Action on Case Number B-22-007: A request by David and Kim Wellmann for a variance from the City of Brenham Code of Ordinances, Appendix A – Zoning, Part II, Division 2, Section 3.05(C) to allow eighty-nine (89) percent lot coverage, where the maximum lot coverage allowed is eighty (80) percent, for expansion of the parking area located at 103 E Academy Street, described as Tract 173 of the Arrabella Harrington Survey, in Brenham, Washington County, Texas.

Shauna Laauwe, City Planner, presented the staff report for Case No. B-22-007 (on file in the Development Services Department). Ms. Laauwe stated that this is a request by David and Kim Wellmann / Wellmann Insurance for a variance to allow eighty-nine (89%) percent lot coverage for expansion of the parking lot at 103 E. Academy Street. The subject property is zoned B-1, Local Business/Residential Mixed-Use District and the maximum lot coverage allowed is eighty (80%) percent. The current use is for a commercial office and the Comprehensive Plan shows the future land designation of the property as Commercial.

Ms. Laauwe stated that this property was developed as a commercial office use in 1966, before the Zoning Ordinance was adopted in 1968, and that it is currently non-conforming in off-street parking requirements as well as lot coverage. The existing lot coverage is 86.3% and the proposed additional parking will increase the lot coverage to 89%. The current site has eleven parking spaces, and the business currently has twelve employees; therefore, there is not adequate parking for the employees or the patrons of the business. The proposed parking expansion (9' x 50') is located at the rear of the property adjoining their existing parking and will not be visible from the street. The adjoining property owner, Baylor Scott and White Clinic, has a large, grassy area between their property and Wellmann Insurance to provide a buffer between the two areas. The surrounding properties were also developed prior to zoning, and most are non-conforming. There is no on-street parking allowed in this area and public parking is not allowed in the First United Methodist Church parking lot located across the street.

Notifications were mailed to property owners within 200-feet of the subject property on December 28, 2022. Staff did not receive any citizen comments in support of or against the request.

Staff has reviewed the request and recommends approval of the requested variance to allow eighty-nine (89%) percent lot coverage for expansion of the rear parking lot at 103 E. Academy Street.

Chairman Hodde opened the Public Hearing at 5:41 p.m. and asked for any comments. There were no citizen comments. The applicant, David Wellmann, stated that due to growth and expansion, additional parking is needed.

Chairman Hodde closed the Public Hearing at 5:44 p.m. and re-opened the Regular Session.

A motion was made by Commissioner Thielemann and seconded by Commissioner Edmunds to approve the request by David and Kim Wellmann for a variance from the City of Brenham Code of Ordinances to allow eighty-nine (89) percent lot coverage, where the maximum lot coverage allowed is eighty (80) percent, for expansion of the parking area located at 103 E Academy, as presented. The motion carried unanimously.

8. Adjourn

A motion was made by Commissioner Flisowski and seconded by Commissioner Thielemann to adjourn the meeting at 5:45 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 Hodde, Chairman

February 13, 2023
Meeting Date

Attest, Staff Secretary

February 13, 2023
Meeting Date



CASE NUMBER: B-23-001

VARIANCE REQUEST: 1000 Burleson Street

STAFF CONTACT: Shauna Laauwe, City Planner

OWNERS/APPLICANTS: Marco and Beatriz Aguilar

ADDRESS/LOCATION: 1000 Burleson Street and (Exhibit "A")

LEGAL DESCRIPTION: Lots 197 and 266, respectively, of the Arrabella Harrington Survey, A-55, in Brenham, Washington County, Texas.

LOT AREA: 1000 Burleson Street (0.977-acres); Tract 266 of the A. Harrington Survey, A-55 (2.40 acres)

ZONING DISTRICT/USE: R-2 Mixed Residential Use District and I, Industrial District / Single-family residence. (Exhibit "B")

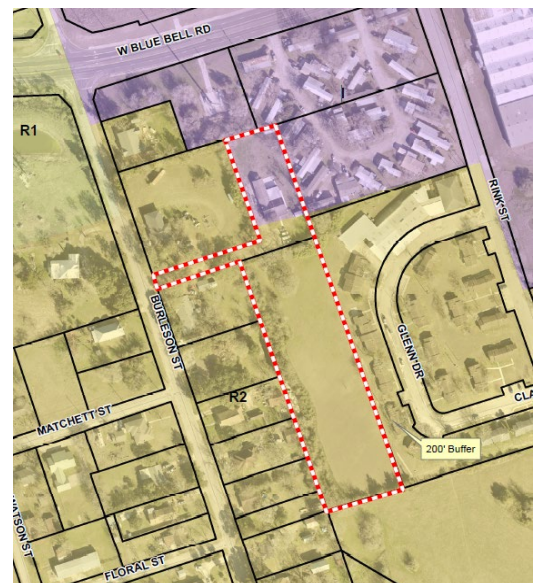
COMP PLAN Single-family residential

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)(b)(ii) to allow a lot width of 17.6-feet at the street for two contiguous lots; where a minimum lot width of 60-feet is required, for a single-family residence located at 1000 Burleson Street (0.977 acre tract/R14516) and the tract located to the south, identified by WCAD as Tract 266 of the A. Harrington Survey, A-55/R14588 (currently not addressed). (Exhibit "C").

BACKGROUND:

The subject site is addressed as 1000 Burleson Street and is generally located on the east side of Burleson Street, north of Matchett Street and south of West Blue Bell Road. The subject site comprises of two unplatted lots, owned by the applicant, that are accessed via a narrow 35.20-foot driveway. As shown in Figure 1, the northern lot has two zoning designations, I, Industrial and R-2, Mixed Residential Use District. The northern lot is 0.977-acres and has an existing single-family home that was constructed in 1981. The southern adjacent lot is approximately 2.40-acres and is a vacant lot that is zoned R-2, Mixed Residential. The lots have access to Burleson Street via the 35.20-foot wide by 374.52-foot in length driveway. The driveway also serves as the only lot width at the public right-of-way and is nonconforming to the minimum required lot width of 60-feet. The applicant wishes to sell the southern 2.40-acre lot, denoted as Lot 2 in Figure 2 and Figure 3. In order to sell proposed Lot 2, the property is required to be platted into two separate lots.



In the current configuration the southern lot is landlocked and would not meet the subdivision regulations to have direct and immediate access to a right-of-way (Burluson Street). To rectify this, the plat (Figure 3 below) would redraw the proposed Lot 1 boundary to allocate half (17.60-feet) of the 35.20-foot width to proposed Lot 2, giving each lot a 17.60-foot lot width at Burluson Street. The flag configuration, in addition to a joint access easement that would overlay the entire width, would provide both proposed lots immediate and direct access to Bureleson Street for existing and future property owners and to emergency personnel.

In order to Preliminary and Final Plat the existing properties into two lots with direct and immediate access to a public right-of-way, that would allow for separate ownership and development, the applicant is requesting a variance for a 42.4-foot reduction to the minimum required lot width of 60-feet.

Figure 2

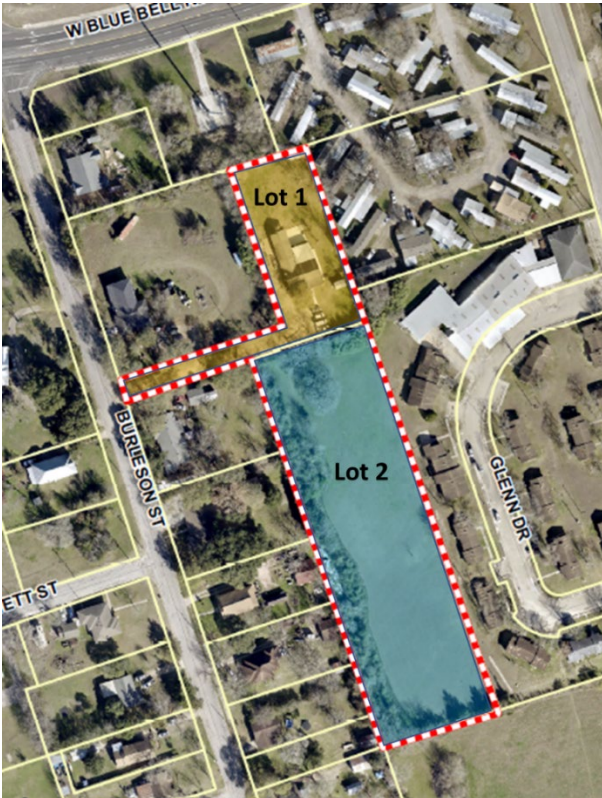
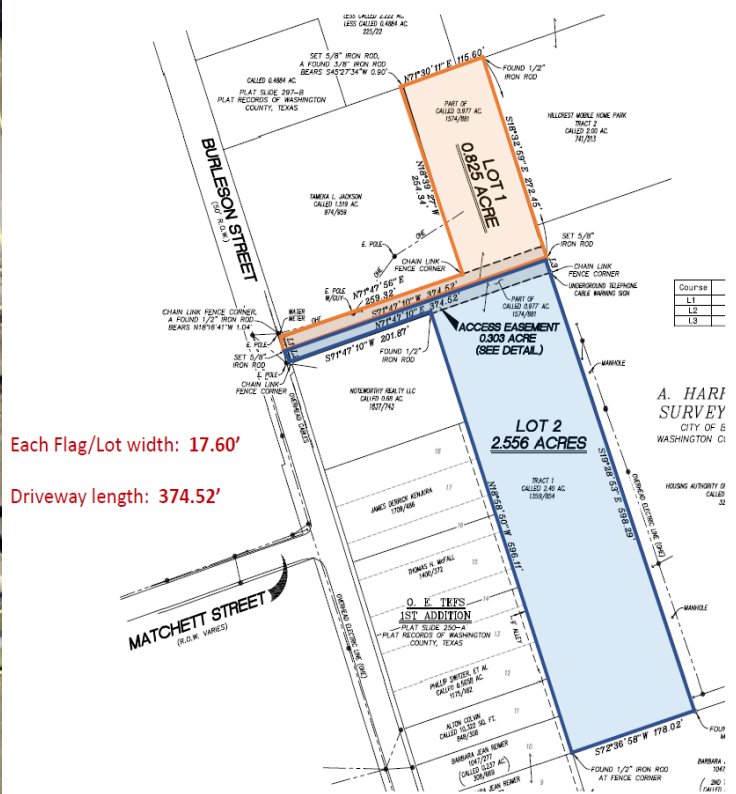


Figure 3



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.*

As shown on the provided maps in Figures 1-3, the subject property is an unusual shape and is commonly referred to as a flag lot. A flag lot has a narrow piece of land that provides access to a public right-of-way that typically has a long private driveway (the stick) that opens up to a larger area for a development (the flag). The configuration of the northern lot (proposed Lot 1) would be considered a flag lot; however, it is unclear how the southern lot became landlocked. The subject tracts are unplatted and records show that the property has been within the City limits since at least 1929 as it has not been part of any City annexation data. Interestingly, the combined 3.397-acre tract and eight (8) of the twelve (12) adjacent properties are currently unplatted tracts of land that, save for the subject southern vacant tract, have been developed as residential properties. The subject property and surrounding area were likely part of metes and bounds property sales, family land splits, or land swaps before the subdivision and zoning regulations came into effect in 1968. It appears that the landlocked southern tract may be an unfortunate remnant of unplatted development that occurred on all adjacent boundaries that did not consider the 2.40-acre parcel of land.

The current property owner, Marco Aguilar, purchased the southern lot in 2010, which allowed the property access to the Burleson Street right-of-way through the existing driveway. Mr. Aguilar would now like to sell the southern lot, but in order to do so, the lots are required to be platted to give the southern lot direct and immediate access to a public right-of-way. The only way to accomplish this is to create a second flag lot via plat in order to split the driveway area into two. The plat would shift the northern lot boundary to allocate half (17.60-feet) of the 35.20-foot width to proposed Lot 2, giving each lot a 17.60-foot lot width at Burleson Street.

A variance to the minimum lot width will allow the subject property to be replatted to meet the subdivision regulation requirement that lots have immediate and direct access to a public right-of-way. The only way the lot may be sold separately and developed in the future is by platting the properties and creating the narrow 17.60-foot lot width to give each lot recorded access to Burleson Street. Staff finds that the proposed variance is necessary to accommodate development on the subject property which is in conformance with the City's Comprehensive Plan and zoning map.

- (2) The granting of the variance will not be materially detrimental or injurious to other property or improvements in the neighborhood in which the subject property is located, nor impair an adequate supply of light or air to adjacent property, nor substantially increase the congestion in the public streets, nor increase the danger of fire, or in any way endanger the public health, safety and well-being of the neighborhood in which the subject property is located.*

Granting the variance to the minimum lot width will not be materially detrimental or injurious to other properties and improvements in the general vicinity of the subject property. The subject property is zoned R-2 Mixed Residential District at the Burleson Street property line and as such, minimum lot standards include 60-foot width, 115-foot depth, and a minimum size of 7,000 square feet. The existing lot has never met the minimum lot width but exceeds the minimum lot depth and size requirements. The adjacent properties to the west, south and southeast are zoned R-2, Mixed Residential District and are developed as single-family homes to the south and west, and as multifamily to the southeast. The adjacent property to the north and northeast are zoned I, Industrial District and have nonconforming residential uses of a single-family home to the north and a manufactured home park to the northeast. The existing driveway, the stick part of the flag lot, is approximately 375-feet in length and the existing home and vacant lot are not visible from Burleson Street. Staff finds that granting the variance will not be materially detrimental or injurious

to other properties in the surrounding area as the change in the lot line and the resulting reduction of the lot width would not be evident or have any impact to adjacent property owners or passers-by.

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

Literal enforcement of this ordinance would prohibit the property owner from platting the subject property into two legally conforming lots. Without a plat, the applicant would not be able to sell the 2.40-acre portion as a separate lot as it would not have immediate and direct access to a public right-of-way, making it an undevelopable landlocked lot. For this reason, staff finds that supporting a 42.40-foot reduction to the lot width will correct the property's current nonconforming status and lessen the hardship on current and future property owners.

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

The subject property is unique in that the property and surrounding area was likely created by metes and bounds description before the subdivision and zoning regulations were adopted in 1968. Before the adoption of the subdivision and zoning regulations, standards were not in place to prohibit the creation of landlocked parcels and the enforcement of minimum lot widths at the public right-of-way. Granting a variance to allow a reduction of the lot widths for both properties will allow the properties to be platted to give the southern landlocked lot access and ability of future development. The subject property meets the minimum required lot depth and lot size and without a variance to the lot width, would be undevelopable.

(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 southern lot was landlocked in by the surrounding division of land done solely by metes and bounds or deed, rather than by platting. It is unknown if this occurred before the subdivision regulations were adopted in 1968 or afterwards. Development or sale of land typically triggers the requirement of platting unrecorded land. It is unknown why the property was not required to be platted when Mr. Aguilar purchased the property in 2010. Since the lot was vacant and no development has occurred, the need would have been unknown to the City. The requested variance will allow the property owners to formally Preliminary and Final Plat the subject property in accordance with City standards.

(6) The hardship to be suffered through the literal enforcement of the ordinance would not be financial alone.

The hardship suffered through the literal enforcement of the ordinance would not be financial alone.

(7) The granting of the variance would not be injurious to the public health, safety and welfare or defeat the intent of the philosophy contained in the Zoning Ordinance.

Granting a variance to the lot width requirement 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 lot width of 17.6-feet at the street for two contiguous lots; where a minimum lot width of 60-feet is required, for a single-family residence located at 1000 Burleson Street (0.977 acre tract/R14516) and the tract located to the south, identified by WCAD as Tract 266 of the A. Harrington Survey, A-55/R14588 (currently not addressed), containing 2.40-acres, described as Lots 197 and 266, respectively, of the Arrabella Harrington Survey, A-55, in Brenham, Washington County, Texas.

PUBLIC COMMENTS:

Property owners within 200 feet of the subject property were mailed notifications of this proposal on February 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. Proposed Plat
- D. Variance Letter
- E. Photos

EXHIBIT "A"
AERIAL MAP



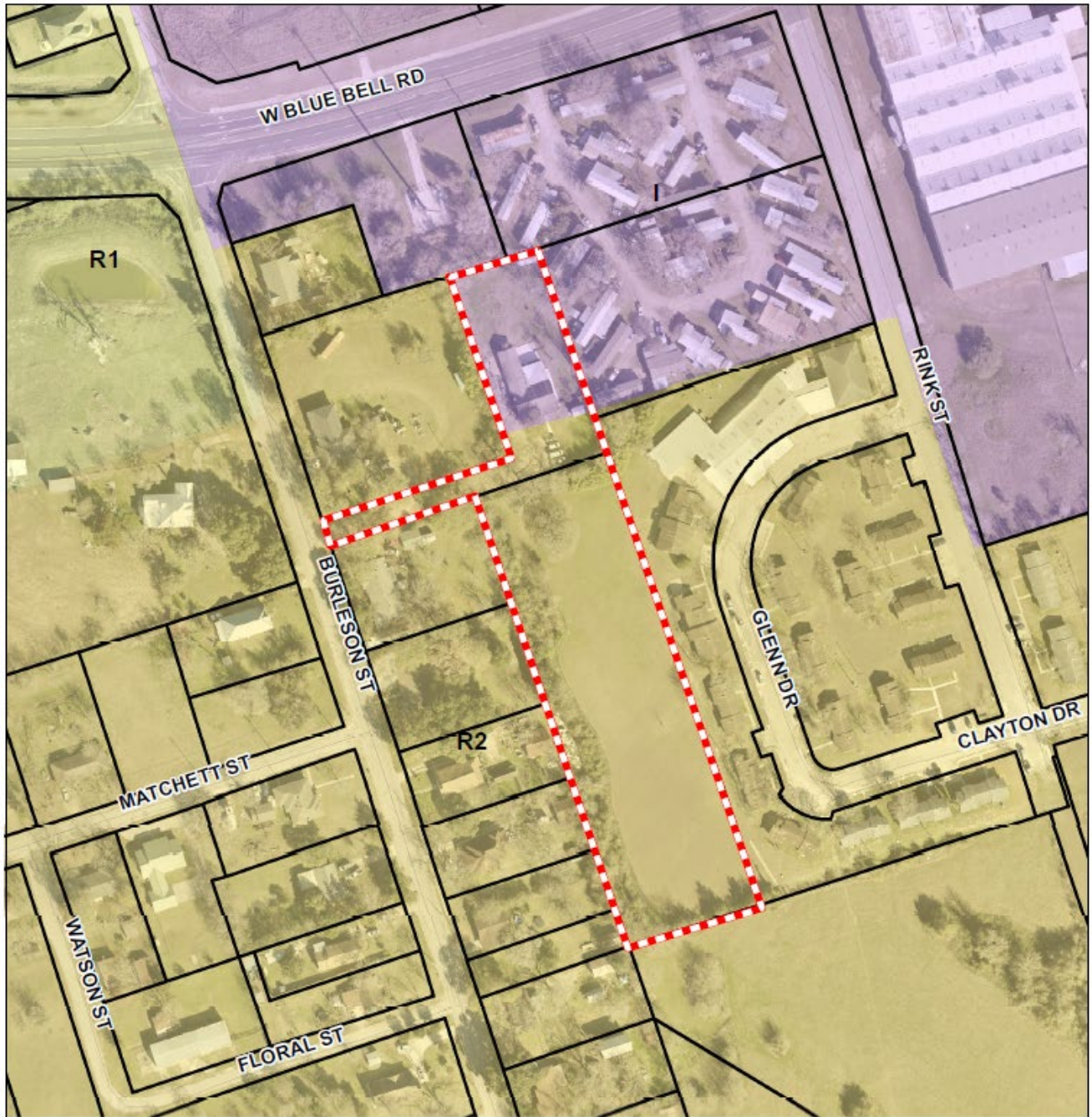
Location Map
1000 Burleson Street
Lot Width Variance Request



1 inch = 187 feet






EXHIBIT "B"
ZONING MAP



Zoning Map
1000 Burleson Street
Lot Width Variance Request

Legend

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



1 inch = 167 feet



EXHIBIT "D"
VARIANCE REQUEST LETTER

LAMPE SURVEYING, INC
PROFESSIONAL LAND SURVEYORS
Texas Licensed Surveying Firm No. 10040700
P. O. Box 2037 - 1408 West Main Street
Brenham, Texas 77834-2037
(979) 836-6677

January 11, 2023

City of Brenham
Board of Adjustments
200 West Vulcan
Brenham, Texas 77833

Re: Variance request for an existing 0.977 acre tract and a 2.40 acre tract, located at 1000 Burleson Street in the A. Harrington Survey, A-55, City of Brenham, Washington County, Texas.

Dear Board,

The purpose of this letter is to request a variance and approval of the street frontage for above referenced tracts owned by Marco and Beatriz Aguilar.

The 0.977 acre tract has a street frontage of 35.20 feet on Burleson Street and the 2.40 Acre tract has frontage of the same 35.20 feet by an existing easement across a portion of said 0.977 acre tract.

The proposal is to split the 35.20 feet of frontage in order that each tract will have a street frontage 17.60 feet and each tract to have the existing easement along the 35 foot strip for access.

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.
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 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.
3. The literal enforcement of the ordinance would work on unnecessary hardship.
4. The piece of property is unique and contains properties or attributes not common to other similarly situated properties.
5. The need for the variance was not created by the applicant.
6. The hardship to be 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.

Your time for consideration of review and approval for this property is appreciated.

Respectfully Submitted,



Donald W. Lampe
Lampe Surveying, Inc
Surveyor/Agent

EXHIBIT "E"
SITE PHOTOS



Driveway on Burlison Street



Existing Single-family home



Vacant 2.40-acre tract



Surrounding Area- looking south on Burlison St.



CASE NUMBER: B-23-002
VARIANCE REQUEST: 713 BROWN STREET

STAFF CONTACT: Shauna Laauwe, City Planner

OWNERS/APPLICANTS: Modesta Gonzales

ADDRESS/LOCATION: 713 Brown Street (Exhibit "A")

LEGAL DESCRIPTION: PT Lot 36 of the College Heights Addition

LOT AREA: Approximately 6,190 square feet (0.142103 acres)

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

**COMP PLAN
FUTURE LAND USE:** Residential

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)(ii) to allow an 8-foot, 9.6-inch south side yard setback, where a minimum 10-foot side yard setback is required for a single-family residence (Exhibit "C").

BACKGROUND:

The subject property is addressed as 714 Brown Street and is generally located on the west side of Brown Street, approximately 150 feet north of Clay Street, with Sabine Street to the west, and State Highway 105 to the north. The subject property and all adjacent properties are within a R-2, Mixed Residential District, with B-1, Local business/Residential Mixed Use Districts located further to the north along SH 105 and along North Blue Bell Road to the east. The subject site is a 50-foot by 128-foot (6,190 square feet) lot that currently consists of a 929 square foot pier and beam home that was recently moved onto the property. Single-family uses within the R-2 District are required to have a minimum lot width of 60-feet and minimum lot size of 7,000 square feet. The subject property is an original lot of the College Heights Addition that was established before the Subdivision Regulations were adopted in 1968. The

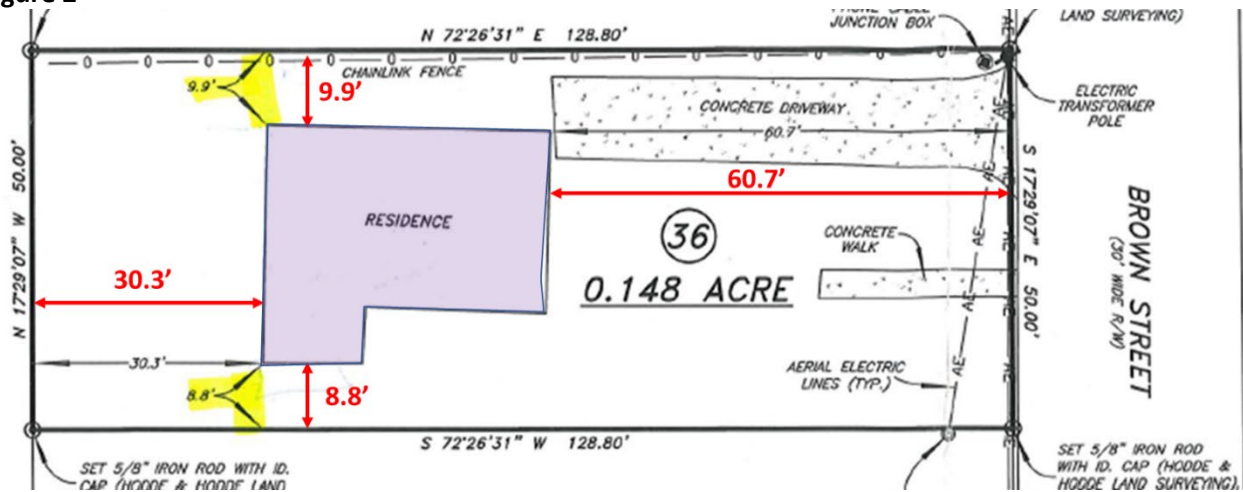
Figure 1



College Heights Addition originally consisted of 64 lots that were 50-feet by 128-feet. Several of the lots have been replatted over the years, but the subject property has kept the configuration, thus it is legally nonconforming lot in terms of minimum lot width and lot size.

The applicant applied for a moving permit in July 2022, to move the existing single-family home onto the subject property. The submitted application documents showed that the home would exceed the front and rear yard setbacks of 25 feet and meet the minimum required 10 foot side yard setbacks. However, after the home was placed on the lot, a submitted form survey (Figure 2) required for inspections and utilities, found that the home encroached in the south side yard setback by approximately 1-foot, 3 inches. The home also encroaches the north side yard setback by approximately 2 inches, but Staff found that to be a negligible amount. As there is no space available to shift the home to the north, the applicant is requesting a variance to the the south side yard setback to allow for a 1-foot, 3-inch reduction in the minimum required 10-foot side 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 subject property is a legally nonconforming infill lot that is part of the College Heights Addition that is a nonrecorded subdivision prior to the Subdivision and Zoning regulations being adopted in 1968. The 50-foot by 128-foot lot is nonconforming in both lot width and lot size as a single-family use in the R-2 District

requires a minimum lot width of 60-feet and a lot area of 7,000 square feet. While the home encroaches into the side yard setback, it exceeds both the 25-foot front and rear yard setbacks at 60.7-feet and 30.3-feet, respectfully. A variance would not be required if the lot met the lot width standard of 60-feet. The legally nonconforming lot width and size contributed to the need for the variance. Strict adherence of a 10' setback would require the 929 square foot home to be removed from the property and a smaller home constructed or moved onto the property. Approval of the variance will allow the residence to remain.

- (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 side 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. Side yard setbacks are established to provide adequate separation and size between developments and uses. While the lot is small, the 929 square foot home does not dominate the property as it only encompasses approximately 15 percent of the lot. Granting a 1-foot 2.5-inch variance to the south side setback requirement will allow for necessary open space, separation between structures and would not be injurious to the adjacent property to the south. Staff is unable to identify any destabilizing negative effects of the proposed variance on neighboring properties.

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

Staff finds that literal enforcement of this ordinance would require a portion of the existing structure to be removed or the property owners to find a more suitable lot to place the home. It is not possible to move the home on the subject property to meet the south setback without encroaching into the north setback. If the nonconforming lot were less than 50-foot in width, the zoning regulations would allow the home to be placed at a side yard setback no less than 5-feet. Staff finds that the limited buildable area in terms of lot width is an unnecessary hardship and granting a variance for a 1-foot 3-inch reduction to the side yard is reasonable given the limited alternatives.

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

The subject property is an original lot in a subdivision recorded before the City of Brenham adopted subdivision and zoning regulations. The lots in the College Heights Addition were drawn to be only 50-feet in width, 10-feet less than is required in the existing R-2 District regulations. Several homes along Brown Street encroach into the required setbacks, with four lots receiving variances over the years. The existing home would meet all required setbacks on a legally conforming lot, however the applicant is filling a need to utilize an infill residential property that has existing city infrastructure readily available to the site.

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

The need for the variance was not created by the applicant. The applicant submitted a building permit application that was shown to meet the minimum building setbacks on the property (Exhibit "C"). The form survey (Exhibit "D") provided after the home was moved onto the lot revealed an error in the house dimensions on the original permit drawing and application which did not reflect that the home would

encroach into the side yard setback by 1-foot, 3-inches. The reduced lot width does not accommodate the 31.3 foot in width home.

(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.*

Setbacks are established to provide adequate separation and size between developments and uses. Granting a 1-foot 3-inch variance to the south side setback requirement will 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.

STAFF RECOMMENDATION:

Staff has reviewed the request and ***recommends approving the requested*** variance to allow a 1-foot 3-inch reduction in the minimum required 10-foot south side setback for a setback of 8-feet 9.6-inches for a single-family residence at 713 Brown Street.

PUBLIC COMMENTS:

Property owners within 200 feet of the subject property were mailed notifications of this proposal on February 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. Move Application Site Plan
- D. Official Form Survey
- E. Request Letter
- F. Photos

EXHIBIT "A"
AERIAL MAP



Location Map
713 Brown Street
Side Yard Setback Variance Request



1 inch = 100 feet



EXHIBIT "B"
ZONING MAP



Zoning Map
713 Brown Street
Side Yard Setback Variance Request



1 inch = 100 feet

Legend



-  B1 Local Business Mixed
-  R2 Mixed Residential



EXHIBIT "C"
MOVE APPLICATION SITE PLAN

713 Brown Rd
Brenham TX 77833
Modesta Gonzalez 979-525-7844



APPROVED BY: DD
DATE: 7/14/24

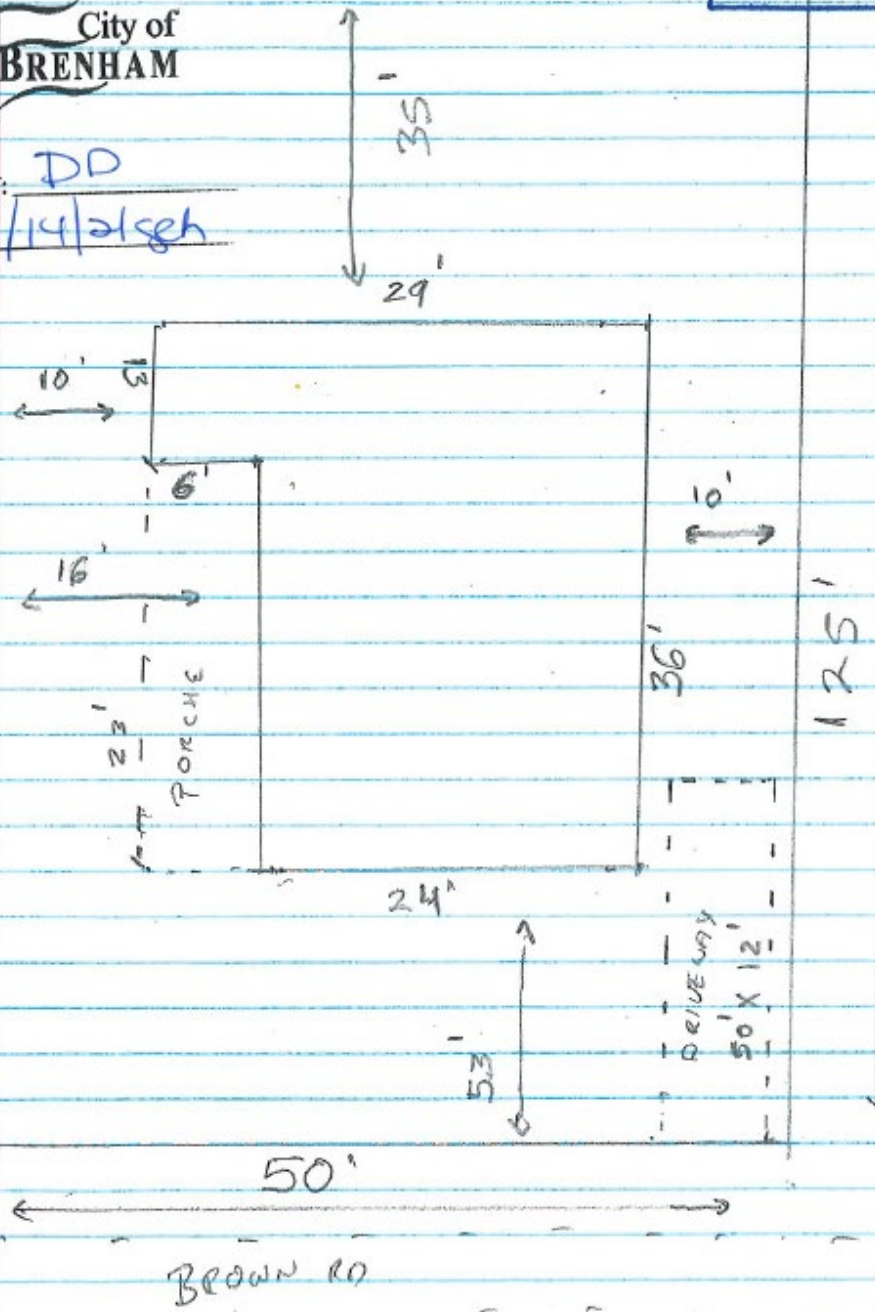
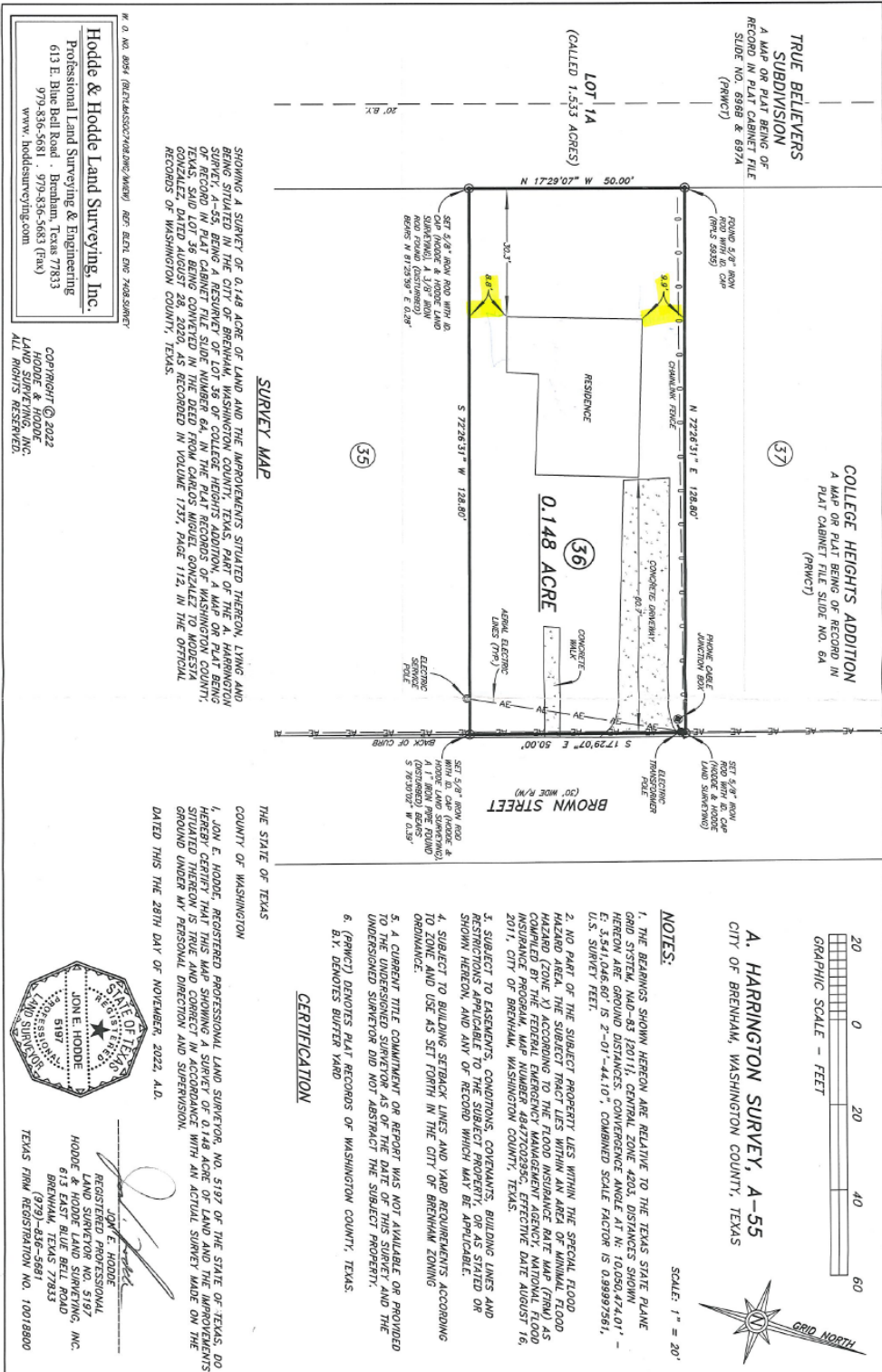


EXHIBIT "D"
FORM SURVEY

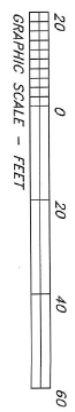


SHOWING A SURVEY OF 0.148 ACRE OF LAND AND THE IMPROVEMENTS SITUATED THEREON, LYING AND BEING SITUATED IN THE CITY OF BRENHAM, WASHINGTON COUNTY, TEXAS, PART OF THE "A, HARRINGTON SURVEY, A-55, BEING A RESURVEY OF LOT 36 OF COLLEGE HEIGHTS ADDITION, A MAP OR PLAT BEING OF RECORD IN PLAT CABINET FILE SLIDE NUMBER 64, IN THE PLAT RECORDS OF WASHINGTON COUNTY, TEXAS, SAID LOT 36 BEING CONVERTED IN THE DEED FROM CARLOS MIGUEL GONZALEZ TO MODERNA INVESTMENTS, L.P., AS RECORDED IN VOLUME 17301, PAGE 112, IN THE OFFICIAL RECORDS OF WASHINGTON COUNTY, TEXAS.

SURVEY MAP

Hodde & Hodde Land Surveying, Inc.
Professional Land Surveying & Engineering
613 E. Blue Bell Road · Brenham, Texas 77833
979-836-5681 · 979-836-5683 (Fax)
www.hoddesurveying.com

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LAND SURVEYING, INC.
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SCALE: 1" = 20'

NOTES:

1. THE BEARINGS SHOWN HEREON ARE RELATIVE TO THE TEXAS STATE PLANE. THE BEARING CONVERSION ANGLE IS 4203. DISTANCES SHOWN HEREON ARE GROUND DISTANCES. CONVERSION ANGLE AT N: 10.050424101' - E: 3.54104660' IS 2°-01'-44.10". COMBINED SCALE FACTOR IS 0.999979561, U.S. SURVEY FEET.
2. NO PART OF THE SUBJECT PROPERTY LIES WITHIN THE SPECIAL FLOOD HAZARD (ZONE X) ACCORDING TO THE FLOOD INSURANCE RATE MAP (FIRM) AS COMPILED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY NATIONAL FLOOD INSURANCE PROGRAM, MAP NUMBER 48477020395C, EFFECTIVE DATE AUGUST 16, 2011, CITY OF BRENHAM, WASHINGTON COUNTY, TEXAS.
3. SUBJECT TO EASEMENTS, CONDITIONS, COVENANTS, BUILDING LINES AND RESTRICTIONS APPLICABLE TO THE SUBJECT PROPERTY, OR AS STATED OR SHOWN HEREON, AND ANY OF RECORD WHICH MAY BE APPLICABLE.
4. SUBJECT TO BUILDING SETBACK LINES AND YARD REQUIREMENTS ACCORDING TO ZONE AND USE AS SET FORTH IN THE CITY OF BRENHAM ZONING ORDINANCE.
5. A CURRENT TITLE COMMITMENT OR REPORT WAS NOT AVAILABLE OR PROVIDED TO THE PREPARED THIS DATE OF THIS SURVEY AND THE UNDERSIGNED SURVEYOR DID NOT ABSTRACT THE SUBJECT PROPERTY.
6. (P/RWCT) DENOTES PLAT RECORDS OF WASHINGTON COUNTY, TEXAS. B.Y. DENOTES BUTTER YARD

CERTIFICATION

THE STATE OF TEXAS
COUNTY OF WASHINGTON

I, JON E. HODDE, REGISTERED PROFESSIONAL LAND SURVEYOR, NO. 5197 OF THE STATE OF TEXAS, DO HEREBY CERTIFY THAT THIS MAP SHOWING A SURVEY OF 0.148 ACRE OF LAND AND THE IMPROVEMENTS SITUATED THEREON IS TRUE AND CORRECT IN ACCORDANCE WITH AN ACTUAL SURVEY MADE ON THE GROUND UNDER MY PERSONAL DIRECTION AND SUPERVISION.

DATED THIS THE 28TH DAY OF NOVEMBER, 2022, A.D.



Jon E. Hodde
JON E. HODDE
REGISTERED PROFESSIONAL
LAND SURVEYOR NO. 5197
WASHINGTON COUNTY, TEXAS
608 N. W. 11TH ST., SUITE 1030
BRENHAM, TEXAS 77833
(979)-836-5681
TEXAS FIRM REGISTRATION NO. 10018900

EXHIBIT "E"
REQUEST LETTER

January 20, 2023

Board of Adjustment
200 W Vulcan St
Brenham, TX 77833

To Whom this may concern:

I am Modesta Gonzales owner of the property at 713 Brown. The home was moved over a year ago with a permit, and the property/ home does not meet the City of Brenham set back by just a few feet.

I did not know until I had a survey and found out that the setback was not met by the movers.

I am requesting for you to consider allowing me to continue with the purchase necessary permit to make the changes and make this our home.

In advance I want to thank you for your consideration.

Best Regards,

Modesta Gonzales
713 ~~Brown~~ Road
Brenham, TX 77833
Cell: 979-525-7854

**EXHIBIT "F"
SITE PHOTOS**



Subject property – the electric poles are at the property lines



Encroaching south side – Survey stake shows the lot line.