

CITY OF BRENHAM BOARD OF ADJUSTMENT MINUTES

August 12, 2024

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 August 12, 2024, at 5:15 pm in the Brenham Municipal Building, City Council Chambers, at 200 West Vulcan Street, Brenham, Texas.

Commissioners present:

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

Commissioners absent:

None

Staff present:

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

Citizens / Media present:

Robert Stults
David Hermann

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 May 13, 2024, Board of Adjustment Meeting.

4-b. Minutes from May 13, 2024, Joint Training Session of the Board of Adjustment and the Planning & Zoning Commission.

Chairman Hodde called for any corrections or additions to the minutes as presented. A motion was made by Commissioner Thielemann and seconded by Commissioner Winkelmann to approve the Consent Agenda (items 4-a and 4-b). The motion carried unanimously.

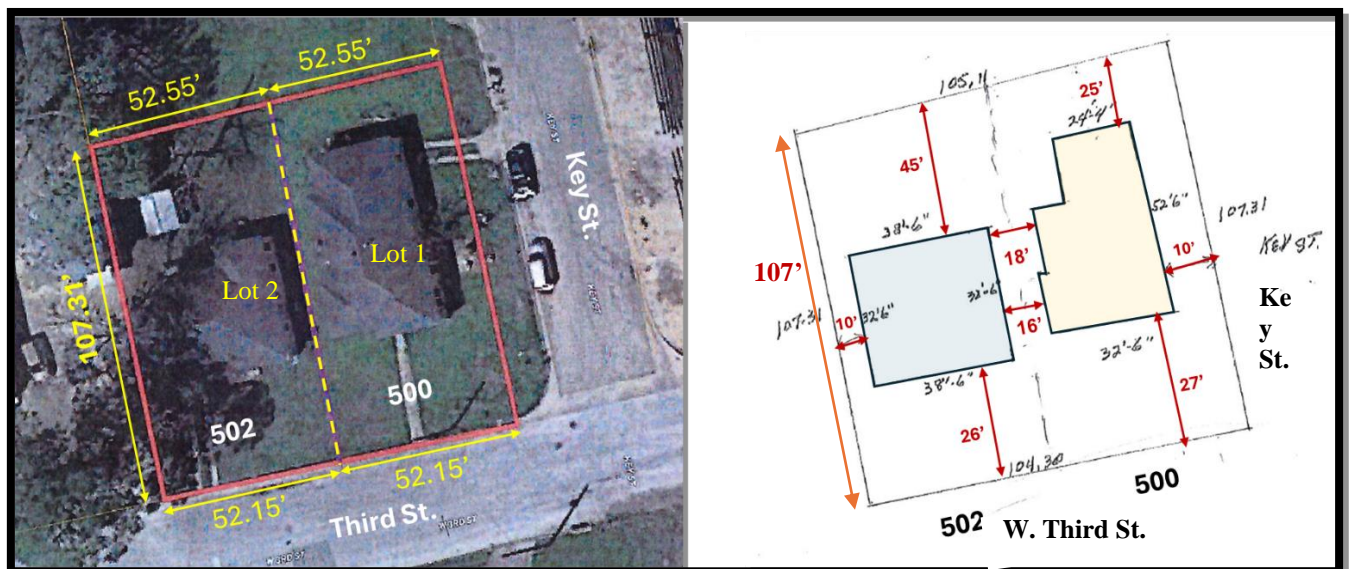
REGULAR AGENDA

- Public hearing, Discussion and Possible Action on Case Number B-24-006:** A request by David Hermann/Home Town Properties, LP, 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 a 8-foot west side setback (500) and an 8-foot east side setback (502) and a variance from Section 2.05 (1)(b)(i, ii, and iii) to allow a lot size of 5,564 square feet, where a minimum lot size of 7,000 square feet is required; to allow a lot width of 52 feet, where a minimum lot width of 60 feet is required; and to allow an average lot depth of 107 feet, where a minimum average lot depth of 115 feet is required, in order to subdivide and plat the existing lot into two (2) lots for the two (2) existing single-family homes addressed as 500 and 502 W. Third Street, described as Block 9, Lot S/P T 1C, Key’s 1st Addition, A. Harrington Survey, A-55, in Brenham, Washington County, Texas.

Shauna Laauwe, City Planner, presented the staff report for Case No. B-24-006 (on file in the Development Services Department). Ms. Laauwe stated that this is a request from Home Town Properties, LP / David Hermann. The subject property is zoned as R-2, Mixed Residential Use District and currently is developed with two single-family homes. The subject property is a 0.26-acre (11,234 SF) tract addressed as 500 and 502 W. Third Street and is located on the northwest corner of W. Third Street and Key Street and within the Key’s 1st Addition, one of Brenham’s original subdivisions. The future land use designation is single-family residences, and the proposed use is single-family residential. The subject property is surrounded by a R-2, Mixed Residential Zoning and Industrial Zoning to the far north.

According to the Washington County Appraisal District records, the two single-family structures were both constructed in 1951, with the home addressed as 500 W. Third being 1,533 square feet and the 502 W. Third home being 1,251 square feet. The subject property and homes were configured and constructed before the current subdivision and zoning regulations were adopted in 1968. As such, the subject property has three existing legal nonconformities that are grandfathered. These nonconformities include, more than one principle structure on one lot; the home addressed as 500 W. Third Street has an east side street setback along Key Street of approximately 10-feet, where 15-feet is required; and a lot depth of approximately 107-feet where a minimum lot depth of 115-feet is required (Figure 2B).

Figure 2B



Even though the homes were built before the zoning ordinance took affect, the existing homes exceed the minimum required front and rear yard setbacks of 25-feet and 502 W. Third Street meets the west side yard setback of 10-feet. The property owner wishes to sell the two homes separately, thus the property is required to be replatted into two separate lots so that each principle structure (home) would be contained on its own individual lot. The 11,234 square foot subject property is approximately 105-feet in width and 107-feet in depth. The existing property meets the current minimum lot area requirement of 7,000 square feet and width of 60-feet for R-2 district property, but is legally nonconforming to the minimum lot width of 115-feet. However, replatting/subdividing the lot into two would cause the lot to lose it's legally nonconforming status and require several lot size and setback variances. Splitting the subject property into two lots would result in projected Lot 1 (500 W. Third Street) and Lot 2 (502 W. Third Street) to have a lot width of 52-feet, where the minimum lot width is 60 feet; a lot depth of 107 feet where an average lot depth of 115-feet is required; and a lot area of 5,564 square feet where a minimum lot size of 7,000 square feet is required. Lastly, as shown in Figure 2B, interior side yards would be created that result in a sideyard setback of 8-feet for each lot at the narrowest point. The existing nonconforming side street setback of 10-feet for Lot 1 is not affected by the propped replatting, thus it does not require a variance.

In order for the subject property to be subdivided and platted into two separate lots, the Subdivision regulations require that proposed lots meet the zoning requirements or be granted variances by the Board of Adjustment. The applicant, therefore, is requesting variances for 500 W. Third Street and 502 W. Third Street for an 8-foot reduction in the 60-foot minimum required lot width, a 8-foot reduction in the 115-foot minimum average lot depth, to allow a 8-foot west side setback for 500 W. Third Street and an 8-foot east side setback for 502 W. Third Street, and to allow a lot size of 5,564 square feet, where a minimum lot size of 7,000 square feet is required to allow for the subdividing of the existing property into two lots.

STAFF ANALYSIS

- Key's First Addition is one of the original subdivisions in Brenham and predates the Zoning and Subdivision regulations.
- Two homes were built on one lot in 1951.
- The owner/applicant would like to sell each home separately so replat is necessary for a legal subdivision of the land.
- To meet the requirements for platting, several variances are needed.
- Though several variances are requested, the lot would become more conforming.
- The subject property is not eligible for replatting unless the variances are granted.
- The replat would not be materially detrimental or injurious to other properties since the proposed homes/lots have been in the same configuration since 1951. No change would be evident to the surrounding neighborhood.

Notifications were mailed to property owners within 200-feet of the subject property on August 1, 2024. Staff received on citizen comment from Francisco Salgado, who lives at 532 W. Third Street, in support of the variance requests.

Chairman Hodde opened the Public Hearing at 5:25 p.m. and asked for any comments. David Hermann stated that he is having trouble selling the property with two homes on it. There were no other comments.

Chairman Hodde closed the Public Hearing at 5:26 p.m. and re-opened the Regular Session.

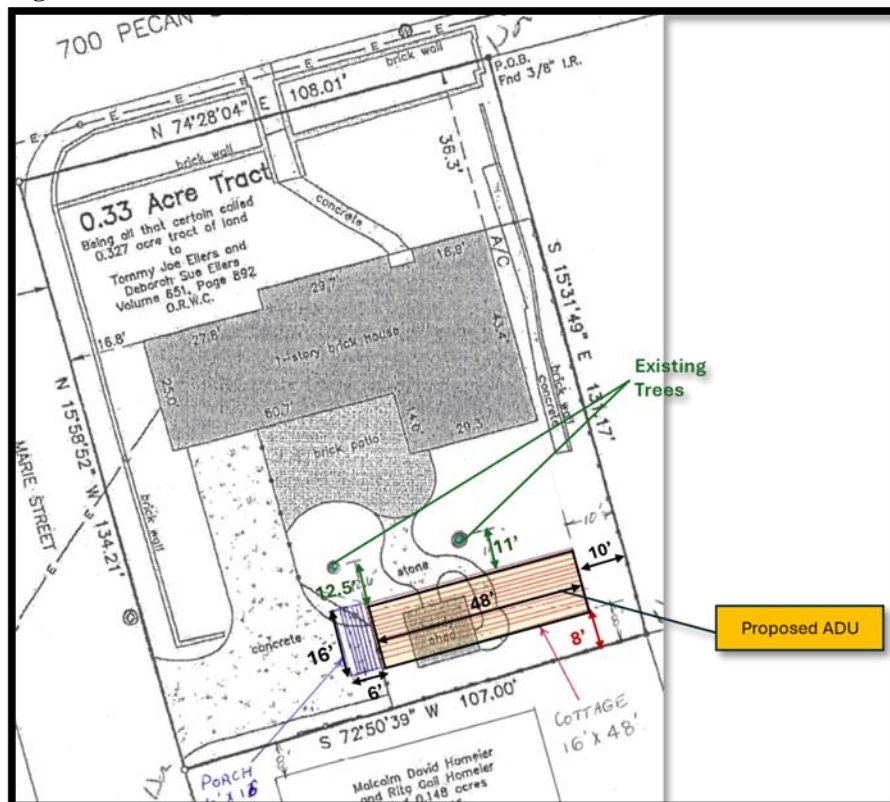
A motion was made by Commissioner Flisowski and seconded by Commissioner Goss to approve the request by David Hermann/Home Town Properties, LP, for a variance from the City of Brenham Code of Ordinances, to allow a 8-foot west side setback (500) and an 8-foot east side setback (502) and a variance to allow a lot size of 5,564 square feet, where a minimum lot size of 7,000 square feet is required; and to allow a lot width of 52 feet, where a minimum lot width of 60 feet is required; and to allow an average lot depth of 107 feet, where a minimum average lot depth of 115 feet is required, in order to subdivide and plat the existing lot into two (2) lots for the two (2) existing single-family homes addressed as 500 and 502 W. Third Street, as presented. The motion carried unanimously (5-0).

6. Public hearing, Discussion and Possible Action on Case Number B-24-007: A request by Robert Stults for a variance from the City of Brenham Code of Ordinances, Appendix A – Zoning, Part II, Division I, Section 10.02(4)(c) to allow a rear setback of 8-feet for a proposed Accessory Dwelling Unit (ADU) where a minimum 10-foot rear yard is required for an Accessory Dwelling to be located at 700 Pecan Street, described as Key’s 2nd Block B, Lot N PT 1.4, A. Harrington Survey A-55 in Brenham, in Brenham, Washington County, Texas.

Shauna Laauwe, City Planner, presented the staff report for Case No. B-24-007 (on file in the Development Services Department). Ms. Laauwe stated that this is a request from Robert Stults. The subject property is zoned as R-2, Mixed Residential Use District and currently is developed with single-family residence. The subject property is a 0.33-acre (14,263 square foot) lot addressed as 700 Pecan Street and is generally located on the southeast corner of Pecan Street and Marie Street. The subject property and all adjacent properties are within an R-2 Zoning District. Further to the southwest beginning on the west side of Huettig Street and to the west along S. Market Street is a B-1, Local Business Mixed Residential District. The surrounding R-2 properties are a mix of single and two-family residential, with the B-1 properties being predominately local commercial and institutional (BISD) uses. The subject property is an approximate 109-foot x 130-foot (14,263 SF) rectangular lot that is part of the Key’s 2nd Addition. The subject property currently consists of a 2,073 square foot home with an attached 550 square feet garage that were constructed in 1975 and a detached 172 square foot storage building that was constructed in 2004. The existing home meets or exceeds the setback requirements for a single-family home in the R-2 district with a 36.3-foot front yard setback, an approximate 50-foot rear yard setback, a 16.8-foot side street setback along Marie Street and a 10-foot east side yard setback.

The property owners would like to move the existing storage building off and and utilize the existing slab for construction of a 16’ x 48’ (768 SF) detached Accessory Dwelling Unit (ADU). As shown in Figure 2 below, the proposed ADU would meet the required 10-foot side yard setbacks with an east side yard setback of 10-feet and a west side yard setback of 41-feet. However, to utilize the existing slab and due to two existing large trees, the applicant is proposing to situate the ADU only 8-feet from the rear property line instead of the required 10-foot rear yard setback for detached ADUs.

Figure 2



Accessory Dwelling Units are permitted uses within the R-2 District, however Section 10.02(4) of the Zoning Regulations lists additional development standards that pertain to ADUs and the proposed structure meets all of the criteria except for **c)** below:

- a) Should the primary use be a single-family dwelling, the property owner’s primary residence shall be the single-family dwelling or ADU.
The property owners plan to continue to reside in the principal home and propose to utilize the ADU for their elderly parents.

- b) An ADU must be designed and constructed in keeping with the general architecture and building material of the principal structure.
The proposed addition will be in the same general architecture style and building material of the principal structure.

- c) An attached ADU shall be subject to the regulations affecting the principal structure. A detached ADU shall have side yards of not less than the required side yard for the principal structure and rear yards of not less than ten (10) feet.
The proposed ADU meets or exceeds the side yard setback requirements with a a west side yard setback of 41-feet and an east side yard setback of approximately 10-feet; however, the proposed rear yard setback is 8-feet instead of the required 10-feet.

- d) One (1) on-site parking space, located to the side or rear of the primary structure, shall be provided for the ADU in addition to the required parking for the principal structure.
The site plan shows that the existing driveway is able to accommodate 3 off-street parking spaces.

- e) The maximum habitable area of an ADU is limited to either one-half (1/2) of the habitable area of the principal structure, or one thousand (1,000) square feet, whichever is smaller.

The principal structure has a habitable area of 2,073 square feet and the proposed ADU has a habitbal square area of 856 square feet, which is less than ½ of the habitable area of the principal structure.

- f) ADUs shall not be HUD-code manufactured home or mobile home.
The proposed ADU will not be a HUD-code manufactured home or mobile home

Therefore, the applicant is requesting a variance to allow the proposed ADU to be located 8-feet from the rear (south) property line, where a 10-foot rear yard setback is required for a detached Accessory Dwelling Unit.

STAFF ANALYSIS

- The variance would allow utilization of the existing slab and maintain the two mature trees.
- The site has a fence facing Marie Street and a 7-foot fence along the rear property line that would help screen the structure.
- The adjacent principal structure to the south is at an 8-foot side yard setback; therefore, the structures would have a greater separation than the building/fire code requirements of 10-feet.
- It would not be detrimental to surrounding properties.

Staff has reviewed the request and recommends **approval** of the requested variance to allow a 2-foot reduction in the minimum required 10-foot rea setback for a proposed Access Dwelling Unit at 700 Pecan Street.

Notifications were mailed to property owners within 200-feet of the subject property on August 1, 2024. Staff received two (2) written comments in support of this request:

- John & Susan Hare – 701 Pecan Street
- Malcom & David Homeier – 805 Marie Street

Chairman Hodde opened the Public Hearing at 5:34 p.m. and asked for any comments. There were no citizen comments.

Chairman Hodde closed the Public Hearing at 5:34 p.m. and re-opened the Regular Session.

A motion was made by Commissioner Thielemann and seconded by Commissioner Flisowski to approve the request by Robert Stults for a variance from the City of Brenham Code of Ordinances, to allow a rear setback of 8-foot for a proposed Accessory Dwelling Unit (ADU) where a minimum 10-foot rear yard is required for an Accessory Dwelling to be located at 700 Pecan Street, as presented. The motion carried unanimously (5-0).

7. Adjourn

A motion was made by Commissioner Winkelmann and seconded by Commissioner Flisowski to adjourn the meeting at 5:35 p.m. The motion carried unanimously (5-0).

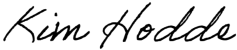
The City of Brenham appreciates the participation of our citizens, and the role of the Board of Adjustment in this decision-making process.

Certification of Meeting Minutes:



Jon E. Hodde, Chairman

December 9, 2024
Meeting Date



Attest, Staff Secretary

December 9, 2024
Meeting Date