

**THE TOWN OF BARTONVILLE BOARD OF ADJUSTMENT IN REGULAR SESSION ON THE 11TH DAY OF APRIL 2024 AT THE TOWN OF BARTONVILLE TOWN HALL, LOCATED AT 1941 E JETER ROAD, BARTONVILLE, TEXAS WITH THE FOLLOWING MEMBERS PRESENT, CONSTITUTING A QUORUM:**

Donna Baumgarner, Chair  
Kathy Daum, Director  
Del Knowler, Director  
Siobhan O'Brien  
Rebecca Jenkins, Alternate 1  
Heather Head, Alternate 2

*Directors Absent:*

Jim Lieber, Vice Chair

*Town Staff Present:*

Thad Chambers, Town Administrator  
Shannon Montgomery, Town Secretary  
Ed Voss, Town Attorney  
Ryan Wells, Town Planning Consultant

**A. CALL MEETING TO ORDER**

Chair Baumgarner called the meeting to order at 6:02 pm.

**B. PLEDGE OF ALLEGIANCE**

Chair Baumgarner led the pledge.

Chair Baumgarner convened the Board of Adjustment into Executive Session Pursuant to the Open Meetings Act, Chapter 551, in accordance with the Texas Government Code Section 551.071 Consultation with Town Attorney to seek legal advice of its attorney concerning agenda item # E.2 at 6:04 pm.

Chair Baumgarner reconvened the Board of Adjustment into Open Session at 6:27 pm.

**C. PUBLIC PARTICIPATION**

*If you wish to address the Board, please fill out a "Public Meeting Appearance Card" and present it to the Town Secretary, preferably before the meeting begins. Pursuant to Section 551.007 of the Texas Government Code, citizens wishing to address the Board for items listed as public hearings will be recognized when the public hearing is opened. For citizens wishing to speak on a non-public hearing item, they may either address the Board during the Public Participation portion of the meeting or when the item is considered by the Board of Adjustment.*

There was no Public Participation.

**D. APPROVAL OF MINUTES**

**1. Discuss and consider approval of the September 20, 2023, Regular Meeting Minutes.**

Motion made by Director Knowler, seconded by Director O'Brien, to approve the September 20, 2023, Regular Meeting Minutes as presented. Motion carried unanimously.

### **VOTE ON THE MOTION**

AYES: Baumgarner, Daum, Jenkins, Knowler, and O'Brien

NAYS: None

VOTE: 5-0

### **E. PUBLIC HEARINGS AND ACTION ITEMS**

- 2. Public hearing to consider a variance to regulations found in Bartonville Zoning Ordinance Section 19.3.J., relating to maximum distance of an accessory dwelling from the primary building. The property subject to the variance request is located on land situated in the Meadowlakes Farm Addition, Lot 3R-2, in the Town of Bartonville, Denton County, Texas. The site address is 531 W Jeter Road. The applicants are Audelino Melgar and Elizabeth Anaya. [Town File No. VAR-2024-001].**

Town Secretary Montgomery announced that the applicant requested this item to be withdrawn to a date to be determined. New notices will be published and mailed once the application is resubmitted.

- 3. Public hearing to consider a variance to the following regulations: Bartonville Zoning Ordinance (BZO) Appendix F (Technical Design Standards) Section F.1, relating to parking technical design standards for nonresidential districts; BZO Section 12.3.C., relating to the compatibility buffer requirements; and BZO Section 18.J.2., relating to perimeter landscaping requirements. The property subject to the variance request is located on land situated in the Yeti Addition, Block A, Lot 1R, in the Town of Bartonville, Denton County, Texas. The site address is 1001 I.T. Neely Road. The applicant is BryFam Properties, LLC. [Town File No. VAR-2024-002.]**

- A. Staff Presentation**
- B. Applicant Presentation**
- C. Open Public Hearing**
- D. Those in Favor**
- E. Those Opposed**
- F. Rebuttal**
- G. Close Public Hearing**
- H. Discussion and Action**

Town Administrator Chambers introduced the Town's Planning Consultant Ryan Wells, who provided a summary of the requested variances and addressed questions from the Board.

Applicants Cara King of McAdams, 201 Country View Drive, Roanoke, Texas 76262, and Marty Bryan, BryFam Properties, LLC, 913 Hat Creek Court, Bartonville, Texas 76226, shared a presentation of the proposed variance requests and addressed questions from the Board.

Chair Baumgarner opened the Public Hearing at 6:57 pm, and after recognizing that no one wished to speak, closed the Public Hearing at 6:58 pm.

**Requested Variance #1**

Motion made by Director Jenkins, seconded by Director Daum, to approve the requested variance to allow reduction in the required parking spaces to 77, with the remaining parking spaces being constructed of flex base, where 99 parking spaces are required to be constructed of concrete or asphalt by Town Zoning Ordinance Appendix F, Section F.1, the Technical Design Standards, because the variance meets the following requirement(s) under the factors in Zoning Ordinance Section A.3.D of Appendix A, Item(s):

- a. There are special circumstances or conditions arising from the physical surroundings, shape, topography or other feature affecting the land subject to the variance petition, such that the strict application of the provisions of this Zoning Ordinance to the development application would create an unnecessary hardship or inequity upon or for the petitioner, as distinguished from a mere inconvenience, in developing the land or deprive the petitioner of the reasonable and beneficial use of the land; and
- d. Granting the variance petition will not be detrimental to the public health, safety or welfare, or injurious to other property within the area.

**VOTE ON THE MOTION**

AYES: Baumgarner, Daum, Knowler, O'Brien, and Jenkins

NAYS: None

VOTE: 5-0

**Requested Variance #2**

Motion made by Director O'Brien, seconded by Director Jenkins, to approve the requested Variance to allow reduction of the required landscape buffer adjacent to the Hudson Hills residential use to 15 feet, where 25 feet is required by Town Zoning Ordinance Section 12.3.C.11, because the variance meets the following requirement(s) under the factors in Zoning Ordinance Section A.3.D of Appendix A, Item(s):

- a. There are special circumstances or conditions arising from the physical surroundings, shape, topography or other feature affecting the land subject to the variance petition, such that the strict application of the provisions of this Zoning Ordinance to the development application would create an unnecessary hardship or inequity upon or for the petitioner, as distinguished from a mere inconvenience, in developing the land or deprive the petitioner of the reasonable and beneficial use of the land.

**VOTE ON THE MOTION**

AYES: Baumgarner, Daum, Knowler, O'Brien, and Jenkins

NAYS: None

VOTE: 5-0

**Requested Variance #3**

Motion made by Director O'Brien, seconded by Director Knowler, to approve the requested Variance to allow construction of a screening wall of 6-foot-high stone column and ornamental fence configuration, where a solid masonry wall at least 6 feet in height is required by Town Zoning Ordinance Sections 12.3.C.11 and 18.6.J.2, because the variance meets the following requirement(s) under the factors in Zoning Ordinance Section A.3.D of Appendix A, Item(s):

- a. There are special circumstances or conditions arising from the physical surroundings, shape, topography or other feature affecting the land subject to the variance petition, such that the strict application of the provisions of this Zoning Ordinance to the development application would create an unnecessary hardship or inequity upon or for the petitioner, as distinguished from a mere inconvenience, in developing the land or deprive the petitioner of the reasonable and beneficial use of the land; and
- f. Granting the variance petition is consistent with any special criteria applicable to varying particular standards.

**VOTE ON THE MOTION**

AYES: Baumgarner, Daum, Knowler, and O'Brien

NAYS: Jenkins

VOTE: 4-1

**Requested Variance #4**

Motion made by Director Jenkins, seconded by Director O'Brien, to to approve the requested Variance to allow a reduction of perimeter landscaping by 16 trees, offset by the street trees to be planted in the adjacent right-of-way, where a larger number of trees is required by Town Zoning Ordinance Sections 18.6.J.2.b.1 & 2, because the variance meets the following requirement(s) under the factors in Zoning Ordinance Section A.3.D of Appendix A, Item(s):

- a. There are special circumstances or conditions arising from the physical surroundings, shape, topography or other feature affecting the land subject to the variance petition, such that the strict application of the provisions of this Zoning Ordinance to the development application would create an unnecessary hardship or inequity upon or for the petitioner, as distinguished from a mere inconvenience, in developing the land or deprive the petitioner of the reasonable and beneficial use of the land.

**VOTE ON THE MOTION**

AYES: Baumgarner, Daum, Knowler, O'Brien, and Jenkins

NAYS: None

VOTE: 5-0

4. **Public hearing to consider a variance to the following regulations: Bartonville Zoning Ordinance Section 4.7., relating to single-family dwelling setback requirements. The property subject to the variance request is located on land situated in the Eagle Ridge Addition, Block A, Lot 21, in the Town of Bartonville, Denton County, Texas. The site address is 1209 Pitner Court. The applicant is Bartonville South 1031, LLC. [Town File No. VAR-2024-003.]**
  - A. Staff Presentation
  - B. Applicant Presentation
  - C. Open Public Hearing
  - D. Those in Favor
  - E. Those Opposed
  - F. Rebuttal
  - G. Close Public Hearing
  - H. Discussion and Action

Town Planning Consultant Ryan Wells provided a summary of the requested variance and addressed questions from the Board.

Applicant Omar Oweis, Bartonville South 1031, LLC, 2061 S Stemmons Freeway, Lewisville, Texas 75067, explained the reason for the requested variance and addressed questions from the Board. Chair Baumgarner opened the Public Hearing at 7:16 pm, and after recognizing that no one wished to speak, closed the Public Hearing at 7:16 pm.

Chair Baumgarner convened the Board of Adjustment into Executive Session Pursuant to the Open Meetings Act, Chapter 551, in accordance with the Texas Government Code Section 551.071 Consultation with Town Attorney to seek legal advice of its attorney concerning agenda item # E.4 at 7:17 pm.

Chair Baumgarner reconvened the Board of Adjustment into Open Session at 7:37 pm.

Motion made by Director Daum, seconded by Director Jenkins to approve the requested Variance to reduce the front and side yard setbacks for Lot 21 of the Eagle Ridge subdivision to 40 feet, where front and side yard setbacks of 50 feet are required by Town Zoning Ordinance Section 4.7, because the variance meets the following requirement(s) under the factors in Zoning Ordinance Section A.3.D of Appendix A, Item(s):

- b. The circumstances causing the hardship do not similarly affect all or most properties in the vicinity of the petitioner's land;
- d. Granting the variance petition will not be detrimental to the public health, safety or welfare, or injurious to other property within the area; and
- g. The hardship or inequity suffered by petitioner is not self-induced.

#### **VOTE ON THE MOTION**

AYES: Baumgarner, Daum, Knowler, O'Brien, and Jenkins

NAYS: None

VOTE: 5-0

5. **Public hearing to consider a variance to the following regulations: Bartonville Zoning Ordinance Section 19.4.A., relating to accessory building setback requirements. The property subject to the variance request is located on land situated in the Fuller Addition III, Block A, Lot 1, in the Town of Bartonville, Denton County, Texas. The applicant is Jonathan King. [Town File No. VAR-2024-004.]**

- A. Staff Presentation**
- B. Applicant Presentation**
- C. Open Public Hearing**
- D. Those in Favor**
- E. Those Opposed**
- F. Rebuttal**
- G. Close Public Hearing**
- H. Discussion and Action**

Town Planning Consultant Ryan Wells provided a summary of the requested variance and addressed questions from the Board.

Applicant Jonathan King, 2916 Frontier Drive, Denton, Texas 76201 explained the reason for the requested variance and addressed questions from the Board.

Chair Baumgarner opened the Public Hearing at 7:53 pm.

Town Secretary Montgomery stated that the Town received a statement in support of the requested variance from Ben Borgman, 565 W Jeter Road, Bartonville, Texas 76226 and two speakers requesting to speak tonight have also sent in statements in favor of the request.

The following individuals spoke IN FAVOR of the requested variance:

- Odis Fuller, 443 Pine Hills, Frisco, Texas 76036, and Bartonville Property Owner
- Missy Grau, 1112 Frenchtown, Bartonville, Texas 76226
- Weldon Pierson, 1126 Frenchtown, Bartonville, Texas 76226
- Cherry Fuller, 1000 S Gibbons Road, Bartonville, Texas 76226 – submitted a statement in favor.

Chair Baumgarner closed the Public Hearing at 8:04 pm.

Motion made by Director Jenkins, seconded by Director Knowler, to approve the requested Variance to allow construction of a single-family residence behind the existing accessory building rather than in front of the existing accessory building as required by Town Zoning Ordinance Section 19.4.A, because the variance meets the following requirement(s) under the factors in Zoning Ordinance Section A.3.D of Appendix A, Item(s):

- a. There are special circumstances or conditions arising from the physical surroundings, shape, topography or other feature affecting the land subject to the variance petition, such that the strict application of the provisions of this Zoning Ordinance to the development application would create an unnecessary hardship or inequity upon or for the petitioner, as distinguished from a mere inconvenience, in developing the land or deprive the petitioner of the reasonable and beneficial use of the land;

- c. The variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner;
- g. The hardship or inequity suffered by petitioner is not self-induced; and
- h. The request for a variance is not based exclusively upon a desire from the petitioner for increased financial gain from the property, or to reduce an existing financial hardship.

**VOTE ON THE MOTION**

AYES: Baumgarner, Daum, Knowler, O'Brien, and Jenkins

NAYS: None

VOTE: 5-0

- 6. Public hearing to consider a variance to the following regulations: Bartonville Zoning Ordinance Sections 22.3.D., L., and R., relating to telecommunications facility setback requirements. The property subject to the variance request is located on land situated in the DCFWSD #7 Retail Center Addition, Block A, Lot 1, in the Town of Bartonville, Denton County, Texas. The applicant is Ralph Wyngarden of Faulk & Foster. [Town File No. VAR-2024-005.]**

**A. Staff Presentation**

**B. Applicant Presentation**

**C. Open Public Hearing**

**D. Those in Favor**

**E. Those Opposed**

**F. Rebuttal**

**G. Close Public Hearing**

**H. Discussion and Action**

Town Planning Consultant Ryan Wells provided a summary of the requested variance and addressed questions from the Board.

Applicant Ralph Wyngarden, Faulk & Foster, 678 Front Avenue NW, Suite 255, Grand Rapids, MI 49504, explained the reason for the requested variance and addressed questions from the Board.

Chair Baumgarner opened the Public Hearing at 8:22 pm.

The following spoke:

- Tim House, Bartonville Store, 96 McMakin, Bartonville, Texas 76226, objected to the use of the variance request.

Chair Baumgarner closed the Public Hearing at 8:26 pm.

Motion made by Director Jenkins, seconded by Director Knowler, to enter into executive session to discuss legal questions with the Town Attorney for agenda item E.6.

**VOTE ON THE MOTION**

AYES: Baumgarner, Daum, Knowler, O'Brien, and Jenkins

NAYS: None

VOTE: 5-0

Chair Baumgarner convened the Board of Adjustment into Executive Session Pursuant to the Open Meetings Act, Chapter 551, in accordance with the Texas Government Code Section 551.071 Consultation with Town Attorney to seek legal advice of its attorney concerning agenda item # E.6 at 8:25 pm.

Chair Baumgarner reconvened the Board of Adjustment into Open Session at 8:39 pm.

Motion made by Director Jenkins, seconded by Director Daum, to deny the requested Variance to remove the rear yard setback for the 130-foot monopole proposed behind the Kroger Marketplace within the Lantana Town Center development, where a 10-foot rear yard setback is required by Planned Development District Ordinance No. 411-06 and Zoning Ordinance Sections 22.3.D., L., and R, because the variance does not meet the requirement(s) under the factors in Zoning Ordinance Section A.3.D of Appendix A, Item(s):

- b. The circumstances causing the hardship do similarly affect all or most properties in the vicinity of the petitioner’s land;
- g. The hardship or inequity suffered by petitioner is self-induced; and
- h. The request for a variance is based exclusively upon a desire from the petitioner for increased financial gain from the property, or to reduce an existing financial hardship.

**VOTE ON THE MOTION**

AYES: Baumgarner, Daum, Knowler, O’Brien, and Jenkins

NAYS: None

VOTE: 5-0

**F. ADJOURNMENT**

Chair Baumgarner declared the meeting adjourned at 8:41 pm.

**APPROVED this the 30th day of July 2024.**

**APPROVED:**

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Donna Baumgarner, Chair

**ATTEST:**

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Shannon Montgomery, TRMC, Town Secretary