

**THE TOWN OF BARTONVILLE BOARD OF ADJUSTMENT IN REGULAR SESSION ON THE 20TH DAY OF SEPTEMBER 2023 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  
Jim Lieber, Vice Chair  
Kathy Daum, Director  
Del Knowler, Director  
Rick Lawrence, Director  
Siobhan O'Brien, Alternate 1  
Rebecca Jenkins, Alternate 2

*Town Staff Present:*

Thad Chambers, Town Administrator  
Shannon Montgomery, Town Secretary  
Ed Voss, Town Attorney

**A. CALL MEETING TO ORDER**

Chair Daum called the meeting to order at 6:00 pm.

**B. PLEDGE OF ALLEGIANCE**

Chair Daum led the pledge.

**C. PUBLIC PARTICIPATION**

*If you wish to address the Board, please fill out a "Public Meeting Appearance Card" and present it to the Town Administrator, 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. REGULAR ITEMS**

**1. Discuss and consider the appointment of Officers:**

**A. Appointment of Chair**

**B. Appointment of Vice-Chair**

Motion made by Director Lieber, seconded by Director Knowler, to appoint Director Baumgarner Chair. Motion carried unanimously.

Motion made by Director Knowler, seconded by Director Lawrence, to appoint Director Lieber Vice Chair. Motion carried unanimously.

**2. Discuss and consider approval of the September 14, 2022, Meeting Minutes.**

Motion made by Director Daum, seconded by Director Lawrence, to approve the September 14, 2022, meeting minutes as presented. Motion carried unanimously.

**E. PUBLIC HEARINGS AND ACTION ITEMS**

*Chair Baumgarner moved to Agenda Item #4:*

- 4. Public hearing to consider a variance to regulations found in Bartonville Zoning Ordinance Section 19.3.D. The variance request is to permit the applicant's residential use of an existing dwelling while a new home is constructed on the same property. The property subject to the variance request is located at 496 McMakin Road in the Town of Bartonville, Denton County, Texas. The Town of Bartonville file number for this application is VAR-2023-002.**

- 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 stated, per the Bartonville Zoning Ordinance, a property cannot have two dwellings on one property and shared that the Town had not received any comments regarding this variance request.

Applicant James Kennemer presented his case and addressed questions from the Directors.

Chair Baumgarner opened the Public Hearing at 6:13 pm, and after recognizing that no one wished to speak, closed the Public Hearing at 6:13 pm.

Motion made by Director Daum, seconded by Director Lieber, to approve the variance allowing the applicant to live in their existing single-family residence located at 496 McMakin Road while a new single-family residence is under construction with the stipulation that the two existing structures must be removed within 90 days of receiving the Certificate of Occupancy for the residence.

**VOTE ON THE MOTION**

AYES: Baumgarner, Daum, Knowler, Lawrence, and Lieber

NAYS: None

VOTE: 5-0

*Chair Baumgarner moved to Agenda Item #5:*

- 5. Public hearing to consider a variance to regulations found in Bartonville Zoning Ordinance Sections 4.7 and 19.4.C. The variance request is to permit the location of an existing dwelling within the regulatory side yard setback, and the location of an existing accessory building without the existence of a primary structure; both conditions would result from a proposed minor plat to subdivide an existing property. The property subject to the variance request is located on land situated in the Fuller Addition 2, Lot 1; Keith Survey, Abstract Number A1643A, Tract 4; and the Newton Allsup Survey, Abstract Number 64870, Tract 7; in the Town of Bartonville, Denton County, Texas. The Town of Bartonville file number for this application is VAR-2023-004.**

- 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 Administrator Chambers stated that this request is to permit the location of an existing dwelling within the regulatory side yard setback, and the location of an existing accessory building without the existence of a primary structure; both conditions would result from a proposed minor plat to subdivide an existing property as regulated by the Bartonville Zoning Ordinance Sections 4.7 and 19.4.C. Chambers also stated that the Town had received one email, in favor of this variance.

Applicant Melissa Grau presented her case to the Board and addressed questions, by stating that Lot 1 contains the accessory building with no permanent structure and Lot 2 contains the main structure.

Chair Baumgarner opened the Public Hearing at 6:34 pm. The following spoke:

- Teresa Rather, 1905 Woodland Boulevard, Flower Mound, Texas – FOR

Chair Baumgarner closed the Public Hearing at 6:37 pm.

Motion made by Director Daum, seconded by Director Lieber, to approve the variance request as presented by permitting the two existing structures that violate the Bartonville Zoning Ordinance to remain in their current locations following the subdivision of the property into four lots, approximately 2 acres each. These structures would now be considered legal nonconforming structures and would be subject to limitations found in the Bartonville Zoning Ordinance Section 1.11.

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

AYES: Baumgarner, Daum, Knowler, Lawrence, and Lieber

NAYS: None

VOTE: 5-0

Motion made by Director Baumgarner, seconded by Director Daum, to convene into Executive Session to obtain Legal Advice as authorized by Texas Government Code, Sections 551.001, et seq. (the Texas Open Meetings Act) on any item on its open meeting agenda in accordance with the Texas Open Meetings Act, including, without limitation Sections 551.071-551.088 of the Texas Open Meetings Act.

### **VOTE ON THE MOTION**

AYES: Baumgarner, Daum, Knowler, Lawrence, and Lieber

NAYS: None

VOTE: 5-0

The Board convened into Executive Session at 6:40 pm and reconvened into Regular Session at 7:21 pm.

*Chair Baumgarner moved to Agenda Item #3:*

- 3. Public hearing to consider a variance to regulations found in Bartonville Zoning Ordinance Section 20.3.C. The variance request is to reduce the required setback for a screening fence along the applicant's property line adjacent to a public road. The property subject to the variance request is located at 568 Seals Road in the Town of Bartonville, Denton County, Texas. The Town of Bartonville file number for this application is VAR-2023-001.**

- 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 stated the issue at hand is the location of the fence because of its reduction in the setback; the setback is measured from the Right-of-Way, not the edge of the road. Chambers addressed questions from the Board.

Applicants, Steve and Marilyn Addison, provided the Board with a presentation of pictures, provided a brief history of the events that led up to the fence being built. The applicants also addressed questions from the Board.

Chair Baumgarner opened the Public Hearing at 7:56 pm. The following spoke:

- Wayne Hoyt, 575 Seals Road, Bartonville, Texas – FOR
- Mike Mollo, 728 Village Green Drive, Argyle, Texas – AGAINST
- Hunter Mahan, 5314 Ursula Lane, Dallas, Texas – AGAINST
- Teresa Rather, 1905 Woodland Boulevard, Flower Mound, Texas – AGAINST

Chair Baumgarner closed the Public Hearing at 8:21 pm.

Motion made by Director Daum, seconded by Director Lawrence, to approve the variance as presented, allowing the existing fence to remain in its current location based on the following criteria for approval:

- c) The variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner;
- d) Granting the variance petition will not be detrimental to the public health, safety, or welfare, or injurious to other property within the area;
- e) Granting the variance petition will not have the effect of preventing the orderly use and enjoyment of other land within the area in accordance with the provisions of this Ordinance, or adversely affect the rights of owners or residents of surrounding property;
- g) The hardship or inequity suffered by petitioner is not self-induced;
- 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, Lawrence, and Lieber

NAYS: None

VOTE: 5-0

*Chair Baumgarner moved to Agenda Item #6:*

- 6. Public hearing to consider a variance to regulations found in Bartonville Zoning Ordinance Section 19.3.E. The variance request is to permit the applicant to construct an accessory dwelling that exceeds the 1,000 square-foot maximum allowance. The property subject to the variance request is located at 1416 W Jeter Road in the Town of Bartonville, Denton County, Texas. The Town of Bartonville file number for this application is VAR-2023-003.**
  - 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 Administrator Chambers stated that this variance request is to permit the applicant to construct an accessory dwelling that exceeds the 1,000 square-foot maximum allowance, found in Bartonville Zoning Ordinance Section 19.3.E. Chambers also stated that Staff has received three emails in favor of this request and none opposing the variance.

Applicant Courtney Lenkart addressed the Board by stating that the new accessory dwelling will be attached to a four-stall garage and barn.

Chair Baumgarner opened the Public Hearing at 6:36 pm, and after recognizing that no one wished to speak, closed the Public Hearing at 6:36 pm.

Motion made by Director Lawrence, seconded by Director Daum, to approve the variance, permitting the applicant to construct an accessory dwelling unit attached to the detached four-stall garage based on item D of the Criteria for Approval:

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, Lawrence, and Lieber

NAYS: None

VOTE: 5-0

**F. ADJOURNMENT**

Chair Baumgarner declared the meeting adjourned at 8:39 pm.

**APPROVED this the 11th day of April 2024.**

**APPROVED:**

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Donna Baumgarner, Chair

**ATTEST:**

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Shannon Montgomery, TRMC, Town Secretary