



# BOARD OF ADJUSTMENT COMMUNICATION

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**DATE:** April 11, 2024

**FROM:** Thad Chambers, Town Administrator

**AGENDA ITEM:** 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].

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**Applicant:** Audelino Melgar and Elizabeth Anaya

**Zoning:** Residential Estates 5 (RE-5)

**Requested Variance:** To permit the applicant's construction of an accessory dwelling 95 feet behind the primary residence, contrary to the 50-foot maximum distance established by Bartonville Zoning Ordinance Section 19.3.J.

**Summary:** The applicant has submitted a variance request (Exhibit 1) to permit their construction of an accessory dwelling 95 feet behind the primary residence. Bartonville Zoning Ordinance (BZO) Section 19.3.J limits the distance of an accessory dwelling to 50 feet maximum distance from the primary building. The applicant provides no justification for the variance in their application.

The subject property is approximately 6.22 acres in size. As indicated by the site plan included in Exhibit 1, the accessory dwelling would meet all other setback and dimensional standards found in BZO Section 19.3.

**Criteria for Approval:** In deciding the variance petition, the Board of Adjustments shall apply the following criteria:

- 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;
- B. The circumstances causing the hardship do not similarly affect all or most properties in the vicinity of the petitioner's land;
- 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;
- F. Granting the variance petition is consistent with any special criteria applicable to varying particular standards;
- 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; and
- I. The degree of variance requested is the minimum amount necessary to meet the needs of petitioner and to satisfy the standards in this section.

**If Approved:** Approval of the variance request would permit the applicant to construct an accessory dwelling, subject to approval and issuance of a building permit from the Town of Bartonville, approximately 95 feet from their primary residence. All other setbacks and standards for the RE-5 zoning district and Section 19.3 of the BZO would still have to be met.

**If Denied:** Denial of the variance request would mean that the applicant would have to move the proposed accessory dwelling to within 50 feet of the primary structure, in conformance with BZO Section 19.3.J. All other setbacks and standards for the RE-5 zoning district and Section 19.3 of the BZO would also have to be met.

**Exhibits:**

1. Variance Application VAR-2024-001
2. Location Map
3. Notification Letter and Addresses
4. Publication Affidavit