



BOARD OF ADJUSTMENT COMMUNICATION

DATE September 20, 2023

FROM: Thad Chambers, Town Administrator

AGENDA ITEM: 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.

Applicant: Melissa Grau

Zoning: Residential Estates 2 (RE-2)

Requested Variance: 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. These conditions are regulated by Bartonville Zoning Ordinance (BZO) Sections 4.7 and 19.4.C.

Summary: The applicant has submitted a variance request (Exhibit 1) 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. In August 2023 the applicant submitted a plat application to subdivide and reconfigure three lots totaling 9.79 acres into four lots ranging from 2.33 to 2.6 acres in size, meeting the lot size and dimension requirements of the RE-2 zone.

With the proposed lot configurations in the plat, the resulting four lots will create two conditions that violate current regulations in the BZO (see Exhibit 2). Lot 2 would contain an existing residence that would fall within the side-yard setback of the parcel, approximately five feet from the side property line. Per BZO Section 4.7, in the RE-2 zone the side yard setback is 20 feet; therefore the proposed variance for the side yard setback would be approximately 15 feet. The other violation of the BZO would be on Lot 1, which would contain an existing barn but no primary residence. Per BZO Section 19.4.C, “accessory buildings are not permitted without a main structure.”

The applicant has indicated that some of the existing buildings may be demolished upon subdivision of the land and sale of the lots, though this is not guaranteed. Any new construction on the subdivided lots would be required to meet the current zoning district standards. Staff anticipate that new single-family residences would be constructed on Lots 1 and 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 two existing structures that violate the BZO to remain in their current locations following the subdivision of the property into four ~2 acre lots. These structures, if permitted to remain, would be considered legal nonconforming structures and would be subject to limitations found in BZO Section 1.11.

If Denied: Denial of the variance request would mean that the applicant would need to reconfigure the lots in the plat to meet the 20-foot side yard setback for the existing single-family residence, and remove the existing barn as a violating structure. The minimum lot size and dimensions standards in the RE-2 zone would cause implementation of the former to be very difficult while also maintaining all of the subdivision standards for the zone. The other option would be to remove the existing home such that it would not conflict with the lot setbacks for the RE-2 zone.

Exhibits:

1. Variance Application VAR-2023-004
2. Plat showing existing structures
3. Location Map
4. Notification Letter and Addresses
5. Publication Affidavit