

**CITY OF BRENHAM
PLANNING AND ZONING COMMISSION MINUTES
January 23, 2017**

The meeting minutes herein are a summarization of meeting procedures, not a verbatim transcription.

A regular meeting of the Brenham Planning and Zoning Commission was held on January 23, 2017 at 5:15 pm in the Brenham Municipal Building, City Council Chambers, at 200 West Vulcan Street, Brenham, Texas.

Commissioners present:

Nancy Low, Vice Chairman
Deanna Alfred
Calvin Kossie
Charlie Pyle
Lynnette Sheffield

Commissioners absent:

Walt Schoenvogel, Chairman
Leroy Jefferson

Staff present:

Erik Smith, Development Services Manager
Kim Hodde, Planning Technician

Citizens present:

David and Callie Korth
Jon Hodde

1. Call Meeting to Order

Vice Chairman Low called the meeting to order at 5:15 pm with a quorum of five (5) Commissioners present.

CONSENT AGENDA

2. 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.

2-a. Minutes from the December 27, 2016 Planning and Zoning Commission Meeting

Vice Chairman Low asked for any corrections or additions to the minutes as presented. A motion was made by Commissioner Sheffield and seconded by Commissioner Alfred to approve the minutes from the December 27, 2016 meeting as presented. The motion carried unanimously.

REGULAR AGENDA

3. Discussion and Possible Action Concerning a Recommendation to City Council on a Variance Request by David W. Korth from Section 23-22(5)(a), Subdivision Ordinance of the Code of Ordinances for the property located at 1118 West Main Street and further described as 0.265604 acres out of the Phillip Coe Survey, A-31 Tract 374 (WCAD), in Brenham, Washington County, Texas

Erik Smith, Development Services Manager, stated that this is a request for a variance from Section 23-22(5)(a), Subdivision Ordinance of the Code of Ordinances that requires that all lots have public road frontage for the property located at 1118 West Main Street and further described as 0.265604 acres out of the Phillip Coe Survey, A-31 Tract 374 (WCAD), in Brenham, Washington County, Texas. Mr. Smith presented the following analysis:

SUMMARY RECOMMENDATION:

David W. Korth owns a 0.265604 acre tract of land located at 1118 West Main Street, identified as R43746, A0031, Coe, Phillip, Tract 374. The subject property does not have road frontage but has access via a platted private road. Applicant would like to plat this property; however, after reviewing the proposed site plan in accordance with the City's subdivision ordinance, staff realized they would not be able to submit a plat that was not in compliance with the City's ordinances. Chapter 23-22(5)(a) Article III – Design Standards, (1) states:

(5) Lot facing:

- a. *Street frontage. Each lot shall be provided with adequate access to an existing or proposed public street by frontage on such street.*

The applicant is specifically asking for a variance to remove the requirement to have property frontage on a City right-of-way.

The Planning and Zoning Commission is charged with making recommendations to City Council on variances to the Subdivision Ordinance as described in the following section of the Subdivision Ordinance:

Sec. 23-34. Variances

Where in its judgment, the public convenience and welfare will be substantially served and the appropriate use of the neighboring property will not be substantially injured, the city council may upon recommendation by the planning commission, in specific cases, at a regular meeting of the city council and subject to appropriate conditions and safeguards, authorize, by ordinance, a variance to the subdivision regulations in order to permit reasonable development and improvement of property where the literal enforcement of these regulations would result in an unnecessary hardship. A variance may only be granted by ordinance upon finding that such variance is in accord with the comprehensive plan of the City of Brenham and that the probable effect of such variance will not create adverse impacts in the vicinity. No written public notice shall be required prior to the granting of the variances provided for in this section, except as required by the Texas Open Meetings Law.

STAFF RECOMMENDATION:

Erik Smith stated that the need for this variance was created when a property owner conveyed a portion of this property through the deed process. This happens from time to time and usually is not done with ill intent. Commissioner Sheffield asked if the property was conveyed by a person who owned one of the other tracts since she didn't know why they would have conveyed it if they didn't own one of the adjoining tracts. Mr. Smith replied that this conveyance was done back in the 70's by a previous owner and we have no way of knowing their intentions but he can assume that it wasn't done with ill intent since they thought they had proper access to the property. The main issue here is staff cannot issue a building permit until the property is correctly platted and a plat cannot be approved by the Planning and Zoning Commission until it meets local ordinances or a variance reducing requirements is approved. Subdivision Ordinances have to go to City Council for approval or amendment.

Staff feels the ordinance is very clear that new properties need to have public right of way frontage. This is the reason staff cannot support this variance request. At the same time the ordinance does not take into account existing properties with private access roads allowing adequate access to private residential lots. The access to this property if a variance is granted is a private road and will remain that way indefinitely. No maintenance will be performed on it by the City at any time.

Vice Chairman Low opened the public hearing and asked for citizen comment. Commissioner Sheffield asked if Mr. Borchardt (adjacent property owner) owns the road since the plat is marked with a hook to the adjacent property showing that both are owned by the same owner. Jon Hodde clarified that the plat that she is looking at was done in the 1970's and showing the land hook indicating ownership for the private road as the adjacent property owner was obviously done in error because the strip was platted out separately on the plat from the 1940's. Mr. Smith stated that in some of the previous variances that have been granted for similar situations, a main concern was future development; however, this tract will not be able to be further subdivided due to the size and dimension requirements.

Commissioner Sheffield asked what would prevent one of the adjacent property owners from wanting to subdivide their property and request a variance for the lot frontage requirement. Mr. Smith replied that there is nothing to prevent them from asking today regardless of this variance. He stated that the neighboring properties have submitted letters indicating that they have no concerns with this variance being granted. Vice Chairman Low asked if this variance is not granted, then nothing can be done with the property? Mr. Smith replied that without this variance, this lot is essentially dead land and valueless. Vice Chairman Low asked if this variance could be linked to just this particular lot. Mr. Smith replied that the ordinance would be written so that any further development would require an additional variance request but the variance is linked to just this lot since they are the ones requesting the variance. Commissioner Sheffield asked who owns the private road. David Korth stated that the road is co-owned by them and the Walter Schwartz family [the Schwartz family actually owns the adjoining property instead of the Borchardt's as shown on the 1970's plat]. Mr. Korth stated that this private drive also provides access to a tract at the north end of the drive that is essentially land-locked.

Jon Hodde stated that when this was done in 1975, the ordinance requirements were different than they are today but there are ordinances in place now to prevent this from happening today. Commissioner Pyle stated that emergency access to this lot is no different that access to the lot at the end of this drive. He asked if development of this property would have to meet all of the setbacks and other requirements. Mr. Smith stated that any development would have to meet our current ordinances with regards to setbacks, lot size, etc. This variance would just be to remove the requirement to have lot frontage on a public right-of-way. Commissioner Sheffield stated that she didn't want to set a precedent. Mr. Smith reiterated that with these types of cases, there are no precedents. Each case is unique and has to be considered on a case by case basis and considered by the circumstances and situation at hand. There were no other comments.

Vice Chairman Low closed the public hearing. A motion was made by Commissioner Pyle and seconded by Commissioner Kossie to approve the variance request by David W. Korth from Section 23-22(5)(a), Subdivision Ordinance of the Code of Ordinances for the property located at 1118 West Main Street, as presented. This variance will remove the requirement for this lot to have public road frontage and will allow access to remain from the existing dedicated private roadway. The motion carried unanimously.

4. Administrative Report

Erik Smith presented the Administrative report for December 2016, including building permit/inspection/code enforcement information. He stated that the permit valuations were 46 million at the end of 2016 compared to 33 million at the end of 2015; however, several of the larger projects were for non-profit entities. He stated that staff is currently working on several projects:

- A proposed zoning change to create a B-4 District, Neighborhood/Commercial, Business District. The proposed district would encompass the First Street area – from Church Street to Park Street. An ordinance has been drafted and town hall meetings will be held prior to notifications being sent out.
- Stylecraft development – comfortable with the proposed planned development ordinance. The annexation process has been started along with the zone change process. If the annexation and zone change is approved, then the platting process will be started.
- Working on a Masonry Standards Ordinance. Not sure if it will be put in the Zoning Ordinance or where yet. The proposed ordinance will be discussed with local builders as well.
- Sign Ordinance revision is being brought up again. Will try to meet with the downtown property owners probably in March to hear and address concerns. Will look at the digital billboard issue again. Since the digital signage was banned, several businesses have suffered hardships due to them being in the process of building then the ordinance was changed and their signage was not allowed. Commissioner Sheffield suggested that the downtown district be under separate sign regulations. Erik said staff is working on it. TxDOT is involved because of the right-of-way and the existing Municipal Maintenance Agreement with TxDOT.

5. Adjourn

Vice Chairman Low adjourned the Planning and Zoning Commission meeting at 5:53 p.m.

The City of Brenham appreciates the participation of our citizens, and the role of the Planning and Zoning Commissioners in this decision making process.

Certification of Meeting Minutes:

Planning and Zoning Commission

Walt Schoenvogel
Chairman

Meeting Date

Attest

Kim Hodde
Staff Secretary

Meeting Date