

BOARD OF ADJUSTMENT & BUILDING BOARD OF APPEALS

AGENDA

REGULAR MEETING

May 5, 2015

CITY HALL COUNCIL CHAMBERS, 405 MUNICIPAL DRIVE

REGULAR SESSION - 7:00 PM

I. CALL TO ORDER

II. ROLL CALL

III. SWEARING IN OF SPEAKERS

IV. MINUTES APPROVAL

A. Consider approval of minutes from April 7, 2015 Board of Adjustment meeting.

V. VISITOR/CITIZENS FORUM

At this time, any person with business before the Board of Adjustment not scheduled on the Agenda may speak to the Board, provided that an official 'Speaker's Request Form' has been completed and submitted to the Board Secretary prior to the start of the meeting. All comments must be directed towards the Chair, rather than individual board members or staff. All speakers must limit their comments to the subject matter as listed on the 'Speaker's Request Form.' No formal action can be taken on these items.

VI. REGULAR ITEMS

A. CASE # BOA 15-03 to receive comments and consider action on a request by Ross Carmichael for a Special Exception as required by City Code Section 17-421, Schedule of uses and off-street parking requirements, to permit a private stable (keeping of horses) in an "R-2" Single family residential zoning district at 901 N Little School Rd, more particularly described as T R Rodger Survey A-1363 Tract 7C.

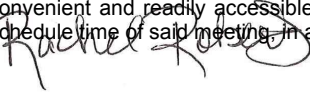
VII. REPORTS/ANNOUNCEMENTS

VIII. ADJOURNMENT

In compliance with the Americans with Disabilities Act, the City of Kennedale will provide for reasonable accommodations for persons attending City Council meetings. This building is wheelchair accessible, and parking spaces for disabled citizens are available. Requests for sign interpreter services must be made forty-eight (48) hours prior to the meetings. Please contact the City Secretary at 817.985.2104 or (TDD) 1.800.735.2989

CERTIFICATION

I certify that a copy of the May 5, 2015, Board of Adjustment & Building Board of Appeals agenda was posted on the City Hall bulletin board next to the main entrance of the City Hall building, 405 Municipal Drive, of the City of Kennedale, Texas, in a place convenient and readily accessible to the general public at all times and said agenda was posted at least 72 hours preceding the schedule time of said meeting, in accordance with Chapter 551 of the Texas Government Code.



Rachel Roberts, Board Secretary



Date: May 5, 2015

Agenda Item No: MINUTES APPROVAL - A.

I. Subject:

Consider approval of minutes from April 7, 2015 Board of Adjustment meeting.

II. Originated by:

Katherine Rountree, Permits Clerk

III. Summary:

Minutes approval of April 7, 2015.

IV. Recommendation:

Approve

V. Alternative Actions:

VI. Attachments:

1.	April 7, 2015 minutes	04.07.2015 - BOA Minutes Final.docx
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BOARD OF ADJUSTMENT & BUILDING BOARD OF APPEALS
MINUTES
REGULAR MEETING
April 7, 2015
CITY HALL COUNCIL CHAMBERS, 405 MUNICIPAL DRIVE
REGULAR SESSION - 7:00 PM

I. CALL TO ORDER

Mr. Vader called the meeting to order at 7:00 P.M.

II. ROLL CALL

Present?	Commissioner
	Rick Adams
X	Brian Cassady
X	Jeff Madrid
X	Patrick Vader
X	Martin Young
	<i>Alternates</i>
X	Jeff Nevarez
	Lana Sather
	<i>Vacant</i>

A quorum was present.

Staff present: Rachel Roberts (city planner); Katherine Rountree (board secretary); Sandra Johnson (building official); Charles Comeaux (code enforcement officer).

III. SWEARING IN OF SPEAKERS

Ms. Rountree swore in those who wished to speak.

IV. MINUTES APPROVAL

A. Consider approval of minutes from October 7, 2014 Board of Adjustment meeting.

Mr. Madrid motioned to approve the minutes. The motion was seconded by Mr. Cassady and passed with all in favor.

V. VISITOR/CITIZENS FORUM

No one registered to speak.

VI. REGULAR ITEMS

- A. CASE # BOA 15-02** to receive comments and consider action on a request by Fellowship Academy for a variance from the requirements of the Bowman Springs Urban Village Planned Development district ordinance to allow four (4) temporary portable classrooms for a period of four (4) years. The variance is requested for 1021 N Bowman Springs Rd, more particularly described as Woodlea Acres Block 1 Lot 20-R-1.

A. Staff Presentation

Ms. Roberts said that the same case has come in front of the board before. They want to temporarily allow portable buildings for the property while building a gymnasium and classrooms for the students. The board discussed the proposed case.

B. Applicant Presentation

Scott Oldenburgh, 1021 N. Bowman Springs Kennedale, TX 76060, stated that the portable buildings continue education for the growth of the school. He said that the school is about one hundred students away from its goal. He said that he wanted to finish out the gymnasium and then add on more classrooms for the students and needs the portable buildings to complete the goal.

Monica Collier, 5705 Vandalia Trail, Arlington, TX, is the principle of Fellowship Academy. She said that each portable building will have two classrooms. She said they they will get rid of the portable buildings after the four years.

C. Public Hearing

No one registered to speak.

D. Applicant Response

No one registered to speak so there was no response.

E. Staff Response and Summary

There was no applicant response so there was no staff response.

F. Action by the Board of Adjustment

Mr. Madrid made a motion to approve the request for a variance for a period of four years for four portable buildings until April of 2019. The motion was seconded by Mr. Cassady and passed with all in favor.

VII. REPORTS/ANNOUNCEMENTS

The Brickworks Festival is being held from April 17 to 19, 2015.

The Bird Habitat Workday is being held on May 9, 2015.

The City Wide Garage Sale is being held from May 22 to 23, 2015.

The City Wide Cleanup is being held on May 30, 2015 from 8am-12pm.

VIII.ADJOURNMENT

Mr. Young motioned to adjourn. The motion was seconded by Mr. Madrid and passed with all in favor.

Meeting adjourned at 7:18 P.M.

Date: May 5, 2015

Agenda Item No: REGULAR ITEMS - A.

I. Subject:

CASE # BOA 15-03 to receive comments and consider action on a request by Ross Carmichael for a Special Exception as required by City Code Section 17-421, Schedule of uses and off-street parking requirements, to permit a private stable (keeping of horses) in an "R-2" Single family residential zoning district at 901 N Little School Rd, more particularly described as T R Rodgers Survey A-1363 Tract 7C.

II. Originated by:

Rachel Roberts, City Planner

III. Summary:

Request: special exception to allow keeping of horses in an R-2 zoning district

Applicant: Ross Carmichael

Location: 901 Little School Rd (just north of Woodland Ct and east of the Shady Creek subdivision; located across from Greenfield Ct on Little School Rd)

Background.

Mr. Carmichael is a prospective buyer of 901 Little School Rd. Before he buys the property, he would like to get permission to keep livestock horses on the property.

Surrounding uses are all residential. Immediately to the south is Woodland Ct (duplex residential), immediately to the north is a large-lot single family residence, and behind it is the Shady Creek neighborhood (single family residential). Across Little School Rd is Greenfield Ct (also single family residential).

The property is approximately 4.68 acres. The plot plan submitted by the applicant is not drawn to scale (or a scale is not shown), so we don't know the precise amount of acreage to be used for keeping horses, but it appears to be approximately 2.5 - 3 acres.

The property slopes slightly downward from Little School Rd side toward surrounding properties (from an elevation of about 670 to an elevation of 660; see attached illustration).

STANDARDS FOR GRANTING A SPECIAL EXCEPTION.

From Section 17-422 of the Kennedale city code:

Standards. No application for a special exception shall be granted by the board of adjustment unless the board finds all of the following conditions are present:

(1) That the establishment, maintenance or operation of the use will not be materially detrimental to or endanger the public health, safety, morals or general welfare;

- (2) That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the use;
- (3) That the establishment of the use will not significantly impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;
- (4) That adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided;
- (5) That adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets; and
- (6) That the use shall conform to all applicable area, yard, height, lot coverage, building size and exterior requirements and parking space regulations of the district in which it is located.

Staff Review.

(1) Will the establishment, maintenance, or operation of the use be materially detrimental to or endanger the public health, safety, morals or general welfare?

Keeping of horses and its effect on public health, safety, and general welfare depends on context (the property where the horses are kept and the surrounding properties and uses) and on the conditions in which the horses are kept (how many horses there are, where they are allowed to roam and to graze, maintenance of pastures, etc.).

- Generally, a mature horse of about 1,100 pounds in weight will need 2-4 acres for foraging if the pasture is not irrigated and if the horse does not have supplemental feeding.
- Horses in well-tended, irrigated pastures or with sufficient supplemental feeding can get by on less (generally around 1 acre per horse, with less than 1 acre provided only with really excellent pasture care).

If pastures are not maintained well, horses can over-graze, which can lead to soil erosion and dust problems. In addition, poor maintenance or lack of adequate space could cause storm water run-off to pick up pollutants from horse manure. If this run-off were to cross onto neighboring properties or were to run into creeks or streams, it could be a detriment to public health. Since the property has a slight downward slope toward the neighboring properties, the run-off presents a real problem during heavy rain events.

It is possible to keep a few horses on property of this size without having a negative impact on public health, safety, or general welfare. At this time, though, we don't know enough about the applicants plans to verify that no detriment to public health, safety, or general welfare will be created. Therefore, staff recommends that if a special exception is granted, several conditions be applied to control for negative externalities from soil erosion, odors, and storm water pollution (see staff recommendation below).

(2) Will the uses, values and enjoyment of other property in the neighborhood for purposes already permitted be in any foreseeable manner substantially impaired or diminished by the establishment,

maintenance or operation of the use for which a special exception is requested?

The property to the north is used for a large-lot single family residence. This property is unlikely to be negatively affected by the keeping of a few horses on a neighboring lot.

The properties to the west, south, and east are already developed into residential lots, and the lots have already been built on. Too many horses kept near neighboring properties could lead to unwanted odors that may impede the ability of neighbors to have full use and enjoyment of their properties. In addition, if the pasture areas are over-grazed, soil erosion and dust could affect the enjoyment of surrounding properties.

If proper measures are taken, the property can hold a few horses without having a negative impact on the owners/residents of neighboring properties having full use and enjoyment of their properties. If the Board grants a special exception as requested, staff recommends applying conditions to ensure the standard can be met (see staff recommendation for recommended conditions).

(3) Will the establishment of the use significantly impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district?

The surrounding properties have already been developed, so the keeping of horses here would not impede development. However, if the horses are not kept properly, the use could impede selling of properties or further improvements.

If the special exception is granted, conditions should be applied that would prevent soil erosion from over-grazing, would prevent polluted storm water from running onto adjacent properties, and would prevent odors from the horses or from manure from reaching neighboring properties.

(4) Have adequate utilities, access roads, drainage and other necessary site improvements been (or will be) provided?

Keeping of horses does not require much in the way of site improvements or utilities. Drainage will be reviewed as part of the building permit application, but in this case, additional attention to how much drainage runs off the property and where will need to be considered. The drainage/runoff must be planned in such a way as to keep storm water polluted from horse manure from running onto neighboring properties, and polluted run-off should be prevented from entering streams and creeks.

(5) Have adequate measures been taken or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets?

The Public Works department has determined that the keeping of a few horses and the building of a barn are not expected to increase traffic congestion on the public streets. Staff from public works have also determined that the use would not need special ingress or egress facilities.

(6) Does the use conform to all applicable area, yard, height, lot coverage, building size and exterior requirements and parking space regulations of the district in which it is located?

City staff have not seen building plans for the proposed barn. However, the applicant has stated he will abide by all building regulations. In addition, the City will not issue a building permit unless the plans meet all requirements.

Staff Recommendation.

The property appears to be able to support 1-3 horses, depending on a variety of factors (how quickly the grass/forage re-grows, whether the pasture is irrigated, whether horses are rotated throughout the pasture, whether supplemental feeding is provided, etc.). Ingress / egress, traffic congestion and access, and utilities are not a concern for the requested use.

Any problems that arise when the applicant wants a building permit will be resolved separately.

Major concerns here are:

1) impact on neighbors -- any odors, noise, runoff, or other negative externalities. Noise is unlikely to be a big issue from one to three horses. Odor, however, has the potential to be a major problem, especially from horse manure. Runoff from this property onto neighboring properties could pose a problem depending on whether the runoff crosses a large amount of horse manure before moving onto surrounding properties. This can and should be controlled for in placement and management of horse pasture areas (see also item 3, below).

2) adequate forage for horses -- the pasture areas could potentially support up to three or four horses, depending on pasture conditions and management. Because staff aren't able to adequately monitor to make sure good pasture conditions are maintained enough to prevent soil erosion and to adequately feed the horses, and since it's difficult for staff to monitor whether livestock are adequately fed, and considering the close proximity of residential subdivisions, two (2) horses is a more suitable maximum number.

3) drainage and runoff -- this is mentioned under point (1), above. The city's storm water coordinator has stated that drainage is already a problem in this area and recommended a maximum of two horses be permitted on the property.

Recommendation.

Because a small number of horses could be kept on this lot without a negative impact on surrounding properties, staff recommends approval with the following conditions.

- permit a maximum of two horses
- fencing or other means must be used to ensure horses are not permitted within 100 feet of the south or west property lines
- the special exception may be revoked (after BOA review) if the horses are creating a nuisance situation (e.g., confirmed neighbor complaints, reasonable concerns about polluted runoff).

- In addition, the plot plan shows the barn located away from the west and south property lines; staff recommends the proposed location be a requirement of approval, at least to the extent that the barn would be required to be located away from the southern and western property lines.
 - A condition along these lines would be to require the barn to be located no closer to the southern property line than the center of the property (running north-south) and be located at least 200 feet away from the western property line.
 - The barn location shall be coordinated with building permit staff and storm water staff to ensure proper siting with respect to drainage.

Action by the Board of Adjustment.

- The board can approve the request, deny the request, or approve it with conditions.
- You may also postpone/continue the case until a later date, but you must specify when the case will be continued.
- If you approve or deny the request, your motion should state why you are doing so (i.e., it meets all standards for a special exception, it doesn't mean the standard concerning ...).

Sample motions are provided below for your reference; please note that you are not required to use one of the sample motions.

Approve

I find that the use meets the standards and requirements for a special exception and make a motion to grant the request.

Approve with conditions

I find that the use will meet the standards for a special exception with the addition of conditions to secure compliance with the standards and requirements of Section 17-422 of the city code and make a motion to approve the request for a special exception [*if you would like to set a time period after which the special exception expires, state that time period here*], with the following conditions...

Deny

I find that the use does not meet the standards and requirements for receiving a special exception and make a motion to deny the request for a special exception.



APPLICATION FOR SPECIAL EXCEPTION

Special Exception Use Requested: Stable, Private & Utilization of the property to house livestock (horses) for private enjoyment and use

Note: the use must be listed as a special exception use in Kennedale City Code Section 17-421.

Applicant

NAME: <u>Ross Carmichael</u>	
PHONE:	EMAIL OR ALTERNATE PHONE:
MAILING ADDRESS: (Street): <u>7578 Dick Price Rd.</u>	
(City, State, Zip Code): <u>Mansfield, TX 76063</u>	

Property for which a Special Exception is requested

ADDRESS: <u>901 North Little School Rd.</u>	
LEGAL DESCRIPTION:	<u>RODGERS, T F SURVEY - Abstract: 1363 Tract: 7c</u>

NOTE: *Attach metes and bounds description if property is not platted.*

Property Owner

NAME: <u>Rashad Elqutob</u>	
PHONE:	EMAIL OR ALTERNATE PHONE:
MAILING ADDRESS: (Street): <u>3801 Park Manor</u>	
(City, State, Zip Code): <u>Arlington, TX 76017</u>	

1. Has a previous application or appeal been filed on this property? ☐ Yes ☐ No

1.a. If yes, when was the application or appeal filed?

2. Identify any requirements of Section 17-422 of the Kennedale city code that cannot be met. Give reason(s) why the requirement(s) cannot be met. Use the back of this form or attach a separate page if additional space is needed.

There are no requirements of Section 17-422 of the Kennedale city code that cannot be met.

3. If the special exception request is for a land use, is the request for a use not allowed in the zoning district?

☐ Yes ☒ No

3.a. Is this a remodel of an existing structure? ☐ Yes ☒ No

3.b. Is this new construction? ☒ Yes ☐ No

4. If the special exception request is for oil or gas well drilling, how many wells are requested for this location? N/A.

5. Special exceptions may be granted by the Board of Adjustment only if all of the conditions listed on the Notice to Special Exception Applicant are present.

On a separate page(s), please describe how your requested use will meet all of the six conditions stated above.



Signature of applicant

3/26/15

Date

- (1) That the establishment, maintenance or operation of the use will not be materially detrimental to or endanger the public health, safety, morals, or general welfare;
This request is for a private stable to be built on the property in conjunction with a primary residence and the utilization of the property to house livestock (horses) for private enjoyment and use. Any area used to contain livestock will be secured and not accessible by the public. Additionally, all warning signs required by the state regarding livestock will be prominently displayed. The number of livestock shall not exceed what is permitted in the Municipal Code.
- (2) That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of use;
The stable will be set back from any additional properties as required by the Municipal code and will meet all building requirements of the Code. The primary residence will be built by a custom home builder and will meet or exceed all requirements of Code. Please see attached site plan.
- (3) That the establishment of the use will not significantly impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;
The construction of a private stable will not significantly impede nor affect the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
- (4) That adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided;
All utilities, access roads, drainage and other site improvements shall meet or exceed all requirements of Code.
- (5) That adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets; and
Ingress and egress will be for private, residential purposes only. It will not affect traffic congestion in the public streets. All parking requirements in the Municipal Code shall be met.
- (6) That the use shall conform to all applicable area, yard, height, lot coverage, building size, and exterior requirements and parking space regulations of the district in which it is located.
The stable shall conform to all applicable area, yard, height, lot coverage, building size, and exterior requirements and parking space regulations of the district in which it is located. It shall not exceed fifteen feet in height, shall be at least 50 feet from the residence, eight feet from the side lot line, and eight feet from the rear yard line, public easement or drainage easement. It shall be of new construction and have exterior walls made of wood, stone, brick, or vinyl siding.



CITY OF KENNEDALE
BOARD OF ADJUSTMENT
OWNER AFFIDAVIT

CASE #BOA _____

PROPERTY ADDRESS:

901 Little School Rd, Kennedale, TX 76060
LEGAL DESCRIPTION:

Rogers, T F Survey A 1363 TR
APPLICANT:

Ross Carmichael

TYPE OF BOA REQUEST (E.G., SPECIAL EXCEPTION, VARIANCE): Special Exception (for horses)

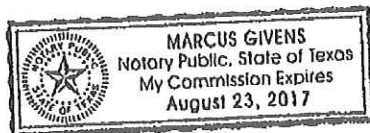
I, Rashad Elgubba, current owner of above mentioned property, authorize the applicant or his authorized representative to make application for the Kennedale Board of Adjustment to consider granting the above reference request on my behalf and to appear before the Board.

Owner Signature: Rashad Elgubba

Date: 2/27/15

SWORN TO and Subscribed before me by Marcus Givens

ON THIS 27 DAY OF February, 2015.



Marcus Givens

Notary Public, Tarrant County, Texas



HIGGINBOTHAM

Global Reach Local Touch Single Source.

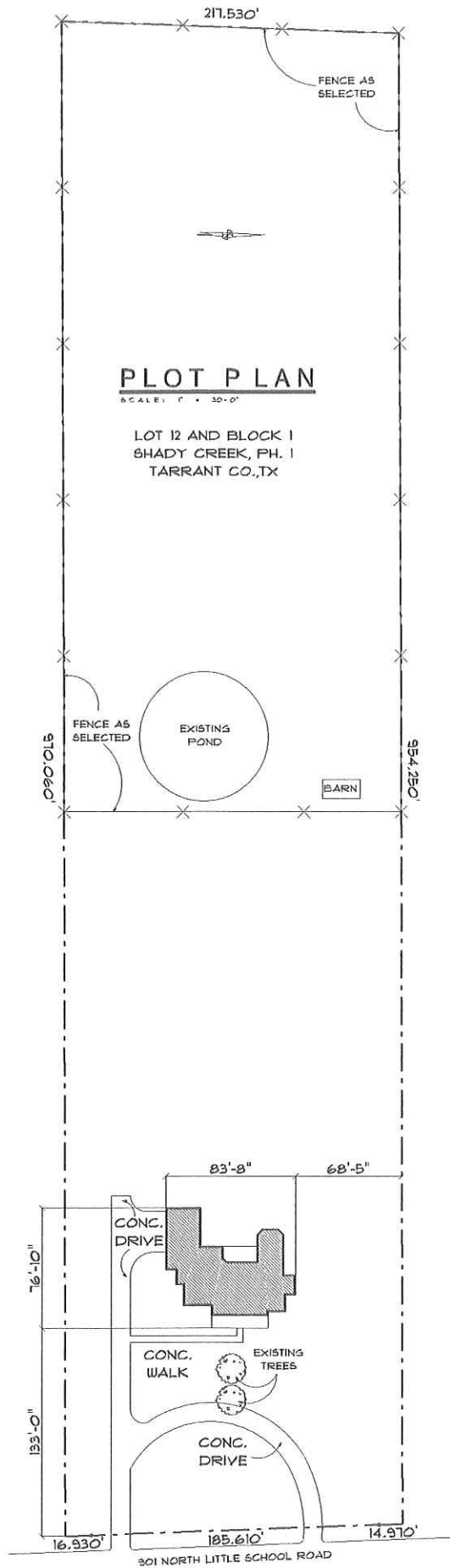
City of Kennedale
Board of Adjustment
405 Municipal Drive
Kennedale, Texas 76060

To Whom It May Concern,

My wife and I are submitting the included Special Exception Application in hopes that we may build a private residence and private stable and to be able to maintain a small number of horses on a 4.8 acre tract of land located at 901 North Little School Road. We will take steps to make sure that all structures meet or exceed the regulations (including setbacks) contained in the Municipal Code, and that the horses are not any sort of nuisance to the surrounding properties. We have already had the land surveyed, ordered a soil test, and commissioned an architect and builder to build a custom single story residence. However, our contract to purchase this property is contingent upon the Board's approval of this special exception request. We appreciate the Board's time and consideration and look forward to becoming residents of Kennedale.

Sincerely,

Ross Carmichael and Amanda Thomas



*Between
4-6 horses
at any time.*

Map showing site of request (BOA 15-03)



BOA 15-03: elevations on site and surrounding properties

