



KENNEDALE
Board of Adjustment
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BOARD OF ADJUSTMENT & BUILDING BOARD OF APPEALS

AGENDA

SPECIAL MEETING

November 17, 2017

CITY HALL COUNCIL CHAMBERS, 405 MUNICIPAL DRIVE

7:00 PM

I. CALL TO ORDER

II. ROLL CALL

III. SWEARING IN OF SPEAKERS

IV. REGULAR ITEMS

A. **CASE # BOA 17-07** to receive comments and consider action on a request by the City of Kennedale for a Variance to the Unified Development Code Article 3, Agricultural and Residential Zoning districts generally, to allow encroachment into side setback by 36 inches in an "R-1" Single Family district at 913 Shady Creek Drive, more particularly described as Shady Creek East Addition Lot 7 Blk 1.

V. 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 November 17, 2017, 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.

Sandra Johnson, Building Official

Date: November 17, 2017
Agenda Item No: REGULAR ITEMS (A)

I. SUBJECT

CASE # BOA 17-07 to receive comments and consider action on a request by the City of Kennedale for a Variance as required by the Unified Development Code Article 3, Agricultural and Residential Zoning districts generally, to all encroachment into side setback by 36 inches in an "R-1" Single Family district at 913 Shady Creek Dr., more particularly described as Shady Creek East Addition Lot 7 Block 1

II. SUMMARY

BACKGROUND AND OVERVIEW

Request	Variance from side yard setback
Applicant	City of Kennedale
Location	Shady Creek Dr., North of Harrison Rd., and South of City of Arlington
Surrounding Uses	Single family residential (acreage lots and neighborhood-type lots)
Future Land Use Plan Designation	Neighborhood/Open Space
Staff Recommendation	Consider Approval, with installation of gutters along the west side of new construction and drain to the rear of property

CURRENT STATUS OF PROPERTY

This property is zoned "R-1" single family residential, which allows additions as long as they meet the required setbacks and other development restrictions. The required side yard setback for additions is eight (8) feet.

A residential building permit was issued on June 7, 2017. However, the residential building permit was issued in error. The site plan submitted shows five (5) feet for the side setback and that is what was approved. However the code requirement is eight (8) feet.

On November 3, 2017 a complaint was received from the property at 911 Shady Creek Drive. The property owners concern was that the building was too close to the shared property line. This became more evident once the walls and roof were built. Note that there was communications between the neighbor and the code Compliance Officer regarding the proximity of the building to the property line prior to the issuance of the building permit.

A "Stop Work Order" was posted after a measurement was made showing the five (5) feet setback, not the required eight (8) feet.

SURROUNDING PROPERTIES & NEIGHBORHOOD

The property is located in a primarily residential area. The properties on either side are zoned AG and the property behind is residential area of the City of Arlington.

REQUIREMENTS FOR A VARIANCE

The Board of Adjustment is permitted to grant variances to the development regulations in Article VI of the zoning code such as the front yard, side yard, rear yard, lot width, lot depth, lot coverage, minimum setback, off-street parking, off-street loading, lot area, maximum height, or other building regulations. Variances are permitted only where the literal enforcement of the provisions of Article VI would result in an unnecessary hardship, or where such variance is necessary to permit the reasonable development of a specific parcel of land which differs from other parcels of land in the same district by being of such area, shape or slope that it cannot be developed in a manner commensurate with the development permitted upon other parcels of land in the same district.

In other words, in order to grant a variance, the variance applicant is required to demonstrate that the property itself is unusually different enough from other properties in the same zoning district that it can't be developed in the same way as other parcels in the same district, which creates a hardship. A hardship cannot be of the applicant's own making, and it cannot be financial (e.g., the applicant can't meet the development regulations simply due to the applicant's financial situation).

The board should consider the following questions in determining whether a variance request meets this standard:

- (1) is the request owing to a special condition inherent in the property itself;
- (2) is the condition unique to the property for which a variance is requested;
- (3) is the condition self-created;
- (4) will a strict enforcement of the zoning ordinance create hardship above that suffered by the general public; and
- (5) will the hardship deprive the property owner of the right to use his property?

If you find the answers above demonstrate conditions favorable to granting a variance, the board should also consider these questions:

- (6) would granting the variance be contrary to the public interest; and
- (7) is the request within the spirit of the ordinance and further substantial justice?

ANALYSIS

(1) Is the request owing to a special condition inherent in the property itself?

No. The property is the same size as other properties in the district. The property does not have floodplain, unusual topography or shape, or other factors that would make it difficult to develop the property under the city's R-1 zoning district regulations.

(2) Is the condition unique to the property for which a variance is created?

As mentioned above, the property does not have a unique condition. It is approximately 123 feet wide and 179 feet deep. The property does have a large drainage channel running approximately twenty eight (28) feet from the back of the house to the rear property line.

(3) Is the condition self-created?

Yes, however the property owners were working under the assumption of an approved and issued residential building permit from the city.

(4) Will a strict enforcement of the zoning ordinance create a hardship above that suffered by the general public?

No, it will not. Other property owners within the R-1 zoning district must also meet the setback requirements to the R-1 zoning district.

(5) Will the hardship deprive the property owner of the right to use his property?

No. The property is already developed.

(6) Would granting the variance be contrary to the public interest?

The property owner (neighbor) to the west has told staff her concern is the quality of life (view). The view will be the same for the neighbor no matter what the distance is from the property line. The neighbor was also concerned with the drainage from the roof of the structure along the fence. Gutter along the west side of the structure with the drain spouts directed to the rear of the property would correct any drainage issues.

(7) Is the request within the spirit of the ordinance and further substantial justice?

Yes. Due to the residential building permit being issued in error, the property owners were working under the assumption the side setback was correct.

STAFF RECOMMENDATION

Will the literal enforcement of the provisions of this article result in an unnecessary hardship?

No. The property owners are not under an unnecessary hardship.

Based on the above analysis, staff recommends approving the request for a variance with the stipulation that the property owners install gutters along the west side of the new construction and have them drain to the rear of the property.

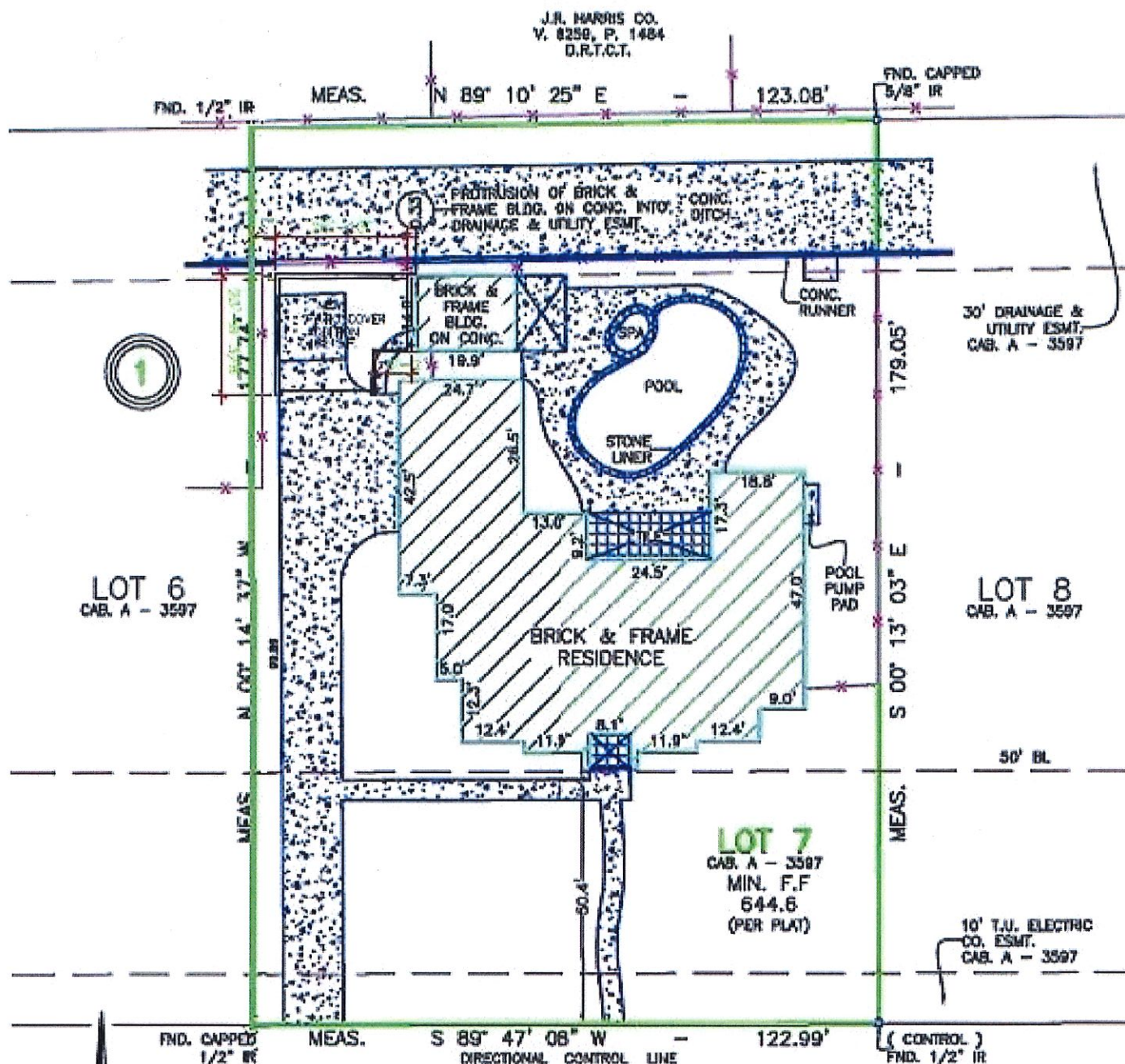
ACTION BY THE BOARD OF ADJUSTMENT

The board may grant or deny the request or postpone its vote until a later date. If you postpone your decision, you should state in your motion when the case will be heard by the board again. Sample motions are provided for your reference below. You are not required to use either of the motions provided, but your motion should state why you are granting or denying the request.

Approve: Based on the evidence and testimony provided, I find that the proposed request meets the standards for a variance and make a motion to approve the requested variance.

Deny: Based on the evidence and testimony provided, I find that the proposed use does not meet the standards for a variance and make a motion to deny the request.

Minimum finished floor elevation requirement (MIN. F.F.) shown is per recorded plat only. Actual finished floor elevation was not verified.



SCALE: 1" = 30'

	BOUNDARY LINE
	BUILDING
	OVERHEAD UTILITIES
	FENCE
	BRICK
	WOOD DECK
	CONCRETE

LEGEND

SURVEYOR'S CERTIFICATION

I, DAVID J. ROSE, REGISTERED PROFESSIONAL LAND SURVEYOR, HEREBY CERTIFY THAT THIS SURVEY WAS MADE ON THE GROUND UNDER MY SUPERVISION AND CORRECTLY SHOWS THE BOUNDARY LINE, AND DIMENSIONS OF THE LAND INDICATED THEREON, AND THAT SAID PROPERTY HAS ACCESS TO AND FROM A DEDICATED ROADWAY, SAID PROPERTY BEING SUBJECT TO ANY AND ALL EASEMENTS, RESERVATIONS AND RESTRICTIONS THAT MAY BE OF RECORD, AND THAT ONLY THE EASEMENTS SHOWN ON THE REFERENCED PLAT OF RECORD, VISIBLE EASEMENTS AND THOSE OF WHICH THE SURVEYOR HAS BEEN GIVEN WRITTEN NOTICE FROM TITLE COMPANY ARE SHOWN ON THIS PLAT. SURVEYOR DID NOT ABSTRACT THIS PROPERTY. THIS SURVEY WAS PERFORMED EXCLUSIVELY FOR THE TITLE COMPANY AND PURCHASER SHOWN AND IS LICENSED FOR ONE SINGLE USE. THIS SURVEY WILL BE VOID IF USED BY ANY OTHER PERSON OR FOR ANY OTHER PURPOSE. SURVEYOR BEARS NO RESPONSIBILITY FOR SAID USE.

This survey is hereby
accepted and approved.

Purchaser

Purchaser

Date

STATE FIRM REGISTRATION NUMBER 10193707



DDO LINE



CITY OF KENNEDALE
BOARD OF ADJUSTMENT
APPLICATION FOR VARIANCE

APPLICANT AND OWNER INFORMATION

SECTION 1. APPLICANT.

Name City of Kennedale

Work Phone: 817-985-2132

Please provide a phone number where we can reach you during regular business hours.

Mailing Address

405 Municipal Dr., Kennedale TX 76060

SECTION 2. OWNER.

If the owner is the applicant, write "same as applicant" below and leave the rest of this section blank.

Name _____

Work Phone _____ Home _____

Mailing Address

SECTION 3. PROPERTY INFORMATION.

Property Location 913 Shady Creek Dr., Kennedale TX 76060

Legal Description	<i>Lot 7 Block 1 and Shady Creek East Addition</i>

Note: Attach a metes and bounds description if the property is not platted.

VARIANCE REQUEST

Zoning District: "Residential 1 – Single Family Residential District"

City Code reference for requirements that creates need for variance: Unified Development Code
Article 3 – Agricultural and Residential Zoning Districts

Describe City Code Requirement: Minimum Side Setback for accessory building is eight (8) feet.

Describe variance requested: A variance has been requested for a side setback of five (5) feet.

What hardship has been created? No, hardship was created. However, the building permit was issued in error by the city.



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What created the hardship? No, hardship was created.

I declare that the above is true and correct.

Sanola Johnson
Signature of Applicant

November 13, 2017
Date

Required attachments

The following items must be submitted with your application and the required application fee.

- 1) Two SITE PLANS, drawn to scale, showing all lot dimensions, and the location and dimensions of all existing and proposed lot improvements; and
- 2) A STATEMENT OF FACTS AND REASONS why the zoning regulations should not be applied to the property in question and how the standards governing the Board's actions would be satisfied; and
- 3) A STATEMENT from authorized city staff citing the reasons for refusing to issue a permit under the plans submitted.





Emailed from Clay 11-7-17

