

BOARD OF ADJUSTMENT
AGENDA
REGULAR MEETING
June 4, 2013
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. Review and consider approval of the minutes dated January 8, 2013.

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 13-02 to receive comments and consider action on a request by Fellowship Academy for a variance from City Code Section 17-405(d), Schedule of District Regulations, requiring new structures on property zoned "AG" Agricultural to be 80% masonry, to allow temporary use of portable buildings not meeting the masonry requirement, for up to four (4) temporary portable buildings. The variance is requested for 1021 N Bowman Springs Rd, more particularly described as Lot 20-R, Block 1 Woodlea Acres Addn.

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 Amethyst Cirno, City Secretary, at 817.985.2104 or (TDD) 1.800.735.2989

CERTIFICATION

I certify that a copy of the June 4, 2013, Board of Adjustment 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.

A small square box containing a stylized signature, likely representing Rachel Roberts.

Rachel Roberts, Board Secretary



Date: June 4, 2013

Agenda Item No: MINUTES APPROVAL - A.

I. Subject:

Review and consider approval of the minutes dated January 8, 2013.

II. Originated by:

III. Summary:

The minutes from the January 8th meeting are attached to this message for your review and consideration for approval.

IV. Recommendation:

Approve

V. Alternative Actions:

VI. Attachments:

1.	01.08.2013 BOA Minutes	01 08 2013 BOA Minutes.doc
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**BOARD OF ADJUSTMENT
MINUTES
REGULAR MEETING
January 8, 2013
CITY HALL COUNCIL CHAMBERS, 405 MUNICIPAL DRIVE

WORK SESSION – 6:00 PM
REGULAR SESSION - 7:00 PM**

I. CALL TO ORDER

Chairman Adams called the meeting to order at 6:10 P.M.

No roll was called. Members present: Rick Adams, Darrell Dixon, Jeff Madrid, and Patrick Vader. Brian Cassady arrived at 6:52 P.M.

II. WORK SESSION

A. Discussion with city manager Bob Hart on city projects and plans for the next few years

Mr. Hart provided an overview of current and upcoming city projects, including the Green Ribbon grant, the sidewalk installation on Kennedale Parkway, Village Creek, and the TIRZ in the New Hope Road area. He also discussed the Board's role for the projects in which they will be involved.

Mr. Vader asked if they could get copies of the maps used in the discussion, and Ms. Roberts said she would send them.

The work session closed at 7:04 P.M.

III. REGULAR SESSION

Chairman Adams called the regular session to order at 7:011 P.M.

IV. ROLL CALL

Ms. Roberts called roll, and a quorum was present.

Members present: Rick Adams (chair), Brian Cassady, Darrell Dixon, Jeff Madrid, and Patrick Vader.
Members absent: Linda Elam (vice-chair), Jeremy Redding, and Richard West.

Ms. Roberts swore in the speakers.

V. MINUTES APPROVAL

A. Review and consider minutes from the November 2012 meeting

Mr. Vader made a motion to approve the minutes. The motion was seconded by Mr. Madrid and passed unanimously.

VI. VISITOR/CITIZENS FORUM

No one registered to speak.

VII. REGULAR ITEMS

A. Case # BOA 13-01 to receive comments and consider action on a request by Hugo Marcade for a Variance to City Code Section 17-405(d), "Schedule of District Regulations Adopted," to allow an encroachment of six (6) feet into the required rear yard setback to allow for construction of a patio/sunroom in an "R-3" Single Family Residential zoning district at 503 Pennsylvania, more particularly described as Lot 2, Block 2, Oakhill Park Addn, Kennedale.

(1) Staff presentation of the case

Ms. Roberts gave the staff presentation. Staff did not see evidence of unnecessary hardship. Mr. Adams asked if the situation would be different if the sunroom were not attached to the house. Mr. Cowey said primary structures had different setbacks than accessory structures do, and Ms. Roberts said an accessory building would only have to be 8 feet from the rear property line.

(2) Applicant presentation

Mr. Marcade addressed the Board on behalf of his request. He said the sunroom would be for health purposes. Mr. Marcade's partner is recovering from cancer, so they cannot spend much time outdoors. He said that the deed and restrictions for his property do not mention the 25 foot rear yard setback. He also said that his property differs from the other properties around him and described some of the other properties.

Mr. Adams asked Mr. Marcade if he built the house or if it was built when he bought it. Mr. Marcade said it was already built when he bought it.

(3) Public hearing

Tai Nguyen, 410 Pennsylvania, addressed the Board in favor of the variance request.

Farshid Ighani, 505 Pennsylvania, addressed the Board in favor of the variance. He said he is a physician and knows how beneficial sunlight can be for someone recovering from illness. Mr. Vader asked if there were other treatments available. Dr. Ighani said there may be, but this is an option that can provide health benefits that someone like Mr. Marcade's partner needs.

(4) Applicant response

The applicant made no response to the public hearing comments.

(5) Staff response and summary

Ms. Roberts said that in the staff perspective, this case was not an unnecessary hardship. The lot is not different from other lots in the same zone. No one in that zone can build past the 25 foot rear setback line, and many of the lots in the zone are the same depth, so it's not possible for any of those homes to build a sunroom there. If the community doesn't feel this restriction is necessary, the proper approach is to change the zoning code. In this case, it's not an unnecessary hardship. It's a hardship, but not an unnecessary one.

Mr. Adams asked if a sunroom could be built detached from the house. Mr. Cowey said that may be an option.

(6) Action by the board

Mr. Vader said everyone who comes to the board has a compelling reason, and this is one of them, but the Board is obligated to uphold the state mandate of what should be granted a variance. He said this doesn't meet the criteria.

Mr. Cassady motioned to deny the variance, seconded by Mr. Dixon. The motion passed with all in favor.

VIII. REPORTS/ANNOUNCEMENTS

Ms. Roberts mentioned the upcoming Texas Independence Day Parade, board appreciation dinner, and Great Backyard Bird Count. Mr. Cowey told the Board that an ice vending company would be opening near Old Town soon.

Mr. Cassady asked what happened to Habanero's Tacos, and Mr. Cowey said the property owner passed away, and an investor bought the property and tore down the building.

IX. ADJOURNMENT

Mr. Madrid made a motion to adjourn, seconded by Mr. Dixon. The motion passed with all in favor, and the meeting adjourned at 7:45 P.M.

Date: June 4, 2013

Agenda Item No: REGULAR ITEMS - A.

I. Subject:

CASE # BOA 13-02 to receive comments and consider action on a request by Fellowship Academy for a variance from City Code Section 17-405(d), Schedule of District Regulations, requiring new structures on property zoned "AG" Agricultural to be 80% masonry, to allow temporary use of portable buildings not meeting the masonry requirement, for up to four (4) temporary portable buildings. The variance is requested for 1021 N Bowman Springs Rd, more particularly described as Lot 20-R, Block 1 Woodlea Acres Addn.

II. Originated by:

James Cowey, Director of Development Services

III. Summary:

Case Number: BOA 13-02

Applicant: Fellowship Academy, represented by Monica Collier, Principal

Location: 1021 N Bowman Springs Rd

Request: variance from the 80% masonry requirement (Sec. 17-405(d) of the Kennedale City Code).

Specifically, Fellowship Academy would like to install four (4) portable buildings for a time period up to four (4) years. The school has experienced rapid growth over the past year and no longer has space to accommodate additional students. While the school raises funds to build permanent facilities and during construction, it would like to use portable buildings that will not have a masonry facade.

Affected residents, property owners, or other stakeholders: property owners within 200 feet of the school

Background and Overview:

Fellowship Academy is a private school that opened in Kennedale in 2012. The school was established in 2000, but it did not have permanent facilities before opening its facility in Kennedale. Since the new school building's opening, enrollment at Fellowship Academy has increased at a faster rate than expected, and the school does not have room to enroll more students. The school plans to raise funds to build seven more classrooms, a cafetorium, and an athletic facility/gymnasium. Ms. Collier expects the fundraising and construction to be completed within four (4) years. In the meantime, the school would like to use portable classrooms to accommodate more students. The portable buildings would not meet the masonry requirements for the zoning district and therefore are not permitted. Fellowship Academy therefore requests a variance from the masonry requirement.

Staff Review:

Through city code Sec. 17-430(e)(9), the Board of Adjustment has the authority to:
Permit variances to the development regulations...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, where the literal enforcement of the provisions of this article 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...

SUMMARY

Fellowship Academy located at 1021 Bowman completed the construction of their facility in 2012. Their first full school year in their new home was just completed. You will read in their submittal the growth of the school has exceeded their expectation along with other aspects of their request.

City staff is currently working with Fellowship staff their engineers, and architect contractors on design for the additional building space being proposed. During construction operations and until the new addition are completed the school needs additional space for its activities - specifically classrooms - and the school would therefore like to install a four temporary building onsite. The proposed buildings would not be able to comply with the zoning district's exterior masonry requirement. All other applicable city ordinances and adopted city codes would be met.

The addition of alternative, expanded educational options is greatly beneficial to our community in a variety of ways. Fellowship Academy has been a positive addition to Kennedale and have proven to be an invested community partner.

Fellowship Academy is requesting a temporary variance from the masonry requirements of Sec. 17-405 of the city code, for a period of four years. The school is proposing is modular buildings that they will be leasing. In their submittal you will see details on these structures.

The School's property is adjacent to non-residential uses on two sides with the back side being floodplain property that cannot be developed.

REQUIREMENTS FOR GRANTING A VARIANCE

The Board of Adjustment may permit variances to the development regulations, where the literal enforcement of the provisions of this article 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

Typically, the applicant for a variance must be able to demonstrate following to be true in order to grant a variance:

- that literal enforcement of the ordinance would work an unnecessary hardship

- that the piece of property is unique and contains properties or attributes not common to other similarly situated properties.

- that the need for the variance was not created by the applicant
- that the hardship cannot be financial alone.
- that the granting of a variance will not be injurious to the public health, safety, and welfare or defeat the intent of the philosophy contained in the zoning ordinance.

City staff does not believe that this situation was created by the applicant, or that the problem is financial alone. We also do not believe that granting the requested variance will be injurious to the public health, safety, and welfare. Since the proposed building would be only temporary, we do not believe it would defeat the intent of the philosophy contained in the zoning ordinance. The temporary modular buildings would not be visible from the street or adjacent property with the exception of the last two mobiles in the mobile home park at 716 W Kennedale Parkway which backs up to this property.

Granting the variance would assist the School in accommodating its student growth while allowing for fund raising for future buildings. City staff supports granting this variance from Sec. 17-405 of the Kennedale city code for a period of four years.

IV. Recommendation:

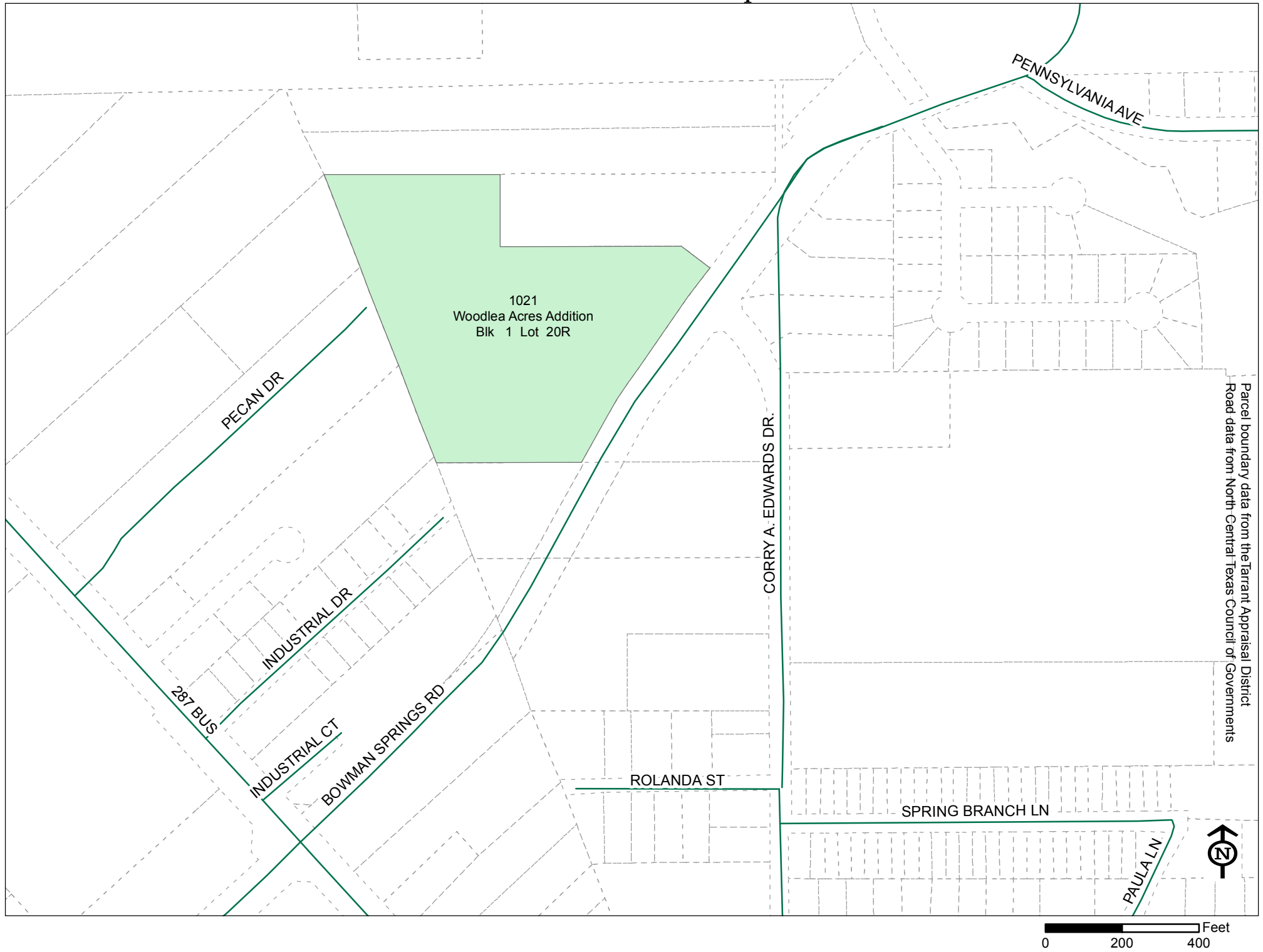
Approve

V. Alternative Actions:

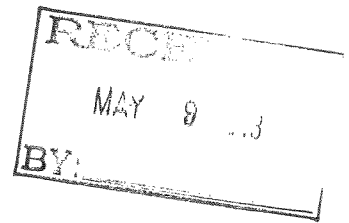
VI. Attachments:

1.	BOA 13-02 map showing site	BOA 13-02 site.pdf
2.	BOA 13-02 application	BOA 13-02 application.pdf
3.	Variance Request	variance request.pdf

BOA 13-02: site of request



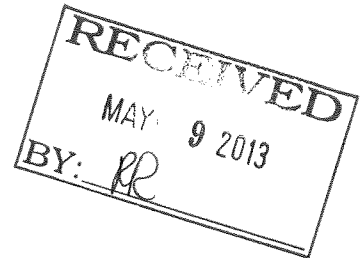
CITY OF KENNEDALE
BOARD OF ADJUSTMENT
APPLICATION FOR VARIANCE



APPLICANT AND OWNER INFORMATION

APPLICANT:

Name Fellowship Academy
Work Phone 817-483-2400 Home NA
Mailing Address
PO Box 738
Kennedale, Texas 76060



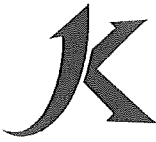
OWNER:

Name Monica Collier (Head Administrator) / Scott Oldenburgh (Chairman of the Board of Trustees)

Work Phone 817-483-2400 Home 817-563-1191 (Monica)
Mailing Address
PO Box 738
Kennedale, Texas 76060

PROPERTY INFORMATION

Property Location (Number and Street)
1021 North Bowman Springs Rd.
Legal Description (Lot, Block, and Subdivision/Addition)
Lot 20-R, Block 1 Woodlea Acres



KENNEDALE
Development Services
www.cityofkennedale.com

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

VARIANCE REQUEST

Zoning District

AG

City Code reference for requirements that creates need for variance

Sec. 17-405

Describe City Code Requirement
must be constructed of 80% masonry.

The requirement is that structures in AG zoning districts

Describe variance requested
buildings.

To allow use of portable buildings while constructing new

What hardship has been created?

We have run out of classroom space.

What created the hardship?

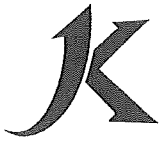
The tremendous growth of our student body population

I declare that the above is true and correct.

Signature of Applicant

Date

FOR STAFF USE ONLY



KENNEDALE
Development Services
www.cityofkennedale.com

Indicate any potential injurious affect on the public health, safety, or welfare.

Indicate any potential tendency to defeat the intent and philosophy of the zoning ordinance.

Comments:

Recommendation

Approval

Disapproval

If disapproval is recommended, give reason:

(Planner or Zoning Administrator)

Date



FELLOWSHIP ACADEMY

PO Box 738 Kennedale, Texas 76060
Phone 817-483-2400 www.fellowship-academy.org

May 9, 2013

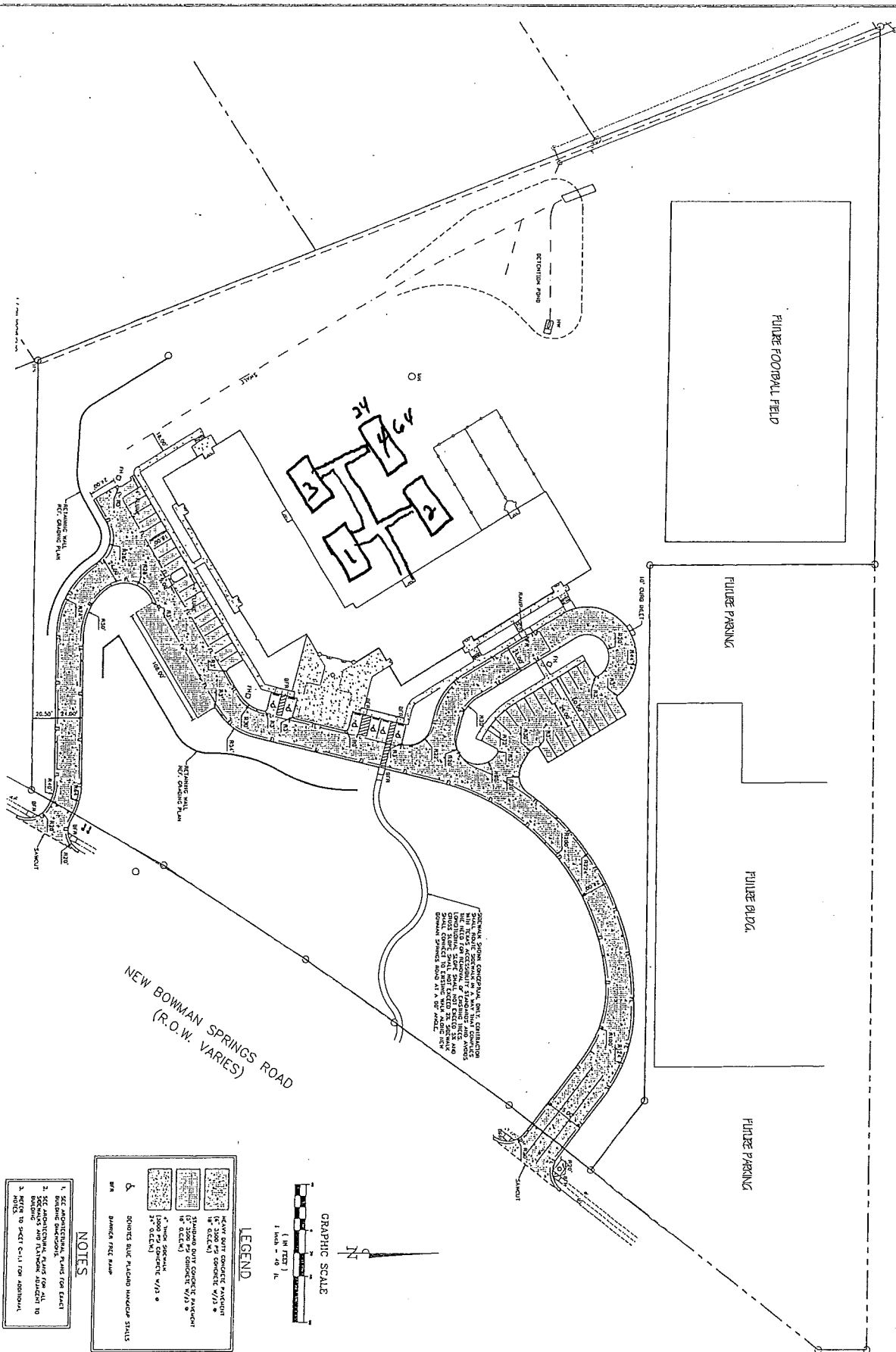
To the Kennedale Board of Adjustments:

Fellowship Academy is very excited to be a part of the city of Kennedale. Since the completion of our new facility in June of 2012 our student population has continued to grow. It has always been in our plans to add on to our existing facility when needed to reach our ultimate population which will be 500 students. We currently have 280 students enrolled in the 2012/2013 school year and are expecting 350 students the 2013/2014 school year. However in order to accommodate our growth while we construct additional facilities, we need to use portable buildings for classrooms. We are asking for a variance on the city code Sec. 17-405 that requires that structures in AG zoning district must be constructed of 80% masonry. We expect that it will take up to four years to raise financial support and then construct additional facilities which will include adding seven classrooms in our current building, a cafetorium, and an athletic facility / gymnasium. During that time we will need up to four portable buildings that each house two classrooms.

Thank you for your consideration and again we look forward to being an integral part of the city of Kennedale for many, many years to come.

Sincerely,

Monica Collier
Head Administrator



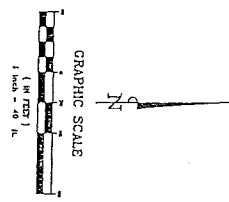
NOTES

- SEE EXISTING PLANS FOR EXISTING STRUCTURES.
- SEE ARCHITECTURAL PLANS FOR ALL BUILDING AND LANDSCAPE ADJUSTMENTS TO THIS PLAN.

LEGEND

HEAVY DUTY CONCRETE PAVEMENT (12" 3000 PSI CONCRETE W/12" 4" D.C.E.)
STANDARD DUTY CONCRETE PAVEMENT (12" 3000 PSI CONCRETE W/12" 4" D.C.E.)
12" THICK SIDEWALK (12" 3000 PSI CONCRETE W/12" 4" D.C.E.)
6" THICK SIDEWALK (12" 3000 PSI CONCRETE W/12" 4" D.C.E.)
6" THICK SIDEWALK (12" 3000 PSI CONCRETE W/12" 4" D.C.E.)

BR BRICK PAVING



Ramtech RT Portable Classroom

Schools all across the SouthWest

Project Size

1536 sq ft

Facility Use

Portable Classroom

Description

Vinyl covered gypsum interior

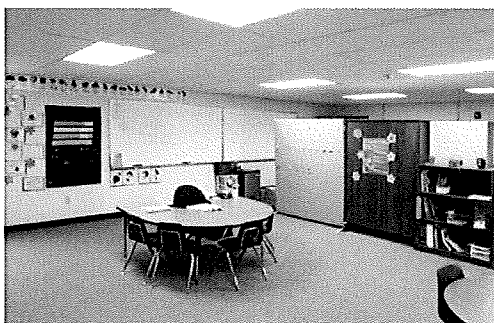
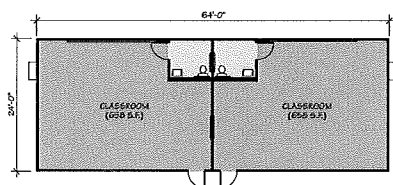
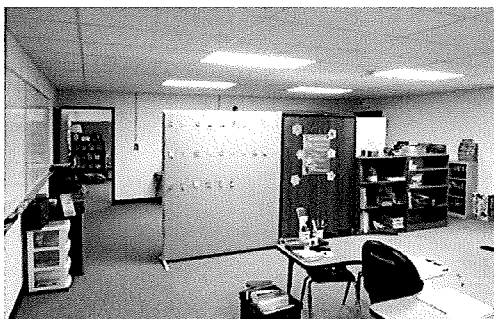
Wall-hung HVAC units

Metal exterior & roof

Completion

About 30 days

Temporary
Modular
Construction



In 1982 Ramtech pioneered the concept of building all-modular portable classrooms and relocatable modular buildings that have now been in use by hundreds of public, private, and faith-based schools throughout the Southwest. The Ramtech RT (sale) and LT (lease) series portable classrooms, available with and without restrooms, are the largest selling portable classroom in Texas. At 1,536 square feet, each Ramtech double classroom building includes two three-ton wall-hung HVAC units, carpet or tile flooring, vinyl covered gypsum interiors, and marker boards. All Ramtech portable classrooms are available for sale or lease through the Texas Buy-board, TIPS (The Interlocal Purchasing System) and HGACBuy (Houston Galveston Area Council) purchasing cooperatives.

RAMTECH
Building Systems
800-568-9376
ramtechmodular.com

Fellowship Academy
Variance Committee Meeting
Answers to Questions

1. Is it possible to accommodate students in the building during at least part of the fund-raising period, so that you would not need portable buildings for four years?

We currently are using every available space to house students for education purposes. The only way to accommodate the need for growth in our enrollment is to build the 2nd building which will allow us free up 7 classrooms in the main facility. The portables will allow us to accommodate the extra students while we plan, implement, and build the 2nd facility.

2. Could you put a masonry veneer on the portable buildings?

Our main concern with putting a masonry veneer is the added expense to a temporary project. These portable buildings will be located behind our main facility and will not easily visible from the roadway in front of our building.

3. In your letter, you say that over the next four years, you'll be raising funds to construct additional facilities, which will include adding seven classrooms, a cafetorium, and an athletic facility. Could you structure your fundraising and building campaign so that the classrooms are constructed while raising funds for the cafetorium and athletic facility, in order to shorten the time the portable buildings are needed? It may be that, due to the planned design of the additional facilities, that kind of phasing is not possible, but I wanted to ask, just in case.

The space in our main facility that will be turned into classrooms, creating more space for enrolled students, is currently being used as a multi-purpose room for all grade levels. We cannot turn this space into classrooms until we have constructed the 2nd building.

4. Only in rare cases can financial aspects be considered a reason for granting a variance. In other words, Fellowship not having the money on hand now to build extra classrooms is not sufficient justification for receiving a variance. In addition to the financial consideration, is Fellowship facing any sort of timing issue? For example, if you had the money on hand now to build the classrooms, would you be able to finish construction of the classrooms in time for the new school year in the fall?

Timing is the biggest issue that we face. We have a growing momentum and interest in our school, but we simply must add additional space to accommodate the need. If we are unable to add portable structures, it could jeopardize our capability of maintaining the growth and success that we have been able to demonstrate over the past 13 years.

5. To receive a variance, an applicant has to demonstrate that he or she has not created the hardship. So with that in mind, could you tell me why you have to increase enrollment now, before you are prepared to accommodate the extra students? What would happen if you enrolled for the next school year only as many students as you have now?

Much of the growth and momentum that has been created by locating our school in the city of Kennedale could be jeopardized if we are unable to provide the additional space as we construct the 2nd building. This not only limits our growth capacity, but limits the amount of additional families that we are exposing to the city of Kennedale. In addition, these extra families will serve as additional income sources to complete and finance the additional space.