



AGENDA
City of Lucas
Board of Adjustments Meeting
September 21, 2020
6:30 PM
Video Conference
665 Country Club Road – Lucas, Texas

Notice is hereby given that a regular meeting of the Board of Adjustment of the City of Lucas will be held on September 21, 2020 at 6:30 pm at Lucas City Hall, 665 Country Club Road, Lucas, Texas at which time the following agenda will be discussed.

On March 16, 2020 Governor Abbott suspended some provisions of the Open Meetings Act in response to the COVID-19 emergency. To comply with Governor Abbott's latest Executive Order, and to practice safe distancing, Lucas Board of Adjustments meetings will not be open to on-site visitors. In the interim, Board of Adjustment meetings will be available through Zoom Webinar from your computer or smartphone. **To join the meeting**, please click this URL <https://zoom.us/s/92157232386?pwd=cjgvWitLdnVGOXpOZDdPRTlFOGVvUT09> and enter your name and email address. To join by phone: 1-346-248-7799
Webinar ID: 921 5723 2386 Passcode: 245309

If the public desires to speak during a specific agenda item, **they must email shenderson@lucastexas.us by 4:30 pm on the day of the meeting.** The email must contain the person's name, address, phone number, and the agenda item(s) for which comments will be made.

Call to Order

- Roll Call
- Determination of Quorum
- Reminder to turn off or silence cell phones
- Pledge of Allegiance

Public Hearing Agenda

1. Public hearing to consider an application submitted by Teagan Counts for a variance from the literal interpretation of Section 14.04.304(3) of the City's Code of Ordinance to reduce the required side yard setback for an accessory building from 20 feet to 16 feet for a parcel of land located at 511 Oakbrook in the Forest Creek Estates, Blk 4, Lot 3, being all of a 2.0520-acre tract of land. (Development Services Director Joe Hilbourn)
 - A. Presentation by Development Services Director Joe Hilbourn
 - B. Conduct public hearing
 - C. Take action on the variance request

Regular Agenda

2. Consider approval of the minutes of the August 25, 2020 Board of Adjustments meeting.
(City Secretary Stacy Henderson)
3. Consider setting a monthly meeting day and time to hold Board of Adjustment meetings.
(City Secretary Stacy Henderson)

Executive Session Agenda

The Board of Adjustment may convene into a closed Executive Session pursuant to Chapter 551.071 of the Texas Government Code for the purpose of seeking confidential legal advice from the City Attorney regarding any item on the agenda at any time during the meeting.

4. Executive Session: An Executive Session is not scheduled for this meeting.
5. Adjournment.

Certification

I hereby certify that the above notice of meeting was posted on the bulletin board at Lucas City Hall by 5:00 p.m. on September 15, 2020 as required in accordance with Government Code §551.041.


Stacy Henderson

This building is wheelchair accessible. Any requests for sign interpretive services or other special requests for assistance of the hearing impaired must be made 48 hours in advance of the meeting. To make such arrangements, please call 972-912-1211 or send an email to Stacy Henderson at shenderson@lucastexas.us.



City of Lucas

Board of Adjustments Agenda Request

September 21, 2020

Requester: Development Services Director Joe Hilbourn

Agenda Item Request

Public hearing to consider an application submitted by Teagan Counts for a variance from the literal interpretation of Section 14.04.304(3) of the City's Code of Ordinance to reduce the required side yard setback for an accessory building from 20 feet to 16 feet for a parcel of land located at 511 Oakbrook in the Forest Creek Estates, Blk 4, Lot 3, being all of a 2.0520-acre tract of land.

- A. Presentation by Development Services Director Joe Hilbourn
- B. Conduct public hearing
- C. Take action

Background Information

The applicant would like to deviate from the ordinance due to not having adequate space to get into his garage with the 20-foot setback. He would have to do a 3-point turn to get into the proposed detached garage.

The City's Code of Ordinances, Chapter 14, Zoning Section 14.04.304(3) General accessory buildings and structures regulations requires the following:

- (3) Setbacks.
 - (A) Accessory buildings.
 - (i) Front yard setback, a minimum of ten feet behind the rear build line of the main structure unless the building is designed to be architecturally compatible with the main building and constructed of similar materials as the main building. Then a fifty-foot front yard setback is required.
 - (ii) Rear yard setback, a minimum of twenty feet.
 - (iii) Side yard setbacks, a minimum of twenty feet.

Attachments/Supporting Documentation

- 1. Public Hearing Notice
- 2. Application and depiction of property

Budget/Financial Impact

NA

Recommendation

Staff recommends denying the variance request as presented. A variance of this nature requires a legal hardship, staff is unaware of any legal hardship.



City of Lucas
Board of Adjustments Agenda Request
September 21, 2020

Motion

I make a motion to approve/deny the variance from Section 14.04.304(3) of the City's Code of Ordinances requested by Teagan Counts to reduce the required accessory structure side yard setback from 20 feet to 16 feet for the property located at 511 Oakbrook, Lucas Texas.



NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN, that the Board of Adjustments of the City of Lucas, Texas will conduct a public hearing on September 21, 2020 at 6:30 p.m. at Lucas City Hall, 665 Country Club, Lucas, Texas to consider a request for a variance from the literal interpretation of the City's Code of Ordinances more particularly described as follows:

An application submitted by Tegan Counts for a parcel of land located in Forest Creek Estates, Blk 4, Lot 3, being all of a 2.0520 -acre tract of land, otherwise known as 511 Oakbrook, Lucas Texas. The request is for a variance from the literal interpretation of the City's Code of Ordinance to reduce the required side yard set back from 20' to 16'.

The relevant portions of City's Code of Ordinances, Chapter 14, Zoning Sec. 14.04.304 General accessory buildings and structures regulations, read as follows:

“(3) Setbacks.

(A) Accessory buildings.

(i) Front yard setback, a minimum of ten feet behind the rear build line of the main structure unless the building is designed to be architecturally compatible with the main building and constructed of similar materials as the main building. Then a fifty-foot front yard setback is required.

(ii) Rear yard setback, a minimum of twenty feet.

(iii) Side yard setbacks, a minimum of twenty feet.”

Those wishing to speak **FOR** or **AGAINST** the above item are invited to attend via Zoom. If you are unable to attend and have comments you may send them to City of Lucas, Attention: City Secretary, 665 Country Club Road, Lucas, Texas 75002, email shenderson@lucastexas.us and it will be presented at the hearing. If you have any questions about the request, please contact Joe Hilbourn at jhilbourn@lucastexas.us.



APPEAL TO THE BOARD OF ADJUSTMENT CITY OF LUCAS

DATE: 8/20/2020

FEE: \$450.00

APPEAL # _____

SUBMITTED BY: Name: Tegan Counts
Address: 511 Oak Brook Dr
City: Lucas State: Tx Zip: 75002
Phone: [REDACTED]

FILING DEADLINE: An appeal shall be filed with the Board within ten (10) days after the date of decision of the Enforcing Officer. Every appeal shall be filed with the City Secretary no later than fifteen (15) days prior to the scheduled Board meeting. When the filing deadline falls on a holiday, the following workday shall be observed as the filing deadline.

TYPES OF APPEALS: Please check the type of appeal you are filing. The Board shall consider two types of appeals authorized under Article 1011G, Revised Civil Statutes of Texas, as amended:

1. For a special exception for use or development of property on which the Board is required to act.
2. For a variance from the literal enforcement of the Ordinance in order to achieve a reasonable development of property.

BRIEFLY DESCRIBE YOUR APPEAL:

See attached page

PLEASE NOTE: Contact City Secretary for proper filing procedures. If applicant fails to appear without notice, the Board may require the applicant to re-file appeal.

EXPIRATION OF GRANDTED APPEAL: Approval of any appeal shall expire 90 days after the Board's decision unless authorized construction or occupancy permits have been obtained, or unless a greater time is requested in the application and is authorized by the Board. Any approval may be granted one extension of an additional 90 days on written request filed with the Board before expiration of original approval. The time limit for every granted appeal shall commence on the first day of the month succeeding the month in which the Board renders its decision.

SIGNATURE OF PERSON FILING FOR APPEAL:



DECISION OF THE BOARD: _____

DATE: _____

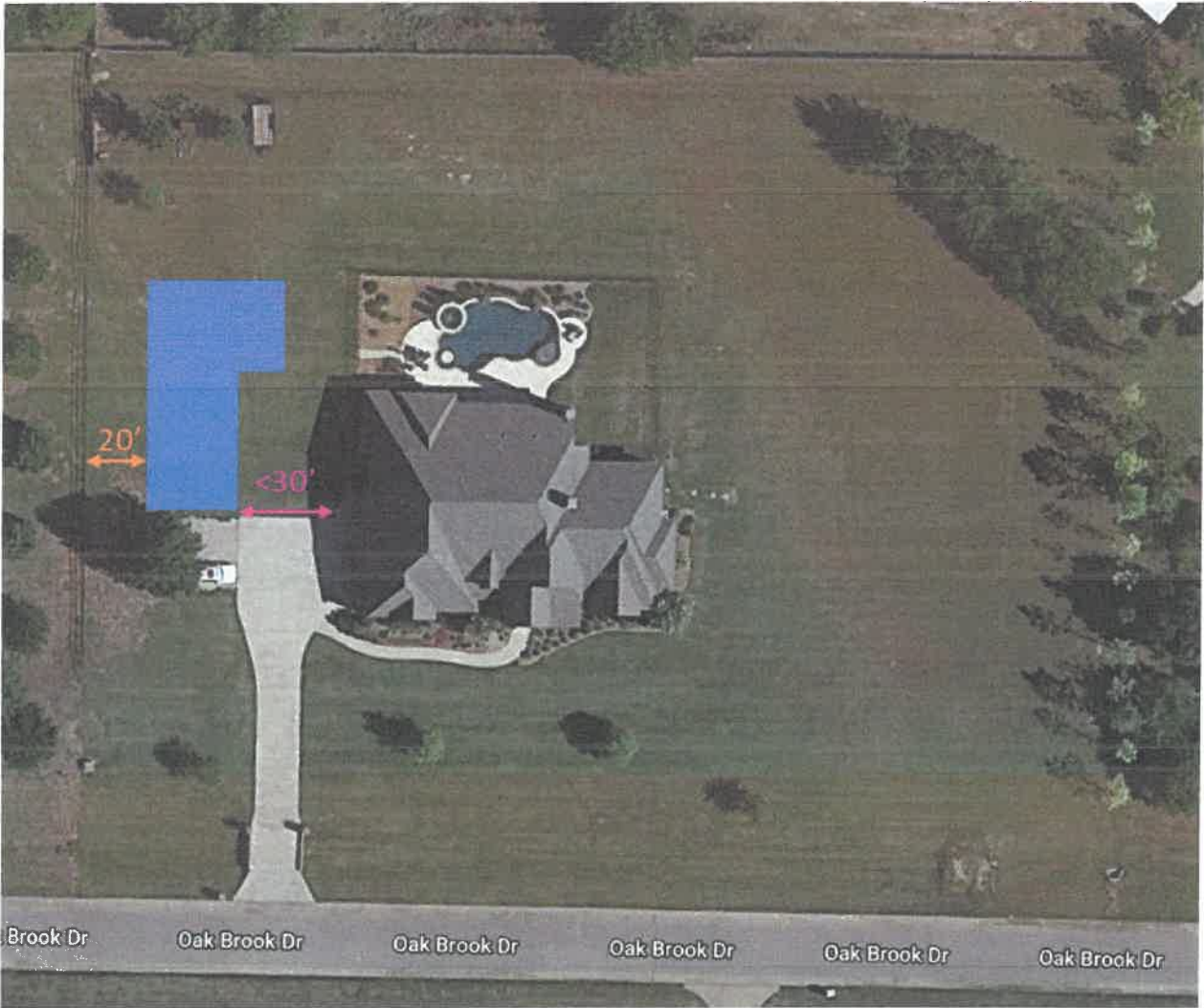
If not granted by the Board, state reason why:

CHAIRMAN

We are adding an accessory building (detached garage) to our property. In order to stay on the same side of the house as the attached garage, and avoid the septic field, the detached garage needs to be on the west side of our house. In order to comply with neighborhood rules, the garage doors cannot face the street, so they will face east. If we adhere to the city ordinance on side yard setbacks, there won't be enough room (30', see graphic below) for us to pull our pickup truck (21' long with a 13.2' wheel base) into our detached garage without requiring a three-point-turn every time. So....

We are requesting a variation on section 14.04.304 3) A) iii) "Side yard setbacks, minimum of twenty feet" to sixteen feet.

Why sixteen feet? Our current attached garage/driveway gives ~34' to turn in, and the truck barely makes it. By decreasing the setback from twenty feet to sixteen feet we can get to 34' between the garage and the existing house flatwork to turn in. As you can see, we're only asking for the minimum amount necessary. It is a modest, but very functionally important, four feet.





City of Lucas
Board of Adjustments Agenda Request
September 21, 2020

Item No. 02

Requester: City Secretary Stacy Henderson

Agenda Item Request

Consider approval of the minutes of the August 25, 2020 Board of Adjustments meeting.

Background Information

NA

Attachments/Supporting Documentation

1. Minutes from the August 25, 2020 Board of Adjustments meeting.

Budget/Financial Impact

NA

Recommendation

NA

Motion

I make a motion to approve/deny the minutes from the August 25, 2020 Board of Adjustments meeting as presented.



**City of Lucas
Board of Adjustment
Video Conference Meeting
August 25, 2020
6:00 PM**

City Hall – 665 Country Club Road – Lucas, Texas

Minutes

Call to Order

Chairman Bierman called the meeting to order at 6:00 p.m. and noted that Alternate Member Michael Dunn would be serving as a voting member.

Members Present:

Chairman Chris Bierman
Ron Poteete
Tom Redman
Michael Dunn, Alternate Member

Staff Present:

City Manager Joni Clarke
Development Services Director Joe Hilbourn
City Secretary Stacy Henderson
Courtney Morris, City Attorney

Absent:

Brian Blythe
James Foster
Brenda Rizos, Alternate Member

It was determined that a quorum was present and Chairman Bierman led the Pledge of Allegiance.

Chairman Bierman identified all witnesses that would be presenting before the Board, including City staff members, and conducted the swearing in process for all witnesses.

Public Hearing Agenda

- 1. Public hearing to consider the request by Tommy and Wendy Adams to rebuild a home that was destroyed by fire that does not meet the City of Lucas Code of Ordinances and continue a nonconforming use, that includes (1) the number of homes permitted on a single family lot within the R-2 zoning district, (2) the minimum size of the home, and (3) the required side yard setbacks for a parcel of land located in the John S. Thompson Survey, Abs A0893, Tract 2, being all of a 5.0-acres, otherwise known as 1764 Shady Lane, Lucas Texas.**

Development Services Director Joe Hilbourn gave a presentation noting that a home on the owners property was destroyed by fire. The property is zoned R-2 that allows one single family home on a residential lot, requiring the minimum size of a home to be 2,000 square feet, and a minimum side yard setback of 20 feet. Mr. Hilbourn noted that the applicant was requesting the following nonconforming uses to be allowed:

1. Reconstruct the nonconforming residential structure
2. Construction of a nonconforming 1,368 square foot residential structure
3. Continue to use the nonconforming 10-foot side yard setback

Mr. Hilbourn discussed Section 14.04.176 of the City's Code of Ordinances that states "A nonconforming use shall not be extended or rebuilt in case of obsolescence or total destruction by fire or other causes. In the case of partial destruction by fire or other causes not exceeding fifty percent (50%) of its value, the building inspector shall issue a permit for reconstruction. If destruction is greater than fifty percent (50%) of its value, the board of adjustment may grant a permit for repair or replacement after public hearing and having due regard for the property rights of the persons affected when considered in the light of public welfare and the character of the areas surrounding the designated nonconforming use and the purposes of this chapter".

Chairman Bierman asked if the structure was completely removed. Mr. Hilbourn responded that the only structure remaining was the septic system, water meter and electric meter. The foundation had been removed.

The Board discussed that there were currently four homes on the property consisting of 5-acres. Three homes were rented, and one home was the main residence.

The Board discussed whether setbacks could be met by placing the home elsewhere on the property. The applicant stated that they wanted to rebuild where existing utilities were located.

Mr. Hilbourn noted that a permit could have been issued to rebuild the home if it had been only 50 percent affected.

Chairman Bierman opened the public hearing at 6:20 pm.

Tommy and Wendy Adams, property owners, stated that he would try and meet setback requirements by reducing the size of the home. Ms. Adams explained that the house did not burn completely, but because it was a hazard, they removed the remaining structure. Ms. Adams stated that the home needs to be built to ADA standards in order to accommodate their parents, and the other homes on their property do not meet those standards.

The Board discussed possibly renovating one of the other homes. Mr. Hilbourn stated that the home would have to be brought into current code compliance.

There being no one else wishing to speak, the public hearing was closed at 6:38 pm.

Chairman Bierman expressed his opinion that the applicant should be able to rebuild their home due to the fire event. The character of the area with some of the surrounding lots also having similar nonconforming uses and more than one home on the lot warrants approval.

Mr. Dunn also expressed his opinion of the applicant being able to rebuild their home due to the fire that was beyond their control, but he would like to see the home meet the current size requirements if constructed.

Mr. Redman noted that the property was purchased with nonconforming uses, and when unfortunate events occur, the owner is required to bring the property into compliance. Mr. Redman stated that because of the multiple homes on the lot, its constraining where the owner can rebuild his home and the footprint size. Mr. Redman noted his opposition to approving the request.

The Board asked the City Attorney if the request meets hardship requirements. Ms. Morris explained that the property rights of the person affected, public welfare, and the character of the area around the use can determine if a variance can be approved in this instance. When declaring a hardship, factors to consider include it was self-imposed.

Mr. Poteete discussed the number of houses on the 5-acre tract and its noncompliance with City codes and the Comprehensive Plan. Mr. Poteete noted that if several of the other homes were removed, the main structure could be rebuilt.

The Board discussed at length the number of homes on the property, the noncompliance status, removal of existing homes on the property, and if they should be allowed to rebuild given the number of existing homes on their lot.

MOTION: A motion was made by Chairman Bierman, seconded by Mr. Dunn to approve rebuilding a home that was destroyed by fire to allow the following: (1) reconstruct the nonconforming residential structure, (2) construction of a nonconforming 1,368 square foot residential structure, and (3) be allowed to continue to use the nonconforming 10-foot side yard setback for the property located at 1764 Shady Lane. The motion failed for lack of majority with Mr. Redman and Mr. Poteete voting in opposition. The motion failed by a 2 to 2 vote.

Regular Agenda

2. Consider approval of the minutes of the July 15, 2020 Board of Adjustments meeting.

MOTION: A motion was made by Chairman Bierman, seconded by Mr. Poteete to approve the minutes as presented. The motion passed unanimously by a 5 to 0 vote.

Executive Session Agenda

3. Executive Session.

An Executive Session did not occur at this meeting.

4. Adjournment.

Chairman Bierman adjourned the meeting at 7:50 pm.

Chris Bierman, Chairman

Stacy Henderson, City Secretary



City of Lucas
Board of Adjustments Agenda Request
September 21, 2020

Item No. 03

Requester: City Secretary Stacy Henderson

Agenda Item Request

Consider setting a monthly meeting day and time to hold Board of Adjustment meetings.

Background Information

City staff would like to consider setting aside the fourth Wednesday of each month at 6:00 pm as a set meeting date for the Board of Adjustment. Should an application be submitted, it would be placed on the next meeting date, allowing adequate time for public hearing and property owner notification to occur. This meeting date also coincides with our City Attorney's schedule.

Attachments/Supporting Documentation

NA

Budget/Financial Impact

NA

Recommendation

Staff recommends setting aside a monthly meeting date and time for Board of Adjustment meetings.

Motion

I make a motion to approve/deny setting a monthly meeting date and time _____ at _____ pm.