



**AGENDA
BOARD OF ADJUSTMENT
MONDAY, FEBRUARY 22, 2021
1371 WEST FM 550 - MCLENDON-CHISHOLM, TEXAS 75032
7:00 PM**

Page

- | | |
|--------|---|
| | 1. CALL TO ORDER |
| | 2. INVOCATION AND PLEDGE OF ALLEGIANCE TO U.S. AND TEXAS FLAGS |
| | 3. CITIZEN COMMENTS |
| | 4. APPROVAL OF MINUTES |
| 3 - 8 | 4.1. December 7, 2020 Board of Adjustment Minutes |
| | 5. PUBLIC HEARING |
| 9 - 17 | 5.1. The Board will receive comments regarding the request of Keiffer Living Trust [Lance Keiffer], requesting a variance to reduce the required street frontage from 300 linear feet to 248.09 feet [a reduction of 51.91 feet] for the creation of a 7.5 acre lot located at 4047 W. FM 550.
Staff Report
Layout-FM 550 |
| | 6. ITEMS FOR CONSIDERATION |
| | 6.1. Discussion and action regarding the request of Keiffer Living Trust [Lance Keiffer], requesting a variance to reduce the required street frontage from 300 linear feet to 248.09 feet [a reduction of 51.91 feet] for the creation of a 7.5 acre lot located at 4047 W. FM 550. |
| | 7. ADJOURN |

As authorized by Section 551.071 of the Texas Government Code, this meeting may be convened into closed Executive Session in order to seek confidential legal advice from the City Attorney on any agenda item herein.

I, Rochelle Green, do hereby certify that the above Notice of Meeting of the Board of Adjustment of McLendon-Chisholm, Texas was posted on or before 5:00 p.m., February 18, 2021 on the outside bulletin board at City Hall, a place convenient and readily accessible to the public at all times.



MINUTES
McLENDON-CHISHOLM, TEXAS
BOARD OF ADJUSTMENT
December 7, 2020

Members Present: Beverly Stibbens, Chairman
Herb Harker, Board Member
Gary Nickel, Board Member
Frank Fite, Board Member
Melody Osorio, Board Member
Valerie Bodart, Board Member (Alternate)

Members Absent: David Cross, Board Member (Alternate)

Staff Present: Lisa Palomba City Administrator
Shelly Green City Secretary
Mike Coker City Planner

1. CALL TO ORDER

Chairman Stibbens called the meeting to order at 7:00 p.m.

2. INVOCATION AND PLEDGE OF ALLEGIANCE TO U.S. AND TEXAS FLAGS

Chairman Stibbens led the pledges of allegiance to the U.S. and Texas Flags.

3. CITIZEN COMMENTS

No Comments

4. APPROVAL OF MINUTES

4.1. August 31, 2020 Board of Adjustments Meeting Minutes

MOTION: Approve the minutes of August 31, 2020 as presented.

MADE BY: Board Member Harker

SECONDED BY: Board Member Nickel

APPROVED: Unanimous

December 7, 2020 - Board of Adjustment Minutes

5. PUBLIC HEARING

- 5.1. A public hearing to consider the application of Richard Bullock requesting a variance to the minimum lot width from 300' to 26' for the purpose of providing a private drive for access to two proposed lots.

City Planner Mike Coker presented his report on this application:

APPLICANT: Jenifer Copioli
LOCATION: 13 Center Court, Heath, Texas 75032
BOARD HEARING DATE: December 7, 2020

REQUEST:

The applicant is requesting a variance to the required linear street frontage on a public way of 300 feet per lot. The variance request reduces the required street frontage for proposed lot one from 300 feet to 26 feet. And the variance request for proposed lot two reduces the required street frontage from 300 feet to zero feet but provides access to the public way via an access easement.

PROPERTY OWNER: Richard Bullock
REPRESENTATIVE: Jenifer Copioli

STAFF RECOMMENDATION: Approval of the variance that reduces the required right of way frontage for two single family lots subject to the following conditions:

The subject property must be platted into two lots in [generally] the configuration as shown on the attached exhibit that shows the lot layout proposed by the applicant and a platted access, utility and fire lane easement must be shown on the new subdivision plat that connect to proposed lot 2 from FM right of way. Each proposed lot must contain no less that 2.5 acres of land. Emergency services via a fire lane easement shall be provided that conforms to the International Fire Code as adopted by the City of McLendon-Chisholm including an approved turnaround at the dividing line between proposed lots one and two.

BACKGROUND INFORMATION:

The subject property is a 5.487-acre tract of land with 26 feet of frontage on FM 550, northeast of Paddock Lane. The Rockwall CAD identification number is 45976. The property is a flag lot with the 26-foot-wide flagpole providing the only point of access to a public way [FM 550].

The applicant intends to subdivide the existing property into two lots each containing approximately 2.74 acres of land. There is an existing home located on the frontage of FM 550 adjacent to the subject tract and is identified as Rockwall CAD parcel ID# 95218. Parcel 95218 is not a part of this application.

There is an existing subdivision immediately on the southwest side of the subject property and an unplatted, but developed with a single-family home, tract of land on the northeast side of the flag part of the subject property. The subject property is landlocked except for the 26-foot-wide connection to FM 550 right of way.

Since the objective is to create two new lots from the existing 5.487 acre tract of land, the two new lots must be effected in accordance with the requirements of Section 10.02.004 of the Subdivision Regulations “(b) Any owner of land located inside of or within the extraterritorial jurisdiction (i.e., within one-half mile) of the city wishing to subdivide such land shall submit to the city a plan of the proposed subdivision which shall conform to the minimum requirements set forth in these regulations. An owner subdividing his land into parcels of not less than five acres each for agricultural use and not involving new streets shall be exempt from these requirements.” Since the applicant intends to subdivide the property into two lots, each having less than five acres, this section is applicable to the future subdivision as proposed by the applicant.

The zoning district for the subject property is Agriculture. This zoning district requires a minimum lot size of 2.5 acres of land. The zoning district also requires a minimum lot frontage of not less than 300 feet adjacent to a public way.

The width of the subject property at the most northwest end of the property is 299.70 feet [per Global Land Surveying, Inc. survey dated May 10, 2020]. The width of the subject property at the connection with FM 550 right of way is 26 feet per the GLS survey.

Thoroughfares/streets:

FM 550 is shown on the McLendon-Chisholm Thoroughfare Plan to be a future minor arterial thoroughfare with four lanes and divided median. The right of way requirements for this type of roadway are 100 feet to 120 feet. The current right of way width of FM 550 is shown to be 80 feet. Therefore, should this variance be approved by the Board of Adjustment, the property owner will be required to provide a minimum of 10 feet to the existing right of way at the time of plat.

Notices:

The City sent notices to property owners within 200 feet of the subject property and have not received any responses in support of the request nor any responses in opposition to the request.

Powers of the Board:

G. Variances. The board shall have the power to authorize upon appeal in specific cases such variances from the terms of this ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance will result in unnecessary hardship and so that the spirit of this ordinance shall be observed and substantial justice done, including following:

1. Permit a variance in the yard requirements of any district where there are unusual and practical difficulties or unnecessary hardships in the carrying out of the provisions due to an irregular shape of the lot or topographical or other conditions, provided such variance will not seriously affect any adjoining property or the general welfare.

2. Authorize, upon appeal, whenever a property owner can show that a strict application of the terms of this ordinance relating to the construction or alteration of buildings or structures will impose upon him unusual and practical difficulties or particular hardship, such variances from the strict application of the terms of this ordinance as are in harmony with its own general purpose and intent, but only when the board is satisfied that granting of such variation will not merely serve as a convenience to the applicant, but will alleviate some demonstrable and unusual hardship or difficulty so great as to warrant a variance from the comprehensive plan as established by this ordinance and at the same time, the surrounding property will be properly protected.
3. The board shall have the power to hear and decide appeals where it is alleged there is error of law in any order, requirements, decision or determination made by the mayor or his/her designee in the enforcement of this ordinance. Except as otherwise provided herein, the board shall have, in addition, the following specific powers:
 - a. To permit the erection and use of a building or the use of premises for railroads if such uses are in general conformance with the master plan and present no conflict or nuisance to adjacent properties.
 - b. To permit a public utility or public service or structure in any district, or a public utility or public service building of a ground area and of a height at variance with those provided for in the district in which such public utility or public service building is permitted to be located, when found reasonably necessary for the public health, convenience, safety, or general welfare.
 - c. To grant a permit for the extension of a use, height or area regulation into an adjoining district, where the boundary line of the district divides a lot in a single ownership on the effective date of this ordinance.
 - d. To permit the reconstruction of a non-conforming building which has been damaged by explosion, fire, act of God, or the public enemy, to the extent of more than 50 percent of its fair market value, where the board finds some compelling necessity requiring a continuance of the nonconforming use.
 - e. To waive or reduce the parking and loading requirements in any of the districts, when (i) the character or use of the building is such as to make unnecessary the full provision of parking or loading facilities; or (ii) when such regulations would impose an unreasonable hardship upon the use of the lot. The board shall not waive or reduce such requirements merely for the purpose of granting an advantage or a convenience.
 - f. A written application for variance shall be submitted together with the required fee, accompanied by an accurate legal description, maps, site plans, drawings and any necessary data, demonstrating;
 - g. That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures, or buildings in the same district;
 - h. That literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance;
 - i. That the special conditions and circumstances do not result from the actions of the applicant;

- j. That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structure or buildings in the same district; and
- k. No non-conforming use of neighboring lands, structures, or buildings in the same district and no permitted use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

The survey included in this application is the Global Land Surveying, Inc. survey of the subject property includes Rockwall CAD parcel ID#95218 which is not part of this application.

Mr. Copioli and Mr. Perez explained they are requesting a variance to Chapter 14 of the McLendon-Chisholm code of Ordinances, Ordinance #2007-10 which states a requirement of 300' of frontage. They plan is to put in a private drive to provide access for two proposed lots. There is currently a 5.487-acre plat that they would like to divide into two 2.74 acres parcels.

Board Member Nickel presented questions to Mr. Perez and Mr. Copioli regarding the request for a variance as well as question regarding the development of the parcel.

Chairman Stibbens presented questions from Michael W. Jones stating his opposition to the request:

1. Is this easement also going to function as Mr. Bullock's utility easement. Are the utilities going to be below or above grounds?
2. When McLendon-Chisholm says "fire lane" is it like McKinney, Texas fire land requirements listed below?
 - a. The fire lane shall be constructed with a minimum 6 in. thick, 4000 PSI concrete with steel reinforcing of No. 4 bars spaced 24 in. on centers in each direction. The base course thickness shall be a minimum of 6 in. in thickness and shall consist of lime or cement stabilization as recommended in the Geotechnical Report."
3. Is a 75" turn-around required:
4. This easement is private property, so who has the duty to maintain it and who will enforce that duty.
5. Dallas requires residential properties greater than 150' from a paved road to have life safety sprinkler.
6. Subject property is located at the bottom of hill, thus the pond. A great deal of drainage comes across that property during the spring rains. Is the developer being required to have an engineering study completed as is required in Heath.
7. My fear is that we are a little farm community trying to play big town. Do we have any

There being no other citizens to speak, the public hearing was closed at 7:20.

5. ITEMS FOR CONSIDERATION

- 5.1. Consideration and action regarding the request of Richard Bullock requesting a variance to the minimum lot width from 300' to 26' for the purpose of providing a private drive for access to two proposed lots.

MOTION: Board Member Nickel made a motion to approve the variance to the required linear street frontage on a public way of 300 feet per lot. The variance request reduces the required street frontage for proposed lot one from 300 feet to 26 feet. The variance request for proposed lot two reduces the required street frontage 300 feet to zero feet but provides access to the public way via an access easement. The subject property must be platted into two lots in [generally] the configuration as shown on the exhibit that shows the lot layout proposed by the applicant and a platted access, utility and fire lane easement must be shown on the new subdivision plat that connect to proposed lot 2 from FM 550 right of way. Each proposed lot must contain no less than 2.5 acres of land. Emergency services via a fire lane easement shall be provided that conforms to the International Fire Code as adopted by the City of McLendon-Chisholm including an approved turnaround at the dividing line between proposed lots one and two.

SECONDED: Board Member Fite.

APPROVAL: Unanimous

9. ADJOURN

There being no further business to discuss, Chairperson Stibbens adjourned the meeting at 7:46 p.m.

ATTEST:

APPROVED:

Rochelle Green, City Secretary

Beverly Stibbens, Chairman



BOARD OF ADJUSTMENT – CITY OF MCLENDON-CHISHOLM, TEXAS

DATE: February 10, 2021

APPLICANT: Luke Keiffer

LOCATION: 4047 W. FM 550, McLendon-Chisholm, Texas

BOARD OF ADJUSTMENT MEETING – February 22, 2021

REQUEST:

The applicant is requesting a variance to Section 4-3 of the City of McLendon-Chisholm Zoning Ordinance. This section requires lot frontage of 300 feet adjacent to the public way. The request is to reduce the required 300 feet of frontage to 248.09 feet, a reduction of 51.91 feet.

PROPERTY OWNER: Keiffer Family Trust

REPRESENTATIVE: Luke Keiffer

STAFF RECOMMENDATION: Approval subject to the following condition:

The owner shall replat the subject property in accordance with the survey attached to this request or as amended to provide for the additional right of way needed for the future expansion of FM 550 as shown in the McLendon-Chisholm Thoroughfare Plan,

BACKGROUND INFORMATION:

The subject property is a ten [10] Acre tract of land located at 4047 W. FM 550. [Rockwall CAD No. 21930]. This is a platted lot identified as Lot 1, Block A, Samples Subdivision.

The zoning district for the subject property is "Ag" Agriculture. The property owner wants to subdivide the current 10-acre lot into two lots. One lot having two and one-half acres and the other lot having the remaining seven and one-half acres.

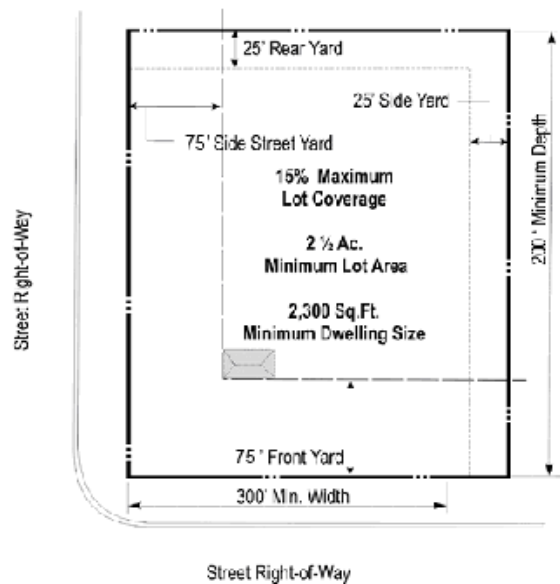
The proposed two and one-half acre lot will contain more than the required 300-foot minimum frontage on the public right of way. The larger lot has two points of connection with the right of way and combined they do not provide for the 300 feet of street frontage. The ordinance does not require that the 300 feet be contiguous, so a combination of linear frontages on the same lot will satisfy the code

requirement if they equal 300 feet. In this case, the total combined linear footage adds up to 248.09 linear feet, leaving the lot 51.91 feet short of the required 300 feet.

The survey as submitted shows

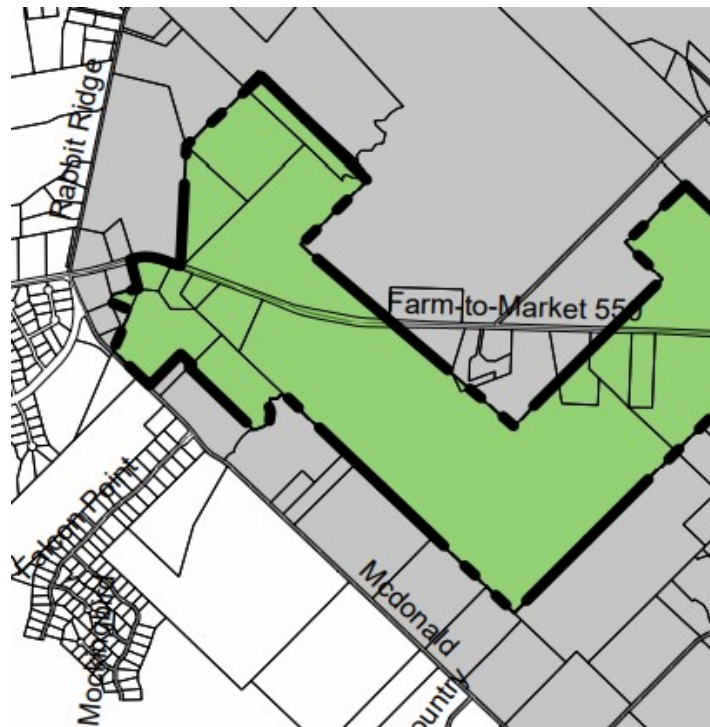
Zoning:

The zoning envelope for the Agriculture zoning district is shown in the graphic below.



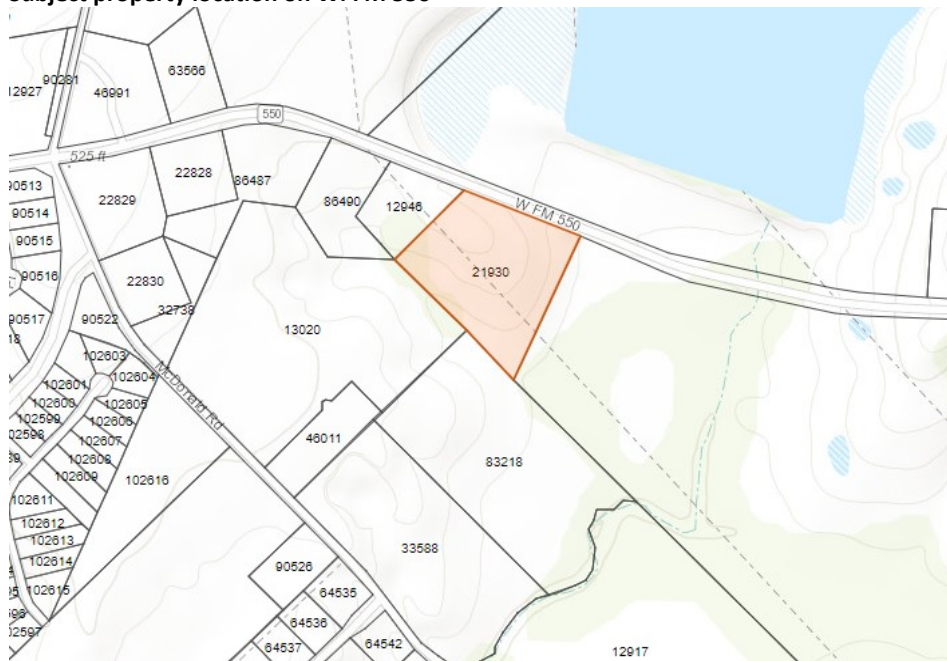
The Agriculture zoning district requires a minimum residential lot size of 2.5 acres of land and minimum lot frontage of 300 feet adjacent to the street right of way.

Zoning map:



The subject property is a ten-acre platted lot located on the south side of FM 550 just east of Rabbit Ridge Road. [See the attached Rockwall CAD map with the subject property outlined in orange].

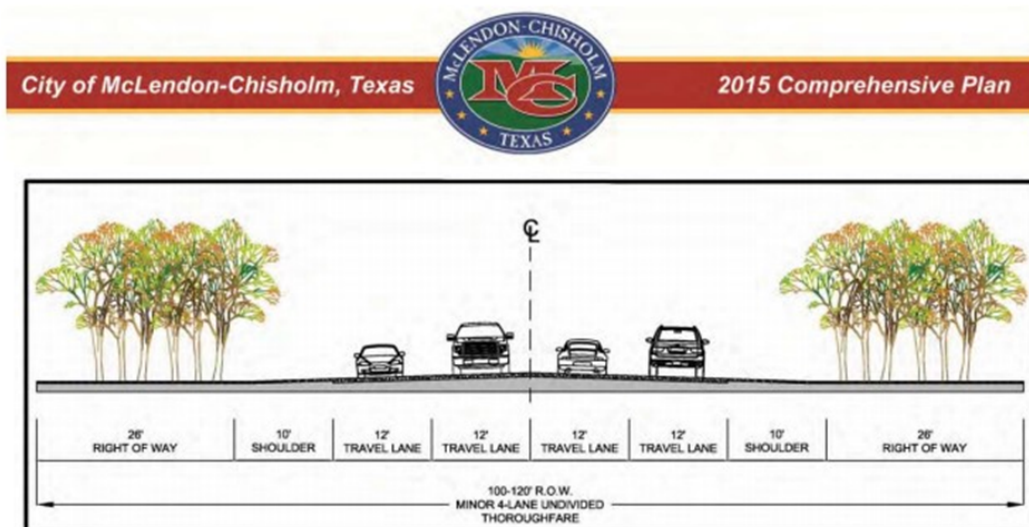
Subject property location on W. FM 550



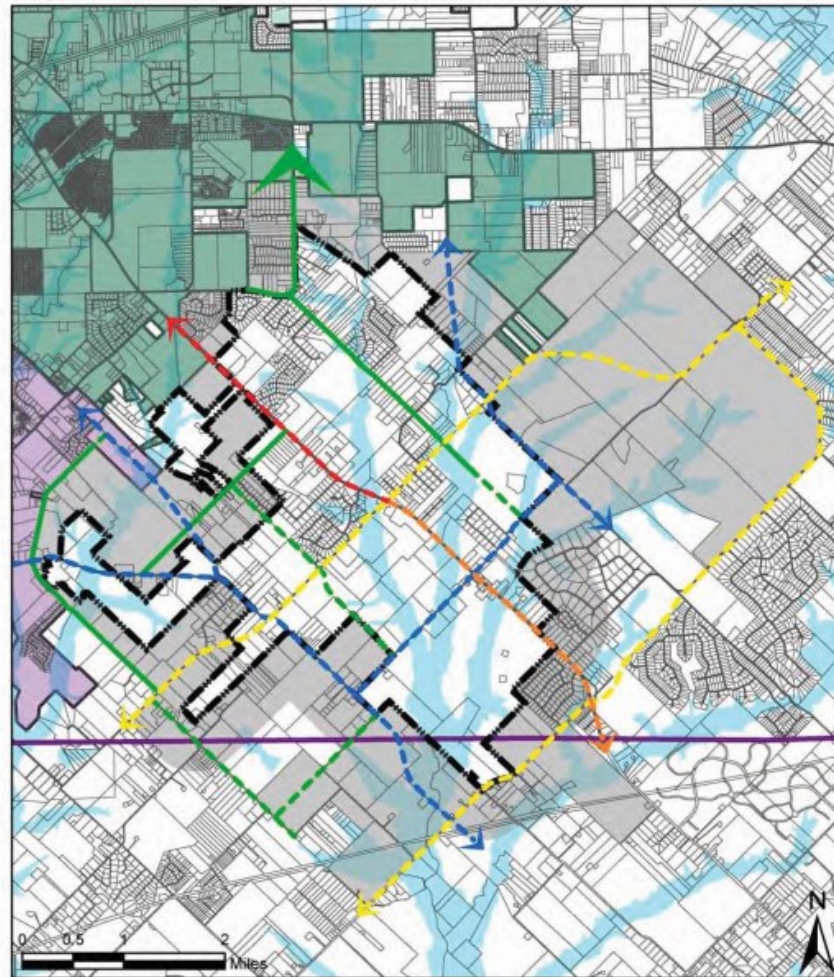
Thoroughfares/streets:

FM 550 is a two-lane undivided thoroughfare. The Thoroughfare Plan calls for FM 550 to be a four-lane undivided thoroughfare with a right of way of 100 to 120 feet. Rockwall County maps show the existing right of way to be 80 feet adjacent to the subject property. When the property is re-platted into two lots, the City will require an additional 10 feet of right of way between the existing right of way and the new property lines.

If the Board approves the requested variance, sufficient flexibility in the Board decision should allow for the movement of the interior lot line of the 2.5 acre tract in order to maintain the zoning district requirement of 2.5 acres of land and to maintain the required front yard setback of 75 feet.



City of McLendon-Chisholm Thoroughfare Plan June 2015



- Legend**
- McLendon-Chisholm City Limits
 - McLendonChisholm ETJ
 - City of Heath
 - City of Rockwall
 - County Line
 - Principal 6-Lane Divided Thoroughfare
 - Principal 4-Lane Divided Thoroughfare
 - Minor 4-Lane Divided Thoroughfare
 - Minor 4-Lane Undivided Thoroughfare
 - Collector 2-Lane Undivided
 - Dashed Thoroughfares Represent Proposed Alignments

Powers of the Board:

G. Variances. The board shall have the power to authorize upon appeal in specific cases such variances from the terms of this ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance will result in unnecessary hardship and so that the spirit of this ordinance shall be observed and substantial justice done, including the following:

1. Permit a variance in the yard requirements of any district where there are unusual and practical difficulties or unnecessary hardships in the carrying out of the provisions due to an irregular shape of the lot or topographical or other conditions, provided such variance will not seriously affect any adjoining property or the general welfare.
2. Authorize, upon appeal, whenever a property owner can show that a strict application of the terms of this ordinance relating to the construction or alteration of buildings or structures will impose upon him unusual and practical difficulties or particular hardship, such variances from the strict application of the terms of this ordinance as are in harmony with its own general purpose and intent, but only when the board is satisfied that granting of such variation will not merely serve as a convenience to the applicant, but will alleviate some demonstrable and unusual hardship or difficulty so great as to warrant a variance from the comprehensive plan as established by this ordinance and at the same time, the surrounding property will be properly protected.
3. The board shall have the power to hear and decide appeals where it is alleged there is error of law in any order, requirements, decision or determination made by the mayor or his/her designee in the enforcement of this ordinance. Except as otherwise provided herein, the board shall have, in addition, the following specific powers:
 - (a) To permit the erection and use of a building or the use of premises for railroads if such uses are in general conformance with the master plan and present no conflict or nuisance to adjacent properties.
 - (b) To permit a public utility or public service or structure in any district, or a public utility or public service building of a ground area and of a height at variance with those provided for in the district in which such public utility or public service building is permitted to be located, when found reasonably necessary for the public health, convenience, safety, or general welfare.
 - (c) To grant a permit for the extension of a use, height or area regulation into an adjoining district, where the boundary line of the district divides a lot in a single ownership on the effective date of this ordinance.
 - (d) To permit the reconstruction of a non-conforming building which has been damaged by explosion, fire, act of God, or the public enemy, to the extent of more than 50 percent of its fair market value, where the board finds some compelling necessity requiring a continuance of the nonconforming use.
 - (e) To waive or reduce the parking and loading requirements in any of the districts, when (i) the character or use of the building is such as to make unnecessary the full provision of parking or loading facilities; or (ii) when such regulations would impose

an unreasonable hardship upon the use of the lot. The board shall not waive or reduce such requirements merely for the purpose of granting an advantage or a convenience.

(f) A written application for variance shall be submitted together with the required fee, accompanied by an accurate legal description, maps, site plans, drawings and any necessary data, demonstrating:

(g) That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures, or buildings in the same district;

(h) That literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance;

(i) That the special conditions and circumstances do not result from the actions of the applicant;

(j) That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures or buildings in the same district; and

(k) No non-conforming use of neighboring lands, structures, or buildings in the same district and no permitted use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

