



**AGENDA
BOARD OF ADJUSTMENT
MONDAY, MARCH 29, 2021
1371 WEST FM 550 - MCLENDON-CHISHOLM, TEXAS 75032
7:00 PM**

Page

1. CALL TO ORDER

2. APPROVAL OF MINUTES

3 - 7

- 2.1. February 22, 2021 Board of Adjustment Minutes
[02.22.21 BOA Minutes](#)

3. PUBLIC HEARING

- 3.1. Hold a public hearing on the request of Kevin Velasquez requesting a five [5] foot reduction of the required 25 foot setback on both side yards in order to locate the house forward of where the property begins to slope downward towards the storm water drainage easement. The property is identified as 49 Fireside Drive.

4. ITEMS FOR CONSIDERATION

8 - 18

- 4.1. Consider the request of Kevin Velasquez for a variance to the side yard minimum of 25' to 20' for the purpose of building a single-family residence located at 49 Fireside Drive.
[Staff Report](#)

5. 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 City Council of McLendon-Chisholm, Texas was posted on or before 5:00 p.m., March 25, 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
February 22, 2021

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

Members Absent: David Cross, Board Member (Alternate)
 Frank Fite, Board Member

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. December 7, 2020 Board of Adjustments Meeting Minutes

MOTION: Approve the minutes of December 7, 2020 as presented.

MADE BY: Board Member Harker

SECONDED BY: Board Member Osario

APPROVED: Unanimous

February 22, 2021 - Board of Adjustment Minutes

5. PUBLIC HEARING

- 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.

City Planner Mike Coker presented his report on this application:

APPLICANT: Luke Keiffer
LOCATION: 4047 W. FM 550, McLendon-Chisholm, Texas
BOARD HEARING DATE: 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 [ten] Acre tract of land located at 4047 W. FM 550. [Rockwall CAD No. 21930]. This is 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 ten-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.

Zoning:

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.

The subject property is a ten-acre platted lot located on the south side of FM 550 just east of Rabbit Ridge Road.

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 approved 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 requirements of 2.5 acres of land and to maintain the required front yard setback of 75 feet.

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.

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.

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.

MOTION: Board Member Harker made a motion to approve 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.

SECONDED: Board Member Bodart

APPROVAL: Unanimous

7. ADJOURN

There being no further business to discuss, Chairperson Stibbens adjourned the meeting at 7:10 p.m.

ATTEST:

APPROVED:

Rochelle Green, City Secretary

Beverly Stibbens, Chairman

February 22, 2021 - Board of Adjustment Minutes



BOARD OF ADJUSTMENT – CITY OF MCLENDON-CHISHOLM, TEXAS

DATE: March 22, 2021
APPLICANT: Kevin Velasquez
LOCATION: 49 Fireside Drive, McLendon-Chisholm, Texas
BOARD HEARING DATE: March 29, 2021

REQUEST:

The applicant is requesting a variance to the required side yard setback of 25 feet by reducing the required 25-foot side yard setback to 20 feet in order to place a portion of a new home in the required setback.

PROPERTY OWNER: Vega Land Investments LLC
2475 Willard Way
Forney, Texas 75126

REPRESENTATIVE: Kevin Velazquez

STAFF RECOMMENDATION: Denial

The applicant has failed to establish a property hardship that would necessitate the reduction of the side yard setbacks of 25 feet.

BACKGROUND INFORMATION:

The property located at 49 Fireside Drive is located in the Chisholm Crossing Phase 2 community. The zoning district for this property is SF 1.5 requiring a minimum lot size of 1.5 acres. The SF 1.5 zoning district requires a minimum interior side yard setback of 25 feet from the property line. The area between the adjacent property line and the required setback is supposed to be clear and unobstructed with the exception of a fence that may be located in the setback.

The applicant is requesting a five [5] foot reduction of the required 25 foot setback on both side yards in order to locate the house forward of where the property begins to slope downward towards the storm water drainage easement.

The applicant's site plan is at the end of this report.

Looking down the southwest property line from Fireside Drive



Looking west from halfway down the east property line



Looking northwest along the forms at the rear of the form boards



Looking south along the eastern property line



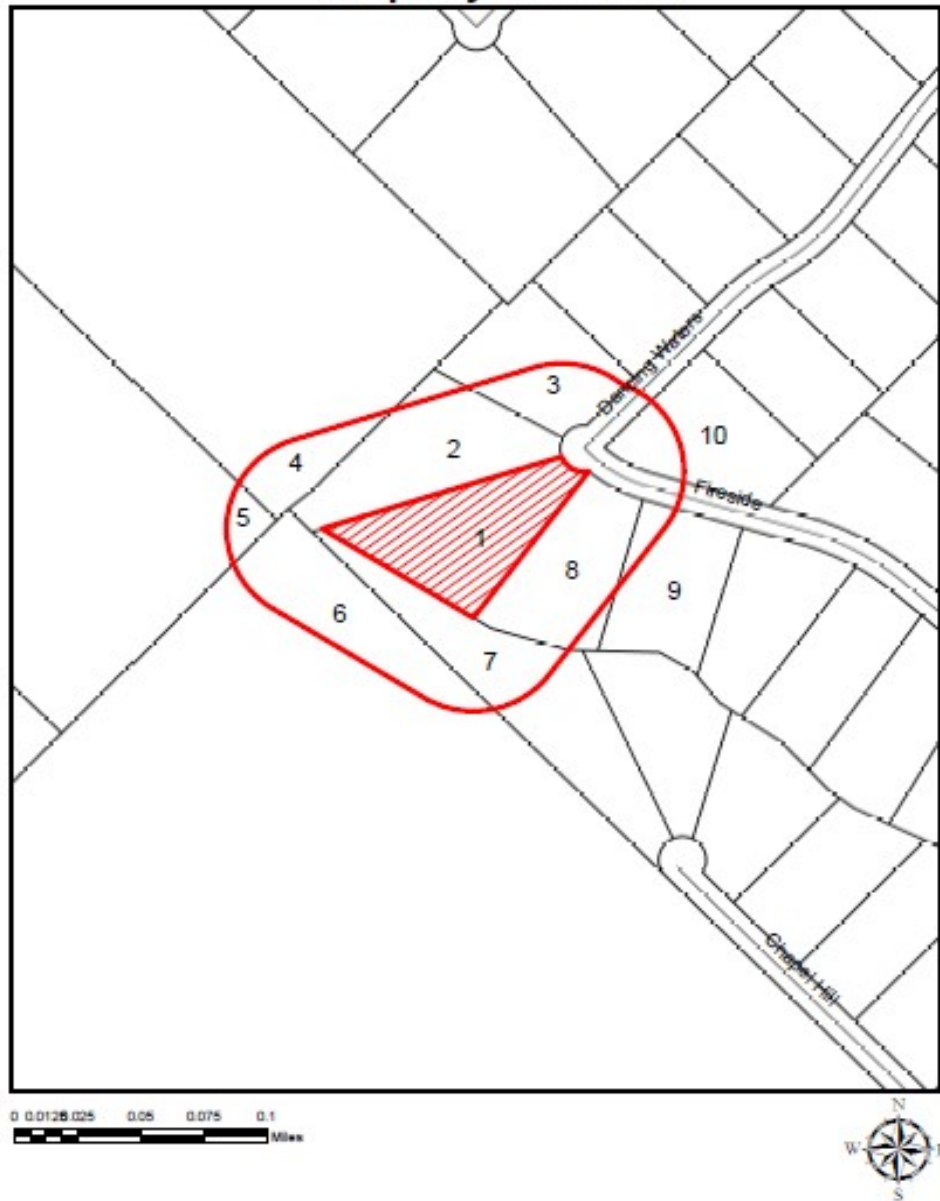
Thoroughfares/streets:

Fireside Drive is a local street serving a residential subdivision identified as Chisholm Crossing.

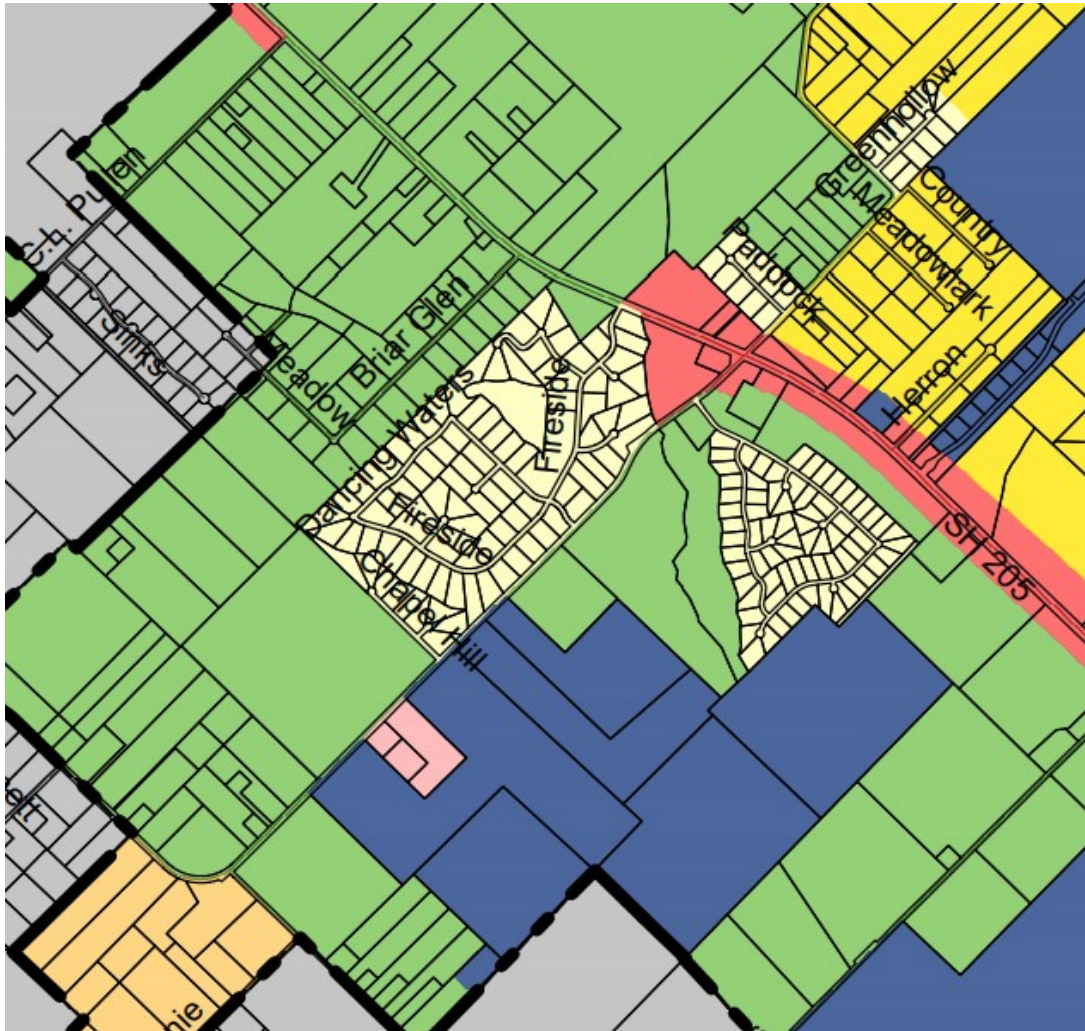
The City sent notices to property owners within 200 feet of the subject property and have received three responses in opposition to the request.



City of McLendon-Chisholm
49 Fireside - BOA
Property ID 329814



Zoning Map



Powers of the Board:

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(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.

NOTE: THE APPLICANT SITE PLAN FOLLOWS:

