



**AGENDA
BOARD OF ADJUSTMENT
MONDAY, JUNE 14, 2021
1371 WEST FM 550 - MCLENDON-CHISHOLM, TEXAS 75032
7:00 PM**

Page

1. CALL TO ORDER

2. CITIZEN COMMENTS

3. APPROVAL OF MINUTES

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- 3.1. March 29, 2021 Board of Adjustment Minutes
[03.29.21 BOA Minutes](#)

4. PUBLIC HEARING

- 4.1. Hold a public hearing on the request of Gloria Leon requesting a variance to the required linear street frontage on a public way of 300 feet per lot. If approved, the variance would allow for the required linear street frontage to be reduced from 300 feet to 208.71 feet. The property location is described as A01707 G P Humphreys, Tract 5-2, 3.89 Acres, Property ID No. 63511, specifically located on Dowell Road.

5. ITEMS FOR CONSIDERATION

7 - 14

- 5.1. Consider the request of Gloria Leon for a variance to the required street frontage on a public way of 300 feet to allow for the required street frontage to be reduced from 300 feet to 208.71 feet for the purpose of building a single-family residence located on Dowell Road.
[Staff Report](#)

6. 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., June 8, 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
MARCH 29, 2021**

Members Present: Beverly Stibbens, Chairperson
Herb Harker, Board Member
Gary Nickel, Board Member
Melody Osorio, Board Member
Frank Fite, Board Member

Members Absent: David Cross, Board Member (Alternate)
Valerie Bodart, Board Member (Alternate)

Staff Present: Shelly Green City Secretary

1. CALL TO ORDER

Chairperson Stibbens called the meeting to order at 7:00 p.m. and led the pledge of allegiance to the U.S. and Texas Flags.

2. APPROVAL OF MINUTES

2.1. February 22, 2021 Board of Adjustments Meeting Minutes

MOTION: Approve the minutes of February 22, 2021 as presented.

MADE BY: Board Member Nickel
SECONDED BY: Board Member Harker
APPROVED: Unanimous

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.

Chairperson Stibbens opened the public hearing at 7:02 p.m.

March 29, 2021 - Board of Adjustment Minutes

There being no persons to speak, the Public Hearing was closed at 7:02 p.m.

4. ITEMS FOR CONSIDERATION

- 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.

The following staff report was included in the packets for this meeting:

APPLICANT: Kevin Velasquez
LOCATION: 49 Fireside Drive, McLendon-Chisholm, Texas

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.

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.

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

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

MOTION: Board Member Fite made a motion to deny, without prejudice, 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.

SECONDED: Board Member Nickel

APPROVAL: Unanimous

7. ADJOURN

There being no further business to discuss, Chairperson Stibbens adjourned the meeting at 7:11 p.m.

ATTEST:

APPROVED:

Rochelle Green, City Secretary

Beverly Stibbens, Chairperson



BOARD OF ADJUSTMENT – CITY OF MCLENDON-CHISHOLM, TEXAS

DATE: May 25, 2021

APPLICANT: Gloria Leon
ADDRESS: 11040 Delford Road
Dallas, Texas 75228

LOCATION: [Parcel ID #63511] Dowell Road, Texas 75032

BOARD HEARING DATE: June 14, 2021

REQUEST:

The applicant is requesting a variance to the required linear street frontage on a public way of 300 feet per lot. If approved, the variance would allow for the required linear street frontage to be reduced from 300 feet to 208.71 feet.

PROPERTY OWNER: Gloria Leon

REPRESENTATIVE: Gloria Leon

STAFF RECOMMENDATION: Approval of the variance that reduces the required right of way frontage from 300 linear feet to 208.71 feet subject to the following condition:

1. The property is platted in accordance with the requirements of the City of McLendon-Chisholm subdivision regulations.

BACKGROUND INFORMATION:

The subject property is a 3.89 acre tract of land with 208.71 linear feet of frontage on Dowell Road. The property is zoned "A" Agriculture and requires a minimum frontage of 300 linear feet. The subject property is an unplatted tract of land that was originally part of a much larger unplatted tract of land. Rockwall CAD ID# 63511. [RCAD aerial at end of report]

The applicant has indicated that she wants to make sure that the subject property may be utilized as a building site when she sells the property.

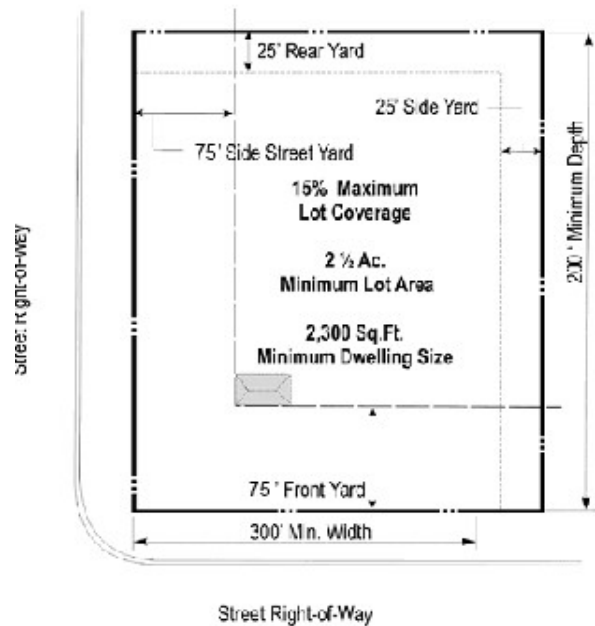
The subject property must be platted into a legal lot that satisfies the requirement for the "Creation of building site" Section 1-11 McLendon-Chisholm Zoning Ordinance in order for a building permit to be issued.

ZONING:



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.

A - Zoning District Area Requirements	
Minimum Lot Area	2 1/2 Acres
Minimum Lot Width	300 ft.
Minimum Lot Depth	200 ft.
Minimum Street Yard	75 ft. Front Street
	75 ft. Side Street
Minimum Side Yard	25 ft.
Minimum Rear Yard	25 ft.
Minimum Dwelling Size	2,300 sq. ft.
Maximum Lot Coverage	15%
Maximum Building Height	45 ft.



Thoroughfares/streets:

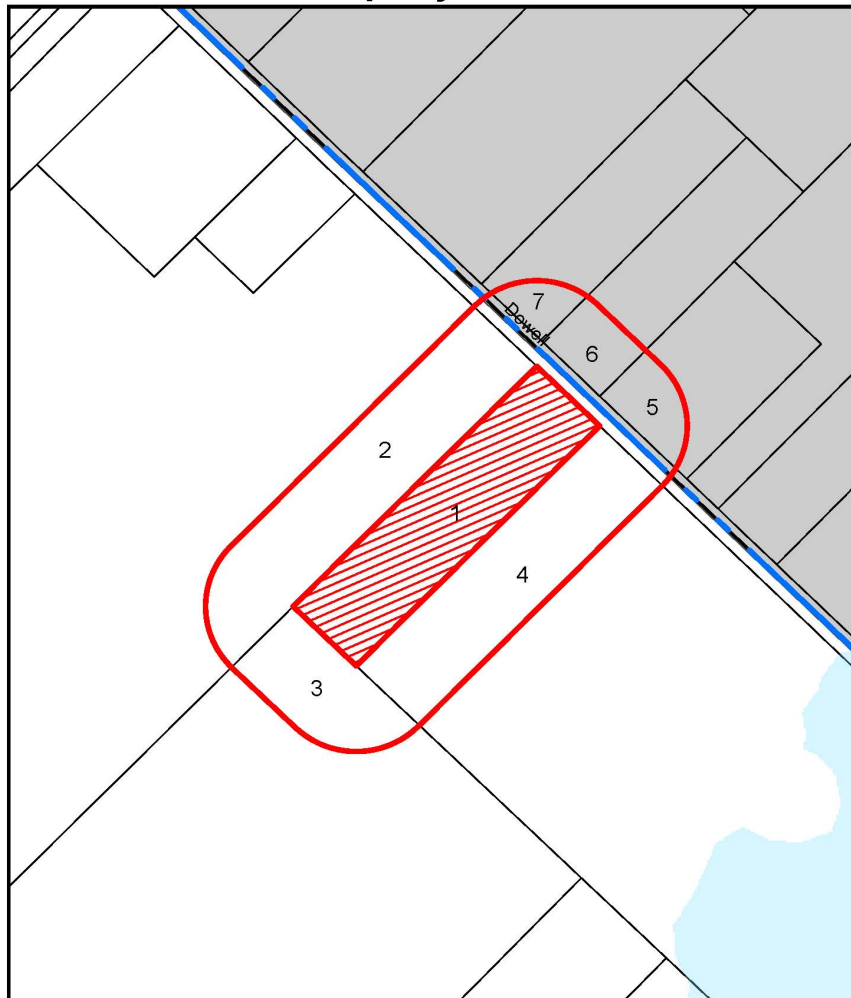
Dowell Road is a local street with an undetermined right of way width.

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.



**City of McLendon-Chisholm
Dowell Road - BOA
Property ID 63511**



0 0.0125 0.025 0.05 0.075 0.1 Miles





Dowell Road, Property ID 63511 – 200' Notification

1. Gloria Leon
11040 Delford Circle
Dallas, Texas 75228
2. Q C Partners Limited LP
2311 Dowell Road
Rockwall, Texas 75032
3. Q C Partners Limited LP
2311 Dowell Road
Rockwall, Texas 75032
4. Kevin & Sundra Stubbs
PO Box 873
Rockwall, Texas 75087
5. Ra-lyn E Baker
PO Box 192
Finley, OK 74543
6. Ernesto & Lucila Chevez
2731 Dowell Road
Rockwall, Texas 75032
7. Carlos and Ana S Rivera
2705 Dowell Road
Rockwall, Texas 75032

Powers of the Board:

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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.
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 - (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.

Rockwall CAD Aerial

