



**AGENDA
BOARD OF ADJUSTMENT
MONDAY, NOVEMBER 1, 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 - 12

- 4.1. Minutes of August 30, 2021 Board of Adjustment Meeting Minutes

[08.30.21 BOA Minutes](#)

5. ITEMS FOR CONSIDERATION

13 - 23

- 5.1. Discussion and action regarding the request of Pamela C. Bazzell to reconsider her original request for a variance to locational requirements for accessory structures which was approved on August 30, 2021.

- 5.2. Discussion and action regarding a request by Pamela C. Bazzell for a variance to the locational requirements for accessory structures.

[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 or before 5:00 p.m., October 22, 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
AUGUST 30, 2021**

Members Present: Beverly Stibbens, Chairperson
Herb Harker, Board Member
Gary Nickel, Board Member
Melody Osorio, Board Member
Christian Giadolor

Members Absent: David Cross, Board Member (Alternate)

Staff Present: Shelly Green City Secretary
Mike Coker City Planner

1. CALL TO ORDER

Chairperson Stibbens called the meeting to order at 7:01 p.m.

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

Chairperson Stibbens led the pledge of allegiance to the U.S. and Texas Flags

3. CITIZEN COMMENTS

None

4. APPROVAL OF MINUTES

4.1. June 14, 2021 Board of Adjustment Meeting Minutes

MOTION: APPROVE MINUTES OF JUNE 14, 2021 AS PRESENTED

MADE BY: Board Member Giadolor
SECONDED BY: Board Member Harker
APPROVAL: Unanimous

5. PUBLIC HEARING

5.1. Hold a public hearing on the request of Pamela C. Bazzell requesting a variance to locational requirements for accessory structures. Specifically, to construct two accessory

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structures in the front yard of a primary residential structure; and secondly the ability to construct two accessory structures within the 100-year flood plain contrary to the decision of the City's Flood Plain Administrator. The property locations if described as Frontier Meadows Lot 10, Property ID 16633; Lot 11, Property ID 16634; Lot 25, Property ID 16648; and, Lot 26, Property ID 16649, specifically located at 100 Serene Haven.

Chairperson Stibbens opened the public hearing at 7:05 p.m.

Ms. Bazzell presented her request at this time.

The public hearing was closed at 7:07 p.m.

6. ITEMS FOR CONSIDERATION

- 6.1. Consider the request of Pamela C. Bazzell for a variance to locational requirements for accessory structures. Specifically, to construct two accessory structures in the front yard of a primary residential structure; and secondly the ability to construct two accessory structures within the 100-year flood plain contrary to the decision of the City's Flood Plain Administrator.

Chairperson Stibbens reported there have been five responses to this request – 2 on Frontier Trail in favor of the request; 2 on Arezzo opposed without comments; and, 1 on Arezzo opposed with comments.

City Planner Coker presented his staff report:

APPLICANT: Pamela C. Bazzell
100 Serene Haven
McLendon-Chisholm, Texas

LOCATION: 100 Serene Haven, McLendon-Chisholm, Texas

REQUEST:

The applicant is requesting a variance to locational requirements for accessory structures. Specifically, to construct two accessory structures in the front yard of a primary residential structure; and secondly the ability to construct two accessory structures within the 100-year flood plain contrary to the decision of the City's Flood Plain Administrator.

PROPERTY OWNER: Pamela C. Bazzell

REPRESENTATIVE: Pamela C. Bazzell

STAFF RECOMMENDATION: As related to variance **Request #1:** Approval. The location of the proposed accessory structures conform to the requirements of the Powers of the Board to permit variances:

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.

STAFF RECOMMENDATION: As related to variance Request #2: Approval, subject to the following conditions:

- The applicant provides documentation from a registered professional engineer that shows that the addition of the two structures within Zone A as identified by the FEMA map, will not increase the water level during the 100-year flood event;
- The applicant applies for the required Flood Plain Development Permit.
- The applicant provides designs for the accessory buildings that conform to the requirements of Sections 3.04.063 and 3.04.092 of the City of McLendon-Chisholm Code of Ordinances.

BACKGROUND INFORMATION:

The subject property is located at the northwesterly portion of Frontier Trail. It is currently comprised of four residential lots [NOTE: the applicant has applied for a residential replat of the four properties to combine them into one residential lot and that application will be heard in early September 2021].

The zoning district designation for the subject site and surrounding area is SF 2.5. This zoning district requires a minimum lot size of 2.5 acres of land. The total acreage of the proposed replat of the existing four lots into one lot is a little more than 26 acres of land. The replated property will have a front yard adjacent to Frontier Trail for the entirety of current Lots 10 and 11.

The applicant has indicated that the two new accessory structures will provide storage for materials and equipment needed to maintain the 26 acres of land.

The variances that are being requested are as follows:

1. The ability to construct two new accessory structures between the existing street frontage and the front of the house; and
2. The ability to construct two new accessory structures within the FEMA designated 100-year flood plain.

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Request #1: Background and requirements:

Section 4-3 of the McLendon-Chisholm Zoning Ordinance:

“E. **Accessory building and structure regulations.** All regulations for accessory building or accessory structures shall be in compliance with section 6-3, Accessory building regulations.”

Section 6-3 of the McLendon-Chisholm Zoning Ordinance:

“**Accessory building.** Any building customarily incidental to the principal building, including among other things, a garage for parking of vehicles, storage shed, greenhouse, pool cabana or tool storage shed and similar such structures not used for any commercial or dwelling purposes.”

“Area regulations. Area regulations for accessory buildings in residential and multifamily districts:

1. Front yard. Attached front accessory building shall have a front yard not less than the main building or as specified in the particular district. Detached accessory buildings shall be located in the area defined as the rear yard.”

Request #2: Background and requirements:

FEMA Flood plain map

Chapter 3 of the McLendon-Chisholm Code of Ordinances; BUILDING REGULATIONS: Subsection 3.04, FLOODS AND STORMWATER, regulates construction in the FEMA designated flood plain [Zone A]. The attached FEMA flood plain map shows the location of the proposed accessory structures to be located in the area identified as Zone A.

The house pad site was removed from the flood plain in 2008 with an approved letter of map revision.

Sec. 3.04-033 Statement of purpose

It is the purpose of this division to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- 1) Protect human life and health;
- 2) Minimize expenditure of public money for costly flood-control projects;
- 3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- 4) Minimize prolonged business interruptions;
- 5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
- 6) Help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize future flood blight areas; and

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- 7) Ensure that potential buyers are notified that property is in a flood area.

Sec. 3.04.034 Methods of reducing flood losses

The following methods are hereby adopted to reduce flood losses:

- 1) Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
- 2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- 3) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;
- 4) Control filling, grading, dredging and other development which may increase flood damage;
- 5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters, or which may increase flood hazards to other lands.

Section 3.04.036 Lands to which this division applies

This division shall apply to all areas of special flood hazard within the jurisdiction of the city. (Ordinance 97-1, art. 3, sec. A, adopted 1/13/97; Ordinance 2008-11, art. 3, sec. A, adopted 9/9/08; 2007 Code, sec. 42-6)

Sec. 3.04.038 Establishment of development permit

A floodplain development permit shall be required to ensure conformance with the provisions of this division. (Ordinance 97-1, art. 3, sec. C, adopted 1/13/97; Ordinance 2008-11, art. 3, sec. C, adopted 9/09/08; 2007 Code, sec. 42-8) [Note: in order for the applicant to request a floodplain development permit, she must have received the requested variance from the Board of Adjustment].

Sec. 3.04.064 Variance procedures

The procedures for acquiring a variance shall be as follows:

- 1) The appeal board, as established by the city council, shall hear and render judgment to requests for variances from the requirements of this division.
- 2) The appeal board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the floodplain administrator in the enforcement or administration of this division.
- 3) Any person or persons aggrieved by the decision of the appeal board may appeal such decision in the courts of competent jurisdiction.
- 4) The floodplain administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.
- 5) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the state inventory of historic places, without regard to the procedures set forth in the remainder of this division.

- 6) Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acres or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in section 3.07.063(2) of this division have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- 7) Upon consideration of the factors noted above and the intent of this division, the appeal board may attach such conditions to the granting of the variances as it deems necessary to further the purpose and objectives of this division (section 3.04.033).
- 8) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- 9) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- 10) Prerequisites for granting variances:
 - A. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - B. Variances shall only be issued upon:
 - i. Showing a good and sufficient cause;
 - ii. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - iii. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 - C. Any application to which a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- 11) Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
 - A. The criteria outlined in subsection (1) through (9) of this section are met; and
 - B. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

Sec. 3.04.092 Specific standards

In all areas of special flood hazards where base flood elevation data has been provided as set forth in section 3.04.037, section 3.04.062(8), or section 3.04.093(3), the following provisions are required:

- 1) Residential construction. New construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated to two feet above the base flood elevation. A registered professional engineer, architect, or land

surveyor shall submit a certification to the floodplain administrator that the standard of this subsection as proposed in section 3.04.063(1)(A), is satisfied.

- 2) Nonresidential construction. New construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to two feet above the base flood level or together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the floodplain administrator.
- 3) Enclosures. New construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
 - A. A minimum of two openings on separate walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
 - B. The bottom of all openings shall be no higher than one foot above grade.
 - C. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

Thoroughfares/streets:

The subject properties front on Frontier Trail, a local street that provides access to the residential properties in the Frontier Meadows subdivision. A small portion of the Frontier Trail access easement provides direct driveway access to Lot 25 which is the lot that has the existing house. Current lots 10 and 11 are directly adjacent to Frontier Trail.

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 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.

MOTION: APPROVE THE REQUEST FOR A VARIANCE TO LOCATIONAL REQUIREMENTS FOR ACCESSORY STRUCTURES; SPECIFICALLY TO CONSTRUCT TWO ACCESSORY STRUCTURES IN THE FRONT YARD OF A PRIMARY RESIDENTIAL STRUCTURE; AND SECONDLY THE ABILITY TO CONSTRUCT TWO ACCESSORY STRUCTURES WITHIN THE 100 YEAR FLOOD PLAIN CONTRARY TO THE DECISION OF THE CITY'S FLOOD PLAIN ADMINISTRATOR; SUBJECT TO THE FOLLOWING CONDITIONS:

- **THE APPLICANT PROVIDES DOCUMENTATION FROM A REGISTERED PROFESSIONAL ENGINEER THAT SHOWS THAT THE ADDITION OF THE TWO STRUCTURES WITHIN ZONE A AS IDENTIFIED BY THE FEMA MAP, WILL NOT INCREASE THE WATER LEVEL DURING THE 100 YEAR FLOOD EVENT;**
- **THE APPLICANT APPLIES FOR THE REQUIRED FLOOD PLAIN DEVELOPMENT PERMIT;**
- **THE APPLICANT PROVIDES DESIGNS FOR THE ACCESSORY BUILDINGS THAT CONFORM TO THE REQUIREMENTS OF SECTIONS 3.04.063 AND 3.04.092 OF THE CITY OF MCLENDON-CHISHOLM CODE OF ORDINANCES.**

MADE BY: Board Member Nickel
SECONDED: Board Member Harker
APPROVAL: Motion Failed by a vote of 3-2 (Stibbens and Giadolor voting NAY)

MOTION: AMEND THE PREVIOUS MOTION TO INCLUDE THE REQUIREMENT
FOR THE SUBMISSION OF AN APPLICATION TO FEMA.

MADE BY: Board Member Giadolor
SECONDED BY: Board Member Nikel
APPROVAL: Approved by a vote of 4-1 (Stibbens voting NAY)

7. ADJOURN

There being no further business to discuss, Chairperson Stibbens adjourned the meeting at 8:11 p.m.

ATTEST:

APPROVED:

Rochelle Green, City Secretary

Beverly Stibbens, Chairperson



BOARD OF ADJUSTMENT – CITY OF MCLENDON-CHISHOLM, TEXAS

DATE: October 20, 2021

APPLICANT: Pamela C. Bazzell

LOCATION: 100 Serene Haven, McLendon-Chisholm, Texas

BOARD HEARING DATE: November 1, 2021

REQUEST:

The applicant is requesting a variance to the locational requirements for accessory structures. Specifically, to construct an accessory structure in the front yard of a primary residential structure.

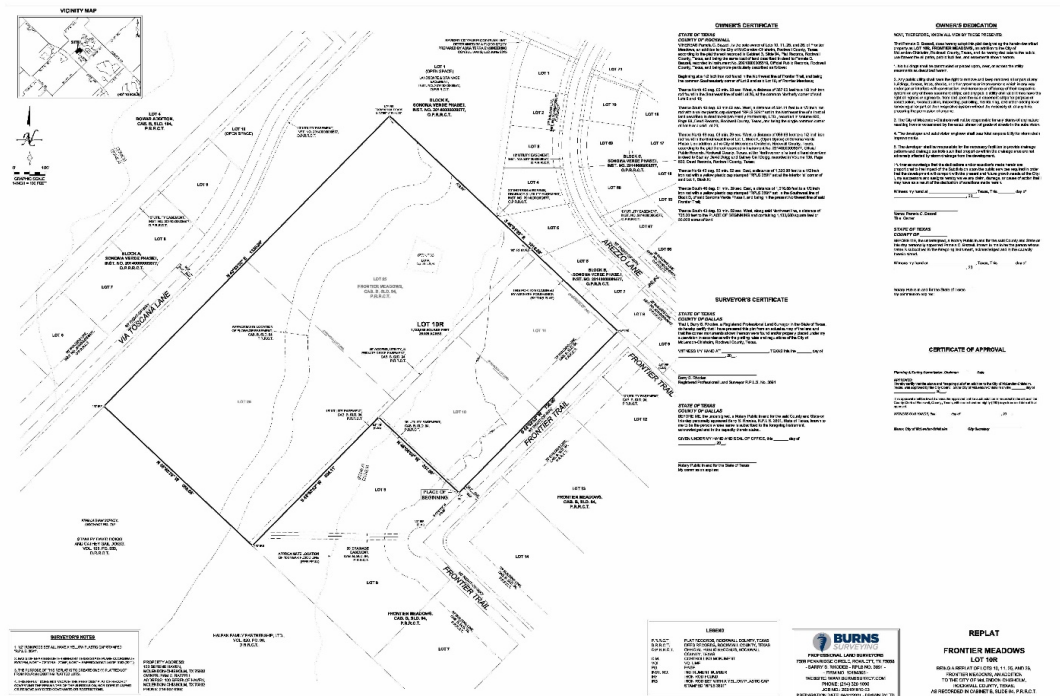
PROPERTY OWNER: Pamela C. Bazzell

REPRESENTATIVE: Pamela C. Bazzell

STAFF RECOMMENDATION: Approval. The location of the proposed accessory structure conforms to the requirements of the Powers of the Board to permit variances:

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.

Approved replat of four lots into one lot



[illegible]

As we discussed at the last hearing, the reason for placing the accessory structure in front of the main house rather than behind the house was that the entirety of the area behind the house is in the floodplain.

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Zoning Map



Section 4-3 of the McLendon-Chisholm Zoning Ordinance:

“E. Accessory building and structure regulations. All regulations for accessory building or accessory structures shall be in compliance with [section 6-3](#), Accessory building regulations.”

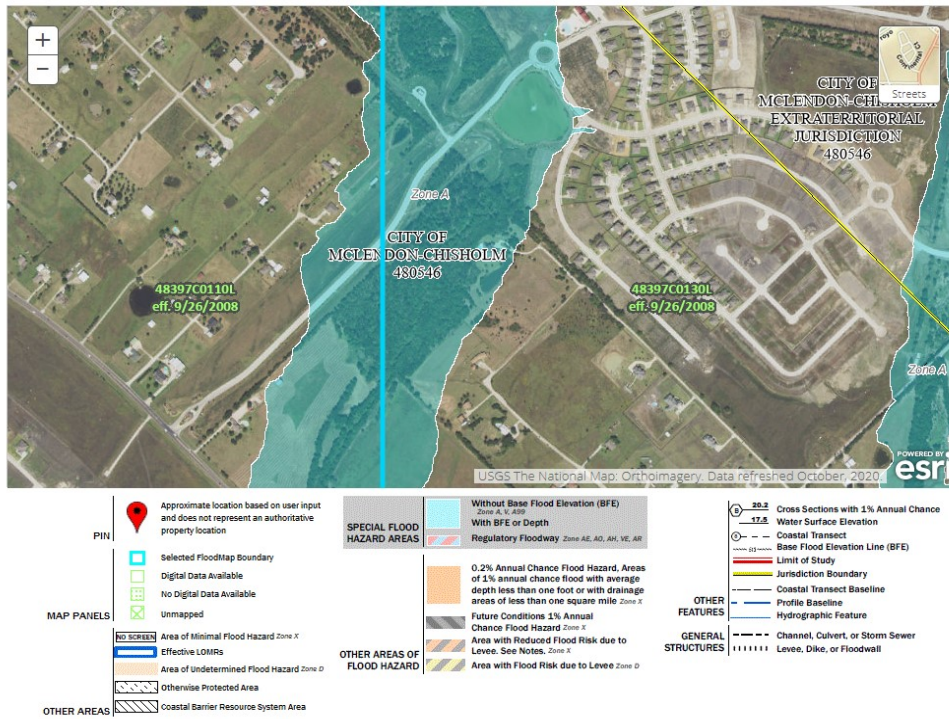
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“Area regulations. Area regulations for accessory buildings in residential and multifamily districts:

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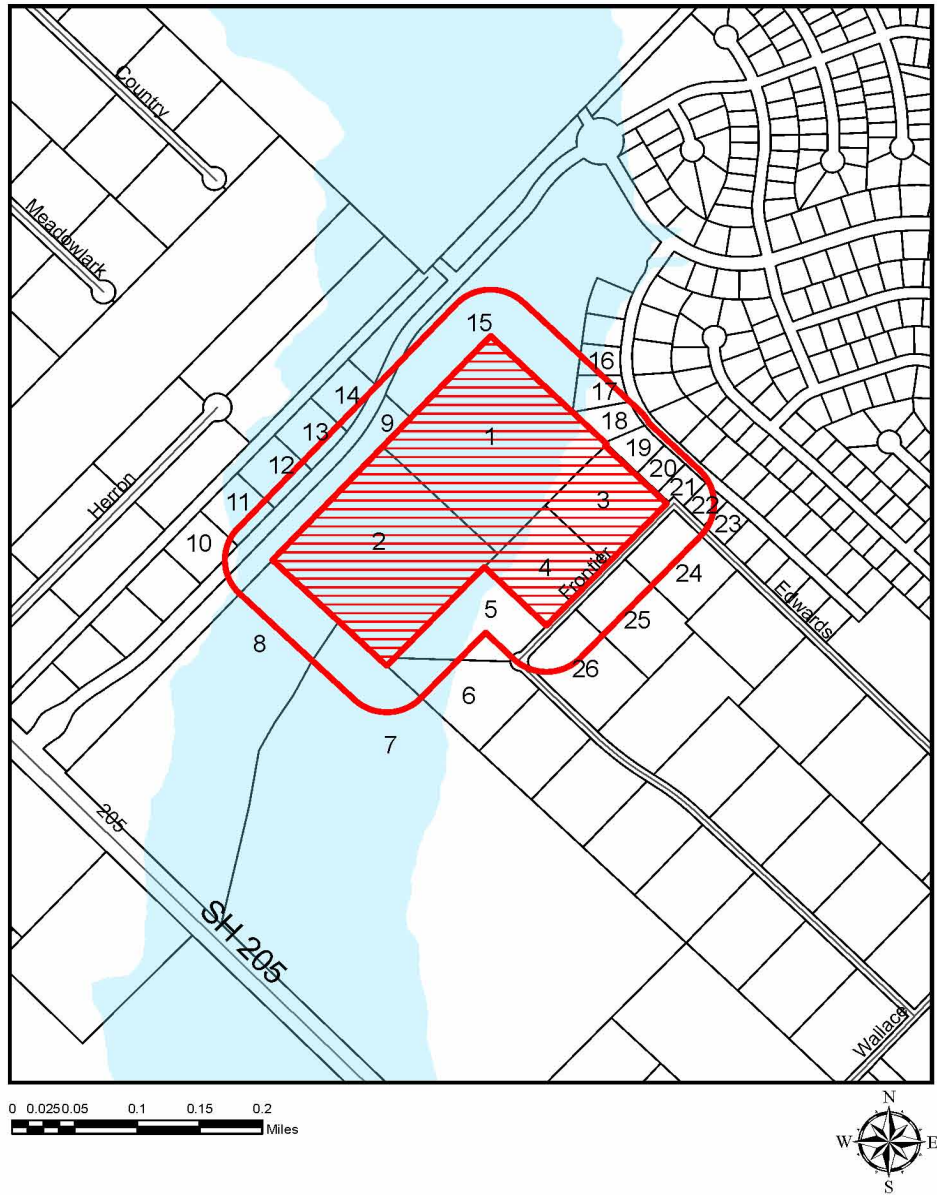
FEMA Flood plain map



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City of McLendon-Chisholm
Property ID: 16648, 16649,
16633, 16634



Notification:



100 Serene Haven – 200' Notification

1. Pamela C Bazzell
100 Serene Haven
McLendon Chisholm, TX 75032
2. Pamela C Bazzell
100 Serene Haven
McClendon Chisholm, TX 75032
3. Pamela C Bazzell
100 Serene Haven
McClendon Chisholm, TX 75032
4. Pamela C Bazzell
100 Serene Haven
McClendon Chisholm, TX 75032
5. Nichols Lee Chatham & Darlene Null
PO Box 2336
Rockwall, TX 75087
6. York Quentin Glen & Tiffany Lynn
PO Box 384
Rockwall, TX 75087
7. Halpain Family Partnership LTD
951 S. State Highway 205
Rockwall, TX 75032
8. Doigg Stanley David Et Ux
651 S. Highway 205
Rockwall, TX 75032
9. Land Solutions SV LLC
15441 Knoll Trail Drive
Dallas, TX 75248
10. Land Solutions SV LLC
15441 Knoll Trail Drive
Dallas, TX 75248

11. Land Solutions SV LLC
15441 Knoll Trail Drive
Dallas, TX 75248
12. Land Solutions SV LLC
15441 Knoll Trail Drive
Dallas, TX 75248
13. Land Solutions SV LLC
15441 Knoll Trail Drive
Dallas, TX 75248
14. Land Solutions SV LLC
15441 Knoll Trail Drive
Dallas, TX 75248
15. Sonoma Verde Homeowners Association Inc.
8360 E. Via de Ventura
Scottsdale, AZ 85258
16. Lockwood Kendall
1315 Arezzo Lane
Rockwall, TX 75032
17. Pribbenow Glynn David and Ginella Marie
1321 Arezzo Lane
Rockwall, TX 75032
18. Adebisi Adetola G and Jose Felipe Bemudez Saenz
1327 Arezzo Lane
Rockwall, TX 75032
19. Medina Abraham Medina and Jocelyn Prill-Medina
1333 Arezzo Lane
Rockwall, TX 75032
20. Metz Tanner Jeffrey and Emily Rebecca
1339 Arezzo Lane
McLendon Chisholm, TX 75032
21. Lavandowski John P & Cindy L
1345 Arezzo Lane
McLendon Chisholm, TX 75032

22. Oberhansley Nokuthula Shamiso and Luke
1351 Arezzo Lane
Rockwall, TX 75032
23. Langer Ashley Ann and Armando Jaramillo Jr
1357 Arezzo Lane
Rockwall, TX 75032
24. Shenandoah Real Estate Trust
681 Frontier Trail
McLendon Chisholm, TX 75032
25. Hinojosa Lucio and Rosa Yesenia Reyes
507 Martinique Avenue
Dallas, TX 75223
26. Garcia Veronica and Juan
1829 Mercury
Garland, TX 75040

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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.

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