



CITY OF TONTITOWN PLANNING OFFICE

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Meeting: April 23, 2024
Project: Martinez **Variance**
Mark Latham, Planner

BOARD OF ZONING ADJUSTMENTS AGENDA ITEM

PH3, BOZA1

VARIANCE REQUEST

Parcel #: 830-37891-200, 830-37891-230

SUMMARY: The applicant is requesting two building setback variances to allow a property split of 5.775 ac.

CURRENT ZONING: RE, Residential Estates

CITY WARD: 3, Mike Washkowiak, Tim Burress

INFRASTRUCTURE SERVICE AREAS (not a guarantee of service availability):

Water: Washington Water
Electric: Ozarks Electric
Sewer/Septic: Septic
Phone: AT&T
Natural Gas: Black Hills Energy
Cable: Cox Communications
School District: Springdale

PROJECT SYNOPSIS:

The owners of the property, Erik and Juan Martinez inherited the land from their grandfather. The applicants desire to split the current two parcels equally along an existing fence line. In order to do this, two existing buildings encroach into building setbacks.

The applicant is requesting two (2) Variances:

- **VARIANCE 1:** Tract 1 requires an 18' variance of the required 30-foot setback building variance.
- **VARIANCE 2:** Tract 2 requires an 16' variance of the required 30-foot setback building variance.

VARIANCE REQUEST 1 and 2:

Variance from Appendix B of the Zoning Code to allow lot widths less than the min. required in the RE Zoning District

Section 153.262 Powers and Duties:

*(B) To authorize upon appeal, in specific cases, such variance from the terms of this zoning chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of these regulations would result in unnecessary hardship that would deprive the owner of any reasonable use of the land or building involved. **A variance from the terms of these zoning regulations. shall not be granted by the Board of Zoning Adjustment unless and until:***

- (1) The applicant demonstrates 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.*

Applicant's Letter:

Due to the existing building located on the property and the desire to split the properties equally creates the request for the variances. The buildings have been there for many years, probably before the property was annexed.

Staff's Response: The applicant has ensured that all lots will meet the minimum lot sizes required in RE zoning.

that literal interpretation of the provisions of these regulations would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of these regulations.

Staff Response: The new owners inherited the property under the current conditions and new tracks meet the required RE Zoning.

that special conditions and circumstances do not result from the actions of the applicant.

Staff's Response: The new owners inherited the property under the current conditions.

and that granting the variance requested will not confer on the applicant any special privilege that is denied by the zoning regulations to other lands, structures, or buildings in the same district.

Staff's Response: Granting these variances will not prevent the orderly subdivision or development of other land in the area.

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

Staff Response: There are no nonconforming uses in the surrounding area.

- (3) *The Board of Zoning Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of land, building, or structure.*

Staff Response: The lots are in conformance with the required lot size for this zoning district.

- (4) *The Board of Zoning Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of these zoning regulations and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.*

Staff Response: Granting these variances will not prevent the orderly subdivision or development of other land in the area.

- (5) *In granting any variance, the Board of Zoning Adjustment may prescribe appropriate conditions and safeguards that it deems necessary or desirable. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of these regulations.*

Staff Response: No additional conditions are recommended at this time.

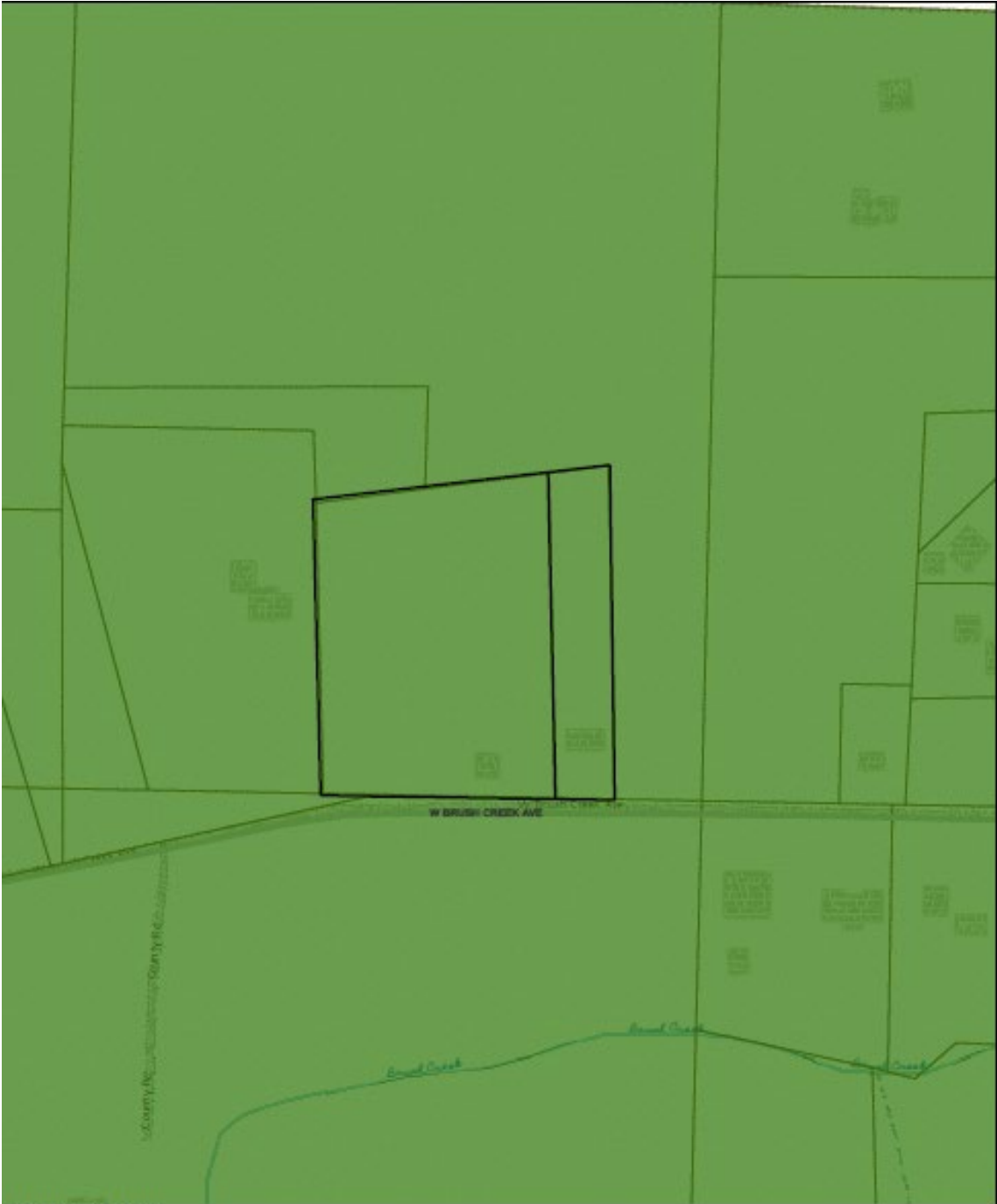
- (6) *Under no circumstances shall the Board of Zoning Adjustment grant a variance to allow a use not permissible under the terms of these zoning regulations in the district involved, or any use expressly, or by implication, prohibited by the terms of these regulations in said district.*

Staff's Response: Granting this request will not allow a use that is not permissible by code.

STAFF RECOMMENDATION:

Staff recommends **APPROVAL** of the applicant's two building setback variance.

Current Zoning Map



4/19/2024, 11:18:13 AM

TontownZoning

- R-E (Estate Single Fam Res, 2 ac min lot size)
- Roads_WashingtonCounty



