

EXCERPT FROM PLANNING AND ZONING COMMISSION REGULAR MEETING MINUTE RECORD OF OCTOBER 20, 2016:

8. REQUESTS FOR APPROVAL OF VARIANCE TO STANDARDS OF ARTICLE IV (BUILDING SETBACKS AND LOT STANDARDS) OF THE LAND AND SITE DEVELOPMENT ORDINANCE (BRYAN CODE OF ORDINANCES CHAPTER 62) – A PUBLIC HEARING WILL BE HELD FOR EACH ITEM (Commission has final approval; applicants may direct appeals to City Council).

a. Planning Variance PV16-16: Julie Davis

A request for approval of variances from the minimum 150-foot lot width generally required of lots zoned Agricultural - Open District (A-O), to allow the creation of two new lots proposed to have lot widths of 109 feet and 98 feet, respectively, on 8.4 acres of currently vacant, unsubdivided acreage in the John Austin League, A-2, located approximately 250 feet northwest of the intersection of Oak Forest Drive and Wood Oaks Drive in Bryan, Brazos County, Texas. (R. Haynes)

Mr. Haynes presented the staff report (on file in the Development Services Department). Staff recommends approval of the request.

The public hearing was opened.

Mr. Glenn Jones P.E., agent for the applicant, stated that the subject at hand was an issue of lot width and that the applicant is requesting lot widths that are as wide as or wider than over half of the lots in the adjacent Oak Forest Estates Subdivision. Mr. Jones stated that a flood study had been performed and that at the appropriate time it would be used to guide the development process. Mr. Jones offered to answer questions about the development should they arise.

Mr. Paul Kunz, 7101 Oak Forest Drive, Ms. Judy Winn, 7200 Oak Forest Drive, and Ms. Mary Hagan, 7096 Wood Oaks Drive came forward to speak in opposition to the request. Cited concerns included:

- The impact that would result in development of the property
- That there is only one access point to the subject property, and potential negative impacts
- Whether the property would be divided into two or three lots
- Concerns over recent severe flooding and the potential for an increase in harmful impacts
- That during a neighborhood meeting with the applicant, it was stated that the City of Bryan had a plan to mitigate flood impacts

In response to a question from the Commission, Mr. Haynes outlined the available options regarding development of private streets. Mr. Haynes also described the increased street standards required and the obligation of a home owner's association to maintain a private street.

The public hearing was closed.

Commissioner Conlee moved to deny the request for variance to lot width PV16-16, citing the lack of information available, specifically regarding flood mitigation, and a concern over pending legal disputes. Commissioner Incardona seconded the motion.

Commissioners commented on potential flooding issues, whether the potential for increased flooding had bearing on the request for lot width variance, the reasonableness of the request, and the right of a property owner to access their property.

The motion to deny the requested variance passed by a vote of 6-3 with Commissioners Marin, Bush and Gutierrez casting the votes in opposition.

AERIAL IMAGE (2015):



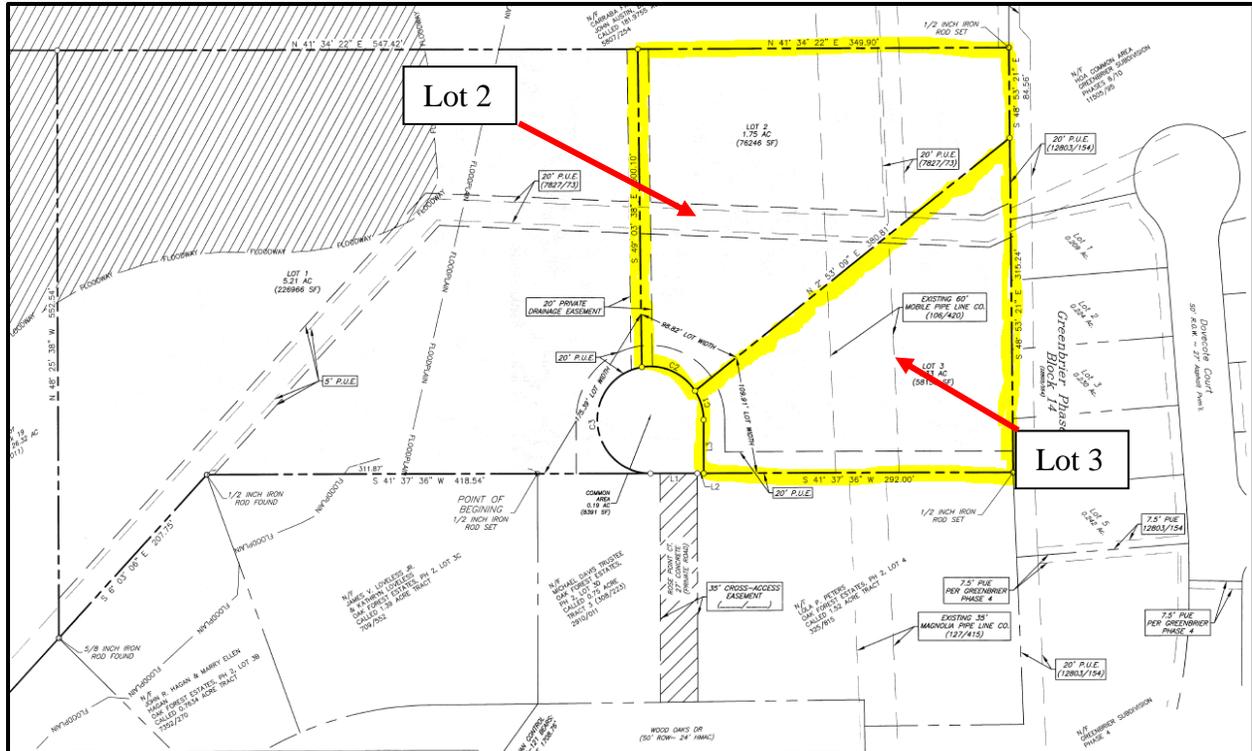
BACKGROUND:

The applicant, Julie Davis, is requesting a variance to Article IV, Section 62-161 of the Land and Site Development Ordinance (Bryan Code of Ordinances Chapter 62), which requires a minimum lot width of 150 feet for lots zoned Agricultural – Open District (A-O). The request is being made in order to allow for the proposed subdivision of approximately 8.488 acres of vacant land located approximately 250 feet northwest of the intersection of Oak Forest Drive and Wood Oaks Drive. If granted, the variance to the minimum lot width will allow the proposed subdivision of this acreage into 3 new lots, proposed to front a new cul-de-sac street.

Bryan’s Subdivision Ordinance defines lot width as “the shortest distance between side lot lines measured at their intersection with the front setback line” (Section 110-4). Two of the three proposed lots in this new subdivision are planned to be less than the minimum required 150 feet in width. The table below provides the specific exception requested for each lot, while the graphic below provides a visual representation of the lots for which the variance has been requested.

Lot Number	Proposed Width	Exception Requested	Lot Size
Lot 2	98.82’	51.18’	1.75 Acres
Lot 3	109.91’	40.09’	1.33 Acres

Exerpt from Proposed Final Plat of Rose Point Subdivision



ANALYSIS:

The Planning and Zoning Commission may authorize a variance from minimum lot standards stipulated in the Land and Site Development Ordinance. No variance shall be granted unless the Planning and Zoning Commission finds that all of the following criteria are met:

1. That the granting of the variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the area (an area encompassing approximately a 200-foot radius);

The requested lot width variances are approximately 41 and 52 feet. Staff believes that, in this circumstance, their substandard lot width may be offset by the two new lots' proposed extraordinary lot depth (292+ feet) and overall size. Proposed Lot 2 is approximately 52 feet short of the 150-foot lot width requirement however, substantially exceeds the minimum required 1-acre lot size at 1.75 acres. Similarly, proposed Lot 3 is approximately 41 feet short of the requirement. That proposed lot also exceeds the minimum required 1-acre lot size at 1.33 acres.

Both proposed lots have proposed lot depths and sizes that each will provide ample room for development with new single-family homes. Staff believes that, therefore, granting the requested variance will not be detrimental to the public health, safety, or welfare, or injurious to other property in the area.

2. That the granting of the variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties abutting the subject property;

Staff believes that the overall effect of reduced lot widths on proposed Lots 2 and 3 in this subdivision will be negligible, if at all noticeable, given the properties' extraordinary lot depth and size in excess of 1.3 acres. Granting the proposed request will still allow for development of

single-family homes of similar size to those now located on adjacent properties in the Oak Forest Estates Subdivision. The extraordinary size of the proposed lots will allow for more open green spaces in the rear of the properties, creating a feeling of a larger back yard area.

3. That the hardships and difficulties imposed upon the owner/applicant are greater than the benefits to be derived by the general public through compliance with the requirements of this chapter.

The proposed lot configuration provides lots that are larger than properties in the adjacent Oak Forest Estates Subdivision and are in keeping with the development pattern in the general vicinity. Approval of the variance request will allow for the development of three single-family homes on substantially large lots. Denial of the request will not allow the proposed subdivision into three new lots, and may reduce the opportunity for residential subdivision to only two new lots.

RECOMMENDATION:

Based on all of these considerations, staff recommends **approving** the requested variance.

EMAILS FROM AREA PROPERTY OWNERS:

Haynes, Randall

From: Judy Winn [REDACTED]
Sent: Friday, October 14, 2016 1:37 PM
To: Haynes, Randall
Subject: Davis family request for zoning variance

Mr. Haynes,

My neighbor Mary Hagan has reported on her conversation with you to the rest of us in Oak Forest Estates. I'm sure you know that we have long opposed the creation of a road (in this case a "private driveway") on one of the lots in our neighborhood so that the Davis family will have access to land they own outside our neighborhood.

Although we may not be able to prevent the conversion of a residential lot to a road, we remain opposed to any and all development on land north of us that would increase the risk of flooding that we already face. And we certainly oppose rezoning for three lots where the ordinance allows only two.

At a time when the city of Bryan is (or should be) considering multiple options for mitigating flood risk, allowing further development in the proposed area would be extremely foolish. Five homes in our neighborhood flooded in May, and runoff from developed lots where the Davis family proposes to build would directly affect the extent of flooding along Carter's Creek.

Thank you,
Judy Winn
979-776-5573
7200 Wood Oaks Dr.

Haynes, Randall

From: kathy Loveless [REDACTED]
Sent: Friday, October 14, 2016 2:55 PM
To: Planning Services Web
Subject: Planning Variance case no. PV16-16:Julie Davis

The request for a variance to build on a property which you have no access to seems to be a ploy to get around the city regulations. They want to build an access street using a lot in our sub division. Deed restrictions prohibit this. This has already been litigated once and the ruling was that this would not be allowed. I can only assume that the intent on this is, if you approve it, they can take it to court stating that the City of Bryan has no problem with this so neither should the court.

I would ask you to be very careful on this subject. Obviously this should be litigated in the court prior to asking you for the variance.

Jim Loveless

Haynes, Randall

From: Helen Kunz [mailto:hkunz@cityofhickory.com]
Sent: Tuesday, October 18, 2016 4:39 PM
To: Marjorie Morris; Sammy DeStefano; Paul Corbin; Sharon_Mike Reece; Becky_David Segrest; Kathy Nigh; Mary_John Blackburn; Gail_Johnny Churchwell; Wanda_Sam Paradowski; Florence Siegert; Ron_Judy Winn; Marvin Ouren; Janice_Tim Terrell; Mae & Joe Fazzino; Lola Petersen; Dianna_Ozzie Burke; Shirley_Dean Wallace; Melissa_Bryan Williamson; Jackie_Curtis Green; Helen_Paul Kunz; Mary_John Hagan; Mary_Weldon Kennedy; Paul Kunz; Janet R Cash; Haynes, Randall; Kathy_James Loveless; Consuelo_Luis Munoz; Margy Glasner; Dallin_McKenna Jeffrey; Ozzie Burke; Mary_Kenneth Kosh; Michael Jackson; Joe Fazzino; Paul Kunz; Susan_Rusty Culbreth
Cc: Haynes, Randall
Subject: Planning and Zoning Commission meeting

Dear Neighbors,

Just a reminder that the Planning and Zoning Commission will be hearing Steve or Mike Gentry talk about the variance (changes) to the lot size for the homes they plan to build on the Davis land.

The request is for an exemption from the requirement of lot widths in Agricultural-Open areas, such as our neighborhood, to be 150 feet.

John also learned that the whole plan depends on a favorable drainage report by a private company which will then be evaluated by the city engineers.

I'm not sure if the Commission will have those results by Thursday for the meeting.

Paul talked to Kyle Incardona, who suggested we have plenty of people at the P&Z meeting and send letters to the P&Z.

At the P&Z meeting, we also need a spokesman to express our concerns about the Davis variance and entrance to the property.

The consensus from the Oak Forest Estates is as follows:

1. **NO** to making the Davis lot on Wood Oak a driveway to the land behind the Oak Forest lot for the construction of homes. Our deed restrictions require single family homes built on each lot.
2. **NO** to building homes in the Davis tract, which will upset an already delicate flood plain. Our neighbors on Wood Oak whose homes were flooded on May 26, 2016 can testify to Carter Creek coming out of its boundaries. With the new construction in the Davis tract, there will be the problem of proper draining for the homes built there as well as the homes in Oak Forest.

I hope you can attend the meeting. Maybe some of you can carpool.

Thanks,
Helen

Haynes, Randall

From: Mary Hagan [REDACTED]
Sent: Wednesday, October 19, 2016 2:31 PM
To: Haynes, Randall
Subject: Planning Variance case no. PV16-16: Julie Davis
Attachments: IMG_4695.jpg

Mr Haynes,

We plan to attend the Planning and Zoning Commission public hearing on Thursday, October 20, 2016 and object to approval of the request for variance. This acreage is inaccessible, undeveloped and unplatted land in a flood zone. It is behind property on Wood Oaks Drive. On May 26, 2016 five homes on Wood Oaks Drive suffered extensive damage from two feet of flood waters.

An approval of this variance would give way to continued planning for development of a subdivision which would jeopardize the welfare of residents in Oak Forest Estates. We are an established neighborhood. The Davis family owns one platted lot on Wood Oaks Drive designated as a single family home site on which they can build.

The creation of the Greenbriar subdivision has already drastically reduced the capacity of the land to store rain water, created more rapid runoff and caused streams and creeks to rise more quickly. We are already in distress. Bulldozers removed acres of trees and brush and top soil to put down concrete, seemingly without consideration of the consequences to neighborhoods downstream. Greenbriar is far from finished with their expansion. We feel very threatened.

Sincerely, John and Mary Hagan
7096 Wood Oaks Drive
Bryan, TX 77808

attachment is our backyard on May 26, 2016



Haynes, Randall

From: Mary Hagan [REDACTED]
Sent: Wednesday, October 26, 2016 10:51 AM
To: Haynes, Randall; Planning Services Web
Subject: October 20 Meeting of Planning and Zoning Commission

Mr. Haynes,

Thank you for all your communications with our neighborhood, Oak Forest Estates, and for your dedicated work for the city of Bryan. It was encouraging to witness our government at work at the Planning and Zoning Commission meeting on October 20. We appreciate the personal attention to our concerns and your prompt responses to our phone calls and emails.

Sincerely,
John and Mary Hagan
7096 Wood Oaks Drive
Bryan, Texas 77808

Haynes, Randall

From: Mary Hagan [REDACTED]
Sent: Wednesday, October 26, 2016 11:05 AM
To: Planning Services Web
Subject: October 20 Meeting

Members of the Planning and Zoning Commission,

Thank you for inviting us to speak at the October 20 meeting on behalf of our neighborhood, Oak Forest Estates. It was the perfect opportunity to share our concerns as well as the chance to see what is happening in the City of Bryan.

Thank you, also, for your commitment to serving on the Planning and Zoning Commission which we understand you do as volunteers. Your time and willingness to listen is most appreciated.

Sincerely,
John and Mary Hagan
7096 Wood Oaks Drive
Bryan, Texas 77808

REQUEST TO APPEAL EMAIL FROM THE APPLICANT'S AGENT:

Haynes, Randall

From: Glenn Jones [REDACTED]
Sent: Monday, October 24, 2016 3:04 PM
To: Haynes, Randall
Cc: Cravatt, Cody; Steven Davis <steven.g.davis@att.net>; mikedavis@suddenlink.net
Subject: PV16-16: Rose Point Subdivisions

Randy:

Please accept this email as the owner's request to appeal the recent decision by P&Z to deny PV16-16. If you need additional information, please let me know.

Thank You,

Glenn Jones, PE-CFM

J4 Engineering
1135 N. Earl Rudder Frwy, Suite 100
PO Box 5192
Bryan, Texas 77805
Phone: 979-739-0567
www.j4engineering.com