

**City of Texas City  
Planning Board**

# Memo

**To:** City Commission

**From:** Planning Board

**cc:** Kim Golden, Engineering & Planning

**Date:** December 21, 2021

**Re:** RECOMMENDATION regarding the Request for Variance to allow construction of a new single family residence on less than two acres at 6813 Wetzel.

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The Planning Board submits this recommendation in accordance with Subdivision Ordinance Section 159.050 (F).

The Planning Board convened for its regular meeting on December 20, 2021 and considered the referenced matter. Based upon the information provided by staff and from the Applicant, the Planning Board recommends **approval of the variance to allow construction of a new single family residence upon a one-acre lot at 6813 Wetzel upon the following conditions: (1) construction to begin within six (6) months from the date of action by the City Commission, AND (2) Applicant shall re-plat the two one-acre parcels into a single parcel of at least two acres before any sale or other transfer of either 6811 Wetzel or 6813 Wetzel unless at such time of sale or transfer the city ordinance requiring a minimum lot size has changed OR the property has access to proper off-site sanitary sewer service.**

This recommendation is based upon the following findings:

**Background -** The Applicant seeks to construct a new single family residence upon a one-acre parcel of property located at 6813 Wetzel Rd. The property does not have access to off-site sanitary sewer service. Applicant owns a one-acre parcel in her name alone, and a second, adjacent one-acre parcel in joint ownership with her husband. The first parcel, 6813 Wetzel, is landlocked but for a 50ft easement across 6811 Wetzel which connects to Wetzel Rd., a public street. The second parcel, 6811 Wetzel, is adjacent to a public street (Wetzel) with an existing single family residence and is understood to be the parcel where Applicant currently resides with her husband and children, temporarily, pending construction of a new residence at 6813

Wetzel. Applicant's parents are semi-retired and also reside with Applicant and her family at 6811 Wetzel from time to time. It is Applicant's stated intent, if the variance is granted for construction at 6813 Wetzel, to retain the ownership of 6811 Wetzel and for her parents and/or children to have access and reside in the existing structure at 6811 Wetzel from time to time as needed according to their needs and circumstances.

**Applicable Ordinances:** The property does not have access to off-site sanitary sewer service which triggers the minimum lot size requirements of Section 159.050. The ordinance requires a minimum of 2 acres at least 200 ft wide for residential construction.

Per the ordinance, the sole variance procedure specific to lots without access to sanitary service is by the City Commission which has the authority for granting variances to the minimum lot size requirement, following review and written recommendation from the Planning Board. Sec 159.050 (F)(3)(a)-(d).

The City Commission may authorize a variance from the two-acre or 200-foot width requirements for on-site sanitary sewer facilities when, in its opinion, undue hardship will result from requiring strict compliance. In granting a variance, the Commission shall prescribe only conditions that it deems necessary or desirable to protect the public interest. Sec 159.050 (F)(3)(a).

In making the findings required in this section, the Commission shall take into account the nature of the proposed use of the land involved, existing uses of land in the vicinity, the number of persons who will reside at the proposed location, and the probable effect of the variance upon the public health, safety, convenience and welfare in the vicinity. Sec 159.050(F)(3)(b).

The ordinance states "no variance shall be granted unless the Commission finds:

1. There are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of his or her land;
2. The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant;
3. The granting of the variance will not be detrimental to the public health, safety or welfare, or injurious to other property in the area; and
4. The granting of the variance will not have the effect of preventing the orderly subdivision of other land in the area in accordance with the provisions of this chapter."

#### RECOMMENDED FINDINGS OF FACT:

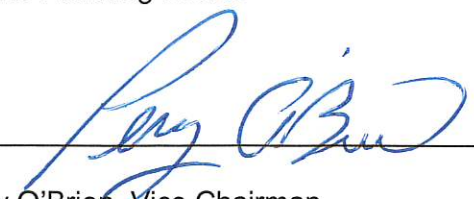
- 1) Although special circumstances customarily pertain to some underlying condition of the property, the Planning Board recommends a finding that the Applicant and staff have been acting in good faith at all times and that the unfortunate confluence of confusing communications, delays due to COVID and the pandemic, staff changes, and the legal impediment of the Applicant's mortgage constitute a special condition such that strict application of the provisions of the ordinance would deprive the Applicant of the reasonable use of her land.

- 2) Applicant indicates she received written communication from City staff in August 2019 regarding permission to construct a new single family residence upon the one acre lot at 6813 Wetzel and in reliance upon such communication caused her property to be encumbered with a mortgage as security for a construction loan. The denial of the variance would prevent her from building upon the property in accordance with the terms of the mortgage and thereby deprive her of the preservation and enjoyment of a substantial property right.
- 3) Applicant and the Chief Building Official indicate the Galveston County Health Department has granted all necessary permits for the septic system for 6813 Wetzel. Applicant affirms 6811 Wetzel has an operating septic system in compliance with all applicable regulations. Applicant provides an email from TNMP indicating it will provide electrical service to both structures from a single metered point of service. This evidence shows the granting of the variance would not be detrimental to the public health, safety or welfare, or injurious to other property in the area.
- 4) Subject to the Applicant's binding commitment not to sell or donate or otherwise transfer the one acre parcels separately from each other, nothing about the location of the property prevents the orderly subdivision of other land in the area in accordance with the requirements of the Subdivision Ordinance.

RECOMMENDED ACTION:

Based upon the findings of facts and the applicable ordinances, the Planning Board recommends **approval of the variance to allow construction of a new single family residence upon a one-acre lot at 6813 Wetzel upon the following conditions: (1) construction to begin within six (6) months from the date of action by the City Commission, AND (2) Applicant shall re-plat the two one-acre parcels into a single parcel of at least two acres before any sale or other transfer of either 6811 Wetzel or 6813 Wetzel unless the city ordinance requiring a minimum lot size has changed to the property has access to proper off-site sanitary sewer service.**

For the Planning Board:

  
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Perry O'Brien, Vice Chairman

Date: 12/21/2021

  
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Kim Golden, Planning Board Secretary