

PVC-18-04 Variance Mostyn Point



Applicant Information:

Agent: Grover Mostyn
PO Box 1369
San Marcos TX, 78667

Property Owners: Nelly Altuve
1905 Alyssa Drive
Manchaca TX, 786652

Subdivision: Proposed subdivision of approximately 4.67 acres in Guadalupe County, known as the Mostyn Point Subdivision.

Applicant Request: The applicant is requesting a variance from Section 3.6.3.1(A) of the San Marcos Land Development Code, which states that all lots must have frontage on a public street.

Subject Property:

Summary: The proposed variance is associated with PC-18-47_05, Mostyn Point. The proposed subdivision plat will establish 2 residential lots in Guadalupe County.

Zoning: ETJ - NA

Preferred Scenario: Low Intensity Zone

Existing Use: Residential

Proposed Use: Residential

Background:

The subject property is located off of Offermann Hill Road, which is within the San Marcos Extra-Territorial Jurisdiction (ETJ), between FM 1979 and Lehmann Drive. The proposed subdivision will create two residential lots. The proposed plat is attached.

The applicant is requesting a variance to the requirement that all lots have frontage on a public street outlined in Section 3.6.3.1(A) of the San Marcos Land Development Code. The two proposed lots do have frontage on Offermann Hill Road, which is a public street, however, the act of platting these two lots removes the public street frontage of residential lots behind this property. The residential lots behind this property do have access to a private street, Mostyn Lane, but private streets do not meet the requirements of the San Marcos Land Development Code.

There are 13 homes on Mostyn Lane, which is a development that began approximately 30 years ago when the property was outside of the San Marcos ETJ and the county did not require people to plat residential homes prior to issuing septic permits. The former owner sold the two proposed lots without realizing that the standards had changed. Now, with the property inside of the San Marcos ETJ, the county will not allow septic tanks to be installed on either of the two proposed lots prior to platting. The new owners began building homes on the lots without realizing they would not be issued septic permits.

In order to rectify the situation, the former developer of the property offered to dedicate Mostyn Lane to Guadalupe County as a public street. However, at this time Guadalupe County is unable to accept Mostyn Lane, leaving a plat variance as the only option forward.

Planning Department Analysis:

The requirements for adequate infrastructure and frontage on public streets is intended to allow the orderly development of land and prevent land locking property.

Mostyn Lane is currently a 60 foot wide access easement, which is wide enough to be accepted as a public street in the future without requiring additional dedication in order to serve the existing residences. Guadalupe County has reviewed the applicants request to accept Mostyn Lane as a public road, but if the County is able to accept Mostyn Lane, it will not be until at least the year 2020 due to budgetary restrictions.

In deciding the variance petition, the decision-maker shall apply the following criteria outlined in section 1.10.2.4(a). Staff has evaluated the request with regard to the criteria for subdivision variances:

- 1. There are special circumstances or conditions arising from the physical surroundings, shape, topography or other feature affecting the land subject to the variance petition, such that the strict application of the provisions of this Land Development Code to the development application would create an unnecessary hardship or inequity upon or for the petitioner, as distinguished from a mere inconvenience, in developing the land or deprive the petitioner of the reasonable and beneficial use of the land.**

Consistent; The shape of the property proposed to be platted allows only the existing private street (Mostyn Lane) to access the residential homes to the rear. The County is unable to accept Mostyn Lane at this time to function as the required public street, even though it provides access to the lots in the rear

- 2. The circumstances causing the hardship do not similarly affect all or most properties in the vicinity of the petitioner's land.**

Consistent; The existing private road provides access to the original 13 homes. At the time these properties were sold and developed they were not subject to the current regulations.

- 3. The variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner.**

Consistent; This is a unique situation in that the property has already been sold and homes have already been built, but the County cannot issue septic permits until the property is platted. Since the County cannot accept Mostyn Lane as a public road at this time, this variance is the only way the plat can be approved.

- 4. Granting the variance petition will not be detrimental to the public health, safety or welfare, or injurious to other property within the area.**

Consistent; Staff does not feel that this request is detrimental to health, safety, or welfare because the development will have to meet all other required development codes.

- 5. Granting the variance petition will not have the effect of preventing the orderly use and enjoyment of other land within the area in accordance with the provisions of this Code, or adversely affect the rights of owners or residents of surrounding property.**

Consistent; The private street will remain accessible to allow the orderly use and enjoyment of other land within the area.

- 6. The hardship or inequity suffered by petitioner is not caused wholly or in substantial part by the petitioner.**

Consistent; *The hardship has been caused by the previous owner of the property and the County's inability to accept Mostyn Lane as a public road at this time.*

- 7. The request for a variance is not based exclusively on the petitioner's desire for increased financial gain from the property, or to reduce an existing financial hardship.**

Consistent; *This variance is not based exclusively on financial gain or hardship.*

- 8. The degree of variance requested is the minimum amount necessary to meet the needs of petitioner and to satisfy the standards in this section.**

Consistent; *The private street is wide enough to be accepted as a public street in the future, but the County cannot accept it at this time. The plat meets all other requirements of the San Marcos Land Development Code.*

The Commission's Responsibility:

The Commission is charged with making the final decision regarding this variance request. The City Charter delegates all platting variances to the Planning and Zoning Commission. The Commission's decision on platting matters is final and may not be appealed to the City Council. Your options are to approve or deny this variance request.

Prepared By:

Will Parrish, CNU-A	Planner	December 4, 2018
Name	Title	Date