



**BOARD OF ADJUSTMENT
MEETING MINUTES
(August 10, 2015)**

The Board of Adjustment convened in a meeting on August 10, 2015, City Council Chambers, 301 West 2nd Street, Austin, Texas.

Melissa Hawthorne called the Board Meeting to order at 5:40 p.m.

Board Members in Attendance: Michael Benaglio, William Burkhardt, Vincent Harding (Chair), Melissa Hawthorne (Vice-Chair), Don Leighton-Burwell, Melissa Neslund, James Valadez, Michael Von Ohlen

Board Member absent – Angela Atwood

Staff in Attendance: Leane Heldenfels, Diana Ramirez, Cindy Crosby (COA Attorney), Liz Johnston (COA staff), George Adams (COA staff), Wendy Rhoades (COA staff)

EXECUTIVE SESSION (No public discussion)

The Board of Adjustment/Sign Review Board will announce it will go into Executive Session, if necessary, pursuant to Chapter 551 of the Texas Government Code, to receive advice from Legal Counsel on matters specifically listed on this agenda. The Board of Adjustment/Sign Review Board may also announce it will go into Executive Session, if necessary, to receive advice from Legal Counsel regarding any other item on this agenda.

Private Consultation with Attorney – Section 551.071

A-1 APPROVAL OF MINUTES – July 13, 2015

Board Member Melissa Hawthorne motion to Approve the minutes for July 13, 2015, Michael Von Ohlen second on 8-0 vote; APPROVED MINUTES FOR July 13, 2015.

Postponement requests from applicants, staff and interested parties for Items K-3, L-2, M-2, M-10, M-11 to September 14, 2015 and Item L-4 to October 12, 2015 and Item M-1 to February 9, 2016 and withdraw Item L-1 and L-7 was Approved by Board member Melissa Hawthorne, Board member Michael Von Ohlen second on a 8-0 vote.

B. SIGN REVIEW BOARD RECONSIDERATIONS

NONE

C. SIGN REVIEW BOARD PREVIOUS POSTPONEMENTS

NONE

D. SIGN REVIEW BOARD NEW PUBLIC HEARINGS

NONE

E. BOARD OF ADJUSTMENT INTERPRETATION RECONSIDERATIONS

**E-1 C15-2015-0104 Michael Sullivan for Bluebonnet Studios
2301 South Lamar**

The appellant has requested the Board of Adjustment to interpret whether staff erred in approving a site plan (SP 2014-0429C.5H) at 2301 South Lamar Boulevard because:

A. in Section 25-2-6, the land use determined as part of the site plan approval was “Congregate Living” as opposed to “Multi-Family”; and because

B. in Section 25-2-1067 (C) the approved dumpster placement is questioned as being closer than 20 feet or less from property on which a use permitted in an SF-5 or more restrictive zoning district is located

for construction of a new living facility in a “CS-V”, General Commercial Services – Vertical Mixed Use Building zoning district.

The public hearing was closed on Board Member Michael Von Ohlen motion to Deny Reconsideration request, Board Member Melissa Neslund second on a 7-0-1 vote (Vice Chair Melissa Hawthorne recused); DENIED RECONSIDERATION REQUEST.

F. BOARD OF ADJUSTMENT INTERPRETATION PREVIOUS POSTPONEMENTS

NONE

G. BOARD OF ADJUSTMENT INTERPRETATION NEW PUBLIC HEARINGS

NONE

H. BOARD OF ADJUSTMENT RECONSIDERATION PREVIOUS POSTPONEMENTS

H-1 C15-2015-0061 Roger and Mary Ellen Borgelt

106 Laurel Lane

The applicant has requested variance(s) from:

A. Section 25-2-554 (Single-Family Residence Standard Lot (SF-2) District Regulations) to decrease the rear yard setback from 5 feet for an accessory building that is not more than one story or 15 feet in height (required) to 2 feet (requested); and from

B. Section 25-2-496 (D) (Site Development Regulations) to decrease the side yard setback from 5 feet (required) to 0 feet (requested)

in order to maintain an accessory structure in an “SF-3-NCCD-NP”, Family Residence – Neighborhood Conservation Combining District – Neighborhood Plan zoning district. (North University)

The public hearing was closed on Board Member Michael Von Ohlen motion to Deny Reconsideration request, Board Member William Burkhardt second on a 8-0 vote; DENIED RECONSIDERATION REQUEST.

I. BOARD OF ADJUSTMENT RECONSIDERATIONS

NONE

J. BOARD OF ADJUSTMENT SPECIAL EXCEPTION PREVIOUS POSTPONEMENTS

NONE

K. BOARD OF ADJUSTMENT NEW PUBLIC HEARING SPECIAL EXCEPTIONS

**K-1 C15-2015-0092 Lex Henderson
608 Augusta Avenue**

The applicant has requested a Special Exception under Section 25-2-476 (Special Exception) from Section 25-2-492 (D) (Site Development Regulations) to decrease the side yard setback from 5 feet (required) to 0 feet (requested) in order to maintain an elevated deck and stairs constructed at least 10 years ago in an “SF-3-NP”, Family Residence Zoning District. (Old West Austin)

The public hearing was closed on Board Member Michael Von Ohlen motion to Grant the Special Exception request, Board Member Melissa Hawthorne second on a 8-0 vote; GRANTED THE SPECIAL EXCEPTION REQUEST.

**K-2 C15-2015-0105 Phil Moncada for Doug Lewis
5009 Eilers Avenue**

The applicant has requested a Special Exception under Section 25-2-476 (Special Exception) to Ordinance 20120112-087, Part 7:

A. 1. to decrease the side yard setback from 5 feet (required) to 3 feet (requested, existing); and to

B. 8. to decrease the rear yard setback from 5 feet next to an alley (required) to 3 feet (requested, existing)

in order to maintain a storage structure and covered concrete area constructed at least 10 years ago in an “SF-3-NCCD-NP”, Family Residence – Neighborhood Conservation Combining District - Neighborhood Plan zoning district. (Hyde Park)

The public hearing was closed on Board Member Michael Von Ohlen motion to Grant the Special Exception request, Board Member Melissa Hawthorne second on a 8-0 vote; GRANTED THE SPECIAL EXCEPTION REQUEST.

**K-3 C15-2015-0117 Philip Burkhardt for JaLayne Wolf
1211 E 31st Street**

The applicant has requested a Special Exception under Section 25-2-476 (Special Exception) from:

A. Section 25-2-492 (D) (Site Development Regulations) to decrease the side yard setback from 5 feet (required) to 2.75 feet (requested, existing); and to

B. Section 25-2-555 (B) (Family Residence (SF-3) District Regulations) to decrease the rear yard setback for an accessory building not more than one story or 15 feet in height from 5 feet (required) to 0.2 feet (requested, existing)

in order to maintain a storage structure constructed at least 10 years ago in an “SF-3-NP”, Family Residence – Neighborhood Plan zoning district. (Upper Boggy Creek)

POSTPONED TO SEPTEMBER 14, 2015 AT THE APPLICANT’S REQUEST

L. BOARD OF ADJUSTMENT PREVIOUS POSTPONEMENTS

**L-1 C15-2015-0046 Geoff Gilbert for Tres Waters LLC
5605 Jeff Davis Avenue**

The applicant has requested a variance(s) from Section 25-2-1604 (C) (1) to permit the parking structure to be closer to the front lot line than the building facade in order to construct a garage in a “SF-3-NP”, Family Residence – Neighborhood Plan zoning district. (Brentwood)

WITHDRAWN AT THE APPLICANT’S REQUEST

L-2 C15-2015-0052 Letty McGarrahan for Marcelo Vera

106 & 108 Comal Street

The applicant has requested variance(s) from Section 25-2-492 (D) (Site Development Regulations) to:

- A. decrease the rear setback from 10 feet (required) to 5 feet (requested); and to
- B. increase the building cover from 40% (required) to 55% (requested); and to
- C. Subchapter F: Residential Design and Compatibility Standards, Article 2: Development Standards, Section 2.1 (Maximum Development Permitted) to increase square footage from 2,300 square feet (required) to 2,500 square feet (requested)

in order to join and expand two existing single family homes together into one, remodeled single family home in an “SF-3-NP”, Family Residence – Neighborhood Plan zoning district. (East Cesar Chavez)

NOTE: The East Cesar Chavez Neighborhood Plan allows for Small Lot Amnesty lots of 2,500 square feet or greater to be developed with a Single Family use, the area of these combined lots is 3,820 square feet. In addition, the plan allows for Small Lot Amnesty lots to have up to 65% impervious cover which the proposed use of this lot will meet.

POSTPONED TO SEPTEMBER 14, 2015 AT THE APPLICANT’S REQUEST

**L-3 C15-2015-0068 Nikelle Meade for Adam Wilson
5001 Evans Avenue & 5000 & 5002 Martin Avenue**

The applicant has requested a variance(s) from Section 25-2-832 (*Private Schools*) (1), of Division 3 – Civic Uses to decrease the minimum paved width of a street that the site must be located on from at least 40 feet from the site to where it connects with another street that also has a paved width of at least 40 feet (required) to 27 feet paved width on 50th Street, Evans Avenue and Martin Avenue (requested/existing) in order to amend a condition of a previously approved variance so the applicant may increase the maximum number of students allowed on the site from 68 (as required pursuant to a previous Board variance approval on August 9, 2010 in case No C15-2010-0075 and 0076, existing) to the lower of either 125 students or the number of students permitted based on the number of parking spaces provided in accordance with the Table of Off-Street Parking and Loading Requirements for Public or Private Secondary Educational Facilities as listed in Section 25-6, Appendix A (requested) in a “SF-3-NCCD-NP”, Family Residence – Neighborhood Conservation Combining District - Neighborhood Plan zoning district. (Hyde Park)

**The public hearing was closed on Board Member William Burkhardt motion to Postpone to September 14, 2015, Board Member Michael Von Ohlen second on a 8-0 vote;
POSTPONED TO SEPTEMBER 14, 2015.**

L-4 C15-2015-0070 James K. Schoenbaum

614 & 618 Blanco Street

The applicant has requested variance(s) from:

A. Section 25-2-1063 (B) (2) of Article 10, Compatibility Standards (Height Limitations and Setbacks for Large Sites) to decrease the distance a person may construct a structure from 25 feet from property on which a use permitted in an SF-5 or more restrictive zoning district is located (required) to 5 feet (requested); and to

B. Section 25-2-1063 (C) (1) of Article 10, Compatibility Standards (Height Limitations and Setbacks for Large Sites) to increase the height limitations for a structure from two stories and 30 feet, if the structure is 50 feet or less from property in an SF-5 or more restrictive zoning district (required) to 36 feet and three stories (requested); and to

C. Section 25-2-1064 (C) (1) (b) of Article 10, Compatibility Standards (Front Setback) to decrease the front building setback of at least 25 feet from a right-of-way if the tract on which the building is constructed adjoins a property on which a use permitted in a SF-5 or more restrictive district is located (required) to 15 feet (requested)

in order to construct a new 12 unit condominium project a “MF-4-H-HD-NP”, Multifamily Residence Moderate High Density – Historic Landmark – Historic Area - Neighborhood Plan zoning district. (Old West Austin)

POSTPONED TO OCTOBER 12, 2015 AT STAFF’S REQUEST DUE TO NOTIFICATION ERROR

**L-5 C15-2015-0090 Jim Bennett for Sal Martinez
2710 & 2712 East 4th Street**

The applicant has requested variance(s) from Section 25-2-492 (D) (Site Development Regulations) to:

A. decrease the minimum lot size from 5,750 square feet (required) to 2,205 square feet (at 2710) and 2,215 (at 2712) square feet (requested); and to

B. decrease the minimum lot width from 50 feet (required) to 37.94 feet (at 2710) and 37.98 feet (at 2712)

in order to construct a single family home on each tract in an “SF-3-NP”, Family Residence zoning district. (Holly)

The public hearing was closed on Board Member Michael Von Ohlen motion to Deny, Board Member Don Leighton-Burwell second on a 7-1 vote (Board member Melissa Neslund nay); DENIED.

L-6 C15-2015-0096 Ken Jordan

808 West 30th Street

The applicant has requested a variance from Section 25-2-774 (C) (Two-Family Residential Use):

A. (2) (a) to decrease the space and location that a second dwelling unit can be located in relation/distance from the principal structure from 15 feet to the rear (required) to 1 foot adjacent to (requested, existing); and to

B. (4) to decrease the distance the entrance of a second dwelling unit can be from a lot line from 10 feet (required) to 5 feet (requested, existing); and to

C. (5) to provide a driveway that crosses the front yard to be not more than 12 feet wide (required) to 13 feet wide (requested, existing); and to

D. (7) (a) to increase the maximum gross floor area of the second dwelling unit from 850 square feet (required/permitted) to 1,001 square feet (requested, existing); and to

E. Section 25-2-515 to decrease the through lot setback from 30th ½ Street from 25 feet (required) to 21.1 feet (requested, existing)

in order to change the use of 2 of the existing 3 structures from day care to two-family residential use in an “SF-3-CO-NP”, Family Residence – Combining District - Neighborhood Plan zoning district. (West University)

The public hearing was closed on Board Member Michael Von Ohlen motion to Grant with conditions that the variances only apply to the secondary structure to the main house on Lot 31, that no changes are allowed to current footprint, size and height of the secondary structure to the east of existing house, variance do not apply to the structure to the west of the main house at 808 West 30th Street, Board Member Melissa Hawthorne second on a 8-0 vote; GRANT WITH CONDITIONS THAT THE VARIANCES ONLY APPLY TO THE SECONDARY STRUCTURE TO THE MAIN HOUSE ON LOT 31, THAT NO CHANGES ARE ALLOWED TO CURRENT FOOTPRINT, SIZE AND HEIGHT OF THE SECONDARY STRUCTURE TO THE EAST OF EXISTING HOUSE, VARIANCE DO NOT APPLY TO THE STRUCTURE TO THE WEST OF THE MAIN HOUSE AT 808 WEST 30TH STREET.

**L-7 C15-2015-0103 John Hussey for Hans Deroacher
7318 Old Bee Caves Road**

The applicant has requested variance (s) from Section 25-2-1063 (B) (1) (Height Limitations and Setbacks for Large Sites), of Article 10. Compatibility Standards to decrease the distance a structure may be constructed from 25 feet or more adjacent to property in an urban family residence (SF-5) or more restrictive zoning district (required) to 23.5 feet (requested) in order to erect new single family detached condominium units in an “SF-6 - NP”, Family Residence, Neighborhood Plan zoning district. (West Oak Hill)

WITHDRAWN BY APPLICANT

M. BOARD OF ADJUSTMENT NEW PUBLIC HEARINGS

**M-1 C15-2015-0106 Michael Kane for Joe Ross
1516 Kinney Avenue**

The applicant has requested variance(s) from Section 25-2-492 (D) (Site Development Regulations) to decrease the minimum lot size from 5,750 square feet (required) to 5,548 square feet (requested) in order to construct a single family home in an “SF-3”, Family Residence zoning district.

POSTPONED TO FEBRUARY 8, 2016 AT THE APPLICANT’S REQUEST

**M-2 C15-2015-0108 Roy Jensen for Mons Anderson
2301 Saratoga Drive**

The applicant has requested a variance(s) from Section 25-2-492 (D) (Site Development Regulations) to decrease the front yard setback from 40 feet (required) to 25 feet (requested) in order to construct a single family home in a “LA”, Lake Austin zoning district.

POSTPONED TO SEPTEMBER 14, 2015 AT THE APPLICANT’S REQUEST

**M-3 C15-2015-0109 I.T. Gonzalez for Susan C. Garza
617 Thrasher Lane and 6404 Ponca Street**

The applicant has requested variance(s) from Section 25-2-779 (Small Lot Single-Family Residential Use):

A. (G) to decrease the minimum front yard setback on Lot 2 from 15 feet (required) to 11 feet (requested, existing); and

B. (H) to decrease the minimum street side yard setback on Lot 1 from 10 feet (required) to 2 feet (requested, existing); and

C. (L) to increase the maximum building cover on Lot 2 from 55% (required) to 58% (requested, existing)

in order to subdivide the property and maintain two single family homes in an “SF-4A-CO-NP”, Family Residence Small Lot – Conditional Overlay – Neighborhood Plan zoning district. (Montopolis)

The public hearing was closed on Board Member Michael Von Ohlen motion to Grant, Board Member Melissa Hawthorne second on a 8-0 vote; GRANTED.

**M-4 C15-2015-0110 David Hancock
1631 Palma Plaza**

The applicant has requested a variance(s) from Subchapter F: Residential Design and Compatibility Standards, Article 3, Section 3.3.3(B)(2) to change the measurement for a basement exemption from “a habitable portion of a building that is below grade if the finished floor of the first story is not more than three feet above the average elevation at the intersections of the minimum front yard setback line and the side property lines” (required) to instead calculate the average elevation starting from the intersection of the northwest corner of the building and existing grade, extending along the building line, where it intersects the east property line per sheet A1.2 (requested) in order to permit a basement exemption for the construction of a new single family home in an “MF-3-NP”, Multi- Family – Neighborhood Plan zoning district. (Old West Austin)

The public hearing was closed on Board Member William Burkhardt motion to Grant, Board Member Melissa Hawthorne second on a 8-0 vote; GRANTED.

**M-5 C15-2015-0111 Michael Kane for Heather Ashley-Ngugen/Cuong Nguyen
1509 Madison**

The applicant has requested variance(s) to Section 25-2-492 (D) (Site Development Regulations) to decrease the minimum side setback from 5 feet (required) to .5 feet (requested, reconstructed) in order to replace an existing carport during a remodel of a single family home in an “SF-3-NP”, Family Residence – Neighborhood Plan zoning district. (Crestview)

The public hearing was closed on Board Member Melissa Neslund motion to Grant, Board Member Melissa Hawthorne second on a 8-0 vote; GRANTED.

**M-6 C15-2015-0112 Bruce Aupperle for Carl Lauryssen
4209 Hidden Canyon Cove**

The applicant has requested variance(s) from Section 25-2-551 (Lake Austin (LA) District Regulations):

A. (B) (3) (a) to permit a mechanized pedestrian access facility within a shoreline setback area, where no structures are allowed except that: (a) a bulkhead, retaining wall, dock, non-mechanized pedestrian facility, or marina may be constructed and maintained in accordance with applicable regulations of this title (requested); and from

B. (E) (2) to permit development other than a fence, driveway, road or utility that cannot be reasonably placed elsewhere on a slope with a gradient of more than 35% (requested)

in order to construct a tram in an in a “LA”, Lake Austin zoning district.

The public hearing was closed on Board Member Michael Von Ohlen motion to Postpone to September 14, 2015, Board Member Michael Benaglio second on a 8-0 vote;

POSTPONED TO SEPTEMBER 14, 2015, NEED TO RENOTIFY AND ADD 4213 ADDRESS

**M-7 C15-2015-0113 Bruce Aupperle for Santosh Singla
8818 Big View Drive #4**

The applicant has requested a variance(s) to Section 25-2-1176 (A) (1) (Site Development Regulations for Docks, Marinas, and Other Lakefront Uses) to increase the distance a dock can extend from the shoreline from no greater than 30 feet (required) to 45 feet (requested) in order to erect a boat dock in an “LA”, Lake Austin zoning district.

**The public hearing was closed on Board Member Michael Von Ohlen motion to Postpone to September 14, 2015, Board Member Melissa Neslund second on a 8-0 vote;
POSTPONED TO SEPTEMBER 14, 2015.**

**M-8 C15-2015-0114 Donna Carter for James Hill
1134 Chicon Street**

The applicant has requested variance(s) to Section 25-2-773 (B) (1) (Duplex Residential Use) to decrease the minimum lot size for a duplex use from 7,000 square feet (required) to 6,834 square feet (requested) in order to create a duplex in a “MF-4-NP”, Multi-Family Residence - Neighborhood Plan zoning district. (Central East Austin)

**The public hearing was closed on Board Member Michael Von Ohlen motion to Postpone to September 14, 2015, Board Member Melissa Hawthorne second on a 8-0 vote;
POSTPONED TO SEPTEMBER 14, 2015.**

**M-9 C15-2015-0115 David M Biven
101 West 32nd Street**

The applicant has requested a variance(s) from:

A. Section 25-2-899 (D) (Fences as Accessory Uses) to exceed the average height of six feet or a maximum height of seven feet for a solid fence constructed along a property line; and to

B. Ordinance #040826-58, Part 6, General Provisions, 10. Fences, to locate a fence in a front yard higher than four feet and more solid than 1 to 1.5 ratio

in order to maintain a wall as tall as 9 feet along the property line of this lot in an “SF-3-NCCD-NP”, Family Residence – Neighborhood Conservation Combining District – Neighborhood Plan zoning district. (North University)

**The public hearing was closed on Board Member Michael Von Ohlen motion to Postpone to September 14, 2015, Board Member Melissa Hawthorne second on a 8-0 vote;
POSTPONED TO SEPTEMBER 14, 2015.**

**M-10 C15-2015-0116 Jim Bennett for Marth Atelia Clarkson
2005 Tower Drive**

The applicant has requested variance(s) from:

A. Section 25-2-492 (D) (Site Development Regulations) to decrease the side setback from 5 feet (required) to 0 feet (requested/existing); and to

B. Increase the maximum impervious cover from 45% (required/permitted) to 56.51% (requested, existing); and to

C. Subchapter F: Residential Design and Compatibility Standards, Article 2: Development Standards, Section 2.1 – Maximum Development Permitted to increase the floor-to-area ratio from .4 to 1 (required, permitted) to .634 to 1 (requested, .494 to 1 existing); and to

D. Section 2.6. A. (Side Setback Plane) to allow for a penetration of the side setback plane/building tent of 4 feet 6 inches vertically and 5 feet 6 inches horizontally

in order to construct an addition to an existing single family home in an “SF-3-NP”, Family Residence – Neighborhood Plan zoning district. (West Austin Neighborhood Group)

POSTPONED TO SEPTEMBER 14, 2015 AT THE APPLICANT’S REQUEST

**M-11 C15-2015-0118 Tracey Mills
2406 East 16th Street**

The applicant has requested variance(s) to Section 25-2-492 (D) (Site Development Regulations) to:

A. decrease the minimum front setback from 25 feet (required) to 10 feet (requested); and to

B. decrease the minimum street side setback from 15 feet (required) to 10 feet (requested, existing)

in order to add a garage and addition to an existing single family home on this lot in an “SF-3-NP”, Family Residence – Neighborhood Plan zoning district. (Chestnut)

POSTPONED TO SEPTEMBER 14, 2015 AT THE APPLICANT’S REQUEST

**M-12 C15-2015-0120 David West
1813 Brackenridge Street**

The applicant has requested variance(s) to:

A. Section 25-2-774 (C) (7) (a) (Two- Family Residential Use) to increase the maximum gross floor area of the second dwelling unit from 850 square feet total (required) to 1,850 square feet total (requested); and to

B. Section 25-2-515 (Rear Yard of Through Lot) to decrease the rear through lot yard from 25 feet (required) to 10 feet (requested, 8.3 feet existing)

in order to reconstruct a second dwelling unit to the rear of this 9,747 square foot lot and maintain the existing 1,322 square foot primary, historic structure located in the front of the lot in a "SF-3-NP", Family Residence - Neighborhood Plan zoning district. (South River City)

The public hearing was closed on Board Member Melissa Hawthorne motion to Postpone to September 14, 2015, Board Member Michael Von Ohlen second on a 7-1 vote (Board member Michael Benaglio nay); POSTPONED TO SEPTEMBER 14, 2015.

N. BOARD OF ADJUSTMENT NEW BUSINESS

N-1 Review draft revised Board Bylaws and Rules (Brent Lloyd)

The public hearing was closed on Board Member Vincent Harding motion to Postpone to September 14, 2015, Board Member Melissa Hawthorne second on a 8-0 vote; POSTPONED TO September 14, 2015.

O. ADJOURNMENT

The City of Austin is committed to compliance with the American with Disabilities Act. Reasonable modifications and equal access to communications will be provided upon request. Meeting locations are planned with wheelchair access. If requiring Sign Language Interpreters or alternative formats, please give notice at least 4 days before the meeting date. Please call Leane Heldenfels at Planning & Development Review Department, at 512-974-2202 or Diana Ramirez at Planning & Development Review Department at 512-974-2241, for additional information; TTY users route through Relay Texas at 711.