



**BOARD OF ADJUSTMENT  
MEETING MINUTES  
(September 28, 2016)**

The Board of Adjustment convened in a meeting on September 28, 2016, City Council Chambers, 301 West 2<sup>nd</sup> Street, Austin, Texas.

William Burkhardt called the Board Meeting to order at 5:41 p.m.

**Board Members in Attendance:** Brooke Bailey, William Burkhardt (Chair), Michael Benaglio, Eric Goff, Melissa Hawthorne (Vice-Chair), Bryan King, Rahm McDaniel (late-6:18pm), James Valadez, Michael Von Ohlen, Kelly Blume (Alternate)

**Board Member absent:** Don Leighton-Burwell and Melissa Neslund

**Staff in Attendance:** Leane Heldenfels (City staff), Diana Ramirez (City Staff), David Sorola (COA Attorney); Liz Johnston (City Staff, Watershed Protection)

**EXECUTIVE SESSION (No public discussion)**

The Board of Adjustment 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 DRAFT MINUTES – August 8, 2016**

**Board Member Brook Bailey motions to approve the minutes for August 8, 2016, Board Member Bryan King second on 9-0; APPROVED MINUTES FOR AUGUST 8, 2016.**

**Postponement requests from applicants, staff and interested parties for Items D-2, H-1, L-4, M-7 postpone to October 10, 2016 and M-1 and M-2 postpone to November 14, 2016, Board Member Michael Von Ohlen motion to approve postponements as requested; James Valadez second on 9-0 (Board member Rahm McDaniel late); Items F-1 and F-1 postpone to November 14, 2016, Board Member Melissa Hawthorne motion to approve postponements as requested; Brooke Bailey second on 8-1 (Board member Bryan King nay and Board member Rahm McDaniel late); APPROVED POSTPONEMENTS.**

**B. SIGN REVIEW BOARD RECONSIDERATIONS**

**NONE**

**C. SIGN REVIEW BOARD PREVIOUS POSTPONEMENTS**

**NONE**

**D. SIGN REVIEW BOARD NEW PUBLIC HEARINGS**

**D-1 C16-2016-0006 Rodney Bennett for Sam Kumar  
901 Neches**

The applicant has requested a variance(s) to Section 25-10-129 (Downtown Sign District Regulations) (D):

A. (2) to increase the maximum square footage allowed from 35 square feet (required/permitted) to 198.33 square feet (requested); and to

B. (3) (a) to increase the maximum distance a sign may project from the building facade from 6 feet (required/permitted) to 6 feet 8 and 3/8 inches (requested)

in order to install a projecting sign within a “CBD-CO” Central Business – Conditional Overlay zoning district.

Note: A sign may project the lesser of 6 feet or up to 2/3’s the width of the abutting sidewalk, in this case the abutting sidewalk will be 18 feet wide so variance request would be the same using either method of measuring.

**The public hearing was closed on Board Member Bryan King motion to Deny, Board Member Michael Von Ohlen second on a 7-3 vote (Board members Michael Benaglio, Eric Goff, Rahm McDaniel nay); DENIED.**

**D-2 C16-2016-0007 Doni Allen for Bradley Scott  
9518 Hotel Drive**

The applicant has requested a variance(s) to Section 25-10-131 (Additional Freestanding Signs Permitted):

A. (C) to increase the maximum number of freestanding signs on a lot with more than 400 feet of street frontage from 2 (required/permitted) to 4 (requested); and to

B. (D) to increase the maximum number of freestanding signs on a lot fronting on two streets from 2 signs (required/permitted) to 4 signs (requested)

in order to install two additional freestanding signs on this parcel within a “AV” Aviation Services zoning district.

**POSTPONED TO October 10, 2016 BY APPLICANT (RENOTIFICATION NEEDED)**

**E. BOARD OF ADJUSTMENT INTERPRETATION RECONSIDERATIONS**

**NONE**

**F. BOARD OF ADJUSTMENT INTERPRETATION PREVIOUS POSTPONEMENTS**

**F-1 C15-2015-0147 Robert Kleeman  
8901 West Highway 71**

The appellant has filed an appeal challenging a Land Use Determination and related development approvals made in connection with the approval of an outdoor amphitheater located at LifeAustin Church, 8901 West State Highway 71, including decisions to classify the use as “religious assembly” and to subsequently approve Site Plan No. SP-2011-0185C, an associated restrictive covenant, and a building permit. The appellant disagrees that, among other things, the Land Use Determination and related development approvals incorrectly treat various outdoor activities held at educational and religious assembly facilities as part of the principal use rather than as temporary activities subject to City Code Section 25-2-921(C) in an “RR-NP”, Rural Residential – Neighborhood Plan zoning district. (West Oak Hill)

**POSTPONED TO November 14, 2016 BY APPLICANT**

**F-2 C15-2015-0168 Robert Kleeman  
8901 West Highway 71**

The appellant has requested that the Board of Adjustment interpret whether staff erred in making an administrative decision to approve site plan correction number 12 to the current site plan of this property (SP-2011-185C (R1)), thereby authorizing construction of a disc golf course and outdoor dog park at this church facility in a “RR-NP”, Rural Residential – Neighborhood Plan zoning district. (West Oak Hill)

**POSTPONED TO November 14, 2016 BY APPLICANT**

**G. BOARD OF ADJUSTMENT INTERPRETATION NEW PUBLIC HEARINGS**

**NONE**

**H. BOARD OF ADJUSTMENT RECONSIDERATION PREVIOUS POSTPONEMENTS**

**H-1     C15-2016-0078             Mark Rogers (Guadalupe Neighborhood Development Corp.)  
705 Lydia Street**

The applicant has requested variance(s) from Section 25-2-1461 Secondary Apartment (Special Use Infill Options - Secondary Apartments) to decrease the minimum lot area from 5,750 square feet (required) to 4,131 square feet (requested) in order to build a new single family residence and second dwelling unit on this lot in a “SF-3-NP”, Family Residence – Neighborhood Plan zoning district. (Central East Austin)

**POSTPONED TO OCTOBER 10, 2016 BY APPLICANT**

**I. BOARD OF ADJUSTMENT RECONSIDERATIONS**

**I-1       C15-2016-0061             Thomas Henderson, Applicant, Cathy Tabor, Agent  
Nanette DiNunzio, Owner  
3104 East 13<sup>th</sup> Street**

The property owner has requested a Special Exception under Section 25-2-476 (Special Exception) from Section 25-2-492 (D) (Site Development Regulations) to decrease side yard setback from 5 feet (required) to 1 foot (requested, existing) in order to maintain a detached garage constructed at least 10 years ago in an “SF-3-NP”, Family Residence – Neighborhood Plan zoning district. (Rosewood)

**Board Member Bryan King motion to reconsider request, Board Member Michael Von Ohlen second on a 10-0 vote; RECONSIDER REQUEST; The public hearing was closed on Board Member Michael Von Ohlen motion to uphold the approval of the Special Exception granted on August 8, 2016 BOA meeting, Board Member James Valadez second on a 10-0 vote; UPHOLD THE APPROVAL OF THE SPECIAL EXCEPTION GRANTED ON AUGUST 8, 2016 BOA MEETING.**

**J.       BOARD     OF     ADJUSTMENT       SPECIAL       EXCEPTION       PREVIOUS  
POSTPONEMENTS**

**NONE**

**K.       BOARD OF ADJUSTMENT NEW PUBLIC HEARING SPECIAL EXCEPTIONS**

**K-1       C15-2016-0079             Frederic Keith Hall  
1208 Palo Duro Road**

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 front yard setback from 25 feet (required) to 10 feet (requested, existing) in order to maintain a fabric carport support structure erected at least 10 years ago in an “SF-3-NP”, Family Residence – Neighborhood Plan zoning district. (Brentwood)

**The public hearing was closed on Board Member Michael Von Ohlen motion to Grant, Board Member Bryan King second on a 10-0 vote; GRANTED.**

**L. BOARD OF ADJUSTMENT PREVIOUS POSTPONEMENTS**

**L-1 C15-2015-0172 John A. Latham  
502 West Longspur Boulevard**

A. The applicant has requested variance(s) to Section 25-6, Appendix A (Tables of Off-Street parking and Loading Requirements) to reduce the number of required parking spaces from 294 spaces (required) to 265 spaces (requested, existing) in order to provide additional dumpsters, security fence and a playground on this multi-family site in a “MF-2, MF-3 – NP” Multifamily Residence Low Density – Multifamily Medium Density - Neighborhood Plan zoning district. (North Lamar) **(GRANTED Item A on December 14, 2015)**

B. The applicant has requested variance(s) to Section 25-2-1067 (F) (Design Regulations) of Article 10, Compatibility Standards to reduce the distance an intensive recreational use including swimming pool, tennis court, ball court or playground may not be constructed from 50 feet or less from an adjoining property (required) to 0 feet (requested) in order to construct a playground on this multi-family site in a “MF-2, MF-3 – NP” Multifamily Residence Low Density – Multifamily Medium Density - Neighborhood Plan zoning district. (North Lamar)

**The public hearing was closed on Board Member Melissa Hawthorne motion to Postpone to November 14, 2016, Board Member Eric Goff second on a 9-1 vote (Board member Bryan King nay); POSTPONED TO November 14, 2016.**

**L-2 C15-2016-0018 Mike McHone for William Thorgersen  
915 West 22<sup>nd</sup> Street**

The applicant has requested variance(s) to Section 25-6-601 (A) (Parking Requirements for University Neighborhood Overlay District) to reduce the number of required parking spaces from 7 spaces (required, 60% of the 12 spaces required by Appendix A) to 1 space (requested) in order to erect a student housing co-op in a “MF-4 – CO - NP” Multifamily Residence Medium Density – Conditional Overlay - Neighborhood Plan zoning district. (West University, Outer West Campus)

Note: Multi-family uses can apply administratively to only provide 40% of spaces required by Appendix A (5 spaces for this site) if the use participates in a car sharing program or sets aside 10% of the dwelling units on the site to house persons whose household income is less than 50 % of the median income.

**The public hearing was closed on Board Member Michael Von Ohlen motion to Grant with condition to provide 3 parking spaces on site and 4 parking spaces off-site, Board Member Rahm McDaniel second on a 9-1 vote (Board member Bryan King nay); GRANTED WITH CONDITION TO PROVIDE 3 PARKING SPACES ON SITE AND 4 PARKING SPACES OFF-SITE.**

**L-3     C15-2016-0075             Ron Thrower for Donovan & Jessica Crowley  
2215 Willow Street**

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

A. decrease the minimum side setback from 5 feet (required/permitted) to 1.5 feet (requested, existing); and to

B. decrease the minimum rear setback from 10 feet (required/permitted) to .75 feet (requested, existing); and to

C. decrease the minimum front setback from 25 feet (required/permitted) to 19.5 feet (requested existing); and to

D. decrease the minimum street side yard setback from 15 feet (required/permitted) to 5.5 feet (requested, existing)

in order to remodel a single family home in a “SF-3-NP”, Family Residence – Neighborhood Plan zoning district. (Holly)

**The public hearing was closed on Board Member Bryan King motion to Grant Items A, C, D only not Item B, Board Member Melissa Hawthorne second on a 10-0 vote; GRANTED ITEMS A, C, D, ONLY not Item B.**

**L-4     C15-2016-0082             Howard Smith for Daniel Graham  
2100 East 14<sup>th</sup> Street**

The applicant has requested variance(s) from Section 25-2-774 (C) (5) (a) (Two-Family Residential Use) to increase the maximum size of a second dwelling unit from 1,100 square feet (required/permitted) to 1,356 square feet (requested) in order to add a second dwelling unit behind a new primary home that is a recreation of the original primary home, identical on the exterior per plans approved by the Historic Land Commission, in a “SF-3-NP”, Family Residence – Neighborhood Plan zoning district. (Chestnut)

Note: A variance with a condition that historic zoning be obtained for the primary house was approved 9/8/2014. During remodel/expansion of the existing house, the remaining 2 walls of the house collapsed. Therefore, retaining the historic zoning condition of the variance was no longer possible.

**POSTPONED TO OCTOBER 10, 2016 BY APPLICANT**

**L-5     C15-2016-0085             Eric DeYoung for Stone Park Trust  
3959 Westlake Drive**

The applicant has requested variance(s) to Section 25-2-551 (C) (3) (Lake Austin District Regulations) for a lot included in a subdivision plat recorded before April 22, 1982 or a tract that is not required to be platted to:

A. (a) increase the maximum impervious cover on a slope with a gradient of 15% or less from 35% (required/permitted) to 49.53 (requested/ 62.31% existing); and to

B. (c) increase the maximum impervious cover on a slope with a gradient of more than 25% and not more than 35% from 5% (required/permitted) to 10.09% (requested, 12.04% existing); and to

C. (E) (2) to permit development on a slope with a gradient of more than 35%, which is prohibited except for the construction of a fence, driveway, road or utility that cannot be reasonably placed elsewhere, or a non-mechanized pedestrian facility, such as a foot path, sidewalk, or stairs from 0% (required/permitted) to 26.37% (requested, existing)

in order to close/final existing open permits taken out by prior owners of this address after removing 3,870 square feet of existing impervious cover in a “LA”, Lake Austin zoning district.

**The public hearing was closed on Board Member Michael Von Ohlen motion to Postpone to October 10, 2016, Board Member Bryan King second on a 10-0 vote; POSTPONED TO OCTOBER 10, 2016.**

**L-6     C15-2016-0090             Bill Bucuk for Patrick Dixson and Sharon Watkins  
1103 West 45<sup>th</sup> Street**

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

A. decrease the minimum lot width from 50 feet (required/permitted) to 47 feet (requested, existing); and to

B. decrease the minimum lot size from 5,750 square feet (required/permitted) to 2, 269 square feet (requested, existing); and to

C. decrease the minimum front yard setback from 25’ (required) to 11 feet (requested, 19.8 feet existing)

in order to erect a new single family home in a “SF-3”, Family Residence zoning district.

**The public hearing was closed on Board Member Melissa Hawthorne motion to Grant, Board Member Michael Von Ohlen second on a 9-1 vote (Board member Bryan King nay); GRANTED.**

**L-7     C15-2016-0092             Gabriel Hovdey for Steve Edel  
1418 Frontier Valley Drive**

The applicant has requested variance(s) from Section 25-2-1205 (Site Development Regulations for Mobile Home Parks) of Article 14, Mobile Homes and Tourist or Trailer Camps to:

A. (2) decrease the minimum site area per dwelling unit from 4,500 square feet per unit (required) to 3,567 square feet per unit (requested); and to

B. (3) decrease the minimum side yard from 15 feet (required) to 5 feet (requested)

in order to create new 10 mobile home spaces in an “MH-NP”, Mobile Home Residence – Neighborhood Plan zoning district. (Montopolis)

**The public hearing was closed on Board Member Bryan King motion to Grant, Board Member Michael Von Ohlen second on a 9-1 vote (Board member Kelly Blume nay); GRANTED.**

#### **M. BOARD OF ADJUSTMENT NEW PUBLIC HEARINGS**

**M-1 C15-2016-0083 Bridgette Brown  
7504 Creston Lane**

The applicant has requested a variance(s) from Section 25-2-899 (Fences as Accessory Uses) to permit a solid fence to be constructed in excess of six feet average height or a maximum height of seven feet (required/permitted) to 8 feet average height (requested) in order to maintain a recently constructed 8 foot solid privacy fence in an “SF-3-NP”, Family Residence - Neighborhood Plan zoning district. (Highland)

**POSTPONED TO NOVEMBER 14, 2016 BY STAFF TO RESOLVE AUSTIN ENERGY ISSUES**

**M-2 C15-2016-0091 Miranda Wylie for Patricia Newman  
2005 Matthews Drive**

The applicant has requested a variance(s) from Section 25-2-899 (D) and (E) (*Fences as Accessory Uses*) to increase the fence height permitted from an average of 6 feet or a maximum of seven feet (required/permitted) to 10 feet 10 inches (requested) in order to maintain a recently constructed solid privacy fence along the property line in an “SF-3-NP”, Family Residence - Neighborhood Plan zoning district. (West Austin Neighborhood Group)

Note: An 8 foot fence is permitted on a lot with a hazardous situation (swimming pool) if there is also a climbable feature on the neighboring property that would permit access to the hazardous situation (swimming pool) if the fence were only 6 feet tall. However, because this is a corner lot, The City of Austin is one of the neighboring property owners a signature could not be obtained. Variance would still be necessary for portions of the fence over 8 feet.

**POSTPONMENT TO NOVEMBER 14, 2016 BY STAFF TO RESOLVE AUSTIN ENERGY ISSUES**

**M-3 C15-2016-0095 Robert Bass  
4812 Prairie Dunes Drive**

The applicant has requested a variance to Section 25-2-492 (D) of the Site Development Regulations to increase maximum impervious cover from 45% (required/permitted) to 49.21% (requested, 49.27% existing) in order to add a swimming pool in a “SF-3”, Family Residence zoning district.

**The public hearing was closed on Board Member Melissa Hawthorne motion to Grant, Board Member Michael Von Ohlen second on a 10-0 vote; GRANTED.**

**M-4 C15-2016-0097 Chad Kimbell for Dan Galanter  
701 West Elizabeth Street**

The applicant has requested variance(s) from Section 25-2-492 (D) (*Site Development Regulations*) to decrease the minimum lot width from 50 feet (required) to 46.4 feet (requested) in order to re-subdivide portions of 5 lots into 2 lots in a “SF-3-NP”, Family Residence – Neighborhood Plan zoning district. (Bouldin Creek)

**The public hearing was closed on Board Member Bryan King motion to Grant, Board Member Melissa Hawthorne second on a 9-1 vote (Board Member Eric Goff nay) ; GRANTED.**

**M-5 C15-2016-0098 Rodney Bennett for Dev Kunwar  
4419 Ramsey**

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

- A. decrease the minimum lot area from 5.750 square feet (required) to 4,054.87 square feet (requested, existing); and to
- B. decrease the minimum lot width from 50 feet (required) to 0 feet (requested); and to
- C. decrease the rear setback from 10 feet (required) to 5 feet (requested, existing);
- D. decrease the street side setback from 15 feet (required) to 11.9 feet (requested, existing)

in order to remodel and add onto an existing single family residence in a “SF-3-NP”, Family Residence – Neighborhood Plan zoning district. (Rosedale)

Note: Lot width must be maintained 50 feet from the front setback line of a lot. Lot width for the subject property is only maintained for 42.5 feet from the front setback.

**The public hearing was closed on Board Member Michael Von Ohlen motion to Deny, Board Member Bryan King second on a 9-1 vote (Board member Eric Goff nay); DENIED.**

**M-6 C15-2016-0099 Brian Copland for Savage Trust & Cavitt Wendlandt  
57 San Marcos Street**

The applicant has requested variance(s) to:

A. Section 25-2-492 (D) (Site Development Regulations) to decrease the minimum lot width from 50 feet (required/permitted) to 0 feet (requested); and to

B. Section 25-2-735 (D) (1) (Festival Beach Sub-district Regulations) to increase the maximum impervious cover from 40% (required/permitted) to 45% (requested); and to

C. Section 25-2-779 (D) (1) (Small Lot Single-Family Residential Use) to decrease the minimum lot size from 3,600 square feet (required) to 2,472 square feet (requested/existing); and to

D. (G) to decrease the minimum front setback from 15 feet (required/permitted) to 10 feet (requested)

in order to build a new single family home in a “GR-MU-CO-NP”, – Community Commercial – Mixed Use – Conditional Overlay - Neighborhood Plan zoning district. (East Cesar Chavez, Festival Beach Sub-district Waterfront Overlay)

Note: Under Section 4.2.1. of Subchapter E (Design Standards and Mixed Use) an applicant proposing a single family structure can take advantage of SF-3 zoning district site development regulations or site development regulations in 25-2-779 if the lot is a small lot. The subject lot is more compatible with small lot single family residential use. Also, lot width must be maintained at a distance 50 feet from the front setback of a lot. Lot width for the subject property is only maintained for 40 feet from the front setback. Finally, Section 25-4-232 (C) (2) (a) (Small Lot Subdivisions) allows a minimum lot width of 40 feet. A 40 foot width can also not be maintained when measured 50 feet from the 10 foot front setback on this lot.

**The public hearing was closed on Board Member Michael Von Ohlen motion to Grant, Board Member Bryan King second on a 10-0 vote; GRANTED.**

**M-7 C15-2016-0100 Jay Otto for Shawn Breedlove  
3312 Robinson Avenue**

The applicant has requested variance(s) to Section 25-2-492 (D) (*Site Development Regulations*) to decrease the minimum front setback from 25 feet (required/permitted) to 20 feet (requested) in order to complete construction of a new single family home in a “SF-3-NP”, Family Residence – Neighborhood Plan zoning district. (Upper Boggy Creek)

**POSTPONED TO OCTOBER 10, 2016 BY INTERESTED PARTY**

**N. BOARD OF ADJUSTMENT NEW BUSINESS**

**N-1** Review revised Board of Adjustment Rules

**POSTPONED TO NOVEMBER 14, 2016**

**N-2** Discussion of fees charged for Interpretation cases and all other cases; Potential resolution to Council

**POSTPONED TO NOVEMBER 14, 2016**

**N-3** Discussion of meeting start time

**POSTPONED TO OCTOBER 10, 2016**

**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 2 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.