



**BOARD OF ADJUSTMENT
MEETING MINUTES
(November 14, 2016)**

The Board of Adjustment convened in a meeting on November 14, 2016, City Council Chambers, 301 West 2nd Street, Austin, Texas.

William Burkhardt called the Board Meeting to order at 5:35 p.m.

Board Members in Attendance: Brooke Bailey, William Burkhardt (Chair), Michael Benaglio, Eric Goff, Melissa Hawthorne (Vice-Chair), Bryan King, Don Leighton-Burwell, Melissa Neslund, James Valadez, Kelly Blume (Alternate)

Board Member absent: Rahm McDaniel and Michael Von Ohlen

Staff in Attendance: Leane Heldenfels (City Staff), Cindy Crosby (COA Attorney)

City staff absent: Diana Ramirez

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 –October 10, 2016

Board Member Bryan King motions to approve the minutes for October 10, 2016, Board Member Melissa Hawthorne second on 9-0-1 (Board member James Valadez late); APPROVED MINUTES FOR October 10, 2016.

Postponement/withdrawal requests from applicants, staff and interested parties for Items B-1 postpone to January 9, 2017, L-3, H-1, H-2, H-3, M-2 and M-3 postpone to December 12, 2016, L-1, L-2 and L-5 withdrawn, Board Member Brooke Bailey motion to approve postponements/withdrawals as requested, except for Items H-3 and L-2 rejected the postponement/withdrawal request; Michael Benaglio second on 9-0 vote (James Valadez

late); APPROVED POSTPONEMENTS/WITHDRAWALS EXCEPT FOR ITEMS H-3 and L-2.

B. BOARD OF ADJUSTMENT SPECIAL EXCEPTION PREVIOUS POSTPONEMENTS

**B-1 C15-2016-0104 Andres and Melinda Trevino
2117 Gaston Place Drive**

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 0 feet (requested, existing); and to

decrease the side yard setback from 5 feet (required) to 2 feet (requested, existing)

in order to maintain a carport and greenhouse erected at least 10 years ago in an “SF-3-NP”, Family Residence – Neighborhood Plan zoning district. (Windsor Park)

POSTPONED TO JANUARY 9, 2017 BY APPLICANT

C. BOARD OF ADJUSTMENT NEW PUBLIC HEARING SPECIAL EXCEPTIONS

**C-1 C15-2016-0118 Robert Zirkel for Amanda Walker
2006 Jesse E. Segovia**

The applicant has requested a Special Exception under Section 25-2-476 (Special Exception) from Section 25-2-492 (D) (Site Development Regulations) to:

A. decrease the front yard setback from 25 feet (required) to 16.7 feet (requested, existing); and to

B. decrease the side yard setback from 5 feet (required) to 4.8 feet (requested, existing)

in order to maintain a covered brick paver porch and single family home expansion erected at least 10 years ago in an, SF-3 – Family Residence, NP – Neighborhood Plan district. (Holly)

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

D. SIGN REVIEW BOARD RECONSIDERATIONS

**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 Eric Goff motion to reconsider request, No second; Motion failed.

E. SIGN REVIEW BOARD PREVIOUS POSTPONEMENTS

NONE

F. SIGN REVIEW BOARD NEW PUBLIC HEARINGS

**F-1 C16-2016-0010 Mitchell Whiddon for Whiddon Development
1005 East St. Elmo**

The applicant has requested a variance to Section 25-10-191 (F) (1) (*Sign Setback Requirements*) to increase the maximum height of a sign located within 12 feet of a street right of way from 30 inches tall (required/permitted) to 60 inches tall (requested) in order to permit a freestanding monument sign that does not have a clearance of 9 feet within a “LI-NP” Limited Industrial Services – Neighborhood Plan zoning district. (East Congress)

The public hearing was closed on Board Member Bryan King motion to Grant, Board Member Melissa Hawthorne second on a 10-0 vote; GRANTED.

G. BOARD OF ADJUSTMENT INTERPRETATION RECONSIDERATIONS

NONE

H. BOARD OF ADJUSTMENT INTERPRETATION PREVIOUS POSTPONEMENTS

**H-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 DECEMBER 12, 2016 BY APPLICANT

**H-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 DECEMBER 12, 2016 BY APPLICANT

**H-3 C15-2016-0115 South Lamar Neighborhood Association, Kim Johnson
3206 and 3208 Aldwyche Drive**

The appellant has requested that the Board of Adjustment determine whether staff erred in its issuance of a building permit (BP- 2016-107075) for 3206 and 3208 Aldwyche Dr. to construct two new single family attached dwelling units with an arbor structure connecting the dwelling units in an “SF-3”, Family Residence zoning district because the connecting structure proposed (arbor) does not meet Section 25-2-3 (B) 11 of the Land Development Code which requires connection of two single family attached dwelling units by either a common or abutting wall or by a carport, garage, or other structural element.

The public hearing was closed on Board Member Melissa Hawthorne motion to postpone to a Special Called Meeting November 21, 2016 at 5:30 pm at Council Chambers, 301 West 2nd Street, Board Member Brooke Bailey second on a 9-0-1 vote (Board member Bryan King Abstained); POSTPONED TO A SPECIAL CALLED MEETING NOVEMBER 21, 2016 AT 5:30 PM AT COUNCIL CHAMBERS, 301 WEST 2ND STREET BY APPLICANT.

I. BOARD OF ADJUSTMENT INTERPRETATION NEW PUBLIC HEARINGS

NONE

J. BOARD OF ADJUSTMENT RECONSIDERATION PREVIOUS POSTPONEMENTS

NONE

K BOARD OF ADJUSTMENT RECONSIDERATIONS

**K-1 C15-2016-0087 William Faust for Greg Smith
2001 & 2003 South Lamar Boulevard**

The applicant has requested variance(s) from Section 25-2-1063 (Height Limitations and Setbacks for Large Sites) of Article 10, Compatibility Standards to:

1. (B) decrease the distance that a structure can be constructed from property on which a use permitted in an SF-5 or more restrictive zoning district is located from 25 feet (required) to 0 feet (requested); and to
2. (C) (1) increase the height limitation from two stories and 30 feet, if the structure is 50 feet or less from property in an SF-5 or more restrictive district (required/permitted) to 6 stories and 60 feet (requested); and to
3. (C) (2) increase the height limitation from three stories and 40 feet, if the structure is more than 50 feet and not more than 100 feet from property in an SF-5 or more restrictive zoning district (required/permitted) to 6 stories and 60 feet (requested)

in order to erect an apartment building in an “CS-V”, General Commercial Services – Vertical Mixed Use and “CS-MU-V-CO”, General Commercial Services – Mixed Use – Vertical Mixed Use - Conditional Overlay zoning district.

Board Member Eric Goff motion to Reconsider request, Board Member Michael Benaglio second on a 10-0 vote; RECONSIDERED REQUEST GRANTED. The public hearing was closed on Board Member Melissa Hawthorne motion to Postpone to January 9, 2017, Board Member Eric Goff second on a 10-0 vote; POSTPONED TO JANUARY 9, 2017.

**K-2 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/existing); and to
- C. decrease the rear setback from 10 feet (required) to 5 feet (requested);

D. decrease the street side setback from 15 feet (required) to 11.9 feet (requested/ existing)

in order to complete an addition to a single family home 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.

Board Member Eric Goff motion to Reconsider request, Board Member Kelly Blume second on a 6-4 vote (Board members William Burkhardt, Melissa Hawthorne, Bryan King, James Valadez nay); RECONSIDERED REQUEST GRANTED. The public hearing was closed on Board Member Eric Goff motion to Postpone to December 12, 2016, Board Member Melissa Hawthorne second on a 10-0 vote; POSTPONED TO DECEMBER 12, 2016.

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)

ITEM B WITHDRAWN BY APPLICANT

**L-2 C15-2016-0082 Howard Smith for Daniel Graham
2100 East 14th 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.

Board members rejected the withdrawal request by applicant, the public hearing was closed on Board Member Bryan King motion to postpone to December 12, 2016, Board Member Don Leighton Burwell second on a 10-0 vote; POSTPONED TO DECEMBER 12, 2016.

**L-3 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 DECEMBER 12, 2016 BY APPLICANT

**L-4 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.

The public hearing was closed on Board Member Bryan King motion to Grant to 8 feet, Board Member Melissa Hawthorne second on a 3-7 vote (Board members Brooke Bailey, Michael Benaglio, William Burkhardt, Eric Goff, Don Leighton-Burwell, Melissa Neslund, James Valadez nay); Votes failed, DENIED.

**L-5 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)

WITHDRAWN BY APPLICANT

**L-6 C15-2016-0111 Austin Stowell for Margaret Magness
904 Ethel Street**

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 4,994.57 square feet (requested, existing); and to
 - B. decrease the front setback from 25 feet (required) to 15 feet (requested, existing); and to
 - C. increase the maximum impervious cover from 45% (required/permitted) to 65% (requested)
- in order to erect a new single family residence in a “SF-3”, Family Residence zoning district.

The public hearing was closed on Board Member Melissa Hawthorne motion to Grant Items A and B with condition to limit to 1,600 square feet and Deny Item C, Board Member Don Leighton-Burwell second on a 10-0 vote; GRANTED ITEMS A AND B WITH CONDITION TO LIMIT TO 1,600 SQUARE FEET AND DENIED ITEM C.

M. BOARD OF ADJUSTMENT NEW PUBLIC HEARINGS

**M-1 C15-2016-0121 Brian Moore for Tina Kemmerer
1505 Preston Avenue**

The applicant has requested variance(s) from Section 25-2-492 (D) (*Site Development Regulations*) to increase the maximum impervious cover from 45% (required/permitted) to 57% (requested, existing) in order to final a permit for reconstruction of a new one car garage in a “SF-3”, Family Residence zoning district.

The public hearing was closed on Board Member Melissa Hawthorne motion to Grant with condition to provide a 250 gallon rainwater collection to site prior to CO, Board Member Michael Benaglio second on a 10-0 vote; GRANTED WITH CONDITION TO PROVIDE A 250 GALLON RAINWATER COLLECTION TO SITE PRIOR TO CO.

**M-2 C15-2016-0122 Ted McConaghy for Brendan Gilyan
6711 East Ben White**

The applicant has requested a variance from Section 25-6 Appendix A (Tables of Off-Street parking and Loading Requirements) to reduce the number of required parking spaces from 250 spaces (required) to 235 spaces (requested) in order to add a 89 room hotel to the site with an existing 138 room hotel (proposed total of 227 rooms) in a “LI-CO-NP”, Limited Industrial Services – Conditional Overlay - Neighborhood Plan zoning district. (Southeast)

POSTPONED TO DECEMBER 12, 2016 BY APPLICANT DUE TO LACK OF FULL BOARD

**M-3 C15-2016-0124 Nikelle Meade for David Krug
2510 South Congress Avenue**

The applicant has requested variance(s) from Article 10, Compatibility Standards:

- A. Section 25-2-1063 (*Height Limitations and Setbacks for Large Sites*) (B) to increase the required setback from a property in an urban family residence (SF-5) or more restrictive zoning district or on which a use permitted in SF-5 or more restrictive zoning district is located from 25 feet (required/permitted) to 0 feet (requested); and to
- B. Section 25-2-1063 (*Height Limitations and Setbacks for Large Sites*) (C) (1) to increase the allowed height of a structure 50 feet or less from property in an SF-5 or more restrictive zoning district or on which a use permitted in an SF-5 or more restrictive zoning district is located from 2 stories and 30 feet (required/permitted) to 5 stories and 60 feet (requested); and to
- C. Section 25-2-1063 (*Height Limitations and Setbacks for Large Sites*) (C) (2) to increase the allowed height of a structure more than 50 feet and not more than 100 feet from property in an SF-5 or more restrictive zoning district or on which a use permitted in an SF-5 or more restrictive zoning district is located from 3 stories and 40 feet (required/permitted) to 5 stories and 60 feet (requested); and to
- D. Section 25-2-1064 (*Front Setback*) to increase the minimum front building line setback from at least 25 feet from a right-of-way if the tract on which the building is constructed adjoins property in an SF-5 or more restrictive zoning district or on which a use permitted in a SF-5 or more restrictive district is located and fronts on the same street as the adjoining property (required/permitted) to 0 feet (requested); and to
- E. Section 25-2-1067 (*Design Regulations*) (F) to permit an intensive recreational use, excluding a multi-use trail and including a swimming pool, tennis court, ball court, or playground to be constructed 50 feet or less (requested) from adjoining property in an SF-5 or more restrictive zoning district or on which a use permitted in an SF-5 or more restrictive zoning district is located; and to
- F. Section 25-2-1067 (*Design Regulations*) (H) to decrease minimum setback distance of the driveway from adjacent properties to be constructed on a site less than 125 wide from 15 feet (required/permitted) to 5 feet (requested)

in order to erect a hotel and swimming pool in a “CS-V-CO-NP”, General Commercial Services – Vertical Mixed Use – Conditional Overlay – Neighborhood Plan and a “GR-V-CO-NP”, Community Commercial – Vertical Mixed Use – Conditional Overlay – Neighborhood Plan zoning district. (Dawson)

POSTPONED TO DECEMBER 12, 2016 BY APPLICANT DUE TO LACK OF FULL BOARD

N. BOARD OF ADJUSTMENT NEW BUSINESS

N-1 Review revised Board of Adjustment Rules (Approved at 7/11/16 meeting)

The public hearing was closed on Board Member Brooke Bailey motion to Grant revised BOA Rules and Bylaws, Board Member Michael Benaglio second on a 10-0 vote; GRANTED REVISED BOA RULES AND BYLAWS.

N-2 Review suggested Board of Adjustment Bylaws revision

The public hearing was closed on Board Member Brooke Bailey motion to Grant revised BOA Rules and Bylaws, Board Member Michael Benaglio second on a 10-0 vote; GRANTED REVISED BOA RULES AND BYLAWS.

N-3 Discussion of fees charged for Interpretation cases and all other cases; Potential resolution to Council

POSTPONED TO DECEMBER 12, 2016

N-4 Discussion of meeting start time

MEETING START TIME TO REMAIN AT 5:30PM

N-5 Move up Special Exception cases to the beginning of the agenda

N-6 Discussion of voting (if vote is denied, can a board member make a substitute motion)

N-7 Adopt a meeting schedule for the upcoming calendar year (2017)

Board Member Bryan King motion to Adopt BOA 2017 meeting schedule, Board Member Michael Benaglio second on a 10-0 vote; ADOPTED BOA 2017 MEETING SCHEDULE .

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.