



**BOARD OF ADJUSTMENT
MEETING MINUTES
(December 12, 2016)**

The Board of Adjustment convened in a meeting on December 12, 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, Rahm McDaniel, Melissa Neslund, James Valadez, Michael Von Ohlen, Kelly Blume (Alternate)

Staff in Attendance: Leane Heldenfels and Diana Ramirez, Greg Guernsey, Daniel Word, Liz Johnston, Steve Sadowsky, Jose Roig, Jerry Rusthoven (City Staff), Brent Lloyd (COA Attorney)

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 –November 12, 2016 and November 21, 2016 (Special Called Meeting)

Board Member Eric Goff motions to approve the minutes for November 12, 2016 and November 21, 2016 (Special called meeting), Board Member Brooke Bailey seconds on 11-0 (Board member Michael Benaglio late); APPROVED MINUTES FOR November 12, 2016 and November 21, 2016.

Postponement/withdrawal requests from applicants, staff and interested parties for Items H-1 and H-2 postpone to February 13, 2017, Items I-2, L-3 and L-4 postpone to January 9, 2017, Item L-1 to withdraw, Board Member Michael Von Ohlen motion to approve postponements/withdrawals as requested, except for Items H-1, H-2 and L-1 rejected the

**postponement/withdrawal request; Bryan King second on 12-0 vote; APPROVED
POSTPONEMENTS/WITHDRAWALS EXCEPT FOR ITEMS H-1, H-2 and L-1.**

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

NONE

C. BOARD OF ADJUSTMENT NEW PUBLIC HEARING SPECIAL EXCEPTIONS

**C-1 C15-2016-0076 Vanessa McMahan for James McMahan
2104 Chestnut 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 side setback from 5 feet (required) to 0 feet (requested, existing) in order to maintain a patio extension, enclosure constructed at least 10 years ago in an “SF-3-NP”, Family Residence – Neighborhood Plan zoning district. (Upper Boggy Creek)

The public hearing was closed on Board Member Michael Von Ohlen motion to Grant with condition of meeting electrical meter inspection by Austin Energy, Board Member Bryan King second on an 11-0 vote; GRANTED WITH CONDITION OF MEETING ELECTRICAL METER INSPECTION BY AUSTIN ENERGY.

D. SIGN REVIEW BOARD RECONSIDERATIONS

NONE

E. SIGN REVIEW BOARD PREVIOUS POSTPONEMENTS

**E-1 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 6 (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 6 signs (requested)

in order to install 4 additional freestanding signs (2 existing) on this parcel within a “AV” Aviation Services zoning district.

The public hearing was closed on Board Member Michael Von Ohlen motion to Grant an additional free standing sign only with condition to locate Sign within the contiguous lease space area of the property, Board Member Bryan King second on an 8-3 vote (Voting aye were: Board members Bailey, Benaglio, Burkhardt, King, Leighton-Burwell, McDaniel, Valadez, Von Ohlen. Voting nay were: Board members Goff, Hawthorne, and Neslund.); GRANTED AN ADDITIONAL FREE STANDING SIGN ONLY WITH CONDITION TO LOCATE SIGN WITHIN THE CONTIGUOUS LEASE SPACE AREA OF THE PROPERTY.

F. SIGN REVIEW BOARD NEW PUBLIC HEARINGS

NONE

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)

Discussion of the request to postpone was closed on Board Member Michael Von Ohlen motion to Postpone to August 14, 2017, Board Member Melissa Hawthorne second on an 11-0 vote; POSTPONED TO AUGUST 14, 2017.

**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)

Discussion of the request to postpone was closed on Board Member Michael Von Ohlen motion to Postpone to August 14, 2017, Board Member Melissa Hawthorne second on an 11-0 vote; POSTPONED TO AUGUST 14, 2017.

**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.

Discussion was closed on Board Member Rahm McDaniel motion to Deny Interpretation appeal request, Board Member Eric Goff second on a 3-8 vote (Voting aye were Board members Goff, McDaniel, Neslund. Voting nay were Bailey, Benaglio, Burkhardt, Hawthorne, Leighton-Burwell, Valadez, Von Ohlen, Blume. Board member King abstained); DENIED INTERPRETATION APPEAL REQUEST.

I. BOARD OF ADJUSTMENT INTERPRETATION NEW PUBLIC HEARINGS

**I-1 C15-2016-0126 Terrence Irion for Tyler Buckler
7100 US Highway 290 West**

The appellant asks the Board of Adjustment to reverse City staff’s calculation of site area under Ordinance #94117-E for purposes of a floor-to-area ratio requirement of .21 to 1 imposed by the ordinance. The calculation is part of an application to allow construction of a restaurant on this property in a “GR-CO-NP”, Community Commercial – Conditional Overlay – Neighborhood Plan zoning district. (West Oak Hill)

The public hearing was closed on Board Member Eric Goff motion to Deny Interpretation appeal request, Board Member Brooke Bailey second on an 11-0 vote (Board member Hawthorne abstained); DENIED INTERPRETATION APPEAL REQUEST.

**I-2 C15-2016-0131 Nikelle Meade for David Krug
2510 and 2530 SOUTH CONGRESS AVENUE**

The appellant asks the Board of Adjustment to reverse staff’s determination that a religious assembly use exists on a neighboring property located at 2530 South Congress Avenue which triggers the site development standards in Subchapter C., Article 10 (*Compatibility Standards*) of the Land Development Code. The staff determination under appeal was made in review of a site plan application (File No. SP-2015-0300C) requesting to construct a new hotel at 2510 South Congress Avenue, located in an “CS-V-CO-NP”, General Commercial Services – Vertical Mixed Use – Conditional Overlay

– Neighborhood Plan and “GR-V-CO-NP”, Community Commercial – Vertical Mixed Use – Conditional Overlay – Neighborhood Plan zoning district. (Dawson)

POSTPONED TO JANUARY 9, 2017 BY APPLICANT

J. BOARD OF ADJUSTMENT RECONSIDERATION PREVIOUS POSTPONEMENTS

**J-1 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.

The public hearing was closed on Board Member Eric Goff motion to Grant with condition that this variance is for the existing 2016 structure, Board Member Michael Von Ohlen second on an 11-0 vote; GRANTED WITH CONDITION THAT THIS VARIANCE IS FOR THE EXISTING 2016 STRUCTURE.

K BOARD OF ADJUSTMENT RECONSIDERATIONS

**K-1 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.

Board member Michael Von Ohlen motion to Reconsider the request, Board member Eric Goff second on a 7-4 vote (Voting aye were Board members Bailey, Benaglio, Goff, Leighton-Burwell, Neslund, Valadez and Von Ohlen. Voting nay were Burkhardt, Hawthorne, King and McDaniel.) The public hearing was closed on Board Member Eric Goff motion to Grant with conditions to 1800 square feet is allowable FAR per Subchapter F, reduce carport to one space and no STR of any kind, Board Member Michael Benaglio second on a 10-1 vote (Board member King voted nay); GRANTED WITH CONDITIONS TO 1800 SQUARE FEET IS ALLOWABLE FAR PER SUBCHAPTER F, REDUCE CARPORT TO ONE SPACE AND NO STR OF ANY KIND.

L. BOARD OF ADJUSTMENT PREVIOUS POSTPONEMENTS

**L-1 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.

Discussion of the request to withdraw was closed on Board Member Michael Von Ohlen motion to reject request to withdraw and to Grant with condition that certificate of appropriateness on re-built structure be provided, Board Member Melissa Hawthorne second on an 7-4 vote (Voting aye were Board members Bailey, Burkhardt, Goff, Hawthorne, McDaniel, Neslund and Von Ohlen. Voting nay were Board members Benaglio, King, Leighton-Burwell and Valadez); DENIED.

**L-2 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 JANUARY 9, 2017 (APPLICANT NO SHOW)

**L-3 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 JANUARY 9, 2017 BY APPLICANT

**L-4 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 JANUARY 9, 2017 BY APPLICANT

M. BOARD OF ADJUSTMENT NEW PUBLIC HEARINGS

**M-1 C15-2016-0125 B.J. Cornelius for Nona Niland
2110 Haskell Street**

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); and to

B. Section 25-2-893 (B) (7) (Accessory uses for a Principal Residential Use) to allow storage of a recreational vehicle on the property that is not located within an enclosed building or is not screened from public view by either a solid wood or masonry fence

in order to erect a metal trellis and use solid wood fence on three sides, existing trees and metal planters with bamboo as RV screening at a single family residence in a “SF-3-NP”, Family Residence, Neighborhood Plan zoning district. (Holly)

The public hearing was closed on Board Member Bryan King motion to Deny, Board Member Rahm McDaniel second on a 5-6 vote (Voting aye were Board members Bailey, King, Leighton-Burwell, McDaniel and Valadez. Voting nay were Board members Benaglio, Burkhardt, Goff, Hawthorne, Neslund and Von Ohlen); DENIED.

**M-2 C15-2016-0127 Brenda and Randy Frizzell
1169 Curve Street**

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

A. increase the impervious cover from 45% (required) to 68.4% (requested); and to

B. increase the building cover from 40% (required) to 50.8% (requested); and to

C. decrease the front setback from 25 feet (required) to 17 feet (requested); and to

D. decrease the side setback from 5 feet (required) to 4.5 feet (requested)

in order to add a driveway and carport to a single family home in a “SF-3-NP”, Family Residence – Neighborhood Plan zoning district. (Central East Austin)

Note: In 2005 when house was built a prior variance was granted for lot size of 2,190 square feet, 3 foot front setback, 4 foot rear setback, and 0 off-street parking spaces. The neighborhood plan for this area allows 65% impervious cover on lots 2,500 to 3,500 square feet in size, but this lot is smaller than required to be able to use that portion of the neighborhood plan.

The public hearing was closed on Board Member Michael Von Ohlen motion to Grant, Board Member Melissa Hawthorne second on a 10-1 vote (Board member King voted nay); GRANTED.

**M-3 C15-2016-0128 Kay Frances Humphreys
2300 Holly Street**

The applicant has requested variance(s) from Section 25-2-492 (D) (Site Development Regulations) to decrease the street side setback from 15 feet (required) to 9 feet (requested, 4 feet existed with previous home) in order to erect a new single family home in a “SF-3-NP”, Family Residence – Neighborhood Plan zoning district. (Holly)

The public hearing was closed on Board Member Michael Von Ohlen motion to Grant, Board Member Melissa Hawthorne second on a 11-0 vote; GRANTED.

**M-4 C15-2016-0130 Rick Rasberry for Bryan Edwards
12417 River Bend #4**

The applicant has requested variance(s) from Section 25-2-1176 (Site Development Regulations for Docks, Marinas, and Other Lakefront Uses):

A. (A) (1) to increase the distance a dock may extend from the shoreline from 30 feet (required/permitted) to 44 feet (requested); and to

B. (A)(4)(a) to increase the maximum width of a dock from 20% of shoreline width, or 61.1 feet for this site (required/permitted) to 94% or 288 feet for this site (requested); and to

C. (B)(2) to not require permanent sanitation facilities for a marina or common area with 10 or more boat slips

in order to construct a new dock in an “SF-2”, Family Residence zoning district.

The public hearing was closed on Board Member Melissa Hawthorne motion to Grant with condition to not extend post to other existing docks, Board Member Melissa Neslund second on an 11-0 vote; GRANTED WITH CONDITION TO NOT EXTEND POST TO OTHER EXISTING DOCKS.

N. BOARD OF ADJUSTMENT NEW BUSINESS

N-1 Discussion of fees charged for Interpretation cases and all other cases; Potential resolution to Council

N-2 Discussion of language in Bylaw amendment proposal

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.

Approved minutes on 1-9-17 with correction