



**BOARD OF ADJUSTMENT
MEETING MINUTES
(April 10, 2017)**

The Board of Adjustment convened in a meeting on April 10, 2017, City Council Chambers, 301 West 2nd Street, Austin, Texas.

William Burkhardt called the Board Meeting to order at 5:39 p.m.

Board Members in Attendance: Brooke Bailey, William Burkhardt (Chair), Eric Goff, Melissa Hawthorne (Vice-Chair), Bryan King, Don Leighton-Burwell, Rahm McDaniel, , Veronica Rivera, Michael Von Ohlen, Kelly Blume (Alternate); Pim Mayo (Alternate); Martha Gonzalez (Alternate)

Board Members absent: James Valadez and Melissa Neslund (Resigned)

**Staff in Attendance: Leane Heldenfels, Diana Ramirez
Alecia Mayberry (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. APPROVAL OF MINUTES

A-1 Draft minutes – March 13, 2017

Board Member Melissa Hawthorne motions to approve the minutes for March 13, 2017, Board Member Bryan King seconds on 10-0-1 (Board members Brooke Bailey Abstained); APPROVED MINUTES FOR March 13, 2017.

Postponement/withdrawal requests from applicants, staff and interested parties for Item L-4 to Postpone to May 8, 2017, Board Member Eric Goff motion to approve postponement as requested, Board member Rahm McDaniel second on 10-1 vote (Board Member William Burkhardt nay); APPROVED POSTPONEMENT FOR ITEM L-4.

A. (1. B.) increase the maximum sign area from 64 square feet (permitted) to 104 square feet (requested); and to

B. (2.) increase the maximum sign height from 12 feet (permitted) to 24 feet (requested)

in order to add a freestanding sign within a “CS-CO”, General Commercial Services, Conditional Overlay zoning district. (Scenic Sign District)

The public hearing was closed on Board Member Brooke Bailey motion to Postpone to May 8, 2017, Board Member Veronica Rivera second on a 11-0 vote; POSTPONED TO MAY 8, 2017.

F. SIGN REVIEW BOARD NEW PUBLIC HEARINGS

NONE

**G. BOARD OF ADJUSTMENT INTERPRETATION RECONSIDERATIONS
PREVIOUS POSTPONEMENT**

NONE

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

NONE

I. BOARD OF ADJUSTMENT INTERPRETATION NEW PUBLIC HEARINGS

NONE

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

NONE

K. BOARD OF ADJUSTMENT RECONSIDERATIONS

NONE

L. BOARD OF ADJUSTMENT PREVIOUS POSTPONEMENTS

L-1 [C15-2016-0084](#) Scott Jacobs
[Late back up](#) 2003 Arpdale Street

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

- A. decrease the minimum east side setback from 5 feet (required/permitted) to 4.4 feet (requested, existing); and to
- B. decrease the minimum rear setback from 10 feet (required/permitted) to 5.5 feet (requested, existing); and to
- C. decrease the minimum lot size from 5,750 square feet (required/permitted) to 5,500 square feet (requested, existing); and to
- D. increase the maximum building cover from 40% (required/permitted) to 41% (requested, existing); and to
- E. increase the maximum impervious cover from 45% (required/permitted) to 52% (requested, existing); and to
- F. Section 25-2-774 (Two-Family Residential Use) (B) to decrease the minimum lot area for a two-family residential use from standard lot size of 5,750 square feet (required) to 5,500 square feet (requested, existing); and to
- G. (C) (2) (a) to decrease the minimum distance a second dwelling unit must be located from the primary structure from 10 feet (required) to 6 feet (requested/existing)

in order to permit occupancy of an existing accessory structure for use as a 2nd dwelling unit in a “SF-3”, Family Residence zoning district.

The public hearing was closed on Board Member Bryan King motion to Deny, Board Member Don Leighton-Burwell second on an 11-0 vote; DENIED.

**L-2 [C15-2016-0124](#) Nikelle Meade for David Krug
 [Late back up](#) 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)

The public hearing was closed on Board Member Don Leighton-Burwell motion to Grant variances B, C, D and F as revised (Item B revised request 3 stories and 44 feet in the CS-V zoned portions of the site and 3 stories and 40 feet in the GR zoned portions of the site; Item C revised request 3 stories and 44 feet; Item D revised request to 6 feet; Item F revised request to 5 feet 6 inches), variances A and E are withdrawn by applicant, Board Member Rahm McDaniel second on a 9-2 vote (Board member Bryan King and Pim Mayonay and Board member Veronica Rivera recused); GRANTED AS REVISED.

L-3 [C15-2017-0007](#) Sergio Lozano-Sanchez for Richard Kooris
 [Late back up](#) 1615 and 1617 South 2nd Street

The applicant has requested a variance(s) from Section 25-2-776 (C) (Condominium Residential use) to decrease the minimum site area for each condominium from at least 3,500 square feet (required/permitted) to not less than 3,200 square feet (requested) in order to construct 8 condominium units in an “SF-5-CO-NP”, Urban Family Residence – Conditional Overlay - Neighborhood Plan zoning district. (Bouldin Creek)

The public hearing was closed on Board Member Rahm McDaniel motion to Grant, Board Member Veronica Rivera second on a 8-2 vote (Board member Bryan King and Pim Mayonay, Board member William Burkhardt and Michael VonOhlen recused); GRANTED.

L-4 [C15-2017-0015](#) Sudhakar Allada
 [Late back up](#) 911 West 22nd 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 21 spaces (required, 60% of the spaces required by Appendix A) to 8 spaces (requested) in order to erect a 20 unit, 62 bedroom multi-family use in a “MF- 4 - CO - NP” Multifamily Residence Medium Density – Conditional Overlay - Neighborhood Plan zoning district. (West University, Outer West Campus)

POSTPONED TO MAY 8, 2017

M. BOARD OF ADJUSTMENT NEW PUBLIC HEARINGS

M-1 [C15-2017-0002](#) **Jarred Corbell for Ryan Diepenbrock**
 [Late back up](#) **1000 and 1002 South 2nd Street**

The applicant has requested variance(s) from Section 25-2-492 (D) (*Site Development Regulations*) to decrease the front setback from 25 feet (required) to 10 feet (requested) in order to construct single family detached condominium homes in a “SF-6”, Family Residence Highest Density – Neighborhood Plan zoning district. (Bouldin Creek)

The public hearing was closed on Board Member Michael Von Ohlen motion to Grant, Board Member Brooke Bailey second on a 10-0 vote (Board member William Burkhardt recused); GRANTED.

M-2 [C15-2017-0005](#) **Wenkai Chen**
 [Late back up](#) **1211 Cedar Avenue**

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

- A. decrease the side yard setback from 5 feet (required) to 2 feet 5 and 5/8 inches (requested); and to
- B. decrease the minimum lot size from 5,750 square feet (required) to 1,594 square feet (requested); and to
- C. decrease the minimum lot width from 50 feet (required) to 13.6 feet (requested, existing)

in order to erect a 904 square foot single family home in a “SF-3-NP”, Family Residence – Neighborhood Plan zoning district. (Chestnut)

Note: The Chestnut Neighborhood Plan permits a single family home to be built on a tract of land as small as 2,500 square feet but not smaller as proposed, therefore the variance requested is from the Land Development Code not the Neighborhood Plan.

Subchapter F, Residential Design and Compatibility Standards of the Land Development Code will permit 4:1 FAR or 2,300 square feet which this application currently meets.

This tract does have Land Status that exempts it from platting.

The public hearing was closed on Board Member Michael Von Ohlen motion to Deny, Board Member Melissa Hawthorne second on an 11-0 vote; DENIED.

M-3 **C15-2017-0008** **Patricia & William Schaub**
 Late back up **804 Winflo Drive**

The applicant has requested variance(s) to Section 25-2-492 (D) (*Site Development Regulations*) to decrease the minimum lot size for a multi-family residential use from 8,000 square feet (required) to 7,353.87 square feet (requested, existing in order to erect 3 residential units in one structure in a “MF-3-NP”, Multifamily Residence Medium Density zoning district. (Old West Austin)

Note: Section 25-2-943 of the Land Development Code permits Substandard Lots for single family use if configured prior to March 14, 1946. The subject lot was configured in 1948 and proposes a multifamily use; therefore the substandard lot section of the Code does not apply. Further, the Old West Austin Neighborhood Plan only provides small lot amnesty for single family use.

The public hearing was closed on Board Member Michael Von Ohlen motion to Postpone to May 8, 2017, Board Member Melissa Hawthorne second on a 11-0 vote; POSTPONED TO MAY 8, 2017.

M-4 **C15-2017-0014** **Terrence & Christine Moline**
 Late back up **205 San Saba Street**

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

A. decrease the minimum lot width requirement from 50 feet (required) to 0 feet* (requested, existing), and to

B. decrease the minimum lot size requirement from 5,750 square feet (required) to 2,107 square feet (requested, existing); and to

C. increase impervious cover from 45% (required, permitted) to 65% (requested); and to

D. decrease front yard setback from 25 feet (required) to 11 feet (requested, 10 feet existing including front porch); and to

E. Subchapter F, Residential Design and Compatibility Standards, Article 2: Development Standards, Section 2.6 (Setback Planes), A. Side and B. Rear Setback Plane increase the amount from not to exceed 3 feet (required) to not exceed 6 feet (requested)

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

The public hearing was closed on Board Member Michael Von Ohlen motion to Postpone to May 8, 2017, Board Member Bryan King second on a 11-0 vote; POSTPONED TO MAY 8, 2017.

M-5 [C15-2017-0016](#) **Omer Bisen**
 [Late back up](#) **608 West St. Johns Avenue**

The applicant has requested variance(s) from Article 10, Compatibility Standards Section 25-2-1062 (Height Limitations and Setbacks for Small Sites):

A. (B) to decrease 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 15 feet (required) to 0 feet (requested); and to

B. (D) 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) to 3 stories and 35 feet (requested)

in order to erect a multifamily structure in a “TOD-NP”, Transit Oriented Development - Neighborhood Plan zoning district. (Highland)

The public hearing was closed on Board Member Melissa Hawthorne motion to Postpone to May 8, 2017, Board Member Pim Mayo second on an 11-0 vote; POSTPONED TO MAY 8, 2017.

M-6 [C15-2017-0018](#) **David Hartman for Hardeman Family Joint Venture, Ltd.**
 [Late back up](#) **1301 West Koenig Lane**

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

A. (B) to decrease 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) to 5 feet (requested, to allow for potential 8 foot concrete sidewalk within 12 foot Public Sidewalk, Recreational and Trail Easement required by Parks and Recreation Department); and to

B. (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) to 4 stories and 45 feet (requested); and to

C. (C) (3) to increase the allowed height of a structure more than 100 feet but not more than 300 feet from property zoned SF-5 or more restrictive, 40 feet plus one foot for each 10 feet of distance in excess of 100 feet from the property zoned SF-5 or more restrictive (required) to 45 feet (requested); and to

D. Section 25-2-899 (Fences as Accessory Uses) (D) to increase the height of a solid fence constructed along a property line from an average height of six feet or maximum height of seven feet (required/permitted) to eight feet average (requested)

in order to erect an apartment in a “CS-MU-CO-NP”, General Commercial Services – Mixed Use – Conditional Overlay – Neighborhood Plan zoning district. (Brentwood)

Note: subject tract is undergoing rezoning approval to a multifamily designation by Council at their late April, May meetings, the pending zoning designation requires the fence variance #D above.

The public hearing was closed on Board Member Rahm McDaniel motion to Postpone to May 8, 2017, Board Member Bryan King second on an 11-0 vote (Board member Don Leighton-Burwell abstain); POSTPONED TO MAY 8, 2017.

**M-7 [C15-2017-0019](#) Ross Frie for Kathryn Shaufelberger
 [Late back up](#) 304 West Milton Street**

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

A. decrease the minimum lot width requirement from 50 feet (required) to 32 feet (requested, existing), and to

B. decrease the minimum lot size requirement from 5,750 square feet (required) to 3,360 square feet (requested)

in order to maintain a 1,906 square foot single family residence equaling .56:1 FAR in an “SF-3-NP”, Family Residence – Neighborhood Plan zoning district. (Bouldin Creek Neighborhood Plan)

NOTE: these variances were approved by the Board on February 10, 2014 with a condition that the structure be limited to .4:1 FAR, have a pitched roof shape and have a front porch (porch area not to be counted toward FAR). That condition limits the size to 1,344 square feet.

This application is a request to increase the square footage/FAR condition to 1,908 square feet and/or .56:1 FAR, which is 564 square feet and .16:1 FAR over the 2014 condition of approval.

The public hearing was closed on Board Member Don Leighton-Burwell motion to Deny, Board Member Bryan King second on an 11-0 vote; DENIED.

**M-8 [C15-2017-0020](#) Ada Corral for Lou Ellman, ECC Restorations
 1801 East Cesar Chavez Street**

The applicant has requested variance(s) from Article 10, Compatibility Standards Section 25-2-1062 (Height Limitations and Setbacks for Small Sites) (C):

A. to decrease 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 15.5 feet (required/permited) to 3 feet (requested, for ramp); and to

B. decrease 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 15.5 feet (required/permited) to 5 feet (requested, to add 2nd story)

in order to add a 2nd story, parking spaces and an access ramp to the existing structure and change the use from single family to office in a “CS-MU-CO-NP”, General Commercial - Mixed Use – Conditional Overlay - Neighborhood Plan zoning district. (East Cesar Chavez)

The public hearing was closed on Board Member Melissa Hawthorne motion to Grant as per drawing M8/12, Board Member Veronica Rivera second on an 11-0 vote; GRANTED AS PER DRAWING M8/12.

N. BOARD OF ADJUSTMENT NEW BUSINESS

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

Back-up

Board Member Melissa Hawthorne motion to forward Bryan King authored resolution to Council, Board Member Brooke Bailey second on a 10-1 vote (Board member Eric Goff nay).

N-2 Discussion and possible action on CodeNEXT

Working Group of 5 members (William Burkhardt, Bryan King, Brooke Bailey, Don Leighton-Burwell and Eric Goff) will be formed to give Board response to CodeNext by requested June deadline.

N-3 PC representative to brief the BOA on a request for feedback on relevant CodeNEXT issues.

Chair of Planning Commission gave brief description of process, requested Board participation in review of draft.

N-4 Discussion and possible action on a Board workshop for general Board of Adjustment information

Dates to be announced

N-5 Upcoming joint P&Z meetings/CodeNEXT Code Talk topics:

Wed 4/19 CAG Mapping Rollout, CodeTalk: Community Character, City Hall, 6-9pm

Mon 5/8 (our meeting date, maybe they can watch video on ATXN archive if interested)

CodeTalk: Affordability, Town Lake Center, 721 Barton Springs Rd, 6-8pm

Wed 5/31 CodeTalk: Mobility, City Hall, 6-8pm

Wed 6/7 CodeTalk: Permit and Processing, City Hall, 6-8pm

N-6 Invitation to attend Joint Planning/ZAP Commission Meetings on CodeNEXT scheduled for Tuesday 4/18 and Tuesday 5/30 at City Hall at 6pm.

N-7 Discussion and possible action on Budget

The public hearing was closed on Board Member Eric Goff motion to put forward the budget request to ask City Council to explore cost/benefit and other Cities use of outside Counsel to represent the Board on interpretation cases due to potential conflict of interest and perception of conflict of interest, Board Member Don Leighton-Burwell second on an 11-0 vote.

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.