



MEETING MINUTES
October 14, 2019

The Board of Adjustment convened in a meeting on October 14, 2019, City Council Chambers, 301 West 2nd Street, Austin, Texas.

Don Leighton-Burwell (Chair) called the Board Meeting to order at 5:30 p.m.

Board Members in Attendance: Jessica Cohen, Ada Corral, Melissa Hawthorne (Vice Chair), William Hodge, Don Leighton-Burwell (Chair), Rahm McDaniel (late-arrived at 6:11pm), Darryl Pruett, Veronica Rivera, Yasmine Smith, Michael Von Ohlen, Kelly Blume (Alternate)

Board Members Absent: Brooke Bailey

Board Staff in Attendance: Elaine Ramirez (Board Liaison) and Diana Ramirez (Board Secretary), Lee Simmons (Board 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 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. CITIZEN COMMUNICATION

The first four (4) speakers signed up prior to the meeting being called to order will each be allowed a three-minute allotment to address their concerns regarding **items not posted on the agenda.**

B. DISCUSSION AND REQUESTED ACTION ITEMS

- B-1** Staff requests approval of September 9, 2019 draft minutes
Board Member Jessica Cohen motion to approve the minutes for September 9 2019, Board Member Veronica Rivera second on a vote 9-1 (Board member Melissa Hawthorne abstained and Rahm McDaniel late); APPROVED MINUTES FOR September 9, 2019.

B-2 Staff and Applicant requests for postponement and withdraw of items posted on this Agenda
Items D-2 and P-3 requesting postponements to November 7, 2019; Items P-1 and P-2 requesting withdrawn
Board Member William Hodge motion to Grant applicant's/staff's request to Postpone Items D-2 and P-3 to November 7, 2019 and Items P-1 and P-2 to withdraw, Board Member Michael Von Ohlen seconds on a vote 10-0 (Board member Melissa Hawthorne abstains on Item D-2 and Rahm McDaniel late), GRANTED APPLICANT'S/STAFF'S POSTPONED ITEMS D-2 AND P-3; WITHDRAW ITEMS P-1 AND P-2.

C. SIGNS NEW PUBLIC HEARINGS
NONE

D. SIGNS PREVIOUS POSTPONEMENTS

**D-1 C16-2019-0002 Ben Robinson for E. Salvik, Morningside Des Plaines LLC & Morningside 770 LLC
4700 North Capital of Texas Highway**

The applicant is requesting a variance(s) from the Land Development Code:

- a) Section 25-10-124 (Scenic Roadway Sign District) (B) (1) to increase the maximum sign area on a lot from 64 square feet (required) to 165.88 square feet (requested)
- b) Section 25-10-125 (B) (2) from 12 feet to 17 feet on the right side due to extreme slope of terrain in order to erect a freestanding internally illuminated (individual letters only) located at this site in a "MF-1-CO", Multi-Family - Combined Overlay zoning district; Scenic Sign District.

Note: The Land Development Code sign regulations state that Internal lighting of signs is prohibited, except for the internal lighting of individual letters.

The public hearing was closed by Chair Don Leighton-Burwell, Board Member Michael Von Ohlen motions to Deny, Board Member Darryl Pruett seconds on a 6-5 vote (Board member Melissa Hawthorne, William Hodge, Veronica Rivera, Yasmine Smith and Kelly Blume nay); DENIED.

**D-2 C16-2019-0004 Will Marsh for USL2 Austin 901 East 6th Street LP
901 East 6th Street**

The applicant is requesting a variance(s) from Section 25-10-133 (University Neighborhood Overlay Zoning District Sign) (F) to allow for three electrical wall signs to be placed on the fifth floor of the building in order to provide signage for a Mixed Use building in a "TOD-CURE-CO-NP", Transit Oriented District/Plaza Saltillo – Central

Urban Redevelopment – Combined Overlay – Neighborhood Plan zoning district. (East Cesar Chavez)

Note: The Land Development Code sign regulations state that no sign may be placed above the second floor of a building, except for a non-electric sign that is engraved, cut into the building, or otherwise inlaid to become part of the building.

POSTPONED TO November 7, 2019

E. SIGNS RECONSIDERATIONS

NONE

F. SIGNS RECONSIDERATION PREVIOUS POSTPONEMENTS

NONE

G. INTERPRETATION NEW PUBLIC HEARINGS

NONE

H. SPECIAL EXCEPTION NEW PUBLIC HEARINGS

NONE

I. VARIANCES NEW PUBLIC HEARINGS

**I-1 C15-2019-0053 Corey Keller
2205 Remuda Trail**

The applicant is requesting a variance(s) from Section 25-2-899 (D) (*Fences as Accessory Uses*) to increase the height permitted from an average of 6 feet, maximum of 7 feet (required, up to 8 feet permitted with adjacent signatures) to 8 feet (requested) in order to maintain a recently constructed fence along a Thru-Lot in an “SF-3-NP”, Single-Family Residence-Neighborhood Plan zoning district. (Westgate)

Note: The Land Development Code states that a solid fence constructed along a property line may not exceed an average height of 6 feet or a maximum height of 7 feet. There is a telephone pole that abuts the property along Jones Road.

The public hearing was closed by Chair Don Leighton-Burwell, Board Member Melissa Hawthorne motions to Postpone to November 7, 2019, Board Member Jessica Cohen seconds on a 9-2 vote (Board member Don Leighton-Burwell and Darryl Pruett nay); POSTPONED TO November 7, 2019.

**I-2 C15-2019-0054 David Cancialosi for Emerald Laguna Corporation
(Paris Schindler)
1901 Westlake Drive**

The applicant is requesting a variance(s) from Section 25-2-551 (Lake Austin (LA) District Regulations)

1. (B) (1) to reduce the Shoreline Setback requirement from 75 feet (required) to 25 feet (requested)
2. (C) (3) (a) increase Impervious Cover from 35 percent, on a slope with a gradient of 15 percent or less (required) to 62% (requested); 75% (existing)
3. (C) (3) (b) increase Impervious Cover from 10 percent, on a slope with a gradient of 15 percent or less (required) to 67% (requested); 65% (existing)
4. (C) (3) (c) increase Impervious Cover from 5 percent, on a slope with a gradient of more than 25 percent and not more than 35 percent (required) to 35% (requested); 39% (existing)
5. (E) (2) to increase Impervious Cover to 8% for a driveway in order to erect a Single-Family Residential use in an “LA” zoning district.

NOTE: (for item (E) (2) The Land Development Code states on a slope with a gradient of more than 35 percent, development 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.

The public hearing was closed by Chair Don Leighton-Burwell, Board Member Melissa Hawthorne motions to Postpone to November 7, 2019, Board Member Ada Corral seconds on an 11-0 vote; POSTPONED TO November 7, 2019.

**I-3 C15-2019-0055 David Cancialosi for Mark Odom
2803 Edgewater Drive**

The applicant is requesting a variance(s) from Section 25-2-551 (Lake Austin (LA) District Regulations)

1. (C) (3) (c) increase Impervious Cover from 5 percent, on a slope with a gradient of more than 25 percent and not more than 35 percent (required) to 66% (requested); 0% (existing)
2. (E) (2) to increase Impervious Cover to 29% for a driveway in order to erect a Single-Family Residential use in an “LA” zoning district.

NOTE: (for item (E) (2) The Land Development Code states on a slope with a gradient of more than 35 percent, development 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.

The public hearing was closed by Chair Don Leighton-Burwell, Board Member Michael Von Ohlen motions to Postpone to November 7, 2019, Board Member Melissa Hawthorne seconds on an 11-0 vote; POSTPONED TO November 7, 2019.

I-4 C15-2019-0056 Eric Scheibe for Jerad Kolarik

1400 West Oltorf Street

The applicant is requesting a variance(s) from the maximum allowable Compatibility Height requirements of Article 10, Compatibility Standards, Division 2 –Development Standards:

- a. to decrease the minimum setback requirement from Section 25-2-1063 (B) (2) (*Height Limitations and Setbacks from Large Sites*) from 25 feet to 0 feet along the south property line

Note: The Land Development Code states that a person may not construct a structure 25 feet or less from property on which a use permitted in an SF-5 or more restrictive zoning district is located.

- b. to increase the maximum compatibility height requirement of Section 25-2-1063 (C) (1) and (2) (*Height Limitations and Setbacks for Large Sites*) to 45 feet in height in order to erect a 45 foot Office/Retail use in a “CS”, General Commercial Services zoning district.

Note: The Land Development Code height limitations for a structure are: (1) two stories and 30 feet, if the structure is 50 feet or less from property: (a) in an SF-5 or more restrictive zoning district; or (b) on which a use permitted in an SF-5 or more restrictive zoning district is located; or (2) three stories and 40 feet, if the structure is more than 50 feet and not more than 100 feet from property; (a) in an SF-5 or more restrictive zoning district; or (b) on which a use permitted in an SF-5 or more restrictive zoning district is located.

The public hearing was closed by Chair Don Leighton-Burwell, Board Member Michael Von Ohlen motions to Postpone to November 7, 2019, Board Member Melissa Hawthorne seconds on an 11-0 vote; POSTPONED TO November 7, 2019.

J. INTERPRETATIONS PREVIOUS POSTPONEMENTS
NONE

K. INTERPRETATIONS RECONSIDERATIONS
NONE

L. INTERPRETATIONS RECONSIDERATION PREVIOUS POSTPONEMENTS
NONE

M. SPECIAL EXCEPTIONS PREVIOUS POSTPONEMENTS
NONE

N. SPECIAL EXCEPTIONS RECONSIDERTIONS
NONE

O. SPECIAL EXCEPTIONS RECONSIDERATION PREVIOUS POSTPONEMENTS

NONE

P. VARIANCES PREVIOUS POSTPONEMENTS

**P-1 C15-2019-0022 Roger Elkhoury for Travis County
5501 Airport Boulevard**

The applicant has requested variance(s) to Section 25-2-492 (D) (*Site Development Regulations*) to Section 25-6 Appendix A (*Tables of Off-Street parking and Loading Requirements*) to reduce the number of required parking spaces from 360 spaces (required) to 339 spaces (requested, 271 spaces existing) in order to add 6,000 square feet office space for 240 employees in a “CS-V-CO-NP”, General Commercial Services – Vertical Mixed Use building – Conditional Overlay – Neighborhood Plan zoning district. (North Loop)

WITHDRAWN BY APPLICANT

**P-2 C15-2019-0033 Melissa Brown for Bryan Cumby
3219 Manor Road**

The applicant is requesting a variance(s) from the maximum allowable Compatibility Height requirements of Article 10, Compatibility Standards, Division 2 –Development Standards, Section 25-2-1063 (C) (2) and (3) (Height Limitations and Setbacks for Large Sites) in order to construct a 60 foot Multi-Family use in a “CS-V-CO-NP”, General Commercial Services – Vertical Mixed Use – Conditional Overlay –Neighborhood Plan zoning district. (MLK Neighborhood Plan)

- a. The Land Development Code Section 25-2-1063 (C) (2) allows a height limit of three stories or 40 feet, if the structure is more than 50 feet and not more than 100 feet from property (a) in an "SF-5" or more restrictive zoning district, or (b) on which a use permitted in an "SF-5" or more restrictive zoning district is located.
- b. The Land Development Code Section 25-2-1063 (C) (3) allows a height limit for 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.

Note: This variance will allow for a uniform height of 60 ft. for the entire project. 60 ft. is currently allowed in portions of the project and graduating down to 40 ft. in other portions of the project.

WITHDRAWN BY APPLICANT

**P-3 C15-2019-0046 Lila Nelson for Benjamin S. Wu
4320 James Casey Street**

The applicant is requesting a variance(s) from Section 25-2-1067 (H) (Design Regulations) Compatibility Height requirements of Article 10, Compatibility Standards, Division 2 –Development Standards to

- a) decrease the minimum parking setback from 25 feet (required) on the southern and western boundaries to 0 feet (requested) and;
- b) decrease the minimum driveway setback from 20 feet (required) to 0 feet (requested),

in order to construct an accessory parking lot in a “LO-V-NP”, Limited Office – Vertical Mixed Use – Neighborhood Plan zoning district. (South Manchaca Neighborhood Plan)

Note: The subject property is 110 ft. wide

POSTPONED TO November 7, 2019

**P-4 C15-2019-0047 Janis J. Smith, P.E. for David Middleton/YOLO Partners, LTD
3707 Taylors Drive**

The applicant is requesting a variance(s) from Section 25-2-1176 (A) (1) (Site Development Regulations for Docks, Marinas, and other Lakefront Uses) to increase the Shoreline setback requirement from 30 feet (required) to 40 feet (requested) in order to erect a Boat Dock in a “SF-3-NP”, Single-Family –Neighborhood Plan zoning District (West Austin Neighborhood Plan, LA zoning Overlay).

Note: The Land Development Code states that the director may require a dock to extend a lesser or greater distance from the shoreline if deemed necessary to ensure navigation safety.

The public hearing was closed by Chair Don Leighton-Burwell, Board Member Michael Von Ohlen motions to Grant as per new configuration drawing P-4/6, Board Member Melissa Hawthorne seconds on a 10-0 vote (Board member Rahm McDaniel late); GRANTED AS PER NEW CONFIGURATION DRAWING P-4/6.

**Q. VARIANCE RECONSIDERATIONS
NONE**

**R. VARIANCES RECONSIDERATION PREVIOUS POSTPONEMENTS
NONE**

S. NEW BUSINESS

**S-1 Discussion of the September 9, 2019 Board activity report
CONTINUED TO November 7, 2019**

S-2 Discussion and possible action regarding Workgroups Update: Transportation Criteria/Code Recommendations Workgroup
DISCUSSED, CONTINUED TO November 7, 2019

S-3 Discussion and possible action of BOA fees resolution
DISCUSSED

S-4 Discussion for adopting BOA meeting schedule for Jan 2020 –Dec 2020.
Board Member Michael Von Ohlen motions to Adopt BOA meeting dates for 2020 (second Monday of each Month), Board Member Rahm McDaniel seconds on an 10-1 vote (Board member Melissa Hawthorne nay); ADOPTED BOA MEETING DATES FOR 2020 (SECOND MONDAY OF EACH MONTH).

S-5 Discussion and possible action of the Staff Report (Legal) on HB 2497

HB 2497 limits who can file administrative appeals of site-specific applications to the Board. In the past, any “aggrieved party” could appeal zoning-related determinations to the Board. As of September 1, the right to file administrative appeals is limited to landowners, a person within 200 feet of the property, applicants, officers, departments, boards, or bureaus that are affected by the decision. For non-site specific applications, the law remains the same: any person aggrieved by the decision, or any officer, department, board, or bureau affected by the decision may appeal.

DISCUSSED

S-6 Discussion and possible action of the draft LDC, New LDC Input from BOA

With the draft of the new LDC not available until Oct. 4th, BOA members should review the relevant sections (the portions of the draft that pertain to the Board of Adjustment) PRIOR to the upcoming meeting. Members should be ready to discuss and possibly take action (via Resolution) at the October 14th meeting of the BOA. To address Council’s robust timeline and short window for review and feedback, any resolution must be completed and sent to the City Council and Planning Commission PRIOR to PC’s October 29th meeting.

DISCUSSED

S-7 Discussion and possible action of the report from City Staff regarding Environmental Board and BOA responsibilities

S-8 Announcements

S-9 Discussion of future agenda new business items, staff requests and potential special called meeting and/or workshop requests

T. ADJOURNMENT 9:47 PM

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* or email Board Liaison Elaine Ramirez, Development Services, at 512-974-2202/elaine.ramirez@austintexas.gov or Board Secretary Diana Ramirez, Development Services, at 512-974-2241/diana.ramirez@austintexas.gov, for additional information; *TTY users route through Relay Texas at 711*.