



MEETING MINUTES November 7, 2019

The Board of Adjustment convened in a meeting on November 7, 2019, City Council Chambers, 301 West 2nd Street, Austin, Texas.

Don Leighton-Burwell (Chair) called the Board Meeting to order at 5:35 p.m.

Board Members in Attendance: Brooke Bailey, Jessica Cohen, William Hodge, Don Leighton-Burwell (Chair), Darryl Pruet (late), Veronica Rivera, Yasmine Smith, Michael Von Ohlen, Kelly Blume (Alternate) and Martha Gonzalez (Alternate)

Board Members Absent: Ada Corral, Melissa Hawthorne (Vice Chair) left early, Rahm McDaniel

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 October 14, 2019 draft minutes

On-Line Link: [Item B-1](#)

Board Member Melissa Hawthorne motion to approve the minutes for October 14, 2019, Board Member Michael Von Ohlen second on a vote 9-0 (Board members Darryl Pruet late); APPROVED MINUTES FOR October 14, 2019.

B-2 Staff and Applicant requests for postponement and withdraw of items posted on this Agenda
Items I-1, I-4, P-1, P-2 requesting postponements to January 13, 2020; Items P-3 requesting withdrawn
Board Member Veronica Rivera motion to Grant applicant's/staff's request Items I-1, I-4, P-2 to Postpone to January 13, 2020 and Item P-2 to withdraw, Board Member Melissa Hawthorne seconds on a vote 10-0, GRANTED APPLICANT'S/STAFF'S POSTPONED ITEMS I-1, I-4. P-2; WITHDRAW ITEMS P-2; Item P-1, Board member Jessica Cohen motion to deny postponement and to open for discussion, Board member Darryl Pruett seconds on a 10-0 vote; DENIED POSTPONEMENT FOR ITEM P-1.

C. SIGNS NEW PUBLIC HEARINGS
NONE

D. SIGNS PREVIOUS POSTPONEMENTS

**D-1 C16-2019-0004 Will Marsh for USL2 Austin 901 East 6th Street LP
901 East 6th Street**

On-Line Link: [Item D-1](#)

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.

WITHDRAWN BY APPLICANT

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 C15-2019-0057 Jennifer Conroy
1304 & 1310 Willow Street**

On-Line Link: [Item I-1 AE REPORT](#)

The applicant is requesting a variance(s) from LDC Section 25-2-476 (B) (3) (a) (i) (*Special Exceptions*) from Section 25-2-492 (D) (*Site Development Regulations*) to decrease the interior side yard setback from 5 feet (required) to 3 ft. 6 inches (requested) in order to maintain a Garage Apartment that has been at this location for at least 25 years in a “SF-3-NP”, Single-Family Residence zoning district. (East Cesar Chavez Neighborhood Plan)

Note: Per the LDC 25-2-476 (B) The Board shall grant a special exception under Subsection (A) of this section if; (B) the Board finds that: (a) the violation has existed for: (i) at least 25 years.

POSTPONED TO JANUARY 13, 2020 BY APPLICANT

**I-2 C15-2019-0060 Terence Kearns
5112 Bluffside Drive**

On-Line Link: [Item I-2 AE REPORT](#)

The applicant is requesting a variance(s) from the LDC Section 25-2-899 (D) (*Fences as Accessory Uses*) to increase the height permitted from an average of 6 feet, maximum of 7 feet (allowed) to 8 feet (requested) in order to complete a fence in a “PUD”, zoning district.

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.

The public hearing was closed by Chair Don Leighton-Burwell, Board Member Michael Von Ohlen motions to Grant, Board Member Martha Gonzalez seconds on a 9-1 vote (Board member Darryl Pruett nay); GRANTED

**I-3 C15-2019-0061 Jarred Corbell for PSW-Springdale, LLC
735 Springdale Road**

On-Line Link: [Item I-3 AE REPORT](#)

The applicant is requesting a variance(s) to increase the maximum allowable Compatibility Height requirements of Article 10, Compatibility Standards, Division 2 – Development Standards, Section 25-2-1063 (C)(2) (*Height Limitations and Setbacks for Large Sites*) from 40 feet (maximum allowed) to 48 feet (requested) in order to erect a 48 ft. foot Commercial Office use in a “CS-MU-CO-NP”, General Commercial Services – Mixed Use – Conditional Overlay –Neighborhood Plan zoning district. (Govalle Neighborhood Plan)

Note: 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.

The public hearing was closed by Chair Don Leighton-Burwell, Board Member Veroncia Rivera motions to Postpone to January 13, 2020, Board Member Jessica Cohen seconds on a 10-0 vote; POSTPONED TO JANUARY 13, 2020.

**I-4 C15-2019-0062 Igor Dimitrijevi for Enable Capital, LLC
1707 Astor Place**

On-Line Link: [Item I-4 AE REPORT](#)

The applicant is requesting a variance(s) from LDC Section 25-2-476 (B) (3) (a) (i) (*Special Exceptions*) from Section 25-2-492 (D) (*Site Development Regulations*) to decrease the interior side yard setback from 5 feet (required) to 3 ft. 9 inches (requested) in order to maintain a Single Family Residential use that has been at this location for at least 25 years in a "SF-3-NP", Single-Family Residence zoning district. (MLK Neighborhood Plan)

Note: Per the LDC 25-2-476 (B) The Board shall grant a special exception under Subsection (A) of this section if; (B) the Board finds that: (a) the violation has existed for: (i) at least 25 years.

POSTPONED TO JANUARY 13, 2020 BY APPLICANT

**I-5 C15-2019-0064 April Clark for Dr. Samir Patel
1415 West 10th Street**

On-Line Link: [Item I-5 AE REPORT](#)

The applicant is requesting a variance(s) from the LDC Subchapter F: Residential Design and Compatibility Standards, Article 3, Section 3.3.3 (Gross Floor Area – Porch, Basement and Attic Exemptions) (B) (2) in order to receive the basement exemption on a sloped site the applicant proposes to change the location of measurement from the average elevation at the intersections of the minimum front yard setback line and the side property line to the intersection of the front building line and the side property lines (this will not be closer than the front setback line nor will the building exceed the maximum tent height limitations) in order to erect a Single-Family Residence with a Guest House in a "SF-3-NP", Single-Family zoning district (Old West Austin Neighborhood Plan)

The public hearing was closed by Chair Don Leighton-Burwell, Board Member Michael Von Ohlen motions to Postpone to January 13, 2020, Board Member Melissa Hawthorne seconds on a 7-3 vote (Board members Brooke Bailey, Darryl Pruet, Martha Gonzalez nay; William Hodge abstained); POSTPONED TO JANUARY 13, 2020.

**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 C15-2019-0045 Colby Turner for Ryan Diepenbrock
504 Sunny Lane**

On-Line Link: [Item P-1](#)

The applicant is requesting a variance(s) from:

- a) Section 25-2-492 (Site Development Regulations) (D) to increase the maximum allowable Impervious Cover from 45% (required) to 59.5% (requested) for retaining wall.
- b) Section 25-2-899 (Fences as Accessory Uses) (E) (1) from 6 feet to 7 ft. 2 in. at North end and portions of Southeast and Southwest sides of property lines

in order to complete a Single-Family residence in a “SF-3-NCCD-NP”, Single-Family Residence zoning district. (South River City Combined Neighborhood Plan)

The public hearing was closed by Chair Don Leighton-Burwell, Board Member Michael Von Ohlen motions to Deny, Board Member Martha Gonzalez seconds on a 10-0 vote; DENIED.

**P-2 C15-2019-0046 Lila Nelson for Benjamin S. Wu
4320 James Casey Street**

On-Line Link: [Item P-2](#)

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 JANUARY 13, 2020 BY APPLICANT

**P-3 C15-2019-0053 Corey Keller
2205 Remuda Trail**

On-Line Link: [Item P-3 PART1](#), [PART2](#), [PART3](#), [PART4](#), [PART5](#), [PART6](#), [PART7](#), [PART8](#)

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.

WITHDRAWN BY APPLICANT

**P-4 C15-2019-0054 David Cancialosi for Emerald Laguna Corporation
(Paris Schindler)
1901 Westlake Drive**

On-Line Link: [Item P-4 PART1](#), [PART2](#), [PART3](#), [PART4](#)

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 Michael Von Ohlen motions to Grant with conditions as per drawing P-4/7, 25 feet setback along shoreline for purpose of impervious calculations, 25 feet building line setback on the west shoreline, 75 feet building line setback from southern end (tip of peninsula) of property where nothing will be built, tennis court will be removed and driveway modifications will be made per drawing P-4/7, Board Member Veronica Rivera seconds on a 10-0 vote; GRANT WITH CONDITIONS AS PER DRAWING P-4/7, 25 FEET SETBACK ALONG SHORELINE FOR PURPOSE OF IMPERVIOUS CALCULATIONS, 25 FEET BUILDING LINE SETBACK ON THE WEST SHORELINE, 75 FEET BUILDING LINE SETBACK FROM SOUTHERN END (TIP OF PENINSULA) OF PROPERTY WHERE NOTHING WILL BE BUILT, TENNIS COURT WILL BE REMOVED AND DRIVEWAY MODIFICATIONS WILL BE MADE PER DRAWING P-4/7.

**P-5 C15-2019-0055 David Cancialosi for Mark Odom
2803 Edgewater Drive**

On-Line Link: [Item P-5 PART1](#), [PART2](#), [PART3](#), [PART4](#), [PART5](#)

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 January 13, 2020, Board Member William Hodge seconds on a 10-0 vote; POSTPONED TO JANUARY 13, 2020.

**P-6 C15-2019-0056 Eric Scheibe for Jerad Kolarik
1400 West Oltorf Street**

On-Line Link: [Item P-6](#)

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 Grant, Board Member Brooke Bailey seconds on a 10-0 vote; GRANTED.

Q. VARIANCE RECONSIDERATIONS
NONE

R. VARIANCES RECONSIDERATION PREVIOUS POSTPONEMENTS
NONE

S. NEW BUSINESS

S-1 Discussion of the October 14, 2019 Board activity report

On-Line Link: [Item S-1](#)

CONTINUED TO JANUARY 13, 2020

S-2 Discussion and possible action regarding Workgroups Update: Transportation Criteria/Code Recommendations Workgroup

DISCUSSED

- S-3** Discussion and possible action on cancellation of December BOA meeting due to room scheduling conflicts.

DISCUSSED

- S-4** Staff Report Requested on HB 2497; Discussion and possible action.

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-5** Discussion and possible action on the draft LDC; BOA LDC Workgroup Report (Workgroup Members: Leighton-Burwell, Hawthorne, Cohen, Hodge and Smith)

DISCUSSED

- S-6** Discussion and possible action on moving BOA meetings from Monday to Wednesday nights.

DISCUSSED

- S-7** Announcements

- S-8** Discussion of future agenda new business items, staff requests and potential special called meeting and/or workshop requests

T. ADJOURNMENT 9:37 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.*