



Board of Adjustment December 14, 2020

Board of Adjustment to be held December 14, 2020 with Social Distancing Modifications

The Board of Adjustment on December 14, 2020, due to current situation with COVID-19, the meeting will be held virtually online and viewable at <http://www.atxn.tv> beginning at 5:30pm.

Public comment will be allowed via telephone; no in-person input will be allowed. **All speakers must register in advance (December 13, 2020 by Noon)**. All public comment will occur at the beginning of the meeting.

To speak remotely at the **December 14, 2020, Board of Adjustment** Meeting, residents must:

- Call or email the board liaison, Elaine Ramirez at **512-974-2202** or **elaine.ramirez@austintexas.gov** no later than noon, (**December 13, 2020**). The information required is the speaker name, item number(s) they wish to speak on, whether they are for/against/neutral, and a telephone number or email address.
- Once a request to speak has been called in or emailed to the board liaison, residents will receive either an email or phone call providing the telephone number to call on the day of the scheduled meeting.
- Speakers must call in at least 15 minutes prior to meeting start in order to speak, late callers will not be accepted and will not be able to speak.
- Speakers will be placed in a queue until their time to speak.
- Handouts or other information may be emailed to **elaine.ramirez@austintexas.gov** by Noon the day before **December 13, 2020** the scheduled meeting. This information will be provided to Board and Commission members in advance of the meeting.
- If this meeting is broadcast live, residents may watch the meeting here:
<http://www.austintexas.gov/page/watch-atxn-live>

Reunión del **Board of Adjustment**

FECHA de la reunion (**December 14, 2020**) a la 5:30 pm

<http://www.atxn.tv>

La junta se llevará con modificaciones de distanciamiento social

Se permitirán comentarios públicos por teléfono; no se permitirá ninguna entrada en persona. Todos los oradores deben registrarse con anticipación (**December 13, 2020** antes del mediodía). Todos los comentarios públicos se producirán al comienzo de la reunión.

Para hablar de forma remota en la reunión, los residentes deben:

- Llame o envíe un correo electrónico al enlace de la junta a Elaine Ramirez 512-974-2202 o elaine.ramirez@austintexas.gov a más tardar al mediodía (el día antes de la reunion-**December 13, 2020**). La información requerida es el nombre del orador, los números de artículo sobre los que desean hablar, si están a favor / en contra / neutrales, y un número de teléfono o dirección de correo electrónico.
- Una vez que se haya llamado o enviado por correo electrónico una solicitud para hablar al enlace de la junta, los residentes recibirán un correo electrónico o una llamada telefónica con el número de teléfono para llamar el día de la reunión programada.
- Los oradores deben llamar al menos 15 minutos antes del inicio de la reunión para poder hablar, no se aceptarán personas que llamen tarde y no podrán hablar.
- Los oradores se colocarán en una fila hasta que llegue el momento de hablar.
- Los folletos u otra información pueden enviarse por correo electrónico a elaine.ramirez@austintexas.gov antes del mediodía del día anterior (**December 13, 2020**) a la reunión programada. Esta información se proporcionará a los miembros de la Junta y la Comisión antes de la reunión.
- Si esta reunión se transmite en vivo, los residentes pueden ver la reunión aquí: <http://www.austintexas.gov/page/watch-atxn-live>



MEETING MINUTES

December 14, 2020

The Board of Adjustment meeting convened on Monday, December 14, 2020 via Videoconference; <http://www.austintexas.gov/page/watch-atxn-live> .

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

Board Members in Attendance: Brooke Bailey, Jessica Cohen, Ada Corral, Melissa Hawthorne (Vice Chair), Don Leighton-Burwell (Chair), Darryl Pruett, Veronica Rivera, Yasmine Smith, Michael Von Ohlen, Kelly Blume (Alternate)

Board Members Absent: Rahm McDaniel, Martha Gonzalez (Alternate) and Donny Hamilton (Alternate) not available

Board Staff in Attendance: Elaine Ramirez (Board Liaison) Lee Simmons (Board Attorney) and Diana Ramirez (Board Secretary)

CALL TO ORDER **5:35 PM**

CITIZEN COMMUNICATION: GENERAL

The first (4) four speakers who register to speak no later than noon the day before the meeting will be allowed a three-minute allotment to address their concerns regarding items not posted on the agenda.

NONE

A. DISCUSSION AND REQUESTED ACTION ITEM

A-1 Staff requests approval November 9, 2020 draft minutes

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

Board Member Melissa Hawthorne motions to approve the minutes for November 9, 2020, Board member Brooke Bailey seconds on a 7-0 vote (Board member Michael Von Ohlen abstained); APPROVED MINUTES FOR November 9, 2020.

B. DISCUSSION AND REQUESTED ACTION ITEM

B-1 Staff and Applicant requests for postponement and withdraw of items posted on this Agenda **NONE**

C. SIGNS NEW PUBLIC HEARINGS

**C-1 C16-2020-0009 Rodney Bennett for Lynn Nick
7900 FM 1826 Road**

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

The applicant is requesting a variance(s) from the Land Development Code, Section 25-10-131 (*Additional Freestanding Signs permitted*) (C) to increase the total number of freestanding signs from 2 (permitted) to 3 (requested) in order to erect a freestanding sign in a “GO-NP”, General Office – Neighborhood Plan zoning district (West Oak Hill Neighborhood Plan)

Note: Per 25-10-101(General on-premise signs) (A) Purpose and Applicability. This section establishes general requirements for on-premise signs associated with particular land uses. A sign allowed under this section: (1) Must comply with all applicable regulations of this chapter and the Building Code, but may be installed or modified without obtaining a permit or other approval from the City.

Per LDC 25-10-130 (Commercial Sign District) (B) One freestanding sign is permitted on a lot. The second (existing) freestanding sign was permitted under 25-10-131 (Additional Freestanding Signs

The public hearing was closed by Chair Don Leighton-Burwell, Board Member Michael Von Ohlen motions to Grant, Board Member Jessica Cohen seconds on an 9-0 vote (Board member Yasmine Smith – late due to technical problems); GRANTED.

D. VARIANCES NEW PUBLIC HEARINGS

**D-1 C15-2020-0074 William Burkhardt for Michele Conners and Seth Bank
1501 Nickerson Street**

On-Line Link: [ITEM D-1 PART1](#), [PART2](#), [PART3](#), [PART4](#); [PRESENTATION](#); [AE REPORT](#)

The applicant is requesting a variance(s) from the LDC Subchapter F: Residential Design and Compatibility Standards, Article 2, Development Standards Section 2.1 (*Maximum Development Permitted*) to increase the F.A.R from 40% (required) to 41% (requested) in order to remodel and add an addition to an existing single family residence in an “SF-3-NCCD-NP”, Single-Family-Neighborhood Conservation District-Neighborhood Plan zoning district (South River City Neighborhood Plan)

The public hearing was closed by Chair Don Leighton-Burwell, Board Member Michael Von Ohlen motions to Grant, Board Member Melissa Hawthorne seconds on a 10-0 vote; GRANTED.

**D-2 C15-2020-0076 Gina Hill for Gina and Peyton Hill:
1605 Brackenridge Street**

On-Line Link: [ITEM D-2](#); [PRESENTATION](#); [AE REPORT](#)

The applicant is requesting a variance(s) from the Land Development Code, Section 25-2-515 (*Rear Yard of a Through Lot*) from setback requirements to decrease the minimum rear yard setback from 25 feet (required) to 5 feet (requested) in order to erect a detached garage with ADU in a “SF-3-NP” Single-Family Residence – Neighborhood Plan zoning district (South River City Neighborhood Plan).

Note: Per LDC for a Through Lot, a rear yard must comply with the minimum requirements applicable to a front yard.

The public hearing was closed by Chair Don Leighton-Burwell, Board Member Melissa Hawthorne motions to Grant with condition if ADU (Accessory Dwelling Unit) is built above the garage, No STR (Short-term rental), Board Member Brooke Bailey seconds on a 10-0 vote; GRANTED WITH CONDITION IF ADU (ACCESSORY DWELLING UNIT) IS BUILT ABOVE THE GARAGE, NO STR (SHORT-TERM RENTAL)

**D-3 C15-2020-0080 Paul Bielamowicz
2111 Wilson Street**

On-Line Link: [ITEM D-3 PART1, PART2, PART3, PART4, PART5 PRESENTATION PART1, PART2, PART3; AE REPORT](#)

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

- a) Section 25-2-492 (Site Development Regulations) from setback requirements to decrease the minimum rear yard setback from 10 feet (required) to 0.1 feet (requested)
- b) Section 25-2-492 (Site Development Regulations) from setback requirements to decrease the minimum interior side yard setback from 5 feet (required) to 2 feet (requested) in order to remodel an existing Non-Complying detached Garage in a SF-3-NP”, Single-Family Residence – Neighborhood Plan zoning district (Bouldin Creek Neighborhood Plan).

The public hearing was closed by Chair Don Leighton-Burwell, Board Member Michael Von Ohlen motions to Grant, and Board Member Jessica Cohen seconds on a 10-0 vote; GRANTED.

**D-4 C15-2020-0081 David Cancialosi for Jim Goodwin
1209 N. Weston Lane**

On-Line Link: [ITEM D-1 PART1, PART2, PART3; PRESENTATION; AE REPORT](#)

The applicant is requesting a variance(s) from the Land Development Code, Section 25-2-551 (*Lake Austin (LA) District Regulations*)

- a) (B) (1) (a) from shoreline setback requirements to reduce the shoreline setback from 75 feet (required*) to 21 feet (requested)

b) (C) (2) (a) increase the maximum impervious cover on a slope with a gradient of 25 percent or less from 20 percent (allowed) to 38 percent (requested) in order to maintain a Single-Family residence and associated improvements in an “LA”, Lake Austin zoning district.

Note: This section of the Land Development Code 25-2-551(C) applies to lots that are included in a subdivision plat recorded after April 22, 1982.

**Per variance granted in 1990, the shoreline setback was changed from 75 feet to 33 feet. The shoreline reduction from 75' to 21' is for a width of only 23' (footprint of the existing 1980s garage). The remainder of the shoreline beyond the 23' width will remain 33' as per 1990 variance #C15-90-046.*

The public hearing was closed by Chair Don Leighton-Burwell, Board Member Michael Von Ohlen motions to Grant twenty-one (21) feet only for existing garage structure, no additional permits or work and with rain garden or collection system (to account for all Impervious Cover above the permitted amount) as per the Rain Harvesting worksheet, and Board Member Melissa Hawthorne seconds on a 9-1 vote (Board member Jessica Cohen nay); GRANTED TWENTY-ONE (21) FEET ONLY FOR EXISTING GARAGE STRUCTURE, NO ADDITIONAL PERMITS OR WORK AND WITH RAIN GARDEN OR COLLECTION SYSTEM (TO ACCOUNT FOR ALL IMPERVIOUS COVER ABOVE THE PERMITTED AMOUNT) AS PER THE RAIN HARVESTING WORKSHEET.

**D-5 C15-2020-0082 Micah King for Doug and Jana Harker
908 W. 18th Street**

On-Line Link: [ITEM D-5; PRESENTATION; AE REPORT](#)

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

a) Section 25-2-492 (*Site Development Regulations*) from setback requirements to decrease the minimum side yard setback from 5 feet (required) to 4.4 feet (requested)

b) Section 25-2-492 (*Site Development Regulations*) to increase the impervious cover from 45% (maximum allowed) to 53% (requested) in order to maintain Single Family Residence, shared drive and patio in an “SF-3”, Single-Family Residence zoning district.

The public hearing was closed by Chair Don Leighton-Burwell, Board Member Michael Von Ohlen motions to Grant with conditions to add rainwater collection to capture additional impervious cover (as per Rain Harvesting worksheet) as per D-5/24 tied to existing structure, will not apply if demolished, remodeled, etc., and Board Member Brooke Bailey seconds on a 10-0 vote; GRANTED WITH CONDITIONS TO ADD RAINWATER COLLECTION TO CAPTURE ADDITIONAL IMPERVIOUS COVER (AS PER RAIN HARVESTING WORKSHEET) AS PER D-5/24 TIED TO EXISTING STRUCTURE, WILL NOT APPLY IF DEMOLISHED, REMODELED, ETC.

E. VARIANCES PREVIOUS POSTPONEMENTS

E-1 C15-2020-0053 Michael Gaudini for Thomas Bercy
900 Old Koenig Lane & 5916 N. Lamar Boulevard

On-Line Link: [ITEM E-1; PRESENTATION](#)

The applicant is requesting a variance(s) to decrease the required setback and increase the maximum allowable height requirements of Article 10, Compatibility Standards, Division 2 –Development Standards, Section 25-2-1063 (*Height Limitations and Setbacks for Large Sites*)

- a) (B) (2) reduce setback from 25 feet (minimum allowed) to 0 feet (requested)
- b) (C) (1) (b) increase height limit from 30 feet (maximum allowed) to 60 feet (requested)
- c) (C) (2) (b) increase height limit from 40 feet (maximum allowed) to 60 feet (requested) in order to erect Vertical Mixed Use project with on-site affordable units in a “CS-MU-V-CO-NP”, General Commercial Services – Mixed Use – Vertical Mixed Use - Conditional Overlay – Neighborhood Plan zoning district. (Brentwood Neighborhood Plan)

Note: The Land Development Code Section 25-2-1063 (B) A person may not construct a structure 25 feet or less from property: (2) on which a use permitted in an SF-5 or more restrictive zoning district is located.

(C) The height limitation for a structure are: (1) two stories and 30 feet, if the structure is 50 feet or less from the property: (b) on which a use is permitted in an “SF-5” or more restrictive zoning district; or (2) three stories and 40 feet if the structure is more than 50 feet and not more than 100 feet from property: (b) on which a use is 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 with condition must meet AE requirements and setback variances only from Church, not residential properties, and Board Member Jessica Cohen seconds on a 10-0 vote; GRANTED WITH CONDITION MUST MEET AE REQUIREMENTS AND SETBACK VARIANCES ONLY FROM CHURCH, NOT RESIDENTIAL PROPERTIES.

E-2 C15-2020-0066 Joel L. Aldridge, AIA for Josephat Valdez
1509 East 14th Street

On-Line Link: [ITEM E-2; PRESENTATION](#)

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

- a) Section 25-2-492 (Site Development Regulations) from setback requirements to decrease the minimum front yard setback from 25 feet (required) to 17 feet (requested)

- b) Section 25-2-492 (Site Development Regulations) from setback requirements to decrease the minimum rear yard setback from 10 feet (required) to 5 feet (requested)
- c) Section 25-6-472 (Parking Facility Standards) Appendix A (Tables of Off-Street parking and Loading Requirements) to reduce the number of required parking spaces from 2 spaces (required) to 0 spaces (requested)

in order to erect a new Single-Family Residence in a SF-3-NP”, Single-Family Residence – Neighborhood Plan zoning district (Central East Austin Neighborhood Plan).

The public hearing was closed by Chair Don Leighton-Burwell, Board Member Jessica Cohen motions to Grant with conditions – No STR (Short Term Rental) and as per presentation drawings E-2/4, 5, 6, 7 AND 8, and Board Member Melissa Hawthorne seconds on a 10-0 vote; GRANTED WITH CONDITIONS – NO STR (SHORT TERM RENTAL) AND AS PER PRESENTATION DRAWINGS E-2/4, 5, 6, 7 AND 8.

**E-3 C15-2020-0068 Courtney Mogonue-McWhorter for Peter Huff
3115 Westlake Drive**

On-Line Link: ITEM E-3 PART1, PART2, PART3, PART4; PRESENTATION

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

- a) (B) (1) (a) from shoreline setback requirements to reduce the shoreline setback from 75 feet (required) to 15 feet (requested) (Canal only)
- b) (C) (3) (a) increase the maximum impervious cover on a slope with a gradient of 15 percent or less from 35 percent (allowed) to 40 percent (requested) in order to erect a new Single-Family Residential Guest House in an “LA”, Lake Austin zoning district.

Note: This section of the Land Development Code applies to lots that are included in a subdivision plat recorded before April 22, 1982 or a tract that is not required to be platted.

The above address received a Land Status Determination, which shows that the tract is not required to be platted as allowed under (C)(3). The grandfather date is 7/19/1951.

The public hearing was closed by Chair Don Leighton-Burwell, Board Member Michael Von Ohlen motions to Grant with conditions at 15 feet ONLY at footprint of Guest House to Canal, beyond that 25 feet as per drawing E-3/17, and Board Member Melissa Hawthorne seconds on a 10-0 vote; GRANTED WITH CONDITIONS AT 15 FEET ONLY AT FOOTPRINT OF GUEST HOUSE TO CANAL, BEYOND THAT 25 FEET AS PER DRAWING E-3/17.

**E-4 C15-2020-0069 Courtney Mogonye-McWhorter for Malia Muir
1230 Rockcliff Drive**

On-Line Link: [ITEM E-4; PRESENTATION](#)

The applicant is requesting a variance(s) from the Land Development Code, Section 25-2-551 (Lake Austin (LA) District Regulations) (B) (1) (b) from shoreline setback requirements to reduce the shoreline setback from 25 feet (required) to 10 feet (requested) (canal only) in order to erect a Single-Family Residence in an “LA”, Lake Austin zoning district.

The public hearing was closed by Chair Don Leighton-Burwell, Board Member Michael Von Ohlen motions to Postpone to January 11, 2021, and Board Member Melissa Hawthorne seconds on a 10-0 vote; POSTPONED TO JANURARY 11, 2021.

F. VARIANCE RECONSIDERATIONS

**F-1 C15-2020-0054 Mari Russ for Matthew Satter
3612 Govalle Avenue**

On-Line Link: [ITEM F-1; PRESENTATION](#)

The applicant is requesting a variance(s) from the Land Development Code, Section 25-2-774 (*Two-Family Residential Use*) (C) (5)

(a) to increase the total area of a Second Dwelling Unit; unit not to exceed 1,100 total square feet or Floor to Area Ratio of 0.15, whichever is smaller (maximum allowed) to 2,000 square feet (requested) and

(b) to increase the second floor area of a Second Dwelling Unit; 550 square feet on second floor (maximum allowed) to 1,100 square feet (requested) in order to erect an Accessory Dwelling Unit in an “SF-3-NP”, Single-Family Residence-Neighborhood Plan zoning district. (Govalle Neighborhood Plan)

Note: 25-2-774 (C) The Second Dwelling Unit: (5) may not exceed: (a) 1,100 total square feet or a floor-to-area ration of 0.15, whichever is smaller; and (b) 550 square feet on the second story, if any; and (6) may not be used as a Short Term Rental for more than 30 days in a calendar year if the second dwelling unit was constructed after October 1, 2015.

Board Member Melissa Hawthorne motions to Reconsider, and Board Member Michael Von Ohlen seconds on a 10-0 vote; RECONSIDERED; The public hearing was closed by Chair Don Leighton-Burwell, Board Member Michael Von Ohlen motions to Grant with conditions to maintain front façade of the existing structure as is and as per plans/elevations on the presentation F-1/9 and F-1/10, and Board Member Jessica Cohen seconds on a 9-1 vote (Board member Darryl Pruett nay); GRANTED WITH CONDITIONS TO MAINTAIN FRONT FAÇADE OF THE EXISTING STRUCTURE AS IS AND AS PER PLANS/ELEVATIONS ON THE PRESENTATION F-1/9 AND F-1/10.

G. NEW BUSINESS

G-1 Discussion of the November 9, 2020 Board activity report

On-Line Link: [ITEM G-1](#)

DISCUSSED, CONTINUE TO January 11, 2021

G-2 Discussion and possible action regarding postponed BOA Trainings (including new topic “Area Character”); Staff & PC Coordination Workgroup (Leighton-Burwell, Hawthorne, Von Ohlen & Bailey); and, coordination with COA Planning Staff (including reporting, presentations and general accountability) and Planning Commission (including LDC overlap (e.g. Sign Regulations, etc).

On Line Link: [ITEM G-2](#)

DISCUSSED, CONTINUE TO January 11, 2021

G-3 Discussion and possible action regarding UNO Sign regulations – requesting presentation by City Staff (Jerry Rusthoven).

On Line Link: [ITEM G-3](#)

DISCUSSED, CONTINUE TO January 11, 2021

G-4 Discussion and possible action regarding staff guidance on LA (Lake Austin) cases (in particular, the intent of increased setback requirements – environmental or other purpose?)

DISCUSSED, CONTINUE TO January 11, 2021

G-5 Discussion and possible action regarding on the FY 2020-21 Budget Calendar - New Workgroup (Cohen, Smith and Von Ohlen) to look at access to BOA for lower income applicants and possible funding to help those without resources to pay current fees.

On Line Link: [ITEM G-5, UPDATED](#)

DISCUSSED, CONTINUE TO January 11, 2021

G-6 Discussion and possible action regarding Workgroups Update: Transportation Criteria/Code Recommendations Workgroup (Smith, Hodge & Corral)

- Resolution re: DSD Representation (No response from City Staff)
- Transportation Criteria Manual (e.g. Gas Islands)
- Regular BOA Issues that might trigger Code Revision

DISCUSSED, CONTINUE TO January 11, 2021

- G-7** Discussion and possible action regarding on the draft LDC; BOA LDC Workgroup Report (Workgroup Members: Leighton-Burwell, Hawthorne, Cohen, Hodge and Smith)

DISCUSSED, CONTINUE TO January 11, 2021

- G-8** Discussion and possible action regarding alternative meeting dates and locations
DISCUSSED, CONTINUE TO January 11, 2021

- G-9** Announcements

- G-10** Discussion of future agenda new business items, staff requests and potential special called meeting and/or workshop requests

H. ADJOURNMENT 8:52 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](tel:512-974-2202)/elaine.ramirez@austintexas.gov or Board Secretary Diana Ramirez, Development Services, at [512-974-2241](tel:512-974-2241)/diana.ramirez@austintexas.gov , for additional information; *TTY users route through Relay Texas at 711*.

For more information on the Board of Adjustment, please contact Board Liaison, Elaine Ramirez, Development Services, at [512-974-2202](tel:512-974-2202)/elaine.ramirez@austintexas.gov.