

## Board of Adjustment MINUTES June 14, 2021

(Versión en español a continuación)

### Board of Adjustment to be held June 14, 2021 with Social Distancing Modifications

Public comment will be allowed via telephone; no in-person input will be allowed. **All speakers must register in advance (June 13, 2021 by noon).** All public comment will occur at the beginning of the meeting.

To speak remotely at the **June 14, 2021** Board of Adjustment Meeting, members of the public must:

- Call or email the board liaison at **512-974-2202** or [elaine.ramirez@austintexas.gov](mailto:elaine.ramirez@austintexas.gov) no later than noon, **(June 13, 2021 the day before the meeting)**. The following information is required: speaker name, item number(s) they wish to speak on, whether they are for/against/neutral, email address and telephone number (must be the same number that will be used to call into the meeting).
- Once a request to speak has been made to the board liaison, the information to call on the day of the scheduled meeting will be provided either by email or phone call.
- Speakers must call in at least 15 minutes prior to meeting start time 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](mailto:elaine.ramirez@austintexas.gov) by noon the day before the scheduled meeting. This information will be provided to Board and Commission members in advance of the meeting.
- If the meeting is broadcast live, it may be viewed here: <http://www.austintexas.gov/page/watch-atxn-live>

## MINUTOS del Reunión del Board of Adjustment - FECHA de la reunion (June 14, 2021)

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 (**June 13, 2021** antes del mediodía). Todos los comentarios públicos se producirán al comienzo de la reunión.

Para hablar de forma remota en la reunion **June 14, 2021**, los miembros del público deben:

- Llame o envíe un correo electrónico al enlace de la junta en **512-974-2202** o [elaine.ramirez@austintexas.gov](mailto:elaine.ramirez@austintexas.gov) a más tardar al mediodía (**June 13, 2021 el día antes de la reunión**). Se requiere la siguiente información: nombre del orador, número (s) de artículo sobre el que desean hablar, si están a favor / en contra / neutral, dirección de correo electrónico (opcional) y un número de teléfono (debe ser el número que se utilizará para llamar ).
- Una vez que se haya realizado una solicitud para hablar con el enlace de la junta, la información para llamar el día de la reunión programada se enviará por correo electrónico o por teléfono.
- 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.
- Las oradoras esperarán 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](mailto:elaine.ramirez@austintexas.gov) antes del mediodía del día anterior a la reunión programada. Esta información se proporcionará a los miembros de la Junta y la Comisión antes de la reunión.
- Si la reunión se transmite en vivo, se puede ver aquí: <http://www.austintexas.gov/page/watch-atxn-live>



## MEETING MINUTES

June 14, 2021

The Board of Adjustment meeting convened on Monday, June 14, 2021 via Videoconference; <http://www.austintexas.gov/page/watch-atxn-live> .

Jessica Cohen (Chair) called the Board Meeting to order at 5:32 p.m.

**Board Members in Attendance:** Thomas Ates, Brooke Bailey, Jessica Cohen (Chair), Melissa Hawthorne (Vice Chair), Don Leighton-Burwell, Rahm McDaniel, Darryl Pruett, Agustina Rodriguez, Nicholl Wade, Carrie Waller (Alternate)

**Board Members absent:** Michael Von Ohlen

**Board Staff in Attendance:** Elaine Ramirez (Board Liaison) Lee Simmons (Board Attorney) and Diana Ramirez (Board Secretary); Kelly Stillwell (City Staff)

### CALL TO ORDER 5:32PM

#### 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 May 10, 2021 draft minutes**

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

**Board Member Melissa Hawthorne motions to approve the minutes for May 10, 2021, Board member Brooke Bailey seconds on a 9-0 vote (Board member Melissa Hawthorne abstains for Items C-1 and D-9); APPROVED MINUTES FOR May 10, 2021.**

#### B. DISCUSSION AND REQUESTED ACTION ITEM

**B-1 Staff and Applicant requests for postponement and withdraw of items posted on this Agenda - Item D-2/Withdrawn; Item F-1/Postponed to July 12, 2021; Item C-1/Postponed to August 9, 2021**

**Board Member Rahm McDaniel motions to Approve the Withdrawal for Item D-2 and Postponements for Item F-1 to July 12, 2021 and Item C-1 to August 9, 2021, Board member Brooke Bailey seconds on a 9-0 vote (Board**

**member Melissa Hawthorne abstains on Item C-1); APPROVED WITHDRAWAL/ POSTPONEMENTS.**

**C. SIGNS PREVIOUS POSTPONEMENTS**

**C-1 C16-2021-0003 Michael Gaudini for Timothy Finley  
2552 Guadalupe Street**

**On-Line Link: [Item C-1](#); [PRESENTATION](#)**

The applicant is requesting a sign variance(s) from the Land Development Code, Section 25-10-133 (University Neighborhood Overlay Zoning District Signs), requesting a total of 12 signs on the property:

- a) (F) to allow three (3) wall signs above the second floor, one on each the northern, southern and eastern sides.
- b) (G) (1) one projecting sign for each building façade (allowed) to two (2) projecting signs (requested) on the eastern side
- c) (H) to allow for all twelve (12) signs, nine (9) on the northern, one (1) on the southern, one (1) on the eastern and one (1) on the western sides, to all be illuminated in order to provide signage for the Moxy Hotel in a “CS-CO-NP”, General Commercial Services- Conditional Overlay Combining District– Neighborhood Plan zoning district. (West University Neighborhood Plan)

*Note: The Land Development Code sign regulations 25-10-133 University Neighborhood Overlay Zoning Districts Signs (F) No signs may be placed above the second floor of a building, except for a non-electric sign that is engraved, cut into the building surface, or otherwise inlaid to become part of the building.(G) A wall sign is permitted if the sign complies with this subsection. (1) One projecting sign for each building façade is permitted (H) A sign may not be illuminated or contain electronic images or moving parts.*

**POSTPONED TO AUGUST 9, 2021**

**D. VARIANCES PREVIOUS POSTPONEMENTS**

**D-1 C15-2020-0083 Daniel Salazar for Enez Salinas  
2810 Gonzales Street**

**On-Line Link: [Item D-1 PART1](#), [PART2](#), [PART3](#); [PRESENTATION](#)**

The applicant is requesting a variance(s) from the Land Development Code, Section 25-2-492 (*Site Development Regulations*) from setback requirements to decrease the minimum rear yard setback from 10 feet (required) to 4 feet 6 inches (requested) in order to erect a Secondary Dwelling Unit in an “SF-3-NP”, Single-Family Residence- Neighborhood Plan zoning district. (Govalle Neighborhood Plan)

**The public hearing was closed by Chair Jessica Cohen, Board Member Rahm McDaniel motions to Grant with condition that the wall adjacent to rear be fire rated; Board Member Nicholl Wade seconds on a 10-0 vote; GRANTED WITH CONDITION THAT THE WALL ADJACENT TO REAR BE FIRE RATED.**

**D-2 C15-2021-0019 Lawrence Graham  
5909 Bull Creek Road**

**On-Line Link: [Item D-2 PART1, PART2](#); NO PRESENTATION**

The applicant is requesting a variance(s) from the Land Development Code, Section 25-2-492 (*Site Development Regulations*) from setback requirements to decrease the minimum rear yard setback from 10 feet (required) to 6 feet 7 inches (requested) in order to erect a Guest House in a SF-2", Single-Family Residence zoning district.

**WITHDRAWN BY APPLICANT**

**D-3 C15-2021-0027 Charles Shapiro  
12905 Veronese Drive**

**On-line Link: [Item D-3](#); NO PRESENTATION**

The applicant is requesting a variance(s) from Section 25-2-492 (Site Development Regulations) from Impervious Cover requirements to increase from 45% (maximum allowed) to 50% (requested), in order to construct a swimming pool to an existing Single-Family residence in an "SF-2", Single-Family Residence zoning district.

**The public hearing was closed by Chair Jessica Cohen, Board Member Melissa Hawthorne motions to Postpone to July 12, 2021; Board Member Rahm McDaniel seconds on a 9-1 vote (Board Member Don Leighton-Burwell nay); POSTPONED TO JULY 12, 2021.**

**D-4 C15-2021-0032 Jessica Braun for Mark Hutchinson  
1601 Brackenridge Street**

**On-Line Link: [Item D-4](#); PRESENTATION**

The applicant is requesting a variance(s) from 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 secondary dwelling unit in an "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 Jessica Cohen, Board Member Melissa Hawthorne motions to Grant with condition that the ADU not be used for STR (Short-term rental); Board Member Brooke Bailey seconds on a 9-1 vote (Board member Darryl Pruett nay); GRANTED WITH CONDITION THAT THE ADU NOT BE USED FOR STR (SHORT-TERM RENTAL).**

**D-5 C15-2021-0033 Mark Zupan for Christopher Affinito  
221 Lessin Lane**

**On-Line Link: [Item D-5 PART1, PART2, PART3; PRESENTATION](#)**

The applicant is requesting a variance(s) from the Land Development Code, Section 25-2-492 (*Site Development Regulations*) from setback requirements to decrease the minimum front yard setback from 25 feet (required) to 12 feet (requested) in order to erect Multi-Family-Condominiums in an “SF-6-NP”, Condominium residence-Neighborhood Plan zoning district. (Dawson Neighborhood Plan)

**The public hearing was closed by Chair Jessica Cohen, Board Member Rahm McDaniel motions to Grant; Board Member Melissa Hawthorne seconds on a 5-5 vote (Board members Brooke Bailey, Jessica Cohen, Don Leighton-Burwell, Darryl Pruett, Carrie Waller nay); MOTION FAILS; DENIED.**

**D-6 C15-2021-0034 Eric and Melissa Puga  
5409 Avenue H**

**On-Line Link: [Item D-6; PRESENTATION](#)**

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 43.31% (requested) in order to add an addition to an existing single family residence in an “SF-3-NP”, Single-Family- Neighborhood Plan zoning district (North Loop Neighborhood Plan)

**The public hearing was closed by Chair Jessica Cohen, Board Member Brooke Bailey motions to Grant as per drawing D-6/10; Board Member Melissa Hawthorne seconds on a 10-0 vote; GRANTED AS PER DRAWING D-6/10.**

**D-7 C15-2021-0035 Nikelle S. Meade for Pressler RRI, LP (Donald J. Reese)  
1409, 1501, 1505 W. 3<sup>rd</sup> St. & 300, 301 Pressler St.**

**On-Line Link: [Item D-7; PRESENTATION](#)**

The applicant is requesting a variance(s) from the Land Development Code, Section 25-2-736 (D) (*Lamar Subdistrict Regulations*) to increase height limit from 60 feet (maximum allowed) to 75 feet (requested) in order to erect Multi-Family Residential Mixed Use in a “CS-CO-NP & LI-CO-NP”, General Commercial Services – Conditional Overlay - Neighborhood Plan and Limited Industrial – Conditional Overlay Neighborhood Plan zoning district. (Old West Austin Neighborhood Plan)

**The public hearing was closed by Chair Jessica Cohen, Board Member Brooke Bailey motions to Grant; Board Member Rahm McDaniel seconds on a 10-0 vote; GRANTED.**

**D-8 C15-2021-0041 Suzanne Schuwerk for Mary Schuwerk/Nick Paglia  
5314 Avenue G**

**On-Line Link: [Item D-8 PART1, PART2; PRESENTATION](#)**

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

- a) Section 25-2-492 (*Site Development Regulations*) in order to increase the impervious cover from 45% (maximum allowed) to 47.7% (requested) and
- b) Section 25-2-963 (*Modification and Maintenance of Non-complying Structures*) (B) (2) to increase the finished floor elevation from 12 inches to 19 inches (requested) above the "average elevation" in order to remodel a Single Family Residence in a SF-3-NP", Single-Family-Neighborhood Plan zoning district (North Loop Neighborhood Plan).

*Note: Per LDC 25-2-963 (Modification and Maintenance of Non-complying Structures) (B) (2) Replacement or alteration of an original foundation may not change the finished floor elevation by more than one foot vertically, in either direction.*

**The public hearing was closed by Chair Jessica Cohen, Board Member Brooke Bailey motions to Grant; Board Member Melissa Hawthorne seconds on a 10-0 vote; GRANTED.**

**D-9 C15-2021-0048 Stephen Drenner for Austin Hedge 35 Borrower, LLC  
8300 N IH 35 SVRD SB**

**On-Line Link: [Item D-9; PRESENTATION](#)**

The applicant is requesting a variance(s) from the Land Development Code, 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 1.5 spaces and 1.5 spaces + 0.5 spaces per bedroom (required) to 1 spaces (requested) in order to complete a Multi-Family residential structure providing 226 units of significantly Affordable housing in a "CS-MU-CO-NP", General Commercial Services-Mixed Use-Conditional Overlay-Neighborhood Plan zoning district. (Georgian Acres Neighborhood Plan)

**The public hearing was closed by Chair Jessica Cohen, Board Member Rahm McDaniel motions to postpone to July 12, 2021; Board Member Don Leighton-Burwell seconds on a 9-0 vote (Board Member Melissa Hawthorne recused); POSTPONED TO JULY 12, 2021.**

**D-10 C15-2021-0049 Perry Hunt for Amias Maldonado and Lena Banks  
1025 Ellingson Lane**

**On-Line Link: [Item D-10; NO PRESENTATION](#)**

The applicant is requesting a variance(s) from the Land Development Code Section 25-2-1463 (*Secondary Apartment Regulations*) (C) (5) (a) to increase Floor to Area ratio from 15% (required) to .1587% (requested) in order to maintain a Secondary Apartment in a "SF-3-NP", Single-Family-Neighborhood Plan zoning district (Hancock Neighborhood Plan)

*Note: 25-2-1463 - SECONDARY APARTMENT REGULATIONS (C) The secondary apartment: (5) may not exceed: (a) 1,100 total square feet or a floor-to-area ratio of 0.15, whichever is smaller and (b) 550 square feet on the second story, if any.*

**The public hearing was closed by Chair Jessica Cohen, Board Member Melissa Hawthorne motions to Grant; Board Member Brooke Bailey seconds on a 10-0 vote; GRANTED.**

**D-11 C15-2021-0051 Peter Pevoto  
106 and 108 Comal Street**

**On-Line Link: [Item D-11 PART1, PART2, PART3, PART4, PART5;](#)  
[PRESENTATION](#)**

The applicant is requesting a variance(s) from the Land Development Code Section 25-2-492 (*Site Development Regulations*) from setback requirements to:

a) decrease the minimum Front Yard Setback from 25 feet (required) to 15 feet (requested) and

b) decrease the minimum Rear Yard Setback from 10 feet (required) to 5 feet (requested) in order to erect a Single Family Residence in a “SF-3-NP”, Single-Family-Neighborhood Plan zoning district (East Cesar Chavez Neighborhood Plan).

**The public hearing was closed by Chair Jessica Cohen, Board Member Brooke Bailey motions to Grant as per drawings D-11/14, 15, 16, 17, 18, 19; Board Member Melissa Hawthorne seconds on a 10-0 vote; GRANTED AS PER DRAWINGS D-11/14, 15, 16, 17, 18, 19.**

**D-12 C15-2021-0028 David Morgan  
3406 Gonzales Street**

**On-Line Link: [Item D-12 PART1, PART2;](#) [PRESENTATION](#)**

The applicant is requesting variance(s) from the Land Development Code, Section 25-2-774 (*Two-Family Residential Use*) (C) (2) (a) for a Two-Family Residential use location at least 10 feet to the rear or side of the principal structure (required) to a Two-Family use location at to the front of the principal structure (requested) in order to erect a principle Single Family Residence to the rear of existing Secondary Unit in an “SF-3-NP”, Single-Family Residence-Neighborhood Plan zoning district. (Govalle Neighborhood Plan)

*Note: Per LDC the second Dwelling Unit must be contained in a structure other than the principal structure and must be located at least 10 feet to the rear or side of the principal structure*

*Applicant is proposing to change use of Principal structure (front) to the Two-Family Residential Use and the detached structure to be the Principal Structure (rear)*

**The public hearing was closed by Chair Jessica Cohen, Board Member Melissa Hawthorne motions to Grant with condition that the ADU is not used for STR (Short-term rental); Board Member Don Leighton-Burwell seconds on a 10-0 vote; GRANTED WITH CONDITION THAT THE ADU IS NOT USED FOR STR (SHORT-TERM RENTAL).**

## E. NEW SIGNS PUBLIC HEARINGS

E-1 C16-2021-0008 Leah M. Bojo for The Standard at Austin, LLC  
715 W. 23<sup>rd</sup> Street

**On-Line Link: [Item E-1 PART1, PART2, PART3; PRESENTATION; AE REPORT](#)**

The applicant is requesting a sign variance(s), a total of 6 signs on the property from the Land Development Code, Section 25-10-133 (*University Neighborhood Overlay Zoning District Signs*)

(H) to allow for a total of six (6) signs to all be illuminated, five (5) LED illuminated wall signs and one (1) internally illuminated cabinet wall sign in a “CS-NP”, General Commercial Services – Neighborhood Plan zoning district. (West University Neighborhood Plan)

*Note: The Land Development Code sign regulations 25-10-133 University Neighborhood Overlay Zoning Districts Signs: (H) A sign may not be illuminated or contain electronic images or moving parts.*

**The public hearing was closed by Chair Jessica Cohen, Board Member Darryl Pruett motions to Postpone to August 9, 2021; Board Member Brooke Bailey seconds on a 9-0 vote (Board member Melissa Hawthorne abstained); POSTPONED TO AUGUST 9, 2021.**

## F. VARIANCES NEW PUBLIC HEARINGS

F-1 C15-2021-0036 Ron Thrower for Chalice McGee  
6141 Jumano Lane

**On-Line Link: [Item F-1 PART1, PART2, PART3, PART4; NO PRESENTATION; AE REPORT](#)**

The applicant is requesting a variance(s) from Section 25-2-899 (D) (E) (F) (*Fences as Accessory Uses*) to increase the height permitted from 6 feet (required) to 8 feet (requested) in order to maintain a recently constructed 8 ft. fence in an “SF-2-NP”, Single-Family Residence-Neighborhood Plan zoning district. (West Oak Hill Neighborhood Plan)

*Note: The Land Development Code 25-2-899 (D) Except as otherwise provided in this section, a solid fence constructed along a property line may not exceed an average height of six feet or a maximum height of seven feet.*

*(E) states: a solid fence along a property line may be constructed to a maximum height of eight feet if each owner of property that adjoins a section of the fence that exceeds a height of six feet files written consent to the construction of the fence with the building official; and (2) a structure, including a telephone junction box, exists that is reasonably likely to enable a child to climb over a six foot fence and gain access to a hazardous situation, including a swimming pool. (F) A solid fence may be constructed to a*

maximum of eight feet in height if the fence is located on or within the building setback lines.

**POSTPONED TO JULY 12, 2021**

**F-2 C15-2021-0055 Ruben Valdez  
1206 W. Oltorf Street**

**On-Line Link: [Item F-2](#); [PRESENTATION](#); [AE REPORT](#)**

The applicant is requesting a variance(s) from the Land Development Code Section 25-2-492 (*Site Development Regulations*) from setback requirements to decrease the minimum Front Yard Setback from 25 feet (required) to 0 feet (requested) in order to maintain a Carport and Covered Entry in a “SF-6-NP”, Single-Family-Neighborhood Plan zoning district (Bouldin Creek Neighborhood Plan).

**The public hearing was closed by Chair Jessica Cohen, Board Member Melissa Hawthorne motions to Postpone to August 9, 2021; Board Member Brooke Bailey seconds on a 10-0 vote; POSTPONED TO AUGUST 9, 2021.**

## **G. NEW BUSINESS**

**G-1** Discussion of the May 10, 2021 Board activity report

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

**DISCUSSED; CONTINUE TO JULY 12, 2021**

**G-2** Discussion and possible action to form a BOA Workgroup to review and propose changes to BOA Appeals (including, but not limited to, process and fees)

**Waiting New Appointments to BOA**

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

**DISCUSSED; CONTINUE TO JULY 12, 2021**

**G-3** 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). **(Jan. 2021: Waiting New Appointments to BOA)**

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

**DISCUSSED; CONTINUE TO JULY 12, 2021**

**G-4** Announcements

**G-5** Discussion of future agenda new business items, staff requests and potential special called meeting and/or workshop requests

## **H. ADJOURNMENT 9:56PM**

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](mailto:elaine.ramirez@austintexas.gov) or Board Secretary Diana Ramirez, Development Services, at 512-974-2241 / [diana.ramirez@austintexas.gov](mailto: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 / [elaine.ramirez@austintexas.gov](mailto:elaine.ramirez@austintexas.gov)