



## **AGENDA MEETING MINUTES**

**June 13, 2022**

The Board of Adjustment meeting convened on Monday, June 13, 2022. Some members of the Board of Adjustment may be participating by videoconference. The meeting may be viewed online at: <http://www.austintexas.gov/page/watch-atxn-live>.

**Madam Jessica Cohen (Chair) called the Board Meeting to order at 5:36 p.m.**

**Board Members in Attendance (in person):** Madam Jessica Cohen (Chair), Agustina Rodriguez, Brooke Bailey, Richard Smith, Michael Von Ohlen

**Board Members in Attendance (virtually via teleconference):** Thomas Ates, Barbara Mearthur, Darryl Pruett, Nicholl Wade, Kelly Blume (Alternate), Carrie Waller (Alternate)

**Board Members Absent:** Melissa Hawthorne (Vice Chair)

**City Staff in Attendance:** Elaine Ramirez (Board Liaison), Erika Lopez (Board Attorney) and Diana Ramirez (Board Secretary)

### **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**

### **PUBLIC 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**.

#### **A. DISCUSSION AND REQUESTED ACTION ITEM**

**A-1** Staff requests approval May 9, 2022 draft minutes

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

**Board Member Michael Von Ohlen motions to approve the minutes for May 9, 2022, Board member Agustina Rodriguez seconds on a 11-0 votes; APPROVED MINUTES FOR MAY 9, 2022.**

**B. DISCUSSION AND REQUESTED ACTION ITEM**

**B-1** Staff and Applicant requests for postponement and withdraw of items posted on this Agenda

**Requesting postponement/withdrawal by applicant/neighborhood/staff for Item C-1, AE Denial, Item D-1 postponed to 7-11 by applicant, Item G-1 withdrawn by applicant.**

**For Items C-1 and G-1: Board member Michael Von Ohlen motions to approve the Postponement/withdrawal requests for Item C-1 postpone to July 11, 2022 and G-1 to withdraw, Board member Brooke Bailey seconds on an 11-0 vote, ITEMS C-1 POSTPONED TO JULY 11, 2022 AND G-1 WITHDRAWN.**

**For Item D-1: Board member Michael Von Ohlen motions to approve the postponement requests for Item D-1 to July 11, 2022, Board member Agustina Rodriguez seconds on a 11-0 vote; ITEM D-1 POSTPONED TO JULY 11, 2022.**

**C. SIGNS NEW PUBLIC HEARINGS**

**C-1 C16-2022-0004 Apple Tree Holdings LLC, Tony Nguyen  
4507 N IH 35 SVRD NB**

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

The applicant is requesting a sign variance(s) from the Land Development Code, Section 25-10-123 (*Expressway Corridor Sign District Regulations*):

a) (B) (2) (b) (i) to exceed sign area of 107 square feet (maximum allowed) to 200 square feet (requested)  
and

b) (B) (3) (a) to exceed sign height of 35 feet (maximum allowed) to 50 feet (requested) in order to provide signage for a multi-tenant professional office in a “LO-NP”, Limited Office-Neighborhood Plan zoning district. (Upper Boggy Creek Neighborhood Plan)

*Note: The Land Development Code sign regulations 25-10-123 Expressway Corridor Sign Regulations*

*(B) This subsection prescribes regulations for freestanding signs. (1) One freestanding sign is permitted on a lot. Additional freestanding signs may be permitted under **Section 25-10-131** (Additional Freestanding Signs Permitted). (2) The sign area may not exceed: (a) on a lot with not more than 86 linear feet of street frontage, 60 square feet; or (b) on a*

lot width more than 86 linear feet of street frontage, the lesser of: (i) 0.7 square feet for each linear foot of street frontage; or (ii) 300 square feet.

(B) This subsection prescribes regulations for freestanding signs. (3) The sign height may not exceed the greater of: (a) 35 feet above frontage street pavement grade; or (b) 20 feet above grade at the base of the sign.

**POSTPONED TO JULY 11, 2022 (AE DENIAL)**

#### D. SIGNS PREVIOUS POSTPONEMENTS

**D-1 C16-2022-0001 Esteban Arrieta for Eames Gilmore  
10107 Research Boulevard SVBD**

**On-Line Link: [Item D-1](#); NO PRESENTATION**

The applicant is requesting a sign variance(s) from the Land Development Code, Section 25-10-123 (*Expressway Corridor Sign District Regulations*) (B) (3), to exceed sign height of 35 feet (maximum allowed) to 45 feet (requested) in order to complete signage for Target store in a “NBG-NP”, North Burnet Gateway-Neighborhood Plan zoning district. (Gateway Neighborhood Plan)

*Note: The Land Development Code sign regulations 25-10-123 Expressway Corridor Sign Regulations (B) This subsection prescribes regulations for freestanding signs. (3) The sign height may not exceed the greater of: (a) 35 feet above frontage street pavement grade; or (b) 20 feet above grade at the base of the sign*

**POSTPONED TO JULY 11, 2022 AS PER APPLICANT’S REQUEST**

#### E. VARIANCES NEW PUBLIC HEARINGS

**E-1 C15-2022-0002 Rao Vasamsetti for 5413 Guadalupe LLC  
5413 Guadalupe Street**

**On-Line Link: [Item E-1](#); 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 Interior Side Yard Setback from 5 feet (required) to 4 feet (requested), in order to erect a three story condominium in a “MF-4-CO-NP”, Multi-Family-Conditional Overlay-Neighborhood Plan zoning district (North Loop Neighborhood Plan).

**APPLICANT NO SHOW - The public hearing was closed by Madam Chair Jessica Cohen, Board member Jessica Cohen motions to postponed to July 11, 2022; Board member Brooke Bailey seconds on a 11-0, vote; POSTPONED TO JULY 11, 2022.**

**E-2 C15-2022-0044 Jason Fryer for Lucas Schlager  
1907 E 9<sup>th</sup> Street**

**On-Line Link: [Item E-2](#); 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. (Central East Austin Neighborhood Plan)

*Note: Per LDC (C) The second Dwelling Unit: (1) must be contained in a structure other than the principal structure; (2) must be located: (a) at least 10 feet to the rear or side of the principal structure; or (b) above a detached garage*

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

**The public hearing was closed by Madam Chair Jessica Cohen, Board member Michael Von Ohlen motions to approve with conditions that the city approves a root mitigation plan to the city arborist for approval in which tree the critical root zone is being impacted, no STR and limited to 0.4 FAR; Board member Darryl Pruett seconds on a 11-0, vote; GRANTED WITH CONDITIONS THAT THE CITY APPROVES A ROOT MITIGATION PLAN TO THE CITY ARBORIST FOR APPROVAL IN WHICH TREE THE CRITICAL ROOT ZONE IS BEING IMPACTED, NO STR AND LIMIT TO 0.4 FAR.**

**E-3 C15-2022-0047 Christian Gutierrez for Steven Walker  
4522 Caswell Avenue**

**On-Line Link: [Item E-3 PART1, PART2; 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 5 feet (requested), in order to remodel a Garage/Studio in a “SF-3-NCCD-NP”, Single-Family-Neighborhood Conservation Combining District-Neighborhood Plan zoning district (Hyde Park Neighborhood Plan).

**The public hearing was closed by Madam Chair Jessica Cohen, Board member Jessica Cohen motions to postponed to July 11, 2022; Board member Michael Von Ohlen seconds on an 11-0, vote; POSTPONED TO JULY 11, 2022.**

## **F. RECONSIDERATION CASES**

**F-1 C15-2022-0011 Jonathan Kaplan for David Scott Kosch  
2715 Long Bow Trail**

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

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

- (b) increase the maximum impervious cover on a slope with a gradient of 15 percent and not more than 25 percent from 10 percent (allowed) to 40 percent (requested)
- (c) increase the maximum impervious cover on a slope with a gradient of more than 25 percent and not more than 35 percent from 5 percent (allowed) to 40 percent (requested)
- (d) increase the maximum impervious cover on a slope gradient greater than 35 percent to 40 percent (requested), in order to complete a Single-Family residence in a “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.*

*For the above address the Subdivision Plat was recorded on November 17, 1969*

*(E) This subsection specifies additional development standards based on slope gradient in a Lake Austin (LA) district. (2) 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.*

**Board member Kelly Blume motions to reconsider the case; Board member Jessica Cohen seconds on a 4-7 vote (Board members Brooke Bailey, Barbara McArthur, Darryl Pruett, Agustina Rodriguez, Richard Smith, Michael Von Ohlen, Nicholl Wade nay); Motion fails, DENIED.**

**F-2 C15-2022-0012 Jonathan Kaplan for David Scott Kosch  
2717 Long Bow Trail**

**On-Line Link: [Item F-2 PART1](#), [PART2](#); [PRESENTATION](#)**

The applicant is requesting variance(s) from the Land Development Code, Section 25-2-551 (*Lake Austin District Regulations*) (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)
- (b) increase the maximum impervious cover on a slope with a gradient of 15 percent and not more than 25 percent from 10 percent (allowed) to 40 percent (requested)
- (c) increase the maximum impervious cover on a slope with a gradient of more than 25 percent and not more than 35 percent from 5 percent (allowed) to 40 percent (requested)
- (d) increase the maximum impervious cover on a slope gradient greater than 35 percent to 27 percent (requested), in order to complete a Single-Family residence in a “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.*

*For the above address the Subdivision Plat was recorded on November 17, 1969*

*(E) This subsection specifies additional development standards based on slope gradient in a Lake Austin (LA) district. (2) 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.*

**Board member Kelly Blume motions to reconsider the case; Board member Jessica Cohen seconds on a 5-6 vote (Board members Brooke Bailey, Barbara McArthur, Darryl Pruett, Richard Smith, Michael Von Ohlen, Nicholl Wade nay); Motion fails, DENIED.**

## **G. VARIANCES PREVIOUS POSTPONEMENTS**

**G-1 C15-2021-0097 Nathan Hobbs for Gary J. Hobbs  
4315 Avenue A**

**On-Line Link: [Item G-1](#); NO PRESENTATION**

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

- a) Section 25-2-492 (*Site Development Regulations*) to decrease the minimum Lot Size requirements from 5,750 square feet (required) to 5,700 square feet (requested) and
- b) Section 25-2-947 (*Nonconforming Use Regulation Groups*) (B) (2) to increase the improvement value from 20% (allowed) to 60% (requested) in order to complete a remodel and addition of an existing home in a “SF-3-NCCD-NP”, Single-Family-Neighborhood Conservation Combining District-Neighborhood Plan zoning district (Hyde Park Neighborhood Plan).

**WITHDRAWN AS PER APPLICANT’S REQUEST**

**G-2 C15-2022-0035 Mike McHone for DC+CJ San Pedro LLC, Cater Joseph  
2609 San Pedro Street**

**On-Line Link: [Item G-2](#); PRESENTATION**

The applicant is requesting variance(s) from the Land Development Code, *Article 3, Division 9 – University Neighborhood Overlay District Requirements, Section 25-2-757 (Setbacks; Compatibility) (E)* to decrease minimum 30 feet from the centerline of adjacent street (required) to 24 feet from the centerline of adjacent street (requested) in order to erect a Multi-Family SMART Housing Building in an “MF-4-NP”, Multi-Family-Neighborhood Plan zoning district. (West University Neighborhood Plan)

*Note: Per LDC 25-2-757 SETBACKS; COMPATIBILITY (E) A building must be at least 12 feet from the front face of the curb of the adjacent street and at least 30 feet from the centerline of the adjacent street, 12 ft. from the face of curb for the required UNO Streetscape will be provided.*

**The public hearing was closed by Madam Chair Jessica Cohen, Board member Michael Von Ohlen motions to approve; Board member Brooke Bailey seconds on an 11-0, vote; GRANTED.**

**G-3 C15-2022-0043 Lisa Gray for Red Door LLC  
509 E. 38<sup>th</sup> Street**

**On-Line Link: [Item G-3](#); [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 9 feet (requested) in order to maintain an existing Single-Family residence in a “SF-3-CO-NP”, Single-Family-Conditional Overlay-Neighborhood Plan zoning district (Hancock Neighborhood Plan)

**The public hearing was closed by Madam Chair Jessica Cohen, Board member Michael Von Ohlen motions to postponed to July 11, 2022; Board member Brooke Bailey seconds on an 11-0, vote; POSTPONED TO JULY 11, 2022.**

## **H. NEW BUSINESS**

**H-1** Discussion of the May 9, 2022 Board activity report

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

**DISCUSSED, CONTINUE TO JULY 11, 2022**

**H-2** Discussion and possible action regarding an update on the resolution sent to council for the BOA Applicant Assistance Program (BAAP).

**On Line Link: [Item H-2](#) - <https://www.austintexas.gov/department/city-council/2021/20211014-reg.htm#045>**

**DISCUSSED, CONTINUE TO JULY 11, 2022**

**H-3** Update from the Working Group to review and propose changes to BOA Appeals (including, but not limited to, process and fees.) Discussion and possible action by the Board based on the Working Group update. (Working group: Barbara Mcarthur, Darryl Pruett and Kelly Blume)

**On-Line Link: [Item H-3](#)**

**DISCUSSED, CONTINUE TO JULY 11, 2022**

**H-4** Discussion and possible action regarding review of attendee policies

**DISCUSSED**

**H-5** Announcements

**H-6** Discussion of future agenda new business items, staff requests and potential special called meeting and/or workshop requests

**DISCUSSED OF A POTENTIAL WORKSHOP, IN PERSON TRAINING, CITY STAFF DISTRIBUTING CODE BOOK/LDC LINK TO ALL BOARD MEMBERS.**

**REMINDER OF THE SPECIAL CALLED MEETING FOR AN INTERPRETATION CASE ON JULY 13, 2022 AT 5PM – NEED TO BOOK THE BULL PEN FOR AN EXECUTIVE MEETING.**

**I. ADJOURNMENT 7:38 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](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)