



**BOARD OF ADJUSTMENT
REGULAR MEETING
MINUTES
MONDAY, October 10, 2022**

The **BOARD OF ADJUSTMENT** convened in a Regular meeting on Monday, October 10, 2022, at 301 West 2nd Street in Austin, Texas.

Chair Jessica Cohen called the Board of Adjustment Meeting to order at 5:39 p.m.

Board Members/Commissioners in Attendance:

Jessica Cohen – Chair, Brooke Bailey, Michael Von Ohlen, Marcel Gutierrez-Garza (Alternate)

Board Members/Commissioners in Attendance Remotely:

Melissa Hawthorne-Vice Chair, Barbara McArthur, Darryl Pruett, Kelly Blume (Alternate) and Carrie Waller (Alternate)

Board Member/Commissioners absent:

Thomas Ates, Agustina Rodriguez, Richard Smith, Nicholl Wade

PUBLIC COMMUNICATION: GENERAL

None

PUBLIC COMMUNICATION: GENERAL

The first (4) four speakers signed up/register prior (**no later than noon the day before the meeting**) 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.

None

APPROVAL OF MINUTES

1. Approve the minutes of the Board of Adjustment Regular meeting on September 12, 2022. **On-Line Link: [Draft minutes September 12, 2022](#)**
Board Member Brooke Bailey motions to approve the minutes for September 12, 2022, Board member Melissa Hawthorne seconds on a 8-0-1 votes (Board member Marcel Gutierrez-Garza abstained); APPROVED MINUTES FOR SEPTEMBER 12, 2022.

PUBLIC HEARINGS

2. Discussion of staff and applicant requests for postponement and withdrawal of public hearing cases posted on the agenda.

Requesting postponement for Items 9 and 11 to November 14, 2022.

Madam Chair Jessica Cohen motions to approve the postponement requests for Items 9 and 11 to November 14, 2022, Board member Michael Von Ohlen second on 9-0 vote, ITEMS 9 AND 11 POSTPONED TO NOVEMBER 14, 2022

Previous postponement Sign cases:

3. C16-2022-0004 Apple Tree Holdings LLC, Tony Nguyen
4507 N IH 35 SVRD NB

On-Line Link: [Item 3 PART1](#); [PART2](#); [PART3](#); [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.

The public hearing was closed by Madam Chair Jessica Cohen, Board member Michael Von Ohlen motions to postpone to December 12, 2022; Board member Brooke Bailey second on 9-0 vote; POSTPONED TO DECEMBER 12, 2022.

4. C16-2022-0005 Jaden Rodriguez for Leo Garcia
7712 Elroy Road

On-Line Link: [Item-4](#); NO PRESENTATION

The applicant is requesting a sign variance(s) from the Land Development Code, Section 25-10-130 (*Commercial Sign District Regulations*) (G) (1) from sign height of 30 feet above frontage street pavement grade (maximum allowed) to 40 feet (requested) above frontage street pavement grade in order to provide signage for The Circuit of the Americas in a “PUD”, Planned Unit Development zoning district.

Note: The Land Development Code sign regulations 25-10-130 Commercial Sign District Regulations. (A) This section applies to a commercial sign district.(B) One Freestanding sign is permitted on a lot. Additional freestanding signs may be permitted under Section 25-10-131 (Additional Freestanding Signs Permitted).

(G) The sign height may not exceed the greater of:

(1) 30 feet above frontage street pavement grade; or

(2) 6 feet above grade at the base of the sign.

The public hearing was closed by Madam Chair Jessica Cohen, Madam Chair Jessica Cohen motions to postpone to November 14, 2022; Board member Melissa Hawthorne second on 9-0 vote; POSTPONED TO NOVEMBER 14, 2022.

New Variance cases:

5. C15-2022-0066 Richard Suttle for Clarks Village, LP
1114 & 1116 W 6th Street, 1112, 1110, 1120, 1122, 1128 W. 6th St.
and 607 Blanco Street

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

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

Article 10, Compatibility Standards, Division 2 –Development Standards, Section 25-2-1063 (*Height Limitations and Setbacks for Large Sites*)

1. For triggering property at 608 Baylor St

a) (B) (1) from setback requirements to decrease the setback from 25 feet (minimum allowed) to 15 feet (requested)

b) (C) (1) (a) from height limitations to increase the height limit from two (2) stories and 30 feet for a structure 50 feet or less from property zoned SF-5 or more restrictive (maximum allowed) to 60 feet and no limitation on the number of stories (requested)

c) (C) (2) (a) from height limitations to increase the height limit from three (3) stories and 40 feet for a structure more than 50 feet but less than 100 feet from property zoned SF-5 or more restrictive (maximum allowed) to 60 feet and no limitation on the number of stories (requested)

d) (C) (3) (a) to increase allowed height from 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 (maximum allowed) to 60 feet (requested)

2. For triggering property at 611 Blanco St

a) (C) (2) (a) from height limitations to increase the height limit from three (3) stories and 40 feet for a structure located more than 50 feet but not more than 100 feet from property zoned SF-5 or more restrictive (maximum allowed) to 45 feet and no limitation on the number of stories (requested)

b) (C) (3) to increase the height for a structure more than 100 feet but not more than 300 feet from property zoned SF-5 or more restrictive, from 40 feet plus one foot for each 10 feet of distance in excess of 100 feet (maximum allowed) to 50 feet plus one foot for each 10 feet of distance in excess of 100 feet, and to 60 feet for property more than 200 feet from property zoned SF-5 or more restrictive (requested)

3. For triggering property at 612 Blanco St

(C) (3) to increase allowed height from 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 (maximum allowed) to 45 feet plus one foot for each 10 feet of distance in excess of 100 feet on property less than 250 feet from SF-5 or more restrictive zoned, and to 60 feet on property located more than 250 feet from property zoned SF-5 or more restrictive (requested)

in order to erect a Mixed Use project in a “CS-MU-V-CO-NP”, General Commercial Services-Mixed Use-Vertical Mixed Use-Conditional Overlay-Neighborhood Plan Zoning District (Old West Austin Neighborhood Plan).

Note: Section 25-2-1063 Height Limitations and Setbacks for Large Sites

(B) in this section, the term "structure" excludes a rain garden using no concrete that is designed in accordance with the Environmental Criteria Manual. A person may not construct a structure 25 feet or less from property.

(1) in an urban family residence (SF-5) or more restrictive zoning district;

(C) The 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

(3) 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; or

(4) for a structure more than 300 feet but not more than 540 feet from property zoned SF-5 or more restrictive, 60 feet plus one foot for each four feet of distance in excess of 300 feet from the property zoned SF-5 or more restrictive.

The public hearing was closed by Madam Chair Jessica Cohen, Board member Darryl Pruett motions to Approve with conditions as per Exhibit A-Compatibility Standard Variances; Board member Brooke Bailey seconds with and a friendly amendment to tie image from presentation 5/31 on 9-0 vote; GRANTED WITH CONDITIONS AS PER EXHIBIT A – COMPATIBILITY STANDARD VARIANCES AND WITH A FRIENDLY AMENDMENT TO TIE IMAGE FROM PRESENTATION 5/31.

6. C15-2022-0067 Jose Minguell
2614 Canterbury Street

On-Line Link: [Item-6; 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 6 inches (requested), in order to maintain two (2) small sheds - a utility shed and bike shed in a “SF-3-NP”, Single-Family-Neighborhood Plan zoning district (Holly Neighborhood Plan).

The public hearing was closed by Madam Chair Jessica Cohen, Board member Michael Von Ohlen motions to Approve; Substitute motion by Board member Darryl Pruett to Deny; Board member Brooke Bailey second on 5-4 vote (Board members Jessica Cohen, Michael Von Ohlen, Carrie Waller and Marcel Gutierrez-Garza nay); DENIED.

7. C15-2022-0070 Janis J. Smith, PE for David Richard
4625 Rockcliff Road

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

The applicant is requesting a variance(s) from the Land Development Code, Section 25-2-1176 (*Site Development Regulations for Docks, Marinas, and Other Lakefront Uses*) from: (A) (2) to extend the dock length no more than 20% percent (maximum allowed) to

35% percent (requested) of the channel width in order to erect a boat dock in an “LA” Lake Austin Residence zoning district.

NOTE: 25-2-1176 - SITE DEVELOPMENT REGULATIONS FOR DOCKS, MARINAS, AND OTHER LAKE FRONT USES

(A) A dock or similar structure must comply with the requirements of this subsection.

(2) No portion of a dock shall extend more than 20% of a channel width as measured by a line that is perpendicular to the centerline of the channel and that extends from the shoreline where the dock is located to the opposite shoreline.

The public hearing was closed by Madam Chair Jessica Cohen, Board member Michael Von Ohlen motions to Approve; Board member Melissa Hawthorne second on 9-0 vote; GRANTED.

8. C15-2022-0071 Micah King for Daniel Mitchell
2311 Lafayette Avenue

On-Line Link: [Item-8; PRESENTATION](#)

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

a) (C) (5) (a) to increase the total square footage of a Secondary Dwelling unit from the lesser of 1,100 square feet or 0.15 FAR (maximum allowed) to 1,452 square feet; and

b) (C) (5) (b) to increase the second floor square footage of 550 square feet (maximum allowed) to 756 square feet (requested) in order to erect a Secondary Dwelling Unit in an “SF-3-NP”, Single-Family Residence-Neighborhood Plan zoning district. (Upper Boggy Creek Neighborhood Plan)

Note: Per LDC 25-2-774 - TWO-FAMILY RESIDENTIAL USE.

(A) *For a two-family residential use, the base zoning district regulations are superseded by the requirements of this section.*

(B) *For a two-family residential use the minimum lot area is equivalent to a standard lot.*

(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;*

(3) *may be connected to the principal structure by a covered walkway;*

(4) *may not exceed a height of 30 feet, and is limited to two stories;*

(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; 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.*

The public hearing was closed by Madam Chair Jessica Cohen, Board member Michael Von Ohlen motions to postpone to November 14, 2022; Board member Melissa Hawthorne second on 9-0 vote; POSTPONED TO NOVEMBER 14, 2022.

Reconsideration cases:

9. C15-2022-0060 Victoria Haase for CMCBH2 Company, LLC
1609 Matthews Lane

On-Line Link: [Item-9 PART1, PART2; PRESENTATION](#)

The applicant is requesting a variance(s) from the Land Development Code: Article 10, Compatibility Standards, Division 2 –Development Standards, Section 25-2-1063 (*Height Limitations and Setbacks for Large Sites*)

a) (B) (1) from setback requirements to decrease the setback from 25 feet (minimum allowed) to 10 feet (requested) on eastern property line and 14 feet (requested) on southern property line

b) (C) (1) (a) from height limitations to increase the height limit from two (2) stories and 30 feet (maximum allowed) to three (3) stories and 31 feet (requested) in order to erect a three (3) story Multi-Family/Townhouse style building in a “MF-2-CO”, Multi-Family Residence Low Density-Conditional Overlay zoning district.

Note: Section 25-2-1063 Height Limitations and Setbacks for Large Sites (B) in this section, the term "structure" excludes a rain garden using no concrete that is designed in accordance with the Environmental Criteria Manual. A person may not construct a structure 25 feet or less from property. (1) in an urban family residence (SF-5) or more restrictive zoning district; (C) The 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.

Board member Michael Von Ohlen motions to reconsider the request; Board member Brooke Bailey second on 8-1 vote (Board member Darryl Pruett nay); RECONSIDERED; Applicant requested a postponement to November 14, 2022, Board members Granted the postponement request to November 14, 2022.

Previous Postponement Variance cases

10. C15-2022-0002 Marek Hnizda for Guadalupe Heights LLC
5413 Guadalupe Street

On-Line Link: [Item-10 PART1; ITEM 10 PART2; PRESENTATION](#)

The applicant is requesting a variance(s) from the Land Development Code: Article 10, Compatibility Standards, Division 2 –Development Standards, Section 25-2-1063 (*Height Limitations and Setbacks for Large Sites*):

a) (C) (1) (a) from height limitations to increase the height limit from two (2) stories and 30 feet (maximum allowed) to three (3) stories and 30 feet (requested) for a building located 50-ft or less from property in an SF-5 or more restrictive zoning district

b) (C) (2) (a) from height limitations to increase the height limit from three (3) stories and 40 feet (maximum allowed) to four (4) stories and 40 feet (requested) **and Section 25-2-1064 (Front Setback):**

c) (1) (a) to decrease the front setback from 25 feet (minimum required) to 15 feet (requested) on a tract that adjoins property in an SF-5 or more restrictive zoning district and fronts on the same street in order to erect a Multi-Family building in a “MF-4-CO”, Multi-Family Residence Moderate-High Density-Conditional Overlay zoning district.

The public hearing was closed by Madam Chair Jessica Cohen, Board member Michael Von Ohlen motions to approve only variances A and C; Board member Melissa Hawthorne second on 9-0 vote; GRANTED ONLY VARIANCES A AND C.

11. C15-2022-0061 Nikelle Meade for Cortlandt Chalfant
1401 E. 3rd Street

On-Line Link: [Item 11 PART1](#), [PART2](#), [PART3](#), [PART4](#), [PART5](#), [PART6](#); [PRESENTATION](#)

The applicant is requesting a variance(s) from the Land Development Code, Section(s) 25-2-492 (*Site Development Regulations*) from setback requirements to decrease the minimum street side yard setback from 15 feet (required) to 10 feet (requested) in order to complete a Single-Family residence and accessory dwelling unit in a “SF-3-NP”, Single-Family Residence-Neighborhood Plan zoning district. (East Cesar Chavez Neighborhood Plan)

POSTPONED TO NOVEMBER 14, 2022

DISCUSSION ITEMS

12. Discussion of the September 12, 2022 BOA activity report

On-Line Link: [Item-12](#)

DISCUSSED, CONTINUE TO November 14, 2022

DISCUSSION AND ACTION ITEMS

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

On Line Link: [Item 13 UPDATE1](#)- <https://www.austintexas.gov/department/city-council/2021/20211014-reg.htm#045>; [ITEM 13 UPDATE2](#)

DISCUSSED, CONTINUE TO November 14, 2022

14. Discussion and possible action by the Board based on the Working Group update on proposed changes to BOA Appeals. (Working group: Barbara Mearthur, Darryl Pruett and Kelly Blume)

On-Line Link: [Item 14](#)

DISCUSSED, CONTINUE TO November 14, 2022

15. Discussion and possible action regarding the Board’s Annual Internal Review Report (July 1, 2021-June 30, 2022) to Council

DISCUSSED, CONTINUE DISCUSSION TO November 14, 2022 (no action required)

16. Discussion and possible action for adopting meeting dates for Jan. 2023-Dec. 2023

On-Line Link: [Item 16](#)

Board members approved meeting dates for Jan 2023-Dec 2023 (2nd Monday of the month); at City Hall, 301 West 2nd Street.

FUTURE AGENDA ITEMS

17. Discussion of future agenda items, staff requests and potential special called meeting and/or workshop requests

ADJOURNMENT 8:29 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 business days before the meeting date. Please call the Board Liaison Elaine Ramirez, Development Services Department at 512-974-2202 or email elaine.ramirez@austintexas.gov or the Board Secretary Diana Ramirez, Development Services Department at 512-974-2241 or email 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's Elaine Ramirez, Development Services Department at [512-974-2202](tel:512-974-2202)/elaine.ramirez@austintexas.gov

The minutes were approved at the November 14, 2022 meeting on Board member Brooke Bailey's motion, Board member Marcel Gutierrez-Garza second on a 9-0.