



**BOARD OF ADJUSTMENT
REGULAR MEETING
MINUTES
MONDAY, November 14, 2022**

The **BOARD OF ADJUSTMENT** convened in a Regular meeting on Monday, November 14, 2022, at 301 West 2nd Street in Austin, Texas.

Chair Jessica Cohen called the Board of Adjustment Meeting to order at 5:51 p.m.

Board Members/Commissioners in Attendance:

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

Board Members/Commissioners in Attendance Remotely:

Thomas Ates, Melissa Hawthorne-Vice Chair, Barbara Mcarthur, Darryl Pruett, Carrie Waller (Alternate)

Board Member/Commissioners absent:

Agustina Rodriguez, Richard Smith, Nicholl Wade

PUBLIC COMMUNICATION: GENERAL

None

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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 October 10, 2022.
On-Line Link: [Draft minutes October 10, 2022](#)
Board Member Brooke Bailey motions to approve the minutes for October 10, 2022, Board member Marcel Gutierrez-Garza seconds on a 9-0 votes (Board member Thomas Ates technical issues); APPROVED MINUTES FOR OCTOBER 10, 2022.

PUBLIC HEARINGS

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

Requesting Withdrawals for Item 4 and Item 7.

Sign New case:

3. C16-2022-0011 Ezzi Signs for Michael Mann
7309 Lazy Creek Drive

On-Line Link: [Item-3](#); [PRESENTATION](#)

The applicant is requesting a sign variance(s) from the Land Development Code, Section 25-10 Sign Regulations, Article 5 Regulations applicable to all Sign Districts, Section 25-10-101 (*General On-Premise Signs*), requesting a total of 1 sign(s) on the property

- a) (B)(1)(b) to exceed sign area of 12 square feet (maximum allowed) to 80 square feet (requested)
and
- b) (B) (1)(c)(ii) to exceed sign height of building façade, 30 feet (maximum allowed) to 36 feet (requested) in order to attach a wall sign on a two-story school building in a “SF-3”, Single-Family zoning district.

Note: The Land Development Code *Sign Regulations 25-10-101 General On-Premise signs*

(B) Signs for Commercial, Multi-Family, Civic and Industrial Uses. Unless specifically limited to a particular use, the following signs are allowed on a site containing any lawfully permitted commercial, multi-family, civic, or industrial use;

(1) A freestanding or wall sign, such as those typically used to direct the movement or placement of vehicular or pedestrian traffic, provided that:

(a) no more than one sign is allowed for each building or curb cut;

(b) sign area may not exceed 12 square feet; and

(c) sign height may not exceed:

(i) four feet, for a freestanding sign; or

(ii) the height of the building façade, for a wall sign.

The public hearing was closed by Madam Chair Jessica Cohen, Board member Brooke Bailey motions to approve with a friendly amendment this will not be a lit sign; Board member Michael Von Ohlen second on 7-0 vote (Board members Thomas Ates no vote, Melissa Hawthorne and Darryl Pruett abstained); GRANTED WITH A FRIENDLY AMENDMENT THIS WILL NOT BE A LIT SIGN.

Previous postponement Sign cases:

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.

WITHDRAWN BY APPLICANT

New Variance cases:

5. C15-2022-0082 Brian Wills for Justin and Joy Hirsch
2406 Sweetbrush Drive

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

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 (adjacent to Matthews Dr) from 25 feet (required) to 10 feet (requested) in order to erect an attached Garage/Guest House/Addition in an “SF-3-NP”, Single-Family Residence-Neighborhood Plan zoning district. (West Austin Neighborhood Group)

*Note: Per LDC 25-2-515 **Rear Yard of Through Lot** for a Through Lot, a rear yard must comply with the minimum requirements applicable to a front yard.*

The public hearing was closed by Madam Chair Jessica Cohen, Board member Michael Von Ohlen motions to Approve; Board member Brooke Bailey second on 10-0 vote; GRANTED.

Previous Postponement Variance cases

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

On-Line Link: [Item 6 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)

The public hearing was closed by Madam Chair Jessica Cohen, Board member Michael Von Ohlen motions to Approve with conditions that the project not deviate from rendering on drawing Item 6/11 and floor plan Item 6/10 and a friendly amendment to limit to 0.4 FAR; Board member Melissa Hawthorne second on 9-0-1 vote (Board member Marcel Gutierrez-Garza abstained); GRANTED WITH CONDITIONS THAT THE PROJECT NOT DEVIATE FROM RENDERING ON DRAWING ITEM 6/11 AND FLOOR PLAN ITEM 6/10 AND A FRIENDLY AMENDMENT TO LIMIT TO 0.4 FAR.

7. C15-2022-0065 Daniel Strinden
1700 Loreto Drive

On-Line Link: [Item-7](#); WITHDRAWN BY APPLICANT

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 15 feet (requested) in order to erect a detached Two-Family residential unit in an “SF-3-NP”, Single-Family Residence-Neighborhood Plan zoning district. (MLK Neighborhood Plan)

Note: Per LDC 25-2-515 Rear Yard of Through Lot for a Through Lot, a rear yard must comply with the minimum requirements applicable to a front yard.

WITHDRAWN BY APPLICANT

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

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

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

a) (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 to the front of the principal structure (requested);

and

b) (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), 901.5 square feet to 948 square feet (requested) in order to erect a principal Single-Family residence in rear and change use of existing principal structure to a Two-Family Residential use in front 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 Approve with friendly amendments to limit to 0.4 FAR and no STR (Short-Term rental) on either building ; Board member Brooke

Bailey second on 10-0 vote; GRANTED WITH FRIENDLY AMENDMENTS TO LIMIT TO 0.4 FAR AND NO STR (SHORT-TERM RENTAL) ON EITHER BUILDING.

Reconsideration cases:

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

On-Line Link: [Item-9](#); [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).

Board member Michael Von Ohlen motions to reconsider; Board member Thomas Ates second on 5-5 vote (Board members Brooke Bailey, Melissa Hawthorne, Barbara Mcarthur, Darryl Pruett, Kelly Blume nay); MOTION FAILED TO BE RECONSIDERED.

Previous Postponement Reconsideration cases:

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

On-Line Link: [Item-10 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 Brooke Bailey motions to approve the original variance with the same findings as previously approved on September 12, 2022 and to tie to diagram Item 10/17; Board member Michael Von Ohlen second on 8-2 vote (Board members Barbara Mcarthur and Darryl Pruett nay); GRANTED THE ORIGINAL

VARIANCE WITH THE SAME FINDINGS AS PREVIOUSLY APPROVED ON SEPTEMBER 12, 2022 AND TO TIE TO DIAGRAM ITEM 10/17.

DISCUSSION ITEMS

11. Discussion of the October 10, 2022 BOA activity report
On-Line Link: [Item-11](#)
DISCUSSED, CONTINUE TO December 12, 2022

DISCUSSION AND ACTION ITEMS

12. Discussion and possible action regarding an update on the resolution sent to council for the BOA Applicant Assistance Program (BAAP).
On Line Link: [Item 12 UPDATE1- https://www.austintexas.gov/department/city-council/2021/20211014-reg.htm#045](#); [ITEM 12 UPDATE2](#)
DISCUSSED, CONTINUE TO December 12, 2022
13. 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 13](#)
DISCUSSED, CONTINUE TO December 12, 2022

FUTURE AGENDA ITEMS

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

ADJOURNMENT 7:47 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 December 12, 2022 meeting on Board member Brooke Bailey's motion, Board member Michael Von Ohlen second on a 6-2 (Board members Agustina Rodriguez and Richard Smith abstained).