



**BOARD OF ADJUSTMENT
REGULAR MEETING
MINUTES
MONDAY, December 12, 2022**

The **BOARD OF ADJUSTMENT** convened in a Regular meeting on Monday, December 12, 2022, at 301 West 2nd Street in Austin, Texas.

Chair Jessica Cohen called the Board of Adjustment Meeting to order at 5:37 p.m.

Board Members/Commissioners in Attendance in-Person:

Jessica Cohen – Chair, Brooke Bailey, Michael Von Ohlen,

Board Members/Commissioners in Attendance Remotely:

Thomas Ates, Darryl Pruet, Agustina Rodriguez, Richard Smith, Nicholl Wade
Carrie Waller (Alternate), Marcel Gutierrez-Garza (Alternate)

Board Member/Commissioners absent:

Melissa Hawthorne-Vice Chair, Barbara McArthur

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 November 14, 2022.
On-Line Link: Draft minutes November 14, 2022
Board Member Brooke Bailey motions to approve the minutes for November 14, 2022, Board member Michael Von Ohlen seconds on 6-2 votes (Board members Agustina Rodriguez and Richard Smith abstains); APPROVED MINUTES FOR NOVEMBER 14, 2022.

PUBLIC HEARINGS

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

Requesting Withdrawal by applicant for Item 3; Item 3 WITHDRAWN

Previous postponement Sign cases:

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

On-Line Link: [Item03 PART1](#); [PART2](#); [PART3](#); [PART4](#); NO 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.*

WIITHDRAWN BY APPLICANT

New Variance cases:

4. C15-2022-0086 Ryan McElroy
5212 Evans Avenue

On-Line Link: [ITEM04](#); [PRESENTATION](#)

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

- a) Section 25-2-943 (Substandard Lot) (D) which states that a substandard lot that is aggregated with other property to form a site may not be disaggregated to form a site that is smaller than the minimum lot area requirement (required) in order to allow the two platted substandard lots to be disaggregated and developed separately under the Small Lot Amnesty provisions of the adopted North Loop Neighborhood Plan (requested)
- b) Section 25-2-1406 (Ordinance Requirements) from two properties aggregated (existing) to disaggregate (requested) in order to separate the current lot into two lots of its

original plat and develop separately under the Small Lot Provisions of the adopted North Loop NP in a “SF-3-NP”, Single-Family-Neighborhood Plan zoning district (North Loop Neighborhood Plan).

Note: Per Land Development Code:

25-2-943 (Substandard Lot) (D) A substandard lot that is aggregated with other property to form a site may not be disaggregated after August 6, 2007 to form a site that is smaller than the minimum lot area requirement.

25-2-1406 (5) for a single-family residential use or a secondary apartment special use on an existing legal lot:

(a) may reduce the required minimum lot area to 2,500 square feet;

(b) may reduce the required minimum lot width to 25 feet; and

(c) for a lot with an area of ,000 square feet or less, may increase the maximum impervious cover to 65 percent; and

(d) a lot that is aggregated with other property to form a site may not be disaggregated to satisfy this subsection.

The public hearing was closed by Madam Chair Jessica Cohen, Board member Michael Von Ohlen motions to approve with a friendly amendment to tie footprint Item4/14 to this approval; Board member Agustina Rodriguez seconds on 10-0 votes; GRANTED WITH A FRIENDLY AMENDMENT TO TIE FOOTPRINT ITEM4/14 TO THIS APPROVAL.

5. C15-2022-0087 Samuel Berniard
1303 Harvey Street

On-Line Link: [ITEM05; 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 10 feet 4 inches (requested), in order to remodel a front porch deck in a “SF-3-NP”, Single-Family- Neighborhood Plan zoning district (Rosewood Neighborhood Plan).

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

6. C15-2022-0088 Drew Padgett for Homebound Texas Propco II
705 E 50th Street

On-Line Link: [ITEM06; PRESENTATION](#)

The applicant is requesting a variance(s) from the North Hyde Park NCCD Ord. #20050818-064, PART 7(*Residential District*)(2)(b) from setback requirements to increase the maximum setback from 30 feet (maximum allowed) to 40 feet 10 inches (requested) in order to erect a Single-Family home and ADU in an “SF-3-NCCD-NP”, Single-Family Residence-Neighborhood Conservation Combining District Neighborhood Plan zoning district. (North Hyde Park NCCD Neighborhood Plan).

Note: Ordinance No. 20050818-064 Part 7 Residential District. The following site development regulations apply in the Residential District. (2) Except as otherwise provided in Part 6 (General Provisions), on an avenue, Duval Street, Fairfield Lane, and the east-west streets of Duval Street:

a. the minimum street yard setback is 25 feet; and

b. the maximum street yard setback is 30 feet.

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

7. C15-2022-0089 Tyler Rush for Mark Pearson
1202 W. 9th Street, 900 Blanco Street and 901 Shelley Avenue

On-Line Link: [ITEM07 PART1](#); [PART2](#), [PART3](#); [PRESENTATION](#)

The applicant is requesting a variance(s) from the Land Development Code: Article 10, Compatibility Standards, Division 2 –Development Standards, Section 25-2-1062 (*Height Limitations and Setbacks for Smaller Sites*) (C) from setback requirements to decrease the interior side setback from 15 feet (required) to 5 foot base zoning setback (requested) and the rear setback from 15 feet (required) to 10 foot base zoning setback (requested) in order to relocate/remodel and addition of a historical two-story garage in a “MF-4-HD-NP”, Multi-Family-Historical District-Neighborhood Plan Zoning District (Old West Austin Neighborhood Plan).

Note: Section 25-2-1062 Height Limitations and Setbacks for Smaller Sites

(A) This section applies to a site that has:

- (1) an area that does not exceed 20,000 square feet; and
- (2) a street frontage that does not exceed 100 feet.

(C) If a site has a street frontage that is more than 50 feet, but that does not exceed 100 feet, the side and rear setback requirements are as follows:

<u>Length of Street Frontage (Feet)</u>	<u>Side and Rear Setback (Feet)</u>
50.01 to 52.50	15.0
52.51 to 54.99	15.5
55.00 to 57.50	16.0
57.51 to 59.99	16.5
60.00 to 62.50	17.0
62.51 to 64.99	17.5
65.00 to 67.50	18.0
67.51 to 69.99	18.5
70.00 to 72.50	19.0
72.51 to 74.99	19.5
75.00 to 77.50	20.0
77.51 to 79.99	20.5
80.00 to 82.50	21.0
82.51 to 84.99	21.5
85.00 to 87.50	22.0
87.51 to 89.99	22.5
90.00 to 92.50	23.0
92.51 to 94.99	23.5
95.00 to 97.50	24.0
97.51 to 99.99	24.5
100	25.0

The public hearing was closed by Madam Chair Jessica Cohen, Board member Brooke Bailey motions to approve; Board member Michael Von Ohlen seconds on 9-1 votes (Board member Richard Smith nay); GRANTED.

Reconsideration cases:

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

**On-Line Link: [Item 8 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 reconsider the case; Board member Brooke Bailey seconds on 9-1 votes (Board member Marcel Gutierrez-Garza abstains); RECONSIDERED.

Board member Michael Von Ohlen motions to remove the .4 FAR condition that was previously approved at the November 14, 2022 meeting; and to approve the original drawings and elevation plans, the rest of the conditions and original findings that were previously approved at the November 14, 2022 meeting; Board member Brooke Bailey seconds on 8-2 votes (Board members Marcel Gutierrez-Garza and Agustina Rodriguez abstains).

DISCUSSION ITEMS

9. Discussion of the November 14, 2022 BOA activity report
**On-Line Link: [Item-09](#)
DISCUSSED, CONTINUE TO January 9, 2023**

DISCUSSION AND ACTION ITEMS

10. Discussion and possible action regarding an update on the resolution sent to council for the BOA Applicant Assistance Program (BAAP).
**On Line Link: [Item 10 UPDATE1](#)- <https://www.austintexas.gov/department/city-council/2021/20211014-reg.htm#045>; [ITEM 10 UPDATE2](#)
DISCUSSED, CONTINUE TO January 9, 2023**
11. Discussion and possible action by the Board based on the Working Group update on proposed changes to BOA Appeals. (Working group: Barbara McArthur, Darryl Pruett and Kelly Blume)
**On-Line Link: [Item 11](#)
DISCUSSED, CONTINUE TO January 9, 2023**

FUTURE AGENDA ITEMS

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

Add to next agenda items:

**Board members term-expirations
Future training for new board members**

ADJOURNMENT 6:52 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 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 Michael Von Ohlen's motion, Board member Melissa Hawthorne second on a 10-0-1 (Board member Barbara McArthur abstained)