



**BOARD OF ADJUSTMENT
REGULAR MEETING
MINUTES
(May 10, 2010)**

The Board of Adjustment convened in a regular meeting on May 10, 2010, 301 West 2nd Street in Austin, Texas.

Chair Leane Heldenfels called the Board Meeting to order at 5:30 p.m.

Board Members in Attendance: Leane Heldenfels (Chair), Cathy French (SRB only)
Heidi Goebel, Melissa Hawthorne (Alternate), Jeff Jack, Bryan King, Michael Von Ohlen, Nora Salinas
Board Member Absent: Clarke Hammond (Vice-Chair)

Staff in Attendance: Susan Walker
Staff Absent: Diana Ramirez

A.0 APPROVAL OF MINUTES

Approval of minutes [April 12, 2010](#)

POSTPONED TO JUNE 14, 2010

A. SIGN REVIEW PUBLIC HEARINGS

1. [C16-2010-0002](#) Jim Bennett for Schnip Company
9012 Research Blvd.

The applicant has requested a variance to increase the maximum number of freestanding signs requirement of Section 25-10-131 from three (existing) to four freestanding signs for an existing Retail use in an "LI", Limited Industrial zoning district.

The public hearing was closed on Board Member Jeff Jack motion to postpone to June 14, 2010, Board Member Melissa Hawthorne second on an 8-0 vote; POSTPONED JUNE 14, 2010 to meet with surrounding neighborhood associations.

A.1 INTERPRETATION POSTPONEMENT

1. [C15-2010-0042](#) Part A, [C15-2010-0042](#) Part B, [C15-2010-0042](#) Part C, [C15-2010-0042](#) Part D

Karen McGraw for Nuria Zaragoza
1915 A David Street

The applicant has filed an administrative appeal, requesting an interpretation of whether the Planning and Development Department Director's determination that: 1) the property qualifies as a remodel of a two-family use; 2) the property is developed with a two-family residential use; 3) the occupancy limit of twelve (12) unrelated adults is grandfathered, and the gross floor area and the number of bedrooms on the site did not increase; and 4) a room not labeled as a bedroom is not a bedroom and does not trigger Section 25-2-511 (Dwelling Unit Occupancy Limit) and does not have to meet life safety requirements as a sleeping area; is correct.

1. **The public hearing was closed on Board Member Bryan King motion to GRANT the appeal with conditions that any residential site that has a structure demolished to the conditions like those at 1915A David Street cannot qualify as a remodel. A remodeled structure should retain the existing envelope for any section of the structure to be classified as remodeled and any additions to that envelope should be considered new construction, Board Member Heidi Gobel second on a 7-0 vote, GRANTED.**
2. **The public hearing was closed on Board Member Jeff Jack motion to Grant (was not developed as a two-family residence, it is essentially a boarding house), Board Member Bryan King second on a 7-0 vote; GRANTED.**
3. **The public hearing was closed on Board Member Jeff Jack motion to Grant (grandfathering goes away because it becomes new construction, Board Member Heidi Goebel second on a 7-0 vote; GRANTED.**
4. **The public hearing was closed on Board Member Bryan King motion to Deny, Board Member Heidi Goebel second on a 6-1 (Von Ohlen abstained) vote; DENIED.**

B. BOARD OF ADJUSTMENT POSTPONEMENTS

1. **C15-2010-0014 Roger Diaz for Quander Management LLC
2015 Manor Road**

The applicant has requested a variance to decrease the minimum off-street parking requirement of Section 25-6 Appendix A from 62 parking spaces to 35 parking spaces in order to maintain a Restaurant use and deck area in a "CS-MU-CO-NP", Commercial Services – Mixed Use – Conditional Overlay – Neighborhood Plan zoning district.

POSTPONED TO JUNE 14, 2010

2. **C15-2010-0017 Part A, C15-2010-0017 Part B
Bill Butler for Dave & Kay Burrough
1801 Alameda**

The applicant has requested a variance to decrease the minimum side and rear yard setback requirements of Section 25-2-492 (D) from 10 feet to 1 foot from the rear and from 5 feet to 1 foot on the side in order to remodel and partially rebuild and add a second floor addition to an existing accessory structure for an existing duplex residential use in an "SF-3-NP", Family Residence – Neighborhood Plan zoning district. (South River City Neighborhood Plan)

The applicant has requested a variance to decrease the existing non-complying impervious coverage requirement of Section 25-2-492 (D) from 45% allowed (64% existing) to 47% in order to remodel and partially rebuild and add a second floor addition to an existing accessory structure for an

existing duplex residential use in an “SF-3-NP”, Family Residence – Neighborhood Plan zoning district. (South River City Neighborhood Plan)

The applicant has requested a variance to increase the maximum floor-to-area ratio requirement of Subchapter F; Article 2: Subsection 2.1 from 0.4 to 1.0 to 0.4588 to 1.0 in order to remodel and partially rebuild and add a second floor addition to an existing accessory structure for an existing duplex residential use in an “SF-3-NP”, Family Residence – Neighborhood Plan zoning district. (South River City Neighborhood Plan)

WITHDRAWN

**3. [C15-2010-0028](#) Cynthia Keever
2312 West 9th Street**

The applicant has requested a variance from Section 25-2-773 (D) (1), (3), and (4) in order to erect a second floor addition to both units of an existing duplex maintaining the existing roof attachment (12’ X 11’). The Land Development Code states that (1) the two units must have a common floor and ceiling or a common wall, which may be a common garage wall, that: (a) extends for at least 50% of the maximum depth of the building, as measured from the front to the rear of the lot; and (b) maintains a straight line for a minimum of four foot intervals or segments; (3) At least one of the two units must have a front porch that faces the front street and an entry to the dwelling unit; and (4) the two units may not be separate by a breezeway, carport, or other open building element.

WITHDRAWN

**4. [C15-2010-0031](#) Rod Russell-Ides for Elota Patton
1006 Milton Street**

The applicant has requested a variance to decrease the minimum front street setback requirement of Section 25-2-492 (D) from 25 feet to 13 feet in order to erect a single-car carport for a single-family residence in an “SF-3-NP”, Family Residence – Neighborhood Plan zoning district.

The applicant has requested a variance to decrease the minimum side yard setback requirement of Section 25-2-492 (D) from 5 feet to 0 feet in order to erect a single-car carport for a single-family residence in an “SF-3-NP”, Family Residence – Neighborhood Plan zoning district.

WITHDRAWN

**5. [C15-2010-0032](#) Part A, [C15-2010-0032](#) Part B
Akash Sharma
74 Julius Street**

The applicant has requested a variance to decrease the minimum lot size requirement of Section 25-2-1462 from 5,750 square feet to 5,040 square feet in order to maintain and change the use of an existing building to create a Secondary Apartment use in an “SF-3-NP”, Family Residence – Neighborhood Plan zoning district. (Holly Neighborhood Plan)

The applicant has requested a variance to decrease the minimum side yard setback requirement of Section 25-2-492 (D) from 5 feet to 3.1 feet in order to maintain and change the use of an existing building to create a Secondary Apartment use in an “SF-3-NP”, Family Residence – Neighborhood Plan zoning district. (Holly Neighborhood Plan)

The applicant has requested a variance to decrease the minimum through lot setback requirement of Section 25-2-515 from 25 feet to 13.1 (along Pedernales Street) feet in order to maintain and change the use of an existing building to create a Secondary Apartment use in an “SF-3-NP”, Family Residence – Neighborhood Plan zoning district. (Holly Neighborhood Plan)

POSTPONED TO JUNE 14, 2010 (RENOTIFY-ADDITIONAL VARIANCE FOR FRONT STREET NEEDED)

C. BOARD OF ADJUSTMENT PUBLIC HEARINGS

**1. C15-2010-0016 Amina Haji
1402 Ulit Avenue**

The applicant has requested a variance to decrease the minimum front street setback requirement of Section 25-2-492 (D) from 25 feet to 12 feet for an uncovered deck and to 6 feet 8 inches for the stairs leading to the deck for a single-family residence in an “SF-3-NP”, Family Residence – Neighborhood Plan zoning district. (Chestnut Neighborhood Plan)

The public hearing was closed on Board Member Michael von Ohlen motion to Grant with conditions not to be covered or enclosed and to meet cottage lot regulations, Board Member Nora Salinas second on a 6-1 (Bryan King nay) vote; GRANTED WITH CONDITIONS NOT TO BE COVERED OR ENCLOSED AND TO MEET COTTAGE LOT REGULATIONS.

**2. C15-2010-0038 Jon Noterthomas
2400 Wilson Street**

The applicant has requested a variance to decrease the minimum rear yard setback requirement of Section 25-2-492 (D) from 10 feet to 6 feet 7 ¾ inches to building and to 3 feet 4 ¼ inches to the stair/landing from the property line in order to remodel an existing accessory structure to create a two-family residential use in an “SF-3-NP”, Family Residence – Neighborhood Plan zoning district. (Dawson Neighborhood Plan)

The applicant has requested a variance to decrease the minimum separation requirement of Section 25-2-774 (C) (2) (a) from 15 feet to 8 feet 10 inches in order to remodel an existing accessory structure to create a two-family residential use in an “SF-3-NP”, Family Residence – Neighborhood Plan zoning district. The Land Development Code states that the second dwelling unit must be located at least 15 feet to the rear of the principal structure. (Dawson Neighborhood Plan)

The applicant has requested a variance from Section 25-2-774 (C) (4) in order to have an entrance 6 feet 7 ¾ inches from the property line in order to remodel an existing accessory structure to create a two-family residential use in an “SF-3-NP”, Family Residence – Neighborhood Plan zoning

district.. The Land Development Code states that the second dwelling unit may not have an entrance within 10 feet of a lot line. (Dawson Neighborhood Plan)

The public hearing was closed on Board Member Melissa Hawthorne motion to Postpone to June 14, 2010, Board Member Michael von Ohlen second on a 7-0 vote; POSTPONED TO JUNE 14, 2010 to see if building could be located to conform with setback requirements.

**3. C15-2010-0039 Part A, C15-2010-0039 Part B Benjamin T. White
4921 Bull Creek Road**

The applicant has requested a variance from the maximum height of a solid fence requirement of Section 25-2-899 (D) from six feet in height to seven feet in height adjacent to the adjoining property at 2710 West 49 ½ Street (a.k.a. Lot 9, Resub of Block B; Fiset Place). The Land Development Code states that a solid fence along a property line may not exceed an average height of six feet or a maximum height of seven feet.

POSTPONED TO JULY 12, 2010 (RE-NOTIFICATION NEEDED) TO CLARIFY 25-2-899(E)

**4. C15-2010-0040 Jim Bennett for Jacquelynn Cherico
1203 Garden Street**

The applicant has requested a variance to decrease the minimum side yard setback requirement of Section 25-2-492 (D) from 5 feet to 1 foot along the west property line and from 5 feet to 3.7 along the east property line in order to maintain a single-family residence and accessory building in an “SF-3-NP”, Family Residence – Neighborhood Plan zoning district. (East Cesar Chavez Neighborhood Plan)

The public hearing was closed on Board Member Michael von Ohlen motion to Grant with condition to meet building code, Board Member Bryan King second on a 7-0 vote; GRANTED WITH CONDITION TO MEET BUILDING CODE.

**5. C15-2010-0041 Jae Park
1808 and 1810 Springdale Road**

The applicant has requested a variance from the minimum compatibility setback requirement of Section 25-2-1063 (B) (2) from 25 feet to 0 feet in order to construct a drive-thru Restaurant use (with drive-in service) and detention pond in an “GR-MU-CO-NP”, Community Commercial – Mixed Use – Conditional Overlay – Neighborhood Plan zoning district. The Land Development Code states that a person may not construct a structure 25 feet or less from property on which a use permitted in an “SF-5” or more restrictive zoning district is located. (MLK Neighborhood Plan)

The applicant has requested a variance from the minimum compatibility setback requirement of Section 25-2-1067 (G) from 25 feet to 0 feet in order to construct a drive-thru Restaurant use (with drive-in service) in a “GR-MU-CO-NP”, Community Commercial – Mixed Use – Conditional Overlay – Neighborhood Plan zoning district. The Land Development Code states that unless a parking area or driveway is on a site that is less than 125 feet wide, a parking area or driveway may

not be constructed 25 feet or less from a lot on which a use permitted in an “SF-5” or more restrictive zoning district is located. (MLK Neighborhood Plan)

POSTPONED TO JUNE 14, 2010

**6. [C15-2010-0043](#) David Cancialosi for Lonnie J. Sigmon
808 Wayside Drive**

The applicant has requested a variance to decrease the minimum side street setback requirement of Section 25-2-492 (D) from 15 feet to 8.2 feet in order to maintain a garage for a single-family residence in an “SF-3”, Family Residence zoning district. (Board of Adjustment variance was granted 6-9-2008. This variance has since expired.)

The applicant has requested a variance to decrease the minimum side street setback requirement of Section 25-2-963 (D) (2) from 15 feet to 13.4 feet in order to maintain a 4 foot portion of an existing 20 foot two-story addition to an existing non-complying structure in an “SF-3”, Family Residence zoning district. The Land Development Code states that a person may modify a building that is a non-complying structure based on a yard setback requirement of this title if: the additional length of a modified portion of the building does not exceed the lesser of 50% of the length of the non-complying portion of the building or 25 feet measured from the existing building and parallel to the lot line.

The public hearing was closed on Board Member Bryan King motion to Grant with condition garage remain a garage, Board Member Nora Salinas second on a 6-0 (Michael von Ohlen left early) vote; GRANTED WITH CONDITION GARAGE REMAIN A GARAGE.

**7. [C15-2010-0044](#) Paula E. Griffin
6000 San Paublo Court**

The applicant has requested a variance to decrease the minimum rear yard setback requirement of Section 25-2-492 (D) from 10 feet to 0 feet in order to maintain and screen-in an existing deck for a single-family residence in an “SF-2”, Single Family Residence zoning district.

POSTPONED TO JUNE 14, 2010

**8. [C15-2010-0045](#) M C Forister
6701 Boleynwood Drive**

The applicant has requested a variance to decrease the minimum side yard setback requirement of Section 25-2-492 (D) from 5 feet to 3.5 feet along the east property line in order to maintain an existing enclosed patio cover for an existing single-family residence in an “SF-2”, Single-Family Residence zoning district. (This variance was previously approved by the Board of Adjustment (case number C15-98-112) on November 9, 1998.)

The public hearing was closed on Board Member Bryan King motion to Grant with conditions that no expansion is done later and to meet the building code requirements, Board Member Heldenfels second on a 6-0 (Michael von Ohlen left early) vote;

GRANTED WITH CONDITIONS THAT NO EXPANSION IS DONE LATER AND TO MEET THE BUILDING CODE REQUIREMENTS.

**9. C15-2010-0046 Michael Vacek for Celia Thrash
5705 Avenue G**

The applicant has requested a variance to decrease the minimum front street setback requirement of Section 25-2-492 (D) from 25 feet to 15 feet in order to attach a carport and porch to a single-family residence in an “SF-3-NP”, Family Residence – Neighborhood Plan zoning district. (Highland Neighborhood Plan)

The applicant has requested a variance from Section 25-2-1604 (C) (1) which states that a parking structure with an entrance that faces the front yard may not be closer to the front lot line than the building façade in order to attached a carport to a single-family residence in an “SF-3-NP”, Family Residence – Neighborhood Plan zoning district. (Highland Neighborhood Plan)

POSTPONED TO JUNE 14, 2010 FOR HARDSHIP AND SCALED DRAWING

**10. C15-2010-0048 Michael and Nancy Smith
5005 Lansing Drive**

The applicant has requested a variance to decrease the minimum front street setback requirement of Section 25-2-492 (D) from 25 feet to 17 feet (existing along Gladeview Drive) in order to maintain an addition to a single-family residence in an “SF-3”, Family Residence zoning district.

The applicant has requested a variance to decrease the minimum side yard setback requirement of Section 25-2-492 (D) from 5 feet to 1 foot 8 ¾ inches (along the north property line) in order to maintain an addition to a single-family residence in an “SF-3”, Family Residence zoning district.

The public hearing was closed on Board Member Melissa Hawthorne motion to Grant, Board Member Leane Heldenfels second on a 6-0 (Michael von Ohlen left early) vote; GRANTED.

**11. C15-2010-0049 Torin Etter for Maddy Etter
2600 Carnorvon**

The applicant has requested a variance to decrease the minimum side street setback requirement of Section 25-2-492 (D) from 15 feet (10 feet existing) to 10 feet in order to rebuild and erect an addition to a portion of an existing single-family residence in an “SF-2-NP”, Single-Family Residence – Neighborhood Plan zoning district. (St. Edwards Neighborhood Plan)

The public hearing was closed on Board Member Nora Salinas motion to Grant, Board Member Leane Heldenfels second on a 6-0 (Michael von Ohlen left early) vote; GRANTED.

**12. C15-2010-0050 Deborah & Enrique Trejo
1717 Briar Street**

The applicant has requested a variance to decrease the minimum side street setback requirement of Section 25-2-492 (D) from 15 feet to 4 feet 7 ½ inches (existing) in order to maintain an existing single-family residence in order to be able to erect an addition to an existing single-family residence in an “SF-3-NP”, Family Residence – Neighborhood Plan zoning district.

The applicant has requested a variance to increase the maximum length of an addition to a non-complying structure requirement of Section 25-2-963 (D) (2) in order to exceed 50% of the length of an addition to 65% in order to erect a carport addition with a side street setback of 4 feet 7 ½ inches in an “SF-3-NP”, Family Residence – Neighborhood Plan zoning district. The Land Development Code states that a person may modify a building that is a non-complying structure based on a yard setback requirement if the addition length of a modified portion of the building does not exceed the lesser of 50% of the length of the non-complying portion of the building or 25 feet measured from the existing building and parallel to the lot line.

The public hearing was closed on Board Member Bryan King motion to Grant with conditions that 19 ft carport not to be enclosed, Board Member Melissa Hawthorne second on a 6-0 (Michael von Ohlen left early) vote; GRANTED WITH CONDITIONS THAT 19 FT CARPORT NOT TO BE ENCLOSED.

**13. [C15-2010-0051](#) Ben Heimsath for Lane Northcut
4600 Manchaca Road**

The applicant has requested a variance from the maximum compatibility height requirement of Section 25-2-1063 (C) (2) from three stories and 40 feet to 87 feet (to the peak of the spire only) in order to erect an addition to a Religious Assembly use in an “LO”, Limited Office zoning district. The Land Development Code states the height limitations for a structure are three stories and 40 feet, if the structure is more than 50 feet and not more than 100 feet from property in an “SF-5” or more restrictive zoning district.

The applicant has requested a variance from the maximum compatibility height requirement of Section 25-2-1063 (C) (3) from 40 feet plus one foot for each 10 feet of distance in excess of 100 feet from property zoned “SF-5” or more restrictive to 48 feet (to ridge peak of sanctuary) in order to erect an addition to a Religious Assembly use in an “LO”, Limited Office zoning district.

POSTPONED TO JUNE 14, 2010; RE-NOTIFICATION NEEDED TO CORRECT ZONING DESIGNATION

D. ADJOURN

Chair Leane Heldenfels adjourned the meeting at 11:56 p.m. without objection.

APPROVED MINUTES June 14, 2010, with amendments to A.1 #1 and C-4 (revised 6-15-2010)