

**CITY OF AUSTIN**  
**Board of Adjustment**  
**Decision Sheet**

**Date: July 8, 2019**

**Case number C15-2019-0027**

Y  William Burkhardt  
 Y  Jessica Cohen  
 Y  Ada Corral  
 Y  Melissa Hawthorne  
 Y  William Hodge  
 Y  Don Leighton-Burwell  
 -  Rahm McDaniel  
 Y  Darryl Pruett  
 -  Veronica Rivera  
 Y  Yasmine Smith  
 Y  Michael Von Ohlen  
 Y  Kelly Blume (Alternate)  
 -  Martha Gonzalez (Alternate)  
 Y  Denisse Hudock (Alternate)

**APPLICANT: Bryan Lynn**

**OWNER: Barbara Stevens, Daughters of the Republic of Texas**

**ADDRESS: 810 ½ San Marcos Street**

**VARIANCE REQUESTED:** The applicant has requested variance(s) to Ordinance 010607-23, Part 3 to increase the height from 40 feet (required, permitted) to 50 feet (requested) in order to construct a cultural center – the Republic of Texas History Museum - in an “GR - MU - CO - NCCD - NP”, Community Commercial – Mixed Use – Conditional Overlay - Neighborhood Conservation Combining District-Neighborhood Plan zoning district. (11th Street)

**BOARD’S DECISION:** May 13, 2019 The public hearing was closed by Chair William Burkhardt, Board Member Rahm McDaniel motion to Grant, Board Member Michael Von Ohlen second on an 11-0 vote; **GRANTED.**

**RECONSIDERATION REQUEST by Neigh Assoc.:** June 10, 2019

June 10, 2019 Board Member Michael Von Ohlen motion to Reconsider request, Board Member Don Leighton-Burwell second on a 9-1 vote (Board member Rahm McDaniel nay); **GRANTED TO RECONSIDERATION REQUEST.**

The public hearing was closed by Chair William Burkhardt, Board Member Michael Von Ohlen motion to postpone to July 8, 2019, Board Member Yasmine Smith second on a 5-5 vote (Board member William Burkhardt, Jessica Cohen, Ada Corral, Rahm McDaniel, Darryl Pruett nay); **Motion failed.**

**Substitute Motion: Board Member Rahm McDaniel motion to Deny, Board Member Jessica Cohen second on a 6-4 vote (Board member Yasmine Smith, Michael Von Ohlen, Kelly Blume and Martha Gonzalez nay); DENIED.**

**DUE TO THE AMBIGUOUS WORDING OF THE MOTION AND THE VOTE TAKEN AT THE BOA MEETING ON JUNE 10, 2019, THIS VOTE WILL SUBJECT TO RECONSIDERATION AT THE NEXT BOA MEETING ON JULY 8, 2019.**


**July 8, 2019 Board Member Melissa Hawthorne motion to rescind previous action from the June 10, 2019 meeting, Board Member Don Leighton-Burwell second on a 10-1 vote (Board member Jessica Cohen nay); Board member Melissa Hawthorne motion to reopen the public hearing, Board Member Don Leighton-Burwell second on 11-0. The public hearing was closed by Chair William Burkhardt, Board Member Michael Von Ohlen motion to Grant with the same findings approved on June 10, 2109 and with conditions to limit to 3 stories and maximum height of 37 feet from above average grade, Board Member Jessica Cohen second on a 11-0 vote; GRANTED WITH THE SAME FINDINGS APPROVED ON JUNE 10, 2019 AND WITH CONDITIONS TO LIMIT TO 3 STORIES AND MAXIMUM HEIGHT OF 37 FEET FROM ABOVE AVERAGE GRADE.**

**EXPIRATION DATE: July 8, 2020**

**FINDING:**

1. The Zoning regulations applicable to the property do not allow for a reasonable use because: the lowered height restrictions in the NCCD sections noted above do not allow for reasonable development of this site when combined compliance with Subchapter E Design Requirements, lowers the base elevation below 12 feet of the site elevation and this lowered allowable height does not allow reasonable use.
2. (a) The hardship for which the variance is requested is unique to the property in that: this small lot adjacent to the French Legation has limited street frontage and TCM requirements heavily restrict driveway access, requiring the French Legation Museum site adjacent to two sides to trigger SF-3 compatibility requirements further restricts pedestrian and vehicular access.  
(b) The hardship is not general to the area in which the property is located because: all other sites around the French Legation are afforded taller height restrictions and area at a lower elevation that this site and this site is the highest point in the immediate area.
3. The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purpose of the regulations of the zoning district in which the property is located because: the proposed building will be a three story cultural center that steps back from and respects the French Legation site, with the majority of the third story planned to be an open-air rooftop deck for public events that looks over the historic French Legation site with a view of the downtown skyline beyond.

  
Elaine Ramirez  
Executive Liaison

  
William Burkhardt  
Chairman