



## MEETING MINUTES

January 13, 2020

The Board of Adjustment convened in a meeting on January 13, 2020, City Council Chambers, 301 West 2nd Street, Austin, Texas.

Don Leighton-Burwell (Chair) called the Board Meeting to order at 5:32 p.m.

Board Members in Attendance: Brooke Bailey, Ada Corral, Jessica Cohen (late 5:42pm), Melissa Hawthorne (Vice Chair), William Hodge, Don Leighton-Burwell (Chair), Rahm McDaniel, Darryl Pruett, Veronica Rivera, Yasmine Smith

Board Members Absent: Michael Von Ohlen

Board Staff in Attendance: Elaine Ramirez (Board Liaison) and Diana Ramirez (Board Secretary), Lee Simmons (Board Attorney) and Liz Johnston (City staff - Environmental)

### EXECUTIVE SESSION (No public discussion)

The Board of Adjustment will announce it will go into Executive Session, if necessary, pursuant to Chapter 551 of the Texas Government Code, to receive advice from Legal Counsel on matters specifically listed on this agenda. The Board of Adjustment may also announce it will go into Executive Session, if necessary, to receive advice from Legal Counsel regarding any other item on this agenda.

Private Consultation with Attorney – Section 551.071

### CITIZEN COMMUNICATION

The first four (4) speakers signed up prior 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.

## B. DISCUSSION AND REQUESTED ACTION ITEMS

B-1 Staff requests approval of November 7, 2019 draft minutes

On-Line Link: [Item B-1](#)

Board Member Brooke Bailey motion to approve the minutes for November 7, 2019, Board Member Melissa Hawthorne second on a vote 9-0 (Board member Jessica Cohen late); APPROVED MINUTES FOR November 7, 2019

**B-2** Staff and Applicant requests for postponement and withdraw of items posted on this Agenda

**Items I-1, I-4, P-1, P-2 requesting postponements to January 13, 2020; Items P-3 requesting withdrawn**

**Board Member Melissa Hawthorne motion to Grant applicant's/staff's request Items I-2, I-3, P-3 to Postpone to February 5, 2020, Item P-1 to postpone to March 9, 2020 and Items P-5, P-6 to withdraw by applicant, Board Member Veronica Rivera seconds on a vote 9-0 (Board member Jessica Cohen late), GRANTED APPLICANT'S/STAFF'S POSTPONEMENTS ITEMS I-2, I-3, P-3 to February 5, 2020 and Item P-1 to March 9, 2020; WITHDRAW ITEMS P-5 and P-6.**

**C. SIGNS NEW PUBLIC HEARINGS**

**NONE**

**D. SIGNS PREVIOUS POSTPONEMENTS**

**NONE**

**E. SIGNS RECONSIDERATIONS**

**NONE**

**F. SIGNS RECONSIDERATION PREVIOUS POSTPONEMENTS**

**NONE**

**G. INTERPRETATION NEW PUBLIC HEARINGS**

**NONE**

**H. SPECIAL EXCEPTION NEW PUBLIC HEARINGS**

**NONE**

**I. VARIANCES NEW PUBLIC HEARINGS**

**I-1 C15-2019-0059 Janice Srivathanakul  
101 and 102 Lago Verde Road**

**On-Line Link: [Item I-1](#)**

The applicant is requesting a variance(s) from LDC Section 25-2-492 (D) (Site Development Regulations) in order to:

- a) Decrease the minimum lot width requirement (required) from 100 feet to 50 feet (requested), and
- b) Decrease the minimum interior side yard setback requirement from 10 feet (required) to 5 feet (requested) in order to remodel a single family residence and add an accessory apartment in a "LA", zoning district.

*Note: Applicant is trying to legally plat these lots.*

**The public hearing was closed by Chair Don Leighton-Burwell, Board Member Melissa Hawthorne motions to Grant with conditions: (b) decrease in minimum interior side yard setback requirement from 10 feet (required) to 5 feet (requested) beginning at a line 90 feet SE from the metes and bounds (S 42°16'12"W at 50.58 feet - separating the .4 acre portion of the tract from the 1 acre portion of the tract) and extending to the southernmost property line (50 ft width fronting on Lake Austin) as shown in the highlighted portion of the ATS Engineer drawing I-1/9; Board Member Jessica Cohen seconds on a 10-0 vote; GRANTED WITH CONDITIONS: (B) DECREASE IN MINIMUM INTERIOR SIDE YARD SETBACK REQUIREMENT FROM 10 FEET (REQUIRED) TO 5 FEET (REQUESTED) BEGINNING AT A LINE 90 FEET SE FROM THE METES AND BOUNDS (S 42°16'12"W AT 50.58 FEET - SEPARATING THE .4 ACRE PORTION OF THE TRACT FROM THE 1 ACRE PORTION OF THE TRACT) AND EXTENDING TO THE SOUTHERNMOST PROPERTY LINE (50 FT WIDTH FRONTING ON LAKE AUSTIN) AS SHOWN IN THE HIGHLIGHTED PORTION OF THE ATS ENGINEER DRAWING I-1/9.**

**I-2      C15-2019-0063      Stephen H. Rison  
1507 Fairfield Drive**

**On-Line Link: [Item I-2](#)**

The applicant is requesting a variance(s) from the minimum setback requirement of LDC Section 25-2-492 (Site Development Regulations) (D) to decrease the rear setback requirement from 10 feet (required) to 0 feet (requested) in order to maintain an existing shed in an "SF-3-NP", Single-Family zoning district. (Wooten Neighborhood Plan)

**POSTPONED TO FEBRUARY 5, 2020 BY APPLICANT**

**I-3      C15-2019-0068      Rodney K. Bennett for Carl Frank  
1213 Taylor Street**

**On-Line Link: [Item I-3](#)**

The applicant is requesting a variance(s) from 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 14 feet 6 inches (requested) in order to erect detached garage with a 2nd FL Studio/Guest Room (not to be a Two-Family Use) SF-3-NP", Single-Family Residence-Neighborhood Plan zoning district. (East Cesar Chavez Neighborhood Plan)

*Note: Per LDC for a Through Lot, a rear yard must comply with the minimum requirements applicable to a front yard.*

**POSTPONED TO FEBRUARY 5, 2020 BY APPLICANT (RENOTICE)**

**I-4      C15-2020-0002      Meredith Bradley  
1016 Avondale Road**

**On-Line Link: [Item I-4](#)**

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

1. Section 25-2-492 (D) (Site Development Regulations) from setback requirements in order to:
  - a) decrease the minimum front yard setback from 25 feet (required) to 12 feet 6 inches (requested/existing),
  - b) decrease the minimum rear setback from 10 feet (required) to 5 feet (requested/existing), and from
2. Section 25-2-963 (F) (2) (Modification and Maintenance of Non-complying Structures) to exceed the additional length of a modified portion of a building's non-conforming wall by more than 25 feet (permitted) to 32 feet (Requested) in order to add a second story to a portion of the first story footprint of an existing single-family home in a SF-3-NP", Single-Family Residence-Neighborhood Plan zoning district. (South River City Neighborhood Plan)

***Note 1:** Per LDC 25-2-963 (F) A person may modify a building that is a noncomplying structure based on a yard setback requirement of this title if: (2) the additional length of a modified portion of the building does not exceed the lesser of 50 percent of the length of the noncomplying portion of the building or 25 feet measured from the existing building and parallel to the lot line.*

***Note 2:** the proposed addition will not increase the building footprint or the impervious cover of the site.*

**The public hearing was closed by Chair Don Leighton-Burwell, Board Member Melissa Hawthorne motions to Grant with the same findings as previously approved BOA variance C15-2018-0033 and per new site plan I-4/11, Board Member William Hodge seconds on a 10-0 vote; GRANTED WITH SAME THE FINDINGS AS PREVIOUSLY APPROVED BOA VARIANCE C15-2018-0033 AND PER NEW SITE PLAN I-4/11.**

**J. INTERPRETATIONS PREVIOUS POSTPONEMENTS**

**NONE**

**K. INTERPRETATIONS RECONSIDERATIONS**

**NONE**

**L. INTERPRETATIONS RECONSIDERATION PREVIOUS POSTPONEMENTS**

**NONE**

**M. SPECIAL EXCEPTIONS PREVIOUS POSTPONEMENTS**

**NONE**

**N. SPECIAL EXCEPTIONS RECONSIDERTIONS**

**NONE**

**O. SPECIAL EXCEPTIONS RECONSIDERATION PREVIOUS POSTPONEMENTS**

**NONE**

**P. VARIANCES PREVIOUS POSTPONEMENTS**

**P-1 C15-2019-0046 Lila Nelson for Benjamin S. Wu  
4320 James Casey Street**

**On-Line Link: [Item P-1](#)**

The applicant is requesting a variance(s) from Section 25-2-1067 (H) (Design Regulations) Compatibility Height requirements of Article 10, Compatibility Standards, Division 2 –Development Standards to

- a) decrease the minimum parking setback from 25 feet (required) on the southern and western boundaries to 0 feet (requested) and;
- b) decrease the minimum driveway setback from 20 feet (required) to 0 feet (requested),

in order to construct an accessory parking lot in a “LO-V-NP”, Limited Office – Vertical Mixed Use – Neighborhood Plan zoning district. (South Manchaca Neighborhood Plan)

*Note: The subject property is 110 ft. wide*

**POSTPONED TO MARCH 9, 2020 BY APPLICANT**

**P-2 C15-2019-0055 David Cancialosi for Mark Odom  
2803 Edgewater Drive**

**On-Line Link: [Item P-2 Part1](#), [Part2](#), [Part3](#), [Part4](#), [Part5](#), [Part6](#), [Part7](#), [Part8](#)**

The applicant is requesting a variance(s) from Section 25-2-551 (Lake Austin (LA) District Regulations)

- 1. (C) (3) (c) increase Impervious Cover from 5 percent, on a slope with a gradient of more than 25 percent and not more than 35 percent (required) to 66% (requested); 0% (existing)
- 2. (E) (2) to increase Impervious Cover to 29% for a driveway in order to erect a Single-Family Residential use in an “LA” zoning district.

**NOTE:** *(for item (E) (2) The Land Development Code states on a slope with a gradient of more than 35 percent, development is prohibited except for the construction of a fence, driveway, road or utility that cannot be reasonably placed elsewhere, or a non-mechanized pedestrian facility, such as a foot path, sidewalk, or stairs.*

**The public hearing was closed by Chair Don Leighton-Burwell, Board Member Melissa Hawthorne motions to Grant, Board Member Ada Corral seconds on a 4-6 vote (Board members Brooke Bailey, Jessica Cohen, Don Leighton-Burwell, Rahm McDaniel, Darryl Pruett and Yasmine Smith nay); DENIED**

**P-3      C15-2019-0057                      Jennifer Conroy  
1304 & 1310 Willow Street**

**On-Line Link: [Item P-3](#)**

The applicant is requesting a variance(s) from LDC Section 25-2-476 (B) (3) (a) (i) (*Special Exceptions*) from Section 25-2-492 (D) (*Site Development Regulations*) to decrease the interior side yard setback from 5 feet (required) to 3 ft. 6 inches (requested) in order to maintain a Garage Apartment that has been at this location for at least 25 years in a "SF-3-NP", Single-Family Residence zoning district. (East Cesar Chavez Neighborhood Plan)

*Note: Per the LDC 25-2-476 (B) The Board shall grant a special exception under Subsection (A) of this section if; (B) the Board finds that: (a) the violation has existed for: (i) at least 25 years.*

**POSTPONED TO FEBRUARY 5, 2020 BY APPLICANT (RENOTICE)**

**P-4      C15-2019-0061                      Jarred Corbell for PSW-Springdale, LLC  
735 Springdale Road**

**On-Line Link: [Item P-4](#)**

The applicant is requesting a variance(s) to increase the maximum allowable Compatibility Height requirements of Article 10, Compatibility Standards, Division 2 – Development Standards, Section 25-2-1063 (C)(2) (*Height Limitations and Setbacks for Large Sites*) from 40 feet (maximum allowed) to 48 feet (requested) in order to erect a 48 ft. foot Commercial Office use in a "CS-MU-CO-NP", General Commercial Services – Mixed Use – Conditional Overlay –Neighborhood Plan zoning district. (Govalle Neighborhood Plan)

*Note: The Land Development Code Section 25-2-1063 (C) (2) allows a height limit of three stories or 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.*

**Board Member Jessica Cohen motions to Postpone to February 5, 2020, Board Member Melissa Hawthorne seconds on a 10-0 vote; POSTPONED TO FEBRUARY 5, 2020 – APPLICANT NO SHOW**

**P-5      C15-2019-0062                      Igor Dimitrijevi for Enable Capital, LLC  
1707 Astor Place**

**On-Line Link: [Item P-5](#)**

The applicant is requesting a variance(s) from LDC Section 25-2-476 (B) (3) (a) (i) (*Special Exceptions*) from Section 25-2-492 (D) (*Site Development Regulations*) to decrease the interior side yard setback from 5 feet (required) to 3 ft. 9 inches (requested) in order to maintain a Single Family Residential use that has been at this location for at least 25 years in a “SF-3-NP”, Single-Family Residence zoning district. (MLK Neighborhood Plan)

*Note: Per the LDC 25-2-476 (B) The Board shall grant a special exception under Subsection (A) of this section if; (B) the Board finds that: (a) the violation has existed for: (i) at least 25 years.*

**WITHDRAWN BY APPLICANT**

**P-6      C15-2019-0064      April Clark for Dr. Samir Patel  
1415 West 10<sup>th</sup> Street**

**On-Line Link:** [Item P-6](#)

The applicant is requesting a variance(s) from the LDC Subchapter F: Residential Design and Compatibility Standards, Article 3, Section 3.3.3 (Gross Floor Area – Porch, Basement and Attic Exemptions) (B) (2) in order to receive the basement exemption on a sloped site the applicant proposes to change the location of measurement from the average elevation at the intersections of the minimum front yard setback line and the side property line to the intersection of the front building line and the side property lines (this will not be closer than the front setback line nor will the building exceed the maximum tent height limitations) in order to erect a Single-Family Residence with a Guest House in a “SF-3-NP”, Single-Family zoning district (Old West Austin Neighborhood Plan)

**WITHDRAWN BY APPLICANT**

**Q.      VARIANCE RECONSIDERATIONS**

**NONE**

**R.      VARIANCES RECONSIDERATION PREVIOUS POSTPONEMENTS**

**NONE**

**S.      NEW BUSINESS**

**S-1      Discussion of the November 7, 2019 Board activity report**

**On-Line Link:** [Item S-1](#)

**DISCUSSED, CONTINUED TO February 5, 2020**

**S-2      Staff Report Requested on HB 2497; Discussion and possible action.**

HB 2497 limits who can file administrative appeals of site-specific applications to the Board. In the past, any “aggrieved party” could appeal zoning-related determinations to the Board. As of September 1, the right to file administrative appeals is limited to landowners, a person within 200 feet of the property, applicants, officers, departments, boards, or bureaus that are affected by the

decision. For non-site specific applications, the law remains the same: any person aggrieved by the decision, or any officer, department, board, or bureau affected by the decision may appeal. **DISCUSSED**

- S-3** Discussion and possible action on the draft LDC; BOA LDC Workgroup Report (Workgroup Members: Leighton-Burwell, Hawthorne, Cohen, Hodge and Smith)

**On-Line Link: [Item S-3](#) DISCUSSED**

- S-4** Discussion and possible action on the FY 2020-21 Budget Calendar

**On-Line Link: [Item S-4](#) DISCUSSED**

- S-5** Discussion and possible action on the Number of Allowed Postponements

**DISCUSSED; WORKGROUP-Jessica Cohen, Brooke Bailey, Don Leighton-Burwell)**

- S-6** Discussion and possible action regarding Workgroups Update: Transportation Criteria/Code Recommendations Workgroup (Smith, Hodge & Corral)

- Resolution re: DSD Representation (No response from City Staff)
- Transportation Criteria Manual (e.g. Gas Islands)
- Regular BOA Issues that might trigger Code Revision

**DISCUSSED**

- S-7** Discussion in regards to hardships (workshop):

- Training for Members re: Setback, IC, Lake Austin/Environmental Cases AND Hardship
- Presentation on BOA Guidelines

**DISCUSSED, WORKGROUP- Don Leighton-Burwell/Elaine Ramirez**

- S-8** BOA Response to Neighborhood Inquiry re: Pre-Clearance Policy and approvals by other Boards and Commissions (Presentation by City Legal)

**DISCUSSED**

- S-9** Announcements

- S-10** Discussion of future agenda new business items, staff requests and potential special called meeting and/or workshop requests

**DISCUSSED THE SCHEDULED BOA MEETING FOR FEBRUARY 10-2020 TO RESCHEDULE AND RELOCATED DUE TO THE AVAILABILITY OF COUNCIL CHAMBERS. Board Member Melissa Hawthorne motions to reschedule and relocate BOA meeting from Monday, February 10<sup>th</sup> Council Chamber to Wednesday, February 5, 2020, OTC 505**



**Barton Sprigs Road, Room 325 at 5:30PM, Board Member Jessica Cohen seconds on a 10-0 vote.**

**T. ADJOURNMENT 8:27PM**

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 days before the meeting date**. *Please call* or email Board Liaison Elaine Ramirez, Development Services, at 512-974-2202/elaine.ramirez@austintexas.gov or Board Secretary Diana Ramirez, Development Services, at 512-974-2241/diana.ramirez@austintexas.gov, for additional information; *TTY users route through Relay Texas at 711*.