



AGENDA MEETING MINUTES

May 9, 2022

The Board of Adjustment meeting convened on Monday, May 9, 2022. Some members of the Board of Adjustment may be participating by videoconference. The meeting may be viewed online at: <http://www.austintexas.gov/page/watch-atxn-live>.

Madam Jessica Cohen (Chair) called the Board Meeting to order at 5:35 p.m.

Board Members in Attendance (in person): Madam Jessica Cohen (Chair), Melissa Hawthorne (Vice Chair), Agustina Rodriguez, Michael Von Ohlen

Board Members in Attendance (virtually via teleconference): Thomas Ates, Barbara McArthur, Darryl Pruett, Kelly Blume (Alternate) Marcel Gutierrez-Garza (Alternate), Carrie Waller (Alternate)

Board Members Absent: Brooke Bailey, Richard Smith, Nicholl Wade and Rahm McDaniel

City Staff in Attendance: Elaine Ramirez (Board Liaison), Erika Lopez (Board Attorney) and Diana Ramirez (Board Secretary)

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

PUBLIC COMMUNICATION: GENERAL

The first (4) four speakers who register to speak no later than noon the day before the meeting will be allowed a three-minute allotment to address their concerns regarding **items not posted on the agenda**.

A. DISCUSSION AND REQUESTED ACTION ITEM

A-1 Staff requests approval April 11, 2022 draft minutes

On-Line Link: [Item A-1 draft minutes](#)

Board Member Melissa Hawthorne motions to approve the minutes for April 11, 2022, Board member Michael Von Ohlen seconds on a 9-0-1 votes (Board member Barbara Mearthur abstained); APPROVED MINUTES FOR APRIL 11, 2022.

B. DISCUSSION AND REQUESTED ACTION ITEM

B-1 Staff and Applicant requests for postponement and withdraw of items posted on this Agenda

Requesting postponement/withdrawal by applicant/neighborhood/staff for Items D-1, G-1, G-2, F-3; AE Denial for Items F-1 and F-3

Board member Melissa Hawthorne motions to add Items F-1 and F-3 to the Postponement requests to June 13, 2022 due to AE denials, Board member Agustina Rodriguez seconds on a 10-0 vote, ADDED ITEMS F-1 AND F-3 TO JUNE 13, 2022 POSTPONEMENT REQUESTS.

Board member Melissa Hawthorne motions to approve the postponement requests for Items D-1, G-1, G-2, F-1 and F-3 to June 13, 2022, Board member Michael Von Ohlen seconds on a 10-0 vote; ITEMS D-1, G-1, G-2, F-1 AND F-3 POSTPONED TO JUNE 13, 2022.

C. SIGNS NEW PUBLIC HEARINGS

**C-1 C16-2022-0003 Shana Gardner for Joshua Needham
1401 E. 6th Street**

On-Line Link: [Item C-1 PART1](#), [PART2](#); [PART3 PRESENTATION PART1](#), [PART2](#), [PART3](#)

The applicant is requesting a sign variance(s) from the Land Development Code, Section 25-10-133 (*University Neighborhood Overlay Zoning District Signs*) (H) to allow for illumination of one (1) wall sign, one (1) illuminated blade, and one (1) illuminated parking blade in order to provide signage for mixed use development in a “TOD-NP”, Transit Oriented District–Neighborhood Plan zoning district. (East Cesar Chavez Neighborhood Plan)

Note: The Land Development Code sign regulations 25-10-133 University Neighborhood Overlay Zoning Districts Signs (H) states a sign may not be illuminated or contain electronic images or moving parts.

The public hearing was closed by Madam Chair Jessica Cohen, Board member Michael Von Ohlen motions to approve; Board member Melissa Hawthorne seconds on a 10-0, vote; GRANTED.

D. SIGNS PREVIOUS POSTPONEMENTS

**D-1 C16-2022-0001 Esteban Arrieta for Eames Gilmore
10107 Research Boulevard SVBD**

On-Line Link: [Item D-1](#); NO PRESENTATION

The applicant is requesting a sign variance(s) from the Land Development Code, Section 25-10-123 (*Expressway Corridor Sign District Regulations*) (B) (3), to exceed sign height of 35 feet (maximum allowed) to 45 feet (requested) in order to complete signage for Target store in a “NBG-NP”, North Burnet Gateway-Neighborhood Plan zoning district. (Gateway Neighborhood Plan)

Note: The Land Development Code sign regulations 25-10-123 Expressway Corridor Sign Regulations (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

POSTPONED TO JUNE 13, 2022 BY APPLICANT

E. INTERPRETATIONS NEW PUBLIC HEARINGS

**E-1 C15-2022-0042 Felicia Foster for Valentin Bohorov
2212 Trailside Drive**

On-Line Link: [Item E-1](#); PRESENTATION

The appellant has filed an appeal challenging staff’s interpretation of Chapter 25-2, Subchapter F (*Residential Design and Compatibility Standards*) of the Land Development Code in connection with disapproval of a permit application for construction of a single-family home at the above-referenced address. The primary basis of the appeal is calculation of gross floor area for a “habitable attic” under the Land Development Code, in particular, requirements in Section 3.3 of Subchapter F. The appellant contends that staff incorrectly applies provisions related to the calculation of ceiling height for exempt space as applied to a two-story residence in an “SF-3”, Single-Family zoning district.

Note: Subchapter F: Residential Design and Compatibility Standards, Article 3 Definitions and Measurement, 3.3 Gross Floor Area, 3.3.3 Porches, basements, and attics that meet the following requirements shall be excluded from the calculation of gross floor area: (C) A habitable portion of an attic if:

1. *The roof above it is not a flat or mansard roof and has a slope of 3 to 12 or greater;*
2. *It is fully contained within the roof structure;*
3. *It has only one floor;*
4. *It does not extend beyond the footprint of the floors below;*
5. *It is the highest habitable portion of the building, or a section of the building, and adds no additional mass to the structure; and*
6. *Fifty percent or more of the area has a ceiling height of seven feet or less.*

The public hearing was closed by Madam Chair Jessica Cohen, Board Member Michael Von Ohlen motions to deny the appeal request and uphold City staff’s interpretation; Board Member Melissa Hawthorne seconds on a 10-0 vote; APPEAL DENIED AND UPHOLD CITY STAFF’S INTERPRETATION.

F. VARIANCES NEW PUBLIC HEARINGS

**F-1 C15-2022-0035 Mike McHone for DC+CJ San Pedro LLC, Cater Joseph
2609 San Pedro Street**

On-Line Link: [Item F-1](#); [PRESENTATION](#)

The applicant is requesting variance(s) from the Land Development Code, *Article 3, Division 9 – University Neighborhood Overlay District Requirements, Section 25-2-757 (Setbacks; Compatibility) (E)* to decrease minimum 30 feet from the centerline of adjacent street (required) to 24 feet from the centerline of adjacent street (requested) in order to erect a Multi-Family SMART Housing Building in an “MF-4-NP”, Multi-Family-Neighborhood Plan zoning district. (West University Neighborhood Plan)

Note: Per LDC 25-2-757 SETBACKS; COMPATIBILITY (E) A building must be at least 12 feet from the front face of the curb of the adjacent street and at least 30 feet from the centerline of the adjacent street, 12 ft. from the face of curb for the required UNO Streetscape will be provided.

POSTPONED TO JUNE 13, 2022 BY STAFF (AE DENIAL)

**F-2 C15-2022-0040 Ned McDaniel
305 E St. Elmo Road**

On-Line Link: [Item F-2](#); [PRESENTATION](#)

The applicant is requesting a variance(s) from the Land Development Code, Section 25-2-601 (*Industrial Park (IP), Major Industry (MI), and Limited Industrial Services (LI) District Regulations*) from setback requirements to decrease the minimum Rear Yard Setback from 25 feet (required) to 18 feet (requested), in order to complete an Urban agricultural growing facility in a “LI-NP”, Limited Industrial Services-Neighborhood Plan (East Congress Neighborhood Plan).

Note: Per LDC 25-2-601 Industrial Park (IP), Major Industry (MI), and Limited Industrial Service (LI) District Regulations (A) This section applies in an industrial park (IP), major industry (MI), or limited industrial services (LI) district. (2) 25 feet, if adjacent to property zoned as or used for a use permitted in an MF-1, MF-2, MF-3, MF-4, MF-5, MF-6, or MH district

The public hearing was closed by Madam Chair Jessica Cohen, Board Member Michael Von Ohlen motions to approve; Board Member Melissa Hawthorne seconds on a 9-0-1 vote (Board member Barbara Mcarthur abstained); GRANTED.

**F-3 C15-2022-0043 Lisa Gray for Red Door LLC
509 E. 38th Street**

On-Line Link: [Item F-3](#); [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 rear yard setback from 10 feet (required) to 9 feet (requested) in order to maintain an existing Single-Family residence in a “SF-3-CO-NP”, Single-Family-Conditional Overlay-Neighborhood Plan zoning district (Hancock Neighborhood Plan)
POSTPONED TO JUNE 13, 2022 BY STAFF (AE DENIAL) AND THE NEIGHBORS ALSO REQUESTED A POSTPONEMENT UNTIL THEY SPEAK WITH THE APPLICANT

G. RECONSIDERATION CASES

**G-1 C15-2022-0011 Jonathan Kaplan for David Scott Kosch
2715 Long Bow Trail**

On-Line Link: [Item G-1](#); NO PRESENTATION

The applicant is requesting variance(s) from the Land Development Code, Section 25-2-551 (*Lake Austin District Regulations*) (C) (3)

- (a) increase the maximum impervious cover on a slope with a gradient of 15 percent or less from 35 percent (allowed) to 40 percent (requested)
- (b) increase the maximum impervious cover on a slope with a gradient of 15 percent and not more than 25 percent from 10 percent (allowed) to 40 percent (requested)
- (c) increase the maximum impervious cover on a slope with a gradient of more than 25 percent and not more than 35 percent from 5 percent (allowed) to 40 percent (requested)
- (d) increase the maximum impervious cover on a slope gradient greater than 35 percent to 40 percent (requested), in order to complete a Single-Family residence in a “LA”, Lake Austin zoning district.

Note: This section of the Land Development Code applies to lots that are included in a subdivision plat recorded before April 22, 1982 or a tract that is not required to be platted.

For the above address the Subdivision Plat was recorded on November 17, 1969

(E) This subsection specifies additional development standards based on slope gradient in a Lake Austin (LA) district. (2) 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.

POSTPONED TO JUNE 13, 2022 BY APPLICANT

**G-2 C15-2022-0012 Jonathan Kaplan for David Scott Kosch
2717 Long Bow Trail**

On-Line Link: [Item G-2](#); NO PRESENTATION

The applicant is requesting variance(s) from the Land Development Code, Section 25-2-551 (*Lake Austin District Regulations*) (C) (3)

- (a) increase the maximum impervious cover on a slope with a gradient of 15 percent or less from 35 percent (allowed) to 40 percent (requested)
- (b) increase the maximum impervious cover on a slope with a gradient of 15 percent and not more than 25 percent from 10 percent (allowed) to 40 percent (requested)
- (c) increase the maximum impervious cover on a slope with a gradient of more than 25 percent and not more than 35 percent from 5 percent (allowed) to 40 percent (requested)
- (d) increase the maximum impervious cover on a slope gradient greater than 35 percent to 27 percent (requested), in order to complete a Single-Family residence in a “LA”, Lake Austin zoning district.

Note: This section of the Land Development Code applies to lots that are included in a subdivision plat recorded before April 22, 1982 or a tract that is not required to be platted.

For the above address the Subdivision Plat was recorded on November 17, 1969

(E) This subsection specifies additional development standards based on slope gradient in a Lake Austin (LA) district. (2) 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.

POSTPONED TO JUNE 13, 2022 BY APPLICANT

H. VARIANCES PREVIOUS POSTPONEMENTS

**H-1 C15-2022-0021 Bhavani Singal for Heidi Lew
3701 Robbins Road**

On-Line Link: [Item H-1 PART1](#), [PART2](#), [PART3](#); PRESENTATION

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

- 1. 25-2-492 (*Site Development Regulations*) from setback requirements to decrease the minimum Front Yard Setback from 40 feet (required) to 15 feet (requested)
and
- 2. 25-2-551 (*Lake Austin District Regulations*) (C) (3)

- (a) increase the maximum impervious cover on a slope with a gradient of 15 percent or less from 35 percent (allowed) to 36 percent (requested), (45% existing)
 - (b) increase the maximum impervious cover on a slope with a gradient of 15 percent and not more than 25 percent, from 10 percent (allowed) to 21 percent (requested), (6% existing)
- and**
- (c) increase the maximum impervious cover on a slope with a gradient of more than 25 percent and not more than 35 percent from 5 percent (allowed) to 7 percent (requested), (6% existing) in order to erect a new two story Single-Family residence in a “LA”, Lake Austin zoning district.

Note: This section of the Land Development Code applies to lots that are included in a subdivision plat recorded before April 22, 1982 or a tract that is not required to be platted.

The public hearing was closed by Madam Chair Jessica Cohen, Board Member Jessica Cohen motions to approve as per drawing H-1/10 in the advanced packet; Board Member Michael Von Ohlen seconds on a 10-0 vote; GRANTED AS PER DRAWING H-1/10 IN THE ADVANCED PACKET.

**H-2 C15-2022-0032 David Cancialosi for Cody Stavig
2904 Rivercrest Drive**

On-Line Link: [Item H-2; PRESENTATION](#)

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

- a) 25-2-492 (Site Development Regulations) from setback requirements to decrease the minimum front yard setback from 40 feet (required) to 25 feet (requested) and
- b) 25-2-963 (Modification and Maintenance of Non-Complying Structures) (E) (1) (b) to increase the height from 23 feet 8 inches (allowed) to 24 feet 1 inch (requested) in order to remodel an existing non-complying Single-Family residence in a “LA”, Lake Austin zoning district.

Note: Land Development Code, Section 25-2-963 (E) A person may increase the height of a building that is a noncomplying structure based on a height requirement of this title if: (1) the increase is made to a portion of the building that: (b) complies with the yard setback requirements of this title.

The public hearing was closed by Madam Chair Jessica Cohen, Board Member Melissa Hawthorne motions to approve; Board Member Michael Von Ohlen seconds on a 10-0 vote; GRANTED.

I. NEW BUSINESS

**I-1 Discussion of the April 11, 2022 Board activity report
[On-Line Link: Item I-1](#)**

DISCUSSED, CONTINUE TO JUNE 13, 2022

I-2 Discussion and possible action regarding an update on the resolution sent to council for the BOA Applicant Assistance Program (BAAP).

On Line Link: [Item I-2](https://www.austintexas.gov/department/city-council/2021/20211014-reg.htm#045) - <https://www.austintexas.gov/department/city-council/2021/20211014-reg.htm#045>

DISCUSSED, CONTINUE TO JUNE 13, 2022

I-3 Discussion and possible action to form a BOA Workgroup to review and propose changes to BOA Appeals (including, but not limited to, process and fees) (Working group: Barbara McArthur, Darryl Pruett and Kelly Blume)

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

DISCUSSED, CONTINUE TO JUNE 13, 2022 (LANGUAGE NEEDS TO BE CHANGED FOR UPCOMING MEETING)

I-4 Announcements

I-5 Discussion of future agenda new business items, staff requests and potential special called meeting and/or workshop requests

ADD NEW ITEM:

DISCUSSION AND POSSIBLE ACTION REGARDING REVIEW OF ATTENDEE POLICIES

J. ADJOURNMENT 8:39PM

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.*

For more information on the Board of Adjustment, please contact Board Liaison, Elaine Ramirez, Development Services, at 512-974-2202 / elaine.ramirez@austintexas.gov