

## **Board of Adjustment Meeting Minutes**

The City of Bastrop Board of Adjustment met Wednesday, May 4, 2016 at 6:00 p. m. in the Bastrop City Council Chambers, located at 1311 Chestnut Street, Bastrop, Texas.

### **1. Call to Order.**

At 6:00 p.m. Dan Hays-Clark called the meeting to order.

### **2. Roll call and confirmation of a quorum of Board members.**

Blas Coy	Present
Michael Gibbons	Absent
Dan Hays-Clark	Present
Matthew Lassen	Present
Herb Goldsmith	Present
Bob Rogers (Alternate)	Present
Daniel Ducloux (Alternate)	Absent

### **3. Citizen comments.**

There were no citizen comments.

### **4. Consideration and approval of the April 6, 2016, Board of Adjustment meeting minutes.**

Matthew Lassen made a motion to approve the meeting minutes of April 6, 2016. The motion was seconded by Blas Coy and approved unanimously.

### **5. Continuation of the April 6, 2016 Board of Adjustment meeting.**

**Public Hearing Case BOAV16:03: The Board of Adjustment will convene a public hearing on a variance request as follows: (tabled at the April 6, 2016 meeting)**

**Variance to Zoning Ordinance, Section 28.4.B.1, and 28.4.B.3, to allow a 10 foot setback where 25 feet is required for the front and exterior side yard setback for 901 College being +/-0.29 acres within Building Block 18 East of Water Street located between College, Gutierrez, and Paul C. Bell Streets within the City Limits.**

- a. Presentation by Staff.
- b. Presentation by Applicant.
- c. Receive other verbal and written testimony, including public input, if any.
- d. Response by Applicant and/or Staff.
- e. Close public hearing.
- f. Board discussion and render decision.

### **6. Continuation of April 6, 2016 Board of Adjustment meeting.**

**Public Hearing Case BOAV16:04: The Board of Adjustment will convene a public hearing on variances requested as follows: (tabled at the April 6, 2016 meeting)**

**Variance to Zoning Ordinance, Section 28.4.B.1, to allow a 10 foot setback where 25 feet is required for the front yard setback for 905 College being +/- 0.137 acres within Building Block 18 East of Water Street located between College and Gutierrez Streets within the City Limits:**

- a. Presentation by Staff.
- b. Presentation by Applicant.
- c. Receive other verbal and written testimony, including public Input, if any.
- d. Response by Applicant and/or Staff.
- e. Close public hearing.
- f. Board discussion and render decision.

**7. Continuation of April 6, 2016 Board of Adjustment meeting.**

**Public Hearing Case BOAV16:05: The Board of Adjustment will convene a public hearing on variances requested as follows: (tabled at the April 6, 2016 meeting)**

**Variance to Zoning Ordinance, Section 28.4.B.1, and 28.4.B.3, to allow a 10 foot setback where 25 feet is required for the front and exterior side yard setback for 907 College being +/-0.206 acres within Building Block 18 East of Water Street located between College and Gutierrez (Jefferson) Streets within the City Limits:**

- a. Presentation by Staff.
- b. Presentation by Applicant.
- c. Receive other verbal and written testimony, including public Input, if any.
- d. Response by Applicant and/or Staff.
- e. Close public hearing.
- f. Board discussion and render decision.

**8. Public Hearing Case BOAV16:06: The Board of Adjustment will convene a public hearing on the variance requests as follows:**

**Variance to Zoning Ordinance, Section 28.4.B.1, and 28.4.B.3, to allow a 10 foot setback where 25 feet is required for the front, and exterior side yard setback for all properties fronting on public Right of Way (ROW) for the following properties zoned C-1, Commercial -1 (light) located within the City Limits; located between Water Street and Lovers Lane South of Highway 71.**

**City initiated setback changes for the following 12 parcels along Highway 71/College Street:**

1. 803 College for +/-0.3190 acres within BB 3, East of Water Street (R45734)
2. 807 College for +/-0.318 acres within BB 3, East of Water Street (R33031)
3. 901 College for +/-0.29 acres within BB 18, East of Water Street (R47621)  
(tabled at April BOA continuation separate BOA item 5)

4. 905 College for +/-0.137 acres within BB 18, East of Water Street (R32963) (tabled at April BOA, continuation separate BOA item 6)
  5. 907 College for +/-0.206 acres within BB 18, East of Water Street (R47622) (tabled at April BOA, continuation separate BOA item 7)
  6. 1011 College for +/-0.1 acres within BB 23, East of Water Street (R47625)
  7. 1003 College for +/-0.098 acres within BB 23, East of Water Street (R34481)
  8. 1007 College for +/-0.2440 acres within BB 23, East of Water Street (R34513)
  9. 1001 College for +/-0.098 acres within BB 23, East of Water Street (R39271)
  10. 1013 College for +/-0.095 acres within BB 23, East of Water Street (R47626)
  11. For lot described as +/-0.647 acres within BB 38, East of Water Street (between Hill Street and Lovers Ln)
  12. 1215 College for +/-0.306 acres within BB 43, East of Water Street (R47700)
- a. City initiated.
  - b. Receive other verbal and written testimony, including public Input, if any.
  - c. Response by Applicant and/or Staff.
  - d. Close public hearing.
  - e. Board discussion and render decision

***Agenda items No. 5-8 were discussed in unison.***

Melissa McCollum addressed the Board stating the City initiated variance request represents a total of 12 (twelve) properties that each need action for the proposed setback variance against the existing street/right of ways. All of these properties were rezoned (City initiated) to C-1, Light Commercial-1 on May 27, 2014.

After the requested variance was submitted to the Board of Adjustment (BOA) for 3 (three) properties in April, 2016 (901, 905, and 907 College) City staff looked at the applicability of the requested variance to be applied to the other 9 (nine) properties that are affected. City staff used the same area that was rezoned in May, 2014 to be the same area applicable for the setback variances.

The City initiated variance to the Zoning Ordinance, is requesting all 12 (twelve) properties be considered for a reduced setback to 10' (ten feet) instead of the required 25' (foot) setback from each street being Water, College, Gutierrez/Newton, Paul C. Bell, Jefferson, Hill and Lovers Lane.

These properties would be required to have a 25' (foot) setback from each street and the City is asking for a reduced setback of 10' (ten feet) instead of the 25 feet required.

These setback variances of 10' (ten feet) are consistent with the Form Based Code (FBC) area across Highway 71/North College Street, of the Commercial Mixed Use (CMU) Character Zone of Secondary/Build to Zone (BTZ) and General Frontage setbacks of 10' (ten feet) minimum.

Buildings are currently located on properties 1-5, 7 and 8. Parcels 6, 9, 10, 11, and 12 are vacant.

Staff understands that these variances only apply to the properties as they are currently situated. Any re-platting or combining of properties would require the variances to be readdressed

Variances requested are to allow the buildable area of the property to be larger to allow commercial development. These properties were reduced in size with the eminent domain by TxDOT for construction of Highway 71 in 1958.

The City is initiating this variance request. Utilities are available in the area and any extensions that might be required as part of the platting, site development/building permit application will be at the owner/applicants expense. The owner will be required to follow all other building code requirements.

Matt Lassen questioned the TxDOT setbacks. Melissa said she spoke with Diana Shultz at TxDOT regarding speed limits and setbacks and there are no issues in this area. She also said no additional right-of-way is needed and that speed limits will be 40 miles per hour which is similar to the frontage road in front of Tractor Supply/Childers.

The Board questioned the validity of the City applying for the variance for the properties listed within Agenda Item 8 on behalf of the owners of the properties. Agenda Item 8 was tabled until the next scheduled Board of Adjustment meeting (date to be determined).

Dan Hays-Clark closed the public hearing.

Herb Goldsmith made a motion to grant the for a reduced setback to 10' (ten feet) instead of the required 25' (foot) setback for 901 College Street, 905 College Street and 907 College Street (Agenda Items 5, 6, and 7) . The motion was seconded by Blas Coy and the motion passed unanimously.

**9. The Board of Adjustment will adjourn its regular session and convene as the Municipal Sign Review Board.**

**10. Public Hearing Case MSRBV 16:01: The Municipal Sign Review Board will convene a Public Hearing on a Sign Variance request as follows:**

**Variance to Sign Ordinance, Section 3.20.016 to allow an additional 33 square feet (drive through sign) to an already existing 159 square foot pole sign where 160 square feet is allowed for property located at 534 Highway 71 West/Southside BBQ, in Pecan Park Commercial, Phase 1, Block A, Lot 1 being +/- 2.205 acres within the city limits.**

- a. Presentation by Staff.**
- b. Presentation by Applicant.**
- c. Receive other verbal and written testimony, including public Input, if any.**
- d. Response by Applicant and/or Staff.**
- e. Close public hearing.**
- f. Board discussion and render decision.**

Melissa McCollum addressed the Board with regards to Southside BBQ requesting to add a "Drive-Thru" cabinet onto an existing pole sign. Southside BBQ, is located on Highway 71 and is requesting a variance from the City's Sign Standards, to install an additional 33 square foot sign, to an already existing 159 square foot pole sign. The top portion of the sign will remain unchanged but the "drive-thru" cabinet is proposed to be added and will increase the sign area to 192 square feet, 32 square feet larger than allowed. For businesses along Highway 71,

Southside BBQ, opened in Bastrop in November, 2014. This is the first time this business has had a drive-thru service. With the original sign application this “drive-thru” cabinet wasn’t proposed. They have since evaluated their business and realize the need to add “drive-thru” as a prominent option. They would like to keep and use the existing sign and add the cabinet.

Variances to the City's sign standards are allowed under City Code, Section 3.20.022. The Municipal Sign Review Board, comprised of all BOA members (members and alternates), hear requests for such variances and may authorize variances to the City’s sign regulations when application of the Code would result in undue hardship to the applicant, and the applicant proves a non-economic hardship is posed that is not of the applicant’s making. [Note: The Criteria for making Findings, when determining whether to allow a variance, is different for the Municipal Sign Review Board, than for the Board of Adjustments.]

Notifications of the requested variances were mailed on April 21, 2016 to three (3) adjacent property owners, which own property within 200 feet of the affected property, i.e., the Southside BBQ site. No comments have been received from any of the property owner’s notified at the time of this report.

Staff believes that the proposed signage is only adding an additional 33 square feet, and is proportionate to the existing sign. It also works with the existing sign that is in place and does not increase the height and will also beautify the base of the sign. Therefore, Staff is recommending that the Municipal Sign Review Board approve the requested variance.

Dan Hays-Clark read the criteria for findings;

1. **Undue hardship:** Special circumstances exist which affect the land and development involved such that the strict application of the provisions of this Article:
  - a. **Would deprive the owner or applicant of the ability to advertise the business or a product;** *In this case, the Owner has stated that the placement of the proposed, 33 square foot “drive-thru” cabinet will help patrons know about their take away service. This was not thought about initially with the sign, but the proposed signage would allow the existing sign to remain with no other alterations. This does not increase height of sign.*
  - b. **Granting of a variance shall be based on a finding that the applicant’s difficulties or hardship are due to unusual conditions or circumstances, such as irregularly shaped parcel of land;** *Although the site is not irregularly shaped, Southside BBQ developed the site with a great deal of planning and made ingress and egress safe for the patrons. The “drive-thru” window is on the east side of the building and is not visible to the “one way” traffic on the frontage road.*
  - c. **Granting of a variance will not adversely affect surrounding property owners and use;** *The Owner has received approval from the Property Owner Association (POS) of Pecan Park for the additional signage.*
  - d. **Granting a variance shall not be detrimental to the public health, safety or welfare;** *The variance will allow the site to remain “uncluttered” without the addition of “temporary banners” that could help with drive-thru service.*
  - e. **Financial hardship alone shall not be grounds for a variance.** *Financial consideration has not been identified by the Applicant as a reason for the variance*

*request. In fact, they are proposing to add rock to the sign at this point in time to beautify the pole sign.*

2. **A variance shall not be approved if the circumstance for the hardship were caused or created by the owner of the property or the applicant seeking the variance. *The Applicant did not create the issues/hardships.***

Dan Hays-Clark closed the public hearing.

Bob Rogers made a motion to approve the variance to the Sign Ordinance Section 3.20.016 to allow the additional signage. The motions was seconded by Matt Lassen and the motion passed unanimously.

**11. The Municipal Sign Review Board will adjourn as the Municipal Sign Review Board and will reconvene into Regular Board of Adjustment session.**

**12. Director's Report:**

- a) **Comprehensive Plan and Form Based Code Task Force- North Area update.**
- b) **Direction from the Board of Adjustment on any items to be included on any future agendas.**

The Comprehensive Plan is on the City website via project screen. Melissa asked the Board to spread the word to others that may be interested.

The next Form Based Code for the North Area is scheduled for Thursday, May 5, 2016.

**13. Adjourn.**

At 6:45 p.m. Bob Rogers made a motion to adjourn. The motion was seconded by Herb Goldsmith and the meeting adjourned.

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Dan Hays-Clark, Chair