

## Board of Adjustment Meeting Minutes

The City of Bastrop Board of Adjustment met Wednesday, June 1, 2016 at 6:00 p. m. in the Bastrop City Council Chambers, located at 1311 Chestnut Street, Bastrop, Texas.

### 1. Call to Order.

At 6:06 p.m. (rain delay) Dan Hays-Clark called the meeting to order.

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

Blas Coy	Present
Michael Gibbons	Present
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 May 4, 2016, Board of Adjustment meeting minutes.

Blas Coy made a motion to approve the meeting minutes of May 4, 2016 with one correction. Seconded by Matt Lassen and the motion passed unanimously.

### 5. BOAV16-06: Public Hearing: The Board of Adjustment will convene a public hearing on the variance requests as follows: This item was tabled at the May 4, 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 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 nine (9) 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. 1011 College for +/-0.1 acres within BB 23, East of Water Street (R47625)
4. 1003 College for +/-0.098 acres within BB 23, East of Water Street (R34481)
5. 1007 College for +/-0.2440 acres within BB 23, East of Water Street (R34513)
6. 1001 College for +/-0.098 acres within BB 23, East of Water Street (R39271)
7. 1013 College for +/-0.095 acres within BB 23, East of Water Street (R47626)
8. For lot described as +/-0.647 acres within BB 38, East of Water Street (between Hill Street and Lovers Ln)
9. 1215 College for +/-0.306 acres within BB 43, East of Water Street (R47700)
  - a. City initiated Public Hearing.

- b. Presentation by City Staff.**
- c. Verbal/written comments from the public.**
- d. Response by Applicant and/or Staff.**
- e. Close the Public Hearing.**
- f. Board discussion and render decision.**

Melissa McCollum addressed the Board stating this item is a continuation of the May 4, 2016 Board of Adjustment Meeting. At that meeting the Board questioned the validity of the City applying for the variance for the properties listed above on behalf of the owners of the properties. The City initiated variance to the Zoning Ordinance, is requesting the nine (9) 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.

Melissa stated Board members were forwarded information from the City Attorney and that it is applicable for cities to look at unique situations and apply for variances on behalf of property owners.

Staff did not re-notify property owners since this item was tabled at the last meeting. However, property owners were notified of the May meeting as well as surrounding property owners within 200'. No written responses were received. Blas Coy stated that people do not normally respond unless they are opposed.

Herb Goldsmith asked if the notices were sent via certified mail and how do we know if those notices were received. Melissa stated notices are sent through the regular mail and we rely on the postal service. We do not mail certified notices. Melissa received two calls regarding the variance and they were favorable.

Matt Lassen asked if this will increase land values/increase taxes. Melissa said that changing setbacks should not change appraisal values, the appraisal district normally taxes off of use.

Dan Hays-Clark stated (reiterating what was discussed at the previous BOA meeting) that even if this variance is attached to a lot, if lots are combined, this variance means nothing the owner/developer would still have to come back to the Board for a variance(s). Melissa said yes, if the lots are combined or they change the size and shape they would have to apply for a new variance.

Bob Rogers stated that even though staff received a legal opinion, he doesn't agree with it. He agrees with what the City is trying to achieve but thinks there is a better way to do it (amendment to the Zoning Ordinance). He does not feel that the City initiated variance would stand up in a court of law if the property owner(s) were to contest the City's decision to grant a variance to the City's own rules and regulations. Bob said he had never heard of a City initiated variance.

Dan stated his only reservation is that it doesn't seem like we are really solving anything for those property owners. Melissa stated the person that recently came to the Planning Department to discuss the development of Lot # 6 was only interested in developing a small business and 25' setback requirement on three sides would be difficult to meet.

Judy Hoover, owner of Lot 1, questioned if some of these properties were pulled out of the original request. Melissa and Dan recapped events from the April and May meeting for Mrs. Hoover. Mrs. Hoover also stated she too had contacted the TxDOT Engineer to get her thoughts on safety concerns by reducing the setbacks and speed on the feeder road (as did Melissa) and the engineer did not see any safety concerns and was comfortable with it, which made Mrs. Hoover feel more comfortable.

Herb Goldsmith expressed concern that all the property owners (that were a part of this variance request) actually received the mailed out documents. He would be more comfortable if the notice had been sent certified.

Matt Lassen's concern is that we (the City) are trying to help someone who may not necessarily want it and if one of the property owners, who did not specifically ask for this variance, came back at a later date and questioned why the City took this action. We are trying to fix a problem that doesn't really exist and does not see what the hardship is. Matt said it would be better if each of the property owners filled out an application requesting the variance and paid their fee (like Mr. Gutierrez did). Matt also had concern about the chance of legal ramifications.

Melissa said that is certainly an option and the Board could vote this down and we could go through that individual process. The City was trying to be responsive to all the property owners that these setbacks effected just like when the City initiated the zone change for all these properties.

Blas Coy asked Judy Hoover, one of the property owners, are you in favor of this and she replied yes. Mrs. Hoover said while she doesn't think it will help her (her property has very steep sides and is un - useable) it could help some of the other property owners. She said her biggest concern was about safety and that concern had been addressed by TxDOT.

Blas Coy said it does add a bigger footprint and questioned what happens if the current owner sells the property. Melissa said the variance goes with the property. Blas said he doesn't have an issue with it.

Herb Goldsmith continued to express concern that all the property owners received the notice for the variance and are fine with the decision to reduce the setbacks. He would like a certified letter to be sent to all the property owners who are receiving the city initiated setback variance. Melissa said if this variance passes she will prepare a letter to each property owner (all twelve properties) and send both certified and regular mail.

Michael Gibbons questioned if we are causing any harm in taking this action and he too, would like all property owners to be notified.

Dan Hays-Clark entertained a motion.

Melissa said if you chose to deny please give a reason for denying so it won't prohibit individual property owners from coming back and applying for a variance.

Blas Coy made a motion to approve the City initiated variance to 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) for nine (9) parcels along Highway 71/College Street being:

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. 1011 College for +/-0.1 acres within BB 23, East of Water Street (R47625)
4. 1003 College for +/-0.098 acres within BB 23, East of Water Street (R34481)
5. 1007 College for +/-0.2440 acres within BB 23, East of Water Street (R34513)
6. 1001 College for +/-0.098 acres within BB 23, East of Water Street (R39271)
7. 1013 College for +/-0.095 acres within BB 23, East of Water Street (R47626)
8. For lot described as +/-0.647 acres within BB 38, East of Water Street (between Hill Street and Lovers Ln)

9. 1215 College for +/-0.306 acres within BB 43, East of Water Street (R47700)

Seconded by Herb Goldsmith with the condition that all of the property owners are notified by certified mail and regular mail of the action taken by the City. The motion passed 4 in favor and 1 against.

Blas Coy in favor  
Dan Hays-Clark in favor  
Herb Goldsmith in favor  
Michael Gibbons in favor  
Matt Lassen opposed

**6. Property owner presentation and update on 1305 Wilson Street project.**

Mrs. Judith Hoover was present. Mrs. Hoover chose not to make her presentation at this time.

**7. Director's Report:**

**a) Status update on actions taken/completed, to date for the Main Street Board.**

The Main Street Board will meet June 2<sup>nd</sup> - 921 Main Street will be up for sale. The Farmers Market is on a month to month lease.

**b) Status update on actions taken/completed, to date for the Comprehensive Plan.**

Currently, reviewing the Land Use Chapter 5. The next chapter will be on transportation.

**c) Status update on actions taken/completed, to date for the Form Based Code Task Force for the North Area.**

There will be a meeting June 2<sup>nd</sup> at 6:00 to discuss this unique zoning approach.

**d) Direction from the Board of Adjustment on any items to be included on any future agendas.**

The Board would like to schedule some time with the City Attorney to discuss repercussions regarding decisions the BOA makes and other items, The Board would also like more in depth meeting minutes. Acting as the Sign Board, they would like a better understanding of the application and discuss current sign trends.

**8. Adjourn.**

At 7:10 p.m. Herb Goldsmith made a motion to adjourn. The motion was seconded by Michael Gibbons and the meeting adjourned.

---

Dan-Hays-Clark, Chair