



Zoning Board of Adjustment Agenda
Bastrop City Hall City Council Chambers
1311 Chestnut Street
Bastrop, TX 78602
(512) 332-8840

November 1, 2017 at 6:00 P.M.

City of Bastrop Zoning Board of Adjustment meetings are available to all persons regardless of disability. If you require special assistance, please contact the Planning Department at (512) 332-8840 or write 1311 Chestnut Street, 78602, or emailing plan@cityofbastrop.org or by calling through a T.D.D. (Telecommunication Device for the Deaf) to Relay Texas at 1-800-735-2989 at least 48 hours in advance of the meeting.

As authorized by Section 551.071 of the Texas Government Code, this meeting may be convened into closed Executive Session for the purposes of seeking confidential legal advice from the City Attorney on any item on the agenda at any time during the meeting.

The City of Bastrop reserves the right to reconvene, recess, or realign the Regular Session or called Executive Session or order of business at any time prior to adjournment.

1. CALL TO ORDER

2. CITIZEN COMMENTS

At this time, three (3) minute comments will be taken from the audience on any topic. To address the Council, please submit a fully completed request card to the Board Secretary prior to the beginning of the meeting. In accordance with the Texas Open Meetings Act, if a citizen discusses any item not on the agenda, the Commission cannot discuss issues raised or make any decision at this time. Issues may be referred to City Staff for research and possible future action.

To address the Commission concerning any item on the agenda, please submit a fully completed request card to the Board Secretary prior to the consideration of that item.

3. ITEMS FOR INDIVIDUAL CONSIDERATION

- A.** Consider action to approve the minutes from the June 6, 2017 meeting.


- B. Public hearing and consider action to approve a variance to the Form-based Code Section 6.7 b (i) Neighborhood Build-to Zones and Setbacks for General Frontage, to allow a 25 foot front setback, where a 75.5 foot setback is required, for 0.578 acres of Farm Lot, Block 15 east of Main Street, located at 1804 Hill Street in the city limits of Bastrop.

4. DIRECTOR OF PLANNING & DEVELOPMENT UPDATES

- A. Direction from the Zoning Board of Adjustment on any items to be included on future agendas.
- B. November 9TH Boards and Commissions Appreciation Banquet.
- C. Upcoming board training.
- D. City Work Plan and Rosenberg's Rule of Order.

5. ADJOURNMENT

I, the undersigned authority, do hereby certify that this Notice of Meeting as posted in accordance with the regulations of the Texas Open Meetings Act on the bulletin board located at the entrance to the City of Bastrop City Hall, a place of convenient and readily accessible to the general public, as well as to the City's website, www.cityofbastrop.org and said Notice was posted on the following date and time 4:45 Pm 10/27/17 and remained posted for at least two hours after said meeting was convened.



Launa Eckert, Board Secretary

Board of Adjustment Meeting Minutes
June 7, 2017

The City of Bastrop Board of Adjustment met Wednesday, June 7, 2017 at 6:00 p.m. in the Bastrop City Council Chambers, located at 1311 Chestnut Street, Bastrop, Texas.

1. Call to order.

Dan Hays-Clark called to order at 6:03 p.m.

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

Blas Coy	PRESENT
Dan Hays-Clark	PRESENT
Matthew Lassen	PRESENT
Herb Goldsmith	PRESENT
Bob Rogers	PRESENT

3. Citizen comments.

No citizen comments.

4. Consideration and approval of the May 3, 2017, Board of Adjustment meeting minutes.

Motion to approve minutes by Matthew Lassen, seconded by Bob Rogers. Motion approved 4-0, Blas Coy abstained because he was absent at previous meeting.

1. Public hearing and consider action to approve a Variance to Section 3.20.016 (4) (D) of the Sign Ordinance to allow an additional 52 square feet of sign area at a height of 54 feet to an existing legal nonconforming multi-tenant pylon sign at 489 Highway 71 West, being Lot 6B of Bastrop West Commercial, Section 1, Block A..

A motion was made by Blas Coy to approve a Variance to Section 3.20.016 (4) (D) of the Sign Ordinance to allow an additional 52 square feet of sign area at a height of 54 feet to an existing legal nonconforming multi-tenant pylon sign at 489 Highway 71 West, being Lot 6B of Bastrop West Commercial, Section 1, Block A, the following findings:

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| <ol style="list-style-type: none">1. In order to grant a variance from these zoning regulations, the Board of Adjustments must make written findings that undue hardship exists, using the following criteria: |
|--|

<p>a. <i>Special circumstances or conditions exist which affect the land involved such that the strict application of the provisions of this ordinance would deprive the applicant of the reasonable use of the land.</i></p> <ul style="list-style-type: none"> • The pylon sign was originally permitted under a previous code to have a fourth sign cabinet to provide signage for the multiple storefronts within the shopping center. If the shopping center was built and designed under the current code, the property owner would have the option to have comprehensive sign plan that could take into account the multiple tenants.
<p>b. <i>The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant.</i></p> <ul style="list-style-type: none"> • With the many pylon signs that already exist at this location, there are no options on the site for monument or pylon signs along the Highway 71 service road.
<p>c. <i>Granting of the variance will not be detrimental to the public health, safety or welfare or injurious to other property in the area, and the spirit of the ordinance will be observed. Variance may be granted only when in harmony with the general purpose and intent of this ordinance.</i></p> <ul style="list-style-type: none"> • The new cabinet will not increase the height or the width of the existing sign. The expansion of the legal nonconforming sign will increase the nonconformity by only 16%.
<p>d. <i>Granting of a variance will not have the effect of preventing the orderly use of other land in the area in accordance with the provisions of this ordinance.</i></p> <ul style="list-style-type: none"> • The additional sign on the existing pylon will not impede the use of any other parcels within the area.
<p>e. <i>Granting of a variance must be predicated on a finding that the applicant's practical difficulties or unnecessary hardship arise from unusual conditions or circumstances, such as exceptional irregularity of the land involved, which are not shared generally by other parcels in the neighborhood or district.</i></p> <ul style="list-style-type: none"> • The existing pylon sign was originally designed with four sign cabinets serving the multi-tenant shopping center.

<p>2. <i>A variance is to be denied if conditions or circumstances relied on for a variance were created by a person having an interest in the property.</i></p> <ul style="list-style-type: none"> • The building and shopping center were designed for multiple tenants and planned for four sign spaces on the current pylon sign to serve the those spaces. Additionally, adjacent parcels with multiple retail spaces and corresponding signage make it difficult to find a place 100 feet from other signs for a new sign on the parcel (3.20.015 (13) (D) Pylon Sign Spacing).
<p>3. <i>Financial hardship to the applicant, standing alone, shall not be deemed to constitute a hardship.</i></p> <ul style="list-style-type: none"> • The nature of the Applicant’s request is related to highway visibility and makes no mention of financial hardship.
<p>4. <i>The applicant bears the burden of proof in establishing the facts justifying a variance.</i></p> <ul style="list-style-type: none"> • The Applicant has provided a letter and exhibits illustrating the existing and proposed signage.

Motion seconded by Herb Goldsmith. The motion passed 4-1 with Bob Roger voting against.

2. Public hearing and consider action to approve a Variance to Section 3.20.016 (4) (D) of the Sign Ordinance to allow 184 square feet of additional signage at a height of 52 feet to an existing legal nonconforming pylon sign at 460 Highway 71 West, being Lot 2A of Bastrop West Commercial, Section 2.

A motion was made by Herb Goldsmith to approve a Variance to Section 3.20.016 (4) (D) of the Sign Ordinance to allow 92 square feet of additional signage at a height of 48 feet to an existing legal nonconforming pylon sign, with the removal of the existing satellite drum at 460 Highway 71 West, being Lot 2A of Bastrop West Commercial, Section 2, with the condition that the two secondary signs do not exceed four feet (4’) in height and each sign be forty-eight feet (48’) in length, with the following findings:

<p>5. In order to grant a variance from these zoning regulations, the Board of Adjustments must make written findings that undue hardship exists, using the following criteria:</p>

<p>a. <i>Special circumstances or conditions exist which affect the land involved such that the strict application of the provisions of this ordinance would deprive the applicant of the reasonable use of the land.</i></p> <ul style="list-style-type: none"> • The pylon sign was originally permitted under a previous code. With the removal of the satellite drum, similar square footage will be maintained.
<p>b. <i>The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant.</i></p> <ul style="list-style-type: none"> • Allowing the signage will ensure all tenant spaces have signs for the public to locate the businesses in those spaces.
<p>c. <i>Granting of the variance will not be detrimental to the public health, safety or welfare or injurious to other property in the area, and the spirit of the ordinance will be observed. Variance may be granted only when in harmony with the general purpose and intent of this ordinance.</i></p> <ul style="list-style-type: none"> • The new cabinet will not increase the height or the width of the existing pylon sign. The expansion of the legal nonconforming sign will be in the spirit of the existing guidelines of the current sign code. Replacement of the satellite tub with standard horizontal signs will improve the overall appearance of the structure.
<p>d. <i>Granting of a variance will not have the effect of preventing the orderly use of other land in the area in accordance with the provisions of this ordinance.</i></p> <ul style="list-style-type: none"> • Additional signage will not adversely affect surrounding properties.
<p>e. <i>Granting of a variance must be predicated on a finding that the applicant's practical difficulties or unnecessary hardship arise from unusual conditions or circumstances, such as exceptional irregularity of the land involved, which are not shared generally by other parcels in the neighborhood or district.</i></p> <ul style="list-style-type: none"> • This site has a legal non-conforming sign similar to the other surrounding properties.

<p>6. <i>A variance is to be denied if conditions or circumstances relied on for a variance were created by a person having an interest in the property.</i></p> <ul style="list-style-type: none"> • New multi-tenant buildings coming in today would have the option for a comprehensive sign plan to ensure all tenant spaces are allotted signage. This space is without reasonable accommodation for signage for all tenant spaces within the 6,000-square foot building. By allowing the current sign square footage to be reconfigured into linear horizontal sign cabinets from the current satellite drum all tenant spaces will have adequate signs.
<p>7. <i>Financial hardship to the applicant, standing alone, shall not be deemed to constitute a hardship.</i></p> <ul style="list-style-type: none"> • The applicant is not claiming a financial hardship, but is seeking adequate visibility for the building tenants.
<p>8. <i>The applicant bears the burden of proof in establishing the facts justifying a variance.</i></p> <ul style="list-style-type: none"> • The applicant provided illustrations and demonstrated that the future signage will be more compliant with the code than the existing satellite that was used as signage in the past.

Motion seconded by Matthew Lassen and the motion passed 5-0.

5. Director of Planning and Development report.

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

Direction was given to cancel the July 2017 meeting.

6. Adjourn.

At 7:07 p.m. Blas Coy made a motion to adjourn. The motion was seconded by Matthew Lassen, passed unanimously and the meeting adjourned.

Dan Hays-Clark, Chair

**RECORD OF ACTION
ZONING BOARD OF ADJUSTMENT
CITY OF BASTROP, TEXAS**

WHEREAS, Kenneth Ladd, (“Applicant”) submitted a request for a Zoning Variance to Section 3.20.16 (4) (D) of the Sign Ordinance to add additional signage at 489 Highway 71 West, being Lot 6B of Bastrop West Commercial, Section 1, Block A, within the city limits of Bastrop, Texas (“Property”); and

WHEREAS, the Property is located in an area zoned under the Bastrop Zoning Ordinance as C-2, Commercial-2; and

WHEREAS, the Applicant has requested a variance in accordance with Section 9.8 of the Bastrop Zoning Ordinance; and

WHEREAS, the Applicant is requesting a new sign, adding an additional 52 square feet of sign area at a height of 54 feet to an existing legal nonconforming multi-tenant pylon sign with 316.5 square feet of existing sign area at a height of 64 feet; and

WHEREAS, Section 3.20.16 (4) (D) allows 160 square feet of sign area at a maximum height of 35 feet; and

WHEREAS, the Applicant alleges that strict compliance with the Bastrop Zoning Ordinance would result in undue hardship, pursuant to Section 9.6 of the Bastrop Zoning Ordinance; and

WHEREAS, public notice has been given and public hearing was held on June 7, 2017 before the Bastrop Zoning Board of Adjustment, with at least the statutory required 75% of members being present, and

WHEREAS, in order to grant a variance from these zoning regulations, the Zoning Board of Adjustments must make written findings.

NOW THEREFORE, THE BASTROP ZONING BOARD OF ADJUSTMENT MAKES THE FOLLOWING FINDINGS:

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| <p>1. In order to grant a variance from these zoning regulations, the Board of Adjustments must make written findings that undue hardship exists, using the following criteria:</p> |
| <p>a. <i>Special circumstances or conditions exist which affect the land involved such that the strict application of the provisions of this ordinance would deprive the applicant of the reasonable use of the land.</i></p> <ul style="list-style-type: none">• The pylon sign was originally permitted under a previous code to have a fourth sign cabinet to provide signage for the multiple storefronts within the shopping center. If the shopping center was built and designed under the current code, the property owner would have the option to have comprehensive sign plan that could take into account the multiple tenants. |

<p>b. <i>The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant.</i></p> <ul style="list-style-type: none"> • With the many pylon signs that already exist at this location, there are no options on the site for monument or pylon signs along the Highway 71 service road.
<p>c. <i>Granting of the variance will not be detrimental to the public health, safety or welfare or injurious to other property in the area, and the spirit of the ordinance will be observed. Variance may be granted only when in harmony with the general purpose and intent of this ordinance.</i></p> <ul style="list-style-type: none"> • The new cabinet will not increase the height or the width of the existing sign. The expansion of the legal nonconforming sign will increase the nonconformity by only 16%.
<p>d. <i>Granting of a variance will not have the effect of preventing the orderly use of other land in the area in accordance with the provisions of this ordinance.</i></p> <ul style="list-style-type: none"> • The additional sign on the existing pylon will not impede the use of any other parcels within the area.
<p>e. <i>Granting of a variance must be predicated on a finding that the applicant's practical difficulties or unnecessary hardship arise from unusual conditions or circumstances, such as exceptional irregularity of the land involved, which are not shared generally by other parcels in the neighborhood or district.</i></p> <ul style="list-style-type: none"> • The existing pylon sign was originally designed with four sign cabinets serving the multi-tenant shopping center.
<p>2. <i>A variance is to be denied if conditions or circumstances relied on for a variance were created by a person having an interest in the property.</i></p> <ul style="list-style-type: none"> • The building and shopping center were designed for multiple tenants and planned for four sign spaces on the current pylon sign to serve the those spaces. Additionally, adjacent parcels with multiple retail spaces and corresponding signage make it difficult to find a place 100 feet from other signs for a new sign on the parcel (3.20.015 (13) (D) Pylon Sign Spacing).

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| <p>3. <i>Financial hardship to the applicant, standing alone, shall not be deemed to constitute a hardship.</i></p> <ul style="list-style-type: none"> • The nature of the Applicant’s request is related to highway visibility and makes no mention of financial hardship. |
| <p>4. <i>The applicant bears the burden of proof in establishing the facts justifying a variance.</i></p> <ul style="list-style-type: none"> • The Applicant has provided a letter and exhibits illustrating the existing and proposed signage. |

Therefore, the request to grant the variance to Section 3.20.16 (4) (D) to allow an additional 52 square feet of sign area at a height of 54 feet to an existing legal nonconforming multi-tenant pylon sign with 316.5 square feet of existing sign area at a height of 64 feet, as noted herein, **IS HEREBY GRANTED**, with the following conditions, if any: and

1. _____
2. _____
3. _____
4. _____
5. _____

This matter was heard by at least 75% of the members of the Board who voted as follows:

Dan Hays-Clark	Approve
Blas Coy	Approve
Matthew Lassen	Approve
Bob Rogers	Deny
Herb Goldsmith	Approve

And; The action of the Bastrop Zoning Board of Adjustment, concerning this request for a variance to the City’s Zoning Ordinance, was approved by a minimum of at least four (4) members of the Board, in full compliance with the Local Government Code, Section 211.009(c)(3); and

As required by the Local Government Code, Section 211.008(f), minutes of this proceeding shall be kept on file in the Board’s office, and are public records.

NOW THEREFORE, the above request for a variance was heard and granted on June 7, 2017 by the Bastrop Zoning Board of Adjustment.

By: Presiding Officer

**RECORD OF ACTION
ZONING BOARD OF ADJUSTMENT
CITY OF BASTROP, TEXAS**

WHEREAS, Steve Durso, (“Applicant”) submitted a request for a Zoning Variance to Section 3.20.16 (4) (D) of the Sign Ordinance to add additional signage at 460 Highway 71 West, being Lot 2A of Bastrop West Commercial, Section 2, within the city limits of Bastrop, Texas (“Property”); and

WHEREAS, the Property is located in an area zoned under the Bastrop Zoning Ordinance as C-2, Commercial-2; and

WHEREAS, the Applicant has requested a variance in accordance with Section 9.8 of the Bastrop Zoning Ordinance; and

WHEREAS, the Applicant is requesting a new sign, adding an additional 92 square feet of sign area at a height of 48 feet to an existing legal nonconforming pylon sign with 280 square feet of existing sign area at a height of 60 feet; and

WHEREAS, Section 3.20.16 (4) (D) allows 160 square feet of sign area at a maximum height of 35 feet; and

WHEREAS, the Applicant alleges that strict compliance with the Bastrop Zoning Ordinance would result in undue hardship, pursuant to Section 9.6 of the Bastrop Zoning Ordinance; and

WHEREAS, public notice has been given and public hearing was held on June 7, 2017 before the Bastrop Zoning Board of Adjustment, with at least the statutory required 75% of members being present, and

WHEREAS, in order to grant a variance from these zoning regulations, the Zoning Board of Adjustments must make written findings.

NOW THEREFORE, THE BASTROP ZONING BOARD OF ADJUSTMENT MAKES THE FOLLOWING FINDINGS:

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| <p>1. In order to grant a variance from these zoning regulations, the Board of Adjustments must make written findings that undue hardship exists, using the following criteria:</p> |
| <p><i>a. Special circumstances or conditions exist which affect the land involved such that the strict application of the provisions of this ordinance would deprive the applicant of the reasonable use of the land.</i></p> <ul style="list-style-type: none">• The pylon sign was originally permitted under a previous code. With the removal of the satellite drum, similar square footage will be maintained. |

<p>b. <i>The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant.</i></p> <ul style="list-style-type: none"> • Allowing the signage will ensure all tenant spaces have signs for the public to locate the businesses in those spaces.
<p>c. <i>Granting of the variance will not be detrimental to the public health, safety or welfare or injurious to other property in the area, and the spirit of the ordinance will be observed. Variance may be granted only when in harmony with the general purpose and intent of this ordinance.</i></p> <ul style="list-style-type: none"> • The new cabinet will not increase the height or the width of the existing pylon sign. The expansion of the legal nonconforming sign will be in the spirit of the existing guidelines of the current sign code. Replacement of the satellite tub with standard horizontal signs will improve the overall appearance of the structure.
<p>d. <i>Granting of a variance will not have the effect of preventing the orderly use of other land in the area in accordance with the provisions of this ordinance.</i></p> <ul style="list-style-type: none"> • Additional signage will not adversely affect surrounding properties.
<p>e. <i>Granting of a variance must be predicated on a finding that the applicant's practical difficulties or unnecessary hardship arise from unusual conditions or circumstances, such as exceptional irregularity of the land involved, which are not shared generally by other parcels in the neighborhood or district.</i></p> <ul style="list-style-type: none"> • This site has a legal non-conforming sign similar to the other surrounding properties.
<p>2. <i>A variance is to be denied if conditions or circumstances relied on for a variance were created by a person having an interest in the property.</i></p> <ul style="list-style-type: none"> • New multi-tenant buildings coming in today would have the option for a comprehensive sign plan to ensure all tenant spaces are allotted signage. This space is without reasonable accommodation for signage for all tenant spaces within the 6,000-square foot building. By allowing the current sign square footage to be reconfigured into linear horizontal sign cabinets from the current satellite drum all tenant spaces will have adequate signs.

<p>3. <i>Financial hardship to the applicant, standing alone, shall not be deemed to constitute a hardship.</i></p> <ul style="list-style-type: none"> • The applicant is not claiming a financial hardship, but is seeking adequate visibility for the building tenants.
<p>4. <i>The applicant bears the burden of proof in establishing the facts justifying a variance.</i></p> <ul style="list-style-type: none"> • The applicant provided illustrations and demonstrated that the future signage will be more compliant with the code than the existing satellite that was used as signage in the past.

Therefore, the request to grant the variance to Section 3.20.16 (4) (D) to allow an additional 92 square feet of sign area at a height of 48 feet to an existing legal nonconforming pylon sign with 280 square feet of existing sign area at a height of 60 feet, as noted herein, **IS HEREBY GRANTED**, with the following conditions:

1. The new signage can be a maximum of 92 square feet, 23 feet in width by 4 feet in height, spaced approximately 4 feet from the top of the new sign to the bottom of the existing sign cabinet. Prior to the installation of the new sign, the existing drum satellite must be completely removed.

This matter was heard by at least 75% of the members of the Board who voted as follows:

Dan Hays-Clark	Approve
Blas Coy	Approve
Matthew Lassen	Approve
Bob Rogers	Approve
Herb Goldsmith	Approve

And; The action of the Bastrop Zoning Board of Adjustment, concerning this request for a variance to the City’s Zoning Ordinance, was **approved** by a minimum of at least four (4) members of the Board, in full compliance with the Local Government Code, Section 211.009(c)(3); and

As required by the Local Government Code, Section 211.008(f), minutes of this proceeding shall be kept on file in the Board’s office, and are public records.

NOW THEREFORE, the above request for a variance was heard and **approved** on June 7, 2017 by the Bastrop Zoning Board of Adjustment.

By: Presiding Officer

ZONING BOARD OF ADJUSTMENT

STAFF REPORT



MEETING DATE: November 1, 2017

TITLE:

Public hearing and consider action to approve a variance to the Form-based Code Section 6.7 b (i) Neighborhood Build-to Zones and Setbacks for General Frontage, to allow a 25 foot front setback, where a 75.5 foot setback is required, for 0.578 acres of Farm Lot, Block 15 East of Main Street, located at 1804 Hill Street in the city limits of Bastrop.

STAFF REPRESENTATIVE:

Jennifer C. Bills, AICP, LEED AP, Assistant Planning Director

ITEM DETAILS:

Site Address: 1804 Hill Street (Attachment 1)

Total Acreage: 0.578 acres

Legal Description: Farm Lot, Block 15 east of Main Street, 0.578 acres

Property Owner: Austin Area Builders

Applicant Contact: David McKenzie

Existing Use: Vacant

Existing Zoning: Form-based Code-Neighborhood Professional Office (NPO) Character Zone

Future Land Use: Downtown Bastrop

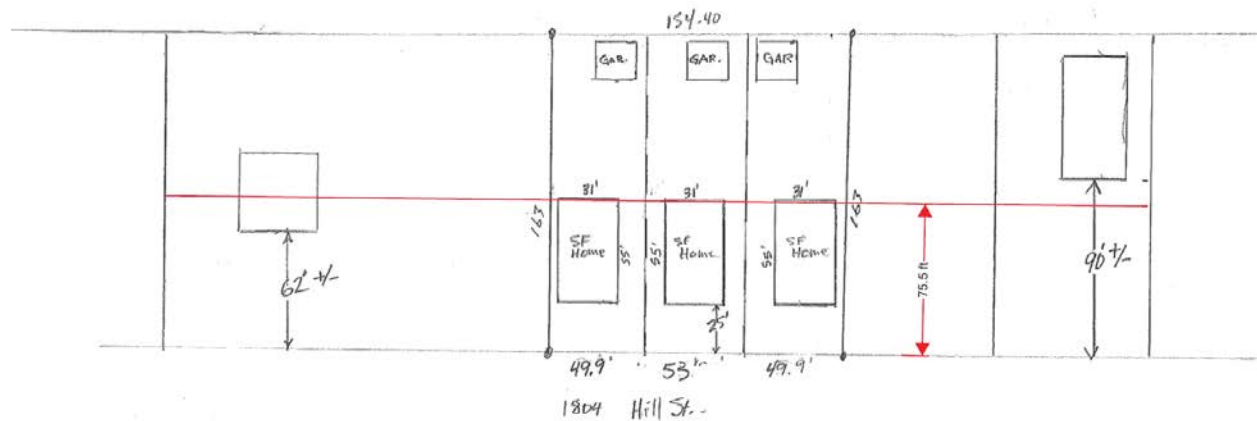
BACKGROUND/HISTORY:

The lot at 1804 Hill Street is currently a vacant lot. The owner wishes to subdivide the 0.578 acre tract into three lots that will be approximately 50 feet in width, utilizing the standards in the Form-based Code Neighborhood Character Zone. A previous house that was located on the lot that has since been demolished.

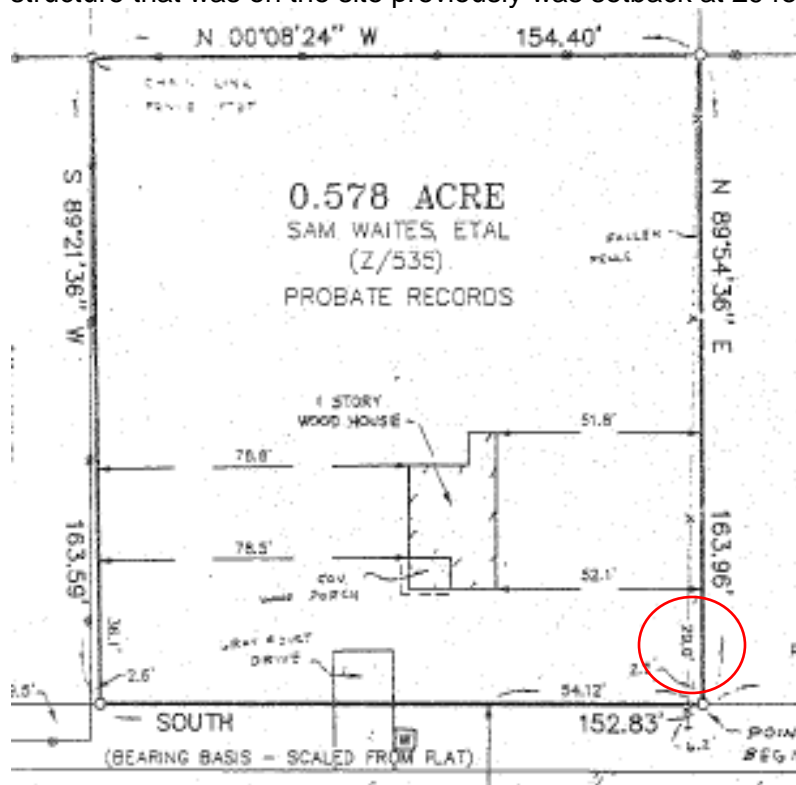
The Neighborhood Character Zone requirements for establishing the front setback take into account the lots of the same block face. The setback for the infill development is determined by taking the average setback of all existing structures. In this case, there are four lots on the same face between Hawthorne and Elm Street, however only two of them have structures (Attachment 1).

The Dorcas Chapel Primitive Baptist Church is located at 1810 Hill Street to the north and is setback approximately 90 feet from the property line. A single-family house is located at 1802 Hill Street to the south and is setback approximately 62 feet. The other two lots are vacant.

The average setback determined by the occupied lots is approximately 75.5 feet (Attachment 3).



The single-family structure that was on the site previously was setback at 29 feet (Attachment 4).



PUBLIC COMMENTS:

Five adjacent property owner notifications were mailed on October 12, 2017. At the time of this report, no responses were received.

POLICY EXPLANATION:

The Zoning Board of Adjustment may authorize a variance from these regulations when, in its opinion, undue hardship will result from requiring strict compliance. In granting a variance, the Board shall prescribe only those conditions that it deems necessary to or desirable in the public interest.

In making the findings hereinafter required, the Board shall take into account the nature of the proposed use of the land involved, existing uses of land in the vicinity, the number of persons who will reside or work in the proposed use, and the probable effect of such variance upon traffic conditions and upon the public health, safety, convenience and welfare in the vicinity.

- A. In order to grant a variance from these zoning regulations, the Zoning Board of Adjustments must make written findings that undue hardship exists, using the following criteria:
- a. *Special circumstances or conditions exist which affect the land involved such that the strict application of the provisions of this ordinance would deprive the applicant of the reasonable use of the land.*
 - **This area has a mix of existing uses that are residential and non-residential in nature. These uses, along with half of the lots on the block being vacant, leads to an excessive setback requirement when the existing setbacks are averaged.**
 - b. *The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant.*
 - **The established zoning for this property encourages residential uses that have an accessory office use. Additionally, the Form-based Code requires parking to be set at least 10 feet behind the front façade of the building. An excessive setback will decrease the ability to meet this intent.**
 - c. *Granting of the variance will not be detrimental to the public health, safety or welfare or injurious to other property in the area, and the spirit of the ordinance will be observed. Variance may be granted only when in harmony with the general purpose and intent of this ordinance.*
 - **The applicant is requesting a 25 foot setback, which is the maximum setback allowed in the Neighborhood Zone for areas that do not have a setback defined by surrounding properties. The use of a 25-foot setback maintains a reasonable front yard.**
 - d. *Granting of a variance will not have the effect of preventing the orderly use of other land in the area in accordance with the provisions of this ordinance.*
 - **Allowing a setback of 25 feet will not adversely impact the use of surrounding properties.**
 - e. *Granting of a variance must be predicated on a finding that the applicant's practical difficulties or unnecessary hardship arise from unusual conditions or circumstances, such as exceptional irregularity of the land involved, which are not shared generally by other parcels in the neighborhood or district.*
 - **The Form-base Code establishes a unique setback for infill lots in areas that have established buildings. This leads to conditions that are specific to individual lots that are not generally shared by other parcels.**
- B. *A variance is to be denied if conditions or circumstances relied on for a variance were created by a person having an interest in the property.*
- **This situation has been created by code requirements, not the applicant's or previous owner's actions.**

C. *Financial hardship to the applicant, standing alone, shall not be deemed to constitute a hardship.*

- **The nature of the Applicant's request is related to site requirements for setback and having a buildable area that meets the intent of the zoning code, not a financial hardship.**

D. *The applicant bears the burden of proof in establishing the facts justifying a variance.*

- **The Applicant has provided a letter (Attachment 2) and exhibits illustrating the existing requirement and proposed setback (Attachment 3).**

The recommended findings are attached in the proposed Record of Action (Attachment 5). If the board feels that other findings are necessary for approval or denial, a blank Record of Action form (Attachment 6) is attached to record the findings.

RECOMMENDATION:

Hold a public hearing and consider action to approve a variance to the Form-based Code Section 6.7 b (i) Neighborhood Build-to Zones and Setbacks for General Frontage, to allow a 25 foot front setback, where a 75.5 foot setback is required, for 0.578 acres of Farm Lot, Block 15 east of Main Street, located at 1804 Hill Street in the city limits of Bastrop.

ATTACHMENTS:

- Attachment 1: Location Map
- Attachment 2: Letter from Applicant
- Attachment 3: Required and Proposed Setbacks
- Attachment 4: 2004 Property Survey
- Attachment 5: Recommended Record of Action
- Attachment 6: Blank Record of Action for alternative action



1 inch = 110.6 feet

Attachment 1
Location Map
Zoning Variance
Farm Lot Block 15 East of Main 0.578
Acres



The accuracy and precision of this cartographic data is limited and should be used for information /planning purposes only. This data does not replace surveys conducted by registered Texas land surveyors nor does it constitute an "official" verification of zoning, land use classification, or other classification set forth in local, state, or federal regulatory processes. The City of Bastrop, nor any of its employees, do not make any warranty of merchantability and fitness for particular purpose, or assumes any legal liability or responsibility for the accuracy, completeness or usefulness of any such information, nor does it represent that its use would not infringe upon privately owned rights.

Date: 10/17/2017

Austin Area Builders Inc.
1303 Hills St.
Bastrop Tx 78602

Oct 1, 2017

To Bastrop Board of Adjustments,

I David McKenzie G.M. of Austin Area Builders come before you to request a variance for the property we own at 1804 Hill St. We need this variance so that our property can be utilized. We ask that the front set back be set at $25' \pm 5'$. At present the front set back would be $75.5' \pm 5'$ by averaging the building on the left and right of our property. If we were required to use that as our set back we would have basically no back yard and an overly large front yard. Also, the buildings on both sides are about a 100' from ours, still leaving harmony in the neighborhood.

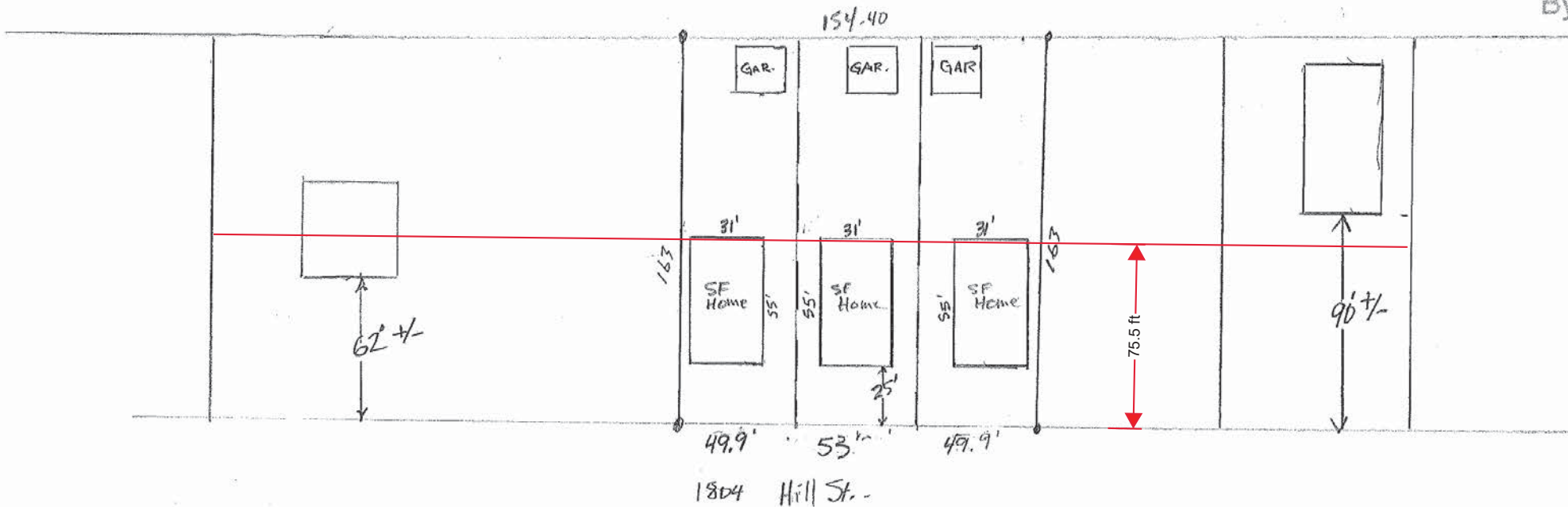
Thank you for your consideration

David McKenzie

✓

Attachment 3: Required and Proposed Setbacks

REC
OCT
By _____



Attachment 4

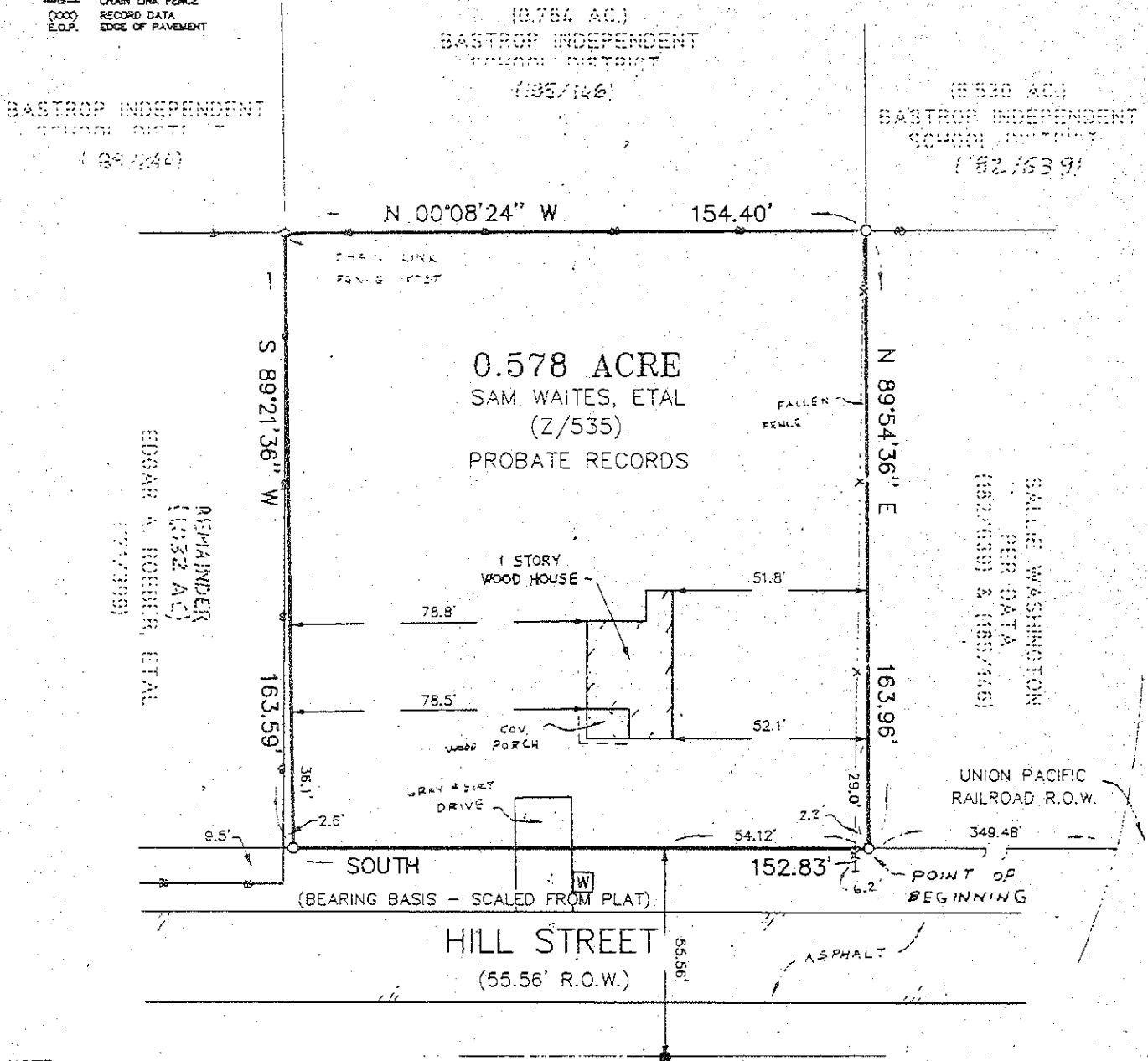
LEGEND

- IRON ROD SET
- IRON PIPE FOUND
- NAIL SET
- NAIL FOUND
- MONUMENT FOUND
- POWER POLE
- WATER METER
- CHAIN LINK FENCE
- CHAIN LINK FENCE
- RECORD DATA
- E.O.P.

NORTH



SCALE: 1" = 40'



NOTE: This survey was prepared without the benefit of a current title commitment and is subject to any easements heretofore granted, not released and not shown hereon.

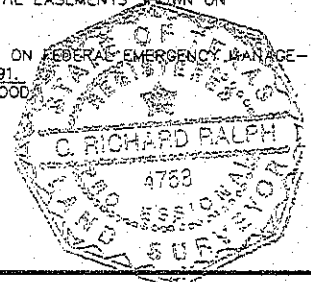
USE OF THIS SURVEY FOR ANY REASON OTHER THAN ORIGINALLY PREPARED IS PROHIBITED

© 2004 Professional Land Surveyors

TO THE OWNERS, LIENHOLDERS AND:

THE UNDERSIGNED DOES HEREBY CERTIFY THAT AN ON THE GROUND SURVEY WAS THIS DAY MADE OF THE PROPERTY AS DESCRIBED HEREON AND IS CORRECT WITH DISCREPANCIES, SHORTAGES IN AREA, BOUNDARY LINE CONFLICTS, ENCROACHMENTS, OVERLAPPING OF IMPROVEMENTS, VISIBLE UTILITY LINES OR ROADS IN PLACE, AS SHOWN HEREON. THIS SURVEY WAS PERFORMED IN CONJUNCTION WITH AND CERTIFIES TO THE AFFECT OF THE EASEMENTS SHOWN ON SCHEDULE B OF TITLE COMMITMENT G.F. NO.:

THE SUBJECT PROPERTY IS LOCATED IN ZONE X AND IS NOT WITHIN THE 100 YEAR FLOOD HAZARD AREA AS SHOWN ON FEDERAL EMERGENCY MANAGEMENT AGENCY (F.E.M.A.) FLOOD INSURANCE RATE MAP (F.I.R.M.) PANEL NO. 48021C 0150 C DATED AUG. 19, 1991. INSURANCE PURPOSES ONLY AND DOES NOT INDICATE WHETHER OR NOT THE SUBJECT PROPERTY DOES OR DOES NOT FLOOD.



C. Richard Ralph

6-11-04

REGISTERED PROFESSIONAL LAND SURVEYOR

DATE

REFERENCE:

KIMBERLY COLE

PROJECT: 0.578 ACRE OF LAND OUT OF FARM LOT 15, EAST OF MAIN STREET, CITY OF BASTROP, CAB. 1, PG. 23A, PLAT RECORDS, BASTROP COUNTY, TEXAS (SEE ATTACHED LEGAL DESCRIPTION)

DRAWN: SRN

DATE: 06/10/2004

REVISED:

CHECKED: CRR

PROJECT NO.: 04-11-103

FIELD BOOK: 66/62

PROFESSIONAL LAND SURVEYORS



1010 COLLEGE STREET
BASTROP, TEXAS 78602
PH: (512) 303-0952
FAX: (512) 332-0961
PROFLNSUR@AOL.COM

**RECORD OF ACTION
ZONING BOARD OF ADJUSTMENT
CITY OF BASTROP, TEXAS**

WHEREAS, David McKenzie, (“Applicant”) submitted a request for a Zoning Variance the Form-based Code Section 6.7 b (i) Neighborhood Build-to Zones and Setbacks for General Frontage, to allow a 25 foot front setback, where a 75.5 foot setback is required, for 0.578 acres of Farm Lot, Block 15 East of Main Street, located at 1804 Hill Street in the city limits of Bastrop, Texas (“Property”); and

WHEREAS, the Property is located in an area zoned under the Bastrop Zoning Ordinance as Form-based Code Neighborhood Professional Office (NPO) Character Zone; and

WHEREAS, the Applicant has requested a variance in accordance with Section 9.8 of the Bastrop Zoning Ordinance; and

WHEREAS, the Applicant is requesting a 25 foot front setback; and

WHEREAS, the Form-based Code Section 6.7 b (i) requires a setback of the average of the setbacks of the surrounding structures on the same block face, which is calculated to be 75.5 feet; and

WHEREAS, the Applicant alleges that strict compliance with the Bastrop Zoning Ordinance would result in undue hardship, pursuant to Section 9.6 of the Bastrop Zoning Ordinance; and

WHEREAS, public notice has been given and public hearing was held on November 1, 2017 before the Bastrop Zoning Board of Adjustment, with at least the statutory required 75% of members being present, and

WHEREAS, in order to grant a variance from these zoning regulations, the Zoning Board of Adjustments must make written findings.

NOW THEREFORE, THE BASTROP ZONING BOARD OF ADJUSTMENT MAKES THE FOLLOWING FINDINGS:

- | |
|---|
| <p>1. In order to grant a variance from these zoning regulations, the Board of Adjustments must make written findings that undue hardship exists, using the following criteria:</p> |
| <p><i>a. Special circumstances or conditions exist which affect the land involved such that the strict application of the provisions of this ordinance would deprive the applicant of the reasonable use of the land.</i></p> <ul style="list-style-type: none">This area has a mix of existing uses that are residential and non-residential in nature. These uses, along with half of the lots on the block being vacant, leads to an excessive setback requirement when the existing setbacks are averaged. |

<p>b. <i>The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant.</i></p> <ul style="list-style-type: none"> • The established zoning for this property encourages residential uses that have an accessory office use. Additionally, the Form-based Code requires parking to be set at least 10 feet behind the front façade of the building. An excessive setback will decrease the ability to meet this intent.
<p>c. <i>Granting of the variance will not be detrimental to the public health, safety or welfare or injurious to other property in the area, and the spirit of the ordinance will be observed. Variance may be granted only when in harmony with the general purpose and intent of this ordinance.</i></p> <ul style="list-style-type: none"> • The applicant is requesting a 25 foot setback, which is the maximum setback allowed in the Neighborhood Zone for areas that do not have a setback defined by surrounding properties. The use of a 25-foot setback maintains a reasonable front yard.
<p>d. <i>Granting of a variance will not have the effect of preventing the orderly use of other land in the area in accordance with the provisions of this ordinance.</i></p> <ul style="list-style-type: none"> • Allowing a setback of 25 feet will not adversely impact the use of surrounding properties.
<p>e. <i>Granting of a variance must be predicated on a finding that the applicant's practical difficulties or unnecessary hardship arise from unusual conditions or circumstances, such as exceptional irregularity of the land involved, which are not shared generally by other parcels in the neighborhood or district.</i></p> <ul style="list-style-type: none"> • The Form-base Code establishes a unique setback for infill lots in areas that have established buildings. This leads to conditions that are specific to individual lots that are not generally shared by other parcels.
<p>2. <i>A variance is to be denied if conditions or circumstances relied on for a variance were created by a person having an interest in the property.</i></p> <ul style="list-style-type: none"> • This situation has been created by code requirements, not the applicant's or previous owner's actions.

<p>3. <i>Financial hardship to the applicant, standing alone, shall not be deemed to constitute a hardship.</i></p> <ul style="list-style-type: none"> • The nature of the Applicant’s request is related to site requirements for setback and having a buildable area that meets the intent of the zoning code, not a financial hardship.
<p>4. <i>The applicant bears the burden of proof in establishing the facts justifying a variance.</i></p> <ul style="list-style-type: none"> • The Applicant has provided a letter and exhibits illustrating the existing requirement and proposed setback.

Therefore, the request to grant the variance to Form-based Code Section 6.7 b (i) to allow a 25 foot front setback, as noted herein, **IS HEREBY** _____, with the following conditions, if any: and

1. _____
2. _____
3. _____
4. _____
5. _____

This matter was heard by at least 75% of the members of the Board who voted as follows:

And; The action of the Bastrop Zoning Board of Adjustment, concerning this request for a variance to the City’s Zoning Ordinance, was approved by a minimum of at least four (4) members of the Board, in full compliance with the Local Government Code, Section 211.009(c)(3); and

As required by the Local Government Code, Section 211.008(f), minutes of this proceeding shall be kept on file in the Board’s office, and are public records.

NOW THEREFORE, the above request for a variance was heard and _____ on November 1, 2017 by the Bastrop Zoning Board of Adjustment.

By: Presiding Officer

**RECORD OF ACTION
ZONING BOARD OF ADJUSTMENT
CITY OF BASTROP, TEXAS**

WHEREAS, David McKenzie, (“Applicant”) submitted a request for a Zoning Variance the Form-based Code Section 6.7 b (i) Neighborhood Build-to Zones and Setbacks for General Frontage, to allow a 25 foot front setback, where a 75.5 foot setback is required, for 0.578 acres of Farm Lot, Block 15 East of Main Street, located at 1804 Hill Street in the city limits of Bastrop, Texas (“Property”); and

WHEREAS, the Property is located in an area zoned under the Bastrop Zoning Ordinance as Form-based Code Neighborhood Professional Office (NPO) Character Zone; and

WHEREAS, the Applicant has requested a variance in accordance with Section 9.8 of the Bastrop Zoning Ordinance; and

WHEREAS, the Applicant is requesting a 25 foot front setback; and

WHEREAS, the Form-based Code Section 6.7 b (i) requires a setback of the average of the setbacks of the surrounding structures on the same block face, which is calculated to be 75.5 feet; and

WHEREAS, the Applicant alleges that strict compliance with the Bastrop Zoning Ordinance would result in undue hardship, pursuant to Section 9.6 of the Bastrop Zoning Ordinance; and

WHEREAS, public notice has been given and public hearing was held on November 1, 2017 before the Bastrop Zoning Board of Adjustment, with at least the statutory required 75% of members being present, and

WHEREAS, in order to grant a variance from these zoning regulations, the Zoning Board of Adjustments must make written findings.

NOW THEREFORE, THE BASTROP ZONING BOARD OF ADJUSTMENT MAKES THE FOLLOWING FINDINGS:

- | |
|--|
| 1. In order to grant a variance from these zoning regulations, the Board of Adjustments must make written findings that undue hardship exists, using the following criteria: |
| <ul style="list-style-type: none">a. <i>Special circumstances or conditions exist which affect the land involved such that the strict application of the provisions of this ordinance would deprive the applicant of the reasonable use of the land.</i>• |

<p><i>b. The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant.</i></p> <ul style="list-style-type: none"> •
<p><i>c. Granting of the variance will not be detrimental to the public health, safety or welfare or injurious to other property in the area, and the spirit of the ordinance will be observed. Variance may be granted only when in harmony with the general purpose and intent of this ordinance.</i></p> <ul style="list-style-type: none"> •
<p><i>d. Granting of a variance will not have the effect of preventing the orderly use of other land in the area in accordance with the provisions of this ordinance.</i></p> <ul style="list-style-type: none"> •
<p><i>e. Granting of a variance must be predicated on a finding that the applicant's practical difficulties or unnecessary hardship arise from unusual conditions or circumstances, such as exceptional irregularity of the land involved, which are not shared generally by other parcels in the neighborhood or district.</i></p> <ul style="list-style-type: none"> •
<p><i>2. A variance is to be denied if conditions or circumstances relied on for a variance were created by a person having an interest in the property.</i></p> <ul style="list-style-type: none"> •

<p>3. <i>Financial hardship to the applicant, standing alone, shall not be deemed to constitute a hardship.</i></p> <ul style="list-style-type: none"> •
<p>4. <i>The applicant bears the burden of proof in establishing the facts justifying a variance.</i></p> <ul style="list-style-type: none"> •

Therefore, the request to grant the variance to Form-based Code Section 6.7 b (i) to allow a 25 foot front setback, as noted herein, **IS HEREBY** _____, with the following conditions, if any: and

1. _____
2. _____
3. _____
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