

MINUTES OF THE MEETING OF THE BOARD OF ADJUSTMENT HELD IN THE COUNCIL CHAMBERS, AT CITY HALL, 1212 AVENUE M, HUNTSVILLE, TEXAS, ON THE 28TH DAY OF AUGUST, 2020 AT 12:00 NOON AND ON THE 31ST DAY OF AUGUST, 2020 AT 6:00 PM.

Members present: Holland; Zuniga; Hannes; Watkins; Grigsby; Alternate Reader

Members absent: Alternate Miller

Staff present: Larkins; Ridley; Byal; Ramachandra; McClure; Woods

1. CALL TO ORDER

Chairman Holland called the meeting to order. [12:00 PM]

It was announced that due to work commitments of several Board members, the meeting will not exceed one (1) hour in time.

2. PLEDGE OF ALLEGIANCE

a. U.S. Flag

b. Texas Flag

In the essence of time, Chairman Holland chose to forego the pledges.

3. INVOCATION

In the essence of time, Chairman Holland chose to forego the invocation

4. ROLL CALL and selection of Alternate(s) if needed.

All regular board members were present – Selection of alternate was not required.

5. PUBLIC HEARING for variance requests, (BOA Case 02-2020), by Don Martinez, applicant, for requirements in *Article 10: Infrastructure and Public Improvements* of the City of Huntsville *Development Code* to construct a Mobile Food Vendor Court on property located at 275 FM 247.

Chairman Holland opened the public hearing. [12:04]

It was agreed by the Board and Applicant that, if required, continuance of the public hearing will be scheduled for Monday, August 31, 2020 at 6:00 PM.

Staff Planner, Leigha Larkins, gave the staff report for the six (6) requested variances by means of a Power Point presentation.

Applicant Presentation:

Applicant, Don Martinez, representing the property owners, Delfina Jaimes and Otilio Perez presented his case for the requested variances. Each variance was individually addressed by the applicant.

Variance Request Item – 1

Variance to Developer responsibility for the construction of *Streets within the development and improvements to existing streets that border the development and that are required for safe and adequate access to the development – Development Code Section 10.201.B.*

The applicant handed out multiple documents to the Board in support of his case for the granting of the variance.

Chairman Holland announced continuance of the public hearing for Monday, August 31, 2020 at 6:00 PM. [12:52 PM]

Chairman Holland called the meeting to order for the continuance of the public hearing. [Monday, August 31, 2020 at 6:00 PM]

Applicant, Don Martinez, resumed his presentation for the requested variances.

Variance Request Item – 2

Variance to Developer responsibility to extend *Water Supply and Wastewater Systems – Development Code Section 10.201.D.*

Staff pointed out that as the subject property currently has City wastewater service and as the subject property is not within the City of Huntsville's CCN for water service, there is no need for a variance to the section of the Development Code. The property owner is not being required to extend City of Huntsville water service. The applicant agreed to withdraw the variance request for this Section of the Development Code.

Variance Request Item – 3

Variance to Developer responsibility to provide/construct *Surface Drainage and Storm Sewers – Development Code Section 10.201.E.*

Applicant stated that should the variance not be granted the property owner would incur an additional development cost of approximately \$60,000 which was not included in their loan for the project.

Variance Request Item – 4

Variance to Developer responsibility to provide safe and adequate *Rights of Way & Street Construction – Development Code Section 10.402.A.*

Applicant handed out copies of documents in support of his case consisting of email communications with TxDOT Area Engineer, Jace Lee and Staff Review Comments for the proposed development. Additional development costs for the required right of way and public street improvements were also noted by the applicant.

Variance Request Item – 5

Variance to Developer responsibility for required improvement of existing street *Rights of Way & Street Construction – Development Code Section 10.102.B.*

Applicant noted the additional development costs and stated that the property should not be responsible for bearing the costs for the improvement of Jenkins Road.

Variance Request Item – 6

Variance to Developer responsibility for the extension through the full length of the subject property for the improvement of existing street *Rights of Way & Street Construction – Development Code Section 10.402.C.*

Applicant noted that dedication of additional right of way for Jenkins Road will require platting of the property and require that the proposed development be redesigned. He also noted that the current Jenkins Road right of way and street adequately serves the area. Improvement of the right of way and street is not necessary for the proposed development of a Mobile Food Vendor (Food Truck) Court.

Speakers in support of the variance request:

Dewey Miller, residing at 290 Jenkins Road, stated that he was in favor of the proposed development. He also stated that it will be good to see someone do something with the now vacant lot. Additionally, he does not want anything changed with Jenkins Road. Extension of Jenkins Road will be upsetting to the neighborhood.

Delfina Perez, (variance subject property owner) residing at 260A FM 1696 West, stated that she has questions for the City. The property is commercial and doesn't understand why there are these issues. She indicated that she feels picked on and just wants to be treated fairly as a hard-working business owner.

Speakers in opposition of the variance request:

Jack Ali, owner of business and property located at 266 FM 247, stated that everyone should have to follow the same development regulations.

Ron Saikowski, Jack Ali's Project Professional Engineer, made note of the safety issue being created with the proposed driveway 25' width for the project from Jenkins Road being wider than the existing approximate 15' pavement width for Jenkins Road.

Rebuttal:

Applicant, Don Martinez, stated that to his knowledge the pavement width of Jenkins Road has not been measured and that it is of sufficient width, currently providing for two traffic/travel lanes.

Chairman Holland closed the public hearing. [7:03 PM]

Chairman Holland made a motion for the Board to convene in closed Executive Session to receive legal advice on the requested variances, (authorized by Texas Government Code, Chapter 551, Section 551.071). Second was by Board Member Zuniga. The was 4-1 in favor of convening to Executive Session, (Board Member Watkins voting in opposition).

The Board convened in closed Executive Session. [7:07 PM]

The Board re-convened in Open Session. [7:33 PM]

- 6. CONSIDER** the variance requests, (BOA Case 02-2020), by Don Martinez, applicant, for requirements in *Article 10: Infrastructure and Public Improvements* of the City of Huntsville *Development Code* to construct a Mobile Food Vendor Court on property located at 275 FM 247.

City Staff and Applicant addressed Board Member's many questions after which **Board Chairman Holland** called for separate motions and votes for each variance request.

Variance Request 1 –Development Code Section 10.201.B

Board Member Watkins moved to deny Variance Request 1. Second was by Board Member Zuniga. The vote was 3 - 2. (Board Members Holland, Zuniga and Watkins in favor and Board Members Hannes and Grigsby in opposition.)

*There was confusion regarding the wording of the motion and the vote. The Board recessed to check Texas Local Government Code. [8:08 PM]
The Board reconvened. [8:12 PM]*

Board Member struck his original motion.

Board Member Grigsby moved to grant Variance Request 1. Second was by Board member Watkins. The vote was 2 – 3. (Board Members Hannes and Grigsby in favor and Board Members Holland, Zuniga and Watkins in opposition.) The variance was not granted.

Variance Request 2 –Development Code Section 10.201.D

This variance request was withdrawn by applicant as it was not applicable for the development of the subject property.

Variance Request 3 –Development Code Section 10.201.E

Board Member Grigsby moved to grant Variance Request 3. Second was by Board member Hannes. The vote was 2 – 3. (Board Members Hannes and Grigsby in favor and Board Members Holland, Zuniga and Watkins in opposition.) The variance was not granted.

Variance Request 4 –Development Code Section 10.402.A

Board Member Hannes moved to grant Variance Request 4. Second was by Board member Grigsby. The vote was 2 – 3. (Board Members Hannes and Grigsby in favor and Board Members Holland, Zuniga and Watkins in opposition.) The variance was not granted.

Variance Request 5 –Development Code Section 10.402.B

Board Member Hannes moved to grant Variance Request 5. Second was by Board member Grigsby. The vote was 2 – 3. (Board Members Hannes and Grigsby in favor and Board Members Holland, Zuniga and Watkins in opposition.) The variance was not granted.

Variance Request 6 – Development Code Section 10.402.C

Board Chairman Holland moved to postpone the vote on this variance request for 60

days for the applicant to submit for a TxDOT permit for access from FM 247. Second was by Board Member Hannes. The vote was unanimous.

7. CONSIDER the minutes of June 28,2019.

Board Member Grigsby made a motion to accept the minutes. Second was by Board Member Watkins. The vote was unanimous.

8. CONSIDER the FY 2020-2021 Meeting Schedule & Submission Deadlines.

Staff presented an alternate meeting schedule for the Board to consider which would move the meeting Board meeting date to the last Thursday of the month and to a 5:30 PM meeting time.

Board Member Zuniga made a motion to approve the alternate FY 2020-2021 meeting schedule. Second was by Board Member Grigsby. The vote was approved by the vote of four Members, (Holland, Zuniga, Grigsby and Hannes). (Board Member Watkins abstained as this was his last Board Meeting.)

9. ADJOURNMENT

Board Member Watkins made a motion to adjourn. Second was by Chairman Holland. The vote was unanimous. [8:59 PM]