

MINUTES OF THE MEETING OF THE BOARD OF ADJUSTMENT HELD IN THE COUNCIL CHAMBERS, AT CITY HALL, 1212 AVENUE M, HUNTSVILLE, TEXAS, ON THE 29TH DAY OF OCTOBER, 2020 AT 5:30 PM.

Members present: Holland; Zuniga; Hannes; Reader; Alternate Kopnicky

Members absent: Grigsby

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

1. CALL TO ORDER

Chairman Holland called the meeting to order. [5:31 PM]

2. PLEDGE OF ALLEGIANCE

a. U.S. Flag

b. Texas Flag

3. INVOCATION

Chairman Holland led the invocation.

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

A quorum of regular members was present.

Chairman Holland welcomed Donald Kopnicky as newly appointed Alternate Board Member.

He will not participate as a voting member at this meeting.

- 5. CONSIDER** the variance request, (BOA Case 02-2020, postponed from August 31, 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.

Kevin Byal, City of Huntsville Development Services Director, provided the Board with a recap of the variance request Case for which the Public Hearing was held August 28, 2020 and continued to August 31, 2020. **Byal** noted that there was a total of six (6) variances requested. The Board considered and denied four of the six requests on August 31, 2020. One request was withdrawn by the applicant as it was not applicable for the proposed development. Consideration of the remaining variance request was postponed, by unanimous vote of the Board, for sixty (60) days to allow the Applicant/Developer to make formal application for driveway access from FM 247 to TxDOT. It was noted that to date and per communication with TxDOT Area Engineer, Jace Lee, an application has not been submitted.

Chairman Holland allowed Public Comment for the Agenda Item.

Ken Gobble, residing at 205 Evergreen Drive, stated that he feels that the City should be pro-business providing support for businesses.

April Killingsworth, residing at 3113 State Highway 19 South, stated her support for the proposed development.

Delfina Perez, property owner and the business owner, expressed her frustration with the City's development requirements and procedures.

Kevin Byal, City Development Services Director, provided clarification regarding the City's development requirements/procedures and the timeline of the City's reviews of the project.

Don Martinez, Applicant, expressed that an application was not submitted to TxDOT as his communications with Jace Lee, TxDOT Area Engineer, have indicated that a permit would for driveway/access from FM 247 would not be approved. He also noted the additional financial burden being placed on the property owner for the required improvements for Jenkins Road and resulting re-design of the project site due to the required dedication of additional right-of-way for the street. In addition, Martinez insinuated that the City was imposing/enforcing development regulations which were not in place at the time application for the proposed development was submitted.

Kristen Bates, Attorney representing the property owner, provided the Board with copies of Texas Local Government Code, Title 7, Subtitle C, Chapter 245 – Issuance of Local Permits. She stated that per Chapter 245, the City can only approve, disapprove or conditionally approve an application on the basis of the regulations, rules, ordinances, etc. in effect at the time of the application for permit is filed for review by a regulatory agency, the City of Huntsville in this case.

Janet Ridley, City Planner, stated that the City is only enforcing the requirements of the *Development Code* for the required improvement of Jenkins Road. These requirements have been in place since the adoption, by City Council, of the current *Development Code* with the effective date of August 31, 2015.

Board Member Hannes, questioned the City's requirements for this project, stating the road base may be wider than City Staff has indicated as the actual edges of the existing road appear to be overgrown with grass and weeds.

Chairman Holland stated for clarification that the Board is not privileged to any on-going negotiations between the City of Huntsville and the Property Owner regarding the proposed development. The Board can not address any of the legal issues for which negotiation/discussion may be in progress.

Leonard Schneider, City Attorney, reminded the Board that the required improvement of Jenkins Road is an exaction, (which the Board was briefed on at the August meeting). Per Texas Local Government Code Section 212.904 an appeal for an exaction is to City Council. He also stated the City is only enforcing the requirements of the Development Code and not the recommendations of the Transportation Master Plan.

Board Member Hannes made a motion to require only necessary improvements for Jenkins Road through/to western extent of the proposed driveway. There was no second. Board Member Hannes withdrew the motion.

Board Member Hannes then made a motion to conditionally grant a variance to Development Code Section 101.402.C to allow that only the dedication of required right-of-way extend for the full length of the property, with the stipulation that the street will be widened as required and extended to the westernmost extents of the proposed driveway for the project, and that proper transition to the existing street width and driveway ingress and egress is provided per the requirements of the Development Code

and City Engineering Standards and Design Criteria. Second was by Board member Zuniga. The vote was unanimous.

6. CONSIDER the minutes of August 28 & 31, 2020.

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

7. PRESENTATION by the City Secretary.

City Secretary, Brenda Poe, gave a presentation covering Parliamentary Procedures per Roberts Rules of Order. She also covered Open Meetings Act requirements.

8. ADJOURNMENT

Board Member Zuniga made a motion to adjourn. Second was by Board Member Reader. The vote was unanimous. [6:54 PM]