

# Zoning Board of Adjustments

## September 7, 2021 Meeting Minutes

The City of Bastrop Zoning Board of Adjustments met Tuesday, September 7, 2021 at 6:00 p.m. in the Council Chambers located at 1311 Chestnut Street, Bastrop, Texas 78602.

### 1. CALL TO ORDER

Patrick Connell called the meeting to order at 6:01 p.m.

Patrick Connell	Present
Gary Moss	Present
Scot Robichaud	Present – Arrived at 6:13 p.m.
Jeff Haladyna	Present
Richard Smarzik	Present

### 2. CITIZEN COMMENTS

There were no comments from citizens.

### 3. ITEMS FOR INDIVIDUAL CONSIDERATION

3A. Introduction of new Board member Richard Smarzik.

Patrick Connell introduced Richard Smarzik and asked him if he had anything he would like to share. Richard Smarzik introduced himself and stated that him and his wife own a downtown business called Relics.

3B. Consider action to approve meeting minutes from the August 4, 2021 Zoning Board of Adjustment Meeting

Jeff Haladyna made a motion to approve the August 4, 2021 Zoning Board of Adjustment Meeting Minutes. Gary Moss seconded the motion and the motion carried unanimously.

3C. Public hearing and consider action on an appeal of a Grandfathered Development Status Determination and request for a variance to be exempt from the Bastrop Building Block (B3) Code for Bastrop Grove Section 3, Lots 8 and 9 Preliminary Plat, being 19.46 acres out of the Nancy Blakey Survey, Abstract 98, located east of SH 304 in the 600 Block west of SH 71, within the city limits of the City of Bastrop, Texas.

Jennifer Bills presented the history of Bastrop Grove to the Board, applicable requirements from the Texas Local Government Code for this development, and the applications which have been submitted to the City of Bastrop by the Applicant for this project.

She stated the applicant is requesting an appeal of a Grandfathered Development Status Determination and request for a variance to be exempt from the Bastrop Building Block (B3) Code for Bastrop Grove Section 3, Lots 8 and 9 that is adjacent from the Seton Hospital.

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She stated the Applicant was requesting to repeal the City Manager's determination to uphold Staff's recommendation for the Grandfathering date to be May 22, 2017, and for the Grandfathering status to be applied to the Subdivision Ordinance (Chapter 10) that was in place at that time, along with any specific regulations that informed the subdivision standards based on the submission of the Preliminary Plat

Jennifer Bills stated the Zoning Board of Adjustment would need to determine at this time did the City Manager make a mistake regarding the Grandfathered development status, and if so the Zoning Board of Adjustment could remand the matter back to the City Manager to re-evaluate; or the Zoning Board of Adjustment could determine to issue a ruling regarding the Grandfathering status at this time. Jennifer Bills stated furthermore, the applicant was requesting the Zoning Board of Adjustment entertain the request to a variance from the entire B3 Code for the development if the Grandfathering Appeal was going to be denied by the Zoning Board of Adjustment.

Discussion commenced between the Board and Staff. Richard Smarzik asked what development standards were in place when Seton was built. Jennifer stated it was the subdivision code but that predated the B3 Code development standards.

Douglas McMahan, an owner of the Bastrop Grove Project, read aloud a letter for the record.

The Zoning Board of Adjustment convened into closed executive session at 6:29 pm.

The Zoning Board of Adjustment adjourned from their closed executive session and reconvened into their meeting at 7:16 pm.

Patrick Connell opened the public hearing.

There were no comments from the public.

Patrick Connell closed the public hearing.

Discussion commenced amongst the Board members regarding the merit of the applicant's request that included the following topics:

1. Grandfathering to the May 22, 2017, date and what standards should be applied from the codes that were in place at that time;
2. Storm water drainage development standards for the site;
3. And compliance with the current 2018IBC for the site

Brendan McEntee, CBD Engineer spoke about the drainage issues for this project and stated at the time of development Bastrop Grove would comply with any current drainage standards in place.

Jeff Haladyna made a motion to alter the City Manager's decision to exempt the determination back to Chapter 10 (Subdivision) and Chapter 14 (Zoning) that was in effect on May 22, 2017 with the exception of drainage, and building construction code requirements passed after said May 22, 2017 date. No action taken on the variance request. Gary Moss seconded the motion and the motion carried unanimously.



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- 3D. Public hearing and consider action on an appeal of a Grandfathered Development Status Determination and request for a variance to be exempt from the Bastrop Building Block (B3) Code for Bastrop Grove Section 5 (previously called Section 2) Proposed Preliminary Plat, being 25.9 acres out of the Nancy Blakey Survey, Abstract 98, located east of SH 304 in the 600 Block west of SH 71, within the city limits of the City of Bastrop, Texas.

Jennifer Bills presented to the Board an appeal of a Grandfathered Development Status Determination and request for a variance to be exempt from the Bastrop Building Block (B3) Code for Bastrop Grove Section 5.

Jennifer Bills stated Staffs contention on this matter is the applicant did not meet the requirements to continue moving forward in the two-year timeframe as required in Chapter 245.

She stated the Applicant was requesting to repeal the City Manager's determination to uphold Staff's recommendation for the Grandfathering date to be January 22, 2019. There request is to remand back to the City manager for reconsideration.

Jennifer Bills stated the Zoning Board of Adjustment would need to determine at this time did the City Manager make a mistake regarding the Grandfathered development status, and if so the Zoning Board of Adjustment could remand the matter back to the City Manager to re-evaluate; or the Zoning Board of Adjustment could determine to issue a ruling regarding the Grandfathering status at this time. Jennifer Bills stated furthermore, the applicant was requesting the Zoning Board of Adjustment entertain the request to a variance from the B3 Code for the development if the Grandfathering Appeal was going to be denied by the Zoning Board of Adjustment.

Discussion commenced with Staff for clarity on the mortarium and the application process.

Douglas McMahan, an owner of the Bastrop Grove Project, read aloud a letter for the record. He provided other documentation he would like recorded in the minutes.

Gary Moss asked applicant what he is trying to accomplish? Doug stated he would like to plat and develop the property.

Patrick Connell opened the public hearing.

Shawna Byler, owner of Chad Byler Dentist, spoke in favor of the applicants petition to the Zoning Board of Adjustment stating her practice been under contract for 3 years on one of the lots within the development. The purpose of relocating to this site is to increase the size of their practice to accommodate more employees and bring relief to the current burden on her Staff due to limited bandwidth.

Patrick Connell closed the public hearing.

Patrick Connell stated he would like to postpone making a decision on the appeal and so the Board could receive more information on the timeline of the dates of submittal and correspondence.

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Gary Moss made a motion was to postpone the decision on the City Manager's determination until the next meeting to allow for the Applicant and City Staff to provide additional documentation for the record on the submissions and correspondence on such in the case herein. Jeff Haladyna seconded the motion and the motion carried unanimously.

#### 4. ADJOURNMENT

Jeff Haladyna made a motion to adjourn the meeting at 8:14 pm. Gary Moss seconded the motion and the motion carried unanimously.



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Chair



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Vice-Chair