



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

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## Agenda – March 7, 2018 at 6:00 P.M.

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*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](mailto: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.*

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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

*Comments will be heard from the audience on any topic not listed on the agenda, not to exceed three (3) minutes in length. To address the Board, 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 Board 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 Board 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

- 3A. Consider action to approve meeting minutes from the February 7, 2018 Zoning Board of Adjustment Meeting.
- 3B. Public Hearing and consider action to approve an extension of the use of a non-conforming structure (temporary building), with conditions, pursuant to Chapter 14, Zoning Ordinance, Section 9.7 – Nonconforming Uses and Structures, for 0.194

acres of Building Block 8 West of Water Street, located at 1006 Alley A, in the city limits of Bastrop, Texas.

#### 4. 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](http://www.cityofbastrop.org) and said Notice was posted on the following date and time: Thursday, March 1, 2018 at 12:00 pm and remained posted for at least two hours after said meeting was convened.

  
\_\_\_\_\_  
Ann Franklin, City Secretary



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1311 Chestnut Street  
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## Meeting Minutes for the Zoning Board of Adjustments

February 7, 2018 at 6:00 P.M.

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### 1. CALL TO ORDER

Dan Hays-Clark called to order at 6:01 p.m.

Dan Hays-Clark  
Blas Coy  
Bob Rogers  
Scott Bryant  
Jimmy Crouch

PRESENT  
PRESENT  
PRESENT  
PRESENT  
PRESENT

### 2. CITIZEN COMMENTS

No citizen comments.

### 3. ITEMS FOR INDIVIDUAL CONSIDERATION

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

Motion to approve minutes by Blas Coy, seconded by Jimmy Crouch. Motion approved 5-0.

- B. Election of officers for the Zoning Board of Adjustments.

Motion made by Blas Coy to nominate Dan Has-Clark to remain Chair, seconded by Bob Rogers. Motion approved 5-0.

Motion made by Dan Hays-Clark to nominate Blas Coy to remain Co-Chair, seconded by Bob Rogers. Motion approved 5-0.

- C. Consider action to approve the Zoning Board of Adjustment calendar for 2018.

Motion made by Dan Hays-Clark to approve the calendar with the change for the July 4<sup>th</sup> meeting to be moved to Wednesday July 11, 2018, seconded by Scott Bryant. Motion approved 5-0.

D. Public Hearing and consider action on variances to Chapter 14, Zoning Ordinance, Exhibit B – Downtown Bastrop Form-Based Code, Section 7.3 Façade Composition, Section 7.6 Exterior Building Materials, Section 8.0 Streetscape and Landscape Standards to allow the continued use of a temporary modular building for 0.194 acres of Building Block 8 West of Water Street, located at 1006 Alley A, in the city limits of Bastrop, Texas.

Applicant requested hearing to be rescheduled, until five Zoning Board of Adjustment members were available to vote on their request. Dan Hays-Clark recused himself due to a conflict of interest, bringing the voting members to only four.

Bob Rogers made a motion for a continuance of the hearing for a future meeting, seconded by Scott Bryant. Motion approved 4-0.

#### **4. ADJOURNMENT**

At 6:15 p.m. the agenda items came to an end and Dan Hays-Clark adjourned the meeting.

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Dan Hays-Clark, Chair

# ZONING BOARD OF ADJUSTMENT

## STAFF REPORT



**MEETING DATE:** March 7, 2018

**ITEM:** 3B

**TITLE:**

Public Hearing and consider action to approve an extension of the use of a non-conforming structure (temporary building), with conditions, pursuant to Chapter 14, Zoning Ordinance, Section 9.7 – Nonconforming Uses and Structures, for 0.194 acres of Building Block 8 West of Water Street, located at 1006 Alley A, in the city limits of Bastrop, Texas.

**STAFF REPRESENTATIVE:**

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

**ITEM DETAILS:**

Site Address:	1006 Alley A (Attachment 1)
Total Acreage:	0.194 acres
Legal Description:	Building Block 8, west of Water Street, 0.194 acres
Property Owner:	Calvary Episcopal Church
Applicant Contact:	Shelby Hopkins
Existing Use:	Private school
Existing Zoning:	Form-Based Code – Downtown Mixed Use (DMU) Character Zone
Future Land Use:	Downtown Bastrop

**BACKGROUND/HISTORY:**

Calvary Episcopal Church has private school located at 603 Spring Street and other properties along Alley A. The private school was created in 2008 and started as a Pre-Kindergarten through sixth grade. The school has recently expanded to offer seventh and eighth grade classes as well continued to expand enrollment.

Temporary buildings are not allowed to be used on a permanent basis. A modular building may be considered if it can meet all of the Building Code and Site Development Plan requirements. On April 3, 2013, a variance was granted to allow a temporary building that did not meet the Site Development Plan requirements of the Zoning Ordinance (Attachment 3). A Site Development Plan was approved on July 17, 2013 that shows the location of the building but does not address all of the required site plan elements.



*Existing Temporary Building*

One of the conditions of the 2013 approval was the building be removed 60 days after the end of the school year in May of 2018, and future development is to come into compliance with site requirements. Currently, the building is used for private school classrooms during the week and for Sunday school classes on the weekends.

The applicant is requesting an extension of the temporary building usage until the end of the 2023-2024 school year while they explore options for a new campus site. The applicant states that they do not intend to use this site as the permanent school location. The justification for the need for a temporary building is that they need time for a capital campaign to raise funds for the new campus. The applicant requests exemptions to the site development requirements are needed because installation of a permanent foundation, required building façade, exterior materials, and landscaping is not effective or practical (Attachment 2).

The building was legally placed at the time of construction, but as of July 2018 will be considered a non-conforming structure after the expiration of the variance.

Staff is recommending no more than a two-year continuation of the use of the nonconforming structure, which will then be disconnected and removed July 31, 2020. Additionally, staff recommends the installation of an evergreen vegetative screen at least six feet in height, along length of the temporary building, to soften the appearance of the site from the roadway and adjacent structures. The following plants (semi-mature at planting) would provide appropriate screening:

- Wax Myrtle: grows to 5-15 feet tall; seasonal fruit on females; non-ornamental flowers; soil-stabilizing. Spacing – every 5 feet.
- Sandankwa Viburnum: grows 6-8 feet tall; flowers; cold and heat hardy for Bastrop area. Spacing – every 2 feet.
- Texas Sage – Silverado: very tough native plant; grows to 4-8 feet; usually gray/silver in color. Spacing – every 3 feet.
- Yaupon/Yaupon Holly: grow to 10-20 feet; good leaf coverage; often used as hedge and screening; non-ornamental flowers; females produce fruit – buy male plants; also slow-growing, so need to purchase larger plants to accomplish screening. **Do not buy dwarf varieties.** Spacing – every 3 feet.
- Crimson Bottlebrush: non-native, but not incredibly invasive; grows to 6-10 feet; fast growing; flowers with visual interest; can die in severe cold snaps. Spacing – every 5 feet.

- Primrose Jasmine: grows to 4-7 feet; likes to drape, and needs width to grow up and arch out; flowers. Spacing – every 6 feet.

#### **PUBLIC COMMENTS:**

Notifications were sent to 15 adjacent property owners. At the time of this report, no responses were received.

#### **POLICY EXPLANATION:**

The Zoning Board of Adjustment may authorize the continuation of a nonconforming structure, per Section 9.3 – Authority of the Board. To approve the extension of the use of the temporary building, the following findings shall be provided.

1. Will not be detrimental to the health, safety and welfare, or injurious to other property owners in the area.

*The building does not provide an immediate detriment to other property; however, the Downtown Mixed-Use character zone is intended to encourage compatible mixed-use redevelopment. As other property continues to develop and redevelop, the structure's nonconformity will hinder the cohesive downtown appearance. A two-year time limit of the continued use will serve to bring this site into conformance.*

2. Will not have the effect of preventing orderly development.

*This structure is not currently preventing the orderly development of other property. A time limit on the continuance will ensure that the site will further the Downtown Mixed-Use character zone in the near future.*

3. Is harmonious with the surrounding area.

*The installation of an evergreen vegetative screening along the south side of the structure will provide a more appealing view from Chestnut Street, which is a primary entrance into downtown Bastrop from SH 71.*

#### **RECOMMENDATION:**

Public Hearing and consider action to approve an extension of the use of a non-conforming structure (temporary building), with conditions, pursuant to Chapter 14, Zoning Ordinance, Section 9.7 – Nonconforming Uses and Structures, for 0.194 acres of Building Block 8 West of Water Street, located at 1006 Alley A, in the city limits of Bastrop, Texas.

1. A vegetative screening of six feet will be provided (from the selection above or an approved alternative) along the south side of the structure.
2. The structure will be removed by July 31, 2020.

#### **ATTACHMENTS:**

Attachment 1: Location Map

Attachment 2: Letter from Applicant

Attachment 3: April 3, 2013 Variance



## Location Map Extension of Use of a Non-Conforming Structure Calvary Episcopal School Building Block 8 West of Water St, 0.194 acres

1 inch = 50 feet

Date: 1/31/2018



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.

## Attachment 2

December 5, 2017

Board of Adjustment  
1311 Chestnut Street  
Bastrop, Texas 78602

Re: Calvary Episcopal Church and School  
Variance – Modular Building  
Variance – Landscaping  
Variance – Detention

Chairman and Board,

We are requesting a variance for the continued placement of modular buildings within the Central Business District through the end of the 2023-2024 school year. The address of the lot and placement of the existing modular buildings is 1008 Alley A. Approval for the placement of the buildings was previously granted April 3, 2013. The buildings will continue to be used primarily by Calvary Episcopal School for classrooms and will be available for use by Calvary Episcopal Church for Sunday School Classes or other purposes.

**Background:**

Calvary Episcopal Church has been a fixture of downtown Bastrop since 1869. With over 450 members and its long history in Bastrop, Calvary is an anchor of Bastrop's historic downtown district. Calvary Episcopal School (CES) began in 2003 as a Mother's Day Out program prior to the establishment of the school. CES received accreditation status from the Southwestern Association of Episcopal Schools (SAES) in 2008 and now offers classes for PreK3 through sixth grade. The Rector of Calvary Episcopal Church chairs the Board of Trustees, which governs the school. The Board of Trustees is developing a plan of action to offer seventh and eighth grade classes. Clearly, CES fills a need within the Bastrop community with a demand that is increasing as our community grows.

The rules of the Episcopal Diocese of Texas prohibit parish day schools as CES from borrowing money. Therefore, CES does not have the ability to borrow money to construct facilities to house future grades and use future revenue to repay those loans. Instead, CES must raise money through charitable contributions of the community and grants to fully fund the construction of new buildings. CES must continue to build enrollment to sustain school growth and provide incentive for the capital funds campaign. In recent years the developers of XS Ranch had discussions with CES for a campus on land donated within their proposed development. Given the delay by XS Ranch and failure to develop the property, CES ended the discussions with XS Ranch and are now considering other options. The capital campaign could not proceed without the commitment by XS Ranch. The modular buildings provide the required space for the current enrollment and growth and expansion until a campus can be constructed.

The continued use of the modular buildings is necessary for the amount of time required for a capital campaign.

**Special Circumstances:**

The community demand for private, Christian education has outpaced the rate at which the school has been able to raise funds and construct facilities. The only viable option is the use of the modular buildings until a permanent campus can be funded and constructed.

**Preservation of Property Rights:**

Calvary has been a part of the downtown Bastrop community for well over a century. In that time Calvary has not only worked to help the community at large, Calvary has worked hand in hand with the City to solve community problems. As an example, when the City of Bastrop wanted to construct a new library but did not have sufficient land to construct parking, Calvary provided a long-term lease (at no cost) to the City to construction of parking on land adjacent to the library owned by the church.

In order to continue to grow and meet its mission of providing a private, Christian education to the community of Bastrop, CES needs the modular buildings for classroom space for five years while arrangements are finalized for permanent facilities.

**Detrimental to Public Health, Safety or Welfare:**

The modular buildings at CES comply with all health and safety regulations and the Uniform Building Code for such structures and do not affect any adjacent property owner's rights.

**Orderly Use of Land in the Area:**

Calvary is committed to a strong and vibrant Bastrop. As an example, Calvary (under a subsidiary) operates a "business incubator" on Main Street (the R. A. Greene Mercantile) that provides an effective environment for start-up locally owned retailers to get a start. This variance request is temporary (through the end of the 2023-2024 school year) and property in question is bounded by land owned by the church with the exception of a small strip of land (approximately 30-ft wide) used occasionally for the parking of one to two cars. Therefore, the proposed variance will not impact the orderly development of land in the area.

**Public Health, Safety and Welfare:**

The modular buildings at CES will continue to comply with all health and safety regulations and the Uniform Building Code for such structures. The spirit of the City of Bastrop's ordinances will be preserved by the granting of the variance.

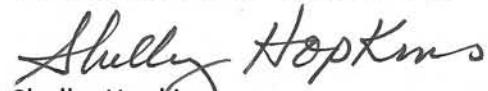
**Secondary Variances:**

Being a temporary facility, strict application of several requirements of the City of Bastrop code would be injurious to CES and not serve a practical purpose. Specifically, the installation of permanent trees and shrubs and the City's detention requirements would not be effective and not practical.

*Landscaping.* Any permanent landscaping (trees, shrubs, etc.) would not effectively screen the buildings for many years – and would be destroyed when the temporary structures are removed. In addition, the zoning district permits zero lot line development – so it is unclear how side lot landscaping requirements are applied within this zoning district.

*Detention.* No detention was required as part of the initial installation of the modular buildings. The property drains directly to an area inlet located at the end of Church Street at Loop 150. In existing conditions, the 100-year storm water runoff to the drain is approximately 10-cubic feet per second (cfs). The addition of the modular buildings over the existing gravel loading area has increased the total run off to this area inlet by 0.1-cfs or less (an inconsequential increase). Coincidentally, CES completed improvements to a grass play field adjacent to the shared library/Calvary parking lot in 2012 that resulted in decreased storm water runoff to the same area inlet that the storm water from the temporary building drains to; essentially offsetting any increased flows. In the event runoff that exceeds the capacity of this area inlet, it will drain across property owned by the church and the Loop 150 embankment to reach the 100 -year floodplain of the Colorado River.

Thank you for your consideration,

  
Shelby Hopkins  
Agent for Calvary Episcopal Church  
Vice Pres., Board of Trustees – Calvary Episcopal School



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## ACTION OF THE CITY OF BASTROP ZONING BOARD OF ADJUSTMENT

### GRANTING VARIANCE

WHEREAS, Calvary Episcopal Church, ("Applicant") of Bastrop, Texas, is the owner of the property legally described as being approximately 0.1945 acres within Building Block 8, West of Water Street, commonly known as 603 Spring Street (1008 Alley A); Bastrop, Bastrop County, Texas ("Property"); and

WHEREAS, said Property is located in an area zoned under the City's Zoning Ordinance as CBD, Central Business District; and

WHEREAS, Applicant has applied for a variance to the City of Bastrop Zoning Ordinance, for the Property within the CBD, Central Business Zoning District, in accordance with Section 9.8 of the City's Zoning Ordinance; and

WHEREAS, Applicant desires a variance be granted to allow "temporary" building and site construction for a total of 5 years until the end of school year 2017/2018 and variances to landscaping and site plan detail for a 3,150 square foot building located at 603 Spring Street (1008 Alley A); and

WHEREAS, Applicant has filed a proper request for such variance; and

WHEREAS, Applicant alleges that strict compliance with the City's Zoning Ordinance would result in undue hardship to Applicant, pursuant to Section 9.8 of the City's Zoning Ordinance; and

WHEREAS, public notice has been given and a public hearing was held on April 3, 2013 before the Bastrop Zoning Board of Adjustment, with at least the statutory required 75% of members being present.

NOW THEREFORE, THE BASTROP ZONING BOARD OF ADJUSTMENT FINDS THAT:

1. The circumstances required for granting approval of the above described variance, as set out in Section 39 and Section 42.1 C of the City's Zoning Ordinance, do exist on the property legally described as being approximately 0.1945 acres within Building Block 8, West of Water Street, commonly known as 603 Spring Street (1008 Alley A);

CRITERIA for Findings	
	<p>1. 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 reasonable use of the land;</p> <p><i>The proposed "temporary" structure is to facilitate an immediate need for the Calvary Episcopal Church and School but will be removed after the 5<sup>th</sup> year of use. The authorizations provided by this order for the "temporary" building structure and variances will expire at the end of the 2017/2018 Calvary Episcopal School Year and the future site will come into full compliance with site development standards at the time of development.</i></p>
	<p>2. The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant;</p> <p><i>The owner will be using this building on a "temporary" basis and is not asking for variances to any final construction or designs for this site.</i></p>
	<p>3. Granting 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. [Variances may be granted only when in harmony with the general purpose and intent of this ordinance];</p> <p><i>The "temporary" building will follow all life and safety building code requirements. The City Engineer and Planning and Development Department will inspect and accept the "temporary" building and site if they meet the safety or welfare concerns.</i></p>
	<p>4. Granting of the 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;</p> <p><i>Although not in the final design, the "temporary" structure and site will not prevent the orderly use or any of the neighboring property owners.</i></p>
	<p>5. The applicant's practical difficulties or unnecessary hardship arise from unusual conditions or circumstances, which are not shared generally by other parcels in the neighborhood or district; and</p> <p><i>The building will serve as a "temporary" classroom facility until permanent facilities can acquired.</i></p>
	<p>6. The conditions or circumstances relied on for the variance were <u>NOT</u> created by a person having an interest in the property.</p>
	<p>7. Financial hardship to the applicant, standing alone, has <u>NOT</u> been claimed.</p>

2. Therefore, the request to grant the variance to the landscape and site development standards as noted herein, IS HEREBY GRANTED, with the following conditions, if any:

- (a) The authorizations provided by this order for the "temporary" building structure and variances will expire at the end of the 2017/2018 Calvary Episcopal School Year and the future site will come into full compliance with site development standards at the time of development.
- (b) Applicant will remove the temporary structure from the property within sixty (60) days of the final day of the 2017/2018 Calvary Episcopal School Year.

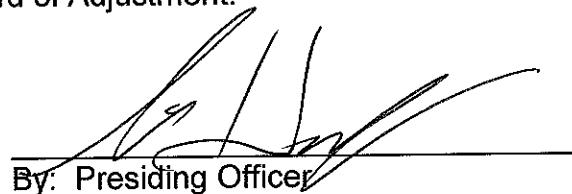
3. This matter was heard by at least 75% of the members of the Board who voted as follows:

A. Dan Hays-Clark	<u>approve variance</u>
B. Blas Coy	<u>approve variance</u>
C. Michael Gibbons	<u>approve variance</u>
D. Clifford Wright	<u>approve variance</u>
E. Debra Thorne-Francis	<u>approve variance</u>

4. 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).

5. 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 April 3, 2013 by the Bastrop Zoning Board of Adjustment.



By: Presiding Officer

STATE OF TEXAS

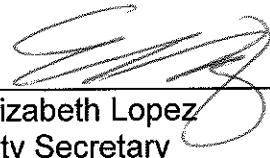
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COUNTY OF BASTROP

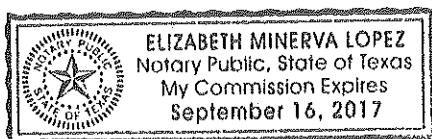
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**CERTIFICATE OF AUTHENTICITY OF  
VARIANCE FROM CITY OF BASTROP ZONING REQUIREMENTS**

I, Elizabeth Lopez, City Secretary of the City of Bastrop, hereby certify that the attached "Action of the City of Bastrop Zoning Board of Adjustment Granting Variance" is a true and correct copy of the original document in the Board of Adjustment Office, and I further certify that such document accurately reflects the action granting a variance taken by the Board on April 3, 2013.

  
Elizabeth Lopez  
City Secretary  
City of Bastrop

Subscribed and sworn to before me on this the 30 day of March, 2015 to  
certify which witness my hand and official seal.



  
Notary Public in and for the State of Texas

My Commission Expires: Sept 16, 2017

**FILED AND RECORDED  
OFFICIAL PUBLIC RECORDS**



March 30, 2015 02:23:52 PM

KRISTAB FEE: \$28.00

ROSE PIETSCH, County Clerk  
Bastrop, Texas

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