



CITY OF COLLEGE STATION
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Zoning Board of Adjustment
March 1, 2011
6:00 PM

City Hall
Council Chambers
1101 Texas Avenue,
College Station, Texas

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AGENDA
ZONING BOARD OF ADJUSTMENT
Regular Meeting
Tuesday, March 01, 2011 at 6:00 PM
City Hall Council Chambers
1101 Texas Avenue
College Station, Texas 77840

1. Call to order – Explanation of functions of the Board.
2. Consideration, discussion and possible action to approve meeting minutes.
 - February 9, 2011 meeting minutes.
3. Public hearing, presentation, possible action, and discussion on a request for variances to the sidewalk and pedestrian walkway requirements of Section 7.9.E.4 "Pedestrian/Bike Circulation and Facilities" of the Unified Development Ordinance for a proposed freestanding restaurant to be located at 1520 Harvey Road in the Post Oak Mall parking lot. **Case# 11-00500020 (MKH)**
4. Consideration and possible action on future agenda items – A Zoning Board Member may inquire about a subject for which notice has not been given. A statement of specific factual information or the recitation of existing policy may be given. Any deliberation shall be limited to a proposal to place the subject on an agenda for a subsequent meeting.
5. Adjourn.

Consultation with Attorney {Gov't Code Section 551.071; possible action.

The Zoning Board of Adjustments may seek advice from its attorney regarding a pending and contemplated litigation subject or attorney-client privileged information. After executive session discussion, any final action or vote taken will be in public. If litigation or attorney-client privileged information issues arise as to the posted subject matter of this Zoning Board of Adjustments meeting, an executive session will be held.

Notice is hereby given that a Regular Meeting of the Zoning Board of Adjustment of College Station, Texas will be held on Tuesday, March 01, 2011 at 6:00 p.m. at the City Hall Council Chambers, 1101 Texas Avenue, College Station, Texas. The following subjects will be discussed, to wit: See Agenda

Posted this the ____ day of _____, 2011 at ____ p.m.

CITY OF COLLEGE STATION, TEXAS

By _____
Sherry Mashburn, City Secretary

I, the undersigned, do hereby certify that the above Notice of Regular Meeting of the Zoning Board of Adjustment of the City of College Station, Texas, is a true and correct copy of said Notice and that I posted a true and correct copy of said notice on the bulletin board at City Hall, 1101 Texas Avenue, in College Station, Texas, and the City's website,

www.cstx.gov. The Agenda and Notice are readily accessible to the general public at all times. Said Notice and Agenda were posted on _____ p.m. and remained so posted continuously for at least 72 hours preceding the scheduled time of said meeting.

This public notice was removed from the official posting board at the College Station City Hall on the following date and time: _____ by _____.

Dated this ____ day of _____, 2011.

CITY OF COLLEGE STATION, TEXAS

By _____

Subscribed and sworn to before me on this the ____ day of _____, 2011.

Notary Public- Brazos County, Texas

My commission expires: _____

This building is wheelchair accessible. Handicap parking spaces are available. Any request for sign interpretive service must be made 48 hours before the meeting. To make arrangements call 979.764.3517 or (TDD) 800.735.2989. Agendas may be viewed on www.cstx.gov.



MINUTES
ZONING BOARD OF ADJUSTMENT
CITY OF COLLEGE STATION, TEXAS
February 9, 2011
Council Chambers
1101 Texas Avenue
6:00 P.M.

MEMBERS PRESENT: Josh Benn, Dick Dabney, Melissa Cunningham, Hunter Goodwin and Alternate Jim Davis.

MEMBERS ABSENT: Chairman Rodney Hill.

STAFF PRESENT: Staff Assistant Deborah Grace-Rosier, Staff Planner Lauren Hovde, Assistant Director Lance Simms, Assistant City Attorney Adam Falco and Action Center Representative Kerry Mullins.

AGENDA ITEM NO. 1: **Call to order – Explanation of functions of the Board.**

Acting Chairman Benn called the meeting to order at 6:00 PM.

AGENDA ITEM NO. 2: **Consideration, discussion and possible action of Absence Requests from meetings.**

- **Chairman Hill ~ February 9, 2011**

Mr. Goodwin motioned to approve the absence request. Mr. Davis seconded the motion, which passed unopposed (5-0)

AGENDA ITEM. NO. 3: **Consideration, discussion and possible action to approve meeting minutes.**

- **November 2, 2010 meeting minutes**

Mr. Goodwin motioned to approve the minutes. Ms. Cunningham seconded the motion, which passed unopposed (5-0).

AGENDA ITEM NO. 4: Public hearing, presentation, possible action, and discussion regarding variance requests to Section 7.4, Signs, of the Unified Development Ordinance for the property located at 901-917 William D. Fitch Parkway, located within the Tower Point Subdivision. Case # 11-00500002

Staff Planner Lauren Hovde presented the staff report and stated that the applicant is requesting a five-foot variance to the required ten-foot setback for low profile signs. At the conclusion of staff report, Ms. Hovde told the Board that staff is recommending approval.

The Board had no questions for staff.

Acting Chairman Benn opened the public hearing.

Chuck Ellison, 2902 Camile Drive, College Station, Texas stepped before the Board and was sworn in.

Mr. Ellison stated that the special condition for this property is the forty feet of easements, both private and public, directly against the large right-of-way.

Acting Chairman Benn closed the public hearing.

Mr. Dabney motioned to approve a five-foot variance to the sign regulations due to the special condition of the extensive distance between the pavement edge and the adjacent utility easements, and a substantial hardship of reduced visibility of the applicant's sign. **Mr. Goodwin seconded the motion, which passed unopposed (5-0)**

AGENDA ITEM NO. 5: Consideration and possible action on future agenda items – A Zoning Member may inquire about a subject for which notice has not been given. A statement of specific factual information or the recitation of existing policy may be given. Any deliberation shall be limited to a proposal to place the subject on an agenda for a subsequent meeting.

There were no items addressed.

AGENDA ITEM NO. 6 : Adjourn.

The meeting was adjourned at 6:18 PM.

APPROVED:

Rodney Hill, Chairman

ATTEST:

Deborah Grace-Rosier, Staff Assistant



**VARIANCE REQUEST
FOR
1520 Harvey Road
(11-00500020)**

REQUEST: Variances to the 10-foot sidewalk and 5-foot pedestrian walkway requirements of Section 7.9.E.4 of the Unified Development Ordinance

LOCATION: 1520 Harvey Road
Post Oak Mall Subdivision, Block 1, Lot 4A

APPLICANT: Jared Taylor, Golden Property Development, LLC

PROPERTY OWNER: CBL Properties

PROJECT MANAGER: Matthew Hilgemeier, Staff Planner
mhilgemeier@cstx.gov

RECOMMENDATION: Denial

BACKGROUND: BJ's Restaurant and Brewhouse (BJ's) is proposing to construct a new 9,804 square foot freestanding structure near the southwest corner of Harvey Road and the Earl Rudder Freeway Frontage Road in the Post Oak Mall parking lot. As of February 7, 2011 BJ's Restaurant and Brewhouse has received site plan approval and was issued a building permit to begin construction of the proposed structure. When constructed, the new structure will be part of a building plot that has more than 150,000 gross square feet of floor area. Section 7.9.E.4.c of the Unified Development Ordinance (UDO) requires a five-foot (5') pedestrian walkway connecting to other buildings and existing sidewalks in the building plot when a building is part of a building plot with a gross floor area of 150,000 square feet or more. Additionally, Section 7.9.E.4.d requires a ten-foot (10') sidewalk along the full frontage of any façade facing a public right-of-way.

The applicant states that a three-foot (3') change in grade on the northeast side of the proposed building prohibits the construction of a ten-foot (10') sidewalk along the façade facing the public right-of-way. The applicant also states that the required five-foot (5') pedestrian walkway will be constantly unusable due to cars parking over the walkway and that the walkway would cause traffic congestion. **Therefore, the applicant is requesting a variance to the required five-**

foot (5') pedestrian walkway and the ten-foot (10') sidewalk requirements of Section 7.9.E.4 of the Unified Development Ordinance.

APPLICABLE ORDINANCE SECTION: Section 7.9.E.4 "Pedestrian / Bike Circulation and Facilities" of the Unified Development Ordinance states that pedestrian walkways shall be a minimum of five feet (5') wide and shall connect public street sidewalks, transit stops, and other buildings in a design that ensures safe pedestrian use. When the walkway is within a parking lot area, it shall be clearly designated using brick pavers or a stamped dyed concrete pattern. Section 7.9.E.4 also states that there shall be a ten-foot (10') sidewalk along the full frontage of any façade facing a public right-of-way to accommodate pedestrian activity and connectivity. In this case the ten-foot (10') sidewalk is required along the northeastern façade facing Earl Rudder Freeway Frontage Road.

ORDINANCE INTENT: To provide safe connections for pedestrian and bicycle traffic among primary buildings and secondary buildings in building plots that have more than 150,000 gross square feet of floor area.



ZBA

Case: 11-020

BJ'S RESTAURANT & BREWHOUSE

DEVELOPMENT REVIEW



NOTIFICATIONS

Advertised Board Hearing Date: March 1, 2011

The following neighborhood organizations that are registered with the City of College Station's Neighborhood Services have received a courtesy letter of notification of this public hearing:

None

Property owner notices mailed: 3
Contacts in support: None at the time of writing this staff report.
Contacts in opposition: None at the time of writing this staff report.
Inquiry contacts: None at the time of writing this staff report.

ZONING AND LAND USES

Direction	Zoning	Land Use
Subject Property	C-1 General Commercial	Retail Parking
North	N/A	Freeway/Expressway
South	C-1 General Commercial	Retail
East	C-1 General Commercial	Retail Parking
West	C-1 General Commercial	Restaurant

PHYSICAL CHARACTERISTICS

- Frontage:** The subject site is located in the Post Oak Mall parking lot and does not have direct frontage along a public right-of-way. The northern façade of the proposed structure will face the Earl Rudder Freeway Frontage Road.
- Access:** The site is accessed through the Post Oak Mall parking lot. The Post Oak Mall parking lot has two entrances on Harvey Road, one entrance on the Earl Rudder Freeway Frontage Road and one entrance on Holleman Drive.
- Topography and vegetation:** The site slopes three feet to the south. Existing parking islands have little vegetation. The site will be landscaped upon construction.
- Floodplain:** This site is not located in the floodplain.

REVIEW CRITERIA

- Extraordinary conditions:** The applicant has failed to show the existence of a special condition affecting the property such that the strict application of the provisions of the Unified Development Ordinance (UDO) would deprive them of the reasonable use of their land. The applicant states the construction of a 10' sidewalk along the northeastern façade of the building is prohibited due to the existence of two easements and existing grade at the east end of the building. The applicant also states that the five-foot walkway will be unusable due to cars parking over the walkway and that the walkway will cause traffic congestion.

Based on the site plan approved for this project, there are no existing easements located within the area in question which would prohibit the construction of a ten-foot sidewalk. As shown on the approved site plan, the 10' sidewalk runs along the northeastern side of the proposed building. The two easements the applicant is referring to are located on the southwestern and southeastern sides of the building and do not affect the placement of this sidewalk.

The five-foot pedestrian walkway is located at the southwest end of the proposed building, continues across the parking lot, and connects to a sidewalk located near the Sear's Auto Center building. The applicant states that the walkway will be unusable due to cars parking over it and that it will cause traffic congestion. While a portion of the five-foot walkway is located between sections of angled parking stalls, these stalls meet the standard size required by the UDO. Each parking stall is large enough to accommodate a vehicle without encroaching into the five-foot pedestrian walkway. Typically in a situation such as this, the stall would be curbed or provided a wheelstop to prevent a car from encroaching upon the walkway.

The placement of the pedestrian walkway is not dictated in the UDO; therefore the walkway could be designed to provide a crossing at a controlled intersection located approximately 80 feet east of its current proposed location. Providing the pedestrian walkway crossing at a controlled intersection would reduce the possibility of traffic congestion.

2. **Enjoyment of a substantial property right:** These variances are not necessary for the preservation and enjoyment of a substantial property right of the applicant because denying the requested variances would not prohibit the applicant from constructing the proposed building or meeting the sidewalk and pedestrian walkway requirements of the UDO.
3. **Substantial detriment:** The granting of these variances will not be detrimental to the public health, safety, or welfare, or injurious to other property in the area, or to the City in administering this UDO.
4. **Subdivision:** Since the type of variances requested does not relate to the subdivision of property, the granting of these variances will not have the effect of preventing the orderly subdivision of other land in the area in accordance with the provision of this UDO.
5. **Flood hazard protection:** No portion of the subject property is located in a floodplain; therefore, the granting of these variances will not have the effect of preventing flood hazard protection in accordance with the provision of the UDO.
6. **Hardships:** The applicant did not provide a hardship that would justify the granting of these variances. Staff was not able to identify a special condition with the property that would justify granting the requested variance.
7. **Other property:** The hardship provided by the applicant is a result of the applicant's own designs therefore; these conditions do not generally apply to other properties in the vicinity.
8. **Comprehensive Plan:** The granting of these variances would not substantially conflict with the Comprehensive Plan and the purpose of this UDO.
9. **Utilization:** The application of the UDO to this particular piece of property does not prohibit or unreasonably restrict the utilization of the property.

ALTERNATIVES

The applicant provided the following alternative to granting the requested variances: Relocate the 10' sidewalk to the front or north side of the building. No alternative was offered regarding the five-foot pedestrian walkway.

Staff proposes the following alternative to granting the requested variance to the 10-foot sidewalk:

- As shown on the approved site plan, a two-foot retaining wall can be constructed where grading is an issue.

Staff proposes the following alternatives to granting the requested variance to the five-foot pedestrian walkway:

- The five-foot walkway can be constructed as a raised sidewalk where located between parking stalls.
- The five-foot walkway could be located to provide a crossing at an intersection of the Post Oak Mall perimeter drive aisles to allow for more controlled pedestrian connectivity.

STAFF RECOMMENDATION

Staff recommends denial of the applicant's request for variances to the 10' sidewalk and five-foot pedestrian connectivity requirements of Section 7.9.E.4 of the UDO. It is staff's judgment that the applicant has not shown that a special condition exists with the property that creates a hardship that deprives them of a substantial property right and that the hardship provided by the applicant is a result of their own actions. By virtue of the approved site plan, the applicant has demonstrated an ability to design the site in a way that complies with the requirements of the UDO.

SUPPORTING MATERIALS

1. Application
2. Copies of the site plan (provided in packet)



FOR OFFICE USE ONLY	
CASE NO.:	<u>11-20</u>
DATE SUBMITTED:	<u>2-7-11</u>
TIME:	<u>4:50</u>
STAFF:	<u>RK</u>

ZONING BOARD OF ADJUSTMENT APPLICATION

MINIMUM SUBMITTAL REQUIREMENTS:

- \$350 Zoning Board of Adjustment Application Fee.
- Application completed in full. This application form provided by the City of College Station must be used and may not be adjusted or altered. Please attach pages if additional information is provided.
- Additional materials may be required of the applicant such as site plans, elevation drawings, sign details, and floor plans. The applicant shall be informed of any extra materials required.

Date of Optional Preapplication Conference July 15, 2010

ADDRESS 1520 Harvey Road

LEGAL DESCRIPTION (Lot, Block, Subdivision) Post Oak Mall, Block1 Lot 4A

APPLICANT/PROJECT MANAGER'S INFORMATION (Primary contact for the project):

Name Jared Taylor E-mail jared@goldenpd.com

Street Address 1025 Folsom Ranch Drive Suite 202

City Folsom State CA Zip Code 95630

Phone Number 805 440 7537 Fax Number 916 496 9769

PROPERTY OWNER'S INFORMATION (Please attach an additional sheet for multiple owners):

Name POM-College Station, LLC E-mail paul.loy@cblproperties.com

Street Address 1500 Harvey Rd.

City College Station State Texas Zip Code 77840

Phone Number 979 764 0060 X228 Fax Number 979 696 0977

Current zoning of subject property C1

Action requested (check all that apply):

- | | |
|---|---|
| <input type="checkbox"/> Setback variance | <input type="checkbox"/> Appeal of Written Interpretation |
| <input type="checkbox"/> Parking variance | <input type="checkbox"/> Special Exception |
| <input type="checkbox"/> Sign variance | <input type="checkbox"/> Drainage Variance |
| <input type="checkbox"/> Lot dimension variance | <input checked="" type="checkbox"/> Other <u>Front 10' wide & 5' wide sidewalks</u> |

Applicable ordinance section to vary from:

Unified Development Ordinance Section 7.9 E. 4. d & Unified Development Ordinance Section requirement for a 5' wide sidewalk to stretch across the parking lot to the main mall or Sears building.

GENERAL VARIANCE REQUEST

1. The following specific variation from the ordinance is requested:

Removal of requirement for 10-foot sidewalk along full frontage of facade facing the right of way. Removal of requirement for 5-foot sidewalk connection from pad building site to main mall existing sidewalk behind sears.

2. This variance is necessary due to the following special conditions:

Special Condition Definition: To justify a variance, the difficulty must be due to unique circumstances involving the particular property. The unique circumstances must be related to a physical characteristic of the property itself, not to the owner's personal situation. This is because regardless of ownership, the variance will run with the land.

Example: A creek bisecting a lot, a smaller buildable area than is seen on surrounding lots, specimen trees.

Note: A cul-de-sac is a standard street layout in College Station. The shape of standard cul-de-sac lots are generally not special conditions.

Two existing easements & existing grade at the ROW or east end of the building prohibits construction of a 10' sidewalk. 5' sidewalk will not be utilized and makes no sense for the proposed out parcel building. 5' sidewalk will be constantly unusable due to cars parking over it. 5' sidewalk will cause traffic congestion.

3. The unnecessary hardship(s) involved by meeting the provisions of the ordinance other than financial hardship is/are:

Hardship Definition: The inability to make reasonable use of the property in accord with the literal requirements of the law. The hardship must be a direct result of the special condition.

Example: A hardship of a creek bisecting a lot could be the reduction of the buildable area on the lot, when compared to neighboring properties.

A hardship is created for the 10' sidewalk by the two existing easements bisecting the lot and the existing site grade conditions on the east side of the building as described above. Hardship is created for the 5' sidewalk by creating an unsafe situation for the public and the sidewalk not being able to be utilized due to cars parking over it.

4. The following alternatives to the requested variance are possible:

Relocate the 10' sidewalk to the front or north end of the building. Remove the 5' sidewalk.

5. This variance will not be contrary to the public interest by virtue of the following facts:

As part of a large shopping center, patrons will use a 10' sidewalk located in the front (north) of the building. As part of a large shopping center patrons will park near the restaurant and walk through the parking lot to the restaurant.

The applicant has prepared this application and certifies that the facts stated herein and exhibits attached hereto are true, correct, and complete. IF THIS APPLICATION IS FILED BY ANYONE OTHER THAN THE OWNER OF THE PROPERTY, this application must be accompanied by a power of attorney statement from the owner. If there is more than one owner, all owners must sign the application or the power of attorney. If the owner is a company, the application must be accompanied by proof of authority for the company's representative to sign the application on its behalf.

Signature and title: Paul Hoy, General Manager, Authorized signatory for Pom. College Station LLC
Date: 2-7-2011