

City of Galveston



Department of Planning and Community Development

P. O. Box 779 / Galveston, Texas 77553-0779 / Ph (409) 797-3660 / Fax (409) 797-3661

AGENDA
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
4:00 p.m., Wednesday, March 7, 2012
City Council Chambers, 2nd Floor of City Hall
823 Rosenberg, Galveston, Texas

- A. Attendance
- B. Conflict of Interest
- C. Minutes: February 8, 2012
- D. New Business and associated Public Hearing:

12Z-06 (2915 Ave O 1/2) Request for a variance from the Galveston Zoning Standards Section 29-65 regarding setback requirements in a One Family-Four (1F-4) zoning district. Property is legally described as Lot 4, southeast Block 64, in the City and County of Galveston, Texas.

Applicant: Nelson Smelker

Property Owner: Ramiro Reyna

12Z-07 (3216 Avenue Q) Request for a variance from the Galveston Zoning Standards Section 29-65 regarding setback requirements in a One Family Four (1F-4) zoning district Property is legally described as Lot 11, Southwest Block of Galveston Outlet 88, in the City and County of Galveston, Texas.

Applicant and Property Owner: Alex and Kim Gonzalez

12Z-08 (6102 Seawall) Request for a variance from the Galveston Zoning Standards Section 29-82 (d)(1) regarding signage display of intermittent lights and Section 29-82 (d)(4) regarding distance from an intersection within a Planned Development, Seawall Development Zone, Zone 4, Height and Density Development Zone, Zone 5 (PD-SDZ-HDDZ-5) zoning district. Property is legally described as part of Lots 41 and 59, Trimble and Lindsey, Section 1, Office buildings 2.020% int of 5.760 acres and amenities, Case Del Mar Condo, in the City and County of Galveston, Texas

Applicant: National Signs, Ltd., % Debra Sanders

Property Owner: Case Del Mar, % Theresa Elliot

- E. Adjournment

Prepared By:

Date Prepared:


Athena Petty, Planning Staff Assistant
February 27, 2012

POSTED
FEB 29 2012
CITY SECRETARY'S
OFFICE

RT
10:30
PM

IN ACCORDANCE WITH THE PROVISIONS OF THE AMERICANS WITH DISABILITIES ACT (ADA), PERSONS IN NEED OF A SPECIAL ACCOMMODATION TO PARTICIPATE IN THIS PROCEEDING SHALL. WITHIN THREE (3) DAYS PRIOR TO ANY PROCEEDING, CONTACT THE CITY SECRETARY'S OFFICE, SUITE 201, 823 ROSENBERG, GALVESTON, TEXAS 77550 (409 797-3510).

MEMBERS OF CITY COUNCIL MAY BE ATTENDING AND PARTICIPATING IN THIS MEETING.

12Z-06 (2915 Ave O 1/2) Request for a variance from the Galveston Zoning Standards Section 29-65 regarding setback requirements in a One Family-Four (1F-4) zoning district. Property is legally described as Lot 4, Southeast Block 64, in the City and County of Galveston, Texas.

Applicant: Nelson Smelker

Property Owner: Ramiro Reyna

Existing Zoning and Land Use:

Zoning	One Family-Four (1F-4)
Land Use	Residential

Surrounding Zoning and Land Use:

	North	South	East	West
Zoning	One Family-Four (1F-4)	One Family-Four (1F-4)	One Family-Four (1F-4)	One Family-Four (1F-4)
Land Use	Residential	Residential	Residential	Residential

Property Owner Notification as of March 7, 2012:

Sent	Returned	In Favor	In Opposition	No Comment
24				

Advertisement Date: February 23, 2012

City Department Notifications:

Airport: Pending
 Building Department: Pending
 Fire Chief: Pending
 Fire Marshal: Pending
 Police Department: Pending
 Public Works: Pending

Private Utility Notifications:

A. T. & T: Pending
 CenterPoint Energy: Pending
 Comcast: Pending
 Texas Gas Service: Pending

ANALYSIS

The applicant is proposing the construction of a raised, rear, restroom addition to the existing raised one-story structure. The applicant is seeking to align the proposed addition with the western façade of the structure that currently encroaches into the side yard setback. As proposed, the rear addition will encroach one (1) foot into the required 3-foot side yard setback (Attachment E). Additionally, the subject lot is a "standard" city lot and conforms to the City's lot area requirements with regards to width, depth and area.

Variance requested:

- Side yard (west) setback from 3-feet to 2-feet.

Applicant's Justification for the Variance:

"Grandfathered structure is 2 feet from property line".

CONDITIONS FOR A VARIANCE

The Board of Adjustment may grant a variance under this Section only if the variance is not prohibited by Section 14.401.C. in Article 14, Administrative Bodies, and if the Board makes a determination in writing that all of the following are demonstrated:

1. The request for the variance is rooted in special conditions of the applicant's property that do not generally exist on other properties in the same zoning district.
2. Due to said special conditions, the literal enforcement of the strict terms of these Land Development Regulations would impose an unnecessary hardship on the applicant.
3. The variance is not contrary to the public interest, in that:
 - i. It does not allow applicants to impair the application of these regulations for:
 - a. Self-imposed hardships;
 - b. Hardships based solely on financial considerations, convenience or inconvenience; or
 - c. Conditions that are alleged to be "special," but that are actually common to many properties within the same zoning district.
 - ii. The variance will not have a detrimental impact upon:
 - a. The current or future use of adjacent properties for purposes for which they are zoned;
 - b. Public infrastructure or services; and
 - c. Public health, safety, morals and general welfare of the community.
4. The degree of variance allowed from these Land Development Regulations is the least that is necessary to grant relief from the identified unnecessary hardship.
5. The variance shall not be used to circumvent other procedures and standards of these Land Development Regulations that could be used for the same or comparable effect (e.g., if alternative development patterns, alternative development standards, or other flexible measures in these regulations are available that would avoid or mitigate hardship without using a variance, then they must be used).
6. By granting the variance, the spirit of these Land Development Regulations is observed and substantial justice is done.

APPEAL FROM DECISION OF BOARD

In accordance with Section 29-112, any person aggrieved by any decision of the Board, or any officer, department or other Board of the City, may appeal the decision or action of the Board by filing a petition for the same in a court of competent jurisdiction, setting forth that such decision is illegal in whole or in part, and specifying the grounds for the alleged illegality. Such petition shall be filed with the Court within ten (10) days from the day the Board renders its decision, and not thereafter. The time period set forth herein shall be deemed jurisdictional.

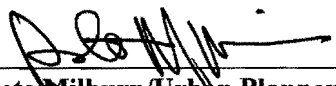
ATTACHMENTS

"A" – Zoning Map

"B" – Aerial Map

"C" – Site Plan

Respectfully submitted,



Pete Milburn/Urban Planner II2-27-12

Date

Wendy O'Donoghue, Director2/27/12

Date

12Z-07 (3216 Avenue Q) Request for a variance from the Galveston Zoning Standards Section 29-65 regarding setback requirements in a One Family Four (1F-4) zoning district Property is legally described as Lot 11 Southwest Block of Galveston Outlet 88, in the City and County of Galveston, Texas.

Applicant and Property Owner: Alex and Kim Gonzalez

Existing Zoning and Land Use:

Zoning	One Family Four (1F-4)
Land Use	Residential

Surrounding Zoning and Land Use:

	North	South	East	West
Zoning	One Family Four Dwelling District (1F-4)	One-Family Four Dwelling District (1F-4)	One-Family Four Dwelling District (1F-4)	One-Family Four Dwelling District (1F-4)
Land Use	Residential	Residential	Residential	Residential

Property Owner Notification as of March 7, 2012:

Sent	Returned	In Favor	In Opposition	No Comment
24				

Advertisement Date: February 23, 2012

City Department Notifications:

Airport: Pending
 Building Department: Pending
 Fire Chief: Pending
 Fire Marshal: Pending
 Police Department: Pending
 Public Works: Pending

Private Utility Notifications:

A T & T: Pending
 CenterPoint Energy: Pending
 Comcast: Pending
 Texas Gas Service: Pending

ANALYSIS

The applicant is requesting a variance in order to construct an addition. The proposed new addition will encroach the 3' side yard setback.

According to the applicant the air conditioning unit that appears on the west side of the house on the site plan will be repositioned to the back of the house to avoid encroaching the property line.

1. Variance regarding setbacks in the One Family Four (1F-4) zoning district

Please reference the table below for the required setbacks for single-family residential development in the One Family Four (GR) zoning district, per Section 29-65. The setbacks for the proposed new construction are also shown below:

Zoning District: One-Family Four (1F-4)

Setback	Front Yard	Side Yard	Rear Yard
Required	10'	3'	10'
Proposed	NA	1'9"	NA

Variances Requested - the applicant is requesting a variance from the following:

- Side yard setback – from 3' to 1'9" on the east property line;

Applicant's Justification

The house is built 1'9" into the 3' side yard setback so in order to align the addition on the east side of the house a variance is being requested.

CONDITIONS FOR A VARIANCE

A variance may be granted from a requirement of the Zoning Ordinance when the Zoning Board of Adjustment finds that all of the following conditions have been met:

1. Not be contrary to public interest;
2. Enforcement of the ordinance will result in unnecessary hardship by reason of exception narrower, shallowness, shape, topography or other extraordinary or exceptional physical situation or physical condition unique to the specific piece of property in question; unnecessary hardship shall mean physical hardship relating to the property itself as distinguished from a hardship relating to convenience, financial considerations or caprice, and the hardship must not result from the Applicant or property owner's own actions; and,
3. The spirit of the ordinance will be observed; substantial justice will be done. The burden of proving to the Board that the foregoing conditions have been met is upon the applicant.

APPEAL FROM DECISION OF BOARD

In accordance with Section 29-112, any person aggrieved by any decision of the Board, or any officer, department or other Board of the City, may appeal the decision or action of the Board by filing a petition for the same in a court of competent jurisdiction, setting forth that such decision is illegal in whole or in part, and specifying the grounds for the alleged illegality. Such petition shall be filed with the Court within ten (10) days from the day the Board renders its decision, and not thereafter. The time period set forth herein shall be deemed jurisdictional.

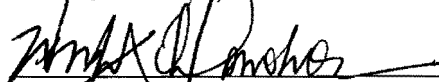
ATTACHMENTS

- "A" – Zoning Map
- "B" – Aerial Map
- "C" – Survey of Existing Structure
- "D" – Site Plan
- "E" – Construction Drawings

Respectfully Submitted,

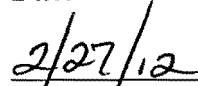


Janice Norman, Urban Planner I/Zoning Administrator



Wendy O'Donohoe, Director



Date


Date

12Z-08 (6102 Seawall) Request for a variance from the Galveston Zoning Standards Section 29-82 (d)(1) regarding signage display of intermittent lights and Section 29-82 (d)(4) regarding distance from an intersection within a Planned Development, Seawall Development Zone, Zone 4, Height and Density Development Zone, Zone 5 (PD-SDZ-HDDZ-5) zoning district. Property is legally described as part of Lots 41 and 59, Trimble and Lindsey, Section 1, Office buildings 2.020% int of 5.760 acres and amenities, Case Del Mar Condo, in the City and County of Galveston, Texas

Applicant: National Signs, Ltd., % Debra Sanders

Property Owner: Case Del Mar, % Theresa Elliot

Existing Zoning and Land Use:

Zoning	Planned Development, Seawall Development Zone, Zone 4, Height and Density Development Zone, Zone 5 (PD-SDZ-4-HDDZ-5)
Land Use	Commercial

Surrounding Zoning and Land Use:

	North	South	East	West
Zoning	Planned Development, Seawall Development Zone, Zone 4, Height and Density Development Zone, Zone 5 (PD-SDZ-4-HDDZ-5)	Water (W)	Retail, Seawall Development Zone, Zone 3, Height and Density Development Zone, Zone 4 (R-SDZ-3-HDDZ-4)	Retail, Seawall Development Zone, Zone 4, Height and Density Development Zone, Zone 5 (R-SDZ-4-HDDZ-5)
Land Use	Commercial	Gulf of Mexico	Commercial	Commercial

Property Owner Notification as of March 7, 2012:

Sent	Returned	In Favor	In Opposition	No Comment
21				

Advertisement Date: February 29, 2011

City Department Notifications:

Airport: Pending
 Building Department: Pending
 Fire Chief: Pending
 Fire Marshal: Pending
 Police Department: Pending
 Public Works Department: Pending

Private Utility Notifications:

A T & T: Pending
 Center Point Energy: Pending
 Comcast: Pending
 Texas Gas Service: Pending

ANALYSIS

The applicant is requesting variances from Section 29-82: Sign Regulations, in order to install 2 wall signs and 1 detached sign with intermittent light display. The Galveston Zoning Standards allows signage that displays intermittent lights only within areas specified in Section 29-82(d)(1). The subject site is within the appropriate permitting areas with regards to the street corridors of Seawall Boulevard and 61st Street as stated in Section 29-82 (d)(1) below.

*Section 29-82 (d), (1): SIGN REGULATIONS**(d) Sign Devices Prohibited*

- (1) Except as specifically listed in this section (1), it shall be unlawful for any person to erect, operate, or otherwise use any sign which is of a rotating nature or displays intermittent lights, or similar [to] emergency vehicles.*

Subject to State and Federal laws, signs of a rotating nature or displaying intermittent lights are permitted in the following areas:

- (a) Seawall Boulevard from 6th Street to 89th Street;*
- (b) 61st Street from Heards Lane to Seawall Boulevard;*
- (c) North and south sides of Harborside Drive from Interstate 45 to 14th Street; and,*
- (d) On Broadway Boulevard from the southern base of I-45 Causeway to west of 53rd Street.*

However, the signs are proposed to be located within 1000-feet of the street intersection and within 100-feet of the right-of-way. Section 29-82 (d) (4) states it is unlawful for any person to erect, operate, or otherwise use any sign displaying intermittent lights within 1,000 feet of any street intersection, or within 100-feet of any street right-of-way. Section 29-82(d)(4) states the following:

*Section 29-82 (d), (4): SIGN REGULATIONS**(d) Sign Devices Prohibited*

- (4) It shall be unlawful for any person to erect, operate, or otherwise use any sign displaying intermittent lights within 1,000 feet of any street intersection, or within 100-feet of any street right-of-way. This prohibition shall not apply if the State of Texas grants a variance for the erection, operation, or other use of a sign displaying intermittent lights within 1,000 feet of any street intersection, or within 100-feet of any street right-of-way.*

Therefore the applicant is requesting the following variances:

Variances requested:

- Sign 1: Distance from intersection from 1,000 feet to 210 feet.
Distance from street right-of-way from 100 feet to 40 feet.
- Sign 2: Distance from intersection from 1,000 feet to 130 feet.
Distance from street right-of-way from 100 feet to 40 feet
- Sign 3: Distance from intersection from 1,000 feet to 500 feet.
Distance from street right-of-way from 100 feet to 40 feet

Applicant's Justification for the Variance:

"Justification is interpretation of the code which states: it is unlawful to use any sign displaying intermittent lights...". This sign will not display intermittent lighting (flashing/blinking)".

CONDITIONS FOR A VARIANCE

The Board of Adjustment may grant a variance under this Section only if the variance is not prohibited by Section 14.401.C. in Article 14, Administrative Bodies, and if the Board makes a determination in writing that all of the following are demonstrated:

1. The request for the variance is rooted in special conditions of the applicant's property that do not generally exist on other properties in the same zoning district.
2. Due to said special conditions, the literal enforcement of the strict terms of these Land Development Regulations would impose an unnecessary hardship on the applicant.

3. The variance is not contrary to the public interest, in that:
 - i. It does not allow applicants to impair the application of these regulations for:
 - a. Self-imposed hardships;
 - b. Hardships based solely on financial considerations, convenience or inconvenience; or
 - c. Conditions that are alleged to be "special," but that are actually common to many properties within the same zoning district.
 - ii. The variance will not have a detrimental impact upon:
 - a. The current or future use of adjacent properties for purposes for which they are zoned;
 - b. Public infrastructure or services; and
 - c. Public health, safety, morals and general welfare of the community.
4. The degree of variance allowed from these Land Development Regulations is the least that is necessary to grant relief from the identified unnecessary hardship.
5. The variance shall not be used to circumvent other procedures and standards of these Land Development Regulations that could be used for the same or comparable effect (e.g., if alternative development patterns, alternative development standards, or other flexible measures in these regulations are available that would avoid or mitigate hardship without using a variance, then they must be used).
6. By granting the variance, the spirit of these Land Development Regulations is observed and substantial justice is done.

APPEAL FROM DECISION OF BOARD

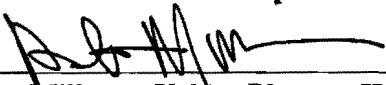
In accordance with Section 29-112, any person aggrieved by any decision of the Board, or any officer, department or other Board of the City, may appeal the decision or action of the Board by filing a petition for the same in a court of competent jurisdiction, setting forth that such decision is illegal in whole or in part, and specifying the grounds for the alleged illegality. Such petition shall be filed with the Court within ten (10) days from the day the Board renders its decision, and not thereafter. The time period set forth herein shall be deemed jurisdictional.

NOTE: Illumination of the sign must conform to Section 29-106(c) of the Galveston Zoning Standards regarding the Regulation of Outdoor Lighting. Should the proposed sign not comply with Section 29-106(c), a separate variance request will be required.

ATTACHMENTS

- "A" – Zoning Map
- "B" – Aerial Map
- "C" – Applicant's Justification
- "D" – Sign Design
- "E" – Site Plan

Respectfully Submitted,


Pete Milburn, Urban Planner II

2-27-12
Date


Wendy O'Donohoe, Director

2/27/12
Date