

AGENDA
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
3:30 p.m. Wednesday, February 8, 2023
City Council Chambers, 2nd Floor of City Hall
823 Rosenberg, Galveston, Texas

Public Comment can be submitted on-line: <https://forms.galvestontx.gov/Forms/PublicComment> or by calling 409-797-3665.

Commissioner William Clement will be attending the meeting via video conference from the following location:

9608 World Cup Drive.

Las Vegas, NV 89117

1. Call Meeting To Order
2. Attendance
3. Conflict Of Interest
4. Approval Of Minutes

A. January 4, 2023

Documents:

[01-04-2023 ZBA MINUTES.PDF](#)

5. Public Comment

Request to Address Board on Agenda Items Without Public Hearings and Non-Agenda Items (three-minute maximum per speaker. If speaking through a translator, six-minute maximum per speaker)

6. New Business And Associated Public Hearings

A. 22Z-014 (5710 Stewart Road) Request For A Special Exception In Accordance With The Galveston Land Development Regulations Section 11.400, To Make A Non-Conforming Use Conforming. Properties Are Legally Described As Hall And Jones Survey, Lots 12, 13, And Part Of Lot 11 And Adjacent South Half Of Alley Block D, Colorado Addition; Hall And Jones Survey, Lot 4 (4-5), Tribble And Lindsey, Section 1; In The City And County Of Galveston, Texas. Applicant: Omar Arriaga Property Owner: Marco Antonio Robago

Documents:

[22Z-014 - STF PKT.PDF](#)

7. Discussion Items

A. Meeting Procedures (Railey/Syler)

8. Adjournment

I certify that the above Notice of Meeting was posted in a place convenient to the public in compliance with Chapter 551 of the Texas Government Code on February 1, 2023 at 5:00P.M.

Prepared by: Catherine Gorman, Assistant Director

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



City of Galveston

MINUTES OF THE ZONING BOARD OF ADJUSTMENT OF THE CITY OF GALVESTON REGULAR MEETING – January 4, 2023

CALL MEETING TO ORDER

The meeting was called to order at 3:30 p.m.

ATTENDANCE

Members Present: Lidija Bikova, Bill Clement, Robert Girndt, Carol Hollaway (Alternate), Barbara Railey, Susan Syler, CM William Schuster

Members Absent: None

Staff Present: Catherine Gorman, AICP, Assistant Director/HPO; Daniel Lunsford, Senior Planner; Donna Fairweather, Assistant City Attorney

CONFLICT OF INTEREST

None

APPROVAL OF MINUTES

The December 7, 2022 minutes were approved as presented.

PUBLIC COMMENT

None

NEW BUSINESS AND ASSOCIATED PUBLIC HEARINGS

22Z-013 (1416 29th Street) Request for a variance from the Galveston Land Development Regulations, Article 3, District Yard, Lot and Setback Addendum, for the Urban Neighborhood (UN) zoning district, to reduce the minimum lot area. Property is legally described as M.B. Menard Survey, South One-Half of Lot 14 (2014-1), Southwest Block 15, Galveston Outlots, in the City and County of Galveston, Texas.
Applicant: MAEE Properties, LLC / Michael Cordray
Property Owners: Sara Turnus and Wayne Nielsen

Staff presented the staff report and reported that of 28 notices sent, one was returned in opposition.

Chairperson Robert Girndt opened the public hearing on the case. Michael Cordray, applicant, presented to the Board. Please see the attached list for additional presentations to the Board. The public hearing was closed, and the Chairperson called for a motion.

Bill Clement made a motion to approve the request. Susan Syler seconded.

Chairperson Robert Girndt called for questions or comments from the Board, and the following votes were cast:

In favor: Bikova, Clement, Girndt, Railey, Syler

Opposed:	None
Absent:	None
Non-voting participant:	Hollaway (Alternate)

The motion passed.

THE MEETING ADJOURNED AT 3:43 PM

ZONING BOARD OF ADJUSTMENT
MEMBER SIGN-IN SHEET

MEETING DATE: January 4, 2023

BIKOVA, LIDIJA

Lidija Biko

CLEMENT, WILLIAM

William Clement

GIRNDT, ROBERT

Robert Girndt

RAILEY, BARBARA

Barbara Railey

SYLER, SUSAN

Susan Syler

HOLLOWAY, CAROL (Alternate)

Carol Holloway

PLEASE INDICATE CASE NO., PRINT NAME AND ADDRESS

Meeting Date: January 4, 2023

[illegible]



22Z-014

STAFF REPORT

ADDRESS:

5710 Stewart Road

LEGAL DESCRIPTION:

Properties are legally described as Hall and Jones Survey, Lots 12, 13, and Part of Lot 11 and Adjacent South Half of Alley Block D, Colorado Addition; Hall and Jones Survey, Lot 4 (4-5), Tribble and Lindsey, Section 1; in the City and County of Galveston, Texas.

APPLICANT/REPRESENTATIVE:

Omar Arriaga

PROPERTY OWNER(S):

Marco Antonio Robago

ZONING:

Commercial (C)

SPECIAL EXCEPTION REQUEST:

Conversion of Nonconforming Use to Conforming.

APPLICABLE ZONING LAND USE

REGULATIONS:

Division 11.400 of the Land Development Regulations.

EXHIBITS:

A - Applicant's Submittal

B - Motion Guide

STAFF:

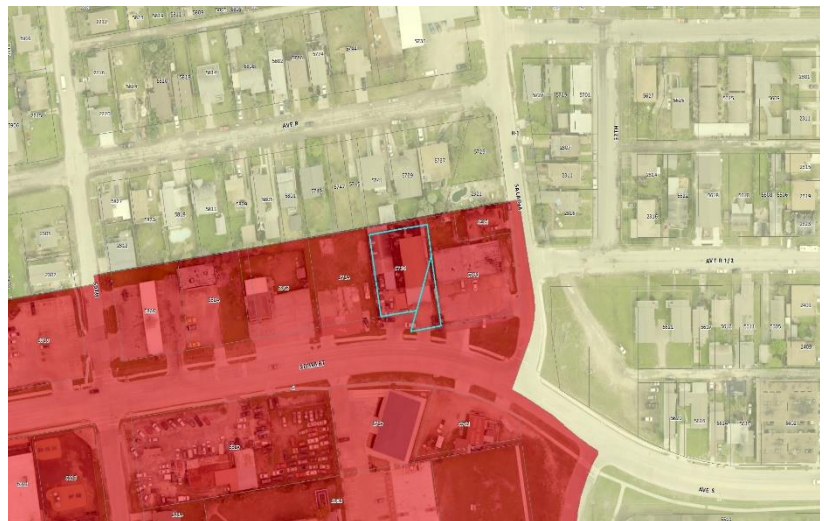
Adriel Montalvan, Planning Manager
 409-797-3645
 amontalvan@galvestontx.gov

Public Notice and Comment:

Sent	Returned	In Favor	Opposed	No Comment
25				

Per Section 13.308 of the Land Development Regulations and state law, written public notice of this request is required. Public notices are sent to all property owners within 200 feet of the subject site and are sent to the address on file with the Galveston Central Appraisal District.

City Department Notification Responses: None



Executive Summary:

The applicant is requesting a Special Exception to make the current land use of "Auto Service/Fueling or Charging Station conforming at this location. The use, A & A Tire Shop, has been in existence since 1989. In 2015, the City Council adopted the Land Development Regulations (LDR), which included limited use standards for auto service businesses, including:

The use shall be located a minimum of 200 feet from any residential use or residential zoning district boundary, measured as a radius from the property lines of the limited use - Section 2.308(A)(3).

The existing building is directly abutting residential zoning and uses that front on Avenue R.

Due to the current nonconforming status resulting from the Island wide zoning changes in 2015, the use is now limited to only making non-structural repairs, and the owner may not expand, enlarge or increase the use or business.

Zoning and Land Use Information

Location	Zoning	Land Use
Subject Site	Commercial (C)	Auto Service
North	Residential, Single-Family (R-1)	Residential
South	Commercial (C)	Retail-Commercial/Bar
East	Commercial (C)	Retail-Commercial
West	Commercial (C)	Vacant/Bar

Procedure for Conversion of Nonconforming Uses

An owner of a nonconforming use may apply for a special exception from the Zoning Board of Adjustment, which has the effect of making the nonconforming use conforming in accordance with Division 11.400 of the Land Development Regulations.

Criteria for Approval/ Applicant's Justification

SEC. 11.403 CRITERIA FOR APPROVAL

A. **Generally.** A special exception may be granted by the Zoning Board of Adjustment to make a nonconforming use conforming, if, compliance with all of the criteria of this Section is demonstrated.

B. **Nonconformity.** The use, as conducted and managed, has been determined to be a nonconforming use that has been integrated into the neighborhood's function or the zoning district's function if it is not in or adjacent to a residential neighborhood as evidenced by the following demonstrations:

1. **Neighborhood residents regularly patronize or are employed at said use for nonresidential uses in or abutting residential neighborhoods;**

Applicant's Response: A & A Tire Shop does employ residents of the neighborhood. This Business has been open since 1989. We have not received any complaints from the City or our neighborhood.

2. **Management practices eliminate nuisances such as noise, light, waste materials, unreasonably congested on-street parking, or similar conflicts;**

Applicant's Response: Management has practices to eliminate nuisances like noise. We eliminate nuisances by keeping our shop clean such as the parking lot and building, as well as keeping it lit at night.

3. **There is no material history of complaints to the City about the use. A history of complaints is justification for denying the special exception, unless the conditions of the exception will eliminate the reasons for the complaints;**

Applicant's Response: A & A Tire Shop does not have material history of complaints from the City about the use. We have been open and running since 1989.

4. **If the use is nonresidential, it is registered or licensed in accordance with any applicable ordinances of the City; or**

Applicant's Response: Yes, A & A Tire Shop is registered in accordance with any applicable ordinance of the City.

5. **The use has been maintained in good condition and its classification as a nonconformity would be a disincentive for such maintenance.**

Applicant's Response: A & A Tire Shop would like to do maintenance to our building for our customers and employees. By keeping A & A Tire Shop as a nonconforming use, it's a disadvantage to our community as we won't be able to keep helping our customers the best way we can.

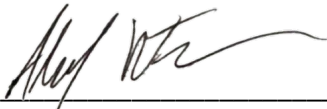
- C. **Conditions.** Conditions may be imposed relative to the expansion of buffering, landscaping, or other site design provision or other limitations necessary to ensure that as a conforming use the use will not become a nuisance. Such conditions may relate to the lot, buildings, structures or operation of the use.

Should the Zoning Board of Adjustment choose to administer Section 11.404 of the Land Development Regulations, the following are conditions for the Special Exception:

1. The site shall continue to operate as a "Auto Service/Fueling or Charging Station" land use for the operation of a tire shop, or in accordance with the uses permitted in the Commercial (C) zoning district.

Please see Agenda for Appeal from Decision of Board Process.

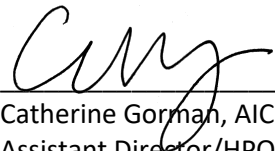
Respectfully submitted,



Adriel Montalvan, Planning Manager

01/30/2023

Date



Catherine Gorman, AICP
Assistant Director/HPO

02/02/2023

Date



EXHIBIT "A"

TRACT 1

A METES AND BOUNDS DESCRIPTION OF A CERTAIN 0.2527 ACRE TRACT OF LAND BEING LOTS 12, 13 AND PART OF LOT 11 IN BLOCK "D" OF COLORADO ADDITION, A SUBDIVISION OF PART OF LOT 4, SECTION 1, TRIMBLE AND LINDSEY SURVEY IN GALVESTON COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN VOLUME 91, PAGE 229 GALVESTON COUNTY DEED RECORDS (G.C.D.R.), TOGETHER WITH THE SOUTH ONE-HALF OF THE ALLEY ADJOINING ON THE NORTH ABANDONED BY THE CITY OF GALVESTON AS SET FORTH IN VOL. 1883 PG. 578 AND VOL. 1995, PG. 66 G.C.D.R., AS DESCRIBED IN DEED TO MARCO ANTONIO RABAGO RECORDED UNDER FILM CODE No. 008-52-0628 AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS WITH ALL BEARINGS BEING BASED ON THE WEST LINE OF SAID LOT 13;

BEGINNING at a 1/2 inch iron rod found for the Southeast corner of Lot 14 of said Colorado Addition as described in deed to Maurico and Maria Valencia recorded under Film Code No. 011-99-2420 in the office of the County Clerk Galveston County, Texas;

THENCE North 25 deg. West, along the East line of said Lot 14 a distance of 130 feet to a 2 inch Galvanized iron pipe fence post found for the Southwest corner of a tract of land described in deed to Israel A. and Laurie M Garza recorded under Film Code No. 010-86-1628 in the office of the County Clerk Galveston County, Texas, being in the centerline of said abandoned alley;

THENCE North 65 deg. East, along the centerline of said abandoned alley a distance of 95 feet to a point for corner being the Northwest corner of a tract of land described in deed to Anil P. Patel and wife Hasimati Patel recorded under Film Code No. 014-78-0120 in the office of the County Clerk Galveston County, Texas, from which a 4 inch X 4 inch wood fence post bears South 07 deg 40' West, 1.0';

THENCE South 25 deg. East, along the West Line of Said Patel tract a distance of 55.5 feet to a 1/2 inch iron rod found for the North corner of a tract of land described in deed to Marco Antonio Rabago recorded under Film Code No. 010-19-2248 in the office of the County Clerk Galveston County, Texas being in the Southeast line of said Lot 11;

THENCE South 00 deg 48 min. West, along the West line of said Rabago tract and the Southeast line of Lot 11 a distance of 82.9 feet to a point for corner;

THENCE South 65 deg. West, a distance of 59 feet to the POINT OF BEGINNING and containing 0.2527 acre of land in Galveston County, Texas.

TRACT 2

A METES AND BOUNDS DESCRIPTION OF A CERTAIN 0.0592 ACRE TRACT OF LAND OUT OF LOT 4 SECTION 1 OF THE TRIMBLE AND LINDSEY SURVEY OF GALVESTON ISLAND, GALVESTON COUNTY, TEXAS, BEING THE SAME TRACT OF LAND DESCRIBED IN DEED TO MARCO ANTONIO RABAGO RECORDED UNDER FILM CODE NO. 010-19-2248 IN THE OFFICE OF THE COUNTY CLERK GALVESTON COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS WITH AL BEARINGS BEING BASED ON THE WEST LINE OF LOT 13 BLOCK "D" OF COLORADO ADDITION, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN VOLUME 91, PAGE 229 G.C.R.R.;

BEGINNING at a Railroad spike found for the Southwest corner of a tract of land described in deed to Anil P. Patel and wife Hasimati Patel recorded under Film Code No. 014-78-0120 in the office of the County Clerk Galveston County, Texas, from which the Southeast corner of said Lot 4 bears South 25 deg. East, 30.0 feet and North 64 deg. 47 min. East, 135.0 feet;

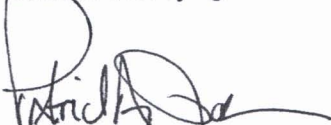
THENCE South 65 deg. West, a distance of 49.95 feet (call 50.42 feet) to a point for corner;

THENCE North 00 deg. 48 min. East, passing at 31.86 feet the southeast corner of a tract of land described in deed to Marco Antonio Rabago recorded under Film Code No. 008-52-0628 in the office of the County Clerk Galveston County, Texas, being the Southeast corner of Lot 11 of said Block "D" of Colorado Addition, in all a distance of 114.76 feet (call 114.95 feet) to a 1/2 inch iron rod found in the West line of said Patel tract;

THENCE South 25 deg. East, a distance of 103.3 feet to the POINT OF BEGINNING and containing 0.0592 acre of land in Galveston County, Texas. .

October 25, 2002

Coastal Surveying of Texas



Patrick A. Jordan
Registered Professional
Land Surveyor No.5525



TL2896-3

ZBA Motion Guide – Special Exceptions

Setbacks

The Zoning Board of Adjustment (ZBA) may grant a Special Exception to reduce the required front or rear setback in the following circumstances:

- A front yard exception where the front yard setback of the adjacent lot does not meet the front yard requirements of these regulations;
- A rear yard exception where the rear yard setback of any two or more lots in the same block do not meet the rear yard requirements of these regulations;
- A yard exception on corner lots, or lots opposite or adjoining permanent open spaces, including parks and playgrounds; and
- An exception where the existing front yard setbacks of the various lots in the same block are not uniform, so that any one of the existing front yard setbacks shall, for a building hereafter constructed or extended, be the required minimum front yard depth.

In order to approved, the ZBA must find the following:

- such special exception will not affect adversely the value and use of adjacent and neighboring property; or
- will not be contrary to the public interest.

Motion Guides:

I make a motion for **Approval** due to the fact that the request *(state one of more of the following)*:

- will not affect adversely the value and use of adjacent and neighboring property; or
- will not be contrary to the public interest.

I make a motion for **Denial** due to the fact that the request *(state one of more of the following)*:

- will affect adversely the value and use of adjacent and neighboring property; or
- is contrary to the public interest.

I make a motion for **Deferral** to the *Meeting Date* in order for *Reason for Deferral*.

Examples: I make a motion for deferral to the October 9, 2019 meeting in order for more board members to be in attendance.

I make a motion for deferral to the October 9, 2019 meeting in order for the applicant to provide additional information.