

AGENDA
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
3:30 p.m. Wednesday, September 6, 2023
City Council Chambers, 2nd Floor of City Hall
823 Rosenberg, Galveston, Texas

One or more members of the Zoning Board of Adjustment may attend the meeting by videoconference.

A quorum of the members of the Zoning Board of Adjustment will be physically present at the meeting location.

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

A. May 3, 2023

Documents:

[05-03-2023 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. 23Z-006 (3321 Avenue O) Request For Appeal Of Staff Determination Regarding The Definition Of A "Sign." Property Is Legally Described As M. B. Menard Survey, Lot 2 And West Half Of Lot 3, Northeast Block 62, Galveston Outlots, Special Subdivision, In The City And County Of Galveston, Texas. Applicant: William H. Dannenmaier Property Owner: Reagan B. Markey

Documents:

[23Z-006 - STF PKT.PDF](#)

7. Recognition Of Bill Clement
8. Discussion Items

- A. Update To Videoconference Attendance Procedures (Staff)

9. 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 August 30, 2023 at 3:55 P.M.

Prepared by: Karina Rosales, Planning Technician

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 – May 3, 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, Barbara Railey, Susan Syler, James Fagan (Alternate)

Members Absent: Carol Hollaway (Alternate), Ex-Officio William Schuster

Staff Present: Adriel Montalvan, Planning Manager; Daniel Lunsford, Senior Planner; Karina Rosales, Planning Technician; Donna Fairweather, Assistant City Attorney

CONFLICT OF INTEREST

None

APPROVAL OF MINUTES

The April 5, 2023 minutes were approved as presented.

Board member Railey made a motion to approve the minutes. Lidija Bikova 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:	Hollaway (Alternate), Ex-Officio Schuster
Non-voting participant:	Fagan

The motion passed.

PUBLIC COMMENT

None

OLD BUSINESS

23Z-003 (23011 Lunes) Request for a variance from the Galveston Land Development Regulations, Article 3, Residential Single-Family (R-1) Addendum, regarding minimum Lot Standards including lot depth, and lot area. Property is legally described as Lot 14A, Block 7, Terramar Beach, Section 4 Replat, in the City and County of Galveston, Texas.

Applicant: Allen Rosenbaum

Property Owners: IHC Advantage, LLC

Staff presented the staff report and reported that of 18 notices sent, eight were returned in opposition.

Chairperson Robert Girndt opened the public hearing on the case. Allen Rosenbaum, the applicant, gave a presentation to the board. The public hearing was closed, and the Chairperson called for a motion.

Bill Clement made a motion to approve the request. Board member 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:	Hollaway (Alternate), Ex-Officio Schuster
Non-voting participant:	Fagan

The motion passed.

NEW BUSINESS AND ASSOCIATED PUBLIC HEARINGS

23Z-004 (4016 Las Palmas) Request for a special exception from the Galveston Land Development Regulations, Article 3, District Yard, Lot and Setback Addendum, for the Residential, Single-Family (R-1) zoning district, to reduce the front yard setback. Property is legally described as Abstract 121 Hall and Jones Survey Lot 1 (60-1), Block 1 Goosby Addition to Palm Beach, in the City and County of Galveston, Texas.

Applicant and Property Owner: Casey Goosby

Staff presented the staff report and reported that of 25 notices sent, one was returned in opposition.

Chairperson Robert Girndt opened the public hearing on the case. Casey Goosby, the applicant, gave a presentation to the board. The public hearing was closed, and the Chairperson called for a motion.

Susan Syler made a motion to approve the request. Board member Railey 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:	Hollaway (Alternate), Ex-Officio Schuster
Non-voting participant:	Fagan

The motion passed.

THE MEETING ADJOURNED AT 3:55 PM



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23Z-006

STAFF REPORT

ADDRESS:

3321 Avenue O

LEGAL DESCRIPTION:

Property is legally described as M. B. Menard Survey, Lot 2 and West Half of Lot 3, Northeast Block 62, Galveston Outlots, Special Subdivision, in the City and County of Galveston, Texas

APPLICANT/REPRESENTATIVE:

William H. Dannenmaier

PROPERTY OWNER:

Raegan B. Markey

ZONING:

Residential, Single-Family (R-1)

APPEAL REQUEST:

Staff's Determination

APPLICABLE ZONING LAND

USE REGULATIONS:

Article 5, Section 5.201 Sign Definitions

ATTACHMENTS:

A – Applicant's Submittal

B – Motion Guide

STAFF:

Catherine Gorman, AICP
 Assistant Director/HPO
 409-797-3665
 cgorman@galvestontx.gov

Public Notice and Comment:

Sent	Returned	In Favor	Opposed	No Comment
25				



Background:

In early 2023 the subject site was cited for a "sign on building" by the City Marshal's Office. The owner reached out to the Planning Division for a determination if the item placed on the building met the definition of a sign. Staff reviewed and determined that the item does not meet the definition of a sign. A neighbor, Mr. Dannenmaier, filed an appeal of Staff's Determination on this decision.

Allowable signage is regulated by zoning district. The property is zoned Residential, Single-Family (R-1). The R-1 zoning district only allows for one name plate sign; with the size not to exceed two square feet. A name plate sign is a small sign that identifies the owner or occupant of a building.

Please note that the appeal was originally scheduled for the July Zoning Board of Adjustment meeting. The case was rescheduled to accommodate the applicant.

Executive Summary:

The applicant is requesting an appeal of staff's determination regarding the definition of a sign. According to Section 5.201 of the Land Development Regulations "Sign" has the following definition:

Sign - Any device or structure that is intended to attract the attention of the public in order to promote the sale of a product, commodity, service and/or for identification.

Below is a picture of the display item:



It is a vintage display with the word "Motel" outlined in paint and neon tubing. When the property was cited by the City Marshal's Office, the Planning Division Staff reviewed the item and the definition of a "Sign" located in the LDR. The determination was that the item does not meet the definition of "Sign". The location, a single-family residence with a garage apartment, does not operate as a "Motel" therefore, the item is not intended to attract the attention of the public; does not promote the sale of a product, commodity, or service; nor is it intended for identification. While the item may have previously been a sign, in its current location, it does not meet the technical definition of a sign.

Please see Attachment A for the Applicant's Submittal.

Procedure:

The appeal is filed pursuant to LDR Section 13.901, Administrative Appeals (see attachment B). Such appeals of staff determinations are heard by the ZBA. Aggrieved parties may file such an appeal if they are within 200 feet of the property that is subject to the decision. The notice of appeal shall specify the decision appealed from and the basis for the appeal, which shall include the specific sections of these Regulations that are alleged to have been overlooked or applied in error, and in what specific way this has affected or will affect the aggrieved party who initiated the appeal. Such statement of the basis of the appeal shall provide sufficient detail to put the City on notice with respect to the matters to be raised.

In exercising the power to decide an appeal, the decision-maker may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and make such order, requirement, decision, or determination as ought to be made and to that end shall have all the powers of the officer or body from whom the appeal is taken. With respect to decisions of the Zoning Board of Adjustment, the concurring vote of 73 percent of the members of the board is necessary to reverse an order, requirement, decision, or determination of a City staff member.

Should the applicant or City be aggrieved by or dissatisfied with the decision of the Zoning Board of Adjustment, the applicant or City may pursue all legal remedies to appeal the decision to a court of competent jurisdiction pursuant to Texas Local Government Code, Chapter 211.

Respectfully Submitted,



Catherine Gorman, AICP
Assistant Planning Director / HPO

8/30/2023

Date

1 June 2023

From: William H. Dannenmaier, resident of Galveston, Texas

To: Planning Commission, Sharon Lewis City Council - District 1

Request to Remove or Relocate MOTEL Sign at 3321 Avenue O

I am writing to request that the City of Galveston enforce the Land Development Regulation regarding signs in residential neighborhoods by having the property owner at 3321 Avenue O move or remove the MOTEL sign visible from the street. The sign has neon tubing outlining the term "MOTEL," is capable of illumination, and is visible from the street, the sidewalk, and my property. See below (current photo).



I own and reside in a house located at 3326 Avenue O, Galveston, TX 77550, across the street from the sign at 3321 Avenue O. This is an R-1 residential neighborhood.

<https://gis-galveston.hub.arcgis.com/pages/zoning>.

The sign was erected on or about the 24th of January 2023 (see photo, below).



I contacted the city Marshal, Elizabeth Moore, and asked if it is legal to erect a MOTEL sign in a residential neighborhood. The Marshal said that it “sounded illegal,” but would check. A few days later, I noted that the sign was covered by black plastic.

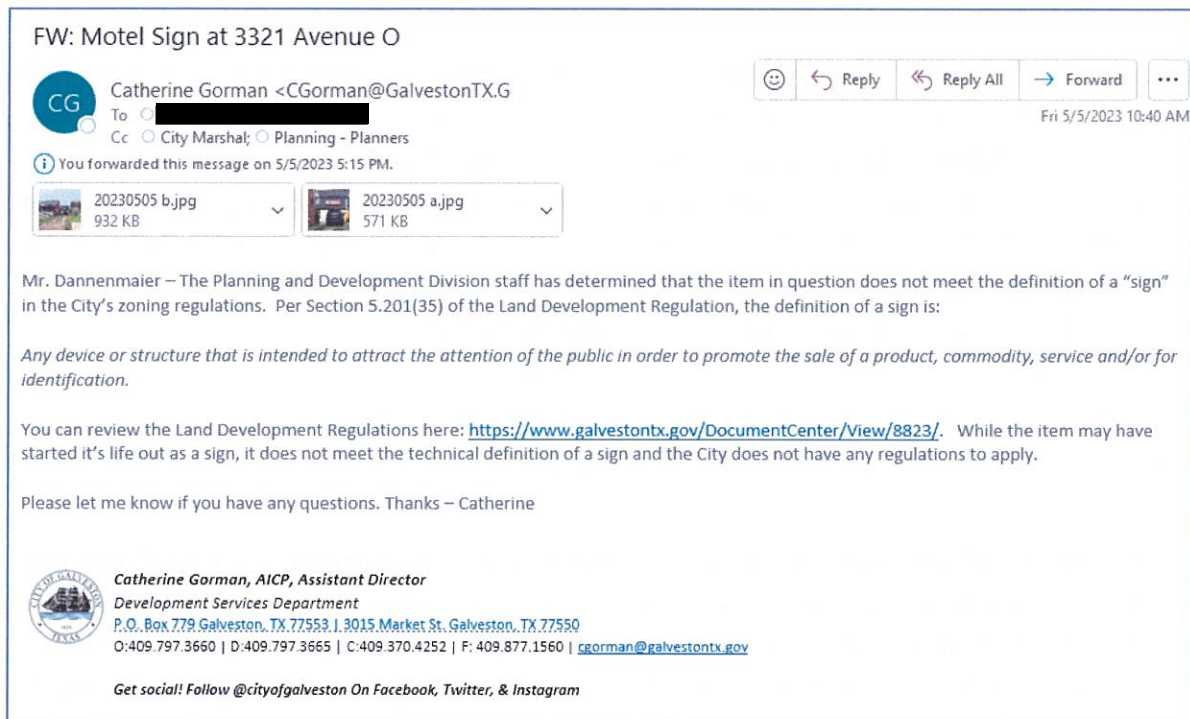
I telephoned the planning office and requested that I be kept informed of any further action relating to the sign and confirmed my request in an email to the Planning Counter, dated 8 February 2023.

I understand that the owner of 3321 Avenue O, where the sign is located, has a business interest in constructing “tiny buildings” that was inspired by a “love for boutique-style hotel stays.” The business is called “Green Couture” (www.greencoutureco.com) <https://www.greencoutureco.com/tiny-texas-construction>. It is not clear to me whether the sign is intended to attract attention to the owner’s business, or their inspiration for that business, or whether there are plans to convert the building into a tiny motel or air bnb. But it is clear that the sign is a sign, and I was glad to see that it had been covered and would hopefully be moved or removed.

On or about May 5th, 2023, I noticed that the black plastic had been taken off of the MOTEL sign and that it was again visible from the street and across the street. I telephoned and spoke with Catherine Gorman of the Development Services Department and followed up with an email.

Ms. Gorman told me there had been no public process, no public notification, and no notification of the neighbors, but that “the Planning and Development Division Staff has determined” the red-and-white neon MOTEL sign as “not a sign.” I believe this was a violation of the Texas Open Meetings Act.

Ms. Gorman noted that this determination had been made despite the definition of a sign in Section 5.201 of the *Land Development Regulation* as “any device or structure that is intended to attract the attention of the public in order to promote the sale of a product, commodity, service and/or for identification.” The message is below.



This determination that a MOTEL sign as “not a sign” clearly defies the letter and spirit of the *Land Development Regulations*. It also defies common sense and the common meaning of the noun “sign”.¹ The MOTEL sign is clearly a “device or structure”, and it clearly can and does

¹ From Oxford : “sign,” noun, “an object, quality, or event whose presence or occurrence indicates the probable presence or occurrence of something else.” From dictionary.com: “sign. / (sain) / noun. something that indicates or acts as a token of a fact, condition, etc., that is not immediately or outwardly observable.” From Merriam-Webster “a display (such as a lettered board or a configuration of neon tubing)” or “something indicating the presence or existence of something else.”

attract the public's attention. Section 5.110 of the *Land Development Regulations* precludes such signs in R-1 zoned neighborhoods.

If one showed the photos above to almost any person of average intelligence (or anyone with a dictionary) and asked "what is that?" the answer would not be "a swimming pool," or "an automobile." It would be a "sign" – or perhaps a "Motel sign." They might even posit that the structure is a "tiny motel" – inspired to that conclusion, no doubt, by the sign itself.

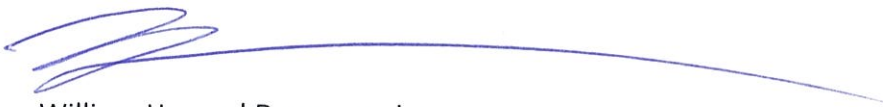
The owner at 3321 Avenue O runs a construction business inspired by boutique motels, and the sign may well be intended to promote the sale of that service. It is also possible that the owner plans an "air bnb" which is a private motel of sorts. If the property owner intends on making the property a "Bed and Breakfast," the MOTEL sign would be precluded under section 2.310 A.6.a. also, since it is too big. But the *Land Development Regulation* is not based on subjective intent. It is based on objective facts. And the MOTEL sign is objectively a sign.

In a separate, ongoing controversy, the City of Galveston has instructed the owner of the former DiBella's restaurant (at the corner of 31st and P) to cover its signs. In the *Galveston Daily News* article "Biz Buzz: DiBella's building owner fights to save signs," dated April 28, 2023, Ms. Gorman was quoted as saying: "To fall under historic protection, the sign would have to be at least 50 years old, said Catherine Gorman, assistant director in the city's Development Services Department and a historic preservation officer. 'He can resolve it by removing the signs,' Gorman said. 'It's a pretty easy fix, but he's resistant to do so.'"

The MOTEL sign at 3321 Avenue O is bigger and bolder than the DiBella's sign. How can the MOTEL sign be "not a sign" if the DiBella's sign is a sign?

I ask that the City of Galveston enforce its Land Development Regulation, align itself with the common understanding of the word "sign," and follow its own precedent. The solution here, as Ms. Gorman pronounced in the DiBella's case is "a pretty easy fix." Just instruct the business owner at 3321 Avenue O to remove the MOTEL sign or move it so it is not visible to the public on the street or on the sidewalk across the street.

Respectfully,



William Howard Dannenmaier
3326 Avenue O
Galveston, Texas 77550-6712

ZBA Motion Guide – Staff Determination Appeal

I make a motion to **Affirm Staff's Determination** due to the following:

I make a motion to **Reverse Staff's Determination** due to the following:

I make a motion to **Modify Staff's Determination** due to the following (*state the modification*):
