

**NOTICE OF MEETING
ZONING BOARD OF ADJUSTMENT
OF THE CITY OF GALVESTON
WEDNESDAY, JULY 9, 2025 - 3:30 PM
City Council Chambers, 2nd Floor of City Hall
823 Rosenberg, Galveston, Texas
REGULAR MEETING**

**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

4.A **June 4, 2025**

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

6.A **25Z-012 (1513 47th Street)** Request for a variance from the Galveston Land Development Regulations, Article 3, Residential, Single-Family (R-1) Addendum, regarding minimum lot square footage. The property is legally described as Abstract 628 M.B. Menard Survey, North 1/2 of Lot 13 & East 17-10 Feet of Lot 14 (13-2), Block 63, Denver Resurvey, in the City and County of Galveston, Texas.
Applicant: Milan Randelovic
Property Owner: Milan Randelovic

6.B **25Z-014 (1410 Seawall)** Request for appeal of staff determination regarding Section 11.301 (C) Nonconforming Buildings, Structures, and Elements of Buildings or Structures of the Land Development Regulations. Property is legally described as M.B. Menard Survey (47-2000-1), Portion of Southwest Block 47 and Portion of Northwest Block 72, Galveston Outlots; Portion of Adjacent Avenue O; in the City and County of Galveston, Texas.
Applicant: Chris Hellerman
Property Owner: GTX Hospitality c/o John Thokala

7. 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 07/02/2025 at 4:30 PM

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 – June 4, 2025

CALL MEETING TO ORDER

The meeting was called to order at 3:31 p.m.

ATTENDANCE

Members Present: Lidija Bikova, James Fagan, Carol Hollaway, Mark Metzger(Alternate), Becca Scoville (Alternate), Susan Syler,

Members Absent: Barbara Bailey, Ex-Officio David Finklea

Staff Present: Tim Tietjens, Development Services Executive Director; Teresa Evans, Special Assistant to Executive Director of Development Services; Catherine Gorman, AICP, Assistant Director/HPO; Daniel Lunsford, Senior Planner; Donna Fairweather, Sr. Assistant City Attorney; Karina Rosales, Planning Technician.

CONFLICT OF INTEREST

None

APPROVAL OF MINUTES

The April 9, 2025, Regular Meeting and May 7, 2025, Regular Meeting minutes were accepted as presented.

PUBLIC COMMENT

None

NEW BUSINESS AND ASSOCIATED PUBLIC HEARINGS

25Z-011 (9306 Vista Bella) 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 side yard setback. Property is legally described as Ponticello Replat (2008), Abstract 121, Lot 12, Acres 0.479 in the City and County of Galveston, Texas.

Applicant: Zack Gavos

Property Owners: David & Angela Renee Raimer

Staff presented the staff report and reported that of 14 notices sent, and two returned in favor.

Chairperson Bikova opened the public hearing on the case. The applicant, Zach Gavos, gave a presentation to the board. The public hearing was closed, and the Chairperson called for a motion.

Vice-Chairperson Hollaway made a motion to approve the request. Board Member Syler seconded.

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

In favor: Bikova, Fagan, Hollaway, Metzger (Alternate), Syler

Opposed:	None
Absent:	Railey, Ex-Officio David Finklea
Non-voting participant:	Scoville (Alternate)

The motion passed.

25Z-013 (1804 65th Street) Request for a variance from the Galveston Land Development Regulations, Article 3, Residential, Single-Family (R-1) Addendum, regarding minimum lot width, depth and area. Property is legally described as Abstract 121 Hall & Jones Survey, West One-Half of Lot 18 (18-1), Bayou Shores-Wheelers Subdivision, in the City and County of Galveston, Texas.

Applicant: Laura Ward, New Elite Homes, LLC.

Property Owner: New Elite Homes, LLC.

Staff presented the staff report and reported that of 33 notices sent, two returned in opposition.

Chairperson Bikova opened the public hearing on the case. The applicant, Laura Ward, gave a presentation to the board. The public hearing was closed, and the Chairperson called for a motion.

Board Member Syler made a motion to deny the request due to the fact that there is no special condition and is based on financial considerations. Board Member Fagan seconded.

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

In favor:	Bikova, Fagan, Hollaway, Metzger (Alternate), Syler
Opposed:	None
Absent:	Railey, Ex-Officio David Finklea
Non-voting participant:	Scoville (Alternate)

The motion passed.

THE MEETING ADJOURNED AT 4:15 PM





25Z-012

STAFF REPORT

ADDRESS:

1513 47th Street

LEGAL DESCRIPTION:

The property is legally described as Abstract 628 M.B. Menard Survey, North 1/2 of Lot 13 & East 17-10 Feet of Lot 14 (13-2), Block 63, Denver Resurvey, in the City and County of Galveston, Texas.

APPLICANT/REPRESENTATIVE:

Milan Randelovic

PROPERTY OWNER:

Milan Randelovic

ZONING:

Residential, Single-Family (R-1)

VARIANCE REQUEST:

Lot Area

APPLICABLE ZONING LAND USE

REGULATIONS:

Article 3, Addendum for Residential, Single Family (R-1) District, Minimum Lot Standards

EXHIBITS:

A – Applicant's Submittal

B – Motion Guide

STAFF:

Daniel Lunsford

Planning Manager

409-797-3659

dlunsford@galvestontx.gov

Public Notice and Comment:

Sent	Returned	In Favor	Opposed	No Comment
24				

Per Section 13.808 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:

Airport: No Objection

Building Division: No Objection

Coastal Resources: No Objection

Fire Marshal: No Objection

Fire Chief: No Objection

Police Chief: No Objection

Public Works: A 5' wide utility easement is required during platting to connect the southernmost lot to utilities in the alley.

Private Utilities Notification Responses:

AT&T: No Objection

Comcast: No Objection

CenterPoint Energy: No Objection

Texas Gas Service: No Objection



Executive Summary:

The applicant is requesting a variance from Article 3, Addendum in order to reduce the required minimum lot area. Both lots are owned by the applicant; however, the southernmost structure encroaches across an existing property line. Sanborn insurance maps indicate that the southernmost structure was built between 1912 and 1947, and the northernmost structure was built after 1947. It is unknown when the current lot configuration and replat occurred.

The applicant proposes to move the property line north in order to resolve this encroachment; however, this will result in the northernmost lot being smaller than required for new parcels in R-1 zoning. Note that the southernmost lot will remain well over the 2,500 square foot minimum (3,049 square feet).

See the site plan and proposed replat in Exhibit A of the staff report, as well as a summary of the variance below.

Area Requirements**Article 3, District Yard, Lot and Setback Standards, Addendum for Residential, Single-Family (R-1):**

Required Minimum Lot Area	2,500 square feet
Required Minimum Width	0 feet
Required Minimum Depth	0 feet

Requested Variance

Minimum Lot Dimensions (R-1 Zoning)	Regulation	Proposed Variance
Lot Area	2,500 square feet	1,981 square feet (519 square feet variance)

Land Development Requirements**SEC. 13.401.B VARIANCES FROM DEVELOPMENT STANDARDS**

Approval Standards. The Board of Adjustment may grant a variance under this Section only if the variance is not prohibited by Section 12.401.C, and if the Zoning Board of Adjustment 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 enforcement of the strict terms of these regulations would impose an unnecessary hardship on the applicant.
3. The variance is not contrary to the public interest, in that:
 - a. 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.
 - b. 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 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 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 regulations is observed and substantial justice is done.

Applicants' Justification

Approval Standards. The Board of Adjustment may grant a variance under this Section only if the variance is not prohibited by Section 12.401.C, and if the Zoning Board of Adjustment 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.**

Special condition is the fact that the legally defined property line physically bisects through the footprint of our existing house. Other properties in the same zoning district, presumably developed in accordance with standard survey do not suffer from this fundamental division of their primary dwelling by a property line. It's a significant encroachment of the property line onto our primary dwelling structure. We understand zoning regulations regulate the placement of structure. Zoning regulations regulate placement of a structures in relation to property lines (setbacks), and a property line should define the boundaries around a building, not through it.

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.**

This hardship was not self-created. It likely arose from a historical surveying, a previous unusual subdivision, or some other circumstances beyond our control. The ownership and legal control of the portion of the house are unclear and create significant title defects. This makes it difficult to sell, mortgage, and cause property insurance difficulties. The house cannot be considered a fully integrated and functional single-family dwelling as long as a property line divides it. This impacts utilities, maintenance, mortgage, and affects the value. The current property line configuration likely violates building codes and zoning regulations related to setbacks, fire separation, egress, not typical for the zoning regulations.

The legal description of the property is somewhat ambiguous, making it difficult to sell or transfer, the property may become blighted and may create a cloud on the title.

3. The variance is not contrary to the public interest, in that:

Allowing the property line to be adjusted resolves this unusual and potentially blighted condition. Promotes clarity in property lines, land use, and ownership which is in the public interest. The existing configuration likely violates various zoning and building codes. Granting the variance to allow the property line to be adjusted will help the property to be brought into compliance. We believe clear and logical property lines are fundamental to orderly development from city planning.

a. It does not allow applicants to impair the application of these regulations for:

- i. Self-imposed hardships;**
- ii. Hardships based solely on financial considerations, convenience or inconvenience; or**
- iii. Conditions that are alleged to be "special," but that are actually common to many properties within the same zoning district.**

Our request is not based on self-imposed hardships, financial/convenience-based hardships, or conditions common to the zoning district.

- The hardship created by the property line running through our existing house is not self-imposed. It likely arose from a historical surveying error, a previous unusual subdivision, or some other circumstance that predates our ownership. We purchased the property with this pre-existing condition we are not seeking a variance to rectify a situation we created by building across a property line or subdividing land. The problem existed before our current actions.

- The hardship we are experiencing goes far beyond mere financial considerations. convenience. or inconvenience. The property line physically bisecting our house creates fundamental issues of legality and ownership that Impair our ability to enjoy basic property rights, Title defect and ownership uncertainty. Impairment of market value and ability to sell we are not seeking the variance simply to build a larger house, avoid a setback to maximize space, or increase the property's profitability. The request is to rectify a fundamental flaw that renders a portion of our existing dwelling legally a portion of our existing dwelling legally and practically problematic.

- The condition of a property line running directly through the primary dwelling structure is not a common occurrence within the zoning district. Zoning regulations are designed to prevent such situations by establishing setbacks and lot boundaries that define the space around buildings.

b. The variance will not have a detrimental impact upon:

- i. The current or future use of adjacent properties for purposes for which they are zoned;**
- ii. Public infrastructure or services; and**
- iii. Public health, safety, morals and general welfare of the community.**

- The proposed property line adjustment is intended to resolve an internal anomaly on our property and is unlikely to negatively affect the current or future use of neighboring properties in accordance with their zoning. No external impact. A legally sound property next door is generally a positive for the neighborhood. It doesn't reduce their lot size, violate setbacks, or impede access

- The variance does not propose any increase in the size or intensity of use of our property that would place additional strain on public utilities (water, sewer, electricity), roadways, drainage systems, emergency services access, or other public infrastructure.

- The house is already connected to existing public services based on its current physical footprint. The adjusted property line will not block or hinder public access easements, rights-of-way, or the ability of emergency services to reach our property or neighboring properties.

- Granting the variance to resolve the unusual property line situation will not be detrimental to the public health, safety, morals and general welfare of the community and may even enhance it. Clear property lines contribute to a stable predictable legal framework within the community. Maintaining Neighborhood Character, consistency with the zoning intent, there will be no erosion of regulations.

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.

The degree of the requested adjustment is the minimum necessary to alleviate the identified unnecessary hardship. Directly addresses the core hardship, no excessive expansion or deviation, Avoids Creating New Nonconformities.

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).

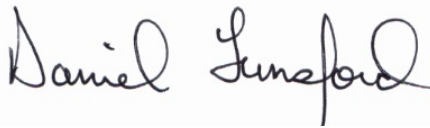
Variance is not an attempt to circumvent other applicable procedures and standards with the LDR. Alternatives are infeasible: Physically dividing the house, demolish and rebuilding, Asking for a minor lot line adjustment, variance as the Most Direct and Least Burdensome Solution

6. By granting the variance, the spirit of these Land Development Regulations is observed and substantial justice is done.

Yes, Observing the Spirit of the Land Development Regulations by granting the variance is:

- *Promoting Orderly and Sensible Land Configuration*
- *Preventing Blight and Promoting Property Maintenance*
- *Fair and equitable treatment*
- *Long-Term Stability and Clarity*

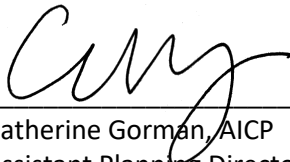
Respectfully submitted,



Daniel Lunsford
Planning Manager

06/26/2025

Date



Catherine Gorman, AICP
Assistant Planning Director/HPO

06/26/2025

Date

(E) SFR AREA: 1,000 SQ.FT.
(E) GARAGE APARTMENT: 724 SQ.FT.

(E) SFR AREA: 1,000 SQ. FT.

(E) GARAGE APARTMENT: 724 SQ.FT.

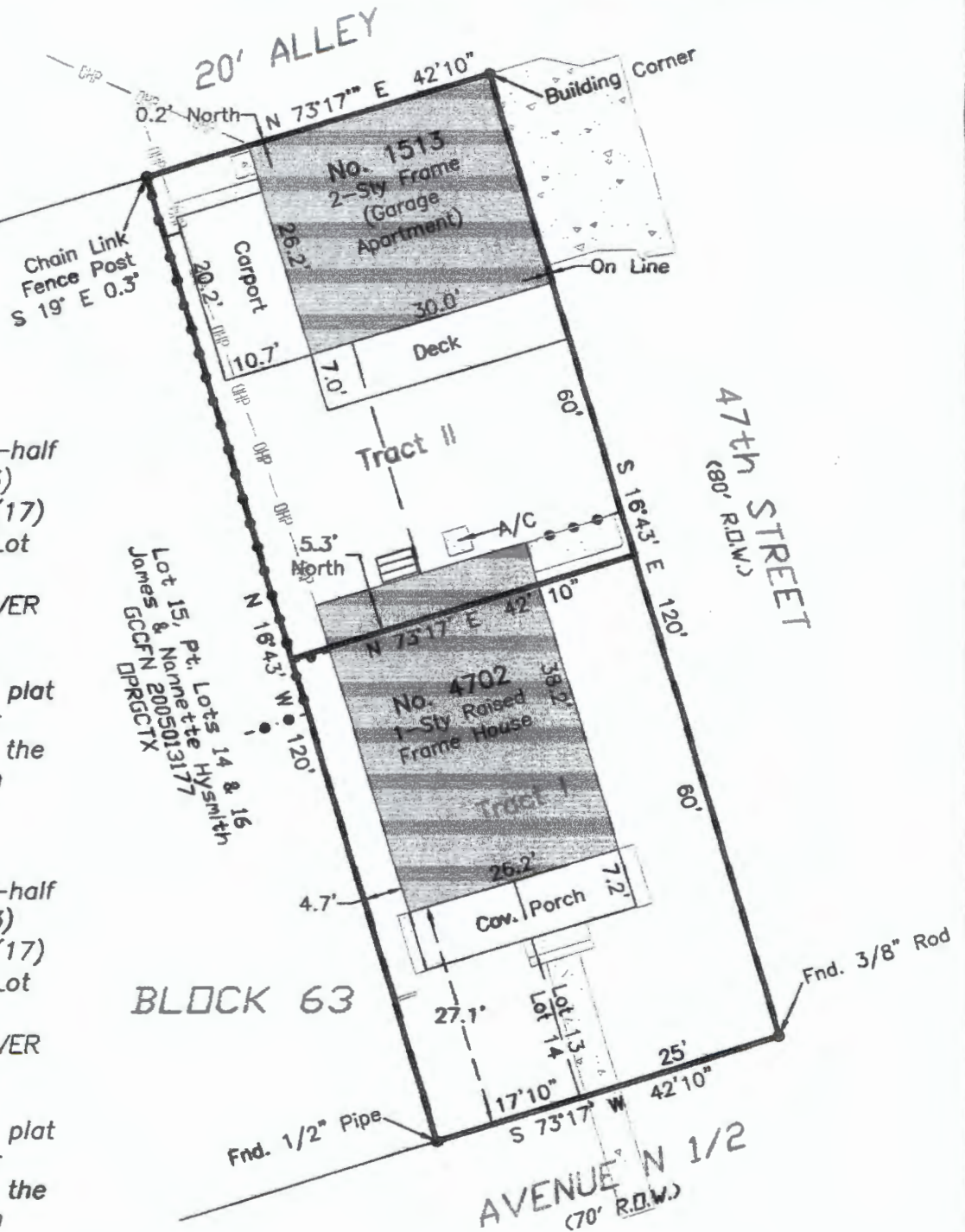
RANDELOVIC RESIDENCE



Stewart Title File No.
1580358
Borrower: Milan
Randelovic
Insured: Cornerstone
Home Lending, Inc.
This property is
subject to
restrictive
covenants recorded
in/under Volume 397,
Page 450 and Volume
415, Page 158, Deed
Records of Galveston
County, Texas.

Tract I:
Survey of the South One-half
(1/2) of Lot Thirteen (13)
and the East Seventeen (17)
feet Ten (10) inches of Lot
Fourteen (14), in Block
Sixty-Three (63), of DENVER
RESURVEY, an addition in
Galveston County, Texas,
according to the map or plat
thereof recorded in/under
Volume 91, Page 196 of the
Map Records of Galveston
County, Texas.

Tract II:
Survey of the North One-half
(1/2) of Lot Thirteen (13)
and the East Seventeen (17)
feet Ten (10) inches of Lot
Fourteen (14), in Block
Sixty-Three (63), of DENVER
RESURVEY, an addition in
Galveston County, Texas,
according to the map or plat
thereof recorded in/under
Volume 91, Page 196 of the
Map Records of Galveston
County, Texas.



I hereby certify that on the above date, the herein described property, together with improvements located thereon, was surveyed on the ground and under my direction, and that this map, together with dimensions as shown hereon, accurately represents the facts as found on the ground this date.

Blair
Brene Addison
Registered Professional
Land Surveyor No. 6598



ZBA Motion Guide – Variances

I make a motion for **Approval** due to the following *(state all of the following, including the special condition)*:

- The special condition/s that exist on the property that does not generally exist of other properties in the same zoning district. That special condition is:

- Due to that special condition, the enforcement of the strict terms of these regulations would impose an unnecessary hardship on the applicant.
- The variance is not contrary to the public interest in that:
 - The hardship is not self-imposed,
 - The hardship is not based solely on financial considerations, convenience, or inconvenience,
 - There are not conditions that are alleged to be special but are actually common to many properties within the same zoning district,
- The requested variance does not have a detrimental impact upon:
 - The current or future use of the adjacent properties for purposes for which they are zoned,
 - Public infrastructure or services, and
 - Public health, safety, morals, and general welfare of the community,
- The degree of variance allowed from these regulations is the least that is necessary to grant relief from the identified unnecessary hardship,
- The variance will not be used to circumvent other procedures and standards of these regulations that could be used for the same or comparable effect, and
- By granting the variance, the spirit of these regulations is observed and substantial justice is done.

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

- There is not a special condition on the property,
- The hardship is self-imposed,
- The hardship is based solely on financial considerations, convenience, or inconvenience,
- The requested variance would have a detrimental impact upon:
 - The current or future use of the adjacent properties for purposes for which they are zoned,
 - Public infrastructure or services, and/or
 - Public health, safety, morals, and general welfare of the community,
- The degree of variance requested is greater than is necessary to grant relief from the hardship, and/or
- The variance is being used to circumvent other procedures and standards of the regulations that could be used for the same or comparable effect.

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.



25Z-014

STAFF REPORT

ADDRESS:

1410 Seawall

LEGAL DESCRIPTION:

Property is legally described as M.B. Menard Survey (47-2000-1), Portion of Southwest Block 47 and Portion of Northwest Block 72, Galveston Outlots; Portion of Adjacent Avenue O; in the City and County of Galveston, Texas

APPLICANT/REPRESENTATIVE:

Chris Hellerman

PROPERTY OWNER:

GTX Hospitality c/o John Thokala

ZONING:

Commercial, height and Density Development Zone 3 (C-HDDZ-3)

APPEAL REQUEST:

Staff's Determination

APPLICABLE ZONING LAND

USE REGULATIONS:

Article 11, Section 11.301 (C)

ATTACHMENTS:

A – Applicant's Submittal

B – Staff's Determination

C – Motion Guide

STAFF:

Tim Teitjens

Executive Director

409-797-3665

tteitjens@galvestontx.gov

Public Notice and Comment:

Sent	Returned	In Favor	Opposed	No Comment
13				

Executive Summary:

The applicant is appealing staff's determination regarding Section 11.301 (C) Nonconforming Buildings, Structures, and Elements of Buildings or Structures of the Land Development Regulations (LDR). Article 11 of the LDR provides guidance for the treatment of nonconforming items. The term nonconforming is commonly known as "grandfathered" and refers to existing uses, building, lots, or structures that were legally established prior to the current zoning regulations and which do not meet the current standards.

The subject of the appeal is the site of the Denny's restaurant building that had a fire in October 2023. Prior to the fire, the Denny's building was classified as nonconforming because it did not conform to the current LDR requirements, including the Height and Density Development Zone (HDDZ). The HDDZ is a design overlay adopted in 2008 which dictates the design and placement of buildings on a lot.

Article 11, Section 11.301 (C) of the LDR outlines the circumstances in which nonconforming status is retain and the circumstances in which it is lost and the property must come into conformance with the current regulations. The code states that nonconforming status for a building is lost when the building is:

- Destroyed,
- Damaged to the extent that the reconstruction cost or area of reconstruction is greater than 50 percent of the cost of replacement or floor area of the building

The subject of the appeal is the reconstruction of the Denny's restaurant that had a fire in October of 2023. The applicant contends that the property should be considered nonconforming and can be rebuilt in the former footprint. The Staff has determined that the property has been destroyed, is not considered nonconforming, and any new building must be constructed under the current regulations. The current regulations will require relocation of the building closer to the Seawall property line.

Staff Determinations:

The Denny's restaurant building at 1410 Seawall had a fire in October 2023. Following the fire, the remaining structure was demolished with the slab/foundation remaining. In June 2024, the Director of Development Services determined that the building could be reconstructed in the original footprint based on the finding that the slab/foundation that remained was viable and would be used as the slab/foundation for the new building.

A building permit was issued and construction commenced. However, during construction, it was discovered that the slab/foundation lacked the necessary structural rebar reinforcement to support reconstruction. The slab/foundation was then removed.

Following the removal of the slab/foundation, in March 2025, the applicant sought a determination from the Director that the Denny's building could be rebuilt in its original footprint. The Director's decision, at that time, was that the building has been destroyed, cannot be considered nonconforming, and must be rebuilt under the current regulations.

The applicant appealing that decision, arguing that the foundation issue was not caused by the fire and therefore should not be included in the repair cost calculation. They also argue that, even if the foundation cost is included, the total cost still does not exceed the 50% threshold. They are asking the Zoning Board of Adjustment to reverse the decision so they can rebuild the Denny's as it was.

Code Citation:

Article 11 of the LDR provides the following for nonconforming buildings:

If a nonconforming building or structure, or nonconforming element thereof, is damaged or destroyed by any means or is declared unsafe by the City to an extent that repairs would constitute a "substantial improvement," meaning that the reconstruction cost or area of reconstruction is greater than 50 percent of the cost of replacement or floor area of the building, respectively, the building shall only be reconstructed if in conformity with these regulations.

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,

Tim

FOR Tim Teitjens
Executive Director

07/01/2025

Date

APPLICANT'S APPEAL REQUEST

The site referenced in the application (the Denny's) was damaged by a fire on or around October 31, 2023. The debris from the fire was removed from the site and the foundation was determined to have not been affected by the fire. The City's Development Services Department was presented with a request to build on the existing foundation, and the City approved that request based on the fact that the cost to build on the existing foundation was less than fifty percent (50%) of the cost to redevelop the entire property in accordance with the existing City codes. Once repairs began, however, a structural engineer determined that the foundation did not contain any rebar or structural support and was failing in certain areas. The engineer confirmed that the foundation would not be able to support the necessary plumbing cuts or the structural beams of the building. The foundation had to be replaced in the exact size of the previous foundation with the correct support structure in place. **The Executive Director of Development Services (the "Director") made a determination that the costs to repair the foundation should be included as a part of the calculation used to determine whether the repairs to the fire damaged structure exceeded fifty percent (50%) of the value of the structure.** By deciding to include the costs to repair the foundation, the fire repair costs exceeded fifty percent (50%) of the cost of the structure, and we now have lost our nonconforming status on the site, and will need to spend an excessive amount of money to relocate the structure. **We are appealing the Director's decision because the foundation repair is unrelated to the fire and should not be included in the calculation of the cost of repairs of the fire damaged structure. Even if the cost to repair the foundation is included in total repair costs, the total repair costs do not exceed the fifty percent (50%) threshold. Without the repair costs exceeding the cost to replace the entire structure, the nonconforming status of the structure should remain in place, and the repairs on the foundation and structure can resume. If the appeal is accepted, and the decision of the Director is overturned, then the Denny's will keep its nonconforming status and will be able to be rebuilt to the same standards that existed before the fire. If the appeal is not granted, and the decision of the Director stands, then it is unlikely that the Denny's will be rebuilt, and the site will remain vacant.**



City of Galveston

DEVELOPMENT SERVICES
3015 Market | Galveston, TX 77550
planning@galvestontx.gov | 409-797-3660

April 30, 2025

Mr. Reid Wilson, Chairman
Wilson, Cribbs and Goren, P.C.
1233 W. Loop South, Ste 800
Houston, Texas 77027

RE: Denny's Restaurant at 1410 Seawall Blvd. Galveston, Texas
Second determination of applicability and approval to rebuild per Section 11.301(c)(1)
Land Development Regulations

Dear Mr. Wilson,

This response is regarding your second request, dated March 19, 2025, to rebuild the building known as the Dennys Restaurant in its original footprint, per Section 11.301(c)(1) of the Land Development Regulations (LDR's). Briefly, for background to this response, the Dennys restaurant suffered a fire that destroyed the majority of the structure and following demolition and cleanup of the site, the slab/foundation remained. In response to your initial request letter of June 25, 2024, to rebuild the noted building in its original footprint per Section 11.301(c)(1) of the LDR's, the determination that reconstruction was possible was based on the finding that the slab/foundation that remained was viable to the reconstruction.

However, this second request to allow reconstruction in the original footprint, comes upon the result of a discovery by your client's team that the foundation component of the prior structure lacked the necessary structural rebar reinforcement to support reconstruction. Per the evaluation letter from WindForce Engineering, the slab/foundation could not be utilized as originally proposed and was subsequently removed as well.

The LDR's Section 11.301(c)(1), "substantial improvement" means that if the reconstruction costs or area of reconstruction is greater than 50% of the cost of

replacement *or floor area of the building*, respectively, then the building shall only be reconstructed if in conformity with these regulations.

I consulted with our legal department to discuss your second request and possible outcomes. I apologize about the resulting time taken to render a decision. There are significant complexities of this case which are addressed below.

The question raised was whether the new construction was equal to or less than 50% of the cost of a new building. You have determined that it did. Per a proposal from Arrowmont Construction, you contend the cost is less than 50%, and on that basis you claim the existing elements may be used for reconstruction without relocation of the footprint of a new building. However, based on the following, I cannot agree.

Unlike your first request, there were components of the building that previously were used in the argument for reconstruction. In this second request those components no longer remain to any degree. The Dennys restaurant was destroyed by fire and all the above ground portions of the building not destroyed, were removed from the site, including the floor area of the building. The ability to reconstruct the building using the concrete slab/foundation remained, but now the slab/foundation has also been removed in its entirety. In addition, all the utilities are likely unusable and/or will need to be fully constructed. While there is still horizontal site work that remains, at this point, there is no portion of the building structure that still exists.

Based on the 50% cost reconstruction analysis, I am unable to reach agreement with the notion that a new building in which all components of the previous building are destroyed or removed can be completely reconstructed without losing its non-conforming status.

As a result, it is my determination that this request does not qualify for reconstruction in the same footprint. Any development project would now require conformance with current rules and regulations unless otherwise appealed.

In any decision of this nature, and as you are aware from your correspondence, you may appeal my determination to the Zoning Board of Adjustment, in accordance with the requirements for appeal.

Cordially,

Tim Tietjens
Director of Development Services

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*):
