

Meeting Packet
Board of Adjustment Special Call Meeting

May 15, 2019



The City of Lago Vista

To provide and maintain a healthy, safe, vibrant community, ensuring quality of life.

**NOTICE OF A REGULAR MEETING
BOARD OF ADJUSTMENT
WEDNESDAY, MAY 15, 2019, 3:00 PM
COUNCIL CHAMBERS
CITY HALL - 5803 THUNDERBIRD ST.**

NOTICE IS HEREBY GIVEN that the Board of Adjustment of the City of Lago Vista, Texas will hold a meeting on the above date and time for discussion and action on the following:

CITIZEN COMMENTS FOR NON-HEARING RELATED ITEMS:

In accordance with the Open Meetings Act, the Board is prohibited from acting or discussing (other than factual responses to specific questions) any items not on the agenda.

BUSINESS ITEMS

1. Comments from the Council Liaison.
2. Discussion of a proposed new variance application form and packet.

FUTURE AGENDA ITEMS

ADJOURNMENT

IT IS HEREBY CERTIFIED that the above Notice was posted on the Bulletin Board located in City Hall in said City at 1:45 p.m. on the 7th day of May, 2019.

Robin Smith, Assistant City Secretary

THE CITY OF LAGO VISTA IS COMMITTED TO COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT. REASONABLE MODIFICATIONS AND EQUAL ACCESS TO COMMUNICATIONS WILL BE PROVIDED UPON REQUEST.

IN ADDITION TO ANY EXECUTIVE SESSION ALREADY LISTED ABOVE, THE BOARD OF ADJUSTMENT RESERVES THE RIGHT TO ADJOURN INTO EXECUTIVE SESSION AT ANY TIME DURING THE COURSE OF THIS MEETING TO DISCUSS ANY OF THE MATTERS LISTED ABOVE, AS AUTHORIZED BY TEXAS GOVERNMENT CODE FOR THE FOLLOWING PURPOSES: §551.071: CONSULTATION WITH ATTORNEY; §551.072: DELIBERATIONS REGARDING REAL PROPERTY; §551.073: DELIBERATIONS REGARDING GIFTS AND DONATIONS; §551.074: PERSONNEL MATTERS; §551.076: DELIBERATIONS REGARDING SECURITY DEVICES; §551.087: DELIBERATIONS REGARDING ECONOMIC DEVELOPMENT NEGOTIATION

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Agenda Item 1
Discussion of Potential New Variance Application Form

Comparison of State of
State & Local Approval Standards



CITY OF LAGO VISTA • DEVELOPMENT SERVICES
5803 THUNDERBIRD STREET • P.O. BOX 4727 • LAGO VISTA, TX 78645

Tel. (512) 267-5259

Fax (512) 267-5265

NOTE: Applicants should seek legal advice concerning the applicability of any existing private covenants or deed restrictions and their ability to be enforced or waived by other specific property owners.

APPLICATION FOR ZONING VARIANCE

Date submitted: _____ **Fee:** \$250.00

Applicant's name: _____

Applicant's mailing address: _____

Subject property address: _____

Applicant's email: _____

Applicant's phone numbers: _____
Mobile Day Evening

Applicant's authorized representative (if any): _____

Representative's email and phone numbers: _____

Explain the nature or basis of the variance request (attach additional pages if necessary)

List or describe ordinance provisions from which relief is sought: _____

NOTE: Applications must be complete including all applicable portions of this form, payment of fees and all required drawings or documentation. All applications are accepted provisionally pending a completion review. **SEE ATTACHED ORDINANCE PROVISIONS. PLEASE TAKE SPECIFIC NOTICE OF MANDATED STANDARDS FOR APPROVAL AND ADDRESS THEM IN YOUR NARRATIVE ABOVE.**

Applicant's signature(s)

Date

TEXAS LOCAL GOVERNMENT CODE

TITLE 7. REGULATION OF LAND USE, STRUCTURES, BUSINESSES, AND RELATED ACTIVITIES

SUBTITLE A. MUNICIPAL REGULATORY AUTHORITY

CHAPTER 211. MUNICIPAL ZONING AUTHORITY

SUBCHAPTER A. GENERAL ZONING REGULATIONS

Sec. 211.001. PURPOSE. The powers granted under this subchapter are for the purpose of promoting the public health, safety, morals, or general welfare and protecting and preserving places and areas of historical, cultural, or architectural importance and significance.

Sec. 211.009. AUTHORITY OF BOARD.

- (a) The board of adjustment may:
- (1) hear and decide an appeal that alleges error in an order, requirement, decision, or determination made by an administrative official in the enforcement of this subchapter or an ordinance adopted under this subchapter;
 - (2) hear and decide special exceptions to the terms of a zoning ordinance when the ordinance requires the board to do so;
 - (3) authorize in specific cases a variance from the terms of a zoning ordinance **if the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship, and so that the spirit of the ordinance is observed and substantial justice is done;** and
 - (4) hear and decide other matters authorized by an ordinance adopted under this subchapter.
- (b) In exercising its authority under Subsection (a)(1), the board may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision, or

determination from which an appeal is taken and make the correct order, requirement, decision, or determination, and for that purpose the board has the same authority as the administrative official.

- (c) The concurring vote of 75 percent of the members of the board is necessary to:
 - (1) reverse an order, requirement, decision, or determination of an administrative official;
 - (2) decide in favor of an applicant on a matter on which the board is required to pass under a zoning ordinance; or
 - (3) authorize a variation from the terms of a zoning ordinance.

Sec. 211.010. APPEAL TO BOARD.

- (a) Except as provided by Subsection (e), any of the following persons may appeal to the board of adjustment a decision made by an administrative official:
 - (1) a person aggrieved by the decision; or
 - (2) any officer, department, board, or bureau of the municipality affected by the decision.
- (b) The appellant must file with the board and the official from whom the appeal is taken a notice of appeal specifying the grounds for the appeal. The appeal must be filed within a reasonable time as determined by the rules of the board. On receiving the notice, the official from whom the appeal is taken shall immediately transmit to the board all the papers constituting the record of the action that is appealed.
- (c) An appeal stays all proceedings in furtherance of the action that is appealed unless the official from whom the appeal is taken certifies in writing to the board facts supporting the official's opinion that a stay would cause imminent peril to life or property. In that case, the proceedings may be stayed only by a restraining order granted by the board or a court of record on application, after notice to the official, if due cause is shown.
- (d) The board shall set a reasonable time for the appeal hearing and shall give public notice of the hearing and due notice to the parties in interest. A party may appear at the appeal

hearing in person or by agent or attorney. The board shall decide the appeal within a reasonable time.

- (e) A member of the governing body of the municipality who serves on the board of adjustment under Section 211.008(g) may not bring an appeal under this section.

LAGO VISTA CODE OF ORDINANCES

CHAPTER 14 ZONING

EXHIBIT A ZONING ORDINANCE

PART IV ADMINISTRATION AND ENFORCEMENT

SECTION 11 VARIANCES, APPEALS, AND SPECIAL EXCEPTIONS

11.10 Provisions Subject To Variance

The Board of Adjustment (BOA) may authorize a variance to the provisions of this chapter when, in its opinion, undue hardship will result from requiring strict compliance. In granting a variance, the Board shall prescribe only conditions that it deems necessary to or desirable in the public interest. In making the findings in accordance with the rules and conditions of this section, the Board shall take into account the nature of the proposed use of the land involved, existing uses of land in the vicinity, the numbers of persons who will reside or work in the proposed use, and the probable effect of such variance upon traffic conditions, and upon the public health, safety, convenience and welfare in the vicinity. The Board may not grant a variance that would allow a use not permitted in a zoning district.

11.20 Conditions Required For Variance

No variance shall be granted unless the Board of Adjustment finds:

1. That there are special circumstances or conditions affecting the land involved such that the strict applications of the provisions of this chapter would deprive the applicant of the reasonable use of his land; or would result in significant practical difficulties or unreasonable hardship to the landowner, or unreasonable disruption of the natural terrain, or unreasonable destruction of existing flora.
2. That the variance is necessary for the preservation and enjoyment of a substantial right of the applicant.

3. That there is no reasonable alternative to the requisite variance that will alleviate the difficulty or hardship for which the variance is requested.
4. That the variance will be no greater than the minimum required to alleviate the difficulty or hardship for which the variance is requested.
5. That the granting of the variance will not have the effect of preventing the orderly use of other land in the area in accordance with the provisions of this chapter. Variances may be granted only when in harmony with the general purpose and intent of this chapter so that the public health, safety and welfare may be secured and substantial justice is done. Pecuniary hardship to the applicant, standing alone, shall not be deemed to constitute undue hardship.
6. That the variance will not violate the intent of the Zoning Ordinance nor the goals of the City's Master Plan.
7. That such variance shall not restrict the reasonable and necessary unobstructed access to sunlight and preservation of views of those other properties which might be affected.

11.30 Interpretive Roles

1. Variances to provisions to this chapter should be granted sparingly.
2. Granting of a variance must be predicated on a finding that the applicant's request for variance arises from unusual conditions or circumstances, such as exceptional irregularity of shape or topography, which are peculiar to the parcel of land involved and not shared generally by other parcels in the neighborhood, or because no other reasonable alternative is available.

11.40 Variance Procedure

1. Application. An application for a variance to the provisions of this chapter shall be made in writing to the City in a form prescribed by the City Manager and shall be accompanied by a site plan and additional information as may be requested in order to properly review the application. Such information may include, but is not limited to: plat plans, site and building plans and contour maps.
2. Signs Required for Proposed Variance. At the time a proposed zoning change or variance application is filed, the City shall place easily visible signs on the property in accordance with Section 13.40 below.

3. Review by the Board.

1. Review. The Board shall review each application for a variance. Members of the Board or duly appointed City officials shall visit the site where the proposed variance will apply and the surrounding area, and shall report their finding to the Board.
2. Notice and Hearing. The Board shall notify property owners in accordance with Section 13.40 below of a public hearing at which the variance will be considered. The Board shall hold a public hearing within forty-five (45) days from the date of application acceptance.

4. Action by Board. The Board shall not grant a variance unless it finds that each of the conditions in Section 11.20 has been established. The burden of proving that such conditions exist is on the applicant. The findings of the Board, together with the specific facts upon which such findings are based, shall be incorporated into the official minutes of the Board meeting at which such variance is granted. The concurring vote of seventy-five percent of the members of the board shall be necessary for any decision in favor of the applicant for any matter upon which it is required to pass or to effect any variation of any ordinance, rule or regulation.

5. Conditions Imposed by Board. The Board may impose such conditions, limitations, and safeguards as it deems appropriate upon the grant of any variance.

6. Variance Shall Lapse After Six (6) Months. Any rights authorized by a variance which are not exercised within six (6) months from the date of granting such variance shall lapse. The applicant may apply for one (1) extension without fee. The right to a variance beyond this date maybe re-established only after application and a new hearing pursuant to this section.