



CITY OF BELLAIRE TEXAS

BOARD OF ADJUSTMENT

AUGUST 18, 2016

Council Chamber

Regular Session

7:00 PM

7008 S. RICE AVENUE
BELLAIRE, TX 77401

1. CALL TO ORDER

Chairman Avioli called the meeting to order at 7:00 PM.

2. PLEDGE TO THE FLAG (US AND TEXAS)

Vice Chairman Almaguer led the Board and the public in the pledge to both flags.

Texas Pledge: (Honor the Texas Flag: I pledge allegiance to thee, Texas one state under God, one and indivisible).

3. CERTIFICATION OF A QUORUM

Chairman Avioli certified that a quorum was present, consisting of the following members:

Attendee Name	Title	Status	Arrived
James P. Avioli Sr.	Chairman	Present	
Amar Raval	Board Member	Present	
Debbie Karakowsky	Board Member	Absent	
Samir Sinha	Board Member	Present	
Jed Mandel	Board Member	Present	
Jill Almaguer	Vice Chairman	Present	
William Stone	Board Member	Present	
ChaVonne Sampson	Development Services Manager	Present	
Ashley Parcus	Secretary	Present	
Alan P. Petrov	City Attorney	Present	
Zachary Petrov	Assistant City Attorney	Present	

4. APPROVAL OF MINUTES

1. Board of Adjustment - Regular Session - Jul 21, 2016 7:00 PM

RESULT:	APPROVED [UNANIMOUS]
MOVER:	William Stone, Board Member
SECONDER:	Amar Raval, Board Member
AYES:	Avioli Sr., Raval, Sinha, Mandel, Almaguer, Stone
ABSENT:	Karakowsky

5. REPORTS FROM OFFICERS, COMMITTEES, SUB-COMMITTEES AND COMMUNICATIONS BOARD MEMBERS HAVE HAD OUTSIDE THE MEETING

There were no reports.

6. UNFINISHED BUSINESS

There was no unfinished business.

7. READING OF THE STANDARDS FROM SECTION 24-704, BELLAIRE CODE OF ORDINANCES

Assistant City Attorney Zach Petrov read the standards from Section 24-718, which deal with the granting of a special exception, rather than Section 24-704, which are the standards for granting a variance.

8. NEW BUSINESS

1. Public Hearings

- A. Docket #BOA-2016-01-Request for a special exception by VLK Architects, on behalf of Houston Independent School District and Condit Elementary School, to allow for the construction of an electronic message board/monument sign in accordance with the provisions set forth in Section 24-1014 of the City of Bellaire Code of Ordinances. The property is addressed as 7000 S 3rd Street, and is located within the R-4 Residential District.

Presentation by the Applicant

Tim Kunz, VLK Architects-Mr. Kunz informed the Board that this is an application for a digital marquee display sign to be located by the main entrance of Condit Elementary School, at the end of Laurel Street. He mentioned that from the very beginning, the project advisory team wanted the school to have a presence on the residential side, and that is why they are proposing that the sign be at this location. He added that the proposed location is not within 100 feet of the residences, and is 6 feet inside of the property line, as required. Mr. Kunz also mentioned that the position of the sign is perpendicular to Third Street so that the sign is not directly facing the residences. He stated that there are many additional regulations that the sign must meet in order to be in compliance with the code. He then showed a rendering of the proposed sign, which will match the materials of the school, and will be a total of 47.2 square feet, with the electronic message display section being 12.5 square feet. Mr. Kunz explained that those dimensions have been reduced down due to its proximity in location to residential properties. He added that it is proposed to be a red LED sign, and that there are other provisions with regard to the electronic message that will be programmed in. Mr. Kunz stated that they are asking for approval of hours of operation for the sign, and that Horn Elementary School and one other school within Bellaire run their sign from 6:00am-9:00pm. He added that they are open to suggestions from both the Board and the residents on the times that the signage would be allowed to run.

Presentation by the City

ChaVonne Sampson, Development Services Manager-Ms. Sampson reiterated that this is an application for a special exception, submitted by VLK Architects, on behalf of HISD and Condit Elementary School for the installation of a double sided electronic message board sign on 7000 South Third Street, in accordance with the provisions set in Section 24-1014 of the Code of Ordinances. She stated that the zoning for this property is R-4, with a specific use permit for the operation of the school. Ms. Sampson informed the Board that the application was filed on July 18, 2016, and mail outs were sent to properties within 200 feet of the school on August 2, 2016. She added that the legal notice was published in the Southwest News on August 2, 2016. Ms. Sampson explained that the school previously had a non-electronic, internally lit message board sign located on

Third Street, between Willow and Laurel. She informed the Board that Section 24-718 states that approval of the installation of a double sided electronic message board sign requires that the following guidelines, set forth in Section 10105, are present:

(A) An electronic message display sign may only be integrated into a permitted monument sign as regulated under Section 24-1011. The total area of the changeable copy message is limited to twenty (20) square feet and shall be limited to no more than fifty percent (50%) of the area of the total sign face allowed.

(B) No more than one electronic message display sign is permitted per development site, limited to two sides of copy.

(C) An electronic message display sign may be no closer than 100 feet to a residence. The minimum spacing between changeable message signs is 200 feet irrespective of property lines.

(D) The minimum display time for a message is fifteen (15) minutes. The transition time between messages shall appear instantaneous without the illusion of flashing, scrolling, animation or movement of any kind.

(E) The following display features are prohibited: continuous scrolling and/or travelling, flashing, spinning, fade, dissolve, rotating, and similar moving effects, and all dynamic frame effects or patterns of illusionary movement or simulating movement.

(F) All electronic message display signs shall come equipped with automatic dimming technology, which automatically adjusts the sign's brightness level based on ambient light conditions.

(G) No electronic message display sign shall exceed a brightness level of 0.3 foot-candles above ambient light as measured using a foot-candle (Lux) meter at a distance based on sign area, measured as follows:

(1) Measurement Distance = $\sqrt{\text{Area of Sign Square Footage} \times 100}$

(H) Only monochrome electronic message display signs are permitted with black backgrounds and message colors limited to red or amber

(I) An electronic message display sign is not permitted on a site with an existing changeable copy sign or a pole sign, unless the electronic message display sign is replacing either of these signs in conformance with the provisions of this section.

Ms. Sampson explained that in addition to approval, the Board should include hours of operation and any other conditions that the Board deems appropriate. She added that if this application is approved, the City's Code Compliance Officer, working with the Zoning Official, will ensure that the sign is in compliance with all necessary code requirements before a permit is issued. Ms. Sampson informed the Board that Horn Elementary is the only other location in Bellaire with an electronic message board sign with hours of operation that are less than 24 hours a day. She stated that the sign at Horn may only operate between 6:00am and 9:00 pm daily. Ms. Sampson added that the Development Services Department has not received any complaints regarding any of the signs that have been previously approved by the Board, and that the Development Services Director

finds that the request is in compliance with the requirements of Section 24-718. She stated that staff offers no objections to the approval of the application.

Public Comments

The following members of the public spoke against the application:

Allen Jones
Gaylon Guilquist
Tom Schexnayder
Jan Sreen
Judy Thrasher
Molly McGee

All six residents were concerned with the proposed location of the sign. They felt as though it was not appropriate for the sign to be located within a residential neighborhood, and that it should be installed on South Rice instead. Several residents mentioned that other signs at HISD schools are located on busy streets/intersections and didn't understand why this was being proposed differently. A few residents felt that the school has operated just fine without an electronic sign and that it is not needed, as there are other methods of communication that the school uses. There was also some confusion as to whether the applicant applied for the correct thing as the application mentioned a "variance" in several places.

The following members of the public spoke in favor of the application:

Lynn McBee
Dan Greenberg (Condit Principal)

Ms. McBee mentioned that a lot of things have changed in recent years and that digital signs are a very popular avenue of communication. She added that in today's day and age instant communication is very important. Ms. McBee stated that it is obvious by the application that efforts have been made in addressing the fact that they are proposing the sign within a residential neighborhood. She pointed out that the proposed sign is in compliance with the City's sign ordinance and informed the Board that she is in favor of the application with the appropriate conditions applied, as well as possibly a trial period of one year to evaluate the impact that it has on the surrounding neighborhood.

Principal Greenberg stated that he feels as though the marquee needs to be located by the front door where there is the most foot traffic, and that he is absolutely comfortable with limited hours. He added that he does recognize that there are drop off and pick up areas on South Rice, but explained that those are designated for the older kids who have a much better capacity to remember what is going on and to explain those events to their parents. Principal Greenberg mentioned that it is a fantastic opportunity to communicate with the families that the school has never had, and that the previous signs were very inadequate.

The following members of the public made points for and against the application:

Linda Hester

Ms. Hester stated that while she does not agree with the proposed location of the sign, and would like to see it installed on South Rice Avenue instead, she does understand the need for the sign and that it will be regulated by the City and the Board. She asked the Board to simply take all comments and concerns into consideration prior to granting the special exception.

The following members of the public submitted written comments regarding the application:

Tracy Hester
Linda Hester
Amy & Jim Vanderhill
David & Leslie Little
Molly McGee
Nicholas & Stephanie Blair
Tom & Susan Schexnayder
Ann Battle
Pat & Stan McHugh

Rebuttal by the Applicant

Mr. Kunz stated that they are very sensitive and respectful of the fact that they are proposing the sign within a residential neighborhood, and have taken whatever measures they could to make the sign a feasible solution given its size and proximity to the residences.

Questions by the Board

Chairman Avioli asked for clarification on whether the applicant applied for a special exception or a variance.

Ms. Sampson and Attorney Petrov explained that the applicant did apply for a special exception, however, the application is the same one used for both special exceptions and variances. Attorney Petrov agreed that it is somewhat confusing and that it will be revised to appropriately reflect what is being applied for.

Board Member Mandel asked for clarification on whether the code says that the sign is not permitted within 100 feet of a residential property, or the structure. He also mentioned that the amount of public comments that the Board heard, when the notices only went out to properties within 200 feet, is very compelling.

Ms. Sampson stated that it is not permitted within 100 feet of the structure.

Board Member Sinha asked if installation of the sign on South Rice was even explored as an option.

Mr. Kunz explained that it was not, simply because the project advisory team wanted it to be installed at the front of the school. He added that that's not to say that it can't be relocated if need be.

Board Member Sinha asked what types of messages would be displayed on the proposed sign.

Principal Greenberg stated that it would be used for any number of things, from family and student events, to urgent messages that the school needs to communicate immediately.

Board Member Sinha asked Mr. Greenberg if he felt as though this was a need or a want.

Principal Greenberg stated that he felt as though it would be disingenuous to say that it was not a want. He added that it would be a very effective way of communicating, but obviously the school could function without it.

Board Member Raval asked the applicant and the principal what time limitations they would be comfortable with.

Principal Greenberg explained that he felt as though 7:00am-6:00pm would be an appropriate time frame.

Board Member Stone mentioned Mr. Kunz's comment within the application that the proposal was not in compliance with HISD's district standards and asked what he meant by that.

Mr. Kunz explained that at any new school, as long as it meets the city's requirements, HISD has a district standard for a 4 foot tall by 8 feet wide LED marquee board. He stated that he added that simply to say that the proposed size of the sign for Condit has been significantly decreased from what is normally installed in an effort to be respectful of the surrounding residential properties.

Board Member Stone asked for clarification that HISD's standard is not a hard rule, it is just a standard.

Mr. Kunz explained that his firm is dictated to follow the school district's guidelines.

Board Member Stone asked if there was a difference in how the City handles applications for schools versus applications for commercial businesses.

Attorney Petrov explained that although schools don't have an automatic by right, the City does give higher regard to institutional developments versus commercial developments.

Vice Chairman Almaguer mentioned that Horn Elementary's sign does in fact have scrolling messages, which are said to be prohibited by the code. She mentioned that it also faces residences, but that the location of the school did not allow for any other options. Vice Chairman Almaguer felt as though Condit does have a better option with the installation of the sign on South Rice Avenue instead of Third Street. She then asked if the sign will have any illumination other than the LED message.

Mr. Kunz stated that the only illumination will be with the LED message. He also mentioned that the school would rather the location of the sign change than to not have a sign at all. Mr. Kunz said that if the Board felt it more appropriate that the sign be installed on South Rice Avenue then it can be done and is worth the conversation.

Vice Chairman Almaguer asked Mr. Greenberg if there are other avenues of communication that the school uses to get in touch with parents, and if the relocation of the sign, along with the usage of other avenues would be satisfactory.

Principal Greenberg confirmed that there are other avenues, and that he would be a lot more comfortable changing the location of the sign than losing it all together.

Chairman Avioli asked if there is any sound associated with the sign.

Mr. Kunz stated that there is no sound.

Chairman Avioli asked Mr. Greenberg what the downside of installing the sign on South Rice would be, and stated that he would be prone to make the argument that it would be just as effective, if not more effective, located on South Rice Avenue.

Principal Greenberg explained that a lot of families live in close proximity to the school and might not see the sign if it is installed on South Rice Avenue. He also mentioned that it is illegal to make a right off of Jessamine onto South Rice during certain hours, meaning that they will not be able to drive by the sign after dropping off or picking up their children.

Mr. Kunz also pointed out that if the sign is located in front of the school on South Third Street it will be right outside of Mr. Greenberg's office, meaning that he will be able to see it at all times.

Chairman Avioli asked the City Attorney how the Board should move forward procedurally since the proposal is for the installation of the sign on South Third and not on South Rice.

Attorney Petrov explained that legally, the Board, the City, and the applicant have satisfied all of the necessary requirements, and if the Board feels that it is prepared to take action on the request with the sign being relocated to South Rice Avenue then it is free to do so.

Consideration of, deliberation by, and action on the docket item

Vice Chairman Almaguer mentioned that the ordinance already contains all of the restrictions that she felt would be necessary.

Ms. Sampson mentioned that without any restrictions added, the sign could operate 24 hours a day.

The Board felt comfortable with 24 hour operation if it was located on South Rice.

Chairman Avioli reminded the Board and the applicant that approval of the special exception would require 75% of the Board to vote in favor. He added that one member was not in attendance, meaning that the vote must be unanimous.

The special exception was granted with the condition that the sign can only be installed on South Rice Avenue. No time limitations were added, meaning that the sign is allowed to operate 24 hours a day/7 days a week.

RESULT:	APPROVED WITH CONDITIONS [UNANIMOUS]
MOVER:	Amar Raval, Board Member
SECONDER:	Jed Mandel, Board Member
AYES:	Avioli Sr., Raval, Sinha, Mandel, Almaguer, Stone
ABSENT:	Karakowsky

2. Discussion on possible revisions to the Board of Adjustment's 2016-2017 Rules of Procedure.

Board Member Stone pointed out that there are three different parking terms used within the Rules of Procedure and asked if they could be condensed down. He also mentioned that they are used to explain things that the applicant is required to submit to the City/Board and not how the meetings are supposed to be run. Board Member Stone felt that they were not a necessary part of the Rules of Procedure.

Ms. Sampson then explained the difference between the three terms and stated that several years ago the Board voted to add that language to the Rules of Procedure due to the fact that those requirements are not listed anywhere in the code. She added, however, that staff did agree that they may not be listed under the appropriate section of the rules.

Board Member Raval stated that although Board Member Stone made a relevant point, action taken by the Board does not go to City Council and can only be appealed to the District Court. He felt that having it in the Board's Rules of Procedure covers all of the bases.

Vice Chairman Almaguer suggested leaving the section and terms in the rules, but possibly including definitions of the terms to limit the confusion.

Ms. Sampson explained to the Board that their rules prohibit them from discussing and voting on changes to the Rules of Procedure on the same night. She added that staff would provide a redline of the suggested changes for the Board's next meeting.

9. GENERAL COMMENTS

(Limitations: Six (6) minutes per speaker with extensions in two (2) minute increments as approved by a majority vote of the Board Members present).

Lynn McBee-Ms. McBee stated that she was pleased with the Board's decision to leave the language regarding the requirement of parking studies in their Rules of Procedure. She added that with the frequency of turnover that the Board has it is very important to have access to as much information as possible in order to help improve the decision making process. Ms. McBee congratulated the Board on the action that was taken in the meeting.

10. GENERAL COMMENTS FROM BOARD MEMBERS

There were no comments from the Board Members.

11. ANNOUNCEMENTS

There were no announcements made.

12. ADJOURNMENT

Motion: a motion was made by Vice Chairman Almaguer and seconded by Board

Member Raval to adjourn the Regular Meeting.

Vote: the motion passed with a vote of 6-0.

The meeting was adjourned at 8:45 PM.