

CITY OF BELLAIRE TEXAS

BOARD OF ADJUSTMENT

JULY 20, 2017

Council Chamber	Regular Session	7:00 PM
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7008 S. RICE AVENUE
BELLAIRE, TX 77401



Chair

James P. Avioli Sr.

Board Member

Debbie Karakowsky

Board Member

Samir Sinha

Board Member

Jed Mandel

Vice Chair

Jill Almaguer

Board Member

Bharat Raval

Board Member

L. Timothy McKone

Mission Statement:

The City of Bellaire is dedicated to outstanding quality service and facilities to ensure an open, progressive, and secure community.

I. CALL TO ORDER (BY OUTGOING CHAIRMAN)**II. PLEDGE TO THE FLAG (US & TEXAS)**

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

III. CERTIFICATION OF A QUORUM (OUTGOING AND INCOMING BOARD)**IV. APPROVAL OF MINUTES (OUTGOING BOARD ONLY)**

- a. Board of Adjustment - Regular Session - Jun 15, 2017 7:00 PM

V. COMMUNICATIONS AND REPORTS (OUTGOING BOARD ONLY)**VI. UNFINISHED BUSINESS (OUTGOING BOARD ONLY)****VII. SWEARING IN OF NEW BOARD MEMBERS (INCOMING BOARD ASSUMES DUTIES AND OUTGOING BOARD RETIRES)****VIII. INTRODUCTION OF INCOMING BOARD MEMBERS****IX. ELECTION OF CHAIRMAN AND VICE-CHAIRMAN****X. ADOPTION OF RULES OF PROCEDURE**

- a. Rules of Procedure

XI. COMMUNICATIONS AND REPORTS**XII. GENERAL COMMENTS FROM THE PUBLIC (LIMITATIONS: SIX (6) MINUTES PER SPEAKER WITH EXTENSIONS IN TWO (2) MINUTE INCREMENTS AS APPROVED BY A MAJORITY VOTE OF THE BOARD MEMBERS PRESENT)****XIII. GENERAL COMMENTS FROM BOARD MEMBERS****XIV. ANNOUNCEMENTS****XV. ADJOURNMENT**



CITY OF BELLAIRE TEXAS

BOARD OF ADJUSTMENT

JUNE 15, 2017

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)

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

Board Member Mandel led the Board and the public in the pledges to both flags.

3. CERTIFICATION OF A QUORUM

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

Attendee Name	Title	Status	Arrived
James P. Avioli Sr.	Chair	Present	
Amar Raval	Board Member	Present	
Debbie Karakowsky	Board Member	Present	
Samir Sinha	Board Member	Present	
Jed Mandel	Board Member	Present	
Jill Almaguer	Vice Chair	Present	
William Stone	Board Member	Present	
ChaVonne Sampson	Development Services Manager	Present	
John McDonald	Director	Present	
Ashley Parcus	Secretary	Present	
Gus E. Pappas	Council Member	Present	

4. APPROVAL OF MINUTES

A. Board of Adjustment - Regular Session - Jan 19, 2017 7:00 PM

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

5. UNFINISHED BUSINESS

There was no unfinished business.

Chairman Avioli mentioned that a copy of the recently amended Rules of Procedure had been provided to each of the Board Members.

Minutes Acceptance: Minutes of Jun 15, 2017 7:00 PM (Approval of Minutes (outgoing Board only))

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

There were no reports or communications.

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

Ms. Sampson read the Standards required for the granting of a variance from Section 24-704 of the City of Bellaire Code of Ordinances.

8. NEW BUSINESS

A. Public Hearings

Docket # BOA-2017-01-Application for a variance request filed by Steven Gee, Project Manager, Houston Independent School District, from Chapter 24, Planning and Zoning, Section 24-525 B. (1) d. of the City of Bellaire Code of Ordinances, to allow for a maximum building height of 60 feet on a portion of the main building centrally located within the campus, in lieu of the current allowable building height of 45 feet. The property is addressed as 5100 Maple Street, but is more commonly known as Bellaire High School. The school is located in the R-1 Zoning District.

Chairman Avioli reviewed the public hearing process with the Board and the public.

RESULT:	APPROVED WITH CONDITIONS [UNANIMOUS]
AYES:	Avioli Sr., Raval, Karakowsky, Sinha, Mandel, Almaguer, Stone

i. Presentation by the Applicant

Sam Savage, PBK Architects-Mr. Savage explained that Houston Independent School District (HISD) recieved the funds to rebuild Bellaire High School through the 2012 Bond Program. He added that they would like to rebuild on the current site, which is the smallest site out of all of HISD's properties. Therefore, they are looking to relocate the baseball field to the old Gordon Elementary/Mandarin site in order to help free up some space at 5100 Maple Street. Due to the lack in size of the property, Mr. Savage explained that they are asking for a variance in height of 60 feet for the Learning Center, as well as 50 feet for the fly loft. He then showed proposed site plans for the high school, as well as the existing height site plan to better explain the two areas of the building that they are requesting a variance from. Mr. Savage stated that these two areas are well off the front street and would be required to follow the height-setback plane that is present in the regulations for the City's downtown areas. He stated that most of the building will be lower than the 45 feet allowed by right, in an effort to be good neighbors to the surrounding residents. He then showed a proposed site plan for the baseball field and added that it will also require a height variance of 60 feet for the netting. Mr. Savage then reviewed each of the standards required for the granting of a variance and stated that he felt as though the application met each one.

Chairman Avioli then pointed out that although the applicant mentioned a 60 foot variance needed at the former Gordon Elementary site, the application does not include a request for this variance. He clarified that the only requests made within the application are with regard to the height variance and lot coverage at 5100 Maple Street.

ii. Presentation by the City

Ms. Sampson informed the Board that the applicant is requesting a variance from Sec. 24-525, School and churches in residential areas, B. (1) (d) of the City of Bellaire Code of Ordinances to increase the maximum building height regulations from the current 45 feet limit to 60 feet (15 feet variance). She added that the address of the property is 5100 Maple Street, and that it is located within the R-1 Zoning District. She also mentioned that the height-setback plane that is used within the City's commercial districts will be applied to address the development of property adjacent to residential zoned areas. Ms. Sampson stated that Bellaire High School was originally built in 1955, and that HISD, under the authority of the Texas Education Agency, is charged with the provision of public education services for this region. Ms. Sampson mentioned that HISD's mission and ability to provide these educational services should be taken into consideration when reviewing this application. She informed the Board that concurrently the applicant has filed an application for a Specific Use Permit to construct a new high school on the current site and that the Planning and Zoning Commission will hold a public hearing on that request on June 13, 2017 and consider this item at their July meeting. She informed the Board that a legal notice and mail outs for both of the variance requests were published and mailed on May 30th and 31st, respectively. Ms. Sampson then reviewed each of the standards that must be present in order for the Board to grant the variance and stated that upon review and evaluation of the application, all areas of the criteria are met, and it is in the Director of Development Services' opinion that the request is not in conflict with the standards as outlined in Article VII, Division 1, Section 24-704. Therefore, the Director offers no objections to the granting of this variance.

iii. Public Comments: Names of those desiring to comment shall come from sign-up list and shall be limited to six (6) minutes per speaker, with extensions in two (2) minute increments as approved by majority vote of the Board members present.

***Chairman Avioli allowed the speakers to address both the height variance and the lot coverage variance at the same time.**

Gigi White, 4515 Bellaire Blvd-Ms. White stated that she is in support of the variance, and that there are unusual circumstances that accompany this property. She added that the school is deficient based on today's standards, and that HISD has come up with a creative plan in using two existing properties to make it work. Ms. White mentioned that the hardship is based on the property itself and that the new development will offer an improved traffic plan compared to what is in existence now.

Debbie Campbell, 5227 Holly-Ms. Campbell stated that she has been a resident of Bellaire for 27 years, is a member of the Project Advisory Team (PAT), and also works at the high school. She added that living near the school is definitely hard, but without the variances the school district will not be able to build the school that the kids need. She also mentioned that the site is unmanageable without the lot coverage variance.

Todd Blitzer, 5416 Patrick Henry-Mr. Blitzer informed the Board that he is a member of the PAT and that this project has been a hard fought battle for the past 4 years. He added that the school district's goal was to avoid having to move the students during construction and they have come up with a collaborative solution that he hopes they will be able to move forward with. Mr. Blitzer stated that there will be no increase in the size of the school, and that it is already the largest high school within HISD that is located on the smallest site. He mentioned the fact that all

parking is going to be housed on the property, which creates difficulties on the site that need to be dealt with through variances.

Chris Young, 5115 Valerie-Mr. Young was concerned that an increase in height would cause a decrease in the amount of privacy that he and his family have, as well as a decrease in property value. He added that buses will basically be going through his backyard. Mr. Young was concerned that the granting of a height variance would not be specific to a certain area/building and could result in a 60 foot height anywhere on the property. He mentioned that very few children from the area actually attend the school, and also pointed out that there are already drainage issues on Valerie Street, which he is concerned will increase with an increase in density.

Lynn McBee, 5314 Evergreen-Ms. McBee mentioned that the parking garage will most likely be moved to the north after the comments made at the public hearing before the Planning and Zoning Commission for the granting of two specific use permits. She added that a condition should be put on the variances requiring that there be an enrollment cap on 2,500 students, and mentioned that the variances should not be granted based on the amount of enrollment as the City does not want or need growth. Ms. McBee also suggested that the surface parking be eliminated to decrease the amount of lot coverage on the site. She stated that this is a residential zoning district, not a commercial zoning district and urged the Board to deny the variances and send it back to PBK to redesign the site for 2,500 students.

Chairman Avioli then stated that a written comment was also provided by a Mr. David Falloure, and read as follows:

"I support all efforts to realize the plans for the high school rebuild as put forth in May 2017. The high school is in desperate need of any variance to foster rebuild success. The rebuild will benefit Bellaire and students."

iv. Rebuttal by the Applicant

Sam Savage-Mr. Savage reiterated they would like to keep all parts of the building which front Valerie as low as possible, but can increase the height to 45 feet by right, if need be. He mentioned the comment about a lack of privacy and stated that they do not plan to have windows in such places where it would allow for anyone to be able to see into a nearby residence. He also mentioned that the height-setback plane, which will be required, will increase the setback from the surrounding single-family residences. He added that the drainage in the area will be improved and that the plan is to decrease the number of students enrolled to 3,100. Mr. Savage also assured the public and the Board that if the Commission grants the variances for the specific areas in which they are requesting them, the school district will not be able to, nor would they want to, change the site plan to increase the height in any other areas of the building. He added that if it did happen to change, they would come back before the Board for another variance.

Steven Gee, Project Manager, HISD-Mr. Gee added that the appropriate amount of buffers will be installed in order to conceal as much of the site as possible.

v. Questions by the Board

Board Member Stone asked if the football field would be open to the public.

Mr. Gee stated that it will be fenced, but that the public will have access to it when it is not in use by the school district.

Board Member Stone asked for clarification on what buildings will be 60 feet tall.

Mr. Savage explained that it is all one building, but two areas will require additional height, the learning center at 60 feet, and the fly loft, which is part of the auditorium, at 50 feet.

Board Member Karakowsky pointed out that she understood that without an increase in height on the learning center it would decrease the amount of classroom space for the students. However, she didn't understand the necessity of the fly loft and asked what the hardship for the fly loft would be.

Mr. Savage explained that performing arts is a very big part of Bellaire High School, and that a fly loft is necessary for musical productions.

Board Member Karakowsky mentioned that with the reduction of the number of students, as well as the increase of height to 45 feet all along Valerie the height variance may not be necessary.

Mr. Gee informed the Board that the bond program specified a rebuild of Bellaire High School for 2,800 to 3,100 students, and that the school district would still need the variance even if the enrollment was reduced to 2,800.

Board Member Karakowsky mentioned that the site plan may evolve based upon the outcome of the public hearing before the Planning and Zoning Commission and asked for an explanation of the finality of the plan.

Mr. Savage agreed that some changes may be made to the site plan based on comments heard during the public hearing, but reiterated that if the Board grants the variance for the two specific areas, the school district is going to stick to those two areas.

Board Member Mandel asked if an exhibit could be included, such as the diagram provided in the packet, with the variance which would detail specifically what heights were granted and what sections of the building they were granted for. He added that if changes were made to the site plan after the fact, the applicant would be required to come back before the Board for a additional public hearing.

Chairman Avioli agreed that there needs to be some way to regulate where the variances in height are allowed. He added that the Board should not grant a variance so generic that it would allow for the re-location of the increase in height.

Dan Bankhead, HISD-Mr. Bankhead mentioned that the words "centrally located" could be added as part of the condition.

Vice Chairman Almaguer suggested that a required setback from residential properties be included in order to specify where the height variances are allowed. She also asked if the building would be sprinkled and about parking.

Mr. McDonald, Director of Development Services-Mr. McDonald explained that all parking must be housed on site due to City regulations. He added that the hardship is in trying to build a school within a residentially zoned district. He agreed with the idea of coming up with a required setback from the street where the variances in height would be allowed.

Mr. Savage mentioned that he would like for a colleague of his, who was in the audience, to take a look at the diagram to see if he could come up with specific measurements that could be included as part of the variance.

Board Member Sinha asked the applicant what the hardship would be for needing more height in the learning center.

Mr. Savage explained that without the variance it would negatively impact the number of classrooms that could be built to accommodate the students.

Vice Chairman Almaguer asked if they could dig down deeper for the fly loft.

Mr. Savage explained that with the already existing drainage issues, that would not be something that they would want to do. He also mentioned that it costs a lot more money in order to go that route.

vi. Consideration of, deliberation by, and action on Docket Item

At this time, the proposed setback measurements were provided to staff and copies of the diagram were being made. The Board made the decision to suspend the rules in order to hold the public hearing regarding the lot coverage, prior to voting on the variance for height.

After copies of the setback measurements were provided to each of the Board Members, and the public hearing regarding lot coverage was complete, the Board returned to the consideration and deliberation of the height variance.

Motion: a motion was made by Board Member Mandel and seconded by Board Member Stone to grant the variance based on the caveat that "Exhibit A" be entered with the Order, including the dimensions of where the height variances are allowed.

An amendment was offered by Board Member Karakowsky and seconded by Board Member Mandel to grant the variance of 60 feet on the Learning Center, with boundaries as shown on "Exhibit A," as well as 50 feet on the fly loft, with boundaries as shown on "Exhibit A."

Vote: the amended motion was carried with a unanimous vote of 7-0.

The Board then returned to the consideration and deliberation of the variance on lot coverage.

Docket # BOA-2017-02-Application for a variance request filed by Steven Gee, Project Manager, Houston Independent School, from Chapter 24, Planning and Zoning, Section 24-525 B. (1) g., to allow for a maximum lot coverage of 80% rather than the 50% currently allowed by code. The property is addressed as 5100 Maple Street, but is more commonly known as Bellaire High School. The school is located in the R-1 Zoning District.

i. Presentation by the Applicant

Mr. Savage explained that the school district is asking for an increase in lot coverage from the allowed amount of 50% to 80%. He reiterated that they are dealing with a very small site, and that all parking will be housed on the property. He explained that the sports field has been designed to contain artificial turf, which according to the City of Bellaire Code of Ordinances is considered impervious coverage and counts towards lot coverage on the site. He then showed a diagram of the existing lot coverage compared to the proposed lot coverage and informed the Board that the

current lot coverage on site is roughly 57%, which is not in compliance with the City's regulations. He then explained that the lot coverage at the former Gordon Elementary site would be decreased from approximately 32% to 23%, which the applicant is hoping to utilize as somewhat of a "credit" for the 5100 Maple site.

ii. Presentation by the City

Ms. Sampson informed the Board that the applicant is requesting a variance from Sec. 24-525. School and churches in residential areas, B. (1) (g) of the City of Bellaire Code of Ordinances to exceed the maximum lot coverage regulations from the current 50% limit to 80%. She reiterated that the property is located at 5100 Maple and within the R-1 Zoning District. Ms. Sampson stated that in an effort to compensate for the variance it seeks, HISD is reducing impervious coverage at the offsite Gordon Elementary site, proposed to be developed as a baseball field. The development of the baseball field will only cover 23% of that site. She again reviewed each of the standards that must be present, and stated upon review and evaluation of the application, all four areas of the criteria are met. Ms. Sampson stated that the new design will improve traffic flow and water detention throughout the area. She added that it is the opinion of the Director of Development Services that the request is not in conflict with the standards as outlined in Article VII, Division 1, Section 24-704, and therefore no objections are offered to the granting of this variance.

iii. Public Comments: Names of those desiring to comment shall come from sign-up list and shall be limited to six (6) minutes per speaker, with extensions in two (2) minute increments as approved by majority vote of the Board members present.

Todd Blitzer-Mr. Blitzer stated that he has a background in architecture and is aware of what this type of project entails. He added that although many people may not necessarily trust the school district, they should trust their fellow members of the community who will continue to be involved and will hold the school district accountable for their promises. Mr. Blitzer mentioned that the drainage on site will include a subterranean structure which will be able to contain and detain water runoff. He added that having all parking on site limits the abilities of the site plan and requires such variances in order to be developable.

Dave Upton, 5101 Valerie-Mr. Upton stated that he is in favor of the height as long as it is locked in, but that the increase in lot coverage concerns him due to the drainage issues that are already in existence in that area of the City.

Chris Young-Mr. Young mentioned that detention drains will still have to pass into the sewer drains, which will back those systems up. He added that the logic of the "credit" for the decrease in lot coverage at the former Gordon Elementary is flawed, and that the applicant needs to figure out how to shift the buildings around for better use of the site.

Lynn McBee-Ms. McBee stated that just because the bond called for an enrollment of 2,800 to 3,100 students doesn't mean that the school district should go with the highest number possible. She felt that the maximum allowance should be 2,800 students. She then questioned whether grass crete would be an option.

iv. Rebuttal by the Applicant

Mr. Savage explained that there will be an underground storm water detention system installed on the property, which will be a significant improvement compared

to what is there now. He added that grass crete, while it could be an option, poses many maintenance problems.

v. Questions by the Board

Chairman Avioli asked how the decrease in lot coverage at the former Gordon Elementary site would help the residents surrounding the Bellaire High School site. He added that he was worried about run-off in the area.

Mr. McDonald reiterated that the system that will be installed will be an improvement on what is currently in existence there today and mentioned that the Board could add a condition requiring that the drainage capacity be increased to 5% over the required drainage.

Chairman Avioli asked if the City Engineer has been/will be involved in this process.

Mr. McDonald explained that James Andrews will review and approve the drainage prior to any permits being approved.

Board Member Raval asked what the lot coverage would be if the sports field was natural grass.

Mr. Savage stated that there would still be lot coverage of 67%.

Vice Chairman Almaguer agreed that she is also concerned about drainage and has spent thousands of dollars to install drains in her background. She suggested that the Board grant the variance for 67% lot coverage, as having an artificial turf field is not more important than the safety of the surrounding residents.

Board Member Karakowsky mentioned that there are higher standards to meet for the variance on lot coverage. She added that 80% is such as overshoot of the 50% allowed by code.

Mr. Gee reiterated that the relocation of parking and vehicle queuing on site is the reasoning for the need to increase the lot coverage. He added that onsite parking is a requirement of the City of Bellaire and cannot be avoided.

Board Member Mandel stated that he has absolutely no problem with granting the variance for lot coverage. He agreed that the drainage system that will be installed will be a huge improvement to what is there now, and will most likely be able to take on run-off from residences surrounding the school as well.

Vice Chairman Almaguer maintained that the sports field should be natural grass, which would decrease the required lot coverage to 67%.

vi. Consideration of, deliberation by, and action on docket item

The Board then returned to the consideration of and deliberation on the height variance. Once the vote was taken on that item, the Board took the following action on the variance for lot coverage:

Motion: a motion was made by Board Member Mandel and seconded by Board Member to approve the variance for 80% lot coverage, as requested.

Vote: the motion failed with a 3-4 vote.

Minutes Acceptance: Minutes of Jun 15, 2017 7:00 PM (Approval of Minutes (outgoing Board only))

Second Motion: a second motion was made by Board Member Raval and seconded by Board Member Stone to grant a variance for 67% lot coverage.

Amended Motion: a amended motion was made by Vice Chairman Almaguer and seconded by Board Member Raval to include, as a condition, that the detention system must be increased to 5% over the drainage requirement.

Vote on amended motion to include condition: 7-0.

Vote on motion to grant 67% lot coverage: 7-0.

The variance was granted for 67% lot coverage with the condition that the detention system be increased to 5% over the required drainage.

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).

There were no general comments.

10. GENERAL COMMENTS FROM BOARD MEMBERS

Chairman Avioli stated that the meeting was very productive and that very good discussions were had. He thanked the Board for their preparation.

11. ANNOUNCEMENTS

No announcements were 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 carried on a unanimous vote of 7-0.

The meeting was adjourned at 10:13 PM.

Board of Adjustment

Council Chamber, First Floor of City
Hall
Bellaire, TX 77401-4411



Meeting: 07/20/17 07:00 PM
Department: Development Services
Category: Policy
Department Head: ChaVonne
Sampson
DOC ID: 2340

**SCHEDULED
ACTION ITEM (ID # 2340)**

Item Title:

Rules of Procedure

Background/Summary:

The Board is required to adopt the Rules of Procedure at the beginning of each new term. A copy of the current Rules, which were last revised in September of 2016, are attached.

ATTACHMENTS:

- BOA Rules of Procedure 2016 (PDF)

RULES
OF
PROCEDURE
FOR THE
BOARD OF
ADJUSTMENT
CITY OF BELLAIRE, TEXAS

Adopted
July 2016

Revised
September 2016

Attachment: BOA Rules of Procedure 2016 (2340 : Rules of Procedure)

RULES OF PROCEDURE FOR THE BOARD OF ADJUSTMENT

CITY OF BELLAIRE, TEXAS

Adopted – July 2016

City of Bellaire
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Bellaire TX 77401-4411
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Board of Adjustment July 2016 - June 2017

Jim Avioli Sr., Chairman
Jill Almaguer, Vice Chairman
Debbie Karakowsky
Jed Mandel
Amar Raval
Samir Sinha
Bill Stone

Staff

ChaVonne Sampson - Staff Liaison
Ashley Parcus - Secretary

City Council Liaison
Gus Pappas

Attachment: BOA Rules of Procedure 2016 (2340 : Rules of Procedure)

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ARTICLE I Name and Authority

The name of this body is the Board of Adjustment pursuant to state and local law. The Board is authorized within the statutory guidelines contained in Sections 211.008 - 211.011, of the Texas Local Government Code and Chapter 2, Administration, of the City of Bellaire Code of Ordinances.

ARTICLE II Membership

Membership to the Board of Adjustment is by appointment made by the Mayor and the City Council of the City of Bellaire, Texas pursuant to Section 24-303 Planning and Zoning Regulations of the City of Bellaire, Texas as amended. The membership of the Board of Adjustment is seven (7) members, each with a two year term alternatively, such that four (4) members are appointed to a two (2) year term in one year and three (3) members are appointed to a two (2) year term in the following year. Vacancies shall be filled by the Mayor and City Council as necessary.

ARTICLE III Officers

Section A. Officers Named: The officers shall be Chairman and Vice-Chairman. The Board shall elect the Chairman and Vice-Chairman at the first meeting of a newly appointed Board pursuant to Section 24-303(d) of the Code of Ordinances of the City of Bellaire.

Section B. Chairman's Duties: The Chairman is the Presiding Officer and Spokesperson for the Board. The Chairman may delegate Board business from time to time.

Section C. Vice-Chairman's Duties: The Vice- Chairman shall serve as Chairman in the absence of the Chairman.

ARTICLE IV Meetings

Section A. Quorum Requirement: A quorum of the Board shall be a majority of the Board [or four (4) members of a seven member Board] provided however, that if docket items and/or cases before the Board are heard, the quorum for such item shall be not less than 75% [or six (6) members of a seven (7) member Board] of the Board pursuant to Section 211.008 (d) of the Texas Local Government Code.

Section B. First Meeting of a New Board: The first meeting of a new Board shall be a joint meeting of the outgoing (old) Board and the incoming (new) Board. The outgoing Chairman shall call the meeting to order and shall preside until the new chairman is elected. There shall be no Docket Items for any variance, appeal, or exception on the agenda for this meeting. The outgoing Board shall approve the minutes of all previous meetings. The incoming Board shall adopt temporary or permanent Rules of Procedure and such rules shall take effect immediately and remain in effect until amended as outlined in **Article VIII - Amendments to Rules of Procedure**. Said Rules may be adopted "As Is" or adopted "As Amended" by a majority vote [that's four (4) or more votes] of the Board. All other amendments shall be adopted pursuant to **Article VIII - Amendments to Rules of Procedure**. The Agenda for the meeting shall be as follows:

1. Call to Order [by outgoing Chairman]
2. Pledge to the Flag [US and Texas]
3. Certification of a Quorum [outgoing and incoming Board]
4. Approval of minutes [outgoing Board only]
5. Communications and Reports [outgoing Board only]
6. Unfinished Business [outgoing Board only]
7. Swearing In of New Board Members [incoming Board assumes duties and outgoing Board retires]

8. Introduction of incoming Board members
9. Election of Chairman and Vice-Chairman [incoming Board only]
10. Adoption of Rules of Procedure [incoming Board only]
11. Communications and Reports [incoming Board only]
12. General Comments from the Public [**Limitations:** Six (6) minutes per speaker with extensions in two (2) minute increments as approved by a majority vote of the Board members present].
13. General Comments from Board members [incoming Boards]
14. Announcements (if any)
15. Adjournment

Section C. Regular Meetings: Regular meetings of the Board of Adjustment shall be held at 7:00 P.M. on the third Thursday of each month in the Council Chambers of the City of Bellaire, 7008 South Rice Avenue, Bellaire Texas.

Section D. Special Meetings: Special meetings may be called by the Chairman or any two members of the Board, of which notice shall be given in conformity with the Texas Open Meetings Act and procedures of the City of Bellaire, Texas.

Section E. Open Meetings Act: All meetings shall comply with the Texas Open Meetings Act pursuant to Chapter 551, Texas Government Code.

Section F. Adding Agenda Items: Agenda items may be added by the Staff Liaison, the Chairman or any two members of the Board not later than 12:00 noon on the seventh (7th) calendar day prior to a meeting.

Section G. Sign-Up Form for Speakers: There shall be Sign-Up Forms for the purpose of permitting members of the public to address agenda items. Such forms shall be available to the public and forwarded to the Secretary and to the Chairman so that such person's names may be called to address the Board at the appropriate time. All testimony shall be given under oath.

Section H. The Agenda: Except as provided in Section B of this Article, the Agenda at all regular and special meetings of the Board shall be as follows:

1. Call to Order
2. Pledge to the Flag (US and Texas)
3. Certification of a Quorum
4. Approval of Minutes
5. Reports from Officers, Committees, Sub-committees and Communications Board Members have had outside the meeting
6. Unfinished Business
7. Reading of the Standards from Section 24-704 or 24-718 of the Bellaire Code of Ordinances, as it pertains to the Board's current agenda items.
8. New Business - Public Hearings on Docket Item for a Variance, Appeal or Exception [**Repeated and sequentially numbered for each Docket Item considered at each meeting.**
 - a) Presentation by Applicant, Appellant, Property Owner, Counsel or other Agent [**Limitations:** Fifteen (15) minutes with extensions in five (5) minute increments as approved by a majority vote of the Board members present].
 - b) Presentation by the City [**Limitations:** Fifteen (15) minutes with extensions in five (5) minute increments as approved by a majority vote of the Board members present].
 - c) Public comments on Docket Item [**Limitations:** Names of those desiring to comment shall come from sign-up list and shall be limited to six (6) minutes per speaker with extensions in two (2) minute increments as approved by a majority vote of the Board members present].
 - d) Rebuttal by Applicant, Appellant, Property Owner, Counsel or other Agent. [**Limitations:** Six (6) minutes per speaker with extensions in two (2) minute increments as approved by a majority vote of the Board members present].
 - e) Questions by Board [**Limitations:** The Board may ask germane questions of the Applicant, Appellant, Property Owner, Counsel or other Agent, and/or City Staff].
 - f) Consideration of, deliberation by and action on Docket Item by the Board [**Requires** 75% or six (6)

- affirmative votes for approval pursuant to Section 211.009(c), Texas Local Government Code].
9. General Comments from the Public [**Limitations:** Six (6) minutes per speaker with extensions in two (2) minute increments as approved by a majority vote of the Board members present].
 10. General Comments from Board members
 11. Announcements (if any)
 12. Adjournment

Section I. Motions in the Affirmative: All motions on final disposition of a Docket Item shall be in the affirmative.

Section J. Previous Question: A motion to move the Previous Question (close debate) shall be in order following a reasonable time for deliberation. Such motion shall require a second and a two-thirds (2/3) vote for passing.

Section K. Revising the Order of the Agenda During a Meeting: The order of the Agenda may be amended following Item three (3), by a simple majority vote of the Board.

ARTICLE V Docket Items

Section A. Numbering Docket Items: Each appeal or application for variation or modification filed in proper form with the required data and fees, shall be numbered serially, docketed, and shall be placed upon the calendar of the Board by the Secretary thereof. The docket numbers shall begin anew on January 1 of each year, and shall be hyphenated with the number of the year in which the said appeal or application is filed pursuant to Section 24-303 of the Bellaire Code of Ordinances.

Section B. Timing of Docket Items: All cases docketed more than fifteen (15) days next preceding a regular meeting day, and which the Texas Open Meeting Act requirement has been complied with, shall be automatically set for hearing on the succeeding regular meeting day. Cases docketed within fifteen (15) or fewer days of the regular meeting day shall be set for hearing on the second regular meeting day after docketing of the appeal or application.

Section C. Method of Appeal: Each appeal to the Board from an order, decision or determination of the City Building Official or designee or application for variation or modification of any of the provisions of the Zoning Regulations and all other applicable communication concerning Board business shall be made in writing to the Secretary of the Board.

Section D. Time Limitations of Order or Relief Granted: Unless otherwise modified by the Board, if any application for variation or modification is granted by the Board, the variance order shall include a requirement that all permits necessary for the prosecution of the work shall be obtained within one (1) year and construction begun within two (2) years of the order by the Board. The application form shall contain a notice of this section. The Board may modify this requirement.

Section E. Notification: The Order notifying the appellant or applicant shall also notify same of their appeal right to State District Court pursuant to Section 211.011, Texas Local Government Code, within ten (10) days of the date of the order is filed in the Board office.

Section F. Precedents: No action of the Board of Adjustment shall set a precedent. Each case shall be decided upon its merits and upon the circumstances attendant thereto.

Section G. Advice and Moot Questions: No formal requests for advice, or moot questions will be considered by the Board. Any advice, opinion or information given by any Board member or the Secretary or any other official or employee of the City of Bellaire shall not be binding on the Board.

Section H. Fees: All Applicants and Appellants shall pay a non-refundable application fee set by the City of Bellaire to the Secretary of the Board.

Section I. Application for Re-Hearings: No application or appeal to the Board shall be permitted on substantially the same subject matter in reference to the same property prior to the expiration of twelve (12) months from an order of the Board. No application or appeal shall be allowed on substantially the same subject matter in reference to the same piece of property during litigation against the City of Bellaire and/or the Board of Adjustment on said property.

Section J. Withdrawal of Application: Any appellant or applicant may request that his or her appeal or application be withdrawn at any time prior to a final vote or disposition by the Board. Such request shall be granted by the Board.

Section K. Disposition: In the final disposition of any appeal or application for variation or modification, the decision shall affirm, modify or reverse the refusal of a permit by, or any order or decision of the City Building Official. In case of an application for variation or modification the decision shall set forth that the application is denied or that it is granted with or without conditions. The vote of each member present on each decision shall be by record vote.

Section L. The Lack of a Quorum for a Variance Hearing: In the event that the Appellant, Applicant, Property Owner, Counsel, or other Agent is present at the scheduled hearing, but the Board of Adjustment is lacking a quorum for the hearing, the hearing shall be rescheduled without any penalties for the appellant or applicant and no additional application fee shall be imposed.

Section M. Special Exception or Variance Parking Requirement: Any applicant seeking a Variance or Special Exception from Chapter 24, Section 514 and/or 514a of the City of Bellaire Code of Ordinances must include, with their application, a "Parking Demand Analysis." This analysis, along with the complete "Parking Plan" that is to be presented to the Board, must be given to the City of Bellaire ten (10) days in advance of the scheduled board meeting. In the event that the Board of Adjustment or the applicant wishes to revise the proposal at or before the hearing, the City of Bellaire may request and receive the right to delay the process until the next board meeting to review the changes. The Zoning Official may request a waiver of this requirement.

ARTICLE VI Definitions

Appeal: A process to permit a request for relief through application by a person aggrieved by a decision of the City Building Official pursuant to Bellaire's Planning and Zoning Regulations.

Appellant: A person aggrieved by a decision made by the City Building Official affected by the decision, who appeals in person or through his designated representative for relief to the Board of Adjustment.

Applicant: A person who requests in person or through his designated representative, either a special exception to the terms of Bellaire's Planning and Zoning Regulations or a request for a variance from the terms of Bellaire's Planning and Zoning Regulations.

Application: An appeal or a request for a variance or a special exception in writing specifying the grounds for an appeal contained in a standardized form issued by the City Building Official.

Board of Adjustment: A public and quasi-judicial body charged with the duty to hear and determine zoning appeals, special exceptions and variances pursuant to Section 211.009 of the Texas Local Government Code and Section 24-303 of the Bellaire Code of Ordinances.

City Building Official: The person duly appointed by the City Manager of the City of Bellaire, as provided by Chapter 24 of the Bellaire Code of Ordinances, charged with the duty and obligation of issuing permits and

certificates of occupancy and with the responsibility for enforcing the provisions of the Building Code and Zoning Regulations for the City of Bellaire.

Error: Refer to Section 211.009(a)(1), Texas Local Government Code.

Hardship: A determination to be made by a Board of Adjustment or, in the event of its Appeal to a District Court. It is defined in Black's Law Dictionary as a condition, which may be unreasonable, unduly oppressive, arbitrary or confiscatory which, if, found to be true in the opinion of a Board of Adjustment, is grounds for the granting of a variance. The burden of proof of such hardship lies with an applicant.

Parking Demand Analysis: A survey or report that provides details of parking demand/supply for a proposed project. The means of data collection and calculations to determine parking requirements must be designed in accordance with the Institute of Transportation Engineers Parking Generation.

Parking Plan: A site plan that identifies all parking space locations for a proposed project whether onsite or offsite.

Special Exception: Refer to Section 211.009(a) (2), Texas Local Government Code.

Staff Liaison: The city staff member appointed by the City Manager of the City of Bellaire to assist the Board of Adjustment.

Variance: Refer to Section 211.009(a) (3), Texas Local Government Code.

Zoning: A power over land use granted to a city pursuant to Chapter 211, Texas Local Government Code, 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.

ARTICLE VII Civil and Parliamentary Authority

Section A. Construction of Authority: The construction of authority in all matters associated with the Board of Adjustment, including the Agenda, shall be: **1)** the Constitution and statutes of the United States of America; **2)** the Constitution and statutes of the State of Texas; **3)** the Charter of the City of Bellaire; **4)** the Code of Ordinances of the City of Bellaire; **5)** these Rules of Procedure; and **6)** Robert's Rules of Order, Newly Revised.

Section B. Reference to State and Local Statutes: The conduct and scope of activity of the Board of Adjustment is governed by and subject to State and local laws including, but not limited to, Chapters 211, 213 and 216, Texas Local Government Code, Chapters 551 and 552, Texas Government Code, the Charter of the City of Bellaire, Texas, and Chapter 2, Administration of the City of Bellaire Code of Ordinances.

Section C. Parliamentary Authority: The Rules contained in the most recent edition of Robert's Rules of Order, Newly Revised shall govern the Board of Adjustment in all cases in which they are applicable and not inconsistent with a superior authority.

ARTICLE VIII Amendments to Rules of Procedure

Section A. Amendments by Existing Board: These Rules of Procedure may be amended by a majority vote of the entire Board of Adjustment provided previous notice is given at one meeting in advance of any such consideration, and further provided, that an amendment to bring these Rules of Procedure in compliance with a superior statute, rule, procedure or other authority may be considered without previous notice.

Section B. Annual Review: These Rules of Procedure shall be reviewed not less frequently than annually. The adoption of these Rules of Procedure by a New Board shall not constitute such review.

**ADOPTION OF RULES
OF PROCEDURE**

Adopted by the Board of Adjustment of the City of Bellaire on the 21st day of July, 2016.
Attest:

Signature of Chairman

Attachment: BOA Rules of Procedure 2016 (2340 : Rules of Procedure)