



# CITY OF BELLAIRE TEXAS

## BOARD OF ADJUSTMENT

NOVEMBER 16, 2017

Council Chamber

Regular Session

7:00 PM

7008 S. RICE AVENUE  
BELLAIRE, TX 77401

### 1. CALL TO ORDER

Former Chair Jill Almaguer resigned prior to the meeting, therefore Vice Chairman Sinha called the meeting to order at 7:26 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).**

Vice Chairman Sinha led the Board and the public in the pledges to both flags.

### 3. CERTIFICATION OF A QUORUM

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

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

### 4. APPROVAL OF MINUTES

A. Board of Adjustment - Regular Session - Jul 20, 2017 7:00 PM

**RESULT:** APPROVED [UNANIMOUS]  
**MOVER:** James P. Avioli Sr., Board Member  
**SECONDER:** Jed Mandel, Board Member  
**AYES:** Avioli Sr., Karakowsky, Sinha, Mandel, Raval, McKone  
**ABSENT:** Almaguer

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

Board Member Avioli mentioned that the Board had considered a variance regarding lot coverage for the new Bellaire High School. He reminded the Board that during that discussion, many of the members raised the question of what the surface of the athletic

field would be, which HISD stated would be artificial turf. Board Member Avioli pointed out that there was no stipulation about what the surface had to be. He stated that he had learned later at a Council meeting that the engineers for HISD met with the City Engineers and determined that the artificial turf would be considered a pervious surface and could be used on the field and still be compliant with the lot coverage requirements. Board Member Avioli added that he had a conversation with Ms. Sampson who assured him that the procedure was indeed followed and that the two engineers agreed that there would be no detriment in using the artificial turf. He added that he felt an obligation to bring that up due to the fact that there was so much discussion about it during the public hearing on the item.

Vice Chairman Sinha asked if that determination will impact the percentage of lot coverage that was granted for the site.

Ms. Sampson explained that they will still be held to the 67% lot coverage, which is what the Board approved.

Board Member Karakowsky asked if the drainage system that was described during the meeting will still be installed underneath the field.

Ms. Sampson confirmed this and added that there will also be the 5% increase that the Board voted on.

Board Member Karakowsky asked if a location had been determined for the theater, which was granted a height variance by the Board.

Ms. Sampson stated that it has been determined. She added that when the plans are submitted staff will review them to ensure that the location falls within the parameters that the Board had voted on.

Board Member McKone mentioned that he was not on the Board at the time of the public hearing on lot coverage, but that he did attend the meeting. He added that he had walked away feeling as though it had to be a grass surface, and asked if that was just not documented or if it was not a decision that was made.

Ms. Sampson explained that the motion did not specify what material must be used, just that the applicant had to comply with a 67% lot coverage requirement on the site.

Board Member Karakowsky pointed out that the main concern was that it be a pervious material. She added that the Board may be surprised to learn that artificial turf falls within that, but if the engineers made that determination then it is well within the intentions of the Board.

Former Chairman Jill Almaguer explained that her home had flooded during Harvey and was not currently habitable. She added that she and her husband had decided to purchase a home elsewhere (outside of Bellaire) and therefore she is no longer able to serve on the Board. Ms. Almaguer stated that she had previously contacted the Board's Council Liaison, Gus Pappas, and had sent City Clerk, Tracy Dutton her resignation letter prior to the meeting. She thanked the Board Members for their support and their work, and stated that it had been a privilege to be a member of the Board.

Vice Chairman Sinha thanked Ms. Almaguer for her service.

## **6. UNFINISHED BUSINESS**

There was no unfinished business.

## 7. READING OF THE STANDARDS FROM SECTION 24-718, BELLAIRE CODE OF ORDINANCES

Attorney Petrov read the standards set forth in Section 24-718 of the Code.

## 8. NEW BUSINESS

### A. Public Hearings

Docket # BOA-2017-03-Public hearing on an application filed by Michael Adams of Michael Homes Southwest, LP, owner of the property at 5213 Locust Street, for a Special Exception to allow for the construction of a 10 foot fence along the south property line, with a gradual slope from a 10 foot fence to an 8 foot fence at the southern portions of the east and west property lines, in lieu of the 8 foot allowance as determined by Chapter 24, Section 512 A. of the City of Bellaire Code of Ordinances. The property is located in the R-4 Zoning District.

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Jed Mandel, Board Member
<b>SECONDER:</b>	Debbie Karakowsky, Board Member
<b>AYES:</b>	Avioli Sr., Karakowsky, Sinha, Mandel, Raval, McKone
<b>ABSENT:</b>	Almaguer

#### i. Presentation by the Applicant

**Michael Adams, Michael Homes Southwest**-Mr. Adams informed the Board that he had been given the authority to put 10 foot posts up in the hopes that the application would be approved, and then build the 8 foot fence that meets the City Code. He then provided the Board with pictures that depict the difference that the 10 foot fence will make versus an 8 foot fence. Mr. Adams mentioned that he doesn't feel as though anyone on the commercial side would find anything detrimental about a 10 foot fence being installed on the south side of a residential property located behind the commercial district. He added that no concerns have been voiced by the neighboring residents either. Mr. Adams stated that each of the standards that the Board takes into consideration when voting on this type of request have been addressed in his application. He then respectfully requested that the special exception be approved.

#### ii. Presentation by the City

Ms. Sampson informed the Board that the legal notice was published in the newspaper on October 3, 2017 and then again on November 6, 2017, and mail outs were sent to surrounding properties on October 5, 2017 and again on November 7, 2017. The petitioner is asking for a special exception to allow for the construction of a 10 foot fence along the south property line, with a gradual slope from a 10 foot fence to an 8 foot fence at the southern portions of the east and west property lines of 5213 Locust Street. She added that within the application, it was mentioned that the new requirement to elevate the structure one foot above the Base Flood Elevation decreases the privacy of the home. Ms. Sampson pointed out that she was not sure that the extra two feet was going to accomplish what the applicant wished for it to, and suggested that additional landscaping may do a better job of buffering the residence from the commercial property. She added that if the commercial property were to turnover, new regulations would require that additional landscaping to be installed. Ms. Sampson stated that the application meets the standards set forth in Section 24-718, and therefore staff has no objections to the granting of the Special Exception request. In addition, there have been several requests of this

nature, so Ms. Sampson suggested that the Board may want to recommend that the Planning and Zoning Commission consider re-evaluating the allowable fence heights.

**iii. Public Comments: Names of those desiring to comment shall come from a 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 Board Members present.**

**Lynn McBee**-Ms. McBee mentioned that the CMU district was created in 2014, which has brought about many changes for the City of Bellaire. She stated that as a result of the adoption of the new zoning district, the new development at the corner of South Rice Avenue and Bellaire Boulevard was approved administratively, by right, with no review from the Planning and Zoning Commission or any other body. Ms. McBee pointed out that part of the approved plan is a two-story parking garage which will abut Linden, a residential street, meaning that there will be a parking garage located within a commercial district with egress onto a residential street. She added that now the Board has a request to shield another property from the impact of a commercial development. Ms. McBee questioned what the distance is between the property in the R-4 Zoning District and the commercial district? She added that over the years, as Loop 610 has continued to impact the City of Bellaire and the people that abut 610, the 8 foot requirement is no longer sufficient. Ms. McBee felt that conditions have changed enough to impact people in ways that they were not expecting to be impacted. She supported the application and stated that it is the leading edge of what is to come.

**Jill Almaguer**-Ms. Almaguer stated that she was able to review the application in question, and if she had the ability to purchase that particular home, she would like to be able to enjoy the backyard. She added that she was recently visiting a friend in another area of Houston who had also constructed a taller fence due to the fact that there was commercial property located behind the residence. Ms. Almaguer pointed out that the resident has the right to recreation, and should be able to enjoy their property without having to worry about seeing a commercial property in their backyard. She then asked how this will impact the neighbors, and if they will be requesting the same. Ms. Almaguer stated that she was in support of the application.

**iv. Rebuttal by the Applicant**

Mr. Adams answered the question regarding the distance between the residential property and the commercial property by stating that they are contiguous, and share a property line. He explained that the fence will be located on the property line of each, as there is no street that divides the properties.

Ms. Sampson stated that taking into consideration the setback, the back of the home should be at least 10 feet from the commercial property line.

Mr. Adams agreed.

**v. Questions by the Board**

Board Member McKone asked for clarification that the fence is currently built to a height of 8 feet, with 10 foot posts along the south property line.

Mr. Adams confirmed that the 10 foot posts were installed with the hopes that the application will be approved, but that the posts will be removed if the request is not granted.

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

Board Member Avioli stated that he had driven by the property earlier in the day and felt as though the request is appropriate. He added that everything that he has heard supports the fact that the request should be granted.

**Motion:** a motion was made by Board Member Mandel to grant the special exception request and to make a recommendation to the Planning and Zoning Commission to consider increasing the allowable fence height from eight (8) to ten (10) feet throughout the City, for residential properties that abut commercial properties.

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

## **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).**

**Pat Adams, realtor of 5213 Locust Street**-Mr. Adams thanked the Board for the granting of the special exception, as well as for their service to the City.

**Lynn McBee**-Ms. McBee mentioned that she would like to follow up on the recommendation to the Planning and Zoning Commission. She asked that a copy of Ms. Sampson's recommendation be provided to the Board of Adjustment, as well as City Council. Ms. McBee stated that getting the information appropriately circulated would be very helpful.

## **10. GENERAL COMMENTS FROM BOARD MEMBERS**

Board Member Avioli thanked Jill Almaguer for her service to the City.

## **11. ANNOUNCEMENTS**

Attorney Petrov stated that the Board will be voting on a new Chairman and Vice Chairman at the next meeting.

Staff informed the Board that there had been no applications submitted for the December meeting, but that they are anticipating an application for the January meeting.

## **12. ADJOURNMENT**

Vice Chairman Sinha adjourned the meeting at 8:03 PM.