




NOTICE OF A REGULAR MEETING OF THE
BOARD OF ADJUSTMENT
OF CITY OF SUNSET VALLEY, TEXAS
WEDNESDAY, SEPTEMBER 15, 2021
6:00 P.M.

Notice is hereby given that the Board of Adjustment of the City of Sunset Valley, Texas, will hold a Called Meeting on Wednesday, the 15th day of September 2021 at 6:00 P.M. in the Council Chambers, City Hall, 3205 Jones Road, Sunset Valley, Texas, at which time the following items will be discussed, to wit:

1. Call to order
2. Citizen/Public Comments
3. Consider approval of the minutes from the June 13, 2018 and June 30, 2021 meetings.
4. Consideration and possible approval of an application submitted by Terry Cowan to construct an accessory structure at 4500 Stearns Lane which requires the following variances:
 - a. From Section 2.506(a)(9) the height of an accessory structure exceeds the height of the principal structure; and,
 - b. From Section 2.506(a)(10) an accessory structure in front of the principal structure.
5. Presentation and discussion on the procedures of the Board of Adjustment.
6. Adjourn

I certify that the above notice of meeting was posted at City Hall, 3205 Jones Road, Sunset Valley, Texas, on the 10th day of September 2021 at 6:00 P.M.



Matt Lingafelter
City Secretary



MINUTES OF A REGULAR MEETING OF THE
BOARD OF ADJUSTMENT
OF CITY OF SUNSET VALLEY, TEXAS
WEDNESDAY, JUNE 13, 2018
7:00 P.M.

Board Members Present

Thomas Cedel, Chair
Randall Rosengarten, Vice Chair
Susan Durso
Sandy Cox
Robert Browning

Staff Present

Clay Collins, City Administrator
Sara Wilson, Assistant City Administrator
Willie Schmerler, City Attorney
Jennifer Jurishck, Permit Coordinator

1. Call to order.

Chair Cedel called the meeting to order at 7:06 P.M.

2. Approval of minutes from the March 14, 2018 meeting.

Randall Rosengarten made a motion to approve the minutes as presented, seconded by Susan Durso. Board Members Cedel, Rosengarten, and Durso voted in favor. Board Members Cox and Browning abstained from voting. The minutes were approved by a vote of 3-0.

3. Public Hearing on an application submitted by Jose and Christina Canales for a variance at 32 Reese Drive, from Section 2.1306(b) to construct a new home which does not comply with the 51% masonry requirement.

The Chair opened the Public Hearing at 7:09 P.M. Clay Collins, City Administrator, presented an overview of the information provided to the Board, including the property development history, the request and the regulations (definition of masonry). Building plans have not been submitted to the City, but the estimate for the masonry at 32 Reese Drive is 18%.

Following the presentation, the Board asked questions to staff regarding the proximity of the residents who provided the response to this notice and whether the accessory structure that had received a variance was required to be architecturally compatible to the primary, as stated in the application. The City received two responses from residents within 500 feet, one (1) in favor and one (1) opposed, both from Pillow Road.

Staff provided the clarification that the accessory structure did receive a variance for height, but not for masonry, as the requirement only applies if screening is not provided for the accessory building. In this case, based on the location of the accessory building, no screening was required.

Jose Canales, the owner of 32 Reese, addressed the Board to provide an overview of their request and rationale for wanting this variance to build a stucco home.

Citizen/Public Comments:

- Becky Barnes, 30 Reese, spoke in favor of the application
- DJ Whitlock, 30 Reese, spoke in favor of the application
- Myles Fox, 29 Pillow Road, spoke not in favor or against the application, but questioned the intent of the masonry requirement and notes his objection to the fence at 32 Reese

Jose Canales provided a rebuttal to the comment.

With no further comments, the Chair closed the Public Hearing at 7:25 P.M.

4. Consideration and possible approval of an application submitted by Jose and Christina Canales for a variance at 32 Reese Drive, from Section 2.1306(b) to construct a new home which does not comply with the 51% masonry requirement.

Each member provided comments on the masonry requirements and the application. At the request of the Chair, the City Administrator reviewed the options for the applicant to go before the City Council to request a change in the definition of masonry. Comments from Board Members were that this application did not meet the required findings. The justification provided by the applicant would be the type of justification for the Zoning Commission and the City Council to consider amending the code to amend the definition of masonry to include stucco, but not for a variance.

Robert Browning made a motion not to approve the application for a variance, seconded by Susan Durso. All voted in favor and the motion carried, and the variance application was denied.

5. Adjourn

With no items remaining on the agenda, Randall Rosengarten made a motion to adjourn the meeting, seconded by Susan Durso. All voted in favor and the meeting was adjourned at 7:51 P.M.

Thomas Cedel, Chair

Minutes approved on September 15, 2021



MINUTES OF A CALLED MEETING OF THE
BOARD OF ADJUSTMENT
OF CITY OF SUNSET VALLEY, TEXAS
WEDNESDAY, JUNE 30, 2021
6:00 P.M.

Members Present:

Thomas Cedel, Chair
Susan Durso, Vice Chair
Sandy Cox
Richard Hayes
Walter Jenkins

Staff Present:

Sylvia Carrillo, City Administrator
Matt Lingafelter, Asst. to the City Administrator

1. Call to order

Chair Cedel called the meeting to order at 6:05 P.M.

2. Election of Chair and Vice Chair of the Board of Adjustment.

Chair Cedel opened the floor for nominations for Chair of the Board. Sandy Cox nominated Thomas Cedel. With no other nominations, Chair Cedel closed the floor for nominations. With only one nominee, Thomas Cedel was reappointed as Chair.

Chair Cedel opened the floor for nominations for Vice Chair of the Board. Sandy Cox nominated Susan Durso. With no other nominations, Chair Cedel closed the floor for nominations. With only one nominee, Susan Durso was reappointed as Vice Chair.

3. Consider approval of a regular meeting date and time for the Board of Adjustment.

Walt Jenkins made a motion to keep the second Wednesday of the month as the regular meeting date, and to make 6:00 P.M. the regular start time for the Board. The motion was seconded by Sandy Cox. All voted in favor and the motion carried.

4. Public Hearing to consider an application submitted by Terry Cowan to construct an accessory structure at 4500 Stearns Lane which requires the following variances:

- a. From Section 2.506(a)(9) the height of an accessory structure exceeds the height of the principal structure; and,
- b. From Section 2.506(a)(10) an accessory structure in front of the principal structure.

Chair Cedel opened the hearing at 6:09 P.M. Matt Lingafelter, Assistant to the City Administrator, presented an overview of the application to the Board for the two variances requested at 4500 Stearns Lane.

Susan Durso made comments regarding the application and the proposed size of the applicant's accessory structure, specifically a "guest house" which as presented was larger than what the Code allows. The Board and staff discussed accessory structure and "guest house" regulations and a brief history of variances related to accessory structures. Staff was directed to produce a report summarizing past action by the Board relating to accessory structures.

Terry Cowan, the applicant, addressed the Board and discussed his proposed development and need for a guest house to be constructed.

The Board continued their discussion on guest houses and accessory structures. The Board requested input from the City Attorney on the definition and characteristics of "guest house" and accessory structures.

Sandy Cox made a motion to table discussion on the requested variances until the Board receives the requested information from City Staff and the City Attorney, seconded by Walter Jenkins. All voted in favor and the motion carried.

- 5. Consideration and possible approval of an application submitted by Terry Cowan to construct an accessory structure at 4500 Stearns Lane which requires the following variances:**
- a. From Section 2.506(a)(9) the height of an accessory structure exceeds the height of the principal structure; and,**
 - b. From Section 2.506(a)(10) an accessory structure in front of the principal structure.**

This item was tabled, see Agenda Item #4.

6. Adjourn

Walter Jenkins made a motion to adjourn, seconded by Susan Durso. All voted in favor and the meeting was adjourned at 6:40 P.M.

Thomas Cedel, Chair

Minutes approved on September 15, 2021

MEETING DATE: SEPTEMBER 15, 2021



BOARD OF ADJUSTMENT AGENDA ITEM #4

STAFF PREPARER/CONTACT INFORMATION:

Matt Lingafelter, Asst. to the City Admin.
mlingafelter@sunsetvalley.org

SUBJECT: ZONING VARIANCES

DESCRIPTION: Consideration and possible approval of an application submitted by Terry Cowan to construct an accessory structure at 4500 Stearns Lane which requires the following variances:

- a. From Section 2.506(a)(9) the height of an accessory structure exceeds the height of the principal structure; and,
- b. From Section 2.506(a)(10) an accessory structure in front of the principal structure

BACKGROUND: The subject property, 4500 Stearns Lane, is a single-family residence located at Lot 1 of the Harry V Nelson Subdivision. The 1.1 acre lot is a long, narrow rectangular lot. The applicant is proposing construction of an accessory structure at the front of the property. The proposed guest house would be a 1,000 square-foot, two-story guest residence, revised from the original 1,300 size, with an approximate 500 square-foot pad, revised from the prior 650 square foot pad.

The first variance requested is for the height of the guest residence (accessory structure) to be taller than the primary residence. The applicant has 1,400 square-feet of impervious cover available, and to minimize the impervious cover of the guest house, wishes to build up rather than out. Building up, results in a higher accessory structure than the main, single-story structure. *The requested variance is to Sections 2.506 (a)(6) – The height of an accessory building or structure may not exceed the height of the principal building or structure.*

The second variance requested is for the location of the guest house to be in front of the primary residence, which is located at the far rear of the property. The proposed structure is located in front of the main house as there is a steep drop off behind the primary structure necessitating it to be located in front of the primary. The existing code, Section 2.506 (10) allows the structure in front of the principal building, "provide that the accessory building or structure is located more than 75 feet from the front lot line."

In the applicant's case, the proposed accessory structure is less than 75 feet from the front lot line. The applicant wishes to preserve a group of Juniper trees and also to remain away

from the Water Quality Transition Zone which begins at 94 feet from front property line, thus the applicant is requesting a variance to Section 2.506(10)

In the applicant's case, the proposed accessory structure is *less than 75 feet* from the front lot line.

A letter addressing the ten (10) findings set forth in Section 2.307(f) Findings and a conceptual site plan have been provided by the applicant, as well as a variance application and fee.

Section 2307 (f) Findings.

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 action is taken. The burden of establishing such conditions is on the applicant.

No variance shall be granted unless the Board of Adjustment finds that all of the following criteria are met: (Amended July 21, 1998)

- (1) Special circumstances or conditions exist such that requiring compliance with the provisions of the applicable zoning provisions of the Code will cause significant practical difficulties to the Applicant. Pecuniary hardship to the applicant, standing alone, shall not be deemed to constitute practical hardship.
- (2) Special circumstances or conditions affecting the parcel of land exist such that requiring strict compliance with the provisions of this Code will result in one or more of the following:
 - (A) Depriving the applicant of the reasonable use of his land; or
 - (B) Significant or unreasonable disruption of the natural terrain; or
 - (C) Significant or unreasonable destruction of the existing flora.
- (3) The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant; and
- (4) There is no practical alternative to the requisite variance that will alleviate the difficulty or hardship complained of or the requisite enhances the quality of the project as a whole and would result in a better project than requiring strict compliance with the provisions of the Code; and
- (5) The variance will be no greater than the minimum required to alleviate the difficulty or hardship complained of; and
- (6) The granting of the variance will not be detrimental to the public health, safety or welfare, or materially injurious to other property or improvements in the area; and
- (7) 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 Code; and
- (8) The variance is in harmony with the intent of the Code's zoning provisions and with the goals, standards and policies of the City's Comprehensive Plan; and
- (9) The granting of the variance will not cause an unreasonable obstruction of direct sunlight to adjacent property; and

(10) The proposed variance prescribes only conditions deemed necessary to or desirable in the public interest.

A notice of public hearing was placed in the newspaper, and notices mailed to property owners within 500 feet, as required by Chapter 2, for the June 30, 2021 Public Hearing. The Board tabled this item on June 30th, and was set to discuss and consider this item again on August 11th, but the meeting was postponed due to lack of a quorum. In total, four written public comments were received in favor of these variances (see supporting materials).

FURTHER DISCUSSION: To ensure protection of the single-family zone, the definition of Guest House in the Land Development Code ensures that a Guest house is defined as “containing one or more rooms with a bathing facility and toilet, that would provide a single housekeeping unit” and thus no kitchen facilities would be allowed in the structure. This item will be addressed in the Building Permit Application.

APPLICABLE CODE SECTIONS: Sections 2.307 and 2.506 of the Land Development Code

STAFF RECOMMENDATION: If the Board agrees with the findings provided by the applicant, then a motion could be made to approve the variances as presented, based on the conceptual site plan and evidence set forth with the request.

SUPPORTING MATERIALS PROVIDED: YES / NO

Historical Report on Accessory Structures
Variance Application
Letter from the Applicant
Conceptual Site Plan
Public Comments

10 YR BOA Variance History

Hearing Date(s)	Location	Variance Requested	BOA Action	Additional Information
5/25/2011 6/06/2011	782 Oakdale Drive	2.601(g) construction of a guest house larger than 600 square feet	Approved (6/06/2011)	Agenda and Backup Material 5-25-2011
9/14/2011 10/24/2011	798 Oakdale Drive	2.506(a)(6) construction of an accessory structure greater than 1,000 square feet 2.506(a)(8) single accessory structure exceeds cumulative total of 1,500 square feet, for construction of a 1,600 square foot detached garage/studio	Approved with conditions (10/24/2011)	Agenda and Backup Material 9-14-11 Agenda and Backup Material 10-24-11
12/14/2011	34 Pillow Road	2.1301 encroachment into the side yard building setback for the enclosure of an existing carport	Approved	Agenda and Backup Material
4/11/2012	11 Pillow Road	2.506(a)(8) exceed the cumulative total of 1,500 square feet per lot of accessory structures for construction of a 1,000 square foot freestanding solar panel structure	Approved	Agenda and Backup Material
9/12/2012	11 Pillow Road	2.506(a)(8) exceed the cumulative total of 1,500 square feet per lot of accessory structures for construction of a 1,000 square foot freestanding solar panel structure	Approved (previously approved variance no longer valid)	Agenda and Backup Material
12/12/2012	761 Oakdale Drive	2.1302 encroachment into the side yard building setback for construction of an accessory structure	Approved	Agenda and Backup Material

Hearing Date(s)	Location	Variance Requested	BOA Action	Additional Information
5/8/2013	4 Sunset Trail	2.601(g) conversion of an existing accessory structure (821 square feet) into a guest house that is larger than 600 square feet	Approved	Agenda and Backup Material
7/10/2013	2 Reese Drive	2.506(a)(7) exceed the maximum number of accessory structures in SF, three (3) allowed, five (5) requested 2.506(a)(10) allow an accessory structure (detached carport) that is not behind the principal structure 2.604 encroachment into the side yard building setback for an accessory structure	Approved	Agenda and Backup Material
10/9/2013	32 Lone Oak Trail	2.506 (a)(6) construction of an accessory structure greater than 1,000 square feet, for a 1,362 square foot two-story detached garage with office/storage on 2nd floor 2.506(a)(8) exceed the cumulative total of 1,500 square feet per lot of accessory structures for a total of 1,792 square feet 2.506(a)(9) accessory structure that exceeds the height of the principal structure	Approved with conditions and a restrictive covenant	Agenda and Backup Material
11/13/2013	32 Lone Oak Trail	2.604 construction of an accessory structure that is greater in height than 20 feet	Approved	Agenda and Backup Material
3/12/2014 5/14/2014 6/24/2014	1 Pillow Road	2.506(a)(8) exceed the cumulative total of 1,500 square feet per lot of accessory structures 2.604 encroachment of an existing accessory structure into the side yard building setback	Approved with conditions (6/24/2014)	Agenda and Backup Material 3-12-14 Agenda and Backup Material 6-24-14

Hearing Date(s)	Location	Variance Requested	BOA Action	Additional Information
11/12/2014	4604 Stearns Lane	2.604 encroachment into the side yard building setback for the extension of a carport in front of an existing detached garage	Approved	Agenda and Backup Material
12/10/2014	1 Pillow Road	2.506(a)(8) exceed the cumulative total of 1,500 square feet per lot of accessory structures for 350 square feet of rainwater harvesting facilities	Approved with conditions	Agenda and Backup Material
5/13/2015	6 Sunset Trail	2.506(a)(7) exceed the maximum number of accessory structures in SF, three (3) allowed, five (5) requested 2.604 encroachment into the side yard building setback for an existing accessory structure	2.506(a)(7) Approved 2.604 Denied	Agenda and Backup Material
6/17/2015	2 Reese Drive	2.604 encroachment into the side yard building setback for the construction of a carport	Approved	Agenda and Backup Material
6/17/2015	4604 Stearns Lane	2.604 encroachment into the side yard building setback for expansion of an existing detached garage 2.506(a)(6) expansion of an existing accessory structure to be larger than 1,000 square feet for a total of 1,283 square foot detached garage	Approved	Agenda and Backup Material
12/21/2015 1/20/2016	32 Reese Drive	2.604 encroachment into the side yard building setback for construction of a rainwater harvesting tank 2.506(a)(9) construction of an accessory structure that exceeds the height of the	Approved with conditions and a restrictive covenant	Agenda and Backup Material 12-21-15

Hearing Date(s)	Location	Variance Requested	BOA Action	Additional Information
		structure that exceeds the height of the principal structure (guest house/studio)	(1/20/2016)	Agenda and Backup Material 1-20-16
4/13/2016	26 Lovegrass Lane	2.604 encroachment into the side yard building setback for construction of a guest house 2.601(g) construction of a guest house larger than 600 square feet (640 sf)	2.604 Approved 2.601(g) Tabled	Agenda and Backup Material
8/10/2016	757 Oakdale Drive	2.506 (a)(7) to exceed the maximum number of accessory structures 2.506(a)(8) to exceed the maximum cumulative area of 1,500 for all accessory structures 2.506 (a)(10) to have an accessory structure not located behind the primary structure 2.604 for an accessory structure located within the 50 foot front setback	2.506(a)(7) Approved 2.506(a)(8) Approved 2.506(a)(10) Approved 2.604 Denied	Agenda and Backup Material
4/12/2017	42 Lone Oak Trail	2.604 construction of an accessory structure that is greater in height than 20 feet (22.5 feet) 2.506(a)(9) construction of an accessory structure that is greater than the height of the principal structure, for a barn	Approved	Agenda and Backup Material
3/14/2018	770 Oakdale Drive	2.604 construction of an accessory structure that is greater in height than 20 feet (27 feet) 2.506 (a)(6) construction of an accessory structure greater than 1,000 square feet, for a 1,362 square foot two-story detached garage with a guest house on 2nd floor	Approved with one condition	Agenda and Backup Material



**CITY OF SUNSET VALLEY
APPLICATION FOR ZONING VARIANCE
CHAPTER 2 LAND DEVELOPMENT CODE**

DATE: _____

APPLICANT NAME: _____

ADDRESS: _____

LEGAL DESCRIPTION: _____

PLAT DATE: _____

PHONE NUMBER _____ EMAIL ADDRESS _____

IF THE APPLICANT IS NOT THE OWNER, THEN THE OWNER MUST AUTHORIZE THE APPLICANT TO ACT AS AGENT: OWNER'S SIGNATURE AUTHORIZING APPLICANT AS AGENT: _____

OWNER'S NAME (if not applicant) _____

ADDRESS: _____

PHONE NUMBER: _____ EMAIL ADDRESS: _____

If ownership is other than sole or community property, name the partners, principals, beneficiaries, etc. respectively with Name, Position, Address, and percentage ownership.

Section(s) of Chapter 2 Zoning the Land Development Code from which a variance is requested:

Required Attachments:

- 1) Applicant letter describing the proposed improvements
- 2) Response to each of the required findings
- 3) Plans showing the proposed improvements
- 4) Site Plan showing the location of proposed improvements on the property

Application Fee \$ 300 Date Received 6-24-2021 By Matt Lingafelter

Comments: _____

Response to Findings LDC 2.307(f):

Board of Adjustment Request for Variance

Property: 4500 Stearns Lane

I am requesting two variances in order to be able to build an accessory structure on my property as is my right under Sunset Valley regulations. The variances requested are as follows:

Section 2.506 (a)(9). Variance from the code requirement that the height of the accessory building not exceed the height of the principle building. The greater height is needed for the guest house to be adequate size given the small footprint required to fit within the setback requirements.

Section 2.506 (a)(10). Variance from the code requiring a guest house be placed behind the main house so that the guest house can be built in front of the main house. It is impossible to build any structure in the small space behind the main house. Included is a variance to 75 foot setback from the front property line. This is needed to avoid cutting mature Juniper trees and placing the guest house in the water quality transition zone.

Proposed Improvements

I am asking for the variances to be approved so that I can exercise my property right to build an accessory building consistent with the ordinances. The 1.1 acre lot is a long narrow rectangular shape. Its elevation declines from Stearns to the back of the property. The primary house livable space is approximately 2400 square feet (includes covered screened porch). Because the location of the single family residential home is near the edge of a cliff in back of the property, it is impossible build a guest house in back of the property. The lot does not provide enough space on either side of the house to build an accessory structure.

In addition, most of the 1.1 acre lot is either in the critical water quality zone (the lot is actually hundreds of feet in elevation above Gaines Creek) or in the water quality transition zone. The structure will be located within the small uplands zone in the front part of the lot abetting Stearns Lane. This location will protect water quality degradation in the critical and transitional zones. It does not require mature trees to be cut down. The pad size is restricted by front & side setback requirements and the transition zone so the footprint must be small—about 500

square feet is planned. A total 1000 square foot guest house is needed and allowed for in the code. The 1.1 acre lot has approximately 1400 square feet of impervious cover available. The two-story structure exceeds the height of the one-story home. The variance from Sec. 2.506(a)(9) is requested to address this.

The guest house will provide a place for artists, family, and friends to temporarily lodge as our guests for fellowship and to engage creatively together. The guest house will eventually be used to provide a place for family and other caretakers to stay when assisting us so that we can enjoy living privately, independently, and safely as long as possible.

Responses to Required Findings

- (1) *Special circumstances or conditions exist such that requiring compliance with the provisions of the applicable zoning provisions of the Code will cause significant practical difficulties to the Applicant. Pecuniary hardship to the applicant, standing alone, shall not be deemed to constitute practical hardship.*



Yes, Section 2.506 (a)(10): The main house is sited too close to the edge of a cliff (see photo below). There are only approximately 40 feet available between the back porch and the property line on the cliff edge. Within the 40 feet here is only about 10 feet between the home and 30 foot rear setback line.

Yes, Section 2.506 (a)(9): Without the variance to allow height greater than the home, the structure will not be large enough to serve its intended purpose.

(2) Special circumstances or conditions affecting the parcel of land exist such that requiring strict compliance with the provisions of this Code will result in one or more of the following:

- (A) Depriving the applicant of the reasonable use of his land; or*
- (B) Significant or unreasonable disruption of the natural terrain; or*
- (C) Significant or unreasonable destruction of the existing flora.*

Yes, Section 2.506 (a)(10): Without the variance, I will be denied the right of reasonable use of my property. There is simply not enough natural terrain behind the main house build the guesthouse behind it. Nor is there enough land between the main house and the property line on either side of the main house to build. The home was built in the 1960s and grandfathered when water quality zone ordinances were established. This entire area is now in the critical water quality zone and nothing should be built there.

Yes. The variance to sec. 2.506 (a)(9) is necessary to build the guesthouse higher than the main house at the preferred location to minimize impact on water quality and protect neighbor's privacy.

(3) The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant; and

Yes, Sections 2.506 (a)(9) and 2.506 (a)(10): Without the variances, I will be denied the right under the code to build a guesthouse on my property. I need to build it at greater height than one-story so that the guesthouse provides sufficient living space but does not exceed the footprint required to meet set-back and total impervious cover requirements.

(4) There is no practical alternative to the requisite variance that will alleviate the difficulty or hardship complained of or the requisite enhances the quality of the

project as a whole and would result in a better project than requiring strict compliance with the provisions of the Code; and

Yes, Sections 2.506 (a)(9) and 2.506 (a)(10): There is no practical alternative to the requisite variances. The property behind the house and to the sides of the house are in the critical water quality zone and most of the front is in the transition zone. There is only 40 feet between the existing home and the property line in the rear. There is approximately 4 feet and 26 feet respectively between the house and the side property lines including the setback.

The planned pad site is located in the front of the lot on a patch of uplands outside of the transitional water quality zone. Placing a small footprint two-story site here ensures protection of water quality and is a better project than putting a larger foot print one-story guesthouse within the transition zone. A vegetative buffer strip of tall Juniper trees and heavy underbrush mostly block the guesthouse from view of the main house and homes of the adjacent properties.



This photo shows the view from across Stearns Lane. The driveway is from the main house and will also service the proposed guesthouse. The site is between

the street and the front of the background trees. It is accessed using an existing driveway to the main house that is located in the back of the lot.

(5) The variance will be no greater than the minimum required to alleviate the difficulty or hardship complained of; and

Yes, Sections 2.506 (a)(9) and 2.506 (a)(10): The variances to allow a guest suite/art studio in front of the primary house at a height greater than the primary house are the minimum variances that can requested in order to build a guest house. There is no request for a variance from water quality regulations, setbacks, tree ordinance, etc. The site selected in front of the house is outside of the critical and transitional water quality zones. This upland zone pad site meets all setback requirements with no protected tree removal.

(6) The granting of the variance will not be detrimental to the public health, safety or welfare, or materially injurious to other property or improvements in the area; and



Yes, Sections 2.506 (a)(10) and 2.506 (a)(9): The proposed site contains a City of Austin street (Stearns Lane) to the front with land on either side in adjacent properties. The nearest building on an adjacent lot is a detached two-story garage approximately 100 yards from the planned guest house that is further from the street and heavily screened by vegetation and trees. Visible in the photo above is the tip of the two-story garage roof on the adjacent Satterfield property.

(7) 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 Code; and

Yes, Section 2.506 (a)(9) and Section 2.506 (a)(10): The variance will not have the effect of preventing the orderly use of other land in the area. The project does not affect the use and enjoyment of the adjacent properties. The privacy of the residents on either site is not affected. The photo below shows the boundary with the adjacent Wakefield property. Her house not visible from the site and is screened by trees and native underbrush.



(8) The variance is in harmony with the intent of the Code's zoning provisions and with the goals, standards and policies of the City's Comprehensive Plan; and

Yes, Sections 2.506 (a)(9), 2.506 (a)(10): A guesthouse is allowed and provided for in single-family residential zoning and in harmony with the City's Comprehensive Plan. The variance to height needed to build the guesthouse is within the height allowances for single-family zoning.

(9) The granting of the variance will not cause an unreasonable obstruction of direct sunlight to adjacent property; and

Yes, Sections 2.506 (a)(9) and 2.506 (a)(10): The structure is planned as a two-story with a small foot print in order to fit on the site in compliance with all code requirements. It will be located near the middle of the lot in the uplands zone abutting Stearns Lane. There are no existing structures near the site on either adjacent lots. The guesthouse shadow falls within the property. The guesthouse does not obstruct direct sunlight to either adjacent properties.

(10) The proposed variance prescribes only conditions deemed necessary to or desirable in the public interest

Yes, Sections 2.506 (a)(9) and 2.506 (a)(10): The site does not affect neighboring residences. The site chosen protects the privacy of the neighbors. It is well screened by trees & natural vegetation on three sides and somewhat screened from the street by a cactus hedge extending across the front. The only alternative is to placing a one-story structure in the transitional water quality zones requiring a footprint with twice the impervious cover negatively impacting the environment. It would require a variance to build within the transitional which is not desirable in the public interest. It would also locate it closer to the primary residence of the adjacent Wakefield property negatively impacting her privacy.

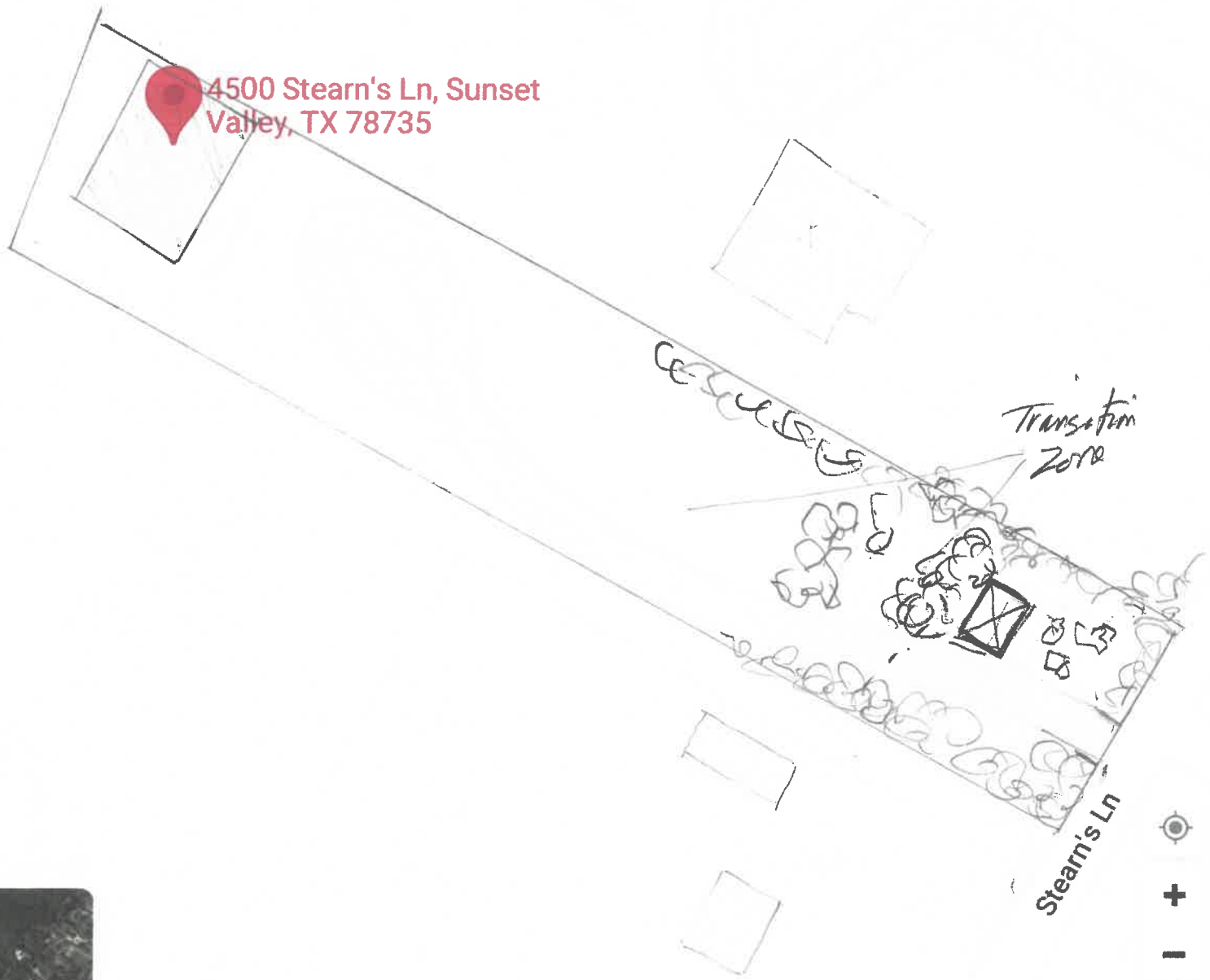
Variances to Section 2.506 (a)(10) requiring placement behind the main house and 2.506 (a)(9) limiting height to the same as main house are the least impactful that provide for the reasonable use of the property and provide my right to build an accessory structure.

In summary, all 10 requirements for variance approval are met. The structure does not exceed the square footage provided in the ordinance and the variances allow me to exercise my property right to build a guest house while protecting mature trees, water quality, and the environment.

Conceptual Site Plan



4500 Stearn's Ln, Sunset Valley, TX 78735





NOTICE OF PUBLIC HEARING OF THE BOARD OF ADJUSTMENT

HEARING DATE: AUGUST 11, 2021

TIME: 6:00 P.M.

The Board of Adjustment of the City of Sunset Valley, Texas will hold a Public Hearing at the above stated times and date to consider two variance requests to Chapter 2 of the Land Development Code. You are not required to attend, but if you care to attend, you will be given an opportunity to be heard. You may find additional information regarding the public hearing at the City's website, www.sunsetvalley.org. If additional information is desired, please contact City Hall, 512-892-1383.

APPLICANT: TERRY COWAN
ADDRESS OF PROPERTY: 4500 STEARNS LANE
SUNSET VALLEY, TEXAS 78735
VARIANCES REQUESTED: Sections 2.506(a)(9) and 2.506(a)(10)

ADDITIONAL INFORMATION ABOUT THIS REQUEST IS AVAILABLE ON THE CITY'S WEBSITE AT WWW.SUNSETVALLEY.ORG OR YOU MAY REQUEST THE INFORMATION FROM THE CITY SECRETARY BY CALLING 512-892-1383 OR EMAILING MLINGAFELTER@SUNSETVALLEY.ORG.

PLEASE DETACH AND RETURN BY MAIL OR TO THE CITY ADMINISTRATIVE OFFICES, 3203 JONES RD.

SEND YOUR WRITTEN COMMENTS TO THE CITY SECRETARY, CITY OF SUNSET VALLEY, 3205 JONES ROAD, SUNSET VALLEY, TEXAS 78745. (FILE: 4500 STEARNS BOA)

WRITTEN COMMENTS MUST BE RECEIVED BY 5:00 P.M. TUESDAY, AUGUST 10, 2021

NAME: Jo and Steve Davis I AM IN FAVOR

ADDRESS: 4470 Stearns Ln. I OBJECT

ADDITIONAL COMMENTS: We are in support of Mr Cowan being granted the variance for accessory structure add on - in question.



NOTICE OF PUBLIC HEARING OF THE BOARD OF ADJUSTMENT

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NAME: Ashlin Williamson I AM IN FAVOR

ADDRESS: 4602 Stearns Ln I OBJECT

ADDITIONAL COMMENTS: I support Mr. Cowan in development of his property and any variance required to do so.



NOTICE OF PUBLIC HEARING OF THE BOARD OF ADJUSTMENT

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APPLICANT: TERRY COWAN

ADDRESS OF PROPERTY: 4500 STEARNS LANE
SUNSET VALLEY, TEXAS 78735

VARIANCES REQUESTED: Sections 2.506(a)(9) and 2.506(a)(10)

ADDITIONAL INFORMATION ABOUT THIS REQUEST IS AVAILABLE ON THE CITY'S WEBSITE AT WWW.SUNSETVALLEY.ORG OR YOU MAY REQUEST THE INFORMATION FROM THE CITY SECRETARY BY CALLING 512-892-1383 OR EMAILING MLINGAFELTER@SUNSETVALLEY.ORG.

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WRITTEN COMMENTS MUST BE RECEIVED BY 5:00 P.M. TUESDAY, AUGUST 10, 2021

NAME: Kyle Worley

I AM IN FAVOR

ADDRESS: 3215 Barton View Dr.

I OBJECT

ADDITIONAL COMMENTS: Let the Man build on his Land!

8/11-6:00

SEND YOUR WRITTEN COMMENTS TO THE CITY SECRETARY, CITY OF SUNSET VALLEY, 3205 JONES ROAD, SUNSET VALLEY, TEXAS 78745. (FILE: 4500 STEARNS BOA)

WRITTEN COMMENTS MUST BE RECEIVED BY 5:00 P.M. TUESDAY, AUGUST 10, 2021

NAME: Barbara Wingfield

I AM IN FAVOR

ADDRESS: 4480 Stearns Ln. 78735

I OBJECT

ADDITIONAL COMMENTS: I am in support of what Jerry Cowan is asking from the City of Sunset Valley for 4500 Stearns Lane.

MEETING DATE: SEPTEMBER 15, 2021



BOARD OF ADJUSTMENT AGENDA ITEM #5

STAFF PREPARER/CONTACT INFORMATION:

Matt Lingafelter, Asst. to the City Admin.
mlingafelter@sunsetvalley.org

SUBJECT: BOARD PROCEDURES

DESCRIPTION: Presentation and discussion on the procedures of the Board of Adjustment.

BACKGROUND: The Chair would like the Board to discuss the procedures related to the Board of Adjustment. Chapter 2 of the Land Development Code, Division 2.3, outlines the codified Procedures of the Board. In Section 2.201(c), the Code states, "the Board shall by majority vote adopt rules for the conduct of its duties, consistent with this Division and the Texas Local Government Code Chapter 211 as amended from time to time."

The attached documents, PROCEDURES FOR THE BOARD OF ADJUSTMENT, was last amended in 2016. The Chair would like the Board to review this document and made any necessary additions or edits.

APPLICABLE CODE SECTIONS: [Chapter 2 of the Sunset Valley Land Development Code;](#)
[Chapter 211 Texas Local Government Code](#)

STAFF RECOMMENDATION: n/a

SUPPORTING MATERIALS PROVIDED: YES/NO

BOA Procedures amended 04.13.16

BOA Procedures with comments/edits from the Chair

1 Chapter 2: Zoning of the City of Sunset Valley Land Development Code governs the
2 requirements of a zoning variance application and the required findings prior to granting
3 of a variance. Subsection 2.201(c) provides that “The Board shall by majority vote adopt
4 rules for the conduct of its duties, consistent with this Division and the Tex. Loc. Gov’t
5 Code Chapter 211 as amended from time to time.”

6 7 Public Hearings

8
9 Hearing on all matters on which a decision of the Board is required by law shall be
10 open to the public. The applicant may appear in his own behalf or be represented by
11 counsel or agent.

12 13 Order of Business

14
15 The Chairman shall call the Board to order and call the roll of members. City Staff shall
16 record the members present and absent. The Chairman shall call each application in the
17 order of the agenda and shall announce the name of the applicant, the location of the
18 property involved, and the nature of the request. The City Staff shall publicly advise the
19 Board of any written communications received. Supporting evidence for and against
20 each application shall be presented to the Board.

21 22 Procedure for Hearing

23
24 The City Staff shall provide the Board with an overview of the application at the
25 start of the Public Hearing. The Chairman shall then call upon the applicant to
26 present his case.

27
28 The Chairman shall then call on those who support the application.

29
30 The Chairman shall next call on those opposed to the granting of the application
31 to present their arguments. The applicant shall then have the right of rebuttal to
32 arguments presented by the opposition.

33
34 Each side shall proceed without interruption by the other and all arguments and
35 pleadings shall be addressed to the Board. No questioning or arguments
36 between applicant or opponents will be permitted.

37
38 The Board shall continue a hearing on any application for which the applicant
39 fails to appear unless the applicant has requested that the Board act without his
40 being present at the hearing; provided, however, that the Board shall dismiss for
41 want of prosecution any application in which the applicant has failed to appear for
42 two (2) meetings at which the application was set for hearing; and provided
43 further, that the Board shall hear those persons appearing in response to the notice
44 of hearing.

45
46 Presentations regarding an application made by the applicant for a variance shall

47 be limited to a total of ten (10) minutes each. Opponents and supporters shall
 48 have a total of three (3) minutes each to state their opposition to or support of the
 49 application. The applicant shall have a total of five (5) minutes to rebut the
 50 arguments of the opponents to the application.

51
 52 The time for presentation of or opposition to an application may be extended at
 53 the discretion of the chair.

54
 55 Following the rebuttal, the Chairman shall order the hearing closed.

56
 57 Board's Questions

58
 59 Upon ordering the Hearing closed, the Chairman shall direct any question to the applicant
 60 or any person speaking in order to bring out all relevant facts, circumstances and
 61 conditions affecting the application, and then shall call for questions from other members
 62 of the Board and from the City Staff. During its review, the Board may call on City Staff
 63 member(s) for further questioning of technical reviews submitted.

64
 65 Disposition of Variance Applications

66
 67 The Board of Adjustment may deny or approve, in whole or in part, and/or may modify
 68 the variance request with conditions for approval.

69
 70 The Board may also defer action on any application whenever it concludes that additional
 71 evidence is needed or that alternative solutions need further study. An application may
 72 be dismissed when the Board finds that the application has been improperly filed or, upon
 73 notification by an Administrative Officer, that permits have been issued for development
 74 of the property.

75
 76 Deliberation by the Board

77
 78
 79 The Board shall use the following procedures during deliberation on any item on the
 80 agenda:

- 81
 82 (A) *Getting the floor.* Improper references are to be avoided. Any Board Member
 83 desiring to speak shall address the Chairman, and upon recognition by the
 84 Chairman shall confine himself or herself to the question under debate, avoiding
 85 all personalities and indecorous language. All Members have the right to be
 86 recognized, to make motions, and to speak.
 87
 88 (B) *Interruptions.* A Member, once recognized, shall not be interrupted when
 89 speaking unless it is to call to order, or as herein otherwise provided. If a Member,
 90 while speaking, be called to order, he or she shall cease speaking until the
 91 question of order is determined, and, if in order, he or she shall be permitted to
 92 proceed.

93
 94 (C) *Amending a motion.* A Member, upon being recognized to speak, may request
 95 that a motion on the floor for discussion be amended. Upon such a request, the
 96 Chairman shall ask the Members that made and seconded the original motion if
 97 they are willing to accept the amendment to the original motion. If both Members
 98 agree to accept the amendment, then the original maker of the motion will restate
 99 the original motion to include the amendment; the motion will be considered to be
 100 amended; and debate will continue on the amended motion. If either Member
 101 does not accept the amendment, then debate continues on the original motion.

102
 103 (D) *Previous question.* Any Member, upon being recognized to speak, may move to
 104 call the question on the motion on the floor. A motion to call the question
 105 requires a second. If there is a motion and a second on the motion to call the
 106 question, then debate ends and there is a vote to consider ending debate on the
 107 original motion. A majority vote of Members present is required to end debate on
 108 a motion. Either the maker or the sponsor will be recognized by the Chairman to
 109 make a closing comment for correction or clarification which will be two minutes
 110 or less if needed.

111
 112
 113 Vote Required

114
 115 The concurring vote of four (4) members shall be necessary to grant or to grant
 116 conditionally any variance considered by the Board. When a motion in favor of an
 117 applicant fails to receive four (4) affirmative votes, it shall be entered in the minutes
 118 as a vote to deny; or if a member be absent at the vote and if the vote of that member
 119 added to the number voting for the applicant would equal four, the motion shall be
 120 recorded as a vote to continue consideration to the next meeting.

121
 122 Disqualification

123
 124 A Member shall disqualify himself from voting whenever he/she has a personal or
 125 monetary interest in the property under consideration, or will be directly affected
 126 by the decision of the Board.

127
 128 A Member shall disclose whenever any applicant or his agent has contacted the
 129 Member, uninvited by the Member, with the intent to influence the vote of any
 130 Member on his application, other than in the public hearing. The member shall
 131 disqualify himself/herself if deemed appropriate based on the contact.

132
 133 A Member should neither initiate nor consider *ex parte* or other private
 134 communications concerning a pending case, except insofar as the Open Meetings
 135 Act allows Members in less than a quorum to discuss the case with City Staff or
 136 the City Attorney.

1 Chapter 2: Zoning of the City of Sunset Valley Land Development Code governs the
2 requirements of a zoning variance application and the required findings prior to granting
3 of a variance. Subsection 2.201(c) provides that “The Board shall by majority vote adopt
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7 Public Hearings

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9 Hearing on all matters on which a decision of the Board is required by law shall be
10 open to the public. The applicant may appear in his own behalf or be represented by
11 counsel or agent.

12
13 Order of Business

14
15 The Chair~~personman~~ shall call the Board to order and call the roll of members. At this time
the Chairperson shall confirm that members of the Board are qualified to hear an appeal based
on the criteria in the last paragraph of this document (Disqualifications). City Staff shall
16 record the members present and absent. The ~~Chairman~~Chairperson shall call each application
17 in the
18 order of the agenda and shall announce the name of the applicant, the location of the
19 property involved, and the nature of the request. The City Staff shall publicly advise the
20 Board of any written communications received. Supporting evidence for and against
21 each application shall be presented to the Board.

22 Procedure for Hearing

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25 start of the Public Hearing. The ~~Chairman~~Chairperson shall then call upon the
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PROCEDURES FOR THE BOARD OF ADJUSTMENT

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 59 Upon ordering the Hearing closed, the ~~Chairman~~ Chairperson shall direct any question to the
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 60 or any person speaking in order to bring out all relevant facts, circumstances and
 61 conditions affecting the application, and then shall call for questions from other members
 62 of the Board and from the City Staff. During its review, the Board may call on City Staff
 63 member(s) for further questioning of technical reviews submitted.

~~The Board may also call for an executive session to consult legal counsel.~~

~~63~~64 -64

65 Disposition of Variance Applications

66
 67 The Board of Adjustment may deny or approve, in whole or in part, and/or may modify
 68 the variance request with conditions for approval.
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70 The Board may also defer action on any application whenever it concludes that additional
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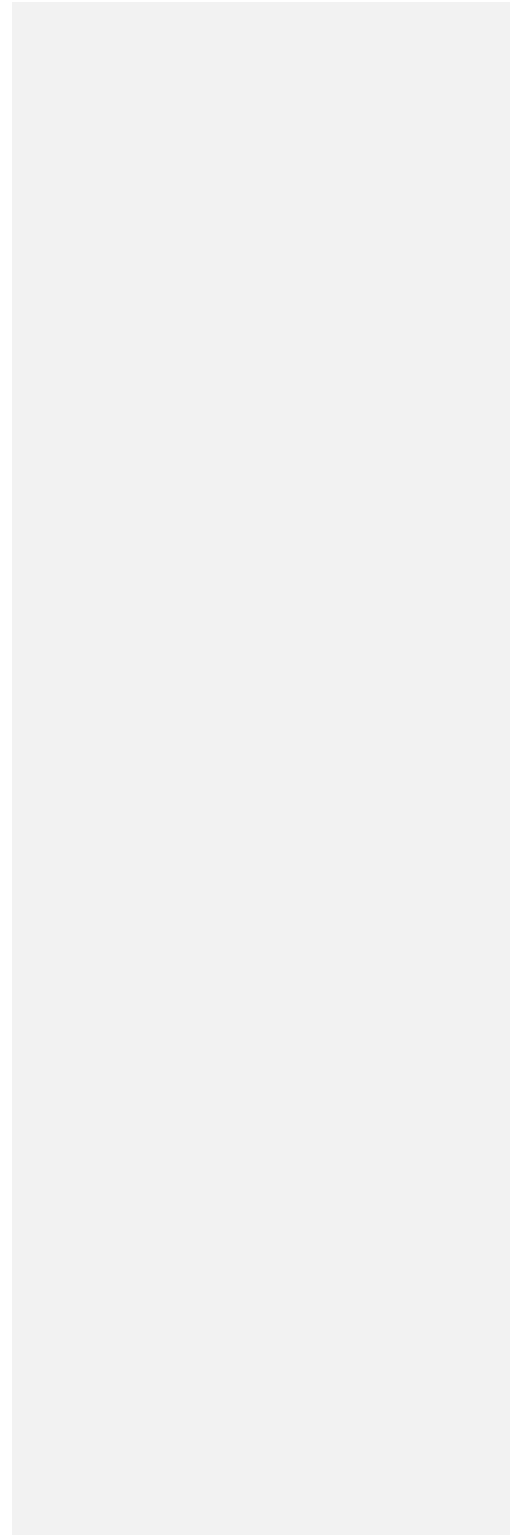
82 (A) *Getting the floor.* Improper references are to be avoided. Any Board Member
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PROCEDURES FOR THE BOARD OF ADJUSTMENT

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Vote Required

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Disqualification

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