



**CITY OF HEDWIG VILLAGE, TEXAS  
BOARD OF ADJUSTMENT  
SPECIAL CALLED MEETING  
TUESDAY, MARCH 30, 2021  
6:30 P.M. - 955 PINEY POINT ROAD**

**MINUTES**

**1. Call to Order**

Chairman Searcy called the meeting to order at 6:32 p.m.

Present: Harlan Bergen, Member  
David Lam, Member  
Charles Matthews, Member  
Jeremy Sanders, Member  
Sam Searcy, Member

Alan Petrov, City Attorney  
Kevin Taylor, Building Official  
Evan DuVall, Deputy Building Official  
Lisa Modisette, Assistant City Secretary, Board of Adjustment Secretary

Absent: Gary Schenk, Chair

**2. Training by City Attorney from Johnson Petrov to Board of Adjustment Members regarding duties and responsibilities.**

Alan Petrov, City Attorney, presented a training regarding the functions, duties, responsibilities, and qualifications of the Board of Adjustment (BOA). He discussed the state laws and the City ordinance that gives the BOA its authority. The BOA is a quasi-judicial board with decision making powers. There is no appeal to the City Council or City staff of a final BOA decision. Any appeals must be made to the District County. A variance can be granted if the applicant shows evidence of a need for a variance from the City's Planning and Zoning Code and "...the variance is not contrary to the public interest and, due to special conditions, the literal enforcement of the Code would result in unnecessary hardship (cannot be self-imposed), and so that the spirit of the Code is observed and substantial justice is done..." The BOA may attach reasonable conditions to the granting of a variance. Common variances may include parking, landscaping, reconstruction of non-conforming status, signs, and lighting. The approval of a variance should not be detrimental or injurious to other property or improvements in the area that the subject property is located, not impair the adequate supply of light and air to adjacent property, substantially increase traffic flow on the streets, increase the danger of fire, endanger the public health, safety, and well-being, and substantially diminish or impair the property values in the area.

**3. Approval of Minutes for: August 11, 2020**

Member Matthews motioned, Member Sanders seconded, to approve the minutes from the August 11, 2020 meeting as presented.

Members Bergen, Lam, Matthews, Sanders, and Searcy voted "Aye", "Noes" none.

**MOTION CARRIED UNANIMOUSLY**

**4. Public Hearing on a request for a variance:**

Property: 9135 Katy Freeway (HCAD #097080000003)  
Applicant: Crown Business Park, Inc./ M. J. Iqbal  
Variance request: Variance to allow for an extension of the major remodeling and/or renovation time period over the fifteen (15) months from the date of temporary discontinuance by Section 810(F)(1)(c), Abandonment or discontinuance, of the Planning and Zoning Code of the City of Hedwig Village, Texas, for the structures to continue as non-conforming structures with the same uses and number of parking spaces as prior to the remodeling and/or renovation for the property.

Legal Description: Lots 3 & 4, Memorial Village R/P, in Harris County, Texas

**5. Discussion and Action:** Regarding the requested Variance at 9135 Katy Freeway (HCAD #097080000003).

M. J. Iqbal, property owner for 9135 Katy Freeway, and Mark Chiribogal, architect, stated the variance was requested due to unforeseen delays in the construction of the remodel and/or renovation of 9135 Katy Freeway. The unforeseen delays in the completion of the construction were beyond the control of the property owner, the architect, and the construction crew.

- The Fire Marshall required changes to the building plans which required a re-design and rebuild of certain aspects of the building.
- There was a water line break caused by another contractor not associated with the building construction.

Mr. Iqbal and Mr. Chiribogal stated the permit for the remodel and/or renovation was approved by the previous building official without the necessary parking calculations. The City's current parking ordinance would not allow the building to be fully leased due to lack of parking spaces. Mr. Iqbal contacted neighboring property owners to inquire about shared parking but was unable to reach an agreement. The original building had approximately fifty eight parking spaces, the remodeled building has approximately thirty five parking spaces.

Approval of the variance would allow the property owner to fully lease the building and would allow a redesign of the parking spaces to be slightly smaller than currently required by the Code.

Evan DuVall, Assistant Building Official, stated the previous building official approved the plans for the building remodel in early 2018. He stated the previous building was considered a non-conforming building. Non-conforming buildings have a fifteen month time frame for completion of a construction project or the non-conforming status is no

longer valid. If the remodel had been completed within the time frame the building would have retained its non-conforming status, the building would be considered “grandfathered”, and the variance would not be needed. However, the building’s construction exceeded the time frame and the building lost its non-conforming status. The previous parking spaces numbered approximately fifty eight. Evan DuVall has been working with the applicant to increase the number of parking spaces for the newly remodeled building. Currently, the parking spaces are too small to meet the City’s parking ordinance but the current parking spaces are the same size as the previous parking spaces.

Member Matthews asked the Building Official why the building was considered non-conforming prior to the remodel.

Evan DuVall stated the previous building would have retained its non-conforming “grandfathered” status if the construction had been completed within the fifteen month time frame. The building was considered non-conforming for several reasons. The previous parking spaces do not meet the current parking ordinance and the lot setbacks do not meet the City’s Planning and Zoning Code due to the remodel being done on the existing foundation. The previous parking lot was designed as one-way to ensure fifty eight parking spaces. The current parking plan will retain the one-way direction of the parking lot. Approval of the variance would allow the building to retain the original fifty eight parking spaces. The parking plan for the building has been fully vetted by the Fire Marshall and the Building Official and would allow the building to be fully leased. He stated some of the parking spaces will be big enough for a larger pickup truck. He stated the current parking plan with thirty five parking spaces meets the current code for the offices that occupy the building now but will not allow for other offices in the building to be leased.

Mr. Iqbal stated the building is currently leased at thirty percent but he is unable to lease additional space due to lack of parking.

Alan Petrov, City Attorney, stated the variance would not be needed if the construction had been completed within the fifteen month time frame. He stated the previous building was non-conforming and did not meet the parking ordinance. He stated a non-conforming structure could stay, and even be remodeled, as long as the construction is completed within a certain time frame. He stated the applicant encountered delays that caused the construction to exceed the time frame. The building lost its prior non-conforming status due to the construction not being completed in time.

The Building Official recommends approval of the variance.

Member Sanders stated some of the construction delays were beyond the control of the applicant.

Mr. Chiribogal stated the Fire Marshall required revision of the building plans that required the construction crew to rebuild a steel stairwell.

Kevin Taylor, Building Official, stated the variance is the only way to fully utilize the building. He stated the previous building official did not make the applicant aware of the fifteen month time frame for the completion of the construction.

Member Searcy asked if the building would have retail on the ground floor as per the current code.

Evan DuVall stated the building plans were approved prior to the change in the code that now required a certain percentage of the ground floor to have retail.

There were no speakers in favor of or against the variance request.

The BOA members deliberated on the proposed variance request and the variance was approved by a vote of 5-0.

Member Sanders motioned, Member Lam seconded, to approve the granting of the variance to allow for an extension of the major remodeling and/or renovation time period over the fifteen (15) months from the date of temporary discontinuance by Section 810(F)(1)(c), abandonment or discontinuance, of the Planning and Zoning Code of the City of Hedwig Village, Texas, for the structures to continue as non-conforming structures with the same uses and number of parking spaces as prior to the remodeling and/or renovation for the property.

Motion carried 5-0.

**MOTION APPROVED**

## 6. Adjournment

Member Sanders motioned, Member Lam seconded, to adjourn the meeting at 7:18 p.m.

Approved and accepted on October 19, 2021.

  
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Sam Searcy, Vice-Chairman

ATTEST:

  
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Lisa Modisette, Assistant City Secretary  
Board of Adjustment Secretary