

ORDINANCE NO. 2016-20

AN ORDINANCE AMENDING SECTION 15 OF THE ZONING ORDINANCE OF THE CITY OF BRIDGEPORT, TEXAS, AMENDING THE COMPOSITION OF THE ZONING BOARD OF ADJUSTMENT; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Bridgeport is a Home Rule City acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the City of Bridgeport, Texas, previously adopted its comprehensive zoning ordinance for the City of Bridgeport, as codified as Exhibit A to Chapter 14 of the Bridgeport Code of Ordinances; and

WHEREAS, Section 211.008(g) of the Local Government Code expressly allows the governing body of a Type A general-law municipality to serve as the Board of Adjustment for the City; and

WHEREAS, the Bridgeport City Council has been serving as the Zoning Board of Adjustment pursuant to such authority; and

WHEREAS, on May 7, 2016, the voters of the City of Bridgeport adopted a home-rule charter, such that the City Council can no longer serve as the Zoning Board of Adjustment; and

WHEREAS, the City Council desires to amend Section 15 of the Zoning Ordinance to change the composition of the Zoning Board of Adjustment to a board of citizens appointed by the City Council; and

WHEREAS, a public hearing was held by the Planning and Zoning Commission of the City on the 6th day of June, 2016, and a public hearing was held by the City Council on the 13th day of June, 2016, with respect to the proposed changes in the zoning regulations; and

WHEREAS, all requirements of law for publication and all procedural requirements have been complied with in accordance with Chapter 211 of the Local Government Code.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRIDGEPORT, TEXAS.

SECTION 1.

That Section 15 "Zoning Board of Adjustment" of the comprehensive zoning ordinance of the City of Bridgeport, Texas, be and is hereby amended to read as follows:

"SECTION 15. ZONING BOARD OF ADJUSTMENT

The Zoning Board of Adjustment is hereby established, which shall consist of five regular members and two alternate members, each to be appointed for a term of two years by the City Council. Alternate members shall serve in the absence of regular member(s). Members of the Zoning Board of Adjustment may be removed from office by the City Council for cause upon written charges and after public hearing. Vacancies shall be filled by appointment of the City Council for the unexpired term of the member affected. All cases to be heard by the Zoning Board of Adjustment must be heard by a minimum number of four members.

The terms of three of the members shall expire on the first Monday in May of each odd-numbered year, and the terms of two of the members shall expire on the first Monday in May of each even-numbered year. The regular members of the Board shall be identified by place numbers one through five, with the two alternate members identified by place numbers six and seven. The odd-numbered places shall expire in the odd-numbered years; the even-numbered places shall expire in the even-numbered years.

The Board may adopt rules to govern its proceedings, provided, however, that such rules are not inconsistent with this ordinance.

The Board of Adjustment shall meet regularly monthly, at a date and time established by the Board, as needed to address public business. Meetings shall be held at the call of the Chairman and at such other times as the Board may determine. All meetings of the Board shall be open to the public.

The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions and every decision of the Board of Adjustment shall be in writing and shall contain a full record of the findings of the Board in each case, all of which shall be immediately filed in the office of the City Secretary and shall be a public record.

The Secretary of the Board of Adjustment shall forthwith notify in writing the City Council, the Planning and Zoning Commission and the City Building Inspector of each decision, interpretation, special exception and variance granted under the provision of this ordinance.

The Chairman, or in his absence, the acting Chairman, may administered oaths or compel the attendance of witnesses.

POWERS: The Zoning Board of Adjustment may hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of this ordinance and may also decide any question involving the interpretation of any of the provisions of this ordinance including determination of the location of any district boundary, if there is uncertainty in respect thereto.

The Zoning Board of Adjustment may in appropriate cases and subject to appropriate conditions and safeguard, make special exceptions to the terms of this ordinance in harmony with its general purpose and intent and in accordance with the general and specific rules herein contained.

The Zoning Board of Adjustment may authorize, upon appeal, in specific cases such variance from the terms of this ordinance as will not be contrary to the public interest, where, owing to such condition, a literal enforcement of the provisions of this ordinance will result in unnecessary hardship, and so that the spirit of this ordinance shall be observed and substantial justice done.

PROCEDURE COVERING SPECIAL EXCEPTIONS, APPEALS AND GRANTING OF VARIANCES

APPEALS AND VARIANCES: Appeals and requests for variances to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the City of Bridgeport affected by any decision of the administrative officer. Such appeal or request for variance shall be taken within fifteen (15) days time after the decision has been rendered by the administrative officer, by filing with the officer from whom the appeal is taken and with the City Secretary a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith deliver to the City Secretary all the papers constituting the record upon which the action appealed from was taken.

Such notice of appeal properly filed as herein provided, shall stay all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken, certifies to the Board of Adjustment after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by Court of record on application on notice to the officer from whom the appeal is taken and on due cause shown.

Upon notice of appeal being given to the City Secretary, before such appeal shall be construed as having been perfected the applicant must file with such notice of appeal to the City Secretary, and amount of money estimated by the City Secretary to be

sufficient to mail and publish all notices required herein, such amount in no case to be less than \$15.00.

SPECIAL EXCEPTIONS: Applications for special exceptions to the terms of this ordinance shall be made in writing on forms provided by the City Secretary by the prospective occupant and/or owner of the property. One such application shall be accompanied by an amount of money estimated by the City Secretary to be sufficient to mail and publish all notices required herein, such amount in no case to be less than \$15.00.

A copy of such application shall be forthwith forwarded by the City Secretary to the office of the City Building Inspector.

NOTICE: The Zoning Board of Adjustment shall hold a public hearing on all special exceptions, granting of variances and appeals and written notice of all such public hearings shall be sent by the City Secretary on forms prepared by the City Attorney's Office to the applicant and all other persons deemed by the Board to be affected thereby, and all owners of real property lying within two hundred (200') feet of the property on which the special exception, grant of variance or appeal is proposed, such notice to be given not less than ten (10) days before the date set for hearing to all such owners who have rendered their said property for City taxes as the ownership appears on the last approved City tax roll. Such notice may be served by depositing the same properly addressed and postage paid in the City Post Office. Notice shall also be given by publishing the same in a newspaper of general circulation in the City of Bridgeport at least fifteen (15) days prior to the date set for hearing which notice shall state the time and place of such hearing, provided, however, all provisions contained herein with respect to the mailing and publishing of notices of hearing shall be deemed sufficient upon substantial compliance with this section, and is to be construed as directory and not mandatory.

THE HEARING: Upon the hearing any interested party may appear in person or by agent or by attorney.

The burden of proof shall be on the applicant to establish the facts necessary which the Zoning Board of Adjustment must find before granting any special exception, variance or appeal as herein contained.

In exercising the powers herein granted, the Board may in conformity with the provisions of this ordinance reverse or affirm wholly or partly or may modify the order, requirement, decision or determination appealed from and may make such other requirement, decision or determination as ought to be made and to that end shall have all the powers of the officer from whom the appeal is taken.

The concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under

this ordinance or to effect any variation of this ordinance or grant any special exception hereto. No appeal, request or application to the Board of Adjustment shall be allowed on the same piece of property prior to the expiration of six (6) months from a ruling of the Board of Adjustment on any appeal, request or application to such body unless other property abutting or adjoining such property shall have within such six (6) months period been altered or changed by a ruling of the Board of Adjustment, in which case such change of circumstances shall permit the allowance of an appeal, request or application but shall in no way have any force in law to compel the Board of Adjustment, after a hearing, to grant such subsequent appeal, request or application but such hearing shall be considered on its merits as in all other cases.

Any special exceptions, variances or appeals authorized or granted by the Board of Adjustment either under the provisions of this ordinance or under the authority granted to the Board of Adjustment under the statutes of the State of Texas shall authorize the issuance of a building permit, or a certificate of occupancy, as the case may be, for a period of ninety (90) days from the date of the favorable action on the part of the Board of Adjustment, unless said Board of Adjustment in its minutes shall, at the same time, grant a longer period.

EXCEPTIONS AND VARIANCES DISTINGUISHED

A special exception is a permission given by the Board properly authorized by this ordinance in specific cases for an applicant to use his property in a manner contrary to the provisions of this ordinance, provided such use serves the general welfare and preserves the community interest.

A variance on the other hand, is an authorization by the Board providing relief and doing substantial justice in the use of the applicant's property by a property owner where, due to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship.

SPECIAL EXCEPTIONS: A special exception may be granted an applicant when the Board of Adjustment finds:

That the granting of such exception will not be injurious or otherwise detrimental to the public health, safety, morals and the general welfare of the general public, and;

That the granting of such exception will not be detrimental or injurious to the property or improvements in such zone or neighborhood in which the property is located, and;

That the granting of such exception will be in harmony with the general purpose and intent of this ordinance.

In determining its finding, the Board shall take into account the character and use of adjoining buildings and those in the vicinity, the number of persons residing or working in such building or upon such land and traffic conditions in the vicinity.

The Board of Adjustment may, after public notice and hearing and subject to the conditions and safeguards herein contained, authorize special exceptions to this ordinance as follows:

Permit the reconstruction of a building occupied as a nonconforming use.

Permit the extension of a nonconforming use of a building upon a lot occupied as a nonconforming use.

Grant in relatively undeveloped sections of the City temporary and conditional permits for not more than two (2) year periods for any use of land, excluding structures.

Permit the use of a lot or lots in any dwelling district adjacent to any other district, even if separated there from by an alley or by a street, for the parking passenger cars under such safeguards and conditions of the more restricted property, provided no other business use is made of such lot or lots.

Permit in any district such modification of the requirements of this ordinance as the Board may deem necessary to secure an appropriate development of a lot where adjacent to such lot on two or more sides there are buildings that do not conform to these regulations.

Permit such modification of a yard, lot area or lot width regulation requirements as may be necessary to secure appropriate improvement of a parcel of land where such parcel was separately owned on the effective date of this ordinance, and is not adjacent to another parcel of the same ownership and where such parcel is of such size that it cannot be improved without such modification or of such restricted area that it cannot be appropriately improved without such modification.

Grant conditional use permits in any zone where such uses are allowed conditionally by the provisions of this ordinance.

In granting any special exception under the provisions of this ordinance the Board may designate such conditions in connection therewith which, in its opinion, will secure substantially the purpose and intent of this ordinance.

VARIANCES: A variance may be granted [to] an applicant when the Board of Adjustment finds:

That there are special circumstances or conditions applying to the land or building for which the variance is sought, which circumstances or conditions are peculiar to such land or building and do not generally apply to lands or buildings in the same zone or neighborhood, and that said circumstances or conditions are such that the strict application of the provisions of this ordinance would deprive the applicant of the reasonable use of such land or building.

That the granting of such variance will not be detrimental to the public welfare or injurious to the property or improvements in such zone or neighborhood in which the property is located, and;

That the granting of the variance is necessary for the reasonable use of the land or building and that the variance is granted by the Board is the minimum variance that will accomplish this purpose.

That the literal enforcement and strict application of the provisions of this ordinance will result in an unnecessary hardship inconsistent with the general provisions and intent of this ordinance and that in granting such variance the spirit of the ordinance will be preserved and substantial justice done.

In addition to considering the character and use of adjoining buildings and those in the vicinity, the Board, in determining its findings shall take into account the number of persons residing or working in such buildings or upon such land and traffic conditions in the vicinity.

The Board of Adjustment may, after public notice and hearing and subject to the conditions and safeguards herein contained, vary or adapt the strict application of any of the terms of this ordinance under the powers and authority herein granted.

In granting any variance under the provisions of this ordinance, the Board may designate such conditions in connection therewith which, in its opinion, will secure substantially the purpose and intent of this ordinance.

APPEAL FROM ZONING BOARD OF ADJUSTMENT

Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment, or any taxpayer, or any officer, department, board or bureau of the municipality, may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within ten (10) days after the filing of the decision in the office of the Board and not thereafter. Judicial review of the Board's decision shall be conducted in accordance with Section 211.011, Texas Local Government Code."

SECTION 2.

This ordinance shall be cumulative of all provisions of the zoning ordinance and of the Code of Ordinances of the City of Bridgeport, Texas, as amended, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event the conflicting provisions of such ordinances and such Code are hereby repealed.

SECTION 3.

It is hereby declared to be the intention of the city council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance are severable, and if any phrase, clause sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the city council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 4.

This ordinance shall be in full force and effect from and after its passage, and it is so ordained.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF BRIDGEPORT, TEXAS, BY A VOTE OF 5 TO 0, ON THIS THE 23 DAY OF June, 2016.

APPROVED:

Randy Singleton

Randy Singleton, Mayor

ATTEST:

Erika McComis
Erika McComis, City Secretary

