



**CITY OF HEDWIG VILLAGE, TEXAS  
BOARD OF ADJUSTMENT  
SPECIAL CALLED MEETING  
PUBLIC HEARING  
TUESDAY, APRIL 9, 2024  
6:30 P.M. - 955 PINEY POINT ROAD**

**MINUTES**

**1. Call to Order**

Chairperson Searcy called the meeting to order at 6:30 p.m.

Present: David Lam, Alternate Member	Zach Petrov, City Attorney
Charles Matthews, Member	Ian Knox, Assistant Building Official
Michael Rigo, Member	Lisa Modisette, City Secretary
Sam Searcy, Chair	Board of Adjustment Secretary

Absent: Harlan Bergen, Member	Jeremy Sanders, Member
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**2. Approval of Minutes: March 18, 2024**

Member Lam motioned, Member Matthews seconded, to approve the minutes as presented. Motion carried 4-0.

**MOTION APPROVED UNANIMOUSLY**

Zach Petrov, City Attorney, explained the process related to a Board of Adjustment hearing. He stated the agenda should be followed as posted. The Chair of the Board will call the meeting to order. The Chair or City Staff will announce the name of the applicant, the address of the property, and the nature of the variance request. The applicant will speak first to address the Board to present his request and present any evidence supporting his request, typically allowed fifteen minutes. After the applicant speaks, the Chair will call on members of the public in support of the variance to state their concerns and comments regarding the request, typically three minutes per person. Next, the Chair will call on members of the public in opposition to the variance to state their concerns and comments regarding the request, typically three minutes per person. After all members of the public have been given the opportunity to state their comments/concerns, either in support or opposition of the request, the applicant has an opportunity for rebuttal. After the applicant's rebuttal, the Chair will close the public hearing portion of the hearing.

Board members will be given the opportunity to ask questions of the applicant, City staff, or any person who spoke on the request, in order to gather all relevant information, circumstances, and conditions relating to the request before deliberations begin.

After the application is heard, the Board shall review the application and all evidence presented. The Board may grant, grant conditionally, may grant with modifications, or may deny an application. The Board may also defer action when the Board concludes

that additional information is needed, alternative solutions need further study, or the Board has further questions that need to be answered prior to making a decision. In the case of a deferral, the Board must take action to defer and state the date and time of the next meeting. The Board may dismiss an application if it was improperly filed or the Building Official notifies the Board that a permit has been issued that would negate the application.

A concurring vote of four (4) members of the Board is necessary to grant, or grant conditionally, any matter requested of the Board. Motions shall be made in the affirmative. When a motion in favor of the variance fails, the minutes of the hearing shall reflect the request has been denied.

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

Property: 11411 Dunbeath (HCAD #0936410000020)  
Applicant: Yoni Sade, on behalf of property owner  
Owner: Sade 2024 single family Development, LLC  
Variance request: Variance from Section 505(E), Yard required, from the Code of Ordinances of the Planning and Zoning Code of the City of Hedwig Village, to allow an encroachment into the front and rear setbacks to allow a residence to be built on the property.  
Legal Description: LT 20 Chestwood, SEC 3 /P, in Harris County, Texas

**4. Discussion and Action:** Regarding the requested Variance at 11411 Dunbeath (HCAD #0936410000020).

Yoni Sade, property owner, stated he would work with the City and the neighbors regardless of the outcome of the hearing. He stated the property is an odd shape on a beautiful street. He stated he and the architect spent a significant amount of time designing a structure for the lot.

Kim Krizak, applicant, stated the shape of the lot is very unusual and the setbacks restrict the ability to build on this property. He stated the build lines (setbacks) will need to be pushed forward in order to build on the lot. He stated a 75-foot build line on a curve, such as on Dunbeath, really cuts into the buildable area of the lot. He stated the proposed design will be in keeping with the style and structures of the area and will complement the City.

John Metzger, speaking on behalf of his mother at 11410 Chatten Way, opposes the variance. He stated the proposed structure is a massive 2 story house. He stated the large footprint of the design will drain water onto the property behind this lot, which is his mother's property. He stated the neighborhood is beautiful and the massive, proposed residence will devalue the rest of the properties in the area. He stated Mr. Sade and Mr. Krizak were aware of the shape of the lot when the lot was purchased.

Mary Dubose, 11409 Dunbeath, stated she is opposed to the variance. She provided the Board with a copy of her written comments. She stated the Villages has the advantage, since their creation, of having larger lots to avoid overcrowding. Larger lots allow for more trees, more greenery, and a sense of privacy and quiet. She stated she would like to see the property in question developed. Another important advantage of living in the City is the strict enforcement of the zoning and building codes. She believes the large footprint of the proposed building would bring the new structure closer to her property. She stated the current owner was aware of the setback requirements and the limitations of the property. She stated the owner could keep the same size footprint of the existing building on the lot and add a second story to create a large enough home. She stated approval of this variance would set a precedent that could lead to overcrowding. She stated the proposed structure would adversely affect her property value and her ability to enjoy her home.

Doug Eberhart, 810 Lochtyne Way, stated other properties have been developed within the confines of the building code. He stated there is no true hardship to this variance request. A house built closer to the street with a shorter driveway could lead to more cars parking on the street and could add a different ambience to the street. He stated the developer could stay within the current building's footprint and add a second story which could result in a large enough house. He is opposed to the variance.

Jerry Wade, 815 Lochtyne Way, stated the deed restrictions for the neighborhood restricts structures that exceed twenty percent of the property and the design of any structures should be approved by the neighborhood property owners. He is opposed to the variance.

Carl Willmann, 11414 Dunbeath, stated the houses built on Dunbeath are all in a line due to the setback requirements. He stated when he built his home he had to adhere to the building codes. He stated the curve of the street is a blind curve and a larger house built closer to the street may impede line of sight for drivers on the curve. He is opposed to the variance.

Michelle Hoogendam, 807 Lochtyne Way, stated she agreed with the previous comments. She believes a precedent would be set if the variance were to be granted. She is opposed to the variance.

Zach Petrov, City Attorney, stated 18 written comments were received, two in favor, generally, and sixteen opposed to the variance or opposed to changing the setbacks. The written comments will be attached to the minutes of this meeting.

Terry Eberhart, 810 Lochtyne Way, asked about the trees on the lot in question. She stated she noticed different color ribbons around the trees on the lot. She believes the Code requires a minimum of 7 trees on a lot.

Yoni Sade, property owner, stated he has a passion to build, there is joy in building. He stated he purchased the property with the intention of building a residence in keeping with the neighborhood. He stated the current residence on the lot is not livable. The proposed design does abide by the twenty-five percent lot coverage. He stated the City has approved similar variance requests in the past. He stated the structure will have a three-car garage in addition to a driveway which will limit parking on the street. He stated his company has not marked any trees for removal, stating if any trees are marked for removal it was done by someone else. He stated dead trees will be removed and other trees will be removed, if needed. He stated the lot is tricky and he is in favor of working together to develop this property. He believes he will need a concession from the City to build on this lot due to the shape of the property.

Kris Krizak, applicant, stated the property owner and himself are trying to adhere to the Code and will not exceed the twenty-five percent lot coverage requirement. He stated the drainage will be addressed. He stated he wants to develop the property but the shape of the lot makes designing difficult. He stated the design could be adjusted to remove the rear setback encroachment. However, the front yard setback is the issue in building on this lot. He does request some type of variance for the front yard setbacks.

Member Rigo asked if the variance request was for front and rear yard setbacks only. He also verified the standards by which the Board could grant a variance:

- Approval would be necessary to appropriately develop the property,
- The approval will not be materially detrimental or injurious to other property in the area, would not endanger the public health, safety, and well-being of the public, or would not substantially diminish or impair property values in the area,
- The approval is not contrary to the general spirit and intent of the Code.

Zach Petrov confirmed the request is only for front and rear setbacks. He stated the request is for a variance from the City's Code of Ordinances, not a variance from any deed restrictions. He also stated the City enforces the Code of Ordinances and does not enforce deed restrictions. He stated deed restrictions are enforced by the Homeowners Association and/or neighboring property owners. He stated the standards by which the Board could grant a variance included the itemized list mentioned by Member Rigo, but also includes a hardship clause, meaning that if the literal enforcement of the Code results in unnecessary hardship a variance could be approved. The hardship, however, cannot be self-created. A financial hardship could be considered as a factor in the decision-making process but cannot be the sole factor.

Chair Searcy closed the public hearing portion of the hearing.

Zach Petrov, City Attorney, stated the Board could ask questions of the applicant and City staff.

Member Lam stated the Board could not negotiate, the decision to approve would be either a “Yes” or “No” vote. Member Matthews agreed with Member Lam’s statement.

Ian Knox, BBG Consulting and the City’s Building Official, acknowledged the lot is an odd shape; however, the proposed design of the structure could be adjusted to fit the lot.

The Board of Adjustment members deliberated on the proposed variance request and found that the owner did not satisfy the burden of showing that the standards for a variance had been met. Specifically, the Board addressed the fact that approval of the variance would be injurious to other properties, would be contrary to the spirit or intent of the Code, and appropriate development of the property could be achieved with a different design. The Board concluded from the evidence presented that the variance requirements were not met as required by the Planning and Zoning Code.

Member Lam motioned, Member Matthews seconded, to approve the variance. Members Lam, Matthews, Rigo, and Searcy voted “No.”

**MOTION FAILED**

**VARIANCE DENIED**

Because the motion failed, the Variance as requested was denied.

**5. Adjournment**

Member Lam motioned, Member Matthews seconded, to adjourn the meeting at 7:17 p.m. Motion carried 4-0.

**MOTION APPROVED UNANIMOUSLY**

Approved and accepted on May 7, 2024.

ATTEST:

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Sam Searcy, Chairperson  
Board of Adjustment

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Lisa Modisette, City Secretary  
Board of Adjustment Secretary