



**AGENDA  
BOARD OF ADJUSTMENT / APPEAL MEETING  
CITY OF LEANDER, TEXAS**



Pat Bryson Municipal Hall

201 North Brushy Street ~ Leander, Texas

Monday - November 9, 2015 at 7:00 PM

Gil Debner - Chairman  
John Cosgrove  
Tim Luke

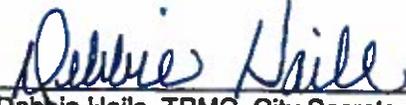
Bill Barton - Vice Chairman  
Mary Orton  
Linda Alger - Building Official

1. Call to Order and Roll Call
2. Approval of Minutes: June 22, 2015
3. Variance 15-VA-002: Hold a public hearing and consider action on a request for a variance to Article VI, Section 6 (a) from the Composite Zoning Ordinance. The request is to allow for an encroachment into the front paving setback requirements associated with the property located at 11892 Old 2243 W. Applicant: Kurt Prossner on behalf of Walking Stick Partnership (Del Ray Sudderth).
  - a. Open Public Hearing
  - b. Close Public Hearing
  - c. Discussion
  - d. Consider Action
  - e. Prepare Findings
4. Adjourn

**CERTIFICATION**

This meeting will be conducted pursuant to the Texas Government Code Section 551.001 et seq. At any time during the meeting, the Board of Adjustment / Appeal reserves the right to adjourn into executive session on any of the above posted agenda items in accordance with the sections 551.071 [litigation and certain consultation with attorney], 551.072 [acquisition of interest in real property], 551.073 [contract for gift to city], 551.074 [certain personnel deliberations] or 551.076 [deployment/ implementation of security personnel or devices]. The City of Leander is committed to compliance with the American with Disabilities Act. Reasonable modifications and equal access to communications will be provided upon request. Please call the City Secretary at 512/ 528-2743 for information. Hearing impaired or speech disabled persons equipped with telecommunications devices for the deaf may call 512/ 528-2800.

I certify that the above agenda for this Meeting of the Board of Adjustment / Appeal of the City of Leander, Texas, was posted on the bulletin board at City Hall, in Leander, Texas, on the 6th day November, 2015 by 5:00 pm pursuant to Chapter 551 of the Texas Government Code.

  
Debbie Haile, TRMC, City Secretary



**MINUTES  
BOARD OF ADJUSTMENT / APPEAL MEETING  
CITY OF LEANDER, TEXAS**



Pat Bryson Municipal Hall

201 North Brushy Street ~ Leander, Texas

Monday ~ June 22, 2015 at 7:00 PM

Gil Debner - Chairman  
Vacant  
Tim Luke

Bill Barton – Vice Chairman  
Mary Orton  
Linda Alger – Building Official

1. Call to Order and Roll Call

**Chairman Debner called the meeting to order at 7:00pm  
All present**

2. Approval of Minutes: January 5, 2015

**Motion made by Bill Barton to approve. Second by Tim Luke.  
Motion passes, all voting "aye"**

3. Variance 15-VA-001: Hold a public hearing and consider action on a request for a variance to Article VI, Section 8 (b) and Article VI, Section 15 (c) of the Composite Zoning Ordinance, regarding the required ten foot landscape lot, six foot privacy fence, and six foot concrete sidewalk associated with the property located at 15 and 17 Warfield, WCAD Parcel ID R037188 & R473622, Leander, Texas. Applicant Matt Jones (KLM Custom) on behalf of 360 Homes, LLC (Travis Brown).

**Martin Siwek, Planner explained the request  
Travis Brown, Owner, was available for questions**

a. Open Public Hearing

**Chairman Debner opened the public hearing  
Dale Raveney, owns neighboring property – spoke in favor of the variance**

b. Close Public Hearing

**Chairman Debner closed the public hearing**

c. Discussion

**The Board discussed the request for a variance**

d. Consider Action

**Motion made by Tim Luke to grant the variance. Second by Bill Barton.  
Motion passes, all voting "aye"**

e. Prepare Findings

**Chairman Debner reviewed the Findings of Fact**

4. Adjourn

**With there being no further business, the meeting adjourned at 7:16 pm**

Attest:

\_\_\_\_\_  
Gil Debner, Chairman

\_\_\_\_\_  
Debbie Haile, TRMC, City Secretary



## EXECUTIVE SUMMARY

NOVEMBER 09, 2015

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- Agenda Subject:** Variance 15-VA-002: Hold a public hearing and consider action on a request for a variance to Article VI, Section 6 (a) from the Composite Zoning Ordinance. The request is to allow for an encroachment into the front paving setback requirements associated with the property located at 11892 Old 2243 W. Applicant: Kurt Prossner on behalf of Walking Stick Partnership (Del Ray Sudderth).
- Background:** The applicant is requesting a variance from Article VI Site Standards, Section 6 (a) from the Composite Zoning Ordinance regarding the requirement for a 25 ft setback requirement for parking spaces and parking aisles from the front property line for properties zoned HC-5-D. The applicant wishes to construct a parking aisle that encroaches into this setback area.
- Origination:** Applicant/Agent: Kurt Prossner on behalf of Walking Stick Partnership (Del Ray Sudderth)
- Financial Consideration:** None
- Recommendation:** See Planning Analysis.
- Motion:** **APPROVAL:** The Zoning Board of Adjustment recommends approval of the variance request based on the findings of fact.  
**DENIAL:** The Zoning Board of Adjustment recommends denial of the variance request based on the findings of fact.
- Attachments:**
1. Planning Analysis
  2. Current Zoning Exhibit
  3. Aerial Exhibit
  4. Letter of Intent
  5. Findings of Fact
- Prepared By:** Martin Siwek, AICP, GISP  
Planner

11/05/2015



## PLANNING ANALYSIS

### BOARD OF ADJUSTMENT / APPEAL COMPOSITE ZONING ORDINANCE VARIANCE 15-VA-002 WALKING STICK PARTNERHSHIP

#### GENERAL INFORMATION

- Owner:** Walking Stick Partnership
- Current Zoning:** HC-5-D (Heavy Commercial)
- Size and Location:** The subject property is generally located 315 ft east from the northeast corner of the intersection of Old 2243 W and N Bagdad Rd, more or less, and includes WCAD Parcel R031698.
- Staff Contact:** Martin Siwek, AICP, GISP  
Planner  
City of Leander, Texas

#### ABUTTING ZONING AND LAND USE:

The table below lists the abutting zoning and land uses.

	ZONING	LAND USE
NORTH	HC-5-D HI-5-D	Developed Landscape Business Developed Parking Area of Retail Center
EAST	HC-5-D	Developed Retail Center
SOUTH	SFU-2-B	Existing Cemetery
WEST	GC-3-C	Vacant Property

**ORDINANCE PROVISION FOR WHICH VARIANCE IS REQUESTED:****COMPOSITE ZONING ORDINANCE (2015)****Article VI, Section 6 (a)**

<b>PARKING, AISLE, LOADING, CANOPIES, OUTDOOR DISPLAY</b>						
	<b>Use Component</b>	<b>Site Component</b>	<b>Front</b>	<b>Side</b>	<b>Street Side</b>	<b>Rear</b>
<b>Standard Setback</b>	HC	Type 5	25'	5'***	25'	5'***

**ANALYSIS:**

The applicant is requesting a variance from the Composite Zoning Ordinance, which requires the applicant to provide a 25 foot setback for parking spaces and drive aisles from the front property line. The applicant is improving their property and providing a new building which would support retail uses. The Composite Zoning Ordinance has a provision under Article VI, Section 13, which requires non-residential or multi-family sites contiguous with another non-residential or multi-family site to provide parking aisle connections to the boundary of the site. The adjacent property to the east is an existing office/retail center, and the applicant is required to provide a connection to the east property to satisfy the provision of providing parking aisle connections to the boundary of the site as stipulated in Article VI, Section 13.

The adjacent property to the east is an existing developed site, which constrains the applicant's options for locating the required parking aisle connection. The built condition of the neighboring property to the east is creating a hardship on the applicant's property by limiting the location of where the parking aisle connection may be located. There are no other reasonable alternatives to facilitate connections to the adjacent properties that would serve both sites.

**PHOTOGRAPHS****Photo 1:****STAFF RECOMMENDATION**

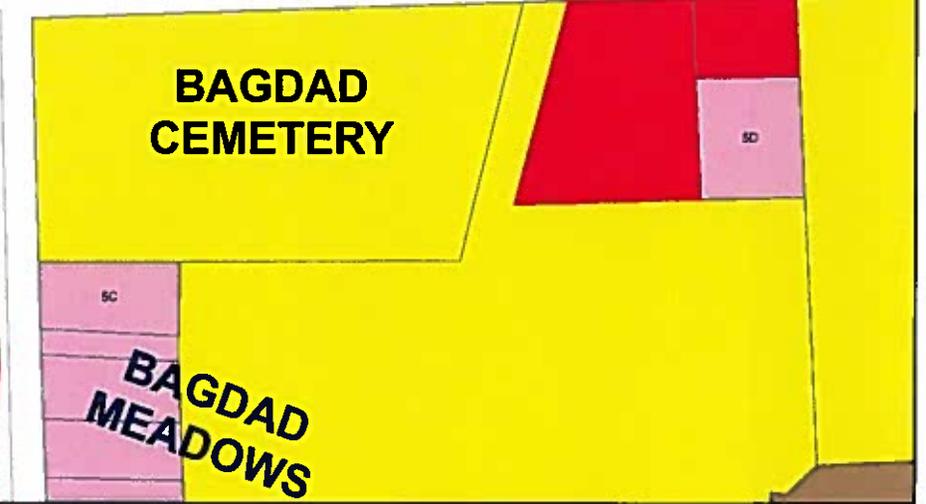
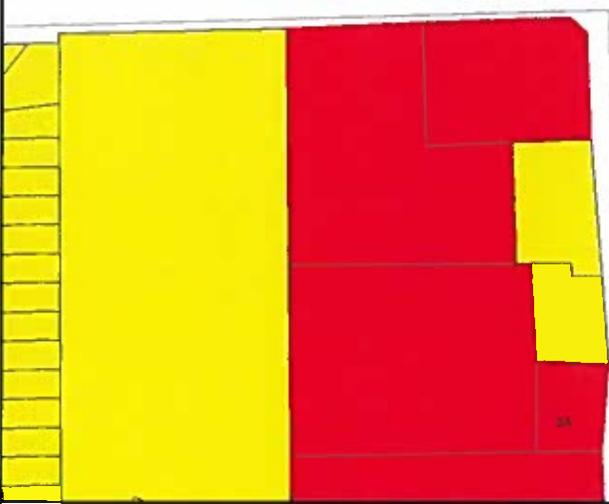
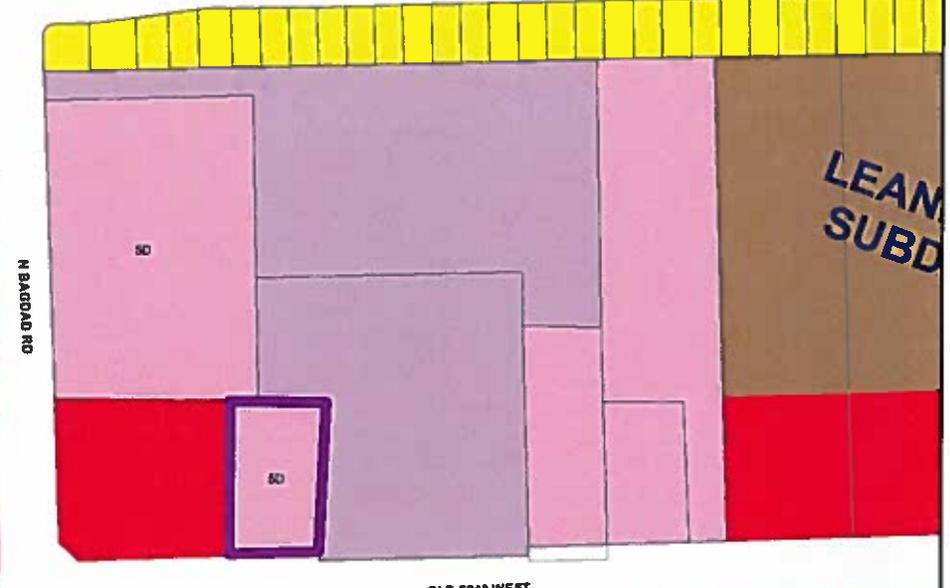
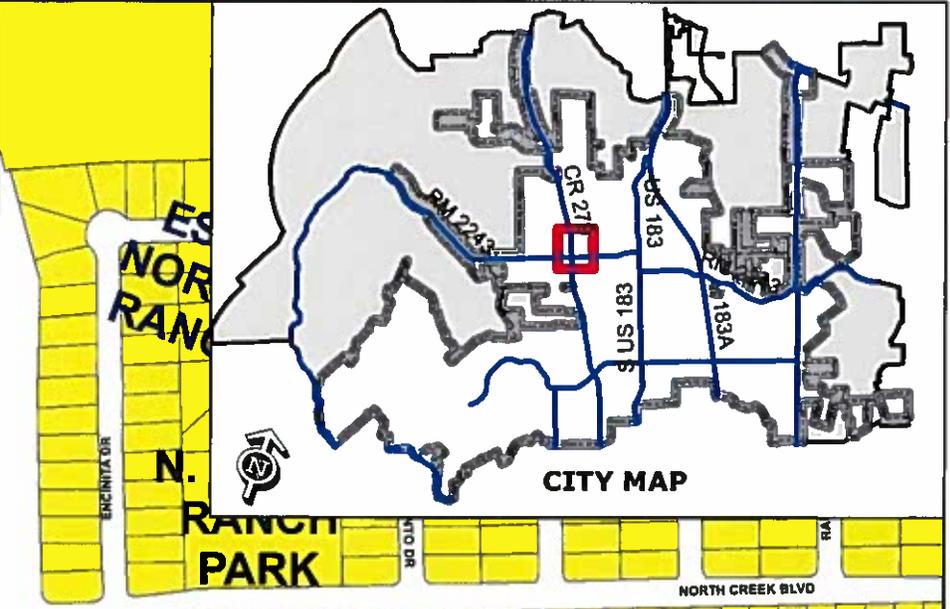
Staff recommends approval of the applicant's request for a variance from adhering to the 25 foot setback requirement for parking spaces and parking aisle connections on the east portion of the property where the connection will be made. The developed property to the east has limited the options for locating a parking aisle connection for the applicant. The only available option for the applicant to make this connection is by locating the drive aisle within the required 25 foot front setback as stipulated by the Composite Zoning Ordinance. In doing so, the applicant is observing the spirit of the ordinance, and providing for an adjacent parking aisle connection as is required by Article VI, Section 13 of the Composite Zoning Ordinance.

**FINDINGS OF FACT:**

In granting approval of a request for variance, the Board of Adjustment / Appeal shall conclude that the variance is not contrary to the public interest and, due to special conditions; a literal enforcement of this Ordinance would result in unnecessary hardship, and so that the variance observes the spirit of this Ordinance and concludes that substantial justice is done. The Board of Adjustment / Appeal shall meet these requirements by making findings that

1. The public convenience and welfare will be substantially served;
2. The appropriate use of surrounding property will not be substantially or permanently impaired or diminished;
3. The applicant has not created the hardship from which relief is sought;
4. The variance will not confer upon the applicant a special right or privilege not commonly shared or available to the owners of similar and surrounding property;
5. The hardship from which relief is sought is not solely of an economic nature;
6. The variance is not contrary to the public interest;
7. Due to special conditions, the literal enforcement of the ordinance would result in an unnecessary hardship; and
8. In granting the variance the spirit of the ordinance is observed and substantial justice is done.

This map has been produced by the City of Leander for informational purposes only. No warranty is made by the City regarding completeness or accuracy, please refer to the official ordinance for zoning verification. This data should not be construed as a legal description or survey instrument. No responsibility is assumed for damages or other liabilities due to the accuracy, availability, completeness, use or misuse of the information herein provided.



**VARIANCE CASE 15-VA-002**

**Attachment #2**

Current Zoning Map  
Walking Stick Partnership

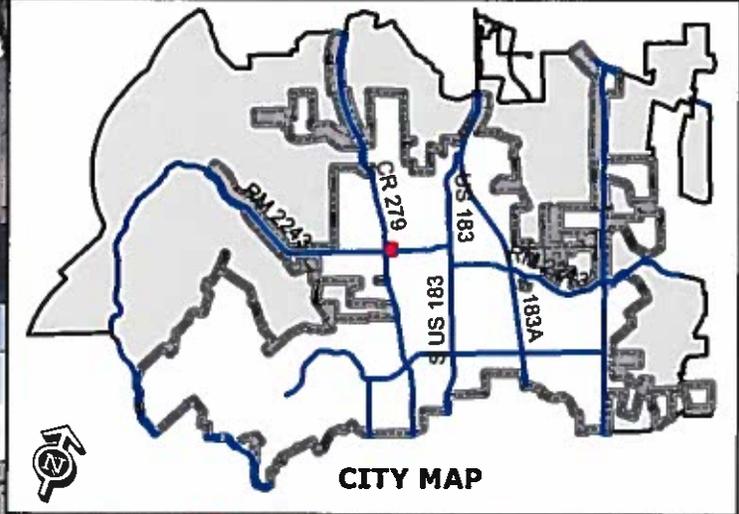


-  Subject Property
-  City Limits

 SFR	 SFT	 GC
 SFE	 SFU/MH	 HC
 SFS	 TF	 HI
 SFU	 MF	 PUD
 SFC	 LO	
 SFL	 LC	



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### VARIANCE CASE 15-VA-002 Attachment #3



 Subject Property  
 City Limits

Aerial Exhibit - Approximate Boundaries  
Walking Stick Partnership





**SUDDERTH BROTHERS CONTRACTING, INC.**

P.O. Box 1663  
Leander, Texas 78646  
512-260-2747 phone – 512-260-9274 fax

September 23, 2015

Robin M. Griffin, AICP  
Senior Planner  
City of Leander  
Planning Department  
P.O. Box 319  
Leander, Texas 78646

Ref: 15-SD-020 Walking Stick Plaza Driveway Variance

Dear Robin,

We are requesting a variance to allow for an encroachment into the front paving setback. This encroachment will allow for a driveway connection between the proposed development and the existing commercial development to the east. The composite Zoning Ordinance currently requires parking lot connections between non-residential developments. The front portion of this property is limited by the current development of the site and the existing ROW. A variance would allow for the connection to the neighboring property and would bring the site into compliance with the ordinance. The ROW associated with this property is approximately 18 feet greater than the adjacent development thus causing a hardship.

Thank you for your consideration in this project. Feel free to call me with questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Del Ray Sudderth". The signature is fluid and cursive.

Del Ray Sudderth, President

Septic Systems Driveways Clearing  
Excavation Dump Trucks Backhoe Bobcat  
Sand Dirt Road Base

Del Ray Sudderth 512-801-6214 cell  
Blake Sudderth 512-801-8671 cell

[drsudderth@suddenlink.net](mailto:drsudderth@suddenlink.net)  
[blakesudderth@sbcglobal.net](mailto:blakesudderth@sbcglobal.net)

CITY OF LEANDER  
BOARD OF ADJUSTMENT / APPEAL  
November 09, 2015

Case # 15-VA-002

Agenda Item Number:

Property:     R031698     Request: Variance

Address:     11892 Old 2243 W      
    Leander, Texas 78641    

Description of Variance Request: A variance to Article VI, Section 6 (a) the request is to allow for an encroachment into the front paving setback requirements associated with the property located at 11892 Old 2243 W.

**NOW COMES** the Board of Adjustment/Appeal for the City of Leander, having heard the request of Kurt Prossner on behalf of Walking Stick Partnership (Del Ray Sudderth) to be granted a variance from Article VI, Section 6 (a) of the City concerning the property described above. The application for a variance dated September 23, 2015 was presented to the Board of Adjustment/Appeal on November 9, 2015. The Board of Adjustment/Appeal having given the applicant, interested parties and the City representatives an opportunity to present arguments and evidence at a public hearing makes the following findings:

1. The public convenience and welfare will be substantially served. [Yes] / [No]
2. The appropriate use of surrounding property will not be substantially or permanently impaired or diminished. [Yes] / [No]
3. The applicant has not created the hardship from which relief is sought. [Yes] / [No]
4. The variance will not confer upon the applicant a special right or privilege not commonly shared or available to the owners of similar and surrounding property. [Yes] / [No]
5. The hardship from which relief is sought is not solely of an economic nature. [Yes] / [No]
6. The variance is not contrary to the public interest. [Yes] / [No]
7. Due to special conditions, the literal enforcement of the ordinance would result in an unnecessary hardship. [Yes] / [No]
8. In granting the variance the spirit of the ordinance is observed and substantial justice is done. [Yes] / [No]

The specific facts that the Commission finds to support the findings are:

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Motion: \_\_\_\_\_ By: \_\_\_\_\_

Second By: \_\_\_\_\_

	In Favor	Opposed
Vote: Chairman Gil Debner	<input type="checkbox"/>	<input type="checkbox"/>
Antonio Martinez	<input type="checkbox"/>	<input type="checkbox"/>
Bill Barton	<input type="checkbox"/>	<input type="checkbox"/>
Mary Orton	<input type="checkbox"/>	<input type="checkbox"/>
Tim Luke	<input type="checkbox"/>	<input type="checkbox"/>

Based on the foregoing facts and findings, the Board of Adjustment/Appeal has determined that the variance requested by applicant should be [Denied], or should be [Granted] / with the conditions stated below.

Conditions of variance to alleviate potential negative effects:

Signed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Board of Adjustment/Appeal, Chairman

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Name: Gil Debner