REGULAR MEETING OF THE SAN MARCOS ZONING BOARD OF ADJUSTMENTS  
Thursday, February 21, 2019 5:45 P.M. City Council Chambers

Michael Nolen, Chair  Gloria Fortin, Vice Chair  
Rick Henderson, Member  Wayman Jones, Member  
Gary Pack, Member  Nicholas Costilla, Alternate  
Tom Rowe, Alternate

AGENDA

1. Call to order.

2. Roll call.

3. Chairperson’s Opening Remarks.

4. Citizen Comment Period.

5. Consider approval of the minutes of the ZBOA Regular Meeting of January 17, 2019.

6. VR-19-02 Hold a public hearing and consider a request by Paul Ginsberg for a variance to Section 4.4.6.1 of the San Marcos Development Code in order to allow a parking space for an Accessory Dwelling Unit to be located within the first layer of the property at 323 W. Holland Street (W. Parrish)

7. Question and Answer Session with Press and Public. This is an opportunity for the Press and Public to ask questions related to items on this agenda.

8. Adjourn.

NOTE: The Zoning Board of Adjustments may adjourn into Executive Session to consider any item listed on this agenda if a matter is raised that is appropriate for Executive Session discussion. An announcement will be made of the basis for the Executive Session discussion. The Zoning Board of Adjustments may also publicly discuss an item listed on the agenda for Executive Session.

The City of San Marcos does not discriminate on the basis of disability in the admission or access to its services, programs, or activities. Individuals who require auxiliary aids and services for this meeting should contact the City of San Marcos ADA Coordinator at 512-393-8000 (voice) or call Texas Relay Service (TRS) by dialing 7-1-1. Requests can also be faxed to 512-393-8074 or sent by e-mail to ADArequest@sanmarcostx.gov
MINUTES OF THE REGULAR MEETING OF THE SAN MARCOS ZONING BOARD OF ADJUSTMENTS
Thursday, January 17, 2019 5:45 P.M.
San Marcos City Council Chambers
630 East Hopkins, San Marcos, TX 78666

Board Members Present:
Michael Nolen, Chair
Gloria Fortin, Vice Chair
Rick Henderson, Member
Wayman Jones, Member
Gary Pack, Member
Tom Rowe, Alternate Member, Non-Voting
Nicholas Costilla, Alternate Member, Non-Voting

City Staff Present:
Amanda Hernandez, Development Services Manager
Matthew Johnson, Planning Technician

1. Call to order.

With a quorum present, the Regular Meeting of the San Marcos Zoning Board of Adjustments was called to order by Chair Nolen at 5:45 p.m.

2. Roll call.

During the roll call Member Rick Henderson arrived. Alternate Member Tom Rowe stepped down to allow Member Henderson to be seated at the dais. Amanda Hernandez, Development Services Manager explained the structure of the Board per the Texas Local Government Code to clarify the change, for the audience.

3. Chairperson’s Opening Remarks.

Chair Nolen welcomed the audience

4. Citizen Comment Period.

Chair Nolen Opened the Citizen Comment Period

John Paul Crowley, 111 Mandalay Lane, spoke in opposition to Item #4. He stated concerns with the change from two story to three story buildings, the increase in density, and concerns with the management company. He stated that he is in favor of screening dumpsters.

5. Consider approval of the minutes of the ZBOA Regular Meeting of August 16, 2018.
MOTION: Member, Gary Pack made a motion to approve the minutes. Vice Chair, Gloria Fortin, seconded the motion. Following a voice vote, the motion passed 5-0.

6. VR-19-01 Hold a public hearing and consider a request by Matt Goebel, on behalf of San Marcos Green Investors, LLC, for reinstatement of nonconforming rights per Section 1.5.1.9 of the San Marcos Development Code in order to allow reconstruction of previously destroyed multifamily units at 222 Ramsay Street also known as “Iconic Village.” (M.Johnson)

Chair Nolen opened the public hearing.

Matthew Johnson, Planning Technician, presented the staff report.

Matt Goebel, 3009 South 5th Street, Austin Texas, spoke in favor of this request. He presented a summary of the improvements that will be made to bring the property into more conformance with current codes.

Lindsey Philippus, 1811 Medical Parkway, spoke in opposition to the request. She stated concerns with property management and access in the event of an emergency.

Meagan Stevenson, 114 Salas Drive, spoke in opposition to the request. She stated concerns with property management and her desire for a memorial.

Mary Ann Chapa, no address, spoke in opposition to the request. She stated concerns with reconstruction on the land and her desire for a memorial and a park.

Elise Rosen, 1811 Medical Parkway, spoke in opposition to the request. She stated concerns with property management.

MOTION: Vice Chair, Gloria Fortin made a motion to approve the request to reinstate the nonconforming rights with the following:
- The replacement of 60 units with 266 bedrooms.
- A maximum building height of 3-stories.
- A waiver of the Minimum Building Frontage not to exceed pre-existing conditions.
- A revised streetscape with 6 foot sidewalks, a 4 foot planter area, and street trees.
- Subject to compliance with the standards of the approved Planned Development District, and
- Subject to compliance with all other relevant codes and ordinances, including Building and Fire Code.

Chair, Michael Nolen, seconded the motion. Following a roll call vote, the motion passed 4-1 with Member, Rick Henderson dissenting.

7. Hold a discussion and consider approval of the Zoning Board of Adjustments 2019 Regular Meeting schedule.

Amanda Hernandez, Development Services Manager presented the 2019 Calendar.

MOTION: Member, Gary Pack made a motion to approve the calendar as presented. Member, Wayman Jones, seconded the motion. Following a voice vote, the motion passed 5-0.
8. **Question and Answer Session with Press and Public.** This is an opportunity for the Press and Public to ask questions related to items on this agenda.

No one spoke

9. **Adjourn.**

There being no further business for the Zoning Board of Adjustments, Chari Nolen adjourned the meeting at 6:19 p.m. on Thursday January 17, 2019.

_____________________________________
Michael Nolen, Chair

ATTEST:

_____________________________________
Amanda Hernandez, Development Services Manager
This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

Map Date: 2/8/2019
This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

Map Date: 2/8/2019
VR-19-02
Variance
323 W. Holland Street

**Applicant Information:**

**Applicant:**
Paul Ginsberg  
415 N. Guadalupe Suite 263  
San Marcos, TX 78666

**Property Owner:**
Paul Ginsberg  
415 N. Guadalupe Suite 263  
San Marcos, TX 78666

**Applicant’s Request:**
A variance from the requirements of Section 4.4.6.1 of the San Marcos Development Code which states that an Accessory Dwelling Unit requires an additional parking space that must be located within the 3rd layer.

**Notification:**
Public hearing notification mailed on February 8, 2019 to all property owners within 400 feet of subject property.

**Citizen Response:**
None as of Staff Report date

**Subject Property:**

**Location:**
323 W. Holland Street

**Legal Description:**
Lots 3 - 4 42-62 Thomas J Chambers Survey

**Frontage On:**
West Holland Street

**Neighborhood:**
Holland Hills

**Existing Zoning:**
Single Family 6

**Preferred Scenario Designation:**
Existing Neighborhood

**Utilities:**
Adequate

**Existing Use of Property:**
Single Family Home

**Proposed Use of Property:**
Single Family Home with Accessory Dwelling Unit

**Surrounding Area:**

<table>
<thead>
<tr>
<th></th>
<th>Current Zoning</th>
<th>Existing Land Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>N of Property</td>
<td>SF-6</td>
<td>Home</td>
</tr>
<tr>
<td>E of Property</td>
<td>SF-6</td>
<td>Home</td>
</tr>
<tr>
<td>S of Property</td>
<td>SF-6</td>
<td>Home</td>
</tr>
<tr>
<td>W of Property</td>
<td>SF-6/NC</td>
<td>Home/Vacant</td>
</tr>
</tbody>
</table>
Case Summary

This property is located at 323 W. Holland. The property owner would like to convert an approximately 420 square foot shed that is currently located on the property into an Accessory Dwelling Unit. However, the property owner has stated that due to the landscaping and slope of the property, it would be detrimental to the property to construct a parking space within the third layer as required in Section 4.4.6.1. According to Section 4.3.3.1(C) the third layer is defined as beginning 20 feet behind the building frontage (exhibit in packet).

The applicant submitted a site plan in which he proposes to build an additional parking space in front of his home, stubbing out of the existing driveway. The property owner has a patio that extends into his side yard, and is concerned that compliance with the code will force him to extend his driveway deep into the middle of his yard.

Comments from Other Departments

No concerns from other departments have been noted.

Relevant Code Requirements

The San Marcos Development Code requires 1 additional off street parking space for an accessory dwelling unit, and that space must be located within the third layer.

Section 4.4.6.1

• Vehicle Access and Parking

Parking Requirements – 1 Additional Space
Parking Location – Third Layer

Section 4.3.3.1 Lot Layers

• 4.3.3.1(C) Third Layer. The third layer extends from the second layer to the rear lot line.

Planning Department Analysis

<table>
<thead>
<tr>
<th>San Marcos Development Code Standards</th>
<th>Applicant’s Request</th>
</tr>
</thead>
<tbody>
<tr>
<td>Status</td>
<td>1 additional parking space</td>
</tr>
<tr>
<td>Location</td>
<td>Third layer</td>
</tr>
</tbody>
</table>

The purpose of the additional off street parking requirement for an Accessory Dwelling Unit (ADU) is to ensure that enough parking is provided for the additional unit on the lot. The requirement that it be located in the third layer is partially to ensure that ADUs are placed on lots that are large enough and have appropriate access, as well as reducing the impact of additional parking on front yards.

The existing driveway is fairly narrow, and the applicant is proposing to widen the driveway by approximately 4 feet as well as stubbing out an additional parking space. The applicant originally proposed an alternate location for the parking space, but after Staff review it was determined that the original proposal was unsafe. The current proposal builds off the existing driveway and therefore does not create an additional hazard.
The Land Development Code has established criteria for approval that should be considered in the decision of a variance petition. **Section 2.8.2.4 Criteria for Approval** states that in deciding the variance petition, the decision-maker shall apply the following criteria:

1. There are special circumstances or conditions arising from the physical surroundings, shape, topography or other feature affecting the land subject to the variance petition, such that the strict application of the provisions of this Land Development Code to the development application would create an unnecessary hardship or inequity upon or for the petitioner, as distinguished from a mere inconvenience, in developing the land or deprive the petitioner of the reasonable and beneficial use of the land;
   - The property is sloped, however the primary obstruction appears to be the existing patio that extends into the side yard. Compliance with the requirements would result in the parking space having to extend past the patio.

2. The circumstances causing the hardship do not similarly affect all or most properties in the vicinity of the petitioner’s land;
   - The adjacent properties are also located on a slope.

3. The variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner;
   - The variance is not a necessity for the enjoyment of the property. The property is currently used as a single family home, which it is entitled for.

4. Granting the variance petition will not be detrimental of the public health, safety or welfare, or injurious to other property within the area;
   - Staff finds that this request will not be detrimental of the public health, safety or welfare, or injurious to other property within the area.

5. Granting the variance petition will not have the effect of preventing the orderly use and enjoyment of other land within the area in accordance with the provisions of this Code, or adversely affect the rights of owners or residents of surrounding property;
   - Granting a variance to the standards would not prevent the orderly use and enjoyment of other land within the area in accordance with the provisions of this Code, or adversely affect the rights of owners or residents of surrounding property.

6. Granting the variance petition is consistent with any special criteria applicable to varying particular standards, as set forth in Chapter 4 through 7 of the San Marcos Development Code;
   - Granting the variance petition is not consistent with the special criteria set forth for the additional parking space location in section 4.4.1.6. as it will be located in the first layer.

7. The hardship or inequity suffered by the petitioner is not caused wholly or in substantial part by the petitioner;
   - The petitioner has developed the property in such a manner that it is difficult to meet the location requirements for the required additional ADU parking space.

8. The request for a variance is not based exclusively on the petitioner’s desire for increased financial gain from the property, or to reduce an existing financial hardship;
   - The request is based on the petitioner’s desire to develop an Accessory Dwelling Unit on the property.

9. The degree of variance requested is the minimum amount necessary to meet the needs of the proponent and to meet the conditions of this Section;
   - The applicant’s current request provides for the additional parking space to be located within the first layer. The applicant could request to locate the parking space within the second layer, however that would still result in a parking space located in the center of the property.
DIVISION 3: PLACEMENT OF BUILDINGS

Section 4.3.3.1 Lot Layers

There are three (3) layers to a lot - First layer, second layer and the third layer. Double frontage lots have two (2) sets of lot layers. The second and third lot layers are combined on the secondary frontage of corner lots.

**FIGURE 4.4 LOT LAYERS**

A. **First Layer.** The first layer extends from the front property line to the building frontage.

B. **Second Layer.** The second layer extends 20' back from the building frontage.

C. **Third Layer.** The third layer extends from the second layer to the rear lot line. The second and third layer may be combined when there is a secondary frontage.
VR-19-02
Zoning
Parking — 323 W Holland

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

Map Date: 2/8/2019
To the Zoning Board

Please refer to the survey provided for a visual idea what I am requesting. My property located at 323 W. Holland St. in Sun Manes has access only from Holland St. The property sits on top of a hill and slopes off towards where I am proposing to create parking for an accessory dwelling.

The property was professionally landscaped and is quite beautiful. The only area that makes sense is the lowest portion of the property as indicated on the survey. All the rest of the Holland St. footage is grown and landscaped, where I am proposing to provide parking would be the least obtrusive as it is the lowest corner of the property. In the middle of the property is a stone patio and facing Holland St. is a large green bush and a tree which is pleasant to see and would not provide reasonable access to parking.
SUBDIVISION / ZONING VARIANCE APPLICATION

CONTACT INFORMATION

Applicant’s Name: Paul Ginsburg

Property Owner: Paul Ginsburg

Applicant’s Mailing Address: 415 N Gould St
San Marcos, TX 78666

Owner’s Mailing Address: Same

Applicant’s Phone #: 512-376-8085

Owner’s Phone #: Same

Applicant’s Email: mgins1340@gmail.com

Owner’s Email: Same

PROPERTY INFORMATION

Subject Property Address: 323 W Holland St, S.M. TX 78666

Acres: 60' x 133' + 60' x 123' 16,680 sq ft

Tax ID #: R 103 & 2

Legal Description: Lot 3 + 4 Block Subdivision Thomas J Chambers

Existing Use(s): Residence

DESCRIPTION OF REQUEST

Variance to Section: 4.4.6.c.1 of the Land Development Code, which requires:

Parking for accessory dwelling

Description of proposed variance (additional pages may be used):

Please refer to the survey provided and cover letter.

AUTHORIZATION

I certify that the information on this application is complete and accurate. I understand the fees and the process for this application. I understand my responsibility, as the applicant, to be present at meetings regarding this request.

Filing Fee $724 Technology Fee $12 TOTAL COST $736

Submittal of this digital Application shall constitute as acknowledgement and authorization to process this request.

APPLY ONLINE - WWW.MYGOVERNMENTONLINE.ORG/

Planning & Development Services • 630 East Hopkins • San Marcos, Texas 78666 • 512-393-8230
VARIANCE CONSIDERATIONS
(Please include additional pages as necessary)

1) What special circumstances or conditions affect the subject property such that strict application of the provisions of the Land Development Code would create an unnecessary hardship or inequity upon the applicant or would deprive the applicant of the reasonable and beneficial use of the property? See cover letter provided.

2) Do the circumstances or conditions causing the hardship similarly affect all or most of the properties in the vicinity of the subject property? No.

3) What substantial property right would not be preserved or enjoyed if the provisions of the Land Development Code were literally enforced? Reasonable parking without harming the beauty and integrity of the lot.

4) What effect, if any, would the variance have on the rights of owners or occupants of surrounding property, or on the public health, safety or general welfare? None that I can see.

5) What effect, if any, would the variance have on the orderly subdivision of other land in the area in accordance with the provisions of the Land Development Code? None.

6) Is the hardship or inequity suffered by the applicant caused wholly or in substantial part by the property owner or applicant? It's simply the lack of use of the lot which dictates this hardship.

7) To what extent is the request for variance based upon a desire of the owner, occupant or applicant for increase financial gain from the property, or to reduce an existing financial hardship? The necessary dwelling would probably be rented out.

8) Is the degree of variance requested the minimum amount necessary to meet the needs of the applicant or property owner? Yes.

*Note for the Board / Commission:
The following responses were provided by the applicant and may not be consistent with the Department staff report.
PROPERTY OWNER AUTHORIZATION

I, [Name] (owner) acknowledge that I am the rightful owner of the property located at [Address].

I hereby authorize [Agent Name] (agent name) to file this application for [Application Type], and, if necessary, to work with the Responsible Official/Department on my behalf throughout the process.

Signature of Property Owner: [Signature] Date: [Date]

Printed Name: [Name]

Signature of Agent: [Signature] Date: [Date]

Printed Name: [Name]
AGREEMENT TO THE PLACEMENT OF NOTIFICATION SIGNS
AND ACKNOWLEDGEMENT OF NOTIFICATION REQUIREMENTS

The City of San Marcos Development Code requires public notification in the form of notification signs on the subject property, published notice, and/or personal notice based on the type of application presented to the Planning Commission and/or City Council.

- Notification Signs: if required by code, staff shall place notification signs on each street adjacent to the subject property and must be placed in a visible, unobstructed location near the property line. It is unlawful for a person to alter any notification sign, or to remove it while the request is pending. However, any removal or alteration that is beyond the control of the applicant shall not constitute a failure to meet notification requirements. **It shall be the responsibility of the applicant to periodically check sign locations to verify that the signs remain in place had have not been vandalized or removed. The applicant shall immediately notify the responsible official of any missing or defective signs. It is unlawful for a person to alter any notification sign, or to remove it while the case is pending; however, any removal or alteration that is beyond the control of the applicant shall not constitute a failure to meet notification requirements.**

- Published Notice: if required by code, staff shall publish a notice in a newspaper of general circulation in accordance with City Codes and the Texas Local Government Code. **If, for any reason, more than one notice is required to be published it may be at the expense of the applicant. The renotification fee shall be $88 plus an $12 technology fee.**

- Personal Notice: if required by code, staff shall mail personal notice in accordance with City Codes and the Texas Local Government Code. **If, for any reason, more than one notice is required to be mailed it may be at the expense of the applicant. The renotification fee shall be $88 plus a $12 technology fee.**

I have read the above statements and agree to the required public notification, as required, based on the attached application. The City’s Planning and Development Services Department staff has my permission to place signs, as required, on the property and I will notify City staff if the sign(s) is/are damaged, moved or removed. I understand the process of notification and public hearing and hereby submit the attached application for review by the City.

Signature: ___________________________ Date: 12-31-2018

Print Name: ________________