

AGENDA
BOARD OF ADJUSTMENT OF THE CITY OF UNIVERSAL CITY, TEXAS
Regular Meeting, Monday Evening, 26 September 2022
COUNCIL CHAMBER OF CITY HALL

1. CALL TO ORDER: Chairperson William Fitzpatrick at 6:00 PM
2. QUORUM CHECK: Michael Cassata, Development Services Director
3. MINUTES OF PREVIOUS MEETING:
 - A. Regular Meeting – 22 August 2022
4. NEW BUSINESS:
 - A. **Public Hearing:** V.C.670—A request for a variance for property zoned C2 – Retail at 600 Pat Booker Road (CB 5768 BLK 1 LOT 52 TEXSTAR BANK UNIVERSAL CITY) to allow a nonconforming use to expand beyond the lot of record upon which it is located by approximately two feet, per zoning ordinance 581.
 - B. **Consider:** V.C. 670—A request for a variance for property zoned C2 – Retail at 600 Pat Booker Road (CB 5768 BLK 1 LOT 52 TEXSTAR BANK UNIVERSAL CITY) to allow a nonconforming use to expand beyond the lot of record upon which it is located by approximately two feet, per zoning ordinance 581.
5. CITY MANAGER'S REPORT:
 - A. Dates and Times of Local Meetings
 - B. Status of City projects and programs
 - C. ADJOURNMENT:

Kristin Mueller
City Clerk

This facility is handicap accessible and handicap parking spaces are available. Request for accommodations or interpretive services must be made 72 hours prior to this meeting. Please contact the City Clerk's Office at (210) 659-0333 if these services are needed.

MINUTES
BOARD OF ADJUSTMENT OF THE CITY OF UNIVERSAL CITY, TEXAS
Regular Meeting, Monday Evening, 22 August 2022

1. CALL TO ORDER: Chair William Fitzpatrick at 6:00 PM.
2. QUORUM CHECK: Michael Cassata, Development Services Director

Members Present:
Tom England, Member
Donna Ash, Member
Charles Consla, Member
William Fitzpatrick, Chair
J. Svalberg, Member
Beth Dixon, Alternate Member
Roger Pritt, Member

Present:
Michael Cassata, Staff Liaison
Kim Turner, City Manger

Members Absent:

3. MINUTES OF PREVIOUS MEETING:

Regular Meeting – 27 June 2022

Mr. Consla moved to approve the minutes as presented. Mr. Pritt seconded the motion. The minutes were approved without correction on a 7-0 vote.

4. OLD BUSINESS: None

5. NEW BUSINESS:

- A. **Public Hearing:** V.C. 669— A request for a variance for property zoned R-OT – Old Town Residential at 310 E. Lindbergh Boulevard (CB 5768A BLK 37 Lot 21) to allow encroachment of the 5-foot side yard setback, per zoning ordinance 581.

Chair Fitzpatrick introduced the variance request and opened the public hearing at 6:00 p.m.

Mr. Cassata explained Laatu Homes, the applicant, received a building permit to construct a single-family home on the subject property. However, during construction, after the slab was poured, the slab survey showed a slight encroachment into the side yard setback on the left side of the home. Although the encroachment is approximately 3 inches, due to the close proximity of the homes in this area, City staff wanted to ensure that proper protocol was followed and notification was provided to the impacted neighbor.

Mr. Cassata also pointed out that the City mailed notifications to property owners within 200 feet of the subject property and received five written responses – four not opposed and one opposed to the variance request. He stated the objector was concerned about impact to the neighbor should a fire occur. Mr. Cassata further explained the Building Official stated that due to the variance and proximity to the adjacent home, the new house would have to provide for additional fire protection on the eaves, fascia and soffit in accordance with 2015 IRC Section R302.1(1). He added that the property owner adjacent to the subject property did not oppose the variance.

Upon inquiry, Mr. Cassata confirmed the adjacent neighbor has a fence on the side yard next to the subject property. He also confirmed that the builder and/or the builder's surveyor had made the error and the City's inspector identified it which led to the variance request.

Public Comment

Gloria Cantu, owner of 313 E. Aviation Boulevard, inquired as to whether the encroachment would also be to the rear. Mr. Cassata confirmed it would only be a side yard setback encroachment.

There being no further comments from the public, Chair Fitzpatrick closed the public hearing at 6:12 p.m.

- B. **Consider:** V.C. 669— A request for a variance for property zoned R-OT – Old Town Residential at 310 E. Lindbergh Boulevard (CB 5768A BLK 37 Lot 21) to allow encroachment of the 5-foot side yard setback, per zoning ordinance 581.

There being no further discussion, Ms. Svalberg moved to approve the request for a variance to allow an approximately three-inch encroachment into the side yard setback. The motion was seconded by Ms. Dixon. **The motion was approved on a 7-0 vote.**

6. CITY MANAGER REPORT:

Ms. Turner mentioned the status of various development projects in the City, as well as the City's budget review and adoption process.

7. ADJOURNMENT:

The meeting adjourned at 6:20 p.m.

William Fitzpatrick
Chair

CITY OF UNIVERSAL CITY

Date 19 September 2022

File V.C. 670

TO: Members of the Board of Adjustment

FROM: Michael Cassata, Development Services Director

SUBJECT: V.C. 670—A request for a variance at 600 Pat Booker Road (TexStar Bank)

Specific Request

A request for a variance from Section 4-5-65 of the Zoning Code for property zoned C2-Retail at 600 Pat Booker Road to allow a nonconforming use to expand beyond the lot of record upon which it is located by approximately two feet into the City's right-of-way.

Zoning

The property is owned by TexStar National Bank and is zoned C2–Retail. The Future Land Use Plan designates this property as R+AD-Retail.

Surrounding Uses

Properties in the immediate area are a combination of commercial and residential (single-family and multi-family).

Project Specifics

TexStar Bank is proposing to install a drive-up facility on the side of the existing building and the drive-aisle curb will extend into the City's right-of-way by approximately two feet with a total of approximately 48 lineal feet in the right-of-way. The existing motor bank drive-thru is across the street in a stand-alone building on an otherwise vacant lot. This will consolidate operations for the bank and provide for potential reuse of the lot where the current drive-thru is located.

See the attached two site plans. Note the first site plan was generated by ADA Consulting Group and is the current version; however, a second site plan by Morkovsky & Associates is included to provide a better visual even though it is an older version.

Further, staff and the applicant are working on entering into an encroachment agreement to allow for the proposed use of the City's right-of-way by the bank for the purposes of the drive-up facility. Staff recommends finalization of the agreement as a condition of approval.

The subject property is not located within the JBSA Randolph Air Installations Compatible Use Zones (AICUZ).

Findings of Fact

As part of its consideration on the proposed variances, the Board of Adjustment shall take into account the nature of the proposed use of the land involved, the existing use of land in the vicinity, the number of persons who will reside or work in the proposed development, the possibility that a nuisance may be created, and the probable effect of such variance upon traffic conditions and upon public health, convenience, and welfare of the vicinity.

More specifically, as part of their deliberation, Board members should consider the following findings:

1. *Extraordinary Conditions.* That there are extraordinary or special conditions affecting the land involved such that strict application of the provisions of the Code will deprive the applicant of a reasonable use of the land. For example, a variance might be justified because of topographic, or other special conditions unique to the property and development involved, while it would not be justified due to inconvenience or financial disadvantage.
2. *Preservation of a Substantial Property Right.* That the variance is necessary for the preservation of a substantial property right of the applicant.
3. *Substantial Detriment.* That the granting of the variance will not be detrimental to the public health, safety, or welfare, or injurious to other property in the area, or to the City in administering the Code.
4. *Other Property.* That the conditions that create the need for the variance do not generally apply to other property in the vicinity.
5. *Applicant's Actions.* The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property.
6. *Future Land Use Plan.* That the granting of the variance would not substantially conflict with the Future Land Use Plan and the purposes of this chapter.
7. *Utilization.* That because of the conditions that create the need for the variance, the application of the Code to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.

Legal Notices

Per State law, 26 notices were mailed to property owners within 200 feet of the subject property. As of this memo, the City has not received any written responses or phone calls regarding this request.

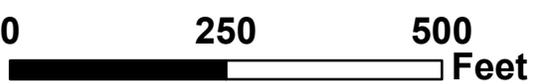
Attachments:

- Location Map
- Aerial Map
- Site Plan
- Section 4-5-62
- Variance Criteria
- Motion



VC 670
600 PAT BOOKER RD

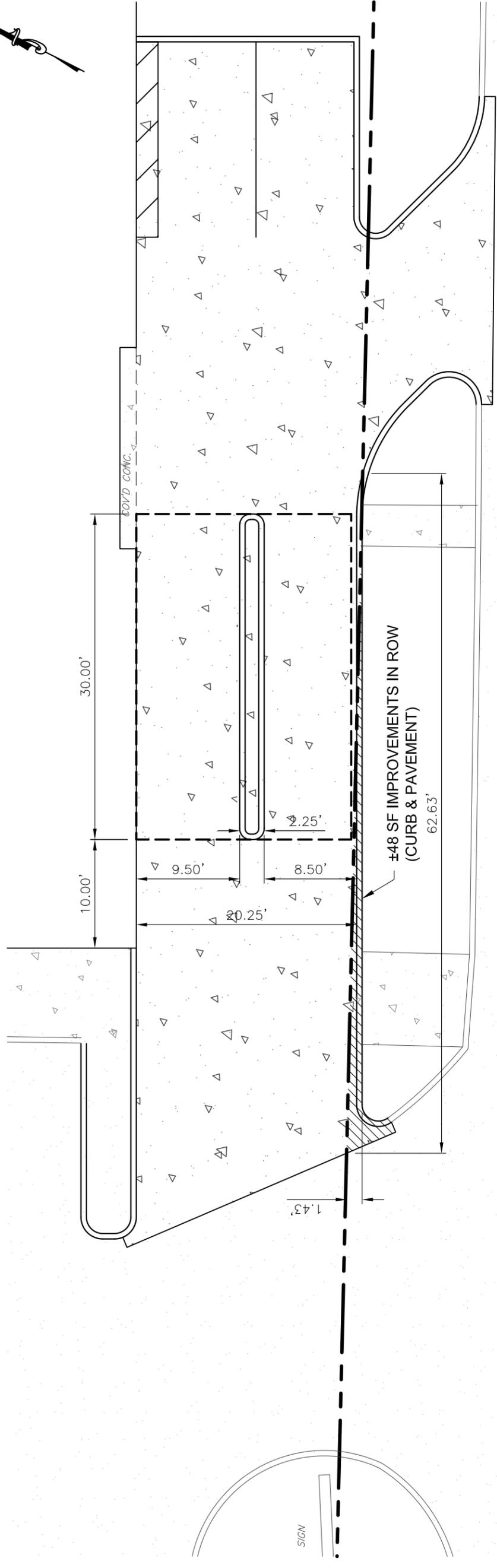
Date Prepared: Friday, Sep. 2, 2022



The City of Universal City
 Texas
 2150 Universal City Blvd
 Universal City, TX 78148

TexStar Bank
600 Pat Booker Road
Variance Request for Drive-Up Facility
9-26-2022





E. LANGLEY BLVD.
(50' ROW WIDTH)

THIS DOCUMENT IS RELEASED
FOR THE PURPOSE OF
INTERIM REVIEW UNDER THE
AUTHORITY OF

DONALD OROJON, P.E.
(TX# 90244)
ADA CONSULTING GROUP, INC.
TBE FIRM No. F-3512

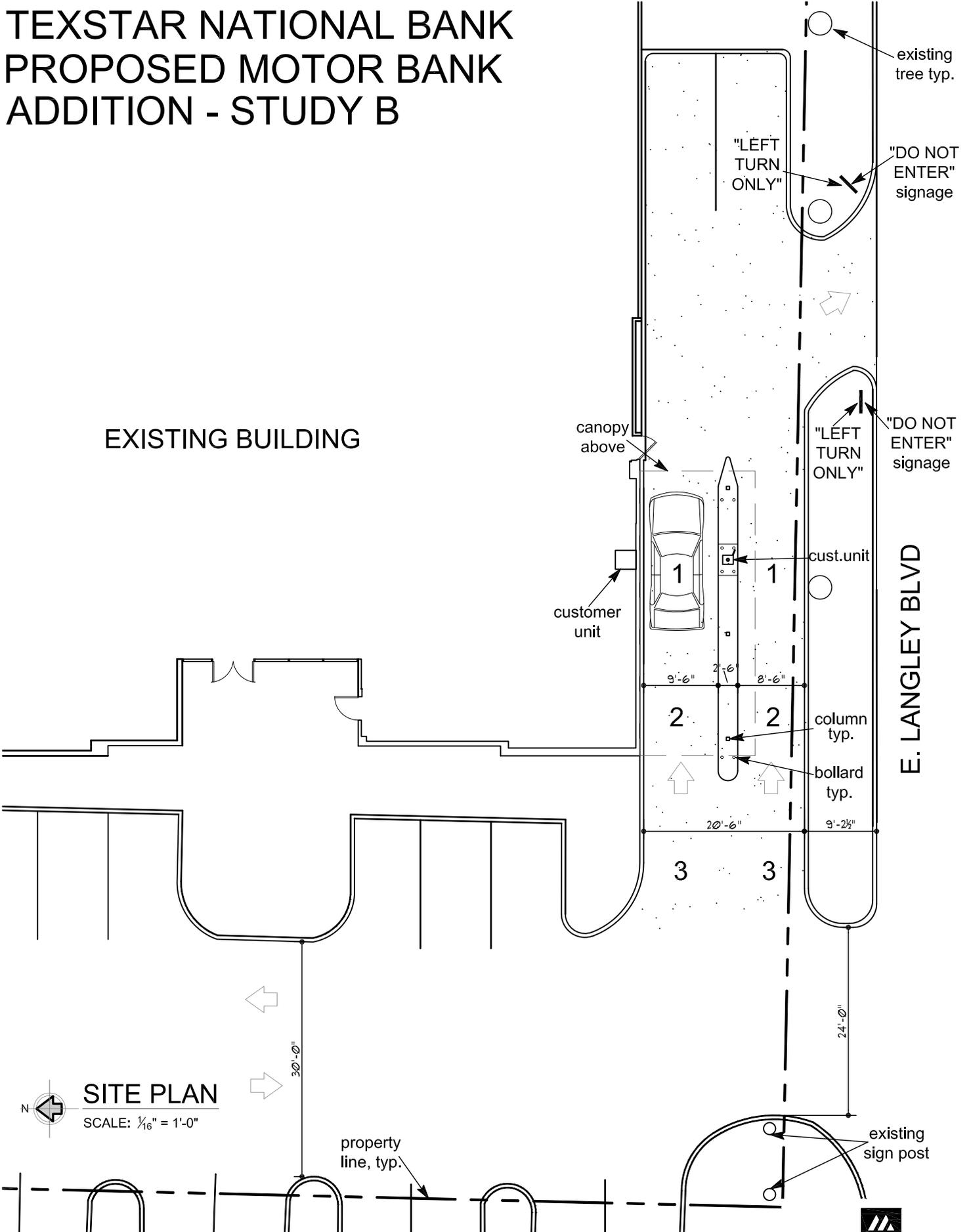
8-30-22
DATE

IT IS NOT TO BE USED
FOR CONSTRUCTION
OR PERMITTING PURPOSES.

| | | | | | |
|---------------------|--|---|--------------------|--|--|
| DATE: 8-30-22 | | JOB NUMBER: 152-173 | SCALE: 1" = 10' | MOTOR BANK BOA VARIANCE APPLICATION EXHIBIT | |
| SHEET NO. 1 of 1 | | DWG NAME: 152-173 (c1) civil site plan.dwg | | TEXSTAR BANK 600 PAT BOOKER RD; UNIVERSAL CITY, TX 78148 | |
| | | | | ADA CONSULTING GROUP, INC. 221 W. RHAPSODY, STE. 102 SAN ANTONIO, TX 78216 (210) 340-5670 FAX: (210) 340-5728 <small>A TEXAS REGISTERED ENGINEERING FIRM (REGISTRATION NO. F003912) © COPYRIGHT 2022-ADA CONSULTING GROUP, INC.-ALL RIGHTS RESERVED.</small> | |

TEXSTAR NATIONAL BANK PROPOSED MOTOR BANK ADDITION - STUDY B

EXISTING BUILDING



SITE PLAN

SCALE: 1/16" = 1'-0"

- (1) *Regulations.* The lawful use of any building, structure, tenant space (as separated by fire partitions) or land existing on the effective date of this ordinance [chapter] (January 22, 2007) may be continued, although such use does not conform with the provisions of this ordinance; provided, however, the right to continue such nonconforming use shall be subject to all of the following regulations:
 - (a) Normal repairs and maintenance may be made to a nonconforming building or structure; provided that no expansions shall be made except those required by law or ordinance or those necessary for installing or enclosing required sanitary facilities, such as toilets and bathrooms. A nonconforming use may be enlarged or changed by horizontal expansion upon, but not beyond, the tract or lot of record upon which it is located as of the date such a use becomes nonconforming; and any enlargement or expansion shall not encroach upon any open space upon such lot that would be required as a yard if the use were a conforming use in the district in which it is located.
 - (b) A nonconforming building or structure shall not be moved in whole or in part unless every portion of such building or structure is made to conform to all regulations of the district in which it is to be located.
 - (c) A vacant, nonconforming building or structure lawfully constructed before the date of enactment of this ordinance may be occupied by a use for which the building or structure was designed or intended, if so occupied within a period of one hundred twenty (120) days after the effective date of this ordinance [chapter]. The use of a nonconforming building or structure lawfully constructed before the date of enactment of this ordinance [chapter], which becomes vacant after the effective date of this article, may be reoccupied for the use for which the building or structure was designed or intended, if so occupied within a period of one hundred twenty (120) days after the building or structure becomes vacant. All such buildings, after one hundred twenty (120) days of vacancy, shall be converted to a conforming use. Vacant shall mean the absence of characteristic furnishings, equipment, and personnel. The status of utility connections and accounts may be used in determining vacancy.
 - (d) A nonconforming building or structure which is damaged or destroyed, whether partially or fully, by fire, flood, wind, explosion, earthquake, or other calamity or act of God may be restored to its nonconforming use provided that a building permit is acquired within a period of two (2) years from the date of the fire, flood, wind, explosion, earthquake, or other calamity or act of God. The Board of Adjustments may grant a variance to extend the said two-year period provided that the request is made not later than sixty (60) days prior to the date it elapses.
- (2) *Change or Expansion Prohibited.* The nonconforming use of a building or structure may be continued as hereinafter provided:
 - (a) The nonconforming use of a building or structure may not be changed to a use which does not conform to the requirements of the district in which it is situated.
 - (b) A nonconforming use of a conforming building or structure shall not be extended or expanded into any other portion of such conforming building or structure, nor changed except to a conforming use. If such nonconforming use or portion thereof is voluntarily discontinued or changed to a conforming use, any future use of such building or structure or portion thereof shall conform to the regulations of the district in which such building or structure is located.
- (3) *Continuation of Existing Uses.* The nonconforming use of land existing at the time of the effective date of this article may continue as hereinafter provided:
 - (a) A nonconforming use of land shall not be expanded, extended or changed to some other use not in compliance with the regulations of the district in which the land is situated.

(b) If a nonconforming use of land or any portion thereof, is voluntarily discontinued for a period of one hundred twenty days any future use of such land or portion thereof, shall be in conformity with the regulations of the district in which land or portion thereof is located.

- (4) *Abandonment.* Except for subsection (1)(d) of this section the nonconforming use of a building, structure or land which has been abandoned shall not thereafter be returned to such nonconforming use. A nonconforming use shall be considered abandoned when:
- (a) The intent of the owner to discontinue the use is apparent; or
 - (b) The characteristic equipment and furnishings of the nonconforming use have been removed from the premises and have not been replaced by similar equipment within one hundred twenty (120) days; or
 - (c) A nonconforming building, structure or land which is or hereafter becomes vacant and remains unoccupied for a period of one hundred twenty (120) days; or
 - (d) A nonconforming use has been replaced by a conforming use.
- (5) *Change in District Boundaries.* Whenever the boundaries of a zoning district shall be changed so as to transfer an area from one (1) district to another district, or when the boundaries of districts are changed as the result of annexation of new territory, or changed in the regulations or restrictions of this chapter, the foregoing provisions relating to nonconforming uses shall also apply to any uses existing therein which may become nonconforming.

(Ord. No. 581, § 6.5, 1-22-07; Ord. No. 581-B-2007, § I, 12-18-07)

Criteria for Granting a Variance, Findings Required

The Board of Adjustment shall prescribe only conditions that it deems not prejudicial to the public interest and shall enumerate its decision with findings of fact. In making the required findings, the Board of Adjustment shall take into account the nature of the proposed use of the land involved, the existing use of land in the vicinity, the number of persons who will reside or work in the proposed development, the possibility that a nuisance may be created, and the probable effect of such variance upon traffic conditions and upon public health, convenience, and welfare of the vicinity. No variance shall be granted unless the Board of Adjustment finds all of the following:

A. Extraordinary Conditions

That there are extraordinary or special conditions affecting the land involved such that strict application of the provisions of this Code will deprive the applicant of a reasonable use of the land. For example, a variance might be justified because of topographic, or other special conditions unique to the property and development involved, while it would not be justified due to inconvenience or financial disadvantage.

B. Preservation of a Substantial Property Right

That the variance is necessary for the preservation of a substantial property right of the applicant.

C. Substantial Detriment

That the granting of the variance will not be detrimental to the public health, safety, or welfare, or injurious to other property in the area, or to the City in administering this Code.

D. Other Property

That the conditions that create the need for the variance do not generally apply to other property in the vicinity.

E. Applicant's Actions

The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property.

F. Future Land Use Plan

That the granting of the variance would not substantially conflict with the Future Land Use Plan and the purposes of this Ordinance.

G. Utilization

That because of the conditions that create the need for the variance, the application of this Code to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.

Insufficient Findings

The following types of possible findings alone do not constitute sufficient grounds for granting a variance:

- A. That the property cannot be used for its highest and best use.
- B. That there is only a financial or economic hardship.
- C. That there is a self-created hardship by the property owner or its agent.
- D. That the development objectives of the property owner are or will be frustrated.
- E. The fact that property may be utilized more profitably should a variance be granted.

Motion to Approve:

VC 670

I concur with the findings of fact as outlined in the variance application. Specifically,

- That there are extraordinary conditions affecting the land, including existing land constraints
- That the variance is necessary and essential to the preservation of substantial property rights
- That granting the variance will not be detrimental to the public health or safety
- That extraordinary conditions do not generally apply to other properties within the vicinity
- The unique conditions of the property were not created by the property owner
- The variance requested is in conformance with the City's Future Land Use Plan
- Approval of the variance requested allows the greatest utilization of the property

Therefore, I move to approve VC 670 and to grant a variance from Section 4-5-65 of the Zoning Code for the property at 600 Pat Booker Road (TexStar Bank) to allow a nonconforming use to expand beyond the lot of record upon which it is located by approximately two feet into the City's right-of-way with the following condition:

1. The City and TexStar Bank enter into an encroachment agreement.