



Agenda Item Report

Legislative Board: Zoning Board of Adjustments
Date: October 30, 2025
Contact: Will Parrish
Agenda Item ID / Number: 2025-954- / G.3

ITEM TITLE: Hold a public hearing, deliberation, and possible action on a request for a Zoning Variance request to exceed the maximum rear building setback in Section 2.07.02 and the maximum expansion of non-conforming structures in 2.10.13(F)3 for a property known as at Park 35 South Subdivision Sec 3 Replat of Lot 26 Block B, located at 219 Commercial Drive Buda Texas, 78610. (V 25-11) (Assistant Director of Development Services Will Parrish)

1. EXECUTIVE SUMMARY

The Applicant is requesting a Zoning Variance to allow an increase in size of a nonconforming structure by 47% and to allow the expansion of a nonconforming structure closer to the rear property line than the zoning setback allows by approximately 15 feet.

This request requires two variances, one from Section 2.07.02, which provides the setbacks for Light Industrial zoning districts, and one from Section 2.10.13(F)3 which regulates the expansion of non-conforming buildings.

2. BACKGROUND/HISTORY

According to the Applicant, the property was originally developed and constructed in 2001, prior to the property being annexed into Buda City limits. As this was outside of the City Limits, there were no zoning setbacks established at the time of construction, just a 50' front building line set by the Plat. The City of Buda annexed the property in December of 2008, and the property was zoned Light Industrial. At the time of annexation and zoning the building was considered a nonconforming structure due to the building being within the new 35-foot rear setback.

The current building is 10,395 square feet and the Applicant is proposing to add an additional 4,892 square feet to be able to provide office space for new employees. The existing structure is approximately 18.5 feet from the rear property line. The increase will be approximately 47% more space compared to the existing building and will be between 18 and 20 feet from the adjacent property line and would be slightly further from the property line than then current with the closest portion of the addition being approximately 19.5 feet from the rear property line.

Section 2.10.13(F)3 states the regulations for the Expansion of a Nonconforming Structure below. The proposed variance impacts two standards underlined in this Section.

a. Buildings or structures that do not conform to the area regulations or development standards in this UDC but where the uses are deemed conforming shall not increase the gross floor area greater than ten (10) percent from the date when the building became nonconforming.

- i. In Form Based Districts and the Historic Overlay District, buildings may be expanded, however any addition must meet the build-to zone requirements. The addition does not have to meet the build-to percentage for the lot.
- ii. In Form Based Districts and the Historic Overlay District, new buildings may be placed on a lot or site with an existing building on it that does not meet the build-to requirement, all new

buildings and additions must be placed in the build-to one until the build-to percentage for the lot has been met.

- a. In cases where a phasing plan showing intent to conform has been submitted to and accepted by the Planning Director this requirement may be modified.
- b. The expansion must be conforming.

3. ANALYSIS

The following criteria must be met for approval of a proposed variance:

1. **Unique Circumstances - That there are special circumstances or conditions affecting the land involved such that the application of the UDC's provisions would deprive the applicant of the reasonable use of their land.** *The only special circumstances/conditions affecting this property is that it was annexed into the City of Buda after its initial development. This property, and all adjacent properties were developed without having to conform to the City's zoning regulations (including setbacks) at the time of construction.*
2. **Minimum Necessary Relief Required to Alleviate the Undue Hardship - The variance, if granted, would be the minimum necessary relief required to alleviate the undue hardship.** The applicant could proceed with a smaller of addition of 10%, without either the variance not be granted. Additionally, approval of a variance to Section 2.10.13(F)3(a) would allow an expansion that is greater than 10%, but would not be able to exceed the setback. However, the existing structure would still be located within the setback.
3. **Preservation of Property Rights - That the variance is necessary for the preservation and enjoyment of a substantial property right of the applicant.** The applicant has the ability build an additional structure on the lot; however, granting of the variance would allow for development within the setback, as the applicant is currently proposing. The applicant has identified a need for additional office and work space and feels that the expansion as proposed is most effective.
4. **No Substantial Detriment to the Public Good - That the granting of the variance will not be detrimental to the public health, safety or welfare, impair the purposes and intent of this UDC and the comprehensive plan or be injurious to other property within the area.** City staff finds that this property is within an existing industrial business park, and that this proposal is not far off from what exists in neighboring properties. The purpose of the UDC's setback regulations is to provide space between structures/uses and property lines to mitigate potential conflicts of character. In this case, this light industrial property is backing into another light industrial property. Should the variance be approved, proposed structures would still need to meet building and fire code requirements.
5. **Orderly Use of Land - That the granting of the variance will not have the effect of preventing the orderly use of other land within the area in accordance with the provisions of this UDC.** City staff does not believe granting of this variance will prevent the orderly use of surrounding land.
6. **Finding of Undue Hardship - In order to grant a variance, the Zoning Board of Adjustment must make findings that an undue hardship exists, using the following criteria:**
 - a. **That literal enforcement of the controls will create an undue hardship or practical difficulty in the development of the affected property.** Literal enforcement of the UDC on this property would make the exact proposal for development difficult but would not make development of the property, or the expansion of the building impossible.
 - b. **That the situation causing the hardship or difficulty is neither self-imposed nor generally affecting all or most properties in the same zoning district.** The situation causing hardship is that the proposed applicant's desired location for their addition conflicts with the setbacks established by the UDC. While these same setbacks are applied to all new construction, many of the surrounding properties could have structures that encroach upon said setbacks but are considered legal, nonconforming.
 - c. **That the relief sought will not injure the permitted use of adjacent conforming**

property. City staff do not believe the relief sought will hamper the use of adjacent properties.

- d. **That the granting of a variance will be in harmony with the spirit and purpose of these regulations.** Granting of the variance would be in harmony with the spirit of the original development for this property; however, would be in conflict with the current setback standards established by the UDC.
- e. **Financial hardship alone is not an "undue hardship" if the property can be used, meeting the requirements of the zoning district in which the property is located.** Financial hardship was not identified as motivation for this request.

4. FINANCIAL IMPACT

Consideration of this item has no financial impact.

5. STRATEGIC PLAN/GOALS

BALANCED AND INTENTIONAL GROWTH

6. STRATEGIC PLAN OBJECTIVES

Retain and grow local businesses in Buda

7. PROS AND CONS

Pros: Applicant would be able to proceed with their desired building addition.

Cons: Approval of this request would not be consistent with the rear yard setback standards established by the UDC.

8. ALTERNATIVES

Approval of a variance is entirely discretionary based on application of the criteria. As such, City staff presents the following options:

1. Approve the Request (As Presented by the Applicant)
2. Modify and Approve the Request
3. Table the Request Pending Receipt of Additional Information
4. Deny the Request

Any decision made by the Zoning Board of Adjustment for variances may be appealed to a state district court, county court or county court at law as established by Texas Local Government Code Section 211.011.

9. REQUESTED ACTION / SUGGESTED MOTION / RECOMMENDATION

Staff has reviewed the request and submits it to the Zoning Board of Adjustment for consideration.

Attachments:

[V 25-11-applicant summary letter - 219 commercial drive.pdf](#)

[V 25-11-x1261-001_waiver exhibit.pdf](#)