



## **AGENDA**

### **City of Lucas**

### **Board of Adjustments Meeting**

**December 18, 2019**

**6:00 PM**

**City Hall - 665 Country Club Road – Lucas, Texas**

*Notice is hereby given that a regular meeting of the Board of Adjustment of the City of Lucas will be held on December 18, 2019 at 6:00 pm at Lucas City Hall, 665 Country Club Road, Lucas, Texas at which time the following agenda will be discussed.*

### **Call to Order**

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- Roll Call
- Determination of Quorum
- Reminder to turn off or silence cell phones
- Pledge of Allegiance

### **Public Hearing Agenda**

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1. Public hearing to consider the variance request by Michael Bailey, 5 Edgefield Lane for a variance from the literal interpretation of the City's Code of Ordinances to allow a fence located within the side and rear yard setbacks that is less than 50% see through for a parcel of land located at 5 Edgefield Lane, located in Lucas Country Estates #2 (Unrecorded), Lot 3 being all of a 2-acre tract of land in the City of Lucas, Texas. **(Development Services Director Joe Hilbourn)**
  - A. Presentation by Development Services Director Joe Hilbourn
  - B. Conduct public hearing
  - C. Take action on the variance request

### **Regular Agenda**

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2. Consider approval of the minutes of the August 13, 2019 Board of Adjustments meeting. **(City Secretary Stacy Henderson)**

### **Executive Session Agenda**

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*The Board of Adjustment may convene into a closed Executive Session pursuant to Chapter 551.071 of the Texas Government Code for the purpose of seeking confidential legal advice from the City Attorney regarding any item on the agenda at any time during the meeting.*

3. Executive Session: An Executive Session is not scheduled for this meeting.
4. Adjournment.

## **Certification**

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*I hereby certify that the above notice of meeting was posted on the bulletin board at Lucas City Hall by 6:00 p.m. on December 12, 2019 as required in accordance with Government Code §551.041.*

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Stacy Henderson

*This building is wheelchair accessible. Any requests for sign interpretive services or other special requests for assistance of the hearing impaired must be made 48 hours in advance of the meeting. To make such arrangements, please call 972-912-1211 or send an email to Stacy Henderson at [shenderson@lucastexas.us](mailto:shenderson@lucastexas.us).*



# City of Lucas

## Board of Adjustments Agenda Request

### December 18, 2019

Requester: Development Services Director Joe Hilbourn

### Agenda Item Request

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Public hearing to consider the variance request by Michael Bailey, 5 Edgefield Lane for a variance from the literal interpretation of the City's Code of Ordinances to allow a fence located within the side and rear yard setbacks that is less than 50% see through for a parcel of land located at 5 Edgefield Lane, located in Lucas Country Estates #2 (Unrecorded), Lot 3 being all of a 2-acre tract of land in the City of Lucas, Texas.

- A. Presentation by Development Services Director Joe Hilbourn
- B. Conduct public hearing
- C. Take action on the variance request

### Background Information

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The City's Board of Adjustments has received a request for a reasonable accommodation requesting a variance from the literal interpretation of the City's Code of Ordinances to allow a fence located within the side and rear yard setbacks that is less than 50% see through for a parcel of land.

Section 3.19.002 (b) of the City's Code of Ordinances, "Residential, agricultural and estate districts" states the following:

"Fencing located within the required front, side and rear yard setbacks shall be a minimum of 50% see through."

The test for making a determination as to whether to grant a variance based on the criteria in the zoning ordinance.

Sec. 14.04.176 Nonconforming use not to be extended or rebuilt

A nonconforming use shall not be extended or rebuilt in case of obsolescence or total destruction by fire or other causes. In the case of partial destruction by fire or other causes not exceeding fifty percent (50%) of its value, the building inspector shall issue a permit for reconstruction. If destruction is greater than fifty percent (50%) of its value, the board of adjustment may grant a permit for repair or replacement after public hearing and having due regard for the property rights of the persons affected when considered in the light of public welfare and the character of the areas surrounding the designated nonconforming use and the purposes of this chapter. (1995 Code, sec. 9-185)

### Attachments/Supporting Documentation

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- 1. Public Hearing Notice
- 2. Location Map



**City of Lucas**  
**Board of Adjustments Agenda Request**  
**December 18, 2019**

**Budget/Financial Impact**

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NA

**Recommendation**

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The Board of Adjustment may not grant an adjustment for a ADA accommodation. The Board can grant a variance if they choose based on replacing more than 50% of dilapidated fence. Staff would recommend approval for that reason.

**Motion**

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I make a motion to approve/deny the variance request by Michael Bailey at 5 Edgefield Lane for a variance from the literal interpretation of the City's Code of Ordinances to allow a fence located within the side and rear yard setbacks that is less than 50% see through for a parcel of land located at 5 Edgefield Lane, in Lucas Country Estates #2 (Unrecorded), Lot 3 being all of a 2-acre tract of land in the City of Lucas Texas.



## **NOTICE OF PUBLIC HEARING**

Notice is hereby given that the Board of Adjustments of the City of Lucas, Texas will conduct a public hearing on December 18, 2019 at 6:00 p.m. at Lucas City Hall, 665 Country Club, Lucas, Texas to consider a request for a variance from the literal interpretation of the City's Code of Ordinances more particularly described as follows:

An application submitted by Michael Bailey for variance from the literal interpretation of the City's Code of Ordinances to allow a fence located within the side and rear yard setbacks that is less than 50% see through for a parcel of land located at 5 Edgefield Lane, in Lucas Country Estates #2 (Unrecorded), Lot 3 being all of a 2-acre tract of land in the City of Lucas Texas.

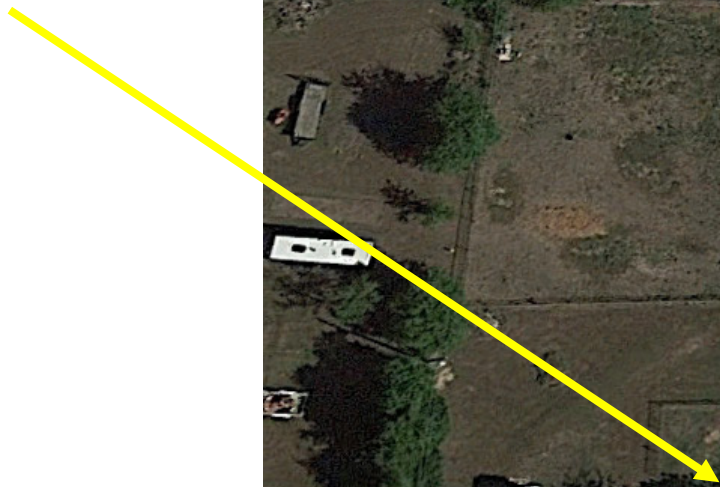
The City's Code of Ordinances, Chapter 3, Article 3.19, Section 3.19.002 – Residential, agricultural and estate districts state the following:

(b) Fencing located within the required front, side and rear yard setbacks shall be a minimum of 50% see through.

Those wishing to speak for or against the above item are invited to attend. If you are unable to attend and have comments you may send them to City of Lucas, Attention: City Secretary, 665 Country Club Road, Lucas, Texas 75002, email [shenderson@lucastexas.us](mailto:shenderson@lucastexas.us) and it will be presented at the hearing. If you have any questions about the request, contact Joe Hilbourn at [jhilbourn@lucastexas.us](mailto:jhilbourn@lucastexas.us)



5 Edgefield





**City of Lucas**  
**Board of Adjustments Agenda Request**  
**December 18, 2019**

Item No. 02

Requester: City Secretary Stacy Henderson

**Agenda Item Request**

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Consider approval of the minutes of the August 13, 2019 Board of Adjustments meeting.

**Background Information**

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NA

**Attachments/Supporting Documentation**

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1. Minutes from the August 13, 2019 Board of Adjustments meeting.

**Budget/Financial Impact**

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NA

**Recommendation**

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NA

**Motion**

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I make a motion to approve/deny the minutes from the August 13, 2019 Board of Adjustments meeting as presented.





City of Lucas  
**Board of Adjustment Meeting**

August 13, 2019

6:00 PM

City Hall - 665 Country Club Road – Lucas, Texas

## Minutes

### Call to Order

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Chairman Bierman called the meeting to order at 6:02 p.m.

**Members Present:**

Chairman Chris Bierman  
Brian Blythe  
Tom Redman  
James Foster  
Ron Poteete  
Brenda Rizos, Alternate 1  
Michael Dunn, Alternate 2

**Staff Present:**

City Manager Joni Clarke  
Development Services Director Joe Hilbourn  
City Secretary Stacy Henderson  
City Attorney Julie Doshier

**City Council Liaison:**

Mayor Pro Tem Kathleen Peele

It was determined that a quorum was present and Chairman Bierman led the Pledge of Allegiance.

Chairman Bierman identified all witnesses that would be presenting before the Board, including City staff members, and conducted the swearing in process for all witnesses.

### Public Hearing Agenda

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- 1. Public hearing to consider the variance request by Cary and Sharon Cobb from the Code of Ordinances, Chapter 3, Article 3.18, Section 3.19.002 – Residential, Agricultural and Estates Districts, to add a privacy fence within the required setback for the property located at 2020 East Lucas Road, Abs A0115 Montgomery Birch Survey, Tract 19, being all of a 10.696 acres.**

Development Services Director Joe Hilbourn reviewed the request explaining that a variance was being requested to allow a fence located within the side and rear yard setbacks that is less than 50% see through. The property owner would like to place a privacy fence on all sides of his property, more specifically 150 feet on the east side, 135 feet on the north, 660 feet on the southwest, and 515 feet on the northwest side of their property. Mr. Hilbourn stated that the privacy fence would be located within the required setbacks.

Mr. Hilbourn cited the City's Code of Ordinances, Chapter 3, Article 3.18, Section 3.19.002 – Residential, Agricultural and Estate Districts which requires the following:

- (b) Fencing located within the required front, side and rear yard setbacks shall be a minimum of 50% see through.



- (c) If property is used to pasture or control livestock, for farming or other similar agricultural uses, and such uses are permitted, the fencing requirements in Section 3.19.003(b) are permitted.
- (d) Fencing located outside of the required rear and side yard setbacks may be privacy-style.

Mr. Hilbourn stated that staff recommends approval of the variance request due to the traffic volume moving at high speeds along East Lucas Road that would assist in alleviating noise and vehicle headlights at night as the property is located at an intersection with a slight curve.

Cary Cobb, property owner, noted that because the property line was 4.5 feet above grade, the closer the fence was to the roadway the smaller in height it could be, and would assist in moving the noise upward and away from the home. If the fence were placed further in on the property, the fence would have to be 10.5 feet tall to assist in alleviating the street noise.

Mr. Cobb distributed an email from the adjoining property owner in favor of his request and pictures of homes in the area that have fencing near the street.

Mr. Redman asked why the fence needed to be placed along the property line on Daytona Avenue.

Mr. Cobb explained that the property was used for farming hay and if the fence were placed 25 feet inside the property line, that would leave additional land that could not be utilized.

Chairman Bierman opened the public hearing at 6:22pm, there being no one wishing to speak, the public hearing was closed.

Chairman Bierman read into the record the email received from Gene Pattassery in support of the fence request.

Mr. Blythe expressed his concern related to elevations of the roadway and noise from traffic on Parker Road.

Chairman Bierman noted that this property did not back up to another subdivision and no other neighbors would be affected by the fence given its location.

The Board discussed surrounding property on Daytona Avenue as well as Parker Road, fence placement on the property that would not require a variance, and whether the criteria for a hardship was being met by the request.

Chairman Bierman stated that the property was unique given its location and surrounding area and met hardship requirements.

Mr. Poteete stated that the privacy fencing didn't represent the City and there were other ways to accomplish having a privacy fence within the required setbacks and not require a variance.

Mr. Redman and Mr. Dunn stated they did not believe there was a hardship for the fence being requested along Daytona Avenue.

Mr. Cobb stated that they City had been called various times regarding debris and illegal dumping near his property along Daytona Avenue. The debris was an eyesore and placing the fence 25 feet from the property line would allow more debris to be illegally dumped near his residence.

**MOTION:** A motion was made by Mr. Blythe, seconded by Mr. Foster to approve the variance request by Cary and Sharon Cobb from the Code of Ordinances, Chapter 3, Article 3.18, Section 3.19.002 – Residential, Agricultural and Estates Districts, to add a privacy fence within the required setback for the property located at 2020 East Lucas Road. The motion failed by a 3 to 2 vote as it was not approved by a majority of the members, being four or more. Mr. Poteete and Mr. Redman voted in opposition.

The Board discussed at length the placement of the fence, other options available to the applicant to be in compliance, traffic noise along Parker Road, and whether a hardship existed.

**MOTION:** A motion was made by Chairman Bierman, seconded by Mr. Poteete to approve a variance for 660 feet of fencing at the southwest portion of the property along Daytona Avenue only. The variance approval did not include the 130 feet of fencing north on Daytona and East Lucas Road or 150 feet of fencing on the east side of the property. The motion passed by a 4 to 1 vote with Mr. Redman voting in opposition.

## **Regular Agenda**

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**2. Consider approval of the minutes of the December 12, 2018 Board of Adjustments meeting.**

**MOTION:** A motion was made by Mr. Blythe, seconded by Mr. Redman to approve the minutes as submitted. The motion passed unanimously by a 5 to 0 vote.

## **Executive Session Agenda**

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**3. Executive Session.**

An Executive Session did not occur at this meeting.

**4. Adjournment.**

Chairman Bierman adjourned the meeting at 7:10 pm.

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Chris Bierman, Chairman

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Stacy Henderson, City Secretary