



## NOTICE OF A MEETING

(In compliance with Sec. 551.041, Et. Seq., Tex. Gov't. Code)

NOTICE is hereby given that the City of Jersey Village Board of Adjustment will hold a meeting on January 30, 2024, at 6:00 p.m. in the Civic Center Meeting Room at 16327 Lakeview Drive, Jersey Village, Texas 77040. The City of Jersey Village Board of Adjustment reserves the right to meet in closed session on any agenda item should the need arise and if applicable pursuant to authorization by Title 5, Chapter 551, of the Texas Government Code.

**A quorum of the City of Jersey Village City Council may be in attendance at this meeting.**

ITEM(S) to be discussed/acted upon by the Board is/are listed on the attached agenda.

### AGENDA

- A. Open Meeting. Call the meeting to order and the roll of appointed officers will be taken. *Board Chairman*
- B. Designate alternate members to serve in place of any absent Board Members. *Board Chairman*
- C. **CITIZENS' COMMENTS** - Any person who desires to address the Board of Adjustment regarding an item on the agenda will be heard at this time. In compliance with the Texas Open Meetings Act, unless the subject matter of the comment is on the agenda, the City staff and Board Members are not allowed to discuss the subject. Each person is limited to five (5) minutes for comments to the Board of Adjustment. *Board Chairman*
- D. Consider approval of the minutes for the meeting held on December 13, 2023. *Lorri Coody, City Secretary*
- E. Conduct a Public Hearing on the request of QT South, LLC, filed on behalf of owners Garfield Edmonds and Edmonds Company, for a variance to the Jersey Village Code of Ordinance at Chapter 14, Article IV, Division 2, Section 14-105, the Commercial Permitted Use and Conditional Use Table, to allow a gasoline filling station to be located in District H on a 6.150 acre tract of land conveyed in/under Harris County Clerk's File Nos. T303407 and 20120273382 and also identified as the properties located at 11518 FM 529 and 0 FM 529 (Corner of Jones and FM 529), which exceeds the minimum separation distance of 3,000 feet measured from property line to property line from any currently existing gasoline filling station. *Board Chairman*
  - (1) Discuss and take appropriate action concerning the request of QT South, LLC, filed on behalf of owners Garfield Edmonds and Edmonds Company, for a variance to the Jersey Village Code of Ordinance at Chapter 14, Article IV, Division 2, Section 14-105, the Commercial Permitted Use and Conditional Use Table, to allow a gasoline filling station to be located in District H on a 6.150 acre tract of land conveyed in/under Harris County Clerk's File Nos. T303407 and 20120273382 and also identified as the properties located at 11518 FM 529 and 0 FM 529 (Corner of Jones and FM 529), which exceeds the minimum separation distance of 3,000 feet measured from property line to property line

from any currently existing gasoline filling station. *Joe Newton, Building Official Representative*

**F.** Consider amendments to the Rules of Procedure for the Board of Adjustment of the City of Jersey Village, Texas. *Justin Pruitt, City Attorney*

**G.** Adjourn.

CERTIFICATION

I, the undersigned authority, do hereby certify in accordance with the Texas Open Meeting Act, the Agenda is posted for public information, at all times, for at least 72 hours preceding the scheduled time of the meeting on the bulletin board located at City Hall, 16327 Lakeview, Jersey Village, TX 77040, a place convenient and readily accessible to the general public at all times, and said Notice was posted on the following date and time: January 22, 2024 at 2:00 p.m. and remained so posted until said meeting was convened.

\_\_\_\_\_  
Lorri Coody, City Secretary



In compliance with the Americans with Disabilities Act, the City of Jersey Village will provide for reasonable accommodations for persons attending City Council meetings. Request for accommodation must be made to the City Secretary by calling 713 466-2102 forty-eight (48) hours prior to the meetings. Agendas are posted on the Internet Website at [www.jerseyvillagetx.com](http://www.jerseyvillagetx.com).

"Pursuant to Section 30.06, Penal Code (trespass by license holder with a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a concealed handgun."

"Pursuant to Section 30.07, Penal Code (trespass by license holder with an openly carried handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a handgun that is carried openly."

BOARD OF ADJUSTMENT MEETING PACKET FOR THE MEETING TO BE HELD ON JANUARY 30, 2024

- B.** Designate alternate members to serve in place of any absent Board Members. *Board Chairman*

- C. **CITIZENS' COMMENTS** - Any person who desires to address the Board of Adjustment regarding an item on the agenda will be heard at this time. In compliance with the Texas Open Meetings Act, unless the subject matter of the comment is on the agenda, the City staff and Board Members are not allowed to discuss the subject. Each person is limited to five (5) minutes for comments to the Board of Adjustment. *Board Chairman*

**MINUTES OF THE MEETING OF THE JERSEY VILLAGE  
BOARD OF ADJUSTMENT  
December 13, 2023 – 6:00 p.m.**

The Board of Adjustment of the City of Jersey Village, Texas, convened on December 13, 2023, at 6:00 p.m. in the Civic Center at 16327 Lakeview Drive, Jersey Village, Texas 77040.

**A. The meeting was called to order by Chairman Andrew Mitcham at 6:07 p.m. and the roll of appointed officers was taken. Board Members present were:**

Andrew Mitcham, Chairman	Nester Mena, Board Member
M. Reza Khalili, Board Member	Judy Tidwell, Board Member
Ken Nguyen, Board Member	Bill Smothers, Alternate Place 1
Nelson L. Feeny, Alternate Place 2	

Council Liaison, Jennifer McCrea was present at this meeting.

City Staff in attendance: Justin Pruitt, City Attorney; Lorri Coody, City Secretary; Joe Newton, Building Official Representative; and Miesha Johnson, Community Development Manager.

**B. Designate alternate members to serve in place of any absent Board Members.**

This item was not needed. All Regular Members of the Board were present.

**C. CITIZENS' COMMENTS** - Any person who desires to address the Board of Adjustment regarding an item on the agenda will be heard at this time. In compliance with the Texas Open Meetings Act, unless the subject matter of the comment is on the agenda, the City staff and Board Members are not allowed to discuss the subject. Each person is limited to five (5) minutes for comments to the Board of Adjustment.

**Kimberly Henao, 15601 Singapore Lane, Jersey Village, Texas (832) 689-9878** – Ms. Henao introduced herself. She is a resident of Jersey Village.

**D. Conduct a review of the duties and responsibilities of the Board of Adjustment as well as review the Board's Rules and Procedures document.**

Justin Pruitt, City Attorney, gave a PowerPoint Presentation concerning the duties and responsibilities of the Board that included a review of the Board's Rules and Procedures document. Items covered in the presentation are as follows:

1. Legal Authority
2. City Code of Ordinances Section 14-22
3. Texas Local Government Code Section 211.008
4. Texas Local Government Code Section 211.009
5. Rules of Procedure Document
  - a. Sections I thru IV
  - b. Section V – Hearings and Decisions
  - c. The Public Hearing Script
  - d. The Action Item
  - e. Formal Proceedings

- f. Appendix A – Procedures for Interpretation of Appeals
- g. Appendix B – Procedures for Special Exceptions
- h. Appendix C – Procedures for Variance

Mr. Pruitt gave detailed information about the ground rules for unnecessary hardship. The information is important because the Board will need to determine if the five items included below should be added to the Rules and Procedures document:

The Board had questions concerning the presentation to which City Attorney Pruitt responded accordingly.

- (1) the financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under Section 26.01, Tax Code;
- (2) compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development may physically occur;
- (3) compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement;
- (4) compliance would result in the unreasonable encroachment on an adjacent property or easement; or
- (5) the municipality considers the structure to be a nonconforming structure.

**E. Consider amendments to the Rules of Procedure for the Board of Adjustment of the City of Jersey Village, Texas.**

City Attorney Pruitt introduced the item. He explained the changes to the Rules and Procedures document concerning the appointment of the Chair and Vice Chair and that this amendment is needed to bring the Rules and Procedures document in compliance with the recent changes made to the Code of Ordinances by City Council.

With limited discussion on the matter, Board Member Khalili moved to approve the proposed amendments to the Rules and Procedures document concerning the appointment of the Board's Chair and Vice Chair. Board Member Mena seconded the motion. The vote follows:

Ayes: Board Members Khalili, Nguyen, Mena, and Tidwell  
Chairman Mitcham

Nays: None

The motion carried.

The Board also considered the additional requirements pertaining to variances concerning the grounds for unnecessary hardships presented during the training portion of the agenda. There was discussion about these grounds for unnecessary hardship. Some wondered if they are added to the rules, will it change the application form. City Attorney Pruitt stated that it would probably be a good idea to update the form in order to incorporate the change should the Board elect to include these grounds in the Rules and Procedure document.

Some board members wanted to add it so that they would have the ability to ask applicants about costs. Others were a bit confused about the "may" language in state law and wondered if the Board must include the grounds simply because it is listed in State law. City Attorney

Pruitt explained that the Board does not have to include these grounds, because state law used the term “may” and not “shall.” He further explained that should the Board decide not to include the grounds for unnecessary hardship in the Rules, the Board will still have the ability to consider the grounds under the state law.

Members felt that the application form should help guide applicants as to what the Board would consider. Some felt that these five grounds should be listed in the Boards Rules and that the application should be updated to reflect same.

Question 4 on the current form was discussed.

In conclusion, before adding these grounds to the Rules document, the Board would like to look at other cities have for Board of Adjustment Applications and how they are incorporating the five grounds for unnecessary hardship. The Board would like to have another meeting scheduled in the new year in late January or early February.

**F. Consider approval of the minutes for the meeting held on November 15, 2022.**

Board Member Mena moved to approve the minutes for the meeting held on November 15, 2022. Board Member Khalili seconded the motion. The vote follows:

Ayes: Board Members Khalili, Nguyen, Mena, and Tidwell  
Chairman Mitcham

Nays: None

The motion carried.

**G. Conduct a Public Hearing at 7 PM on the request of Ralph M. and Nancy W. Green, owners, for a variance to the Jersey Village Code of Ordinance at Chapter 14, Article IV, Division 2, Section 14-100, the Residential Permitted Use Table, to allow a detached garage, which is considered an accessory structure, on their vacant lot for the property located at 16525 De Lozier, Lot 2, Jersey Village, Texas 77040.**

Chairman Mitcham opened the public hearing at 7:00 p.m. in order to receive written and oral comments from any interested person(s) concerning the request of Ralph M. and Nancy W. Green, owners, for a variance to the Jersey Village Code of Ordinance at Chapter 14, Article IV, Division 2, Section 14-100, the Residential Permitted Use Table, to allow a detached garage, which is considered an accessory structure, on their vacant lot for the property located at 16525 De Lozier, Lot 2, Jersey Village, Texas 77040.

The Board found that the notification requirements for both the City and the Applicant have been met for this public hearing.

Chairman Mitcham called upon the applicants to present their case and all evidence supporting same.

Mr. Green presented on behalf of the applicants. He gave each Board Member a handout showing pictures of his property. He explained that he purchased the home in the late 1990's and did a complete remodel in 2003. He purchased the lot next door in 2017.

He recently planned to add on to the existing home but discovered that there really isn't any good options for an addition. Because he pays quite a bit of money for storage and because he would like a home gym, he wants to build an accessory structure (garage) on the lot next door. The structure will match the characteristics of the home. He would put the garage on the lot behind the trees. That way, in the event the lot is sold, the new owner could build a home in front of the garage. He pointed out that he is not asking for something that has already been done. He pointed to the pictures in his application concerning a home in the city that has already done this. He pointed out that he does not see how his plans would hurt the neighborhood.

Once the applicants had completed their case, Chairman Mitcham called upon the Building Official to present any information that he deems necessary or appropriate to the application.

Building Official Representative, Joe Newton, highlighted that this construction would be considered an accessory structure. Accessory structures are not permitted on a lot in the city that does not have a principal home. Because of this requirement, Mr. Green is asking the Board for a variance that would permit Mr. Green to move forward with construction of the accessory structure on the vacant lot located next to the lot where his home is built.

Mr. Newton stated he and Mr. Green discussed combining his two lots through a replat in order to resolve the issue. However, in re-platting the lots into one lot, he still has the issue with Section 14-100(h)(1): No lot in this district for a single-family detached dwelling shall have a total area that exceeds by more than 20 percent the total area of any other lot for a single-family detached dwelling on the same block face.

The board had questions concerning the joining of the lots, to which Mr. Newton responded accordingly.

Once the Building Official had completed the presentation of his information, Chairman Mitcham called upon those opposed to the granting of the application to present their evidence and arguments.

**Dennis Petersen, 16552 Cornwall, Jersey Village, Texas (713) 412-6886** - Mr. Petersen stated that the information in the applicant's application was not very detailed. It only stated what the front of the accessory building would look like. Listening to the information presented at this public hearing gave a bit more of the details. He explained that he lives on the backside of the home or behind Mr. Green. Mr. Petersen had concerns about where Mr. Green intended to locate the building on the lot. He wanted to know how tall the structure was going to be and if it was going to obstruct his view of the bayou. He wondered if the trees on the lot would be cut down. He stated that this information was not included in the application. He gave the Board information about the homes that surround his home and Mr. Green's home. He stated that there are way too many unknowns and would ask that the variance be rejected.

Once those opposing the granting of the application were heard, Chairman Mitcham called upon the applicant for the right of rebuttal.

Mr. Green stated the trees will not come down. He did not consider the view in connection with his plans.

With no further input for the public hearing, Chairman Mitcham closed the public hearing concerning Ralph M. and Nancy W. Green's request for a variance to the Jersey Village Code of Ordinance at Chapter 14, Article IV, Division 2, Section 14-100, the Residential Permitted Use Table, to allow a detached garage, which is considered an accessory structure, on their vacant lot for the property located at 16525 De Lozier, Lot 2, Jersey Village, Texas 77040. at 7:15 p.m.

**(1) Discuss and take appropriate action concerning Ralph M. and Nancy W. Green's request for a variance to the Jersey Village Code of Ordinance at Chapter 14, Article IV, Division 2, Section 14-100, the Residential Permitted Use Table, to allow a detached garage, which is considered an accessory structure, on their vacant lot for the property located at 16525 De Lozier, Lot 2, Jersey Village, Texas 77040.**

After conducting the public hearing, the Board engaged in discussion concerning the request for variance.

Building Official Representative, Joe Newton, read Section 14-100 (h)(1) for the benefit of the Board concerning the joining of the two lots. He explained that the applicant could submit an amended plat. The prohibition is on the street face. The parameters of this code was discussed to see if there is alternative solution for Mr. Green to build the structure.

The idea of re-platting the property by joining the back half of Lot 2 with the lot where the home is built. This action would result in a kind of "L" shaped lot, leaving the front half of Lot 2 untouched. This idea was discussed in detail by the Board.

Re-platting the lots appears to be an alternative solution. The Building Official Representative stated that this type of re-platting would be permitted. Given this alternative, the property setbacks were discussed. Height requirements were also discussed. For all sections there is a 5-foot setback. The building is 24x36. So with the setbacks, the Board discussed if the lot was large enough.

The existing lot was discussed. Also, the number of accessory structures was discussed. Four accessory structures are permitted on a lot.

The applicant is keeping all the trees on the lot. There was a concern that should the re-platting route be followed, anyone having access to two or more lots could join the lots. This was discussed and City Attorney Pruitt explained the variance that we are discussing is only for the property listed in Mr. Green's application, and any new replats would have to comply with City Ordinances. This request is to put an accessory structure on a vacant lot that does not have a primary structure.

Mr. Newton explained that the applicant has proposed a design that would enable a future owner to build a primary structure on this lot. However, the general rule is that an accessory structure should be an accessory to a primary structure, thus the variance request.

The definition of detached garage was discussed.

Some board members felt that in the spirit of our responsibilities, there is not a hardship proven for this request. Also, there is an alternative solution, but this was not part of the

application. When matching the face of the application to the City’s Code of Ordinances, there does not appear to be a hardship.

With no further discussion on the matter, Board Member Khalili moved to grant the request of Ralph M. and Nancy W. Green, owners, for a variance to the Jersey Village Code of Ordinance at Chapter 14, Article IV, Division 2, Section 14-100, the Residential Permitted Use Table, to allow a detached garage, which is considered an accessory structure, on their vacant lot for the property located at 16525 De Lozier, Lot 2, Jersey Village, Texas 77040. Board Member Mena seconded the motion. The vote follows:

Ayes: Board Member Mena

Nays: Board Members Khalili, Nguyen, and Tidwell  
Chairman Mitcham

The motion carried.

*The Board’s Original Order No. 2023-01 is attached as Exhibit A and made a part of these minutes.*

**H. Adjourn**

With no other business before the Board, Chairman Mitcham adjourned the meeting at 7:59 p.m.



\_\_\_\_\_  
Lorri Coody, City Secretary

BOARD OF ADJUSTMENT MEETING PACKET FOR THE MEETING TO BE HELD ON JANUARY 30, 2024



**CITY OF JERSEY VILLAGE - BOARD OF ADJUSTMENT  
ORDER NO. 2023-01**

**WHEREAS**, on November 16, 2023, Ralph M. and Nancy W. Green, owners, filed a request for variance to the Jersey Village Code of Ordinance at Chapter 14, Article IV, Division 2, Section 14-100, the Residential Permitted Use Table, to allow a detached garage, which is considered an accessory structure, on their vacant lot for the property located at 16525 De Lozier, Lot 2, Jersey Village, Texas 77040.

**WHEREAS**, the Board conducted a Public Hearing and received information from the Public and from the Applicant on December 13, 2023; and

**WHEREAS**, after closing the hearing, the Board in making its decision on the variance request considered:

- if the request for variance is contrary to the public’s interest;
- if, due to special conditions, enforcement of Chapter 14, Article IV, Division 2, Section 100 will result in an unnecessary hardship for Ralph M. and Nancy W. Green; and
- that in granting the variance, the spirit of this chapter will be upheld and observed;

**NOW THEREFORE, BE IT ORDERED BY THE BOARD OF ADJUSTMENT OF THE CITY OF JERSEY VILLAGE THAT:**

**SECTION 1.** In consideration of the information before the Board, with a concurring vote of at least four (4) members, the Board voted to \_\_\_ GRANT \_\_\_ X DENY the request of Ralph M. and Nancy W. Green, owners, for a variance to the Jersey Village Code of Ordinance at Chapter 14, Article IV, Division 2, Section 14-100, the Residential Permitted Use Table, to allow a detached garage, which is considered an accessory structure, on their vacant lot for the property located at 16525 De Lozier, Lot 2, Jersey Village, Texas 77040.

**PASSED, APPROVED, AND ORDERED** this 13th day of December 2023.

S/Andrew Mitcham, Chairman

**ATTEST:**

S/Lorri Coody, City Secretary



**BOARD OF ADJUSTMENT MEETING PACKET FOR THE MEETING TO BE HELD ON JANUARY 30, 2024**

**BOARD OF ADJUSTMENT - CITY OF JERSEY VILLAGE, TEXAS  
AGENDA REQUEST**

**AGENDA DATE:** January 30, 2024

**AGENDA ITEM:** E

**AGENDA SUBJECT:** Conduct a Public Hearing on the request of QT South, LLC, filed on behalf of owners Garfield Edmonds and Edmonds Company, for a variance to the Jersey Village Code of Ordinance at Chapter 14, Article IV, Division 2, Section 14-105, the Commercial Permitted Use and Conditional Use Table, to allow a gasoline filling station to be located in District H on a 6.150 acre tract of land conveyed in/under Harris County Clerk's File Nos. T303407 and 20120273382 and also identified as the properties located at 11518 FM 529 and 0 FM 529 (Corner of Jones and FM 529), which exceeds the minimum separation distance of 3,000 feet measured from property line to property line from any currently existing gasoline filling station.

**Department/Prepared By:** Lorri Coody, City Secretary

**EXHIBITS:** Application with Appointments of Agents and Site Plans  
City's Certification of Public Hearing Posting Requirements  
Applicant's Certification - Posting Requirements  
PH Script

**BACKGROUND INFORMATION:**

QT South, LLC, filed a request for variance on behalf of owners Garfield Edmonds and Edmonds Company, for a variance to the Jersey Village Code of Ordinance at Chapter 14, Article IV, Division 2, Section 14-105, the Commercial Permitted Use and Conditional Use Table, to allow a gasoline filling station to be located in District H on a 6.150 acre tract of land conveyed in/under Harris County Clerk's File Nos. T303407 and 20120273382 and also identified as the properties located at 11518 FM 529 and 0 FM 529 (Corner of Jones and FM 529), which exceeds the minimum separation distance of 3,000 feet measured from property line to property line from any currently existing gasoline filling station.

Section 14-105 is the Commercial Permitted Use and Conditional Use Table. It requires that gasoline filling stations located in District H must have a minimum separation distance of 3,000 feet measured from property line to property line from any currently existing gasoline filling station. Additionally, it provides that all storage tanks for gasoline shall be below the surface of the ground.

Before the Board can consider the application for this variance, it must conduct a public hearing in order to receive written and oral comments from any interested person(s) concerning this request.

This item is to conduct the public hearing.

**RECOMMENDED ACTION:**

Conduct a Public Hearing on the request of QT South, LLC, filed on behalf of owners Garfield Edmonds and Edmonds Company, for a variance to the Jersey Village Code of Ordinance at Chapter 14, Article IV, Division 2, Section 14-105, the Commercial Permitted Use and Conditional Use Table, to allow a gasoline filling station to be located in District H on a 6.150 acre tract of land conveyed in/under Harris County Clerk's File Nos. T303407 and 20120273382 and also identified as the properties located at 11518 FM 529 and 0 FM 529 (Corner of Jones and FM 529), which exceeds the minimum separation distance of 3,000 feet measured from property line to property line from any currently existing gasoline filling station.

**BOARD OF ADJUSTMENT MEETING PACKET FOR THE MEETING TO BE HELD ON JANUARY 30, 2024**

MEETING PACKET FOR THE MEETING TO BE

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DATE : 12/13/2023 2:48 PM

OPER : PB

TERM : 1

REC# : R00849700  
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192.0000 MISC. REVENUE 1000.00

QT South LLC 11518 fm 529 1000.00

Paid By:QT South LLC 11518 fm 529

2-CK 1000.00 REF:3342929  
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APPLIED 1000.00

TENDERED 1000.00

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CHANGE 0.00  
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**CITY OF JERSEY VILLAGE**  
Application for Request for Variance

**\$300 non-refundable deposit due upon submission of the request  
with additional invoicing in accordance with Sec. 2-142(4)(c).**

PROPERTY INFORMATION

Address: 11518 FM 529 and 0 FM 529

Legal Description: Lot \_\_\_\_ Block: \_\_\_\_ Subdivision: \_\_\_\_\_

6.150 acres of land conveyed in/under Harris County Clerk's  
File Nos. T303407 and 20120273382. See attached exhibit.

APPLICANT INFORMATION

(If different than owner, application must be accompanied by an Appointment of Agent Affidavit)

Applicant: QT South, LLC Phone: (210) 332-4037

Address: 742 NW Loop 410 Suite 102

City: San Antonio State: TX Zip: 78216

OWNER INFORMATION

Garfield Edmonds and the Edmonds Company (215) 721-3900

Property Owner Tom Lewman, signatory Telephone Number

22 Peach Tree Ct Jersey Village TX 77064

Street Address City State Zip Code

Describe variance sought: 2890' variance from the required 3000'  
distance requirement between gasoline filling stations (Sec  
14-105 Commercial permitted and conditional use tables) to  
construct a convenience store with gasoline and diesel sales.

Describe existing standard: Gasoline filling stations must have a  
minimum separation of 3000' from property line to property  
line from any currently existing gasoline filling station.

**BOARD OF ADJUSTMENT MEETING PACKET FOR THE MEETING TO BE HELD ON JANUARY 30, 2024**

In accordance with Section 14-9 of the City of Jersey Village Code of Ordinances, to obtain a variance the application must meet the following criteria:

(1) What special conditions and circumstances exist which are peculiar to the land, structure, or building involved which are not applicable to other lands, structures or buildings in the same district?

There is an existing gasoline filling station at Jones and  
FM 529.

(2) Why does the literal interpretation of the provisions of this Code result in unnecessary hardship? Unnecessary hardship is due to exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional physical situation or physical condition unique to the specific piece of property in question. "Unnecessary hardship" shall mean physical hardship relating to the property itself as distinguished from a hardship relating to convenience, financial considerations or caprice, and the hardship must not result from the applicant or owner's own action.

The literal interpretation of the provisions prevents our  
use from developing to capture existing demand on FM 529.

This unique hardship is due to the presence of a gasoline  
filling station 110' from the property in question.

(3) Are the special conditions and circumstances the result of the actions of the applicant? (i.e. can the size of the structure be changed to meet the requirements of the Code.)

The applicant cannot increase the distance of the existing  
gas station from the property in question.

(4) Does granting the variances as requested confer on the applicant any special privilege that is denied by the Code to other lands, structures, or buildings in the same district?

No, the variance will not grant the applicant any special  
privilege. It would grant the same opportunity as other similar  
uses permitted in Zone H.

Cathy Garland  
Signature of Applicant

1/4/24  
Date

**REQUESTS MUST BE SUBMITTED NO LATER THAN 4:30 P.M. SIXTEEN (16) DAYS PRIOR TO THE OFFICIAL MEETING DATE.**

<b>OFFICE USE ONLY</b>	
Received by: _____	Date: _____
Fee paid (amount): \$ _____	

**BOARD OF ADJUSTMENT MEETING PACKET FOR THE MEETING TO BE HELD ON JANUARY 30, 2024**

## Legal Description As Determined By Survey

A 6.150 acre tract of land, located in the John Dement Survey, Abstract 228, Harris County, Texas, and being all of a called 2.1282 acre tract of land as described of record in Document No. 20120273382, and all of a called 4.0026 acre tract of land as described of record in Document No. T303407, both of the Real Property Records of Harris County, Texas, said 6.150 acre tract of land also being all of Lot 48B of the Texas Hot Shot Addition of Record in Film Code No. 375023, and a portion of Lot 49 of the Fairview Gardens Subdivision of Record in Volume 10, Page 46, both of the Map Records of Harris County, Texas.

## Metes and Bounds Description

*BEGINNING AT A FOUND 5/8" IRON ROD WITH AN ORANGE PLASTIC CAP STAMPED "WINDROSE" IN THE NORTH RIGHT-OF-WAY LINE OF F.M. 529, A 120' WIDE PUBLIC RIGHT-OF-WAY, FOR THE SOUTHEAST CORNER OF LOT 48A OF SAID HOT SHOT ADDITION, THE SOUTHWEST CORNER OF SAID 4.0026 ACRE TRACT, SAID LOT 48B AND THE TRACT DESCRIBED HEREIN, FROM WHICH A FOUND 5/8" IRON ROD WITH A ORANGE PLASTIC CAP STAMPED "WINDROSE" IN SAID RIGHT-OF-WAY LINE AND FOR THE SOUTHWEST CORNER OF SAID LOT 48A BEARS, S 87° 09' 23" W, A DISTANCE OF 185.12 FEET;*

*THENCE: N 02° 32' 08" W, DEPARTING SAID RIGHT-OF-WAY LINE AND THE COMMON LINE BETWEEN SAID LOTS 48A AND 48B, AND THE WEST LINE OF SAID 4.0026 ACRE TRACT, A DISTANCE OF 648.00 FEET TO A FOUND 5/8" IRON ROD WITH A ORANGE PLASTIC CAP STAMPED "WINDROSE" IN THE SOUTH LINE OF A CALLED 7.922 ACRE TRACT OF LAND AS DESCRIBED OF RECORD IN DOCUMENT NO. H008704 OF THE REAL PROPERTY RECORDS OF HARRIS COUNTY, TEXAS, FOR THE NORTHEAST CORNER OF SAID LOT 48A, THE NORTHWEST CORNER OF SAID LOT 48B, SAID 4.0026 ACRE TRACT AND THE TRACT DESCRIBED HEREIN, FROM WHICH A FOUND 5/8" IRON ROD WITH A ORANGE PLASTIC CAP STAMPED "WINDROSE" FOR THE NORTHWEST CORNER OF SAID LOT 48A BEARS, S 87° 04' 07" W, A DISTANCE OF 185.34 FEET;*

*THENCE: N 87° 04' 07" E, WITH THE NORTH LINES OF LOT 48B, SAID LOT 49, SAID 4.0026 ACRE TRACT, SAID 2.1282 ACRE TRACT AND THE SOUTH LINE OF SAID 7.922 ACRE TRACT, ALSO BEING THE SOUTH LINES OF LOTS 43 AND 42 OF SAID FAIRVIEW GARDENS SUBDIVISION, AND THE SOUTH LINE OF A CALLED 1.98779 ACRE TRACT OF LAND AS DESCRIBED OF RECORD IN FILM CODE NO. 521-74-0872 OF THE REAL PROPERTY RECORDS OF HARRIS COUNTY, TEXAS, A DISTANCE OF 364.89 FEET TO A FOUND 1/2" IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "4966" IN THE WEST RIGHT-OF-WAY LINE OF JONES RD., FOR THE NORTHWEST CORNER OF A CALLED 0.7390 ACRE ROAD EASEMENT TO THE COUNTY OF HARRIS AS DESCRIBED OF RECORD IN DOCUMENT NO. 20070245178 OF THE REAL PROPERTY RECORDS OF HARRIS COUNTY, TEXAS, FOR THE NORTHEAST CORNER OF SAID 2.1282 ACRE TRACT AND THE TRACT DESCRIBED HEREIN;*

*THENCE: WITH THE WEST RIGHT-OF-WAY LINE OF JONES RD., THE WEST LINE OF SAID 0.7390 ACRE ROAD EASEMENT AND THE EAST LINE OF SAID 2.1282 ACRE TRACT, THE FOLLOWING FOUR (4) COURSES:*

- 1. S 13° 50' 41" E, A DISTANCE OF 161.90 FEET TO A SET 5/8" IRON ROD FOR A POINT OF CURVATURE,*
- 2. WITH A TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 1950.00 FEET, AN ARC LENGTH OF 396.45 FEET, A DELTA ANGLE OF 011° 38' 55" AND A CHORD BEARS, S 08° 01' 13" E, A DISTANCE OF 395.77 FEET TO A SET 5/8" IRON ROD FOR POINT OF TANGENCY,*
- 3. S 02° 11' 45" E, A DISTANCE OF 66.67 FEET TO A SET 5/8" IRON ROD FOR CORNER, AND*
- 4. S 42° 40' 16" W, A DISTANCE OF 41.12 FEET TO A FOUND 5/8" IRON ROD AT THE SOUTH END OF A CUTBACK AT THE INTERSECTION OF SAID WEST RIGHT-OF-WAY LINE OF JONES RD., AND THE NORTH RIGHT-OF-WAY LINE OF F.M. 529, FOR THE SOUTHWEST CORNER OF SAID 0.7390 ACRE ROAD EASEMENT, THE SOUTHEAST CORNER OF SAID 2.1282 ACRE TRACT AND THE TRACT DESCRIBED HEREIN;*

*THENCE: S 87° 09' 23" W, WITH THE NORTH RIGHT-OF-WAY LINE OF F.M. 529, THE SOUTH LINE OF SAID 2.1282 ACRE TRACT, SAID 4.0026 ACRE TRACT AND SAID LOT 48B, A DISTANCE OF 404.89 FEET TO THE POINT OF BEGINNING AND CONTAINING 6.150 ACRES OF LAND SITUATED IN THE CITY OF JERSEY VILLAGE, HARRIS COUNTY, TEXAS.*



QT South, LLC

ASA Division – San Antonio  
742 NW Loop 410 Ste. 102  
San Antonio, TX 78216  
210-332-4025

## QT Variance Request

QuikTrip is requesting a 2890' variance to the separation distance provision in Sec 14-105 Commercial Permitted and Conditional Use Tables. This variance would allow construction of a convenience store with gasoline and diesel sales at 11518 FM 529. This site is in Zone H and our use is permitted with conditions in this Zone. The conditions listed require a separation of 3000' from any currently existing gasoline filling station and all storage tanks to be installed below the surface of the ground. There is a 7-11 approximately 110' from our site, resulting in a need for a variance.

Granting this variance would allow QuikTrip to develop the vacant property at 11518 FM 529 into a desirable use. This site has been carefully selected as an ideal location for a QuikTrip. Our station will increase competition and give customers a choice when it comes to filling up their vehicles and stopping for refreshments. QuikTrip will offer a family oriented, clean, and modern facility for the citizens of Jersey Village. QuikTrip takes great pride in our employees and our stores. We have an in-house Facility Support team that maintains our stores inside and out. We also have very strict employee appearance and uniform policies. Our facility also includes a QuikTrip Kitchen, which offers fresh made to order items and plenty of grab and go options. QuikTrip operates over 1000 stores throughout the country, all of which are corporately owned to ensure a consistent, high quality experience every time you visit.

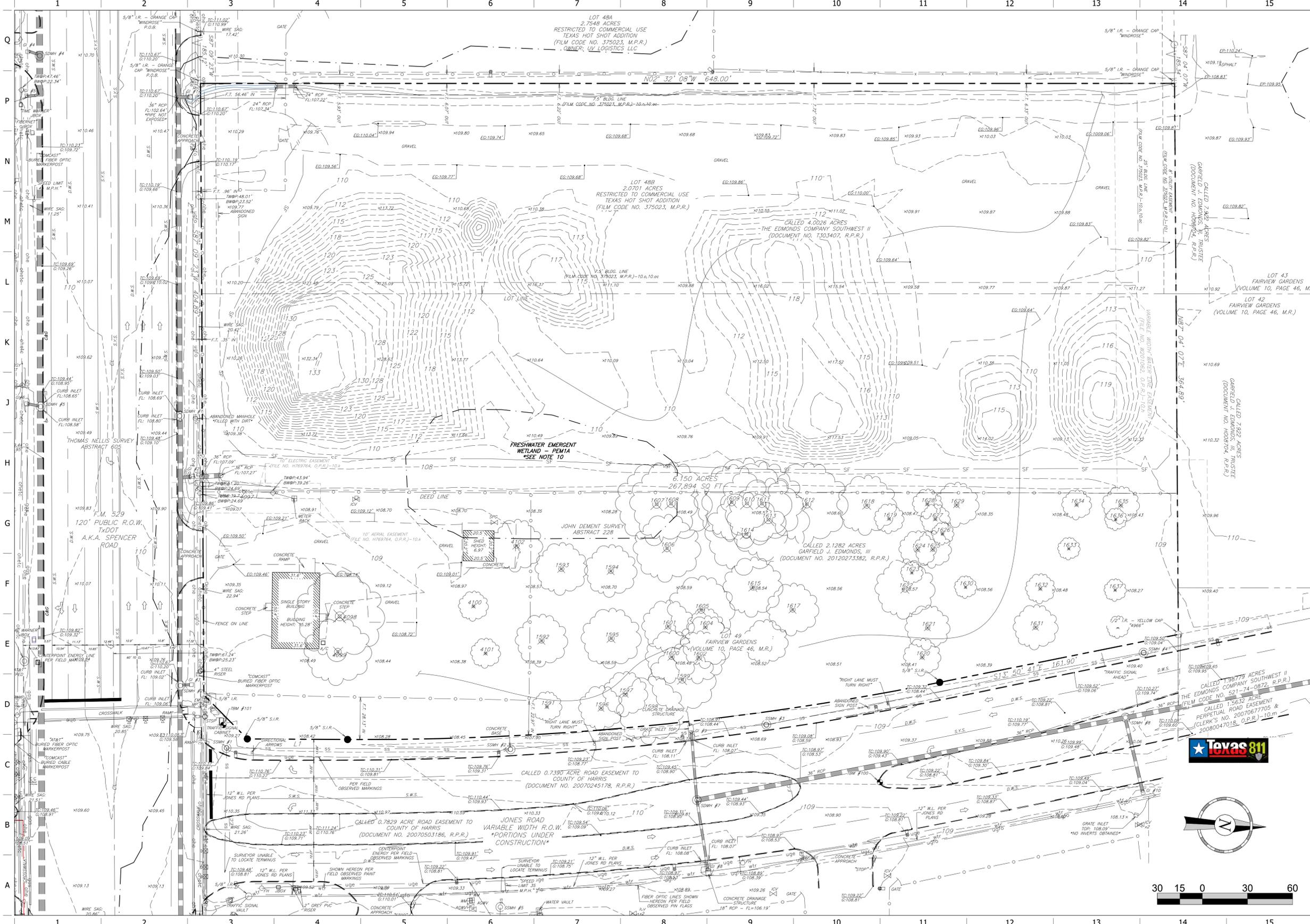
We look forward to working with the staff of Jersey Village to bring a beautiful new QuikTrip to the community. Thank you for your consideration.

Best Regards,

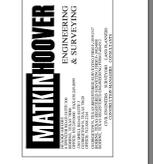
**Cathy Garland | Real Estate Project Manager**  
[cgarland@quiktrip.com](mailto:cgarland@quiktrip.com)  
(210) 332-4037

BOARD OF ADJUSTMENT MEETING PACKET FOR THE MEETING TO BE HELD ON JANUARY 30, 2024





PROJECT NO. 22-4158



**QuikTrip No. 7956**  
 11518 FM 529  
 HOUSTON, TX 77041



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 PUBLICATION, DISTRIBUTION, OR SALE IN  
 WHOLE OR IN PART, IS STRICTLY FORBIDDEN.

PROTOTYPE:  
 DIVISION: 89  
 VERSION:  
 DESIGNED BY:  
 DRAWN BY: KP/AB  
 REVIEWED BY: KP

REV	DATE	DESCRIPTION

SHEET TITLE:  
 SURVEY PLAN

SHEET NUMBER:  
**C020**

ORIGINAL ISSUE DATE:

BOARD OF ADJUSTMENT MEETING PACKET FOR THE MEETING TO BE HELD ON JANUARY 30, 2024

NOTES

- 1. BEARINGS ARE BASED ON THE STATE PLANE COORDINATE SYSTEM ESTABLISHED FOR THE TEXAS SOUTH CENTRAL ZONE 4204, NORTH AMERICAN DATUM (NAD) OF 1983...
2. REFERENCED PROPERTY IS IN ZONE 1, OTHER FLOOD AREAS, AREAS OF 0.2% ANNUAL CHANCE FLOOD, AREAS OF 1% ANNUAL CHANCE FLOOD WITH AVERAGE DEPTHS OF LESS THAN 1 FOOT...
3. THE TRACT SHOWN HEREIN MAY BE SUBJECT TO ALL CITY OF JERSEY VILLAGE & HARRIS COUNTY ORDINANCES AND RESTRICTIONS...
4. METES AND BOUNDS WERE PREPARED BY SEPARATE INSTRUMENT.
5. UTILITIES
6. VERTICAL RELIEF WAS MADE FROM AN ON THE GROUND SURVEY, CONTOURS SHOWN HEREIN ARE AT 1' INTERVALS...
7. THE PROPERTY IS CURRENTLY LOCATED IN ZONE "7" - INDUSTRIAL DISTRICT...
8. SUBJECT TRACT IS LOCATED AT THE NWC OF F.M. 529 AND JONES RD.
9. THERE WAS EVIDENCE OF RECENT STREET CONSTRUCTION OR REPAIR AT TIME OF SURVEY.
10. THERE IS EVIDENCE OF WETLANDS ACCORDING TO: HTTP://WWW.FWS.GOV/WETLANDS/DATA/MAPPER.HTML...
11. THE NEAREST FIRE HYDRANT LIES N 81°50'23" E A DISTANCE OF 99.32' FROM THE SOUTHWEST PROPERTY CORNER OF THE SUBJECT TRACT.
12. UTILITY CONTACT INFORMATION:
ELECTRIC SERVICES
GAS SERVICES
TELEPHONE, FIBER AND CABLE SERVICES (AS OBSERVED)
WATER AND SEWER SERVICE
13. ADDITIONAL CURB CUTS ARE AS FOLLOWS:
14. A CONCRETE APPROACH INTERSECTS THE NORTH RIGHT-OF-WAY OF SPENCER RD. APPROXIMATELY 33' IN A WESTERLY DIRECTION FROM THE SOUTHWEST CORNER OF THE SUBJECT TRACT.
15. SURVEYOR IS UNWARE OF ANY PROPOSED CHANGES TO STREET RIGHT-OF-WAY LINES.
16. THERE IS NO EVIDENCE OF RECENT BUILDING CONSTRUCTION OR DEMOLITION WORK AT THE TIME OF THIS SURVEY.

Table with columns: SANITARY SEWER MANHOLE TABLE, STORM INVERT TABLE, STORM INVERT TABLE CONTINUED. Includes points like G1 #1 (POINT #4027), SDMH #3 (POINT #5217), etc.

ALTA/NSPS LAND TITLE SURVEY OF:

A 6.150 ACRE TRACT OF LAND, LOCATED IN THE JOHN DEMENT SURVEY, ABSTRACT 228, HARRIS COUNTY, TEXAS, AND BEING ALL OF A CALLED 2.1282 ACRE TRACT OF LAND AS DESCRIBED OF RECORD IN DOCUMENT NO. 20120273382, AND ALL OF A CALLED 4.0026 ACRE TRACT OF LAND AS DESCRIBED OF RECORD IN DOCUMENT NO. 1303407, BOTH OF THE OFFICIAL PUBLIC RECORDS OF HARRIS COUNTY, TEXAS...

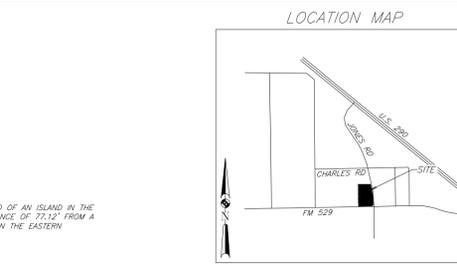
LINE TABLE with columns: LINE, BEARING, DISTANCE. Includes entries like L1 S02° 11' 45.7" E 66.67', L2 S42° 40' 16.7" W 41.12'.

CURVE TABLE with columns: CURVE, RADIUS, LENGTH, DELTA, CHORD BEARING, CHORD LENGTH. Includes entry C1 1950.00', 396.45', 111°38'55", 508° 01' 13.7", 395.77'.

FIELD NOTES FOR A 6.150 ACRE TRACT OF LAND

A 6.150 ACRE TRACT OF LAND, LOCATED IN THE JOHN DEMENT SURVEY, ABSTRACT 228, HARRIS COUNTY, TEXAS, AND BEING ALL OF A CALLED 2.1282 ACRE TRACT OF LAND AS DESCRIBED OF RECORD IN DOCUMENT NO. 20120273382, AND ALL OF A CALLED 4.0026 ACRE TRACT OF LAND AS DESCRIBED OF RECORD IN DOCUMENT NO. 1303407, BOTH OF THE REAL PROPERTY RECORDS OF HARRIS COUNTY, TEXAS...

TREE TABLE with columns: POINT NUMBER, SPECIES, TRUNK DIA (IN), SPREAD (FT), MULTI-TRUNK DIA (IN). Lists various tree species like LIVE OAK, LIVE OAK, LIVE OAK, etc.



SURVEY LEGEND

- PROPERTY CORNER (FOUND)
PROPERTY CORNER (SET)
BENCHMARK
OVERHEAD ELECTRIC
UNDERGROUND ELECTRIC
UNDERGROUND FIBER OPTIC
GAS LINE
SANITARY SEWER LINE
STORM SEWER LINE (≥12")
WATER LINE
UTILITY PEDESTAL/RISER
UTILITY POLE
UTILITY POLE W/LIGHT
UTILITY POLE W/TRANSFORMER
UTILITY MANHOLE
UTILITY METER
UTILITY VALVE
LIGHT POLE
FIRE HYDRANT
SINGLE POST SIGN
MULTI-POST SIGN/BILLBOARD
TRAFFIC ARROWS
TRAFFIC SIGNAL
TRAFFIC CONTROL BOX
GATE
BOLLARD
CENTER LINE
PROPERTY R/W LINE (OT NET)
SECTION LINE
PROPERTY R/W LOT LINE (OTHERS)
CURB LINE
EDGE OF ASPHALT
EDGE OF CONCRETE
MAJOR CONTOUR
MINOR CONTOUR
CURB & GUTTER ELEVATION
SPOT ELEVATION
CHAIN LINK FENCE
SILT FENCE
WIRE FENCE
EXISTING STRUCTURE

ABBREVIATIONS

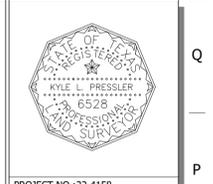
Table mapping abbreviations to full names: STSP STEEL TRAFFIC SIGNAL POLE, TBWP TOP WIRE ELEVATION AT POLE, etc.

TO OT SOUTH, LLC, GARFIELD JAMES EDWARDS II, AND THE EDWARDS COMPANY SOUTHWEST II:

THIS IS TO CERTIFY THAT THIS MAP OR PLAN AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE 2021 MINKINS STANDARD DETAIL REQUIREMENTS FOR ALTA/NSPS LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS, AND INCLUDES STAMP 1.2, 1.4, 5.6, 6.0, 7.0, 8.0, 9.0, 11.0, 13.1, 14.1, 16.1, 17.1, 18.1, & 20 OF TABLE A THEREOF. THE FIELDWORK WAS COMPLETED ON DECEMBER 8, 2022.



Signature of Kyle L. Pressler, Registered Professional Land Surveyor, Texas Registration No. 6528.



Project No. 22-4158. MTKINS COVER ENGINEERING & SURVEYING logo and contact information.

QuikTrip No. 7956 logo and address: 11518 FM 529 HOUSTON, TX 77041.

QT logo and copyright information: © COPYRIGHT QUIKTRIP CORPORATION 2011. ANY UNAUTHORIZED USE, REPRODUCTION, PUBLICATION, DISTRIBUTION, OR SALE IN WHOLE OR IN PART, IS STRICTLY FORBIDDEN.

Table with columns: REV, DATE, DESCRIPTION. Includes entries for SHEET TITLE, SURVEY PLAN, SHEET NUMBER.

C020 logo and additional project information.

BOARD OF ADJUSTMENT MEETING PACKET FOR THE MEETING TO BE HELD ON JANUARY 30, 2024



**EDMONDS COMPANY SOUTHWEST II**  
**WRITTEN CONSENT OF THE PARTNERS**  
**IN LIEU OF SPECIAL MEETING**

Pursuant to the provisions of the Texas Business Organizations Code and the governing documents of **EDMONDS COMPANY SOUTHWEST II**, a Texas general partnership (the “Company”), the undersigned, being all of the partners in the Company, in lieu of holding a special meeting, the call and notice of which are hereby expressly waived, do hereby consent to the following resolutions:

**Approval of Contract for Purchase of Real Estate**

**WHEREAS**, the Company, together with Garfield J. Edmonds III, collectively as seller, and QT South, LLC, a Texas limited liability company (“Buyer”), as buyer, entered into that certain Contract for Purchase of Real Estate, dated effective November 18, 2022 (as amended, the “Contract”), for the purchase and sale of the Property described in Exhibit “A” attached hereto; and

**WHEREAS**, the undersigned have determined that it is in the best interests of the Company to sell the Property to Buyer pursuant to the terms of the Contract;

**NOW, THEREFORE, BE IT RESOLVED**, that the Contract is hereby approved for all purposes, and Tom F. Lewman, on behalf of the Company as its authorized agent (the “Authorized Person”), be, and hereby is, authorized and directed, in the name of and on behalf of the Company to execute, deliver, and accept any instruments in connection with performance under the Contract, including, without limitation of the foregoing, any and all agreements, rezoning applications, licenses, permits, assignments, consents, deeds, instruments, notices, certificates, settlement statements, and such other documents and instruments in connection with performance under the Contract, and to take all actions as he may, in his sole and exclusive discretion, deem necessary or advisable to cause the Company to consummate the transaction provided for therein and sell the Property to Buyer.

**General Authority**

**FURTHER RESOLVED**, that the Authorized Person, be, and hereby is, authorized, on behalf of the Company, to do any and all things and to execute any and all agreements, consents, and documents as in his or her opinion, or in the opinion of counsel to the Company, may be necessary or appropriate in order to carry out the purposes and intent of any of the foregoing resolutions.

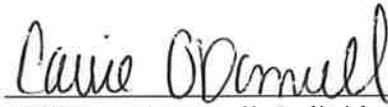
**FURTHER RESOLVED**, that all acts, transactions, or agreements previously undertaken by any Authorized Person, in the name of and on behalf of the Company, in connection with the foregoing matters prior to the adoption of these resolutions are hereby ratified, confirmed, and adopted by the Company.

*[Remainder of page left blank; Signature page follows]*

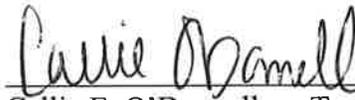
**BOARD OF ADJUSTMENT MEETING PACKET FOR THE MEETING TO BE HELD ON JANUARY 30, 2024**

**EXECUTED** by the undersigned to be effective as of September <sup>9<sup>th</sup></sup>, 2023. This instrument may be executed in several original or facsimile counterparts, each of which shall be deemed to be an original, and all such counterparts shall together constitute one and the same document. Copies of executed counterparts may be relied upon as originals, binding upon the executing party for all purposes with the same full force and effect of the original.

**PARTNERS:**



\_\_\_\_\_  
Callie E. O'Donnell, Individually and as  
Independent Executor of the Estate of  
Garfield Edmonds, III



\_\_\_\_\_  
Callie E. O'Donnell, as Trustee of the  
Garfield J. Edmonds, III 2012 Family  
Trust dated December 19, 2012

**Exhibit "A"**

A **6.150 acre** tract of land, located in the John Dement Survey, Abstract 228, Harris County, Texas, and being all of a called 2.1282 acre tract of land as described of record in Document No. 20120273382, and all of a called 4.0026 acre tract of land as described of record in Document No. T303407, both of the Real Property Records of Harris County, Texas. Said 6.150 acre tract of land also being all of Lot 48B of the Texas Hot Shot Addition of record in Film Code No. 375023, and a portion of Lot 49 of the Fairview Gardens Subdivision of record in Volume 10, Page 46, both of the Map Records of Harris County, Texas. Said **6.150 acre** tract being more particularly described by metes and bounds as follows:

**BEGINNING** at a found 5/8" iron rod with an orange plastic cap stamped "Windrose" in the north right-of-way line of F.M. 529, a 120' wide public right-of-way, for the southeast corner of Lot 48A of said Hot Shot Addition, the southwest corner of said 4.0026 acre tract, said Lot 48B and the tract described herein, from which a found 5/8" iron rod with a orange plastic cap stamped "Windrose" in said right-of-way line and for the southwest corner of said Lot 48A bears, S 87° 09' 23" W, a distance of 185.12 feet;

**THENCE: N 02° 32' 08" W**, departing said right-of-way line and the common line between said Lots 48A and 48B, and the west line of said 4.0026 acre tract, a distance of **648.00 feet** to a found 5/8" iron rod with a orange plastic cap stamped "Windrose" in the south line of a called 7.922 acre tract of land as described of record in Document No. H008704 of the Real Property Records of Harris County, Texas, for the northeast corner of said Lot 48A, the northwest corner of said Lot 48B, said 4.0026 acre tract and the tract described herein, from which a found 5/8" iron rod with a orange plastic cap stamped "Windrose" for the northwest corner of said Lot 48A bears, S 87° 04' 07" W, a distance of 185.34 feet;

**THENCE: N 87° 04' 07" E**, with the north lines of Lot 48B, said Lot 49, said 4.0026 acre tract, said 2.1282 acre tract and the south line of said 7.922 acre tract, also being the south lines of Lots 43 and 42 of said Fairview Gardens Subdivision, and the south line of a called 1.98779 acre tract of land as described of record in Film Code no. 521-74-0872 of the Real Property Records of Harris County, Texas, a distance of **364.89 feet** to a found 1/2" iron rod with a yellow plastic cap stamped "4966" in the west right-of-way line of Jones Rd., for the northwest corner of a called 0.7390 acre Road Easement to the County of Harris as described of record in Document No. 20070245178 of the Real Property Records of Harris County, Texas, for the northeast corner of said 2.1282 acre tract and the tract described herein;

**THENCE:** With the west right-of-way line of Jones Rd., the west line of said 0.7390 acre Road Easement and the east line of said 2.1282 acre tract, the following four (4) courses:

1. **S 13° 50' 41" E**, a distance of **161.90 feet** to a set 5/8" iron rod for a point of curvature,
2. With a tangent curve to the right having a radius of **1950.00 feet**, an arc length of **396.45 feet**, a delta angle of **011° 38' 55"** and a chord bears, **S 08° 01' 13" E**, a distance of **395.77 feet** to a set 5/8" iron rod for point of tangency,
3. **S 02° 11' 45" E**, a distance of **66.67 feet** to a set 5/8" iron rod for corner, and
4. **S 42° 40' 16" W**, a distance of **41.12 feet** to a found 5/8" iron rod at the south end of a cutback at the intersection of said west right-of-way line of Jones Rd., and the north right-of-way line of F.M.529, for the southwest corner of said 0.7390 acre Road Easement, the southeast corner of said 2.1282 acre tract and the tract described herein;

**THENCE: S 87° 09' 23" W**, with the north right-of-way line of F.M. 529, the south line of said 2.1282 acre tract, said 4.0026 acre tract and said Lot 48B, a distance of **404.89 feet** to the **POINT OF BEGINNING** and containing **6.150 acres** of land situated in the City of Jersey Village, Harris County, Texas.

4831-1209-0274, v. 1

**BOARD OF ADJUSTMENT MEETING PACKET FOR THE MEETING TO BE HELD ON JANUARY 30, 2024**

STATUTORY DURABLE POWER OF ATTORNEY

NOTICE: THE POWERS GRANTED BY THIS DOCUMENT ARE BROAD AND SWEEPING. THEY ARE EXPLAINED IN THE DURABLE POWER OF ATTORNEY ACT, SUBTITLE P, TITLE 2, TEXAS ESTATES CODE. IF YOU HAVE ANY QUESTIONS ABOUT THESE POWERS, OBTAIN COMPETENT LEGAL ADVICE. THIS DOCUMENT DOES NOT AUTHORIZE ANYONE TO MAKE MEDICAL AND OTHER HEALTH-CARE DECISIONS FOR YOU. YOU MAY REVOKE THIS POWER OF ATTORNEY IF YOU LATER WISH TO DO SO. IF YOU WANT YOUR AGENT TO HAVE THE AUTHORITY TO SIGN HOME EQUITY LOAN DOCUMENTS ON YOUR BEHALF, THIS POWER OF ATTORNEY MUST BE SIGNED BY YOU AT THE OFFICE OF THE LENDER, AN ATTORNEY AT LAW, OR A TITLE COMPANY.

You should select someone you trust to serve as your agent. Unless you specify otherwise, generally the agent’s authority will continue until:

- (1) you die or revoke the power of attorney;
(2) your agent resigns, is removed by court order, or is unable to act for you; or
(3) a guardian is appointed for your estate.

I, Callie E. O’Donnell, with an address of 170 LILY TURFCV, GEORGETOWN, TX 78626, appoint Tom F. Lewman, with an address of 22 PEACHTREE CT, JERSEY VILLAGE, TX 77064 as my agent to act for me in any lawful way with respect to all of the following powers that I have initialed below. (YOU MAY APPOINT CO-AGENTS. UNLESS YOU PROVIDE OTHERWISE, CO-AGENTS MAY ACT INDEPENDENTLY.)

TO GRANT ALL OF THE FOLLOWING POWERS INITIAL THE LINE IN FRONT OF (N) AND IGNORE THE LINES IN FRONT OF THE OTHER POWERS LISTED IN (A) THROUGH (M).

TO GRANT A POWER, YOU MUST INITIAL THE LINE IN FRONT OF THE POWER YOU ARE GRANTING.

TO WITHHOLD A POWER, DO NOT INITIAL THE LINE IN FRONT OF THE POWER. YOU MAY, BUT DO NOT NEED TO, CROSS OUT EACH POWER WITHHELD.

- (A) Real property transactions;
(B) Tangible personal property transactions;
(C) Stock and bond transactions;
(D) Commodity and option transactions;
(E) Banking and other financial institution transactions;
(F) Business operating transactions;
(G) Insurance and annuity transactions;
(H) Estate, trust, and other beneficiary transactions;
(I) Claims and litigation;

BOARD OF ADJUSTMENT MEETING PACKET FOR THE MEETING TO BE HELD ON JANUARY 30, 2024

- ~~\_\_\_\_\_ (J) Personal and family maintenance;~~
- ~~\_\_\_\_\_ (K) Benefits from social security, Medicare, Medicaid, or other governmental programs or civil or military service;~~
- ~~\_\_\_\_\_ (L) Retirement plan transactions;~~
- ~~\_\_\_\_\_ (M) Tax matters;~~
- ~~\_\_\_\_\_ (N) ALL OF THE POWERS LISTED IN (A) THROUGH (M). YOU DO NOT HAVE TO INITIAL THE LINE IN FRONT OF ANY OTHER POWER IF YOU INITIAL LINE (N).~~

**SPECIAL INSTRUCTIONS:**

~~Special instructions applicable to agent compensation (initial in front of one of the following sentences to have it apply; if no selection is made, each agent will be entitled to compensation that is reasonable under the circumstances):~~

~~\_\_\_\_\_ My agent is entitled to reimbursement of reasonable expenses incurred on my behalf and to compensation that is reasonable under the circumstances.~~

~~\_\_\_\_\_ My agent is entitled to reimbursement of reasonable expenses incurred on my behalf but shall receive no compensation for serving as my agent.~~

~~Special instructions applicable to co-agents (if you have appointed co-agents to act, initial in front of one of the following sentences to have it apply; if no selection is made, each agent will be entitled to act independently):~~

~~\_\_\_\_\_ Each of my co-agents may act independently of me.~~

~~\_\_\_\_\_ My co-agents may act for me only if the co-agents act jointly.~~

~~\_\_\_\_\_ My co-agents may act for me only if a majority of the co-agents act jointly.~~

~~\_\_\_\_\_ Special instructions applicable to gifts (initial in front of the following sentence to have it apply):~~

~~\_\_\_\_\_ I grant my agent the power to apply my property to make gifts outright to or for the benefit of a person, including by the exercise of a presently exercisable general power of appointment held by me, except that the amount of a gift to an individual may not exceed the amount of annual exclusions allowed from the federal gift tax for the calendar year of the gift.~~

**ON THE FOLLOWING LINES YOU MAY GIVE SPECIAL INSTRUCTIONS LIMITING OR EXTENDING THE POWERS GRANTED TO YOUR AGENT:**

**Tom F. Lewman is authorized to act on my behalf in connection with the sale of the property described on Exhibit "A" attached hereto (the "Property"), including any rezoning applications, permits or licenses required in connection with such sale. This power of attorney shall terminate upon the sale of the Property.**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**UNLESS YOU DIRECT OTHERWISE BELOW, THIS POWER OF ATTORNEY IS EFFECTIVE IMMEDIATELY AND WILL CONTINUE UNTIL IT TERMINATES.**

**CHOOSE ONE OF THE FOLLOWING ALTERNATIVES BY CROSSING OUT THE ALTERNATIVE NOT CHOSEN:**

**(A) This power of attorney is not affected by my subsequent disability or incapacity.**

~~**(B) This power of attorney becomes effective upon my disability or incapacity.**~~

**YOU SHOULD CHOOSE ALTERNATIVE (A) IF THIS POWER OF ATTORNEY IS TO BECOME EFFECTIVE AS OF THE DATE IT IS EXECUTED.**

**IF NEITHER (A) NOR (B) IS CROSSED OUT, IT WILL BE ASSUMED THAT YOU CHOSE ALTERNATIVE (A).**

If Alternative (B) is chosen and a definition of my disability or incapacity is not contained in this power of attorney, I shall be considered disabled or incapacitated for purposes of this power of attorney if a physician certifies in writing at a date later than the date this power of attorney is executed that, based on the physician's medical examination of me, I am mentally incapable of managing my financial affairs. I authorize the physician who examines me for this purpose to disclose my physical or mental condition to another person for purposes of this power of attorney. A third party who accepts this power of attorney is fully protected from any action taken under this power of attorney that is based on the determination made by a physician of my disability or incapacity.

I agree that any third party who receives a copy of this document may act under it. Termination of this durable power of attorney is not effective as to a third party until the third party has actual knowledge of the termination. I agree to indemnify the third party for any claims that arise against the third party because of reliance on this power of attorney. The meaning and effect of this durable power of attorney is determined by Texas law.

If any agent named by me dies, becomes incapacitated, resigns, or refuses to act, or if my marriage to an agent named by me is dissolved by a court decree of divorce or annulment or is declared void by a court (unless I provided in this document that the dissolution or declaration does not terminate the agent's authority to act under this power of attorney), I name the following (each to act alone and successively, in the order named) as successor(s) to that agent: N/A.

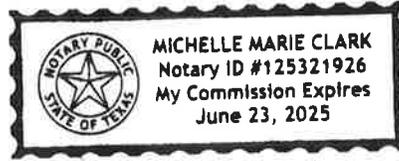
Signed on the 9<sup>th</sup> day of September, in the year 2023.

Callie O'Donnell  
CALLIE E. O'DONNELL

STATE OF TEXAS

COUNTY OF HARRIS

§  
§  
§



This instrument was acknowledged before me on the 9<sup>th</sup> day of September, 2023, by Callie E. O'Donnell.

Michelle M. Clark  
Notary Public, State of Texas  
Michelle M. Clark  
My commission expires: 06-23-2025

BOARD OF ADJUSTMENT MEETING PACKET FOR THE MEETING TO BE HELD ON JANUARY 30, 2024

## IMPORTANT INFORMATION FOR AGENT

### Agent's Duties

When you accept the authority granted under this power of attorney, you establish a "fiduciary" relationship with the principal. This is a special legal relationship that imposes on you legal duties that continue until you resign or the power of attorney is terminated or revoked by the principal or by operation of law. A fiduciary duty generally includes the duty to:

- (1) act in good faith;
- (2) do nothing beyond the authority granted in this power of attorney;
- (3) act loyally for the principal's benefit;
- (4) avoid conflicts that would impair your ability to act in the principal's best interest; and
- (5) disclose your identity as an agent when you act for the principal by writing or printing the name of the principal and signing your own name as "agent" in the following manner:

(Principal's Name) by (Your Signature) as Agent

In addition, the Durable Power of Attorney Act (Subtitle P, Title 2, Estates Code) requires you to:

- (1) maintain records of each action taken or decision made on behalf of the principal;
- (2) maintain all records until delivered to the principal, released by the principal, or discharged by a court; and
- (3) if requested by the principal, provide an accounting to the principal that, unless otherwise directed by the principal or otherwise provided in the Special Instructions, must include:
  - (A) the property belonging to the principal that has come to your knowledge or into your possession;
  - (B) each action taken or decision made by you as agent;
  - (C) a complete account of receipts, disbursements, and other actions of you as agent that includes the source and nature of each receipt, disbursement, or action, with receipts of principal and income shown separately;
  - (D) a listing of all property over which you have exercised control that includes an adequate description of each asset and the asset's current value, if known to you;
  - (E) the cash balance on hand and the name and location of the depository at which the cash is kept;

- (F) each known liability;
- (G) any other information and facts known to you as necessary for a full and definite understanding of the exact condition of the property belonging to the principal; and
- (H) all documentation regarding the principal's property.

#### Termination of Agent's Authority

You must stop acting on behalf of the principal if you learn of any event that terminates this power of attorney or your authority under this power of attorney. An event that terminates this power of attorney or your authority to act under this power of attorney includes:

- (1) the principal's death;
- (2) the principal's revocation of this power of attorney or your authority;
- (3) the occurrence of a termination event stated in this power of attorney;
- (4) if you are married to the principal, the dissolution of your marriage by a court decree of divorce or annulment or declaration that your marriage is void, unless otherwise provided in this power of attorney;
- (5) the appointment and qualification of a permanent guardian of the principal's estate; or
- (6) if ordered by a court, the suspension of this power of attorney on the appointment and qualification of a temporary guardian until the date the term of the temporary guardian expires.

#### Liability of Agent

The authority granted to you under this power of attorney is specified in the Durable Power of Attorney Act (Subtitle P, Title 2, Estates Code). If you violate the Durable Power of Attorney Act or act beyond the authority granted, you may be liable for any damages caused by the violation or subject to prosecution for misapplication of property by a fiduciary under Chapter 32 of the Texas Penal Code.

THE AGENT, BY ACCEPTING OR ACTING UNDER THE APPOINTMENT, ASSUMES THE FIDUCIARY AND OTHER LEGAL RESPONSIBILITIES OF AN AGENT.

**Exhibit "A"**

A **6.150 acre** tract of land, located in the John Dement Survey, Abstract 228, Harris County, Texas, and being all of a called 2.1282 acre tract of land as described of record in Document No. 20120273382, and all of a called 4.0026 acre tract of land as described of record in Document No. T303407, both of the Real Property Records of Harris County, Texas. Said 6.150 acre tract of land also being all of Lot 48B of the Texas Hot Shot Addition of record in Film Code No. 375023, and a portion of Lot 49 of the Fairview Gardens Subdivision of record in Volume 10, Page 46, both of the Map Records of Harris County, Texas. Said **6.150 acre** tract being more particularly described by metes and bounds as follows:

**BEGINNING** at a found 5/8" iron rod with an orange plastic cap stamped "Windrose" in the north right-of-way line of F.M. 529, a 120' wide public right-of-way, for the southeast corner of Lot 48A of said Hot Shot Addition, the southwest corner of said 4.0026 acre tract, said Lot 48B and the tract described herein, from which a found 5/8" iron rod with a orange plastic cap stamped "Windrose" in said right-of-way line and for the southwest corner of said Lot 48A bears, S 87° 09' 23" W, a distance of 185.12 feet;

**THENCE: N 02° 32' 08" W**, departing said right-of-way line and the common line between said Lots 48A and 48B, and the west line of said 4.0026 acre tract, a distance of **648.00 feet** to a found 5/8" iron rod with a orange plastic cap stamped "Windrose" in the south line of a called 7.922 acre tract of land as described of record in Document No. H008704 of the Real Property Records of Harris County, Texas, for the northeast corner of said Lot 48A, the northwest corner of said Lot 48B, said 4.0026 acre tract and the tract described herein, from which a found 5/8" iron rod with a orange plastic cap stamped "Windrose" for the northwest corner of said Lot 48A bears, S 87° 04' 07" W, a distance of 185.34 feet;

**THENCE: N 87° 04' 07" E**, with the north lines of Lot 48B, said Lot 49, said 4.0026 acre tract, said 2.1282 acre tract and the south line of said 7.922 acre tract, also being the south lines of Lots 43 and 42 of said Fairview Gardens Subdivision, and the south line of a called 1.98779 acre tract of land as described of record in Film Code no. 521-74-0872 of the Real Property Records of Harris County, Texas, a distance of **364.89 feet** to a found 1/2" iron rod with a yellow plastic cap stamped "4966" in the west right-of-way line of Jones Rd., for the northwest corner of a called 0.7390 acre Road Easement to the County of Harris as described of record in Document No. 20070245178 of the Real Property Records of Harris County, Texas, for the northeast corner of said 2.1282 acre tract and the tract described herein;

**THENCE:** With the west right-of-way line of Jones Rd., the west line of said 0.7390 acre Road Easement and the east line of said 2.1282 acre tract, the following four (4) courses:

1. **S 13° 50' 41" E**, a distance of **161.90 feet** to a set 5/8" iron rod for a point of curvature,
2. With a tangent curve to the right having a radius of **1950.00 feet**, an arc length of **396.45 feet**, a delta angle of **011° 38' 55"** and a chord bears, **S 08° 01' 13" E**, a distance of **395.77 feet** to a set 5/8" iron rod for point of tangency,
3. **S 02° 11' 45" E**, a distance of **66.67 feet** to a set 5/8" iron rod for corner, and
4. **S 42° 40' 16" W**, a distance of **41.12 feet** to a found 5/8" iron rod at the south end of a cutback at the intersection of said west right-of-way line of Jones Rd., and the north right-of-way line of F.M.529, for the southwest corner of said 0.7390 acre Road Easement, the southeast corner of said 2.1282 acre tract and the tract described herein;

**THENCE: S 87° 09' 23" W**, with the north right-of-way line of F.M. 529, the south line of said 2.1282 acre tract, said 4.0026 acre tract and said Lot 48B, a distance of **404.89 feet** to the **POINT OF BEGINNING** and containing **6.150 acres** of land situated in the City of Jersey Village, Harris County, Texas.

10/30/23

City of Jersey Village

16327 Lakeview Dr.

Jersey Village, TX 77040

RE: Appointment of Agent

Dear City of Jersey Village,

Please accept this Appointment of Agent as Tom Lewman's ("Owner") permission and authorization for QT South, LLC ("QT") to act on behalf of Owner for the purpose of applying for variances to the property located at 11518 FM 529. This Appointment of Agent shall expire upon on the date which is when the Owner conveys Owner's property to QT or when the Contract for Purchase of Real Estate between Owner and QT is terminated.

For any questions, I can be reached at (215) 721-3900.

Thank you,

**Tom Lewman**

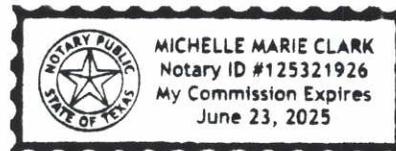


Authorized Agent

Edmonds Company Southwest

This instrument was acknowledged before me on this 31<sup>st</sup> day of OCTOBER 2023, by Tom Lewman, on behalf of said company.

  
Michelle M. Clark



Notary Public, State of Texas

My commission expires:

06-23-2025

MEETING PACKET FOR THE MEETING TO BE

-----  
DATE : 12/13/2023 2:48 PM

OPER : PB

TERM : 1

REC# : R00849700  
-----

192.0000 MISC. REVENUE 1000.00

QT South LLC 11518 fm 529 1000.00

Paid By:QT South LLC 11518 fm 529

2-CK 1000.00 REF:3342929  
-----

APPLIED 1000.00

TENDERED 1000.00

-----  
CHANGE 0.00  
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**CITY OF JERSEY VILLAGE  
 CERTIFICATION OF PUBLIC HEARING POSTING REQUIREMENTS  
 BOARD OF ADJUSTMENT - PUBLIC HEARING  
 January 30, 2024, at 7:00 P.M.**

Reason for Public Hearing:

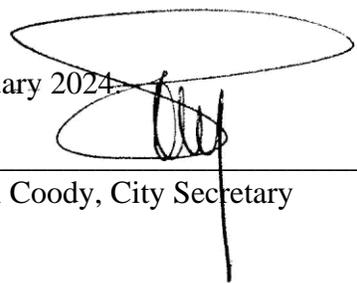
To receive written and oral comments from any interested person(s) concerning on the request of QT South, LLC, filed on behalf of owners Garfield Edmonds and Edmonds Company, for a variance to the Jersey Village Code of Ordinance at Chapter 14, Article IV, Division 2, Section 14-105, the Commercial Permitted Use and Conditional Use Table, to allow a gasoline filling station to be located in District H on a 6.150 acre tract of land conveyed in/under Harris County Clerk's File Nos. T303407 and 20120273382 and also identified as the properties located at 11518 FM 529 and 0 FM 529 (Corner of Jones and FM 529), which exceeds the minimum separation distance of 3,000 feet measured from property line to property line from any currently existing gasoline filling station.

<b>Owner</b>	<b>Address</b>	<b>City, State, ZIP</b>
Edmonds Company SW II	11625 Charles Road	Jersey Village, TX 77041-2407
Jones 529 Retail Partners Ltd	1207 Antoine Drive	Houston, TX 77055-6920
Edmonds Garfield S J III Trustee	11625 Charles Road	Jersey Village, TX 77041-2407
Weatherford U S LP	2000 St James Place	Houston, TX 77056-4123
Versaland Texas LLC	4401 Patterson Drive	New Orleans, LA 70131-1917
City of Houston	PO Box 1526	Houston, TX 77251-1526
County of Harris Tract 001 (Jones Rd)	PO Box 1525	Houston, TX 77251-1525

I, Lorri Coody, the duly appointed and acting City Secretary of the City of Jersey Village, Harris County, Texas, do hereby certify and attest that as part of my duties, I post official notices for the City of Jersey Village.

As such, on January 9, 2024, and in accordance with the Jersey Village Code of Ordinances Part II, Ch. 14, Art. X, Section 14-10 (b)(2)(a) written notices were mailed to adjacent property owners at least eleven (11) days prior to date of the Public Hearing. The property owners were mailed a written notice to the address listed in the following table:

Witness my hand and seal of the City this 9th day of January 2024.



\_\_\_\_\_  
 Lorri Coody, City Secretary



BOARD OF ADJUSTMENT MEETING PACKET FOR THE MEETING TO BE HELD ON JANUARY 30, 2024

**CITY OF JERSEY VILLAGE**  
**APPLICANT CERTIFICATION OF PUBLIC HEARING POSTING REQUIREMENTS**  
**BOARD OF ADJUSTMENT – January 30, 2024 – 7:00 P.M.**

Reason for Public Hearing:

To receive written and oral comments from any interested person(s) concerning the request of QT South, LLC, filed on behalf of owners Garfield Edmonds and Edmonds Company, for a variance to the Jersey Village Code of Ordinance at Chapter 14, Article IV, Division 2, Section 14-105, the Commercial Permitted Use and Conditional Use Table, to allow a gasoline filling station to be located in District H on a 6.150 acre tract of land conveyed in/under Harris County Clerk's File Nos. T303407 and 20120273382 and also identified as the properties located at 11518 FM 529 and 0 FM 529 (Corner of Jones and FM 529), which exceeds the minimum separation distance of 3,000 feet measured from property line to property line from any currently existing gasoline filling station.

I, Cathy Garland, for applicant QT South, LLC do hereby certify that:

On January 18, 2024, at least ten days prior to the date of the hearing, placed on the properties located at **11518 FM 529 and 0 FM 529 in Jersey Village, Texas** which said properties are the subject of this hearing, signs indicating the type of relief sought or the proposed change in status of the property as well as the date, time and place of the hearing. The signs were placed at not more than 300-foot intervals across the property line fronting on the existing streets and were clearly visible from the streets. Each sign was located no more than ten feet from the property line and was no smaller than 18 inches by 24 inches,

All in accordance with Section 14-10(b)(2)(b) of the Jersey Village Code of Ordinances.

Signed this the 18 day of January, 2024.

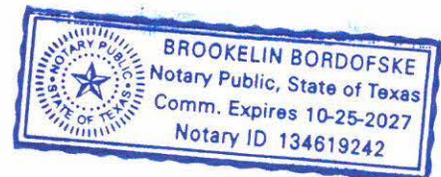
Cathy Garland  
Cathy Garland for Applicant QT South LLC

THE STATE OF TEXAS    §  
COUNTY OF HARRIS    §

BEFORE ME, the undersigned authority, this day personally appeared Cathy Garland, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that they executed the same for the purpose and consideration therein expressed.

GIVEN UNDER my hand and seal of office this 18th day of January, 2024.

Brookelin Bordofsky  
Notary Public, State of Texas



BOARD OF ADJUSTMENT MEETING PACKET FOR THE MEETING TO BE HELD ON JANUARY 30, 2024

**Script for BOA Public Hearing on January 30, 2024**

**Read Item E on the Agenda and confirm that all meeting posting requirements have been met - then say:**

I now call to order this public hearing. Everyone desiring to speak shall give his name and address and will be given 5 minutes to present information during the meeting.

The purpose of today's hearing is to receive written and oral comments from any interested person(s) concerning the request of QT South, LLC, filed on behalf of owners Garfield Edmonds and Edmonds Company, for a variance to the Jersey Village Code of Ordinance at Chapter 14, Article IV, Division 2, Section 14-105, the Commercial Permitted Use and Conditional Use Table, to allow a gasoline filling station to be located in District H on a 6.150 acre tract of land conveyed in/under Harris County Clerk's File Nos. T303407 and 20120273382 and also identified as the properties located at 11518 FM 529 and 0 FM 529 (Corner of Jones and FM 529), which exceeds the minimum separation distance of 3,000 feet measured from property line to property line from any currently existing gasoline filling station.

***Step 1: Call the applicant to present his/her case and all evidence supporting his/her plea***

***Step 2: Call the zoning official to present any information that he/she deems necessary or appropriate relative to the application***

***Step 3: Call on those opposed to the granting of the application to present their evidence and arguments***

***Step 4: Call the applicant for the right of rebuttal***

***Step 5: Order the hearing closed***

**(After everyone has spoken . . . or if no one desires to speak, finish the meeting with the following)**

There being no one (else) desiring to speak, I now close this public hearing concerning the request of QT South, LLC, filed on behalf of owners Garfield Edmonds and Edmonds Company, for a variance to the Jersey Village Code of Ordinance at Chapter 14, Article IV, Division 2, Section 14-105, the Commercial Permitted Use and Conditional Use Table, to allow a gasoline filling station to be located in District H on a 6.150 acre tract of land conveyed in/under Harris County Clerk's File Nos. T303407 and 20120273382 and also identified as the properties located at 11518 FM 529 and 0 FM 529 (Corner of Jones and FM 529), which exceeds the minimum separation distance of 3,000 feet measured from property line to property line from any currently existing gasoline filling station.

**BOARD OF ADJUSTMENT MEETING PACKET FOR THE MEETING TO BE HELD ON JANUARY 30, 2024**

**BOARD OF ADJUSTMENT - CITY OF JERSEY VILLAGE, TEXAS - AGENDA REQUEST**

**AGENDA DATE:** January 30, 2024

**AGENDA ITEM:** E1

**AGENDA SUBJECT:** Discuss and take appropriate action concerning the request of QT South, LLC, filed on behalf of owners Garfield Edmonds and Edmonds Company, for a variance to the Jersey Village Code of Ordinance at Chapter 14, Article IV, Division 2, Section 14-105, the Commercial Permitted Use and Conditional Use Table, to allow a gasoline filling station to be located in District H on a 6.150 acre tract of land conveyed in/under Harris County Clerk's File Nos. T303407 and 20120273382 and also identified as the properties located at 11518 FM 529 and 0 FM 529 (Corner of Jones and FM 529), which exceeds the minimum separation distance of 3,000 feet measured from property line to property line from any currently existing gasoline filling station.

**Department/Prepared By:** Lorri Coody, City Secretary

**EXHIBITS:** Application and Other Documents Included in PH Item  
14-105 – Commercial Permitted Use Table  
Proposed Order

**BACKGROUND INFORMATION:**

QT South, LLC, has filed on behalf of owners Garfield Edmonds and Edmonds Company, a request for variance to the Jersey Village Code of Ordinance at Chapter 14, Article IV, Division 2, Section 14-105, the Commercial Permitted Use and Conditional Use Table, to allow a gasoline filling station to be located in District H on a 6.150 acre tract of land conveyed in/under Harris County Clerk's File Nos. T303407 and 20120273382 and also identified as the properties located at 11518 FM 529 and 0 FM 529 (Corner of Jones and FM 529), which exceeds the minimum separation distance of 3,000 feet measured from property line to property line from any currently existing gasoline filling station.

The Board has previously conducted the Public Hearing in connection with this request. This item is to act upon the request.

The Board, in making its decision on the request for variance, must consider:

- if the request for variance is contrary to the public’s interest;
- if, due to special conditions, enforcement of Chapter 14, Article IV, Division 2, Section 14-105 would result in an unnecessary hardship; and
- that in granting the variance, the spirit of this chapter would be upheld and observed.

In exercising its authority, the Board MAY consider the following as grounds, as presented by the applicant, to determine whether compliance with the ordinance as applied to a structure would result in unnecessary hardship:

- (1) the financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under Section 26.01, Tax Code;
- (2) compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development may physically occur;
- (3) compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement;
- (4) compliance would result in the unreasonable encroachment on an adjacent property or easement; or
- (5) the municipality considers the structure to be a nonconforming structure.

**RECOMMENDED ACTION:**

Discuss and take appropriate action concerning the request of QT South, LLC, filed on behalf of owners Garfield Edmonds and Edmonds Company, for a variance to the Jersey Village Code of

**BOARD OF ADJUSTMENT MEETING PACKET FOR THE MEETING TO BE HELD ON JANUARY 30, 2024**

Ordinance at Chapter 14, Article IV, Division 2, Section 14-105, the Commercial Permitted Use and Conditional Use Table, to allow a gasoline filling station to be located in District H on a 6.150 acre tract of land conveyed in/under Harris County Clerk's File Nos. T303407 and 20120273382 and also identified as the properties located at 11518 FM 529 and 0 FM 529 (Corner of Jones and FM 529), which exceeds the minimum separation distance of 3,000 feet measured from property line to property line from any currently existing gasoline filling station.

Sec. 14-105. - Commercial permitted and conditional use tables.

(a) *Table 14-105(A). Commercial permitted uses.*

<b>KEY/LEGEND</b>	
P = Permitted Use	
PC = Permitted with Conditions	
SUP = Special Use Permit	
District F	First Business District
District G	Second Business District
District H	Industrial District
District J	Third Business District
District J-1	Fourth Business District
District K	Fifth Business District
MVSOD	Motor Vehicles Sales Overlay District

USE	District						
	F	G	H	J	J-1	K	MVSOD
Adult entertainment.			SUP				
Agriculture.	P	P	P	P	P	P	
Apparel manufacturing.			PC <sup>(1)</sup>				
Art gallery.	P	P		P	P	P	
Assembling.				PC <sup>(2)</sup>	PC <sup>(2)</sup>	PC <sup>(2)</sup>	
Auto body shop.		SUP					
Automobile repair shop.			PC <sup>(3)</sup>				
Bail bond service.			SUP				
Bakery (industrial).			PC <sup>(4)</sup>				
Bank, financial, and insurance service institution.	P	P		P	P	P	
Barber, beauty store, or salon.	P	P		P	P	P	

Bar/club.	SUP	SUP	SUP	SUP	SUP	SUP	
Beer and wine sales.	SUP	SUP	SUP	SUP	SUP	SUP	
Bookstore.	P	P		P	P	P	
Brew pub.	SUP	SUP	SUP	SUP	SUP	SUP	
Broadcasting Studio.				P	P	P	
Building contractor and related activities.			P				
Building materials, sales, and storage.			P			P	
Cafe and cafeteria.	P	P		P	P	P	
Cannabidiol shop (CBD shop).					P		
Carwash.		SUP	SUP				
Cell phone and computer repair business.			SUP				

Child day-care operation (licensed child-care centers and school-age program centers).	SUP	SUP				SUP	
Cigar shop/lounge.	SUP			SUP	SUP		
City of Jersey Village: water supply reservoirs, filter beds, towers, surface or below surface tanks, artesian wells, water pumping plants and water wells.	P	P		P	P	P	
Cleaners (clothing), tailor, and retail laundry.	P	P		P	P	P	
Clinic.		P		P	P	P	
Clothing boutique.	P	P		P	P	P	
Cold storage plant.			P				
Commercial vehicle repair shop.			PC <sup>(5)</sup>				
Concrete product manufacturer.			SUP				

Credit access business.			SUP				
Customarily incidental use.	PC (6)						
Dancing studio, exercise class, and martial arts facility.	P	P		P	P	P	
Department store.	P	P		P	P	P	
Distribution and warehousing.			P	P	P	P	
Driving range.	SUP			SUP	SUP	SUP	
Drug store and pharmacy.	SUP	SUP		SUP	SUP	SUP	
Dry cleaning and laundry plant (industrial).			SUP				
Educational institution, services, and learning center.	P	P		P	P	P	
Farm implement machinery sales and storage.			P				
Farmers market.	P	P	P	P	P	P	

Florist and flower shop.	P	P		P	P	P	
Food processing and packaging, with the exception of slaughtering.			SUP				
Food truck park.				P			
Furniture manufacturing.			PC (7)				
Garage, public.	P	P		P	P	P	
Gasoline filling station.	PC (8)						
General retail.	P	P		P	P	P	
Golf course and country club.	SUP			SUP	SUP	SUP	
Grocery store.	P		P	P	P	P	
Hardware store.		P	P	P	P	P	
Head/smoke shop.			SUP				
Health club.	P			P	P	P	

Heating, plumbing and air conditioning, sale, and repair.			PC <sup>(9)</sup>				
Home good store.	P	P		P	P	P	
Hookah bar/lounge.			SUP				
Hospital.	P	P		P	P	P	
Hotel and motel.	P	P		P	P	P	
Instrument and meter manufacturing.			PC				
Jewelry and watch manufacturing.			SUP				
Junk or salvage yard.			SUP				
Library and museum.	P	P		P	P	P	
Liquor store (excluding drive-up or pick-up services).	SUP	SUP	SUP	SUP	SUP	SUP	
Machining.			PC <sup>(10)</sup>				

Manufacture of printed material.			PC <sup>(11)</sup>	PC <sup>(11)</sup>	PC <sup>(11)</sup>	PC <sup>(11)</sup>	
Massage establishment.	SUP						
Medical and dental office.	P	P		P	P	P	
Medical research and development.			SUP				
Mini-storage lot.			SUP				
Mini-storage facility.			SUP			SUP	
Miniature golf course.	P	P	P	P	P	P	
Motor vehicle sales.							PC <sup>(12)</sup>
Multi-family housing for senior citizens.		SUP					
Multi-purpose entertainment complex.	P	P	P	P	P	P	
Municipal and governmental buildings, police stations and fire stations.	P	P	P	P	P	P	

Musical instrument shop and supply store.	P	P		P	P	P	
Nursing care center.				SUP	SUP	SUP	
Office supply store.	P	P		P	P	P	
Oil, gas, and minerals; extraction, production, drilling operations, etc.			PC <sup>(13)</sup>				
Optical goods manufacturing.			PC <sup>(14)</sup>				
Parking lot.	SUP	SUP	SUP	SUP	SUP	SUP	
Pawnshop.					P		
Permanent produce market.			SUP				
Pet and pet supply store.	P	P		P	P	P	
Place of worship.	P	P		P	P	P	
Plant nursery.			P			P	
Pool supply store.	P	P		P	P	P	

Precious metal dealer.			SUP				
Professional office and business office.	P	P	P	P	P	P	
Professional and technical services.	P	P	P	P	P	P	
Public park and playground, public recreational facility, and community building.	P	P		P	P	P	
Railroad and related facilities.			P				
Real estate, rental, and leasing office.	P	P		P	P	P	
Restaurant and delicatessen.	P	P		P	P	P	
Scientific research and development.			P	P	P	P	
Sheet metal processing.			PC <sup>(15)</sup>				
Short-term rental.		P					
Sign and architectural graphic manufacturing.			PC <sup>(16)</sup>	PC <sup>(16)</sup>	PC <sup>(16)</sup>	PC <sup>(16)</sup>	

Specialty food store.	P	P		P	P	P	
Sporting good sales.	PC <sup>(17)</sup>	PC <sup>(17)</sup>		PC <sup>(17)</sup>	PC <sup>(17)</sup>	PC <sup>(17)</sup>	
Stadium	SUP	SUP	SUP	SUP	SUP	SUP	
Tattoo parlor and body modification shop.			SUP				
Telecommunication tower.		SUP	P				
Telephone switching facility.	SUP	SUP				SUP	
Temporary building.			PC <sup>(18)</sup>				
Theater.	P	P		P	P	P	
Truck terminal.			SUP				
Utility substation and power lines.	PC <sup>(19)</sup>		PC <sup>(19)</sup>	PC <sup>(19)</sup>	PC <sup>(19)</sup>	PC <sup>(19)</sup>	
Veterinarian services.	SUP	SUP		SUP	SUP	SUP	
Wholesale or warehousing.		P	P	P	P	P	
Wine tasting room/facility.	P	P		P	P	P	

Woodworking shop, artisanal.			PC <sup>(20)</sup>				
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(b) *Table 14-105(B)*. Commercial conditional uses.

#	Conditional Uses	Zoning District	Conditions
1	Apparel manufacturing.	H	Maintenance, fabrication and repair of equipment or machinery and manufacturing, processing and assembly of materials, products and goods shall be performed only on a paved area located within the building lines of a lot, whether within or outside of a building.
2	Assembling.	J, J-1, K	Maintenance, fabrication and repair of equipment or machinery and manufacturing, processing and assembly of materials, products and goods shall be performed only on a paved area located within the building lines of a lot, whether within or outside of a building.

3	Automobile repair shop.	H	Maintenance, fabrication and repair of equipment or machinery and manufacturing, processing and assembly of materials, products and goods shall be performed only on a paved area located within the building lines of a lot, whether within or outside of a building.
4	Bakery (industrial).	H	Provided that such use be not so obnoxious or offensive as to be reasonably calculated to disturb persons of ordinary temper, sensibilities and disposition by reason of emission of odor, gases, and/or fumes.
5	Commercial vehicle repair shop.	H	Maintenance, fabrication and repair of equipment or machinery and manufacturing, processing and assembly of materials, products and goods shall be performed only on a paved area located within the building lines of a lot, whether within or outside of a building.

6	Customarily incidental use.	F, G, H, J, J-1, K	Must be customarily incidental to a permitted principal use located on the same building site and listed in Table <u>14-105(A)</u> , provided that such use is not so obnoxious or offensive as to be reasonably calculated to disturb persons of ordinary temper, sensibilities, and disposition by reason of vibration, noise, view or the emission of odor, dust, smoke, or pollution of any kind.
7	Furniture manufacturing.	H	Maintenance, fabrication and repair of equipment or machinery and manufacturing, processing and assembly of materials, products and goods shall be performed only on a paved area located within the building lines of a lot, whether within or outside of a building.
8	Gasoline filling station.	F, G, H, J, J-1, K	Must have a minimum separation distance of 3,000 feet measured from property line to property line from any currently existing gasoline filling station. Provided that all storage tanks for gasoline shall be below the surface of the ground.

9	Heating, plumbing and air conditioning, sales, and repair.	H	Maintenance, fabrication and repair of equipment or machinery and manufacturing, processing and assembly of materials, products and goods shall be performed only on a paved area located within the building lines of a lot, whether within or outside of a building.
10	Machining.	H	Maintenance, fabrication and repair of equipment or machinery and manufacturing, processing and assembly of materials, products and goods shall be performed only on a paved area located within the building lines of a lot, whether within or outside of a building.
11	Manufacture of printed material.	H, J, J-1, K	Maintenance, fabrication and repair of equipment or machinery and manufacturing, processing and assembly of materials, products and goods shall be performed only on a paved area located within the building lines of a lot, whether within or outside of a building.

12	Motor vehicle sales	MVSOD	Vehicles held for sales, lease, or rental in any business or industrial district shall not be parked or stored on unpaved surfaces.
13	Oil, gas, and minerals; extraction, production, drilling operations, etc.	H	No oil, gas or other mineral exploration, production or drilling operations for minerals of any kind shall be conducted on any lot or parcel of land within the city except in zoning district H
14	Optical goods manufacturing.	H	Maintenance, fabrication and repair of equipment or machinery and manufacturing, processing and assembly of materials, products and goods shall be performed only on a paved area located within the building lines of a lot, whether within or outside of a building.
15	Sheet metal processing.	H	Maintenance, fabrication and repair of equipment or machinery and manufacturing, processing and assembly of materials, products and goods shall be performed only on a paved area located within the building lines of a lot, whether within or outside of a building.

16	Sign and architectural graphic manufacturing.	H, J, J-1, K	Maintenance, fabrication and repair of equipment or machinery and manufacturing, processing and assembly of materials, products and goods shall be performed only on a paved area located within the building lines of a lot, whether within or outside of a building.
17	Sporting good sales.	F, G, J, J-1, K	Sporting goods sales, not including boats, boat motors, mopeds, recreational vehicles, ATVs, golf carts, motorcycles, or motor bikes.
18	Temporary building.	H	Must be incidental to the construction of buildings permitted in the district and which shall be removed when work is complete.
19	Utility substation and power lines.	F, H, J, J-1, K	Provided that any such accessory use shall not be so obnoxious or offensive as to be reasonably calculated to disturb persons of ordinary temper, sensibilities, and disposition by reason of vibrations, noise, view or the emission of odor, dust, smoke or pollution of any other kind.

20	Woodworking shop, artisanal.	H	Maintenance, fabrication and repair of equipment or machinery and manufacturing, processing and assembly of materials, products and goods shall be performed only on a paved area located within the building lines of a lot, whether within or outside of a building.
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(Ord. No. 2023-13, § 5, 5-17-2023)

**Editor's note**— Ord. No 2023, §§ 5, 6, adopted May 17, 2023, renumbered the former § 14-105 as § 14-106 and enacted a new § 14-105 as set out herein. The historical notation has been retained with the amended provisions for reference purposes.



**CITY OF JERSEY VILLAGE - BOARD OF ADJUSTMENT  
ORDER NO. 2024-01**

**WHEREAS**, on December 13, 2024, QT South, LLC, filed on behalf of owners Garfield Edmonds and Edmonds Company, a request for variance to the Jersey Village Code of Ordinance at Chapter 14, Article IV, Division 2, Section 14-105, the Commercial Permitted Use and Conditional Use Table, to allow a gasoline filling station to be located in District H on a 6.150 acre tract of land conveyed in/under Harris County Clerk's File Nos. T303407 and 20120273382 and also identified as the properties located at 11518 FM 529 and 0 FM 529 (Corner of Jones and FM 529), which exceeds the minimum separation distance of 3,000 feet measured from property line to property line from any currently existing gasoline filling station.

**WHEREAS**, the Board conducted a Public Hearing and received information from the Public and from the Applicant on January 30, 2024; and

**WHEREAS**, after closing the hearing, the Board in making its decision on the variance request considered:

- if the request for variance is contrary to the public’s interest;
- if, due to special conditions, enforcement of Chapter 14, Article IV, Division 2, Section 14-105 will result in an unnecessary hardship for QT South, LLC; and
- that in granting the variance, the spirit of this chapter will be upheld and observed;

**NOW THEREFORE, BE IT ORDERED BY THE BOARD OF ADJUSTMENT OF THE CITY OF JERSEY VILLAGE THAT:**

**SECTION 1.** In consideration of the information before the Board, with a concurring vote of at least four (4) members, the Board voted to        GRANT        DENY the request of QT South, LLC, filed on behalf of owners Garfield Edmonds and Edmonds Company, for variance to the Jersey Village Code of Ordinance at Chapter 14, Article IV, Division 2, Section 14-105, the Commercial Permitted Use and Conditional Use Table, to allow a gasoline filling station to be located in District H on a 6.150 acre tract of land conveyed in/under Harris County Clerk's File Nos. T303407 and 20120273382 and also identified as the properties located at 11518 FM 529 and 0 FM 529 (Corner of Jones and FM 529), which exceeds the minimum separation distance of 3,000 feet measured from property line to property line from any currently existing gasoline filling station.

**PASSED, APPROVED, AND ORDERED** this 30th day of January 2024.

\_\_\_\_\_  
Andrew Mitcham, Chairman

**ATTEST:**

\_\_\_\_\_  
Lorri Coody, City Secretary



**BOARD OF ADJUSTMENT MEETING PACKET FOR THE MEETING TO BE HELD ON JANUARY 30, 2024**

**BOARD OF ADJUSTMENT  
CITY OF JERSEY VILLAGE, TEXAS  
AGENDA REQUEST**

**AGENDA DATE:** January 30, 2024

**AGENDA ITEM:** F

**AGENDA SUBJECT:** Consider amendments to the Rules of Procedure for the Board of Adjustment of the City of Jersey Village, Texas.

**Dept./Prepared By:** Lorri Coody, City Secretary **Date Submitted:** January 5, 2024

**EXHIBITS:** Rules of Procedure as amended on December 13, 2023  
Information from Other Cities and Proposed New Form

**BACKGROUND INFORMATION:**

On December 13, 2023, the Board amended its Rules of Procedures to incorporate changes made by City Council regarding the appointment of a Board Chair and Vice Chair.

During the discussions had on December 13, 2023, regarding amendments to the Board's Rules of Procedures, the Board considered adding additional requirements pertaining to variance requests concerning the grounds for unnecessary hardships as outlined in Texas Local Government Code (LGC) Section 211.009(b-1). This section of the LGC states that the Board MAY consider these additional unnecessary hardship requirements when making rulings on variance requests. These additional requirements include the following:

- (1) the financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under Section 26.01, Tax Code;
- (2) compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development may physically occur;
- (3) compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement;
- (4) compliance would result in the unreasonable encroachment on an adjacent property or easement; or
- (5) the municipality considers the structure to be a nonconforming structure.

After discussing these additional unnecessary hardship requirements, the Board directed Staff to investigate what surrounding cities are doing in connection with the additional requirements, to include how, if being used, these additional requirements are included in the application form.

The information gathered by Staff is included in the meeting packet as an attachment to this item.

**RECOMMENDED ACTION:**

**MOTION:** To approve amendments to the Rules of Procedure for the Board of Adjustment of the City of Jersey Village, Texas.

**BOARD OF ADJUSTMENT MEETING PACKET FOR THE MEETING TO BE HELD ON JANUARY 30, 2024**

**RULES OF PROCEDURE OF THE BOARD OF ADJUSTMENT  
OF THE CITY OF JERSEY VILLAGE, TEXAS**

**Whereas**, Texas Local Government Code Section 211.008(e) provides that the Board of Adjustment (the “Board”), by majority vote, shall adopt rules in accordance with any ordinance adopted under Chapter 211, and with the approval of City Council; and

**Whereas**, Texas Local Government Code Sections 211.008-211.011 provide for the appointment of the Board, the authority of the Board, the appeal to the Board, and the judicial review of Board decisions; and

**Whereas**, the City Council has adopted ordinances codified, in part as Jersey Village Code of Ordinances (“Code”) Sec. 14-22, providing for the Board; and

**Whereas**, these rules are intended to complement and supplement the applicable state law and city ordinances regarding the Board; **NOW THEREFORE**,

**BE IT ORDERED BY THE BOARD OF ADJUSTMENT OF THE CITY OF JERSEY VILLAGE, TEXAS:**

**I. ORGANIZATION AND OFFICERS**

101. Organization

The Board of Adjustment (the “Board”) shall consist of at least five (5) regular members and two (2) alternate members as appointed by the City Council of the City of Jersey Village, Texas (the “City”), and shall be organized and shall exist under and pursuant to the laws of the State of Texas and the ordinances of the City of Jersey Village. Code Sec. 14-22.

102. Officers

The city council shall appoint a chairperson and vice-chairperson after the September appointments who shall serve for a period of one year. If at any meeting of four (4) or more members of the Board neither the Chairman nor the Vice-Chairman is present, then those Board’s members present shall elect one of their number to be Chairman for conducting the meeting as provided herein. Code Sec. 14-22.

103. Duties

- A. The Chairman, or in the Chairman’s absence the Vice-Chairman, shall preside at all meetings, shall decide all points of order or procedure, and as necessary shall administer oaths and compel attendance of witnesses.
- B. The City Secretary or the City Secretary’s designee shall be the ex-officio (non-voting) Secretary of the Board, and shall keep minutes, books, files and other

records of the board and perform such other duties as are incidental to the office, and shall cause to be given such notices as are required in the manner prescribed by state law and the City’s ordinances. Code Sec. 14-22(b).

104. Alternate Members.

The selection order for alternate service shall be determined by the alternate position number, with Alternate 1 serving for the first absence and so on. Alternate members of the Board may also serve in the absence of a regular member when requested to do so by the Mayor or the City Manager. Alternate members are authorized to attend meetings when not serving in the place of a regular member, but shall not have a vote during those meetings. Code Sec. 14-22.

**II. MEETINGS**

201. Quorum

A quorum to conduct business, including to consider an appeal, request for variance or request for special exception, shall consist of four (4) voting members. Code Sec. 14-22(b).

202. Agenda

An agenda for each meeting of the Board shall be prepared by the City Secretary and/or Zoning Official. The agenda shall describe the matters scheduled for consideration by the Board, which may include, but not be limited to, appeals, requests for special exceptions, requests for variances, other matters for which the Board is required to act under the City’s ordinances, and matters pending that require further action by the Board.

203. Meetings

The Board shall meet the third Wednesday of each month if any busy is pending, or as necessary for any purpose on the call of the Chairman, the City’s Zoning Official, the City Manager or the Mayor.

204. Public Meetings

All meetings shall be held in full compliance with the provisions of State law, the ordinances of the City, and these Rules of Procedure. All meetings of the Board shall be open to the public, except where the holding of a closed meeting is authorized under state law. The City Secretary shall post or publish notice of each meeting as required by the state law and the City’s ordinances or as otherwise directed by the Board.

205. Appearance by counsel

Any party in interest may appear in his own behalf or be represented by an agent and/or counsel.

**III. OFFICIAL RECORDS**

301. Definitions

(a) The official records of the Board shall include these Rules of Procedure and the minutes of the Board, together with all appeal and application forms and documentation submitted either in favor or against a request findings, decisions, and other official actions. Notes taken by individual Board members for their personal use, and not filed with the City Secretary, are not official records of the Board.

(b) Zoning Official shall mean the administrative official of the City that makes an administrative decision under the City's zoning ordinances, and includes the City Manager, the City building official, the City's director of public works, or any other administrative official, department, board or bureau of the City that makes an administrative decision under the City's zoning ordinances.

(c) Zoning Ordinance shall mean the ordinances of the City adopted under authority of Chapter 211 of the Texas Local Government Code, including the City's zoning regulations and the City's zoning boundaries.

302. Recording of Vote

The minutes of the Board's proceedings shall show the vote of each member present on each decision of the Board, or if a member is absent or fails to vote shall indicate that fact.

303. Files - Retention

Records of all matters coming before the Board shall be filed in the records of the Board. Original papers shall be retained in accordance with the City's applicable records retention schedules.

304. Public Record

Records of the Board shall be kept on file in the City's offices and shall be made available for public inspection in accordance with applicable open records laws.

#### IV. MATTERS FOR CONSIDERATION AND PROCEDURES

##### 401. Authority of Board

In accordance with § 211.009 and 211.010, TEXAS LOCAL GOVERNMENT CODE, as amended, and the Zoning Code, the Board may:

- A. hear and decide appeals that allege error in an order, requirement, decision, or determination by the City's Zoning Official in the enforcement of the Zoning Ordinance (see Appendix A);
- B. hear and decide requests for special exceptions as may be provided in the Zoning Ordinance when the Zoning Ordinance authorizes the Board to do so (see Appendix B);
- C. authorize variances from the terms of the Zoning Ordinance, as will not be contrary to public interest, and where, owing to special conditions, a literal enforcement of the provisions of the Zoning Ordinance will result in unnecessary hardship, and so that the spirit of such Ordinance is observed and substantial justice is done (see Appendix C); and
- D. hear and decide other matters authorized by the City's Ordinances.

##### 402. Refusal Required

A request for consideration by the Board of an appeal, the granting of a special exception, or the granting of a variance, shall be filed on the appropriate form(s) provided by the City, shall be accompanied by the prescribed fee, and shall be complete in all respects before being accepted for filing. The appeal or application shall bear the signature of the owner of the affected property or, if signed by someone other than the owner, accompanied by an acknowledged power of attorney authorizing the applicant to file on behalf of the owner. Appeals from a decision, order, requirement, or determination of the Zoning Official shall be signed by the person making the appeal. An incomplete appeal or application, or a communication purporting to be an application and not made in the form prescribed, shall be regarded only as a notice of intent to apply, and shall not be considered or acted upon by the Board. If an agent is to speak for an appellant or applicant on a matter before the Board in the absence of the appellant or applicant, a notarized letter of designation must be included with the appeal or application.

##### 403. Guidelines for Appeal/Application and Decision

An appeal or application shall be considered by the Board according to the guidelines contained in the Appendices hereto for the matter under consideration. A single request may combine an appeal and one or more applications for variances or special exceptions if they all relate to a single property.

404. Appeal Filing Deadline; Appeal Hearing Schedule

a. Filing Deadline. An appeal of a decision made by an administrative official of the City shall be filed within a reasonable time after the date of such decision that is the subject of the appeal; provided, further, any such appeal must be filed not later than the 20th day after the date the administrative decision is made. Every appeal shall be filed with the City Secretary of the City.

b. Hearing Schedule. The Board will schedule a hearing on the appeal as soon as practicable following the submission of an appeal or application for hearing. No appeal is complete until all applicable fees have been paid. No public hearing shall be held until public notice has been provided. The Board shall decide the appeal at the next meeting for which notice can be provided following the hearing and not later than the 60th day after the date the appeal is filed.

405. City Secretary authorized to reject incomplete forms.

The City Secretary is authorized to act for the Board to reject any appeal or application that is: a) not filed by the applicable deadline; b) not substantially complete, or c) that is not accompanied by the required fee. An appellant or applicant who believes that his or her appeal or application was wrongfully rejected may appeal the City Secretary's decision to the Board by filing a written notice of appeal with the City Secretary who shall place the matter on the agenda for the next meeting of the Board.

406. Notice

Public notice of all meetings of the Board shall be given as prescribed in the Texas Open Meetings Act. All notices shall be made in accordance with applicable state law and the applicable Zoning Ordinance provisions. All notices shall identify the applicant, the location of the property in issue, the nature of the application, and the applicable Zoning Ordinance provisions. The Board may, on motion by an affected party or on its own, determine due notice to the parties in interest. The City Secretary shall provide notice of each meeting as required by state law and the City's ordinances. Tex.Gov't Code Chapter 551; Tex.Loc.Gov't Code Sec. 211.010; Code Sec. 14-10.

407. Submission of Evidence

Evidence relating to any matter before the Board shall be submitted only to the Board in public meeting.

408. Withdrawal

Any request for Board action may be withdrawn upon written notice to the City Secretary; but no request shall be withdrawn after the giving of public notice and prior to Board action thereon without formal consent of the Board.

409. Appeal or Application After Board Denial

No appeal or application that has been denied shall be further considered in a new proceeding unless there has been a material change in conditions or unless substantial new evidence becomes available.

**V. HEARINGS AND DECISIONS**

501. Public Hearings

Hearings on all matters on which a decision of the Board is required by law or by the Zoning Ordinance shall be open to the public. The appellant or applicant may appear in appellant or applicant's own behalf or may be represented by an agent and/or counsel.

502. Order of Business

The Chairman shall call the Board to order and the Secretary shall record the members present and absent. The Chairman shall publicly advise those present of the procedures to be followed in the hearing and the disposition of applications; the Chairman shall call each matter in the order in which it was filed, and shall announce the name of the applicant, the location of the property involved, and the nature of the request. Supporting evidence for and against each case shall be presented to the Board. Each case may be taken under advisement until all have been heard.

503. Procedure for Hearing

- A. The Chairman shall first call upon the appellant/applicant to present the appellant/applicant's case and all evidence supporting the appellant/applicant's plea. The Chairman shall then inquire of the appellant/applicant if there are others affected who support the appeal/application.
- B. The Chairman shall next call on the Zoning Official to present any information that the Zoning Official deems necessary or appropriate relative to the appeal/application.
- C. The Chairman shall next call on those opposed to the granting of the appeal/application to present their evidence and arguments. The appellant/applicant shall then have the right of rebuttal. Following rebuttal, the Chairman shall order the hearing closed.
- D. Each side shall proceed without interruption by the other, and all arguments and pleadings shall be addressed to the Chairman. No questioning or arguments between individuals appearing before the Board will be permitted.

- E. The Board may elect to continue a hearing on any matter for which the appellant/applicant fails to appear unless the appellant/applicant has requested that the Board act without the appellant/applicant being present at the hearing; provided, however, the Board shall hear those persons appearing in response to the notice of such hearing.

504. Board's Questions

The Board may direct any question to the appellant/applicant, or to any person speaking on the appeal/application, in order to bring out all relevant facts, circumstances, and conditions affecting the appeal/application, and the Chairman shall call for questions from other members of the Board and from the staff before closing the hearing on each appeal/application.

505. Decision

After each appeal/application has been heard, and the public hearing closed, it shall be reviewed and acted upon. For an appeal, the Board may reverse or affirm, in whole or in part, or modify the administrative official's order or decision from which the appeal is taken, and make the correct order or decision. For a special exception or variance, the Board may grant, may grant conditional approval, may grant with modifications, or may deny an application. The Board may also defer action on any matter whenever it concludes that additional evidence is needed or that alternate solutions need further study. An appeal or application may be dismissed when the Board finds that it has been improperly filed or upon notification by the Zoning Official that a permit has been issued which negates the appeal or application.

506. Vote Required

The concurring vote of four (4) members shall be necessary to grant, or to grant conditionally, any matter requested of the Board. When a motion in favor of an applicant fails to receive four (4) affirmative votes, the Secretary shall record that fact and shall note in the minutes of the Board that the appeal or request has been denied.

507. Procedures applicable to formal proceedings.

The following additional procedures shall be applicable in all appeals and applications where: 1) one or more persons, other than the appellant/applicant or Zoning Official, are admitted as formal parties; and 2) in appeals from decisions of the Zoning Official, where the appellant specifically requests that these procedures be followed.

- A. The appellant/applicant shall be given the right to open and close the evidence.
- B. The appellant/applicant may, at its sole election, permit City staff to present its recommendation on the matter during the appellant/applicant's opening. Otherwise, the staff shall present its recommendation, if any, after the appellant/applicant and any other parties have completed their presentations.

- C. If one or more of the parties file a written request for the right to cross examine witnesses, all witness testimony shall be submitted in question and answer form, and all parties shall have the right to cross-examine any witnesses whose testimony is adverse to that party's position.
- D. Members of the Board may question any witness or party, regardless of whether the witness testimony is presented in question and answer form.
- E. Any written or physical evidence offered by the parties or by City staff shall be submitted through the Chairman or the Secretary to the Board during a public meeting. Strict rules of evidence shall not be followed with regard to physical or written evidence, but the Board may allow any party or the Zoning Official to point out questions of authenticity, reliability, relevance, bias, prejudice, etc.

## VI. CERTIFICATION AND AMENDMENTS

### 601. Certified Copy

A certified copy of these Rules of Procedure and any amendments hereto shall be placed on record in the office of the City Secretary.

### 602. Repealing Clause

All previously adopted rules and regulations of the Board shall be, and the same are hereby, expressly repealed.

### 603. Amendment Procedure

Amendments to these Rules of Procedure may be made only by action by the Board.

### 604. Effective Date.

These rules shall become effective upon approval by the City Council.

**APPENDIX “A”**  
**TO BOARD OF ADJUSTMENT RULES OF PROCEDURE**

INTERPRETATION APPEALS

A-1. Interpretation: Basis for Filing

Whenever it is alleged that there is an error in any determination interpreting or applying the requirements of the Zoning Ordinance by the Zoning Official, an appeal of such determination may be filed with the Board.

A-2. Interpretation: Papers Required

An appeal shall include:

1. a statement by the applicant describing the way it is alleged the Zoning Ordinance should be interpreted, together with diagrams and charts illustrating the erroneous and the proper application of the map or text provisions; and
2. a statement by the Zoning Official giving the reasons for the Zoning Official's interpretation of the Zoning Ordinance.

A-3. Interpretation: Basis for Action

1. Before acting on an appeal for interpretation, the Board shall consider:
  - a. the facts and statements filed in the application;
  - b. the testimony presented at the public hearing;
  - c. the City staff's report on the appeal; and
  - d. the Board's independent investigation of the language of the Zoning Ordinance and of related ordinances having a bearing thereon.
2. The Board shall make an interpretation after finding that the following conditions exist:
  - a. the interpretation is in conformity with the spirit and intent of the Zoning Ordinance; and
  - b. the resulting interpretation will not grant a special privilege to one property inconsistent with other properties or uses similarly situated.

**APPENDIX “B”**  
**TO BOARD OF ADJUSTMENT RULES OF PROCEDURE**

SPECIAL EXCEPTIONS

B-1. Special Exception: Basis for Filing

Whenever an applicant wishes to develop property pursuant to a special exception as provided in the Zoning Ordinance, an application for a special exception shall be approved by the Board before the Zoning Official shall issue a permit for the proposed construction or use.

B-2. Special Exception: Papers Required

An application for a special exception shall include:

1. a site plan, drawn to scale, showing all lot dimensions, and the location and dimensions of all existing and proposed lot improvements;
2. a statement by the Zoning Official citing the reason a special exception is required; and
3. a statement by the applicant describing the manner in which all conditions prescribed by the Zoning Ordinance and by these Rules will be met.

B-3. Special Exception: Basis for Action

1. Before acting on the application, the Board shall consider:
  - a. the facts filed with the application;
  - b. the testimony presented at the public hearing;
  - c. the City staff’s report on the application; and
  - d. when appropriate, the observations of individual Board members’ field inspections of the property.
2. The Board may grant the application provided the applicant has demonstrated, to the satisfaction of the Board, that:
  - a. all conditions enumerated in the Zoning Ordinance for the requested special exception exist; and
  - b. the granting of the exception will further the objectives, spirit, and intent of the Zoning Ordinance.

**APPENDIX “C”**  
**TO BOARD OF ADJUSTMENT RULES OF PROCEDURE**

VARIANCES

C-1. Variance: Basis for Filing

Whenever, owing to exceptional and extraordinary conditions, the literal enforcement of the provisions of the Zoning Ordinance will result in unnecessary hardship to the applicant in the use or development of his property, a request for a variance may be filed with the Board. Code Sec. 14-9(b) (The board of adjustment may authorize in specific cases a variance from the terms of chapter 14 other than the platting and subdivision requirements of article III, the public easement requirements of article VI, the public utility requirements of article VIII, the storm drainage requirements of article IX and the driveway requirements of article XI. The board may not authorize a variance unless it finds, in writing, after a hearing, that the variance is not contrary to the public interest, that, due to special conditions, a literal enforcement of Chapter 14’s provisions would result in unnecessary hardship, and that in granting the variance, the spirit of Chapter 14 will be observed and substantial justice will be done).

C-2. Variance: Papers Required

A request for variance shall include:

1. a SITE PLAN drawn to scale, showing the location and dimensions of the lot, all existing and proposed improvements; and all structures located adjacent and contiguous to the lot for which the variance(s) is requested;
2. a STATEMENT OF FACTS AND REASONS why a literal enforcement of the Zoning Ordinance should not be applied to the property in question and how the standards governing the Board’s actions would be satisfied; and
3. a description of the specific variance requested, either in narrative form or by depiction on a drawing and/or photograph, and in such detail as to inform Board members of the exact nature of the prohibited conduct for which the variance is being sought.

C-3. Variance: Basis for Action

1. Before acting on a request for variance, the Board shall consider:
  - a. the facts filed with the application;
  - b. the testimony presented at the public hearing on the application;
  - c. the City staff’s report on the appeal; and
  - d. the observations of individual Board members’ field inspections of the property.
2. The Board may grant the requested variance, subject to such terms and conditions as it may impose, provided the applicant has demonstrated, to the satisfaction of the Board, that the conditions governing the granting of a variance as set forth in the Zoning Ordinance have been satisfied, and that the decision of the Board would further the spirit and intent of such Ordinance.

**BOARD OF ADJUSTMENT  
CITY OF JERSEY VILLAGE, TEXAS**

To: **Zoning Board of Adjustment**  
From: **TX BBG Consulting**  
Date: **January 30, 2024**  
Subject: **RE: Financial Considerations when determining Unnecessary Hardship**

During the last meeting of the Zoning Board of Adjustment (“the Board”) it was requested that a report be created to assist the Board in their efforts to adopt rules and procedures in accordance with the Local Government Code (“the LGC”). This memo will outline how the financial considerations for *Unnecessary Hardship*, as outlined in Section 211.009 of the LGC, have been integrated into the variance procedures of various Texas cities.

Upon reviewing the variance procedures established by other local Boards, it was observed that a significant number have not explicitly addressed or listed the financial considerations outlined in LGC §211.009 within their variance procedures. The majority of the cities analyzed during this report listed only the three historic criteria and remained silent on financial considerations. The historical criteria are as follows:

1. That the request has been determined to not be contrary to the public’s interest.
2. That due to special conditions, strict enforcement would result in an unnecessary hardship.
3. That by granting the variance, the spirit of the chapter would be upheld and observed.

In instances where financial considerations were acknowledged within a city’s variance procedures, there was typically accompanying language emphasizing that variance requests made solely or primarily on financial grounds were not deemed sufficient to demonstrate an unnecessary hardship.

**“A "special condition" or "hardship" that is self-created, personal or based only on financial reasons is not sufficient to support the issuance of a variance.”**

It is recommended that the Jersey Village Zoning Board of Adjustment consider incorporating similar language into its variance procedures, explicitly stating that while financial considerations can be taken into account by the Board when determining whether an *Unnecessary Hardship* is present, a request based solely or primarily on financial concerns is not sufficient to support the issuance of a variance. This approach aligns with the broader goal of maintaining the integrity of the city’s zoning regulations and ensuring that variances are granted judiciously.

Regards,

Joe Newton  
Senior Planner  
**TX BBG Consulting**

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**Flower Mound, TX**

**Sec. 78-85. Variances.**

- (a) *Authority of board.* The board of adjustment shall be authorized to permit such variances or modifications of the height, yard, area, coverage, sign and parking regulations as may be necessary to secure appropriate development of a parcel of land that differs from other parcels in the district by being of such restricted shape or slope that it cannot be appropriately developed without such modification.
- (b) *Required findings.* In exercising its power to grant a variance in accordance with subpart B of this Code, the board of adjustment shall make a finding and show in its minutes that:
  - (1) There are special circumstances existing on the property on which the application is made related to size, shape, area, topography, surrounding conditions and location that do not apply generally to other property in the same area and the same zoning district.
  - (2) A variance is necessary to permit the applicant the same rights in the use of this property that are presently enjoyed under subpart B of this Code by other properties in the vicinity and zone, but which rights are denied to the property on which the application is made.
  - (3) The granting of the variance on the specific property will not adversely affect the land use pattern as outlined by the master land use plan and will not adversely affect any other feature of the comprehensive master plan of the town.
  - (4) The variance, if granted, will be no material detriment to the public welfare or injury to the use, enjoyment or value of property in the vicinity.
- (c) *Structures.* In exercising its authority under subsection (b), the board may consider the following as grounds to determine whether compliance with the ordinance, as applied to a structure, would result in an unnecessary hardship regarding structures and buildings:
  - (1) The financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the town.
  - (2) Compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development may physically occur.
  - (3) Compliance would result in the structure not being in compliance with a requirement of this Code, building code, or other requirement.
  - (4) Compliance would result in the unreasonable encroachment on an adjacent property or easement.
  - (5) The municipality considers the structure to be a nonconforming structure per section 78-236.

(Code 1989, ch. 12, § 6.12; Ord. No. 43-21 , § 1, 10-4-2021)

**d. Criteria for Approval**

**Variances**

1. There are special circumstances or conditions arising from the physical surroundings, shape, topography or other feature affecting the land such that the strict application of the provisions of this Code to the proposed use would create an undue hardship or inequity upon or for the applicant, as distinguished from a mere inconvenience, in developing the land or deprive the applicant of the reasonable and beneficial use of the land;
2. The circumstances causing the hardship do not similarly affect all or most properties in the vicinity of the petitioner's land;
3. The variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner;
4. Granting the variance application will not be detrimental to the public health, safety or welfare, or injurious to other property within the area;
5. Granting the variance application 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 surrounding property;
6. The hardship or inequity suffered by petitioner is not caused wholly or in substantial part by the petitioner;
7. The request for a variance is not based exclusively on the applicant's desire for increased financial gain from the property, or to reduce an existing financial hardship; and
8. The degree of variance requested is the minimum amount necessary to meet the needs of applicant and to satisfy the standards.

No nonconforming use of neighboring lands, structures, or buildings in the same district and no permitted use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

SEC. 13.401 - VARIANCES FROM DEVELOPMENT STANDARDS

- A. **Generally.** The Zoning Board of Adjustment shall approve or deny variances from the zoning related development standards (such as height, bulk or area) of these regulations, but not from any subdivision related standards which are considered by the Planning Commission as alternative standards of compliance as provided in Article 6, Subdivision Design and Land Development.
- B. **Approval Standards.** The Board of Adjustment may grant a variance under this Section only if the variance is not prohibited by Section 12.401.C, and if the Zoning Board of Adjustment makes a determination in writing that all of the following are demonstrated:
1. The request for the variance is rooted in special conditions of the applicant's property that do not generally exist on other properties in the same zoning district.
  2. Due to said special conditions, the enforcement of the strict terms of these regulations would impose an unnecessary hardship on the applicant.
  3. The variance is not contrary to the public interest, in that:
    - a. It does not allow applicants to impair the application of these regulations for:
      - i. Self-imposed hardships;
      - ii. Hardships based solely on financial considerations, convenience, or inconvenience; or
      - iii. Conditions that are alleged to be "special" but that are actually common to many properties within the same zoning district.
    - b. The variance will not have a detrimental impact upon:
      - i. The current or future use of adjacent properties for purposes for which they are zoned;
      - ii. Public infrastructure or services; and
      - iii. Public health, safety, morals, and general welfare of the community.
  4. The degree of variance allowed from these regulations is the least that is necessary to grant relief from the identified unnecessary hardship.
  5. The variance shall not be used to circumvent other procedures and standards of these regulations that could be used for the same or comparable effect (e.g., if alternative development patterns, alternative development standards, or other flexible measures in these regulations are available that would avoid or mitigate hardship without using a variance, then they must be used).
  6. By granting the variance, the spirit of these regulations is observed and substantial justice is done.
  7. Should the Zoning Board of Adjustment approve a variance application that does not meet the approval standards established in this Section, the Planning Department shall notify the City Council within three days from the date the variance is approved.

( [Ord. No. 18-037, § 2, 6-21-18](#) )

**Sec. 106-192. Variance.**

- (a) *Application for variances.* All applications for a variance from the terms of this chapter shall be in writing and shall specify the facts involved, the relief desired, and the grounds thereof. Each such application shall be filed with the enforcement officer who after investigation shall transmit such application together with his report to the board of adjustment within ten days after the filing of the application with the enforcement officer.
- (b) *Findings of fact/definition of hardship.*
  - (1) The term "variance" shall mean a deviation from the literal provisions of this chapter which is granted by the board when strict conformity to this chapter would cause an unnecessary hardship because of the circumstances unique to the property on which the variance is granted.
  - (2) Except as otherwise prohibited, the board is empowered to authorize a variance from a requirement of this chapter when the board finds that all of the following conditions have been met:
    - a. That the granting of the variance will not be contrary to the public interest;
    - b. That literal enforcement of this chapter will result in unnecessary hardship because of exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional physical situation unique to the specific piece of property in question. "Unnecessary hardship" shall mean physical hardship relating to the property itself as distinguished from a hardship relating to convenience, financial considerations or caprice, and the hardship must not result from the applicant or property owner's own actions; and
    - c. That by granting the variance, the spirit of this chapter will be observed.
  - (3) The applicant shall have the burden of proving to the board that the foregoing conditions have been met.
- (c) *Use variance prohibited.* No variance shall be granted to permit a use in a zoning district in which that use is prohibited.
- (d) *Hearings on applications for variances.* The board of adjustment shall fix a reasonable time for the hearing of all applications for variances, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time, as specified in section 106-194 (Notice of public hearings before the board of adjustments). Upon the hearing any party may appear in person or by agent or by attorney.

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**Manvel, TX**

**Sec. 77-74. Variances.**

- (a) The zoning board of adjustment shall not grant a variance unless it shall, in each case, make specific written findings based directly upon the particular evidence presented to it which support written conclusions that:
  - (1) The granting of a variance is necessary to secure appropriate development of a parcel of land which differs from other parcels in the zone by being of such restricted area, shape or slope that it cannot be appropriately developed without modification;
  - (2) The granting of a variance will not be materially detrimental or injurious to other property or improvements in the neighborhood in which the subject property is located, nor impair an adequate supply of light or air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public health, safety and well-being, or substantially diminish or impair property values within the neighborhood; and
  - (3) The variance desired will not be contrary to the general purpose and intent of these regulations.
- (b) The board of adjustment may establish reasonable stipulations of approval or modifications to a plan proposed with a variance, in order to minimize the impact of the variance on surrounding property, preserve the character of the area or protect property in the area.

(Ord. No. 2020-O-15, § 4, 10-19-2020)

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**Missouri City, TX**

**Sec. 18.2. Powers.**

B. *Variances.*

1. The board of adjustment shall have the power to authorize upon appeal in specific cases such variance from the terms of this ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and substantial justice done. In granting such variance, the board of adjustment may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed violation of this ordinance. Under no circumstances shall the board of adjustment grant a variance to allow a use not permissible under the terms of this ordinance in the district involved, or any use, expressly or impliedly, prohibited by the terms of this ordinance in said district.
2. In exercising its authority under this subsection, the board may consider the following as grounds to determine whether compliance with the ordinance as applied to a structure that is the subject of the appeal would result in unnecessary hardship:
  - a. The financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under V.T.C.A., Tax Code § 26.01;
  - b. Compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development may physically occur;
  - c. Compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement;
  - d. Compliance would result in the unreasonable encroachment on an adjacent property or easement; or
  - e. The municipality considers the structure to be a nonconforming structure.

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**West University Place, TX**

**Sec. 18-20. Variances.**

- (a) *Generally.* The BSC has limited authority to issue variances from ordinances subject to its appellate authority or quasijudicial enforcement authority.
- (b) *Applications.* Any person who is restricted or regulated by a provision of the ordinance in question may apply for a variance. However, the application must either be signed by the owner of the property involved or must be accompanied by written proof that the person who does sign has specific authority from the owner to apply for the variance sought. Applications for variance must be made upon forms prescribed by the building official, must be complete, must be signed under oath, must be accompanied by the fee prescribed by the city and must be filed with the building official. The application must include the following:
  - (1) The particular requirement, cited by section and paragraph number, from which a variance is sought.
  - (2) The nature of the hardship imposed by the requirement.
  - (3) Any proposed condition, alternative method or procedure to be followed in lieu of the requirement.
  - (4) The effect of the requested variance, upon the city as a whole and upon nearby residents and properties.
  - (5) The estimated cost, in dollars, of complying with the requirement.
  - (6) Other items required by the building official or the BSC.
- (c) *Handling; notice.* The building official shall transmit applications to the BSC, which has sole authority to issue variances. If the building official determines that an application would possibly have a significant effect upon other properties or persons, the building official shall attempt to provide notice to such persons prior to the time when the BSC will consider the variance. Such notice may be given by publication, posting or mail, as the building official may determine.
- (d) *Permissive factors.* In considering a variance, the BSC may take the following into account:
  - (1) Whether the variance will assist in the protection or preservation of historic structure or in the protection or preservation of old stock housing (as such housing then exists or as it may be proposed to be remodeled or expanded).
  - (2) Whether the application involves remedial work necessary to bring a structure into compliance with applicable ordinances.
  - (3) Whether there are other similar circumstances in existence.
- (e) *Mandatory factors.* In considering a variance, the BSC shall take the following into account:
  - (1) Whether the applicant has made an earnest, good faith effort to comply with the requirement.
  - (2) Whether the applicant brought the matter to the attention of the city on his own motion, without intervention or enforcement action by any city official.
  - (3) Whether alternative methods or procedures will achieve the same, or substantially the same, result as literal compliance with the requirement.
- (f) *Required findings.* The BSC may not issue a variance unless it affirmatively finds all of the following:
  - (1) The imposition of the requirement imposes an exceptional hardship upon the applicant. It is the general intent of this section that financial cost, alone, would not ordinarily constitute an exceptional hardship.

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- (2) No reasonable and feasible method or procedure is currently available to comply with the requirement.
  - (3) The imposition of the requirement is unjustified because of good and sufficient cause demonstrated to the BSC.
  - (4) The variance will not introduce or increase any threat to public health or safety.
  - (5) The variance is consistent with the purpose and intent of the ordinance in question.
  - (6) The variance will not cause a nuisance and will not unreasonably interfere with the use of nearby property.
  - (7) The variance will not cause a fraud to be worked upon the public or any individual.
  - (8) The variance will not cause an increase in public expenditures or budgets.
  - (9) The variance will not create an irreconcilable conflict with any other ordinance, law, rule or regulation.
- (g) *Form of variances; conditions; recordation.* No variance is effective unless it is in writing and signed by the duly authorized officers of the BSC. The BSC may impose restrictions or conditions upon any variance and may require that notice of a variance be recorded in the real property records of the county, at the expense of the applicant.
- (h) *Effect of variance.* Variances do not create any property right or vested right. Variances remain subject to the regulatory control of the city. When a variance has been issued, the building official may not deny a permit because of noncompliance with the requirement affected by the variance, provided that all conditions are complied with. It shall be an affirmative defense, in any proceeding to enforce the requirement, that a variance was issued to authorize the conduct in question, that the variance has not been modified or revoked and that all applicable conditions have been fully observed and complied with.
- (i) *Revocation; modification.* The BSC may revoke or modify any variance previously issued, provided that a good faith attempt is first made to notify the person who applied for the variance.

(Code 2003, § 6.206; Ord. No. 1798, § 1(ex. A), 5-23-2005; Ord. No. 1872, § 1(ex. A), 4-28-2008)

# CITY OF JERSEY VILLAGE

## Application for Request for Variance

- \$500.00 non-refundable fee due upon submission for Districts A and C.
- \$1,000.00 non-refundable fee due upon submission for all district except A and C.

### PROPERTY INFORMATION:

ADDRESS: \_\_\_\_\_

LEGAL DESCRIPTION: \_\_\_\_\_

LOT: \_\_\_\_\_

BLOCK: \_\_\_\_\_

SUBDIVISION: \_\_\_\_\_

### APPLICANT INFORMATION:

(If different than owner, application must be accompanied by an Appointment of Agent Affidavit)

APPLICANT: \_\_\_\_\_

PHONE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_

STATE: \_\_\_\_\_

ZIP: \_\_\_\_\_

### OWNER INFORMATION:

PROPERTY OWNER: \_\_\_\_\_

PHONE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_

STATE: \_\_\_\_\_

ZIP: \_\_\_\_\_

List the exact Section from the Zoning Ordinance from which a Variance is requested:

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Describe the existing standard or regulations from which a Variance(s) is requested:

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Specifically state the exact wording of the Variance(s) requested:

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- 1) What special conditions or circumstances apply to the applicant’s property which are not generally applicable to other properties in the same zoning district?

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- 2) Describe how a strict enforcement of the applicable provisions of the Code would result in an *Unnecessary Hardship* being imposed on the applicant’s property.

An “*Unnecessary Hardship*” shall mean physical hardship relating to the property itself as distinguished from a hardship relating to convenience, financial considerations or caprice, and the hardship must not result from the applicant or owner’s own action.

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- 3) Have all other alternative designs or proposals that could comply with a strict enforcement of the provisions of the Code been exhausted in advance of this Variance request? If yes, list what alternatives have been considered, and describe why the specified alternatives are not deemed acceptable for the project or proposal.

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4) Explain how the approval of this Variance will not be contrary to the public interest (i.e., not against the general welfare or well-being of the surrounding community and public).

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\_\_\_\_\_  
Signature of Applicant:

\_\_\_\_\_  
Date:

<p style="text-align: center;"><b><u>OFFICE USE ONLY</u></b></p> <p>RECEIVED BY: _____      DATE: _____</p> <p>FEE PAID (AMOUNT): \$ _____</p>
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