



City of La Porte Zoning Board of Adjustment Agenda

Notice is hereby given of a **Regular Meeting** of the La Porte Zoning Board of Adjustment to be held on **Thursday, August 28, 2014, at 6:00 p.m.** at City Hall Council Chambers, 604 West Fairmont Parkway, La Porte, Texas, regarding the items of business according to the agenda listed below:

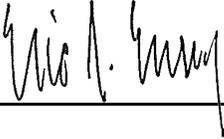
1. Call to order.
2. Roll call of members.
3. Consider approval of meeting minutes: March 27, 2014.
4. A public hearing will be held to consider Variance Request 14-93000003, requested by New Hope Baptist Church located at 222 N. 4th Street, further described as Lots 3-10, Block 64, Town of La Porte. The applicant, Pastor Rickie Edwards on behalf of New Hope Baptist Church, is seeking approval of a variance to allow a building addition that encroaches 13.5 feet into the required 30-foot front setback for a religious institution in the R-1 zone district contrary to the provisions of Section 106-333 of the Code of Ordinances. This variance is being sought under the terms of Section 106-192 of the City of La Porte Code of Ordinances.
 - a. Staff Presentation
 - b. Applicant Presentation
 - c. Public Comments
 - d. Question and Answer
5. Administrative reports.
6. Board comments on matter appearing on the agenda or inquiry of staff regarding specific factual information or existing policy.
7. Adjourn.

A quorum of City Council members may be present and participate in discussions during this meeting. However, no action will be taken by the Council.

In compliance with the Americans with Disabilities Act, The City of La Porte will provide for reasonable accommodations for persons attending public meetings. To better serve attendees, requests should be received 24 hours prior to the meetings. Please contact Patrice Fogarty, City Secretary, at 281-470-5019.

CERTIFICATION

I certify that a copy of the Thursday, August 28, 2014 agenda of items to be considered by the Zoning Board of Adjustment was posted on the City Hall bulletin board on the 22 day of August, 2014.



Title: City Planner

**Zoning Board of Adjustment
Minutes of March 27, 2014**

Board Members Present: Rod Rothermel, Charles Schoppe, T.J. Walker, Sherman Moore (Alt 1), and Nettie Warren (Alt 2)

Board Members Absent: Chester Pool and Lawrence McNeal

City Staff Present: Planning Director Tim Tietjens, GIS Manager Brian Sterling, Assistant City Attorney Clark Askins, and Office Coordinator Peggy Lee

1. Call to Order.

Chairman Rod Rothermel called the meeting to order at 6:00 p.m.

2. Elect a Vice-Chairman

Motion by Sherman Moore to nominate Charles Schoppe as Vice-Chairman.

Second by Nettie Warren. Motion carried.

Ayes: Rod Rothermel, Charles Schoppe, T.J. Walker, Sherman Moore, and Nettie Warren
Nays: None

3. Consider approval of November 12, 2013, meeting minutes.

With no objection presented, the November 12, 2013, minutes were approved as written.

4. A public hearing will be held to consider Variance Request #14-93000001 for the property located at 327 Dwire, further described as Lots 1, 2, 17, & 18, Block 5, Bay Oaks Subdivision, W.P. Harris Survey, Abstract 30, La Porte, Harris County, Texas. The applicants, Dennis and Rebecca Dorsett, seek a variance to allow a fence to remain in the front yard setback contrary to the provisions of Section 106-791 of the Code of Ordinances. The variance is being sought under the terms of Section 106-192 of the City of La Porte Code of Ordinances.

A. Staff Presentation

Planning Director Tim Tietjens presented the staff report for Variance Request #14-93000001. The applicants, Dennis and Rebecca Dorsett, are requesting a variance to allow a fence to remain in the front yard at 327 Dwire.

Public hearing notices were mailed to 24 property owners located within 200' of the subject tract. The City received two responses favoring the request, one opposed, and one returned undeliverable.

B. Applicant Presentation

Rebecca Dorsett, 327 Dwire Dr., was sworn in by Chairman Rothermel. Ms. Dorsett stated she has a special needs son for whom physical and occupational needs setups are positioned throughout the yard. Ms. Dorsett explained how the fence provides security for her son.

She noted there are other similar existing fences in the area. To remove the fence would cost \$2,000.

C. Public Comments

There were no public comments.

D. Question and Answer

There were none.

Motion by Sherman Moore to approve Variance Request #14-93000001, allowing a fence to remain within the front yard setback at 327 Dwire Dr.

Second by Charles Schoppe. Motion Carried.

Ayes: Rod Rothermel, Charles Schoppe, T.J. Walker, Sherman Moore, and Nettie Warren
Nays: None

Assistant City Attorney Clark Askins read from Section 106-196 of the Code of Ordinances: *Appeals from the Board of Adjustment.*

5. **A public hearing will be held to consider Variance Request #14-93000002 for property identified as Lots 25 through 30, Block 715, Town of La Porte, Johnson Hunter Survey, Abstract No. 35, Harris County, Texas. The applicant, Analytic Stress Relieving, Inc., seeks a variance from current building setback requirements contrary to the provisions of Section 106-622 of the Code of Ordinances. The variance is being sought under the terms of Section 106-192 of the City of La Porte Code of Ordinances.**

A. Staff Presentation

Planning Director Tim Tietjens presented the staff report for Variance Request #14-93000002. The applicant is requesting a variance to allow for an encroachment of 30 feet into the 50 foot front setback and an encroachment of 20 feet into the required 30 foot side setback in order to allow for construction of a proposed two-story office building. The City's Code of Ordinances, Section 106-662, prohibits a building from being erected within the required 50 foot front setback and within the 30 foot side yard setback in BI zoning districts.

Public hearing notices were mailed to ten property owners located within 200' of the subject tract. The City received two responses in favor of the variance and none opposed.

B. Applicant Presentation

Bill Pruitt, Synergy Building Systems, was sworn in by Chairman Rothermel. Mr. Pruitt stated he handled the demolition of the old building and is prepping the site for Analytic Stress's new building. Mr. Pruitt requested favorable consideration of the variance request.

C. Public Comments

There were no public comments.

D. Question and Answer

There were none.

Motion by T.J. Walker to approve Variance Request #14-93000002, allowing an encroachment of 30 feet into the 50 foot front setback and an encroachment of 20 feet into the required 30 foot side setback for property described as Lots 25 through 30, Block 715, Town of La Porte, Johnson Hunter Survey, Abstract No. 35, Harris County, Texas.

Second by Charles Schoppe. Motion carried.

Ayes: Rod Rothermel, Charles Schoppe, T.J. Walker, Sherman Moore, and Nettie Warren
Nays: None

Assistant City Attorney Clark Askins read from Section 106-196 of the Code of Ordinances: *Appeals from the Board of Adjustment.*

6. Administrative Reports

Planning Director Tim Tietjens announced the hiring of Eric Ensey as the new City Planner. Mr. Tietjens thanked GIS Manager Brian Sterling and Office Coordinator Peggy Lee for filling in during the City Planner vacancy.

7. Board comments on matters appearing on agenda or inquiry of staff regarding specific factual information or existing policy.

Sherman Moore apologized for his absence at the last meeting as he had originally committed to being at the meeting.

8. Adjourn

Motion by Sherman Moore to adjourn.

Second by Charles Schoppe. Chairman Rothermel adjourned the meeting at 6:25 p.m.

Respectfully submitted,

Peggy Lee
Secretary, Zoning Board of Adjustment

Passed and Approved on _____, 2014.

Rod Rothermel
Chairman, Zoning Board of Adjustment

**City of La Porte, Texas
Planning and Zoning Commission**



August 28, 2014

AGENDA ITEM 4

Consider approval of a Variance request for New Hope Baptist Church
located at 222 N. 4th Street
to allow a building addition that encroaches 13.5 feet
into the required 30-foot front setback
for a religious institution in the R-1 zone district
(Applicant: Pastor Rickie Edwards).

*Eric J. Ensey, City Planner
Planning and Development Department
City of La Porte, Texas*

Planning and Development Department Staff Report

ISSUE

Should the Board of Adjustment approve the requested variance by New Hope Baptist Church to allow construction of an addition that encroaches 13.5 feet into the required 30 foot front setback for religious institutions in the R-1, Low Density Residential, District?

RECOMMENDATION

Staff recommends the Board of Adjustment approve the proposed variance subject to the findings described in this staff report.

DISCUSSION

Applicant:

New Hope Baptist Church. Located at 222 N. 4th Street. Attached is an area map that shows the existing conditions of the site (see the attached Exhibit B).

Applicant's Request:

The applicant is seeking approval of Variance Request #14-93000003, a request by New Hope Baptist Church located at 222 N. 4th Street, further described as Lots 3-10, Block 64, Town of La Porte. The attached Exhibit A is a copy of the application and site plan for the proposed improvements. The applicant is seeking approval of a variance to allow a building addition that encroaches 13.5 feet into the required 30-foot front setback for a religious institution in the R-1 zone district contrary to the provisions of Section 106-333 of the Code of Ordinances (see the table below under the "applicable code provisions" section of this report). The proposed building addition will allow for construction of an office space for the pastor. This is part of other improvements proposed by the church, including parking lot improvements, foyer addition, and landscaping enhancements.

Notice of Public Hearing:

Section 106-194 of the Zoning Ordinance (see the attached Exhibit C) stipulates the various requirements for public notice of the public hearing. This variance included all of the necessary code requirements for a public hearing including the following:

- Notice of public hearing was posted in the newspaper of general circulation ten days prior to the date of the hearing.
- Mailed notices were sent to all owners of property lying within 200 feet of the site ten days prior to the date of the hearing.
- A sign was posted on the site ten days prior to the hearing date.

Additionally, notice of the public hearing was posted at City Hall and on the City's website at least ten days prior to the date of the public hearing.

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New Hope Baptist Church Variance

Background Information:

New Hope Baptist Church owns Lots 3-10, Block 64, Town of La Porte. The subject site is approximately 25,000 square feet in area and is located north of W. Main Street on N. 4th Street (see the attached Exhibit B).

The site is currently zoned R-1 and is vacant. The following table summarizes the surrounding zoning and land uses:

	Zoning	Land Use
North	R-1, Low Density Residential	Existing single family residential (232 N. 4 th Street)
South	R-1, Low Density Residential	Existing single family residential (200 N. 4 th Street)
West	R-1, Low Density Residential	Existing AT&T building and parking lot (502 W. Polk Street)
East	R-1, Low Density Residential	Vacant

Applicable Code Provisions:

Section 106-333 of the Code of Ordinances stipulates setback requirements for religious institutions; see the excerpt from the table below. The required front setback (see highlighted) is the subject of the variance requested in this instance.

Sec. 106-333. Table B, residential area requirements.

	Minimum Lot Area/D.U. S.F.	Minimum Lot Width L.F.	Minimum Yard Setbacks L.F. F.R.S.	Maximum Height	Minimum Site Area/Unit S.F.	Minimum Development Open Space/ Unit S.F.	Maximum Lot Coverage/ Minimum Landscaping Required
Public or private educational and religious institutions, large group care facilities, daycare centers, recreational buildings, boarding, and nursing homes			30-20-10	45 Ft.	N/A	N/A	N/A/6%

Analysis:

Section 106-192 of the Zoning Ordinance (see the attached Exhibit C) states that the term “variance” represents a deviation from the literal interpretation of the code approved by the Board subject to the fact that enforcement of the provisions of the code would cause an unnecessary hardship because of circumstances unique to the subject property. In this case, the existing building is located 16.5 feet from the front property line along N. 4th Street, which represents an existing encroachment into the front setback. The proposed variance would allow

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 August 28, 2014
 New Hope Baptist Church Variance

for the construction of an addition to the existing building that would not encroach any further into the front setback than the existing building.

Section 106-192(b.2) of the Zoning Ordinance (see the attached Exhibit C) states that the Board is authorized to grant a variance when the Board finds that a number of criteria are met. The following table outlines those criteria and staff's analysis of those criteria.

Criterion:	Staff Finding:
a. That the granting of the variance will not be contrary to the public interest.	<i>The proposed variance is a reasonable improvement to an existing structure to continue its viability in the community. Notice was sent to all property owners within a 200-foot radius from the subject site in accordance with code requirements. At the time this staff report was drafted, no responses for or against the variance were received by staff. There was one call for information.</i>
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.	<i>The exceptional physical situation that is unique in this case is the fact that the existing structure already encroaches into the 30-foot required front setback by 13.5 feet. In this situation, requiring the applicant to comply with the required setbacks would not be practical because it would cause the relocation of the office addition to location that isn't as functional for the flow of the church. This existing encroachment represents the unnecessary hardship, which was not a result of the applicant's actions.</i>
c. That by granting the variance, the spirit of this chapter will be observed.	<i>In this case, staff finds that the authorization of the variance would be in the spirit of the chapter as the request does not propose an encroachment into the front setback beyond where the existing structure already encroaches.</i>

ATTACHMENTS

- Exhibit A: Application and site plan for the proposed improvements
- Exhibit B: Area map
- Exhibit C: Sections 106-192 through 106-195 of the Zoning Ordinance regarding variances

City of La Porte
604 W. Fairmont Pkwy.
La Porte, TX 77571

Planning & Development Department
VARIANCE APPLICATION

Phone: 281.470.5058
Fax: 281.470.5005
www.laportetx.gov

3. PROPERTY DESCRIPTION (for which Variance is requested):

HCAD PARCEL NO(s) 13-digit Tax ID(s): 0231960640023, 0231960640007, 0231960640003
PROPERTY ADDRESS (If existing): 222 N. 4th St.
PROPERTY LEGAL DESCRIPTION: Lots 3-10, Block 64, Town of La Porte

1. PROPERTY OWNER INFORMATION: (New Hope Baptist Church)

OWNER NAME: Pastor Rickie Edwards PHONE: 281.471.3773
FAX #: _____ E-MAIL: redward-houston1@comcast.net
MAILING ADDRESS: 222 N. 4th St. La Porte, TX 77571

2. *AGENT REPRESENTING PROPERTY OWNER (If Applicable):

AGENT / CONTRACTOR: *Same as above* PHONE: _____
E-MAIL: _____ FAX: _____
MAILING ADDRESS: _____

4. BASIS FOR VARIANCE REQUEST:

A "Variance" constitutes a deviation from the literal provisions of the Zoning Ordinance and is granted by the board when strict conformity to the Zoning Ordinance would cause an unnecessary hardship because of the circumstances unique to the property on which the variance is granted.

Check applicable box for Variance request based on exceptional:

- Narrowness
- Shallowness
- Shape
- Topography
- Other extraordinary or exceptional physical situation unique to property: EXISTING Bldg IS IN FRONT SET BACK.

5. APPLICATION CHECKLIST & SUPPORTING DOCUMENTATION (check boxes indicating items submitted with your application):

- COMPLETE ITEMS 1-5 OF APPLICATION
- SUBMIT \$150 APPLICATION FEE (Non-Refundable)
- ATTACH SEPARATE SHEET WITH INFORMATION HELPFUL IN CONSIDERING YOUR REQUEST:
(Specify the facts involved, relief desired, and the grounds for the request.)
- WRITTEN AUTHORIZATION FROM PROPERTY OWNER AUTHORIZING AGENT TO ACT ON HIS/HER BEHALF (If applicable)

NOTE: It is the responsibility of the applicant to prove that his/her request meets conditions established for a Variance from the ZBOA.

NAME: Rickie Edwards (Print) SIGNATURE: Rickie Edwards (Sign) SUBMITTED: 8/7/2014 (Date)

(STAFF USE ONLY):

DATE APPLICATION REC'D.: AUG 06 2014 REC'D BY: [Signature]

Inspections Division
City of La Porte

\$150 APPLICATION FEE SUPPORTING DOCUMENTATION OWNER AUTHORIZATION

ZBOA MEETING DATE: August 28, 2014 VARIANCE GRANTED? YES NO

APPLICATION NO: 14-93000003



AREA MAP



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. Upon the hearing any party may appear in person or by agent or by attorney.

Sec. 106-193. Additional conditions.

The board is empowered to impose upon any variance or special exception any condition reasonably necessary to protect the public interest and community welfare.

Sec. 106-194. Notice of public hearings before the board of adjustment.

- (a) The notice of public hearings provided for in this section shall be given by publication once in a newspaper of general circulation in the city stating the time and place of such hearings, which shall not be earlier than ten days from the date of such publication, and in addition thereto, the board of adjustment shall mail notices of such hearing to the petitioner and to all owners of property lying within 200 feet of any point of the lot or portion thereof, on which a

special exception or variance is desired, and to all other persons deemed by the board of adjustment to be affected thereby; such owners and persons shall be determined according to the last approved tax roll of the city. Such notice may be served by depositing addressed and postage paid, in the city post office.

- (b) Requirements for public notice by sign posting:
- (1) Public notice for procedures requiring public notice by sign posting shall be provided by the city at least ten days before the public hearing.
 - (2) The applicant shall place public notice sign on the property within 20 feet of the abutting street.
 - (3) The sign shall be clearly visible, readable, and not to create hazard to traffic on the public right-of-way abutting the property.
 - (4) Public notice sign shall include the date, time, place, and purpose of public hearing.
 - (5) The applicant must return the sign to the city within ten days after the appeal period for the public hearing has ended.
 - (6) The erection of this sign shall not require a permit from the city.

(Ord. No. 1501-05, § 6(Exh. F), 3-19-07)

Sec. 106-195. Vote necessary for decision of board of adjustment.

The concurring vote of four members of the board of adjustment shall be necessary to reverse any order, requirement, decision, or determination of the enforcement officer or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter, or to effect any variance in this chapter.