

## AGENDA

Zoning Board of Adjustment  
October 8, 2014  
8:15 a.m. – City Hall  
501 Sheppard Road  
Burkburnett, Texas 76354

**Item 1.** Call meeting to order.

**Item 2.** Discuss and take any action necessary on election of Chairperson.

Item 3. Discuss and take any action necessary on and Vice-Chairperson.

**Item 3.** Approval of minutes from June 17, 2014.

**Item 4.** Discuss and take any action necessary on Social Media Policy for Appointed Officials.

**Item 5.** Chairperson to close regular meeting and open “Public Hearing” to discuss the following variance application:

A. Case #2014-49, 205 S. Ave D, Sonic

**Item 6.** Chairperson to close “Public Hearing” and re-open the regular meeting.

**Item 7.** Consider and act upon the following:

A. Case #2014-49, 205 S. Ave D, Sonic

**Item 8.** Adjournment.

I, Janelle Dolan, City Clerk for the City of Burkburnett, Texas do certify that I posted this agenda on the front door of the City Hall facing the outside at 11:00 a.m. on October 3, 2014 in compliance with the Open Meeting Act Chapter 551.



Janelle Dolan, City Clerk

Posted 10/3/14 @ 11:00 am

This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodation or interpretive services must be made 72 hours prior to this meeting. Please contact the City Clerk's office at (940)569-2263 for further information.

*MINUTES*  
*ZONING BOARD OF ADJUSTMENT*

The Zoning Board of Adjustments of the City of Burkburnett, Texas met in a regular called meeting on June 17, 2014 at 8:15 a.m. in the Council Chambers of the City Hall, 501 Sheppard Road, Burkburnett, Texas. The meeting was open to the public with notice being given in compliance with the Open Meeting Act. The following board members were present:

Bob Parker, Chairman, Mickey Cornelius, Lyn Seebo, and Donna Beaver were present. Frank Ducos III and David Nix were absent.

Other's present: Mike Whaley, City Manager; Gordon Smith, Director of Public Works; and Janelle Dolan, City Clerk.

Item 1. Bob Parker, Chairman called the meeting to order. At this time, Mr. Parker stated he is resigning from the Zoning Board of Adjustment effective after this meeting, due to him moving out of state.

Item 2. Motion was made Mickey Cornelius, seconded by Bob Parker to approve the minutes from December 11, 2013. Motion carried unanimously.

Item 3. Chairman Parker closed the regular meeting at 8:16 a.m. and opened the Public Hearing for public input to discuss a variance request for the following:

A. Case #2014-48, 101 S. Ave D, Owens and Brumley

Gordon Smith, Director of Public Works, addressed the Board and reported that Steven Mendenhall, Owner of Owens and Brumley, presented an application and requested a variance to construct an accessory building for vehicle storage and a crematory facility at 101 S. Ave D. Mr. Smith stated the site plan details the proposed building and setback variance requested: the side set back from 25 feet to 10 feet and the rear set back from 25 feet to 16 feet to keep the harmonious building line with the adjacent Family Dollar Store. Mr. Smith stated the Crematory process is as follow: the vehicle will enter the building, doors will be closed, the transfer will be made, and then begin the crematory process wholly enclosed in the security of the building.

Item 4. Chairman Parker closed the public hearing and re-opened the regular meeting at 8:19 a.m.

Item 5. Motion was made by Lyn Seebo, seconded by Mickey Cornelius to approve Case #2014-48, 101 S. Ave D, Owens and Brumley, request to construct an accessory building for vehicle storage and a crematory. Motion carried unanimously.

Item 6. There being no further business the meeting was adjourned.

\_\_\_\_\_  
Bob Parker, Chairman

**ATTEST:**

\_\_\_\_\_  
Gordon Smith, Secretary



## Zoning Board of Adjustment Agenda Memo

**From:** Mike Whaley

**Date:** 10-8-2014

**Item:** Variance request for 205 S. Avenue D.

### Request

Request for a front setback at 14.33ft and south side setback at 4.63ft

### Background

Mr. Bill McCanns, the owner of Sonic Drive-In located at 205 S Avenue D has purchased the property at 203 S Avenue D for the purpose of expanding and rebuilding the Sonic Drive-In. When the zoning ordinance was adopted in 2000, the existing building became an existing non-conforming use because it did not meet the new set-back requirements as set forth in the zoning ordinance. Demolition of the existing building and construction of a new building will cause the structure to lose its non-conforming status by ordinance. This means that the existing setbacks do not satisfy the requirements now set forth in the zoning ordinance. Mr. McCanns is requesting the Board grant him a variance on the side (south) setback and on the front setback.

### Elements of Undue Hardship

**In order to grant a variance, the Zoning Board of Adjustment must make written findings that an undue hardship exists, using the following criteria:**

- **Literal enforcement of the controls will create an unnecessary hardship or practical difficulty in the development of the affected property**
  - Staff comment
  - Because of the traditional design of the Sonic Drive-In, the current setback requirement would create practical difficulty in the development
- **Situation causing the hardship or difficulty is neither self-imposed nor generally affecting all or most properties in the same zoning district**
  - Staff Comment
  - The hardship was created when the ordinance was adopted in 2000. The building in question was already in existence and operating commercially.
- **Relief sought will not injure the permitted use of adjacent conforming property**
  - Staff Comment
  - Since the building has been in use long before the adoption of the Zoning Ordinance, granting a variance to allow the existing facility to be re-opened, there would not be any impact to adjacent property that does not already exist.
  
- **Granting of variance will be in harmony with the spirit and purpose of these regulations**

- Staff Comment
- This hardship was not self created by owner of property, therefore applicable for a variance.

**A variance shall not be granted to relieve a self-created or personal hardship, nor shall it be based solely upon economic gain or loss, nor shall it permit any person the privilege in developing a parcel of land not permitted by the Zoning Ordinance to other parcels of land in the particular zoning district. No variance may be granted which results in undue hardship upon another parcel of land.**

**Options**

Grant Variance

Grant Variance with modification

Deny Variance

**Staff Recommendation**

It would be the staff recommendation to grant the variance as requested.

**Attachments**

Aerial view

Site Plan

Plat



CITY OF BURKBURNETT  
VARIANCE APPLICATION

OFFICE USE:  
CASE NO. 2014-49  
FEE PAID \$ 100.00  
SIGNS ISSUED \_\_\_\_\_

PROPERTY ADDRESS: 205 S. Ave D

LEGAL DESCRIPTION: 1 1          Burkburnett Sonic Addr.  
LOT(S) BLOCK SECTION SUBDIVISION

ZONING DISTRICT: C/B PRESENT USE: drive-in restaurant

SPECIFIC REQUEST: Permission to extend canopy's to within 18'-8" and 14'-4" from lot line on Ave. D and from 5'-4" from property line on Hayworth St. Both lot lines have 35' building limit lines.

COMPLETE ITEMS 1-4 BELOW:

1. State special circumstances peculiar to the land, structure, or building which necessitates such request. This is a relatively small track which cannot be used efficiently with 35' building limit lines on all property lines and in the manner this franchisee needs to develop properties.
2. Demonstrate that the special conditions and circumstances are not a result of the actions of the applicant. The property is being developed very similar to its current configuration which occurred prior to the regulation requiring 35' building limit lines.
3. State how literal interpretation of the provisions of this ordinance deprives the applicant of the rights enjoyed by others in the district. This same property, which has existed like this for several years, has very similar facilities which extend just as close to subject property lines.
4. State how granting the variance would not confer upon the applicant any special privilege which is denied by the ordinance to land, structure, or buildings in the district. The variance request is for canopy's over parking places and an outdoor serving area. The canopy's themselves are merely roofs supported by steel columns and will not restrict vision like building walls which is the main function of the building limit lines.

I hereby certify that all information contained herein is true and correct, and that all submission requirements have been met.

Bill McEans  
APPLICANTS SIGNATURE

9-26-14  
DATE

APPLICANTS NAME: Bill McEans

ADDRESS: 7404 Calmont Ave., Fort Worth TX

ZIP: 76116

PHONE:

OFFICE USE

This application for a Variance is hereby:

Approved [ ]      Disapproved [ ]      Conditionally Approved [ ]

based on the Board of Adjustment's action on \_\_\_\_\_  
DATE\*

\* The Applicant shall obtain a building permit within 180 days from the date of approval.

\_\_\_\_\_  
DIRECTOR OF ADMINISTRATION

\_\_\_\_\_  
DATE

INSTRUCTIONS FOR VARIANCE

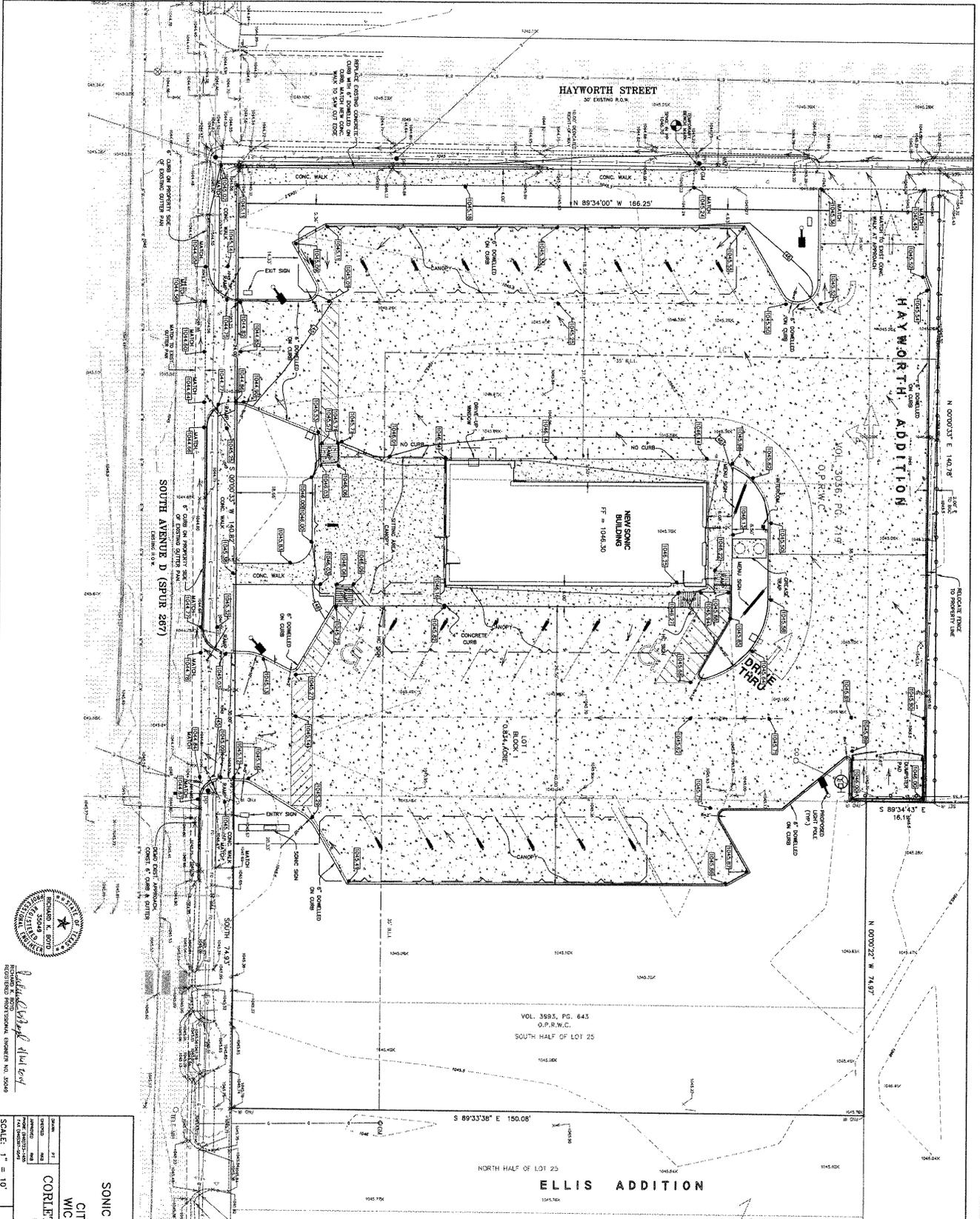
SUBMISSION REQUIREMENTS:      Submit site plan drawn to scale.

PROCEDURE FEE:      Variance = \$100.00

1. Submit completed application at least 21 days prior to the Board of Adjustment meeting date along with the prescribed fee. The Board of Adjustment meets the \_\_\_\_\_ in the Council Chambers, City Hall, 501 Sheppard Road, Burkburnett, Texas, 76354.
2. A staff report on this application will be mailed to the applicant at least 10 days prior to the Board of Adjustment meeting date.

IF YOU HAVE FURTHER QUESTIONS, PLEASE CALL THE PLANNING DIVISION AT (940) 569-2263.





Richard K. Boyd  
Professional Engineer No. 35848  
September 2014

**SITE PLAN**  
SONIC DRIVE-IN RESTAURANT  
CITY OF BURKBURNETT  
WICHITA COUNTY, TEXAS  
CORLETT, PROBST & BOYD, P.L.L.C.  
ENGINEERS - SURVEYORS TPE F-279  
4605 OLD JACKSON HIGHWAY  
WICHITA FALLS, TEXAS 75082  
SEPTEMBER, 2014  
SHEET 1 OF 1

- NOTES:**
1. ALL FINISHED GRADES SHOWN ARE FLOWLINE ELEVATIONS UNLESS OTHERWISE NOTED.
  2. FILL MATERIAL AND TORSION PLACED IN ALL AREAS WITH THE EXCEPTIONS L&N AND TFS SPECIFICATIONS.
  3. LOCATIONS SHOWN FOR EXISTING UNDERGROUND UTILITIES ARE APPROXIMATE. CALL TEXAS 811 PRIOR TO EXCAVATION.

**LEGEND**

	FIRE HYDRANT
	WATER VALVE
	SEWER VALVE
	STORMWATER VALVE
	GAS VALVE
	MANHOLE
	TELEPHONE/FIBER OPTIC
	UTILITY POLE
	OVERHEAD ELECTRIC LINE
	SANITARY SEWER LINE
	WATER LINE
	EXISTING SPOT ELEVATION
	PROPOSED SPOT ELEVATION (AS NOTED)
	EXISTING CONCRETE
	PROPOSED CONCRETE
	EXISTING ASPHALT PAVING
	PROPOSED ASPHALT PAVING
	PROPOSED STORMWALK



This plan was prepared by Corlett, Probst & Boyd, P.L.L.C. under the supervision of Richard K. Boyd, Professional Engineer, License No. 35848, State of Texas. The plan was prepared for the City of Burkburnett, Wichita County, Texas. The plan was prepared on September 16, 2014. The plan was prepared for the project located at the intersection of Hayworth Street and South Avenue D (Spur 267) in Burkburnett, Texas. The plan was prepared for the project titled 'SONIC DRIVE-IN RESTAURANT'. The plan was prepared for the project located at the intersection of Hayworth Street and South Avenue D (Spur 267) in Burkburnett, Texas. The plan was prepared for the project titled 'SONIC DRIVE-IN RESTAURANT'.

