

STATE OF TEXAS  
COUNTIES OF POTTER & RANDALL  
CITY OF AMARILLO

**MINUTES**

On February 14, 2019, the Zoning Board of Adjustments met at 4:00 p.m. at City Hall, 601 S Buchanan St, third floor Room 305 to review of agenda items and consideration of future agenda items. The board then met at 4:30 p.m. for a Regular meeting at City Hall, 601 S Buchanan St, in City Council Chambers.

VOTING MEMBERS	PRESENT	NO. MEETINGS HELD SINCE APPOINTMENT	NO. OF MEETINGS ATTENDED
Craig Davis	Yes	20	18
Chris Rhynehart	No	20	17
Cory Mathis	Yes	1	1
Paul French	Yes	1	1
<b>ALTERNATE MEMBERS</b>			
Claudia Stuart	Yes	14	11
Jackie Payne	Yes	13	10
Matthew Tavern	No	13	6
Alpesh Patel	Yes	5	2
Johnnie O'Dell	Yes	1	1
Mildred Darton	No	1	0

Also in attendance were:

Steve Rodriguez  
Shawna Hammonds  
Leslie Schmidt  
Randy Burkett

INTERIM BUILDING OFFICAL, CITY OF AMARILLO  
ADMINSTRATIVE TECHNICIAN, CITY OF AMARILLO  
CITY ATTORNEY, CITY OF AMARILLO  
APPLICANT

Mr. Craig Davis called the Zoning Board of Adjustments to order at 4:35 p.m., recited the procedural rules, and swore in those planned to give testimony.

**ITEM 1:** Approval of the Minutes from Regular Meeting held on October 11, 2018. Motion was made by Ms. Claudia Stuart, seconded by Mr. Paul French and unanimously carried to approve such minutes as written.

**ITEM 2: Consider Variance V-01-19**

**Location:** 9310 FM 2590

**Zoned:** N/A

**Legal Description:** Greyhawk Landing Unit No. 1, Lot 18, Block 1

**Property Owner:** Larry Fincher

**Applicant:** Randy Burkett dba Burkett Advertising

**Variance Requested:** Allow off-premise sign to remain in the extra territorial jurisdiction of the City of Amarillo

Mr. Craig Davis asked if there was anyone wishing to speak for or against the considered Variance.

Applicant Randy Burkett distributed a packet of information to all board members and requested to leave the sign in place. He stated that Texas Department of Transportation (TXDOT) issues permits for off-premise signs instead of the City of Amarillo. TXDOT issued a permit for this location. He referred to this use as content based. Whatever the content was, that was the way that it was regulated. Mr. Burkett referred to Reed VS Gilbert, US Supreme Court. He also stated TXDOT has regulated signs based on content since 1972 Highway Beautification Act, and was sued. The court referred to the Reed VS Gilbert Supreme Court verdict. Mr. Burkett reiterated that the sign ordinance was not legal and referenced four examples.

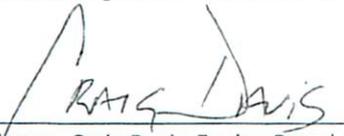
Ms Jackie Payne referenced the TXDOT application section Certification of Compliance. She stated the last bullet point states the applicant would comply with all applicable rules which include municipal permits as described. Mr. Burkett responded the City does not issue permits for billboard signs. Ms. Payne referenced to part 12 of the TXDOT application, the applicant is to submit validation of the zoning relative to a sign location. Mr. Burkett replied that being outside the City limits, there were different guidelines. Ms. Payne stated that even though TXDOT issued a permit, the applicant still has to abide by the municipality regulations. Mr. Burkett stated his sign qualified by being 800 feet from other signs. Ms. Stuart stated that the other signs have been grandfathered in, and this sign would be setting precedence for future applicants. It should have also been taken into account when TXDOT advised him to comply with City ordinance. She also reiterated that it is location based. Mr. Rodriguez stated that the decision was based on location. Paul French reference several examples of an on-premise sign compared to off-premise sign.

Steve Rodriguez Interim Building Official representing the City of Amarillo stated eight notices were sent on this variance request, and four responses were received, one was in favor and the other three were opposed to the request. Mr. Rodriguez referenced Section 4-2-13, addressing off-premise signs. Mr. Rodriguez also referred to the TXDOT application part 12 – Submitting the Application, stating by issuance of a permit TXDOT does not represent the sign or location thereof but meets city, county, and/or local government laws, orders, ordinances, or other regulations. By issuance of a permit, a contract or property right is not created in the permit of the license holder. Mr. Rodriguez contacted TXDOT about the sign that was permitted June 2005 and stated it was grandfathered. The staff recommends denial of this request. Mr. Mathis asked if only off-premise signs were regulated outside the City. Mr. Rodriguez confirmed that off-premise signs were addressed. Leslie Schmidt, Senior Attorney reminded the board that they were to review the variance request. If there is an issue with the ordinance being constitutional or unconstitutional it would not be addressed in this forum. They were dealing only with the off-premise part of the ordinance that dealt with the location only. Ms. Stuart made the motion to deny the variance, seconded by Ms. Payne. The motion passed 5:0.

**ITEM 3: Public Forum:** There was no public forum.

**Item 4: ADJOURNMENT**

There, being no further business, Acting Chairman Mr. Craig Davis called for a motion to adjourn. Mr. Paul French made a motion to adjourn, seconded by Ms. Jackie Payne, the motion passed and meeting adjourned at 5:05 pm. This meeting was recorded and all comments are on file with the Department of Building Safety.



Acting Chairman, Craig Davis, Zoning Board of Adjustments

ATTEST:



Steve Rodriguez, Interim Building Official