

**BOARD OF ADJUSTMENT REGULAR MEETING
JULY 29, 2020**

The Board of Adjustment met in regular session in the McKinney City Hall Council Chambers, 222 N. Tennessee Street, McKinney, Texas, on Wednesday, July 29, 2020 at 4:00 p.m.

Board members Present: Louise Holubar, Chair, David Riche, Vice Chair, Larry Macy, Eric Roberts and Larry Jagours, Members.

Randall Wilder, Alternate (present, non-participating)

Absent: Jon N Prevost, Alternate (excused)

City Staff Present: Michael Quint, Executive Director of Development Services, Jennifer Arnold, Director of Planning, Rick Herzberger, Chief Building Official and Empress Drane, City Secretary.

Louise Holubar, Chair called the meeting to order at 4:01 pm. after determining a quorum was present.

- 20-0627** Minutes of the Board of Adjustment Meeting of February 26, 2020. Board members unanimously approved the motion by Board member Eric Roberts, seconded by Vice Chair David Riche, to Approved 20-0627 Minutes of the Board of Adjustment Meeting of February 26, 2020

BOA 20-04

Conduct a Public Hearing to Consider/Discuss/Act on Determining an Amortization Period and Establishing a Compliance Date for the Nonconforming Concrete Batch Plant Use (TXI Operations, LP/Martin Marietta Redi-Mix) on the Property Located at 2005 South McDonald Street, McKinney, Texas

Board member Larry Macy motioned to open the Public Hearing, Board member Larry Jagours second the motion. All approved to open the Public Hearing. Rick Herzberger, Chief Building Official read aloud the Recommended Board Action with the Item Summary and Background Information along with the Building Official Statement. Board member Jagours asked Mr. Herzberger if Martin Marietta was complying because

he traveled the area a week ago and it appeared, they were still in operation.

Mr. Herzberger stated his statements were based off the data received thus far. Jennifer Arnold, Director of Planning clarified what Mr. Herberger was referring to the property at 2005 S McDonald St and that the other batch plants (Cowtown and LHoist) were to her knowledge still in operation. Mr. Herzberger further stated that whatever activity is happening right now, it does not relate to this agenda consideration this evening.

Chair Louise Holubar asked if the owners wished to speak.

Mark Josephs, 2323 Ross Avenue, #600, Dallas, TX, 75202, representing owners, TXI Operations, LP/Martin Marietta Redi-Mix requested to speak.

Mr. Josephs stated the principle reason documents were not produced to the City regarding this item is because the owners did not receive the required notice of the re-zoning proceedings earlier this year. Therefore, we believe this constitutes illegal activity and excuse compliance with whatever authority the City and the Board must compel production of documents. Mr. Josephs also stated he had conversations with City Attorney, Mark Goldstucker and Chief Building Official, Rick Herzberger about not being permitted to cross examine the consultant the City hired nor present our own evidence in this case. Mr. Josephs further stated the consultant lacked the expertise nor experience in the concrete business. Mr. Josephs requested additional time to complete comments. Chair Holubar stated the Board normally does not allow this and to stick with the three (3) minute time to speak. Oscar Jeanes, 1515 Stewart Road, McKinney, TX., requested to speak. Mr. Jeanes stated he has lived on his property since 1973 and attended the meetings back then and was under the impression and understanding that the property was being discussed and zoned as temporary. He also stated that he could see clouds of dust from where his house is and that the dust is evident on the cars. Chair Holubar read aloud the five (5) letters received all in favor/approval of the item:

Wanda Dean – 1513 Stewart Road, McKinney, TX 75069

Jack and Dorothy Stevens – 2421 Dog Leg Trail, McKinney, TX 75069

Priscilla Creamer – 2605 Dog Leg Trail, McKinney, TX 75069

Karen Hornstein – 2904 Coventry Ln, McKinney, TX 75069

Donna Limberson – 2829 Dog Leg Trail, McKinney TX 75069

Board members unanimously approved the motion by Vice Chair David Riche, seconded by Board member Eric Roberts, to close the public hearing. Chair Louise Holubar asked the Board members if they have any discussion on this agenda item. Member Jagours stated he is knowledgeable in the concrete business in that he had worked for another concrete business for twelve (12) years. Member Jagours also stated the concrete dust is powdered iron and in his opinion, a health hazard. Member Roberts asked Mr. Josephs about not receiving notifications about the subpoenas. Mr. Josephs clarified he did not receive notifications about the re-zoning of the property. Executive Director of Development Services Michael Quint stated Mr. Josephs last statement is pending litigation. Vice Chair Riche stated nine (9) months is a generous time frame given by the consultant to the owners to vacate the property.

Board members unanimously approved the motion by Board member Larry Macy, seconded by Vice Chair David Riche, to approve the staff recommendation for a compliance date of April 29, 2021 for the nonconforming use.

Board members unanimously approved the motion by Board member Larry Jagours, seconded by Board member Eric Roberts, to Adjourn the meeting at 4:32 p.m.

LOUISE HOLUBAR
Board of Adjustment Chair