



THE ZONING BOARD OF ADJUSTMENT
SCHEDULED FOR THURSDAY, APRIL 15, 2021 ~ 5:30 P.M.
AT THE ROCKBOX THEATER at 109 N. LLANO ST

HAS BEEN RESCHEDULED FOR THE FOLLOWING:

CITY OF FREDERICKSBURG
ZONING BOARD OF ADJUSTMENT
THURSDAY, APRIL 22, 2021 ~ 5:30 P.M.
AT THE ROCKBOX THEATER at 109 N. LLANO ST

Travis Neal, Member
Marcus Vidrine, Member
Donnie Finn, Chair
Ashley Hunter, Member

Cynthia Scroggins, Member
Jim McAfee, Member
Devin Mullen, Member

The City of Fredericksburg Zoning Board of Adjustment will meet in a regular session on **Thursday, April 22, 2021, at 5:30 p.m. The meeting will be in person at the Rockbox Theater at 109 N. Llano St.**

This meeting will be held in person and live stream on our YouTube Channel.

Link to City of Fredericksburg YouTube Channel Fredericksburg, Texas USA - YouTube

<https://www.youtube.com/channel/UCrhnlFjVfDS1SPBJD2pYKcQ/featured>

1. CALL TO ORDER

2. ROLL CALL

3. APPROVAL OF MEETING MINUTES

April 2020 regular meeting minutes

4. PUBLIC COMMENTS

NOTE: The Texas Open Meetings Act permits a member of the public or a member of the governmental body to raise a subject that has not been included in the notice for the meeting. However, any discussion of the subject must be limited to a proposal to place the subject on the agenda for a future meeting and any response to a question posed to the City Council is limited to either a statement of specific information or recitation of existing policy. TEX. GOV'T CODE § 551.042.

Written Comments: to be submitted remotely:

1. Must be received by 2 p.m. on April 14, 2021.
2. Complete the Citizen Comment Form online at www.fbgtx.org; or
3. Email your comments to scollier@fbgtx.org

Verbal Comments:

1. Sign up in-person between 5:00 p.m. and 5:30 p.m. at the Rock Box Theater in order to comment.

You will be limited to 3 minutes to speak.

5. PUBLIC HEARING

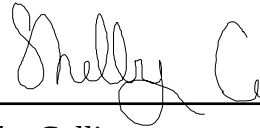
- A. Consider ZBA2021-01 – Request by Ed Cowsar with Crockett Haus, LLC For a Variance to Section 8.100 – Temporary Use Types, Subsection (M) of the Zoning Ordinance. Applicant is requesting permission to obtain a Temporary Use Permit to place a Temporary Structure on a property located at 112 & 114 North Crockett Street which is located in the Historic Overlay District.

6. ACTION ITEMS

- A. Receive recommendation and consider (ZBA2021-01)

7. ADJOURN

This is to certify that I, Shelby Collier, posted this Agenda before 5:00 PM. on April 12, 2021 on the entrance door and bulletin board at the City of Fredericksburg City Hall, 126 W. Main St., Fredericksburg, Texas.

A handwritten signature in cursive script, appearing to read 'Shelby C', is written over a horizontal line.

Shelby Collier,
Development Coordinator

**STATE OF TEXAS
COUNTY OF GILLESPIE
CITY OF FREDERICKSBURG**

**BOARD OF ADJUSTMENT
April 21, 2020
5:30 P.M.**

On this the 21st day of APRIL 2020, the BOARD OF ADJUSTMENT convened in regular session via Zoom with the following members present to constitute a quorum.

PRESENT

MARCUS VIDRINE
CYNTHIA SCROGGINS
DONNIE FINN
JIM MCAFEE
ASHLEY HUNTER
DEVIN MULLEN
TRAVIS NEAL

ABSENT:

ALSO PRESENT:

BRIAN JORDAN – Director of Development
DANIEL JONES – City Attorney
SHELBY COLLIER - Development Coordinator

The meeting was called to order at 5:30 P.M. by Donnie Finn.

MINUTES

Marcus Vidrine made a motion to approve the minutes from the February 2020 Meeting. Jeff Lawrence seconded the motion. All voted in favor and the motion carried.

PUBLIC HEARING

Receive recommendation and consider (ZBA2020-05) Request by Glenn & Conya Wiseman For a Variance to Section 7.825 Subsection C of the Zoning Ordinance pertaining to Off Street Parking for Property located at 319B E. Main Street. Applicant requests a Variance to use existing Off-Street Parking as Outdoor Dining.

Jim McAfee made a motion to open the public hearing. Cindy Scroggins seconded the motion. All voted in favor and the motion carried.

Glenn Wiseman explained that he owns the property including all of the buildings on it. He has a tenant that would like to provide outdoor seating and understands this is the process for that. He

went on to say that having the driveway and using it in its current location is a bad idea and that it is dangerous for his guests on the property as well as the people walking on Main Street.

Jim McAfee made a motion to close the public hearing. Jeff Lawrence seconded the motion. All voted in favor and the motion carried.

Brian Jordan, Director of Development, stated that when the applicant's first approached the City about converting this driveway and parking area to outdoor dining and seating, staff met with them on-site to evaluate possible alternatives. Since we were under restrictions due to the Covid-19 Pandemic, staff mentioned that it might be possible to allow the area to be utilized for outdoor dining on a temporary basis. In other words, since the occupancy was limited, the need for parking would be reduced as well. The applicant was not interested in a temporary solution. Staff does not support a permanent elimination of the required parking, and a conversion of this area to outdoor dining. It was the previous owner's desire to add the building and create the need for parking, and the current owners should have been aware of this situation. We recommend denial of the request.

Marcus Vidrine commented that the driveway location makes it dangerous as people are walking on the sidewalk. He said he never realized that this area was even parking.

Jim McAfee commented that he believes this situation is unsafe and asked why Staff would disagree with removing it.

Brian Jordan stated it was not a matter of Safety, this scenario is existing, and the parking was required as part of the development.

Motion made to approve Application ZBA2020-05 by Jim McAfee. Travis Neal seconded the motion. All voted in favor and the motion carried.

ADJOURN

With nothing further to come before the Board, Jim McAfee moved to adjourn the meeting and Devin Mullen seconded the motion. All voted in favor and the meeting was adjourned at 6:18 P.M.

PASSED AND APPROVED this the 15th day of April 2021.

SHELBY COLLIER, DEVELOPMENT COORDINATOR

DONNIE FINN, CHAIR

VARIANCE BRIEF

Request # 2021-01

APPLICANT:

Ed C. Cowsar

ZONING:

CBD – Central Business District – Historic Overlay

LOCATION:

112 & 114 N. Crockett St.

REQUEST:

Variance to Section 8.100 of the Zoning Ordinance, pertaining to “Temporary Use Types” requirements.

FINDINGS:

- The property contains multiple structures and is being utilized as an Event Center, which is permitted in the zoning district.
- The property owner has spent several years working with the City’s Historic Review Board to complete multiple renovation projects restore the Historic Building.
- These restorations include an addition to the site in the form of a covered structure for additional protection from the elements in the rear of the property.
- The lot is approximately 0.469 acres in size (see location map).
- The applicant is requesting to install a large tent to serve as cover for a proposed wedding to keep guests dry should inclement weather happen the day of the event.
- Section 8.100(M.) of the Zoning Ordinance prohibits any temporary type structures within the Historic Overlay zoning district, except for the use of umbrellas or similar detached (portable), nonstructural sun shading devices ("Cover") by a restaurant for that restaurant's outdoor eating and serving areas shall be permitted under the following circumstances:
 - The Event Center does not qualify as a “Restaurant” as defined in the City’s zoning code.
 - The applicant requested staff to consider the Event Center as a Restaurant and based on City definitions could not make that interpretation.
 - Restaurants are defined as use engaged in the preparation and retail sale of food and beverages, including sale of alcoholic beverages when conducted as an accessory or secondary feature and producing less than fifty percent (50%) of the gross income. A general restaurant may include live entertainment with amplified sound. Typical uses include restaurants, coffee shops,

dinner houses and similar establishments with or without incidental alcoholic beverage service.

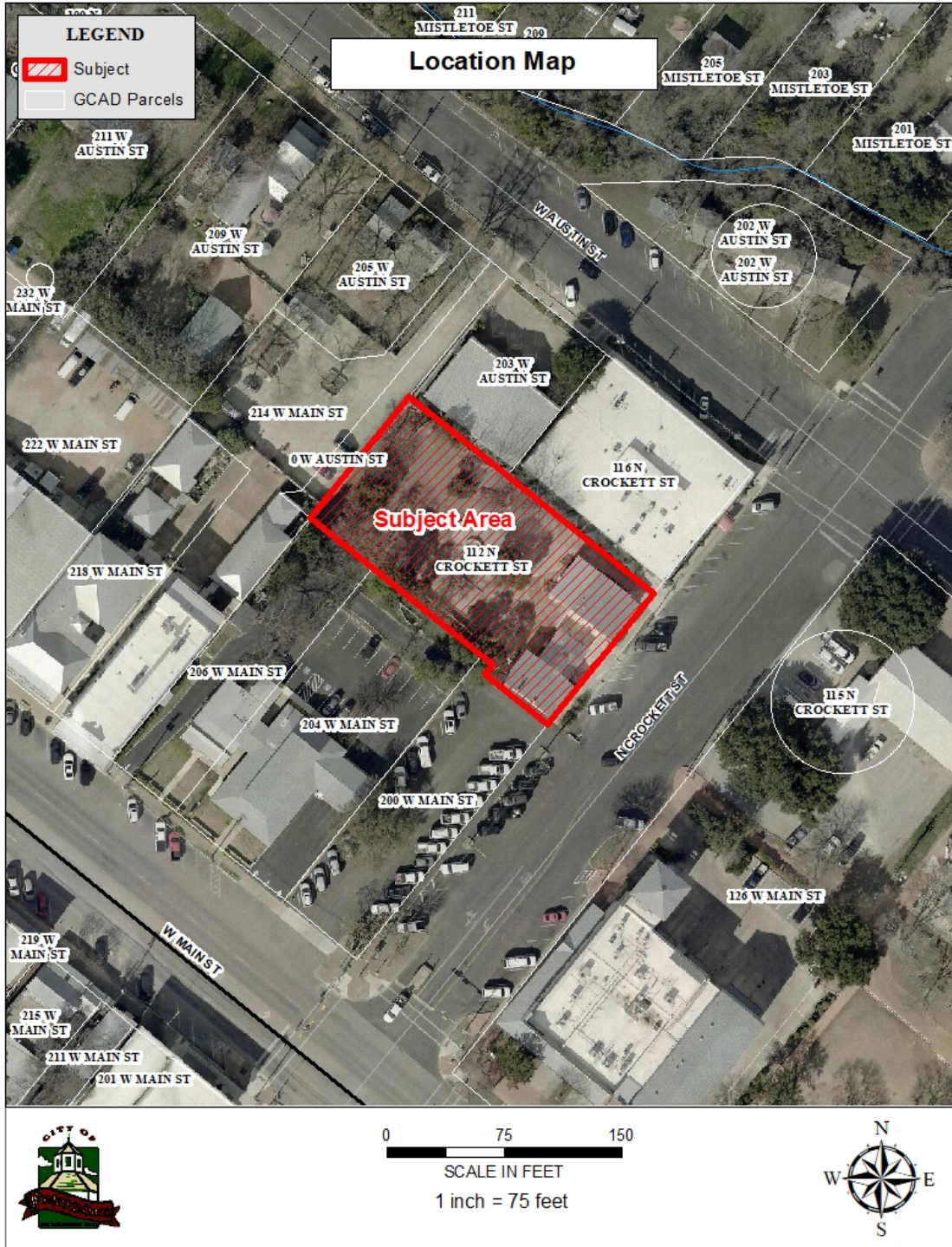
- If staff were to consider this facility a restaurant then staff would be required to consider any facility that may serve appetizers, snacks, or similar items as a restaurant.
- The lot is surrounded by commercial buildings and parking along Crocket and in the rear of the property.

The Board of adjustment may grant a variance **if it makes affirmative findings of fact on each of the criteria described below:**

- a. The Zoning Regulations applicable to the property do not allow for reasonable use. **The property is being utilized for the use intended by the CBD Zoning District. While the prohibition of a large tent may create operational issues for the facility, it does not keep the property from being utilized for its intended use.**
- b. The plight of the owner of the property is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial, and are not due to or the result of general conditions in the zoning district in which the property is located. **The circumstances in this case were not created by the applicant, as the zoning regulations prohibiting temporary structures were created and adopted by the City in 2015. There are no unique circumstances existing on the property that would keep the owner from adhering to the regulations in the ordinance. Furthermore, the applicant could construct a permanent structure that would meet the needs of the applicant and the facility. The conditions or regulations regarding the placement of temporary structures are the same general conditions that apply to all other properties in the district.**
- c. The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purposes or regulations to the zoning district in which the property is located. **Staff recognizes that this variance would alter the character of the area by creating a precedent allowing temporary structures without a hardship, in which other properties would seek to utilize. It would also impair the zoning district and regulations as this would be in direct violation and intent of the regulations and increase the number of temporary structures that would be requested.**

OPPOSITION/SUPPORT OF REQUEST: No letters received.

STAFF RECOMMENDATION: It is my understanding that the applicant was aware of the prohibition starting from the original implementation of the amendments and was further made aware of the prohibition multiple times by staff. Staff recommend denial of the request.





VARIANCE APPLICATION TO BOARD OF ADJUSTMENT

City of Fredericksburg - Development Services Department
126 W. Main St., Fredericksburg, TX 78624 – (830)997-7521

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1. Applicant: Crockett Haus, LLC
 2. Owner: EC Cowsar
 3. Phone: 512.970.4481 Email: ecowsar@gmail.com
 4. Description of property involved in this request.
Address: 112 and 114 N Crockett, Fredericksburg TX 78624
Legal Description: 112 & 114 N Crockett City Lot 97
Lot Size: 100 x 200' Zoning District: CBD and Historic Overlay (HO)
 5. Request is made to the Board of Adjustment that a variance be granted to the following provisions of the Zoning Ordinance.
Section: 8.1 Subsection: M - 4
Item: Temporary Use Types Relating To: Placement of a Cover over meal area
Requiring: The use of a cover for dining is able to be approved for food service at restaurants, and this event is serviced by a Caterer who is a licensed food handler in Fredericksburg. Crockett Haus is not yet a restaurant. The wedding events of a long time local resident in his marriage to a Dallas resident include their requirement to include a cover from sun and rain for food service at this event in the HO.
 6. INFORMATION TO BE SUBMITTED BY THE APPLICANT:
 - A. Site plans, preliminary building elevations, preliminary improvement plans, or other maps or drawings, sufficiently dimensioned as required to illustrate the following, to the extent related to the Variance application:
 - i. Existing and proposed location and arrangement of uses on the site, and on abutting sides within 50-feet.
 - ii. Existing and proposed site improvements, buildings, and other structures on the site, and any off-site improvements related to or necessitated by the proposed use. Building elevations shall be sufficient to indicate the general height, bulk, scale, and architectural character.
 - iii. Existing and proposed topography, grading, landscaping, and screening, irrigation facilities, and erosion control measures.

- iv. Existing and proposed parking, loading, and traffic and pedestrian circulation features, both on the site and any off-site facilities or improvements related to or necessitated by the proposed use.

The Board of Adjustment may grant a variance if it makes affirmative findings of FACT on EACH of the criteria. The applicant shall give a reason why the request complies with the following criteria:

1. The Zoning Regulations applicable to the property do not allow for a reasonable use.
The Historic use of the Beirgarten area of the property (Hermann Sons used it for entertainment) and the intersection of the 8.1.00 Temporary Use Types with the the ability fof approval (M4) are not straightforward since this is a Private Event serviced by a Caterer and not a restaurant.

2. The plight of the owner of the property is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial and are not due to or the result of general conditions in the zoning district in which the property is located.

The hardship is caused by the unique intersection of the ordinances and the food service being catered by a caterer and not a restaurant or it could be approved without asking for a variance. Caterer is in fact a Fredericksburg who reports they are licensed to handle food with a health permit: My Own Chef located on Bremer Lane. They prepare the food at their facility and always serve it the client's facility, in the case at Crockett Haus, LLC.

3. The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purposes or regulations to the Zoning District in which the property is located.

This will not impair neighboring businesses operations, one is Broadway Bank, one is a title company (Carroll Bryla's), and one is a BBQ restaurant (116 N Crockett bldg owned by Will Trahn & family), one is an art store owned by Happy and Candy Feller.

The Wedding events are primarily evening, and the neighbors are supportive.

- B. **PARKING: ADDITIONAL CRITERIA**-The Board may grant a Variance to a regulation prescribed by this ordinance with respect to the number of off-street spaces required if it makes findings of fact that the following additional criteria are also satisfied:

Neither present nor anticipated future traffic volumes generated by the use of the site or the uses of sites in the vicinity reasonably require strict or literal interpretation and enforcement of the specified regulation.

The downtown area is often used for much larger events and attendees can find parking.

Attendees will likely be riding together or catching a ride in some cases to the wedding since about half of them (bride side) will be staying at local hotels and B&B's for the weekend wedding events.

The granting of the Variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic of the streets.

True. The property has an easement in the alley and there is a wide gate there that allows loading and unloading of people on the South boundry, and there is an approved driveway on the North side that the caterers and service personnel from local businesses will use when arriving to unload any food or items for the event.

The granting of the Variance will not create a safety hazard or any other condition inconsistent with the objectives of this ordinance.

True, there is not a safety issue provided and the lessor of the property for the event has to procure event specific insurance for the activities. The property owner has repaired the City of Fredericksburg sidewalks and poured curbs that were approved by City Planning and permitted and passed inspection improving the safety of City Lot 97.

The Variance shall run with the use or uses to which it pertains and shall not run with the site.

We are not requesting that this variance run with the site at this time but for a June event.

- c. **SIGNS: ADDITIONAL CRITERIA**-The Board may grant a Variance to a regulation prescribed by the Sign Ordinance with respect to the placement of signs, the height of signs or the area of signs if it affirmatively finds each of the following.

That a sign is being replaced. For the purposes of this Section, replacement shall include the erection of a new or different sign due to the removal of another sign for any reason, including the change of name of a business, whether from change of ownership, business being conducted, or otherwise, the change of a sign for a continuing business containing the same or different information as the sign being replaced, and the replacement of signs due to damage or vandalism.

No signs will be placed other than small placards with the names of the bride and groom welcoming them and attendees to this event consistent with the culture and history of Fredericksburg since it was founded and the street acronuymys WELCOME and COME BACK were chosen to indicate the hospitality of the area, the CBD & HO.

That all structures on the property for which the sign is proposed that would impede the replacement of a sign were constructed prior to February 17, 1986.

N/A

That it is impractical to abide by existing placement, height or area regulations due to the placement, size of construction of existing structures in relationship to the physical characteristics of the site. For purposes of illustration, physical characteristics may include topography of the site or the surrounding sites, structures on surrounding sites, traffic conditions, street byouts and existing natural vegetation.

N/A

That the other types of signs which are permitted by this Ordinance cannot practically be used. In making this determination of practicality, the Board may consider

- A. The undesirability of altering a historic site to accommodate a sign which would be permitted with no variance under this Ordinance; or
- a. That alternatives permitted by this Ordinance would involve extensive reconstruction of structures; or
 - 1. That alternatives permitted by this Ordinance are prohibitively expensive; or
 - 2. That alternatives permitted by this Ordinance will not effectively identify the subject of the sign.

N/A

ii. That the proposed sign has been reviewed by the Historic Review Board if applicable.

N/A

iii. That the proposed variance is as close to the requirements of the sign ordinance as is feasible.

N/A

Staff Use Only

Application No: _____ Date: _____
Payment Type: _____



Temporary Use Permit

Name of Applicant: Ed C Cowsar
Applicant Address: 114 N. Crockett, PO Box 3407 Fredericksburg, TX
Applicant Phone Number: 512.535.4431
Texas Sales & Use Tax Number: _____

Business Name: Crockett Haus, LLC
Business Address: 112 N Crockett, Fredericksburg, TX 78624
Business Owner: Ed C and Robin G Cowsar
Business Owner Phone Number: 512.535.4431

Requested Dates for Temporary Use: June 4th & 5, 2021
Hours of Operation: 8:00 AM - 12:00 AM
Description of Items Sold: Property leased for Wedding Events

81400 Temporary Use Types Subsection I. – Outdoor special sales, including swap meets, flea markets, parking lot sales or similar activities, limited to locations in Commercial or Industrial Districts, and when operated not more than three (3) days in the same week or more than five (5) days in the same month or more that two (2) weekends in the same month.

Attachments:

- ☒ 1. Written authorization of Ownership required
- ☒ 2. Health Permit Required if food or beverage served at event.
- ☐ 3. Sign Permit Required if signage displayed at event.
- ☒ 4. \$25.00 Dollar fee required to obtain Temporary Use Permit

Ed Cowsar
Signature of Applicant

3/25/2021
Date

Signature of City Official

Date