

Barbara Jordan
Dr. Zac Leslie
Mike Davis, Chairman



Christie Scroggins
Brick Parsons

NOTICE OF SPECIAL MEETING
ZONING BOARD OF ADJUSTMENT AND APPEALS AGENDA
Tuesday, May 31, 2016 @ 5:30 PM
City Council Chambers
504 N. Queen Street, Palestine, Texas

CALL TO ORDER

ROLL CALL

APPROVAL OF THE MINUTES

1. Consider the minutes of the April 26, 2016 regular meeting.

REGULAR AGENDA

Conduct a public hearing and consider a request for variances to the required building setbacks for a new commercial building at 321 W. Palestine Ave. as follows:

1. Variance to allow a new commercial building (convenience store and retail spaces) to be located 7-feet from the rear property line. The minimum rear yard setback requirement is 50-feet.
2. Variance to allow a new commercial building (convenience store and retail spaces) to be located 5-feet and one inch from the side property line. The minimum side yard setback is 10-feet.

Applicable code sections: Appendix A, Zoning, Article 4, Section 4.7, Minimum primary structure setbacks (rear yard setbacks) from residential properties. Chapter 40 Development, Section 40-137, Table 40-3 Lot Standards.

Case ZBA-16-02. Applicant M. Mohiuddin.

ADJOURN

NOTE: Pursuant to Section 551.071 of the Texas Local Government Code, the Zoning Board of Adjustment and Appeals reserves the right to adjourn into a closed meeting at any time regarding any item on the agenda for which it is legally permissible.

The City of Palestine City Council Chambers is accessible in accordance with the Americans with Disabilities Act. Reasonable accommodations will be provided for persons attending this meeting. Requests for accommodations or interpretive services must be made 48 hours prior to the meetings. Please contact the City Secretary at (903) 731-8414 for further information.

CERTIFICATION

I, the undersigned authority, do hereby certify that this Notice of Meeting was posted on the outside bulletin board at the main entrance to City Hall, 504 North Queen Street, Palestine, Texas, on the following date and time:

May 27, 2016 at 9:00 a.m.



Jeffrey Lyons
Development Services Director



**ZONING BOARD OF ADJUSTMENT AND APPEALS
MEETING MINUTES
April 26, 2016**

The Zoning Board of Adjustment and Appeals of the City of Palestine, Texas convened in a Regular Meeting on Tuesday, April 26, 2016 in the City Hall Council Chambers, 504 N. Queen Street, Palestine, Texas.

CALL TO ORDER – REGULAR MEETING

Chairman Mike Davis called the meeting to order at 5:30 p.m.

ROLL CALL

Present for roll call were Chairman Mike Davis, Board Members Barbara Jordan, Christie Scroggins, Zac Leslie, and Brick Parsons.

Other individuals present were Director of Development Services Jeffrey Lyons.

APPROVAL OF THE MINUTES

Barbara Jordan made a motion to approve the minutes of the July 28, 2015 regular meeting as submitted. The motion was seconded by Christie Scroggins, upon vote, the motion carried unanimously.

REGULAR AGENDA

Conduct a public hearing and consider a request for a variance from the rear yard setbacks in Section 4.7, Article 4 of the Palestine Zoning Ordinance in order to allow an expansion of the existing building to be located 24 feet and 6 inches into the required 50-foot rear yard setback at 1820 Crockett Road (O'Reilly Auto Parts). Case ZBA-16-01. Applicant O'Reilly Auto Enterprises, LLC.

Mike Davis opened the public hearing for those in favor of the request. Mr. Justin Petersburg with Esterly, Schneider & Associates, Inc. spoke in favor of the request on behalf of O'Reilly Auto Enterprises, LLC. Mr. Petersburg explained the request including the setback restrictions on the property and the fact that O'Reilly's needed additional room for inventory. Mr. Waylon Kelly, an adjacent property owner stated that he was not opposed to the expansion questioned how the slope of the ground would change between O'Reilly's building and the commercial building to the south. Mr. Petersburg stated that there would be no adverse effects on the adjoining properties. No one spoke in opposition, the public hearing was closed.

During discussion of the request, Development Services Director, Jeffrey Lyons stated that the expansion would not increase traffic onto the site and would allow more room for inventory in the existing building and recommended approval of the request.

At the conclusion of the discussion, Brick Parsons made a motion to approve the variance as submitted. The motion was seconded by Zak Leslie, upon vote, the motion carried unanimously.



**ZONING BOARD OF ADJUSTMENT AND APPEALS
MEETING MINUTES
April 26, 2016**

ADJOURN

With no other business to come before Board, the meeting was adjourned at 5:38 p.m.

Mike Davis, Chairman

Attest:

Jeffrey Lyons, Development Services Director



APPLICATION TO THE ZONING BOARD OF ADJUSTMENT AND APPEALS

OWNER AND APPLICANT INFORMATION: (Location where variance is being requested)

Property Address:	321 W. Palestine Avenue		
Legal Description:	Subdivision: Greens	Block: 33	Lot: 4, 5, 1/2 alley
	Appraisal District Tract and Block (if not part of a recorded subdivision):		
Land Use and Zoning:	Current Use of the Property:		
	Zoning: C-2 Local Retail	Acreage: 5975	
Property Owner Info:	Name: M. Mohiuddin		
	Address: 1378 FM 2419, Palestine TX 75801		
	Phone: 903-388-6253	Email: Iqbal 410@hotmail.com	
Applicant Info:	Name: Same as owner		
	Address:		
	Phone:	Email:	

VARIANCE REQUEST INFORMATION:

Reason for Requesting a Variance:	Demolish Existing ^{Replace with} C-STORE Retail Center
	New Bldg not meet required rear and side yard set back
	Side yard setback - 10' required - New bldg. will be 5' from side yard.
	Rear yard setback - 25' required - New bldg will be 7' from rear property line.

ZONING AND DEVELOPMENT CODE REQUIREMENTS:

Indicate which codes you are requesting to vary from:	Chapter 40 Development, Section 40-137, Table 40-3
	Rear setback for commercial building. Side setback for commercial building.



APPLICATION TO THE ZONING BOARD OF ADJUSTMENT AND APPEALS

PROPERTY OWNER OR AUTHORIZED APPLICANT SIGNATURE PAGE:

I acknowledge under penalty of perjury that I am the legal owner of the property described in the application or, alternatively, that I am authorized to represent all of the owners of the property described in this application.

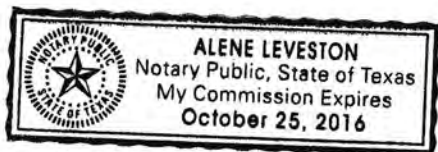
YOUR DRIVER'S LICENSE MUST SHOW YOUR CURRENT ADDRESS AND IT CANNOT BE EXPIRED.

M. Mohiuddin
Notarized Signature of Applicant
(Signature must be witnessed by a Notary Public)

STATE OF TEXAS
COUNTY OF ANDERSON

Before me, the undersigned, personally appeared M. Mohiuddin,
Who on his/her oath certifies that the above/attached statements are true and correct.

Given under my had and seal of office, this 9th day of May, 2016.



Alene Leveston
Notary Public, State of Texas

Jeffrey Lyons

From: Julia Stone [texasteach@gmail.com]
Sent: Wednesday, May 18, 2016 1:54 PM
To: Jeffrey Lyons
Subject: Variance Case ZBA-16-02

Mr. Lyons,

In regard to Variance Case #ZBA-16-02, a variance to the required side and rear building setbacks for a new commercial building at 321 W. Palestine Avenue, the Laura Sue Eyman Trust is in FAVOR.

Mailing address: 305 E Lacy St, Suite 131

Sent from [Mail](#) for Windows 10



ZONING BOARD OF ADJUSTMENT AND APPEALS
Special Meeting / May 31, 2016
Staff Report

Case No.	ZBA-16-01
Hearing Date:	May 31, 2016 at 5:30 pm
Request:	Variances to the required building setbacks for a new commercial building as follows: <ol style="list-style-type: none">1. Variance to allow a new commercial building (convenience store and retail spaces) to be located 7-feet from the rear property line. The minimum rear yard setback requirement is 50-feet.2. Variance to allow a new commercial building (convenience store and retail spaces) to be located 5-feet and one inch from the side property line. The minimum side yard setback is 10-feet.
Location:	321 W. Palestine Avenue
Applicant:	M. Mohiuddin
Exhibits:	<ol style="list-style-type: none">1. Site plan showing the demolition of the existing convenience store and the proposed location of the new convenience store with retail spaces.2. Public notice and subject property location map.
Applicable Codes:	Appendix A, Zoning, Article 4, Section 4.7, Minimum primary structure setbacks (rear yard setbacks) from residential properties. Chapter 40 Development, Section 40-137, Table 40-3 Lot Standards.
Property Zoning:	C-2, local retail commercial and R-2, Single Family Residential.
Overlay Zones:	N/A
Prepared By:	Jeffrey Lyons, Development Services Director

Variance Request

The owner of property located at 321 W. Palestine Avenue is proposing to demolish the existing convenience store and reconstruct a new 5,700 square foot convenience store including four retail spaces. In order to place the building in the location shown on the site plan, variances to the required rear yard and side yard setbacks will have to be approved by the Board.

According to the site plan, the building will be located 5-feet and one inch from the side property line where the minimum setback is 10-feet. The rear of the building will be located 7-feet from the rear property line where the minimum setback is 50-feet. The increased setback on the rear property line is due to the adjacent lots being zoned for residential uses.



ZONING BOARD OF ADJUSTMENT AND APPEALS

Special Meeting / May 31, 2016

Staff Report

Property Information, Zoning, and Setback Restrictions

The property consists of two lots and a portion of an abandoned alley within the Green's Subdivision. Lot 5, zoned commercial, is the location of the existing convenience store being closest to W. Palestine Avenue. Lot 4, zoned residential, is located directly behind Lot 5, both of which are owned by the applicant. Assuming that the remainder of the property zoned for residential uses is rezoned to the C-2, local retail commercial district, the applicable building setbacks will be 50-feet from the rear property line, 10-feet from the interior property line, 15-feet from the side property line facing Tennessee Avenue, and 25-feet from the front property line facing W. Palestine Avenue.

Screening Wall and Visual Barrier Requirements

A screening wall or visual barrier must be installed on a commercial lot that abuts a residential property. The site plan submitted for the new building includes the installation of a retaining wall and a 6-foot tall privacy fence that satisfies the screening requirements between the commercial property and the adjacent residential property.

Public Notification

On May 13, 2016, eighteen notices were mailed to property owners within 200-feet of the property requesting the variances. As of May 20th, one response has been returned in favor of the variances and none have been received in opposition.

Criteria for Approval

The Board may, in specific cases, authorize a variance from the terms of the zoning ordinance, if the variance is not contrary to the public interest, and, due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship, and so the spirit of the ordinance is observed and substantial justice is done. Approval of the variance must receive the concurring vote of 75% of the members of the Board.

Staff Analysis and Recommendation

The applicant requesting the variances currently owns the existing convenience store at 321 W. Palestine Avenue. According to the site plan submitted with the application, the owner plans on demolishing the existing store, leaving the gas pumps and canopy in place, and constructing a new 5,700 square foot store with four retail lease spaces. Due to the required parking for this addition and the vehicle maneuvering space requirement between the parking spaces and the gas pumps, the new building will have to be placed toward the rear of the property.

The property consists of two separate lots which are part of the Green's Subdivision, being Block 33, Lots 4 and 5 and half of a closed alley. Lot 5 is the current location of the convenience store, gas pump stations and parking lot. Lot 4 is located behind the convenience store and is zoned residential. If the variance is approved, the applicant will

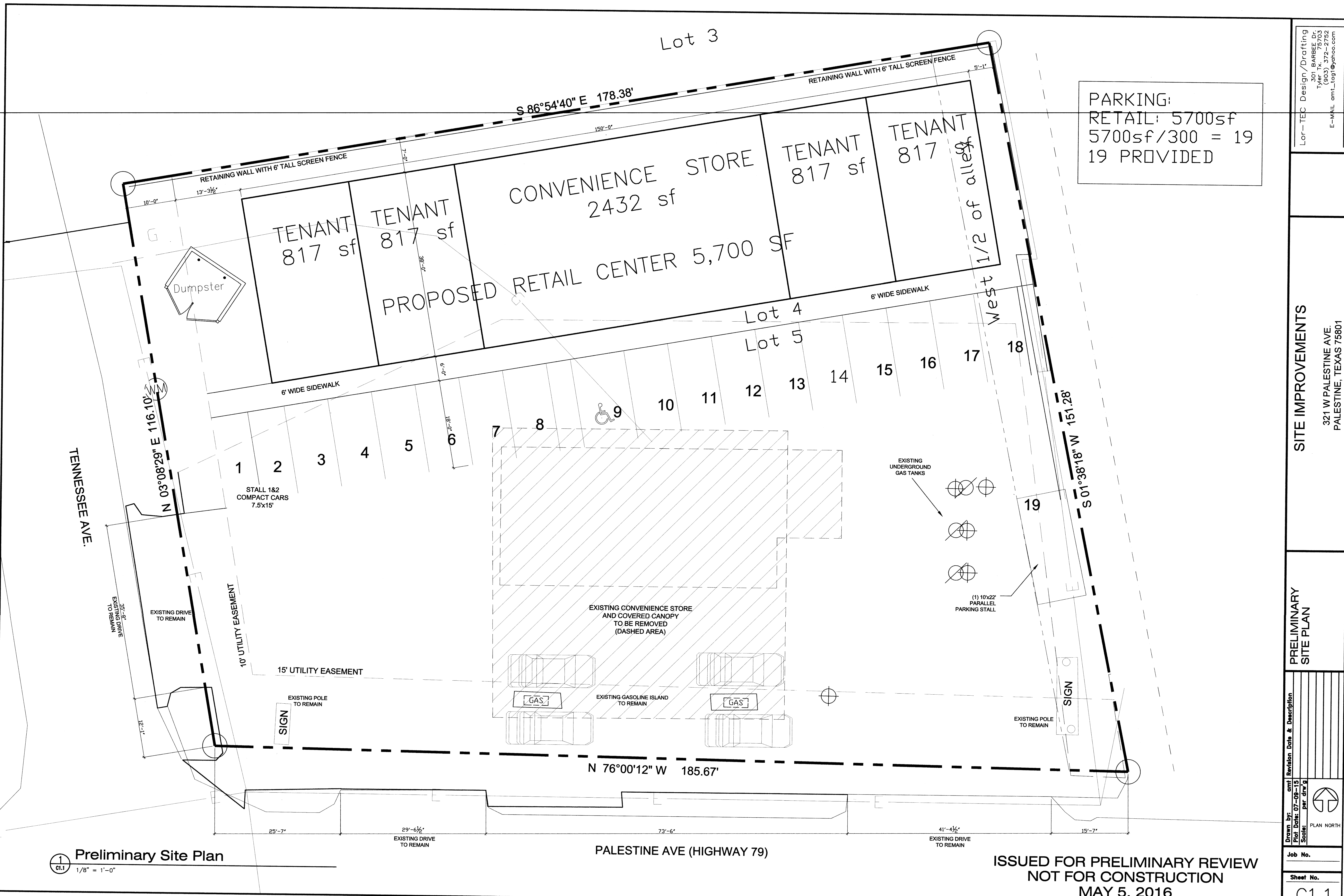


ZONING BOARD OF ADJUSTMENT AND APPEALS
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Staff Report

then request a zoning change on Lot 4 to a commercial zone and consolidate the two lots into one in order to comply with the subdivision ordinance which prohibits improvements being constructed over existing property lines.

Concerning the setback requirements for the new building, the side yard encroachment of 5-feet and one inch into the 10-foot building setback will leave sufficient room between the adjacent commercial building for firefighting purposes and other necessary access. The encroachment into the rear setbacks of 43-feet will leave 7-feet clearance behind the new building and the rear property line. This will be sufficient room for access to the rear of the building for maintenance and other purposes.

The Board should consider whether or not the encroachments meet the criteria for approval of the requested variances. Staff does not foresee any adverse effects to the adjoining properties based on the proposed location of the new building.



PARKING:
 RETAIL: 5700sf
 5700sf/300 = 19
 19 PROVIDED

Lor-TEC Design/Drafting
 301 BARBERS PT.
 TOMBALL, TX 75068
 (903) 372-2752
 E-MAIL: amt_tec@yahoo.com

SITE IMPROVEMENTS
 321 W PALESTINE AVE.
 PALESTINE, TEXAS 75601

PRELIMINARY
 SITE PLAN

Drawn by:	amt	Revision	Date	Description
Plot Date:	07-08-15			
Scale:	per drawing			

Job No.
 Sheet No.
 C1.1

Preliminary Site Plan
 1/8" = 1'-0"

ISSUED FOR PRELIMINARY REVIEW
 NOT FOR CONSTRUCTION
 MAY 5, 2016