



CITY OF WEST LAKE HILLS, TEXAS
NOTICE OF BOARD OF ADJUSTMENT (BOA) REGULAR MEETING
Wednesday, June 14, 2023 at 7:00 PM

Notice is hereby given that the Board of Adjustment (BOA) of the City of West Lake Hills, Texas, will hold a Regular Meeting on the 14th day of June 2023 at 7:00 p.m., in the Council Chamber, Municipal Building, 911 Westlake Drive, West Lake Hills, Texas, at which time the following items will be discussed, to-wit:

REMOTE ACCESS:

Due to the COVID-19 status in Travis County, any citizens or applicants that wish to speak at the meeting are encouraged to attend virtually, as the number of people in the chambers will be limited due to physical distancing. Facial Coverings are not required, but highly recommended, and will be available for any that need one.

Join Zoom Meeting:

<https://us02web.zoom.us/j/3499549035>

Meeting ID: 349 954 9035

If you wish to listen to the meeting via telephone: Dial (346) 248-7799, Meeting ID 349 954 9035.

If you wish to speak during the meeting or provide written comments, please email your name, phone number, comments, and the item number you wish to speak on to citysec@westlakehills.gov by 1:00 P.M. on June 14, 2023.

1. Call to Order
2. Citizen Communications The BOA welcomes public comments at this point on any issue. If the issue is listed on the agenda, the speaker may choose to comment during the Public Comment period or when the specific agenda item is taken up by the Board later in the meeting. The Board cannot respond to or discuss matters not listed on the agenda. The Board may provide factual information, refer the item to a staff member, or request the item be added to a future meeting agenda. Speakers shall limit their comments to five (5) minutes each.
3. Consent Agenda All Consent Agenda items listed are considered to be routine by the Board and will be enacted by one (1) motion. No separate discussion or action on any of the items is necessary unless requested by a Board Member.

- a. Approval of the May 10, 2023 Regular Meeting Minutes.
 - b. Approval of the May 24, 2023 Special Meeting Minutes.
4. **Land Use 604 Rocky River Road** - Discuss and consider action on a variance request to allow a side yard building encroachment for an A/C unit and generator for a new residence under construction (Section 22.03.281 of the West Lake Hills Code). Applicants Philip and Mindy Vescovo.
5. **Ordinance 701 South Capital of Texas Highway, Suite 500** - Discuss and consider action to adopt an ordinance for a Special Use Permit request to sell beer and wine for on-site consumption on a property Zoned B-3 Business 3 (West Lake Hills Code, Section 38.03.038(c)(1)). Applicant Brian Borichevsky (ROK Golf ATX WL, LLC).
 - a. **Public Hearing**: All persons wishing to speak for or against shall be heard.
6. Adjournment

Approved by: Linda Anthony, Chair

Certificate

I certify that the above Notice of the June 14, 2023 Board of Adjustment Regular Meeting was posted on the bulletin board at the Municipal Building, 911 Westlake Drive, West Lake Hills, Texas on Friday, June 9, 2023 by 5:00 pm. and will remain posted continuously until said meeting is convened.

Signed by: Terry Blanchard, City Secretary

The City of West Lake Hills is committed to compliance with the Americans with Disabilities Act. Reasonable accommodation and equal access to communications will be provided upon request.

All items on the agenda are for discussion and/or action. The BOA reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed above, as authorized by Texas Government Code Sections 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices), and 551.086 (Economic Development).

CITY OF WEST LAKE HILLS, TEXAS
MINUTES OF A BOARD OF ADJUSTMENT (BOA) REGULAR MEETING
Wednesday, May 10, 2023 at 7:00 PM

1. Call to Order

With a quorum present, Vice Chair Bowman called the meeting to order at 7:00 p.m.

BOARD MEMBERS PRESENT:

Gordon Bowman
Brian Plunkett
Beth South
James Vaughan
Darin Walker
Katherine Loayza

CITY STAFF PRESENT:

City Administrator Trey Fletcher
City Secretary Terry Blanchard
Finance Director Vonda Ragsdale
Director of BDS Jennifer Bills
Chief of Police Scott Gerdes
City Attorney Patty Akers
Interim Director of BDS Brian McDougal

2. Citizen Communications The BOA welcomes public comments at this point on any issue. If the issue is listed on the agenda, the speaker may choose to comment during the Public Comment period or when the specific agenda item is taken up by the BOA later in the meeting. The BOA cannot respond to or discuss matters not listed on the agenda. The BOA may provide factual information, refer the item to a staff member, or request the item be added to a future meeting agenda. Speakers shall limit their comments to five (5) minutes each.

Vice Chair Bowman opened the meeting for public comments. Hearing none, the public comment section was closed.

3. Consent Agenda All Consent Agenda items listed are considered to be routine by the BOA and will be enacted by one (1) motion. No separate discussion or action on any of the items is necessary unless requested by a Board Member.

- a. Approval of the March 8, 2023 Regular Meeting Minutes.

MOTION: Upon a motion made by Board Member Vaughan and a second by Board Member Walker, the Board voted five (5) for and none (0) opposed with one (1) abstention to approve the consent agenda as presented. Board Member Loayza abstained. Motion carried.

4. Ordinance 4 Martelli Lane: Discuss and consider action to adopt an ordinance for a Special Use Permit request to allow for guest quarters located on a property Zoned R-1 Residential 1 (West Lake Hills Code, Section 38.03.032(c)(1)). Applicant Foursquare Builders, LLC.

- a. Public Hearing: All persons wishing to speak for or against shall be heard.

Board Member Walker recused himself and will not participate in the discussion or vote.

The public hearing opened at 7:03 p.m. Director Bills gave a brief summary. Board members asked questions and discussed the requested permit. The owner/applicant had no comments to add to the discussion. With no further comments, the public hearing closed at 7:12 p.m.

MOTION: Upon a motion made by Board Member Plunkett and a second by Board Member Vaughan, the Board voted five (5) for and none (0) opposed to approve the ordinance as presented. Motion carried.

5. Adjournment

MOTION: Upon a motion made by Board Member Vaughan and a second by Board Member South, the Council voted six (6) for and none (0) opposed to adjourn the meeting at 7:13 p.m. Motion carried.

Respectfully submitted,

LINDA ANTHONY, CHAIR

ATTEST:

Terry Blanchard, TRMC
City Secretary

These minutes were approved on June 14, 2023.

CITY OF WEST LAKE HILLS, TEXAS
MINUTES OF A BOARD OF ADJUSTMENT (BOA) SPECIAL MEETING
Wednesday, May 24, 2023 at 7:00 PM

1. Call to Order

With a quorum present, Chair Anthony called the meeting to order at 7:03 p.m.

BOARD MEMBERS PRESENT:

Chair Linda Anthony
Gordon Bowman
James Vaughan
Brian Plunkett
Beth South
Darin Walker

CITY STAFF PRESENT:

City Administrator Trey Fletcher
City Secretary Terry Blanchard
Finance Director Vonda Ragsdale
Director of BDS Jennifer Bills
Chief of Police Scott Gerdes
City Attorney Patty Akers

2. Citizen Communications The BOA welcomes public comments at this point on any issue. If the issue is listed on the agenda, the speaker may choose to comment during the Public Comment period or when the specific agenda item is taken up by the BOA later in the meeting. The BOA cannot respond to or discuss matters not listed on the agenda. The BOA may provide factual information, refer the item to a staff member, or request the item be added to a future meeting agenda. Speakers shall limit their comments to five (5) minutes each.

Chair Anthony opened the meeting for public comments. Hearing none, the public comment section was closed.

3. Ordinance 716 Laurel Valley - Discuss and consider action to adopt an ordinance for a Special Use Permit request to allow for guest quarters located on a property Zoned R-1 Residential 1 (West Lake Hills Code, Section 38.03.032(c)(1)). Applicant Barry Schwartz.

- a. Public Hearing: All persons wishing to speak for or against shall be heard.

The public hearing was opened at 7:04 p.m. Chair Anthony gave a brief summary. Director Bills provided the staff report. Comments were received from Barry Schwartz and Craig Bullock. With no further comments, the public hearing was closed at 7:15 p.m.

MOTION: Upon a motion made by Board Member South and a second by Board Member Walker, the Board voted six (6) for and none (0) opposed to approve the ordinance as presented. Motion carried.

4. Adjournment

MOTION: Upon a motion made by Board Member Walker and a second by Board Member Bowman, the Board voted six (6) for and none (0) opposed to adjourn the meeting at 7:16 p.m. Motion carried.

Respectfully submitted,

LINDA ANTHONY, CHAIR

ATTEST:

Terry Blanchard, TRMC
City Secretary

These minutes were approved on June 14, 2023.



City of West Lake Hills Board of Adjustments

AGENDA REPORT

Meeting Date:	June 14, 2023	Item Number:	4
Department:	Building and Development Services		
Prepared By:	Jennifer Bills	Cost / Budget:	None
Exhibits:	See Attached	Source of Funds:	N/A

Subject

604 Rocky River Road – Discuss and consider action on a variance to allow an encroachment into the 25' side yard setback by 4' (four feet). The purpose of the encroachment is to place a pad for the ac units and house generator on the side of the home that is currently under construction. (Section 22.03.275 (b) 3 Building setback distances – Side Yards of the West Lake Hills Code).

Applicants Phillip and Mindy Vescovo.

Recommendation

Staff recommends denial of the proposed variance. The design/placement of the house has created the need for this request.

The Zoning & Planning Commission met on May 17, 2023, and recommended approval of the variance to allow a 4-foot encroachment into the side yard setback. The recommendation passed unanimously (Attachment 2).

Discussion

Property Information, Zoning & Site Characteristics:

Owner: Philip and Mindy Vescovo

Legal Description: LOT I-A, A RESUBDIVISION OF PART OF TRACT A OF BEN JONES SUBDIVISION

Lot Size: 2.090 acres (91,040 square feet)

Zoning: R1 – One Family Residential

The site is surrounded by a single-family residential property on all sides.

Background & Analysis:

The applicant is seeking a variance to encroach into the side yard setback for the purpose of placing the home air conditioning compressors and a whole house generator. The location that has been chosen encroaches on to the 25' side yard setback by 4' (Attachment 1). The design and location of the home have dictated the location of the mechanical equipment to the home is self-imposed. The approved plans showed the location of two AC pads on the east side of the house, outside of the setbacks.

Variance Criteria Review:

When applying for a variance, the applicant has established by competent evidence that:

1. *The strict or literal enforcement of the terms of this chapter, because of special conditions, will result in unnecessary hardship to the applicant.*

I was informed recently that the variance is needed. The majority of the structure has been completed. There is no other place to site this equipment that will be effective for the efficient performance of the AC units that would not require a variance.

2. *There will not be unreasonable disruption of the natural terrain or unreasonable destruction of existing flora.*

There is no existing natural flora in this area. The terrain has been disrupted for the building of the new home and the placement of a pad for the AC is part of that disruption; however, this is pretty much a solid rock and it will remain that way but for a slight leveling.

3. *There is no reasonable alternative to the requisite variance that will alleviate the difficulty or hardship complained of.* The decision to request the variance occurred after long discussion about other possible placements and in consultation with the HVAC systems company.

4. *The variance will not be greater than the minimum required to alleviate the difficulty or hardship complained of.*

It is my understanding that the 'flatwork' (AC pad) does not require a variance; only the actual AC equipment. While the drawing that accompanies this request indicates the entire pad as the variance request, the two actual compressors and the generator do not take up the entire area of the pad.

5. *The variance does not violate the intent of the Zoning Ordinance or goals of the Comprehensive Plan.*

This is a very small square footage. This house was designed with the intent to avoid any need for a variance at all. One was requested at the urging of the builder; this one is due to an oversight regarding the need for such a variance.

6. *The variance will not adversely affect neighboring properties or interfere with the enjoyment of these properties by their owners.*

If granted, the placement of these units will not be visible by the immediate neighbors, April and Mark Mangum, once the project is finished and the planned landscape is installed. They are the sole and only property that has even a slight view of the intended variance area from inside one of their two homes next door.

Outdoor Lighting

Outdoor lighting is not proposed with this variance request. Any outdoor lighting will need to comply with the City's Code.

Compliance with Adopted Uniform Building Code

The property and future construction will have to comply with all applicable City codes.

Subdivision

There is no change to the subdivision proposed with this application.

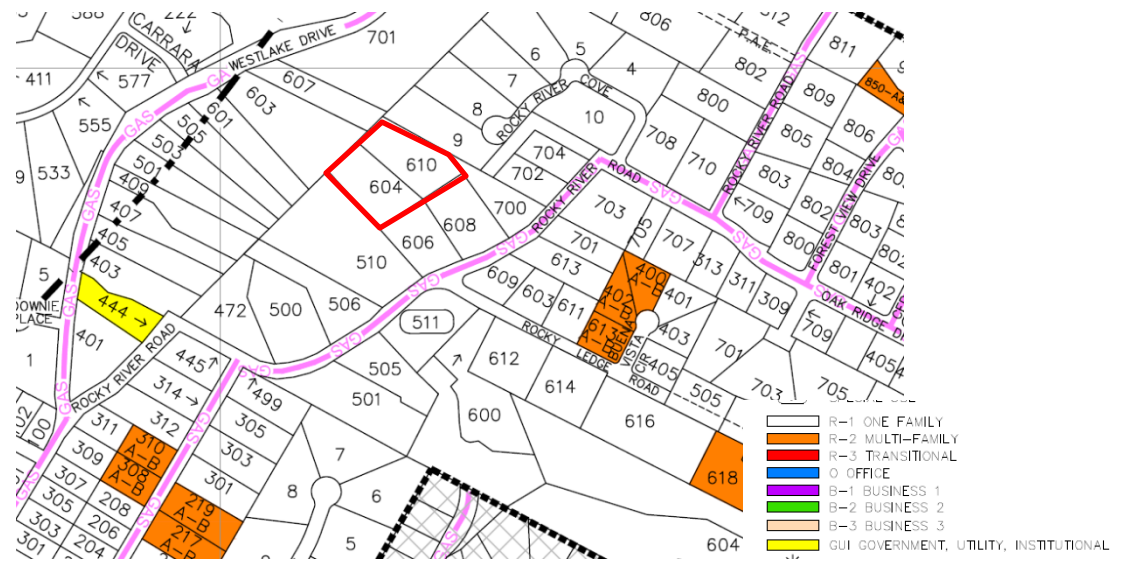
Comprehensive Planning Analysis

The existing and future land use is in conformance with the City of West Lake Hills Master Plan.

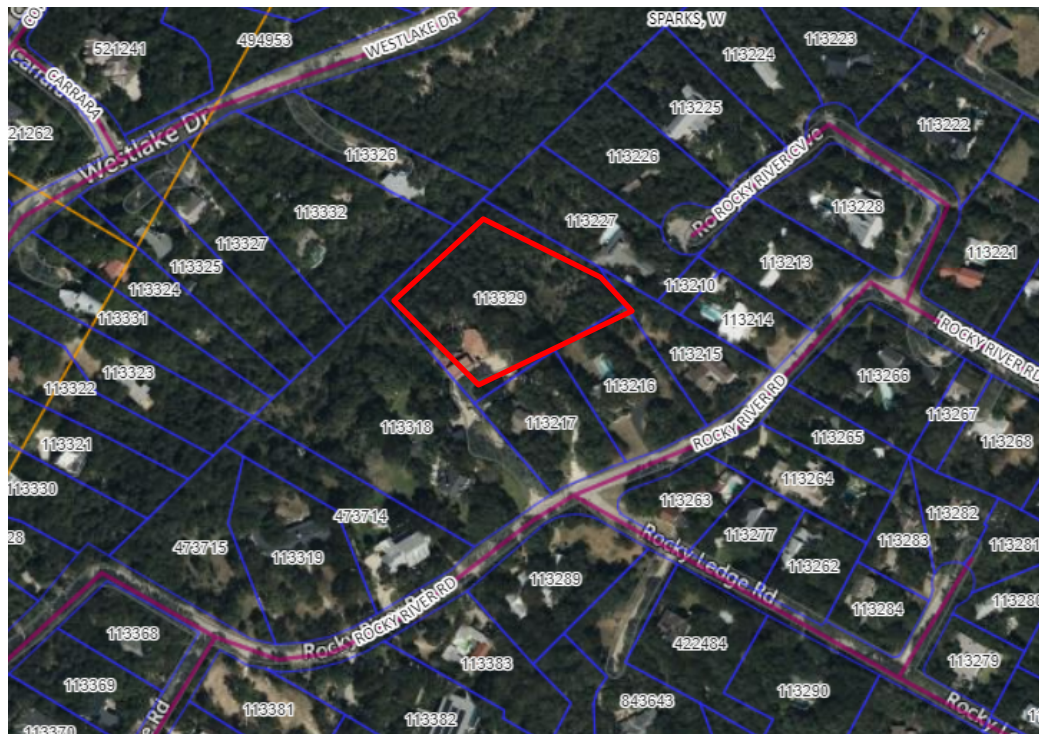
Links to Relevant Code:

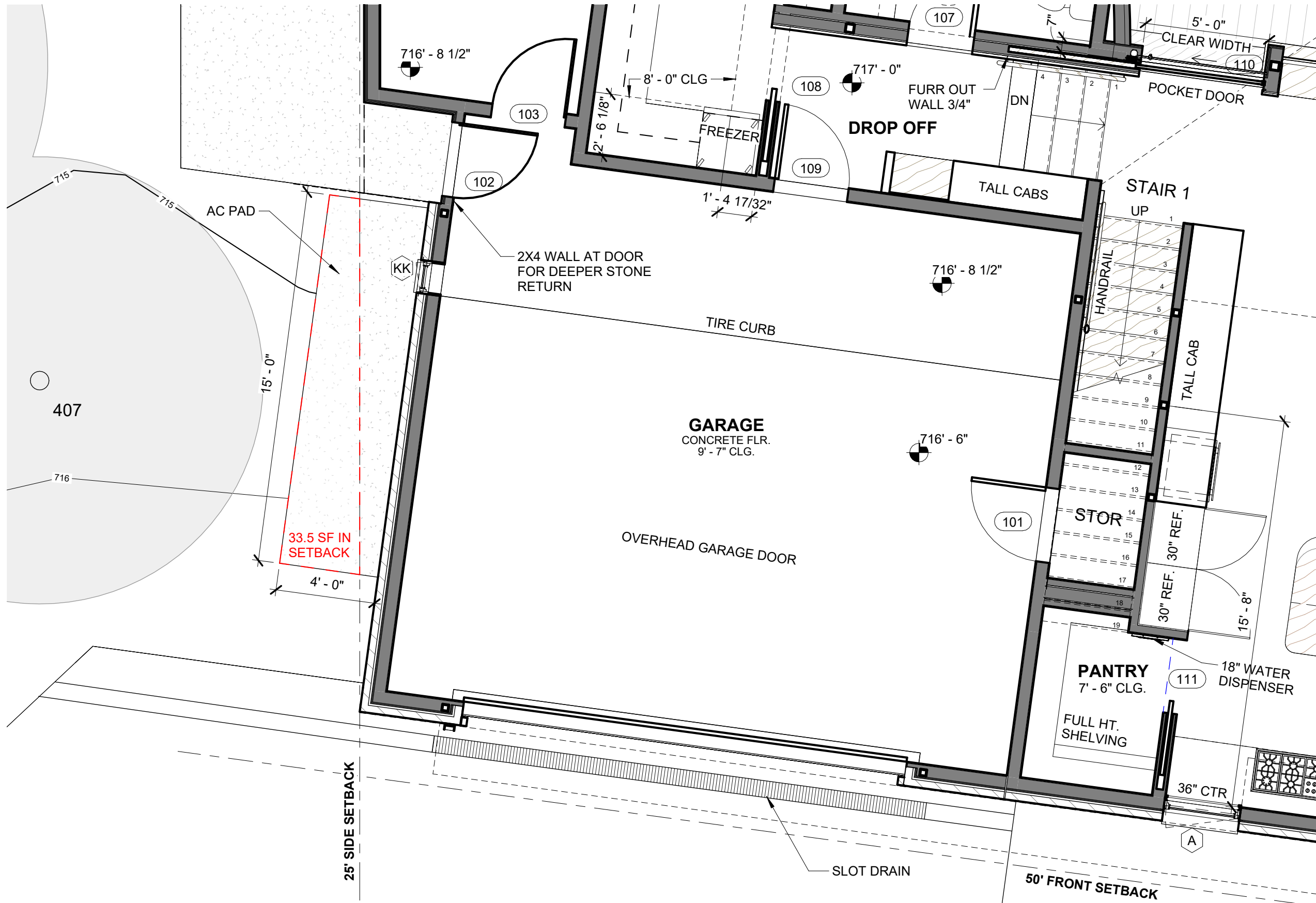
- [Section 22.03.275 \(b\) 3 Building setback distances – Side Yards](#)
- [Section 38.05.031 Variances](#)
- [Section 22.03.511 Criteria and process required for granting variance](#)

Zoning:



Aerial:





1 ENTRY PLAN - GARAGE
1/4" = 1'-0"

VESCOVO RESIDENCE

CITY OF WEST LAKE HILLS, TEXAS
MINUTES OF A ZONING & PLANNING COMMISSION (ZAPCO) REGULAR MEETING
Wednesday, May 17, 2023 at 6:30 PM

1. Call to Order. Chairman Robert Meisel.

Welcoming the new Director of Building and Development Services, Jennifer Bills, to the City of West Lake Hills.

With a quorum present, Chairman Robert Meisel called the meeting to order at 6:30 p.m.

Members in attendance were Chairman Robert Meisel, Vice-Chairman Jim Pledger, Commissioners Laurie Maccini, Karen Bartoletti, Julia Webber and Patrick Stewart.

2. Consent Agenda The following items are considered to be self-explanatory by the Commission and will be enacted with one motion. There will be no separate discussion of these item/s unless a Commission Member or citizen so requests.

- Approval of the March 22, 2023 Special Called Zoning and Planning Commission Meeting Minutes.
- Report on Board of Adjustment and City Council Responses.

Chairman Meisel welcomes and introduces Jennifer Bills as our new Director of Building and Development Services.

Motion for Approval made by Commissioner Webber with a Second by Commissioner Stewart.

Motion for Approval carried unanimously by a vote of 5 ayes to 0 nays.

3. Land Use 1108 Blackacre Trail - Discussion/Recommendation on a variance request for a front yard fence and gate to encroach 10' into a 30' front building setback. (Section 22.03.173 of the West Lake Hills Code). Applicant Gail O'Kelly.

Staff Briefing

Director Bills gives the staff briefing. Staff Recommendation: Denial

Presentation by Applicant

Luis Jauregui is the builder on this application. There is 150' frontage on this lot. A couple of other houses have front fences that encroach. There is very minimal encroachment. The 30' setback is not as esthetic.

Public Hearing

Tim Clark lives at 1105 Blackacre and is also the Homeowner's Association President. Many neighbors are against this fence. We have large lots that are open. This is not consistent with the neighborhood. There is no hardship. It maximizes the front yard. My lot, 1105 Blackacre, is the original ranch house and my fence is at 31'.

Chairman Meisel closes the Public Hearing and reconvenes the meeting.

Deliberation/Recommendation

Commissioner Webber: Is the driveway already paved?

Luis: No.

Commissioner Webber: I see a fence column is in the critical root zone of a tree.

Commissioner Maccini: There is no hardship.

Commissioner Stewart: I don't see a hardship.

MOTION: Upon a motion made by Vice-Chairman Pledger and a second by Commissioner Bartoletti, the Commission voted five (5-0) to deny due to a lack of hardship.

4. **Land Use 10 Las Brisas Drive - Discussion/Recommendation on a variance requesting the removal of a tree larger than 14" in diameter for the demolition and construction of a new family residence. (Section 22.03.304 of the West Lake Hills Code). Applicant Gail O'Kelly.**

- Tree #827 - 21" Live Oak

Staff Briefing

Director Bills gives the staff briefing. Staff recommendation: Approval

Commissioner Maccini: The new house design on Page 28, the tree is the one by the front door?

Director Bills: Yes.

Commissioner Bartoletti: On Page 36, it is in terrible shape. I would support a variance.

Presentation by Applicant

Luis Jauregui: The new home is almost identical. It will comply to Code and it will be a better design. It is currently dangerous.

Public Hearing

Chairman Meisel closes the Public Hearing and reconvenes the meeting.

Deliberation/Recommendation

Commissioner Bartoletti moves to recommend approval based on the conditions. Vice-Chairman Pledger seconds. Unanimous (5-0) approval.

5. **Land Use 604 Rocky River Road** - Discussion/Recommendation on a variance request to allow a side yard building encroachment for an A/C Unit and generator for a new residence under construction (Section 22.03.281 of the West Lake Hills Code). Applicants Philip and Mindy Vescovo.

Commissioner Maccini recuses herself and steps away from the dais.

Staff Briefing

Director Bills gives the staff briefing. Staff recommendation: Denial due to design.

Commissioner Stewart: Was is on that original plans?

Director Bills: No. It is on a land-locked property.

Commissioner Webber: How large is the equipment?

Director Bills: It's a 33.4 sq. ft. pad.

Commissioner Bartoletti: Is there an alternative location?

Commissioner Webber: On our house, we put it on our roof.

Presentation by Applicant

Mindy Vescovo is the property owner. I was here before with an eave. The eave was at the request of the builder. To clarify, there is no front setback. The flatwork would require a variance. I asked the builder and he said because of the panel. HVAC thought no variances were needed. The house has been under construction since January 2022. Only one neighbor is affected.

Public Hearing

Chairman Meisel closes the Public Hearing and reconvenes the meeting.

Deliberation/Recommendation

Commissioner Webber: I feel as an architect always includes mechanical and should be noted.

COMMISSIONER WEBBER MOVES TO RECOMMEND APPROVAL AS WRITTEN BASED ON HEALTH AND SAFETY. COMMISSIONER BARTOLETTI SECONDS. (4-0) APPROVAL.

Vice-Chairman Pledger: It should be noted in the minutes.

6. Land Use 304 McConnell Drive - Discussion/Recommendation on a variance requesting the removal of a tree larger than 14" in diameter to prevent further property damage and maintain safety (Section 22.03.304 of the West Lake Hills Code). Applicant Ruth Fulton.

- 28.1" Red Oak

Staff Briefing

Director Bills gives the staff briefing. Staff recommendation: Approval.

Commissioner Maccini: Just removal?

Director Bills: Still requires replacement.

Presentation by Applicant

Ruth Fulton is the applicant. There is a letter from an arborist and is damaged with decay and is a life safety issue. We moved into the house in 2005. In 2006 an arborist said we would eventually lose the tree. I plan to ask for a waiver on replacement.

Public Hearing

Chairman Meisel closes the Public Hearing and reconvenes the meeting.

Deliberation/Recommendation

Commissioner Maccini: I can tell you love the tree. I would ask you to consider planting under brush trees.

**COMMISSIONER MACCINI MOVES TO RECOMMEND APPROVAL.
COMMISSIONER STEWART SECONDS. UNANIMOUS (5-0) APPROVAL.**

7. Adjournment. Chairman Robert Meisel.
Chairman Meisel adjourns the meeting at 7:20 p.m.

Respectfully submitted,

ROBERT MEISEL, CHAIRMAN

ATTEST:

ZAPCO Secretary Mark Littrell

These minutes were approved on _____, 2023.



City of West Lake Hills Board of Adjustments

AGENDA REPORT

Meeting Date:	June 14, 2023	Item Number:	5
Department:	Building and Development Services		
Prepared By:	Jennifer Bills	Cost / Budget:	None
Exhibits:	See Attached	Source of Funds:	N/A

Subject

701 South Capital of Texas Highway, Suite 500 - Discuss and consider action to adopt an ordinance for a Special Use Permit request to sell beer and wine for on- site consumption on a property Zoned B-3 Business 3 (West Lake Hills Code, Section 38.03.038(c)(3). Applicant Brian Borichevsky (ROK Golf ATX WL, LLC).

Recommendation

Staff recommends approval of the ordinance for the Special Use Permit as attached.

Discussion

Property Information, Zoning & Site Characteristics:

Owner: ROKGolf ATX WL, LLC

Legal Description: Loop 360/RM 2244 Center, Lot 1

Lot Size: 48.0955 acres

Building Size: Approx. 4,000 square feet

Zoning: B-3 – Business 3

The business is part of the Villages at Westlake shopping center. The center is bordered by Loop 360, and Bee Cave Road on the northeast and southwest sides. To the south, it is bordered by one residential lot and Saint John Neumann Catholic Church.

Background & Analysis:

The applicant is seeking a Special Use Permit for an indoor golf lounge, which is a retail/service use. The business will occupy a store front within the shopping center next to Izumi Sushi (previously part of Office Depot space). The business will offer memberships for lessons and practice spaces for golfers (Attachment 1). The business is requesting to serve wine and beer as a complementary service for customers playing and practicing golf. The applicant states that the projected gross revenues from sales of wine and beer would be approximately 10-15% of total gross revenues (Exhibit A).

Within the shopping center, there are eight active SUPs (Twin Liquors, HEB, Izumi Sushi, Tacodeli, MOD Pizza, Lee's Kitchen & Cocktails, Lupe Tortilla, and Kerbey Lane Café).

B-3 Special Use Permit – allowed uses:**38.03.038 B-3 Business 3 District (c) (3)**

“Other retail business uses providing goods and services to meet the needs of the region, which may be permitted as special uses in accordance with the procedure for granting such uses upon findings made in writing that the proposed use is of the same general character as those listed in subsection (b) of this section, is not attended by nuisance factors, and will not be detrimental to the other uses within the district or the adjoining uses.”

By right within the B-3 district include health or athletic club, sporting goods store and movie theater, and a restaurant with on-premises consumption is also allowed by special use permit within the B-3 District. The proposed use of an entertainment and retail sales store is similar in function to the uses listed above. The sale of wine and beer will be an ancillary function of the store, which primarily serves as an indoor virtual golf experience, providing entertainment, instruction, and equipment sales.

Section 38.04.033 General Criteria applicable to all special uses.

- (1) The appearance, size, density, and operating characteristics of the proposed special use are compatible with the surrounding neighborhood and uses;

ROK Golf Westlake will be located in a roughly 4000 sf location at The Villages of Westlake in the former Office Depot building next to Izumi Sushi. The core feature of ROK Golf Westlake is 5 virtual golf bays featuring elite Trackman technology run by our exception instruction and management team. Our primary customer mission at ROK Golf is to “Make Golfers Better” and offer the ability to use Trackman on a regular basis to the whole of the avid golfing public. Unlike Top Golf, ROK Golf is “golf first” and everything else next. ROK Golf customers are passionate / avid golfers who want to get better and span the entirety of age and skill levels. From 10 to 80+ years old and from first time golfers to Major winners. Typical usage is for a golfer, or group of golfers, to rent a bay for 30 minutes to 2 hours to practice, take a lesson, play, etc. We also host small corporate and private events and parties usually 15 – 30 people. The store will feature an open loose atmosphere in a modern industrial motif with music playing and multiple large TV’s streaming business and sports channels for our customers’ enjoyment along with a small bar area offering canned / bottled beer and wine. Each ROK Golf is slightly different based on the center and neighborhoods surrounding. ROK Golf Westlake location will have an increased retail presence (golf accessories, apparel, equipment primarily) than other ROK Golf locations given the retail prowess of The Villages as well as having a “business atmosphere” focus with areas for customers to work while at ROK.

- (2) The proposed use will not have an adverse effect on the value of surrounding properties or impede their proper development;

ROK Golf would have a positive impact on the retail center or surrounding neighborhoods. ROK Golf offers elite virtual golf bays that will attract a very desirable, high net worth clientele. While our price point is set as low as possible to make our services available to the majority of the golf public, it is by no means low cost. It is important to note that ROK Golf will NOT be a bar and is not primarily focused on entertainment like a Top Golf. As mentioned, ROK Golf is a golf first facility that serves beer and wine, it is NOT an entertainment facility / bar that has golf. Customers will not rarely come ROK Golf Westlake for the sole purpose of sitting at the bar. Beer and wine sales will typically be an add on to their virtual bay rental or something to do while waiting for their bay to be open or after.

- (3) The proposed use will not create a nuisance factor or otherwise interfere with a neighbor’s enjoyment of the neighbor’s property or operation of the neighbor’s business;

ROK Golf will not be a nuisance to neighbors, quite the contrary. ROK Golf will only elevate surrounding businesses and offers a service that Westlake does not currently enjoy. Since ROK Golf will only offer limited food, our customers will utilize neighbor restaurants for food while they enjoy ROK Golf. Other retail stores (Sephora, Tree House, Tyler’s, etc.) will also benefit from our customers dropping in before or after to purchase goods for themselves, spouse, kids,

etc. Music playing at ROK Golf is not loud (background level) and the sound from the bays is dampened by multiple layers of sound absorption.

- (4) The traffic that the proposed use can reasonably be expected to generate on existing streets will not create or add significantly to congestion, a safety hazard, or a parking problem in the area, nor will it disturb the peace and quiet of the neighborhood; and

ROK Golf is not a high traffic store. We typically have 5 – 10 customers in ROK at any one time with 2-4 staff. Our busiest days are bad weather days (rain) when we will have 15 customers on average throughout the day. Most reservations are 1 to 2 hours. Our traffic flow is similar to hair or nail salon. A small number of customers consistently throughout the day. We have occasional events where we will have a larger group all arriving / leaving at one time, but those groups are relatively small (10 – 20).

- (5) The proposed use shall comply with all other applicable ordinances and regulations.
The applicant will comply.

Section 38.04.034 Criteria applicable to individual special uses.

*No specific criteria for this category of special use in Section 38.03.034 Criteria applicable to individual special uses. This business should be required to meet the criteria listed below, which is the same as for a restaurant **with the exception of the food sales requirement:***

(e) Alcoholic beverages sold in a restaurant for on- or off-premises consumption.

- (1) The restaurant where the alcoholic beverage is proposed to be sold shall not be located within 300 feet of a church or school as measured by state law.
- (2) The restaurant where the alcoholic beverage is proposed to be sold shall not be located on property, two or more sides of which abut property in a residential zoning district.
- (3) The gross receipts derived from the sale of alcoholic beverages shall not exceed the gross receipts derived from the sale of ~~food~~ **goods and services**.
- (4) The permit shall be reviewed annually by the city administrator and, if reissued, reissued at the end of the calendar year.
- (5) Additional fees are to be collected after three years' operation in accordance with the alcoholic beverage commission permit rules.
- (6) Special offers to the public promoting the sale of alcoholic beverages commonly known as "happy hour" shall be conducted only at times when the permittee offers full food service and only during the period of time from 4:00 p.m. through 7:00 p.m. during the days of Monday through Friday inclusive except as indicated in this subsection. The permittee may select a period of time not to exceed three hours per each day to conduct a happy hour promotion for the days of Saturday and Sunday. The permittee shall give written notification to the city administrator of the hour selected for such a happy hour and any changes thereto. The permittee shall give a 72-hour notice to the city administrator of changes to any happy hour designation.
- (7) Live entertainment utilizing electronically amplified musical instruments or an associated sound system shall not be permitted. Live entertainment is permitted as follows:
 - a. The group of performers is limited to not more than four persons;
 - b. The entertainment must be located within the confines of the restaurant interior;
 - c. The sound is not to be heard outside the restaurant premises; and
 - d. All performances must end at 10:30 p.m. daily.

Outdoor Lighting

Outdoor lighting is not proposed with this SUP request. Any outdoor lighting will need to comply with the City's Code.

Compliance with Adopted Uniform Building Code

The property and future construction will have to comply with all applicable City codes.

Subdivision

There is no change to the subdivision proposed with this application.

Comprehensive Planning Analysis

The existing and future land use is in conformance with the City of West Lake Hills Master Plan.

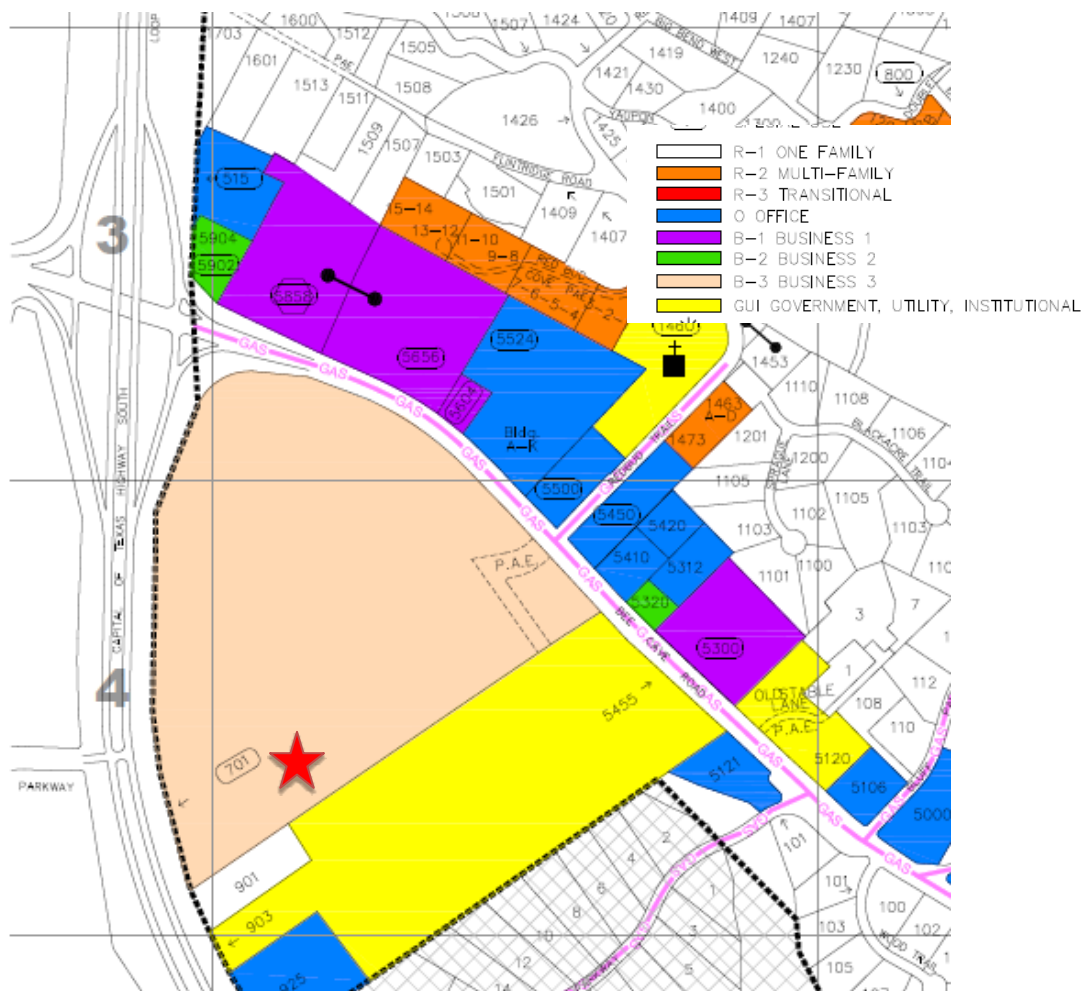
Links to Relevant Code:

[§ 38.03.038\(c\) Special Uses – B-3 Business 3 District](#)

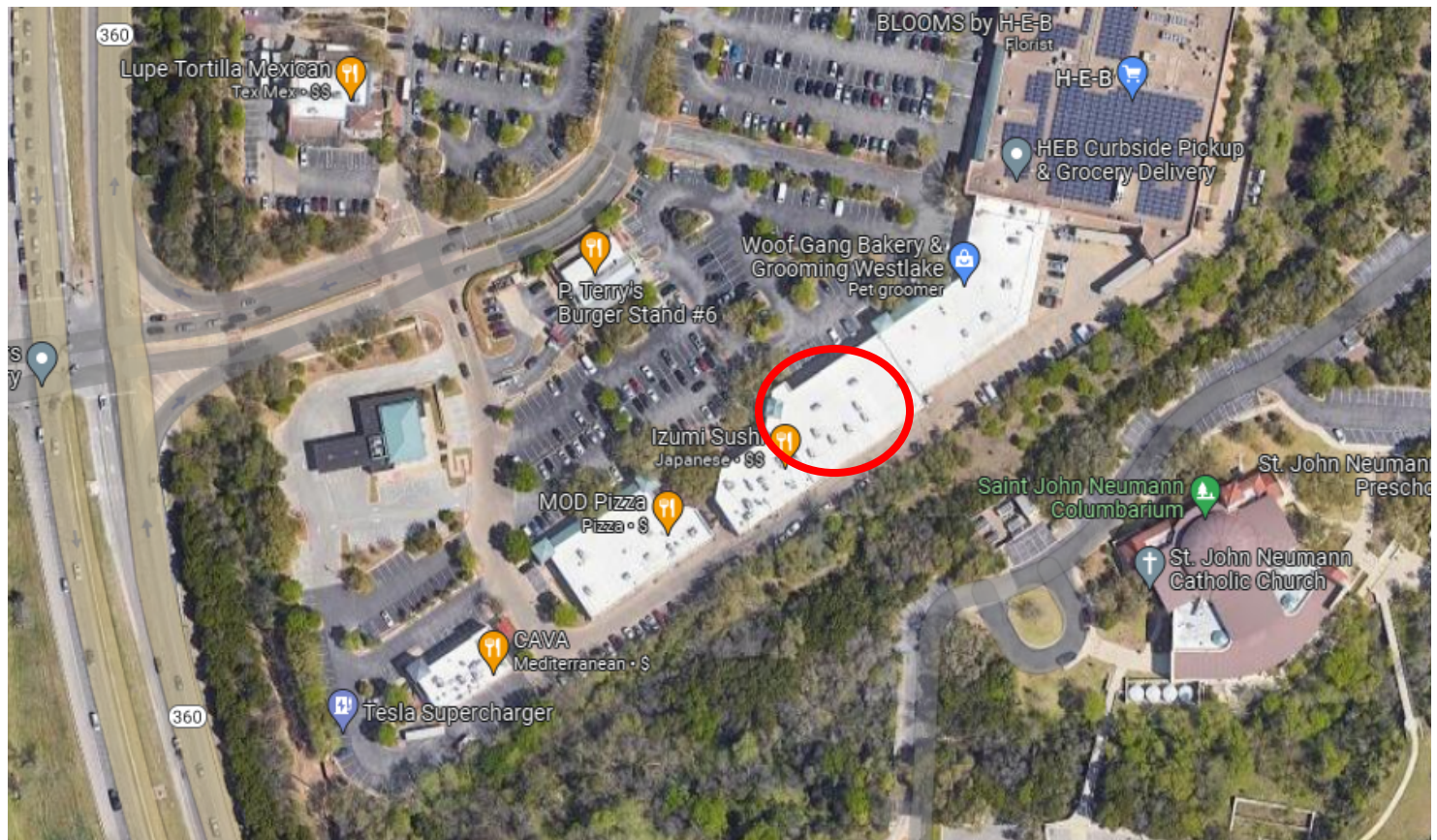
[§ 38.04.035: General conditions for all special uses](#)

Attachments:

- Ordinance 157-2023-C
- Exhibit A - Letter from Applicant
- Attachment 1 – Renderings of Building/Store Layout

Zoning:

Aerial:



ORDINANCE 157-2023-C

A PERMIT SETTING FORTH THE CONDITIONS UNDER WHICH BEER AND WINE BEVERAGES MAY BE SOLD FOR ON-PREMISE CONSUMPTION, AND AUTHORIZING THE CITY ADMINISTRATOR TO NOTE THE CHANGE ON THE OFFICIAL ZONING MAP OF THE CITY.

WHEREAS, ROK Golf ATX WL, LLC. has requested a Special Use Permit (SUP) for the sale of on-premises consumption of beer and wine at ROK Golf ATX WL, LLC. located at 701 South Capital of Texas Highway, Suite 500, West Lake Hills, Texas, the herein described parcel of land; and

WHEREAS, the notice as required by Section 38.03.037, of the West Lake Hills Code has been given to adjacent property owners; and

WHEREAS, Public Hearings have been held by the Board of Adjustment (BOA) as required by law; and

WHEREAS, any and all protests submitted against the proposed SUP have been considered by BOA; and

WHEREAS, BOA find that the application for Special Use Permit meets the requirements of Section 38.03.037 of the West Lake Hills Code; and

WHEREAS, beer and wine will be sold and consumed on the premises, and the premises will be used as a restaurant; and

WHEREAS, the public interest dictates that special conditions be set forth regulating the sale of beer and wine under the Special Use Permit provisions of the West Lake Hills Code; and

WHEREAS, the applicant has agreed to the special conditions regulating the sale of beer and wine contained herein; and

WHEREAS, BOA at its Public Hearing on the Special Use Permit on the herein described parcel is not contrary to the public interest;

NOW, THEREFORE, BE IT ORDAINED BY BOA OF THE CITY OF WEST LAKE HILLS, TEXAS:

Article 1. The legal description of said parcel of land is as follows:

Lot 1, Village @ Westlake

Article 2. The permit is granted under the following general terms and conditions:

1. Beer and wine may be sold on the premises under the following conditions:
 - (a) Beer and wine may be sold only during the hours set by the Texas Alcoholic Beverage Commission (TABC).
 - (b) Hours of Operation for the business are:
9:00 a.m. to 11:00 p.m. Monday through Friday; and
9:00 a.m. to 7:00 p.m. Saturday and Sunday.
 - (c) Beer and wine beverages shall be sold for on-premise consumption only.

- (d) The permitted use shall not create nuisance factors which interfere with adjoining property owners' enjoyment of their property or operation of business.
- (e) The permit shall expire upon any change in the ownership of the business, ROK Golf ATX WL, LLC.
- (f) The permitted use shall follow the requirements of Section 38.04.034 (e) with the following modification:

Section 38.04.034 (e)(3) The gross receipts derived from the sale of alcoholic beverages shall not exceed the gross receipts derived from the sale of ~~food~~ **goods and services**.

- 2. Applicant must comply with all applicable federal, state and local statutes, rules, regulations and ordinances.

Article 3. This Special Use Permit is not transferable to another person/business or another parcel of land.

Article 4. The Board of Adjustment after notice and public hearing, may revoke this Special Use Permit for one or more of the following reasons:

- 1. A violation of any of the representations, plans, terms, general, or special conditions and limitations applicable to this Special Use Permit.
- 2. A violation of any laws, ordinances or regulations.
- 3. A change in the nature of the use of ROK Golf ATX WL, LLC.
- 4. Operation or maintenance of the Special Use Permit in a manner that is detrimental to the public health or safety, or so as to constitute a nuisance.

Article 5. If this Special Use Permit is discontinued for more than sixty (60) consecutive days, it shall be deemed abandoned.

Article 6. The duration of this Special Use Permit shall be for two (2) years from the effective date hereon.

Article 7. This Special Use Permit may be renewed for two (2) year periods at the discretion of the City Administrator provided no written complaints have been received during the use period. When complaints have been registered, the applicant will obtain renewal approval from the Board of Adjustment.

Article 8. Supporting correspondence and documents and marked as Exhibit "A" attached hereto are incorporated herein by reference for all pertinent purposes.

Article 9. The City Administrator is hereby authorized and shall promptly note the change on the Official Zoning Map of the City of West Lake Hills, Texas. The zoning map shall indicate that there is a Special Use Permit for the premises.

Article 10. This Special Use Permit shall become effective on the 14th day of June, 2023.

PASSED AND APPROVED this 14th day of June, 2023.

LINDA ANTHONY, BOA CHAIR

ATTEST:

Terry Blanchard, City Secretary

I/We acknowledge receipt of this SUP and agree to abide by its terms and conditions.

Applicant's Signature

ROK Golf ATX LLC

May 11, 2023

11800 Pleasant Panorama View
Austin, TX 78738



Dear City of Westlake Hills Board of Adjustment Chairperson

This letter is to describe the special use permit being requested for ROK Golf ATX WL LLC (“ROK Golf Westlake”) at the Village of Westlake shopping center at Loop 360 and FM 2244 to be located at the west most new space created from the former Office Depot, next to Izumi Sushi.

ROK Golf is an Indoor Golf Lounge marrying elite golf technology (Trackman) with a fun golf atmosphere. At ROK Golf we are “golf first” and everything else second. Our primary revenue sources are memberships, lessons, and golf bay rentals. While most golfers use ROK Golf for lessons and practice, many also use it for entertainment, at ROK Golf our customers can play 18 holes in 30 minutes.

ROK Golf Westlake requests a special use permit to serve beer and wine at a retail store with a TABC BG License. ROK Golf Westlake will not have a kitchen and will not serve any food prepared on site, however we may serve some prepackaged food, snacks, etc. ROK Golf Westlake will have a small bar area including refrigerated storage, sink and potentially draft beer stations.

It is critical to note that ROK Golf Westlake will not be a bar, it is an Indoor Golf Lounge that will sell beer and wine to our golfing customers. Projections are that gross revenue from beer and wine sales will be roughly 10-15%, but never more than 25%, of our total gross revenue on a monthly average.

We believe that ROK Golf Westlake will bring a new, unique, and locally founded and based business to Westlake Hills. Your approval of this SUP will be a significant factor in our business success.

Sincerely,

Brian B Borichevsky

ROK Golf ATX LLC – Founder & CEO
brian@rokgolf.com 817.800.3801



