MINUTES OF THE MEETING OF THE BOARD OF ADJUSTMENT HELD IN THE COUNCIL CHAMBERS, AT CITY HALL, 1212 AVENUE M, HUNTSVILLE, TEXAS ON THE 26TH DAY OF JANUARY, 2018 AT 12:00 NOON.

Members present: Hannes; Montgomery; Holland; Alternate Zuniga, Alternate Watkins
Members absent: Grigsby; Cromer
Staff present: Kulhavy; Ridley; Hodgson

1. CALL TO ORDER

This meeting was called to order by Chairman Hannes. [12:01 PM]

2. PLEDGE OF ALLEGIANCE

a. U.S. Flag
b. Texas Flag

3. INVOCATION

Board Member Holland led the invocation.

4. ROLL CALL and selection of Alternate(s) if needed.

Alternate Zuniga & Alternate Watkins will both serve due to the absence of Board Members Grigsby & Cromer. (Cromer attended but did not serve due to no-show of sitter for his grandchildren.)

5. PUBLIC HEARING for the variance request by Mark Carpenter, applicant, and Climatec Secure Storage, LLC, property owner, for variance to ***Section 10.1401.B*** in ***Article 10: Infrastructure and Public Improvements Regulations*** of the *City of Huntsville Development Code* to place a sign and flag pole within a 10’ public utility easement without the written permission of the City Engineer.

Chairman Hannes opened the Public Hearing.

Aron Kulhavy gave a brief overview of the case noting that this variance pertains to only the placement of a pylon sign and flagpole within the public utility easement. No other issues relating to the project can be addressed by the Board.
Kulhavy also noted that per the Development Code permanent structures are not allowed to be placed within a utility easement.

Board Members questioned staff regarding the location of the utility easement on the property and the location of existing utilities.

Applicant Presentation:
Mark Carpenter, applicant - also project manager/contractor for the storage facility, handed out an exhibit to the Board and presented the case for the variance. He pointed out that the location of the existing water main ends at the south property line and the sanitary sewer main ends at the

north property line. The proposed location for the sign and flag pole, while in the utility easement, would not conflict with the existing water and sewer mains. If the sign is moved into the parking/driveway of the project, it would conflict with the required fire lane for the project. **Carpenter** further noted that the property owner, Dr. Atkins, is agreeable to relocate the sign if ever it poses a conflict with utilities.

Board Member Holland, questioned if the flagpole could be moved to the opposite side of the fire lane. Applicant indicated that it would not be possible to do so as it would conflict with other site elements/requirements.

Speakers in support of the variance request:
Charles Smither, Jr., stated that he supported the variance request to place to allow the sign to be placed in the utility easement, but does not support the placement of the flagpole in the utility easement. In the past, the City granted a variance to allow a sign to be placed in the right-of-way of 10th Street and the property owner is agreeable to move the sign if there is ever a need to do so.

Speakers in opposition to the variance request:
There were none.

At request of the Board, City Engineer, **Y.S. "Ram" Ramachandra**, gave his opinion/reason for his denial of the placement of the sign/flagpole within the public utility easement.

- All public utility companies, i.e. telephone, gas, electric, not just the City of Huntsville, may place utilities within the easement.
- The expansion of IH 45 in the very near future may soon necessitate the relocation of existing city utilities to within the public utility easement.

Rebuttal by Applicant:
Mark Carpenter stated that he realizes that other utilities may need to be placed in the easement, however the property owner will agree to relocate the sign when/if necessary.

Board Members quizzed the applicant as to a backup plan if the variance is denied to which he replied that he may ask to have the sign placed in the fire lane. Also, there will be signage on the building, however the pylon sign will have an electronic message board for displaying specials, etc. The message board is a necessary marketing tool for the business.

Aron Kulhavy noted that the variance for the sign on 10th Street was approved by City Council.

Board Member Montgomery noted a similar situation for the signage on the neighboring south property when she was a tenant of the building. She had placed an electronic message board on the existing signage for the office building and wanted to have the sign be moved closer to the property line. However, when informed of the utility easement she was respectful of the importance of the City's infrastructure and did not press the issue.

Board Members continued to discuss with applicant other possible locations for the sign on the property.

Aron Kulhavy stated that from staff perspective:

- Preserving a mature tree on the property is more important than a sign.
- Preserving the fire lane without any obstructions is more important than encroachment of the utility easement with sign.
- It is standard wording for the dedication of utility easements to the public that the City or other Public Utility has the right to remove and not replace obstructions from an easement.
- Staff recommends that if the Board wishes to grant the variance the condition that the owner is responsible for removing and relocation of the sign be stipulated in the motion.

Chairman Hannes closed the Public Hearing.

6. **CONSIDER** the variance request by Mark Carpenter, applicant, and Climatec Secure Storage, LLC, property owner, for variance to ***Section 10.1401.B*** in ***Article 10: Infrastructure and Public Improvements Regulations*** of the *City of Huntsville Development Code* to place a sign and flag pole within a 10' public utility easement without the written permission of the City Engineer.

Board Member Zuniga made a motion to approve the variance as requested with the condition that the owner be responsible for the removal and relocation of sign and flagpole when/if there is a conflict with utilities in the easement. There was no second of the motion. Motion failed.

***Board Member Holland** requested discussion of variance prior to a motion.*

The Board Members discussed existing signs in the vicinity of the subject property which may be currently located within utility easements. Staff indicated that most of these signs have been in place for 10 to 15 years; before the Development Code prohibited permanent structures being placed in utility easements or before a utility easement had been dedicated to the public.

Board Member Montgomery stated that the granting of this variance may set a precedence that is not in the best interest of the City.

Aron Kulhavy stated that the intent of the Code is to minimize complications in the future by not allowing structures to be placed in utility easements.

Board Member Zuniga made a motion to approve the variance as requested with the condition that the owner be responsible for the removal and relocation of sign and flagpole when/if there is a conflict with utilities in the easement. Second was by Board Chairman Hannes. The motion failed by a vote of 2 in favor and 3 against. (Zuniga and Hannes for and Holland, Montgomery, and Watkins against)

7. **CONSIDER** the minutes of December 15, 2017.

Board Member Holland had questions regarding the density and setback variances granted by the Board for the proposed student housing project to be located at the southwest corner of 21st Street and Avenue J. Other board members and staff clarified the separate vote for each the density variance and the setback variance. **Aron Kulhavy** informed the Board that the Planning

Commission will soon be reviewing the density for high-rise multi-family/student housing projects. **Board Member Holland** asked that the Board be notified when the Planning Commission takes on this task.

Board Member Holland made a motion to accept the minutes. Second was by Board Member Watkins. The vote was unanimous.

8. ELECTION:

a. Chairman

b. Vice-Chairman

Board Member Zuniga made a motion to nominate Ken Holland as Board Chairman and Mari Montgomery as Board Vice-Chairman. Second was by current Board Chairman Hannes.

There were no other nominations.

The vote was unanimous.

9. ADJOURNMENT

The meeting was adjourned. [12:56 PM]