

April 15, 2011

Mr. John McDonald
Planner Principal
Residential Review
City of Austin

RE: RDCC Case: 11-002992R Denial
2822 Wooldridge Drive

Dear Mr. McDonald,

As the applicant and property owner, we are formally requesting appeal of the denial decision by the RDCC on Case 11 002992R on April 6, 2011.

This Commission made a decision to deny our request for an increase in FAR on a new duplex to include our personal residence from the allowable 40% (3100 sf) to 45% (3600 sf) at 2822 Wooldridge Drive.

We feel that the decision was arbitrary, capricious and did not adhere to the ordinance criteria for rejection.

This project will replace an existing duplex in the Pemberton neighborhood. We intend to occupy half of the duplex as our personal home. We have attached the powerpoint presentation made to the board, highlighting the project.

In making their discussion, according to the Ordinance, the Board shall consider 1) Consistency with massing and scale, 2) impact on privacy of adjacent yards, 3) topography. We wish to appeal this decision based on the following grounds and have provided exhibits attached to highlight the Board's arbitrary action.

ARBITRARY REJECTION OF THE SCALE AND MASSING OF OUR PROJECT

We are aware of a number of other cases in the same or adjacent neighborhoods that were granted FAR increases between 42% and 48.9%.

EXHIBIT ATTACHED: 1403 Wathen, 1303 W 29th, 1512 Hardouin

At the March 2,2011 Board meeting, Commissioner McGraw stated that perhaps our neighborhood, Pemberton, might consider a plan amendment for this area to allow an increase over 40% FAR, due to the lack of opposition to another case presented that night that received a 47.6% increase.

We feel that contrary to the board's criteria, style and material, not massing or scale, was a primary consideration in the board's deliberation. Despite the architectural character of the existing duplex and the adjacent historic Bohm House (see attached photos in the powerpoint), several negative comments about the style were made in the board's deliberations on April 6.

Concern that the structure would be painted white

Concern about the shed roofs as not compatible with the character of the district

Concern that there might be “too much stucco” on this corner of the neighborhood.

We feel that although the recommendations of the Historic Landmark Commission’s review are not binding per City ordinance, the recommendations from the historic landmark commission were arbitrary and prejudicial to our request

EXHIBIT ATTACHED: Board discussion and neighborhood opposition raised these recommendations as applicable to the denial.

One recommendation to revise the roof to “hip roofs” would actually result in an increase in scale, and we have attached an exhibit to show how this would add mass and volume.

We feel that contrary to the board's criteria, the massing of adjacent larger property consistent with our project was not considered.

EXHIBIT ATTACHED: Pemberton is a neighborhood of larger homes, some well over 4000 sf, there is a fourplex on the street behind this project, several duplexes in this area, and two new condo duplexes across the street that were granted a 43% FAR. These are shown in the powerpoint.

The existing structure on this lot contained 2800 sf, however the smallest home on the block was used as an example of how our project was “too large”.

ARBITRARY REJECTION OF THE IMPACT OF THE PROJECT ON ADJACENT LOTS

We feel that no consideration was made for the fact that our increase will have no impact on adjacent property. Our lot is a “through lot”, having a street on both the front and the rear side. In addition, there is a vacant city owned parcel as our neighbor to the north. Our only neighbor is on the remaining south side and has no opposition. Therefore there is no “impact on surrounding neighbors” and should have met the Boards criteria for approval.

EXHIBIT ATTACHED: Proposed site plan (Powerpoint)

We feel that contrary to the board's criteria, that no consideration was given to topography of our site.

EXHIBIT ATTACHED: Our lot sits lower than our neighbors on all sides, and therefore our project will not impact their lots. (Powerpoint)

ARBITRARY CONSIDERATION OF NEIGHBORHOOD SUPPORT AND OBJECTION

No formal opposition was made from the Pemberton neighborhood association in which our property is located. Pemberton has remained neutral on these requests and at least three projects have been granted FAR increases from 43% - 48.9%.

We are aware of numerous cases where FAR increases have been granted for other projects with opposition from neighborhood associations.

EXHIBIT ATTACHED: On March 2, 2011 at the Case for 1512 Hardouin Ave (11-009353RA) Commissioners referred to opposition on that case in our same neighborhood, Pemberton, as "generic", as a 47.6% FAR to 4355 sf was approved.

EXHIBIT ATTACHED: On April 6, 2011, a project in Travis Heights was granted a 46.1% increase despite opposition from the neighbors and the neighborhood association.

EXHIBIT ATTACHED: It would appear no consideration was given for the extent of our 79 letters of “no objection” from neighbors.

The Commission appeared to deem our letters “suspect”, and we were asked to verify whether these letters were from “within 500 ft of our project.

EXHIBIT ATTACHED: A map showing the location of 55 of the 79 signatures is attached and was presented to the board. In fact, of the total 40 properties within 500 ft of our project, 19 letters of “no objection” were received, there were only three letters of opposition, at least 4 properties that were vacant, and no opposition from the remaining 14 properties received that we are aware of. Additionally, these letters were offered in direct response to representatives from the adjacent neighborhood association (Brykerwoods) testifying that they represented the will of our neighbors.

MISREPRESENTATION

We were characterized as “sophisticated developers” and were portrayed by the neighborhood association as having brought this lot in 2006, knowing this ordinance was in effect. We feel that as the homeowners our characterization as “developers” is a misrepresentation, prejudicial and should be irrelevant.

EXHIBIT ATTACHED: 504 E Annie which received a 46.1% increase to 2770 sf on April 6, was only recently bought by the owners. In marketing literature, this lot was advertised as accommodating 2300 sf. See attached.

STAFF ERRORS

We feel that drawings required from us for the board's review were not consistently requested by staff from other applicants. We were also required to submit elaborate, detailed construction documents for a formal building permit review that was not required by other applicants. In addition, statements made by the neighborhood association about “different drawings” were prejudicial to our request.

EXHIBIT ATTACHED: A FAR increase was granted on 1512 Hardouin without any drawings as backup material to the Commission and stamped and sealed drawings were allowed to be submitted after the Commission approval.

We find that staff indicated incorrectly to the board that our application was not consistent with our FAR request, that staff provided the correct application to the board, but had a previous application in their procession, and that staff caused confusion about the application that was prejudicial to our case. No other discussion about applications were made with other applicants.

On April 6, 504 E Annie was granted a FAR increase with the same application included in the March 2 package, despite discussion to the board about a “reduction” of 40 sf made to compromise with the neighbor. Drawings were not revised in the backup materials. (See attached)

SUMMARY

In summary, we feel that despite our previous residence on this lot being a modern-style duplex, that prejudice against “duplexes” and “modern styling” was an irrelevant and capricious factor in the neighborhood opposition and the board's decision.

This will not increase the density of dwelling units in the neighborhood, as this lot previously was a duplex.

We wish to replace our former duplex with another duplex as we do not desire to construct a 3100 sf single house, which will be unaffordable for us.

We feel that a bias against duplexes, modern style and a vague reference to us as “developers” resulted in our denial, not the facts about consistency with massing and impact on neighbors.

We feel the board acted arbitrarily, and with prejudice, and were inconsistent with their authority when they denied our request while they granted similar requests to others.

We request that we be scheduled on the next available council agenda for appeal to the council.

Respectfully submitted,



Betty Trent
Jeff Barger

Owners
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