

CITY OF AUSTIN

Decision Sheet

DATE: Monday, August 08, 2011

CASE NUMBER: C15-2011-0076

_____ Jeff Jack
_____ Michael Von Ohlen
_____ Nora Salinas
_____ Bryan King
_____ Leane Heldenfels, Chairman
_____ Clarke Hammond, Vice Chairman
_____ Heidi Goebel

APPLICANT: Kari Blachly

OWNER: Dwight Monteith

ADDRESS: 823 11TH ST

VARIANCE REQUESTED: The applicant has requested a variance to decrease the minimum rear yard setback requirement of Section 25-2-492 (D) from 10 feet to 0 feet in order to maintain a tree house and a portion of decking for a two-family residential use in an “MF-3”, Multi-Family Residence zoning district.

BOARD'S DECISION: July 11, 2011 POSTPONED TO AUGUST 8, 2011 BY APPLICANT

BOARD'S DECISION: Aug 8, 2011

POSTPONED TO September 12, 2011 DUE TO AUSTIN ENERGY CONCERNS

FINDING:

1. The Zoning regulations applicable to the property do not allow for a reasonable use because:
2. (a) The hardship for which the variance is requested is unique to the property in that:
(b) The hardship is not general to the area in which the property is located because:
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 purpose of the regulations of the zoning district in which the property is located because:

Susan Walker
Executive Liaison

Leane Heldenfels
Chairman

CITY OF AUSTIN

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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 purpose of the regulations of the zoning district in which the property is located because:

Susan Walker Leane Heldenfels
Executive Liaison Chairman

If you need assistance completing this application (general inquires only) please contact Susan Walker, 974-2202; 505 Barton Springs Road, 2nd Floor (One Texas Center).

CASE # CIS-2011-0076
ROW # 10606183

CITY OF AUSTIN TP-0208000802
APPLICATION TO BOARD OF ADJUSTMENT
GENERAL VARIANCE/PARKING VARIANCE

WARNING: Filing of this appeal stops all affected construction activity.

PLEASE: APPLICATION MUST BE TYPED WITH ALL REQUESTED INFORMATION COMPLETED.

STREET ADDRESS: 823 W. 11th Street

LEGAL DESCRIPTION: Subdivision - _____

Lot(s) _____ Block _____ Outlot _____ Division _____

I/We Kari Blachly on behalf of myself/ourselves as authorized agent for

Dwight Monteith affirm that on May 19, 2011,

hereby apply for a hearing before the Board of Adjustment for consideration to:

(check appropriate items below)

☐ ERECT ☐ ATTACH ☐ COMPLETE ☐ REMODEL ☒ MAINTAIN

An aerial rear yard set back encroachment from 10 feet to 0 feet created by an existing treehouse and a portion of the adjacent decking.

in a MF-3 district.
(zoning district)

NOTE: The Board must determine the existence of, sufficiency of and weight of evidence supporting the findings described below. Therefore, you must complete each of the applicable Findings Statements as part of your application. Failure to do so may result in your application being rejected as incomplete. Please attach any additional support documents.

VARIANCE FINDINGS: I contend that my entitlement to the requested variance is based on the following findings (see page 5 of application for explanation of findings):

REASONABLE USE:

1. The zoning regulations applicable to the property do not allow for a reasonable use because:

The tree house was constructed in 2000 into a live oak that measures 39.5" in diameter inches. The tree house is suspension supported independent of the deck system. The encroachment created by the adjacent deck was thought to meet the allowable roof overhang of 24" inches. The request to maintain the tree house and the deck system is to maintain the overall health of the heritage tree located on this property.

HARDSHIP:

2. (a) The hardship for which the variance is requested is unique to the property in that:

The 39.5" live oak in which the tree house is built would be compromised if the treehouse was removed. The health of the tree is the priority for the property owner. The uniqueness is the tree itself and its placement adjacent to the alleyway on the property necessitates this variance request.

- (b) The hardship is not general to the area in which the property is located because:

This tree is a heritage tree according to the City of Austin tree regulations. This tree is next to the alleyway behind this property. The encroachment into the 10 foot rear yard setback as required in LDC section 25-2-492 could not be met based upon the location of the tree itself. The associated deck system was designed around the tree and the tree house to provide the safest access to the treehouse, resulting in an areial encroachment into the 10 foot rear yard by a portion of the deck and the tree house.

AREA CHARACTER:

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 purpose of the regulations of the zoning district in which the property is located because:

The neighborhood in which this property is located is one of the oldest neighborhoods in Austin. The property directly across the alley is existing non-conforming. The directly affected structure is built up to the lot line and the encroachment is an areial encroachment not impairing access to the adjacent property owners or the use of the property.

1. The granting of this 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 because:

2. The granting of this variance will not create a safety hazard or any other condition inconsistent with the objectives of this Ordinance because:

3. The variance will run with the use or uses to which it pertains and shall not run with the site because:

NOTE: The Board cannot grant a variance that would provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated.

APPLICANT CERTIFICATE - I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Signed [Signature] Mail Address 2401 E. 6th #4063

City, Austin State TX Zip 78702

Printed B. Kari Blachly Phone [blank]

Date 5/25/11

OWNERS CERTIFICATE - I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Signed [Signature] Mail Address 823 W. 14th St.

City, State & Zip Austin TX 78701

Printed DD Monteith Jr Phone 977-0909 Date 5/20/11

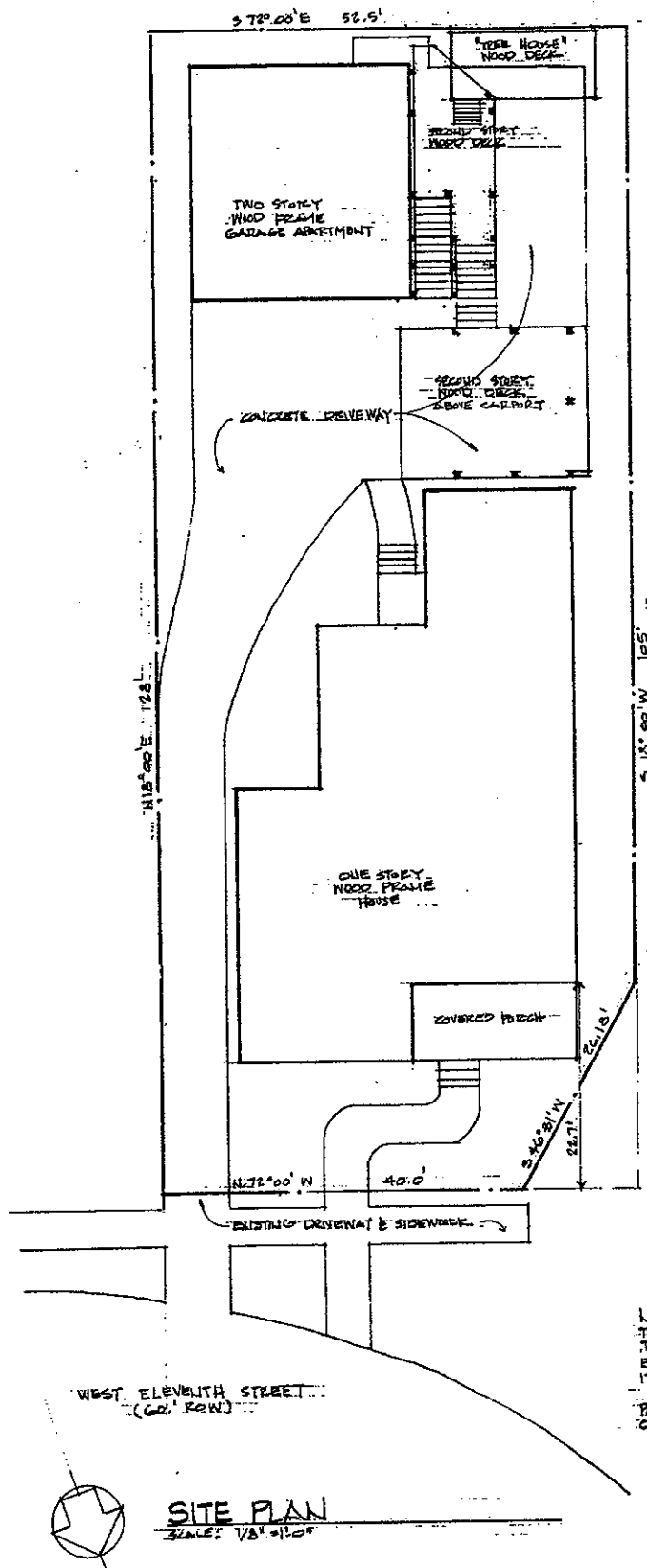
This map has been produced by the Communications Technology Management Dept. on behalf of the Planning Development Review Dept. for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.

Deck Data

for

**823 West Eleventh Street
Austin, Texas 78701**

October 15, 2010



NOTE:
THIS SITE PLAN INCLUDES INFORMATION
TAKEN FROM A SURVEY PLAT PREPARED
BY L. GORDON STEAKINS P.E. DATED
17 SEPT. 79

PART OF LOTS 9 & 10 SUBDIVISION OF
OUTLET 3rd DIVISION E, TRAVIS COUNTY

WEST ELEVENTH STREET
(60' ROW)

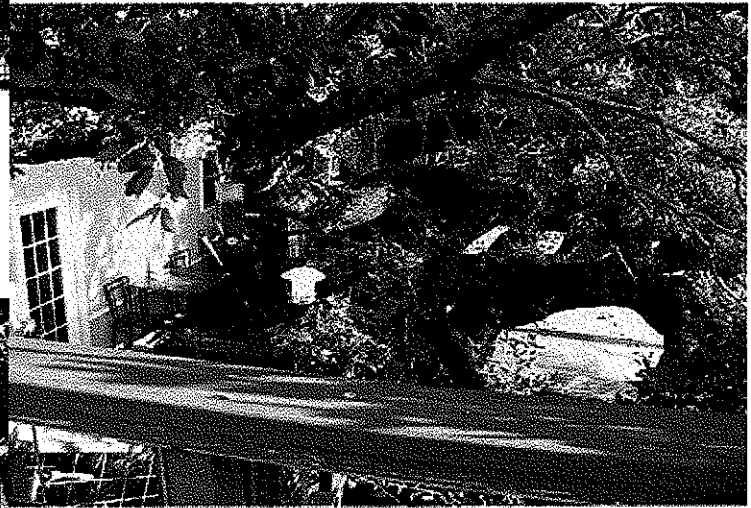
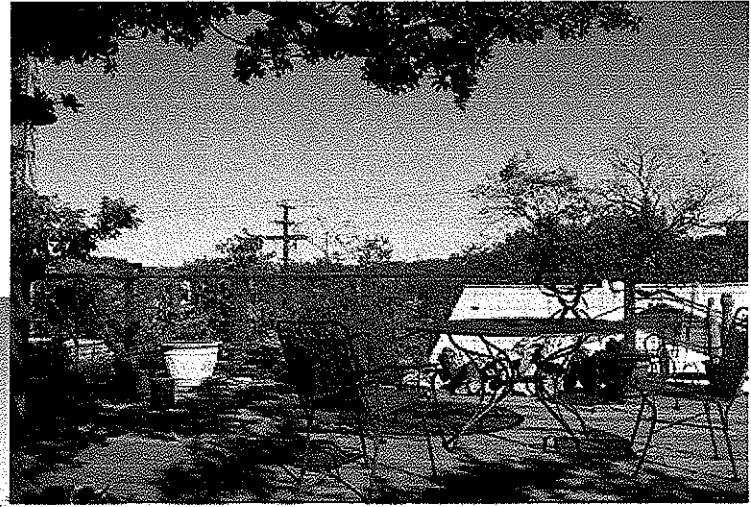
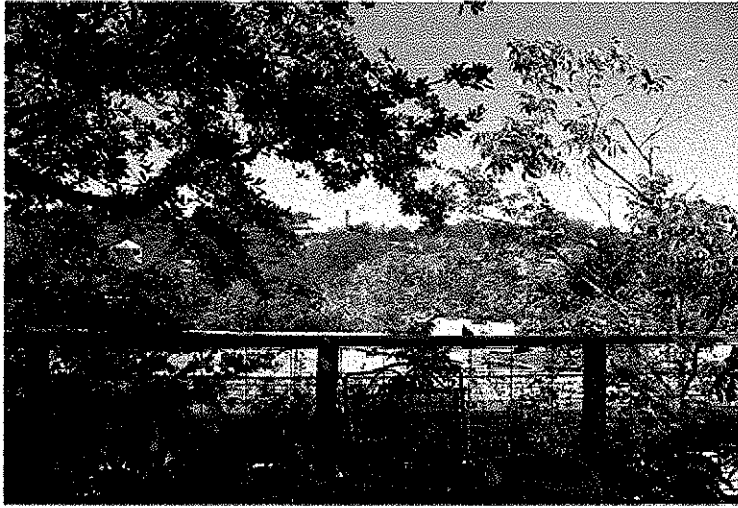
SITE PLAN
SCALE: 1/8" = 1'-0"

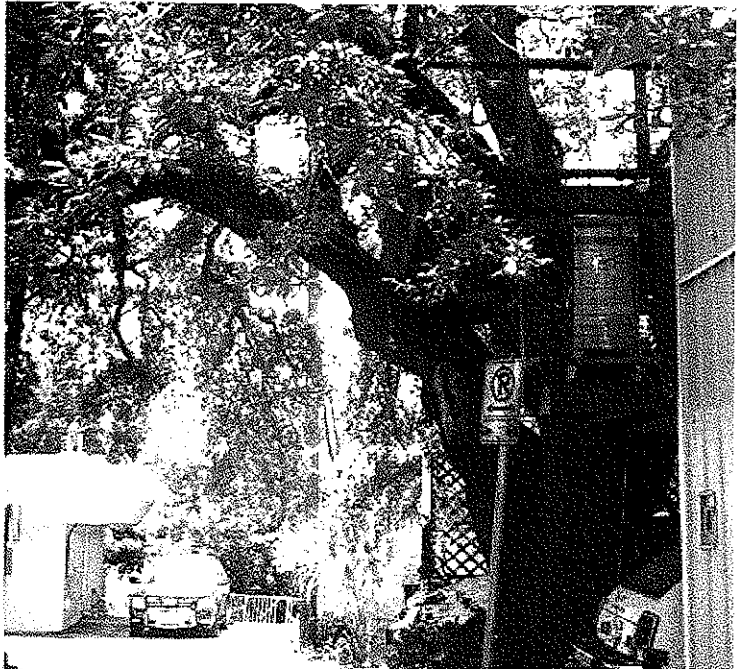
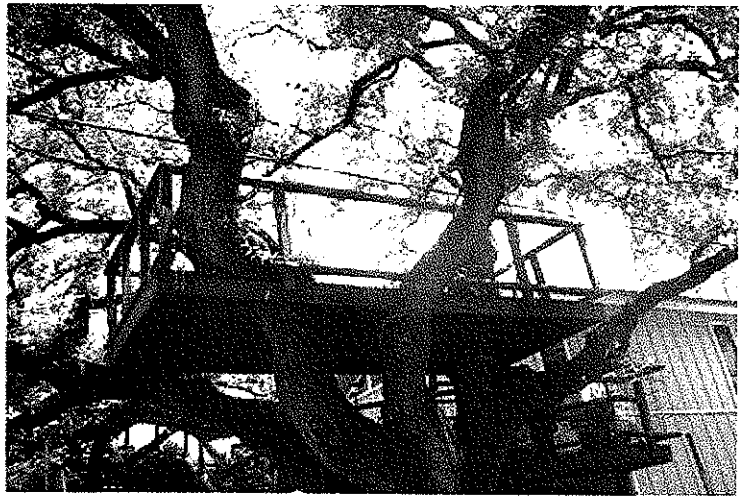
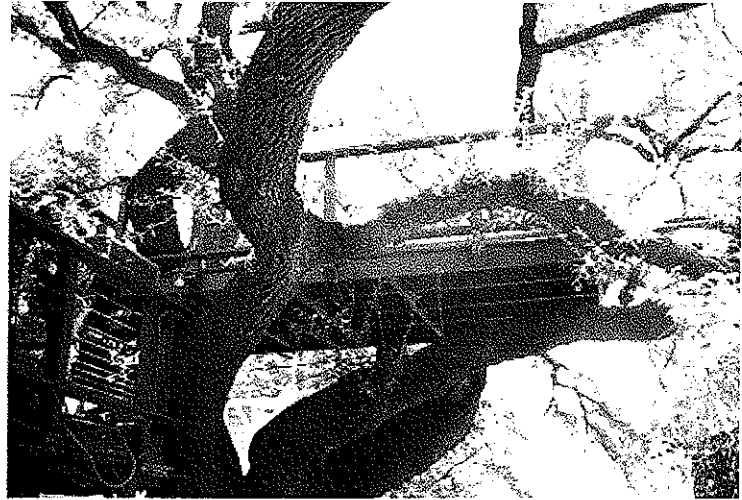
Lester Jay Germanio PE
Architectural Engineers
2404 West Ninth Street Austin, Texas 78703
Ph/Fax 512 476-6077 lgermanio@austin.rr.com
TYPE FROM REGISTRATION NUMBER P-2701



**SITE PLAN FOR 823 WEST ELEVENTH STREET
DWAYT MCUTEITH - OWNER**

DATE: 10-23-10	REV:
SHEET	OF 1





Lester Jay Germanio PE

Architectural Engineers

April 21, 2011

MR. DWIGHT MONTEITH JR
821 W 11TH ST
AUSTIN, TX 78701-2009

Reference: 821 W 11 ST

Mr. Monteith:

Per your request I have done an analysis on the structural adequacy of the decks at the referenced address. The decks included in this analysis are the stairs and stoop to the garage apartment and the large deck between the two buildings. I have not included the tree house deck suspended in the large live oak. While the structure of the tree house deck as an independent unit appears to be adequate, the overall structural adequacy is dependent on the tree itself. The code does not address specific structural requirements of a tree used as the primary structural foundation and framing elements for a tree house deck.

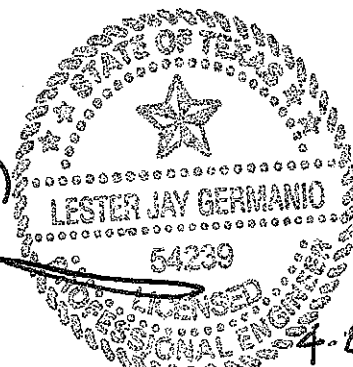
Based on your description of the foundation piers placed into the sandy gravel soil specific to your site, it is my opinion that the foundation is structurally adequate for the decks. It is also my opinion that the wood frame elements of the stoop, stairs, and large deck are structurally adequate. And the steel columns, horizontal steel framing and lateral bracing are structurally adequate. It is my opinion that the existing stoop and large deck conform to the requirements of the IRC for use as a private residential deck. Please consider this letter-report a third party inspection report of the framing (structural components) of the deck and stairs.

If you have any questions or need additional consultation on this project, please let me know.

Sincerely,



Lester Germanio PE



4-21-11
Lester Jay Germanio PE
F-9701

SEBCON

2506 Douglas
Austin, TX 78741

(512) 444-8761

January 20, 2011

Dwight O. Monteith
824 West 11 Street
Austin, TX 78701

Dear Mr. Monteith:

In addressing the considerations regarding your inquiry about the utility lines in proximity to your Heritage Oak tree and decking, the distribution conductor, which is probably at a potential of 7.2 KV with respect to ground, appears to be at least 10 feet above the top of the tree's canopy. This exceeds Austin Energy's 4 to 8 foot clearance criteria for limbs close to power lines at this voltage.

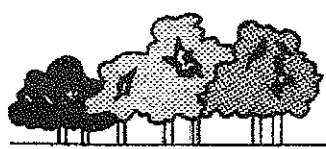
The neutral conductor is lower on the utility poles and passes slightly south of and 17 feet above the nearest deck. This conductor is redundantly grounded with grounds at each utility pole in the circuit and with grounds present on either side of the tree. The measured potential of this conductor with respect to earth ground was essentially zero volts and the measured leakage current to ground through the AAMI (Association for the Advancement of Medical Instrumentation) weighted human body simulation load was less than 10 microamperes. This is below the limit for connections to electrically susceptible patients in critical care environments. In summary there is no hazard even if there is direct contact to this line. With the redundant grounding, it is highly unlikely that lethal potentials can occur even if the conductor was severed. .

The lower cables to the south of the deck are low voltage insulated communications cable bundles. They are non-hazardous and are not owned by Austin Energy. Please note that non Austin Energy contractors may attempt to cut away limbs that approach these communications cables.

Sincerely,

A handwritten signature in black ink, appearing to read 'Carl A. Braun P.E.', with a stylized flourish at the end.

Carl A. Braun, PE
Engineering Director



TREE CLINIC

P.O. BOX 50179 • AUSTIN, TX 78763

Jerry Pulley, President
Registered Consulting Arborist, #329

(512) 385-6604
Fax (512) 385-6612

TO: Dwight Moneith
825 W. 11th St
Austin, TX 78701

FROM: Jerry Pulley, RCA, MS
Tree Clinic
757 Shady Lane
Austin, TX 78702

DATE: April, 22, 2011

RE: Condition Evaluation, Live Oak @ 823 W. 11th St., Austin, TX

April 21, I examined a single live oak located at the north edge of the alley behind 823 11th street in Austin. The tree measures 39.5 diameter inches. It consists of 3 primary scaffold limbs each in excess of 25" diameter. The scaffolds originate approximately 7 feet above soil line.

A tree house (perhaps more appropriately "deck") has been installed above the "seat" of the major scaffolds. The deck is not resting on the tree but is suspended from the above branches via wire cables. I did not observe that the deck was connected or touching the tree, at any point.

Condition Evaluation

I have evaluated the tree condition by examining separate sections of the tree and assigning each section a relative value and ultimately calculating a percentage value with 100 % being a perfect specimen.

Vigor (4) Root Collar (5) Trunk (4) Limb Structure (3) Foliage (4) X 100
25

The calculated condition of this specimen is 80% .

Summary

The tree is in better condition than most live oaks of its size and age.

MEMBER

American Society of Consulting Arborists • International Society of Arboriculture • Society of American Foresters

Pulley Condition Rating Method

Each part of the tree is rated from 5 (best possible condition) to 1 (poorest possible condition). Zero may be assigned for a factor if the tree is dead.

$$\text{Condition Rating} = \frac{(\text{Vigor} + \text{Root Collar} + \text{Trunk} + \text{Limbs} + \text{Foliage})}{25} \times 100$$

Vigor (Substitutes for Small Branches /Twigs in CTLA Guide)

The trees current growth rate, signifying its inherent ability to withstand disease or insect attack. A vigorous condition suggests energy (starch reserves).

- 5 Excellent
- 4 Good
- 3 Fair
- 2 Poor
- 1 Dying
- 0 Dead

Root Collar

This portion of the tree is key to evaluating potential for whole tree failure. Significant injuries, soil raised above the root collar, girdling roots or bark sloughing off in this region indicates potential problems. Subsequent subsoil investigations may be warranted.

- 5 No Problems observed.
- 4 Soil raised above original grade.
- 3 Bark reveals signs of injury or fungal infection.
- 2 Obvious decay at base of tree encompassing less than 1/2 trunk circumference.
- 1 Extensive infection, decay, girdling encompassing more than 1/2 circumference.

Trunk Condition

Structural integrity and tree history can be estimated by a cursory inspection for cracks, cavities, insects and fluxing (bleeding).

- 5 No decay evident in the main trunk.
- 4 Minor structural problems or trunk injuries. Leaning. No significant decay.
- 3 Co-dominant main trunks with included bark. Often species specific.
- 2 Minor trunk decay, not extensive.
- 1 Extensive decay in main trunk.

GENERAL VARIANCES / PARKING VARIANCES

WARNING: Filing of this appeal stops all affected construction.

PLEASE USE BLACK INK

PART I: APPLICANTS STATEMENT

STREET ADDRESS: 823 West 11th Street

LEGAL DESCRIPTION: Subdivision - Subdivision of Outlot #4, Division E
Part of Lots

Lot(s) 9 & 10 Block Outlot Division

I/We CARTER DESIGN ASSOCIATES on behalf of myself/ourselves as
authorized agent for Dwight O. Monteith, Jr. affirm that on
15 March 19 91, hereby apply for a hearing before the Board of Adjustment for
consideration to:

ERECT - ATTACH - COMPLETE - REMODEL - MAINTAIN - SUBDIVIDE

Remodel an existing house and make site improvements requiring variances in
impervious cover, front and side yard setbacks, and floor area ratio.

in an MF-3 zone.
(zone district)

NOTE: The Board must determine the existence of, sufficiency of and weight of evidence supporting the findings described below. Therefore, you must complete each of the applicable Findings Statements as part of your application. Failure to do so may result in your application being rejected as incomplete. Please attach any additional support documents.

VARIANCE FINDINGS: I contend that my entitlement to the requested variance is based on the following findings:

REASONABLE USE:

1. The Zoning regulations applicable to the property do not allow for a reasonable use because:

The owner is continuing a duplex use on this property, which is less intensive than that allowed by the MF-3 zoning of the property. The current zoning ordinances do not address a less intensive use. If the property were zoned single family, floor area ratio would not be an issue.

The existing regulations do not address the maintaining and upgrading of an existing non-complying, non-conforming use where the use and building is less intensive than the proposed regulation and the resulting development makes some conditions better without fully complying. The project will reduce the site coverage from 80.5% to 71% and increase

HARDSHIP:

2. (a) The hardship for which the variance is requested is unique to the property in that:

The triangular easement Northwest of the property, the curve of the street away from the property, and the grand-fathered placement of the structures on the property are all unique to this site. (Refer to City of Austin permit records and pg. 357, Vol. 719, Deed Records, Travis County Courthouse).

- (b) The hardship is not general to the area in which the property is located because:

The configuration of the property; its relationship to the street right-of-way; the location of trees and on site improvements is unique to this site. In addition most of the improvements in the area have been the conversion of existing dwellings for office uses.

AREA CHARACTER:

3. The variance will not alter the character of the area adjacent to the zoning district in which the property is located because:

The proposed structure is residential in style and use in an area where residential structures have been converted to commercial uses. Two of the three new structures in the area are office buildings. None of the houses in the immediate area comply with current setback regulations providing only fourteen to fifteen feet of streetyard. Because of the curve in 11th Street, the infringement into the front yard setback will still situate the house further from the curb than any other house on the street.

The residential use of this property is the traditional use of the area. Maintenance of this use will not impact parking or traffic. The drainage and runoff will be improved. The character and scale of the main house will be in keeping with the turn of the century and two story structures on the block.

PARKING: (Additional criteria for parking variances only.)

Request for a parking variance requires the Board to make additional findings. The Board may grant a variance to a regulation prescribed Section 6340 (a) (b) of Chapter 13-2A with respect to the number of off-street parking spaces or loading facilities required if it makes findings of fact that the following additional circumstances also apply:

1. 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 because:
-
-

2. The granting of this 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 because:
-
-

3. The granting of this variance will not create a safety hazard or any other condition inconsistent with the objectives of this Ordinance because:
-
-

4. The variance will ~~run~~ with the use or uses to which it pertains and shall not run with the site because:

The Owner is continuing the residence with a garage apartment use. When and if the Owner chooses to convert to a multi-family use, he would be required to seek permission from the Planning Commission.

NOTE: The Board cannot grant a variance that would provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated.

APPLICANT CERTIFICATE - I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Signed _____ Mail Address _____

Printed _____ Phone _____ Date _____

OWNERS CERTIFICATE - I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Signed Dwight O. Markert Mail Address 823 West 11th St

Printed Dwight O. Markert Phone 477-0909 Date 3/11/91

PART II: BUILDING OFFICIALS STATEMENT

Applicant is requesting a variance to:

erect additions to an existing single family dwelling
providing a side yard setback of 1.5 ft, a front street
setback of 16 feet and an impervious cover of 71%

Section 630 of Chapter 13-2 provides, requires, or allows:

requires a side yard setback of 5 feet, a front street
setback of 25 feet and permits a maximum impervious
cover of 65%

DATE 3/15/91

BUILDING OFFICIAL [Signature]

C. T. Uselton 823 West 11th Street

93 10 and east 11' of 11 3 4 -

Silliman

Second story addn. to garage for apartment.

45348 7-12-50

\$2600.00

Owner

C. T. Uselton 823 West 11th Street

93 (10 and east 11.5' of 11)
ERROR
9 AND EAST 8' of 10 $\frac{1}{2} \frac{1}{2}$

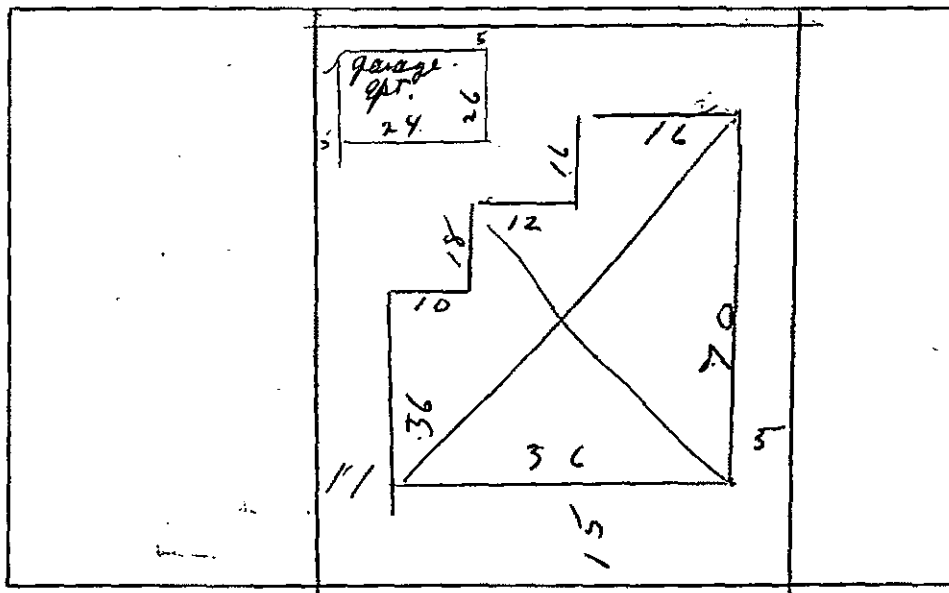
Frame residence.

46430 10-10-50

\$7000.00

Dan Smith

ADDRESS: <i>823 West 11th St.</i>		LOT: <i>98 E 8th 10</i>	BLK. <i>11</i>	SUB. <i>Enclave</i>
PLAT: <i>98</i>	FIRE ZONE <i>3</i>	USE DIST. <i>A</i>	H & A DIST. <i>1</i>	OCCUPANCY <i>Residence</i>
1-26-61 LAYOUT		FRAMING	2-3-61	FINAL
<i>1-26-61</i>				<i>78516</i>
<i>Remodel & Repair</i>	PRINC. BLDG.	ACC. BLDG.	PRINC. BLDG.	ACC. BLDG.
<i>Res.</i>				
FOUNDATION		FLOOR-JOIST SIZE & O.C.		NECESSARY BLDG. CONN.
FR. SETBACK	<i>15'</i>	CEILING-JOIST SIZE & O.C.		ROOM VENTILATION
AGGREGATE & MIN. SIDE YD.	<i>15'</i>	STUD SIZE & O.C.		WATER & SEWER RELEASE
SIDE STREET YARD		MASONRY WALL		PLMB. DEPT. RELEASE
		STAIRS REQ. AND NO.		HEATING & A/C RELEASE
		ATTIC FIRE STOPS REQ.		ELECTRIC DEPT. RELEASE
		FIRE WALLS REQ. & NO.		ENG. DEPT. RELEASE
		ROOF OVERHANG		FIRE MARSHAL RELEASE
				ROOF OVERHANG
				PAVED PARK REQ. & NO.
<i>CT. Verdon 1-20-61</i>				
<i>5' 9" X 128'</i>				



INSPECTOR

W.A.S.