

CASE # C15-2012-0054
ROW # 10747308
TP-021002-12-11

**CITY OF AUSTIN
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: 503 West MLK Austin, Texas 78701

LEGAL DESCRIPTION: Subdivision – Lot(s) 7-9 & E 23 Feet of Lot 10
Outlot 27 Division E

I/We Michele Rogerson Lynch on behalf of myself/ourselves as authorized agent for
Eppright-Nordquist Properties affirm that on , 2012,

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

X ERECT ATTACH COMPLETE REMODEL MAINTAIN

An electric transformer vault required for development of a commercial project that encroaches into a street yard setback. The specific variance request is to allow for the transformer vault to be 5 feet from the San Antonio Street property line rather than the 10 foot required street yard setback for the CS zoning district (25-2-492(D)).

in a CS 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 proposed development on the lot is for a Chick-fil-A restaurant that is primarily a drive-thru with no indoor seating and limited outdoor patio seating. The lot is very small (0.593 acres) and must accommodate a store designed to meet Commercial Design Standards with required parking, upgraded streetscape standards, existing billboards that cannot be relocated and facilitate a double drive thru lane to keep queuing cars from backing up onto MLK Boulevard. In addition, the project is located in an area known as the Network Area for Austin Energy Service. Electric service above 800 amps in this area requires that an above-ground vault be constructed around the electric transformer for safety reasons. The only location for the transformer and vault is an area that slightly encroaches into a street yard setback. Thus, the zoning regulation for a street yard setback does not allow for a reasonable use of the Property in this circumstance as it precludes the required transformer vault.

HARDSHIP:

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

The hardship of the Property pertains to the unique physical limitations of a small, urban site bounded by two roadways that has overlapping development requirements. The site is already hindered by two billboards at the southern end that must remain, a redeveloped project that must comply with Commercial Design Standards while providing for safe pedestrian and vehicular access.. All Chick-fil-A stores use electric equipment instead of gas for the production of food that utilizes a higher amp requirement. In the Network Area, Austin Energy requires that all development exceeding 800 amps be required to design a large vault around the required transformer. The proposed vault is 22' x 22' and 12' tall, which is smaller than the standard requirement of 24' x 24' and 12' tall. An above ground/pole mounted transformer was deemed unsafe by Austin Energy. The large size of the vault (the transformer inside is of standard size) leaves little options for location on a tight site. The safest location along the side street of San Antonio at the rear of the property requires a variance as it encroaches into the required 10 foot street yard setback according to the CS zoning. Although not a part of the proposed project structure, the transformer vault is a structure and thus a variance is required.

As noted above, all Chick-fil-A stores use the same electric equipment in Austin and nationally and follow required National Electric Code (NEC) standards. Other municipalities allow for a reduction factor or diversification factor related to actual data of electrical usage by store, which may show lower usage. However, Austin Energy does not take this reduction into account and therefore the estimated load is 833 amps, which is slightly above the limitation of 800 amps in the Network Area that requires a large vault. The variance is unique to Chick-fil-A and this property due to the usage of electric rather than gas service for production. The predominant use of electric equipment relates to a higher level of service production versus gas, which has a longer recovery time.

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

The hardship is not general to the area because very few commercial and office uses in the Network Area require as much electrical load for a small, freestanding building. Most transformers facilitating more than 800 amps in larger projects and buildings are able to be constructed within the overall building and are therefore not located outside and required to install a vault around the transformer.

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 variance will not alter the character of the area adjacent to the Property as the proposed location of the transformer vault is along the side street of San Antonio at the rear of the property near an alley. The property is bounded on three sides by similar fast-food uses with Wendy's to the east across San Antonio Street, McDonald's across MLK to the north and Taco Cabana adjacent to the west. Uses to the south across the alley include an apartment complex and an office/commercial use. All of the surrounding properties are commercially zoned as CS, GO or DMU. Additionally, the transformer vault will be clad in a CMU textured to appear as brick and will be screened by the installation of street trees to be placed along San Antonio to comply with Commercial Design Standards.

The variance will not impair the use of the adjacent conforming property as the transformer vault poses a slight encroachment onto a busy street side yard and is adjacent to an alley. The proposed transformer vault will not impair the purpose of the regulations of the zoning district as it is an unusual structure that is not typically required for most businesses in the area and poses a slight encroachment.

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 479 of Chapter 25-6 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 reasonable require strict or literal interpretation and enforcement of the specific regulation because:

N/A

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:

N/A

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

N/A

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

N/A

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 Michele Rogerson Lynch Mail Address 301 Congress Ave., Ste 1200
City, State & Zip Austin, TX 78701

Printed Michele Rogerson Lynch, Metcalfe Wolff Stuart & Williams, LLP
Phone 512-404-2251 Date 4-4-12

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 Russ Eppright, President Eppright - Nordquist Management Mail Address 4704 Cat Mountain Drive

City, State & Zip Austin, Texas 78731 matt

Printed Russ Eppright, President, EPPRIGHT NORDQUIST MANAGEMENT Phone (512) 345-0570 Date 4/4/12

GENERAL INFORMATION FOR SUBMITTAL OF A VARIANCE REQUEST TO THE BOARD OF ADJUSTMENT

(The following is intended to provide assistance in explaining the variance process. These suggestions are not intended to be a complete or exhaustive guide in assisting you through this process.)

VARIANCE REQUIREMENTS:

General Requirements:

- A. A variance may be granted if, because of special circumstances of a property, the strict application of the Land Development Code regulations deprives the property owner of privileges that are enjoyed by



SUBJECT TRACT



ZONING BOUNDARY

CASE#: C15-2011-0054
LOCATION: 503 WEST MLK



This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

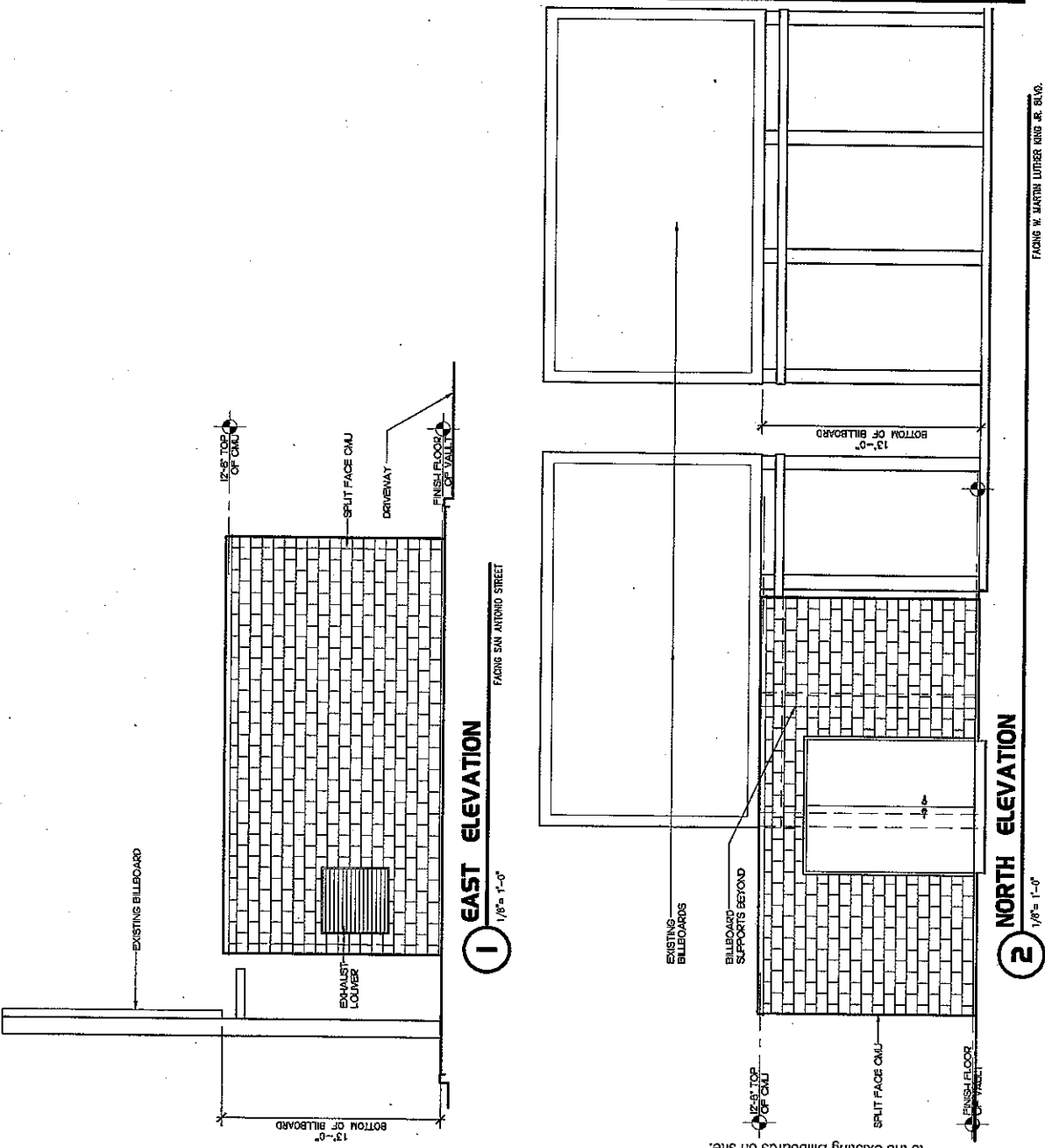
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CFA UNIVERSITY OF TEXAS DTO
Store #2992 503 W. Martin Luther King Jr. Blvd
Austin, TX 78701
March 8, 2012

SHEET
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Date 03/08/2012
Description of Sketch Elevations showing the new Transformer Vault in relation to the existing Billboards on site.





