

ORDINANCE AMENDMENT REVIEW SHEET

Amendment: C20-2012-015 Special Exceptions

Description: Amend Consider an amendment to an ordinance amending chapter 25-2-476 of the city code relating to granting of special exceptions.

Proposed Language:

The proposed code amendment would add the following language to chapter 25 of the Land Development Code:

- (A) ~~[Subject to the limitations under Subsection (B) of this section, the]~~ The Board of Adjustment ~~[may]~~ shall grant a special exception for an existing residential structure, or portion of an existing structure, that violates a setback required under Chapter 25-2 (*Zoning*) if the board finds that the special exception meets the requirements of this section.
- (B) The Board ~~[may]~~ shall grant a special exception under Subsection (A) of this section if:
- (1) the residential use for which the special exception is sought is allowed in an SF-3 or more restrictive zoning district;
 - (2) the building official performs an inspection and determines that the violation does not pose a hazard to life, health, or public safety; and
 - (3) the Board finds that:
 - (a) the violation has existed for:
 - (i) at least 25 years; or
 - (ii) at least 15 years, if the application for a special exception is submitted on or before June 6, 2013;
 - (b) the use is a permitted use or a nonconforming use;
 - (c) the structure does not share a lot with more than one other primary residence; and
 - (d) granting a special exception would not:
 - (i) alter the character of the area;
 - (ii) impair the use of adjacent property that is developed in compliance with city code; or

- (iii) grant a special privilege that is inconsistent with other properties in the area or in the district in which the property is located.

Staff Recommendation: Staff recommends this amendment.

Background: Initiated by Council Resolution 20120524-082.

In 2001 and ordinance (20110526-098) was adopted that added “special exceptions” as something that could be heard by the Board of Adjustment. The intent of the ordinance was to allow residents with long-standing minor code violations, that posed no harm or adverse impacts to public health, safety, or welfare, to be granted a special exception so that code enforcement staff could address more significant violations of city code. The present code amendment (C20-2012-015) makes a slight adjustment to the language of section 25-2-476, which addresses special exceptions, by changing the language from “may” to “shall,” such the Board of Adjustment is now compelled to grant special exceptions should all of the necessary criteria in 25-2-476(B) be met.

Board and Commission Actions

Planning Commission Subcommittee on Codes and Ordinances – Voted to send this item to full Planning Commission on September 18, 2012. Vote: 4-0.

Planning Commission – Voted to send this item to City Council on September 25, 2012. Vote: 8-0.

Council Action

City Council – A public hearing at City Council has been set for November 8, 2012.

Ordinance Number: NA

City Staff: Greg Dutton

Phone: 974-3509

Email: greg.dutton@austintexas.gov