

CITY OF AUSTIN
Board of Adjustment/Sign Review Board
Decision Sheet

DATE: Monday, October 8, 2012

CASE NUMBER: C15-2012-0124

____ Jeff Jack
____ Michael Von Ohlen
____ Nora Salinas
____ Bryan King
____ Fred McGhee
____ Melissa Hawthorne
____ Sallie Burchett
____ Cathy French (SRB only)

APPLICANT: Jim Bennett

OWNER: Jack and Ann Swingler

ADDRESS: 3801 STEVENSON AVE

VARIANCE REQUESTED: The applicant has requested a variance to decrease the minimum front street setback requirement of Section 25-2-492 (D) from 25 feet to 5 feet in order to erect a carport for a single-family residence in an "SF-3-NP", Family Residence – Neighborhood Plan zoning district. (West Austin Neighborhood Group Neighborhood Plan)

The applicant has requested a variance from Section 25-2-1604 in order to erect a carport for a single-family residence in an "SF-3-NP", Family Residence – Neighborhood Plan zoning district. (West Austin Neighborhood Group Neighborhood Plan) The Land Development Code states that a parking structure with an entrance that faces the front yard may not be closer to the front lot line than the building façade.

BOARD'S DECISION: POSTPONED TO November 13, 2012 BY APPLICANT

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



Jeff Jack
Chairman

Ramirez, Diana

From: [REDACTED]
Sent: Monday, October 29, 2012 11:20 AM
To: Walker, Susan; Ramirez, Diana
Subject: 3801 Stevenson; C15-2012-0124

10-16-2012

Susan Walker, Liaison
Board of Adjustment
City of Austin

RE: C15-2012-0124; 3801 Stevenson Avenue

Dear Board of Adjustment:

The Board of Directors (BoD) of West Austin Neighborhood Group, after discussion with the applicant in the above referenced variance requests at our regularly scheduled monthly meeting on 10-01-2012, and after due deliberation, has voted electronically to oppose the requests.

Our opposition is based on the following:

This application represents the third variance request from or modification to the LDC that this owner has sought for this property.

In C15-04-041 the owners requested to decrease the required front yard setback from 25 feet to 12 feet 3 inches in order to erect a single-story enclosed parking garage. Amongst the hardships cited in this request were the location of a large tree in the front yard, corner lot constraints, and that the original garage was too small to accommodate two modern vehicles and a storage area. This variance was granted.

In Case Number 08-072080RA before the RDCC the owners were allowed to enclose a previously open porch thus increasing the allowable FAR on the property from 40% to 45.79%. One of the conditions of that modification was that the garage structure remain one story and non-habitable.

Allowing a carport to be built at this property that requires another incursion into the required front yard setback will set a precedent not enjoyed by any other nearby similarly situated properties. As for hardship, the best the WANG BoD can determine, the applicant is citing the same then unique circumstances cited in the 2004 variance that was granted. The WANG BoD additionally noted the opposition and support from affected neighbors.

We would respectfully ask the Board of Adjustment to deny the requested variances. A member of the neighborhood association will be in attendance at the Board's meeting on 11-13-2012.

Sincerely;

Blake Tollett, WANG
3701 Bonnie Road 78703-2002
512-477-4028

Ramirez, Diana

From: [REDACTED] <[REDACTED]@earthlink.net>
Sent: Monday, October 29, 2012 1:11 PM
To: Walker, Susan; Ramirez, Diana
Subject: 3801 Stevenson; C15-2012-0124

Susan-

I received the below from Spenser Nutting, one of the signatories in favor of the variance requested at 3801 Stevenson.

Blake Tollett-WANG

+++++

From: Spencer <snnutting@yahoo.com>
Date: October 8, 2012 5:05:56 PM CDT
To: "blake.tollett@earthlink.net" <blake.tollett@earthlink.net>
Subject: Re: Meeting tonight

Blake:

Please pass this on during open testimony:

"To Whom This May Concern: It is my intent to clarify my position regarding any variances regarding the Swingler property located across the street from 3802 Stevenson Ave. I would be attending this hearing myself but have been battling flu/allergy/virus concerns for the past month, & Mr Luning, listed as the registered owner of 3802 Stevenson Ave. is currently out of the country

I have NEVER endorsed ANY variances to extending any current variances to existing setbacks of existing structures located @ the Swingler residence.

Ramirez, Diana

From: [REDACTED]
Sent: Monday, October 29, 2012 11:27 AM
To: Walker, Susan; Ramirez, Diana
Subject: 3801 Stevenson; C15-2012-0124

Susan & Diana-

Would you please include the below email concerning 3801 Stevenson in the back up material on this variance request.

Thank you. Blake Tollett-WANG

+++++

From: [REDACTED]
Date: May 5, 2009 3:11:53 PM CDT
To: Sylvia Benavidez <sylvia.benavidez@ci.austin.tx.us>
Cc: tina contros <tcontros@austin.rr.com>, Jack Swingler <jswingler@austin.rr.com>, WANG ExCom <wang-board@westaustinng.com>
Subject: RDCC #08-072080RA; 3801 Stevenson Avenue

TO: Sylvia Benevides, City of Austin
Liaison to the RDCC

Dear Chair and Commission Members:

At its regularly scheduled meeting on 6 April 2009, the applicant of the above referenced modification request appeared before the Executive Committee (ExComm) of West Austin Neighborhood Group (WANG) to discuss the matter.

At the April WANG meeting, the applicant presented the proposal to us as a request for an increase in the FAR somewhat under 200 square feet. The owners had gotten sign-off from the neighbors at that figure, and we understood that the basic mass of the house would not change if the upstairs covered deck was enclosed.

The WANG ExComm had been previously involved with a variance request compromise at this address in 2004 (C15-04-041) where we withdrew our opposition based on the following conditions:

That the incursion into the front yard setback (25 feet required setback by the LDCode and an initially requested incursion of 12 feet 9 inches) be no greater than 7 feet 6 inches; that the incursion be specified for the garage only; and that the incursion be limited to a single story structure.

The variance as modified was granted by the Board of Adjustment in April of 2004.

When the owners approached the WANG ExComm about this latest request for a modification to the LDCode, it was suggested to them that it would be a more palatable request for our non-opposition if:

"...there could be some sort of quid pro quo for the requested increase in FAR (habitable living space). I think you use your garage for a garage/utility room use. Would agreeing, and formally binding yourself and future owners of your residence, to not use the garage for habitable space be something you could live with in exchange for the enclosing of the deck?"

The owners very graciously accepted this suggestion, and the WANG ExComm based its non-opposition stance upon this acceptance.

The modification request now before you is for an increase of 436 square feet in habitable living space over the LDCode allowed. The City Staff has explained to us that the difference in what we thought was being requested and what is officially being requested is due to the fact that because the driveway is such that it meets the parking requirement for the lot, the 200 square feet allowance in habitable space for an attached garage is not allowed in this instance. In addition, the 96 square feet of shed is also being counted as potentially habitable space on the property.

Based upon the City Staff's explanation, and believing that a third party enforceable deed restriction that precludes the conversion of the garage into habitable living space and is binding on current and future owners of the property will effectively prevent the further expansion of habitable living space in the current structure, WANG decided to not revisit its original non-opposition stance on the above referenced modification request.

A representative of the neighborhood association will be at your meeting on Wednesday evening.

Blake Tollett-WANG
3701 Bonnie Road 78703
512-477-4028

PUBLIC HEARING INFORMATION

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A board or commission's decision may be appealed by a person with standing to appeal, or an interested party that is identified as a person who can appeal the decision. The body holding a public hearing on an appeal will determine whether a person has standing to appeal the decision.

An interested party is defined as a person who is the applicant or record owner of the subject property, or who communicates an interest to a board or commission by:

- delivering a written statement to the board or commission before or during the public hearing that generally identifies the issues of concern (*it may be delivered to the contact person listed on a notice*); or
- appearing and speaking for the record at the public hearing; and:

- occupies a primary residence that is within 500 feet of the subject property or proposed development;
- is the record owner of property within 500 feet of the subject property or proposed development; or
- is an officer of an environmental or neighborhood organization that has an interest in or whose declared boundaries are within 500 feet of the subject property or proposed development.

A notice of appeal must be filed with the director of the responsible department no later than 10 days after the decision. An appeal form may be available from the responsible department.

For additional information on the City of Austin's land development process, visit our web site: www.ci.austin.tx.us/development.

Written comments must be submitted to the contact person listed on the notice before or at a public hearing. Your comments should include the name of the board or commission, or Council; the scheduled date of the public hearing; the Case Number; and the contact person listed on the notice.

Case Number: C15-2012-0124 – 3801 Stevenson Avenue
Contact: Susan Walker, 512-974-2202
Public Hearing: Board of Adjustment, October 8th, 2012

Mike Hovenga
Your Name (please print)

<input type="checkbox"/> I am in favor
<input checked="" type="checkbox"/> I object

3710 Meredith 78703
Your address(es) affected by this application

Mike Hovenga TX/10/12
Signature Date

Daytime Telephone: 512-466-7301

Comments: My mailing address is:
3202 Bonnie Rd
78703

If you use this form to comment, it may be returned to:

City of Austin-Planning & Development Review Department/ 1st Floor
Susan Walker
P. O. Box 1088
Austin, TX 78767-1088

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Contact: Susan Walker, 512-974-2202
Public Hearing: Board of Adjustment, October 8th, 2012

Your Name (please print)

EBLUNA L. DIAZ

<input type="checkbox"/> I am in favor
<input type="checkbox"/> I object

Your address(es) affected by this application

lot east of 1903 Westhewes
Address: 1903 Westhewes
Signature: [Signature] on 10/2/12
Date: 10/2/12

Daytime Telephone:

512-431-3305

Comments:

See attached

If you use this form to comment, it may be returned to:

City of Austin-Planning & Development Review Department/ 1st Floor
Susan Walker
P. O. Box 1088
Austin, TX 78767-1088

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Contact: Susan Walker, 512-974-2202

Public Hearing: Board of Adjustment, October 8th, 2012

Your Name (please print)

~~EMERALD L. DART~~ EMERALD L. DART

☐ I am in favor
☒ object

Your address(es) affected by this application

1503 Matthews Dr.

Susan Walker

Signature

Oct 2, 2012

Date

Daytime Telephone: 512-431-3305

Comments: There is already an enclosed

car port for 2 cars, repeating

the 25' setback will

also block line of site

for traffic proceeding east

on Stephenson. This is

not safe or visually

desirable for the neighborhood.

We want variances please

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Susan Walker

P. O. Box 1088
Austin, TX 78767-1088

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Contact: Susan Walker, 512-974-2202
Public Hearing: Board of Adjustment, October 8th, 2012

Your Name (please print)

Shirley Koeller
3706 Meredith St.

<input checked="" type="checkbox"/>	I am in favor
<input type="checkbox"/>	I object

Your address(es) affected by this application

Shirley Koeller

Signature

9/28/12

Date

Daytime Telephone:

469-9659

Comments:

Opposed - It's a huge lot, I don't see the need for this variance. (It looks like frame is already in place - is this request after the fact?)

If you use this form to comment, it may be returned to:

City of Austin-Planning & Development Review Department/ 1st Floor
Susan Walker
P. O. Box 1088
Austin, TX 78767-1088

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Contact: Susan Walker, 512-974-2202
Public Hearing: Board of Adjustment, October 8th, 2012

Your Name (please print) James Powell

1906 Matthews Dr.

Your address(es) affected by this application Austin, TX 78703

☐ I am in favor
☒ I object

James Powell

Signature

Date

Daytime Telephone: 512/477-9939

Oct. 3, 2012

Comments:

I object because
any decrease to the front
street set back impacts
the street scene negatively. It
would violate the scale of the
neighborhood. In addition it
would set a bad precedent.

If you use this form to comment, it may be returned to:

City of Austin-Planning & Development Review Department/ 1st Floor
Susan Walker
P. O. Box 1088
Austin, TX 78767-1088

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Contact: Susan Walker, 512-974-2202
Public Hearing: Board of Adjustment, October 8th, 2012

SANDI DAVIDSON

Your Name (please print)

3004 MATTHEWS DRIVE

Your address(es) affected by this application

Sandi Davidson 4-28-12

Signature

Date

Daytime Telephone (512) 476 3017

Comments:

I feel (strongly) that by decreasing the visibility on that short block of

Stevens it would make

a dangerous intersection

(Stevens & Matthews) All

the more heavy vehicles, cars

coming south on Seale

Drive - then turn east on

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Susan Walker

P. O. Box 1088

Austin, TX 78767-1088

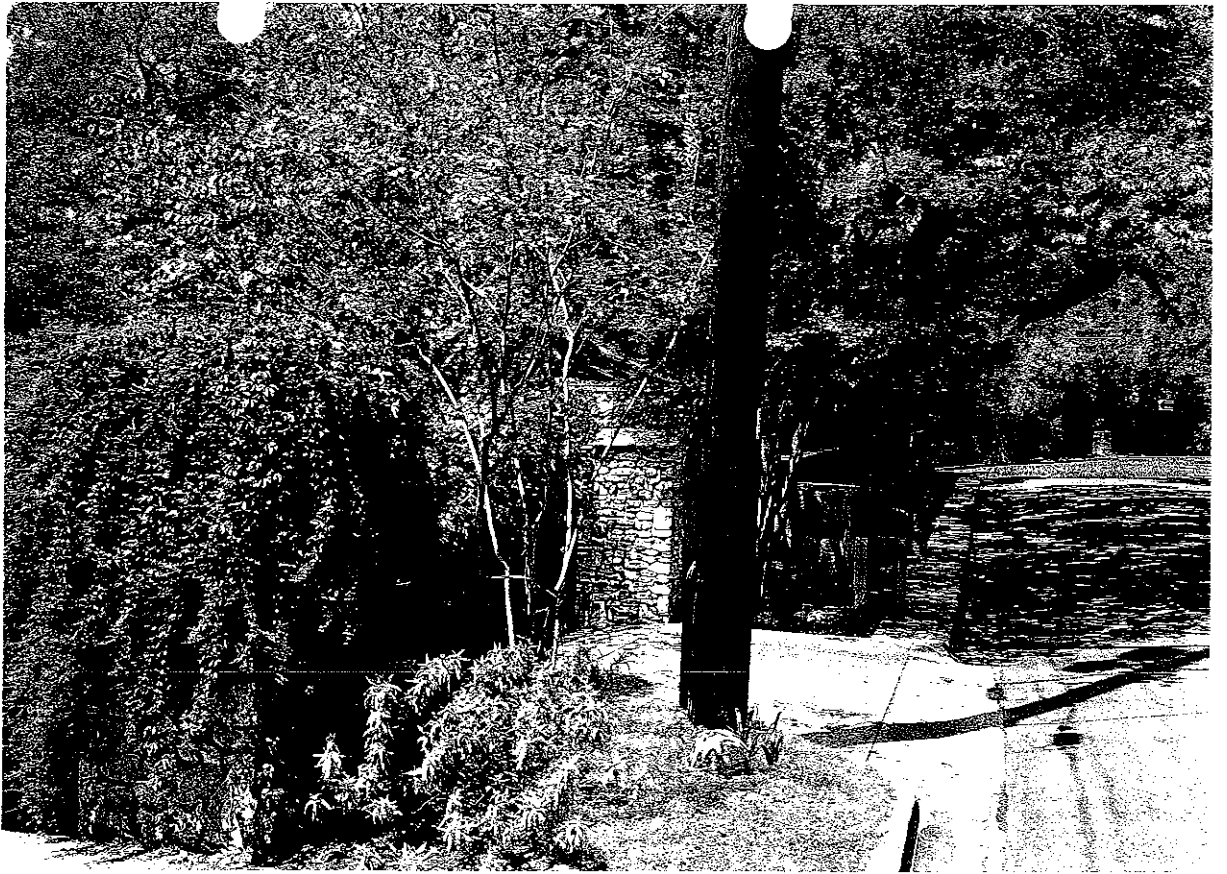
visibility problems. Coupled with the bushes to the curb at the SW corner

plus can park the street reduces reaction time. They are over

very mature planting
on the whole S side
of Levenson - blue stone
walls and had been
set back reason, blue
of time it would
~~be~~ compromise the
integrity of the neighborhood

Thank you

Samuel Davidson
9004 Matt Meadows Dr,





Stewenson

015-2012-0124

CASE # C 15-2012-0124
RAW-10827093
TP-0117090702

**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: 3801 Stevenson Ave.

LEGAL DESCRIPTION: Subdivision – Laurel Heights

Lot(s) 1&2 Block 5 Outlot _____ Division _____

I/ JIM Bennett as authorized agent for Jack & Ann Swingler
_____ affirm that on 8/29/12, hereby apply for a hearing before the Board of

Adjustment for consideration to:

ERECT – ATTACH – COMPLETE – REMODEL – MAINTAIN

An open carport providing a front street setback of 5 feet

E 252-1604

_____ in a SF-3-NP district.
(zoning district)

garage
placement

The Austin Electric Utility Department (Austin Energy) enforces electric easements and the setback requirements set forth in the Austin Utility Code, Electric Criteria Manual and National Electric Safety Code. The Board of Adjustment considers variance to the Land Development Code, and a variance granted by the Board of Adjustment does not waive the requirements enforced by Austin Energy. Please contact Christine Esparza with Austin Energy at 322-6112 before filing your application with the Board of Adjustment if your request is for a reduction in setbacks or height limits.

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 most reasonable place to locate a carport is over the existing driveway. It would be unreasonable to construct a new driveway for the carport.

HARDSHIP:

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

The configuration of the site, the location of the 36 inch diameter Red oak tree with the canopy covering the front yard and extending over the house, as well as an approximately two foot drop in grade from the street; the existing landscape and existing developed conditions of the site prevent the creation of a new drive and carport.

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

The conditions of this site are not common in the area.

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:

There are two homes on this side of the block and the construction of the carport can not readily be seen except from the two neighbors across the street who support the variance request. The location of the existing wall and vegetation on the adjoining lot as well as the landscaping on this site subdues the location of the carport. The surrounding neighbors support the requested variance.

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:

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:

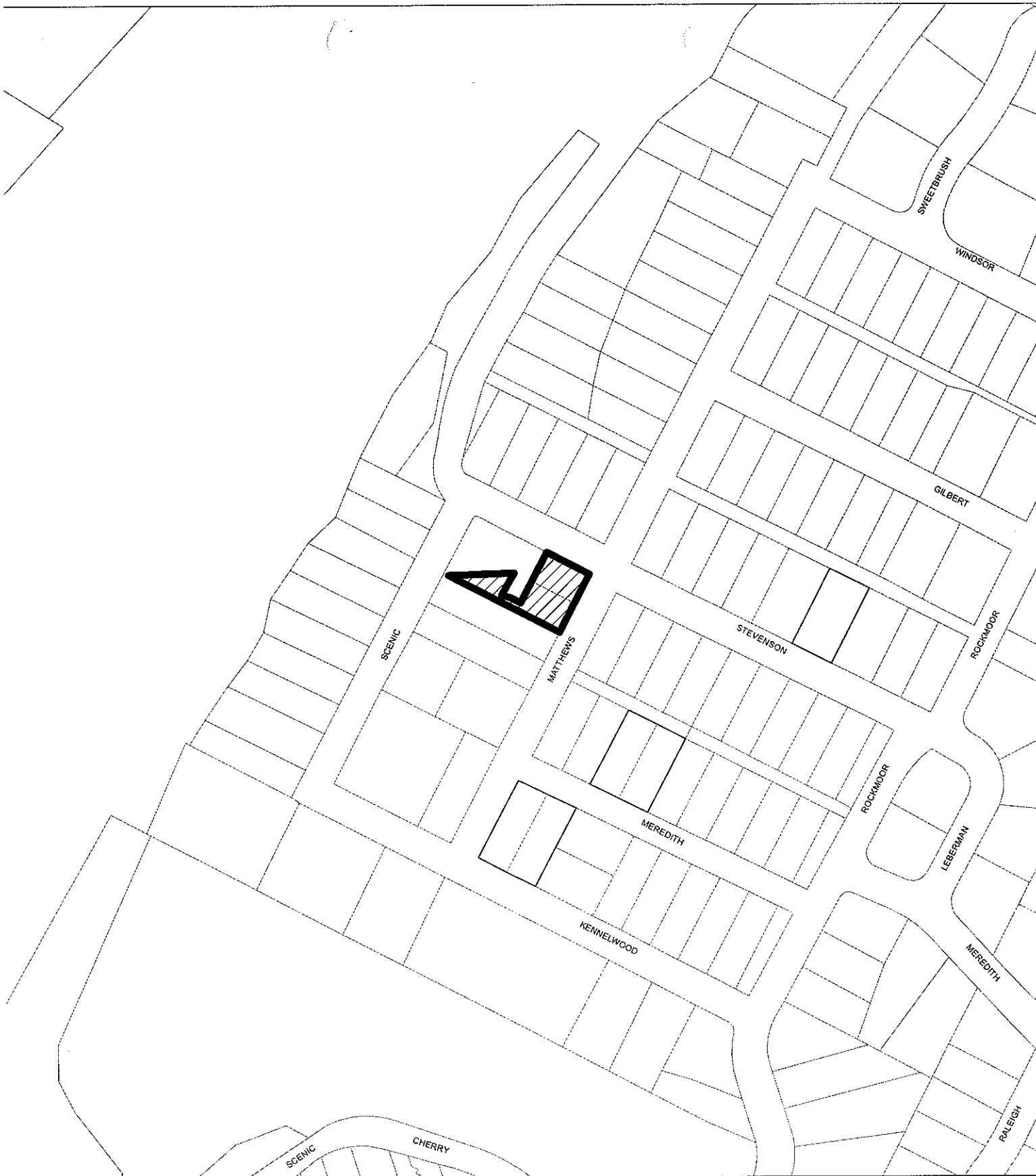
NOTE: The Board cannot grant a variance that would provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated.

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 Jim Bennett Mail Address 11505 Ridge Dr
City, State & Zip Austin, TX 78748
Printed Jim Bennett Phone 282-3079 Date 8/28/12

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 Jack Swingle Jr Mail Address _____
City, State & Zip 3801 Stevenson Ave. 78703
Printed JACK Swingle Phone _____ Date 8/29/12

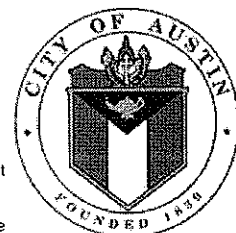


SUBJECT TRACT



ZONING BOUNDARY

CASE#: C15-2012-0124
LOCATION: 3801 STEVENSON AVE



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BOARD OF ADJUSTMENT (BOA)/SIGN REVIEW BOARD (SRB)

May 10, 2004

One Texas Center

505 Barton Springs Road, Room 325

CALL TO ORDER – 5:30 P.M.

* Herman Thun	* Barbara Aybar	* Frank Fuentes	* Leane Heldenfel
Chair	Vice-Chair		
* Betty Edgemond	* Bruce Shelton	* Cathy French	Wanda Penn
	(SRB Only)	(SRB Only)	(Alternate)
Dorothy Richter	Laurie Virkstis	Leroy Vaughn	
(Alternate)	(Alternate)	(Alternate)	

ORDER OF PROCEDURE

1. Chair calls meeting to order
2. Staff presents the variance request
3. Chair calls on those FAVORING the request
 - a. Applicant's presentation (5 minutes)
4. Chair calls on those OPPOSING the request
 - a. Presentation (5 minutes)
If more than one wanting to speak, it is suggested one person be selected as spokesperson
5. Applicant is given opportunity to answer objections stated (2 minutes)
Upon the motion of any member and a positive vote by a majority of The Board, or upon a ruling by the Chair, these time limits may be equitably extended.
6. The public hearing may be closed and no further testimony is taken from the public (unless requested by the Chair).
7. Questions from the Board
8. When the public hearing is closed, the Board shall make a recommendation
9. If motion is for approval, findings of fact are stated in support of the approval

CITIZENS WISHING TO SPEAK BEFORE THE BOARD MUST REGISTER BY SIGNING IN WHERE INDICATED BY BOARD SECRETARY.

Any interested party aggrieved by a decision of the Board of Adjustment may appeal the board's decision to a District Court. The petition must be submitted within ten (10) days after the date the decision is filed in the Board's office (Local Government Code 1.011). Decisions of the Sign Review Board may be appealed to City Council.

STED: May 6, 2004

ME: 3:00 P.M.

2. C15-03-108 Chris Bugge
9005 Rockcrest Drive

The applicant has requested a variance to decrease the minimum side yard setback requirement of Section 25-2-492(D) from 2 feet (approved 10-13-03) to 14 inches in order to maintain a rebuilt accessory building and addition to the attached accessory building for an existing single family residence in a "SF-3", Family Residence zoning district.

GRANTED 5-0

3. C15-04-009 Darryl Freeman
7912 Tisdale Drive

The applicant has requested a variance to increase the maximum fence height requirement of Section 25-2-899(D) from 6 feet to 8 feet in order to maintain a masonry fence for an existing residence in a "SF-3", Family Residence zoning district. The Land Development Code states that a solid fence constructed along a property line may not exceed an average height of 6 feet or a maximum height of 7 feet.

DENIED 2-3

4. C15-04-030 Jim Bennett for Atlanta Street Development Corporation
601 Upson & 520 Atlanta

The applicant has requested a variance to increase the maximum impervious coverage requirement of Section 25-2-492(D) from 45% to 50% for 601 Upson Street (Lot 8A) and from 45% to 58% for 520 Atlanta Street (Lot 9A) in order to erect a two-family residential use on each lot in an "Sf-3", Family Residence zoning district.

GRANTED 4-1 FOR 50% IMPERVIOUS COVERAGE FOR BOTH LOTS (9A & 8A)

5. C15-04-041 Tina Contros for Jack & Ann Swingler
3801 Stevenson Avenue

The applicant has requested a variance to decrease the minimum front street setback requirement of Section 25-2-492(D) from 25 feet to 12 feet 3 inches in order to erect an addition to a single-family residence in an "SF-3", Family Residence zoning district.

**GRANTED 5-0 FOR 17 FEET 6 INCHES AND WANG CONDITIONS OF
SETBACK BE NO GREATER THAN 7 FEET 6 INCHES; GARAGE ONLY AND
SINGLE STORY ONLY**

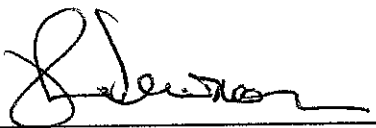
6. C15-04-042 Bernardo DeAvila for Janet Reed
4605 Banister





The adjacent property owner below does not object to the front yard setback variance from 17'6" to 2'6" being requested for a Carport extending from garage to approximately the stone column at 3801 Stevenson Ave. Austin, Tx

Name John Newman Property owner at 2005 MATTHEWS DR.

Signature 

The adjacent property owner below does not object to the front yard setback variance from 17'6" to 2'6" being requested for a Carport extending from garage to approximately the stone column at 3801 Stevenson Ave. Austin, Tx

Name Genny Hardeman Property owner at 2101 Matthews

Signature Genny Hardeman

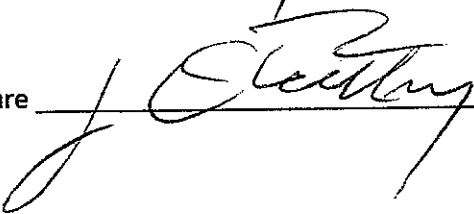
The adjacent property owner below does not object to the front yard setback variance from 17'6" to 2'6" being requested for a Carport extending from garage to approximately the stone column at 3801 Stevenson Ave. Austin, Tx

Name Denny Jagger Property owner at 3800 Stevenson

Signature Denny Jagger

The adjacent property owner below does not object to the front yard setback variance from 17'6" to 2'6" being requested for a Carport extending from garage to approximately the stone column at 3801 Stevenson Ave. Austin, Tx

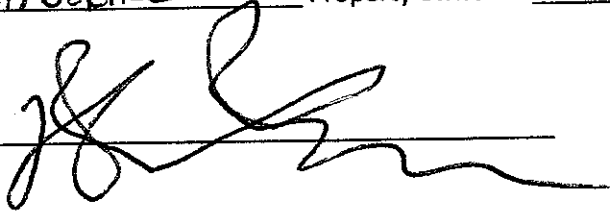
Name Spencer Nutting Property owner at 3802 Stevenson

Signature 

The adjacent property owner below does not object to the front yard setback variance from 17'6" to 2'6" being requested for a Carport extending from garage to approximately the stone column at 3801 Stevenson Ave. Austin, Tx

Name Ben Noelke Property owner at 3804 Stevenson

Signature

A handwritten signature in black ink, appearing to read "Ben Noelke", written over a horizontal line.

The adjacent property owner below does not object to the front yard setback variance from 17'6" to 2'6" being requested for a Carport extending from garage to approximately the stone column at 3801 Stevenson Ave. Austin, Tx

Name Phil Gilbert Property owner at 3805 Stevenson

Signature Phil Gilbert