

Special EXCEP^{ION}

CASE# C15-2014-0089
ROW# 1158587
TAX# 0400041520

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: 1007 West Milton Street

LEGAL DESCRIPTION: Subdivision – Bouldin Creek

Lot(s) 4 Block G Outlot _____ Division Capitol Heights

I/We Richard Hughes

on behalf of myself/ourselves as authorized agent for

Edward & Rebecca Lewis affirm that on May 19, 2014

_____, hereby apply for a hearing

before the Board of Adjustment for consideration to:

(check appropriate items below and state what portion of the Zoning Code you are seeking a variance from)

___ ERECT ___ ATTACH ___ COMPLETE ___ REMODEL x MAINTAIN

It is an existing carport that the owners would like to keep which is over 10 years old and is situated over the 5' side building set back line.

in a SF-3 - NP(Bouldin) 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:

Special Exception

It is an existing carport that the owners would like to keep which is over 10 years old and is situated over the 5' side building set back line.

HARDSHIP:

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

Special Exception

It is an existing carport that the owners would like to keep which is over 10 years old and is situated over the 5' side building set back line.

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

Special Exception

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:

It is an existing carport that the owners would like to keep which is over 10 years old and is situated over the 5' side building set back line.

Special Exception

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 
Mail Address 2124 E 6th St., Ste 106
City, State & Zip Austin, TX 78702
Printed Richard Hughes
Phone 512.789.6959
richard@element5architecture.com
Date 5-19-15

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 
Mail Address 1007 W Milton St.
City, State & Zip Austin, TX 78704
Printed Edward & Rebecca Lewis
Phone elewis74@yahoo.com
Date 5-20-2014

§ 25-2-476 SPECIAL EXCEPTIONS.

(A) The Board of Adjustment 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 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 10 years, if the application for a special exception is submitted on or before June 6, 2016;
 - (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.




(C) A special exception granted under this section:

- (1) applies only to the structure, or portion of a structure, for which the special exception was granted and does not run with the land;
- (2) may not authorize an increase in the degree of noncompliance or excuse compliance with minimum health and safety requirements; and
- (3) may not authorize a remodel or addition to the existing structure, except to the extent required by the building official to meet minimum life and safety requirements.

(D) A structure granted a special exception under this section shall be treated as a non-complying structure under Chapter 25-2, Article 8 (Noncomplying Structures).

Source: Ord. 20110526-098; Ord. 20121108-091; Ord. 20130822-126.



-  SUBJECT TRACT
-  PENDING CASE
-  ZONING BOUNDARY

CASE#: C15-2014-0089
Address: 1007 W MILTON ST



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.

This product has been produced by CTM for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.

1" = 200'



Legend

-  Lot Lines
-  Streets
-  Building Footprints
-  Named Creeks
-  Lakes and Rivers
-  Parks
-  County

Improvement / Building

Improvement #1: 1 FAM DWELLING State Code: A1 Living Area: 1166.0 sqft Value: \$176,856

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
1ST	1st Floor	WW - 4+		1920	1166.0
011	PORCH OPEN 1ST F	* - 4+		1920	168.0
251	BATHROOM	* - 4+		1920	1.0
061	CARPORT ATT 1ST	WW - 4+		2004	216.0
095	HVAC RESIDENTIAL	* - 4+		2008	1166.0
571	STORAGE DET	WW - 4+		2008	128.0

Land

#	Type	Description	Acres	Sqft	Eff Front	Eff Depth	Market Value	Prod. Value
1	LAND	Land	0.1435	6250.86	0.00	75.00	\$300,000	\$0

Roll Value History

Year	Improvements	Land Market	Ag Valuation	Appraised	HS Cap	Assessed
2014	\$176,856	\$300,000	0	476,856	\$0	\$476,856

Deed History - (Last 3 Deed Transactions)

#	Deed Date	Type	Description	Grantor	Grantee	Volume	Page	Deed Number
1	4/12/2013	WD	WARRANTY DEED	CARMICHAEL DAVID & AMANDA	LEWIS EDWARD V & REBECCA C			2013067705TR

Questions Please Call (512) 834-9317

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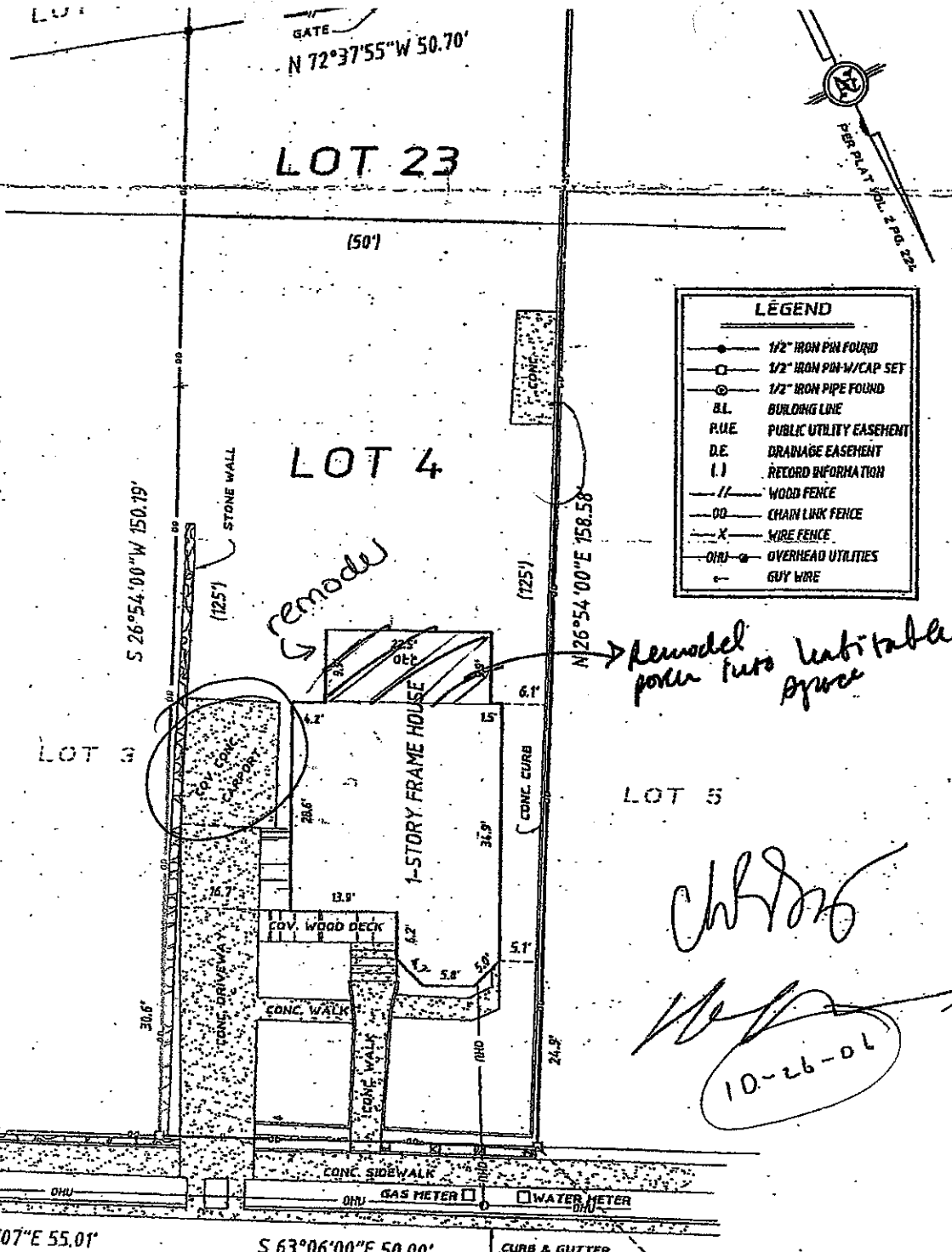
This site only supports Internet Explorer 6+, Netscape 7+ and Firefox 1.5+.

THIS PROPERTY IS IN ZONE "X" OF THE F.L.M.A. Flood Insurance Rate Map for Travis County, Texas, Community Panel No. 480624 0210 E, dated June 16th, 199.

THE STATE OF TEXAS TO THE LIEN HOLDERS AND/OR THE OWNERS OF THE PREMISES SURVEYED

COUNTY OF TRAVIS AND TO FIDELITY NATIONAL TITLE INSURANCE COMPANY

The undersigned does hereby state that this survey was this day made on the ground of the property legally described hereon and to the best of his information, knowledge and belief is correct, and that there are no discrepancies, conflicts, shortage in area, visible utility line or roads in place, except as shown hereon, and that said property has access to and from a dedicated roadway, except as shown hereon.



CITY OF AUSTIN
APPROVED FOR PERMIT
Victoria Hsu, P.E.

STON STREET

Watershed Protection & Development Review Department
By Melvin Lindsey Date 3/24/08
The granting of a permit for, or approval of, these plans and specifications shall not be construed to be a permit for, or approval of, any violation of any of the provisions of the current adopted building code or any other ordinance of the City of Austin.

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POINT-LINE SERVICES, INC.

ie of this survey for any other purpose or other
rties shall be at their risk and undersigned is not
sponsible to others for any loss resulting therefrom.

LAND & ENGINEERING SURVEYING
MELVIN LINDSEY, RPLS, 1587



Heldenfels, Leane

From: Eddie Lewis <elewis74@yahoo.com>
Sent: Thursday, May 22, 2014 9:52 AM
To: Richard Hughes; Heldenfels, Leane
Cc: Barr, Susan; Rebecca Lewis
Subject: Re: Edward Lewis shared "TCAD Carport Documents" with you
Attachments: 1007 W Milton Survey 2006.pdf

Dear Leane & Susan,

Thanks for handling our home renovation and addition application and consideration of our request to keep the existing carport. In regards to the existing carport, I reached out to the realtor who represented the previous owners to us and they only have a survey dated from 2006 from when they bought it (attached-they marked on it to do the 2008 work to enclose a back porch). The carport was already there when they bought the house. Unfortunately, we cannot track down the owners prior to that time frame since the house has changed hands several times over the last decade. In lieu of having a survey from earlier than 2006, I reached out to Travis County Central Appraisal District. According to the customer rep there, they started taxing the structure in 2004 after completing a field assessment in the neighborhood and noticed it on the house. They then had a field rep specifically go to the house in 2004 and draw the dimensions so they could have it in their files (which is what I provided to Richard, our architect). I asked for a field card from 2003, but unfortunately, they do not do physical assessments of property every year. Therefore, they don't have a record to provide. However, they indicated that the structure was likely installed prior to 2004, but it only picked up on the property tax rolls 10 years ago after their onsite inspection. Thus, they know the structure is at least 10 years old, if not older.

In our renovation/addition, we would like to keep the exterior look and feel of the original 1920 house as much as possible, which is why we are keeping as much of the front of the house as possible, but re-demising the interior. As part of the attempt to keep the historical look of the house while updating with modern amenities, my wife is very keen on keeping the small wraparound porch that is currently on the house. If we had to move the existing carport over a few feet, we would lose the wrap around porch that we think adds aesthetic value to the house and keeps its original Victorian bungalow charm. This is the main reason we would like to keep the carport as is in its current state.

I appreciate your consideration of our request and would be happy to discuss in further detail if you would like. If you have additional questions, please do not hesitate to email me or call at 773 870 0871 (cell) or 512 225 1645 (work). Alternatively, I can reach out to you if need be.

All the best and thanks again,

Eddie & Rebecca Lewis

On Wednesday, May 21, 2014 6:19 PM, Richard Hughes <richard@element5architecture.com> wrote:

Hello,

I've attached the most recent survey and I'll see if the owner has any older versions as well. Also, I dropped off the revised permit application, revised permit drawings, BOA application and TCAD Documents with residential review today.

"Richard,

Please find a print out of the Travis County Central Appraisal District summary page which shows that the carport was built 10 years ago in 2004. Also, I have also included the Field Card from the Assessor dated 9-30-2004 which shows that the carport was in existence prior to that. The Assessor actually went and did a follow up inspection on October 29, 2004 to draw in the dimensions of the carport for their tax records. Therefore, we know for a fact that the carport was added prior to 9-30-2004, which would make it at or about 10 years old today.

Let me know if this is sufficient. Getting aerials from that time is difficult and TCAD did not have those. Also, the owner at the time doesn't appear to be a City of Austin resident any longer. Finally, the earliest survey I have is from 2006 when the owner who put the carport in sold it to the previous owners to me. Therefore, I don't have a survey from 2004 which would show the addition.

Let me know if these items are sufficient.

Best,

Eddie"

[Click here to view TCAD Carport Documents](#)

(Edward shared these files using Dropbox. Enjoy!)

© 2014 Dropbox

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RICHARD HUGHES, Architect, Principal

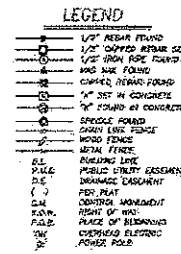
Element **5** Architecture

2124 East 6th Street, Suite 106

Austin, TX 78702

512.789.6959

135
LOT 9 & THE NORTH 23'
OF LOT 10, BLOCK 2



INDEPENDENCE TITLE COMPANY
NATIONAL RESORTS TITLE INSURANCE COMPANY

I DO HEREBY CERTIFY TO THOSE LISTED HEREON THAT THIS SURVEY WAS THIS DAY MADE ON THE PREMISES AND WAS SUBJECT TO THE PROPERTY LEGALLY DESCRIBED HEREON AS PREPARED BY INDEPENDENCE TITLE COMPANY, BIRMINGHAM, ALABAMA, AND THAT THERE ARE NO VISIBLE BOUNDARY LINE CONFLICTS, ENCROACHMENTS, OR LAPPING OF IMPROVEMENTS OR RIGHTS IN PLACE, EXCEPT AS SHOWN HEREON.

FILED WORK BY	CARE	2-25-13
COLLECT BY	TK	2-26-13
DRAFTED BY	AMJ	2-28-13
CHECKED BY	WJC	2-28-13

Heldenfels, Leane

From: Eddie Lewis ~~(e) Lewis, Eddie~~
Sent: Thursday, May 22, 2014 1:31 PM
To: Heldenfels, Leane; Richard Hughes
Cc: Barr, Susan; Rebecca Lewis
Subject: Re: Edward Lewis shared "TCAD Carport Documents" with you

Thanks Leane,

Yes, we would like to proceed forward with the Special Exception if that option is viable. In regards to the life safety permit/inspection, we are good to have that done and can coordinate through Richard who is handling our permit on how to schedule that and get it completed.

To answer your question, we aren't requesting any other variances to the zoning code to my knowledge. Therefore, the existing carport is our only exception we are requesting.

I will reach out to the surveying firm to see if we can track an older survey and will let you know if anything turns up. In lieu of that, it looks like we will have to go with what we have, so hopefully that will be sufficient.

Thanks again for your help and don't hesitate to reach out to me if you need anything else in advance of the July meeting.

Best,

Eddie

On Thursday, May 22, 2014 10:57 AM, "Heldenfels, Leane" <Leane.Heldenfels@austintexas.gov> wrote:

Hi Eddie – I can print this email out as evidence that the structure has existed for 10 years, then we have the 2004 TCAD record that shows it's been there at least 9 years and we can go with that to the Board requesting the Special Exception. You will still need to take out a life safety permit with residential review, then schedule an inspection and Tony Hernandez will write a report advising of any alterations that may need to be made to the structure.

There is probably an older survey out there that shows the carport, but given that we don't have aerial evidence or other evidence to that effect, we can see if they agree that it has been there for that long. One last idea might be to check with the surveyor that did the 2006 survey and have them check their records and see if they did an earlier version.

But, I will put your application on the July 14th Board of Adjustment agenda pending that, if you want to move forward with taking out the life safety permit/inspection.

You don't need any other variances to zoning code, correct? Worse case scenario would be that the Board rejects the 10 year evidence and you have to ask for a full variance (\$388, make findings) at the August 11th meeting – so if you have any other variances needed we could handle all together on same agenda.

Take care –

Leane Heldenfels
Board of Adjustment Liaison
City of Austin