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

DATE: Monday, May 11, 2015 **CASE NUMBER: C15-2015-0061**

_____ Jeff Jack - Chair
_____ Michael Von Ohlen
_____ Melissa Whaley Hawthorne - Vice Chair
_____ Sallie Burchett
_____ Ricardo De Camps
_____ Brian King
_____ Vincent Harding

OWNER/APPLICANT: Roger and Mary E Borgelt

ADDRESS: 106 LAUREL LN

VARIANCE REQUESTED: The applicant has requested variance(s) from:
1. Section 25-2-554 (Single-Family Residence Standard Lot (SF-2) District Regulations) to decrease the rear yard setback from 5 feet for an accessory building that is not more than one story or 15 feet in height (required) to 2 feet (requested); and from
2. Section 25-2-496 (D) (Site Development Regulations) to decrease the side yard setback from 5 feet (required) to 0 feet (requested)
in order to maintain an accessory structure in an "SF-3-NCCD-NP", Family Residence – Neighborhood Conservation Combining District – Neighborhood Plan zoning district. (North University)

BOARD'S DECISION: POSTPONED TO June 8, 2015 AT THE APPLICANT'S REQUEST

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:

Leane Heldenfels
Executive Liaison

Jeff Jack
Chairman

Heldenfels, Leane

Subject: FW: Case Number: C15-2015-0061, 106 Laurel Lane - OBJECTION: Postponed

From: Rob Sides [redacted]
Sent: Thursday, May 14, 2015 4:54 PM
To: Heldenfels, Leane
Subject: Re: Case Number: C15-2015-0061, 106 Laurel Lane - OBJECTION: Postponed

Thank you for your very considered and thorough response.

If it will be of any assistance to the assessment, I can provide some info on the rear setback of their shed, as it is close enough to measure from the back of my property and structure! My measurement from their shed to the rear fence is about 30", and from the back of their shed to the back of our structure is about 11", which may explain why they are requesting to "maintain" a 2' setback, though even that would require moving, not maintaining. An examination of the survey we provided for our property shows that rear fence North of the actual property line. If one uses the survey data that the back of our structure is 0.3" South of the boundary, then their shed would have to be moved for a 2' rear setback from the property line, not "maintained".

As the survey shows, our structure is only a little more than a foot to the West of the boundary, which, unfortunately was common placement for the period when these houses were built and is typical for the neighborhood. My wife bought the property in 1996 with that structure already in place and occupied by a tenant, so it is nothing new to the Applicants who have lived there just as long.

And to answer your other message, yes, you can print out our message below to shed some light on the timeline, as well as this one if you deem the information helpful.

Thanks again for working with us to help understand and navigate the process..

Rob & Margaret Sides

From: Rob Sides [redacted]
Sent: Wednesday, May 13, 2015 3:50 PM
To: Heldenfels, Leane
Subject: Case Number: C15-2015-0061, 106 Laurel Lane - OBJECTION: Postponed

Leane:

Needless to say, I was a bit thrown off by the "11th Hour" postponement of the hearing of our case during last Monday's hearing. Seems a bit disrespectful to the Board and staff that neither applicant could see fit to make it to the hearing or provide other representation.

Reviewing the RULES OF PROCEDURE FOR THE BOARD OF ADJUSTMENT AND SIGN REVIEW BOARD, the only item that appears to address this issue of postponement for failure to appear comes under ARTICLE 4., Section C. (6). Though this rule addresses failure to appear WITHOUT cause, I am wondering how many postponements may be requested with purported 'cause', especially at the last minute. Are there no limits? Perhaps there should be some rule that

an agent or other representative be required to be identified and available after the first instance of this sort of delay.

I don't know if this pattern is typical, but the delays in resolving this less than complex issue strike me as unnecessarily onerous. Here's a brief timeline which I offer by way of elucidating our frustration with the process:

12/23/14 - Service Request issued for Code Officer Inspection. This after many months of attempts to identify a mutual solution to the encroachment via e-mail exchanges with Applicants that resulted in no productive responses.
12/30/14 - Call with Code Officer confirming violation and notice given to Applicants.
1/7/15 - E-mail to Code Officer asking for update based on time frame for compliance.
1/8/15 - E-mail reply from Code Officer stating "The property owner at 106 Laurel Ln has submitted an application for a variance to the setback ordinance."
2/2/15 - Began e-mail thread with you to confirm application and date of hearing. No application had been submitted.
2/6/15 - Reply from Code Officer to my second inquiry as to status: "The agenda for the Feb hearing was full, so the property owner is scheduled to attend the March [9] hearing." - proved not to be the case.
3/17/15 - Date of Application to BOA for Variance.

And here we are. We have remained engaged in the process, waiting patiently for the 'wheels of justice' to grind slowly up to this point. In the meantime our concerns for the health and safety of our tenant and affected neighbors continues unresolved.

As we have some apprehension for future stalling tactics of this nature, and would prefer not to continue to waste time and resources of The Board and staff, The City of Austin and ourselves, might you be able to offer any suggestions as to how we could approach the Board with respect to a remedy? Are there procedures that we need to follow at the next hearing that would offer us any relief, i.e., can we introduce a motion of some sort that the Board could then consider acting upon to dismiss the Applicants' request? It just seems that the Rules of Procedure are structured to provide an unfair advantage to Applicants, with little to no recourse of a reasonable resolution for those that have serious Objections to the Variance Request.

Thank you for you consideration.

Sincerely,

Rob & Margaret Sides

Rob Sides
rob.sides@gmail.com

512-666-9911 o & txt
512-217-8617 c
512-532-6800 f

PUBLIC HEARING INFORMATION

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- 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.

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Case Number: C15-2015-0061, 106 Laurel Lane
Contact: Leane Heldenfels, 512-974-2202, leane.heldenfels@austintexas.gov
Public Hearing: Board of Adjustment, May 11th, 2015

ROB SIDES
Your Name (please print)

☐ **I am in favor**
☑ **I object**

108 LAUREL LN, AUSTIN, TX 78705
Your address(es) affected by this application

Signature — *Date* 5-9-15

Daytime Telephone: 512-666-9911

Comments: Variance application does not meet basic requirements; Variance findings do not provide evidence to support request; We have serious concerns regarding issues of health + safety not addressed by request; Maintenance + repair of our adjoining structure will be hindered; Alternative solutions are readily available to meet requestors needs; Approval would set bad precedent for neighborhood.

Note: any comments received will become part of the public record of this case

If you use this form to comment, it may be returned to:
City of Austin-Planning & Development Review Department/ 1st Floor
Leane Heldenfels
P. O. Box 1088
Austin, TX 78767-1088
Or fax to (512) 974-6305
Or scan and email to leane.heldenfels@ausintexas.gov

Public Hearing: Board of Adjustment, May 11, 2015

Case Number: C15-2015-0061, 106 Laurel Lane

Contact: Leane Heldenfels, 512-974-2202, **leane.heldenfels@austintexas.gov**

Comments from: Rob Sides, 108 Laurel Lane, Austin, TX 78705 - 512-666-9911

Comments prepared and submitted on 5/9/2015

(continued from form)

Additional information related to the reasons for my objection to the requested variance:

— Variance application does not meet basic requirements.

A. Applicant does not demonstrate how strict application of Code "deprives property owner of privileges that are enjoyed by another person who owns property in the area."

B. Approval of this request would "grant special privileges that are inconsistent with the limitations on other properties in the area."

— Variance Findings include many misrepresentations, inaccuracies, and fallacies and does not provide evidence to support request. Our position is that this application is a spurious misrepresentation of facts and realities, all of this is by way of obfuscation and avoidance of the serious issue of their structure's encroachment onto our property. A recent survey, provided herewith, and previously to the Applicants, shows the shed placed across property line. We realize the boundary encroachment is not an issue of this Board, but is exemplary of the disregard these folks have for neighbors and local government.

REASONABLE USE: More inaccuracies & misstatements

--Our garage has been characterized as "draws (ing) high traffic & constantly changing occupancies". The facts are that we only lease to professionals for nothing less than a 1 year term, & some of those have stayed years longer.

--We moved forward with a survey and the installation of a new fence on our property after many attempts over more than an year to engage the Applicants in a mutually agreeable solution to the previous fence that was falling down to the point of being unsafe. Contrary to Applicants site plan, the gate on that fence opens into OUR yard. Not sure why that is an issue for them, especially as they have placed a lock on our gate without our permission. In the course of e-mail exchanges regarding the fence we asked that the shed be relocated and offered suggestions and assistance, financial and otherwise, to address Applicants concerns for privacy.

HARDSHIP: Criteria to establish hardship have not been met.

(a) There are alternatives to create privacy (landscaping, etc.) and other areas of yard for storage, i.e., shed could be placed next to THEIR garage without need for variance. To my knowledge in the years since my wife acquired our property around 1996 there have been no incidents of 'access from unknown persons'

(b) It is in fact NOT a unique hardship. Ground floor Garage Windows with full view of adjoining yards is not uncharacteristic of the area, as there are two such windows on a Garage apartment to the North of us that open in a similar fashion onto our back yard. Ms. Borgelt could have readily observed that during her uninvited intrusions into our backyard.

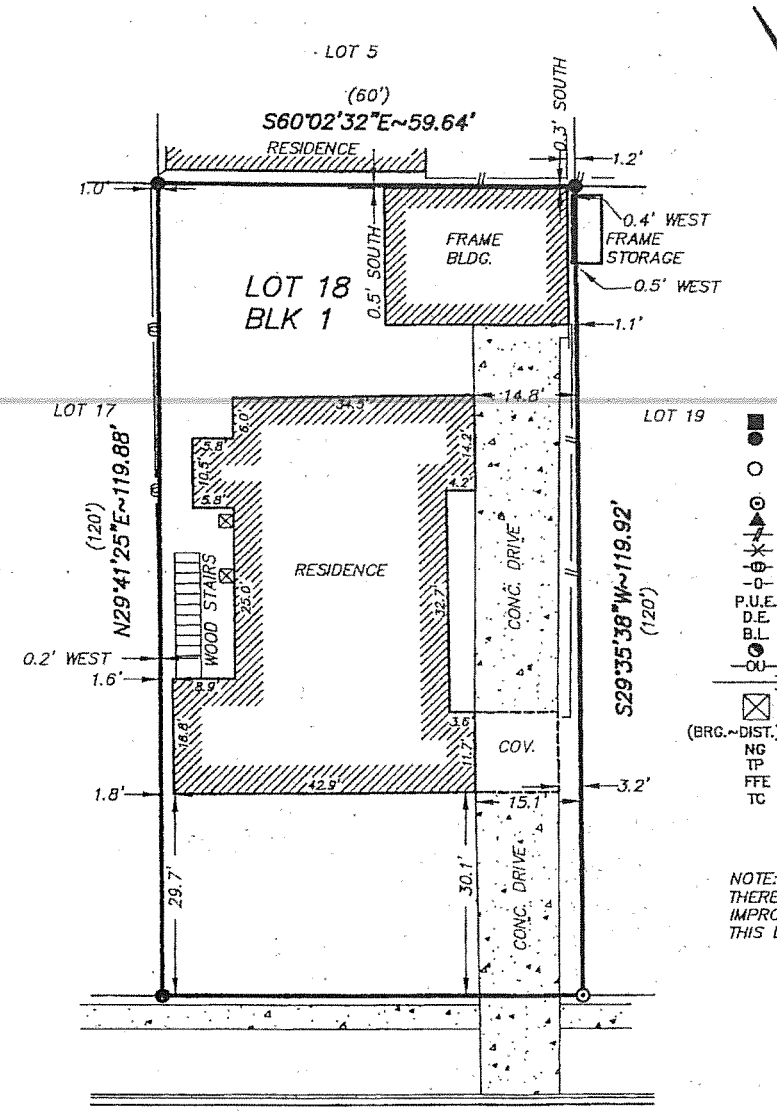
AREA CHARACTER: Once again, FALSE and inaccurate, as the current placement blocking the bedroom window of our garage apartment is an impairment on several levels:

— patently obtrusive with regard to its placement over the property boundary line as it takes adverse possession of part of our yard, and creates a title issue that will affect the value of the property should we want to sell.

— makes that part of our structure completely inaccessible for maintenance and repairs.

— a deterrent to prospective tenants for health and safety reasons, blocking light and air, creating a space for vermin, and preventing a safe escape in the event of fire or other such emergency.

— there are alternatives for placement that would respect Code delineated setbacks.



SCALE: 1"=20'

LEGEND

- CONCRETE MONUMENT FOUND
- 1/2"STEEL PIN FOUND (UNLESS NOTED)
- 1/2"STEEL PIN SET W/CAP MARKED 'LENZ & ASSOC.'
- PIPE FOUND
- NAIL FOUND
- WOOD FENCE
- WIRE FENCE
- CHAIN LINK FENCE
- WROUGHT IRON FENCE
- P.U.E. PUBLIC UTILITY EASEMENT
- D.E. DRAINAGE EASEMENT
- B.L. BUILDING LINE
- POWER POLE
- OU OVERHEAD UTILITY LINE
- DOWN GUY
- AIR CONDITIONER
- (BRG.~DIST.) RECORD CALL
- NG NATURAL GROUND
- TP TOP OF PATIO/PORCH
- FFE FINISHED FLOOR ELEVATION
- TC TOP OF CONCRETE

NOTE:
THERE ARE OTHER IMPROVEMENTS LOCATED ON THIS LOT NOT SHOWN HEREON.

THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A CURRENT TITLE COMMITMENT, THIS TRACT MAY BE SUBJECT TO EASEMENTS, CONDITIONS, OR RESTRICTIONS OF RECORD NOT SHOWN OR NOTED HEREON.

STATE OF TEXAS
REGISTERED
TIMOTHY A. LENZ
4393
PROFESSIONAL
LAND SURVEYOR

DATE OF SURVEY: AUGUST 4, 2014

LENZ & ASSOCIATES, INC.
FIRM No. 100290-00
512/443-1174
4303 RUSSELL DRIVE
AUSTIN, TEXAS 78704

SURVEY No.: 2014-0414 F.B.#: 971/16

REFERENCE: SIDES
G.F. No.:
ADDRESS: 108 LAUREL LANE

LEGAL DESC.: LOT 18, BLOCK 1, UNIVERSITY HEIGHTS AS RECORDED IN BOOK 3, PAGE 97, TRAVIS COUNTY PLAT RECORDS.

Heldenfels, Leane

From: Tim Larson <tlarson@rosscstrategic.com>
Sent: Thursday, May 07, 2015 10:25 PM
To: Heldenfels, Leane
Subject: Comments on Case Number: C15-2015-0061, 106 Laurel Lane
Attachments: C15-2015-0061, 106 Laurel Lane_Comment_TimLarson.pdf

Dear Leane,

Thanks for your attention to the zoning issue at 106 Laurel Lane. I live at 107 W 32nd Street and recently received information about the public hearing on the issue. I can not attend the meeting but would like to submit comments. I scanned and attached the form included with the notice with my information, signature, and written comments, plus an additional attached page containing more detailed comments/rationale.

In sum, I object to the proposed variance. The structure violates code. I believe a variance is not only unnecessary but sets a dangerous precedent. The structure is too close to the property line and, thus, too close to existing structures on adjacent properties. Its location increases the risk of environmental, health, and safety issues. I am particularly concerned that the structure will affect drainage and the prospect of flooding in the area. I am also worried that its location increases the risk of fire spreading between properties and offers a hospitable home for vermin. Its proximity to the property line affects means of egress and maintenance on both it and adjacent properties. For all of these reasons, I object to the proposed variance. These and other comments are included on the attached form and documentation.

Please let me know if you have questions or if there is more information I can provide at this time.

Thank you,
Tim Larson

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Case Number: C15-2015-0061, 106 Laurel Lane
Contact: Leane Heldenfels, 512-974-2202, leane.heldenfels@austintexas.gov
Public Hearing: Board of Adjustment, May 11th, 2015

Tim Larson
Your Name (please print)

☐ **I am in favor**
☑ **I object**

107 W 32nd Street, Austin, TX 78705
Your address(es) affected by this application

Tim Larson — 5/7/2015
Signature — *Date*

Daytime Telephone: (206) 601-1644

Comments: I object to this proposed variance for the following reasons:
- Sets a bad precedent for the neighborhood
- Alternate solutions are available to address the requestor's "hardship" needs and concerns
- Proposal fails to address health + safety concerns
- Maintenance and repair of adjoining structures will be hindered. (continued →)

Note: any comments received will become part of the public record of this case

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Public Hearing: Board of Adjustment, May 11, 2015
Case Number: C15-2015-0061, 106 Laurel Lane
Contact: Leanne Heldenfels, 512-974-2202, Leanne.heldenfels@austintexas.gov

Comments from: Tim Larson, 107 W 32nd Street, Austin, TX 78705 – (206) 601-1644
Comments prepared and submitted on 5/7/2015.

(Continued from form)
Additional information related to the reasons for my objection to the proposed variance:

1. **Sets a bad precedent for the neighborhood**. Property set-back requirements have been established for important reasons as discussed below. I am concerned that approval of a variance request on the basis of hardship claims related to "privacy" or "small yard" excessively lowers the bar for variance requests and opens the door for other similar requests on these grounds throughout this historic neighborhood, rendering set-back requirements obsolete.
2. **Alternate solutions are available to address the requestor's hardship needs and concerns**. Privacy can be accomplished through other means aside from structures approved under a variance. Trellises, plantings, fences, and other solutions can be used to address privacy concerns. Storage needs can be addressed in garages, structures with appropriate set-backs, off-site storage and other solutions.
3. **Proposal fails to address health and safety concerns**. Set-back requirements play an important role in addressing health and safety concerns, including reducing risks of fire spreading across structures, ensuring means of egress from windows in adjoining structures, preventing tight spaces between structures that can foster vermin, etc.
4. **Maintenance and repair of adjoining structures will be hindered**. Allowing variances that enable placement of structures very close to existing permitted and/or grandfathered structures will make it extremely difficult to address maintenance needs (e.g., window repair, painting, brick tuck pointing) that are important for safety and for enabling neighbors to maintain the value of their property assets.

Heldenfels, Leane

From: Rob Sides <[redacted]>
Sent: Saturday, May 09, 2015 7:11 PM
To: Heldenfels, Leane
Subject: Comments on Case Number: C15-2015-0061, 106 Laurel Lane
Attachments: Laurel Ln Variance Submission.pdf; City Austin M Sides auth.pdf

Dear Leane,

I am a resident of 108 Laurel Lane and spouse of property owner Margaret Sides. Our property adjoins the above noted subject property. Thanks for your assistance thus far in helping us navigate the Board of Adjustment process. My wife is unable to attend Monday's hearing, so I have attached a note from her clarifying that I am to represent her interests. Per the attachments herewith we are filing our Objection to the Variance Request, along with additional comments and a recent survey of our property. I plan to attend the hearing to offer comments and answer any questions the Board may have of us in this matter.

Best,

Rob

Rob Sides
rob.sides@gmail.com

512-666-9911 o & txt
512-217-8617 c
512-532-6800 f

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Contact: Leane Heldenfels, 512-974-2202, leane.heldenfels@austintexas.gov
Public Hearing: Board of Adjustment, May 11th, 2015

Becky Pettit
Your Name (please print)

☐ **I am in favor**
☒ **I object**

107 W. 32nd St.
Your address(es) affected by this application

Becky Pettit — *Signature*
5/7/2015 — *Date*

Daytime Telephone: 2067799420

Comments: The structure violates code. A variance is unnecessary and sets a terrible precedent. The structure is too close to existing structures on adjacent properties and thus is an environmental, health, and safety risk. I object to the proposed variance

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Leane Heldenfels
P. O. Box 1088
Austin, TX 78767-1088
Or fax to (512) 974-6305
Or scan and email to leane.heldenfels@ausintexas.gov

I am particularly concerned about how the structure increases risk of flood, fire, and vermin. Its proximity to the property line affects means of egress and maintenance.

Heldenfels, Leane

From: Becky Pettit <bpettit7@gmail.com>
Sent: Thursday, May 07, 2015 9:52 AM
To: Heldenfels, Leane
Cc: Tim Larson
Subject: Comments on Case Number: C15-2015-0061, 106 Laurel Lane
Attachments: 106_permit.pdf

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Becky Pettit
206-779-9420

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Contact: Leane Heldenfels, 512-974-2202, leane.heldenfels@austintexas.gov
Public Hearing: Board of Adjustment, May 11th, 2015

Spiros G. Pallas
Your Name (please print)

☐ **I am in favor**
☒ **I object**

201 West 33 St Austin Tx 78705
Your address(es) affected by this application

Signature — 5/6/2015 *Date*

Daytime Telephone: 703 521 5555

Comments: I object to the variance

Note: any comments received will become part of the public record of this case

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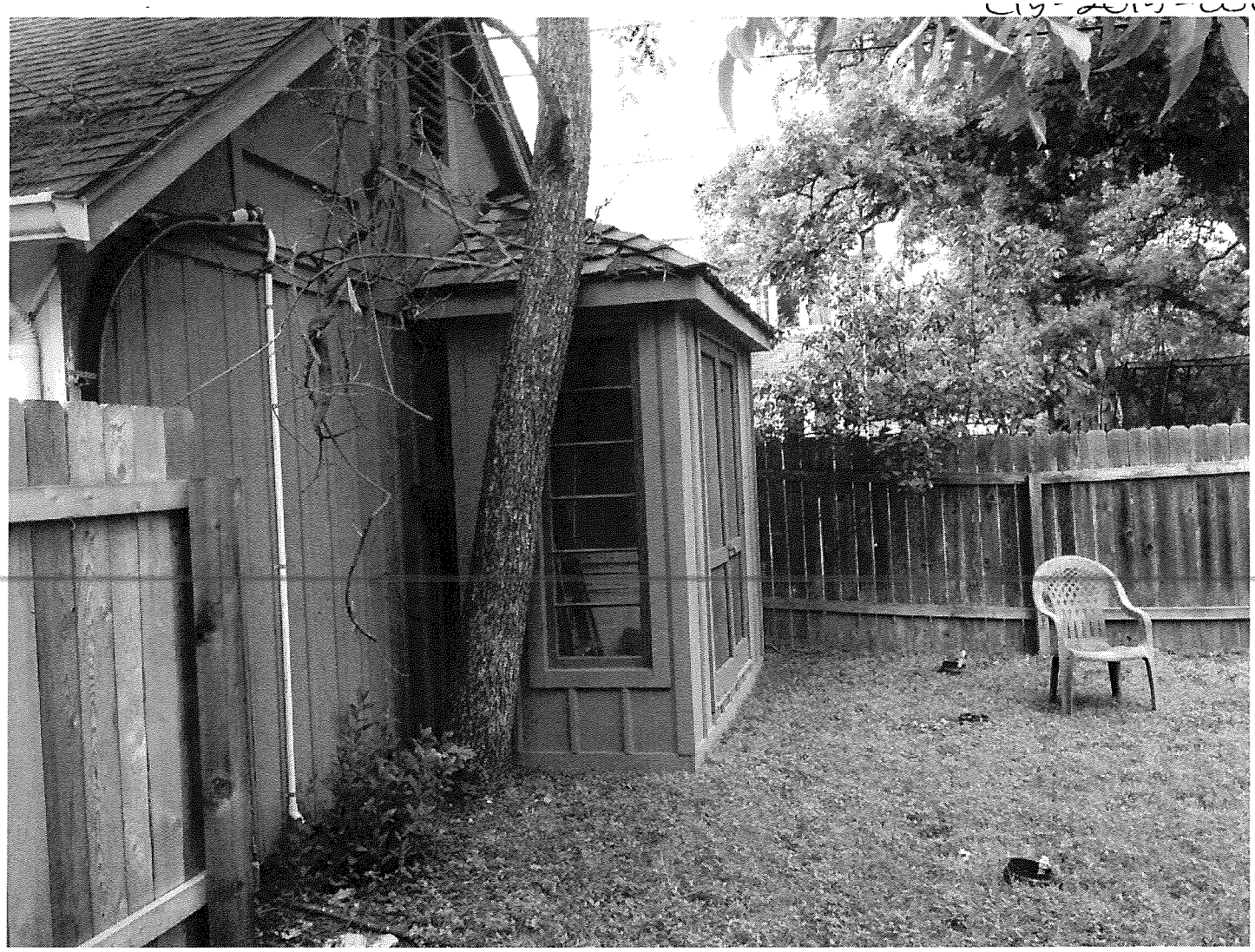
CIV-2015-0061



N

SUBJECT TRACT

PENDING CASE

ZONING BOUNDARY

CASE#: C15-2015-0061
Address: 106 LAUREL LANE

1 " = 200 '

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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CASE# C15-2015-0061
ROW# 11327691
TAX# 0216040317

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: 106 Laurel Lane, Austin, Texas 78705

LEGAL DESCRIPTION: Subdivision: University Heights

Lot(s) 19 Block 1 Outlot 74 Division V

I/We Mary Ellen Borgelt on behalf of myself/ourselves as authorized agent for Roger + Mary Ellen Borgelt affirm that on 3/17, 2015

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

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

___ ERECT ___ ATTACH ___ COMPLETE ___ REMODEL _x_ MAINTAIN

Storage Shed at 106 Laurel Lane – architect-designed to scale and built to blend into landscape to block neighbor's ground floor garage apartment window which gives occupants view of our yard and bedroom window. In addition to major privacy concerns, Shed also closes off secondary security concerns of neighboring garage window's direct access to our small and intimate back yard.

in a residential district. SF-3-NCCD-NP (North University)
(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:

Architect-designed back yard Storage Shed placed adjacent to Neighbor's Single-Story Garage is needed for privacy and storage but applicable setbacks (5 feet side yard, 10 feet rear yard) would put shed in the middle of our small back yard and defeat privacy concerns. Small back yard is typical of UT area neighborhood. Shed is built to size and scale of small back yard. Neighbor's Single-Story Garage is western boundary of our back yard. Current and historic use of Neighbor's Single-Story Garage as active ongoing apartment rental draws high traffic and constantly changing occupancies. Neighbor's full size ground floor Garage Window gives full viewing of our back yard as well as easy access. View also encompasses direct view into our master bedroom window. Neighbor's Garage Window thus ruins quiet enjoyment and privacy of our small back yard and is invasive of personal privacy as well. Neighbor RECENTLY ALSO INSTALLED A GATE INTO OUR BACK YARD (!!!) as part of new fence bordering property between us, which neighbor installed August 2014.

HARDSHIP:

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

A small size backyard (typical for our UT area neighborhood) will not allow placement of a structure anywhere except in the middle of the yard, rendering the yard practically unusable for any other purpose. It would also defeat purpose of blocking neighboring view into our backyard and bedroom window, and access from unknown persons.

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

It is not a general hardship specifically because of the nuisance and invasion of privacy caused by existence of ground floor window in neighbor's single-story garage apartment. Shed will allow us use of our backyard, which has been severely impaired by the placement of the window. We are not aware of this situation occurring anywhere else.

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:

True and correct. Shed in side yard tucked esthetically beside/behind pecan tree ~~blends into existing architecture and landscape and can be moved for temporary~~ work on garage – such as repaintings. Placement of the shed outside the setbacks would be obnoxious and intrusive. It does not impair anyone else's use of their property and is unobtrusive as currently placed.

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:

_____

_____

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 Mary Ellen Borgelt Mail Address 106 Laurel Lane

City, State & Zip Austin, Texas 78705

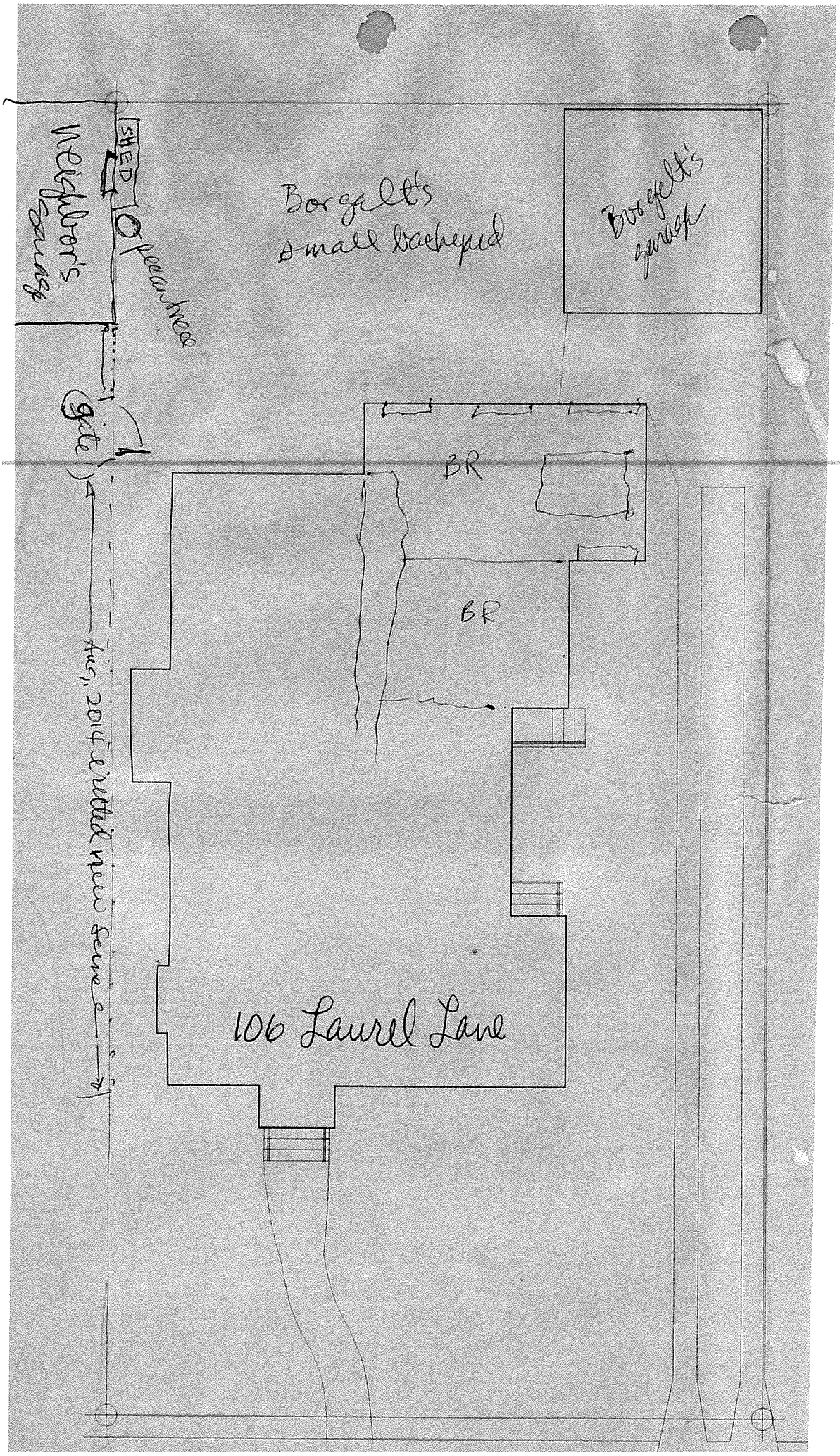
Printed MARY ELLEN BORGELT Phone 512/560-4674 Date March 16, 2015

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 [illegible] Mail Address 106 LAUREL LN

City, State & Zip AUSTIN TX 78705

Printed ROBERT BORGELT Phone 512-600-3467 Date 3/16/15


Borgelt's small backyard
Borgelt's garage
SHED
Neighbor's garage
pecan tree
Gate
BR
BR
Aug, 2014 erected new fence
106 Laurel Lane