

LORRAINE L. ATHERTON

2009 Arpdale ♦ Austin, TX 78704

July 29, 2021

Board of Adjustment
City of Austin
Re: Variance request C15-2021-0067, 2003 Arpdale

Dear Chair and Board Members,

As a nearby homeowner and resident on Arpdale since 1983, I am an interested party in the case at 2003 Arpdale, E-5 on your August 9 agenda.

This property has a long history of work without permits, beginning with remodeling of the house and expansion of the detached garage in the mid-1980s, and of code complaints. Because the work took place after the current code took effect, it does not qualify for administrative variances. The situation has been complicated by a lack of reliable surveys and confusion over the actual dimensions of the lot, and by the tendency of owners to resolve their code violations by applying for permits that are then allowed to expire without inspections.

It came to a head several years ago when the current owner began advertising online and tried to rent out the property as three separate units, including short-term rentals. When the plumbing failed, requiring replacement of the sewer line, City inspectors stepped in. I was aware of an administrative hearing on some of the code violations (case number CL-2020-024957, scheduled for March 18, 2020) but have been unable to find the result of the hearing.

The zoning committee of the Zilker Neighborhood Association does not support the use of Board of Adjustment variances to resolve code and work-without-permit issues like this, especially if it results in additional entitlements on the property. It is, however, in the best interests of the neighborhood to maintain the single-family residence and to have the property brought up to code for the health and safety of future residents. To that end, I worked with Susan Barr of Residential Plan Review to find the resolution described in the following email from May 2019:

From: latherton
Sent: Thursday, May 16, 2019 2:05 PM
To: 'Barr, Susan'
Subject: RE: 2003 Arpdale Appeal of BP #17-074166

Hello, Ms. Barr.

In response to your assessment that “the property owner needs to go to the BOA for a variance to the following:

1. minimum lot size since the property does not meet the requirements of LDC section 25-2-943.
2. Building coverage and impervious cover if he is unwilling to reduce the square footages in order to come into compliance,”

I and the Zoning Committee of the Zilker Neighborhood Association have agreed that we would not oppose a variance to decrease the minimum lot size at 2003 Arpdale, for the purpose of maintaining the existing house and accessory structure, if the owner meets the attached conditions (which include complying with the building and impervious cover limits). You have our permission to communicate this decision to the owner. I have copied ZNA President David Piper

on this message. Thank you, again, for your patience and for helping us work through the various elements of this case.

L. Atherton

The conditions forwarded to Mr. Jacobs in 2019, 2020, and 2021 are:

The ZNA zoning committee will not oppose a variance at 2003 Arpdale to decrease the minimum lot size to 5,514 sf if the following conditions are met:

The owner (Scott Jacobs) must incorporate the corrected dimensions listed below into the variance application or submit a new sealed survey, include a diagram showing where decking and impervious cover will be removed to comply with current building and impervious cover limits, and resolve the specific discrepancies listed below.

Dimensions of 2003 Arpdale

1. The area of the property is currently 5,514.14 square feet, which does not meet the minimum lot size of 5,750 square feet required in LDC Article 7, 25-2-943 (2), for lots recorded after March 14, 1946.
 - (a) Maximum building coverage allowed is 2,205.7 sf (40% of total area).
 - (b) Maximum impervious cover allowed is 2,481.4 sf (45% of total area).
2. On March 1, 1984, the accessory structure was a garage with an area of 180 sf and the area of the primary structure was 1,049 sf. Today, the area of the accessory structure, including the covered decks, is at least 648 sf and the area of the primary structure, excluding porches, is 1,420 sf. Building permits were not issued for the additional 839 sf constructed on this property after 1984, and the additions did not comply with applicable regulations at the time of construction.
3. The property does not comply with current building and impervious cover limits.
 - (a) Existing building coverage is 2,307 sf, which exceeds the maximum allowed by 101.3 sf.
 - (b) Existing impervious cover is 3,357 sf, which exceeds the maximum allowed by 875.6 sf.

Discrepancies to be resolved and conditions to be included in variance application

- **Reduce the size of the covered deck.** The structure should be limited to the dimensions seen in the 2006 photos provided by Mr. Jacobs. The photos confirm that the covered deck was smaller in 2006 than the current deck. As a condition of the variance, the deck should be reduced at least to the width in the 2006 photo, and the deck should not be allowed to encroach on the rear setback or in the 10-foot space required between the two structures.
- **Specify impervious cover to be removed.** Much of the impervious cover was not shown on the previous surveys (the concrete skirt, the AC pad, the back porch, the trash bin pad between the house and the driveway, the walkways behind the house, the side stoop, the steps to the back deck, the 24sf extension on the deck). All impervious cover must be accounted for and reduced to 2,481 sf or less. The circular driveway must be replaced with pervious landscaping (not gravel) and the curb cut closed. *[Board: Please see photo of circular drive at the end of this letter.]* The portable shed hidden behind the accessory structure must be removed.
- **Provide two off street parking spaces.**
- **Specify use conditions.** The variance should include conditions that will prevent two-family uses, such as: the second mailbox must be removed, and the property may be occupied or leased only as a single dwelling (not with A and B units).

My understanding of that agreement is that Residential Plan Review will require a new site plan and survey to verify that the building cover does not exceed 40% and impervious cover does not exceed 45%, rather than relying on measurements supplied by the property owner. Indeed, the diagram that Mr. Jacobs submitted in his advance packet appears to contain some discrepancies. For example, the impervious cover adds up to more than 2,500 sf, but it should be limited to 2,475 sf on a 5,500 sf lot. Because of that, I ask that you include conditions in your decision specifically limiting the building cover to 40% and the impervious cover to 45%, without referencing the diagram or otherwise appearing to approve individual deviations from code requirements.

It should also be noted that Residential Plan Review has decided that the encroachments of the accessory structure into the west and south setbacks date to the original construction of the garage and so do not require variances. To preserve the rights of the adjacent property owners, I request that the variance conditions include a statement that the encroachments will not be extended beyond the original garage footprint or height.

Thank you for your service to the community.

Sincerely yours,
Lorraine Atherton
2009 Arpdale
Austin, TX 78704

