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MATT FAJKUS ARCHITECTURE LLC

PROJECT TITLE

KINNEY AVE. RESIDENCE



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SHEET PRINT DATE: 09/10/2002

[illegible]

PROJECT NUMBER:
21139
CURRENT PHASE:
PERMIT

EXHIBIT, SETBACK PLANE

A0.6P
*mf*architecture

GENERAL NOTES:

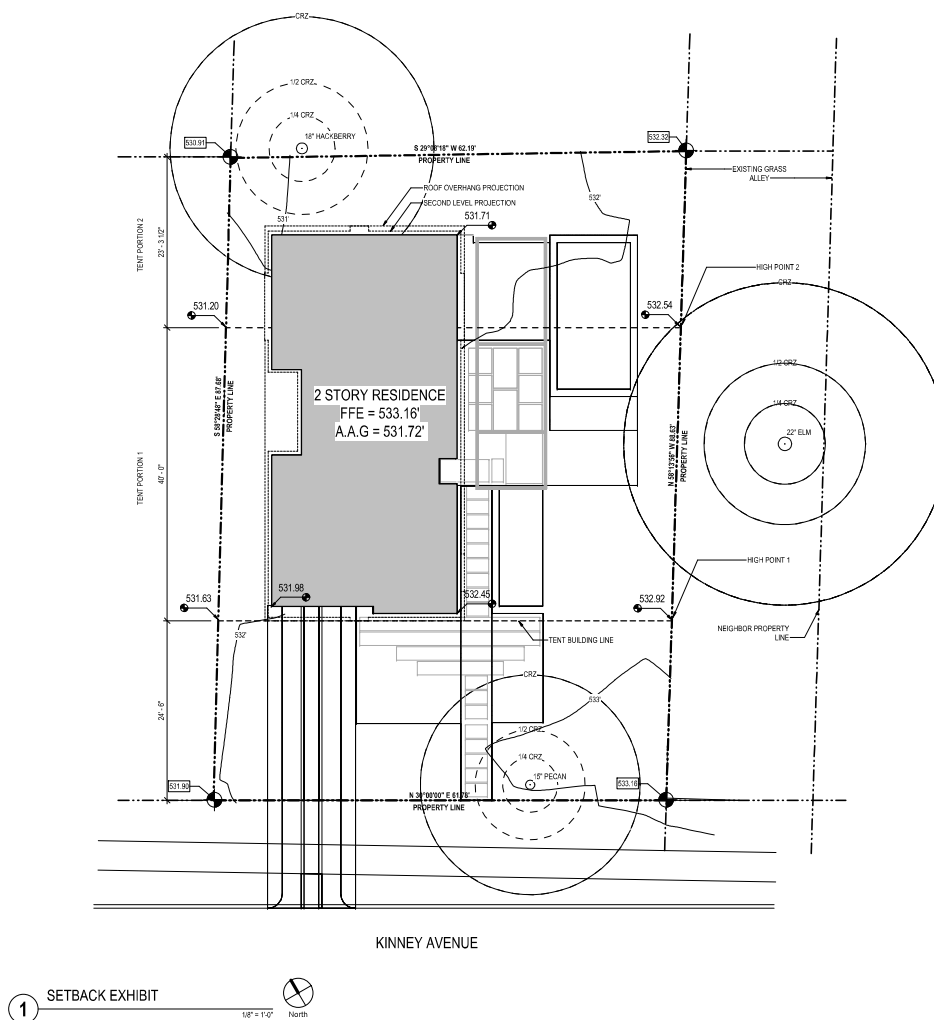
1. ALL DIMENSION DRAWINGS, EXPLOSION DIMENSION SHALL HAVE PRECEDENCE OVER SCALE THESE DOCUMENTS HAVE BEEN FORMATTED TO BE PRINTED ON A X 36" SHEET SIZE. DRAWINGS PRINTED AT A LARGER SCALE WILL BE USED.

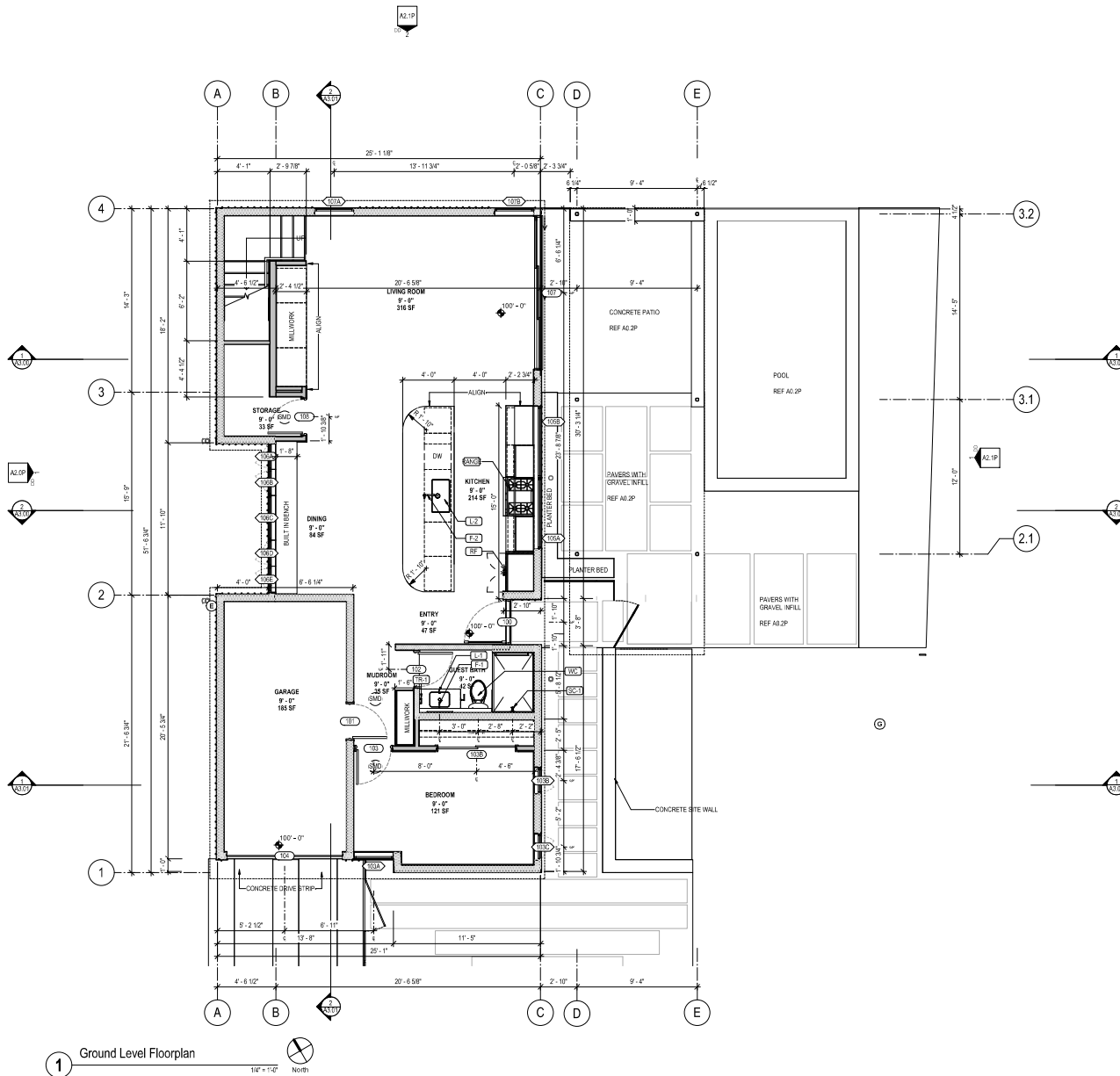
2. GENERAL CONTRACTOR SHALL FIELD VERIFY ALL DIMENSIONS AND ALL OTHER EXISTING CONDITIONS PRIOR TO THE COMMENCEMENT OF THE WORK AND NOTIFY THE ARCHITECT IF ANY DISCREPANCIES ARE FOUND OR NOT KNOWN TO THE ARCHITECT.

3. IN THE COURSE OF CONSTRUCTION A STRUCTURAL ISSUE MAY BE ENCOUNTERED THAT REQUIRES AN IMMEDIATE STOP OF THE WORK. THE CONTRACTOR SHALL STOP WORK AND NOTIFY THE ARCHITECT. SHOULD THE CONTRACTOR FAIL TO FOLLOW THIS PROCEDURE, THE CONTRACTOR SHALL ASSUME ALL RESPONSIBILITY AND LIABILITY ARISING THERE FROM.

4. ANY DAMAGE TO EXISTING AND/OR NEW WORK IN PLACE BY THE CONTRACTORS OR SUBCONTRACTORS NEGLIGENCE SHALL BE REPAIRED AT NO ADDITIONAL COST TO THE OWNER.

5. THE CONTRACTOR SHALL APPLY PROTECTIVE COVERINGS TO ALL EXPOSED SURFACES. NOTES TO BE REVIEWED AND AGREED TO RELATED BUILDING COMPONENTS. ALL SHEETS ARE TO BE REVIEWED AND APPROVED BY THE ARCHITECT BEFORE ANY WORK IS PERMITTED TO BEGIN.





- GENERAL NOTES:
- DO NOT SCALE DRAWINGS. EXPLICIT DIMENSION SHALL HAVE PRECEDENCE OVER SCALE. THESE DOCUMENTS HAVE BEEN FORMATTED TO BE PRINTED ON 24" X 36" SHEET SIZES. DRAWINGS PRINTED AT OTHER SIZES ARE NOT NECESSARILY TO SCALE.
 - GENERAL CONTRACTOR SHALL FIELD VERIFY ALL DIMENSIONS AND ALL OTHER EXISTING CONDITIONS PRIOR TO THE COMMENCEMENT OF THE WORK AND NOTIFY THE ARCHITECT OF ANY DISCREPANCIES.
 - CONTRACTOR TO NOTIFY THE ARCHITECT IN WRITING IN THE EVENT OF A DISCREPANCY BETWEEN THE DRAWINGS AND THE FIELD CONDITIONS. IF IN THE COURSE OF CONSTRUCTION A STRUCTURAL ISSUE EXISTS WHICH DIAGNOSIS WITH THAT AS INDICATED ON THE DRAWINGS, THE CONTRACTOR SHALL STOP WORK AND NOTIFY THE ARCHITECT. SHOULD THE CONTRACTOR FAIL TO FOLLOW THIS PROCEDURE, THE CONTRACTOR SHALL ASSUME ALL RESPONSIBILITY AND LIABILITY ARISING THERE FROM.
 - ANY DAMAGE TO EXISTING AND OR NEW WORK IN PLACE BY THE CONTRACTOR'S OR SUBCONTRACTOR'S NEGLIGENCE SHALL BE REPAIRED AT NO ADDITIONAL COST TO THE OWNER.
 - ALL NOTES ARE APPLICABLE TO ALL TRADES AND RESPECTIVE CONTRACTORS. ALL NOTES TO BE REVIEWED AND APPLIED TO RELATED BUILDING COMPONENTS. ALL SHEETS ARE TO BE REVIEWED AND ALL APPLICABLE NOTES TO BE APPLIED.

DOOR SCHEDULE

DOOR SCHEDULE - PERMIT

| KEY | LOCATION | NOMINAL OPENING WIDTH | NOMINAL OPENING HEIGHT | TEMPERED |
|------|----------------|-----------------------|------------------------|----------|
| 100 | ENTRY | 3'-0" | 6'-0" | |
| 101 | GARAGE | 2'-8" | 7'-10" | |
| 102 | GUEST BATH | 2'-8" | 7'-10" | |
| 103 | BEDROOM | 2'-8" | 7'-10" | |
| 103B | BEDROOM | 6'-0" | 8'-0" | |
| 104 | GARAGE | 8'-0" | 8'-0" | |
| 107 | LIVING ROOM | 11'-11 1/2" | 8'-0" | Y |
| 108 | STORAGE | 2'-8" | 7'-10" | |
| 201 | MASTER BEDROOM | 2'-8" | 7'-10" | |
| 202 | MAIN BATHROOM | 2'-8" | 8'-0" | |
| 203 | MASTER CLOSET | 2'-8" | 8'-0" | |
| 204 | MAIN BATHROOM | 2'-8" | 7'-10" | |
| 204A | MAIN BATHROOM | 2'-8" | 8'-0" | |
| 205 | LAUNDRY | 2'-8" | 8'-0" | |
| 206 | ENTRY | 2'-8" | 7'-10" | |
| 207 | WEST ROOM | 2'-8" | 7'-10" | |
| 208 | BEDROOM | 2'-8" | 7'-10" | |
| 208A | BEDROOM | 4'-8" | 8'-0" | |
| 209B | BEDROOM | 4'-8" | 8'-0" | |
| 209 | BEDROOM | 2'-8" | 7'-10" | |
| 209A | BEDROOM | 8'-0" | 8'-0" | |

FLOOR PLAN LEGEND

- CORE WALL CUT
 CORE WALL CUT WITH SOUND INSULATION

SYMBOLS LEGEND

- SMOKE DETECTOR CARBON MONOXIDE DETECTOR (HARDWIRED). INTERCONNECTED BATTERY BACK-UP) IN ACCORDANCE WITH IRC R314 AND IRC R315
 HOSE BIB
 BREAKER PANEL
 GAS METER
 ELECTRICAL METER



900 EAST 6TH STREET
SUITE 100
AUSTIN, TX 78702
TEL 512.452.5137

www.mfarchitecture.com

KINNEY AVE. RESIDENCE

1003 KINNEY AVE
AUSTIN, TX 78704



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SHEET PRINT DATE: 06/10/2021

REVISIONS

Date Description

SUPPLEMENT INFORMATION

- VIEWS LOOKING TOWARDS E SIDE OF KINNEY AVENUE
- 2-STORY AND 1-STORY HOMES ARE THE STANDARD
- MIXTURE OF NEW CONSTRUCTION AND EXISTING ORIGINAL HOMES



NEIGHBORHOOD CONTEXT

PRESENTERS: DEVELOPER- IAN M. ELLIS, AIA, NCARB, RID & ARCHITECT- SARAH JOHNSON, AIA, RID
KINNEY AVE BOA VARIANCE- CASE NUMBER 2021-000085 BA - OCTOBER 21, 2021

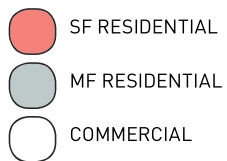
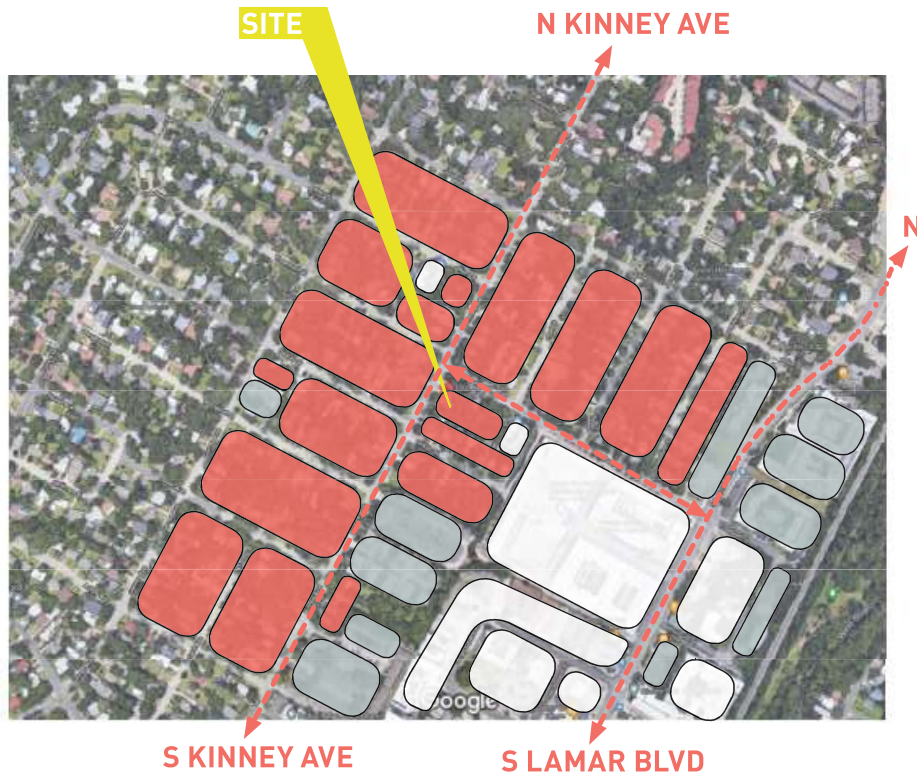
- VIEWS LOOKING TOWARDS E SIDE OF KINNEY AVENUE (TO ROW) & W SIDE OF KINNEY (BOTTOM ROW)
- SOME VACANT LOTS ON KINNEY AVE
- MULTI-FAMILY ON KINNEY AVE TOWARDS INTERSECTION OF MARGARET ST & KINNEY AVE



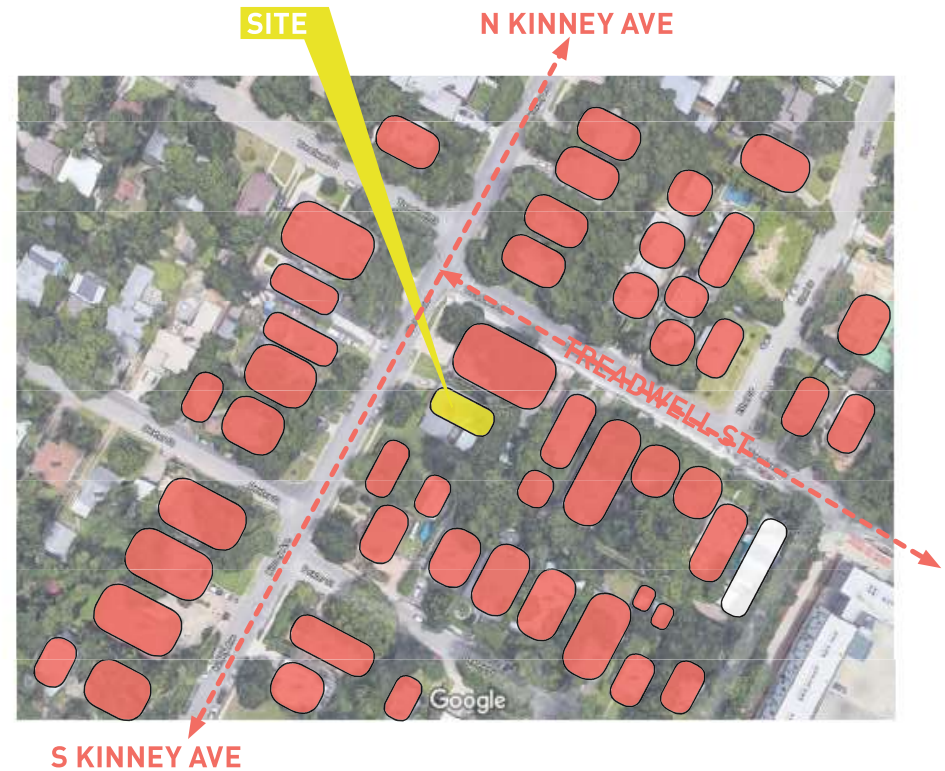
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KINNEY AVE BOA VARIANCE- CASE NUMBER 2021-000085 BA - OCTOBER 21, 2021

- DEVELOPMENT PROPOSED AT 1003 KINNEY AVE IS ADJACENT TO NEARBY S LAMAR UNION
- MIXED USE DEVELOPMENT CAN BE FOUND AT S LAMAR UNION AS WELL AS ON THE S END OF KINNEY AVENUE AT THE MARGARET ST. INTERSECTION
- PROPOSED DEVELOPMENT AT 1003 KINNEY AVE WOULD MAINTAIN CURRENT NEIGHBORHOOD CONTEXT AND SCALE IN TERMS OF BUILDING HT AND SCALE



SITE MAPPING



EMAIL CORRESPONDENCE WITH COA PLANNERS: SANDRA CANO



Ingrid Gonzalez Featherston <[REDACTED]>

Kinney_attic exemptions

Cano, Sandra <[REDACTED]> Wed, Jun 16, 2021 at 7:30 AM
 To: Ingrid Gonzalez Featherston <[REDACTED]>

Good morning Ingrid,

After doing some research I found that this project is located within Subchapter F, so you could definitely do a habitable attic above the garage if it meets FAR requirements. If the garage does not meet setback requirements, and you are wanting to add a dwelling unit above the garage, that would not be permissible. Also, I found that the attached garage that was built in 2013 was not permitted. You can roll it all into the current scope of work to retroactively permit the garage and permit a new attic.

Residential "walk-in" consultations are limited to general information questions and capped at 20 minutes – we are also not able to provide reviews for specific plans/properties. If you have questions about a specific project that is going into development, I would recommend setting up a Preliminary Plan Review teleconference, during which you could get detailed answers to specific questions. PPRs are scheduled through the expedited team at expeditedreview@austintexas.gov. The request form can be downloaded at the following link: http://www.austintexas.gov/sites/default/files/files/Development_Services/Applications/residential/Residential_PPR_requestform_020218.pdf

Respectfully,

Sandra Cano

Plans Examiner A, Residential Plan Review

City of Austin Development Services Department

6310 Wilhelmina Delco Dr. Austin, Texas 78752

Office: 512-974-2681

Please contact my direct supervisor with any kudos or concerns at Eric.Thomas@austintexas.gov

PER CITY ORDINANCE: All individuals scheduling or accepting a meeting invitation with a City Official are requested to provide responses to the questions at the following link: [DSD Visitor Log](#).

Please note that all information provided is subject to public disclosure via DSD's open data portal. For more information please visit: City of Austin Ordinance 2016-0922-005 | City Clerk's website | City Clerk's FAQ's

COA CORRESPONDENCE

EMAIL CORRESPONDENCE WITH COA PLANNERS: ANTHONY MCBRYDE



Ingrid Gonzalez Featherston <[REDACTED]>

Zoning question

8 messages

McBryde, Anthony <[REDACTED]> Mon, Jun 21, 2021 at 8:45 AM
 To: [REDACTED]

Hello,

You wrote:

Hi,

I'd like to confirm whether our lot located at 1003 Kinney Ave would be eligible for small lot amnesty? Would this increase our FAR to 2,350 SF? Would this also increase the allowable impervious coverage on the lot? Current zoning allows 45%. Below are the calculations based on our zoning of SF-3. If you could confirm the small lot applicability and whether an increase in Impervious Coverage is allowed that would be a great help!

1003 Kinney Avenue

Zoning: SF-3 (ADU Reduced Parking allowed)

Lot Size: **5,461 SF**

Max 40% Bldg Coverage/FAR (0.4:1)= **2,184 SF**

Max 45% Impervious Coverage= **2,457 SF**

Response:

The min. lot size for SF3 Zoning is 5750 sq. ft. your lot is less than the min. meaning it is a "Substandard Lot" depending on when the property was recorded in the County will determine if construction is possible. Small Lot Amnesty is granted to properties within certain Neighborhood Plans (NP), your property is not within a NP.

See below:

- § 25-2-943 - SUBSTANDARD LOT.

(A)

A substandard lot may be used for a nonresidential use that is permitted in the zoning district in which the lot is located if, except for minimum lot area, the use and development complies with the requirements of this title.

(B)

A substandard lot may be used for a single-family residential use if the use is permitted in the zoning district in which the lot is located and the lot complies with the requirements of this subsection.

(1)

A substandard lot recorded in the county real property records before March 15, 1946 must:

(a)

have an area of not less than 4,000 square feet; and

(b)

be not less than 33 feet wide at the street or at the building line, or have access to a street by an easement that is:

(i)

not less than ten feet wide if it serves one lot, or not less than 18 feet wide if it serves more than one lot;

(ii)

not more than 150 feet in length; and

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 PRESENTERS: DEVELOPER- IAN M. ELLIS, AIA, NCARB, RID & ARCHITECT- SARAH JOHNSON, AIA, RID
 KINNEY AVE BOA VARIANCE- CASE NUMBER 2021-000085 BA - OCTOBER 21, 2021



EMAIL CORRESPONDENCE WITH COA PLANNERS: ANTHONY MCBRYDE

(iii)

maintained for access by the property owner.

(2)

A substandard lot recorded in the county real property records after March 14, 1946 must:

(a)

have an area of not less than 5,750 square feet; and

(b)

be not less than 50 feet wide at the street or at the building line.

(C)

If a substandard lot is used with one or more contiguous lots for a single use or unified development, the requirements of this chapter apply to the aggregation of lots as if the aggregation were a single lot.

(D)

A substandard lot that is aggregated with other property to form a site may not be disaggregated after August 6, 2007 to form a site that is smaller than the minimum lot area requirement.

Anthony McBryde*Job Title, Residential Zoning Plan Review*

City of Austin Development Services Department

310 Wilhelmina Delco Dr, Austin, Texas 78752.

Office: 512-974-2663

Please contact my direct supervisor with any kudos or concerns at Eric.thomas@austintexas.govPER CITY ORDINANCE: All individuals scheduling or accepting a meeting invitation with a City Official are requested to provide responses to the questions at the following link: [DSD Visitor Log](#).Please note that all information provided is subject to public disclosure via DSD's open data portal. For more information please visit: [City of Austin Ordinance 2016-0922-005](#) | [City Clerk's website](#) | [City Clerk's FAQ's](#)

Ingrid Gonzalez Featherston [REDACTED] Tue, Jun 22, 2021 at 8:50 AM
 To: Andrea Alvarez <[REDACTED]>

Vince,

See forwarded email from our correspondence with the COA regarding the small lot amnesty. Small Lot Amnesty does not apply to our property since it is not within a neighborhood plan. What does apply to our lot is the substandard lot regulations. I'm working today to confirm what these regulations are but need the original plat to confirm the restrictions that will apply depending on our plat date. Could you send this to me ASAP?

Thank you,
IngridIngrid Gonzalez Featherston, AIA, NOMA, RID
Senior Design Architect

Matt Fajkus Architecture

512.432.5137

300 E 6 St, #100, Austin

Executive Board Member | ACE Mentor Program of Austin
Executive Board Member | NOMA of Central TX
[Quoted text hidden]

Ingrid Gonzalez Featherston [REDACTED] Tue, Jun 22, 2021 at 9:21 AM
 To: "McBryde, Anthony" <[REDACTED]>
 Cc: Vince [REDACTED]

Anthony,

We are working to confirm the original plat date for this property. With our lot being less than the required 5,750 SF we are assuming that its original plat date is prior to 1946. With that being said, would Subchapter F regulations apply to our lot (setbacks, building ht., FAR, impervious coverage, building coverage) since it is less than a typical lot and the subchapter F requirements would encumber development on our lot? Are there any exceptions that would allow us to build more?

Or would we have to comply with Subchapter F, and our max development permitted would need to follow the code below? In our case the **2,300 SF** would be the greater of the two for our lot.**§ 2.1. - MAXIMUM DEVELOPMENT PERMITTED.**The maximum amount of development permitted on a property subject to this Subchapter is limited to the greater of 0.4 to 1.0 floor-to-area ratio or 2,300 square feet of gross floor area, as defined in Section 3.3. Floor-to-area ratio shall be measured using gross floor area as defined in Section 3.3, except that the lot area of a flag lot is calculated consistent with the requirements of [Section 25-1-22 \(Measurements\)](#).

Are there any code requirements that allow us to exceed the max 45% impervious coverage requirement for a substandard lot?

Thank you,
IngridIngrid Gonzalez Featherston, AIA, NOMA, RID
Senior Design Architect

Matt Fajkus Architecture

512.432.5137

300 E 6 St, #100, Austin

Executive Board Member | ACE Mentor Program of Austin
Executive Board Member | NOMA of Central TX
[Quoted text hidden]

Vince Heinz [REDACTED] Tue, Jun 22, 2021 at 10:20 AM
 To: Amber Cash <[REDACTED]>
 Cc: Andrea Alvarez [REDACTED]

Rhoda or Amber can you please send me the plat for 1003 Kinney Avenue we closed on this about a month ago.

[Quoted text hidden]

COA CORRESPONDENCE

13
 PRESENTERS: DEVELOPER- IAN M. ELLIS, AIA, NCARB, RID & ARCHITECT- SARAH JOHNSON, AIA, RID
 KINNEY AVE BOA VARIANCE- CASE NUMBER 2021-000085 BA - OCTOBER 21, 2021



EMAIL CORRESPONDENCE WITH COA PLANNERS: ANTHONY MCBRYDE

Warm Regards,

TREC Information About Brokerage Services
TREC Consumer Protection Notice

Vince Heinz
Realtor®, CNE

2500 Bee Caves Rd, Bldg 3 Ste 200
Austin, TX 78746
m: 512.905.3030



Rhoda Stark <[REDACTED]> Tue, Jun 22, 2021 at 10:31 AM
To: Vince Heinz [REDACTED]
Rhoda [REDACTED]
Cc: Andrea Alvarez [REDACTED]

Vince,

Plat is attached.

Anna Guerra

Escrow Officer

Heritage Title Company of Austin, Inc.

2500 Bee Caves Rd., Bldg. 1, Suite 100

Austin, TX 78746

Phone 512.329.3900 | Fax 512.329.3999 | [REDACTED]



[Directions](#) [Explaining The Title Commitment](#)

-

Please save all attachments into a folder on your computer as you will only be able to access them online for 30 days.

WIRE FRAUD WARNING: Due to increased risk of theft by wire fraud, Heritage Title Company must send Wire Instructions by encrypted e-mail only. Our Wire Instructions DO NOT CHANGE so consider any communication to change them as fraudulent. Please call your closing team to confirm the Wire Instructions before wiring your funds. Please wire your funds as soon as possible to avoid funding delays. Thank you.

CONFIDENTIALITY NOTICE: This email and any attachments may contain proprietary, confidential, or privileged information of Heritage Title Company of Austin, Inc. and/or its clients. Any confidentiality or privilege is not waived or lost because this email has been sent to you in error. If you are not the intended recipient, you are hereby notified that you have received this email in error and that any review, disclosure, dissemination, distribution or copying of it or its contents is prohibited. If you have received this email in error, please notify the sender immediately by reply or by phone.

From: Vince Heinz [REDACTED]
Sent: Tuesday, June 22, 2021 10:21 AM
To: Amber Cash [REDACTED]
Cc: Andrea Alvarez [REDACTED]
Subject: Re: Zoning question

Rhoda or Amber can you please send me the plat for 1003 Kinney Avenue we closed on this about a month ago.

On Tue, Jun 22, 2021 at 8:50 AM Ingrid Gonzalez Featherston [REDACTED] wrote:

Vince,

See forwarded email from our correspondence with the COA regarding the small lot amnesty. Small Lot Amnesty does not apply to our property since it is not within a neighborhood plan. What does apply to our lot is the substandard lot regulations. I'm working today to confirm what these regulations are but need the original plat to confirm the restrictions that will apply depending on our plat date. Could you send this to me ASAP?

Thank you,

Ingrid

Ingrid Gonzalez Featherston, AIA, NOMA, RID

Senior Design Architect

Matt Fajkus Architecture

[REDACTED] 512.432.5137

[REDACTED] 900 E 6 St, #100, Austin

COA CORRESPONDENCE

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PRESENTERS: DEVELOPER- IAN M. ELLIS, AIA, NCARB, RID & ARCHITECT- SARAH JOHNSON, AIA, RID
KINNEY AVE BOA VARIANCE- CASE NUMBER 2021-000085 BA - OCTOBER 21, 2021



EMAIL CORRESPONDENCE WITH COA PLANNERS: ANTHONY MCBRYDE

[Quoted text hidden]

[Quoted text hidden]
[Quoted text hidden]Please contact my direct supervisor with any kudos or concerns at Eric.thomas@austintexas.gov**PER CITY ORDINANCE:** All individuals scheduling or accepting a meeting invitation with a City Official are requested to provide responses to the questions at the following link: [DSD Visitor Log](#).Please note that all information provided is subject to public disclosure via DSD's open data portal. For more information please visit: [City of Austin Ordinance 2016-0922-005](#) | [City Clerk's website](#) | [City Clerk's FAQ's](#)

Warm Regards,

TREC Information About Brokerage Services

TREC Consumer Protection Notice

Vince Heinz

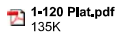
Realtor®, CNE

2500 Bee Caves Rd, Bldg 3 Ste 200
Austin, TX 78746

m: 512.905.3030



2 attachments

image001.jpg
8K1-120 Plat.pdf
135KIngrid Gonzalez Featherston
To: "McBryde, Anthony"

Tue, Jun 22, 2021 at 10:37 AM

Anthony,

COA CORRESPONDENCE

To follow up on the original plat, we have confirmed that it is prior to 1946. See attached. The property was originally platted in 1896. Since my previous email was assuming we were prior to 1946, could you provide answers to whether subchapter F will still apply on a substandard lot and if we have any leeway on impervious coverage?

Thank you,
IngridIngrid Gonzalez Featherston, AIA, NOMA, RID
Senior Design Architect

Matt Fajkus Architecture

512.432.5137

2900 E 6 St, #100, Austin

Executive Board Member | ACE Mentor Program of Austin
Executive Board Member | NOMA of Central TX

[Quoted text hidden]

1-120 Plat.pdf
137KVince Heinz
To: Rhoda St
Cc: Sarah
Tue, Jun 22, 2021 at 11:00 AM

Thank you!!!

[Quoted text hidden]
[Quoted text hidden]Ingrid Gonzalez Featherston
To: "McBryde, Anthony"
Cc: Vince Heinz
Thu, Jun 24, 2021 at 9:57 AM

Anthony,

I'm following up on my previous email regarding subchapter F applicability to a substandard lot and required Impervious coverage regulations. Any help on this would be greatly appreciated.

Thank you,
IngridIngrid Gonzalez Featherston, AIA, NOMA, RID
Senior Design Architect

Matt Fajkus Architecture

512.432.5137

15
PRESENTERS: DEVELOPER- IAN M. ELLIS, AIA, NCARB, RID & ARCHITECT- SARAH JOHNSON, AIA, RID
KINNEY AVE BOA VARIANCE- CASE NUMBER 2021-000085 BA - OCTOBER 21, 2021

PUBLIC HEARING INFORMATION

Although applicants and/or their agent(s) are expected to attend a public hearing, **you are not required to attend**. However, if you do attend, you have the opportunity to speak FOR or AGAINST the proposed development or change. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

During a public hearing, the board or commission may postpone or continue an application's hearing to a later date, or recommend approval or denial of the application. If the board or commission announces a specific date and time for a postponement or continuation that is not later than 60 days from the announcement, no further notice is required.

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.austintexas.gov/devservices.

E-1/76

Written comments must be submitted to the contact person listed on the notice before 9 a.m. the day of the public hearing to be added to the Late Back-up and viewed by the Board the night of the meeting. 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. All comments received will become part of the public record of this case.

Case Number: C15-2021-0100

Contact: Elaine Ramirez; elaine.ramirez@austintexas.gov

Public Hearing: Board of Adjustment; November 8th, 2021

LINDA MIZELL

Your Name (please print)

☐ I am in favor
☒ I object //

1308 Garner Ave

Your address(es) affected by this application

Linda Mizell

Signature

10/29/2021

Date

Daytime Telephone: 5124440838

Comments: 1 object.
Thank you.

If you will be using this form to comment, please return it via e-mail to:

Elaine Ramirez

Scan & Email to: elaine.ramirez@austintexas.gov

From: Mark Hoelscher
To: [Ramirez, Elaine](#)
Subject: Board of Adjustment: Case number C15-2021-0100
Date: Monday, November 01, 2021 11:04:37 AM

*** External Email - Exercise Caution ***

Elaine-

I'm emailing you back regarding the request for rezoning on Kinney Ave.

My Name: C. Mark Hoelscher
Address: 1108 Kinney Ave, Austin 78704
Phone Number: 512.975.9117
Case C15-2021-0100

Comments: In our opinion, please allow for the rezoning of the subject property at 1003 Kinney Ave. The use of the property for an SF-3 single family with pool should be allowed, it is within the former use of the property.

As a favor, could an amendment be added to the allowed SF-3 rezoning to prevent the future addition of an ABU on the lot.

Thank you to you and your department for reaching out to us as neighbors and "stakeholders."

Best regards,
Mark Hoelscher

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From: Austin Stowell
To: [Ramirez, Elaine](#)
Cc: [REDACTED]
Subject: 2021-000085 BA - Notice of Support SUPPORT
Date: Monday, November 08, 2021 6:33:40 AM

*** External Email - Exercise Caution ***

My name is Austin Stowell.

I Ama Zilker neighbor live at 904 Ethel St and am writing a letter of support in favor of Case # 2021-000085 BA for the property located at 1003 Kinney.

The design is far superior than the ubiquitous Hardie plan structures in the neighborhood being erected by many spec builders and will help contribute, not detract to the neighborhood character.

The existing structure is in poor condition. All buildings have a natural life.. The IRS limits the functional life of a building to 27.5 years. This particular structure is in disrepair and not economically feasible to be repaired. Every property owner deserves the right to replace their existing home. In this case, the zoning does not allow for reasonable use of the land. I think the Board is justified in approving the request because reasonable use is currently excluded.

The property is unique to the area. I am aware of only 3 lots in Zilker that are less than 5750 square feet that are not exempted from variance by the age of the plat. The property is clearly unique and not “general” to the area as defined by the Board Rules.

Austin Stowell

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From: Lorraine Atherton
To: [Ramirez, Diana](#); [Ramirez, Elaine](#)
Cc: [REDACTED]
Subject: Agenda item D-1, 1003 Kinney variance, case C15-2021-0100
Date: Monday, November 08, 2021 10:59:05 AM

*** External Email - Exercise Caution ***

Hello, Ms. Ramirez.

Please include these comments in the backup and case file for tonight's Board of Adjustment hearing on Agenda item D-1, 1003 Kinney variance, case C15-2021-0100.

Thank you for your help.

Lorraine Atherton

2009 Arpdale, Austin, TX 78704

For the Zoning Committee of the Zilker Neighborhood Association

To the City of Austin Board of Adjustment

The Zoning Committee of the Zilker Neighborhood Association is opposed to the requested lot size variance for 1003 Kinney because the applicant has not presented a qualifying hardship and because the granting of the variance amounts to a privilege that has been denied to other properties in similar circumstances. We offer these alternatives:

1. Encourage the owner to purchase or otherwise persuade the City to vacate a portion of the alley.
2. Limit the new construction to the dimensions of the demolished house.

The request lacks a hardship:

Demolition application forms note that the applicant is responsible for checking on whether new construction will be allowed on the lot, before the application is submitted. The applicant must also take responsibility for submitting the correct lot dimensions. The hardship question in this case boils down to whether the applicant checked the box in error, or the City staff approved the demolition in error.

Unless the owner at 1003 Kinney can show that staff approved the demolition in error, there is no hardship. If staff approved it in error, then the best the owner can expect is permission to rebuild the house to its previous dimensions.

The situation is not unique in this neighborhood:

The applicant cites **904 Ethel** as a comparable case, but the 904 Ethel variance was sought BEFORE demolition, not after. The BoA decision in the Ethel case on Nov. 14, 2016, was to limit the construction to 1,600 sf.

More relevant cases are:

1516 Kinney, where the house was demolished prematurely. That variance was denied early in 2016. The owner eventually bought more land to restore the minimum lot size. The ZNA position in that case was that we would have been happy to discuss a variance to preserve the existing house, but when the owner went ahead and demolished the house, he removed any justification for a

hardship.

1107 Kinney, where parts of a larger property had been sold to adjacent projects, leaving a very small parcel. The owner applied for a small lot variance Sept. 6, 2009, with no hardship, and withdrew the request after discussing it with ZNA. The Board of Adjustment denied a second application June 13, 2011.

1210 Juliet is typical of many lots in this part of the neighborhood that qualify as “substandard” under 25-2-943 and do not require variances.

2003 Arpdale is our most recent small-lot case, in May 2021. The house was NOT demolished, and no new construction was proposed. We supported that request strictly to bring the existing house up to code. The BoA decision limited the impervious cover and prohibited new construction.

The ZNA Zoning Committee requests that the Board deny the variance as requested at 1003 Kinney Avenue and support the preferred remedy in this case, which is that the applicant purchase or otherwise persuade the City to vacate a portion of the alley.

Thank you for your consideration of our comments and your commitment to preserving the integrity of the City Code.

Lorraine Atherton

2009 Arpdale, Austin, TX 78704

For the Zoning Committee of the Zilker Neighborhood Association

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From: doug johnston
To: [Ramirez, Elaine](#)
Subject: case #C15-2021-0100
Date: Friday, November 19, 2021 11:48:46 AM

*** External Email - Exercise Caution ***

Dear Elaine,

This email is to support Ian Ellis's variance request C15-2021-0100 for 1003 Kinney Ave. I live at 1607 Virginia Ave. and own properties at 602 and 1702 Kinney ave.

Douglas A. Johnston

CAUTION: This email was received at the City of Austin, from an EXTERNAL source. Please use caution when clicking links or opening attachments. If you believe this to be a malicious and/or phishing email, please forward this email to cybersecurity@austintexas.gov.

Zilker Neighborhood Association

Zoning Committee ♦ zilkerneighborhood@gmail.com ♦ Austin, TX 78704

December 5, 2021

Re: 1003 Kinney, lot-size variance, Case C15-2021-0100

December 13 Agenda item E2

To: Board of Adjustment

c/o Elaine Ramirez, Development Review Dept., City of Austin

via email Elaine.Ramirez@austintexas.gov

Chair and Board Members:

Thank you for allowing the zoning committee of the Zilker Neighborhood Association (ZNA) to review the variance request for 1003 Kinney (to decrease the minimum lot size from 5750 to 5464 square feet) and to share our recommendations with the applicants.

City of Austin Supervisor Eric Thomas has now dated the parcel to September 1947, confirming that the minimum lot requirement of 5750 sf applies. His email of November 17 appears on page 9 of this letter. It eliminates the applicants' argument that "At one time previously, it was likely this lot was larger, and would have met the minimum 5750sqft area for SF-3 and to not be considered a substandard lot." Documents submitted by the applicants show that the alley has existed in its current configuration since 1896, and the dimensions of the parcel have always been approx. 62 ft × 88 ft—beginning in 1947, through 1962 when a house was built under the previous code, through March of this year when the applicants demolished the house, and up until today.

That takes us back to the demolition question raised by ZNA at the hearing on November 8. The ZNA zoning committee believes that the "non-complying structure" regulations apply in this case (see 25-2-963 and 964, on page 7). This code allows an owner to rebuild or maintain an existing structure that does not comply with current code, as long as 50% of the supporting structure is preserved. Clearly, the zoning regulations allowed reasonable use before the house was demolished. ZNA is aware of two similar variance requests, at 1107 Kinney and 1516 Kinney, where lots were scraped without regard to 25-2-963. Both variances were denied for lack of a qualifying hardship.

At 1003 Kinney, we now know that the entire structure was demolished sometime this year, and it was the applicants' responsibility to verify before demolition that new construction would be

allowed. Evidence submitted by the applicants confirms that they were aware of the substandard lot size as early as January 2021, before they purchased the property. (A chronology appears on page 6.) Their survey in February 2021 shows a lot size of 5461 sf. The erroneous TCAD number is not a factor. Nevertheless, they ignored the City's instructions for demolitions. Step 1 of the City's demolition application process is prominently displayed on the City web site:

"Before you apply for a Demolition permit, verify with the [Development Assistance Center](#) (Zoning/Site Plan/Change of Use) that new construction will be permitted at the site."

The applicants have produced no evidence that they submitted the verification question to Development Assistance in connection with the demolition application, even though they knew that the parcel was below the minimum lot size. The demolition eliminated the only use allowed under the code, and it eliminated their claim to a qualifying hardship. Their own failure to comply with code does not qualify as a hardship.

Our detailed critique of the applicants' findings begins on page 3.

The ZNA zoning committee has concluded that there is no hardship in this case that meets the Board of Adjustment criteria, and that the applicants had a reasonable-use option had they just followed the code. Finally, the requested variance would grant special privileges that are not available to other properties in the area. As in other nearby cases, ZNA has recommended that the applicants pursue other remedies to allow reasonable use or to increase the area of the parcel. These are listed on page 5. We therefore request that the Board of Adjustment deny the variance.

Sincerely yours,
Lorraine Atherton
on behalf of the Zoning Committee
of the Zilker Neighborhood Association

P.S.: A similar letter explaining our decision was emailed to the applicants on November 22, to give them time to revise their application. We asked them to let us know after Thanksgiving if they intended to provide any new evidence that might support their findings. As of December 5, they have not done so. *L. Atherton*

Dec. 13 item E2, Critique of findings, 1003 Kinney, lot-size variance, Case C15-2021-0100

Reasonable use:

Applicants' finding: "The property is currently surveyed as 5,464sqft (TCAD shows 5,740sqft) and currently zoned for SF-3. SF-3 minimum lot size is 5,750sqft, resulting in this being a substandard lot. Previously it was occupied with a single-family home and detached artisan's studio. We intend to build a new single family home with a pool."

ZNA response: The applicants have not explained why they chose to demolish the existing "single-family home and detached artisan's studio," instead of rebuilding them as allowed under 25-2-963. Most of the email correspondence with "COA Planners" requests increased FAR and impervious cover, beyond what would otherwise be allowed. Their desire to build a larger house with a pool does not meet the definition of reasonable use.

Hardship (a, unique; b, not general to the area):

Applicants' finding:

- a) "This property's boundaries and areas have changed over time, and is unusual in that it is adjacent to a non-improved COA alley that cannot be developed privately for alley access, and will not be developed by COA (previous site plan exemption request confirmed this). At one time previously, it was likely this lot was larger, and would have met the minimum 5750sqft area for SF-3 and to not be considered a substandard lot."
- b) "While there are other substandard lots in the area that have received BOA approval (904 Ethel, about a block away, for example), not all properties in this neighborhood are impacted by an adjacent undeveloped COA alley AND slightly under the 5750sqft minimum while proposing to keep the same use, same zoning."

ZNA response: Documents submitted by the applicants show that the alley has existed in its current configuration since 1896, and the dimensions of the parcel have always been approx. 62 ft × 88 ft—beginning in 1947, through 1962 when a house was built under the previous code, and through March of this year when the applicants demolished the house. The alley was never a part of the parcel, and it has had no negative impact on the use of the property.

In addition, parcels that do not meet the minimum lot size under current code are common in this area. It is near a section of the Barton Heights subdivision that consists mostly of lots that are about 25 feet wide and do not meet the minimum lot size. These lots were designed to be sold in pairs to create a buildable lot. Much of the northern portion of the neighborhood was developed in this manner, with homeowners buying two or three or more modular lots to create home sites. Small lots where new construction has been permitted (including 904 Ethel) complied with 25-2-963 and sought their exemptions BEFORE demolition.

The parcel is not "slightly" under the minimum. It is approx. 290 sf under the minimum.

Undeveloped alleys are also fairly common, and their use for private access is not usually permitted unless the lot has no other reasonable access. With 62 feet of street frontage and an existing curb cut and driveway, this parcel has ample access. Again, the alley has had no

negative impact on the reasonable use of this property. In emails with City staff and with the ZNA zoning committee, it appears that the applicants are interested in the alley only if they can use it to build a private drive in order to increase the impervious cover on their private property. On Nov. 10, Mr. Ellis wrote: “even if they could vacate, abandon, or sell a portion of the alley to us, we would not be able to build or use it for access.” Using the alley to increase the size of the house and the amount of impervious cover is not the same as negotiating an easement that would preserve the alley as is. Acquiring 3 feet 4 inches along the alley with an easement that prohibits all construction or private use remains the best option in this case.

Neither the size of the parcel nor the presence of the alley is unique to the property, and neither condition creates a qualifying hardship.

Area character:

Applicants’ finding: “The proposed home is of reasonable size, proportion, conforms with Subchapter F, and is not striving to max out every exemption possible. It is a single-family residence with a yard and pool, strategically tucked into the corner of the site away from the adjacent COA alley and the protected Cedar Elm tree within the alley. The proposed home does not include a third story occupiable roof terrace or habitable attic, keeping the scale similar to the adjacent homes and maintaining a yard that is approachable for the walkable nature of the street.”

ZNA response: Unlike other, older parts of town, Zilker does not have small-lot amnesty, and it is generally recognized that allowing a reduction in the minimum lot size would significantly alter the established character of those subdivisions.

In the collection of email correspondence with “COA Planners,” the applicants have documented their efforts “to max out every exemption possible” and to build a new house that is larger, with more impervious cover, than would normally be permitted on a lot of this size. If one accepts the lot size of 5,464 sf (the building plans and survey give the lot size as 5,461 sf, and Supervisor Thomas mentions 5,450 sf), the FAR should be limited to 2,185.6 sf. The proposed house, however, is just shy of 2,300 sf (if 200 sf is deducted for the garage exemption), and the total building area is 2,602 sf. The plans show a wooden fence along the alley, cutting through the critical root zone of the protected Cedar Elm, and ZNA’s experience with new pool construction leads us to expect that the fence will exceed the 6-foot maximum height allowed by code. Construction of the pool and decking are also likely to encroach on the critical root zone of the Cedar Elm. Whether the attic space counts as habitable or not, the proposed house is 31 feet tall, with at least two gable exemptions, presenting a solid three-story barrier reflecting on the adjacent house. For those reasons, the requested variance would alter the character of the area and impair the use of adjacent properties. It definitely would impair the purpose of the regulations in the zoning district by rewarding violations of 25-2-963, which is supposed to preserve existing housing while bringing it up to code.

That brings us back to the first restriction on variances:

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.

The Board of Adjustment considered similar variance requests from the minimum lot size at 1107 Kinney and 1516 Kinney. ZNA opposed those requests, and the Board of Adjustment denied the variances in 2011 and 2013. Granting this variance at 1003 Kinney would provide this group of investors with a special privilege not available to others in similar situations.

In the absence of a qualifying hardship, the ZNA Zoning Committee does not support variances that would set a precedent for small-lot development in this area. The demolition of the previous house in violation of 25-2-963 has removed the possibility of negotiating the remodeling of an existing structure within the code. The hardship described by the applicants is self-imposed, and remedies other than a variance remain to be pursued, including:

1. It may be possible to request a retroactive variance from 25-2-963(B)1a to allow demolition of more than 50% of the structure, but that still lacks a qualifying hardship.
2. The LLC could also try to qualify under 25-2-964 by providing evidence that the destruction of the house was caused by some event beyond their control. That would need administrative approval only, and would not require a variance. ZNA's understanding of the code is that both 25-2-963 and 964 limit the reconstruction of the structure to the previous dimensions (in this case, a house of 1,188 sf).
3. The best option for the applicants remains acquisition of a strip 3 feet 4 inches wide along the alley with an easement that prohibits all private construction (including flatwork and fences) and private use (including parking). The only purpose would be to allow the owners to meet minimum lot size. They could then build a new house to the maximum FAR and impervious cover under current code without encroaching on the alley. It would not require a variance.

Chronology of the demolition and building applications at 1003 Kinney in 2021, based on documents provided by the applicants

- Jan. 28, first email in a series asking about taking access from the alley. Mr. Ellis asks Public Works, “if the house were to be renovated, a driveway could be located within the grass alley and normal residential design could occur.” Access is denied Feb. 1.
- Feb. 8, demolition application signed by previous owner McAlister. The applicant is Foursquare Builders LLC, which is also the general contractor for Mr. Ellis’s group, with the same mailing address as Mr. Ellis, 507 Walsh.
- Feb. 23, date of the survey included in the demo application, clearly showing the parcel size at 5,461 sf.
- March 1, date of photos of the house still standing, in the demo application.
- March 11, date of the demo application on City AB+C; permit approval date is March 29.
- April 2, deed for Mr. Ellis’s LLC recorded in TCAD.
- March 17, date on the “new construction” application submitted by “owner” Molly Devco, “applicant” Ian Ellis (partner), and “contractor” Foursquare Builders, all of 507 Walsh, describing the lot as “vacant.” The applicant’s signature, however, is dated Sept 10, 2021.
- June 16, first email correspondence with “COA Planners” begins with Reviewer Sandra Cano’s response to a question about attic exemptions. Ms. Cano seems to be commenting on an existing structure--she notes that the attached garage was built without a permit in 2013, but it could be retroactively permitted along with a new habitable attic “in the current scope of work.” She concludes by recommending that the architect set up a “Preliminary Plan Review Teleconference” to get detailed answers to questions on specific plans.
- June 21-24, other correspondence with City planners, asking for increased FAR and impervious cover through small-lot amnesty or some other means.

ARTICLE 8. - NONCOMPLYING STRUCTURES.**§ 25-2-961 - NONCOMPLYING DEFINED.**

NONCOMPLYING means a building, structure, or area, including off-street parking or loading areas, that does not comply with currently applicable site development regulations for the district in which it is located, but did comply with applicable regulations at the time it was constructed.

Source: Section 13-2-331; Ord. 990225-70; Ord. 031211-11.

§ 25-2-962 - STRUCTURES COMPLYING ON MARCH 1, 1984.

(A) A structure that complied with the site development regulations in effect on March 1, 1984, is a complying structure notwithstanding the requirements of this chapter.

(B) A structure that complies with the site development regulations does not become a noncomplying structure as the result of a change in the use, zoning, or development of adjacent property.

Source: Section 13-2-820; Ord. 990225-70; Ord. 031211-11.

§ 25-2-963 - MODIFICATION AND MAINTENANCE OF NONCOMPLYING STRUCTURES.

(A) Except as provided in Subsections (B), (C), and (D) of this section, a person may modify or maintain a noncomplying structure.

(B) The following requirements must be met in order to modify, maintain, or alter a non-complying residential structure:

(1) Demolition or removal of walls must comply with the following requirements:

(a) No more than fifty percent of exterior walls and supporting structural elements of the existing structure may be demolished or removed, including load bearing masonry walls, and in wood construction, studs, sole plate, and top plate. For purposes of this subsection, exterior walls and supporting structural elements are measured in linear feet and do not include the roof of the structure or interior or exterior finishes.

(b) Replacement or repair of structural elements, including framing, is permitted if required by the building official to meet minimum health and safety requirements.

(2) Replacement or alteration of an original foundation may not change the finished floor elevation by more than one foot vertically, in either direction.

(3) For any residential use other than a single-family use in an SF-3 or more restrictive zoning district, the following requirements must be met in order to add square footage or convert accessory space into conditioned or habitable space:

(a) If the lot is non-complying with current lot size or lot width requirements, the cost of improvements may not exceed 20 percent of the value of the structure before the improvements.

(b) Compliance with current parking and occupancy regulations is required.

(4) If a noncomplying portion of a structure is demolished, it loses its noncomplying status and may only be rebuilt in compliance with current code.

§ 25-2-964 - RESTORATION AND USE OF DAMAGED OR DESTROYED NONCOMPLYING STRUCTURES.

(A) A person may restore a noncomplying structure that is damaged or destroyed by fire, explosion, flood,

tornado, riot, act of the public enemy, or accident of any kind if the restoration begins not later than 12 months after the date the damage or destruction occurs.

(B) Except as provided in [Section 25-2-963](#) (*Modification And Maintenance Of Noncomplying Structures*):

(1) a structure restored under this section is limited to the same building footprint, gross floor area, and interior volume as the damaged or destroyed structure; and

(2) a noncomplying portion of the structure may be restored only in the same location and to the same degree of noncompliance as the damaged or destroyed structure.

(C) This section does not apply to loss of land resulting from wave action behind a bulkhead on Lake Austin.

Source: Section 13-2-821; Ord. 990225-70; Ord. 031211-11; Ord. 20060216-043; Ord. 20060309-058; Ord. 20060622-022; Ord. 20060928-022; [Ord. No. 20140626-113, Pt. 5, 7-7-14](#).

On Wed, Nov 17, 2021 at 10:12 AM Thomas, Eric wrote:

Good morning Ian,

This email is in regards to your Residential Plan Review application #21-144210 for 1003 Kinney Avenue.

At the Board of Adjustment meeting on November 8, 2021, it was suggested that a “legal tract” determination, also known as a Land Status Determination, could negate the need for a variance from the requirements of the City of Austin’s Land Development Code (LDC) section 25-2-943 Substandard Lot. All a Land Status Determination does is exempt a particular tract from the requirement to submit a plat; it does not attest to the legality of existing or future development on the property.

The current lot contains roughly 5,450 square feet of area. 5,750 square feet is the minimum lot area for the zoning classification per LDC section 25-2-492 Site Development Regulations. Since this lot does not meet the minimum lot size requirements of 25-2-492, Residential Plan Review looks at section 25-2-943 Substandard Lot to see if the lot qualifies for the 4,000 minimum lot size.

The original plat shows two lots with a total area of 10,912 square feet. The earliest deed on record, showing the two current small lots, is from September of 1947. The date a substandard lot needs to be recorded with the County, so that it qualifies under the provisions of LDC section 25-2-943 (B)(1), is March 15, 1946. Since the earliest deed record is from September of 1947, the minimum lot area requirement is 5,750 square feet per item (B) (2) of 25-2-943. Because of this, a variance to minimum lot size is required in order to develop the property for a single family use.

Thank you,

Eric Thomas

Residential Zoning Plans Examiner Supervisor, Residential Review

City of Austin Development Services Department

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