



Thursday, November 02, 2006

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Item(s) to Set Public Hearing(s)
RECOMMENDATION FOR COUNCIL ACTION

ITEM No. 37

Subject: Set a public hearing to consider variance requests by Melinda Myers Simmen and Frank Simmen to allow construction of a single-family residence at 6704 Pixie Cove, Austin, TX, in the 100-year floodplain of Lake Austin and to waive the requirement to dedicate a drainage easement to the full limit of the 100-year floodplain for the footprint of the proposed house and attached garage (Suggested date and time. November 16, 2006 at 6:00 p.m., Austin City Hall, 301 West 2nd Street, Austin, TX)

Fiscal Note: There is no unanticipated fiscal impact. A fiscal note is not required.

Additional Backup Material

(click to open)

Backup

For More Information: Gary M. Kosut, P.E., 974-3374, George E. Oswald, P.E., 974-3369; Joan Esquivel, 974-3371

Melinda Myers Simmen and Frank Simmen, the applicants, propose to demolish an existing house and detached garage and construct a new residence with attached garage at 6704 Pixie Cove. The proposed construction is the subject of Building Permit Number BP-06-4938R. The applicant's existing two-story house, the detached garage and the proposed replacements are entirely within the 100-year floodplain of Lake Austin. The existing two-story house contains 1730 sq. ft. of air-conditioned floor space. The existing garage contains 400 sq. ft. The applicant seeks variances to the City of Austin's floodplain management regulations in order to obtain a building permit to construct a 4460 sq. ft. single-family house (the proposed two-story structure includes 4148 sq. ft. of conditioned space, 267 sq. ft. of covered porch, and a 45 sq. ft. balcony) with attached 573 sq. ft. garage. The 100-year floodplain inundates the entire lot. The rear of the lot faces Lake Austin.

The applicants propose to build a new house with a finished floor elevation 1.0 foot above the 100-year floodplain elevation. The finished floor of the existing house is 0.2 feet (2.4 in.) below the 100-year floodplain elevation. The depth of floodwaters from the 100-year flood event at the curb line in front of the house on Pixie Cove will be 2.20 ft. The depth of 100-year event floodwaters surrounding the proposed house will range up to 2.0 ft.

APPLICABLE CODE AND VARIANCES REQUESTED

- I. Section 25-12-3, (*Local Amendment to the Building Code*), Appendix G, Section G102.3 (*Nonconforming Uses*) provides that a structure, or use of a structure or premises, which was lawful before the adoption of the Building Code floodplain regulations but does not conform to the floodplain regulations may be continued, subject to specific conditions, including:

(1) No such use shall be expanded, changed, enlarged or altered in a way which increases its nonconformity.

VARIANCE REQUESTED: *The applicant requests a variance to IBC Section G102.3 (1), to expand, enlarge, and alter the use of the property by demolishing an existing nonconforming residence in the floodplain and constructing a larger nonconforming residence in the floodplain. The existing two-story house contains 1730 sq. ft. of air-conditioned floor space. The existing garage contains 400 sq. ft. The applicant wishes to construct a 4460 sq. ft. single-family house (the proposed two-story structure includes 4148 sq. ft. of conditioned space, 267 sq. ft. of covered porch, and a 45 sq. ft. balcony) with attached 573 sq. ft. garage.*

- II. LDC Section 25-7-92 (*Encroachment on Floodplain Prohibited*) prohibits construction of a building or parking area in the 100-year floodplain.

VARIANCE REQUESTED: *The applicant requests a variance from LDC Section 25-7-92(A) to allow construction of the proposed house in the 100-year floodplain.*

- III Section 25-12-3, Building Code Section 1612.4.3 Means of Egress provides that normal access to a building shall be by direct connection with an area that is a minimum of one foot above the design flood elevation.

VARIANCE REQUESTED: *The applicant requests a variance to Building Code Section 1612.4.3, to allow construction of a single-family house without normal access by connection with an area that is a minimum of one foot above the design flood elevation. The proposed house will be surrounded by 0.0 to 2.0 feet of water during the 100-year flood event. Depth of floodwaters in front of the house at the curb line will be 2.2 ft. deep.*

- IV. LDC Section 25-7-152 (*Dedication of Easements and Rights-of-way*) requires that the owner of real property proposed to be developed dedicate to the public an easement or right-of-way for a drainage facility, open or enclosed, and stormwater flow to the limits of the 100-year floodplain.

VARIANCE REQUESTED: *The applicant requests a variance to Section 25-7-152(A) to exclude the footprint of the proposed house from the requirement to dedicate a drainage easement.*

- V. LDC Section 25-7-2, Obstruction of Waterways Prohibited prohibits the placement of an obstruction in a waterway.

VARIANCE REQUESTED: *The applicant requests a variance to place a structure (an obstruction to flow of floodwaters) in a waterway*

PREREQUISITES FOR GRANTING VARIANCES:

Per Section 25-12-3, Building Code, Appendix G; Section G105 Variances, Paragraph G105.7 variances shall only be issued by the City Council upon an affirmative finding of the conditions described below:

- 1) A technical showing of good and sufficient cause based on the unique characteristics of the size, configuration or topography of the site;
- 2) A determination that failure to grant the variance would result in exceptional hardship by rendering the lot undevelopable;
- 3) A determination that granting a variance would not result in increased flood heights, additional threats to public safety, extraordinary public expense, nor create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances;
- 4) A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and
- 5) Notification to the applicant in writing by the City of Austin building official that the issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance, and that such construction below the base flood level increases risk to life and property.