

C1
/

CITY OF AUSTIN
Interpretation – Special Called Meeting
Decision Sheet

DATE: Monday, July 31, 2013

CASE NUMBER: C15-2013-0087

- Y Jeff Jack
- Y Michael Von Ohlen
- Y Nora Salinas
- Y Bryan King
- Y Fred McGhee
- Y Will Schnier- Melissa Hawthorne-OUT
- Y Stuart Hampton - Sallie Burchett-OUT
- Cathy French (SRB only)

APPLICANT: Alma Kuttruff
OWNER: Alicia Lyn & Kevin Kasprzak
ADDRESS: 2904 RAE DELL AVE

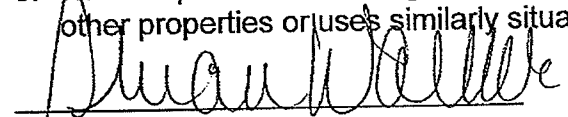
Interpretation Request(s): The appellant (Alma Kuttruff) has filed an appeal, requesting an interpretation of whether the Planning and Development Director's determination to approve the proposed single-family residential use at 2904 Rae Dell Avenue complies with the following code sections:

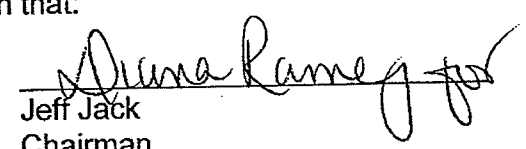
- 1.) Austin City Code 25-2 Subchapter F Article 3.4 (Height)
- 2.) Austin City Code 25-2 Subchapter F Article 3.3 (Gross Floor Area) WITHDRAWN

BOARD'S DECISION: The public hearing was closed on Board Member Michael Von Ohlen motion to deny appeal and to uphold staff's determination, Board Member Fred McGhee second on a 7-0 vote; **APPEAL DENIED AND UPHOLD STAFF'S DETERMINATION.**

FINDING:

1. There is a reasonable doubt of difference of interpretation as to the specific intent of the regulations or map in that:
2. An appeal of use provisions could clearly permit a use which is in character with the uses enumerated for the various zones and with the objectives of the zone in question because:
3. The interpretation will not grant a special privilege to one property inconsistent with other properties or uses similarly situated in that:


 Susan Walker
 Executive Liaison


 Jeff Jack
 Chairman

C1
/2



MEMORANDUM

TO: Board of Adjustment

FROM: Daniel Word, Principal Planner, Residential Review Division

DATE: July 26, 2013

SUBJECT: Appeal of Building Official's Interpretation Regarding 2904 Rae Dell

Case Summary

A residential permit application was submitted on or about July 2nd, 2012 to construct a new single-family residence at 2904 Rae Dell Avenue. The initial review was completed and review comments were sent to the applicant on or about July 12th, 2012. The applicant eventually elected to request a waiver to increase the allowable floor-to-area ratio (FAR) through the Residential Design and Compatibility Commission (RDCC). The request was denied by the RDCC on November 7th, 2012. The applicant requested and was granted an extension to the expiration date for the original application on or about December 14th, 2012. Revised plans were submitted for review by city staff on or about January 23rd, 2013. City staff met with neighborhood representatives on May 2nd, 2013 to discuss any concerns with the updated plans and advised the interested parties regarding the procedure to appeal the issuance of the permit. The permit application was approved on May 7th, 2013. The appellant then proceeded to appeal the issuance of a building permit to the Board of Adjustment. A meeting to resolve differences between the appellant and the applicant was conducted with assistance from city staff on July 25, 2013.

Arguments

The appellant makes several arguments favoring the revocation of the released building permit. The appellant asserts that the roof style should be viewed as an "other" roof type under Article 3.4.1 of Title 25-2 Subchapter F, such that the height measurement should be measured to the upper ridge of the roof, the height of the dormers should be calculated to the top of the dormer roofs, the architectural protrusion should be viewed as a flat roof, and the gross floor area of the structure exceeds the maximum allowable per Title 25-2 Subchapter F Article 3.3.

In relation to the first argument, the code provides conditions "*for a pitched or hip roof, the gabled roof or dormer with the highest average height*". In this case, the applicant proposes a pitched or hip roof, having slopes of 13:12 and 10:12. The presence of a dormer or other architectural protrusion from the roof does not create a separate roof style. The prevailing roof style proposed in this case is clearly a pitched or hip roof, and staff has applied the appropriate regulations for a pitched or hip roof.

C1
/3

Regarding the second argument, the code section applicable to a pitched or hip roof does not require that the type of roof above the dormer be evaluated separately as to being a flat roof, mansard roof, pitched or hip roof, or other roof style. The evaluation applies to the structure as a whole, and taken as a whole, the proposed structure is designed with a pitched or hip roof. The applicant has demonstrated the average height of both the main roof and the dormer roof, and neither roof exceeds 32 feet in height.

The third argument is similar to the second in that the appellant claims that the roof area above the master suite on the second story constitutes a different roof style. As stated before, the prevailing roof style is a pitched or hip roof. Furthermore, the roof area described has slopes of 1:12, 11:12, and 24:12, making it a pitched or hip roof, the average height of which is well below the average of the main roof.

The fourth argument put forth by the appellant alleges that the calculated gross floor area exceeds the maximum allowable under Title 25-2 Subchapter F Article 3. The appellant applies Article 3.3.3 to the case, which is erroneous. The structure design does not qualify to exclude the "attic" level square footage from gross floor area. As such, the applicant has counted all areas of the "attic" with a height of more than five feet, as prescribed in Article 3.3.4. Including the "attic" areas above five feet in height, per the applicant's designer, the project proposes 3896 square feet of gross floor area resulting in a FAR of 0.399 to 1.

Staff Interpretation

In this case, the existing single-family residence complies with the applicable regulations regarding the measurement of building height. The applicant has appropriately demonstrated compliance on the approved plan set. The building official approved the permit request as is required by code. The building official cannot act on potential future violations nor does the building official have any discretionary authority to withhold a permit if it is found to comply with all applicable regulations. In this scenario, a permit request was granted by the building official and staff respectfully requests the board uphold the decision of the building official.

For your consideration,



Daniel Word
Principal Planner, Residential Review Division
Planning and Development Review Department

C1
H

Austin City Code References

25-2 Subchapter F Article 3.3.1

In this Subchapter, GROSS FLOOR AREA means all enclosed space, regardless of its dimensions, that is not exempted under subsections 3.3.2, 3.3.3, or 3.3.4.

25-2 Subchapter F Article 3.3.2

Subject to the limitations in paragraph C below, the following parking areas and structures are excluded from gross floor area for purposes of this Subchapter:

- A. Up to 450 square feet of:
 - 1. A detached rear parking area that is separated from the principal structure by not less than 10 feet;
 - 2. A rear parking area that is 10 feet or more from the principal structure, provided that the parking area is either:
 - a. detached from the principal structure; or
 - b. attached by a covered breezeway that is completely open on all sides, with a walkway not exceeding 6 feet in width and a roof not exceeding 8 feet in width; or
 - 3. A parking area that is open on two or more sides, if:
 - i. it does not have habitable space above it; and
 - ii. the open sides are clear and unobstructed for at least 80% of the area measured below the top of the wall plate to the finished floor of the carport.
- B. Up to 200 square feet of:
 - 1. An attached parking area if it used to meet the minimum parking requirement; or
 - 2. A garage that is less than 10 feet from the rear of the principal structure, provided that the garage is either:
 - a. detached from the principal structure; or
 - b. attached by a covered breezeway that is completely open on all sides, with a walkway not exceeding 6 feet in width and a roof not exceeding 8 feet in width.
- C. An applicant may receive only one 450-square foot exemption per site under paragraph A. An applicant who receives a 450-square foot exemption may receive an additional 200-foot exemption for the same site under paragraph B, but only for an attached parking area used to meet minimum parking requirements.

25-2 Subchapter F Article 3.3.3

Porches, basements, and attics that meet the following requirements shall be excluded from the calculation of gross floor area:

- A. A ground floor porch, including a screened porch, provided that:
 - 1. the porch is not accessible by automobile and is not connected to a driveway; and
 - 2. the exemption may not exceed 200 square feet if a porch has habitable space or a balcony above it.
- B. A habitable portion of a building that is below grade if:
 - 1. The habitable portion does not extend beyond the first-story footprint and is:
 - a. Below natural or finished grade, whichever is lower; and
 - b. Surrounded by natural grade for at least 50% of its perimeter wall area, if the habitable portion is required to be below natural grade under paragraph 1.a.
 - 2. The finished floor of the first story is not more than three feet above the average elevation at the intersections of the minimum front yard setback line and the side property lines.
- C. A habitable portion of an attic, if:
 - 1. The roof above it is not a flat or mansard roof and has a slope of 3 to 12 or greater;

Cl
/5.

2. It is fully contained within the roof structure;
3. It has only one floor;
4. It does not extend beyond the footprint of the floors below;
5. It is the highest habitable portion of the building, or a section of the building, and adds no additional mass to the structure; and
6. Fifty percent or more of the area has a ceiling height of seven feet or less.

25-2 Subchapter F Article 3.3.4

An enclosed area shall be excluded from the calculation of gross floor area if it is five feet or less in height. For purposes of this subsection:

- A. Area is measured on the outside surface of the exterior walls; and
- B. Height is measured from the finished floor elevation, up to either:
 1. the underside of the roof rafters; or
 2. the bottom of the top chord of the roof truss, but not to collar ties, ceiling joists, or any type of furred-down ceiling.

25-2 Subchapter F Article 3.4.1

Height shall be measured vertically from the average of the highest and lowest grades adjacent to the building to:

- A. For a flat roof, the highest point of the coping;
- B. For a mansard roof, the deck line;
- C. For a pitched or hip roof, the gabled roof or dormer with the highest average height; or
- D. For other roof styles, the highest point of the building.