

If you need assistance completing this application (general inquires only) please contact Susan Walker, 974-2202; 505 Barton Springs Road, 2nd Floor (One Texas Center).

CASE # CL-2010-0065
ROW # 70540118
TP-0300010712

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: 221 Park Lane, Austin Texas 78704

LEGAL DESCRIPTION: Subdivision - Sedwick

Lot(s) 65% of LotB Block 12 Outlot Division REFID 0300010712

I/We Manny Duarte, P.F. on behalf of myself as authorized agent for
Shakti Kalsa affirm that on May 10, 2010

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

(check appropriate items below)

ERECT ATTACH COMPLETE REMODEL MAINTAIN

an existing Bed and Breakfast that has been in existence since 1998. The owner has maintained the business and she would just like to get her license and be a good business owner serving south Austin as she has done for the last decade or so. There are three separate buildings, the main building is where the owner resides and it is 1714 SF and houses one unit. The 2nd building is 820 SF and houses 2 units. The third building is 198 SF and houses one unit.

in a SF-3, Bed and Breakfast Residential district.
(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:
See Attached Letter

HARDSHIP:

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

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

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:
See Attached Letter

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:

No parking variance requested as 5 spaces are required (1 space and 1 space for each rental unit). There are 4 rental units and one space for the owner for a total of 5 spaces onsite now. See attached site plan.

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:

N/A

3. The granting of this variance will not create a safety hazard or any other condition inconsistent with the objectives of this Ordinance because:

See Attached Letter

4. The variance will run with the use or uses to which it pertains and shall not run with the site because:

See Attached Letter

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.

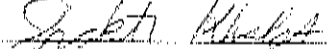
APPLICANT CERTIFICATE — I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Signed  Mail Address 608 Candleberry Circle

City, State & Zip Pflugerville, Texas 78660

Printed Manny Duarte, P.E. Phone (512) 947-5537 Date 05/10/10

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  Mail Address 211 Park Lane

City, State & Zip Austin, TX 78704

Printed Shakti Kalsa Phone (512) 791-7275 Date 05/10/10

To Whom It May Concern:

There are 4 variances being requested. Below is a summary of each with the reasons:

1. Variance request for minimum SF requirement for Bed and Breakfasts (Sec 25-2-783(A))

REASONABLE USE:

1. The zoning regulations applicable to the property do not allow for a reasonable use because:

Property is zoned as SF-3, Bed & Breakfast Residential

HARDSHIP:

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

The existing business has been a Bed & Breakfast for over 12 years and has paid all taxes including hotel taxes. In addition, the three buildings will be considered one building thru walkways and canopies.

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

There is another Bed and Breakfast within 1000' of this existing Bed and Breakfast

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:

Due to being in existence for over 12 years, the subject property has not impaired the use of any adjacent properties as all other properties are zoned SF-3.

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:

No parking variance requested as 5 spaces are required (1 space and 1 space for each rental unit). There are 4 rental units and one space for the owner for a total of 5 spaces onsite now. See attached site plan.

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:

N/A

3. The granting of this variance will not create a safety hazard or any other condition inconsistent with the objectives of this Ordinance because:

Due to being in existence for over 12 years, the subject property has not impaired the use of any adjacent properties as all other properties are zoned SF-3 and will not create a safety hazard

4. The variance will run with the use or uses to which it pertains and shall not run with the site because:

It is an established Bed and Breakfast for over 12 years.

2. Variance request for side setback for 198 SF rental unit.

REASONABLE USE:

1. The zoning regulations applicable to the property do not allow for a reasonable use because:

Property is zoned as SF-3, Bed & Breakfast Residential. In addition, the existing 198 SF rental unit was previously a storage shed and has been granted a permit according to Nikki Hoelter.

HARDSHIP:

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

The unit in question was a storage shed before it was converted to a rental unit. The small rental unit adds a nice touch to the property.

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

There is another Bed and Breakfast within 1000' of this existing Bed and Breakfast

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:

Due to being in existence for over 12 years, the subject property has not impaired the use of any adjacent properties as all other properties are zoned SF-3.

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:

No parking variance requested as 5 spaces are required (1 space and 1 space for each rental unit). There are 4 rental units and one space for the owner for a total of 5 spaces onsite now. See attached site plan.

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:

N/A

3. The granting of this variance will not create a safety hazard or any other condition inconsistent with the objectives of this Ordinance because:

Due to being in existence for over 12 years, the subject property has not impaired the use of any adjacent properties as all other properties are zoned SF-3 and will not create a safety hazard to the neighbor to the west.

4. The variance will run with the use or uses to which it pertains and shall not run with the site because:

The unit has been in existence before converting to a Bed and Breakfast.

3. Variance request for a new Bed and Breakfast within 1000' of another Bed and Breakfast; Sec 25-2-782 (I)

REASONABLE USE:

1. The zoning regulations applicable to the property do not allow for a reasonable use because:

A variance was granted at 110 The Circle on February 2, 2006 as the Park Lane B & B was considered a B & B when the new B & B at 110 The Circle was granted a variance. See attached notice.

HARDSHIP:

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

The property in question in business since 1998 and before the new Bed and Breakfast was built 2 years ago.

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

We are requesting the same variance.

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:

Due to being in existence for over 12 years, the subject property has not impaired the use of any adjacent properties as all other properties are zoned SF-3.

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:

No parking variance requested as 5 spaces are required (1 space and 1 space for each rental unit). There are 4 rental units and one space for the owner for a total of 5 spaces onsite now. See attached site plan.

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:

N/A

3. The granting of this variance will not create a safety hazard or any other condition inconsistent with the objectives of this Ordinance because:

Due to being in existence for over 12 years, the subject property has not impaired the use of any adjacent properties as all other properties are zoned SF-3 and will not create a safety hazard to the neighborhood.

6. 4. The variance will run with the use or uses to which it pertains and shall not run with the site because:

The unit has been in existence before converting to a Bed and Breakfast.

4. Variance request for a impervious cover.

REASONABLE USE:

1. The zoning regulations applicable to the property do not allow for a reasonable use because:

The existing impervious cover is 47.32% and SF-3 allows 45%. If Variance #1 above is not granted, this impervious cover will increase 100 SF due to adding another walkway from the 820 SF rental unit to the 198 SF unit in order to consider all of the buildings as one structure connected via walkways and canopies. Right now, the square footage over the limit is 334 SF.

HARDSHIP:

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

The slight increase in impervious cover is 334 SF over the limit and has been at that limit for over 12 years.

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

We are barely over the impervious limit.

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:

Due to being in existence for over 12 years, and having the same impervious limit, it has had no affect downstream.

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:

No parking variance requested as 5 spaces are required (1 space and 1 space for each rental unit). There are 4 rental units and one space for the owner for a total of 5 spaces onsite now. See attached site plan.

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:

N/A

3. The granting of this variance will not create a safety hazard or any other condition inconsistent with the objectives of this Ordinance because:

There is no effects downstream due to the slight increase in impervious cover..

7. 4. The variance will run with the use or uses to which it pertains and shall not run with the site because:



As stated above, it has had the same impervious cover for over 12 years.



BOARD OF ADJUSTMENT

CASE#: C15-2010-0065
 ADDRESS: 211 PARK LN
 GRID: J20
 MANAGER: SUSAN WALKER



-  SUBJECT TRACT
-  ZONING BOUNDARY



This map has been produced by the Communications Technology Management Dept. on behalf of the Planning Development Review Dept. for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.

ALL SURROUNDING PROPERTIES ZONED SF-3

DRAKE AVE, 60' R.O.W.



(N 19 00'00" E 160.00')

SF-3 ZONING

16.8'

24.75'

SINGLE STORY WOOD
FRAME ON PIERS
1714 SF

(S 71 04'00" E 90.00')

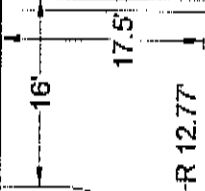
(S 71 04'00" E 90.00')

CONCRETE DRIVE

39.6'

PARKING SPACE FOR OWNER

32.1'



CONCRETE WALKS

319 SF
1 RENTAL UNIT

PORCH
272 SF

CONCRETE WALK

SINGLE STORY WOOD
FRAME ON
CONCRETE
820.1 SF

2 RENTAL UNITS

ROCK PLANTER

CONCRETE PATIO

ROCK PATIO

TILE PATIO

POOL

CONCRETE DECK

SINGLE STORY WOOD
FRAME ON
CONCRETE
198 SF
1 RENTAL UNIT

PARKING TABLE
ZONING: SF-3, BED AND BREAKFAST RESIDENTIAL
REQUIREMENT: 1 SPACE PLUS 1 SPACE FOR
EACH RENTAL UNIT
4 TOTAL RENTAL UNITS
PARKING REQUIRED: 5 SPACES
PARKING PROVIDED: 5 SPACES

1" = 5'

5' SAN SEWER
EASEMENT
PER
PLAT

LOT A

(N 19 00'00" E 160.00')

2.67'



Watershed Protection and Development Review Department
 P.O. Box 1088, Austin, Texas 78767
 One Texas Center, 505 Barton Springs Road
 Telephone: (512) 974-6370 Fax: (512) 974-2423

Site Development Exemption Request

Site Address: 110 The Circle DA-2008-0731

Project Name: The Modern Bed And Breakfast

Legal Description: Lot 6 Blk 7&8 Benson

Zoning: MF-4-NCCD-NP Watershed: East Bouldin Flood Plain? Yes No

Existing Land Use(s): Vacant

Proposed Land Use(s): Bed And Breakfast

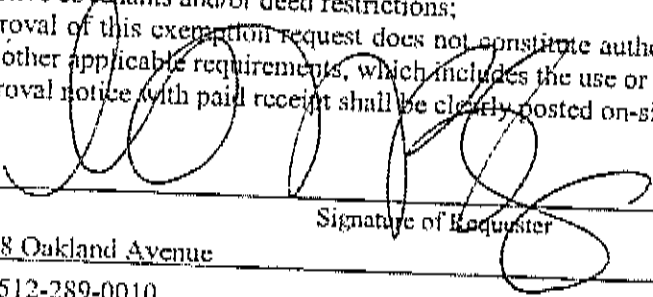
Brief/General Description of the Development being sought:
See attached memo.
No site work

Attach a detailed description of the proposed development in a memorandum or letter and a site plat or survey plan that graphically indicates, but is not limited to,:

- > existing trees
- > buildings
- > parking areas
- > roadways/streets
- > all areas of impervious cover levels (existing & proposed)
- > erosion controls (i.e.: silt fencing, tree protection)
- > limits of construction
- > type of construction
- > location of construction
- > accessible parking
- > access route

I, Kari Blachly (PRINT NAME), do hereby certify that I am the owner owner's agent (to act as the owner's agent, written authorization from the owner must be provided) of this described property, and in this capacity, submit this request for exemption from the site plan submittal requirements pursuant to Chapter 25-5-2 of the Austin City Code.

- Furthermore, I certify and acknowledge that:
- Although the proposed development does not require a formal site plan approval, it may require, prior to beginning any site work, the approval of the subdivision or issuance of a building, remodel, and/or demolition permit;
 - Although the proposed development complies with all applicable zoning regulations, it does not prohibit enforcement of restrictive covenants and/or deed restrictions;
 - The approval of this exemption request does not constitute authorization to violate any provisions of the Austin City Code or other applicable requirements, which includes the use or occupancy of the improvement.
 - The approval notice (with paid receipt) shall be clearly posted on-site and protected from the elements at all times.



Signature of Requester _____ Date: 07/28/2008

Address: 508 Oakland Avenue
 Telephone: 512-289-0010

Please indicate how you wish to receive a copy of the results of the review:
 Mail FAX: _____ E-mail: kari@austinpermit.com

MEMO

DATE: July 28, 2008
TO: COA- Development Assistance Center Staff
FROM: Kari Blachly- APS
RE: 110 The Circle - Site Plan Exemption Request

This site is located within the East Bouldin Creek watershed, which is classified as urban, and is situated in the South River City Neighborhood Plan. This site is zoned MF-4-NCCD-NP. This site plan exemption request is for a change of use from single family residential to residential Bed and Breakfast.

Due to the unique circumstances surrounding this permit, respectfully, I request a site plan exemption under section 25-5-2(E), given that this project is similar to section 25-5-2(B)(1)(a), this is one structure on one legal lot, and is also similar to 25-5-2(C), which states a site plan is not required for a change of use if the parking requirement has been met. In this case, the parking requirements have been met and for your reference I have attached a site plan. This project was designed and constructed as a Bed and Breakfast, which is a permitted use in MF-4-NCCD-NP.

The Bed and Breakfast project has been constructed and was originally permitted as a Residential Bed and Breakfast under permit number 0621731 and the language on the permit was changed by the City's inspectors to Single Family Residential to clear up the confusion in the field by the inspectors.

The landowners were granted a variance for the minimum spacing requirement for a Bed and Breakfast from 1000 feet to 300 feet in order to erect a Bed and Breakfast in addition to a variance to decrease the minimum front street setback from 25 feet to 10 feet. I have attached copies of the original application, the original permit and the notice for the variances along with the authorization letter from the landowners.

Thank you for your assistance with this request. You can reach me at (512) 289-0010 if you need any additional information.



NOTICE OF PUBLIC HEARING LAND DEVELOPMENT CODE VARIANCE

Mailing Date: February 2, 2006

Case Number: C15-06-028

Please be advised that the City of Austin has received an application for a variance of the Land Development Code.

Owner: Kimber Cavendish & Vicki Faust

Telephone: 912-9500

Address and/or Legal Description of Requested Variance:
110 The Circle

Variance Request(s): The applicant has requested a variance to decrease the minimum front street setback requirement of Section 25-2-492(D) from 25 feet to 10 feet in order to erect a Bed and Breakfast Residential use in an "MF-4-NCCD", Multi-Family Residential-Neighborhood Conservation Combining District.

Extension of Time: C15-05-027

The applicant has requested a one-year extension of a variance GRANTED on April 11, 2005 to decrease the minimum spacing requirement for a Bed and Breakfast Residential use requirement of Section 25-2-782(I) from 1,000 feet to 300 feet in order to erect a Bed and Breakfast Residential use in an "MF-4-NCCD", Multi-Family Residential-Neighborhood Conservation Combining District. The Land Development Code states that a Bed and Breakfast Residential use must be more than 1,000 feet from an existing Bed and Breakfast Residential use.

This application is scheduled to be heard by the Board of Adjustment on February 13, 2006. The meeting will be held at 301 W. 2nd Street beginning at 5:30 p.m.

You are being notified because City Ordinance requires that all property owners within 300 feet of the proposed development and affected neighborhood organizations be notified when an application is scheduled for a public hearing. If you have any questions concerning this application, please contact Susan Walker of the Watershed Protection and Development Review Department at 974-2202 and refer to the Case Number at the top right of this notice.

For additional information on the City of Austin's land development process, please visit our web site www.ci.austin.tx.us/development.

Walker, Susan

From: Manny Duarte [topduarte@yahoo.com]
Sent: Friday, May 28, 2010 4:26 PM
To: Walker, Susan
Subject: RE: update on Park Lane B & B variance request 5-28-10

Susan,

I will let the owner know about this.

Thanks!

Manny

--- On **Fri, 5/28/10, Walker, Susan** <susan.walker@ci.austin.tx.us> wrote:

From: Walker, Susan <susan.walker@ci.austin.tx.us>
Subject: RE: update on Park Lane B & B variance request 5-28-10
To: "Manny Duarte" <topduarte@yahoo.com>
Date: Friday, May 28, 2010, 4:10 PM

Manny,

After further research, this property is in the Fairview Park NCCD and the Board of Adjustment does not have the authority to grant a variance to the impervious coverage limit. In order to do this, the NCCD would have to be amended.

The other two variances are not specifically called out in the NCCD ordinance, so you can get a variance for them.

Thank you so much for your quick response.

Susan Walker
Senior Planner
Planning & Development Review Department
Phone: 512-974-2202
Fax: 512-974-6536

From: Manny Duarte [mailto:topduarte@yahoo.com]
Sent: Friday, May 28, 2010 4:04 PM
To: Walker, Susan
Subject: RE: update on Park Lane B & B variance request 5-28-10

Susan,

For #1, it is LDC Section 25-2-783(A). The old case number that went to the Board is C15-06-028.

For #2, they requested going from 1000 feet to 300 feet so we can request the same.

For #3, we are at 47.32% (right now we are 334 square feet over the limit).

Let me know if you need more information.

Thanks!!!

Manny

--- On **Fri, 5/28/10, Walker, Susan** <susan.walker@ci.austin.tx.us> wrote:

From: Walker, Susan <susan.walker@ci.austin.tx.us>
Subject: RE: update on Park Lane B & B variance request 5-28-10
To: "Manny Duarte" <topduarte@yahoo.com>
Date: Friday, May 28, 2010, 3:32 PM

Manny,

Do you have an LDC section reference to the density requirement that you are referring to in #1?

In #2 - I need to know the # of feet from the other B & B so I can write it up as a reduction from the required 1,000 feet to ___ feet. Section 25-2-782 (I) states that a bed and breakfast residential use must be more than 1,000 feet from an existing bed and breakfast residential use.

In #3 - I need to know the % of impervious coverage. If 45% is allowed, you are requesting to maintain ___%. Section 25-2-492 (D) allows 45%.

That is how the notification must be completed.

Thanks!

Susan Walker
Senior Planner
Planning & Development Review Department
Phone: 512-974-2202
Fax: 512-974-6536

From: Manny Duarte [<mailto:topduarte@yahoo.com>]
Sent: Friday, May 28, 2010 3:15 PM
To: Walker, Susan
Subject: update on Park Lane B & B variance request 5-28-10

Susan,

Here is a summary of what will go to the Board in June:

1. If the buildings are connected, with a walkway and canopy, all three buildings will be considered one and they will meet the density requirements for B & B's once it is approved by the Board of Adjustments. The other option is the owner can request a variance from the density requirements from the Board of Adjustments on not to put the canopies/walkways in between the buildings and continue as 3 separate buildings with 4 rental units.

Lets continue with this as the owner is still challenging this with the city.

2. This variance must continue thru the Board of Adjustment due to the existing B & B did not have a Certificate of Occupancy as a B & B.

Lets continue with this one also. This is the rule that states that all B & B's must be at least 1000 feet from each other and th cPark Lane B & B is under that.

3. This variance will continue due to the impervious cover limits.

Lets continue with this one also due to being 334 Square Feet over the impervious limits.

Let me know if you have any other questions or need any more information or clarifications.

Thanks and have a nice holiday weekend.

Manny