

1915 A David Street Conclusion:

When the current owner purchased the property (as a partner) in 1993 it had two structures. The front was divided into two units, an efficiency apartment, and a two bedroom apartment. The occupancy has ranged from 3 to 5 people, usually unrelated students. The rear was a two story, four unit apartment. The occupancy has ranged from 4 to 6 people. Each unit had a separate electric meter, individual mailing box, and legal address (COA addressing).

In 2001, the City issued a Certificate of Compliance for repairs made in accordance with a building permit for repairs to unit one of a four-plex. Given these facts and documentation, the owner believed this demonstrated a grandfathered legal non-complying use of the property.

The owner did not choose to make any changes to this situation; however, in 2007 Code Enforcement issued a Code Violation Notice that compelled the owner to re-examine this situation.

At a 245 hearing, staff presented two previously unknown 1950 building permits for this address which clearly prove the legal use of the property as a two-family residential use. Given this “new” information, the owner dropped his legal non complying use argument and agreed to modify the structures to comply with the City’s directives.

The owner has worked with and complied with the City of Austin’s requirements, and has relied upon their approvals and directives.

The City of Austin uses the Site Plan Exemption as the process required to obtain amnesty certificates of occupancy and repair to minimum standards. The owner obtained a site plan exemption and building permit to convert the two structures to single units and bring to minimum standards. The owner’s representatives met on site with the City’s inspectors prior to any work to make sure the requirements of the City were understood and followed.

After the project was underway, the City filed a Stop Work Order stating that the original permit had been issued in error. Once again the owner modified his plans to comply with these modified requirements. The original permit was modified and a new permit issued for the front building.

The occupancy allowed by current ordinance is six unrelated persons over 18 per dwelling unit. The rear building (which has the original modified permit, has no “interested parties”) is in the exact foot print with the same square footage as the un-remodeled building from 1950.


The front building (which has “interested parties”) complies with the requirements of the City’s remodel criteria and does not increase the number of bedrooms.

Finally, the modifications to the lot have resulted in a reduction of the impervious cover from over 60% to less than 45%. The lot also complies with the McMansion requirements (FAR and tent).

This project is grandfathered and under the law should be allowed to be constructed as permitted. The owner requests that the decisions of the staff and Building Official be upheld.



To: Ms. Leane Heldenfels, Chair and
Members of the Board of Adjustment

From: Gregory I. Guernsey, AICP, Director, 
Planning and Development Review Department

Date: June 11, 2010

Re: Reconsideration of an Administrative Appeal Request
Case No. C15-2010-0042.
Property Address: 1915 A David Street

The Planning and Development Review Department (PDRD) is not seeking a reconsideration of your action taken in May 2010 to uphold Ms. Nuria Zaragoza's (Applicant) appeal and denial of the Director's determination on the first of 3 out of 4 interpretations. The application you considered at the May hearing was for the structure located at 1915 "A" David Street (front) and not 1915 "B" David Street (rear), and the use of the site.

At this time Staff has not been presented a new or different building permit application for 1915 "A" David Street and unless your determination is reversed, Staff will not consider the existing project a remodel. However, if the applicant submits a new building permit application for 1915 "A" structure, then it will be reviewed for compliance with the City Code in effect at the time of submittal. Currently, the City allows partial demolition of a residence without any additions as a remodel, if one complete exterior wall adjacent to the original foundation is maintained.

I would also like to offer information regarding a previous Board of Adjustment (BOA) decision on the same property on Hampton Street the applicant referenced at your May hearing. The previous BOA decision was for a two family residential use and not a duplex use, and occurred after the duplex decision was made. The previous decision upheld the Director's determination that the application to construct two structures – six bedroom house and a two bedroom garage apartment (a two family residential use) may allow more than six unrelated occupants to occupy the residences (see attached).

However, I would point out that the City Code Section 25-2-511 was changed in November 2004 to limit the occupancy for a two family residential use, but maintained grandfathering for two family residential uses that existed prior to the ordinance change (see attached)

If you have any questions, please contact me at 974-2387 or by e-mail at greg.guernsey@ci.austin.tx.us .

CITY OF AUSTIN
BOARD OF ADJUSTMENT/SIGN REVIEW BOARD
DECISION SHEET

 N Herman Thun
 Y Barbara Aybar
 N Leane Heldenfels
 Y Frank Fuentes
 Y Betty Edgemond

DATE: October 20, 2003

CASE NUMBER: C15-03-106

APPLICANT: Ara Merjanian

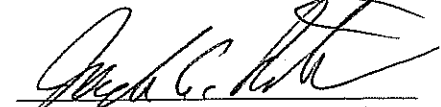
ADDRESS: 3207 Hampton Rd.

VARIANCE REQUESTED: **APPEAL DENIED 3-2 (FUENTES MOTION TO APPROVE APPEAL; EDMOND SECOND)**

BOARD'S DECISION: An administrative appeal, requesting an interpretation of whether the Neighborhood Planning and Zoning Departments Director's determination: 1) that the application for a permit for the construction of two structures – a six bedroom house and a two bedroom garage apartment (a two family residential use) may allow more than six unrelated occupants to occupy the residences; 2) that the permit application conforms to the requirement of the Land Development Code that structures meet development standards that maintain single-family neighborhood characteristics; and 3) that the permit application meet all development regulations applicable to a project is correct.

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:


Joseph Pantalion, Executive Secretary


Herman Thun, Chairman

C 15-03-106

CITY OF AUSTIN
APPLICATION TO BOARD OF ADJUSTMENT
INTERPRETATIONS
PART I: APPLICANT'S STATEMENT

RECEIVED

STREET ADDRESS: 3207 Hampton Road.

AUG 13 2003

LEGAL DESCRIPTION: Subdivision—

CITY OF AUSTIN

Lot(s): 6 Block: -- Outlot: 6&9 Division: Division C, George D. Smith Addition

ZONING DISTRICT: SF3

I, Ara Merjanian, on behalf of myself and my neighbors, affirm that on the 13th Day of August, 2003, hereby apply for an interpretation hearing before the Board of Adjustment.

Watershed Protection and Development Review interpretation is: (1) that the application for a permit for the construction of two structures--a six bedroom house and a two bedroom garage apartment--on the aforementioned property has met all of the requirements for SF 3 zoning for a detached two story residence and garage apartment and may allow more than 6 unrelated occupants to occupy the residences; (2) that the permit application has met all of the development regulations applicable to a project; and, (3) that the permit application conforms to the requirement of the Land Development Code that the built structures meet development standards that maintain single-family neighborhood characteristics. This interpretation is basis for the July 25, 2003 approval of the permit dated July 17, 2003.

I feel that the correct interpretation is: the structures, in their inherent design and intended use, are prohibited on property zoned SF-3. The application fails to meet the requirements of the Land Development Code {LDC 25-2-57 and LDC 25-2-3(B)(3) and (B)(4) RESIDENTIAL USES DESCRIBED}, which require compatibility with single-family neighborhood characteristics and which limits occupancy to no more than 6 unrelated adults.

On April 14, 2003, the Board of Adjustment (BOA) overturned a previous permit at this location. In that decision, the BOA held that the property should have been classified as a group residential use and that it failed to meet compatibility standards required for SF-3. Consequently, the BOA ruled that, had the City properly considered all the applicable provisions, a permit would not have been issued. The permit was therefore revoked.

The owners have abandoned the super duplex concept that was the subject of the previously revoked permit. They have replaced it with a similarly deficient concept: a single-family residence with a detached garage apartment. We believe that this is a veiled attempt to evade both the requirements of the LDC and the April 14th decision of the BOA. In so doing, the owners still violate the LDC and BOA's April 14th decision—to wit, this is still a group residential use (because they intend to occupy it with more than 6 unrelated adults), and it fails to meet compatibility standards. While the BOA's decision applied to the proposed duplex use, we believe that it is nonetheless also logically and appropriately applicable to any use within SF-3.

The owners' intended use contemplates at least 8 occupants (one for each bedroom in the house and the apartment). It is entirely possible that bedrooms will be shared and "studies" will be converted to bedrooms, thereby resulting in occupancy rates in excess of 8 unrelated adults. This property could easily end up housing 12 or more unrelated adults—a result the BOA sought to prohibit in its previous ruling. In that ruling, the BOA found that the intended use was a group residential use, which is impermissible in SF-3:

(4) GROUP RESIDENTIAL use is the use of a site for occupancy by a group of more than six persons who are not a family, on a weekly or longer basis. This includes fraternity and sorority houses, dormitories, residence halls, and boarding houses.

The filing of applications with "studies" that are then converted to bedrooms is a common tactic, well known to the City. In addition, it should be noted that the very first application for this property involved a duplex with 8 bedrooms PER side—a 16 bedroom duplex. With this past history of manifested owner intent, the current tactic, and the likelihood that bedrooms will be occupied by multiple residents, the owners clearly intend to over-occupy the property--a clear violation of the law and BOA's past interpretations of the Code.

These occupancy levels violate Code provisions. This is manifestly a group residential use despite the clever attempt to disguise it as a house. Group residential is prohibited in SF-3. The fact that the owner will likely seek individuals who know each other (though they are unrelated) as the only reasonable means of leasing to such a large number of people suggests that it will take on the features of a boarding or rooming house, dormitory, or fraternity—all of which are specifically prohibited uses in SF-3.

And, these high occupancy levels also violate the Code compatibility requirements. The principal arguments regarding compatibility at issue in the April 14th decision were: (1) that a large 12 bedroom duplex in size, scale, and use was inherently incompatible with the neighboring residential uses; (2) that the large number of residents would require a large number of parking spaces on and off-site which is incompatible with neighboring single-family uses; and (3) that these cars would produce a disproportionate and significant parking and traffic impact which is not compatible with a single family neighborhood adjacent to a school.

Regarding the basic compatibility issue, the current permit authorizes a use that is incompatible with surrounding residential uses. This incompatibility is apparent on its face.

Regarding the traffic and parking issues, the Austin Independent School District Director of Planning Services, Lee Elementary School PTA Bicycle and Pedestrian Safety Committee, Lee Elementary School Campus Advisory Council and the school's Principal (Dr. Mary Lou Clayton) all opposed the project on these grounds. The additional parking (including on-street parking that will very likely occur in conjunction with this structure) and traffic will create an imminent health and safety hazard for the 400 children at Lee. We estimate that this project will conservatively generate thousands of additional one-way trips into and out of the neighborhood. This is an unacceptable load and we believe that this creates a manifest incompatibility between the project and single-family neighborhood characteristics required of a residence in close proximity to an elementary school. These conditions are unique to the site and must be seriously weighed by the Board as an extenuating factor.

The current project does not materially resolve these incompatibility problems. In our previous appeal, we provided the Board with photographic, videographic, affidavits from 18 interested parties residing within 300 feet of the property, neighborhood resolutions from various associations (i.e. Hancock NA, North University NA, Eastwoods NA, and Hyde Park NA), other documentation, and testimony as to this fact. In addition, we provided letters from Lee Elementary School PTA and Dan Roberston, Director of Planning Services with the Austin Independent School District that support the contention that the project is incompatible with this part of the neighborhood. We are happy to reprise that evidence at our hearing. It is all applicable to the instant case.

We believe the BOA correctly interpreted the Code in its April decision. As proof of this fact, the City Council shortly thereafter validated this decision by imposing more explicit occupancy limits (which exactly mirror the BOA's interpretation) and more fully defining compatibility development standards as they apply to duplexes. The Council is currently considering similar changes to the Code for all structures in SF-3. However, it was our position then and is our position now that, the City failed to consider the effect of the existing Code provisions referred to above. The BOA provided a clear and correct interpretation of the law as it stood then. And the City Council validated the decision and provided further clarification to the law. However, action by the Council is not required in this case. The BOA's decision set the basis for reviewing this permit. The City failed to make the proper application of that decision to all relevant permits for construction in SF-3 and, in so doing, made the same error as before. That is, they accepted the applicant's declaration that the use was for a single-family house with a detached apartment while failing to consider its intended use as a prohibited group residential facility in total and while failing to give any meaning to the compatibility requirements of law. The same factors that gave rise to the BOA's April decision are present here, albeit in a modified form.

1. There is a reasonable doubt of difference of interpretation as to the specific intent of the regulations or map in that: the City believes that the project conforms to the requirements of the Code; however, it failed to properly apply all relevant provisions, consider legislative intent, and give proper effect to the BOA's April decision. Therefore, the City incorrectly issued a permit for the project despite these defects.

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 objective of the zone in question because: the owner could still easily and economically develop the property using a more modest, scaled-back, and compatible duplex, single-family, dual family or other structure to serve multiple families or multiple resident uses in a manner that complies with the development standards and regulations in a district zoned for SF3 while ensuring a use that is consistent with the single-family characteristics of the neighborhood. So, the uses and objectives of City law could still be realized—in fact, more closely adhered to—if this appeal is granted, as demonstrated by existing rental and other structures in the neighborhood. The project as currently permitted fails to meet that compatibility standard and the occupancy limits requirement set for group residential uses in SF-3.

3. The interpretation will not grant a special privilege to one party inconsistent with other properties or uses similarly situated in that: the appeal seeks to make the project conform to the uses and characteristics that are the norm for the neighborhood in clear consistency with applicable zoning provisions, uses, and objectives. It is the project itself, in its current form, which grants a special privilege to the owners that is inconsistent with other properties and uses. We believe that this is in violation of current law. An affirmative interpretation of the appeal would bring this project into compliance with the law and into a use that is consistent and in alignment with other properties and uses similarly situated.

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

Signed: Ara Merjanian Printed: Ara Merjanian

Mailing Address: 3211 Hampton Rd.

City, State, & Zip: Austin, TX 78705

Phone: (512) 477-9769 and 659-5358

Neighbors joining in appeal:

David C. Mattax

808 East 32nd Street

Austin, TX 78705

Phone: (512) 499-0486; FAX (512) 499-0484

Email: DMATTAX@austin.rr.com

James and April Rohlich

3209 Hampton Rd.

Austin, Texas 78705

Phone: (512) 477-6710

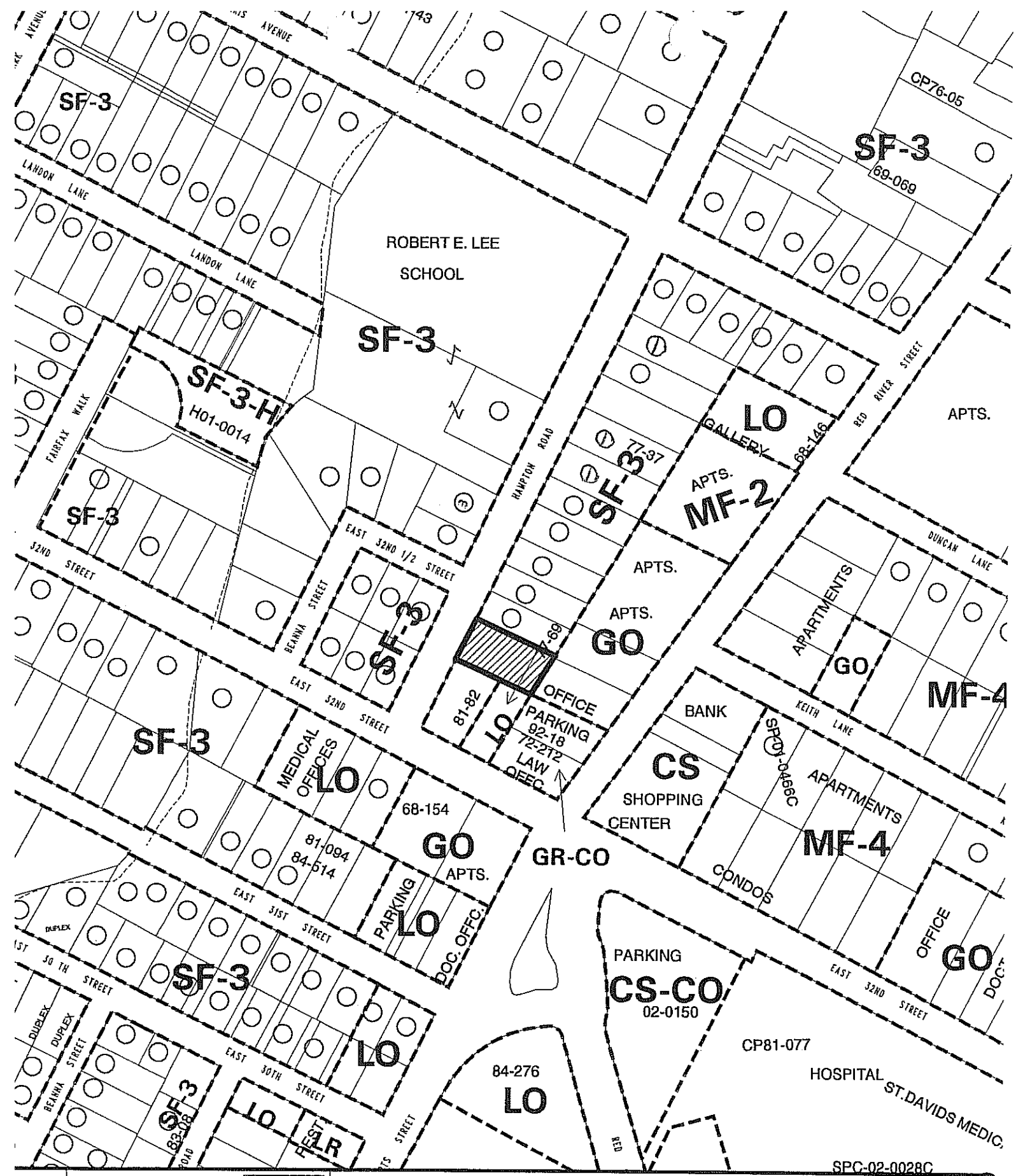
James W Rohlich 8/13/2003

Jim Reed

3303 Hampton Rd.

Austin, Texas 78705

Phone: (512) 482-8541



 1" = 200'	SUBJECT TRACT 	BOARD OF ADJUSTMENTS CASE #: C15-03-106 ADDRESS: 3207 HAMPTON ROAD SUBJECT AREA (acres): N/A		DATE: 03-09 INTLS: SM	CITY GRID REFERENCE NUMBER K24
	PENDING CASE 				
	ZONING BOUNDARY 				
	CASE MGR: S. WALKER				



MEMORANDUM

To: Herman Thun, Chair and
Members of the Board of Adjustment

From: Luci Gallahan
Watershed Protection and Development Review

Date: October 14, 2003

Subject: C15-03-106

The City has received an appeal to the City's determination that the application for the construction of a house with a garage apartment at 3207 Hampton meets all the requirements for such a use in an SF-3 zoning district.

Earlier this year, the owners of this property were approved for the construction of a duplex at this location. Mr. Ara Merjanian and Mr. David Mattox appealed that determination to this board. The board denied the appeal. The appellants filed for reconsideration and this board reserved itself and approved the appeal.

The owners of this property subsequently filed an application for the construction of a single-family house with a detached garage apartment. The application met all requirements for a Two-Family Residential use and the application was approved and a permit was issued on July 25, 2003. Mr. Merjanian and Mr. Mattox have once again filed an appeal of that determination.

The application for a new residence with a detached garage apartment that was submitted on July 16, 2003 was reviewed under the following requirements of the Land Development Code:

The application was reviewed as a Two-Family Residential Use as defined in:

25-2-3 (13): TWO-FAMILY RESIDENTIAL use is the use of a lot for two dwelling units, each in a separate building, other than a mobile home.

The development requirements for Two-Family Residential use are listed in:

25-2-774 TWO-FAMILY RESIDENTIAL USE

(A) For a two-family residential use, the base zoning district regulations are superseded by the requirements of this section.

(B) For a two-family residential use the minimum lot area is 7,000 square feet.

(C) One dwelling unit must be located to the rear of the site, separated from the front dwelling by at least 16 feet, and served by a paved driveway not less than 9 feet and not more 12 feet wide.

(D) This subsection prescribes requirements for the dwelling unit located to the rear of the site.

(1) The gross floor area may not exceed 850 square feet.

(2) The height may not exceed 30 feet.

(3) An entrance must be at least 10 feet from the nearest lot line.

(E) This subsection prescribes off-street parking requirements.

(1) Other than in a driveway, parking is prohibited in the front yard.

(2) Except as otherwise provided in this subsection, four off-street parking spaces are required.

In addition to the above requirements, the principal structure must meet the requirements in:

25-2-492 SITE DEVELOPMENT REGULATIONS. The SF-3 requirements include a lot width of 50 feet, maximum height of 35 feet, front yard setback of 25 feet, side yard setback of 5 feet, and rear yard setback of 10 feet. The maximum building coverage limited is 40% and the maximum impervious cover limit is 45%.

The application submitted for this two-family residential use meets all the requirements of these Land Development Code requirements.



Luci Gallahan

Watershed Protection and Development Review

Attachments



MEMORANDUM

To: Hans Herman Thun, Chair
and Members of the Board of Adjustment

From: Gregory Guernsey, AICP, Development Services Manager
Neighborhood Planning and Zoning Department

Date: October 6, 2003

Subject: An Administrative Appeal Request, Case No. C15-03-0106
by Mr. Ara Merjanian.

Mr. Ara Merjanian has filed an administrative appeal, requesting an interpretation of whether the Building Official, with the Watershed Protection and Development Review Department and the Neighborhood Planning and Zoning Department Director's determinations regarding a proposed two family residential use located at 3207 Hampton Road are correct.

Regarding the appeal related to the zoning issues, Mr. Merjanian (the "appellant") is requesting an interpretation of the Neighborhood Planning and Zoning Department Director's (the "Director") determination that: 1) that the application for a permit for the construction of two structures - a six bedroom house and a two bedroom garage apartment (a two family residential use)...may allow more than six unrelated occupants to occupy the residences; and 2) that the permit application conforms to the requirement of the Land Development Code that structures meet development standards that maintain single-family neighborhood characteristics.

The appellant has drawn an analogy between this appeal and another appeal for a different residential (duplex) land use decided by the Board of Adjustment (the "Board") several months ago. Although the property on which the appeals have been filed are the same, each appeal has been filed on a different land use classification and should be considered independently on the facts and statements filed with the application (Board of Adjustment's Rules and Regulations, VIII (803)). Nothing precludes the appellant from re-introducing information from the previous appeal; however, the Board must carefully review the evidence submitted and determine that the use described in the previous appeal is not same use that is being appealed today.

The appellant references letters from the school district and various school committees that were written for the previous appeal and do not apply to this appeal. The Director is not aware if these entities have evaluated the current appeal, considered the proposed two family residential land use, or recognized its decreased intensity from the prior use. The appellant's suggestion that the traffic generated for the proposed two-family residential use will generate "thousands of additional one-way trips into and out of the neighborhood..." is exaggerated, given the number of bedrooms within the proposed project and the close proximity of the residence to the University of Texas campus.

The appellant's position is incorrect that there is reasonable doubt of the Director's interpretation of the specific intent of the regulations, because the Director applied the relevant provisions of the Land Development Code (the "Code"), acknowledged the intent of the regulations and gave the proper effect to the previous Board of Adjustment's April 2003 decision.

The application and the building plans approved by the Building Official for the property in question were for a proposed two family residential use and not a duplex use or a group residential use. A two family residential use and a duplex residential use are permitted land uses in the Family Residence (SF-3) district. A group residential use is not a permitted use in a Family Residence (SF-3) district.

The Code describes a two family residential use as:

"...the use of a lot for two dwelling units, each in a separate building, other than a mobile home."

The Code describes a duplex residential use as:

"...the use of a site for two dwelling units within a single building, other than a mobile home."

The Code limits the occupancy within a dwelling unit by the following regulations:

§ 25-2-511 **DWELLING UNIT OCCUPANCY LIMIT** (as amended by Ord. #030605-49)

(A) Notwithstanding any other provisions of this Code, except as provided in Subsection (B):

(1) not more than six unrelated persons may reside in a dwelling unit; and

(2) not more than three unrelated persons 18 years of age or older may reside in a dwelling unit of a duplex residential use, unless:

(a) before June 5, 2003:

- (i) a building permit for a duplex structure was issued; or
- (ii) the use was established; and

(b) after June 5, 2003 the gross floor area and the number of bedrooms in a duplex

structure did not increase, except for the completion of construction authorized before that date.

(B) *A group of not more than ten unrelated persons may reside in a dwelling unit if:*

(1) a majority of the persons are 60 years of age or older;

(2) the persons are self-caring and self-sufficient and participate in the daily operation of the dwelling unit; and

(3) the persons live together as a single, non-profit housekeeping unit.

The Code describes a **dwelling unit** as “...a residential unit other than a mobile home providing complete, independent living facilities including permanent provisions for living, sleeping, eating, and cooking.”

Since the application and the building plans approved by the Building Official for the property in question were for two separate buildings each containing a separate dwelling unit, the application of the duplex development standards would not apply to the proposed two family residential use. For a two family residential use, the Code allows up to six unrelated persons to reside in each dwelling unit and limits the lot to a total of two dwelling units. Therefore, the Code allows more than six unrelated individuals to reside on a single lot occupied by a two family residential use.

The Code describes a **group residential use** as:

“...the use is the use of a site for occupancy by a group of more than six persons who are not a family, on a weekly or longer basis. This use includes fraternity and sorority houses, dormitories, residence halls, and boarding houses.

Since the application and the building plans approved by the Building Official for the property in question were for two separate buildings each containing a separate dwelling unit (with complete, independent living facilities including permanent provisions for living, sleeping, eating, and cooking), and since a group residential use was not applied for and not permitted in a SF-3 district, the application of the group residential use definition or site development standards would not apply to the proposed residential use.

The appellant has put forward the hypothesis that the Building Official should have denied this application for a two family residential use because it had more than six bedrooms even though the proposed use complied with the standards of the Code. The appellant stated the proposed use should be denied, because it could be occupied by additional unrelated people and automatically be classified as a prohibited group residential use. City staff agrees that a group residential use is not permitted in a family residence (SF-3) zoning district and should be subject to compatibility standards. However, if building Official/Director were to deny the proposed two-family use, another two family residential use or a single family residential use based on the number of bedrooms and/or the potential abuse of the Code by an applicant, Building Official/Director’s decision would be considered arbitrary, capricious and incorrect.

Since 1985, the Building Official has approved two family residential uses in the SF-3

district in accordance with the Code. Since 1985, the occupancy limit stated in the Code has been applied a two family residential use in the same manner as a single family residential use, a small lot single family residential use, a single family attached residential use, a townhouse residential use and a multifamily residential use. What the appellant suggests is that all two family residential uses with more than six bedrooms are automatically classified as a group residential use, which is not true. Nor are lots with a single family residential use or a small lot single family residential use with more than six bedrooms automatically classified as a group residential use; or a single family attached residential use, a townhouse residential use and a multifamily residential use with more than six bedrooms on a site automatically classified as a group residential use.

Regarding the intent of the regulations, the Code has allowed more than six individuals to occupy a two family residential lot, or a single family attached residential use site, a townhouse residential use site and a multifamily residential use site, without these uses being classified as group residential uses since 1985. This zoning determination is supported by the intent of the previous versions of the City Code (circa 1984, 1987, 1991, 1999, as amended through time) that provides similar use definitions for a two family residential use, a townhouse residential, a condominium residential and a multifamily residential use. In addition, this determination is further supported by the many building permits issued for these two family residential, townhouse residential, condominium residential and multifamily residential uses over the past eighteen years.

The Zoning Regulations (Chapter 13-2A) of 1984 provided the basis of the current two family residential use definition. These prior zoning regulations did not limit the number of bedrooms on a residential lot with two dwelling units except through its supplemental use and site development standards.

The use provisions of the Code could clearly permit the proposed two family residential use, which is in character with the uses enumerated for the family residence (SF-3) district, and the objectives of the zone because the characteristics of the proposed use is similar to other uses allowed in the SF-3 district.

The purpose statement of the family residential (SF-3) district is as follows:

Family residence (SF-3) district is the designation for a moderate density single-family residential use and a duplex use on a lot that is a minimum of 5,750 square feet. An SF-3 district designation may be applied to a use in an existing single-family neighborhood with moderate sized lots or to new development of family housing on lots that are 5,750 square feet or more. A duplex use that is designated as an SF-3 district is subject to development standards that maintain single-family neighborhood characteristics.

A single family residential use is permitted land use in a SF-3 zoning district and a two family residential use is permitted land use in a SF-3 zoning district.

A single family residential use is limited to one dwelling unit per building and a two family residential use is also limited to one dwelling unit per building.

In a SF-3 district, a single family residential use is limited to a maximum 40% building

coverage and a two family residential use is also limited to a maximum 40% building coverage.

In a SF-3 district, a single family residential lot is limited to a maximum 45% impervious cover and a two family residential lot is also limited to a maximum 45% impervious cover.

In a SF-3 district, a single family residential lot is limited to a maximum building height of 35 feet and a two family residential lot is also limited to a maximum building height of 35 feet.

In a SF-3 district, a single family residential use is required to maintain a 25 foot front yard, a 5 foot interior side yard and a 10 rear yard setback; and a two family residential use is also required to maintain a 25 foot front yard, a 5 foot interior side yard and a 10 rear yard setback.

The purpose statement of the SF-3 district is does not state a single family residence is subject to the “...*development standards that maintain single-family neighborhood characteristics.*” nor does it state a two family residential use is subject to the “...*development standards that maintain single-family neighborhood characteristics.*”

Nor does the Code state that other permitted land uses in the SF-3 district, such as religious assembly use or public or private primary or secondary educational facility are subject to the “...*development standards that maintain single-family neighborhood characteristics.*”

Finally, the Code does not require or allow the Building Official/Director to the restrict a property owner of a single family residential use to develop or redevelop their property to a standard that may be more restrictive (or more modest, scaled back or more compatible) than what the Code allows, nor does the Code does not require or allow the Building Official/Director to the restrict a property owner of a two family residential use to develop or redevelop their property to a standard that may be more restrictive (or more modest, scaled back or more compatible) than what the Code allows.

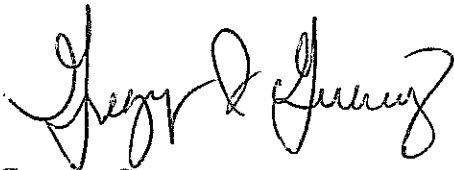
The interpretation will not grant a special privilege to one property inconsistent with other properties or uses similarly situated, because the Building Official/Director approves development applications in accordance with the Code and adopted polices, and not on the possibility that a building or property may be used in an illegal manner in the future. In addition, the Building Official/Director has approved similar development requests on SF-3 zoned property both within the neighborhood and Citywide.

The basis for Director’s determination that the proposed two family residential use that utilizes two separate detached single family residential buildings on the same lot was not based on the geographic location of the site, but on the “...*characteristics of the proposed use...*” as described by the building permit application and associated plans. The City of Austin already limits the height and massing of a proposed land use by applying its site development regulations for each zoning district, and the supplemental regulations applicable to each particular land use. According to the Building Official, the proposed

two family residential use meets these zoning regulations and would not prohibit another SF-3 property owner with a similarly sized lot from redeveloping their property with a two family residential use or a single family residence with the same height and massing as the subject tract.

Currently, within the same block as the proposed two family residential use there are other existing single family residential uses that have more building coverage and existing duplex residential uses with greater density (dwelling units per acre), than the subject property. In addition, this particular lot is on the edge of the residential neighborhood and abuts a limited office (LO) and general office (GO) zoning districts that are already developed with multi-story office buildings and a parking garage along its east and a portion of the south property lines.

If you have any questions or need additional information, please contact me at (512) 974-2387.

A handwritten signature in black ink, appearing to read "Gregory Guernsey". The signature is fluid and cursive, with the first name "Gregory" and last name "Guernsey" clearly distinguishable.

Gregory Guernsey, AICP, Development Services Manager
Neighborhood Planning and Zoning Department

- **This is an appeal of a two-family residential use and not a duplex residential use.** A previous BOA appeal on the same property involved a duplex use.
- **Under the current Land Development Code, a two-family residential use is defined as “...the use of a lot for two dwelling units, each in a separate building, other than a mobile home.”** The proposed use is a two-family residential use, comprised of a detached single family home on the front of the lot and a detached garage apartment on the rear of the lot.
- **The current Land Development Code has established a different occupancy limitation for a two-family residential use and a duplex residential use.** A two-family residential use is limited to a total of 6 unrelated persons in a dwelling unit. A duplex residential use (after June 5, 2003) is limited to 3 unrelated persons (18 years of age or older) in a dwelling unit.
- **Under the current Land Development Code, a two-family residential use may have up to six (6) unrelated persons occupying a dwelling unit. Therefore, the maximum number of unrelated persons on a lot occupied by a two-family residential use is 12.**
- **Under the current Land Development Code, the specific number of bedrooms on a lot occupied by a two-family residential use is not limited.** Nor are the specific number of bedrooms limited on a lot occupied by either a single family (home) residential use or a single family attached residential use. Nor does the Land Development Code limit the specific number of bedrooms on site occupied by a townhouse, condominium or multifamily residential use.
- **The proposed two-family residential use will comply with the same family residence (SF-3) district site development standards as any other single family (home) residential use within the same block with respect to the maximum building height, minimum setbacks, maximum building coverage, maximum impervious cover and off-street parking per dwelling unit.**
- **Under the current Land Development Code, a two family residential use next door to a single family residence is not subject to “compatibility standards.”** Nor is a single family (home) residential use or single family attached residential use next door to a single family residence subject to “compatibility standards.”
- **The City does not arbitrary approve or deny building permits for a two-family residential use or any other use on the motives of an applicant filing for a permit or on the opinions expressed by other individuals on a particular permit application.** This does not mean City will ignore illegal actions of applicant if they occur in the future or in the past, only that they are not relevant to determining the classification of a particular land use under the Land Development Code.

DAVID C. MATTAX
808 EAST 32ND STREET
AUSTIN, TEXAS 78705
Tel. 512.499.9486
Fax 512-499-0484
DMATTAX@austin.rr.com

October 20, 2003

Board of Adjustment
505 Barton Springs Road, Room 500
Austin, Texas

Re: File Number C15-03-106
3207 Hampton Road

Dear Members of the Board of Adjustment:

Once again the Board is called upon to properly interpret § 25-2-3 (B) (4) of the Land Development Code (LDC). In the previous interpretation of the LDC, the Board determined that a proposed duplex use of the property with two six bedroom units was not a permissible use in property zoned SF-3. The Neighborhood Planning and Zoning Department Director erroneously interpreted the LDC to mean that a property that fell within the Group Residential use definition of § 25-2-3 (B) (4), a use not permitted in SF-3, was nevertheless acceptable because it was also a Duplex Residential use under § 25-2-3 (B) (3). The Board rejected this interpretation and found that the City Staff incorrectly or incompletely interpreted the LDC "in concluding that a duplex containing six or more bedrooms per dwelling unit maintain single family neighborhood characteristics and should not be classified as group residential." (A copy of the Board's Decision Sheet is attached for the Board's convenience.)

Now, the City Staff had made the identical error, despite the decision of the Board. The current proposed development is for a six-bedroom home with a two-bedroom garage apartment. City Staff thinks this is acceptable as a Two-Family Residential use under § 25-2-3 (B) (13). (A copy of the relevant Zoning Uses section of the LDC is attached for the Board's convenience.) Although the proposed reduction from twelve unrelated individuals living on the property, as originally proposed, to eight unrelated individuals, as the current plan

supposedly calls for, is an improvement to the earlier proposal, the new proposed use is still a Group Residential use not permitted in SF-3.¹

If more than six unrelated individuals are going to occupy a site, then by definition, the use is Group Residential. The City Staff, however, has said the use classification is Two-Family Residential, and limited the Board's previous decision to only duplexes. But that reasoning makes no sense. Just as the definition of Duplex Residential does not take precedence over the application of the Group Residential use, neither does the Two-Family Residential use. Because as proposed the site will be occupied by more than six unrelated persons, by definition it should have been classified as a Group Residential use. Accordingly, in conformance with the previous decision of the Board, we respectfully request that you apply your previous decision to the proposed development and find that the use of a lot for two dwelling units that will be occupied by more than six unrelated individuals is a Group Residential use.

Sincerely,



David C. Mattax

cc: Ara Merjanian

¹ Although the plan calls for a total of eight unrelated individuals to occupy the site, in conversations with the neighbors, the developers refused to guarantee that only eight unrelated individuals would actually occupy the site. It could be ten, or even the twelve unrelated individuals already rejected by this Board.

CITY OF AUSTIN
BOARD OF ADJUSTMENT/SIGN REVIEW BOARD
DECISION SHEET

____ Herman Thun ____ Barbara Aybar ____ Frank Fuentes ____ Betty Edgemond
Chair Vice-Chair
____ Laurie Virkstis ____ Dorothy Richter ____ Leane Heldenfels ____ Wanda Penn

DATE: April 14, 2003

CASE NUMBER: C15-03-0²75

APPLICANT: Ara Merjanian

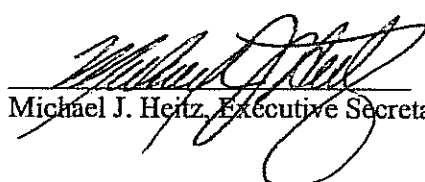
ADDRESS: 3207 Hampton Road

Interpretation
VARIANCE REQUESTED: A reconsideration of the Board of Adjustment's denial of an appeal of an interpretation of the Land Development Code as applied to an administrative approval for the construction of a duplex at 3207 Hampton Road. The appellant requests that the Board reconsider the denial and approve the appeal because the Board erred in its determination.

BOARD'S DECISION: On a vote of 4-1 the Board granted the Applicant's appeal agreeing with the Applicant's interpretation of sections 25-2-57, and 25-2-3 (B) (3) and (B) (4) of the City Code.

FINDING:

1. There is a reasonable doubt or difference of interpretation as to the specific intent of the regulations; the City staff incorrectly or incompletely interpreted sections 25-2-57 and 25-2-3 (B) (3) and (B) (4) in concluding that a duplex containing 6 or more bedrooms per dwelling unit maintain single-family neighborhood characteristics and should not be classified as group residential.
2. Upholding the appeal will correct a prohibited design, scale, and use which would then allow for a use, which is in character with the uses enumerated for the various zones and with the objectives enumerated for Single Family 3 zoning districts, the zoning district in question.
3. Upholding the appeal will not grant a special privilege to one party inconsistent with other properties or uses similarly situated. In fact, the current permit allowing the construction of a duplex with more than 6 bedrooms per dwelling unit grants special privileges by allowing development that is out of character and incompatible with single-family neighborhood standards for Single Family 3 zoning districts as well as existing designs, scales, and uses.


Michael J. Heitz, Executive Secretary


Herman Thun, Chairman

ARTICLE 1: ZONING USES

§ 25-2-1 USE CLASSIFICATIONS.

This article describes and classifies uses in the zoning jurisdiction. The major use categories are residential, commercial, industrial, civic, and agricultural.

Source: Sections 13-2-2 through 13-2-6.

§ 25-2-2 DETERMINATION OF USE CLASSIFICATION.

(A) The Director of the Neighborhood Planning and Zoning Department shall determine the appropriate use classification for an existing or proposed use or activity.

(B) In making a determination under this section, the Director of the Neighborhood Planning and Zoning Department shall consider the characteristics of the proposed use and the similarities, if any, of the use to other classified uses.

(C) An interested party may appeal a determination of the Director of the Neighborhood Planning and Zoning Department under this section to the Board of Adjustment.

(D) The Director of the Neighborhood Planning and Zoning Department shall notify the Planning Commission and the Zoning and Platting Commission of the filing of an appeal within 30 days of the filing, and of the disposition of the appeal within 30 days of disposition.

(E) The Director of the Neighborhood Planning and Zoning Department shall maintain a list of determinations made under this section.

Source: Section 13-2-7; Ord. 010329-18; Ord. 010607-8.

§ 25-2-3 RESIDENTIAL USES DESCRIBED.

(A) Residential uses include the occupancy of living accommodations on a nontransient basis. Residential uses exclude institutional living arrangements providing 24-hour skilled nursing or medical care and those providing forced residence, including mental hospitals and prisons.

(B) Residential use classifications are described as follows:

(1) **BED AND BREAKFAST RESIDENTIAL** use is the use of a residential structure to provide rooms for temporary lodging for overnight guests on a paying basis.

(2) **CONDOMINIUM RESIDENTIAL** use is the use of a site for attached or detached condominiums, as defined in the Texas Property Code.

(3) **DUPLEX RESIDENTIAL** use is the use of a site for two dwelling units within a single building, other than a mobile home.

(4) **GROUP RESIDENTIAL** use is the use of a site for occupancy by a group of more than six persons who are not a family, on a weekly or longer basis. This use includes fraternity and sorority houses, dormitories, residence halls, and boarding houses.

(5) **MOBILE HOME RESIDENTIAL** use is the use of a site for occupancy of mobile homes on a weekly or longer basis. This use includes mobile home parks and mobile home subdivisions.

(6) **MULTIFAMILY RESIDENTIAL** use is the use of a site for three or more dwelling units, within one or more buildings, and includes condominium residential use.

(7) **RETIREMENT HOUSING (LARGE SITE)** use is the use of a site for more than 12 dwelling units designed and marketed specifically for the elderly, the physically handicapped, or both.

(8) **RETIREMENT HOUSING (SMALL SITE)** use is the use of a site for 3 to 12 dwelling units designed and marketed specifically for the elderly, the physically handicapped, or both.

(9) SINGLE-FAMILY ATTACHED RESIDENTIAL use is the use of a site for two dwelling units, each located on a separate lot, that are constructed with common or abutting walls or connected by a carport, garage, or other structural element.

(10) SINGLE-FAMILY RESIDENTIAL use is the use of a site for only one dwelling unit, other than a mobile home.

(11) SMALL LOT SINGLE-FAMILY RESIDENTIAL use is the use of a small lot in an SF-4A district for only one detached dwelling unit, other than a mobile home.

(12) TOWNHOUSE RESIDENTIAL use is the use of a site for townhouses.

(13) TWO-FAMILY RESIDENTIAL use is the use of a lot for two dwelling units, each in a separate building, other than a mobile home.

Source: Section 13-2-2; Ord. 990520-38.

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- 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;
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Case Number: C15-2010-0042 – 1915 A David Street
Contact: Susan Walker, (512) 974-2202
Public Hearing: Board of Adjustment, June 14, 2010

HELL CHERISE GUERMAN-STALLE
 Your Name (please print)

☐ I am in favor
☒ I object

1110 W 22ND ST. #10
 Your address(es) affected by this application

Kelly Louise Callahan Stalle 6/8/10
 Signature Date

Daytime Telephone: 512.992.9050

Comments: _____

If you use this form to comment, it may be returned to:

City of Austin-Planning & Development Review Department/ 2nd Floor
 C/O Susan Walker
 P. O. Box 1088
 Austin, TX 78767-8810

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Contact: Susan Walker, (512) 974-2202
Public Hearing: Board of Adjustment, June 14, 2010

Nicholas W. Classen
Your Name (please print)

<input checked="" type="checkbox"/> I am in favor
<input type="checkbox"/> I object

1900 + 1901 David St.
Your address(es) affected by this application

Nicholas W. Classen
Signature

Date

Daytime Telephone: 346-3123/567-1282

Comments: You need to be sending these notices to Dr. Robert Crumb at 1900 and Noel Kirlin at 1901. I have not owned these properties since Aug. 2009 and May 2009, respectively.

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Case Number: C15-2010-0042 – 1915 A David Street

Contact: Susan Walker 974-2202

Public Hearing:

Board of Adjustment, May 5, 2010

Joe Deane's Office

Your Name (please print)

1915 DORRIS BLVD

Your address(es) affected by this application

Joe Deane's Office

4-23-10

Signature

Date

Daytime Telephone: *454-2987*

Comments: *I am NOT sure I understand*

what the applicant is seeking.

My wife is that the neighborhood

is as much of its original

character as possible. I would think the

family use (no more) is appropriate.

Thank you.

If you use this form to comment, it may be returned to:

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C/O Susan Walker

P. O. Box 1088

Austin, TX 78767-8810

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Case Number: C15-2010-0042 – 1915 A David Street

Contact: Susan Walker, (512) 974-2202

Public Hearing: Board of Adjustment, June 14, 2010

Ted Teld
Your Name (please print)

☒ I am in favor
☐ I object

1908 Cliff St.
Your address(es) affected by this application

Ted Teld
Signature

6-9-10
Date

Daytime Telephone: 320-0351

Comments: Please accept this request for reconsideration and clarify to staff that the structures on 1915 David cannot be remodelled - The demolition prevents that through the present or any future set of building plans. Thank you

If you use this form to comment, it may be returned to:

City of Austin-Planning & Development Review Department/ 2nd Floor

C/O Susan Walker

P. O. Box 1088

Austin, TX 78767-8810

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Case Number: C15-2010-0042 – 1915 A David Street
Contact: Susan Walker, (512) 974-2202
Public Hearing: Board of Adjustment, June 14, 2010

NIRAV V. PATEL

Your Name (please print)

☒ I am in favor
☐ I object

1911 CLIFF ST. APT 2 ATX 78705

Your address(es) affected by this application

[Signature]

Signature

06.09.10

Date

Daytime Telephone: 512/468-8201

Comments: I AM IN FAVOR OF THE RECONSIDERATION
FILED BY KAREN MCGRAW DUE TO THE DEGREE
OF THE DEMOLITION, THE STRUCTURES CAN NOT
BE REMODELED.

If you use this form to comment, it may be returned to:

City of Austin-Planning & Development Review Department/ 2nd Floor
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Case Number: C15-2010-0042 – 1915 A David Street

Contact: Susan Walker, (512) 974-2202

Public Hearing: Board of Adjustment, June 14, 2010

Alfred Wilson Nolle
Your Name (please print)

☒ I am in favor
☐ I object

1910 David St.
Your address(es) affected by this application

Alfred Wilson Nolle June 9, 2010
Signature Date

Daytime Telephone: 478-1784

Comments: I am in favor of the
reconsideration filed by
Karen McGraw.
Structures no longer stand
on the site following demolition.
Remodeling is not possible.

If you use this form to comment, it may be returned to:

City of Austin-Planning & Development Review Department/ 2nd Floor

C/O Susan Walker

P. O. Box 1088

Austin, TX 78767-8810

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Case Number: C15-2010-0042 – 1915 A David Street

Contact: Susan Walker, (512) 974-2202

Public Hearing: Board of Adjustment, June 14, 2010

FEU HEAR & LARAW 21A1
Your Name (please print) _____

1010 W 22ND 78705

Your address(es) affected by this application _____

S Walker
Signature _____

6.8.10
Date _____

Daytime Telephone: 512 469 9317

Comments: *DOE TO DEGREE OF DEMACMAN, STRUCTURES ON THE SITE CANNOT BE REMODELED.*

★ IN FAVOR OF RECOMMENDATION
FILED BY KAREN MCKINNAW

If you use this form to comment, it may be returned to:

City of Austin-Planning & Development Review Department/ 2nd Floor

C/O Susan Walker

P. O. Box 1088

Austin, TX 78767-8810

<input checked="checked" type="checkbox"/> I am in favor <input type="checkbox"/> I object

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Case Number: C15-2010-0042 – 1915 A David Street
Contact: Susan Walker, (512) 974-2202
Public Hearing: Board of Adjustment, June 14, 2010

Ronald M. Sawyer

Your Name (please print) (V.P. of Original West University Neighborhood

1202 W. 22^{1/2} Association)

Your address(es) affected by this application

<input checked="checked" type="checkbox"/> I am in favor
<input type="checkbox"/> I object

Due to the degree of demolition, the structures cannot be remodelled

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Case Number: C15-2010-0042 – 1915 A David Street

Contact: Susan Walker, (512) 974-2202

Public Hearing: Board of Adjustment, June 14, 2010

Your Name (please print)

1914 DAVID STREET

Your address(es) affected by this application

Susan Walker

Signature

Date

Daytime Telephone: 512.917.8778

Comments: *IF YOU LOOK AT THE PHOTOS OF THE SITE,*

YOU CAN SEE THE DEMONSTRATION THAT HAS OCCURRED,

THIS IS NOT A REMODEL. CUNLE HAS

NOT BEEN HONEST ABOUT WHAT IS PLANNED

FOR THE SITE. THERE ARE AGENTS THAT WANT

BE USED AS BED ROOMS BUT ARE NOT LABELED

AS SUCH. THEREFORE THE ROOMS DO NOT MEET

LIFE SAFETY REQUIREMENTS.

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City of Austin-Planning & Development Review Department/ 2nd Floor

C/O Susan Walker

P. O. Box 1088

Austin, TX 78767-8810

☒ I am in favor
☐ I object

PUBLIC HEARING INFORMATION

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Case Number: C15-2010-0042 – 1915 A David Street
Contact: Susan Walker, (512) 974-2202
Public Hearing: Board of Adjustment, June 14, 2010

BEVERLY LEWELLEN

Your Name (please print)

1012 WEST 22ND

Your address(es) affected by this application

Bruce Jewell

Signature

6/6/10
Date

Daytime Telephone: 471-0501

Comments: How the city can even extend this in a remodel is beyond me! This project should not move forward.

☐ I am in favor
☐ I object

All development in that area recently approved appears to be in violation of density aimed at historic, which means density is being "built" with cars blocking sidewalks, morning and night, and sometimes deliveries with included noise and included crime. Please consider, if you use this form to comment, it may be returned to: not asking density City of Austin-Planning & Development Review Department 2nd Floor C/O Susan Walker P. O. Box 1088 Austin, TX 78767-8810

with insufficient parking since you have already approved high-rise apartments and condos.

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Contact: Susan Walker, (512) 974-2202

Public Hearing: Board of Adjustment, June 14, 2010

Gillian Barksdale

Your Name (please print)

1912 David St. Austin, TX 78705

Your address(es) affected by this application

Gillian Barksdale

Signature

6/8/10

Date

Daytime Telephone: (619) 890-6967

Comments: Due to the degree of demolition the structure on the site cannot be remodeled.

If you use this form to comment, it may be returned to:

City of Austin-Planning & Development Review Department/ 2nd Floor

C/O Susan Walker

P. O. Box 1088

Austin, TX 78767-8810

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Contact: Susan Walker, (512) 974-2202
Public Hearing: Board of Adjustment, June 14, 2010

ALVIN A. NICKEL

Your Name (please print)

☒ I am in favor
☐ I object

1911 CLIFF ST. Apt. 1

Your address(es) affected by this application

AUSTIN, TX. 78705

Alvin A. Nickel June 9, 2010

Signature

Date

Daytime Telephone: 476-4529

Comments:

I am in favor of the
reconsideration filed by
Karen McGraw. Due to the
degree of the demolition -
the structure can not be
remodeled - there is nothing left
to remodel.

If you use this form to comment, it may be returned to:

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P. O. Box 1088
Austin, TX 78767-8810

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Contact: Susan Walker, (512) 974-2202

Public Hearing: Board of Adjustment, June 14, 2010

John Bardsdale
Your Name (please print)

1912 David Street
Your address(es) affected by this application

[Signature]
Signature

6/8/10
Date

(512) 788-1741
Daytime Telephone

Comments: Due to the degree of
demolition the structures
on the site cannot
be remodelled.

☒ I am in favor
☐ I object

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C/O Susan Walker

P. O. Box 1088

Austin, TX 78767-8810

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Contact: Susan Walker, (512) 974-2202
Public Hearing: Board of Adjustment, June 14, 2010

Carl Richichi
Your Name (please print)

☒ I am in favor
☐ I object

2202 Longview St Austin, TX 78705
Your address(es) affected by this application

[Signature]
Signature

06/10/2010
Date

Daytime Telephone: 512-689-7204

Comments: I am in favor of the reconsideration
filed by Karen McLean. Due to the
degree of demolition, the structure on the
site cannot be remodeled.

If you use this form to comment, it may be returned to:
City of Austin-Planning & Development Review Department/ 2nd Floor
C/O Susan Walker
P. O. Box 1088
Austin, TX 78767-8810

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Case Number: C15-2010-0042 – 1915 A David Street

Contact: Susan Walker, (512) 974-2202

Public Hearing: Board of Adjustment, June 14, 2010

Karie League
Your Name (please print)

1305 W 22nd St
Your address(es) affected by this application

☐ I am in favor
☒ I object

[Signature]
Signature

6/16/10
Date

Daytime Telephone: 512 296 6728

Comments: The degree of demolition to the

property is not consistent with the rule
of thumb used by the city to designate
remodel status. Also, the property has
never had 12 unrelated people, so
grandfathering this occupancy doesn't
make sense. This is an SF-3 single
family neighborhood, not group residential

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P. O. Box 1088

Austin, TX 78767-8810

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Contact: Susan Walker, (512) 974-2202
Public Hearing: Board of Adjustment, June 14, 2010

Joe Donahue Hirsch

Your Name (please print)

1918 BOARDS PLACE

Your address(es) affected by this application

Joe Donahue Hirsch

Signature

Date

Daytime Telephone: *454-2987*

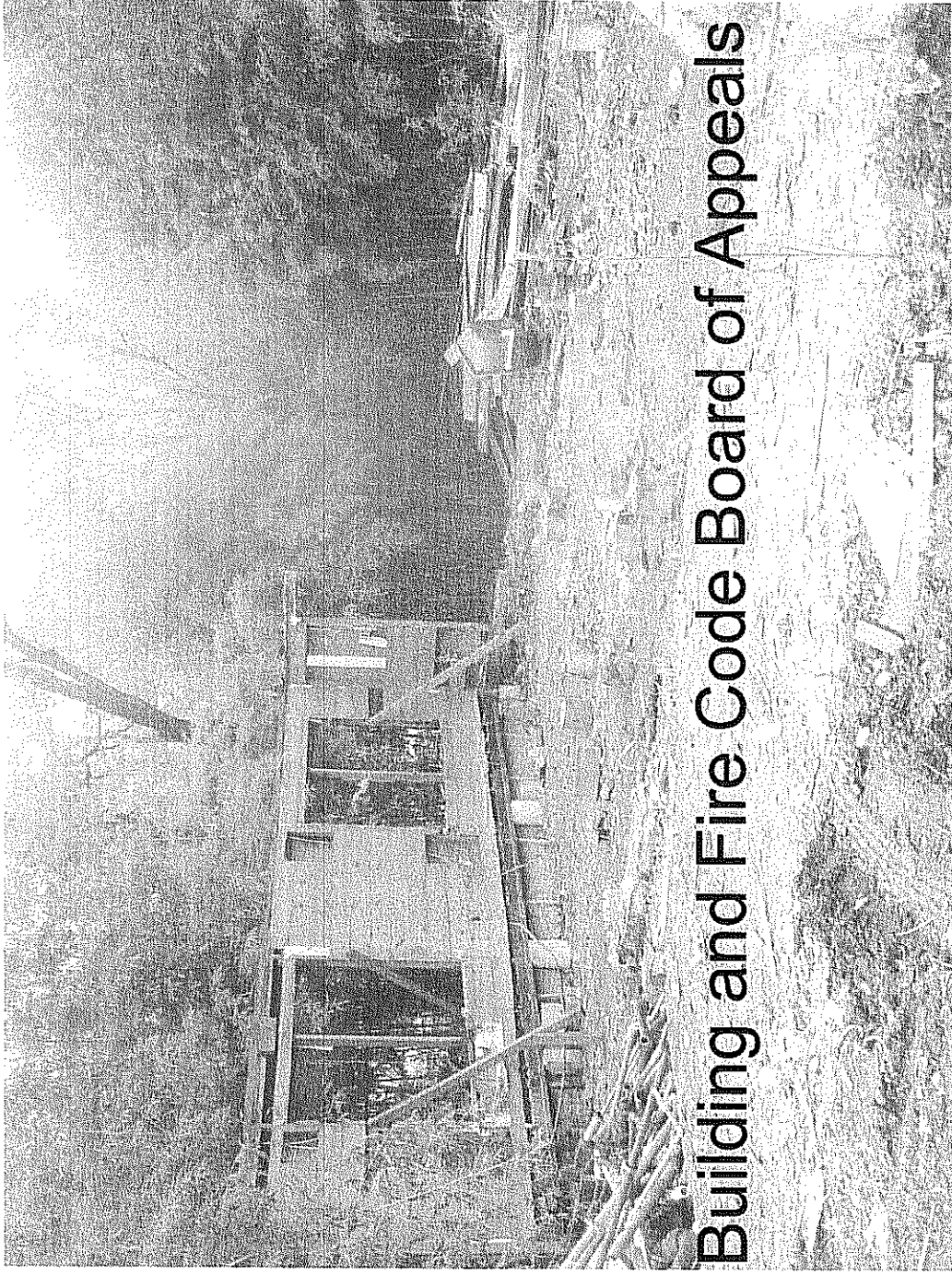
Comments:

*I BELIEVE THIS ZONING
STILL BE STILL IN
LAW. I WOULD LIKE TO
SEE THE BOARD AND
THE CITY EXPLORE, OR
DISCUSS, THE
MAYBE*

If you use this form to comment, it may be returned to:

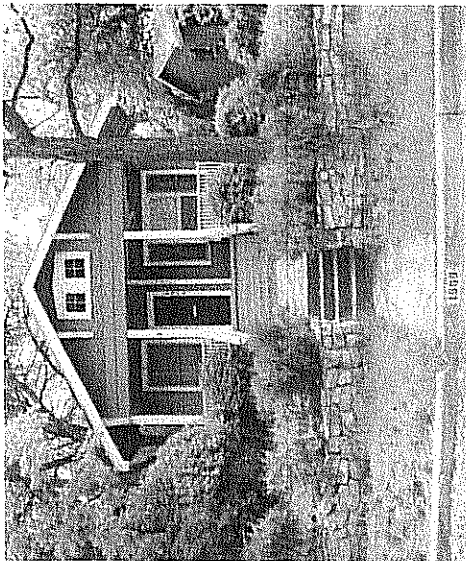
City of Austin-Planning & Development Review Department/ 2nd Floor
C/O Susan Walker
P. O. Box 1088
Austin, TX 78767-8810

☐ I am in favor
☒ I object



Building and Fire Code Board of Appeals

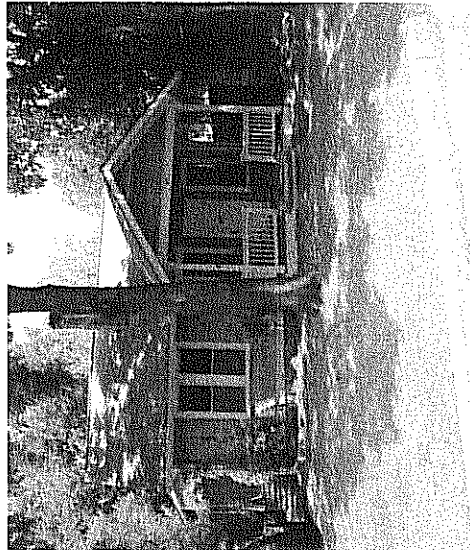
1915 David Street



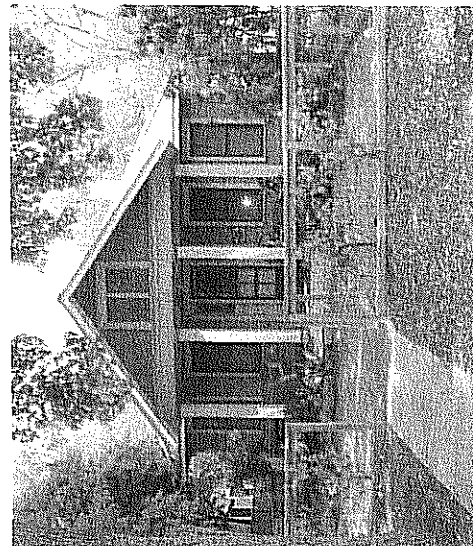
1909 David Street



1910 David Street



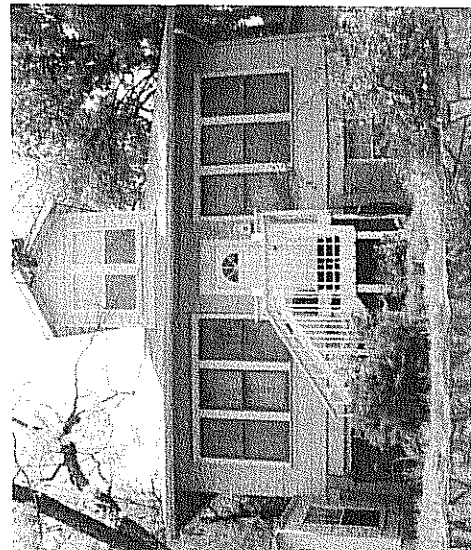
1912 David Street



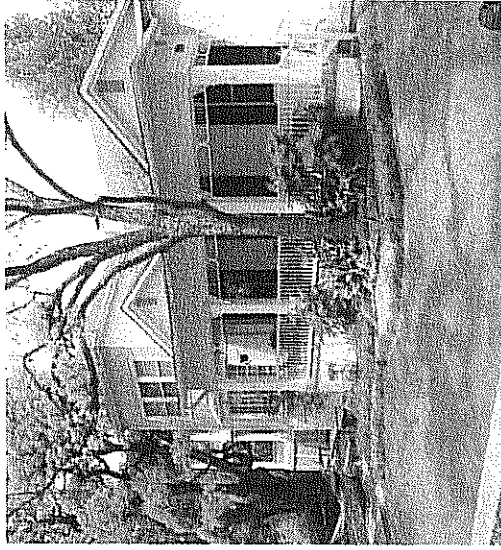
1914 David Street



1916 David Street



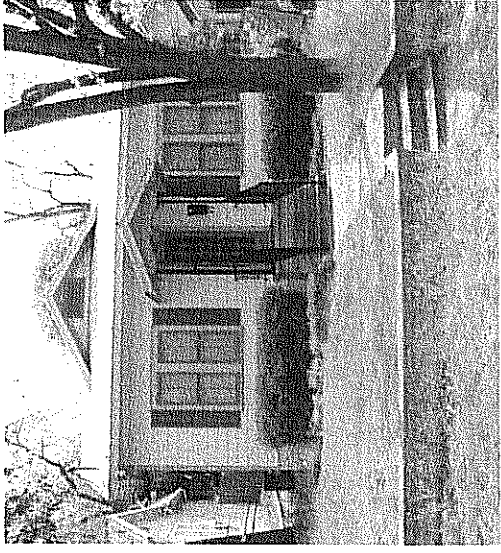
1107 22nd Street
Across From 1916 David



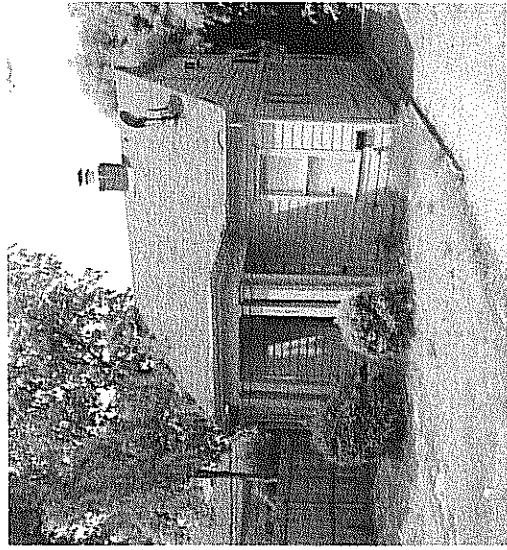
1900 David Street



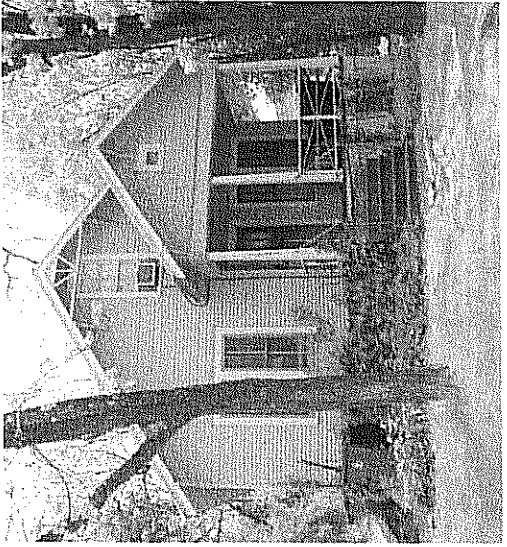
1901 David Street



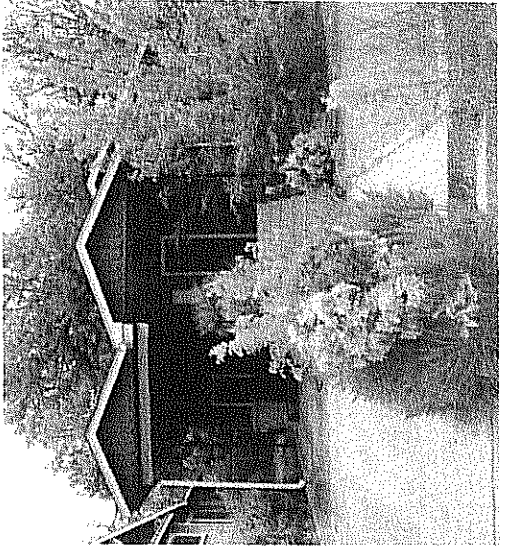
1903 David Street



1902 David Street



1905 David Street



1907 David Street

What Gets Grandfathered

	Remodel	New Construction	Result
Occupancy Limits	$6+6=12$ unrelated adults	$4+2=6$ unrelated adults	Most detrimental to neighborhood and greatest financial reward to applicant
Size of Garage Apartment Allowed	1700 sq ft	850 sq ft	Violates existing two-family residential definition and facilitates greater occupancy
Parking Requirements	Only 1 parking space	At least 3 parking spaces	Only one parking space for 12 unrelated adults

Correct Interpretations

- 1) An occupancy limit of 12 was never intended and cannot be grandfathered per Board of Adjustment ruling April 14, 2003 so the OCCUPANCY LIMIT is 6 unrelated adults for the site for all SF-3 uses.
- 2) When grandfathering occupancy through 25-2-511, new rooms meeting the provided criteria, must be acknowledged to be BEDROOMS and will trigger the occupancy limit of 6 unrelated adults per site in Section 25-2-511 (A) (3).