

APPLICATION TO BOARD OF ADJUSTMENT
GENERAL VARIANCE/PARKING VARIANCE

C15-2010-0149

WARNING: Filing of this appeal stops all affected construction activity.

ROW-10525012

TP-0226100112

PLEASE:
APPLICATION MUST
BE TYPED WITH ALL
REQUESTED
INFORMATION
COMPLETED.

STREET ADDRESS: 5805 Duval Street

LEGAL DESCRIPTION: Subdivision - Skyview

Lot(s) 5805 Block 5800 Duval Outlot
Division Skyview

I/We Matthew P. Franklin on

behalf of myself/ourselves as authorized agent for

11/17/2010 affirm that on

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

(check appropriate items below)

ERECT ATTACH COMPLETE REMODEL MAINTAIN

8 foot fencing on south (side) and rear (east) border of property

in a residential district.
(zoning district)

SF-3-NP

the island
neighborhood
Plan

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

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:

My case deserves consideration because of the elevated train tracks behind property and I am also protecting neighbor from eye hazards in my backyard.

HARDSHIP:

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

For the following reasons I would like to keep my 8 foot fencing.

1. Increased security and privacy. The rear property line borders the railroad track. This is used frequently by light rail during the day, freight trains at night and pedestrians at all hours. Because the tracks are elevated approximately three feet, riders and pedestrian traffic can easily see over a fence at 6 feet. Foot traffic through my yard and theft were problems previous to erecting the fence. At the eight foot level, a pedestrian cannot see into my yard from the track level a person also has a much harder time climbing an 8 foot fence. I have had no problems since erecting the fence
2. Light pollution. Behind my house on the other side of the tracks are 2 businesses located on the 5800 block of airport. The parking for both Hoovers and Ms. Bairds bakery is on the west side (rear) of their property pointing west. Previous to erecting the fence, car lights shined straight into my bedroom window at very early and late hours. The Late night freight trains also have bright lights. The 8-foot fence on the south side provides more protection from the locomotive light.
3. Shelters my neighbor from view of my rv. (Eyesore) The 8-foot fence on the south side of my house conceals the view of my 30-foot Airstream trailer from my neighbor Mary Fad at 5803 Duval Street. With the fence at the 8-foot level she cannot see it from her backyard. Approval from Mary Fad was acquired previous to building the fence.

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(b) The hardship is not general to the area in which the property is located because:
I am located on a property that borders the railroad track

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:

Permission was granted by effected neighbor Mary Fad, previous to building the fence.

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:

Does not apply

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:

Does not apply

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

It will not

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

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 Matt Frand Mail
Address 5805 Duval St.

City, State & Zip Austin
Austin Texas 78752

Printed _____ Phone 512 762-

5770

Date 11/17/2010

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 _____

City, State & Zip 5805 Duval Street Austin Texas
78752

Printed _____ Phone 512 762 5770 _____ Date
11/17/2010

GENERAL INFORMATION FOR SUBMITTAL OF A VARIANCE REQUEST TO THE BOARD OF ADJUSTMENT

(The following is intended to provide assistance in explaining the variance process. These suggestions are not intended to be a complete or exhaustive guide in assisting you through this process.)

VARIANCE REQUIREMENTS:

General Requirements:

- A. A variance may be granted if, because of special circumstances of a property, the strict application of the Land Development Code regulations deprives the property owner of privileges that are enjoyed by another person who owns property in the area that has the same zoning designation as the property for which the variance is requested.
- B. A variance to a regulation may not grant special privileges that are inconsistent with the limitations on other properties in the area or in the district in which the property is located.

SUBMITTAL REQUIREMENTS: (Failure to complete the application or to submit all the required materials will result in non-acceptance of the application.)

- (1) A completed application indicating all variances being requested. An application must include proposed findings that will support requested variances. The required findings must address each variance being sought.
- (2) A site plan to scale indicating present and proposed construction and location and use of structures on adjacent lots.
- (3) A tax plat with subject property clearly marked indicating property within a 500-foot radius. These are available from the Travis Central Appraisal District at 8314 Cross Park Drive (834-9138).
- (4) Check made payable to the City of Austin for the Board of Adjustment application fee. (Residential zoning - \$360. All other zonings - \$660.)
- (5) Other Information – Although the following is not a requirement of submittal you may wish to include additional information that may assist the Board in making an informed decision regarding your request such as: photos of the site or visual aids to support the request, letters from the neighborhood association(s) etc. Any additional information you wish to submit must be in our office one week prior to the meeting. The Board will receive a packet with all information that has been submitted on the Thursday prior to the meeting.
- (6) Austin Energy approval

Variances approved by the Board are limited to and conditioned upon the plans and specifications presented by the applicants, except as modified by the Board.

REQUIRED FINDINGS: All variance findings must be met in order for the Board to grant a variance. An application must include proposed findings that will support the requested variance. Incomplete applications will not be accepted.

Reasonable Use:

Application must demonstrate to the Board how the zoning regulations applicable to the property do not allow for a reasonable use of the property. [Note: The Board cannot approve a variance for a use that is not allowed in the zoning district in which the property is located. This requires a change in zoning.]

Hardship:

- a. Application must demonstrate to the Board how the hardship for which the variance is requested is unique to the property. Hardship should be specific to the property for which the variance is being requested. (For example, topography, lot configuration, or any physical constraint that would limit the placement of the structure or prevent compliance with required site development regulations, etc.) A strictly financial or personal reason is not a valid hardship.
- b. Application must demonstrate to the Board why the hardship is not general to the area in which the property is located. Describe how the hardship relating to the site is different from other properties in the area.

Area Character:

Application must demonstrate to the Board how 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 zoning regulations of the zoning district in which the property is located.

NOTE: Parking variances require additional findings to be made. The additional findings are listed on the application and must also be completed for submittal of the application.

Board of Adjustment Staff:

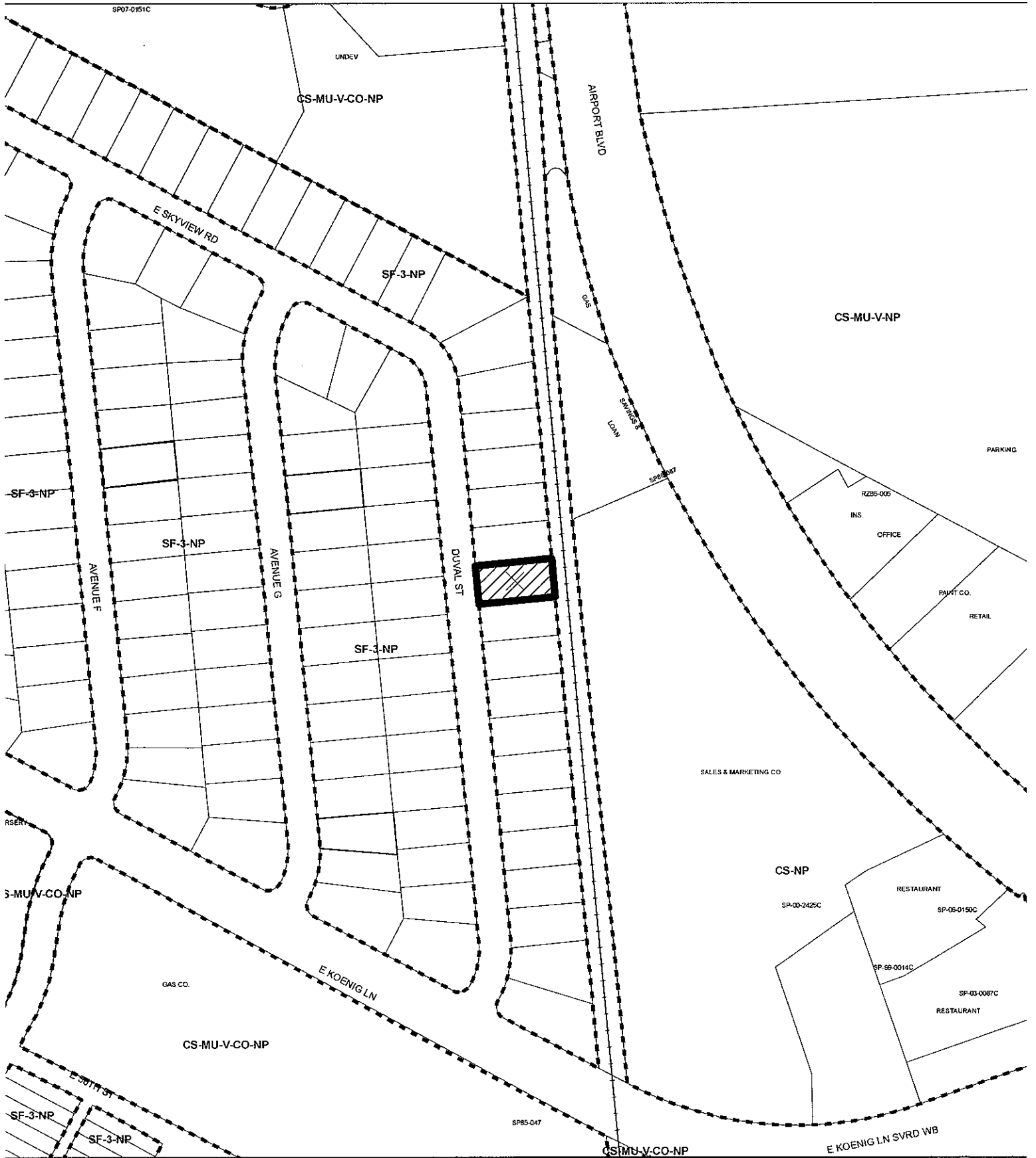
**Susan Walker, Planner
974-2202**



**Diana Ramirez, Administrative Specialist, Board
Secretary
974-2241**

Fax #974-6536

**Watershed Protection and Development Review Department
One Texas Center
505 Barton Springs Road, 2nd Floor**

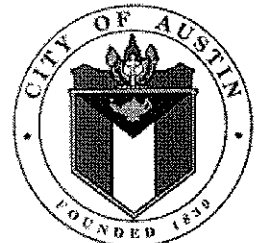
**Mailing Address:
P. O. Box 1088
Austin, TX 78767-1088**



-  SUBJECT TRACT
-  ZONING BOUNDARY

BOARD OF ADJUSTMENTS

ZONING CASE#: C15-2010-0149
 LOCATION: 5805 DUVAL ST.
 GRID: K27
 MANAGER: S. WALKER



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.

To Whom It May Concern:

November 19, 2010

Previous to the erection of the 8 foot fence between our properties, (5805 and 5803), I agreed with Matt Franklin on the decision to build the fence at the 8 foot level. I appreciate that the fence at this level provides more privacy and visual protection from eyesore (30 foot rv trailer) items in his yard. The fence has been up for approximately 4 years and I do not have a problem with the city granting a variance for the existing 8 foot fence between our properties.



Mary Fad

5803 Duval St.

Austin Texas 78752

(512) 484-9366

