

15-2011-0014
ROW-10540373
TP-0222070203

CITY OF AUSTIN
APPLICATION TO BOARD OF ADJUSTMENT
INTERPRETATIONS
PART I: APPLICANT'S STATEMENT
(Please type)

STREET ADDRESS: 4605 Avenue B

LEGAL DESCRIPTION: Subdivision -
Hyde Park Annex

Lot (s) 4 Block 8 Outlot _____ Division _____

ZONING DISTRICT: SF3-NCCD-NP

I/WE Mity Myhr Clay on behalf of myself/ourselves as authorized

Agent for _____ affirm that on _____

Day of 20, 2011, hereby apply for an interpretation hearing before the Board of Adjustment.

Planning and Development Review Department interpretation is:

Two driveways are permitted in front of the home.

Carports are permitted on the front of the house.

I feel the correct interpretation is:

"Two one-lane driveways are permitted if they are separated by the house." Meaning that one is on side of the house and one is on the other, divided by the entire house. North Hyde Park NCCD Part 6.11.b. This was the interpretation of the City Council when they ruled that a previous permit be rejected, August 29, 2010. In addition, only one driveway counting as parking is permitted per Part 6.11.d (iii). A required or excess parking space may not be located in the street yard except that 25% of the width of a front yard or maximum of 20 feet, may be used for not more than two required parking spaces" 25% of the 50' width is 12.5 feet width limit for a single driveway that counts as parking.

"Pedestrian-oriented uses. Car ports are not permitted on the front of the building. North Hyde Park NCCD Part 6.1.

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.

1. There is a reasonable doubt of difference of interpretation as to the specific intent of the regulations or map in that: The city is interpreting the code differently from its intent and from the specific language. According to the NCCD only one driveway is permitted in the front yard that serves as parking spaces. Or, two driveways are permitted if they are located on either side of the entire building and not in front of the building. As stated above, the City Council agreed with this interpretation last July 29 in its rejection of the original building permit. Car ports are not permitted on the front of the building.

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: _____

These are design issues and a duplex can be designed that meets the codes and is compatible with surrounding properties.

3. The interpretation will not grant a special privilege to one property inconsistent with other properties or uses similarly situated in that: _____

Other area properties generally do not have front garages and carports and do not have two driveways and do not have front yard parking. Granting this permit grants a special privilege to the owner that is inconsistent with other area properties.

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 _____ Printed Mity Myhr Clay

Mailing Address 4528 Avenue B

City, State & Zip Austin, Texas 78751 Phone 512-467-7604

OWNER'S CERTIFICATE – I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Signed _____ Printed _____

Mailing Address 705 Lost Canyon



City, State & Zip Austin, TX 78746 Phone 512-633-2216

Sonathan Kutner Jr.

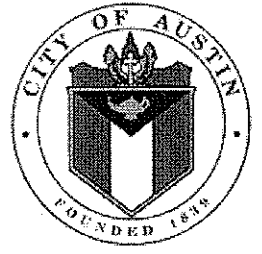


BOARD OF ADJUSTMENTS



-  SUBJECT TRACT
-  ZONING BOUNDARY

CASE#: C15-2011-0014
 LOCATION: 4605 AVENUE B
 GRID: J26, K26
 MANAGER: SUSAN 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.

ROBERT JAMES
4601 AVENUE B
AUSTIN, TX 78751

TUESDAY, JAN 25th, 2011

HAND DELIVERED

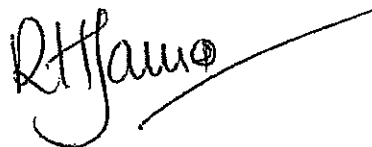
MITY MYHR/CLAY
4528 AVENUE B
AUSTIN, TX 78751

RE BUILDING PERMIT @ 4605 AVENUE B, AUSTIN, TX

DEAR MR McDONALD,

PLEASE ACCEPT THIS AS OUR NOTICE TO APPEAL
THE BUILDING PERMIT FOR A DUPLEX @ 4605 AVENUE
B, AUSTIN, TEXAS. THE PROJECT AS REVIEWED BY US
FOR THE FIRST TIME TODAY DOES NOT MEET THE
REQUIREMENTS OF THE NORTH HYDE PARK MCCD AS
THE TWO DRIVEWAYS ARE ONLY SEPARATED BY PART
OF THE HOUSE.

Yours



ROBERT JAMES

Walker, Susan

From: myhr mitylene [mmyhr99@yahoo.com]
Sent: Tuesday, January 25, 2011 4:42 PM
To: McDonald, John
Cc: Robert James; David Conner; Karen McGraw
Subject: Appeal of 4605 Avenue B

Follow Up Flag: Follow up
Flag Status: Red

Dear John,

Today, January 25, Robert James and I are formally appealing the building permit for 4605 Avenue B.

Mr. James and I have both been accepted as interested parties to this permit because of our proximity to the lot.

We object to the permit because it allows for 2 driveways which are not separated by the entire house. City Council agreed with our interpretation of the NCCD code last summer when it specifically instructed that the "house" in the NCCD code means the entire house. This interpretation is consistent with our neighborhood plan, which sets a context for the NCCD.

I now have a digital copy of the plans, provided to me by Mr. Kutner this afternoon.

As we could find you in person this afternoon, we are filing our appeal both in paper form at your office and by email (4:41pm).

kind regards,
Mity Myhr Clay
4528 Avenue B

233-1677 (office)
284-4942 (cell)



AVENUE C

SUBJECT TRACT

W 46TH ST

CH E



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

From: John M. McDonald, Planner Principal
Planning and Development Review Department

Date: February 9, 2011

Re: An Administrative Appeal Request
Case No. C15-2011-0014.
Property Address: 4605 Avenue B

Ms. Mity Myhr Clay (the "Appellant") has filed an administrative appeal, requesting an interpretation of whether the Planning and Development Review Department Director's determination that: 1) the proposed carport location is located on the ground floor with the ***pedestrian-oriented use** located in front of the parking facility; 2) two curb cuts are allowed and two one-lane driveways are separated by the house (duplex); 3) a required or excess parking space may not be located in the street yard (front yard), is correct. These three areas of regulation are derived from the North Hyde Park Neighborhood Conservation Combining District (NCCD) which was adopted August 18, 2005 and took effect on August 29, 2005.

***Per Section 25-2-691 of the Land Development Code a residential use (duplex residential use) is listed as a pedestrian-oriented use.**

1. *Pedestrian-oriented uses*

Part 6.1. states:

If a parking facility is located on the ground floor of a building, a pedestrian-oriented use or habitable space shall be located at the front of the building on the ground floor.

***Note: A duplex residential use is considered a residential use and a pedestrian-oriented use per the Land Development Code**

The proposed design shows the parking facility (a carport) on the ground floor and behind the front façade of Unit A, which is the front part of the building. Staff feels this section of the ordinance has been met in the proposed design, and the ordinance does not prescribe the distance or length the parking facility needs to be located behind the pedestrian-oriented use. In exhibit A, which is taken from the Hyde Park Design

guidelines that accompanied their NCCD, shows a picture in the bottom right hand corner of an attached carport and driveway sharing an area equal distance from the side property line with a portion of the residential structure.

2. Curb cuts and driveways

Part 6.11.b. states:

Except as otherwise provided in the section, access to a site is limited to one curb cut. Except in the Residential District, a site that has a total of 100 feet of frontage or more may have two curb cuts. In the Residential District, a site may have curb cuts if the site has a total of 100 feet of frontage or more and has two dwelling units or is a through lot. For a duplex use or single-family attached use, a lot that is at least 50 feet wide may have two one-lane driveways that are a maximum of 10 feet wide if they are separated by the house.

The lot for the property in question is 50' wide and a duplex residential use is being proposed. Two one-lane driveways nine feet in width are proposed and they are separated by the duplex building. The applicable requirement for "separated by the house" does not specify where the driveways are located as long as they are separated by the principal structure. In addition, all off street parking spaces are set behind the front facade of Unit A of the duplex building.

3. Parking

Part 6.11.d. (iii). states:

A required or excess parking space may not be located in a street yard except that 25 percent of the width of a front yard or a maximum of 20 feet may be used for not more than two required spaces.

Three off street parking spaces are required for a duplex residential use based on Section 25-6-478 (Reduced Parking in Certain Geographic Areas) of the Land Development Code. All three off street parking spaces dimensions are satisfied behind the front yard setback. See attached exhibit B.

FINDINGS

Staff does not believe there is reasonable doubt or difference of interpretation as to the specific intent of the regulations, because: 1) the proposed carport is not in front of the building and follows the provisions of the NCCD; 2) the language in the NCCD states for a duplex residential use two curb cuts are allowed on a property with a 50' lot width and the driveways are clearly separated by the house (duplex); and 3.) all required off street parking space dimensions are located behind the house and front setback line. Two off street parking space dimensions are met on the left side of the property behind the front setback line and the house. One off street parking space dimension is met on the right side of the property in a carport behind the front of the house (duplex) and front setback line.

Staff believes the use provisions clearly permit the use which is in character with the uses enumerated for the various zones and with the objective of the zone in question because the site is zoned SF-3 which allows for a duplex residential use, the provisions of the North Hyde Park NCCD have been met, site development regulations for an SF-3 zoning district have been met and the site complies with the residential design and compatibility (McMansion) standards.

The interpretation will not grant a special privilege to one property inconsistent with other properties or uses similarly situated in that staff has determined that 1.) the project meets all of the provisions outlined in the North Hyde Park, NCCC for parking facility locations as it relates to pedestrian-oriented uses, 2) the use being proposed for the property is allowed two curb cuts and the two driveways are separated by the house (duplex), and 3.) all off street parking spaces required by code are behind the principal structure and the front setback line.

If you have any questions, please contact me at 974-2728 or by e-mail at john.mcdonald@ci.austin.tx.us .

cc: Greg Guernsey, Director, PDRD
Brent Lloyd, Law Department
Donald Birkner, Assistant Director, PDRD
Kathy Haught, Division Manager, PDRD
Susan Walker, Planner Senior, PDRD

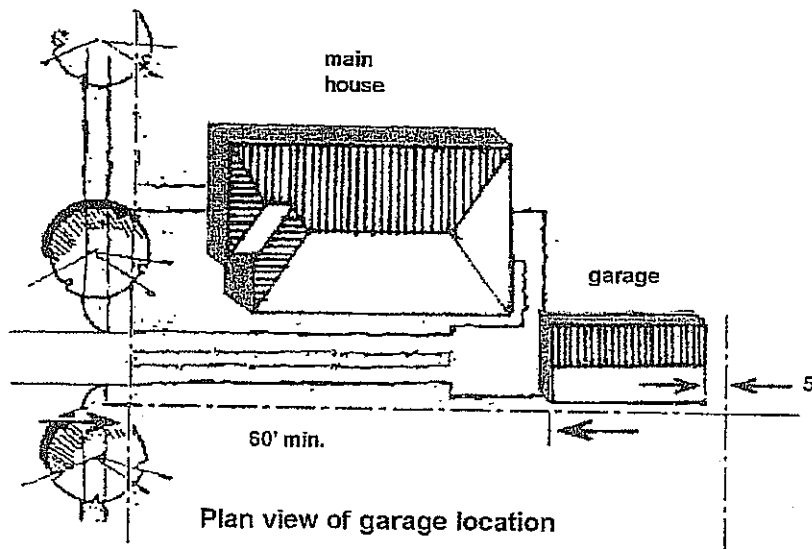
Exhibit A

Residential Guideline 1.8: Garages of a simple design compatible with the house should be set 60 feet from front property line.

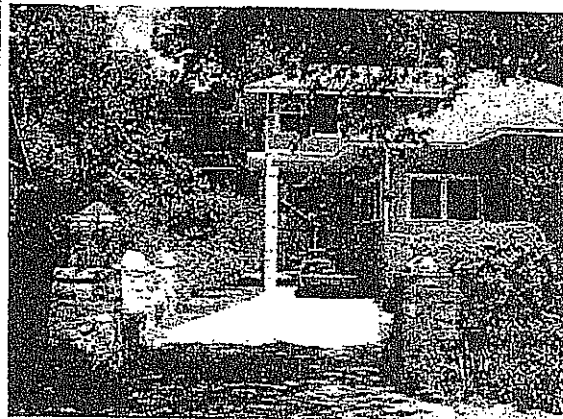
The siding and garage door should match the materials and character of the main house.

The roof should resemble the main house in form, pitch and material.

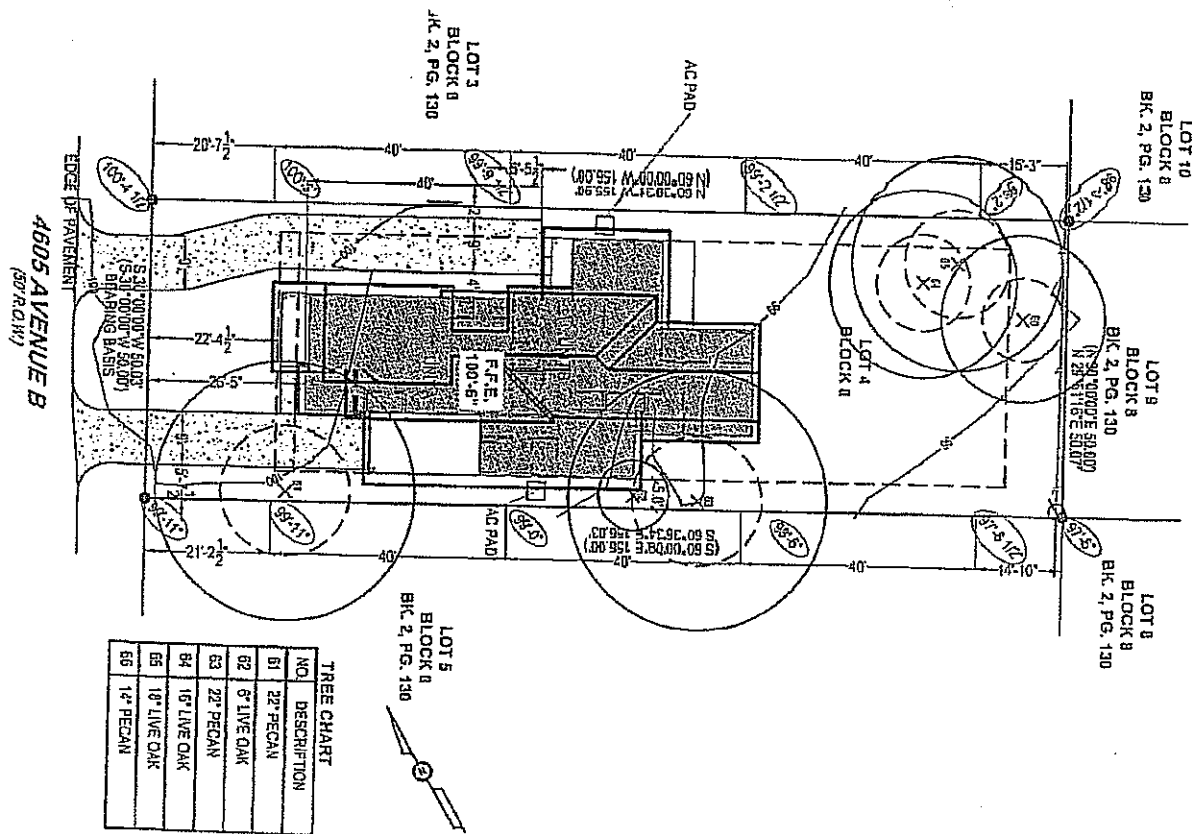
Windows should be clear glass, vertically-oriented, wood-framed and sashed, and be compatible with the main house in terms of sash configuration, proportions, spacing and placement.



The garage is set back at least 60 feet from the front property line.



The attached carport is set back at least 20 feet from the front facade of the house.



TREE CHART	
NO.	DESCRIPTION
61	22' PECAN
62	8' LIVE OAK
63	22' PECAN
64	16' LIVE OAK
65	18' LIVE OAK
66	12' PECAN

AREA CALCULATIONS

TOTAL LOT SIZE:	7800sf	
BUILDING COVERAGE		
1st FLOOR CONDITIONED AREA -	1010sf	UNIT A
2nd FLOOR CONDITIONED AREA -	513sf	UNIT B
COVERED PORCHES -	57sf	
COVERED PATIOS -	0sf	
CARPORIT	191sf	
TOTAL BUILDING AREA PER UNIT -	1771sf	
TOTAL BUILDING AREA FOR DUPLEX -	3383sf	
TOTAL BUILDING COVERAGE ON LOT -	2264sf = 29%	
MAXIMUM BUILDING COVERAGE ALLOWABLE ON LOT -	40%	
IMPERVIOUS COVERAGE		
TOTAL BUILDING COVER -	2264sf	
DRIVEWAYS -	933sf	
UNCOVERED PATIOS -	75sf	
CONCRETE SLABS & WALLS -	18sf	
TOTAL IMPER. COVER -	3290sf = 42%	
MAXIMUM IMPER. COVER ALLOWABLE ON LOT -	45%	
GROSS FLOOR AREA		
1st FLOOR AREA	1010sf	UNIT A
1st FLOOR AREA W/ CEILING HEIGHT OVER 15'	41sf	
2nd FLOOR AREA	513sf	UNIT B
2nd FLOOR AREA W/ CEILING HEIGHT OVER 15'	0sf	
CARPORIT - 450sf. CREDIT	0sf	
GROSS FLOOR AREA PER UNIT -	1564sf	
TOTAL GROSS AREA FOR DUPLEX -	3170sf	
FLOOR AREA RATIO	0.299	
ALLOWABLE FLOOR AREA RATIO	0.400	

HEIGHT LIMITATIONS

AVERAGE ELEVATION OF GRADE	99'-4"
FIN. FLOOR ELEVATION @ MAIN LEVEL	100'-6"
MAXIMUM ALLOWABLE ELEVATION	131'-4"

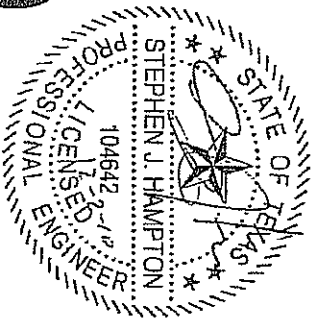
LEGEND

SYMBOLS	DESCRIPTION
—	BOUNDARY LINES
—	EASEMENT LINE
—	BUILDING LINE
—	POWER POLE
⊕	O. H. OVERHEAD UTILITIES
⊕	CONTROL MONUMENT
⊕	TREE TO BE REMOVED
⊕	TREE TO REMAIN

Exhibit B

Site Plan
Scale: 1"=30'-0"

A0.0



Date:	Description:
12.02.10	

Project Number: 100405.0 Registration # F-12229
 Drawn By: WH 1 Checked By: SJH
 912 S Capital of TX Hwy. Suite 450.
 Austin, TX 78746 . p:512.327.9995 . f:512.328.6996



4605 Avenue B
Austin, TX

Walker, Susan

From: myhr mitylene [mmyhr99@yahoo.com]
Sent: Friday, February 04, 2011 4:33 PM
To: Walker, Susan
Cc: Robert James; Karen McGraw
Subject: BoA appeal of 4605 Ave B, additional material

Dear Susan,

We found the video link to the City Council meeting last July when they reversed Mr. Kutner's permit. I would like to add this to the material to be sent along to the BoA with our appeal.

The written council minutes just say they voted to uphold the appeal. In the video, however, you get the specific language. Please note what Laura Morrison said in making her motion. To watch it click on the link, then on the video and there are two parts, our case is in the second part.

"The permit is not in accordance with the NCCD and in order to be in accordance two driveways need to be entirely separated by the house and the pedestrian uses need to constitute the entire front of the house, so my motion is to uphold the appeal and reverse the permit."

<http://www.ci.austin.tx.us/cityclerk/edims/2010/20100729-reg.htm>

I appreciate your help with the appeal.

Kind Regards,
Mity Myhr Clay
4528 Avenue B