

**CITY OF AUSTIN**  
**Board of Adjustment/Sign Review Board**  
**Decision Sheet**

**DATE:** Monday, December 12, 2011

**CASE NUMBER:** C15-2011-0130

\_\_\_\_\_ Jeff Jack  
\_\_\_\_\_ Michael Von Ohlen  
\_\_\_\_\_ Nora Salinas  
\_\_\_\_\_ Bryan King  
\_\_\_\_\_ Susan Morrison  
\_\_\_\_\_ Melissa Hawthorne  
\_\_\_\_\_ Heidi Goebel  
\_\_\_\_\_ Cathy French (SRB only)

**APPLICANT:** MICHAEL R., MCHONE

**OWNER:** Lindsey, Lane

**ADDRESS:** 2004 GOODRICH AVE

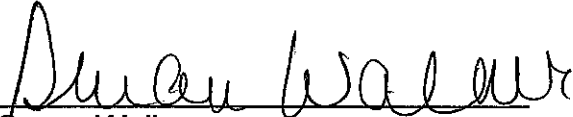
**VARIANCE REQUESTED:** The applicant has requested a special exception from Section 25-2-476 of the Land Development Code in order to maintain a rear yard setback of 5 feet (10 feet required) in order to maintain an attached accessory structure in order to change the use to create a two-family residential use in an "SF-3-NP", Family Residence – Neighborhood Plan zoning district. (Zilker Neighborhood Plan)

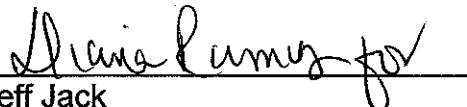
The applicant has requested a special exception from Section 25-2-476 of the Land Development Code in order to maintain a side yard setback of 3 feet 9.5 inches (5 feet required) in order to maintain a screened porch in order to change the use to create a two-family residential use in an "SF-3-NP", Family Residence – Neighborhood Plan zoning district. (Zilker Neighborhood Plan)

**BOARD'S DECISION:** POSTPONED TO JAN 9, 2012

**FINDING:**

1. The Zoning regulations applicable to the property do not allow for a reasonable use because:
2. (a) The hardship for which the variance is requested is unique to the property in that:  
(b) The hardship is not general to the area in which the property is located because:
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:

  
\_\_\_\_\_  
Susan Walker  
Executive Secretary

  
\_\_\_\_\_  
Jeff Jack  
Chairman

**Walker, Susan**

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**From:** Mike Mchone [mchone1234@sbcglobal.net]  
**Sent:** Thursday, December 15, 2011 11:45 AM  
**To:** Walker, Susan  
**Cc:** 'Mike Mchone'  
**Subject:** FW: 2004 Goodrich Ave update

Hi Susan,  
The following link gives the full "report" on the life safety permit which Leon Barba said should be used as the "required report" for the requirements of the "special exception" ordinance. I made a copy but it turned out too light to scan and send to you. I can deliver a hard copy if that is needed. This needs to be sent to the BOA and made pubic eleven days before the January 9, 2012 BOA meeting.  
Thanks,  
Mike

[https://www.ci.austin.tx.us/devreview/b\\_showpublicpermitfolderdetails.jsp?FolderRSN=10684889](https://www.ci.austin.tx.us/devreview/b_showpublicpermitfolderdetails.jsp?FolderRSN=10684889)

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**FOLDER DETAILS**

**Section 25-11-94 Expiration and extension of permit (Active Permits will expire 180 days at 11:59:59 pm after date of inspection posted). If you allow this permit to expire you will be required to submit a new application & pay new fee**

Permit/Case	Reference File Name	Description	Sub Type	Work Type	Project Name	Status	Application Date	Iss Date
2011-106060 BP	2011-106060 BP	life safety permit for rear structure at this address as required in advance of BOA meeting where applicant intends on requesting a special exception under ORD 2011 0526-98 for the side and rear setback encroachments. this ls permit WILL NOT RESULT IN A CO - it is only to demonstrate structure meets minimum life safety requirements and may qualify for special exception if applied for by applicant and granted by BOA variance.	R- 435 Renovations/Remodel	Life Safety	2004 GOODRICH AVE	Final	Nov 22, 2011	Nov 22, 2011

Related

**FOLDER INFO**

Information	Description	Value
Total New/Addition Bldg Square Footage		2078
Building Inspection		Yes
Existing Non-conforming		Yes
Existing Non-complying		Yes
Number of Floors		2
Number of Units		2
Certificate of Occupancy to be Issued		Yes
Public or Private		Private
Usage Category		435

**PROPERTY DETAILS**

Number	Pre.	Street	Street Type	Dir	Suite Type	Suite Number	City	State	Zip	Legal De
2004		GOODRICH	AVENUE				AUSTIN	TX	78704	Lot: Block: Subdivision: L. M. BRADLEY SUBDIVISION BRADLEY SUBDIVI

**PEOPLE DETAILS**

Desc.	Organization Name	Address	City	State	Postal
Applicant	Texan Properties (Mike Mchone)	AUSTIN	Austin		(512)5:
Billed To	Real Estate (Michael McHone)	P.O. BOX 8142	Austin	Tx	78713-8142 (512)4:
General Contractor	Real Estate (Michael McHone)	PO BOX 8142	Austin	TX	78713 (512)4:

**FOLDER FEE**

Fee Description	Fee Amount	Balance
Building Permit Fee		\$23.00

**PROCESSES AND NOTES**

Process Description	Status	Schedule Date	Start Date	End Date	Assigned Staff
100 Pre-Construction	Pass	Nov 30, 2011	Nov 30, 2011	Nov 30, 2011	Douglas Mcafee (974-3617)
Administrative Hold	Open				
Permit Refund	Open				
Red Tag Hold	Open				
112 Final Building	Pass	Dec 13, 2011	Dec 13, 2011	Dec 13, 2011	Douglas Mcafee (974-3617)
Deficiencies	Open				Douglas Mcafee (974-3617)
BP Permitting	Open				

[Back](#)



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For permit questions/issues: [Send email](#) or (512) 974-6370.

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**Walker, Susan**

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**To:** Lorraine Atherton  
**Cc:** Guernsey, Greg; Lloyd, Brent  
**Subject:** RE: BoA Case number C15-2011-0130

Lorraine,

The applicant has requested postponement of this case to the January 9th hearing.

On May 26, 2011, an ordinance was passed that allows the Board of Adjustment to hear cases in which a violation has existed for at least 15 years, if the application for a special exception is submitted on or before June 6, 2013.

The applicant withdrew their request for reconsideration of the variances that were previously denied. They are now seeking a special exception under this new provision. I had checked with Brent Lloyd prior to accepting this application to make sure that this request could be reconsidered, and was advised that the Board could hear the case since the request is under a different section of the Land Development Code.

If you have any further questions, please let me know.

Thank you,

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

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**From:** Lorraine Atherton [mailto:latherton@austin.rr.com]  
**Sent:** Thursday, December 08, 2011 9:49 AM  
**To:** Walker, Susan  
**Cc:** Guernsey, Greg  
**Subject:** BoA Case number C15-2011-0130

Ms. Walker,

As the contact person for the South Central Coalition (SCC), I have received notification of a Board of Adjustment hearing for 2004 Goodrich, regarding two setback variances, under "Special Exception" Section 25-2-476 of the LDC, Case number C15-2011-0130. Please pass the following questions and comments on to the Board of Adjustment and include them in the file for this Special Exception case and in the file for the appeal of the Board's previous decision to deny these variances, case number C15-2011-0065.

Please note that the Board denied these two setback variances in the spring, and the applicant appealed the decision shortly thereafter. The SCC is not familiar with this new "Special Exception" provision in the code, but it appears that the development review department has determined that it applies only to the main structure or dwelling (for which the Board has already granted a variance in the hearing last spring) and not to the accessory structure and porch that encroach on the setbacks. Why has the applicant been allowed to file a duplicate application for variances that the Board has already denied? Why is the Board not hearing the appeal of the original decision? Perhaps the Board should ask for clarification of whether the "Special Exception" provision can overrule previous BoA decisions.

12/8/2011

Under the circumstances, the SCC must oppose this special exception because it appears to violate the Board's most basic procedures.

Regarding the merits of the new application, these types of encroachments on setbacks are general to all of the neighborhoods within the South Central Coalition. In this particular case, they do not meet any of the criteria for granting a variance. Therefore, approval of the setback variances at 2004 Goodrich would amount to granting a privilege that is not available to other properties. In the original hearing the applicant admitted that she was responsible for the addition of the shed and the porch, that she knew building permits were required, and that she decided not to apply for building permits because she thought it would be too much trouble to comply with code. This is clearly a case of "build it now and ask for forgiveness later." The Board's original decision to deny should stand.

Finally, I apologize, but I must pick this nit for the third time. The zoning for this property has been misstated in the posting for all three cases. It is in fact in the Zilker Neighborhood, not in Bouldin Creek, and it is not zoned SF-3-NP under the Bouldin Neighborhood Plan.

Thank you for your time.

Lorraine Atherton

2009 Arpdale, 78704

## PUBLIC HEARING INFORMATION

Although applicants and/or their agent(s) are expected to attend a public hearing, you are not required to attend. However, if you do attend, you have the opportunity to speak FOR or AGAINST the proposed development or change. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

During a public hearing, the board or commission may postpone or continue an application's hearing to a later date, or recommend approval or denial of the application. If the board or commission announces a specific date and time for a postponement or continuation that is not later than 60 days from the announcement, no further notice is required.

A board or commission's decision may be appealed by a person with standing to appeal, or an interested party that is identified as a person who can appeal the decision. The body holding a public hearing on an appeal will determine whether a person has standing to appeal the decision.

An interested party is defined as a person who is the applicant or record owner of the subject property, or who communicates an interest to a board or commission by:

- delivering a written statement to the board or commission before or during the public hearing that generally identifies the issues of concern (it may be delivered to the contact person listed on a notice); or
- 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;
- is the record owner of property within 500 feet of the subject property or proposed development; or
- is an officer of an environmental or neighborhood organization that has an interest in or whose declared boundaries are within 500 feet of the subject property or proposed development.

A notice of appeal must be filed with the director of the responsible department no later than 10 days after the decision. An appeal form may be available from the responsible department.

For additional information on the City of Austin's land development process, visit our web site: [www.ci.austin.tx.us/development](http://www.ci.austin.tx.us/development).

Written comments must be submitted to the contact person listed on the notice before or at a public hearing. Your comments should include the name of the board or commission, or Council; the scheduled date of the public hearing; the Case Number; and the contact person listed on the notice.

Case Number: C15-2011-0130 – 2004 Goodrich Ave  
Contact: Susan Walker, 512-974-2202

Public Hearing: Board of Adjustment, December 12th, 2011

Pat Cramer

Your Name (please print)

2011 GOODRICH AVE

Your address(es) affected by this application

Pat Cramer

Signature

512/444-4117

Date

12-5-11

Daytime Telephone:

Comments: I object to the rear

yard setback & side yard setback being reduced.

The distances are set for

A REASON! I don't want my

neighbor to do this so I don't

think anyone else does either.

A slippery slope.

Thank you for your consideration -  
Tip of my remarks.

If you use this form to comment, it may be returned to: remarks@ci.austin.tx.us

City of Austin-Planning & Development Review Department/ 1st Floor

Susan Walker

P. O. Box 1088

Austin, TX 78767-1088

**Walker, Susan**

015-2011-0130

**From:** Mike Mchone [mchone1234@sbcglobal.net]  
**Sent:** Monday, December 05, 2011 12:24 PM  
**To:** Walker, Susan  
**Cc:** 'Mike Mchone'  
**Subject:** FW: Special Exceptions; Board of Adjustments; 2004 Goodrich

Hi Susan,  
 Based upon this response from Leon, I am requesting a postponement of the 2004 Goodrich case until the "Life Safety" permit has been completed and timely report can be issued to the BOA as required by the "Special Exception" ordinance.  
 Thank you,  
 Mike

**From:** Barba, Leon [mailto:Leon.Barba@austintexas.gov]  
**Sent:** Friday, December 02, 2011 4:26 PM  
**To:** Mike Mchone; Johnson, Christopher [PDRD]; Haught, Kathy; Birkner, Donald; McDonald, John; Walker, Susan  
**Subject:** RE: Special Exceptions; Board of Adjustments; 2004 Goodrich

Mike, it appears that the preconstruction was called in. You need to schedule a final inspection. This will result in a passed or a failed inspection that includes any deficiencies. This is the "report" that should be submitted with the variance request.  
 Thanks,

Leon

**From:** Mike Mchone [mailto:mchone1234@sbcglobal.net]  
**Sent:** Friday, December 02, 2011 2:44 PM  
**To:** Barba, Leon; Johnson, Christopher [PDRD]; Haught, Kathy; Birkner, Donald; McDonald, John; Walker, Susan  
**Cc:** 'Mike Mchone'  
**Subject:** Special Exceptions; Board of Adjustments; 2004 Goodrich

Hi All,  
 Susan and I are trying to figure out how to "strictly" comply with the requirement of ordinance 20110526-098 which allows for "special exceptions" to the required yards (setbacks) for properties that have insufficient required yards (setbacks) for at least 15 years. I have attached the ordinance and highlighted several relevant paragraphs. I have also attach permit s and permit history for my client's property at 2004 Goodrich. In talking with Chritopher Johnson, he indicated that the "building official's report" would be done through the residential review section. I have obtained a life safety permit. Inspector, Douglas McAfee, has made the pre-construction inspection. I talked with him during his inspection asking if he could make a report about the structure extending into the rear and side yards as shown in our "Special Exception" application to the BOA ( see attached survey). He indicated that he could not do this. My question is: how do I get the report that is required by paragraph 25-1-212 of the Ordinance? Since this report is due 11 days before the BOA hearing, I believe I will advise my client that it is best to postpone the hearing as I do not want any decision to be determined to be "flawed" because the "strict" requirement of the Special Exception Ordinance was not followed. The main purpose of this email is to establish an agreed procedure, not to cast any blame. Please let me know as soon as you can.  
 Thanks,  
 Mike  
 Cell: 554-8440

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 Version: 2012.0.1873 / Virus Database: 2102/4658 - Release Date: 12/05/11

12/7/2011



**Walker, Susan**

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**From:** Mike Mchone [mchone1234@sbcglobal.net]  
**Sent:** Friday, December 02, 2011 2:44 PM  
**To:** Barba, Leon; Johnson, Christopher [PDRD]; Haught, Kathy; Birkner, Donald; McDonald, John; Walker, Susan  
**Cc:** 'Mike Mchone'  
**Subject:** Special Exceptions; Board of Adjustments; 2004 Goodrich  
**Attachments:** Untitled.PDF - Adobe Acrobat.pdf

Hi All,

Susan and I are trying to figure out how to "strictly" comply with the requirement of ordinance 20110526-098 which allows for "special exceptions" to the required yards (setbacks) for properties that have insufficient required yards (setbacks) for at least 15 years. I have attached the ordinance and highlighted several relevant paragraphs. I have also attach permit s and permit history for my client's property at 2004 Goodrich. In talking with Chritopher Johnson, he indicated that the "building official's report" would be done through the residential review section. I have obtained a life safety permit. Inspector, Douglas McAfee, has made the pre-construction inspection. I talked with him during his inspection asking if he could make a report about the structure extending into the rear and side yards as shown in our "Special Exception" application to the BOA ( see attached survey). He indicated that he could not do this.

My question is: how do I get the report that is required by paragraph 25-1-212 of the Ordinance? Since this report is due 11 days before the BOA hearing, I believe I will advise my client that it is best to postpone the hearing as I do not want any decision to be determined to be "flawed" because the "strict" requirement of the Special Exception Ordinance was not followed.

The main purpose of this email is to establish an agreed procedure, not to cast any blame.

Please let me know as soon as you can.

Thanks,

Mike

Cell: 554-8440

Dear Neighbors:

So I want to give you an update about what happened with the variance request you helped me with, and thank you for that support.

On June 13 the Board of Adjustment granted one of three variances I requested. I do not have to remove any of my house proper! However I was not granted the side yard and rear yard setbacks for my porch and tool shed.

Fortunately, The Austin City Council has created a new ordinance for just such situations, and under it, they may grant compliance to pre-existing setback violations. I am going to apply under this ordinance in order to keep my home as is and not have to tear off 14 inches of my porch or remove my shed.

As before my goal is the same: it is to obtain a certificate of occupancy on my house and upgrade the utilities on my property by separating the electric service so the front house can have its own meter. And as stressed previously: **I AM NOT BUILDING ANYTHING. THE SPECIAL EXCEPTION ORDINANCE WILL SIMPLY ALLOW ME TO KEEP MY HOME AS IT IS.**

I once again need and ask for your support. I hope you will consider signing the attached petition to the Council for me.

If you have any questions, please feel free to call me (293-6046).

Thanks so much.





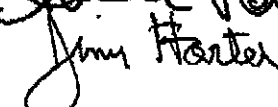
Sincerely,



Lindsey Lane

P.S. I am happy to keep you posted on this special exception ordinance. It is new but it seems like a huge opportunity to get compliance on many irregularities in our neighborhood.

I support Lindsey Lane's request for a special exception & want her to keep her side porch & toolshed as is.

Name	Signature	Address
Joe Bruno		2008 Goodrich
<del>Blake Mitchell</del>	<del>Blake Mitchell</del>	2001 Goodrich
Blake Mitchell		2001 Goodrich
Sue Briggs		2001 Goodrich
Sarah Powers		1807 Hether
Jim Harter		2000 Goodrich

**CITY OF AUSTIN**  
**Board of Adjustment (Special called meeting)**  
**Decision Sheet**

**DATE: Tuesday, November 29, 2011**

**CASE NUMBER: C15-2011-0110**

\_\_\_\_\_ Jeff Jack  
\_\_\_\_\_ Michael Von Ohlen **Motion to Postpone to Dec 12, 2011**  
\_\_\_\_\_ Nora Salinas  
\_\_\_\_\_ Bryan King **2<sup>nd</sup> the Motion**  
\_\_\_\_\_ Susan Morrison  
\_\_\_\_\_ Melissa Hawthorne  
\_\_\_\_\_ Heidi Goebel  
\_\_\_\_\_ Cathy French (SRB only)

**OWNER/APPLICANT: S. Lynn, Hill**

**ADDRESS: 3704 BONNELL DR**

**VARIANCE REQUESTED: This appeal challenges the Planning & Development Review Department's interpretation of the McMansion ordinance, codified in Subchapter F of City Code Chapter 25-2, in connection with a permit to construct a single-family home at 3704 Bonnell Drive. The appeal alleges that the department incorrectly interpreted and applied the "attic exemption" in Section 3.3.3 of the ordinance, as well as other errors related to plan approval.**

**BOARD'S DECISION: Oct 27, 2011 POSTPONED (to a special called meeting -TBA)**

**BOARD'S DECISION: November 29, 2011 POSTPONED TO DECEMBER 12, 2011**

**FINDING:**

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

\_\_\_\_\_  
Susan Walker  
Executive Liaison

\_\_\_\_\_  
Jeff Jack  
Chairman

**ORDINANCE NO. 20110526-098**

**AN ORDINANCE RELATING TO SPECIAL EXCEPTIONS AND FEE WAIVERS FOR CITY CODE VIOLATIONS; AMENDING CITY CODE SECTIONS 2-1-111, 25-1-211, 25-1-212, 25-1-214, 25-1-215, 25-1-216, 25-1-217, AND 25-1-218; AND ADDING NEW SECTIONS 25-1-366 AND 25-2-476.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

**PART 1.** The city council finds that:

- (A) Certain technical code and zoning violations exist on residential properties throughout the City of Austin. In some cases, these violations have existed compatibly with the surrounding neighborhoods for 25 or more years with no known adverse impacts to public health, safety, or welfare.
- (B) In such cases, the City's existing amnesty program, as codified in Section 25-1-365 of the Land Development Code, provides a mechanism for excusing full compliance with city regulations for certain minor violations existing on or before adoption of the current zoning code on March 1, 1986.
- (C) To address setback violations that meet all requirements for administrative amnesty except for the 1986 cutoff date, the Board of Adjustment could be authorized to grant a special exception in limited circumstances. A special exception, as authorized under state law, may be granted without a hardship finding required for a traditional zoning variance.
- (D) Together with the City's existing amnesty program, authorizing special exceptions and waiving fees for landowners seeking to address minor zoning setback violations would allow enforcement staff to focus on more significant violations of city code.

**PART 2.** Subsection (F) of City Code Section 2-1-111 (*Board of Adjustment*) is amended to read:

- (F) The board shall:
  - (1) hear and decide a request for a variance from the requirements of Chapter 25-2 (*Zoning*), except as otherwise provided by the Code;
  - (2) hear and decide an appeal of an administrative action under Chapter 25-2 (*Zoning*);

- ~~(3) hear and decide a request for a variance from the requirements of airport zoning regulations under Section 241.034, Local Government Code; [and]~~
- (4) hear and decide a request for a special exception under Chapter 25-2 (Zoning); and
- (5)[(4)] perform other duties prescribed by ordinance or state law.

**PART 3.** City Code Chapter 25-2 (*Zoning*), Article 2 (*Appeals, Variances, Special Exceptions, and Adjustments*) is amended to amend the title of Division 2 (*Variances*) and to amend Sections 25-1-211 (*Application for a Variance*), 25-1-212 (*Report*), 25-1-214 (*Public Hearing and Notice*), 25-1-215 (*Action on Application*), 25-1-216 (*Effective Date of Variance*), 25-1-217 (*Expiration of Variance*), and 25-1-218 (*Restrictions on Similar Applications*) to read as follows:

**Division 2. Variances and Special Exceptions.**

**§ 25-1-211 APPLICATION FOR A VARIANCE OR SPECIAL EXCEPTION.**

- (A) A person may file an application for a variance or a special exception with:
- (1) the building official for a variance or special exception granted by the Board of Adjustment; or
  - (2) the responsible director for a variance granted by the Land Use Commission or the council.
- (B) An application may include a request for:
- (1) variances or special exceptions from regulations applicable to the same site; or
  - (2) similar variances or special exceptions on two or more adjacent parcels with similar characteristics.
- (C) The building official or responsible director may require that the applicant provide information that the building official or responsible director determines is necessary to evaluate the variance or special exception request.

**§ 25-1-212 REPORT.**

- (A) For an application for a variance or special exception requiring consideration by the Board of Adjustment, the building official shall prepare and file a report with the board not later than the 11th day before the public hearing.

- (B) ~~For an application for a variance requiring consideration by the Land Use Commission, the responsible director shall prepare and file a report with the Land Use Commission not later than the 11th day before the public hearing.~~
- (C) The building official shall make a report described in this section available to the public when the report is filed with the Board of Adjustment or Land Use Commission.
- (D) This subsection applies to an application for a zoning variance or special exception for property zoned as a family residence (SF-3) or more restrictive district.
- (1) The building official shall waive the application fee if the official determines that the variance or special exception is supported by the notice owners of 80 percent or more of the property located within 300 feet of the property for which the variance is sought.
  - (2) An applicant who seeks a fee waiver must:
    - (a) obtain the signature of each notice owner who supports the variance or special exception, on a form provided by the building official; and
    - (b) submit the completed form to the building official.

**§ 25-1-214 PUBLIC HEARING AND NOTICE.**

- (A) The Board of Adjustment or Land Use Commission, as applicable, shall hold a public hearing on an application for a variance or special exception not later than the 45th day after the date the application is filed.
- (B) The building official or responsible director, as applicable, shall give notice under Section 25-1-132(A) (*Notice Of Public Hearing*) of a public hearing on an application for a variance or special exception, and, for a variance or special exception heard by the Board of Adjustment, by posting one or more signs.

**§ 25-1-215 ACTION ON AN APPLICATION.**

- (A) Except as otherwise provided in this chapter, the Board of Adjustment or the Land Use Commission shall act on an application for a variance or special exception not later than the next meeting after the public hearing is closed.
- (B) The Board of Adjustment or the Land Use Commission may:
  - (1) approve an application for a variance;
  - (2) approve an application for a variance with modifications; or

(3) deny an application for a variance.

(C) The Board of Adjustment or the Land Use Commission may require that a variance be:

- (1) revocable;
- (2) effective for a specified time period; or
- (3) subject to one or more conditions.

(D) The Board of Adjustment may act on a request for a special exception in the manner provided for variances under Subsections (B) and (C) of this section.

**§ 25-1-216 EFFECTIVE DATE OF VARIANCE OR SPECIAL EXCEPTION.**

(A) Except as provided in Subsection (B), a decision on a variance or special exception is effective immediately.

(B) If a variance or special exception is appealable, a decision on the variance is effective:

- (1) except as provided in Subsection (B)(2), at the expiration of the time period during which an appeal may be filed; or
- (2) if a notice of appeal is filed, when a final decision on the appeal is made.

**§ 25-1-217 EXPIRATION OF VARIANCE OR SPECIAL EXCEPTION.**

(A) Except as provided in Subsection (B), a variance or special exception expires:

- (1) except as provided in Subsection (A)(2), one year after the effective date of the variance or special exception; or
- (2) on the date established as a condition of approval.

(B) A variance or special exception expires on the date an approved plan or permit expires if:

- (1) an application for approval of a plan or permit is submitted before a variance or special exception expires under Subsection (A); or
- (2) the variance or special exception is granted in association with the approved plan or permit.



~~(ii) impair the use of adjacent property that is developed in compliance with city code; or~~

(iii) grant a special privilege that is inconsistent with other properties in the area or in the district in which the property is located.

(C) A special exception granted under this section:

- (1) applies only to the structure, or portion of a structure, for which the special exception was granted and does not run with the land;
- (2) may not authorize an increase in the degree of noncompliance or excuse compliance with minimum health and safety requirements; and
- (3) may not authorize a remodel or addition to the existing structure, except to the extent required by the building official to meet minimum life and safety requirements.

(D) A structure granted a special exception under this section shall be treated as a non-complying structure under Chapter 25-2, Article 8 (*Noncomplying Structures*).

**PART 6.** City Code Section 25-2 (*Zoning*) is amended to add a new Section 25-1-366 to read:

**§ 25-1-366 FEE WAIVER PROGRAM FOR EXISTING RESIDENTIAL STRUCTURES.**

(A) Subject to the requirements of Subsection (B) of this section, the director shall:

- (1) waive the fee for a variance application to the Board of Adjustment under Section 25-2-473 (*Variance Requirements*) or a special exception under 25-2-476 (*Special Exceptions*); and
- (2) refund permitting and inspection fees if:
  - (a) the building official determines, based on a minimum life-safety inspection, that the structure does not pose a hazard to life, health, or public safety; and
  - (b) the structure:
    - (i) complies with current zoning regulations; or
    - (ii) the structure receives a special exception or variance from the Board of Adjustment or certificate of occupancy or

~~compliance from the building official under Section 25-1-365 (Exemption from Compliance).~~

(B) A fee waiver or refund authorized under Subsection (A) of this section:

- (1) applies only to existing residential structures and does not cover permits for remodels, except to the extent required by the building official to address minimum life and safety requirements;
- (2) applies only if the residential use for which a special exception is sought is allowed in an SF-3 or more restrictive zoning district;
- (3) does not cover fees for re-inspections or for after-hours inspections; and
- (4) expires on June 6, 2013.

(C) The director shall refund fees collected after June 6, 2012 if the requirements for waiver under this section are met.

**PART 7.** This ordinance takes effect on June 6, 2011.

**PASSED AND APPROVED**

\_\_\_\_\_  
May 26, 2011

§  
§  
§

\_\_\_\_\_  
*Lee Jeffingwell*

Lee Jeffingwell  
Mayor

APPROVED:

\_\_\_\_\_  
*Karen M. Kennard*  
Karen M. Kennard  
City Attorney

ATTEST:

\_\_\_\_\_  
*Shirley A. Gentry*  
Shirley A. Gentry  
City Clerk



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**FOLDER DETAILS**

**Section 25-11-94 Expiration and extension of permit (Active Permits will expire 180 days at 11:59:59 pm after date of last inspection posted). If you allow this permit to expire you will be required to submit a new application & pay new fees.**

Permit Number	Reference File Name	Description	Sub Code	Block Type	Project Name	Status	Application Date	Term Date	Expiration Date
2011-106060 BP	2011-106060 BP	life safety permit for rear structure at this address as required in advance of BOA meeting where applicant intends on requesting a special exception under ORD 2011-0526-98 for the side and rear setback encroachments this is permit WILL NOT RESULT IN A CO - it is only to demonstrate structure meets minimum life safety requirements and may qualify for special exception if applied for by applicant and granted by BOA variance	R- 435	Life Safety	2004 GOODRICH AVE	Active	Nov 22, 2011	Nov 28, 2011	May 28, 2012

Related Folders: [YES](#)

**FOLDER INFO**

Total New/Additional Bldg Square Footage	2078
Building Inspection	Yes
Existing Non-conforming	Yes
Existing Non-complying	Yes
Number of Floors	2
Number of Units	2
Certificate of Occupancy to be Issued	Yes
Public or Private	Private
Usage Category	435

**PROPERTY DETAILS**

Number	Pre	Address	City	State	Zip	Legal Desc
2004	GOODRICH	AVENUE	AUSTIN	TX	78704	Lot Block Subdivision L M BRADLEY SUBDIVISION

Lot Block Subdivision L M BRADLEY SUBDIVISION

**PEOPLE DETAILS**

Role	Organization Name	Address	City	State	Postal	Phone
Applicant	Texan Properties (Mike McHone)	AUSTIN	Austin			(512)554-8440
Billed To	Real Estate (Michael McHone)	PO BOX 8142	Austin	Tx	78713-8142	(512)481-9111
General Contractor	Real Estate (Michael McHone)	PO BOX 8142	Austin	TX	78713	(512)481-9111

**FOLDER FEE**

Fee Description	Fee Amount	Balance
Building Permit Fee	\$23.00	\$0.00

**PROCESSES AND NOTES**

Process Description	Status	Start Date	Start User	End Date	Assigned Staff	Num Approvals
100 Pre-Construction	Pass	Nov 30, 2011	Nov 30, 2011	Nov 30, 2011	Douglas McAfee (974-3617)	1
Administrative Hold	Open					0
Permit Refund	Open					0
Red Tag Hold	Open					0
112 Final Building	Open				Douglas McAfee (974-3617)	0
Deficiencies	Open				Douglas McAfee (974-3617)	0
BP Permitting	Open					0

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#	Permit/Case No.	Reference File Number	Description	Sub Type	Work Type	Project Name	Status	Related Entries
1	<a href="#">1993-005884 BP</a>	9302540	Add Bedroom & Bathroom To Residence	R- 434 Addition & Alterations	Addition	2004 Goodrich Avenue A 00000	Final	<a href="#">Yes</a>
2	<a href="#">1992-004520 BP</a>	9212166	Detached Accessory Building. **Did not void permit per bldg pmt 2011-106056 notes in conditions**	R- 435 Renovations/Remodel	Remodel	2004 Goodrich Avenue A 00000	Expired	<a href="#">Yes</a>
3	<a href="#">1993-005884 MP</a>	9302540	Add Bedroom & Bathroom To Residence	R- 434 Addition & Alterations	Addition	2004 Goodrich Avenue A 00000	Final	<a href="#">Yes</a>
4	<a href="#">1993-005884 PP</a>	9302540	Add Bedroom & Bathroom To Residence	R- 434 Addition & Alterations	Addition	2004 Goodrich Avenue A 00000	Final	<a href="#">Yes</a>
5	<a href="#">1993-005884 EP</a>	9302540	Add Bedroom & Bathroom To Residence	R- 434 Addition & Alterations	Addition	2004 Goodrich Avenue A 00000	Final	<a href="#">Yes</a>
6	<a href="#">2010-093074 DA</a>	C81-2010-0277		Land Status Determination		2004 GOODRICH AVE	Accepted	No
7	<a href="#">2011-000069 BA</a>	C15-2011-0065	side and rear yard setback The applicant has requested a variance to decrease the minimum side yard setback requirement of Section 25-2-492 (D) from 5 feet to 3 feet 9 1/2 inches in order to maintain an attached accessory structure in order to change the use to create a two-family residential use in an "SF-3-NP", Family Residence - Neighborhood Plan zoning district (Bouldin Neighborhood Plan) The applicant has requested a variance to decrease the minimum rear yard setback requirement of Section 25-2-492 (D) from 10 feet to 5 feet in order to maintain a screened porch in order to change the use to create a two-family residential use in an "SF-3-NP", Family Residence - Neighborhood Plan zoning district (Bouldin Neighborhood Plan) The applicant has requested a variance to increase the maximum allowable gross floor area of Section 25-2-774 (C) (7) (a) from 850 square feet to 1187 square feet in order to change the use of a building to create a two-family residential use in an "SF-3-NP", Family Residence - Neighborhood Plan zoning district (Bouldin Neighborhood Plan)	BOA Variance	Residential	2004 GOODRICH AVE	Approved	No
8	<a href="#">2011-000144 BA</a>	C15-2011-0130	special exception	BOA Variance	Residential	2004 GOODRICH AVE	Hearing Scheduled	No
9	<a href="#">2011-106056 PR</a>	2011-106056 PR	life safety permit for rear structure at this address as required in advance of BOA meeting where applicant intends on requesting a special exception under ORD 2011 0526-98 for the side and rear setback encroachments this permit WILL NOT RESULT IN A CO - it is only to demonstrate structure meets minimum life safety requirements and may qualify for special exception if applied for by applicant and granted by BOA variance. This permit and inspection are requirements prior to BOA special exception meeting.	R- 435 Renovations/Remodel	Life Safety	2004 GOODRICH AVE	Approved	<a href="#">Yes</a>

10	<a href="#">2011-106060 BP</a>	2011-106060 BP	Life safety permit for rear structure at this address as reported in advance of BOA meeting where applicant intends on requesting a special exception under ORD 2011 0526-98 for the side and rear setback encroachments. This is permit WILL NOT RESULT IN A CO - it is only to demonstrate structure meets minimum life safety requirements and may qualify for special exception if applied for by applicant and granted by BOA variance	R- 435 Renovations/Remodel	Life Safety	2004 GOODRICH AVE	Active	<a href="#">Yes</a>
11	<a href="#">2011-106092 PR</a>	2011-106092 PR	two story two family building behind existing sires - already constructed. expired permits	R- 103 Two Family Bldgs	New	2004 GOODRICH AVE	Rejected	No

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For permit question/issues: [Send email](#) to: (512) 974-6376

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P.O. Box 1089, Austin, TX 78767-1071, 974-0000

**PUBLIC HEARING INFORMATION**

Although applicants and/or their agent(s) are expected to attend a public hearing, you are not required to attend. However, if you do attend, you have the opportunity to speak FOR or AGAINST the proposed development or change. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

During a public hearing, the board or commission may postpone or continue an application's hearing to a later date, or recommend approval or denial of the application. If the board or commission announces a specific date and time for a postponement or continuation that is not later than 60 days from the announcement, no further notice is required.

A board or commission's decision may be appealed by a person with standing to appeal, or an interested party that is identified as a person who can appeal the decision. The body holding a public hearing on an appeal will determine whether a person has standing to appeal the decision.

An interested party is defined as a person who is the applicant or record owner of the subject property, or who communicates an interest to a board or commission by:

- delivering a written statement to the board or commission before or during the public hearing that generally identifies the issues of concern (*it may be delivered to the contact person listed on a notice*); or
  - 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;
  - is the record owner of property within 500 feet of the subject property or proposed development; or
  - is an officer of an environmental or neighborhood organization that has an interest in or whose declared boundaries are within 500 feet of the subject property or proposed development.

A notice of appeal must be filed with the director of the responsible department no later than 10 days after the decision. An appeal form may be available from the responsible department.

For additional information on the City of Austin's land development process, visit our web site: [www.ci.austin.tx.us/development](http://www.ci.austin.tx.us/development).

Written comments must be submitted to the contact person listed on the notice before or at a public hearing. Your comments should include the name of the board or commission, or Council; the scheduled date of the public hearing; the Case Number; and the contact person listed on the notice.

**Case Number: C15-2011-0130 – 2004 Goodrich Ave**  
**Contact: Susan Walker, 512-974-2202**  
**Public Hearing: Board of Adjustment, December 12th, 2011**

Michael Baird  
 Your Name (please print)  I am in favor  
 I object

1811 Hether st Austin TX 78704  
 Your address(es) affected by this application

[Signature] 12-5-2011  
 Signature Date

Daytime Telephone: 512-827-7854

Comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**If you use this form to comment, it may be returned to:**  
 City of Austin-Planning & Development Review Department/ 1st Floor  
 Susan Walker  
 P. O. Box 1088  
 Austin, TX 78767-1088

A variance from the Building Code Board of Appeals may be required for variances from the Zoning Board of Adjustment (no Sign Review Board cases need to call). Please consult a code specialist in the Plan Review Division at 974-2580.

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

CASE # C15-2011-0130  
ROW # 10682583  
TP-010006-01-17

CITY OF AUSTIN  
APPLICATION TO BOARD OF ADJUSTMENT  
GENERAL VARIANCE/PARKING VARIANCE

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

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

STREET ADDRESS: 2004 Goodrich

LEGAL DESCRIPTION: Subdivision - .2218 acre tract of land in the Issac Decker League, being a portion of Block 36, L. M. Bradley's Subdivision of Lot 4 of Goodrich's Subdivision (unrecorded) AND a 2.11 foot strip of land in the Issac Decker League, being a portion of Block 36, L.M. Bradley's Subdivision of Lot 4 Goodrich Subdivision

Lot(s) 36 Block 60 X 161 ft Outlot \_\_\_\_\_ Division Bradley Addition

I/We Michael R. McHone on behalf of myself/ourselves as authorized agent for

Lindsey Lane affirm that on October 26, 2011,

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

(check appropriate items below)

ERECT  ATTACH  COMPLETE  REMODEL  MAINTAIN

Existing rear yard of 5 ft and existing side yard 3ft 9.5 inches in a SF-3 NP (Bouldin Creek) district. This application is submitted in accordance with Ordinance 20110526-098 SPECIAL EXCEPTION



in a  
SF-3 NP district.  
(zoning district)

**NOTE:** The Board must determine the existence of, sufficiency of and weight of evidence supporting the findings described below. Therefore, you must complete each of the applicable Findings Statements as part of your application. Failure to do so may result in your application being rejected as incomplete. Please attach any additional support documents.

**VARIANCE FINDINGS:** I contend that my entitlement to the requested variance is based on the following findings (see page 5 of application for explanation of findings):

**REASONABLE USE:**

1. The zoning regulations applicable to the property do not allow for a reasonable use because:  
-NA Special Exception (Two family residential use; secondary structure violates required setbacks for side and rear yard)

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**HARDSHIP:**

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

25-1-212 requires building official to make a report to BOA 11 days prior to meeting of BOA; said report shall be made public when report is filed with BOA  
(building official performs inspection and determines violation does not pose hazard to life, health, or public safety)

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

BOA may grant Special Exception for existing residential structure or portion of an existing structure that violates a setback required under Chapter 25-2 (Zoning); 2004 Goodrich has existed for at least 15 years; use is a permitted use, and does not share lot with more than one other primary residence;

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**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:

Granting special exception: would not alter the character of the area; impair the use of adjacent property that is developed in compliance with city code; or grant special privilege that is inconsistent with other properties in the area of in the district in which the property is located. (See neighbors' support letters)  
setbacks of various sizes are common to area structures; structure has existed without complaint for at least 15 years.

---

**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:

- 
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:

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

- 
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 Michael R. McHone Mail Address P.O. Box 8142-

City, State & Zip Austin, Texas 78713-8142

Printed Michael R. McHone Phone 512-554-8440  
Date 10-26-2011

**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 \_\_\_\_\_

Printed \_\_\_\_\_ Phone \_\_\_\_\_ Date \_\_\_\_\_

### 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.)

**NOTE: The Board cannot grant a variance that would provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated.**

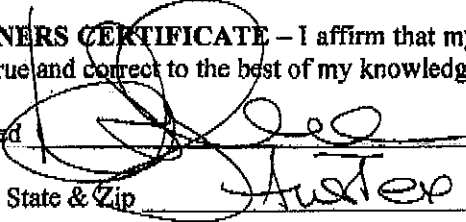
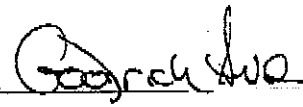
**APPLICANT CERTIFICATE** – I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

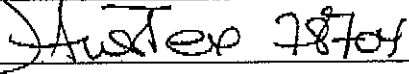
Signed \_\_\_\_\_ Mail Address\_P.O. Box 8142-

City, State & Zip Austin, Texas 78713-8142

Printed Michael R. McHone Phone 512-554-8440 Date 10-26-2011

**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 2004 

City, State & Zip 

Printed Lindsey Lane Phone 512 293 6046 Date 10/31/11

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

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**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.



SUBJECT TRACT



ZONING BOUNDARY

CASE#: C15-2011-0130  
 LOCATION: 2004 GOODRICH AVE



This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

This product has been produced by the Planning and Development Review Department for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.