

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

CASE # C15-2012-0082
ROW # 10781204
TP-022211-03-16

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: 5108 Eilers Ave.

LEGAL DESCRIPTION: Subdivision -- _____

Lot(s) 23 & 24 Block 12 Outlot _____ Division The Highlands

I/We Ryan Fleming and Mary Lu Walker on behalf of myself/ourselves as authorized agent for

affirm that on 5-24-2012

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

(check appropriate items below)

ERECT ATTACH COMPLETE REMODEL MAINTAIN

a storage shed in the corner of our back yard.

side yard - 6"

rear yard - 1 foot

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

North Loop N.P.

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:

Anyone who lives in this house will need a large storage shed. There is no garage, and no place for one. The house has a very small laundry room, and no separate pantry. Without a large storage shed, there is no place for tools, paint, gardening supplies, bikes, car supplies, winter space heaters, etc. Reasonable use would also include being able to sit or stand in a pleasant space.

HARDSHIP:

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

The location of the approximately 22" diameter Pecan Tree in the back yard, combined with the extremely shallow back yard (22' from the back steps to the fence), the placement of the utility pole and wires to the house, the necessity of having access to the alley for trash pick up, and useable access to the back yard create a very limiting situation for additional structures.

The lot is smaller than that of many lots in older neighborhoods. It is 125 feet long. Although the lots along our block are similar in size to our lot, our back yard is very shallow (22' deep from the back steps to the fence) because the builder set the house further back on the lot, thus saving a second beautiful 22" Pecan Tree in the front yard. The lot backs up to a dirt alley, where our trash is collected. The shed is located in a corner between the back fence, side fence, the Pecan Tree, and the gate to the back alley where our garbage is picked up.

Moving the shed would necessitate one of the following choices:

- 1) a combination of placing the storage shed much closer to a utility pole, underneath wires leading from the pole to the house, removal of healthy, existing native vegetation, making it very difficult to navigate between the front yard and the back yard, and placing it unpleasantly close to the porch.
- 2) placing it right in the middle of the back yard where it would be unpleasantly in front of anyone's face who sits on the porch, much less walks out the back door, making it

difficult to get to the alley to put out trash, and removal of healthy, existing native vegetation.

The back yard would be virtually unusable in any sort of pleasant way. The choice becomes a not even a marginally pleasant porch and back yard or no/inadequate storage.

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

Both the older and the newer homes have either large sheds on concrete slabs, or garages on concrete slabs. The older sheds/garages do not necessarily conform to code, but are allowed to remain because they are older than 15 years.

The older houses are set further forward on their lots, which allow for larger back yards. There were no large trees present when these houses were built, and no tree protection measures in place. The newer houses, with the exception of ours, are more of the two-story "McMansion" variety, which fill the lots, sometimes resulting in the loss of protected trees. Our shed, which has been in place for nearly 10 years, is situated similarly to all the other sheds on our block. It's just that in order to accommodate the Pecan Tree, wires, trash collection, etc. it is closer to the fences than it otherwise would have been.

The neighborhood association voted unanimously to support the requested variances. At the meeting, they were the first to describe the situation as a hardship, and agreed that there simply was no other viable place to put the shed.

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:

The shed (as well as the house) was built to blend in with the neighborhood, placed to fit into the neighborhood, is well constructed, of good quality, and in much better condition than those of the adjacent properties. The shed enhances the property value of the adjacent properties, and the overall ambience of the area. It is purely in keeping with the character of the neighborhood.

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:



Northfield Neighborhood Association

May 7, 2012

Jeff Jack
Chair, Board of Adjustment Review Board
City of Austin
301 W 2nd Street
Austin, TX. 78701

Subject: Variance Request for 5108 Eilers Ave

Dear Mr. Jack:

Thank you for your time in considering this variance request. Ms. Ryan Fleming presented her variance request to the Northfield Neighborhood Association. As always, we encourage proactive communication with the community.

As I understand from the presentation, the Ms. Fleming of 5108 Eilers has applied for a variance with the City of Austin to accommodate a variance to maintain her existing shed in a SF-3 zoning district. From the discussion with the members in attendance, no significant issues were identified. The association members in attendance voted unanimously (without any nay votes) of supporting the variance application.

Therefore, I would like to express on behalf of the Association, that this variance request has the consensus support of those at our April community meeting. Please feel free to contact me should you have any questions or comments. I will also be happy to serve as the contact for the association should others need additional information.

Warmest Regards,

Michael Wong, CPSM, LEED AP
President, Northfield Neighborhood Association
(512) 944-6370 (cel)

Dirt Alley

S29°52'51"W 50.08'

5' between sheds & electric line

Garage/shed on slab

Shed on slab

Carport

RV Trailer

Shed on slab

Lot 25

House

Porch

One Story Wood

Existing lot line

Covered Wood Porch

Cobblestone Walk

Gravel Driveway

Concrete

N69°01'57"W

125.00'

N30°00'00"E

50.00'

124.90'

44.6'

S60°04'12"E

8" between roofline of shed & trunk of pecan

Shrub(s)

Pecan Wood Slaps

16.9'

52.1'

5.4'

4.6'

10.2'

15.7'

120'

32.7'

50.00'

Lot 24

Lot 23

car-pch

Lot 22

House

Porch

Driveway

Flameleaf Sumac

Agarita

RAIN BARREL

Grass TX EBONY

30x30

POND

22' to Fence

Pecan

Conc Slab

Jap. Persimmon

Note: Subject to easmt. rights & restrictions in Vol. 3, Pg. 55 Plat Records, Vol. 295, Pg. 197, Vol. 388, Pg. 99 & Vol. 2633, Pg. 329 Deed Records Travis County, Texas.

5108 Eilers Ave.

RE: GF# 2208164

Petition to City of Austin Board of Adjustment

Petition summary and background
 Application for a variance regarding the rear and side setbacks at 5108 Eilers Ave. The shed is necessary for this reason: The existing structure provides the occupants with the only storage space available on the lot because the lot cannot accommodate a garage. The shed exists in the only location that provides safe distance from utility poles and wires, does not disturb the large Pecan Tree and other native vegetation, and still allows access from the house to the alley for trash disposal.

Action petitioned for
 We, the undersigned, support the request for the rear and side setback variances at 5108 Eilers Ave. Austin, Texas 78751

Printed Name	Signature	Address	Date
Jo Foley	<i>Jo Foley</i>	5100 Eilers Ave	3/18/12
Gregory D. Foley	<i>Gregory D. Foley</i>	5100 Eilers Avenue	18 March 2012
Katie Bacon	<i>Katie Bacon</i>	5101 B Martin Avenue	3/18/2012
Kaier Davis	<i>Kaier Davis</i>	5101 B Martin Avenue	3/18/12
Reece Freeman	<i>Reece Freeman</i>	5101 A Martin Avenue	3/18/12
Mika Wang	<i>Mika Wang</i>	5105 Martin Ave	3/18/12
James Kim	<i>James Kim</i>	5111 Martin Ave	3/18/12
Stacey Young	<i>Stacey Young</i>	5100 Martin Ave	3/18/12

N/A

2. The granting of this variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic of the streets because:

N/A

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

N/A

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

N/A

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 Ryan G. Fleming Mail Address 5108 Eilers Ave.
City, State & Zip Austin, Texas
78751

Printed Ryan Fleming & Mary L. Walker Phone 512-371-3078
Date 2-9-12 / 5-24-2012

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 Ryan Fleming Mary Lu Walker Mail Address 5108 Eilers Ave.

City, State & Zip Austin, Texas
78751

Printed Ryan Fleming Mary Lu Walker Phone 512-371-3078
Date 2-9-12 / 5.24.2012

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) Check made payable to the City of Austin for the Board of Adjustment application fee. (Residential zoning - \$360. All other zonings - \$660.)
- (4) 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.
- (5) 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:



City of Austin

Austin's Community-Owned Electric Utility

www.austinenergy.com

Town Lake Center • 721 Barton Springs Road • Austin, Texas • 78704

February 14, 2012

Ryan Fleming
5108 Eilers Avenue
Austin, Texas 78751
Via email: wildewoode@yahoo.com

Re: 5108 Eilers Avenue
Lots 23-24 Blk 12 The Highlands

Dear Ms. Fleming,

Austin Energy (AE) has reviewed your application for the above referenced property requesting to decrease the south side and rear lot line in order to maintain an existing storage shed on cinder blocks. Austin Energy does not oppose this application as requested and shown on the attached red-stamped sketch provided any existing or future improvements meet AE clearance criteria requirements as well as be in compliance with the national Electric Safety Code and OSHA..

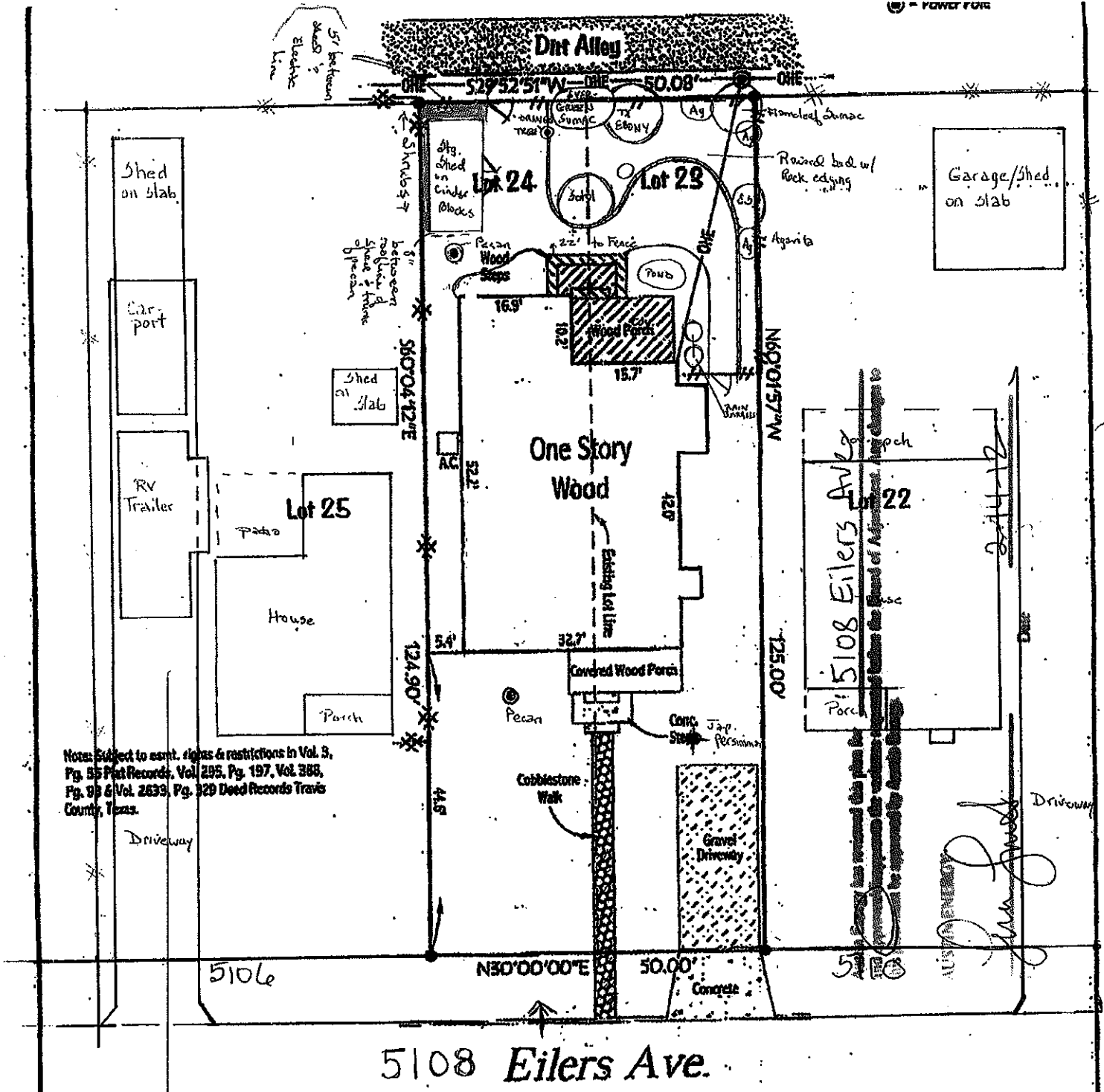
Thank you for checking with us in advance. Should you have any questions, please feel free to contact me at 322-6587.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lena Lund".

Lena Lund
Public Involvement/Real Estate Services

Cc: Diana Ramirez and Susan Walker



RE: GFA 2208164

Scale - 1" = 10'

requesting 2 variances: 1) rear setback
2) side setback
both highlighted in green.