

CITY OF AUSTIN

Board of Adjustment/Sign Review Board

Decision Sheet

DATE: Monday, March 11, 2013

CASE NUMBER: C15-2013-0011

_____ Jeff Jack
_____ Michael Von Ohlen
_____ Nora Salinas
_____ Bryan King
_____ Fred McGhee
_____ Melissa Hawthorne
_____ Sallie Burchett
_____ Cathy French (SRB only)

APPLICANT: David Cancialosi

OWNER: John Gordon Muir

ADDRESS: 1404 ROCKCLIFF RD

VARIANCE REQUESTED: The applicant has requested a variance to decrease the minimum shoreline setback requirement of Section 25-2-551 (D) (1) (a) from 75 feet to 10 feet in order to remodel and erect an addition to a single family residence in an “LA”, Lake Austin zoning district.

The applicant has requested a variance to decrease the minimum side yard setback requirement of Section 25-2-551 (D) (2) from 5 feet to 3.5 feet in order to remodel and erect an addition to a single family residence in an “LA”, Lake Austin zoning district.

BOARD'S DECISION:

The public hearing was closed on Board Member Melissa Hawthorne motion to Postponed to March 11, 2013, Board Member Fred McGhee second on a 7-0 vote; POSTPONED TO MARCH 11, 2013.

March 11, 2013 POSTPONED TO APRIL 8, 2013

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 Liaison

Jeff Jack
Chairman

ITEM #1 35- wide Electric/Telephone Easement – Volume 1541, Page 388

- a. This 1955 easement does not correctly describe the location of the Austin Energy (AE) electric transmission and distribution facilities that cross the property.
- b. AE has offered to replace this easement with a corrected easement showing the location of the existing transmission and distribution facilities as shown as Item #2.
- c. AE has offered, at its expense, to furnish the correct easement field note description and to prepare the easement document for the facilities described in Item #2.
- d. The width of the area claimed as an easement is identified on the survey. The width shown meets AE's clearance requirements for the existing facilities.

ITEM #2 Location of AE's existing transmission and distribution facilities

- a. AE's facilities have been in existence at this location in excess of 40 years. AE does not have a recorded easement indicating the correct location of these facilities (see notes under ITEM #1 above). Due to the length of time the facilities have been on the property, AE claims prescriptive easements rights for these facilities.

ITEM #3 Location of AE's existing distribution lines crossing through the lot (serves this property and adjoining neighbors)

- a. AE is unable to locate a recorded easement for these distribution lines crossing the property.
- b. AE's facilities have been in existence at this location in excess of 40 years. AE does not have a recorded easement. AE claims prescriptive easements rights for these facilities.
- c. Austin Energy has communicated to the property owner that these distribution lines can be relocated to a new location along the property line at the owner's expense should the owner so desire. Owner will be required to execute a distribution easement and furnish the easement description showing the relocated location of the distribution facilities.

Additional information: Austin Energy requires all new construction on the property to maintain clearances from the existing electric facilities based on AE's Criteria Manual requirements: 7'6" horizontal and 12'6" vertical.

Ramirez, Diana

From: [REDACTED]
Sent: Monday, March 04, 2013 9:30 AM
To: Ramirez, Diana; Walker, Susan
Cc: David Cancialosi
Subject: 1404 Rockcliff BOA postponement request

Susan, Diana:

I am formally requesting a postponement of this case to the April BOA hearing.

We are currently working with various departments to get answers on floodplain, LA zoning interpretations, and other development related information.

Thank you.

--

Sincerely,
David C. Cancialosi, President
Permit Partners, LLC
DC Development & Construction, Inc.
512-799-2401 c
512-373-8846 f
www.permit-partners.com

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

DATE: Monday, February 11, 2013

CASE NUMBER: C15-2013-0011

____ Jeff Jack
____ Michael Von Ohlen **2nd the Motion**
____ Nora Salinas
____ Bryan King
____ Fred McGhee
____ Melissa Hawthorne **Motion to PP 3-11-13**
____ Sallie Burchett
____ Cathy French (SRB only)

APPLICANT: David Cancialosi

OWNER: John Gordon Muir

ADDRESS: 1404 ROCKCLIFF RD

VARIANCE REQUESTED: The applicant has requested a variance to decrease the minimum shoreline setback requirement of Section 25-2-551 (D) (1) (a) from 75 feet to 10 feet in order to remodel and erect an addition to a single family residence in an "LA", Lake Austin zoning district.

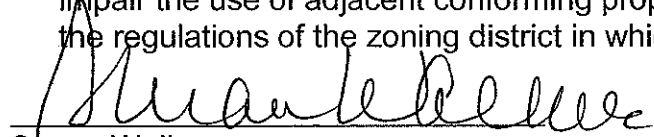
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BOARD'S DECISION:

The public hearing was closed on Board Member Melissa Hawthorne motion to Postponed to March 11, 2013, Board Member Fred McGhee second on a 7-0 vote; **POSTPONED TO MARCH 11, 2013.**

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 Liaison



Jeff Jack
Chairman

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 STUDIO #30970188 - FAX #30970188

OWNERS
 MUJR RESIDENCE
 ALSTIN TEXAS



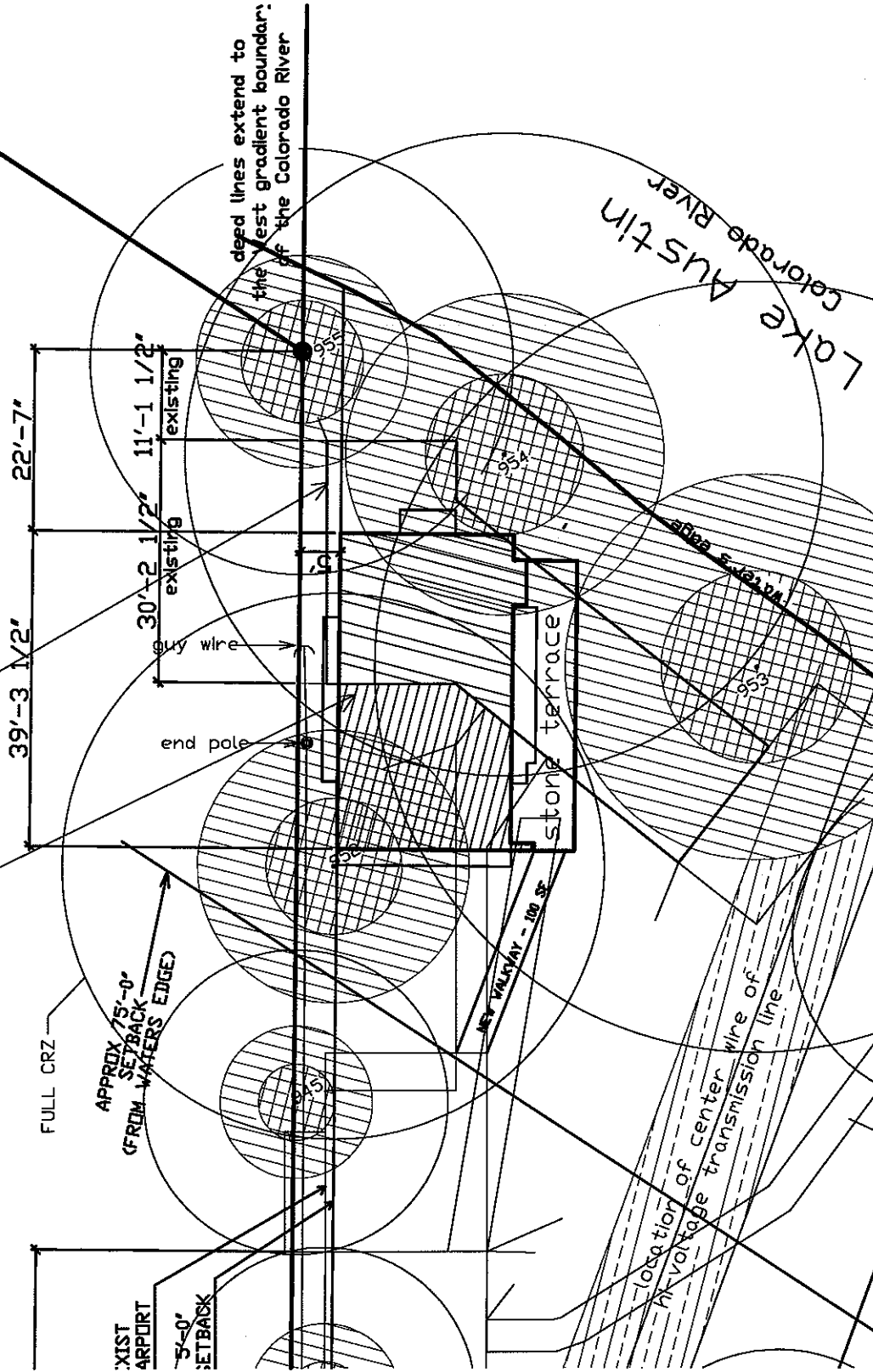
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Drawn By	7267
Check By	01/15/13
Date	01/15/13
Project #	
Phase	REVIEW
Sheet	

S2.0

LAKE RESIDENCE
 SITE PLAN

LAKE RESIDENCE SITE
 NT'S

EXISTING STRUCTURE
 PROPOSED NEW STRUCTURE



C15-2013-0011

Please be advised that the Board only takes 16 new cases a month, therefore, first come, first served. Please be advised that a request for reconsideration must be filed within 7 days from the Board meeting.

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 inquiries only) please contact Susan Walker, 974-2202; 505 Barton Springs Road, 2nd Floor (One Texas Center).

CASE # C15-2013-0011
ROW # 10881879
TP-0131090107

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

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

**WAR
NING**

: Filing of this appeal stops all affected construction activity.

STREET ADDRESS: 1404 Rockcliff Road

LEGAL DESCRIPTION: ABS 72 SUR 1 BROWN W ACR 1.0200

Lot(s) Block Division

I/We David Cancialosi on behalf of myself/ourselves as authorized agent for

John Gordon Muir affirm that on August January 1, 2013

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

(check appropriate items below)

 ERECT ATTACH COMPLETE X REMODEL MAINTAIN

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.

(zoning district) LA
10' rear yard setback

Maintain 3.5' side yard setback

252-571075 → 10' rear
252-571075(2) 5 → 3.5'

in order to remodel & add
to exist. str.

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:

The original 1972 1,000 SF structure currently has a 0' rear setback and a 3.5' side yard setback. There is a carport in front of the structure that will remain in place. The owner proposes to remodel the existing structure to create ~1858 SF, but "slide" it ~10' further from the current shoreline (and heritage sized trees located along the shoreline). The existing wood deck will also be removed and replaced further from the trees and shoreline. Maintaining the structure in the same general proximity near the water is in keeping with the nature of lake properties. Many surrounding properties have structures near the water in order to enjoy the natural lake environment. The request is reasonable in that the owner has a reasonable expectation to enjoy similar improvements consistently found throughout the lake community.

HARDSHIP:

2. (a) The hardship for which the variance is requested is unique to the property in that:
 - 1) The structure(s) was originally built prior to City of Austin annexation and thus was not governed by relative LA zoning development regulations.
 - 2) The main structure's proximity to several heritage sized trees result in delicate and thoughtful construction practices. The structure is surrounded by a 40" cypress, and 48" cypress, a combination 26.5" sycamore, and a 36" cottonwood in addition to several other mature trees on the lot. In discussions with several arborists it has been advised that a complete demolition of the existing structure may impact the root system. The owner proposes to move the structure closer to the existing carport, with minimal impact to the existing tree root systems.
 - 3) One Austin Energy transmission lines crosses the lot. It divides the site, coming from across the lake and continuing past the front lot line. This line requires a 7.5' setback on either side, creating a 15' wide section approximately 200' in length underneath the center line that is not developable. The second PUE crosses the front lot line and inhibits the front ~1/3 of the lot. It is 35' wide for a distance of 140' in length, prohibiting development in what would otherwise be a suitable build site. It is bordered to the north by a 31" willow tree, further restricting a net buildable area.
 - 4) There is one entrance to the lot that is located as far to one side of the property as possible. Any other driveway location options are complicated due to on the ground easements, overhead transmission lines, and protected tree root zones.

- 5) The remaining portion of the lot not encumbered by easements, trees, or powerlines is in the middle of the lot and is not a desirable build site for this specific lot. It is bordered by 3 protected trees, the 35' easement, and the transmission easement. It is best suited for compliance with current OSSF tank and discharge locations.
- 6) Given the age and condition of the structure, the highest and best use of the property as described and shown on the accompanying exhibits is a minor remodel to the existing footprint to allow a small increase in impervious coverage from 16.1% to 17.6%. This total impervious cover is allowable in the 0-15% slope category per LDC section 25-2-551(D)(3)(A). Maximum allowed is 35% impervious cover.

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

There are no known issues similar to this site with respect to the amount of heritage and protected sized trees, the transmission line and easement issues, and otherwise narrow shape of the lot itself.

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:

Compared to the few remaining original structures found in this area, the proposed structure location is aesthetically in keeping with many non-complying scenarios. Further, several newer homesites appear to maintain a large front yard area in order to accommodate OSSF requirements while maintaining similar land use patterns in terms of structure location in proximity to the shoreline.

PARKING: (Additional criteria for parking variances only.) **N/A**

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:

NA

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:

NA

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

NA

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

NA

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

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

7105 Barnsdale Way Austin Texas 78745

Printed David C. Cancialosi, c/o Permit Partners LLC
Phone 512-799-2401 Date January 1, 2013

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

Printed _____

Phone Date

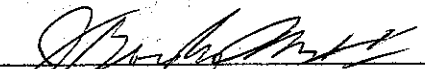
2. The granting of this variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic of the streets because:

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.

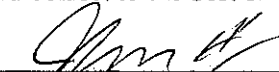
APPLICANT CERTIFICATE - I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Signed  Mail Address 1404 Rockc 112

City, State & Zip AUSTIN TX 78746

Printed J Gordon Murd Phone 512-969-4682 Date 1/7/13

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 _____

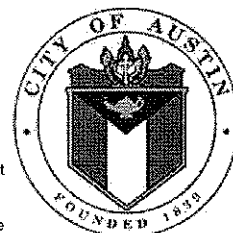


SUBJECT TRACT



ZONING BOUNDARY

CASE#: C15-2013-0011
LOCATION: 1404 ROCKCLIFF ROAD



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