

# Zilker Neighborhood Association

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1115 Kinney Ave. #42 ♦ Austin, TX 78704 ♦ 512-447-7681

April 2, 2013

Susan Walker  
Planning and Development Review Dept.  
City of Austin

Re: C15-2013-0028, 2004 Goodrich

Ms. Walker,

The Executive Committee of the Zilker Neighborhood Association supports the Board of Adjustment's original decision regarding variances requested at 2004 Goodrich, and we continue to oppose the application for a special exception under chapter 25-2-476. Please include this letter in the Development Review file and the Board of Adjustment hearing materials for this case.

The Board's original decision on June 13, 2011, was to grant "only the third variance, to allow for an increase in gross floor area that reflects the building as built without the porch and storage additions." The ZNA executive committee believes that decision satisfies the letter and the intent of the special exception ordinance. Under 476 (C) (2) and (3), the special exception "may not authorize an increase in the degree of noncompliance" and it "may not authorize a remodel or addition to the existing structure." The 2011 variance increased the allowable gross floor area from 850 to 1187 square feet, thereby allowing the owner to keep the existing building. The setback variances for the shed and porch, however, were denied, in keeping with the principle that variances should not authorize an increase in noncompliance.

This new application presents evidence that a wooden deck and open arbor structure covered with sheets of corrugated fiberglass were constructed in 1995. The 2011 variance and 2012 special exception applications, however, include photos, a site plan, and an Austin Energy building permit approval confirming that the open wooden deck and arbor have been replaced with an enclosed porch including a "slab" foundation and a roof designed to shed water toward the adjacent property. The evidence presented in 2011 indicates that the enclosed porch was constructed within the last 10 years and therefore does not meet the 15-year requirement for a special exception.

Besides the question of when the slab and current structure were built, we now have to ask whether approval of the exception will encourage the ongoing remodeling of the porch. At what point does the area of the enclosed porch cause the dwelling unit to exceed the 1187 square feet allowed under the 2011 variance, and who will be responsible for enforcing that limit?

Since the initial hearing in June 2011, it has become clear that 2004 Goodrich is just one of many properties within the neighborhood where owners are trying to convert structures that were built without permits, or were permitted as accessory structures, into separate rental units (especially short-term rentals). These properties do not meet the requirement under Chapter 25-2-476 (B) (b), requiring that "the use is a permitted use or a nonconforming use." When the exception ordinance was first proposed, we were assured that it could not be used to grandfather unpermitted construction such as this. (We were given the same assurances regarding the new short-term rental ordinance.) Granting this special exception at 2004 Goodrich would therefore violate 476 (B) (d) (iii) by granting "a special privilege that is inconsistent with other properties in the area." The ZNA executive committee requests that special exceptions in these cases include restrictions on the use of the structures as short-term rentals.

Thank you for your attention.

Sincerely yours,

Lorraine Atherton  
on behalf of the ZNA Executive Committee

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