

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

**DATE: Monday, April 8, 2013**

**CASE NUMBER: C15-2013-0028**

☐ N ☐ Jeff Jack  
☐ Y ☐ Michael Von Ohlen **Motion to Grant**  
☐ N ☐ Nora Salinas  
☐ N ☐ Bryan King  
☐ Y ☐ Fred McGhee  
☐ N ☐ Melissa Hawthorne **2<sup>nd</sup> the Motion**  
☐ Y ☐ Sallie Burchett  
☐ - ☐ Cathy French (SRB only)

**OWNER/APPLICANT: Lindsey Lane**

**ADDRESS: 2004 GOODRICH AVE**


**VARIANCE REQUESTED:** The applicant has requested a special exception from Section 25-2-476 (B) (a) (ii) of the Land Development Code in order to maintain a side yard setback of 3 feet 9 inches instead of the required 5 feet in order to maintain a screened porch in an "SF-3-NP", Family Residence – Neighborhood Plan zoning district. The Land Development Code states that the Board shall grant a special exception if the Board finds that the violation has existed for at least 15 years if the application for a special exception is submitted on or before June 6, 2013.


**BOARD'S DECISION:** The public hearing was closed on Board Member Michael Von Ohlen motion to Grant, Board Member Melissa Hawthorne second on a 3-4 vote (Board members Jeff Jack, Nora Salinas, Bryan King and Melissa Hawthorne nay); **DENIED.**

**SPECIAL EXCEPTIONS:**

- (A) The Board of Adjustment may grant a special exception for an existing residential structure, or portion of an existing structure, that violates a setback required under Chapter 25-2 (Zoning ).
- (B) The Board may grant a special exception under Subsection (A) of this section if:
- (1) the residential use for which the special exception is sought is allowed in an SF-3 or more restrictive zoning district;
  - (2) the building official performs an inspection and determines that the violation does not pose a hazard to life, health, or public safety; and
  - (3) the Board finds that:

- (a) the violation has existed for:
  - (i) at least 25 years; or
  - (ii) at least 15 years, if the application for a special exception is submitted on or before June 6, 2013;
- (b) the use is permitted use or a nonconforming use;
- (c) the structure does not share a lot with more than one other primary residence; and
- (d) granting a special exception would not:
  - (i) alter the character of the area
  - (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.

  
Susan Walker  
Executive Liaison

  
Jeff Jack  
Chairman

April 15, 2013

Mr. Jeff Jack, Chairman  
Board of Adjustment  
City of Austin  
P.O. Box 1088  
Austin, TX 78767

RE: Request for Reconsideration of C15-2013-0028, 2004 Goodrich Ave.

Dear Chairman and Member of the Board:

After reviewing the meeting on April 8, it is not apparent to me that requirements of the Special Exception Ordinance were applied to the undisputed facts of this case, in which I showed that all of the criteria of the Special Exception Ordinance were met.

Under Section 25-2-476 of the Land Development Code, The Board of Adjustment shall grant a special exception if:

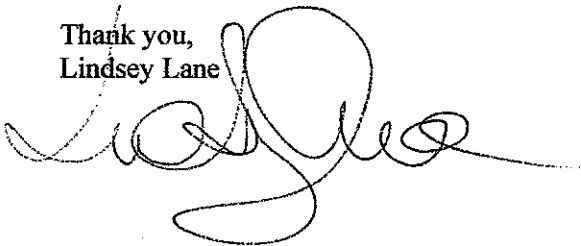
1. The special exception exists in an SF-3 or more restrictive zoning district;
2. The building official performs a life safety inspection and determines that the violation does not pose a hazard to life, health or public safety;
3. The violation has existed at least fifteen years and is submitted before June 6, 2013;
4. The use is a permitted use or a nonconforming use;
5. The structure does not share a lot with more than one other primary residence;
6. Granting the special exception will not alter the character of the area, impair the use of the adjacent property; grant a privilege that is inconsistent with other properties in the area.

For each of those criteria, I offered the following evidence:

1. My home is located in SF-3 zoning
2. A signed inspection stating the exception did not pose a threat to life safety
3. Aerial photographs showing the existence of the porch in 1997; eight affidavits stating the existence of the porch; a family photograph—all of which support the existence of the porch within the time specified by the ordinance
4. A porch is a permitted use;
5. There are only two residences on my property;
6. My contiguous neighbors signed a petition enthusiastically supporting the existence of my porch in a neighborhood where porches are a part of our outdoor community.

Because none of these facts were addressed during my presentation to the Board of Adjustment on April 8, 2013, I am requesting a reconsideration.

Thank you,  
Lindsey Lane



RECEIVED  
APR 16 2013

## 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: C15-2013-0028 – 2004 Goodrich Avenue**

**Contact: Susan Walker, 512-974-2202**

**Public Hearing: Board of Adjustment, April 8th, 2013**

*Pat Cramer*

Your Name (please print)

☐ I am in favor  
☒ I object

Your address(es) affected by this application

*2011 GOODRICH AVE*

*4-1-13*

Signature

Date

Daytime Telephone: *512/444-4117*

Comments:

*I would not want my neighbor to violate the 5-foot setback, so I do not favor granting this exemption.*

*Thank you*

**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

# Zilker Neighborhood Association

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www.zilkerneighborhood.org ♦ ~~XXXXXXXXXXXXXXXXXXXX~~

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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#### ZNA Officers, 2012-2013

Gardner Sumner, *President* ♦ Richard Gravois, *Vice President* ♦ Andy Elder, *Vice President*

Jacob Scheick, *Secretary* ♦ Merriman Smith, *Treasurer*

Tony Giustino, *ANC Delegate* ♦ Lorraine Atherton, *Newsletter Editor*

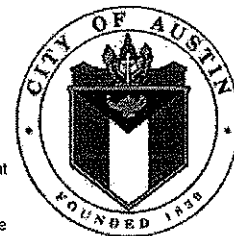


SUBJECT TRACT



ZONING BOUNDARY

CASE#: C15-2013-0028  
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.

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 # C15-2013-0028

ROW # 10911852

CITY OF AUSTIN TP-0100060117  
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 Avenue

LEGAL DESCRIPTION: Subdivision – .2218 acre tract of land in the Issac Decker League, being a portion of Block 36, L.M. Bradley's Subdivision (unrecorded) AND a 2.11 foot 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 60x161 ft. Outlot Division Bradley Addition

I/We Lindsey Lane on behalf of myself/ourselves as authorized agent for

Lindsey Lane affirm that on March 1, 2013,

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

(check appropriate items below)

    ERECT     ATTACH     COMPLETE     REMODEL   x   MAINTAIN

Existing side yard setback of 3ft 9 inches in SF-3 NP (Zilker) district. This application is submitted in accordance with Section 25-2-476 of the Land Development Code under Special Exceptions

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:

N/A (as per Susan Walker) Special Exception (Section 25-2-476 of the Land Development Code under Special Exceptions) Two Family Residential Use

**HARDSHIP:**

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

N/A (as per Susan Walker) Special Exception (Section 25-2-476 of the Land Development Code under Special Exceptions)

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

N/A (as per Susan Walker) Special Exception (Section 25-2-476 of the Land Development Code under Special Exceptions)

**AREA CHARACTER:**

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 a Special Exception would not:

1. Alter the character of the area because the structure has existed for 15 years;
2. Impair the use of the adjacent property that is developed in compliance with city code because the adjacent property is a single family home and is sixty five feet away from the structure;
3. Grant a special privilege that is inconsistent with other properties in the area or in the district in which the property is located because the Zilker neighborhood is an older neighborhood with many structural eccentricities endemic to the area.

**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:

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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:

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

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

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**(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:**

Application must demonstrate to the Board how the zoning regulations applicable to the property do not allow for a reasonable use of the property. [Note: The Board cannot approve a variance for a use that is not allowed in the zoning district in which the property is located. This requires a change in zoning.]

**Hardship:**

- a. Application must demonstrate to the Board how the hardship for which the variance is requested is unique to the property. Hardship should be specific to the property for which the variance is being requested. (For example, topography, lot configuration, or any physical constraint that would limit the placement of the structure or prevent compliance with required site development regulations, etc.) A strictly financial or personal reason is not a valid hardship.
- b. Application must demonstrate to the Board why the hardship is not general to the area in which the property is located. Describe how the hardship relating to the site is different from other properties in the area.

**Area Character:**

Application must demonstrate to the Board how 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 zoning regulations of the zoning district in which the property is located.

**NOTE:** Parking variances require additional findings to be made. The additional findings are listed on the application and must also be completed for submittal of the application.

**Board of Adjustment Staff:**

**Susan Walker, Planner**  
**974-2202**

**Diana Ramirez, Administrative Specialist, Board Secretary**  
**974-2241**

**Fax #974-6536**  
**Planning and Development Review Department**  
**One Texas Center**  
**505 Barton Springs Road, 2<sup>nd</sup> Floor**

**Mailing Address:**  
**P. O. Box 1088**  
**Austin, TX 78767-1088**

From: "Lund, Lena" <Lena.Lund@austinenergy.com>  
Subject: RE: Preliminary BOA review - 2004 Goodrich Ave  
Date: March 4, 2013 9:51:06 AM CST  
To: "lindsey lane" <lindseycummingslane@gmail.com>  
Cc: "Walker, Susan" <Susan.Walker@austintexas.gov>, "Ramirez, Diana" <Diana.Ramirez@austintexas.gov>

Correction – the house number for the above referenced case is 2004 not 3004. Sorry for the error.

Lena Lund  
Austin Energy  
Public Involvement/Real Estate Services  
512-322-6587

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**From:** Lund, Lena  
**Sent:** Monday, March 04, 2013 9:26 AM  
**To:** 'lindsey lane'  
**Cc:** Walker, Susan; Ramirez, Diana  
**Subject:** Preliminary BOA review - 3004 Goodrich Ave

Lindsey,

Austin Energy (AE) has reviewed your application for the above referenced property requesting to reduce the south side setback from 5 ft to 3 ft 9 inches. Austin Energy does not oppose this case as requested and shown on the attached red-stamped sketch.

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

Lena Lund  
Austin Energy  
Public Involvement/Real Estate Services  
512-322-6587



SCALE: 1" = 20'

**GENERAL NOTES**

1. THIS STUDY WAS PERFORMED WITH A FIDELITY CONTRACTOR IN A FEE-FOR-SERVICE OF NO MORE THAN \$100,000. THE CONTRACTOR WAS NOT A MEMBER OF THE PROFESSION OF REGISTERED PROFESSIONAL ENGINEERS.

2. ALL DRAWINGS AND REPORTS WILL HAVE CERTAIN STANDARD FEES INCURRED IN PREPARING AND DISSEMINATING THEM.

3. IN ORDER TO GET A FURTHER UNDERSTANDING OF THE DATA AND CONCLUSIONS, A FURTHER STUDY SHOULD BE CONDUCTED.

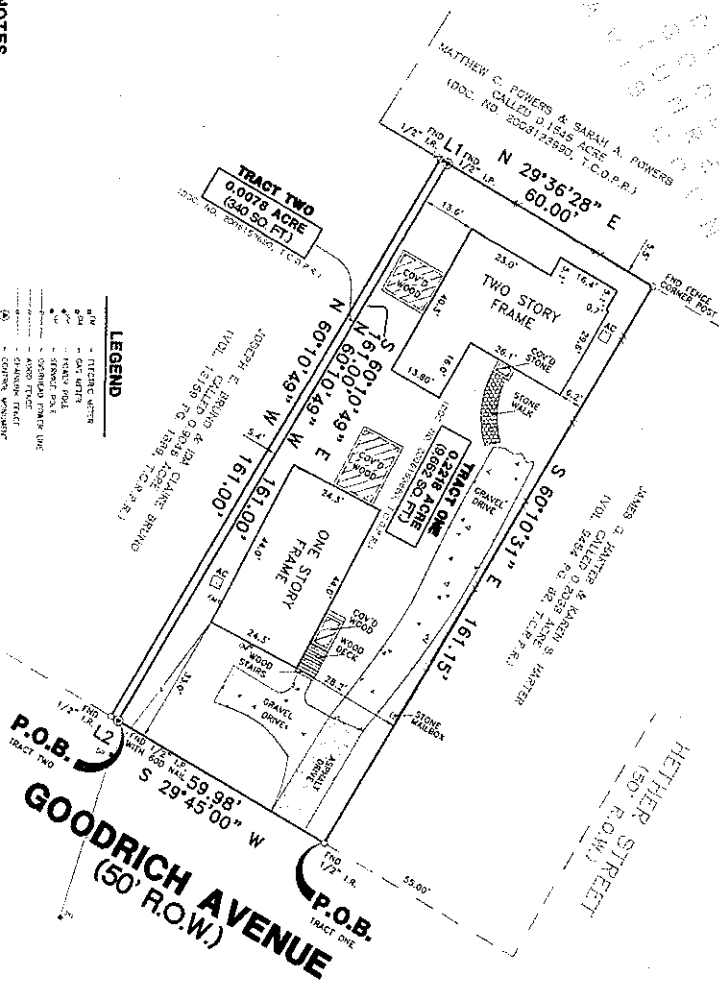
4. THE STUDY SHOULD BE CONDUCTED IN A MORE COMPREHENSIVE MANNER THAN THE PRESENT STUDY, WHICH WAS LIMITED TO THE STUDY OF THE EFFECTS OF THE STUDY ON THE STUDY OF THE STUDY.

5. THE STUDY SHOULD BE CONDUCTED IN A MORE COMPREHENSIVE MANNER THAN THE PRESENT STUDY, WHICH WAS LIMITED TO THE STUDY OF THE EFFECTS OF THE STUDY ON THE STUDY OF THE STUDY.

LINE	DISTANCE	BEARING
L1	2.13'	N 29°36'28" E
L2	2.11'	S 29°45'00" W

## LEGEND

■	IN	- FLETC WITH
□	PA	- CAT AFTER
●	"	- FEATY POOL
▲	"	- STRECK PAE
○	"	- SHAKED FINDER UN
△	"	- AVOID TRACE
▽	"	- CHARMER TRACT
◇	"	- COPIES WINNING



NETHER STREET  
— (50' P.O.W.) —

REVIEWS	
DATE	BY AGO1
<p>1. The following information is to be provided to the reviewing agency for each review:</p> <p>a. The name of the reviewing agency.</p> <p>b. The name of the reviewer.</p> <p>c. The date of the review.</p> <p>d. The results of the review.</p> <p>e. The recommendations of the reviewer.</p>	

**Windrose Land Austin Services**

4120 Cornerstone Center Dr.  
Suite 300  
Austin, Texas 78744

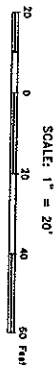
Maplewood (512) 798-2160  
Dallas (214) 358-2727  
Fax (512) 798-2727  
©Copyright 2011, Windrose Land

DATE	1984-01-11	FILED BY	02/15/84
ADDRESS	1000 WASHINGTON AVENUE, 4TH FLOOR, NEW YORK, NY 10036	PRINTED BY	02/15/84
NAME	UNITED STATES DEPARTMENT OF JUSTICE	DATE	02/15/84



1. Before writing a newspaper editorial, good writers in the past of Texas, so - Editor Robert H. Rife, wrote was that the use of the word and that this fact concerns, especially the property already possessed article. That the facts found at the time of the survey show the Mexicans did not have any no independent, apparent on the census, except to know

[illegible]



**SCALE: 1" = 20'**

SURVEY OF TRACT ONE:  
0.2218 OF AN ACRE (9,662 SQ. FT.)  
OUT OF LOT 36

SURVEY OF TRACT TWO:  
0.0078 OF AN ACRE (340 SQ. FT.)  
OUT OF LOT 36

L.M. BRADLEY'S SUBDIVISION OF LOT 4  
GOODRICH SUBDIVISION (UNRECORDED)  
SITUATED IN THE ISAAC DECKER LEAGUE  
DOCUMENT NO. 2006153660, T.C.O.P.R.  
DESCRIBED BY DOCUMENT NO. 2003156714,  
T.C.O.P.R., TRAVIS COUNTY, TEXAS

**APPROVED BY  
AUSTIN ENERGY  
FOR BOA**

DATE: 5/9/13

### GENERAL NOTES

[illegible]

LINE	DISTANCE	BEARING
L1	2.11"	N 29°36'28" E
L2	2.11"	S 29°45'00" W

### LEGEND

- TV
- GAS
- ◆ POWER
- ◆ STRIKE
- ◆ OVERHEAD POWER
- ◆ WOOD FENCE
- ◆ CRASHING TRUCK
- ◆ CONTROL WIREMESH

## REVISIONS

DATE	REASON
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100

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1

**11/21/2011**

200

1

4

**NOTE**

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JOHN WILSON  
FEDERAL BUREAU OF INVESTIGATION  
U.S. DEPARTMENT OF JUSTICE  
WASHINGTON, D.C. 20535

200

CHANG, CHIAO ADDRESS LONDON	140075 5, LANE 1001 GARDENST APTS, 4, WIMBORNE, DORSET B20 7004	RECEIVED BY: 02/12/11 DATE: 02/12/11 CACHED BY: 02/12/11	15 16 17
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**Windrose Land**

4120 Commonwealth Center Dr.  
Suite 300  
Austin, Texas 78744

Telephone: (512) 326-2100  
Fax: (512) 326-2777

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Prior History

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

**DATE: Monday, February 13, 2012**

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

☐ Y ☐ Jeff Jack  
☐ Y ☐ Michael Von Ohlen  
☐ A ☐ Nora Salinas (ABSENT)  
☐ Y ☐ Bryan King  
☐ A ☐ Susan Morrison (ABSENT)  
☐ Y ☐ Melissa Hawthorne  
☐ R ☐ Heidi Goebel (RECUSED)  
☐ - ☐ Cathy French (SRB only)  
☐ - ☐ Stuart Hampton  
☐ N ☐ Will Schnier

**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" zoning district.

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" zoning district.

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

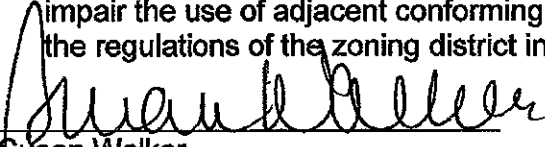
January 9, 2011 The public hearing was closed on Board Member Michael Von Ohlen motion to Grant, Board Member Susan Morrison second on a 2-5 vote (Board members Jeff Jack, Nora Salinas, Bryan King, Melissa Hawthorne, Stuart Hampton nay); **DENIED.**

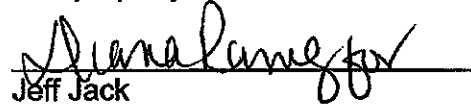
**FEB 13, 2012 RECON REQUEST --** The public hearing was closed on Board Member Bryan King motion to Deny reconsideration request, Board Member Melissa Hawthorne second on a 4-1 vote (Board member Will Schnier nay and Heidi Goebel recused herself); **DENIED RECONSIDERATION REQUEST.**

**FINDING: [SPECIAL EXCEPTION**

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

Jeff Jack, Chairman  
Board of Adjustment  
City of Austin  
P.O. Box 1088  
Austin, Tx 78767

March 1, 2013

Re: Request for a Special Exception, 2004 Goodrich Avenue

Dear Chairman and Members of the Board:

Under Section 25-2-476 of the Land Development Code, I am requesting a special exception in order to maintain a side yard setback of 3 feet 9 inches (5 feet are required) to preserve an 11'x13' screened porch.

The Special Exception Ordinance (20110526-098) was adopted in June 2008 to deal with 'yard encroachment violations' provided these violations had existed for at least 15 years; do not pose a hazard to life, health, or public safety; are keeping with other properties in the area, and do not impair the use of the adjacent property.

To that end, I am enclosing the following materials to support my request for a special exception:

- A 1997 aerial photo showing the existing porch signed by W. B. Heidrick, reviewer with residential planning
- A 2003 aerial photo showing the same porch signed by W. B. Heidrick, reviewer with residential planning
- A family photograph of the porch taken in 1997
- A survey of the property at 2004 Goodrich Avenue
- Eight supporting affidavits of people who concur with my recollection of the porch's construction.
- Signatures from all the contiguous neighbors to 2004 Goodrich in support of this special exception.
- Special Exception Inspection verifying that the requested variance will NOT result in any hazard to life, health or public safety
- A copy of the Special Exception Ordinance of the Land Development Code
- An email from CM Morrison's office regarding a wording change in the Special Exception Ordinance (Passed by Council on November 8, 2012) to provide clearer predictability in requests for special exceptions while still allowing for protection of public safety.

I hope you will find this request and the supporting materials in line with the requirement to grant a one time special exception, which is only pertinent to the structure as long as it exists.

Thank you for your time and consideration,

  
Lindsey Lane



8

1000



Area 2003  
[Signature]



February 1997

[illegible]

# AFFIDAVIT

STATE OF TEXAS


COUNTY OF TRAVIS

My name is Lindsey Lane.

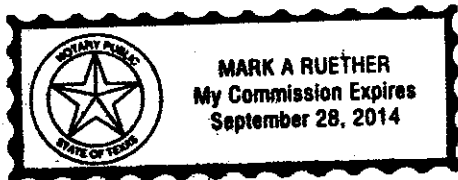
I am over 18 years of age.

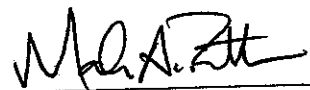
I have personal knowledge of all the factual statements in this affidavit.

1. I have owned the property at 2004 Goodrich Avenue in Austin, Texas since August 8, 1993.
2. I constructed a deck on the south side of the rear structure in the spring of 1995 with Linda Wienandt. The following year, I added a roof above the deck.
3. I have no receipts or taxes from this time period but, in reviewing my photo albums, I have found the attached photos that were taken in the late winter or early spring of 1997, two to four months after my daughter Gabriella was born on December 17, 1996.
4. I am certain that the side porch depicted in these photos was constructed prior to the birth of my daughter.
5. I believe that the porch roof was constructed in the spring or summer of 1996.

  
\_\_\_\_\_  
Lindsey Lane  
1/25/12  
\_\_\_\_\_  
Date

Sworn before me on the 25 day in January, 2012.



  
\_\_\_\_\_  
Notary Public

GENERAL AFFIDAVIT

STATE OF ARIZONA

COUNTY OF MARICOPA

PERSONALLY came and appeared before me, the undersigned Notary, the within named Linda Wienandt-Davis, who is a resident of Maricopa County, State of Arizona, and makes this her statement and General Affidavit upon oath and affirmation of belief and personal knowledge that the following matters, facts and things set forth are true and correct to the best of her knowledge:

My name is Linda Wienandt-Davis.

I am over 18 years of age.

I have personal knowledge of all the factual statements in this affidavit.

1. I have known Lindsey Lane since 1994 when she came to work at the *Austin American-Statesman*, where I was Features Editor and her boss.
2. I left the *Austin American-Statesman* for another editorial job in Bakersfield, Calif., in April 1995.
3. Before I left, in March 1995, I helped Lindsey Lane construct a deck on the south side of her back house at 2004 Goodrich Ave. in Austin, Texas.

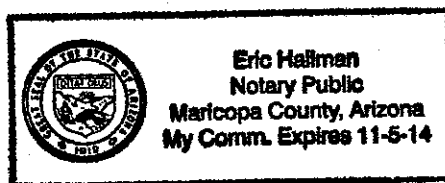
Linda B. Wienandt-Davis  
Signature of Affiant

1-25-2012  
Date

SWORN before me on this 25<sup>th</sup> day of January 2012.

[Signature]  
Signature of Notary Public

My Commission Expires: 11-5-2014 EOH DA.



AFFIDAVIT

STATE OF TEXAS

COUNTY OF DALLAS

My name is Sandra Cate Trostel. I was a resident of Austin from March 1994 to August 2007.

I am over eighteen (18) years old.

I have known Lindsey Lane, who resides at 2004 Goodrich Avenue, since 1995.

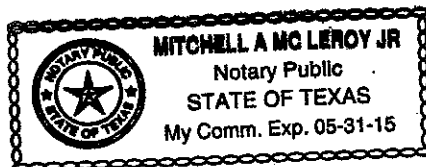
Being a close friend, I have been in her home on many occasions, both before and after the birth of her daughter Gabriella in December 17, 1996. To my recollection, there was no construction on or additions to the structure during the first several years of Gabriella's life.

I have read the affidavit of Lindsey Lane dated on the 25th day of January, 2012 and concur with her recollection of events regarding the construction of the porch and roof on the south side of her home at 2004 Goodrich Avenue.

Sandra C. Trostel

Sworn before me on this 1st day of February, 2012.

[Signature]  
Notary Public



Sandra Cate Trostel  
1902 Cooper Drive  
Irving, Texas 75061  
817.889.1999  
sandra.trostel@gmail.com

AFFIDAVIT

STATE OF TEXAS

COUNTY OF TRAVIS


My name is Jim Phillips

I am over eighteen (18) years old.

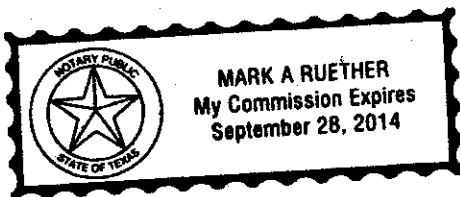
I have known Lindsey Lane since 1992.

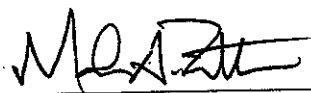
I have been closely acquainted with Lindsey Lane since she bought the property located at 2004 Goodrich Avenue and have been to her home on numerous occasions, before and after the birth of her daughter Gabriella and I am certain there was no constructions or additions during the first several years of Gabriella's life.

I have read the affidavit of Lindsey Lane dated on the 25 day of January, 2012 and concur with her recollection of events regarding the construction of the porch and roof on the south side of her home at 2004 Goodrich Avenue.

  
1-25-12

Sworn before me on this 25 day of January, 2012.



  
\_\_\_\_\_  
Notary Public

AFFIDAVIT

STATE OF TEXAS

COUNTY OF TRAVIS

My name is Mark Coffey

I am over eighteen (18) years old.

I have known Lindsey Lane, who resides at 2004 Goodrich Avenue, since 1994.

Being a close friend, I have been in her home on numerous occasions, both before and after the birth of her daughter, Gabriella on December 17, 1996. To my recollection, there were no construction projects or additions to the structure during the first several years of Gabriella's life.

I have read the affidavit of Lindsey Lane dated January 25, 2012 and concur with her recollection of the events regarding the construction of the porch and roof on the south side of her home at 2004 Goodrich Ave.

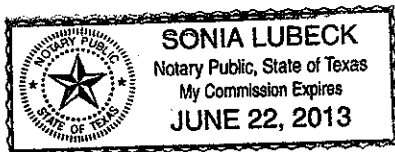
  
Mark Coffey

2-8-13

Date

Sworn before me on this 8<sup>th</sup> day of February, 2013.

  
Notary Public



AFFIDAVIT

STATE OF TEXAS

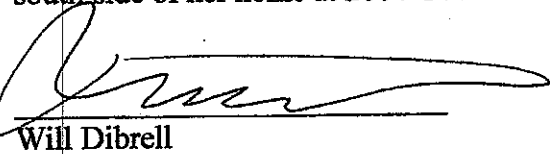
COUNTY OF TRAVIS

My name is Will Dibrell. My address is 2002-B Eastside Dr., Austin, Texas. I am over eighteen (18) years old.

I have known Lindsey Lane, who resides at 2004 Goodrich Avenue, Austin, Texas, since 1985.

I have been closely acquainted with Lindsey Lane since before she bought the property located at 2004 Goodrich Avenue in August of 1993. I have been in her home on numerous occasions, both before and after the birth of her daughter, Gabriella on December 17, 1996. To the best my recollection, there were no construction projects or additions to the structure during the first several years of Gabriella's life.

I have read the affidavit of Lindsey Lane dated January 25, 2012, and I agree with her recollection of timing and events regarding the construction of the porch and roof on the south side of her home at 2004 Goodrich Ave.

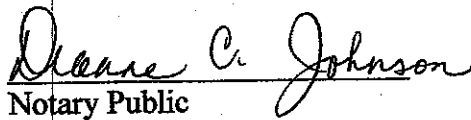
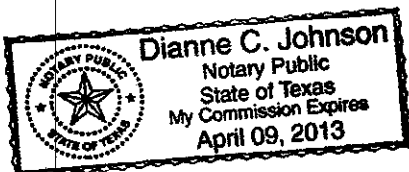


Will Dibrell

2/2/2013

Date

Sworn before me on this 7th day of February 2013.

  
Notary Public

AFFIDAVIT

STATE OF TEXAS

COUNTY OF TRAVIS

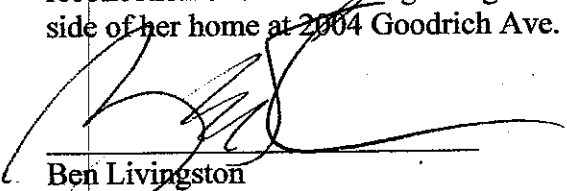
My name is Ben Livingston

I am over eighteen (18) years old.

I have known Lindsey Lane, who resides at 2004 Goodrich Avenue, since 1988.

I have been closely acquainted with Lindsey Lane since before she bought the property located at 2004 Goodrich Avenue. Being a close friend, I have been in her home on numerous occasions, both before and after the birth of her daughter, Gabriella on December 17, 1996. To my recollection, there were no construction projects or additions to the structure during the first several years of Gabriella's life.

I have read the affidavit of Lindsey Lane dated January 25, 2012 and concur with her recollection of the events regarding the construction of the porch and roof on the south side of her home at 2004 Goodrich Ave.

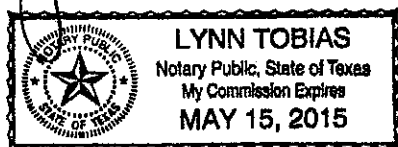
  
Ben Livingston

2-12-2013

Date

Sworn before me on this 12 day of February, 2013.

  
Notary Public



AFFIDAVIT

STATE OF TEXAS

COUNTY OF TRAVIS

My name is Kimberley Garcia

I am over eighteen (18) years old.

I have known Lindsey Lane, who resides at 2004 Goodrich Avenue, since 1991.

I have been closely acquainted with Lindsey Lane since before she bought the property located at 2004 Goodrich Avenue in August of 1993. Being a close friend, I have been in her home on numerous occasions, both before and after the birth of her daughter, Gabriella on December 17, 1996. To my recollection, there were no construction projects or additions to the structure during the first several years of Gabriella's life.

I left the Austin area in 2004 to pursue a nursing career.

I have read the affidavit of Lindsey Lane dated January 25, 2012 and concur with her recollection of the events regarding the construction of the porch and roof on the south side of her home at 2004 Goodrich Ave.

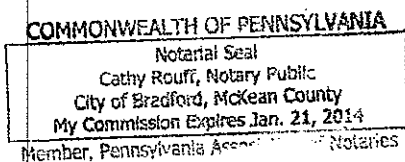
Kimberley Garcia  
Kimberley Garcia

2-18-2013

Date

Sworn before me on this 18<sup>th</sup> day of February, 2013.

Cathy Rouff  
Notary Public  
State of Pennsylvania  
County of McKean



Dear Chairman and Members of the Board:

As neighbors of Lindsey Lane at 2004 Goodrich Avenue, we enthusiastically support her application for a Special Exception (under Section 25-2-476 of the Land Development Code) to maintain a side yard setback of 3 feet 9 inches so that she may keep her screened porch intact.

Thank you.

Name	Address	Signature
CLAIRE BRUNO	2006 GOODRICH	Claire Bruno
Dale Scheiching	1716 VALERIA	Dale Scheiching
Karen Harter	2000 Goodrich Ave	Karen Harter
Blake Mitchell	2001 Goodrich	Blake Mitchell
Sue Briggs	2001 Goodrich	Sue Briggs
Alice Clark	1718 Valeria	Alice Clark
Joe Bruno	2006 Goodrich	Joe Bruno
Jim Harter	2000 Goodrich	Jim Harter
Sarah Powers	1807 Hether St.	Sarah Powers



## SPECIAL EXCEPTION INSPECTION

Address:	2004 Goodrich Ave.
Permit Number:	2012-058655
Property Owner Requesting Special Exception:	Lindsey Lane

**Special Exception Requested:**

Covered wood deck encroaching 14" into side-yard setback

Date Structure was originally constructed: aerial shows to exist in 1997

Date of Inspection:	06-22-2012
Building Official or designated representative	Tony Hernandez
<b>X</b>	The granting of the variances requested will <u>Not</u> result in any hazard to the life, health or public safety for either the property for which the variance is requested or to an adjoining public or private property
	The granting of the variances request will result in a hazard to the life, health or public safety of the either the property for which the variance is requested or to an adjoining public or private property. The following hazards related to the variance request were noted in this inspection:  1. 2. 3. 4.

## 25-2-476 SPECIAL EXCEPTIONS.

(A) The Board of Adjustment shall grant a special exception for an existing residential structure, or portion of an existing structure, that violates a setback required under Chapter 25-2 (Zoning) if the board finds that the special exception meets the requirements of this section.

(B) The Board shall grant a special exception under Subsection (A) of this section if:

(1) the residential use for which the special exception is sought is allowed in an SF-3 or more restrictive zoning district;

(2) the building official performs an inspection and determines that the violation does not pose a hazard to life, health, or public safety; and

(3) the Board finds that:

(a) the violation has existed for:

(i) at least 25 years; or

(ii) at least 15 years, if the application for a special exception is submitted on or before June 6, 2013;

(b) the use is a permitted use or a nonconforming use;

(c) the structure does not share a lot with more than one other primary residence; and

(d) granting a special exception would not:

\* (i) alter the character of the area;

\* (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).

Hi Mr. Rigler,

Good to hear from you and hope this finds you well.

Council agenda currently includes item #91 relating to granting special exceptions from setback regs. This is coming to Council as recommended by Planning Commission and staff and is in response to CM Morrison's action to initiate the language change to address concerns you had raised. It outlines for properties with longstanding code violations that do not threaten public safety or negatively impact surrounding property- that they **shall** be granted a special exception. The word SHALL is replacing the current language of MAY which allowed for wider discretion by the BOA. This is meant to provide clearer predictability while still allowing protection of public safety or long standing negative impacts if any exist.

I believe the item was postponed from an earlier council agenda due to posting issues. We haven't had any indication to date of postponement so expect it to be heard on Thursday.

-d

**Donna Tiemann**

*Policy Advisor to Council Member Laura Morrison*

*Austin City Council, Place 4*

512-974-1626 (direct)

512-974-2258 (main)