

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 # C15-2013-0085
ROW # 10980089

CITY OF AUSTIN TP-020103-01-29
APPLICATION TO BOARD OF ADJUSTMENT
GENERAL VARIANCE/PARKING VARIANCE

Amended

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

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

STREET ADDRESS: 400 Academy Drive

LEGAL DESCRIPTION: Subdivision - C81-2008-0098
Lot(s) _____ Block _____ Outlot _____ Division _____

I/We Kari Blachly on behalf of myself/ourselves as authorized agent for

Hugh & Claudette Lowe affirm that on June 27, 2013,

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

(check appropriate items below)

ERECT ATTACH COMPLETE REMODEL MAINTAIN

To correct the overall height in a previously approved variance under case number C15-2003-0158 from 46-4" to 55-4" to reconstruct a historic belvedere on the Mather-Kirkland House historically zoned under case number CH14-79-0015

in a SF-3-H-NCCD-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:

This original variance was approved in late 2003 to reconstruct a belvedere on the historically zoned Mather-Kirkland house originally built in 1889. The is an existing legal non complying structure. Please reference the original findings attached hereto.

HARDSHIP:

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

This is a historic home that is an existing legal non complying structure .

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

This variance is for the reconstruction of a collapsed historic belvedere atop a historic home.

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:

Approving this variance will not alter the area character due to the fact that it was originally constructed in 1889 and blown down in 1935 and reconstructed in 2003 maintaining the character of the neighborhood. It will not impair the adjacent conforming properties because its is the highest structure in the area. The purpose of the regulations remain unchanged as well.

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

City, State & Zip

Printed

Phone

Date

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

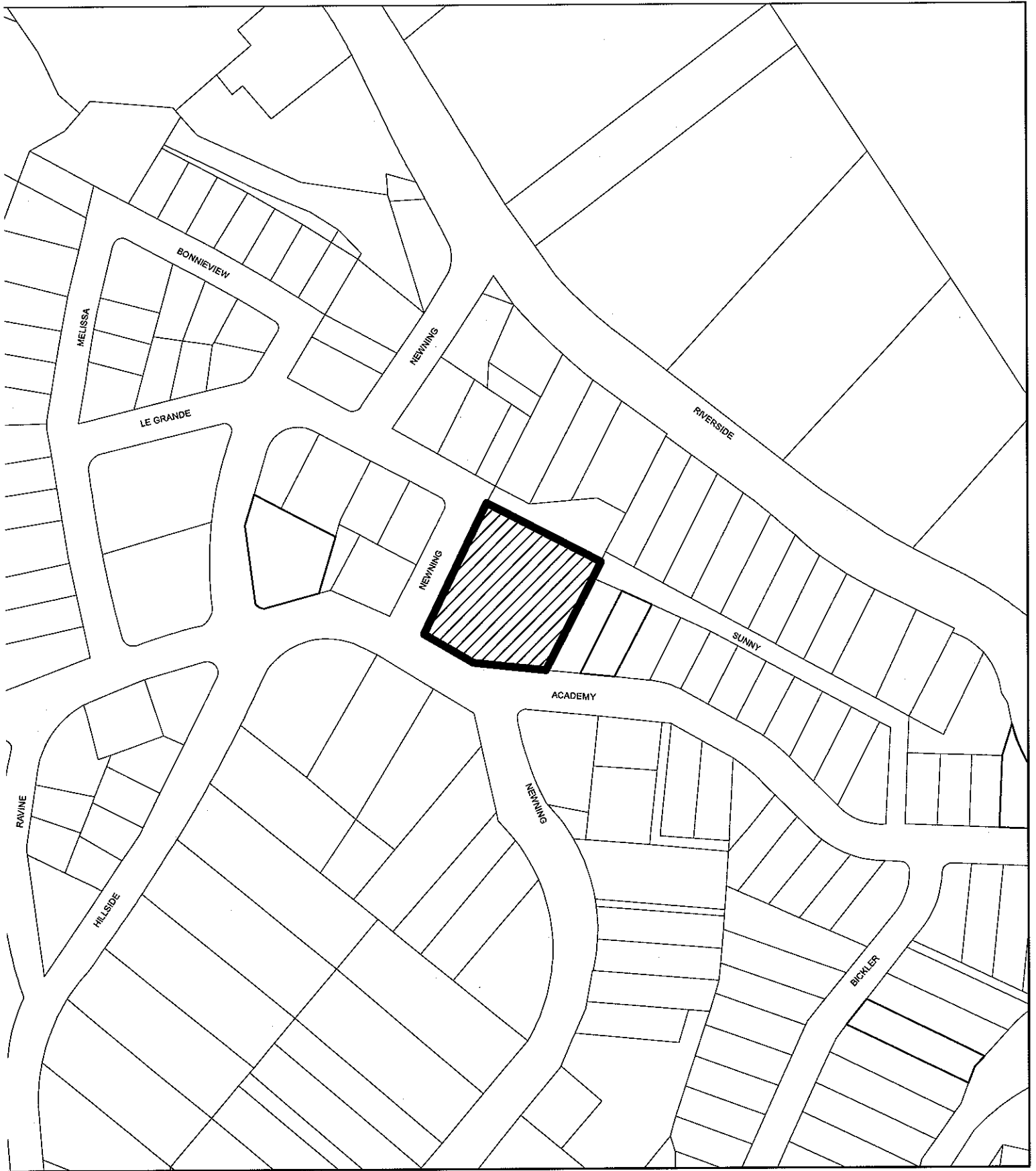
Mail Address

City, State & Zip

Printed

Phone

Date



N



SUBJECT TRACT



ZONING BOUNDARY

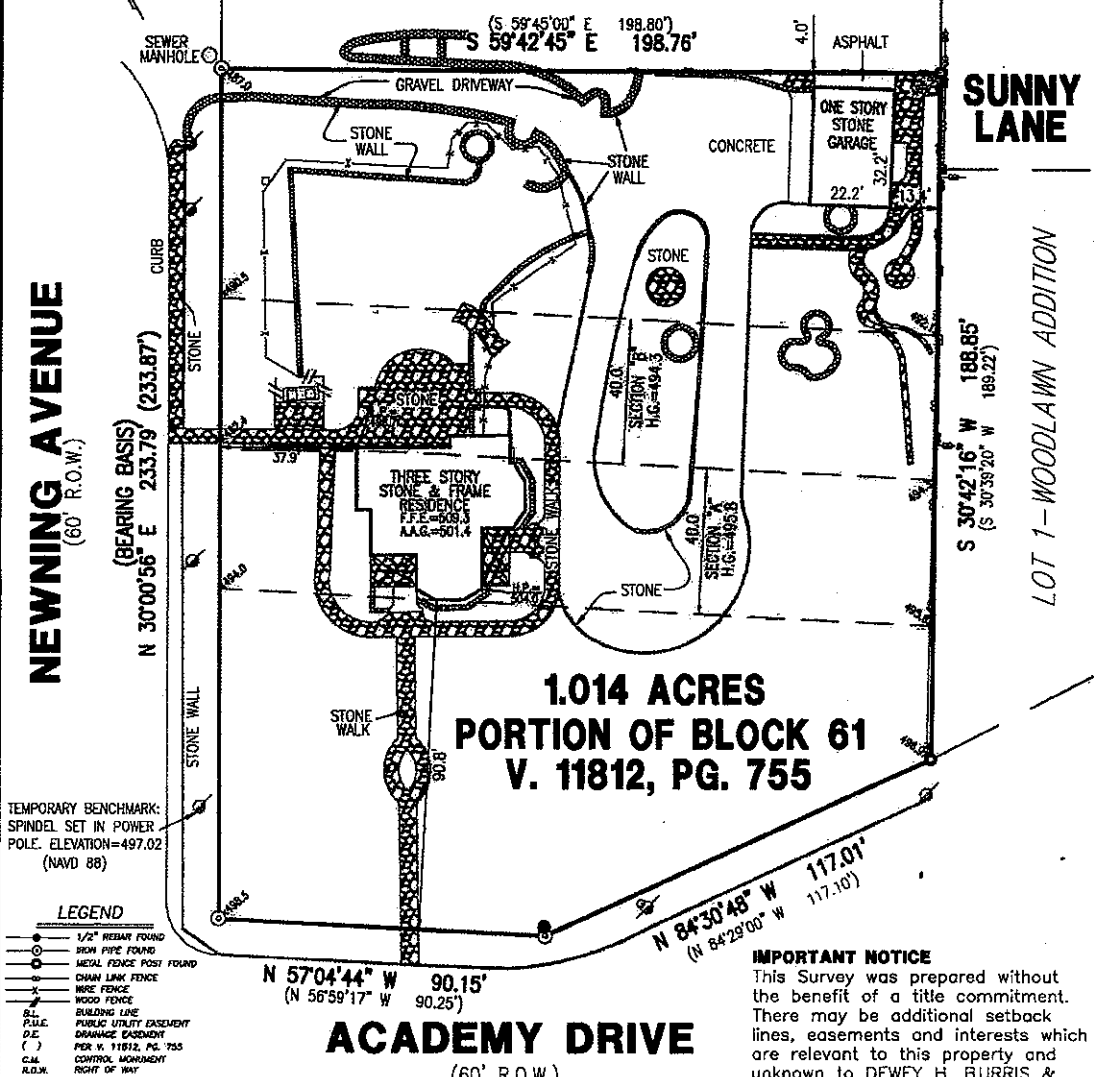
CASE#: C15-2013-0085
 LOCATION: 400 Academy



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.

LOT 2
MEKINGS RESUBDIVISION OF
A PORTION OF BLOCK 61
FAIRVIEW PARK



1.014 ACRES
PORTION OF BLOCK 61
V. 11812, PG. 755

- LEGEND**
- 1/2" REBAR FOUND
 - IRON PIPE FOUND
 - METAL FENCE POST FOUND
 - CHAIN LINK FENCE
 - WIRE FENCE
 - WOOD FENCE
 - B.L. BUILDING LINE
 - P.U.E. PUBLIC UTILITY EASEMENT
 - D.E. DRAINAGE EASEMENT
 - () PER V. 11812, PG. 755
 - C.M. CONTROL MONUMENT
 - R.O.W. RIGHT OF WAY
 - O.V. OVERHEAD ELECTRIC
 - P.O. POWER POLE
 - H.P. HIGH POINT
 - L.P. LOW POINT

BENCHMARK DATA:
PIN FOUND IN C.M. CASTING VALVE BOX AT CENTERLINE OF
ACADEMY DRIVE AT MELISSA LANE. ELEVATION = 492.85
(NGVD 29), GRID J-21, FB. 2732, PG. 74, CITY OF AUSTIN
AND CONVERTED TO NAVD 88 DATUM - ELEVATION = 493.10.

IMPORTANT NOTICE
This Survey was prepared without
the benefit of a title commitment.
There may be additional setback
lines, easements and interests which
are relevant to this property and
unknown to DEWEY H. BURRIS &
ASSOC., INC.

LEGAL DESCRIPTION:

* = BEING 1.014 ACRES OF LAND, MORE OR LESS DESCRIBED AS THE REMAINING
PORTION OF BLOCK 61, FAIRVIEW PARK, A SUBDIVISION OF RECORD IN VOLUME 1, PAGE
46 OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS AND BEING THAT CALLED 1.02
ACRE TRACT OF LAND CONVEYED TO HUGH LOWE AND CLAUDETTE LOWE IN VOLUME
11812, PAGE 755 OF THE REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS.

IMPORTANT NOTICE
THIS IS NOT AN AS-BUILT OR TITLE/MORTGAGE SURVEY.
ALL IMPROVEMENTS MAY NOT BE REFLECTED HEREON.

P.L.	PROPERTY LINE
F.F.E.	FINISHED FLOOR ELEVATION
H.G.	HIGHEST GROUND ELEVATION OF SECTION NOTED
A.A.G.	AVERAGE ADJACENT GRADE OF EXISTING GROUND
x101.5	CONDITIONS ON 07/12/13 AT BUILDING CORNERS
	EXISTING GROUND ELEVATION SHOT ON 07/12/13.

TO THE LIENHOLDER AND / OR PRESENT OWNERS OF THE PREMISES SURVEYED
BUILDING HEIGHT REPORT

STREET ADDRESS: **400 ACADEMY** CITY: **AUSTIN** COUNTY: **TRAVIS** STATE OF TEXAS
LOT: * BLOCK: **61** SUBDIVISION: **FAIRVIEW PARK** VOL/CAB: **1** PG/SLD: **46** PLAT RECORDS:
REFERENCE NAME: **HUGH & CLAUDETTE LOWE**

B & G SURVEYING, INC.
DEWEY H. BURRIS & ASSOCIATES, INC.
Surveyed by: **B & G Surveying, Inc.**
Dewey H. Burris & Associates
WWW.BANDGSURVEY.COM
1404 West North Loop Blvd. Austin, Texas 78756
Office 512*458-6969, Fax 512*458-9845

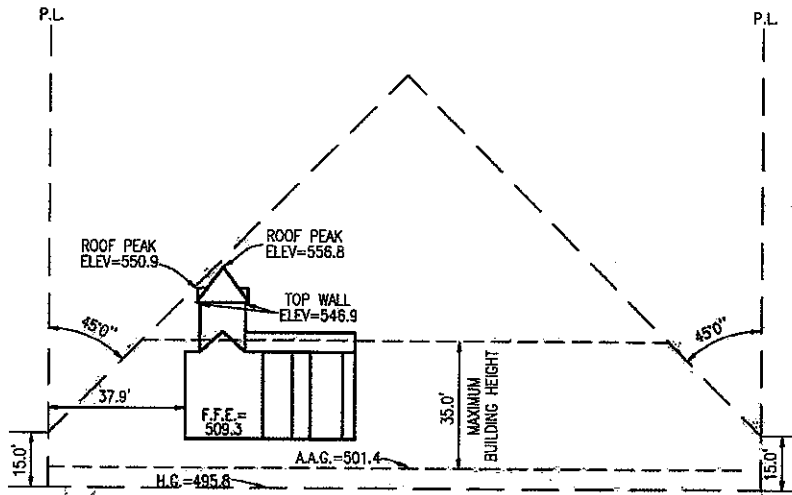
NOTE:
FRONT AND SIDE BUILDING VIEWS HEREON INTEND
TO REPORT HEIGHT DATA ONLY AND DO NOT
PURPORT TO BE DETAILED AS-BUILT SKETCHES.

SHEET **1** OF **2**

JOB #: **R0700513_TA**
DATE: **07/17/13**
SCALE: **1" = 40'**

FIELD WORK BY	CHRS	07/12/13
CALCD BY	TONI	07/15/13
DRAFTED BY	TONI	07/16/13
CHECKED BY	NL	07/17/13

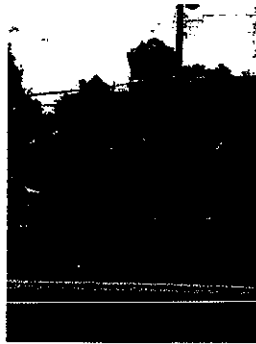
FRONT VIEW - SECTION 'A'



SITE PICTURES



FRONT VIEW



SIDE VIEW

IMPORTANT NOTICE

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P.L. PROPERTY LINE
 F.F. FINISHED FLOOR ELEVATION
 H.G. HIGHEST GROUND ELEVATION OF SECTION NOTED
 A.A.G. AVERAGE ADJACENT GRADE OF EXISTING GROUND
 CONDITIONS ON 07/12/13 AT BUILDING CORNERS
 x101.5 EXISTING GROUND ELEVATION SHOT ON 07/12/13.

TO THE LIENHOLDER AND / OR PRESENT OWNERS OF THE PREMISES SURVEYED

BUILDING HEIGHT REPORT

STREET ADDRESS: **400 ACADEMY** CITY: **AUSTIN** COUNTY: **TRAVIS** STATE OF TEXAS
 LOT: * BLOCK **61** SUBDIVISION: **FAIRVIEW PARK** VBL/CAB **1** PG/SLD **46** PLAT RECORDS:
 REFERENCE NAME: **HUGH & CLAUDETTE LOWE**



B & G SURVEYING, INC.
DEWEY H. BURRIS & ASSOCIATES, INC.
 Surveyed by: **B & G Surveying, Inc.**
Dewey H. Burris & Associates

WWW.BANDGSURVEY.COM
 1404 West North Loop Blvd. Austin, Texas 78756
 Office 512*458-6969, Fax 512*458-9845

NOTE:
 FRONT AND SIDE BUILDING VIEWS HEREON INTEND
 TO REPORT HEIGHT DATA ONLY AND DO NOT
 PURPORT TO BE DETAILED AS-BUILT SKETCHES.

SHEET **2** OF **2**

JOB #: **R0700513_TA**
 DATE: **07/17/13**
 SCALE: **1" = 40'**

FIELD WORK BY	CHRIS	07/12/13
CALCD BY	TON	07/15/13
DRAFTED BY	TON	07/16/13
CHECKED BY	ML	07/17/13

**CITY OF AUSTIN
BOARD OF ADJUSTMENT/SIGN REVIEW BOARD
DECISION SHEET**

____ Greg Smith
____ Barbara Aybar
____ Leane Heldenfels, Vice Chair
____ Frank Fuentes, Chair
____ Betty Edgemond

DATE: November 10, 2003

CASE NUMBER: C15-03-128

APPLICANT: Hugh & Claudette Lowe

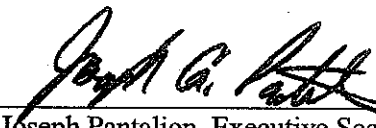
ADDRESS: 400 Academy Dr.

VARIANCE REQUESTED: The applicant has requested a variance to increase the maximum height requirement of Section 25-2-492(D) from 35 feet to 46 feet 4 inches in order to reconstruct a belvedere for an existing single-family residence in an "SF-3-H-NCCD", Family Residence-Historic-Neighborhood Conservation Combining District" zoning district.

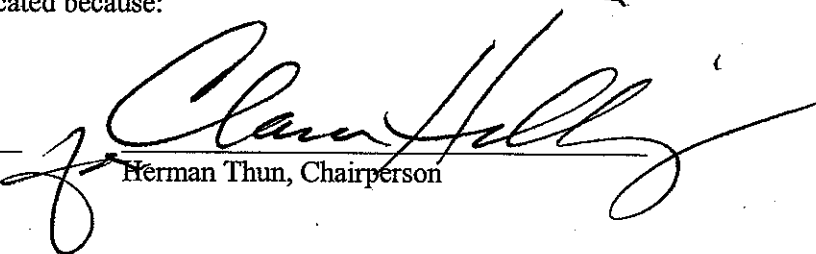
BOARD'S DECISION: **GRANTED 4-0**

FINDINGS:

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:



Joseph Pantalion, Executive Secretary



Herman Thun, Chairperson

CASE #

C15-03-128
PE 020/030129

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

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

PLEASE: PRINT OR TYPE; USE BLACK INK; AND COMPLETE ALL REQUESTED INFORMATION.

STREET ADDRESS: 400 (sometimes called 402 or 404) Academy Dr., Austin TX 78704.

LEGAL DESCRIPTION: Subdivision – Fairview Park
Lot(s) S. 211.12 Ft. Block 61 Outlot _____ Division _____

I/We Hugh and Claudette Lowe, on behalf of ourselves, affirm that on October 2, 2003, we hereby apply for a hearing before the Board of Adjustment for consideration to:

ERECT – ATTACH – COMPLETE – REMODEL – MAINTAIN

Reconstruct a historic belvedere atop an 1889 historically-zoned house: the Mather-

Kirkland House (The Academy), Landmark Commission No. C14H-79-0015

in a SF-3-H zoning district. The finished height of the belvedere, measured at the

midpoint of the pitched roof, will be 46'-4" above average grade. The ridge of the

existing roof is 39'-10" above average grade.

(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:

REASONABLE USE:

1. The zoning regulations applicable to the property do not allow for a reasonable use because:

The belvedere was part of the structure when the house was built, in 1889. It decayed and blew down in about 1935. A part of the reasonable use of the house is to display and use it for its historic purposes, in accordance with the Historic Landmark Commission guidelines. The Landmark Commission approved the reconstruction of the belvedere on July 31, 1998 (Exhibit A) and renewed the approval on September 22, 2003 (Exhibit B).

HARDSHIP:

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

The house itself is unique and the belvedere is unique. The height of the structure is historically established. The belvedere height would have been grandfathered under the zoning laws if the structure had not collapsed. The reconstruction represents a significant cost and effort that the owners are willing to undertake with no commercial goal. This combination of factors is unlikely to arise again, and the hardship is therefore unique to this property.

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

No other structure in Fairview Park has a collapsed historic belvedere that will exceed zoning height limits when reconstructed.

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:

(A) The structure will not alter the character of the area adjacent to the property.

The restored historic houses in this area give the neighborhood a significant part of its character. This project is a meticulous historic restoration that will add to the historic character.

(B) The reconstruction of the belvedere will not impair the use of adjacent conforming property because the only possible impairment would be obstruction of a scenic view. The house sits atop a hill, and only one adjacent house is tall enough to have a line of sight even remotely level with the belvedere. That is the Lucas House at 300 Academy, itself a historic structure. The belvedere has no significant effect on the view from the Lucas House because:

- The belvedere is an airy structure.
- The view from the Lucas House is from a single gable window. It is not a location designed for or particularly well situated for taking in a view.
- The view of the belvedere site from the Lucas House is for the most part obstructed by tall trees.
- The Lucas House is not directly across the street from the subject property; it is cater-cornered, so the frontal view from the Lucas gable is not obstructed. The belvedere is on the periphery of the view from the gable, and occupies only a few degrees of the panorama. A viewer would have to be standing quite close to the gable window and looking sharply to the right to see the belvedere;

it could not be seen from a seat located a few feet back from the window.

- The Lucas House is also historic, and was built at about the same time as the subject structure, so the two houses were built to accommodate each other by the standards in place at the time.

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.

~~OWNER/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 400 Academy Dr.

City, State & Zip Austin TX 78704

Printed HUGH LOWE Phone (512) 447-1514 Date Oct. 2, 2003

ADDITIONAL INFORMATION TO BE SUBMITTED WITH COMPLETED APPLICATION:

STATEMENT TO BOARD OF ADJUSTMENT

By the Applicants in Case No. C15-03-128

Our names are Hugh and Claudette Lowe. We are the applicants in this case. We are requesting a zoning height variance sufficient to permit us to reconstruct the belvedere that was on our house when it was built in 1889.

Brief History of House

Our house, at 400 Academy, is the Mather-Kirkland House, known locally as the Academy. It was built in 1889, of granite left over from the construction of the Capitol, which was completed the year before. The home was constructed for Myron D. Mather, a furniture dealer and later president of Austin Water, Light and Power Company. It was later occupied by Leroy G. Denman, a justice on the Texas Supreme Court. Throughout the 20's it was the Austin Military Academy; hence its local name and the name of the street. For many years it was the home of Elithe Kirkland, a UT historian and respected writer of Texas historical romances.

Progress of Restoration

By the time we obtained the house in 1982 it had deteriorated severely. We bought it from architect Sinclair Black and a partner, who had purchased it to stop it from disintegrating structurally. They replaced the roof and stopped water penetration, but did no further restoration. We undertook a down-to-the-studs restoration. We replaced the plumbing, mechanical and electrical systems. On the top two floors we replaced all of the walls, which were noticeably out of plumb. We removed all of the longleaf-pine woodwork and stripped it of many layers of paint. We repaired and refinished the wood floors, replaced the majolica tile on the fireplace surrounds, replaced a large number of stained-glass windows, and restored, recast and replaced hundreds of pieces of brass hardware.

We ran out of money before we could get to the bottom floor (which is not the main entry floor), and moved into the house in 1985. By 1997 we were able to take on the bottom floor, and finished the restoration on it over the next two years.

This house lasted for a hundred years before it started to die. We have rescued it, and everything we have done is intended to last for another hundred years before it has to be done again. As soon as we complete the belvedere, in fact, we are going to replace the wood-shingle roof with slate shingles, which are intended to last for much more than a hundred years.

All of our work, including the proposed belvedere, has been under the care of restoration architect Robert Steinbomer. Robert Grubb, widely recognized as the most meticulous restorer in Austin, did the 1982-85 work, and will build the belvedere.

Recognition

The house is listed on the National Register of Historic Places, it is a Texas Historic Landmark and a City of Austin Historic Landmark, it has received an annual preservation award from the Austin Heritage Society, it has been opened for many historic-homes tours, it was featured on HGTV's *Restore America* program and in *Southern Living* magazine, and it has been a period location for a number of commercial and student films.

Present Effort.

The house is a delight to live in, and we will personally benefit from the restoration we do. But all who restore an historic home realize at some point that they are no longer owners of the structure; they are stewards. We will not let this house be torn down to make way for an apartment house, or destructively converted to commercial use. We have voluntarily rolled back our zoning from MF-3 to SF-3 (as have the majority of our neighbors) and our goal is to leave behind us an accurately restored and eminently liveable house, as it would have been used by a well-to-do but not notoriously rich family in the late 19th century. We believe that this is a legitimate goal, and one strongly encouraged by the stated public policy of the City of Austin in its historic zoning program. If so, then it is a hardship, as that term is used in the variance process, for us to be prevented by the zoning height restriction from reconstructing the belvedere and thereby finishing the restoration. We believe that the variance we request will serve the public good, and we earnestly ask that you grant it.

Respectfully submitted,

Hugh and Claudette Lowe



**City of Austin
BUILDING PERMIT**

PERMIT NO: 2003-007984-BP
400 ACADEMY DR

Type: RESIDENTIAL Status: VOID
Issue Date: 11/21/2003 **EXPIRY DATE: 06/08/2005**

LEGAL DESCRIPTION						SITE APPROVAL		ZONING	
PROPOSED OCCUPANCY:		WORK PERMITTED: Remodel				ISSUED BY:			
Rebuild Belvedere (Historic Approved & Variance Approved C15-03-128)/Reroute Plbg Vent /Install Hotwater Heater									
TOTAL SQFT		VALUATION		TYPE CONST.	USE CAT.	GROUP	FLOORS	UNITS	# OF PKG SPACES
		Tot Val Rem: \$0.00			435				
		Tot Job Val: \$20,000.00							
TOTAL BLDG. COVERAGE		% COVERAGE		TOTAL IMPERVIOUS COVERAGE		% COVERAGE		# OF BATHROOMS	METER SIZE

Contact	Phone	Contact	Phone
General Contractor, Hugh Lowe	(512) 447-1514		

<u>Fee Desc</u>	<u>Amount</u>	<u>Date</u>	<u>Fee Desc</u>	<u>Amount</u>	<u>Date</u>	<u>Fee Desc</u>	<u>Amount</u>	<u>Date</u>
Building Permit Fee	135.00	11/21/2003	Electrical Permit Fee	23.00	7/9/2004	Plumbing Permit Fee	29.00	1/23/2004
Fees Total:	187.00							

Inspection Requirements
Building Inspection Electric Inspection Plumbing Inspection

All Buildings, Fences, Landscaping, Patios, Flatwork And Other Uses Or Obstructions Of A Drainage Easement Are Prohibited, Unless Expressly Permitted By A License Agreement Approved By COA Authorizing Use Of The Easement.

City Code Chapter 25-12, Article 13: A permit expires on the 181st day if the project has not scheduled nor received an inspection. A "Cancelled" and/or "Failed/No Work Performed" inspection result does not extend the expiration date.

The following permits are required as a separate permit: See Mechanical, Electrical, Plumbing permits for Related Fees and Inspections.

Comments		
Residential Zoning Review	Date	Reviewer
	11/21/2003	Nora Briones

By Accepting Or Paying For This Permit You are Declaring That You Are The Owner Or Authorized By The Owner That The Data Submitted At The Time Of Application Was True Facts And That The Work Will Conform To The Plans And Specification Submitted Herewith.



**City of Austin
BUILDING PERMIT**

PERMIT NO: 2003-007984-BP
400 ACADEMY DR

Type: RESIDENTIAL Status: VOID
Issue Date: 11/21/2003 **EXPIRY DATE: 06/08/2005**

LEGAL DESCRIPTION						SITE APPROVAL		ZONING	
PROPOSED OCCUPANCY:		WORK PERMITTED: Remodel				ISSUED BY:			
Rebuild Belvedere (Historic Approved & Variance Approved C15-03-128)/Reroute Plbg Vent /Install Hotwater Heater									
TOTAL SQFT		VALUATION		TYPE CONST.	USE CAT.	GROUP	FLOORS	UNITS	# OF PKG SPACES
		Tot Val Rem: \$0.00			435				
		Tot Job Val: \$20,000.00							
TOTAL BLDG. COVERAGE		% COVERAGE	TOTAL IMPERVIOUS COVERAGE		% COVERAGE	# OF BATHROOMS		METER SIZE	

<u>Type</u>	<u>Date</u>	<u>Status</u>	<u>Comments</u>	<u>Inspector</u>
101 Building Layout	11/26/2003	Pass	MIGRATED FROM PIER.	Michael Davis
103 Framing	5/5/2004	Pass	MIGRATED FROM PIER.	Michael Davis
112 Final Building	12/10/2004	Fail	MIGRATED FROM PIER.	David Michael Dimi
609 Fire		Open		Jessie Scott