

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

CASE # C15-2013-0011
ROW # 10881879
TP-013109-01-07

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 WACR 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 December 7, 2013

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

(check appropriate items below)

 X ERECT ATTACH COMPLETE 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
15' shoreline setback for new single family residence.

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:

A variance was approved in April 2013 by vote of 7-0 for a remodel and addition to the existing structure, allowing a 15' shoreline setback to replace the existing 0' shoreline setback. The application was marked *remodel*, and the public notice reflected *addition and remodel*, however, supporting documentation such as site plans, floorplans, and elevations reflected the intent to replace the existing residence with a **new single family residence**. The applicant is requesting the Board amend its April 2013 approval to allow **new residential construction** with the same April 2013-approved 15' shoreline setback.

Over the course of two separate BOA meetings (February and April 2013) the applicant believed the Board understood the intent to replace the existing structure with a new structure; however, this evidently was not clarified. Doing so would have resulted in a properly defined request and subsequent public notice for construction of a new residence. It is probable that this oversight occurred while emphasizing to the Board the site's multiple hardships such as crisscrossing easements, current septic requirements, and existing protected tree root zone setbacks. The applicant apologizes to the Board for not accurately defining this matter during that time.

As such, the application and public notice should have correctly reflected the owner's intent to demolish the existing residence and build a new structure. The applicant requests the Board take into account the same findings discussed in prior BOA hearings. No design changes are proposed. The proposed site construction is exactly the same as proposed in April 2013. The site encumbrances are the same. We ask the Board approve the current request to **build a new structure** at the April 2013-approved 15' shoreline setback.

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 that structure that will remain in place. The owner proposes to demolish the existing structure. In its place an approximate 1858 SF new residence will be constructed. 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 proposed structure's proximity to several heritage sized trees requires 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.
- 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, easement setback requirements, 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. This area 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 full demolition. The new structure will result in a small increase in impervious coverage from 16.1% to 17.6%. The total allowable impervious coverage in the 0-15% slope category per LDC section 25-2-551(D)(3)(A) 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 protected sized trees, the transmission line and easement issues, and 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 new structure and its location is aesthetically in keeping with many non-complying scenarios. Further, several newer home sites 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. Construction of a new (replacement) single family structure will not change the area of character.

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:

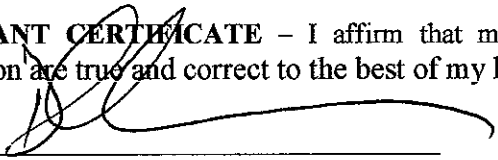
NA

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 December 7, 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 _John Gordon Muir

December 7 2013

Registered Professional Land Surveyor No. 2166
HILLT CARSON, INC.
1904 Fortview Road Austin, Texas 78704
(512)-442-0950

Elkhorn-South Trust
(1.676 Acres)
Warranty Deed
Doc. 2001138876

Total lot Square footage 44,396
Existing building coverage 2446 sf = 5.4% of lot
Existing impervious coverage 7185 sf = 16.1% of lot

FRAGILE

Michael L. Klein and wife
Jeanne L. Klein
(1,583 Acres)
General Warranty Deed
Doc. 2003-38607

Wm. BROWN SURVEY
Abstract No. 72

Michael G. Kelley
<102 Acres>
Volume 5836 Page 172

541	27	1st	Handcuff	
542	14	Handcuff		
543	15	Handcuff		
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626	100	Hand		

**EXISTING
ONE STORY**

LOG SKU
 012 - from Rod Found
 ---X--- Wire Fence
 ---W--- Movable Iron Fence
 Overhead Utility Line
 Tree "Green"
 and
 Tree Tag Number
 405
 (Record Bearing and Distance)
 SCALE: 1" = 20'

[illegible]

EXISTING SITE PLAN

CONTRACTOR SHALL NOTIFY TONY MARTIN, JR. IMMEDIATELY OF ANY DISCREPANCIES IN THE CONSTRUCTION DRAWINGS OR CHANGES THAT WOULD DEVIATE FROM THE CONSTRUCTION DRAWINGS.

1-28-0

up Austin
Cado River

OWNER
MUIR RESIDENCE
AUSTIN, TEXAS

DESIGN FIRM
TONY MARTIN INC.
DESIGNED BY: TONY MARTIN
12552 Rimb Road 1651
FREDERICKSBURG, TEXAS 77624
STUDIO: 832-4970488 FAX: 832-4970444

S1.10

EXISTING CONDITION

SEE SHEET S1.121
FOR ADDITIONAL NOTES
AND CALCULATIONS

PROPOSED NEW STRUCTURE

80'-8-1/2'

FULL CRZ -

1/4 CRZ -

1/2 CR

...CKS EDGES



~~10 REMAIN~~

15' MINIMUM SETB
ALLOWED PER CAS
#C15-2013-0011

Proposed septic
drainfield

S31° 10' 27" W 538, 70'
(S31° 05' W 538, 7')

front PL unbuildable - 2263 sq
Barry Waite and wife,
Christina Waite
(1.135 Acres)
General Warranty Deed
Doc. 2001024257

85. Record log
per wide
Elect
Vol
CONTRACTOR SHALL NOTIFY MAINT. IN
IMMEDIACY OF ANY DISCREPANCIES IN THE
CONSTRUCTION DRAWINGS OR CHANGES THEREIN.

ENLARGED NEW CONSTRUCTION SITE PLAN W/TREES

Austin
to River

[illegible]

OWNER:
MUIR RESIDENCE
1404 Rockcliff Road
AUSTIN, TEXAS

DESIGN FIRM
TONY MARTIN INC.
DESIGNED BY: TONY MARTIN
12321 Ranch Road 1631
FREDRICKSBURG, TEXAS 78624
STUDIO: 817.624.242 • FAX: 817.624.2424

S1.121B

SITE PLAN W/TREES

[illegible]

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.

1404 Rockcliff JAW BoA

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 [Signature] Mail Address 1404 Rockcliff

City, State & Zip AUSTIN TX 78746

Printed J. Gordon Muir III Phone 512-964-4682 Date 12/9/13