

C15-2014-00358  
Row 11084494  
TAX 0217020204

## NOTICE OF APPEAL INFORMATION

Austin City Code ARTICLE 7. APPEALS, VARIANCES, SPECIAL EXCEPTIONS, AND ADJUSTMENTS.

Division 1. Appeals

(see page 2 of 2 for appeal process)



### Planning and Development Review Department

Address of Property in Question

3110 Grandview, Austin 78705

Permit Number

2013-130836 BP

Appellant Filing Appeal

Betsy Greenberg

Relationship to Property

Appellant's status as Interested Party

#### Appellant Contact Information

Name

Betsy Greenberg

Street

3009 Washington Sq.

City

Austin

State

TX

Zip

78705

Telephone

512-689-7538

E-Mail

betsy.greenberg@gmail.com

Date of Decision Being Appealed:

Dec 26, 2013

#### Permit Holder Contact Information

Name

Kevin Cutsinger

Street

1979 CR 200

City

Liberty Hill

State

TX

Zip

78642

Telephone

512-778-5922, 512-515-7888

E-Mail

Date Appeal is Filed:

Jan 13, 2014

Decision being appealed: (use additional paper as required)

Building permit approval

Reason the appellant believes the decision does not comply with the requirements of the Land Development Code (Title 25)

The building permit should not be issued because ① the tent is incorrectly drawn so the house may not fit in it. Applicant has tent beginning at property line, not build line. ② The lot is 49 ft wide and does not meet the minimum lot width of 50 ft.

#### BELOW FOR CITY USE ONLY

Hearing Date:

Board or Commission:

Action on Appeal:

Date of Action

Form Bldg 101 Page 1 of 2

The applicant must complete page 2 of 2 and sign before this application of appeal is complete. The application will not be processed unless the applicant reads and signs page 2 of 2.

**CITY OF AUSTIN  
APPLICATION TO BOARD OF ADJUSTMENT  
INTERPRETATIONS  
PART I: APPLICANT'S STATEMENT  
(Please type)**

STREET ADDRESS: 3110 Grandview, Austin, TX 78705

LEGAL DESCRIPTION: Subdivision -- Oakwood

Lot (s) 76 Block 2 Outlot Division

ZONING DISTRICT: SF-3-CO-NP

I/WE Betsy Greenberg on behalf of myself/ourselves as authorized Agent for Heritage Neighborhood Association affirm that on the 13<sup>th</sup> Day of January, 2014, hereby apply for an interpretation hearing before the Board of Adjustment.

Planning and Development Review Department interpretation is:

1. That the building permit should be issued

I feel the correct interpretation is:

The building permit should not be issued because

1. The tent is incorrectly drawn so the house may not fit within it. Applicant has Tent beginning at property line, not at build line.
2. The lot is 49 ft wide and does not meet the minimum lot width of 50 ft.

**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.

1. There is a reasonable doubt of difference of interpretation as to the specific intent of the regulations or map in that:

NA

2. An appeal of use provisions could clearly permit a use which is in character with the uses enumerated for the various zones and with the objectives of the zone in question because:

NA

3. The interpretation will not grant a special privilege to one property inconsistent with other properties or uses similarly situated in that:

NA

**APPLICANT/AGGRIEVED PARTY CERTIFICATE** – I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Signed

*Betsy Greenberg*

Printed

Betsy Greenberg

Mailing Address

3009 Washington Square, Austin, TX 78705

City, State & Zip

Phone

512-689-7538

**OWNER'S CERTIFICATE** – I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Signed

Printed

Mailing Address

City, State & Zip

Phone

## Appeal Process

You may appeal by following the Land Development Code requirements below. You must complete the form with all required information.

### ARTICLE 7. APPEALS, VARIANCES, SPECIAL EXCEPTIONS, AND ADJUSTMENTS.

#### Division 1. Appeals.

##### § 25-1-181 STANDING TO APPEAL.

- (A) A person has standing to appeal a decision if:
- (1) the person is an interested party; and
  - (2) a provision of this title identifies the decision as one that may be appealed by that person.
- (B) A body holding a public hearing on an appeal shall determine whether a person has standing to appeal the decision.

Source: Section 13-1-250; Ord. 990225-70; Ord. 030828-65; Ord. 031211-11.

##### § 25-1-182 INITIATING AN APPEAL.

An interested party may initiate an appeal by filing a notice of appeal with the responsible director or building official, as applicable, not later than:

- (1) the 14th day after the date of the decision of a board or commission; or
- (2) the 20th day after an administrative decision.

Source: Section 13-1-251(a); Ord. 990225-70; Ord. 031211-11.

##### § 25-1-183 INFORMATION REQUIRED IN NOTICE OF APPEAL.

The notice of appeal must be on a form prescribed by the responsible director or building official and must include:

- (1) the name, address, and telephone number of the appellant;
- (2) the name of the applicant, if the appellant is not the applicant;
- (3) the decision being appealed;
- (4) the date of the decision;
- (5) a description of the appellant's status as an interested party; and
- (6) the reasons the appellant believes the decision does not comply with the requirements of this title.

Source: Section 13-1-251(a); Ord. 990225-70; Ord. 010329-18; Ord. 031211-11.

By signing this document, I attest to having read and understand my rights as granted by the Land Development Code for the process of appealing an administrative decision by the building official or the responsible director.

1/12/14  
Date:

Printed Name:

Signature:

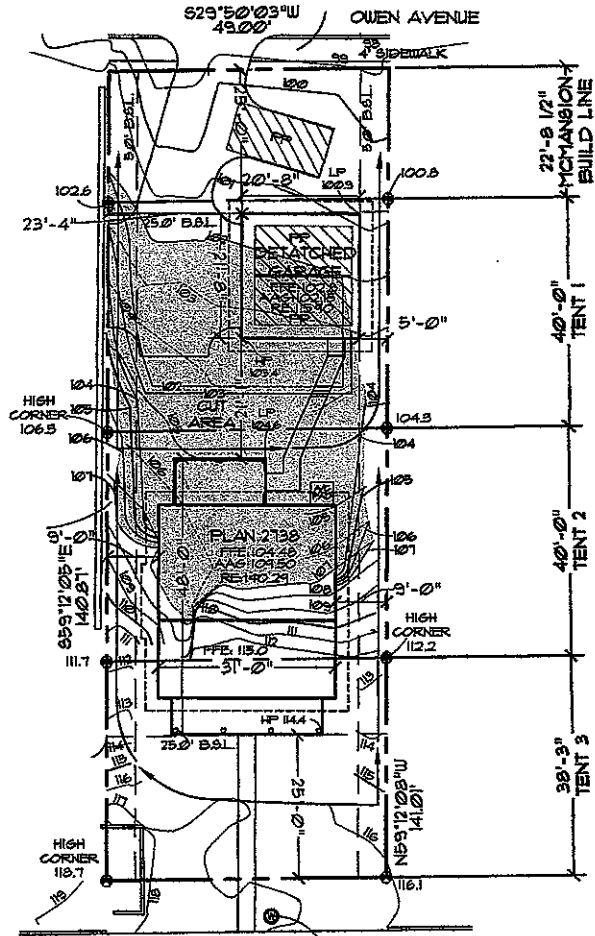
Betsy Greenberg

Betsy Greenberg

SURVEYORS TO VERIFY ALL LOT DATA.

SCALE: 1" = 20'

ABBREVIATIONS	
F.F.E.	FINISHED FLOOR ELEVATION
A.A.G.	AVERAGE ORIGINAL GRADE
R.E.	RIDGE ELEVATION
P.P.	PARKING PAD
CONC.	CONCRETE
B.S.L.	BUILDING SETBACK LINE
T.B.M.	TEMPORARY BENCHMARK
ELEV.	ELEVATION
H.P.	HIGH POINT
L.P.	LOW POINT



LEGEND

- SETBACK LINE
- WATER METER
- CUT TOPOGRAPHY
- NATURAL TOPOGRAPHY

Front Yard Chart	
Front Yard:	1225
Drive:	481
Walk:	0
Total:	1706
Impervious Cover:	54.5%

Impervious Chart	
1st Floor - House:	1044
Porch - House:	161
Deck - House:	128
Walk - House:	144
Conc. Steps - House:	6
Stoop - House:	9
AC Pad - House:	16
Garage:	145
Driveway:	939
Existing Wall:	3
Total:	2450
Impervious Cover:	49.0%

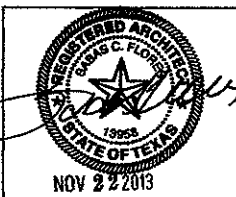
REVIEWED FOR ZONING ONLY

BUILDING ENVELOPE EXHIBIT  
3110 GRANDVIEW STREET  
REV: 10/02/13 REV. DETACHED GARAGE

BUILDERS REPRESENTATIVE TO VERIFY ALL LOT DATA, LOCATION OF MANHOLES, STORM SEWERS, EASEMENTS, AND OTHER INFRASTRUCTURE LOCATED ON LOT. KIPP FLORES ARCHITECTS MAKES NO REPRESENTATION AS TO THE EXISTENCE OF MANHOLES, STORM SEWERS, EASEMENTS, AND OTHER INFRASTRUCTURE LOCATED ON LOT.

LOT AREA: 6905 SQ. FT.

SIDEWALKS PER CITY OR SUB. REQ.



ADDRESS <b>3110 GRANDVIEW STREET</b>		
LOT <b>76</b>	BLK <b>-</b>	CITY, STATE <b>AUSTIN, TX</b>
SUBDIVISION <b>OAKWOOD</b>		
BUILDER <b>REINGOLD</b>	DATE <b>7/25/2013</b>	

SURVEYORS TO VERIFY ALL LOT DATA.

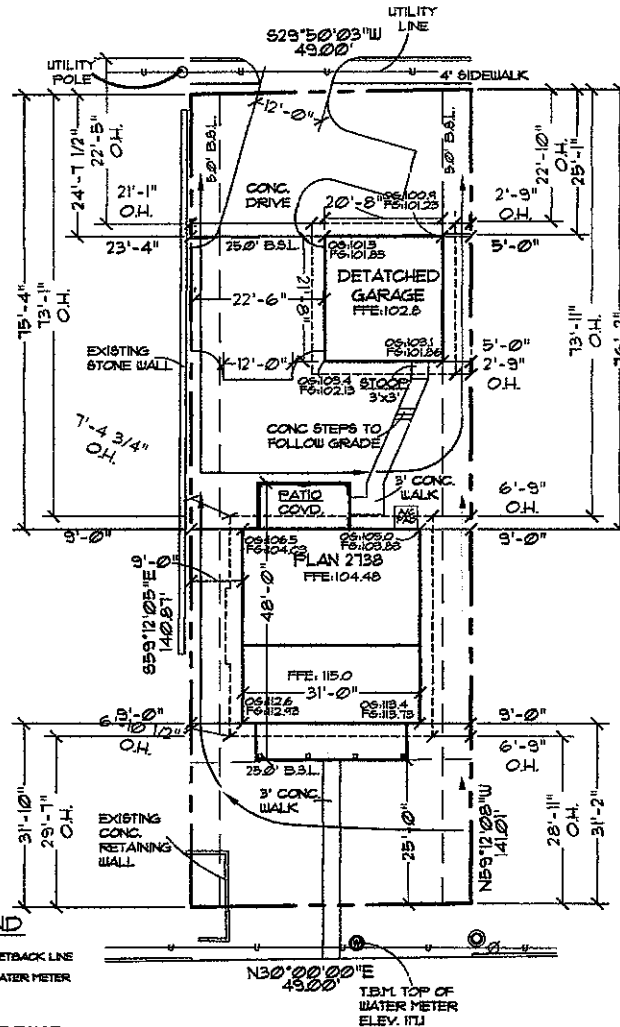
SCALE: 1" = 20'

OWEN AVENUE

ABBREVIATIONS	
FFE:	FINISHED FLOOR ELEVATION
OG:	ORIGINAL GRADE
FG:	FINISHED GRADE
B.S.L.	BUILDING SETBACK LINE
O.H.	OVERHANG
CONC.	CONCRETE
COVD.	COVERED
ELEV.	ELEVATION
TBM:	TEMPORARY BENCHMARK

LEGEND

- S. SETBACK LINE
- WATER METER
- U. UTILITY LINE
- UTILITY POLE
- TELEPHONE PEDESTAL



GRANDVIEW STREET

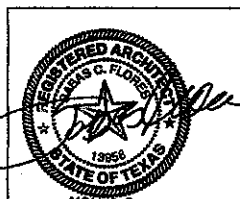
CITY OF AUSTIN  
APPROVED FOR PERMIT  
Greg Guernsey  
Planning and Development Review Department  
By *[Signature]* Date *12/11/12*  
The granting of a permit for, or approval of, these plans and specifications, shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of the current adopted building code or any other ordinance of the City of Austin.

SITE PLAN  
3110 GRANDVIEW STREET  
REV: 10/22/13 REV. DETACHED GARAGE  
REV: 11/20/13 REV. PER CITY COMMENTS

BUILDERS REPRESENTATIVE TO VERIFY ALL LOT DATA, LOCATION OF MANHOLES, STORM SEWERS, BASEMENTS, AND OTHER INFRASTRUCTURE LOCATED ON LOT. KIPP FLORES ARCHITECTS MAKES NO REPRESENTATION AS TO THE EXISTENCE OF MANHOLES, STORM SEWERS, BASEMENTS, AND OTHER INFRASTRUCTURE LOCATED ON LOT.

LOT AREA: 6925 SQ. FT.

SIDEWALKS PER CITY OR SUB. REQ.



NOV 22 2013

ADDRESS 3110 GRANDVIEW STREET		
LOT 76	BLK -	CITY, STATE AUSTIN, TX
SUBDIVISION OAKWOOD		
BUILDER REINGOLD	DATE 7/25/2013	

I, Betsy Greenberg, have standing to appeal as an Interested Party because I am an officer (treasurer) of a neighborhood organization that has an interest in the site of the proposed development and therefore I fulfill the requirements of the LDC. The property in question, 3110 Grandview, is within the boundaries of the Heritage Neighborhood Organization.

Signed

*Betsy Greenberg*

CITY OF AUSTIN  
APPLICATION TO BOARD OF ADJUSTMENT  
INTERPRETATIONS  
PART I: APPLICANT'S STATEMENT  
(Please type)

STREET ADDRESS: 3110 Grandview, Austin, TX 78705

LEGAL DESCRIPTION: Subdivision – Oakwood

Lot (s) 76 Block 2 Outlot Division

ZONING DISTRICT: SF-3-CO-NP

I/WE Betsy Greenberg on behalf of myself/ourselves as authorized Agent for Heritage Neighborhood Association affirm that on the 13<sup>th</sup> Day of January, 2014, hereby apply for an interpretation hearing before the Board of Adjustment.

Planning and Development Review Department interpretation is:

That the building permit should be issued

The permit was issued with the adherence to Section 2.6 of Subchapter F demonstrated with the first portion starting at a building line parallel to Owen Avenue. The issued permit also allowed the applicant to exempt the covered parking near Owen Avenue from the FAR calculation.

I feel the correct interpretation is:

The building permit should not be issued because

The tent is incorrectly drawn so the house may not fit within it. Subchapter F, Section 2.6 clearly says the 15-foot height of the horizontal line is established for 40-foot deep portions of the lot beginning at the building line and extending to the rear of the lot. Section 3.2 defines the building line as a line that is parallel to the front lot line and that intersects the principal residential structure at the point where the structure is closest to the front lot line, including any allowed projections into the front yard setback. With the building line drawn closest to Owen Avenue, this defines the garage as the principal residential structure.

In a similar 2011 case, the City issued a building permit for 1204 W. 9<sup>th</sup> Street in which the applicant used setback averaging on the rear yard by claiming that the 9½ Street side was the front yard. A neighbor appealed the permit (2011-000025 BA). The basis of the appeal was that even on a through lot, the area behind the house should not be called the front. On April 13, 2011, the Board of Adjustment ruled 7-0 in favor of the appeal.

The covered parking should not be exempt from the FAR calculation. Subchapter F, Section 3.3.1 allows an FAR exemption for the covered portion of a parking area, for up to 450 square feet of a detached rear parking area that is separated from the principal structure by not less than 10 feet. If staff's interpretation is correct and Owen Avenue is the front property line, then the garage is front parking which should not be exempt from the FAR calculation. In addition, the garage is not a parking area because there is not sufficient room for a vehicle to enter through the side facing garage doors.



**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.

1. There is a reasonable doubt of difference of interpretation as to the specific intent of the regulations or map in that:

In meeting with the staff, we pointed out that the tents were drawn starting in the rear instead of starting at the front as described in Subchapter F. Staff justified this by saying that the front is the primary access to the property and that this means the driveway. This interpretation allows for considerable reasonable doubt. The primary access to a property does not necessarily refer to vehicular access. In our neighborhood, some of the properties don't even have a driveway. The front of the property is where guests enter, where the mail is delivered, etc. The driveway may be at the front, or for through lots and properties with alley access, the driveway may be in the back. For example, the property at 3106 Grandview was newly constructed in 2011. The house faces Grandview and the driveway is on Owen. The plans for 3106 Grandview show the tents starting on the Grandview side.

Concerning the use of the garage, this also is subject to interpretation. Since it is labeled as a garage, staff allowed the exemption for rear parking structures. However, since there is insufficient space for vehicles to enter, we wonder whether it will be used for parking. The building plans also label the larger structure as UNIT "A" and the smaller structure as UNIT "B" in the lateral wind bracing section. This allows for reasonable doubt about whether the garage will (or even can) be used for parking.

2. An appeal of use provisions could clearly permit a use which is in character with the uses enumerated for the various zones and with the objectives of the zone in question because:

Subchapter F was "intended to minimize the impact of new construction, remodeling, and additions to existing buildings on surrounding properties in residential neighborhoods by defining an acceptable buildable area for each lot within which new development may occur. The standards are designed to protect the character of Austin's older neighborhoods by ensuring that new construction and additions are compatible in scale and bulk with existing neighborhoods." Following Subchapter F precisely permits uses which are in character with the residential neighborhood.

3. The interpretation will not grant a special privilege to one property inconsistent with other properties or uses similarly situated in that: all applications must clearly

Staff interpretation would create a special privilege to the property by allowing the property to be larger than intended by Subchapter F (both by drawing the tents incorrectly and exempting the garage from the FAR calculation.) Staff should follow the Land Development Code consistently, so that individual applicants are not granted a special privilege. Consistent and fair application of the LDC as it was written will also protect the whole community.

**APPLICANT/AGGRIEVED PARTY CERTIFICATE** – I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

*Betsy Greenberg*

Signed

Printed

Betsy Greenberg

Mailing Address 3009 Washington Square, Austin, TX 78705

Phone 512-477-1288

REQUESTS FOR INTERPRETATION  
(Appeal of an Administrative Decision)

REQUIRED ITEMS FOR A COMPLETE APPLICATION:

The following items are required in order to file an application for interpretation to the Board of Adjustment.

- A completed application with all information provided. Additional information may be provided as an addendum to the application.
- Standing to Appeal Status: A letter stating that the appellant meets the requirements as an Interested Party as listed in Section 25-1-131(A) and (B) of the Land Development Code. The letter must also include all information required under 25-1-132(C).
- Site Plan/Plot Plan drawn to scale, showing present and proposed construction and location of existing structures on adjacent lots.
- Payment of application fee for residential zoning or for commercial zoning.  
See Current Fee Schedule (<http://www.austintexas.gov/department/fees>) for Applicable Fees.  
Checks should be made payable to the City of Austin.

**An appeal of an administrative decision must be filed by the 20th day after the decision is made (Section 25-1-182). Applications which do not include all the required items listed above will not be accepted for filing.**

**If you have questions on this process contact Susan Walker at 974-2202.**

To access the Land Development Code, go to  
<http://www.austintexas.gov/department/online-tools-resources>

I, Betsy Greenberg, have standing to appeal as an Interested Party because I am an officer (treasurer) of a neighborhood organization that has an interest in the site of the proposed development and therefore I fulfill the requirements of § 25-1-181 in the LDC. The property in question, 3110 Grandview, is within the boundaries of the Heritage Neighborhood Organization.



Signed