

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

DATE: Monday, March 10, 2014

CASE NUMBER: C15-2014-0031

____ Jeff Jack
____ Michael Von Ohlen
____ Ricardo De Camps
____ Bryan King
____ Fred McGhee
____ Melissa Hawthorne
____ Sallie Burchett

APPLICANT: Teresa Figg

OWNER: Susie Kang Young

ADDRESS: 9106 SHEPARD DR

VARIANCE REQUESTED: The applicant has requested a Special Exception from Section 25-2-476 in order to maintain a driveway and detached frame garage within the required street side yard and rear yard in an SF-3 NP, Family Residence Zoning District (North Lamar Combined).

BOARD'S DECISION: The public hearing was closed on Board Member Michael Von Ohlen motion to Postpone to April 14, 2014, Board Member Bryan King second on a 7-0 vote; POSTPONED TO APRIL 14, 2014. ~~RE-NOTIFICATION NEEDED~~

FINDING:

(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 10 years, if the application for a special exception is submitted on or before June 6, 2016;

(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.

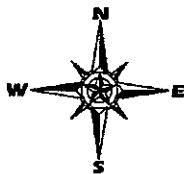
(D) A structure granted a special exception under this section shall be treated as a non-complying structure under Chapter 25-2, Article 8 (Noncomplying Structures).

Source: Ord. 20110526-098; Ord. 20121108-091; Ord. 20130822-126.

Leane Heldenfels
Executive Liaison



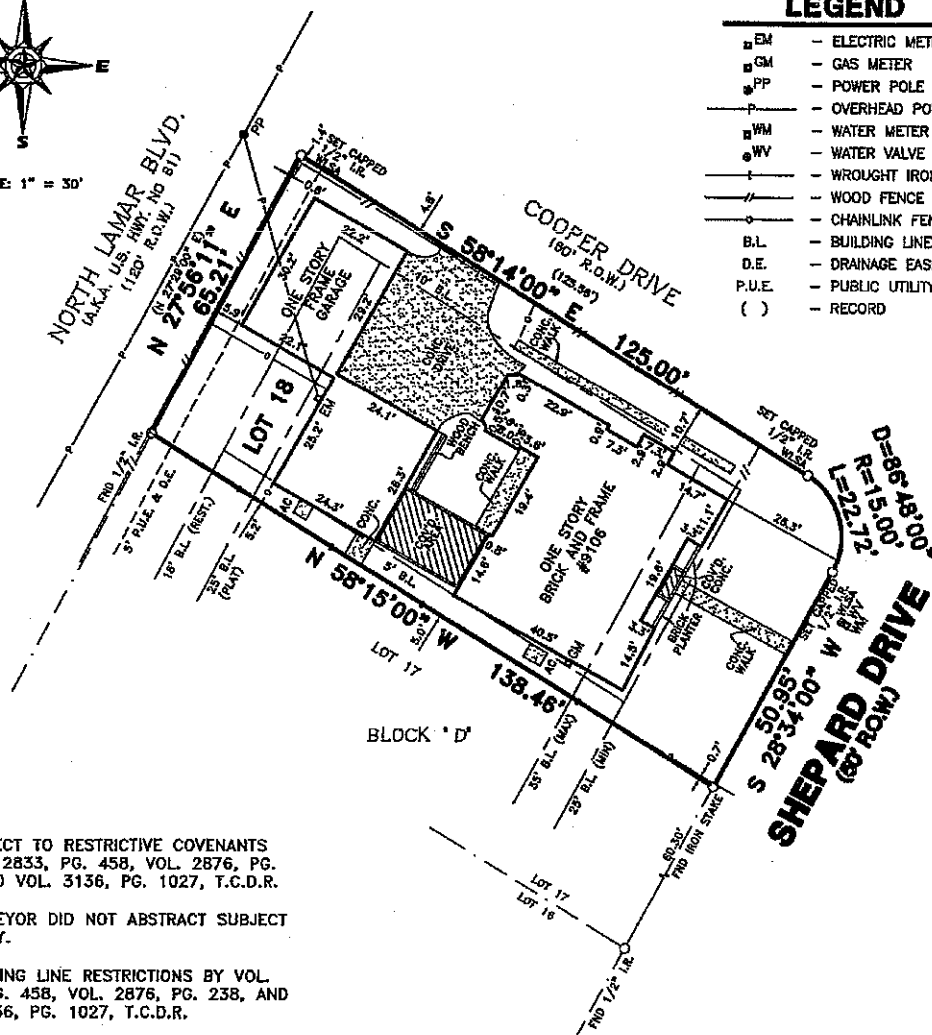
Jeff Jack
Chairman



SCALE: 1" = 30'

LEGEND

- EM - ELECTRIC METER
- GM - GAS METER
- PP - POWER POLE
- OP - OVERHEAD POWER LINE
- WM - WATER METER
- WV - WATER VALVE
- WIF - WROUGHT IRON FENCE
- WF - WOOD FENCE
- CLF - CHAINLINK FENCE
- B.L. - BUILDING LINE
- D.E. - DRAINAGE EASEMENT
- P.U.E. - PUBLIC UTILITY EASEMENT
- () - RECORD



NOTES:

1) SUBJECT TO RESTRICTIVE COVENANTS BY VOL. 2833, PG. 458, VOL. 2876, PG. 238, AND VOL. 3136, PG. 1027, T.C.D.R.

2) SURVEYOR DID NOT ABSTRACT SUBJECT PROPERTY.

3) BUILDING LINE RESTRICTIONS BY VOL. 2833, PG. 458, VOL. 2876, PG. 238, AND VOL. 2136, PG. 1027, T.C.D.R.

4) 5' PUBLIC UTILITY AND DRAINAGE EASEMENT (REAR) BY VOL. 2833, PG. 458, VOL. 2876, PG. 238, AND VOL. 2136, PG. 1027, T.C.D.R.

5) ONE STORY FRAME GARAGE EXTENDS ACROSS 15' BUILDING LINE AND 25' BUILDING LINE (REAR) AND 10' BUILDING LINE (SIDE) AS SHOWN.

ALL BEARINGS ARE BASED ON THE RECORDED PLAT UNLESS OTHERWISE NOTED.

ALL EASEMENTS AND BUILDING LINES ARE BASED ON RECORDED PLAT UNLESS OTHERWISE NOTED.

FLOOD ZONE DETERMINED BY GRAPHIC PLOTTING ONLY. WE DO NOT ASSUME RESPONSIBILITY FOR EXACT DETERMINATION.

THIS SURVEY HAS BEEN COMPILED IN ACCORDANCE WITH INFORMATION CONTAINED IN THE TITLE COMMITMENT REFERENCED IN GF NO. 6D1992-AU50

LOT 18	BLOCK "D"	SECTION THREE	SUBDIVISION NORTH LAMAR PARK		THIS TRACT IS LOCATED WITHIN FLOOD ZONE "X (UNSHADED)" ACCORDING TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) FLOOD INSURANCE RATE MAP (FIRM) COMMUNITY PANEL NO. 480624 0455 H, REVISED SEPTEMBER 26, 2008.
RECORDATION VOLUME 20, PAGE 15, T.C.P.R.		COUNTY TRAVIS	STATE TEXAS	SURVEY -	
LENDER CO. AMERICAN HOMEFRONT MORTGAGE			TITLE CO. FIRST AMERICAN TITLE INSURANCE COMPANY		

ADDRESS
9106 SHEPARD DRIVE, AUSTIN, TEXAS 78753

JOB NO.

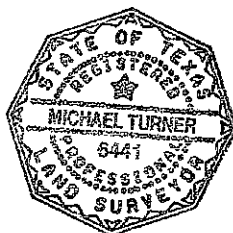
12405



Windrose Land Services Austin

FIELD WORK	03/13/14	AM
DRAFTED BY	03/14/14	JP
CHECKED BY	03/14/14	MT
MAPSCO NO.	526 E	

REVISION	



I do hereby certify that this survey was this day made on the ground and that this plat correctly represents the property legally described hereon (or on attached sheet). That the facts found at the time of this survey show the improvements and that there are no encroachments apparent on the ground, except as shown. Surveyor for Windrose Land Services Austin.

Michael Turner 3/14/14
Windrose Land Services Austin
4120 Commercial Center Dr.
Suite 300
Austin, Texas 78744
TEL (512) 326-2100 FAX (512) 326-2770
COPYRIGHT 2014 WINDROSE LAND SERVICES AUSTIN, ALL RIGHTS RESERVED



SPECIAL EXCEPTION INSPECTION

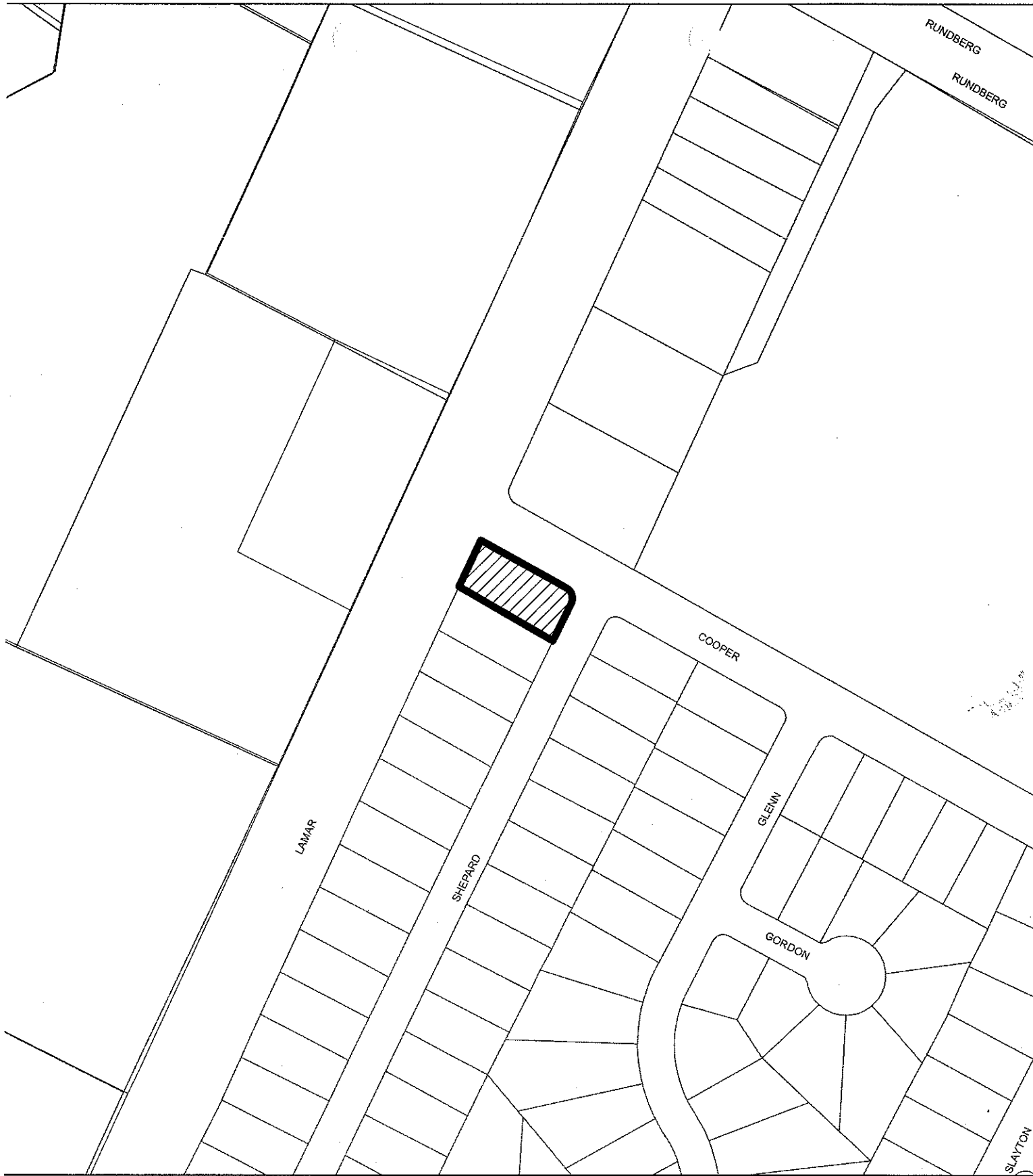


62/6

Address:	9106 Shepard Dr.
Permit Number:	2013-052766
Property Owner Requesting Special Exception:	Kang Susie Young

Special Exception Requested:
<i>+ sf residence</i> For driveway access & detached frame garage in a required side-street and rear setback.
Date Structure was originally constructed: 1997 COA GIS foot print aerial photo

Date of Inspection:	11-08-2013
Building Official or designated representative	Tony Hernandez
X	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.



N

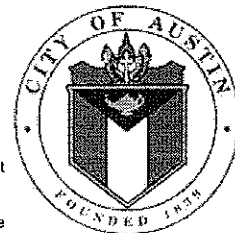


SUBJECT TRACT



ZONING BOUNDARY

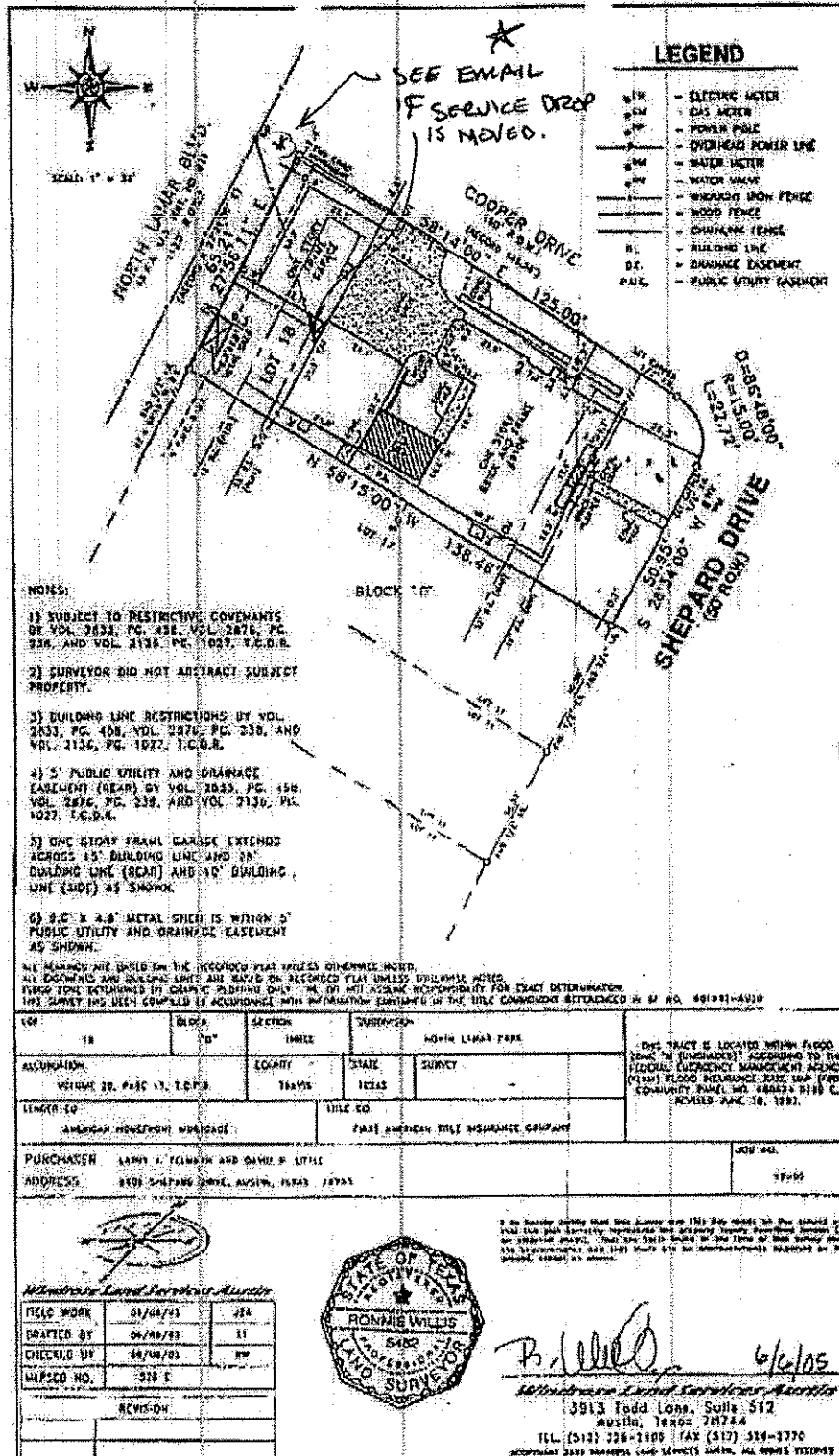
CASE#: C15-2014-0031
LOCATION: 9106 SHEPARD DRIVE



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.

CU2014-0031



APPROVED BY
AUSTIN ENERGY
FOR BOA

DATE: MARCH 3, 2014
[Signature]

If you need assistance completing this application (general inquiries only) please contact Susan Walker, 974-2202; 505 Barton Springs Road, 2nd Floor (One Texas Center).

ROW

C15-
CASE # 2014-00831
Row # ~~0200000~~ T1087000
TAX ROLL # 0239161201

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

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

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

STREET ADDRESS: 9106 Shepard Drive, Austin, TX 78753

LEGAL DESCRIPTION: Subdivision — North Lamar Park

Lot(s) 18 Block D Outlot Division Section 3

I/We Teresa Figg on behalf of myself/ourselves as authorized agent for

Susie Kang affirm that on 3 February, 2014,

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

(check appropriate items below)

___ ERECT ___ ATTACH ___ COMPLETE ___ REMODEL x MAINTAIN

To maintain accessory structure located in rear setback

in a SF-3NP 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
-
-

HARDSHIP:

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

N/A

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

N/A

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:

N/A

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:

N/A

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:

N/A

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

N/A

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

N/A

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 Teresa Figg Mail Address PO Box 90142

City, State & Zip Austin, TX 78709-0142

Printed Teresa Figg Phone 512-480-8384 Date 3 Feb 2014

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 Susie Kang Mail Address PO Box 90142

City, State & Zip Austin, TX 78709-0142

Printed Susie Kang Phone 512-695-1481 Date 3 Feb 2014

GENERAL INFORMATION FOR SUBMITTAL OF A VARIANCE REQUEST TO THE BOARD OF ADJUSTMENT

(The following is intended to provide assistance in explaining the variance process. These suggestions are not intended to be a complete or exhaustive guide in assisting you through this process.)

VARIANCE REQUIREMENTS:

General Requirements:

- A. A variance may be granted if, because of special circumstances of a property, the strict application of the L and Development Code regulations deprives the property owner of privileges that are enjoyed by another person who owns property in the area that has the same zoning designation as the property for which the variance is requested.
- B. A variance to a regulation may not grant special privileges that are inconsistent with the limitations on other properties in the area or in the district in which the property is located.

SUBMITTAL REQUIREMENTS: (Failure to complete the application or to submit all the required materials will result in non-acceptance of the application.)

- (1) A completed application indicating all variances being requested. An application must include proposed findings that will support requested variances. The required findings must address each variance being sought.
- (2) A site plan to scale indicating present and proposed construction and location and use of structures on adjacent lots.
- (3) Check made payable to the City of Austin for the Board of Adjustment application fee. (Residential zoning, All other zonings) - See Current Fee Schedule for Applicable Fees (<http://www.austintexas.gov/department/fees>)
- (4) Other Information - Although the following is not a requirement of submittal you may wish to include additional information that may assist the Board in making an informed decision regarding your request such as: photos of the site or visual aids to support the request, letters from the neighborhood association(s) etc. Any additional information you wish to submit must be in our office one week prior to the meeting. The Board will receive a packet with all information that has been submitted on the Thursday prior to the meeting.
- (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, 2nd Floor

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



SPECIAL EXCEPTION INSPECTION



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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 10 years, if the application for a special exception is submitted on or before June 6, 2016;
 - (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:

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- (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).

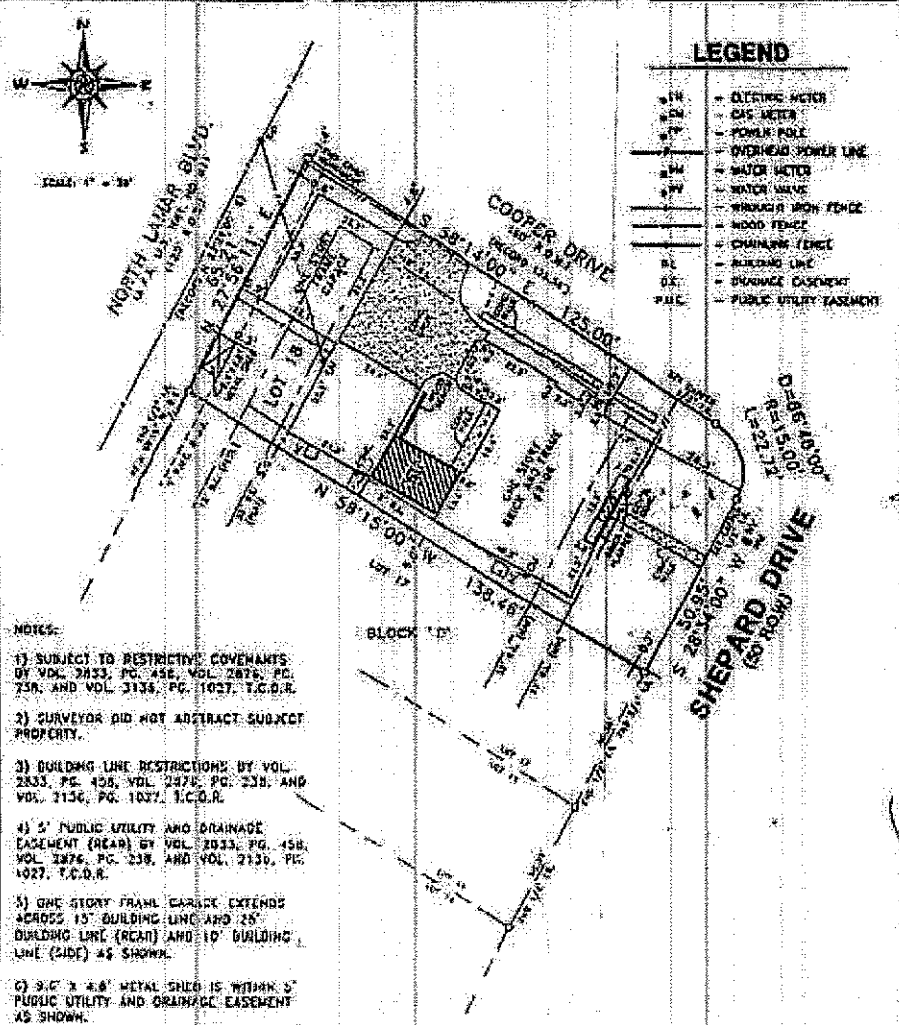
Source: Ord. 20110526-098; Ord. 20121108-091; Ord. 20130822-126.



SCALE: 1" = 20'

LEGEND

- ELECTRIC METER
- GAS METER
- POWER POLE
- OVERHEAD POWER LINE
- WATER METER
- WATER VALVE
- WROUGHT IRON FENCE
- WOOD FENCE
- CHAINLINK FENCE
- BUILDING LINE
- DRAINAGE EASEMENT
- PUBLIC UTILITY EASEMENT



NOTES:

- 1) SUBJECT TO RESTRICTIVE COVENANTS BY VOL. 2833, PG. 458, VOL. 2876, PG. 238, AND VOL. 3134, PG. 1027, T.C.O.R.
- 2) SURVEYOR DID NOT ABSTRACT SUBJECT PROPERTY.
- 3) BUILDING LINE RESTRICTIONS BY VOL. 2833, PG. 458, VOL. 2876, PG. 238, AND VOL. 2136, PG. 1027, T.C.O.R.
- 4) 5' PUBLIC UTILITY AND DRAINAGE EASEMENT (REAR) BY VOL. 2833, PG. 458, VOL. 2876, PG. 238, AND VOL. 2136, PG. 1027, T.C.O.R.
- 5) ONE STORY FRAM CARPORT EXTENDS ACROSS 15' BUILDING LINE AND 25' BUILDING LINE (REAR) AND 10' BUILDING LINE (SIDE) AS SHOWN.
- 6) 3/4" X 4/8" METAL SHED IS WITHIN 5' PUBLIC UTILITY AND DRAINAGE EASEMENT AS SHOWN.

ALL MEASUREMENTS ARE IN THE RECORDS EXCEPT WHERE SHOWN OTHERWISE.

ALL EASEMENTS AND DRAINAGE LINES ARE BASED ON RECORDED PLANS UNLESS OTHERWISE NOTED.


STANDARD TIME DETERMINED BY SURVEYOR'S PLUMBING ONLY. NO ONE WILL ACCEPT RESPONSIBILITY FOR EXACT DETERMINATION.

THIS SURVEY HAS BEEN COMPILED BY ACCORDANCE WITH INFORMATION CONTAINED IN THE TITLE COMMITMENT SUBMITTED BY S.F. NO. 401882-4300.

LOC.	BLOCK	SECTION	TOWNSHIP	RANGE	MOUNTAIN LANE PARK
18	10	10	10	10	10
ACQUISITION			COMMIT		
VOLUME 28, PAGE 13, T.C.O.R.			TAXES		
LENDER TO			TITLE CO.		
AMERICAN HOME/MORTGAGE			FARMER'S AMERICAN TITLE INSURANCE COMPANY		
PURCHASER					WON #4
ADDRESS					18405
<p>3. The Surveyor certifies that this survey was made in accordance with the highest standards of the profession and that the same is a true and correct representation of the facts as shown by the survey and the records of the public records.</p>					

Windrose Land Services, Austin

FIELD WORK	06/08/03	REV
DRAWN BY	06/08/03	KS
CHECKED BY	06/08/03	RV
MAPS NO.	334 E	
REVISION		



R. Willis 6/6/03

Windrose Land Services, Austin

3913 Todd Lane, Suite 512
Austin, Texas 78744
TEL (512) 336-2106 FAX (512) 336-2770
ACCEPTED 2003 MORTGAGE LENDERS SERVICES AUSTIN, ALL RIGHTS RESERVED

Title Co. Form 1-10-05 1-18-05