

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

**DATE: Monday, May 12, 2014**

**CASE NUMBER: C15-2014-0059**

☐ Y ☐ Jeff Jack  
☐ Y ☐ Michael Von Ohlen  
☐ Y ☐ Ricardo De Camps  
☐ Y ☐ Bryan King **Motion to Deny**  
☐ Y ☐ Fred McGhee  
☐ Y ☐ Melissa Hawthorne  
☐ Y ☐ Sallie Burchett **2<sup>nd</sup> the Motion**

**APPLICANT: Bruce Aupperle**

**OWNER: Lebarre Family LLC**

**ADDRESS: 3821 WESTLAKE DR**

**VARIANCE REQUESTED:** The applicant has requested a variance to Section 25-2-1173 (D) of the Permit Required for Construction Regulations in Article 13, Docks, Bulkheads and Shoreline Access in order to construct more than 2 boat docks in an "LA", Lake Austin zoning district.

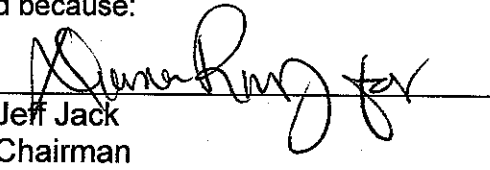
The Land Development Code states that the director of the Planning and Development Review Department may not approve an application for a permit for the construction of more than two residential docks or other similar structures on a single lot zoned MF-1 or more restrictive, unless: 1) the lot was platted and recorded before August 26, 1976, and perpetual rights to use the water frontage of the lot were granted or conveyed to one or more owners of other lots in the subdivision before June 23, 1979; or 2) the Planning Commission has approved a site plan that clusters the residential docks on one or more lots in the subdivision.

**BOARD'S DECISION:** The public hearing was closed on Board Member Bryan King motion to Deny, Board Member Sallie Burchett second on a 7-0 vote; **DENIED.**

**FINDING:**

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:

  
Leane Heldenfels  
Executive Liaison

  
Jeff Jack  
Chairman



## Aupperle Company

10088 Circleview Drive, Austin, Texas 78733

Phone & Fax (512) 329-8241

Email: [Aupperle@att.net](mailto:Aupperle@att.net)

Texas Board of Professional Engineers Registration Number F-1994

RECEIVED

MAY 22 2014

CITY OF AUSTIN

May 22, 2014

Director of Planning and Development Review  
Members of the Board of Adjustment  
Attn: Leane Heldenfels  
City of Austin  
P.O. Box 1088  
Austin, Texas 78767

Re: Reconsideration of BOA Case No. C15-2014-0059

Dear Director and Members of the Board of Adjustment:

We are requesting reconsideration of the referenced BOA application. On May 12<sup>th</sup> after our presentation, it became known to us that two nearby property owners were opposed to the variance requested. One nearby owner, presented his arguments at the hearing. Both nearby owners had correspondences that were presented to the Board, but not to the applicant until several days after the hearing.

The correspondence from Dr. Patty Stephens represented several facts that were not true. The correspondence from Stephen Settle also misrepresented facts.

*Below Dr. Stephens' and Stephen Settle's facts in error are shown in italics: Our response to each is shown in bold type.*

*Applicant want to construct two additional boat docks:* **The site plan submitted as part of the BOA packet shows only one slip.**

*Applicant wants to significantly enlarge the existing dock:* **The site plan submitted as part of the BOA packet shows approximately a 40-foot separation between the proposed 1-slip dock and the existing dock at 3821 Westlake Dr.**

*Applicant's variance if approved would result in an intrusive expansion in height, depth or intrusive presence of the additional two boat docks:* **The site plan submitted as part of the BOA packet shows a proposed 30' x 14' one-story dock with a roof deck, which is typical for Lake Austin.**

*Application if approved would undercut the long-awaited LA district zoning overlay:* **The site is already zoned LA, there would be no change if the overlay is adopted.**

*Plat was redrawn to accommodate existing dock and was done by Dr. Dunham:* **The plat by Thomas Leach was approved in 1965. The existing dock's site plan by Dr. Denham was approved in 1992. At 27-years gap between approvals and different applicants makes it very unlikely the plat was prepared in anticipation of the dock application.**

*The existing dock at 3821 Westlake is 3-slips and 3-stories tall:* **The dock at 3821 Westlake is 2-slips and 2-stories tall with a roof deck.**

*The combined existing dock and proposed dock would permanently alter the characters of the adjacent properties:* **If the variance was approved the two free-standing boat lifts that service**

May 22, 2014  
Director of Planning and Development Review  
Members of the Board of Adjustment

Page 2 of 2

3823 Westlake would be removed. They are about 20' wide. The new dock would be a 14' fixed dock. The net dock width for 3821 & 3823 Westlake would be reduced from 59' over 200' shoreline feet or 29.5% to 53' over 200' of shoreline or 26.5%. The resulting total dock width is characteristic of docks on Lake Austin. Please note that docks within two to three lots away from the subject application exceed 20% of the shoreline width. They appear to range between 22% and 30%.

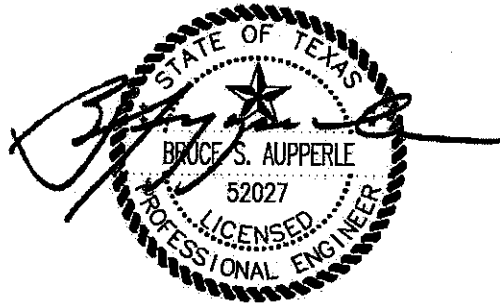
*Construction of the proposed dock degrades Lake Austin:* The site plan permitting process assures quality development and non-degradation of Lake Austin.

Neither Dr. Stephens nor Mr. Settle have dock site plans on file with the City, which probably produced Dr. Stephens' frustrations with the whole Lake Austin issue when she apparently illegally improved her dock in 2004.

The reconsideration will allow us to fairly rebut the claims made about our application, to have copies of all correspondences to or about our application and to represent the facts clearly and logically, not formatted to a two-minute last-second rebuttal.

Very truly yours,

Bruce S. Aupperle, P.E.



31 Oct 2013

3823 Westlake Dr, Austin, TX 78746, USA

Google earth

Google earth

feet  
meters

100

500





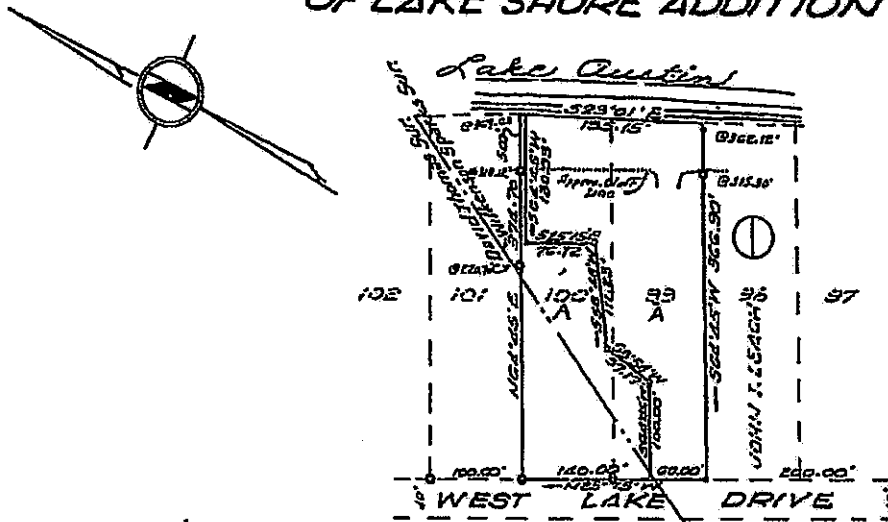
Google earth

feet  
meters



Nov 15-65 P.C.A.A. 9115 1/50

# RESUBDIVISION OF LOTS 99 & 100 OF LAKE SHORE ADDITION



"In approving this plat by the Commissioners Court of Travis County, Texas, it is understood that the building of all streets, roads and other public thoroughfares and bridges necessary to be placed in such streets, roads and other public thoroughfares, or in connection therewith, shall be the responsibility of the owner and/or the developer of the tract or tracts covered by this plat, in accordance with plans and specifications prescribed by the Commissioners Court of Travis County, Texas, and the Commissioners Court of Travis County, Texas assumes no obligation to build streets, roads and other public thoroughfares shown on this plat, or of constructing any bridges or culverts in connection with same."

THE STATE OF TEXAS  
COUNTY OF TRAVIS

I, Miss Phillis Liveberg, County Clerk of Travis County, Texas, do hereby certify that on the 15th day of November, A. D. 1965, the Commissioners Court of Travis County, Texas, passed an order authorizing the filing for record of this plat and that said order has been duly entered in the minutes of said Court in Book 3, Page 357, dated and witnessed by said Court on the 15th day of November, A. D. 1965.

MISS PHILLIS LIVEBERG  
Clerk, County Court, Travis County, Texas

By

*Johnnie M. Leach*

SEAL OF RECORD  
Book 3, Page 357, dated and witnessed by said Court on the 15th day of November, A. D. 1965.

Clerk, County Court, Travis County, Texas

By

*Betha L. Fugh*

THE STATE OF TEXAS  
COUNTY OF TRAVIS

I, Miss Phillis Liveberg, Clerk of County Court, within and for the County and State aforesaid, do hereby certify that the within and foregoing instrument or writing with its certificate of authentication was filed for record in my office on the 15th day of November, A. D. 1965, at 1:25 o'clock P. M., and was entered in the Plat Records of said County in Book 3, Page 44, dated and witnessed by said Court on the 15th day of November, A. D. 1965.

MISS PHILLIS LIVEBERG  
Clerk, County Court, Travis County, Texas

(SEAL)

*Betha L. Fugh*

F.B.S. Pg. 13  
PLAN 1006

THE STATE OF TEXAS  
COUNTY OF TRAVIS

KNOW ALL MEN BY THESE PRESENTS: That I, Mary Monroe Leach, being the owner of Lots 99 and 100 in Lake Shore Addition, a subdivision out of the Wilkerson Survey 1 in Travis County, Texas, as shown on a Plat of said Subdivision as recorded in Volume 1, Page 30, in the Plat Records of Travis County, Texas, said Lots 99 and 100 in Lake Shore Addition being conveyed in a deed from Mary Monroe Leach, at wit, to Thomas Monroe Leach, as recorded in Volume 1017 Page 2160, Travis County Plat Records, do hereby adopt this Plat or Plat of my subdivision of said Lots 99 and 100, to be known and designated as Lots 99-A and 100-A,

"RESUBDIVISION OF LOTS 99 AND 100 OF LAKE SHORE ADDITION"

and I do hereby dedicate to the public all streets and easements shown hereon.

WITNESS MY HAND this 1 day of November, A. D. 1965

*Thomas Monroe Leach*  
Thomas Monroe Leach

THE STATE OF TEXAS  
COUNTY OF TRAVIS

BEFORE ME, the undersigned authority on this day personally appeared Thomas Monroe Leach, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and considerations therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS 1st DAY OF November, A. D. 1965

Notary Public in and for Travis County, Texas.

## SEPTIC TANK NOTE:

Each house constructed in this Subdivision shall be connected to a septic tank of a design approved by the State of Texas Health Department.

In approving this Plat by the City Council of the City of Westlake Hills, it is understood and expressly stated that such approval of this Plat shall be without prejudice to the private rights of any person or persons relating to the use of this property, as reflected by the Records of Travis County, Texas.

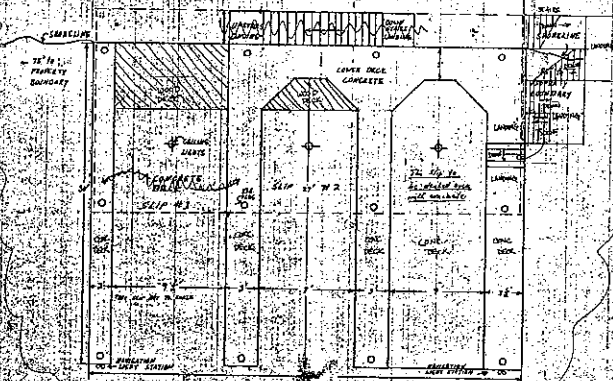
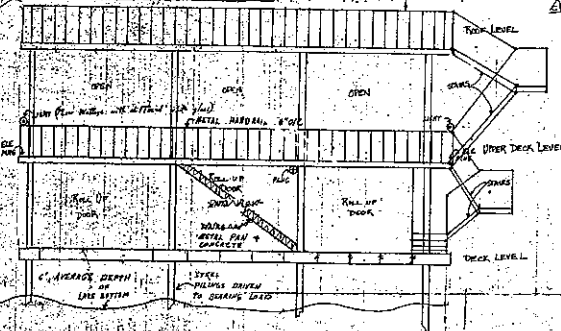
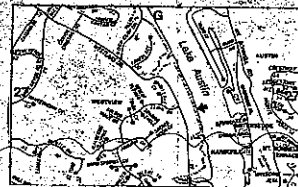
ACCEPTED AND AUTHORIZED FOR RECORD BY THE CITY OF WESTLAKE HILLS, TEXAS, THIS 2nd DAY OF November, A.D. 1965.

*Hennette Jacobson* Secretary *Robert H. Allen*

LEGEND  
• Iron Stake Set  
• Iron Stake Found  
Travis County Deed Record  
Scale 1" = 100 Feet



Surveyed Aug. 11, 1965  
BROOKS & SCOTT  
Land Surveyors  
*James H. Scott*  
Barrett B. Scott  
Reg. Public Surveyor

[illegible]

NOTE: NO MODIFICATION OF THE SHELTER OR OTHER CAUSING DISTURBANCE WHICH WOULD INCREASE THE POTENTIAL FOR EMISSION/REDUPLICATION IS ANTICIPATED BY THIS PROJECT. THE CITY OF AUSTIN GENERAL CONSTRUCTION NOTES ARE ATTACHED TO AND MADE A PART OF THIS PROJECT FOR APPLICABILITY IN THE EVENT THAT UNUSUAL DISTURBANCE OF THE LAND AREA OF THE SITE IS NECESSARY TO COMPLETE THE APPROVED CONSTRUCTION. \* Reference Exhibit III' of the Best Book Parcel (4/24/92)

NOTE: THIS PROJECT/SITE IS LOCATED IN THE LAKE ARDWIN WATERSHED, IS CLASSIFIED AS WATER SUPPLY RURAL, AND IS EXEMPT PURSUANT TO THE LAND DEVELOPMENT COOK COUNTY(13-2-501(b)) DUE TO HAVING A FINAL PLAN APPROVED PRIOR TO MAY 18, 1988. PURSUANT TO SECTION 13-2-502(u), THE SITE IS SUBJECT TO CITY ORDINANCE 8806103-B 'LAKE ARDWIN WATERSHED ORDINANCE'.

DOCK CONTRACTOR: RICHMOND ENTERPRISES, INC.  
3446 HWY. 390 W. 8103

OWNER: DR. CHUCK DENHAM

LEGAL: LOT 88, 100, BLOCK "A", LAKESIDE SUBDIVISION  
STREET ADDRESS: 7811 WESTLAK DRIVE

Construction proposed for February 1992.  
Drainage, land erosion, and sedimentation are not affected.  
There are no trees in the immediate area.  
Fillings shall be stout.  
Dumpster shall be provided for temporary storage of spoils.

All responsibility for the adequacy of these plans remains with the engineer/designer who prepared them. In approving these plans, the City of Austin must rely on the adequacy of the work of the engineer/designer.

Approved by Shu H. H. 3-1-92  
Department of Planning & Development Date

Department of Planning & Development

Rev. Permit: SA 72-0007DS

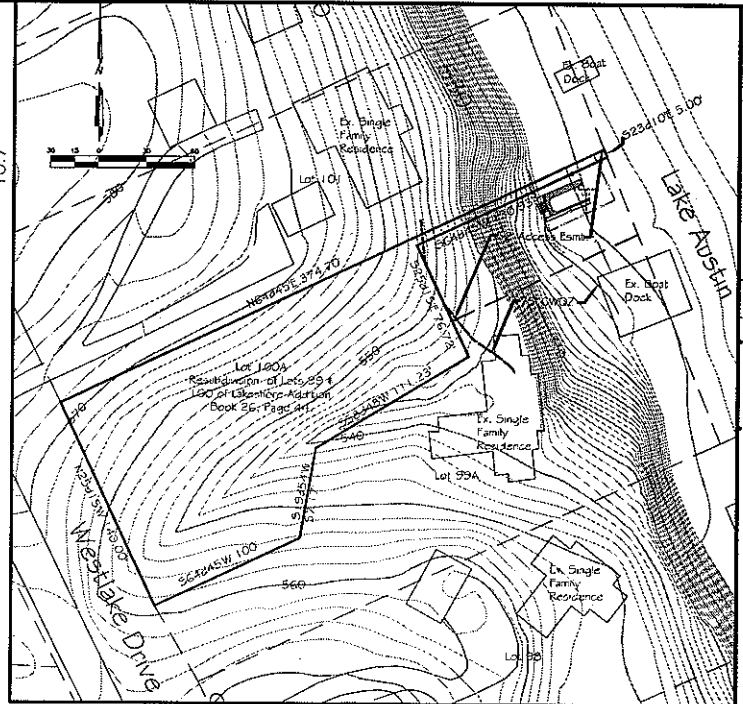
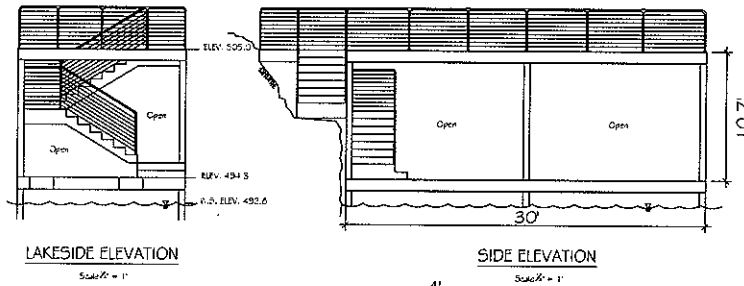
REVIEWED BY: [Signature]

DATE: 3-7-72

Figure 1: Schematic representation of the experimental design. The diagram shows a sequence of events: 'Stimulus presentation' (a bar chart with 10 bars of varying heights), 'Response' (a bar chart with 10 bars of varying heights), and 'Feedback' (a bar chart with 10 bars of varying heights). The 'Response' and 'Feedback' charts are labeled 'Response' and 'Feedback' respectively. The 'Stimulus presentation' chart is labeled 'Stimulus presentation'.

APPROVED  
JUN 3 8 2000  
CITY OF ALBUQUERQUE  
NEW MEXICO  
COUNTY CLERK

## Current Site Plan Proposal



### NOTES:

1. Navigation lights must have a two-bulb fixture, with two working light bulbs rated between 7-1/2 and 25 watts inclusive. Light bulbs or bulb covers must be amber, and white light may not radiate from the fixture. Weatherproof lamp holders and junction boxes are required. Each light fixture must be wired with a switch operated by a photoelectric cell so that the lights will operate automatically during the hours that the dock is required to be lighted by this section.
2. All access for construction activities will be by water.
3. All piles will be 5-1/4" driven steel piles. All piles will be driven to 0.5" refusal per blow.
4. There are no trees equal to or greater than 8-inch in diameter within the limits of construction.



# 3823 Westlake Drive

- Variance to Section 25-2-117(D) – to have more than two docks on one lot zoned MF-1 or less restrictive.

# 3823 Westlake Drive



Google earth

feet  
meters

200 800





3823 Westlake Drive  
circa 10-31-2013

3823 Westlake Dr, Austin, TX 78746, USA

Google earth

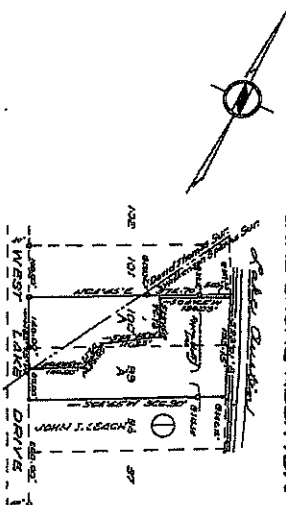
Google earth

feet  
meters

200 800



of the Declaration


[illegible][illegible][illegible]

by Buster Smith  
SMITH

[illegible]

PLN 1006

**LEGEND**  
 \* Irish Shells Golf  
 \* Irish Shells Found  
 \* Harris County Deed Record  
 \* Scale 1" = 100 Feet


 J. Lawrence McGee  
 Deputy Director  
 Reg. Radio Surveyor

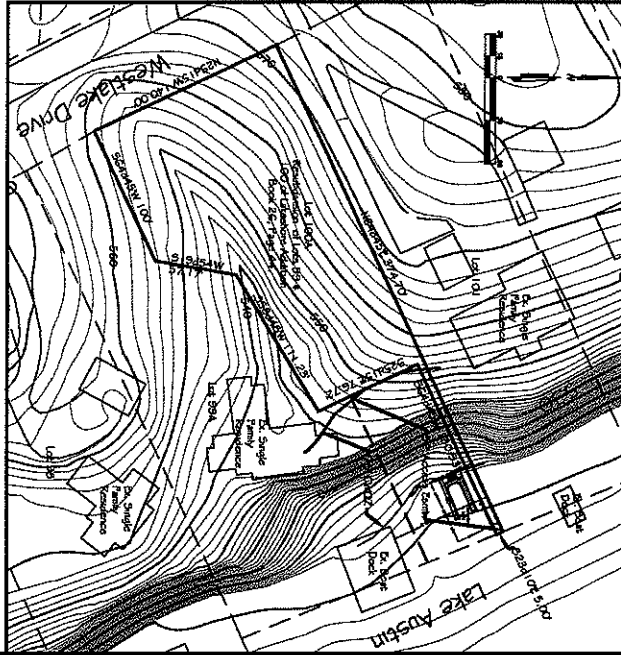
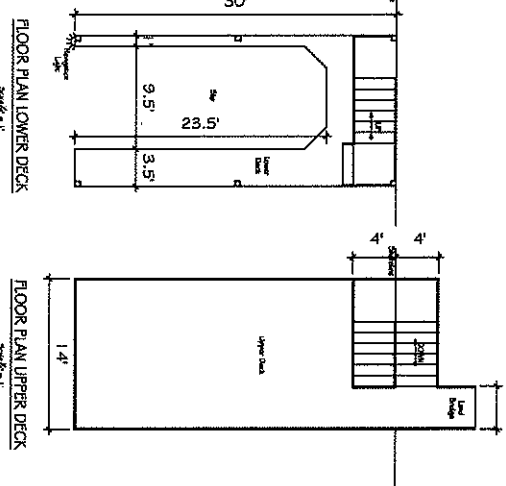
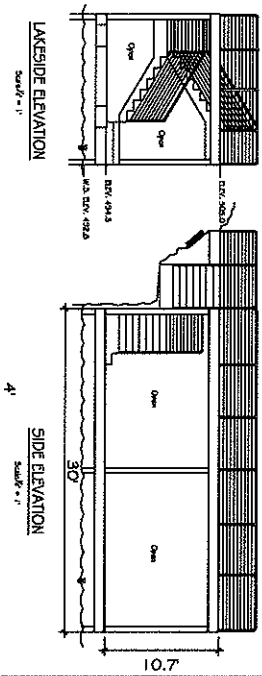
**EXERCISE TANK, 100 TONS.**  
Each hour constructed in this submergence will be constructed to a specific task of a strength approved by the State of Texas, Keelish Department.

### Major Problem in Add for Travel Agency, Texas

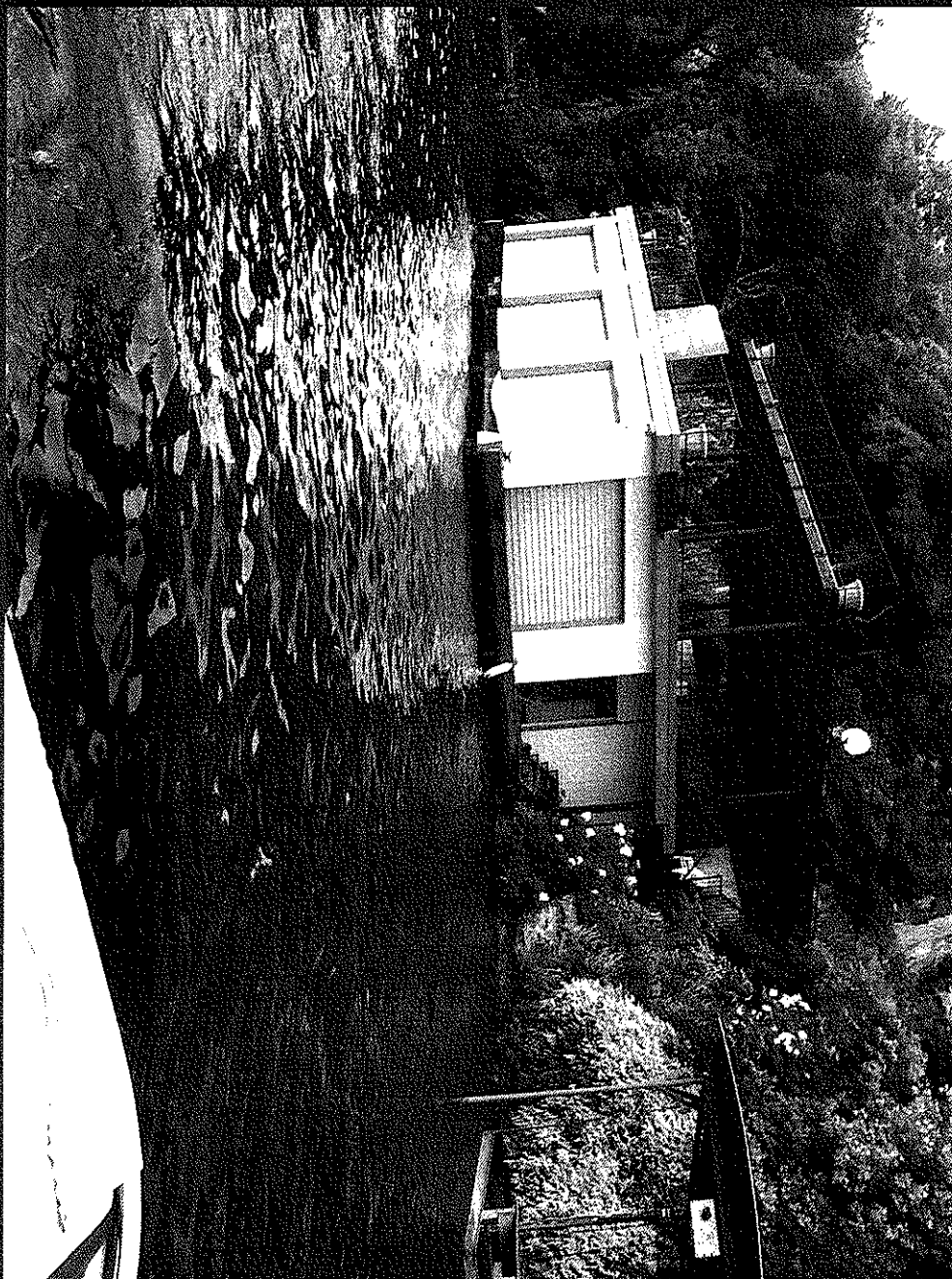
[illegible]

*[Handwritten signature]*

\* MEMORANDUM OF 1479 99 AND 100 OF LATE SHEEP AND TIGER  
AND (A) BIRTH RECORDS TO THE PUBLICITY AND  
FATHERS OF THE SHEEP AND TIGER  
MEMORANDUM OF 1479 99 AND 100 OF LATE SHEEP AND TIGER  
MEMORANDUM OF 1479 99 AND 100 OF LATE SHEEP AND TIGER



- NOTES:
1. Navigation lights must have a two-bulb fixture, with two working light bulbs rated between 7-1/2 and 25 watts inclusive. Light bulbs or bulb covers must be amber, and white light may not radiate from the fixture. Watertight lamp holders and junction boxes are required. Each light fixture must be wired with a switch operated by a photoelectric cell so that the lights will operate automatically during the hours that the dock is required to be lighted by this section.
  2. All access for construction vehicles will be by water.
  3. All access to the dock shall be by water. All piers will be driven to 0.5' depth per blow.
  4. There are no trees equal to or greater than 6" in diameter within the limits of construction.



## Date: \_\_\_\_\_, 2014

**Owner 1: Lazy T Koyukuk Management, Ltd.**

Owner 1's 3300 S. 14<sup>th</sup> Street, Abilene, TX 79605-5016

**Owner 2:** LeBarre Family LLC

**Mailing Address:** 3300 S. 14<sup>th</sup> Street, Abilene, TX 79605-5016

**Property: (All of the following tracts)**

**Tract 1:** Lot 99A Resubdivision of Lot 99 and Lot 100, Lake Shore Addition,

Drive, Austin, Travis County, Texas 78746

Tract 2:  
Lot 100A Re subdivision of Lot 99 and Lot 100, Lake Shore Addition,  
according to the map or plat thereof recorded in Volume 26, Page 44, Plat  
Records of Travis County, Texas and known locally as 3823 Westlake  
Drive, Austin, Travis County, Texas 78746

Each owner declares that the Property must be held, sold, and conveyed subject to the following easements and restrictions to assure access to and from the Property for pedestrian and vehicular traffic.

## DEFINITIONS

1.01 "Owner" or "Owners" means the record owner, whether one or more persons or entities, his, her or its heirs, successors and assigns, of any right, title, or interest in or to the Property or any part thereof.

1.02 "Tract" or "Tracts" means the real property, or a part of the real property, defined above as "Property."

## RECITALS

2.01 **WHEREAS**, the current Owners of Tract 1 and Tract 2 described above desire to build a cluster boat facility as authorized by Section 25-2-1173D2 of the Code of the City of Austin such that three (3) boat dock slips will be located on Tract 1 in two separate boat dock structures for the joint benefit of both lots; and

CONFORMITY WITH ALL APPLICABLE LAWS

**STATE OF TEXAS**  
**COUNTY OF TRAVIS**

Society Public, on this day personally  
of Larry T Royally Management, Ltd.

## Isotopie

### 5.01 Nothing in this Joint Love Pedestrian Access Use and

non Access, Use and Abandonment

69. Use and Misuse of Case-control or Interviewable The validity of

### Initial Liasement Agreement

11, even though the underlying fee is partly or entirely.

2014...

**oyally Management, Ltd.**

**line:** 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100 101 102 103 104 105 106 107 108 109 110 111 112 113 114 115 116 117 118 119 120 121 122 123 124 125 126 127 128 129 130 131 132 133 134 135 136 137 138 139 140 141 142 143 144 145 146 147 148 149 150 151 152 153 154 155 156 157 158 159 160 161 162 163 164 165 166 167 168 169 170 171 172 173 174 175 176 177 178 179 180 181 182 183 184 185 186 187 188 189 190 191 192 193 194 195 196 197 198 199 200 201 202 203 204 205 206 207 208 209 210 211 212 213 214 215 216 217 218 219 220 221 222 223 224 225 226 227 228 229 230 231 232 233 234 235 236 237 238 239 240 241 242 243 244 245 246 247 248 249 250 251 252 253 254 255 256 257 258 259 260 261 262 263 264 265 266 267 268 269 270 271 272 273 274 275 276 277 278 279 280 281 282 283 284 285 286 287 288 289 290 291 292 293 294 295 296 297 298 299 300 301 302 303 304 305 306 307 308 309 310 311 312 313 314 315 316 317 318 319 320 321 322 323 324 325 326 327 328 329 330 331 332 333 334 335 336 337 338 339 340 341 342 343 344 345 346 347 348 349 350 351 352 353 354 355 356 357 358 359 360 361 362 363 364 365 366 367 368 369 370 371 372 373 374 375 376 377 378 379 380 381 382 383 384 385 386 387 388 389 390 391 392 393 394 395 396 397 398 399 400 401 402 403 404 405 406 407 408 409 410 411 412 413 414 415 416 417 418 419 420 421 422 423 424 425 426 427 428 429 430 431 432 433 434 435 436 437 438 439 440 441 442 443 444 445 446 447 448 449 450 451 452 453 454 455 456 457 458 459 460 461 462 463 464 465 466 467 468 469 470 471 472 473 474 475 476 477 478 479 480 481 482 483 484 485 486 487 488 489 490 491 492 493 494 495 496 497 498 499 500 501 502 503 504 505 506 507 508 509 510 511 512 513 514 515 516 517 518 519 520 521 522 523 524 525 526 527 528 529 530 531 532 533 534 535 536 537 538 539 540 541 542 543 544 545 546 547 548 549 550 551 552 553 554 555 556 557 558 559 560 561 562 563 564 565 566 567 568 569 570 571 572 573 574 575 576 577 578 579 580 581 582 583 584 585 586 587 588 589 590 591 592 593 594 595 596 597 598 599 600 601 602 603 604 605 606 607 608 609 610 611 612 613 614 615 616 617 618 619 620 621 622 623 624 625 626 627 628 629 630 631 632 633 634 635 636 637 638 639 640 641 642 643 644 645 646 647 648 649 650 651 652 653 654 655 656 657 658 659 660 661 662 663 664 665 666 667 668 669 670 671 672 673 674 675 676 677 678 679 680 681 682 683 684 685 686 687 688 689 690 691 692 693 694 695 696 697 698 699 700 701 702 703 704 705 706 707 708 709 710 711 712 713 714 715 716 717 718 719 720 721 722 723 724 725 726 727 728 729 730 731 732 733 734 735 736 737 738 739 740 741 742 743 744 745 746 747 748 749 750 751 752 753 754 755 756 757 758 759 760 761 762 763 764 765 766 767 768 769 770 771 772 773 774 775 776 777 778 779 780 781 782 783 784 785 786 787 788 789 790 791 792 793 794 795 796 797 798 799 800 801 802 803 804 805 806 807 808 809 810 811 812 813 814 815 816 817 818 819 820 821 822 823 824 825 826 827 828 829 830 831 832 833 834 835 836 837 838 839 840 841 842 843 844 845 846 847 848 849 850 851 852 853 854 855 856 857 858 859 860 861 862 863 864 865 866 867 868 869 870 871 872 873 874 875 876 877 878 879 880 881 882 883 884 885 886 887 888 889 890 891 892 893 894 895 896 897 898 899 900 901 902 903 904 905 906 907 908 909 910 911 912 913 914 915 916 917 918 919 920 921 922 923 924 925 926 927 928 929 930 931 932 933 934 935 936 937 938 939 940 941 942 943 944 945 946 947 948 949 950 951 952 953 954 955 956 957 958 959 960 961 962 963 964 965 966 967 968 969 970 971 972 973 974 975 976 977 978 979 980 981 982 983 984 985 986 987 988 989 990 991 992 993 994 995 996 997 998 999 1000 1001 1002 1003 1004 1005 1006 1007 1008 1009 1010 1011 1012 1013 1014 1015 1016 1017 1018 1019 1020 1021 1022 1023 1024 1025 1026 1027 1028 1029 1030 1031 1032 1033 1034 1035 1036 1037 1038 1039

does not waive the future right to do so.

Age Group	Percentage
18-29	65
30-49	75
50-69	85
70+	95

Page 2 of 2



# 3823 Westlake Drive:

- **REASONABLE USE:** Zoning does not allow for a very narrow lake front lot use of a dock within the required setbacks.
- **HARDSHIP:** There are 200 linear feet of shoreline for the cluster of 2 lots. A variance to cluster the shoreline improvements, i.e. 3 docks on one lot, is required. The variance is not general to the area since most lake front lots are generally 100 linear feet.
- **AREA CHARACTER:** The dock density will remain within code limits, i.e. no more than 4 docks on two lots. The width of the dock, i.e. 14 feet will need to be approved by the Planning Commission during site plan review and permitting.



**Heldenfels, Leane**

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C15-2014-0059

**From:** Stephen Settle [REDACTED]  
**Sent:** Monday, May 12, 2014 1:57 PM  
**To:** Heldenfels, Leane  
**Subject:** Variance lot 99a & 100a lakeshore addition

I'm am writing in opposition of the above mentioned variance based on the following grounds

- 1) the lots were replatted by Dr. Charles Denham  
for the sole purpose of building a large boat  
which is 39 feet wide which is the maximum  
allowed for a 195 foot waterfront lot. So to now  
allow a second dock on this property sets a new  
method to build any size of boat dock by  
Changing the lot size to build then change it  
back
- 2) The current dock has 3 bays and is 3 stories  
tall more than adequate for this 200 foot lot  
which covers the 2 lots
- 3) this area of natural shoreline and vegetation  
is some of the last natural areas left in the  
Area from the bridge to the damn Sincerely Stephen Settle  
3825 Westlake drive next door to the variance lot Sent from my iPhone

Heldenfels, Leane

F3

**From:** Murray Robert [REDACTED]  
**Sent:** Monday, May 12, 2014 8:41 AM  
**To:** Heldenfels, Leane  
**Cc:** PATTY STEPHENS  
**Subject:** Facts, Data, and Opposing Logic For Board of Adjustments Agenda May 12, 2014 (Case # C15-2014-0059)  
**Attachments:** Backup of Facts, Data, and Opposing Logic For Board of Adjustments Agenda May 12, 2014 (Case # C15-2014-0059).docx

Hello Leane,

I'm submitting this to you for inclusion in the record for tonight's (May 12, 2014) Board of Adjustments hearing.

This is the correct version: Sorry about the confusion caused by sending you an earlier (crude) draft late last night.

If the format (MS WORD for Mac) isn't compatible with your software, please let me know at once, and I'll figure out another way to send it.

Either way, please send a simple reply, so Patty and I will be able to exhale again.

Thanks

-Robert Murray (spouse), for Dr. Patty Stephens  
512-663-6299 (Robert)  
512-627-2206 (Patty)

F3

**Facts, Data, and Opposing Logic For Board of Adjustments**  
**Agenda May 12, 2014 (Case # C15-2014-0059)**

Case Number: C15-2014-0059

Applicant: Bruce Aupperle (512) 422-7838

Agenda Item I-3

An application for a variance in order to construct two additional boat docks on the original lots in a "LA", Lake Austin zoning district.

(Apparently entered by Carolyn Aupperle), for Le Barre Family LLC and Lazy T Royalty Management Ltd.

Property in question: 3821 & 3823 Westlake Drive, Lot 99A and 100A.

This opposition to the requested variance is submitted by Dr. Patty Stephens, 3901 Westlake Drive, Austin, TX 78746.

I have lived in the same location, 3901 Westlake Drive, since building the house in 1968 (lot 102 of Lake Shore Addition platted April 8th, 1954).

I oppose further degradation of Lake Austin this variance would cause. I speak both as a long-term nearby property owner (two lots away) and as a long term Austinite concerned about the quality of our community and its unique resource, Lake Austin.

I have serious concerns about results of the variance-requested dock expansion from two to four (undefined) boat docks, including:

1. Conflicts with recent precedence, including requirements imposed on me for my dock construction in 2004: When I went 2 feet beyond the existing dock footprint, the permit was denied and I had to remove 2 feet of an already small dock (with NO boat dock).
2. Significantly enlarge (and possibly create intrusive new structures), where not previously permitted.
3. Reduces the amount of natural vegetation protection along the Lake Austin shoreline, thus further reducing water quality of our drinking water, both inside and outside the City of Austin.
4. Vulnerable to unavoidable construction phase destruction of imperious cover, septic tank compacting, etc.
5. Impairs the purpose and spirit of the Lake Austin water quality protection regulations, unique to the LA District zone.
6. Permanently alters the character of adjacent properties (including my home, adjacent to the adjacent lot).
7. It would grossly violate the spirit and regulatory practice of the (very reasonable) 20% limit for boat docks (the percentage of

- the property's total lake front devoted to boat docks – a recreational, not essential use), and
8. The Applicant's Variance Request provides no protection against the possibility that the variance – if granted – would result in an intrusive expansion in height, depth, or intrusive presence of the additional two boat docks, which together with the original two which still occupy 200 feet of lake front, and
  9. It would undercut the long-awaited LA district zoning overlay that is scheduled for final City Council consideration (with unanimous pass recommendations in support) on May 15, 2014, three days after the May 12 Board of Adjustment meeting.

Context: Originally this property width was 200 feet, which translated into about 200 feet of lakefront (the original lots were platted so that the dividing property lines were almost perpendicular to the lake shore). Later, the boundary between these two lots was redrawn to provide a lakefront adequate to acquire a permit to build the two existing boat docks (of 39 foot combined width), and stay within the 20% limit. This resulted in the existing situation today: The larger lot, with about 190 feet of lakefront, plus a much smaller lot, having barely enough room for walkway to the shore (less than 10 feet, presumably allowing a claim of "lakefront property"). Therefore: Any "unfairness" to the current or eventual owner of the smaller lot occurred strictly as a result of this redrawing of the boundary between the two lots!

Thank you for your consideration.

Dr. Patty Stephens



## Heldenfels, Leane

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**From:** Dr. Patricia Stephens ~~dr.patricia.stephens@...~~  
**Sent:** Sunday, May 11, 2014 9:09 PM  
**To:** Heldenfels, Leane  
**Subject:** (Case # C15-2014-0059)

73

Filing for opposition to boat docks encroachments into Lake Austin. ( bob add case numbers)

Having lived in the same location: 3901 Westlake Drive since 1968 (lot 102 of Lake Shore Addition platted April 8th, 1954), I oppose further degradation of Lake Austin. I speak both as an nearby property owner (100 feet away) and as a long term Austinite concerned about the quality of our community.

I have serious concerns about the proposed dock expansion, including:

- Conflicts with recent precedence, including requirements imposed on me for my dock construction in 2004: When I went 2 feet beyond the existing dock footprint, the permit was denied and I had to remove 2 feet of an already small dock, with NO boat dock.
- Significantly enlarge or even create imposing new structures where not permitted.
- Reduces the amount of natural vegetation protection along the Lake Austin shoreline, thus further reducing water quality of our drinking water, both inside and outside the City of Austin.
- Provides a pathway for { how about “vulnerable to construction destruction of imperious cover, septic tank compacting” }
- Impairs the purpose { how about “and spirit of the Lake Austin water quality protection regulations” }
- Permanently alters the character of adjacent properties { how about “including our home, two docks from subject property” }
- Sets a precedent for further erosion of Lake Austin quality.
- Nullifies the work of the LA Overlay { covered by my draft, item #5 }

Thank you for your consideration,

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, 2<sup>nd</sup> Floor (One Texas Center).

CASE # C15-2014-0059  
ROW # 14122902

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

TX012709 6117

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

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

STREET ADDRESS: 3821 and 3823 Westlake Drive—

LEGAL DESCRIPTION: Subdivision —  
LOT 99A and 100A RESUB OF 99&100 LAKE SHORE ADDN

Lot(s) 99 and 100 Block \_\_\_\_\_ Outlot \_\_\_\_\_ Division \_\_\_\_\_

I/We Aupperle Company on behalf of myself/ourselves as authorized agent for

Lebarre Family LLC and Lazy T Royalty Management LTD  
affirm that on March 18, 2014, \_\_\_\_\_,

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

(check appropriate items below)

☒ X ERECT ☐ ATTACH ☐ COMPLETE ☐ REMODEL ☐ MAINTAIN

more then 2 docks per lot due to limited land on lake front

in a LA 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 two lots were replatted to allow for each to have a reasonable size home on the lot without too many complications or variances being needed. In doing this one lot lost almost all frontage on the lake and there is no way to build a dock on 5' of land. The owner of the property will be deprived from the use of his property in a similar manner as other property owners along the lake have been authorized, and obtained a permit to do. Without a variance the owner can not enjoy the use of his property.

**HARDSHIP:**

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

There is no other property that is designed like this property or has such a small amount of lake frontage. Even without the redesign we still need a variance due to how small the lots are.

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

The land code now does not allow for this design to happen.

**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:

The lots near by will not be affected due to the location of the lake where this is and how big the other lot frontages are.

**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:

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:

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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**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 10088 Circleview  
Drive

City, State & Zip Austin TX  
78733

Printed Carolyn Aupperle agent Phone 512-912-  
6399 Date 3/18/14

DATE	11/11/2010
BY	W. S. HARRIS
CHECKED	W. S. HARRIS
SCALE	AS SHOWN

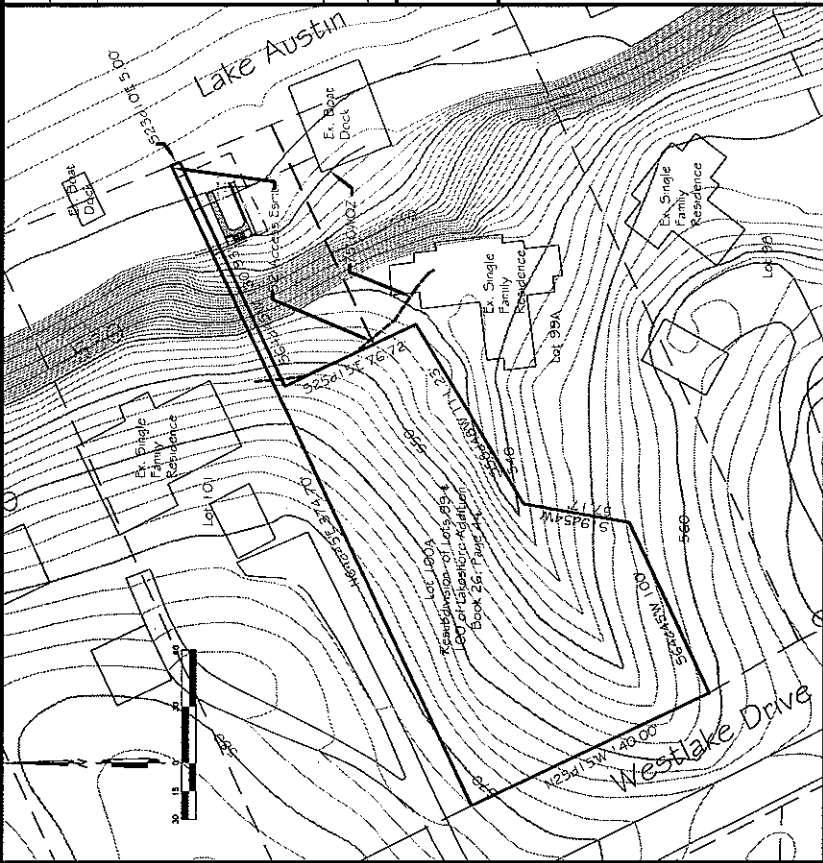
# 3623 Westlake Drive Boat Dock Plan & Elevations

AUPPERLE COMPANY

Engineering, Planning & Development Services  
2219 Westlake Drive #100, Austin, Texas 78746 512 329-8241

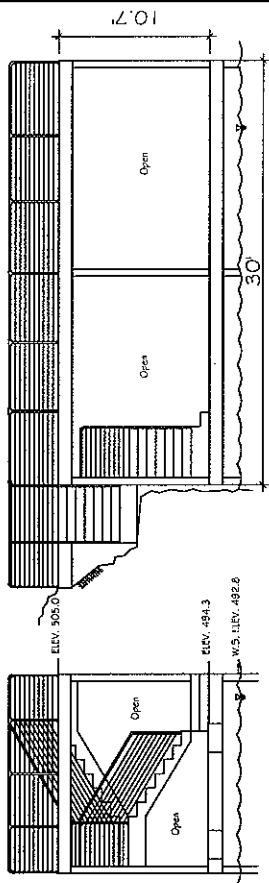


DATE	11/11/2010
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SCALE	AS SHOWN



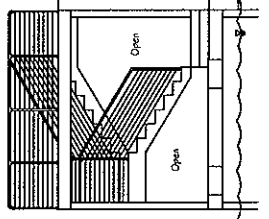
## NOTES:

1. Navigation lights must have a two-bulb fixture, with two working light bulbs rated between 7-1/2 and 25 watts inclusive. Light bulbs or bulb covers must be amber, and white light may not radiate from the fixture. Weatherproof lamp holders and junction boxes are required. Each light fixture must be wired with a switch operated by a photoelectric cell so that the lights will operate automatically during the hours that the dock is required to be lighted by this section.
2. All access for construction activities will be by water.
3. All piles will be 5-1/4" driven steel piles. All piles will be driven to 0.5' refusal per blow.
4. There are no trees equal to or greater than 8-inch in diameter within the limits of construction.



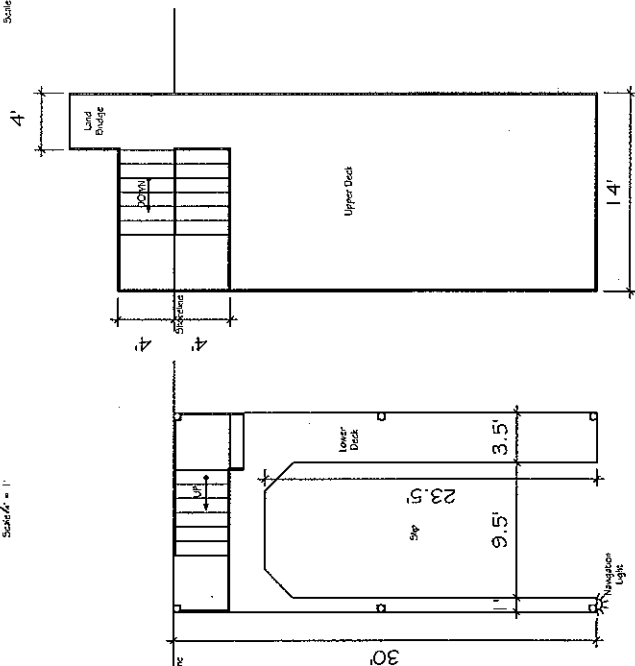
SIDE ELEVATION

Scale: 1" = 1'



LAKE-SIDE ELEVATION

Scale: 1" = 1'



FLOOR PLAN UPPER DECK

Scale: 1" = 1'

FLOOR PLAN LOWER DECK

Scale: 1" = 1'

All responsibility for the accuracy of these plans rests with the engineer who prepared them. No approval shown here, the City of Austin will not sign the necessary permit for the project.



SUBJECT TRACT



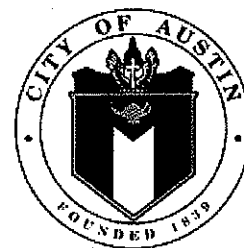
PENDING CASE



ZONING BOUNDARY

CASE#: C15-2014-0059

Address: 3821 & 3823 WESTLAKE DRIVE



1" = 200'

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 CTM for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.

August 1, 2013

City of Austin  
Planning and Development Review Department  
PO Box 1088  
Austin, TX 78716

To Whom It May Concern:

I, Tom Taylor, manage the property at 3823 Westlake Drive. We wish to construct a new dock at the property. Bruce S. Aupperle, P.E. and Aupperle Company are our authorized agents for the City of Austin applications needed for the subject work at the property. Please contact me if you have any questions.

Regards,

A handwritten signature in black ink, appearing to read "Tom Taylor". The signature is stylized with a large, looped "T" and a cursive "Taylor".

LeBarre Family LLC and Lazy T Royalty Management, Ltd.

TAX CERTIFICATE  
Bruce Elfant  
Travis County Tax Assessor-Collector  
P.O. Box 1748  
Austin, Texas 78767  
(512) 854-9473

NO 2240622

ACCOUNT NUMBER: 01-2709-0117-0000

PROPERTY OWNER:

LEBARRE FAMILY LLC &  
LAZY T ROYALTY MANAGEMENT LTD  
3300 S 14TH ST  
ABILENE, TX 79605-5016

PROPERTY DESCRIPTION:

LOT 100A RESUB OF 99&100 LAKE SHOR  
E ADDN

ACRES

.7663 MIN%

.000000000000 TYPE

SITUS INFORMATION: 3823 WESTLAKE DR

This is to certify that after a careful check of tax records of this office, the following taxes, delinquent taxes, penalties and interests are due on the described property of the following tax unit(s):

YEAR	ENTITY
2013	TRAVIS COUNTY
	EANES ISD
	TRAVIS CENTRAL HEALTH
	TRAVIS COUNTY ESD #9

TOTAL	
*ALL PAID*	
*ALL PAID*	
*ALL PAID*	
*ALL PAID*	
*ALL PAID*	

TOTAL SEQUENCE 0

TOTAL TAX:  
UNPAID FEES:  
INTEREST ON FEES:  
COMMISSION:  
TOTAL DUE ==>

*ALL PAID*
* NONE *
* NONE *
* NONE *
*ALL PAID*

TAXES PAID FOR YEAR 2013 \$13,082.19

ALL TAXES PAID IN FULL PRIOR TO AND INCLUDING THE YEAR 2013 EXCEPT FOR UNPAID YEARS LISTED ABOVE.  
The above described property may be subject to special valuation based on its use, and additional rollback taxes may become due. (Section 23.55, State Property Tax Code).  
Pursuant to Section 31.08 of the State Property Tax Code, there is a fee of \$10.00 for all Tax Certificates.

GIVEN UNDER MY HAND AND SEAL OF OFFICE ON THIS DATE OF 02/19/2014

Fee Paid: \$10.00

Bruce Elfant  
Tax Assessor-Collector

By: 

TAX CERTIFICATE  
Bruce Elfant  
Travis County Tax Assessor-Collector  
P.O. Box 1748  
Austin, Texas 78767  
(512) 854-9473

NO 2240623

ACCOUNT NUMBER: 01-2709-0128-0000

PROPERTY OWNER:

LAZY T ROYALTY MANAGEMENT LTD  
3300 S 14TH ST  
ABILENE, TX 79605-5016

PROPERTY DESCRIPTION:

LOT 99A RESUB OF 99&100 LAKE SHORE  
ADDN

ACRES 1.0833 MIN% .000000000000 TYPE

SITUS INFORMATION: 3821 WESTLAKE DR

This is to certify that after a careful check of tax records of this office, the following taxes, delinquent taxes, penalties and interests are due on the described property of the following tax unit(s):

YEAR ENTITY  
2013 TRAVIS COUNTY  
EANES ISD  
TRAVIS CENTRAL HEALTH  
TRAVIS COUNTY ESD #9

TOTAL  
\*ALL PAID\*  
\*ALL PAID\*  
\*ALL PAID\*  
\*ALL PAID\*  
\*ALL PAID\*

TOTAL SEQUENCE 0

TOTAL TAX:  
UNPAID FEES:  
INTEREST ON FEES:  
COMMISSION:  
TOTAL DUE ==>

\*ALL PAID\*  
\* NONE \*  
\* NONE \*  
\* NONE \*  
\*ALL PAID\*

TAXES PAID FOR YEAR 2013 \$31,813.18

ALL TAXES PAID IN FULL PRIOR TO AND INCLUDING THE YEAR 2013 EXCEPT FOR UNPAID YEARS LISTED ABOVE.  
The above described property may be subject to special valuation based on its use, and additional rollback taxes may become due. (Section 23.55, State Property Tax Code).  
Pursuant to Section 31.08 of the State Property Tax Code, there is a fee of \$10.00 for all Tax Certificates.

GIVEN UNDER MY HAND AND SEAL OF OFFICE ON THIS DATE OF 02/19/2014

Fee Paid: \$10.00

Bruce Elfant  
Tax Assessor-Collector

By: 





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 # C15-2014-0059  
ROW # 11122902  
TAX # 027090117

CITY OF AUSTIN  
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: 3821 and 3823 Westlake Drive

Deleted: \_\_\_\_\_

LEGAL DESCRIPTION: Subdivision - \_\_\_\_\_

LOT 99A and 100A RESUB OF 99&100 LAKE SHORE ADDN

Lot(s) 99 and 100 Block \_\_\_\_\_ Outlot \_\_\_\_\_ Division \_\_\_\_\_

I/We Aupperle Company on behalf of myself/ourselves as authorized agent for \_\_\_\_\_

Deleted: \_\_\_\_\_

Lebarre Family LLC and Lazy T Royalty Management LTD

affirm that on March 18, 2014

Deleted: \_\_\_\_\_

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

(check appropriate items below)

☒ X ERECT ☐ ATTACH ☐ COMPLETE ☐ REMODEL ☐ MAINTAIN

a cluster of boatdocks.

in a LA district.  
(zoning district)

*Revised*

**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:

The owner of the property will be deprived from the use of his property in a similar manner as other property owners along the lake have been authorized, and obtained a permit to do. Without a variance the owner can not enjoy the use of his property.

**HARDSHIP:**

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

~~The grade change is such that it is unsafe to descend.~~ 3821 has only 5' of Lake frontage

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

No other property is a reverse flagpole property

**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:

bc it is owned by the same owner

**PARKING:** (Additional criteria for parking variances only.) N/A

Revised

**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 \_\_\_\_\_

## **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 Land 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 - \$360. All other zonings - \$660.)~~
- (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:**

Deleted: <#>A tax plat with subject property clearly marked indicating property within a 500-foot radius. These are available from the Travis Central Appraisal District at 8314 Cross Park Drive (834-9138).¶

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