

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

DATE: Monday, June 9, 2014

CASE NUMBER: C15-2014-0068

Jeff Jack

Michael Von Ohlen

Ricardo De Camps

Bryan King

Stuart Hampton

Melissa Hawthorne

Will Schnier - Sallie Burchett (absent)

APPLICANT: Truc M Nguyen

OWNER: Truc M. & Lan T. Nguyen

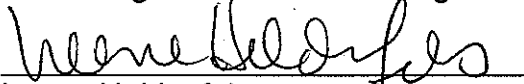
ADDRESS: 815 KEASBEY ST

VARIANCE REQUESTED: The applicant has requested variances to Section 25-2-492 (D) of the Site Development Regulations to: decrease the minimum lot size requirement from 5,750 square feet to 2,295 square feet (existing); and decrease the minimum lot width requirement from 50 feet to 39.88 feet (existing); and decrease the front setback requirement from 25 feet to 19.5 feet (existing); and decrease the side setback requirement from 5 feet to 2 feet (existing) in order to re-subdivide the property and maintain the existing home and garage in an "SF-3-CO-NP", Family Residence – Conditional Overlay – Neighborhood Plan zoning district. (Hancock)

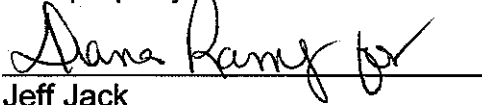
BOARD'S DECISION: The public hearing was closed on Board Member Ricardo De Camps motion to Postpone to June 9, 2014, Board Member Michael Von Ohlen second on a 7-0 vote; POSTPONED TO JUNE 9, 2014; June 9, 2014 POSTPONED TO JULY 14, 2014

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

PUBLIC HEARING INFORMATION

Although applicants and/or their agent(s) are expected to attend a public hearing, you are not required to attend. However, if you do attend, you have the opportunity to speak FOR or AGAINST the proposed development or change. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

During a public hearing, the board or commission may postpone or continue an application's hearing to a later date, or recommend approval or denial of the application. If the board or commission announces a specific date and time for a postponement or continuation that is not later than 60 days from the announcement, no further notice is required.

A board or commission's decision may be appealed by a person with standing to appeal, or an interested party that is identified as a person who can appeal the decision. The body holding a public hearing on an appeal will determine whether a person has standing to appeal the decision.

An interested party is defined as a person who is the applicant or record owner of the subject property, or who communicates an interest to a board or commission by:

- delivering a written statement to the board or commission before or during the public hearing that generally identifies the issues of concern (*it may be delivered to the contact person listed on a notice*); or
- appearing and speaking for the record at the public hearing;

- And:
- occupies a primary residence that is within 500 feet of the subject property or proposed development;
 - is the record owner of property within 500 feet of the subject property or proposed development; or
 - Is an officer of an environmental or neighborhood organization that has an interest in or who's declared boundaries are within 500 feet of the subject property or proposed development.

A notice of appeal must be filed with the director of the responsible department no later than 10 days after the decision. An appeal form may be available from the responsible department.

For additional information on the City of Austin's land development process, visit our web site: www.austintexas.gov/development.

Written comments must be submitted to the contact person listed on the notice before or at a public hearing. Your comments should include the name of the board or commission, or Council; the scheduled date of the public hearing; the Case Number; and the contact person listed on the notice.

Case Number: C15-2014-0068, 815 Keasbey
Contact: Leane Heldenfels, 512-974-2202, leaneheldenfels@austintexas.gov
Public Hearing: Board of Adjustment, May 12th, 2014

LAUREN CROWE
 Your Name (please print) I am in favor
 I object

309-B EAST 45TH ST
 Your address(es) affected by this application

LD Love
 Signature
 512-914-8429
 Daytime Telephone: 05/02/14
 Date

Comments: 1 CONDITIONALLY APPROVE
 OF THE VARIANCES TO VARIATION
 A SINGLE FAMILY HOME, I DO NOT
 APPROVE OF ANY VARIANCE FOR
 THE PURPOSE OF MULT-FAMILY
 RESIDENCES FOR MANY REASONS
 ASSOCIATED WITH THE NEIGHBORHOOD
 ZONING PLAN.

Note: Any responses received will become part of the record of this case which is open to public review.

If you use this form to comment, it may be returned to:
 City of Austin-Planning & Development Review Department/ 1st Floor
 Leane Heldenfels
 P. O. Box 1088
 Austin, TX 78767-1088
 Or fax to (512) 974-2934
 Or scan and email to leaneheldenfels@austintexas.gov

Heldenfels, Leane

From: James Cooper [mailto:jwcooper@austin.rr.com]
Sent: Monday, May 12, 2014 3:16 PM
To: Heldenfels, Leane
Subject: RE: Case Number: C15-2014-0068

I can understand that the survey mentioned a garage due to its age; however, it is also clear the new owners came from out of town and immediately enclosed the existing garage and would have completely converted the garage to a second living space if the city of Austin had not stepped in and halted the process. They then continued exterior work of the garage, completing the trim and stone façade; I can only assume that since they continue to spend money on its outer appearance (unable to determine interior status) that they expected to resume with their plans for two separate living spaces (one on top of the other). Therefore their claim that they were unaware of the property not meeting city code requirements could be suspicious considering they knew enough to employ a contractor to erect walls and update plumbing and electrical systems. According to their application, Section 3 "Area Character", they claim no "alteration to the external structure" and therefore no impact on the neighborhood; I suppose that depends on how you define alteration and neighborhood impact.

The bottom line is that all 'changes' to the property occurred AFTER the new owners purchased the property and that there had always been a garage on the lower level of the structure with the single living space on the top.

Thank you very much for your time to reply; I greatly appreciate the information.
James Cooper
(512).302.1124

From: Heldenfels, Leane [mailto:Leane.Heldenfels@austintexas.gov]
Sent: Monday, May 12, 2014 2:45 PM
To: James Cooper
Subject: RE: Case Number: C15-2014-0068

The applicant's application didn't state garage, but the survey did – the survey was a few year old and didn't take into account changes to the structure that have occurred.

I am attaching the development rules for duplex use that would need to be followed before a 2nd utility connection could be obtained for the home. This owner advises that he plans to use it as a single family home, but hard to tell if a future owner will try to convert to a duplex – they would have to meet the requirements (or new ones that may be approved) as well.

I will print out your email for the Board's packet tonight –

Take care,
Leane Heldenfels
Board of Adjustment Liaison
City of Austin

From: James Cooper [mailto:jwcooper@austin.rr.com]
Sent: Monday, May 12, 2014 9:29 AM
To: Heldenfels, Leane
Subject: Case Number: C15-2014-0068

I am a neighbor to the residence seeking a variance; case number C15-2014-0068. I suggest the current request for variance is not valid because it states: "maintain the existing home and garage".

Heldenfels, Leane

From: James Cooper [REDACTED]
Sent: Monday, May 12, 2014 9:29 AM
To: Heldenfels, Leane
Subject: Case Number: C15-2014-0068

I am a neighbor to the residence seeking a variance; case number C15-2014-0068. I suggest the current request for variance is not valid because it states: "maintain the existing home and garage".

It is obvious that there is no longer a "Garage", since it was immediately enclosed and is partitioned as a two bedroom residence complete with cut limestone façade, front door and two windows. If the new owners are given this variance with the existing wording "house with garage", then I suspect it will be interpreted as acceptance of the 'duplex' style build-out that the new owners have already achieved without any city review or permits.

I will however give the benefit of the doubt to the new owners that their interpretation of 'single family residence' led them to believe that even as they were creating a duplex style build-out in the garage space, that they may have interpreted that as allowing only members of their own 'family' to live in the converted garage and the existing living space above. Whether it is 'willful blindness' to the city of Austin regulations or a misunderstanding of the phrase 'single family residence', this should not excuse them leave in place the results of their work and therefore create a "multiple family duplex" with the additional parking congestion and noise this would bring to our already narrow and crowded street. We already have a bus stop on the corner attracting additional parked cars, a 'stealth dorm' half a block away with over flow parking on our street and we are a 'pass through' for traffic around the intersection of 45th and Red River (some at high speed).

This is very small lot with a history of issues and the neighbors have been patient and tolerant, but please do not allow this property to evolve into a two story duplex. The new owner's plans could change at any time; if the property is sold (in the near future) with its current configuration of two living spaces, then there will be no returning it to its original state. What is allowed to happen today, will impact the future of this property and surrounding residents for years to come.

Thank your for time and attention.

James Cooper
H. (512).302.1124
W. (512).762.4561



This email is free from viruses and malware because [avast! Antivirus](#) protection is active.

C15-2014-0068

Heldenfels, Leane

From: Casillas, Michelle
Sent: Saturday, May 10, 2014 8:09 AM
To: Heldenfels, Leane
Subject: RE: [HydePark] Notices from the City

Hi Leane –

I did not keep their deeds. They did not qualify for an exemption from platting. There is the 1995 Rule (Grandfather date, 1/1/1995) nor the Legal Tract Exception (Grandfather Date 3/14/1946). I believe they are seeking variances so then they can re-plat. If I remember correctly.

M

Sincerely,
Michelle R. Casillas
City of Austin / PDR
Development Assistance Center
Senior Planner
(512)974-7623 office
(512)974-2934 fax
Michelle.Casillas@austintexas.gov

Supervisor: Christopher Johnson
Christopher.Johnson@austintexas.gov

From: Heldenfels, Leane
Sent: Friday, May 09, 2014 4:41 PM
To: Casillas, Michelle
Subject: FW: [HydePark] Notices from the City

Do you recall the deed division date of 815 Keasby? It may make a difference to the neighbor below that may/may not submit a comment on the pending BOA case.

Thanks –
Leane

From: Adrian Skinner [<mailto:adrian.h.skinner@gmail.com>]
Sent: Wednesday, May 07, 2014 10:19 AM
To: Heldenfels, Leane
Subject: Re: [HydePark] Notices from the City

Good morning Leane.

I am a nearby neighbor and would like some more information about this request for a variance. I am concerned about the precedent the City might set by granting a variance to sub-divide an already small lot into

CASE# CL5-2014-0068
ROW# 11123090
TAX# 0219070707

**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: 815 Keasbey street. Austin, Texas 78751

LEGAL DESCRIPTION: Subdivision – Ridgetop Annex

Lot(s) part of lot 8 and lot 9 Block 8 Outlot Division

I/We Truc Nguyen on behalf of myself

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

(check appropriate items below)

ERECT ATTACH COMPLETE REMODEL MAINTAIN

This is to apply for variances of minimum lot size, front and side setback dimension, imp. corner, lot size,

No plan to change the existing structure. Only internal renovation to re-wire some electrical outlets and

AC ductings

SF-3-CO-NP
in a Hancock district.
(zoning district)

ball court
+ rear for shed

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:
There's already existing residential property on the lot
-
-

HARDSHIP:

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

I bought the house early January without knowing it's not meeting the zoning requirement therefore

I'm requesting this variance approval in the application

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

This lot was sub-divided from lot 8 and lot 9 per survey attached.

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:

No impact to adjacent properties since there's no alteration to the external structure. We've cleaned

up and will repainted the exterior to make it look better

PARKING: (Additional criteria for parking variances only.)

Request for a parking variance requires the Board to make additional findings. The Board may grant a variance to a regulation prescribed Section 479 of Chapter 25-6 with respect to the number of off-street parking spaces or loading facilities required if it makes findings of fact that the following additional circumstances also apply:

1. Neither present nor anticipated future traffic volumes generated by the use of the site or the uses of sites in the vicinity reasonable require strict or literal interpretation and enforcement of the specific regulation because:
-
-

2. The granting of this variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic of the streets because:

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

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

NOTE: The Board cannot grant a variance that would provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated.

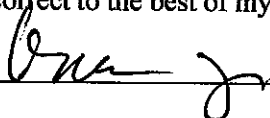
APPLICANT CERTIFICATE – I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Signed  Mail Address 1341 E. Creekview drive

City, State & Zip Salado, Texas 7671

Printed Truc Nguyen Phone 254-231-2678 Date 4/10/2014




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  Mail Address 1341 E. Creekview drive

City, State & Zip Salado, Texas 76571

Printed Truc Nguyen Phone 254-231-2678 Date 4/10/2014



-  SUBJECT TRACT
-  PENDING CASE
-  ZONING BOUNDARY

CASE#: C15-2014-0068
 Address: 815 KEASBEY ST

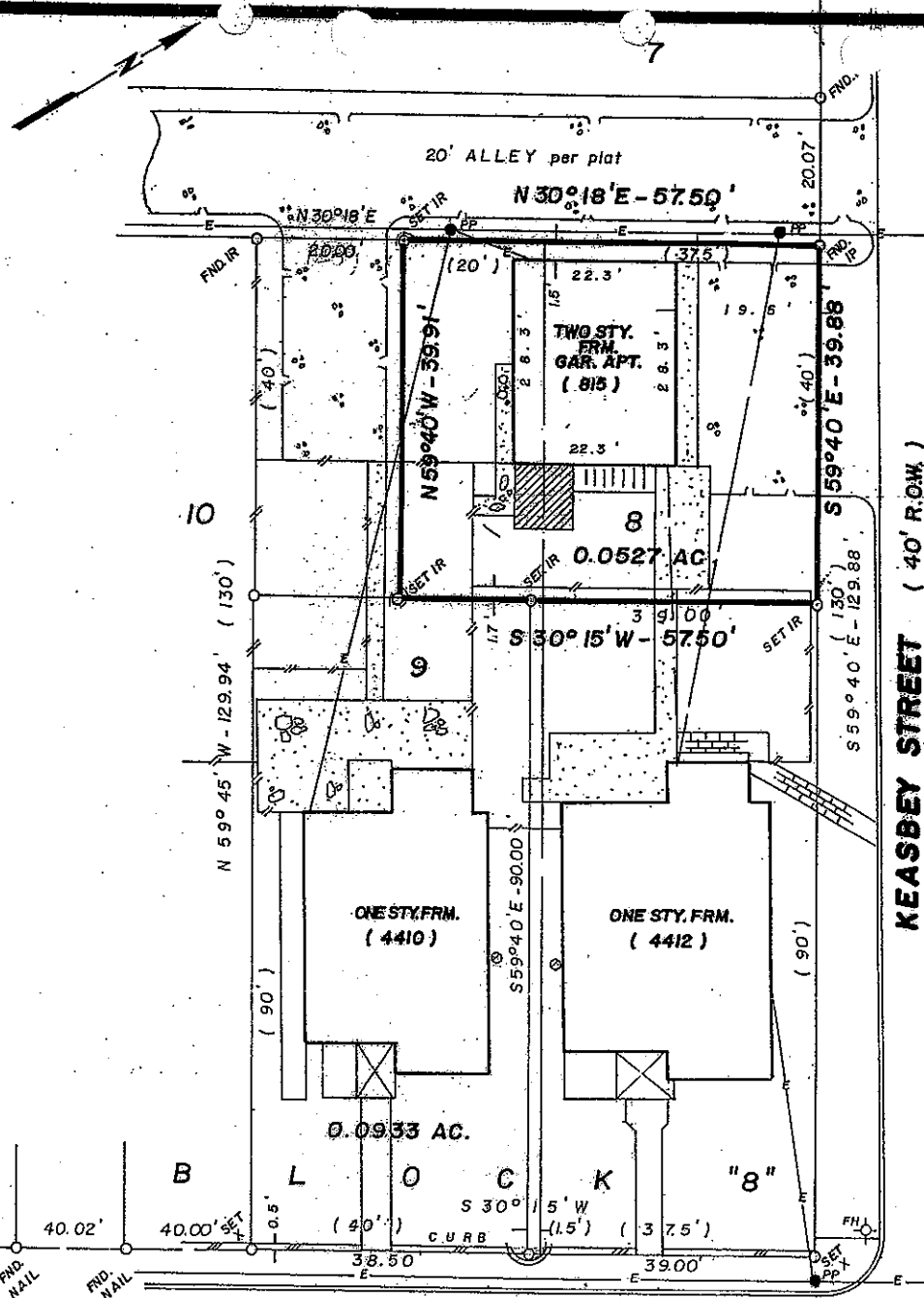


This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

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.

1" = 167'

- *NOTE: (1) Lot is subject to Restrictive Covenants as recorded in Vol. 634, Pg. 116; Vol. 658, Vol. 441; Vol. 853, Pg. 33, TC.D.R.
- (2) Blanket Electric & Telephone Easement (on parent tract) recorded in Vol. 556, Pg. 111, TC.D.R.
- (3) Subject Property DOES NOT lie within the limits of a special flood hazard zone, as determined from F.E.M.A. Flood Insurance Rate Map, Community No. 480624, as shown on Consolidated Map 4845300165-E, dated June 16, 1993 (Zone "X").



F.N.D.R.—FOUND IRON ROD I.P.—IRON PIPE C.M.—CONCRETE MONUMENT "X"—SCREENED MARK "*****"—CALL BEARING DISTANCE 0.000000—VOLUNTARY EASEMENT FOR TRAIL OR HIGHWAY
 A—ARC B—RAILROAD C—CHORD D—DELTA N.S.E.—NORTH SOUTH EAST WEST P.U.L.—PUBLIC UTILITY EASEMENT "P"—PITCH G.—GRADE H.—HOLE I.—IRON J.—JUNCTION
 T.C.D.R.—TRAVIS COUNTY DEED RECORDS F.R.—PLAT RECORDS R.P.R.—REAL PROPERTY RECORDS M.H.—MANHOLE E.—ELECTRIC M.—METER V.—VALVE F.—FENCE

RED RIVER STREET
(50' R.O.W.)

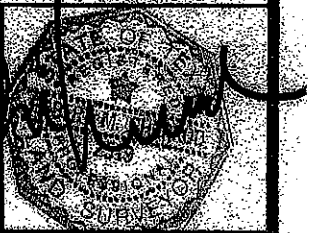
LEGAL DESCRIPTION: Being all that certain 0.0527 acre tract or parcel of land out of and part of Lot 8 and Lot 9, Block 8, RIDGETOP ANNEX, a subdivision in the City of Austin, Travis County, Texas, according to the map or plat thereof recorded in Volume 2, Page 211, Travis County Plat Records, and being more particularly described in the attached Exhibit "A".

PURCHASER: ROLON **TITLE CO.:** FIRST AMERICAN
ADDRESS: 815 KEASBEY STREET **G. F. NO.:** 1498013

I hereby certify that this plat represents a correct survey made upon the ground under my supervision on MAY 16 1997, and that there are no encroachments upon subject property, except as shown hereon, and that all improvements and all visible and apparent easements are shown hereon, and that subject property has access to and from a dedicated roadway and that said survey conforms to current Texas Board of Land Surveying Standards.

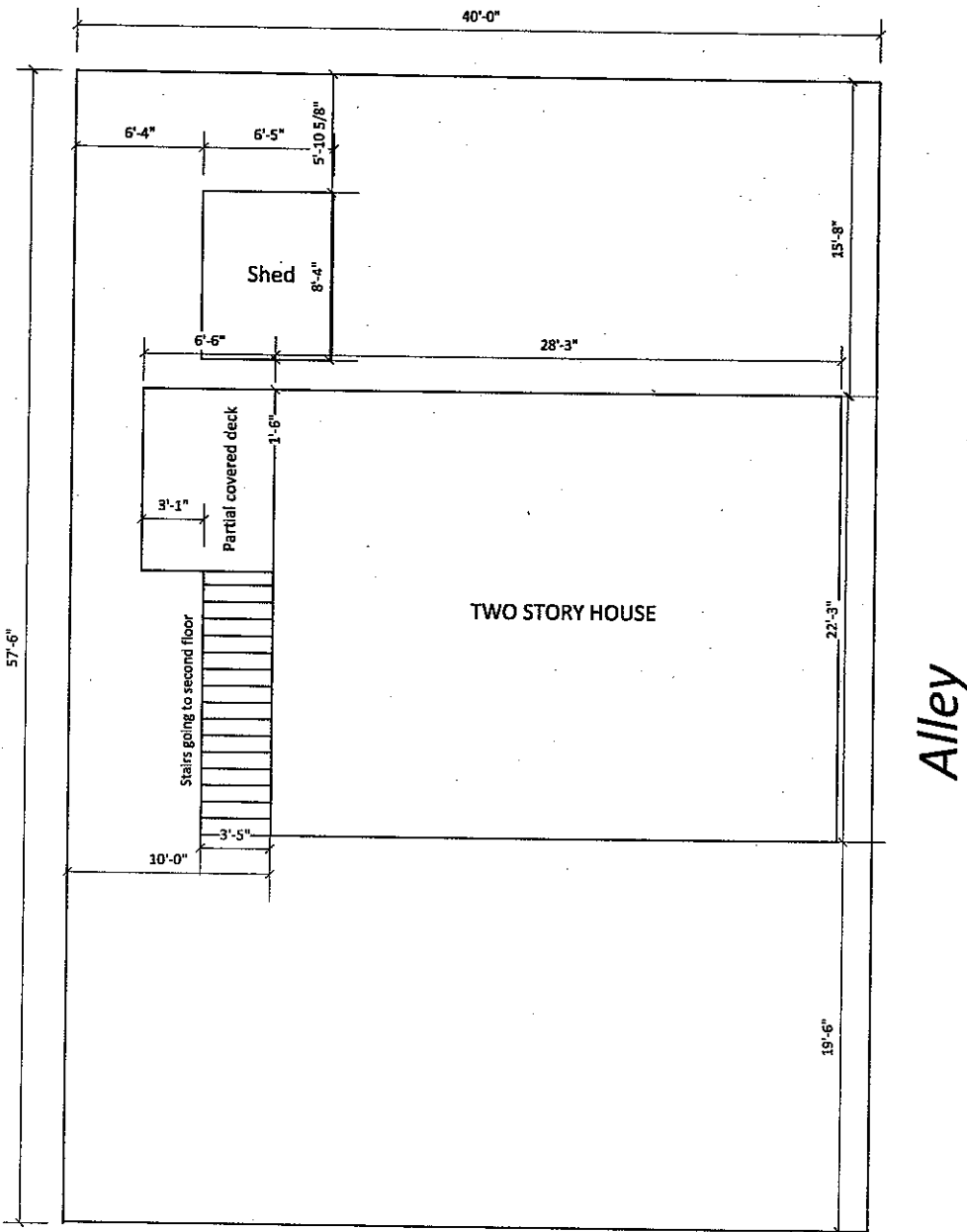
updated April 30, 1998 pmf

Robert M. Sherrod, R.R.L.S., State of Texas No. 251



NOTE NO CHANGES 4-30-98 Page 1 of 2 Pages

G · E · O A GEOGRAPHICAL LAND SERVICES CO.	4412 SPICEWOOD SPRINGS ROAD, SPICEWOOD BUSINESS CENTER SUITE 1002 AUSTIN, TEXAS 78759 (512) 343-9GED	DATE	5-16-97	FILED	WA	BOOK	110
		SCALE	1"=20'	JOB NO.	977067-C		



Keasbey Street

Existing plot plan

Scale

1" = 7'

112

FILM CODE
00005684930

RELEASE OF LIEN

KNOW ALL MEN BY THESE PRESENTS: That C. Howard Leveritt being the legal owner and holder of that certain promissory note in the original principal sum of \$28,000.00 and date February 25, 1991, and described in the deed of Trust executed in favor of Peter B. Dickens, Trustee, dated February 25, 1991, record in Vol. 11380, page 1068, Record of Travis County, Texas, covering the following described property situated in Travis County, Texas,

The South 80' of Lot 1, Block "A", CAPITAL HEIGHTS, an addition in the City of Austin, Travis County, Texas, according to the map or plat thereof, recorded in Book 2, Page 224, Plat Records of Travis County, Texas, and being more particularly described by metes and bounds on the attached Exhibit "A",

does hereby acknowledge payment in full of said note, both principal and interest, and does hereby release, remise and discharge the property described in said deed of trust above mentioned and does hereby declare said property fully and completely released of any and all liens owned or held, by the undersigned by virtue of said deed of trust and the record thereof securing said note.


C. Howard Leveritt

on this, the 15th day of January, 1998.

This instrument was acknowledged before me on

Jan. 15, 1998, 1998 by C. Howard Leveritt.


Notary Public

Welda Johnson
Print name

My Commission expires:



Notary Public, DeKalb County, Georgia
My Commission Expires July 18, 1999

REAL PROPERTY RECORDS
TRAVIS COUNTY, TEXAS

13119 0191

271 General

EXHIBIT "A"

The South Eighty (80) feet of Lot No. One (1), in Block "A", CAPITAL HEIGHTS, an addition in the City of Austin, described by metes and bounds as follows:

BEGINNING at an iron pipe found at the Southeast corner of said Lot 1, Block A, being at the intersection of Jewell Street and Bouldin Avenue, and being the Southeast corner of the herein described tract;

THENCE, with the North line of Jewell Street, the South line of Lot 1, N 59 deg. 11' W, 46.34 feet to an iron pipe found at the Southwest corner of said Lot 1, for the Southwest corner of the herein described tract;

THENCE, with the West line of said Lot 1, N 21 deg. 00' E, 80.00 feet to an iron pipe found for the Northwest corner of the herein described tract;

THENCE, crossing said Lot 1, S 59 deg. 11' E, 46.34 feet to an iron stake found in the West line of Bouldin Avenue for the Northeast corner of the herein described tract;

THENCE, along Bouldin Avenue, S 21 deg, 00' W, 80.00 feet to the PLACE OF BEGINNING.

Rot: MARTHA L. DAVIES
3317 PERRY LN.
AUSTIN TX 78731

FILED

98 FEB 12 AM 9:45

DANA DEBEAUVOIR
COUNTY CLERK
TRAVIS COUNTY, TEXAS

STATEWIDE
COUNTY CLERKS
I hereby certify that this instrument was FILED as
required by law and that the same has been properly
recorded in the Public Records of Travis County, Texas, on
the date hereon.

FEB 12 1986



Dana Debeauvoir
COUNTY CLERK
TRAVIS COUNTY, TEXAS

RECEIVED: 480103154 TRAVIS: 40714 DEPT: RECORDS ROOM 411.00
CARRIER: DATE FILED: 02/12/86 TRAVIS: 0428250
PAID BY: DREDA 964

REAL PROPERTY RECORDS
TRAVIS COUNTY, TEXAS

13119 0182

134

FILM CODE

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DOC. NO.

91015220

DEED OF TRUST

Date: FEBRUARY 25, 1991

Grantor: CHRISTOPHER S. DAVIES and wife, MARTHA L. DAVIES

Grantor's Mailing Address (including county):
3317 PERRY LANE
AUSTIN, TEXAS 78731 (TRAVIS COUNTY)

Trustee: PETER B. DYCKENS

Trustee's Mailing Address (including county):
1000 WEST AVENUE, SUITE 104
AUSTIN, TEXAS 78701 (TRAVIS COUNTY)

Beneficiary: C. HOWARD LEVERITT

Beneficiary's Mailing Address (including county):
BOX 972
DECATUR, GEORGIA 30031 (DEKALE COUNTY)

Note(s)

Date: FEBRUARY 25, 1991

Amount: \$28,000.00

Maker: CHRISTOPHER S. DAVIES and wife, MARTHA L. DAVIES

Payee: C. HOWARD LEVERITT

Final Maturity Date: FEBRUARY 1, 2021

Terms of Payment (optional):
AS PROVIDED IN THE NOTE.

Property (including any improvements):

The South 80' of Lot 1, Block "A", CAPITAL HEIGHTS, an addition in the City of Austin, Travis County, Texas, according to the map or plat thereof, recorded in Book 2, Page 224, Plat Records of Travis County, Texas, and being more particularly described by metes and bounds on the attached Exhibit "A".

Prior Lien(s) (including recording information):
NONE.

199 101

General Provisions

1. If any of the property is sold under this deed of trust, Grantor shall immediately surrender possession to the purchaser. If Grantor fails to do so, Grantor shall become a tenant at sufferance of the purchaser, subject to an action for forcible detainer.
2. Recitals in any Trustee's deed conveying the property will be presumed to be true.
3. Proceeding under this deed of trust, filing suit for foreclosure, or pursuing any other remedy will not constitute an election of remedies.
4. This lien shall remain superior to liens later created even if the time of payment of all or part of the note is extended or part of the property is released.
5. If any portion of the note cannot be lawfully secured by this deed of trust, payments shall be applied first to discharge that portion.
6. Grantor assigns to Beneficiary all sums payable to or received by Grantor from condemnation of all or part of the property, from private sale in lieu of condemnation, and from damages caused by public works or construction on or near the property. After deducting any expenses incurred, including attorney's fees, Beneficiary may release any remaining sums to Grantor or apply such sums to reduce the note. Beneficiary shall not be liable for failure to collect or to exercise diligence in collecting any such sums.
7. Grantor assigns to Beneficiary absolutely, not only as collateral, all present and future rent and other income and receipts from the property. Leases are not assigned. Grantor warrants the validity and enforceability of the assignment. Grantor may as Beneficiary's licensee collect rent and other income and receipts as long as Grantor is not in default under the note or this deed of trust. Grantor will apply all rent and other income and receipts to payment of the note and performance of this deed of trust, but if the rent and other income and receipts exceed the amount due under the note and deed of trust, Grantor may retain the excess. If Grantor defaults in payment of the note or performance of this deed of trust, Beneficiary may terminate Grantor's license to collect and then as Grantor's agent may rent the property if it is vacant and collect all rent and other income and receipts. Beneficiary neither has nor assumes any obligations as lessor or landlord with respect to any occupant of the property. Beneficiary may exercise Beneficiary's rights and remedies under this paragraph without taking possession of the property. Beneficiary shall apply all rent and other income and receipts collected under this paragraph first to expenses incurred in exercising Beneficiary's rights and remedies and then to Grantor's obligations under the note and this deed of trust in the order determined by Beneficiary. Beneficiary is not required to set under this paragraph, and acting under this paragraph does not waive any of Beneficiary's other rights or remedies. If Grantor becomes a voluntary or involuntary bankrupt, Beneficiary's filing a proof of claim in bankruptcy will be tantamount to the appointment of a receiver under Texas law.
8. Interest on the debt secured by this deed of trust shall not exceed the maximum amount of nonusurious interest that may be contracted for, taken, reserved, charged, or received under law; any interest in excess of that maximum amount shall be credited on the principal of the debt or, if that has been paid, refunded. On any acceleration or required or permitted prepayment, any such excess shall be canceled automatically as of the acceleration or prepayment or, if already paid, credited on the principal of the debt or, if the principal of the debt has been paid, refunded. This provision overrides other provisions in this and all other instruments concerning the debt.
9. When the context requires, singular nouns and pronouns include the plural.
10. The term note includes all sums secured by this deed of trust.
11. This deed of trust shall bind, inure to the benefit of, and be exercised by successors in interest of all parties.
12. If Grantor and Maker are not the same person, the term Grantor shall include Maker.
13. Grantor represents that this deed of trust and the note are given for the following purposes:

IN RENEWAL AND EXTENSION, BUT NOT IN EXTINGUISHMENT OF THAT CERTAIN INDEBTEDNESS DESCRIBED IN EXHIBIT "B" ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE FOR ALL PURPOSES AND GRANTORS HEREBY EXPRESSLY ACKNOWLEDGE THAT THE LIEN(S) SECURING SAID INDEBTEDNESS IS/ARE VALID AND SUBSISTING AGAINST THE PROPERTY HEREIN DESCRIBED AND IS/ARE HEREBY RENEWED, EXTENDED AND CONTINUED IN FULL FORCE AND EFFECT TO SECURE THE PAYMENT OF THE NOTE DESCRIBED HEREIN.

Christopher S. Davies
CHRISTOPHER S. DAVIES

Martha L. Davies
MARTHA L. DAVIES

EXHIBIT "A"

The South Eighty (80) feet of Lot No. One (1), in Block "A", CAPITAL HEIGHTS, an addition in the City of Austin, described by metes and bounds as follows:

BEGINNING at an iron pipe found at the Southeast corner of said Lot 1, Block A, being at the intersection of Jewell Street and Bouldin Avenue, and being the Southeast corner of the herein described tract;

THENCE, with the North line of Jewell Street, the South line of Lot 1, N 59 deg. 11' W, 46.34 feet to an iron pipe found at the Southwest corner of said Lot 1, for the Southwest corner of the herein described tract;

THENCE, with the West line of said Lot 1, N 21 deg. 00' E, 80.00 feet to an iron pipe found for the Northwest corner of the herein described tract;

THENCE, crossing said Lot 1, S 59 deg. 11' E, 46.34 feet to an iron stake found in the West line of Bouldin Avenue for the Northeast corner of the herein described tract;

THENCE, along Bouldin Avenue, S 21 deg, 00' W, 80.00 feet to the PLACE OF BEGINNING.

EXHIBIT "B"

RENEWAL AND EXTENSION (Refinance)

The Note secured by the attached Deed of Trust evidences the sum of \$28,000.00 CASH advanced by C. HOWARD LEVERITT (Beneficiary) to CHRISTOPHER S. DAVIES and wife, MARTHA L. DAVIES (Grantors) and used by Grantors to renew, extend and rearrange a certain promissory note in the original principal sum of \$30,400.00 dated December 1, 1980, executed by DEBORA BARANOVICHT and CATALINA BARANOVICHT, both being unmarried persons, and originally payable to the order of MASON-McDUFFIE CO. OF TEXAS, a Texas Corporation, which note is more fully described in and secured by a Deed of Trust of even date therewith recorded in Volume 721B, page 397, Deed of Trust Records, Travis County, Texas, and re-recorded in Volume 7281, Page 513, Deed of Trust Records of Travis County, Texas, which Deed of Trust provides for a lien against the subject property described in the attached Deed of Trust; and, which promissory note and liens securing it have been transferred and assigned to MERCANTILE NATIONAL BANK AT DALLAS AS TRUSTEE FOR THE AUSTIN HOUSING FINANCE CORPORATION by instrument dated February 25, 1981, recorded in Volume 7341, Page 209, Real Property Records of Travis County, Texas.

FILED

FEB 25 4 39 PM '91

DANIELLE SAUVOR
COUNTY CLERK
TRAVIS COUNTY, TEXAS

STATE OF TEXAS
COUNTY OF TEXAS
I hereby certify that this instrument was FILED on
the date and at the place indicated herein by me as
County Recorder, in the County and State of the
above Records of Travis County, Texas, on

FEB 25 1991



Danielle Sauvour
COUNTY CLERK
TRAVIS COUNTY, TEXAS

REAL PROPERTY RECORDS
TRAVIS COUNTY, TEXAS

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