

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

DATE: Monday, December 8, 2014

CASE NUMBER: C15-2014-0170

____ Jeff Jack - Chair
____ Michael Von Ohlen
____ Melissa Whaley Hawthorne - Vice Chair
____ Sallie Burchett
____ Ricardo De Camps
____ Brian King
____ Vincent Harding
____ Will Schnier - Alternate
____ Stuart Hampton - Alternate

APPLICANT: Jeffrey S. Howard

OWNER: Daughters of Charity Ministries Inc. and St. Andrew's Episcopal School

ADDRESS: 32nd Street and Wabash

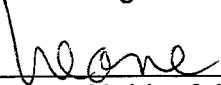
VARIANCE REQUESTED: The applicant has requested a variance(s) from Section 25-2-832 (*Private Schools*) (1), of Division 3 – Civic Uses to decrease the minimum paved width of a street that the site must be located on from at least 40 feet from the site to where it connects with another street that has a paved width of at least 40 feet (required) to 22 feet on Wabash Street and from 31 to 36 feet on W. 32nd Street (requested) in order to construct a kindergarten facility in a "MF-2-NP", Multi-Family – Neighborhood Plan zoning district. (Windsor Road)

BOARD'S DECISION: POSTPONED TO January 12, 2015 BY APPLICANT


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

Heldenfels, Leane

From: Joyce Basciano ~~jlbasciano@astoria.net~~
Sent: Monday, December 08, 2014 12:20 PM
To: Heldenfels, Leane
Cc: Ramirez, Diana
Subject: C15-2014-0170, 1112 W. 31st Street

Importance: High

Hi Leane,

Please see that the Board of Adjustment receives the following note from the Bryker Woods Neighborhood Association in time for tonight's hearing.

Thank you,

Joyce Basciano

Dear Chariman Jack and members of the Board of Adjustment,

Re: C15-2014-0170, 1112 W. 31st Street

The Bryker Woods Neighborhood Association supports the position of the residential property owners on West 31st Street regarding this variance request.

Thank you,

Joyce Basciano

On behalf of the Bryker Woods Neighborhood Association

Heldenfels, Leane

From: Dan Renner <~~dan.renner@pcrllp.com~~>
Sent: Monday, December 01, 2014 2:22 PM
To: Heldenfels, Leane
Cc: jhoward; Randy Erben; Kimberly Renner
Subject: Case Number: C15-2014-0170 32nd & Wabash

Ms. Heldenfels

My wife Kimberly and I own the property at 1001 W. 31st, where our family lives and Kimberly operates a retail home furnishing store. We received the Notice of Public Hearing with regard to the above referenced Case Number.

This email is to advise you that we support the applicant's requested variance. Please place a copy of this email in the application file to reflect our support.

Thank you for your attention to this matter. Please do not hesitate to contact me if you have any questions.

Best,
Dan

Daniel R. Renner
Parsley Coffin Renner LLP
P.O. Box 13366
Austin, Texas 78711
512-879-0922 Direct
dan.renner@pcrllp.com

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CASE# C15-2014-0170
ROW# 11248723
TAX# 0219010123

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

(TRADV)

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

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

STREET ADDRESS: 32nd Street and Wabash

LEGAL DESCRIPTION: Subdivision - See attached Exhibit "A"

Lot(s) _____ Block _____ Outlot _____ Division _____

I/We Jeffrey S. Howard ~~on behalf of myself/ourselves~~ as authorized agent for

the Daughters of Charity Ministries, Inc. and St. Andrew's Episcopal School

Nov. 5 2014
affirm that on _____, _____,

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

(check appropriate items below and state what portion of the Land Development
Code you are seeking a variance from)

___ ERECT ___ ATTACH X COMPLETE ___ REMODEL ___ MAINTAIN

Applicant seeks a variance from Section 25-2-832 to allow a private
school site to be located on a street that has a paved width of less
than 40 feet.

in a MF-2-NP* district.

(zoning district) * Note: A zoning application to LO-MU-CO is currently pending.

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:

See attached Exhibit "B"

HARDSHIP:

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

See attached Exhibit "B"

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

See attached Exhibit "B"

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:

See attached Exhibit "B"

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:

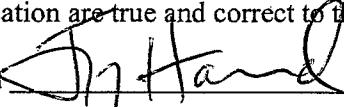
N/A

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  Mail Address 901 S. MoPac Expwy.

City, State & Zip Building II, Ste. 225, Austin, Texas 78746

Printed Jeffrey S. Howard Phone 512-328-2008 Date 11/5/2014

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 1018 W. 31st Street

City, State & Zip Austin, Texas 78705

Printed Daughters of Charity Ministries, Inc. Phone 314-561-4607 Date 11/5/2014

32nd Street & Wabash Variance Request

EXHIBIT "A"
Legal Description

The property that is the subject of this variance request is comprised of two tracts more particularly described as follows:

Tract One (Daughters of Charity):

Lot 1-A, Amended Plat of Lots 1 and 2, Block 1, Martha E. Whitten Addition and Lot 1, Seton Medical Center Addition No. 4, a subdivision in Travis County, Texas, according to the map or plat thereof recorded in Plat Book 95, Page 344 of the Plat Records of Travis County, Texas.

Tract Two (St. Andrew's Episcopal School):

Lot 4, Block 1, Martha E. Whitten Addition, a subdivision in Travis County, Texas, according to the map or plat thereof recorded in Plat Book 2, Page 198 of the Plat Records of Travis County, Texas;

Lot 2, Block 1, Seton Medical Center Addition No. 4, a subdivision in Travis County, Texas, according to the map or plat thereof recorded in Plat Book 83, Page 143B of the Plat Records of Travis County, Texas; and

Lot 2-A, Amended Plat of Lots 1 and 2, Block 1, Martha E. Whitten Addition and Lot 1, Seton Medical Center Addition No. 4, a subdivision in Travis County, Texas, according to the map or plat thereof recorded in Plat Book 95, Page 344 of the Plat Records of Travis County, Texas.

32nd Street & Wabash Variance Request

EXHIBIT "B" **Findings of Fact**

1. Reasonable Use

St. Andrew's School proposes to use the property that is the subject of this variance (which is comprised of both property it currently owns and the adjacent property currently owned by the Daughters of Charity) (the "Site") for private school use, specifically a kindergarten. St. Andrew's has operated a private school (but not a kindergarten) on the property across Wabash Street from the Site and on 31st Street for 57 years, since 1957. The school has elected to add a kindergarten in order to enhance its educational programs and mission. However, at this time there is no room on the current Lower School Campus for a kindergarten. The school would, therefore, like to use the Site to locate a kindergarten. It currently owns the majority of the Site which is used as faculty parking. Although the Site is currently used *by* the school and is part of its campus, it is not currently being used *as* a private school.

Using the Site (which is located across Wabash from the school's current lower school campus and is part of the school campus) as kindergarten is a reasonable use of the Site. However, 31st Street, Wabash Street, and 32nd Street all have a pavement width of less than 40 feet. The pavement width of 32nd Street, which is planned to be the entrance for the kindergarten, is approximately 37 feet. Therefore, Section 25-2-832 of Code, which requires a minimum pavement width of 40 feet, would prevent the reasonable use of the Site by the school for a kindergarten.

2. Hardship

32nd Street between Lamar and Wabash is approximately 37 feet in pavement width, just 3 feet short of the requirement in Section 25-2-832. 32nd Street is also less 500 feet long from Lamar west to its end at Wabash and is fully developed on both sides of the street. Besides the school parking lot, only 2 other sites (a Randolph Brooks Credit Union and the Seton League House) have access to 32nd Street and those other sites also have access directly on Lamar. As a result, 32nd Street is very low traffic and a 40 foot pavement width is not necessary to accommodate a small kindergarten. In addition, widening 32nd Street to 40 feet all the way to Lamar is not feasible because such widening would require the relocation of underground and overhead utilities and storm inlets and the possible removal of large trees. Such widening would also interfere with the existing driveways and parking lot layouts of the other 2 sites.

The hardship created by Section 25-2-832 is unique to the property because (i) 32nd Street is already fully developed, (ii) there are existing trees, utilities, storm sewer facilities, driveways and parking areas along 32nd Street that would prevent widening without relocation and/ or removal, (iii) this section 32nd Street is short with low traffic that is already being utilized by the school which has been in this area for 57 years, (iv) the other sites are not used for school use and are not subject to the requirement, and (v) if the Site were adjacent to the main school campus, a variance would not be needed; however, the Site is separated from the main school campus by the very short Wabash Street.

3. Area Character

The school proposes to use both its existing parking lot on 32nd Street (for both parking and drop-off) and the existing Daughters of Charity building on 31st Street (for classroom and administrative offices) for the kindergarten. The school has been operating in this area since 1957 and is currently using a majority of the Site as part of its campus, even though instruction is not currently occurring on the Site. As a result, use of the Site by the school for kindergarten does not alter the character of the area. In fact, the use of Site for private school use instead of some other use that does not have to comply with 25-2-832 actually preserves the character of the area.

In addition, use of the Site for private school use will not impair the adjacent credit union because it has access on Lamar and the additional traffic created by the kindergarten on 32nd street will be minimal. The adjacent tract on 31st street will also not be impaired because the school proposes to prohibit access from the Site to 31st street, directing traffic instead to 32nd street.

Finally, the use of the Site as a private school will not impair the purposes of the regulations of the zoning district in which the property is located. Section 25-3-832 does not involve site development regulations applicable to a particular zoning district. None of the zoning districts applicable to the Property require a minimum street pavement width. In addition, the minimum pavement width in Section 25-2-832 does not apply to or prevent the other commercial and residential uses that are both in the area and allowed by the zoning district. Therefore, granting a variance from 25-2-832 in this case will not impair the purposes of these zoning districts.

Bldg. Opt In/Opt Out Process			
C14-00-2075; Wabash Parking Lot Improvements - West 32 nd Street at Wabash Avenue	GO-CO to GR-CO	To grant GR with a parking lot as the only permitted GR use and all permitted LO uses intact (05/09/2000)	Approved GR-CO zoning, with the CO deleting prohibition of private primary and secondary education facilities (06/01/2000).
C14-98-0256; Wabash Parking Lot Improvements, 1019 West 32 nd Street	SF-3, MF-2 to GO-CO	To grant GO-CO w/conditions (08/24/1999).	Approved GO-CO w/conditions; 40ft height restriction, and a list of prohibited GO uses (09/30/1999).

RELATED CASES:

The subject property includes a 3,137sq.ft. piece of land that is not part of the zoning change requested in this application. This piece of the property was originally zoned SF-3 and was rezoned to GO-CO in 1999 and then from GO-CO to GR-CO to allow for primary and secondary educational facilities in 2000 (C14-98-0256 and C14-00-2075).

The subject property is within the boundaries of the Central West Austin Neighborhood Planning Area (NP-2010-0027, Ord. No. 20100923-102). The -NP combining district was appended to the existing MF-2 base district in 2010 (C14-2010-0051, Ord. No. 20100923-103).

There is a corresponding neighborhood plan amendment case (NPA-2014-0027.02) to change the land use designation on the Future Land Use Map (FLUM) from Multifamily to Mixed Use/Office.

ABUTTING STREETS:

Name	ROW	Pavement	Classification	Sidewalks	Bike Route	Capital Metro (within 1/4 mile)
W. 31 st St.	55'	27'	Local	Yes	Yes	Yes
Wabash	25'	24'	Local	Yes	No	Yes

According to the Austin 2009 Bicycle Plan Update approved by Austin City Council in June, 2009, a bicycle facility is not identified on Wabash Street.

Heldenfels, Leane

From: Emily Blanco <[REDACTED]@mcleanhowardlaw.com>
Sent: Monday, December 15, 2014 2:35 PM
To: Heldenfels, Leane
Subject: RE: BOA Variance Application Case C15-2014-0170
Attachments: BOA Variance Exhibit A.docx

According to Austin GIS, the addresses appear to be: 1018 W. 31st Street, 1011 W. 32nd Street and 1019 W. 32nd Street. See attached Exhibit A for Lot/Blocks.

I am working on the site plan that shows paved widths of all the streets. You said in the last email to use the attached updated first page to resubmit, but nothing came through—do you mind sending that?

Emily Blanco

Legal Secretary

[REDACTED]@mcleanhowardlaw.com

Barton Oaks Plaza, Building II
901 South MoPac Expy | Ste 225
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From: Heldenfels, Leane [mailto:Leane.Heldenfels@austintexas.gov]
Sent: Wednesday, December 10, 2014 10:45 AM
To: Emily Blanco
Subject: RE: BOA Variance Application Case C15-2014-0170

Can you provide me the legal addresses/subdivision lot and blocks and address you'd like the case to be noticed as. I've added the 4 parcels to our case so I think the map, labels will be correct this time but just want to make sure the description is correct, too – I'll have you/Jeff review before they get mailed this time. If you want to send an updated 1st page for the application (you can use attached) and site plan that shows paved widths of all the streets the tracts front to and intersect with that would be helpful, too, so the body of the notice is accurate as well – hate for it to get postponed again if we can avoid it.

Thanks –
Leane

From: Emily Blanco [mailto:[REDACTED]@mcleanhowardlaw.com]
Sent: Tuesday, December 02, 2014 10:42 AM
To: Heldenfels, Leane
Subject: RE: BOA Variance Application Case C15-2014-0170