






-  SUBJECT TRACT
-  PENDING CASE
-  ZONING BOUNDARY

CASE#: C15-2015-0039
Address: 2910 RIO GRANDE



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.

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1" = 200'

C15-2015-0039
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**CITY OF AUSTIN APPLICATION TO BOARD
OF ADJUSTMENT INTERPRETATIONS
PART I: APPLICANT'S STATEMENT
(Please type)**

STREET ADDRESS: 2910 Rio Grande, Austin 78705

LEGAL DESCRIPTION: Subdivision – Brown Leander Addn

Lot (s) 6 Block 3 Outlot 72 Division D

ZONING DISTRICT: SF-3

I/WE Betsy Greenberg on behalf of myself/ourselves as
authorized

Agent for Heritage Neighborhood Association affirm that on 6th

Day of February, 20 15, hereby apply for an interpretation hearing before the Board of
Adjustment.

Planning and Development Review Department interpretation is:

The garage that encroaches on 2908 and 2910 Rio Grande Street qualifies for an
Exception from Compliance under Section 25-1-365. JMM 1-22-2015**** Exception for
garage encroachment into the side yard setback (southwest corner). Ordinance Number
20130822-126.

On closer review, Director Guernsey determined that a BOA variance was not required in
this case. His decision is supported by City Code § 25-2-961 (*Noncomplying Defined*) & -
963 (*Modification & Maintenance of Noncomplying Structures*). Under these sections, a
structure which pre-dates applicable site development regulations may remain in its current
location and additional development on the site may occur if it does not increase the
degree of noncompliance.

I feel the correct interpretation is:

Section 25-1-365 does not apply because this property has had a Certificate of Occupancy
since 1983. Section 25-2-961/963 does not apply as there is no proof that the garage
existed lawfully in its current location prior to the applicable setback regulations. Further,
Section 25-2-961/963 applies to the non-complying structure and does not address
questions of additional development on the site.

NOTE: The board must determine the existence of, sufficiency of and weight of evidence
supporting the findings described below. Therefore, you must complete each of the applicable
findings statements as part of your application. Failure to do so may result in your application
being rejected as incomplete. Please attach any additional support documents.

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

Staff's residential zoning review on 7/10/2014 stated "Major issue with this submitted Plan Review and site: You have an existing encroachment of a neighbor's garage (appears to be less than 200sf in size) or shed into your property. No new construction will be allowed and no new plan reviews will be approved until this structure is relocated off of your property/site. Adjacent property owner will need to move this structure – so that none of it is encroaching into your property." Paul Yadro further explained (1/28/2015) This plan review was submitted as a Vacant Lot – they were starting from scratch with proposed new construction of a new S-F residence. This means that everything is new "New S-F Residence is the Principal Use" and everything must be complying – all structures and the site must be complying for all applicable development standards– its "New Construction." Staff has not provided consistent interpretations.

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

The Board of Adjustment could consider this case and grant a variance or special exception. In considering a variance or special exception, the BOA can consider whether the proposed use is a permitted in a SF-3 zoning district, whether granting the variance will alter the character of the area adjacent to the property, impair the use of adjacent conforming properties, or create parking problems that interfere with the free flow of traffic.

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

All properties are required to comply with the same standards or have a Board of Adjustment hearing for exceptions and variances.

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

Signed Betsy Greenberg Printed Betsy Greenberg

Mailing Address 3009 Washington Sq

City, State & Zip Austin, TX 78705 Phone 512-477-1288

NOTICE OF APPEAL INFORMATION

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

Division 1. Appeals

(see page 2 of 2 for appeal process)



Planning and Development Review Department

Address of Property in Question

2910 Rio Grande, Austin, TX 78705

Permit Number

015-008394

Appellant Filing Appeal

Betsy Greenberg

Relationship to Property

Appellant's status as Interested Party

Treasurer of Heritage Neighborhood Association

Appellant Contact Information

Name

Betsy Greenberg

Street

3009 Washington Sq

City

Austin,

State

TX

Zip

78705

Telephone

512-689-7538

E-Mail

betsy.greenberg@gmail.com

Permit Holder Contact Information

Name

Charles Martin Homes LLC

Street

5615-B Clay Ave.

City

Austin,

State

TX

Zip

78756

Telephone

512-914-7256

E-Mail

Date of Decision Being Appealed:

1/23/2015

Date Appeal is Filed:

2/4/2015

Decision being appealed: (use additional paper as required)

Issuance of building permit

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

- 1) Inconsistent with the Land Development Code
- 2) Since this is a newly constructed SF house on a vacant lot, any exemptions from the LDC should come before the Board of Adjustment.

BELOW FOR CITY USE ONLY

Hearing Date:

Board or Commission:

Action on Appeal:

Date of Action

Form Bldg 101 Page 1 of 2

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

Appeal Process

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

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

Division 1. Appeals.

§ 25-1-181 STANDING TO APPEAL.

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

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

§ 25-1-182 INITIATING AN APPEAL.

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

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

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

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

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

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

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

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

2/4/2015

Betsy Greenberg

Betsy Greenberg

Date:

Printed Name:

Signature: