

Heldenfels, Leane

From: Michael Kane <austin-prosperpermits@gmail.com>
Sent: Thursday, August 06, 2015 5:48 PM
To: Heldenfels, Leane; Joe Ross; Eric Olson; Bob Shelton
Subject: Re: 1516 Kinney, C15-2015-0106

Leane,

This email is a formal request for postpone to the FEB 2016 agenda

Please let me know if any additional information is needed or required.

Contact me with any Q/A

On Aug 6, 2015, at 10:12 AM, Heldenfels, Leane <Leane.Heldenfels@austintexas.gov> wrote:

See attached. The Board will see it in their late back up packet at the meeting, I'll have a copy of late back up for your cases at the sign in table.
Leane

From: Lorraine Atherton [<mailto:latherton@austin.rr.com>]
Sent: Thursday, August 06, 2015 9:41 AM
To: Heldenfels, Leane
Cc: William Neale
Subject: 1516 Kinney, C15-2015-0106

Hello, Leane,

Attached is the Zilker Neighborhood Association's position on Board of Adjustment case #C15-2015-0106 regarding the variance request for 1516 Kinney. Please include it with the backup materials for Monday's hearing.

Thanks,
L. Atherton
Zoning Committee member, Zilker Neighborhood Association

<1516 Kinney ZNA letter2.docx>

PUBLIC HEARING INFORMATION

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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 whose 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/devservices

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Case Number: C15-2015-0106, 1516 Kinney Ave.

Contact: Leane Heldenfels, 512-974-2202, leana.heldenfels@austintexas.gov

Public Hearing: Board of Adjustment, August 10th, 2015

LEANE HELDENFELS

Your Name (please print)

1405 KINNEY AVE.

Your address(es) affected by this application

1405 KINNEY AVE.

8-3-15.

Signature

Date

Daytime Telephone: *512-*

Comments:

PLEASE IF POSSIBLE.

DON'T INTERFERE WITH VISIBILITY

AS THIS CORNER KNUCKLES TAKE.

FREE DEVELOPMENT.

THE HOUSE ON THIS SITE PREVIOUSLY

WAS SET BACK IN THE YARD AND

THE CORNER VIEW WAS NOT OBSCURED.

THANKS.

If you use this form to comment, it may be returned by noon the day of the hearing (comments received after noon may not be seen by the Board at this hearing) to:

City of Austin-Development Services Department/ 1st Floor

Leane Heldenfels

P. O. Box 1088

Austin, TX 78767-1088

Fax: (512) 974-6305

Scan & Email to: leana.heldenfels@austintexas.gov

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Case Number: C15-2015-0106, 1516 Kinney Ave.

Contact: Leane Heldenfels, 512-974-2202, leane.heldenfels@austintexas.gov

Public Hearing: Board of Adjustment, August 10th, 2015

Lisa Deland

Your Name (please print)

1507 Kinney Ave #124 Austin, TX 78704

Your address(es) affected by this application

[Signature]

Signature

8/2/15

Date

Daytime Telephone: 512-680-4212

Comments:

If you use this form to comment, it may be returned by noon the day of the hearing (comments received after noon may not be seen by the Board at this hearing) to:

City of Austin-Development Services Department/ 1st Floor

Leane Heldenfels

P. O. Box 1088

Austin, TX 78767-1088

Fax: (512) 974-6305

Scan & Email to: leane.heldenfels@austintexas.gov

Zilker Neighborhood Association

www.zilkerneighborhood.org ♦ zilkerna@austin.rr.com

2009 Arpdale ♦ Austin, TX 78704 ♦ 512-447-7681

August 4, 2015

Re: 1516 Kinney, C15-2015-0106

Dear Ms. Heldenfels.

The zoning committee of the Zilker Neighborhood Association (ZNA) has reviewed the variance request for 1516 Kinney to decrease the minimum lot size from 5750 to 5548 square feet. The applicant has not demonstrated a hardship that meets the Board of Adjustment criteria. The application is also inappropriate for a court of last resort, such as the Board of Adjustment, in that there are other remedies besides this variance that would restore the lot to a buildable size. We have concluded that the variance would grant special privileges that are not available to other properties in the area. The ZNA Executive Committee therefore requests that the Board of Adjustment deny the variance. Our findings are listed below.

Reasonable use: The zoning regulations allowed reasonable use before the rear portion of the property was sold in 2010 (see attached). Although a previous owner did sell off the rear 36 feet of the lot in 1962, it was never officially replatted, and the lot was subsequently reassembled into the original 7715-square-foot parcel, large enough to build a duplex under current code. The current owner attempted to profit from the sale of a portion of the property, but he neglected to inform himself of the city's minimum requirements before selling the entire 36 feet and before demolishing the existing house. Note the warning #2 on the second page (attached) of the demolition application, under "Consent, Authorizations, and Signatures": "2. It is important to verify with the Development Assistance Center (DAC) that new construction will be permitted on the property at this location PRIOR to filing this application." The owner signed it. It is his failure to exercise due diligence, not the zoning regulations, that caused the undersized condition of the property. The owner can remedy his mistake by purchasing 202 square feet from one of his neighbors.

Hardship: The existence of lots that do not meet the minimum lot size under current code is not unique to this property. A few substandard lots with fifties-era houses near 1516 Kinney are: 1602 Garner (5640sf), 1706 Collier (5616sf), and 1704 Collier (5546sf). In addition, a section of the Barton Heights subdivision to the north consists mostly of lots that are about 25 feet wide and do not meet the minimum lot size. These lots were designed to be sold in pairs to create a buildable lot. Much of the northern portion of the neighborhood was developed in this manner, with homeowners buying two or three or more modular lots to create home sites.



Demolition Application

Page 2 of PR- _____

Submittal Requirements

1. Owner authorization/signature, **NOTARIZED** at the bottom of this page
OR a **NOTARIZED** letter of authorization from the owner giving the applicant permission to apply.
2. Dimensioned Site Plan or Survey that shows all existing structures and what is being demolished
3. Certified tax certificate(s) from the Travis County Tax Assessor's Office (5501 Airport Boulevard, 854-9473).
4. Photos of each side of structure; the front photo needs to show the entire front of the structure that is visible from the street.
5. Review Fee (see fee schedule for applicable fees)

Additional requirements for Commercial Demolitions:

6. Approved/Red-stamped site plan OR an approved Site Development Exemption Form
7. Completed Texas Department of Health Asbestos Notification Form; must be filled out by a licensed inspector or contractor

Consent, Authorizations and Signatures

I understand and will adhere to the following rules or regulations:

1. No work may begin prior to issuance of this permit
2. It is important to verify with the Development Assistance Center (DAC) that new construction will be permitted on the property at this location PRIOR to filing this application.
3. If the structure to be demolished is currently tied into water and/or sewer services provided by the City of Austin, you must contact Austin Water Utility at 512-494-9400 to obtain specific water and sewer service information.
4. If the proposed work will require the removal of any tree protected by ordinance or impact the critical root zone as defined within the Environmental Criteria Manual (3.5.2.A), a Tree Ordinance Review Application is required prior to any such activity. Note: root zone protection measures (e.g. fencing, boards attached to the trunk, mulch) are required prior to work commencing. Information can be found at <http://www.austintexas.gov/department/ctkv-arborist>. Contact the City Arborist Program at (512) 974-1876 or ctkvarborist@austintexas.gov.
5. If the proposed work will require use of City right-of-way, a Right of Way Application must be approved prior to any such activity. Applications may be obtained in the Watershed Protection and Development Review located on the 8th floor at One Texas Center. For additional information, call 974-7180 or go to <http://www.austintexas.gov/department/right-way-management>
6. The Historic Preservation Office will review this application to determine if the structure that is subject of this application is potentially historic as defined by §25-11-214 of the City of Austin Land Development Code. Additional review by the Historic Landmark Commission may be required and additional fees may be assessed.
7. Once this review is complete and approved, the permit may be obtained from the Permit Center and additional fees will be assessed at that time.

I, the undersigned, hereby swear or affirm that the information provided in this application is true and correct to the best of my knowledge and is an accurate reflection of my intentions for the above structure and/or property. I understand that any omission or incorrect information herein will render this application and any permit obtained invalid.

As owner(s) of the property described in this application, I/we hereby authorize the Applicant listed on this application to act on my/our behalf during the processing and presentation of this request. They shall be the principal contact with the City in processing this application.

Signature of Applicant
(if different from owner)

William Kase

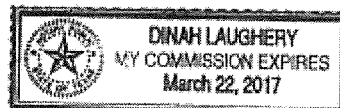
Date: 10-31-14

Signature of Owner

Date: 10-17-14

Sworn and subscribed before me this 17th day of Oct, 2014

Dinah Laughery
Signature of Public Notary



Heldenfels, Leane

From: Bruce Wiland <[REDACTED]>
Sent: Monday, August 03, 2015 5:29 PM
To: Heldenfels, Leane
Subject: comment form related to BoA request C15-2015-0106 (1516 Kinney Ave)
Attachments: C15-2015-0106 (1516 Kinney Ave) protest.pdf

Ms. Heldenfels,

Please find attached my comment form and protest regarding the BoA variance request at 1516 Kinney Ave. I want to expand a little on my comment in the form.

Prior to 1962, the lot at 1516 Kinney Ave (Lot 1 Block A of Barton Heights B Subdivision) was approximately 7,715 sf in size. In Aug 1962, the back 36 feet of the lot at 1516 Kinney Ave (approximately 2,160 sf) was sold and subsequently addressed as 1604 Collier St. However, this lot was never subdivided or replatted. In Mar 2007, Joe Ross purchased the front portion of this lot from Brent & Shannon Fannin. In Mar 2007, Joe Ross also purchased the back portion of this lot from Barbara Gail Olvera. So, as of Mar 2007, both portions of this lot were once again owned by the same owner, and a new house could legally be built upon the lot (approximately 7,715 sf) under today's zoning ordinances. In Nov 2010, Joe Ross sold the back portion of the lot to Joel McNinch, but the front part of the lot was still owned by Joe Ross, and there was a house on it. In Dec 2014, a demolition permit for this property was issued, and the house was subsequently torn down. This now made the property a non-conforming property on which nothing could be built.

Mr. Ross had several opportunities to avoid the situation he now faces. He could have 1) decided not to sell the back portion of the lot or 2) kept the existing house and simply remodeled it. Instead, he chose to create a non-conforming property. His problem is one of his own making, not one related to a hardship created by unfair zoning ordinances. The hardship requirement in the criteria for which the BoA is required to follow does not exist, and the request should be denied. Failure to deny the request would set a bad precedent and potentially result in others selling portions of lots and then seeking variances to build on smaller lots.

Bruce Wiland
1510 Oxford Ave (within 500 feet of subject property)

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Contact: Leane Heldenfels, 512-974-2202, leana.heldenfels@austintexas.gov

Public Hearing: Board of Adjustment, August 10th, 2015

Bruce L. Wiland
Your Name (please print)

1510 Oxford Ave

Your address(es) affected by this application

Bruce L. Wiland
Signature

8/3/2015
Date

Daytime Telephone: _____

Comments: This request does not meet the BOA criteria for a hardship. The applicant sold part of the property a few years ago for what was probably a good deal of money. Then he tore down a house that would have been grandfathered with respect to lot size. It was the owner's own decisions that created the small lot. There was no hardship due to zoning, only the owner's own actions. The request should be denied. We don't need big McMansions on small lots that change the character of the neighborhood. If you use this form to comment, it may be returned by noon the day of the hearing (comments received after noon may not be seen by the Board at this hearing) to:

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Leane Heldenfels

P. O. Box 1088

Austin, TX 78767-1088

Fax: (512) 974-6305

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