




N



SUBJECT TRACT

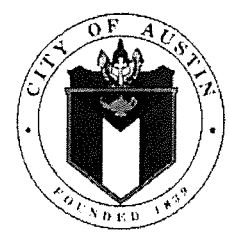


PENDING CASE



ZONING BOUNDARY

CASE#: C15-2015-0157  
Address: 3405 FAR VIEW DRIVE



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" = 333'

CASE# C15-2015-0157  
ROW# 11424751  
TAX# 0137340902

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

3/29

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

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

STREET ADDRESS: 3405 Farview Drive, Austin, TX 78745

LEGAL DESCRIPTION: Subdivision – Lot 53, Glenlake Phase I

We, John and Susan Scarlett, on behalf of ourselves affirm that on October 14, 2015, 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)**

☒ X ERECT ☐ ATTACH ☐ COMPLETE ☐ REMODEL ☐ MAINTAIN

A single family residence replacing the existing structure which has outlasted its useful  
life containing a total of 12,861 sq. ft. of impervious cover in an "RR" zone district.

**IMPERVIOUS COVER:**

Allow 46% IC in the 0-15% slope

Allow 41% IC in the 15-25% slope

Allow 26% IC in the 25-35% slope

Allow 3.9% IC in the 35+% slope

**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 lot was configured in 1978 under the Lake Austin Watershed ordinance  
in the ETJ. The original home was built in 1981 with a City building permit noticing

that the property was in the ETJ, but was being reviewed under City Zoning Code requirements.

The Property was annexed for limited purposes in 1985 and zoned "RR". Applicant submitted a pre-development assessment application in February 2014 to determine the regulatory standards to which their new home should be built and was advised that it would only be subject to the zoning requirements of the "RR" zone district.

3/13/19

The City residential review consultation confirmed that no slope map adjustments are required to determine the allowed impervious cover and that maximum building coverage would be 20%; maximum impervious cover would be 25%.

The "LA" overlay regulations were adopted without any notice to the Scarletts after they had received a project assessment advising them of the development constraints of the "RR" zone with no "LA" overlay implications. Full architectural plans were designed in reliance on this information. The LA overlay makes the existing structures on this property non-conforming and prohibits construction of a reasonable replacement residential structure to the existing structure which has exhausted its useful life.

Even today, the zoning map indicates that the property is zoned "RR". Applicant has affidavits from neighbors and from applicant stating that no notice was ever mailed to them indicating that their property would be significantly impacted by the proposed overlay after the redevelopment process had been initiated. Even staff has admitted that it did not attempt to comply with the notification requirements for rezoning of property because they considered the amendments "Code text amendments" only. The Ordinance declares properties zoned "RR" within 1000 feet of the Lake "must comply with the regulations applicable to the "LA" zone district under Section 25-2-551". If you are in the "RR" zone district, but must comply with regulations of the "LA" zone district, you should be entitled to written notice that your property's zone district is being changed. This was not done and the applicant relied on the pre-submittal consultation they did with the City that the "RR" zone district regulations would control.

#### **HARDSHIP:**

2. (a) The hardship for which the variance is requested is unique to the property in that: the vast majority of properties in the Glenlake Subdivision are not made subject to this overlay requirement that impacts the subject lot.

The overlay creates non-uniform regulations within the "RR" zone district to which all lots in the subdivision are zoned and deprives the subject property of privileges and property rights enjoyed by all other "RR" zoned lots in the Subdivision.

The Scarletts purchased the property for a value determined in reliance on the zoning permitted uses of this 2.25-acre property and the allowed impervious cover of 24,500 square feet permitted on this property under "RR" zone regulations.

The Scarletts diligently pursued an understanding of the applicable regulations through the city pre-development assessment process and were advised that total building coverage permitted on the property was 19,600 square feet; total impervious cover was

24,500 square feet; and that there were no slope map adjustments required in the "RR" zone.

The subject property is within the 1,000-foot overlay zone, but is high above Lake Austin; has no access to Lake Austin; has no frontage on Lake Austin; and is 2.25 times the minimum lot size for an "LA" lot fronting on Lake Austin.

02/15

(b) The hardship is not general to the area in which the property is located because: applicant's architects went out of their way to apply for a pre-development assessment with the City and specifically requested the regulatory design standards which would be applicable to this new home construction. Architects have spent thousands of dollars designing a home that cannot be built under the overlay which will only allow a house of about half the size of the existing structure on the property.

This "LA" Overlay Ordinance was not intended to regulate similarly situated properties to the Scarlett's lot. The Ordinance was designed to "protect the scenic, recreational and environmental benefits of Lake Austin by restricting the scale and intensity of development near the Lake". By reason of its distance from the Lake and height above the lake (more than 500 feet) and the fact that the lot is 2.25 times the minimum "LA" lot size; does not front on the lake; and has no access to Lake; strict enforcement of the Ordinance is not necessary to achieve the objectives of the Ordinance. The Ordinance's objectives are to prevent oversize scale near the Lake which may impact the aesthetic and recreational enjoyment of the Lake. The Hardship imposed on the property owner in this case justifies a variance, because strict enforcement of the terms of the Ordinance is not necessary to achieve the objectives of the Ordinance.

#### **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 it is keeping with the scale of other Glenlake homes.

Under the new Lake Austin overlay, only 5,452 square feet of impervious cover is allowed. Most of the homes in this area exceed that number by a substantial amount. For example, the existing home has 8,738 square feet of current impervious cover. The variance will allow an additional 4,123 square feet of impervious cover and will amount to only a 4% variance of the entire 2.25-acre tract.

#### **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 reasonably 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.

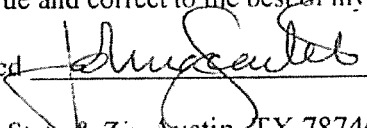
**APPLICANT CERTIFICATE** – I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Signed  Mail Address 105 W Riverside Drive #225

City, State & Zip Austin, TX 78704

Printed David Cancialosi Phone 512-593-5361 Date October 14, 2015

**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 1117 Quaker Ridge Drive

City, State & Zip Austin, TX 78746

Printed John A. Scallet Phone 650 255 8694 Date October 14, 2015



*Revised*

CASE# C15-2015-0157  
ROW# 11424791  
TAX# 0137340902

*MA  
1*

CITY OF AUSTIN *TEAD* ✓  
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: 3405 Farview Drive, Austin, TX  
78745

LEGAL DESCRIPTION: Subdivision – Lot 53, Glenlake Phase

We, John and Susan Scarlett, on behalf of ourselves affirm that on September \_\_, 2015,  
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)

X \_\_\_\_\_ ERECT \_\_\_\_\_ ATTACH \_\_\_\_\_ COMPLETE \_\_\_\_\_ REMODEL \_\_\_\_\_  
MAINTAIN

A single family residence replacing the  
existing structure which has outlasted its  
useful life containing a total of 12,861  
sq. ft. of impervious cover in an "RR"  
zone 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 the lot was configured in 1978 under the Lake Austin Watershed ordinance in

the ETJ. The original home was built in 1981 with a City building permit noticing that the property was in the ETJ, but was being reviewed under City zoning Code requirements. The Property was annexed for limited purposes in 1985 and zoned "RR". Applicant submitted a pre-development assessment application in February 2014 to determine the regulatory standards to which their new home should be built and was advised that it would only be subject to the zoning requirements of the "RR" zone district. The City residential review consultation confirmed that no slope map adjustments are required to determine the allowed impervious cover and that maximum building coverage would be 20%; maximum impervious cover would be 25%. The LA overlay makes the existing structures on this property non-conforming and prohibits construction of a reasonable replacement residential structure to the existing structure which has exhausted its useful life.

8/3/19

**HARDSHIP:**

2. (a) The hardship for which the variance is requested is unique to the property in that: the vast majority of properties in the Glenlake Subdivision are not made subject to this overlay requirement that impacts the subject lot. The overlay creates non-uniform regulations within the "RR" zone district to which all lots in the subdivision are zoned and deprives the subject property of privileges and property right enjoyed by all other "RR" zoned lots in the Subdivision.

(b) The hardship is not general to the area in which the property is located because: applicants' architects went out of their way to apply for a pre-development assessment with the City and specifically requested the regulatory design standards which would be applicable to this new home construction. Architects have spent thousands of dollars designing a home that cannot be built under the overlay which will only allow a house of about half the size of the existing structure on the 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:

*The area of character will remain the same given the proposed residential's project will be in keeping with similar single family uses.*

**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:

---

---

3/9/15

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 [Signature] Mail Address 105 W. Riverside Dr. #225

City, State & Zip Austin TX 78704

Printed David Canale Phone 825 593 5861 Date 9/28/15

**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 [Signature] for owners Mail Address 105 W. Riverside Dr. #225

City, State & Zip Austin TX 78704

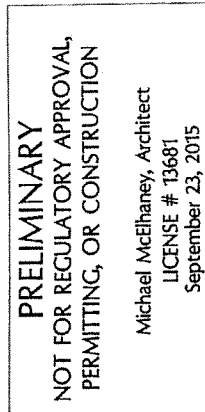
Printed David Canale for Phone \_\_\_\_\_ Date 9/28/15

owner (Chris) John + Susan Gault

3405 Far View Drive  
Austin, Texas 78730

Existing IC Calculations	
AREA DESIGNATION:	GROSS SF
RESIDENCE	2,480 SF
GARAGE	1,640 SF
DRIVENWAY	1,844 SF
STONE PATHWAY AND STAIRS	906 SF
STONE PATIO	1,758 SF
TOTAL (EXISTING IC)	8,768 SF

Existing IC Calculations	
AREA DESIGNATION:	GROSS SF
RESIDENCE	2,480 SF
GARAGE	1,640 SF
DRIVENWAY	1,844 SF
STONE PATHWAY AND STAIRS	906 SF
STONE PATIO	1,758 SF
TOTAL (EXISTING IC)	8,768 SF



**Jackson & McElhane**  
A R C H I T E C T S

Robert Jackson  
Michael McElhane

1135 West 6th Street, Suite 125, Austin, Texas 78703  
Phone: (512) 472-5132 Fax: (512) 472-5158  
[www.JacksonMcElhane.com](http://www.JacksonMcElhane.com)

(TEXT SHEET)

