

C15-2016-0030

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The Gardens at West Seventh

List of owners / Property manager

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Unit 103

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Unit M-1

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Unit 202

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Unit 203

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Tina Gehrke: martina@gehrkeonline.com

Unit 300

Roy Schwitters (HOA president): schwitters@physics.utexas.edu

Karen Schwitters: KarenS@austin.rr.com

Property manager

Lance Tompkins: alpslt@aol.com

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Statement to the Board of Adjustment

Roy F. Schwitters, HOA President
The Gardens at West 7th Condominium

April 11, 2016 Hearing of the Board
Case Number: C15-2016-0030

I appreciate this opportunity to address you tonight; I am here as president of our homeowners association, and on behalf of all the property owners at the Gardens at West 7th.

Our property borders the entire western extent of the subject property (608 Baylor), and the owners of all our 11 units are impacted by the requested variance. In fact, we are the only neighboring lot adjacent to the property line in question. Although we support the principle of rainwater harvesting, we do not support the variance request for two basic reasons:

1. Namely, it does not meet the criteria required by City Code for a setback variance.
2. Additionally, there are other locations for water storage tanks on this site that would not require a variance.

The context here is a 2+ year construction project, a period that provided ample opportunity to resolve all hardships, if any existed, unique to the site through choices made in its design and planning. The people responsible started more or less with a blank slate.

Our specific objections to the Finding Statements submitted in Section 2 of their application include:

Reasonable Use: The “empty structural concrete slab,” on which water storage tanks are proposed to be mounted, is fully plumbed and was poured on February 3, 2016, only 5 days before the application for the variance was signed by the Applicant and Owner. This slab is not mentioned on any engineering drawings or in any City development record we can find. It also appears to have been constructed without the required building permits, a violation no matter where it was placed.

Hardship: There are no hardships inherent to this property. There certainly are trees there, but their placement on the lot does not present a hardship. Hardship conditions described in the variance application arose from intentional design choices made for the construction of this workshop/garage.

Area Character: Contrary to what the applicant has written in the application for a variance, two eighteen-foot cisterns cannot be screened by fencing and plantings, especially given that they would sit on a significantly higher elevation than the ground

floor of our condominium building. These two 6700 gallon tanks would constitute a major structure that would occupy a significant portion of the setback space adjacent to our property, both vertically and horizontally.

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We are confident that there are other locations on this lot that would accommodate the water storage tanks, especially given that there is an elaborate water collection system planned for the property that would not require the tanks to be placed next to the roof of the workshop, without adverse impact to trees on the property.

In conclusion, there are no hardships on the 608 Baylor St. site that would justify granting a variance to the rear-yard setback requirement.

Given that the applicant could not have known the outcome of this hearing when he proceeded to place a plumbed slab in the setback, likely without the required building permit, we ask the Board not to reward such behavior by granting this request but, rather, to reject it.

From Board of Adjustment Variance Application C15-2016-0030

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Section 2: Variance Findings:

Portion of the City of Austin Land Development Code applicant is seeking a variance from:
Section 25-2-492 (D) (Site Development Regulations) to: reduce the Rear Yard setback requirement for these rainwater storage cisterns from 10' (required) to 1'25' (requested) to fit within a depression created by retaining walls holding up a shop structure and adjacent uphill property.

Section 2: Variance Findings

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 supporting documents.

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.

I demand that my entitlement to the requested variance is based on the following findings:

Reasonable Use

The zoning regulations applicable to the property do not allow for a reasonable use because:

This location is otherwise an empty structural concrete slab bracing the retaining walls and this cistern installation will catch water from the buildings on this lot and hold it for irrigation use, reducing stormwater impacts to the adjacent properties downhill.

Hardship

a) The hardship for which the variance is requested is unique to the property in that

The proposed cistern location nests into the hillside which the visual impact of cisterns large enough to store significant rainwater runoff from the roofs above. The opposite side of the lot is uphill and is restricted by the critical root zones of large trees.

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

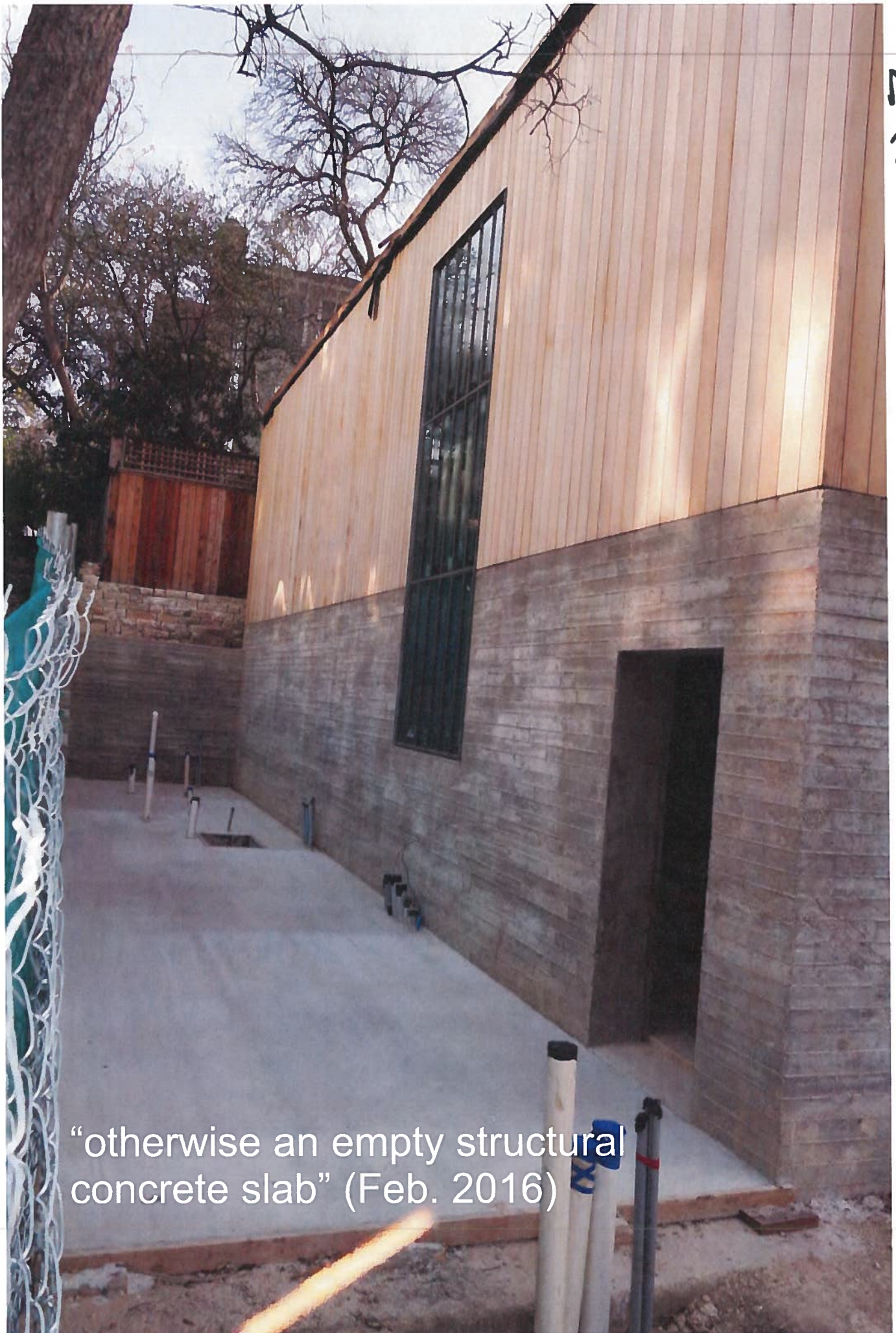
The topography, tree distribution and type of structures on this property are not repeated on the adjacent lots, which vary from single family residences uphill (north and northeast) to multifamily structures downhill (to the west).

Reasonable Use

The zoning regulations applicable to the property do not allow for a reasonable use because:

This location is otherwise an empty structural concrete slab bracing the retaining walls and this cistern installation will catch water from the buildings on this lot and hold it for irrigation use, reducing stormwater impacts to the adjacent properties downhill.

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“otherwise an empty structural concrete slab” (Feb. 2016)

LOT 1 BLK A TUTTLE ADDITION
AUSTIN, TX

608 BAYLOR STREET
AUSTIN, TX 78703

100% CONSTRUCTION DOCUMENTS

ZONING
ORDINANCE NUMBER 041104-39
SF-5

MELL
LAWRENCE
ARCHITECTS
813 W. GILSON ST
AUSTIN, TX 78704
TS12 441 4689
TS12 441 8125



APRIL 10, 2014

REVISIONS:
1 01/01/14 PERMIT SET
2 11/17/14 PERMIT SET

BQ EW
DRAWN BY

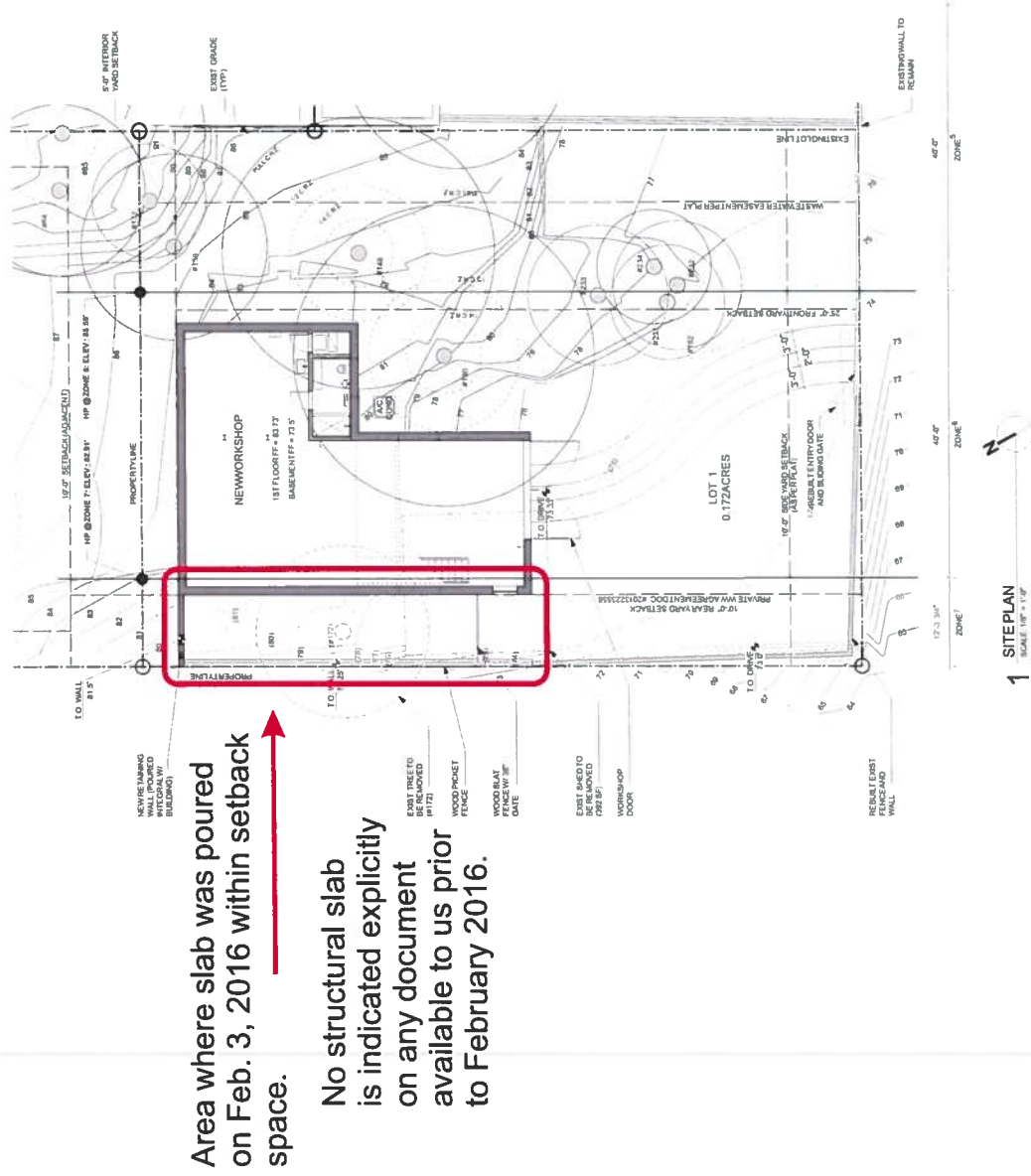
10 APRIL 2014
SHEET DATE

100% CD SET
ISSUANCE

SITEPLAN
SHEET TITLE

SP1.1

2/2/16



Area where slab was poured
on Feb. 3, 2016 within setback
space.

No structural slab
is indicated explicitly
on any document
available to us prior
to February 2016.

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Workshop foundation

Setback space
in April 2015

Property line



Activity on Feb. 2, 2016

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Concrete poured on 2/3/2016

"Empty" slab detail
(Feb. 2016)

2/26/16



2/2/23

The HOA of The Gardens at West 7th:

- 1) supports the rainwater harvesting goal of the 608 Baylor St. workshop project.
- 2) opposes the proposed setback variance because applicable findings required for a setback variance have not been answered. Any hardship unique to the property is a result of deliberate choices made the in siting of various elements of the ongoing workshop project.
- 3) believes there exist other locations on the property that are suitable for installing cisterns which do not require a setback variance.
- 4) would be pleased to engage with the Owner to develop a mutually agreeable plan.