

Subject: 2005 Manana St -- Results of June 7, 2017 Staff Meeting

Chuck,

We understand that the COA Staff from both the WPD and DSD Departments may be consulting with you about their concerns, findings, and opinions on these matters to help make their determinations following our June 7, 2017 meeting in your offices. I must say that Mrs. Findlay was very disturbed by the staff comments, demands, and wished-for alterations to her property; specifically, any references about how she could "better spend her money" are clearly out of the scope/character and intent of the meeting.

Mrs. Findlay asked that I share her comments, as follows: **"It troubles me that the city was so insistently blind to the fact that this system has been in place for over 40 years. It also troubles me that they blithely recommend that I completely redesign a beautiful simple shoreline that I purchased because I loved it for the way it was."**

It appears that the staff have decided for the Director In reply to our May 10, 2017 letter (see attached). The May 10, 2017 letter to the Director of Development Services specifically notates that "The existing shoreline stabilization structures and bulkhead have been developed on the property for more than fifty (50) years and should be accepted by the Director per the rule conditions of LDC 25-8-963(D)(8)."

Please offer a reply which includes your (or the Director's) written findings to support your determination regarding our petition/exhibits for inclusion of LDC 25-2-963(D)(8) on this matter. If COA should maintain that the application must be heard by other Boards/Commissions for fair and consistent consideration, then the owner begs for swift processing from COA to schedule any hearings now.

Kindest Regards,

Rick Rasberry, CESSWI
Lake Austin Boat Dock & Shoreline Permits
512-970-0371



Rick Rasberry

From: [REDACTED]
Sent: Thursday, June 29, 2017 3:47 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: COA Variance Fee Invoices 2005 Manana St Appeal to Boards/Commissions

Hi Rick,
 The argument you presented was that the wall was in existence before 1984 and that the owner was maintaining a non-conforming structure. We did not agree but since that part of code is Zoning, BOA is the only way to get an exception. BOA is not part of our process and you will need to contact the person Beth recommended.

We do not know how they will respond but the property owner usually needs to show a hardship of some kind. If BOA agrees with your argument, the project does not need a variance and can stay as is.

If you are denied an exception by BOA, you will then need to either:

1. Restore the shoreline to the previous condition.
2. Permit the shoreline and ask for a variance to code.

Please let me know if you questions.

Atha Phillips, RLA, LI, LEED AP
Environmental Program Coordinator
[City of Austin Development Services Department](#)
 505 Barton Springs Road
 Office: 512-974-6303



Development
 SERVICES DEPARTMENT

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Nos gustaría escuchar de usted. Por favor, tome un momento para [completar nuestra encuesta](#).

From: [REDACTED]
Sent: Thursday, June 29, 2017 12:46 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: COA Variance Fee Invoices 2005 Manana St Appeal to Boards/Commissions

Ms. Robinson,

Thanks again for the quick reply. We will contact Ms. Heldenfels and initiate those processes but we just wanted to be sure we addressed staff comments of Update U1, as follows:

Appeal Application

Documents

Rick Rasberry

From: [REDACTED]
Sent: Wednesday, July 5, 2017 11:13 AM
To: [REDACTED]
Subject: RE: 2005 Manana St BOA Process -- Safety Inspection 25-2-476

Hi Rick – I'll reply and advise when I've received application and what the next steps are. If the next steps involve getting a life safety permit, that is when you'll know/when I'll advise you.
 Take care,

Leane Heldenfels, Planner Senior
Board of Adjustment Liaison
[City of Austin Development Services Department](#)
 One Texas Center, 1st Floor, Development Assistance Center
 505 Barton Springs Road
 Office: 512-974-2202



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Scheduled Meeting Disclosure Information (not applicable to walk-in consultations from 9a-12p weekdays in the Development Assistance Center where I office): In accordance with City of Austin Ordinance 20160922-005, responsibility of written disclosure is required by visitors when attending a scheduled meeting with a City Official regarding a municipal question as defined within City Code 4-8-2 for compensation on behalf of another person. Development Services Department has elected to implement an electronic survey as the methodology to provide the opportunity to record information as required of the department under Section 4-8-8 (E) of the City Code. Individuals scheduling or accepting a meeting invitation with a City Official are requested to provide responses to the questions included in the department survey available at the following link: [DSD Survey](#). Please note that all information provided is subject to public disclosure via DSD's open data portal.

From: [REDACTED]
Sent: Wednesday, July 05, 2017 10:53 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: 2005 Manana St BOA Process -- Safety Inspection 25-2-476

Hello Mr. Hernandez,

My apology, we will be delivering the attached BOA consideration request, along with the \$2375.36 fee payment to Ms. Heldenfels tomorrow. We will check back with you for scheduling the safety inspection after AMANDA shows the request for BOA consideration on your end.

Kindest Regards,

Rick Rasberry, CESSWI
Lake Austin Boat Dock & Shoreline Permits
512-970-0371



From [REDACTED]

Sent: Wednesday, July 5, 2017 10:40 AM

Subject: RE: 2005 Manana St BOA Process -- Safety Inspection 25-2-476

Hello,

The life safety inspection only applies to the special exception, I am not seeing anything that this is a special exception if I am incorrect a building permit will be required for the special exception. Once you obtain a building permit I can assist with the scheduling if necessary.

Respectfully,

Tony Hernandez
 Building Inspections Program Manager
 City of Austin Development Services Department
 505 Barton Springs Rd., 3rd. Floor
 Office: 512-974-1230
 Cell: 512-264-4842



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[Inspector's Contact Info](#)

[Local Code Amendments](#)

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Rick Rasberry

From: [REDACTED]
Sent: Friday, July 7, 2017 8:03 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: 2005 Manana St BOA Application
Attachments: 2005 Manana BOA Application.pdf

Good Morning Leane,

Attached are the completed application, COA letter affirming "interested party" status, and draft Site Plan submitted to COA on March 9, 2017 -- provided in accordance with LDC 25-1-182. Please let me know of any other needs as you seek an opinion from the City attorney.

Kindest Regards,

Rick Rasberry, CESSWI
 Lake Austin Boat Dock & Shoreline Permits
 512-970-0371
 [REDACTED]

-----Original Message-----

From: [REDACTED]
Sent: Thursday, July 6, 2017 1:35 PM
To: Rick Rasberry
Subject: 2005 Manana

Hi Rick - I've received attached and check for application filing fee, but will also need completion of application form (I've attached one). Once I have that completed form then I'll seek opinion of the City attorney that it is a valid appeal application, submitted timely (I believe it is) and then I can confirm the item being heard on the Board's agenda/which one (that is at discretion of the Chair, he may prefer to have it heard on a separate, special called meeting agenda). You can complete the application, have it signed and then scan and send it back to me - no need for original to be delivered to my mailbox.

Advise if you have questions - note that for an interpretation appeal that you've applied for no life safety permit and/or inspection will be required. That is only a requirement of a special exception to setback requirements.

Take care,

Leane Heldenfels, Planner Senior
 Board of Adjustment Liaison
 City of Austin Development Services Department One Texas Center, 1st Floor, Development Assistance Center
 505 Barton Springs Road
 Office: 512-974-2202

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Nos gustaría escuchar de usted. Por favor, tome un momento para completar nuestra encuesta.

Scheduled Meeting Disclosure Information (not applicable to walk-in consultations from 9a-12p weekdays in the Development Assistance Center where I office): In accordance with City of Austin Ordinance 20160922-005,

responsibility of written disclosure is required by visitors when attending a scheduled meeting with a City Official regarding a municipal question as defined within City Code 4-8-2 for compensation on behalf of another person. Development Services Department has elected to implement an electronic survey as the methodology to provide the opportunity to record information as required of the department under Section 4-8-8 (E) of the City Code. Individuals scheduling or accepting a meeting invitation with a City Official are requested to provide responses to the questions included in the department survey available at the following link: DSD Survey. Please note that all information provided is subject to public disclosure via DSD's open data portal.

-----Original Message-----

From: OTC01OlmosPark@austinetxas.gov [mailto:OTC01OlmosPark@austinetxas.gov]

Sent: Thursday, July 06, 2017 1:22 PM

To: Heldenfels, Leane

Subject: Scanned from a Xerox Multifunction Printer

Please open the attached document. It was scanned and sent to you using a Xerox Multifunction Printer.

Attachment File Type: pdf, Multi-Page

Multifunction Printer Location: 505 Barton Springs Rd/1st Floor

Device Name: OTC01OlmosPark

For more information on Xerox products and solutions, please visit <http://www.xerox.com>



CITY OF AUSTIN

Development Services Department

One Texas Center | Phone: 512.978.4000
505 Barton Springs Road, Austin, Texas 78704

Board of Adjustment Interpretations Application Appeal of an Administrative Decision

Submittal Requirements

The following items are **required** in order to file an application for interpretation to the Board of Adjustment:

1. **A completed application** with all information provided. Additional information may be provided as an addendum to the application.
2. **Standing to Appeal Status:** A letter stating that the appellant meets the requirements as an Interested Party as listed in Section 25-1-131(A) and (B) of the City of Austin Land Development Code (LDC). The letter must also include all information required under 25-1-132(C).
3. **Site Plan/Plot Plan** drawn to scale, indicating present and proposed construction and location of existing structures on adjacent lots.
4. **Application fee.** See Board of Adjustment fees: <http://www.austintexas.gov/department/fees>.
5. **If property is located in Williamson County**, then contact Williamson County Appraisal District for an electronic spreadsheet list of the property owners' names and addresses within a 500-foot radius.

An appeal must be filed by the 14th day after the date of the decision of a board or commission, or by the 20th day after an administrative decision (LDC Section 25-1-182). Applications which do not include all the required items listed above will not be accepted for filing.

Board of Adjustment staff

City of Austin – Development Assistance Center
505 Barton Springs Road
Austin, Texas 78704
Phone: (512) 978-4000; Fax: (512) 974-6305

To access the City of Austin Land Development Code, please visit the Online Tools & Resources website at <http://www.austintexas.gov/department/online-tools-resources>.



CITY OF AUSTIN

Development Services Department

One Texas Center | Phone: 512.978.4000
505 Barton Springs Road, Austin, Texas 78704

Board of Adjustment Interpretations Application Appeal of an Administrative Decision

This application is a fillable PDF that can be completed electronically. To ensure your information is saved, [click here to Save](#) the form to your computer, then open your copy and continue.

The Tab key may be used to navigate to each field; Shift + Tab moves to the previous field. The Enter key activates links, emails, and buttons. Use the Up & Down Arrow keys to scroll through drop-down lists and check boxes, and hit Enter to make a selection.

The application must be complete and accurate prior to submittal. ***If more space is required, please complete Section 6 as needed.*** All information is required (if applicable).

For Office Use Only

Case # _____ ROW # _____ Tax # _____

Section 1: Applicant Statement

Street Address: 2005 Manana Street

Subdivision Legal Description:

ABS 739 SUR 2 SPILLMAN J ACR 0.776 OR LOT 4 BLK 1 UNRECORDED MANANA SUBD

Lot(s): _____ Block(s): _____

Outlot: _____ Division: _____

Zoning District: 10

I/We Rick Rasberry on behalf of myself/ourselves as
authorized agent for Gail Findlay affirm that on
Month July, Day 7, Year 2017, hereby apply for an interpretation
hearing before the Board of Adjustment.

Development Services Department interpretation is:

DSD believes that the existing retaining walls, bulkhead, and other erosion protection devices detailed in the as-built plans submitted by applicant (draft SP-2017-0082D) "appeared to have been constructed after January 1, 1984" and does not qualify for modification or maintenance under Section 25-2-963(D)(8) - and that no other permit authorizes construction 25-9-963(D)(7).

I feel the correct interpretation is:

Aerial photography would show that the existing retaining walls, bulkhead, and other erosion protection devices were originally developed on the Legal Tract of Land before January 1, 1984; therefore qualifying for modification and maintenance per 25-2-963(D)(8). Other permit authorizing construction by City of Austin is SP-03-0016D.

Section 2: 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.

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

Section 25-2-963(D)(7) is relatively new {promulgated within the past three (3) years} and has no know cases heard at the Board/Commission level for City Staff to compare and/or establish precedence. City Staff may be limiting their review and determinations based on inherent flaws with the rule. It's not possible for an applicant to provide a prior original permit which authorized the construction of the retaining walls and erosion protection devices developed decades ago.

2. An appeal of use provisions could clearly 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 existing retaining walls, bulkhead, and other erosion protection devices were originally developed on the Tract of Land in similar fashion as other lots of the Spillman Tract many decades ago (unrecorded Manana Subdivision). This appeal is not seeking to change any use(s) on the Lake Austin Waterway Zone.

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

Aerial photography of the site conditions and neighboring properties uplake would show similarly situated retaining walls, bulkheads, and other erosion protection devices developed on lakeside lots in the Spillman Tract. However, the adjoining property at 2007 Manana Street has developed an unauthorized bulkhead and boat ramp some time after 2003. Any COA denial without imposing similar sanctions or orders on adjoining lot would be considered prejudiced.

Section 3: 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.

Applicant Signature: *Rick Rasberry* Date: 07/07/2017

Applicant Name (typed or printed): Rick Rasberry (Lake Austin Boat Dock & Shoreline Permits)

Applicant Mailing Address: 2510 Cynthia Ct.

City: Leander State: TX Zip: 78641

Phone (will be public information): (512) 970-0371

Email (optional – will be public information): [REDACTED]

Section 4: Owner Information

Owner Name: Gail Findlay

Owner Mailing Address: 2005 Manana Street

City: Austin State: TX Zip: 78730

Section 5: Agent Information

Agent Name: Rick Rasberry (Lake Austin Boat Dock & Shoreline Permits)

Agent Mailing Address: 2510 Cynthia Ct.

City: Leander State: TX Zip: 78641

Phone (will be public information): (512) 970-0371

Email (optional – will be public information): [REDACTED]

Section 6: Additional Space (if applicable)

Please use the space below to provide additional information as needed. To ensure the information is referenced to the proper item, include the Section and Field names as well (continued on next page).

In accordance with the application procedures listed above, we have included a copy of the draft site plan (SP-2017-0082D) accepted for review by the COA Land Use Department on March 9, 2017. We would respectfully request the opportunity to provide additional exhibits and records in advance of any hearing scheduled for the matters. This submittal is being provided today for the sole purpose of meeting any/all COA conditions of LDC 25-1-182 necessary toward formal acceptance of the application for BOA consideration per LDC 25-2-475 and/or LDC 25-2-476. Please reply with any other conditions for acceptance, thank you!