

William Burkhardt
Board of Adjustments
CC: Leane Heldenfels

William,

As we've recently discussed at the Board of Adjustments, the BOA has had some confusion in regards to review by Austin Energy of variances. In some cases in the past, we have granted a variance over the objections of Austin Energy, but we typically grant great deference to their viewpoints. Some variances are withdrawn because of those viewpoints.

The risk of granting a variance over the objections of the Austin Energy is that the applicant may not be able to build, despite the variance. I'd like to discuss the idea of either passing a resolution acknowledging that we can grant variances in this case, and create a form for the applicant in these cases to fill out that acknowledges the risks associated with a granted variance that Austin Energy may not budge on.

Then, I'd like to gather information from other utilities, like Texas Gas, Pedernales Electric Cooperative, Oncor (which has a small franchise area in northeast Austin, serves Round Rock, and is a Dallas area utility), Georgetown Utilities System (a nearby city owned utility), and Austin Water about how they deal with development issues similar to the ones faced by Austin Energy. In addition, I would like to learn how Austin Energy processes variance requests in other cities that it serves, such as the Cities of Rollingwood, Lakeway, and Westlake Hills. That process could take several months, but it may lead us to discover best practices in this regard. As such, I'd like to invite testimony or letters from these utilities or to ask staff to gather information about their business practices.

Regards,

Eric Goff



CITY OF AUSTIN

Development Services Department

One Texas Center | Phone: 512.978.4000

505 Barton Springs Road, Austin, Texas 78704

Board of Adjustment General/Parking Variance Application

The following information provides a summary of the Board of Adjustment variance process. This is not intended to be a complete or exhaustive guide in assisting you through this process.

Variance Requirements

- A. A variance may be granted if, because of special circumstances of a property, the strict application of the City of Austin Land Development Code regulations deprives the property owner of privileges that are enjoyed by another person who owns property in the area that has the same zoning designation as the property for which the variance is requested.
- B. A variance to a regulation may not grant special privileges that are inconsistent with the limitations on other properties in the area or in the district in which the property is located.

Submittal Requirements

All variances expire one year after approval date per City Code Section 25-1-217 unless Board decision states otherwise.

Failure to complete the application or to submit all the required materials below will result in non-acceptance of the application, and it will not be added to the next Board agenda.

1. A completed application indicating all variances being requested. The application must include proposed findings that will support requested variances. The required findings must address each variance being sought.
 - Application must be typed
 - Application must be signed and dated by owner and agent
2. A site plan or survey drawn to scale indicating present and proposed construction and location and use of structures on adjacent lots.
3. 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.
4. Check made payable to the City of Austin for the Board of Adjustment application fee.
 - See Board of Adjustment fees at: <http://www.austintexas.gov/department/fees>
5. Other Information — Although the following is not a requirement of submittal you may wish to include additional information that may assist the Board in making an informed decision regarding your request such as: photos of the site or visual aids to support the request, letters from the neighborhood association(s), signatures of support from neighbors, tree and topography information, cover letter explaining extenuating circumstances, elevations of the proposed

structure, floorplans of the proposed structure, etc. Any additional information you wish to submit must be in our office two weeks prior to the meeting. The Board will receive an 8-1/2" x 11" black and white copied packet with all information that has been submitted on the Thursday prior to the meeting. If you would like the Board to see any of your evidence in either full color or large format, provide 15 sets of the information to our office two weeks prior to the meeting.

— Please consider contacting your Neighborhood Association about your request

6. Austin Energy approval as noted below:

— The Austin Electric Utility Department (Austin Energy) enforces electric easements and the setback requirements set forth in the Austin Utility Code, Electric Criteria Manual, and National Electric Safety Code. The Board of Adjustment considers variance to the City of Austin Land Development Code, and a variance granted by the Board does not waive the requirements enforced by Austin Energy. Prior to your variance hearing, you must receive approval from Austin Energy by contacting Eben Kellogg at (512) 322-6050 or email eben.kellogg@austinenergy.com.

Variances approved by the Board are limited to and conditioned upon the plans and specifications presented by the applicants, except as modified by the Board.

Please be advised that the Board only reviews 16 new cases a month, therefore, applications will be accepted on a first come, first served basis. In addition, a request for reconsideration must be filed within 10 days from the Board meeting.

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

Mailing Address

P. O. Box 1088
Austin, Texas 78767-1088

Required Findings

All variance findings must be met in order for the Board to grant a variance. An application must include proposed findings that will support the requested variance. Incomplete applications will not be accepted.

Reasonable Use

Application must demonstrate to the Board how the zoning regulations applicable to the property do not allow for a reasonable use of the property. (Note: The Board cannot approve a variance for a use that is not allowed in the zoning district in which the property is located. This requires a change in zoning.)

Hardship

- a) Application must demonstrate to the Board how the hardship for which the variance is requested is unique to the property. Hardship should be specific to the property for which the variance is being requested (for example, topography, lot configuration, or any physical constraint that would limit the placement of the structure or prevent compliance with required site development regulations, etc.). A strictly financial or personal reason is not a valid hardship.

- b) Application must demonstrate to the Board why the hardship is not general to the area in which the property is located. Describe how the hardship relating to the site is different from other properties in the area.

Area Character

Application must demonstrate to the Board how 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 zoning regulations of the zoning district in which the property is located.

Parking

Parking variances **require additional findings** to be made. The additional findings are listed on the application and must also be completed for submittal of the application.



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**Board of Adjustment
General/Parking Variance Application**

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

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: _____

Subdivision Legal Description:

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

Outlot: _____ Division: _____

Zoning District: _____

I/We _____ on behalf of myself/ourselves as authorized agent for _____ affirm that on Month _____, Day _____, Year _____, hereby apply for a hearing before the Board of Adjustment for consideration to (select appropriate option below):

- Erect
- Attach
- Complete
- Remodel
- Maintain
- Other: _____

Type of Structure: _____

Portion of the City of Austin Land Development Code applicant is seeking a variance from:

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 contend 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:

Hardship

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

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

Area Character

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:

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 in the City of Austin Land Development Code Chapter 25-6, Appendix A 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:

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. 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:

Section 3: Applicant 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: _____ Date: _____

Applicant Name (typed or printed): _____

Applicant Mailing Address: _____

City: _____ State: _____ Zip: _____

Phone (will be public information): _____

Email (optional – will be public information): _____

Section 4: Owner Certificate

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

Owner Signature: _____ Date: _____

Owner Name (typed or printed): _____

Owner Mailing Address: _____

City: _____ State: _____ Zip: _____

Phone (will be public information): _____

Email (optional – will be public information): _____

Section 5: Agent Information

Agent Name: _____

Agent Mailing Address: _____

City: _____ State: _____ Zip: _____

Phone (will be public information): _____

Email (optional – will be public information): _____

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).
