

From the office of:

PERMIT PARTNERS, LLC
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Austin, Texas 78704
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15-2018047

@mtg

October 26, 2018

City of Austin c/o Leanne Heldenfelds
City of Austin Board of Adjustment
One Texas Center
505 Barton Springs
Austin, Texas 78704

RE: BOA request for 3201 Westlake Drive to reduce 75' Shoreline Setback regulated per LDC 25-551(B)(1)(a) to 5' around an on-site slough

Dear Board of Adjustment Commissioners,

My client is seeking a variance to reduce the shoreline setback along a man made slough that enters the property directly from the main body of Lake Austin. The applicable Lake Austin shoreline setback is 75'. My client is seeking a 5' Lake Austin shoreline setback around the slough.

Reasonable Use

The original 1915-era Lakeshore Addition lots 80 and 81 were replatted in 1998 via case #C8-97-0082.0A. The configuration of a new lot 80A (subject site) and the remainder lot 81 was performed in an unusual manner in that the man made slough was incorporated in the newly platted lot lines of lot 80A, thereby applying the 75' LA shoreline setback to a substantial portion of the new lot 80A. The remainder lot 81 is not part of this application; it is a separate legal lot. Lot 80A is a 2.7 acre lot with a 20, 543 square foot man made slough on it.

The applicant is requesting a reduced setback along the slough to accommodate a remodel and repair by replacement of the existing single-family project and associated accessory structures. Portions of the existing residence and driveways encroach into the 75' setback; as such, the existing residence and garage are essentially "wedged" into the southeast corner of the 2.7 acre lot between the SE property line and the 75' shoreline extending from the slough. The owner desires to remodel the property and requests reasonable flexibility to relocate the improvements to a more centered location on the flat portion of the lot adjacent to the slough.

We believe this is a fair and reasonable use in the Lake Austin zoning category as that category specifically prescribes development of a residential nature. However, a literal application of the LA zoning performance standards inhibits a reasonable use. Any use is substantially limited by a number of factors specific to this lot to include zoning setbacks, drainage easements, lot shape and topography, two sides of lake frontage, and reduced net site building area.

Hardship

The original 1915 Lakeshore Addition lots 80 and 81 were replatted in 1998 to create lot 80A and a remainder lot 81. Lot 80A is the subject site at 3201 Westlake Drive. The 1998 plat reoriented the lot lines to include the approximate ½ acre man made slough entirely on lot 80A. This caused the 75' shoreline setback to substantially encroach into lot 80A in all directions. This is a drastic change from the prior, original lot shape since the original 1915 Lakeshore Addition plat configuration contained the slough entirely on (the original) lot 81, making only lot 81 subject to the 75' shoreline setback.

The 1998 replat changed that entirely. In lot 81A's current configuration the 75' shoreline setback extends not only from the main body of Lake Austin, but also from the on-site slough on the northern side of the subject site. This causes substantial loss of buildable area when calculating net site area in accordance with LA zoning performance

standards. The replat overwhelmed the newly created lot 80A with 34,783 SF of 75' shoreline setback and added a 20,534 SF slough to the lot. This calculates to 55,317 SF of unbuildable land, or roughly 43% of the total lot area.

Suffice to say, the site has several encumbrances that affect the physical condition of the property by way of the following hardships. In summary:

1. The slough stretches roughly 333' into a 445' section of the property. The remainder section (between 333' - 445' is 100% inundated by the 75' shoreline setback and zoning setbacks.
2. The 75' shoreline setback accounts for roughly 34,783 square feet, or about 27% of total land area.
3. The 75' shoreline setback prohibits any development to the west of the slough between it and lot 81. (when looking at the exhibit this is the land area to the left of the slough)
4. The slough itself accounts for 20,534 square feet, or roughly 16% of total land area.
5. Approximately 75'-80' to the south of the slough, and in the middle of the lot, there is a 25' septic tank and drainfield setback. It is located in the middle and throughout the entire stretch of the 0-25% slope area of lot 80A from the main body of Lake Austin toward Westlake Dr. This setback accounts for 10,391 square feet. Essentially, it prohibits any septic or drainfields closer than 100' to the water, forcing OSSF improvements to the south and west of each of the 2 shorelines on lot 80A.
6. The existing house and driveway built after the plat via legally issued building permits issued 1999-2002 encroach into the 75' shoreline. The owner desires to correct this via a reduced setback and also allow a more reasonable amount of IC. See point #9 below. The building permit for the home on Lot 80A could not have been issued, nor could the house have received a certificate of occupancy if the City enforced shoreline setbacks from man-made sloughs. In the late 1990's the City did not interpret the Code to require the shoreline setback from the man-made sloughs. If they had, the building permit never would have been issued. The hardship to the applicant is that the City's administrative interpretation of the Shoreline Setback provision and the way it should be enforced have changed; not any change in the way the applicant has sought to use his property.
7. The septic field accounts for 10,228 square feet
8. The bottom portion of lot 80A has a drainage easement in which no improvements may be installed. This easement ranges between 80' -100' in width and overlays and supersedes the 75' LA shoreline setback from the main body. It accounts for 13,992 square feet of lot area.
9. The lot slope categories and buildable areas are as follows:
 - a. 0-25% slope excluding combined setbacks = 30,184 SF = 6,037 SF allowable IC
 - b. 25-35% slope = 903 SF = 93 SF allowable IC
 - c. 35%+ slope = 5,178 SF = 0 SF allowable IC
 - d. 75' shoreline setback SF = 34,783 SF
 - e. **Total land area 126,193 SF allows 20% IC, or 6,127 SF buildable area, or 4.9% of total taxable lot area**
10. There exists 120,066 SF of unbuildable area on a 126,193 SF lot due to:
 - a. LA zoning IC calculations per LDC 25-2-551
 - b. The 75' setback
 - c. The 25' wide septic and drainfield setback
 - d. The septic field
 - e. The drainage easement
 - f. The front and side zoning setbacks

11. When applying the 20% IC limit per plat and LA zoning, plus the aforementioned encumbrances, only 6,127 SF of a 126,193 SF (2.7 acres) is available to fit a single-family residence and associated improvements.

Not General to the Area

Man made sloughs are fairly rare along Lake Austin. They do exist; and when they do, they create significant development constraints. The Board has recognized this on similar properties. Sloughs are not general to the area, but rather the exception.

Area of Character

Any remodel or repair by replacement of the existing structures will be in keeping the varied construction styles found along Lake Austin. There will be no adverse impact to adjacent properties. All development shall comply with all other applicable codes. Active measures will be taken to ensure the protection of Lake Austin via best management practices.

In sum, the proposed 5' setback along the slough would allow a reasonable use of the property, would not be dissimilar to other shoreline setbacks the Board has approved for sites with man made sloughs, and will have no adverse impact on adjacent properties. Best management practices would be employed as part of any remodel to ensure protection of on-site environmental features where applicable, Lake Austin itself, and neighboring properties.

I respectfully ask the Commission to take into consideration the aforementioned statements and approve the requested variance for the stated reasons. Please see attached exhibits for your reference and I look forward to any questions you may have on this matter.

Sincerely,



David C. Cancialosi, Agent for Owner

Cc: Mark Kristen



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

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: 3201 Westlake Drive, Austin TX 78746

Subdivision Legal Description:
LOT 80&81 LAKE SHORE ADDN ABS 772 SUR 1 THOMAS D ACR 1.967

Lot(s): 80 & 81 Block(s): _____

Outlot: _____ Division: _____

Zoning District: Lake Austin

I/We David Cancialosi (Permit Partners) on behalf of myself/ourselves as
authorized agent for Mark Kristen affirm that on

October 5, 2018, 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: Reduce 75' Shoreline Setback regulated per LDC 25-551(B)(1)(a) to 5' around an on-site slough

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

LDC 25-551(B)(1)(a)

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:

SEE ATTACHED MEMO

Hardship

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

SEE ATTACHED MEMO

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

SEE ATTACHED MEMO

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:

SEE ATTACHED MEMO

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:

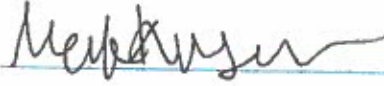

Section 3: Applicant Certificate

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: 10/5/18
Applicant Name (typed or printed): David Cancialodi (Permit Partners)
Applicant Mailing Address: 105 W Riversdie Rd. Suite 225
City: Austin State: TX Zip: 78704
Phone (will be public information): 512-593-5361
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: 10/5/18
Owner Name (typed or printed): Mark Kristen
Owner Mailing Address: 3201 Westlake Dr.
City: Austin State: TX Zip: 78704
Phone (will be public information): (797)412-0304
Email (optional – will be public information): 

Section 5: Agent Information

Agent Name: David Cancialosi
Agent Mailing Address: 105 W Riverside Dr. Suite 225
City: Austin State: TX Zip: 78704
Phone (will be public information): 512-593-5361
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).

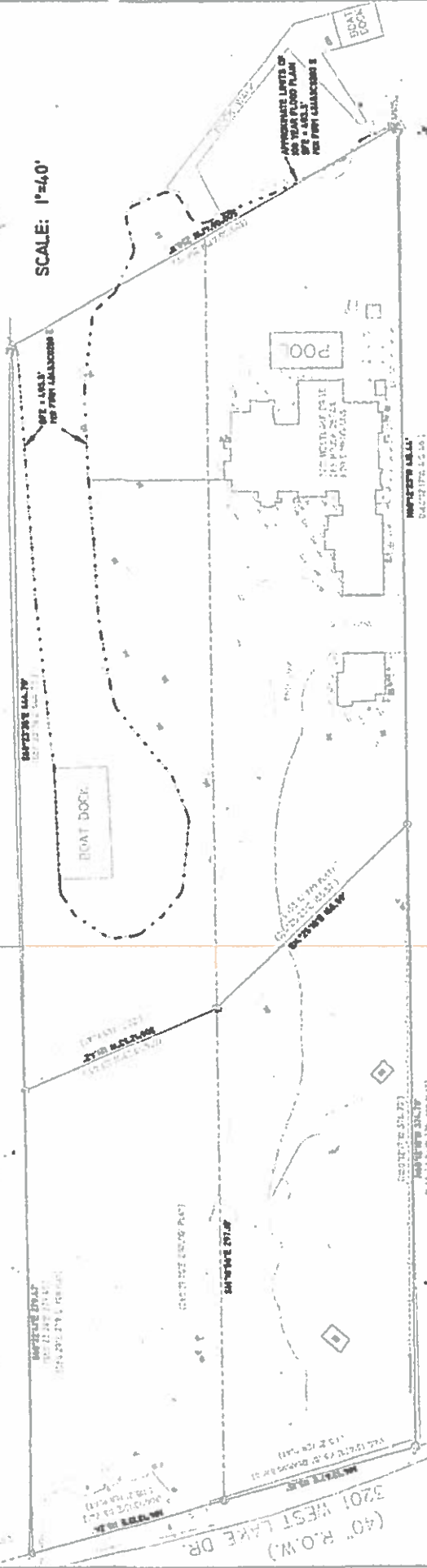
Survey of Existing Conditions

**SURVEY PLAT FOR FRED AND SYLVIA RIZK
3.88 AC., LOTS 80 & 81 OF THE LAKESHORE ADDITION
AND THE PROLONGATION OF THE NORTHERLY AND
SOUTHERLY LINES OF SAID LOTS, AND THE WATERS OF LAKE,
A SUBDIVISION OF RECORD IN VOL. 3, PG. 30
PLAT RECORDS OF TRAVIS COUNTY, TEXAS**

LAKESHORE ADJUSTMENT
VOL. 3, PG. 30-31
LOT 82

NOTICE: THIS MAP COVERS
LAND OWNED BY FRED AND SYLVIA RIZK
AND THE PROLONGATION OF THE NORTHERLY AND
SOUTHERLY LINES OF SAID LOTS, AND THE WATERS OF LAKE,
A SUBDIVISION OF RECORD IN VOL. 3, PG. 30
PLAT RECORDS OF TRAVIS COUNTY, TEXAS
THIS MAP COVERS THE
CONNECTION WITH THE
SOUTH LINE OF SAID LOTS, AND THE WATERS OF LAKE,
A SUBDIVISION OF RECORD IN VOL. 3, PG. 30
PLAT RECORDS OF TRAVIS COUNTY, TEXAS
UNLESS OTHERWISE INDICATED

SCALE: 1"=40'



CONGREGATION OF THE HOLY CROSS
(4.14 Acres) 928/825

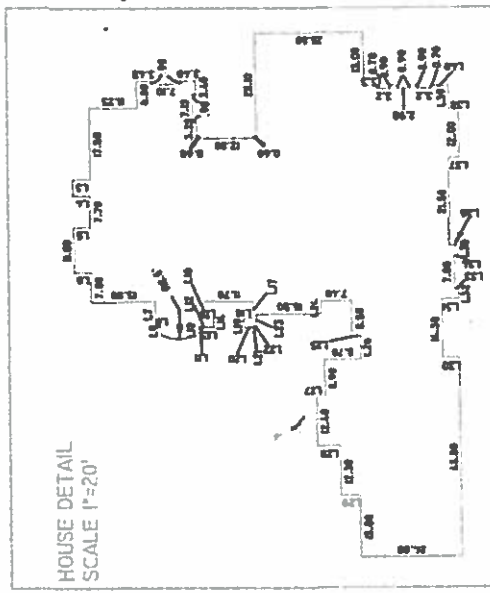
Records information for restrictive covenants and record easement details
has not been prepared and record information has not been reduced as
a part of this survey, except as noted.

I HEREBY CERTIFY THAT THE PROPERTY DESCRIBED HEREON IS PARTIALLY WITHIN A SPECIAL
PLANS (LAKESHORE AREA (LAKESHORE ADJUSTMENT)) AS IDENTIFIED BY THE FEDERAL ENGINEERING MANAGEMENT
AGENCY, FLOOD HAZARD ANALYSIS HAS BEEN MADE AS PER PLAN NUMBER G-1133-001, E.
EFFECTIVE DATE 08/19/93. A FLOOD HAZARD STUDY TO IDENTIFY DRAINAGE, AREAS OF
FLOOD HAZARD IS NOT INCLUDED IN THIS SURVEY.

THE UNDERSIGNED DOES HEREBY CERTIFY THAT THIS SURVEY WAS MADE
ON THE BASIS OF THE PROPERTY LEGALLY DESCRIBED HEREON, UNDER MY
SUPERVISION AND BELIEVE AND IDENTIFIED ANY EVIDENCE OF BOUNDARY
LINE COMPLETS, SHORTAGES IN AREA, PROTRUSIONS, INTRUSIONS, AND
OVERLAPPING OF IMPROVEMENTS. THIS PROPERTY ADJUTS A PUBLIC HIGHWAY,
EXCEPT AS SHOWN HEREON.

SURVEY DATE: JULY 11, 2008.

William F. Forest, Jr.
WILLIAM F. FOREST, JR. R.P.L.S. 1117



HOUSE DETAIL
SCALE 1"=20'

LEGEND

- ELEVATION BENCHMARK
- STEEL COTTON STRIKE
- IRON PIN FOUND
- CORNER ROD FOUND, REPLACED
- WITH 1/2" IRON PIN
- IRON P.F.E FOUND
- IRON P.F.E SET
- FOUR POST
- HAUL FOUND
- HAUL SET
- CONCRETE MONUMENT FOUND
- EXISTING WIRE FENCE
- CHAIRBANK FENCE
- BOARD FENCE
- DRAINAGE MANHOLE
- GAS USE VALVE
- WELL
- FIRE HYDRANT
- POWER POLE
- WATER VALVE
- TELEPHONE CABLE
- WATER HE LOST'G
- GREENHEAD POWER LINE
- CENTER LINE OF CHANNEL
- RECORD CALLS (BEARING / DISTANCE)
- DATA THIS SURVEY (BEARING / DISTANCE)
- SPECIAL FLOOD HAZARD AREA PER FEMA (APPROXIMATE LIMIT WILL VARY WITH CONDITIONS)
- TRACT LINES
- LAND GRANT LINES
- ALL DOCUMENT REFERENCES ARE IN TRAVIS COUNTY

LINE NUMBER	LINE TYPE	LINE LENGTH	LINE BEARING
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FORREST SURVEYING
AND MAPPING COMPANY
1002 ASH STREET
CANTONMENT, TEXAS
817-800-6527

EDGAR-DEWEY RIZK BOUCHARY ENR
P. J. JAMESON





November 6, 2018

RE: 3201 Westlake Dr.

Dear Board of Adjustment Commissioners,

I am writing this letter to express my support of Mr. Kristen's variance to reduce the 75' shoreline setback to a 5' shoreline setback along the man-made slough on his property at 3201 Westlake Dr. I understand that reducing the setback will allow him to relocate the house and associated improvements towards the center of the lot as well as allow a more reasonable buildable area. Approving the variance will allow him to remove the existing buildings from the corner of the lot and would provide both properties with more privacy.

Thank you in advance for considering his request.

Sincerely,

A handwritten signature in black ink that reads "Kathleen Huff". The signature is written in a cursive style with a small "show" written below the first few letters.

Kathleen Huff
3117 Westlake Dr.
Austin, TX 78746