

to date my client has not yet moved into the property. Furthermore, the Travis County Appraisal District website has not been updated with the current owner. The prior owner was out of the country during this timeframe. This was all explained in the letter requesting notice be sent to our firm, which you acknowledged you would do.

If proper notice was sent as we requested the Board would have had an opportunity to hear that the Homeowner's Association had misrepresented to the Board the information set forth under Section 6. The Association claims that the swim deck is secured by gated access; that only members of the Association have the right to access the property; and that it has a set of rules to govern the conduct of the members when using the swim deck. What the Association failed to tell the Board is that Ms. Moffett has been verbally accosted by a person on the swim deck on several occasions; that rocks have been thrown from the swim deck; that dead birds have been intentional placed along her driveway in a manner intended to send an intimidation message; and that the Association denies that such transgressions were committed by its members. If the Association limits access to the swim deck and park to members of its Association, then ipso facto its members are responsible for those transgressions. If these transgressions were not done by the members of the Association, then the Association misrepresented to the Board who uses and enjoys the swim deck.

The swim deck is a non-complying structure that creates a platform for harassment and nuisance directed towards the neighboring property owner. The variance requested by the Association increases the degree of non-compliance and allows more parties to have unfettered access to the swim deck without any restrictions.

The failure of the City to accept responsibility for not properly notifying the neighboring property owner is disturbing. There were multiple opportunities for the City to simply acknowledge its role in the reconsideration process, but it failed to do so. The Board of Adjustment is a "sovereign board" and as such staff should take these matters more seriously since their actions or inactions can result in irreparable harm to property owners.

Regards,

Courtney E. Mogonye-McWhorter
T: 512.615.6652

[REDACTED]

From: Heldenfels, Leane [<mailto:Leane.Heldenfels@austintexas.gov>]

Sent: Tuesday, January 15, 2019 1:19 PM

To: Richard Tieken; [REDACTED] [REDACTED]

Cc: Ramirez, Diana

Subject: Next Steps for 1/14 BOA applicants

Please take a look at the tape from last night's hearing if there were any points of the hearing you'd like to review.

Here's a link to the tape housed at the ATXN archives (it's edited into the various items so you can just go straight to your item, don't have to watch/listen to the other items):

<http://austintexas.gov/page/atxn-video-archive>

I'll send draft minutes of the proceedings once they've been drafted. In the interim if you could **reply to this email (just me, not all)** and send me the orig. pdf of anything that was presented at the hearing but not included in the late or advance packet I would appreciate it.

If your case was **approved** then we'll be posting decision sheets no later than end of day Monday 1/28. You can find them at the public search page of the City Website, Development tab. Input your case number open the BA case then scroll down to attachments to find the final ds doc there – this is where it will be housed for future use as well. Here's a link:

<https://abc.austintexas.gov/web/permit/public-search-other>

If your case was **denied or approved with conditions you object to** you can file a reconsideration no later than end of day TH 1/24. State in your letter why you feel the Board erred in its decision and provide new or clarified evidence that upholds that assertion. We will include all the prior case materials in the event that the Board does vote to rehear your case (they first take a simple majority vote based on the letter and materials you've submitted requesting the reconsideration). There will need to be a re-notice sent, so you will have to pay that fee of \$282.88 (check made out to City of Austin, leave in my mailbox anytime 8a-4:45p no later than end of day 1/24).

Take care – feel free to reply to this message with any detail particular to your case not covered –

Leane Heldenfels

Planner Senior – Board of Adjustment Liaison

City of Austin Development Services Department

One Texas Center, 505 Barton Springs Road, 1st Floor, Development Assistance Center

Walk-in hours 9a-12p M-F

Office: 512.974.2202 Cell: 512.567.0106 (*personal, for meeting day & after hours emergency use only*)



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