

# BOA CASE REVIEW SHEET

**CASE:** c15-2019-0010

**BOA DATE:** March 11, 2019

**ADDRESS:** 3009 Westlake Drive

**COUNCIL DISTRICT AREA:** 10

**OWNER:** Eduardo Margain for Lotus MJ LLC

**AGENT:** Janis Smith

**ZONING:** LA

**AREA:** Lot 69-70 plus adjacent pt. Lake Shore Addition

**VARIANCE REQUEST:** Section 25-2-to permit a boat dock 62 feet from shore, 30 feet permitted.




**SUMMARY:** New boat dock, 2018 site plan case SP-2018-0474D in review

**ISSUES:** Shallow water would not permit boats to use a dock built at 30 feet due to bow clearance requirements.

	<b>ZONING</b>	<b>LAND USES</b>
<i>Site</i>	LA	Residential
<i>North</i>	LA	Residential
<i>South</i>	LA	Residential
<i>East</i>	LA	Residential
<i>West</i>	LA	Residential

**NEIGHBORHOOD ORGANIZATIONS:** Austin Neighborhood Council; Bike Austin; City of Rollingwood; Friends of Austin Neighborhoods; Lake Austin Collective; Neighborhood Empowerment Foundation; Preservation Austin; SEL Texas; Sierra Club, Austin Regional Group; TNR BCP Travis County Natural Resources; The Island on Westlake Owners Association



-  SUBJECT TRACT
-  PENDING CASE
-  ZONING BOUNDARY

### NOTIFICATIONS

CASE#: C15-2019-0010

LOCATION: 3009 WESTLAKE DRIVE



1" = 333'

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

This product has been produced by CTM for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.



## 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: 3009 Westlake Drive

Subdivision Legal Description:

Lot 69-70 Plus Adj Pt Lake Shore Addn

Lot(s): \_\_\_\_\_ Block(s): \_\_\_\_\_

Outlot: \_\_\_\_\_ Division: \_\_\_\_\_

Zoning District: LA

I/We Janis J. Smith, P.E. on behalf of myself/ourselves as  
authorized agent for Lotus MJ LLC affirm that on  
Month December, Day 21, Year 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: Boat Dock

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

LDC 25-5-1176(A)(1) -- to allow the construction of a dock 62 feet from the shoreline on Lake Austin because of very shallow water.

\_\_\_\_\_

\_\_\_\_\_

## 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:

Existing regulations limit both dock extension into the lake and the quantity of allowed dredge. In order to abide by the dredge limit and have a navigable dock, the dock has to be pushed further into the lake and deeper water.

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\_\_\_\_\_

### Hardship

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

The property has extremely shallow water near the shoreline.

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\_\_\_\_\_

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

The vast majority of dock sites on the lake can be accessed by following current code. This property cannot.

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\_\_\_\_\_

\_\_\_\_\_

**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:

The variance will not alter the character of the area because many docks along this stretch of shoreline have similar, and often-times greater, extensions into the lake. The dock on the adjacent property extends 75 ft. into the lake. The existing dock on this property extends 70 ft. into the lake. The proposed dock will reduce that extension to 62 ft.

**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:

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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:

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3. The granting of this variance will not create a safety hazard or any other condition inconsistent with the objectives of this Ordinance because:

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4. The variance will run with the use or uses to which it pertains and shall not run with the site because:

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### 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: Janis J. Smith Date: 12/21/18

Applicant Name (typed or printed): Janis J. Smith, P.E.

Applicant Mailing Address: 1505 Westover Road

City: Austin State: TX Zip: 78703

Phone (will be public information): 512-914-3729

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: Eduardo Margain Date: 12/21/18

Owner Name (typed or printed): Eduardo Margain, authorized agent for Lotus MJ LLC

Owner Mailing Address: 804 Congress Ave. Ste 300

City: Austin State: TX Zip: 78701

Phone (will be public information): 512-477-7016

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).

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## 1-1/7

21824 CDR 13  
21825 HB 8  
21826 HB 12  
21827 HB 9  
21828 UKT 9  
21829 HB 9







February 1, 2019

Board of Adjustment  
City of Austin  
505 Barton Springs Road  
Austin, Texas 78704

Re: Engineering Summary Letter for 3009 Westlake Drive SP-2018-0474D  
Application for a variance to LDC 25-2-1176(A)(1) to allow construction of a boat dock  
further than 30ft. from the shoreline on Lake Austin

Dear Board Members:

3009 Westlake Drive is about 3 miles north of the intersection of Westlake Drive and Red Bud Trail. It's within the Full Purpose Jurisdiction of the City of Austin on the shore of Lake Austin. The site currently contains a home under construction, a large slough, a failing bulkhead composed of sandbags in some places, and a dilapidated dock which sits about 5 ft. off of the property line and 70 ft. into the lake. Exhibit 1 contains photos of the site.

This project proposes to construct a new boat dock and bulkhead to replace the failing structures as well as install an expansive mitigation planting plan. It has been designed in cooperation with City reviewers and was submitted for Update 2 on February 1. Exhibit 2 contains the Proposed Conditions Dock Plan Sheet for SP-2018-0474D.

Ski boats need a minimum of 3.5 ft. of water depth in order to accommodate the draft of a ski boat and the cradle of a boat lift; so docks have to be in water that is at least 3.5 ft. deep. Lake Austin is very shallow at this location: the lake depth doesn't reach 3.5 ft until about 80 ft. into the lake. When the water depth is too shallow, the COA offers two avenues to permit construction of a boat dock in shallow water: 1) dredging the lake bed to increase the depth, or 2) extending the boat dock into deeper lake waters. The current COA code allows dredging up to a maximum of 25 CY and requires an environmental variance for quantities over 25 CY. A variance for dredging over 25 CY has never been approved for a residential boat dock. Extending the dock further than 30 ft. from the shoreline requires a BOA variance to LDC 25-2-1176(A)(1). This project is applying for a BOA variance to construct a dock extending more than 30 ft. from the shoreline. The proposed dock extends 60 ft. into the lake.

The vast majority of lakeshore properties are able to construct a navigable, code-compliant dock. However, that's not possible at this site or along this stretch of lake. Exhibit 3 contains an aerial photo of the property and its vicinity. As you can see from the aerial, every boat dock on the west side of the lake for the 1800 LF of shoreline shown extends more than 30 ft. into the lake. The neighboring dock to the north is about 35 ft. from the existing dock and extends 87 ft. into the lake.

The proposed dock will be a 2-slip boat dock placed at the location providing a navigable dock with required dredge of less than 25 CY. That location is about 14 ft. off of the property line with a dock extension of about 60 ft. The proposed extension is 10 ft. less than exists today with a dock that is code compliant in every other respect.

In addition, the overall effect of the project will be a site much improved environmentally. The very intensive mitigation planting plan included on the site plan includes mitigation for a wetland displaced by the construction of the house along with mitigation for the construction of the bulkhead and the associated land disturbance. The code compliant, natural stone bulkhead will



alleviate the sediment washing into the lake from the failed bulkhead and sandbags. The floodplain rating for the entire site, including around the slough, is raised from a poor rating to good rating with a wide variety of plant life and trees.

On behalf of the owner, Eduardo Margain, I ask you to grant this application for a BOA variance.

If you have any questions, please feel free to contact me.

Very truly yours,



A handwritten signature in cursive script that reads "Janis J. Smith".

Janis J. Smith, P.E.  
Janis Smith Consulting, LLC

EXHIBIT 1  
PHOTOS OF EXISTING SITE



EXHIBIT 2  
PROPOSED CONDITIONS DOCK PLAN SHEET  
SP-2018-0474D







EXHIBIT 3  
AERIAL PHOTO OF PROJECT VICINITY

**3009 Westlake Drive**  
Area docks

I-1/15

30 FT OFFSET FROM  
THE SHORELINE

EXISTING DOCK AT  
3009 WESTLAKE

Legend

Google Earth

700 ft



Old Bull Creek

McConnell Rd

