

# BOA GENERAL REVIEW COVERSHEET

**CASE:** C15-2020-0069

**BOA DATE:** November 9<sup>th</sup>, 2020

**ADDRESS:** 1230 Rockcliff Dr

**COUNCIL DISTRICT:** 10

**OWNER:** Malia Muir

**AGENT:** Courtney Mogonye-McWhorter

**ZONING:** LA

**LEGAL DESCRIPTION:** LOT 1 LAKECLIFF 492SQ FT OF LOT 15 BLK B PRESERVE THE

**VARIANCE REQUEST:** decrease shoreline setback from 25 ft. to 10 ft.

**SUMMARY:** erect a single-family residence

**ISSUES:** main body and canal have a 25 ft shoreline setback

	ZONING	LAND USES
<i>Site</i>	LA	Single-Family
<i>North</i>	LA	Single-Family
<i>South</i>	LA	Single-Family
<i>East</i>	LA	Single-Family
<i>West</i>	LA	Single-Family

**NEIGHBORHOOD ORGANIZATIONS:**

- Austin Lost and Found Pets
- Austin Neighborhoods Council
- Bike Austin City of Rollingwood
- Friends of Austin Neighborhoods
- Neighborhood Empowerment Foundation
- Preservation Austin
- SELTexas
- Save Our Springs Alliance
- Sierra Club, Austin Regional Group
- TNR BCP – Travis County Natural Resources

D-6/2



**NOTIFICATIONS**

CASE#: C15-2020-0069  
LOCATION: 1230 Rockcliff Dr



-  SUBJECT TRACT
-  PENDING CASE
-  ZONING BOUNDARY

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: 1230 Rockcliff Drive, Austin, Texas 78746

Subdivision Legal Description:

Lot 1, Lakecliff, a subdivision in Travis County, Texas according to the map or plat thereof, as recorded in Volume 75, Page 129, Plat Records of Travis County, Texas.

Lot(s): 1 Block(s): \_\_\_\_\_

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

Zoning District: \_\_\_\_\_

I/We Courtney Mogonye-McWhorter on behalf of myself/ourselves as authorized agent for Melia Muir affirm that on

Month October, Day 9, Year 2020, hereby apply for a hearing before the

Board of Adjustment for consideration to (select appropriate option below):

[X] Erect [ ] Attach [ ] Complete [ ] Remodel [ ] Maintain [ ] Other: \_\_\_\_\_

Type of Structure: single family residential

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

Applicant is seeking a variance from Section 25-2-551(B), LA shoreline reduction, as to the canal only from 25' to 10'

---

---

---

## 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:

The property was platted in 1976. The shoreline setback is measured 25' from all points along both the shoreline of Lake Austin and the canal, making this property unreasonably limited for its intended purpose of residential use as originally zoned under A Residential (current SF-2), under the current zoning of LA. Applicant seeks to construct a modest single family residential house, which is a fair and reasonable use in the Lake Austin zoning category, as that category specifically prescribes development of a residential nature.

---

---

### Hardship

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

The site has a main body and a canal feature which requires a 25' setback from each. Having both features is rare. When the canal was first created the shoreline setback did not exist. Given the width of the property and large trees located on the Property, with the canal setback there is no room for entry to the house and the overall footprint of the house is severely constrained. (See attached for additional information)

---

---

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

Man-made inlets on private lots are not general to the area, but are rather the exception. There are a few examples of them along Lake Austin, each of which poses significant development constraints to the property. The Board has consistently recognized these constraints on similar properties. (See attached for additional information)

---

---

**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:

Due to the various site constraints, the proposed construction has a lower impact on the area than neighboring properties given the smaller scale of the proposed house. There will be no adverse impacts on adjacent property.

---

---

---

**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: Courtney McWhorter Date: 10/9/2020

Applicant Name (typed or printed): Courtney Mogonye-McWhorter

Applicant Mailing Address: 805 Las Cimas Pkwy, Ste 350

City: Austin State: Texas Zip: 78746

Phone (will be public information): (512) 615-6652

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

**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: Malia Muir Date: 10/9/2020

Owner Name (typed or printed): Malia Muir

Owner Mailing Address: 1230 Rockcliff Drive

City: Austin State: Texas Zip: 78746

Phone (will be public information): 512-567-4465

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

**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).

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



**SPROUSE SHRADER SMITH PLLC**  
ATTORNEYS AT LAW

COURTNEY MOGONYE-MCWHORTER

[REDACTED]  
(512) 615-6652

October 9, 2020

City of Austin Board of Adjustments  
c/o Elaine Ramirez  
One Texas Center  
505 Barton Springs Rd  
Austin, Texas 78704

Re: Request for 1230 Rockcliff Road to Reduce Shoreline Setback from Canal  
Regulated per Land Development Code 25-2-551(B)(1)(b) from 25'-10'

Dear Board of Adjustment Members:

The undersigned's firm represents John Gordon Muir III in seeking a variance to reduce the shoreline setback along a manmade canal on Lot 1, Lakecliff, a subdivision in Travis County, Texas according to the map or plat thereof, as recorded in Volume 75, Page 129, Plat Records of Travis County, Texas, and locally known as 1230 Rockcliff Road, Austin, Texas 78746 (the "Property"). The current setback is 25' per City of Austin Land Development Code Section 25-2-551(B)(1)(b). We are seeking a 10' shoreline setback along the canal. The 25' shoreline setback along the main body of Lake Austin is to remain unchanged.

Enclosed herein please find detailed exhibits setting forth the allowed construction taking into account current setbacks and allowable impervious cover calculations, and the requested construction with a 10' canal setback with impervious cover calculations. The proposed impervious cover, taking into consideration a 10' setback from the slough, would be under the allowed impervious cover limits for the Property.

As noted in the application, the Property has been in its current configuration since it was platted in 1976. The manmade canal has been in place for decades. The applicant is requesting a reduced setback along the canal to accommodate construction of a single family residential house. This is a fair and reasonable use in the Lake Austin zone district, as this district specifically prescribes development that is residential in nature.

The canal has been in its current configuration since it was created prior to the platting of the Property. The original zoning on the Property did not include a shoreline setback from either the main body of Lake Austin or the canal. The city changed the zoning on the property to Lake Austin zoning in 1984 under Ordinance No. 840913-S. At the time of the zoning change, and historically under staff's original interpretation of Section 25-2-551, the LA shoreline setback was not applied to sloughs, canals or coves. Staff's more recent interpretation of the shoreline setback to include the slough places approximately 40% (4,595 square feet) of the Property within a shoreline setback. While under the original interpretation, only 21.88% (2,504 square

feet) of the Property would have been located within the shoreline setback from the main body and deducted for purposes of net site area calculations.

The following hardships are unique to this Property and affects the physical condition of the Property:

1. The gross site area is 11,446 square feet, well under the minimum lot size of 1 acre for LA zoning;
2. The area of the Property within the 25' shoreline setback from the main channel and the canal is 4595 square feet;
3. The total area of the Property outside of the 25' setbacks is only 6,851 square feet;
4. A large portion of the Property is within the 40' front street setback;
5. There are large trees located on the Property opposite the canal that constrain development of the site, including the location of the drainfield; and
6. The City does not provide sewer service to the Property and requires all drainfields be 50' from a body of water in every direction.

As such, the 10' setback is needed around the canal in order to locate the proposed house on that portion of the Property outside of the critical root zone of the existing trees and still allow for a garage and required drainfield location more than 50' from a body of water in every direction.

To summarize, the proposed canal setback reduction would allow reasonable use of the Property consistent with the Land Development Code requirements, the requested variance would not be dissimilar to other shoreline setbacks the Board has approved for properties with manmade inlets on private property, the proposed development keeps with the character of the area, and the variance will not impair the use of adjacent properties. Additionally, given all of the constraints on the Property, the proposed impervious cover is only 2,827 square feet, which is well under the current impervious cover located on many of the neighboring properties along Rockcliff Road.

Thank you for your consideration of this matter.

Sincerely,

  
Courtney Mogonye-McWhorter, Agent for Owner *BY C.C.*

cc. Melia Muir, property owner

**Advanced Packet  
For  
1230 Rockcliff Road**

**November 9, 2020  
Board of Adjustments**

**TABLE OF CONTENTS**

1. Cover Letter Transmitting Advanced Packet
2. Letter to City of Austin Board of Adjustments dated 10-9-20
3. 1208 - 1402 Rockcliff Rd Map and Property Photos
4. 1230 Rockcliff Rd - Photos



**SPROUSE SHRADER SMITH PLLC**  
ATTORNEYS AT LAW

October 23, 2020

City of Austin Board of Adjustments  
c/o Elaine Ramirez  
One Texas Center  
505 Barton Springs Rd  
Austin, Texas 78704

Re: Request for 1230 Rockcliff Road to Reduce Shoreline Setback from Canal  
Regulated per Land Development Code 25-2-551(B)(1)(b) from 25'-10'

Dear Ms. Ramirez:

You will find attached our Advanced Packet for November 9, 2020 Board of Adjustments Meeting. Please let me know if you have any questions or need any additional information.

Sincerely,

Judy Yhu, ACP, Paralegal to  
Courtney Mogonye-McWhorter, Agent for Owner

cc. Melia Muir, property owner



**SPROUSE SHRADER SMITH PLLC**  
ATTORNEYS AT LAW

COURTNEY MOGONYE-MCWHORTER

(512) 615-6652

October 9, 2020

City of Austin Board of Adjustments  
c/o Elaine Ramirez  
One Texas Center  
505 Barton Springs Rd  
Austin, Texas 78704

Re: Request for 1230 Rockcliff Road to Reduce Shoreline Setback from Canal  
Regulated per Land Development Code 25-2-551(B)(1)(b) from 25'-10'

Dear Board of Adjustment Members:

The undersigned's firm represents John Gordon Muir III in seeking a variance to reduce the shoreline setback along a manmade canal on Lot 1, Lakecliff, a subdivision in Travis County, Texas according to the map or plat thereof, as recorded in Volume 75, Page 129, Plat Records of Travis County, Texas, and locally known as 1230 Rockcliff Road, Austin, Texas 78746 (the "Property"). The current setback is 25' per City of Austin Land Development Code Section 25-2-551(B)(1)(b). We are seeking a 10' shoreline setback along the canal. The 25' shoreline setback along the main body of Lake Austin is to remain unchanged.

Enclosed herein please find detailed exhibits setting forth the allowed construction taking into account current setbacks and allowable impervious cover calculations, and the requested construction with a 10' canal setback with impervious cover calculations. The proposed impervious cover, taking into consideration a 10' setback from the slough, would be under the allowed impervious cover limits for the Property.

As noted in the application, the Property has been in its current configuration since it was platted in 1976. The manmade canal has been in place for decades. The applicant is requesting a reduced setback along the canal to accommodate construction of a single family residential house. This is a fair and reasonable use in the Lake Austin zone district, as this district specifically prescribes development that is residential in nature.

The canal has been in its current configuration since it was created prior to the platting of the Property. The original zoning on the Property did not include a shoreline setback from either the main body of Lake Austin or the canal. The city changed the zoning on the property to Lake Austin zoning in 1984 under Ordinance No. 840913-S. At the time of the zoning change, and historically under staff's original interpretation of Section 25-2-551, the LA shoreline setback was not applied to sloughs, canals or coves. Staff's more recent interpretation of the shoreline setback to include the slough places approximately 40% (4,595 square feet) of the Property within a shoreline setback. While under the original interpretation, only 21.88% (2,504 square

feet) of the Property would have been located within the shoreline setback from the main body and deducted for purposes of net site area calculations.

The following hardships are unique to this Property and affects the physical condition of the Property:

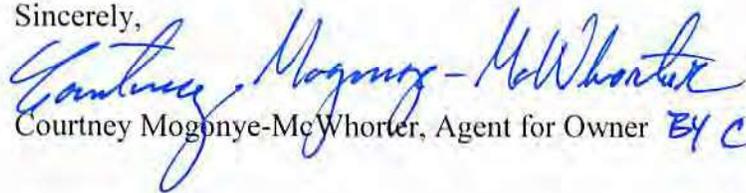
1. The gross site area is 11,446 square feet, well under the minimum lot size of 1 acre for LA zoning;
2. The area of the Property within the 25' shoreline setback from the main channel and the canal is 4595 square feet;
3. The total area of the Property outside of the 25' setbacks is only 6,851 square feet;
4. A large portion of the Property is within the 40' front street setback;
5. There are large trees located on the Property opposite the canal that constrain development of the site, including the location of the drainfield; and
6. The City does not provide sewer service to the Property and requires all drainfields be 50' from a body of water in every direction.

As such, the 10' setback is needed around the canal in order to locate the proposed house on that portion of the Property outside of the critical root zone of the existing trees and still allow for a garage and required drainfield location more than 50' from a body of water in every direction.

To summarize, the proposed canal setback reduction would allow reasonable use of the Property consistent with the Land Development Code requirements, the requested variance would not be dissimilar to other shoreline setbacks the Board has approved for properties with manmade inlets on private property, the proposed development keeps with the character of the area, and the variance will not impair the use of adjacent properties. Additionally, given all of the constraints on the Property, the proposed impervious cover is only 2,827 square feet, which is well under the current impervious cover located on many of the neighboring properties along Rockcliff Road.

Thank you for your consideration of this matter.

Sincerely,

  
Courtney Mogonye-McWhorter, Agent for Owner *BY C.C.*

cc. Melia Muir, property owner

1208 - 1402 Rockcliff Road



1304 Rockcliff Road



1306 Rockcliff Road



1310 Rockcliff Road



1314 Rockcliff Road



1318 Rockcliff Road



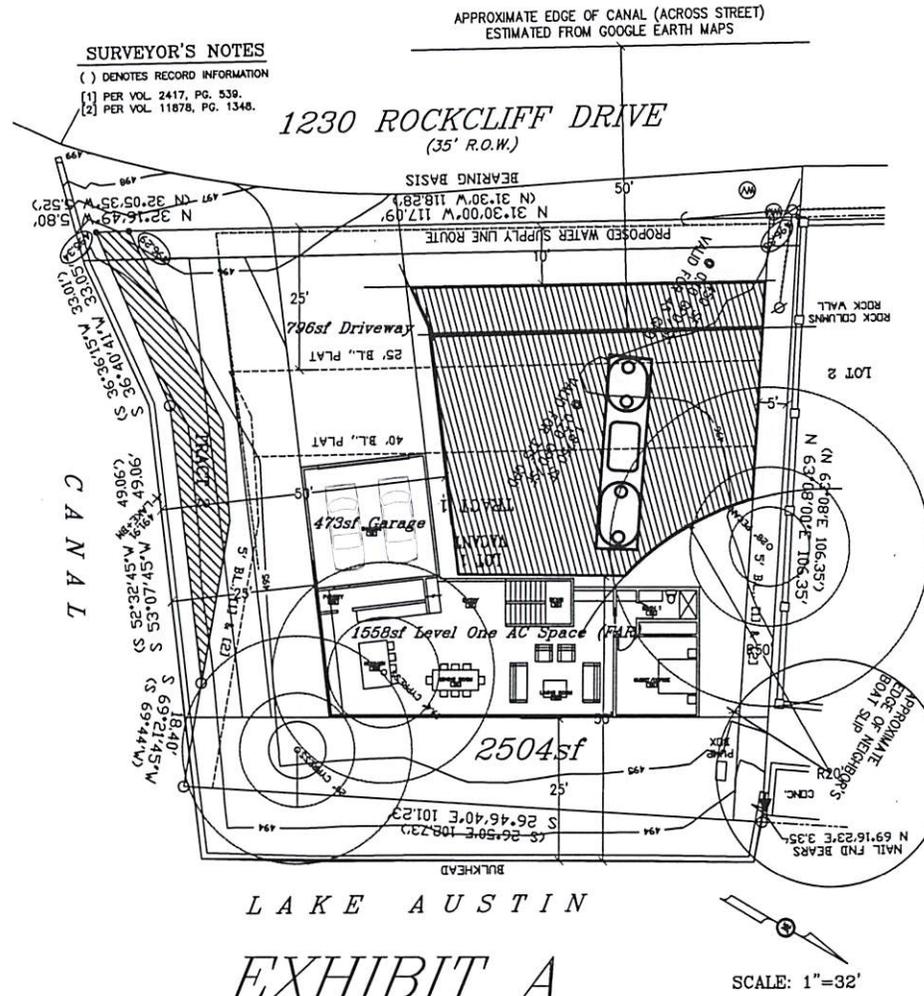








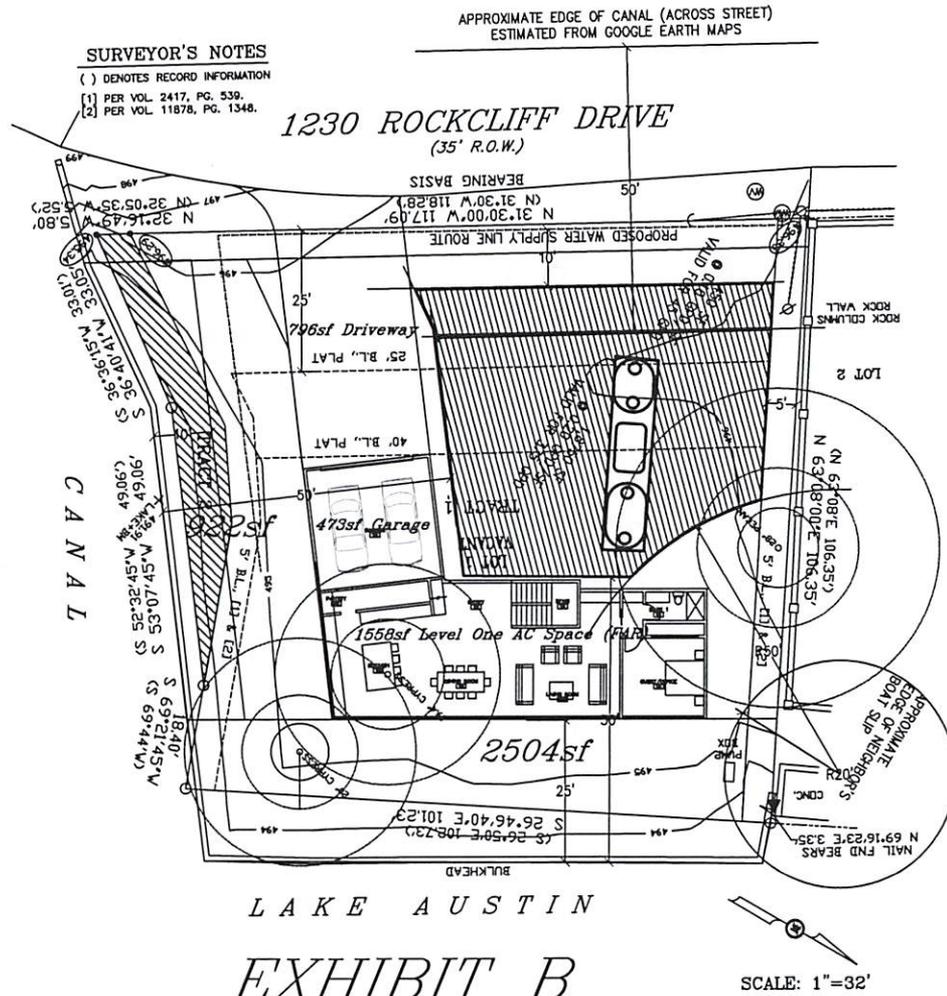




25' SETBACK FROM LAKE AND CANAL  
 40' SETBACK FROM ROCKCLIFF

11440

Tract 1: (Lot 1 plus accreted land to the bulkhead)=1146sf  
 Tract 2: 487sf  
 Gross Site Area 11446sf  
 Net Site Area 11446sf-4595sf (shoreline setback area)=6851sf  
 Proposed impervious cover: 473sf+796sf+1558sf=2827sf  
 Allowed impervious cover: 6851sf (NSA) x .35= 2397sf



### EXHIBIT B

25' SETBACK FROM LAKE AND 10' FROM CANAL  
 40' SETBACK FROM ROCKCLIFF

11446

Tract 1: (Lot 1 plus accreted land to the bulkhead)=1146sf  
 Tract 2: 487sf  
 Gross Site Area 11446sf  
 Net Site Area 11446sf-3426sf (shoreline setback area)=8020sf  
 Proposed impervious cover: 473sf+796sf+1558sf=2827sf  
 Allowed impervious cover: 8020sf (NSA) x .35= 2807sf