

**CITY OF AUSTIN
Board of Adjustment
Decision Sheet
D-5**

DATE: Monday November 09, 2020

CASE NUMBER: C15-2020-0068

☐ Y ☐ Brooke Bailey
☐ Y ☐ Jessica Cohen
☐ Y ☐ Ada Corral
☐ Y ☐ Melissa Hawthorne
☐ Y ☐ William Hodge
☐ Y ☐ Don Leighton-Burwell
☐ Y ☐ Rahm McDaniel
☐ Y ☐ Darryl Pruett
☐ Y ☐ Veronica Rivera
☐ Y ☐ Yasmine Smith
☐ - ☐ Michael Von Ohlen OUT
☐ - ☐ Kelly Blume (Alternate) N/A
☐ - ☐ Martha Gonzalez (Alternate) N/A
☐ Y ☐ Donny Hamilton (Alternate)

APPLICANT: Courtney Mogonye-McWhorter

OWNER: Peter Huff

ADDRESS: 3115 WESTLAKE DR

VARIANCE REQUESTED: The applicant is requesting a variance(s) from the Land Development Code, Section 25-2-551 (Lake Austin (LA) District Regulations)

a) (B) (1) (a) from shoreline setback requirements to reduce the shoreline setback from 75 feet (required) to 15 feet (requested) (Canal only)

b) (C) (3) (a) increase the maximum impervious cover on a slope with a gradient of 15 percent or less from 35 percent (allowed) to 40 percent (requested) in order to erect a new Single-Family Residential Guest House in an "LA", Lake Austin zoning district.

Note: This section of the Land Development Code applies to lots that are included in a subdivision plat recorded before April 22, 1982 or a tract that is not required to be platted.

The above address received a Land Status Determination, which shows that the tract is not required to be platted as allowed under (C)(3). The grandfather date is 7/19/1951.


BOARD'S DECISION: The public hearing was closed by Chair Don Leighton-Burwell, Board Member Melissa Hawthorne motions to Postpone to December 14, 2020, Board Member Brooke Bailey seconds on an 11-0 vote; POSTPONED TO DECEMBER 14, 2020.

FINDING:

1. The Zoning regulations applicable to the property do not allow for a reasonable use because:
2. (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:
3. 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:


Elaine Ramirez
Executive Liaison


Don Leighton-Burwell
Chairman



SPROUSE SHRADER SMITH PLLC
ATTORNEYS AT LAW

COURTNEY MOGONYE-MCWHORTER

(512) 615-6652

November 20, 2020

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

Re: C15-2020-0068; Variance Request Update for 3115 Westlake Drive

Dear Chair and Members of the Board,

As additional consideration for the variance request under Case # C15-2020-0068, and as requested by the Board at the October 9, 2020 hearing, attached please find a revised exhibit, which shows a smaller driveway footprint and parking area for the guest house, an accurate tree survey, and the proposed impervious cover calculations for the requested 15' shoreline setback from the canal.

Based on feedback we received from the Board, we respectfully request that our variance request be updated to remove the requested increase to impervious cover within the 0-15% slope category. At this time, we would like to move forward with only a variance from the canal setback.

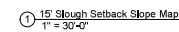
As shown on the revised exhibit, Applicant has completed a tree survey and has removed all of the proposed impervious cover from the new driveway and guesthouse away from the critical root zone of the trees located along the slough. Additionally, such proposed improvements will not have a negative impact on the manmade slough or the main channel of Lake Austin as the setback are sufficient to prevent any runoff from entering either body of water, and the new impervious cover is located only in those portions of the property within the 0-15% slope category.

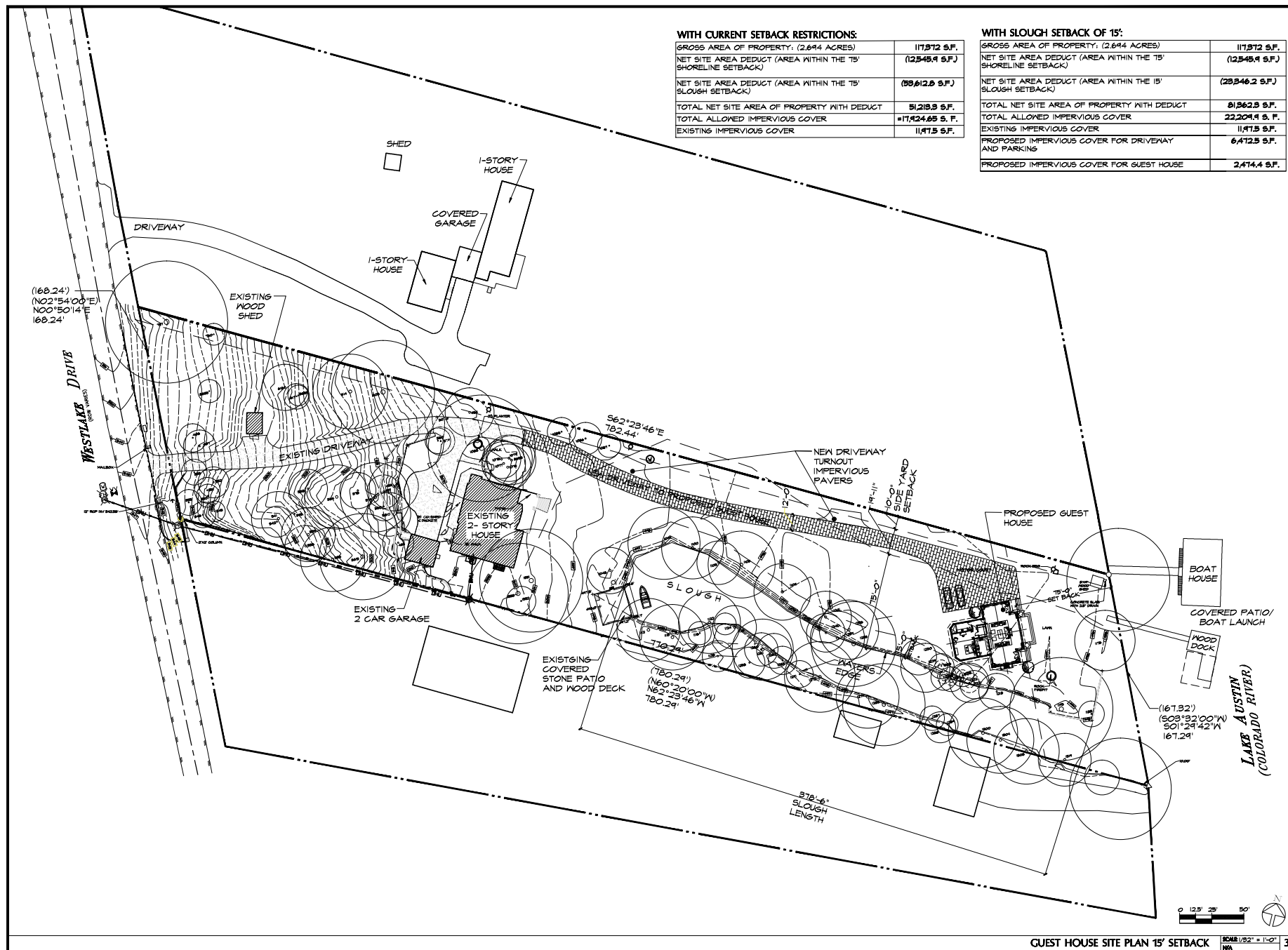
The hardship is that the property is encumbered with a manmade slough that is 378'-6" in length, and is subject to a shoreline setback of 75' from said slough and the main channel of Lake Austin. The 75' setback from the slough covers almost the entire width of the property. Under LA zoning, there is a net site area deduction of such shoreline area from the calculation of allowed impervious cover. Originally, the LA shoreline setback was not applied to sloughs, canals or coves. Under this interpretation almost 57% of the property is within a shoreline setback. The hardships of the manmade slough and the zoning requirements applicable to this lot are unique.

The requested variance from a 75' shoreline setback to a 15' shoreline setback from the canal is necessary to allow a reasonable development of the property in keeping with the character of the neighborhood, and is consistent with the variances that have previously been granted along Lake Austin for other manmade sloughs.

Respectfully submitted,

Courtney Mogonye-McWhorter





HABLINSKI

WILLIAM HABLINSKI
ARCHITECTURE

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ARCHITECT:
WILLIAM HABLINSKI ARCHITECTURE, INC.

REVISIONS: 11/18/20
11/18/20
11/18/20

AUSTIN OFFICE
3118 WESTLAKE DRIVE
AUSTIN, TEXAS 78746
TEL: 512.333.1111

W. H. HABLINSKI, AIA

DATE

PROJECT TITLE AND ADDRESS:

HUFF RESIDENCE
3118 WESTLAKE DRIVE
AUSTIN, TX 78746

NOTES:

THE GENERAL CONTRACTOR MUST SUBMIT SAMPLES OF WINDOWS, DOORS, HOLDINGS, CARNERY, AND FLOORING TO THE OWNER AND ARCHITECT FOR APPROVAL PRIOR TO FABRICATING ANY WINDOWS, DOORS, HOLDINGS, CARNERY, AND FLOORING. APPROVAL OF THE OWNER AND ARCHITECT MAY BE REQUESTED AT THE DISCRETION OF THE OWNER AND ARCHITECT AND SUBJECT TO REPLACEMENT AT THE DISCRETION OF THE GENERAL CONTRACTOR.

REVISION DATE:

SHEET NAME AND SCALE:

DRAWING DATA:

PROJECT NO.:
ISSUE DATE: 11-18-20

CHECKED:
DRAWN BY:

SHEET NUMBER:

A 2.3

BOA GENERAL REVIEW COVERSHEET

CASE: C15-2020-0068

BOA DATE: November 9th, 2020

ADDRESS: 3115 Westlake Dr

COUNCIL DISTRICT: 10

OWNER: Peter Huff

AGENT: Courtney Mogonye-McWhorter

ZONING: LA / SF-3

LEGAL DESCRIPTION: ABS 21 SUR 1 SPARKS W ACR 2.69

VARIANCE REQUEST: reduce shoreline setback from 75 ft. to 15 ft. and increase impervious cover from 35% to 40%

SUMMARY: erect a Single-Family Guest House

ISSUES: main body and canal which each requires 75 ft. shoreline setback

	ZONING	LAND USES
<i>Site</i>	LA / SF-3	Lake Austin / Single-Family
<i>North</i>	LA / SF-3	Lake Austin / Single-Family
<i>South</i>	LA / SF-3	Lake Austin / Single-Family
<i>East</i>	LA / SF-3	Lake Austin / Single-Family
<i>West</i>	LA – SF-3	Lake Austin / 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
 SEL Texas
 Save Our Springs Alliance
 Sierra Club, Austin Regional Group
 TNR – BCP Travis County Natural Resources
 The Island on Westlake Owners Association



NOTIFICATIONS

CASE#: C15-2020-0068
LOCATION: 3115 Westlake 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: 3115 Westlake Drive, Austin, Texas 78746

Subdivision Legal Description:

2.69 acres of land as further described on Addendum A

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

Outlot: _____ Division: _____

Zoning District: _____

I/We Courtney Mogonye-McWhorter (Sprouse Law) on behalf of myself/ourselves as
authorized agent for Peter Huff affirm that on

Month October, Day 8, Year 2020, 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: single family residential guest house

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 75' to 15' and a variance from Section 25-2-551(C)(3)(a) to increase the allowed impervious cover from 35% to 40%

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 set out in its current configuration prior to 1951. The property is approximately 167' wide with a canal that covers an area of 16,757 square feet. The shoreline setback is measured 75' from all points along both the shoreline of Lake Austin and the canal, making this unique property unreasonably limited for its intended purpose of residential use when it zoned A zoning (current SF-2) to LA in 1984. Applicant seeks to construct an accessory structure (guest 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 75' setback from each. Having both features is rare. When the canal was created the shoreline setback did not exist. Now a significant portion of the useable property is lost to net site area deduction from the canal. With the Property's configuration, the only logical place to construct the guest house would be limited to approximately 18' in width under the canal 75' setback and requires a long driveway. (Cont'd)

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. Additionally, the length of the Property coupled with the man-made inlets requires an overly long driveway to access the guest house.

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 proposed construction is limited to a accessory structure (guest house), which is common along Lake Austin and allowed within the LA zone district. The existing house and proposed construction has a lower impact on the area than neighboring properties given the smaller scale of both the existing house and proposed guest 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: Peter Huff Date: 10/7/20

Owner Name (typed or printed): Peter Huff

Owner Mailing Address: 3115 Westlake Drive

City: Austin State: Texas Zip: 78746

Phone (will be public information): (512) 330-0685

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 3115 Westlake Drive to Reduce Shoreline Setback from Canal
Regulated per Land Development Code 25-2-551(B)(1)(a) from 75'-15', and
Increase Allowed Impervious Cover per Section 25-2-551(C)(3)(a) from 35% to
40%

Dear Board of Adjustment Members:

The undersigned's firm represents Peter Huff in seeking a variance to reduce the shoreline setback along a manmade slough/canal and an increase in allowed impervious cover on that certain 2.69 acres of land as further described in the application, and locally known as 3115 Westlake Drive, Austin, Texas 78746 (the "Property"). The current setback is 75' per City of Austin Land Development Code Section 25-2-551(B)(1)(a). We are seeking a 15' shoreline setback along the slough. The 75' shoreline setback along the main body of Lake Austin is to remain unchanged. We are also requesting a variance from the allowed impervious cover per Section 25-2-551(C)(3)(a) of LDC from 35% to 40% in the 0-15% slope category. The impervious cover requirements for the remaining slope categories shall remain the same.

Enclosed herein please find detailed exhibits setting forth a slope map, calculations for the 15' slough setback, a diagram of the slough, and the proposed construction with a table detailing the current setbacks and impervious cover calculations, and the requested 15' canal setback and increased impervious cover in the 0-15% slope category.

As noted in the application, the Property has been in its current configuration since prior to 1951 according to that certain Land Status Determination issued on October 7, 1994. The manmade slough has been in place for decades, and the existing two story house, built in 2006, was placed in the only location developable due to the slough setback and topography. The applicant is requesting the variances to accommodate construction of an accessory structure (guest house) as allowed under Section 25-2-893(D). 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 slough has been wholly located on the Property since it was created. The original zoning on the Property did not include a shoreline setback from either the main body of Lake Austin or the slough. The City changed the zoning on the Property to Lake Austin zoning in 1984 under Ordinance No. 840913-S. At the time of this 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 almost 57% of the Property within a shoreline setback. While under the original interpretation, only 11% of the Property would have been located within the shoreline setback from the main body and deducted for purposes of net site area calculations.

Additionally, under the original zoning on the Property, there were no net site area deductions or limitations of impervious cover due to the slope categories. The Property would have been entitled to 45% impervious cover, which is 52,817.40 square feet. We are only requesting a total of 24,449.80 square feet of total impervious cover. Well under the original allowed impervious cover contemplated for this Property. Additionally we are not proposing any additional impervious cover in the 15%-25% slope category, and there is no impervious cover existing or proposed within the 25-35% slope category. The existing driveway impervious cover is the only impervious cover located in the 15-25% slope category, and the City by issuing the 2006 building permit and certificate of occupancy recognized this driveway even though it is over the allowed impervious cover.

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

1. The slough accounts for 16,757 square feet;
2. The 75' shoreline setback from the main channel is 12,545.8 square feet;
3. The 75' shoreline setback from the slough is 53,612.8 square feet;
4. The total area of the Property outside of the 75' setbacks is only 51,213.3 square feet;
5. The upper portion of the Property near Westlake Drive is unbuildable due to extensive slope and has an existing driveway that is to remain;
6. As shown on the slough diagram enclosure, the 75' setback from the slough extends the entire width of the Property in many areas and only allows for, at the largest, an 18' wide house;
7. The length of the Property is approximately 780 feet, while the width is only 167 feet; and
8. Given the width of the slough and the shoreline setback, the guest house requires a driveway of that extends across more than $\frac{3}{4}$ of the length of the Property.

As such, the 15' setback is needed around the slough in order to locate a guest house on that small portion of land behind the 75' main channel shoreline setback, and the increase of allowed impervious cover to 40% in the 0-15% is being requested due to the length of the driveway needed to access said guest house.

To summarize, the proposed slough setback reduction and increased additional impervious cover would allow reasonable use of the Property consistent with the Land Development Code requirements, the requested variance along the slough 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.

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Thank you for your consideration of this matter.

Sincerely,


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

cc: Peter Huff, property owner

**Advanced Packet
For
3115 Westlake Drive

November 9, 2020
Board of Adjustments**

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5. Aerial View – 3201 Westlake Dr. – Developed Lot Upstream
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