

D-4/1-PRESENTATION

From the office of:

PERMIT PARTNERS, LLC
300 E. Highland Mall Blvd, Ste. 207
Austin, Texas 78752
David C. Cancialosi
512.593.5368



December 7, 2020

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

**RE: Variance request for 75' shoreline reduction and to maintain impervious coverage in
LA zoning district**

Dear Board of Adjustment Commissioners,

My client is seeking a variance to maintain a single-family residence built in 1984. The residence is located in Rob Roy on the Lake. This subdivision was applied for in 1982 and approved in April 1983 by the City of Austin. The request is to maintain 38% IC and 33' of shoreline with a portion of that shoreline reduced to 21' for a width of 23' to accommodate a 1984-era garage which the 1990 variance did not take into account for some reason.

The IC is due to a significant portion of the lot originally being consumed by the 75' shoreline setback, with the remainder portion of the lot having only the house and driveway improvements. When built in 1984 the site was immediately non-compliant with the 20% impervious coverage allowance. The house and its improvements have been in the same location since 1984. The HOA approved the house and the city, once it decided to start requiring permits in this area despite permits always being required, issued permits for a house remodel as well as a new pool in 1990.

The city issued 2 variances in 199 for shoreline reduction and additional permits, one of which was for the original pool. When the shoreline was reduced from 75', the city's decision increased the degree of non-compliance – not once but twice via a shoreline reduction 40'+ 60' then again a couple months later for 33'. This left the remaining land outside the shoreline 100% countable towards the impervious coverage maximum set forth in 25-2-551, Lake Austin zoning performance standards. The city exacerbated the non-compliance issue they are current penalizing the homeowner for.

The current request came about after the homeowner recently sought and was issued permit to replace an exterior deck near the shoreline retaining wall. The city then pulled that permit mid construction on the basis the permit was issued incorrectly and required different types of permits, site plans, etc. I intervened and the city attorney agreed the permit was issued correctly. When the city staff reinstated the deck permit, only at that time did they inform the homeowner the existing pool appeared to be modified without a permit. And, they stated, the deck permit could not be closed until the pool permit was closed. It was at this time I realized the impervious coverage calculations were 38% when the LA net site area was applied. And because this site, like all in Rob Roy on the Lake, were not intended to comply with full purpose LA zoning upon initial platting, that was the reason for such gross non-compliance of the aforementioned code sections allowing a maximum of 20% and requiring 75' distance from the 492.8' contour line.

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Reasonable Use

A single-family residential use with associated accessory uses on a LA zoned lot is reasonable and in keeping with the stated allowances in the land development code.

Hardship

The 1984-era house was never required to seek nor was issued a building permit and subsequent Certificate of Occupancy. The city issued MEP permits but that's it. The owner at that time had no reason to think the site was out of compliance. The city continued to issue a series of development permits via variances and remodel permits, including a 1990 pool permit. When the current owner sought to amend the shape of his pool in 2012 he a) did not think a permit was required to do so and b) was not aware of the two variances issued by the BOA in 1990 reducing the shoreline and therefore significantly increasing his impervious cover within the net-site, or countable, land area. Yet, the city continued to issue repair and (deck) permits for this site further exacerbating the IC issue.

The city attempted to retract a deck permit in late 2020, but were directed by city attorney Brent Lloyd to released the hold after I intervened. It was at that time staff seemed incensed and only then brought up the existing pool permit issue. Unaware of any of the aforementioned permit history the pool was applied for and quickly denied. We were told to seek a variance for the 2012 pool but more so the impervious coverage which had mostly been in place for some 35 years. My client was shocked.

We attempted to deescalate the issue and work through an administrative solution given the history of the site and its unique situation. Staff refused. They further stated they could not further the non-compliance of a site.

I contend that's *exactly* what the city has done for over 3 decades, yet now changes it's interpretation of the same regulations which were in place in 1984. This places an enormous burden on a tax paying homeowner.

Above and beyond the staff position creating the main hardship, the reality is that either all of the pool and / or a significant portion of the 1984-era home would need to be demolished in order to comply with the 20% IC regulation. It's simply unreasonable. It's unfair. And it reeks of a department who is too quick to wash their hands of what is a very complicated reality. All of which falls on the shoulders of a citizen who desires to comply but simply cannot do so in this particular scenario. To that end, he's offered a substantial rain garden to help abate any concern about additional impervious coverage.

Not General to the Area

There are no known lots in the area with this specific issue.

Area of Character

The lot in question is very unique in that it has a mixed permit history. Truth be told some houses may have the same issue – we don't know. But Rob Roy on the Lake is a very respectable, orderly neighborhood. This house is far from out of character with adjacent homes. My client is not only seeking to keep what has been on his property for decades, but also improve it via ~550 SF rain garden placed adjacent to a drainage catchment which outpours to the lake. The garden design system is sanctioned as a whole by the City of Austin and is an excellent source for capturing any sheet flow or excess drainage. The house has substantial gutter systems installed and connected to french drains. These will work together with the proposed rain garden. Last there is a county installed drainage ditch, which starts across the street, goes underground, and outpours to a concrete funnel which outpours to the lake. The site is over the 20% by almost double yet there are no known drainage issues;

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however, my client is willing to continue to mitigate the possibility or concern by installing a rain garden which will capture over 5,000 SF of run off.

The (2012) is not out of character with the area. The reduction of shoreline setback via prior BOA decisions, among other questionable city actions regarding the permit history, have placed this site in a precarious position.

In sum I ask the Board approve the variance requests for IC increase and shoreline reduction so the property can be utilized in an efficient manner consistent a reasonable use. If approved, your decision would cure the aforementioned issues once and for all. No further construction is proposed.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. C. Cancialosi', with a long horizontal flourish extending to the right.

David C. Cancialosi, Agent for Owner

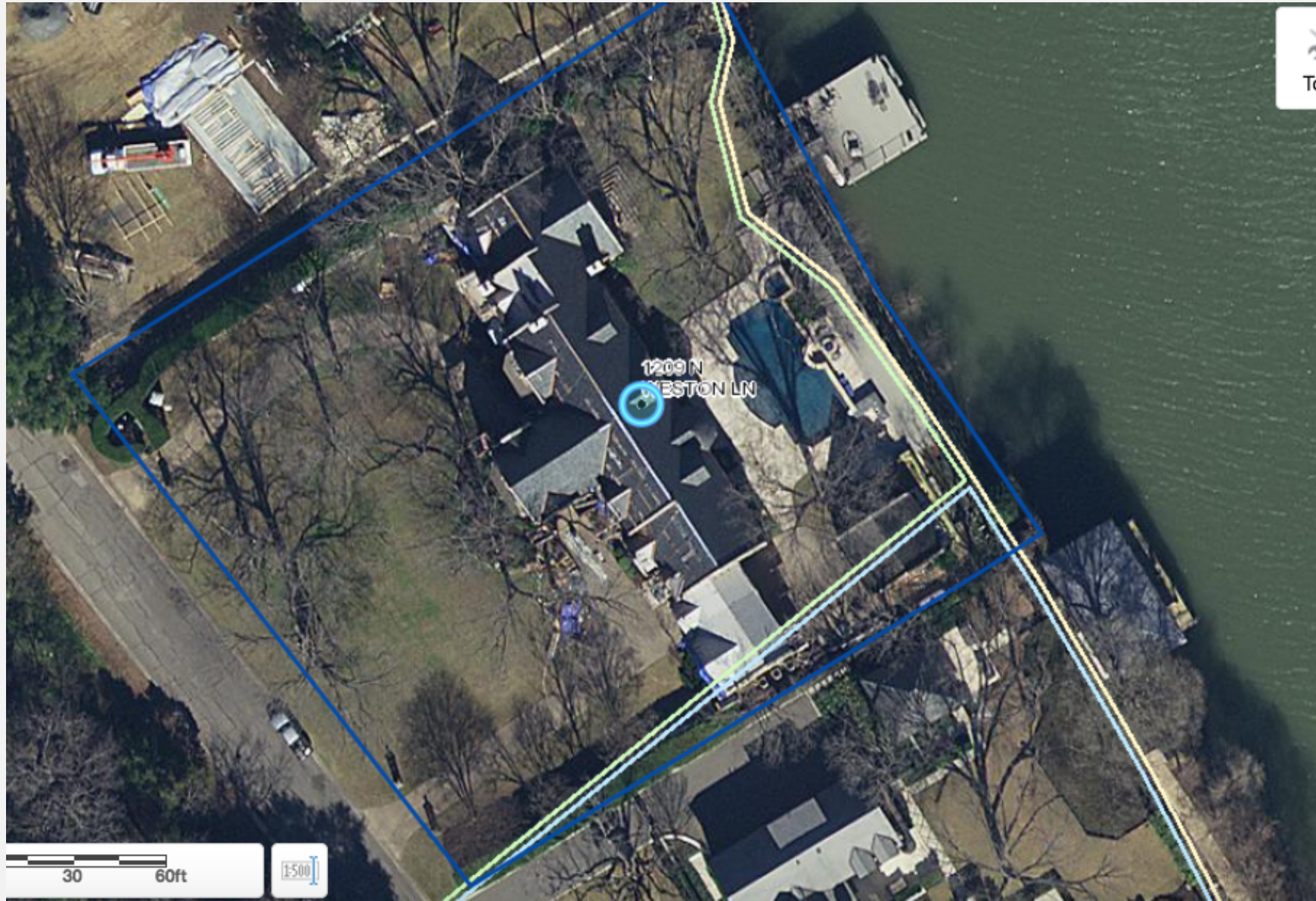
1209 N WESTON LANE
AUSTIN, TX 78733

Case# C15-2020-0081

VARIANCE REQUEST

- I. Seek BoA variance for a single-family structure and associated improvements from:
 1. LDC 25-2-551-C-2-A requiring a max of 20% IC in 0-25% slope to allow 38% IC in a 0-25% slope category in order to maintain a 1984-era single-family residence and associated improvements.
 2. LDC 25-2-551-B-1-A Shoreline setback: Reduction from prior approved variance which allowed 33' shoreline setback via C15-90-046 to now allow 21' shoreline for a width of 23' to maintain detached 1984-era garage in the same location as original construction.

AERIAL



STREET VIEW



STREET VIEW



STREET VIEW



FRONT OF HOUSE



FRONT OF HOUSE



FRONT OF HOUSE



CULVERT



CULVERT



CULVERT



DRIVEWAY



DRIVEWAY



DRIVEWAY



DRIVEWAY



DRIVEWAY



BACK OF HOUSE



BACK TERRACE



EXISTING POOL



EXISTING POOL



THANK YOU