

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

**DATE: Monday May 10, 2021**

**CASE NUMBER: C15-2021-0034**

☐ - ☐ Thomas Ates  
☐ Y ☐ Brooke Bailey  
☐ Y ☐ Jessica Cohen  
☐ Y ☐ Melissa Hawthorne  
☐ Y ☐ Don Leighton-Burwell  
☐ Y ☐ Rahm McDaniel  
☐ Y ☐ Darryl Pruett  
☐ - ☐ Agustina Rodriguez  
☐ Y ☐ Michael Von Ohlen  
☐ Y ☐ Nicholl Wade  
☐ - ☐ Vacant  
☐ - ☐ Kelly Blume (Alternate)  
☐ - ☐ Carrie Waller (Alternate)  
☐ - ☐ Vacant (Alternate)

**OWNER/APPLICANT:** Eric and Melissa Puga

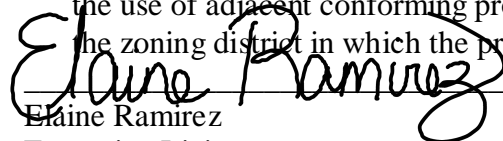
**ADDRESS:** 5409 AVENUE H

**VARIANCE REQUESTED:** The applicant is requesting a variance(s) from the LDC Subchapter F: Residential Design and Compatibility Standards, Article 2, Development Standards Section 2.1 (*Maximum Development Permitted*) to increase the F.A.R from 40% (required) to 43.31% (requested) in order to add an addition to an existing single family residence in an "SF-3-NP", Single-Family- Neighborhood Plan zoning district (North Loop Neighborhood Plan)

**BOARD'S DECISION:** BOA meeting **APRIL 12, 2021 cancelled due to technical problems with notification database; May 10, 2021 POSTPONED TO JUNE 14, 2021 DUE TO LACK OF BOARD MEMBERS/VOTES**

**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

Diana Ramirez for  
 Don Leighton-Burwell  
 Chairman

# BOA GENERAL REVIEW COVERSHEET

**CASE:** C15-2021-0034

**BOA DATE:** April 12<sup>th</sup>, 2021

**ADDRESS:** 5409 Avenue H

**COUNCIL DISTRICT:** 4

**OWNER:** Eric & Melissa Puga

**AGENT:** N/A

**ZONING:** SF-3-NP (North Loop)

**LEGAL DESCRIPTION:** LOT 23-24 BLK 31 HIGHLANDS THE

**VARIANCE REQUEST:** increase the F.A.R from 40% to 43.31%

**SUMMARY:** add an addition on to existing home

**ISSUES:** garage apt. built prior to purchase

	<b>ZONING</b>	<b>LAND USES</b>
<i>Site</i>	SF-3-NP	Single-Family
<i>North</i>	SF-3-NP	Single-Family
<i>South</i>	SF-3-NP	Single-Family
<i>East</i>	SF-3-NP	Single-Family
<i>West</i>	SF-3-NP	Single-Family

**NEIGHBORHOOD ORGANIZATIONS:**

Austin Independent School District

Austin Lost and Found Pets

Austin Neighborhoods Council

Bike Austin

Central Austin Community Development Corporation

Central Austin Urbanists

Friends of Austin Neighborhoods

Homeless Neighborhood Association

Neighborhood Empowerment Foundation

North Austin Neighborhood Alliance

North Loop Neighborhood Association

North Loop Neighborhood Plan Contact Team

Preservation Austin

SEL Texas

Sierra Club, Austin Regional Group



April 5, 2021

Melissa Puga  
5409 Avenue H  
Austin TX, 78751

Property Description: LOT 23-24 BLK 31 HIGHLANDS THE

**Re: C15-2021-0034**

Dear Melissa,

Austin Energy (AE) has reviewed your application for the above referenced property, requesting that the Board of Adjustment consider a variance(s) from the following sections of the Land Development Code;

Subchapter F: Residential Design and Compatibility Standards, Article 2, Development Standards Section 2.1 (*Maximum Development Permitted*); to increase the F.A.R from 40% (required) to 43.31% (requested) in order to add an addition to an existing single family residence in an "SF-3-NP", Single-Family- Neighborhood Plan zoning district (North Loop Neighborhood Plan)

Austin Energy does not oppose the above variance request to add an addition to the existing single family home, provided any proposed and existing improvements follow Austin Energy's clearance criteria requirements, the National Electric Safety Code and OSHA. Any removal or relocation of existing electric facilities will be at owners /applicants' expense.

Please use this link to be advised of our clearance and safety requirements which are additional conditions of the above review action: <https://austinenergy.com/wcm/connect/8bb4699c-7691-4a74-98e7-56059e9be364/Design+Criteria+Manual+Oct+2015.pdf?MOD=AJPERES>

If you have any questions about the following comments, please contact my office.

Thank you,

**Eben Kellogg, Property Agent**

Austin Energy  
Public Involvement | Real Estate Services  
2500 Montopolis Drive  
Austin, TX 78741  
(512) 322-6050

D-6/4

AVENUE F

AVENUE G

AVENUE H

56TH

DUVAL

55TH

EVANS

MARTIN

54TH

53RD

### NOTIFICATIONS

CASE#: C15-2021-0034  
LOCATION: 5409 AVENUE H



SUBJECT TRACT



PENDING CASE



ZONING BOUNDARY

1" = 167'

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.







# Board of Adjustment General/Parking Variance Application

DevelopmentATX.com | Phone: 311 (or 512-974-2000 outside Austin)  
For submittal and fee information, see [austintexas.gov/digitaldevelopment](http://austintexas.gov/digitaldevelopment)

## 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: 5409 Avenue H, Austin, Texas 78751

Subdivision Legal Description:

The Highlands

Lot(s): Lot 23 (and Lot 24) Block(s): 31

Outlot: NA Division: NA

Zoning District: SF-3-NP

I/We Eric and Melissa Puga on behalf of myself/ourselves as

authorized agent for \_\_\_\_\_ affirm that on

Month Select, Day Select, Year Select, 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: Residential Home

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

I am requesting a variance from the Land Development Code Chapter 25 § 2.1. - MAXIMUM DEVELOPMENT PERMITTED for a SF-3-NP residential property to increase the maximum FAR from 40% to 43.31% maximum gross floor area.

## 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:

We are seeking a variance for an additional 207 square feet beyond our 40% FAR to add onto our family residence. The variance is being requested to enable our family beneficial use of our home in a reasonably sized space for a family of 5. We currently do not have a bedroom for all of our children, one of the bedrooms is also used to access the backyard, and our current home is just over 1,100 square feet. We are very limited in space for day to day living. The addition we are seeking will increase our home to a total of approximately 1,400 square feet.

### Hardship

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

The current property includes a garage apartment, which was built prior to our family buying the residence 12 years ago. The apartment provides necessary income for our two educator family, which allows us to stay in the neighborhood to raise our children, yet it has impacted our FAR in that we cannot increase our home to accomodate our family's day to day activities. We are seeking to build a single floor addition that will include an additional bedroom.

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

The aforementioned garage apartment is unique to this property as it was built prior to our family buying the home, it has a substantial impact on our FAR. The cost of living has increased in such a way that our family cannot afford to purchase a larger home in the Austin area, and we also rely on the income from the garage apartment to supplement our property taxes. We are family of five and would like to continue to raise our children in the neighborhood they have lived

**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 front elevation of our home will remain intact and we are preserving our original 1951 pier and beam foundation and design. The addition will only impact a portion of the backyard and will not be viewable from the street. All neighbors who live adjacent to the property, across the street, as well as down the block on both sides have signed a petition of support. Due to an alley behind our property, we do not share any fence lines or space with back neighbors. They will remain unimpacted.

**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:

NA

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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:

NA

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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:

NA

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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:

NA

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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:  Date: 03-05-2021

Applicant Name (typed or printed): Eric Puga Melissa Puga

Applicant Mailing Address: 5409 Avenue H

City: Austin State: Texas Zip: 78751

Phone (will be public information): 5174104307

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:  Date: 03-05-2021

Owner Name (typed or printed): Eric Puga Melissa Puga

Owner Mailing Address: 5409 Avenue H

City: Austin State: Texas Zip: 78751

Phone (will be public information): 517-410-4307

Email (optional – will be public information): \_\_\_\_\_

### Section 5: Agent Information

Agent Name: Eric and Melissa Puga

Agent Mailing Address: 5409 Avenue H

City: Austin State: Texas Zip: 78751

Phone (will be public information): 5174104307

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).

Please see attached:

Petition of non opposition from neighbors

Plans drawn from architect



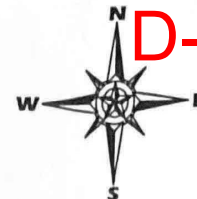
**AVENUE H**  
(F.K.A. CAPITOL AVENUE)  
N 30°00'00" (50' R.O.W.) E  
SET CAPPED 1/2" I.R. 50.00'

FND 60-D  
MAIL 200.00'  
LOT 32

**EAST 54th STREET**  
(F.K.A. ISCHIA ST.)  
(50' R.O.W.)  
N 60°00'00" W  
LOT 25

## LEGEND

- GM - GAS METER
- WM - WATER METER
- EM - ELECTRIC METER
- PP - POWER POLE
- P - OVERHEAD POWER LINE
- W - WIRE FENCE
- WF - WOOD FENCE
- CL - CHAINLINK FENCE
- CM - CONTROL MONUMENT



SCALE: 1" = 20'

BLOCK 31

### NOTES:

1) SUBJECT TO RESTRICTIVE COVENANTS BY VOL. 295, PG. 197, VOL. 870, PG. 452, T.C.D.R. AND BK. 3, PG. 55, T.C.P.R.

2) 5' SANITARY SEWER EASEMENTS TO CITY OF AUSTIN BY VOL. 1172, PG. 98, T.C.D.R. DO NOT AFFECT SUBJECT PROPERTY.

ALL BEARINGS ARE BASED ON THE RECORDED PLAT UNLESS OTHERWISE NOTED.  
ALL EASEMENTS AND BUILDING LINES ARE BASED ON RECORDED PLAT UNLESS OTHERWISE NOTED. SURVEYOR DID NOT ABSTRACT SUBJECT PROPERTY.  
FLOOD ZONE DETERMINED BY GRAPHIC PLOTTING ONLY. WE DO NOT ASSUME RESPONSIBILITY FOR EXACT DETERMINATION.  
THIS SURVEY HAS BEEN COMPILED IN ACCORDANCE WITH INFORMATION CONTAINED IN THE TITLE COMMITMENT REFERENCED IN GF NO. 2512004400

LOTS 23 & 24	BLOCK 31	SECTION -	SUBDIVISION THE HIGHLANDS		THIS TRACT IS LOCATED WITHIN FLOOD ZONE "X" (UNSHADED) ACCORDING TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) FLOOD INSURANCE RATE MAP (FIRM) COMMUNITY PANEL NO. 480624 0160 E, REVISED JUNE 16, 1993.
RECORDATION BOOK 3, PAGE 55, T.C.P.R.		COUNTY TRAVIS	STATE TEXAS	SURVEY -	
LENDER CO. SWBC MORTGAGE CORPORATION		TITLE CO. COMMONWEALTH LAND TITLE INSURANCE COMPANY			

PURCHASER GILBERTO PUGA  
ADDRESS 5409 AVENUE H (F.K.A. CAPITOL AVENUE)

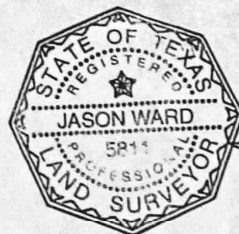
JOB NO.  
14045



**Windrose Land Services Austin**

FIELD WORK	11/27/05	R.L.W.
DRAFTED BY	11/28/05	T.W.P.
CHECKED BY	11/28/05	J.S.W.
MAPSCO NO.	555 M	

REVISION	

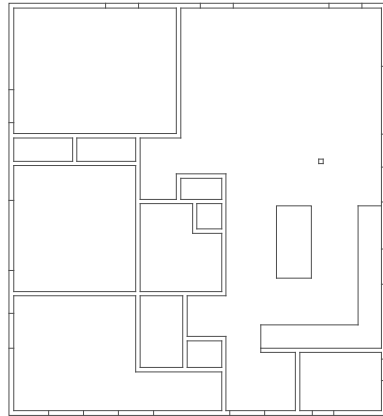


I do hereby certify that this survey was this day made on the ground and that this plat correctly represents the property legally described hereon (or on attached sheet). That the facts found at the time of this survey show the improvements and that there are no encroachments apparent on the ground, except as shown.

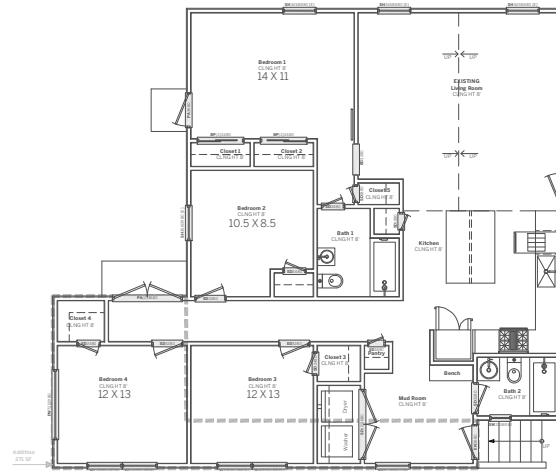
**Windrose Land Services Austin**

4120 Commercial Center Dr., Suite 300  
Austin, Texas 78744  
TEL (512) 326-2100 FAX (512) 326-2770

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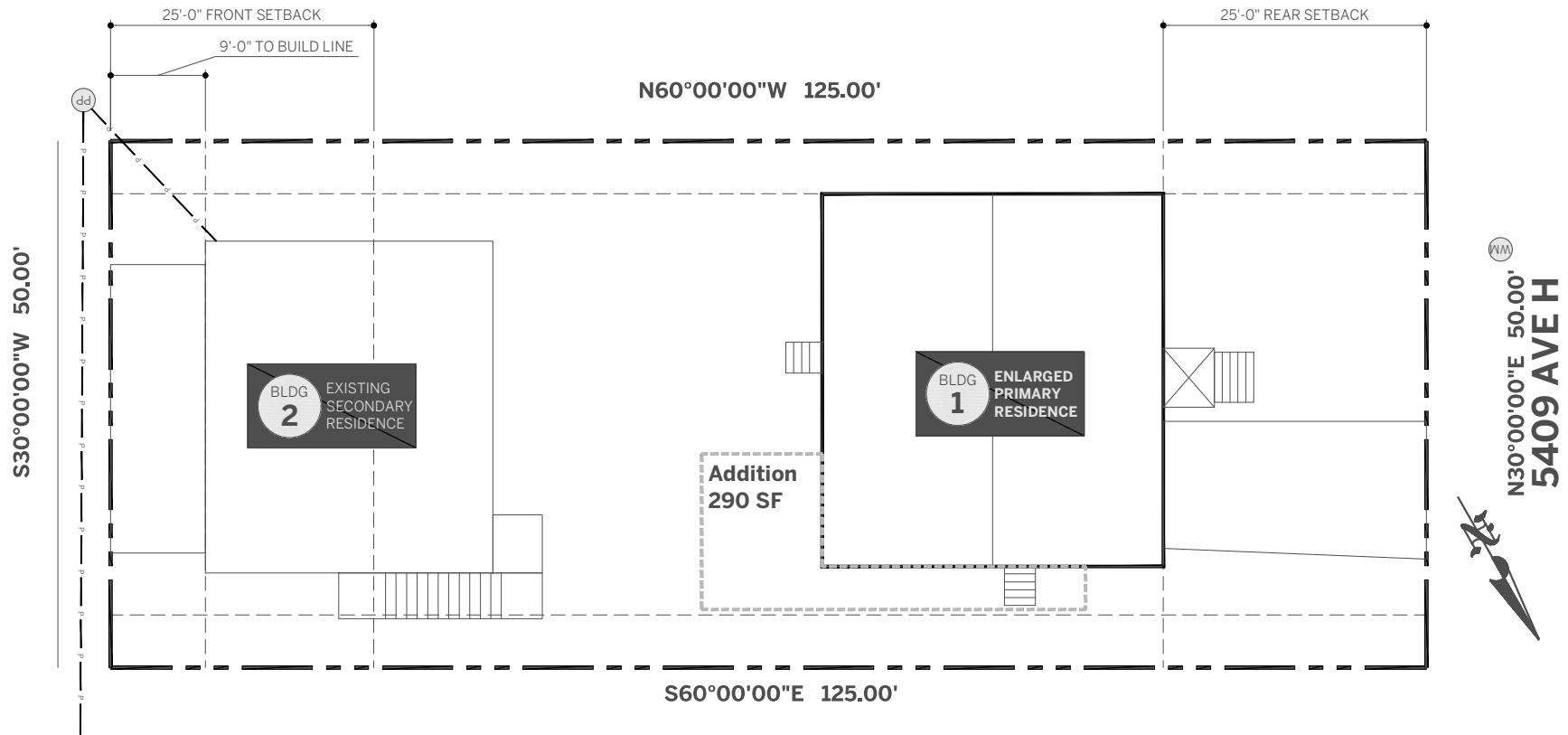
BLDG  
**1** EXISTING  
PRIMARY  
RESIDENCE



BLDG  
**1** ENLARGED  
PRIMARY  
RESIDENCE

This document is issued under the seal of WILLIAM LAWRENCE HODGE, Texas architect #19074. This is a SCHEMATIC DESIGN document and as such is FOR INFORMATION ONLY. This document is not for regulatory approval, appraisal, pricing, or construction. All room dimensions are approximate and are rounded to the nearest foot unless noted otherwise. All areas are approximate and are rounded to the nearest foot unless noted otherwise.

	<b>WILLIAM HODGE AIA ARCHITECT</b>
	4801 S. CONGRESS AVE #N3 AUSTIN, TX 78745 512.786.5298 HODGEARCHITECT.COM
	NEW PROJECT AT 5409 AVE H AUSTIN, TX 78751
	ISSUE DATE <b>05 March 2021</b>
SHEET TYPE <b>Schematic Design.</b>	
<b>SD</b>	<b>1</b>



Ex'g gross floor area = 2417sf (38.67%)  
Proposed addition = 290sf  
 (Requested GFA) = 2707sf (43.31%)

Existing IC = 37.95%  
 Proposed IC = 42.59%

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	<b>WILLIAM HODGE AIA ARCHITECT</b>
	4801 S CONGRESS AVE #N3 AUSTIN, TX 78745 512.786.5298 HODGEARCHITECT.COM
	NEW PROJECT AT 5409 AVE H AUSTIN, TX 78751
	ISSUE DATE <b>05 March 2021</b> SHEET TYPE <b>Schematic Design.</b>
<b>SD 2</b>	

Eric and Melissa Puga (applicants)
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**5409 AVENUE H****Additional information pertaining to variance request 2021-000019 BA****Property history**

1951: Original home permitted and built.

1996: Home remodeled and air-conditioned (permit 1996-002466 BP).

2002: Home purchased by previous owners.

2004: Waiver from interim (pre-Subchapter F) development regulations pertaining to secondary apartment special use granted by City Council to previous owners (ordinance 041104-52).

January 2006: Secondary apartment constructed and granted certificate of occupancy (permit 2005-004989 BP).

October 2006: Subchapter F (Residential Design and Compatibility Standards) takes effect.

2010: Current owners purchase home.

2021: Current owners request variance to expand existing primary residence by 290 SF, a variance which (if granted) would result in an overall property gross floor area exceeding Subchapter F regulations by 207 SF.

**Current and proposed gross floor area calculations**

Lot area	6250 SF
Maximum gross floor area	2500 SF (40% of lot area)
Existing primary residence	1147 SF
Existing detached parking	860 SF
(parking exemption per Subchapter F)-	450 SF
Existing secondary apartment	860 SF
Existing gross floor area	2417 SF (38.67% of lot area)
Proposed addition	290 SF
Resulting gross floor area as proposed	2707 SF (43.31% of lot area)

**Effects of proposed addition on subject property and adjacent properties**

Required parking will not be reduced (property currently contains two covered parking spaces and one uncovered parking space).

Impervious coverage as proposed will not exceed maximum impervious cover allowable by zoning (existing IC is 37.95% of lot area; proposed IC would be 42.55% of lot area; maximum allowable IC is 45% of lot area.)

No protected trees' critical root zones will be affected by proposed construction.



By signing this petition I am certifying that I am **not opposed** to a variance that allows my neighbors, ERIC and MELISSA PUGA to build a 271 square foot addition to their residence at the address 5409 Avenue H, Austin, TX, 78751. Please contact me with additional questions about the scope or support of this project.

Name:  
re & Date:

Address:

Signature

Annett Patterson

5411 Ave. H  
Austin, TX  
78751

*A. Patterson*

Kristin Dunlap

5412 Avenue H  
Austin TX 78751

*K. Dunlap*

Kristen Keys

5406 Avenue H  
Austin TX 78751

*K. Keys*

Brenda Benner

5402 Avenue H  
Austin, TX 78751

*Brenda Benner*

Beth Kerr

5400 Ave H  
78751

*Beth Kerr*

Victoria Paschich

5401 Ave. H 78751

*Victoria Paschich*

JOHN EDWARDS

5403 AVE H 78751

*John Edwards*

Nadia ELHAS

5408 Ave H 78751

*Nadia Elhas*

Catherine Reynolds

5410 Ave H 78751

*Catherine Reynolds*

Jeff Lerner

5407 Ave H

*Jeff Lerner*



## PUBLIC HEARING INFORMATION

Although applicants and/or their agent(s) are expected to attend a public hearing, **you are not required to attend**. However, if you do attend, you have the opportunity to speak FOR or AGAINST the proposed development or change. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

During a public hearing, the board or commission may postpone or continue an application's hearing to a later date, or recommend approval or denial of the application. If the board or commission announces a specific date and time for a postponement or continuation that is not later than 60 days from the announcement, no further notice is required.

A board or commission's decision may be appealed by a person with standing to appeal, or an interested party that is identified as a person who can appeal the decision. The body holding a public hearing on an appeal will determine whether a person has standing to appeal the decision.

An interested party is defined as a person who is the applicant or record owner of the subject property, or who communicates an interest to a board or commission by:

- delivering a written statement to the board or commission before or during the public hearing that generally identifies the issues of concern (*it may be delivered to the contact person listed on a notice*); or
- appearing and speaking for the record at the public hearing;

and:

- occupies a primary residence that is within 500 feet of the subject property or proposed development;
- is the record owner of property within 500 feet of the subject property or proposed development; or
- is an officer of an environmental or neighborhood organization that has an interest in or whose declared boundaries are within 500 feet of the subject property or proposed development.

A notice of appeal must be filed with the director of the responsible department no later than 10 days after the decision. An appeal form may be available from the responsible department.

For additional information on the City of Austin's land development process, visit our web site: [www.austintexas.gov/devservices](http://www.austintexas.gov/devservices).

Written comments must be submitted to the contact person listed on the notice before 9 a.m. the day of the public hearing to be viewed by the Board the night of the meeting. Your comments should include the name of the Board or Commission, or Council; the scheduled date of the public hearing; the Case Number; and the contact person listed on the notice. All comments received will become part of the public record of this case.

**Case Number: C15-2021-0034**

**Contact:** Elaine Ramirez; [elaine.ramirez@austintexas.gov](mailto:elaine.ramirez@austintexas.gov)

**Public Hearing: Board of Adjustment; May 10<sup>th</sup>, 2021**

Renee and David Orr

Your Name (please print)

☒ I am in favor  
☐ I object

5312 Avenue H 78751

Your address(es) affected by this application

Renee Orr

Signature

May 1, 2021  
Date

Daytime Telephone: 512 565 4563

Comments: We support this variance request to increase F.A.R. to 43.31% so they can make their house better for their family.

**If you use this form to comment, it must currently be returned via e-mail (as we do not have access to our mail due to COVID-19 and social distancing):**

Elaine Ramirez

Scan & Email to: [elaine.ramirez@austintexas.gov](mailto:elaine.ramirez@austintexas.gov)