

CITY OF AUSTIN
Board of Adjustment
Decision Sheet
D-9

DATE: Monday May 10, 2021

CASE NUMBER: C15-2021-0049

☐ - ☐ 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)

APPLICANT: Perry Hunt

OWNER: Amias Maldonado and Lena Banks

ADDRESS: 1025 ELLINGSON LN

VARIANCE REQUESTED: The applicant is requesting a variance(s) from the Land Development Code Section 25-2-1463 (*Secondary Apartment Regulations*) (C) (5) (a) to increase Floor to Area ratio from 15% (required) to .1587% (requested) in order to maintain a Secondary Apartment in a "SF-3-NP", Single-Family-Neighborhood Plan zoning district (Hancock Neighborhood Plan)


Note: 25-2-1463 - SECONDARY APARTMENT REGULATIONS (C) The secondary apartment: (5) may not exceed: (a) 1,100 total square feet or a floor-to-area ratio of 0.15, whichever is smaller and (b) 550 square feet on the second story, if any.

BOARD'S DECISION: BOA MEETING 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: C15-2021-0049

BOA DATE: May 10th, 2021

ADDRESS: 1025 Ellingson Ln

COUNCIL DISTRICT: 9

OWNER: Amias Maldonado

AGENT: Perry Hunt w/David Weekly Homes

ZONING: SF-3-NP (Hancock)

LEGAL DESCRIPTION: LOT 24 OLT 18 DIV C MAYFAIR TERRACE

VARIANCE REQUEST: increase Floor to Area ratio from 15% to 15.87%

SUMMARY: complete a Secondary Apartment

ISSUES: layout of existing house is compact

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

NEIGHBORHOOD ORGANIZATIONS:

Austin Independent School District

Austin Lost and Found Pets

Austin Neighborhoods Council

Bike Austin

CANPAC (Central Austin Neigh Plan Area Committee)

Central Austin Community Development Corporation

Central Austin Urbanists

Friends of Austin Neighborhoods

Hancock Neighborhood Assn.

Homeless Neighborhood Association

Neighborhood Empowerment Foundation

North Austin Neighborhood Alliance

Preservation Austin

SEL Texas

Sierra Club, Austin Regional Group



May 3, 2021

Robin Campbell
1025 Ellingson Ln
Austin TX, 78751

Property Description: LOT 24 OLT 18 DIV C MAYFAIR TERRACE

Re: C15-2021-0049

Dear Robin,

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;

Section 25-2-1463 (Secondary Apartment Regulations) (C) (5) (a) to increase Floor to Area ratio from 15% (required) to .1587% (requested) in order to maintain a Secondary Apartment in a "SF-3-NP", Single-Family-Neighborhood Plan zoning district (Hancock Neighborhood Plan)

Austin Energy **does not oppose** the above variance request to increase floor to area ratio, provided any proposed and existing improvements comply with 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>

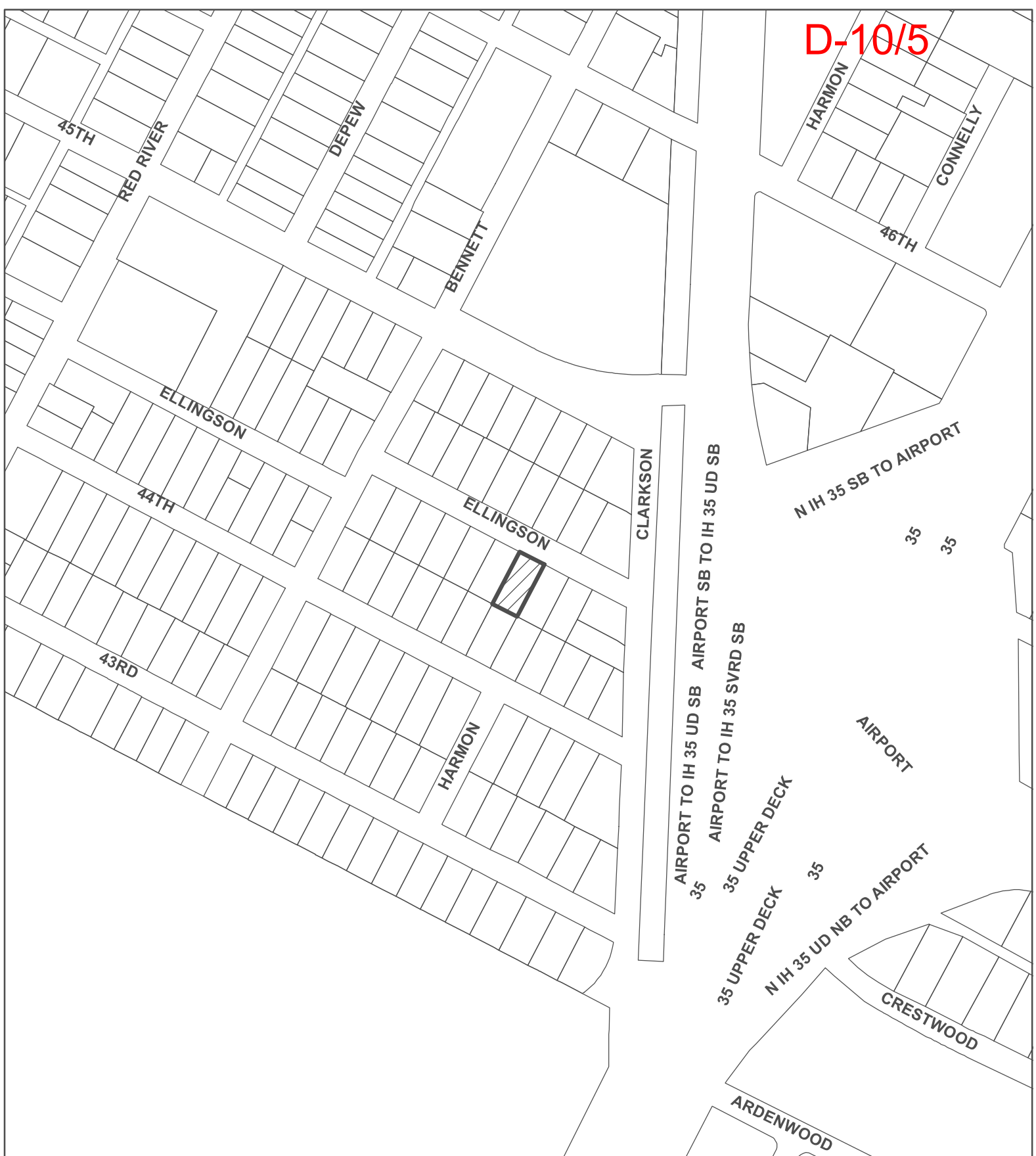
If you have any questions about the following comments, please contact my office.

Thank you,

Eben Kellogg, Property Agent

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

D-10/5



SUBJECT TRACT



PENDING CASE



ZONING BOUNDARY

NOTIFICATIONS

CASE#: C15-2021-0049

LOCATION: 1025 ELLINGSON LANE



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.

1" = 250'



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: 1025 Ellingson Ln Austin, TX 78751

Subdivision Legal Description:

LOT 24 OLT 18 DIV C MAYFAIR TERRACE

Lot(s): 1 Block(s): _____

Outlot: _____ Division: _____

Zoning District: SF-3

I/We David Weekley Homes on behalf of myself/ourselves as
authorized agent for Lena Banks & Amias Maldonado affirm that on
Month March, Day 29, Year 2021, 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: Secondary Apartment

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

We are requesting a variance from Land Development Code section 25-2-1463 (C)5(a) for a SF-3 residential property for the floor-area-ratio of the secondary apartment to be increased from .15 to .1587. Per code, secondary apartment may not exceed 1100 SF or a floor-area-ratio of 0.15, whichever is smaller. Our existing home is currently at a .1587 FAR, which is an overage of .0087. In terms of percentages, the city allows the secondary apartment to be 15% the size of the lot. We are asking for an additional .87% of the lot for the ADU, to 15.87%. We are also decreasing the max size of the future primary dwelling by .0087, to ensure the total FAR does not exceed .40. upon completion.

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 zoning regulations applicable to the property do not allow for a reasonable use because they don't consider existing structures being used as the Secondary Apartment. It is not reasonable that the people who designed/built this structure in 1957 knew that there would be a limit of 966 SF 50 years later.

Hardship

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

Our lot is 6440 SF, which means the maximum size the ADU can be is 966 sf. The existing home that has been there since 1957 is 1022 SF and would need to be shrunk by 56 SF in order to comply. The layout of the existing home is a compact 3-bedroom home with very small common living space. Reducing the home by 56 SF would result in removing a bedroom, which would be a hardship in reducing a 3-bedroom home to a 2-bedroom home.

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

The hardship is not general to the area in which the property is located because the existing house size and location is very unique. A quick aerial study of homes in the immediate area (approximately 1/2- mile radius) found no other homes with this unique situation.

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 in which the property is located because: 1) we are doing our best to keep the existing structure unchanged, and the structure will be very visible from the street due to the trees forcing the new home to be placed on the side of the lot. 2) granting this variance will in no way impair the use of adjacent conforming properties, and 3) does not impair the SF-3 zoning in any way.

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:  Date: _____

Applicant Name (typed or printed): David Weekley Homes

Applicant Mailing Address: 9000 Waterford Centre Blvd

City: Austin State: TX Zip: 78758

Phone (will be public information): (512) 821-8831

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: 4/1/2021

Owner Name (typed or printed): Amias Maldonado & Lena Banks

Owner Mailing Address: 1025 Ellingson Ln

City: Austin State: TX Zip: 78751

Phone (will be public information): _____

Email (optional – will be public information): 

Section 5: Agent Information

Agent Name: Perry Hunt

Agent Mailing Address: 9000 Waterford Centre Blvd

City: Austin State: TX Zip: 78758

Phone (will be public information): (512) 821-8831

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).

NOTES:

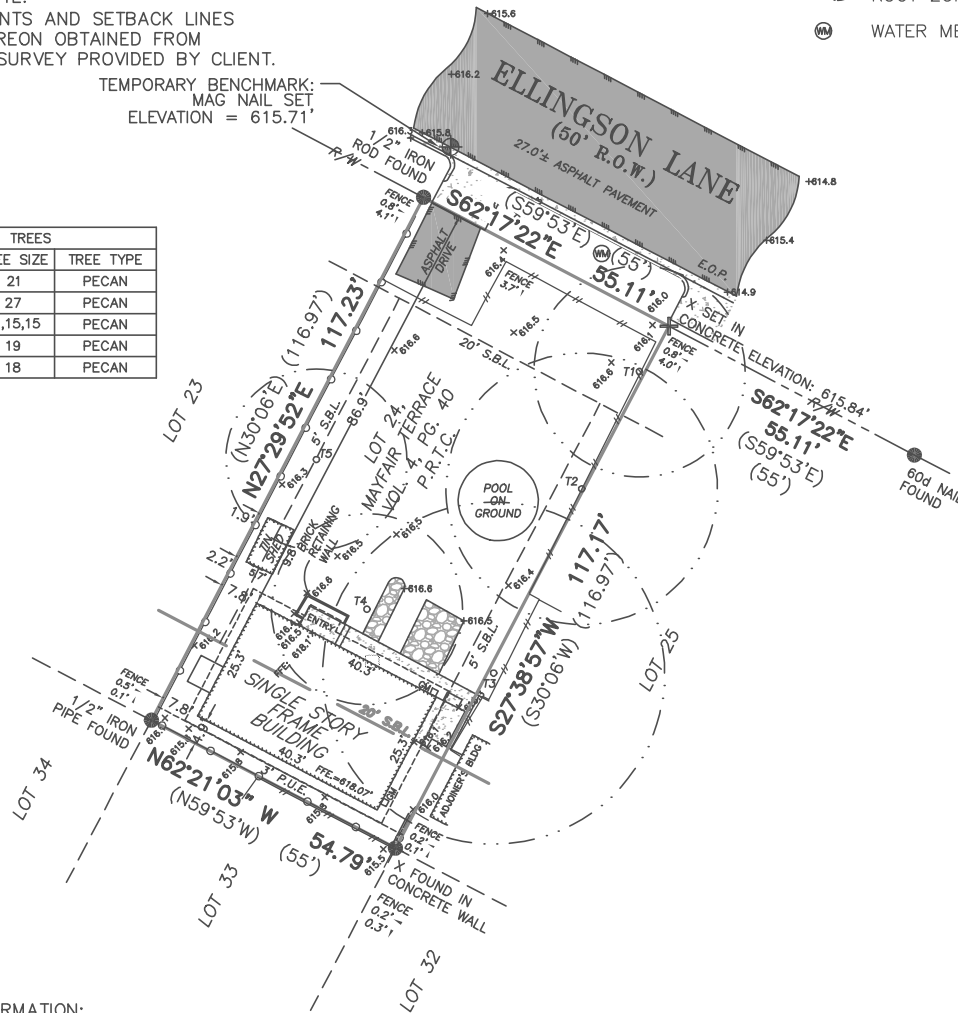
- 1) THIS PROPERTY IS SUBJECT TO ANY AND ALL RECORDED AND UNRECORDED EASEMENTS. SURVEYOR HAS MADE NO INVESTIGATION FOR EASEMENTS OF RECORD, ENCUMBRANCES, RESTRICTIVE COVENANTS OR OWNERSHIP TITLE EVIDENCE.
- 2) THIS SURVEY ONLY SHOWS ABOVE GROUND IMPROVEMENTS.
- 3) ANY FEMA FLOOD ZONE DATA SHOWN IS FOR INFORMATIONAL PURPOSES ONLY. DATA WAS OBTAINED AT: WWW.FEMA.GOV
- 4) SUBJECT TO ALL APPLICABLE CITY OF AUSTIN DEVELOPMENT CODES AND ZONING ORDINANCES.
- 5) DUE TO DIFFERING BUILDING PRACTICES, BUILDING DIMENSIONS ARE APPROXIMATE.
- 6) EASEMENTS AND SETBACK LINES SHOWN HEREON OBTAINED FROM PREVIOUS SURVEY PROVIDED BY CLIENT.

LEGEND

- () RECORD INFORMATION
 R.O.W. RIGHT OF WAY
 P.R.T.C. PLAT RECORDS TRAVIS COUNTY
 VOL./PG. VOLUME & PAGE
 S.B.L. SET BACK LINE
 P.U.E. PUBLIC UTILITY EASEMENT
 B/C BACK OF CURB
 P.C. POINT OF CURVATURE
 E.O.P. EDGE OF ASPHALT
 1/2" IRON ROD FOUND (UNLESS OTHERWISE NOTED)
 1/2" IRON ROD SET WITH
 + MARK ETCHED IN CONCRETE
 +FFE FINISHED FLOOR ELEVATION
 + TEMPORARY BENCH MARK

- PROPERTY LINE
 — EDGE OF ASPHALT
 — ADJOINER LOT LINE
 — R/W RIGHT OF WAY LINE
 — OVERHEAD WIRE
 □ WOOD FENCE
 ■ ASPHALT AREA
 ■ CONCRETE AREA
 EM □ ELECTRIC METER
 GM □ GAS METER
 ○ TREE CRITICAL ROOT ZONE
 (M) WATER METER

TREES		
TAG NO.	TREE SIZE	TREE TYPE
1	21	PECAN
2	27	PECAN
3	19,15,15	PECAN
4	19	PECAN
5	18	PECAN



FLOOD INFORMATION:

Per www.fema.gov, this property appears to be located in Zone X₁ (area of minimal flood hazard). This property was found in map number 48453C 0465J, dated 01/06/2016.

TOPOGRAPHIC SURVEY

PAGE 1 OF 1

DESCRIPTION:

LOT 24, MAYFAIR TERRACE,
 VOL. 4, PG. 40 PLAT RECORDS, TRAVIS COUNTY, TEXAS.

SURVEYED FOR: Amias Maldonado

SITE ADDRESS: 1025 ELLINGSON LANE, AUSTIN, TX 78751

I certify that this survey has been completed in accordance with the current requirements of the Standards of Practice for Surveying in the State of Texas to the best of my knowledge and belief.

Derek Kinsaul

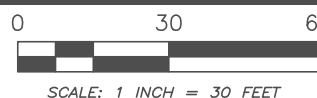
Derek Kinsaul, R.P.L.S. No 6356 March 18, 2019



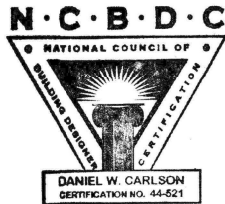
Bearings based on State Plane Coordinate System, Texas Central Zone, Nad 1983.
 All distances in US Survey Feet and displayed as GRID coordinates.
 Elevation data (if present) based on NAVD 88, Geoid 12b.



SURVEYWORKSAUSTIN.COM
 INFO@SURVEYWORKSAUSTIN.COM
 FIRM #10194157
 (512) 599-8067
 1207 UPLAND DRIVE
 AUSTIN, TX 78741

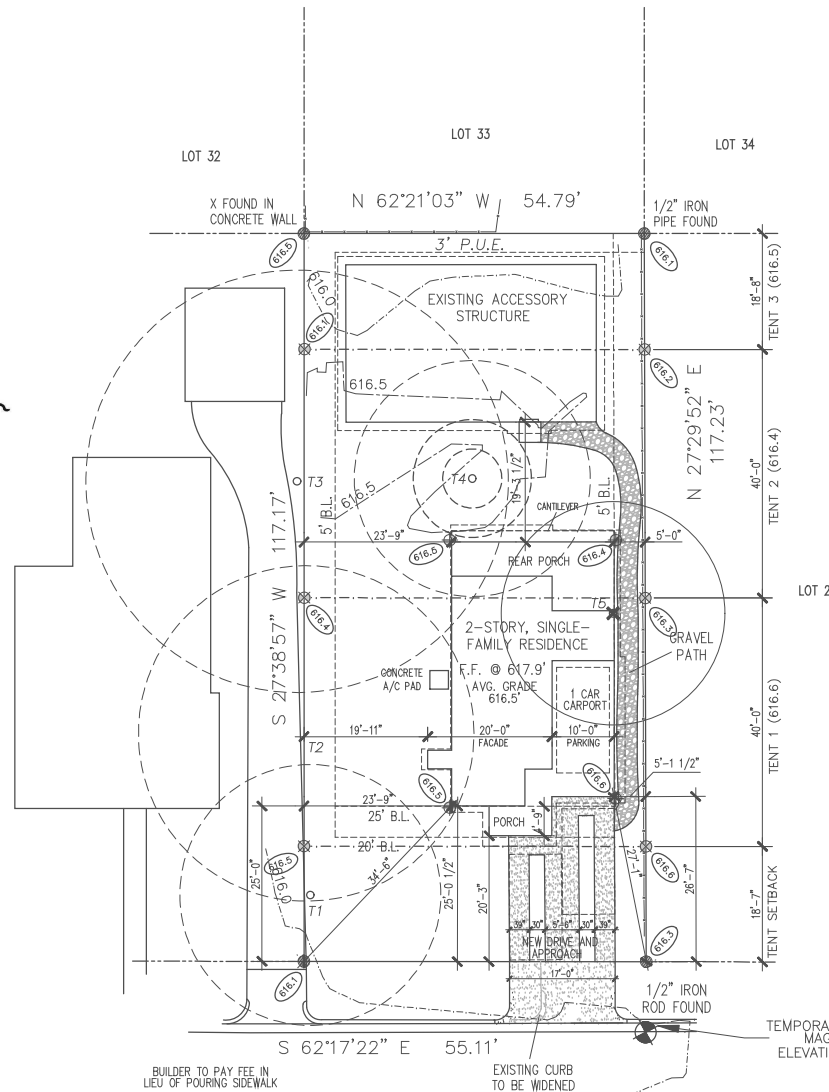


PROJECT: 19-0065
 SURVEYOR: D. KINSAUL
 DRAWN BY: EW
 FIELDBOOK: see file



December 14, 2020

Daniel W. Carlson



SCALE: 1"=20'

TREES		
TAG NO.	TREE SIZE	TREE TYPE
1	21	PECAN
2	27	PECAN
3	19,15,15	PECAN
4	19	PECAN
5	18	PECAN

AVERAGE GRADE CALCS.	
*HIGH POINT GRADE	616.6
*LOW POINT GRADE	616.4
TOTAL	1233.0
AVERAGE GRADE	616.5
*SEE SITE PLAN FOR GRADE INFO.	

FRONT YARD IMPERVIOUS COVERAGE	
FRONT YARD AREA:	1377 SF
IMPERVIOUS:	396 SF
OR 28.03% COVERAGE	
FRONT YARD DRIVE:	338 SF
FRONT YARD PORCH:	48 SF

TEMPORARY BENCHMARK:
MAG NAIL SET
ELEVATION = 615.71'

1025 ELLINGSON LANE
(50' R.O.W.)

NOT ORIGINAL DWH PLAN
THIS PLAN HAS BEEN
REVISED BY 3RD PARTY

© Weekley Homes 98 L.P. 2001
The information shown on this document
is for informational purposes only.
The actual specifications of the finished
work shall be as shown on the plans and
not be relied on as a representation of
what the completed structure will look like.

David Weekley Homes

DWC Scale: 1" = 20'
Date: 07/03/19 Rev.: 12/14/20

Proj. No.: 2045

Job No.: 0101

MAYFAIR TERRACE
1025 ELLINGSON LANE
AUSTIN, TX 78751

NORTH
B034-A
PLT_PLN-1
McNALLY
AUSTIN

Explanation of hardship when reducing the rear home (existing) by 56.

Address: 1025 Ellingson Lane
Owner: Amias Maldonado & Lena Banks
Case # 2020-178348 PR

The existing home was built in 1957 and is a compact 3-bedroom, 1-bathroom residence. The owners currently live in the home and intend on living here during the construction of their new home at the same address. This existing home would transition from being the primary dwelling to being a secondary apartment behind the new primary dwelling.

The city limits secondary apartments to 15% of the lot size, or 1100 SF, whichever is smaller. In this case, the lot size limits a secondary apartment to 966 SF. The measured size of the structure is 1022 SF. In order to comply without a variance, we would need to remove 56 SF.

While it is arguable that there are an infinite number of ways 56 SF could be removed from this structure, there are a few methods that would render the home non-functional. For example:

- Removing the kitchen or the bathroom, or removing portions (such as the sinks or the commode) would render the home unlivable. So, we are not considering remodel options that would significantly reduce those rooms, which are already small.

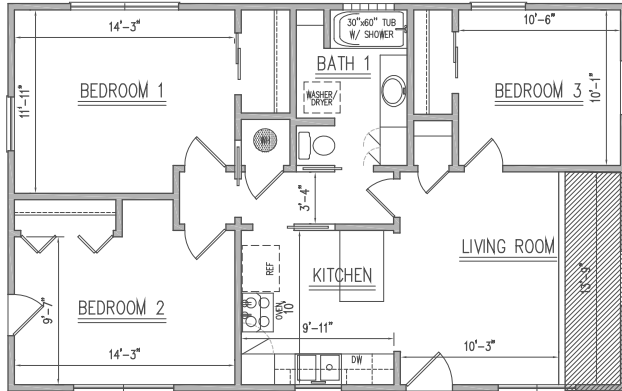
There are two trees near the structure. One is a 34" pecan and the other is a 19" pecan. We spent countless hours consulting with Jim Gobel to make sure the trees were impacted as little as possible. Our new home is pushed all the way to the right side of the lot in effort to minimize impacting the tree root zones. If we removed space from the existing home on the left side or front wall, we would be additionally impacting the root zones and we would prefer to avoid that as much as possible. The less traffic and construction in that area, the better off those trees will be.

We sketched some concepts of where we could remove 56 SF from the house (see exhibit 'A'). No matter what we do to shrink 56 SF we end up making one of the rooms dysfunctional (which would certainly be a hardship) or would result in losing a bedroom altogether (also a hardship, as the family currently needs and uses all three bedrooms).

Our findings while exploring this project are summarized as follows:

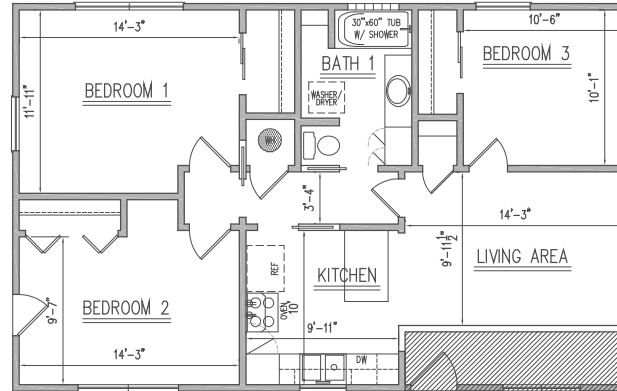
- 1) Removing an entire bedroom would be a hardship for the family.
- 2) Reducing the living room to about 10' wide would be a hardship for normal use of that room.
- 3) Reducing the bedroom to 8'-3" would be a hardship considering the limited space it would have.
- 4) Any remodel on the left/front portion of the house would create a hardship on the trees' root zones.
- 5) Even if all items above could be resolved and the house was to be remodeled, asking the family to move out for several months to perform the remodel would be a hardship. The family has a 4-year-old child that they would prefer not to move to a new home more than is necessary.

Thank you for your consideration.



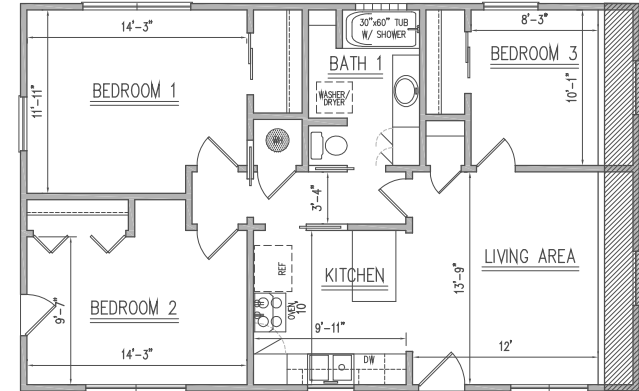
REMODEL PLAN 'A'

REMOVE 56 SF FROM LIVING ROOM – REDUCES LIVING AREA TO 10-3 WIDE.



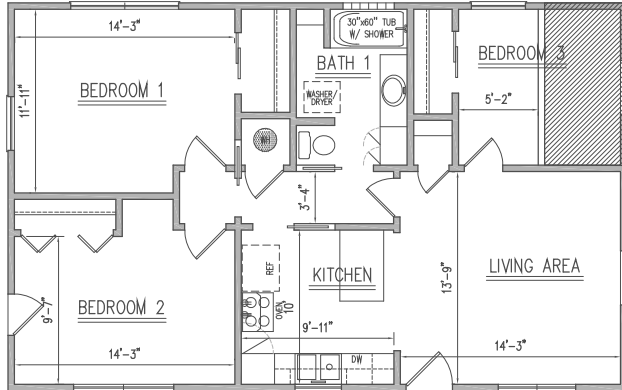
REMODEL PLAN 'B'

REMOVE 56 SF FROM FAMILY ROOM. LIVING ROOM IS LESS THAN 10' DEEP AND ACCESS TO KITCHEN IS RESTRICTED.



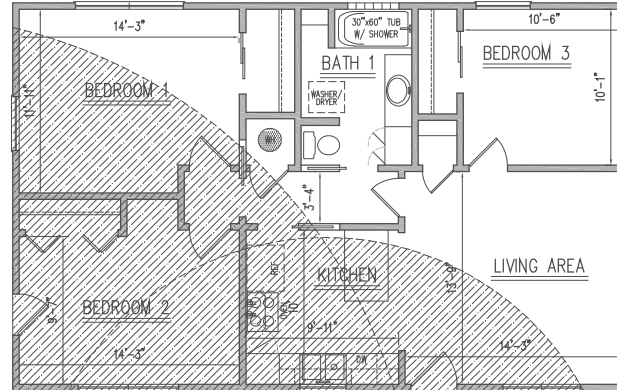
REMODEL PLAN 'C'

REMOVE 56 SF FROM RIGHT SIDE – REDUCES BEDROOM 3 TO 8-3 WIDE. REDUCES LIVING ROOM TO 12-1 WIDE.



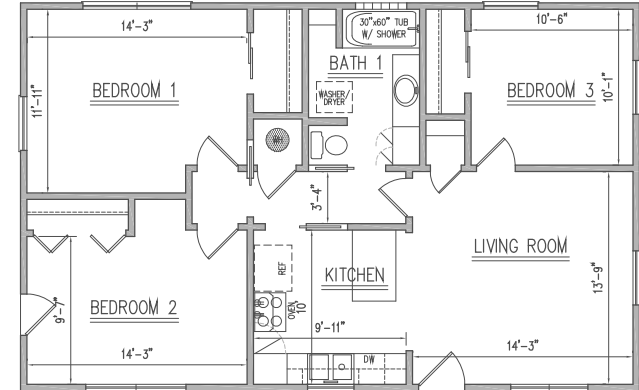
REMODEL PLAN 'D'

REMOVE 56 SF FROM BEDROOM 3 – REDUCES BEDROOM 3 TO 5-2 WIDE.



REMODEL PLAN TREE IMPACT

SHADED AREAS ARE OVER THE CRITICAL ROOT ZONES OF 19" AND 34" PECAN TREES. ANY REMODEL REMOVING EXTERIOR WALLS WOULD ADD ADDITIONAL STRESS TO THE ROOT ZONES, WHICH IS SOMETHING WE ARE DOING OUR BEST TO AVOID (NOTE HOW FAR WE'VE PUSHED THE MAIN HOUSE TO THE RIGHT).



AS-BUILT FIRST FLOOR PLAN

AREA: 1022 S.F.

From: Chris Sullivan
 Subject: Board of Adjustment - C15-2021-0049
 Date: Monday, May 24, 2021, 11:59 AM

*** External Email - Exercise Caution ***

Hello,

Please see my comments and signed form in favor of this variance attached.

Thanks,

CAUTION: This email and any attached files are intended only for the individual named. If you believe this is not a mistake, please delete this email and any attachments. If you believe this is a mistake, please forward this email to: chris.sullivan@austintexas.gov.

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: C15-2021-0049

Contact: Elaine Ramirez; elaine.ramirez@austintexas.gov

Public Hearing: Board of Adjustment; May 10th, 2021

Christopher Sullivan
 Your Name (please print)

☒ I am in favor
☐ I object

1010 ELLINGSON LANE
 Your address(es) affected by this application

Chris Sullivan
 Signature

5/3/21
 Date

Daytime Telephone: 512-743-7042

Comments: This is such A SMALL
 change (0.15% to 0.1587%), it is
 A "NO-BRAINER" that this variance
 be granted.

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

Christopher Sullivan