



# 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: 902 Herndon Lane, Austin, Texas 78704

Subdivision Legal Description:

LA PERLA

Lot(s): 11 Block(s): B

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

Zoning District: SF-3

I/We Susan Hays on behalf of myself/ourselves as authorized agent for \_\_\_\_\_ affirm that on

Month June, Day 9, 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: Replace rotted garage with altered footprint/2 story habitable structure

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

- 1. Land Development Code Sec. 25-2-492 Site Development Regulations for a rear yard setback of 10' (required) to 5' for new 2-story structure on approximate footprint of existing & original garage; and 2. to the extent applicable Land Development Code 25-2-774 Two-Family Residential Use for 10' distance between main and secondary structure (required) to approx. 8'

## 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:

This and surrounding properties were originally developed with a 5' rather than 10' rear setback. Given the placement of trees on the lot, the existing home was constructed toward the back of the lot. Given the placement of a 24" live oak and the main house, replacing the subject structure with a 10' setback is unreasonable. Further, to the extent 25-2-774 applies, the existing placement is less than 10' and the proposed altered footprint would increase the distance closer to 10'.

### Hardship

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

The large amount and placement of trees on the lot limit the ability to replace the deteriorated structure in a usable fashion. The design alters the original footprint in order to make more space for a 24" live oak as well as smaller trees on the north and east sides of the structure. The homeowner wishes to preserve not only the protected trees but all trees on the property.

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

The amount and location of the trees are unique to this property.

**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 placement and design of the structure is in keeping with the original development of the neighborhood as secondary structures were built with a 5' rear set back in the 1950s. The three adjacent properties all have back structures positioned approximately 5' from their respective back property lines (see attached). The design of the rebuild accomodates privacy of surrounding homeowners by placing windows high on the north wall and orientating the structure around a courtyard focused on the 24" live oak.

**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:

N/A  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- 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:

N/A  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- 3. The granting of this variance will not create a safety hazard or any other condition inconsistent with the objectives of this Ordinance because:

N/A  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- 4. The variance will run with the use or uses to which it pertains and shall not run with the site because:

N/A  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### 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:  Digitally signed by Susan Hays  
Date: 2021.06.09 18:39:39 -05'00' Date: 06/09/2021

Applicant Name (typed or printed): Susan Hays

Applicant Mailing Address: 902 Herndon Lane

City: Austin State: Texas Zip: 78704

Phone (will be public information): (214) 557-4819

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:  Digitally signed by Susan Hays  
Date: 2021.06.09 18:39:51 -05'00' Date: 06/09/2021

Owner Name (typed or printed): Susan Hays

Owner Mailing Address: 902 Herndon Lane

City: Austin State: Texas Zip: 78704

Phone (will be public information): (214) 557-4819

Email (optional – will be public information): 

### Section 5: Agent Information

Agent Name: N/A

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).

NOTE: This variance was approved in January 2019 in Case #C-15-2019-001 but had expired.  
(Decision Sheet attached).

More on Section 2 Reasonable Use: The property's washer & dryer are in the existing rotted

## Additional Space (continued)

garage, have no sewer connection, and was damaged in the February deep freeze. The small size of the house (892 sq ft) surrounded by trees leaves no space to expand the house to add a properly plumbed and insulated utility room or additional bathroom without having a negative impact on parking or other amenities.

This property has thirteen trees, three of which are over 19" diameter and are thus protected, including a 24" live oak between the main house and existing garage. In addition there are four 18" (near protected size) live oaks on the property.

Please note that since the attached 2014 tree survey was made a storm severely damaged "T14", a 19" invasive species (Chinese parasol) which had to be removed. See 2015-131984-TP. The loss of this tree allowed the owner to adjust the footprint of the structure to the west to give the 24" live oak's CRZ more space. The owner also opted to adjust the structure footprint so that the leaning-slightly-to-the-west trunk of the tree has more clearance, giving the structure the appearance of a tree house.

Area Character. As the Property Profile does not accurately show the placement of the buildings on the property behind 902 Herndon (2507 South 5th) and to the west (2509 South 5th), annotated plats are attached. As for the property to the east (900 Herndon) the placement of the closest structure is noted on the attached tree survey. Each of these surrounding properties were originally designed to have structures within 10' of the rear lot lines. Thus, a variance of the 10' set back for this property is in keeping with the character of the area.

NOTE: Out of an abundance of caution, this request asks for a variance of the 10' distance between a main and secondary dwelling unit under Sec. 25-2-774 although it is unclear to the applicant whether the proposed bedroom/bathroom/utility room is a "dwelling unit" as it has no provisions for cooking or eating. See Section 25-1-21(38). The adjusted footprint of the structure increases the distance between it and the main house from 5' to approximately 8'.

### Attachments:

Jan. 14, 2019 Decision Sheet, Case No. C15-2019-0001

1:1200 Scale Property Profile with structure size and placement

Survey of 902 Herndon Lane with tree placement

Site Plan showing existing and proposed footprint

Annotated site plan of 2507 South 5th for exact building placement

Annotated site plan of 2509 South 5th for exact building placement