

**CITY OF AUSTIN**  
**Board of Adjustment**  
**Decision Sheet**  
**D-8**

**DATE: Monday July 12, 2021**

**CASE NUMBER: C15-2021-0071**

Y  Thomas Ates  
 Y  Brooke Bailey  
 Y  Jessica Cohen  
 Y  Melissa Hawthorne  
 Y  Barbara McArthur  
 -  Rahm McDaniel (OUT)  
 N  Darryl Pruett  
 Y  Agustina Rodriguez  
 -  Richard Smith (OUT)  
 Y  Michael Von Ohlen  
 Y  Nicholl Wade  
 Y  Kelly Blume (Alternate)  
 Y  Carrie Waller (Alternate)  
 -  Vacant (Alternate)

**OWNER/APPLICANT: Susan Hays**

**ADDRESS: 902 HERNDON LN**

**VARIANCE REQUESTED:** The applicant is requesting a variance(s) from the Land Development Code:

- a) Section 25-2-492 (Site Development Regulations) from setback requirements to decrease the minimum Rear Yard Setback from 10 feet (required) to 5 feet (requested) and
- b) Section 25-5-774 (Two-Family Residential Use) (C) (2) (a) which requires an Accessory Dwelling Unit to be located at least 10 feet to the rear or side of the principal structure (required), to 8 feet from the principal structure (requested) in a "SF-3", Single-Family zoning district.

**BOARD'S DECISION: BOA JULY 12, 2021** **The public hearing was closed by Chair Jessica Cohen, Board Member Melissa Hawthorne motions to Grant both a) and b) with condition that the ADU not be used as STR; Board Member Brooke Bailey seconds on a 10-1 vote (Board members Darryl Pruett nay); GRANTED BOTH A) and B) WITH CONDITION THAT THE ADU NOT BE USED AS STR.**

**FINDING:**

1. The Zoning regulations applicable to the property do not allow for a reasonable use because: 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, replacing the subject structure with a 10' setback is unreasonable given the placement of live oak and the main house.

2. (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 live oak.  
  
(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
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: 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, some adjacent properties have back structures positioned approx. 5, the design of the rebuild accommodates privacy of surrounding homeowners by placing windows high on the north wall and orientating the structure around a courtyard focused on the live oak tree.

  
Elaine Ramirez  
Executive Liaison

Diana Ramirez for  
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Jessica Cohen  
Chair